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PROCEEDINGS AND DEBATES OF THE 93^{d} CONGRESS, SECOND SESSION

SENATE—*Wednesday, January 30, 1974*

The Senate met at 12 o'clock noon and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God of history, Ruler above all nations, may we this day reappraise the principles and purposes of our national existence. May it end with a rededication to the ways of righteousness and truth. Be with the President as he speaks and with all who listen. May the people hear with discrimination and respond with wisdom. Deliver us from all selfishness, pride, and arrogance. Anoint us with humility, charity, and the spirit of sacrificial service. Unite the people and their representatives in government so that they all may concert their best efforts for the spiritual and temporal well-being of the Nation. Grant that now and always we may live by the truth of Thy holy word:

Fear God and keep His commandments: for this is the whole duty of man.—Ecclesiastes 12:3. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 29, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 639 through 645.

The PRESIDENT pro tempore. Without objection, it is so ordered.

GRANT J. MERRITT AND MARY MERRITT BERGSON

The bill (S. 2606) for the relief of Grant J. Merritt and Mary Merritt Bergson, was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with the consent of Glen J. Merritt, Alice L. Merritt, Wallace A. Merritt, Thelma Herter Merritt, and Merna Jean Merritt (lessees on a lease entered into on August 26, 1938, between the aforementioned parties and the United States involving certain lands situated within the Isle Royale National Park), the Secretary of the Interior is authorized and directed to revise and reform such lease so as to include as additional lessees thereon the names of Grant J. Merritt and Mary Merritt Bergson.

ADDITIONAL TEMPORARY STAFF MEMBERS FOR COMMITTEE ON FINANCE

The resolution (S. Res. 238) continuing the authorization for two additional temporary professional staff members and two additional temporary clerical assistants for the Committee on Finance, was considered and agreed to, as follows:

Resolved, That the Committee on Finance is authorized from March 1, 1974, through February 28, 1975, to employ two additional professional staff members and two additional clerical assistants, to be paid from the contingent fund of the Senate at rates of compensation to be fixed by the chairman in accordance with the provisions of section 105(e) of the Legislative Branch Appropriation Act, 1958, as amended.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

The resolution (S. Res. 239) authorizing additional expenditures by the Committee on Finance for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $20,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 148, Ninety-third Congress, agreed to August 2, 1973.

SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

The resolution (S. Res. 247) authorizing supplemental expenditures by the Select Committee on Nutrition and Human Needs for inquiries and investigations, was considered and agreed to, as follows:

Resolved, That section 3 of S. Res. 50, Ninety-third Congress, agreed to February 22, 1973, be amended by striking out "$255,000" and inserting in lieu thereof "$275,000".

MARGARET G. COBEL

The resolution (S. Res. 251) to pay a gratuity to Margaret G. Cobel, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Margaret G. Cobel, widow of Jimmy J. Cobel, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

RUTH W. MOSS

The resolution (S. Res. 252) to pay a gratuity to Ruth W. Moss, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Ruth W. Moss, mother of J. Rulon Moss, an employee of the Senate at the time of his death, a sum equal to four months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

CONFIDENCE AND CONCERN: CITIZENS VIEW AMERICAN GOVERNMENT

The concurrent resolution (S. Con. Res. 61) authorizing the printing of additional copies of part I of the Senate hearings entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes, was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations two thousand additional copies of part I of its committee print entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes," dated December 3, 1973.

The title was amended, so as to read: "Concurrent resolution authorizing the printing of additional copies of part I of the Senate committee print entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes".

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, we will have a vote at 2 p.m. today, to be followed by a vote on cloture pertaining to S. 2686, Calendar No. 471, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

I do not know how long debate will continue on this matter if cloture is or is not invoked, but I should like to put the Senate on notice that, depending on circumstances, it may very well be that the Senate will return to the consideration of Executive O, 81st Congress, First Session, the so-called Genocide Convention, later this afternoon.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. Mr. President, I hope that we could avoid a lengthy session this afternoon, so that a number of Senators may arrange to meet between 4:15 and 5:15 at the White House.

Mr. MANSFIELD. The Senator can be assured that that will be the case.

For the information of the Senate, when the Senate recesses later this afternoon, it will, as the assistant majority leader has indicated, reconvene at the hour of 8:30 p.m. Senators will assemble in a body and leave the Chamber at 8:42 p.m. for the purpose of attending a joint session in the Hall of the House of Representatives to hear the President of the United States deliver his state of the Union message.

THE ADMINISTRATION'S HOUSING PROPOSAL

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. HUGH SCOTT. Mr. President, last fall the administration announced its long-awaited housing proposals. Emphasis was placed on the inadequacy of the present subsidized housing program which restricts an individual's freedom of choice and mobility. The current program serves only 1 family out of 15 which are eligible for assistance and caters to those having annual incomes well above the poverty level of $4,275. The net result of all this has been to identify the Federal Government itself as the Nation's worst slumlord.

The administration's new proposals would revoluntionize Federal housing policy. Federal subsidies will be paid directly to eligible families instead of being passed through local housing authorities or builders engaged in the construction of public housing. This new policy of direct subsidy is a more rational and clearsighted approach to our housing problems because of four actions to be taken concurrently by the Administration: first, expanding the supply of credit in the nonsubsidized housing market; second, making a $2.5 billion loan commitment to savings and loan associations from the Federal Home Loan Bank Board; third, removing interest ceilings on government-issued mortgages; and fourth, authorizing Federal insurance to cover larger-sized mortgages than are currently permitted.

Amidst all of these positive steps, I am concerned that not enough attention is being paid to the special problems of substandard housing in rural areas. In one Pennsylvania county surveyed, 35 percent of the housing was found to be substandard. In another county, one village's housing was given a grade of D for severe deterioration and a lack of facilities. In still another county, 33 percent of the housing is unsound, and 25 percent have no indoor plumbing. In the same county, the total housing available declined by 12 percent from 1960 to 1970, and the supply of houses for rent at $60 or less decreased by 30 percent. Although the county planning commission recommended in 1968 that 1,500 to 2,000 low-cost housing units be constructed, very few have been built. Another survey of a different county showed that 32 percent of the total number of housing units was found to be occupied by disadvantaged families, and 35 percent of these families lived in substandard units. Four years later, 19 percent of the county's housing units were found to be deteriorating, and 6.2 percent were dilapidated. The situation has been improving but not quickly enough.

Nationally, 96 percent of America's substandard housing is found in small towns, and in rural areas an estimated 1 million people are living in substandard housing. Furthermore, bad housing conditions in rural areas have undoubtedly contributed greatly to the massive outmigration that has been so prominent a feature of rural life over the last three decades.

In the past, Federal housing programs have been overwhelmingly urban oriented. Currently, 60 percent of the substandard housing in the United States is found in nonmetropolitan areas, but these areas only receive 25 percent of the total Federal housing resources, including mortgage interest tax reductions. Only 21 percent of the HUD-assisted units are found in rural America. The Farmers Home Administration, which has been authorized to act in the rural housing field for 25 years, is predominantly farm oriented, operates a dozen other programs in addition to housing, and does not have either the staff or the resources to deal with deteriorating rural housing conditions.

The Senate has taken one small step to meet the needs of rural housing by passing a bill to authorize loans from a newly created rural development insurance fund to private profit or nonprofit companies organized solely to purchase, service, sell or otherwise deal in loans made by private financial agencies for purposes for which can be made under the Consolidated Farm and Rural Development Act. I am hopeful that favorable House action will occur this year. The bills brings no additional cost to the Federal Government, yet it encourages the formation of private companies to provide the ongoing capital necessary to encourage the economic development, housing included, of rural America.

Pennsylvania's rural communities are eagerly awaiting further congressional action on proposals to enhance the livability in nonmetropolitan areas. Housing is the No. 1 priority. It must not be neglected any longer.

Some very thoughtful proposals in this regard have been advanced by Mr. Gordon Cavanaugh, executive director of the Housing Assistance Council, a national nonprofit agency providing technical help and loans to public and private groups and developing low-income housing in rural areas. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 27, 1973]

FARMERS HOME LOANS DEFENDED BY CAVANAUGH

(By Gordon Cavanaugh)

The administration's recent diagnosis of the illness afflicting delivery of adequate housing to rural areas—a gap in credit availability—is a distressing oversimplification.

A recent article by Oliver H. Jones of the Mortgage Bankers Association accusing the Farmers Home Administration (FmHA) of driving private mortgage bankers out of the rural areas is equally distressing as a misreading of history.

To set this record straight, what follows is an historical view of the reasons behind a federal rural mortgage agency, and of equal importance, a look at the conditions of rural life which cause small towns and rural areas to suffer more than half of the nation's substandard housing.

What both parties—the administration and the Mortgage Bankers Association—overlook is that the Congress recognized the failure of normal credit institutions to meet rural needs in 1949 when it established the rural housing program of the Farmers Home Administration, enabling it to make available direct federal loans through a system of county agents.

At that time, the program was only for farmers "without sufficient resources to provide the necessary housing and buildings on (their) own amount" and "unable to secure the credit necessary . . . from other sources upon terms and conditions which (they) could reasonably be expected to fulfill."

All other rural residents remained dependent on the private mortgage credit market until 1961, when Congress expanded Farmers program to include them—a response to the obvious and continued failure of the private lenders to meet their needs.

Still, Farmers Home could not lend to residents of towns over 2,500 population. Pressure from rural Congressmen whose constituents were unserved by private lenders raised Farmers Home's jurisdiction to 5,500 in 1965 and to the current 10,000 in 1970.

As recently as 1968, Farmers Home was enabled to serve those seeking to move to eligible small towns and rural areas.

During its first 16 years, Farmers Home was a relatively minor force in rural areas making an average 6,956 loans per year. In 1966, FmHA went from a limited direct loan program to a modified insured loan program, again in response to unmet needs for housing credit, so that in fiscal year 1973 it made 120,628 housing loans.

Great numbers of potential rural borrowers remained on the private mortgage credit market after the establishment of the Farmers Home program. Mortgage bankers had years to serve such borrowers. They didn't or couldn't. Therefore, gradually, Congress expanded Farmers Home's rural housing program to meet the needs of the people private enterprise was ignoring.

In 1968, Farmers Home deepened its subsidy with interest credits permitting even lower income families to have homes. The average family income served during FY 1972 was $5,440—hardly the classic mortgage market prospect.

To avoid the very competition with private lenders that Oliver Jones attributes to FmHA, the statute has precluded FmHA from making loans where credit is available elsewhere. In a specific effort to attract private lenders to rural areas, Farmers Home initiated a series of conferences in 1970 and 1971, for which FmHA state offices contacted state mortgage lending associations with followup meetings of local lenders. Lack of private lender interest minimized the results.

During the past fiscal year, 51,563 FmHA applicants were referred to other credit sources, mainly private. Also, that same year, FmHA discouraged 136,230 obviously ineligible individuals from applying for assistance. Of that number, 77,140 were told they could afford to seek credit elsewhere.

The fact is, the private mortgage lenders either will not or cannot serve rural areas. Rural lenders traditionally do not lend in highly depressed areas, to minorities, to female heads of households, or to high-risk families with marginal incomes and debts—all commonplace problems in rural areas. For these, Farmers Home is the lender of last resort. Jones and the mortgage bankers seem to say that if they cannot have the rural business, no one should.

It is disingenuous of the MBA spokesman to attack the Farmers Home as "tax-exempt" and therefore, unfairly competitive. You will never hear this charge by the MBA against FMHA's urban cousin, the Federal Housing Administration, which insures the risk out of the profitable suburban mortgages which the MBA members love so well. It is also plainly misleading to say that "billions" of tax dollars can be saved by shifting to the private leaders. First of all, the FmHA mortgage are plans, not grants. Second, the billions to be saved the public might well lie in expanding direct federal mortgage loans to additional areas of the country, freeing strapped homebuyers from the discount points, service and placement fees, appraisal fees, etc. that private mortgage lending carries.

The Farmers Home program is useful and, for the most part, well managed. From FY 1960 to FY 1972, FmHA increased its total annual program production by 110 per cent. During the same period, staff increase was only 55.9 per cent. Farmers Home's extremely low foreclosure record and its virtual freedom from the alleged scandals and abuses besetting the Federal Housing Administration also attest to its soundness.

While Farmers Home has made valiant efforts to house rural people, it cannot do the job alone because the absence of adequate, decent housing is the result of many inequitable deficiencies existing in rural areas of which credit is not the most significant.

Rural areas lack adequate housing because there is no system of public agencies, private entrepreneurial interests and support services which exist in urban and suburban areas for the development of housing. There are fewer jobs in rural areas, lower income, inadequate public services such as water and sewer facilities, no national rural policy and little planning for the future of rural areas.

What is needed is:

(1) The establishment—and funding—of regional or other broad-areas rural housing and development agencies—capable of developing houses for all markets unserved by the small rural homebuilding industry and capable of developing desperately needed water and sewer facilities.

(2) Making a more equitable share of the nation's housing and community development dollars available to non-metropolitan areas.

(3) Giving rural areas the same deep subsidy programs that cities get.

(4) Strengthening, rather than cutting the staff and services of the FmHA.

(5) Expanding the public housing subsidy programs.

(6) Adopting and pursuing a program of rational growth for rural areas, with programs for full employment and for adequate health, education and transportation services.

(7) Recognition of the deep poverty of rural communities, so that capital grants as well as low interest loans are provided for development.

(8) Settling upon and supporting roles for state government in rural housing and community development.

Only when the foregoing issues are dealt with can the rural housing problem be decently described as one of "credit availability."

(Gordon Cavanaugh is the executive director of the Housing Assistance Council, a national nonprofit agency providing technical help and loans to public and private groups, developing low income housing in rural areas. Cavanaugh is the former director of housing for the city of Philadelphia.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I be recognized at this time without prejudice to the distinguished Senator from Michigan.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REPEAL OF DAYLIGHT SAVING TIME IN WINTER MONTHS

Mr. ROBERT C. BYRD. Mr. President, I strongly support the repeal of daylight saving time as it applies to the winter months. When the question of adopting daylight saving time year-round was before the Senate in December, I voted against it, as did the distinguished majority leader (Mr. MANSFIELD). I did not think then, and I do not think now, that juggling clocks in the middle of winter can save any appreciable amount of energy. What may be gained at the end of the day seems to me to be lost at the beginning of the day.

Moreover, I feared for the safety of children who, when the time is moved an hour ahead, have to go to school in darkness. I had received a considerable amount of correspondence from my constituents in the mountain and rural areas of West Virginia to that effect.

The worst fears on this score have been borne out. A number of children have been injured and killed on roadways in various parts of the country in the morning before it gets light. This is an intolerable situation. Overcast skies in the morning, rain, snow, sleet, and fog add immeasurably to the dangers that are faced by little children on their way to school.

There are other bad aspects of daylight time during the winter. For example, construction workers, workers in the housing industry, and others whose jobs are out of doors cannot see to do their work at 7 o'clock or 7:30 in the morning, when such work normally begins.

Congress acted in haste when it voted to adopt year-round daylight saving time. In my judgment, a mistake was made that Congress should promptly correct. The experiment, I think, is a failure, and Congress should put an end to it. I hope that we will return the country to standard time during the winter months as soon as possible.

Mr. President, I suggest the absence of a quorum, unless some Senator wishes to use some of my time. If not, I suggest the absence of a quorum, and I ask that the time be charged against the order entered in my behalf.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Michigan (Mr. GRIFFIN) desire to be heard?

Mr. ROBERT C. BYRD. Mr. President, how much time remains under the order?

The PRESIDING OFFICER. The Senator from Michigan has 7 minutes under the previous order.

Mr. TAFT. Mr. President, I am glad to yield 3 minutes to the Senator from New Mexico on behalf of the Senator from Michigan. I ask unanimous consent to yield that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

PUEBLO POTTERY MAKERS VISIT CAPITAL

Mr. DOMENICI. Mr. President, I, as a Senator from New Mexico, and the Senate are privileged today to have several visitors representing many Indian pueblos in the State of New Mexico. These wonderful New Mexicans are in Washington, many of them for the first time, to show and present examples of their unique pottery to Mrs. Nixon at the White House. I am indeed pleased that they have also found time to visit us in these Chambers.

The art form which these people have developed for hundreds of years has served them well—functionally as well as esthetically. Their pottery is original and distinctive. Over the centuries each pueblo developed its own designs. This, combined with the fact that each had its own clay source which caused differences in thickness of the pottery's walls, resulted in pottery styles unique to each pueblo. The pots are decorated only because of the desire of the individual artist for some means of self-expression. It has been said that the artist does his work "to warm the wintertimes of the heart."

I am pleased this art, and their creators, are being given such recognition. In this regard, much credit must be given to another friend of the pueblo people, Mrs. Nancy Winslow. A few years ago, Mrs. Winslow recognized the potential cultural and economic rewards of the pueblo pottery and has spent many hours and much of herself encouraging the recognition this art deserves. I am sure I am joined by all her many friends in thanking Mrs. Winslow in her efforts.

SENATOR DOMENICI SUPPORTS S. 2777, TO PROVIDE INCREASED INDIAN SELF-DETERMINATION

Mr. DOMENICI. Mr. President, the need for increased Indian self-determination of Indian affairs is, I believe, now a matter of universal agreement. Various methods of implementing a policy by which such self-determination can become a reality have been suggested but few have as much potential impact as S. 2777, a bill of which I am a cosponsor.

The specific language of S. 2777 provides that:

> There shall be in the Department of the Interior, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of the Interior for Indian Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe, with respect to the conduct of Indian affairs.

This legislation is of great importance in raising the area of Indian affairs to its proper role within the Department of the Interior. At the present time, the Commissioner of Indian Affairs is responsible to the Assistant Secretary of the Interior for Public Lands. This situation reduces the status of the Indian by creating an administrative structure seeming to place greater importance on land than on people. In a practical sense, moreover, this structure must inevitably hamper the flexibility and viability of an unfettered Indian affairs administration which occupies a secondary position in the Interior Department heirarchy.

With the creation of an Assistant Secretary for Indian Affairs, Indians will no longer be forced to compete with land and natural resources problems for attention, as they have had to do for so long—to their detriment. The interests of the Indian people will occupy a place of equal importance with other concerns of the Interior Department, commensurate with the gravity of the problems which Indians face today.

The need for further action on the part of the Government to assist the Indian people realize their fullest potential is recognized by the present Secretary of the Interior, Rogers Morton. He has indicated his support for self-determination as opposed to the historic doctrine of termination as a course of action. "Self determination means Indian direction and management of Indian affairs. It means that the tribes themselves call the tune. But it does not mean that any tribe will be left floundering without leadership, direction, or its fair share of the allocated resources. It does mean, however, that the Indians, if and when they desire, can grow out of being a ward of the State into involvement and full participation.

Mr. President, I believe the major provisions of S. 2777 will initiate a long overdue change in government attitudes towards our Indian citizens, and I would urge my colleagues' support on its behalf. The enactment of S. 2777 is essential to the dignity, self-determination, and well being of the Indian people throughout our land.

ORDER OF BUSINESS

Mr. BARTLETT addressed the Chair.

Mr. TAFT. Does the Senator from Oklahoma desire time from the minority leader?

Mr. BARTLETT. Yes.

Mr. TAFT. Mr. President, the Senator from Michigan has 3 minutes remaining. I ask unanimous consent to yield the remaining 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Oklahoma is recognized.

Mr. BARTLETT. I thank the Senator from Ohio and I express my appreciation to the Senator from Michigan.

YAMANI—A DOUBLE STANDARD

Mr. BARTLETT. Mr. President, I am very concerned that the Saudi Arabian Oil Minister, Prince Yamani, in his warning to Japan that the Japanese will be in "very serious trouble" if the forthcoming Washington meeting of oil consuming nations seeks to forge a common front against oil producing countries. It is interesting, indeed, that the leader of a producing country cartel would admonish anyone about the coordinated efforts of consuming nations seeking to find ways to satisfy their critical energy needs.

I favor no cartel of consuming countries. I favor no cartels at all and I am confident that President Nixon, in setting up the Conference of Consuming Nations on February 11 in Washington, was not advocating a cartel.

The cartel of producers has no right to object to consuming nations meeting to solve critical social and economic problems caused to a large extent by arbitrary cutoffs and very high prices of energy supplies, to those nations.

Initially, the producing country cartel used its economic weapon to bend foreign policy decisions in the Middle East.

Now, the producing country cartel is extending its economic influence to interfere with international efforts to deal with serious energy shortages.

The shortage of available energy supplies is a worldwide problem. It affects international economics.

I applaud Yamani's declaration that Saudi Arabia wants to reduce oil prices in the interest of international stability and economic health of both the developing and the developed nations. However, I observed, that a price reduction is inevitable if the world's economies, including the oil producing countries' economies, are not going to collapse.

I would hope that Sheikh Yamani and other leaders of the petroleum producing countries realize that oil productivity, oil supply, and the price of oil are all interrelated and the maximum efficiency for combining these three variables for the benefit of all the people on this Earth is to allow the free market to dictate a price for oil which will reflect its value.

Saudi Arabia can increase overnight its producing rate by 2 million barrels per day. And in addition to that, Saudi Arabian oil production could be boosted another 2 million barrels per day provided the American companies which produce oil in cooperation with Saudi Arabia have enough capital and equipment to expand their exploration, production, and development operations.

The United States has an important stake in the production of crude oil worldwide and, fortunately, American expertise is recognized worldwide.

Of primary concern should be the development of additional domestic energy sources, but running a close second in concern is the necessary development of worldwide supply of petroleum.

This country will not be self-sufficient for at least 15 years and probably longer. We must secure additional energy supplies from other sources worldwide. So we certainly have an interest in participating in the development of worldwide resources.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes with statements limited therein to 5 minutes.

ORDER FOR ADJOURNMENT TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. tomorrow. I have been reminded by the distinguished Senator from Mississippi (Mr. STENNIS) that there will be a national prayer breakfast in the morning. Consequently the hour of convening will be delayed from 9 a.m. previously ordered until 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. We also anticipate that there will be no votes in the morning until 10 a.m. or 10:30 a.m. I hope we will be able to make a more definite announcement later in the day, but this will give Senators, who desire to attend the national prayer breakfast, the opportunity to do so without having to miss a Senate vote.

RECESS UNTIL 1:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 1:30 p.m. today.

The motion was agreed to; and at 12:30 p.m. the Senate took a recess until 1:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Clark).

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Final Determination of Claim of Saginaw Chippewa Indians

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its report to the Congress of its final determination in respect to the claim of James Strong, et al (Saginaw Chippewa Indians) (with an accompanying report). Referred to the Committee on Appropriations.

Proposed Legislation by the Department of Defense

A letter from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation to amend titles 10, 32, and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

Reports on Military Construction Projects

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, reports of military construction projects placed under contract in 1973 in which it was necessary to exceed amount authorized for the projects by the Congress by more than 25 percent (with accompanying papers). Referred to the Committee on Armed Services.

Army Reserve Officers' Training Corps Flight Instruction Program

A letter from the Secretary of the Army transmitting, pursuant to law, a report of progress of the Army Reserve Officers' Training Corps flight instruction prorgam for the calendar year 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Activities of the Community Relations Service

A letter from the Director of the Community Relations Service transmitting, pursuant to law, a report of the activities of the Service for the fiscal year 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

Progress in the Prevention and Control of Air Pollution in 1973

A letter from the Administrator of the Environmental Protection Agency transmitting, pursuant to law, the annual report on "Progress in the Prevention and Control of Air Pollution in 1973" (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Maine. Referred to the Committee on the Judiciary:

"Joint Resolution To Ratify the Equal Rights Amendment to the Federal Constitution

"Whereas, the 92nd Congress of the United States of America at its second Session, in both Houses, by a Constitutional majority of two-thirds thereof, adopted the following proposition to amend the Constitution of the United States of America in the following words, to wit:

" 'Joint Resolution

" 'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), that the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'Article

" 'Section 1. Equality or rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Section 3. This Amendment shall take effect two years after the date of ratification' now, therefore, be it

"Resolved: By the Members of the House of Representatives and the Senate of the 106th Legislature, that such proposed amendment to the Constitution of the United States of America be and the same is hereby ratified; and be it further

"Resolved: That certified copies of this Resolution be forwarded by the Secretary of State to the Administrator of General Services, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. Res. 240. A resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs. Referred to the Committee on Rules and Administration.

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 64. A concurrent resolution authorizing the printing of congressional eulogies and other tributes to the late J. Edgar Hoover as a Senate document. (Rept. No. 93-671).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. WILLIAMS. Mr. President, as in executive session, I report favorably sundry nominations in the Public Health Service which have previously appeared in the Congressional Record, and to save the expense of printing them on the Executive Calendar, I ask unanmious consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Congressional Record of January 22, 1974.)

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE—RESERVATION AND AMENDMENTS

(Ordered to lie on the table and to be printed.)

Mr. CHURCH. Mr. President, as in executive session, on behalf of myself, the Senator from New York (Mr. Javits), and the Senator from Wisconsin (Mr. Proxmire) I submit a reservation and amendments, intended to be proposed by us, jointly, to the resolution of ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948. I ask unanimous consent that the reservation and amendments be printed in the Record.

There being no objection, the reservation and amendments were ordered to be printed in the Record, as follows:

Reservation and Amendments

In the introductory matter preceding clause 1, strike out "and declaration" and insert in lieu thereof a comma and the following: "declaration, and reservation".

Strike out clause 3.

Strike out "4" and insert in lieu thereof "3".

At the end of the resolution, add the following:

4. That, subject to the reservation, which is hereby made a part and condition of the resolution of ratification,

(a) nothing in Article VI of the Convention shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States; and

(b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and

(1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or

(2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or

(3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOMENICI:

S. 2916. A bill to prevent the cancellation or termination of petroleum product sales franchises except upon due notice for cause; to provide remedies for wrongful cancellation or termination; to confer jurisdiction for such remedies; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 2917. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (by request):

S. 2918. A bill to designate certain public lands and waters in the State of Alaska for national conservation purposes to be administered as units of the National Park System, the National Wildlife Refuge System, National Wild and Scenic Rivers System, and the National Forest System. Referred to the Committee on Interior and Insular Affairs.

By Mr. BELLMON:

S. 2919. A bill to modify the method for computing military retirement benefits. Referred to the Committee on Armed Services.

By Mr. PERCY (for himself, Mr. Moss, and Mr. Clark):

S. 2920. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities. Referred to the Committee on Finance.

By Mr. STEVENS:

S. 2921. A bill to authorize construction of the Devil Canyon and Denali Units of the Upper Susitna River Basin project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2916. A bill to prevent the cancellation or termination of petroleum product sales franchises except upon due notice for cause; to provide remedies for wrongful cancellation or termination; to confer jurisdiction for such remedies; and for other purposes. Referred to the Committee on the Judiciary.

PROTECTION OF FRANCHISED DEALERS ACT OF 1974

Mr. DOMENICI. Mr. President, one person who has been most dramatically affected by the petroleum shortage and who has sometimes almost been forgotten in our deliberations is the man who most directly personifies this situation to Americans—the operator of the service station where they actually purchase their fuel.

This man is often a small, independent businessman with his lifetime savings invested in ownership of a retail outlet. Sometimes he is an employee of or a holder of a franchise with a giant petroleum company to operate a station for them.

In either instance, two things are true: He is usually small, while his supplier is usually large, and he is entirely dependent upon the supplier, both for his product and the promotion of its use under their brand name.

For too long, that small businessman has labored under a connection, essential to his continuance in business—and thus perhaps to the total economic health of himself, his own family, and the families of his employees—which could be snapped at will by a simple 30-day notice to him by his supplier.

The bill I introduce today would correct that unfair situation. The change it proposes is a substantial one: distributors and retailers would be given a minimum of 90 days' notice before any termination of their agreement with their supplier; and that agreement could only be terminated for cause if the supplier retires from active wholesale business across the entire country.

To some, this may seem a drastic move. To me, it appears only to redress a situation of inequity which has existed for too long. That situation favored suppliers at the expense of those who depended on them. The bill would attempt to strike a balance—and that balance is one I favor because of my strong support for distributors and retailers, men and women of truly independent character who operate, it seems to me, in the spirit of true free enterprise which has made America the world's most economically successful nation.

As drastic as our energy crisis is, Mr. President, it is not entirely bad if it leads us to redress an arrangement which for too long has offered great opportunity for injustice and which has long been a major cause for concern to one of the Nation's most outstanding groups of enterprising small businessmen.

I fully realize that there is a similar provision in S. 2589, the emergency energy bill. While it would normally be an unnecessary duplication to introduce this provision as a separate bill, I am concerned that S. 2589 faces an uncertain future in becoming the law of the land as illustrated by its recommittal to the conference committee yesterday. I am moving ahead then to place before this body a separate bill which will stand on its own merits and which should receive the unqualified support of all Members of this body.

By this process I hope to gain the attention of my colleagues regarding the plight of independent service station operators and dealers who are at such an unbelievable disadvantage in their business relations with their suppliers. If S. 2589 runs into the difficulties I expect, I will offer the provisions of this bill as an amendment to the first suitable legislation to be considered by the Senate.

Mr. President, I request unanimous consent that the full text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Franchised Dealers Act of 1974".

Sec. 2. Definitions.

(a) As used in this Act—

(1) The term "distributor" shall mean a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" shall mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "good faith" shall mean the duty of each party to any franchise, and all officers, employees, or agents thereof to act in a fair and equitable manner toward each other so as to guarantee the one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: *Provided,* That recommendations, endorsement, exposition, persuasion, urging or argument shall not be deemed to constitute a lack of good faith.

(4) The term "commerce" shall mean commerce among the several States of the United States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or among the Territories or between any Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation.

(5) The term "notice of intent" shall mean a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this Act.

(6) The term "petroleum product" means any liquid refined from oil and usable as a fuel.

(7) The term "refiner" shall mean a person engaged in the refining or importing of petroleum products.

(8) The term "retailer" shall mean a person engaged in the sale of any petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this Act together with a summary of the applicable provisions of this Act.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to com-

ply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this Act, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this Act, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this Act which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual punitive damages except for actions for a failure to renew where indicated, in suits under this Act and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this Act may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against who such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within two years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2917. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (by request):

S. 2918. A bill to designate certain public lands and waters in the State of Alaska for national conservation purposes to be administered as units of the National Park System, the National Wildlife Refuge System, National Wild and Scenic Rivers System, and the National Forest System. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am introducing for appropriate reference two measures dealing with one of the most important land-use issues ever to confront the American people—the proper use of millions of acres in Alaska of some of this country's finest public lands.

The Alaska Native Land Claims Settlement Act of 1971 was the result of extensive deliberations by the Senate Interior Committee during the 1960's and early 1970's. The act recognized that the settlement of Native land claims must also consider the disposition of public lands in Alaska as a whole.

In order that the ultimate disposition of the public lands in Alaska might avoid the haphazard and ill-advised development evident in many other parts of this country, and in order to preserve those lands which possessed unique wildlife, wilderness, scenic, scientific, cultural, and historic values of national—even international significance, the act created a joint Federal-State Land Use Planning Commission and required the Secretary of the Interior to recommend additions to the National Park, National Wildlife Refuge, National Forest, and National Wild and Scenic Rivers Systems.

Under the national interest area provisions of the Native Land Claims Act, which amendment was primarily sponsored by my colleague, the distinguished Senator from Nevada (Mr. BIBLE), Congress directed the Secretary of the Interior to withdraw up to 80 million acres of unreserved public lands in Alaska for study as to their suitability for inclusion as potential additional units of four of our national conservation systems—national parks, wildlife refuges, wild and scenic rivers, and forests. We gave the Secretary 2 years to make his study and report back to us. He has done so and his legislative recommendations on these "four systems" lands, as they are called, represent the first of the two measures which I am introducing by request for myself and the senior Senator from Arizona (Mr. FANNIN), the ranking minority member of the Interior and Insular Affairs Committee.

The second measure represents the efforts of several conservation, environmental, and citizen public interest groups. I am introducing this second measure by request for several reasons. I believe that it is imperative that the Department of the Interior, the State of Alaska, and all interested citizens know which lands the Congress is considering for inclusion within the four systems. I am concerned that the constitutional prerogatives of the Congress, the duty and responsibility for the disposition of Federal lands, might be foreclosed by Executive action prior to congressional consideration during the 5-year period provided in the act.

Specifically, four types of areas are exposed to appropriation under the public land laws, and the very real possibility that ill-advised Executive action might permit lands with high potential for inclusion within the national system of parks, wildlife refuges, forests, and wild rivers to be transferred out of Federal ownership prompts the introduction of this legislation. The four types of areas subject to appropriation are:

First. Lands recommended by the Secretary for inclusion in any of the four systems which were not classified by the Secretary as "(d) (2) lands" thereby opening them to State or regional corporation selection.

Second. Lands classified by the Secretary as "(d) (2) lands" in September 1972, which the Secretary did not recommend for inclusion in any one of the four systems.

Third. Lands classified by the Secretary as "(d) (2) lands" in March 1972, which were not retained in this category in September 1972, as recommended for inclusion in the four systems by the Secretary.

Fourth. Other lands which Members of the Congress may propose for inclusion in any of the four systems.

On December 20, 1973, I wrote to Secretary Morton expressing my belief that the Congress will wish to have the subject matter of its deliberations kept as intact as possible during the next 5 years.

I recognize that the State of Alaska and the Native Regional Corporation should not be unfairly frustrated in exercising their selection rights under existing law. Given the large areas of land in Alaska, I hope that there will be few conflicts between proposals for transfer and establishment of national interest areas. To that end, I requested the Secretary to notify the Committee on Interior and Insular Affairs of both Houses of Congress and not to approve any proposal for transfer for at least 60 days after that notification.

I ask unanimous consent that a copy of my December 20, 1973, letter to Secretary Morton be printed at the conclusion of my remarks.

In fact, Mr. President, the Congress anticipated just such conflicts over the national interest lands in section 17(d) (2) (E) of the Alaska Native Claims Settlement Act. In that subsection we provided that both the State and the Native corporations could identify lands they desired to select from the national interest area withdrawals. These identifications would be duly recorded by the Secretary, he would include them in his formal legislative proposals to Congress, and then we would resolve them during deliberations on the legislation.

In that context, Mr. President, the conflicting boundaries of the proposals on the second measure with the State-identified and, in some cases, with the Native withdrawal boundaries, simply represent an indication of preferences by the parties involved. They have staked their claims, and now we are engaged in considering them.

In conclusion, it will be asserted by some that the proposed areas, totaling as they do some 106 million acres, go beyond the extent of Congress as expressed in the Claims Settlement Act. I assure you that this is not the case, Mr. President. The provision calling for the Secretary to withdraw up to, but not more than, 80 million acres, was at that time our best estimate of the amount required for the Secretary to undertake his 2-year study. By no means did the distinguished Senator from Nevada nor I intend this 80 million acres as a ceiling beyond which the Secretary was forbidden to go in his final recommendations, nor that it would be an absolute limitation on the Congress.

These two measures contain the views

of the administration as represented by the Secretary of the Interior and the recommendations of citizens' conservation organizations. I want to emphasize that the views and recommendations of others, such as the Federal-State commission, will be considered by the Interior Committee when this legislation is scheduled for action. These proposals provide a basis for the Congress to pursue and fulfill its constitutional responsibilities over the disposition of Federal lands, and I would like to assure my colleagues that it is my intent to proceed expeditiously to consider them. It is important that such action be taken so that final State and regional corporation selections might commence.

Mr. President, due to the significant nature of these measures, I ask unanimous consent that the full text of these two measures together with the department letter of transmittal be printed at this point in the Record.

There being no objection, the bills and letters were ordered to be printed in the Record, as follows:

S. 2917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, having reviewed the recommendations of the Secretary of the Interior made pursuant to sections 17(d)(1) and 17(d)(2) of the Alaska Native Claims Settlement Act (85 Stat. 688) for addition of certain lands in Alaska to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, the Congress designates and establishes new units and additions to existing units of those systems, subject to the provisions of the following titles.

Sec. 2. This Act may be cited as the "Alaska Conservation Act of 1974".

TITLE I—NATIONAL PARK SYSTEM

Part A—Additions to Existing Areas

Sec. 101. *Mount McKinley National Park.* (a) In order to include within Mount McKinley National Park (hereinafter referred to in this section as the "park") certain areas needed to provide a diversity of habitat, ensure the preservation of animal ecosystems, and protect and interpret associated scenic resources and glacial features, the boundary of the park is hereby revised to include, subject to valid existing rights, the lands, waters, and interests therein depicted as within the proposed boundary of the park on the map entitled "Mount McKinley National Park", numbered 126–90–001, and dated December 1973, which additional area comprises approximately 3,180,000 acres.

(b) Section 4 of the Act of February 26, 1917 (39 Stat. 938, 16 U.S.C. 350) is repealed. Section 2 of the Act of January 26, 1931 (46 Stat. 1043, 16 U.S.C. 350a) is revised to read as follows: "The Secretary of the Interior shall have authority to prescribe regulations for the surface use of any valid mining locations made within the boundaries of Mount McKinley National Park.".

(c) Section 6 of the Act of February 26, 1917 (39 Stat. 939), as amended (16 U.S.C. 352) is further amended by changing the period at the end thereof to a comma, and adding the following: "or for subsistence uses in areas added to the park by the Alaska Conservation Act of 1974 pursuant to section 108 of that Act".

(d) In furtherance of the purposes set forth in subsection (a) of this section, the area adjacent to the south and east boundary of the park generally depicted on the map referred to in subsection (a) as "Cooperative Planning and Management Zone" is hereby designated as a zone within which resource use and development are critical to the proper protection, management, and interpretation of the park. Not later than three years from the date of enactment of this title, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall submit a report to the Congress as to whether land-use controls needed for the proper protection, management, and interpretation of the park have been instituted effectively with respect to the designated zone by the State of Alaska or an appropriate political subdivision thereof. The Secretary shall solicit the views of the Governor of the State of Alaska and of the Joint Federal-State Land Use Planning Commission for Alaska on his report, and he shall submit any such views to the Congress at the time the report is submitted.

Sec. 102. *Katmai National Park.* (a) In order to include therein certain areas needed for the protection of critical animal habitat, including a watershed necessary for the perpetuation of red salmon and a habitat to protect a population of brown bear, and for the interpretation and preservation of outstanding scenic and scientific values associated with such habitats, the boundary of Katmai National Monument, as established by Proclamation No. 1487 of September 24, 1918 (40 Stat. 1855), and revised by Proclamation No. 1949 of April 24, 1931 (47 Stat. 2453), No. 2564 of August 4, 1942 (56 Stat. 1972), and No. 3890 of January 20, 1969 (83 Stat. 926) is hereby revised to include, subject to valid existing rights, the lands, waters, and interests therein depicted as within the proposed boundary of the park on the map entitled "Katmai National Park", numbered 127–90–001, and dated December 1973, which additional area comprises approximately 1,870,000 acres.

(b) The Katmai National Monument is hereby redesignated as Katmai National Park.

Part B—Establishment of New Areas

Sec. 103. (a) In order to protect and interpret for the benefit, inspiration, and education of present and future generations the scenic, scientific, biological, archeological, and historical values associated therewith, there are hereby established, subject to valid existing rights:

(1) *Aniakchak Caldera National Monument,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Aniakchak Caldera National Monument", numbered NM–AC–90,001, and dated December 1973, which area comprises approximately 440,000 acres;

(2) *Harding Ice Field-Kenai Fjords National Monument,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Harding Ice Field-Kenai Fjords National Monument", numbered NM–HI/KF–90,001 and dated December 1973, which area comprises approximately 300,000 acres; *Provided,* That, the Secretary may revise the monument boundary to include any lands, waters, and interests therein depicted on such map as within the area marked "Potential additions" if such lands, waters, and interests therein are not selected by native corporations pursuant to the Alaska Native Claims Settlement Act;

(3) *Cape Krusenstern National Monument,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Cape Krusenstern National Monument", numbered NM–CK–90,001, and dated December 1973, which area comprises approximately 350,000 acres;

(4) *Kobuk Valley National Monument,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national monument on the map entitled "Kobuk Valley National Monument", numbered NM–KV–90,001, and dated December 1973, which area comprises approximately 1,850,000 acres, *Provided,* That, any lands within the Onion Portage Archeological District, as depicted on such map, not selected by a native corporation pursuant to the Alaska Native Claims Settlement Act shall become part of the national monument;

(5) *Lake Clark National Park,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national park on the map entitled "Lake Clark National Park," numbered NP–LC–90,001, and dated December 1973, which area comprises approximately 2,610,000 acres;

(6) *Wrangell-St. Elias National Park,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national park on the map entitled "Wrangell-St. Elias National Park", numbered NP–WSE–90,001, and dated December 1973, which area comprises approximately 8,640,000 acres;

(7) *Gates of the Arctic National Park,* the boundaries of which shall include the lands, waters, and interests therein depicted as within the proposed boundaries of the park on the map entitled "Gates of the Arctic National Park", numbered NP–GA–90,001, and dated December 1973, which park comprises approximately 8,360,000 acres;

(8) *Yukon-Charley National Rivers,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national rivers on the map entitled "Yukon-Charley National Rivers", numbered NR–YC–90,001, and dated December 1973, which area comprises approximately 1,970,000 acres;

(9) *Chukchi-Imuruk National Reserve,* the boundary of which shall include the lands, waters, and interests therein depicted as within the proposed boundary of the national reserve on the map entitled "Chukchi-Imuruk National Reserve", numbered NR–CI–90,001, and dated December 1973, which area comprises approximately 2,690,000 acres.

(b) The boundary maps referred to in part A of this title and this part shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior; the maps entitled "Chukchi-Imuruk National Reserve" and "Harding Ice Field-Kenai Fjords National Monument" shall also be on file at the Bureau of Sport Fisheries and Wildlife, Department of the Interior. In no event shall the boundary of any area added to existing areas or established by part A of this title or this part extend beyond the territorial sea.

Part C—General Administrative Provisions

Sec. 104. *Administration.* (a) The Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as areas of the national park system, subject to the applicable provisions of this title and the Act of August 25, 1916 (39 Stat. 535 *et seq.*), as amended and supplemented (16 U.S.C. 1 *et seq.*).

(b) The Secretary of Agriculture and the Secretary of the Interior shall consult in the development of management plans for the Wrangell Mountains National Forest and the adjoining Wrangell-St. Elias National Park to achieve the fullest possible coordination and cooperation. In addition, the Secretary of Agriculture shall, in cooperation with the Secretary of the Interior, select and develop one or more areas along the Alaska Highway between the Canadian border and the village of Northway, Alaska, together with other interested public agencies, for public use, administration, interpretation, and other provision of facilities. Funds appropriated for purposes of this title shall be available for the development and operation of such facilities.

Sec. 105. *Boundaries, Acquisition of Property.* Following reasonable notice in writing to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, and after publication of notice in the *Federal Register*, the Secretary may make minor revisions in the boundaries of the areas added to existing areas or established by parts A and B of this title, including revisions to include within the boundaries such additional lands as are necessary for administrative sites but such administrative sites shall not exceed 80 acres for any one area added to existing areas or established by parts A and B. Within the boundaries of the areas added to existing units or established by parts A and B of this title, or as such boundaries may be revised pursuant to this section, the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase, or exchange, except that property owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and property owned by any native village or corporation may be acquired only with the concurrence of such owner.

Sec. 106. *Applicability of Mining and Mineral Leasing Laws.* (a) Except as provided in subsection (b) of this section, Federal lands within the boundaries of the areas added to existing units or established by parts A and B of this title, or as such boundaries may be revised pursuant to section 105 of this part, as well as Federal lands within the boundaries of Mount McKinley National Park as of the date of enactment of this title, are, subject to valid existing rights, hereby withdrawn from location, entry, and patent under the public land laws of the United States, including from all forms of appropriation under the United States mining laws, and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Any mining claims located under the mining laws of the United States within the boundaries of those areas withdrawn pursuant to this subsection, must be recorded with the Secretary under regulations established by the Secretary within one year after the effective date of such regulations. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this title, or which becomes invalid thereafter. Any claim recorded pursuant to the regulations promulgated under this subsection, for which the claimant has not made application for a patent within three years from the date of recordation, shall be presumed to be invalid unless the claimant presents to the Secretary clear evidence of its validity.

(b) Lands outside the Charley River watershed which are within the Yukon-Charley National Rivers, are not withdrawn from operation of the mineral leasing laws, including amendments thereto, and the Mineral Leasing Act of February 25, 1920, as amended and supplemented, (30 U.S.C. 181–263) shall apply to them: *Provided*, That, the Secretary may administratively cancel any lease or prospecting permit for violations of the terms of the lease or permit or of regulations issued pursuant to the Mineral Leasing Act of February 25, 1920 without regard to the requirements of section 31 of such Act (30 U.S.C. 188), after 30 days notice to the lessee or permittee and failure of the lessee or permittee to correct the condition giving rise to the breach. With respect to mineral deposits located within such lands normally subject to location, entry, and patent under the mining laws and withdrawn pursuant to subsection (a) of this section, the Secretary may issue permits for the exploration and development of said deposits pursuant to regulations establishing procedures, terms, and conditions under which such activity may be conducted, but with right of occupation and use of only so much of the surface of the land as is immediately and directly necessary to the exploration and development of said deposits.

Sec. 107. *Sport Hunting.* (a) Subject to subsection (b) of this section, and except as may otherwise be prohibited by Federal or State law, the Secretary shall permit sport hunting on lands and waters under his jurisdiction within the areas established by paragraphs (a) (1) and (a) (5)–(9) of section 103 of this title in accordance with such regulations as he shall prescribe. Such regulations may include the establishment of limits on the numbers and types of species that may be taken and the manner of taking, or prohibit takings. The Secretary may, however, designate zones where, and establish periods when, no sport hunting shall be permitted in any such area for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment, and except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

(b) With regard to the area referred to in section 103(a) (1) of this title, the Secretary shall permit sport hunting only in the townships described as follows:

SEWARD MERIDIAN—PROTRACTION DESCRIPTION

[All fractional]

T. 38 S., R. 51 W.
T. 39 S., R. 51 W.
T. 39 S., R. 52 W.
T. 40 S., R. 52 W.
T. 40 S., R. 53 W.
T. 40 S., R. 54 W.
T. 41 S., R. 51 W.
T. 41 S., R. 52 W.
T. 41 S., R. 53 W.
T. 41 S., R. 54 W.

(c) Not later than ten years from the date of enactment of this title, and continuing at intervals of not more than five years after the submission of the first such report, the Secretary shall report to the Congress on the effect of all hunting, fishing, and trapping, including subsistence uses, on the flora and fauna within each area added to existing units or established by parts A and B of this title, and shall recommend whether any or all of such uses shall be continued.

Sec. 108. *Subsistence Uses.* Except as may otherwise be prohibited by Federal or State law, the Secretary shall permit the continuation of such subsistence uses of the fish, wildlife, and plant resources within the areas added to existing units or established by parts A and B of this title to the extent that such uses were in effect on the date of enactment of the Alaska Native Claims Settlement Act. Such uses shall continue unless the Secretary determines that particular uses are materially and negatively affecting the fish, wildlife, or plant resources of such areas, and provided that, for such reasons as public safety, administration, fish and wildlife management, or public use and enjoyment, the Secretary may, by regulation, prescribe conditions under which such subsistence uses shall be conducted including, but not limited to, prohibitions on takings, and the establishment of limits on the number and type of resources taken, and the season when and area within such areas where subsistence activities can be undertaken. Regulations promulgated pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

Sec. 109. *Cooperative Agreements.* (a) The Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters within, adjacent to, or related to each area added to existing units or established by parts A and B of this title, including, without limitation, the State of Alaska or any political subdivision thereof, any native corporation, village, or group having traditional cultural or resource-based affinities for such areas, and, with the concurrence of the Secretary of State, the governments of foreign nations. Such agreements shall have as their purpose the assurance that resources will be used, managed and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas. The agreements may also provide for access by visitors to the park system units to and across the lands which are the subject of the agreements.

(b) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within, adjacent to, or related to areas added to existing units or established by parts A and B of this title, and the head of any Federal Department or inter-departmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking.

Sec. 110. *Wilderness Review.* Within three years from the date of enactment of this title, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area added to existing units or established by parts A and B of this title for preservation as wilderness; any designation of any such area as wilderness shall be accomplished in accordance with said subsection of the Wilderness Act. Notwithstanding anything to the contrary in the Wilderness Act, the Secretary shall, with respect to Mount McKinley National Park, report to the President his recommendations as the suitability of any area within the entire park within three years from the date of enactment of this title.

Part D—Wild and Scenic Rivers

Sec. 111. *Designation.* Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907), as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"—. Alatna, Alaska.—The 75-mile portion of the main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"—. Aniakchak, Alaska.—The entire river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak Caldera National Monument; to be administered by the Secretary of the Interior.

"—. Charley, Alaska.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley National Rivers; to be administered by the Secretary of the Interior.

"—. Killik, Alaska.—The entire river, including its major tributary, Easter Creek, within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"—. Noatak, Alaska.—The 65-mile segment within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"—. Salmon, Alaska.—The entire river within the Kobuk Valley National Monument; to be administered by the Secretary of the Interior.

"—. TINAYGUK, ALASKA.—The entire river, and the North Fork of the Koyukuk, within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior."

SEC. 112. *Administrative Provisions.* (a) The river segments designated in section 111 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 111 of this title. The provisions of sections 107 and 108 of this title shall supersede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART E—APPROPRIATION AUTHORIZATION

SEC. 113. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this title.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF REFUGES AND RANGES

SEC. 201. There are hereby established, subject to valid existing rights, twelve national wildlife refuges, (hereinafter referred to as the "refuges") one national arctic range and one national resource range (hereinafter referred to as the "ranges").

SEC. 202. (a) The boundary of each refuge and each range shall include the area generally depicted on the applicable map as herein described provided, however, that in no case shall the boundary of a refuge or range extend beyond the territorial sea. Such maps shall be on file and available for public inspection in the office of the Bureau of Sport Fisheries and Wildlife, Department of the Interior, and, with respect to the ranges, the maps shall also be available for public inspection in the office of the Bureau of Land Management:

(1) As herein established, the (A) Barren Islands National Wildlife Refuge, (B) Chukchi Sea National Wildlife Refuge, (C) Shumagin Islands National Wildlife Refuge, (D) additions to the Kodiak National Wildlife Refuge, and (E) additions to the Bering Sea Nation Wildlife Refuge, shall be comprised of approximately .07 million acres of lands, waters and interests therein within the area generally depicted as the "Proposed Boundary" on the maps entitled *"Alaska Coastal National Wildlife Refuges,"* and dated December 1973. The Kodiak National Wildlife Refuge as designated in Executive Order No. 8857 of August 19, 1941 and modified by Public Land Order No. 1634 of May 9, 1958 and the additions designated in this subsection are hereby established as the "Kodiak National Wildlife Refuge"; and the Bering Sea National Wildlife Refuge as designated in Proclamation No. 2416 of July 15, 1940, amending Executive Order No. 1037 of February 27, 1909 and the additions designated in this subsection are hereby established as the "Bering Sea National Wildlife Refuge".

(2) The *Arctic National Wildlife Refuge* as herein established shall be comprised of approximately 3.76 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Arctic National Wildlife Refuge", and dated December 1973, and the Arctic National Wildlife Range, established by Public Land Order No. 2214 of December 6, 1960, issued pursuant to Executive Order No. 10355 of May 26, 1952, is hereby redesignated as part of the Arctic National Wildlife Refuge and added to said refuge.

(3) The *Iliamna National Resource Range* as herein established shall be comprised of approximately 2.85 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Iliamna National Resource Range", and dated December 1973.

(4) The *Koyukuk National Wildlife Refuge* as herein established shall be comprised of approximately 4.43 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Koyukuk National Wildlife Refuge", and dated December 1973.

(5) The *Noatak National Arctic Range* as herein established shall be comprised of approximately 7.59 million acres of lands, waters and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Noatak National Arctic Range", and dated December 1973.

(6) The *Selawik National Wildlife Refuge* as herein established shall be comprised of approximately 1.4 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Selawik National Wildlife Refuge", and dated December 1973, and the Chamisso National Wildlife Refuge, established by Proclamation No. 2416 of July 15, 1940, amending Executive Order No. 1658 of December 7, 1912, is hereby redesignated as part of the Selawik National Wildlife Refuge and added to said refuge.

(7) The *Togiak National Wildlife Refuge* as herein established shall be comprised of approximately 2.74 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Togiak National Wildlife Refuge", and dated December 1973, and the Cape Newenham National Wildlife Refuge, established by Public Land Order No. 4583 of January 20, 1969, is hereby redesignated as part of the Togiak National Wildlife Refuge and added to said refuge.

(8) The *Yukon Delta National Wildlife Refuge* as herein established shall be comprised of approximately 5.16 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Yukon Delta National Wildlife Refuge", and dated December 1973, and the Clarence Rhode National Wildlife Refuge, established by Public Land Order No. 4581 of January 20, 1969, amending Public Land Order No. 2253 of January 23, 1961, amending Public Land Order No. 2213 of December 8, 1960, issued pursuant to Executive Order No. 10355, is hereby redesignated as a unit of the Yukon Delta National Wildlife Refuge to be administered as part of said refuge, and the Hazen Bay National Wildlife Refuge, as established by Proclamation No. 2416 of July 15, 1946, amending Executive Order No. 7770 of December 14, 1937, is hereby redesignated as part of the Yukon Delta National Wildlife Refuge and added to said refuge.

(9) The Yukon Flats National Wildlife Refuge as herein established shall be comprised of approximately 3.59 million acres of lands, waters, and interests therein within the area generally depicted as the "Proposed Boundary" on the map entitled "Yukon Flats National Wildlife Refuge", and dated December 1973.

(b) The Secretary of the Interior (hereinafter referred to as "the Secretary") may make minor revisions in the boundary of each refuge and each range by publication of a revised map or other boundary description in the *Federal Register*.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

SEC. 203. *Acquisition of Property.* Within the boundary of each refuge and each range the Secretary is authorized to acquire by purchase, donation or exchange, lands, waters, and interests therein, except that lands, waters, and interests herein owned by the State of Alaska or any political subdivision hereof may be acquired only with agreement of the said State or political subdivision and property owned by any native village or corporation may be acquired only with the concurrence of such owner.

SEC. 204. *Cooperative Agreements.* (a) The Secretary is authorized to cooperate and seek agreements with the heads of other Federal agencies and the owners of lands and waters within, adjacent to or related to each area added to existing units or established by Section 202 of this title, including, without limitation, the State of Alaska or any political subdivision thereof, any native corporation, village, or group having traditional cultural or resource-based affinities for such areas. Such agreements shall have as their purpose the assurance that resources will be used, managed and developed in such a manner as to be consistent with the preservation of the environmental quality of such areas.

(b) The head of any Federal agency, other than agencies that are parties to cooperative agreements pursuant to subsection (a) of this section, having direct or indirect jurisdiction over a proposed Federal or Federally assisted undertaking in the lands and waters within, adjacent to or related to areas added to existing units or established by Section 202 of this title, and the head of any Federal Department or interdepartmental agency, other than parties to such agreements, having authority to license any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking. Nothing in subsection (c) of this section shall be construed as superseding or limiting the authorities and responsibilities of the Secretary under the Fish and Wildlife Coordination Act, as amended (60 Stat. 1080; 16 U.S.C. 661–667e).

(c) The Secretary may seek, with the concurrence of the Secretary of State, and enter into bilateral or multilateral agreements with foreign countries in order to provide for the protection, preservation and enhancement of the fish and wildlife of international significance.

SEC. 205. *Administration.* (a)(1) The Secretary shall administer the refuges and the ranges pursuant to the provisions of the National Wildlife Refuge Administration Act of 1966, as amended (80 Stat. 927; 16 U.S.C. 668dd–668ee), and the provisions of this title, as part of the National Wildlife Refuge System. The Secretary may also utilize such additional authorities as may be available to him for the management and protection of the resources within, adjacent to or related to the refuges and the ranges, including but not limited to the preservation and enhancement of nationally and internationally significant fish and wildlife species, the development of fish and wildlife-oriented outdoor recreation opportunities, interpretive education programs and scientific research, the conservation, protection, restoration and propagation of endangered and threatened species, and the preservation of cultural, historical, and archeological resources.

(2) The Iliamna National Resource Range shall be administered as a unit of the National Wildlife Refuge System pursuant to paragraph (1) of this subsection and in accordance with plans, to be developed by the Secretary, which will permit activities, in accordance with the principles of multiple use and sustained yield, which the Secretary determines will not significantly impair the nationally and internationally significant fish and wildlife resources of the Range and Bristol Bay.

(3) The Noatak National Arctic Range shall be administered as a unit of the National Wildlife Refuge System pursuant to paragraph (1) of this subsection and in accordance with plans, to be developed by the Secretary, which will provide for the protection of the natural features of the range,

permit appropriate scientific research and other activities which will not significantly impair the environment. For a period of twenty years following the enactment of this title, any developmental activities or uses are subject to valid existing rights, prohibited on the range. The Secretary shall conduct a review and report to the Congress within twenty years of the date of enactment of this title his findings and recommendations for the future administration and management of the range.

(b) (1) The lands within the refuges and the Iliamna National Resource Range are, subject to valid existing rights, hereby withdrawn from location, entry, and patent under the public land laws of the United States, including all forms of appropriation under the United States mining laws, but not including the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181–263), except that, with respect to mineral deposits normally subject to location, entry, and patent pursuant to the mining laws, the Secretary may issue permits for the exploration and development of said deposits pursuant to regulations establishing procedures, terms, and conditions under which such activity may be conducted, but with right of occupation and use of only so much of the surface of the land as is immediately and directly necessary to the exploration and development of said deposits. Any mining claims located under the mining laws of the United States within the boundaries of those areas withdrawn pursuant to this subsection, must be recorded with the Secretary under regulations established by the Secretary within one year after the effective date of such regulations. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this title, or which becomes invalid thereafter. Any claim recorded pursuant to the regulations promulgated under this subsection, for which the claimant has not made application for a patent within three years from the date of recordation, shall be presumed to be invalid unless the claimant presents to the Secretary clear evidence of its validity.

(2) The Secretary may administratively cancel any lease or prospecting permit for violations of the terms of the lease or permit or of regulations issued pursuant to the Mineral Leasing Act of February 25, 1920, without regard to the requirements of section 31 of such Act (30 U.S.C. 188), after 30 days notice to the lessee or permittee and failure of the lessee or permittee to correct the condition giving rise to the breach.

(c) The lands within the Noatak National Arctic Range are, subject to valid existing rights, withdrawn from location, entry, and patent under the public land laws of the United States, including all forms of appropriation under the mining laws of the United States and from the operation of the Mineral Leasing Act of February 25, 1920, as amended and supplemented.

(d) Except as may otherwise be prohibited by Federal or State law, the Secretary shall permit the continuation of such subsistence uses of the fish, wildlife and plant resources within the refuges and the ranges to the extent that such uses were in effect on the date or enactment of the Alaska Native Claims Settlement Act. Such uses shall continue unless the Secretary determines that particular uses are materially and negatively affecting the fish, wildlife, or plant resources of the refuges and the ranges, and provided that, for such reasons as public safety, administration, fish and wildlife management, or public use and enjoyment, the Secretary may, by regulation prescribe conditions under which such subsistence uses shall be conducted including, but not limited to, prohibitions on taking, the establishment of limits on the number and type of resources taken, and the season when and area within the refuges and the ranges where subsistence activities can be undertaken. Regulations promulgated pursuant to this section shall be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

SEC. 206. *Wilderness Review.* (a) Within three years from the date of enactment of this title, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the refuges and the Iliamna National Resource Range for preservation as wilderness, and any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act, except that this section shall not apply to that portion of the Bering Sea National Wildlife Refuge designated as wilderness pursuant to the Act of October 23, 1970 (84 Stat. 1104; 16 U.S.C. 1132 note). Notwithstanding anything to the contrary in the Wilderness Act, the Secretary shall, with respect to any existing refuge added to the refuges herein established by paragraphs (1)(D), (2) and (8) of section 202(a) of this title, report to the President his recommendations as to the suitability of any area within the entire refuge within three years from the date of enactment of this title.

(b) With regard to the Noatak National Arctic Range such a wilderness report as is required in subsection (a) of this section shall be included in the Secretary's report to the Congress pursuant to section 205(a) (3) of this title.

PART C—WILD AND SCENIC RIVERS

SEC. 207. (a) Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraph.

—. ALAGNAK, ALASKA—the entire river within the boundary of the Iliamna National Resource Range from a point approximately eight miles below its source, to a point twenty miles above the mouth, including the Nonvianuk River, to be administered by the Secretary of the Interior;

—. ANREAFSKY, ALASKA—from its source, including all headwaters, downstream for two hundred forty miles, including the East Fork, all within the boundary of the Yukon Delta National Wildlife Refuge, to be administered by the Secretary of the Interior;

—. IVISHAK, ALASKA—from its source, including all headwaters and an unnamed tributary to Porcupine Lake, downstream to a point near Flood Greek, all within the boundary of Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior;

—. KANEKTOK, ALASKA—the entire river within the boundary of Togiak National Wildlife Refuge, Kagati Lake to a point sixteen miles above the mouth, to be administered by the Secretary of the Interior;

—. NOATAK, ALASKA—from the east boundary of the Noatak National Arctic Range to its confluence with the Kelly River, to be administered by the Secretary of the Interior; and

—. WIND, ALASKA—from its source, including all headwaters and one unnamed tributary in Township T13S, downstream for sixty-five miles, within the boundaries of the Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior.

(b) The river segments designated in subsection (a) of this section are hereby classified and designated and shall be administered as wild river areas.

(c) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1271) the boundaries of the river segments referred to in subsection (a) of this section may include an area extending up to two miles from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries for the river segments referred to in subsection (a) of this section within three years after the date of enactment of this title.

(d) The provisions of section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments referred to in subsection (a) of this section.

PART D—REGULATIONS

SEC. 208. (a) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this title.

(b) Any regulations heretofore prescribed by the Secretary for any existing refuge added to the refuges herein established as referred to in paragraphs (1), (2), (6) (7) and (8) of section 202(a) of this title shall remain in effect until republished in total or in part by the Secretary.

PART E—APPROPRIATION AUTHORIZATION

SEC. 209. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—NATIONAL FOREST SYSTEM

SEC. 301. NEW ALASKA NATIONAL FORESTS.–For the purpose of providing for the protection, conservation, and management of the multiple resource values of certain public lands in the State of Alaska as part of the National Forest System, the areas described in subsections (a)–(c) of this section, as generally depicted on maps appropriately referenced, dated December 1973, and on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, are hereby established as the Wrangell Mountains, Porcupine, and Yukon-Kuskokwim National Forests, respectively. The Wrangell Mountains, Porcupine, and Yukon-Kuskokwim National Forests shall, subject to valid existing rights, be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(a) The Porcupine National Forest shall include the area generally depicted on a map entitled, "Proposed Porcupine National Forest", comprising approximately 5.5 million acres.

(b) The Wrangell Mountains National Forest shall include the area generally depicted on a map entitled, "Proposed Wrangell Mountains National Forest", comprising approximately 5.5 million acres.

(c) The Yukon-Kuskokwim National Forest shall include the area generally depicted on a map entitled, "Proposed Yukon-Kuskokwim National Forest", comprising approximately 7.3 million acres.

SEC. 302. ADDITION TO CHUGACH NATIONAL FOREST.—Within sixty days following enactment of this title, the Secretary of the Interior shall, by public land order, provide for addition to the Chugach National Forest of the area comprising approximately 500,000 acres generally depicted on a map entitled "Proposed Chugach National Forest Addition" which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. Subject to valid existing rights, the Chugach National Forest Addition shall be administered as a part of the Chugach National Forest in accordance with the laws, rules, and regulations applicable to national forests.

SEC. 303. (a) WILD AND SCENIC RIVERS WITHIN ALASKA NATIONAL FORESTS.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907, 16 U.S.C. 1274(a)), as amended is further amended by adding the following new paragraphs:

—. BREMNER, ALASKA—The entire river, from its origin to its confluence with the

Copper River, to be administered by the Secretary of Agriculture.

—. Nowitna, Alaska—The segment from the point where the river crosses the west boundary of section 6, Township 17 South, Range 22 East, Fairbanks Principal Meridian, downstream to its confluence with the Yukon River, to be administered by the Secretary of Agriculture.

—. Porcupine, Alaska.—The segment from the Canadian border downstream to the point where the river crosses the north boundary of section 2, Township 23 North, Range 18 East, Fairbanks Principal Meridian, to be administered by the Secretary of Agriculture.

—. Sheenjek, Alaska.—The segment from the point where the river crosses the north boundary of section 1, Township 32 North, Range 16 East, Fairbanks Principal Meridian, downstream to its confluence with the Porcupine River, to be administered by the Secretary of Agriculture.

(b) The Bremner and Sheenjek river segments designated in subsection (a) of this section are hereby classified and designated and shall be administered as wild river areas. The Porcupine and Nowitna river segments in subsection (a) of this section are hereby classified and designated and shall be administered as scenic river areas.

(c) Notwithstanding the provisions of subsection 3(b) of the Wild and Scenic Rivers Act (82 Stat. 907, 16 U.S.C. 1274(b)), the Secretary of Agriculture shall establish boundaries for the Wild and Scenic Rivers referred to in section 303 of this title within three years after the date of enactment of this title.

Sec. 304. The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this title, publish in the *Federal Register* a detailed description and map showing the boundaries of the Wrangell Mountains, Porcupine, and Yukon-Kushkowim National Forests, and the addition to the Chugach National Forest.

Sec. 305. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARKS, NATIONAL WILDLIFE REFUGES, AND NATIONAL FORESTS

Sec. 401. *Designation*. Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs.

"—. Beaver Creek, Alaska.—The segment of the main stem from the vicinity of the downstream 135 miles to a point approximately 15 miles downstream fro mthe mouth mately 15 miles downstream from the mouth of Victoria Creek, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

"—. Birch Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of North Fork downstream 135 miles to the vicinity of Jumpoff Creek, the segment not to exceed 200,000 acres; to be administered by the Secretary of the Interior.

"—. Fortymile, Alaska.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek, the segments not to exceed 320,000 acres; to be administered by the Secretary of the Interior.

"—. Unalakleet, Alaska.—The segment of the main stem beginning at 159°21'06.156" west longitude approximately 6 miles from the headwaters extending downstream 60 miles to 160°19'15.031" west longitude in the vicinity of confluence of the Chiroskey River, the segment not to exceed 104,000 acres; to be administered by the Secretary of the Interior."

Sec. 402. *Administrative Provisions*. (a) The Beaver Creek, Birch Creek, and Unalakleet components, as well as Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek units of the Fortymile component, designated in section 401 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The Wade Creek unit of the Fortymile component is classified and designated and shall be administered as a recreational river area pursuant to such Act. The remaining units of the Fortymile component are classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary of the Interior determines to be necessary to permit commercial development of asbestos deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title with respect to the Beaver Creek component, within two years with respect to the Birch Creek component, within one year with respect to the Fortymile component, and within four years with respect to the Unalakleet component.

(c) The provisions of section 401 of this title specifying maximum permissible acreages for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(d) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands included in any component or part of a component designated by this section as a wild river area are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Sec. 403. *Appropriation Authorization*. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this title.

S. 2918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Interest Lands Reservation Act" (a) In order to preserve for the benefit, use, and inspiration of present and future generations certain federal wildlands and rivers in the State of Alaska that contain nationally significant natural, scenic, historic, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in section 2 are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in section 3 are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in section 4 are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic River System; and the areas described in section 5 are, subejct to valid existing rights, hereby declared to be units of the National Forest System: *Provided*, however, that notwithstanding the foregoing, nothing herein shall interfere with native villages in making selections to which they are entitled within these or other areas under the terms of the Alaska Native Claims Settlement Act;

(b) It is the intent of Congress in this Act to provide for the maintenance of sound populations of and habitat for resident and nonresident wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast undeveloped areas; to preserve in their natural state extensive unaltered arctic and subarctic ecosystems; to protect and preserve archaeological and other cultural values of indigenous peoples; to protect and preserve historic sites, rivers, and lands; to provide wilderness recreational opportunities within large arctic and subarctic wildlands and on free flowing rivers; to preserve unrivalled scenic and geological values associated with natural landscapes; and to maintain opportunities for scientific research on undisturbed ecosystems. (C)(1) Areas described in Sections 2, 3, 4, and 5, of this Act shall be comprised of the lands generally depicted on the maps bearing the following designations:

NWR— ------ Alaska, dated ------, for those lands in Sec. 2.

NPS— ------- Alaska, dated -------, for those lands in Sec. 3.

NWSR— ------ Alaska, dated ------, for those lands in Sec. 4.

NF— ------- Alaska, dated -------, for those lands in Sec. 5.

(2) The maps described in paragraph (1) shall be on file and available for public inspection in the office of the Secretary of the Interior (hereafter referred to as the Secretary).

Sec. 2. (a) The following areas are hereby established as units of the National Wildlife Refuge System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Alaska Peninsula National Brown Bear Range of approximately 4.9 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights;

(2) Yukon Delta National Wildlife Range of approximately 5.4 million acres;

(3) Koyukuk National Wildlife Range of approximately 8.2 million acres;

(4) Selawik National Wildlife Range of approximately 2.1 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights;

(5) Coastal National Wildlife Refuge of approximately .1 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights;

(6) Yukon Flats National Wildlife Range of approximately 12.3 million acres;

(7) Iliamna National Wildlife Range of approximately 1.6 million acres; and

(8) Togiak National Wildlife Range of approximately 3.0 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights.

(b) The following unit of the National Wildlife Refuge System is hereby expanded:

(1) Arctic National Wildlife Range by the addition of approximately 5.6 million acres.

Sec. 3. (a) The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

(1) Gates of the Arctic National Park of approximately 12.2 million acres; provided, that with the concurrence of appropriate

Native corporations, the Secretary may include within the Park approximately 1.1 million acres of Native-owned land.

(2) Yukon-Charley Rivers National Park of approximately 2.0 million acres.

(3) Kobuk Valley National Monument of approximately 1.9 million acres;

(4) Cape Krusenstern National Monument of approximately 0.3 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights;

(5) Wrangells National Park of approximately 18.1 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights;

(6) Lake Clark National Park of approximately 5.8 million acres;

(7) Aniakchak Caldera National Monument of approximately 0.7 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights.

(b) The following units of the National Park System are hereby expanded:

(1) Mount McKinley National Park by the addition of approximately 4.2 million acres; and

(2) Katmai National Monument by the addition of approximately 2.6 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights: *Provided, however*, That the Secretary is authorized to identify 230,000 acres of Federal land elsewhere that is suitable for use as replacement for habitat lost to Native selection in the Kodiak National Wildlife Refuge and to so classify it and manage for that purpose.

(C) The following areas are hereby established as National Ecological Reserves in the National Park System and shall be administered by the Secretary under the laws governing the administration of National Park System lands and under the provisions of this Act: *Provided*, That the Bureau of Sports Fisheries and Wildlife of the Fish and Wildlife Service shall advise the National Park Service with respect to all·questions of wildlife management within such areas and shall provide such services as may be required to implement the advice it provides.

(1) Noatak National Ecological Reserve of approximately 7.6 million acres;

(2) Chuckhi-Imuruk National Ecological Reserve of approximately 4.0 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights; and

(3) Kenai Fiords National Ecological Reserve of approximately 0.3 million acres, including all adjacent salt water surface area for a distance of three miles seaward of the shoreline, subject to valid existing rights.

Sec. 4. (a) The following rivers, and contiguous lands extending in a band averaging approximately one mile wide on each side of the rivers for their length, are hereby established as Wild and Scenic Rivers in the National Wild and Scenic Rivers System and shall be administered by the Secretary under the laws governing the administration of such rivers and lands; and under the provisions of this Act: *Provided, however*, that wherever major portions of such rivers lie within National Forests, administration of such portions shall be by the Secretary of Agriculture:

(1) Susitna National Wild River of approximately 165,000 acres;

(2) Birch Creek National Wild River of approximately 200,000 acres;

(3) Nowitna National Wild River of approximately 80,000 acres;

(4) Mulchatna National Wild River of approximately 102,000 acres;

(5) Unalakleet National Wild River of approximately 52,000 acres;

(6) Holitna National Wild River of approximately 100,000 acres;

(7) Hoholitna National Wild River of approximately 128,000 acres;

(8) Nelchina National Wild River of approximately 40,000 acres; and

(9) Tazlina National Wild River comprised of the lands not selected by the Native village corporation;

(10) Melozitna National Wild River of approximately 200,000 acres;

(11) Fortymile National Scenic River of approximately 320,000 acres;

(12) Delta National Scenic River of approximately 77,000 acres; and

(13) Gulkana National Scenic River of approximately 130,000 acres.

Sec. 4. (b) The following rivers within units of the National Park System and National Wildlife Refuge System as established herein are hereby designated as components of the National Wild and Scenic Rivers System, to be administered by the Secretary as wild rivers and as part of the units within which they are located.

Alagnak (Katmai)
Alatna (Gates of the Arctic)
Alsek (Wrangells)
Andreafsky (Yukon Delta)
Black, including all tributaries (Yukon Flats)
Beaver Creek (Yukon Flats)
Bremner (Wrangells)
Charley (Yukon-Charley)
Chitina (Wrangells)
Copper (Wrangells)
Ivishak (Arctic)
Kanetok (Togiak)
Killik, including Easter Creek (Gates of the Arctic)
Kobuk (Gates of the Arctic)
Kuzitrin (Chukchi-Imuruk)
Noatak, including Culter, Aniuk, Kugururok, and Kelly (Gates of the Arctic and Noatak)
North Fork Koyukuk, including Tinayguk (Gates of the Arctic)
Mulchatna, including Chilikadrotna (Lake Clark)
Porcupine (Yukon Flats)
Salmon (Kobuk Valley)
Shenjek (Arctic and Yukon Flats)
Squirrel (Noatak)
Togiak (Togiak)
Wind (Arctic)
Nowitna (Koyukuk)

Sec. 5. The following areas are hereby added to existing units of the National Forest System and shall be administered by the Secretary of Agriculture under the laws governing the administration of such lands and under the provisions of this Act:

(1) Tongass National Forest additions of approximately 0.9 million acres;

(2) Chugach National Forest additions of approximately 0.7 million acres.

Sec. 6. As soon as practicable after this Act takes effect, a map and legal description of each unit established by this Act in the four national conservation systems shall be published in the Federal Register and filed in the office of the Secretary, and such description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Wherever possible, descriptions shall be based on Bureau of Land Management cadastral surveys, and boundaries shall follow hydrographic divides where feasible.

Sec. 7. (a) Within areas withdrawn pursuant to section 11(a) (1) and (3) of the Alaska Native Claims Settlement Act, those lands not selected by the village and regional corporations (and including State selections pending lands of the State of Alaska) shall be withdrawn by the Secretary from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection, tentative approval, or patenting to the State under the Statehood Act for a period of two years following completion of village and regional corporation selections. Within two years following completion of village and regional corporation selections, the Secretary shall determine which of the withdrawn lands qualify for inclusion as additions to the units of the four national conservation systems established by this Act and shall add these qualified lands to the appropriate units.

(b) All lands which are within the exterior boundaries of the areas added to the four systems under sections 2, 3, 4, and 5 of this Act, which are subject to selection by village and regional corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by those corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of native rights becomes final.

(c) Under his existing authority, the Secretary shall make available to the State of Alaska other public lands of approximately equal acreage for those lands selected by, tentatively approved to, but not patented to the State of Alaska which are added to units of the four national conservation systems pursuant to subsection (a) above: *Provided*, That such other public lands shall not be taken from lands within the boundaries of areas described in sections 2, 3, and 4 of this Act.

(d) Any lands withdrawn pursuant to subsection (a) not added to the units of the four national conservation systems established by this Act shall be made available for selection by the State under the Statehood Act, and for classification by the Secretary under his existing authority and that granted him by section 17(d) (1) of the Settlement Act.

Sec. 8. (a) All lands established at national parks, national wildlife refuges, national ecological reserves, or as wild or scenic rivers, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

(b) All lands established as national forests are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws: *Provided, however*, That the Secretary is authorized to issue permits for metalliferous mining, and leases for minerals that are leasable under the Mineral Leasing Act, wherever he finds that the minerals sought are required to meet critical national needs, that other sources are not reasonably available, and that the values for which the area is established will not be permanently impaired.

Sec. 9. (a) Within the boundaries of the national park system units described in section 3 (a) and (b) of this Act, the Secretary shall designate zones where subsistence uses shall be permitted wherever he finds that such activities are consistent with maintaining or increasing the biological productivity of the area, providing for public safety, use, and enjoyment, and with the establishment of adequate control areas for scientific research.

(b) Wherever the Secretary finds that the biological productivity of the native species will not be impaired, he may permit hunting, trapping, and fishing, including subsistence uses, within the boundaries of the National Wildlife Refuge System units described in section 2(a) and section 2(b) and in units of the national park system described in Section 3(c), and with the boundaries of the Wild and Scenic Rivers described in Section 4 of this Act, except that the Secretary may designate zones where no hunting, fishing or trapping, including for subsistence purposes, shall be permitted for reasons of maintaining or increasing the biological productivity of certain species, providing for public safety, use and enjoyment, or in order to establish control areas for scientific research.

(c) As used in this section, the term "subsistence uses" means activities such as hunting, fishing, trapping, or the gathering of natural organic products of the land by which any person regularly derives a portion of diet, clothing, shelter, tools, or transportation.

SEC. 10. Within the boundaries of the units of the national interest areas established by this Act, the Secretaries of Interior and Agriculture may acquire lands and interests in lands within areas placed under their respective jurisdictions by donation, purchase, exchange, or otherwise.

SEC. 11. The Secretaries of Interior and Agriculture shall study all lands and waters within the boundaries of the areas within their respective jurisdictions that are described in sections 2, 3, 4, and 5, as to their suitability for inclusion as units of the National Wilderness Preservation Systems, and shall submit their recommendations to Congress with ten years of the date of the enactment of this Act: *Provided*, That the Secretary shall permit no activities to take place which would impair the suitability of such lands for designation as units of the National Wilderness Preservation System until Congress has made a determination about such suitability.

SEC. 12. (a) The Secretary may establish administrative sites or visitor facilities outside of the boundaries of any area established under this Act, or protect any significant archaeological sites outside the boundaries of the area described in Sec. 3(a)(3), Sec. 3(a)(4), and Sec. 3(c)(2). For these purposes he may establish on federal lands or acquire other lands not to exceed 1,000 acres for administrative and visitor facilities, and no more than 7,500 acres for archaeological sites outside the boundaries of each of the areas referred to herein.

(b) The Secretary shall, wherever possible, in locating administrative sites and visitor facilities to serve any area established under this Act, give preference to such location to sites located on any lands under the jurisdiction of any native corporation which are reasonably adjacent to such areas.

SEC. 13. Sec. 4 of the Act of February 26, 1917 (39 stat. 938), is repealed, and Sec. 2 of the Act of January 26, 1931 (46 stat. 1043), is repealed: *Provided*, That this repealer shall not affect any regulations heretofore prescribed by the Secretary for the surface use of any mineral land locations pursuant to said Sec. 2 of the Act of January 26, 1931.

SEC. 14. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

DECEMBER 20, 1973.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: The transmittal of your recommendations for new national parks, natural wildlife refuges, national forests, and wild rivers in Alaska now shifts the focus of effort to the Congress. We welcome the opportunity to begin to deliberate on these recommendations.

However, we wish to be assured that our options in this regard will not be unnecessarily foreclosed or restricted.

I am concerned about the possibility that lands with high potential for inclusion in the national system may be transferred out of Federal ownership during the five-year period that the Congress is considering legislation. I refer specifically to four types of areas that are exposed to appropriation under the public land laws.

(1) Lands which you have recommended for inclusion in any one of the four systems which were not classified by you as "(d)(2) lands" are open to State or Regional Corporation selection.

(2) Lands classified by you as "(d)(2) lands" in September, 1972 which you have not recommended for inclusion in any one the four systems.

(3) Lands classified by you as "(d)(2) lands" in March, 1972 which were not retained in this category in September, 1972 nor recommended by you now for inclusion in the four systems.

(4) Other lands which members of the Congress may propose for inclusion in any the four systems.

I believe that Congress will wish to have the subject matter of its deliberations kept as intact as possible during the next five years.

At the same time, I recognize that the State of Alaska and the Native Regional Corporation should not be unfairly frustrated in exercising their selection rights under existing law. Given the large areas of land in Alaska, I hope that there will be few conflicts between proposals for transfer and establishment of national interest areas. However, if any transfers of title are contemplated, I request that you notify the Committee on Interior and Insular Affairs of both Houses of Congress and not approve any such proposal for at least 60 days after that notification.

I appreciate your cooperation very much.

Sincerely yours,
HENRY M. JACKSON, *Chairman.*

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., December 17, 1973.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith is a bill, "To provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes."

We recommend that this bill be referred to the appropriate Committee and that it be enacted.

On December 18, 1971, President Nixon signed into law the historic Alaska Native Claims Settlement Act (ANCSA) (P.L. 92-203). This legislation extinguished all aboriginal claims to land in Alaska and in return provided the Natives with a land settlement of 40 million acres and a monetary settlement of nearly a billion dollars.

In addition, section 17(d)(1) of the Act authorized the Secretary of the Interior (hereinafter referred to as the "Secretary") to withdraw such public domain lands as he thought advisable to ensure that the public interest in them is properly protected.

Section 17(d)(2) of the Act authorized the Secretary to withdraw up to 80 million acres of land to be studied for possible addition to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. Section 17(d)(2) also required all legislative proposals coming from such studies to be submitted to the Congress within two years, by December 18, 1973, and provided that Congress would have five years to act following receipt of the legislation. During this period land in those proposals withdrawn under 17(d)(2) would not be subject to appropriation under the public land laws. The bill transmitted with this letter constitutes the legislative proposals pursuant to that authority.

The process of developing the proposals began in January of 1972 with the Bureau of Sports Fisheries and Wildlife and the National Park Service concentrating on the identification of their "areas of interest" in Alaska without regard to management jurisdiction.

During February 1972 these two agencies screened the "areas of interest" to identify the specific areas that warranted detailed on-the-ground study for possible addition to the National Wildlife Refuge and Park Systems. These particular areas were then reviewed within the Department to determine the lands to be withdrawn in March of 1972 under the 17(d)(1) and 17(d)(2) provisions of the Act. The March withdrawal also recognized certain river areas that warranted study for possible addition to the Wild and Scenic Rivers System. In addition, additional acreage from which the Natives were to select some of the land to which they were entitled was withdrawn.

During the summer of 1972 the National Park Service, Bureau of Outdoor Recreation, Bureau of Sports Fisheries and Wildlife and Forest Service conducted detailed studies of the withdrawn lands.

In August of 1972, the Joint Federal-State Land Use Planning Commission, a commission created by the ANCSA to advise the Federal and State governments, provided its recommendations for the final 17(d)(2) withdrawals to be made in September. On September 17 the final 17(d)(2) withdrawals of 79.3 million acres were made. The withdrawals reflected negotiations with certain of the Native Regional Corporations. Subsequent adjustments have also been made in native deficiency withdrawals, after consultation with the Natives.

During the remainder of 1972 and early 1973 the agencies refined their studies on the D-2 and the related D-1 lands.

During May and June of 1973 the Joint Federal-State Land Use Planning Commission held over 30 hearings in Alaska and four hearings in the other 48 States to obtain comments from the public concerning use potentials for the 17(d)(2) lands. The testimony from these hearings, as well as specific recommendations submitted by the Commission regarding 17(d)(2) withdrawals, were all considered in developing final recommendations.

The decisions on additions to the National Park, Refuge, Forest and Wild and Scenic Rivers Systems have not been easy to make. Alaska is a vast land with a great variety of resource values, many of which are of national and international importance. It contains great mineral, oil, and forest resources, a wide variety of ecosystems, outstanding archeological artifacts, and some of the most magnificient scenery in the world. It is the only place in the United States where Native people are living on the land on a subsistence basis.

In the proposed legislation, we have taken into account the special characteristics of Alaska and we have used several new approaches which we believe are particularly suited to Alaska. For example, we are proposing joint management of resources by two or more federal bureaus in several instances, because the resources of the areas seem to require this joint approach. The Chukchi-Imuruk National Reserve and the two southern units of the Harding Ice Field-Kenai Fjords National Monument, which have both park-quality resources and high fish and wildlife values, will be administered jointly by the National Park Service and Bureau of Sport Fisheries and Wildlife. Iliamna National Resource Range will be administered as a unit of the National Wildlife Refuge System and will also be administered to permit multiple-use activities compatible with the Bristol Bay fishery resource. The Noatak National Arctic Range will be jointly managed by the Bureau of Sport Fisheries and Wildlife and the Bureau of Land Management to provide for protection of the natural features of the area and for scientific research.

We intend to negotiate cooperative agreements where possible with the owners of adjacent lands including federal agencies, state and local governments, and private persons, including native corporations, as well as foreign nations, provided the Secretary of State concurs. The agreements would have as their purpose assuring that these adjacent areas will be managed, insofar as possible, in a manner consistent with preservation of the park system and refuge system units. The maps referred to in the proposed legislation show certain areas adjacent to park and refuge units designated as "areas of ecological concern"; we will make particular efforts to conclude cooperative agreements with respect to these areas. Government agencies licensing, funding, or carrying out undertakings on adjacent lands, unless they are parties to a cooperative agreement, would be required by our proposal to offer the Secretary a reasonable opportunity to comment on their undertakings.

We have also provided for subsistence use of fish, wildlife and plant resources in recognition of the established subsistence hunting practices in Alaska, on both national park and refuge system areas. The need for a subsistence use provision is unique to Alaska, where members of the Native population are living on a subsistence basis.

We recognize in submitting these proposals to the Congress that further information is needed before decisions can be reached on some issues. As Alaska continues to develop, there will be a need for rights of way and corridors to adequately accommodate transportation and utility requirements. However, the information on these needs is not fully developed at this time and therefore decisions cannot be made before the December 18, 1973 deadline for submitting 17(d)(2) legislative proposals to Congress. We plan to work with the Congress and the State of Alaska in determining what these needs are and how they can be met. We plan to keep our proposals and their resources under continuing study to determine if any subsequent changes in boundaries or uses are necessary. If such changes are determined to be necessary, they will be referred to the Congress for appropriate action.

The following pages deal with specific proposals in detail. The legislation has been divided into four titles: 1) National Park System, 2) National Wildlife Refuge System, 3) National Forest System, and 4) Wild and Scenic Rivers System additions which are not located in any of the above three systems. Wild and Scenic Rivers System proposals are also found in the first three titles, in cases in which the river runs through a national park, refuge, or forest system area.

We are proposing to add acreage to two existing national park system areas, and to create nine new park areas, as follows:

(In million acres)

New areas:	
Mt. McKinley National Park (additions)	3.18
Katmai National Park (additions)	1.87
Aniakchak Caldera National Monument	.44
Harding Ice Field-Kenai Fjords National Monument	.30
Cape Krusenstern National Monument	.35
Kobuk Valley National Monument	1.85
Lake Clark National Park	2.61
Wrangell-St. Elias National Park	8.64
Gates of the Arctic National Park	8.36
Yukon-Charley National Rivers	1.97
Chukchi-Imuruk National Reserve	2.69
Subtotal	32.26

We are proposing nine new additions to the National Wildlife Refuge System:

[In million acres]

Alaska Coastal National Wildlife Refuges	0.07
Arctic National Wildlife Refuge	3.76
Iliamna National Resource Range	2.85
Koyukuk National Wildlife Refuge	4.43
Noatak National Arctic Range	7.59
Selawik National Wildlife Refuge	1.40
Togiak National Wildlife Refuge	2.74
Yukon Delta National Wildlife Refuge	5.16
Yukon Flats National Refuge	3.59
Subtotal	31.59

We are proposing establishment of three new national forest system areas, and additions to a fourth existing area:

[In million acres]

Porcupine National Forest	5.50
Wrangell Mountains National Forest	5.50
Yukon-Kuskokwim National Forest	7.30
Chugach National Forest (additions)	.50
Subtotal	18.80

We are proposing six additions to the wild and scenic rivers system which are located entirely within park system areas, five located entirely within refuge system areas, one which flows through both a park and a refuge system area, and four located entirely within forest system areas. In addition, we are proposing four components not located on park, refuge or forest system lands:

[In million acres]

Beaver Creek	0.20
Birch Creek	.32
Fortymile	.20
Unalakleet	.10
Subtotal	.82

The total acreage added is 83.47 million acres.

NATIONAL PARK SYSTEM

Administration

Title I of the proposed legislation would add additional acreage to two existing parks and monuments and create nine new units of the National Park System. Administration of these areas will be under the authority of Act of August 25, 1916 (39 Stat. 535 *et seq.*) as amended and supplemented (16 U.S.C., *et seq.*). Chuckchi-Imuruk National Reserve and the two southern units of Harding Ice Field-Kenai Fjords National Monument will be managed jointly by the National Park Service and the Bureau of Sport Fisheries and Wildlife pursuant to a cooperative agreement. The other areas will be managed entirely by the National Park Service. Lands within the boundaries of the added and new areas may be acquired by purchase, donation, or exchange; except that lands owned by the State or political subdivisions of the State may be acquired only by donation or exchange, and property owned by a native village or corporation may be acquired only with the concurrence of the owner. Minor boundary changes may be made, after notice requirements are met, including notice to the Interior and Insular Affairs Committees. Administrative sites located outside the park system area boundaries may be added to the areas and included within the boundaries after notice requirements are met, but the sites may not exceed 80 acres for any one park system area.

Mining and mineral leasing

The Federal lands within the boundaries of the areas added to existing units or established by the title are withdrawn, subject to valid existing rights, from location, entry and patent under the public lands laws, including from all forms of appropriation under the United States mining laws, and from operation of the mineral leasing laws. This withdrawal also applies to areas presently within Mount McKinley National Park. Since lands within the existing Katmai National Monument are already withdrawn, no reference is made to them in the legislation. A one year limit is established during which all mining claims must be recorded; an application for patent must be made within three years of recordation, or the claim will be presumed invalid.

An exception to these withdrawals is made to allow mineral leasing in the Yukon River watershed of the Yukon-Charley National River, other than the Charley River; these lands are not withdrawn from operation of the mineral leasing laws and are specifically made subject to the Mineral Leasing Act of 1920, except that provision is made for administrative canceling of leases and permits for violations of the terms of leases and permits or regulations. These lands are withdrawn from appropriation under the mining laws by subsection 106(a), but minerals of the types subject to the mining laws may be removed under a permit system provided for in subsection 106(b).

Sport hunting

Sport hunting will be permitted in specified townships of Aniakchak Caldera National Monument and in Lake Clark National Park, Wrangell-St. Elias National Park, the Gates of the Arctic National Park, Chukchi-Imuruk National Reserves, and Yukon-Charley National Rivers, in accordance with regulations prescribed by the Secretary. Sport hunting may not take place, however, if prohibited by state or federal law. The Secretary may establish limits on numbers and types of species taken and manner of taking, and may prohibit taking; he may also designate zones where, and periods when, no sport hunting will be permitted for reasons of public safety, administration, fish and wildlife management, or public use or enjoyment. Regulations except in emergencies, are to be put into effect only after consultation with the appropriate fish and game agency of the State of Alaska.

The proposal requires a report to the Congress at specified intervals on the effect of all hunting, fishing and trapping, including subsistence uses, on the flora and fauna of the areas added to existing units or established by the title.

Subsistence uses

Except as otherwise prohibited by state or federal law, subsistence uses of fish, wildlife and plant resources will continue within the areas added to existing park system units or established as new units, to the extent that such uses were in effect on the date of enactment of ANCSA, unless the Secretary finds that such uses would materially and negatively affect the fish, wildlife or plant resources of such areas. The Secretary may prescribe conditions under which subsistence uses shall be conducted, and may prohibit takings altogether. Regulations on subsistence uses are to be promulgated after consultation with the appropriate fish and game agency of the state.

Cooperative agreements

The Secretary is specifically authorized to enter into cooperative agreements with federal agency heads and owners of land within, adjacent to, or related to the park system areas added to existing units or established by the title.

The agreements may be made, for example, with Federal agencies, State or local governments, Native corporations, villages or groups, and foreign governments, with the concurrence of the Secretary of State. The agreements would be drafted to insure management of the areas subject to the agreement in a manner consistent with preservation of the park system areas. They could also provide for access by the park visitors to and across the lands. A provision similar to section 106 of the Historic Preservation Act of 1966 is included in the legislation, requiring agencies licensing, funding or carrying out projects or other undertakings in the areas within, related to or adjacent to park system areas to give the Secretary opportunity to comment on such undertakings; Federal agencies which are parties to cooperative agreements with respect to the particular park system area are exempted from this requirement since such reporting requirements could be included in the agreement.

Wilderness review

With respect to the areas added to existing units or established by the title, the Secretary has 3 years from the date of enactment to report his recommendations for wilderness designation, in accordance with subsections 3(c) and 3(d) of the Wilderness Act. The wilderness recommendation for the existing Mount McKinley National Park must also be made within 3 years, from date of enactment.

Wild and Scenic Rivers System Components

Seven river components—Alatna, Aniakchak, Charley, Killik, Noatak, Salmon, and Tinayguk—are added to the Wild and Scenic Rivers System by title I. Studies of these rivers have been completed which are the equivalent of the studies carried out on rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)). We are therefore recommending addition of these rivers directly to the system, rather than inclusion on the 5(a) study list. All seven rivers are classified as wild rivers and are to be administered as wild rivers pursuant to the Wild and Scenic Rives Act. The rivers are exempted from the requirements of 3(b) of establishing detailed boundaries, preparing development plans, and classifying as wild, scenic or recreational rivers. They are also exempted from the duplicative and potential conflicting acquisition provisions of section 6 of the Act and fish and wildlife provisions of section 13(a) of the Act.

Specific areas

Descriptions of specific areas and specific legislative provisions applying to these areas follow:

1. *Mount McKinley National Park Additions.* Mount McKinley National Park was established in 1917. This proposal will add approximately 3.18 mililon acres to the present park, which now includes about 2 million acres. About half of the additions are to the north of the existing park, and constitute critical wolf, sheep, moose and caribou range necessary to ensure the continued viability of the ecosystem of the Mount McKinley area. The area also has important waterfowl values. The remaining half of the added acreage is to the south of the park. It includes part of the Mount McKinley missif not now within the park, spectacular glacial systems, and the intricately dissected, awesomely beautiful Cathedral Spires. Lowland areas in the southern portion will provide ecologic diversity for the park and opportunity for recreational use and access. The added areas will be managed as natural areas with the primary objectives of preserving the large mammal ecosystem and the scenic beauty of the area; development will be minimal, with emphasis on the recreation portion of the area in its natural condition. Headquarters will be relocated from its present site north of the Alaska Range to the south side of the range.

A cooperative planning and management zone, adjacent to the south and east boundaries of the expanded park, has been designated on the maps referred to in the legislation. This area encompasses the threshold lands to Mount McKinley. Within 3 years from the date of enactment of the title, the Secretary will be required to submit a report to the Congress on whether land-use controls needed for proper protection of the park have been instituted by the State and local governments with respect to this zone. Comments of the Governor and the Joint Federal-State Land Use Planning Commission will be solicited and submitted to Congress as well.

2. *Katmai National Park.* Katmai National Monument was established in 1918 by Presidential Proclamation, and subsequently enlarged to about 2.8 million acres. The legislation would add 1.87 million acres to the monument and redesignate it as a national park. The national monument, which is located on the upper Alaska Peninsula, was originally established to preserve a scenic region containing an area devastated in 1912 by volcanic eruption and ash deposition.

The proposed expanded park will include the headwaters of all watersheds draining through the present monument. Inclusion of the headwaters will help assure preservation of the sockeye (red) salmon spawning and nursery waters in these headwaters. The park would also include a protected area sufficiently large to include an unhunted, self-perpetuating population of the giant Alaskan brown bear. The southern portion of the park will include a representative portion of the Bristol Bay lowland tundra, the only representative of this landform type in the national park system. Katmai will continue to be managed as a natural category area with the primary objective of insuring maximum retention of land and wildlife in as near as possible to their natural state. Hunting, trapping, and commercial fishing will not be allowed.

3. *Aniakchak Caldera National Monument.* The proposed Aniakchak Caldera National Monument, which will include approximately 440,000 acres, lies on the Alaska Peninsula approximately 350 air miles south of Anchorage. The 30-square mile Aniakchak Caldera is one of the world's greatest dry volcanic caldera (craters), and contains many examples of volcanic activity, including lava flows, cinder cones, a lava plug, warm springs, explosion pits, and layers of volcanic and sedimentary rocks exposed by volcanic action. A rift running through the caldera has created portals in the caldera wall; the eastern portal is a spectacular 2,000-foot gash through which the Aniakchak River flows. Also included in the national monument are ash fields surrounding the caldera, tundra-covered lowlands, and portions of the Aleutian Mountain Range, and the Aniakchak River. The Aniakchak River is proposed by the legislation for designation as a component of the wild and scenic rivers system and classification as a wild river, pursuant to the Wild and Scenic Rivers Act.

The rivers and streams within the monument support abundant salmon, trout and many other fish. Brown bear and moose are found almost throughout the area. The coastal portion of the monument, including cliffs and off-shore islands, harbor sea lions, sea otters, seals, and sea birds.

4. *Harding Ice Field-Kenai Fjords National Monument.* The proposed Harding Ice Field-Kenai Fjords National Monument, consisting of about 300,000 acres, encompasses two major elements of the Alaska scene: a 700-square mile icecap, with outflowing glaciers, and a series of coastal fjords with abundant bird and marine life. It is located south of Anchorage, on the Kenai Peninsula, about 2½ hours by car. The monument consists of three units and provision is made for including a central area between the three units in the monument, as well, if all or part of this area is not selected by native corporations pursuant to the Alaska Native Claims Settlement Act. The two southern units of the monument will be administered jointly by the National Park Service and the Bureau of Sport Fisheries and Wildlife, pursuant to a cooperative agreement.

The high point of Harding Ice Field is 5,270 feet. Numerous glaciers flow outward from the icefield, some reaching the sea, others ending in large lakes, or on bare ground. Cirques, horns, morains, nunataks, and other glacial features can be seen. Of the 4 major icefields in the United States, Harding has the most expansive central area which is not broken by mountains and crevasses. The icecap-like appearance is awesome, providing the visitor a unique experience.

Glaciers from the icefield have cut deep fjords into the mountainous coast. Dense, rain forest-type vegetation cloaks the cliffs and mountains. Marine mammals and sea birds abound on these cliffs and in the fjords.

5. *Cape Krusenstern National Monument.* The proposed Cape Krusenstern National Monument, situated north of the Arctic Circle in northwestern Alaska, will protect an internationally significant series of archeological sites. The area proposed for the national monument, comprising approximately 350,000 acres, includes a level coastal plain dotted with sizable lagoons, which on the east meets an ancient sea cliff and low rolling monument and redesignate it as a national stratigraphy of beach ridges that is unique in size and scope, every known cultural period in arctic Alaska; this succession of 114 gravel beaches extends from 1½ to 3 miles inland. The area, which was ice-free in the late Pleistocene, may reveal information on the peopling of the Americas across the thousand-mile wide Bering Land Bridge. The land bridge is now partially under water.

The national monument, in addition to its archeological significance, will provide a representative segment of arctic coastal tundra, a type of ecosystem not now represented in the National Park System. The long term stability of the coast also makes the area significant for studies of sea level and coastal currents.

Management of the area will be to preserve evidence of prehistoric man and his environment for study by scientists and for other visitors. Developments will be minimal to preserve the overall scene and prevent damage to the fragile ecosystems.

6. *Kobuk Valley National Monument.* The proposed Kobuk Valley National Monument, comprising about 1,850,000 acres, is located above the Arctic Circle in the central Kobuk Valley in northwestern Alaska. It is bounded on the north by the crest of the Baird Mountains and on the south by the Waring Mountains. It includes the Kobuk River, with its myriad meander sloughs and oxbow lakes, the Great Kokuk Sand Dunes, covering more than 20 square miles that are the relics of a prehistoric dune area covering over 300 square miles, and the Salmon River. The Salmon River is proposed for inclusion in the wild and scenic rivers system, and classification as a wild river. The monument is representative of both the Western Interior Alaska and Brooks Range physiographic province, and includes the northwestern limits of boreal forest. The northern portion of the winter range of the Arctic caribou herd and several important migration routes lie within the proposal. Moose, black and grizzly bear, and wolves are indigenous.

Provision is made in the legislation for inclusion of those parts of the Onion Portage area that are not selected by native corporations pursuant to ANCSA as part of the monument; Onion Portage is one of the most important archeological sites in arctic North America, with over 30 cultural horizons.

The portion of the Kobuk Valley included in the monument has an appeal as a "friendly" place, which is rare for the arctic. Boating is safe and easy, and there is excellent hiking on the dunes and in the Waring Mountains. The Baird Mountains offer excellent mountaineering opportunities.

7. *Lake Clark National Park.* The proposed Lake Clark National Park, of approximately 2,610,000 acres, is located north of the existing Katmai National Monument on the Cook Inlet. It straddles the Alaska and Aleutian Mountain ranges, and includes a series of glacier-created lakes on the west. The National Park Service has been studying the area for possible addition to the park system since the late 1950's.

In the areas proposed for a national park, numerous valleys weave through a jumble of mountains. There is a maze of natural hiking routes, which permit surprisingly easy entrance to a spectacular mountain environment. The park encompasses still-smoking volcanoes, spectacular spires, and glaciers.

The park includes a portion of the Cook Inlet coastline, which ranges from gentle alluvial shapes in the north to deeply incised, spruce-covered coastal hills in the south.

Waterfowl, seabirds, trout, bear, moose, sheep and marine mammals can be found in the park. Plant communities range from coastal spruce and marsh to alpine meadows and lichen growth at high elevations.

We have had discussions with the Cook Inlet Regional Corporation regarding the possibility of exchanging at some future date land in the Kenai National Moose Range for land which they are entitled to select near the proposed Lake Clark National Park. Presently, the Bureau of Sport Fisheries and Wildlife and the Federal-State Commission are conducting studies of the Range to determine whether some of the land is no longer needed for the purposes of the Range.

Developments in the park will be located to maintain the ecological and scenic integrity of the area. The area will be managed as a natural area with the objective of preserving its scenic beauty, wilderness attributes, areas of scientific interest and plant and animal life.

8. *Wrangell-St. Elias National Park.* The proposed Wrangell-St. Elias National Park, including approximately 8,640,000 acres, is located in south-central Alaska, and stretches 160 miles north from the Gulf of Alaska. Much of the Wrangell-St. Elias and Chugach mountain ranges will be included in the park, including 18,000-foot Mount St. Elias 16,000-foot Mount Blackburn and the largest glacier system in the United States, including Malaspina and Bering glaciers and Bagley Ice Field. The park includes spectacular ice-sculptured valleys, rolling interior foothills, and a small sample of coastal plain. Abundant land and sea mammal and fish species include moose; wolf; wolverine; black, glacier and brown-grizzly bear; caribou; Dall sheep; sea lions; otters; seals; killerwhales; salmon; trout; and grayling. A number of historic sites from the early mining era in Alaska are located in the river valleys within and in the vicinity of the park.

The proposed legislation provides that the Secretary of Agriculture and the Secretary of the Interior shall consult in the development of management plans for the Wrangell Mountains National Forest and the adjoining Wrangell-St. Elias National Park to achieve the fullest possible coordination and cooperation.

The park would be managed to ensure maximum retention of the landscapes and lifeforms in a natural state.

9. *Gates of the Arctic National Park.* The proposed Gates of the Arctic National Park, comprising approximately 8,360,000 acres, is located in the central Brooks Range, 200 air miles northwest of Fairbanks, and a similar distance southeast of Barrow on the Arctic Ocean coast. The park will protect Alaska's most complete and varied array of arctic scenic and biologic resources. The area's scenic values derive from the gaunt grandeur of the tundra environment and the vast open valleys and sweeps of mountains.

Mount Igikpak, a spectacular turreted peak which is the highest in the central and western Brooks Range, (8,510 feet) is included in the western portion of the park, as are the Arrigetch Peaks, among America's most precipitous mountains, and Walker Lake, an exceptional geological and ecological area. Several other large lakes on the southern flank of the range are in the proposed park, as are two on the Arctic Slope. The eastern part of the park includes the striking mountain and valley formation called the Gates of the Arctic and other mountains and wilderness made famous in the writings of Bob Marshall. We are proposing four rivers within the park for inclusion in the wild and scenic rivers system, and classification as wild rivers—the Alatna, the Killik, the Noatak, and the Tinayguk.

Wildlife includes migrants from the huge arctic caribou herd as well as grizzly bear, Dall sheep, moose, wolves, raptors, and Arctic char, lake trout, northern pike and grayling.

Limited recreation development in keeping with the primitive character of the area appears to be appropriate for the central portion of the park. No developments except for those necessary for management purposes are planned for the eastern and western portions.

10. *Yukon-Charley National Rivers.* The proposed Yukon-Charley National Rivers, which comprises approximately 1,970,000 acres, is located in east-central Alaska, its eastern boundary the United States-Canadian border. It includes a part of the Yukon River, and the Charley River drainage in its entirely. The Charley River empties into the Yukon between the towns of Eagle and Circle, and this confluence is within the national rivers. The Yukon River area is rich in history. The town of Eagle, which is near the park boundary, has well-preserved buildings dating back to the gold-rush era, and there are a number of remains of buildings along the banks of the Yukon within the national rivers. There are also wildlife resources, including the highest known concentration of nesting peregrine falcons. Geologic features include an uninterrupted visible cross-section of rock strata dating from Upper Cambrian times (500 million years ago) to the present.

The Charley River basin is significant because of its undisturbed nature and its fine cross-section of interior Alaska flora and fauna. There is high potential for recreational boating on the Charley and for camping and hiking through the Charley River basin. The Charley River is recommended by the legislation for inclusion in the wild and scenic rivers systems, and for classification as a wild river.

The proposed Yukon-Charley National Rivers will be managed as a recreation category area. Management will provide for protection of and use of recreational, historic and natural values. Along the Yukon River, mineral leasing under 1920 Mineral Leasing Act will be permitted, subject to certain special provisions and minerals normally subject to the mining laws may be removed pursuant to a permit system in the legislation.

11. *Chukchi-Imuruk National Reserve.* The proposed Chukchi-Imuruk National Reserve, comprising approximately 2,690,000 acres, is located on the Seward Peninsula in northwestern Alaska. The area is a relic of the much larger area which constituted the Bering Land Bridge. It is a superb representation of a great diversity of tundra communities. Wildlife values of the area are internationally significant; the wildlife are found in the wetlands, cliffs and estuaries, and offshore areas of the proposal. The area is also of interest because of the volcanic processes represented. Lava flows cover large areas in the southern part of the proposal. Ash explosion, unknown elsewhere in the Arctic, have left deep crater lakes in the northern portion and buried, in near total preservation, a prehistoric ecosystem. The area will be managed jointly by the National Park Service and the Bureau of Sport Fisheries and Wildlife, pursuant to a joint management plan.

NATIONAL WILDLIFE REFUGE SYSTEM

The proposed additions to the National Wildlife Refuge System are the results of investigations by the Bureau of Sport Fisheries and Wildlife. Enactment of these proposals would result in adding approximately 32 million acres to the National Wildlife Refuge System, presently estimated at 31 million acres. The areas would be administered as integral units of the National Wildlife Refuge System pursuant to the National Wildlife Refuge Administration Act of 1966 as amended (80 Stat. 927; 16 U.S.C. 668dd–ee), and would afford protection and preservation of nationally and internationally significant fish and wildlife populations and their habitats. Special emphasis is provided in these proposals to critical habitat areas of migratory birds, seabirds, endangered species, anadromous fish and marine mammals.

Within the framework of Federal and State laws, subsistence would be a recognized use of the fish, wildlife and plant resources in the refuges and the ranges. Refuge designation of proposed lands would not change laws applicable to existing subsistence, and authorized uses would be continued until it is demonstrated that they are no longer necessary for human survival. Hunting, fishing and trapping will be allowed on the areas subject to applicable Federal and State laws. The Secretary of the Interior would be authorized, however, to regulate subsistence uses for such reasons as public safety and to prevent depletion of the resources and thereby insure sustained benefits for all Americans. Subject to valid existing rights, no use of the refuges and the ranges under United States mining and mineral leasing laws will be allowed without the express approval of the Secretary.

All areas, except the proposed "Noatak National Arctic Range, would be studied for possible inclusion in the National Wilderness Preservation System in accordance with subsections 3(c) and 3(d) of the Wilderness Act. A report would be made to the President and Congress within three years after establishment concerning their suitability or nonsuitability for classification as wilderness. Certain rivers within the proposed refuges and ranges which have been studied and found to be suitable would be designated for protection under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271–1287).

Special efforts will be made to coordinate management of fish and wildlife resources on the refuges and ranges with that of native and State-owned lands and other Federal lands within, adjacent to and related to the refuges and the ranges.

Alaska Coastal National Wildlife Refuges

This proposal to add approximatly 65,000 acres to the National Wildlife Refuge System includes several hundred rock islands, spires and cliffs located along, 1,500 miles of Alaskan coast. Two of the proposed refuges will be additions to existing refuges—the Bering Sea National Wildlife Refuge and the Kodiak National Wildlife Refuge—and the rest will go into three new refuges—Chukchi Sea, Shumagin Islands, and Barren Islands, National Wildlife Refuges.

It is estimated that the nesting sites of four to six million seabirds are included within the land areas of this proposal. In addition to seabird nesting, all the units are important to one or more species of marine mammals including sea lions, walrus, sea otters and polar bears.

Commercial fisheries are of prime economic importance in the area below the Alaska Peninsula. Convention agreements permit international fishing zones to be located adjacent to the Shumagin Islands, Kodiak, and Barren Islands units. Zones permitting loading and unloading of fish, fuel, and supplies are also located adjacent to the Shumagin Islands and Barren Islands units.

Arctic National Wildlife Refuge

Located in the northeast corner of Alaska, extending along the Canadian border from the Yukon basin to the Arctic Ocean, this proposal would establish a 3.76 million acre Arctic National Wildlife Refuge, and the existing 8.9 million acre Arctic National Wildlife Range withdrawn in 1960 by Public Land Order No. 2214 would be added to the refuge.

The magnitude and diversity of habitats account for the variety of fish and wildlife resources within the area. Nearly 130 species of migratory birds use these habitats. Also, 44 species of mammals depend upon the land base for their existence. Thirty-one species of waterfowl frequent tundra wetlands and adjacent coastal waters.

The area is a major migratory route for a variety of shorebirds and waterfowl. Birds from all four continental flyways follow inland routes and the Arctic coastal route to winter ranges around the world. Thousands of snow geese forage inland on the tundra in late summer and early fall during their annual migration. Of special interest are the endangered peregrine falcon, and possibly the Eskimo curlew which many fear is extinct.

The calving grounds of the Porcupine caribou herd (as many as 150,000 animals) are entirely within the existing Arctic National Wildlife Range and are of international importance.

Sixteen species of fish occur within the proposal including arctic grayling, anadromous and landlocked populations of arctic char, lake trout, chum salmon, northern pike, burbot and whitefish. Though no commercial fisheries exist, all species are important for subsistence use.

Iliamna National Resource Range

The proposed Iliamna National Resource Range includes approximately 2.85 million acres of land and water located on the northern end of the Alaska Peninsula between Cook Inlet and Bristol Bay.

The terrain is diversified and includes heavily glaciated mountains, alpine-like meadows, coastal bays, and numerous ponds and lakes. Lake Iliamna, in the heart of the region, is the seventh largest freshwater lake in the United States.

The Kvichak River system contains the greatest red salmon spawning grounds in the world and sustains a world-renowned freshwater trophy sport fishery. Kvichak River, which flows from Lake Iliamna to Bristol Bay has a watershed of 8,000 square miles, is 68 miles long, and has an estimated flow of 18,000 cubic feet per second. During the period 1960 through 1969, the Kvichak drainage contributed 55 percent of the red (sockeye) salmon caught in Bristol Bay, 33 percent of entire U.S. catch, and 16 percent of the world catch. The whole sale value of this commercial sockeye salmon fishery has averaged more than $12,000,000 per year over the past ten years. In addition to the red salmon, pink, chum, king, and coho are also found within the proposal boundaries. The area supports a trophy sport fishery for grayling, arctic char, Dolly Varden, lake trout, rainbow trout, and pike. The fishery is the main economic resource of the area, supporting extensive subsistence fishing, 4,000 licensed commercial fishermen, 4,000 to 6,000 support workers for the fishermen, 23 canning lines, several salteries and freezing facilities, and an array of small businesses supported by the sport fishery—guiding operations, lodges and transportation services.

More than 100 species of birds inhabit the area. Predatory birds include the bald eagle, peregrine falcon, osprey, and gyrfalcon, and Bristol Bay is the staging area for the entire world population of emperor geese and Pacific black brant.

The area would be added to the National Wildlife Refuge System and managed jointly by the Bureau of Sport Fisheries and Wildlife and the Bureau of Land Management of this Department pursuant to a cooperative management plan which will permit only such multiple use activites as are compatible with the protection and management of the nationally and internationally significant fish and wildlife resources of the range.

Koyukuk National Wildlife Refuge

Two units of land in the Koyukuk-Innoko area of Alaska are recommended to be set aside as the Koyukuk National Wildlife Refuge.

The area produces an annual fall flight averaging over 80,000 ducks and geese, and is an important staging area for other migratory birds. One hundred and forty bird species are common in the area. In addition, the many lakes and streams make the area prime habitats for furbearing animals, as well as moose, and salmon.

The Beaver Mountains caribou herd, made up of 3,000 animals, winters in the Innoko Unit. Black bear, grizzly bear, and moose inhabitat both units. Forty percent of the entire Alaskan beaver catch is harvested in the Koyukuk-Innoko region, with approximately 80 percent of this catch from the Innoko Unit.

Noatak National Arctic Range

The Noatak National Arctic Range is proposed for addition to the National Wildlife Refuge System in northwestern Alaska for the protection of two major Arctic valley ecosystems, now virtually unaffected by civilization.

Two river basins are proposed for inclusion in the Range, the Noatak and the Squirrel. The Noatak River rises in the central Brooks Range and flows westward for 450 miles to the sea at Kotzebue Sound. The Squirrel, 57 miles long and draining the Baird Mountains adjacent to the Noatak on the South, is the largest tributary of the Kobuk River.

Wildlife in the proposed range include the more than 200,000 migrants from the Arctic caribou herd (Alaska's largest), the barren-ground grizzly bear, Dall sheep, moose, wolves, wolverines, and migratory birds, including waterfowl, raptors, and several Asian species. The Noatak supports the most northerly major chum salmon run in Alaska and is noted also for arctic char.

The area will be added to the National Wildlife Refuge System and managed jointly pursuant to a cooperative management plan by the two Bureaus. In addition, the National Park Service will perform certain advisory functions. The management plan will provide for the protection of the natural features of the area, for scientific research, enhancement of aboriginal cultural uses and primitive types of low density outdoor recreation. Our proposal calls for a report to Congress on future administration and management of the area within twenty years of its establishment.

Selawik National Wildlife Refuge

Approximately 1.4 million acres in the Selawik Lake area of Alaska is recommended for designation as the Selawik National Wildlife Refuge. The Chamisso National Wildlife Refuge, established in 1940 by Proclamation No. 2416 will be redesignated as part of the Selawik National Wildlife Refuge and added to the refuge.

The proposal, located on the Arctic Circle, is 200 miles west-northwest of Fairbanks. The Selawik River is the main water course within the proposal. The many forms of wildlife, especially migratory waterfowl of international significance are perhaps the region's greatest natural resource. The proposed refuge produces about a third of the waterfowl within the region; a majority of the remainder, including all the black brant, cackling Canada geese, emperor geese and eiders, are produced in the adjacent areas. The Eskimo curlew, thought to be extinct or nearly so, was formerly an abundant nester in this region and may yet be found in the area.

Mammals include black and grizzly bear, wolves, wolverine, moose, and arctic fox; more than 50 species are represented. A large part of the 240,000 caribou of the Arctic herd winters along the Selawik drainage. Marine mammals, including whales, seals, and walruses, are found in the coastal waters adjacent to the refuge.

Fish species present in the area include whitefish, cisco, grayling, Dolly Verden, and lake trout. Anadromous species include silver, chum, king, and pink salmon.

Togiak National Wildlife Refuge

A 2.74 million acre area of coastal mountains between Bristol Bay and Kuskokwim Bay in southwestern Alaska is proposed for designation as the Togiak National Wildlife Refuge. The area is 400 miles west of Anchorage and is adjacent to the precipitous rock cliffs of Cape Newenham National Wildlife Refuge, one of the most important nesting areas for seabirds in Alaska. This 247,700 acre refuge will be added to the Togiak National Wildlife Refuge.

The area is the crossroads for waterfowl and shorebirds coming from wintering areas through the Pacific Ocean. Birds from the Asiatic route, mid-Pacific route, and the North American Pacific Flyway funnel through the area. The coastal zone is the breeding ground for all types of migrating waterbirds.

The proposed refuge has one of the most diverse mammalian faunas of any area in the State with 32 species of land mammals. In addition, walrus, sea lions, and 4 species of seals occur in the adjacent coastal waters and occasionally haul out on the shores of the proposed refuge.

The many rivers and lakes in the proposed refuge contain abundant stocks of anadromous and resident fishes. Anadromous fish of interest include whitefish, steelhead, and king, sockeye, coho, pink, and chum salmon. Resident species include rainbow, Dolly Verden, and lake trout, arctic grayling, and arctic char.

Yukon Delta National Wildlife Refuge

The alluvial deposits of the Yukon and Kuskokwim Rivers have, through the centuries, formed a vast river delta stretching 250 miles north to south and 200 miles east to west. This flat and nearly treeless delta contain typical arctic tundra in which have formed thousands of ponds and lakes varying in size from less than an acre to many thousands of acres. Approximately 5.16 million acres of the Yukon-Kuskokwim River Delta area of Alaska, including the 2.8 million acre Clarence Rhode National Wildlife Refuge, are recommended for designation as a National Wildlife Refuge.

The Delta produces about 80 percent of the swans and nearly all of the white-fronted geese utilizing the Pacific Flyway; also more than half of the continental population of black brant, 80 percent of the emperor geese, and nearly all of the cackling geese are produced in this area. No other area of similar size is known to be as critical to so many species.

Most of the mammals common in Alaska, except the high mountain species, are represented. Forty-three species have been noted, though populations are not great. Marine species historically have been a major element in the subsistence economy of residents in the coastal villages.

The large fishery resource of the Delta is the primary factor which permitted development of the large aboriginal population in the region; subsistence and commercial fisheries are major elements in the present economy of the area. The 1972 commercial catch totalled 6.5 million pounds of king, chum, sockeye, pink and silver salmon, and migrating smelt.

Yukon Flats National Wildlife Refuge

Approximately 3.59 million acres of the Yukon River Valley in east central Alaska, are recommended for designation as a National Wildlife Refuge. The unit, a level flood plain basin bisected by the Yukon River and ringed with highlands, occupies the western half of the largest of Alaska's interior valleys.

Water is the dominant natural feature of the Yukon Flats region which contains more than 25,000 miles of streams and approximately 40,000 small lakes and ponds encompassing over 800,000 acres. One hundred and thirty species of birds have been identified on the Yukon Flats. Twenty species of the waterfowl nest on the proposed refuge and contribute about 720 thousand birds each year to Canada, the United States, and Mexico. The density of nesting ducks is estimated at 99 per square mile, greater than any other large area in Alaska.

Fish resources include both anadromous and resident species. Little commercial use is made of the fishery resource as far upstream as the Yukon Flats. The fish habitat of the area is essential to anadromous species harvested commercially in the lower reaches of the river and to the Bering Sea salmon fishery.

NATIONAL FOREST SYSTEM

Title III of this proposal would designate three new National Forest units—the Porcupine (5.5 million acres), the Yukon-Kuskokwim (7.3 million acres), and the Wrangell Mountains (5.5 million acres). In addition, the draft legislation would provide for addition of 500,000 acres of the existing Chugach National Forest to consolidate the Forest boundaries.

The proposed legislation would also designate, within the above units, all or portions of the Bremner, Porcupine, Nowitna and Sheenjek Rivers as components of the National Wild and Scenic Rivers System.

The areas recommended for inclusion in the National Forest System are those withdrawn areas which have (1) nationally significant values that should be retained in public ownership to assure permanency of protection and continuity of management and (2) the resources offer a balance of uses that would be better managed under multiple use principles than under a dominant or more limited combination of uses. In addition, it was deemed necessary that the areas be in manageable units such as those delineated by drainages, ecological relationships, or existing or proposed transportation systems.

The 1960 Multiple Use-Sustained Yield Act is the basic mandate for administration and management of the National Forests. The Act directs that the National Forests are established and are to be administered for outdoor recreation, range, timber, watershed and fish and wildlife purposes.

The establishment and maintenance of areas of wilderness are consistent with the purposes of the Multiple Use-Sustained Yield Act. The Forest Service intends to consider wilderness along with other resources in its multiple use planning process. It expects to propose and identify wilderness study areas within three years after the establishment of the proposed National Forests.

In accordance with the general mining laws, exploration and development of "locatable" minerals would be permitted. These laws allow individuals to prospect, locate, mine and remove minerals and to obtain patents to valid claims. These authorized activities are subject to National Forest rules and regulations containing appropriate environmental safeguards.

Chugach National Forest

Two isolated areas, formerly in public domain but adjacent to the Chugach National Forest are proposed as additions to the National Forest System. These areas were formerly public domain isolated by the Forest Reserve proclamations of the early 1900's because of their lack of commodity resources.

The College Fiord is 161 thousand acres in Prince William Sound. Any icy and mountainous hinterland rising from sea level to over 10,000 feet, it is mostly rock and ice with 17 glaciers. Rainfall varies from 150 to 300 inches annually. Scant vegetation consists of a near sea level fringe of sitka spruce, cottonwood and mountain hemlock grading upward through alder thickers to alpine mats and heath.

The Sargent Ice Field or Nellie Juan unit is a 276 thousand acre block on the Kenai Peninsula northeast of Seward. Principally ice and mountain tops, glaciers feed the Nellie Juan river which flows through a glacier-carved valley into Prince William Sound at King's Harbor. The area's vegetation is alpine tundra except for scattered riparian growth in the river flood plains and occasional mountain hemlock.

Porcupine National Forest

This 5.5 million acre proposal for the Porcupine National Forest is located in the east-central part of the Alaska Interior. A combination of broad river flats and low-lying hills, the area is endowed with many lakes and waterways. North America's fourth longest river, the Yukon, is joined by the Porcupine flowing west from Canada. Out of the Brooks Range to the north, spring the Rapid, Sheenjek and Coleen while the Black and Little Black meander through, draining the southeast portion of the unit. The area is characterized by extreme seasonal variations in climate. The northern half, above the Arctic Circle, experiences the summer's midnight sun and winter's prolonged darkness. Seventy percent forested, many of the area's seven ecosystems result from succession following riverbottom changes and forest fires.

The Porcupine proposal contains the eastern extension of the Yukon Flats, a major waterfowl breeding area. Upland wildlife, big game and important fisheries habitat exist. Sportfishing, hunting and river and lake oriented activities could provide the greatest recreation experiences in this area.

The densely forested area includes 750 million board feet of commercially valuable sawtimber as well as being highly valued for wildlife habitat and watershed protection. Old Indian sites and the rich history of the Hudson's Bay company lend romance to the area. These sites will be protected and archeological studies encouraged.

Wrangell Mountain National Forest

The proposed Wrangell Mountains National Forest, an area of 5.5 million acres, is located in southeastern interior Alaska. With some of the most spectacular mountain country in North America, it includes parts of the Wrangell Mountains, the coastal Chugach Mountains and the eastern tip of the Alaska Range. Rugged peaks rise to 16,000 feet in elevation and large ice fields feed massive glaciers. The Copper River courses south through a portion of the unit and drains most of the central and southern parts. The Chitina and Bremner Rivers are important tributaries. The climate is a typically subarctic continental with long cold winters, short warm summers, and precipitation which is low in the valleys and high in the mountains. Ten ecosystems and related vegetation types are represented. These range from the coastal coniferous forests to the high alpine tundra. Most of the area exhibits effects of glaciation, and permafrost is common. The Wrangells unit is one of the more road accessible areas in Alaska. Light planes are also a major means of access.

Forests cover about 30 percent of the area and are chiefly valued for watershed protection, wildlife habitat, and recreational opportunities. Major stream and river systems stemming from the vast mountain-glacier complex of the Wrangell and Chugach Ranges provide many water-based resource values. Of exceptional importance are habitat for wildlife and fish, water oriented recreation.

Yukon-Kuskokwim National Forest

Spanning the middle Yukon and Kuskokwim River Valleys, this 7.3 million acre area is proposed as the Yukon-Kuskokwim National Forest. Lying across the Kuskokwim Mountains on the north and flanked by the Alaska Range on the south, the area contains extensive forests, shrub thickets, bogs and marshes and other ecosystems of the subarctic. Characterized by winters of extended subzero temperatures and summers in the mid 70's or above, this area experiences a brief, but productive growth cycle. Summer drought contributes to a pattern of frequent wildfire.

Over three-fourths of this area is forested, and commercial timber stands occur on more than one million acres. Providing up to two billion board feet of timber, this area, combined with surrounding ownerships could support a major forest products industry.

WILD AND SCENIC RIVERS LOCATED OUTSIDE OF UNITS OF THE NATIONAL PARK, REFUGE AND FOREST SYSTEMS

Title IV of the enclosed legislation proposes four river segments for addition to the wild and scenic rivers system that are not located within units of the park, refuge and forest systems. These four river segments are on public domain lands and will be administered by the Bureau of Land Management.

The river components are as follows:

1. Beaver Creek—a 135-mile segment, totalling 200,000 acres, to be classified as a wild river. The river is located 50 miles north of Fairbanks, between Fairbanks and Circle. The river is excellent canoeing water and provides good fishing and hunting opportunities. The limestone peaks of the White Mountains form an almost continuous scenic background. Large mammals abound.

2. Birch Creek—a 135-mile segment, totalling 200,000 acres, to be classified as a wild river. The river is located approximately 65 miles northeast of Fairbanks, between Fairbanks and Circle. There are numerous sites for camping and the river is an excellent family canoeing stream throughout. Good fishing and hunting opportunities are present. The river flows through a wide valley with moderately steep forested slopes. As Birch Creek flows into the Yukon flats, it becomes a slow, meandering river.

3. Fortymile—approximately 375 miles, including tributaries, totalling 320,000 acres, to be classified variously as wild, scenic and recreational. The river segment is located in east-central Alaska and runs up to the Canadian border. The river and tributaries vary in the headwaters from small, shallow, swift streams, to meandering muskeg and become large, canyon-bound streams with numerous rapids in the middle and lower portions. Portions show evidence of placer gold mining and early settlements. Recreational gold mining can be tried with some probability of success. Hunting, fishing and canoeing are good. Hiking and camping opportunities abound.

4. Unalakleet—approximately 60 miles, totalling 104,000 acres, to be classified as a wild river. The river is located south of the Seward Peninsula and empties into Norton Sound; the downstream river segment boundary is approximately 24 miles above the mouth. The Unalakleet Valley is generally four to five miles wide. Bluffs characterize some 20 miles of the Unalakleet before it widens to 500 feet near its mouth. Dense stands of white spruce along the shore screen the view of adjacent areas. The river is renowned for its sport fishing. King, chum, and pink salmon; grayling; and arctic char are excellent. There is also hunting, primarily for moose, with some caribou and bear, along the river. The Kaltag Trail passes along the south side of the river; it is a link in the historic 1000 mile Iditarod Gold Rush Trail

between Nome and Anchorage; the existing trail will be preserved.

The legislation provides that the Secretary shall take action required under section 3(b)—designating exact boundaries and preparing development plans—within three years after date of enactment for the Beaver Creek component, within two years for Birch Creek, within one year for Fortymile and within four years for Unalakleet. It also provides that the total acreage figures for specific components specified in the bill will supersede the acreage limitations contained in the Wild and Scenic Rivers Act. All of the acreage of the wild river components is withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. Existing law limits these withdrawals to one-fourth mile from the bank of the river. Specific provision is made for such access across the Fortymile as the Secretary determines to be necessary to permit development of asbestos deposits in the North Fork drainage.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

Rogers C. B. Morton,
Secretary of the Interior.

By Mr. BELLMON:

S. 2919. A bill to modify the method for computing military retirement benefits. Referred to the Committee on Armed Services.

Mr. BELLMON. Mr. President, today I introduce a bill concerning an urgent matter which is familiar to my colleagues and which is all too well understood by military retirees. The need for military recomputation has been well documented. Back in 1968 President Nixon said that the action of Congress in first suspending and then repealing the statutory provision for recomputation in 1958 was "a breach of faith for those hundreds of thousands of American patriots who have devoted a career of service to their country and who, when they entered the service, relied upon the laws in sharing equal retirement benefits." It is also important to remember that all three Presidential candidates in 1968: Mr. Nixon, Mr. Humphrey, and Mr. Wallace, pledged at that time to fight for military recomputation. In 1971 and 1972 the President sent proposals similar to this bill to the Congress, and an amendment by the distinguished Senator from Indiana (Mr. Hartke), passed the Senate by a vote of 71 to 14 on September 25, 1973. It contained the same basic compromise between those who would favor full recomputation and those who would prefer to have no military recomputation. The time is running out for the many elderly retirees who have been denied their earned benefits for the past 15 years. We can no longer afford inaction on military recomputation.

The issues are well drawn, and the arguments have been made in this Chamber time and time again, so I will not go into great detail here this afternoon.

Basically this bill provides for a one-time recomputation of retired pay based on the January 1, 1972, basic pay scales, at age 60 for nondisability retirees and for those disability retirees of less than 30 percent. Those retirees with disability of 30 percent or greater would be allowed to recompute immediately. As estimated, the first year costs of this amendment would be roughly $300 million. The President, in the fiscal year 1974 budget request, included an amount of $360 million for the fiscal year 1974 cost. Due to the inaction by the House on this proposal last year, the President's money has gone unspent. And although the President's fiscal year 1975 budget has not been submitted to the Congress, I am sure that we can find money to fund this modest proposal. The table below shows representative examples of how various pay grades would be affected under this amendment. I ask unanimous consent that this table be printed in the Record showing these pay grades.

There being no objection, the table was ordered to be printed in the Record, as follows:

Grade and date retired (before)	Length of service	Current retired pay	Under bill	Under bill: Monthly increase	Under bill: Annual increase	Under bill: Annual retired pay
Major, 0–4:						
June 1, 1958	20	$499.93	$706.78	$206.85	$2,482.20	$8,481.36
Jan. 1, 1965	20	582.02	706.78	124.76	1,497.12	8,481.36
July 1, 1970	20	679.06	706.78	27.72	332.64	8,381.36
Sergeant major, E–9:						
June 1, 1958	30	[1]				10,080.48
Jan. 1, 1965	30	691.58	840.04	148.46	1,781.52	10,080.48
July 1, 1970	30	807.15	840.04	32.89	394.68	10,080.48
Master sergeant, E–8:						
June 1, 1958	30	[1]				$9,004.08
Jan. 1, 1965	30	$617.64	$750.34	$132.70	$1,592.40	9,004.08
July 1, 1970	30	720.86	750.34	30.08	360.96	9,004.08
Sergeant 1st class, E–7:						
June 1, 1958	24	333.29	480.10	146.81	1,761.72	5,761.20
Jan. 1, 1965	24	395.34	480.10	84.76	1,017.12	5,761.20
July 1, 1970	24	461.35	480.10	18.75	225.00	5,761.20
Staff sergeant, E–6:						
June 1, 1958	20	230.13	330.00	99.87	1,198.44	3,960.00
Jan. 1, 1965	20	271.90	330.00	58.10	697.20	3,960.00
July 1, 1970	20	317.11	330.00	12.89	154.68	3,960.00

[1] Pay grades E–9 and E–8 were established June 1, 1958. Accordingly, there were no retirees in those grades before that date.

Mr. BELLMON. Mr. President, the effect of this amendment would be to continue the cost-of-living method for increasing retirement benefits and in addition authorize a one-shot recomputation for those reaching age 60 based on the January 1, 1972 rates, or, in other words, the effect of the amendment would impose a one-time recomputation for all of those reaching age 60.

Recomputation was generally a feature of the military retirement system prior to 1958, when the recomputation law was changed. At that time and for many years previously, the law had provided for retirees to share proportionately in raises given to the active duty forces.

Since 1958, the pay for Armed Forces personnel has risen sharply. This creates great disparity between retirement benefits of comparable grades of service personnel. Further compounding the problem is the fact that in the last decade we have witnessed unprecedented inflation. Not only because of the economics involved but because of the simple equities of the situation. People who entered the service while the old law was in effect had every right to expect that they would continue to be compensated under that system after retirement. However, Congress acted in complete disregard for the rights of those military personnel and deleted the recomputation method from the military retirement system. Because of this oversight, people who retired from the same rank at different times received unequal payment not based on their ability or their service but rather because of the date of retirement.

What we are really telling them is, as my distinguished colleague from South Carolina, Mr. Thurmond, once said:

> Just because you are old, and lived at a time when wages were lower, you as indiviuals are going to suffer and pay for the expenses of people today.

Unless we are willing to recompute their retirement benefits, we are saying "if you are old and do not have long to fight the battle and have made your contribution to society and the defense of this Nation, you are supposed to bear all the penalties of our inflationary spiral when you have done nothing to cause it." Clearly, this is not fair. As we look down the road to the all-volunteer army concept and as we look back in the direction of those who have already served their country, we must realize that certain commitments were and will be made to these men and women who have served their country. It seems that the equities involved should tip the scale in favor of this bill. Mr. President, I ask you, why should earlier retirees be discriminated against so severely? In some cases, a later retiree gets nearly 150 percent of the pay that his colleague of the same grade and length of service who retired prior to 1958. If anyone needs this higher retired pay, it is precisely the older retiree.

The arguments have been made well in the past, and they are no different today. Basically, there are three issues we must deal with:

One, are we going to equalize the pay of all retired military people?

Two, the Government broke faith with the retirees and potential retirees in 1958. Are we going to live up to our responsibility by restoring their faith?

Three, when we ask people, particularly in the all-volunteer army situation, to lay their lives on the line for this country, shouldn't we try to make military service as attractive as possible, to at least confine ourselves to the bounds of equity?

For these reasons, I urge quick and favorable action on this bill.

I ask unanimous consent that the bill be printed in full in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, a member or former member of a uniformed service (1) who is sixty years of age or older on the date of enactment of this Act or becomes sixty years of age after such date, is retired for reasons other than physical disability, and is entitled to retired pay computed under the rates of basic pay in effect before January 1, 1972, or (2) who is entitled to retired pay for physical disability under title IV of the Career Compensation Act of 1949 (63 Stat. 816–825), as amended, or chapter 61 of title 10, United States Code, whose disability was finally determined to be of permanent nature and at least 30 per centum under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination, and whose retired pay is computed under rates of basic pay in effect after October 11, 1949, and before January 1, 1972, is entitled to have that pay recomputed upon the rates of basic pay in effect on January 1, 1972.

A member or former member of a uniformed service who retired by reason of physical disability and who is entitled, in accordance with section 411 of the Career Compensation Act of 1949 (63 Stat. 823), to retired pay computed under provisions of law in effect on the day preceding the date of enactment of that Act, may elect within the one-year period following the date of enactment of this Act to receive disability retirement pay computed under provisions of law in effect on January 1, 1972, in lieu of the retired pay to which he is otherwise entitled.

(a) A member or former member of a uniformed service who is sixty years of age or older on the date of enactment of this Act and is entitled to have his retired pay recomputed under the first section of this title shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which this Act is enacted.

(b) A member or former member of a uniformed service who becomes sixty years of age after the date of enactment of this Act and is eligible to have his retired pay recomputed under the first section of this title shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which he becomes sixty years of age.

(c) A member or former member of a uniformed service who is entitled to make an election under section 21 of this Act and elects to have his retired pay recomputed as authorized in such section shall be entitled to retired pay based upon such recomputation effective on the first day of the first calendar month following the month in which he makes such election.

The enactment of any sections of this Act does not reduce the monthly retired pay to which a member or former member of a uniformed service was entitled on the day before the effective date of this Act. A member or former member of a uniformed service whose retired or retainer pay is recomputed under this Act is entitled to have that pay increased by any applicable adjustments in the pay under section 1401a of title 10, United States Code, which occur or have occurred after January 1, 1972.

As used in this title (1) the term "uniformed services" has the same meaning ascribed to such term by section 101(3) of title 37, United States Code, and (2) the term "retired pay" means retired pay or retainer pay, as the case may be.

By Mr. PERCY (for himself, Mr. Moss, and Mr. Clark):

S. 2920. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities. Referred to the Committee on Finance.

NURSING HOME BILL OF RIGHTS

Mr. PERCY. Mr. President, I am introducing today on behalf of the Senator from Utah (Mr. Moss) and the Senator from Iowa (Mr. Clark) and myself an amendment to the Social Security Act which directs the Secretary of Health, Education, and Welfare to require long-term care facilities to adopt and publish a statement of the rights and responsibilities of nursing home residents and patients.

The amendment sets out what can most accurately be called a bill of rights for the institutionalized elderly, those one million or so senior citizens who reside in long-term care facilities.

I want to commend the author of the nursing home bill of rights, Congressman William S. Cohen, Republican of Maine, for his initiative in drafting this legislation and in introducing it, together with 18 cosponsors, in the House of Representatives. He is a legislative leader who time after time has demonstrated his sound practical judgment as well as his compassionate understanding of the needs of others. I am pleased to be its chief sponsor in the Senate.

I want to take note at this point that the Department of Health, Education, and Welfare has promised to issue proposed regulations for what would be in effect a bill of rights for nursing home residents. I welcome the Department's recognition of the need for such a statement of rights.

The bill of rights seeks to guarantee a patient's basic civil and religious liberties and to assure him the necessary information, independence, and privacy to maintain control over his own fate and fortune while a nursing home resident. Moreover, the bill sets certain minimum standards of care which every resident or patient can anticipate as his right: courteous, fair, and equal treatment by the staff free of physical and mental abuse or physical and chemical restraints. The patient, on the other hand, is expected to obey the institution's regulations and to respect the rights of other residents.

The amendment requires that the facility make the statement available to a patient—or his guardian—prior to admission and to the staff of the facility. The staff, in addition, is to be specially trained to carry out the letter and the spirit of the bill of rights.

No one will take issue with guaranteeing these basic rights to our senior citizens who are confined to long-term care facilities. Many persons may wonder why it is necessary to reiterate some very obvious truths in this context.

Those who might question the need for a bill of rights for nursing home residents have not sat through the many hours of hearings by the Subcommittee on Long-Term Care of the Senate Special Committee on Aging which the distinguished Senator from Utah (Mr. Moss) and I have chaired over the past several years. They have not visited countless nursing homes—both good and bad—over the years as I have. And they have not received the hundred pieces of mail from the friends and relations of residents which I have.

I am certain on the basis of personal experience that all too often the rights of nursing home patients are ignored or violated. I believe the adoption and implementation of this bill of rights will be a step toward changing their situation and thereby improving the quality of life for the elderly and infirm in long-term care facilities.

Mr. President, I do not pretend that the bill of rights is some kind of panacea which will revolutionize care for the elderly. I do not pretend that it is necessarily an exhaustive rendering of all possible rights and responsibilities which should enjoy the force of law.

What we do have here is an uncomplicated and enforceable statement of certain basic rights which was wisely framed by Congressman Cohen in consultation with representatives of the nursing home industry as well as consumer groups. I think the bill will enjoy widespread support in the Congress. I urge prompt consideration and approval. Once again I commend my distinguished colleague in the House, Congressman William Cohen, for his leadership.

By Mr. STEVENS (for himself and Mr. Gravel).

S. 2921. A bill to authorize construction of the Devil Canyon and Denali Units of the Upper Susitna River Basin Project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

DEVIL CANYON AUTHORIZATION ACT

Mr. STEVENS. Mr. President, I am today introducing a bill that would authorize construction of the Devil Canyon and Denali Units of the Upper Susitna River Basin hydroelectric project and related transmission facilities.

The Susitna River Basin hydroelectric project is situated midway between Anchorage and Fairbanks; Alaska's two major population centers. It will entail the construction of four dams on the Susitna River in several stages. Devil Canyon Dam and Denali Dam are seen as a logical first stage development for the project, with possible future additions of two more dams, identified by the 1961 U.S. Bureau of Reclamation project feasibility study as the Vee and Watona projects.

The major features of the Devil Canyon project include the Devil Canyon Dam and Powerplant, with installed generating capacity of 600 megawatts; the upstream Denali Dam which is needed primarily for storage; and electric power transmission facilities to Fairbanks. Anchorage and other Railbelt Centers.

Geographically, the Devil Canyon Dam would be located at mile 134 on the Susitna River, approximately 14.5 miles upstream from the Gold Creek Station on the Alaska Railroad. The Denali Dam would be located at river mile 249, a few miles downstream from the Denali Highway crossing of the Susitna River.

Mr. President, it is imperative that construction of this project be initiated as soon as possible. At present, most of the power in the rail belt area is generated by fossil fuels. With the immense potential for hydroelectric power in Alaska, this is an unnecessary use of critically short fossil fuels.

The Devil Canyon project has the best potential for hydro development, and would maximize benefits for the bulk of the population of the State of Alaska. It does not have the serious detrimental environmental-ecological problems as associated with fossil fuel plants or other potential hydro projects. The project is designed for stage development in substantial increments beneficial to total energy marketing. It is designed to be wholly utilized between the interior south-central regions. Access to the site and interconnecting facilities is provided by both road and railroad. Projected delivered costs to the interior would allow present fossil fuel stations to go on reserve-standby basis. This would allow the fuel currently used for power generation to be used in areas where fossil fuels are the only feasible forms of fuel.

In addition to saving fossil fuels which would be otherwise used for electrical generation, the Devil Canyon project would provide power for the possible electrification of the trans-Alaskan pipeline pumping stations as well as the Alaska railroad. This would result in additional savings of petroleum.

Not only will the Devil Canyon Project represent a substantial savings in fossil fuels, it is critical if the future needs of Alaska's railbelt are going to be met. The regional studies for the Alaska power survey indicates 1972 railbelt energy requirements of about 2 billion kilowatt hours. This amounts to approximately 77 percent of Alaska's energy requirements for 1972, including utility, national defense, and industrial loads. Midrange estimates from the power survey indicate annual requirements of 5 billion kilowatt hours by 1980, and nearly 10 billion kilowatt hours by 1990. The Devil Canyon project would provide 2.9 billion kilowatt hours per year, and the completed Upper Susitna River System would provide 7 billion kilowatt hours per year—or nearly all the 1990 projected railbelt requirement.

The benefits to Alaska include improved access to the river area, new recreation opportunities, plus environmental benefits at the load centers. There has been much public support voiced for the project in Alaska.

Mr. President, the language of this bill is fairly simple and includes straightforward assignments of construction authority to the Corps of Engineers and assignment of operation, maintenance, and power marketing responsibilities to the Department of the Interior.

Section 1 of the bill states its purpose, makes assignment of the responsibilities, describes the features of the project, and asks the Secretary of the Interior to make a determination on necessary and feasible transmission facilities.

Sections 2 and 3 relate to power marketing authorization, and the general authorizations to the two Departments to insure capability to complete the project.

Section 4 is added to indicate the need to complete an environmental impact statement and to finalize transmission plans prior to the actual start of construction.

Mr. President, I urge quick action on this bill. The Devil Canyon project including the Denali storage portion could probably be completed before 1985, and full development of the Upper Susitna project could be accomplished by 1990. The sooner the project is started, the sooner we are going to realize the savings in fossil fuels that this project will bring.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Devil Canyon Authorization Act".

SECTION 1. In order to provide essential power and a backbone transmission grid for the South central and Interior Alaska, and to develop and utilize available renewable energy resources to assist in meeting long range national objectives for conservation of petroleum and natural gas supplies, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers is authorized to construct and the Secretary of the Interior is authorized to operate and maintain the Devil Canyon and Denali Units of the Upper Susitna River Basin Project, substantially in accordance with the plans presented in the March 1961 project report of the Commissioner of Reclamation. Project works shall consist of the Devil Canyon Dam, Reservoir, and Powerplant, the Denali Dam and Reservoir, and related facilities, and transmission facilities which are determined by the Secretary of the Interior to be necessary and feasible to distribute and market project power to the Anchorage and Fairbanks areas and other power market areas of Southcentral and Interior Alaska. Federal investment in these facilities is estimated at $750 million on the basis of January 1973 price levels.

SEC. 2. Electric power and energy generated at the Upper Susitna River Basin project except that portion required for project operation, shall be disposed of by the Secretary of the Interior in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Rate schedules shall be drawn having regard to the recovery of the costs of producing and transmitting the power and energy, including the amortization of the capital investment over a reasonable period of years, with interest at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and adjusted to the nearest one-eighth of 1 per centum. In the sale of such power and energy, preference shall be given to Federal agencies, public bodies, and cooperatives. It shall be a condition of every contract made under this Act for the sale of power and energy that the purchaser, if it be a purchaser for resale, will deliver power and energy to Federal agencies or facilities thereof within its transmission facilities. All receipts from the transmission and sale of electric power and energy generated at said division shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

SEC. 3. The appropriate Secretary is authorized to perform any and all acts and enter into such agreements as may be appropriate for the purpose of carrying the provisions of this Act into full force and effect, including the acquisition of rights and property, and the Secretary of the Army, when an appropriation shall have been made for the commencement of construction or the Secretary of the Interior in the case of operation and maintenance of said division, may, in connection with the construction or operation and maintenance of such division, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the appropriate Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.

SEC. 4. The Secretary of the Army is directed to proceed with preparation of project designs and an environmental impact statement in accordance with the National Environmental Policy Act, and the Secretary of the Interior is directed to proceed with a determination of necessary and feasible electric power transmission facilities and power marketing studies. The environmental impact statement and the determination of necessary electric power transmission facilities are to be completed within not more than two years of the date of this Act and transmitted to the Congress prior to appropriation of funds for construction of project works. The sum of $1 million is authorized to be appropriated for the environmental and other studies required by this section.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 44

At the request of Mr. DOLE, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 44, a bill to amend the Small Business Act to increase the availability of management counseling to small business concerns.

S. 2368

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. HUGHES) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 2368, a bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices.

S. 2822

At the request of Mr. MATHIAS, the Senator from Maryland (Mr. BEALL), the Senator from Alaska (Mr. STEVENS), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 2822, a bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland, woodland, or open scenic land—rather than at its fair market value—if it continues to be used as such for at least 5 years after the date on which the estate tax return is filed.

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Hawaii (Mr. FONG), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) were added as cosoponsors of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2890

Mr. BEALL. Mr. President, on January 24, 1974, I introduced S. 2890, which would amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975.

This bill is of critical importance to school districts across the country. I ask unanimous consent that at the next printing of the bill that Senator JAVITS and Senator DOMENICI be added as cosponsors of this bill.

The PRESIDING OFFICER. Without objection, it is ordered.

S. 2896

At his own request, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2896, a bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973.

At the request of Mr. CLARK, the Senator from Iowa (Mr. HUGHES), the Senator from Georgia (Mr. TALMADGE), the Senator from Mississippi (Mr. STENNIS), the Senator from Nebraska (Mr. CURTIS), and the Senator from Arkansas (Mr. MCCLELLAN) were added as cosponsors of S. 2896, supra.

SENATE RESOLUTION 255—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

(Referred to the Committee on Rules and Administration.)

Mr. EASTLAND, from the Committee on the Judiciary, reported the following resolutions:

S. RES. 255

Resolution authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate so far as applicable, the Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

SEC. 2. The Committee on the Judiciary, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $4,778,200 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended) in accordance with succeeding sections of this resolution.

SEC. 3. Not to exceed $453,000 shall be available for a study or investigation of administrative practice and procedure, of which amount not to exceed $5,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 4. Not to exceed $797,600 shall be available for a study or investigation of antitrust and monopoly, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. Not to exceed $291,000 shall be available for a study or investigation of constitutional amendments, of which amount not to exceed $12,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 6. Not to exceed $345,000 shall be available for a study or investigation of constitutional rights of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 7. Not to exceed $245,000 shall be available for a study or investigation of criminal laws and procedures, of which amount not to exceed $5,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 8. Not to exceed $16,500 shall be available for a study or investigation of Federal charters, holidays, and celebrations.

SEC. 9. Not to exceed $205,000 shall be available for a study or investigation of immigration and naturalization.

SEC. 10. Not to exceed $255,500 shall be available for a study or investigation of improvements in judicial machinery, of which amount not to exceed $10,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 11. Not to exceed $663,000 shall be available for a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended, (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States, and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organization controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence or otherwise threatening the internal security of the United States.

SEC. 12. Not to exceed $393,400 shall be available for a study or investigation of juvenile delinquency, of which amount not to exceed $14,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 13. Not to exceed $188,000 shall be available for a study or investigation of patents, trademarks, and copyrights.

SEC. 14. Not to exceed $88,000 shall be available for a study or investigation of national penitentiaries, of which amount not to exceed $500 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 15. Not to exceed $245,000 shall be available for a study or investigation of refugees and escapees, of which amount not to exceed $2,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 16. Not to exceed $64,800 shall be available for a study or investigation of revision and codification.

SEC. 17. Not to exceed $315,000 shall be available for a study or investigation of separation of powers between the executive, judicial, and legislative branches of Government, of which amount not to exceed $12,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 18. Not to exceed $192,100 shall be available for a study or investigation of citizens' interests, of which amount not to exceed $5,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 19. Not to exceed $20,000 shall be available for a study or investigation of F.B.I. Oversight.

SEC. 20. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 21. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 256—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

(Referred to the Committee on Rules and Administration.)

Mr. EAGLETON, from the Committee on the District of Columbia, reported the following resolution:

S. RES. 256

Resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the District of Columbia, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contigent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $175,000.00, of which amount (1) not to exceed $1,500.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $500.00 may be expended for the training of the professional staff of such committee, or any subcommittee thereof (under procedures specified by section 202 (j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 257—SUBMISSION OF A RESOLUTION RELATING TO GERMANENESS OF AMENDMENTS

(Referred to the Committee on Rules and Administration.)

Mr. PASTORE. Mr. President, some few months ago the Senator from Texas, LLOYD BENTSEN, and I, discussed the problem of expediting the business of the Senate. We were concerned that it has become the rule rather than the exception that our sessions run from January through December and yet with our work still unfinished.

As a result of these discussions, we decided that much of the trouble lies with the matter of germaneness. We have no intention of circumscribing in any way the right of debate, but we feel that nongermane floor amendments which, in many instances, take days and weeks to consider and yet are brushed aside in a matter of moments in conference could somehow be handled in a more judicious manner.

The purpose of this resolution is to make it possible to prohibit the introduction of nongermane amendments only and if two-thirds of those present and voting so decide. This motion would be nondebatable and nonrenewable whether decided one way or the other.

If the Senate, by two-thirds vote of those present and voting, decided that no nongermane amendments would be in order, thereafter no nongermane amendments could be offered for the remainder of the consideration of the pending business.

On the other hand, if such motion failed, then nongermane amendments would be in order for the remainder of the pending business.

Neither the Senator from Texas nor myself are wedded to this particular plan and we would hope that the Rules Committee, to which in all probability this resolution will be referred, will give this matter serious consideration.

If a better way is found to expedite the business of the Senate, the Senator from Texas and I will be only too glad to support it.

But there can be no question that our duties have become more complex, that our work has become more burdensome, and some way has to be found which will make the legislative process more effective.

I, therefore, send to the desk this resolution, ask that it be properly referred, and I ask unanimous consent that its text be printed in the RECORD, at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 257

Resolved, That rule XVIII of the Standing Rules of the Senate is amended—

(1) by inserting after "QUESTION" in the caption a semicolon and the following: "GERMANENESS".

(2) by inserting "1." before "If"; and

(3) by adding at the end thereof the following new paragraph:

"2. (a) At any time during the consideration of a bill or resolution it shall be in order to move that no amendment which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. Such a motion shall be highly privileged and shall be decided without debate.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of two-thirds of the Senators present and voting, then an amendment thereafter proposed (except amendments proposed by the committee which reported such bill or resolution) which is not germane or relevant to the subject matter of such bill or resolution, or to the subject matter of an amendment proposed by the committee which reported such bill or resolution, shall not be in order. A motion to reconsider the vote by which such motion was so agreed to or was not so agreed to shall not be in order, and, if such motion was not so agreed to, it shall not be in order to make a second motion under subparagraph (a) with respect to such bill or resolution.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, all points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may, prior to ruling on any such point of order, entertain such debate as he considers necessary in order to determine how he shall rule on such point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) The provisions of this paragraph shall not apply to amendments subject to the rules of germanenes and relevancy contained in paragraph 4 of rule XVI and paragraph 2 of rule XXII."

SENATE RESOLUTION 258—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

(Referred to the Committee on Rules and Administration.)

Mr. MOSS, from the Committee on Aeronautical and Space Sciences, reported the following resolutions:

S. RES. 258

Resolution authorizing additional expenditures by the Committee on Aeronautical and Space Sciences for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Aeronautical and Space Sciences, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $52,000, of which amount—not to exceed $1,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 3. The committee shall report its findings together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 259—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON LABOR AND PUBLIC WELFARE

(Referred to the Committee on Rules and Administration.)

Mr. WILLIAMS, from the Committee on Labor and Public Welfare, reported the following original resolution:

S. RES. 259

Resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Labor and Public Welfare, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,700,000, of which amount (1) not to exceed $140,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee, or any subcommittee thereof (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

LEGAL SERVICES CORPORATION ACT—AMENDMENT

AMENDMENT NO. 951

(Ordered to be printed and to lie on the table.)

Mr. CURTIS (for himself and Mr. BUCKLEY) submitted an amendment intended to be proposed by them jointly to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENT NO. 952

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (S. 2686), supra.

AMENDMENTS NOS. 953, 954, AND 955

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the bill (S. 2686), supra.

AMENDMENTS NOS. 956, 957, AND 958

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted three amendments intended to be proposed by him to the bill (S. 2686), supra.

AMENDMENT NO. 959

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (S. 2686), supra.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Duane K. Craske, of Guam, to be U.S. Attorney for the District of Guam for the term of 4 years (reappointment).

J. Keith Gary, of Texas, to be U.S. Marshal for the Eastern District of Texas for the term of 4 years (reappointment).

Lee R. Owen, of Arkansas, to be U.S. Marshal for the Western District of Arkansas for the term of 4 years (reappointment).

Wayman G. Sherrer, of Alabama, to be U.S. Attorney for the Northern District of Alabama for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, February 6, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS RELATING TO THE PHARMACEUTICAL INDUSTRY

Mr. KENNEDY. Mr. President, on Friday, February 1 at 10 a.m., in room 4232 the Health Subcommittee will resume its legislative and oversight hearings into the pharmaceutical industry. This hearing will be the first to use an experimental hearing format announced yesterday. Witnesses will include the Department of Health, Education, and Welfare Assistant Secretary for Health Charles Edwards, Dr. Joseph Stetler, Pharmaceutical Manufacturers Association, and Dr. William Apple, American Pharmaceutical Association.

On Monday, February 4, the Health Subcommittee will look into physicians' prescribing habits and adverse drug reactions. Witnesses will include the Department of Health, Education, and Welfare Assistant Secretary for Health Charles Edwards, Dr. James A. Visconti, Ohio State University, Dr. Kenneth Melmon, American Federation for Clinical Research, and Dr. Sidney Wolfe, Health Research Association.

HEARINGS TO BE HELD ON THE ROCKY MOUNTAIN NATIONAL PARK

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Subcommittee on Parks and Recreation has scheduled hearings on S. 2394, a bill authorizing the acquisition of certain lands for addition to the Rocky Mountain National Park, Colo.

The hearing on this and other measures will commence at 10 a.m., in the Interior Committee hearing room, 3106 Dirksen Senate Office Building on February 7.

SOLAR ENERGY HEARINGS SCHEDULED

Mr. MOSS. Mr. President, I announce that the Committee on Aeronautical and Space Sciences will hold a hearing February 25 on S. 2658, the "Solar Heating and Cooling Demonstration Act of 1973." The bill, which I introduced in November of last year, with the cosponsorship of Senator WEICKER, directs NASA, in cooperation with other Federal agencies, to provide for the early commercial demonstration of the technology of solar heating and for the early development and commercial demonstration of technology for combined solar heating and cooling.

ANNOUNCEMENT OF AN EXPERIMENTAL HEARING FORMAT

Mr. KENNEDY. Mr. President, during the past year, the ability of the Congress to adequately gather information to help it resolve complex public policy issues has become a matter of great concern.

Part of this problem stems from the shortcomings of the existing "hearing" mechanism. It is commonplace to receive directly contradictory testimony on important issues—and it is often difficult to sort out differing facts from differing interpretation of agreed upon facts. Such confusion can be a natural outcome of contradictory testimony of "expert" witnesses. Sometimes that confusion is deliberately created by the expert who recognizes his technical expertise and uses it to blur distinctions between fact and interpretation.

Because the hearing process is one of the major determinants of public policy formulation, this inherent shortcoming in the process can have a direct and detrimental effect on the quality of whatever policy or legislation emerges from the Congress.

On Friday, February 1, the Health Subcommittee will use an experimental hearing format in an effort to resolve conflicting testimony on the wisdom of the Department of Health, Education, and Welfare's revolutionary new proposal to reimburse only for the lowest cost, equally effective version of a prescription drug.

The announcement of this policy at a previous health subcommittee hearing on December 19 has touched off widespread controversy in the medical and pharmaceutical communities. At that same hearing, Dr. Joseph Stetler, on behalf of the Pharmaceutical Manufacturers Association questioned the scientific bases of the new DHEW policy and predicted dire consequences for the health of the American people if it were to be implemented. He called it a shocking piece of testimony. Subsequently, the Nation's pharmacists, as represented by the American Pharmaceutical Association, supported DHEW and opposed the position taken by the pharmaceutical manufacturers.

The policy rests on the scientific premise that the activity of a drug manufactured by several companies can be guaranteed to be equivalent to each other, as long as manufacturing standards are adhered to.

The validity of this assumption to the health care industry and the American people is of crucial importance, particularly in light of the impending consideration of national health insurance, which will certainly include a drug benefit. What is at stake is the quality of the drugs to be prescribed and their cost, as well as the future of the pharmaceutical industry.

The experimental hearing format is designed to more precisely define the area and nature of differences, and to stimulate the development of a process to, wherever possible, make it possible for the committee to better reconcile those differences.

The format will work as follows:

Assistant Secretary for Health Charles Edwards will present the administration's position, will respond to questions, and will then remain in the hearing room. The Pharmaceutical Manufacturers Association, on behalf of the drug industry, and in opposition to the DHEW policy, will come to the witness table at the same time as the American Pharmaceutical Association on behalf of the Nation's pharmacists, and in support of the DHEW policy. After opening statements, questions will be asked alternately and each will have a chance to comment on the other's answers. Each will then be given an opportunity to directly question the other. When this is complete, Assistant Secretary Edwards will return to the witness table to respond to questions submitted by the other witnesses, and to points raised in the course of their debate.

The hearings will provide the committee with an opportunity to hear differing sides of an issue in one session, and will allow for immediate rebuttal of expert testimony. Hopefully, in this fashion, differences will be pinpointed and the committee will be better able to understand and legislate on this question.

The hearing will be held in room 4232, Dirksen Office Building at 10 a.m., on February 1.

I am hopeful that this format will be successful in helping to resolve some of the complex issues currently confronting the Congress and that resultant legislation will reflect increased understanding.

ADDITIONAL STATEMENTS

FARM CREDIT ADMINISTRATION FORECAST FOR 1974

Mr. CLARK. Mr. President, over the years we, and our predecessors, in the Congress have initiated many programs to help the American farmer in his battle to provide us with the food and fiber we need. I thought today we should take a look at one of our greatest success stories.

The Farm Credit System, which today provides a significant portion of the country's agricultural credit, had its roots in the Federal Farm Loan Act which Congress enacted in 1916. The system initially was capitalized by the U.S. Government, but that capital has been entirely repaid and all units of the system are completely owned by their borrower-stockholders—totaling nearly 1 million individuals and 4,000 cooperatives, who now have invested $1.6 billion in the system's capital stock. The system today is self-sustaining and self-supporting.

The most important aspect of this system, of course, is that it has continued to provide adequate credit at a reasonable cost to our farmers. In my State of Iowa alone the 16 Production Credit Associations made loans in 1973 in the amount of $785,280,117 which included $141,309 in loans to farm related businesses—while the 24 Federal Land Bank Associations loaned $106,451,300, of which $1,021,925 was for rural homes.

I ask unanimous consent that the text of the December 30, 1973, year-end press release of the Farm Credit Administration be printed in the RECORD. In this article, E. A. Jaenke, governor of the Farm Credit Administration, forecasts 1974 farm income and credit availability.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FARM CREDIT HEAD PREDICTS GOOD FARM INCOME, CREDIT AVAILABILITY

WASHINGTON, D.C.—Farmers will continue to be squeezed in the cost-price spiral as they ponder 1974 farm income prospects, but they can look forward to another good year of earnings, and credit availability should be no problem.

That is the year-end assessment of E. A. Jaenke, Governor of the Farm Credit Administration, the agency which supervises the $21 billion borrower-owned Farm Credit System.

Citing the good 1972 and 1973 farm income levels, Jaenke predicted that farm income will be better than average in 1974, but will not reach record 1973 levels because of rising production expenses, moderating farm prices and slower expansion of exports.

"We are genuinely optimistic that adequate credit will be available through the Farm Credit System," Jaenke said, "but because of the higher cost of money and inflationary pressure, the price may be higher."

Borrowers in the Farm Credit System—The Federal Land Banks and Associations, Federal Intermediate Credit Banks and Production Credit Associations, and Banks for Cooperatives—were doubly rewarded during 1973 by the record farm income levels and improvement in overall loan quality, Jaenke noted in his year-end report. Because of the strengthening of farmers' financial positions, the number of loan foreclosures, delinquencies and problem loans declined.

The Farm Credit Administration Governor said that as farmers and their cooperatives remain optimistic about future farm income and continue to incur rising levels of debt to expand their operations, the Farm Credit System has reached new milestones of service to the people of American agriculture.

"During calendar year 1973, we served more than 433,000 farmers and ranchers, and about 2,900 farmer cooperatives. Taken in the aggregate, these are record levels for the Farm Credit System," Jaenke reported.

Since reporting record lending levels at mid-year, Jaenke noted an upsurge in Federal Land Bank and Production Credit Association borrowing activity in the past six months with loans outstanding exceeding figures for last year by approximately one-third. Since June 30, Banks for Cooperatives loans made have exceeded year ago levels by nearly 81 percent.

During the 12 months ending November 30, Jaenke reported that the Farm Credit System had 731,033 loans outstanding. Loans made during this period totaled $20.9 billion, up 42 per cent over last year. Net loans outstanding on November 30 amounted to $21.1 billion, up 19 per cent over the comparable 1972 figures.

Jaenke took note of the unavoidable disruption in the farm economy caused by the energy shortage.

"The immediate impact is in price—costs of fuel and energy in all forms are rising and will go higher," he said. "The banks and associations in the Farm Credit System will need to carefully review with their borrowers the effect of increased production expenses and the resulting squeeze on farm profits."

New money estimates for calendar year 1974 are projected at $3.3 billion, about the same as for 1973, Jaenke revealed. Interest rates charged farmers by the Farm Credit banks and associations will rise a little further in the first half of 1974, even if the cost of marketing debt declines. This will occur because low cost debt will be returned and replaced by securities of higher values.

THE PRESIDENT'S ACHIEVEMENTS

Mr. FANNIN. Mr. President, this evening the President of the United States, Richard Nixon, will present his state of the Union message to the Congress. I am confident that he will present a challenging program to move our Nation forward.

In the blare of headlines and the glare of television in America today, it is easy to forget the firm leadership that President Nixon has provided not only to this Nation but to the world during very difficult times.

The very fact that we are at peace today is one of the greatest testaments to his leadership.

He has many other accomplishments. It may be more fashionable to moan over our problems rather than to count our blessings, but I believe that we should give credit where it is due and offer thanks to those who have helped achieve good ends.

Recently, the Governor of Arizona, Jack Williams, gave an off-the-cuff speech in which he recalled some of the achievements of President Nixon. In reading over the transcript of his speech, the Governor noted that he had failed to mention President Nixon's success in strengthening the dollar.

Mr. President, although this talk was given to a politically partisan group, I believe the message transcends party lines. I believe that on this day of the President's state of the Union address, it might be well for all of us to dwell on some of his accomplishments. I ask that Governor Williams' talk be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S ACHIEVEMENTS

In the common confession of my church (and I am a Catholic that flunked Latin) we say together "we have done those things which we should not have done and we have left undone those things which we should have done and there is no help in us."

All of us are guilty of common frailties and none of us can be sure he is without some fault.

But now let us look at some of the things that have been done affirmatively by our great President and his administration.

On the domestic scene, is it not true that the campuses are quiet and the streets are not filled with mobs as they were during the 60's? Who can deny that the draft has been abolished for the first time in the memory of many of the younger men attending this meeting.

Also on the domestic scene we have the highest employment ever in the history of this nation and at the highest salaries in the entire world.

We also have the lowest record of inflation of any industrial nation.

It is true with the energy crunch—which no one could foresee as acutely as it has developed, we may have some economic dislocations—but, the record has already been written of achievement and now comes the time for handling the newest crisis.

Even in this area domestically the President has his plans. The decentralization of government from the federal bureaucracy of Washington into the hands of local elected officials could be one of the greatest marks in favor of our President.

If not that, I would have you then consider the revamping of the Supreme Court to a more conservative stance which in effect has already demonstrated that the criminal is not going to have more advantages than his victim.

These are achievements which cannot be questioned and which history will demonstrate have been achievements of a great President.

Let's look at the foreign area.

Five hundred thousand men were taken off the beach at Saigon, a record that could not have been accomplished had not the Cambodian sanctuaries been bombed and the threat of an emasculation of that entire force of men been removed.

Not only have five hundred thousand men been returned to the United States, but the prisoners of war spent last Christmas at home, those of them who were not missing in action.

Ask them how they feel about the handling of the North Vietnamese truculence.

So on the record books let's put down the ending to the longest and most miserable war this nation has ever entered into.

Let us also put down on the record books that there is a possibility that World War III was averted.

It is almost common knowledge now that the Russians sent the most arrogant and brutal note in modern diplomatic history to the United States giving this nation a six hour ultimatum or they would move Russian troops into the area of conflict.

Kissinger had not replied for ten hours and the President put the B-52's in the air and the Russians backed down.

The Russians always back down when they are faced with force.

They backed down when Kennedy faced them, when Eisenhower faced them, when Johnson faced them.

But they have to know that the force is real.

This is no time to fail to remember the great accomplishments of a man who has a record of achievement which may well be unsurpassed in modern times.

One of our greatest Presidents since whom I revere and who stands head and shoulders above most of our past Chief Executives, Abraham Lincoln, ended just one war—the Civil War.

Yet, of course, he saved the Union.

This is no time for any of the Republicans in this room not to have a sense of pride in the accomplishments, in the things that have been done by Richard Milhous Nixon. It is true he is under attack at the present time and it is also obvious that someone has to carry the message to the people of this nation.

The best way to carry it is not in flaming manifestoes, not in great advertisements, not in mailings by a political party—the best way to carry it is man to man, neighbor to neighbor, friend to friend. The building of a political party is a grass-roots activity.

If each of you will recall the things that I have said in the nature of accomplishments and carry this message to those who are close around you in business, on the golf course, in your neighborhood, you could well be doing the best thing you could for the party and for the President. There is much that has been done and that is well worth recording and who but you can be the messengers.

OLDER AMERICANS AND THE INCOME TAX

Mr. EAGLETON. Mr. President, it is income tax time again. Sometime before April 15, most Americans must once again come to grips with form 1040 and the often baffling set of instructions for completing it.

For the affluent, this task is less onerous because they can afford the counsel and assistance of persons versed in the intricacies of the tax code.

But other Americans who cannot afford such help may overlook the deductions, exemptions, and credits that are available to them. This is especially true for those persons aged 65 and over for whom there are special provisions in the tax code. Hearings conducted by the Senate Special Committee on Aging have provided evidence that large numbers of older Americans overpay their taxes each year.

The committee has now put together a check list of itemized deductions and a description of provisions of the tax code applicable to older Americans which I believe many people will find helpful.

Mr. President, I ask unanimous consent that these documents be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Checklist of Itemized Deductions for Schedule A (Form 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports, ambulance hire, anesthetist, arch supports, artificial limbs and teeth, back supports, and braces.

Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs, chiropodist, chiropractor, Christian Science practitioner, authorized; convalescent home (for medical treatment only); crutches, dental services (e.g., cleaning teeth, X-rays, filling teeth); dentures, dermatologist, eyeglasses, gynecologist, hearing aids and batteries; and hospital expenses.

Insulin treatment, invalid chair, lab tests, lip reading lessons (designed to overcome a handicap); neurologist, nursing services (for medical care); ophthalmologist, optician, optometrist, oral surgery, osteopath, licensed, pediatrician, and physical examinations.

Physician, physiotherapist, podiatrist, psychiatrist, psychoanalyst, psychologist, psychotherapy, radium therapy, sacroiliac belt, seeing-eye dog and maintenance, and splints.

Supplementary medical insurance (Part B) under medicare.

Surgeon.

Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.)

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs, whirlpool baths for medical purposes; and X-rays.

TAXES

Real estate, State and local gasoline, general sales, State and local income, and personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage, auto loan, and installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represent charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A, Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

Other Tax Relief Measures for Older Americans

Filing status	*Required to file a tax return if gross income is at least*
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (1 spouse 65 or older) filing jointly	3,550
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.
2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them, may claim the dependency deduction.
3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and
2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or
2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

SPEECH OF HON. HAMILTON FISH

Mr. CURTIS. Mr. President, in dealing with current problems it is important that we are mindful of the teachings of history. The Honorable Hamilton Fish, a distinguished former Member of the House of Representatives and political leader, in a speech delivered on January 11 of this year calls our attention to some facts of history which the Congress and American people can well heed.

Mr. President, I ask unanimous consent to print Mr. Fish's remarks in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech of Hon. Hamilton Fish at New York City, January 11, 1974

Speaking here on the spot where George Washington was inaugurated as President of the United States on April 30th, 1789, we stand on hallowed ground, and should unite to insure tranquility at home and peace throughout the world.

George Washington—first in war, first in peace and first in the hearts of his countrymen, gave to the Presidency, a lasting renown and an aurora that has endured in the hearts of the American people ever since. President Washington was subjected to bitter, spectacular and inflamatory attacks by the press during his Administration. Of course there was no television or radio at that time. He repeatedly warned the American people that if the press continued its "disregard for truth and fairness, it might become impossible to govern the country." He even wrote a letter to Thomas Jefferson threatening to resign, calling the journalists attack on his person, his motives and his policies, "outrageous against decency."

Presidents John Adams and Thomas Jefferson were also brutally attacked and accused of immoral and unethical conduct in office. Jackson was denounced as a heartless despot. "He governs by means of corruption and the immoral practices, to his shame and confusion." Lincoln was called all kinds of names "an ugly baboon and a bloody monster who liked to see innocent people die in war and a drooling idiot."

Grover Cleveland, Theodore Roosevelt, Woodrow Wilson and Herbert Hoover all suffered violent and gross abuse from the press.

The extreme left wing, radicals, Marxists and partisan Democrats opposed to Republicans, have ganged up in a conspiracy to destroy Nixon and if possible, the Republican Party and our free enterprise system.

These are the same people who were badly defeated in the Presidential campaign of 1972. The Republican national platform in that campaign of 1972 rightly stated that the "Democratic party has been seized by a radical clique which scorns our nation's past and would blight her future." The platform likewise endorsed President Nixon's policies in Vietnam and at home and as a result of which 30 percent of the Democrats in the North and 40 percent in the South, voted for his re-election. Now a small group of extreme leftists, radicals and partisan Democrats want to disfranchise 45 million Americans who voted for President Nixon without one iota of evidence that would stand up in any court.

I served in Congress many years ago, during the Teapot Dome scandal and said then that a public office is a public trust and a Republican corruptionist is just as bad as a Democratic corruptionist and denounced the Secretary of Interior Albert Fall, a Republican, from taking a $200,000 bribe from oil interests. Fall was convicted and sent to jail. My position is exactly the same today as I told my son who is a Member of the Judiciary Committee in the House of Representatives, unless there is proven evidence of corruption, bribery or treason and there has not even been any charges of such a nature against Richard Nixon, he should not be crucified without conclusive and definitive evidence on a cross of falsehoods, lies and slander.

New York City is a center of the opposition to President Nixon. It went by a quarter of a million against him in the election, whereas Upstate New York went a million and a half for him. We in New York, live in a polluted atmosphere from the automobile and industrial fumes. But for the last year the newspapers, magazines, televisions and radios have poisoned the atmosphere by twisting and torturing the truth and succeeded for a time in brainwashing the American people. The Watergate Committee started off with blaring trumpets and massive, spectacular and inflamatory propaganda against Nixon to such an extent that the people believed that he was the instigator and the leader in the Watergate raid which had been built up into monstrous proportions.

After almost a year of investigations, it has been definitely proven that President Nixon had no knowledge, no connection and nothing to do with the Watergate raid but such was the atrocious propaganda that many people still believe he did. In the entire investigation there has not been any valid evidence by any committee to implicate President Nixon in the Watergate raid or scandal. Charges were made that he spent excessive funds for security of his residence at San Clemente, all of which were approved by the Government. Besides the President has given that property to the United States. He wrote off $400,000 for his Vice Presidential papers. Senator Hubert Humphrey who served only four years as Vice President wrote off $200,000, Governor Brown of California wrote off $100,000, Governor Williams of Michigan wrote off $100,000 but they were Democrats and therefore immune to adverse publicity. The Nixon haters expected an investigation of his finances to find a secret fund of one million dollars, just another political myth.

Congressman Otto Passman, a Democrat who served for 26 years in the House of Representatives and is now one of its leaders, wrote a four page defense of President Nixon stating that the misdeeds, illegalities and encroachment of power were far more serious under the Democratic Administrations of Roosevelt, Johnson and Kennedy. But they were all protected by large Democratic majorities in the Congress for 40 years. The Republicans have only been in power for four years in the House by a small majority since 1930.

Of the four Democratic members on the Watergate Senatorial Committee, three of them voted seven times against investigation of Bobby Baker, the crooked Democratic Secretary of the Senate, and the right arm of Lyndon Johnson and yet these same partisans are now trying to find some evidence to pin on the President of the United States. No wonder the rank and file of the Republican Party are getting more disgusted and madder every day.

They constitute the large silent majority and if any Republican members of Congress should vote for impeachment without complete and total evidence of corruption, bribery or treason, those Republicans will be committing political suicide and rightly so, and it applies equally to middle of the road Democrats.

The American people believe in the Presidency of the United States. No elected President has ever been impeached. I am positive that President Nixon will not be impeached, by either the House or the Senate. But let us assume that he might be. If that ever should happen, streets would not run with blood but they would run with partisan hatred and animosity. Unity would cease to exist and be replaced by dissension and political enmity. Families would be divided and political chaos would dominate throughout the Nation. This must not happen as it would be playing into the hands of our enemies at home and abroad.

The Constitution still stands as our guardian angel and provides for three separate and independent departments of government. The Communists, the Marxists, the radicals, extreme leftists and America haters will tell you the Constitution is out-moded, useless and a reactionary scrap of paper. Let me tell you as one who served in the Congress for 25 years, that the Constitution is the greatest charter of human liberty ever devised by the mind of man. It makes for your rights and liberties as free, sovereign American citizens. As Al Smith said, it is the civil Bible of all Americans, and represents the rights and liberties of the racial and religious minorities. We Americans, Democrats, Republicans and Independents, do not propose to yield one iota of our freedom for any foreign form of government—Fascism, Nazism, totalitarianism, Socialism or Communism. Ours is the freest and greatest Nation on Earth. If we let down our emigration barriers and Soviet Russia tore down its Iron Curtain, half her population would try to get into the United States right now to enjoy its freedom and equal opportunity. No party has a monopoly on virtue or patriotism. Let us bind up our political wounds and conflicts and unite all Americans in restoring unity, tranquillity, prosperity and peace in the United States.

Before I am a Republican, I am an American who believes in our traditional policy that no American is guilty of wrong-doing until indicted and convicted by a court of justice or by impeachment. The Watergate hysteria has amounted to a political lynching and inquisition by the press and other media. I deplore the stupidity of the entire Watergate folly as much as anyone. Such stupidity was a blunder worse than a crime. President Nixon was elected by a 17 million majority, the largest in our history. The hate campaign of the radical press and leftist politicians that has so far produced not a single shred of evidence, cannot and will not succeed in disfranchising 45 million Americans, 90 percent of whom support the President's foreign policies and believe in his integrity, courage and that he will emerge in the next few years as one of our better Presidents. The polls showed Truman with only 23 percent which is much lower than any poll against Nixon, who now stands at 34 percent, as a good President and another 30 percent as a fair President. And I predict that Nixon's comeback will be, on his record for the next three years, the same as that of President Truman, who ranks well up on the list of our Presidents.

The Communist dictatorship in Moscow may be able to brainwash the Russian people but the Watergate Committee or any other partisan Committee cannot disfranchise the American people without creating a widespread spirit of revenge and political chaos.

Members of the Senate and the House will not and must not thrust down on the head of the President of the United States, a crown of thorns composed of innuendoes, insinuations, hearsay evidence, false allegations and partisan prejudice and hatred, thereby disfranchising a large majority of the American people and causing dissension at home and a loss of prestige throughout the world.

American families prefer not to wash their dirty linen in public whether it has to do with narcotics, income taxes, assault, robbery, corruption, bribery and many other violations of the law. As Christ said, let him who is without sin cast the first stone.

In my time in Congress, President Roosevelt always maintained he had the right to determine what was in the public interest. What was sauce for the Democratic goose should be sauce for a Republican President.

If a heavily Democratic Congress with insufficient and invalid evidence impeaches the President of the United States just because they do not like him personally or his policies, it will create political chaos in the United States and loss of prestige throughout the world. Blood will not run in the streets but hatred and venom will dominate the politics of this country for a generation. Families will be divided, confidence in the government destroyed, many members of Congress, both Republicans and Democrats who vote for impeachment will be denounced, opposed and buried politically. This issue of impeachment is far greater than any partisanship as it affects the security, the tranquility and the very existence of our own Constitutional government, and our leadership in the free world.

SHOCKING INCREASE IN WHOLESALE COST OF PROPANE

Mr. ALLEN. Mr. President, all of us are aware, of course, that the Federal Energy Office is in the process of obtaining information on the wholesale cost of propane gas and the reasons for the extraordinary increase in cost of this product with the view of exploring alternative approaches to a solution to this problem.

Mr. President, Mr. Claude F. Allison, executive director of the Alabama Liquefied Petroleum Gas Association, has written me a letter which sets out in clear and concise language the magnitude of the increase in the wholesale cost of propane gas and has translated this increase into human terms by pointing out the adverse effects of the increases on social security beneficiaries and welfare recipients in particular and others who depend upon propane gas for space heating. The adverse effects on agricultural enterprises such as the broiler industry have been called to the attention of Senators in previous remarks.

Mr. President, it is information of this nature which compels us to devote our utmost energies to the task of finding an equitable solution to this problem. I ask unanimous consent that Mr. Allison's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Alabama Liquefied
Petroleum Gas Association,
Montgomery, Ala., January 22, 1974.

Senator James B. Allen,
New Senate Office Building,
Washington, D.C.

Dear Senator Allen: Propane dealers in the State of Alabama have suddenly begun to face a problem that has never before faced us in over 40 years of operation.

The wholesale cost of propane has increased up to 350% to most dealers in the state. The selling price has in most cases more than doubled.

This, to us and to our customers, is grossly unfair and rediculous. Propane, being a small part of the oil industry, is expected to increase in price to some extent, but only in proportion to other products of the industry.

Apparently increased cost of crude is being loaded on propane and not on gasoline, diesel or fuel oil. This is especially peculiar as 65% of propane is refined from natural gas which has had a relatively small increase in price. Only 35% of propane comes from crude and most of this is from domestic crude which has not increased too much either.

From information we are able to gather, gasoline, diesel and fuel oil have only increased from 40% to 55%.

We, as an industry, serve over 300,000 customer locations in Alabama. We can only surmise how many people use propane, but I would guess about one million people in some way use this fuel.

So many of these are rural fixed income people. Many are social security and welfare recipients and a great many are farmers and farm related industries such as chicken producers.

The Federal Energy Office and the oil companies have seemingly ignored our plight.

We only want fair treatment and hope you can help us.

Sincerely,

Claude F. Allison,
Executive Director.

VOTE ON RECOMMITTAL OF S. 2589

Mr. DOMENICI. Mr. President, I feel it incumbent upon me to explain my reasons for voting against recommittal of the emergency energy bill, S. 2589. As you know, this was a very complex and comprehensive bill, which was the product of hundreds of hours of work by committees in both Houses and by Senators on the floor and by the conference committee. Consequently, I think it is highly unlikely that any better treatment of such complex issues could be achieved by simply returning it to the conference committee.

This bill contained what I consider to be an excellent compromise regarding modifications of the Clean Air Act for both stationary sources and automobile emission standards required to address the energy crisis. In addition, there is a superb section providing for the protection of franchise gasoline wholesalers, retail dealers, and service station operators. This is a provision which is long overdue and very necessary for the protection of these independent businessmen in their business relations with their suppliers.

The bill also contains a section which would prevent discrimination against any category or class of user of petroleum products in Government energy conservation programs. We have found in our recent experience with gasoline allocation regulations and their treatment of general aviation that this is an extremely essential provision to insure fair and equitable treatment for all users of petroleum products.

Finally, this bill provides authority and guidance the executive branch must have to deal adequately with the energy shortages we are now experiencing. It contains real authority and guidance for energy conservation programs such as mandatory allocations and provides the authority and framework for development of gasoline rationing if that drastic step should become necessary.

Regarding the provision generally referred to as the windfall profits tax of oil industry activities, I fully realize that this section is vague and uncertain and leaves a great deal to be desired. However, I am convinced that this provision will be reworked immediately and that if this bill is enacted, the windfall profits situation will receive as much attention as quickly as it would have by any other means. In fact, I think there will be greater impetus to move quickly with this bill on the books than without it. We have been advised by the chairmen of both operative committees, Senator Long and Congressman Mills, that they have already scheduled hearings to produce a comprehensive package which is truly a tax on windfall profits and which promotes and insures research, development, and exploration of energy sources.

For these important reasons, Mr. President, I voted against recommittal in what was one of the toughest decisions I have yet had to make as a U.S. Senator.

PHARMACISTS LAUNCH OVER-THE-COUNTER DRUG EDUCATION PROGRAM

Mr. HUMPHREY. Mr. President, not too many years ago, it was common practice for someone with a minor physical complaint to drop in on the community pharmacist and ask "What have you got for . . ." and name a symptom like an upset stomach, headache, or cold. The pharmacist knew most of his clientele pretty well and he knew what medicines they were taking. After a few questions he would produce a remedy or suggest consultation with a physician.

As this past week was National Pharmacy Week, I think that it is a good time to commend the efforts of the American Pharmaceutical Association to bring back that traditional role.

There are hundreds of thousands of nonprescription drugs on the market today and there is not enough room on the label to tell everything a patient needs to know before selecting a particular remedy. Many of the drugs obtained over the counter do exactly what they claim they will do for a majority of people if used properly. Aspirin stops or reduces headache pain and antacids work to reduce an "upset stomach."

But all nonprescription drugs are not indicated for everyone. Some can interact with prescription drugs in a harmful way. For example, certain antacids, harmless by themselves, can block the action of certain antibiotics and seriously reduce their effectiveness in fighting infection. Aspirin causes a minute loss of blood from the stomach lining.

For the majority of people, that is not a problem. For an ulcer patient aspirin or products containing aspirin can be harmful. Certain antihistimine containing cold remedies can create severe drowsiness when taken by someone using prescription tranquilizers.

Now APhA chose this past week, National Pharmacy Week, to launch a major public education program to help limit this kind of occurrence by encouraging people to consult their pharmacist when selecting nonprescription drugs.

The theme of the education program, "Over-the-Counter Intelligence, Your Pharmacist Has It," makes good sense. The pharmacist is a trained health professional and an expert on drugs. He also considers it his professional obligation to advise on the use of medications, prescription or nonprescription.

I wish the APhA the best of luck in getting this message to the country. It can go a long way towards cutting down on unnecessary, improper and sometimes even dangerous self-medication.

GIFTED AND TALENTED CHILDREN—THE MOST NEGLECTED MINORITY

Mr. JAVITS. Mr. President, gifted and talented children are the most neglected minority in American education today. The odds are 1 in 20 that such a child will be recognized readily and will be extended the special educational opportunities commensurate with his needs.

The Congress is now preparing to face up to this issue. The comprehensive education bill, S. 1539, reported from subcommittee on December 19, contains provisions for the gifted and talented which are patterned after S. 874 which I introduced last year together with a bipartisan group of 18 cosponsors and which was cosponsored in the House by Representative DOMINICK DANIELS, of New Jersey, a member of the Committee on Education and Labor.

Section 405 of S. 1539 authorizes grants to State and local educational agencies for educational programs for gifted and talented children through the high school level, establishes an administrative unit within the Office of Education to administer and coordinate gifted and talented education programs, establishes a National Clearinghouse on Gifted and Talented Children and establishes research and demonstration projects for the education of gifted and talented children within the recently created National Institute of Education.

Section 507 of S. 1539 defines gifted and talented children as those—

> Who, in accordance with objective criteria established by the Commissioner by regulation, have outstanding intellectual ability or creative talent, the development of which requires special educational activities or services not ordinarily provided by local educational agencies.

Two articles recently on the subject of the gifted and talented have come to my attention, "Gifted Children in a Bind," by Verna Tomasson, which appeared in the December 24, 1973 issue of The Nation, and "The Other Minority" by Dr. Harold C. Lyon, Jr., which appeared in the January 1974 issue of Learning. I ask unanimous consent that these articles be printed as part of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

GIFTED CHILDREN IN A BIND

(By Verna Tomasson)

Contrary to the belief that "genius will out" and that smart kids get by on their own, the Office of Education reported to Congress in 1971 that more than 2 million above-average minds are languishing from want of attention in the country's elementary and high schools. The study found that services for the gifted and talented enjoy very low priority at the federal, state and most local levels of government and educational administration, that one-third or more of the known gifted receive no special instruction and that, as a result, these high-potential youngsters perform far below their capacity. The report says:

Gifted and talented children are, in fact, deprived and can suffer psychological damage and permanent impairment of their abilities to function well which is equal to or greater than similar deprivation suffered by other population with special needs.

Although almost every child can be regarded as gifted at something, studies made for the 1971 report show that by conservative estimate 3 to 5 per cent of our schoolchildren exhibit outstanding abilities at an early age. These, singly or in combination, may appear as general intellectual ability, special academic aptitude, creative or productive thinking, leadership ability, talent in the visual or performing arts, or psychomotor ability. Such traits are found in individuals from all backgrounds and levels of society: rich and poor, urban and rural, black, white, yellow and red.

Research done in the last fifty years indicates that the gifted have their own educational needs. Lewis Terman, a pioneer in the field, observed that the gifted can condense school requirements and cover them faster, with superior performance. They are advanced in their ability to deal with abstractions and symbols. State surveys show that more than half of the gifted children taught themselves to read before they entered school, some at the age of 2, more by the time they were 4. Their essays, as studied by Leta Hollingsworth and others, suggest that they are more interested than other children of like age in social and ethical problems. They require less drill and can handle independent projects with less supervision. In short, expecting the gifted and the average to profit from the same curriculum is like requiring a race horse and a dray horse to eat the same food.

Gifted youths do not necessarily have an easy or satisfying life. Bored by the slow pace and intellectual confinement of a standardized curriculum, they often become troublemakers in the classroom, or join the dropout population. Mrs. Doris Burns of Dallas, Tex., is one of the parents who testified at the 1970 regional hearings on the gifted and talented. The story of frustration and conflict which she told is repeated again and again by other desperate parents throughout the country:

"Before first grade [Marian] was exuberant over the thought of going to school and learning with the other kids. After the first grade, her opposition to the entire school idea grew steadily. By the third grade, she turned to out-and-out tears of despair each day. . . .

"By the sixth grade, she had simply stopped performing altogether in school. I was told that she was retarded, brain damaged, abused, had emotional problems and that I had caused all those evils by some nameless mistake, or that I was pushing her too hard and keeping her from adjusting to her peers."

A visit to a psychiatrist showed that the child exhibited a Stanford-Binet intelligence test score "in the top half of the top bracket." The doctor also said she was highly creative and retreated to a fantasy world when thwarted and confused. The school refused to accept the psychiatrist's findings, being more impressed by the fact that Marian was failing 7th grade math, rather than by the fact that she delighted in working compound trigonometry fractions and was attempting to write her own math textbook. Caught in the conflict between home and school, the child developed a psychosomatic illness and had to be hospitalized for several weeks. At that point, Mr. and Mrs. Burns began to wonder if they were alone in their dilemma. The president of the Texas Association for the Mentally Retarded told them that it *frequently* finds extremely gifted individuals among its children—which is understandable, since one of the techniques the gifted child uses to rebel against courses it considers silly, is to pretend not to understand.

Ralph and Marjorie Lynn, who live on a farm outside West Des Moines, Iowa, are pushing for a regional school for the gifted because of problems they encountered with their four children. Their son coasted easily through elementary and high school with comparatively high grades. His guidance counselor suggested that he major in engineering at college. The work at college, however, proved more difficult than he expected; he failed math, and had to change his major. He is still not sure what field to pursue.

In order to prevent this from happening to their three daughters, the Lynns made tremendous personal sacrifices. They paid tuition in private school for the oldest daughter, because the country school had strict age regulations and would not take her when she was ready. At one point husband and wife had to live apart so that their middle daughter could go to high school in the city. Although she had an I.Q. of 156, she had been doing "C" work in the country school and the teacher complained that she was biting her nails and daydreaming. The Lynns are now pouring money into extracurricular lessons for their youngest daughter, because the West Des Moines schools offer no enrichment program.

Children not fortunate enough to have parents who recognize their abilities and persist in finding them appropriate educational facilities often suffer tragically. Because of their extreme sensitivity, many of these youngsters, made to feel that they are "different," develop emotional problems. The girls, especially, divert their abundant energies into disguising their talents, in order to be popular. Some, from disadvantaged environments, turn to drugs and other antisocial activities.

Although adults tend to seek out people who share their experiences and interests, most schools group children heterogeneously, expecting them to befriend everybody. In practice, however, the gifted choose to spend their work and play time with their mental peers.

Dr. Philip E. Kraus, who teaches a graduate course in "Psychology and Education of the Gifted" at Hunter College (and who once headed the now-abandoned IGC Project in New York City) maintains that heterogeneous grouping has not been correctly evaluated, since only math and reading tests are used and these are not good indicators of individual differences. He cites Elizabeth Drews' paper, "Creativity and Self Concepts," which shows children to be far more creative in homogeneous groups—and more modest. "A child who is at the top of his class without working hard, has an unreal idea of what he can really do," Dr. Kraus said. "He should be able to read a poem to his class without either being laughed at or called a genius."

Teachers of exceptionally bright children do not have to be unusually gifted themselves, but they must be able to respect those who are. Only twelve colleges throughout the United States offer graduate programs in Education of the Gifted. Untrained teachers cannot spot gifted students and would be unable to provide them with challenge and stimulation if they did.

The overwhelming majority of parents who testified at the 1970 regional hearings reported that most teachers were openly hostile to and fearful of outstanding pupils and set themselves up in power struggles with the gifted child. No program, however innovative, can succeed with teachers who are willing to accept the retarded but who put "gifted" in quotes, unable to admit that extraordinary intelligence even exists.

In a speech he gave last spring before the First International Conference on the Gifted and Talented, Harold C. Lyons, director of the H.E.W. Office of the Gifted and Talented, pointed out the need for guidance—both psychological and vocational.

Many schools feel that a program of generally high intellectual quality fulfills the needs of bright youngsters, but cognitive learning, Dr. Lyons said, must be integrated with emotional experience. Although to outsiders, many gifted children appear "haughty," their self-imposed standards often give them feelings of deep inferiority. They must learn to cope, too, with the open hostility of schoolmates and teachers. Career training for the gifted is also important, Dr. Lyons emphasized, because these many-faceted youngsters are often confused and discouraged by an excess of choices.

The Fleischmann Commission (New York State) report in 1972 recommended an early identification of gifted youngsters, so that they could be channeled into enriched programs. This has not yet been implemented. In addition to the will, we need the way. The observations of teachers and school personnel cannot be depended on. When asked by the U.S. Office of Education to give the number of gifted and talented children in their schools, more than half the schools reported none, a statistical impossibility. Nor are I.Q. tests reliable, since they do not identify the creative child or the disadvantaged child whose skills are nonverbal.

Paul Torrance at the University of Georgia is working on ways to identify gifted black youngsters. He finds that a sense of humor is a good indication of intelligence, and also that youngsters can usually identify the gifted among them, when asked such questions as "Who would you choose to be the leader of your group," or "If you had a hard problem to figure out, who would you ask for help?" The federal Office of Education has awarded a grant for a study of methods of identifying gifted Chicano youngsters.

Roger Ming, consultant on the gifted for New York State, calls the prevailing reluctance to be concerned for the gifted child "a misapplication of democratic theory." Although we grant that Mark Spitz swims better than most, and that Lew Alcindor plays better basketball, few will admit that some people are smarter than others or have special mental abilities. There is fear, Mr. Ming says, that we will develop an intellectual elite.

After Russia sent up the first Sputnik in 1957, there was a flurry of interest in programs for the gifted, stimulated by Admiral Rickover who felt that our military superiority was at stake. Most of these programs were geared to the applied sciences, with the focus not on what the government could do for the gifted but what the gifted could do for the government.

Then the civil rights battles of the 1960s changed our priorities, and the educational spotlight turned on the "disadvantaged." Minorities looked at "tracking" in the schools and saw they were not represented at the highest levels. Instead of asking why, they attacked ability-group segregation, and tracking became a dirty word.

Judging from the subject matter in the professional literature, the current educational emphasis is placed on helping the physically handicapped and the mentally retarded. No one begrudges them their due, but fewer articles are written today about what Harold C. Lyons has called "the other minority," those with superior skills, than were found ten years ago or even in the 1930s and 1940s. Perhaps with our national pride hurt by wars and scandals, it is more soothing to take pity rather than to give respect.

Many people assume that education for the gifted means a return to a caste system, but experimental programs have proved this assumption unwarranted. Some of the patterns which were found successful in working with the gifted include: acceleration (grade skipping or early entrance to kindergarten or 1st grade); ability grouping (children spend most of the time with their age group, but are placed in some classes such as reading and math according to ability level. They are allowed to move from one "step" to the next as they progress. This is now being done in many schools in New York State); individualized instruction (study hall or recess period is replaced by special tutoring); enrichment (field trips and extra cultural experiences); acceleration of content (4th graders given 6th-grade materials). The Talcott Mountain Science Center in Connecticut, and the workshops run by the Gifted Child Society of New Jersey, use an apprenticeship system, whereby outstanding children study with experts in their fields of interest.

America is a Scrooge when it comes to spending money on its future leaders and professionals. Twenty-one states have legislation on the books authorizing programs for the gifted and talented, but in most cases this is no more than an expression of intent. In only four states—California, Connecticut, Georgia and Illinois—are programs in actual operation. The federal role is almost nonexistent: in Region 2, which covers New York State, New Jersey, Puerto Rico and the Virgin Islands, federal allocations for the gifted for fiscal 1974 are coming out of the budget for the handicapped.

Whenever the education budget is cut (and Mr. Nixon recommends slashing it again by $400 million), the first "frills" to go are music, art, drama, science—the very programs the gifted need to pursue their special interests. Private agencies have had difficulty raising money for this cause. At least ten nationwide volunteer organizations raise money for the handicapped and mentally retarded. Dr. Norman J. Mirman, who heads what is trying to be the National Association for the Gifted and Talented, says that the response he gets is, "What, you want me to cry over a bunch of geniuses?"

There is, however, some evidence of a new interest. Carol Wolverton, a New York City teacher who two years ago helped organize the Gifted Children Research Institute, says that one of the greatest problems has been lack of communication among people working in the field. She mentions a group of concerned parents in California who wrote to her for information, totally unaware that less than 30 miles from them a similar parent group had been in operation for ten years.

One big advance has been the establishment this year, under a grant from the Office of Education, of a National Clearinghouse for the Gifted and Talented as part of the Council for Exceptional Children. The Clearinghouse will respond to requests for information (so far, it has been receiving about thirty-five a day) and will help to provide curriculum materials. It is preparing a list of existing programs and courses.

The newly created Office of the Gifted and Talented (H.E.W.), which advocates but cannot allocate, recently sponsored a National State Leadership Training Institute at Squaw Valley, Calif. Educators met there with representatives of eighteen states to encourage and direct the formation of programs. Dr. Irving Sato, director of the institute, called the meeting a "great success" and said that the plan is to hold such conferences annually, so that eventually all the states can be reached.

Hearings were held at the end of June on a bill introduced by Sen. Jacob Javits (R., N.Y.) which would provide federal assistance in four areas:

(1) Support for the National Clearinghouse.

(2) Funding though state programs for the gifted and talented, in public schools from elementary through high school.

(3) Training of teachers and personnel.

(4) Research and demonstration projects.

Similar legislation has been introduced by Dominick Daniels (D., N.J.) in the House. In his introductory remarks, Javits said: "To provide what our nation's gifted and talented children and youth need, when they need it, and in the manner they need it, is an investment in human resources that will benefit not only the gifted but our society for decades to come."

Educators are concerned that new programs for the gifted should not become just another educational fad, but rather an ongoing concept based on respect for the individual needs of every person in our society.

"Many people feel that when you give to one group, you have to take away from another," observed Gina Ginsberg, executive director of The Gifted Child Society in New Jersey. "But why should that be so? We don't want to take away from anybody. We just feel that, now our country has met its quantitative goal—every child who should be in school is in school—we should concentrate on the quality of education. There cannot be equal education for all, since everyone is different. But there can be appropriate education for all."

One major step toward appropriate education has been the introduction of open classroom teaching. When several activities are going on simultaneously in a classroom, children will choose what interests them, and good teachers can use the situation for individualized instruction. Good teams can make such instruction even better.

Hunter, Antioch and other colleges are experimenting with independent study programs, the students earning credit by pursuing their own projects. High schools and primary schools may want to offer independent study to boys and girls who complete the required work swiftly. If it does not become synonymous with solitary confinement, but includes guidance and encouragement, independent study can be an important way to meet special educational needs within the comprehensive school system.

The question is not whether we should put the education of the gifted above and against others with severe needs. The mere fact that this suggestion arises shows how well Americans have adjusted to the divide-and-conquer psychology. The real question is: shall we encourage every student, swift or slow, to reach full potential?

The Other Minority

(By Harold C. Lyon, Jr.)

The U.S. educational system, in one form or another, has existed for as long as the nation. Yet it was not until the last ten years that the system committed itself to improving instruction for millions of previously neglected children.

There are three groups of such children. The largest, and the first to get attention, is comprised of the "disadvantaged"—youngsters whose learning potentials have been stifled by poverty, family and neighborhood surroundings, or lack of access to mental, emotional and physical stimulation.

More recently the system turned its attention to the second group, the handicapped. These are youngsters impaired in their learning facilities—the deaf, the blind, the emotionally and mentally disturbed. Without special attention, they are almost certain to lead lives of social uselessness and personal despair.

The third group, smallest of the three minorities but still numbering in the millions, is the last to have received special attention from the educational system. These children are denoted not by race, socio-economic background, ethnic origin or impaired facilities, but by their exceptional ability. They come from all levels of society, from all races and national origins, and are equally distributed between the sexes.

Such youngsters have an unusual endowment of talent. It may be intellectual. It may be aesthetic. It may be creative in an artistic or scientific or social way, or even in ways which neither the schools nor society yet understand. But whatever their talent, from their ranks will come that small percentage of humans who are truly great, not just capable. Whether in the sciences, the arts or the professions, these are the extraordinary few who will leave their disciplines, their societies and perhaps even humankind different because of their work. These are the future Beethovens, the Newtons, the Jeffersons, the Picassos, the Baldwins, the Ernesto Galarzas and the Martin Luther Kings.

These are gifted children—and, like the other minorities, they need help.

It may be difficult to grasp why children with the potential to achieve eminence should require special attention. The explanation is that for every Einstein or Martin Luther King who emerges, a dozen or so more do not. Though it is impossible to offer conclusive proof of this hypothesis—biographers, after all, do not study average men and women—available evidence from the lives of great men and women, as well as studies of school-age children, bolster this conclusion from a 1968 study of the gifted: "We would even go so far as to say that, to a very considerable extent, those individuals who constitute that 'creative minority' in our society (or in *any* society) . . . have achieved their eminence *in spite of*, rather than because of, our school system."

Thomas Edison's mother withdrew him from school after three months in the first grade because, his teacher said, he was "unable." Gregor Mendel, founder of the science of genetics, flunked his teacher's examination four times and gave up trying. Newton, considered a poor student in grammar school, left at 14, was sent back at 19 because he read so much, and graduated from Cambridge without any distinction whatever. Winston Churchill was last in his class at Harrow. Charles Darwin dropped out of medical school. Shelley was expelled from Oxford, James Whistler and Edgar Allan Poe from West Point. Gibbon considered his education a waste of time. Einstein found grammar school boring; it was his uncle, showing the boy tricks with numbers, who stimulated his interests in mathematics.

In short, traditional academic programs are sometimes poorly suited to humans of extraordinary potential. One is left to wonder how many Churchills, how many Whistlers, did *not* survive educational disaster.

Why should children with unusual ability experience trouble with ordinary school curricula?

Precisely because the curricula are ordinary. Education is a mass enterprise, geared by economic necessity as well as politics to the abilities of the majority, just as a child of less-than-average mental ability frequently has trouble keeping up with his classmates, so a child of above-average ability has trouble staying *behind* with them. Prevented from moving ahead by the rigidity of normal school procedures, assigned to a class with others of the same age, expected to devote the same attention to the *same* textbooks, required to be present for the same number of hours in the same seat, the gifted youngster typically takes one of three tacks: (1) he drifts into a state of lethargy and complete apathy; (2) he conceals his ability, anxious not to embarass others or draw their ridicule by superior performance; or (3) not understanding his frustration, he becomes a discipline problem.

Nor is uniformity of curriculum the only difficulty under which gifted children must work. Others include:

Failure to be identified. The president of one state association for the handicapped reported that his staff members find "extremely gifted children among their target group frequently." Another state found that a significant percentage of its school dropouts had IQs of 120 or higher. Of schools surveyed by the U.S. Office of Education during the 1969–70 school year, 57.5 percent reported that they had no gifted pupils, an indication that teachers and other staff simply did not know how to identify them.

Hostility of school staff. For quite human reasons, including an impatience with the "unusual" child and an assumption that the gifted are a favored elite who deserve even less than normal consideration, some educational personnel actually resent them.

Lack of attention to the gifted. In only ten state departments of education is there a professional assigned full-time responsibility for education of the gifted and talented; fewer than 4 percent of the nation's gifted students have access to special programs. Of these, the great majority are in the aforementioned ten states.

Lack of trained teachers. Only 12 American universities offer graduate programs concerned with educating the gifted and talented.

It is time for us to recognize that unusual ability can prove a barrier to achievement, and that it is in our national interest to assure the development of children who have the potential to make extraordinary contributions to our common life.

Which children are we talking about, and how many of them are there? The Office of Education in 1969–70 surveyed 239 experts in the field to arrive at a common definition of giftedness. This was the result:

Gifted and talented children are those, identified by professionally qualified persons, who by virtue of outstanding abilities are capable of high performance. These are children who require differentiated educational programs and/or services beyond those normally provided by the regular school program in order to realize their contribution to self and society. "High performance" might be manifested in any or a combination of these areas: (1) general intellectual ability; (2) specific academic aptitude; (3) creative or productive thinking; (4) leadership ability; (5) visual and performing arts; and (6) psychomotor ability.

Using that definition as a criterion, the experts estimated that "a minimum of 3 to 5 percent of the school population" can be termed "gifted and talented." The 1970–71 school population was about 51.6 million; we are talking, then, about 1.5 to 2.5 million children.

Special programs always cost money. In this era of tightening budgets and national economic uncertainty, the advocates of special programs for the gifted must exercise particular prudence. Fortunately, a great deal can be done with presently available facilities, funds, personnel and materials.

For example, nongraded schools, flexible grouping and team teaching—all "innovations" that have been around for some time—can assure that each child will be placed in a challenging educational situation. Clusters of schools can pool their gifted children regularly for special enrichment programs that would be beyond an individual school's resources. Community "mentors" who lack teaching credentials but have demonstrated expertise in some area—art, design, photography, journalism, creative writing, the performing arts, industrial research—are often happy to help talented youngsters explore a career possibility.

The key to educating the gifted is no different than that for other youngsters: Individualize their learning programs so that each will find daily stimulation in his school experience. One caution here. If the gifted are fortunate enough to have anything special done for them, they are likely to be forced down the purely cognitive track. The danger is that they will then join the ranks of "one-dimensional half-men," brilliantly developed intellectually but stunted emotionally. We need to encourage the development of a gifted child's capacity for love, empathy, awareness and communication with fellow human beings. This means we need to train teachers who can accept themselves as human beings by taking off their rank, status and roles to share with colleagues in a learning experience rather than lecturing "down" at a group of "inferiors" whom they try to "fill" up with their superior knowledge.

No matter how imaginative school administrators and staffs are in their use of existing resources, however, there is no question that special efforts above and beyond state and local resources are necessary. The first requirement is a long-term federal commitment to the special education of the gifted and talented.

The U.S. Office of Education has made such a commitment. Its Office of Education for the Gifted and Talented has the goal of providing every gifted and talented child in the United States the opportunity to maximize his potential through education appropriate to his needs. More specifically, the office's objective is to double, by June 30, 1977, the number of gifted and talented children now being served—from the present 80,000 to 160,000.

With no major new federal funds in sight, however, the office is limited in what it can accomplish on its own. It must depend on existing federal and state resources to accomplish its mission. To that end, it seeks to keep states and local school systems informed of opportunities for making better use of federal-aid possibilities. Both Titles III and V of the Elementary and Secondary Education Act, for example, and the teacher fellowship provisions of the Higher Education Act, can be used to support projects that will benefit the gifted and the talented. The new Emergency School Assistance program, designed to reduce racial isolation, specifically includes gifted children as eligible for remedial services. By designing special high-challenge programs for the gifted, local school systems could develop "magnet schools" that would simultaneously serve the needs of the gifted and the segregated.

Meanwhile, the OEGT is playing a catalyst's role in a variety of other projects having to do with the problems of the gifted. The National/State Leadership Training Institute for the Gifted and Talented conducted a summer workshop for educators from 17 states in Squaw Valley, California, last summer, and the participants are now feeding back into their own school systems insights they gained at the conference. To be repeated in 1974 is the Competitive Exploration Scholarship Program, which in the summer of 1973 sent 100 children, including 49 gifted minority youngsters from inner-city schools, out on learning adventures ranging from the study of volcanology in the Congo and Iceland to participating in archaeological expeditions in Israel. Accompanying and counseling the children were some of the world's leading scientists.

In Arlington, Virginia, at the Council for Exceptional Children, a clearinghouse for national information about the gifted and talented has been established at OEGT's initiative. And in an effort to build bridges between states with strong programs for the gifted and those with less effective approaches, ten regional "action teams" are being formed to facilitate communication and provide technical assistance.

The U.S. government has been interested in gifted and talented youth before. The launching of Sputnik in 1957 triggered a national concern over the Soviet Union's apparent superiority in space technology and science education. The uproar produced the National Defense Education Act of 1958, a massive federal aid-to-education program originally designed to help the schools improve instruction in chemistry, physics, mathematics, biology and economics. In later years, subjects eligible for support were expanded to include virtually every subject in the curriculum. One fact, however, remained clear: The NDEA was aimed mainly at our most able students.

During the 1960s, when we matched and later exceeded the Soviets in space exploration, the national panic about the caliber of our "best" schools ebbed, and other concerns took over the educational spotlight—most notably, the civil rights movement. American educational priorities shifted from the most able students to the least fortunate, and the interest in educating the gifted and talented waned. Promising programs vanished, and even the number of articles on the subject in professional education journals dropped sharply.

The American temper tends to impatience, to quick enthusiasm and to a readiness to drop projects that do not show fast results or solve immediate crises. Unlike some other clients of education, the gifted and talented have never had a large lobby.

Probably they never will, for they are a minority, not much more than 1 in 20. They are burdened with the seemingly antidemocratic stigma of elitism and hampered by false assumptions such as the inaccurate belief that brilliant people will make their own way and need no special encouragement.

They do need encouragement—and society needs them. In human terms, the average child is no less precious or wonderful than his gifted classmate. But in social terms, undemocratic or unpopular as it may be to say so, the gifted and talented youngster—white, black, male, female, charming or irritating—offers much more than the usual amount of human possibility, and promises to make much more than the average contribution to our common life. It is in our national interest to take special humanistic pains with him.

THE OIL CRISIS

Mr. HART. Mr. President, last summer, long before the energy crisis became a national concern, James Steele and Donald Barlett, two reporters for the Philadelphia Inquirer, wrote a series of articles which sounded an early warning on the oil crisis. That series, entitled "Oil—the Created Crisis," has now been followed by a second, titled "Oil: The Crisis and the Facts." I recommend it as a particularly informative and comprehensive survey of the oil problem, and ask unanimous consent to have it printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHILADELPHIA INQUIRER,
Philadelphia, Pa.

I would like to call your attention to the accompanying articles, a series of special investigative reports concerning the nation's energy crisis that The Philadelphia Inquirer has published over the last two months.

The articles are based on an exhaustive examination of records in more than a half-dozen states and several foreign countries and were prepared by James B. Steele and Donald L. Barlett, an investigative reporting team. They were assisted by Susan Q. Stranahan, The Inquirer's federal court reporter, who coordinated research and reported from Washington and New England.

These articles follow a 12,000 word, three-part series published by The Philadelphia Inquirer last July on "Oil—The Created Crisis," which traced the underlying reasons for the nation's oil shortage.

GENE ROBERTS.

OIL: THE CRISIS AND THE FACTS

(By Donald L. Barlett and James B. Steele)

Despite an outpouring of proposed legislation and Presidential proclamations on energy matters, neither Congress nor the Nixon administration has come to grips with the two underlying problems that brought on the present oil shortage.

They are:

A serious lack of refinery capacity. With demand for petroleum products running about 17 million barrels a day (there are 42 gallons in a barrel), refineries in the United States can process fewer than 13 million barrels—a refinery capacity shortage of four million barrels a day.

A leveling off in production of crude oil in the United States and a decline in exploration activities. This despite the existence of huge oilfields still to be tapped, largely in offshore areas, Alaska and the Arctic region.

Only one major new refinery has been built in the United States since the late 1960s and plans for the construction of additional refineries, announced just several months ago by a number of oil companies, already have been shelved or construction dates pushed back.

But, at the same time that America's largest oil companies are suspending their refinery expansion projects in the United States because of alleged uncertainties in the world oil market, an independent New York oilman is forging ahead with a three-quarter billion dollar refinery-building program in Canada.

The oilman is John M. Shaheen, a onetime publicity director for the Illinois Republican Party who heads a closely held New York company called Shaheen Natural Resources Company.

Seven weeks ago, a new Shaheen refinery was dedicated in Newfoundland. Two weeks ago, Shahen signed contracts for the construction of a second refinery in Nova Scotia. And site clearance has begun for a third refinery, also to be located in Newfoundland.

The three refineries have a planned total capacity of 600,000 barrels a day. When the second and third refineries are completed, Shaheen personally will have built more refineries in Canada than all the major American oil companies combined have built in the United States in the last five years.

Interestingly, during his negotiations with Canadian politicians in the 1960s, negotiations which ultimately led to the ambitious refinery construction projects, Shaheen was represented by Richard M. Nixon, then a Wall Street lawyer.

While the Federal Government has failed to tackle the issue of lagging refinery construction in this country, an Inquirer investigation has turned up some curious patterns in the Nixon administration's approach to dealing with the energy crunch.

Item. A mandatory fuel allocation program, to take effect Dec. 27, will come down hardest on those persons who already use a very small percentage of the petroleum products consumed daily—families who heat their homes with fuel oil.

Demand for petroleum products last year amounted to 16,354,000 barrels a day, according to the United States Bureau of Mines. Of that figure, 1,248,000 barrels a day—or 8 percent of total demand—consisted of the No. 2 heating oil used for residential heating.

Item. While the allocation program provides that families who use heating oil must turn back their thermostats or risk running out of oil (the elderly have been advised to take aspirin if affected by the chill), there is no provision requiring refineries to increase heating oil production.

Perhaps coincidentally, heating oil is one of the oil industry's least profitable products in the United States, a condition attributed by the oil companies to the administration's wage and price controls and other government policies such as the regulation of natural gas prices.

Item. Statistics maintained by the Bureau of Mines show that during four of the first eight months of this year—the latest period for which figures are available—the nation's oil companies produced a smaller percentage of distillate fuel oil, which include home heating oil, than during the same months in the preceding three years.

Last April, for example, as the nation was emerging from a season of spot fuel oil shortages, especially in the upper Midwest, distillate fuel oil consisted of 20.7 percent of the total products produced by refineries. During the same month in 1972, the percentage was 22.2. In 1971, it was 23.1 percent and in 1970 it was 22.3 percent.

Item. Statistics published by the American Petroleum Institute, the oil industry trade organization, show that this pattern in refinery production continued well into the fall despite clear signs of an impending shortage.

An API refinery report for Sept. 21, 1973, shows distillate production was at 21.4 percent, down from 22.3 percent a year earlier. A refinery report dated Oct. 5, 1973, lists distillate production at 21.9 percent, down from 22.3 percent the previous year.

Item. Jet fuel, another small volume product, also was placed under the administration's mandatory allocation program. Airlines are scheduled to receive 15 percent less fuel than they used last year.

SIX PERCENT OF TOTAL

Bureau of Mines data show that jet-fuel demand in 1972 amounted to 1,045,000 barrels a day—or 6 percent of total demand for petroleum products.

Item. While families must cut back fuel oil consumption by 15 percent and commercial users by 25 percent, the proposed reduction for gasoline is 10 percent below 1972 demand.

Gasoline, of course, is the single largest volume product turned out by the nation's refineries. Last year, demand for gasoline was 6,376,000 barrels a day—or 39 percent of total product demand of 16,354,000 barrels.

Item. There is some reason to be suspicious of all the oil shortage statistics floating out of Washington. That is not to suggest there is no shortage. There is. But there is some question as to the severity of the shortage.

For example, a fact sheet distributed by the White House last Sunday, when President Nixon delivered a nationwide address announcing the mandatory fuel allocation program, lists the current demand for petroleum products at 18.6 million barrels a day, rising to 19.7 million barrels in the first quarter of next year.

That means the Nixon administration has planned for a larger increase in demand during the coming months than at any comparable time in the past three years.

For—while demand for petroleum products runs stronger during the first and fourth quarter—the 19,700,000 figure represents a jump in demand of 8 percent from the same quarter of this year.

Demand for the first quarter of 1973, for example, was up 5 percent over 1972, and 1972 first quarter demand increased 6 percent over 1971.

In an article published last July 30, the Oil and Gas Journal, the industry trade publication, estimated that 1973 demand would average 17,355,000 barrels a day—a 6.1 percent increase over 1972.

An Inquirer analysis of Bureau of Mines

date produced just about the same figures as those arrived at by the Oil and Gas Journal.

During the first six months of 1973, demand was running at an average of 17,286,000 barrels a day, compared with 16,304,000 barrels during the same period in 1972—an increase of 6 percent.

The demand figure (19,700,000 barrels) as set by the Nixon administration's oil policy experts is important because it is the figure used to calculate desired cutbacks in consumption.

Thus, the planned reductions in home heating oil, and fuel oil for commercial and industrial use, as well as jet fuel, all are tied to this demand figure.

But statistics on supply and demand, like all oil statistics used by the federal government, have but one certainty: Each and every figure is derived from a single source—the American oil industry.

And therein rests still another disturbing aspect of the current energy crisis. There is no government agency that either verifies data furnished by the oil industry, or collects the information independently.

This means the mandatory allocation program now being put into effect, and the gasoline rationing expected to follow, are based on information supplied by the oil industry itself—without any verification.

In fact, the oil industry has even discouraged attempts by the Bureau of Labor Statistics to collect some of the same kinds of statistics the agency gathers from other businesses and industries.

The significance of the government's failure to collect oil industry data was spelled out in a three-part, 12,000-word series of articles published by The Inquirer last July, entitled "Oil—The Created Crisis."

Based on a two-month, nationwide investigation, and the assembling of a wide range of statistical material from a variety of sources. The Inquirer established that the energy shortage was brought on by long-term policy decisions made by the oil companies and a series of administrative blunders beginning in the Eisenhower administration and continuing through the Kennedy, Johnson and Nixon administrations.

In a report released last month a Congressional investigating committee published essentially the same findings documented by The Inquirer.

These findings run contrary to the claims of both the oil industry and the Nixon administration that an energy-guzzling American public is to blame for the oil shortage.

UNITED STATES OUTSTRIPPED

Indeed, the Inquirer survey found that the percentage growth in energy consumption in Europe and Asia has far outstripped that in the United States over the last two decades.

And to meet that growing demand, the five, major multinational American oil companies, over the last 20 years, have been concentrating their operations overseas, drilling and producing oil abroad, constructing their refineries around the world.

As a result, the United States is just another market—and not necessarily the largest—for these five companies—Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Company of California.

Last year, for every barrel of oil these five companies sold in the United States, they sold nearly two barrels in other countries. Twenty years ago, the bulk of the sales of the five companies was in the United States.

For example, Exxon Corp., the world's largest oil company, sold 5,701,000 barrels of petroleum products every day last year.

Of that total, just 1,730,000 barrels—or 30 percent—were sold in the United States. The remaining 70 percent, or 3,971,000 barrels, were sold in foreign countries.

Mobil Oil Corp. sold 2,409,000 barrels of petroleum products daily last year. Sales in the United States amounted to 1,004,000—or 42 percent of total sales—while sales outside the United States were 1,405,000 or 58 percent.

This trend, which has been developing over the last two decades, is especially important now, and not just because of oil shortages in the United States.

Because prices for petroleum products are running two to three times higher in Europe and Asia than in the United States, it is more profitable to sell overseas.

To keep their supply sources close to the expanding markets, the five companies not only drilled for oil overseas but built their refineries across Europe and Asia.

Last year, the five companies processed 31 percent of their crude oil at refineries in the United States, 69 percent in other countries.

With worldwide refinery runs of 5,146,000 barrels a day, Exxon Corp. processed 1,029,000 barrels—or 20 percent—in the United States. The remaining 80 percent (4,117,000 barrels) was refined outside this country.

Although a lack of refinery capacity is one of the root causes of the energy crisis in the United States, this winter's fuel oil shortage has been aggravated by refinery operating practices and an indifferent federal government.

Europe and Asia, which have sufficient refinery capacity but little crude oil of their own are more affected by the Arab oil embargo than the United States, which last year obtained only 2 percent of its crude oil from the Mideast.

VARIETY OF PRODUCTS

A refinery converts a barrel of crude oil into a variety of products—from home heating oil and residual fuel to gasoline and kerosene and asphalt. Set percentages of each product are turned out from a barrel of crude oil.

The refinery revises these percentages of the seasons, and demand economic conditions change, producing more heating oil in the winter months, more gasoline in the summer months, all the time trying to keep a sufficient reserve of all products.

While there was abundant evidence last summer that there would be fuel oil problems this winter, refineries produced record volumes of gasoline at the expense of fuel oil.

Last June, on the eve of what was billed as the great gasoline shortage of 1973, gasoline represented 48.4 percent of the total products being turned out by refineries. This compared with a production rate of 45.8 percent a year earlier.

While the summer days slipped by, early prophecies of motorists stranded on turnpikes and interstate highways, unable to buy gasoline, went unfulfilled as refineries churned out more and more gasoline.

The record production prompted The Wall Street Journal on July 2, in an article headlined "The gasoline shortage eases as U.S. refiners step up their output," to observe that:

"Refiners are demonstrating that, barring breakdowns or an interruption in the flow of crude, they can handle the demand."

The Journal added: "Because they can sell every drop they can make, few refiners are likely to be in any hurry to begin reducing gasoline production."

And that is what happened. With gasoline selling at a more profitable level, refiners continued turning out gasoline rather than heating oils.

A few percentage points may seem like a slight difference, but over a year's time, a change of a single percentage point can represent an increase or decrease of more than 43,000,000 barrels of a particular product.

While all this gasoline was being produced last summer, federal officials were sitting by, hoping for warm weather this winter and insisting that a mandatory fuel allocation program was unnecessary.

In September, former Colorado Governor John A. Love, the White House energy chief, noted that "the situation for this winter is very tight, although it is difficult to forecast because of the variables."

During the same month, President Nixon discounted any talk of an energy crisis. Said the President: "We have heard a lot about a crisis. I do not use that term because we do not face a crisis in that sense of the word.

"I would simply say that in the short term, we face a problem with regard to energy, heating for example, this winter, just as we thought we faced a problem of gasoline this summer, and the possibility of brownouts."

POLITICIANS ASSURED

Meanwhile, Love was assuring New England politicians that there would be adequate supplies of fuel oil for the coming winter, as long as the weather didn't turn especially cold.

In August, Love suggested that it might be a good idea if refiners increased their output of heating oils—*a proposal largely ignored*—and in the weeks that followed he continued to insist that a mandatory allocation program was not needed, a position the administration adopted early in the year. Said Love:

"(The administration is) extremely wary of the ramifications and potential risks of a mandatory petroleum allocation system and (did) not believe that the current supply situation or other industry problems warrent use of such a system as a remedy at this time."

The administration was still clinging to this position in October, when Stephen A. Wakefield, an assistant Department of the Interior secretary predicted there could be heating oil shortages with some resultant hardships.

Explaining what he considered a hardship to be, Wakefield said:

"I am talking about men without jobs, homes without heat, children without schools. That is what I mean by hardship."

More weeks went by until finally last Sunday President Nixon reversed positions and announced his mandatory allocation program, a Washington term for rationing.

The fuel oil allocation program has been pictured by Washington officials as the lesser of two evils—a choice between personal inconvenience and discomfort rather than industry shutdowns and job losses. But the choice really isn't quite that clear.

Thomas F. Field, a former attorney-adviser in the Treasury Department's Office of Tax Legislative Counsel, and now executive director of Tax Analysts and Advocates, a public interest law firm in Washington, put it this way:

"No matter how much within reason we restrict home heating oil consumption, we will restrict some industrial consumption this winter.

"There clearly is going to be a downward effect on industrial activity. Anybody who says turning down thermostats is going to prevent a downturn in industrial activity is just whistling Dixie."

"THE OPTIMUM WAY"

Field believes, as do many other economists, that the energy shortage is not going to be resolved until prices are allowed to rise substantially. "The only thing that's going to reduce consumption is an increase in price," he said.

"The price of home heating oil ought to rise. That's the optimum way to solve the problem. The reason we're producing more gasoline is that it is more profitable.

"If the home heating oil prices goes up," says Field, "production will go up. "If No. 2 oil is unprofitable, you can't expect oil companies to produce it."

The Inquirer, in its series last July, pointed out that fuel oil shortages could be expected this winter and gasoline shortages again next summer.

That pattern probably will continue for the next several years, until refinery capacity is expanded and oil production is increased in the United States and the Western Hemisphere generally.

To show that the industry is beginning to catch up on the refinery construction lag, the Office of Oil and Gas of the United States Department of the Interior has compiled an impressive chart showing the location of proposed refineries and the dates they will be completed.

The four-page chart, which breaks down construction by different sections of the country, lists a total of 18 new refineries with a capacity of 2,440,000 barrels a day as well as refinery expansion programs.

There is a footnote cautioning that 10 of 18 refineries (capacity 1,330,000 barrels) are "projects which are uncertain or in very early stages of planning."

And how did the Office of Oil and Gas ome by these statistics?

"This is information we picked up from rious sources," said an Interior Department official, "from trade journals (of the oil industry) and from some of the companies themselves."

How is construction going with some of the eight refineries that are shared to be in operation sometime between 1974 and 1977.

The Interior Department reports that a Shell Oil Company refinery with a capacity of 150,000 barrels a day will be in operation in Paulsboro, N.J., sometime in 1977.

A Shell Oil Company public relations official, asked when the refinery would be operational, said:

"I wish I could tell you. We're still trying to get permits. There's no definite time for completion." He said that it will take about four years to build the refinery so even a 1978 or 1979 completion date is optimistic.

"We don't have any permits," he added, "and the environmental impact statement hasn't even come through yet."

OFFICIALS UNDECIDED

In another case, the Interior Department reports that a Pennzoil Company refinery with a capacity of 150,000 barrels a day will be in operation in Pascagoula, Miss., sometime in 1976.

A Pennzoil Co. official, asked when the refinery would be operational, said:

"About a year (ago) we had obtained option on land in Pascagoula as a possible plant site. But we have looked at land in Louisiana as well as land in Mississippi and frankly have not made up our minds as what the best location would be.

"We're torn between Pascagoula and a site on the Mississippi and we are giving some thought to the Gulf Coast in Texas. Needless to say, the Mideastern war has raised serious questions about our ability to continue with this project."

That's the way it goes with government statistics on the oil industry. The situation is not new.

A Congressional investigating committee once urged that a government agency be empowered to collect data "so that any time the exact condition of the industry can be ascertained." That was back in 1923.

Last June 4, 50 years later, Sen. Henry Jackson (D., Washington), made a similar recommendation, telling his Senate colleagues that Congress needed to have "objective facts" on the oil industry:

"I hope we will have something introduced shortly, probably giving this authority to collect the date to the General Accounting Office, to marshall all the facts and the information so that we can get it on the basis of sound data, objective facts," Jackson said.

Now, with many of the essential statistics lacking, the federal government, or more particularly the Office of Petroleum Allocation (OPA), is getting ready to administer a fuel oil allocation program.

Last week the OPA staff was just getting settled into its new office in the Winder Building in Washington, the former headquarters of the Office of Emergency Preparedness.

It was from this building in the fall of 1972 that OEP conducted a survey of the nation's energy needs and announced that there would be no fuel oil problems and that the oil industry was capable of meeting demand.

A few months later, fuel oil shortages developed in New England and the upper Midwest, forcing school closings and the tanking of fuel oil from Canada down into Minnesota.

Taped to the wall in the office of a petroleum allocation official, there are, appropriately, two Exxon Corp, advertisements from the Wall Street Journal.

NO IMMEDIATE RELIEF

The advertisements read in part: "What you do to save energy is what counts now. This country's energy problems have gotten worse. And there's no immediate relief in sight."

The OPA official, working in shirtsleeves, is explaining and how the program will be administered and how the agency will keep tabs on supplies:

"Every month they will have to submit forms to us saying how much fuel they have on hand and things like that. The forms are supposed to be coming in right now."

And who are "they"?

"Basically, the major oil companies and the independent oil companies."

And just how will the program work for the average family which heats its house with fuel oil?

"There's a mandatory reduction on the inside temperature of six degrees. The wholesale distributor is really responsible for this.

"He takes the current daily temperature and according to his records he should be able to figure out how much his customers should be using based on the six-degree reduction and then he supplies the customer accordingly.

"So in other words, if the thermostat is set at 72 degrees, it has to be turned back to 66 degrees," says the official, adding "which reminds me, before I catch cold I'm going to put my jacket on."

But how does the fuel oil dealer calculate a six-degree reduction?

"I don't know how these things work," says the OPA official. "Don't use my name. Just quote a department spokesman. But the distributor knows he delivered 1,000 gallons last winter and by reducing the temperature six degrees he subtracts X number of gallons from that."

Up in Ellsworth, Maine, in a state heavily dependent on fuel oil, Jack Gledhill of the Hancock Oil Company, doesn't share the OPA official's confidence in his ability to convert six degrees on a thermostat into a reduced fuel oil delivery.

"Geez, that's a job alright," says Gledhill.

Gledhill and Basil Simpson of the Webber Oil Co. in Bangor, Maine, told Inquirer reporter Susan Q. Stranahan that they try to provide every customer with a 75-gallon emergency reserve in the event future deliveries are delayed because of snow or reduced oil supplies.

It will be from that 75-gallon reserve, Simpson and Gledhill said, that the 15 percent reduction in home heating oil will be made.

John Carlisle, manager of Webber Tanks Inc., an independent fuel oil distributor of Bucksport, Maine, is pinning his hopes on continued mild-weather.

"If the weather continues as it is, we've got a chance to squeak through," said Carlisle.

In Machiasport, Maine, Gilbert E. Hanson, the retired Machiasport postmaster, is philosophical about the fuel shortage.

"You hear that chain saw?" he asks a reporter. "That's the oil shortage. He's got seven cords cut already and he plans to cut a lot more. He won't be cold."

SELECTED IN 1960

It was back in the late 1960s that Machiasport was selected as the site for a 300,000-barrel-a-day refinery by the Occidental Petroleum Corp., then considered somewhat of a maverick in the oil industry.

Occidental planned to process foreign crude oil in the refinery, but, because of the mandatory import controls in effect at the time, needed a special exemption from the Federal government.

The other major oil companies opposed the refinery, saying it would give Occidental an unfair competitive advantage, and the project subsequently was scrapped by the Nixon administration.

Hanson is philosophical about that, too. "It's been blamed on several people high up in politics—high cabinet people in the Johnson and Nixon administrations. Oil has played a big part in the last four administrations."

A Colorado politician was one of those who journeyed to Washington in the Fall of 1968 to testify at hearings being held to determine whether the Machiasport refinery should be built.

He vigorously opposed the refinery because it would, he said, delay the development of huge oil shale deposits in his home state.

That Colorado politician was John A. Love, now President Nixon's energy czar. As for the shale oil deposits, they remain to be developed.

U.S. FIRMS EXAGGERATE EFFECTS

(By Donald L. Barlett and James B. Steele)

Key officials in the Nixon Administration—aided by the major oil companies—are exaggerating American dependence on Arab oil and the effects of the Middle East oil embargo

The exaggerations have tended to obscure the fact the United States would be experiencing an energy crisis even without the Arab oil boycott.

Contrary to a barrage of publicity from federal officials, the United States receives only a small percentage of its petroleum supplies from Arab nations.

In fact, the very same fuel oil shortages that exist today would have existed even if Arab oil was flowing without any restrictions. The same is true of the gasoline shortages that will follow next year.

Just how little this country depends on Arab oil is reflected in a variety of statistics compiled by The Inquirer from data prepared by the United States Bureau of Mines and the British Petroleum Co., Ltd.

During 1972, for example, the United States received an average of 562,000 barrels a day of crude oil and refined petroleum products directly from Arab countries—or 3 percent of the nation's daily demand of 16,354,000 barrels. A barrel contains 42 gallons.

Additional Arab oil was refined in other countries and the products ultimately shipped into the United States. This was especially true of the Caribbean area and such countries in Europe as Italy and Belgium.

There are no precise figures on the amount of Arab oil used in these products, but a reasonable and liberal estimate, based on available refinery data, would place the total at about 368,000 barrels a day.

That would bring the overall volume of imports of Arab crude oil, as well as petroleum products made from Arab crude oil, to 930,000 barrels a day—or 6 percent of the nation's daily demand.

Even though Arab oil imports rose steeply during the first six months of this year, that increase, projected for the year, still would leave Arab oil accounting for only 7 percent of the nation's petroleum needs.

When viewing the statistics from the Arab standpoint, there is an even sharper focus on the distribution of Middle East oil.

Last year, the Arab countries produced about 12,325,000 barrels a day, of which 930,000 barrels—or less than 8 percent—came into the United States.

The remaining 92 percent of Arab oil went largely into Europe and Asia, and that is why countries like the Netherlands and Japan are especially hard hit by the Arab production cutbacks.

These figures contrast sharply with those being tossed out by key federal oil policy officials in Washington and even President Nixon himself.

In a nationwide television address on Nov. 25, when he announced implementation of a mandatory fuel-oil-allocation program, President Nixon said shortages "could run as high as 17 percent." That would be about 3,000,000 barrels a day.

Speaking of the effects of the Arab oil embargo, the President declared:

"When I spoke to you earlier (in November), I indicated that the sudden cutoff of oil from the Middle East had turned the serious energy shortages we expected this winter into a major energy crisis."

But such is not the case, according to findings documented by The Inquirer during a continuing investigation into the underlying reasons for the oil shortage and the way both the federal government and the industry are handling the problem.

As The Inquirer disclosed last summer in a three part, 12,000-word series on "Oil—The Created Crisis," the present petroleum product shortages in this country can be traced to a hefty lack in refiinery capacity.

The failure to build new refineries—the shortage in refinery capacity now is running upward of 4,000,000 barrels a day—was accompanied by a general decline in the domestic oil industry.

In recent years, the difference between the country's demand and available refinery capacity has been made up largely of imports of finished petroleum products from Canada and the Caribbean area.

The industry's present inability to meet the countries needs stems directly from policy decisions made by the federal government and the major oil companies, which have been concentrating their producing and refining and marketing operations in foreign countries over the last two decades.

CONFLICT OF INTEREST

Why, then, all the emphasis on the Arab oil shutoff by the Nixon administration and the oil industry when the United States receives only about 7 percent of its petroleum supplies from the Arab countries?

One possible explanation is that there exists a potentially serious conflict of interest between the petroleum needs of the United States and the financial security of at least several large American oil companies.

The reason is this: The five largest multinational oil companies have invested billions of dollars in their oil operations in Arab countries. These companies are Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Co. of California.

In addition to their direct investments in the Arab countries, these same five companies have spent more billions building refining and marketing systems throughout Europe and Asia to sell product made from Arab crude oil.

Thus, while the United States is not dependent on Arab oil, European and Asian countries are. And so are the multinational American oil companies that rely on Arab oil to supply their markets in those countries.

That is why several of the large American oil companies, beginning last summer, urged the United States government to bring pressure on Israel to reach a Middle East peace agreement and keep the Arab oil flowing.

Consider just a few of the statistics:

Gulf Oil Corp., the nation's fourth largest oil company, has about 79 percent of its worldwide crude oil reserves located in the tiny (pop. 830,000) Arab state of Kuwait on the Persian Gulf. The company produced 1,569,100 barrels of oil daily last year in Kuwait, 786,600 barrels in both North and South America.

Exxon Corp. has investments of $4.8 billion in the eastern hemisphere, much of it in property, plants and equipment either in Arab states or in countries dependent on Arab crude oil. Of the 5,701,000 barrels of petroleum products sold daily last year by the world's largest oil company, 2,950,000 or 52 percent, were sold in Europe, Asia and Africa.

Texaco Inc. has crude oil reserves totaling about 30 billion barrels in the Middle East, or 80 percent of its worldwide reserves. The third largest oil company processed 1,314,000 barrels of crude oil a day—the bulk of it from Arab countries—in refineries across Europe and Asia. In the United States, the company refined 1,012,000 barrels a day.

Standard Oil Co. of California produced 2,555,306 barrels of crude oil a day last year in the eastern hemisphere, again much of it in Arab countries. The figure represents 81 percent of the company's total daily crude oil production of 3,159,530 barrels. The company, the fifth largest in the country, has an interest in more than three dozen refineries in the eastern hemisphere which rely heavily on Arab oil.

Mobil Oil Corp., the country's second largest oil company, produced 1,911,000 barrels of crude oil daily last year. Of that amount, 791,000 barrels, or 41 percent, were produced in Arab countries. The company sold 1,291,000 barrels of petroleum products daily across Europe, Asia and Africa, or 54 percent of the company's total worldwide daily sales of 2,409,000 barrels.

It should be emphasized that it has been a long-standing policy of the international oil companies to sell most crude oil produced in the Arab states, as well as elsewhere in the eastern hemisphere, in Europe, Asia and Africa—not the United States.

That means that most Arab oil was never intended for the United States—embargo or not.

That policy was spelled out way back in September 1947, when then Standard Oil Company of New Jersey (now Exxon) entered into a secret agreement with the Anglo-Iranian Oil Co. (now British Petroleum Co. Ltd.)

The agreement, one of several signed during the late 1940s by the major international oil companies, effectively carved up the markets and staked out territorial rights in the eastern hemisphere for these companies.

The Standard Oil Company of New Jersey (Exxon) contract carried a clause that stated:

"It is, however, buyer's (Standard) intention in entering into this agreement to use oil receivable by buyer here under in supplying buyer's business in Europe (including the British Isles), North Africa (including the whole of Egypt), and West Africa."

During negotiations with the British oil company, a Jersey Standard official stated:

"I told Basil (B. R. Jackson of Anglo-Iranian) that so far as crude oil deliverable by pipeline was concerned, it was for the purpose of helping to supply the requirements of our total business in the European and North African countries."

More than two decades later, on May 22, 1969, this policy of foreign oil for foreign markets was affirmed by another Standard Oil Co. of New Jersey official, M. A. Wright, now chairman and chief executive officer of Exxon Co., U.S.A.

In an appearance before the Senate Antitrust and Monopoly Subcommittee, Wright declared:

"I think the important thing to you gentlemen is that, in a company like Jersey, the foreign production tnat is developed is primarily for the purposes of supplying foreign markets.

"We do not develop crude on the outside of the United States primarily to supply markets inside the United States. Now, this I think is something that many people do not quite understand."

UNITED STATES PAID OFF SHEIKS

There are several interesting footnotes to the multibillion dollar investments by the international oil companies, not only in Arab countries but throughout Europe, Asia and Africa.

The American taxpayer over the years has subsidized the foreign operations of the oil companies through a variety of tax allowances and benefits. For example, the oil industry deducts from its United States taxable income the same 22 percent depletion allowance for oil produced in Arab countries that it deducts for oil produced in the United States—even though the Arab oil is intended for sale abroad.

Even more beneficial was a private ruling issued by the Internal Revenue Service (IRS) in the early 1950s which had the practical effect of enabling the oil companies to convert royalty payments to Arab rulers into foreign taxes, allowing a foreign tax writeoff, dollar for dollar, against income taxes they owed in this country.

During 1970, the latest year for which complete figures are available, the depletion allowance—for oil produced in this country and abroad—provided deductions totaling $2.9 billion for the oil industry, the foreign tax credit allowed writeoffs of $1.3 billion. With spiraling prices on Arab and other oil, as a result of increased taxes and royalties, these writeoffs will climb sharply next year.

Even with all these tax benefits and a private IRS ruling not available to other businesses and industries operating abroad, several of the international oil companies, The Inquirer has established, substantially under-reported the federal income taxes they owed during the 1960s.

An intensive IRS audit, which was to become known as the Persian Gulf audit within IRS and the Treasury Department, resulted in what has been described as the largest deficiency assessment ever levied by IRS.

The audit, as is the case with all IRS audits, was carried out in secrecy. And after lengthy and secret negotiations during the late 1960s, a settlement was reached in which the oil companies agreed to pay a percentage of the back taxes that the IRS said were owed.

FIRST AND LAST AUDIT

Because of the secrecy surrounding the audit, the exact figures are unknown. But a former Treasury Department official told The Inquirer the IRS assessment was for about a half-billion dollars and the oil companies finally paid approximately $300 million.

One of the irregularities the audit turned up, the former Treasury Department official said, was an oil industry practice of using an inflated figure as the cost for producing a barrel of crude oil, thus increasing the value of the depletion allowance, which is calculated on that per barrel.

Curiously, the Persian Gulf audit was the first and last audit of its kind ever made involving the business practices of American oil companies operating abroad.

One reason for this, put forth by the former Treasury Department official, is that the oil industry is so complex, and the overall rate at which oil companies pay taxes so low, that the additional taxes collected are not worth the manpower needed to make an exhaustive audit that may take several years to complete.

In any case, one of the problems encountered by the IRS auditors, according to a government official familiar with the case, was a lack of basic data relating to oil industry costs. There is similar lack of information concerning other phases of the oil industry.

As The Inquirer has disclosed previously, there is no government agency authorized to collect and verify data concerning the operations of oil companies—a condition which has aggravated the nation's energy problems and precluded the formation of any meaningful national energy policy.

As has been the case since the first oil well was drilled, all government oil policies—including the current mandatory fuel-oil-allocation programs—are based solely on unverified data furnished by the oil companies.

To further compound the problem, an assortment of governmental agencies with no particular expertise in oil matters—from the Treasury Department to the State Department—are churning out their own sets of statistics in response to the energy crisis.

That explains in some measure the conflicting figures federal oil policy officials toss out concerning not only the extent of the oil shortage but the effects of the Arab oil embargo.

Speaking on United States dependence on Arab oil, Duke R. Ligon, director of the Office of Oil and Gas in the Interior Department, told a United States House subcommittee on the merchant marine last Oct. 10:

"There will be an increasing reliance on Middle East oil. In 1970 we imported only 185,000 barrels a day from that source or only 1 percent of our consumption. We project that by 1975 we will be importing over 2,000,000 barrels a day from the Middle East."

HOW FIGURE VARIES

Less than two weeks later, on Oct. 22, figures released by Stephen A. Wakefield, another Interior Department official, showed that the United States had just about reached the 2,000,000 barrel a day of imports projected for 1975.

Wakefield, assistant secretary for energy and minerals in the Interior Department, told the annual meeting of the Independent Petroleum Association of America in Houston:

"When you include our purchases of refined products made from crudes originating in these areas (Middle East and North Africa) we are now importing 1,750,000 barrels a day of oil from this region."

A little more than two weeks later, a third government agency, the new Energy Policy Office, reported imports of 1,200,000 barrels a day—a decline of 550,000 barrels from the figures released Oct. 22.

In an environmental-impact statement published Nov. 7, the Energy Policy Office—created specifically by the White House to solve the energy crisis—reported:

"Last year America imported about 400,000 barrels of Middle Eastern oil a day. Data from the Bureau of Mines reports indicate that this figure has jumped 200 percent this year to 1,200,000 barrels a day."

But two weeks later, on Nov. 14, another government official, Julius L. Katz, was again putting Arab oil imports at 1,700,000 barrels.

Katz, deputy assistant secretary of state for international resources and food policy, told a House Committee on Interstate and Foreign Commerce:

"Prior to the imposition of the Arab boycott, the United States was importing about 6,300,000 barrels per day, of which the Arab producers furnished 1,700,000 in direct shipments of crude oil and products refined from Arab oil in third countries."

By Nov. 29, the loss of crude oil imports as a result of the Arab boycott had soared to between 2,500,000 and 3,000,000 barrels a day, at least according to the calculations of George M. Bennsky, another State Department official.

Testifying before a House Foreign Affairs subcommittee, Bennsky, director of the Office of Fuels and Energy in the State Department, reported:

"Taken altogether the Arab oil boycott will deprive the United States of between 2,500,000 and 3,000,000 barrels a day of oil this winter or up to 17 percent of our estimated winter demand of 18,500,000 barrels a day."

What with all the apparent confusion among those federal officials responsible for resolving the energy shortage, it is little wonder the problem has spawned a wave of near-hysteria stories on television and radio and in the newspapers and newsmagazines ranging from how much oil can be saved by turning out Christmas tree lights to a war against the Arabs.

PREMATURE WORRIES

In Philadelphia, a radio talk show host invited his listeners to voice their opinions as to whether the United States should mount an invasion against the Arabs if they persisted in maintaining the boycott.

Even Time Magazine, in its Dec. 3 issue, raised the question of military intervention, stating:

"Unhappily, the one countermeasure that would be effective would be invasion and occupation of the Arab oil-fields. The United States could easily defeat the Arab armies, and though the Arabs would probably blow up the wells, the technology of oil production in the desert is so simple that the United States could get some oil flowing again."

And Newsweek magazine, in its issue on the same date, observed:

"Secretary of State Henry Kissinger spoke openly but vaguely of possible retaliation against the boycotting Arab states. Most people thought he meant economic countermeasures, but some people spoke wildly of military action."

Shortly after the Arab boycott was announced in mid-October, Time magazine forecast the possibility of dire consequences for the United States, Europe and Japan. Time wrote:

"That oil squeeze could easily lead to cold homes, hospitals and schools, shuttered factories, slower travel, brownouts, consumer rationing, aggravated inflation and even worsened air pollution."

While all of this may come about in Europe and Japan—which rely heavily on imports from Arab states—the boycott itself never would have brought on all those calamities in this country.

UNITED STATES DOESN'T KNOW

The popular predictions of assorted national disasters brought on by the Arab shutoff seem to grow naturally out of the inflated statistics tossed around casually by the federal government's oil policy authorities.

While it is possible to come up with reasonable estimates of the amount of crude oil imported into the United States directly from Arab states, such is not the case when it comes to computing the volume of products refined in other countries from Arab crude oil and then shipped here.

The federal government never has been much interested in charting the flow of international oil and, indeed, the Bureau of Mines has had only one minerals specialist assigned to the task.

As for the data available from foreign countries, it is even more sketchy than that for the United States. And naturally the information is not subject to independent checks.

Then, too, refineries may receive crude oil from a half-dozen different countries. The oil is pooled for refinery runs and the gasoline, home heating oil and other products turned out actually are derived from both Arab and non-Arab oil.

How then does the Interior Department come by its refinery statistics?

Largely from the oil companies themselves, an Interior Department official acknowledged, adding: "We try to pick up statistics whereever we can. But you can guess to a degree."

And that is still another reason for all those conflicting figures coming out of Washington.

Although the Bureau of Mines maintains data on the source of crude oil going into refinery centers in the Caribbean area—which accounts for a sizable volume of United States imports—the information from elsewhere around the world is vague.

In some countries, like Israel and South Africa, oil statistical material is considered secret. Countries like Iran, a major oil producer, do not publish information showing the final destination of all of their exports.

There are reasons for all this secrecy. Iran, for example, which borders the Arab state of Iraq, for years has been sending oil around Arab lands into Israel. Neither government wants to acknowledge the shipments.

But the figures the Bureau of Mines has pulled together for the Caribbean area—the single largest foreign supplier of finished petroleum products to the United States—at least offer some indication of the amount of Arab oil included in refined products that are imported.

During 1971, the most recent year for which figures are available, a refining complex in the Netherlands Antilles received 751,000 barrels of crude oil daily from at least six different sources.

The largest supplier was Venezuela, which shipped in 613,000 barrels a day, or 81 percent of the refinery center's total input.

Other crude oil came from Brazil, Gabon and Nigeria. And there were 33,000 barrels a day that came from some unaccounted-for source.

Only 5,000 barrels a day, or 1 percent of the oil the refinery complex received daily, was shipped from an Arab country, in this case Libya.

WHAT COULD BE DONE

At another Caribbean refinery center, this one in Trinidad, the shipments of Arab crude oil were much higher. The center received 293,000 barrels of crude oil daily, of which 154,000 barrels, or 53 percent, originated in Saudi Arabia and Libya.

The remaining 139,000 barrels a day came from eight different countries—Venezuela, Iran, Angola, Gabon, Indonesia, Brazil, Colombia and Nigeria.

But while Arab crude oil accounted for 53 percent of the crude oil sent to the refinery center, the United States imported only 217,000 barrels of petroleum products a day, or 54 percent of the refinery's total production.

And therein rests another fascinating aspect of the Arab boycott: The multinational American oil companies play a major role in policing the oil embargo for the Arabs.

For in theory, at least, the Trinidad refinery center could take the non-Arab crude oil, refine it and export the finished products to the United States.

It then could take the Arab oil, process it and ship the refined products elsewhere around the world, to those countries not under the Arab embargo.

There is, though, another way in which the international oil companies control the worldwide flow of oil, and that is through their huge tanker fleets.

If the companies were so disposed, and if the Arab cutoff had created truly serious problems, then tankers carrying Arab oil could be directed to those refining centers producing petroleum products for countries not under the embargo.

Similarly, tankers carrying non-Arab oil could be steered to refining centers processing crude oil for distribution in the United States.

But the trading off of oil shipments can work both ways. If the multinational oil companies wanted to emphasize American dependence on Arab oil, then tankers carrying Arab oil could be directed to refining complexes that normally would use non-Arab oil.

Last year, the largest exporter of crude oil and petroleum products to the United States was Canada. The second largest exporter was Venezuela.

In fact, these two countries accounted for imports of 2,068,000 barrels daily—or well over twice as much as the United States received from Arab countries.

But such is not the case with America's five largest international oil companies, which last year produced well over 6,000,000 barrels of crude oil daily in Arab countries.

A Bureau of Mines official told The Inquirer that although the figures for the Caribbean refineries are for 1971, and the volume of oil processed has changed, there is no reason to believe that the percentages of distribution have changed.

He said a survey of the 1972 operations of a Virgin Islands refinery complex showed about the same percentage of crude oil imports by country as in 1971.

REASON FOR SITUATION

With all of the talk about American dependence on Arab oil, it is important, perhaps, to keep a few other statistics in mind.

The growing bind the Amercian oil companies now face in the Arab world is the result of some two decades of multibillion dollar expansion of the Middle East oil reserves.

It was during the early 1920s, when the United States once before feared it was exhausting its domestic oil reserves, that the federal government urged major oil companies to obtain oil reserves in foreign countries, including the Middle East.

A worried Herbert Hoover, then Secretary of Commerce, met with oil industry leaders on August 16, 1921, in Washington and stressed the need to obtain secure sources of foreign oil under the control of American companies.

"Unless our nationals reinforce and increase their holdings abroad," Hoover said, "we shall be dependent upon other nations for the supply of this vital commodity within a measurable number of years . . . We must go into foreign fields in a big way."

Aided by the United States State Department, the oil companies had soon done just that.

The department conducted extensive negotiations with the British, who already had a foothold in Iran where oil was discovered in 1908, to open the door for American companies to explore for oil around the Persian Gulf.

Even so, a glut of oil discoveries in the United States in the 1920s and 1930s dampened interest in the Middle East as American companies were hard-pressed to sell all the oil they had found back home.

American companies reported major oil discoveries in Kuwait and Saudi Arabia in 1938, but it was not until after World War II that production began to rise dramatically, from roughly 700,000 barrels daily then to 12,300,000 daily by 1973.

Once again, in the 1940s as it had in the 1920s, the State Department played an active role in encouraging the multinational oil companies to secure more foreign oil holdings.

After the war, the oil companies made a fundamental shift in their worldwide distribution system of crude oil due to rising production in the Middle East. Increasingly, they shifted that oil into Europe, a market that previously was served by oil from the United States and Venezuela.

Since then, of course, Arab oil has played an even greater role in the economies and life of European nations, with the oil companies investing billions of dollars to supply their growing market there and in Asia. Much of the development has come at the expense of the United States.

In the case of Exxon Corp., for example, the company increased its already sizable reserves in the Middle East and Africa, mostly in Arab states, from 4 billion barrels in 1963 to 34 billion barrels in 1972.

At the same time, Exxon's United States reserves increased only slightly from 5.1 billion barrels to 5.5 billion. Such figures help explain America's slide from self-sufficiency.

But the explanation as to why the multinational oil companies have continued to explore and develop the oil reserves of Arab states while ignoring other regions is found in the nature of the oil industry itself.

The oil industry has a herd instinct, not unlike the 19th century gold rushers who flocked to the Yukon and California in search of a quick fortune.

"It's not really a very sophisticated industry," said Donald L. Campbell, a vice president of J. C. Sproule and Associates of Calgary, Canada, a geological consulting firm. "It has a follow-the-leader psychology."

Campbell said substantial exploration was under way in Canada's lower Mackenzie Valley above the Arctic Circle in the late 1950s. Then oil was discovered off the coast of southern Alaska and in the North Sea. The oil rigs soon disappeared from the desolate north and were on their way to the new strikes, he said.

Not only is exploration easier in countries around the Persian Gulf than in less accessible regions, but the oil wells in the Middle East flow with incredible force. Thus, production costs are much cheaper than in places such as Texas.

That powerful economic attraction of Middle Eastern oil development in the past has created the mistaken impression that the Middle East is the only place left in the world with sizable oil deposits. Such is not the case.

In the United States alone, roughly only one-third of the oil that has been found in the country's history has ever been produced. The rest is still in the ground. The oil industry has always maintained that it is uneconomic, in most cases, to extract more than one-third of a reservoir's oil.

But that does not mean the oil cannot be produced. In fact, the Quaker State Oil Refining Corp. of Oil City, Pa., has been conducting tests for several years to increase the amount of oil recovered from oil reservoirs.

A company official said most oil eventually can be recovered. "It's really just a matter of economics," he said. "The trick is to get the price down far enough to equal the price of crude."

Or put another way, as the prices of petroleum products rise, the companies will begin extracting the oil that is more expensive to reach and the nation's reserves figures will go up once again.

Indeed, even if there were no more oil discoveries in Alaska or elsewhere in the United States, there remains enough oil in the ground to keep the country well into the next century.

And that does not include the substantial offshore oil deposits—which are at least five times greater than the present proved reserves of the country. Nor does it include the huge reserves in the Arctic, nor the more exotic sources such as shale oil and tar sands. Nor does it include the massive coal supplies which can be converted into gas.

Computing all these sources together, there are sufficient supplies of petroleum to keep the country running for centuries.

With their interests tied so closely to the Middle East's future, it is not surprising that some of the oil companies publicly urged the United States this summer to give the Arabs more support in working out a peace settlement with Israel.

"There must be understanding on our part of the aspirations of the Arab people and more positive support of their efforts toward peace in the Middle East," Otto N. Miller, California Standard's president, wrote to stockholders and employees in July.

OIL: FUTURE CRISES BRED BY PIPELINE

(By Donald L. Barlett and James B. Steele)

At a time when Americans are being asked by their government to lower thermostats and turn off lights, the Nixon administration is actively pursuing policies that threaten to deprive the nation of sizable quantities of crude oil and natural gas in the years ahead.

A continuing Inquirer investigation into the nation's energy crisis, and the federal policies and oil industry actions that helped create it, has established that:

Item. A decision made by the Nixon administration back in 1969 to support the construction of a trans-Alaskan pipeline, rather than a pipeline through Canada, severely dampened oil exploration in Canada and limited the supply of American money needed to develop new oil fields.

For years, Canada has been the leading foreign supplier of oil to the United States. The country's potential oil reserves are placed at 118 billion barrels—enough to double exports to the United States and meet its own needs for another century.

Item. There are strong indications the Nixon administration is getting ready to make the same kind of decision once again—this time involving a proposal by El Paso Natural Gas Co. to build a gas line parallel to the Alaskan oil line rather than through Canada.

That would mean the natural gas would have to be liquefied and shipped to this country by tanker, resulting in inflated prices. It also would mean delayed development of the huge natural gas reserves in northern Canada.

Item. The administration already is dropping hints that it will push for a second Alaskan oil line instead of a Canadian pipeline, as many Congressmen and Senators had hoped, paving the way for the possible exporting of oil to Japan.

If built, a second pipeline across Alaska would result in an oversupply of crude oil on the West Coast and do little to relieve mounting energy shortages in the East and Middle West where demands are greater.

Item. In turning its back on Canada immediately after taking office, the Nixon administration retarded the development of Canadian oil and gas reserves which one day would be needed to help meet American energy needs. Most recently, the State Department distorted the Canadian government's position on joint energy matters.

This despite the fact that from January 1970 through June of this year the United States imported more than a billion barrels of oil from Canada—double the imports that were received from Arab countries in the Middle East where the State Department now is applying pressure on Israel to sign a peace agreement with the Arabs in order to get the Arab oil embargo lifted.

These Federal policies, coupled with President Nixon's stated goal of making the country self-sufficient in energy by 1980—by developing everything from shale oil to more nuclear reactors—are having yet another effect:

They are driving prices up sharply—crude oil prices in this country are expected to soon triple 1972 prices and gasoline prices to more than double—forcing individuals and industry alike to pay inflated prices for their supplies.

Says Dr. Arthur W. Wright, an assistant professor of economics at the University of Massachusetts, who has made extensive studies of the oil industry:

"What we are doing is laying the groundwork for a lot of expensive fuel projects. We could go from a period of underpricing in energy to a period of over-pricing. One thing you don't do is make a lot of bad policy in a hurry.

"Crash programs are terribly expensive things. There is no one inveighing against these people in Washington who are running around like they've had their heads cut off."

There is nothing especially new about the United States short-sighted behavior toward Canada, which last year exported 1,108,000 barrels of crude oil and petroleum products every day to this country. There are 42 gallons in a barrel of oil.

As The Inquirer disclosed last summer in a 12,000-word series, "Oil—The Created Crisis," the Administration's policies toward Canada aggravated this year's energy crisis.

In 1970, President Nixon slapped restrictions on the amount of oil coming into the United States from Canada at the very time the Canadian oil industry was seeking a larger market in the United States for its products.

Denied greater access to the United States market, the Canadian oil industry's growth faltered. There is no doubt that had it been guaranteed a market for its production as recently as 1970, Canadian oilmen told The Inquirer, it would have grown at a faster pace and been able to supply the United States with thousands of more barrels than it did this year.

As for constructing an oil line through Canada to bring Alaskan oil to the lower 48 States, the Administration was never really interested in pursuing the Canadian alternative to the Alaska line, largely because the large oil companies opposed it.

Instead, the Administration lobbied against the Canadian pipeline, citing the fact it would be longer than the Alaskan route, would take longer to construct and would travel through a foreign country.

Now, many of the same arguments are beginning to surface quietly against a long-planned natural gas pipeline through Canada to transport Alaskan and Canadian gas to the United States.

The Administration is reportedly looking favorably on a more recent proposal of the El Paso Natural Gas Co. to build a gas transmission line along the right-of-way of the oil pipeline to Valdez, Alaska, where the gas would be liquefied and shipped by tanker to the West Coast.

In addition to higher costs for liquefaction and some loss of the gas itself due to the liquefaction process, the chief disadvantage of the route is that the gas would come into the West Coast instead of the energy-starved Middle West which could have been supplied by the Canadian line.

The El Paso Company has been in and out of Federal courts for more than a decade, accused of violating antitrust laws, monopoly practices and over-charging consumers.

During the 1960s, the company was represented by the Wall Street law firm of Nixon, Mudge, Rose, Guthrie, Alexander and Mitchell.

That was the law firm of President Nixon and former Attorney General John N. Mitchell, now under Federal indictment in connection with his handling of campaign funds in the 1972 Presidential election.

From the mid-1960s through last year, the former Nixon law firm collected more than $1 million in legal fees from El Paso—a company which has benefited directly from a variety of Nixon administration decisions.

Records of the Federal Power Commission show that from 1966 to 1968, the earliest period for which records are currently available, El Paso paid the Nixon law firm $345,899 for legal services.

From January 1969, when President Nixon was inaugurated, through last year, the law firm received about three-quarters of a million dollars in legal fees.

The decision to build the Alaska oil pipeline, a decision made privately by the oil industry and then supported by the administration, also illustrates how oil companies sometimes determine public policy.

And in making that policy, the oil companies are reaching decisions that may well be in the best interests of their stockholders, but not necessarily in the best interests of the American consumer or, more particularly, the long-range energy needs of the country.

The decision to build the trans-Alaska pipeline was made quickly and quietly by three oil companies—Standard Oil Co. of New Jersey (now Exxon), Atlantic Richfield Co. and the British Petroleum Co. Ltd.

The major Alaskan oil strike was made after a joint exploratory operation by an Exxon subsidiary and Atlantic Richfield on the North Slope in January 1968. A second strike followed in June seven miles from the first.

Just eight months later, at a joint news conference in New York City on Feb. 10, 1969, Exxon, Atlantic Richfield and British Petroleum announced plans to build an 800-mile, 48-inch pipeline from the North Slope south past Fairbanks and on to the port of Valdez on the Gulf of Alaska.

There were, at the time, two major options open to the oil companies.

Run the pipeline to Valdez and then transport the crude oil by tankers to refinery centers on the West Coast and possibly to the Far East for sale in Japan.

Build the pipeline south through Canada and into Chicago, where the crude oil could be refined and the products distributed throughout the Midwest and into markets on both the East and West Coasts.

Why did the companies and the Administration decide on the Alaskan route?

The Administration seems to have wanted the line mainly because the oil companies preferred it. And the oil companies preferred the line, it seems, because it was in their best financial interests. In the end, Congress approved the Alaskan line because of the Administration's support.

While a Canadian route would open up the Canadian north for more exploration, the trans-Alaska line, which will discharge oil into tankers on Alaska's south coast, would mean oil could be shipped to Japan and other nations, should the companies decide that was in their best interests.

Economists and oil industry authorities interviewed by The Inquirer agree the decision was purely a "private one" to build the Alaska line.

In fact, a spokesman for Atlantic Richfield said the Canadian route was never seriously considered. "I don't think it was even a factor in 1968 or 1969," he said.

The reason was this:

When the pipeline project was announced in 1969, there was a huge surplus of crude oil, not only in the United States but throughout the world.

Crude oil and petroleum product prices in this country were generally depressed. The big oil states were holding down production in order to keep supply more in balance with demand.

During the month of March 1969, oil wells in the state of Louisiana were producing at 42 percent of their capacity. In the oil fields of Texas, production during August was at 53 percent of capacity.

A Mobile Oil Corp. official, explaining in July 1969 why the company wanted to cut back production at its Texas wells, told a state regulatory agency:

"(Mobile has made) substantial cuts in Texas and all other states where we purchase because our crude oil inventories are reaching an all-time high and we are attempting to reduce them."

At the same time state agencies were holding down oil production, the nation's chief sources of foreign oil—Canada and Venezuela—were apprehensive that the United States was going to slash the amount of oil bought from them.

Venezuela complained that the United States Department of the Interior—which supervised the import program limiting the amount of oil that could be brought into the country—was encouraging American refineries in the Caribbean to use lower-priced Middle East oil.

And in Canada, a top-level meeting was called between senior government officials from both Canada and the United States to discuss ways of reducing the imports of cheaper Canadian crude oil into this country.

It was during this period of overabundance of oil that Atlantic Richfield and Exxon and British Petroleum were pushing ahead with plans to develop the North Slope, the largest oil field ever discovered in the United States.

The field contained, according to the estimates of independent geologists, from five to 10 billion barrels of oil.

Those, of course, were the conservative figures for the lone field. As for the entire North Slope, the more liberal estimates ranged up to 100 billion barrels—or nearly triple the country's present reserves.

It was against this background that the two American oil companies and British Petroleum announced their plans to build a trans-Alaskan pipeline—a decision distinguished by the fact it would not disrupt existing markets and drive down the price of petroleum products.

Although it seldom is discussed publicly, the one overriding fear in the oil industry is not that the world is running out of oil, but rather that overproduction will produce an oil glut and depress prices.

So it was, then, that the last thing the oil industry needed in 1969 was a pipeline running through Canada and into Chicago—pouring two million barrels of crude oil a day into the middle of a country that couldn't use all the crude oil it already was producing.

Coincidentally, the last time that happened was in the 1930s following the discovery of the huge East Texas field—the largest find until Alsaka's North Slope. Then prices plunged from about $1.30 a barrel to a dime.

As Business Week magazine put it in its Feb. 1, 1969, issue:

"The West Coast market (can't) absorb all the oil that even a comparatively moderate Alaskan field can produce. And that's what leads to the big marketing problems that oil analysts foresee. The first of these problems is whether the present structure of crude prices can withstand the onslaught of cheap Arctic crude.

"No one—certainly not the major oil companies that will determine the pace of Alaskan oil development—wants a repetition of what happened after the East Texas find of the 1930s."

Interestingly, while there was a conflict between the short-term financial interests of the oil companies and the long-term energy needs of the country, there was a similar conflict between the two companies that drilled the North Slope well.

Exxon Corp., the world's largest oil company, with vast reserves in the Middle East, was not in any hurry to rush development of the North Slope.

Atlantic Richfield, on the other hand, was very much in need of the new-found oil.

Just two years earlier, the old Atlantic Refining Co., located along the East Coast, had merged with the Richfield Company, based on the West Coast, and a new supply was needed for the Western markets.

Soon after the size of the Alaskan discovery was established, Atlantic Richfield began counting on moving the oil into its marketing system by 1972.

Forecasting a glowing future for the company, Thornton F. Bradshaw, president of Atlantic Richfield, reported in 1969:

"We anticipate early in 1972 a big business in cash flow and profits, and they will increase on an ascending scale as growing needs make room for Alaskan oil."

As everyone now well knows, construction of the pipeline will not even start until next year and the earliest possible completion date is sometime in 1977–78.

The project has been delayed not only by the objections of environmentalists, who are usually blamed, but a general lack of enthusiasm within the oil industry itself.

But if the oil companies and the Federal Government were cool to the idea of developing oil in Alaska and northern Canada in the late 1960s, such was not the case with the Canadian government.

Within months of the big Alaskan oil strike in 1968, the National Energy Board of Canada suggested a Canadian route to bring the North Slope oil to market. The Canadian government has consistently supported the route.

Energy Minister J. J. Greene tried to assure the United States government and the oil companies in March 1971 that "there will be no unnecessary roadblocks at the Canadian end and the Canadian government side" to construction of such an oil pipeline.

A year later a new energy minister, Donald Macdonald, who still holds that cabinet post, pointed out the virtues of the Mackenzie valley line to Canada in a May 1972 letter to Rogers C. B. Morton, Interior Secretary.

"The Mackenzie route would, of course, be advantageous to Canada in that it would give access to our potential oil resources in the northern Yukon and Mackenzie river areas," Macdonald wrote.

Not only did Canada favor the Mackenzie line, but so did many environmentalists, economists and lawmakers in the United States.

Environmentalists, for example, considered the Mackenzie line far superior to the trans-Alaska line because it would avoid earthquake prone regions in Alaska and eliminate the danger of oil spills from huge tankers carrying Alaskan oil to the United States past the west coast of Canada.

The chief advantage of the Mackenzie line, advanced particularly by economists and congressmen and senators from the Middle West, is that it would have delivered the Alaskan oil to the Middle West and East where it was needed more than in the West.

"By the early 1980s, close to two million barrels of crude oil a day will be available for transport to the lower 48," Sen. Adlai Stevenson III of Illinois testified in May. Where will that oil be most needed by the 1980s?

Already prices in crude oil per barrel are 20 percent higher in the Mid-west than on the West Coast, 25 percent higher in New York than in Los Angeles.

Even though Canada consistently voiced support for the Mackenzie line, the Nixon Administration and particularly the State Department conveyed the impression to Congress that the Canadians were not really interested in building such a line.

On June 14, the Canadian government delivered documents to the State Department spelling out the Trudeau government's position on several points relating to the Mackenzie line.

In brief, Canada said that remaining unresolved problems such as the settlement of native claims could be solved and would not interfere with construction of a Mackenzie oil line.

Eight days later, the state department, in a letter to Rep. John Melcher (D., Mont.) signed by Julius Katz, a deputy assistant secretary of state, said flatly:

"Negotiation by the United States of the pipeline agreement with Canada does not appear possible at this time."

Katz was later questioned by senators who were angry with his interpretation of the Canadian government's position. When asked how he could have interpreted the favorable responses of the Trudeau government to mean that pipeline negotiations are not possible, he answered:

"What we meant by that was at the time and within an acceptable time frame, and this was based on our evaluations of all the hurdles that would have to be met before application could be presented to the Canadian government and considered by the Canadian government."

In the final analysis, there were never any negotiations over the line.

"This government and the Canadian government have never engaged in serious discussions of such issues, despite repeated expressions of interest by the Canadian government," John F. Dienelt, a lawyer representing several environmental groups, told a Senate committee in May.

The one time there were any discussions at all by any of the parties, the oil companies made it clear to the Canadian government they did not favor the Canadian route, according to a Canadian oil publication.

"When they visited Ottawa in 1971," the magazine Oilweek reported on August 6, 1973, "the presidents of the companies participating in (Alaska) made it quite clear they had given such a project (the Mackenzie line) but scant attention.

"Atlantic Richfield said a Canadian line would bring the economic policies of the two countries in direct conflict because Canada would insist on the line being available to move its own northern crude."

What the United States wanted, the magazine said, was a right of way across Canada for an oil pipeline that would not be subject to Canadian control. "In other words," Oilweek said, "it wanted another Panama Canal zone."

Not surprisingly, the Canadians did not look favorably on such a one-sided proposal. But the argument against the Canadian line raised by the oil companies would be used again and again: the fact it passed through a foreign country.

Time and again, opponents of the trans-Canadian line used with some success the fact the Mackenzie line would not be under the direct control of the United States.

The implication, apparently, was that Canada could shut off the United States' oil, if the two nations should ever find themselves in a bitter dispute.

Such a theory overlooks the leverage the United States already has over Canadian energy supplies. Today, hundreds of miles of Canadian oil and natural gas lines pass through the United States feeding crude oil and gas to the metropolitan areas of Toronto and Montreal.

But it was the State Department's handling of diplomatic cables from the Trudeau government last summer that best demonstrates the extent to which the Nixon Administration went to misrepresent the Canadian government's stand on the Mackenzie line.

Perhaps the most crucial question regarding the Mackenzie alternative was whether Canada would require 51 percent Canadian ownership of such a line, a point the Americans saw as a possible stumbling block to construction. Until mid-summer, Canada indicated it favored majority ownership.

On July 5, the Canadian government conveyed information to the State Department in Ottawa clarifying the government's position on the ownership question. The two governments agreed to release the information the next day.

But in a subsequent conversation between Canadian and United States diplomats, it was discovered that for some unexplained reason the two countries had opposing answers to the Canadian government's position on pipeline ownership.

Documents of the Canadian government stated that majority ownership of the line would not be required. Documents of the American government stated that the Canadians insisted on majority ownership.

Whatever the cause of the mixup, Canada immediately issued a clarification and sent it to the American embassy in Ottawa where it arrived on July 11. The cable made it clear that Canada would not insist on 51 percent Canadian ownership, although it added that Canada would like the opportunity to acquire majority ownership.

That was six days before the Senate was scheduled to vote on an amendment to clear the way for construction of the Alaska pipeline. But the State Department did not get the revised answer to the Senate until about two hours before the final vote was taken.

How could such a development have occurred?

"Well, I suppose basically human error," Rufus Z. Smith, a deputy assistant secretary of state, explained to the Senate in July.

"It was promptly mailed from the embassy in Ottawa to the State Department (referring to Canada's clarification). It should have been cabled or telephoned. There is no question about that."

As the senators soon found out, the only reason the Senators even got a clarification on Canada's position was due to the Canadian government, not the State Department.

Smith said he found out about the slipup when an official of the Canadian embassy called him the day before the Senate vote and asked why the State Department had failed to make public the Canadian position on pipeline ownership.

Sen. Walter Mondale (D., Minn.) summed up the affair by saying, "We have treated an old and valuable ally rather shabbily in this matter.

"While all of those debates were going on, we now know that for some days . . . that the State Department had in its possession the cable . . . which settled most of those issues in favor of Canadian interest in the line."

A trans-Canadian oil pipeline, Canadian oilmen say, would have spurred much more exploration in the Canadian north because the line would have made it possible to get the oil reserve to market.

Congress wrote into the Alaska pipeline bill a provision that the oil cannot be sold to foreign nations without federal approval, but, there are some loopholes and some senators are skeptical about the companies' motives.

"Our thought is that when some of this (Alaskan) oil is delivered to the West Coast," Sen. Mondale said in July, "that oil from Ecuador and Indonesia (now imported into the West Coast) would then end up in Japan."

The recent suggestion by the President's new energy czar, William E. Simon, that possibly a second oil pipeline should be built through Alaska will probably only fan Congressional fears that some of the Alaskan oil is earmarked for markets other than the United States.

Indeed, the suggestion is just another example of the Federal Government's inability to develop a long-range energy policy for the country—a failure The Inquirer disclosed last summer that had helped create the present oil shortages.

As recently as two weeks ago, energy boss Simon was quoted by the Washington Post as saying that the United States will not build a pipeline through Canada, at least at the present time, because the country cannot afford to share its oil with Canada.

Arguments that were so successful in killing any interest in the Canadian pipeline are now beginning to gain ground in the Administration against a long-proposed natural gas pipeline through Canada to bring vast Alaskan and Canadian natural gas reserves to the United States.

A consortium composed of Canadian and American pipeline, natural gas and oil companies called Canadian Arctic Gas Study

Limited has spent upward of $70 million in recent years studying the proposed gas pipeline route, also down the Mackenzie River valley.

In December 1972, the El Paso Natural Gas Co., the nation's largest natural gas transmission company, announced plans to study an alternate route along the right of way of the Alaskan oil pipeline to Valdez where the gas would be liquefied and shipped by tanker to the West Coast.

Neither El Paso nor Canadian Artic has applied for a permit to build a gas pipeline with either the Canadian or the United States governments, but an application is expected to be filed soon by the Canadian Artic group.

No one took the El Paso proposal very seriously a year ago since liquefaction is generally thought to be an unnecessary and costly step if a land route is available to transport the gas.

But recently, Canadians who favor the Mackenzie route have grown increasingly concerned that the Nixon Administration, in pursuit of a goal of national self-sufficiency in energy, will opt for the El Paso proposal.

El Paso has already engineered several liquefied natural gas deals around the world and has received Federal Power Commission (FPC) approval to market the gas in this country.

Further, El Paso and Occidental Petroleum Corp. announced on June 8 that they had signed an agreement with the Soviet Union on a $10 billion project to bring Siberian natural gas to the West Coast of the United States.

El Paso seemingly had enjoyed a good working relationship with federal agencies. An article published in the April 16, 1970, issue of the "Oil and Gas Journal," an industry trade publication, stated that:

"El Paso Natural Gas Co. is so confident it can shove through its largest liquefied natural gas supply deal in history that it is ordering two of the world's largest cryogenic tankers.

"The company revealed last week that it has placed an order with a French shipbuilder for construction of two 750,000-barrel LNG tankers. The vessels will be built at a cost of about $100 million."

That, again, was back in April 1970—two years before the Federal Power Commission approved an El Paso plan to import one billion cubic feet of liquefied natural gas daily from Algeria into Maryland and Georgia. A request to import another one billion cubic feet daily into New Jersey, Maryland and Georgia is pending.

In September 1972, according to documents filed with the United States Securities and Exchange Commission, El Paso entered into a contract with another shipbuilder for the construction of three more cryogenic tankers at a cost of some $300 million.

This time the federal government agreed not only to pay one-fourth of the cost of the ships, or about $77.5 million, but also to "make United States government guarantees available for the financing of 75 percent of the remaining cost of these three tankers."

Still, Canadian oilmen believe the Mackenzie line is far superior to the El Paso proposal and believe it could be built if Canada and the United State simply agreed to it.

"We further believe that this will have a tendency to retard exploration in the Canadian north."

El Paso's 1972 annual report mentions the Alaskan study only briefly, although it is expected to cost the company millions of dollars.

But El Paso did emphasize that its proposed line would be an all-American project that would not pass through a foreign country.

As to drawbacks in the El Paso proposal, compared to the Mackenzie valley gas pipeline, Canadian oil and gas men interviewed by The Inquirer in Toronto, Calgary and Edmonton generally agreed on the following:

Gas delivered to the lower 48 states by way of the El Paso plan would result in inflated charges to the American consumer because of excess charges for liquefaction.

A certain percentage of the natural gas is lost in the process of converting the gas to a liquefied state.

The United States energy market would be deprived of trillions of feet of natural gas reserves in northern Canada because there would be no way to get the reserves to market.

Gas exploration efforts would slow down dramatically in the Canadian north.

But such considerations may be secondary to El Paso in trying to win approval of its pipeline plan. For as several economists interviewed by The Inquirer pointed out, conversion of Alaskan North Slope gas reserves to a liquefied state may benefit El Paso more than the American public.

"It's more expensive than deregulating the price of natural gas and running a pipeline down the Mackenzie Valley," said Dr. Edward W. Erickson, an economics professor at North Carolina State University. "But no one in Washington seems to be groping with the sensible thing to do."

What are the disadvantages of the Canadian line?

"If you have a pipeline through Canada," Dr. Erickson said, "you can't move gas to Japan. If you have a liquefaction plant, you can look at several different markets, including Japan."

There is more to that possibility than idle speculation.

Although most Americans probably do not know about it, the Phillips Petroleum Co. and Marathon Oil Co. have been selling liquefied natural gas from Cook inlet in Southern Alaska to Tokyo since 1969.

WANTED: IMMUNITY FOR OIL EXECS

(By Donald L. Barlett and James B. Steele)

During a time of soaring prices and profits in the oil industry, the Nixon Administration has been quietly trying to exempt oil companies and their executives from prosecution under the antitrust and conflict of interest laws.

The exemptions—which would pave the way for oil company executives to manage the administration's rationing programs for petroleum products—are being sought through legislation and by private agreement with the Justice Department.

The administration has maintained that the oil company officials are needed because they have the expertise to deal with supply and distribution problems.

But such joint action by executives of competing companies could normally violate both antitrust and conflict of interest laws.

The new exemptions would be in addition to an antitrust exemption the oil companies already have, which enables them to work together in arranging the distribution and sale of crude oil produced outside the United States and earmarked for sale in this country and abroad.

Martin Lobel, a former oil specialist on the staff of Sen. William Proxmire (D., Wisconsin) and now a member of the Washington law firm of Lobel, Novins and Lamont, believes the existing antitrust exemption already means higher profits for the multinational oil companies next year.

"The increased profits come through efficiency of supply distribution," says Lobel, because the companies are able to pool their oil sources and reduce transportation costs at the same time petroleum product prices are going up.

Key federal oil policy officials have been working to arrange immunity for the oil industry at a time when:

Item. During the first nine months of this year, the profits of the country's five largest international oil companies totaled $4.1 billion—an increase of 48 percent over the same period last year.

Item. From last January until the first week in December, the retail price of gasoline was up an average 19 percent nationwide. Price increases approved by the federal government in the last two weeks will boost this increase to about 30 percent.

Item. In some sections of the country, the wholesale price of home heating oil has shot upwards of 100 percent since January, going from 10 cents to 21 cents a gallon in the Gulf Coast area.

Item. The price increases already approved by the Nixon administration will cost the American consumer an additional $7 billion next year for gasoline alone. Each one cent increase in the price of gasoline costs the consumer $1 billion over a year.

Meanwhile, a little-known group called the Emergency Petroleum Supply Committee (EPSC)—made up of representatives of 23 oil companies—has been at work for some six weeks now, assembling data relating to the worldwide crude oil supplies of each company.

The 23 companies already enjoy antitrust immunity covering their actions as committee members. The immunity was granted by the United States Attorney General's Office under provisions of the Defense Production Act.

The committee, which has broad powers, may determine the rate of oil production, the volume of petroleum products turned out by refineries, how much oil will be imported into the United States and whether oil produced in this country will be shipped to other nations.

Information gathered by the committee and its recommendations ultimately may be used by the federal government to determine how much fuel oil a homeowner or industry receives, how much gasoline will be allocated to motorists, how much diesel fuel will be distributed to truckers.

As The Inquirer disclosed last summer, virtually all the government's information on oil supplies and reserves—information on which national energy decisions are based—comes from the oil companies and is not subject to independent verification.

The far-reaching implications of the EPSC's authority notwithstanding, all of its meetings are conducted behind closed doors at the U.S. Department of the Interior. And documents compiled by the committee are considered secret.

Robert L. Presley, an official of the Interior Department's Office of Oil and Gas and a government representative on the Emergency Petroleum Supply Committee, explained the need for secrecy this way to The Inquirer:

"The meetings are closed in order to get free expression from individual people. They will be more constrained if members of the press are there.

"We get very free exchanges about the problems they have. I haven't heard anything said, however, that would harm them."

LOOK AT DATA BARREL

Presley refused to allow Inquirer reporters to examine the data pulled together so far by the committee, contending the committee's functions had nothing to do with the nation's current energy crisis.

"The committee's not going to do one thing to solve the oil shortage," declared Presley. "We hope to get an idea how serious the shortage is in the world. We (the committee) have only authorizations to act on the international movement of oil."

But John Lamont, a former Justice Department attorney and another member of the Washington law firm of Lobel, Novins and Lamont, said it is not possible to separate the international movement of oil and oil needs of the United States.

"When this committee is dealing with the international movement of crude oil," Lamont said, "and the United States receives 25 percent of its supply from other countries, how can its decisions fail to affect the United States?"

Clearly, the committee's decisions will have a direct impact on government oil rationing and allocation programs because it will determine exactly how much oil is available for importing into the United States.

The Inquirer has disclosed in previous articles that one of the underlying reasons for the energy crunch is a decision made some years ago by America's multinational oil companies to expand their production, refining and marketing facilities in foreign countries.

As a result, the five largest oil companies now sell nearly two barrels of petroleum products in other countries for every barrel they sell in this country, making the United States just one more market. (A barrel contains 42 gallons.)

These five companies—Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp. and Standard Oil Company of California—also are members of the Emergency Petroleum Supply Committee, helping to make decisions on the worldwide distribution of oil.

U.S. OIL FOR OTHERS

Indeed, the EPSC could recommend diverting to other countries oil originally intended for sale in the United States.

The Interior Department's Presley, in an interview with Inquirer reporter Susan Q. Stranahan, said of the EPSC's studies to date:

"There is a possibility that if the situation (worldwide oil shortage) becomes serious enough, the United States may reduce its own supply to supply other nations. The real purpose is, to provide help to friendly foreign countries."

Presley's remarks are the first indication the federal government, or at least the oil industry's Emergency Petroleum Supply Committee, is considering the possibility of shipping oil to European and Asian nations reeling from the effects of the Arab oil embargo and production cutbacks.

This comes at a time when the Nixon administration has requested thermostats turned back in private homes and business establishments in the United States, cut fuel oil deliveries to industry and reduced jet fuel supplies, bringing about the layoff of thousands of workers.

While the Emergency Petroleum Supply Committee has immunity from antitrust law prosecutions, this immunity covers only the international movement of oil and does not apply to distribution within the United States.

It was to cover this latter situation that the Nixon Administration asked both Congress and the Justice Department for additional oil industry exemptions from antitrust and conflict of interest statutes.

The expanded immunity coverage was needed after the White House decided to draft oil industry executives to manage the programs allocating fuel oil and other petroleum products.

In an article headlined, "United States to draft industry experts," the Oil and Gas Journal, an oil industry trade publication, reported in its Dec. 3 issue:

"Industry executives with special transportation and distribution skills will soon be 'invited' by the government to help solve allocation problems during the oil shortage.

"They will be drafted as 'special government employes', early this month for service in the Office of Oil and Gas and the Office of Petroleum Allocation."

The administration received its first setback when then Acting Attorney General Robert H. Bork refused to provide the blanket protection sought by the White House and the oil industry.

IMMUNITY NOT CERTAIN

In a three-page letter, Bork told Interior Secretary Rogers C. B. Morton that the antitrust laws do not prohibit the hiring of oil industry personnel, but that immunity could not be guaranteed.

Bork wrote:

"The antitrust laws do not prohibit the use of industry personnel as advisers within your department. Having said the foregoing, we are obliged to point out that this is different from saying that such personnel will be free of any possible threat of liability from antitrust prosecution.

"No opinion which I could render could immunize any activities of such employees from treble damage actions brought by private plaintiffs . . .

"It is not possible to say that such personnel do not run the risk of being charged with antitrust violations, since a determination of this question would depend upon knowledge of all relevant facts."

Bork's letter was dated Nov. 21. On Dec. 14, Duke R. Ligon, director of the Interior Department's Office of Oil and Gas, issued a memorandum stating that the plan to draft oil industry executives "has been postponed indefinitely due to the conflict of interest problems."

There is nothing especially new in the Nixon Administration's bid to exempt oil companies and their employees from antitrust law prosecutions.

Back in 1970, the international oil companies operating in the Persian Gulf asked the administration for the same kind of immunity and it was granted—privately.

At that time, the oil companies sought the protection in connection with negotiations they were entering with the Arab oil-producing states and other members of the Organization of Petroleum Exporting Countries (OPEC).

In a secret business review letter issued in January 1971, the federal government assured the oil companies that no criminal actions would be filed for any violations of the antitrust laws.

ORDERED BY MITCHELL

The letter was issued by the Justice Department on orders of former Attorney General John N. Mitchell, now under federal indictment in connection with his handling of campaign funds in the 1972 presidential election.

An Inquirer request made last Wednesday to examine the business review letter was rejected by the Justice Department, Richard Sayler, a special assistant in the department, said:

"We have consistently stated that the materials will be made available when we hear from the State Department that publication will not be detrimental to national security.

"The State Department continues to advise us that publication of the materials would be detrimental to national security."

Stephen Schwebel of the State Department's international law section, was asked about making public the business review letters. He replied:

"These letters have not been released. They are classified. I doubt if they'll be released in this current delicate situation with the Arab negotiations."

But a former federal official familiar with the letters dismissed an argument put forth by the State and Justice Departments for keeping the letters secret.

He cited possible government embarrassment—rather than national security—as the reason for withholding the information, saying that the "Justice and State Departments aren't particularly proud of those letters."

The immunity granted the oil companies by the Justice Department went far beyond permission to engage in joint negotiations over the price of crude oil.

SHARING OF CRUDE OIL

One of the provisions of the Justice Department agreement, a former federal official told The Inquirer, covered the sharing of crude oil and tanker space by the companies.

Thus, if an OPEC country shut down the operations of one company, the remaining companies could supply that company with crude oil from a common pool.

The Justice Department not only has refused to make public the details of the immunity agreements, it has even declined to say whether the agreements are still in effect. The Justice Department also has denied Congress any information about the agreements.

At the time the Justice Department gave the companies approval to bargain together with the oil-producing countries in 1971, Sen. Philip Hart (D., Mich.) chairman of the Senate's Antitrust and Monopoly subcommittee, asked for a full report on the talks.

Subcommittee staff aides told The Inquirer that the State Department and antitrust division of the Justice Department declined to provide the information during the negotiations, contending that any disclosure during the talks might jeopardize the sensitive nature of the discussions.

But the two departments did agree to supply Hart with a full report after the 1971 negotiations were completed. That was nearly three years ago and Hart, despite repeated, renewed requests, is still waiting for a report on the 1971 negotiations.

The House of Representatives has fared no better than the Senate in its attempts to obtain some of the same information.

At a House subcommittee hearing held July 12, 1971, Silvio O. Conte (R., Mass.), had the following exchange with Walker B. Comegys, then acting assistant attorney general in the antitrust division of the Justice Department:

Conte—"I wonder if you could provide the committee with a copy of your Jan. 15 letter, giving immunity to the majors, to let them bargain as a cartel with the Persian Gulf nations and with Libya?"

Comegys—"Mr. Conte, I cannot comment on any of the statements that you have made, because I am under the injunction that it is not in the national interest for me to do so."

Comegys also argued that the business review letter did not constitute a grant of immunity from prosecution. But when Conte asked exactly what the letter provided, the Justice Department lawyer replied

"I cannot go into that, sir, at this point. We have been under strict injunction from the Department of State . . . I cannot comment in the context of this Middle East oil situation."

INTENT OF LETTER

The Justice Department has long contended that a business review letter only sets forth the intentions of the department.

That is, the Justice Department advises a company that, given a special set of circumstances, the department will or will not initiate legal action.

But from a practical standpoint, former Justice Department attorneys told The Inquirer, the issuance of a letter means the department will not file criminal charges under most any circumstances, although it may at some later date bring a civil lawsuit. But even civil cases are seldom filed once a letter is issued.

Sen. Hart now is preparing to call Secretary of State Henry Kissinger or another high State Department official before his subcommittee to testify in executive session about the agreements made by the Justice Department with the oil companies.

At the time of the oil company negotiations with the Organization of Petroleum Exporting Countries (OPEC), President Nixon dispatched a top State Department official to meet with Arab leaders and assist in the oil talks.

When negotiations with the oil-producing countries finally were completed, everyone—the international oil companies, the State Department and the Justice Department—expressed their satisfaction with the outcome.

The State Department hailed the oil companies new pact with OPEC as bringing "stability" to the "turbulent international oil situation."

The oil companies declared the "agreement established security of supply and stability in financial arrangements for the five-year period 1971–75 . . ."

And the Justice Department, the industry's Oil and Gas Journal reported, said the department's decision to allow the oil companies to negotiate jointly "will help to minimize price hikes to consumers."

Of course, the oil companies-OPEC agreement produced nothing of the sort.

DIDN'T BRING STABILITY

It failed to bring stability to the Arab oil situation. It failed to assure a secure source of supply for even two years, let alone five years. It failed to minimize price hikes.

Indeed, what has happened since the Nixon Administration injected the State Department and the Justice Department into the oil company talks now is a matter of history. For example:

The price of crude oil in some Arab states, and in other oil-producing countries, has soared more than 500 percent and is still climbing. In the last few weeks, Middle East and African oil has been selling for more than $17 a barrel.

It should be pointed out that labor and production costs have no connection whatsoever with the selling price of foreign oil. It costs about 20 cents to produce a barrel of Arab oil—less than a half-penny a gallon—now selling for more than $17.

The ink was no sooner dry on the 1971 agreement than the Arab nations were insisting on—and getting—participation agreements through which they obtained an interest in the oil companies operating in their countries.

The consumer prices for petroleum products have spiraled throughout Europe and Asia as well as the United States. And prices will continue to climb in the coming months.

Last October, the Arab nations shut off the supply of oil to the United States and the Netherlands and began a series of systematic cutbacks in oil shipments to other European countries and Japan, forcing massive layoffs, industry shutdowns and rationing.

But there was one favorable aspect to the 1971 agreement: The oil industry, especially the multinational companies, reported substantially increased earnings for the year.

Observed the Oil and Gas Journal on Feb. 7, 1972:

"Oil industry profits took their first solid step forward in 1971, since their last good year in 1968.

"All of the top five international majors continued to make good earnings showings for the year, with most up at least 10 percent over 1970."

M. A. Adelman, an economist at the Massachusetts Institute of Technology and a long-time authority on the oil industry, maintains that OPEC and the Arab states could not have been welded into an effective international petroleum cartel had it not been for bungling by the State Department.

In a paper published earlier this year in Foreign Policy magazine, Adelman said the State Department caved in to the threat of a boycott in 1971 rather than resisting the demands of the OPEC cartel.

BLAMED FOR CRISIS

As the Inquirer disclosed last summer in a series of articles on "Oil—The Created Crisis," the nation's present energy crisis stems directly from policy decisions made by major oil companies and one administrative blunder after another by the Federal government.

At the same time that the Nixon Administration has been trying to extend antitrust immunity to oil industry executives, it had been attempting to undermine or discredit antitrust enforcement efforts against the oil industry by the Federal Trade Commission (FTC).

The FTC issued a complaint last July 18 against the nation's eight largest oil companies, charging them with a variety of anti-competitive practices, including limiting the supply of crude oil to independent refiners.

The FTC investigation has centered on practices of the major oil companies the commission believes weakened oil industry competition and helped drive independent refiners and marketers out of business.

The companies named in the FTC complaint are Exxon, Mobil, Texaco, Gulf, Standard Oil Company of California, Standard Oil Co. of Indiana, Shell and Atlantic-Richfield.

On July 30, William E. Simon, chairman of the Oil Policy Committee and now the President's chief energy administrator, wrote to FTC chairman Lewis Engman saying that statements by FTC staff members about possible breakup of the large oil companies were causing him a "great deal of concern."

Simon went on to say that FTC statements urging that major oil companies be required to sell their refining operations as a way to loosen their control of the industry have given some companies "second thoughts" about building badly-needed refineries.

REPORT CHALLENGED

On August 27, Simon, a former Wall Street securities dealer, expanded on those themes in a 63-page report prepared by his staff rebutting many of the conclusions and facts of an FTC staff report on the oil industry.

Among the conclusions about the FTC report made by Simon's staff analysis:

"Many of the facts in the FTC report are inaccurate. Consequently, the resulting conclusions are questionable . . . the FTC report is biased against the largest integrated oil companies. . . . As a result of this bias, the FTC's final conclusions are incorrect or misleading at best. . . . The FTC should reconsider its action and withdraw the complaint issued against the eight largest oil companies."

The Simon staff analysis in effect exonerated the oil industry for the present oil shortage and said the crisis was caused by a variety of factors, "mostly governmental laws and policies."

Despite Administration pressure, the FTC is going forward with a full inquiry into the operations of the eight oil companies.

As for the inquiry itself, however, crucial prehearing conferences where attorneys for both sides argue the merits of the complaint will be held in secret because the oil companies object to opening the sessions to the public.

Under FTC rules, such conferences can be opened to the public if both sides agree to it.

In a motion filed Nov. 5, Robert E. Liedquist, FTC complaint counsel, requested that the prehearing conferences be opened to the public. He wrote:

"The prehearing conferences in a case of this size and complexity will obviously be a very important and significant phase of the litigation.

"The 'simplification and clarification of the issues' which can be expected to result from the conferences will no doubt shape the whole course of the proceeding.

"We do not believe that matters as serious as this should be dealt with outside of public scrutiny. Public interest in this case is very great. It has been stimulated not only by the gasoline shortage of this summer and the expected heating fuel shortage this winter but also by the respondents' (oil companies) own massive advertising and public relations campaign concerning the energy issue.

"In this context we believe that it would be most unwise for the prehearing conferences to be conducted in secret, and we therefore urge the respondents to join with us in asking that they be made public."

REJECT OPEN HEARINGS

Within 11 days, seven of the eight companies named in the complaint flatly rejected the idea of opening the hearings. Typical of the companies' answers was this response from Mobil:

"Mobil Oil Corporation does *not* agree to public prehearing conferences in this matter."

This position contrasts sharply with a Mobil Oil Corp. advertisement published in the New York Times last July 10, in the form of a letter addressed to New York's two senators and 12 Congressmen.

"We are publishing this letter in your hometown newspaper, and in those of the other members of Congress, because we want you and your constituents to have the facts about the gasoline shortage as we see them" the advertisement stated.

"We are doing this because many people are being misled by the absolute nonsense, totally unsupported charges, and outright lies being spread around by a variety of people."

At the same time the Nixon administration was trying to get the Justice Department to grant antitrust and conflict of interest immunity to oil company executives, White House aides were at work on Capitol Hill attempting to arrange the same kind of protection through legislation.

When the Energy Emergency Act legislation was being considered by separate committees in the House and Senate, Sen. Hart's antitrust and monopoly subcommittee drafted proposed language for the antitrust section and submitted it to House and Senate committees.

Most parties agreed that such a section was needed to permit the government to appoint or seek the advice of oil industry personnel in carrying out the emergency petroleum allocation program.

The section submitted by Senator Hart's staff sought to closely define activities that would be included in the antitrust immunity and wrote into the legislation safeguards against abuses.

Hart's version provided for public participation in all meetings and verbatim transcripts, set a specific date for termination of the immunity and required Justice Department officials to prevent any monopolistic practices.

However, most of these or similar limiting provisions were bargained away by the Senate Interior Committee, headed by Sen. Henry Jackson (D., Wash.) in negotiations with the administration.

By the time the bill reached the Senate floor and was finally approved, most of the safeguards had been eliminated or weakened.

But in the House of Representatives, a Congressional aide told The Inquirer, the administration failed to make a major effort to get its bill approved.

As a result, many of the anti-trust safeguards proposed by Hart's subcommittee, along with other provisions imposing controls over the administration's handling of the energy crisis, were retained in the Emergency Energy Act passed by the House on Dec. 14.

As for how the administration finally will deal with the antitrust issue, James E. Merna, a public information officer in the Federal Energy Office, reported:

"We are kind of hazy on that. We should find out."

While both the Senate and the House failed to tackle the problem of excess profits in the oil industry during a time of shortages and rationing, President Nixon announced his own plan last week for what he described as a "windfall profits" tax.

What the President was labeling a windfall profits tax, though actually was an excise tax that would fall hardest on small independent oil producers and refiners.

The President's proposal—calling for a graduated tax on the selling price of a barrel of crude oil—would have little effect on the major oil companies and especially those operating abroad like the five largest international oil companies.

CAN SHIFT PROFITS

That is because these companies are fully integrated, that is they engage in all phases of the petroleum business—from production of crude oil to refining and marketing.

With this kind of flexibility, a large company can shift its profits from one segment of its operations to another, avoiding the impact of the administration's proposed tax.

But an independent producer or refiner, whose income is derived solely from production or refining of crude oil, would be especially hard hit by the tax.

If any of this activity over antitrust immunity for oil companies in times of crisis, amidst rising prices and profits, sounds familiar, that's because it has all happened before.

During the blockade of the Suez Canal in 1956–57, when oil shipments from the Middle East to Europe were disrupted, the Justice Department speedily granted antitrust immunity to major oil companies, allowing them to pool their oil sources and work together in supplying oil to Europe.

In a Senate hearing in 1957, the late Sen. Estes Kefauver of Tennessee questioned an Interior Department official about the huge profits the companies would make by pooling their efforts during the crisis.

Interior Official—"We have nothing to do sir, with the profits of any of the oil companies."

Sen. Kefuaver—"You are going to stand by and let them make any exorbitant amount of profit out of this voluntary arrangement that you sponsored."

Interior Official—"As I said before, senator, we have nothing to do with prices."

Sen. Kefauver—"I must say that it is unbelievable that you take this attitude, I just can't conceive of a man heading up this organization . . . making an arrangement that these companies have taken advantage of to make an enormously large profit at the expense of the American consumer, and you do nothing about it and express no interest in it. It is inconceivable to me."

U.S. Fuel Oil Supplies Bulging—Reserves Up 23 Percent in a Year

(By Donald L. Barlett and James B. Steele)

The oil industry has stockpiled enough oil to get the country almost through February—even if all refineries were shut down tomorrow and if homeowners and business would not turn back their thermostats.

As of Dec. 21, the supply of home heating oil, kerosene and other distillate fuels stored by oil companies totaled 203 million barrels—up 23 percent over the 165 million barrels on hand one year earlier.

That is enough fuel oil to last for 58 days (or to Feb. 17), according to estimates made by the American Petroleum Institute (API), an industry trade organization. The estimates are based on demand figures calculated by the U.S. Bureau of Mines.

For this time of year, the 203 million-barrel supply (there are 42 gallons in a barrel) represents, in terms of volume, one of the largest stockpiles of distillate fuel oil in the nation's history.

This is the situation in the wake of a series of statements by the Federal government urging homeowners and businesses alike to turn back their thermostats or else risk living and working in homes and offices without heat.

In a nationwide television address last Nov. 25, President Nixon first stressed the need for allocating fuel oil, saying the government planned to reduce supplies to industry by 10 percent, to homeowners by 15 percent and to commercial establishments by 25 percent.

"For the average American family," the President said, "this cutback in heating oil does not mean severe discomfort for anyone, but it will mean that everyone should lower the thermostat . . . by six degrees below its normal setting."

The goal was to achieve a national daytime average of 68 degrees. The President warned "Those who fail to adopt such a cutback risk running out of fuel before the winter is over."

A fact sheet, distributed by the White House before that speech, estimated that the shortage of distillate fuel oil would average about 900,000 barrels a day during the coming winter months.

That was an increase of 100 percent over the projected shortage reported a little more than two weeks earlier in another White House fact sheet, when the shortage was placed at 450,000 barrels a day.

At the time Mr. Nixon announced his fuel oil allocation program, the administration's oil policy experts predicted that the overall shortage in petroleum supplies (for gas, oil and all other needs) would average 3.5 million barrels a day during the first quarter of this year.

As The Inquirer first disclosed last Dec. 2—in one of a series of special investigative reports on the nation's energy crisis—there was substantial evidence to suggest that the Federal government had exaggerated the oil shortage.

Since then, the new Federal Energy Office has substantially revised its estimates of the oil deficit—lowering the original projection from 3.5 million barrels to 3.3 million, and finally last week to 2.7 million a day.

There is some reason to believe that even the last figure is too high.

On Wednesday, the Conference Board, an economic research group based in New York, estimated that the difference between supply and demand would run between 2.2 million and 2.4 million barrels a day.

The Conference Board criticized the Nixon Administration for overstating the petroleum shortage, declaring:

"If an allocation program is based on an estimate of the shortfall that is too large, plants may be forced to close unnecessarily. If the estimate is too small, we may run short late in the winter and be forced to make Draconian cutbacks in use."

Interestingly, the American Petroleum Institute report showing the high level of fuel oil stocks was issued just as refineries—acting on orders of the Nixon Administration—were preparing to increase fuel oil production still further and cut back gasoline production.

William E. Simon, administrator of the Federal Energy Office, has ordered refineries to reduce gasoline production by about 900,000 barrels a day and increase the distillate fuel oil and other products.

When a spokesman for Simon's office was asked about the size of the fuel oil stockpile and the reason for the proposed rationing program, he told The Inquirer:

"It's a matter of being safe and not sorry. It's a matter of keeping the homes heated and people working. They (the figures) look truly like the conservation programs are working."

Actually, the conservation programs appear to have had little or no effect on the stockpile of distillate fuel oil, at least up to the time the API report was released.

For on the week the projected fuel oil rationing program was announced, the supply stood at 205 million barrels, according to API statistics.

With businesses and home-owners turning back thermostats, there is reason to believe the demand figure has decreased while the supply has remained relatively constant. This picture indicates that the current stocks probably would last more than 58 days at present usage.

A spokesman for the American Petroleum Institute discounted any comparison of this year's supplies with those available last year.

"Last year was an abnormally poor year," said Earl Ross, an API public relations official. "There was cold, wet weather early in the year and the stocks were drawn down.

"Also, you've had a very mild winter so far this year, so the demand has been less than anticipated."

Ross said a more meaningful comparison would be with 1971, when on the same date fuel oil stocks totaled 196 million barrels, or a 66-day supply (based on the smaller demand of that year).

In Philadelphia, interviews with fuel oil dealers indicate they are receiving anywhere from 68 to 100 percent of last year's supply from major oil companies.

Some less-established dealers, either newcomers to the business or small independents, have been cut off altogether and have gone out of business.

Oil Firms Hoarding Big Jet-Fuel Supply

(By Donald L. Barlett And James B. Steele)

While the nation's airlines have slashed schedules and laid off thousands of employes because of the energy crisis, the oil industry has built up one of the largest stockpiles of jet fuel in the country's history for this time of year.

Jet fuel supplies stood at a near-record 28.9 million barrels for the week ending Dec. 21—14 percent more than the reserves total of 25.2 million barrels one year earlier. A barrel holds 42 gallons.

These figures come from the American Petroleum Institute (API), a trade organization which compiles weekly statistics on the industry.

Earl Ross, a public relations official for the API, appeared baffled about the increase in jet fuel supplies over 1972.

"I really couldn't say," he replied when asked about the high level of stocks. "I really have no way of knowing. We just get the numbers from the oil companies. Sometimes there are no apparent explanations for these things."

About 1,500 departures a day have been canceled by the airlines, because of the energy crisis. And Lou Davis, a public relations official for the Air Lines Pilots Association, says about 16,000 employees are slated for layoff due to what he termed "the alleged oil shortage."

William E. Jackman, an assistant vice president of the Air Transport Association of America, told the Inquirer that early last month the international carriers were having trouble getting jet fuel and indicated they would have to cancel flights over the holidays.

Then William E. Simon, administrator of the new Federal Energy Office, announced that 1.5 million gallons of jet fuel would be requistioned from the Defense Department and made available to the airlines.

Within several days of Simon's announcement, Jackman said, "suddenly a lot of fuel became available from the large suppliers. Two suppliers—Standard Oil Co. of California and Texaco—came forward with 9 million gallons each.

"Now, the next question you're going to ask is, where did all that jet fuel come from?

We're living with that question from day to day," Jackman added.

Jackman said the airlines were paying an average of about 12 cents a gallon for fuel at the beginning of 1973.

By the end of the year, he said, the prices had increased by 50 to 100 percent.

In some instances, where airlines purchased fuel on a spot basis rather than under longer term contracts, the price was as high as 60 cents to 80 cents a gallon, Jackman said.

On Thursday The Inquirer disclosed that the oil industry, as of Dec. 21, 1973, also had stored away a near-record 203 million barrels of heating oil and other distillate fuel oils—up 23 percent over the 165 million barrels on hand last year.

The 203 million barrels equal a 58-day supply, even without taking into account any of the conservation measures implemented under the Federal government's mandatory allocation programs. The measures include the turning back of the thermostats in homes and businesses.

The supply figure also does not include the fuel oil stocks of independent companies and the supplies of individual dealers.

This means the oil companies already have put away enough distillate fuel oil to meet the nation's needs through much of the winter.

But while the reserves of both distillate fuel oils and jet fuel are up over a year ago, the picture is somewhat different for gasoline reserves.

For the week ending Dec. 21—the latest figures available—motor gasoline supplies amounted to 203 million barrels. This figure is down 3 percent from the 1972 figure of 209 million barrels.

Even worse, with gasoline prices now in the 50-cent-a-gallon range, oil company refineries this month—acting on orders of the Nixon Administration—are scheduled to cut their gasoline production by 930,000 barrels a day.

Martin Lobel, a Washington attorney and former oil specialist on the staff of Sen. William Proxmire (D., Wis.), says that, because of the cutback in gasoline production, there will be another round of price hikes this spring.

"What's going to happen," says Lobel—whose law firm represents a number of independent oil companies—"is that the companies will raise prices once again, citing the shortage of gasoline."

Under the Federal government's mandatory allocation program, airlines currently are operating with 5 percent less fuel than they used in 1972. That reduction in supplies took effect last Dec. 1.

Interestingly, the American Petroleum Institute statistics show that in November the industry stockpile of jet fuel rose 11 percent, climbing from 24.4 million barrels to 27.1 million barrels.

Those reserves continued to mount during the first three weeks of December, going up to 28.9 million barrels.

The figures include two kinds of jet fuels, naphtha-based and kerosene. The airlines use a much larger volume of the kerosene variety, and these stocks are up—even higher than the overall figures.

For example, for the week ending Dec. 21, the kerosene-type jet fuel reserves were at 23.2 million barrels, compared with 19.6 million barrels a year earlier—a jump of 18 percent.

In some weeks in September and October and even into November, refineries were turning out upwards of 700,000 barrels of kerosene type jet fuel a day.

When the allocation program took effect, Dec. 1, kerosene jet fuel production dropped, to an average of 687,000 barrels a day the first week, then to 611,000 barrels a day the second week.

In designing the allocation program, the Federal government projected a jet fuel shortage of 400,000 barrels a day in the first three months of this year.

OIL SUPPLIES ADEQUATE DESPITE "CRISIS" FEARS

(By Donald L. Barlett and James B. Steele)

Oil has poured into the United States during the last 12 months at levels high enough to meet current demands—even without rationing cutbacks—for gasoline, heating oil and jet fuel.

Thus, the United States, at worst, should be experiencing an oil shortage no more severe than what it endured last summer and last winter when there were only slight shortages in scattered regions of the country.

This conclusion is based on studies of data compiled by the United States Bureau of Mines and the American Petroleum Institute (API), an organization supported by the oil industry. Both the bureau and the API get their figures directly from the oil companies.

The Bureau of Mines data show that from January through last September, the latest period for which figures are available, supplies of oil products totaled 4.8 billion barrels while demand was at 4.7 billion barrels.

From October through December, API figures show that imports of both crude oil and refined products were running ahead of the same months in 1972—despite fear that the Arab oil boycott would drastically reduce supplies.

For the four weeks ending last Nov. 30, imports of crude oil were averaging 3.2 million barrels a day—up 38 percent from the same time in 1972, when the figure was 2.3 million barrels a day.

For the four weeks ending Dec. 28, crude oil imports averaged 2.9 million barrels a day, an increase of 26 percent over the 2.3 million barrels a day imported during the same period in 1972.

While there are no final consumption statistics yet for 1973, available data from both the Bureau of Mines and API indicate petroleum supplies for the year will have totaled approximately 6,408,000,000 barrels and demand will have been about 6,392,000,000 barrels.

The API figures, as The Inquirer reported earlier this week, show the oil industry has stockpiled near-record levels of heating oils and jet fuel for this time of year.

According to API's latest figures, released late Friday afternoon, there was another increase in heating oil inventories last week, which now stand at 203.5 million barrels, up 28 percent over this time last year.

The five largest oil companies in the country were asked by The Inquirer why the large quantities of oil coming into the country were not being passed on directly to gas stations, airlines and homeowners. Only one company, Gulf Oil Corp., had an immediate response.

Fuller McCowan, Gulf's coordinator of foreign public relations, said fuel oil is being held in reserve by Gulf because "the cold weather is ahead of you."

As for airline fuel, he said, "I have not heard that any airline is having trouble getting jet fuel."

McCowan said he would need more time for research to fully explain the apparent paradox between oil inflow into the United States and the current oil crisis. But he emphasized that "it's absolutely untrue that Gulf Oil Corp. is stockpiling. We are refining our products at maximum."

The companies that declined to respond at all until they could further study the data were Exxon, Mobil, Texaco and Standard of California.

The continuing Inquirer study has indicated that the Federal Government has consistently overstated the immediate severity of the oil shortage.

Last November, the White House released a statement forecasting that demand for petroleum products would outstrip supplies by 7.5 percent during the last three months of 1973.

But records maintained by the Bureau of Mines show that demand ran ahead of supplies in the last quarters of both 1972 and 1971, as well as in other years.

In 1972, for example, when there were no rationing programs and no soaring prices for oil products, there was a 4 percent deficit between supply and demand.

An Inquirer analysis of Bureau of Mines data shows a regular pattern over the last three years, with the oil industry turning out more products than are used in the months from April through October.

But beginning in November, and continuing into March, the demand begins to run ahead of production.

During February 1973, for example, the production of petroleum products represented 94 percent of demand. In February 1972, it was even lower—91 percent. And in February 1971, it was 94 percent.

Then in June last year, production reached 106 percent of demand. In June of 1972, the figure was 103 percent; in June 1971, it was 100 percent.

As The Inquirer disclosed last Dec. 2, the Federal Energy Office inflated the oil shortage figures for both the last quarter of last year and the first three months of this year, at first predicting a 17 percent deficit this quarter. That prediction has now been reduced to 13.6 percent.

The importance of not overstating the extent of the oil shortage was underscored earlier this week by the Conference Board, a prestigious economic research organization based in New York.

The board is headed by Alexander B. Trowbridge, former secretary of Commerce, and its membership includes some of the nations' leading business executives from such corporations as General Electric Co. and General Foods Corp. and Koppers Co. Inc.

While agreeing there was an oil shortage, the Conference Board pointed out that exaggerating the problem could force plants to close unnecessarily because fuel allocations were not as large as they might have been.

The Conference Board noted, as The Inquirer disclosed earlier this week, that the oil industry had built up substantial inventories, especially of heating oils and jet fuel.

The stockpiles of both now stand at near-record levels, although gasoline inventories are down somewhat from previous years.

None of this is to suggest there is no oil shortage. Nor that conservation measures should be abandoned.

One of the problems, as last year's statistics indicate, is the supply of petroleum products is about even with demand.

A barrel of crude oil, which holds 42 gallons, is converted into a variety of products, from gasoline to jet fuel to residual fuel for electrical utilities.

To increase the output of any one product, a refinery must reduce the output of another product. Thus, there may be enough home heating oil at a given time, but a shortage of gasoline because of miscalculations in demand for individual products.

This is what is happening now, as refineries, on orders of the government, have cut back gasoline production while increasing the output of other products.

But while there are sizable inventories of jet fuel and heating oil, the existing stockpile of gasoline is below last year's level.

The problem is further aggravated because of a shortage of refinery capacity in the United States and the inability of many refineries to process foreign crude oil which has a high sulphur content.

The Inquirer disclosed last July that the lack of refinery capacity—now short about 4 million barrels a day—was one of the underlying reasons for the country's energy problems.

Over the last 20 years, the major American international oil companies gradually shifted the base of their refinery and marketing operations outside the United States.

They invested billions of dollars throughout Europe and Asia, building refineries to meet their growing markets in the Eastern Hemisphere, while failing to keep pace with energy needs in this country.

Oil Tankers Sail on Despite Embargo

(By Donald L. Barlett and James B. Steele)

During the month of December—some seven weeks after the Arab states announced they were cutting off oil shipments to the United States and the Netherlands and reducing overall production—103 oil tankers sailed from Bahrain, a tiny Arab sheikdom on the Persian Gulf.

That was the largest number of tankers to leave the Arab oilport in any single month last year except May, when there were 127 sailings. During September—the month preceding the boycott—63 tankers left the port, 40 ships fewer than in December.

Those few statistics, perhaps better than others, explain what is happening in the oil-rich countries of the Middle East—with the one exception of Saudi Arabia. They also explain, at least in part, why the United States is not experiencing the massive oil shortages originally forecast by the Federal government.

They also help to explain the lack of concern over the oil crisis shown by officials in the governments of some European countries—such as Spain, France and the United Kingdom—where the mood is much more optimistic than in Washington.

For the past week, an Inquirer reporter working in London has been sifting through the shipping reports of Lloyd's of London, tracing the movement of oil tankers in and out of the Persian Gulf ports of the Arab nations.

The tankers have names like the Esso Aruba and the Texaco Newcastle and the Chevron Madrid and the Esso Okinawa and the Chevron Antwerp. After loading up with oil, they head for ports like Milford Haven in Great Britain and, in some cases, "unspecified destinations."

An Inquirer analysis of the Lloyd's of London shipping reports, covering six large Arab ports picked at random, shows that:

From January through September 1973, on the average, a total of 475 ships sailed from the ports each month. During the last three months of the year, with the embargo going into effect Oct. 19, there were an average of 478 tanker departures each month.

There has been a marked decline in oil tankers leaving Saudi Arabia, by far the most vocal of the Arab states in the current Middle East boycott. In December, 171 tankers left Ras Tanura, Saudi Arabia, compared with 228 ships in September.

But tanker sailings from Kars Island in Iran, a country close to Saudi Arabia, but not an Arab state and not a participant in the boycott, have increased substantially. In the first nine months of 1972, there were, on the average, 77 tankers departing monthly. In the last three months, this figure soared to 124 ships per month.

In Kuwait, 98 tankers sailed from the oilport of Mena Al Ahmadi during December. That was the largest number of sailings reported from the port in any month last year.

Total sailings during the final quarter of 1973 from the six analyzed ports were up substantially over the same period in 1972.

During 1972, the six ports recorded a total of 1,093 sailings for the months of October, November and December. In 1973, the same ports showed 1,435 sailings—a 31 percent increase.

The general picture that emerges from these statistics is that while there has been a cutback in oil production in Saudi Arabia, the Middle East cutback as a whole clearly is nowhere near as profound as suggested by the Arabs and government officials in Washington.

As one official in one of the world's largest oil companies told an Inquirer reporter in his London office:

"You must remember, the Arabs are a very proud people. They may say, 'Do what you want to, but don't let us know about it'."

"Its' been rumored some of the Arabs have even told the companies they don't have to cut back (oil production) the full amount."

He said definitely that the Arabs are not enforcing the oil embargo and no restrictions were placed, for example, on any oil company's dealings with the Netherlands.

For the more than two months the oil embargo has been in effect, the oil company official said, Arab oil has been flowing into Holland.

Why would the Arabs, with great fanfare, announce that they were shutting off oil shipments to the United States and the Netherlands, cutting back production by millions of barrels a day, and then not bother to really enforce the boycott or reduce production to the levels claimed?

One possible explanation is that the mere shock value of the announcement alone, and the panic that followed, got the Arabs what they wanted.

First, the United States began exerting pressure on Israel to reach a Middle East peace agreement. Then the price of oil started to soar, with oil that once sold for $2 a barrel now going in some cases for upwards of $17.

Those price increases already are being felt in the United States as the multi-national oil companies begin passing along the increases to gasoline station dealers and heating oil distributors.

The fears over the effects of the embargo and cutbacks in oil production were fanned by gloomy predictions from Washington.

In a nationwide television address delivered Nov. 25, President Nixon, warning of oil shortages running up to 17 percent of demand, said:

"When I spoke to you earlier, I indicated that the sudden cutoff of oil from the Middle East had turned the serious energy shortages we expected this winter into a major energy crisis.

"That crisis is now being felt around the world, as other industrialized nations have also suffered from cutbacks in oil from the Middle East."

As everyone now knows, of course, that 17 percent shortage never materialized and the figure has been scaled back.

Indeed, the Lloyd's shipping statistics, supported by interviews with knowledgeable oil industry sources in London, seem to indicate the Arabs got exactly what they wanted without reducing production to the point where it would have had the crippling effects on European nations that were first forecast.

Then, too, the Arab states will be pulling in tens of billions of dollars more each year in additional revenue as a result of the higher prices.

As The Inquirer reported on the Arab boycott, the effects were not as damaging as U.S. government officials were saying, it is the international oil companies that ultimately determine how much oil each country will receive.

As the system now works, the multi-national oil companies distribute the supply of crude oil and petroleum products to their markets in Europe and Asia and the United States.

And even though the major oil companies have lost some of their power over the years, the international flow of oil still is controlled largely by seven oil companies, five of which are American. The Arab nations play no role in this distribution process.

The seven are Exxon Corp., Mobil Oil Corp., Texaco Inc., Gulf Oil Corp., Standard Oil Company of California, British Petroleum Company and Royal Dutch Shell.

The Inquirer reported last summer, in a three-part series entitled "Oil—The Created Crisis," that the five American muti-national oil companies have been shifting their operations outside the United States.

As a result, these companies—which now determine in large measure how much oil the United States will receive, and when—sell nearly two barrels of petroleum products in foreign countries for every barrel they sell in this country. A barrel holds 42 gallons.

This is a condition which enables at least the international oil companies to engage in self-fulfilling prophecies when it comes to determining the level of oil imports in the United States.

None of this is to suggest that the United States does not have energy problems. Nor that practical conservation measures should be abandoned.

What it does mean, though, is that the severity of the oil shortage has been overstated, resulting, in turn, in a needless loss of jobs and slowdowns in other businesses and industries.

While most Arab states have cut oil production to the levels announced, other countries, in addition to Iran, have stepped up production.

A shipping industry authority who supervises the chartering of tankers in London told The Inquirer that American oil companies were looking for tankers to transport additional crude oil from Nigeria.

Nigeria, along with the Arab states, is a member of the organization of Petroleum Exporting Countries (OPEC), but it is not participating in the embargo.

There has been speculation among some industry observers that the oil companies, rather than directly violate the Arab embargo, simply switched oil shipments from one country to another.

For example, Nigerian oil originally scheduled to be shipped to Europe may have been sent to the United States while the Arab oil scheduled for the United States was shipped to Europe.

Although the Lloyd's of London shipping statistics indicate no cutback in the number of ships leaving Arab ports, some oil industry officials claim that some of the tankers are not fully loaded.

Fuller McCowan, coordinator of foreign public relations for Gulf Oil Corp, said the company's field personnel reported that ships were leaving with less than a full load, but he didn't know if any of the tankers belonged to Gulf.

Other oil industry observers doubt that many ships leave with less than full loads because it simply isn't economical.

An official of the British Petroleum Company told The Inquirer that all BP ships are sailing fully loaded, although they wait longer at the docks because there is somewhat less pressure to sail.

Interestingly, a dispatch filed last week by the London Times from Bahrain, which began:

"Tankers bound for Britain loaded 3.5 million barrels less than their permitted quota from Aramco's Saudi Arabian terminal.

"The fact that the oil was available and just not lifted has astonished shipping circles here (in the Persian Gulf)."

The Times, speculating on the reason for this, guessed that there was a momentary tanker shortage—but not an oil shortage.

Aramco is owned jointly by Exxon Corp., Texaco Inc., Mobil Oil Corp. and Standard Oil Company of California.

The Lloyd's figures, gleaned from statistics covering the sailings of 5,707 ships, list both arrivals and departures at most of the world's major ports.

The information appears in Lloyd's list, which has been published on most weekends and Saturday by Lloyd's of London since 1734.

The information concerning shipping movements is reported to Lloyd's by its agents stationed at ports around the world.

While The Inquirer analysis of the destination of ships that picked up oil in Arab ports during the last three months did not turn up any bound for the United States, some ships were listed as headed for Rotterdam, the Netherlands oil port supposedly under a complete Arab embargo.

In England, where a wage dispute with coal miners has led to drastic reductions in electrical power, there are few signs of the oil shortage.

Milford Haven, England's largest oil port and the second largest in Europe after Rotterdam, is receiving an ample supply of oil from the Arab states.

Milford Haven recorded an average of 248 oil tanker arrivals for each of the first nine months of 1973, according to Lloyd's.

But in the final three months of the year, during the global energy scare, Milford Haven received an average of 270 arrivals a month, a 9 percent increase over the same period last year.

The inventory of petroleum products in England is now higher than at this time last year, according to a British Petroleum Company executive.

He said that despite an estimated deficit of 9 to 10 percent, more oil is flowing into England now than last year and rationing is not under consideration.

The fact England's imports of petroleum are increasing is not surprising when viewed in light of disclosures by The Inquirer last week of similar circumstances in the United States.

In the States, The Inquirer found, American oil companies have built up stockpiles of heating oils and jet fuel to near-record levels for this time of the year.

DUTCH OIL PLENTIFUL—CRISIS A HOAX, OFFICIAL SAYS

(By Donald L. Barlett and James B. Steele)

Despite fears of massive disruptions for the Netherlands because of the Arab oil embargo, the Dutch are getting most of the petroleum they need and their economy is operating at near normal levels.

"Personally, I think the whole thing is a hoax and the government is being carried away with it," said Jack Bax, a press aide for the city of Rotterdam, Europe's largest oil port, in speaking to an Inquirer reporter.

The Netherlands and the United States were the only two countries in the world supposed to be totally cut off from Arab oil. The impact was expected to be far more severe for the Dutch, who are accustomed to importing 70 percent of their petroleum from the Arabs, than for the Americans, who get less than 10 percent from that source.

But to this date, 2½ months since the boycott started, Dutch service stations remain open, gas is plentiful and no one is being asked to limit sales to 10 gallons per customer to hold down consumption. Sunday driving, however, is still barred throughout the country.

There have been no massive layoffs, oil refineries are running at a swift pace and oil stocks are close to normal for this time of year.

The Dutch government, which frantically warned of impending oil shortages two months ago, is growing increasingly embarrassed by its earlier predictions, and it has now scaled down estimates of the shortage.

Gas rationing, anticipated weeks ago, has been postponed until Jan. 11 at the earliest. And if rationing does come, it may not last more than three weeks, according to one Amsterdam newspaper.

EFFECTS OVERSTATED

A similar situation has existed in the United States where the Federal Government—as The Inquirer disclosed early last month—exaggerated both the effects of the Arab boycott and the severity of the nation's oil shortage.

As a result of these overstatements, coming in the midst of continuously rising prices for petroleum products, there have been layoffs of thousands of workers in the United States and slowdowns in some businesses and industries.

The Netherlands has weathered the oil boycott so well, according to Dutch sources, because the multi-national oil companies have quietly sent to The Netherlands large supplies of Venezuelan, Nigerian and Iranian crude once earmarked for other nations.

Arab oil, once expected to go to the Dutch, has filled in the gap elsewhere for the diverted Venezuelan, Nigerian and Iranian supplies.

The Inquirer also disclosed early last month that America's international oil companies were acting as policemen for the Arabs during the embargo, making the final decision as to which countries would receive oil and how much.

Thus, the oil companies, rather than the Arabs, actually determine the level of oil imports into both the United States and the Netherlands.

Although sources familiar with the Dutch oil situation take the fact of diversion for granted, it is impossible to say exactly how much oil is coming from where.

BAN IS IMPOSED

The national government imposed a ban on the reporting of oil stocks and of shipping movements in Rotterdam after the Dutch news service, Algemeen Neederlands Per, published a story Dec. 7 showing that the Arab boycott had not slowd the flow of oil into Rotterdam.

The ANP story quoted sources in the port of Rotterdam who predicted a slight downturn in December, an upswing of oil imports in January and normal oil imports in February and March.

The reporting ban was implemented for "state reasons," according to B. Van Donkelaar, an aide to the minister of economic affairs, who oversees petroleum and energy matters.

To release import and export information, he added, might "annoy other states."

Rotterdam observers who are close to the port and the oil supply situation believe the government has imposed the secrecy ban because it does not want to provoke the Arabs into taking steps that would truly seriously deprive The Netherlands of oil.

"We really don't care where the ships are coming from," said Bax, the Rotterdam press aide. "It's the companies' business where they get oil. All we care about is how much is coming in. I don't think the problem is very serious."

PRICES SOARING

Indeed, about the only factor of the energy crisis that seems to have the Dutch bothered is the soaring price of petroleum—a problem that is worrying many other countries.

Keeping Rotterdam and the Dutch supplied with oil—regardless of its derivation—is an important consideration for the multi-national oil firms.

As Europe's largest oil port, Rotterdam is as vital to the oil companies as to the daily lives of the Dutch citizens.

The city is a major distribution point for moving oil to the rest of western Europe. In 1972, a total of 129 million tons of crude oil was discharged at Rotterdam.

About 45 percent of that crude oil was re-exported to other countries. The rest was processed at Rotterdam refineries and the finished products either exported or used in The Netherlands.

THREE ARE U.S. OWNED

The heart of the oil industry in Rotterdam is the sprawling refineries and terminals of five multi-national companies—three of them American owned. They are ESSO, a subsidiary of the Exxon Corp.; Gulf Oil Corp., and Chevron, a subsidiary, of Standard Oil of California.

Royal Dutch Shell and British Petroleum are the other two major companies operating in Rotterdam.

This week, an Inquirer reported could note that the refineries of these companies were busy and that tankers, such as the ESSO Aarhus and Myrtea were discharging their cargoes of crude oil.

While no official estimates are available, observers believe that the Dutch oil stock pile is between five and six million tons, normal for this time of year. The Netherlands storage capacity is six million tons.

SPEEDS REDUCED

The government is crediting its oil conservation programs with keeping The Netherlands from being as hard-pressed as originally feared. Conservation measures have included no driving on Sundays, reduced speed limits and pleas for the use of less electricity.

But observers believe that these programs alone could not possibly account for the fact that Rotterdam's ports and refineries continue to operate at a high rate.

And this has added to speculation that the Arab boycott and production cutbacks have been far less stringent than announced.

The Arabs said they would boycott only The Netherlands and the U.S. But had threatened, in addition, to reduce overall production by 25 percent. That means daily production should have fallen from 20 million barrels to 15 million. There are 42 gallons in a barrel.

SLACK PICKED UP

Observers in Rotterdam argue that the diversion of Venezuelan, Nigerian and Iranian oil to The Netherlands would have been impossible unless Arab oil was picking up the slack in other countries. But, they add, with all the oil coming into Rotterdam, it would be difficult for the Arabs to pick up the slack if production had actually been cut 25 percent.

The Inquirer disclosed Sunday that shipping statistics from Lloyd's of London indicated that oil tanker shipments from six major Arab ports averaged about the same for October, November and December—the three boycott months—as for the nine previous months.

Even the Arabs are starting to hint that the cutback has been less than 25 percent. A Beirut newspaper, quoting a source in the Organization of Petroleum, Exporting Countries 25.5 million barrels of oil had gone to the United States, despite the boycott.

The OPEC source said most of this, but not all, had been shipped from Libya and refined in the Bahamas before entering the United States.

DEATH OF ROBERT JOSEPH COAR

Mr. FANNIN. Mr. President, it was with great saddness that I received word of the death last Wednesday of Robert Joseph Coar, the fine gentleman who was instrumental in setting up our radio-television facilities in the Congress.

On many occasions when I was in the Senate studios, Bob Coar and I would discuss Arizona and what was going on in that State. I recall how much he looked forward to living in Arizona after his retirement last year. It is indeed regretable that he had so little time to enjoy the retirement which he had earned.

Mr. President, I know that I echo the sentiments of many of my colleagues in paying tribute to Bob Coar for his long and valuable service both in assisting individual Members and the Congress as a whole. I wish to extend my sympathy to his wife and children.

Mr. President, I ask unanimous consent that the story which appeared in the January 25, 1974, Arizona Republic, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Bob" Coar Dies at 68; Radio Aide to Roosevelt

Robert Joseph "Bob" Coar, 68, an electronics engineer whose career in sound for motion pictures and broadcasting included doing the technical part of President Franklin D. Roosevelt's "fireside chats," died Wednesday in Guadalajara, Mexico.

Mr. Coar was the founding director of what is now the U.S. Joint House and Senate Radio-Television Facility from 1935 until retiring in 1973.

His experience went back to the early days of radio and television and employment by the Bell Sound Lab in Hollywood and the Radio Corporation of America, while with RCA he went to Washington to install recording equipment for Federal Communications Commission hearings.

Mr. Coar developed a service for members of Congress in the late 1930s, recording their voices for distribution to radio stations in their home districts. Assisted by his wife, Helen, he operated with his own equipment and used makeshift studios in made-over storage rooms in the basement of the Senate Office Building.

When TV came along, and after the service became highly popular with members of Congress and residents, Congress bought out Mr. Coar's business in 1947 and established it as a service of the House and Senate.

Mr. Coar continued to advise members on how to present their voices and faces to the voters. He instructed many of them in radio and TV delivery, helped arrange the format of their shows, and even at times served as the interviewer or as the moderator of panel shows which he helped them organize, sometimes pressing reluctant newsmen into role as panelists. He was the first to televise programs from Washington to New York City and was commentator on those shows.

Since taken over by the Congress, the studios have been enlarged and have become much more elaborate, with equipment that Mr. Coar—as a professional—certainly must have envied.

Announcement of Mr. Coar's death to the House and Senate, which probably will take place today, is expected to evoke many tributes from members who were assisted by him over the years.

Mr. Coar, a native of Farmington, Maine, studied at Lafayette University and Columbia University School of Engineering at night. He worked as an installer of electronic equipment for the New York Telephone Co. and before that was with the New Jersey Power & Light Co. at Summit, N.J.

Survivors of Mr. Coar, who established a home in Phoenix in 1960, include his wife, Helen B., of 64 E. Columbus; a son, Robert G. of Phoenix; three daughters, Mrs. Helen Ralls of Sacramento, Calif., and Mrs. Gail Murdock and Jacqueline Coar of Phoenix; and three grandchildren.

Memorial services in Phoenix will be announced later.

INDUSTRY INFLUENCE OVER FEDERAL REGULATORY AGENCIES

Mr. HUMPHREY. Mr. President, on August 3, 1973, I introduced Senate Resolution 160, cosponsored by 13 of my colleagues, proposing the establishment of a temporary select committee of the Senate to study and investigate Federal regulatory agencies.

The resolution sets a schedule calling for a report and recommendations from the committee by January 20, 1976.

In remarks at the time of introduction of this resolution, I listed two central questions to be answered by this study: The extent to which the executive branch has gained control and influence over the operations of regulatory agencies, and the extent to which the industries subject to regulation have come to influence the agencies.

I have spoken at length in the past on the subject of executive intrusion into regulatory agency operations. Today I wish to pursue further the issue of industry influence over the agencies and then to discuss possible reforms.

There have been numerous published reports of the phenomenon of regulator becoming subject to the regulatee. One that must stand among the most revealing is an article written by Nicholas Johnson, who at the end of 1973 concluded 7 years as a Federal Communications Commissioner. The article was published in the March 1971 issue of the Georgetown Law Journal, while Mr. Johnson was still on the FCC.

Mr. President, I wish to summarize the major points on the subject of industry domination of regulatory agencies, as raised by Mr. Johnson in his article, entitled "A New Fidelity to the Regulatory Ideal."

The author asserts that several reasons can be found for industry domination of the agencies.

INDUSTRY RESOURCES AND INFORMATION

First, the industries are in command of massive financial resources, political influence, and manpower. How can the staff and resources of the Federal Communications Commission, for example, be compared to those of the Nation's communications industry, which when only the major broadcasting corporations and the telephone communications complex are considered together, constitute a major element of the Nation's annual economic output?

Second, as if the size of the industries under regulation and the resources they can command were not enough to overwhelm the agencies, Mr. Johnson observes that in addition the agencies are themselves understaffed and underbudgeted to do their work effectively.

Third, as in so much of our way of life today, information is the key to effective operation of the agencies. Yet, through shortages of staff and budget the agencies are often incapable of efficient, timely information-gathering themselves. Their solution is too often to rely on the industries they regulate to provide the information on which decisions are based.

As we have seen in the energy crisis, wide discrepancies can occur as Government is forced to rely on industry to supply data on such factors as production volume and supply of resources, as the basis for deciding how to regulate them. Many of us in Congress have been shocked by the discovery that we were hamstrung in our decisionmaking attempts, because we were virtually at the mercy of industry statistics on energy resources against which there were no reliable, independently gathered facts for comparison.

Yet, this is precisely the situation in which regulatory agencies have all too often had to operate on a daily basis for years.

LIMITS ON PUBLIC INVOLVEMENT

A fourth fault Mr. Johnson finds with current regulatory agency operations is that they lack significant provision and encouragement for citizen participation.

The public also lacks financial, technical, and manpower resources to counter the strength of industries in the regulatory arena. Further, the procedures of the agencies are complex and technical, beyond the comprehension of the ordinary layman. Worse, they are conducted in a manner that barely pays lipservice to the idea of public conduct of public business.

In reality, notices of proceedings and related information are issued in such a way as to make a mockery of the term "made public." These notices, rather, are issued in a form that seems calculated to assure that only Washington lawyers will—first—find them, and—second—be able to interpret their meaning. Further, the news media and interested citizens are hampered by legal limits on access to agency information.

If, as Mr. Johnson points out, the agencies conduct their business out of the scope of normal public vision, they certainly show little inclination to encourage public participation in their proceedings. It is an easy matter to thumb through records of recent agency hearings and find great masses of statements and testimony by industry spokesmen, but little expression of the public viewpoint, even in these days of consumer advocacy.

POLITICAL INFLUENCE

Finally, there is the political power and influence of the industries being regulated. There are, by one count, more than 1,500 advisory bodies assigned to work with the regulatory commissions of the Federal Government. And who tends to dominate these bodies, which can and do have great influence over the commissions and agencies? Industry, of course. And, Mr. President, a large number of commissioners themselves come from the industries they are appointed to oversee.

The rationale for this is that you must turn to industry to find experts conversant with the subject matter before the Commission. However, this means of acquiring such specialized capabilities can frequently be at the expense of assuring adequate representation of the public interest.

Mr. Johnson refers to what he calls "the subgovernment phenomenon," which further tends to build bias into the agency operations. The "deferred bribe" represents a blatant form of this phenomenon. It is well-known, observes the author, that the industries being regulated, and their law firms, trade associations and industry publications, tend to recruit personnel from the ranks of agency staffs, as well as practicing job-swapping among their own ranks. This results in an incestuous relationship in which a young lawyer on one of the Federal agency staffs is unlikely to go too far toward offending anyone in the industry he is helping to regulate, if he is concerned with his future job prospects in that industry.

AGENCY LONG-RANGE PLANNING INADEQUATE

Mr. Johnson raises other criticisms of present agency operations, particularly in reference to the FCC. He observes that there is a shameful lack of long-range policy planning, with the result that decisions tend to be made "ad hoc," without the guidance of broad, planned, forward-looking policies. Thus, the FCC seemed almost caught by surprise by such technological innovations as cable television and communications satellites, for example.

Finally, it is Mr. Johnson's opinion that the agencies tend, consciously or unconsciously, to react unfavorably when reform movements do crop up. And one of the favorite tactics is administrative delay. The public becomes aware of a crisis involving an agency's functioning. An investigation is ordered and the news media carry reports of the crisis, the attending controversy and the outcry for reform.

Almost without exception, the agencies and industries have been able to weather these storms simply because time is on their side. The storm always abates if they wait long enough.

Mr. President, I have only outlined one critic's observations on the weaknesses of the present regulatory system as they reflect the influence of the industries under regulation.

PARTISANSHIP IN APPOINTMENTS

The influence of the executive branch further subverts the original ideals of the regulatory system: The protection of the public interest through independent, quasijudicial bodies functioning as an arm of the Congress.

Mr. Johnson points out in his article that the present administration has openly stated that "the hallmark of its appointment policy is 'political emphasis,' " which the author suggests operates "perhaps at the expense of expertise, independence and diversity of views" in appointments to regulatory agencies.

He goes directly to the point with his comment that—

> For an agency which must perform in a non-partisan way in the heart of the political process, it is disturbing that partisanship enters into the appointment of its members.

We should be particularly concerned about an appointment, where political acceptability and ambition are combined with a personal bias toward the industry which the appointee will be responsible to help regulate. We must avoid the bias that what is good for the industry is good for the general public.

Mr. President, I suggest that this philosophy, which I call the General Bullmoose theory of Government regulation, is all too pervasive and is but one reason why the Senate needs to investigate fully the operations of the regulatory agencies and produce solutions to the problems such an investigation is certain to reveal.

RECOMMENDATIONS FOR REFORM

Cries for reform have sounded for years. The reformers have taken many approaches, ranging from complete dismantlement of the agencies to strengthening them and increasing their independence.

We are all familiar, I am sure, Mr. President, with the proposals a few years ago of the so-called Ash Council, the President's Advisory Council on Executive Organization. In 1971 this council proposed removing the judicial powers from the regulatory agencies and creating a new court to handle this aspect of their work, while regrouping the agencies under four superagencies, each with a single head.

Perhaps some of the proposals of the Ash Council deserve consideration. But, on balance, I find them lacking in the one major aspect that needs urgent attention from the Congress—restoration of the ideal of protecting the public interest as the primary concern of the agencies.

Mr. President, shortly after the Ash Council announced its proposals, Mr. Johnson's article appeared in the Georgetown Law Review.

An able and dedicated spokesman for the public interest, Mr. Johnson has offered some of the most constructive suggestions for reform of the FCC, many, if not all, of which should also be considered for application in reforming the other regulatory agencies.

In his article, Mr. Johnson offered a fourfold set of solutions to the weaknesses and biases that afflict the regulatory agencies.

He suggests that the Ash Council itself reflected the same bias that is a major problem with the agencies. Its five members were all businessmen, and their proposals seem inclined toward benefiting the business community and particularly businesses regulated by the Federal agencies, but to the virtual exclusion of consumer interests. They emphasized efficiency in their report. They would, in short, make the regulatory agencies function in a manner which one might describe as "businesslike," which in this case is not necessarily a favorable term.

Mr. Johnson suggests that the agencies, the ideals behind their establishment, and the framework in which they have been organized, are sound at base. But they have lost sight of their initial public interest purpose. Fundamental reforms are required to revive and strengthen that purpose.

But the reforms proposed by then-Commissioner Johnson do not require departure from the essential concepts of regulatory agency functions and ideals. Rather they are aimed at restoring the regulatory system to the form and objectives envisioned when it was first established.

As Mr. Johnson so aptly states in his article:

> There is no known substitute for a strong commission properly imbued with a firm legislative mandate and vigorous powers to prosecute, legislate and judge.

APPOINTMENTS SCREENING, CITIZEN ADVOCATES, AND POLICY PLANNING

The Johnson reforms would, first, provide greater independence of these agencies from the industries they regulate and from the executive branch. A system of screening potential commissioners by public-interest organizations, similar to the process by which the bar associations provide advice and counsel on appointees to Federal legal posts, as well as improved pay and better staff assistance for regulatory agency members, are means by which this independence might be increased.

Second, the author proposes steps to increase the role of citizen-advocates in the agency decisionmaking processes. These include involving public service lawyers in the review of agency cases, and issuing well-publicized invitations to citizen lobby organizations and the public at large to voice their opinions.

Establishment of long-range policy planning as a daily activity within the agencies is a third proposal. Modernization of antiquated management systems is a companion recommendation. Economists, program planners, and systems analysts are among the types of professionals Mr. Johnson recommends adding to agency staffs, to end "ad hoc" decisionmaking, and to cure the lack of a soundly devised framework of policy planning as a guide.

CONGRESSIONAL AND JUDICIAL OVERSIGHT

Fourth, he recommends steps to assure increased, regular review of agency activities by the public and other branches of Government, including the Congress and the judicial branch.

To achieve this latter goal, according to Mr. Johnson, would require more rigid adherence to the principle of antisecrecy in agency operations, both in meetings of commissions and their supporting bodies, and in making information available to the news media and public. Congress should make oversight of regulatory agency activities a routine and automatic undertaking, and judicial review should be greatly strengthened.

The author suggests a need to expand the concept of consumers' standing under law, to challenge agency rulings through court procedures and related legal means. A related simple but basic reform would be to insist that agencies meet the requirements of their legislative mandate, which spells out the objective of protecting the consumer.

REGULATORY AGENCY INITIATIVES

Mr. Johnson recommends that the agencies should themselves take the initiative in encouraging and seeking out consumer viewpoints on policy and decisionmaking. Factfinding tours are a device he suggests as useful. He also sees great need for enlarging agency efforts to investigate and act upon complaints from the public. The agencies should, in the author's view, assist consumers in obtaining quality legal assistance, and advice, to assist the public in making its voice heard by the agencies in their proceedings.

Mr. President, intriguing and seemingly worthy as these suggestions seem, it is impossible at this time to judge their merits. The reason is that we simply do not have sufficient information as a legislative body to decide what should be done. All we know for sure is that something needs doing and soon—reform is long overdue, as we should have realized by now from the troubles in the railroad industry and their apparent connection with inadequcy in Federal regulation.

We should have learned the same lesson when we recently discovered our inability to make intelligent, independent judgments in dealing with the energy crisis, because the Federal agencies concerned with this field depend almost exclusively upon industry sources for information on such factors as fuel supply and production.

Fears have been expressed publicly that regulatory failure could produce a "flying Penn Central," a crisis in our airline industry.

CONGRESSIONAL ACTION URGENT

Mr. President, the urgency of the matter is compounded by the speed with which our society and its technology are changing. Our regulatory agencies are still operating according to concepts that have been or are becoming outmoded by change. The agencies are forced to cope helter-skelter with conditions never envisioned when the agencies were established. Examples of the impact of technological change include communications satellites and cable television, containerized shipping in interstate and international commerce, and new power and energy demands as well as potential resources.

In considering this set of conditions and problems, Mr. President, we must keep in mind that it often has been observed that no aspect of Government touches so many American lives and fortunes, with the possible exception of taxes, as the Federal regulatory system.

I urge prompt action by the Senate on Senate Resolution 160, so that the Senate can rationally and effectively address the problems associated with the broad scope and complexity of this regulatory system. The public interest demands that comprehensive reforms in regulatory agency operations be launched without further delay.

TRIBUTE TO STEWART McCLURE

Mr. JAVITS. Mr. President, I am pleased to join my distinguished colleagues in this tribute to Stewart McClure who retired at the end of last year after some 30 years of Government service during which time he served as staff director and as chief clerk of the Committee on Labor and Public Welfare, of which I am the ranking minority member.

I first had an opportunity to become acquainted with Stew McClure when I joined the Committee on Labor and Public Welfare in the 86th Congress in 1959. I have since come to appreciate his devotion to the committee, the resources of his experience and knowledge, and his willingness to be of service to all Members on both sides of the aisle. On behalf of myself and my colleagues of the minority, I wish Stew McClure well for the years ahead. He merits our approbation and our good wishes.

EXTENSION OF THE GI BILL

Mr. ROTH. Mr. President, I am concerned about the impending expiration date on May 31 this year of the GI bill education training benefits for veterans of the post-Korean conflict period and Vietnam era, and for servicemen on active duty. My own experience as a veteran of World War II has convinced me of the benefits of the GI bill.

On January 4 last year, Senator Inouye, my distinguished colleague from the State of Hawaii, introduced S. 147 to amend chapter 34 of title 38, United States Code, to extend the time period within which veterans may be entitled to educational assistance under such chapter after their discharge or release from active duty. The bill is still pending in the Senate Committee on Veterans' Affairs. I understand that hearings will be scheduled in the spring.

I am seriously concerned that during hearings and debate, the provisions of the current law will lapse, resulting in the termination of vital educational programs affecting thousands of veterans.

Many of the veterans who are now enrolled in full-time or part-time programs, either in daytime or in the evenings, are holding jobs which may soon be adversely affected by the energy shortage which is already having a ripple effect throughout our economy, thus further impinging upon employment. The critical need for reeducation and retraining is evident. This bill should be given high priority by this distinguished body.

"LET'S STOP KICKING AMERICA" EDITORIAL DESERVES WIDE CIRCULATION

Mr. BAYH. Mr. President, a dear friend of mine and leading citizen of Michigan City, Ind., Mr. Bud Ruby, was so impressed with a Canadian editorial entitled "Let's Stop Kicking America" that he had it transcribed and sent it to me. I agree with Bud that this view of America's place in the family of nations needs widespread circulation. It is the kind of shot in the arm that we need every now and then, a reminder of the greatness of our country.

True, we have faults. But we are one of the few nations where the people have an opportunity to correct those faults. I have been around the world and can say, quite confidently, that the United States is still the very best place of all to live. So let us stop kicking America—and let us keep on trying to make a great nation even greater.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Let's Stop Kicking America

The United States dollar took another pounding on German, French and British exchanges this morning, hitting the lowest point ever known in West Germany.

It has declined there by 41 per cent since 1971 and this Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people in all the earth.

As long as 60 years ago, when I first started to read newspapers, I read of floods on the Yellow rivers and the Yangtze. Who rushed in with men and money to help? The American did.

They have helped control floods on the Nile, the Amazon, the Ganges and Niger.

Today the rich bottomland of the Mississippi is under water and no foreign land has sent a dollar to help.

Germany, Japan, and to a lesser extent, Britain and Italy, were lifted out of the debris of war by the Americans who poured in billions of dollars or forgave other billions in debts.

None of those countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1966, it was the Americans who propped it up and their reward was to be insulted and swindled on the streets of Paris. I was there, I saw it.

When distant cities are hit by earthquakes it is the United States that hurries to help . . . . Managua, Nicaragua, is one of the most recent examples. So far this spring, 59 American communities have been flattened by tornadoes. Nobody has helped.

The Marshall Plan, the Truman Policy, all pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent warmongering Americans.

I'd like to see one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all international lines except Russia fly American planes? Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy and you get radios. You talk about German technocracy and you get automobiles. You talk about American technocracy and you find men on the moon, not once but several times . . . safely home again.

You talk about scandals and the Americans put theirs right in the store window for everyone to look at. Even their draft dodgers are not pursued and hounded. They are here on our streets. Most of them unless they are breaking Canadian laws, are getting American dollars from Ma and Pa at home to spend here.

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name to you 5,000 times when the Americans raced to the help of other people in trouble.

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone and I'm one Canadian who is damned tired of hearing them kicked around. They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over the present troubles.

I hope Canada is not one of these.

BILL OF RIGHTS FOR THE MENTALLY RETARDED

Mr. JAVITS. Mr. President, I have long been concerned with the need to guarantee humane care and treatment to the mentally retarded including the development of alternative programs of community care, in place of a lifetime of confinement in an institution. To achieve that goal, I have pledged myself to work for the enactment into law of my "Bill of Rights" for the mentally retarded.

A recent editorial by WBEN-TV of Buffalo, N.Y. entitled "More Mercy Needed for Mentally Ill and Retarded" dramatically illustrates the need for this bill. The editorial urges us to move forward and provide the necessary facilities to enable people to return to communities where they can live productive lives to their fullest potential.

I commend this WBEN-TV editorial broadcast to the attention of my colleagues, and ask unanimous consent that the WBEN editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

More Mercy Needed for Mentally Ill and Retarded

Government in recent years has wisely turned from treating mentally ill and retarded persons as if they were something less than human.

The hell holes in which such people were once forced to live have largely been replaced by more humane hospitals and treatment centers, where the goal has become returning people to communities where they can live productive lives to the extent of their capabilities.

In the abstract, society has approved this change. Most people now recognize, at the intellectual level, that most mentally ill or retarded people present a danger to no one. But when this becomes personal—as it does when people are asked to allow those with even minimal difficulty or illness to live in neighborhood group or halfway houses—intellect is overruled by emotion.

Despite sound evidence that many retarded people do not need institutional care and could support themselves if living in households providing a degree of supervision, few neighborhoods have shown willingness to allow these so-called "different" and "dangerous" people living room.

Several recent court tests have found that neighborhood hostility is not a sufficiently compelling reason for allowing a community to keep out group homes or halfway houses. The due process and equal protection provisions of the Constitution require more substantial reasons than fear and prejudice.

The sad awakening to what actually constitutes mental illness or retardation often comes only when people encounter these situations in their own families. Until the public, however, is willing to douse its fear in knowledge, it remains true that "man's inhumanity to man makes countless thouands mourn."

RULES OF THE COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. TALMADGE. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as amended, requires that the rules of each committee of the Senate be published in the Congressional Record not later than March 1 of each year. The following are the rules of the Committee on Agriculture and Forestry:

Rules of Committee on Agriculture and Forestry

1. Regular meetings shall be held on the first and third Wednesday of each month when Congress is in session.
2. Voting by proxy authorized in writing for specific bills or subjects shall be allowed whenever a majority of the Committee is actually present.[1]
3. Five members shall constitute a quorum for the purpose of transacting committee business: *Provided*, That one member shall constitute a quorum for the purpose of receiving sworn testimony.[1]

MY CONFLICT OF INTEREST

Mr. DOMENICI. Mr. President, even the humblest freshman Senator knows the time-honored customs and traditions of this great body, of which there are so many to guide our conduct and our etiquette.

One is that our distinguished Members shall vote only "present" when the yeas and nays are called on an issue which has the prospect of affecting their personal well-being, especially their bank accounts.

This long-accepted position, I must confess, causes some problems for me.

They arise, not because I feel the custom is wrong, for I do not. Nor am I constrained because my business interests are so widespread; in fact, they are relatively humble.

But I do have one complicating factor most of my distinguished colleagues do not have; the size of my family, which I believe to be the largest of any of us who occupy this Chamber.

There are eight small Domenicis at home, plus a normal complement of two parents—a truly large total, almost a horde by comparison with the small families which have now become the fashion and the mode.

So perhaps, on Thursday last, when we voted to increase the deduction against income tax each taxpayer is entitled to claim for himself and each of his dependents by $100, I should have refrained from voting and voted myself only as "parent."

Even the least mathematically inclined of our Members can quickly calculate that this change would affect my financial condition by a full $1,000 worth of additional deductions each year.

But I would observe, in the lighthearted mood which animates this statement, that I was much inclined, as a father and bill-payer, to shrug my shoulders and ask myself, "What does this really have to do with the day-to-day expenditures of my true-life family?"

Yes, it is true that the proposed improvement would have increased our deduction by something just over 15 percent—almost enough to reflect the inflation of our times.

But in the harsh realities of bookkeeping and bank balances, we all know only too well how little even $750 worth of deduction per dependent has to do with anything factual, like the cost of butter—or beans. My wife, who is not an extravagant mother, can consume at least one of those deductions just getting our family equipped for back-to-school.

So, like all taxpayers, I shall only smile faintly through my pain, send in my return in a spirit of bravery— and be grateful to the Almighty that the love and affection in our crowded home cannot be diminished, either by the actions of Congress in the use of its taxing power or by our economy, with its cries for "more" and "more" as the inflationary spiral continues.

This, for those of us whose families are large, is probably the most meaningful of "deductions" in an otherwise strange world.

AN ADVANCED TECHNOLOGY THRUST NEEDED

Mr. MOSS. Mr. President, this country can use technology to live better while consuming less of our resources. However, if we are to achieve this goal, a strong, well directed national advanced technology thrust is needed. Many approaches have been discussed in the past including a Cabinet-level department of technology, an idea which certainly merits increased study.

An article in the Washington Post of January 27, 1974, discussed an important problem in achieving adequate high level coordination of the Federal Government's vast expenditures in auvanced technology.

The Post article entitled "Lack of Science Adviser to Nixon Hit" is of such importance that I ask it be printed in full in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Lack of Science Adviser to Nixon Hit

(By William Stockton)

Early in 1973 President Nixon abolished the post of presidential science adviser at the White House and disbanded the Office of Science and Technology.

The task of advising the President about science and technology went to H. Guyford Stever, director of the National Science Foundation, a federal agency that funds scientific research with an annual budget of about $570 million.

President Nixon's action worried many scientists, but most took a wait and see attitude.

Now, in the face of the energy crisis and the distractions of the Watergate scandals, there is an increasing clamor among the nation's scientific leadership for a presidential science adviser of greater rank and voice.

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[1] For further restrictions with respect to proxies and quorums in the reporting of measures and recommendations, see Section 133(d) of the Legislative Reorganization Act of 1946, supra.

Some scientists are concerned there is insufficient high-level coordination of the federal government's vast expenditures on research and development. There also is concern Stever is being ignored in important decisions that require technical expertise not now available in the White House.

Congressional critics suggest Stever has little influence in the administration. They contend he is reluctant to press ideas or enter controversial areas where sound advice might help resolve complex issues.

Stever dismisses such criticism.

"I've found it very easy to get our views, suggestions and recommendations to the top people in the White House," he said in an interview. "I have all the access I need to the President's top advisers. They listen quite a bit," Stever said.

Concern became more visible last fall when a committee of 23 presidents of scientific societies with a combined membership of 300,000 scientists called for a cabinet rank science adviser or a cabinet level department of science and technology.

"It is essential that all levels of government have a continuing source of scientific and technical information and advice," the committee said. "Without more top level coordination of federal efforts in science and technology," it warned, "solving problems such as energy and food shortages would be more difficult."

Officials of the American Chemical Society, a professional organization of 110,000 chemists and chemical engineers, have been particularly critical.

"It is now starkly clear that the President has no one within his office or cabinet on whom he can rely for understanding and marshaling the forces of technology and for meeting the new crisis threatening the quality of life . . . ," Robert W. Cairns, chemical society executive director, wrote in a recent issue of the society's magazine.

"Good government now requires experienced technology leadership . . ." he wrote. ". . . the termination of the Office of Science and Technology brought to a sudden end a useful experiment that might have developed a greatly needed technological sophistication in the White House."

Carl Frey, executive director of the Engineers Joint Council, which represents several engineering societies, feels the distraction of the Watergate scandals has prevented the Nixon administration from continuing the restructuring of the science advisory machinery begun last year with the end of the Office of Science and Technology.

"There is no question they're not devoting enough attention to this," he said.

The President's science adviser can't be expected to fight for his ideas when he also must wear the National Science Foundation director's hat, contends Rep. Mike McCormack, (D-Wash.), who was a research scientist before being elected in 1970.

"There is a built-in conflict now. It's completely unrealistic to expect the director of NSF, who must depend on the White House's good will for his budget, to fill the role of science adviser," McCormack said.

Stever agrees there, is a conflict, but adds: "I don't consider it a major problem."

Stever doesn't think the science adviser should push ideas or explore controversial areas uninvited.

"My philosophy is that we are an information agency. I want our team to explore the problem, get the best possible views and give them to the people who make policy," he said.

NSF staff members say Stever emphasizes long range science advice and consciously steers away from short term problems.

Yet when President Nixon last summer ordered a major study to outline a $10 billion, five-year energy research and development effort, he named Dixy Lee Ray chairman of the Atomic Energy Commission, to direct it. Several NSF staff members participated, however.

Because of Sputnik during President Eisenhower's administration "there was a need to bring science right to the top in the White House," Roy L. Ash, director of the Office of Management and Budget, said in an interview in September.

"Now science and scientific points of view are represented throughout government," he said, "There isn't a need to bring the scientific point of view directly into the President's office. It gets there everyday."

THE PACE INSTITUTE AT COOK COUNTY JAIL: REPLACING REVENGE WITH REHABILITATION

Mr. PERCY. Mr. President, it has been my pleasure and my honor to work very closely over the years with the PACE Institute in the Cook County jail. I have watched as it grew from one man's dream into a reality which is improving the lives of all of the people of Cook County. The dedicated founder of the program, Rev. John Erwin, the tireless chairman of the Committee of One Hundred, Oscar Getz, the generous benefactor, Ray Kroc, as well as hundreds of volunteers who contribute their time and money to this unique program have demonstrated the positive aspects of enlightened and effective corrections programs.

PACE has taken prisoners at the Cook County jail, given them fundamental educational and vocational skills, and provided them with the feeling that other people care enough to spend time with them. The results of this program have included dramatically reduced recidivism rates for those who go through the program, and a heightened sense of involvement and caring for all of those who are connected with PACE.

The business community has responded exceptionally well to the challenge of PACE, providing expertise, money, materials, and personnel. One of these companies, Inland Steel, has supplied the building materials which house the PACE Institute on the grounds of the jail. In the recent publication of the company, Inland, a fine article describing the PACE Institute appears. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Replacing Revenge With Rehabilitation

(By Van Lesley)

There are 2000 prisoners in the dismal Cook County Jail on Chicago's Southwest Side—more than in many state prisons. Many of these prisoners have not yet been tried or convicted; too poor to afford bail, they are waiting out long months until their cases come up on overcrowded court dockets. Those already sentenced are short-termers. A year is the maximum here.

The men serving time in Cook County Jail are the individual realities behind that abstract phrase, "crime in the streets." They are the robbers, the muggers, the burglars, the pursesnatchers, the junkies—the ones who got caught. Most of them are young—under 30—and black. And most, upon release from jail, will return to the city's ghettos and resume lives of poverty, violence, and failure.

What does their jail sentence accomplish? For many, it is just a form of occupational hazard. In grim reality, three out of four will be back behind bars on new charges within 90 days. As one jail staffer puts it, "These guys aren't even good at being bad."

But there are prisoners at Cook County Jail who want to go straight, who, despite having made one or two, or a number of mistakes, want to break out of the downward spiral of the crime cycle—to make a new life for themselves within society rather than outside of it. For them there is a unique program at Cook County Jail designed to help them upgrade their educations and start learning the rudiments of a trade so they can find a job on release. Perhaps most importantly, it provides a format for them to think through their attitudes toward society and their own lives. The program is called PACE Institute (PACE is an acronym for Programmed Activities for Correctional Education). And, in the words of Winston E. Moore, reform-minded Executive Director of the Cook County Corrections Department it offers "rehabilitation, not revenge."

Prisoner training programs are nothing new, of course, but they have been more the province of state and federal prisons than of county jails. Nationally such programs range from classroom education to work-release; in the latter, prisoners leave prison in the morning for regular "outside" jobs and return to their cells after work. Not all efforts are that progressive. A few years ago one prison warden said with a straight face that duty in the prison laundry had a rehabilitative effect because it instilled regular work habits. A chain gang would do the same.

PACE is unique in a number of ways. It is housed in two modern, air-conditioned buildings sandwiched between cell blocks—the only such educational facility among county jails in the U.S.* Most importantly, the recidivism rate for men completing the PACE program is just about the exact reverse of that for the general jail population. This means that about one out of every five PACE graduates ends up back in jail—a dramatic switch from the general recidivism of 70 to 80 per cent.

(A word of caution about these statistics is in order, though. PACE trainees are volunteers and are carefully screened before being admitted to the program. Applicants who don't seem sincere about wanting to change their lives are kept out on the grounds that they would probably interfere with the achievements of the more seriously inclined. So PACE trainees probably include a high proportion of those men who would not be back in jail anyway. As one sociologist has said in reference to such "good risk" volunteer programs in general, "Their (recidivism) rates would be low whatever program you placed them on—work-release, standard parole, or running the wheel at Las Vegas.")

But PACE does help those who want to go straight, many of whom are multiple offenders who have spent more of their adult lives inside jail than out. As an example, consider one recent PACE trainee. First arrested at the age of 14 for robbing another boy, he was involved at 15 in a gang war that left one youth dead. At 18 he was arrested for robbery, theft, and possession of narcotics, and given a sentence of one year on probation. He started using heroin. At 20 he was arrested for armed robbery and spent six months in Cook County Jail. At 21 he was back on another six-month sentence, for possession of marijuana.

"I looked at myself, sitting there in that cage, and decided something had to change," he said a few months ago, shortly before his release, "so I got in PACE. Now, when I get out this time, the street will be the same, but I'll be different."

How different? For one thing, he has more confidence in his ability to make it. His capacity for reading and fundamental mathematics was greatly improved through PACE training. Furthermore, he had a job upon release, as a machine operator at a suburban manufacturing plant. He is now being helped "on the street" by PACE's intense follow-up program. He also formed a realistic appraisal of himself. "PACE can get you on the right level and give you a start," he says, "but you have to do the rest." Such personal honesty may be the first step in making it.

"As a result of completing the PACE program, he succeeded at something worthwhile, perhaps for the first time in his life," says the jail's senior Protestant chaplain, the Rev. John R. Erwin, who founded PACE. "And that is our one message to these men: 'You have a right to succeed.' "

Some 400 men have been in PACE since Rev. Erwin started a small experimental group five years ago. This year, with the opening of its second building, PACE handles 120 trainees at a time.

"Our trainees are typically in their twenties and, on the average, have about a fifth-grade ability to read and write," says PACE's 34-year-old director, Jack Solomon. Trainees spend an average of five months in the PACE program, although there is no set length of time, other than an admission requirement that the prisoner have at least four months remaining on his sentence. "We can't really help anyone in less time than that," Solomon explains.

PACE strives for total involvement of its trainees. When the volunteer inmate is accepted, he is moved away from the general jail population to a special tier of cells housing other PACE trainees. His scholastic aptitude and achievement levels are determined through batteries of tests. He is aided by PACE's three dozen staff members in determining what goals he wants to set and how best to achieve them.

Each morning, trainees sign "contracts" for six hours of educational activity that day. Then many go to a kind of combined group therapy and bull session, called Zoom, for lively discussions of their attitudes, aspirations, and values.

Basic education classes rely heavily on modern teaching machines utilizing materials prepared specifically for PACE, which permit individuals to progress at their own speed. Educational material runs the gamut of the "three R's," from beginning reading to trigonometry. Since the majority of PACE trainees are school dropouts or "under-achievers," particular emphasis is put on upgrading their reading skills, since reading is the key to mastering most other subjects. What they have to read is important, too. A lot of material by black writers is used, since these students won't relate to white-suburbanite textbooks. Another part of the day is actually spent in federally-funded pre-vocational instruction in such areas as welding, carpentry, electronics, and the like. "It's not our purpose to train men for specific jobs," says Solomon, "but to guide them toward areas where they may follow up when they're released."

Release by no means ends the trainees' involvement with PACE. "We're the only program in the nation with a complete follow-up on the street," says Solomon. "Our field workers maintain contact with released trainees for two years, helping them adjust to a new life." PACE may help the trainee find a job, or get into a more comprehensive job-training program, or even get back into school. Some PACE graduates are now in federally-funded job-training programs; others are at work at a variety of occupations, as carpenters, mechanics, machine operators, salesmen. Some even have gone on to college on scholarships located for them through PACE, and one man is now working on a master's degree in psychology.

While PACE's goal is to help its trainees keep out of jail in the future, the program also has brought another group of people to Cook County Jail for the first time. The program relies on a corps of volunteers—mostly white middle-class suburbanites—who help trainees with everything from reading to carpentry. A number of Chicago's business leaders donate not only money but time to PACE. Men such as Ray A. Kroc, Chairman of McDonald's Restaurants, and Oscar Getz, Chairman of Barton Brands, are frequently seen at PACE. Senators Charles H. Percy and Adlai E. Stevenson, III, have been guest speakers at PACE.

According to Solomon, "People helping people is the real reason for our success. Every guy in this program can relate to somebody on our staff, and that is the important thing.

All these machines and equipment that we have are fine, but the important thing is our staff and our volunteers, people who help a guy find out what he wants to do, and help him do it."

All of this takes money, of course. PACE's budget this year is $563,956. Only a bit more than half of this comes from state or federal funds. The rest, some $275,000, is raised from private sources—individuals, corporations, foundations, churches. PACE has a blue-ribbon Committee of 100, a Who's Who of Chicago leaders—including Inland's President, Michael Tenenbaum—for fund-raising.

Among organizations giving money to PACE is the Inland Steel-Ryerson Foundation, the company's charitable arm. "PACE Institute is just one of 64 organizations to which we contribute in what might broadly be called the field of urban and minority programs," explains Claude J. Peck, Jr., Secretary of the Foundation. Many of these programs—some of which are highly experimental—have gained Foundation backing only within the past five years.

In 1968 the Foundation's board of directors decided to increase support of programs striving for solutions to the urban problems being manifested in major social upheavals. While the Foundation had for years contributed to a number of well-established agencies working in this area, such as the Urban League, it was decided to broaden Inland's involvement by supporting new programs, some even of a controversial nature. These include such widely differing groups as Aspira and Alse, programs for developing educational potential of Puerto Rican and Latin American youngsters in Chicago and northwestern Indiana; the National Association for the Advancement of Colored People's Legal Defense and Educational Fund for training lawyers in civil rights cases; CAM Academy, a school for dropouts on Chicago's seamy West Side; the Metropolitan Leadership Council for Open Communities, Home Investments Fund, as well as the Contract Buyers League, which assist minority groups in home-ownership, both in Chicago and in its suburbs.

"The separation of urban and minority here is somewhat artificial," Peck explains, "as most of the organizations which we are talking about here include elements of both."

The overall amount of support in 1972 for such programs was about $160,000, out of the Foundation's total contribution of $1,200,000. Beyond that, the Foundation gave nearly $450,000 to 45 United and Community Funds—in areas where Inland employees live—for the support of health, welfare, youth, and human-relations efforts; and an additional $68,000 to specific agencies.

Another $157,000 last year went to the support of college scholarships and fellowships. Four-fifths of this helped finance college educations for students under 18 different programs, the largest two of which are for children of Inland employees. Some 170 sons and daughters of Inland people are currently attending college with Foundation-backed scholarships. The Foundation also supports a number of scholarships tailored for minority-group students.

"Community welfare and education received 81 per cent of our support in 1972," says Inland Treasurer and Foundation President Robert J. Greenebaum, "and our contributions in these two areas this year are at about the same level."

"The Inland Steel-Ryerson Foundation will continue to remain aware of the emerging problems of our society," adds Peck, "and try to support those efforts that offer the possibility of positive change in geographic areas of primary concern and employee concentration. This includes urban and minority programs of proven value and new efforts struggling to cope with the new problems of the cities."

As foundations go, Inland's is not large when compared with such giants as Ford or Rockefeller. To readers jaded by daily headlines about millions and billions of dollars, the amounts of its individual grants may often appear to be small. But the student from a working-class family, for whom college wouldn't be possible without that Foundation scholarship, doesn't look at it that way. And to programs struggling to get started, $1000 may be more important than 10 times that amount would be once they're established—and they might not make it without such support. PACE, for instance, has received $11,000 from the Inland Steel-Ryerson Foundation—not a great deal in terms of the program's total budget—but this is only one of more than 30 corporations and foundations on its long list of supporters. In the overall social context, such foundations have become vital links for businesses to reinvest money in America through social institutions that are not supported by taxes alone.

The late Edward L. Ryerson, one-time Inland Chairman who initiated the company's first foundation in 1946, summed it up neatly some two decades ago. He said, "A corporation has a civic responsibility to its community which is just as important as the responsibility of the individual citizen." Today, this concept of corporate social responsibility is widely held.

There are of course critics of business foundations, and cynics who see support of urban and minority programs as an attempt to buy off ghetto rage—a figurative "Soul Brother" sign in business's window. But those who directly benefit from such programs, such as the PACE trainee, may hardly know—and properly so—just where the money is coming from. They know, instead, that here at last is some concrete manifestation of concern for their problems, and some evidence at last that they are not really society's outcasts.

LEWIS L. STRAUSS

Mr. HATFIELD. Mr. President, I wish to add a few words of tribute to a man I was pleased to call a friend. I refer to Lewis L. Strauss, who died on January 21.

Lewis Strauss was no stranger to controversy, yet we must not allow our recollections of him to focus only on these very visible, and often controversial, times in his life. To do so would be to ignore the numerous very substantial contributions he made on a number of other areas—areas where the country has gained so much from his efforts.

We have heard a great deal recently that the late 1970s and 1980s will witness the fruition and the blooming of atomic power. The germination of this goes back to the early days of the Atomic Energy Commission under the guiding spirit of Lewis L. Strauss. As we move into an era when atomic power provides a safe alternative to conventional energy sources, we should remember our debt to this man and his goals.

At the memorial service for Lewis Strauss on January 25, 1974, at the Washington Hebrew Congregation, two moving and eloquent tributes were delivered in his memory. All of us in the audience were touched by their comments. One was by Rabbi Joshua O. Haberman, Rabbi of the Washington Hebrew Congregation, and the other by Admiral Arleigh Burke. I call the attention of my colleagues to these two warm and personal comments about Lewis Strauss. I ask unanimous consent that these two tributes be printed in the Record.

There being no objection, the tributes were ordered to be printed in the Record, as follows:

In Memory of Adm. Lewis L. Strauss

(By Rabbi Joshua O. Haberman)

"The righteous shall flourish like the palm tree;
He shall grow like a cedar in Lebanon.
Planted in the house of the Lord.
They shall flourish in the courts of our God.
They shall still bring forth fruit in old age;
They shall be full of sap and richness;
To declare the Lord is upright.
My Rock, in whom there is no unrighteousness."

—Psalms 92.13–16.

Good Friends: We have entered this sacred place anxious to share with one another memory of Lewis L. Strauss. This large assembly of men and women of different walks of life, of diverse faiths, of all sorts of authority and competence, reflects the extensive spread of his fruitful life and the wide range of his contact and influence. Because of his brilliant mind, his nobility of character and his uprightness as a man, we are now a community of mourners, each bringing to this hour a measure of affection, of friendship, of respect. It is as though all our hearts had become one heart, filled with loving sympathy for his sorely bereaved household. A link has been broken in the chain of love that bound them together in family union. As Walt Whitman put it, ". . . the best is that which must be left unsaid,"—we shall be unable to express adequately the meaning of his life to those who were dearest to him, the gentleness of his love as a husband, the tenderness of his heart as father and grandfather, the devotion of a brother.

However family, friends or acquaintances might differ in the quality and intensity of their feelings, we are all as one in our appraisal of the stature of the man we lost. We may apply to him the words of King David's lament over the death of one of his ablest generals:

"Know ye not that there is a prince and a great man fallen this day in Israel?"

—II Samuel 3.38.

Admiral Strauss had the qualities of the authentic leader: vision, daring, tenacity, the princely qualities of leadership. But, matching all these endowments that make for victory and success were the inner spiritual qualities of greatness which produced excellence of character, a life of spotless integrity and honor.

He was princely in his generosity, a compassionate son of the Covenant, whose heart and hand responded readily to the Jewish people's desperate cry for help. Yet, he knew that while charity begins at home, that was not where it must end. And so, he became a philanthropist who showered his beneficience upon all kinds of non-sectarian institutions of learning and healing.

The public career of our departed, his crucial role in one of history's decisive moments, has already been prominently recognized in the press, in contemporary literature and in the utterances of the nation's highest authorities. To all this I should only wish to add a glance at his inner spiritual core. His Jewish heritage, received from revered parents, ennobled his soul. Words of Hebrew prayers sanctified his daily life. He observed the Sabbath as a day with God. He knew and loved and read and re-read the sacred Scriptures and was proud to be able to study them in the original Hebrew language. He undertook to teach the Bible to his son and, together, they published a private edition of selected Bible portions to mark the boy's attainment of the age of Bar Mitzvah.

He gloried in the ancient Biblical Covenant as the faith of his fathers and accepted its mandates as the spiritual foundations of his life. Characteristically, he asked to be laid to rest in the traditional Jewish manner, with a "tallit," the prayer scarf, wrapped around his shoulders.

Political controversy has projected a public image of this man which unduly accentuates his fiercest fighting capacity. Tough he was, but also gentle, an affable, delightful man of great sensitivity and tact, a man of charm and culture with whom conversation was edification, a man who met his fellow with a warm heart and a cheerful countenance.

His name is linked to the creation of the most awesome weapons system of the ages. He meant it as America's, as the free world's most potent guarantee of liberty and peace. He was one of the fathers of the Atoms-For-Peace program. His heart was bent on peace, not war. A great idea of his, whose time, unfortunately, had not yet come, was a project of international cooperation in the Middle East, the Eisenhower-Strauss De-salting Plan, which could have made the desert bloom with Arabs and Israelis turning swords into plowshares. Symbol of his devotion to "shalom," peace, as a personal ideal, was the provision in his will to smash all firearms in his possession following his death so that no one might say that he inherited a gun from Lewis L. Strauss.

As I think of him, I see him in the image of the 92nd Psalm:

"The righteous shall flourish like the palm tree;
He shall grow like a cedar in Lebanon."

Why like a palm tree or a cedar? asked one of our sages. Because the other, smaller trees soon fade from view as we go past them. But the stately cedars and palm trees are seen long after the others have disappeared. So it is with those who live righteous lives.

Even after the passage of many years, there will stand out in our memory this stately, noble man, with sturdy Jewish ancestral roots, nurtured in the generous soil of America, rugged in character like the trunk of the tree, a straight man of sound fiber and true grain, upright and forthright, not only outstanding but upstanding. Yet, beneath the tough bark of the tree was the living sap of human kindness and above rested the crown of a keen mind, spreading out in numerous branches of knowledge.

As the psalmist said:

"Planted in the house of the Lord,
They shall still bring forth fruit in old age."

His spirit remained unbroken, down to the last. He never cringed nor cowered. Yes, he was a prince and a great man. We must match his faith with ours and face this moment with the same fearlessness which, throughout the ages, moved our people to say at a time such as this:

"The Lord has given.
The Lord has taken.
Blessed be the name of the Lord." Amen.

Memorial Service for Rear Admiral Lewis L. Strauss

(By Arleigh Burke)

We are here today to do honor to the memory of a dear friend and a renowned American—Admiral Lewis Strauss.

Every great nation has been made great by the men that nation has produced. In the history of the two centuries of the United States, it has been given to very few men to make extraordinary contributions to our country and to our society.

Such a man was Lewis Strauss.

We could wish that we might have known young Lewis in those early days when he was formulating his ideals, days when his parents firmly instilled in him appreciation of the privilege of growing up in this land of the free. We can only guess at the lessons he learned in the hard competitive school of salesmanship. Even then the scholar was beginning to appear, for these were times on the road when he was free to read the books he always carried. The goal was always before him—earning enough money to go to college and study physics.

But the first World War was now in progress, and the newspapers in Lewis' hometown of Richmond were filled with the tales of suffering in Belgium, and of Mr. Herbert Hoover who was hard at work to bring the stranded Americans home. President Wilson was calling Mr. Hoover to Washington where he would work without pay.

Young Lewis had saved his money for college, but he decided that instead he would also go to Washington to help Mr. Hoover, and also without pay. He was well received in his Senator's office by the Senator's secretary. His request for a letter of introduction to Mr. Hoover created no problem. One was struck off immediately, and the Senator's name was signed by the secretary.

But even in those days integrity was a way of life for Lewis. The coveted letter was useless in his eyes.

The story of how this young man made his own way into Mr. Hoover's office and into Mr. Hoover's life as advisor, friend and confidant, is only the beginning of a great career.

When World War II loomed, Lieutenant Commander Strauss, United States Naval Reserve, was called to active duty. He early provided an invaluable source of workable ideas to the Bureau of Ordnance. It was then that those of us in the Navy first came to appreciate his ability to get to the heart of complex problems. During those five years of active duty he was given greater and greater responsibilities, and as before he became the chief advisor and trusted confidante of the Secretary of the Navy, who was later to become the first Secretary of Defense.

It was then too that his naval officer associates came to recognize his dedication to his country, his great patriotism, and his courage to stand for what he felt was right for mankind and his country. In those years friendships were formed that stood the test of years.

After the war was over, Admiral Strauss was appointed a member of the Atomic Energy Commission by President Truman. There he took part in history making decisions familiar to us all.

Retirement from those arduous years did not last long. A trusted experienced chairman of the Atomic Energy Commission must be found. President Eisenhower gave Lewis the task of finding a qualified man to take this important position who would be willing to accept the necessary sacrifice of personal considerations including financial loss. The search was long and difficult and finally President Eisenhower drafted Lewis once more into the service of his country.

Both Presidents gave him their complete trust and confidence because they knew him to be a staunch man devoted and loyal to the best interests of his country. They respected his rare wisdom and good judgment. Their faith in his strength of character was justified for he did defend the best interests of the United States, and under his guidance the security of the United States was maintained and enhanced.

In all of these years of devoted service to his nation, he made great contributions in many fields. His services were sought by Presidents for he demonstrated again and again his great ability to organize and direct large organizations so that they were successful in their endeavors. His work, his achievements, helped the United States become a great, generous, responsible nation.

His great accomplishments were not solely, or even the foremost reasons that Lewis Strauss was admired—respected—and loved by his many friends, great as his achievements were. In his personal life, as well as in his official life, his outstanding characteristic was integrity. He was straightforward—direct—a man of high principles and high standards—standards by which he lived—standards by which he measured himself and his actions.

Last of all, he was a kindly, modest man. He liked people—he understood people. He was a pleasant man to be with—for he exuded warmth and graciousness. He was also fun—for he had a keen sense of quiet humor.

It was these personal characteristics that made him a staunch reliable friend—so many people thought of him as one of their best friends—and he was.

Lewis Strauss was a great American—a great man—a great friend.

We shall miss him.

Mr. HATFIELD. I also ask unanimous consent to have two newspaper articles on Lewis Strauss printed at this point in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 22, 1974]

Lewis Strauss Dies, Ex-Head of AEC

(By Alden Whitman)

Rear Adm. Lewis L. Strauss, U.S.N., retired former chairman of the Atomic Energy Commission, died yesterday of cancer at his home, Brandy Rock Farm, in Brandy Station, Va. He was 77 years old.

For about a dozen years at the outset of the atomic age Lewis Strauss, an urbane but sometimes thorny former banker with a gifted amateur's knowledge of physics, was a key figure in the shaping of United States thermonuclear policy. He was a member of the Atomic Energy Commission from 1946 to 1950, and its chairman from 1953 to 1958.

In the often-acrimonious debates within the Government and the atomic community in 1949 and 1950 following the explosion of a Soviet atomic bomb in 1949, Mr. Strauss was a powerful advocate of immediate American development of a hydrogen bomb. His view, which had the support of a leading atomic Dr. Edward Teller, but not that of another Dr. J. Robert Oppenheimer, prevailed with President Harry S. Truman. The first American hydrogen device was exploded Nov. 1, 1952, followed in 10 months by the detonation of a Soviet device.

In his dealings with Congress as commission chairman, Mr. Strauss—pronounced to rhym with traws—with sometimes less than tactful. "For the first time in my life I have enemies," he remarked after an especially arduous experience on Capitol Hill. One result of these tussles was that the Senate, in June, 1959, rejected his nomination by President Dwight D. Eisenhower to be Secretary of Commerce. He had been acting Secretary since the previous October. Privately bitter over this rebuff, Mr. Strauss returned to private life.

PUZZLED OBSERVERS

In the years of his mightiest influence in Washington, the owlish-faced Mr. Strauss puzzled most observers. He was, on the one hand, a sociable person who enjoyed dinner parties and who was adept in prestidigitation; and, on the other hand, he gave the impression of intellectual arrogance. He could be warm-hearted yet seem at times like a stuffed shirt. He could make friends yet create antagonisms.

"He has more elbows than an octopus," one associate said after citing his affable qualities.

Assessing M. R. Strauss's settos with members of Congress, one observer suggested that he was "seemingly driven by an overwhelming desire to prove that he has been correct on every major and minor point in every major and minor battle in which he has been engaged for the last decade." An air of infallibility, this observer went on, affronted many Congressmen who referred public servants willing to display a modicum of humility.

Mr. Strauss exercised enormous power as chief of the A.E.C. His job was to make certain that the United States produced more nuclear weaponry than the Soviet Union. In addition, he was special adviser on atomic matters to President Eisenhower, and all Federal agencies were obliged to clear their atomic-related activities with him. The strictest secrecy about the atomic effort then prevailed, with the result that Mr. Strauss was laden with a stupendous amount of top-classified information. It was a burden he felt keenly.

COLD WAR ASSUMPTION

At the same time, Mr. Strauss accepted the basic assumption of the cold war—that the Soviet Union was bent on world conquest. "Honesty, truth and solemn covenants appear to be abstractions which have existence for them only as a bait for those of other nations naive enough to believe in them," he wrote in "Men and Decisions," an autobiographical memoir. To thwart what he saw as the Soviet goal, he advocated both the amassing of nuclear weapons and hermetic security.

His beliefs underlay his role in the Oppenheimer loyalty-security hearing of 1954, in which the physicist's loyalty was upheld, but not his security clearance. Mr. Strauss maintained that he did not initiate the hearing, but his critics argued that he did not defend Dr. Oppenheimer, then a contract consultant to the A.E.C. The charges against the man often called "the father of the atomic bomb" dated at least to 1947—these charges had to do with Communist associations—and their appearance in 1954 seemed to many scientists to be a form of retribution for Dr. Oppenheimer's opposition to the hydrogen bomb.

"Physicists who regard Strauss as the master architect of the case against Oppenheimer believe that in the last analysis Strauss was sincere," Nuel Pharr Davis wrote in "Lawrence and Oppenheimer," a detailed account of differences between Dr. Oppenheimer and Dr. Ernest Lawrence over atomic policy. Dr. Lawrence, the Berkeley physicist, along with Dr. Teller, was a Strauss mentor in science. Both men also had strong reservations about Dr. Oppenheimer.

DEROGATORY INFORMATION

Paradoxically, Mr. Strauss, a trustee of the Institute for Advance Study at Princeton, N.J., was responsible for Dr. Oppenheimer's appointment as director in 1947. At the time, the scientist informed Mr. Strauss that the Federal Bureau of Investigation file contained "derogatory information about me." Mr. Strauss, according to the Davis book, was familiar with the material and regarded it as trivial. The parting of ways seemingly came over Dr. Oppenheimer's reluctance to press on with a superbomb.

Mr. Strauss's early life had a touch of the Horatio Alger theme. Born on Jan. 31, 1896, in Charleston, W. Va., he was the son of a shoe merchant. He grew up in Richmond and became a traveling salesman for his father's shoes after he was graduated from high school. He had developed meantime a text-book interest in physics as well as a layman's concern with Judaism.

By his 20th birthday, Mr. Strauss had saved $20,000 and was thinking about attending college. In his memoir, he recalled that he was attracted instead by a desire to work for Herbert Hoover, appointed in the wartime year 1917 to manage food production in the United States. He went to Washington, searched out Mr. Hoover and sat down in his hotel suite.

"In a short while, Mr. Hoover entered from his adjoining office. He was wearing a hat and overcoat and was on his way to an appointment," Mr. Strauss recounted in after years, adding:

"I recognized him from his photographs, and, seeing that his secretary did not intend to introduce me, I stepped up and gave my name and said that I would like to work for him, adding that I had understood that he was accepting no salary for his services and that I would be happy to work for two months under the same arrangement.

"As I completed that long sentence, he looked at me with a puzzled smile and asked, 'When do you want to start?' 'Right now,' I replied. 'Take off your coat,' he said and left. These 12 words were the only exchange I had with him for a matter of weeks."

CONFIDANT OF HOOVER

Ultimately, Mr. Strauss became Mr. Hoover's assistant, confidant and close friend. It was through Mr. Hoover that he met Mortimer Schiff, a partner in Kuhn, Loeb & Co., the investment bankers. He joined the Wall Street concern in 1919 and spent about a quarter-century with it, accumulating vast wealth, impeccable respectability and a wardrobe that included a derby and a fur-collared overcoat.

Making at least $1-million a year as a Kuhn, Loeb partner, Mr. Strauss helped to market Kodachrome film for Eastman Kodak and the Polaroid camera for Edwin Land. Meantime, he maintained his interest in physics, becoming absorbed in cancer research. After his mother died of a malignancy in 1935, he helped finance a generator at the California Institute of Technology with the aim of producing radioactive isotopes for cancer therapy. He also sought out physicsts fleeing from Nazism and befriended them. From them and other sources he learned in 1939 that uranium had been fissioned in Germany.

In 1941, Mr. Strauss, who held a Reserve commission as a lieutenant commander in the Navy, joined the Navy Department's Bureau of Ordnance and helped to coordinate its inspection of weapons production. He was also co-opted by Secretary James V. Forrestal, a fellow Wall Street banker, as his special assistant, and he represented the Navy on the Interdepartmental Committee on Atomic Energy.

Mr. Strauss left the department after four years with the rank of rear admiral in the Reserve, an honorific of which he was exceedingly proud. Indeed, he liked afterward to be addressed as Admiral Strauss, which upset some regular officers who looked upon him as a civilian.

After a brief return to Kuhn, Loeb, Mr. Strauss was back in Washington as a member of the first Atomic Energy Commission, which was headed by David E. Lilienthal, the former chairman of the Tennessee Valley Authority. An admitted "black Republican" of pronounced conservative attitudes, Mr. Strauss got along well with President Truman and, initially, with members of Congress.

On the commission, Mr. Strauss was often at odds with the chairman. One issue had to do with monitoring atomic explosions outside the United States. Mr. Strauss ultimately persuaded the Pentagon to set up detection stations, which picked up the first Soviet atomic explosion in 1949, a few days before Moscow made its official announcement.

Another issue was the hydrogen bomb, on which Mr. Strauss was insistent. The decision to proceed with the project caused profound reverberations in the scientific community. Many agreed with Dr. Oppenheimer in his opposition while others backed Dr. Teller. Mr. Strauss saw the issue as a military one, and he appeared never to have regretted his stand. "The atom is amoral," he contended.

After leaving the commission in 1950, Mr. Strauss worked for the Rockefeller family as a financial adviser and indulged his interest in farming at Brandy Rock, a 1,500-acre spread near Culpeper, Va., where he bred cattle and raised corn.

Returning to the Atomic Energy Commission in 1953 for a five-year term as chairman, he earned a reputation for operating a tight ship. He also became embroiled in the so-called Dixon-Yates controversy, which involved a contract for privately financed electrical power to compensate the T.V.A. for electricity used for atomic purposes. The contract, canceled in the end, hurt Mr. Strauss politically—he supported it—and it contributed to the campaign against him when he was nominated as Commerce Secretary.

Surviving are his widow, the former Alice Henauer; a son, Lewis H. Strauss, and three grandchildren, Louis C., Jeremy and Jacqueline Strauss.

The funeral will be at 2 P.M. on Thursday in Temple Emanu El, Fifth Avenue at 65th Street. There will also be a memorial service at 3 P.M. on Friday in the Washington Hebrew Congregation, Washington.

[From the Washington Post, Jan. 22, 1974]

Lewis L. Strauss, Ex-AEC Chairman, Dies at Age 77

(By George C. Wilson)

Lewis Lichtenstein Strauss started out his adult life quietly enough—as a banker—but then found himself in public life embroiled in one controversy after another. The controversies included the Dixon-Yates power contract and his role in stripping famed nuclear scientist J. Robert Oppenheimer of his security clearance.

Born in Charleston, W. Va., on Jan. 31, 1896, Mr. Strauss (pronounced Straws) went to public schools in Richmond before beginning his long but often-interrupted government service in 1917 as secretary to Herbert Hoover, then head of the Belgian Relief Commission.

His banking career followed two years later when, at the age of 23, he joined the Wall Street firm of Kuhn, Loeb & Co.—eventually becoming a partner. He married another partner of that firm, the former Alice Hanauer, in 1923.

He returned to government in 1941 when he was activated as a naval reserve officer. His active-duty naval career, from February, 1941, to May, 1946, set him on a course of top-level federal jobs.

He rose to the rank of rear admiral in the successive jobs of assistant to the chiefs of the Naval Bureau of Ordnance; special assistant to the Secretary of the Navy and naval member of the Interdepartment Committee on Atomic Energy. He became a right-hand man to the late James V. Forrestal, Secretary of the Navy during World War II and later the nation's first Secretary of Defense.

President Truman in 1946 named Mr. Strauss as one of the first members of the Atomic Energy Commission when the then-secret art of nuclear explosives and energy was placed under civilian control. The seeds of controversy were sown in this appointment to the AEC.

Mr. Strauss, as an AEC member with the ear of the President, urged Mr. Truman to reject the advice of some scientists—included J. Robert Oppenheimer—and go ahead with the construction of the hydrogen bomb.

Mr. Strauss later said that he advised President Truman to take this course for fear that without the H-bomb the United States could not maintain its nuclear edge over the Soviet Union.

President Truman made his momentous decision to go ahead with the H-bomb in 1950. Mr. Strauss, upon learning the President's decision, resigned from the AEC because—as he wrote Mr. Truman—he felt he could safely return to private business. "The issue involving national security which are my primary concern are now resolved as I had hoped and recommended," he wrote.

In accepting the resignation, President Truman said, "Your counsels have been invaluable."

Before Mr. Strauss left the AEC for what turned out to be a short break in public service, there had been numerous reports of the raging controversy within the government over whether the H-bomb should be built. The objections included moral reservations about developing a weapon with such immense destructive power.

Not only was Mr. Strauss one of those pushing hard for speedy construction of the H-bomb, he also was at the forefront of the successful effort to monitor Soviet progress by developing detection device for nuclear blasts. He contended that the Soviets stole American nuclear secrets, enabling the Soviet Union to break the U.S. monopoly on the superweapon.

During his brief return to the business world, from 1950 to 1953, Mr. Strauss served as financial adviser to the Rockefeller family and as a director of Rockefeller Bros., Inc., and Rockefeller Center, Inc.

He returned to the atomic energy field on March 9, 1953, when he was named a special assistant to President Eisenhower on atomic energy matters. Mr. Eisenhower, on June 24, 1953, nominated him as chairman of the AEC keeping him as a personal atomic adviser as well.

In contrast to the conservative stance on sharing information he took in his first term on the AEC, including being the lone dissenter in a 4-to-1 vote to export isotopes (material made radioactive by exposure to atomic materials) to nations near Russia for commercial and possibly military use, Mr. Strauss was credited with shaping President Eisenhower's famous Atoms for Peace Program speech of Dec. 8, 1953, to the United Nations. That plan was to help other nations harness the atom for peaceful uses with the corollary hope it would shunt the emphasis away from military exploitation of nuclear energy.

Mr. Strauss, in his book "Men and Decisions," published in 1962, discussed the way he allayed Mr. Eisenhower's fears about aggressor nation hijacking uranium contributed to the U.N. Mr. Strauss proposed suspending uranium in a solution in tanks buried underground, "thus making a quick raid impossible."

Once nations became accustomed to contributing uranium to the U.N. bank—or as an aide put it: once "the first olive was out of the bottle"—Mr. Strauss and others working on the Atoms for Peace plan hoped the world demand would outstrip the supply until nuclear weapons would be cannibalized for peaceful purposes.

President Eisenhower never saw this dream come true. Mr. Strauss blamed "Soviet roadblocks" to stopping the International Atomic Energy Agency from realizing its full potential.

An ugly phase of Mr. Strauss, government service came in 1954—the Oppenheimer affair. Dr. J. Robert Oppenheimer was the nuclear scientist whom Mr. Strauss and others credited with making the paramount contribution to development of the atomic bomb.

But on June 12, 1954, Maj. Gen. K. D. Nichols, general manager of the Atomic Energy Commission and previously second-in-command of the manhattan atomic bomb development project, said on the basis of a personnel hearing that Oppenheimer's security clearance for government secret information "should not be reinstated."

Mr. Strauss, then chairman of the AEC, was one of the four on the commission who voted to strip Oppenheimer of his clearance—an action that is still abhorred by much of the American scientific community.

Dr. L. A. DuBridge, former science adviser to President Nixon, wrote the commission that Oppenheimer's value is "so enormous as to completely overbalance and override the relatively trivial risks which the Personnel Security Board reports. In other words, the net benefits to national security will be far greater if Dr. Oppenheimer's clearance is restored than if it is terminated."

Specifically, Nichols, on the basis of the personnel board's investigation, said that Oppenheimer "did not show enthusiastic support" for the President's decision to develop the H-bomb, "which might have been expected of the chief atomic adviser to the government . . ."

Oppenheimer's opposition was not based on "sinister motives," Nicols said. But the way the scientist portrayed his opposition raised "disturbing" questions about his veracity. Nichols cited what he considered other conflicting statements by Oppenheimer that Nichols said "raise a question" about "his character and veracity in general."

In defending his own vote to strip Oppenheimer of his security clearance, Mr. Strauss wrote in his 1962 book that Oppenheimer continued to have contact with Haakon Chevalier—an academic colleague of Oppenheimer whom Mr. Strauss said Oppenheimer "had informed on as being involved in an attempt to obtain secret information on the atomic weapon project for the Soviet espionage organization."

The personnel hearings on Oppenheimer, Mr. Strauss wrote, "also developed Dr. Oppenheimer's admission that he had fabricated a 'tissue of lies' to tell to American security officers . . ." Mr. Strauss said he concluded Oppenheimer's employment by the U.S. Government was not "clearly consistent with the interests of the national security . . ."

Critics of Mr. Strauss' role in the Oppenheimer case contended he went beyond his rightful role of weighing the evidence and participated in a campaign to "get" the scientist. Joseph and Stewart Alsop, in a Harper's magazine article in 1954 entitled, "We Accuse," accused Mr. Strauss of "venting the bitterness of old disputes through the security system" and of helping to instigate Oppenheimer's security problems.

Public attacks from a different direction were launched against Mr. Strauss for negotiating the Dixon-Yates power contract. The controversy centered around the proposal for a private utility combine to build a power plant near Memphis, Tenn., and to sell the electricity to the government. Edgar Dixon and Eugene A. Yates were the chief executives of the independent utility.

In response to charges that Dixon-Yates was a fix of some type, President Eisenhower ordered the papers surrounding the contract proposal released to the press.

The name of Adolph Wenzell, then a vice president of an investment firm called the First Boston Corp., was not mentioned in the public papers on the Dixon-Yates contract negotiations released by the Eisenhower administration.

Since Wenzell had been a consultant for the government's Budget Bureau as well as the utility companies trying to get the contract, his omission in the AEC's public release of Dixon-Yates proceedings prompted conflict-of-interest charges. The Dixon-Yates contract was signed on Nov. 11, 1954, amid controversy—only to be canceled on June 16, 1954, amid more controversy.

The new question was whether the Dixon-Yates combine should be paid cancellation costs. The AEC's general counsel concluded that such payment should be held up until it was determined whether Wenzell was indeed guilty of conflict of interest. The attorney's advice, Mr. Strauss wrote in his book, "made me unhappy, for I believed the parties had acted in complete good faith."

The Supreme Court, on Jan. 9, 1961, ruled that Wenzell had indeed been guilty of conflict of interest and therefore reversed the lower court's finding that the utility should be reimbursed. Mr. Strauss regarded part of that Supreme Court decision as his personal vindication:

". . . No one in the AEC" knew, until December, 1954, that "Wenzell, while serving as a consultant to the Budget Bureau, had been meeting with and supplying information to the sponsors regarding the project," the court said in part of its opinion cited by Strauss.

But the U.S. Senate saw Mr. Strauss' role differently. Sen. Wayne Morse (D.–Ore.), for example, said in 1959—after the Dixon-Yates contract had been canceled but before the Supreme Court ruling—that Mr. Strauss was "an enemy of the American people" for trying to "foist" the contract on the nation. Morse also assailed Mr. Strauss for his opposition to proposals to limit testing of nuclear weapons.

It was this type of opposition that prompted the Senate, on June 19, 1959, to reject on a 49-to-46 vote President Eisenhower's nomination of Mr. Strauss as Secretary of Commerce. The Washington Post, in an editorial printed Oct. 25, 1958, had criticized Mr. Strauss "penchant for deviousness and secrecy," but his competence as an administrator entitled him to the job of Secretary of Commerce.

In his book, Mr. Strauss explained the Senate's rejection this way:

"Several elements of opposition converged at the vote and augmented one another. Anti-Semitism was certainly the least of these, and negligible. But there was the punitive opposition by the advocates of government development of electric power; the animosity engendered by the Oppenheimer case; the personal animus of a senator; my strong belief in the paramount importance of maintaining the constitutional principle of the separation of powers and my defense of the executive branch in that regard; my unfortunate trait of stubbornness in refusing to conciliate by conceding error where error had not occurred; for following orders and honoring the oath of office, and opportunity for a numerically superior political opposition to strike a blow at a popular President . . ."

The newspaper clips about Lewis Lichtenstein Strauss thin out after the Senate debate of 1959. His book caused a flurry of attention, with the Aug. 5, 1962, review by Charles Poor of The New York Times opening with the line: "The stature of those who have opposed Lewis L. Strauss does not seem to have grown tremendously through the years . . ."

Mr. Strauss did break into the national news briefly in 1963 when he testified before Congress against the nuclear test ban treaty, calling it "a clay pigeon made to be breached." But otherwise the spotlight in the 1960s moved off Mr. Strauss and other Eisenhower Republicans. One bit of irony came in 1963 when Mr. Strauss sent Oppenheimer a congratulatory telegram for receiving the highest AEC honor, the $50,000 Fermi award.

In 1964, Mr. Strauss headed a space and atomic energy panel for GOP presidential candidate, Barry Goldwater, and was elected as the first chairman of the Eisenhower College in Seneca, N.Y., in 1965. Mr. Strauss popped into the news again in 1967 as his plan for setting up nuclear desalting plants in the Middle East for both Arabs and Jews was discussed. Otherwise, it was a comparatively quiet life on the Strauss Black Angus cattle farm in Brandy, Va.

Mr. Strauss' long list of trusteeships and other offices during his lifetime included that of president of the board of trustees of the Institute for Advanced Study at Princeton, N.J.

President Eisenhower personally presenting him the Medal of Freedom in July, 1958, was one of the admiral's most treasured moments. He also received more than 20 honorary degrees from colleges and universities in the United States and abroad.

Besides his wife, Mr. Strauss leaves a son, Lewis L. Jr. of Culpeper, Va.

ADDRESS ON JUVENILE JUSTICE BY THE HONORABLE TOM RAILSBACK BEFORE THE NATIONAL COUNCIL OF JEWISH WOMEN

Mr. PERCY. Mr. President, Congressman TOM RAILSBACK has consistently been one of the most knowledgeable and dedicated individuals in the Congress and in the Nation in the area of improving our juvenile justice system. He has made it his business to make sure that the public and its representatives in Congress are aware of the system that daily handles thousands upon thousands of the children of this Nation. Tragically, all too often the system is so brutal and ineffective that it turns these children into criminals by starting them on the road to crime.

A great deal needs to be done to reform the way we in the United States deal with our juvenile delinquents. The majority of them could be directed toward productive pursuits instead of crime if only the proper facilities and programs were available. Toward this end, Congressman RAILSBACK has introduced H.R. 45, which would establish the Institute for the Continuing Studies of Juvenile Justice. I have been pleased to sponsor this important piece of legislation in the Senate as S. 580. Though this legislation passed the House in the last Congress, it is still pending in the Senate. We are now working with the administration and many voluntary agencies toward enactment of legislation in this area.

This morning Congressman RAILSBACK addressed the National Council of Jewish Women and his remarks provide an excellent overview of the problems in the area of juvenile justice. Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

JUVENILE JUSTICE

(By Hon. TOM RAILSBACK)

I would like to thank you for the opportunity to be here this morning. Just last month I had the pleasure of meeting with the Chairman of your Task Force on Juvenile Justice, Mrs. Flora Rothman, to discuss the need for legislative action to improve our present juvenile justice system. I certainly want to commend your organization for your continuing interest in our young people.

Quite obviously, you are all aware of the large number of juveniles who run afoul of the law today and the inability of our current system to deal with them. I will not spend a great deal of time recounting statistics. Let me just say a word or two about a few trends which I find particularly discouraging.

First, more young women are now entering the criminal ranks. In 1972, arrests for young females under 18 rose more than twice as rapidly as arrests for males of the same age.

There is also an increasing frequency of senseless, violent crimes committed by young teenagers—up nearly 200% in the past decade.

Finally, young people continue to be responsible for a disproportionate percentage of crimes committed. While children between the ages of 10 and 17 constitute only ⅙ of our total population, they are responsible for 50% of all criminal arrests.

The real tragedy, however, is the recidivism of young offenders. As a member of the House Subcommittee on Prison Reform, I have visited several prisons. From what I have seen and heard, I am convinced that too often imprisonment only provides the opportunity for young people to become more hardened criminals. In fact 75% of first-time young offenders who go to prison will return within 5 years. Frankly, our entire juvenile justice system could be indicted on that fact alone!

One area which should receive the highest priority is specialized training for all those within the judicial system. Judges, parole officers, policemen, social workers—all must learn how to deal with young people who enter and leave the juvenile justice system and try to readjust to society. A bill I have introduced, H.R. 45, sets up an Institute for Juvenile Justice which would provide short-term courses on modern, proven effective methods of dealing with delinquent youths.

Probation officers especially are in need of help. The increasing concentration of young people in caseloads means far more work for these officers, because younger offenders tend to violate the conditions of their release more than others.

To provide money for additional probation officers, I offered an amendment to an appropriation bill last year to increase funding for the Bureau of Prisons. This has now been enacted into law.

Top priority must also be given to finding alternatives to prison, particularly in the case of juveniles who are often arrested for such noncriminal offenses as truancy, running away from home, and curfew violations.

Some of you may already be aware of the Brooklyn Plan which has been in use for a number of years. Under the plan, if the U.S. Attorney determines that the offender may be successfully rehabilitated without conviction, he may decline to prosecute for a certain period of time (usually about a year), and place the offender under the supervision of the Probation Service. So far, this pre-trial diversion program has been quite successful. About 95% of the juveniles in the program have responded successfully.

For my part, I have introduced legislation at the Federal level to provide statutory authority for pre-trial diversion. My bill is not revolutionary, but it is a small step toward increasing the incentive of selected offenders toward rehabilitation without losing the general deterrent effect of our criminal justice system.

Perhaps pre-trial diversion and better training are partially responsible for last Friday's announcement by the Department of Health, Education, and Welfare that for the first time in 11 years, the number of cases handled by the Nation's juvenile courts has declined. In 1972, juvenile courts processed an estimated 12,500 fewer cases than they did the previous year. Although the actual reduction in numbers of cases going through the juvenile courts was slight—amounting to about 1%—it does mark the first time since 1961 that delinquency cases in the courts have decreased. As encouraging as this report is, however, we really don't know why it happened, and we can't draw any sweeping conclusions. It is really just too early to know if the decrease marks a permanent downward trend that will be sustained.

This same report revealed that while court caseloads were down in both urban and rural areas, it was up in suburban jurisdictions. Further, the increase in the number of girls' delinquency cases was a disturbing sign.

The cost to society of young people who have run afoul of the law will amount to nearly one billion dollars this year. Yet economics alone cannot describe the tremendous waste of talent and ability. It is clear that our efforts—while encouraging—are still not enough.

Two major Federal agencies which are responsible for the treatment, prevention and control of delinquency are HEW's Youth Development and Delinquency Prevention Administration, and the Department of Justice's Law Enforcement Assistance Administration. HEW focuses on the prevention of delinquency, while rehabilitation and control are generally left up to the Justice Department. Unfortunately, neither agency seems fully committed to the problems of the young offender. To compound that problem, nearly 40 other agencies all direct programs relating to some form of juvenile delinquency prevention and control. And within these agencies a myriad of different offices direct different aspects of juvenile delinquency efforts. It seems to me that we desperately need one central location for all information and direction in the fight against juvenile crime. The Juvenile Justice bill I mentioned earlier would have as one of its main goals the coordination of the various agencies and programs dealing with juvenile delinquency.

On the Senate side, a bill introduced by Senator Birch Bayh, Chairman of the Senate Juvenile Delinquency Subcommittee, S. 821, also has as one of its goals the coordination of all federally assisted delinquency programs. In addition, it amends the Federal juvenile delinquency law to provide basic procedural rights for juveniles who come under Federal jurisdiction—rights which I am convinced are essential for juvenile justice.

Another bill I would like to mention which has already passed the Senate is the Runaway Youth Act.

When this problem was first examined by Congress in 1955, it was estimated that approximately 200,000 young people ran away from home. In 1972, one million had run away—with an alarming number in the 11–14 age bracket. Further, a majority of runaways are young girls. This may help explain the growth in female delinquency we have been witnessing in the past few years.

Because running away from home is a juvenile offense, it can have serious legal consequences for the youngster involved. Runaways under 18 years of age are subject to arrest, detention in jail, or even incarceration in a juvenile institution. And this happens to many of them. According to FBI reports, over 200,000 were arrested last year. Moreover, it is estimated that approximately one half of the 100,000 juveniles presently confined in our large correctional institutions are runaways, truants, or simply unwanted at home. These are not the children who can be helped by institutionalization. To the contrary, all too often institutionalization simply educates them in the ways of crime.

The Runaway Youth Act, S. 645, tackles the runaway problem by providing Federal assistance to local groups to establish temporary shelter care facilities, counseling services, and to conduct research on the nature and scope of the runaway problem. A House Subcommittee is now examining whether this is the best legislative approach to a very serious problem.

Last year, another bill passed the Senate which contained an amendment requiring States to allocate 20% of their LEAA funds to improve juvenile justice the first year and 30% each subsequent year. Currently, less than 20% of all LEAA crime funds are spent on juvenile delinquency—yet youth crime accounts for ½ of all criminal activities. This amendment would have ensured a more responsive effort towards the problems of our young people. Unfortunately, the amendment was eliminated by the Conference Committee, and the LEAA bill was signed into law without that important provision.

This defeat unfortunately all too well portrays the lack of a full commitment by the Congress in the area of juvenile justice. What we need now is a good legislative push—perhaps when the Juvenile Delinquency Act expires in June. With a concerted effort by all of us, I feel confident that we will witness effective legislation this Congress, and begin to solve the problem of juvenile crime—with its tragic waste of young lives and national squandering of resources.

Our juvenile offenders have the potential to become either tomorrow's law abiding citizens or tomorrow's costly liability caught in the revolving door of recidivism. It is up to all of us to see that our juvenile offenders take that first option—to become tomorrow's law abiding citizens. I look forward to continue working with all of you to accomplish our mutual goal.

And, thank you again for inviting me here today.

THE ENERGY EMERGENCY ACT

Mr. FANNIN. Mr. President, the Senate's action yesterday in rejecting the Emergency Energy Act should not be viewed as an end to our efforts to resolve the energy crisis. It should be a beginning. We have now cleared the decks of a bill which was thrown together under poor circumstances and with too little consideration of its far-reaching, detrimental consequences.

Today I would like to state publicly that which I told Chairman JACKSON privately yesterday evening. I am most anxious to work with him and other Members of this Senate to produce legislation which will resolve our energy crisis.

Congress should move forward as rapidly as possible in at least four areas:

First, we need a new emergency bill giving the President authority to require energy conservation. This bill should include provisions requiring oil companies to provide reasonable information needed in formulating national policy and in carrying out programs. Although I still am hopeful rationing will not be necessary, the bill also should provide standby authority for the President should rationing become unavoidable.

Second, we should work quickly, but very carefully on a windfall profits bill which would insure that excess revenues of the oil companies be invested in beneficial exploration and development. Our objective should be to encourage increased production of energy for our Nation, not to punish the oil companies.

Third, I hope the House of Representatives will approve the energy research and development bill which the Senate passed last session. The sooner we can undertake a massive effort to develop our own vast indigenous energy resources such as nuclear energy, oil shale, coal in solid, liquid, and gaseous forms geothermal and solar energy—the sooner we can free ourselves from increasingly costly foreign sources.

Fourth, let us not forget that the trillion cubic feet shortfall in natural gas supplies is a principal contributor to the Nation's current problem. On the basis of heat content, FPC-controlled natural gas prices are less than one-sixth the price of imported foreign oil. Thus, with replacement costs running higher than selling costs for domestically produced natural gas, there is little incentive to drill for new supplies. Only deregulation of wellhead prices can get gas production back on track. We need such legislation now.

GENOCIDE TREATY

Mr. GOLDWATER. Mr. President, relative to the recurrent debate about the so-called Genocide Convention, I would remind my colleagues that Webster's Dictionary concisely defines genocide as "the deliberate and systematic destruction of a racial, political, or cultural group." The commitment of the American people and Government against genocide, as so defined, is unsurpassed and unmatched around the globe. Our interventions in support of free peoples against totalitarianism in the two World Wars of this century and our leadership in the creation and recognition of the independent State of Israel clearly attest to the dedication we have against genocide.

But, Mr. President, the pending Genocide Convention departs from the popular meaning of that term. Rather than applying only to the destruction of a whole people, the proposed Convention defines genocide to mean "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group." By this language, Dean Clarence Manion, former head of the Notre Dame Law School, has stated it is not necessary for the accused to attack even one member of a group in order to be guilty of genocide.

Moreover, the Convention's definition of genocide is not restricted to the killing of members of a group, but includes "causing serious bodily or mental harm to members of the group." This means a person can be charged with genocide for mere words or personal habits which can be construed by someone else to cause "mental harm" to members of some race, religion, or other group.

Further, reading from the Convention itself, I note that genocide is defined to include "imposing measures intended to prevent births within the group." If perpetrated with an intent to annihilate an entire race or creed, certainly all humane persons would condemn such a practice. However, genocide is not precisely limited by the Convention, and is instead broadly and loosely defined. There is no assurance that simple birth control measures offered to relieve the burden of overpopulation or given as advice in the administration of an ongoing welfare program will not be treated as an instrument of genocide.

Another indication of the wide-open boundaries on defining the crime of genocide is the reach of the Genocide Convention to not only acts which result in genocide, but to conspiracies, "complicity"—whatever that means—attempts, and direct, and public incitement to commit genocide. If this does not cover the waterfront of just about any activity that someone wants to call genocide, it would be difficult to think of more sweeping language.

With this background as to the almost

limitless scope of actions which might be considered in some culture or in some circumstances to be punishable as genocide, another provision of the Convention takes on increased significance. For, under article IV of the Convention, persons shall be punished for genocide "whether they are constitutionally responsible rulers, public officials, or private individuals." Thus, the President of the United States or a Senator or Congressman who has voted the wrong way on some social program could be harassed with charges of committing genocide. The Genocide Convention would lay the elected leaders of the United States open to all kinds of charges arising out of their innocent actions. It would give a club to our enemies to beat us over the head with.

Once a person is accused of genocide, he may be tried wherever in the world the alleged act was committed or by whatever international penal court has been accepted by nations who are parties to the convention. Conceivably, this means that an official of the United States who may be visiting or serving in Japan could be tried at any time in the future for responsibility on the part of his government in dropping the two atomic bombs which killed several thousands of Japanese. Even if the legitimate Government of Japan would never think of bringing such an accusation, guerrilla groups supposedly acting to uphold the Convention, would be encouraged to establish mock trials, in which accusations of the commission of all sorts of crimes by the United States could be aired against us. A U.S. leader visiting India could theoretically be brought to trial there for complicity in genocide because U.S. aid moneys had been used to supply birth control services to some group in India in the past.

Or former American military personnel returning to Southeast Asia as tourists or on business may be apprehended and charged with genocide, because of their past participation in our struggle against communism in the area. It would be relatively simple under the Genocide Convention to place former American pilots on trial for trumped-up charges of intending to destroy part of a national or racial group. Somewhere down the road, should the present governments of South Africa or Rhodesia be replaced by native African rulers, Americans in those two countries could be charged under the Genocide Convention with complicity in genocide, because of U.S. recognition and past support of the white governments there.

In summary, the Genocide Convention is so open-ended, the full range of crimes with which innocent Americans could be charged and against which they would have to defend themselves defies listing. I must ask, Mr. President, is placing its signature on the Genocide Convention the only way in which the United States can reaffirm its true dedication against genocide? Do we not bear witness to our commitment to the survival and liberties of individuals by our everyday deeds? What country in the history of the world has ever uplifted the freedoms and economic status of its citizens to such heights as the United States? Where in the annals of history can one find any nation which has so unselfishly and without any designs of conquest or expansion given of its blood and resources with such dedication as the United States did by its participation in the fight against tyranny during World Wars I and II? What nation has ever compared with the generosity of the United States following the last world war when it embarked upon the Marshall plan to rebuild war-ravaged countries and the lives of impoverished peoples?

Far from being embarrassed at our rejection of this bady written document, which has very little to do with its title, the United States can stand as the leader of the world in the fight against genocide by virtue of our actual deeds in the 20th century. Our behavior in the world community and at home is all that could be asked to justify this country's claim to moral leadership among the free peoples of the world.

Mr. President, I oppose this treaty and will vote against it.

SANCTIONS AGAINST THE PRESIDENT

Mr. TOWER. Mr. President, at a time when shrill voices are heard clamoring for unprecedented congressional sanctions against the Presidency, it is important to hear both the substance and tone of statements from two groups of Americans representing the heartland, and the heart, of our Nation.

The American National Cattlemen's Association, representing thousands of independent, self-reliant families, recognizes the dangers inherent in any unsubstantiated campaign which entangles the normal processes of our Government. In their national convention on January 23, 1974, the cattlemen therefore adopted the following resolution, calling for an end to the divisive attacks on the Presidency which threaten our constitutional structure:

American National Cattlemen's Association, Resolution No. 34

Whereas, the American National Cattlemen's Association remains firmly in support of the U.S. Constitution that separates the powers of government among the Executive, Legislative and Judicial branches; and

Whereas, the Executive branch has come under severe attack which, if not quickly resolved may ultimately weaken and destroy the Constitutional separation of powers and permit views contrary to those supported by the cattle industry to be furthered; and

Whereas, these attacks may be preventing all branches of government from effectively performing the functions for which they were created;

Now, therefore be it resolved, that Congress be urged to immediately determine the merits of a constitutional proceeding to resolve the controversy surrounding the Presidency.

But the attack on the Presidency is more than a conflict between legislative and executive, it is an assault by proponents of a political philosophy soundly rejected by the American people at the ballot box. The American Farm Bureau Federation, representing over 2 million American families, has seen this assault for what it is, a threat to individual freedom and our representative form of government. The Farm Bureau Federation, whose members must daily stand on their own decisions and judgments, have called for an end to such destructive activities. At their January 17, national meeting, the Farm Bureau's House of Delegates unanimously adopted the following resolution:

Special Resolution Adopted Unanimously by the House of Delegates of the American Farm Bureau Federation, Atlantic City, N.J., January 17, 1974

The office of the President of the United States is under attack by groups and individuals whose philosophy and objectives are contrary to those of Farm Bureau members. Continued use of the "Watergate" issue by this group as a delaying tactic ultimately could destroy the effectiveness of the Presidency.

In the interest of individual freedom, we believe that our present representative form of government, as provided in our Constitution, must be preserved by the proper division of authority among the Legislative, Executive and Judicial branches of government.

We urge Congress, through its properly constituted committees, to make a decision on whether or not there is basis for continuing the impeachment process. Such a decision is long overdue. Any further delay creates a cloud as to the integrity of Congress itself. This is no time for "politics as usual." The citizens of this country expect their government to act promptly and responsibly on major issues confronting the nation.

We need to get an ear to the ground and listen to the grassroots of America— to the people. They are giving us a message, one which we must hear, and the message to Congress is to get off the President's back and to get on with the work of the Nation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

LEGAL SERVICES CORPORATIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the unfinished business, S. 2686, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Time for debate on the legal services bill, the Scott-Byrd amendment, and the cloture motion, all prior to the vote on the Scott-Byrd amendment, shall be equally divided and controlled by the majority and minority leaders or their designees.

Mr. EAGLETON. Mr. President, I intend to speak in opposition to the Scott-Byrd amendment. I will ask whoever has control of the time if I may be permitted some time to speak in opposition thereto.

The **PRESIDING OFFICER**. There is no one present representing the majority.

Mr. **EAGLETON**. Mr. President, I have been told by the grapevine that I am representing the majority insofar as this amendment is concerned.

The **PRESIDING OFFICER**. How much time does the Senator yield himself?

Mr. **JAVITS**. Mr. President, if the Senator will yield, I think I am the only one representing the management of the bill. I understood the Senator would handle the Scott-Byrd amendment and deal with it. I do hope that the Senator will recognize that this is the only time for debate on cloture, too, so that in controlling the time I hope he will accommodate Senators who wish to speak on that.

Mr. **EAGLETON**. Mr. President, my remarks will be brief and to the point.

First, I ask unanimous consent that Bob Harris and Andy Manatos have the privilege of the floor during the pendency of this matter.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **EAGLETON**. Mr. President, I rise in opposition to Senator Scott's amendment to transfer responsibility for Lorton Reformatory from the District of Columbia government to the U.S. Bureau of Prisons.

The transfer of Lorton is an idea whose time has passed. Several years ago there was a major problem there with the prison population far in excess of the rated capacity and the number of guards far less than that needed. However, all this has changed. The prisoner population is now down to the rated capacity; the number of guards at Lorton has virtually doubled in the past 3 years and the escape rate has dropped dramatically. In 1972 there were 39 perimeter escapes from the entire Lorton complex. In 1973 this figure was reduced to 13 or exactly one-third of those the previous year. And even in 1972, the last year for comparative figures, the escapes per thousand prisoner population were lower from Lorton than from either the Virginia or Maryland State prisons.

On December 24, 1973, the President of the United States signed the home rule bill and we gave the citizens of the District of Columbia powers over the operation of their courts, gave them power to tax, to pass ordinances, zone, and the normal routine powers that go with a city or a State. The District of Columbia is a curious composite of both city and State.

As we give with one hand, the measure of the Senator from Virginia would take away by saying that they cannot run their own penal system.

No one likes penitentiaries. No one likes incinerators. I take it that the good people of Virginia do not want prisons or incinerators in their backyard. We have many who hold the same feelings in Missouri with respect to penal institutions and incinerators.

The fact is that Lorton is where it is, and that any quasi-state containing 750,000 people has to have a penal institution. There it is in the home State of the Senator from Virginia. I am sure that the immediate residents of that area have written him and are concerned, upset, and dismayed. The Senator's amendment is in response to that concern and dismay.

It still has to be said that a governmental entity comprised of three-fourths of a million people must have a penal institution. And if it is to have true home rule, it must have jurisdiction over that penal institution, including the management, control, and parole practices in connection therewith.

The Senator from Virginia (Mr. William L. Scott) for years in the House introduced this penal legislation.

On June 14, 1973, I asked the Attorney General for his comments as to whether this institution should be transferred to the Bureau of Prisons, since that is under the Department of Justice. Late yesterday afternoon my office received a phone call from the Justice Department, finally answering my June request. Their answer:

> The Justice Department is opposed to the transfer of Lorton to the U.S. Bureau of Prisons.

Senator Scott's amendment was last before the Senate on July 10, 1973, and was defeated at that time. I see no reason to engage in an extended debate regarding this transfer, and believe that the reasons against such transfer may be summed up very simply.

First, the transfer of Lorton would not create better security for Lorton, rather it would close the prison down entirely since the U.S. Bureau of Prisons does not operate this type of mixed facility with prisoners ranging from minimum to maximum security on such a small scale. Therefore, the proposal is really not a transfer proposal at all, but an attempt to eliminate the only District of Columbia penal institution in existence.

Second, in line with both the theory of home rule and the theory of President Nixon's New Federalism, the Congress has attempted to delegate its authority to the local government rather than attempting to federalize the District.

Third, and perhaps most importantly, the District of Columbia government is doing as good a job as any government in controlling its prison population. As a matter of fact, as I noted earlier, the escape rate from Lorton, to which Senator Scott has referred, is lower than that of prisons in the State of Virginia.

Finally, the U.S. Department of Justice has informed me that they are opposed to the transfer of Lorton. Their reasons may best be summed up by an interview in the Corrections Digest of January 23, 1974, with Norman A. Carlson, Director of the U.S. Bureau of Prisons. Director Carlson, commenting on the transfer of Lorton Reformatory to the Bureau of Prisons, stated:

> I am unalterably opposed to Bureau control of Lorton. I believe that if the District of Columbia is going to be a self-ruling city then it should have responsibility for all facets of the society that live here. Just as the city controls its hospitals, schools and police, so should it control Lorton. The criminal justice system in this area should be handled on a continuum and not be fragmented out, as would be the case if the D.C. courts were under the city and Lorton fell under federal jurisdiction. And to be honest, given the resources and the situation the city has to work with, I don't know if the Bureau could do any better job with Lorton than is presently being done.

Mr. President, I ask unanimous consent that a letter and supporting materials which I have received from Mayor Walter Washington, together with an editorial which appeared in the Washington Post this morning, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

THE DISTRICT OF COLUMBIA,
Washington, D.C., January 29, 1974.

Hon. THOMAS F. EAGLETON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR: In accordance with your request, I am transmitting a package of information on the District of Columbia's operations at the Lorton Complex.

I am enclosing a statement of my views in opposition to proposals that would transfer control of that facility to the Federal Government.

Included in the package are the following documents:

A report made to me today by Delbert C. Jackson, Director of the Department of Corrections.

An excerpt from an interview this month with Norman A. Carlson, Director of the Federal Bureau of Prisons, reiterating his opposition to a transfer of the facility.

Other supporting materials.

Your interest and support in this matter is greatly appreciated.

Sincerely,

WALTER E. WASHINGTON,
Mayor-Commissioner.

STATEMENT OF MAYOR WALTER E. WASHINGTON, JANUARY 29, 1974

Once again, I feel it is of urgent importance to call attention to the direction and goals of our criminal justice system and the essential part the institutions at Lorton play in that system.

The Senate has been highly supportive of our efforts in the past, especially in helping us get the resources we need to get the job done. We look forward to continued support in the future.

Despite a dramatic population increase which placed a tremendous strain on Lorton facilities and programs in 1972, the population has decreased substantially and stabilized during 1973. The incidence of escapes and absconds which resulted from overcrowding and understaffing have dropped dramatically as the population has stabilized and staffing has increased. Further, we have taken decisive measures to control the conditions which result in these incidents.

Security equipment has been increased. The number of officers and other staff has been increased. Rehabilitative educational and vocational training programs and self-help groups to provide positive outlets for the men in Lorton institutions have been expanded. Administrative reorganization of the institutions is under way, and management training for key staff people is in progress.

Further, in response to current population projections, we have prepared a detailed plan to reorganize facilities which will vastly increase our capabilities for operating an efficient, secure and rehabilitative system. Under this plan, men will be separated by age, offense and rehabilitation needs into smaller, more secure institutions and major support services will be reorganized to serve all Lorton institutions.

The City has maintained in the past and continues to maintain that it is essential for the success of our criminal justice system that local control of the facilities of Lorton be maintained. We have found that the resources available in the local community and the coordination of the resources developed by the city government over the years have been key elements in supporting those under our supervision when they return to the community.

I am pleased to note that Norman A. Carlson, director of the Federal Bureau of Prisons, remains *unalterably* opposed to Bureau of Prisons control of Lorton. Earlier this year Mr. Carlson was quoted in a published interview as stating:

"I am unalterably opposed to Bureau control of Lorton. I believe that if the District of Columbia is going to be a self-ruling city then it should have responsibility for all facets of the society that live here. Just as the city controls its hospitals, schools and police, so should it control Lorton. The criminal justice system in this area should be handled on a continuum and not be fragmented out, as would be the case if the D.C. courts were under the city and Lorton fell under federal jurisdiction. And to be honest, given the resources and the situation the city has to work with, I don't know if the Bureau could do any better job with Lorton than is presently being done."

Although no correctional system—local, state or federal—can ever completely eliminate all incidents, we have developed and have successfully operated a system to keep these incidents at a minimum. At the same time, the evidences of successful rehabilitation of the men in Lorton institutions are substantial.

We place a higher percentage of those released from the correctional institutions in jobs than are employed in the total population. An increasing number of men released from these institutions are coming out with education and vocational skills they need to get a job—including some who have become college graduates. Corrections department residents increasingly are involved in self-help programs to provide mutual support to solve the problems which caused them to commit crimes in the first place. Increasing numbers also are being assisted by citizen groups, who help them during the transition from institutional to community living.

To remove the facilities at Lorton from the support which has been built up over the years in the local business and civic communities and to separate these facilities from the resources of other District government agencies would not only be a step backward administratively, but would also be contrary to the position taken by the Senate with regard to self-determination for the District.

We have looked in the past to the support of the U.S. Senate for the resources we need to help us make Lorton the kind of secure and rehabilitative complex we need. The Senate has been responsive in the past in providing these resources, and with these resources we are achieving our goals. We look for continued support for the job we are doing at Lorton.

D.C. Department of Corrections,
Washington, D.C., January 29, 1974.

Memorandum to: Honorable Walter E. Washington, Mayor-Commissioner, District of Columbia.
From: Delbert G. Jackson, Director.
Subject: Security at Lorton.

This report is submitted on security measures which have been effected to improve our administration of the institutions at the Lorton Reservation.

Over the past year, we have been involved in many efforts, both internal and in cooperation with other District and neighboring jurisdictional agencies, which have been geared to enhance the security of our institutions in Virginia. Specifically, in terms of personal security efforts, we are able to report that in cooperation with other District agencies we have sponsored a special effort aimed at the removal of debris from the reservation thereby reducing the incidence of contraband; we have installed new and improved dormitory lighting at the central facility, as well as new and improved lighting attached to the exteriors of the Central Facility; we have installed free standing lights at the quadrangle and its environs; new security doors have been added to the Central Facility; at Youth Center #1, we have replaced all room doors and locks to improve the personal security of the residents.

In addition, regarding institutional security, we have increased the number of shakedowns which are conducted unannounced and periodically; ingress areas to the reservation have been reduced to two, gates #1 and #6; every individual, whether a Department employee or outside visitor, is searched upon entry into the reservation; metal detectors have been installed, mobile patrols have been created to scan the periphery on a continuous basis from 4:00 p.m. to 8:00 a.m. daily; the number of security posts has been increased over the past year; we have installed new siren equipment and have plans for instituting further improvements in this area; based on our authorized complement, we have increased our staff of correctional officers and have added a new correctional training program to better prepare our men for the responsibilities of their jobs; we have issued identification cards to all inmates to aid in population control.

In a continuing effort to foster better communication and improve our relationships with other criminal justice agents in the area, we have undertaken several steps to enhance our institutional security maintenance capability. In this regard, we meet at least quarterly with surrounding police and fire department officials from Maryland, Virginia and the District. I have also been meeting with the Chairman of the Fairfax County Board, and the Chiefs of Fire and Police in an effort to improve direct liaison at the policy level. Through these efforts we have established several joint task forces to improve both police and fire measures. As a result, we now have improved procedures for escape alerts and fire warnings. In addition, the D. C. Department of Corrections notifies the FBI field office in Alexandria of escapes, assaults, rapes, or other cases prosecutable under the law as soon as Corrections officials are notified. Local police also aid in the apprehension of escapes.

The FBI and the Department have now established direct communication and liaison on all current cases. In this regard, recent articles in the local press charged that a "free wheeling drug ring" was operating in Lorton involving paid employees. Although the Department of Corrections and the Distict of Columbia can neither comment upon or review these charges until presented with specific facts, when and if substantiated facts are brought forth, the District and the Department will investigate the matter thoroughly in an effort to answer all of the questions. Appropriate sanctions will be enforced against any inmate or employee proven to be involved in drug trafficking.

Our plans for physical improvements at Lorton are also largely influenced by the desire to improve operations and create a more secure environment for staff, inmates and the public at large. The Department expects that approval and implementation of the Lorton Improvement Plan will improve internal and external security.

The present Complex will be reduced to a 400-person institution. This size reduction will enable physical improvements including the elimination of blind spots by new fence lines, improved perimeter and internal lighting, a road for perimeter patrols, and physical separation of support services as the laundry and industries. Opportunities for escape or the introduction of contraband will thereby be significantly limited. In addition, the size reduction will enable more efficient population control and management.

The new institutions architectural design will enhance security. The living units will form a formidable security perimeter and fences will surround any open areas. Each of the institutions will have all "wet" rooms, that is rooms with individual toilets and sinks and will be designed in clusters so that in times of disturbances, sections of the institutions can be separated and residents contained within their rooms.

In terms of previous problems in the security area, there were two factors contributing to institutional unrest in the Department's facilities in 1972: overcrowding was at its maximum, and the institutional staff contained a high proportion of inexperienced personnel.

Over-crowding is probably the single greatest factor in institutional disorder, as inmates experience frustration, and idleness. Even recreational facilities become overtaxed, and inmate cliques form. A large discontented population is difficult to control, but for a staff in which nearly one out of two officers has less than three years experience, the problem becomes more difficult. These problems will be largely alleviated as the population declines, and our training efforts take effect.

We recognize that the problems of adequate and effective security have many facets and we have been attempting to address as many of these areas as physically possible in order to achieve a model facility that will be the safest possible for all who come into contact with it, either through court action, employment, or geographic proximity.

Statistically, things are improving, although in areas such as these improvement can never be considered as a signal to slacken our efforts.

In 1972, there were a total of 34 perimeter escapes from the Central Facility. This occurred during a period of severe overcrowding at this facility. Since that time the resident population has been declining, the correctional force has been enlarged, and security procedures have been tightened. As a result, in 1973 only 2 perimeter escapes occurred at the Central Facility.

On the Reservation, which includes the Central Facility and the two Youth Centers, there were 39 perimeter escapes in 1972. This was reduced to 13 in 1973.

In addition, the total number of "walkaways" from the Minimum Security Facility decreased from 67 in Fiscal Year 1972 to 64 in 1973.

Assaults on personnel during 1972 and 1973 remained almost the same with only a few percentage points difference. Assaults by inmates on inmates have risen, but only slightly.

The following table reflects the escapes for Virginia, Maryland, D.C. and Federal Bureau of Prisons during FY 1972. This is the latest year for comparative data.

FISCAL YEAR 1972 ESCAPES

Jurisdictions	Escapees	Population	Escapes per thousand
Federal Bureau of Prisons	671	22,089	30.38
Virginia	250	6,029	41.46
Maryland	266	5,083	52.36
District of Columbia	144	3,581	40.20

Security measures are only as effective as those who eventually must implement them. It has therefore been our belief that not only must we improve our physical capabilities and reduce the opportunities for transgression, but we also must make every effort to involve our own personnel in a united effort. We have therefore undertaken to improve direct communication capabilities within the Department.

We are now in the final stages of improving the internal communications system of administrative issuances. Within the past several months many system improvements were made which guarantee that policy direction reaches the people who need it.

This will now provide us with a formal system for communciating policy and procedural orders of the Department, thereby enhancing the ability of every member of our operation to perform his job at the best possible level of effectiveness.

All of the above efforts have been initiated in our sincere belief that security, in the final analysis, is the foremost responsibility of this Department. Rehabilitation efforts are possible only in an environment that has first taken those steps necessary to protect those individuals associated with it, whatever that involvement may be.

[From the Corrections Digest, Jan. 23, 1974]

Excerpts From an Interview With Norman A. Carlson

(Excerpts from an interview with Norman A. Carlson, Director of the Bureau of Prisons of the Department of Justice. He was asked his position on the proposal to remove the Lorton Reformatory Complex from District of Columbia government operation in favor of placing it under the U.S. Bureau of Prisons. His answer follows:)

"I am unalterably opposed to Bureau control of Lorton. I believe that if the District of Columbia is going to be a self-ruling city then it should have responsibility for all facets of the society that live here. Just as the city controls its hospitals, schools and police, so should it control Lorton. The criminal justice system in this area should be handled on a continuum and not be fragmented out, as would be the case if the D.C. courts were under the city and Lorton fell under federal jurisdiction. And to be honest, given the resources and the situation the city has to work with, I don't know if the Bureau could do any better job with Lorton than is presently being done."

Correctional Budget Information

For the past five years the District of Columbia has placed priority on improving the resource availability for corrections and all criminal justice programs. Virtually every program area—corrections, courts, bail, legal services—has witnessed tremendous program expansion.

Operating budget

Fiscal year 1970 (1,530 positions)	$17, 850, 000
Fiscal year 1974 (2,090 positions)	30, 200, 000

Funding has been increased by more than 69% and positions by 37%.

Since FY 1970 the number of correctional officer positions has been increased from 850 to 1,150 in the Department. Now more than 800 correctional officer positions are assigned to Lorton.

It is estimated that about two thirds of the total departmental budget or $20,000,000 is directly related to activities at Lorton. For courts' and related agencies budgets amounted to $16,500,000 in FY 1970. The FY 1974 appropriation for those agencies amounts to $34,200,000.

Chart Caption

For much of recent history, Lorton has been impacted by severe overcrowding, causing many difficult operational problems. This population has tapered off and has now reached rated capacity, eliminating many of the problems attendant on overcrowding. Further relief will be provided when the program of construction and modernization now proposed is completed. The attached table shows the average monthly population at Lorton.

Chart not included in Record.

News Release

Mayor Walter E. Washington sent to the City Council today a proposal to modernize corrections facilities at the Lorton Correctional Complex to provide increased rehabilitation opportunities and improved security.

The proposal, which would include construction of three new facilities already authorized, is in the form of a request to reprogram $45 million for the modernization work.

The proposal by Mayor Washington would reduce the actual capacity of Lorton facilities by about 200. It also substantially reduces the number of spaces from the total projected in an earlier construction plan. The proposal is based on new population projections which reflect a leveling off of the number of offenders sent to correctional institutions.

Following City Council clearance, the request would go to the House and Senate appropriations subcommittees for their review and approval.

The $45 million to modernize the complex is part of an original $65 million authorization for Lorton construction. Mayor Washington proposed today that $10 million of the original total be used to complete the detention facility now being built to replace the D.C. Jail. The balance of funds authorized would be retained as a reserve.

In making the reprogramming request, the Mayor said:

"By acting favorably on these requests, the Council and the Congress will provide funds to go forward with projects already approved to modernize and strengthen detention facilities. Upon completition of these facilities, the D.C. Department of Corrections will for the first time in generations have available modern, decent and secure facilities, designed to support a rehabilitative program with a focus on education, training and counseling."

The plan calls for construction of three institutions for 200 residents each, reduction through modernization of the existing Central facility from some 900 to 400 spaces, elimination of one outdated facility for some 300 residents, and retention of three existing facilities for 400 or fewer residents each.

This would result in a net reduction of some 200 spaces, and all new spaces would be in complexes of 400 or fewer residents.

Residents with varying lengths of sentences, varying rehabilitation needs and in different age groups would be placed in units with others of similar sentence structures and needs, resulting in provision of more individualized attention for residents. Certain administrative and support services would be centralized to serve all institutions.

"The result of this construction would be that resident interaction is likely to become a positive and supportive rehabilitation element," the Mayor said. "In smaller institutions, security will be maintained more easily, and staff members will be able to provide more specialized and individualized attention.

"We believe these proposed facilities will be of significant help in enabling the Department to accomplish its mission."

Senator Scott's Assault on Lorton

Some years ago, a fearless band of congressional law-and-order men headed by former House District Committee Chairman John L. McMillan (D-S.C.)—and abetted by then-Rep. William L. Scott (R-Va.)—came up with a singularly ill-conceived plan to solve any and all problems at Lorton, the city's prison complex. In the sacred-sounding names of law, order and the "federal interest," this self appointed posse proposed that Lorton be turned over to federal control.

Fortunately, there were always enough thoughtful members of Congress around who recognized that this change would not work miracles for penal propriety, and each time the plan was dropped or defeated. But Mr. Scott, who is now a member of the Senate, is still peddling this counterproductive provision—this time in the form of an amendment to the Legal Services Corporation bill scheduled for Senate consideration today.

The idea, which has been opposed consistently by local as well as federal corrections officials, seems to be to stop "permissiveness" by turning overall the inmates to Uncle Sam's custody. As Mr. Scott once explained, in this way "militants would not need to be concentrated in one institutional complex." Instead, you could just distribute the bad actors around the country and forget about the struggling programs aimed at returning them to their community as productive members of society.

That may appeal to politicians who would rather rant about "discipline" than create a good, local correctional setup. But fragmentation of the correctional system would only aggravate the real problems that earnest local officials have been working to solve. Programs to deal with crime and rehabilitation—from improvement of the facility to better staff training and narcotics treatment and control—need local ties and supervision to be effective.

James V. Bennett, former director of the Federal Bureau of Prisons, opposed the Lorton transfer on these grounds, and the current director, Norman A. Carlson, has made his view clear in an interview published this month in Corrections Digest:

"I am unalterably opposed to Bureau control of Lorton. I believe that if the District of Columbia is going to be a self-ruling city then it should have responsibility for all facets of the society that live here: Just as the city controls its hospitals, schools and police, so should it control Lorton."

Not only should the criminal justice system be handled on a continuing basis, said Mr. Carlson, but "to be honest, given the resources and the situation the city has to work with, I don't know if the Bureau could do any better job with Lorton than is presently being done." To ignore these professional judgments in favor of an ill-considered plan to dump the whole problem on the federal government is senseless. Members of the Senate who have any faith in the city's ability—and responsibility—to cope with local matters should vote against the Lorton amendment.

The **PRESIDING OFFICER.** Who yields time?

Mr. **WILLIAM L. SCOTT.** Mr. President, I made a statement with regard to the amendment at the time the amendment was offered to the Senate. This is a matter that I believe the Senate has heard about many times. I believe it is a matter that the Senate is well informed on. I did insert in the Record miscellaneous clippings with regard to the hardships that were imposed on the State of Virginia by this penal institution.

You know, Mr. President, we refer to it as a reformatory. It is not a reformatory in any sense. It does not reform, and it is not for people who have been convicted of misdemeanors. We have convicted felons who are the primary makeup of this institution.

It is something that the board of supervisors of Fairfax County, where the facilities are located, have indicated that they would like to see moved to Federal control. The General Assembly of the State of Virginia has passed a resolution urging the transfer to Federal control.

The attorney general of Virginia has filed a law suit asking that the penal institutions be declared a public nuisance.

We have had murders committed on inmates by inmates and on guards by inmates.

This is something that does require the attention of the Senate.

I hope that we have a favorable vote on our amendment.

Mr. President, I am glad to yield to my colleague, the distinguished senior Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I join my junior colleague from Virginia in supporting the amendment.

It seems to me that the Congress of the United States should take cognizance of the very bad condition that exists in this facility which is located in the State of Virginia, although operated by the District of Columbia.

My colleague from Virginia has had printed in the RECORD the fact that during 1972 there were 137 instances of prisoner assaults, 50 inmate assaults on prison guards, and 51 assaults on inmates by inmates.

The District of Columbia has either been unwilling or unable to bring order out of chaos. If the District of Columbia Committee wants to oppose this amendment, I think that it has some obligation to demand that the government of the District of Columbia take steps to bring about conditions in that penal facility which will not only protect the inmates from assault upon the guards and upon one another, but will also protect the people in the neighborhood where the facility is situated.

I think that the two Senators from Virginia have recommended as fair an approach as possible to the Senate; namely, the transfer of this penal institution to the Justice Department.

Mr. WILLIAM L. SCOTT. Mr. President, I am delighted to yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the Senator for yielding to me so that I may speak in opposition generally to the Legal Services Corporation proposal, and not with respect to the amendment of the Senator from Virginia which I do support.

Mr. President, the Legal Services Corporation bill is being offered as the solution by one gesture to all the legal problems of the poor, the deprived, the minorities, the underprivileged and every other group in society which claims to have a grievance. Mind you, I am not saying real grievances do not exist. In fact, I favor steps to enable all citizens to have equal, fair access to the judicial system, but in pursuit of this goal, excesses can and do arise. Not only excesses in action, but errors in direction, or excesses in a certain course of action have occurred; examples are legion.

There is one course of action in particular which I view as contrary to much in America's tradition and, indeed, sharply out of keeping with the American character.

Mr. President, I have spoken in past days in opposition to the creation of the Legal Services Corporation. I wish to speak today with respect to one activity of the Legal Services activities now being carried on in the Department of the OEO.

Mr. WILLIAM L. SCOTT. Mr. President, might I inquire of the Senator from Alabama that perhaps, since we do have limited time, that he only take a few moments.

Mr. ALLEN. I am delighted to comply with that request.

Mr. President, I refer to the practice of involuntary busing of schoolchildren which has been much decried in these Halls for several years. Practically everyone is against forced busing, but especially those who have to deal with it in anything like a practical, everyday way. Parents who hazarded their life savings to buy a house in a neighborhood so their children would have access to better public schools understandably resent a system which consigns their children by bus to inferior schools.

What is more important and more directly my concern is the question of what causes school systems to start busing programs. Why do they suddenly determine that they are improperly balanced, and the only cure is large-scale busing? Well, school boards do not wake up one fine morning and embrace the idea—far from it. Most city and county school boards are compelled to adopt busing schemes, compelled by force of law. In many cases, the party who brings the suit, who starts the whole thing rolling, is one of our local friendly legal services lawyers. Also, in numerous cases, standing behind the nonlegal services attorney is the ammunition and armor of a legal services backup center, a research organ whose sole purpose is to fill him with recent case background, briefs, related information, outside help of every type imaginable, and so on, a backup center funded by the taxpayers.

A good example of a backup center is the Harvard Center on Law and Education. The Harvard Center has been instrumental all over the country in generating busing suits that in turn brought about busing programs. It strikes me as ironic, however, that their own city of Boston was singled out recently by the New York Times for an article in the Sunday magazine section to be examined microscopically and was declared a monumental failure in equal education.

Mr. President, the cost to the taxpayers of a Legal Services Corporation is not inconsequential. Legal Services has had specific allocation since 1966, when it was given $26 million. By 1974, the program had budgeted $71.5 million, well over a 100-percent increase. In 1966, about 1,000 lawyers were involved; at this time, estimates are around 2,200. That means, at a cost close to a hundred million dollars, more than 2,000 attorneys are on the loose without a care in the world, free to exercise their legal skills in whatever way they choose, without any supervision from the footers of the bills.

In Portland, Oreg., in 1970, OEO legal services filed a class action against the school board. At this time, that case, I believe, is in the court of appeals and has so far cost the city of Portland some $22,648. It has not cost the social reformers a thing—remember, from their perspective, it seems as if legal services is free. The checks keep coming from Washington, no matter what kind of work they do or what sort of services they provide or fail to provide. Of course, the people of the city of Portland sooner or later have to produce that $22,648, in one way or another. Under the bill we are considering today, any time a legal services office decides to sue a school board, city government, or other agency, they can make the proceedings as costly and as time consuming and difficult as they want. Win or lose, it is no money out of their pockets, but it is often a financial problem to the defendant and the taxpayer. It seems we have given legal services attorneys an effective way to harass public officials and clobber the taxpayer.

An excellent amendment introduced by Congresswoman EDITH GREEN was adopted by the House. It provided that the court would give court costs and attorney fees to the defendant if he won the case. The money would come out of the Legal Services office. I am sorry that provision was not included in the bill before us. If anything would have a restraining effect on trivial or plain harassment cases, given the unrestricted funding of all activities, this might be the thing to do it. As the situation stands, however, there is no disincentive to filing expensive, unpopular, unlikely law suits.

That, I contend, is precisely what the Harvard Center has done. They make no pretense of being objective or impartial in their ideas on equality in education and how to attain it. Their prejudice is very obvious. Their publication, entitled "Inequality in Education," shows very clearly the basic presumption: the focus is on the problems rather than on possible solutions. They assume that all school systems are guilty of inequality until proven innocent.

In March 1972, "Inequality in Education" ran a three-page article that must surely rank as a masterpiece of empty verbiage and use of politico-patriotic trigger words.

> Until we are sure that ending busing will not bring a return to segregated public schools; until we have those assurances, we must not unduly limit ourselves—and certainly not constitutionally.

Mr. President, this line of argument is wrenching the Constitution from its original spirit and intent, as are others who try to justify this busing monstrosity on constitutional grounds. The laws of the land are clear enough to prevent segregated schools, if those laws were given a chance to be invoked in objectivity and freedom from pressure and considered in the spirit of judicial disinterest on which the American system is based. However, tragically, this neutrality, this dispassion, has been destroyed by the vehemence and fervent ideology of young liberals and radicals in the corps of legal services lawyers.

They seem to believe that people can be forced to "care for one another" by being forced to associate with each other a few hours a day in classrooms. As if "caring for one another" were the most important thing in a free society—never mind respecting one another's rights.

Equality is not the only thing of value. Dignity and diversity are equally important, and perhaps more so. But the legal services fanatics are dedicated to their ideas and at the price of corrupting the judicial system. They have been given the free mechanisms for exercise of their schemes, they pursue their reforms at taxpayers expenses. The city governments and school boards elected by the people and responsible to the citizenry have no unlimited resources for defense of their position in the face of such assaults. But competition it is—competition in rhetoric, agitation, propaganda, citizen activism, legal twists and turns, threats of disorder if certain ends go unattained—that is not justice, that is countervailing pressures. Those are the tactics of populism, of street governance, of government by yelling.

Mr. President, this is a travesty of justice, and this is the predicament to which unrestricted legal services has brought us. Continuation of this pattern, for the unending foreseeable future, as provided by an independent Legal Services Corporation, with no restrictions or restraints whatsoever on activities legal or extra-legal by well-financed, well-provided-for, young lawyers bodes ill for our country and our society, and promises further disruption and distortion. Thus, I oppose unconditionally S. 2686, and will continue to do so as long as it remains the uncontrollable hydra it presently is. There has to be a better way to deliver legal services to the truly needy.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I may yield the remainder of my time to the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we are about to vote immediately after a vote on this amendment on cloture with respect to the Legal Services bill.

The Legal Services bill, along the basic outline of those which passed the Senate on two previous occasions, was worked out painstakingly with the administration. The administration stated its position on the bill through Counsellor to the President former Representative and former Secretary of Defense, Mr. Laird.

There would hardly be any point at this stage of the debate and in the few minutes we have remaining to argue the merits of the bill. However, I think a few things have to be emphasized.

First, the House, the Senate, and the President have agreed that there should be an independent national Legal Services Corporation. To delay a vote on this question under those circumstances is merely to delay something which by general consensus has now been accepted as the way in which to carry on the program and the benefits to be derived from the program. It is a desirable program because of all the things that we have developed respecting the sense of dignity of the poor in this country. The sense of dignity of the poor at this time in the Legal Services Corporation seems to be at the top of the priorities.

It must be understood that, notwithstanding a cloture vote which does nothing but enable us to go ahead with our consideration of the bill, every one of the amendments—and there are, I believe, in excess of one hundred—perhaps 150 of them by now—will be voted on either up or down, and by a rollcall vote if the proponents desire it. A cloture motion does not prevent votes on amendments or on amendments to amendments provided they are on file before a favorable vote on the cloture motion is taken. The Senate will vote them either up or down by a majority.

In short, I emphasize the fact that this vote only enables us to get on to the business of passing a policy that is acceptable to the White House and that has been accepted twice by the Senate, and in principle by the House.

I deeply believe that, as always happens, this is a test as to whether this Government is run by 33 Members of the Senate, which the Constitution never dreamed of, or whether it is run under the Constitution, by the President and by a majority of each House.

It has always been said on the part of the filibusterers that we should not worry about it, that if we really want to get on with the business of getting a good bill, we can get it.

Let me see whether that is so or not. Will we get it or will the whole process be frustrated for reasons that have nothing to do with the merits of the proposed legislation or an ability to change the legislation?

Mr. MONDALE. Does the Senator from New York agree that the bill here before us now has probably been more thoroughly analyzed and more thoroughly heard, and is the result of a longer period of intensive negotiation between both sides of the aisle, and between Congress and the Executive, than perhaps any other matter we will have before us this year?

Mr. JAVITS. There is no question about that. And not only, as I say, is that the case, but let us look at the commitment of the White House and its limitations. What they have said—in the letter of October 4 written by Melvin Laird, counsellor to the President, addressed to Senator NELSON—is:

> Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

In the same letter, they also say:

> While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

The White House was absolute as they made this arrangement with me. I speak with the greatest personal knowledge. The White House reserved its right to use whatever influence it has in the Congress, and it is well known that they favor some elements of the House bill. But that is all right with us; we can fight that. We say, "Now, let us get on with the business of considering amendments to the bill and getting it out of the Senate, and then we will take our chances—and fight—in conference."

There is nothing locked in about the bill. However, we believe that the great majority of us are in essential agreement, and wish to implement a pretty well agreed upon effort.

Mr. MONDALE. Will the Senator yield further?

Mr. JAVITS. I yield.

Mr. MONDALE. One of the things that perplexes me about the opposition to this bill is that what we are seeking to establish and maintain here is, it seems to me, elementary justice. All that we seek to assure by this measure is that the poor—those unable to afford the opportunity to have a lawyer represent them in legal proceedings—should have the right to do so in the courts and the tribunals of the land. We do so in the face of a clear record that, absent such a program, the right to certain constitutional rights is a mockery for millions of Americans who cannot afford to be represented before the courts of our land.

Would the Senator from New York (Mr. JAVITS) not agree that what we are seeking to establish here is nothing less than elementary justice for a position of America?

Mr. JAVITS. There is no question about that, Mr. President. And in addition to the constitutional rights of the indigent, which have often been denied before, there is the additional fact that this is the one program that is relatively economical in money, that represents for its size an enormous bulk in terms of the rehabilitation of the poor, who feel justifiably that they, too, have the dignity and standing to have their rights protected in America, and to have a lawyer.

Mr. MONDALE. Will the Senator yield further?

Mr. JAVITS. The Senator from Arizona wanted me to yield for a question.

Mr. GOLDWATER. Mr. President, have there ever been hearings held on this bill?

Mr. JAVITS. Oh, yes, many days.

Mr. GOLDWATER. In this Congress?

Mr. JAVITS. We turned the matter out in the last Congress.

Mr. GOLDWATER. The reason I ask is that, while I shall vote against this bill, I do not like to do so. I like the purpose and intent of the bill. But as I have stated previously on this floor, there is evidence that it is used for political purposes. Their people in Arizona deny that, those who make the charges and make the pretense of appearing before the committee.

I think, frankly, the basic idea is good, but I do not like to see the Federal Government in my State, for example, spending three times as much money in one area of the State as we spend through the Attorney General's office in the whole State.

Mr. JAVITS. In the first place, the bill is very tough on political activities. But beyond that, why are we having a corporation? Previously because of what the Senator says, to insure and institutionalize the continuing conduct of the program as a responsible program.

Mr. KENNEDY. Mr. President, I firmly oppose amendment No. 837 to the Legal Services Corporation bill. The Senator from Virginia introduced this measure because he insists that under Federal control, the District of Columbia correctional facility at Lorton, Va., would be administered more easily and efficiently. I am certain that if substantial evidence existed to indicate that such a transfer would eliminate or greatly reduce the problems described by the Senator, then clearly the Federal Government, the government of the District of Columbia, and the Congress, would have seen fit to make such a transfer long ago. But all who fully understand the problems at Lorton agree that there is no more justification for transferring that facility to Federal control than there is for transferring the Virginia State penal system to the U.S. Department of Justice.

Instead, there must be a committed determination to provide the resources and the cooperative assistance of local agencies to insure the proper management of that facility if it is to serve the National Capital community. Public concern about security at Lorton reaches a peak when reports of spectacular escapes are announced. And certainly for those of us who live in Fairfax County, such reports may seem alarming. Indeed, they are no less alarming than reports of escapes from the Virginia State penitentiary in Richmond or from any other State prison complex around this country. However, penal officials have advised me that the escape rate from the Virginia State complex compares with that at the maximum security facility in the D.C. Corrections Department at Lorton. The reason for that is simple. Maximum security facilities are arranged to house offenders in separate rooms. Each person is placed in a cell with personal sleeping and toilet facilities. Such offenders are able to realize a modicum of privacy. It is also easier for prison officials to maintain adequate security with such an arrangement. But a large part of the Lorton complex is significantly different. At Lorton, more than 1,000 offenders are housed in 24 dormitories designed to hold 850 people. The overcrowding and lack of privacy create enormous problems that certainly do not lend themselves to effective control.

Instead of seeking to shift this vital municipal responsibility to the Federal Government we should concentrate on ways to improve the ability of the District government to manage the system that serves its citizens.

Somehow those who support the transfer seem to feel that the resources of the Federal Government can be brought to bear upon the problems at Lorton to impose stronger controls. If that is the case, if money and other resources from the Federal Establishment promise to solve the problems at Lorton, then we should give the District of Columbia government adequate funds to meet that problem.

Beyond the question of funding, at least four fundamental reasons clearly demonstrate why the complex at Lorton should remain under control of the District of Columbia.

First, home rule means the District should control its own service facilities. Last year the Congress enacted a landmark piece of legislation to begin implementing home rule for the District of Columbia. Any meaningful followup to that legislation can only be that which enables the city government to effectively perform its duties. Home rule means that the District of Columbia manages and administers the services required to meet the needs of its people. That goal can be accomplished only by providing the city managers with the necessary tools.

Second, a unified criminal justice system is the most direct way to deal with the problems of offenders.

I share the view of Norman Carlson, Director of the U.S. Bureau of Prisons, who insists that such a transfer would be unwise and inappropriate. Prison experts are convinced that a transfer to Federal control would simply fragment the criminal justice system in the District of Columbia.

There is simply no evidence to indicate that the U.S. Bureau of Prisons could perform the task at Lorton any better than officials in the city of Washington.

Indeed, the serious overcrowding in the Federal prison system has strained Federal penal facilities to strive to accommodate the 3,700 inmates who exceed the rated capacity of existing Federal penal facilities.

Third, any attempt to achieve rehabilitation of offenders can be best accomplished through family contacts with maximum possible access to the offender's home.

Proponents of the transfer to Federal control suggest that a dispersal of Lorton inmates throughout the Federal penal system would substantially relieve the overcrowdedness at the Virginia complex. But Federal officials, who are already charged with the care of some District of Columbia offenders in Federal penitentiaries know that inmates who are moved away from home become more unmanageable than those who can maintain family contacts. Separation from families breeds discontent and frustrations that Federal officials know only too well. Removal to faraway locations effectively reduces any chance to achieve rehabilitation through family contacts.

Fourth—mutual assistance from Virginia and the District of Columbia authorities can best insure security inside the complex, and for the home and business neighbors of the Lorton facility. Because geographic boundaries strictly limit the District of Columbia in its effort to provide expanded services, the property in Lorton, Va., is unique. Yet, District officials have worked cooperatively with Fairfax County administrators to assist with the responsibilites of managing that correctional complex.

Mrs. Jean Packard, chairwoman of the Fairfax County Board of Supervisors, says that a transfer to Federal control simply will not solve the problem.

Mrs. Packard has urged the board of supervisors and the Virginia State Legislature to support a demand for adequate and immediate support to increase the capabilities of the District of Columbia Department of Corrections. In her view, the District of Columbia deserves to be provided with the proper tools and continued cooperation from Fairfax County officials to insure that the existing system will work.

These reasons substantially support the demand to provide the District of Columbia government with adequate assistance to operate Lorton. Attempts to transfer control to the Federal Government completely avoid the issue of providing satisfactory attention to the problems of maintaining a penal institution.

Mr. President, last July, 44 Senators opposed the attempt by the Senator from Virginia to transfer the facility at Lorton to Federal control. We rejected the transfer at that time and there is every reason to reject it at this time.

I urge the Senate to oppose the amendment offered by the Senator from Virginia to transfer this important District of Columbia institution to control of the U.S. Department of Justice.

Mr. WILLIAM L. SCOTT. Mr. President, we are almost at the point of voting on the amendment that I have proposed to transfer the Lorton penal institution from the control of the District of Columbia government to the Attorney General.

Let me add, for the information of some of my colleagues who are friends of labor, that the then president of the American Federation of Government Employees, John Griner, when this matter was before the House of Representatives, did appear and testify in favor of the proposal to transfer this facility. I feel this is something they might be interested in knowing.

I would also like to call the attention of my colleagues to a letter that is on each Senator's desk, a letter from me to my colleagues, providing some information in support of the amendment. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., January 28, 1974.

DEAR COLLEAGUE: As you may know, I recently offered as an amendment (No. 887) to the Legal Services Corporation Bill (S. 2686), a proposal to transfer the Lorton, Virginia Penal Facility from the control of the District of Columbia to the jurisdiction of the Attorney General.

This proposal is not new to the Congress. In fact, it was passed by the House during the 91st Congress but the Senate at that time failed to include it in the bill as finally agreed upon.

The conditions that existed at Lorton at that time continue to exist today and the situation grows worse by the day, as the number of murders, robberies and jail breaks increase. During 1972 the record discloses 137 instances of prisoner escapes, 50 inmate assaults of inmates upon inmates. During the past year there have been six murders committed at the facility, including the murder of a corrections officer.

The Virginia General Assembly and the Fairfax Board of Supervisors have called for the transfer of Lorton to federal control but still no action has been taken by Congress to relieve this complex and continuing problem.

Enclosed is a copy of my amendment. I hope you will see fit to support this proposal when it comes up for a vote, and if you are interested in co-sponsoring it, please let me know or have a member of your staff contact Pat Carty on extension 52026.

Sincerely

WILLIAM L. SCOTT,
U.S. Senate.

Mr. WILLIAM L. SCOTT. Mr. President, this is a festering sore within Virginia. The State of Virginia has no control over a penal institution within its boundaries. I just wonder how any Senator would feel about a similar facility being in his own State, and not having any control whatsoever over it.

I urge that the amendment be adopted, and unless someone desires time, I am prepared to yield back the remainder of my time.

Mr. NELSON. Has all remaining time been yielded back?

The PRESIDING OFFICER. There are 3 minutes remaining before the vote. Who yields time?

Mr. WILLIAM L. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAM L. SCOTT. I have just been handed a note saying that the yeas and nays have not been ordered. It is my recollection that there was unanimous consent for the yeas and nays when the majority leader was here on the floor. If not, or if there is any doubt, at this time I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I call attention to the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MONDALE. Mr. President, I am standing in for the Senator from Wisconsin (Mr. NELSON), and I object.

The PRESIDING OFFICER (Mr. CLARK). Objection is heard. The Clerk will continue to call the roll.

The second assistant legislative clerk continued to call the roll.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Under unanimous consent were we not to vote at 2 p.m. today?

The PRESIDING OFFICER. The Senate is in a quorum call and debate is not in order.

Mr. GOLDWATER. I am not talking about debate. I am asking a question.

The PRESIDING OFFICER. A quorum call is in order even though the hour has been set for a vote at 2 o'clock.

The clerk will continue the call of the roll.

The second assistant legislative clerk continued to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GOLDWATER. Mr. President, I object—I object.

The PRESIDING OFFICER (Mr. BARTLETT). Objection is heard. The clerk will continue to call the roll.

The second assistant legislative clerk continued to call the roll, and the following Senators answered to their names:

[No. 15 Leg.]

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. I ask for the regular order, Mr. President. A quorum call is not in order. A quorum call has just been completed.

Mr. GOLDWATER. I think a quorum call is in order.

Mr. ROBERT C. BYRD. A quorum call is not in order.

The PRESIDING OFFICER. Inasmuch as business has not transpired since the last quorum call, another quorum call is not in order.

The question is on agreeing to the amendments of the Senator from Virginia (Mr. WILLIAM L. SCOTT). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is necessarily absent.

The result was announced—yeas 38, nays 59, as follows:

[No. 16 Leg.]

YEAS—38

Aiken
Allen
Baker
Bellmon
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Long
McClellan
McClure
Montoya
Nunn
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Talmadge
Thurmond
Tower
Young

NAYS—59

Abourezk
Bartlett
Bayh
Beall
Bennett
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cook
Cranston
Dole
Domenici
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—3

Buckley
Gravel
Hartke

So Mr. WILLIAM L. SCOTT's amendments were rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, there has been some discussion on the floor about the shortcomings of the present legal services program of OEO. The proponents of the Legal Services Corporation bill argue that under their bill the shortcomings would be cured. It is my opinion that the shortcomings are inherent in the structure of the staff attorney system that would be perpetuated in the present bill.

This is borne out if we examine some of the shortcomings involved. And I do not intend to discuss mere hearsay or biased newspaper articles. I intend to make available for the record some of the inspection reports filed by civil servants at the Office of Economic Opportunity itself. If anything, the inspections are slanted to give Legal Services personnel the benefit of the doubt.

The findings, while unofficial and incomplete, do nonetheless shed some light on the reasons why so many Americans are supporting the drive to reform Legal Services abuses. They indicate how widespread the abuse is, and how easily it comes about. We are constantly told that such examples are the exception, that they are minor in the overall context of the program. But the way in which they are described by inspectors of the OEO itself leaves little doubt that the structure of the program itself is the major abuse, and that it can only be wiped out by statutory reform.

These are Government documents which have been hitherto undisclosed. I realize that there may be some criticism for disclosing them. But we have here no real secrets essential to our national security or defense. We have, on the face of it, only the desire of some bureaucrats to cover up the abuses in OEO.

I am also sure that the enthusiastic supporters of OEO will welcome their publication. Indeed, it is an article of faith among Legal Services attorneys that the public should have complete access to the workings of bureaucracy and of bureaucratically funded programs. I have learned, in fact, that the official monthly publication of the Legal Services program, Clearinghouse Review, ran a 15-page cover article urging citizens to take full advantage of the Freedom of Information Act, which says, and I quote:

> The public is now keenly aware that there are literally tons of government documents which hundreds of government agencies currently consider beyond their reach . . . the fruit, in a manner of speaking, is ripe for the picking.

The article continues:

> This article and the Freedom of Information Act are both slanted toward the view that all government records should presumptively be disclosed. Poverty lawyers and their client groups—welfare rights, tenant and consumer organizations—have always taken the position that where a benefit exists, it should be utilized, and that where a benefit might be obtained through political action or litigation, the benefit should be pursued.

It is not my purpose to endorse this article or any of its presumptions. I merely cite it to indicate that the publication of inspection reports on the Legal Services program ought to be eagerly awaited by those who are enthusiastic supporters of the program.

Mr. President, I ask unanimous consent that the article from Clearinghouse Review be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, I have five of the inspection reports prepared within the OEO itself, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks. They are as follows:

First. "Legal Aid Society of Alameda County/Union City, Calif."—This report discloses that the Legal Services project office was used as an official voter registration site in violation of the Economic Opportunity Act.

Second. "Monterey Legal Aid Society/Seaside, Calif."—This January 1972 report relates to the involvement of a Legal Services employee on behalf of the Movement for a Democratic Military and the Pacific Counseling Service "which counsels military people concerning their rights as conscientious objectors." Such activity is justified on grounds that it occurred during the attorney's "free time" as an ACLU attorney, offers the report. But, for professionals, who decides what is "free time" when they are supposed to be full-time employees of a Government-subsidized Legal Services program?

Third. "Legal Services Aids South Dakota Indian Radicals."—This March 1973 report reviews the role of Gary Thomas, a Legal Services attorney, in representing an American Indian Movement leader involved in rioting.

Fourth. "Native American Rights Fund at Wounded Knee."—This OEO report and newsclipping discuss the presence of this organization at Wounded Knee and a class action suit which NARF—Native American Rights Foundation—brought against law enforcement officials in Scottsbluff, Nebr.

Fifth. "1971 Inspection of San Mateo Legal Aid Program."—This report describes questionable activities by a former Legal Services project director.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2).

EXHIBIT 1

[From Clearinghouse Review, May 1972]

KNOWLEDGE IS POWER: POVERTY LAW AND THE FREEDOM OF INFORMATION ACT

(By Stephen R. Elias and Trudy Rucker, Staff Attorneys, Center on Social Welfare Policy and Law)

INTRODUCTION

Information—public versus classified—has recently aroused widespread interest and controversy, particularly since the Pentagon papers case. The public is now keenly aware that there are literally tons of government documents withheld from the public domain in the secret preserve of government officials. Although the act of divulging such "secret" documents has become heroic, since the Freedom of Information Act[1] was passed in 1967 any member of the American public has been entitled to inspect millions of documents which hundreds of government agencies currently consider beyond their reach. It is conceded that the precise records obtained by Daniel Ellsberg might not be obtainable under the Freedom of Information Act.[2] However, vast amounts of records of the same public importance are obtainable under the Act, and the fruit, in a manner of speaking, is ripe for the picking.

This article and the Freedom of Information Act are both slanted toward the view that all government records should presumptively be disclosed. Poverty lawyers and their client groups—welfare rights, tenant and consumer organizations—have always taken the position that where a benefit exists it should be utilized, and that where a benefit might be obtained through political action or litigation, that benefit should be pursued. In the case of the Freedom of Information Act, there is a large volume of information which if made public or available to the poor would help them obtain their rights. Legal Services lawyers should seek this information aggressively.

This article is concerned with the uses of the Federal Freedom of Information Act[3] and the problems likely to be encountered therewith. The Act identifies the type of material to be made available to the public, and the manner in which it must be made available. This includes information which must be printed in the Federal Register,[4] information which the agency is required to index and keep available for public inspection (such as final opinions and statements of policy interpretations which have been adopted by the agency and are not published in the Federal Register), and administrative staff manuals and instructions to staff which affect a member of the public.[5] Finally, the Act requires all other identifiable records to be disclosed upon request except as specifically exempted.[6] The Act also provides for judicial review of an agency's failure to make the requested information public; it lists the types of records exempted from the Act's coverage (nine such exemptions in all);[7] and it provides that no records shall be withheld except as specifically provided in the second part of the Act.[8]

This article will not discuss the Federal Register requirement. Further, although at times it will discuss the types of information which must be indexed and kept available in libraries, it will not examine all possible problems in the area in detail.[9] (This subject is appropriate for additional extensive investigation and analysis.) The primary thrust of this article, therefore, is a discussion of the Act as it relates to records which are likely to be of help to poverty lawyers.

THE ACT AND ITS HISTORY

Until the Freedom of Information Act was passed in 1967, a citizen's right of access to public documents was largely in the realm of common law equitable principles. While a public disclosure section of the Administrative Procedure Act (APA) had been in force since 1946,[10] the Senate Judiciary Committee concluded that this older statute usually served the purpose of non-disclosure. This statute largely depended on traditional common law concepts. For example, a person had to have a proper and legitimate interest in the document, and the agency in possession of the document was entitled to withhold the document if, in the agency's judgment, the release of the document would be contrary to the public interest. Judicial review, to the extent it existed, consisted of an equitable balancing of interests between the parties—the needs of the plaintiff as opposed to the needs of the agency and the possible harm to the public interest. Recognizing that in practice this "equitable" system favored the agency over the citizen, Congress spent 12 years formulating the present Freedom of Information Act.[11]

In general terms, the Freedom of Information Act eliminated the prior requirement that parties requesting the records have a direct and proper interest in them.[12] All identifiable records (as covered by the Act) must now be made available for inspection and copying upon request unless specifically exempted by the Act. The Act specifies nine exceptions (discussed below) and then states: "This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section." [13] The Senate report section pertaining to this statutory section reads:

"The purpose of this subsection is to make it clear beyond doubt that all materials of the Government are to be made available to the public by publication or otherwise unless explicitly allowed to be kept secret by one of the exemptions in subsection (e)." [14]

Despite clear congressional intent that the specifically enumerated exemptions be the sole determinants as to whether records may be withheld, a threshold debate arises concerning whether Congress intended to strip the district court of its equitable powers. One commentator argues that a court may balance the equities among the parties and refuse to order disclosure of records not exempted by the Act if it finds that the harm to the public interest would be greater than the plaintiff's need for the record.[15] Most of the cases, however, have concluded that Congress intended to do its own balancing, and that the court's sole responsibility is to examine the exemptions (interpreting them in favor of disclosure) to see if a record has been properly withheld. The debate is most clearly presented in *Soucie v. David*,[16] where the majority held that the Act stripped the courts of their equitable jurisdiction (based on the legislative history indicating Congress' intent to do its own balancing)[17] and on the clear wording of § 552 (c) quoted above. Judge Wilkes, while concurring, argued that the courts retain their equitable power and may, if they choose, uphold an agency's decision to withhold records even though such records are not within one of the specific exemptions.[18] Concerning congressional intent, the more recent case of *Wellford v. Hardin* has noted: "It is not the province of the Courts to restrict that legislative judgment under the guise of judicially

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Footnotes at end of article.

balancing the same interests that Congress has considered."[19] *Getman v. NLRB*[20] has fully concurred with the conclusions of the *Soucie* and *Wellford* courts. It would seem, therefore, that despite dicta to the contrary[21] the weight of authority clearly requires a strict reading of the Act. There is no doubt that the burden of justification rests heavily on the agency withholding the record after a proper request.[22]

The Act is accompanied by a House[23] and Senate[24] report comprising 95% of the relevant legislative history[25] and by a contemporaneous Attorney General's memorandum[26] (hereafter called A.G. memorandum) which purports to be an impartial analysis of the Act in light of the relevant legislative history. The A.G. memorandum is naturally biased in favor of the agencies, and in light of the fact that the agencies were virtually unanimous in opposing the statute, the memorandum constitutes a highly partisan statement against full implementation of the Act.[27] However, at least one court case has reminded us that the Attorney General is not charged with administering the Freedom of Information Act, and therefore the memorandum is not to be accorded the force and effect of law.[28] Furthermore, only the Senate report accompanied the bill through both houses, and this report is true to the actual language of the Act, whereas the House report (relied on almost exclusively in the A.G. memorandum) so departs from the language of the Act as to effectively "amend" it.[29] In light of the fidelity of the Senate report to the clear wording of the statute, conflicts between the Senate and House reports should be resolved in favor of the Senate report. Three cases have so specifically concluded.[30] Likewise, to the extent that the Attorney General's report conflicts with the Senate report or the clear words of the statute, the latter should prevail.[31] However, since the A.G. memorandum *is* the advice of the agency's "lawyer," the agencies should always *at a minimum* comply with the interpretations therein. This background, as will be seen, is extremely important to a number of issues which poverty lawyers are likely to encounter while pursuing records under the Freedom of Information Act. Of course, since the Act exempts from disclosure only those records *specifically* designated in the Act, the legislative history should always remain subservient to the plain meaning of the statute, and should never be resorted to except in the case of statutory ambiguity.

EXEMPTIONS

The Freedom of Information Act states essentially that *all* identifiable records must be made available for inspection upon proper request *unless* they are specifically exempted by any one of the Act's nine exemptions.[32] The exemptions include:

(1) matters specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy;

(2) matters related solely to the internal personnel rules and practices of an agency;

(3) matters specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps concerning wells.

Of these nine exemptions, the first,[33] sixth, eighth and ninth do not on their face seem particularly relevant to the types of records which poverty lawyers are likely to seek. Nor is there any case authority indicating otherwise. This article will therefore be confined to those exemptions which are most likely to confront poverty lawyers.

The second exemption

Although the second exemption, which covers internal personnel rules and practices, has been the subject of litigation only twice,[34] it might prove relevant in the future. The actions of agency personnel often seem incomprehensible and remain unexplained. Administrators frequently act on internal instructions which the agency does not consider to be in the public domain. However, materials which must be indexed and kept available for inspection include "administrative staff manuals and instructions to staff that affect a member of the public. . . ."[35]

In *Polymers* v. *NLRB* the Second Circuit held that the second exemption applied to a staff manual entitled "A Guide to the Conduct of Elections."[36] The exact nature of this manual is not clear from the opinion. However, the court relied exclusively on the House report which interprets the second exemption as exempting "operating rules, guidelines, and manuals of procedure for government investigators and examiners."[37] The court noted that the Senate report limits the exemptions to instructions dealing with such internal matters as sick leave, and that *GSA* v. *Benson* had criticized the House report for going beyond the scope of the Act.[38] In fact, the House report absolutely contradicts the Senate report and the clear words of the Act—a point appropriate for extensive discussion and criticism.[39] In light of the relevant legislative history, the *Polymers* case carries its own admission of error. Because of poverty lawyers' lack of experience in this area, it is difficult to gauge the type and amount of information which they might obtain under § 552(a)(c). However, it is clear that when properly interpreted the second exemption should not stand in the way of an expanded understanding of the reason for official behavior.

The third exemption

The third exemption applies to all records specifically exempted by any other statute. The A.G. memorandum explains this as preserving the force and effect of any statute which restricts disclosure of records not exempted by the Freedom of Information Act itself. The A.G. memorandum refers to a House committee print entitled Federal Statutes on the Availability of Information which provides a list of many of the statutes prohibiting the disclosure of various types of records. A study of this document has revealed only one statute which seems to apply in any way to the poverty law context.[40] The committee print, however, was published in 1960, and by its own terms is not exhaustive.

The one case which has dealt with this exemption[41] held that a statute allowing the agency to withhold information upon the written request of the provider, where disclosure would be prejudicial to the provider, was the type of statute which exempted records through the third exemption. The case contains no real analysis of this exemption and there is clearly much room for argument as to precisely what kinds of statutes the case was referring to.

The fourth exemption

The fourth exemption has been the subject of some litigation, and to the extent that the information sought involves financial or commercial information or trade secrets which have been obtained from a person outside the agency under a pledge of privilege or confidentiality, the exemption may prove troublesome.[42] However, many courts have made it clear that the fourth exemption applies *only* to financial and commercial information or to trade secrets, and that the confidential or privileged information exempted must possess these characteristics.[43] Although the House report and the A.G. memorandum indicate a different position, *Getman*,[44] for example, relied on the clear wording of the statute and adopted the position, taken by the court in *Consumers Union*,[45] that only the Senate report is to be relied on.[46] In *Schapiro* v. *SEC*,[47] the district court for Washington, D.C. discussed the question of who determines the "confidential" nature of the records. The court, quoting *Grumman Aircraft* v. *Renegotiation Board*, held that the test for availability was "whether they [the records] contain commercial or financial information which the contractor would not reveal to the public."[48] Addressing the defendant's argument that the person giving the record to the agency should be the one to determine its confidentiality (the subjective test), the court stated:

"Regardless of whether the information was submitted on the express or implied condition that it would be kept confidential, a Court should determine, on an objective basis, that this is not the type of information one would reveal to the public."[49]

In short, the confidentiality of financial or commercial information is *not solely* dependent on the donor or the agency, but may be subjected to the independent, and final, judgment of the reviewing court.

The fifth exemption

The fifth exemption is by far the most common one raised by HEW, the agency with which the authors have had most of their experience. Although the subject of much litigation,[50] this exemption is clear enough on its face. The only records exempted are inter-agency or intra-agency memoranda which are not available by law to a party in litigation with the agency. That is, only intra-agency or inter-agency records which are not discoverable by law are exempted. Since the word "agency" is defined by § 551 of the Administrative Procedure Act to exclude state agencies,[51] a strong argument can be made at the outset for the proposition that no record which passes between a federal and a state agency is exempted by this section. Although this was pointed out to the House committee,[52] the exemption as written failed to exempt communications between the federal and state governments. Since the committee did not change the wording, the conclusion is justified that communications between such governments are not exempted from disclosure. As stated in *Getman*, "[T]he court is not free to give the statute an expansion which Congress considered and denied."[53] Therefore, no state plan proposals, waiver requests, conformity materials, suggestions or comments by the federal agency, or any other communication of any sort between a federal agency and a state agency or official should be considered exempt by this section. HEW has now taken the lead and recognized the availability for inspection of all such records.[54]

What is available by discovery is covered essentially by FRCP Rule 26b. This rule states that:

"[P]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be

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inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

The key requisites for material to be discoverable, therefore, are relevance to the cause of action and the lack of any applicable "privilege." [55]

In freedom of information cases, however, there is no substantive litigation by which the relevance of the requested documents can be judged. Further, the Freedom of Information Act abolished the requirement that a person have a direct and proper interest in a record, and therefore the agency itself would never, under the Act, have occasion to question the relevance of a record to any possible lawsuit. The conceivable relevance of records to some hypothetical lawsuit is not mentioned in the legislative history nor in the A.G. memorandum. Rather, strong evidence shows that Congress was only concerned with allowing the government to withhold those records which are subject to the privilege exception in Rule 26b(1).[56]

The exception of privileged materials applies to records which come within the common law privileges of doctor-patient, attorney-client, and clerical relationships. But in litigation against the government, the federal government has consistently raised a special privilege—the executive evidentiary privilege—as a defense to motions to compel production of documents. This privilege has been held to reside in the executive to protect it from disclosure of documents which would expose its actual reasoning processes as opposed to the factual bases for decision making. Thus,

". . . the privilege obtains with respect to *intra-governmental* documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which government decisions and policies are formulated." [57]

The purpose of the privilege has been stated to be twofold: first, to protect and encourage a frank interchange of opinion within the agency, and second, to protect the reasoning process of the agency from public exposure.[58]

It is helpful to see how this executive evidentiary privilege works in practice. In *Kaiser Aluminum & Chemical Corp. v. United States*,[59] the court of claims held that an agency employee's internal opinion on possible agency action on a $36 million contract between the agency and Kaiser, was the type of record which an agency could claim as privileged. In *Machin v. Zuckert*,[60] the United States Court of Appeals for the District of Columbia held that Air Force deliberations or recommendations pertaining to a crash were privileged, even absent military secrets, but that the factual findings and conclusions of mechanics who actually examined the wreckage must be disclosed. In *Boeing Aircraft v. Coggeshall*,[61] a case concerning attempts to obtain records from the renegotiation board, the court held that the executive privilege applied to those records which recommended policies to be pursued by the renegotiation board, in order to preserve the integrity of its decision-making process; it also held that purely investigatory or factual reports were not within the privilege.[62]

When agencies invoke the privilege on judicial review, the courts are faced with the choice of accepting the agencies' characterization of the nature of the documents, or examining the records *in camera* to determine whether they fit within the privilege. In some cases the courts inspected the records *in camera*, and ordered privileged matter to be separated from non-privileged if commingling had occurred.[63] Such inspection was not ordered in cases where the privileged nature of the records seemed evident.[64]

The legislative history of the Freedom of Information Act indicates that the courts must apply the same test to the fifth exemption as they always have when the executive evidentiary privilege has been raised in discovery proceedings against federal agencies.[65] Certain difficulties are presented, however, by the clear wording of the statute. For example, in discovery proceedings, the executive privilege may have to yield where the requester has great need for the record. The privilege, in other words, is balanced against the requisites of justice in the courtroom. Yet in Freedom of Information cases, the need for the record is not a factor. The exemption refers to records available to a "party," rather than "the person making the request." The question, then, is whether records which are only sometimes available in litigation are available under the Freedom of Information Act. This question was squarely dealt with in a recent District of Columbia case. In *Sterling Drug* [66] the plaintiffs had been charged with Section 7 Clayton Act violations involving a merger with another company. The FTC had previously approved a similar merger between one of Sterling's competitors and another company. Sterling unsuccessfully petitioned the agency to drop the charges on the ground of this approval, and then moved for production of records consisting *inter alia* of FTC staff memoranda, memoranda of individual commissioners, and memoranda prepared or adopted by the commission as a whole relating to the basis for their decision to uphold the merger in the other case. This motion was denied. A freedom of information case was then filed, seeking disclosure of the records. The plaintiffs claimed that the records were discoverable in the Clayton Act action pending against them, and were therefore *not* exempt under the fifth exemption. The lower court held that the records consisted of internal working papers relating to the formulation of policies and were therefore exempt under the fifth exemption. On appeal, the District of Columbia circuit court considered the question raised by the plaintiffs as to whether the discoverability of a record in litigation automatically meant that the record was not within the fifth exemption. Quoting at length from Davis, *The Information Act, A Preliminary Analysis*,[67] and relying on language in the House report and the A.G. memorandum that the fifth exemption does not apply to memoranda which are routinely discoverable, the court concluded that records otherwise privileged did not escape the exemption solely because they might, in special circumstances, be discoverable.

As modified by *Sterling*, then, the courts will follow the discovery cases and allow the withholding of records which would reveal the reasoning process of the agency; such memoranda would include internal working papers and drafts, in which statements of opinion and suggestions were made regarding agency decisions or action. Conversely, no memorandum which embodies data relied on by the decision maker, no report, statistical workup, computer printout or any other factual data should be considered exempt.[68]

Sterling, however still leaves open the question of what is or is not exempt from disclosure. The court held that the memoranda prepared by the commission staff and individual commissioners were exempt, while the memoranda prepared by the commission as a whole were not. The court reasoned that memoranda which comprised operative agency law were disclosable, whereas opinions and recommendations which did not necessarily comprise the whole of an agency policy did not constitute such agency law and were therefore within the exemption comprising internal opinions and recommendations. However, 5 U.S.C. § 552(a)(2)(B) requires that agencies index and have available for inspection those "statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register." In a powerful and well reasoned dissent,[69] Judge Bazelon has pointed out that to the extent that the staff and commissioner memoranda provide the basis for all or part of a final agency decision, they then fall within the classification of § 552(a)(2)(B) and should be made available. Judge Bazelon reminds us that although the purpose of the exemption was to encourage discourse at the policy formulation stage, Congress intended to prevent the development of "secret law" within an agency. The dissent points out that the Ninth Circuit had previously decided in GSA v. Benson [70] that the kind of opinions and recommendations sought in Sterling were not within the exemption to the extent that the agency ultimately adopted them expressly or implicitly. In any event, even the majority in Sterling leaves no doubt that memoranda constituting the working law of an agency are not within the exemption.

When there is a dispute as to the characterization of a record, or when a record contains both types of material, the court has a duty, as in discovery proceedings, to examine the records in camera to decide which material is disclosable.[71]

It seems reasonably clear that Congress intended bureaucrats to be able to engage in frank interchange of opinion without the world knowing their individual views, and that without the privilege this might be inhibited. Therefore, in deciding whether the privilege should apply, courts should look to see whether the specific record in question will or will not expose the agency's reasoning process to public view. In the discovery case of Marhin v. Zurker,[72] the court decided that disclosure of the mechanic's opinions as to the causes of the accident would not expose the agency's reasoning process, and that such opinions were actually in the nature of a factual summary. This approach protects the government against having to disclose documents which will harmfully reveal its thinking process while at the same time providing for full disclosure of all records which contain the basis for government action.

The Senate and House reports and the A.G. memorandum express the belief that the fifth exemption prevents premature disclosure.[73] This refers to situations where disclosure would make nugatory the purpose for the records or would prejudice contractual negotiations in progress.[74] Clearly, only where parties are actually negotiating in a contractual sense should prematurity be considered an issue. Thus, where the federal government is performing a function concerning a state government, such as deciding whether to grant a state's request for a § 1115 waiver, the alleged prematurity aspect would not apply, regardless of the present stage of the federal agency action. HEW's example in its regulations exempting records "of correspondence between Federal and state or local officials, privileged through custom and usage or where disclosure might prejudice negotiations in progress," is thus without merit.[75]

The seventh exemption

Although the seventh exemption has been held applicable to areas not generally of concern to poverty lawyers, some discussion of this exemption is nevertheless in order. The Senate report refers to the investigatory files in the seventh exemption as follows: "These are the files prepared by Government agencies to prosecute law violators." [76] This language indicates that Congress had in mind proceedings of regulatory agencies with power to mete out punishment for law violations by court prosecution. In *Bristol Myers Co.* v. *FTC* [77] the court concluded that "Congress intended to limit persons charged with violations of the Federal *regulatory* statutes to the discovery available to persons charged with violations of Federal criminal law." Such actions would be brought by the FDA in food adulteration cases, the FTC in anti-trust actions, the SEC in financial in-

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stitutions regulations, the FPC in oil and gas cases, and the CAB in airlines regulations.

Quite recently, the Fourth Circuit held that the seventh exemption "should not be enlarged . . . to include records of administrative action taken to enforce the law." In so holding, the court determined that letters of warning of non-compliance with federal law were disclosable.[78] Finally, in interpreting this exemption, Judge Skelly Wright in *Getman* v. *NLRB* [79] concluded that the purpose of the exemption was to ensure that agencies' court cases would not be harmed by the disclosure. To the extent that an agency's activities do not involve judicial enforcement as an affirmative matter, then materials collected to implement the law should not be excluded from disclosure by this exemption.[80]

Even where the seventh exemption may be applicable, however, withholding is justified only when the files are in fact compiled and maintained for such judicial law enforcement purposes. Thus, a long lapse of time without any intervening "law enforcement" activity between the compilation of the files and the date they are requested would indicate that the files are no longer being maintained for "law enforcement" purposes.[81] Further, when the files, or records therein, have been disclosed to the parties subject to the agency's "law enforcement" actions, it is obvious that further disclosure to the public cannot hurt the agency's case in court.[82]

BEYOND THE EXEMPTIONS

Although it might be argued that agencies can lawfully withhold any record which falls within the exemptions, a number of agencies have adopted regulations which compel them to disclose any record, exempted or not, unless there are compelling reasons to the contrary. Thus, in *GSA v. Benson* [83] the agency refused to release the records of certain business transactions between it and the person requesting the records. The court, *inter alia*, noted that the agency required disclosure in the absence of a compelling reason to the contrary, and that since the court could discern no compelling reason for the agency to withhold the records, the records must be disclosed, notwithstanding the fact that they might fit within one of the exemptions. Other examples of such regulations are: (1) the Department of Interior regulations which require disclosure unless the records fit within an exemption and "sound grounds exist which require the invocation of the exemption" or disclosure is prohibited by statute or executive order; [84] (2) HEW regulations which provide that "disclosure of particular items of such [exempt] kinds *will* nevertheless be made when this can be done consistently with obligations of confidentiality and administrative necessity"; [85] (3) HUD regulations which prohibit a record from being withheld unless it both comes within an exemption and "there is need in the public interest to withhold it"; [86] and (4) DOT regulations which provide that notwithstanding the exemptions the department will release a record "unless it determines that the release of that record would be inconsistent with a purpose of the [exception] section covered." [87] These types of regulations are binding on the agency and provide a means to obtain otherwise exempted records.[88]

A number of agencies also attempt to define and interpret the exemptions in the Freedom of Information Act further. These regulations give examples of the types of records which the agency considers exempt. These interpretations and examples are often broader than the statutory exemption. If these interpretative regulations exempt from disclosure items which are not exempted by the governing statute, they conflict with the statute,[89] they are outside the official's scope of authority,[90] and are hence invalid. A federal administrative regulation must comport with the enabling legislation, including the congressional mandate as it is "ascertainable in underlying policy." [91] In any freedom of information case the underlying policy of Congress is to interpret the exemptions strictly, in favor of the fullest possible disclosure.[92]

The exemptions, therefore, refer to a limited class of materials. Moreover, the Act expressly requires that all other records shall be disclosable. Although some courts have gone astray and used their own judgment as to whether or not certain records should be disclosed, the great majority of courts have looked only to the exemptions for possible justification of agency withholding. And as records are more aggressively pursued under the Act in the future, the exemptions should, under proper court interpretation, become increasingly narrow, veering away from the old, broad equitable principles toward the clear statutory intent of total possible disclosure of government records.

APPLICATION OF THE ACT

From the cases which poverty lawyers have filed against federal agencies, it appears that the following agencies are most often involved: Health, Education and Welfare; Housing and Urban Development; the Bureau of Indian Affairs; the United States Department of Agriculture; the Department of Labor; the Department of Transportation; the Environmental Protection Agency; and the Department of Justice. Each of these agencies administers programs which involve some degree of federal-state cooperation; most of the programs also involve federal-state shared funding schemes. The federal agencies are responsible for assuring that federal law is fully complied with. If it is not, then no federal money should theoretically be provided for the program's operation.[93] Whether or not federal agencies choose to take any action in the event of non-compliance, most of them collect considerable data concerning compliance (or lack thereof) with applicable federal laws. All such data compiled by any of the agencies and programs specified above should be obtainable under the Freedom of Information Act on the ground that the one possibly applicable exemption—the fifth—does not apply either because the material was obtained from the state or some other non-agency source and is thus not within the exemption, or because such data does not in any way expose the reasoning process of the agency, but rather constitutes factual summaries and reports. To the extent that conformity materials include recommendations to higher officials based on factual data or summaries, such recommendations might also prove disclosable, especially if the recommendation is later adopted by the agency head. Even if the recommendation were in a privileged form, however, the administrator could excise the privileged materials from the rest of the materials, or, if the administrator contests the request, the court could do so.

Another type of record consists of the communications between a federal agency and the state agency. Lengthy correspondence often goes on between them concerning either state plans to take certain actions in the future, or state practices of the recent past, These records are not exempted by the fifth exemption, which only refers to communications involving federal agencies.[94] Also, such communications would be discoverable in litigation because their disclosure would not expose the agency's reasoning process. As already mentioned, HEW has recently changed its policy and now allows disclusure of all such correspondence.[95]

Another type of record which should be available for inspection under the Freedom of Information Act consists of the formal and informal opinions which are constantly handed down in response to state agency queries and requests. For example, within the past year California sought HEW's opinion on some administrative changes it desired to make in California's welfare programs. HEW put its opinion in the form of a letter stating that some of the changes were permissible while others would violate the Social Security Act and would need waivers. Regardless of how HEW might wish to characterize such a communication, under the Act it should have been characterized as an agency opinion or decision, indexed, and made available for inspection in the agency library. Another type of decision making is the agency response to each public information request received by the office. These decisions should also be in the library. General policy decisions are often made by regional federal officials and then sent to the agency head for final approval.[96] These intra-agency opinions and decisions, no less than the opinions and decisions sent out by the agency, should be on file and readily available.

Finally, the large number of decisions made by federal agencies which seem to conflict with the governing statute or even the agencies' own regulations is an area of increasing concern to poverty lawyers.[97] In other cases, it appears that the reasons for certain agency decisions are either purely political or have no basis in fact. Recent examples of the latter include the New York regional SRS commissioner's determination that New York had an adequate utilization review procedure in its medicaid program,[98] and HUD's decision to allow various redevelopment projects to proceed based on a HUD certification of a workable program,[99] where no basis in fact existed for either decision.[100] At the time the decision is made it is often unknown what kind of record exists and what is before the decision maker. Clearly, except for internal staff opinions, suggestions and recommendations it is permissible to obtain the factual and analytical record on which the decision is based. It would seem that a request for the documents, reports, memoranda, computer printouts, charts, graphs and surveys on which an administrator relied to make his decision (*i.e.*, the administrative record) would be sufficient identification and such records would therefore be obtainable under the Freedom of Information Act except for those records which consisted of agency debates over policy matters.

There are many uses to which the types of information outlined above can be put. Groups of poor persons have always had to face the explanation from bureaucrats that the bureaucrat is acting on information which "unfortunately" is unavailable to the public. Clearly, the obtaining of all or most of the same information which the bureaucrat has will greatly help these organizations in their efforts to attain power in relationship to the government agencies with which they deal. Second, as has been tragically proven in the case of the Pentagon Papers, governments can go awry absent public accountability. The harder it is for bureaucrats to conceal their errors, hopefully the fewer they will make. The more the administrative decision making process is brought to light, the less likely it is that political deals will be made.

The aftermath of a recent case filed by NWRO [101] to obtain copies of waiver applications submitted by the States of California and New York provides a good example of the uses which an organization can make of the type of information discoverable under the Freedom of Information Act. The purpose of the suit was to obtain the waiver applications as early as possible in order to have a chance to provide HEW with comments and criticisms, and to be able to mount a political campaign prior to any HEW approval of the applications. The suit was settled on the basis of an agreement by HEW to release the

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applications at least 30 days prior to taking any formal action on them.[102] The first application received was from California, which was seeking to run a demonstration project whereby medicaid recipients would be charged a certain amount for aid and services. During these 30 days, CWRO prepared and submitted an extensive comment and criticism of the project. The next applications received under this agreement were two applications submitted by New York. One of them sought a waiver of Social Security Act provisions so as to allow New York to operate forced work programs, without pay, for all welfare recipients. The second application was for waivers permitting New York to operate a program in which the grant would be reduced to $2,400 for a family of four from the approximate current average level of $3,760. The family would then be given an opportunity to work itself back up to the current grant level by accruing such "brownie points" (which were assigned a dollar value) by among other things cooperating with school authorities, joining the boy or girl scouts, participating in both control programs and joining forced work projects. NWRO and various community and professional groups mounted an attack on the demonstration projects and HEW eventually informed New York that the project's proposals were unapprovable as submitted. (This was after HEW had told New York that the applications would certainly be approved.) New York submitted new proposals, which HEW approved shortly thereafter. A lawsuit is currently pending challenging this approval on the grounds that the agreement to give 30 days lead time was violated. The New York community is still alerted to many problems in the new proposals, and it is quite possible that because of the political opposition the projects will never be carried out. In any event, the community, by being forewarned, is forearmed.

In addition to the use of records for purposes of political mobilization, records obtainable under the Act can prove valuable in litigation. Although many records would be obtainable by discovery upon the filing of a lawsuit, it is often important first to compile information in order to put the lawsuit together. In one type of litigation in which poverty lawyers are becoming increasingly involved—judicial review of federal administrative action—it is of the utmost importance to ascertain the scope and extent of the "administrative record" on which the decision maker relied in making the decision.[103] Much of the decision-making power which is subject neither to adjudicatory nor rulemaking public hearings is committed to federal agencies by statute. Thus, the Secretary of HEW may grant certain waivers of Social Security Act provisions, the Secretary of HUD may certify the existence of a workable plan for redevelopment, and the Secretary of Transportation may decide to release federal funds for a highway. In each case there is no formal record, nor is there generally a requirement for formal findings. Such decision making, although carried out pursuant to a governing statute, is called "informal."

The scope of judicial review for such informal decision making has recently been described by the Sdpreme Court,[104] in *Citizens to Preserve Overton Park* v. *Volpe* under which the court is to review the administrative record. However, if there is no such record (as is often the case in informal decision making), then the administrator may make *ex post facto* findings which will themselves be subject to judicial review. In the absence of any *ex post facto* findings, the plaintiffs may discover the basis for the administrative decision. (Such discovery is not necessarily precluded by the existence of findings, however.)

Since the filing of a lawsuit seeking judicial review gives the administrator a chance to devise *ex post facto* rationalizations in light of the complaint's allegations, the plaintiffs are in an infinitely stronger position if the administrative record can be ascertained and established prior to the filing of the suit. Most of the data on which such informal decisions should be based is obtainable under the Act, and therefore a request for the documents which comprise the administrative record in respect to a particular decision will prove invaluable in these types of lawsuits.

It is also valuable to have the records prior to filing a suit, for possession of information indicating a relatively sure victory may well be enough to settle the matter out of court. Alternatively, the information obtained may indicate that a lawsuit would not be appropriate in the first place.

HOW TO REQUEST A RECORD

The operative words of the statute in respect to procedure are:

"Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person." [105]

Although the information sought must be in the form of records within the meaning of the Act, the Act does not define the word "records." The A.G. memorandum, however, adopts the definition of records used in a 1943 statute:

"(T) he word "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics made or received by any agency of the United States Govenment in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word "records" as used in this Act." [106]

The question of what constitutes identifiable records has been litigated.[107] It is clear that while the courts may not look favorably on a broad fishing expedition, the agencies must make a reasonable attempt to search out and find the records which are requested, regardless of the comprehensiveness of the request.[108] In this connection, the Senate report states:

"It is contemplated by the committee that the standards of identification applicable to the discovery of records in court proceedings would be appropriate guidelines with respect to the identification of agency records, especially as the court would have jurisdiction to determine any allegations of improper withholding.[109]

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"The records must be identifiable by the persons requesting them, *i.e.*, a reasonable description enabling the Government employee to locate the requested records. This requirement of identification is not to be used as a method of withholding records." [110]

That it may be inconvenient for the agency to search out and compile records for inspection is no excuse for the failure to produce non-exempted materials.[111]

In many cases the existence of specific records will come to light by word of mouth and specific identification is easy. In other cases it may not be known whether certain documents exist, but their existence can be deduced. Requests for such deduced records should be framed in an affirmative manner on the assumption that the records do exist, rather than as a question as to whether the records exist. This tactic will also prevent the agency from concealing the existence of a record.[112] However, the request should also specify that the agency either give you what is asked for, or state the reasons for non-disclosure, including the alleged non-existence of any of the records requested. If the agency answers that no such record exists, such an answer may prove to be invaluable. For example, in one case currently being litigated involving judicial review of federal administrative action, the plaintiffs asked for all reports, surveys, memoranda, etc., on which the defendants based their decision. The agency answered that no such records existed. In establishing the arbitrariness of the defendant's decision the plaintiffs have a headstart. In any event, every request for records should include a request that the agency immediately contact the requesting party if it has any question whatsoever about the identification of the records. This obviates the possibility of a later defense, should judicial review become necessary, that the records were not identifiable.

The records should be described as thoroughly as possible, for experience has shown that agencies will interpret the request as narrowly as possible. Although the Act requires the courts to interpret the exemptions strictly,[113] on judicial review they are not under a duty to order the production of a record not properly requested in the first instance.[114] And if the first request is not complete, the requesting party may have to re-exhaust the administrative remedy.

Each agency is required to publish rules stating the time, place, fees and procedure to be followed in requesting records.[115] The rules, according to the statute, designate the proper person or persons to whom a request should originally be made, the form of such request, and the fees, if any, involved for searches and copying.[116] Such rules also establish an intra-agency appellate process, designating the person to whom an appeal may be made (usually the head of the agency or operating agency) and the form of the appeal. The rules established by the agency should be followed as closely as possible to obviate the defense, should judicial review be necessary, that the request "was not in accordance with the agency's rules" and that administrative remedies were therefore not properly exhausted.

The Act also requires that if a proper request is made the records must be made available promptly. In the case of the agencies with which poverty lawyers usually deal, there is no specific time period designated within which a request must be answered or an appeal decided. This loophold means that an agency may sit on a request virtually forever; only the Department of Transportation expressly provides for an intra-agency appeal in the event a request is not initially answered within a reasonable time.[117] It would seem that the failure of the agencies to specify time periods, both for response to an initial request and/or for an appeal in case records are denied clearly violates the requirement that the agency "shall make the records promptly available." [118] The question, of course, is what constitutes a reasonable time within which the agency must act.

One commentator suggests that a ten-day limit be set for an initial response; [119] one agency has adopted such a time limit.[120] In some cases, however, ten days may be a longer period than is really necessary in light of the request, whereas a complicated request involving retrieval from different sources might take more than ten days. One possible practice is to note in a request that

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Footnotes at end of article.

the rules have no time limit, that the records are needed immediately (or at a particular time) and that if there is any problem immediate contact should be made. After ten days (unless the agency has been given a longer period in the request), if no response has been received another letter should be sent placing a time limit of an additional week or two on the agency's response. If there is still no response, or if a response is of an obviously dilatory nature, then the delay would be treated as a denial,[121] and a letter of appeal should be sent to the appropriate official. In the letter of appeal the time limit should be approximately 30 days. If there is still no adequate response, then the case can be considered ripe for review. This is only one tactic; undoubtedly there are many more. The main point is that delay is the agency's one predictable defense to a request which it doesn't wish to honor, and a good record should be made in the event that judicial review is sought of a final agency decision implied by delay, for exhaustion of administrative remedies becomes a problem in such a case. Unreasonable delay, however, has been held to provide an exception to the exhaustion rule.[122] Furthermore, the absence of any time period in the statute should help overcome the exhaustion doctrine. Finally, exhaustion is not required when the outcome of the request or appeal is pre-ordained.[123]

The Act provides that the records be made promptly available to "any person." This means that any person may request a record, without any evident connection between the record and the person and without any particular necessity for the record.[124] "Person" is defined in § 551 to include associations, corporations and partnerships, as well as individuals, and therefore requests can be made by poor persons' groups as well as by any individual.

Finally the request for identifiable records must be made of an agency as that term is defined by § 551 of the Administrative Procedure Act.[125]

JUDICIAL REVIEW

Theoretically it should not often be necessary to go to court to get identifiable nonexempted records. The Act and its legislative history make clear that all questions of doubt should be resolved by the agencies in favor or disclosure. From the beginning, however, the comments on the Act and its operation have concluded that agencies are most reluctant to part with records even though they are clearly outside any of the exemptions.[126] Because of this reluctance (anticipated by Congress), judicial review is available. The operative section states:

"On complaint, the district court of the United States in the District in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practical date and expedited in every way.[127]

Since most actions against a government agency involve a presumption in favor of the agency, poverty lawyers may be at a loss as to how to litigate under a statute which throws the burden on the other side. A suggested tactic is that the complaint should simply cite the facts without going into too much detail (depending on the circumstances), that what is requested are in fact identifiable records, the facts of the denial, and that the records do not fall within any of the statutory exemptions and are therefore disclosable. The prayer, outlined in the statute, is to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

The provision providing for de novo review means that the court is obliged to make its own examination of the records and the agency's reasons for withholding them, and to render a decision based on its independent judgment. This means that the agency must justify its action in court, without being able to rely on its administrative reasons for withholding the records.

Concerning litigation strategy, much depends on whether a preliminary injunction is sought, and what kind of administrative record has been made with the agency prior to judicial review. If such an injunction is sought, or if all the agency's reasons for nondisclosure have previously been brought into the open, it might be well to argue the merits of the case fully in the opening brief without waiting for the agency to justify in court its decision to withhold the record. On the other hand, if no preliminary injunction is sought, or if the agency has not yet fully presented its reasons for withholding the records, it might be wise to make the defendants first justify their action, saving the major arguments and discusion for a reply brief. In any event, it is important to remember that legally a presumption runs in favor of disclosure and that the burden is on the agency to justify its action.

Preliminary injunctions are somewhat hard to obtain in freedom of information litigation due to the problem of establishing irreparable injury and the statutory calendar preference.[128] A preliminary injunction would also be seeking the same relief as a final injunction, unless the preliminary injunction were to prevent some other agency action from occurring until the freedom of information issue was resolved.[129] The sole purpose of the Freedom of Information Act is to obtain records. To the extent that the preliminary injunction would result in the disclosure of the records at issue, full relief would be accomplished prior to a final judgment in the matter. However, a preliminary injunction was granted affording full relief in *Shapiro* v. *SEC*, presumably on the grounds that the probability of success upon a final adjudication was virtually a certainty.[130]

Since federal agencies have 60 days in which to answer, having to wait for a trial might result in the need for the records becoming moot, notwithstanding the statutory trial preference. Perhaps the most promising way to obtain speedy relief is to move for summary judgment 20 days after the complaint is filed, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and for an order shortening time for the hearing on the motion. Since witnesses are usually not relevant to this type of action, and since the facts are either unlikely to be materially disrupted, or if so, capable of resolution by *in camera* inspection rather than by trial, freedom of information cases seem ideally suited for summary judgment proceedings. The sole issue is likely to be whether a particular record is or is not exemped by the Act.

CONCLUSION

The Freedom of Information Act has been used remarkably infrequently, considering the millions of people whose lives are dependent upon the proper functioning of government agencies. Although the small number of lawsuits seeking judicial review of agency withholding does not necessarily mean that thousands of requests made daily of agencies are not met satisfactorily, the initial experience of poverty lawyers in their attempts to obtain information bearing on their clients' problems has been less than satisfactory. Even a cursory examination of agency regulations indicates that large areas of potentially useful information are considered exempt by the agencies, notwithstanding the clearly contrary language of the Act and the Senate Judiciary Committee Report. Congress deliberately made judicial review of agency withholding an easily manageable form of proceeding, anticipating that the agencies would be reluctant to yield anything whatsoever for public scrutiny, let alone the types of records made disclosable by the Act. Given the amount and types of information which are currently unavoidable to poor people by agency misrepresentation of the Freedom of Information Act (stimulated by the A.G. memorandum, in fairness to the agencies), it is hoped that vigorous action will be taken to convey the information to the people most affected by the federal agencies in question. As poverty lawyers and organizations assert the rights of the people they represent, it is expected, along with increased litigation, that a number of agencies will begin to rethink their position. This is apparently the case with HEW, as evidenced by its new policy of disclosing federal-state communications. Perhaps no more fitting conclusion to this article can be made than to quote the HEW memorandum implementing the new policy, in the hope that other agencies will adopt the same reasoning and take the same action concerning the disclosable records in their possession.

"In order to respond intelligently to these requests, we have had to review carefully our past policies regarding the release of information to the public and to the news media. We have found that the biggest need is to reemphasize the SRS and the Department position that information and records should be made readily available unless there are overriding reasons to the contrary. It is not the intention of the Freedom of Information Act or the Department's Public Information Regulation that all records falling into an exempt category are for that reason to be withheld from disclosure. On the contrary, both clearly subscribe to the concept of fullest possible disclosure.

* * * * *

"In keeping with the concept of fullest possible disclosure, SRS will henceforth consider that correspondence and documents between SRS and State and local agencies, and internal SRS letters, memorandums or documents furnished to a State or local agency, are in the public domain and are available to news media representatives and members of the public. This includes Section 1115 project proposals and State plan material which will be considered available for release on request when received at the SRS office having approval authority.

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"Communications from officials of SRS to State officials, and internal communications furnished to a State, will be considered available for release when sufficient time has elapsed to insure receipt by the addressee.

* * * * *

"Communications from State officials to officials of SRS will be considered available for release at the Federal level as soon as received by the addressee."[131]

FOOTNOTES

[1] 5 U.S.C. § 552.

[2] 5 U.S.C. § 552 (b)(1) appears to exempt such records. *But see* Mink v. EPA, 40 U.S.L.W. 2233 (D.C. Cir., Nov. 2, 1971), *review granted*, 40 U.S.L.W. 3428 (U.S. Sup. Ct., Mar. 6, 1972).

[3] The Act applies only to federal agencies; however, a number of states have their own freedom of information acts and in one recent case, a state court used federal case law to interpret the state statute. Citizens for Better Care v. Reizen, No. 13166–C (Mich. Cir. Ct., Feb. 23, 1972), available from the Clearinghouse, Clearinghouse No. 5827. For

an exhaustive listing of the freedom of information laws of each state, see Hobson, the Damned Information: Acquiring and using public information to force social change, Washington Institute for Quality Education, available at a cost of $2.00.

[4] 5 U.S.C. § 552(a)(1).

[5] 5 U.S.C. § 552(a)(2).

[6] 5 U.S.C. § 552(a)(3).

[7] 5 U.S.C. § 552(b).

[8] 5 U.S.C. § 552(c).

[9] *See* Davis, *The Information Act, A Preliminary Analysis,* 34 U. CHI. L. REV. 761 (1967), for an explanation and interpretation of these first two requirements.

[10] 5 U.S.C. §§ 701 *et seq.*

[11] Davis, *supra,* note 9.

[12] Davis, *supra,* note 9 at 765; Skolnick v. Parsons, 397 F.2d 523 (7th Cir. 1968); S. REP. NO. 813, 89th Cong., 1st Sess. 5–6 (1965).

[13] 5 U.S.C. § 552(c).

[14] S. Rep. No. 813, 89th Cong., 1st Sess. 10 (1965).

[15] Davis, *supra,* note 9 at 767.

[16] 448 F.2d 1067 (D.C. Cir. 1971).

[17] The Senate Report makes clear in a number of instances that the statute does the balancing. For example, in referring to phrases found in the former Act, such as "requiring secrecy in the public interest" and "required for good cause to be held confidential" the Report states: It is the purpose of the present bill to eliminate such phrases, to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language. S. Rep. No. 813, *supra,* note 14.

And, the Report continues: It is not an easy task to balance the opposing interests, but it is not an impossible one either. It is not necessary to conclude that to protect one of the interests, the other must, of necessity, either be abrogated or substantially subordinated. Success lies in providing a workable formula which encompasses, balances, and protects all interests, yet places emphasis on the fullest responsible disclosure. S. Rep. No. 813, *supra,* note 14 at 3.

[18] 448 F.2d at 1080 (D.C. Cir. 1971).

[19] 444 F.2d 21, 25 (4th Cir. 1971).

[20] 450 F.2d 670 (D.C. Cir. 1971). For a comment on *Getman* and its effect on the "equity" question *See* 1971 U. ILL. L. FORUM 329 (1971).

[21] Epstein v. Resor, 421 F.2d 930 (9th Cir. 1970); Bristol Myers Co. v. FTC, 424 F.2d 935 (D.C. Cir. 1970).

[22] H.R. REP. NO. 1497, 89th Cong., 2d Sess. (1966).

[23] S. REP. NO. 813, *supra,* note 14.

[24] Davis, *supra,* note 9 at 762.

[25] Att'y Gen. Memo on the public information section of the Administrative Procedure Act (1967) (hereinafter referred to as Att'y Gen. Memo).

[26] *See* Davis, *supra,* note 9 at 761.

[27] Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D. N.Y. 1968).

[28] Davis, *supra,* note 9 at 809–810.

[29] Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D.N.Y. 1968); and GSA v. Benson, 239 F. Supp. 590 (D.C. Wash., 1968), *aff'd on other grounds,* 415 F.2d 878 (1969). For a complete discussion of this conflicting legislative history, see Davis, *supra,* note 9 at 809—810.

[30] Davis, *supra,* note 9 at 809–810.

[31] 5 U.S.C. § 552 (b).

[32] *See* Epstein v. Resor, 421 F.2d 930 (9th Cir. 1970).

[33] Polymers, Inc. v. NLRB, 414 F. 2d 999 (2d Cir. 1969); and *see* Cuneo v. Laird, ——— F. Supp. ——— 40 U.S.L.W. 2543 (D. D.C., Jan. 14, 1972).

[34] 5 U.S.C. § 552(a)(2)(c). The Senate Committee Report stated that the purpose of this section was to allow a public examination of the basis for administration, and that the word "administrative" was in the statute to allow instructions to law enforcement personnel of the regulatory agencies to remain undisclosed. The House Report characteristically goes further and exempts instructions to staff which, if disclosed, would defeat the purposes of the agency. Examples given by the A.G. memorandum are:

> . . . those portions of its staff manuals and instructions which set forth criteria or guidelines for the staff in auditing or inspection procedures, or in the selection or handling of cases, such as operations tactics, allowable tolerances, or criteria for defense, prosecution or settlement of cases.

The A.G. recommends that the undisclosable information be deleted from the manual. However, it should be noted that the Act itself allows deletion for matters which will constitute an unwarranted invasion of personal privacy and requires a written statement explaining such deletions. Assuming that the A.G. memorandum and the House Report are accepted, the deletions of undisclosable material should likewise be explained in writing.

[35] 414 F.2d 999 (2d Cir. 1969). The court also raised the spectre of relevance in respect to the application of the second exemption. Clearly, however, relevance is no longer required for disclosure. After holding that the second exemption applied, the court also considered the staff manual to be exempted by the fifth exemption. This conclusion seems preposterous in light of the history and meaning of the fifth exemption, discussed *infra.*

[36] H.R. REP. NO. 1497, *supra,* note 22. While the House Report would exempt,

> . . . records which relate to . . . internal rules and practices which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant agency function. . . .

The Report *excludes* from the exemption matters of internal management such as employee relations and working conditions. Thus, the House Report seems to be standing the second exemption on its head. See Att'y Gen. Memo, *supra,* note 25 at 30–31. As if to demonstrate the absurdity of the House Report's interpretation of the exemption, HEW lists the following matters as being exempt from disclosure:

> This exemption covers only those internal rules or instructions to personnel relating to how employees carry out their assigned functions and activities for which the department has responsibility. Thus, materials which provide guidelines or instructions to employees relating to tolerances, selection of cases, quantums of proof, and the like, are within this exemption. However, materials having only management significance, such as rules relating to work hours, leave, promotion, plans, while relating to personnel may be disclosed. 45 C.F.R. § 5.72.

[37] *See* Polymers v. NLRB, 414 F.2d 999 (2d Cir. 1969); *also see* S. REP. NO. 813, *supra,* note 14.

[38] Davis, *supra,* note 9 at 778.

[39] The Social Security Act, 42 U.S.C. § 1306, prohibits disclosure of records obtained by the Secretary pursuant to the operation of the program. The legislative history indicates that this statute was meant to protect individual personal information obtained by the Secretary of HEW pursuant to the administration of Title II of the Social Security Act, 42 U.S.C. §§ 401 *et seq.* House Ways & Means Comm., Social Security Amendments of 1939, H.R. Rep. No. 728, 76th Cong., 1st Sess. (1939); *Hearings on H.R. 6635 Before the Houst Ways & Means Comm.,* 76th Cong., 1st Sess. (1939); 1950 U.S. Code Cong. & Admin. News 3287, 3481. *See also,* 20 C.F.R. § 401 for the departmental regulations implementing 42 U.S.C. § 1306 and 45 C.F.R. § 5.11 for the section which incorporates 20 C.F.R. § 401 into the department's general regulations implementing the Freedom of Information Act. Although 20 C.F.R. § 401 extends the coverage of § 1306 to the Medicare Program (Title XVIII), such an interpretation is most questionable in light of the pertinent legislative history. In any event, it is clear that § 1306 does not apply to materials generated within the agency in respect to Title I and XVIII.

[40] Evans v. U.S. Dept. of Transportation, 446 F.2d 821 (5th Cir. 1971). As this article was going to press, a decision came down from the District of Columbia federal district court limiting this exemption to those statutes which exempt *specific* types of records, as opposed to statutes which "generally prohibit all disclosures of confidential information." Schapiro & Co. v. SEC, ——— F. Supp. ——, 40 U.S. L.W. 2599 (D.D.C., Mar. 14, 1972).

[41] Sterling Drug Co. v. FTC, 450 F.2d 698 (D.C. Cir. 1971).

[42] Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D.N.Y. 1968); Soucie v. David, 448 F.2d at 1080 (J. Wilkey, concurring).

[43] 450 F.2d 670 (D.C. Cir. 1971).

[44] 301 F. Supp. 796 (S.D. N.Y. 1968).

[45] *Contra, see,* Grumman v. Renegotiation Board, 425 F.2d 578 (D.C. Cir. 1970); and *see* Davis, *supra,* note 9.

[46] —— F. Supp. ——, 40 U.S.L.W. 2599 (D. D.C., Feb. 28, 1972).

[47] 425 F.2d at 582 (D.C. Cir. 1970).

[48] *Supra,* note 46, —— F. Supp. at ——.

[49] Sterling Drug, Inc. v. FTC, 450 F.2d 698 (D.C. Cir. 1971); Mink v. EPA, 40 U.S.L.W. 2233 (D.C. Cir. Nov. 2, 1971); Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971); Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970); Ackerly v. Ley, 420 F.2d 1336 (D. D.C. 1969); American Mail Line, Ltd. v. Gulick, 411 F.2d 696 (1969); GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); Consumers Union v. Veterans Administration; 301 F. Supp. 796 (S.D. N.Y. 1968); International Paper Co. v. FPC, 438 F.2d 1349 (2d Cir. 1971); Polymers v. NLRB, 414 F.2d 999 (2d Cir. 1969).

[50] 5 U.S.C. § 551 states:

> . . . "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—(A) the Congress; (B) the courts of the United States; (C) the governments of the territories or possessions of the United States; (D) the government of the District of Columbia; or except as to the requirements of section 552 of this title—(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them; (F) courts martial and military commissions; (G) military authority exercised in the field in time of war or in occupied territory; or (H) functions conferred by sections 1738, 1739, 1743; and 1744 of Title 12; chapter 2 of Title 41; or sections 622, 1884, 1891–1902, and former section 1641(b)(2) of Title 50, appendix.

For a broad discussion of the meaning of "agency" within the Freedom of Information Act context, see Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971).

[51] *See* Davis, *supra,* note 9.

[52] 450 F.2d at 673, fn. 7.

[53] Social Rehabilitation Service (SRS) Information Memorandum, AO–IM. 72–10, Dec. 8, 1971, quoted at length in the conclusion to this article.

[54] Boeing Aircraft v. Coggeshall, 280 F.2d 654 D.C. Cir. 1960).

[55] *See* H.R. REP. NO. 1497, *supra,* note 22; S. REP. NO. 813, *supra,* note 14.

[56] Carl Zeiss Steftung v. VEB Carl Zeiss Jena, 40 F.R.D. 318, 324 (D. D.C. 1966), *aff'd sub. nom.* Carl Zeiss Jena v. Clark, 384 F.2d 979, *cert. denied,* 389 U.S. 952 (1967) (hereinafter referred to as *Carl Zeiss*).

[57] *Id.*

[58] 157 F. Supp. 939 (U.S. Ct. Cl. 1958).

[59] 316 F.2d 336 (D.C. Cir. 1963).

[60] 280 F.2d 654 (D.C. Cir. 1960).

[61] In Davis v. Braswell Motor Freight Lines, Inc., 363 F.2d 600 (5th Cir. 1960), the court held that communications between the NLRB and the general counsel's office were privileged and that the plaintiff's attempt to probe the reasoning process of the agency should be resisted on the grounds outlined in United States v. Morgan, 313 U.S. 409, 421–422 (1941), that the court should not be allowed to question or probe the administrator's mind any more than the mind of the judge. For extensive discussions of the history and scope of the executive privilege against disclosure of records under the discovery statutes, see Freeman v. Seligson, 405 F.2d 1326 (D.C. Cir. 1968); Carrow, *Government Nondisclosure in Judicial Proceedings,* 107 U. PA. L. REV. 166, 184–187 (1959). For other cases in which the privilege was held *not* to apply, see Bank Line Ltd. v. United States, 76, F. Supp. 801 (S.D. N.Y. 1948); Mitchell v. Bass, 252 F.2d 513 (8th Cir., 1958).

[62] Boeing Aircraft v. Coggeshall, 280 F.2d 654 (D.C. Cir. 1960).

[63] *See* Kaiser Aluminum & Chemical Corp. v. United States, 157 F. Supp. 939 (U.S. Ct. Cl. 1958); *Carl Zeiss,* 40 F.R.D. 318 (D. D.C. 1966), where the court was satisfied as to the privileged nature of the records and refused to inspect.

[64] GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); Sterling Drug v. FTC, 450 F.2d 698 (D.C. Cir. 1971); and International Paper v. FPC, 438 F.2d 1349 (2d Cir. 1971).

[65] 450 F.2d 698 (D.C. Cir. 1971).

[66] Davis, *supra,* note 9.

[67] Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971); GSA v. Benson, 450 F.2d 878 (9th Cir. 1969); Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970); Ackerly v. Ley, 420 F.2d 1336 (D.C. Cir. 1969).

[68] 450 F.2d 698, 712.

[69] 415 F.2d 878.

[70] Soucie v. David, 449 F.2d (D.C. Cir. 1971); Wellford v. Hardin, 444 F.2d 21 (4th Cir. 1971); Ackerly v. Ley, 420 F.2d 1336 (D. D.C. 1969); Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970); Schapiro Co. v. SEC, —— F. Supp. ——, 40 U.S.L.W. 2599. However, the Supreme Court has agreed to hear argument on whether an agency must submit its memoranda to *in camera* inspection. EPA v. Mink, 40 U.S.L.W. 2233 (D.C. Cir., Nov. 2, 1971). The circuit court in *Mink,* ordered such inspection and the agency is appealing on the grounds that the executive evidentiary privilege is grounded in the constitutional separation of powers doctrine and that having to submit the privileged materials even to a court is violative of this doctrine.

[71] Machin v. Zucker, 316 F.2d 336 (D.C. Cir. 1963).

[72] *See* H.R. REP. NO. 1497, *supra,* note 22; S. REP. NO. 813, *supra,* note 14.

[73] Att'y Gen. Memo, *supra,* note 25.

[74] 45 C.F.R. § § 5 *et seq.,* Appendix A. This example may no longer be viable because of SRS's new policy of releasing all memoranda which involve federal-state communications notwithstanding any claimed prematurity of such release.

[75] S. REP. NO. 813, *supra,* note 14.

[76] 424 F.2d 935.

[77] Wellford v. Hardin, 44 F.2d 21 (4th Cir. 1971).

[78] 450 F.2d 670.

[79] But in a recent Fifth Circuit case (Evans v. U.S. Dep't of Transportation, 446 F.2d 821 (5th Cir., 1971)), the court held that a letter complaining of a pilot's mental stability was part of a file compiled in respect to an investigation of the complaint and thus exempt under § 552(b)(7), notwithstanding the fact that the investigation could only result in an administrative revocation of the pilot's license. This case employs no reasoning whatsoever, and betrays a misunderstanding of the Act and its history, especially in light of the persuasiveness of the other cases in the area which hold otherwise.

[80] Shapiro Co. v. SEC, —— F. Supp. ——, 40 U.S.L.W. 2599.

[81] Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Schapiro Co. v. SEC, —— F. Supp. ——, 40 U.S.L.W. 2599.

[82] 415 F.2d 878.

[83] 43 C.F.R. § 2.2.

[84] 45 C.F.R. § 5.70.

[85] 24 C.F.R. § 15.21.

[86] 49 C.F.R. § 7.51.

[87] For a general discussion of agency regulations in respect to the Freedom of Information Act, see Gianella. *Agency Procedures Implementing the Freedom of Information Act.* AD. L. REV. 217 (1971).

[88] Koshland v. Helvering, 298 U.S. 441, 441 (1936).

[89] Addison v. Holly Hill Fruit Products, 322 U.S. 607 (1943); Manhattan Gen. Equipment Co. v. C.I.R., 297 U.S. 129, 134 (1930).

[90] United Steel Workers of America v. NLRB, 390 F. 2d 846, 851 (D.C. Cir. 1968), *cert denied* 391 U.S. 904 (1967).

[91] Bristol Myers v. FTC, 424 F. 2d 935 (D.C. Cir. 1970).

[92] Arizona State Dep't of Public Welfare v. HEW, 449 F. 2d 456 (9th Cir. 1971) Rosado v. Wyman, 397 U.S. 397 (1970).

[93] *See* note 50, *supra.*

[94] *See* note 53, *supra,* and the conclusion to this article.

[95] *See* GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); American Mail Line Ltd. v. Gulick, 411 F.2d 696 (1969) and Sterling Drug v. FTC, 540 F.2d 698 (D.C. Cir. 1971).

[96] *See* Rodway v. USDA, Civ. No. 2553–71 (D. D.C. 1971) which alleges wholesale violations of the Food Stamp Act by USDA in promulgating new regulations under the Act; and Rockbridge v. Lincoln, 449 F.2d 567 (9th Cir., 1971), which held that the BIA had violated its statutory duty to regulate traders on the Navajo reservation.

[97] *See* Bass v. Richardson,——F.2d——, 40 U.S.L.W. 2334 (2d Cir., 1971).

[98] WACO v. Weaver, 294 F. Supp. 433 (N.D. Cal., 1969).

[99] Another example of this type of decision-making is the waiver power granted to the Secretary of HEW by § 1115 of the Social Security Act. This power was recently exercised in allowing California to implement a policy of co-payment for Medicaid services and benefits—a practice otherwise forbidden by federal law. *See* CWRO v. Richardson, Civ. No. C–72–341 (N.D. Cal., 1972), an action filed to challenge the decision.

[100] NWRO v. HEW, Civ. No. 1042–71 (D. D.C. 1971).

[101] *See* NWRO v. Richardson, 334 F. Supp. 488 (D. D.C. 1972).

[102] Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971).

[103] *Id.*

[104] 5 U.S.C. § 552(a)(3).

[105] Att'y Gen. Memo, *supra,* note 25.

[106] Bristol Myers Co. v. FTC, 424 F. 2d 935 (D.C. Cir. 1970).

[107] Gianella, *supra,* note 87 at 231.

[108] S. Rep. No. 813, *supra,* note 14 at 2.

[109] *Id.* at 8.

[110] Wellford v. Hardin, 315 F. Supp. 175 (D.C. Md. 1970), *aff'd* 444 F. 2d 21 (4th Cir. 1971); Gianella, *supra,* note 87.

[111] *See* Note, *The Freedom of Information Act and the FTC: A Study in Misfeasance,* 4 Harv. Civ. Rights-Civ. Lib. L. Rev. 345 (1969); Nader, *Freedom From Information: The Act and the Agencies,* 5 Harv. Civ. Rights-Civ. Lib. L. Rev. 112 (1970).

[112] 5 U.S.C. § 552(c).

[113] GSA v. Benson, 415 F.2d 878 (9th Cir. 1969).

[114] 5 U.S.C. § 552(b). These rules are located as follows for a number of agencies with which poverty lawyers are most likely to have contact: HEW, 45 C.F.R. § 5; HUD, 24 C.F.R. § 15.1; Dep't of Labor (DOL), 29 C.F.R. § 70.1; USDA (Consumer and Marketing Service), 7 C.F.R. § 900.513; Dep't of Immigration, 8 C.F.R. § 103.9; Dep't of Interior (Bureau of Indian Affairs), 43 C.F.R. § 2.1; Dep't of Transportation (DOT), 49 C.F.R. § 7.1.

[115] While nothing in the statute requires an agency expressly to copy a record as such, it would seem that the phrase "shall make the records promptly available" would include copying. This would be especially true where the request comes from a location other than where the records are physically located. Also, the A.G. memorandum assumes that copies will be made available, probably on the basis of the Senate Report which states:

> . . . The phrase . . . copying . . . was added because it is frequently of little use to be able to inspect orders or the like unless one is able to copy them for future reference. Hence the right to copy these matters is supplemental to the right to inspect and makes the latter right meaningful. S. REP. NO. 813, *supra,* note 14.

[116] 49 C.F.R. § 7.71.

[117] A case has recently been filed against HEW which, *inter alia,* seeks a declaratory judgment declaring that the absence of time limitations in the agency rules violates the Freedom of Information Act. Dellums v. HEW (D. D.C., Jan. 28, 1972), available from the Clearinghouse, Clearinghouse No. 7328.

[118] Gianella, *supra,* note 87.

[119] Defense Supply Agency, 32 C.F.R. § 1260.6 (b)(3).

[120] There is good support for this approach in Environmental Defense Fund v. Hardin, 428 F. 2d 1093, 1099 (D.C. Cir. 1970).

[121] *Id. See also,* Isbrandtsen v. United States, 211 F. 2d 51 (D.C. Cir. 1958); and American Broadcasting Co. v. FCC, 191 F. 2d 492 (D.C. Cir. 1951). On promptness and possibilities for judicial review of unlawfully withheld agency action, *see also* Gianella, *supra,* note 87.

[122] *See, e.g.,* NWRO v. HEW, Civ. No. 1042–71 (D. D.C. 1971) (order denying motion to dismiss, entered Aug. 11, 1971).

[123] Skolnick v. Parsons, 397 F. 2d 523 (7th Cir. 1968); Davis, *supra,* note 9.

[124] *See* note 50, *supra.*

[125] Note, *The Freedom of Information Act: A Critical Review,* 38 Geo. Wash. L. Rev. 150 (October 1969); Katz, *The Games Bureaucrats Play: Hide and Seek Under the Freedom of Information Act,* 48 Tex. L. Rev. 1261 (1970). *See supra,* note 111.

[126] 5 U.S.C. § 552(a)(3).

[127] Bristol Myers Co. v. FTC, 24 F.2d 935 (D.C. Cir. 1970). *But see,* Ackerly v. Ley, 420 F.2d 1336 (D.C. Cir. 1969), where the appellate court noted its displeasure with the delay by the agency which resulted in the plaintiffs receiving the requested records well after the hearing for which the records were initially requested.

[128] *E.g.,* 5 U.S.C. § 705.

[129] *See, e.g.,* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), where the court preliminarily enjoined the government's seizure of the steel mills even though, under the government's analysis of the case, such an injunction effectively disposed of the case. The Supreme Court upheld such preliminary injunctions when successful outcome for the plaintiff is assured.

[130] *Supra,* note 53.

[131] Department of Health, Education, and Welfare, Social and Rehabilitation Service, Information Memorandum AO–IM 72–10 (December 8, 1971). Available from the Clearing house No. 7361 (3 pp.).

EXHIBIT 2

(ATTACHMENT 1)

INSPECTION DIVISION, OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., January 26, 1972.

To: JOHN R. BUCKLEY.
Thru: C. B. Patrick, Harry R. Carpenter, Jr., Robert G. Kinney.
From: John F. Rios.
Subject: Voter Registration Acitvities, Legal Aid Society of Alameda County, Union City, Calif.

During the course of an inspection of the Southern Alameda County Economic Opportunity Agency, a CAA, Inspectors observed a county sign displayed in the front store window of an outreach office of the CAA at 525 H Street, Union City, designating that location as an official voter registration office for Alameda County. Inquiries in the location reflected the CAA provides office space within for staff members of the Legal Aid Society of Alameda County, an OEO Legal Services program, not a delegate agency of the CAA.

CAA and Legal Services employees at the outreach office advised Inspectors a Legal Services staff member, Maria Vizcarra, was the voter registrar and that she could and would register voters at the center. Mrs. Vizcarra was not present for interview during two visits by Inspectors to the location.

Rene C. Davidson, Chief, Registrations and Elections for Alameda County, advised Inspection that Maria Vizcarra is listed in his records as an official Deputy Voter Registrar.

Inspectors did not conduct further investigation to determine if other Legal Services staff were engaged in voter registration activities in Alameda County.

RECOMMENDATIONS

1. Notify Office of General Counsel and Legal Services of apparent violation of Section 603(b)(3) regarding this grantee.

2. Institute inspection of Legal Aid Society of Alameda County to determine extent of prohibited political activities.

ATTACHMENT 2

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., January 4, 1972.

INSPECTION DIVISION

To: JOHN R. BUCKLEY.
Thru: C. B. Patrick.
From: Harry R. Carpenter, Jr., John F. Rios, Thomas F. Fitzpatrick, Jr.
Subject: Request by Richard H. Ichord, Chairman of the Committee on Internal Security, House of Representatives, for Information Concerning the Alleged Use of an OEO Vehicle by Bruce Neuberger, Seaside, Calif.

By letter dated November 16, 1971, Representative Richard H. Ichord, Chairman, Committee on Internal Security, House of Representatives, requested Philip Sanchez, Director of OEO, to furnish a report concerning the use of a vehicle bearing license number OEO 1400 by Bruce Neuberger in Seaside, California on November 20, 1970.

The records of the San Francisco Regional Office reveal that a 1963 Plymouth bearing license number OEO 1400 was assigned March 19, 1970, with OEO approval, from GSA surplus to the Monterey County Antipoverty Coordinating Council, Inc., Salinas, California.

Amelia Harris, Operations Officer for the Monterey CAA, told Inspection that OEO vehicle 1400 was assigned to the CAA, but that it had transferred the vehicle on March 19, 1970 to the Monterey County Legal Aid Society located in Seaside, California. She explained that the Legal Aid Society is an OEO-funded legal services program and is a delegate agency to the CAA.

Mrs. Jane VanHook, Attorney Director of the Monterey Legal Aid Society, advised that her agency has a GSA surplus 1963 Plymouth bearing license number 1400. She made inquiries of her staff and determined that on November 20, 1970, Donald Hubbard, a Reginald Heber Smith Fellow assigned to her program, made use of this vehicle to visit a client at 580 Amador Street, Seaside, California, on official business. While in the process of leaving the premises, Hubbard was approached by a Bruce Neuberger, a neighbor of Hubbard's client, and asked for a ride to his place of employment since it was on the way to the Legal Aid office. Mrs. Van Hook said that this was all she knew about the matter and referred Inspection to Hubbard for the details. She assured Inspection that she never heard of Bruce Neuberger and that he was never a client of their office.

Donald Hubbard told Inspection that he has been employed as a "Reggie" since August 1, 1970 with the Monterey Legal Aid program. He stated that Neuberger, a neighbor of one of his clients, had asked him for a ride to his place of employment on November 20, 1970. Since Neuberger's place of employment was en route to the office, he agreed to accommodate him. Hubbard explained that when he entered the parking lot to Zaraida's Mexican Restaurant where Neuberger worked as a dishwasher, two plainclothesmen detectives approached his car and pulled Neuberger out and arrested him. Hubbard emphasized that the detectives did not approach him or communicate with him during this incident and allowed him to proceed. Hubbard said he immediately called the Legal Aid office and reported the incident. He assured Inspection that the Legal Aid office was in no way involved. Hubbard noted he learned later that Neuberger had been arrested for traffic-ticket violations. Hubbard told Inspection that this was the only time that he had given Neuberger a ride in the car and that at no time did he represent Neuberger.

VanHook told Inspection that Hubbard had authority to use the vehicle and that Neuberger did not have authority to use the car but had been given a ride out of pure courtesy by Hubbard since the place of employment was in the direction of the Legal Aid office. She assured Inspection that no other non-OEO people had access to the vehicle. This matter received no press and, to the best of her knowledge, was a single incident.

Detective Terry Mangan of the Seaside Police Department told Inspection that he arrested Bruce Allen Neuberger at approximately 3:00 p.m. on November 20, 1970 while Neuberger was a passenger in a vehicle bearing license OEO 1400. Mangan noted that the arrest was made on traffic warrants outstanding against Neuberger at the time. Mangan told Inspection that as far as he knew, Neuberger did not have anything to do with the Legal Aid program. The driver of the vehicle was unknown to Detective Mangan and was permitted to proceed and was not involved in the arrest of Neuberger on November 20, 1970.

Mangan stated that the whereabouts of Neuberger is presently unknown, and it is believed he left the area approximately six months ago. Detective Mangan told Inspection that this single use of the car bearing license OEO 1400 by Neuberger on November 20, 1970 was the only use of any OEO vehicle by Neuberger known to him. He reiterated that Neuberger had nothing to do with any Legal Aid program nor any other Government vehicle. Detective Mangan advised that this information was furnished two California State EOO Investigators named Kenneth Trigger and Bill Charlton, who considered the matter inconsequential and took no action to the best of his knowledge.

John Sattorini, Legal Services Specialist for the California State Economic Opportunity Office, told Inspection that there was no record of this matter in their office. Sattorini explained that Bill Sharlton once worked for his office but is no longer associated with the State EOO.

In Representative Ichord's letter, he also requested a response as to whether or not any OEO funds had been expended to assist the personnel connected with the Movement for a Democratic Military, the Pacific Counseling Service, or any other person, group, or organization engaged in the so-called counseling of military personnel in the Fort Ord area.

Mrs. Jane H. VanHook, Directing Attorney, Legal Aid Society of Monterey County, Seaside, California, told Inspection that Detective Terence Mangan's testimony before Representative Ichord's Internal Security Committee on October 27, 1971 concerned matters that had occurred more than a year ago. She assured Inspection that the conduct of her staff was not in violation of any OEO rules and regulations, to the best of her knowledge. She stated that no funds were used for non-grant purposes. However, she admitted that in 1970 her staff did spend much of its time on matters relating to the military. However, she added, because of her own personal belief that the priorities of the poor in the area are so much greater in housing, employment, and discrimination, she has caused, with Board support, a substantial decrease in the number of military matters handled by her staff in 1971. She cited the office statistics from January 1 through November of 1971 which show that her staff handled 2,143 cases, only 104 of which involved military matters.

Mrs. VanHook stated that over a year ago, a group known as the Movement for a Democratic Military (MDM) emerged in the area but was short-lived after a brief and ineffective attempt to establish a base of operations at a local coffee house. The coffee house and the movement folded in the fall of 1970 and have not reappeared since that time, she said. Mrs. VanHook noted that Seaside is heavily populated with retirees from the military, and that this segment of the population is quite conservative and completely opposed the MDM effort.

Mrs. VanHook, who is black, explained to Inspection that 40 percent of the Seaside population is black, and a large percentage of the black community are military, both active and retired. Mrs. VanHook assured Inspection that she and the rest of the black community are opposed to any involvement with the military, beyond representing needy, qualified personnel who cannot get legal assistance elsewhere. As an example of the kind of service given by her office to the military, she cited hardship cases where enlisted personnel attempt to obtain a hardship discharge as the only way to resolve some serious problem at home.

Mrs. VanHook admitted that one of her staff attorneys, Steve Slatkow, has been particularly active in military matters, both on and off the local military base, at Ford Ord. However, she added, his involvement with a local group called the Pacific Counseling Service, which counsels military people concerning their rights as conscientious objectors, has been restricted to after-hours time. This activity is done solely on his own time as an ACLU lawyer and is not an official, sanctioned, office activity.

Mrs. VanHook furnished Inspection with a copy of the minutes of the Legal Aid Society Board meeting of July 28, 1970, outlining the direction staff attorneys take concerning their legal duties. The Board minutes reflect a statement by staff member Steve Slatkow that the agency does not represent Peace groups but that he represents them on his own time as an ACLU attorney. In the minutes, Slatkow said that the issuance of a misdemeanor citation to the Peace group (not identified), including Slatkow, may involve a trial at which point, he will take either vacation or leave of absence during the trial period. The minutes further reflected that the Board felt there ought to be a differentiation between cases where military counsel is available, although perhaps not desired by the client, and those cases where no military counsel is available. A committee was appointed to create guidance for the acceptance of military cases. The committee was headed by Mr. Lawrence Shostak.

Lawrence Shostak, a private attorney doing business in Salinas, California, told Inspection that he served on the Monterey County Legal Aid Board for three years and resigned in September of 1971 because of the press of his own private work. Shostak said that the committee met with Slatkow on one occasion after the July 1970 Board meeting to discuss the matter of military cases. The committee accepted Slatkow's statement that he handled only qualified hardship cases and that his activities with the Pacific Counseling Service were done on his own time. The committee considered the matter resolved, but has not issued a written report, Shostak said. Shostak explained that there have been no complaints, to his knowledge, about the program or the activities of any of its attorneys. There have been, he said, expressions of concern by other Board members including Roberts Hinrichs who, as a retired, military, legal officer, had conveyed to the Board expressions of concern made to Hinrichs by his friends in the military.

Robert Hinrichs, a Legal Aid Board member and a practicing private attorney in Salinas, California, told Inspection that while there have been no specific complaints, his friends in the military felt that the soldiers at Ford Ord were furnished with adequate legal counseling and did not need the assistance being furnished by the Monterey Legal Aid staff. Hinrichs stated that he agreed with this analysis and cited his own service of 12 years in the General Advocate's office of the U.S. Army, which has a special branch of legal advisers who counsel military personnel regarding matters of hardship, discharges, and conscientious objector status. It was Hinrichs' opinion that soldiers are well paid and that, in effect, their pay is spending money since their clothing, housing, retirement, and medical needs are furnished free by the Service. Hinrichs admitted that military lawyers are restricted to the role of counseling and cannot represent a soldier in a legal proceeding. He admitted further that no specific complaints have been lodged by anyone concerning the Monterey Legal Aid program or any of its attorneys.

The Chief Intelligence Office, Lt. Colonel Tom Horiuci, at Fort Ord, California refused to meet with Inspection based on his instructions from the Department of Defense, which recently directed that the Army will no longer investigate civilians and will no longer mantain any files on civilians. The Colonel stated that he was obliged to follow this directive to the letter and could not meet with Inspection to discuss this matter. He stated that his response was not to be interpreted as meaning that he did or did not have any complaints. He noted, however, that the local newspapers have reported on this matter.

The May 6, 1971 issue of the Monterey Peninsula Herald carried a front-page story concerning a march by anti-war demonstrators to the Presidio of Monterey, another local military installation. Citations were given, and the demonstration dissolved without incident. No names associated with the Monterey Legal Aid office appeared in this article.

According to Shostak, there was an anti-war demonstration in May of 1971 at Fort Ord, and a radio account of the incident used the name of Luke Hiken, one of the "Reggies" assigned to the Monterey Legal Aid program. Hiken, according to Shostak, has been in regular contact with Fort Ord, where he is working to establish an Affirmative Action Plan to be established pursuant to Executive Order 11246. Hiken has also been working at Fort Ord to request the military to provide surplus land for low-cost housing and to supply other kinds of assistance to the local poor. The Hiken incident was resolved to the satisfaction of the Board, Shostak explained, by accepting Hiken's explanation that he was at Fort Ord in connection with his normal assignment and by surprise wound up in the middle of the demonstration.

Hinrichs told Inspection that he was not satisfied with Hiken's account but had no information to challenge it. He added that no complaints had been made concerning Hiken's activities.

The October 28, 1971 issue of the *Monterey Peninsula Herald* carried an article captioned "Mangan Charges Ridiculous." In the article, Steve Slatkow, the staff attorney for the Legal Aid Society of Monterey County, called absurd, inaccurate, or outdated the testimony of Seaside Detective Sgt. Terence Mangan before the House Internal Security Committee. The article showed that Mangan had testified on October 27, 1971 in Washington, D.C. in part about the Movement for a Democratic Military, claiming that the Movement operated a coffee house for several months in 1970 in Seaside where "revolutionary" films were shown. Mangan alleged soldiers were advised on resisting orders, filing complaints against officers, and claiming conscientious objectors' status. Mangan called the Pacific Counseling Service in Monterey a hub for distribution of underground newspapers and claimed that some attorneys connected with the Legal Aid Society offered draft and general counseling services to GI's. In the article, Slatkow responded to Mangan's charges, saying that the Legal Aid office gives advice on legal problems to any qualified person regardless of his status and added there is no formal or informal relationship between the Pacific Counseling Service and the Monterey Legal Aid Society.

Steve Slatkow told Inspection that he personally, acting as an ACLU attorney, has maintained a constant, supportive position with the Pacific Counseling Service. In effect, he explained, they call him for advice. These activities, he ascured Inspection, do not involve his handling any cases for the Pacific Counseling Service or representing any of their clients.

According to Terry Mangan, his Department has not had any complaints regarding the Legal Aid Society this year. His speculation was that due to publicity received, the organization would be careful to operate within their guidelines.

Mangan told Inspection that Steve Slatkow was arrested on July 4, 1970 at a parade in Seaside where unauthorized groups attempted to participate—namely, the Movement for a Democratic Military, Peace and Freedom Party, Women's International League for Peace and Freedom, Veterans for Peace, and the Monterey Liberation Front (termed by Mangan as a coalition of Peace groups). When the members of these groups refused to leave the line of march, Mangan said, some twenty-three were arrested, charged with violating a local ordinance preventing the blocking of a street, and Slatkow was one of those arrested.

Mangan stated that Slatkow fought the charges through the courts, and the case was dismissed by the California State Supreme Court. According to Mangan, Slatkow was not affiliated with one particular group but, rather, was overseeing the whole demonstration, and moved from one group to another, and seemed to be accepted by all.

According to Mangan, the Pacific Counseling Service is an "umbrella" organization for many of the activists' groups, and Attorney Slatkow is still close to this organization. Mangan also advised Inspection that very recently a new office opened at 467 Alvarado Street in Seaside called the Lawyers Military Project, and its objective is to help conscientious objectors. The Director of this organization is Attorney Louis N. Hiken, Mangan said, who is affiliated with attorneys of the Legal Aid Society. A report to Mangan's office indicated that the reason for this office being opened is that the Legal Aid office is crowded and additional facilities were needed.

Mangan stated that the attorneys who were active at Fort Ord were Slatkow, Hubbard, and Ray Schonholtz. Slatkow and Schonholtz are also with ACLU, Mangan stated. Mangan said that there has been less activity at Fort Ord this year than last.

Regarding the statement by Slatkow and VanHook that Mangan's information was not current, Inspection was told by Mangan that this is not true. While the Movement for a Democratic Military is no longer in existence, other groups bearing different names are engaged in the same tactics (strategies employed to further "The Movement"); ergo, his concept of the operations of activists in the area is current, Mangan claimed. As an example, Mangan stated that a new group called Peoples Army Defense Committee has been formed and would operate similarly to the defunct Movement for a Democratic Military.

The Monterey Legal Aid program is funded with $90,200 of OEO money. Technically, it is to service the poor of Monterey County, but concentrates on the Monterey Peninsula. Acording to Attorney-Director VanHook, with her staff of two attorneys and two "Reggies," they can't handle the cases in their own backyard, let alone the whole county. By an unwritten agreement, she said, CRLA handles the rest of the county, which is rural. Since CRLA deals mainly with Chicano problems, she added, she has focused on the problems of the blacks in Seaside.

Mrs. VanHook furnished Inspection with a copy of an evaluation of her program conducted by Auerbach Associates under a contract with OEO. The evaluation report, dated August 3, 1971, was based on an evaluation team visit in October of 1970. The report indicated impaired relationship with the CAA and CRLA, and urged the Legal Aid to fulfill its mandate to service the county and to cooperate more closely with CRLA. The evaluation report questioned the amount of time spent by the staff on conscientious objector cases, in counseling the organizing of "street people," and in preparing for an attack on abuses at Fort Ord. The evaluators recommended that time spent on Fort Ord be limited to 50 percent of one attorney's time. The evaluators found that the two staff attorneys and the two "Reggies" were spending considerable time in analyzing Fort Ord's influence on Seaside. On the other hand, the evaluators were impressed with the Director's own approach, which was to act as a community leader serving community causes.

Committee on Internal Security,
Washington, D.C., November 16, 1971.
Mr. Philip Sanchez,
Director (Acting), Office of Economic Opportunity, Washington, D.C.

Dear Mr. Sanchez: The Committee on Internal Security has recently heard testimony dealing with attempts to subvert the armed forces of the United States.

On October 27, 1971 Detective Terry Mangan of the Seaside, California Police Department testified concerning revolutionary organizations active in the Fort Ord, California area. Testimony was also given concerning the Movement for a Democratic Military which was described as being affiliated with the Pacific Counseling Service and as having published a document urging disruptive action at Fort Ord for the purpose of crippling it as a training base. Mangan said that an attorney, Steve Slatkow of Monterey, assisted the Pacific Counseling Service as a legal advisor. He said Slatkow is affiliated with the Monterey County Legal Aid Office which he believes is funded by the Office of Economic Opportunity. He added that he recalls arresting one Bruce Neuberger, a local activist for the Movement for a Democratic Military, while Neuberger was in a surplus military vehicle assigned to the Legal Aid Office. This vehicle bore U.S. Government license OEO 1400, according to Detective Mangan.

A further check on this matter with the Seaside Police Department revealed that the above arrest took place on November 20, 1970. Neuberger was a passenger in the car. The driver is unknown. Neuberger was reportedly being given regular "taxi service" in this vehicle to his job as a dishwasher in a restaurant. The vehicle was a Plymouth stationwagon. The Committee staff has further been informed that the State of California OEO personnel conducted an inspection of OEO functions in the Monterey area; that the above described use of an OEO vehicle was reported to the inspectors; and that the matter was dismissed by the inspectors as insignificant.

I would be interested in receiving a report on the authorized use of the vehicle bearing license number OEO 1400, why Bruce Neuberger was occupying it, whether such use exceeded OEO authority, who granted permission for its use by Neuberger, what other non-OEO people had access to the vehicle, whether the Monterey Legal Aid Office is in fact funded by OEO and, if so, for how much and for what purpose and the controls in effect to insure the proper expenditure of these Government funds.

I would like to know specifically if OEO funds have been expended to assist the personnel connected with the Movement for a Democratic Military, the Pacific Counseling Service, or any other individual, group, or organization engaged in the so-called counseling of military personnel in the Fort Ord area.

I will be appreciative for your assistance in this matter

Very truly yours,
RICHARD H. ICHORD, *Chairman*.

TRANSFER ORDER EXCESS PERSONAL PROPERTY

1. Order No. 0091.

2. Date, March 10, 1970.

3. To: General Services Administration, Utilization and Disposal Service, Personal Property Division, 49 Fourth Street, San Francisco, Calif 94103.

4. Ordering Agency (*Full name and address:*) Office of Economic Opportunity, 100 McAllister Street, San Francisco, Calif 94102.

5. Holding Agency (*Name and address*) Naval Supply Center Disposal Dept., Bldg. 834 Code 302.2 Oakland, Calif 94625.

6. Ship to (*Consignee and destination*), Monterey County Anti Poverty Coord., Council Inc., 6 W. Gabilan Street PO. Box 1087.

7. Location of property, Naval Supply Center Disposal Dept., Bldg. 834 Code 302.2. Oakland, Calif 94625.

8. Shipping instructions, Will Pick Notified Max Velazquez (408) 424-0091.

9. Ordering agency approval, Signature, Loui F. Roch. Title, Regional Property Administrator.

Date, 3/11/70.

10. Appropriation symbol and title, Grant 7035.

Title, Regional Property Administrator.

11. Allotment, GSA 1147.

13. Property ordered.

GSA and holding agency Nos. (a), 13949, N00, 228-0015 L, Item No. (b), 009, Description, (c) 2310-889-2018 Automobile Sta. Wagon, USA #106490 Cond R-4 Plymouth 1963, Serial #2535144129, unit, (d) ea. quantity, (e) 1, unit, (f), $1840.00, total, (g), $1840.00.

14526-N00223-0022 Item No. (b), L001, Description, (c) 2310-889-2018 Automobile Sta. Wagon, USA #LG 6497 Serial No. 2535151190, Plymouth 1963, Cond R-4, unit (d), ea. quantity (e), 1, unit (f), $1840.00, total (g), $1840.00.

CERTIFICATION

I certified that this property is being acquired in lieu of property that could have been properly purchased with grant funds under the terms of an OEO Grant. Property to be used in support of the Legal Aid Society (Acct. 5 7) and the Tri-County Emergency Food & Medical Services (WH) (Acct #51) Paragraph 2A(1) OEO Instructions 7003-1 6/17/69.

MAXIMILIANO VELAZQUEZ,
Property Management, MCAPCC.

GOVERNMENT VEHICLE LICENSE INFORMATION

To: Chief, Management Division, Attn: Property Administrator, Office of Economic Opportunity, 100 McAllister St., San Francisco, California 94102.

From: CAA Name, Monterey County Anti-Poverty Coordinating Council Inc.

Grant no.: 7035.

CAA Address: 6 West Gabilan St., P.O. Box 1087, Salinas, Ca., 93901.

Item Description & Capacity: Automobile Sta. Wagon, Plymouth.

Year of Manufacture: 1963.

Make & Model: Plymouth.

Engine Serial No.: 2535144129.

Chassis Serial No:

Date Vehicle/Equipment Received: April 16, 1970.

Acquisition Cost: $1,740.00.

Signature:

MAX VELAZQUEZ.

Title: Property Mgr.

Date: April 16, 1970.

ATTACHMENT 3

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D. C., March 9, 1973.

To: ERIC BIDDLE.

Thru: Robert Slonager.

From: John Myers, James Poole.

Subject: Involvement of OEO Grantee Personnel in South Dakota Indian Disorders.

CUSTER AND RAPID CITY

On Sunday, January 21, 1973, Wesley Bad Heart Bull, an Oglala Sioux, was stabbed by a white man in Buffalo Gap, South Dakota. Bad Heart Bull later died in Hot Springs. His killer was charged with manslaughter.

On February 6, members of the American Indian Movement (AIM), together with numerous local Sioux, converged on Custer, South Dakota to protest the leniency of the charge against Bad Heart Bull's alleged killer. After discussions with State's Attorney Hobart Gates, disorders erupted which led to the burning of the Court House, the Chamber of Commerce, a bulk oil station, damage to police cars and injury to eight police officers. Thirty-four persons were arrested, including Russell Means, a leader of the BIA takeover in Washington, and Dennis Banks, AIM National Field Director. According to State's Attorney Gates and Sheriff Ernest Pepin, no known staff persons of any OEO funded agency were involved in the disorders. However, Mr. Gates advised that Gary Thomas, a Legal Services Lawyer from the Pine Ridge Reservation, was listed as defense attorney for Severt Young Bear, who had been charged with rioting, a felony. Young Bear is an AIM leader from Pine Ridge.

On February 9 AIM Indians initiated disturbances in Rapid City which led to forty-two arrests. According to Assistant Chief of Police Carol Boze, there was no involvement of CAA, Legal Services or other OEO grantee personnel in the Rapid City trouble. Boze was generally positive in his comments about the local CAA and said he had only very slight knowledge of the Legal Services operation.

Among the Indians involved, but not arrested in Rapid City, was Clyde Bellecourt, Director of Minneapolis AIM. Sharing a room with Bellecourt when he and other Indians were evicted from the Imperial 400 motel was a woman who, according to Assistant Chief Boze, may have been Clyde's wife, Peggy Bellecourt. Peggy Bellecourt is also a member of the Board of Directors of Minneapolis AIM, which received OEO funds to operate the Minneapolis AIM Survival School.

LEROY CASADOS

During an earlier inspection, this office learned that the husband of an employee of the Northwest Nebraska Community Action Agency headquartered at Chadron, had participated in the November, 1972 takeover of the BIA building in Washington. Susan Casados is a Family Planning supervisor, living in Alliance, Nebraska, and working out of the NNCAA office there.

She is married to Leroy Casados, a Mexican-American who has been deeply involved and influential with the American Indian Movement. Other AIM activities in which Casados has participated include the protests in Gordon and Alliance, Nebraska relating to the death of Yellow Thunder in Gordon last year.

In addition, Casados was arrested in Scottsbluff, Nebraska on January 15, 1973 and confined for possession of concealed .45 cal., .32 cal., and .22 cal. handguns and makings for firebombs. Sgt. Jim Livingston, Scottsbluff Police Department, advised that during this disorder, AIM people and partisans of former Nebraska Panhandle Community Action Agency Director Ramon Perez, took over the NPCAA headquarters. A sheriff's officer was stabbed during the fracas. Most participants, including Casados, have not yet come to trial.

Inspection made contact with an informant who is well acquainted with Susan Casados, who advised that Susan told him her husband, Leroy, was storing weapons, including two machine guns, in their home in Alliance. Susan Casados allegedly told this informant that on an unspecified date, two uniformed Alliance police officers came to her home when her husband was not there and asked her to consent to a search of the premises. Casados told the informant that she refused to admit the officers. After their departure she allegedly removed the weapons from her home in two separate trips to the country.

The same informant, who is a Sioux Indian, advised that he had seen the following artifacts and equipment, allegedly taken from the BIA headquarters in Washington, in the home of his cousin on the Pine Ridge Reservation:

1 tape recorder; 1 camera; 1 sand painting done by Southwestern Indians and 1 ceremonial wedding cup. This informant would not reveal the identity of the cousin because of the family relationship, but advised that many of the items had been given to militant Indian leaders in the Rapid City area.

An Alliance, Nebraska police lieutenant advised that on January 15 his office was altered by the FBI that Casados was jailed in Scottsbluff. The FBI agent said Casados had made a phone call to his wife in Alliance, telling her to "get rid of the stuff," or words to that effect. Two Alliance police officers went to the home of Leroy and Susan Casados and asked Mrs. Casados to consent to a search of the premises. The police expected to find items stolen from the BIA. She refused to admit them. Later that evening, while the house was under surveillance, Mrs. Casados left once by automobile, returned and left again. She was not followed.

On February 28, the day following the takeover by AIM and other militants of the trading post at Wounded Knee, Inspectors learned from an official source on the Pine Ridge reservation that AIM allegedly had two machine guns inside the area controlled by them.

PINE RIDGE AND WOUNDED KNEE

On Friday, February 23, the Oglala Sioux Tribal Council voted down a move to impeach Tribal Chairman Richard Wilson. The count was 14–0, four other members of the 20 member Council having walked out in protest before the vote was taken.

The charges against Wilson included misuse of funds, nepotism, false arrest of another Council member and other improper performance of his tribal office. Following this apparent endorsement of Richard Wilson, the Council went on to pass resolutions requesting an FBI audit of tribal records and an investigation of subversive activity on the reservation.

On February 25 Vernon Bellecourt announced a caravan of Indians was coming from Rapid City to Pine Ridge "in response to requests from the people of Pine Ridge."

Tuesday morning, February 27, AIM leader Russell Means was assaulted by alleged followers of Richard Wilson in front of the Sioux Nation trading post in Pine Ridge. Legal Services Attorney Gary Thomas reportedly was with Means at the time and according to one source, he also was slightly injured.

The same evening numerous Pine Ridge residents, led and encouraged by AIM leaders, ransacked the trading post at Wounded Knee. About 18 arrests were made by U.S. Marshals and Indian police. Tribal Chairman Richard Wilson told Inspection that approximately 12 of these persons are employees of the Pine Ridge CAA. Tribal and CAA offices were closed during the Inspection due to the critical situation on the reservation and no check of personnel records for names of those arrested could be made at that time. Wilson offered to provide a list of CAA persons arrested as soon as some stability is restored.

Later, on the evening of February 27, approximately 300 Indians occupied the town of Wounded Knee and took 11 hostages. Shots were exchanged with Federal authorities.

On February 28, Inspection interviewed Richard Wilson regarding the involvement of OEO funded personnel in the Wounded Knee disorder. Wilson, surrounded by a corps of flak-jacketed, heavily armed supporters, strongly protested the alleged participation of Legal Services attorneys Gary Thomas and Mario Gonzalez in AIM efforts to remove him from the Tribal Chairman position. According to Wilson, he was going to have Legal Services removed from the reservation, either with the cooperation and compliance of the attorneys or by force without it. Wilson also advised that he had warned Gonzalez to leave the reservation or expect bodily harm.

Inspectors attempted to contact Thomas and Gonzalez on the reservation, but were not successful. It was rumored that one or both of them were with the militants at Wounded Knee. Gonzalez' home on the reservation was closed and apparently unoccupied.

Wilson's bodyguards, Glenn Three Stars and Joe Merrival, gave Inspection copies of Criminal Complaints and Warrants sworn against them by Gary Thomas, charging both with assault by "quarreling with" Thomas outside the Sioux Nation trading post. This apparently occurred at or near the time of the assault upon Russell Means. Both Merrival and Three Stars volunteered to Inspection that they were not the persons involved in the attack upon Means, and stated further that they had not even spoken to Gary Thomas on that occasion. Charges against both men were dismissed, they said, by the Tribal Judge.

ATTACHMENT 4

[Administratively Confidential]

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., March 8, 1973.

To: ERIC BIDDLE.
Thru: Bob Slonager.
From: Michael DeCandio, Charles L. Gray.
Subject: Native American Rights Foundation (NARF).

NARF was initially formed through a grant received from the Ford Foundation, from which organization they are presently receiving over one million dollars in grants. In addition, NARF is the recipient of a $65,000 grant from OEO Legal Services, and a 2-year grant initiated by OPD for $250,000 in program 232 funds to administer a pilot project dealing with Indian education problems. The OPD grant has been transferred to Indian Division and terminates on July 31, 1973. However, planning is under way to award a supplemental grant of $35,000 to NARF to carry them through the first quarter of fiscal year 1974. Hopefully, they will subsequently be refunded for the entire fiscal year 1974. Project Director for this OPD grant is John O'Brien, Indian Division.

On March 8, 1973, Dan Israel of the Native American Rights Foundation (NARF) informed Inspection that the class action referred to in the January 25, 1973 issue of the Denver Post (attachment) referred to a Temporary Restraining Order filed against the City and County of Scottsbluff, Nebraska. The Restraining Order stated that evidence indicated that the "Constitutional Rights of Indians and Chicanos were being violated by City and County authorities." The Restraining Order directed the city and county to cease and desist from committing these Constitutional violations.

In reference to the staying of the prosecution of those involved in the disturbances in Scottsbluff (attachment), Israel said that the order was dissolved by "its own terms on February 1, 1973." Specifically, the Indians, Chicanos, City and County Officials negotiated an agreement which was incorporated into the Restraining Order. The agreement specifies that:

1. The defendants are to refrain from engaging in any unlawful actions.
2. A Human Rights Commission is to be set up in Scottsbluff to investigate problems relating to unequal justice for Indians, Chicanos and any other persons denied equal protection under the law.
3. Equal employment opportunity.
4. Equitable distribution of municipal services.
5. In order to insure compliance with this agreement, one Chicano, one Indian, one representative each from the city and county governments will serve as members on the Human Rights Commission.

Israel further commented that the staying of prosecution does not mean that none of the individuals involved in the disturbances will not be prosecuted. The decision as to what extent prosecution of the involved individuals will encompass, will depend on the good faith of all the parties involved in providing the cooperation necessary to insure that the Human Rights Commission is successful in attempts to solve the problems on which the disturbances focused.

In commenting on the involvement of OEO funded employees in the disturbances in Scottsbluff, Wounded Knee or Pine Ridge, Israel said no OEO funded employees were involved. He explained that the NARF funds are received from:

1. Ten private foundations
2. Public contributions
3. OEO, but only under "legal services for backup Center work."

Commenting on whether any NARF personnel were present at Wounded Knee, Israel said that Roy Haber and John Echohawk were present at Wounded Knee over the weekend of March 2–5. Israel said "Let me state that these persons went to Wounded Knee at the invitation of Bill Gershny (phonetic), who is assigned to the Solicitor's Office, Department of Interior." Israel believed that Haber and Echohawk were helpful in helping to negotiate an arrangement between the Indians (AIM) and the government. However, Haber and Echohawk departed on Monday morning, March 5, when the confrontation changed to one between the AIM people and the Tribal Council. Israel explained that NARF has no authority to negotiate disputes between Indians and the Tribal Councils. Israel further commented that at present, there are now three distinct groups at Wounded Knee:

1. The AIM people
2. Two-hundred non-AIM residents
3. White people

On March 9, 1972, Mr. Duard Barnes, Assistant to Mr. William A. Gershuny (correct spelling), Associate Solicitor for Indian Affairs, Solicitors Office Department of Interior, informed Inspection that Mr. Gershuny did not invite Mr. Haber and Mr. Echohawk to Wounded Knee during the weekend of March 2–5. What actually transpired, according to Barnes, as told to him by Gershuny was that the AIM people in Wounded Knee (not further identified), requested that Gershuny contact NARF and ask that several lawyers from this organization come to Wounded Knee to aid in the negotiations. Barnes said, "This was the extent of our office's involvement with NARF's presence at Wounded Knee."

ATTACHMENT 5

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., October 4, 1971.

INSPECTION DIVISION

Report of inspection.
From: Thomas F. Fitzpatrick.
Subject: Sheldon Otis, Ex-Director of the Legal Aid Society of San Mateo, Redwood City, California, Date of Inspection: September 28, 1971.

BACKGROUND

This is a Legal Aid program serving the needs of the poor in San Mateo County. It is a delegate agency of the San Mateo County Economic Opportunity Commission, located in Redwood City, California, operating under Grant Nos. CG 7069, CG 7193, and CG 9042.

BASIS FOR INSPECTION

This report has been prepared in response to a request from Howard Phillips, Special Assistant to the Director, as stated in his memorandum of September 22, 1971 entitled "Inspection of Legal Services activities in the prisons." (Attachment #1)

FINDINGS

1. Sheldon Otis, a white attorney from Detroit, Michigan, served as Director of the Legal Aid Society of San Mateo from June 1970 to January 1971 and resigned for personal reasons.

2. Otis became chief attorney for Angela Davis after he left the Legal Services program.

3. District Attorney Keith C. Sorenson has filed a complaint against Otis charging him with violating Section 487, California Penal Code, two counts. Otis is to surrender when he is discharged from the hospital where he is recuperating from pneumonia.

4. Otis apparently embezzled $10,000 of Reginald Heber Smith funds while he was Director of the Legal Aid Society of San Mateo. Otis returned the funds before he left the program. The embezzlement was reported to the San Mateo County District Attorney by the present Director, Simon Rosenthal, a former OEO Legal Services official (Attachment No. 2).

5. Sheldon Otis owes money to the Internal Revenue Service. Otis currently owes IRS $21,091.79. It is believed he embezzled the $10,000 from the Reginald Heber Smith funds to meet his tax obligations.

6. Walter Harrington, Board Chairman, and local police authorities had no other information to indicate any questionable activities by Otis during his stewardship of the Legal Services program in San Mateo.

7. The Legal Aid Society of San Mateo enjoys a fine reputation in the community, and no other members of the staff are subjects of any investigation by the local authorities.

DETAILS

Wilbur R. Johnson, Chief Criminal Deputy District Attorney of the San Mateo County District Attorney's Office, told Inspection that a complaint had been filed charging Otis with embezzlement, in the amount of $10,000.00 from the Legal Aid Society of San Mateo County, specifically funds from the Reginald Heber Smith Community Lawyer Fellowship Program. However, Otis was not arrested as he had contracted pneumonia and was confined to the intensive care ward in the Herrick Memorial Hospital, Oakland, California. According to Johnson, Otis was fully aware of the charges, was cooperative, and was to have surrendered himself on Monday, September 20, 1971. Johnson advised that Chief Inspector, Jack Jones of the San Mateo County District Attorney's office, was in charge of the investigation.

Subsequent to the conversation with Mr. Johnson, Inspection contacted Mr. Kenneth Irving, in charge of the Intelligence Unit of the Marin County Sheriff's Office, in an effort to determine the status of Sheldon Otis with the defense of Angela Davis.

Irving told Inspection that Otis is an attorney for Angela Davis along with attorneys Howard Moore and Margaret Burham; that he, Otis, does background work but appears to be the chief defense attorney in the case. Irving also advised that Otis may not practice law in the State of California, however, due to a judicial ruling may practice in the Angela Davis trial.

Irving said he had occasion to talk to Otis on Friday, September 17, 1971 and stated that Otis did not appear to be in ill health. According to Irving, a newspaper article (paper unidentified) mentioned the possibility that Otis had ingested pills causing his sudden illness. (Later, the present Executive Director of the Legal Aid Society in San Mateo, Simon Rosenthal, told Inspection that it was his understanding that Otis had taken an overdose of barbiturates.) Irving advised Inspection that his information was that Otis had left the San Mateo County Program January 23, 1971, and the same month appeared as defense attorney for Angela Davis.

Inspection then contacted Mr. Donald Midyette, Senior Investigator in the office of the Marin County District Attorney, who confirmed information given by Irving.

On Tuesday, September 28, 1971, Jack Jones, Chief Inspector for the San Mateo County District Attorney, told Inspection that the matter Inspection was inquiring about was of a sensitive nature and that any information he gave Inspection must be considered confidential and treated accordingly. Jones was most cooperative and allowed Inspection to peruse the file of Sheldon Otis. The following information was obtained from said file:

A complaint was filed against Sheldon Otis, 2814 Kelsey, Berkeley, California, born 12/14/32, SSN 378, 25 8965, phone 548-5205, occupation attorney, on September 17, 1971 charging violation of Section 478 of the California Penal Code, two counts. The complaint was signed by Jack Jones.

The investigation was assigned by Wilbur R. Johnson, Chief Criminal Deputy District Attorney, on August 10, 1971. The investigation was predicated upon receipt of information that subject Sheldon Otis embezzled $10,000 from the Legal Aid Society of San Mateo County.

The embezzlement consisted of subject issuing two checks drawn on the Reginald Heber Smith Fund account (Attachments No. 3 and No. 4).

The first check was dated August 11, 1970 in the amount of $2,500.00. The second check was dated 9/28/70 in the amount of $7,500.00.

Investigator Jones contacted Glen R. Nelson, Jr., Operational Officer of the Wells Fargo Bank County Center Office in Redwood City, on August 10, 1971. Nelson supplied him with the necessary data concerning Otis' transactions.

Otis opened a personal checking account #294969 on June 15, 1970. The initial deposit was in the amount of $2,520.00. Subsequently, the $2,500.00 check of August 11, 1970, drawn on Legal Aid Society-Reginald Heber Smith Fund Account #023525 was deposited in Otis' bank account #294969 on 8/13/70. This check was Legal Aid Check #398, Bank 90-1168, which is the Wells Fargo County Center Bank.

The second check in the amount of $7,500.00, issued 9/28/70, drawn on the Legal Aid Society account, payable to Sheldon Otis, was negotiated through the City National Bank in Detroit, Michigan. A letter from Dennis J. Mullahy, Chief Officer of the Intelligence Unit of the Detroit Police, stated that this check was deposited in Mr. Otis' account #301 511 838, on 9/28/70. Mullahy stated further that another check in the amount of $8,500.00 was deposited in Otis' account at the same time. The $8,500.00 check was a Cashier's Check drawn on the Bank of the Commonwealth, Detroit, Michiigan, dated 9/25/70. This check was issued by Arthur Swartz of Detroit Michigan. The bank statement of the account shows a total of $15,000.

Investigator Jones' report shows that the Legal Aid Society bank records indicate that Otis re-deposited the money he had withdrawn; $2,500.00 was deposited on 12/28/70 and $7,500.00 was deposited on 1/6/71. Both these checks were drawn on the Security Pacific National Bank, 2205 Broadway, Redwood City: The $2,500.00 from Sheldon Otis' personal account #006 015 as of 12/28/70. The $7,500.00 check was a cashier's check #712614, dated 1/6/71, drawn on the same bank. Both checks were deposited in the Legal Aid Society account.

According to Inspector Jones, Marland Moseng, Assistant Manager of the Security Pacific National Bank, 2205 Broadway, Redwood City, phone 368-2974, was contacted on 8/20/71 regarding the cashier's check. Moseng advised that Otis opened a commercial account No. 006 015 on 9/21/70 and closed this account on 6/3/71. Statements pertaining to this account were to be mailed to 2221 Broadway, P.O. Box 5287, Redwood City. The bank statement shows that on 12/28/70 the sum of $10,000.00 was deposited in this account and also shows the withdrawals of the two checks. When the account was opened, only one signature was required, that of Otis. A second signature, that of Barbara Epmeier, Otis' personal secretary, was added on 12/4/70. Epmeier was hired by Otis when he became Director. She resigned in February 1971 upon request of Rosenthal, who found her performance unsatisfactory.

The $10,000.00 deposit of 12/28/70 showed that it was a wire transfer from the Bank of Nevada, Merland Square Office, to the United California Bank in San Francisco, authorized by Mr. Bernard Otis (believed to be Sheldon's brother).

Chief Inspector Jack Jones advised Inspection that he interviewed Mr. Simon Rosenthal on August 20, 1971. Jones reports that Mr. Rosenthal (who is the Executive Director of the Legal Aid Society of San Mateo County) told him that Otis was employed as Executive Director from June 15, 1970, until January 22, 1971. Rosenthal also told Jones that when he took over as Executive Director on January 25, 1971, it became obvious to him that there had been mismanagement in the office and there were indications that the budget was overspent. He, Rosenthal, requested an audit. Rosenthal told Jones that he first became aware of Otis taking money from the Legal Aid Society Fund when the Bookkeeper-Secretary, Esther Larsen, told him about Otis' actions. This was in February of 1971, and Miss Larsen told Rosenthal, according to Jones, that Otis had taken $2,500.00 out of the account because of his moving from Detroit to San Mateo. Miss Larsen did not mention the $7,500.00 check.

(Later Rosenthal told Inspection that Miss Larsen kept quiet so as not to injure the program or Otis.) Rosenthal went on to tell Jones that there was no provision, no rule, no regulation by which a Director could borrow money from any of the funds administered by the program. Rosenthal told Jones the Director's salary came from Office of Economic Opportunity grants. Rosenthal went on to tell Jones that there was a delay in getting the audit, which was received in mid July. The audit (performed by Joseph J. DeMatteis, CPA, 1520 Tacoma Way, Redwood City, Emerson 8-2941) showed that Otis had taken a total of $10,000 from the account and that this sum was paid back in December of 1970 and January of 1971, also that the checks used were out of numerical sequence (taken from the back of a permanently bound check book). (See Attachment #5, copy of audit.)

Jones told Inspection that on July 21, 1971 the audit was presented at the Executive Board Meeting, and the Board directed that Walter Harrington (Chairman of the Executive Board) and Simon Rosenthal (Executive Director) report the embezzlement to District Attorney Keith C. Sorenson. Jones stated that Rosenthal also made a report to Federal authorities. (Inspection interviewed Simon Rosenthal who advised Inspection that he had written a letter to Mr. Glenn Carr, Director, Reginald Heber Smith Community Lawyer Fellowship Program, Howard University School of Law, 1343 H Street, N.W. Washington, D.C. on July 22, 1971, advising him of the circumstances with a carbon copy of this letter to Mr. Steve Huber, OEO Legal Services. See Attachment #6).

Rosenthal told Jones that on 7/26/71 he received a call from Sheldon Otis who said he had heard of the audit report. Otis told Rosenthal, during this conversation, that he had always intended to return the money and he would freely discuss the situation with the Executive Board and the District Attorney to explain his side. Otis indicated to Rosenthal that the reason for taking the money was because his move across the country found him short of cash and that personal fiscal problems existed involving his legal business in Detroit, the Internal Revenue Service, and client's responsibilities necessitated his obtaining the amount he took. Otis, according to Jones, requested Rosenthal to keep him advised re this temporary loan.

Jones advised Inspection that on August 9, 1971 Rosenthal and Harrington met with Keith Sorenson, the District Attorney, to discuss the case. According to Jones, Rosenthal told him that he called Otis and told him of the meeting with the District Attorney. Rosenthal also told Otis that he had reported the matter to the State Bar. Otis again offered to discuss the matter with the Board and/or the District Attorney. Since that time, Rosenthal has not communicated with Otis.

Inspector Jones advised Inspection that he interviewed Miss Esther Larsen, Bookkeeper-Secretary of the Legal Aid Society. Miss Larsen resides at 3003 McGarvey, Redwood City, phone 369-1214. She has been employed in the program since September of 1966 and has been the bookkeeper since 1968. Miss Larsen told Jones that when Otis was hired, he set up the Legal Aid Society-Reginald Heber Smith account for one signature which could be that of Miss Larsen or Sheldon Otis, and this account did not necessitate a Board member's signature. Larsen stated this was out of the ordinary; however, Otis was the Director and operated in this manner. Larsen stated to Jones that there was no Board action regarding this bank account. In addition, Otis set up a Post Office Box at the main post office in Redwood City and had all the bank statements mailed to this box. Only Otis had a key to this box, and he picked up all the mail. Upon occasion Barbara Epmeier, a secretary, would pick up the mail. Larsen went on to tell Jones that she took a three weeks' vacation (last week in July, first two weeks in August, 1970), and on her return, she looked for the bank statements on the Reginald Heber Smith Account.

Otis told her he had them and would give them to her later. During September, October, and November Larsen continued to ask for the bank statements, and Otis continued to stall, saying he would give them to her at another time. In December of 1970 Otis gave Larsen a check in the amount of $2,500.00, saying that he had borrowed some money and wanted to put it back into the account. He gave her the statement showing the withdrawal. He made no comment re the $7,000.00. Larsen stated to Jones that there was no provision for anyone to borrow from these funds.

Larsen told Jones that Otis had submitted his notice of resignation prior to his repayment of the $2,500.00. She explained the resignation stemmed from employee problems which showed Otis did not have support from the Board. Larsen stated she continued to ask Otis for the bank statements without results. On January 6, 1971 Otis gave Larsen a check in the amount of $7,500.00, stating that this was the balance and that he had paid back all he borrowed. Then Otis gave Larsen all the bank statements. Larsen deposited the check. Larsen stated it was some time before she informed anyone regarding these illicit withdrawals. She stated further that the checks in question, numbers 398 and 399, had been removed from the last page of the check book. These was a third check, #400, which is still missing.

Inspector Jones told Inspection that several facts appeared to be significant in this case. He listed them as: (1) Otis, on being employed, set up the bank account so that withdrawals could be made with one signature; (2) Otis removed checks from the rear of the check book; (3) Otis kept the bank statements pertaining to this account and did not permit the bookkeeper to reconcile the account; (4) Otis opened his personal checking account for $2,500.00. He negotiated the first check locally and the second through a Detroit bank; (5) Otis did not repay the funds until he had submitted his resignation; (6) Otis set up two commercial accounts in local banks, Wells Fargo and Security Pacific National; (7) At the time, Otis apparently had no shortage of funds. A $7,500.00 check was deposited, an additional $8,500 was deposited, and on 12/28 he had a wire transfer to his account in the amount of $10,000.00.

Inspector Jones told Inspection that Sheldon Otis was interviewed by Wilbur R. Johnson, Chief Criminal Deputy District Attorney, and himself; that Otis identified his signatures on the checks; that he admitted negotiating these checks; that the money was to be used for personal reasons; that he had no explanation other than that he used poor judgment and fully intended to repay; that he did not know of any rule or regulation that permitted his taking the money; that he did not discuss the withdrawals with any member of the Board of Directors. Otis told Johnson and Jones that Mrs. Larsen, the bookkeeper, was aware of the withdrawals. He advised that she kept the check book; however, he admitted keeping the bank statements and did not give them to Larsen until he had repaid the money he took.

Otis told Johnson and Jones that the repayment of the money he took was from money he received from his brother, Bernard Otis, of Las Vegas, Nevada who owed him money. Otis was asked why the money was replaced with two checks rather than one, and he could give no reason other than that he wanted to repay in the same fashion as he had withdrawn.

According to Inspector Jones, Otis attempted to minimize his embezzlement of these monies by stating that the Smith account was used for many purposes in the Legal Aid Society, even to advancing money to other employees as draws against their paychecks. He admitted, however, that these were small sums. Otis could not recall removing the checks from the rear of the Legal Aid Society checkbook and was unable to tell what happened to check #400.

Otis, according to Jones, attempted to justify his action by stating the money he took was merely a loan which he fully expected to repay, and because he did repay the amount taken, no further legal action should be taken.

Inspector Jones requested of Wilbur Johnson that a criminal complaint be issued against Sheldon Otis for the embezzlement of funds from the Legal Society-Reginald Heber Smith Fund Account. The complaint was issued.

The newspapers, Redwood City Tribune and San Mateo Times, carried a story re the actions of Sheldon Otis (Attachments No. 7 and No. 8).

Inspection interviewed Walter Harrington, Jr., Chairman of the Board of Directors of the Legal Aid Society of San Mateo County, regarding the situation involving Sheldon Otis and the embezzled funds.

Harrington is a practicing attorney in the State of California and has offices at 617 Veterans Street, Redwood City, phone 365-4411. He has been with the Legal Aid Society Program for the past five years, serving as member, secretary, and now Chairman since December of 1970. He advised Inspection that he was aware of the Otis case. However, he believed that Inspector Jones would have more complete knowledge as to various details than he did. Harrington told Inspection that Otis was hired in June of 1970 and that he, Harrington, had voted against the hiring of Otis.

Inspection asked Harrington if he knew the reason for Otis leaving the program, and he answered by saying that it was due to a personnel problem. Harrington explained that Otis had trouble with a staff attorney named Eugene Moriguchi and fired him. Moriguchi appealed his dismissal, and the Personnel Committee found no sufficient cause for the dismissal. The committee recommended that Otis place Moriguchi on probation. Otis then asked for a full Board meeting and the full Board upheld the findings of the Personnel Committee. Three weeks later, according to Harrington, Otis resigned. Harrington told Inspction that at this time, Otis had information regarding the checking of fiscal matters, and this also may have influenced his decision to resign.

Harrington told Inspection that upon his being elected Chairman, he called for an audit of the books and contacted J. DeMatteis, CPA, to conduct said audit. The audit was made, the discrepancy found, the Chairman reported the findings to the Board, and the Board directed that the matter should be reported to the proper governmental authorities.

Harrington and Rosenthal went to the San Mateo County District Attorney and, as a result, the complaint was filed against Otis.

Harrington stated that the program was a good, viable, productive one, receiving much support from the people in San Mateo County. Harrington was very complimentary regarding Rosenthal, the present Executive Director. Harrington stated that the community was very fortunate in obtaining the services of a man like Rosenthal. He mentioned that Rosenthal was very intelligent, an excellent administrator, and a very nice guy. Harrington pointed out that Rosenthal was the original Director of the program and knew all facets. He, Harrington, believes Rosenthal will continue to operate a very good program and does not expect to encounter difficulties such as the present situation has presented. Harrington stated that he did not believe the publicity given the actions of Otis has injured the program nearly as much as it might have. He explained to Inspection that he had been in contact with the Bar Association and had the assurance that members of said association were very willing to accept a great many cases normally handled by the Legal Aid Society and this, by private practicing attorneys, without fee. Harrington states the program is very acceptable in San Mateo County and will continue to improve.

Harrington told Inspection that he advocates more adequate auditing from the Federal level to preclude incidents akin to the Otis case. He was most optimistic regarding the future of the Legal Aid Society of San Mateo County and was most cooperative with Inspection. His rapport with the Bar Association is a considerable factor with regard to the operations of the Legal Aid Society, Harrington concluded.

On September 28, 1971, Inspection interviewed Simon Rosenthal, Executive Director of the Legal Aid Society of San Mateo County, regarding the case of Sheldon Otis. Rosenthal was very receptive and cooperative. He told Inspection that he was the first Executive Director of the program in 1966, stayed two years, then went to the Office of Economic Opportunity in Washington, D.C., Legal Services. He left OEO in April of 1970, went to Europe until December of 1970. While there in London, he received a letter advising that the position in San Mateo was open, and he accepted. At the time of his acceptance of the position, he knew of some of the problems but believed he could rectify these difficulties.

Rosenthal told Inspection he started as Executive Director on January 25, 1971. He advised that Otis was hired in June of 1970, submitted his resignation and left in January 1971. On Otis' last day, according to Rosenthal, January 22, 1971, he met Otis, talked to him about the program, and was impressed with him. He stated that in his opinion Otis had a very high I.Q., was articulate, intelligent, and impressed everyone he met. He believes that Otis' difficulty stems from emotional problems, the nature of which he could not explain, that precipitated his actions. Rosenthal mentioned that it was his understanding that Otis had taken an overdose of barbiturates causing his present illness. Rosenthal told Inspection that Otis was previously employed on a Government-funded program in Detroit but was unable to state the name of the program or Otis' capacity.

Rosenthal told Inspection that the particular flaw he found in Otis was that he was not an administrator. He stated that under Otis, the program was an administrative fiasco.

According to Rosenthal, the minutes were not meaningful, the filing was poor, and budget was overexpended, and personnel problems existed. It took Rosenthal four months to reorganize the program.

Inspection asked Rosenthal if he knew why Otis had resigned from the program. He answered that he believed Otis was aware of the general administrative problems with which he was unable to cope, that he may have recognized that he was not going to have a free hand, and finally realized he just couldn't do what he wished to do in all areas. These considerations coupled with the case of Otis attempting to dismiss another employee and not getting the support of the Executive Board were, according to Rosenthal, factors causing the resignation.

Rosenthal said he discovered that Otis had opened a one-signature account which was unusual and certainly improper, and Rosenthal changed this. The bookkeeper, according to Rosenthal, became upset about checks and the attitude of Otis and talked to him about the situation. Then Rosenthal learned that Otis had been intercepting bank statements and felt that the entire situation should be examined. He talked to the Board Chairman, and both decided that circumstances called for an audit.

At the January 20th meeting, the Board voted to have an audit of the books of the program, and the firm of J. DeMatteis was engaged to conduct the audit. The audit report came out in July and showed the withdrawals and subsequent deposits made by Otis. This matter was presented to the Executive Board, and the Board instructed Rosenthal and Harrington to report the matter to the proper authorities. This was done and, as previously stated, resulted in a complaint being filed against Otis.

Rosenthal told Inspection that at first he was very angry with Otis. Later, he mellowed, especially in view of the fact that the money was returned, and the work of the program was not impaired. The administrative problems he had inherited were solved by the time Otis' dereliction was uncovered, and Rosenthal feels that the situation merely caused much more work for him.

Inspection asked Rosenthal if he knew what use Otis made of the $10,000. Rosenthal stated that he did not know; however, in a telephone call he had with Otis, it was indicated that it was to be used for personal obligations and perhaps to appease the Internal Revenue Service.

Rosenthal told Inspection that Otis repaid the money, $2,500 December 29, 1970 and $7,500 on January 7, 1971. Rosenthal explained to Inspection that the basic OEO Grant is handled through the local CAP and that the embezzled money was not from the OEO grant money but from the Reginald Heber Smith Fellowship Program which, Rosenthal claimed, was non-Federal funds. Rosenthal stated that San Mateo County controls the funds of the EOC program and there is no problem there. The Heber Smith funds come directly to the Aid program and separate accounts are maintained, he said. Monies are Federal in origin, but the direct conduit is through the universities.

Rosenthal told Inspection that at present the program is a very good one; that it has a good potential; that the staff is excellent; that many dedicated people are working on the program; and that he believes the problems are solved.

Rosenthal pointed out that recently, private lawyers in the county have accepted over 200 cases from the program without fee. He, Rosenthal, believes the program has been revitalized, and he is getting more professionalism than ever before. He also told Inspection that the Executive Board consisted of 21 people, 12 of whom are attorneys.

Rosenthal gave Inspection a copy of the audit (Attachment #5), copies of the two checks (Attachments #3 and #4), copy of a letter he wrote to the Board Chairman attempting to expedite the audit (Attachment #9), copy of the letter he wrote to Glenn Carr, Director of the Reginald Heber Smith Program (Attachment #6), copy of the Personnel Listing (Attachment #10), copy of his own resume (Attachment #2), and copies of the minutes of the Board of Directors from January 20 to September 22, 1971 (Attachment #11).

Contracts with San Mateo County police officials, San Mateo County District Attorney's staff and the Chairman of the San Mateo Legal Aid Society's Board of Directors developed no information indicating that Otis or other employees of the San Mateo Legal Aid Society had been involved in controversial or political matters.

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C., September 24, 1971.

Date: September 22, 1971.
Reply to Attn. of: Howard Phillips.
Subject: Inspection of Legal Services activities in the prisons.
To: John Buckley.

In connection with the other work which your staff will be doing in this area, I call your attention to the attached AP wire story which appeared in the Sunday Star of September 19. The story reports that an attorney for Angela Davis, Mr. Sheldon Otis, formerly the Executive Director of the San Mateo Legal Aid Society, has been charged with embezzling $10,000 from that organization.

Please develop a report for the Director which determines:

a. Degree of Mr. Otis' involvement in radical activities while an official of an OEO funded legal services project.

b. The extent of involvement by other personnel of that project in radical political activities.

c. The facts about the embezzlement charge.

It would be appreciated if a report on this matter could be available by October 5.

Thank you.

HOWARD PHILLIPS,
Special Assistant to the Director.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. BARTLETT). Under the previous order the Senate will now proceed to the cloture vote. The clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Robert Taft, Richard S. Schweiker, Gaylord Nelson, William D. Hathaway, Harrison A. Williams, Mark Hatfield, Alan Cranston, James B. Pearson, Gale W. McGee, and John V. Tunney.

J. Glenn Beall, Jr., Mike Mansfield, Adlai Stevenson, Walter F. Mondale, Hugh Scott, Jacob K. Javits, Edward W. Brooke, Edward M. Kennedy, and William Proxmire.

The PRESIDING OFFICER. Under the previous order a quorum call provided under rule XXII having been suspended by unanimous consent, the Senate will now vote the cloture motion.

The question is: Is it the sense of the Senate that debate on S. 2686, to transfer the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. GRAVEL) and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

I further announce that if present and voting, the Senator from Indiana (Mr. HARTKE), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), is necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. BUCKLEY), would vote "nay."

The yeas and nays resulted—yeas 68, nays 29, as follows:

[No. 17 Leg.]

YEAS—68

Abourezk
Aiken
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NAYS—29

Allen
Baker
Bartlett
Bennett
Brock
Byrd,
  Harry F., Jr.
Cannon
Chiles
Cotton
Curtis
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hruska
Johnston
Long
McClellan
McClure
Scott,
  William L.
Sparkman
Stennis
Thurmond
Tower
Young

NOT VOTING—3

Buckley
Gravel
Hartke

The PRESIDING OFFICER. On this vote there are 68 yeas and 29 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the cloture motion is agreed to.

LEGISLATIVE PROGRAM

Mr. GRIFFIN. Mr. President, I yield myself 3 minutes.

I wonder if I could ask the distinguished majority leader what the program is, so that we might have some idea what the program is for the rest of the afternoon or anything beyond today that he can tell us.

Mr. MANSFIELD. Yes, indeed. I am delighted that the distinguished acting Republican leader has made the inquiry.

It is the intention of the joint leadership that we stay on this bill until a reasonable hour this evening—6 o'clock, maybe 7 o'clock.

There may be votes in the meantime. However, there will be no votes between the hours of 4:30 and 5:30 this afternoon because the Republican leadership will have a meeting with the President of the United States during that time. So, any votes during that period of time will pile up until they return.

Following the disposal of the pending business today or tomorrow, we will then take up the so-called Genocide Convention and stay with that until it is completed.

That is the best information that I can give the Senate at this time, except that if we finish the bill tonight we will come in at noon tomorrow. If we do not finish the bill tonight, we will come in at 10 o'clock tomorrow morning.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, does not the majority leader think that it would be useful for the membership to have an idea on how many amendments are at the desk and by how many Senators? We were informed that 14 Senators have amendments at the desk and that the amendments at the desk aggregate about 150. Many of them will not be called up, I assume.

I give the Senator that information because it bears on the statement he has made.

Mr. MANSFIELD. The Senator knows that is the usual situation at the time a cloture motion is filed. As far as the number of amendments which will be offered is concerned, I will take a chance at this time and ask for a show of hands on the part of the Members who will offer the amendments which they have at the desk on this bill.

It looks like about eight Senators. That is not too bad.

Mr. GRIFFIN. Mr. President, of course, we do not know how many amendments each of the Senators will offer.

Mr. MANSFIELD. I always play the odds.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, in anticipation that we will complete our action on the bill today, I ask unanimous consent that when the Senate completes its business tonight in joint session, it stand in adjournment until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. If the bill is not finished tonight, it is the intention of the leadership to change that hour to 10 o'clock tomorrow morning, but that will be done at an appropriate time today.

LEGISLATIVE PROGRAM (CONTINUED)

Mr. MANSFIELD. Again, for the information of the Senate, Senators will meet in this Chamber at 8:30 this evening for the purpose of proceeding in a body from the Senate Chamber to the Hall of the House of Representatives, leaving the Senate Chamber at the hour of 8:42 p.m.

ORDER TO VACATE VOTE ON CLOTURE MOTION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the cloture motion which was supposed to take place on tomorrow had the cloture vote today failed be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment. Who yields time?

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

The VICE PRESIDENT. The Senator from Nebraska is recognized for 5 minutes. The Senate will be in order.

Mr. CURTIS. Mr. President, I think that every Member of this body has concern and compassion for the poor. I believe that if we had a program that provided legal aid to needy citizens when a situation arises where a needy individual or a needy family should have legal counsel or perhaps legal assistance in one of the courts, that would be an excellent program.

Sometimes the poor person is faced with a multiplicity of demands for the payment of debts, and the only possible way for him to work out a logical, workable program to pay those debts is by having proper legal counsel. Poor people face evictions, and they, like every other segment of our populace, have domestic problems and problems in juvenile court and elsewhere.

Mr. President, those people, if free services are not available in the given community, should be provided with legal talent to properly protect their interests. That should be the sole and only purpose of a legal service agency of the Government. Whenever we take the taxpayers' money to set up a Federal agency to have the right and obligation to bring class actions, when they are engaged in such things as challenging the validity of an act of Congress, or where they are carrying on these many other legal activities that are political in nature, the taxpayers should not be called upon to pay the bill.

In other words, it amounts to this: If there is an individual who is in distress because of his problems or the problems of his family, if he needs a lawyer and there is none available, the service should be provided. The taxpayers will not object to that. But it is absolutely wrong to set up an agency supported by tax funds for political purposes, to advance political theories, to oppose the established government, or to fight for reforms that fit in with a particular political philosophy of some individual or group.

That is what this office has done, and that is what they expect to do. If they would confine their activities to helping poor people with their individual problems, this legislation would have been passed weeks ago. I would have no objection——

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CURTIS. I am happy to yield to the Senator from Illinois.

Mr. PERCY. I ask unanimous consent that Mr. William Lytton of the Government Operations minority staff be permitted access to the floor during the consideration of this measure and votes thereon.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I would remind the Senate that people of low income who do not aline themselves with these people who bring the class actions get no financial help from the Government to impose their theories upon the country by means of the courts.

The VICE PRESIDENT. The Senator's 5 minutes have expired.

Mr. CURTIS. Mr. President, I yield the floor.

The VICE PRESIDENT. The bill is open to further amendment. If there be no further amendment to be proposed——

AMENDMENT NO. 892

Mr. BARTLETT. Mr. President, I call up my amendment No. 892.

The VICE PRESIDENT. The amendment will be stated

The second assistant legislative clerk proceeded to read the amendment.

Mr. BARTLETT's amendment (No. 892) is as follows:

> On page 19, after line 19, insert the following:
>
> (7) To provide legal assistance with respect to any proceeding or litigation which seeks to procure an abortion unless the same be necessary to save the life of the mother, or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion contrary the the religious beliefs or moral convictions of such individuals or institutions.

The VICE PRESIDENT. How much time does the Senator yield himself?

Mr. BARTLETT. Mr. President, I yield myself such time as I may require.

The VICE PRESIDENT. The Senator from Oklahoma may proceed.

Mr. BARTLETT. Mr. President, the continuation of the legal services program in its present form means the continued Federal funding of a program which is an anathema to a substantial portion of the American taxpayers.

Since its inception the legal services program has been active in the pursuit of State and Federal laws prohibiting abortion. They have beaten the drums politically and legally for change in our abortion laws.

Unfortunately they, and other parties, have been quite successful. As we all know the U.S. Supreme Court has negated all State antiabortion laws.

However, there remains some private bastions protected from the dictates of the Supreme Court that abortions be performed. Many hospitals around the Nations and many doctors are saying no to the performance of abortions.

Some of the legal services attorneys now have their sights on these disenters who because of conscience have said no.

Mr. President, the record on the activities of the legal services lawyers on abortion issues is long.

In 1969 OEO funded a national legal program on health problems of the poor located at the University of California at Los Angeles. This was designed as a backup center to provide supportive services including collaboration in litigation involving health issues, development of materials for the use of legal services attorneys and the coordination of efforts in health law by legal service attorneys. In October 1969 the national legal program on health problems of the poor addressed all legal services lawyers on the subject, of a then recent California Supreme Court decision rendering an abortion statute unconstitutional. They said:

> Legal Services attorneys should begin scrutinizing the impact of state abortion laws on their clients and should assert the rights of their clients before hospital abortion committees (if counsel is even permitted to appear before such committees)—consideration should be given to the filing of affirmative actions. The National Legal Program on Health Problems of the Poor will be glad to offer assistance to you with regard to any of these matters.

Legal services lawyers were quick to take up the challenge and abortion suits were filed in numerous States.

In my own hometown in February 1971 the Tulsa Legal Aid Society filed a brief arguing that the Oklahoma abortion law was unconstitutional, again financed by Federal dollars.

Mr. President, twice in recent elections the people have spoken on how they feel about abortion. Last November, the citizens of Michigan rejected legalized abortion by a 3 to 2 margin, and North Dakota rejected a similar amendment by 3 to 1.

My amendment would prohibit legal services attorneys from involving themselves with abortion issues. I have no idea of the percentage but it is obvious from the North Dakota and Michigan vote that a substantial number of our citizens are opposed to abortion on demand. We should not be using their tax dollars to fund abortion advice and litigation programs.

I know the legal services lawyers can find many productive areas in which they can be helpful to the poor without including advice of dubious value concerning abortion procurement.

Mr. President, I hope that my amendment will be accepted. I urge my colleagues to support it. I believe that it is consistent with the ideas of many Senators as to the confines of legal services action and I hope that it will be acceptable to those on the other side.

Mr. JAVITS. Mr. President, will the Senator from Oklahoma yield?

Mr. BARTLETT. I yield.

Mr. JAVITS. May I ask the Senator to yield on his time as I am going to need every minute of my time.

Mr. BARTLETT. I am glad to yield to the Senator on my time.

Mr. JAVITS. May I ask the Senator this question——

The VICE PRESIDENT. The Chair would advise the Senator that time can only be yielded by one Senator to another, under the rule, by unanimous consent. Is there objection?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from New York will state it.

Mr. JAVITS. Where a Senator yields to another Senator for a question, which is entirely within the rules, is any such consent necessary?

The VICE PRESIDENT. A Senator may yield for a question, but may not yield his time.

Mr. JAVITS. I understand that. I asked the Senator from Oklahoma to yield to me for a question, and he has done so, as I understand it.

Senator BARTLETT, would you tell us this: Your amendment uses the word "or" at the beginning of line 4 of the amendment after the word "mother". Is that a disjunctive or a conjunctive?

The reason for asking that is this: Is it the purpose of the Senator's amendment to prevent legal services from compelling anyone to do anything, either the prospective patient or the hospital, or the doctor, and so forth, from acting in respect to, "an abortion contrary to the religious beliefs or moral convictions of such individuals or institutions," we have done that here a number of times. If the Senator's purpose, on the other hand, is to make that disjunctive to cover the first three lines, that raises the direct question of action for a poor person to enable that person to do what he may wish to do.

May we know what is the Senator's purpose, because that word "or" could be construed either way, either as conjunctive or disjunctive.

Mr. BARTLETT. The Senator is speaking of the first word on line 4, the "or" and not the second? The would be conjunctive. But I want to make certain that we are still—let me ask the Senator a question——

Mr. JAVITS. Yes.

Mr. BARTLETT. You would not interpret this provision, or this provision using the word "or" as conjunctive to permit the legal services to make a class action in favor of abortion and that kind of thing which has been done? The Senator is speaking more of the individual case, of a mother pursuing her desires.

Mr. JAVITS. That is correct. Well, a class action would have to proceed against an institution. What we are doing is saying that we may not have legal services start such a class action to make an institution do something contrary to the religious beliefs or moral convictions which prevail in that institution. Obviously, of course, an institution has no mind of its own——

Mr. BARTLETT. Right.

Mr. JAVITS. But if that is the thrust of it, I think, with the understanding that we may have to make that thrust clear in conference, personally I see no objection to it; but perhaps the manager of the bill would have a different view.

I might say to the Senator from Wisconsin that, as I construe it, what the Senator is seeking to do is to prevent legal services from being used to compel an individual or an institution from doing something with respect to abortion which is against the religious beliefs or the moral convictions of that individual or that institution.

Mr. NELSON. Is that part of the law now?

Mr. JAVITS. There is nothing specific in the law——

Mr. NELSON. As to legal services there is nothing in the existing law.

Mr. JAVITS. I have no doubt that they do no such thing under the current program.

Mr. NELSON. But we have adopted similar provisions in other legislation.

Mr. JAVITS. We have. The distinguished Senator from Idaho (Mr. CHURCH) has been the principal author of those provisions.

Mr. NELSON. Is the Senator making or suggesting a modification?

Mr. JAVITS. The only other modification I was going to suggest to the Senator is what has been pretty much the rubric in these matters, to save the life or to protect the health of the mother. But I have to leave that to the Senator, in view of the fact that we are under strict rules regarding other amendments than the one the Senator has proposed.

Mr. BARTLETT. If I understand it correctly, in line 3, it says "unless the same be necessary to save the life of the mother,".

Mr. JAVITS. And we would write in there—that is, if the Senator wishes to follow the suggestion I am making, "or to protect the health" of the mother.

Mr. BARTLETT. Well, I think we could discuss that. I think the problem there is the definition that has been used as to the meaning of "health." We might have to define the terms.

Mr. JAVITS. We could say "to protect a serious threat to the health of the mother."

Mr. BARTLETT. I feel that this expresses it the way most people would look on it. The Senator is getting into the argument of the Supreme Court about the health of the mother, which of course has been interpreted in such a way that her health can possibly be her desires and her general feeling and not her physical health.

Mr. JAVITS. May I say, Senator, if it were her desires, this amendment would not apply, because the amendment says it is "contrary to the religious beliefs or moral convictions of such individuals or institutions." If it were contrary to her religious beliefs of moral convictions she undoubtedly would not be consenting. I am thinking of a situation short of death where we might have a very serious intent.

Mr. BARTLETT. I should like to advise the Senator from New York that it really expresses what I wish to convey there. I think it is a very proper provision. I have real concerns with the use of the word in this instance, because of the way it has been defined and interpreted, which is contrary to most people's beliefs.

Mr. JAVITS. The Senator from California (Mr. CRANSTON) has just suggested to me, and while I have the floor I will do it for him, that it would be clearer that the word "or" at the beginning of line 4 of the amendment be conjunctive and not disjunctive, if in line 6 of the amendment, a comma were to be inserted after the word "abortion". Would the Senator read it from that point of view and see whether he would agree?

Mr. BARTLETT. The Senator is suggesting a comma after the word "abortion"?

Mr. JAVITS. On line 6, so that it would read "or provide facilities for the performance of an abortion, comma, contrary to".

Mr. BARTLETT. Yes. I think that would be agreeable.

Mr. JAVITS. The Senator would need to ask unanimous consent to make that change.

Mr. BARTLETT. Mr. President, I ask unanimous consent to insert a comma after the word "abortion" on line 6 of my amendment.

The VICE PRESIDENT. Without objection, the modification is so made.

Mr. JAVITS. Mr. President, I have no further comments. I have made my comments.

Mr. NELSON. Mr. President, a similar amendment was adopted on the floor of the House by a large vote so that the issue is in conference. There is some difference in language. We are going to have to deal with the issue in conference whether this is adopted or not. I have no objection to taking the amendment to conference.

The VICE PRESIDENT. The question is on agreeing to amendment No. 892 of the Senator from Oklahoma (Mr. BARTLETT) as modified.

The amendment was agreed to.

The VICE PRESIDENT. Who yields time?

AMENDMENT NO. 782

Mr. BROCK. Mr. President, I yield myself 5 minutes and call up my amendment No. 782.

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

> Amendment intended to be proposed by Mr. BROCK to S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes, viz: On page 4, after line 2, insert the following:
>
> (c) The Corporation created under this Act shall be deemed to have fulfilled the purposes and objectives set forth in this Act, and shall be liquidated on June 30, 1978, unless sooner terminated by Act of Congress.

Mr. BROCK. Mr. President, this is a simple amendment. It would limit the life of the Corporation to 5 years, at which time it could be authorized by Congress again. Its purpose is to conform with the House bill which passed the full House.

I quite honestly am not sure why an unlimited authorization was included in the pending bill. It seems that if Congress has a constitutional responsibility, one of the more fundamental responsibilities imposed on us is to review and reevaluate our programs.

I suggest that this is no different from any other Federal program, whether it is welfare or poverty or national defense or even Radio Free Europe. All these things should come back to this body for review, to see that the people for whom the program was intended are being benefited, as the design States.

I have no major pitch to make on this particular amendment, except to suggest that I think it would be in the interests of the proponents of the bill to accept it and to go on to some of the more fundamental questions.

I reserve the remainder of my time.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. NELSON. Mr. President, the bill authorizes $71,500,000 for fiscal year 1974, $90 million for fiscal year 1975, and $100 million for fiscal year 1976, and each subsequent fiscal year. I am sure that the authorizing committees will consider a further specific authorization after fiscal year 1976. In fact, we would have to make an appropriation every year. If Congress wished to do so, the program could be terminated with respect to any year by refusing to give an appropriation. Congressional review through the appropriations process is adequately provided for in the bill. So I oppose the amendment.

Mr. BROCK. Would the Senator agree, then, that the effect of what he has said is to turn over the oversight responsibility of this program to the Committee on Appropriations instead of his own?

Mr. NELSON. No. When we get through with the 3 years of modestly rising authorizations, having provided no further increase in the level of the authorization after fiscal year 1976, we will have to consider another authorization. Furthermore, the authorizing committees will continue to exercise oversight responsibilities, as is our duty. In any event, the program can be terminated if Congress decides at any time not to appropriate the funds for a particular fiscal year.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The problem with all these operations is that the people who work for you have to have some concept that it has some continuity. Undoubtedly, with many young lawyers attracted to the operation of public service law, we are going to have lawyers some of whom are careerists and some of whom are undertaking it for a reasonable period of time.

I believe that Senator NELSON has properly made the point that this remains within our power to terminate at any time by denying appropriations.

As to the question of turning over authority to the Committee on Appropriations, we turn over a great deal of authority to them, anyhow, even within these authorizations.

Another point that should be raised in this connection is that the provision of one of the sections of our bill is rather important in this regard. I invite attention to section 1007(g), at page 21.

The VICE PRESIDENT. The 1 minute of the Senator has expired.

Mr. JAVITS. I yield myself 1 additional minute.

That section reads:

> (g) The Corporation shall provide for comprehensive, independent study of the existing staff-attorney program under this Act and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients, including judicare, vouchers, prepaid legal insurance, and contracts with law firms; and, based upon the results of such study, shall make recommendations to the President and the Congress, not later than two years after the first meeting of the Board, concerning improvements, changes, or alternative methods for the economical and effective delivery of such services.

So I think that by limiting it to 1978, we restrict the opportunities for using the program under the corporation, in order to make more nearly perfect the effort to give this type of service to the poor.

In view of the other locked-in protections afforded by the law—to wit, appropriations and no fixed-sum authorization after 3 years—I agree with the Senator from Wisconsin that the amendment should be rejected.

The VICE PRESIDENT. The 1 minute of the Senator has expired.

Mr. HELMS addressed the Chair.

The VICE PRESIDENT. The Senator from North Carolina is recognized.

Mr. HELMS. I yield myself such time as I may require.

Mr. President, when I was young and first learning to play chess, I invented a motto that I have found useful in other ways in the years since. It goes, "When in doubt, allow yourself an out." I am in great doubt about the merits of the Legal Services Corporation, and so am anxious to allow the country an "out" should my suspicions prove well-founded. This "out" is offered by Senator BROCK in an amendment to section 1003 of the Legal Services Corporation bill. The Brock amendment, No. 782, would add to section 1003 a subsection stating:

> The Corporation created under this Act shall be deemed to have fulfilled the purposes and objectives set forth in this Act, and shall be liquidated on June 30, 1978 unless sooner terminated by Act of Congress.

It is interesting, is it not, that so controversial a bill lacked, until this amendment, a specific reminder of Congress' right to cessate operations of its creature? "Unless sooner terminated" is the wording. Of course, Congress has this right in all cases, to uncreate whatever it has created. I do not know offhand of any instances where that right has been exercised; but that does not alter its legitimacy. All the same, it is reassuring that it is restated so explicitly in this amendment.

The automatic liquidation is a relatively uncommon provision, one I consider an excellent idea, however, especially in light of the problematic nature of the corporation under discussion. As I said initially, when in doubt, leave an out. If the Legal Services Corporation proves to be plagued with all the problems that made OEO legal services a constant worry and frustration, and generates the popular disapproval and social conflict that OEO's project did, even if there is too much support in Congress to cut it off at an early stage, there is the probability it will not get tenured: By 1978, it will automatically go out of existence. A new bill and a new piece of legislation would be required to continue it. If, on the other hand, the corporation functions smoothly and is universally agreed to be beneficial and desirable, legislation to reestablish it should not be hard to get through Congress.

Just as an unruly son or daughter is restrained somewhat when away at college by recognition of the fact that papa could cut off the money, so the legal services activits, who have shown themselves to be antiestablishment and radical in the past, could find themselves calmed down by the recognition that if they do not behave properly, their water will be cut off in 1978. Legal services operatives have been notoriously inconsiderate of the public, who pay their salaries, let me remind Senators, in the pursuit of their ideological and minority-dictated campaigns. Anything to render them more responsive to the public is desirable. That is the thrust of many of the amendments that are going to be offered, a direction I heartily encourage.

Let me cite an example of what I am speaking about. About a year and a half ago, in June 1972, a letter was mailed to all Reginald Heber Smith fellows. It was mailed under the Wayne County Neighborhood Legal Services Centers and was written by one Elaine Palo, a lawyer with the Detroit legal services office, who signed herself, "Yours in the struggle, Sister in Detroit." The letter was essentially a strategy plan for lobbying to insure refunding of the Reginald Smith fellowship program at the different universities which sponsor it. Advice is clearly marked out in the letter to "coordinate community support," "contact your law schools." I suppose this type of advice is what would be considered, according to the bill presently before us, as "necessary to the provision of legal advice." I certainly see no provision in this bill which would preclude this kind of self-interested concerted effort to influence decisionmaking.

Elaine Palo's letter is interesting from other points, too. Evidently, she never learned that the possessive of "it" is spelled without an apostrophe: Everywhere she means to make "it" possessive, she spells it "it's," which, as I am sure you all recall, is the contraction form of "it is." So much for her grammar. As for her language, let me repeat, insofar as permissible in the Chamber, her last sentence: "Don't let them ——— us over!" Now, I ask Senators, is this the kind of person we wish to be fostering and encouraging? I do not believe Elaine Palo of Detroit is unique: I strongly suspect, sadly, that she is typical of the rude and ill-bred young lawyers fostered by legal services.

As to her spelling, when the proper name of the United States appears in her letter, she spells it with a "k," as in the sentence "My advice for you all out there who are working for a better world in Amerika is * * *." I am sure she would not consider my giving this speech to be working for a better world in her "Amerika," and I am quite sure she is correct: I am working for a better world in America.

Of course, there is no way to insure the standard or quality of lawyers under legal service programs. We are not allowed political tests of lawyers involved with this potential corporation; I am sure we would not be allowed to even inquire whether a candidate is a Communist. Obscenity and profanity and antipatriotism would be considered beneath attention by the ideological forces behind this bill. They are not beneath my consideration, however; in fact, I consider them rather important, because the existence of obscenity indicates the existence of bitterness and contempt underneath the surface.

There is no reason why American taxpayers should be forced to continue financing and funding such uncivil, anti-American individuals and the activities they foster. Yes, a second chance can be argued. I am not sure I would argue for it, but if it must be given, at least let us insure that the second chance does not prove an eternal plague to the country. Let us incorporate into the legislation a way out of its perpetuation, for the sake of American citizens.

Mr. BROCK. Mr. President, if I may just take 1 or 2 minutes to pursue this point, I think I have some time reserved from my previous request, which I will use.

Let me put it in rather specific terms. I do not blame the people of this country for becoming a little worn out with Congress when it does things such as we have in this bill, where Congress authorizes a new corporation to evaluate itself and to tell us what a great job they are doing. I could write that report. I could write it down to the dotted "i" and the crossed "t": "We're doing a great job. All we need is more men and more money." That is what we are getting now. We do not get an adequate evaluation of ongoing Federal programs. Our committees are not exercising a responsible oversight function in too many cases. We continue programs years beyond their effective end point.

We wonder why the people of this country become frustrated. If they read this bill and saw that we not only refuse to reevaluate ourselves but also authorize the Corporation to reevaluate itself, I think we would understand why we have a problem in gaining and keeping their confidence; and why they believe we have abused the rights and privileges which they delegated to us.

It seems to me that it is absolutely fundamental to the constitutional process that someone in Government exercise an oversight, review, and reevaluation function. If it is not going to be Congress, then it is the Executive. Nobody elects the head of this proposed Corporation, nobody elects anybody on the board of the proposed Corporation any more than they elect the Secretary of Health, Education, and Welfare or the Secretary of Defense.

The fact is that it will not be independently audited, independently reevaluated, and independently controlled. It is going to be independent of the political process itself, and I simply cannot accept that as something I can support in representing my constituents.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I point out also that the way the board is set up—and that was the big struggle—it is a board of 11, completely in control of the President, subject to the confirmation process of the Senate. The board is staggered, with the term of office of each member of the board 3 years, and various other staggered terms. The minute you get into the first stagger, which will be well within 1978, you appoint members of the board beyond the 1978 term. That is an added reason—together with the appropriations matter—the amendment should be rejected.

Mr. DOMINICK. Mr. President, I yield myself 2 minutes out of my allotted time.

There is a good deal in the RECORD, I say to the distinguished Senator from New York and to the distinguished Senator from Wisconsin, about such sums as may be necessary for the first 3 years. In fact, that is not so. On page 24 of the bill, it says "$100 million for the fiscal year ending June 30, 1976, and for each subsequent fiscal year." So what we are doing is saying that we are going to authorize the appropriation of $100 million as far into the future as infinity, unless we have some deadline.

It would seem to me only reasonable that we go forward with the amendment of the Senator from Tennessee so that at least we know what kind of burden we are putting on the governmental budget down the line. I already have joined on a fiscal affairs project so we can determine 5 years in advance what we are going to do.

But here we are saying $100 million forever. That is taxpayer money, and not money we put out on a printing press, although sometimes it seems like it with the inflation rate and the constant raising of the debt limit.

So it seems to me that somewhere along the line we should have a check and balance, as the Senator from Tennessee so aptly said, so we can review the program to see if it is running satisfactorily and if it is not, to make such changes as we need to, and not appropriate beyond 1978.

On that basis we are talking about close to a half billion dollars counting all the years of authorizations that are spelled in the bill, and $100 million thereafter. It does not seem to me that the proposal is unreasonable and I think that if Senators will listen carefully, they will accept this proposal. We are not trying to kill the bill. All we are saying is: Give us a chance to review it at a later date.

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

Mr. CRANSTON. On whose time?

The PRESIDING OFFICER (Mr. BARTLETT). The time is not charged to either side.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Idaho (Mr. Church), the Senator from Arkansas (Mr. Fulbright), and the Senator from South Dakota (Mr. McGovern) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. Buckley) and the Senator from Virginia (Mr. William L. Scott) are necessarily absent.

The result was announced—yeas 37, nays 56, as follows:

[No. 18 Leg.]

YEAS—37

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Biden
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Helms
Hruska
McClellan
McClure
Roth
Sparkman
Stennis
Stevens
Taft
Thurmond
Tower
Weicker

NAYS—56

Abourezk
Aiken
Bayh
Bentsen
Bible
Brooke
Burdick
Cannon
Case
Clark
Cranston
Eagleton
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevenson
Symington
Talmadge
Tunney
Williams
Young

NOT VOTING—7

Buckley
Church
Fulbright
Gravel
Hartke
McGovern
Scott, William L.

So Mr. Brock's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 898

Mr. COTTON. Mr. President, I call up my amendment No. 898.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> On page 24, line 20, after "1974," insert the word "and".
>
> On page 24, line 21, beginning with the word "and" strike out through the word "year" in line 22.
>
> On page 24, line 25, beginning with "Subsequent" strike out all through "designate," in line 2, page 25, and insert: "Subsequent authorizations and appropriations shall be for not more than two fiscal years,".
>
> On page 25, line 5, strike out "such".

Mr. COTTON. Mr. President, I can explain my amendment in 3 minutes. It is a milder amendment than the one that has just been rejected by the Senate.

As I understand it, the present bill provides that in the future the amounts authorized for the remainder of this year and the increased amounts authorized for next year and in subsequent years of the authorizations may go 3 years in advance.

Mr. President, I think it is not good procedure to have such authorizations. One of the things which we have to do is to draw a line here.

The only change my amendment would make is that it does not cut it off, but simply says that the authorization cannot be for more than 2 fiscal years.

That means that they would have to come back to the authorization committee.

Mr. President, it has just been suggested to me that if my amendment is modified so as to provide for 3 years' authorization in advance, but that the Appropriations Committee can ony have 2 years in advance, the committee might be willing to accept it.

I am willing to amend my amendment to that effect if the committee is willing to accept it.

Mr. JAVITS. Mr. President, I am willing to accept that amendment.

Mr. COTTON. Mr. President, I modify my amendment to provide that the authorization may be for 3 years in advance, but the appropriations will not be for more than 2 years in advance. I am not satisfied with this amendment, because I feel that the Appropriations Committee should go over this every year, but I accept the compromise in order to save the amendment.

The PRESIDING OFFICER. The amendment is accordingly modified.

The amendment as modified, reads as follows:

> On page 24, line 22, beginning with the word "and" strike out through the word "year", and delete the comma at the end of line 21.
>
> On page 24, line 25, beginning with "Subsequent" strike out all through "designate," in line 2, page 25, and insert: "Subsequent appropriations shall be for not more than two fiscal years,".
>
> On page 25, line 5, strike out "such".

Mr. NELSON. Mr. President, I have no objection to the amendment. I am perfectly willing to accept the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire (putting the question).

The amendment was agreed to.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. Ron Parker, a member of my staff, may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I ask unanimous consent that Mr. Bohan, a member of the minority staff, be given the privilege of the floor during the proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 15 minutes.

Mr. FANNIN. Mr. President, I find myself at odds with the committee report from its beginning to end. In the fifth paragraph of page 2 of the report it states:

> The federally funded legal services program—of the Economic Opportunity Act of 1964 has been one of the most effective programs in the continuing war on poverty, and the Federal Government therefore has a major obligation to continue the program.

Effective for what? I agree that it has been effective for law reform and law changes through the courts rather than Congress, but I violently disagree that it has been effective especially in the last 5 years in performing the services for the poor in the activities which I believe it should have been performing. I also want to stress the words "continue the program." They illustrate the determination of the committee to continue the activities of Legal Services lawyers in fields for which taxpayers' money should not be spent.

On page 6 of the report, I find the statement that "the corporation will protect the integrity of the lawyer-client relationship." I submit that the bill does exactly the opposite. Where is the right of the client to select his own lawyer? Where is the right of the client to determine whether his case should be settled or appealed or dismissed? Where is the right of the poor client to have his case accepted at all? These are just a few of the rights of the client that have been traditional in the American system and which to me mean the "integrity of the lawyer-client relationship."

The next sentence states that it will remain accountable to the public through congressional appropriations. It is because that is the absolute only control which this bill provides that I am fighting its passage here.

On page 9 of the report, the committee sets forth six high sounding policies and purposes, most of which I agree with. However, in statement (2) I again find the words "the continuation of the present vital legal service program." That is precisely what I do not want to do.

Still on page 10, the committee sets forth the primary criteria for selection to the Corporation Board. They state, "adequately representative of the organized bar," with which I agree, except that I do not know whether "organized bar" means the American Bar Association, the National Lawyers Guild or other bar associations. The next criteria is "legal education." Here come the professors and I have discovered that there are both good and bad professors. The next criteria for membership on the Board is that they must be representative of Legal Service attorneys. After learning about the many horrible examples of activities of Legal Service attorneys, I am greatly disturbed by this one. Will this member, or members come from those who want to use taxpayers' money for legal and social reform or from the many truly dedicated, qualified lawyers who have performed admirably in serving the poor in processing their individual cases? The last criteria is "organizations involved in the development of legal assistance for the poor. Again, this one is suspect from my viewpoint.

Mr. President, page 10, sections 1004 (c), (d) and (e) takes us into some extremely controversial matters. Section 1004(c) provides that Board members shall not be deemed Federal officers or employees. Section 1004(d) gives the Board the power to elect its own Chairman after the initial Chairman. Section 1004(e) provides that the Board has the sole power to remove a member.

APPOINTMENT OF THE CHAIRMAN

Mr. President, there is a serious constitutional question raised by the committee bill in its provision that the Board of the Corporation "shall annually elect a Chairman from among the rotating members" article 11, clause 2 of the Constitution reads "He (the President) shall have the power, by and with the advice and consent of the Senate * * * and all other Officers of the United States * * *".

In *Myers* v. *United States* 272 U.S. 52, 118, the Supreme Court stated "The requirement of the second section of article 11 that the Senate should advise and consent to the Presidential appointments, was to be strictly construed." Furthermore, the Constitution prescribes two modes of appointment of the officers of the Government—appointed by the President with the advice and consent of the Senate, and appointment by the President alone, the courts, or heads of departments. In *United States* v. *Germain* 99 U.S. 508 the Supreme Court stated "That all persons who can be said to hold an office under the Government about to be established under the Constitution were intended to be included within one or the other of these modes of appointment there can be but legal doubt."

Mr. President, is this why the committee chose to make the Legal Services Corporation a District of Columbia Corporation rather than give it a Federal charter? Is this the reason why the committee provided "members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States?"

There is no judicial precedent existing upon the exact point of what the committee has done. The same may be said about the removal powers. The committee bill provides that "a member of the Board may be removed by a vote of seven members for malfeasance in office or persistent neglect of or inability to discharge duties, or offenses involving moral turpitude and for no other cause." My quarrel with this is in giving that control to seven members of the Board. The committee is here carrying out that part of its policy statement "insulated from political pressures" with a vengeance. The executive is to have no power—Congress is to have no power. The Corporation's Board is given final power of removal of a fellow member no matter what the degree of his offensives may be.

Section 10004(f) gives the Governor of each State the power to appoint a nine-member advisory council for his State. When I started to read this section, I had a glimmer of hope. The States were to have something to say and do about Legal Services. The glimmer faded when I read on to find that the Governors' power of appointment is limited by the same type of criteria used for appointment to the Corporation's Board. All my hopes for State's rights were extinguished when I read, "The sole function of such—State—advisory councils will be to notify the Corporation of any apparent violations of this legislation."

On page 11, Mr. President, section 1004(i) provides for a National Advisory Council. The committee bill is extremely vague as to just what purpose this National Advisory Council is to serve except to say that there has always been one. Here again, I am more disturbed by some of the qualifications for membership upon this Council. I have no objection to the various American Bar Association groups and the Association of American Law Schools, but why the project advisory group, the Organization of Legal Back-Up Centers, the National Clients Council, and individual legal assistance attorneys?

On page 12, subsections 1005(e) (2) (f) provide that employees of the corporation are to be treated as private employees. I am curious as to the reason for inserting "those concerning labor relations." Does this mean that the new Corporation is to take all of the incumbent Legal Service employees and attorneys and be saddled with the existing union contract which I understand leaves much to be desired?

Again on page 12, section 1006(a) authorizes the continuation of the so-called "back-up centers." While I have commented at length upon this in prior remarks during this debate, I was somewhat startled to read the unqualified endorsement of their past activities and the statement, "They are of utmost importance for the continuation of first rate quality legal services." The committee commends "clinical legal education, research, specialized litigation and the training in the area of paraprofessional personnel." The committee is blind to the stories of illegal, unauthorized, and misuse of taxpayer's money by legal services attorneys over the last 5 years or chooses to ignore them.

On page 13, section 1006(b) (1) (2) is a meaningless section in that it simply requires compliance with the guidelines and extensive requirements that the law requires. I agree that they are "extensive" but there always appears a loophole or exception which renders them meaningless. The same may be said of section 1006(b) (3).

Section 1006(b) (4) uses the words "authorized to provide legal assistance." In my opinion, if we are to provide the best legal services to the poor, I believe lawyers performing the services should be "admitted to the bar of the State."

On pages 13 and 14, section 1006(b) (5) prohibits employees of any recipient from engaging or encouraging others to engage in public demonstrations, picketing, boycotting or striking. I agree, but here again we find an exception which may or may not render the prohibition meaningful. Also, the accused employee gets all the hearing and other rights which may end up with the caution, "don't do it again."

On page 14, section 1006(b) (6), in telling the Corporation to meet the needs of recipients who speak a language other than English would apparently insure legal services to the many Spanish speaking citizens of my State of Arizona. With this provision, I am in entire agreement.

Section 1006(d) (3) and 1007(a) (6) prohibit political activity. But, here again we find the exception: "These provisions do not limit the right of attorneys to provide necessary legal advice and representation to eligible clients with respect to such clients' legal rights and responsibilities." I must confess that I am not sure what this means or how it would be interpreted.

Section 1006(d) (4) provides that the Corporation may not make funds or personnel available for use in advocating or opposing any ballot measures, initiatives, or referendums. So far, so good. But again the exception appears, "except as necessary to provide legal advice and representation by attorneys to eligible clients to their legal rights and responsibilities in connection with such matters." Mr. President, it is my understanding that Legal Service lawyers had plenty to do with labor boss Caesar Chavez' attempt to recall the great Governor of my State of Arizona. Is Mr. Chavez an eligible client? Possibly, if the salary he takes from his union is what he says it is. If so, does he have a right to advice as to how to go about recalling the Governor now that his first attempt failed? Does Mr. Chavez have a legal right based upon how the signing into law of a farm bill might affect his union? I do not know. What I do know is that taxpayers' money should not be used as it was used in that instance. Mr. President, the more I read the committee's report, the more evident it is to me that there is a determination to continue, unchanged, a Legal Service program that has existed for 5 years, devoting a great part of its time and money to projects which we would not authorize.

Section 1007(a) (2) attempts to determine who is eligible for legal services. The Corporation will establish "maximum eligibility levels" in consultation with the Director of the Office of Management and Budget. Note, this does not give OMB any veto power. OMB's authority is limited to one of consultation. What if OMB does not agree or believes the eligibility standard is too high? I assume that the Corporation would set it where it wished. OMB has been consulted.

Again, we have some criterion, the

principal one being that the recipient is financially unable to afford legal assistance. Remember the Texas case to which I have previously referred. The publisher of an underground newspaper had been disinherited by his father, a wealthy manufacturer. The legal services lawyer said that made the young publisher financially unable to afford legal assistance.

The report states:

> But each recipient should be given latitude to develop its own eligibility standard so as to assure . . . maximum services to those most in need. I am confident that the recipients are going to seize upon this language in making its eligibility standards extremely high.

The final paragraph of this subsection states:

> It is expected that client eligibility information will be obtained at the outset from each client on a simple form. . . .

Where is the check upon this? Is it enough to say, "I cannot afford to pay lawyer A or lawyer B whose fees are very high?" That was sufficient under the existing program. Are we being asked to embark upon another welfare program where the recipient's word is accepted as completely true and honest?

In this section, the committee lays out some factors to be considered by the recipients in eligibility criteria. They are "the maximum income levels of families, the size of such families, differences in urban and rural living costs, and substantial cost-of-living variations from one area to another." Some of this sounds reasonable, but why is Congress ducking its responsibilities in fixing eligibility? We have had no great difficulty in doing so with respect to other laws.

Section 1007(a)(3): The committee again demonstrates its complete approval of the existing legal service program and its determination that it will be continued without change. It does this when it states:

> The Committee expects that the Corporation will fully utilize the experience that has been developed by existing legal service programs.

Section 1007(a)(4): This subsection permits full time legal service attorneys to do a lot of legal work for free for non-poor people. They are given express authority to perform outside legal work for clients such as family members, friends, religious groups, community charities, and court assignments. Of course this is limited by the phrase, "so long as it does not interfere with their responsibilities to the poor," but who is to tell whether or not it interfered?

Section 1007(a)(5) gives lip service to prevention of lobbying which the committee chooses to call "legislative representation." Like in the other prohibitions, we find the exceptions. The wide open exception is where it is permitted when requested by a legislative body, a committee, or a member of a legislative body. A legal service lawyer can always find a cooprative member to invite him to come in and lobby.

Section 1007(a)(7): Here we find real delegation:

> The Corporation will require all recipients to establish guidelines for a system of reviewing appeals taken by attorneys.

The recipient, not the corporation, formulates the guidelines. Mr. President, how far are we being asked to go? Congress delegates all its power to the corporation, the corporation delegates its responsibility to the recipient. Somewhere along that line we have completely left out the client who I always thought was to be the judge of whether he or they wanted a case appealed.

Section 1007(b)(6): This subsection says funds may not be used to assist, to organize, or to plan for the creation or formulation of any organization, association, coalition, alliance, federation, confederation, or any similar entity except for the provision of legal advice and representation by any attorney as an attorney for eligible clients. This one sure covers the waterfront and the usual "except" clause is present. Quite frankly, I can see no justification or need for this subsection.

Section 1007(d): This subsection requires the corporation to do its own monitoring and evaluation, but it is also required to grant funds for independent evaluations. I had wondered how all the money was to be used up. Now, I am beginning to wonder whether there will be any money left to give the poor some legal assistance.

Section 1007(f): Mr. President, here is some more lip service for the States, their Governors, and bar associations. They will be notified 30 days in advance of a grant or grants for legal assistance, and then permitted to make comments and recommendations. Lucky States, I wonder if any of them will take advantage of this gratuity?

Section 1007(g): The corporation is to pay someone or some organization to make an independent study and comparison of the existing staff-attorney program with supplementary methods of legal services rendered by judicare, vouchers, prepaid legal insurance, et cetera. This could be the most important use of funds which the bill provides depending upon who makes the independent study.

SECTION 2(b)—TRANSITION PROVISION

All legal service personnel—except schedule A attorneys—are to be transferred to the corporation. The existing collective bargaining agreements shall remain in effect until their termination. These provisions were to be expected. They insure the continuation without change of every practice which the House passed bill found so objectionable.

Mr. President, this is a bad bill and should be rejected.

LEGAL SERVICES CORPORATION

Mr. President, even a cursory examination of the committee bill demonstrates that we are being asked to create a monster which is not accountable to Congress and the Executive. We are being asked to do this in the midst of heated debate upon the accountability of a Special Prosecutor for the "Watergate." I have been under the impression that the liberals who support this bill have been in the forefront in advocating more accountability.

Section 1013(a) "Prohibition of Federal Control" states:

> Nothing contained in this title shall be deemed to authorize any department, agency, officer or employee of the United States or of the District of Columbia to exercise any direction, supervision, or control over the Corporation or any of its recipients or employees, or over the bylaws, Rules, regulations or guidelines of the Corporation, or over the attorneys providing legal assistance under this title, or over eligible clients receiving legal assistance under this title.

In fact, the only control is found in subsection (b) of the same section, which provides:

> Nothing in this section shall be construed as limiting the authority of the Office of Management and Budget to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to the Congress.

Mr. President, the authority "to review and submit comments upon the budget request" amounts to almost no control whatsoever.

The committee bill creates a District of Columbia Corporation with a board of directors consisting of 11 voting members appointed by and with the advice and consent of the Senate which is the sum total of control over this corporation by Congress or the Executive. This being a bill reported by the Senate Committee on Labor and Public Welfare, I assume it would be that committee which would first pass upon nominations to the board of directors. The section creating the governing body then goes on to provide that "A majority shall be members of the bar of the highest court of any State." I confidently predict that in order to receive confirmation or even receive a recommendation for confirmation by the Senate Labor Committee the other five members must be social scientists, labor leaders, or professors of extremely liberal convictions.

Subsection (c) of the same section provides:

> The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

This not only confirms the section I have previously read upon "Prohibition of Federal Control" and my argument that we are asked to create a completely uncontrolled corporation, but also raises other questions as to its meaning.

One immediately wonders how a member could be removed from office? The answer to that is provided by subsection (2):

> A member of the Board may be removed by a vote of seven members for malfeasance in office or persistent neglect of, or inability to discharge duties, or offenses involving moral turpitude and for no other cause.

In other words, not Congress, not the Executive, just the corporation shall have the power to judge or remove a member.

Mr. President, we all know the powers of a chairman. If there is any other board, commission, or agency in Government which does not give the President the authority to name the chairman, I am unaware of it. True, this bill provides that the President select the first chairman, but that chairman may only serve for 3 years. Thereafter the board of the corporation annually elects a chairman.

The problem of nonaccountability to the public is compounded by the creation of a National Advisory Council. This Council is given a very substantial role. It will consult with the board and its executive director on all matters regarding the activities of the corporation, especially on all rules, regulations, and guidelines proposed to be established.

The Advisory Council shall be comprised of 15 members. Who appoints them? The board. Not the President and no advice and consent of the Senate.

The bill sets forth the qualifications of the advisory board members. They "shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients and the general public." What is the "organized bar"? Does this mean the American Bar Association, the Federal Bar Association, the National Lawyers Guild or what? "Legal education" is a broad term. I would expect it would be a person or persons who have actively promoted "back up counters" and grants to liberal colleges and universities. The greatest shock to me was putting legal service project attorneys on the Council. They are to help make the rules, regulations and guidelines for their own conduct.

In a further effort to avoid political accountability, the Board is denied in section 1006(2)(1)(22) authority to fund State and local governments except for "supplemental assistance which cannot be adequately provided through nongovernmental arrangements."

Whoever drafted this bill was determined to go to the ultimate limit. Keep the Federal Government out except for supplying the money. Keep Congress out of it, keep the President out of it. Finally, keep out State and local governments.

Mr. President, I ask why this Legal Service Corporation was not set up under a Federal charter? The bill states the Corporation "shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act. If the District is to obtain greater "home rule," does this mean the ground rules of government could be changed by the District of Columbia government rather than the U.S. Congress?

Mr. President, the committee bill pays lip service to the many horror stories of the present and past legal service lawyers in section 1006(b)(5) and 1007(b)(5). The Corporation shall insure that its employees who receive a majority of their annual professional income from legal assistance under the act shall refrain from rioting, civil disturbance, picketing, boycott, or strike, or encouraging others to so do. The Corporation is told to issue rules and regulations to carry out these restrictions and the appropriate penalty for violation. If this bill becomes law, I predict that legal service employees will give aid to demonstrations, picketing, strikes, boycotts, et cetera, and the penalty will be a slap on the wrist. When legal service lawyers use taxpayers' money for these activities and many others which the House bill prohibits, there is only one remedy—discharge.

Mr. President, the same type of lip service is provided for lobbying. Legal service employees may testify before any legislative body. It would be a mighty poor lawyer who could not dig up a single legislator to request his testimony. Corporation attorneys may advocate or oppose ballot measures, initiatives and referendums "as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

Mr. President, I call these "weasel" words. As this bill is reported, a legal service lawyer 1 month after passing the bar examination could find a way to lobby or advise others on how to do such. Throughout the committee bill, the force of apparent prohibitions on improper activity is negated by language establishing exceptions. Another illustration is contained in section 1007(2)(4) which bars uncompensated outside practice of law except when "deemed appropriate" in guidelines which would be adopted by the Corporation. Why does Congress not write the guidelines? Under the existing legal service program, which this bill seems to perpetuate, otherwise prohibited activity is often excused on grounds that it is performed on the attorney's free time.

Section 1007(2)(6)(c) in effect permits any political activity, transportation to the polls or voter registration activity if "necessary to the provision of legal advice and representation" or done while not "engaged" on official business.

Section 1006(a)(1)(a) provides the authority for the Corporation to make grants to the so-called "backup-centers." This provision was eliminated from the House-passed bill by the Green amendment—EDITH GREEN, Oregon, Democrat. I have read Mrs. GREEN's statement in support of her amendment and find myself in such complete accord with her statement that I take the liberty of quoting at length from it:

> The stated purpose of this bill is to provide needed legal services for those who could not otherwise afford them. Certainly I support the right of a poor person to have legal counsel. I thing that is fully justified, and I do not know of any Member of the House who would not support that concept. But when we pass a bill to provide legal aid for the poor, does it mean that we should also finance, using millions of dollars research centers aimed solely at changing social policy? That is, unless my amendment is adopted, precisely what we would be doing by this legislation.
>
> At the present time, we have at least 12 and, I believe, 16 so-called legal aid backup centers located in various parts of the country funded primarily by OEO. Let me mention a few of the things which are being done in these centers at the present time and which the committee bill would allow to continue.
>
> At Harvard there is a Center for Law and Education. But this Harvard research center actually had attorneys, who were paid with OEO funds, doing research which led to their joining as co-sponsors with the NAACP in the Detroit segregation case. We have memos from the Harvard Center to that effect.
>
> My question is, How does the NAACP qualify as a "poor person"? If the NAACP qualifies, then it is my guess the city of Detroit qualifies. The real point is that OEO funds once again, as so often in the past, are not going to the poor but for other purposes.
>
> Mr. Chairman, there are two quotations about consistency which come to mind. One is:
>
> > Consistency, thou art a jewel.
>
> The other is:
>
> > A foolish consistency is the hobgoblin of little minds.
>
> In this case, I believe a consistent position is both necessary and advisable.
>
> Last year the House of Representatives voted, by an overwhelming majority, to prohibit the use of Federal funds for busing. I think no one would suggest that there was not a great deal of feeling about the Detroit case, the Richmond case and other busing cases reflected in that vote.
>
> Now, while we are overwhelmingly opposed to busing, we are asked to take Federal funds and finance the back-up center at Harvard so that their attorneys can go off to Detroit and pursue the suit against the Detroit schools.
>
> This is the kind of backup center authorized in this bill that makes no sense to me.
>
> Also, Mr. Chairman, there are other such centers in other States. For example, there is one doing research on national health program proposals. This may or may not be a worthy purpose. But I suggest the research does not seem to me to qualify as legal aid to the poor.
>
> The gentleman from Georgia and the gentleman from Alabama, I believe, referred to some of the activities in which these attorneys are engaged. It is not to provide legal aid for a poor person. These offices have become the cutting edge for social change in this country. If we want to fund these proposals—let us do it in another piece of legislation, but not as legal aid for the poor.
>
> For example, we have the center doing research on housing and economic development. We have cases where legal aid attorneys have urged people to participate in tenant strikes.
>
> Mr. Chairman, we have documentation that shows cases where the legal aid employees are trying to change the abortion laws of this country. Regardless of what your stand is on abortion, is this what we really mean by providing legal aid to the poor? Do we mean to provide legal aid to change the abortion laws of our country? If so, let us finance various groups who have opposing views on this issue.
>
> There is another large group working on national health insurance. I believe in a national health insurance program. I believe this legislation should be one of highest priority in this Congress. I also believe that there might be individual cases where a poor person would need an attorney to make it possible for him to have health services. However, I must contend that it should not be the intent of the law to finance these research centers—these federally funded lobbies—so that they will change all of the laws and public policy in this regard.
>
> That should be our responsibility.
>
> From one of the legal aid groups there is another interesting statement that the control of the police is critical. They say legal services attorneys can assist in carefully planned exposure of police harassment against any law-abiding persons if they are prepared to offer advice and to represent those who take part in violating the law and protect them from false charges.
>
> Now, I do not have any particular objection to the idea of that paragraph, but as to whether or not it is providing legal aid for the poor, that is something I question.
>
> Also, I suggest if we give one group free legal aid, we should also give free legal advice to the policemen in these cases.
>
> I could cite case after case, if there were time, documenting the millions of dollars being spent for nothing but efforts to change

social policy. I suggest that responsibility for changing policy belongs to State legislatures and to the Congress of the United States. I have listened many long hours—and share in the complaints—of those who object to the executive usurpation of legislative prerogative. I find it incredible now to find myself confronted with a bill which would create another body to perform that constitutionally mandated function of the Congress. I cannot, nor will not legislate away the responsibilities of the Congress to some federally funded corporation under the guise of providing legal aid to the poor.

The issue is are we going to use Federal tax dollars to finance lobby groups who advocate social changes about which the Congress—the elected Representatives of the people—have taken an opposite or neutral view? Should not these groups, if financed by public funds, at least be neutral? In all of the documents I have read, for instance, on the research centers on abortion, they take only one position and that is pro-abortion. They do not represent the poor person who favors a "right to life" constitutional amendment or the poor person who, on the basis of religious conviction, finds abortion morally objectionable. The same one-sided advocacy is true of all the cases about which I have read. For instance, in Detroit, Federal funds were not made available to the Detroit school board to defend itself against the charge of racial discrimination.

Mr. President. I am always interested in the cost of legislation. This bill authorizes the appropriation of $71,500,000 for the first year, $90,000,000 for the second year, and $100,000,000 for each subsequent year. If we truly are confining our interest to providing legal services to the poor, it can be much better accomplished by the Brock-Helms bill for greatly reduced cost.

Mr. President, at the beginning of these remarks, I stated that the lack of control provided by the committee bill was my greatest concern. I finish by stating that my second greatest concern is that this bill is a pure and simple ratification of present abuse. The first page of the committee bill contains the findings and policy statement upon which Federal bureaucracy loves to rely. Sticking out like a sore thumb I read "there is a need—to continue the present vital legal services program." This implies carte blanche congressional approval of current grantees, current guidelines, and current personnel. With that statement I could not be in more disagreement.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD a letter which I have just received from the American Farm Bureau Federation in support of the Brock-Helms substitute. The letter refers to a recent study by the American Bar Association Foundation which supports judicare—a principle of Brock-Helms—rather than the staff lawyer made all powerful by the committee bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., January 23, 1974.

Re. Legal Services Corporation bill, S. 2686.

HON. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: A major recent development is highly relevant to the Senate's consideration of S. 2686. This is the conclusion of a two year study by the American Bar Foundation. This study is scheduled to be published in February, 1974.

A summary was published in the December, 1973, issue of the American Bar Association Journal. The author of the Journal article is Samuel J. Brakel, Director of the American Bar Foundation's study of judicare. A copy of this article is enclosed.

The major thrust of the study is ". . . that the national legal services program preference for the staffed office system is neither well founded nor well conceived . . ."

The study, as summarized in the Journal article, asserts that:

". . . the judicare system is more responsive to the problems of delivering legal services to the poor than the staffed office."

"The choice of lawyers that clients have under judicare is a very significant advantage over the choiceless staffed office."

"Poor clients themselves exhibit a pronounced preference of judicare over the staffed office."

"There is no credible evidence that judicare is more costly than the staffed office."

We submit that S. 2686 should not be enacted. If any legislation is to be enacted it is our view that it should provide:

(1) Maximum opportunity for state governments to have a responsible role in the establishment, design, and administration of legal services programs.

(2) Really effective and enforceable provisions to insure that legal assistance program funds are not used by the administering agency or by grantees to promote, assist, or encourage civil disturbances, strikes, boycotts, attacks on state or federal statutes, or political or legislative action.

(3) Authority for the courts to award costs and attorney's fees to successful defendants. Such a provision would minimize the harassing legal actions by grantees which have been such a prominent aspect of the legal assistance program as administered in recent years by the Office of Economic Opportunity.

(4) Provision that all available administrative procedures must have been exhausted before suits are filed by the Corporation or grantees. In too many instances in the past OEO-funded agencies have filed suits without first availing themselves of administrative remedies. Often the first notice a defendant has had has been the filing of legal action.

We understand that many amendments to S. 2686 have been filed. The Brock-Helms substitute would assign major responsibility to the states for the design and administration of state legal services programs. We believe this is clearly preferable to S. 2686 in its present form. We support the Brock-Helms substitute. However, in view of the fact that it is difficult to write legislation on the floor it would appear preferable for the bill to be set aside at this time to permit the appropriate committees to reconsider this whole issue including the recommendations of the American Bar Foundation.

Sincerely,

JOHN DATT,
Director, Congressional Relations.

Mr. McCLURE. Mr. President, I ask unanimous consent that Margo Carlisle of my staff be permitted the privilege of the floor at all stages of the proceedings today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, once again, we find ourselves considering S. 2686, the compromise bill to establish a public, nonprofit, Legal Services Corporation. This bill represents the distillation of 9 years of experience with the legal services program established under the Economic Opportunity Act of 1964. This bill represents the experience gained by both a Democratic and a Republican administration in providing legal services to the poor.

This bill, or one similar to it, has been before this body in each of the last 4 years and in both the 92d and the 93d Congresses. There were extensive hearings on it in both 1971 and 1972.

In 1971, it formed part of the OEO bill which was debated for 2 days prior to a 49 to 12 vote in favor of its final passage. There was a third day of debate prior to the adoption of the conference report on this measure.

In 1972, it was debated for 5 days, the vast majority of that time spent on discussion of the Legal Services Corporation provisions. Eleven amendments were adopted. One amendment to delete the legal services section was defeated soundly after substantial debate. A motion to send the measure to committee for the deletion of legal services provision also was defeated by a substantial margin. Subsequently the entire bill was adopted by a 75-to-13 vote.

The continuing opposition of the administration to restrictions on the President's power of appointment was a major factor in the veto of the original bill and in the inability of the conference committee to reach agreement in 1972.

S. 2686 now has emerged from the Committee on Labor and Public Welfare after careful amendment and with the unanimous support of the committee members. The White House was directly and heavily involved in the drafting of the committee bill, and supports quick action on it. The majority leadership supports the bill. The minority leadership supports it. The leading associations of lawyers, including both the American Bar Association and the National Legal Aid and Defender Association support it. It should have been voted into law long before now. But it was not.

It was not because there has been extended debate. We have all had an opportunity to listen to this debate, and what we have learned from the debate is that all of the arguments which are being advanced against it are old arguments, arguments which have been raised and raised again, considered by the administration, considered by the committee, and considered by this body in the past. And rejected.

But we will continue to hear from those who are against this bill. Some opponents of S. 2686 will tell us that while they oppose the legal services program and they oppose the legal services bill, they are nonetheless very, very much in favor of providing legal service to the poor. Many who oppose the legal services program tell us that they are actually in favor of offering attorneys to the poor, but only if the attorneys agree not to represent clients who wish to sue local officials or bring actions which might delay the expenditure of public funds. They say they are in favor of legal services, but only if attorneys agree not to educate their clients about their rights as citizens to exercise the franchise and participate in the political life of America. They favor legal services to the poor if attorneys agree not to represent controversial clients.

They want a program of legal services to the poor, but only if attorneys agree not to present private bills to the legislature on behalf of their clients, or not to represent their clients in regard to legislation in such areas as food programs, energy regulation, welfare, health, and education, and only if the attorneys agree not to represent the interests of a group or class of clients in regard to a particular dispute. And they support legal services but only if attorneys do not have available backup legal research into problems which are faced by their counterparts in many parts of the country.

I personally do not think that Washington should be deciding what legal issues local attorneys may raise on their client's behalf; I do not think Washington should be deciding what forums they can raise them in; and I most emphatically do not think we have any business telling a lawyer that the touchstone of whether or not to represent a client should be a measure of how controversial or how popular the issue.

I am not afraid of permitting the program to operate on a free lawyer-client basis and to rely on the professional ethics of the legal profession to check whatever random abuses might someday arise. I am not afraid because I have seen this program operate responsibly and with the highest standards for 9 years.

The legal services program, costs the Government only $71.5 million a year. Its budget has been frozen for the last 3 fiscal years.

Nonetheless, the program has been remarkably successful in helping those its limited budget permits it to serve. This program, run through local offices of salaried professionals, is highly efficient. Its caseload climbed in 5 years from approximately 291,000 to some 1,200,000 cases. In 1967, the average Legal Services lawyer was handling 242 cases at an average cost to the Government of $97 each. By 1971, each attorney was handling roughly 545 cases and the cost had fallen to $51 per case. That track record of falling dollar costs in a time of soaring inflation has come about because the model which the program has used is so efficient and because of the dedication of the attorneys themselves.

But the tragedy is that this program—which has been publicly endorsed by a series of ABA presidents, by the unanimous Senate Committee on Labor and Public Welfare, and by the President of the United States—this program was harassed and sniped at from within OEO for the first 9 months of last year.

We saw projects with excellent professional records placed on month-to-month funding. In Massachusetts, we are proud to have two of the national backup centers: the Center on Law and Education at Harvard and the National Consumer Law Center which has been associated with Boston University. Both of these programs have earned repeated praise from lawyers, legislators, and program evaluators alike. For months they were subjected to the burden of never knowing from one week to the next whether they would have funds sufficient to meet salaries and outstanding obligations. They were unable to sponsor training conferences for Legal Services attorneys. They were unable to make commitments of personnel and time to assist with solutions to the problems faced by local attorneys. They were unable to offer employment to new personnel. And all of this was because of harassment from Washington.

All over the country we saw local legal services projects that were being forced to close their doors for want of funds, turning away clients, disrupting court dockets, disappointing State legislators, and dissipating professional staffs that had been painstakingly assembled and trained. And this was not being done because these legal services projects had violated the law, misused funds, or exceeded program guidelines. It was being done for ideological reasons.

That is what we saw a year ago and now as the future of this program remains tied to the future of this bill, those opponents are seeking to delay and frustrate its passage. Neither we nor the poor that this program serves can afford that delay.

More than 2,250 lawyers in 900 neighborhood offices across the country are attempting to provide an avenue for the poor to obtain the same access to legal counsel as the more affluent The Legal Services program is an attempt to offer them an option to seek a redress of their grievances through the legal system not crippled by the absence of competent counsel, but with the full rights to an adequate representation of their interests that our legal system promises.

This measure must no longer be delayed or sidetracked. It is of the utmost urgency not only for the poor whom it will directly serve but for the system of law itself. For no society can truly pride itself on its respect and adherence to a system of law if the protections of that system are denied to any of its citizens.

Mr. BELLMON. Mr. President, while serving as Governor of Oklahoma, the concept of legal aid to the poor was introduced under the economic opportunity program. Like many of the OEO programs, there was opposition to this undertaking from the legal profession and other sources. But after it had been in operation, with the involvement of attorneys at the local level, the legal services program gradually won acceptance because it demonstrated that with a little help in the form of legal guidance, many low-income persons could become more self-reliant and productive citizens.

With the dismantling of the Office of Economic Opportunity the administration proposed the establishment of a Legal Services Corporation to take over the various legal aid programs. A bill creating such a corporation was debated and passed by the last session of Congress, but was vetoed because of White House objections regarding the appointment of board members.

Now the issue is before Congress once again in the form of a compromise measure which has the backing of the administration. However, the present bill has some objectionable features that I strongly feel should be removed. Therefore, I am offering an amendment to eliminate some of these features and tighten up the language of the bill to prevent possible abuses of the program.

Let me make it plain that this amendment is not an effort to weaken the bill, but rather to strengthen it for the protection of all citizens. Nor is it an attempt to further stall consideration of the bill.

My amendment would make sure that employees of the Corporation or recipients of legal assistance could not engage in, or encourage others to engage in, any public demonstration, or picketing, boycott, or strike. Nor could any employee participate in or encourage any rioting or civil disturbance or any other illegal activity.

The amendment would further guarantee that no funds, program personnel or equipment could be contributed or made available by the Corporation for use in advocating or opposing any ballot measures, initiatives, or referendums.

Another provision of the amendment would insure that no funds made available through grants or contracts could be used by recipients to undertake to influence the passage of defeat of any legislation by the Congress or by any State or local legislative bodies. The only involvement in legislative matters would be in the event a legislative body requests information.

In general, my amendment removes several loopholes which, in my opinion, would permit possible illegal actions or political activities.

Mr. President, consideration of this legislation has been long delayed, and I am hopeful that a suitable compromise can be reached in order that the matter can be finally resolved.

Mr. TOWER. Mr. President, several of my colleagues and I have discussed during the last few days and weeks our continuing concern over a common practice of the OEO Legal Services program to incite litigation through its Clearinghouse Review.

A recent article entitled, "Knowledge Is Power: Poverty Law and the Freedom of Information Act," which appeared in the May 1972 issue of that publication makes our point very well.

I ask my colleagues the simple question—"Is this what we are asking the taxpayers to fund?" No provision in the current draft of S. 2686 would prohibit a continuation either of publication of these articles or the litigation which results.

I personally cannot condone this practice, which violates the spirit, if not the letter, of the Economic Opportunity Act, and have no intention of voting for a bill which makes permanent and legal this misuse of public funds.

Mr. President, I ask unanimous consent to have included at this point in the RECORD a copy of the aforementioned article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KNOWLEDGE IS POWER; POVERTY LAW AND THE FREEDOM OF INFORMATION ACT

(By Stephen R. Elias and Trudy Rucker, Staff Attorneys, Center on Social Welfare Policy and Law)

INTRODUCTION

Information—public versus classified—has recently aroused widespread interest and controversy, particularly since the Pentagon papers case. The public is now keenly aware that there are literally tons of government documents withheld from the public domain in the secret preserve of government officials. Although the act of divulging such "secret" documents has become heroic, since the Freedom of Information Act [1] was passed in 1967 any member of the American public has been entitled to inspect millions of documents which hundreds of government agencies currently consider beyond their reach. It is conceded that the precise records obtained by Daniel Ellsberg might not be obtainable under the Freedom of Information Act.[2] However, vast amounts of records of the same public importance *are* obtainable under the Act, and the fruit, in a manner of speaking, is ripe for the picking.

This article and the Freedom of Information Act are both slanted toward the view that all government records should presumptively be disclosed. Poverty lawyers and their client groups—welfare rights, tenant and consumer organizations—have always taken the position that where a benefit exists it should be utilized, and that where a benefit might be obtained through political action or litigation, that benefit should be pursued. In the case of the Freedom of Information Act, there is a large volume of information which if made public or available to the poor would help them obtain their rights. Legal Services lawyers should seek this information aggressively.

This article is concerned with the uses of the Federal Freedom of Information Act [3] and the problems likely to be encountered therewith. The Act identifies the type of material to be made available to the public, and the manner in which it must be made available. This includes information which must be printed in the Federal Register,[4] information which the agency is required to index and keep available for public inspection (such as final opinions and statements of policy interpretations which have been adopted by the agency and are not published in the Federal Register), and administrative staff manuals and instructions to staff which affect a member of the public.[5] Finally, the Act requires all other identifiable records to be disclosed *upon request* except as specifically exempted.[6] The Act also provides for judicial review of an agency's failure to make the requested information public; it lists the types of records exempted from the Act's coverage (nine such exemptions in all); [7] and it provides that no records shall be withheld except as specifically provided in the second part of the Act.[8]

This article will not discuss the Federal Register requirement. Further, although at times it will discuss the types of information which must be indexed and kept available in libraries, it will not examine all possible problems in the area in detail.[9] (This subject is appropriate for additional extensive investigation and analysis.) The primary thrust of this article, therefore, is a discussion of the Act as it relates to records which are likely to be of help to poverty lawyers.

THE ACT AND ITS HISTORY

Until the Freedom of Information Act was passed in 1967, a citizen's right of access to public documents was largely in the realm of common law equitable principles. While a public disclosure section of the Administrative Procedure Act (APA) had been in force since 1946,[10] the Senate Judiciary Committee concluded that this older statute usually served the purpose of non-disclosure. This statute largely depended on traditional common law concepts. For example, a person had to have a proper and legitimate interest in the document, and the agency in possession of the document was entitled to withhold the document if, in the agency's judgment, the release of the document would be contrary to the public interest. Judicial review, to the extent it existed, consisted of an equitable balancing of interests between the parties—the needs of the plaintiff as opposed to the needs of the agency and the possible harm to the public interest. Recognizing that in practice this "equitable" system favored the agency over the citizen, Congress spent 12 years formulating the present Freedom of Information Act.[11]

In general terms, the Freedom of Information Act eliminated the prior requirement that parties requesting the records have a direct and proper interest in them.[12] All identifiable records (as covered by the Act) must now be made available for inspection and copying upon request unless specifically exempted by the Act. The Act specifies nine exemptions (discussed below) and then states: "This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section." [13] The Senate report section pertaining to this statutory section reads: The purpose of this subsection is to make it clear beyond doubt that all materials of the Government are to be made available to the public by publication or otherwise unless explicitly allowed to be kept secret by one of the exemptions in subsection (e).[14]

Despite clear congressional intent that the specifically enumerated exemptions be the sole determinants as to whether records may be withheld, a threshhold debate arises concerning whether Congress intended to strip the district court of its equitable powers. One commentator argues that a court may balance the equities among the parties and refuse to order disclosure of records not exempted by the Act if it finds that the harm to the public interest would be greater than the plaintiff's need for the record.[15] Most of the cases, however, have concluded that Congress intended to do its own balancing, and that the court's sole responsibility is to examine the exemptions (interpreting them in favor of disclosure) to see if a record has been properly withheld. The debate is most clearly presented in *Soucie* v. *David*,[16] where the majority held that the Act stripped the courts of their equitable jurisdiction (based on the legislative history indicating Congress' intent to do its own balancing) [17] and on the clear wording of § 552 (c) quoted above.

Judge Wilkes, while concurring, argued that the courts retain their equitable power and may, if they choose, uphold an agency's decision to withhold records even though such records are not within one of the specific exemptions.[18] Concerning congressional intent, the more recent case of *Wellford v. Hardin* has noted: "It is not the province of the Courts to restrict that legislative judgment under the guise of judicially balancing the same interests that Congress has considered." [19] *Getman v. NLRB* [20] has fully concurred with the conclusions of the *Soucie and Wellford* courts. It would seem, therefore, that despite dicta to the contrary [21] the weight of authority clearly requires a strict reading of the Act. There is no doubt that the burden of justification rests heavily on the agency withholding the record after a proper request.[22]

The Act is accompanied by a House [23] and Senate [24] report comprising 95% of the relevant legislative history [25] and by a contemporaneous Attorney General's memorandum [26] (hereafter called A.G. memorandum) which purports to be an impartial analysis of the Act in light of the relevant legislative history. The A.G. memorandum is naturally biased in favor of the agencies, and in light of the fact that the agencies were virtually unanimous in opposing the statute, the memorandum constitutes a highly partisan statement against full implementation of the Act.[27] However, at least one court case has reminded us that the Attorney General is not charged with administering the Freedom of Information Act, and therefore the memorandum is not to be accorded the force and effect of law.[28] Furthermore, only the Senate report accompanied the bill through both houses, and this report is true to the actual language of the Act, whereas the House report (relied on almost exclusively in the A.G. memorandum) so departs from the language of the Act as to effectively "amend" it.[29] In light of the fidelity of the Senate report to the clear wording of the stature, conflicts between the Senate and House reports should be resolved in favor of the Senate report. Three cases have so specifically concluded.[30] Likewise, to the extent that the Attorney General's report conflicts with the Senate report or the clear words of the statute, the latter should prevail.[31] However, since the A.G. memorandum is the advice of the agency's "lawyer," the agencies should always at a minimum comply with the interpretations therein. This background, as will be seen, is extremely important to a number of issues which poverty lawyers are likely to encounter while pursuing records under the Freedom of Information Act. Of course, since the Act exempts from disclosure only those records specifically designated in the Act, the legislative history should always remain subservient to the plain meaning of the statute, and should never be resorted to except in the case of statutory ambiguity.

EXEMPTIONS

The Freedom of Information Act states essentially that all identifiable records must be made available for inspection upon proper request unless they are specifically exempted by any one of the Act's nine exemptions.[32] The exemptions include:

(1) matters specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy;

(2) matters related solely to the internal personnel rules and practices of an agency;

(3) matters specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) matters contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps concerning wells.

Of these nine exemptions, the first,[33] sixth, eighth and ninth do not on their face seem particularly relevant to the types of records which poverty lawyers are likely to seek. Nor is there any case authority indicating otherwise. This article will therefore be confined to those exemptions which are most likely to confront poverty lawyers.

The second exemption

Although the second exemption, which covers internal personnel rules and practices, has been the subject of litigation only

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Footnotes at end of article.

twice,[34] it might prove relevant in the future. The actions of agency personnel often seem incomprehensible and remain unexplained. Administrators frequently act on internal instructions which the agency does not consider to be in the public domain. However, materials which must be indexed and kept available for inspection include "administrative staff manuals and instructions to staff that affect a member of the public. . . ." [35]

In *Polymers* v. *NLRB* the Second Circuit held that the second exemption applied to a staff manual entitled "A Guide to the Conduct of Elections." [36] The exact nature of this manual is not clear from the opinion. However, the court relied exclusively on the House report which interprets the second exemption as exempting "operating rules, guidelines, and manuals of procedure for government investigators and examiners." [37] The court noted that the Senate report limits the exemptions to instructions dealing with such internal matters as sick leave, and that *GSA* v. *Benson* had criticized the House report for going beyond the scope of the Act.[38] In fact, the House report absolutely contradicts the Senate report and the clear words of the Act—a point appropriate for extensive discussion and criticism.[39] In light of the relevant legislative history, the *Polymers* case carries its own admission of error. Because of poverty lawyers' lack of experience in this area, it is difficult to gauge the type and amount of information which they might obtain under § 552(a) (c). However, it is clear that when properly interpreted the second exemption should not stand in the way of an expanded understanding of the reason for official behavior.

The third exemption

The third exemption applies to all records specifically exempted by any other statute. The A.G. memorandum explains this as preserving the force and effect of any statute which restricts disclosure of records not exempted by the Freedom of Information Act itself. The A.G. memorandum refers to a house committee print entitled *Federal Statutes on the Availability of Information* which provides a list of many of the statutes prohibiting the disclosure of various types of records. A study of this document has revealed only one statute which seems to apply in any way to the poverty law context.[40] The committee print, however, was published in 1960, and by its own terms is not exhaustive.

The one case which has dealt with this exemption [41] held that a statute allowing the agency to withhold information upon the written request of the provider, where disclosure would be prejudicial to the provider, was the type of statute which exempted records through the third exemption. The case contains no real analysis of this exemption and there is clearly much room for argument as to precisely what kinds of statutes the case was referring to.

The fourth exemption

The fourth exemption has been the subject of some litigation, and to the extent that the information sought involves financial or commercial information or trade secrets which have been obtained from a person outside the agency under a pledge of privilege or confidentiality, the exemption may prove troublesome.[42] However, many courts have made it clear that the fourth exemption applies *only* to financial and commercial information or to trade secrets, and that the confidential or privileged information exempted must possess these characteristics.[43]

Although the House report and the A. G. memorandum indicate a different position, *Getman*,[44] for example, relied on the clear wording of the statute and adopted the position, taken by the court in *Consumer Union*,[45] that only the Senate report is to be relied on.[46] In *Schapiro* v. *SEC*,[47] the district court for Washington, D.C. discussed the question of who determines the "confidential" nature of the records. The court, quoting *Grumman Aircraft* v. *Renegotiation Board*, held that the test for availability was "whether they [the records] contain commercial or financial information which the contractor would not reveal to the public." [48] Addressing the defendant's argument that the person giving the record to the agency should be the one to determine its confidentiality (the subjective test), the court stated:

"Regardless of whether the information was submitted on the express or implied condition that it would be kept confidential, a Court should determine, on an objective basis, that this is not the type of information one would reveal to the public.[49]

In short, the confidentiality of financial or commercial information is *not solely* dependent on the donor or the agency, but may be subjected to the independent, and final, judgment of the reviewing court.

The fifth exemption

The fifth exemption is by far the most common one raised by HEW, the agency with which the authors have had most of their experience. Although the subject of much litigation,[50] this exemption is clear enough on its face. The only records exempted are inter-agency or intra-agency memoranda which are not available by law to a party in litigation with the agency. That is, only intra-agency or inter-agency records which are not discoverable by law are exempted. Since the word "agency" is defined by § 551 of the Administrative Procedure Act to exclude state agencies,[51] a strong argument can be made at the outset for the proposition that no record which passes between a federal and a state agency is exempted by this section. Although this was pointed out to the House committee,[52] the exemption as written failed to exempt communications between the federal and state governments. Since the committee did not change the wording, the conclusion is justified that communications between such governments are not exempted from disclosure. As stated in *Getman*, "[T]he court is not free to give the statute an expansion which Congress considered and denied.[53] Therefore, no state plan proposals, waiver requests, conformity materials, suggestions or comments by the federal agency, or any other communication of any sort between a federal agency and a state agency or official should be considered exempt by this section. HEW has now taken the lead and recognized the availability for inspection of all such records.[54]

What is available by discovery is covered essentially by FRCP Rule 26b. This rule states that:

"[P]arties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

The key requisites for material to be discoverable, therefore, are relevance to the cause of action and the lack of any applicable "privilege." [55]

In freedom of information cases, however, there is no substantive litigation by which the relevance of the requested documents can be judged. Further, the Freedom of Information Act abolished the requirement that a person have a direct and proper interest in a record, and therefore the agency itself would never, under the Act, have occasion to question the relevance of a record to any possible lawsuit. The conceivable relevance of records to some hypothetical lawsuit is not mentioned in the legislative history nor in the A.G. memorandum. Rather, strong evidence shows that Congress was only concerned with allowing the government to withhold those records which are subject to the privilege exception in Rule 26b(1).[56]

The exception of privileged materials applies to records which come within the common law privileges of doctor-patient, attorney-client, and clerical relationships. But in litigation against the government, the federal government has consistently raised a special privilege—the executive evidentiary privilege—as a defense to motions to compel production of documents. This privilege has been held to reside in the executive to protect it from disclosure of documents which would expose its actual reasoning processes as opposed to the factual bases for decision making. Thus,

". . . the privilege obtains with respect to *intra-governmental* documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which government decisions and policies are formulated." [57]

The purpose of the privilege has been stated to be twofold: first, to protect and encourage a frank interchange of opinion within the agency, and second, to protect the reasoning process of the agency from public exposure.[58]

It is helpful to see how this executive evidentiary privilege works in practice. In *Kaiser Aluminum & Chemical Corp. v. United States*,[59] the court of claims held that an agency employee's internal opinion on possible agency action on a $36 million contract between the agency and Kaiser, was the type of record which an agency could claim as privileged. In *Machin v. Zukert*,[60] the United States Court of Appeals for the District of Columbia held that Air Force deliberations or recommendations pertaining to a crash were privileged, even absent military secrets, but that the factual findings and conclusions of mechanics who actually examined the wreckage must be disclosed. In *Boeing Aircraft v. Coggeshall*,[61] a case concerning attempts to obtain records from the renegotiation board, the court held that the executive privilege applied to those records which recommended policies to be pursued by the renegotiation board, in order to preserve the integrity of its decision-making process; it also held that purely investigatory or factual reports were not within the privilege.[62]

When agencies invoke the privilege on judicial review, the courts are faced with the choice of accepting the agencies' characterization of the nature of the documents, or examining the records *in camera* to determine whether they fit within the privilege. In some cases the courts inspected the records *in camera*, and ordered privileged matter to be separated from non-privileged if commingling had occurred.[63] Such inspection was not ordered in cases where the privileged nature of the records seemed evident.[64]

The legislative history of the Freedom of Information Act indicates that the courts must apply the same test to the fifth exemption as they always have when the executive evidentiary privilege has been raised in discovery proceedings against federal agencies.[65] Certain difficulties are presented, however, by the clear wording of the statute. For example, in discovery proceedings, the executive privilege may have to yield where the requester has great need for the record. The privilege, in other words, is balanced against the requisites of justice in the courtroom. Yet in Freedom of Information cases, the need for the record is not a factor. The exemption refers to records available to a "party," rather than "the person making the

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request." The question, then, is whether records which are only sometimes available in litigation are available under the Freedom of Information Act.

This question was squarely dealt with in a recent District of Columbia case. In *Sterling Drug*[66] the plaintiffs had been charged with Section 7 Clayton Act violations involving a merger with another company. The FTC had previously approved a similar merger between one of Sterling's competitors and another company. Sterling unsuccessfully petitioned the agency to drop the charges on the ground of this approval, and then moved for production of records consisting *inter alia* of FTC staff memoranda, memoranda of individual commissioners, and memoranda prepared or adopted by the commission as a whole relating to the basis for their decision to uphold the merger in the other case. This motion was denied. A freedom of information case was then filed, seeking disclosure of the records. The plaintiffs claimed that the records were discoverable in the Clayton Act action pending against them, and were therefore *not* exempt under the fifth exemption. The lower court held that the records consisted of internal working papers relating to the formulation of policies and were therefore exempt under the fifth exemption. On appeal, the District of Columbia circuit court considered the question raised by the plaintiffs as to whether the discoverability of a record in litigation automatically meant that the record was not within the fifth exemption. Quoting at length from Davis, *The Information Act, A Preliminary Analysis*,[67] and relying on language in the House report and the A.G. memorandum that the fifth exemption does not apply to memoranda which are routinely discoverable, the court concluded that records otherwise privileged did not escape the exemption solely because they might, in special circumstances, be discoverable.

As modified by *Sterling*, then, the courts will follow the discovery cases and allow the withholding of records which would reveal the reasoning process of the agency; such memoranda would include *internal* working papers and drafts, in which statements of opinion and suggestions were made regarding agency decisions or action. Conversely, no memorandum which embodies data relied on by the decision maker, no report, statistical workup, computer printout or any other factual data should be considered exempt.[68]

Sterling, however still leaves open the question of what is or is not exempt from disclosure. The court held that the memoranda prepared by the commission staff and individual commissioners were exempt, while the memoranda prepared by the commission as a whole were not. The court reasoned that memoranda which comprised operative agency law were disclosable, whereas opinions and recommendations which did not necessarily comprise the whole of an agency policy did not constitute such agency law and were therefore within the exemption comprising internal opinions and recommendations.

However, 5 U.S.C. § 552(a) (2) (B) requires that agencies index and have available for inspection those "statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register." In a powerful and well reasoned dissent,[69] Judge Bazelon has pointed out that to the extent that the staff and commissioner memoranda provide the basis for all or part of a final agency decision, they then fall within the classification of § 552(a) (2) (B) and should be made available. Judge Bazelon reminds us that although the purpose of the exemption was to encourage discourse at the policy formulation stage, Congress intended to prevent the development of "secret law" within an agency. The dissent points out that the Ninth Circuit had previously decided in *GSA v. Benson*[70] that the kind of opinions and recommendations sought in *Sterling* were not within the exemption to the extent that the agency ultimately adopted them expressly or implicitly. In any event, even the majority in *Sterling* leaves no doubt that memoranda constituting the working law of an agency are not within the exemption.

When there is a dispute as to the characterization of a record, or when a record contains both types of material, the court has a duty, as in discovery proceedings, to examine the records *in camera* to decide which material is disclosable.[71]

It seems reasonably clear that Congress intended bureaucrats to be able to engage in frank interchange of opinion without the world knowing their individual views, and that without the privilege this might be inhibited. Therefore, in deciding whether the privilege should apply, courts should look to see whether the specific record in question will or will not expose the agency's reasoning process to public view. In the discovery case of *Machin v. Zuckert*,[72] the court decided that disclosure of the mechanic's opinions as to the causes of the accident would not expose the agency's reasoning process, and that such opinions were actually in the nature of a factual summary. This approach protects the government against having to disclose documents which will harmfully reveal its thinking process while at the same time providing for full disclosure of all records which contain the basis for government action.

The Senate and House reports and the A.G. memorandum express the belief that the fifth exemption prevents premature disclosure.[73] This refers to situations where disclosure would make nugatory the purpose for the records or would prejudice contractual negotiations in progress.[74] Clearly, only where parties are actually negotiating in a contractual sense should prematurity be considered an issue. Thus, where the federal government is performing a function concerning a state government, such as deciding whether to grant a state's request for a § 1115 waiver, the alleged prematurity aspect would not apply, regardless of the present stage of the federal agency action. HEW's example in its regulations exempting records "of correspondence between Federal and state or local officials, privileged through custom and usage or where disclosure might prejudice negotiations in progress," is thus without merit.[75]

The seventh exemption

Although the seventh exemption has been held applicable to areas not generally of concern to poverty lawyers, some discussion of this exemption is nevertheless in order. The Senate report refers to the investigatory files in the seventh exemption as follows: "These are the files prepared by Government agencies to prosecute law violators."[76] This language indicates that Congress had in mind proceedings of regulatory agencies with power to mete out punishment for law violations by court prosecution. In *Bristol Myers Co. v. FTC*[77] the court concluded that "Congress intended to limit persons charged with violations of the Federal *regulatory* statutes to the discovery available to persons charged with violations of Federal criminal law." Such actions would be brought by the FDA in food adulteration cases, the FTC in antitrust actions, the SEC in financial institutions regulations, the FPC in oil and gas cases, and the CAB in airlines regulations.

Quite recently, the Fourth Circuit held that the seventh exemption "should not be enlarged . . . to include records of administrative action taken to enforce the law." In so holding, the court determined that letters of warning of non-compliance with federal law were disclosable.[78] Finally, in interpreting this exemption, Judge Skelly Wright in *Getman v. NLRB*[79] concluded that the purpose of the exemption was to ensure that agencies' court cases would not be harmed by the disclosure. To the extent that an agency's activities do not involve judicial enforcement as an affirmative matter, then materials collected to implement the law should not be excluded from disclosure by this exemption.[80]

Even where the seventh exemption may be applicable, however, withholding is justified only when the files are in fact compiled and maintained for such judicial law enforcement purposes. Thus, a long lapse of time without any intervening "law enforcement" activity between the compilation of the files and the date they are requested would indicate that the files are no longer being maintained for "law enforcement" purposes.[81] Further, when the files, or records therein, have been disclosed to the parties subject to the agency's "law enforcement" actions, it is obvious that further disclosure to the public cannot hurt the agency's case in court.[82]

BEYOND THE EXEMPTIONS

Although it might be argued that agencies can lawfully withhold any record which falls within the exemptions, a number of agencies have adopted regulations which compel them to disclose any record, exempted or not, unless there are compelling reasons to the contrary. Thus, in *GSA v. Benson*[83] the agency refused to release the records of certain business transactions between it and the person requesting the records. The court, *inter alia*, noted that the agency required disclosure in the absence of a compelling reason to the contrary, and that since the court could discern no compelling reason for the agency to withhold the records, the records must be disclosed, notwithstanding the fact that they might fit within one of the exemptions. Other examples of such regulations are: (1) the Department of Interior regulations which require disclosure unless the records fit within an exemption and "sound grounds exist which require the invocation of the exemption" or disclosure is prohibited by statute or executive order;[84] (2) HEW regulations which provide that "disclosure of particular items of such [exempt] kinds *will* nevertheless be made when this can be done consistently with obligations of confidentiality and administrative necessity";[85] (3) HUD regulations which prohibit a record from being withheld unless it both comes within an exemption and "there is need in the public interest to withhold it";[86] and (4) DOT regulations which provide that notwithstanding the exemptions the department will release a record "unless it determines that the release of that record would be inconsistent with a purpose of the [exemption] section covered."[87] These types of regulations are binding on the agency and provide a means to obtain otherwise exempted records.[88]

A number of agencies also attempt to define and interpret the exemptions in the Freedom of Information Act further. These regulations give examples of the types of records which the agency considers exempt. These interpretations and examples are often broader than the statutory exemption. If these interpretative regulations exempt from disclosure items which are not exempted by the governing statute, they conflict with the statute,[89] they are outside the official's scope of authority,[90] and are hence invalid. A federal administrative regulation must comport with the enabling legislation, including the congressional mandate as it is "ascertainable in underlying policy."[91] In any freedom of information case the underlying policy of Congress is to interpret the exemptions strictly, in favor of the fullest possible disclosure.[92]

The exemptions, therefore, refer to a limited class of materials. Moreover, the Act expressly requires that all other records shall

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be disclosable. Although some courts have gone astray and used their own judgment as to whether or not certain records should be disclosed, the great majority of courts have looked only to the exemptions for possible justification of agency withholding. And as records are more aggressively pursued under the Act in the future, the exemptions should, under proper court interpretation, become increasingly narrow, veering away from the old, broad equitable principles toward the clear statutory intent of total possible disclosure of government records.

APPLICATION OF THE ACT

From the cases which poverty lawyers have filed against federal agencies, it appears that the following agencies are most often involved: Health, Education and Welfare; Housing and Urban Development; the Bureau of Indian Affairs; the United States Department of Agriculture; the Department of Labor; the Department of Transportation; the Environmental Protection Agency; and the Department of Justice. Each of these agencies administers programs which involve some degree of federal-state cooperation; most of the programs also involve federal-state shared funding schemes. The federal agencies are responsible for assuring that federal law is fully complied with. If it is not, then no federal money should theoretically be provided for the program's operation.[93] Whether or not federal agencies choose to take any action in the event of non-compliance, most of them collect considerable data concerning compliance (or lack thereof) with applicable federal laws. All such data compiled by any of the agencies and programs specified above should be obtainable under the Freedom of Information Act on the ground that the one possibly applicable exemption—the fifth—does not apply either because the material was obtained from the state or some other non-agency source and is thus not within the exemption, or because such data does not in any way expose the reasoning process of the agency, but rather constitutes factual summaries and reports. To the extent that conformity materials include recommendations to higher officials based on factual data or summaries, such recommendations might also prove disclosable especially if the recommendation is later adopted by the agency head. Even if the recommendation were in a privileged form, however, the administrator could excise the privileged materials from the rest of the materials, or, if the administrator contests the request, the court could do so.

Another type of record consists of the communications between a federal agency and the state agency. Lengthy correspondence often goes on between them concerning either state plans to take certain actions in the future, or state practices of the recent past. These records are not exempted by the fifth exemption, which only refers to communications involving federal agencies.[94] Also, such communications would be discoverable in litigation because their disclosure would not expose the agency's reasoning process. As already mentioned, HEW has recently changed its policy and now allows disclosure of all such correspondence.[95]

Another type of record which should be available for inspection under the Freedom of Information Act consists of the formal and informal opinions which are constantly handed down in response to state agency queries and requests. For example, within the past year California sought HEW's opinion on some administrative changes it desired to make in California's welfare programs. HEW put its opinion in the form of a letter stating that some of the changes were permissible while others would violate the Social Security Act and would need waivers. Regardless of how HEW might wish to characterize such a communication, under the Act it should have been characterized as an agency opinion or decision, indexed, and made available for inspection in the agency library. Another type of decision making is the agency response to each public information request received by the office. These decisions should also be in the library. General policy decisions are often made by regional federal officials and then sent to the agency head for final approval.[96] These intra-agency opinions and decisions, no less than the opinions and decisions sent out of the agency, should be on file and readily available.

Finally, the large number of decisions made by federal agencies which seem to conflict with the governing statute or even the agencies' own regulations is an area of increasing concern to poverty lawyers.[97] In other cases, it appears that the reasons for certain agency decisions are either purely political or have no basis in fact. Recent examples of the latter include the New York regional SRS commissioner's determination that New York had an adequate utilization review procedure in its medicaid program,[98] and HUD's decision to allow various redevelopment projects to proceed based on a HUD certification of a workable program,[99] where no basis in fact existed for either decision.[100] At the time the decision is made it is often unknown what kind of record exists and what is before the decision maker. Clearly, except for internal staff opinions, suggestions and recommendations it is permissible to obtain the factual and analytical record on which the decision is based. It would seem that a request for the documents, reports, memoranda, computer printouts, charts, graphs and surveys on which an administrator relied to make his decision (*i.e.*, the administrative record) would be sufficient identification and such records would therefore be obtainable under the Freedom of Information Act except for those records which consisted of agency debates over policy matters.

There are many uses to which the types of information outlined above can be put. Groups of poor persons have always had to face the explanation from bureaucrats that the bureaucrat is acting on information which "unfortunately" is unavailable to the public. Clearly, the obtaining of all or most of the same information which the bureaucrat has will greatly help these organizations in their efforts to attain power in relationship to the government agencies with which they deal. Second, as has been tragically proven in the case of the Pentagon Papers, governments can go awry absent public accountability. The harder it is for bureaucrats to conceal their errors, hopefully the fewer they will make. The more the administrative decision making process is brought to light, the less likely it is that political deals will be made.

The aftermath of a recent case filed by NWRO[101] to obtain copies of waiver applications submitted by the States of California and New York provides a good example of the uses which an organization can make of the type of information discoverable under the Freedom of Information Act. The purpose of the suit was to obtain the waiver applications as early as possible in order to have a chance to provide HEW with comments and criticisms, and to be able to mount a political campaign prior to any HEW approval of the applications. The suit was settled on the basis of an agreement by HEW to release the applications at least 30 days prior to taking any formal action on them.[102] The first application received was from California, which was seeking to run a demonstration project whereby medicaid recipients would be charged a certain amount for aid and services. During these 30 days, CWRO prepared and submitted an extensive comment and criticism of the project. The next applications received under this agreement were two applications submitted by New York. One of them sought a waiver of Social Security Act provisions so as to allow New York to operate forced work programs, without pay, for all welfare recipients. The second application was for waivers permitting New York to operate a program in which the grant would be reduced to $2,400 for a family of four from the approximate current average level of $3,760. The family would then be given an opportunity to work itself back up to the current grant level by accruing such "brownie points" (which were assigned a dollar value) by among other things cooperating with school authorities, joining the boy or girl scouts, participating in birth control programs and joining forced work projects. NWRO and various community and professional groups mounted an attack on the demonstration projects and HEW eventually informed New York that the project's proposals were unapprovable as submitted. (This was after HEW had told New York that the applications would certainly be approved.) New York submitted new proposals, which HEW approved shortly thereafter. A lawsuit is currently pending challenging this approval on the grounds that the agreement to give 30 days lead time was violated. The New York community is still alerted to many problems in the new proposals, and it is quite possible that because of the political opposition the projects will never be carried out. In any event, the community, by being forewarned, is forearmed.

In addition to the use of records for purposes of political mobilization, records obtainable under the Act can prove valuable in litigation. Although many records would be obtainable by discovery upon the filing of a lawsuit, it is often important first to compile information in order to put the lawsuit together. In one type of litigation in which poverty lawyers are becoming increasingly involved—judicial review of federal administrative action—it is of the utmost importance to ascertain the scope and extent of the "administrative record" on which the decision maker relied in making the decision.[103] Much of the decision-making power which is subject neither to adjudicatory nor rule-making public hearings is committed to federal agencies by statute. Thus, the Secretary of HEW may grant certain waivers of Social Security Act provisions, the Secretary of HUD may certify the existence of a workable plan for redevelopment, and the Secretary of Transportation may decide to release federal funds for a highway. In each case there is no formal record, nor is there generally a requirement for formal findings. Such decision making, although carried out pursuant to a governing statute, is called "informal."

The scope of judicial review for such informal decision making has recently been described by the Supreme Court,[104] in *Citizens to Preserve Overton Park v. Volpe* under which the court is to review the administrative record. However, if there is no such record (as is often the case in informal decision making), then the administrator may make *ex post facto* findings which will themselves be subject to judicial review. In the absence of any *ex post facto* findings, the plaintiffs may discover the basis for the administrative decision. (Such discovery is not necessarily precluded by the existence of findings, however.)

Since the filing of a lawsuit seeking judicial review gives the administrator a chance to devise *ex post facto* rationalizations in light of the complaint's allegations, the plaintiffs are in an infinitely stronger position if the administrative record can be ascertained and established prior to the filing of the suit. Most of the data on which such informal decisions should be based is obtainable under the Act, and therefore a request for the documents which comprise the administrative record in respect to a particu-

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lar decision will prove invaluable in these types of lawsuits.

It is also valuable to have the records prior to filing a suit, for possession of information indicating a relatively sure victory may well be enough to settle the matter out of court. Alternatively, the information obtained may indicate that a lawsuit would not be appropriate in the first place.

HOW TO REQUEST A RECORD

The operative words of the statute in respect to procedure are:

"Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, shall make the records promptly available to any person." [105]

Although the information sought must be in the form of records within the meaning of the Act, the Act does not define the word "records." The A.G. memorandum, however, adopts the definition of records used in a 1943 statute:

"[T]he word "records" includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word 'records' as used in this Act." [106]

The question of what constitutes identifiable records has been litigated.[107] It is clear that while the courts may not look favorably on a broad fishing expedition, the agencies must make a reasonable attempt to search out and find the records which are requested, regardless of the comprehensiveness of the request.[108] In this connection, the Senate report states:

"It is contemplated by the committee that the standards of identification applicable to the discovery of records in court proceedings would be appropriate guidelines with respect to the identification of agency records, especially as the courts would have jurisdiction to determine any allegations of improper withholding." [109]

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"The records must be identifiable by the persons requesting them, *i.e.*, a reasonable description enabling the Government employee to locate the requested records. This requirement of identification is not to be used as a method of withholding records." [110]

That it may be inconvenient for the agency to search out and compile records for inspection is no excuse for the failure to produce non-exempted materials.[111]

In many cases the existence of specific records will come to light by word of mouth and specific identification is easy. In other cases it may not be known whether certain documents exist, but their existence can be deduced. Requests for such deduced records should be framed in an affirmative manner on the assumption that the records do exist, rather than as a question as to whether the records exist. This tactic will also prevent the agency from concealing the existence of a record.[112] However, the request should also specify that the agency either give you what is asked for, or state the reasons for non-disclosure, including the alleged non-existence of any of the records requested. If the agency answers that no such record exists, such an answer may prove to be invaluable. For example, in one case currently being litigated involving judicial review of federal administrative action, the plaintiffs asked for all reports, surveys, memoranda, etc., on which the defendants based their decision. The agency answered that no such records existed. In establishing the arbitrariness of the defendant's decision the plaintiffs have a headstart. In any event, every request for records should include a request that the agency immediately contact the requesting party if it has any question whatsoever about the identification of the records. This obviates the possibility of a later defense, should judicial review become necessary, that the records were not identifiable.

The records should be described as thoroughly as possible, for experience has shown that agencies will interpret the request as narrowly as possible. Although the Act requires the courts to interpret the exemptions strictly,[113] on judicial review they are not under a duty to order the production of a record not properly requested in the first instance.[114] And if the first request is not complete, the requesting party may have to re-exhaust the administrative remedy.

Each agency is required to publish rules stating the time, place, fees and procedure to be followed in requesting records.[115] The rules, according to the statute, designate the proper person or persons to whom a request should orginally be made, the form of such request, and the fees, if any, involved for searches and copying.[116] Such rules also establish an intra-agency appellate process, designating the person to whom an appeal may be made (usually the head of the agency or operating agency) and the form of the appeal. The rules established by the agency should be followed as closely as possible to obviate the defense, should judicial review be necessary, that the request "was not in accordance with the agency's rules" and that administrative remedies were therefore not properly exhausted.

The Act also requires that if a proper request is made the records must be made available promptly. In the case of the agencies with which poverty lawyers usually deal, there is no specific time period designated within which a request must be answered or an appeal decided. This loophole means that an agency may sit on a request virtually forever; only the department of transportation expressly provides for an intra-agency appeal in the event a request is not initially answered within a reasonable time.[117] It would seem that the failure of the agencies to specify time periods, both for response to an initial request and/or for an appeal in case records are denied clearly violates the requirement that the agency "shall make the records promptly available." [118] The question, of course, is what constitutes a reasonable time within which the agency must act.

One commentator suggests that a ten-day limit be set for an initial response; [119] one agency has adopted such a time limit.[120] In some cases, however, ten days may be a longer period than is really necessary in light of the request, whereas a complicated request involving retrieval from different sources might take more than ten days. One possible practice is to note in a request that the rules have no time limit, that the records are needed immediately (or at a particular time) and that if there is any problem immediate contact should be made. After ten days (unless the agency has been given a longer period in the request), if no response has been received another letter should be sent placing a time limit of an additional week or two on the agency's response. If there is still no response, or if a response is of an obviously dilatory nature, then the delay would be treated as a denial,[121] and a letter of appeal should be sent to the appropriate official. In the letter of appeal the time limit should be approximately 30 days. If there is still no adequate response, then the case can be considered ripe for review. This is only one tactic; undoubtedly there are many more. The main point is that delay is the agency's one predictable defense to a request which it doesn't wish to honor, and a good record should be made in the event that judicial review is sought of a final agency decision implied by delay, for exhaustion of administrative remedies becomes a problem in such a case. Unreasonable delay, however, has been held to provide an exception to the exhaustion rule.[122] Furthermore, the absence of any time period in the statute should help overcome the exhaustion doctrine. Finally, exhaustion is not required when the outcome of the request or appeal is pre-ordained.[123]

The Act provides that the records be made promptly available to "any person." This means that any person may request a record, without any evident connection between the record and the person and without any particular necessity for the record.[124] "Person" is defined in § 551 to include associations, corporations and partnerships, as well as individuals, and therefore requests can be made by poor persons' groups as well as by any individual.

Finally the request for identifiable records must be made of an agency as that term is defined by § 551 of the Administrative Procedure Act.[125]

JUDICIAL REVIEW

Theoretically it should not often be necessary to go to court to get identifiable non-exempted records. The Act and its legislative history make clear that all questions of doubt should be resolved by the agencies in favor of disclosure. From the beginning, however, the comments on the Act and its operation have concluded that agencies are most reluctant to part with records even though they are clearly outside any of the exemptions.[126] Because of this reluctance (anticipated by Congress), judicial review is available. The operative section states:

"On complaint, the district court of the United States in the District in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improprely withheld from the complainant. In such a case the court shall determine the matter de novo and he burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practical date and expedited in every way." [127]

Since most actions against a government agency involve a presumption in favor of the agency, poverty lawyers may be at a loss as to how to litigate under a statute which throws the burden on the other side. A suggested tactic is that the complaint should simply cite the facts without going into too much detail (depending on the circumstances), that what is requested are in fact identifiable records, the facts of the denial, and that the records do not fall within any of the stautory exemptions and are therefore disclosable. The prayer, outlined in the stat-

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Footnotes at end of article.

ute, is to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

The provision providing for de novo review means that the court is obliged to make its own examination of the records and the agency's reasons for withholding them, and to render a decision based on its independent judgment. This means that the agency must justify its action in court, without being able to rely on its administrative reasons for withholding the records.

Concerning litigation strategy, much depends on whether a preliminary injunction is sought, and what kind of administrative record has been made with the agency prior to judicial review. If such an injunction is sought, or if all the agency's reasons for nondisclosure have previously been brought into the open, it might be well to argue the merits of the case fully in the opening brief without waiting for the agency to justify in court its decision to withhold the record. On the other hand, if no preliminary injunction is sought, or if the agency has not yet fully presented its reasons for withholding the records, it might be wise to make the defendants first justify their action, saving the major arguments and discussion for a reply brief. In any event, it is important to remember that legally a presumption runs in favor of disclosure and that the burden is on the agency to justify its action.

Preliminary injunctions are somewhat hard to obtain in freedom of information litigation due to the problem of establishing irreparable injury and the statutory calendar preference.[128] A preliminary injunction would also be seeking the same relief as a final injunction, unless the preliminary injunction were to prevent some other agency action from occurring until the freedom of information issue was resolved.[129] The sole purpose of the Freedom of Information Act is to obtain records. To the extent that the preliminary injunction would result in the disclosure of the records at issue, full relief would be accomplished prior to a final judgment in the matter. However, a preliminary injunction was granted affording full relief in *Shapiro v. SEC,* presumably on the grounds that the probability of success upon a final adjudication was virtually a certainty.[130]

Since federal agencies have 60 days in which to answer, having to wait for a trial might result in the need for the records becoming moot, notwithstanding the statutory trial preference. Perhaps the most promising way to obtain speedy relief is to move for summary judgment 20 days after the complaint is filed, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and for an order shortening time for the hearing on the motion. Since witnesses are usually not relevant to this type of action, and since the facts are either unlikely to be materially disputed, or if so, capable of resolution by *in camera* inspection rather than by trial, freedom of information cases seem ideally suited for summary judgment proceedings. The sole issue is likely to be whether a particular record is or is not exempted by the Act.

CONCLUSION

The Freedom of Information Act has been used remarkably infrequently, considering the millions of people whose lives are dependent upon the proper functioning of government agencies. Although the small number of lawsuits seeking judicial review of agency withholding does not necessarily mean that thouands of requests made daily of agencies are not met satisfactorily, the initial experience of poverty lawyers in their attempts to obtain information bearing on their clients' problems has been less than satisfactory. Even a cursory examination of agency regulations indicates that large areas of potentially useful information are considered exempt by the agencies, notwithstanding the clearly contrary language of the Act and the Senate Judiciary Committee Report. Congress deliberately made judicial review of agency witholding an easily manageable form of proceeding, anticipating that the agencies would be reluctant to yield anything whatsoever for public scrutiny, let alone the types of records made disclosable by the Act. Given the amount and types of information which are currently unavailable to poor people by agency misinterpretation of the Freedom of Information Act (stimulated by the A.G. memorandum, in fairness to the agencies), it is hoped that vigorous action will be taken to convey the information to the people most affected by the federal agencies in question. As poverty lawyers and organizations assert the rights of the people they represent, it is expected, along with increased litigation, that a number of agencies will begin to rethink their position. This is apparently the case with HEW, as evidenced by its new policy of disclosing federal-state communications. Perhaps no more fitting conclusion to this article can be made than to quote the HEW memorandum implementing the new policy, in the hope that other agencies will adopt the same reasoning and take the same action concerning the disclosable records in their possession.

"In order to respond intelligently to these requests, we have had to review carefully our past policies regarding the release of information to the public and to the news media. We have found that the biggest need is to reemphasize the SRS and the Department position that information and records should be made readily available unless there are overriding reasons to the contrary. It is not the intention of the Freedom of Information Act or the Department's Public Information Regulation that all records falling into an exempt category are for that reason to be withheld from disclosure. On the contrary, both clearly subscribe to the concept of fullest possible disclosure."

* * * * *

"In keeping with the concept of fullest possible disclosure, SRS will henceforth consider that correspondence and documents between SRS and State and local agencies, and internal SRS letters, memorandums or documents furnished to a State or local agency, are in the public domain and are available to news media representatives and members of the public. This includes Section 1115 project proposals and State plan material which will be considered available for release on request when received at the SRS office having approval authority."

* * * * *

Communications from officials of SRS to State officials, and internal communications furnished to a State, will be considered available for release when sufficient time has elapsed to insure receipt by the addressee."

* * * * *

"Communications from State officials to officials of SRS will be considered available for release at the Federal level as soon as received by the addressee."[131]

FOOTNOTES

[1] 5 U.S.C. § 552.

[2] 5 U.S.C. § 552(b)(1) appears to exempt such records. *But see* Mink v. EPA, 40 U.S.L.W. 2233 (D.C. Cir., Nov. 2, 1971), *review granted,* 40 U.S.L.W. 3428 (U.S. Sup. Ct., Mar. 6, 1972).

[3] The Act applies only to federal agencies; however, a number of states have their own freedom of information acts and in one recent case, a state court used federal case law to interpret the state statute. Citizens for Better Care v. Reizen, No. 13166-C (Mich. Cir. Ct., Feb. 23, 1972), available from the Clearinghouse, Clearinghouse No. 5827. For an exhaustive listing of the freedom of information laws of each state, see Hobson, The Damned Information: Acquiring and Using Public Information to Force Social Change, Washington Institute for Quality Education, available at a cost of $2.00.

[4] 5 U.S.C. § 552(a)(1).

[5] 5 U.S.C. § 552(a)(2).

[6] 5 U.S.C. § 552(a)(3).

[7] 5 U.S.C. § 552(b).

[8] 5 U.S.C. § 552(c).

[9] *See Davis, The Information Act, A Preliminary Analysis,* 34 U. CHI. L. REV. 761 (1967), for an explanation and interpretation of these first two requirements.

[10] 5 U.S.C. §§ 701 *et seq.*

[11] Davis, *supra,* note 9.

[12] Davis, *supra,* note 9 at 765; Skolnick v. Parsons, 397 F. 2d 512 (7th Cir. 1968); S. REP. NO. 813, 89th Cong., 1st Sess. 5–6 (1965).

[13] 5 U.S.C. § 552(c).

[14] S. Rep. No. 813, 89th Cong., 1st Sess. 10 (1965).

[15] Davis, *supra,* note 9 at 767.

[16] 448 F. 2d 1067 (D.C. Cir. 1971).

[17] The Senate Report makes clear in a number of instances that the statute does the balancing. For example, in referring to phrases found in the former Act, such as "requiring secrecy in the public interest" and 'required for good cause to be held confidential" the Report states:

It is the purpose of the present bill to eliminate such phrases, to establish a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language. S. Rep. No. 813, *supra,* note 14.

And, the Report continues:

It is not an easy task to balance the opposing interests, but it is not an impossible one either. It is not necessary to conclude that to protect one of the interests, the other must, of necessity, either be abrogated or substantially subordinated. Success lies in providing a workable formula which encompasses, balances, and protects all interests, yet places emphasis on the fullest responsible disclosure. S. Rep. No. 813, *supra,* note 14 at 3.

[18] 448 F. 2d at 1080 (D.C. Cir. 1971).

[19] 444 F.2d 21, 25 (4th Cir. 1971).

[20] 450 F.2d 670 (D.C. Cir. 1971). For a comment on *Getman* and its effect on the "equiity" question *See* 1971 U. ILL. L. FORUM 329 (1971).

[21] Epstein v. Resor, 421 F.2d 930 (9th Cir. 1970); Bristol Myers Co. v. FTC, 424 F.2d 935 (D.C. Cir. 1970).

[22] H.R. REP. NO. 1497, 89th Cong., 2d Sess. (1966).

[23] S. REP. NO. 313, *supra,* note 14.

[24] Davis, *supra,* note 9 at 762.

[25] Att'y Gen. Memo on the public information section of the Administrative Procedure Act (1967) (hereinafter referred to as Att'y Gen. Memo).

[26] *See* Davis, *supra,* note 9 at 761.

[27] Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D.N.Y. 1968).

[28] Davis, *supra,* note 9 at 809–810.

[29] Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D.N.Y. 1968); and GSA v. Benson, 239 F. Supp. 590 (D.C. Wash., 1968), *aff'd on other grounds,* 415 F.2d 878 (1969). For a complete discussion of this conflicting legislative history, see Davis, *supra,* note 9 at 809–810.

[30] Davis, *supra,* note 9 at 809–810.

[31] 5 U.S.C. § 552(b).

[32] *See* Epstein v. Resor, 421 F.2d 930 (9th Cir. 1970).

[33] Polymers, Inc. v. NLRB, 414 F.2d 999 (2d Cir. 1969); and *see* Cuneo v. Laird, ——— F. Supp. ——— 40 U.S.L.W. 2543 (D. D.C., Jan. 14, 1972).

[34] 5 U.S.C. § 552(a)(2)(c). The Senate Committee Report stated that the purpose of this section was to allow a public examina-

tion of the basis for administration, and that the word "administrative" was in the statute to allow instructions to law enforcement personnel of the regulatory agencies to remain undisclosed. The House Report characteristically goes further and exempts instructions to staff which, if disclosed, would defeat the purpose of the agency. Examples given by the A.G. memorandum are:

> . . . those portions of its staff manuals and instructions which set forth criteria or guidelines for the staff in auditing or inspection procedures, or in the selection or handling of cases, such as operations tactics, allowable tolerances, or criteria for defense, prosecution or settlement of cases.

The A.G. recommends that the undisclosable information be deleted from the manual. However, it should be noted that the Act itself allows deletion for matters which will constitute an unwarranted invasion of personal privacy and requires a written statement explaining such deletions. Assuming that the A.G. memorandum and the House Report are accepted, the deletions of undisclosable material should likewise be explained in writing.

[35] 414 F.2d 999 (2d Cir. 1969). The court also raised the spectre of relevance in respect to the application of the second exemption. Clearly, however, relevance is no longer required for disclosure. After holding that the second exemption applied, the court also considered the staff manual to be exempted by the fifth exemption. This conclusion seems preposterous in light of the history and meaning of the fifth exemption, discussed *infra.*

[36] H.R. Rep. No. 1497, supra, note 22. While the House Report would exempt,

> . . . records which relative to . . . internal rules and practices which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant agency function. . . .

The Report excludes from the exemption matters of internal management such as employee relations and working conditions. Thus, the House Report seems to be standing the second exemption on its head. See Att'y Gen. Memo, supra, note 25 at 30–31. As if to demonstrate the absurdity of the House Report's interpretation of the exemption, HEW lists the following matters as being exempt from disclosure:

> This exemption covers only those internal rules or instructions to personnel relating to how employees carry out their assigned functions and activities for which the department has responsibility. Thus, materials which provide guidelines or instructions to employees relating to tolerances, selection of cases, quantums of proof, and the like, are within this exemption. However, materials having only management significance, such as rules relating to work hours, leave, promotion plans, while relating to personnel may be disclosed. 45 C.F.R. § 5.72.

[37] *See* Polymers v. NLRB, 414 F.2d 999 (2d Cir. 1969); *also see* S. Rep. No. 813, supra, note 14.

[38] Davis, supra, note 9 at 778.

[39] The Social Security Act, 42 U.S.C. § 1306, prohibits disclosure of records obtained by the Secretary pursuant to the operation of the program. The legislative history indicates that this statute was meant to protect individual personal information obtained by the Secretary of HEW pursuant to the administration of Title II of the Social Security Act, 42 U.S.C. §§ 401 et seq. House Ways & Means Comm., Social Security Amendments of 1939, H.R. Rep. No. 728, 76th Cong., 1st Sess. (1939); Hearings on H.R. 6635 Before the House Ways & Means Comm., 76th Cong., 1st Sess. (1939); 1950 U.S. Code Cong. & Admin. News 3287, 3481. *See also*, 20 C.F.R. § 401 for the departmental regulations implementing 42 U.S.C. § 1306 and 45 C.F.R. § 5.11 for the section which incorporates 20 C.F.R. § 401 into the department's general regulations implementing the Freedom of Information Act. Although 20 C.F.R. § 401 extends the coverage of § 1306 to the Medicare Program (Title XVIII), such an interpretation is most questionable in light of the pertinent legislative history. In any event, it is clear that § 1306 does not apply to materials generated within the agency in respect to Titles I and XVIII.

[40] Evans v. U.S. Dep't of Transportation, 446 F.2d 821 (5th Cir. 1971). As this article was going to press, a decision came down from the District of Columbia federal district court limiting this exemption to those statutes which exempt specific types of records, as opposed to statutes which "generally prohibit all disclosures of confidential information." Schapiro & Co. v. SEC, — F. Supp. —, 40 U.S.L.W. 2599 (D. D.C., Mar. 14, 1972).

[41] Sterling Drug Co. v. FTC, 450 F.2d 698 (D.C. Cir. 1971).

[42] Consumers Union, Inc. v. Veterans Administration, 301 F. Supp. 796 (S.D. N.Y. 1968); Soucie v. David, 448 F.2d at 1080 (J. Wilkey, concurring).

[43] 450 F.2d 670 (D.C. Cir. 1971).

[44] 301 F. Supp. 796 (S.D. N.Y. 1968).

[45] *Contra, see,* Grumman v. Renegotiation Board, 425 F.2d 578 (D.C. Cir. 1970); and *see* Davis, *supra,* note 9.

[46] ——— F. Supp. ———, 40 U.S.L.W. 2599 (D. D.C., Feb. 28, 1972).

[47] 425 F.2d at 582 (D.C. Cir. 1970).

[48] *Supra,* note 46, ——— F. Supp. at ———.

[49] Sterling Drug, Inc. v. FTC, 450 F.2d 698 (D.C. Cir. 1971); Mink v. EPA, 40 U.S.L.W. 2233 (D.C. Cir. Nov. 2, 1971); Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971); Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970); Ackley v. Ley, 420 F.2d 1336 (D. D.C. 1969); American Mail Line, Ltd. v. Gulick, 411 F.2d 696 (1969); GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); Consumers Union v. Veterans Administration; 301 F. Supp. 796 (S.D. N.Y. 1968); International Paper Co. v. FPC, 438 F.2d 1349 (2d Cir. 1971); Polymers v. NLRB, 414 F.2d 999 (2d Cir. 1969).

[50] 5 U.S.C. § 551 states:

> . . . 'agency' means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—(A) the Congress; (B) the courts of the United States; (C) the governments of the territories or possessions of the United States; (D) the government of the District of Columbia; or except as to the requirements of section 552 of this title—(E) agencies composed of representatives of the parties or representatives of organizations of the parties to the disputes determined by them; (F) courts martial and military commissions; (G) military authority exercised in the field in time of war or in occupied territory; or (H) functions conferred by sections 1738, 1739, 1743, and 1744 of Title 12; chapter 2 of Title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2) of Title 50, appendix.

For a broad discussion of the meaning of "agency" within the Freedom of Information Act context, see Soucie v. David, 488 F.2d 1067 (D.C. Cir. 1971).

[51] *See* Davis, *supra,* note 9.

[52] 450 F.2d at 673, fn. 7.

[53] Social Rehabilitation Service (SRS) Information Memorandum, AO–IM 72–10, Dec. 8, 1971, quoted at length in the conclusion to this article.

[54] Boeing Aircraft v. Coggeshall, 280 F.2d 654 (D.C. Cir. 1960).

[55] *See* H.R. REP. NO. 1497, *supra,* note 22; S. REP. No. 813, *supra,* note 14.

[56] Carl Zeiss Steftung v. VEB Carl Zeiss Jena, 40 F.R.D. 318, 324 (D. D.C. 1966), *aff'd sub nom.* Carl Zeiss Jena v. Clark, 384 F.2d 979, *cert. denied,* 389 U.S. 952 (1967) (hereinafter referred to as *Carl Zeiss*).

[57] *Id.*

[58] 157 F.Supp. 939 (U.S. Ct. Cl. 1958).

[59] 316 F.2d 336 (D.C. Cir. 1963).

[60] 280 F.2d 654 (D.C. Cir.1960).

[61] In Davis v. Braswell Motor Freight Lines Inc., 363 F.2d 600 (5th Cir. 1960), the court held that communications between the NLRB and the general counsel's office were privileged and that the plaintiff's attempt to probe the reasoning process of the agency should be resisted on the grounds outlined in United States v. Morgan, 313 U.S. 409, 421–422 (1941), that the court should not be allowed to question or probe the administrator's mind any more than the mind of the judge. For extensive discussions of the history and scope of the execution privilege against disclosure of records under the discovery statutes, see Freeman v. Seligson, 405 F.2d 1326 (D.C. Cir., 1968); Carrow, *Government Nondisclosure in Judicial Proceedings,* 107 U. P.A. L. REV. 166, 184–187 (1959). For other cases in which the privileges was held *not* to apply, see Bank Line Ltd. v. United States, 76 F. Supp. 801 (S.D. N.Y. 1948); Mitchell v. Bass, F.2d 513 (8th Cir. 1958).

[62] Boeing Aircraft v. Coggeshall, 280 F.2d 654 (D.C. Cir. 1960).

[63] *See* Kaiser Aluminum & Chemical Corp. v. United States, 157 F. Supp. 939 (U.S. Ct. Cl. 1958); *Carl Zeiss,* 40 F.R.D. 318 (D. D.C. 1966), where the court was satisfied as to the privileged nature of the records and refused to inspect.

[64] GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); Sterling Drug v. FTC. 450 F.2d. 698 (D.C. Cir. 1971); and International Paper v. FPC, 438 F.2d 1349 (2d Cir. 1971).

[65] 450 F.2d 698 (D.C. Cir. 1971).

[66] Davis, *supra,* note 9.

[67] Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971); GSA v. Benson, 450 F.2d 878 (9th Cir. 1969); Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970); Ackerly v. Ley, 420 F.2d 1336 (D.C. Cir .1969).

[68] 450 F.2d 698, 712.

[69] 415 F.2d 878.

[70] Soucie v. David, 449 F.2d (D.C. Cir. 1971); Wellford v. Hardin, 444 F2.d 21 (4th Cir. 1971); Ackerly v. Ley, 420 F2d. 1336 (D. D.C. 1969); Bristol Myers v. FTC, 424 F2d. 935 (D.C. Cir. 1970); Schapiro Co. v. SEC, — F. Supp .—, 40 U.S.L.W. 2599. However, the Supreme Court has agreed to hear argument on whether an agency must submit its memoranda to *in camera* inspection. EPA v. Mink, 40 U.S.L.W. 2233 (D.C. Cir., Nov. 2, 1971). The circuit court in *Mink,* ordered such inspection and the agency is appealing on the grounds that the executive evidentiary privilege is grounded in the constitutional separation of powers doctrine and that having to submit the privileged materials even to a court is violative of this doctrine.

[71] Machin v. Zucker, 316 F.2d 336 (D.C. Cir. 1963).

[72] *See* H.R. Rep. No. 1497, *supra,* note 22; S. Rep. No. 813, *supra,* note 14.

[73] Att'y Gen. Memo, *supra,* note 25.

[74] 45 C.F.R. § 5 *et seq.,* Appendix A. This example may no longer be viable because of SRS's new policy of releasing all memoranda which involve federal-state communications notwithstanding any claimed prematurity of such release.

[75] S. REP. NO. 813, *supra,* note 14.

[76] 424 F.2d 935.

[77] Wellford v. Hardin, 44 F.2d 21 (4th Cir. 1971.)

[78] 450 F.2d 670.

[79] But in a recent Fifth Circuit case (Evans v. U.S. Dep't of Transportation, 446 F.2d 821 (5th Cir., 1971)), the court held that a letter complaining of a pilot's mental stability was part of a file compiled in respect to an investigation of the complaint and thus exempt under § 552(b)(7), notwithstanding the fact that the investigation could only result in an administrative revocation of the pilot's license. This case employs no reasoning what-

soever, and betrays a misunderstanding of the Act and its history, especially in light of the persuasiveness of the other cases in the area which hold otherwise.

[80] Schapiro Co. v. SEC, ——— F. Supp. ———, 40 U.S.L.W. 2599.

[81] Getman v. NLRB, 450 F.2d 670 (D.C. Cir. 1971); Schapiro Co. v. SEC, ——— F. Supp. ———, 40 U.S.L.W. 2599.

[82] 415 F.2d 878.

[83] 43 C.F.R. § 2.2.

[84] 45 C.F.R § 5.70.

[85] 24 C.F.R. § 15.21.

[86] 49 C.F.R. § 7.51.

[87] For a general discussion of agency regulations in respect to the Freedom of Information Act see Gianella, *Agency Procedures Implementing the Freedom of Information Act,* AD. L. REV. 217 (1971).

[88] Koshland v. Helvering, 298 U.S. 441, 447 (1936).

[89] Addison v. Holly Fruit Products, 322 U.S. 607 (1943); Manhattan Gen. Equipment Co. v. C.I.R., 297 U.S. 129, 134 (1930).

[90] United Steel Workers of America v. NLRB, 390 F.2d 846, 851 (D.C. Cir. 1968), *cert denied,* 391 U.S. 904 (1967).

[91] Bristol Myers v. FTC, 424 F.2d 935 (D.C. Cir. 1970).

[92] Arizona State Dep't. of Public Welfare v. HEW, 449 F.2d 456 (9th Cir. 1971); Rosado v. Wyman, 397 U.S. 397 (1970).

[93] *See* note 50, *supra.*

[94] *See* note 53 *supra,* and the conclusion to this article.

[95] *See* GSA v. Benson, 415 F.2d 878 (9th Cir. 1969); American Mail Line Ltd. v. Gulick, 411 F.2d 696 (1969) and Sterling Drug v. FTC, 540 F.2d 698 (D.C. Cir. 1971).

[96] *See* Rodway v. USDA, Civ. No. 2553–71 (D. D.C. 1971) which alleges wholesale violations of the Food Stamp Act by USDA in promulgating new regulations under the Act; and Rockbridge v. Lincoln, 449 F.2d 567 (9th Cir., 1971), which held that the BIA had violated its statutory duty to regulate traders on the Navajo reservation.

[97] *See* Bass v. Richardson, ———F.2d ——, 40 U.S.L.W. 2334 (2d Cir., 1971).

[98] WACO v. Weaver, 294 F. Supp. 433 (N.D. Cal., 1969).

[99] Another example of this type of decision-making is the waiver power granted to the Secretary of HEW by § 1115 of the Social Security Act. This power was recently exercised in allowing California to implement a policy of co-payment for Medicaid services and benefits—a practice otherwise forbidden by federal law. *See* CWRO v. Richardson, Civ. No. C–72–341 (N.D. Cal., 1972), an action filed to challenge the decision.

[100] NWRO v. HEW, Civ. No. 1042–71 (D. D.C. 1971).

[101] *See* NWRO v. Richardson, 334 F. Supp. 488 (D. D.C. 1972).

[102] Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971).

[103] *Id.*

[104] 5 U.S.C. § 552(a) (3).

[105] Att'y Gen. Memo, *supra,* note 25.

[106] Bristol Myers Co. v. FTC, 424 F.2d 935 (D.C. Cir. 1970).

[107] Gianella, *supra,* note 87 at 231.

[108] S. REP. NO. 813, *supra,* note 14 at 2.

[109] *Id.* at 8.

[110] Wellford v. Hardin, 315 F. Supp. 175 (D.C. Md. 1970), *aff'd* 444 F.2d 21 (4th Cir. 1971); Gianella, *supra,* note 87.

[111] *See* Note, *The Freedom of Information Act and the FTC: A Study in Misfeasance,* 4 Harv. Civ. Rights-Civ. Lib. L. Rev. 345 (1969); Nader, *Freedom From Information: The Act and the Agencies,* 5 Harv. Civ. Rights-Civ. Lib. L. Rev. 112 (1970).

[112] 5 U.S.C. § 552(c).

[113] GSA v. Benson, 415 F. 2d 878 (9th Cir. 1969).

[114] 5 U.S.C. § 552(b). These rules are located as follows for a number of agencies with which poverty lawyers are most likely to have contact: HEW, 45 C.F.R. § 5; HUD, 24 C.F.R. § 15.1; Dep't of Labor (DOL), 29 C.F.R. § 70.1; USDA (Consumer and Marketing Service), 7 C.F.R. § 900.513, Dep't of Immigration, 8 C.F.R. § 103.9; Dep't of Interior (Bureau of Indian Affairs), 43 C.F.R. § 2.1; Dep't of Transportation (DOT), 49 C.F.R. § 7.1.

[115] While nothing in the statute requires an agency expressly to copy a record as such, it would seem that the phrase "shall make the records promptly available" would include copying. This would be especially true where the request comes from a location other than where the records are physically located. Also, the A.G. memorandum assumes that copies will be made available, probably on the basis of the Senate Report which states:

> The phrase . . . copying . . . was added because it is frequently of little use to be able to inspect orders or the like unless one is able to copy them for future reference. Hence the right to copy these matters is supplemental to the right to inspect and makes the latter right meaningful. S. Rep. No. 813, *supra,* note 14.

[116] 49 C.F.R. § 7.71.

[117] A case has recently been filed against HEW which, *inter alia,* seeks a declaratory judgment declaring that the absence of time limitations in the agency rules violates the Freedom of Information Act. Dellums v. HEW (D. D.C., Jan. 28, 1972), available from the Clearinghouse, Clearinghouse No. 7328.

[118] Gianella, *supra,* note 87.

[119] Defense Supply Agency, 32 C.F.R. § 1260.6 (b) (3).

[120] There is good support for this approach in Environmental Defense Fund v. Hardin, 428 F.2d 1093, 1099 (D.C. Cir. 1970).

[121] *Id. See also,* Isbrandsen v. United States, 211 F.2d 51 (D.C. Cir. 1958); and American Broadcasting Co. v. FCC, 191 F.2d 492 (D.C. Cir. 1951). On promptness and possibilities for judicial review of unlawfully withheld agency action, *see also* Gianella, *supra,* note 87.

[122] *See, e.g.,* NWRO v. HEW, Civ. No. 1042–71 (D. D.C. 1971) (order denying motion to dismiss, entered Aug. 11, 1971).

[123] Skolnick v. Parsons, 397 F.2d 523 (7th Cir. 1968); Davis, *supra,* note 9.

[124] *See* note 50, *supra.*

[125] Note, *The Freedom of Information Act: A Critical Review,* 38 Geo. Wash. L. Rev. 150 (October 1969); Katz, *The Games Bureaucrats Play: Hide and Seek Under the Freedom of Information Act,* 48 Tex. L. Rev. 1261 (1970). *See supra,* note 111.

[126] 5 U.S.C. § 552(a) (3).

[127] Bristol Myers Co. v. FTC, 24 F. 2d 935 (D.C. Cir. 1970). *But see,* Ackerley v. Ley, 420 F. 2d 1336 (D.C. Cir. 1969), where the appellate court noted its displeasure with the delay by the agency which resulted in the plaintiffs receiving the requested records well after the hearing for which the records were initially requested.

[128] *E.g.,* 5 U.S.C. § 705.

[129] *See, e.g.,* Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952), where the court preliminarily enjoined the government's seizure of the steel mills even though, under the government's analysis of the case, such an injunction effectively disposed of the case. The Supreme Court upheld such preliminary injunctions when successful outcome for the plaintiff is assured.

[130] *Supra,* note 53.

[131] Department of Health, Education, and Welfare, Social and Rehabilitation Service, Information Memorandum AO–IM 72–10 (December 8, 1971). Available from the Clearinghouse, Clearinghouse No. 7361 (3 pp.).

Mr. BAKER. Mr. President, the provision of superior legal assistance to those individuals who otherwise would be unable to secure the services of a competent attorney is an essential prerequisite for assuring equal opportunity in a nation governed by law. Whether legal assistance is provided through a legal services corporation, as is provided under S. 2686, or through another legislative vehicle, it is clear that many citizens are able to seek legal redress and otherwise obtain the rights and privileges guaranteed to them by law only through a legal services program.

Because legal assistance is an issue of such critical national importance, however, and because of the controversy generated by the various legal assistance programs operated under the supervision of the Office of Economic Opportunity, I believe that the Senate should accord the Legal Services Corporation Act, S. 2686, more intensive consideration than is evidenced by the motion to invoke cloture before the Senate today.

As my colleagues are aware, the OEO legal services program has been criticized extensively because of the alleged professional involvement of legal assistance employees in political activities, public demonstrations, labor activities such as boycotts or strikes, and other quasi-legal or nonlegal activities.

While I am aware of and reassured by the language in S. 2686 which seemingly prohibits activities of this nature on the part of Legal Service Corporation employees and grant recipients, the nature of certain extensive amendments expected to be offered to the Legal Services Corporation Act indicates that not a few of my colleagues continue to possess substantial concern regarding the possibility of Federal financing of political and quasi-political activity under the auspices of legal services.

Furthermore, the very existence of a large number of proposed amendments to S. 2686 leads me to the conclusion that additional and unlimited opportunity for debate, negotiation and compromise is desirable in order to effect a truly representative legal assistance program.

Thus, at this early point in the second session, I am not persuaded that the Senate should limit debate on S. 2686. My vote against cloture today should not be construed as predictive of opposition to S. 2686, however, for I intend to support the bill if I remain convinced of its reasonableness and its merits.

Finally, in the event that the Senate fails to invoke cloture at this time, I wish to assure my colleagues that I will continue to possess an open mind concerning the need to proceed with final consideration of legal services legislation in the not-too-distant future.

LEGAL SERVICES CORPORATION: A COMMITMENT TO EQUAL JUSTICE

Mr. MUSKIE. Mr. President, today the Senate is once again considering legislation to continue and strengthen the legal services program, and to protect its independence, by establishing a Legal Services Corporation to administer Federal legal aid to the poor. The goal of a strong, independent legal services program—and the vehicle of a Federal legal services corporation—have the widespread support of concerned citizens, the organized legal profession, Senators and Congressmen of both parties, and the President. I hope the Senate will respond to this support with prompt and enthusiastic approval of S. 2686, the Legal Services Corporation Act, so that it may be brought to conference with the House and enacted into law.

The Legal Services Corporation Act before us today is a product of similar legislation which Congress has been considering for the past 3 years. The Senate passed a Legal Services Corporation Act in 1971, and again in 1972. This year, supporters of legal services have worked hard to reach agreement on the specific language contained in S. 2686, and have produced legislation which has broad support, including the support of the administration.

This bill gives protection to the legal services program's strength, flexibility, and independence, while including more than adequate safeguards against potential abuses in the use of legal services funds. S. 2686 would establish a nonprofit corporation with an 11-member Board of Directors, appointed by the President subject to Senate confirmation, with 3-year terms. It also would establish nine member State advisory councils appointed by each Governor from the members of each State bar.

The act in addition would establish a National Advisory Council of 15 members, representative of the bar as well as legal services constituent groups, to consult with the Corporation's Board of Directors on rulemaking and other questions. The Corporation, under the direction of a full-time President elected by the Board, would contract with local agencies to deliver legal assistance as well as back-up assistance. Legal services attorneys would be subject to the bar association's canons of ethics and code of professional responsibility, with specific restrictions on outside remunerative work and direct participation while on duty in demonstrations, picketing, boycots, strikes, riots, or illegal acts. The Corporation and attorneys receiving its funds would also be prevented from lobbying except when requested to submit views to a legislative body.

Mr. President, the record of legal services demonstrates that the program has made an important contribution toward attaining social justice in America. By providing the poor with access to our legal system, the legal services program has given hope that justice in America will truly be available without regard to wealth—by allowing the low-income citizen as well as his more fortunate neighbor to invoke judicial protection for his rights.

We in Maine are particularly proud of the legal services program in our State—Pine Tree Legal Assistance, Inc. Since it was established 6 years ago, Pine Tree has handled more than 34,000 cases. Most of those cases have involved problems for which citizens in our system of justice have traditionally sought recourse to civil legal remedies: Consumer problems, employment problems, problems with administrative agencies, housing problems, and family problems. And the overwhelming majority of those cases—over 80 percent—have been handled, in the best legal tradition, by settlement without recourse to court litigation. And for its work Pine Tree Legal Assistance has won congratulations and support throughout the State, documented by editorials from the Brunswick Times Record, the Portland Evening Express, and the Biddeford-Saco Journal, which I will ask to be inserted in the Record at the conclusion of my remarks.

But unless the legal services program is strengthened, the "access to justice" which Pine Tree provides will be jeopardized. Since 1971, the ratio of potential low-income clients to legal services attorneys in Maine has increased by almost 40 percent—from 7,600 to 1 in 1971, to 10,520 to 1 today. According to Pine Tree's legal director, Marshall Cohen, in 1973 Pine Tree provided help to fewer people than in any year since 1968—as a result of increased costs but stable resources. And without new legislation, Pine Tree's continued existence is threatened.

The Legal Services Corporation bill we are considering today would insure that the worthwhile legal services program is continued, and would provide a vehicle for granting it increased resources while protecting its independence and professional integrity. Our commitment to equality and social justice argues for giving the bill our speedy approval.

Mr. President, I ask unanimous consent that editorials in support of the Pine Tree Legal Assistance, Inc., be inserted in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Brunswick (Maine) Times Record, Feb. 18, 1973]

Support Lawyers for the Poor

The Office of Economic Opportunity (OEO), the agency set up by the Johnson Administration to spearhead the war on poverty, has run into a lot of snags, and the plan in Washington now is to abolish it as such and transfer the worthwhile functions it does perform to other agencies. It is a decision we have, on the whole, endorsed.

There is one component of OEO, however, that has been generally acclaimed across the nation, and that is its legal branch which provides legal services to the poor.

It has, of course, also been attacked, for government agencies in particular do not appreciate seeing public funds used to launch legal assaults against some of their practices.

But, as we say, in general this particular function of OEO has met with general approval. The Nixon Administration itself has proposed the formation of a separate corporation to run the program so that it will not be so vulnerable to political pressure.

In Maine the OEO's legal branch is represented by Pine Tree Legal Assistance, headquartered in Portland and with branch offices around the state.

It is an agency we probably don't hear about as often as we should but it has accomplished some very significant things in recent years. The cases they have won not only benefit the poor, but all of us.

Some examples:

Elimination of debtor's prison in the state.

Requiring that housing units meet standards of livability.

Right of legal counsel to anyone facing imprisonment, including juveniles.

Right to a fair hearing in cases involving termination of Medicaid benefits.

Right to fair hearing in cases where the state is trying to remove children from their mother's care.

Elimination of indefinite bread and water solitary confinement in state prison.

There are more accomplishments of Pine Tree Legal Assistance in the state, but those listed provide a fair sample of what the agency has been able to accomplish in the short time it has been organized.

The agency's federal funding for the year is $506,000, but this is not enough to meet the almost overwhelming task of meeting the legal needs of the state's poor.

Accordingly, the agency has launched an annual fund drive to supplement this federal funding, and we were pleased to see in the news media that a major bank is one of the first organizations in the state to make a contribution.

We hope more contributions, corporate and private, will be forthcoming, for this is an agency that genuinely deserves our support.

Contributions, which are tax deductible, may be made to Pine Tree Legal Assistance, 565 Congress St., Portland.

[From the Portland (Maine), Evening Express, Mar. 1, 1973]

Keep Pine Tree Legal Alive

One of the projects authorized by the White House, in its program of turning the clock back to the good old days, is dismantling of the legal assistance system organized by President Nixon's predecessor. This will cut off funds for 2,200 lawyers now employed to aid the poor in securing rights hitherto denied them, so that if the program is continued it will have to be funded by other means.

By a coincidence, although its own federal funds will be cut off before the end of the year, Pine Tree Legal Assistance, Inc., has launched a campaign to raise hopefully, $100,000 so that it can meet the demands now put upon it. Mr. Marshall Cohen, administrative director of the project, says "we simply can't provide the same level of services," and we are pleased to find the Casco Bank, the Maine Bar Association, and a number of other organizations and individuals rallying to Pine Tree's side.

These attorneys for the poor are handling over 5,000 cases a year, nearly all of which are individual service cases. Poor people, to a larger extent than other elements of the population, have little knowledge of their legal rights. Occasionally Pine Tree Legal Assistance initiates class action suits, and it is this type of litigation that annoys the people around the President.

We hope the fund drive succeeds, all the more so since Pine Tree will run out of federal money this fall, if not sooner. The bar itself now recognizes its duty to help those less fortunately situated, and it finds many young lawyers turning from corporate law to the type of personal assistance to the underprivileged that renders Pine Tree Legal Assistance so valuable here in Maine. Even so, they cannot live without financial help.

[From the Biddeford-Saco (Maine) Journal, Feb. 19, 1973]

In Our Opinion Pine Tree Legal Is Worth Supporting

One worthwhile agency that will be hurt with the dismantling of the Office of Economic Opportunity (OEO) will be Maine's Pine Tree Legal Assistance program.

Since its inception in Maine in 1967 Pine Tree Legal has handled close to 25,000 legal matters for the state's estimated 200,000 poor people.

A few of the cases made dramatic headlines like the breakthrough in getting the State Health and Welfare Department to let foster children visit their parents.

However, Pine Tree's list of accomplishments goes on for pages. Some examples: elimination of debtor's prison, a consumer protection organization, the right to fair hearing if the state tries to remove children from a mother; the right of an attorney for anyone facing imprisonment including juveniles, the requirement that housing units meet standards of livability, and the right to fair hearing in cases involving termination of Medicaid benefits.

Many of its accomplishments involve class actions—making changes that affect a large number of people. But Pine Tree also handles many individual cases, too. An example: a woman was fired from her job because she refused to work on Sunday which is a religious holiday to her. Pine Tree got her job back with retroactive pay.

But Pine Tree's federal grant has been frozen at the same level for the past two years, and prospects for additional funding are dim.

So we support Pine Tree's efforts in starting its first fund-raising campaign, including an application for United Fund support and participation in federal revenue sharing.

LEGAL SERVICES PROVEN EFFECTIVE IN KANSAS

Mr. PEARSON. Mr. President, the Legal Services Corporation Act requires that we make a policy decision about the nature of legal assistance provided to low-income individuals in the United States. Even though this bill is controversial, no one has argued that low-income individuals are not entitled to legal assistance when they are incapable of procuring sufficient private counsel. Rather, the decision before us involves the method of providing the necessary assistance. In this framework, I suggest that the real issue is whether the poor have the right to the full range of legal protections capable of being offered by an attorney operating within the ethical boundaries of his profession. Conversely, we must determine whether an attorney will be limited in his actions simply because he is employed by a corporation which is publicly financed.

These are not easy questions. The need to account for public funds is a vitally important consideration. There have, undoubtedly, been abuses and indiscretions in the existing program. I submit, however, that the bill before us contains adequate safeguards and also provides a full and equal range of legal representation to those who must rely upon Government assistance to gain access to the courts.

Mr. President, in 1971 I was pleased to cosponsor the bill introduced by the Senator from Minnesota (Mr. MONDALE) which would have established an independent legal services corporation. The administration proposed a similar measure in May 1973. A review of the objections to the present bill coupled with the accomplishments of Kansas legal service centers, compels my continued support of an independent legal service corporation as an effective and advantageous means of providing legal assistance to the poor.

EFFICIENCY

One of the major objections to the existing program has been its inability to efficiently serve low-income clients. Some argue that commitments to popular social causes have detracted from this goal. Others cite inadequate reporting and statistical recordkeeping by local agencies. However, available statistics do not support the contention that a disproportionate share of the time of legal service attorneys is spent on law reform or social action. The March 1973, GAO report stated that attorneys in seven programs surveyed were fully occupied with meeting individual day-to-day needs and were unable to devote more time to economic development and law reform. Ninety-five to 98 percent of the California rural legal assistance program total caseload was of the individual day-to-day nature. This program has often been cited as the most law reform oriented program in the country.

Nevertheless, the charges are not without some substance. Provisions in S. 2686 address this problem and provide new directions in efficiency. One section grants the corporation the authority to require any necessary reports from grantees regarding their actions and also mandates full recordkeeping with respect to the use of funds provided by the grants. It is also interesting to note that the bill, by permitting the use of class action suits where necessary, may well serve to facilitate the efficient administration of justice. Indeed, the class action suit has been permitted by courts as a measure of reducing the multitude of individual grievances which might arise around a single issue. By restricting class action suits we might well encourage additional backlogs in our courts and defeat the very reforms which have been encouraged by the judiciary.

Nowhere is the potential efficiency of a staffed legal services center more obvious than in the operation of Kansas legal aid societies. In the past year the Wichita Legal Aid Society, an OEO grantee, represented 4,321 individuals—roughly 1 attorney for each 800 clients. OEO has stated that the national case load average is approximately 1 attorney per 500 clients. This efficient operation has been made possible by the close working relationship between the Legal Aid Society and the Wichita Bar Association. The society has often made a practice of utilizing private attorneys in important cases.

I am also proud of the comparisons between the three Kansas programs and those in other cities of similar size. One city in region VII larger than Wichita received a grant of $237,000, and served 3,742 clients. Wichita, with a population of 250,000, served its 4.321 clients with a grant of $127,000. Similarly, the Topeka program served 1,959 clients with an OEO grant of $53,000. Another city in region VII with a larger populaton served fewer clients, 1,249, with a larger budget, $64,000. The Kansas City, Kansas office also compares favorably. The commitment of the attorneys in these offices is obvious and praiseworthy.

The programs in these cities can serve as a model of the potential for efficient legal services when a staffed center cooperates with local bar associations.

INDEPENDENCE

Throughout the history of the legal services program a primary concern has been the independence of attorneys serving low-income families. Independence, means not only freedom from outside political interference, but also freedom to use the full range of an attorney's tools.

The bill we are considering not only protects this freedom by creating an independent corporation, but also by allowing the attorney to utilize the legitimate means at his disposal in behalf of his client. Concomitantly, the bill provides protections to insure that an attorney's actions do not violate the public trust which has been placed in him. He must fully abide by the canon of ethics of the disciplinary rules of the code of professional responsibility, whichever applies in his State. This means that he "shall not permit a person who recommends, employs, or pays him to render legal services for another to direct his personal judgment." It also means that he "must always be free to exercise his professional judgment without regard to the interest or motives of a third person." It would be anomalous for the Government to deny the lawyer adherence to these guidelines merely because the Government itself is the employer. The bill also guards against excessive political activism by prohibiting the corporation's employees from engaging in or encouraging others to demonstrate, picket, boycott, or strike. Finally, it specifically limits legislative representation to those occasions in which action is necessary for the provision of legal advice to a client or to responses to requests from members of the legislature.

When balancing the bill before us against the potential harms of restrictive regulations, I believe that we must come down on the side of full independence for the attorney. Surely the attorney who seeks to challenge a law which is unfair to his client or who wishes to enforce an existing law is not upsetting our legal system. Rather he is doing precisely the type of thing which that system contemplates and permits.

Kansas legal service programs provide us with an interesting focal point for this kind of action. The three local centers which handle thousands of cases a year have engaged in a total of approximately 14 class action suits in 4 years of operation. The attorneys firmly believe that this type of suit is necessary. Its limited use also indicates that the privilege has not been abused. The director of one program has indicated that he has considerable reservations about the class action suit as an effective tool for serving his clients. It is likely that other attorneys who find that excessive use of class action suits are not necessarily effective may well restrict their use in the future.

The experience in Kansas indicates that independence does not necessarily connote conflict with the law or established institutions. The reports I have received uniformly demonstrate that close cooperation between legal aid societies, which are also recipients of legal service grants, and private attorneys has been a highly desirable means of providing a full range of legal support for our citizens. Finally, not one of the three Kansas offices reports lobbying before the State legislature without an express invitation from a member.

COVERAGE

Another major interest which must be considered is the coverage of any legal services program. The measure before us specifies that the legislation is designed to provide equal access to the judicial system of the United States and high quality legal assistance to those who cannot afford adequate counsel. It does not speak of the espousal of social causes but of service to individual clients.

While this service should be extended to people based upon income distribution, I think we would be remiss if we did not emphasize the need to extend coverage to all geographic areas. The poor are not confined to metropolitan cities. They are in every rural county in this Nation and, as such, must also be remembered when we are enacting this legislation.

I believe that the bill before us adequately insures that only the low-income individuals will benefit from Federal assistance. The mandate of section 1007(a)(2) is explicit and proposes a criterion which states that aid should be given to those "financially unable to afford legal assistance." S. 2686 also proposes a broad range of eligibility for grantees of Corporation funds. I would also hope that any administration of the program takes full cognizance of the committee language which emphasizes that the needs for adequate local assistance exist both in metropolitan and rural areas.

Again I think it would be helpful to look to Kansas for examples of effective coverage in the existing program. The Topeka Legal Aid Society in the past year worked with a total of 2,500 low-income individuals out of a total poverty population of 15,000. This is particularly significant in light of the limited level of funding provided by OEO.

The grantee received $53,000 in the past year and, in addition to serving individual clients also conducted counseling for a variety of low-income groups. While the Kansas program exists in the three major metropolitan areas in the State, I am hopeful that this can be expanded to include rural areas in the future.

CONCLUSION

Mr. President, the time has come for the Federal Government to make a commitment to the adequate provision of legal services for low-income individuals. In so doing we must not create a system which handicaps attorneys by restrictive rules and limitations on the range of tools which they can employ. Such action would provide second-class legal representation. I do not believe that action by attorneys to enforce laws is undesirable, nor do I believe that public funds are misspent when an attorney challenges a law which unreasonably discriminates against his client. While we cannot support social protests, we can and must promote equal protection under the law. The Legal Services Corporation Act makes strides in this direction and deserves our support.

Mr. BROOKE. Mr. President, this issue has been before Congress in various forms for 8 years. We have debated and discussed the merits of a Legal Services Corporation for 3 years. In January of 1971, the President's Commission on Executive Organization—the Ash report—called for a public corporation to provide legal services for America's poor.

This bill is similar to two separate bills passed by the Congress within the last 2 years. All of the issues raised now were raised then. The issues were debated and considered at those times.

Let the Corporation begin. Give those unable to afford counsel the chance to receive legal services from a competent professional. Our system of justice must be open to rich and poor alike.

There can be no further delay. Many of the amendments that have been introduced are repetitious. They add nothing to what we know now: The provision of legal services to America's poor is necessary and can best be accomplished by a Legal Services Corporation as proposed by the committee.

The White House has urged prompt approval of this bill in its current form. The committee report was unanimous.

Let us move on this bill. The President wants a Legal Services Corporation bill. The Senate wants a Legal Services Corporation bill. The American people want and need a Legal Services Corporation bill. It is time to act.

Mr. ROBERT C. BYRD. Mr. President, I yield myself such time as I may require from the 1 hour allotted to me under the cloture rule.

The PRESIDING OFFICER. The Senator from West Virginia may proceed.

Mr. ROBERT C. BYRD. Mr. President, discussion has been had with representatives on all sides on the question pending before the Senate. I think that an agreement has been reached tentatively which would permit the Senate to work its will on the Senate bill tomorrow without any additional rollcall votes today, with the Senate coming in at 10 a.m. tomorrow and beginning to vote perhaps by 11 a.m. on amendments, and reaching a final vote tomorrow evening on the Senate bill.

This agreement, of course, does not envision a substitution of the language in the Senate bill for the language of the House bill. That would be matter that would still confront the Senate after action is completed on the Senate bill. That matter would confront the Senate in any event, however, whether we reach an agreement today or not. If we were to go into the middle of next week to complete action on the Senate bill, we would still have the problem of substituting the language of the Senate bill for that in the House bill, and that means that the opponents of the legislation, acting within their rights, could force the Senate down the cloture route again at that time on the House bill.

So the agreement entered into would not take away from them any of their rights, nor would it convey any additional rights to those who support the legislation. The only thing it would do would be to expedite final action on the Senate bill by tomorrow evening. Then, the Senate, on Friday, if Senators are agreeable, could discuss the Genocide Convention and next week come back to the House version of the legal services bill.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. First, Members may have amendments, and the cloture route is not adapted to our usual consent rule on amendments, but it is understood among all active parties that we will do our utmost to accommodate Senators with amendments, so the arguments may be made pro and con and votes may be had on each amendment.

The second point is, it must be understood we will move, within the limited time, to substitute—if we should decide to do that; we may not decide to go that route, but if we do, we will move to substitute—the Senate text in the House bill.

If the Senator will allow me, I would like to make a parliamentary inquiry.

Mr. President, if that motion is made, and that motion is adopted, is it amendable unless there are amendments on the desk?

The PRESIDING OFFICER. If it is proposing to strike out all after the enacting clause in the House bill and substitute the Senate language, that substitute would be open to amendment.

Mr. JAVITS. But when adopted, that would be the end of it?

The PRESIDING OFFICER. When adopted, no further amendments would be in order.

Mr. JAVITS. And a subsequent cloture motion would apply to the whole substitute. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. And only amendments to that substitute on the desk would be in order. Is that correct?

The PRESIDING OFFICER. That had been submitted between the time the cloture motion had been filed and that time.

Mr. JAVITS. I thank my colleague.

I have no objection.

Mr. ROBERT C. BYRD. Mr. President, by way of further explanation, as I have indicated already, the cloture rule would still be followed on the Senate bill, even though we agree upon a time certain for a vote on tomorrow, insofar as the requirement is concerned that all amendments at the desk be germane and that they meet the requirement of having been read, which requirement has already been met by unanimous consent.

Mr. ALLEN. Mr. President, will the Senator yield in order that I might make an inquiry?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. Mr. President, a parliamentary inquiry. As long as cloture has been invoked on S. 2686, it would not be in order, except by unanimous consent, to bring up the House bill dealing with the same subject. Would it?

The PRESIDING OFFICER. Not under the cloture motion.

Mr. ALLEN. In other words, under the cloture rule, cloture having been adopted, S. 2686 remains the unfinished business until disposed of. So it would either have to be killed or passed before the Senate could turn to the House bill, except by unanimous consent. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I thank the Senator.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. What is the plan on getting up the House version once we go through the process of passing the Senate version?

Mr. ROBERT C. BYRD. The cloture which has now been invoked applies only to the Senate bill. Once the Senate bill has passed—if it is passed—the cloture which has been invoked thereon will have run its course. At that point Senators may move to strike all after the enacting clause of the Senate bill and substitute the House bill, but at that point cloture is off. Cloture will have worked its way once the Senate bill is passed. From that point on, the opponents of the legislation have a clear way, within their rights under the rule, to continue argument without limit against the House bill. The Senate may wish again to attempt cloture on the House bill, but the cloture which has been invoked on the Senate bill does not go to the House bill. It goes only to the Senate bill and to the final disposition of that bill one way or the other, up or down.

Mr. President, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Mr. President, if the Senator will yield for a correction, he said strike out all after the enacting clause of the Senate bill and substitute the House bill. I think he meant to strike out the House language and insert the Senate language.

Mr. ROBERT C. BYRD. Yes, of course. I thank the Senator for calling my error to my attention.

Mr. CRANSTON. Mr. President, is the motion to bring up the House bill a privileged motion?

Mr. ROBERT C. BYRD. Not until after action has been completed on the Senate bill, except by unanimous consent.

Mr. CRANSTON. And after that——

Mr. ROBERT C. BYRD. After that, the motion would be in order.

Mr. CRANSTON. After 9 o'clock tomorrow evening, assuming the Senate bill is passed, a motion could be made to bring up the House bill; is that correct?

Mr. ROBERT C. BYRD. That motion would be in order, but it would also be debatable.

Mr. CRANSTON. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the final passage of the pending legal services bill—with paragraph 3 of rule 12 being waived—at no later than the hour of 9 o'clock tomorrow evening, with the understanding that any motion or amendment—that is, any motion other than a motion which would prevent up or down action on the Senate bill—which may be pending at that time be voted on prior to the vote on the passage of the bill.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? None being heard, it is so ordered.

Does the Senator expect nothing other than divisions relative to debate in the cloture motion to be sustained? This one changes the time for debate.

Mr. ROBERT C. BYRD. This agreement only sets a time limitation for the final passage of the Senate bill. It does not otherwise suspend the operations of the cloture rule. I can think of nothing in the cloture rule that would conflict with the setting of an hour for final disposition. Senators will each have 1 hour, under the rule, except that final action must occur no later than 9 p.m. tomorrow.

The PRESIDING OFFICER. Each Senator is entitled to 1 hour. A Senator is entitled to bring up his amendment.

Mr. ROBERT C. BYRD. Exactly.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. NELSON. A Senator would not be entitled to use the hour of another Senator, would he?

Mr. ROBERT C. BYRD. That is correct. Each Senator would be entitled to use his own hour; but to be yielded another Senator's time would require unanimous consent.

Only qualified amendments already at the desk would be in order.

So, Mr. President, I believe we all have a clear understanding as to what the agreement comprehends. I thank all Senators.

With the agreement now having been entered into, there will be no more rollcall votes today. We will come in at 10 o'clock tomorrow morning. Also, there will be no votes tomorrow prior to 11 a.m.

Further—and I should like to have the attention of the Chair—I should like to make sure that this is clear: If we reach the hour of 9 p.m. tomorrow, and an amendment or a motion that is in order—in other words, a motion to table the bill would not be in order under this agreement—but if a motion or an amendment is pending at the hour of 9 p.m., there would first be a vote on that matter or those matters then pending, and the vote on final passage would immediately follow.

The PRESIDING OFFICER. Without objection, that is the understanding.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute after order is restored in the Senate.

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from West Virginia is recognized.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe that the previous order was for the convening of the Senate at 12 o'clock tomorrow.

The PRESIDING OFFICER. The Senator from West Virginia is correct.

Mr. ROBERT C. BYRD. Mr. President, under the order entered yesterday, the Senate will recess at some point this afternoon until the hour of 8:30 p.m. tonight. After the President delivers his state of the Union message, the Senate will stand adjourned until tomorrow.

I am merely arranging the time now for convening tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD AND FOR THE CONSIDERATION OF THE LEGAL SERVICES BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have taken recognized on tomorrow under the standing order, the minority whip, the Senator from Michigan (Mr. GRIFFIN), and the majority whip, the Senator from West Virginia (Mr. ROBERT C. BYRD), each be recognized for not to exceed 10 minutes and in that order; after which the Senate resume the consideration of the unfinished business, the legal services bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT THERE BE NO VOTES PRIOR TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be no rollcall votes on tomorrow prior to the hour of 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The 1 minute of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President. I yield myself 1 additional minute.

VITIATION OF SENATE ACTION ON S. 921

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent that the action taken by the Senate yesterday on S. 921, to amend the Wild and Scenic Rivers Act, whereby the Senate receded from its amendment to the House amendment, be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

REFERRAL OF NOMINATION OF JAMES M. DAY TO BE ADMINISTRATOR OF THE MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Mr. ROBERT C. BYRD. Mr President, on behalf of the distinguished Senator from Washington (Mr. JACKSON), I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the nomination of James M. Day, of Virginia, to be Administrator of the Mining Enforcement and Safety Administration, and that the nomination be referred to the Committee on Labor and Public Welfare, since that committee has the preponderance of jurisdiction over matters relating to mining safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the minority and majority whips will each be recognized for not to exceed 10 minutes and in that order; after which the Senate will resume the consideration of the unfinished business, the legal services bill.

Yea and nay votes will occur on amendments thereto throughout the day. A final vote will occur on the bill not later than the hour of 9 p.m. tomorrow.

It is the understanding, Mr. President, that after the passage of the bill or whatever the disposition of the bill is on tomorrow, the Senate will resume consideration of the Genocide Convention, on Friday, and that if the House bill dealing with legal services has not been disposed of on tomorrow, the Senate will likely take up the House bill at some point next week.

RECESS UNTIL 8:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until the hour of 8:30 p.m. today, at which time Senators will assemble to go in a body to the Hall of the House of Representatives where they will receive the President's state of the Union address, on the completion of which the Senate will stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and, at 4:45 p.m., the Senate took a recess until 8:30 p.m.; at which time the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed in a body to the Hall of the House of Representatives to hear the President deliver his state of the Union address, after which, under previous order, the Senate stands adjourned until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-206)

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives for the joint session.

Thereupon (at 8:40 p.m.), the Senate preceded by the Assistant Secretary of the Senate (Darrell St. Claire), the Sergeant at Arms (William H. Wannall), and the Vice President, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States on the state of the Union.

(The address by the President of the United States, this day delivered by him to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 9:57 p.m., the Senate adjourned until tomorrow, January 31, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, January 30, 1974:

DEPARTMENT OF STATE

L. Douglas Heck, of the District of Columbia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

DEPARTMENT OF JUSTICE

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia vice Harold H. Titus, Jr., resigned.

HOUSE OF REPRESENTATIVES—*Wednesday, January 30, 1974*

The House met at 12 o'clock noon.

Rev. Wladimir Borowsky, executive secretary of the Ukrainian Evangelical Alliance of North America, offered the following prayer:

Our Heavenly Father, we thank Thee for this land of the United States of America, which has always been a refuge for those who have been persecuted. We realize that true religious and political freedom for man and nations has not yet been realized everywhere. Among those still deprived of it are the Ukrainians. They need our understanding, prayers, and help. Our Lord, we beseech Thee to be their strength and refuge. Help them to regain their freedom. Bless our President, the members of his Cabinet, and the Members of the Senate and House here congregated. Help them to be good servants of our people and mankind.

In the name of Jesus, our Lord, hear us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ARAMCO AND THE LOGAN ACT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, Senator JACKSON's Permanent Investigations Subcommittee now investigating the oil companies has adduced evidence which shows that Aramco, a U.S. corporation, at the direction of King Faisal of Saudi Arabia, withheld oil from our armed services and in particular the U.S. fleet in the Mediterranean. The oil was in Aramco's possession—in storage outside of Saudi Arabia. According to the subcommittee, Aramco's action occurred at a very sensitive time: during the recent war between Israel and the Arab States when our own Defense Department was concerned about the worldwide ramifications of the Middle East hostilities and our own defenses were on alert. Pivotal to our own national security interests was the Mediterranean fleet.

Others have said, and I concur, that at the very least this was an immoral act, detrimental to the vital interests of the United States. But I believe that it is more than that. I believe that Aramco, which is owned by Exxon, Mobil, Standard of California, and Texaco, violated among other laws of the United States, the Logan Act by having discussions with a foreign power and executing the instructions of that foreign power, in this case Saudi Arabia, on matters relating to U.S. foreign policy. I have asked the Department of Justice to advise me as to what action it is undertaking in this matter. American corporations, large as they may be and powerful as they are, must not be permitted to violate with impunity the laws that govern all of us.

REV. WLADIMIR BOROWSKY

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. BLACKBURN. Mr. Speaker, it is my very great pleasure to have brought to the House today for the opening prayer the Reverend Wladimir Borowsky. Reverend Borowsky is a native of the Ukraine, having been born there.

Mr. Speaker, I am going to insert in the RECORD a biography of Reverend Borowsky for the purpose of advising my colleagues in more detail of his full history and background. The biography of Reverend Borowsky tells vividly of the brutality and lack of human rights demonstrated by the very brutal Soviet Government in the Soviet Union.

Mr. Speaker, the main message I would like to convey today is that the Reverend Borowsky, as we were walking over, said:

> Although I was born in the Ukraine, I consider myself an American citizen first.

He said he considers himself a late-arriving Pilgrim.

The biography of Reverend Borowsky is as follows:

> Pastor Wladimir Borowsky was born into the family of Luke Borowsky, by profession a medical assistant, and his wife Domnikia, in the town of Zinkiv, province of Kamianets Podilsky, on January 18, 1907. He was raised, however, in province Volhynia, which by this time was a Russian province. Here he acquired his formal education, but completed his theological studies in western Poland.
>
> In his youth, Pastor Borowsky became one of the organizers of the Ukrainian scouts movement in the Rivno area (Volhynia). Because of his educational and scouting activities, and his being a stateless person, he was expelled from Volhynia by Polish provincial authorities in 1928. And in 1931, the Pomern provincial authorities ordered his banishment from Poland because of his religious convictions. However, the Polish Ministry of Internal Affairs intervened, rescinding the order on the grounds that the Polish Constitution guaranteed freedom of religious belief and that Pastor Borowsky's conduct was loyal and moral. After completing his theological studies in 1932, he was ordained pastor of the Ukrainian Evangelical-Reformed Church and carried out his church duties in various church communities in Galicia.
>
> Having suffered persecution at the hands of the Soviets, he felt compelled to leave his native land, together with his family, at the beginning of 1940 and spent the rest of the war years in western Germany. During and after the war, he was engaged in providing spiritual solace and every possible comfort to Ukrainians and other war victims, displaced from their homelands. In 1947, through the good offices of the World Council of Churches and Bishop Basil Kusiw of the Ukrainian Evangelical-Reformed Church, who was an American citizen, he emigrated to the United States of America. Here he became involved in activities concerned with the resettling of Ukrainian and other refugees to this country, religious and charitable undertakings, and the work of the Ukrainian Evangelical Alliance of North America.
>
> In 1955, Pastor Borowsky was nominated to the post of Executive Secretary of this organization, and in 1961 to that of editor of Yevanhelsky Ranok (Evangelical Morning). He participated in the congresses of American Ukrainians as representative of the Ukrainian Evangelical Alliance of N.A. (UEA PA) and also was an active participant in the First and the Second World Congress of Free Ukrainians in New York City (1967) and Toronto (1973). During the period from 1971 to the end of 1973, Pastor W. Borowsky was a member of the Presidium of the Secretariat of the World Congress of Free Ukrainians and its member in the Commission of Human Rights.
>
> Pastor W. Borowsky is also known for his journalistic work in the Ukrainian religious and secular press, and has written his memoirs that span his life and work up to his arrival in the United States.
>
> He has been, and is, greatly assisted in his work by his wife Alexandra, who had completed her theological studies in England. Her command of English has been of great help in their common efforts both in Europe and here in America. Pastor W. Borowsky is proficient in five languages: Ukrainian, Polish, Russian, German, and fair in English.
>
> Pastor Borowsky's sister Vira perished in a Soviet torture-chamber. In 1947, his parents, together with other surviving members of the family, were deported to Siberia, where his mother died. After ten years, his paralyzed father was allowed to return to Western Ukraine, where he passed away within a year's time. Pastor W. Borowsky has two sons: Leo (a businessman), Victor (a lawyer), and a daughter Daria (wife of a medical doctor).
>
> Presently, Pastor W. Borowsky resides in Dunwoody, Georgia.

BUFFET DINNER IN RESTAURANT TONIGHT

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I just want to announce to the Members here and hope they will tell their colleagues who are not here that we have arranged to have a buffet dinner in the restaurant tonight in view of the fact that there will be a session at 9 o'clock. The buffet will start at 5:30 and will feature steamship round of beef and everything as free choice that goes with it including fruit and dessert at the price of $4 a head.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, on an occasion of the kind we will have this evening is dinner not on the House?

Mr. HAYS. No, definitely not on the House. I tried to get the White House to pick up the check but they would not do it, so Members will have to pay their own check.

CONGRESS KEPT IN DARK ON COPIES OF THE BUDGET

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, a few minutes ago I called the Office of Management and Budget without identifying myself and asked when the press can pick up copies of the budget. They very agreeably responded that any members of the press can come to the Executive Office Building between 4 o'clock and 5:30 on Friday to pick up the budget copy.

I then called back and identified myself as a Member of Congress, and said I desperately needed a copy of the budget, and asked when would be the earliest possible date I could pick one up. I was advised that it would be delivered to my office sometime late Saturday afternoon after I had left my office.

Mr. Speaker, I know that the administration is using desperate means to cultivate better relations with the news media but, Mr. Speaker, I think it is outrageous that Members of the Congress have to wait at least 24 or more hours after the press and media get copies of the budget before Members of Congress can receive their copies.

Mr. CEDERBERG. Mr. Speaker, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Michigan.

Mr. CEDERBERG. Mr. Speaker, this has been a regular practice with the previous administrations, if the gentleman will recall, including Presidents Eisenhower and Kennedy and Johnson and Nixon.

Mr. HECHLER of West Virginia. That does not make it any better.

Mr. CEDERBERG. They have always had this problem. I am the ranking minority member on the Appropriations Committee and I have always had a problem with this myself, but as a matter of fact I think when we get the budget it will be soon enough.

Mr. HECHLER of West Virginia. I thank the gentleman from Michigan for his contribution.

SATELLITE OVER APPALACHIA

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, oftentimes we here in Congress learn of actions of the various executive agencies through the newspapers. This morning, I picked up the Courier-Journal of January 27, 1974, and in it I read that a satellite costing $209 million would be sent to hover over Appalachia and beam programs to teachers in schoolrooms in that area for the purpose of affording them the opportunity of continuing education.

For years, the different universities of Kentucky have had programs in which teachers from those universities go into the schoolrooms throughout every county in Kentucky—so far as I know—and give courses to teachers who want to advance their training.

Another purpose of this satellite is to coordinate new ideas in medical training by the veterans' hospitals.

With our communications system such as we have today, we need this satellite over Appalachia as bad as we need a hole in the head. Actually, the money could be more wisely used for housing, job training, jobs, and hospitals.

I submit that before such programs are placed into effect, that the representative of the area affected should at least be consulted.

FEDERAL ENERGY ADMINISTRATION ACT

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, I wish to express my strongest possible objections to the removal of the bill, H.R. 11793, from the calendar for consideration today. I think the Democratic leadership has ill-served this House and the Nation by this decision. This bill is urgently needed and there was no reason why we could not have continued considering it today. How much longer will the Nation have to wait before the congressional leadership is able to get through legislation to meet our energy crisis?

Yesterday afternoon we began and

concluded general debate on H.R. 11793, the Federal Energy Administration Act. By previous agreement with the chairman of the Interstate and Foreign Commerce Committee (Mr. Staggers) we did not take up amendments yesterday.

My understanding of the agreement was that once the conference report on the National Energy Emergency Act had been voted on in the Senate yesterday afternoon, we would be able to proceed with amendments to our bill.

I fully expected that this afternoon we would be able to take up amendments to the Federal Energy Administration bill.

About a quarter to twelve today the Office of the Majority Leader, Mr. O'Neill, informed me that we would not take up amendments to H.R. 11793 today, and furthermore, they did not know when they would be taken up.

In my judgment, this is not good legislative procedure. The Committee on Government Operations has spent a lot of time on this bill. We reported the bill before the Christmas recess on December 19. We asked for and received a rule for the bill. Yesterday the rule was adopted and we concluded general debate. We are now ready to start with amendments, and I think we should do so immediately. It is a very important bill that should not be held up for political reasons.

The FEA bill is urgently needed to provide the organizational capability to run both existing and new energy programs. It complements the Energy Emergency Act, as has been recognized by Mr. Staggers and his committee, in both the committee report and the conference committee report on his bill. There are numerous technical and legal problems involved in trying to operate an energy coordinating agency without statutory authority, as Mr. Simon is trying to do now. He has asked for this legislation, and my committee was fully convinced that it was necessary to proceed as quickly as we could to establish the FEA. The Senate apparently felt this way too, because they passed the bill on December 19, 1973, by a vote of 86 to 2.

This legislation is necessary whether or not the Energy Emergency Act becomes law; it is necessary to run the programs we have at the present time. As I said in my statement yesterday, I support the energy emergency conference bill, but I do think it is necessary for us to proceed with this bill as quickly as possible. It should not be held up by legislative difficulties with the Energy Emergency Act.

I think the Democratic leadership is causing unnecessary risks for the American people by withholding the FEA bill from floor consideration.

FEDERAL ENERGY ADMINISTRATION BILL

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I have to protest the procedure that has occurred here on the floor today wherein the leadership has unilaterally decided to pull the bill off that was scheduled for action. What it amounts to, they are holding this bill as hostage for action by the conference committee on the energy bill that was voted upon yesterday in the Senate.

It seems to me that we can get on with orderly legislative processes here without holding one bill hostage to see what happens to another. They both deal with energy but are not in conflict nor inconsistent with the other.

I attended a joint bipartisan leadership meeting at the White House a week ago today along with the Speaker, the majority leader, the minority leader and others. The President pointed out that we have an energy crisis to solve in this country and for the House to blame the Senate, or for the Congress to blame the White House or blame each other is beside the point.

The people back home that are not getting an additional gallon of gas out of this practice of legislative gymnastics. They are going to blame the Government, and that is all of us.

We know who controls the House and the Senate. It is up to us to get along with meaningful legislation to solve the energy problems and not get into jurisdictional or hostage disputes that will not cure anything.

THE FEDERAL ENERGY ADMINISTRATION BILL

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, in reply to the gentleman from New York (Mr. Horton) and the gentleman from Ohio (Mr. Devine) the leadership on the House side did meet this morning and we did decide to take off the schedule the bill that was in order for this afternoon, the Federal Energy Administration. bill.

The reason for this was that we felt it was a courtesy to the Committee on Interstate and Foreign Commerce, which also has put in numerous hours of time and labor on the conference report on the National Emergency Energy Act which was recommitted yesterday in the other body. The conferees are hoping that they can meet either this afternoon or tomorrow.

As a courtesy to that committee, and by virtue of the fact that the bill out of the Committee on Government Operations is of such wide latitude and germaneness, and we could very well go through the same demonstrations we went through just before we left on our Christmas vacation, we felt that it would be in the best interest of the House that the best way to expedite the energy matter was to allow the conference committees to meet.

If, within a reasonable time, the conferees cannot get together, we agreed that we will reschedule that bill from Government Operations.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. Mr. Speaker, I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I appreciate the explanation the distinguished majority leader has given to the House. I would like to ask, when is it expected that H.R. 11793, the Federal energy administration bill, will be taken up?

Mr. O'NEILL. Mr. Speaker, I cannot answer the gentleman. I cannot answer specifically because we will await a report from a meeting of the conferees.

If it is stalemated, and there is no action foreseen, we will bring it up as quickly as we can.

QUICK ACTION NEEDED ON ENERGY BILL

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, yesterday the U.S. Senate voted to recommit the emergency energy bill. Some observers are suggesting that recommittal kills the bill.

I decided last December to support the conference report on that bill even though I knew it contained serious flaws. Title II alone is enough reason to vote for the conference report. The windfall profit section is lousy, but it does not become effective immediately, and could, in fact, serve as a good incentive to our tax committees to promptly pass good legislation in its place.

What is most important right now is that Congress has messed around with this bill for 10 weeks. If the bill dies, we will have proved ourselves incapable of dealing with the energy crisis even in an emergency. We are proving to the people of the United States that Congress lacks either the ability or the will to wrestle with the country's No. 1 problem.

I urge the House conferees not to let this energy bill die. I hope we can find a way to preserve some of the authorities of title I and all of the deferrals in title II.

For all of the criticism we have heaped upon the administration, the administration has through the temporary Executive order created an Energy Agency, and through the effective actions of its Administrator, given leadership and direction to this country on the energy problem. I hate to tell the people of my district that Congress cannot match that administration effort. But, if we cannot even pass an emergency energy bill, that is what each of us will have to tell our constituents.

FEDERAL RULES OF EVIDENCE

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 787 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 787

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and section 1 of said substitute shall be read for amendment by articles. No amendment shall be in order to said substitute except amendments offered by the direction of the Committee on the Judiciary or germane amendments printed in the Congressional Record at least two calendar days prior to the consideration of said substitute for amendment. No amendments to article V of section 1 of said substitute shall be in order. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. DERWINSKI. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 10]

Blatnik
Carey, N.Y.
Casey, Tex.
Clark
Clay
Conyers
Dellums
Diggs
Edwards, Calif.
Foley
Ford
Gettys
Gray
Hanna
Hébert
Henderson
Howard
Jones, Ala.
Landrum
Mailliard
Milford
Mills
Minshall, Ohio
Perkins
Railsback
Reid
Rhodes
Roncalio, Wyo.
Rooney, N.Y.
Sebelius
Shriver
Skubitz
Stark
Stephens
Walsh
Winn
Young, Ill.

The SPEAKER. On this rollcall 393 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL RULES OF EVIDENCE

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. BOLLING. Mr. Speaker, this is an unusual rule, and I believe some of the Members would like to hear its explanation. Mr. Speaker, this rule was proposed by the Committee on the Judiciary and encouraged, at least, by some members of the Committee on Rules. It is unusual in that it provides for general debate on one day and then a period of time between the general debate day and the next consideration of the bill, so that it would be possible to provide that there would be no amendments in order to article V of section 1, which the lawyers tell me is the kind of question that could easily blow up all over the place if amended.

This is a carefully thought out provision, unanimously agreed to by the subcommittee, and they spent a very long time dealing with it.

I understand the question of privilege is opened up to amendment—I am not a lawyer, so I am reporting what I understand—and that there could be all kinds of chaos. The other section and articles of the bill can be amended but only in two ways, only on an amendment offered by instruction of the Committee on the Judiciary, and it was made clear that that does not include an arrangement made on the floor among a few members of the Committee on the Judiciary. That means that the Committee on the Judiciary has to instruct the committee to offer the amendment on formal instruction.

Second, any amendment will be in order to be offered if it is published in the CONGRESSIONAL RECORD at least 2 calendar days prior to the time the amendment is to be offered. I am not absolutely sure of this but my understanding there is a possibility that the House is going to meet on both Thursday and Friday, it of course is going to meet on Monday, and there thus will be a number of opportunities for Members to devise their amendments if they wish and to publish them.

The rule is unusual but I think it is a very good rule because of the complexity of the bill and I guess the ability of the lawyer Members of the House to argue with each other over details. This makes for an orderly process and will prevent the kind of chaos that otherwise we sometimes have on the floor of the House and I believe it will be fair to every Member.

Mr. Speaker, I reserve the balance of my time unless my friend, the gentleman from Iowa, desires me to yield.

Mr. GROSS. Mr. Speaker, I would appreciate it if the gentleman would yield.

Mr. BOLLING. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

With respect to amendments offered by the Committee on the Judiciary, would those amendments be subject to amendment?

Mr. BOLLING. Does the gentleman from Missouri desire to comment on that? If so, I yield to him.

Mr. HUNGATE. Mr. Speaker, the gentleman raises a very fine point and I do not think we have really considered it because at this point we have no such amendments in mind. Unless such amendments have been printed in the RECORD, I suppose not, I will say to the gentleman from Iowa.

Mr. GROSS. I am not talking about amendments printed in the RECORD. Provision is made for that. I am talking about committee amendments.

Mr. BOLLING. I would answer for the Rules Committee that the rule is intended to prevent that process.

Mr. GROSS. But the rule does not prohibit it.

Mr. BOLLING. The rule does not specifically state that. It seems to me clear that it is the intent and that the only amendment that might be in order to a Committee of the Judiciary amendment under the rule is an amendment printed in the RECORD.

Mr. GROSS. But that is not what the rule says, and I believe this rule as it pertains to amendments offered by the Committee on the Judiciary would not preclude a perfecting amendment to the amendment offered by the Committee on the Judiciary or a pro forma amendment to the Judiciary Committee amendment if such there be.

Would the gentleman like to comment on that?

Mr. BOLLING. I will be glad to comment. I think the gentleman is correct. I think that is technically correct. The clear intent of the committee was to see to it that no amendments of that nature could be offered but I think the gentleman is correct in terms of the language.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, the purpose of the rule is that we find here a rather complex and technical field and we sought not to close the matter but to open it up so there could be amendments but also so as to have an opportunity to respond responsibly to such amendments, and in keeping with that I would say to the gentleman I would think if the committee offered such amendments they should not be offered willy-nilly just to continue and change the bill.

That is not the purpose of this procedure. The purpose is to handle this highly technical matter, this very complex subject responsibly. We spent 10 or 11 months working in the committee on this matter. I might say it is a very complex subject matter. We would not just want to get up on the floor on the spur of the moment and offer an amendment without considering fully all the ramifications and possibilities of an amendment which would be so offered.

But we still want to leave it open. We took this 4 hours' debate for this reason. I do not foresee the Committee on the Judiciary would use over 2 or 2½ hours, if that much; but so that all Members have time of their own to question us in this debate then, this matter should lay over a week for consideration by this body and any time through this Monday Members could offer amendments as they see fit and have them printed in the RECORD and at the same time, being a technical matter, the committee could consider it and respond in a careful way before it came to the floor.

There is one area the gentleman mentioned, and that is the question of privilege. Fifty percent of the complaints the committee received, I can safely say, were directed to any changes proposed in the law of privilege. That is the reason that that section and that section only is closed.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. I have a similar question with respect to amendments printed.

Mr. BOLLING. I assume it would on the basis of what I am informed about the other. The clear intent, I believe, of the committee and the Committee on Rules, which did not itself draft this, was to close things off; but I think the rule as written does not close it off as tightly as both the Committee on the Judiciary and the Committee on Rules had hoped.

Mr. ECKHARDT. I thank the gentleman.

Mr. BOLLING. Mr. Speaker, I reserve the balance of my time.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although this may be somewhat repetitious, I want to review again, the rule as drafted by the committee on H.R. 787, provides for the consideration of H.R. 5463, Federal Rules of Evidence, under a most unusual rule. This is a modified closed rule providing for 4 hours of general debate, and making the committee substitute in order as an original bill for the purpose of amendment. In addition, the rule provides that section 1 of the substitute be read for amendment by articles. Amendments may be offered at the direction of the Judiciary Committee or if they are germane and have been printed in the record for at least 2 days prior to consideration of this bill, but amendments to article V of section 1 of the substitute are not in order. It is my understanding that article V on privileges proved to be very controversial and that the compromise worked out in the committee needs to be protected. It is also my understanding that the leadership plans to do general debate only this week and begin the amending process 1 week from today on Wednesday.

Mr. Speaker, I feel this rule is a good way to proceed on such an involved and important piece of legislation and urge its adoption.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. Dennis).

Mr. DENNIS. Mr. Speaker, I rise in support of this rule, which I think is a good rule for this kind of a bill. Some Members of the House know that I am not friendly to the closed rule. I have never said that in a complicated piece of legislation, such as a tax bill, there ought not be some kind of modified rule which would keep amendments down to the major matters of concern to the body and down to some reasonable scope.

What we have attempted to do in this particular rule is this; amendments are open to any section of the bill—except section (5), which I will touch on in a moment—if they are printed in the Record 2 days before the 5-minute rule debate.

We are going to postpone that debate a week, so that everybody will have the opportunity to do that. The only reason for that is that this is a long, technical bill. We think it fair, after all the work that has gone into it, not to have a situation where somebody can read it at the last minute and get some idea that they want to amend; but anyone, particularly any member of the bar, has got a right to be interested in the subject of rules of evidence.

What we have consciously done in this rule is to extend an opportunity to all such Members to read it and study it, and if they really have something on their minds which they think ought to be changed, all they have to do is to draw their amendment, and print it in the Record. All of those amendments, however many there may be, will be debated here under the 5-minute rule. We think that is correct and proper.

The reason section 5 is closed is simply this: Section 5, as presented to the committee by the court, dealt with the question of privileges; the privilege of husband and wife, physician and patient, governmental secrets, newsmen, who would have come within that subject—all such matters.

The committee felt that those were rather matters of substantive law than they were simply rules of evidence; that they did not really belong in a rules of evidence bill; and further, that we were so divided on that subject ourselves, let alone what the House would be, that we would never get a bill if we got bogged down in that subject matter which really ought to be taken up separately in separate legislation.

Therefore, we simply left the law of privileges where we found it. We did nothing with it. We said that it will be decided according to principles of common law as decided by U.S. courts, and we said that in diversity cases, that is cases which get into Federal court because we have as parties citizens of two different States, the law presently under the decision in Erie Railroad versus Tompkins is that the State law governs on privileges, and we leave it there.

Mr. Speaker, to answer the question of my friend from Iowa (Mr. Gross), I admit it is one which I never thought of before but as far as the Committee on the Judiciary is concerned, we do not intend to offer any amendments as a committee, so that is really a moot question.

I think one could make a pretty good argument that what that means is that only the amendment just as offered by the committee could be considered, in spite of what the gentleman from Missouri (Mr. Bolling) said; but we are not going to offer any, as a committee, so there is no problem there.

Germane amendments printed in the Record are the other amendments which can be offered. My personal opinion, for what it is worth is, that if a Member prints a germane amendment in the Record, an amendment could be offered to that amendment just as to any other amendment which is in order, but it would have to be confined to that amendment which is printed in the Record.

However, what we are basically doing is having an open rule except for this section 5, but if a Member wants to amend the bill, he has got to put his amendment in the Record ahead of time. We will give plenty of time to do that. It is a good rule, an innovative rule, and it should be adopted.

Mr. DEL CLAWSON. Mr. Speaker, I yield 7 minutes to the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, in my colloquy with the two gentlemen from Missouri (Mr. Bolling and Mr. Hungate) it was not my purpose to establish the intent of the rule. My questions were to the subject of whether, under this proviso in the bill, an amendment or amendments offered by the Committee on the Judiciary would be subject to amendment.

The colloquy developed, as I understood it, that such amendments would be subject to amendment, either pro forma or perfecting amendments.

The gentleman from Indiana (Mr. Dennis) says that it is a moot question because the Committee on the Judiciary has no intention of offering an amendment. If that is true, why is the provision in the bill that permits the committee to offer amendments?

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. BOLLING. Mr. Speaker, in defense of what the gentleman from Missouri said, I will answer that.

It is the normal safety valve, in case the committee finds there is some sort of disastrous oversight involved.

Mr. GROSS. Mr. Speaker, that is exactly the point. The Committee on the Judiciary is protected, but the rights of Members of the House are in question under this language.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. I yield to the gentleman from Missouri.

Mr. HUNGATE. At the time the rule was sought originally—that was in November, if I recall correctly, or December—at that time the situation could have been such as the gentleman has stated. We are now at the point where we are ready to go forward with this bill. The amendment would have to be printed in the Record in advance by Monday—the gentleman will correct me if I am wrong—because the Committee on the Judiciary requires 24 hours' or 48 hours' notice to hold a hearing on amendments of this kind.

Mr. GROSS. Mr. Speaker, then why is the language in the rule? Is it for the purpose of camouflage or window dressing? Does the Committee on the Judiciary have power to offer amendments?

I am just another Member of the House of Representatives. I do not know what the gentleman is going to do, and no one else does, outside the Committee on the Judiciary. I doubt if the Judiciary Committee itself knows at this moment what might or might not be done.

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield further, I will explain it.

Mr. GROSS. I will yield to the gentleman.

Mr. HUNGATE. Mr. Speaker, as I tried to indicate, when this was done back in

December, there was no way to know. The Committee on the Judiciary might have had several amendments before it then, at the time the bill came before it. We have had meetings since that time. No such amendment has been discussed.

As I am telling the gentleman, the notice which is within the Committee on the Judiciary itself makes it impossible or practically impossible for that to happen. I think I can assure the gentleman of that.

Mr. Speaker, let me put it in another way. As the gentleman from Missouri (Mr. Bolling) so aptly stated, this is a different sort of a rule, and in handling something of this nature, I think it is necessary and important to consider the intent as the words are used.

Mr. GROSS. Mr. Speaker, in my time in the House of Representatives I do not recall a resolution from the Committee on Rules making in order the consideration of a bill in this way. I do not recall a resolution that is on all fours with this one. This is a unique rule.

Moreover, I know of no reason why we should have such a rule. Other committees deal with legislation to which they have given long and tedious attention, but they do not get a rule foreclosing amendments to any one chapter or article of the bill. I know of no reason why under these circumstances the House ought not to work its will and work its will completely on this bill.

Therefore, Mr. Speaker, I certainly will vote against the rule, regardless of what any other Member does, because I think it is a very bad rule.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I will yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I thank the gentleman for yielding.

I am really sorry to have my good friend, the gentleman from Iowa, feel this way. This is a rule which is really innovative, and it is a good kind of a rule. The gentleman ought to be for it. The gentleman and I are both opposed to closed rules, and here, instead of closing the rule, which easily could have been done, if one is for that kind of thing, we have opened it up and given a chance to every Member to put his amendments in, if the Members will just put them in the Record ahead of time, which is easy to do under the circumstances.

The thing we are talking about is really moot. I do not know why this business that the gentleman objects to regarding the Committee on the Judiciary is in here. I did not write this rule, but I would just as soon that we would leave it out. There is not any amendment to be offered by the Committee on the Judiciary.

Mr. BROWN of Michigan. Will the gentleman yield to me?

Mr. GROSS. I yield to the gentleman.

Mr. BROWN of Michigan. The gentleman from Indiana is on the committee and I am not, but may I suggest to the gentleman from Iowa that probably the reason this provision is in the rule is to assure that if amendments are adopted which do damage to the bill, the committee would have an opportunity to offer an amendment which it otherwise could not do without this language.

Mr. DENNIS. There may be a good reason for it, as the gentleman says, but as far as I am concerned I think we can get along without it. We are arguing about a point here which is not really the point.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 386, nays 18, present 1, not voting 25, as follows:

[Roll No. 11]

YEAS—386

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashley
Badillo
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—18

Anderson, Calif.
Ashbrook
Bafalis
Crane
Dulski
Flynt
Frenzel
Gross
Huber
Landgrebe
Mink
Rarick
Roncallo, N.Y.
Snyder
Symms
Taylor, Mo.
Wylie
Young, Fla.

ANSWERED "PRESENT"—1

Diggs

NOT VOTING—25

Aspin
Carey, N.Y.
Casey, Tex.
Clay
Edwards, Calif.
Esch
Gettys
Gray
Hanna
Hansen, Wash.
Henderson
Ichord
Landrum
Leggett
Milford
Mills
Minshall, Ohio
Roncalio, Wyo.
Rooney, N.Y.
Skubitz
Stark
Walsh
Winn
Wright
Young, Ill.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Wright.

Mr. Gray with Mr. Edwards of California.

Mr. Carey of New York with Mr. Winn.

Mr. Henderson with Mr. Skubitz.

Mrs. Hansen of Washington with Mr. Roncallo of New York.

Mr. Casey of Texas with Mr. Esch.

Mr. Clay with Mr. Aspin.

Mr. Gettys with Mr. Minshall of Ohio.

Mr. Hanna with Mr. Walsh.

Mr. Ichord with Mr. Landrum.

Mr. Leggett with Mr. Mills.

Mr. Stark with Mr. Milford.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5463, with Mr. STEED in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Missouri (Mr. HUNGATE) will be recognized for 2 hours and the gentleman from New York (Mr. SMITH) will be recognized for 2 hours.

The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from New Jersey (Mr. RODINO) such time as he may consume.

Mr. RODINO. Mr. Chairman, we are at this moment embarking on what I consider to be the consideration of milestone legislation in the improvement of the Federal judicial system. I would like to point out that the Subcommittee on Criminal Justice of the Committee on the Judiciary, which has worked assiduously, diligently, and long, on this very, very momentous piece of legislation has ably discharged its responsibility and has come up with a piece of work which I believe we as members of the Judiciary can well be proud of and which the Congress of the United States can wholeheartedly endorse.

I believe it is well, Mr. Chairman, to recognize that this work is the culmination of some 13 years of intensive effort, which started first in the judicial branch and was then continued in the legislative, to try to put together rules of evidence which might be understandable and intelligible and which would serve the purpose of all who are involved in the processes of our judicial system—judges, lawyers, witnesses, litigants, and jurors.

I believe that it is to the everlasting credit of the distinguished chairman of the subcommittee, BILL HUNGATE of Missouri, together with the ranking minority Member, Mr. HENRY SMITH of New York, who were able to work in a bipartisan, actually a nonpartisan spirit, knowing that the law could only be nonpartisan.

You will be interested to know that despite the complexity of the project and the highly controversial nature of many of the rules of evidence, the work of the subcommittee was extremely well received. The American College of Trial Lawyers noted that it "approves thoroughly." A special committee of 30 noted New York trial lawyers reported that the rules were "an outstanding piece of legal work." From the office of the attorney general of the State of Wisconsin we were advised:

> The balance the committee has arrived at is a most reasonable balance between the rather clear interest of the individual states and the interest of the Federal courts in having some formalized rules of evidence to guide their decision.

Even Chief Judge Friendly, of the Second Circuit Court of Appeals, who does not believe a uniform code is desirable, wrote:

> If there are to be Federal rules of evidence, I do not see how there could be much better ones than your subcommittee has proposed.

Mr. Chairman, I know that the committee has presented to the House of Representatives a piece of work which I believe will commend itself to the Members. I urge that it be supported wholeheartedly so that we may do away with a great deal of the confusion that now exists in the application, often inconsistent and conflicting, or rules of evidence in our Federal courts.

Mr. HUNGATE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the question of what is the law is one that A. P. Herbert noted frequently arises in courts and sometimes receives a satisfactory answer. It is in the interests of seeing our percentage becoming somewhat better and improving justice with better procedures in our courts that we bring these rules of evidence to the House.

Some of the reasons that have been set forth by groups that have been working on the problem of rules of evidence for a period, as the chairman indicated, of 13 years or more, are these five:

Evidence frequently calls for a decision on the run when the judge is trying a case and he must act right now. This makes it handier or could be handier with a code of evidence that he could turn to for guidance.

Second, the existing law of evidence is quite complex. We have been informed that of 6 million recorded cases, about one-fourth of them relate to the question of evidence. There are uncertainties in the law of evidence and variations by circuit courts that these rules would seek to extinguish and to clarify evidentiary rules.

Also, making evidence law by decision is sometimes an accidental and a fragmental process, because a lawyer is not hired by his client to change the law of evidence. A matter comes up and it may seem not of too great importance at the time, but someone has said that the rules of evidence grow like an inverted pyramid. The case is decided hurriedly and later on through the years it comes up again and further cases are built upon it until it is bearing much greater weight than the initial consideration and study given to it would seem to call for.

Sometimes these precedents, we can see, are a misleading measure of experience and value of the original decision.

As transmitted to the committee, the proposed code consisted of 77 rules of evidence.

Many of them have numerous subparts. Together with the explanatory notes, these rules of evidence comprise 168 printed pages.

Recognizing the unresolved question as to the authority of the Supreme Court to promulgate rules of evidence under existing rules and enabling statutes; recognizing further the enormity and importance of the task, Congress enacted Public Law 93-12, which deferred the effectiveness of these rules until such time as expressly approved by the Congress; an expression by the Congress, if you will, of its desire to work its will in this field.

In the House, the legislation which ultimately became Public Law 93-12 was approved by a margin of 399 to 1. Two days after receipt of the rules, we began intensive study of their impact both in and out of the courtroom.

Mr. Chairman, I might say at the time the rules were sent over here and the legislation was proposed that their effective date be postponed until Congress could work its will, it was suggested in some quarters that this was just another way to walk it to death, kill the rules, kill them by delay. The committee gave assurance that this was not our purpose, and we went forward with hearings as soon as possible. We had 6 days of hearings in February and March of last year, and compiled a hearing record of some 600 pages.

These rules of evidence were of interest not only to those in the legal profession, but to persons and organizations in other disciplines who would be affected by them. For example, among others in addition to lawyers and judges, there were physicians, the press, social workers, psychologists and several other organizations.

By June 28, our subcommittee had met 17 times to review the voluminous testimony and written material submitted to the committee. We developed a committee print of H.R. 5463 containing the tentative recommendations. The committee print was sent to the bar association of each of the 50 States and of the District of Columbia. It was sent to the Justices of the Supreme Court, the Judicial Conference and to all other individuals and organizations of whose interest the subcommittee was aware.

I might say at that point there were two chief criticisms the committee heard of the proposed rules. First, in the field of privileges, and we have indicated in the debate on the rule that we leave the law of privileges as we find it, and that part is closed. We make no change in that very contentious area. The other criticism of the largest volume was because of the failure to have an opportunity to consider them, to see the rules and know what they were. That is why I say we circulated them to all of the bar associations and to those who were interested, and published them in the CONGRESSIONAL RECORD I believe last June for the first time, so that it might receive wider distribution and come to the attention of the 535 elected representatives of the people, and through them to their constituents.

This draft was reprinted in the U.S. Law Week, Criminal Law Reporter, United States Code, Congressional and Administrative News. During the summer, approximately 90 individuals and organizations commented to the subcommittee on the committee print. By and large, a uniform code was supported and the work of the subcommittee was, in general, well received. Certain constructive recommendations were made for further study and further rule changes.

In September and October, the subcommittee met and reviewed these recommendations in five additional markup sessions. This brought about further modifications and a second committee print dated October 10, 1973, contained subcommittee recommendations.

This draft was considered by the full House Committee on the Judiciary in three meetings. On November 15, they reported out H.R. 5463, and after full discussion the three different days, three additional amendments were adopted.

Mr. Chairman, I think the close scrutiny and study brought to the rules of this body, and it should be pointed out that more than 50 percent of the rules are substantively unchanged, from how they were transmitted to the Congress, is a tribute to the many people in and out of government who participated in developing these rules throughout the year or so in the course of the hearings and deliberations. A number of general issues and questions were raised, first as to whether rules of evidence, rules of practice and procedure are within the coverage of the enabling act. In other words, are rules of evidence substantive?

A derivative question would be: Does the Supreme Court have inherent authority to promulgate rules of evidence?

The second question to which a number of witnesses addressed testimony is whether a code of evidence, as contrasted with case-by-case development, is desirable?

Is uniformity desirable? Is it better to have uniformity in Federal courts across the country or uniformity between Federal and State courts in the State in which they sit?

On the issue of uniformity, it is pointed out that Federal judges are very mobile; they travel from circuit to circuit, and it certainly makes this more uniform and improves the administration of justice if the same rules of evidence are followed in their own courtrooms as are followed when they move around the country and hear other cases.

They would not be delayed studying a different construction of rules of evidence.

Mr. Chairman, it was also pointed out by witnesses to the committee that members of the bar itself and many attorneys travel around, and this would facilitate their practice and enable them to give more time to other issues of their cases, with evidentiary questions settled.

They discussed this green book. This is the "green book" approach. This model was furnished to the committee, and that is furnished so that the youngest law student or any man from any part of the country would have at his fingertips in one place a codification of the Rules of Evidence as they are to be applied in Federal courts.

We studied this long. This was a committee of 15 members in the Judicial Conference on the Rules of Evidence, and this consisted of nine trial lawyers, three Federal judges, and three law school professors. They made certain policy decisions, and I believe the committee followed those.

First, constitutional issues were avoided as far as possible.

Second, they examined the Rules of Evidence on their merits.

Third, to the fullest extent possible, there was an attempt to provide the same rules in criminal and civil cases.

Among witnesses previously alluded to, we have heard from the former Supreme Court Justice, Arthur Goldberg; Chief Judge Henry Friendly of the U.S. Court of Appeals, Second Circuit; the Honorable Robert W. Warren, attorney general of the State of Wisconsin; Judge Albert B. Maris, of the U.S. Court of Appeals, Third Circuit; Mr. Donald E. Santarelli, who was the Associate Deputy Attorney General for the Department of Justice, and now LEAA Administrator; we heard from representatives of the American College of Trial Lawyers, the American Trial Lawyers Association, and various aspects of the medical profession, the press, the National Conference of Commissioners on Uniform State Laws, Federal Defenders, Members of Congress, law professors, and the like.

Now, Mr. Chairman, I will say to my fellow members that we think we have brought to the members a document that will improve the administration of justice in our courts, that will make it more uniform and expedite its administration throughout the country.

We are concerned. We have taken 4 hours in which to debate this matter, although I would not contemplate that the committee would use all that time. However, we have taken the time so that those members who are not on the committee and other interested members may have every opportunity to explore questions which have been raised in their minds by these rules of evidence. As we have indicated earlier, amendments may be offered through Monday of next week by placing them in the RECORD.

Mr. Chairman, this is a highly technical matter, as we see it and as we have worked on it. And yet at the same time we want to make the opportunity available, insofar as possible, for any member to offer his suggestions and make his imprint and offer amendments to this bill, at the same time retaining the opportunity to respond responsibly to those amendments.

Mr. Chairman, I could not conclude without paying a special tribute to the members of the subcommittee and without mentioning the devotion and dedication they brought to this job.

The ranking Republican member, the gentleman from New York (Mr. SMITH), spent many hours and was a very helpful force in studying the difficult problems confronting us and molding this bill during our task of drafting the rules of evidence.

On the Democratic side, if I tell you who the members of the subcommittee were, you will find that virtually every shade of opinion and viewpoint had its representation in the working out of these rules.

To a large degree I think we are in agreement that there was a general consensus on the final product.

The gentleman from Wisconsin (Mr. KASTENMEIER), served as the ranking Democrat on the committee. He, too, put in a considerable number of hours in time and study and brought a different point of view to bear on the problems with which we dealt.

The gentleman from California (Mr. EDWARDS), a former FBI agent and a former ADA president, also spent a considerable amount of time on this.

We had different viewpoints expressed on the rules which were all helpful.

The gentlewoman from New York (Ms. HOLTZMAN) gave meticulous attention to the problems posed by the rules and to the questions to which we should address ourselves. She offered many helpful amendments in the subcommittee. She might not be satisfied with the final product, because I do not think she thought we needed new rules of evidence. That is a perfectly acceptable view, as some judges have.

The committee after this study has determined that it would be helpful to have these rules.

The gentleman from South Carolina (Mr. MANN) contributed much to our deliberations. He approached this, as he did other matters, in a very judicial and judicious manner. He enabled us to resolve many difficult points satisfactorily.

The gentleman from Indiana (Mr. DENNIS) possibly the most thorough student of the rules of evidence, at least in the opinion of some of us, brought a great deal of provocative thought to the inquiry into these regions.

I want to say that I have pointed out different people with different viewpoints and philosophies, and as I continue through the committee you will see that throughout all of this a great effort was made on behalf of the subcommittee and on behalf of the full committee to see that this subject was approached in a bipartisan and, better yet, in a nonpartisan way, because if there is one thing that we do not wish to do we do not wish to politicize our courts. This is kept in mind in the committee's work.

The gentleman from Maryland (Mr. HOGAN), a diligent worker on this project, a former FBI man who has his own views, will offer an amendment, I am sure, to certain of these rules.

The committee had some close votes on these questions. These are not issues where anybody is way off on one side. We have 5 to 4 and 4 to 4 votes. These are not easy questions and are not easily resolved. We found some of the same questions went through the advisory committee composed of 15 members on 8 to 7 votes.

Mr. Chairman, we devoted this time and effort to make these rules as equitable as possible and to see that all points of view were brought to bear on them.

The gentleman from Iowa (Mr. MAYNE), an outstanding member of the American Bar Association, has been active as a trial attorney. He is a man who, I would say, certainly brought that viewpoint as well as other helpful suggestions to the committee's work.

Mr. Chairman, I have mentioned these gentlemen because you are familiar with your colleagues in the House and you will see that this is not a liberal or a conservative work but, rather, is an attempt to do an honest piece of legal craftsmanship and one which will serve the public well as we search for justice in our courts.

Mr. Chairman, I would recommend this bill for your support.

I reserve the balance of my time and now yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise of course, in strong support of this legislation. I would like, though, to pay tribute to the gentleman from Missouri (Mr. HUNGATE), who is the chairman of this subcommittee, and to all of the members of the subcommittee who worked so many long hours in such good spirit. The gentleman from Missouri (Mr. HUNGATE) was the ramrod who kept our noses to the grindstone.

As the gentleman from Missouri (Mr. HUNGATE) has said, we had 6 days of hearings and 22 days of markup, and 3 days before the full committee, the whole taking about 9 months of time. It was indeed a difficult job, but a very rewarding job, I think, to all of us who participated in this exercise in trying to get down some rules of evidence that would be acceptable to the majority of persons, the majority of lawyers and the majority of litigants.

I would also like to pay tribute to our counsel, Herbert Hoffman on the majority side and Roger Pauley on the minority side, both of whom did such a fine job giving us the technical details as to what the present law is, what the proposals were, how the proposals differed from the present law, and what the trend of the law was. Our counsel are particularly to be commended, as well as the other aides whom we had before our subcommittee, and the other people, both from the Department of Justice and from the staff, who did a magnificent job of helping us in this difficult and technical area.

Mr. Chairman, the purpose of the Federal rules of evidence bill, as stated in rule 102, is to "secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined." Although these are lofty goals perhaps never completely attainable, this bill in my estimation will help to promote each of them and will improve the quality of our system of justice.

As the distinguished chairman of the subcommittee (Mr. HUNGATE) has noted, the Federal rules of evidence have been more than 12 years in the creation. Most of that time was devoted to the process of repeated drafting and redrafting of the rules by eminent lawyers, judges, and scholars within the Judicial Conference of the United States. Thereafter, when the Judicial Conference completed its work and transmitted the rules to Congress, the Subcommittee on Criminal Justice, on which I sit, spent approximately 9 months reviewing the rules, debating alternative formulations, circulating our tentative recommendations to the public for comment, and finally recommending to the full committee that the rules, as amended in certain particulars, be favorably reported to the House. The full Judiciary Committee, after further extensive consideration, overwhelmingly ordered the bill favorably reported on a voice vote.

As a result of this lengthy gestation period, the Federal rules of evidence as they reach this House have been subjected to the most careful scrutiny by distinguished persons of differing philosophies and backgrounds. Many of the rules represent choices among competing policies, and of course, to that extent, cannot be deemed absolutely correct or incorrect statements of the law, in the same way as one can characerize the solution to a problem in mathematics. On the contrary, there is room for disagreement among reasonable men and women as to the wisest formulation of almost every rule. In the course of the subsequent debate on these rules I have no doubt that amendments will be offered, including one by myself, which will permit the House to choose between contending reasonable positions. But, even though I do not regard these rules as perfect, I am convinced that the process of development which they have undergone has insured that in no instance is there a rule which is irrational or indefensible, and that as a whole the Federal rules of evidence constitutes a notable meeting of the minds within the legal community which will do much to expedite and enhance the conduct of trials in the Federal courts. Mr. Chairman, I urge their prompt enactment.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Michigan, the eminent ranking minority member of the Committee on the Judiciary.

Mr. HUTCHINSON. I thank the gentleman for yielding.

I simply wanted to take the opportunity at this point to state my support for this legislation, but I should like to make an observation and ask for a response from the gentleman. Up until this time the rules of evidence have not been reduced to statutory form; is that true? We never before had written them into statute?

Mr. SMITH of New York. This is correct as far as the Federal courts are concerned.

Mr. HUTCHINSON. Yes. We are talking about the Federal rules of evidence all the way along here. Up until this time the Federal rules of evidence have evolved out of court decisions and the rules of evidence have varied from circuit to circuit within the country; is that correct?

Mr. SMITH of New York. That is correct.

Mr. HUTCHINSON. The purpose of this bill is to provide a uniformity within the Federal rules of evidence so that the same rules of evidence will apply uniformly throughout all of the circuits; is that correct?

Mr. SMITH of New York. Throughout all of the circuits and all over the United States.

Mr. HUTCHINSON. There is one problem that occurs to me. Since in the past the rules of evidence have evolved and changed over a period of time, I want to inquire as to what the effect of putting them into statutory form wil be. Will this effectively freeze them so that there can be no changes in the rules of evidence henceforth except by coming back to Congress and asking Congress to amend the statute?

Mr. SMITH of New York. As I understand the gentleman, the bill provides that the Supreme Court may from time to time recommend to the Congress changes in the rules of evidence or perhaps proposals for rules of evidence in areas which we do not now perceive, and that those new or amended rules of evidence shall become part of the codified rules after 180 days, if I remember correctly, from submission to the Congress, unless they are vetoed by either House within that time. We have tried to provide for the growth and expansion of the law of evidence but with some check on it so that the Congress can look at it and make a decision.

Mr. HUTCHINSON. I thank the gentleman. Let me put one more question. Will it be possible henceforth for there to be additional rules of evidence, that is, that there will continue to grow within each of the several circuits some additional evidentiary rules which might not be codified and which might not be submitted to the Supreme Court, and there will perhaps be in the future some evidentiary rules which will not be uniform throughout the country because they will grow up differently in the various circuits?

Mr. SMITH of New York. I think the gentleman is correct in that statement and I can foresee, for instance, in areas in which the codified rules of evidence may not cover, that there, as the new question occurs in a court, the judge of that court will make a rule to cover the occurrence and to cover the admission or nonadmission of that evidence in that particular court and that particular case. I suppose to that extent the law of evidence will grow in that way. It will be as it has been in the past, those rules have been subject to review by superior courts and finally will become to be the accepted and uniform rule at least to the extent the Supreme Court makes a final determination for the whole country. Otherwise, there may be some different rules in some different courts in regard to those positions which may not have been covered by the present law.

Mr. HUTCHINSON. But so far as the codification itself is concerned it would not be possible legally for a judge in any court to provide a rule of evidence at variance with this modification. So far as the codification reaches, it will be uniform throughout the country.

Mr. SMITH of New York. I would say to the gentleman that is correct. In many of the rules that we have proposed, the judges have a certain amount of discretion as to whether to allow evidence in or out depending upon the cases as outlined in the codified rule.

It would be my answer that a judge would not be able to hold adversely to the codified rules of evidence and that the only way those could be changed would be through further legislation. In the event that some rule turns out in practice to be one that reasonable people would agree ought to be changed, it would be subject to further legislation for amendment.

Mr. HUTCHINSON. I thank the gentleman very much for his responses.

Mr. HOGAN. Mr. Chairman, I would like to take this opportunity to commend the gentleman in the well and the chairman of the subcommittee. Of all of the activities I have been engaged in since I have been a Member of Congress, this work on the revised rules of evidence has required a greatest expenditure of time and effort. However, all matters were handled in the fairest, most cooperative, and most judicious way of any congressional activity that I have been associated with.

Mr. Chairman, I will probably support various amendments to the committee bill, but at this time I would like to focus the attention of my colleagues to rule 609, impeachment of the credibility of a witness by evidence of conviction of a crime.

My objection to the committee's version extends not only to the fact that the rule as drafted by the Judiciary Committee rejects the version of the rule recommended by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States, but also it abrogates the prevailing view in the Federal and State courts. I object even more to the Judiciary Committee's clear disavowal of the congressional mandate expressed as recently as 1970 on the principle underlying this rule.

I offered an amendment before the subcommittee and full committee to restore the version of the rule recommended by the Advisory Committee on the Rules of Evidence of the Judicial Conference of the United States. I believe it important to look at the policy behind the formulations and reformulations which this impeachment rule has undergone throughout the course of consideration of these proposed Federal rules. There is set forth below the precise language of each of these formulations:

> March 1969 Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime, (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (2) involved dishonesty or false statement regardless of the punishment.
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> March 1971 Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime, except on a plea of *nolo contendere*, is admissible but only if the crime (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted or (2) involved dishonesty or false statement regardless of the punishment, unless (3), in either case, the judge determines that the probative value of the evidence of the crime is substantially outweighed by the danger of unfair prejudice.
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> December 1972 Draft: Identical with March 1969 Draft.
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> Subcommittee Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime (1) was punishable by death or imprisonment in excess of one year, unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2) involved dishonesty or false statement.
>
> Judiciary Committee Draft: Rule 609(a) General Rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime involved dishonesty or false statement.

The conventional and majority judicial view of the impeachment rule has been that an accused who elects to take the stand is subject to impeachment as any other witnesses, including impeachment by proof of conviction. The raging debate over impeachment of the accused's credibility by conviction of crime exemplifies the continual attempt by all involved with the judicial system to balance the scales of justice between the rights of the individual and the rights of society.

It is for this very reason that the draftsmen of the March 1969 draft of the proposed rules specifically undertook to study and evaluate every formulation of the impeachment rule brought to their attention. Reduced to their essentials, these included the following six alternatives:

(1) Allow *no* impeachment by conviction when the witness is the accused.

(2) Allow only *crimen falsi*.

(3) Exclude if the crime is similar.

(4) Allow conviction evidence only if the accused first introduces evidence of character for truthfulness.

(5) Leave the matter to the discretion of the trial judge.

(6) Allow impeachment by conviction when the witness is the accused—the traditional and majority rule among the State and Federal Courts.

After giving consideration to each of these six proposals, and concluding that each was only a partial solution or, at the least, no clear improvement, the Advisory Committee chose to promulgate the sixth possibility, thereby retaining the rule of the overwhelming majority of Federal and State courts as well as the views unhesitatingly expoused by Dean Wigmore, renowned expert on evidence. See 3 Wigmore, section 889–891. This formulation adopts the prevailing prosecutorial view that it would be misleading to permit the accused to appear as a witness of blameless life on those occasions when the accused chooses to take the stand.

The first alternative above, that of excluding all convictions of the accused for impeachment purposes, has been given short shrift because there is little dissent from the proposition that at least some crimes are relevant to credibility. See McCormick § 43 (2nd ed. (1972); 2 Wright, *Federal Practice and Procedure:* Criminal § 416 (1969).

In the second draft disseminated in March 1971, the Advisory Committee on the Rules of Evidence, totally without explanation, reversed its earlier position adopting the majority rule of Courts throughout the country and instead adopted the fifth alternative above. In effect, this was a particularized application of the Luck rule, expounded by the U.S. Court of Appeals for the District of Columbia in *Luck* v. *U.S.*, (121 U.S. App. D.C. 151, 348 F.2d 763) in 1965. The most significant feature of the rule is the requirement that the evidence of conviction be excluded if the judge determines that its probative value is outweighed by the danger of unfair prejudice. In July 1969, the Congress specifically repudiated the Luck rule when it enacted the traditional rule as the impeachment rule to be followed in all criminal trials in the District of Columbia. The D.C. Court Reorganization and Criminal Procedure Act of 1970, incorporating the traditional impeachment rule, was approved by the House by a vote of 294 to 47.

The Advisory Committee took note of the 1969 congressional pronouncement on the impeachment question and returned to its original position in endorsing the traditional rule in the third and final version which was submitted to this Congress for our consideration and enactment in December 1972.

In spite of the fact that the eminent members of the bench and bar who made up the Advisory Committee on the Rules of Evidence made their position clear, the majority of the House Committee on the Judiciary rejected the majority rule in the State and Federal courts and have changed the rule once again. But with this change the dimensions of the rule are totally immeasurable either from a prosecutorial or from a defense viewpoint. The Judiciary Committee has seen fit not only to renounce the traditional rule which is that under which their fellow members of the bar labor in the majority of their Federal courts and in 90 percent of their State courts but the majority of the full Judiciary Committee has also defeated the compromise effected by the Subcommittee on Criminal Justice after many hours of arguing the merits and demerits of the various alternative formulations.

The rule which the majority has now settled upon is, of all the alternatives set out above, the most unsettling. Allowing only evidence of the crimen falsi to impeach the credibility of the accused adopts only the worst feature of the Luck rule, that is, unpredictability, without bestowing upon the bench and bar any useful new tool for coping with the evidentiary problem which is at the heart of this debate.

When the draftsmen of the Advisory Committee on the Rules of Evidence originally rejected the crimen falsi alternative for rule 609, they did so because most of the crimes regarded as having a substantial impeaching effort would be excluded, resulting in virtually the same effect as if the alternative allowing no prior convictions for impeachment purposes were adopted.

In the commentaries to the first draft, the Advisory Committee on the Rules of Evidence noted:

> While it may be argued that considerations of relevancy should limit provable convictions to those of crimes of untruthfulness, acts are constituted major crimes because they entail substantial injury to and disregard of the rights of other persons or the public. A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

A further argument against adoption of the crimen falsi alternative, as noted above, is that of its unpredictability and its uneven application to criminal defendants across the board. One of the major objections to the Luck rule in the District of Columbia, and one of the major reasons that it has failed to be adopted in most of the other Federal circuit courts, is that the discretionary authority which Luck vests in the trial judge imposes another discriminatory element into an already overly criticized criminal justice system in this country.

Even more so is this true of the crimen falsi alternative. What, really, is dishonesty or false statement in judicial or legal terms? Unless one practices in a jurisdiction which has statutorily defined crimen falsi, the common law definition of "any crime which may injuriously affect the administration of justice, by the introduction of falsehood and fraud" is applicable. This definition has been held to include forgery, perjury, subornation of perjury, suppression of testimony by bribery, conspiracy to procure the absence of a witness or to accuse of crime, obtaining money under false pretenses, stealing, moral turpitude, shoplifting, intoxication, petit larceny, jury tampering, embezzlement and filing a false estate tax return. In other jurisdictions, some of these same offenses have been found not to fit the crimen falsi definition.

From the foregoing analyses undertaken by the eminent professors, jurists and lawyers of the Advisory Committee, as well as by my colleagues on the Committee on the Judiciary, I am convinced that the only viable alternative is that which has stood the test of time. If for no other reason than that the other considered alternatives are no improvement over the shortcomings of the traditional, I shall offer an amendment on the floor to reinstate the traditional, majority rule as promulgated by the Advisory Committee on the Rules of Evidence of the Judicial Conferences of the United States, and as it is known in the majority of our American courts. I am hopeful that this amendment will receive the support of the House as it did in 1970 when the crimen falsi alternative was specifically voted down in the D.C. Court Reorganization and Criminal Procedure Act of 1970

Mr. McCLORY. Mr. Chairman, I rise in support of H.R. 5463—or I join my colleagues in supporting this legislation. This bill is the very thoughtful work product of almost 8 years of labor by the Judicial Conference and the Supreme Court, and approximately 9 months of study by the Subcommittee on Criminal Justice. The actual work effort goes back to 1961 when an ad hoc committee created by the then Chief Justice Warren determined, in the face of criticism and confusion, that uniform rules of evidence for the Federal court system was both "advisable and feasible." Later the 16-member Advisory Committee on Rules of Evidence was appointed.

In 1968 preliminary recommendations on the Federal rules were issued by the Advisory Committee, and on the basis of public reaction, the revised rules were handed down in 1970. These revised rules were then carefully scrutinized by the U.S. Judicial Conference, which, in response, to even further public comments and criticism, revised the rules even more carefully. The Judicial Conference sent its final report to the Supreme Court in 1971.

I do not stress the labor expended by the various groups for its own sake, but to suggest that the length of time spent by these divergent groups of different philosophies should mitigate our concern about any hasty consideration of the Federal rules of evidence.

This long and thoughtful review has resulted in weeding out the bad and the extreme positions and has resulted in carefully drawn rules. On the whole I believe the rules that emerged will be very useful to both lawyers and litigants and will bring uniformity to all of the Federal courts of the Nation.

I should point out, however, that my sponsorship of this legislation does not indicate blanket endorsement of all of the rules. There are a few areas that I am sure all of us do not agree on. I would have preferred specific privileges instead of the general rule.

However, I want to state emphatically my general support of the outstanding work performed by the members of the Supreme Court, the Judicial Conference, and the American Bar Association's Special Committee on Federal Practice and Procedure.

While one may not agree with every provision of the bill, it is indeed an overall good group of rules and as such represents an advance in the law of evidence.

Mr. Speaker, in supporting H.R. 5463, it is my hope that the main body of these rules may be approved for the benefit of the Federal courts and the Federal judges and magistrates, as well as the attorneys who practice in our Federal courts.

Mr. HUNGATE. I yield to the gentlewoman from New York (Ms. HOLTZMAN) 15 minutes.

Ms. HOLTZMAN. Mr. Chairman, I hope I will not consume all of the 15 minutes, but I do want to make a few points about the rules of evidence.

Although I think the Subcommittee on Criminal Justice did an extraordinarily fine job and I was very proud to participate as a members of that subcommittee, I do not think these rules should be enacted into law.

At the present time, rules of evidence in Federal courts are not codified. Instead, the growth of our evidentiary law has been taking place over 100 years on a case-by-case basis. Codifying rules of evidence, therefore, marks a drastic departure from a centuries-old tradition. Before taking such a radical step, we ought to be sure that it is both necessary and wise.

In my view, there is no need to freeze principles of evidence into black letter law. As the former Chief Judge of the Second Circuit Court of Appeals, Henry Friendly, stated:

> (T)here is no need for [the proposed Rules]. Someone once said that, in legal matters, when it is not necessary to do anything, it is necessary to do nothing. I find that a profoundly wise remark. We know we are now having almost no serious problems with respect to evidence; we cannot tell how many the Proposed Rules will bring.

Nowhere in the course of the subcommittee's examination of this matter was the need for changing our past practice clearly demonstrated. In fact, the subcommittee never specifically solicited comments from the bar as a whole on the need for a code of evidence. And, if lawyers and judges were asked this specific question, I am not sure that we would find great support for codification.

Not only was no compelling need to codify the rules shown, but the dangers of codification have become very apparent. Black letter rules will make evidentiary points high profile. Presently, evidentiary rulings are generally not considered critical at a trial. Once we adopt a "black letter" code, lawyers will have a field day determining how many evidentiary angels can dance on the top of a pin. The rules may thus generate appeals and increase reversals on evidentiary rulings.

Another thorny problem this codification will produce is forum shopping. Because this code substantially liberalizes the hearsay rules, Federal courts may become a more attractive forum for litigation. This is not, however, a time to increase the workload of the already congested Federal courts. Nor is there any substantial justification on a hearsay issue for a different outcome in a Federal court when State law is involved.

The basic problem, as I see it, is with the difficulty of codification itself. These rules are going to be used every day in every Federal court in the United States. Every word of these rules is going to be extremely important. Yet, despite the conscientious work of the committee, there are a number of rules which are not well drafted and which will have a harmful impact that none of us can foresee.

Let me give you an example. Rule 803-8(B), if it becomes law, will basically allow the reports of government personnel—State, Federal, city, and county—on matters they have observed in the course of their duty to become substantive evidence in criminal and civil cases without the right of cross-examination.

Thus, a social worker's report of a random observation of a marital relationship could be introduced in a criminal case against one of the spouses. Similarly, a policeman's report containing an observation of an alleged criminal offense could be used in the criminal trial instead of having the police officer himself testify. This represents an extraordinary departure from existing law. It gives more credibility to the observations of government employees than are given to observations of private citizens.

Because the subcommittee perceived this as a minor rule, and because we received no comments on it, we failed in our deliberations to appreciate its significance and it slipped through. Although the subcommittee did a very methodical and careful job, other "problem" rules may have slipped through, too.

There are also problems with rules concerning the admission of unfairly prejudicial evidence, rule 403; best evidence rule, article 10; use of an accused's testimony on preliminary matters, rule 104(d); statements in documents affecting an interest in property, rule 803(15); authenticity of commercial paper; rule 902(9), authenticity of handwriting; rule 901, hearsay use of telephone directories and similar publications, rule 803(17), and use of court appointed expert witnesses, rule 706.

Another major problem with the present bill is the procedure for amending rules of evidence. Under the committee bill, the Supreme Court may propose amendments to the rules we enact here which become law unless the House or Senate vetoes those amendments. Many rules of evidence, however, involve major policy questions, especially rules of privilege—such as husband and wife, lawyer and client, or newspapermen's privilege. By creating privileges, we express a desire to promote a social objective: for example, promoting a free press, encouraging clients to be candid with their lawyers, and so forth.

Rules creating, abolishing, or limiting privileges are, therefore, legislative. Nonetheless, under the committee bill we would be allowing the Supreme Court to legislate in the area of privilege subject only to a congressional veto. This procedure is unwise since rules concerning privilege, if enacted, should be done through an affirmative vote by Congress.

The amendment procedure is not consonant with the proper exercise of congressional prerogatives. Therefore, I intend to propose an amendment that will prevent any proposed rule, which seeks to change the law of privileges, from going into effect unless Congress acts affirmatively to approve it.

Mr. DENNIS. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I am sure my colleague from New York will agree, at any rate, that on the point we have been talking about regarding amendments to the rule. We have in our proposed bill here ameliorated the subject as it existed previously.

Before, the court asserted the right, at any rate, to submit these rules under a provision where they became effective within 90 days and required a veto of both Houses, whereas we now provide 180 days and either House can nullify the rule, so that to that extent at least we have given the Congress greater power than before.

Ms. HOLTZMAN. Mr. Chairman, I certainly agree with my colleague that we have given the Congress greater power than it had under the Enabling Acts, but I think we have not given Congress enough power and have given the Supreme Court too much power. In fact, as the gentleman from Indiana will recall, there was a question raised in our hearing as to whether the Supreme Court has the power under article III of the Constitution to promulgate ex cathedra substantive rules such as rules of privilege. So, we may be unconstitutionally delegating power to the Supreme Court under the enabling provision in the committee's bill.

Mr. DENNIS. Mr. Chairman, I understand that problem, although the decision seems to have been the other way except for Justice Douglas.

Along these same lines, it would also be true that if the Court comes in now with anything, for instance, on the matter of privilege, at least we will have an opportunity to pinpoint that subject and to debate it separately from the great mass of rules of evidence such as would have been the case if we had not taken section 5 out of this particular situation.

Ms. HOLTZMAN. That is true, but the Supreme Court might promulgate rules in an area in which we in Congress feel that there is no need for codification, for example, in the matter of privilege. This might occur even though Congress has already considered and rejected codification.

The proposed procedure is unwise in several basic respects. First, the procedure requires Congress, under the pressure of a deadline, to veto any proposed action by the Supreme Court. We have considered these rules extensively over a long period of time. This should be evidence of the danger of being forced to react to the lead of the Supreme Court.

Second, the Supreme Court is not inherently equipped to decide many of the substantive questions of policy interwoven into many of the rules, particularly when these policy decisions of the Court would be made outside the judicial crucible of a case or controversy. Incidentally, Justice Douglas stated that the Supreme Court was merely a conduit in the production of the rules which we initially considered in committee. Therefore, Congress cannot be certain that it will be the wisdom of the Justices which is involved in promulgating a rule.

In matters as important as privileges—husband-wife, lawyer-client, newspaperman—Congress should always act explicitly and affirmatively. Legislation by inaction is not a practice which this body can adhere to and command the respect of the American people.

Finally, I do not think the present state of the enabling act is either constitutional or consonant with our concept of congressional prerogatives.

For the foregoing reasons, despite the splendid job the committee has done in making these rules preferable to those originally submitted, I would urge the Members to consider carefully the question of whether or not we need codification at this time.

Mr. HUNGATE. Mr. Chairman, if there is no objection, I will proceed for just a moment.

Mr. Chairman, I would want to say that the members of the committee recognize how charming the distinguished lady is, even in disagreement, and I think she suggests the arguments to that point as to whether or not there need be codification as well as those arguments can be presented.

Her contribution and thoroughness and study of these rules have saved us from many a stubbed toe and many an error. She has been a very valuable member of the subcommittee and of the full committee in working on the rules.

I would say as to the matter, if I understand the facts correctly, that we are told that about 25 percent of the appeals with which the courts deal, deal with questions of evidence. I recognize that we cannot rely altogether on statistics. As the fellow said, "You can prove by statistics that sitting in the front row of a burlesque theater makes you baldheaded," so we had to rise above statistics, although we cannot ignore them in a case of this kind.

Mr. Chairman, I would also say——

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. Mr. Chairman, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, was the gentleman referring to my bald head?

Mr. HUNGATE. Mr. Chairman, the gentleman from Missouri would not include the gentleman from Iowa unless he requested to be joined.

Mr. Chairman, the Federal Rules of Civil Procedure, which I believe went into effect in 1938, went into effect under the enabling act which became effective in 1934.

In essence this is what it really involved, as I see it, although the Congress took no action at that time, and it went on through. I say that because I hope it will be a favorable comparison to the study or at least the action taken at this time.

Mr. Chairman, I certainly would not urge this bill is perfect, because as my predecessor who spoke stated, this bill is not perfect. But the Sun has its spots, the diamond has its flaws, gold will not rust and the good will shine through.

Mr. SMITH of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I thank the gentleman from New York for yielding this time to me.

At the outset I wish to commend the gentleman from New York and the distinguished chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE) for their splendid performance in guiding this subcommittee through a very difficult and lengthy task, indeed. They have presided over our consideration of the rules of evidence with great distinction and success.

I say that as one who at the outset was not at all enthusiastic about having a congressional subcommittee or committee, or the full House, for that matter, get so deeply involved in the day-to-day problems of trying to evolve detailed rules of evidence.

I will also say in response to the comments made by the gentlewoman from New York that, as a longtime practicing attorney in the Federal courts, I feel very strongly that to have this codification with Federal rules of evidence finally written down in one convenient place is going to be a tremendous asset as a working tool to the practicing lawyer and to the client of the practicing lawyer. It will be particularly helpful to young lawyers throughout the country who are not as familiar as older, more experienced trial lawyers with what you have to do to get into Federal court and try a case before a judge and perhaps a jury. Younger lawyers are now at a very considerable comparative disadvantage when they have to contend with oldtime veterans who have a vast store of practical know-how and experience with the day-to-day workings of the court. They are familiar with what rulings to expect on the evidence in one Federal district court which may be very different from those in another court in the absence of any uniform Federal rules of evidence. They are well versed in all of the idiosyncrasies and preferences of the sitting trial judge and may not hesitate to exploit this familiarity, perhaps unfairly, at the expense of the person who is represented by a less experienced or younger lawyer.

I think the concept of having a codification of the Federal rules available to all members of the trial bar is very salutary and particularly it is going to enable the young members of the bar to become effective, full-fledged practitioners much earlier than would otherwise be the case.

Mr. Chairman, my diffidence about having the Committee on the Judiciary, and our Subcommittee on Criminal Justice get into a revision of the rules submitted by the Supreme Court so deeply was that I had a healthy awareness and respect for the tremendous amount of work which had already been done on these proposed rules through a period of many years by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States.

This goes way back to 1958, I will say to the Members of the House, when the Judicial Conference of the United States was authorized by the act of July 11 to carry on a study of the operation and effect of the rules of practice and procedure and to recommend to the courts such changes and additions as to the conference might deem desirable.

The Judicial Conference authorized its Chairman, the Chief Justice, to appoint a Standing Committee on Rules of Practice and Procedure and thereafter referred requests for rules changes to such committee. In March 1961, upon the standing committee's recommendation, the Judicial Conference authorized appointment of an ad hoc advisory committee on rules of evidence. The Chief Justice appointed to this committee Prof. James William Moore, chairman, Hon. Dean Acheson, Judge Phillip Forman, Judge John C. Pickett, Judge Walter L. Pope, and Judge E. Barrett Prettyman as members, Prof. Thomas F. Green as reporter.

This committee, after studying the matter carefully, made its final report in 1963 and stated—

> It was feasible and desirable to formulate uniform rules of evidence to be adopted by the Supreme Court for the United States District Courts.

The recommendation was transferred to the Judicial Conference, which approved the recommendation in March 1963. Then on March 8, 1965, pursuant to that approval, the Chief Justice of the United States appointed a really top-flight Advisory Committee on Rules of Evidence of the Judicial Conference. He appointed Albert E. Jenner, Jr., chairman, Prof. Edward W. Cleary of Champaign, Ill., as reporter. Other members were Judge Sobeloff, Judge Estes, Judge Van Pelt, Prof. Thomas Green, Professor—now Judge—Weinstein, Professor—now Judge—Joiner, David Berger, Hicks Epton, Robert Erdahl, Egbert Haywood, Frank Raichle, Herman Selvin, Craig Spangenberg, and Edward Bennett Williams.

From 1965 until 1971, when the report was finally submitted, this distinguished committee was made up of leading lawyers who are daily trying lawsuits in the district courts of the United States all over the country, the cream of the trial bar, and also included a number of the most knowledgeable judges sitting in the trial courts in the federal system, plus some of the best legal scholars in the academic world, law professors who have been considered the outstanding academic experts in the law of evidence. All of these, the trial bar, the trial and appellate bench, and the legal faculties were fully represented on this distinguished committee. It is their work product, that we essentially are going to be acting on next week and which we are discussing today. And I think it only appropriate to inform the House of the many hours, days, and months that the Advisory Committee devoted to its important task.

The Subcommittee on Criminal Justice and the full Committee on Justice, Committee on the Judiciary, have made some changes, but more than half of their work product was not changed at all.

The advisory committee started by holding 14 sessions, usually of 3 or 4 long days each, in Washington, D.C., between June 18, 1965, and December 14, 1968. At these the members discussed, frequently amended and approved or disapproved the draft rules and comments prepared by the committee's very capable reporter, Prof. Edward W. Cleary.

At the committee session in December 1968, the advisory committee approved a preliminary draft of the complete rules, which it transmitted to the standing committee on January 30, 1969, for publication.

This preliminary draft was printed in pamphlet form and widely circulated to the bench, the bar, and the teaching profession in March 1969, with the request that comments and suggestions regarding it be transmitted to the standing committee by April 1, 1970.

A great many comments, suggestions, and proposals for changes were received during that year and up to August 1970, and were made available to the advisory committee and its reporter. All of them were given full study by the reporter and were considered by the advisory committee at two sessions in May and August 1970, extending over a total of 10 days.

As the result of this consideration, a great many changes were made in the preliminary draft to reflect changes made by the advisory committee pursuant to suggestions received from the public.

The rules as thus revised were approved by the advisory committee and were transmitted by the standing committee to the Judicial Conference, which, at its session in October 1970, approved them and forwarded them to the Supreme Court with the recommendation that they be promulgated.

The Court, however, believing that the public should have an opportunity to see and comment upon the rules in their final revised form, returned them for republication and further study in the light of any comments which might be received thereon.

Arrangements were accordingly made with West Publishing Co. to publish the final draft in the advance sheets of the Supreme Court Reporter, the Federal Reporter, the Federal Supplement, and the Federal Rules Decisions. This was done in March and April 1971, and a large number of reprints were distributed to those specially interested.

Comments with respect to the final draft were received from a number of individuals and organizations, including the Department of Justice and the chairman of the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary.

These suggestions were fully considered by the advisory committee and by the standing committee, and a number of changes of the draft were made in response to them. The revised definitive draft which incorporated these changes was approved by the Judicial Conference at its session in October 1971, and again forwarded to the Supreme Court with the recommendation that they be promulgated by the Court on November 20, 1972.

As Judge Albert B. Maris, Chairman of the Standing Committee of the Judicial Conference on Rules of Practice and Procedure, testified before our subcommittee on February 7, 1973:

> The Rules of Evidence which the Court has now promulgated have had the most thorough and lengthy consideration, not only by the Judicial Conference and its two committees which are primarily responsible for their form, but also in very real sense by the members of the bench, the bar, and the legal scholars of the country who are interested in the subject.
>
> The part the members of the profession have had in developing and refining the rules will be apparent when the final draft as promulgated by the Court is compared with the preliminary draft published in March 1969. And it is fair to say that the vast bulk of the comments received by the committees was favorable and constructive. This is not to say that there was no opposition voiced to the project as such, as well as to individual rules.
>
> But as to the usefulness of the project as a whole, I need only say that the Judicial Conference decided that question 10 years ago, after the most careful study and consideration, and its decision has been applauded by an overwhelming chorus of Federal district judges and trial lawyers who believe, as the Judicial Conference does, that the existence of a readily available and authoritative statement of the rules of evidence will be extremely helpful in conducting the trial of cases in the district courts, will reduce the possibility of erroneous rulings, and thus the number of appeals, and will generally expedite the trial of cases.

Mr. Chairman, I say to you we are at the end of a long and difficult trail when we finally reach this point where we ask the House for approval of these rules.

It will be seen from above that the

advisory committee's drafts were published in the West Publishing Co.'s reports and given wide circulation. Thousands of comments came in. The advisory committee then revised the drafts and went through this process over and over again and finally submitted their work product to the Judicial Conference, which approved it, and then to the Supreme Court, which also approved it. And now with some additional changes made by our subcommittee and the full Committee on the Judiciary, we have it before us today.

Mr. Chairman, I say and I said last February that I feel our subcommittee has bitten off a big order. We have undertaken to superimpose our judgment as to what should be in the rules of evidence over that of the very distinguished advisory committee. Thus after there had been so much input into their work from so many judges and lawyers and legal scholars all over the United States writing in their comments. After considering all these suggestions and incorporating many of them the advisory committee finally came up with a product of which the entire legal profession could be proud.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of New York. Mr. Chairman, I yield 5 additional minutes to the gentleman from Iowa.

Mr. MAYNE. And then along comes the Congress of the United States and says "Not so fast. We do not care how prestigious the advisory committee is or how much time it spent on the rules. The lawyers in Congress think they know something about the rules of evidence too and they want to have a hand in the final work product."

So at the beginning of the 1st session of the 93d Congress it became evident that a majority of Members of this body did feel that the rules should be much more carefully examined by the Judiciary Committee. That task was delegated to our Subcommittee on Criminal Justice. And although I was in the minority who felt that we should let the rules proposed by the Supreme Court go into effect promptly and should not incur the long delays which would result from a congressional examination.

I have in good grace tried my best to work constructively with the subcommittee in trying to improve the rules submitted by the Supreme Court. I am not confident that we have in some respects, at least, really improved the final result, but in others I am sure we have.

At any rate, we have done the best that we could, in 24 long working sessions of the subcommittee and several meetings of the full committee. Certainly under the zealous and untiring leadership of the gentleman from Missouri (Mr. HUNGATE), the chairman of the subcommittee, we have devoted a lot of time, and I am hopeful we have come up with an overall sound result which the House can in good conscience accept.

There is one rule of evidence on which I am going to be constrained to offer an amendment next week, which will be printed in the RECORD within the time required by the rule, and that rule 405 (a). I want my colleagues to be notified that this amendment will be forthcoming.

The following recommendation was made by the advisory committee as a method of proving character in rule 405 (a):

> (a) Reputation or opinion.—In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation *or by testimony in the form of an opinion.* On cross examination, inquiry is allowable into relevant specific instances of conduct.

But now the Committee on the Judiciary has stricken the words in italic "or by testimony in the form of an opinion."

This reverts to the former and now widely discredited rule that a person's character can only be proved by showing their reputation and not by showing one's opinion as to that character. This clearly is an antiquated rule which modern courts have been rejecting. I will ask the House of Representatives in its wisdom to adopt modern concepts of evidence which permit testimony on the basis of an opinion.

In support of this position I call my colleagues to the recent decision of *United States* v. *Joseph Armand Oliver* (No. 73-1283) handed down by the Circuit Court of Appeals for the Eighth Circuit on November 14, 1973.

I will offer that at the appropriate time, and hope that my colleagues will support my liberalizing amendment to rule 405 (a). More important, however, is prompt action approving all of the proposed rules now before us. Inasmuch as the other body is apparently waiting on us before taking any action whatsoever, it is incumbent on us to expedite final House action in every way possible.

Mr. HUNGATE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I again wish to commend the gentleman from Iowa on his contribution, not only today but throughout the work of the committee, on this difficult task of providing a codification of the Rules of Evidence. I think the points he makes are particularly noteworthy, also taking into consideration the people who have studied them over a period of 12 or 13 or 14 years, and these were also accomplished by the committee; also the fact that many courses were offered, many cassettes were sold, and many books were printed as to how these rules would affect the practice of law beginning last July 1.

I think it does show there is an expectation on the part of the bench, the bar, and the law schools of the country, that such a codification would take place.

I appreciate the amendment which he has referred to and which he may offer.

I should like to say that throughout the work of the committee we have taken the position that many amendments have improved the bill. That is the objective of our work, not a proprietary matter, and we seek to have the House work its will on each of these with our goal being to establish the most equitable system of the Rules of Evidence we can, recognizing that any man's life or liberty may turn on just such questions as these.

I should also like at this time, Mr. Chairman, to commend the ranking Republican member on the full committee, the gentleman from Michigan (Mr. HUTCHINSON) who in his usual quiet but thorough way has contributed a great deal to the deliberations of the subcommittee and the full committee on this project. I should also like to say that I think we have been blessed with excellent staff work by the staffs of the majority and minority put together, who seemingly were tireless in meeting the demands which we made upon them and who should receive a large measure of credit for any success the committee's work may have.

Mr. Chairman, I yield back the remainder of my time.

Mr. SMITH of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, it has been a pleasure to me, as I think it has been to all members of this subcommittee, to work, all of us together, on this very important, complicated, and technical legal matter—the codification of the rules of evidence for the U.S. courts.

The chairman of the subcommittee, the gentleman from Missouri (Mr. HUNGATE) the ranking minority member, the gentleman from New York (Mr. SMITH), all members of the committee, subcommittee, and the staff—Herb Hoffman and Roger Pauley—have done a very, very good professional job.

When I first started to practice law, now some years ago, I worked for a man who was a good lawyer, and he was telling me one day about one of our colleagues at the bar.

He said: "There is not a nicer fellow around than so-and-so. He is an awfully nice guy but there not being many pictures in these laws books he just does not read them much."

It is a difficult and complicated subject and I would be reminded of that story about my colleague of those days by the sparse attendance here of the members of the bar in this body if it were not for the fact that I realize this sparse attendance is caused in large part by the vagaries of our scheduling here. We really were not expecting, nor were we expected to have, this general debate, as I understand it, until probably tomorrow, and I am afraid that there are probably a great many Members of this body who are also members of the bar who might like to be here and would be here if it were not for that situation. That is regrettable.

This is at least the second time this has happened to an important bill I was interested in this session. The other was the war powers bill, probably one of the most important bills ever before this body, and yet we managed to schedule it so that the general debate took place between about 9:30 p.m. and midnight, when most sensible people had gone home. We are confronted with that same problem here today, which I find unfortunate.

One of the questions in considering a code of evidence is whether or not we should have a code at all, as my colleague, the gentlewoman from New York (Ms. HOLTZMAN), has pointed out and which was also touched upon by my colleague, the gentleman from Iowa (Mr. MAYNE).

I personally do not think the heavens will fall if we do or if we do not have a code of evidence in the Federal courts. Lawyers have managed to practice without one for a great many years and I am quite sure they could continue to do so.

On the other hand there are advantages to having a code. There is the matter, too, which is part of uniformity, of expedition in the course of trials. If everybody knows pretty well what the rules are we could probably save some time in colloquies at the bench as to what rules of evidence ought to apply and that sort of thing, and there may be something to this business, as my friend, the gentleman from Iowa (Mr. MAYNE), says of people more or less being on a uniform footing, although that comes awfully near to the heretical argument that it ought to be easy for everybody to practice law.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Iowa.

Mr MAYNE. Mr. Chairman, would the gentleman concede that perhaps his feeling in this respect grows stronger as his experience in the law grows greater and his comparative advantage over the beginning practitioner becomes more pronounced?

Mr. DENNIS. The gentleman may be correct. As a matter of fact I think, facetiousness aside, I am not really worried about the fact that this subject will ever get too simple or that having it in a code will make it all that much simpler.

My father, who was also a lawyer, told me it was a pretty good idea to know something about the common law. Otherwise, he said, the legislature may repeal everything one knows. I think that sentiment applies to the rules of evidence, regardless of the fact that we may have a code.

It might be worthwhile to just briefly run over the topics we are covering here because when we do it we will see we really have made a pretty wide, sweeping approach to the subject of evidence. We have covered the field pretty thoroughly, and I think we have done a good job.

In the first place a very distinguished committee of lawyers and law professors worked on this code for many years under the aegis of the Supreme Court. In the second place I think our subcommittee, made up of practicing lawyers, has done a pretty thorough job of going over that work. Most of this code is a codification of existing law, hopefully adopting the better view where there is a dispute, and such innovations and departures as are made I think are those which take off naturally from that foundation.

Probably, as we finished, we have made fewer new departures in the code than it contained as it came to us and as it was presented.

So I think we have a good piece of work here, as well as an extensive one.

In the bill there is first a section on the general subject. Then we take up the question of judicial notice; then the very complicated matter of presumptions; then the question of relevancy; then the matter of privileges, which we actually left as it is, finally, and which I touched on in my remarks on the rule.

Then there is the question of witnesses; then opinions and expert testimony; then the great subject of hearsay and exceptions to the hearsay rule.

Then there is authentication and identification; contents of writings, a miscellaneous section, and a section about amendments; so it is a pretty all-inclusive piece of work which was given much study by those working in this field.

Also, the code makes a difference not only to the people who work in this field, but to the people they work for and who have business in the courts.

Now, in the time available I am just going to touch on a few of these subsections and on a few of the things we did.

On judicial notice, for example, there is a dispute whether or not when the court takes judicial notice of something it is any longer possible to put in evidence to contradict it. Of course, one has a right to argue about it until the court arrives at that conclusion; but once the court takes judicial notice, is that disputable any longer?

The school of thought that I more or less belong to says judicial notice is just another piece of evidence. One puts in evidence against it just as he puts in evidence against anything else.

The code as presented to us took the position that the court, once it took judicial notice, would give a binding instruction. It was a fact for that case and could not be contradicted.

As we finally wound up, that is the rule adopted in civil cases, but not in criminal cases, because we felt there that the court would be out of line telling the jury they had to accept anything as a fact. They could, but they do not have to in a criminal matter.

Then we have presumptions, one of the most technical questions, probably, in the whole field of evidence. Some courts, as we know, say a presumption is evidence; it is weighed in the scale and if it adds to the weight, the scale will fall that way. Other theories say that is completely wrong, that a presumption never does anything except shift the burden of going forward with the proof, that once evidence is put in to the contrary, a presumption disappears from the case entirely.

Personally, that is the school of thought in which I was trained.

The code here, as finally adopted, takes sort of a middle road. It does not regard a presumption as conclusive of anything or exactly as evidence.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SMITH of New York and by unanimous consent, Mr. DENNIS was allowed to proceed for an additional 7 minutes.)

Mr. DENNIS. Mr. Chairman, the rule there says that even though there is countervailing evidence put in, a presumption, while it need not be followed, stays in the case and is sufficient to justify the trier of the facts so finding; it will take the case to the jury.

The matter of privileges we left where they were, regarding them as rather substantive law than rules of evidence and stating that where there is a diversity case in the Federal cout, the privilege would be governed by the State law, as it now is. I refer to such matters as the husband-wife privilege, physician-client, and attorney-client and other privileges of that kind.

On witnesses, there was one controversial section.

That is, the question of cross-examining the witness, be he the defendant or simply a witness, as to his prior criminal convictions. As the Members know, we take the position in this country that we are trying a man for the crime with which he is charged and that we have to have evidence of his guilt of that crime; that we do not convict him and send him to the penitentiary simply because he is a generally bad character. Yet, in most States we allow him to be asked about prior convictions if he has the hardihood to take the witness stand on the theory that this reflects upon his credibility. Some people think that is a good rule; some do not. I do not. I think that when we do that we get down to the place where we are really convicting the man because of bad character, which we say we do not do; and most of the research on the subject indicates that a very large proportion of the miscarriages of justice which occur are in those cases where either we prejudice the man because he does take the witness stand in his own defense, or we scare him off and he does not tell his story because of that rule.

The code as it came to us did not do what most of the States do; that is, let us ask him about anything and everything in the way of previous convictions. It said we can ask him about an offense which did have some bearing on his credibility, such as perjury, and, in addition, we could ask him about a serious offense for which he could be sentenced for over a year; and, according to one version proposed, this last was limited to cases where the Court felt that the usefulness of such a question outweighed its prejudicial effect.

We amended this section, on my motion, to hold cross examination as to prior to convictions down to previous convictions which do in fact bear on credibility, that is convictions which involve falsehood or dishonesty and those only. I am sure there will be amendments offered on that, but Mr. Chairman, I submit that the provision of the committee bill is a good solution and should be supported.

In respect to hearsay, we had a number of controversial matters. We had a section in there which was called past recollection. It would have permitted us to put in evidence a man's narrative statement which he made some time about something which happened in the past;

the proposed code allowed us to use it if there were no suspicious circumstances—if the statement was not made in expectation of litigation or made to a claim agent or anything like that; it could be put in evidence for the truth of the matter asserted, although simply a statement made out of court and not under oath nor subject to cross examination. This was pure hearsay. The committee struck that out and I think it did well in so doing.

Also, after listing the usual exceptions to the hearsay rule, the code, as presented, had a general, catch-all phrase which said that courts could engraft additional exceptions which were consistent with the spirit of the foregoing exceptions, that was about what it came to. The committee decided that was too broad. I am of that opinion myself. We took that out. I like to have some idea of what the rules are, what comes in and what stays out, when I am trying a lawsuit, so we struck that out, that catch-all phrase. An amendment may be offered to put it back in, which personally I would oppose.

Mr. Chairman, most of the exceptions to the hearsay rule, however, are pretty well recognized exceptions as they now stand, according to one accepted view or another.

Finally, as has been mentioned, we did change the manner of amendments in the future. There has been a dispute as to whether rules of evidence came within the rules of civil procedure concept which we have given to the Supreme Court; whether the Court has any real right to submit rules of evidence as it did in respect to this bill. In the present measure we more or less recognize that right, but we also circumscribe it, because whereas the rules the Court handed down here would have become in force and effect within 90 days unless the Congress as a whole vetoed them, any future rules which the Court may recommend to us on the subject of evidence under this code will not become effective for 180 days and they can be vetoed by either House of the Congress. Therefore if we have sufficient interest in the matter, it is not too difficult to strike a proposed rule down and to keep the situation within our own control.

We have to overrule the courts from time to time by legislation, of course, if they make decisions which we do not like; and this is true in respect to the admissibility of evidence, among other things.

So I do not think it is too bad to give the Court an opportunity to bring these things to our attention in that manner, as long as we keep an adequate veto power in our own hands.

Mr. Chairman, I think we have done that, and all in all, I believe this is a workmanlike set of rules of evidence, and I recommend its adoption by this body.

Mr. HUNGATE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I will first inquire of the distinguished gentleman from New York whether he has any further requests for time.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I will say to the gentleman that I do not have any further requests for time.

Mr. HUNGATE. Mr. Chairman, since there are no further requests for time on this side, I would like to include at this time the statement that one of the great privileges of my congressional service has been to work with the distinguished gentlemen and lady on this subcommittee, and I will say that I am grateful for the contributions of the Members to this project.

Of course, a close competitor to that privilege would be the privilege which I have had to work with our former colleague, the gentleman from New York, Mr. Celler.

Mr. Chairman, as we conclude the debate, I do not think it would be out of order for me to relate two stories appropriate to our situation.

I will say that the committee has done its best on this evidence code, and in some sense our situation is much like that of the fellow who was brought in before the judge and charged with drunkenness and arson.

He was charged with arson by reason of setting a bed on fire.

He was asked how he pleaded, and he said, "Judge, as to drunkenness, I plead guilty. As to arson," he said, "that bed was on fire when I got in it."

Mr. Chairman, I will say to the Members that we have done our best in the field of the rules of evidence, although there may be some prior problems that remain with us.

Finally, Mr. Chairman, I will remind the Members that our colleagues have alluded to the "green book" approach and how much it will help younger members of the bar and how much it will help people around the country to have a uniform practice. But I feel that there will always be a field for special learning and expertise in the law and the value which is placed on experience.

Mr. Chairman, I think an appropriate story for the situation we find ourselves in is one which our former colleague, the deceased Mike Kirwan, told frequently concerning the time there was some difficulty in Ohio over some election—maybe it concerned some election financing problem. We all have these problems at times.

Mike was discussing this problem, and lo and behold, they convened a grand jury. As we all know, Mike was a man who had gone to the eighth grade in school. He did not have an eighth grade education, however; actually he had the equivalent of a Ph. D. education, because he never stopped learning.

When he was telling the story, he said, "There I was, with no education, and a full grand jury was asking me questions about my election."

Mike said, "Then they brought in three Harvard lawyers. They even brought in three Harvard lawyers to prosecute me, and," he said, "I was just down at the bottom of the heap."

After the session, he went down to the hotel that evening, and he went down to dinner, and there was nobody with him. He was sitting over in the corner alone, and he called his waiter over.

His waiter came over to the table. His waiter came over, and he told Mike, "You should cheer up."

Mike said, "What do you mean, I should cheer up?"

The waiter said, "You are going to be all right."

Mike said, "What do you mean, I am going to be all right? I have got three Harvard lawyers after me. What do you know about the facts? What do you know about the law? What do you know about the evidence?"

The waiter said, "Mr. Chairman, I don't know anything about the evidence, but I'm the foreman of the grand jury."

So there will always be a place, I think, for knowing something besides the law and an advantage in knowing the local situation.

Mr. Chairman, I have no further requests for time.

Ms. HOLTZMAN. Mr. Chairman, I plan to offer an amendment to the proposed Federal Rules of Evidence—H.R. 5463—which will strengthen congressional prerogatives over questions of evidentiary privileges.

Under H.R. 5463, the Supreme Court is empowered to abolish, create, or modify evidentiary privileges—husband-wife, doctor-patient, lawyer-client—simply by proposing a new rule. The Supreme Court's rule automatically becomes law unless either the House or Senate disapproves the rule within 180 days.

My amendment would not give such sweeping power to the Supreme Court. Instead, it would require an act of Congress to enact a law creating, abolishing, or modifying any privilege.

Evidentiary privileges are not legal technicalities. Rather, they involve decisions over some of the most critical issues facing us. For example, should there by a privilege for Presidential or Executive communications and, if so, how broad should it be? Should there be a newspaperman's privilege and, if so, what kind? Should there be a doctor-patient, accountant-client privilege? Should we narrow or expand the confidentiality of husband-wife communications?

Unless my amendment is adopted, we will be giving the Supreme Court the basic power to legislate such decisions.

Giving the Supreme Court this power is unwise. First, evidentiary privileges have evolved in the past on a case-by-case basis. In H.R. 5463, we depart from that tradition and permit the Supreme Court to legislate by promulgating rules, instead of formulating such decisions in the judicial crucible of cases in controversy. This procedure may also be an unconstitutional delegation of powers.

Second, if a law is to be written in the area of privileges, then Congress, not the Supreme Court, is the institution best capable of weighing the social and political implications and making the legislative decision.

Finally—and perhaps most important—it is inconsistent with our notion of congressional prerogatives to permit laws on evidentiary privileges to go into effect as a result of congressional inaction rather than by affirmative steps. We cannot hope to maintain public confidence in the Congress if we continually abdicate our powers to other branches of Government.

The text of the amendment follows:

On page 114, line 22, strike out the material starting with the quotation marks and insert in lieu thereof the following:

"Any such amendment creating, abolishing, or modifying a privilege shall have no force or effect unless it shall be approved by act of Congress; and"

Mr. Chairman, I also plan to offer an amendment to the proposed Federal Rules of Evidence—H.R. 5463—which will narrow a potentially dangerously broad exception to the hearsay rules relating to public officials' reports.

Under H.R. 5463, section 803(8)(B) of the Federal Rules of Evidence permits "Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth . . . matters observed pursuant to duty imposed by law" to be admitted as an exception to the hearsay rule.

As it stands, this rule applies to both criminal and civil cases and applies whether or not the public official involved is available as a witness.

This rule—which departs from the common law—would appear to permit random observations of social workers, building inspectors or policemen to be used in a criminal or civil trial without the safeguard of cross-examination so long as these observations are contained in a report.

For example, if a social worker, under a duty to visit a home to report on the unemployment status of the occupants, observes and reports certain inflammatory remarks between the husband and wife and reports that there was a smell of marihuana in the apartment, that report would be admissible in a divorce proceeding where compatibility is in issue or would be admissible in a criminal proceeding against the couple for the possession of marihuana.

A basic objection to these uses of the social worker's report is that the social worker would not normally be under a duty to report on such matters as the existence or nonexistence of marihuana. Consequently, a court cannot depend upon the social worker to have been trained to be a reliable reporter with respect to the scent of marihuana.

There is no reason to permit random observations or evaluations to be used as evidence just because they were made in the course of a public official's duty. There is no reason to think that such observations or evaluations are more reliable than when made by non-governmental employees.

My amendment would narrow the proposed rule to permit an observation—not an evaluation—to be admitted into evidence only when the public official had a duty to make that observation.

Remember, exceptions to the hearsay rules permit evidence to be admitted without the safeguard of cross-examination of the declarant. If we memorialize this official records exception to the rule, we should be certain that we have not opened the door to the admissibility of observations which are not likely to be reliable.

My proposed amendment will thus remove an ambiguity in the language which could dangerously expand the common law.

The text of the amendment follows:

On page 94, line 11, after the word "law" and before the comma, insert the following: "as to which matters there was a duty to report".

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment, and section I of the substitute shall be read for amendment by articles.

No amendment shall be in order to the substitute except amendments offered by direction of the Committee on the Judiciary or germane amendments printed in the CONGRESSIONAL RECORD at least 2 calendar days prior to consideration of the substitute for amendment; and no amendments to article 5 of section I of the substitute shall be in order.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rules shall take effect on the one hundred and eightieth day beginning after the date of the enactment of this Act. These rules apply to actions, cases, and proceedings brought after the rules take effect. These rules also apply to further procedure in actions, cases, and proceedings then pending, except to the extent that application of the rules would not be feasible, or would work injustice, in which event former evidentiary principles apply.

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RULES OF EVIDENCE FOR UNITED STATES COURTS AND MAGISTRATES

Article I. General Provisions

Rule 101. Scope

These rules govern proceedings in the courts of the United States and before United States magistrates, to the extent and with the exceptions stated in rule 1101.

Rule 102. Purpose and Construction

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

Rule 103. Rulings on Evidence

(a) Effect of erroneous ruling.—Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and

(1) Objection.—In case the ruling is one admitting evidence, a timely objection or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof.—In case the ruling is one excluding evidence, the substance of the evidence was made known to the judge by offer or was apparent from the context within which questions were asked.

(b) Record of offer and ruling.—The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury.—In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error.—Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

Rule 104. Preliminary Questions

(a) Questions of admissibility generally.—Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subdivision (b). In making its determination it is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact.—When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury.—Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if he so requests.

(d) Testimony by accused.—The accused does not, by testifying upon a preliminary matter, subject himself to cross-examination as to other issues in the case.

(e) Weight and credibility.—This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

Rule 105. Limited Admissibility

When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for any purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

Rule 106. Remainder of or Related Writings or Recorded Statements

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require him at that time to introduce any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article I of the committee amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HUNGATE. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Missouri.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Steed, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings, had come to no resolution thereon.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during the debate just concluded on the bill H.R. 5463.

The SPEAKER. Is there objection to

the request of the gentleman from Missouri?

There was no objection.

RESIGNATION AS REPRESENTATIVE OF EIGHTH DISTRICT OF MICHIGAN

The SPEAKER laid before the House the following resignation from the Congress:

WASHINGTON, D.C.,
January 28, 1974.

Hon. CARL ALBERT,
The Speaker of the House of Representatives
Washington, D.C.

DEAR MR. SPEAKER: I would like to advise you that I have this date submitted my resignation as a Representative of the Eighth District of the State of Michigan in the House of Representatives, effective at midnight on Thursday, January 31, 1974. I will be sworn in as United States District Judge at 11:00 a.m. on Friday, February 1, 1974. I enclose a copy of my letter of resignation which, as required by Michigan law, has been submitted to the Governor and the Secretary of State of the State of Michigan.

It has been a real honor to have served with you and my other colleagues, and I deeply regret leaving this great Body after thirteen years of service to the residents of my District, the State of Michigan and our nation. I am grateful for the courtesies and friendship extended to me over the years, and the many fine friends I have made in the Congress will be among the chief and lasting rewards of my public service in the House of Representatives.

With warm personal regards and best wishes for your continued success,

Sincerely,

JAMES HARVEY.

CONSUMER HOME MORTGAGE ASSISTANCE ACT

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ST GERMAIN. Mr. Speaker, today I am introducing the Consumer Home Mortgage Assistance Act of 1974. A near crisis has developed in the home mortgage market beginning with the ill-advised action by the regulatory agencies last July in permitting the infamous "wild card" certificate of deposit experiment, now terminated. The massive outflow of savings from institutions dedicated to providing home mortgage financing at reasonable interest rates to other institutions or to Treasury bills has created the worst drought in home mortgage financing in our history.

We took emergency action, Mr. Speaker, on October 2 by adoption of Senate Joint Resolution 160 which directed the regulatory agencies to halt the massive outflow by limiting the maximum effective passbook rates of all institutions, thus ending last summer's interest rate war. The casualties of this latest war are those who desire to sell their homes and those desiring to purchase either an existing home or a new home because of the high cost of mortgage money and increasingly the nonexistence of mortgage money at any price.

We can take no comfort from the most recent Bureau of Census figures which confirm our worst fears and mandate immediate action by the Congress if our people's housing needs are to be met. In December the seasonally adjusted starts fell to an annual rate of 1,355,000, lowest since May 1970. The startling 20 percent drop from November, the largest decline since February–March, 1960, demands immediate consideration of my bill, Mr. Speaker.

The Subcommittee on Bank Supervision and Insurance, which I chair, stands ready to act immediately just as we did on H.R. 11221, which cleared the Rules Committee yesterday. During last fall's "credit crunch" hearings a number of witnesses urged the adoption of the 100-percent public interest deposit insurance concept and an increase from $20,000 to $50,000 in depositors' insurance as a modest step in assisting our thrift institutions in attracting additional savings for home mortgage purposes. Our subcommittee held comprehensive hearings on November 5, 6, and 26, reported the bill out of subcommittee on December 6 followed by full committee action on December 14. Hopefully, the House next week will adopt our recommendations. We stand ready to act expeditiously on the bill which I introduced today.

Before summarizing briefly the salient provisions of the bill, consider for the moment, Mr. Speaker, the catastrophic consequence of any further delay by the Congress confronted as it has been by moratoria, suspensions of workable programs, indecisiveness and continued mismanagement by the administration. Only a virtual army of consultants appears to be benefiting by "further study and deliberation" and dilatory court tactics. It is time we thought of the young couple just entering the housing market unable to afford a new starter home and unable to face soaring rental charges for either apartments or homes as demand continues to exceed supply at an alarming rate. Or how about the elderly couple retiring who, having looked forward to being relieved of the responsibility of maintaining a home, are unable to move to apartments with special health conveniences due to a lack of qualified purchasers? While the administration continues to debate the future role of a declining FHA, conventional starts continue to fall. Older housing capable of being rehabilitated will not become availabel for the use of assisted Federal housing programs against the day we finally reach agreement, as we must, for the least fortunate among us. The time has come, Mr. Speaker, to remove artificial constraints allowing private enterprise the maximum opportunity to respond to the legitimate housing needs of our people.

Preserving the competitive position of our various financial intermediaries is of course important, reforming the structure of our financial institutions as the administration has recommended is likewise important, but of paramount importance is the task of guaranteeing access to credit at reasonable rates for the purpose of achieving "a decent home in a decent living environment" for all Americans. Such credit today is virtually nonexistent.

Mr. Speaker, I urge immediate action on the Consumer Home Mortgage Assistance Act of 1974 and at this point insert in the RECORD a brief section-by-section analysis of the bill.

SECTION-BY-SECTION SUMMARY OF CONSUMER HOME MORTGAGE ASSISTANCE ACT

TITLE I—LENDING AND INVESTMENT POWERS, FEDERAL SAVINGS AND LOAN ASSOCIATIONS

Sec. 101. Construction loans

Federal savings and loan associations are unnecessarily hampered in making residential construction loans in that they are restricted in methods of payment and types of security that require a complicated, time-consuming and needless series of recordings. The amendment would permit federal associations to make line-of-credit loans to builders which would be generally limited to situations related to the financing of construction of primarily residential real property as distinguished from loans to finance non-residential commercial real estate. This new lending flexibility would help to create a more competitive construction loan market and would assist in reducing closing costs.

Sec. 102. Single family dwelling limitations

This section would increase the present $45,000 limitation on the amount of the loan which a federal institution may make on a single family residence to $55,000. This is necessary if home lending is to take account of present day inflation. Real estate values have traditionally been on the ascent. Recent studies show that the cost of both existing and new housing has increased over 100% in the last 20 years. The cost of building materials, particularly lumber, has risen substantially over the last ten years. Accordingly, this amendment would conform the lending capacity of federal associations to the present housing market.

In addition, the amendment would allow an association to allocate only the excess over the limit to the 20% of assets requirement, where before the whole amount of the loan, including the amount under the limit, had to be counted.

Sec. 103. Lending authority under the Home Owners Loan Act

This section would permit a Federal Savings and Loan Association to make loans respecting real property or interest therein used primarily for residential purposes without regard to the limitations and restrictions otherwise contained in Section 5(c) of the Home Owners Loan Act in an amount not in excess of 10% of its assets. This authority would be subject to such conditions as the Home Loan Bank Board may prescribe.

TITLE II—MORTGAGE CORPORATIONS

Sec. 201(a) FHLMC loan-to-value ratio

Would allow purchase of a conventional mortgage with the outstanding balance exceeding 80% of value when the excess over 80% is insured by a qualified private insurer. Under existing law, such mortgages may be purchased only where the outstanding balance exceeding 75% of value is insured by a qualified private insurer.

(b) FHLMC Percentage Limitation of 1-year Mortgages

Would remove a limitation now in the law limiting the purchase of conventional mortgages over one year old at time of purchase to 10% of the conventional portfolio. However, the seller would have to agree to relend such funds within 180 days after the date of purchase by FHLMC.

(c) Maximum Principal Amount

Provides that the limitations governing the maximum amount of a conventional mortgage purchased by FHLMC be comparable to the limitations contained in the first sentence of section 5(c) of the Home Owners' Loan Act of 1933 ($45,000 in the case of single-family dwellings and the dollar amounts contained in section 207 of the National Housing Act for multi-family housing), except that such limitations may be increased by 25% with respect to mortgages on property located in Alaska, Guam, and Hawaii. With the enactment of section 202 of this bill, the single-family limit would increase to $55,000.

Sec. 202(a)–(e) Investment in FHLMC obligations

These subsections make clear that national banks, state-chartered banks which are members of the Federal Reserve System, Federal Home Loan Banks, federal savings and loan associations, and federal credit unions have statutory power to purchase mortgages, obligations or other securities which are sold or ever have been sold by the Federal Home Loan Mortgage Corporation without regard to limitations which might be otherwise applicable to purchase of such mortgages, obligations or other securities.

TITLE III—NATIONAL BANKS

Sec. 301. Real estate loans by national banks

This section would extensively revise section 24 of the Federal Reserve Act to authorize broader lending and investment powers for national banks relative to real estate. Under this revision banks would be authorized to make real estate related loans as follows:

1. Make real estate loans secured by other than first liens provided said lien when added to prior liens does not exceed the applicable ratio of loan to value. Loans of this type would be limited to 20 percent of unimpaired capital and surplus.

2. Make loans against unimproved real estate up to 66⅔ percent of appraised value and if improved with off-site improvements up to 75 percent of appraised value.

3. Continue to make loans against improved real estate up to 90 percent of appraised value for a maximum term of thirty years, but with no required amortization on any type of real estate loan except when it exceeds 75 percent of appraised value or is improved with a dwelling for one to four families. Amortization, where required, would be based on a maximum of a thirty-year payout, with no requirement that the loan be fully amortized by maturity if the term is less than thirty years.

4. Classify all loans, insured under the National Housing Act or by the Secretary of Agriculture, or where guaranteed by HUD when the guarantee is backed by the full faith and credit of the U.S., or fully guaranteed by a state agency or instrumentality thereof or by a state authority for the payment of which the faith and credit of the state is pledged, or at least 20% of which is guaranteed by the Veterans Administration as non-real estate loans and not subject to any of the limitations of conventional loans or included in the aggregate amount of real estate loans that may be made or in the aggregate of subordinate liens that may be made.

5. Continue the practice, where loans are secured by real estate and other collateral, to subtract the value of the non-real estate collateral from the loan and consider the balance only as a loan against real estate.

6. Consider a loan secured by a lien on real property, where there is a firm take-out from a financially responsible party to advance the full amount of the loan within sixty months, as a non-real estate loan.

7. Continue to consider loans, with a maturity of not more than sixty months made against a building under construction secured by a firm take-out to advance the full amount of the loan and loans to finance the construction of residential and farm buildings for a term not in excess of sixty months, as commercial loans and limit such loans to 100 percent of unimpaired capital and surplus.

8. Make construction loans up to 75 percent of appraised value without the necessity of a firm take-out.

9. Continue to classify loans, where the lender looks to the borrower's general credit standing, or an assignment of rent where a mortgage is taken as a precaution against contingency or where the bank agrees to participate with the Small Business Administration, as commercial loans.

10. Permit up to 10 percent of the maximum amount that may be invested in real estate loans to be placed in loans secured by real estate without the necessity that said loans conform to any of the individual loan limitations of the revised section.

The Comptroller of the Currency would be authorized to prescribe by rule or regulation such additional conditions and limitations on real estate loans as he deemed necessary.

TITLE IV—FEDERAL CREDIT UNIONS

This title makes a number of technical amendments permitting greater economy and efficiency in the operations of credit unions.

Sec. 401. Permits the purchase of conditional sales contracts and similar instruments of its members.

Sec. 402. Permits overseas suboffices of Federal credit unions to maintain checking accounts in foreign banks with a correspondent relationship with a U.S. bank.

Sec. 403. Removes mandatory entrance fee requirement at directors' discretion.

Sec. 404. Permits an executive committee to act for board of directors in all respects. Permits board of directors to appoint an investment committee or an investment officer to have charge of investments. Authorizes appointment of more than one membership officer.

Sec. 405. Changes semi-annual audit required by supervisory committee to an annual audit.

Sec. 406. Makes Federal Credit Union Act applicable to Trust Territories.

Sec. 407. Exempts Federally insured credit union funds invested in a federally insured central credit union from a premium charge for Federal share insurance.

Sec. 408. Simplifies procedure for federally insured state chartered credit unions to convert to state insured status.

Sec. 409. Permits Administrator to assist in voluntary liquidation of a solvent credit union to the same extent as a credit union in involuntary liquidation.

THE 7:30 A.M. ALLOCATION MEETINGS

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, this country is now feeling the full impact of rationing at the wholesale level. The Congress has just given rationing another name by calling it an "emergency allocation plan." Now we are additionally struggling with a so-called emergency energy bill which will provide for and encourage rationing at the retail level.

A January 11, 1974, editorial in the Wall Street Journal has reviewed very thoroughly the inability of any one bureaucrat or group of bureaucrats—no matter how bright and competent they are—to try to perform the intricacies of replacing the allocation of the free marketplace. It cannot be done. So once again we are rationing in the name of "the public good" and "the public interest" to mandate and force the Federal bureaucracy to tinker with the marketplace in hope that this will solve the potential crude oil shortage we are facing as a result of cutoff supplies from the Arabian nations. It won't work, and we should have learned this by all the mistakes and miseries of the wage and price legislation passed by Congress.

I commend my colleagues to observe carefully the admonitions pointed out by the Wall Street Journal editorial. Hopefully, we will be wise enough to read and heed the warnings expressed in this fine article.

[From the Wall Street Journal, Jan. 11, 1974]

REVIEW AND OUTLOOK

Bill Simon, the energy czar, is a brilliant fellow, a bold decision-maker, a leader of persons. He's probably the best man for the job. But at allocating all the energy supplies in the nation, he's incompetent. Anyone else would be too, as we're sure Mr. Simon realizes. Still, he will have to live through the criticism of those who believe that really smart allocators should be able to outperform the marketplace.

It can't be done. The intricate logistics system of the petroleum industry evolved over decades, involving thousands of executives and analysts in the industry who learned by trial and error to accommodate demand with supply, to react effortlessly to minute changes in weather, growth and price by moving their product from here to there.

Now Mr. Simon and a hastily assembled staff are trying to relearn it all in a few weeks, without benefit of price signals. It might have been easier if he had been able to sign up the 250 oil industry executives he had talked of, but Congress banned that on the grounds that they knew too much about the oil business. So Mr. Simon has a bunch of $36,000-a-year, 30-year-old lawyers who gather at 7:30 every morning to order supplies of oil products hither and yon. But before the ink is dry on the regulations they have to write, someone discovers something they haven't thought of. Back to the drawing boards at 7:30 the next morning. Some gleanings from their learning process:

Lesson 163: Giving them X% of a year ago doesn't work. In late 1972 West Texas cotton ranchers harvested a month later than usual because of weather conditions. This season the harvest came early, and allocations didn't give them the propane and diesel fuel they needed; distributors had to allocate against last season's monthly base period. Of course, supply did surge after the harvest, conforming to demand during the 1972 harvest. The ranchers bought up the full allocation as a reserve in case they're caught the same way during spring planting. Some of the young lawyers are worrying about how to stop this "hoarding."

Lesson 213: Trucks and tanks don't grow on paper. A truck stop in West Virginia appeals to FEO for an emergency allocation. FEO agrees and orders Mobil Oil to supply it, apparently because it was Mobil's turn. It turns out Mobil has almost no facilities in

West Virginia and would have to serve that lone truck stop from another state, needlessly burning fuel in the process. Being more realistic than the allocators, Mobil solves the problem by paying another oil company to supply the truck stop.

Lesson 301: An allocation system can *cause* demand. New York City has fewer cars per capita than almost anyplace in the nation. Given the costs, auto use is more work-related than discretionary compared to other cities, so there's less room to cut back. What's more, New Yorkers who used to drive to Vermont or Florida for a week or weekend, tanking up outside the city where gas has been cheaper, are staying at home and putting demands on the city's gas supplies that a year ago would have been met elsewhere. The situation worsens when New Yorkers burn up fuel while hunting for it. So while *national* gasoline supplies are about what they were a year ago, autos are lined up for blocks at New York City stations.

Lesson 374: Under an allocation system, nice guys finish last. Oregon last year was the only state that had a voluntary energy conservation program. It used less fuel than normal, so it must now suffer the worst shortages in the nation as its current allocations are set against last year's base period.

Lesson ? ? ?: Too few cooks spoil the broth, a lesson the office is likely to learn come spring. To get the nation through the winter refiners have been ordered to make more fuel oil at the expense of gasoline; the problem is when to switch back to avoid gas shortages as the weather warms. When 30 or 40 companies have to decide this on their own, some switch too soon and some too late, and on balance things work. With a set of distracted whiz kids making one decision for everybody, chances are there will be a surplus of fuel oil carried into the summer while gasoline stocks are too low.

As the federal allocators learn these lessons and frantically rewrite their regulations after every 7:30 seminar, it isn't the government taking the blame for these distortions. Rather, the petroleum companies, on the front line and visible, are absorbing public frustration and bitterness. Mr. Simon surely knows that allocation's to blame. Yet he won't decontrol petroleum prices, the one absolutely sure way to get this most liquid of commodities flowing to where it's most in demand. If things get bad enough, he says he'll recommend rationing. Then the whiz kids can start all over again with Lesson 1.

INTEREST EQUALIZATION TAX SHOULD BE MADE MANDATORY FOR COUNTRIES WHICH RESTRICT ACCESS TO RAW MATERIALS

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, yesterday, the President reduced the interest equalization tax to zero, thus destroying this balance-of-payments control program.

I seriously question the wisdom of the President's action which terminated a tax designed to reduce the outflow of capital from the United States. Although we have just ended a year in which our balance-of-payments reached a surplus of $1.677 billion, grave economic uncertainty lies ahead.

In view of the sullen economic climate in this country, it is difficult to justify removing controls on capital outflows. We will need capital investment here in this country to meet the demands of an economic slowdown, to develop our own energy resources, to expand industrial production and create jobs. My fear is that massive quantities of American capital will move abroad to develop foreign energy resources instead of our own.

Today's balance-of-payments surplus will shortly dwindle away. A major reason will be the increased cost of energy. Our oil import bill—which was $7 billion in 1973—could grow to $19 billion this year. In addition, since the world energy crisis began, the dollar has been appreciating in value, wiping out much of the effect of last year's devaluation. The result will be increased imports and decreased exports. These factors alone will plummet our balance-of-payments into a deficit for 1974. A vigorous interest equalization tax can help arrest this potentially disastrous situation by eliminating some of the tremendous attractions of foreign investment. We will never gain the goal of energy self-sufficiency as long as we continue the wholesale export of American capital.

With this grim future, the Congress should reconsider the interest equalization tax. I will introduce legislation to extend this capital control mechanism and make it mandatory for investment in countries which restrict American access to raw materials or place a harsh and discriminatory tax on the export of such materials. One of the principles of the Atlantic Charter, signed in 1941, was that after the war, all nations should have "access, on equal terms, to the trade and raw materials of the world." We are now facing a situation where all nations are not being provided equal access— and it is time that we tried to do something about this violation of basic international principles.

I ask my colleagues to join with me in re-examining this important facet of our balance-of-payments program.

AMENDMENT TO INTERNAL REVENUE CODE

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, I have today introduced legislation which recommends an amendment to the constructive sales price provision—section 4216 of the Internal Revenue Code—where brand name automotive parts are involved. This legislation is similar to legislation that I introduced in the last Congress (H.R. 10872), which was ordered to be reported by my Committee on Ways and Means on October 13, 1971. The constructive sales price is to be used as a substitute for the actual sales price—the basis for manufacturers' excise taxes—when an article is sold at less than fair market value, if the transaction is not at arm's length, as in the case of a sale to a related company.

While the major impetus for the introduction of this legislation came from one Illinois corporation, it will apply equally to any other company that finds itself similarly situated between the intent of the Congress and the interpretation of the Department of the Treasury.

One of the proponents of this legislation is the Maremont Corp. which is headquartered in my own State of Illinois. Maremont has been engaged for more than 50 years in the business of manufacturing automotive parts for the replacement market. It sells these products to a wholly owned subsidiary, Mar-Pro, Inc., which serves as a national distributor. Mar-Pro in turn resells the products to warehouse distributors and other persons at a wholesale level. The products consist of primarily automotive exhaust system parts—such as mufflers, exhaust pipes, tailpipes and clamps—brake and clutch parts.

Maremont sells these parts to Mar-Pro without brand names. The products are sold by Mar-Pro under various names to purchasers, but the brand names have little or no significant effect on the price of the article. Thus, brand name automobile mufflers, tailpipes, and brake or clutch parts and linings sell for essentially the same prices as such parts sell for in unbranded form.

During the years involved here, Maremont purchased from other unrelated manufacturers a substantial portion of its requirements for finished goods—identical to Maremont's own manufactured items—at prices equivalent to, or lower than, Maremont's selling price to Mar-Pro. The purchases were substantial in volume, ranging from $436,000 to $1,244,000 a year—or from 4 percent to 15.2 percent of Mar-Pro's total requirements.

Accordingly, it seemed clear, and Maremont concluded, that its sales prices to Mar-Pro constituted fair market prices and paid taxes on that basis. Further evidence that these prices were fair, and not artificially low, is indicated by the fact that in 2 of the 8 years in issue, Mar-Pro sustained losses and in three of those years, it just about broke even.

On June 25, 1964, however, the National Office of the Internal Revenue Service gave technical advice to the District Director in Chicago in which it concluded that:

> although the brand name under which an article is sold is of no significance here as such . . . the Service does not consider the prices for which Maremont and its manufacturing subsidiaries sell automobile parts and accessories to Mar-Pro to be fair market price merely because that price is equivalent to the price charged for similar articles sold to private brand vendors.

The national office specifically found "that Mar-Pro Inc., has substance and character and operates in a manner which evidences that it is performing functions separate from those of Maremont, Inc., and its subsidiary manufacturers." Nevertheless, the service further concluded that a constructive sales price should be determined in accordance with Revenue Ruling 62–68, CB 1962–1, 216.

Under Revenue Ruling 62–68, the constructive sales price is 95 percent of the lowest price for which the sales subsidiary resold the article to independent or unrelated wholesale distributors. "This 5 percent margin," the Service stated, "is an allowance for those exclusions from, and readjustments of the selling company's resale price, which, under sections 4216 and 6416, the law would allow a manufacturer selling in the ordinary course of trade to unrelated distributors." In effect, the Service disregarded the economic existence of a viable selling subsidiary.

The ruling was made expressly nonretroactive, that is, it applied "with respect to sales . . . made on and after July 1, 1962." Notwithstanding this asserted nonretroactivity, the Service has taken the position that Maremont is subject to constructive pricing along the lines of the Revenue Ruling from and including 1958 through 1965—that is, up to the effective date of the repeal of the automobile parts excise tax.

This position has been taken even though prior to Revenue Ruling 62-68 the Service had no published position to this effect.

The taxpayer protested the technical advice and on November 23, 1964 in a letter to Acting Commissioner Harding requested that the Service reconsider its position. The Service agreed to do so. On June 21, 1965, the Congress repealed the tax on parts and accessories for passenger automobiles. On November 4, 1965, the taxpayer furnished additional information to the Service. In the summer of 1971, after nearly 6 years of silence, the Internal Revenue Service affirmed its technical advice to the Chicago District Director.

The basic provision on constructive price was enacted in 1932. It comes into play only if an article is sold "at less than the fair market price." If, as Maremont believes, the manufacturers' price is not less than the fair market price, there is no room for application of a constructive price. But, even assuming that the constructive price provision is properly invoked, the constructive price is the "price for which such articles are sold, in the ordinary course of trade, by manufacturers or producers thereof," section 4216 (b)(1) of the code. Thus, since Maremont's prices to Mar-Pro are equal to or higher than the sales prices for the same articles of other independent manufacturers, the provisions of (b)(1) require that Maremont's prices be recognized. The presence of brand names which have no significant effect on prices is plainly irrelevant.

The service, however, continues to administer the constructive price provisions so as to require legislative action. In the past, the Congress has recognized the need to correct misinterpretations of the constructive price provisions. Thus, paragraphs (3), (4), (5), and (6) have been added to section 4216(b) in the last few years. Only recently, the Congress again affirmed the validity of independent prices as a basis for a constructive price on sales to affiliated corporations, section 4216(b)(4). In these provisions, the Congress has undertaken to clarify the constructive price rules in unmistakable terms, so that there can be no deviation from the intent of the law.

My proposed legislation fits within this recent legislative pattern. Certainly a sales price of a manufacturer to an affiliated purchaser, based on independent sales prices of other manufacturers for the same articles must be recognized, and not disregarded because of the incidental presence of name brands which have no significant effect on the sales price. This result only reflects what is apparent in the statute as enacted in 1932.

WHO REALLY CAUSED THE FUEL SHORTAGE?

(Mr. LANDGREBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANDGREBE. Mr. Speaker, I just received from the American Taxpayers Association in the home State of the Speaker almost this very minute a letter flier and I am going to read it fast because I want to get it in within the 1 minute. It says:

WHO REALLY CAUSED THE FUEL SHORTAGE?

WHAT SHORTAGE?

The U.S. Geological Survey estimates that at current rates of consumption we have a 200 yr. supply of petroleum, a 300 yr. supply of natural gas, enough coal reserves for 1500 yrs., the capacity and raw materials to produce an almost inexhaustible supply of nuclear energy.

WHO CAUSED THE FUEL SHORTAGE?

In reaction to the efforts and propaganda of the environmental and ecology radicals, the U.S. Federal Government and Congress:

Stopped the building of nuclear power plants.

Prevented new oil exploration on continental shelf.

Sharply curtailed offshore oil field production.

Delayed construction of Alaska pipeline.

Prevented leasing of oil shale lands for oil exploration and production.

Prevented construction of new refineries.

Restricted use of high sulphur coal.

Restricted strip mining of low sulphur coal.

Put price ceilings on refined petroleum products, causing shortages.

Advocated cutting gasoline production as a remedy to the shortage problem!

Keeps price controls on natural gas at the wellhead, discouraging production.

The above Government regulations and their interference in the economy have created our present energy shortages. What has been termed an energy crisis, could more appropriately be called a political leadership crisis. More Government regulations, added bureaucracy, gasoline rationing, and limitations on profits are not going to create new supplies of energy. Congress can best serve to alleviate these shortages by undoing the mischievous acts they have taken to destroy the free market. If the Government created this energy crisis, then why do we keep insisting on more governmental regulations and programs to resolve it? Should we not be more concerned with a balanced budget, thereby ending inflation which in my opinion, would eliminate the needs for price fixing and thus end existing shortages, not only in energy, but also those shortages in other commodities within the market?

FIFTY-SIXTH ANNIVERSARY OF UKRAINE'S INDEPENDENCE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, in the annals of history it is most significant that we in this Congress observe and celebrate today the 56th anniversary of Ukraine's independence. At a time when imperialist Moscow's military power continues to expand, its penetrations in the Mideast, South Asia, and elsewhere deepen, and its repressions within its imperium in imperio, known as the Soviet Union, mount daily, the full significance of this memorable occasion will certainly reflect itself in the period ahead. While Brezhnev cultivates his toehold in Cuba, we point to his Achilles heel in the U.S.S.R.

THE ABC'S

The ABC's of this important annual occasion are perfectly clear and unmistakable. First, with a population of 48 million, Ukraine is the largest captive non-Russian nation not only in the Soviet Union but also in Eastern Europe. Its strategic position in both the inner and outer empires of Moscow is primarily crucial. Second, this second largest Slavic nation reestablished its national independence and free statehood on January 22, 1918. It was one of the first to defend its freedom against Soviet Russian imperio-colonialism. Without assistance from the democratic West, it was one of the first to succumb to Russian Communist expansionism. And third, from the twenties to the present this early captive nation has woven an impressive history of resistance to Moscow's imperialist totalitarianism, Russification, and genocidal programs with an unyielding and invincible drive for national independence and freeedom.

HUMAN RIGHTS FOR UKRAINE

Mr. Speaker, one of the most important aspects of our deliberations on the trade reform bill and its relevance to the Soviet Union was the general recognition that the issue of human rights applies not only to the Solzhenitsyns, the Sakharovs, other Russian dissidents, and Soviet Jews but also to the non-Russian nations in the U.S.S.R. In Ukraine, the names of Chornovil, Moroz, Svitlychny, and many others grace the record in the fight for human rights, and most of them are suffering for it in Russian prisons and labor camps. Their voices have been raised in behalf of national freedom, the right to develop their Ukrainian culture, to permit religious freedom, and to exercise rights stipulated in the U.S.S.R. Constitution. In short, their fight has been against the policy of Russification foisted upon not only the people of Ukraine but also those in Lithuania, Latvia, Byelorussia, Turkestan, and other non-Russian areas of the U.S.S.R.

DÉTENTE COURSES OF ACTION

In pursuing the policy of détente there is nothing contradictory in also, as part of the policy, in pursuing this fundamental issue of human rights. Several Members and I have submitted resolutions seeking the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine, two basic institutions genocided by Stalin. I am given to understand that our Committee on Foreign Affairs will soon hold hearings on the vital issue. We shall be most appreciative for this, and we are ready to produce productive testimony on the subject. In addition, it has now been 20 years since this House had established a landmark of investigation into some countries overtaken by Russian domination.

With present détente with the U.S.S.R. and relations with the People's Republic of China, the time is ripe for popular inquiry into the many nations composing those two large empire states. Quite plainly, if we, in détente, are to have more intimate relations with them, our people should know more about them and, in particular, the numerous different nations which constitute these states. It is for this reason that I urge at this time the establishment of a Select Committee on the Nations in the U.S.S.R. and People's Republic of China. In short, if our foreign policy is based on our domestic knowledge and understanding, then this step is most necessary at this time, and this House stands to create another landmark in our annals.

As an indication of the importance of the A B C's described earlier, I append to my statement portions of the commentary recently written by Dr. Lev E. Dobriansky of Georgetown University in the autumn issue of the internationally renowned Ukrainian Quarterly:

Ucrainica in American and Foreign Periodicals

'The Legacy of Stalin," an article by Edmund Demaitre. *The Sunday Star and Daily News*, Washington, D.C., March 4, 1973.

In still another evaluation of Stalin this rendition holds that it isn't Stalinism but the idea of national communism that ranks as his chief contribution. By this the writer means the fusion of communism and Russian nationalism. He states, "After the war, and particularly during the Cold War, National Communism as nurtured by Stalin was to degenerate into outright chauvinism." Great Russian chauvinism as the Chinese say nowadays.

Again, what seems to escape this writer as well as others is that communism was dead long ago as a program for social organization and what has remained is Soviet Russian imperio-colonialism. Quite logically, if it were simply national communism, it would be restricted to ethnic Russia; it would not apply to the non-Russian nations in the USSR and beyond, and without meaning on the global front for Soviet Russian expansionism.

"The Failure of the Soviet Nationality Policy," a review. *East-West Digest*, London, England, January 1973

This outstanding periodical reviews the pamphlet issued by the Ukrainian Congress Committee of America on "Ukrainian Intellectuals in Shackles: Violation of Human Rights in Ukraine." Its verdict is very simply that "It deserves the attention of the Western reader, and especially of those in search for truth and who study the Soviet problems generally."

The pamphlet details the many violations of human rights in Ukraine and the specific victims of these cultural repressions. The problem has been that the USSR is in a weaker position than most people realize and that to press too hard on the Ukrainian issue would not at this time conduce to the eventual strengthening of our position.

"An Open Letter to the American People." The New York Times, The Week in Review, New York, N.Y., Sunday, June 17, 1973

Upon the arrival of Leonid Brezhnev to the U.S. this well-known organ carried a full-page ad publicizing an open letter to the American people. The letter appeared in the widely circulated Sunday issue of the *Times*, and was signed by sixty-six American scholars teaching in our universities and colleges.

The chief theme of the message was in defense of Ukrainian intellectuals. Strikingly featured by photos of victimized and incarcerated intellectuals, such as Valentyn Moroz, Vyacheslav Chornovil and others, the long but concise message itemized the crass violations of human rights in Ukraine.

Much of the credit for the expert composition of the letter goes to Dr. Walter Dushnyck, the editor of *The Ukrainian Quarterly*. The full-page ad was sponsored by the Ukrainian Congress Committee of America. Reactions to the letter from all parts of the country, particularly in Washington, were largely salutary.

"Ukrainians Stage Anti-Soviet Protest," a report by Lawrence Feinberg. The Washington Post, Washington, D.C., May 27 1973

Placed under a telling photo of the Shevchenko Memorial statue surrounded by placards recalling the Russian man-made famine in Ukraine during 1932–33, this report of the rally provides an overall account of the day's proceedings. Some 3,000 Americans of Ukrainian background convened at the statue to commemorate in mournful ceremony the fortieth anniversary of the famine. The famine took at least seven million lives.

The account points out, "But speakers also denounced recent arrests of Ukrainian nationalists in the Soviet Union, and warned that the forthcoming visit to Washington of Leonid Brezhnev should not lull Americans into being less hostile to Communism." This theme was underscored early by Dr. Lev E. Dobriansky, President of the Ukrainian Congress Committee of America, who opened the event. Congressman Edward J. Derwinsky of Illinois elaborated on it further, as did the Honorable Walter Judd and General Thomas Lane. Mr. Joseph Lesawyer, executive vice-president of UCCA, was the master of ceremonies, which wound up in the picketing of the Russian embassy.

"Kremlin Shakeup," an editorial. *The Evening Star and The News*, Washington, D.C., May 3, 1973.

The demotions of Pyotr Shelest and Gennadi Voronov from Moscow's Politburo last spring are the subject of this editorial. Numerous interpretations of the action have appeared in the American media and other sources, but this piece expresses the belief that mystery still beclouds the casual reasons for the event. As it puts the matter, "the mysteries of the closed circle of Russian leadership remain intact and the tea-leaves retain their secret."

In the case of Shelest the editorial observes that he was a "former head of the Ukrainian party, recently attacked in the Soviet press for promoting Ukrainian 'nationalism.'" It is doubtful, to say the least, that Shelest promoted nationalism in the real sense of the word, and the editorial underscores this doubt by placing the term in quotes. What cannot be denied, however, is that the elevation of Grechko, Andropov and Gromyko has strengthened Brezhnev's position in the Politburo.

"Kremlin Divides on 15-Year Plan," an article by Victor Zorza. *The Washington Post*, Washington, D.C., June 12, 1973.

Much of this account is devoted to the widely discussed 15 Years Plan that presumably will be launched in the USSR in 1976. The economic, ideological and other aspects of the projected plan are touched upon here. Economists are coming in for a heavy share of criticism from *Pravada* and other organs in the USSR because of their negative attitude toward it.

What is of relevance is the tie-up of the above action regarding Shelest. As the writer describes it, "But the danger lies not only in the attempts of competing lobbies, such as the military and cvilian, to grab a greater share of the country's resources." He continues, "The Ukraine's party boss Pyotr Shelest has already been purged for asserting 'nationalistic' Ukrainian claims to a greater role in the share-out." This explanation, along with that in improved U.S.-USSR relations, is also subject to doubt.

"Ukrainian Party Shaken by Strife," a report. The New York Times, New York, N.Y., April 23, 1973

This report covers the recent high-level Ukrainian Communist Party meeting in Kiev where charges of "nationalism" and incompetent administration were leveled by Vladimir V. Shcherbytsky, the party leader who last year succeeded Shelest. The latter's name wasn't mentioned, but it was evident that a groundwork was being laid for Shelest's removal from Moscow's Politburo.

It is pointed out that accusations of nationalists trends and incompetence are not unusual in the USSR's non-Russian republics which have resisted the Kremlin in a variety of ways. "However," the report states, "the Ukraine has been a particularly troublesome area in that respect as some Ukrainians have sought to preserve an important role for their language and culture and to reduce the influx of ethnic Russians into prominent posts in industry and administration." Evidently, the economic, political and national issues are interviewed.

"The Mournful Manifestation," a commentary. The Rising Tide, Washington, D.C., June 4, 1973

An excellent and accurate account of the Mournful Manifestation held in May in Washington appears in this outstanding anti-communist periodical. The commentary covers the chief points made by the speakers of the occasion. Thus Dr. Dobriansky is quoted as saying, "It is our bounden duty to inform our fellow Americans of this genocidal act that defies human imagination." The message he read from Senator Javits is quoted as follows: "The heinous acts of the past and the repression of the present—arrest of Ukrainian intellectuals and the ransom of Soviet Jews—cannot be overlooked in a bargain of convenience."

Representative Derwinski stressed, "Let us not be misled by temporary diplomatic maneuvers. These adjustments have been dictated by fear and weakness. There will be no permanent peace unti Communism as we know it disappears." Canadian Senator Paul Yuzyk pointed out, "This must compel us to eternal vigilance. It could happen here." General Thomas A. Lane made the point that Bolshevism is the "declared enemy of God and freedom." And Dr. Walter Judd emphasized, "You appreciate the United States more. . . . You know what things are like. You have an obligation to tell the story. You must never give up. Your weapons are the hearts of a billion behind the Iron Curtain."

"Try It!", an article by Aileen Jacobson. The Washington Post Potomac, Washington, D.C., April 8, 1973.

"Try it!" means simply trying to make Ukrainian Eastern eggs. A whole column is devoted here to parts of the process. The colorful Easter eggs shown in this Sunday magazine are a treat in themselves.

Readers are actually directed to the Country Store in Washington, Virginia for demonstrations in the ancient and religious art. The store is owned by two Washington, D.C. women who took an interest in the endeavor and made it possible for many a reader to visit the store and see how it is done.

"NYT Article on Soviet Nationalities Questioned," a commentary. Elta. Information Service of Supreme Committee for Liberation of Lithuania, New York, N.Y., September 1972.

An article written by Theodore Shabad of *The New York Times* on "Soviet Is Pressing the Blending of Its 100 Nationalities" (July 31, 1972) comes under criticism in this Lithuanian medium. The commentary admits the article's disclosure of much useful information. But it properly raises the question that, as regards terminology, "is it accurate to refer to the Ukrainians or Georgians, Lithuanians, Latvians or Estonians as 'ethnic groups' or 'minorities'? They happen to be nations."

Shabad's paralleling the so-called "ethnic problems" in the USSR with those in the U.S. is also rather off base. The commentary takes the writer to task for his estimate of "great gains in the educational and cultural development of its nationalities." It points to the numerous expressions of cultural repression in most of the non-Russian republics which are being harshly subjected to Russification. It is regrettable how each new generation has to learn anew, but this is life.

"Soviets Hamstring Dissident Publication," an article by Murray Seeger, *The Washington Post,* Washington, D.C., February 20, 1973.

Apropos to the above, this lengthy account describes how intensive police activity in the USSR has thrown the doughty underground newspaper, *Chronicle of Current Events,* off schedule. This publication as well as other *samizdat* media have been targets of the KGB's Soviet Committee of Public Security for over a year.

Referring to Chronicle 26, which came out in July and August of '72 the writer observes, "As usual, that issue also carried accounts of arrests and trials involving Ukrainian nationalists, Lithuanian Catholics, Jews seeking emigration to Israel and artists subjected to political discipline." The KGB was ordered to smash the publication and has operated in an area from Lviv in Ukraine to Novosibirsk in Siberia and Vilnius in Lithuania. And all this constitutes "great gains" in non-Russian educational and cultural development?

"A Limited Agenda," a column by James A. Wechsler, *New York Post,* New York, N.Y., June 22, 1973.

Aside from some supposedly erudite observations made by this columnist—such as "ancient anti-Kremlin crusaders . . . accusing the President of betraying their holy war"—a few items in the article are of positive interest. One is the President's effort to maintain a steady relationship with the rival Communist establishments in Peking and Moscow. The writer, who has never really comprehended the nature and content of the Cold War, feels this attempt "will get high marks in history if it succeeds."

The other item dealt with in this comment on the Brezhnev-Nixon meeting concerns Russian repressions in the USSR. As the writer puts it, "But Jews are not the only victims of despotism." He writes of the political prisoners currently held inside the USSR, including "the Ukraine and Lithuania. . . ." The writer's recommendation that this general matter be discussed at the summit was shared by all students and analysts of the USSR, so-called cold warriors.

"Captive Nations Week in Great Britain," a report. The Ukrainian Review, London, Great Britain, Autumn 1972.

In foreign countries the American institution of Captive Nations Week is upheld and adapted to varied circumstances. Great Britain has observed the Week consistently, though at different times in given years. Under the auspices of the British League for European Freedom, the Week was observed at the end of June last year and is planned for later this year.

As the League expresses it, regardless of the time period this "is held to remind the British people that nations of the so-called Union of Soviet Socialist Republics and other Communist-occupied countries are continually persecuted and enslaved by Russia." The same well-founded theme is annually sounded in the U.S.A., Free Korea, Japan, Free China, South Vietnam, India, Turkey and many other countries.

"On the Occasion of Brezhnev's Visit—American Dissenters Demand Amnesty for Dissenters in Communist Countries," an ad. The New York Times, New York, N.Y., Sunday, June 24, 1973.

Indulgence in speculating about the motivations behind this striking ad in the *Times* is beside the point here. The dominant fact is that the rather strange motley array of signers, some with known Communist backgrounds, has seized upon a pure and powerful issue and, as a consequence, has made a creditable imprint on readers.

Who can rationally oppose this statement in terms of moral intent?—"To resist the inroads on civil liberties in the United States but to remain silent about the suppression of liberties in the Soviet Union and the Soviet bloc, to protest U.S. policies in Indochina but to acquiesce in the Soviet occupation of Czechoslovakia would not only be immoral but would quite properly call into question the sincerity of our commitments at home. As American dissenters we do have a stake in the state of freedom in the Communist world."

Significantly, those imprisoned for "Demanding National and Political Rights in the Ukrainian Soviet Socialist Republic," such as Chornovil, Dzyuba and others, are enumerated and concisely described. Following these, the same is applied to Lithuania, Soviet Jewry, the Russian Soviet Federate Socialist Republic, and Czecho-Slovakia. Whoever prepared this text is quite knowledgeable and fair.

"Stand Up and Be Counted," a commentary by Marilyn Marrion. The Manion Forum, South Bend, Indiana, March 1973.

"This is the story of a man who did what he believed was right," begins this warm and moving commentary. It goes on, "It is written in hopes that the saga is yet unfinished." The story is about Dr. Filimon Kowtoniuk who was ousted from his faculty post at Virginia State College for opposing anti-war demonstrations.

A very concise account is given of Kowtoniuk's background and his patriotic involvement. His application for unemployment compensation has been twice rejected. The commentator rightly concludes, "If he were a Communist like Angela Davis, Professor Kowtoniuk would be in fashion and in demand. As it is, he is penniless and alone. Surely that is not the way things should work in America!" We have no doubt that he will have his opportunity.

"Ukrainian National Republic," a statement by Hon. Joshua Eilberg. Congressional Record, Washington, D.C., March 22, 1973.

Circumstances prevented Congressman Eilberg of Pennsylvania from issuing this excellent statement commemorating Ukrainian Independence Day last January 22, However, its superb content more than makes up for its belated issuance. The statement contains all the historical highlights surrounding the formation of the Ukrainian National Republic in 1918.

Relating to the present, the statement concludes in this vein: "This state of events is unacceptable to lovers of liberty. Thus, while joining with our Ukrainian brothers in commemorating this melancholy anniversary of freedom so briefly enjoyed and so cruelly lost, let us resolve that the day will not be long in coming when the Ukraine will again truly be free."

Mr. MOAKLEY. Mr Speaker, I would like to thank my distinguished colleague from Pennsylvania (Mr. FLOOD) for the opportunity to join today in commemorating the recent 56th anniversary of the proclamation of Ukrainian independence.

Unfortunately, the anniversary of Ukrainian Independence differs measurably from our own celebration.

Ours is a day of unquestioned rejoicing and happiness. The Ukraine's is a bittersweet celebration. It is saddened by the tragic knowledge that freedom so dearly gained, was cruelly stamped out after 2 short years.

It is with the utmost respect and sympathy, that I regard the struggle of the Ukrainian people to regain their short-lived independence from Russia. Since those landmark years, Ukrainians have endured religious persecution, economic exploitation, and genocide.

Yet they have continued their valiant struggle to defend their people, their language, their history and literature, against Russification and annihilation.

America was founded on the notion that individuals have inalienable rights to life, liberty, and self-fulfillment. We feel a kinship to those who share this notion. We feel a great sympathy for those who must still struggle to obtain these human rights.

Inspired by our revolutionary tradition, Tarah Chevshankow, the 19th century Ukrainian poet, fought against imperialist and colonial occupation of his homeland. The monument to him in our Nation's Capital is testament to those special bonds that exist between America and the Ukraine.

The late President Lyndon B. Johnson underscored America's commitment to freedom at home and throughout the world. He told Congress:

> The most important principle of our foreign policy is support of national independence—the right of each people to govern themselves and to share their own institutions.

The current administration's policy of détente must not cause us to lose sight of this worthy aim. Although we long for an easing of global tensions, we must not be so dazzled by détente that we forget the Nation's within the U.S.S.R. struggling to preserve their identify and throw off the Russian yoke.

I believe that we must continue to protest Soviet treatment of minorities, and to give economic teeth to that protest.

For that reason I recently voted to amend the trade bill. My purpose was to withhold "most-favored nation" status from Russia, until they liberalize their immigration policy. As a nation of immigrants, America must remain sensitive to the needs of individuals who seek political and religious refuge outside their homeland.

I voted for and worked to support a bill to finance Radio Free Europe and Radio Liberty. Happily, this bill passed and on last October 19 became public law. It provides over $50 million for its continued operation. Support of Radio Free Europe and Radio Liberty is an important way Americans can help the struggle of captive nations, who like the Ukraine have no free press.

Another way we can help, is to focus nationwide and worldwide attention on Soviet assaults on minorities and political and intellectual dissenters. Many analysts believe that Alexander Solzhenitsyn continues to be a free man only because the eyes of the world are upon him.

Another way to aid the oppressed and reaffirm our commitment to human rights throughout the world—we must diligently insist that Congress weigh foreign policy in human terms.

Since coming to Congress last year I have joined this fight. My profound concern for basic human rights, prompted me to speak out in defense of Soviet Jews, Vietnamese, and Israeli prisoners of war and for Irish nationalists.

In the same spirit I add my voice to those of my colleagues today. Specifically, I protest the continuous and longstanding Soviet violations, of the United Nation's declaration of human rights. I protest the forcible imposition of atheism on a people with a thousand years of deep Christian tradition. I protest the secret trials, the cruel and inhuman sentences, and other offenses too numerous to detail here.

I mention with deep sadness, that increased national identity, and dissent in the Ukraine, is met by increased Soviet oppression. In this connection I note particularly the widespread arrest of Ukrainain intellectuals in 1965 and 1972.

I feel confident, that the Russians cannot permanently dampen the fire for freedom and independence, that burns in the hearts of the Ukrainian people. It has survived a struggle, centuries old. It has inspired poets and writers of the past. It inspires the youth of today.

I pledge you my continued support of human rights, and join with all here today in reiterating the call for a free Ukraine.

I would like to conclude by reading into the Record the declaration issued by the Honorable Kevin B. White, mayor of Boston and the resolution adopted by the Boston City Council:

DECLARATION

Whereas: On January 22, 1974, the Ukrainian people will honor the 56th anniversary of the proclamation of free Ukrainian National Republic; and

Whereas, The 56th anniversary of Ukraine's independence serves to dramatize the legitimate right of the Ukrainian people for freedom and national independence; and

Whereas: Americans of Ukrainian descent call upon our Government and Congress to exercise all the possible efforts to obtain the release of all Ukrainian imprisoned intellectuals and political prisoners who challenged Russian communist oppressive policies in Ukraine;

Now, therefore, I, Kevin H. White, Mayor of Boston, desiring to provide the opportunity for Americans of Ukrainian descent to adequately commemorate the significance of the memorable day, do hereby declare Tuesday, January 22, 1974, as "Ukrainian Independence Day" in the City of Boston, and direct that the Ukrainian National Flag be raised at the City Hall on Tuesday, January 22, 1974, as a symbol of Ukrainian independence and freedom.

Kevin H. White,
Mayor

RESOLUTION

Whereas, on January 22, 1918, the Ukrainian people proclaimed an independent Ukrainian National Republic in Kiev, capital of Ukraine and many states including the United States of America either recognized or were in process of recognizing the Ukrainian National Republic as the sovereign state of the Ukrainian people; and;

Whereas, as the young Republic started to organize its political, economic and cultural life, it was engaged in costly and bloody war with Communist Russia, despite previous Soviet Russian pledges to respect and honor Ukrainian Independence. In 1921, the Ukrainian National Republic succumbed to the numerically superior forces of Communist Russia and a puppet communist regime was installed in Ukraine, without allowing the Ukrainian people to exercise their voting rights. In 1922, Ukraine was incorporated into the "Union of Soviet Socialist Republics;" and

Whereas, the whole history of Soviet Russian domination in Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violation of national and human rights. Under Stalin, Ukraine was marked for physical extinction; under Khrushchev, and now under Brezhnev-Kosygin, outright terror has been replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, mass arrests and illegal trials and by other oppressive methods, and

Whereas, in the course of its rule over captive Ukraine, Communist Russia destroyed millions of Ukrainians through man-made famines, and forced deportations to Siberia; it abolished the Ukrainian Autocephalic Orthodox Church; it destroyed the Ukrainian Catholic Church; it subordinated all aspects of Ukrainian life to the rigid control of Moscow, including Ukrainian economy, education, the press, the arts and literature, trade unions and others; and

Whereas, in the last few years, hundreds of Ukrainian intellectuals have been arrested and tried in Communist courts for demanding freedom for the Ukrainian people and for demanding the application of the provisions of the U.N. Universal Declaration of Human Rights in Ukraine. Among those who were sent to long years in concentration camps or psychiatric asylums were: Valentyn Moroz (historian), Vyacheslav Choronovil (literary critic), Svyatoslav Karavanskyi (poet), Yuriy Shukhevych (son of General Roman Shukhevych, commander-in-chief of the Ukrainian Insurgent Army during WW II) Evhen Sverstiuk (literary critic), Leonid Plyushch (noted cybernsticist), Mykhailo Osadchy (university professor), Nina Strokata-Karavanskyi (Microbiologist), as well as hundreds of others.

Therefore be it resolved that we express to our Ukrainian-American people of Boston who have brought a great culture to Boston and who have as God-fearing, hard-working people contributed so much to the welfare of Boston, our genuine concern for all of their people whom they left behind in the "Union of Soviet Socialist Republics" and for all enslaved peoples.

Mr. KOCH. Mr. Speaker, one of the truly admirable facts of American life is the compatibility between cultural diversity and national unity. It is a credit to this Nation that cultural distinctions between ethnic groups are given their due respect. It is also a sign of our worth that we show support for those peoples of the world who do not live in an atmosphere of tolerance and freedom. This is why I am pleased that this House is presently under special orders in commemoration of the 56th anniversary of Ukrainian independence. The people of the Ukraine are living under conditions of cultural and political tyranny that are difficult for Americans to imagine. It is a privilege for me to join my colleagues in honoring these brave people.

On January 22, 1918, the Ukrainian National Republic was officially established as an independent state. Despite the fact that the new Soviet government had recognized the Ukraine as politically sovereign, it was attacked by Soviet forces almost immediately. After more than 3 years of continuous warfare, the republic succumbed to the numerically superior forces of the Soviet Union. Its government was replaced by a Soviet regime and, in 1922, it was incorporated into the Union of Soviet Socialist Republics.

In the following half century, the Soviet Union has not been content with its political absorption of the Ukraine. The most abhorrent aspects of its policy have been the efforts to obliterate the cultural identity of the Ukrainian people. Although it has abandoned the Stalinist tactics of physical extinction, the Soviet government continues to employ the less violent methods of mass arrest, illegal prosecution, and subtle intimidation to destroy Ukrainian national consciousness. Ukrainian life is manipulated by Moscow to prevent any deviation from the dogma of Russian communism.

In November, I spoke in this Chamber of the case of Ivan Dzyuba, a Ukrainian intellectual who was sentenced to a decade of prison and exile for his advocacy of cultural freedom. He is only one of many Ukrainian heroes who deserve tribute.

It must be realized that the tragedy of the Ukraine is but one chapter in the story of Soviet autocracy. Russian repression knows no religious, cultural, or intellectual boundaries. It is repression designed to enforce conformity to a determined set of beliefs. Any groups like the Ukrainians with the courage to assert its own set of truths is met with vicious coercion. I salute the anniversary of Ukrainian independence not only to honor the Ukrainian people, but also because it stands as a symbol of the struggle for freedom of thought by Russian people of many religious and ethnic backgrounds. The glimpse of freedom enjoyed by the Ukraine in 1918 represents the hope of the Russian people in 1974.

Mr. BIAGGI. Mr. Speaker, today it is my pleasure to take part in this special order to commemorate the 56th anniversary of Ukranian independence which was proclaimed on January 22, 1918. Exactly 1 year later the act of union went into effect uniting all Ukrainian ethnographic lands into one independent and sovereign state.

Yet, as it is for so many nations in this region of the world their independence day celebrations are marked with the tragic irony of their present conditions. Soon after its joyous proclamation of independence, the Ukrainian peoples were ruthlessly forced into the stranglehold of the Union of Soviet Socialist Republics. Since that tragic day, the brave, freedom seeking individuals have acquired the respect of all of the peoples of the world through their resistance to total Soviet domination, and their endless determination to taste the fruits of liberty.

The 50 years of ironclad rule by the Soviets over the Ukrainians represents one of the most tragic and inhumane periods in world history. Millions of men, women, and children have been annihilated by virtue of such travesties as manmade famines, and outright executions.

In addition, even the most sacred vestige, religious freedom has been stripped from the Ukrainian peoples. Both the Ukranian Autocephalic Church, and the Ukrainian Catholic Church were destroyed, and their faithful members were incorporated into the Kremlin-controlled Russian Orthodox Church.

Even to this day, all aspects of Ukrainian life are rigidly controlled and directed by Moscow. Arrests, trials and convictions of hundreds of young Ukrainian intellectuals, poets, writers, and literary critics and students are common. They are usually brought up on trumped up charges of "anti-Soviet activity and agitation." Actually, these same people profess loyalty to the Soviet State, but are merely fighting against its abuses, violations, and police rule. Among these prisoners are such noted writers and thinkers such as V. Chornovil, I. Dzyuba, I. Svitlychny, E. Sverstiuk, V. Moroz, L. Plushch, and thousands others.

Mr. Speaker, the tragic and outrageous conditions which the Ukrainian peoples continue to endure at the hands of the Soviet Union once again points up the question of whether the U.S.S.R. can ever be expected to participate in a viable détente with the United States. Our efforts are directed toward the liberation of all oppressed persons, and without the full cooperation of the Soviets, détente will be as much as a dream to us as freedom is today for the people of the Ukraine.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join with my colleague, Mr. Flood, in cosponsoring this special order commemorating the anniversary of Ukrainian Independence Day. As the Members are aware, the special order was delayed until today to allow for the heavy legislative schedule of the opening of the second session of Congress.

Fifty-six years ago on January 22, 1918, the Ukrainian nation declared their independence from Communist Russia. But this freedom and independence, to which they had aspired for two and a half centuries, lasted only 4 years as it was soon extinguished by the Soviet regime. As a result, the Ukraine was incorporated as a Socialist Republic in the Soviet Union as though to obliterate from history the previous existence of the Ukraine as a nation. Subsequent Soviet policy, designed to extinguish Ukrainian cultural and spiritual independence, has exacted a heavy toll in human lives and misery by denying national identity to the Ukrainian people. Resistance movements have been countered with Soviet authorized deportation, starvation, and execution.

The Ukraine is one of the richest of the captive nations of the U.S.S.R. The Ukrainian territory, covering 232,046 square miles, is a land possessing tremendous agricultural and industrial resources and boasting a cultural background that is centuries old. No fewer than 74 nations have become independent since the close of World War II, and 55 of them are smaller in size than the Ukraine with only five having more inhabitants than Ukraine's 48,100,000.

There is a so-called Ukrainian S.S.R. holding membership in the United Nations as a controlled vote of the Soviet Union. Legitimate membership of the Ukraine in the U.N. will come only when its people are served by a government of their choice.

During the five decades since the time of the Russian Communist takeover, the Ukrainian people have not given up hope of once more regaining their freedom and independence. They have steadfastly served the cause of freedom by their refusal to resign themselves to enslavement by giving up the struggle despite overwhelming odds. Mr. Speaker, it is appropriate that so many Members of the House join in emphasizing the right of the Ukrainian nation to self-determination so that the Ukrainian people once again regain their freedom and live in peace in their homeland.

REVENUE SHARING FROM OUTER CONTINENTAL SHELF LEASES OF OIL, GAS, AND OTHER MINERALS

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. Young) is recognized for 5 minutes.

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing a bill today to provide for revenue sharing from Outer Continental Shelf leases of oil, gas, and other minerals.

This bill will distribute the royalties from Outer Continental Shelf lands to the adjacent coastal State, 50 percent; the other States, 25 percent; and the U.S. Treasury, 25 percent.

Federal public lands producing royalty revenues already require royalty revenue distribution to the State on which the lands are located. See 30 United States Code, section 191.

Mr. Speaker, although these minerals are located within Federal lands—the Outer Continental Shelf—the adjacent State provides considerable governmental services to the industries and people engaged in exploration and production. Such State governments must incur substantial expenses in connection with these activities. But they receive no share of the royalties. This is particularly unfair in view of the fact that States on which royalty producing Federal public lands are located share in such royalties.

Mineral exploration, whether it be from Federal public lands or Outer Continental Shelf lands, is really a cooperative venture with private industry, State and local governments, and the Federal Government all lending a hand. Because Federal royalties now are deposited in the general treasury, the adjacent coastal States must bear an unfair burden.

The funds involved are not considerable. The total Outer Continental Shelf receipts, including royalties, bonuses, and rentals for 1969 were nearly $714 million. For 1970, they were nearly $334 million. For 1971, they were over $1,272,000,000. And these figures do not include the very considerable royalties that will accrue after oil and gas production starts on the Outer Continental Shelf in other areas.

My bill will, for the first time, provide that royalties will be shared directly with the other nonadjacent States—inland as well as coastal. It provides a fair revenue sharing formula and will be easily administrable.

I urge the House to consider this concept as soon as possible and avert needless litigation and delay. With the current energy crisis, we can ill afford to delay the development of our Outer Continental Shelf energy potential.

I ask unanimous consent that the bill itself be printed in the Record at this point along with a table of Outer Continental Shelf receipts for fiscal years 1955–70.

There being no objection, the bill and table were ordered to be printed in the Record, as follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that—

(1) all States which contain public lands of the United States within their boundaries receive certain revenues produced from bonuses, royalties, and rentals of such lands in accordance with the Mineral Leasing Act of 1920 (30 U.S.C. 191);

(2) such sharing of revenues is based on the equitable consideration that these States furnish governmental services to the industries and people engaged in the exploration and production of minerals from such lands and accordingly such States are entitled to be reimbursed for such services;

(3) coastal States perform identical governmental services to the industries and people engaged in the exploration and production of minerals from the portion of the seabed, which adjoins each coastal State but to which such States do not have title, yet these States now receive no share of the revenue produced;

(4) coastal States in addition to providing governmental services, are subject to other burdens not financially measurable, such as the risk and the actuality of oil spills, movement of population of low coastal areas where hurricane dangers are greatest, and modification of coastal ecology;

(5) basic justice requires that coastal States should share revenues from the aforesaid portion of the seabed at least on the same equitable grounds on which States with Federal lands within their boundaries now share such revenues with the Federal Government, and

(6) the bonuses, royalties, and rentals of public lands can provide a practical way in which Federal revenue sharing with all States can be accomplished.

Sec. 2. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"Sec. 9. Disposition of Revenues.—(a) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf for the period beginning

June 5, 1950, and ending with the day preceding the date of the enactment of this subsection shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf on and after the date of the enactment of this subsection shall be deposited in the Treasury of the United States; and of the amount of the revenues so deposited in each fiscal year which are attributable to the portion of the Outer Continental Shelf adjacent to any State—

"(1) 50 per centum shall be paid by the Secretary of the Treasury to such adjacent State;

"(2) 25 per centum shall be paid by the Secretary, in equal amounts, to each of the several States other than such adjacent State; and

"(3) 25 per centum shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(c) Any moneys paid to the Secretary or the Secretary of the Navy under or in connection with a lease but held in escrow pending the determination of a controversy as to whether the lands on account of which such moneys are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a) if paid before the date of the enactment of this subsection, and

"(2) in accordance with subsection (b) if paid on or after the date of the enactment of this subsection.".

SEC. 3. (a) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify in any manner any right, claim, or interest of any State in any funds received before the date of the enactment of this Act, or of any funds held in escrow pending the determination of any controversy as to whether the submerged lands on account of which such funds were received constitute a part of the Outer Continental Shelf.

(b) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify any claim of any State to any right, title, or interest in, or jurisdiction over, any submerged lands.

BUREAU OF LAND MANAGEMENT—OUTER CONTINENTAL SHELF RECEIPTS, FISCAL YEAR 1955 THROUGH 1970

	Royalties	Total (includes bonuses and rentals)
1955	0	$154,621,764.85
1956	$52,814.63	137,742,374.94
1957	232,342.21	13,178,593.89
1958	830,760.69	15,699,374.58
1959	2,266,484.40	23,830,325.75
1960	2,839,980.97	401,722,186.69
1961	5,588,525.60	51,067,561.98
1962	5,605,230.15	510,198,439.12
1963	7,433,912.55	137,273,981.41
1964	10,640,439.52	152,395,954.32
1965	11,246,201.92	142,502,002.40
1966	86,424,061.11	208,764,843.82
1967	41,107,770.26	785,440,705.67
1968	57,935,108.40	1,082,763,202.32
1969	78,083,889.47	713,912,091.57
1970	113,580,953.89	333,809,071.36
1971	159,914,891.13	1,272,257,326.56
Total	583,771,719.06	6,137,149,774.23

WE NEED INFORMATION ON ENERGY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, our country is undergoing rapid change. Perhaps never before have the decisions in Washington more directly affected patterns on national life. This is particularly true in the area of energy legislation. It is clear that to meet the challenge of providing sufficient energy resources, we must have access to all aspects of the present shortage.

Unfortunately, however, right now no one really knows how to measure energy shortages and the impact upon our country. The information-gathering system to date has been, at best, loose and poorly coordinated. An overwhelming amount comes from the petroleum industry, and their projections have gone up and down like a roller coaster over the past several months. This makes it difficult to plan for the future. It also makes some Americans question the reality of the oil shortage.

Time after time, when I have held office hours back in my district, I have been approached by constituents who are confused by all the conflicting information they read and hear. Frankly, I am just as frustrated as they are, and for that reason I yesterday joined Congressman MADIGAN and several of my colleagues in sponsoring legislation to require oil producers, refiners, and distributors to provide all information requested by the Federal Energy Administration. The auditing of such information will be authorized by the General Accounting Office.

This reporting requirement for the oil firms is desperately needed to assure the accuracy of FEO's estimates of energy supplies and shortages, and will be very valuable in the preparation of fuel programs and policies.

I hope this legislation, H.R. 12352, will receive immediate and favorable consideration by the Interstate and Foreign Commerce Committee.

DR. VINCENT C. McKELVEY

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, in these troubled times there are few words of praise written about the Federal Government or any of its employees. So it seems particularly meaningful when we can take the opportunity to cite an unusually dedicated and brilliant scientist and Government administrator who has been honored for his work. I am referring to Dr. Vincent C. McKelvey, Director of the U.S. Geological Survey.

Dr. McKelvey was recently named as one of five winners of the 1973 Rockefeller Public Service Awards given annually in recognition of "distinguished service to the Government of the United States and to the American people." He was chosen specifically in recognition of "sustained, distinguished service to our Nation in the broad field of government activity designated Physical Resource Development and Protection."

The award, administered as a national trust by Princeton University's Woodrow Wilson School of Public and International Affairs, represents the highest privately sustained honor for the Nation's career services in five spheres of Federal Government operations. Thus, the awardees are very special people. They reflect not only individual achievement but also a level of competence and dedication common through many levels of government but often remaining largely unnoticed.

The Nation is deeply troubled about our energy and materials shortages. Many feel that we lack an effective and unified national policy and the leadership to solve these problems. We shall be sorely tested now and in the far future as to our ability to solve our environmental resource problems. But in assessing our problems, and in planning to solve them, we can be comforted in the knowledge that we have such public servants as Dr. McKelvey to help guide us toward our fateful decisions.

Dr. McKelvey is the fifth U.S. Geological Survey scientist to be granted this award since the first awards were established 21 years ago. This, says much about the level of competence and dedication of the Survey, the Interior Department's major scientific "arm." Other USGS scientists honored include the late Dr. William T. Pecora, himself a former Survey Director who rose to the post of Under Secretary of the Interior Department, and who contributed so much toward a better understanding of our national environmental and natural resource needs; Dr. Thomas B. Nolan, also a former USGS Director; Dr. Luna Leopold, former chief hydrologist; and Dr. Joseph Upson, retired research hydrologist.

Dr. McKelvey, 57, is a native of Huntingdon, Pa., and a career research scientist with the U.S. Geological Survey since 1941. He was sworn in as the Survey's Director on December 8, 1971, following original recommendations of the National Academy of Sciences, nomination by President Nixon, and confirmation by the Senate.

He received his B.A. with honors in geology from Syracuse University in 1937, and his M.A., 1939, and Ph. D., 1947, from the University of Wisconsin.

Dr. McKelvey gained international recognition for his investigations into problems related to the geology of phosphate deposits, long-range energy and mineral resource needs, and particularly in recent years, for his analyses and assessments of seabed resources of the world. He is the author of numerous scientific articles dealing with the geology of manganese, phosphate, uranium, mineral and fuel resources, marine resources, methods of estimating reserves, stratigraphy, sedimentation, and mineral economics.

During his career with the U.S. Geological Survey, McKelvey's special assignments have included: Consultant to Chief of Engineers, Manila; Minerals Specialist, Jordan; U.S. representative and adviser to the Energy Committee of the Organization for Economic Cooperation and Development; U.S. representative to

Government Advisory Committee on Energy and Minerals, United National Resource and Transport Division; and adviser on phosphate exploration, Saudi Arabia; leader, Department of the Interior Study Group, OCS oil, gas, and sulfur leasing policy. He has been a representative of the United States to the United Nations Seabeds Committee since its inception, and with USGS colleague, Dr. F. H. Wang, has compiled a set of maps showing the world distribution of seabed minerals.

McKelvey is the recipient of the Department of the Interior's highest award—the Distinguished Service Award, 1963. In 1968, he was the American Institute of Mining Engineers Henry Krumb Lecturer on subsea mineral resources, and in 1971, gave the Seventh McKinstry Memorial Lecture at Harvard University. In 1972, he was granted the National Civil Service League Career Service Award for Sustained Excellence.

McKelvey's professional affiliation include: American Asssociation for Advancement of Sciences; American Geological Institute, member of council 1969–72; Society of Economic Geologists, member of council 1967–70; American Geophysical Union; Economic Geologic Publishing Co., member of board of directors; Geochemical Society; the American Institute of Mining Engineers; and the Americal Association of Petroleum Geologists.

Recently, under Dr. McKelvey's guidance, the Geological Survey completed a comprehensive assessment of the Nation's mineral resources. The assessment Dr. McKelvey said, provided some sobering implications. He said:

> The fact is that the future drain on our mineral supplies will become enormous. Even with a leveling off in growth of per capita consumption, it will be necessary to build a "second America" within the next three decades in the sense of having to duplicate or replace the physical plant built during all our history. Most of the raw materials needed for constructing such an undertaking will be drawn in large measure from resources that are now only sub-economic, or not even discovered.

Dr. McKelvey went on to say that the compelling need for minerals is also matched by environmental problems. He pointed out:

> For many minerals our future production will depend on the mining of huge volumes of low-grade ores with adverse environmental impact unless we exert great care in their extraction and use.

Such words show that Dr. McKelvey understands the dimensions of the environmental-resource dilemma in which the Nation is embroiled. With the expertise of Dr. McKelvey and his colleagues, we can move toward a "second America" with confidence and purpose.

IN BEHALF OF OUR MIA'S

The SPEAKER. Under a previous order of the House, the gentleman from Alabama (Mr. Edwards) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, we are all aware of the inhumane, indefensible response on the part of Hanoi to efforts to account for the over 1,000 American servicemen who are still missing and unaccounted for in Southeast Asia. North Vietnam and the Vietcong have consistently failed to comply with article 8B of January 27, 1973 Agreement to End the War and paragraph 8E of the joint communique of June 13, 1973, both of which require cooperation in gaining information about parties missing or killed in action.

While at the Pentagon recently, I again brought this matter up. Officials assured me that in spite of the shooting down of an unarmed helicopter by the Vietcong in December, killing an American Army captain, they will not abandon their efforts to account for all Americans. Certainly we must continue to push for full information and disclosure of the fate of these brave men.

Mr. and Mrs. James F. Graham of Mobile, Ala., are parents of Capt. Allen U. Graham, USAF, who has been missing in North Vietnam since October 17, 1972. The following is their description of this situation:

> Because several hundreds of our former prisoners of war (POWs) and missing in action (MIAs) were returned to us, many Americans hold the mistaken impression that the POW–MIA problem no longer exists. Nothing could be further from the truth. There are still 33 men from Alabama alone unaccounted for.
>
> Here are some of the hard facts of the issue: (1) Few of our "missing" were included among those men who were returned; (2) More than 50 of those who were known to be prisoners of war also were not returned; (3) Sixty of our men that the other side claimed had "died in captivity" are still buried in alien soil. Not one body has yet been sent home to the man's family; (4) Our search and inspection teams which were supposed to be allowed entry into all areas of Southeast Asia where our men were last seen alive, have so far been permitted to examine only a handful of such sites—all in South Vietnam.
>
> The National League of Families, of which we are members, has prepared a fact sheet detailing some of the information about our missing men. We are enclosing a copy in the hope that you will find it of enough interest to write an editorial on the subject, and that it will also prompt you to want to provide further news coverage on the progress or lack of progress our government is making in its efforts to account for these missing men.
>
> Our son graduated from McGill Institute and the University of South Alabama. He is the only alumnus of the university that is MIA. He taught at Davidson High School before entering the service. His wife, Susan Wilson Graham, is a graduate of Spring Hill College. She and their four-year-old daughter Nicole live at present in Columbia, S.C.
>
> We cannot help but believe that many of our fellow citizens would be genuinely concerned about his fate and about the fate of the other Americans who are still missing if only they knew the facts. January 27 is the anniversary date of the peace agreement.

Mr. Speaker, I concur fully in the good points set out by the Grahams. The United States must increase economic and diplomatic pressure on North Vietnam, and we must never stop until we have a full accounting. These American servicemen performed an indispensable service to our Nation in time of need. We must not and cannot be satisfied until we fully know their fate.

DAYLIGHT SAVING A MISTAKE

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. Bauman) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, last November 27, as concern over the energy crisis produced a strong urge in the Congress to take some sort of quick action to begin to deal with the problem, we passed a measure putting the country on year-round daylight saving time. While I had reservations at that time, the overwhelming majority of House Members approved the bill, and it took effect early this year.

But in the few short weeks since daylight savings time took effect, it has become obvious that the move was ill-advised, and that the advantages gained do not outweigh the increased danger which it presents for schoolchildren in my district in Maryland, and throughout the country. The higher incidence of accidents involving schoolchildren in the predawn hours has been far too great a price to pay for the miniscule energy savings received. If even one child loses his or her life while we are trying to save 1 percent of our energy or less, the price is too high.

Therefore, I am today introducing a bill to repeal the law placing the Nation on year-round daylight saving time, and I ask the support of the majority of the Members of this House.

CHINA ON TAIWAN RECORDS RECORD ECONOMIC YEAR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Leggett) is recognized for 30 minutes.

Mr. LEGGETT. Mr. Speaker, last September I had the honor to inform this body of the establishment of the United States-Republic of China Conference Group. Composed of distinguished members from the public and private sectors, the Group was dedicated to the strengthening of the traditional friendship between our two countries and the expansion of understanding and exchange in all areas of mutual interest—business, education, trade, culture, science, relations at all levels. The conference group proposed to work through reciprocal organizations in each country to plan and encourage meetings, publications and other activities designed to accelerate and deepen the currents of our bilateral cooperation.

I am happy to report that the efforts of the conference group have moved foreward encouragingly. I am hopeful we will be able to announce a first annual meeting of the group shortly.

In the interim I continue to enjoy close communication with friends and associates in Taiwan. Just today, I had the privilege and pleasure to entertain at luncheon, together with a number of my colleagues in the House, a distinguished visitor from the ROC—His Excellency, Cheng Tsang-Po, Deputy Minister of Information and member of the Legislative Yuan. I was delighted to hear from him of the impressive economic and social progress which the ROC continues to make at unparalleled levels of achievement. I would like to note briefly for the benefit of my colleagues some of the most recent evidence of this remarkable success story.

Economically, 1973 was the most successful year of growth in the history of the Republic of China. According to the Chinese Information Service GNP grew by 12.3 percent in constant prices. This achievement caps a decade of rapid modernization and industrialization during which the economy of Taiwan has expanded by an average of more than 10 percent annually in real terms. Few countries in the world today can match this record. How happy we in the United States would be if we could make a similar claim.

With its great advancement, the Republic of China has become one of the major trading countries of the world, at the top among developing nations. Its burgeoning foreign trade, which rose 48 percent in 1972, increased again a phenomenal 50 percent in 1973 to $8.3 billion. With its exports now composed of 85 percent of industrial goods, total ROC exports rose to $4.5 billion in 1973, giving Taiwan a net favorable balance of trade for the year in excess of $680 million. Fed so well, foreign exchange reserves in Taiwan stood at a robust $1.87 billion at the end of September 1973.

Equally as impressive as this macroeconomic data is the impact of this progress in social, human terms. Per capita GNP for Taiwan's 15 million people which stood at only $103 just 20 years ago, had risen to $372 in 1972. This past year it surged sharply to $467 by year end.

And this is no empty figure. The people of Taiwan are sharing fully in the benefits of their expanding economy. To take but one telling example, today nearly 9 out of every 10 families in Taiwan's capital own television sets. This illustrates an important, almost unique ROC achievement among developing countries. Whereas most countries of the third world have seen rapid industrialization lead to a worsening disparity between the incomes of rich and poor, Taiwan has insured that the benefits of growth and change are more evenly distributed. Twenty years ago the wealthiest 20 percent of the population of Taiwan had average family incomes 15 times higher than the poorest 20 percent. Today that disparity has dropped to only 5 to 1 and continues to decline.

Prosperity at home has been an important contributor to the exemplary domestic stability enjoyed by the ROC. In turn, this stability, the industry and dedication of the Chinese people, has been the foundation of Taiwan's economic upsurge. This atmosphere is due in no small measure to the enlightened and effective leadership of Taiwan's Premier, His Excellency Chiang Ching Kuo. Since taking office in May 1972, Premier Chiang has shown unsparing concern for the human equation, bringing native Taiwanese increasingly into government, traveling extensively to meet the people and get their views firsthand.

The fundamental strength and momentum of the Taiwan economy leave little doubt that expansion will continue despite the global economic dislocations of the past year, albeit probably at a reduced rate. Taiwan, which imports 97 percent of its oil needs, will, like all oil importing countries, have to pay the price of higher energy costs, but it appears to have assured adequate supplies. It will be the victim, too, of imported inflation in other areas as costs around the world continue to rise. But these are problems endemic in the world as a whole. There is no reason to believe, even if the world economy slows down, that the ROC's relative position among the fastest growing economies will not remain the same.

It is important to remember that Taiwan's economy has already overcome serious international obstacles. The last several years have involved difficult political and diplomatic setbacks for the Republic of China. Yet despite these difficulties, Taiwan has been successful in strengthening its informal relations and expanding its economic ties. The absence of diplomatic recognition has not impeded trade. A number of the ROC's most important trading partners are countries with which there are no diplomatic relations but which remain anxious to receive the economic benefits of free and open commerce. In 1973 the ROC appears to have stabilized its diplomatic relations with other states. I am confident that its fundamental ties with other countries will continue to develop. I am optimistic that growing political realism will lead to a turn-around in Taiwan's political relations as well.

Mr. Speaker, if the ROC has become a beacon of progress for other developing countries to look toward, it also stands as a shining example of U.S. assistance successfully employed and, equally as important, brought to an end when its objectives have been achieved. Today the United States continues to play a role in the ROC success story but now as a friend and equal and no longer paternalistically as in the old aid-donor days. The United States remains the principal trading partner with Taiwan, but on strict commercial terms. In 1973 we took 37 percent of ROC exports and provided 25.1 percent of its imports, at a total value of $2.6 billion in trade both ways. U.S. investors share importantly in Taiwan's industrialization and remain confident in the Republic's future. More than $66 million in U.S. private investment proposals were approved by the ROC in 1973 alone, bringing the total of U.S. private investment proposals approved to over $390 million. These relations are based on the hard currency of mutual self-interest, bringing to the people of both our countries.

Notwithstanding these mutually beneficial ties, there is growing concern in Taiwan and the United States that the developing détente between the United States and Mainland China will inevitably lead to a rupture between the United States and ROC. There is no reason why this need be true.

I have fully supported the initiatives we have made toward a rapprochement with the People's Republic of China. To do less would have been foolish and unrealistic. It would also be unrealistic to believe that the move toward détente will not continue. Both powers stand to benefit substantially from improved relations, both appear to recognize this and seem disposed to move ever closer in a gradual and careful, step-by-step process over the next few years.

To recognize and support this process, however, is not to say that closer relations with the mainland must put greater distance between the United States and the Republic of China. Our Government has given assurances that our new relationships will not be achieved at the expense of our friends. Our treaty commitments with the ROC including the Mutual Defense Treaty of 1954 remain in force. Our relationships have matured from the early days of dependency into multiple patterns of close cooperation based on mutual benefit. Our friendships have gained the immutable strength of time.

Both the Republic of China and the United States have evidenced the firmness and flexibility to avoid false frictions and focus on fundamentals in our relationships. I am confident that with some care and patience on both sides, the close, cooperative and mutually beneficial relations between our two great countries and peoples at all levels will continue to flourish. It is the goal of the United States-Republic of China Conference Group to further these fundamental and enduring ties.

CONSIDERATION FOR THE VICTIMS OF CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, crime in our country has increased in the last decade, and has been the major concern of the majority of our citizens. As crime has increased we have found more studies being done on the causes of crime and how best to rehabilitate the criminal.

Unfortunately, I believe that a very serious aspect of the crime problem has been overlooked, and that is consideration of the victim of crime. For him society has failed in its duty to protect him, and a state which forbids our going armed in self-defense cannot disavow all responsibility when it fails to protect its citizens.

The concept that society has an obligation to help meet the needs of victims of criminal violence arose almost 4,000 years ago, and I believe that it is time it again becomes a part of statutory law.

The code of Hammerrabi of ancient Babylonia (c. 1775 B.C.) evoked communal responsibility for certain crimes where it was possible to place individual blame. "If a robber has not been caught," the code specified, "the robbed man shall declare his lost property in the presence of the god and the city and governor in whose territory and district the robbery was committed shall replace him for his lost property." In addition, the code ordered that "if it was a life that was lost, the city and governor shall pay one mina of silver to the heirs."

If the Babylonians had a system of compensating victims of criminal acts surely our society, which prides itself on its civilized nature, should have such a system.

In the 16th century, Jeremy Bentham noted the plight of the victim of crime and suggested this rationale for compensation: Has a crime been committed? Those who have suffered it, either in their person or their fortune, are abandoned to their evil condition. The society which they have contributed to maintain, and which ought to protect them, owes them, however, an indemnity, when its protection has not been effectual.

A number of foreign countries have compensation programs including New Zealand, England, and Canada. New Zealand was the first to inaugurate such a program in 1963. England's program was developed the following year and by December of 1968, it had made some 12,000 awards.

In the United States we have had a number of States enact laws compensating victims of crime. California was the first State to develop such a program in 1965. Subsequently, crime victim compensation statutes were enacted in New York in 1966. Hawaii and Massachusetts in 1967; Maryland in 1968; Nevada in 1969; New Jersey in 1971 and most recently Rhode Island, Alaska and Louisiana.

Today I am introducing legislation that will compensate victims of certain crimes. I believe that it is time for the Federal Government to assume its obligation to come to the aid of victims of crime by offering them some type of monetary compensation.

My bill is based on title I of the Victims of Crime Act of 1973, which passed the Senate in the last session, but I have made several changes which I feel are necessary.

The bill as it passed the Senate establishes a Federal program but only for crimes that take place within the Federal jurisdiction. My bill will compensate victims of both State and Federal crimes.

I feel that we should have a uniform code for compensating victims and the most efficient, and least costly, would be to have one Federal program that would provide compensation in an offense against the laws of any State or of the United States, as opposed to a Federal program or individual State programs receiving Federal funds.

My bill, as well as the Senate version, establishes an independent Federal Violent Crimes Compensation Board for the purpose of providing compensation to two categories of individuals—victims and intervenors—or the surviving dependent or dependents of such individuals. A victim is a person who is killed or who suffers personal injury where the approximate cause of such death or injury is violent crime. An "intervenor" is a person who goes to the aid of a policeman or a victim to prevent a violent crime or to apprehend a suspect. Of course, the purpose of including the intervenor in this bill is to encourage third parties to assist their fellow citizens and to aid law enforcement officials. If people know they will have an opportunity to be compensated if they are harmed in aiding a victim of crime or a law enforcement officer, I believe many people would be more likely to get involved.

Another area where my bill differs from the Senate version is in the area of compensation. The Senate bill provides that a victim cannot recover unless he can show financial stress. I have eliminated financial stress as a condition precedent to recovery as I believe it could cause harsh results to the victim who does not quite suffer financial stress but who does not have an income in an amount sufficient to absorb his losses.

I believe it is better to consider the standard of living of the victim. That is, to determine whether with this standard being reduced coupled with the consideration of the extent and permanence of the injury and the depletion of the victims personal income, will he be relegated to poverty or near-poverty conditions and will his family be forced to bear the burden of this financial situation.

Many people in our country are working for programs to rehabilitate criminals and are trying to get society to look on these people with compassion. I believe a bill such as my bill will encourage this feeling in our country and the following quote from English penal reform, Ms. Margaret Fry supports this:

> A rational system of correction can only be achieved when victims, satisfied financially, no longer press for revenge but rather favor rehabilitation.

I hope that every Member will lend his support to my bill, and hopefully compensation for victims of criminal acts will be available to Americans before this year has ended.

CPA AT USDA II

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, a subcommittee on which I serve is now considering three proposals to create a Consumer Protection Agency. These are H.R. 14 by Congressman ROSENTHAL, H.R. 21 by Congressmen HOLIFIELD and HOLTON, and H.R. 564 by Congressman BROWN of Ohio and myself.

Of these only the Fuqua-Brown bill would withhold from the CPA the power to obtain court review of the actions of other agencies such as the Department of Agriculture.

Yesterday I inserted a listing supplied me by the USDA of those rulemaking proceedings it engaged in in 1972 which would have been subject to this extraordinary CPA power. The great volume of proceedings and activities of the USDA precluded listing all of them in one RECORD insertion.

Mr. Speaker, I now insert in the RECORD the reply of the USDA listing those adjudications proposed or initiated by the Department in 1972 which could have been subject to the provisions of these CPA bills:

REPLY OF THE USDA

Question 3.—Excluding proceedings in which your agency sought primarily to impose directly (without court action) a fine, penalty or forfeiture, what administrative adjudications (including licensing proceedings) subject to 5 U.S.C. 556 and 557 were proposed or initiated by your agency during calendar year 1972?

Answer—

1. Three (3) proceedings to obtain cease and desist orders for violation of the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

2. Proceedings to obtain cease and desist orders for violation of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), as follows:

Packers	22
Market agencies	17
Livestock dealers	6
Total	45

3. Twenty-one (21) proceedings on petitions of handlers subject to marketing orders promulgated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*). These proceedings are initiated by such handlers, rather than the Department, by filing petitions under section 8c(15)(A) of the Act (7 U.S.C. 608c (15)(A)), but they are formal adjudications under the Administrative Procedure Act.

Question 4.—What adjudications under any provision of 5 U.S.C. Chapter 5 seeking primarily to impose directly (without court action) a fine, penalty or forfeiture were proposed or initiated by your agency during calendar year 1972.

Answer.—

1. Thirteen (13) proceedings to obtain cease and desist order and penalty, such as denial of trading privileges on a contract market or suspension or revocation of registration of futures commission merchant or floor broker, for violation of the Commodity Exchange Act (7 U.S.C. 1 *et seq.*).

2. Proceedings to suspend registrations of livestock market agencies and dealers for insolvency or violations of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), as follows:

Market agencies	14
Livestock dealers	33
Total	47

3. Twenty-two (22) proceedings to suspend or revoke the licenses of commission merchants, dealers or brokers for violation of the Perishable Agricultural Commodities Act (7 U.S.C. 499a *et seq.*).

4. One (1) proceeding to refuse to renew a license to inspect grain under the United States Grain Standards Act (7 U.S.C. 71 *et seq.*).

5. Three (3) proceedings to revoke license to manufacture biologics under the Virus-Serum-Toxin Provisions (21 U.S.C. 151 *et seq.*).

Question 5.—Excluding proceedings subject to 5 U.S.C. 554, 556, and 557, what proceedings on the record after an opportunity for hearing did your agency propose or initiate during calendar year 1972?

Answer.—This Department conducts a number of proceedings which are not subject to the provisions of 5 U.S.C. 554, 556, and 557 but in which opportunity for a hearing is afforded. Most of these are initiated not by the Department but by an individual or firm outside the Department, such as by filing a complaint for damages against another individual or firm subject to the jurisdiction of the Packers and Stockyards Act. Although not literally within the scope of the request under Question 5, they are listed anyway since it would appear they may fall within the general language of several of the bills (see, *e.g.*, section 204(a) of H.R. 14 and section 103(a) of H.R. 564).

1. Approximately 475 proceedings for reparations (damages) under the Perishable Agricultural Commodities Act (7 U.S.C. 499a *et seq.*).

2. Approximately 68 proceedings for reparations (damages) under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*). (Approximately 720 complaints were filed with or made to the Department. The 68 listed represent those that were actually docketed for a possible decision.)

3. Proceedings under regulations (7 CFR Parts 780, 790, and 791) for review of producer's complaint about decisions concerning his compliance with program requirements, as set forth below. These cases are initiated by producer complaint to the county ASCS committee. In some cases the county committee will recommend relief which will be reviewed by the State ASCS Committee and the Deputy Administrator of ASCS in Washington. If the county committee denies relief, the producer may appeal through the same procedure. The number of complaints filed with the county committees in any one year numbers in the thousands; therefore, only those cases which are appealed to the Deputy Administrator, ASCS, are listed here.

a. Failure to fully comply (407 cases).

1. Feed Grain Program (219).
2. Wheat Program (121).
3. Cotton Program (40).
4. CAP (27).

b. Misinformation—Misaction all programs (332 cases).

c. Program appeals concerning payments, noncompliance, division of payments, payment limitations, timely enrollment, improper certification, set-aside quality, failed acreage credit, etc. (256 cases).

1. Feed Grains (105).
2. Wheat (23).
3. Cotton (45).
4. CAP (6).
5. Milk (2).
6. REAP (31).
7. Sugar (2).
8. Tobacco (9).
9. CCC-loan payments (6).
10. Beekeeper (14).
11. Wool (2).
12. Reconstitution (farm definition) (8).
13. Peanuts (3).

Total (a, b, and c) 995.

4. Approximately 65 proceedings for review of producer's complaint concerning his farm marketing quota under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1361–1368).

5. Sixteen (16) proceedings for suspension or revocation of accreditation of veterinarians under various Animal Quarantine laws and regulations and rules of practice (9 CFR Parts 161 and 162).

6. Forty-four (44) appeals (all classes) docketed with the Board of Forest Appeals.

7. Thirty-five (35) appeals docketed with the USDA Board of Contract Appeals.

8. One (1) proceeding to deny inspection service under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

ENERGY CRISIS BLAMED BY AIR CARRIERS ELIMINATING AIRPORT SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Murphy) is recognized for 5 minutes.

Mr. MURPHY of Illinois. Mr. Speaker, the House is grappling all this week with proposals to deal with the energy crisis and apply reasonable standards for distributing its burden among all segments of our society. I have my doubts about the existence of this crisis and abhor the advantage being taken of the shortages by industries whose 1973 profit margins far exceed acceptable levels.

It is thus appropriate that I reintroduce a bill this week which questions the right of air carriers to discontinue service due to fuel cutbacks. I first introduced the bill before the Christmas recess and now include several of my colleagues as sponsors: Mr. Madden, Mr. Kluczynski, Mr. Gray, Mr. Rostenkowski, Mr. Derwinski, Mr. Metcalfe, Mr. Thone, and Mrs. Collins of Illinois.

The legislation amends section 401(j) of the Federal Aviation Act of 1958 to prevent an air carrier's suspending service unless the suspension was approved by the Civil Aeronautics Board after public hearings. The provisions of the bill apply to discontinuances of service occurring after December 31, 1973.

Although the legislative language is general, the sponsors' intent is quite specific. Recent decisions by air carriers to withdraw sheduled flights from Chicago's Midway Airport have had a devastating effect. The announcement of the impending withdrawal came only weeks in advance of the actual withdrawal and, coincidentally, a week before Congress adjourned for a month-long Christmas recess.

The city of Chicago has petitioned the CAB to reconsider its decision. City officials argue that Midway's existence saves fuel and does not create a drain on existing fuel levels. The officials note, however, that studies corroborating these facts are never alluded to by the airlines.

When the decision to withdraw was made by the first air carrier it was expected that the airline fuel allocation would be between 75 and 85 percent of the 1972 allocation. Chairman Timm, of the Civil Aeronautics Board, noted that if the fuel situation changed, the Board would consider further discussions about the discontinuance of service into Midway.

The administration agreed in late December to permit the airlines to use 95 percent of the 1972 fuel allocation, but no effort has been made by the CAB to renew discussions in light of the airlines' improved fuel situation.

As I have repeatedly said during the past few weeks, Chicagoans deserve a suitable explanation for the air carriers' decisions. A public forum is essential if we expect to air the grievances of all sides and answer the charges and countercharges which have been leveled. It may in fact be decided after public hearings that the air carriers' decision is in the "public interest" and does not affect the safety of passengers or make service to the area less than adequate. The air carriers and the Civil Aeronautics Board have nothing to lose, but they do have the confidence of the people to regain.

I have heard charges that the people in the area served by Midway do not object to the withdrawals of service. I submit the following resolution from a vital community organization, the Beverly Area Planning Association, as evidence that Chicagoans oppose the withdrawals:

Whereas Midway Airport is a vital link to the economic well-being of our community; and

Whereas the Executive Committee of the Beverly Area Planning Association did vote to support all efforts to reinstate flight services at Midway Airport; and

Whereas the Commercial Airlines are by their decision to withdraw services from Midway causing extensive fuel wastage rather than any conservation of fuel; and,

Whereas Congressman Morgan Murphy of our area is making every attempt to encourage Federal Regulatory Agencies to reinstate flight services at Midway Airport; now therefore, be it

Resolved, That the Council of Delegates of the Beverly Area Planning Association does hereby go on record in support of Congressman Murphy's efforts, and instructs the president of the association to so inform the Congressman.

I now include the text of my bill for an appraisal by my colleagues:

H.R. —

A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole on in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 401(j) of the Federal Aviation Act of 1958 is amended to read as follows:

"Application for Abandonment or Discontinuance

"(j) No air carrier shall abandon any route, or part thereof, for which a certificate has been issued by the Board, and no air carrier shall discontinue, in whole or in part, any service provided under such certificate on January 1, 1974, unless, upon the application of such air carrier, after notice and hearing, the Board shall find such abandonment or discontinuance to be in the public interest. Any interested person may file with the Board a protest or memorandum of opposition to or in support of any such abandonment or discontinuance. The Board may, by regulations or otherwise, authorize such temporary suspension of service as may be in the public interest.".

(b) In any case in which an air carrier discontinued any service, in whole or in part, after December 31, 1973, and before the date of enactment of this Act, the Civil Aeronautics Board may, on its own motion or upon petition by any interested party, order such service restored, in whole or in part, pending final disposition by the Board of an application with respect to such discontinuance filed by such air carrier under the amendment made by subsection (a) of this section.

Sec. 2. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading "Sec. 401. Certificate of public convenience and necessity." is amended by striking out "(j) Application for abandonment." and inserting in lieu thereof "(j) Application for abandonment or discontinuance."

RELIEF NEEDED FOR PAKISTAN, NICARAGUA, AND THE SAHELIAN NATIONS OF AFRICA

The SPEAKER. Under a previous order of the House, the gentleman from

Pennsylvania (Mr. MORGAN) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, I am today introducing a bill, by request, to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa.

This assistance is needed by reason of the damaged caused by floods in Pakistan, the earthquake in Nicaragua, and the drought in the Sahelian nations of Africa.

The appropriation of the funds was enacted during the first session, subject to the authorization.

The Committee on Foreign Affairs will hold hearings with the executive branch witnesses on February 6 and 7, and expects to act promptly on the legislation.

The letter transmitting the proposed legislation, together with the draft bill and section-by-section analysis, follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., January 25, 1974.
Hon. CARL B. ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: This is to request that the attached bill be introduced on behalf of this Administration.

The proposed legislation would amend the Foreign Assistance Act of 1961 by adding a new section 452 in Chapter 5 of part I of that Act authorizing disaster relief, rehabilitation and reconstruction assistance in connection with the damage caused by floods in Pakistan, the earthquake in Nicaragua, and the drought in the Sahelian nations of Africa.

On January 2, 1974, the President signed P.L. 93–240, an act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974. Title IV of that Act appropriated $150,000,000 for necessary expenses for disaster relief and rehabilitation in Pakistan, the Sahel region of Africa and Nicaragua subject to the enactment of authorizing legislation. Enactment of the attached bill would provide the required authorization.

I am sure, Mr. Speaker, that you are aware of the urgent need for this legislation. I am prepared to appear with my colleagues before the appropriate committee at the earliest possible date to discuss our relief programs for these disasters.

This proposed legislation has been reviewed by and has the concurrence of the Office of Management and Budget.

Sincerely yours,
DANIEL PARKER,
Administrator.

H.R. 12412

A bill to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Disaster Assistance Act of 1974."

SEC. 2 Chapter 5 of part I of the Foreign Assistance Act of 1961 is amended by inserting immediately after section 451 the following new section:

"SEC. 452. DISASTER RELIEF. The Congress affirms the response of the United States Government in providing (a) disaster relief, rehabilitation, and reconstruction assistance in connection with the damage caused by floods in Pakistan, (b) disaster relief, rehabilitation, and reconstruction assistance in connection with the earthquake in Nicaragua, and (c) famine and disaster relief and rehabilitation and reconstruction assistance in connection with the drought in the Sahelian nations of Africa. There is authorized to be appropriated to the President, in addition to funds otherwise available for such purposes, $150,000,000 to remain available until expended notwithstanding the provisions of Public Law 93–240, for use by the President for such assistance, under such terms and conditions as he may determine notwithstanding any prohibitions or restrictions contained in this or any other Act."

SECTION-BY-SECTION ANALYSIS

Title IV of P.L. 93–240, the Foreign Assistance and Related Programs Appropriations Act, 1974, appropriates $150 million for necessary expenses for disaster relief and rehabilitation in Pakistan, the Sahel region of Africa and Nicaragua subject to the enactment of authorizing legislation. The purpose of the Foreign Disaster Assistance Act of 1974 is to obtain the authorization needed to use that appropriation.

The legislative history of the appropriations legislation includes the recommendation that of the $150 million appropriation, $85 million be made available for Pakistan, $50 million for the Sahel and $15 million for Nicaragua. The Executive Branch plans to follow that recommendation.

Because fiscal year 1974 is more than half over the Executive Branch believes that the requested funds should be made available until expended. Accordingly, the proposed section would waive the applicability of the generally applicable rule that funds remain available for obligation only in the fiscal year of appropriation.

To facilitate the planned assistance, authority is sought to provide it notwithstanding any prohibitions or restrictions contained in this or any other Act. Comparable authority was obtained in the case of disaster relief authorization for the Philippines and has been granted in section 639A of the Foreign Assistance Act of 1961, as amended, with respect to the $25 million of assistance already authorized for the Sahel.

ANOTHER FAIR LABOR STANDARDS PROPOSAL

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes.

Mr. DENT. Mr. Speaker, the Congress last year approved legislation amending the Fair Labor Standards Act by an overwhelming margin. Basically, the legislation provided for a gradual increase in the Federal minimum wage rate to $2.20 an hour and extended the minimum wage and overtime compensation provisions of the act to several millions of working Americans now denied its basic protection. The President, however, saw fit to veto that humane measure and the House, on September 19, sustained that veto. It is a testament to the equity of the legislation, especially considering the tradtionally controversial nature of minimum wage proposals, that a turnabout in voting by only 14 Members would have produced an override of the veto.

On September 20—one day after the vote—many of my Republican colleagues on the Committee on Education and Labor introduced H.R. 10458, presumably the most recent alternative proposed to the ill-fated conference report. It is interesting to note that H.R. 10458, in many significant respects, follows the language of the vetoed conference report.

In perhaps the three most crucial areas, however, the proposals differ: in the amounts of timing of wage increases, the so-called youth employment-student differential, and the coverage for domestic service employees.

Those of us who supported the conference report regarded it as the ultimate compromise. We believed we had traveled the final mile toward meaningful compromise while, at the same time, preserving the essential integrity of the proposal. We truly believed we could concede no more without sacrificing the virtues of the legislation.

Since then, I have heard from many of my colleagues who want very much to vote for another minimum wage bill. Many of them voted to sustain the President's veto and were apparently told not to let that vote concern them—that another, "more acceptable" bill would be forthcoming. Obviously, another bill was not forthcoming because, as I earlier stated, it was impossible for us in good conscience to further compromise such simple and basic entitlements. We were then accused of preferring a "political issue" to a minimum wage increase. But these were the frantic cries of those who began to believe we were serious when we said we would prefer no remedial legislation to legislation which only held forth a promise but was bankrupt in meaningful content.

The fact that I am about to propose another bill will demonstrate again that we do not seek a "political issue." It will also demonstrate our objective of comity with those who had serious and legitimate concern about the conference report. But it must necessarily represent the final effort at compromise. Even at that, I am somewhat embarrassed at having to offer something I know to be insufficient; albeit it necessary under the circumstances.

Mr. Speaker, I am therefore today introducing a revised bill to amend the Fair Labor Standards Act. Since so much of it is identical to the vetoed conference report—and provisions of the so-called Quie-Erlenborn bill (H.R. 10458)—I will only discuss the three areas of primary and crucial difference earlier referred to.

At the outset, let me say that this bill does not differ from the conference report with respect to the so-called youth employment—student differential provision. We make no change in the widely expanded and liberal provisions of the conference report in that regard. Students are clearly included within the scope of that provision for employment at less than the otherwise required minimum wage rate. But nonstudent employees under the age of 18 are not.

It is interesting to note that the so-called youth employment provision in the Quie-Erlenborn bill would only permit the payment of subminimum wages to employees under the age of 18 for a maximum period of 20 weeks. This is a significant reduction from the scope of the original proposal. But rather than regard that reduction a good faith effort at compromise, I regard it as conclusive evidence of the inherent danger of such a provision. Its proponents want a subminimum wage rate for youth so desperately, they are willing to narrow its availability as to almost render it useless to the individual young employee. It would, however, be clearly desirable to the employer who in his compulsion to the economic lure of cheap labor would turn over young employees every 20 weeks.

As I have stated repeatedly, there can be no compromise on this issue. It is a sham and a subterfuge for a return to the squalid days of child labor in this country. We best forget that sordid period of our Nation's history.

Beyond that, I have swallowed hard and specifically addressed the two remaining major areas of controversy. Note: although the Quie-Erlenborn bill differs from the conference report in the phase-out of the overtime exemption in existing law for certain employees employed in agricultural processing or seasonal industry activities, the President did not specifically object to the conference report's treatment of such employees, and I will therefore assume it is satisfactory to the administration. Indeed, it was recommended by the administration several years ago.

With respect to domestic service employees, the conference report provided minimum wage and overtime coverage to such employees on the same basis of their coverage under the Social Security Act—that is, earnings from a single employer amounting to at least $50 in a calendar quarter. It provided further that covered employees would be entitled to a minimum wage rate of not less than $1.80 an hour soon after enactment, $2 an hour effective July 1, 1974, and $2.20 an hour effective July 1, 1975.

The Quie-Erlenborn bill would provide to domestic service employees a minimum wage rate very much in accord with those contained in the conference report, but would limit coverage to only those employees who work 24 hours or more each workweek for a single employer.

Mr. Speaker, this is a not-so-subtle way of saying that the Quie-Erlenborn minimum wage provisions will not apply to virtually any domestic service employee. Most such employees will work 1 day each week for a single employer. Thus, they will not be affected by the scope of coverage provided in H.R. 10458.

What I propose is that the test of coverage be the same as that provided in the conference report and the same as that under the Social Security Act, with which all employers of domestic service employees are already acquainted. I do, however, propose a different minimum wage rate schedule for such employees. Rather than apply the rates provided by the conference report or the Quie-Erlenborn bill, I would apply the wage schedule applicable to agricultural employees in this new bill: $1.60 an hour on the effective date; $1.80 an hour effective January 1, 1975; $2 an hour effective January 1, 1976; $2.20 an hour effective 1, 1977; and $2.30 an hour effective January 1, 1978. This means, Mr. Speaker, that a domestic service employee working 8 paid hours a day, and engaged in the difficult and arduous work of housekeeping, will be initially entitled to the munificent total of $12.80. What equitable consideration she will receive from her Government.

With respect to the minimum wage rate schedules, greater understanding will probably be served by a comparison of the relevant provisions of the vetoed conference report, the Quie-Erlenborn bill, and the bill I am today introducing. For this purpose, we must assume that the conference report would have been enacted in September 1973—when vetoed—the Quie-Erlenborn bill would have been enacted in September 1973—when introduced—and this bill would be enacted in January 1974—when introduced:

I. NONAGRICULTURAL EMPLOYEES COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT PRIOR TO THE EFFECTIVE DATE OF THE 1966 AMENDMENTS

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$2.00	$2.00	
1974	2.20	2.10	$2.00
1975		2.20	2.10
1976		2.30	2.30

II. NONAGRICULTURAL EMPLOYEES COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT BY THE 1966 AMENDMENTS AND 1973(4) AMENDMENTS—EXCEPT FOR DOMESTIC SERVICE EMPLOYEES IN REVISED DENT BILL

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$1.80	$1.80	
1974	2.00	2.00	$1.90
1975	2.20	2.20	2.00
1976		2.30	2.20
1977			2.30

III. AGRICULTURAL EMPLOYEES (AND DOMESTIC SERVICE EMPLOYEES IN THE REVISED DENT BILL) COVERED UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT

Effective date (by year)	Conference report	Quie-Erlenborn	Dent (revised)
1973	$1.60	$1.60	
1974	1.80	1.80	$1.60
1975	2.00	2.00	1.80
1976	2.20	2.20	2.00
1977		2.30	2.20
1978			2.30

Mr. Speaker, I believe these tables are illustrative enough. What I have proposed is indeed less than that conceded by my colleagues and good friends from the other side. The House will have an opportunity to vote on this proposal—hopefully within the next several weeks—and we will be better able to determine the depth of sincerity of those who espouse minimum wage increases but vote against them.

It bears repeating, that we are at the end of the line on this matter. Any further concessions on our part would clearly tip the scales in favor of no bill at all. In legislation of this magnitude and complexity, all parties cannot come away completely satisfied. I, personally, am far from satisfied with my revised approach. But there comes a time when talk is cheap and the issue must be fairly met. We have reached that point on minimum wage legislation.

FREEDOM FOR THE UKRAINIAN NATIONAL REPUBLIC A PRIME CONDITION FOR DÉTENTE, AND TRADE AGREEMENTS

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, 56 years ago a small determined country proudly rose to take its place among the free and independent nations of the world. The Ukrainian National Republic was bathed in a ray of light which was the hope and promise of a free and prosperous future. But all too suddenly, that light was to be extinguished. The foundling nation, barely 2 years old, was bludgeoned into the darkness of Soviet oppression. That oppression has continued to this day. The Communists, in their constant and relentless efforts to maintain an iron clasp strangle hold over Ukrainian attempts at freedom, have had their work cut out for them. Despite all of their suppressive tactics, they are unable to break the spirit and the determination of these noble people. Surely by now, the Russians must have learned that sending intellectuals and political prisoners off to prison camps and asylums will not silence the constant cries for independence. Stalin's manmade famine which took the lives of 15 million Ukrainians did not weaken their spirit nor dampen their determination. These brave people have kept up the fight, and they should serve as an inspiration to all of us. We must encourage them in their struggle, and we must join in their determination to restore the Ukrainian National Republic to its rightful place as a free and independent nation. We must seek to make this a prime condition for détente and trade agreements. We must assure the people of the Ukraine that they are not alone in their struggle.

FAREWELL, H.R. 144

(Mr. DENNIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous material.)

Mr. DENNIS. Mr. Speaker, I have taken this moment for the purpose of inserting in the RECORD an editorial from the Wall Street Journal of January 21, 1974, entitled "Farewell, H.R. 144." It is a very well deserved tribute to our distinguished colleague, the gentleman from Iowa (Mr. GROSS).

The editorial follows:

FAREWELL, H.R. 144

It's not our normal practice to comment, one way or another, on the retirement of a member of Congress, turnover on Capitol Hill being what it is. We are moved to break this rule for Rep. H. R. Gross of Iowa, who says he won't run for re-election this year because he is 74. If the nation is only going to have the services of this singular GOP Congressman for another few months, a search must begin immediately for someone with his extraordinary gift.

For 25 years, Mr. Gross has stood as a pillar of parsimony on the floor of the House, the scourge of the spenders. Single-handedly, he has saved American taxpayers tens, perhaps hundreds of millions of dollars. While others are willing to challenge expenditures of billions of dollars at a whack, who other than H. R. Gross had the brass to question the cost of the eternal flame over President Kennedy's grave? It may have irked outsiders, but to the denizens of Capitol Hill, H. R. Gross was simply being H. R. Gross.

In fact, there is rarely a nickel that Congress authorizes or appropriates that Mr. Gross does not scrutinize, fixing his jeweler's eye and acerbic wit most especially on the $25,000 and $50,000 measures that his colleagues are forever trying to slip through on the private calendar. Or the expense accounts of their overseas junkets. The mere fact everyone knows they have to sneak past Mr. Gross has a formidable deterrent effect.

His is not a talent that one acquires overnight. Which is why the joint leadership of the House should immediately begin a search for and training of a successor. As a farewell gesture to Mr. Gross, they might consider retiring his number, a gross equaling 144. In every Congress, House Resolution 144 (H.R. 144) is submitted by the Iowan. It's a bill requiring the paying off of the national debt.

THE OIL DEPLETION ALLOWANCE AND THE ARAB EMBARGO

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today I am introducing a bill I am cosponsoring with Senator Lloyd M. Bentsen which would limit the use of the 22 percent oil depletion allowance to oil and gas produced in North America. Our present tax code permits American oil companies the same depletion allowance in the Middle East and elsewhere as it does for domestic production. This is doubly aggravating in that first, it encourages our oil companies to prospect outside of our own country making us dependent on foreign oil and second, it means we are providing tax subsidies to produce oil which is then embargoed by the Middle East countries.

While in principle, I do not support the maintenance of the oil depletion allowance no matter where the oil is prospected, and I, therefore, favor the efforts of Senator Gaylord Nelson to remove this provision of the tax code, I am introducing this measure because I believe that as a minimum we cannot continue to subsidize oil exploration outside North America. Total elimination of the oil depletion allowance will be a tough fight and I will lend my efforts to this ultimate goal. In the meantime, I hope we can pass this bill and protect ourselves against further subsidization of oil production in Arab countries that embargo oil exportation to our shores—and by companies that are more responsive to the commands of King Faisal of Saudi Arabia than the fuel demands of our naval fleet in the Mediterranean.

AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR TRANS-ALASKA PIPELINE

(Mr. YOUNG of Alaska asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. YOUNG of Alaska. Mr. Speaker, it is my honor and privilege to submit to this body the "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline" signed on January 23, 1974 by the Secretary of Interior Rogers C. B. Morton and the seven principals of the Alyeska Pipeline Service Co.

This is an historical document in a number of ways. It has been 6 years since the 10 billion barrels of proven oil reserves were discovered on the North Slope of Alaska. Since that time, the issuance of a right-of-way permit has been delayed by numerous court proceedings until legislation was passed by Congress and signed by the President on November 16, 1973, to authorize issuance of a permit and the construction of the pipeline. It is the first time the Department of Interior has ever had such strict environmental and technical stipulations imposed as a condition of a right-of-way permit. It is the first time that reimbursement has been secured from the permittee for the studies, supervision and monitoring of the construction.

It is for these reasons and the importance of this document to the general public that I make it a part of the official record.

I also take this occasion to once again thank the many friends of Alaska who helped pass the trans-Alaska Pipeline authorization bill on the floor of the House August 2, 1973.

The document follows:

Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline Between the United States of America and Amerada Hess Corp., Arco Pipe Line Co., Exxon Pipeline Co., Mobil Alaska Pipeline Co., Phillips Petroleum Co., Sohio Pipe Line Co., and Union Alaska Pipeline Co.

AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR TRANS-ALASKA PIPELINE

(Note.—Terms having special meaning are defined in the body of this Agreement or in Exhibit D hereof. Such terms are capitalized herein.)

This Agreement and Grant of Right-of-Way (hereinafter referred to as the "Amendment") * is entered into as of this 23rd day of January, 1974 (hereinafter referred to as the "Effective Date"), by the United States of America, party of the first part (hereinafter referred to as the "United States"), acting through the Secretary of the Interior, and by

Amerada Hess Corporation, a Delaware Corporation,

ARCO Pipe Line Company, a Delaware Corporation,

Exxon Pipeline Company, a Delaware Corporation,

Mobil Alaska Pipeline Company, a Delaware Corporation,

Phillips Petroleum Company, a Delaware Corporation,

Sohio Pipe Line Company, a Delaware Corporation, and

Union Alaska Pipeline Company, a California Corporation,

parties of the second part (hereinafter sometimes referred to as the "Original Permittees").

The parties have entered into this Agreement taking into consideration the national authorizations, directives, and policies expressed in applicable legislation, including Section 202 of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 584, *et seq.* (1973).

It is the intent of the parties that, in the performance of this Agreement, the following principles shall apply:

(1) In the construction (including, but not limited to, design), operation, maintenance (including but not limited to a continuing and reasonable program of preventive maintenance) and termination of the Pipeline System, Permittees shall employ all practicable means and measures to preserve and protect the environment, as provided in this Agreement.

(2) The parties shall balance environmental amenities and values with economic practicalities and technical capabilities, so as to be consistent with applicable national policies. In so doing, the parties shall take into account, among other considerations, the following:

(a) The benefit or detriment to persons, property and the environment that may be anticipated to result from a proposed course of conduct;

(b) The particular environmental, technical, and economical benefits or detriments reasonably expected to flow from a proposed course of conduct;

(c) The effect on the energy needs of the United States, including the possible effects of a disruption of national or regional oil supply, that may result from a particular course of conduct.

(3) Permittees shall manage, supervise and implement the construction, operation, maintenance and termination of the Pipeline System in accordance with sound engineering practice, to the extent allowed by the state of the art and the development of technology. In the exercise of these functions, Permittees consent and shall submit to such review, inspection and compliance procedures relating to construction, operation, maintenance and termination of the Pipeline System as are provided for in this Agreement and other applicable authorizations. The parties intend that this Agreement shall not in any way derogate from, or be construed as being inconsistent with, the provisions of Section 2803(d) of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 585 (1973), relating to the National Environmental Policy Act, 83 Stat. 852, 42 U.S.C. § 4321 *et seq.*

In consideration of the grant hereby made, and the provisions of this Agreement, the United States and Permittees agree as follows:

1. Grant of right-of-way

A. Pursuant to the provisions of the Trans-Alaska Pipeline Authorization Act, the United States hereby grants to Permittees, in the several undivided interests specified in subsection B of this Section, for the period of limited duration prescribed in Section 7 hereof and for the purpose prescribed in subsection A of Section 2 hereof a right-of-way (hereinafter referred to as the "Right-of-Way"), the width and location thereof being subject to the provisions of Sections 5 and 6 hereof, across, through and upon the Federal Lands (as that term is defined in section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, 30 U.S.C. § 185 *et seq.*, including public and acquired lands, and lands withdrawn, reserved, classified, or otherwise set apart for National Forests, military purposes, power development, or other purposes) along the general route of the Pipeline, identified in the applications and accompanying alignment map and Related Facility site location drawings referred to in Exhibit A hereof.

B. The grant made hereby is of the following undivided interests in and to the Right-of-Way:

Amerada Hess Corporation, an undivided interest of 3.00% of the whole;

ARCO Pipe Line Company, an undivided interest of 28.08% of the whole;

Exxon Pipeline Company, an undivided interest of 25.52% of the whole;

Mobil Alaska Pipeline Company, an undivided interest of 8.68% of the whole;

Phillips Petroleum Company, an undivided interest of 3.32% of the whole;

Sohio Pipe Line Company, an undivided interest of 28.08% of the whole;

Union Alaska Pipeline Company, an undivided interest of 3.32% of the whole.

C. There is hereby excepted from the grant hereby made all lands selected and validly tentatively approved to the State of Alaska, pursuant to the Alaska Statehood Act, 72 Stat. 339, as amended, other than lands withdrawn under Section 11(a)(2) of the Alaska Native Claims Settlement Act, 85 Stat. 696, 43 USC § 1610.

D. There is hereby reserved to the United States all rights reserved, or directed to be reserved, to the United States under any applicable law or regulation of the United States or elsewhere under this Agreement.

E. The grant hereby made is subject to: (1) the provisions of this Agreement; (2) all applicable laws and regulations of the United States; (3) any valid existing rights in the lands subject to the Right-of-Way, including without limitation the valid pre-existing rights, if any, of the State of Alaska; and (4) the condition that the Right-of-Way granted hereby across Category 1(c) Lands and Category 1(d) Lands[1] shall take effect upon the occurrence of one of the following events, whichever shall first occur:

(a) The Commissioner of Natural Resources of the State of Alaska notifies the Secretary in writing that it is essential for the expeditious construction of the Pipeline System that the Right-of-Way in and to some or all of the Category 1(c) Lands or Category 1(d) Lands, or both, becomes effective;[2] or

(b) Category 1(d) Lands have not been tentatively aproved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by March 10, 1974; or

(c) The Category 1(c) Lands have not been tentatively approved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by June 1, 1974.

F. With respect to the Category 1(c) Lands and the Category 1(d) Lands, the grant hereby made is further subject to the limitation and condition that upon either valid tentative approval or valid patent of any of such lands to the State of Alaska, the existence or subsequent issuance of a valid State right-of-way lease or other grant in and to those lands terminates the Right-of-Way and other Federal authorizations, if any, and the State right-of-way lease or other grant thereupon applies in all respects to those lands.

G. Permittees agree that they will not challenge the validity of the State's right-of-way lease or other grant on the basis of the existence of the Federal Right-of-Way and other authorizations or their interest therein.

2. Purpose of grant; limitation of use to permittees

A. The Right-of-Way is granted for the purpose of the construction, operation, and maintenance of one (1) Oil transportation pipeline, consisting of one (1) line of forty-eight (48)-inch diameter pipe and its Related Facilities (such pipeline and Related Facilities being herein referred to as the "Pipeline").

B. Permittees, their agents, contractors, and subcontractors (at any tier) shall not use the Right-of-Way or the land subject thereto for any other purpose and shall not locate or construct any other pipelines (including looping lines) or other improvements within the Right-of-Way without the prior written approval of the Secretary.

C. The Pipeline shall be used for only the transportation of Oil, and it shall not be used for any other purpose without the prior written approval of the Secretary.

D. Each Permittee shall not allow or suffer any Person or Business Entity, with the exception of the other Permittees under this Agreement, to use the Right-of-Way for the purpose set forth in subsection A of this Section.

E. Nothing above in subsection D of this Section is intended to: (1) excuse or preclude Permittees from complying with their obligations under Section 3 of this Agreement, or (2) preclude Permittees from employing agents, contractors, or subcontractors (at any tier) to effect construction, operation, maintenance or termination of the Pipeline System.

3. Transportation of oil

Each Permittee shall to the extent of its interest in the Right-of-Way, and in accordance with the provisions of Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended:

(1) Construct, operate, and maintain the Pipeline as a common carrier;

(2) Accept, convey, transport, or purchase, without discrimination, Oil delivered to the Pipeline without regard to whether such Oil was produced on Federal or non-Federal lands; and

(3) Accept, convey, transport, or purchase, without discrimination, Oil produced from Federal Lands or from the resources thereon in the vicinity of the Pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to Permittees and a proper finding of facts, determine to be reasonable.

4. Exhibits; incorporation of certain documents by reference

A. The Exhibits that are attached to this Agreement and that are listed below in this subsection are, by this reference, incorporated into and made a part of this Agreement as fully and effectually as if the Exhibits were set forth herein in their entirety:

(1) List of applications and accompanying alignment map and site location drawings identifying the general route of the Pipeline, attached hereto as Exhibit A.

(2) Requirements of the Department of Defense relating to military installations, with attached letters dated November 14, 1973, and November 23, 1973, from the Director of Real Estate, Department of the Army, Office of the Chief of Engineers, attached hereto as Exhibit B.

(3) Requirements of the Federal Power Commission relating to power sites, attached hereto as Exhibit C.

(4) Stipulations for the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, being numbered 1 through 3.11.2, inclusive, attached hereto as Exhibit D, which are sometimes referred to in this Agreement as the "Stipulations."

B. The cooperative agreement attached hereto as Exhibit E is not incorporated into, and is not intended to be made a part of, this Agreement. Said cooperative agreement is attached hereto only for informational purposes.

5. Width of right-of-way

The width of the Right-of-Way, in terms of surface measurement, is fifty (50) feet plus the ground occupied by the Pipeline; *provided, however*, that up to and including the date on which Permittees may file an application for modification of the Right-of-Way boundaries in accordance with subsection D of Section 6 hereof, Permittees may apply for, and the Authorized Officer may direct or authorize, increases in the width of the Right-of-Way at specified points if he finds, and records the reasons for his finding, that in his judgment a wider Right-of-Way is necessary for operation and maintenance of the Pipeline after construction, or to protect the environment or public safety.

6. Location of right-of-way

A. The site for each Construction Segment of the Pipeline shall be determined in accordance with the provisions of Stipulation 1.7.

B. After completion of construction of the Pipeline within a particular Mapping Segment, the Federal Lands subject to the Right-of-Way shall be the land occupied by the Pipeline and, in terms of surface measurement, twenty-five (25) feet on each side of the Pipeline measured from its outermost extremities. With respect to Related Facilities, the width shall be twenty-five (25) feet around the perimeter of the Related Facility.

C. Upon completion of construction of the Pipeline within a Mapping Segment, as well as upon the issuance of any authorization or directive that the Authorized Officer may issue in accordance with the provisions of Section 5 hereof, Permittees shall, if directed by the Authorized Officer, physically mark on the ground the proposed boundaries of the Right-of-Way at such locations and in such manner as is acceptable to the Authorized Officer.

D. At any time prior to the sixtieth (60th) day preceding the filing of the maps of survey as provided in subsection E hereof. Permittees may file an application for modification of the Right-of-Way boundaries provided that, after modification, the Right-of-Way will include the ground occupied by the Pipeline plus fifty (50) feet adjacent thereto and such additional land as authorized by the Authorized Officer pursuant to Section 5 hereof. Upon approval of such application for modification of boundaries and acceptance of the documents and maps required by subsection E hereof, the Right-of-Way shall be as delineated on said maps of survey.

E. Within three hundred and sixty (360) days after the date of Commissioning of the Pipeline (and, in the case of any addition, deletion or alteration of the Pipeline following the date of Commissioning, within one hundred and eighty (180) days after the addition, deletion or alteration has, in the judgment of the Authorized Officer, been fully completed), Permittees shall survey and provide adequate monumentation to locate and describe the Right-of-Way and shall file: (1) proof of construction of the Pipeline in accordance with the applicable regulations of the Department; (2) such documents of relinquishment of land not included in the modified Right-of-Way, if any, as may be required by the Authorized Officer; (3) appropriate references to applications in which requests were made for Right-of-Way widths greater than the normal limitations specified in Section 5 of this Agreement, and applications for modification of the Right-of-Way boundaries as provided in subsection D hereof; and (4) a map, or maps of survey, prepared in such manner as shall be required by the Authorized Officer, showing the final "as built" location of the completed Pipeline, including the final locations of all buried and above ground improvements, the centerline of the Right-of-Way, as definitely located, and, referenced to the centerline, the boundaries of the Right-of-Way, as definitely located. Each portion of the Pipeline as depicted on the said survey map or maps, and for which a Notice to Proceed, or an authorization, issued in accordance with Stipulation 1.7.4.4 altering either the route or the initially approved location along the route of the Right-of-Way, has been issued, shall be referenced to the relevant Notice to Proceed or authorization.

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[1] "Category 1(c) Lands" and "Category 1(d) Lands" are defined in Exhibit D hereto. These terms are derived from Paragraph 1 of Part I of the Cooperative Agreement between the State of Alaska and the Department, attached hereto as Exhibit E for informational purposes.

[2] The Secretary has received notice from the State Commissioner of Natural Resources that the expeditious construction of the Pipeline System on the Category 1(d) Lands is essential. Therefore, the Right-of-Way across those lands is hereby effective.

7. Duration of right-of-way grant

A. The grant hereby made of the Right-of-Way shall come to an end and expire on the 22nd day of January, 2004, at noon, Washington, D.C. time, unless prior thereto it is relinquished, abandoned, or otherwise terminated pursuant to the provisions of this Agreement or of any applicable Federal law or regulation.

B. Upon the expiration of the initial or any subsequent grant of the Right-of-Way, or its earlier relinquishment, abandonment, or other termination, the provisions of this Agreement, to the extent applicable, shall continue in effect and shall be binding on the parties hereto, their successors or assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or the prior termination, of the grant.

C. The Right-of-Way shall be renewed, subject to and in accordance with the provisions of the Trans-Alaska Pipeline Authorization Act.

D. Any subsequent conveyance, transfer or other disposition of any right, title or interest in the Federal Lands or any part thereto, burdened by and subservient to the Right-of-Way, shall, to the extent allowed by law and subject to the termination provision of subsection F of Section 1, be subject to the Right-of-Way and the provisions of this Agreement, including Permittees' right to renew the Right-of-Way under subsection C of this Section.

8. Use charge for right-of-way

A. Permittees shall pay to the United States annually and in advance, the fair market rental value of the Right-of-Way, as determined by the Secretary. (Such rental value is hereinafter called the "Use Charge.")

B. The initial Use Charge shall be One Hundred Five Thousand and 00/100 Dollars ($105,000) for each calendar year. The first annual Use Charge shall be prorated to cover that portion of the calendar year 1974 which remains after the Effective Date hereof and shall be due and payable by not later than the Effective Date hereof. The Use Charge for the first full calendar year commencing after the Effective Date hereof and for each subsequent calendar year shall be due and payable by not later than the last full business day immediately preceding the first day of January of the calendar year for which the Use Charge is payable. The Use Charge for each calendar year shall be billed to Permittees at least thirty (30) days in advance of the due date thereof. All such payments shall be delivered to the Authorized Officer and shall be accepted subject to collection.

C. The Use Charge for the seventh (7th) and for each succeeding calendar year shall be subject to adjustment from time to time in accordance with the regulations of the Department. The Secretary also may adjust retroactively the amount of the annual Use Charge for any calendar year that is based on an appraisal which is made before the Right-of-Way is, in its entirety, finally located, surveyed and monumented; any sum determined by the Secretary to be payable (by either the United State or Permittees) in connection with an adjustment as provided for in this sentence, shall be due and payable within thirty (30) days after notice is given of the amount due.

9. Construction plans and quality assurance program

A. Permittees shall submit construction (including design) plans, a quality assurance program, and other related documents as deemed necessary by the Authorized Officer, for review and approval prior to his issuing Notices to Proceed.

B. The quality assurance program shall be comprehensive and designed to assure that the environmental and technical Stipulations in this Agreement will be fully complied with throughout all phases of construction, operation, maintenance and termination of the Pipeline System.

C. The following criteria shall be included in the quality assurance program, although Permittees are not limited to these criteria:

(1) Provide adequate and appropriate means and procedures for the detection and prompt abatement of any actual or potential condition that is susceptible to abatement by Permittees which arises out of, or could affect adversely, the construction, operation, maintenance or termination of all or any part of the Pipeline System and which at any time may cause or threaten to cause: (a) a hazard to the safety of workers or to public health or safety (including but not limited to personal injury or loss of life with respect to any person or persons) or (b) serious and irreparable harm or damage to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource).

(2) Provide adequate and appropriate means and procedures for the repair and replacement of improved or tangible property and the rehabilitation of natural resources (including but not limited to revegetation restocking of fish or other wildlife populations and reestablishing their habitats) that shall be seriously damaged or destroyed if the immediate cause of the damage or destruction arises in connection with, or results from, the construction, operation, maintenance or termination of all or any part of the Pipeline System.

(3) Provide for component and systems quality through adequate quality control management and planning, and inspection and test procedures.

(4) Assure that the selection of Permittees' contractors, subcontractors and contract purchases of materials and services are based upon the above quality control procedures.

(5) Determine quality performance by conducting surveys and field inspections of all of the facilities of Permittees' contractors and subcontractors.

(6) Maintain quality determination records on all of the above procedures to insure satisfactory data identification and retrieval.

10. Compliance with notices to proceed

All construction of the Pipeline System undertaken by Permittees shall comply in all respects with the provisions of Notices to Proceed that are issued by the Authorized Officer.

11. Reservation of certain rights to the United States

A. The United States reserves and shall have a continuing and reasonable right of access to any part of the lands (including the subsurface of, and the air space above such lands) that are subject to the Right-of-Way, and a continuing and reasonable right of physical entry to any part of the Pipeline, for inspection or monitoring purposes and for any other purpose or reason that is reasonably consistent with any right or obligation of the United States under any law or regulation, this Agreement, or any other agreement, permit or authorization relating in whole or in part to all or any part of the Pipeline.

B. The rights of access and entry reserved in subsection A of this Section shall extend to and be enjoyed by any contractor of the United States, any subcontractors (at any tier) of the contractor and their respective agents and employees, as well as such other persons, as may be designated from time-to-time in writing by the Authorized Officer.

C. There is reserved to the United States the right to grant additional permits or easements for rights-of-way to third parties for compatible uses on, or adjacent to, the lands subject to the Right-of-Way. Before the United States grants an additional right-of-way or permit for a compatible use, the United States will notify Permittees of its intentions and shall consult with Permittees before taking final action in that regard.

12. Reimbursement of department expenses

A. Permittees shall reimburse the United States for all reasonable administrative and other costs heretofore or hereafter incurred directly or indirectly by the Department for: (1) processing applications filed by Permittees in connection with the Pipeline System; and (2) monitoring the construction, operation, maintenance, and termination of all or any part of the Pipeline System, including without limitation those portions of the System that shall be located on State-owned lands.

B. Subject to collection, receipt is hereby acknowledged by the Department of the sum of Twelve Million Two Hundred Fifty Three Thousand Seven Hundred Thirty and 00/100 Dollars ($12,253,730) which has been paid to the United States by Permittees at the time of execution of this Agreement. Said sum represents the amount of the costs referred to in subsection A of this Section, which were incurred by the Department through September 30, 1973.

C. Permittees shall hereafter pay to the United States such sums as the Secretary shall determine to be required to reimburse the Department for the costs, referred to in subsection A of this Section, incurred or to be incurred by it subsequent to September 30, 1973. Such payments shall be made in accordance with the provisions of subsection F of this Section.

D. Permittees acknowledge that the Department has employed or may employ one or more independent consultants, contractors and subcontractors and also has utilized and may utilize personnel and services of other agencies to assist it with: (1) processing applications heretofore or hereafter filed by Permittees in connection with the Pipeline System; and (2) monitoring the construction, operation, maintenance and termination of the Pipeline System. Before employing such consultants, contractors, or subcontractors, the Secretary shall notify Permittees of such employment and shall inform the Permittees of the purpose of employment, the scope of the work to be undertaken, the duration of the employment and the estimated cost thereof; *provided, however*, this notice requirement shall not limit the authority of the Secretary to enter into agreements with consultants, contractors or subcontractors. Costs incurred by the Department in connection with the employment of consultants, contractors and subcontractors and with respect to utilizing the personnel and services of other agencies shall be included in the costs for which the Department is to be reimbursed by Permittees under the provisions of subsection A of this Section.

E. Agreements entered into by the Secretary with respect to the Pipeline System which result in costs for which reimbursement is required by this Section shall be drawn to avoid unnecessary employment of personnel and needless expenditure of funds. The Department shall administer this Agreement and such other agreements to reasonably assure that unnecessary employment of personnel and needless expenditure of funds are avoided.

F. Reimbursement by Permittees, as provided for in this Section and Section 18 hereof, shall be made for each quarter ending on the last day of March, June, September and December. On or before the sixtieth (60th) day after the close of each quarter, the Authorized Officer shall submit to Permittees a written statement of the costs incurred by the Department during that quarter which are reimbursable.

G. Permittees shall have the right to conduct, at their own expense, reasonable audits by auditors or accountants, designated by Permittees, of the books, records and documents of the Department and of its independent consultants, contractors and subcontracts relating to the items on any particular statement that shall be submitted in accordance with the procedure outlined in subsection F of this Section, at the places where such books, records and documents are usually maintained and at reasonable times; *provided, however,* that written notice of a desire to conduct such an audit must be given the Authorized Officer: (1) at least fifteen (15) days prior to such audit; and (2) by not later than the seventy-fifth (75th) day after the close of the quarter for which the books, records and documents are sought to be audited; and *provided further,* that any such audits shall be completed within ninety (90) days after receipt by Permittees of the statement containing the items to be audited.

H. Nothing herein shall be deemed to require the Department, its bureaus or offices, or its independent consultants, contractors and subcontractors to maintain books, records or documents other than those usually maintained by them, provided that such books, records and documents reasonably segregate and identify the costs for which reimbursement is required by this Section. Such books, records and documents shall be preserved or caused to be preserved for a period of at least two (2) years after the Department submits a statement for reimbursement based on such books, records and documents. The auditors or accountants designated by Permittees shall have reasonable access to, and the right to copy, at their expense, all such books, records and documents, including all audit reports prepared by or furnished to the Department, together with supporting documents in the possession of the Department, concerning agreements with other agencies employed by the Department and with its independent consultants, contractors and subcontractors, which result in costs for which reimbursement is required by this Section.

I. With respect to the audits by Permittees of any books, records and documents of the Department and its independent consultants, contractors or subcontractors under agreements which result in costs for which reimbursement is required by this Section, such audits shall be conducted by independent certified public accountants, designated by Permittees. Prior to conducting any such audits, such accountants shall confer with the auditors auditing such consultants, contractors or subcontractors for the Department for the purpose of coordinating and expediting their respective audits. Any such audits by such accountants shall be conducted as supplementary audits, reviewing and spot checking the audits of the Department's auditors for the purpose of determining the accuracy of costs reflected in the billings of the Department which are reimburseable under subsection A of this Section, and auditing such other matters as may be appropriate in the circumstances. The Authorized Officer may designate a representative to observe any such audits by such accountants. The Authorized Officer shall have reasonable access to, and the right to copy, all such audit reports prepared by such accountants and furnished to Permittees, together with supporting documents in the possession of the Permittees. In the event that the Authorized Officer believes that the scope of any such supplementary audit is unreasonable, he shall promptly notify Permittees and such accountants, and such supplementary audit shall be suspended pending consultation by the Authorized Officer and the Permittees of the appropriate scope of audit in the circumstances. Any complaints which Permittees may have with respect to such agreements, their performance or the statement of the Department for the reimbursement of costs based on such agreements shall be made only to the Authorized Officer.

J. Permittees shall pay to the United States, through the Authorized Officer, the total amount as shown on each statement by not later than the due date thereof, namely the ninetieth (90th) day following the close of the quarter to which the statement relates; *provided, however,* that if any one or more of the Permittees decides to dispute or audit any item of a statement that shall be rendered in accordance with the provisions of this Section or Section 18 hereof, Permittees, on or before the said 90th day on which the statement is due and payable, shall give the Authorized Officer written notice of each item that is disputed, accompanied by a detailed explanation of their objection, or written notice of each item to be audited, and shall pay to the United States, through the Authorized Officer, those amounts for the items that are not disputed or are not to be audited. If any item of a statement is audited, Permittees shall give the Authorized Officer prompt written notice of the completion of the audit of all the items of a statement being audited. On a date fixed by the Authorized Officer, but in any event to be within thirty (30) days after notice of a disputed statement or after notice of the completion of the audit, as the case may be, the Authorized Officer and Permittees shall meet to discuss, and attempt to resolve, all items which are disputed or which have not been resolved by the audit. If at that time they are unable to resolve all such items, Permittees may appeal any unresolved items to the Secretary in accordance with the provisions of subsection A of Section 26 of this Agreement. Any items resolved as being payable to the United States shall be paid within thirty (30) days after being resolved, together with interest thereon up to the date of payment at a total annual percentage rate equal to the discount rate of the Federal Reserve Bank for District 12 (San Francisco) in effect on the original due date of the statement, and such interest shall accrue and be computed from, and so as to include, the aforesaid due date. The items shown on any statement that are not the subject of both: (1) a notice to the Authorized Officer of a disputed item or notice of audit, and (2) a notice of appeal as provided for in subsection A of Section 26, shall be deemed conclusively to be payable to the United States by Permittee.

K. In addition to the right to audit quarterly statements as provided in subsection G of this Section, if Permittees believe that unnecessary employment of personnel or needless expenditure of funds has occurred or is likely to occur contrary to the provisions of subsection E of this Section, Permittees may request the approval of the Authorized Officer for Permittees to conduct promptly and at their own expense a full and complete audit by auditors or accountants designated by Permittees, of the books, records and documents concerning the matters to be audited, at the places where such books, records and documents are usually maintained and at reasonable times. Such request shall be in writing, shall specify the matters to be audited and shall state the information available to Permittees upon which the request is based.

The Authorized Officer shall approve or deny such request promptly, and approval of any such request shall not be unreasonably withheld. If and to the extent that any such audit concerns any agreements of the Department with independent consultants, contractors or subcontractors which have resulted or may result in costs for which reimbursement is required by this Section, such audit shall be conducted by independent certified public accountants designated by Permittees. The Authorized Officer may designate a representative to observe any audit allowed by this subsection and the Authorized Officer may have access to, and the right to copy, the audit report prepared by such accountants and furnished to Permittees. Any complaint which Permittees may have as a result of any audit under this subsection shall be made only to the Authorized Officer and shall be governed by the procedure set forth in subsection J of this Section, to the extent applicable.

13. Damage to United States property; repair, replacement or claim for damages

A. Subject to the provisions of subsection 204(a)(2) of the Trans-Alaska Pipeline Authorization Act, at the written demand of the Authorized Officer, Permittees:

(1) shall repair or replace promptly, to the written satisfaction of the Authorized Officer, all improved or tangible property of the United States, whether real, personal or mixed, that has been seriously damaged or destroyed and is included in the demand, and

(2) shall rehabilitate (including, but not limited to, revegetation, restocking fish or other wildlife populations and reestablishing their habitats), to the written satisfaction of the Authorized Officer, any natural resource that shall be seriously damaged or destroyed, if the immediate cause of the damage or destruction arises out of, is connected with, or results from, the construction, operation, maintenance or termination of all or any part of the Pipeline System; *provided, however,* that Permittees shall not be obligated to repair or replace any property or to rehabilitate any natural resource that was damaged or destroyed: (a) by an act of war or (b) solely by (i) the negligence of the United States and/or (ii) the negligence or willful misconduct of Persons who are authorized to enter upon, use or occupy the damaged property or areas pursuant to any Federal lease, permit, or other written authorization that is issued for any use or purpose other than in connection with the construction, operation, maintenance or termination of the Pipeline.

B. The repair or replacement by the Permittees of any improved or tangible property of the United States, as provided for in subsection A of this Section, shall operate to preclude the United States from asserting any claim for direct (as opposed to consequential) money damages with respect to the damage or destruction that was so repaired or replaced.

C. Except to the extent that a claim by the United States for money damages against any one or more of the Permittees shall be barred in accordance with the provisions of subsections A and B of this Section. Permittees shall be liable to the United States, with respect to improved or tangible property of the United States, whether real, personal or mixed, that is damaged or destroyed in connection with or resulting from activities along or in the vicinity of the Right-of-Way in accordance with the provisions of Section 204 of the Trans-Alaska Pipeline Authorization Act.

D. In the event that a Permittee shall be liable to the United States for any damage, destruction or loss of improved or tangible property of the United States whether real, personal or mixed, the collection by the United States of money damages on account of the particular loss, damage or destruction, shall to the extent collected operate to preclude the United States from enforcing the provisions of subsection A of this Section with respect to such loss, damage or destruction.

14. Indemnification of the United States

A. Permittees shall indemnify and hold harmless the United States, its agents and employees, against and from any and all liabilities or damages of any nature whatsoever which the United States, its agents, employees, contractors or subcontractors (at any tier) become legally obligated to pay, and which arise out of, or are connected with, any one or more of the following: (1) the construction, operation, maintenance or termination of the Pipeline System; (2) the approval (as distinguished from the ordering of a modification pursuant to Stipulation 1.3.2.) by the United States, its agents, employees, contractors or subcontractors (at any tier), of any design, plan, Construction Mode, construction or research pertaining to the Pipeline System or any part thereof; or (3) the physical entry by any Person upon, or the use or occupancy by any Person of, any Federal Land that is the subject of any use or right which is granted or afforded to Permittees, or to their respective agents, employees, contractors or subcontractors (at any tier) in connection with the Pipeline System; *provided, however,* that the provisions of items (1) and (3) of this Section shall not be deemed to apply to liabilities or damages that are caused: (a) by an act of war; or (b) solely by (i) the negligence of the United States, and/or (ii) the negligence or willful misconduct of an agent, employee, contractor or subcontractor (at any tier) of the United States not acting within the scope of his authority or employment, and/or (iii) the negligence or willful misconduct of persons who are authorized to enter upon, use or occupy the damaged property or areas pursuant to any Federal lease, permit, or other written authorization that is issued for any use or purpose other than in connection with the construction, operation, maintenance, or termination of the Pipeline System.

B. Permittees shall be notified in writing of any claim for which indemnity under the provisions of this Section is sought, and such claim shall not be compromised without the written consent of Permittees, which consent Permittees agree shall not be unreasonably withheld or delayed.

C. The regulations of the Department relating to indemnification of the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under a right-of-way (43 CFR 2801.1-5(f) (1972)) shall not be applicable to this Agreement.

15. Guaranty

A. Upon being notified by the Secretary to do so, each Permittee shall cause to be delivered to the Secretary a valid and unconditional guaranty of the full and timely payment of all liabilities and obligations of the Permittee to the United States under or in connection with this Agreement or any other agreement, permit or authorization to be issued or granted to the Permittees by the Secretary that relates in whole or in part to all or any part of the Pipeline System.

B. It is recognized that a proposed guarantor of a Permittee may be a corporation (or an individual stockholder thereof), a partnership (or an individual partner thereof), an association that is authorized and empowered to sue and be sued and to hold the title to property in its own name (or an individual associate thereof), a joint stock company that is authorized and empowered to sue and be sued and to hold the title to property in its own name (or any individual participant therein), or a business trust (or an individual settlor thereof), and may or may not directly or indirectly own a legal or beneficial interest in the Permittee whose liabilities and obligations are sought to be guaranteed. In the case of multiple guarantors that are acceptable to the Secretary, each shall be severally liable for only its proportionate share of any sum or payment covered by the guaranty.

C. Each guaranty shall be satisfactory to the Secretary in all respects including, without limitation, the form and substance of the guaranty, the financial capability of a proposed guarantor, the availability of such guarantor to service of process, the availability of the assets of such guarantor with respect to the enforcement of judgments against the guarantor, and the number of guarantors that will be necessary to guarantee all of the liabilities and obligations which will be covered by a particular guaranty; *provided, however,* that the Secretary shall not unreasonably withhold his approval with respect to a guaranty or guarantor.

D. The Secretary shall have the right at any time, and from time to time, to require the substitution and delivery of a new form of Guaranty in the event that an outstanding guaranty is held to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction or, that the controlling law shall, by statute or judicial decision, be so altered as to impair, prevent or nullify the enforcement or exercise of any right or option of the United States under an outstanding guaranty; *provided, however,* that the outstanding guaranty (to the extent of its validity or enforceability, if any) shall continue in full force and effect with respect to any claim, suit, accrued liability or defense thereunder that exists at the time of substitution; *provided further,* that the new form of guaranty; in each such case, shall be required as to all Permittees that at the time of substitution have delivered, or are required to deliver, a guaranty.

E. Each guaranty shall be accompanied by such certificates and opinions of legal counsel as the Secretary may require to establish its validity. The guaranty shall include an appointment of an agent for service of process that is satisfactory to the Secretary.

16. Laws and regulations

A. Permittees, and each of them, shall comply with all applicable Federal laws and regulations, existing or hereafter enacted or promulgated.

B. In any event, Permittees, and each of them, shall comply with: (1) all regulations hereafter promulgated to implement the Trans-Alaska Pipeline Authorization Act, and (2) all applicable regulations hereafter promulgated to implement Section 28 of the Mineral Leasing Act of 1920, as amended.

17. No right of set off

A. With respect to any sum now or hereafter owing, or claimed to be owing, to the United States and that arises out of or is connected in any way with the construction, operation, maintenance or termination of all or any part of the Pipeline System, Permittees, and each of them, shall not set off against, or otherwise deduct from, any such sum:

(1) Any claim or judgment for money of any one or more of the Permittees against the United States not arising out of the construction, operation, maintenance or termination of all or any part of the Pipeline System;

(2) Any claim or judgment for money of any one or more of the Permittees against the United States that arises out of the construction, operation, maintenance or termination of all or any part of the Pipeline System, if the sum now or hereafter owing or claimed to be owing, to the United States is or shall be for any sum or charge required to be paid to the United States pursuant to Section 8, Section 12 or Section 18 hereof; or

(3) Any claim or judgment for money of any one or more of the Permittees against the United States that arises out of, or pursuant to, any statute administered by any department or agency of the United States other than the Department.

18. Right of United States To Perform

A. If, after thirty (30) days, or in an emergency such shorter period as shall not be unreasonable, following the making of a demand therefor by the Authorized Officer, in the manner that is provided in Stipulation 1.6 for giving written notices, Permittees, or their respective agents, employees, contractors or subcontractors (at any tier), shall fail or refuse to perform any of the actions required by the provisions listed in subsection B of this Section, the United States shall have the right, but not the obligation, to perform any or all of such actions at the sole expense of Permittees. Prior to the delivery of any such demand, the Authorized Office shall confer with Permittees, if he deems it practicable to do so, regarding the required action or actions that are included in the demand. The Authorized Officer, following the procedure outlined in subsection F of Section 12 hereof, shall submit to Permittees a statement of the expenses incurred by the United States during the preceding quarter in the performance by the United States of any required action and, in the absence of a dispute, the amounts shown to be due on each such statement shall be paid by Permittees in accordance with the provisions of the said last mentioned subsection. If any one or more of the Permittees shall dispute the amount of any item in any statement that shall be rendered in accordance with the provisions of this Section, the procedures outlined in subsection J of Section 12 shall apply with equal force and effect to any such dispute. Permittees may dispute whether the work involved an action required by a provision listed in subsection B of this Section, whether Permittees' failure or refusal to perform any such action was justified, as well as the reasonableness of the specifications for, and the cost of, such work.

B. Required Action (In General) and Reference: [1]

Survey, map and mark the Right-of-Way—Sec. 6.

Repair, replace, rehabilitate property and natural resources—Sec. 13.

Discharge liens—Sec. 19.

Abate any condition causing or threatening to cause a hazard, harm or damage—Sec. 24.

Provide emergency aid—Sec. 30.

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[1] "Sec." refers to Sections of this Agreement. "Stip." refers to the Stipulations, attached as Exhibit D hereto.

Provide an archeologist to perform certain duties—Stip. 1.9.

Remove improvements and equipment and restore land—Stip. 1.10.1.

Put areas "to bed"—Stip. 1.10.2.

Protect certain improvements; remove obstructions; repair damage to public utilities and improvements—Stip. 1.11.

Regulate public access—Stip. 1.12.1.

Provide alternative routes for roads and trails—Stip. 1.12.2.

Provide public crossings—Stip. 1.12.3.

Screen, filter, suppress electronic devices—Stip. 1.13.1.

Post the Right-of-Way against hunting, etc.—Stip. 1.14.1.

Restore survey monuments, etc.—Stip. 1.16.2.

Take measures to protect health and safety; abate hazards—Stip. 1.20.

Provide for environmental briefings—Stip. 2.1.1.

Remove waste—Stip. 2.2.6.2.

Stabilize disturbed areas—Stip. 2.4.2.2.

Remove temporary fill ramps—Stip. 2.4.3.2.

Seed and plant disturbed areas—Stip. 2.4.4.1.

Dispose of excavated material—Stip. 2.4.5.

Provide for uninterrupted movement and safe passage of fish—Stip. 2.5.1.1.

Screen pump intakes—Stip. 2.5.1.2.

Plug, stabilize abandoned water diversion structures—Stip. 2.5.1.3.

Construct levees, etc.—Stip. 2.5.1.4.

Construct new channels—Stip. 2.5.2.2.

Protect Fish Spawning Beds from sediment; construct settling basins—Stip. 2.5.2.3.

Repair damage to Fish Spawning Beds—Stip. 2.5.2.4.

Assure big game passage—Stip. 2.5.4.1.

Remove certain debris—Stip. 2.7.2.5.

Dispose of slash (where "otherwise directed.")—Stip. 2.7.2.8.

Take certain mitigation measures—Stip. 2.8.1.

Restore disturbed areas—Stip. 2.12.1.

Stabilize slopes—Stip. 2.12.2.

Dispose of certain materials—Stip. 2.12.3, Stip. 2.12.4.

Remove equipment and supplies—Stip. 2.12.5.

Clean up, repair, of Oil or other pollutant is discharged—Stip. 2.14.4.

Inspect welds—Stip. 3.2.2.3.

Inspect Pipeline System construction—Stip. 3.2.2.4.

Perform seismic monitoring—Stip. 3.4.2.3.

Construct stilling basins; stabilize pool sides—Stip. 3.6.2.1.

Provide Oil spill containment structures—Stip. 3.11.1, Stip. 3.11.2.

19. Liens

A. Each Permittee shall, with reasonable diligence, discharge any lien aganist Federal Lands that results from any failure or refusal on its part to pay or satisfy any judgment or obligation that arises out of or is connected in any way with the construction, operation, maintenance or termination of all or part of the Pipeline System.

B. However, Permittees shall prevent the foreclosure of any lien against any title, right, or interest of the United States in said lands.

C. The foregoing provisions of this Section shall not be construed to constitute the consent of the United States to the creation of any lien against Federal Lands or to be in derogation of any prohibition or limitation with respect to such liens that may now or hereafter exist.

20. Insolvency

If at any time there shall be filed by or against any Permittee, or any guarantor furnishing a guaranty in accordnce with the provisions of Section 15 hereof, in any court of competent jurisdiction, a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of the Permittee's or such guarantor's property, or if any Permittee, or any such guarantor, makes an assignment for the benefit of creditors or takes advantage of any insolvency act, and, in the case of an involuntary proceeding, within sixty (60) days after the initiation of the proceeding the Permittee or such guarantor fails to secure a discontinuance of the proceeding, the Secretary may, if the Secretary so elects, at any time thereafter, declare such to be a breach of this Agreement by the Permittee or, in cases involving a guarantor, the Permittee for which the guaranty was furnished.

21. Breach; extent of liability of permittees

A. The liabilities and obligations of each Permittee under this Agreement are joint and several except that the liabilities and obligations of each Permittee are several under the following Sections: 2.D (Purpose of Grant; Limitation of Use to Permittees), 3 (Transportation of Oil), 8 (Use Charge for Right-of-Way), 12 (Reimbursement of Department Expenses), 13.C (Damage to United States Property; Repair, Replacement or Claim for Damages), 14 (Indemnification of United States), 15 (Guaranty), 18 (Right of the United States to Perform), 19.A (Liens), 20 (Insolvency), 22 (Transfer), 32 (Release of Right-of-Way), 33.B and 33.C, to the extent that performance may be required by less than all of the Permittees (Agreements Among Permittees), 34. (Access to Documents), 41 (Authority to Enter Agreement), Stipulation 1.4 (Common Agent), and Stipulation 1.10.1 (Completion of Use); *provided, however,* that as to any obligation to pay money to the United States, each such Permittee shall not be liable for any greater portion thereof than an amount which is equal to the product of the total obligation or liability when multiplied by a fraction, the numerator thereof being the individual Permittee's interest in the Right-of-Way at the time of the breach (such interest being expressed as a percentage for purposes of the numerator), and the denominator thereof being the aggregate of all of the interests in the Right-of-Way that were held by all of the Permittees at the time the obligation becomes due and payable (the aggregate of such interest being expressed as a percentage for purposes of the denominator).

22. Transfer

A. Permittees, and each of them, shall not, without obtaining the prior written consent of the Secretary, Transfer in whole or in part any right, title or interest in this Agreement or the Right-of-Way. Any such Transfer other than with respect to an Involuntary Passage of Title, without in each instance obtaining the prior written consent thereto of the Secretary, shall be absolutely void, and, at the option of the Secretary, shall be deemed to be a breach of this Agreement by each Permittee so violating this Agreement.

B. Any Involuntary Passage of Title with respect to any right, title or interest in this Agreement or the Right-of-Way that shall be attempted or effected without in each instance obtaining the prior written consent thereto of the Secretary shall, to the extent permitted by law, be voidable at the option of the Secretary, and, in addition, at the option of the Secretary, shall be deemed to be a breach of this Agreement by the affected Permittee; *provided, however,* that nothing in this subsection shall be deemed to prohibit, or to limit in any way, the exercise of any right or option of the United States under Section 20 of this Agreement.

C. With respect to any Transfer that shall relate to this Agreement or the Right-of-Way, the Transferor, the Transferee and the guarantor or guarantors, if any, of the Transferee shall apply for the Secretary's written consent to the Transfer by filing with the Secretary all documents or other information that may be required by law or regulation, this Agreement or any other agreement, permit, or authorization of the United States relating to the Pipeline System or any part thereof and, upon request from the Secretary, such other documents and information as may be relevant to the Secretary's determination.

D. Before the Secretary acts in connection with an application for his consent with respect to the Transfer of an interest in the Right-of-Way, the Transferee shall demonstrate, to the satisfaction of the Secretary, that the Transferee is capable of performing all of the liabilities and obligations of the Transferor relating to the interest to be transferred. In considering an application for such consent, the Secretary shall make a determination, in accordance with Section 28(j) of the Mineral Leasing Act of 1920, as amended, concerning: (1) the technical capability of the Transferee, and (2) the financial capability of the Transferee, or of the Transferee together with, if any, its proposed guarantor or guarantors as approved by the Secretary, to perform all of the liabilities and obligations of the Transferor relating to the interest to be transferred.

E. In connection with any Transfer, the Secretary may request the right to audit and/or inspect, in whole or in part, the pertinent books, records, accounts, contracts, commitments, and property of the Transferee and of the proposed guarantor or guarantors, if any, of the Transferee, at the sole expense of the Transferor, which expense shall be paid to the United States upon completion of the inspection and/or audit and before the Secretary acts in connection with the application for his consent to the Transfer. If any such request shall be refused such refusal shall be deemed to be a sufficient reason for the Secretary to withhold his consent to the pertinent Transfer. The Transferee and its guarantor or guarantors, if any, shall consent in writing to the provisions of this subsection when applying for the consent of the Secretary.

F. The Secretary, shall not unreasonably withhold his consent to any Transfer hereunder, but may withhold or revoke his consent to any Transfer if:

(1) At the time of, or before, the consummation of the Transfer, there shall have occurred any breach, by the Transferor or any predecessor of the Transferor, of this Agreement or of any other agreement, permit, or authorization relating to the Pipeline System that the United States may make with, issue to, or grant to the Transferor, and that was not cured to the satisfaction of the United States before the consummation of the Transfer, or

(2) With respect to Transfers other than those referred to in subsection H of this Section, the Transferee, or the Transferee together with, if any, its guarantor or guarantors as approved by the Secretary: (a) is not, or are not, capable, in the judgment of the Secretary, of performing all of the liabilities and obligations of the Transferor relating to the right, title or interest to be transferred, or (b) shall refuse to allow an audit and/or inspection as provided for in subsection E of this Section; or

(3) Applicable laws and regulations in effect at the time of a Transfer shall not have been complied with by the parties to the Transfer.

G. A Permittee seeking to be divested in whole or in part of its right, title, and interest in and to the Right-of-Way and this Agreement in connection with a Transfer shall be released from its liabilities and obligations (accrued, contingent, or otherwise) to the United States under this Agreement to the extent and limit that the Transferee assumes unconditionally the performance and observance of each such liability and obligation, *provided:*

(1) All of the provisions of this Agreement with respect to the approval or disapproval of the Transfer have been fully complied with to the satisfaction of the Secretary;

(2) The Secretary has consented in writing to the Transfer; and

(3) Thereafter the Transfer and the attendant assumption agreement, if any, are in fact duly consummated on the basis of the documents previously presented to the Secretary for his review, and the Secretary is so notified in writing by the parties to the Transfer.

H. The Secretary shall consent to the Transfer of an interest in the Right-of-Way between:

(1) Any of the Original Permittees, their Affiliates or any of them, or

(2) One or more of the Original Permittees, their Affiliates or any of them, and a corporate Transferee, all of the outstanding capital stock of which Transferee at the time of the Transfer is owned by one or more of the Original Permittees or their Affiliates, or

(3) One or more of the Original Permittees, their Affiliates or any of them, and a partnership consisting of two (2) or more of the Original Permittees or their Affiliates;

provided, that the Transferor or Transferee are not in breach of this Agreement; *provided further*, that all applicable laws and regulations in effect at the time of Transfer are complied with; *provided further*, that the application for any such Transfer be filed with the Secretary within eight (8) years of the Effective Date hereof or prior to completion of construction of the Pipeline at its maximum design capacity (i.e. approximately two million (2,000,000) barrels per day) whichever shall first occur; and *provided further*, that no substantial reduction in the financial worth of the Transferee (or its Parent), or of the Transferee (or its Parent) together with its guarantors, if any, has occurred since the date the Transferee (or its Parent) acquired its original interest in the Right-of-Way.

23. *Port Valdez terminal facility*

A. The provisions of this Section shall apply to the construction and operation of the terminal facility of the Pipeline System located at Port Valdez, Alaska.

B. Permittees shall maintain and operate a waste-water treatment facility in conjunction with the terminal facility at Port Valdez. All oily-water (including, but not limited to, discharge from fuel tanks, cargo tanks, ballast tanks, and bilges) discharged from any tanker or other seagoing, bulk Oil carrier (hereinafter referred to as a "Vessel") loading at or from the terminal facility shall be received and treated by said waste-water treatment facility. Water discharged from the waste-water treatment facility shall not contain more than 10 parts of oil per million parts of water, on a weekly (seven (7) day) average.

C. At reasonable intervals, but at least once in every five (5) year period, the Authorized Officer and Permittees, at the request of either, shall meet to review and consider in depth: (1) the operation of the waste-water treatment facility; (2) such advances and improvements in water pollution control and waste-water treatment, technology and equipment, as they relate to the terminal facility, as have taken place; and (3) the feasibility of improving the performance of the facility through installation of new or additional equipment, or modification of existing equipment. Consideration of such feasibility shall include consideration of the degree of technological advances that have occurred, costs and economic feasibility, the types of equipment commercially available, and the benefits that would be derived from the installation of new or additional equipment or the modification of existing equipment.

D. Permittees, and their respective agents, employees, contractors and subcontractors (at any tier) shall not release, or suffer to be released, from the terminal facility any Oil to be loaded on any Vessel unless the provisions of subsections E and F of this Section have, in each case, been fully complied with.

E. Prior to loading Oil on any Vessel, Permittees shall require the master thereof to provide Permittees with a legible copy, certified under oath by the master as being true and correct, of:

(1) in the case of Vessels of United States registry, that part of the oil record book of such Vessel that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port;

(2) in the case of Vessels of foreign registry that may now or hereafter be required to maintain an oil record book, or similar records, that part of the oil record book, or said records, that pertains to the voyage of the Vessel to the terminal facility from its last Oil discharge port; and

(3) in the case of any Vessel of foreign registry that is not required to maintain an oil record book, or similar records, Permittees shall require the master thereof to provide Permittees with an affidavit, duly sworn to and signed by the master, stating any and all facts bearing upon any discharge of Oil or oily water from the Vessel during its voyage to the terminal facility from its last Oil discharge port.

F. If the said record book entries or affidavit, as provided by the master, disclose:

(1) that the Vessel has discharged any Oil or oily water from its fuel tanks, cargo tanks, bilge, or otherwise, and

(2) that such discharge was not necessary for the safety of the Vessel or its crew,

Permittees shall promptly notify the Authorized Officer of the pertinent facts and shall not load the Vessel or suffer the Vessel to be loaded, unless at the time of such discharge:

(a) The United States Coast Guard or other agency of the United States has promulgated and implemented regulations under one or more treaties, conventions, or statutes that are designed to deter Vessels subject to such treaties, conventions or statutes from discharging any Oil or oily water at sea and that apply to, and can be enforced by the United States Coast Guard or such other agency of the United States against, the offending Vessel; or

(b) In the absence of the aforesaid regulations, or the inapplicability thereof to the offending Vessel, there shall be in effect port rules, approved in writing by the Authorized Officer for the purposes of this subsection F, for the port of Valdez or, as the case may be, the terminal facility, (which rules may provide for a demurrage charge against offending vessels) that are designed to deter any Vessel using the terminal facility from discharging Oil or oily water at sea and that apply to, and can be enforced against, the offending vessel; or

(c) If neither subsection F(a) or F(b) above in this Section shall be applicable, Permittees may proceed subject to applicable laws and regulations, to load the Vessel at the terminal facility; *provided, however*, that during its next return voyage to the terminal facility, one of either of the following alternatives must be complied with before the Vessel can be loaded:

(i) (AA) The Vessel shall, prior to loading, remain for ten (10) consecutive hours (the "Standdown Period") in an area designated by the Authorized Officer, not nearer than fifty (50) nautical miles or farther than one hundred (100) nautical miles from the port of Valdez:

(BB) The Vessel's master shall enter in the ship's log the time and position of the Vessel at the commencement and termination of the Standdown Period, as well as the hourly positions of the Vessel during said period;

(CC) The Vessel's position at the point of departure, upon completion of the Stranddown Period, shall not be greater than five (5) nautical miles from the Vessel's position at the commencement of such period; and

(DD) Prior to loading the Vessel, Permittees shall receive from the master of the Vessel a legible copy, certified under oath by the master as being true and correct, of the aforementioned entries in the ship's log; or

(ii) (AA) The Vessel shall proceed to Valdez at a reduced rate of speed so that the voyage to Valdez (from its last port of call before such voyage) requires at least ten (10) hours additional to the period of time the voyage would otherwise have taken; and

(BB) Prior to loading the Vessel, Permittees shall receive from the master of the Vessel a legible copy, certified as being true and correct, of the entries in the ship's log which demonstrate compliance with the aforementioned return-voyage requirements.

Notwithstanding the foregoing provisions of subsections F(c)(i) and F(c)(ii), the Authorized Officer may temporarily waive compliance with the return-voyage requirements (on such terms as the Authorized Officer may prescribe) if, from the ship's log and corroborative evidence, it is clearly demonstrated that compliance would have seriously jeopardized the safety of the ship or crew.

G. If a Vessel shall have been loaded at the terminal facility without being subjected to any of the alternatives that are prescribed in subsection F of this Section, and it should later be determined that the portion of the oil record book, a copy of which was furnished to Permittees prior to such loading, or affidavit, as the case may be, contained any false or misleading statement or did not contain a required entry or statement, and if the entry or statement had been properly made the Vessel would have been subject to the aforesaid alternatives, then the Vessel shall be subject to the provisions of subsections E and F on its return voyage to the terminal facility next following the date on which the Authorized Office notifies Permittees and the owner and/or, if any, the charterer of such Vessel of the aforementioned determination.

H. Permittees shall:

(1) Publish the restrictions placed on the loading of Vessels at the terminal facility under this Section in the port manual for the port of Valdez or, as the case may be, the terminal facility and, if legally permissible, in the tariff or tariffs pertaining to the transportation of Oil through the Pipeline; and

(2) Give the public such other notice of said restrictions as Permittees or the Authorized Officer may, from time to time, consider to be necessary or appropriate.

I. Permittees shall maintain books and records in connection with the operation of the waste-water treatment facility. Said books and records shall at least show, for each Vessel discharging into said facility, the name, tonnage(D.W.T.) and such other information as may be appropriate to identify the Vessel, the date of each discharge, the amount of ballast water discharged on each occasion, the amount of other oily water discharged on each occasion, and the amount of Oil that was loaded on each occasion from the terminal facility.

J. Permittees shall retain, for an appropriate period, as prescribed by the Authorized Officer, all documents furnished to Permittees pursuant to subsections E and F of this Section and the books and records specified in subsection I of this Section; and the Authorized Officer shall have access thereto at all reasonable times for the purpose of inspection and copying.

K. Permittees shall comply with all Federal, State and local laws and regulations existing or hereafter enacted or promulgated affecting in any manner the construction and operation of the terminal facility. If any such law or regulation governs specifically any particular requirement or standard that is prescribed in this Section, Permittees shall comply with the requirement or standard established by such law or regulation and, so long as compliance is required, Permittees shall be relieved of any obligation to comply with the particular requirement or standard of this Section that is governed by such law or regulation.

24. Duty of permittees to abate

A. Permittees promptly shall abate, either completely, or, as the case may be, as completely as possible using their best efforts, any physical or mechanical procedure, activity, event or condition, existing or occurring at any time: (1) that is susceptible to abatement by Permittees, (2) which arises out of, or could affect adversely, the construction, operation, maintenance or termination of all or any part of the Pipeline System, and (3) that causes or threatens to cause: (a) hazard to the safety of workers or to public health or safety (including but not limited to personal injury or loss of life with respect to any Person or Persons), or (b) serious and irreparable harm or damage to the environment (including but not limited to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource).

B. Permittees shall cause their respective agents, employees, contractors and subcontractors (at any tier) to observe and comply with the foregoing provisions of this Section.

25. Temporary suspension orders of authorized officer

A. The Authorized Officer may at any time order the temporary suspension of any or all construction, operation, maintenance or termination activities of Permittees, their agents, employeees, contractors or subcontractors (at any tier) in connection with the Pipeline System, including but not limited to the transportation of Oil, if in the judgment of the Authorized Officer:

(1) An immediate temporary suspension of such activities is necessary to protect: (a) public health or safety (including, but not limited to, personal injury or loss of life with respect to any Person or Persons); or (b) the environment from immediate, serious, substantial and irreparable harm or damage (including, but not limited to, harm or damage to areas of vegetation or timber, fish or other wildlife populations, or their habitats, or any other natural resource); or

(2) Permittees, their respective agents, employees, contractors or subcontractors (at any tier) are failing or refusing, or have failed or refused, to comply with or observe: (a) any provision of this Agreement necessary to protect public health, safety or the environment; or (b) any order of the Authorized Officer implementing any such provision of this Agreement or of any other agreement, permit or authorization that shall have been duly approved, issued or granted by the Secretary in connection with all or any part of the Pipeline System.

B. The following shall be applicable to any temporary suspension order that may be issued in accordance with the provisions of subsection A of this Section, if the order would have the effect of suspending (1) operation of the entire Pipeline, (2) transportation of Oil through the Pipeline, (3) operation of the entire Valdez terminal facility, or (4) construction of an entire Construction Subdivision:

(a) If the order is issued in accordance with subsection A(1) of this Section, the Authorized Officer shall transmit a copy of the order, and a preliminary report with respect to the order, to the Secretary within six (6) hours after the order has been issued and, thereafter, the Authorized Officer's report and the order will be reviewed promptly by the Secretary; *provided, however,* that nothing herein shall require the Secretary to take any action following such review; or

(b) If the order is to be issued in accordance with subsection A(2) of this Section, the Authorized Officer shall not issue the order unless and until the Secretary gives to the Authorized Officer the Secretary's prior written approval with respect to the order.

C. The Authorized Officer shall give Permittees prior notice of the temporary suspension order as he deems practicable. If circumstances permit, the Authorized Officer shall consult with Permittees, prior to issuing the order, to discuss appropriate measures to (1) forthwith abate or avoid the harm or threatened harm that is the reason for the issuance of the order, or (2) effect compliance with the provision or order, whichever is applicable.

D. After a temporary suspension order has been given by the Authorized Officer, Permittees shall promptly comply with all of the provisions of the order and shall not resume any activity suspended or curtailed thereby except as provided in this Agreement or pursuant to court order.

E. Any temporary suspension order which, in an emergency, is given orally shall be confirmed in writing, as provided for in Stipulation 1.6.2. Each written order or written confirmation of an order shall set forth the reasons for the suspension. Each temporary suspension order shall be limited, insofar as is practicable, to the particular area or activity that is or may be affected by the activities or conditions that are the basis of the order. Each order shall be effective as of the date and time given, unless it specifies otherwise. Each order shall remain in full force and effect until modified or revoked in writing by the Authorized Officer or the Secretary.

F. Resumption of any suspended activity shall be promptly authorized by the Authorized Officer in writing when he is satisfied that (1) the harm or threatened harm has been abated or remedied, or (2) Permittees have effected, or are ready, willing and able to effect compliance with the provision or order, whichever is applicable.

G. Any temporary suspension order that is given or issued in accordance with this Section shall be subject to the provisions of Stipulation 1.5.1.

26. Appeal procedure

A. Appeals from Temporary Suspension Orders of Authorized Officer; Appeals from Denials of Resumption of Suspended Activities

(1) Permittees may appeal directly to the Secretary: (a) any temporary suspension order issued by the Authorized Officer pursuant to Section 25 of this Agreement; and (b) any denial by the Authorized Officer of a request for resumption of activities suspended pursuant to such a temporary suspension order. If a right of appeal is to be preserved, Permittes shall file a notice of appeal with the Secretary within fifteen (15) days from the effective date of the order or denial being appealed. The notice shall set forth with particularity the order or denial being appealed. To perfect an appeal, Permittees shall file with the Secretary within thirty (30) days from the effective date of the order or denial being appealed a statement of the facts of the matter and a statement of the applicable law, supplemented by such documentation and arguments on the facts and the law as Permittees may wish to present to justify modification or reversal of the order or denial. All statements of fact shall be under oath.

(2) Except as provided hereinafter in this Section, the Secretary shall decide the appeal within thirty (30) days from the date Permittees' appeal is perfected. If the Secretary does not render a decision within that time, the appeal shall be considered to have been denied by the Secretary, and such denial shall constitute the final administrative decision of the Department.

(3) Except for any decision that may be made by the Secretary after his review as provided for in subsection B(a) of Section 25 hereof, any decisions of the Secretary, with respect to any appeal within the Department as to any matter arising out of this Agreement, shall constitute the final administrative decision of the Department.

B. Expedited Appeals

(1) Permittees shall be entitled to an expedited appeal to the Secretary from any temporary suspension order, or order denying resumption of suspended activities (except any refusal to issue a Notice to Proceed or the issuance of a Notice to Proceed that may not be substantially in accord with the application therefor), issued by the Authorized Officer and that suspends, or denies resumption of, the following: (a) operation of the entire Pipeline; (b) transportation of Oil through the Pipeline; (c) operation of the entire Valdez terminal facility; or (d) construction of an entire Construction Subdivision.

(2) Permittees may occasionally, from time to time, during construction of the Pipeline System, designate an order not covered by subsection B(1) of this Section but which the Permittees deem critical and which the Secretary shall consider as an expedited appeal. Such designation shall be made in the notice of appeal, and shall be supported by factual information, under oath, to confirm that the affected activity is one of critical importance.

(3) The Secretary shall render a decision so as to dispose of the expedited appeal within the shortest possible time and in all events within seven (7) days of the date of filing of the documents required to perfect an appeal. If the Secretary does not render a decision within such time, the appeal may be deemed by Permittees to have been denied by the Secretary, and such denial shall constitute the final administrative decision of the Department.

C. Appeals with Respect to Notices to Proceed

(1) Permittees may appeal to the Secretary if, with respect to a particular application for a Notice to Proceed: (a) the Authorized Officer has refused to issue the Notice to Proceed within the time prescribed pursuant to Stipulation 1.7.4; or (b) the Authorized Officer has issued a Notice to Proceed not substantially in accord with the application therefor. If the Authorized Officer has not acted within the prescribed time to either issue or deny the issuance of the Notice to Proceed, such failure to act shall be deemed to be a refusal by the Authorized Officer to issue the Notice to Proceed.

(2) The ground or grounds for such an appeal shall be one or more of the following:

(a) The Authorized Officer has construed the applicable Stipulations erroneously; or

(b) The Authorized Officer has imposed arbitrary and capricious requirements to enforce the Stipulations; or

(c) Permittees have made a bona fide effort to meet the requirements of the Authorized Officer, but are unable to comply; or

(d) By failing to act upon the requested Notice to Proceed, within the prescribed time, the Authorized Officer has been unreasonable.

(3) Each appeal under this subsection shall be subject to the appeal procedure set forth in subsection A of this Section.

27. Requests to resume; appeals

A. If by a temporary suspension order issued pursuant to Section 25 of this Agreement, the Authorized Officer has ordered the suspension of an activity of Permittees, Permittees may at any time thereafter file with the Authorized Officer a request for permission to resume that activity on the ground that the reason for the suspension no longer exists. The request shall contain a statement under oath, of the facts which in Permittees' view support the propriety of resumption.

B. The Authorized Officer shall render a decision, either granting or denying the request, within five (5) days of the date that the request was filed with him. If the Authorized Officer does not render a decision within that time, the request shall be considered denied and Permittee may appeal the denial to the Secretary in accordance with the provisions of Section 26 of this Agreement.

C. If, at the time the request to resume is filed with the Authorized Officer, the Authorized Officer's order suspending the activity is pending before the Secretary pursuant to a perfected appeal, the Authorized Officer shall nonetheless proceed to act upon the request. If the Authorized Officer grants the request that action shall be determinative of both the request and the pending appeal.

28. Nondiscrimination and equal employment opportunity

A. Permittees shall assure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from receiving or participating in any activity, including all aspects of employment and contracting, conducted under any permit, right-of-way, public land order, or other Federal authorization granted or issued under the Trans-Alaska Pipeline Authorization Act. Permittees shall comply with all regulations that shall be promulgated by the Secretary to implement this provision.

B. Permittees agree that, during the period of construction of the Pipeline System and for so long as the Pipeline System, or any portion thereof, shall be in operation, or for so long as this Agreement shall be in effect, whichever is the longer:

(1) Permittees will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Permittees will take affirmative action to ensure that applicants are employed, and that employees are equally treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Permittees agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authorized officer setting forth the provisions of this equal opportunity clause.

(2) Permittees will, in all solicitations or advertisements for employees placed by or on behalf of Permittees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) Permittees will send to each labor union or representative of workers with which Permittees have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authorized Officer, advising the labor union or workers' representative of Permittees' commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Permittees will comply with Executive Order No. 11246 of September 24, 1965, as amended, and rules and regulations and relevant orders of the Secretary of Labor.

(5) Permittees will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Permittees' books, records, and accounts by the Authorized Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of Permittees' noncompliance with this equal opportunity clause or with any of said rules, regulations or orders, this Agreement may be terminated or suspended in whole or in part by the Secretary, in accordance with the provisions of Section 403 of the Act of November 16, 1973, 87 Stat. 590 (1973) and in the manner provided in Section 31 hereof, and Permittees may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as othewise provided by law.

(7) Permittees will include the provisions of an equal opportunity clause as established by regulation of the Secretary in every contract, subcontract or purchase order unless exempted so that such provisions will be binding upon each contractor, subcontractor (at any tier) or vendor. Permittees will take such action with respect to any contract, subcontract, or purchase order as the Authorized Officer may direct as a means of enforcing such provisions including sanctions for noncompliance; *provided, however,* that in the event Permittees become involved in or are threatened with litigation with a contractor, subcontractor (at any tier) or vendor as a result of such direction by the Authorized Officer, Permittees may request the United States to enter into such litigation to protect the interests of the United States.

Permittees further agree that they will be bound by the equal opportunity clause (i.e., subsections (1) through (7) of this subsection B) with respect to their own employment practices when they participate in federally assisted construction work.

C. Permittees agree that they will assist and cooperate actively with the Authorized Officer and the Secretary of Labor in obtaining the compliance of contractors and subcontractors (at any tier) with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, pursuant to the Executive Order, that they will furnish the Authorized Officer and the Secretary of Labor such information as they may require for the supervision of such compliance, and that they will otherwise assist the Authorized Officer in the discharge of the Department's primary responsibility for securing compliance.

D. Permittees further agree that they will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, with a contractor debarred from Government contracts and federally assisted construction contracts and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Authorized Officer or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Permittees agree that if they fail or refuse to comply with these undertakings, the Secretary may take any or all of the following actions: terminate or suspend the Right-of-Way in whole or in part, in accordance with the provisions of Section 403 of the Act of November 16, 1973, 87 State. 590 (1973), and in the manner provided in Section 31 hereof; refrain from extending any further assistance to Permittees under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from Permittees; and refer the case to the Department of Justice for appropriate legal proceedings.

E. By accepting this Agreement, Permittees certify that Permittees do not and will not maintain or provide for Permittees' employees any Segregated Facilities at any of Permittees' establishments and that Permittees do not and will not permit Permittees' employees to perform their services at any location, under Permittees' control, where Segregated Facilities are maintained. Permittees agree that a breach of this certification is a violation of the equal opportunity clause of this Agreement. As used in this certification, the term "Segregated Facilities" means, but is not limited to, any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. Permittees further agree that (except where Permittees have obtained identical certifications from proposed contractors and sub contractors (at any tier) for specific time periods) Permittees will obtain identical certifications from proposed contractors and subcontractors (at any tier) prior to the award of contacts or subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; that Permittees will retain such certifications in Permittees' files; and that Permittees will forward the following notice to such proposed contractors and subcontractors (except where the proposed contractors or subcontractors have submitted identical certifications for specific time periods): "Notice to Prospective Contractors and Subcontractors of Requirement for Certification of Nonsegregated Facilities." A certification of Nonsegregated Facilities, as required by the order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the equal opportunity clause. The certification may be submitted either for each contract and subcontract or for all contracts and subcontracts during a period (i.e., quarterly, semiannually, or annually).

29. Training of Alaska Natives

A. Permittees shall enter into an Agreement with the Secretary regarding recruitment, testing, training, placement, employment, and job counseling of Alaska Natives.

B. During construction and operation of the Pipeline System, Permittees shall conduct a preemployment and on-the-job training program for Alaska Natives designed to qualify them for initial employment in connection with the Pipeline System and for advancement to higher paying positions thereafter.

C. Permittees shall do everything practicable to secure the employment, in connection with the Pipeline System, of those Alaska Natives who successfully complete Permittees' training program. Permittees shall inform the Authorized Officer of the discharge from such employment of each and every Alaska Native and of the reason therefor, in advance of such discharge whenever possible or, if advance notice is impossible, as soon thereafter as is practicable.

D. Permittees shall furnish such information and reports concerning Alaska Native employment as the Authorized Officer shall require from time to time.

30. Native and other subsistence

A. To the extent practicable, Permittees shall not damage any fish, wildlife or biotic resources in the general area of the Right-of-Way upon which Persons living in the area rely for subsistence purposes; and Permittees will comply promptly with all requirements and orders of the Secretary to protect the interests of Persons living in the general area of the Right-of-Way who rely on the fish, wildlife and biotic resources of the area for subsistence purposes.

B. Upon the order of the Secretary, Permittees shall provide emergency subsistence and other aid, as required by the Secretary, to any affected Alaska Native, Native organization or other Persons pending expeditious filing of, and determination of, a claim by such Alaska Native, Native organization or other Person under Section 204(a) of the Trans-Alaska Pipeline Authorization Act. The Secretary's decision to issue an order may be based on statements, made under oath, by such Alaska Native, Native organization or other Person seeking emergency aid.

31. Termination or suspension of right-of-way

A. Any failure or refusal of any Permittee, its agents, employees, contractors or subcontractors (at any tier), or any of them, to observe or comply substantially with any applicable provision of Section 28 of the Mineral Leasing Act of 1920, as amended, the Trans-Alaska Pipeline Authorization Act, the regulations of the Secretary implementative thereof, or any provision of this Agreement required or authorized by such statutes, shall be deemed to constitute a breach of this Agreement, said breach being determined to be joint and several or several according to the provisions of Section 21 hereof, and, at the option of the Secretary, may be grounds for termination or formal suspension of such Permittee's interest in the Right-of-Way; *provided, however*, if, as determined in accordance with the provisions of Section 21 hereof, the breach results in several (as opposed to joint and several) liability, the interest in the Right-of-Way of a Permittee which is not liable for the breach shall not be subject to termination or formal suspension on account of the breach.

B. The failure or refusal of Permittees to proceed with reasonable diligence to construct the Pipeline shall be grounds for termination or formal suspension of the Right-of-Way in a proceeding brought under Section 28(o) of the Mineral Leasing Act, as amended; *provided, however*, that the Right-of-Way shall not be terminated or suspended if the failure to proceed to construct the Pipeline is due to circumstances beyond the control of the Permittees.

C. Abandonment of the Right-of-Way shall not constitute a breach of this Agreement but may, at the option of the Secretary, be grounds for termination of the Right-of-Way. Deliberate failure of Permittees, for any continuous two-year period (whether or not calculated on a calendar-year basis), to use the Right-of-Way for the purpose for which it was granted shall constitute a rebuttable presumption of abandonment of the Right-of-Way. However, where such failure to use the Right-of-Way is due to circumstances not within Permittees' control, the Secretary is not required to commence proceedings under Section 28(o) of the Mineral Leasing Act of 1920, as amended.

D. Administrative proceedings to treminate or formally suspend the Right-of-Way under subsections A and B of this Section shall be conducted pursuant to Title 5, United States Code, Section 554, and the applicable regulations of the Secretary.

E. Before the Secretary authorizes the commencement of any administrative proceeding under Title 5, United States Code, Section 554, for the termination or formal suspension of any interest in the Right-of-Way, the Authorized Officer shall give the affected Permittee or Permittees notice in writing of the alleged ground or grounds for termination or formal suspension, with sufficient particularity to enable the Permittee or Permittees to cure if the ground or grounds that are alleged constitute a breach of this Agreement. The Permittee or Permittees shall have:

(a) thirty (30) days, in the case of any failure or refusal to pay money, and

(b) sixty (60) days in all other cases,

from (and not including) the date of delivery of the notice within which to cure the alleged breach or breaches of this Agreement. If the alleged breach or breaches (other than with respect to the payment of money) cannot be cured within sixty (60) days, the Permittee or Permittees shall be entitled to such additional time as may be necessary to cure; *provided, however*, that the affected Permittee or Permittees (whose interest in the Right-of-Way would be terminated or formally suspended if the United States prevailed in a proceeding to terminate or formally suspend the interest on the ground or grounds asserted in the notice) first demonstrate to the satisfaction of the Authorized Officer that the necessary curative actions were undertaken promptly and have been diligently prosecuted towards completion; *provided further*, that the aforesaid additional time to cure shall not exceed ninety (90) days from (and not including) the last day of the said sixty (60) day period, without the prior written consent of the Authorized Officer, which shall specify the last day (to be determined by the Authorized Officer) upon which the curative action must be completed to the satisfaction of the Authorized Officer. The consent of the Authorized Officer to additional time (in excess of the said ninety (90) day period) to cure shall not be unreasonably withheld, and shall normally be given in situations involving physical activities of Permittees in connection with construction, maintenance, operation or termination of the Pipeline which Permittees can demonstrate require more time.

F. The foregoing provisions of subsection E of this Section shall not apply with respect to a breach under any one or more of the following Sections of the Agreement: 20 (Insolvency), 24 (Duty of Permittees to Abate), 25 (Temporary Suspension of Activities).

32. Release of right-of-way

A. In connection with the relinquishment, abandonment or other termination before the expiration of the grant of the Right-of-Way, of any right or interest in the Right-of-Way, and/or in the use of all or any part of the lands subject to the Right-of-Way, each Permittee holding such right or interest shall promptly execute and deliver to the United States, through the Authorized Officer, a valid instrument of release in recordable form, which shall be executed and acknowledged with the same formalities as a deed. The instrument of release shall contain, among other things, appropriate, recitals, a description of the pertinent rights and interests, and, for the benefit of the United States and its grantees or assigns, express representations and warranties by the Permittee that it is the sole owner and holder of the rights or interests described therein and that such rights or interests are free and clear of all liens, equities or claims of any kind requiring or that may require the consent of a third party, claiming in whole or in part by, through or under the Permittee, for the valid release or extinguishment thereof, except for such that are owned or claimed by third parties which have joined in the execution of the release. The form and substantive content of each instrument of release shall be approved by the Authorized Officer but, except as otherwise expressly provided for above in this subsection in no event shall any such instrument operate to increase the then-existing liabilities and obligations of the Permittee furnishing the release.

B. Each release shall be accompanied by such resolutions and certifications as the Authorized Officer may require in connection with the power or the authority of the Permittee, or of any officer or agent acting on its behalf, to execute, acknowledge or deliver the release.

C. Neither the tender, nor the approval and/or acceptance, of any such release shall operate as an estoppel or waiver of any claim or judgment against a Permittee or to relieve or discharge, in whole or in part, any Permittee of and from any of its then-existing liabilities or obligations (accrued, contingent or otherwise); and, notwithstanding any such tender or delivery, or any approval of the Authorized Officer, if a release shall contain any provision that operates, or that by implication might operate, to discharge or relieve, in whole or in part, a Permittee of and from any of its liabilities or obligations (accrued, contingent or otherwise) or that operates or might operate as an estoppel or waiver of any claim or judgment against a Permittee, or as a covenant not to sue, such provision shall be, and shall be deemed to be, void and of no effect whatsoever insofar as it would have the effect of so discharging or relieving a Permittee or operating as an estoppel, waiver or covenant not to sue.

33. Agreements among permittees

A. The Original Permittees, and each of them, represent and covenant with the United States that they have entered into only the following agreements, and no other agreements, written or oral (excluding prior agreements that no longer have any force or effect), which establish each Original Permittee's interest in the Pipeline System venture and each Original Permittee's relationships with the common agent, as referred to in Stipulation 1.4, for all or any phase of the construction, operation, maintenance and termination of the Pipeline System or any part thereof:

(1) Agreement entitled "Trans-Alaska Pipeline System Agreement", dated as of August 27, 1970, by and among Atlantic Pipe Line Company,* BP Pipe Line Corporation,* Humble Pipe Line Company,* Amerada Hess Corporation, Home Pipe Line Company, Mobil Pipe Line Company, Phillips Petroleum Company, and Union Oil Company of California, with Exhibit "C", entitled "Enabling Agreement", annexed thereto;

(2) Agreement entitled "First Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(3) Agreement entitled "Second Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(4) Agreement entitled "Third Supplemental Agreement", dated as of August 27, 1970, by the same parties;

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*ARCO Pipe Line Company, a Delaware corporation, represents and covenants that it is the successor by merger to all of the rights and obligations of Atlantic Pipe Line Company. Sohio Pipe Line Company, a Delaware corporation, represents and covenants that it is the successor by marger to all of the rights and obligations of BP Pipe Line Corporation. Exxon Pipeline Company, a Delaware corporation, represents and covenants that it is the same corporation as Humble Pipe Line Company, but that its name has been duly changed to "Exxon Pipeline Company."

(5) Agreement entitled "Fourth Supplemental Agreement", dated as of August 27, 1970, by the same parties;

(6) Agreement entitled "Fifth Supplemental Agreement" dated as of August 27, 1970, by the same parties;

(7) Agreement entitled "Agreement for the Design and Construction of the Trans-Alaska Pipeline System", dated as of August 27, 1970, by and among Atlantic Pipe Line Company, BP Pine Line Corporation, Humble Pipe Line Company, Amerada Hess Corporation, Home Pipe Line Company, Mobil Pipe Line Company, Phillips Petroleum Company, Union Oil Company of California, and Alyeska Pipeline Service Company;

(8) Agreement entitled "Shareholders Agreement for Alyeska Pipeline Service Company", dated as of August 27, 1970, by the same parties as those listed with respect to the agreement referred to immediately above;

(9) Assignment, Assumption, Release and Consent Agreement, dated as of August 28, 1970, in connection with the transfer by Home Pipe Line Company to the other participating companies of all of its rights, title and interest in the Pipeline System and in the foregoing agreements and as a shareholder in and to Alyeska Pipeline Service Company.

(10) Assignment, Conveyance, and Transfer Agreement, dated December 11, 1973, in connection with the transfer by Mobil Pipe Line Company to Mobil Alaska Pipeline Company, a Delaware Corporation, of all of the former company's rights under all agreements relating to the Trans-Alaska Pipeline System, to which the former company is a party, and all real or personal property in which the former company may have acquired an ownership interest pursuant to such agreements, and under which Assignment, Conveyance and Transfer Agreement Mobil Alaska Pipeline Company assumes all undischarged obligations of Mobil Pipe Line Company under any and all of the above mentioned Trans-Alaska Pipeline System agreements, together with certain supporting documents (five in number) each dated December 11, 1973; and

(11) Assignment, Conveyance, and Transfer Agreement, dated January 8, 1974, in connection with the transfer by Union Oil Company of California to Union Alaska Pipeline Company, a California Corporation, of all of the former company's rights under all agreements relating to the Trans-Alaska Pipeline System to which the former company is a party, and all real or personal property in which the former company may have acquired an ownership interest pursuant to such agreements, and under which Assignment, Conveyance and Transfer Agreement Union Alaska Pipeline Company assumes all undischarged obligations of Union Oil Company of California under any and all of the above mentioned Trans-Alaska Pipeline System agreements.

B. Said agreements are referred to collectively as the "Ownership Agreements." Each affected Permittee shall file promptly with the Authorized Officer true and complete copies of all modifications of the Ownership Agreements and of all instruments superseding, supplementing, cancelling or rescinding, in whole or in part, any one or more of the Ownership Agreements.

C. In the event Permittees execute an "Operating Agreement," as contemplated in Section 5.1 of the agreement described in subsection A(1) above in this Section, or any like or similar agreement with respect to the operation, maintenance, or termination of all or any part of the Pipeline System, Permittees shall file promptly with the Authorized Officer a true and complete copy thereof, together with like copies of all modifications of, and all agreements superseding, supplementing, cancelling or rescinding, in whole or in part, the Operating Agreement or any such like or similar agreement.

34. Access to documents

A. As to any documents or records not filed (or required to be filed under any other provision of this Agreement) with the Secretary or the Authorized Officer that shall be relevant to the exercise or enforcement by the Secretary of his authority or the rights of the United States under or in connection with this Agreement or with respect to all or any part of the Pipeline System, the Secretary shall have the right, after notice to the affected Permittee, to inspect and copy: (1) any document or record which a Permittee is required by this Agreement to make or maintain, (2) any document or record that at any time has been filed by a Permittee with any governmental department or agency, access to which is not prohibited or limited by law or regulation, or (3) any abstract, summary or other document that may have been prepared by any governmental department or agency in connection with any document or record referred to in (2) above.

B. Subject to the requirement that the documents or records, herein below referred to, shall be relevant to the exercise or enforcement by the Secretary of his authority or the rights of the United States under or in connection with this Agreement or with respect to all or any part of the Pipeline System, the Secretary, after notice to the affected Permittee, may inspect and, with the consent of the affected Permittee (which consent each Permittee agrees will not be unreasonably withheld or delayed), may copy any document or record that has been or may hereafter be filed by a Permittee with any governmental agency, access to which is prohibited or limited by law or regulation, and any abstract, summary or other document that may have been prepared by a governmental department or agency in connection with any such document or record; *provided, however*, that the rights of the Secretary under this subsection may be exercised only if, and to the extent that, this provision constitutes a valid waiver of any such prohibition or limitation.

C. Nothing in this Section shall be deemed to limit, prohibit, or waive any right or privilege of the United States, and particularly of the Secretary, to inspect or copy any document or record under any authority granted pursuant to law or regulations.

35. Rights of third parties

The parties hereto do not intend to create any rights under this Agreement that may be enforced by third parties for their own benefit or for the benefit of others.

36. Covenants independent

Each and every covenant contained in this Agreement is, and shall be deemed to be, separate and independent of, and not dependent on, any other covenant contained in this Agreement.

37. Partial invalidity

If any part of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforced to the fullest extent permitted by law.

38. Waiver not continuing

The waiver by any party hereto of any breach of any provision of this Agreement by any other party hereto, whether such waiver be expressed or implied, shall not be construed to be a continuing waiver or a waiver of, or consent to, any subsequent or prior breach on the part of such other party, of the same or any other provision of this Agreement.

39. Remedies cumulative; equitable relief

Except as otherwise expressly provided in subsections B and D of Section 13 of this Agreement, no remedy conferred by this Agreement upon or reserved to the United States or to Permittees is intended to be exclusive of any other remedy provided for by this Agreement or by law, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in equity or at law; and the United States, in a proper action instituted by it, may seek a decree against a Permittee or Permittees for specific performance, injunctive or other equitable relief, as may be appropriate.

40. Section headings

The section headings in this Agreement are for convenience only, and do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the section to which they pertain.

41. Authority to enter agreement

Each Original Permittee represents and warrants to the United States that: (1) it is duly authorized and empowered under the applicable laws of the State of its incorporation and by its charter and by-laws to enter into and perform this Agreement in accordance with the provisions hereof; (2) its board of directors, or duly authorized executive committee, has duly approved, and has duly authorized, the execution, delivery and performance by it of this Agreement; (3) all corporate and shareholder action that may be necessary or incidental to the approval of this Agreement, and the due execution, delivery and performance hereof by Permittee, has been taken; and (4) that all of the foregoing approvals, authorizations and actions are in full force and effect at the time of the execution and delivery of this Agreement.

In witness whereof, the parties hereto have duly executed this Agreement as of the date first above written.

UNITED STATES OF AMERICA
By /s/ ROGERS C. B. MORTON
Secretary of the Interior
AMERADA HESS CORPORATION
By /s/ BERNARD T. DEVERIN
Senior Vice President
ARCO PIPE LINE COMPANY
By /s/ C. T. CARTER
President
EXXON PIPELINE COMPANY
By /s/ W. S. SPANGLER
President
MOBIL ALASKA PIPELINE COMPANY
By /s/ E. J. WACKER, JR.
Vice President
PHILLIPS PETROLEUM COMPANY
By /s/ CARSTENS SLACK
Vice President
SOHIO PIPE LINE COMPANY
By /s/ ALLEN D. DORRIS
President
UNION ALASKA PIPELINE COMPANY
By /s/ SAM A. SNYDER
Vice President

EXHIBIT A—LIST OF APPLICATIONS AND ACCOMPANYING ALIGNMENT MAP AND SITE LOCATION DRAWINGS IDENTIFYING THE GENERAL ROUTE OF THE PIPELINE

A. The general route of the Pipeline is identified in the following applications, alignment map and site location drawings, filed with the Bureau of Land Management:

(1) Alignment of the centerline of the line pipe—

(a) *Applications*

BLM serial numbers
AA-5847—sheets 1 to 26 inclusive
F-12505—sheets 26 to 138 inclusive

(b) *Description of Alignment Map*

Alyeska Pipeline Service Company
Trans Alaska Pipeline System
Dwg. No. AL—00——G2

Sheets 1-138, inclusive (143 sheets in all, including 25A, 36A, 53A, 114A and 119A)

Prudhoe Bay to Valdez
48" Oil Pipeline Alignment Map
Scale: 1"=1,000'

(c) *Date of Survey*

Engineer's Statement attached to Sheet 1 indicates that survey was made commencing August 19, 1970 through February 16, 1973 (and continuing as minor realignments occur) and that such survey is accurately represented upon the aforesaid sheets of the map with certain exceptions that are noted on individual engineer's statements.

(d) *Date Alignment Map was filed*

September 19, 1973

(e) *BLM office where filed*

Alaska State Office, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska

(2) Locations of Certain Related Facilities—

Related facility	Applications BLM serial No.	Alyeska site location drawing No.	Drawing date
(a) Pump stations:			
No. 2	F-15422	D-32-L 500	Jan. 12, 1972.
No. 3	F-15424	D-33-L 500	Do.
No. 4	F-15426	D-34-L 500	Do.
No. 5	F-15428	D-35-L 500	Do.
No. 6	F-15430	D-36-L 500	Do.
No. 7	F-15432	D-37-L 502	Do.
No. 8	F-15434	D-38-L 501	Do.
No. 10	F-15436	D-40-L 500	Do.
No. 11	AA-6690	D-41-L 500	Do.
No. 12	AA-6991	D-42-L 500	Do.
(b) Mechanical refrigeration equipment sites:			
No. 1		D-00-L 96	No date.
No. 2		D-00-L 97	Do.
No. 3		D-00-L 98	Do.
No. 4		D-00-L 99	Do.
No. 5		D-00-L 100	Do.
No. 6		D-00-L 101	Do.
No. 7		D-00-L 102	Do.
No. 8		D-00-L 103	Do.
No. 9		D-00-L 104	Do.
(c) Pump station communication sites:			
No. 2	F-15423	D-32-L 501	Jan. 12, 1972.
No. 3	F-15425	D-33-L 501	Do.
No. 4	F-15427	D-34-L 501	Do.
No. 5	F-15429	D-35-L 501	Do.
No. 6	F-15431	D-36-L 502	Do.
No. 7	F-15433	D-37-L 503	Aug. 29, 1972.
No. 8	F-15435	D-38-L 502	Jan. 12, 1972.
No. 10	F-15437	D-40-L 501	Do.
No. 11	AA-6992	D-41-L 501	Do.
No. 12	AA-6993	D-42-L 501	Do.
(d) Basic communication sites:			
Valdez Terminal		D-60-L 559	Dec. 17, 1973.
Keystone		D-60-L 511	June 22, 1973.
Ptarmigan		D-60-L 540	Nov. 3, 1973.
Tsina		D-60-L 513	June 22, 1973.
Tiekel		D-60-L 541	Nov. 5, 1973.
PS No. 12 Passive		D-60-L 543	Do.
Kinball		D-60-L 542	Do.
Stuck		D-60-L 544	Do.
Gakona		D-60-L 516	June 22, 1973.
Round Top		D-60-L 545	Nov. 3, 1973.
Yost		D-60-L 546	Oct. 31, 1973.
Nicole Knol		D-60-L 547	Nov. 1, 1973.
Donnelly No. 2		D-60-L 548	Nov. 4, 1973.
Aggie		D-60-L 549	Nov. 3, 1973.
West		D-60-L 522	June 22, 1973.
Livengood		D-60-L 550	Nov. 4, 1973.
Bench		D-60-L 551	Nov. 3, 1973.
Hamlin		D-60-L 524	June 22, 1973.
Fish		D-60-L 552	Oct. 31, 1973.
Eagle		D-60-L 526	June 22, 1973.
Coldfoot		D-60-L 527	Do.
Kaanuk		D-60-L 553	Nov. 3, 1973.
Table Mountain		D-60-L 529	June 22, 1973.
Margaret Hill		D-60-L 554	Oct. 26, 1973.
Atigun		D-60-L 555	Nov. 3, 1973.
Twin Glacier		D-60-L 539	June 22, 1973.
Tea Lake		D-60-L 556	Nov. 27, 1973.
Galbraith		D-60-L 557	Do.
Slope		D-60-L 535	June 22, 1973.
Costa Hill		D-60-L 558	Oct. 30, 1973.
Franklin Bluffs		D-60-L 537	June 22, 1973.
Stuart		D-60-L 504	Do.
Ross Dome	F-12139	D-60-L 560	Dec. 17, 1973.
(e) Remote control block valve equipment sites:			
No. 98		D-00-L 33	May 16, 1973.
No. 100		D-00-L 31	Do.
No. 101		D-00-L 29	Do.
No. 102		D-00-L 27	Do.
No. 103		D-00-L 25	Do.
No. 104		D-00-L 23	Do.
No. 109		D-00-L-21	Do.
No. 113		D-00-L 19	Do.
No. 115		D-00-L 17	Do.
No. 116		D-00-L 15	Do.
No. 117		D-00-L 13	Do.
No. 118		D-00-L 11	Do.
No. 119		D-00-L 9	Do.
No. 123		D-00-L 7	Do.
No. 125		D-00-L 5	Do.
No. 51		D-00-L 65	Do.
No. 53		D-00-L 63	Do.
No. 54		D-00-L 61	Do.
No. 56		D-00-L 59	Do.
No. 58		D-00-L 55	Do.
No. 57		D-00-L 57	Do.
No. 59		D-00-L 53	Do.
No. 60		D-00-L 51	Do.
No. 62		D-00-L 49	Do.
No. 65		D-00-L 47	Do.
No. 67		D-00-L 45	Do.
No. 68		D-00-L 43	Do.
No. 88		D-00-L 41	Do.
No. 91		D-00-L 39	Do.
No. 96		D-00-L 37	Do.
No. 97		D-00-L 35	Do.
No. 31		D-00-L 95	Do.
No. 32		D-00-L 93	Do.
No. 33		D-00-L 91	Do.
No. 34		D-00-L 89	Do.
No. 35		D-00-L 87	Do.
No. 36		D-00-L 85	Do.
No. 37		D-00-L 83	Do.
No. 39		D-00-L 81	Do.
No. 40		D-00-L 79	Do.
No. 42		D-00-L 77	Do.
No. 43		D-00-L 75	Do.
No. 44		D-00-L 73	Do.
No. 45		D-00-L 71	Do.
No. 47		D-00-L 69	Do.
No. 49		D-00-L 67	Do.
(f) Communication Facilities at Valve Sites:			
No. 31	F-19621	D-00-L 94	No date.
No. 32	F-19622	D-00-L 92	Do.
No. 33	F-19623	D-00-L 90	Do.
No. 34	F-19624	D-00-L 88	Do.
No. 35	F-19625	D-00-L 86	Do.
No. 36	F-19626	D-00-L 84	Do.
No. 37	F-19627	D-00-L 82	Do.
No. 39	F-19628	D-00-L 80	Do.
No. 40	F-19629	D-00-L 78	Do.
No. 42	F-19630	D-00-L 76	Do.
No. 43	F-19631	D-00-L 74	Do.
No. 44	F-19632	D-00-L 72	Do.
No. 45	F-19633	D-00-L 70	Do.
No. 47	F-19634	D-00-L 68	Do.
No. 49	F-19635	D-00-L 66	Do.
No. 51	F-19636	D-00-L 64	Do.
No. 53	F-19637	D-00-L 62	Do.
No. 54	F-19638	D-00-L 60	Do.
No. 56	F-19639	D-00-L 58	Do.
No. 57	F-19640	D-00-L 56	Do.
No. 58	F-19641	D-00-L 54	Do.
No. 59	F-19642	D-00-L 52	Do.
No. 60	F-19643	D-00-L 50	Do.
No. 62	F-19644	D-00-L 48	Do.
No. 65	F-19645	D-00-L 46	Do.
No. 67	F-19646	D-00-L 44	Do.
No. 68	F-19647	D-00-L 42	Do.
No. 88	F-19648	D-00-L 40	Do.
No. 91	F-19649	D-00-L 38	Do.
No. 96	F-19650	D-00-L 36	Do.
No. 97	F-19651	D-00-L 34	Do.
No. 98	F-19652	D-00-L 32	Do.
No. 100	AA-8499	D-00-L 30	Do.
No. 101	AA-8500	D-00-L 28	Do.
No. 102	AA-8501	D-00-L 26	Do.
No. 103	AA-8502	D-00-L 24	Do.
No. 104	AA-8503	D-00-L 22	Do.
No. 109	AA-8504	D-00-L 20	Do.
No. 113	AA-8505	D-00-L 18	Do.
No. 115	AA-8506	D-00-L 16	Do.
No. 116	AA-8507	D-00-L 14	Do.
No. 117	AA-8508	D-00-L 12	Do.
No. 118	AA-8509	D-00-L 10	Do.
No. 119	AA-8510	D-00-L 8	Do.
No. 123	AA-8511	D-00-L 6	Do.
No. 125	AA-8512	D-00-L 4	Do.
(g) Erosion Control Structure Sites:			
Unnamed Creek		C-00-L-1041	Aug. 31, 1973.
Brown Creek		C-00-L 1042	Do.
Lowe River		C-00-L 1043	Do.
Sheep Creek		C-00-L 1044	Do.
Tsina River No. 1		C-00-L 1045	Do.
Do		C-00-L 1046	Do.
Tsina River No. 3		C-00-L 1047	Do.
Tiekel River No. 1		C-00-L 1048	Do.
Tiekel River No. 3		C-00-L 1049	Do.
Tiekel River		C-00-L 1050	Do.
McCallum Creek		C-00-L 1051	Do.
Phelan Creek		C-00-L 1052	Do.
Phelan Creek No. 2		C-00-L 1053	Do.
Do		C-00-L 1054	Do.
Do		C-00-L 1055	Do.
Do		C-00-L 1056	Do.
Do		C-00-L 1057	Do.
Phelan Creek		C-00-L 1058	Do.
Phelan Creek		C-00-L 1059	Do.
Phelan Creek No. 2		C-00-L 1060	Do.
Phelan Creek No. 2		C-00-L 1061	Do.
Phelan Creek		C-00-L 1062	Do.
Phelan Creek		C-00-L 1063	Do.
Do		C-00-L 1064	Do.
Do		C-00-L 1065	Do.
Do		C-00-L 1066	Do.
Delta River No. 1		C-00-L 1067	Do.
Do		C-00-L 1068	Do.
Do		C-00-L 1069	Do.
Do		C-00-L 1070	Do.
Do		C-00-L 1071	Do.

Related facility	Applications BLM serial No.	Alyeska site location drawing No.	Drawing date
(g) Erosion Control Structure Sites—Continued			
Delta River No. 2		C-00-L 1072	Aug 31, 1973
Do		C-00-L 1073	Do.
Do		C-00-L 1074	Do.
Do		C-00-L 1075	Do.
Do		C-00-L 1076	Do.
Delta River No. 3		C-00-L 1077	Do.
Do		C-00-L 1078	Do.
Do		C-00-L 1079	Do.
Do		C-00-L 1080	Do.
Do		C-00-L 1081	Do.
Do		C-00-L 1082	Do.
Do		C-00-L 1083	Do.
Do		C-00-L 1084	Do.
Trims Creek		C-00-L 1085	Do.
Boulder Creek		C-00-L 1086	Do.
Lower Suzy-Q Creek		C-00-L 1087	Do
Darling Creek		C-00-L 1088	Do.
North Fork Bonanza		C-00-L 1090	Do.
Jim River		C-00-L 1091	Do.
Jim River		C-00-L 1092	Do.
South Fork Koyukuk		C-00-L 1093	Do.
Middle Fork Koyukuk		C-00-L 1094	Do.
Do		C-00-L 1095	Do.
Do		C-00-L 1096	Do.
Do		C-00-L 1097	Do.
Do		C-00-L 1098	Do.
Do		C-00-L 1099	Do.
Do		C-00-L 1100	Do.
Do		C-00-L 1101	Do.
Dietrich River		C-00-L 1102	Do.
Do		C-00-L 1103	Do.
Do		C-00-L 1104	Do.
Do		C-00-L 1105	Do.
Sagavanirktok River		C-00-L 1106	Do.
Do		C-00-L 1107	Do.
Do		C-00-L 1108	Do.
Do		C-00-L 1109	Do.
Do		C-00-L 1110	Do.
Do		C-00-L 1111	Do.
Do		C-00-L 1112	Do.
Do		C-00-L 1113	Do.
Do		C-00-L 1114	Do.
Do		C-00-L 1115	Do.
Do		C-00-L 1116	Do.
(h) Valdez terminal site: Valdez terminal site.	AA-5847	X-50-L-501	Dec. 10, 1973.

B. The provisions of subsection A above in this Exhibit are subject to the following:

(1) All alignments, boundaries, sites and proposed improvements that may be described or depicted in any application, map or drawing referred to above are subject to the written approval of the Secretary or Authorized Officer, in accordance with the provisions of this Agreement, and the inclusion of a particular type of Related Facility does not necessarily connote approval by the Secretary or the Authorized Officer of any concept, mode or design with respect to the facility.

(2) Any conflict, either expressed or implied, between any provision of this Exhibit (or of any application, map, drawing, or other document filed with or in support of the application, map or drawing), on the one hand, and, on the other hand, any provision found elsewhere in this Agreement, shall be resolved in favor of the provision found elsewhere in this Agreement.

EXHIBIT B—REQUIREMENTS OF THE DEPARTMENT OF DEFENSE RELATING TO MILITARY INSTALLATIONS

A. GENERAL REQUIREMENTS

1. Entry upon military land for construction and routine operations and maintenance shall be fully coordinated ten (10) days in advance of entry with the appropriate installation commander having immediate jurisdiction over the property. Entry under emergency conditions shall be coordinated expeditiously with the installation commander.

2. Entry for all activities conducted by Permittees upon all military installations shall be in strict compliance with post/base regulations, both existing or hereafter promulgated. Permittees shall obtain copies of such regulations from the affected installation commanders.

3. Ingress and egress to military installations shall be confined to routes designated by the installation commander. Such commander shall have the right to modify or change the designated routes without advance notice to Permittees. Use of existing military roads or other access routes across subject lands shall be non-exclusive.

4. Permittees shall reimburse the United States, through the Army or Air Force installation affected, for any increased maintenance costs of existing military roads resulting from or attributable to usage by Permittees. These costs shall be in addition to those contemplated by Section 12 of this Agreement.

5. Permittees may construct permanent access and maintenance roads within the Right-of-Way, provided such roads do not interfere with the surface use of the area by the military, except during the construction phase.

6. Roads designated by the installation commander to require intermittent military usage may be closed. The installation commander shall approve in advance all such closures. Any extended closure shall cause the road to be treated as stated in Section 3 of these General Requirements.

7. Any overhead construction relating to the Pipeline shall provide for a minimum of eighteen (18) feet of clearance above the existing road surface.

8. Crossover road ramp construction relative to ramp grades, pipeline cover, sleeves, bridging, signs and the like will conform to the extent practical to the standards of the Alaska State Highway Department.

9. Final route selection, as mapped, and any subsequent changes thereto across military lands will be approved by the affected installation commander prior to construction. The route of the Pipeline shall be located so as to avoid military improvements and the Pipeline shall be constructed a minimum distance of three hundred and twenty-five (325) feet from perimeter fences surrounding ammunition and fuel storage areas.

10. No surface projection of the Pipeline shall be permitted within the drop zone area west of the main development at Fort Greely.

11. Crossing of Army Petroleum Oil and Lubricant (POL) lines will be coordinated with the affected installation commander and the Petroleum Distribution Office (PDO), Support Command, U.S. Army, Alaska (USARAL), Fort Richardson, Alaska.

12. The Pipeline traversing subject lands shall be buried from stations 8400+00 and to 8511+51 and from Stations 8554+70 to 8562+46 as shown on Alyeska Pipeline Service Company Trans Alaska Pipeline System Drawing AL-00-G2, Sheet 45 of 138, Prudhoe Bay to Valdez. Burial depth and technique shall be sufficient to permit surface crossing of the Right-of-Way by heavy tracked and wheeled vehicles at designated locations of existing roads and runways. In the event that subsurface construction cannot be accomplished to the satisfaction of the installation commander, the Pipeline shall be relocated to an area or areas where burial is permissible, or where surface construction can be authorized without interruption of the military mission. Mode of construction between the aforementioned stations shall require the prior consent of the installation commander.

13. Disruption of, or interference with the operation and maintenance of any military pipelines, utility and communication lines is prohibited except by authorization by the installation commander. The Pipeline shall cross all existing intersecting pipelines, conduits, and cables with a minimum clearance of twelve (12) inches.

14. Maximum length of open trench or trenches during construction of the Pipeline over and across the subject land shall not exceed one (1) mile at any given time without the prior approval of the installation commander.

15. Suitable bridged crossings over open trenches shall be provided and maintained where necessary to permit passage of military personnel and vehicles; timely notice of requirements to be furnished by installation commander.

16. In connection with Permittees' duties to repair, replace, and rehabilitate as provided for in Section 13 of this Agreement, where borrowed soil material is necessary to perform such duties, the location and method of obtaining the borrowed material shall be approved by the installation commander. All surplus material not required for fill, backfill or grading shall be spread and leveled in an area designated by said commander.

17. Permittees shall submit legal descriptions of the centerline of the Right-of-Way and permanent access and maintenance roads as constructed in, upon, over and across military-controlled lands to the installation commander within ninety (90) days of the completion of construction within a given military installation. Separate legal descriptions shall be written for each noncontiguous tract of military-controlled land. Said legal descriptions shall be accompanied by preliminary "as built" drawings (and final "as built" drawings shall be furnished within three hundred and sixty (360) days) of said completion of the Pipeline and all permanent access and maintenance roads, together with separate real estate maps in the event sufficient survey information necessary to verify legal descriptions is not contained on the "as built" drawings.

18. Permittees shall install mainline valves sufficient to control Oil flow in the vicinity of populated areas, ammunition/explosive and fuel storage areas.

19. Electrically operated devices installed as part of the Pipeline System which are capable of producing radiations, electromagnetic or other interference shall be screened, filtered or otherwise suppressed to the extent that such devices will not adversely affect the function of existing communication systems. In the event that physical obstructions, such as towers or buildings are to be erected as part of the Pipeline System, their positioning shall be such that they will not obstruct radiation patterns of line-of-site communication, navigation aids or other communications, electronic or meteorological services.

20. Entry for construction and routine maintenance upon installations or crossings of utility facilities under the control of or utilized by Air Force Communications System/White Alice will be coordinated at least ten (10) days prior to entry with Alaska Communications Region through Headquarters, Alaskan Air Command, Elmendorf Air Force Base. Entry under emergency condi-

tions will be coordinated expeditiously with the Region.

21. Should the Pipeline cross high voltage power transmission lines on Eielson Air Force Base, adequate precaution to the satisfaction of the installation commander will be taken to insure that excessive sag or accidental power line breakage does not create a safety hazard.

22. In the event unexploded munitions are discovered by Permittees during construction activities, the construction activities shall immediately cease in that area. Permittees shall notify the installation commander who will immediately proceed to dispose of the munitions. Construction shall not proceed until authorized by the installation commander.

23. The United States reserves to itself the right to construct, use and maintain across, over and/or under the Right-of-Way, oil and sewer lines, and other facilities, in such manner as not to create an unreasonable interference with the use of the Right-of-Way.

24. Any authorized use or occupation of the subject military lands in connection with the construction, operation, maintenance or termination of the Pipeline System shall be subject to such rules and regulations as the installation commanders may from time to time prescribe. The military departments reserve the right to modify or change conditions to protect military interests as circumstances may from time to time warrant.

25. Transportation, storage and use of explosives during construction of the Pipeline System shall be permitted only in conformance with the applicable installation regulations. Permittees shall secure copies of these regulations from the installation commanders. Use of all explosives on military reservations shall be in strict conformance with U.S. Army Corps of Engineers Safety Manual, and Permittees shall secure copies of this manual from the installation commander. At least thirty (30) days in advance of any underwater blasting, Permittees shall submit to the installation commander a plan for such blasting. The plan shall set forth blasting locations, types and amounts of explosives, date or dates of blasting, and the reason for blasting.

26. The use of pesticides and herbicides shall be in accordance with applicable military regulations. An approved list of pesticides and herbicides, together with application constraints shall be obtained from the installation commander.

27. Permittees shall locate and/or install the Pipeline System in such manner so as to preclude the creation of ground fog and/or ice fog conditions which will in any way decrease the operational capability of the air fields located on Eielson Air Force Base, Fort Wainwright and Fort Greely. Studies or other data supporting the location or construction techniques utilized by Permittees to accomplish the requirements of this condition shall be submitted to the installation commander for review and approval thirty (30) days prior to commencement of construction on the lands herein described.

28. Prior to commencement of construction, Permittees shall submit a schedule of their construction activities on the military installation involved. This schedule shall be in such detail as may be required by the installation commander and during the course of construction this schedule shall be updated and resubmitted as may be required by the installation commander.

B. DEFINITIONS

As used above, the following terms have the meanings indicated:

1. "Installation Commander": The Commanding Officer of a military installation, e.g., Fort Wainwright, Fort Greely, Eielson Air Force Base.

2. "District Engineer": The District Engineer, U.S. Army Engineer District, Alaska, Anchorage, Alaska.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C., November 23, 1973.
Mr. DAVID E. LINDGREN,
Deputy Solicitor,
Department of the Interior,
Washington, D.C.

DEAR MR. LINDGREN: By letter dated 14 November 1973 we furnished you certain provisions to be included in the right-of-way permit for the construction of the Trans-Alaska Pipeline. These provisions protect military interests where the pipeline right-of-way crosses or otherwise affects military installations.

In this letter we reserved the right to make reasonable modifications or changes from time to time. We are furnishing herewith a revision of Exhibit E which clarifies the intent of various paragraphs and eliminates certain paragraphs in which the provision is already adequately covered in the stipulations of the Final Environmental Impact Statement.

It is the intention of the Department of the Army and the Department of the Air Force to permit the construction, operation, maintenance, and termination of the Trans-Alaska Pipeline in a way that is compatible with both military operations and the Pipeline System, and that the necessary approvals requested by the Pipeline System will not be unreasonably withheld.

Sincerely,

WOODROW BERGE,
Director of Real Estate.

NOTE.—The "revision" referred to above in this letter was modified in certain respects before being incorporated into this Agreement and the Director of Real Estate, D.O.A., Office of Chief of Engineers, has been apprised of the modifications in all material respects.

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D.C. November 14, 1973.
Mr. DAVID E. LINDGREN,
Deputy Solicitor,
Department of the Interior,
Washington, D.C.

DEAR MR. LINDGREN: This refers to our DAEN–CWZ–W letter dated 9 November 1973 concerning review of your 20 July 1973 draft permit on the construction of the Trans-Alaska Pipeline. We indicated then that the permit should contain conditions to protect military interests where the pipeline right-of-way crosses or otherwise affects military installations.

We have prepared and are enclosing a set of such provisions to be incorporated in the draft permit as Exhibit E.

While these conditions are as accurate as we can foresee at this time, military exigencies and local circumstances may require that reasonable modifications or changes be made from time to time and the discretion to make such changes has been reserved in our proposed Exhibit E.

Sincerely,

WOODROW BERGE,
Director of Real Estate.

EXHIBIT C—REQUIREMENTS OF THE FEDERAL POWER COMMISSION RELATING TO POWER SITES

A. With respect to any Federal Lands that are classified, withdrawn or reserved for power purposes, the grant of the Right-of-Way is, in accordance with the findings of the Federal Power Commission (Docket No. DA–112–Alaska, U.S. Department of the Interior, issued on December 6, 1973), made subject to:

The retention of prior rights for reservoir or power development, and subject to the condition that in the event the said land is required for such purposes, any improvements or structures placed thereon which shall be found to interfere with such development shall be removed or relocated as may be necessary to eliminate interference with reservoir or power development at no cost to the United States, its permittees or licensees.

B. The Permittees herein shall not be deemed to be "permittees or licensees" within the meaning of the aforesaid findings of the Federal Power Commission.

EXHIBIT D—STIPULATIONS FOR THE AGREEMENT AND GRANT OF RIGHT-OF-WAY FOR THE TRANS-ALASKA PIPELINE

1. General

1.1. Definitions

1.1.1. As used in these Stipulations and elsewhere in this "Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline", the following terms have the following meanings:

1.1.1.1. "Access Roads" means the roads constructed or used by Permittees within, or for ingress to and egress from, the Pipeline System. It does not include the proposed State highway from the Yukon River to Prudhoe Bay, Alaska, or any other State highway.

1.1.1.2. "Affiliate" means (a) a Subsidiary of a Parent, or (b) the Parent of the Subsidiary, or (c) in the case of a corporate Subsidiary, one or more corporations that share the Parent with the Subsidiary by reason of the fact that all of the outstanding capital stock of each of the corporations that share the Parent is owned directly or indirectly by the Parent, or (d) in the case of Sohio Pipe Line Company, any corporation of which all of the outstanding capital stock is owned directly or indirectly by The Standard Oil Company, an Ohio corporation, or The British Petroleum Company, Limited, a United Kingdom corporation, or both.

1.1.1.3. "Authorized Officer" means the employee of the Department, designated by the Secretary, to whom the Secretary delegates the authority to act on behalf of the Secretary pursuant to this Agreement or such other Person to whom the Authorized Officer redelegates his authority pursuant to the delegation of authority to the Authorized Officer from the Secretary.

1.1.1.4. "Business Entity" means an artificial legal entity, formed to conduct one or more ventures for profit, or not for profit, that is duly authorized and empowered to sue and be sued, and to hold the title to property, in its own name.

1.1.1.5. "Category 1(c) Lands" means lands selected by the State and not tentatively approved and not withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act.

1.1.1.6. "Category 1(d) Lands" mean lands selected by the State and not tentatively approved and which were withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act but which are not available for village or regional selection under section 22(1) of the Alaska Native Claims Settlement Act, 85 Stat. 713, 43 U.S.C. § 1621 (1970).

1.1.1.7. "Commissioning" means the acceptance and custody by Permittees of the first Oil tendered for shipment through the Pipeline after provision for line fill and tank bottoms. Permittees shall, by written notice, promptly advise the Authorized Officer of the date upon which such acceptance and custody takes place.

1.1.1.8. "Construction Mode" means the type of construction to be employed generally with regard to the Pipeline (e.g., whether the pipe will be buried or elevated).

1.1.1.9. "Construction Segment" means a portion of the Pipeline System that constitutes a complete physical entity or stage, in and of itself, which can be constructed, independently of any other portion or stage of the Pipeline System, in a designated area or between two given geographical points reasonably proximate to one another. It is not to be construed as referring to the entirety of the Pipeline or of the Pipeline System.

1.1.1.10. "Construction Subdivision" means any one of approximately six (6) large, lineal sections of the route of the Pipeline as determined by the Authorized Officer after consulting with Permittees.

1.1.1.11. "Department" means the Department of the Interior of the United States, or any successor department or agency.

1.1.1.12. "Final Design" comprises completed design documents. It shall include contract plans and specifications; proposed Construction Modes; operational requirements necessary to justify designs; schedules; design analysis (including sample calculations for each particular design feature); all functional and engineering criteria; summaries of tests conducted and their results; and other considerations pertinent to design and project life expectancy.

1.1.1.13. "Involuntary Passage of Title" means a Transfer that is made by the exercise of a power of sale primarily for the benefit of creditors, or in accordance with the judgment, order or decree of a court in bankruptcy, eminent domain or other similar proceedings, or pursuant to any act or resolution of a sovereign legislative body directing a lawful taking of property.

1.1.1.14. "Mapping Segment" means a Construction Subdivision, or any part thereof, as determined by the Authorized Officer; *provided, however*, that with respect to a pump station, basic communication site, remote control valve site, mechanical refrigeration equipment site and any other like Related Facility, a Mapping Segment means the entire site.

1.1.1.15. "Notice to Proceed" means a permission to initiate Pipeline System construction that is issued in accordance with Stipulation 1.7.

1.1.1.16. "Oil" means unrefined liquid hydrocarbons, including gas liquids.

1.1.1.17. "Parent" means a Person or Business Entity whose direct or indirect legal or beneficial ownership interest in, or with respect to, a Tranferee or Permittee enables that Person or Business Entity to control the Transferee's or the Permittee's management or policies.

1.1.1.18. "Permittee" means any one of the Permittees.

1.1.1.19. "Permittees" means the Original Permittees, or their respective successors or assigns holding an undivided ownership interest in the Right-of-Way to the extent sanctioned by the Secretary in accordance with the provisions of this Agreement.

1.1.1.20. "Person" means a natural person.

1.1.1.21. "Persons" means more than one Person.

1.1.1.22. "Pipeline System" means all facilities located in Alaska used by Permittees in connection with the construction, operation, maintenance or termination of the Pipeline. This includes, but is not limited to, the Pipeline, storage tanks, Access Roads, communications sites, airfields, construction camps, material sites, bridges, construction equipment and facilities at the origin station and at the Valdez terminal. This does not include facilities used in connection with production of oil or gathering systems, nor does it include such things as urban administrative offices and similar facilities which are only indirectly involved.

1.1.1.23. "Preliminary Design" means the establishment of project criteria (i.e., construction, including design, and operational concepts) necessary to delineate the project to be constructed. As a minimum it includes the following: design criteria and project concepts; evaluation of field data used to establish the design criteria; drawings showing functional and technical requirements; reports of all test data compiled during the data collection and preliminary design evaluation; standard drawings (if applicable) or drawings to support structural design concepts of each typical facility or structure; proposed Construction Modes; outline project specifications; sample computations to support the design concepts and bases for project siting.

1.1.1.24. A. "Related Facilities" means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of the Oil tranportation pipeline, including:

(1) line pipe and supporting structures;

(2) pump stations, including associated buildings, heliports, structures, yards and fences;

(3) valves and other control devices, and structures housing them;

(4) monitoring and communications devices, and structures housing them;

(5) surge and storage tanks, and related containment structures;

(6) bridges;

(7) terminals, including associated buildings, heliports, structures, yards, docks, and fences;

(8) a gas fuel line and electrical power lines necessary to serve the Pipeline;

(9) retaining walls, berms, dikes, ditches, cuts and fills, including hydraulic control structures;

(10) storage buildings and structures, and areas for storage of supplies and equipment;

(11) administrative buildings;

(12) cathodic protection devices;

(13) mechanical refrigeration equipment; and

(14) such other facilities as the Authorized Officer shall determine to be Related Facilities.

B. "Related Facilities" not authorized by this Agreement include roads and airports. Authorizations for such Related Facilities shall be given by other instruments.

C. "Related Facilities" does not mean those structures, devices, improvements, sites, facilities or areas, the use of which is temporary in nature such as those used only for construction purposes. Among such are: temporary camps; temporary landing strips; temporary bridges; temporary Access Roads; temporary communications sites; temporary storage sites; disposal sites; and construction use areas.

1.1.1.25. "Secretary" means the Secretary of the Interior of the United States, his delegate or lawful successor.

1.1.2.26. "Secretary of Labor" means the Secretary of Labor of the United States, his delegate or lawful successor.

1.1.1.27. "Subsidiary" means a Business Entity, that may or may not be a Permittee; the management and policies of which are controlled by a Parent directly or indirectly through one or more intermediaries.

1.1.1.28. "Transfer" means the passage of any right, title or interest in property (real, personal or mixed) by sale, grant, assignment, operation of law or otherwise, and whether voluntary or not.

1.1.1.29. "Transferee" means any Person, Business Entity or governmental or quasi-governmental body or authority in which there is, or there is proposed to be, vested any right, title, or interest of a Permittee in the Agreement of the Right-of-Way pursuant to a Transfer.

1.1.1.30. "Transferor" means any Permittee that makes, or that seeks to make, a Transfer of any right, title or interest in this Agreement or the Right-of-Way.

1.1.2. Terms defined elsewhere in this Agreement:[1]

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1.2. Responsibilities

1.2.1. Except where the approval of the Authorized Officer is required before Permittees may commence a particular operation, neither the United States nor any of its agents or employees agrees, or is in any way obligated, to examine or review any plan, design, specification, or other document which may be filed with the Authorized Officer by Permittees pursuant to these Stipulations.

1.2.2. The absence of any comment by the Authorized Officer or any other agent or employee or contractor of the United States with respect to any plan, design, specification, or other document which may be filed by Permittees with the Authorized Officer shall not be deemed to represent in any way whatever any assent to, approval of, or concurrence in such plan, design, specification, or other document or of any action proposed therein.

1.2.3. With regard to the construction, operation, maintenance and termination of the Pipeline System: (1) Permittees shall ensure full compliance with the provisions of this Agreement, including these Stipulations, by their agents, employees and contractors (including subcontractors of any tier), and the employees of each of them. (2) Unless clearly inapplicable, the requirements and prohibitions imposed upon Permittees by these Stipulations are also imposed upon each Permittee's agents, employees, contractors, and subcontractors, and the employees of each of them. (3) Failure or refusal of a Permittee's agents, employees, contractors, subcontractors, or their employees to comply with these Stipulations shall be deemed to be the failure or refusal of the Permittee. (4) Each Permittee shall require its agents, contractors and subcontractors to include these Stipulations in all contracts and subcontracts which are entered into by any of them, together with a provision that the other contracting party, together with its agents, employees, contractors and subcontractors, and the employees of each of them, shall likewise be bound to comply with these Stipulations.

1.2.4. Permittees shall make separate application, under applicable statutes and regulations, for authorization to use or occupy Federal Lands in connection with the Pipeline System where the lands are not within the Right-of-Way granted by this Agreement.

1.3. Authorized Officer

1.3.1. For purposes of information and review, the Authorized Officer may call upon Permittees at any time to furnish any or all data related to construction, operation, maintenance and termination activities undertaken in connection with the Pipeline System.

1.3.2. The Authorized Officer may require Permittees to make such modification of the Pipeline System, without liability or expense to the United States, as he deems necessary to: protect or maintain stability of geologic materials; protect or maintain integrity of the Pipeline System; prevent serious and irreparable harm to the environment (including but not limited to fish or wildlife populations, or their habitats); or remove hazards to public health and safety.

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[1] Page numbers refer to original document.

1.4. Common Agent of Permittees

1.4.1. Permittees, and each of them, have appointed Alyeska Pipeline Service Company as their common agent to design and construct the Pipeline System under and pursuant to an agreement entitled "Agreement for the Design and Construction of the Trans Alaska Pipeline System," dated August 27, 1970, and intend to appoint Alyeska Pipeline Service Company as their common agent to operate, maintain and terminate the Pipeline System under and generally pursuant to an Operating Agreement referred to in Section 5.1 of the "Trans Alaska Pipeline System Agreement," dated August 27, 1970. A Power of Attorney has been filed with the Department of the Interior by each Permittee appointing Alyeska Pipeline Service Company the true and lawful agent and attorney-in-fact on behalf of each Permittee with full power and authority to execute and deliver any and all instruments in connection with the design, construction, or operation of the Pipeline System. Within the scope of such contractual authority, such agent shall represent Permittees, and each of them, with respect to this Agreement. Such agent is and shall be empowered on behalf of Permittees, and each of them, to accept service of any process, pleadings or other documents in connection with any court or administrative proceeding relating in whole or in part to this Agreement or to all or any part of the Pipeline System and to which the United States shall be a party.

1.4.2. Permittees shall maintain a common agent for the construction, operation, maintenance and termination of the Pipeline System at all times during this Agreement. Such agent shall be a citizen of the United States, or if a corporation, a domestic corporation. Such agent shall be a resident of Alaska, or if a corporation, shall be duly authorized to conduct business in Alaska. Permittees shall cause such agent to maintain in the City of Anchorage, Alaska, at all times during this Agreement an office for the delivery of all documents, orders, notices and other written communications, as provided for in Stipulations 1.4.1. and 1.6.

1.4.3. In the event Permittees substitute a new common agent at any time, Permittees shall give prompt written notice to the Authorized Officer of such substitution, the name and office address in Anchorage, Alaska, of the new agent, and a copy of Permittees' agreement with the new agent. The United States shall be entitled to rely on each appointment until such time as a notice of the substitution of a new common agent takes effect. Each such notice shall not take effect until two (2) full working days after (and not including) the date that it was received by the Authorized Officer.

1.4.4. Upon the Transfer by any Permittee of any right, title or interest of Permittee in the Right-of-Way or this Agreement, the Transferee shall promptly execute and deliver to the Authorized Officer such documents as may be required to evidence the Transferee's appointment and ratification of the then-acting common agent.

1.5. Authority of Representatives of Authorized Officer and Common Agent; Orders of Authorized Officer.

1.5.1. No order or notice given to Permittees on behalf of the Secretary by the Authorized Officer or any other Person shall be effective as to Permittees unless prior written notice of the delegation of authority to issue such order or notice has been given to Permittees in the manner provided in Stipulation 1.6.

1.5.2. Permittees shall comply with each and every lawful order directed to them and that is issued by the Secretary, the Authorized Officer or by any duly authorized representative of the Authorized Officer.

1.5.3. Permittees shall cause the common agent of Permittees to maintain a sufficient number of its duly authorized representatives to allow for the prompt delivery to Permittees, or any of them, of all notices, orders and other communications, written or oral, of the Secretary or Authorized Officer. Each of the said representatives shall be registered with the Authorized Officer, and shall be appropriately identified in such manner and on such terms as the Authorized Officer shall prescribe. Permittees shall cause the common agent of Permittees to consult with the Authorized Officer at any time regarding the number and location of such representatives of the common agent.

1.6. Orders and Notices

1.6.1. All decisions, determinations, authorizations, approvals, consents, demands or directions that shall be made or given by the Secretary or the Authorized Officer to any one or more of Permittees in connection with the enforcement or administration of this Agreement, any applicable law or regulation, or any other agreement, permit or authorization relating in whole or in part to all or any part of the Pipeline System shall, except as otherwise provided in Stipulation 1.6.2. of this Stipulation, be in the form of a written order or notice.

1.6.2. If, in the judgment of the Secretary or the Authorized Officer, there is an emergency that necessitates the immediate issuance to any one or more of Permittees of an order or notice, such order or notice may be given orally, *provided, however* that subsequent confirmation of the order or notice shall be given in writing as rapidly as is practicable under the circumstances.

1.6.3. All written orders, notices or other written communications, including telegrams, relating to any subject (and regardless of whether they do or do not relate to the design or construction of the Pipeline System) that are addressed to any one or more of Permittees shall be deemed to have been delivered to and received by the addressee or addressees when the order, notice or other communication has been delivered: (1) either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the office of the common agent of Permittees at 1815 South Bragaw Street, Anchorage, Alaska 99504, or (2) personally to any authorized representative of the common agent.

1.6.4. All written notices and communications, including telegrams, of any one or more of Permittees that are addressed to the Secretary shall be deemed to have been delivered to and received by the Secretary when the notice of communication has been delivered, either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the Secretary personally or to Office Room No. 6151 in the Department of the Interior Building, 18th & C Streets, Northwest, Washington, D.C. 20240.

1.6.5. All written notices and communications of any one or more of Permittees that are addressed to the Authorized Officer shall be deemed to have been delivered and received by the addressee when the notice or communication has been delivered, either by messenger during normal business hours or by means of registered or certified United States mail, postage prepaid, return receipt requested, to the Authorized Officer personally or to Office Room No. 405, 555 Cordova Street, Anchorage, Alaska 99504.

1.6.6. The United States or Permittees, by written notice to the other, may change the office address to which written notices, orders, or other written communications may be addressed and delivered thereafter, subject, however, to the provisions of Stipulation 1.4.

1.6.7. The regulations of the Department relating to notices or other communications by mail (43 CFR 1810.2) shall not be applicable to this Agreement.

1.7. Notices To Proceed

1.7.1. Permission to construct.

1.7.1.1. Permittees shall not initiate any construction of the Pipeline System without prior written permission of the Authorized Officer. Such permission shall be given solely by means of a written Notice to Proceed isued by the Authorized Officer. Each Notice to Proceed shall authorize construction only as therein expressly stated and only for the particular Construction Segment therein described.

1.7.1.2. The Authorized Officer shall issue a Notice to Proceed only when in his judgment the construction (including design) and operation proposals are in conformity with the provisions of these Stipulations.

1.7.1.3. By written notice, the Authorized Officer may revoke in whole or in part any Notice to Proceed which has been issued when in his judgment unforeseen conditions later arising require alterations in the Notice to Proceed in order to: protect or maintain stability of geologic materials; protect or maintain integrity of the Pipeline System; prevent serious and irreparable harm to the environment (including but not limited to fish or wildlife populations, or their habitats); or remove hazards to public health and safety.

1.7.1.4. Prior to submission of any Preliminary Designs or applications for any Notice to Proceed, Permittees and the Authorized Officer shall agree to a schedule for the time, scope and quantity of such submissions and applications. The purpose of such schedule is to assure that Permittees' submissions and applications shall be reasonable in scope, and filed in a reasonable time frame, insofar as the workload thereby imposed on the Authorized Officer is concerned. Submittals and applications shall be filed in accordance with said schedule, and the Authorized Officer may refuse to consider any that are not so filed. The schedule may be reviewed and revised from time to time as may be agreed upon by Permittees and the Authorized Officer.

1.7.2. Preliminary Design Submissions

1.7.2.1. Prior to applying for a Notice to Proceed for any Construction Segment, Permittees shall submit the Preliminary Design for that Segment to the Authorized Officer for approval. Where appropriate, each submission shall include the criteria which justify the selection of the Construction Modes. The Authorized Officer shall expeditiously review each submission and shall do so within thirty (30) days from the date of his receipt of the submission. The Authorized Officer may request additional information if he deems it necessary.

1.7.2.2. In appropriate cases, the Authorized Officer may waive the requirement that a Preliminary Design be submitted. In this circumstance, Permittees may proceed to apply for a Notice to Proceed in accordance with Stipulation 1.7.4.

1.7.3. Summary Network Analysis Diagram

1.7.3.1. Prior to Final Design submissions, Permittees shall submit a summary network analysis diagram for the entire project to the Authorized Officer. The summary network analysis diagram shall be time-scaled and shall include all activities and contingencies which may reasonably be anticipated in connection with the project. The summary network analysis diagram shall include:

(1) Data collection activities;

(2) Submittal and approval activities;

(3) Pre-construction, construction and post-construction activities; and

(4) Other pertinent data.

1.7.3.2. The summary network analysis diagram shall be updated at thirty (30) day intervals, as significant changes occur, or as otherwise approved in writing by the Authorized Officer.

1.7.4. Application for Notice to Proceed.

1.7.4.1. Permittees may apply for a Notice to Proceed for only those Construction Segments for which the Preliminary Design has been approved in writing by the Authorized Officer or a waiver pursuant to Stipulation 1.7.2.2 has been issued in writing by the Authorized Officer.

1.7.4.2 Before applying for a Notice to Proceed for a Construction Segment, Permittees shall, in such manner as shall be acceptable to the Authorized Officer, by survey, locate and clearly mark on the ground the proposed centerline of the line pipe to be located in the Mapping Segment within which the Construction Segment is to be constructed and the location of all Related Facilities proposed to be constructed in the Mapping Segment.

1.7.4.3. Each application for a Notice to Proceed shall be suported by:

(1) A Final Design.

(2) All reports and results of environmental studies conducted or considered by Permittees.

(3) All data necessary to demonstrate compliance with the terms and conditions of these Stipulations with respect to that particular Construction Segment.

(4) A detailed network analysis diagram for the Construction Segment, including: Permittees' work schedules; consents, permits or authorizations required by State and Federal agencies and their interrelationships; design and review periods; data collection activities; and construction sequencing. The detailed network analysis diagram shall be updated as required to reflect current status of the project.

(5) A map or maps, prepared in such manner as shall be acceptable to the Authorized Officer, depicting the proposed location in the Mapping Segment within which the Construction Segment is to be constructed of: (1) the boundaries of all contiguous temporary use areas, and (2) all improvements, buried or above-ground, that are to be constructed within the Mapping Segment. The Authorized Officer shall not issue a Notice to Proceed with construction until he has approved all relevant locations on the ground and temporary boundary markers have been set by Permittees to the satisfaction of the Authorized Officer.

(6) Such other data as may be requested by the Authorized Officer either before submission of the application for a Notice to Proceed or at any time during the review period.

1.7.4.4. During review of an application for a Notice to Proceed, the relevant portion of the route of the Pipeline may be modified by the Authorized Officer, if, in his judgment, environmental conditions or new technological developments warrant the modifications. If, during construction, adverse physical conditions are encountered that were not known to exist, or that were known to exist but their significance was not fully appreciated when the Authorized Officer issued a Notice to Proceed for the portion of the Mapping Segment in which the physical conditions are encountered, the Authorized Officer may authorize deviations from the initially approved location of the Pipeline to another location along the same general route of the Pipeline at the point or points where the physical conditions are encountered, including adequate room for structurally sound transition. A deviation shall not be constructed without the prior written approval of the Authorized Officer and, if so approved, shall conform in all respects to the provisions of the approval.

1.7.4.5. The Authorized Officer shall review each application for a Notice to Proceed and all data submitted in connection therewith within ninety (90) days. Said ninety (90) day period shall begin from the later of the following dates:

(1) Date of receipt by the Authorized Officer of an application for a Notice to Proceed.

(2) Date of receipt by the Authorized Officer of the last submittal of additional data pursuant to this Stipulation.

1.7.4.6. If the Authorized Officer requires Permittees to submit additional data on one or more occasions, the review period shall begin from the date of receipt by the Authorized Officer of the last submittal.

1.8. Changes in Conditions

1.8.1. Unforeseen conditions arising during construction, operation, maintenance or termination of the Pipeline System may make it necessary to revise or amend these Stipulations to control or prevent damage to the environment or hazards to public health and safety. In that event, Permittees and the Authorized Officer shall agree as to what revisions or amendments shall be made. If they are unable to agree, the Secretary shall have final authority to determine the matter.

1.9. Antiquities and Historical Sites

1.9.1. Permittees shall engage an archeologist approved by the Authorized Officer to provide surveillance and inspection of the Pipeline System for archeological values.

1.9.2. If, in connection with any operation under this Agreement, or any other Agreement issued in connection with the Pipeline System, Permittees encounter known or previously unknown paleontological, archeological, or historical sites, Permittees shall immediately notify the Authorized Officer and said archeologist. Permittees' archeologist shall investigate and provide an on-the-ground opinion regarding the protection measures to be undertaken by Permittees. The Authorized Officer may suspend that portion of Permittees' operations necessary to preserve evidence pending investigation of the site.

1.9.3. Six copies of all survey and excavation reports shall be filed with the Authorized Officer.

1.10. Completion of Use

1.10.1. Upon completion of the use of all, or a very substantial part, of the Right-of-Way or other portion of the Pipeline System, Permittees shall promptly remove all improvements and equipment, except as otherwise approved in writing by the Authorized Officer, and shall restore the land to a condition that is satisfactory to the Authorized Officer or at the option of Permittees pay the cost of such removal and restoration. The satisfaction of the Authorized Officer shall be stated in writing. Where approved in writing by the Authorized Officer, buried pipe may be left in place, provided all oil and residue are removed from the pipe and the ends are suitably capped.

1.10.2. All areas that do not constitute all, or a very substantial part of the Right-of-Way or other portion of the Pipeline System, utilized pursuant to authorizations issued in connection with the Pipeline System, shall be Put-to-Bed by Permittees upon completion of their use unless otherwise directed by the Authorized Officer. Put-to-Bed is used herein to mean that Access Roads, material sites and other areas shall be left in such stabilized condition that erosion will be minimized through the use of adequately designed and constructed waterbars, revegetation and chemical surface control; that culverts and bridges shall be removed by Permittees in a manner satisfactory to the Authorized Officer, and that such roads, sites and areas shall be closed to use. Permittees' rehabilitation plans shall be approved in writing by the Authorized Officer prior to termination of use of any such road, or any part thereof, in accordance with Stipulation 2.12.

1.11. Public Improvements

1.11.1. Permittees shall protect existing telephone, telegraph and transmission lines, roads, trails, fences, ditches and like improvements during construction, operation, maintenance and termination of the Pipeline System. Permittees shall not obstruct any road or trail with logs, slash, or debris. Damage caused by Permittees to public utilities and improvements shall be promptly repaired by Permittees to a condition which is satisfactory to the Authorized Officer.

1.12. Regulation of Public Access

1.12.1. During construction or termination activities, Permittees may regulate or prohibit public access to or upon any Access Road being used for such activity. At all other times, Permittees shall permit free and unrestricted public access to and upon Access Roads, except that with the written consent of the Authorized Officer, Permittees may regulate or prohibit public access and vehicular traffic on Access Roads as required to facilitate operations or to protect the public, wildlife and livestock from hazards associated with operation and maintenance of the Pipeline System. Permittees shall provide appropriate warnings, flagmen, barricades, and other safety measures when Permittees are using Access Roads, or regulating or prohibiting public access to or upon Access Roads.

1.12.2. During construction of the Pipeline System, Permittees shall provide alternative routes for existing roads and trails as determined by the Authorized Officer whether or not these roads or trails are recorded.

1.12.3. Permittees shall make provisions for suitable permanent crossings for the public where the Right-of-Way or Access Roads cross existing roads, foot-trails, winter trails, or other rights-of-way.

1.12.4. After completion of construction of the Pipeline System, and with the concurrence of Permittee, the Authorized Officer may designate areas of the Right-of-Way to which the public shall have free and unrestricted access.

1.13. Electronically Operated Devices

1.13.1. Permittee shall screen, filter, or otherwise suppress any electronically operated devices that are installed as part of the Pipeline System which are capable of producing electromagnetic interference radiations so that such devices will not adversely affect the functioning of existing communications systems or navigational aids. In the event that structures such as towers or buildings are to be erected as a part of the Pipeline System, their positioning shall be such that they will not obstruct radiation patterns of line-of-sight communications systems, navigational aids, or similar systems.

1.14. Camping, Hunting, Fishing and Trapping

1.14.1. Permittees shall post the Right-of-Way against camping, hunting, fishing, trapping and shooting with the Right-of-Way. Permittees shall prohibit their employees, agents, contractors, subcontractors, and their employees, from engaging in such activities.

1.14.2. Permittees shall inform their employees, agents, contractors, subcontractors, and their employees, of applicable laws and regulations relating to hunting, fishing, and trapping.

1.15. Small Craft Passage

1.15.1. The creation of any permanent obstruction to the passage of small craft in streams is prohibited.

1.16. Protection of Survey Monuments

1.16.1 Permittees shall mark and protect all geodetic survey monuments encountered during the construction, operation, maintenance and termination of the Pipeline System. These monuments are not to be disturbed; however, if such a disturbance occurs, the Authorized Officer shall be immediately notified thereof in writing.

1.16.2. If any land survey monuments, corners, or accessories (excluding geodetic survey monuments) are destroyed, obliterated or damaged, Permittees shall employ a qualified land surveyor to reestablish or restore same in accordance with the "Manual of Instruction for the Survey of Public Lands" and shall record such survey in the appropriate records. Additional requirements for the protection of monuments, corners, and bearing trees may be prescribed by the Authorized Officer.

1.17. Fire Prevention and Suppression

1.17.1. Permittees shall promptly notify the Authorized Officer and take all measures necessary or appropriate for the prevention and suppression of fires in accordance with 43 CFR 2801.1-5(d). Permittees shall comply with the instructions and directions of the Authorized Officer concerning the use, prevention and suppression of fires. Use of open fires in connection with construction of the Pipeline System is prohibited unless authorized in writing by the Authorized Officer.

1.18. Surveillance and Maintenance

1.18.1. During the construction, operation, maintenance and termination of the Pipeline System, Permittees shall conduct a surveillance and maintenance program applicable to the subarctic and arctic environment. This program shall be designed to: (1) provide for public health and safety; (2) prevent damage to natural resources; (3) prevent erosion; and (4) maintain Pipeline System integrity.

1.18.2. Permittees shall have a communication system that ensures the transmission of information required for the safe operation of the Pipeline System.

1.18.3. Permittees shall maintain complete and up-to-date records on construction, operation, maintenance and termination activities performed in connection with the Pipeline System. Such records shall include surveillance data, leak and break records, necessary operational data, modification records and such other data as the Authorized Officer may require.

1.18.4. Permittees shall provide and maintain Access Roads and airstrips, the number and location of which shall be approved by the Authorized Officer, to ensure that Permittees' maintenance crews and Federal and State representatives shall have continuing access to the Pipeline System.

1.19. Housing and Quarters

1.19.1. Permittees shall furnish, on a reimbursable basis, such representatives of the United States as may be designated by the Authorized Officer with adequate meals, living quarters and office space, reasonable use of Permittees' communications systems, and reasonable surface and air transportation during the construction, operation, maintenance and termination of the Pipeline System. Whenever possible, Permittees shall be notified in writing by the Authorized Officer in advance regarding the number of persons for whom such services and facilities will be required.

1.20. Health and Safety

1.20.1. Permittees shall take all measures necessary to protect the health and safety of all persons affected by their activities performed in connection with the construction, operation, maintenance or termination of the Pipeline System, and shall immediately abate any health or safety hazards. Permittees shall immediately notify the Authorized Officer of all serious accidents which occur in connection with such activities.

1.21. Conduct of Operations

1.21.1. Permittees shall perform all Pipeline System operations in a safe and workmanlike manner so as to ensure the safety and integrity of the Pipeline System, and shall at all times employ and maintain personnel and equipment sufficient for that purpose. Permittees shall immediately notify the Authorized Officer of any condition, problem, malfunction, or other occurrence which in any way threatens the integrity of the Pipeline System.

1.22. Applicability of Stipulations

1.22.1. Nothing in these Stipulations shall be construed as applying to activities of Permittees that have no relation to the Pipeline System.

1.22.2. Nothing in these Stipulations shall be construed to affect any right or cause of action that otherwise would be available to Permittees against any person other than the United States.

2. Environmental

2.1. Environmental Briefing

2.1.1. Prior to, and during, construction of the Pipeline System, Permittees shall provide for environmental and other pertinent briefings for construction and other personnel by such Federal employees as may be designated by the Authorized Officer. Permittees shall arrange the time, place and attendance for such briefings upon request by the Authorized Officer. Permittees shall bear all costs of such briefings other than salary, per diem, subsistence, and travel costs of Federal employees. In addition, Permittees shall separately arrange with the State of Alaska for such similar briefings as the State may desire.

2.2. Pollution Control

2.2.1. General

2.2.1.1. Permittees shall conduct all activities associated with the Pipeline System in a manner that will avoid or minimize degradation of air, land and water quality. In the construction, operation, maintenance and termination of the Pipeline System, Permittees shall perform their activities in accordance with applicable air and water quality standards, related facility siting standards, and related plans of implementation, including but not limited to standards adopted pursuant to the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1321 *et seq.*

2.2.2. Water and Land Pollution

2.2.2.1. Permittees shall comply with applicable "Water Quality Standards" of the State of Alaska as approved by the Environmental Protection Agency.

2.2.2.2. Mobile ground equipment shall not be operated in lakes, streams or rivers unless such operation is approved in writing by the Authorized Officer.

2.2.3. Thermal Pollution

2.2.3.1. Permittees shall comply with the standards set for thermal pollution in the State of Alaska "Water Quality Standards," as approved by the Environmental Protection Agency.

2.2.4. Air Pollution and Ice Fog

2.2.4.1. Permittees shall utilize and operate all facilities and devices used in connection with the Pipeline System so as to avoid or minimize air pollution and ice fog. Facilities and devices which cannot be prevented from producing ice fog shall be located so as not to interfere with airfields, communities or roads.

2.2.4.2. Emissions from equipment, installations and burning materials shall meet applicable Federal and State air quality standards.

2.2.5. Pesticides, Herbicides and other Chemicals

2.2.5.1. Permittees shall use only non-persistent and immobile types of pesticides, herbicides and other chemicals. Each chemical to be used and its application constraint shall be approved in writing by the Authorized Officer prior to use.

2.2.6. Sanitation and Waste Disposal

2.2.6.1. "Waste" means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

2.2.6.2. All waste generated in construction, operation, maintenance and termination of the Pipeline System shall be removed or otherwise disposed of in a manner acceptable to the Authorized Officer. All applicable standards and guidelines of the Alaska State Department of Environmental Conservation, the United States Public Health Service, the Environmental Protection Agency, and other Federal and State agencies shall be adhered to by Permittees. All incinerators shall meet the requirements of applicable Federal and State laws and regulations and shall be used with maximum precautions to prevent forest and tundra fires. After incineration, material not consumed in the incinerator shall be disposed of in a manner approved in writing by the Authorized Officer. Portable or permanent waste disposal systems to be used shall be approved in writing by the Authorized Officer.

2.3 Buffer Strips

2.3.1. Public Interest Areas

2.3.1.1. No construction activity in connection with the Pipeline System shall be conducted within one-half (½) mile of any officially designated Federal, State or municipal park, wildlife refuge, research natural area, recreation area, recreation site, or any registered National Historic Site or National Landmark, unless such activity is approved in writing by the Authorized Officer.

2.3.2. Vegetative Screen

2.3.2.1 Permittees shall not cut or remove any vegetative cover within a minimum five hundred (500) foot strip between State highways and material sites unless such cutting or removal is approved in writing by the Authorized Officer.

2.3.2.2. Where the Right-of-Way crosses State highways, a screen of vegetation native to the specific setting shall be established over disturbed areas unless otherwise approved in writing by the Authorized Officer.

2.3.3. Streams

2.3.3.1. The Pipeline System shall be located so as to provide three hundred (300) foot minimum buffer strips of undisturbed land along streams unless otherwise approved in writing by the Authorized Officer.

2.4. Erosion Control

2.4.1. General

2.4.1.1. Permittees shall perform all Pipeline System construction, operation, maintenance and termination activities so as to avoid or minimize disturbance to vegetation.

2.4.1.2. The design of the Pipeline System shall provide for the construction of control facilities that will avoid or minimize erosion.

2.4.1.3. The erosion control facilities shall be constructed to avoid induced and accelerated erosion and to lessen the possibility of forming new drainage channels resulting from Pipeline System activities. The facilities shall be designed and operations conducted in such a way as to avoid or minimize disturbance to the thermal regime.

2.4.2. Stabilization

2.4.2.1. Surface materials taken from disturbed areas shall be stockpiled and utilized during restoration unless otherwise approved in writing by the Authorized Officer. Stabilization practices, as determined by the needs for specific sites, shall include but shall not be limited to seeding, planting, mulching, and the placement of mat binders, soil binders, rock or gravel blankets, or structures.

2.4.2.2. All disturbed areas shall be left in a stabilized condition satisfactory to the Authorized Officer. Such satisfaction shall be stated in writing by the Authorized Officer.

2.4.3. Crossing of Streams, Rivers or Flood Plains

2.4.3.1. Permittees shall prevent or minimize erosion at stream and river crossings and those parts of the Pipeline System within flood plains, as defined in Stipulation 3.6.

2.4.3.2. Temporary access over stream banks shall be made through use of fill ramps rather than by cutting through stream banks unless otherwise approved in writing by the Authorized Officer. Permittees shall remove such ramps upon termination of seasonal or final use. Ramp materials shall be disposed of in a manner approved in writing by the Authorized Officer.

2.4.4. Seeding and Planting.

2.4.4.1. Seeding and planting of disturbed areas shall be conducted as soon as practicable and, if necessary, shall be repeated until vegetation is successful, unless otherwise approved in writing by the Authorized Officer. All other retoration shall be completed as soon as possible.

2.4.5. Excavated Material

2.4.5.1. Excavated material in excess of that required to backfill around any structure, including the pipe, shall be disposed of in a manner approved in writing by the Authorized Officer.

2.5. Fish and Wildlife Protection.

2.5.1. Passage of Fish

2.5.1.1. Permittees shall provide for uninterrupted movement and safe passage of fish. Any artificial structure or any stream channel change that would cause a blockage to fish shall be provided with a fish passage structure or facility that meets all Federal and State requirements. The proposed design shall be submitted to the Authorized Officer in accordance with Stipulation 1.7.

2.5.1.2. Pump intakes shall be screened to prevent harm to fish.

2.5.1.3. Abandoned water diversion structures shall be plugged and stabilized to prevent trapping or stranding of fish.

2.5.1.4. If material sites are approved adjacent to or in certain lakes, rivers, or streams, the Authorized Officer may require Permittees to construct levees, berms, or other suitable means to protect fish and fish passage and to prevent siltation of streams or lakes.

2.5.2. Fish Spawning Beds

2.5.2.1. "Fish Spawning Beds" means the areas where anadromous and resident fish deposit their eggs.

2.5.2.2. Permittees shall avoid channel changes in Fish Spawning Beds designated by the Authorized Officer; however, where channel changes cannot be avoided in such beds, new channels shall be constructed according to written standards supplied by the Authorized Officer.

2.5.2.3. Fish Spawning Beds shall be protected from sediment where soil material is expected to be suspended in water as a result of construction activities. Settling basins shall be constructed to intercept silt before it reaches streams or lakes.

2.5.2.4. Permittees shall comply with any special requirements made by the Authorized Officer for a stream system in order to protect Fish Spawning Beds. Permittees shall repair all damage to Fish Spawning Beds caused by construction, operation, maintenance or termination of the Pipeline System.

2.5.3. Zones of Restricted Activities

2.5.3.1. Permittees' activities in connection with the Pipeline System in key fish and wildlife areas may be restricted by the Authorized Officer during periods of fish and wildlife breeding, nesting, spawning, lambing or calving activity and during major migrations of fish and wildlife. The Authorized Officer shall give Permittees written notice of such restrictive action. From time to time, the Authorized Officer shall furnish Permittees a list of areas where such actions may be required, together with anticipated dates of restriction.

2.5.4. Big Game Movements

2.5.4.1. Permittes shall construct and maintain the Pipeline, both buried and above ground sections, so as to assure free passage and movement of big game animals.

2.6 Materials Sites

2.6.1 Purchase of Materials

2.6.1.1. If permittees require materials from the public lands, Permittees shall make application to purchase such materials in accordance with 43 CFR, Part 3610. Permittees shall submit a mining plan in accordance with 43 CFR, Part 23. No materials may be removed by Permittees without written approval of the Authorized Officer.

2.6.1.3. Insofar as possible, use of existing materials sites will be authorized in preference to new sites.

2.6.1.3. Gravel and other construction materials shall not be taken from stream beds, river beds, lake shores or other outlets of lakes, unless the taking is approved in writing by the Authorized Officer.

2.6.2. Layout of Materials Sites

2.6.2.1 Materials site boundaries shall be shaped in such a manner as to blend with surrounding natural land patterns. Regardless of the layout of materials sites, primary emphasis shall be placed on prevention of soil erosion and damage to vegetation.

2.7. Clearing

2.7.1. Boundaries

2.7.1.1. Permittees shall identify approved clearing boundaries on the ground for each Construction Segment prior to beginning clearing operations. All timber and other vegetative material outside clearing boundaries and all blazed, painted or posted trees which are on or mark clearing boundaries are reserved from cutting and removal with the exception of danger trees or snags designated as such by the Authorized Officer.

2.7.2. Timber

2.7.2.1. Prior to initiating clearing operations, Permittees shall notify the Authorized Officer of the amount of merchantable timber, if any, which will be cut, removed or destroyed in the construction and maintenance of the Pipeline System, and shall pay the United States in advance of such construction or maintenance activity, such sum of money as the Authorized Officer determines to be the full stumpage value of the timber to be cut, removed or destroyed.

2.7.2.2. All trees, snags, and other woody material cut in connection with clearing operations shall be cut so that the resulting stumps shall not be higher than six (6) inches measured from the ground on the uphill side.

2.7.2.3. All trees, snags and other woody material cut in connection with clearing operations shall be felled into the area within the clearing boundaries and away from water courses.

2.7.2.4. Hand clearing shall be used in areas where the Authorized Officer determines that use of heavy equipment would be detrimental to existing conditions.

2.7.2.5. All debris resulting from clearing operations and construction that may block stream flow, delay fish passage, contribute to flood damage, or result in stream bed scour or erosion shall be removed.

2.7.2.6. Logs shall not be skidded or yarded across any stream without the written approval of the Authorized Officer.

2.7.2.7. No log landing shall be located within three-hundred (300) feet of any water course.

2.7.2.8. All slash shall be disposed of in construction pads or Access Roads unless otherwise directed in writing by the Authorized Officer.

2.8. Disturbance of Natural Water

2.8.1. All activities of Permittees in connection with the Pipeline System that may create new lakes, drain existing lakes, significantly divert natural drainages, permanently alter stream hydraulics, or disturb significant areas of stream beds are phohibited unless such activities along with necessary mitigation measures are approved in writing by the Authorized Officer.

2.9 Off Right-of-Way Traffic

2.9.1. Permittees shall not operate mobile ground equipment off the Right-of-Way, Access Roads, State highways, or authorized areas, unless approved in writing by the Authorized Officer or when necessary to prevent harm to any Person.

2.10. Aesthetics

2.10.1. Permittees shall consider aesthetic values in planning, construction and operation of the Pipeline System. Where the Right-of-Way crosses a State highway in forested terrain, the straight length of the Pipeline Right-of-Way visible from the highway shall not exceed six hundred (600) feet in length, unless otherwise approved in writing by the Authorized Officer. The Authorized Officer may impose such other requirements as he deems necessary to protect aesthetic values.

2.11. Use of Explosives

2.11.1. Permittees shall submit a plan for use of explosives, including but not limited to blasting techniques, to the Authorized Officer in accordance with Stipulation 1.7.

2.11.2. No blasting shall be done under water or within one quarter (¼) mile of streams or lakes without a permit from the Alaska Department of Fish and Game, when such a permit is required by State law or regulation.

2.12. Restoration

2.12.1. Areas disturbed by Permittees shall be restored by Permittees to the satisfaction of the Authorized Officer as stated in writing.

2.12.2. All cut and fill slopes shall be left in a stable condition.

2.12.3. Materials from Access Roads, haul ramps, berms, dikes, and other earthen structures shall be disposed of as directed in writing by the Authorized Officer.

2.12.4. Vegetation, overburden and other materials removed during clearing operations shall be disposed of by Permittees in a manner approved in writing by the Authorized Officer.

2.12.5. Upon completion of restoration, Permittees shall immediately remove all equipment and supplies from the site.

2.13. Reporting of Oil Discharges

2.13.1. A discharge of Oil by Permittees into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1321 *et seq.* and the regulations issued thereunder, or in violation of applicable laws of the State of Alaska and regulations issued thereunder, is prohibited. Permittees shall give immediate notice of any such discharge to: (1) the Authorized Officer; and (2) such other Federal and State officials as are required by law to be given such notice.

2.13.2. Permittees shall give immediate notice of any spill or leakage of Oil or other pollutant from the Pipeline, the Valdez terminal facility, or any storage facility to: (1) the Authorized Officer; and (2) such other Federal and State officials as are required by law to be given such notice. Any oral notice shall be confirmed in writing as soon as possible.

2.14. Contingency Plans

2.14.1. It is the policy of the Department of the Interior that there should be no discharge of Oil or other pollutant into or upon lands or waters. Permittees must therefore recognize their prime responsibility for the protection of the public and environment from the effects of spillage.

2.14.2. Permittees shall submit their contingency plans to the Authorized Officer at least one-hundred and eighty (180) days prior to scheduled start-up. The plans shall conform to this Stipulation and the National Oil Hazardous Substances Pollution Contingency Plan, 36 F.R. 16215, August 20, 1971, and shall: (1) include provisions for Oil Spill Control[1]; (2) specify that the action agencies responsible for contingency plans in Alaska shall be among the first to be notified in the event of any Pipeline System failure resulting in an Oil spill; (3) provide for immediate corrective action including Oil Spill Control and restoration of the affected resource; (4) provide that the Authorized Officer shall approve any materials or devices used for Oil Spill Control and shall approve any disposal sites or techniques selected to handle oily matter; and (5) include separate and specific techniques and schedules for cleanup of Oil spills on land, lakes, rivers and streams, sea, and estuaries.

2.14.3. Prior to Pipeline start-up, such plans shall be approved in writing by the Authorized Officer, and Permittees shall demonstrate their capability and readiness to executive the plans. Permittees shall update as appropriate the plans and methods of implementation thereof, which shall be submitted annually to the Authorized Officer for his written approval.

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[1] As used in this Stipulation 2.14.2, Oil Spill Control is defined as: (1) detection of the spill; (2) location of the spill; (3) confinement of the spill; and (4) cleanup of the spill.

2.14.4. If during any phase of the construction, operation, maintenance or termination of the Pipeline, any Oil or other pollutant should be discharged from the Pipeline System, the control and total removal, disposal and cleaning up of such Oil or other pollutant, wherever found, shall be the responsibility of Permittees, regardless of fault. Upon failure of Permittees to control, dispose of, or clean up such discharge, the Authorized Officer may take such measures as he deems necessary to control and clean up the discharge at the full expense of Permittees. Such action by the Authorized Officer shall not relieve Permittees of any responsibility as provided herein.

3. Technical

3.1. General

3.1.1. The following standards shall be complied with in design, construction, operation and termination of the Pipeline System.

3.2. Pipeline System Standards

3.2.1. General Standards

3.2.1.1. All design, material and construction, operation, maintenance and termination practices employed in the Pipeline System shall be in accordance with safe and proven engineering practice and shall meet or exceed the following standards:

(1) U.S.A. Standard Code for Pressure Piping, ANSI B 31.4, "Liquid Petroleum Transportation Piping System."

(2) Department of Transportation Regulations, 49 CFR, Part 195, "Transportation of Liquids by Pipeline."

(3) ASME Gas Piping Standard Committee, 15 Dec. 1970: "Guide for Gas Transmission and Distribution Piping System."

(4) Department of Transportation Regulations, 49 CFR, Part 192, "Transportation of Natural and Other Gas by Pipelines: Minimum Federal Safety Standards."

3.2.1.2. Requirements in addition to those set forth in the above minimum standards may be imposed by the Authorized Officer as necessary to reflect the impact of subarctic and arctic environments. If any standard contains a provision which is inconsistent with a provision in another standard, the more stringent shall apply.

3.2.2. Special Standards

3.2.2.1. The design shall also provide for remotely controlled shutoff valves at each pump station; remotely controlled mainline block valves (intended to control spills); and additional valves located with the best judgment regarding wildlife habitat, fish habitat, and potentially hazardous areas.

3.2.2.2. All practicable means shall be utilized to minimize injury to the ground organic layer.

3.2.2.3. Radiographic inspection of all main line girth welds and pressure testing of the Pipeline shall be conducted by Permittees prior to placing the system in operation.

3.2.2.4. Permittees shall provide for continuous inspection of Pipeline System construction to ensure compliance with the approved design specifications and these Stipulations.

3.2.2.5. Welder qualification tests shall be by destructive means, except that operators of automatic welding equipment for girth welding of tank seams shall be tested by radiography in accordance with ASME Boiler and Pressure Vessel Code, Section 9, Subsection Q-21(b).

3.2.2.6. Lightning protection shall conform to the requirements of ANSI C5.1—1969, "Lightning Protection Code—1968."

3.2.3. Standards for Access Roads

3.2.3.1. Design, materials and construction practices employed for Access Roads shall be in accordance with safe and proven engineering practice and in accordance with the principles of construction for secondary roads for the subarctic and arctic environments.

3.2.3.2. Permittees shall submit a layout of each proposed Access Road for approval by the Authorized Officer in accordance with Stipulation 1.7.

3.2.3.3. Access Roads shall be constructed to widths suitable for safe operation of equipment at the travel speeds proposed by Permittees.

3.2.3.4. The maximum allowable grade shall be 12 percent unless otherwise approved in writing by the Authorized Officer.

3.3. Construction Mode Requirements

3.3.1. The selection of the Construction Mode (elevated or buried) shall be governed by the following criteria: (1) There shall be an unobstructed air space of at least two feet between the pipe and ground surface; or (2) There shall be no greater heat transfer from the pipe to the ground than results from the use of an unobstructed air space of at least two (2) feet between the pipe and ground surface; or (3) Below the level of the pipe axis the ground shall consist of competent bedrock, soil naturally devoid of permafrost, or if frozen, of Thaw-Stable Sand and Gravel.[2] Above the level of the pipe axis other materials may be present but it must be shown that they will remain stable under all credible conditions; or (4) Results of a detailed field exploration program and analysis indicate that pipe rupture and major terrain disruption will not occur at any place from soil instability. Effects and their interaction, which are to be analyzed on a mile by mile basis to justify the proposed Construction Mode, shall include but not be limited to, thaw plug stability, differential settlement, seismic loading and weakening, and possible movement resulting from slope instability.[3]

As a prerequisite for the use of this criterion, an acceptable comprehensive monitoring system of the Pipeline shall be developed which will include but not be limited to making deformation measurements sufficiently sensitive and prompt to detect the approach to operational tolerance limits (which shall be clearly specified) of the Pipeline; design specifications, operational requirements, and feasibility analysis of such monitoring system shall be submitted in accordance with Stipulation 1.7. Such system shall be operational prior to transmission of Oil through the Pipeline.

3.4. Earthquakes and Fault Displacements

3.4.1. Earthquakes

3.4.1.1. The Pipeline System shall be designed, where technically feasible, by appropriate application of modern, state-of-the-art seismic design procedures to prevent any Oil leakage from the effects (including seismic shaking, ground deformation and earthquake-induced mass movements) of earthquakes distributed along the route as follows:

Zone:	*Richter magnitude*
Valdez to Willow Lake	8.5
Willow Lake to Paxson	7.0
Paxson to Donnelly Dome	8.0
Donnelly Dome to 67 deg. N	7.5
67 deg. N. to Prudhoe Bay	5.5

3.4.1.2. Where such design is not technically feasible, the potential damage from an Oil spill shall be minimized by special design provisions that shall include, but shall not be limited to: (1) a network of ground-motion detectors that continuously monitor, record and instantaneously signal the occurrence of ground motion in the vicinity of the Pipeline reaching the Operational Design Level[4] (the critical levels of ground motions shall be approved in writing by the Authorized Officer); (2) rapid programmed shutdown and prompt close inspection of system integrity in the event of ground motion reaching the Operational Design Level; and (3) a special contingency plan for Oil Spill Control for each such seismically hazardous area which shall be filed in accordance with Stipulation 2.14. This plan shall specifically consider expected field conditions in the particular area in the aftermath of a destructive earthquake.

3.4.2. Fault Displacements

3.4.2.1. Prior to applying for a Notice to Proceed for any Construction Segment, Permittees shall satisfy the Authorized Officer that all recognizable or reasonably inferred faults or fault zones along the alignment within that segment have been identified and delineated, and that the risk of Oil leakage resulting from fault movement and ground deformation has been adequately assessed and provided for in the design of the Pipeline for that segment. Evaluation of said risk shall be based on geologic, geomorphic, geodetic, seismic, and other appropriate scientific evidence of past or present fault behavior and shall be compatible with the design earthquakes tabulated above and with observed relationships between earthquake magnitude and extent and amount of deformation and fault slip within the fault zone.

3.4.2.2. Minimum design criteria for a segment of the Pipeline traversing a fault zone that is reasonably interpreted as active, shall be: (1) that the Pipeline resist failure resulting in leakage from two feet of horizontal and/or vertical displacement in the foundation material anywhere within the fault zone; and (2) that no storage tank or pump station be located within the fault zone.

3.4.2.3. Where the Pipeline crosses a fault or lies within a fault zone that is reasonably interpreted as active, Permittees shall monitor crustal deformation in the vicinity of the Pipeline. Such monitoring shall include annual geodetic observation of permanent reference marks established on stable ground. Said reference marks shall be positioned so as to form closed figures and to provide for detection of relative horizontal and vertical displacements as small as 0.10 ft. across principal individual faults within the fault zone and to provide for monitoring of crustal strain with an absolute error of two parts per million within the fault zone. Further, where annual slip on a fault exceeds 0.10 ft. for two successive years, Permittees shall install recording or telemetering slip-meters. Data obtained from the monitoring shall be provided to the Authorized Officer at specified regular intervals throughout the operational life of the Pipeline. Said data shall be used by the Permittees to aid in the initiation of corrective measures to protect the

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[2] Thaw-Stable Sand and Gravel is defined as material meeting the following requirements: (a) Material lies within the classes GW, GP, SW, and SP, (Unified Soil Classification) but with up to 6% by weight passing the #200 U.S. standard sieve; if an inorganic granular soil contains more than 6% fines than the #200 sieve, its thaw-stability must be justified. (b) There is no excess (segregated or massive) ice. (c) Thawing of the material *in situ* will not result in excess pore-pressure.

[3] Because of soil variability and/or unique hydrologic conditions in active flood plains some of the requirements of Stipulation 3.3.1 may not be met in those locations. In such cases proposed designs including special design and/or construction procedures where required by these conditions must be submitted with justification to the Authorized Officer for approval in accordance with Stipulation 1.7.

[4] Highest level that would not produce general pipe deformation sufficient to limit operations.

Pipeline from failure caused by tectonic deformation that would result in leakage.

3.5. Slope Stability

3.5.1. Areas subject to mudflows, landslides, avalanches, rock falls and other types of mass movements shall be avoided where practicable in locating the Pipeline. Where such avoidance is not practicable, the Pipeline design, based upon detailed field investigations and analysis, shall provide measures to prevent the occurrence of, or protect the Pipeline against, the effects of mass movements.

3.6. Stream and Flood Plain Crossings and Erosion.

3.6.1. General

3.6.1.1. For each region through which the Pipeline passes, the Pipeline shall be designed to withstand or accommodate the effects (including runoff, stream and flood plain erosion, meander cutoffs, lateral migration, ice-jams, and icings) of those meteorologic, hydrologic (including surface and subsurface) and hydraulic conditions considered reasonably possible for the region. The following standards shall apply to such Pipeline design:

3.6.1.1.1. For stream crossings and portions of the Pipeline within the flood plain.

3.6.1.1.1.1. The Pipeline shall cross streams underground unless a different means of crossing is approved in writing by the Authorized Officer.

3.6.1.1.1.2. The design flood shall be based on the concept of the "Standard Project Flood" as defined in Corps of Engineers Bulletin 52–8, Part 1.

3.6.1.1.1.3. The depth of channel scour shall be established by appropriate field investigations and theoretical calculations using those combinations of water velocity and depth that yield the maximum value. At the point of maximum scour, the cover over the pipe shall be at least twenty (20) percent of the computed scour, but not less than four (4) feet.

3.6.1.1.1.4. For overhead crossings comparable analysis shall be made to ensure that support structures are adequately protected from the effects of scour, channel migration, undercutting, ice forces and degradation of permafrost.

3.6.1.1.1.5. In flood plains, appropriate construction procedures shall be used wherever there is potential channelization along the pipe.

3.6.1.1.1.6. The pipe trench excavation shall stop an adequate distance from the water crossing to leave a protective plug (unexcavated material) at each bank. These plugs shall be left in place until the stream bed excavation is complete and the pipe laying operation is begun. The plugs shall not be completely removed until absolutely necessary. The trench shall be backfilled with stable material as soon as the pipe is laid.

3.6.1.2. Culverts and Bridges.

3.6.1.2.1. Culverts and bridges necessary for maintenance of the Pipeline shall be designed to accommodate a fifty (50)-year flood in accordance with criteria established by the American Association of State Highway Officials and the Federal Highway Administration and endorsed by the State of Alaska Department of Highways.

3.6.2. Erosion

3.6.2.1. Where necessary because of outfall erosion, stilling basins shall be constructed at the outflow end of culverts. To prevent erosion the pool sides shall be stabilized by appropriate methods; e.g., by the use of riprap.

3.6.2.2. Slopes of cuts through stream banks shall be designed and constructed to minimize erosion and prevent slides.

3.6.2.3. Erosion control procedures shall accommodate and be based on the runoff produced by the maximum rainfall rate and snow melt rate combination reasonably characteristic of the region. The procedures shall also accommodate effects that result from thawing produced by flowing or ponded water on permafrost terrain.

3.7. Sea Waves

3.7.1. Oil transfer facilities at the Valdez terminal shall be protected by cut-off devices designed and located to prevent major Oil leakage from breaking of pipes by destructive sea waves comparable to those generated in Port Valdez by the March 27, 1964 earthquake. Design for such protective features shall be submitted in accordance with Stipulation 1.7.

3.8. Glacier Surges

3.8.1. Surveillance systems sufficient to give adequate warning of impending surges on any glacier that could damage the Pipeline shall be instituted prior to transmission of Oil through the pipe. Procedures for initiation and operation of such surveillance systems and protective procedures in the event of such surges shall be submitted in accordance with Stipulation 1.7.

3.9. Construction and Operation

3.9.1. All construction, operation, maintenance, and termination activities in connection with the Pipeline System shall be conducted so as to avoid or minimize thermal and other environmental changes and to provide maximum protection to fish and wildlife and their habitat, and people. All working platforms, pads, fills and other surface modifications shall be planned and executed in such a way that any resulting degradation of permafrost will not jeopardize the Pipeline foundations.

3.9.2. Acceptable plans, procedures and quality controls that ensure compliance with Stipulation 3.9.1 shall be submitted in accordance with Stipulation 1.7.

3.10. Pipeline Corrosion

3.10.1. Permittees shall provide detailed plans for corrosion resistant design and methods for early detection of corrosion. These shall include: (1) pipe material and welding techniques to be used and information on their particular suitability for the environment involved; (2) details on the external pipe protection to be provided (coating, wrapping, etc.), including information on variation of the coating process to cope with variations in environmental factors along the Pipeline route; (3) plans for cathodic protection including details of impressed ground sources and controls to ensure continuous maintenance of adequate protection over the entire surface of the pipe; (4) details of plans for monitoring cathodic protection current including spacing of current monitors; (5) provision for periodic intensive surveys of trouble spots, regular preventive maintenance surveys and special provisions for abnormal potential patterns resulting from the crossing of the Pipeline by other pipelines or cables; and (6) information on precautions to be taken to prevent internal corrosion of the Pipeline. Permittees shall also provide for periodic internal pitting surveys by electro-magnetic or other means.

3.11. Containment of Oil Spills

3.11.1. Permittees shall provide Oil spill containment dikes or other structures around storage tanks at pump stations and at the Valdez terminal. The volume of the containment structures shall be at least: (1) one-hundred ten (110) percent of the total storage volume of the storage tanks in the relevant area, plus (2) a volume sufficient for maximum trapped precipitation and runoff which might be impounded at the time of the spill. Such structures shall be constructed to withstand failure from earthquakes in accordance with Stipulation 3.4 and shall be impervious so as to provide seepage-free storage until disposal of their contents can be effected safely without contamination of the surrounding area.

3.11.2. Permittees shall provide containment dikes or other structures to minimize effects of Oil spills at critical locations along the Pipeline in accordance with Stipulation 2.14.

EXHIBIT E—COOPERATIVE AGREEMENT BETWEEN U.S. DEPARTMENT OF THE INTERIOR AND STATE OF ALASKA REGARDING THE PROPOSED TRANS-ALASKA PIPELINE

This agreement, effective this 8th day of January, 1974, by and between the United States Department of the Interior (hereinafter referred to as the "Department") and the State of Alaska (hereinafter referred to as the "State"), which together are hereinafter referred to jointly as "Parties."

WITNESSETH

Whereas, the State has the authority pursuant to AS 38.05.020 to enter into this agreement with the Department in order to protect the lands, waters and natural environment of Alaska;

Whereas, the Secretary of the Interior (hereinafter referred to as the "Secretary") has the authority to enter into agreements involving the improvement, management, use and protection of the public lands and their resources pursuant to Section 102 of the Public Land Administration Act, 74 Stat. 506 (1960), 43 U.S.C. § 1363 (1970);

Whereas, the Parties have been requested to issue rights-of-way and other authorizations for the construction of an oil pipeline system from Prudhoe Bay to Valdez, Alaska;

Whereas, the Congress of the United States has determined that early construction of such an oil pipeline system is in the national interest and has authorized and directed the Secretary and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way and other authorizations that are necessary for or related to the construction of the Trans-Alaska oil pipeline system.

Whereas, the Legislature of Alaska, in special session, has enacted legislation to establish authority and guidelines for a right-of-way lease for that system;

Whereas, the Secretary will designate a Federal Authorized Officer and the Governor of Alaska will appoint a State Pipeline Coordinator who will, respectively, have general supervision and control over the functions in Alaska of the Department and the State with respect to the construction of the pipeline system;

Whereas, it is anticipated that detailed technical and environmental stipulations relating to construction of the pipeline system will be incorporated in the right-of-way and other authorizations of each of the Parties, and that the State and Federal stipulations will be similar in all major respects;

Whereas, it is necessary to provide for review and approval of designs and surveillance of construction activities in order to assure compliance with the aforesaid stipulations; and

Whereas, it is the purpose of this agreement to promote an effective working relationship between the Parties in order to provide maximum protection for the environment without unnecessary delays in construction of the pipeline system;

Now, therefore, the Parties agree as follows:

I. LANDS—LEASE AND PERMIT

1. The State and Department recognize the following categories of land to be made subject to the rights-of-way and other authorizations of the State or the Department and that such lands constitute all of the land along the proposed pipeline right-of-way that is not owned by private parties and therefore is subject to the authority of either the Department or the State to authorize rights-of-way.

(a) Lands patented to the State.

(b) Lands selected by and tentatively approved to the State and not withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act, 85 Stat. 696, 43 U.S.C. § 1610 (1970).

(c) Lands selected by the State and not tentatively approved and not withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act.

(d) Lands selected by the State and not tentatively approved and which were withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act but which are not available for village or regional selection under section 22(l) of the Alaska Native Claims Settlement Act, 85 Stat. 713, 43 U.S.C. § 1621 (1970).

(e) Lands selected by the State, both tentatively approved and not tentatively approved, and withdrawn under section 11(a)(2) of the Alaska Native Claims Settlement Act.

(f) Lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act, 67 Stat. 29, 43 U.S.C. § 1301 (1970).

(g) Lands in Federal ownership that have not been selected by the State.

2. The State will issue its right-of-way and other authorizations for lands in categories 1(a), 1(b), and 1(f). The Department will issue its rights-of-way and other authorizations for lands in categories 1(e) and 1(g).

3. Both the State right-of-way lease or other grant and the Federal right-of-way authorization will include the lands in categories 1(c) and 1(d) and each will be effective in accordance with the following terms:

(a) Lands in category 1(c) will be tentatively approved or patented to the State no later than fifteen (15) days after compliance by the Parties with all applicable regulations. The Parties will immediately initiate and expeditiously complete such compliance. The State will thereupon immediately proceed to issue a right-of-way lease or other grant and such authorizations as are necessary for construction and operation of the pipeline system on said lands.

(b) The Department will take all necessary action preparatory to tentatively approving or patenting the lands in category 1(d) to the State within twenty-five (25) days from the effective date of this agreement and will tentatively approve or patent those lands promptly upon receipt of notice from the Commissioner of Natural Resources that the State is prepared to issue a right-of-way lease or other grant and such other authorizations as are necessary for construction and operation of the pipeline system on said lands.

(c) The Federal right-of-way in and to lands in categories 1(c) or 1(d), or both, will vest in the Parties receiving it on the date it is issued by the Department but only upon the occurrence of one of the following events, whichever occurs first:

(i) The Commissioner of Natural Resources notifies the Secretary in writing that it is essential for the expeditious construction of the pipeline system that the Federal right-of-way in and to some or all of the lands in categories 1(c) or 1(d), or both, vest in the Parties receiving it; or

(ii) The lands in category 1(d) have not been tentatively approved to the State and a valid State right-of-way lease or other grant in and to those lands has not been issued for the construction and operation of the pipeline system by March 10, 1974; or

(iii) The lands in category 1(c) have not been tentatively approved to the State and a valid State right-of-way lease or other grant in and to those lands has not been issued for the construction and operation of the pipeline system by June 1, 1974;

Provided as conditions: First, that the Federal right-of-way is made subject to the State's valid pre-existing rights, if any, in and to those lands; Second, that upon either valid tentative approval or valid patent of any of those lands to the State, the existence or subsequent issuance of a valid State right-of-way lease or other grant in and to those lands terminates the Federal right-of-way and other authorizations, and the State right-of-way lease or other grant thereupon applies in all respects to those lands; Third, that the parties who receive the Federal right-of-way and other authorizations agree in writing to the first and second conditions herein and that they will not challenge the validity of the State's right-of-way lease or other grant on the basis of the existence of the Federal right-of-way and other authorizations or their interest therein, and the Federal right-of-way recites these three conditions; and, Fourth, that the Department will make every reasonable effort to tentatively approve and patent the lands to the State expeditiously.

II. SURVEILLANCE

1. While the Parties will establish and maintain separate organizations to assure compliance with the terms and stipulations of their respective right-of-way authorizations and with their respective statutes and regulations, they will seek to coordinate the activities of these organizations as fully as possible. In the execution of their respective responsibilities the Parties will seek to provide maximum protection for the environment without unnecessary delays in construction of the pipeline. Pursuant to this general agreement, it is further agreed that:

(a) The Parties will endeavor, both in central offices and in the field, to locate all personnel in the surveillance effort, including agents and third party contractors, in common locations and to utilize, insofar as possible, common logistical support, with the objective of maximizing communication between the two organizations.

(b) Except as prohibited by law or by the Department's pipeline right-of-way agreement with the owners of the Trans-Alaska pipeline, (but the owners will be required by the State right-of-way lease to make the same available to the State), the Parties will share fully all information concerning the construction of the pipeline system and the surveillance thereof. The State and the Federal organizations will have complete and immediate access to the information of the other, on request, and there will be regular exchange of information regarding design reviews, application for and issuances of notices to proceed, temporary suspension orders, modification orders, reports on compliance in the field, construction change recommendations, all submissions by the holders of the rights-of-way, all third party contractor reports, applications for and issuance of permission to resume activity, and all other similar information. The timing, location, method and type of information exchanged shall be governed by the objective of the fullest possible access to information practical in order to maximize the decision-making capability of the Parties.

(c) The Parties will have full and free access to the lands of each other for all purposes relating to the surveillance of the pipeline system and the enforcement of all State and Federal statutes and regulations.

2. All applications for notices to proceed, together with supporting documents, will be reviewed by both the State Pipeline Coordinator and the Federal Authorized Officer.

The State right-of-way lease will contain provisions regarding notices to proceed that assure review by the Pipeline Coordinator within the same time period as provided in the Department's right-of-way authorizations. The Authorized Officer or his designee, on behalf of the Department, may issue notices to proceed involving construction of any portion of the pipeline system. The Pipeline Coordinator or his designee, on behalf of the State, may issue notices to proceed with respect to any construction of the pipeline system on State lands, and no notice to proceed on lands subject to the State right-of-way lease will be effective unless signed by the State Pipeline Coordinator.

3. On lands subject to the Federal right-of-way authorizations, the Department will determine compliance with the terms and stipulations regulating the construction of the pipeline system. On lands subject to the Federal right-of-way authorization, where applicable statutes and regulations of the State providing for the protection of resources, the environment, or public health, safety or general welfare, impose additional requirements to, or more stringent standards than, those required by the Federal terms and stipulations for pipeline construction, operation or maintenance, the State law will control.

4. On lands subject to the State right-of-way lease, the determination of compliance with those terms and stipulations regulating the construction of the pipeline system which do not directly affect the physical integrity of the pipeline, but which are necessary for the protection of State lands and resources shall be made exclusively by the State. On such lands the State or the Department may issue any orders necessary to assure compliance with those terms and stipulations regulating the construction of the pipeline system that are necessary to protect the physical integrity of the pipeline.

5. The Parties recognize that the unique characteristics of the arctic and subarctic environment require special efforts to provide it with optimum protection. The Parties will make every reasonable effort to ensure that construction and operation methods and activities will be planned and executed so as to minimize environmental degradation.

6. Fish and wildlife protection is regarded by the Parties as a special responsibility of the surveillance effort which extends with common concern over the length of the pipeline. The Parties will encourage the formation, to the extent practicable, of a cooperative effort for such protection, sharing the fish and game personnel and information resources of both the State and Federal Governments, and the application of this cooperative effort over both State and Federal lands.

7. The Department shall have full and free access at all times to the Valdez terminal site for the purpose of enforcing the Department's stipulations at that facility. The State will assure such access to the Department by making appropriate provisions therefor in any lease or conveyance it may issue or grant with respect to the lands embraced in the Valdez terminal site.

III. STATE HIGHWAY AND STATE AIRPORTS

1. The Department agrees to take such action pursuant to the Trans-Alaska Pipeline Authorization Act of November 16, 1973, P.L. 93–153, as are necessary for the State to construct a public highway from the Yukon River to Prudhoe Bay. The State agrees to construct the highway according to the Highway and Airport Stipulations attached hereto as Exhibit "A" and, if the State contracts to build the highway, to include said stipulations as a part of any agreement with its contractors.

2. The State has furnished the Department a map of the intended location of the highway, and upon completion of construction of the highway will file with the Department a map of definite location of the highway of similar scale.

3. The Department agrees to lease three sites for public airports pursuant to the Trans-Alaska Pipeline Authorization Act (*supra*). The State agrees to build the airports according to those provisions of the Highway and Airport Stipulations that are pertinent to airport construction, and if the State contracts to build the airports, to include said stipulations as a part of any agreement with such contractors.

4. The Department agrees to take all actions necessary to provide to the State, under nonexclusive permits, the free use of

gravel or other materials necessary for construction of the State highway and the State airports pursuant to the Trans-Alaska Pipeline Authorization Act (*supra*). All free use permits issued by the Department for such material sites shall include provisions of the Highway and Airport Stipulations applicable to material sites.

5. The State shall have the right and responsibility to enforce the applicable provisions of the Highway and Airport Stipulations referring to the construction of the State highway and State airports.

IV. MISCELLANEOUS

1. The Federal Authorized Officer and the State Pipeline Coordinator will develop procedures to implement the provisions of this agreement.

2. In the implementation of this agreement, each Party will avoid unnecessary employment of personnel and needless expenditure of funds.

3. This agreement shall remain in effect until construction of the Trans-Alaska pipeline is completed. However, in the event that either Party deems it necessary or desirable to terminate this agreement at an earlier time, it may do so after giving the other Party sixty (60) days advance written notice thereof.

In witness whereof, the Parties hereto have executed this agreement as of the date shown below:

UNITED STATES OF AMERICA,
DEPARTMENT OF THE INTERIOR,
(s) ROGERS C. B. MORTON
Secretary of the Interior.
STATE OF ALASKA,
(s) WILLIAM A. EGAN,
Governor, State of Alaska.
JANUARY 8, 1974.

EXHIBIT A—HIGHWAY AND AIRPORT STIPULATIONS

1. Definitions

1.1. "Highway" means the State highway from the Yukon River to Prudhoe Bay, Alaska; and includes all permanent roads, bridges, tunnels, drainage structures, signs, guardrails, protective structures, and appurtenances related thereto or used in connection therewith.

1.2. "Airports" means the three public airports for which the State of Alaska made application on March 20, 1970, under 49 U.S.C. §§ 211-214 (1970).

1.3. "State Pipeline Coordinator" means that individual designated by the State of Alaska with authority over and responsibility for the supervision of design review and construction of the Pipeline System or his designee.

1.4. "Federal Authorized Officer' means the Secretary of the Interior, or a person delegated to exercise his authority with respect to the Pipeline System.

1.5. "Contractor" means the individual, corporation, or other entity, or the subcontractor or agent of such individual, corporation or other entity, with which the State of Alaska contracts to build the Highway or Airports. In the event that the State undertakes to build the Highway or Airports itself, "Contractor" shall mean the State of Alaska.

1.6. "Notice to Proceed" means a document signed by the State Pipeline Coordinator authorizing some aspect of the construction of the Highway or Airports.

2. Procedures

2.1. Regulation of Public Access

2.1.1. During construction of the Highway, the State shall provide alternative routes for existing roads and trails across public lands.

2.1.2. The State shall make provisions for suitable permanent crossings for the public where the Highway right-of-way crosses existing roads, foot-trails, winter trails, or other rights-of-way.

2.2 Applicability of Stipulations

2.2.1. Nothing in these Stipulations shall be construed as applying to activities of the State that have no relation to the Highway or Airports.

2.2.2. Nothing in these Stipulations shall be construed to affect any right or cause of action that otherwise would be available to the State against any person other than the United States.

2.3 Responsibilities

2.3.1. With regard to the construction of the Highway and Airports: (1) The State shall ensure full compliance with the terms and conditions of these Stipulations by its agents, employees and contractors (including subcontractors of any tier), and the employees of each of them. (2) Unless clearly inapplicable, the requirements and prohibitions imposed upon the State by these Stipulations are also imposed upon the State's agents, employees, contractors, and subcontractors, and the employees of each of them. (3) Failure or refusal of the State's agents, employees, contractors, subcontractors, or their employees to comply with these Stipulations shall be deemed to be the failure or refusal of the State. (4) The State shall require its agents, contractors, and subcontractors to include these Stipulations in all contracts and subcontracts which are entered into by any of them, together with a provision that the other contracting party, together with its agents, employees, contractors, subcontractors, and the employees of each of them, shall likewise be bound to comply with these Stipulations.

2.3.2. The State shall make separate application, under applicable statutes and regulations, for authorization to use or occupy Federal lands in connection with the Highway or Airports where the lands are not within the Highway right-of-way or Airport leases. This shall include material sites, camp sites, waste areas, storage areas, access roads, etc.

2.3.3. The Federal Authorized Officer may require modification of the Highway or Airports, without liability or expense to the United States, as necessary to protect the integrity of the Trans-Alaska Pipeline.

2.4. Highway Design Approval

2.4.1. The State shall require detailed design submittals from Contractor for all river and stream crossings.

2.4.2. All such submittals shall be reviewed by the State Pipeline Coordinator for conformity with the Stipulations set forth herein.

2.4.3. Upon approval of such design, a Notice to Proceed shall be executed and transmitted to the Contractor. Such document shall authorize the commencement of construction on the element of the Highway for which design is approved.

2.5. Suspension of Construction

2.5.1. In the event the State Pipeline Coordinator determines that the Contractor is in violation of these Stipulations, he may order suspension of that portion of the work in violation.

2.5.2. In the event that the Federal Authorized Officer determines that the Contractor is in violation of these Stipulations, he may recommend that the State Pipeline Coordinator order suspension of that portion of the work he deems to be in violation.

2.4. Changes in Conditions

Unforeseen conditions arising during design or construction of the Highway or Airports may make it necessary to revise or amend these Stipulations to protect the environment and the public interest. In that event, the Federal Authorized Officer and the State Pipeline Coordinator, shall agree as to what revisions or amendments shall be made. If they are unable to agree, the Federal Authorized Officer shall have final authority to determine the matter if the Airports are involved, and the State Pipeline Coordinator shall have final authority to determine the matter if the Highway is involved.

3. Contractor Stipulations—General

3.1. Equal Employment Opportunity

By accepting this contract, Contractor agrees that, during the period of construction of the Highway and Airports, or for so long as this permit shall be in effect, whichever is the longer, he shall comply with this Stipulation.

3.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are equally treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be approved by the Authorized Officer setting forth the provision of this equal opportunity clause.

3.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color or national origin.

3.1.3. Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authorized Officer, advising the labor union or worker's representatives of Contractor commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3.1.4. Contractor will comply with Executive Order No. 11246 of September 24, 1965, as amended, and rules and regulations and relevant orders of the Secretary of Labor.

3.1.5. Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to Contractor's books, records, and accounts by the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

3.1.6. In the event of Contractor's noncompliance with this equal opportunity clause or with any of said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or permits in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

3.1.7. Contractor will include the provisions of this equal opportunity clause in every contract, subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each contractor, subcontractor or vendor. Contractor will take such action with respect to any contract, subcontract, or purchase order as the Authorized Officer may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction by the State Pipeline Coordinator, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

3.1.8. Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

3.1.9. Contractor agrees that it will assist and cooperate actively with the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the State Pipeline Coordinator and the Federal Authorized Officer and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the State Pipeline Coordinator in securing compliance.

3.1.10. Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order No. 11246 of September 24, 1965, as amended, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon Contractors and subcontractors by the Federal Authorized Officer or the Secretary of Labor, pursuant to Part II, Subpart D, of the Executive Order. In addition, Contractor agrees that if it fails or refuses to comply with these undertakings, the State Pipeline Coordinator may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this contract; refrain from extending any further assistance to Contractor under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Contractor; and refer the case to the Department of Justice for legal proceedings.

3.1.11. Certification of Nonsegregated Facilities

By accepting this contract, Contractor certifies that Contractor does not and will not maintain or provide for Contractor's employees any segregated facilities at any of Contractor's establishments, and that Contractor does not and will not permit Contractor's employees to perform their services at any location, under Contractor's control, where segregated facilities are maintained. Contractor agrees that a breach of this certification is a violation of the equal opportunity clause of this permit. As used in this certification, the term "segregated facilities" means, but is not limited to, any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. Contractor further agrees that (except where Contractor has obtained identical certifications from proposed Contractors and subcontractors for specific time periods) Contractor will obtain identical certifications from proposed Contractors and subcontractors prior to the award of contracts or subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; the Contractor will retain such certifications in Contractor's files; and the Contractor will forward the following notice to such proposed Contractors and subcontractors (except where the proposed Contractors or subcontractors have submitted identical certifications for specific time periods): "Notice to Prospective Contractors and Subcontractors of requirement for certification of non-segregated Facilities." A Certification of Nonsegregated Facilities, as required by the order (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a contract or subcontract exceeding $10,000 which is not exempt from the provisions of the equal opportunity clause. The certification may be submitted either for each contract and subcontract or for all contracts and subcontracts during a period (i.e., quarterly, semiannually, or annually).

3.2. Liabilities and Responsibilities of Contractor

Contractor shall abate any condition existing with respect to the construction of the Highway or Airports that causes or threatens to cause serious and irreparable harm or damage to any person, structure, property, land, fish and wildlife and their habitats, or other resource. Any State or Federal property and fish and wildlife habitat harmed or damaged by the Contractor in connection with the construction of the Highway or Airports, regardless of fault, shall be reconstructed, repaired and rehabilitated by the Contractor to the written satisfaction of the State Pipeline Coordinator. Contractor shall be liable in accordance with applicable laws for loss or damage to property of others or for bodily injuries to or the death of any person arising from or connected with the construction of the Highway or Airports.

3.3 Federal, State and Local Laws and Regulations

Contractor shall comply with applicable Federal and State laws and all regulations issued thereunder, existing or hereafter enacted or promulgated, affecting in any manner construction of the Highway or Airports.

3.4 Antiquities and Historical Sites

Contractor shall engage an archeologist approved by the Federal Authorized Officer to provide surveillance and inspection of the Highway and Airport sites for archeological values. If, in connection with any operation under this contract, or any other contract entered in connection with the Highway or Airports, Contractor encounters known or previously unknown paleontological, archeological, or historical sites, Contractor shall immediately notify the Federal Authorized Officer and the State Pipeline Coordinator and said archeologist. Contractor's archeologist shall investigate and provide an on-the-ground opinion regarding the protective measures to be undertaken by Contractor. The Federal Authorized Officer may suspend that portion of Contractor's operations necessary to preserve evidence pending investigation of the site.

Six (6) copies of all surveys and excavation reports shall be filed with the Federal Authorized Officer and the State Pipeline Coordinator.

3.5. Termination of Use

Upon termination of use of any part of the Highway or Airports, Contractor shall remove all improvements and equipment, except as otherwise approved in writing by the State Pipeline Coordinator as to the Highway, and the Federal Authorized Officer as to the Airports, and shall restore the land to a condition that is satisfactory to them. The satisfaction of the State Pipeline Coordinator and Federal Authorized Officer shall be stated in writing.

All Access Roads shall be "put-to-bed" by Contractor upon completion of their use unless otherwise directed by the Federal Authorized Officer. "Put-to-bed" is used herein to mean that such roads shall be left in such stabilized condition that erosion will be minimized through the use of adequately designed and constructed waterbars, revegetation, and chemical surface control; that culverts and bridges shall be removed by Contractor in a manner satisfactory to the Federal Authorized Officer; and that such roads shall be closed to use. Contractor's rehabilitation plan shall be approved in writing by the State Pipeline Coordinator and the Federal Authorized Officer prior to termination of use of any such road or any part thereof.

3.6 Public Improvements

Contractor shall protect existing improvements on Federal and State lands during construction of the Highway or Airports. Except as authorized for temporary purposes by the State Pipeline Coordinator and Federal Authorized Officer, the Contractor shall not obstruct any road or trail with logs, slash, or debris.

3.7. Camping, Hunting, Fishing, and Trapping

Contractor shall satisfy the State Pipeline Coordinator that it has and will adequately inform its employees, agents, contractors, subcontractors, and their employees, of applicable laws and regulations relating to hunting, fishing, and trapping.

3.8. Small Craft Passage

The creation of any permanent obstruction to the navigation of small craft in streams is prohibited.

3.9. Survey Monuments

Contractor shall mark and protect all geodetic survey monuments encountered during the construction of the Highway or Airports. These monuments are not to be disturbed; however, if such a disturbance occurs, the Federal Authorized Officer shall be immediately notified thereof in writing.

If any land survey monuments, corners, or accessories (excluding survey monuments) are destroyed, obliterated or damaged, Contractor shall employ a qualified land surveyor to reestablish or restore same in accordance with the "Manual of Instructions for the Survey of Public Lands" and shall record such survey in the appropriate records. Additional requirements for the protection of monuments, corners, and bearing trees may be prescribed by the Federal Authorized Officer.

3.10. Fire Prevention and Suppression

Contractor shall promptly notify the State Pipeline Coordinator and the Federal Authorized Officer and take all measures necessary and appropriate for the prevention and suppression of fires in accordance with 43 CFR 2801.1–5(d). Contractor shall comply with their instructions and directions concerning the use, prevention and suppression of fires. Use of open fires in connection with construction of the Highway or Airports is prohibited unless authorized in writing by the State Pipeline Coordinator as to the Highway or the Federal Authorized Officer as to the Airports.

3.11. Health and Safety

Contractor shall take all measures necessary to protect the health and safety of all persons affected by its activities performed in connection with the construction of the Highway or Airports and shall immediately abate any health or safety hazards. Contractor shall immediately notify the State Pipeline Coordinator of all serious accidents which occur in connection with such activities.

4. Contractor Stipulations—Environmental

4.1. Environmental Briefing

Prior to and during construction of the Highway and Airports, Contractor shall provide for environmental and other pertinent briefings of construction and other personnel by such Federal and State employees as may be designated by the Federal Authorized Officer and the State Pipeline Coordinator. Contractor shall arrange the time, place and attendance for such briefings upon their request.

4.2. Pollution Control

4.2.1. General

Contractor shall conduct all activities associated with the Highway and Airports in a manner that will avoid or minimize degradation of air, land and water quality. In the construction of the Highway and Airports, Contractor shall perform its activities in accordance with applicable air and water quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended (42 U.S.C., sec. 1857, et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C., sec. 1160).

4.2.2. Water and Land Pollution

4.2.2.1. Contractor shall comply with applicable "Water Quality Standards" of the State of Alaska as approved by the Environmental Protection Agency.

4.2.2.2. Mobile ground equipment shall not be operated in lakes, streams, or rivers unless such operation is approved in writing by the State Pipeline Coordinator.

4.2.3. Air Pollution and Ice Fog.

4.2.3.1. Contractor shall utilize and operate all facilities and devices used in connection with the construction of the Highway and Airports in such a way so as to avoid or minimize air pollution and ice fog.

4.2.3.2. Emissions from equipment, installations, and burning materials shall meet applicable Federal and State air quality standards.

4.2.4. Pesticides, Herbicides, and other Chemicals.

Contractor shall use only non-persistent and immobile types of pesticides, herbicides and other chemicals. Each chemical to be used and its application constraint shall be approved in writing by the State Pipeline Coordinator prior to use.

4.2.5. Sanitation and Waste Disposal.

4.2.5.1. "Waste" means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

4.2.5.2. All waste generated in construction of the Highway and Airports shall be removed or otherwise disposed of in a manner acceptable to the State Pipeline Coordinator. All applicable standards and guidelines of the Alaska State Department of Environmental Conservation, the United States Public Health Service, the Environmental Protection Agency, and other Federal and State agencies shall be adhered to by Contractor. All incinerators shall meet the requirements of applicable Federal and State laws and regulations and shall be used with maximum precautions to prevent forest and tundra fires. After incineration, material not consumed in the incinerator shall be disposed of in a manner approved in writing by the State Pipeline Coordinator. Portable or permanent waste disposal systems to be used shall be approved in writing by the State Pipeline Coordinator.

4.3. Buffer Strips.

4.3.1. Public Interest Areas.

No construction activity in connection with the Highway or Airports shall be conducted within one-half (½) mile of any officially designated Federal, State or municipal park, wildlife refuge, research natural area, recreation area, recreation site, or any registered National Historic Site or National Landmark, unless such activity is approved in writing by the Federal Authorized Officer as to Federal areas or the State Pipeline Coordinator as to State areas.

4.3.2. Streams.

The Highway clearing limits shall be limited so as to provide three hundred (300) foot minimum buffer strips of undisturbed land along streams unless otherwise approved under 2.4 herein.

4.4. Erosion Control.

4.4.1. Contractor shall conduct all Highway and Airport construction activities so as to avoid or minimize disturbance to vegetation.

4.4.2. The design of the Highway and Airports shall provide for the construction of erosion control facilities that will avoid or minimize erosion.

4.4.3. The erosion control facilities shall be constructed to avoid erosion and to lessen the possibility of forming new drainage channels resulting from Highway or Airport construction activities. The facilities shall be designed and constructed in such a way as to avoid or minimize disturbance to the thermal regime.

4.4.4. Stabilization.

4.4.4.1. Surface materials taken from disturbed areas shall be stockpiled and utilized during restoration unless otherwise approved in writing by the State Pipeline Coordinator as to the Highway and by the Federal Authorized Officer as to the Airports. Stabilization practices, as determined by the needs for specific sites, shall include but shall not be limited to seeding, planting, mulching, and the placement of mat binders, soil binders, rock or gravel blankets, or structures.

4.4.4.2. All disturbed areas shall be left in a stabilized condition satisfactory to the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airports. Such satisfaction shall be stated in writing.

4.4.5. Crossings of Streams, Rivers or Flood Plains.

4.4.5.1. Contractor shall prevent or minimize erosion at streams and river crossings and those parts of the Highway or Airports within flood plains.

4.4.5.2. Temporary access over stream banks shall be made through use of fill ramps rather than by cutting through stream banks, unless otherwise approved in writing by the State Pipeline Coordinator.

4.4.5.3. Timing and methods of crossings shall be subject to control and alteration by the State Pipeline Coordinator to protect fish passage and spawning and aquatic resources generally.

4.4.6. Seeding and Planting.

Seeding and planting of disturbed areas shall be conducted as soon as practicable and, if necessary, shall be repeated until vegetation is successful, unless otherwise approved in writing by the State Pipeline Coordinator. All other restoration shall be completed as soon as possible.

4.4.7. Excavated Material

Excavated material not utilized for Highway or Airport construction shall be disposed of in a manner approved in writing by the Federal Authorized Officer, if wasted outside of the facility right-of-way.

4.5. Fish and Wildlife Protection

4.5.1. Passage of Fish

4.5.1.1. Contractor shall provide for uninterrupted movement and safe passage of fish. Any artificial structure or any stream channel change that would cause a blockage of fish shall be provided with a fish passage structure or facility that meets all Federal and State requirements. The proposed design shall be submitted to the State Pipeline Coordinator in accordance with Stipulation 2.4.1.

4.5.1.2. Pump intakes shall be screened to prevent harm to fish.

4.5.1.3. Abandoned water diversion structures shall be removed or filled to prevent trapping or stranding of fish.

4.5.1.4. If material sites are approved adjacent to or in certain lakes, rivers, or streams, the State Pipeline Coordinator, either on his own initiative or at the request of the Federal Authorized Officer may require the Contractor to construct levees, berms, or other suitable means to protect fish and fish passage and to prevent siltation of streams or lakes.

4.5.2. Fish Spawning Beds

4.5.2.1. "Fish Spawning Beds" means the areas where anadromous and resident fish deposit their eggs.

4.5.2.2. Contractor shall avoid channel changes in Fish Spawning Beds designated by the State Pipeline Coordinator; however, where channel changes cannot be avoided in such beds, new channels shall be constructed according to written standards supplied by the State Pipeline Coordinator.

4.5.2.3. Fish Spawning Beds shall be protected from sediment where soil material is expected to be suspended in water as a result of construction activities. Settling basins shall be constructed to intercept silt before it reaches streams or lakes.

4.5.2.4. Contractor shall comply with any special requirements made by the State Pipeline Coordinator for a stream system in order to protect Fish Spawning Beds. Contractor shall repair all damage to Fish Spawning Beds caused by construction of the Highway or Airports.

4.5.3. Zones of Restricted Activties

Contractor's activities in connection with the construction of the Highway or Airports in key fish and wildlife areas may be restricted by the State Pipeline Coordinator during periods of fish and wildlife breeding, nesting, spawning, lambing or calving activity and during major migrations of fish and wildlife. The State Pipeline Coordinator shall provide Contractor written notice of such restrictive action. From time to time, the State Pipeline Coordinator shall furnish Contractor a list of areas where such actions may be required, together with anticipated dates of restriction.

4.6. Material Sites

4.6.1. Acquisition of Materials

4.6.1.1. If Contractor requires materials from the public lands, Contractor shall request the State of Alaska to make application, in accordance with 43 CFR, Part 3621, "Free Use of Mineral Materials." Contractor shall submit a mining plan in accordance with 43 CFR, Part 23. No materials may be removed by Contractor without the written approval of the Federal Authorized Officer.

4.6.1.2. Insofar as possible, use of existing material sites will be authorized in preference to new sites.

4.6.2. Layout of Material Sites

Material site boundaries should be shaped in such a manner as to blend with surrounding natural land patterns. Regardless of the layout of material sites, primary emphasis shall be placed on prevention of soil erosion and damage to vegetation.

4.7. Clearing

4.7.1. Boundaries

Contractor shall identify approved clearing boundaries on the ground prior to beginning clearing operations. All timber and other vegetative material outside clearing boundaries are reserved from cutting and removal with the exception of danger trees or snags designated as such by the State Pipeline Coordinator.

4.7.2. Timber

4.7.2.1. Prior to initiating clearing operations, Contractor shall notify the Federal Authorized Officer of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction of the Highway or Airports, and shall request that the State make separate application for the free use of such timber in accordance with 43 CFR, Part 5510.

4.7.2.2. All trees, snags, or other woody material cut in connection with clearing operations shall be cut so the resulting stumps shall not be higher than six (6) inches measured from the ground on the uphill side.

4.7.2.3. All trees, snags, and other woody material cut in connection with clearing operations shall be felled into the area within the clearing boundaries and away from water courses.

4.7.2.4. Hand clearing shall be used in areas where the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airports, determine that use of heavy equipment would be detrimental to existing conditions.

4.7.2.5. All debris resulting from clearing operations and construction that may block stream flow, delay fish passage, contribute to flood damage, or result in stream bed scour or erosion shall be removed.

4.7.2.6. Logs shall not be skidded or yarded across any stream without the written approval of the State Pipeline Contractor.

4.7.2.7. No log landing shall be located within three hundred (300) feet of any water course, except where impractical, then only with the written approval of the State Pipeline Coordinator.

4.7.2.8. All slash shall be disposed of within the Highway right-of-way or Airport lease unless otherwise directed in writing by the Federal Authorized Officer as to the Airports or the State Pipeline Coordinator as to the Highway.

4.8. Disturbance of Natural Waters

All activities of Contractor in connection with the construction of the Highway or Airports that may create new lakes, drain existing lakes, significantly divert natural drainages, permanently alter stream hydraulics, or disturb significant areas of stream beds are prohibited unless such activities along with necessary mitigation measures are approved in writing by the Federal Authorized Officer as to the Airports and the State Pipeline Coordinator as to the Highway.

4.9. Off Right-of-Way Traffic

Contractor shall not operate mobile ground equipment off the Highway or Airport constructions limits or authorized areas unless approved in writing by the Federal Authorized Officer as to the Airports and the State Pipeline Coordinator as to the Highway, or when necessary to prevent harm to any person.

4.10. Aesthetics

The Federal Authorized Officer or State Pipeline Coordinator may impose such requirements as he deems necessary to protect aesthetic values.

4.11. Restoration

4.11.1. Areas disturbed by Contractor shall be restored by Contractor to the satisfaction of the State Pipeline Coordinator as to the Highway, and the Federal Authorized Officer as to the Airports, as stated in writing.

4.11.2. All cut and fill slopes shall be left in a stable condition.

4.11.3. Materials from the Highway and Airports, haul ramps, berms, dikes, and other earthen structures shall be disposed of as directed by the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airport.

4.11.4. Vegetation, overburden, and other materials removed during clearing operations shall be disposed of by Contractor in a manner approved in writing by the State Pipeline Coordinator as to the Highway and the Federal Authorized Officer as to the Airports.

4.11.5. Upon completion of restoration, Contractor immediately shall remove all equipment and supplies from the site.

5. Contractor Stipulations—Technical

The following requirements shall be complied with in design and construction of Highways and Airports.

5.1. Special Standards

5.1.1. All preconstruction, construction, and post-construction operations shall be conducted to minimize permafrost degradation and damage to the environment, and to provide maximum protection to wildlife and human beings.

5.1.2. Temporary bridges shall be located so as to reserve the superior site and alignment for future permanent bridges.

5.1.3. Embankment sections shall be used in preference to excavated sections wherever practicable and, in general, the Highway shall follow terrain features.

5.1.4. Unless otherwise approved by the State Pipeline Coordinator, organic material resulting from clearing operations shall not be incorporated in the road prism, but may be used as a mat overlay below the road prism.

5.2. Permanent Culverts and Bridges

Culverts and bridges shall be designed to accommodate a 50-year flood in accordance with criteria established by the American Association of State Highway Officials and the Federal Highway Administration.

5.3. Erosion

5.3.1. Erosion control procedures shall accommodate and be based on the runoff produced by storm and snow melt conditions having a 50-year occurrence interval. The procedure shall also accommodate effects that result from thawing produced by flowing or ponded water on permafrost terrain.

5.3.2. Slopes of cuts through stream banks shall be designed and constructed to minimize erosion and prevent slides.

5.3.3. Where necessary because of outfall erosion, stilling basins shall be constructed at the outflow end of culverts. To prevent erosion the pool sides shall be established by appropriate methods; e.g., by the use of riprap.

5.4. Slope Stability

Areas subject to mudflows, landslides, mudslides, avalanches, rock falls, and other types of mass movements shall be avoided where practicable in locating the Highway and Airports. Where such avoidance is not practical, the Highway or Airport design, based upon detailed field investigations and analysis, shall provide measures to prevent the occurrence of, or protect the Highway or Airports against the effects of mass movements.

5.5. Construction Operations

5.1.1. All pre-construction and construction activities shall be conducted so as to avoid or minimize thermal and other environmental changes and to provide maximum protection to fish and wildlife and their habitat, and people. All surface modifications shall be planned and executed in such a way that any resulting degradation of permafrost will not jeopardize adjoining structure foundations.

5.5.2. Acceptable plans, procedures and quality controls that ensure compliance with these Stipulations shall be submitted in accordance with Stipulation 2.4.1.

ROUDEBUSH NAMED DEPUTY ADMINISTRATOR OF THE VETERANS' ADMINISTRATION

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, our former colleague Richard L. Roudebush was sworn in as Deputy Administrator of the Veterans' Administration and I am honored to submit his remarks on that happy occasion:

Mr. Administrator, guests, friends, and fellow workers of the Veterans' Administration. This is truly one of the proudest moments of my life—made doubly memorable for me by the attendance here of so many dear friends, to witness my oath to the service of this agency and the men and women who have borne her battles.

I pledge myself to you—and to them—to be an activist officer and shirtsleeved soldier in every cause relating to our Nation's veterans that comes before me in the years ahead.

I pledge myself to the purpose of unity and oneness—of resolve—among all groups and individuals concerned with the present and future life of those who have served.

Our administrator has asked me to continue my work in Congressional relations. It is not only a pleasure to do so—I would have been disappointed if he hadn't asked.

I say to my former colleagues from the Hill who are here this morning—and to every Senator and Congressman in this second session of the 93rd—that I am personally aware of the difficult path which you follow—and pledge myself and my staff to assist you in the field of veterans benefits—so you may better serve your constituents.

I pledge to dedicate my best efforts to intelligent, open communications with and through the veterans service organizations—all of whom are represented here in this room.

We may joke with one another—in the spirit of organizational pride—but the proudest thing all of our service organizations have going for them—is their commonality of cause in caring for the ex-G.I.—from the time he's mustered out until the time he's laid to rest. I don't think this Nation can afford to be without any one of them. I plan to continue that fervent belief—the will—to serve with each and all of you to that end.

Being a life member of each of these fine commands—(with the exception of the World War I vets, Commander Fink)—I plan to hang my certificates in a straight horizontal line, in my office, and then rotate them every once in a while just to prove the point.

My call for unity—among those of us who are charged with this great trust—is based on the very practical notion—that if we conserve our considerable strength—by not hassling each other over nit-picking points—we can pour more of our combined energy into the only real mission that summoned each of us to this work—to begin with.

I say our unity is necessary for all of us—so that each of us can deliver an extra dimension of service—and service is the name of the game.

A personal note of sadness today, is the fact that my beloved Marge (Mrs. Roudebush)—is not here.

It's a school day for young Roudy—back in Noblesville—and in order for them to attend this ceremony, he would have to have missed a couple of days.

Instead they were here for my birthday last Friday and did stay over the weekend. And my appointment to Deputy Administrator was announced on my birthday—in a pretty novel way—I thought.

I had a meeting with the White House staff at 1:30 p.m., following my meeting with Don Johnson in which he confirmed my nomination.

Obviously, somebody over here—named Johnson—tipped them off that I had achieved the age of 56 that day—because as I strode in the room in my typical—plowing-through-center cadence—the entire staff stood stiffly at attention and sang: "Happy Birthday"—led by the melodious—but slightly off-key voices of Bill Timmons and Max Friedersdorf.

And it was, indeed, a very happy birthday.

This ceremony this morning—and your willingness to be here to help mark the occasion—makes this the longest and happiest birthday I've ever known.

And when you consider how many birthdays I've really had—that's a powerful statement.

Thank you—my good and trusted friends—for being here to honor me.

WASHINGTON'S FAREWELL ADDRESS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that on Monday, February 18, 1974, George Washington's Farewell Address may be read by a Member to be designated by the Speaker.

The SPEAKER. Is there objection to

the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. Pursuant to the special order agreed to today, the Chair designates the gentleman from Mississippi, Mr. MONTGOMERY, to read George Washington's Farewell Address immediately following the approval of the Journal on February 18, 1974.

LOOKING SOUTH

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, my distinguished colleague, the Honorable DANTE B. FASCELL, as chairman of the House Subcommittee on Inter-American Affairs, has done an outstanding job for the Foreign Affairs Committee, for the House of Representatives, and for our country. He has kept in close touch with developments from time to time in Latin America. He has made many wise and farsighted recommendations as to the course our country should pursue in relation to our neighbors to the south. He is known and respected throughout Latin America as one of the most knowledgeable leaders of our country in respect to Latin America—its hopes, its dreams, and its problems.

On Sunday, December 16, Mr. FASCELL wrote a very able article for the Miami Herald entitled "Looking South: How Should We Treat Our Latin Neighbors?" with a subtitle "Let's Halt Deterioration in Relations."

All of our colleagues and fellow countrymen will profit greatly by Mr. FASCELL's able article. It is, therefore, with particular pleasure that I include Mr. FASCELL's excellent article in the body of the RECORD immediately following my remarks:

LOOKING SOUTH: HOW SHOULD WE TREAT OUR LATIN NEIGHBORS?—LET'S HALT DETERIORATION IN RELATIONS

(By Representative DANTE B. FASCELL)

The nature of Latin American and Caribbean relations with the United States are of vital national concern and of particular importance to Greater Miami and South Florida.

Americans have over 12 billion dollars invested in Latin American enterprises. More than 30 major U.S. companies maintain their Latin American division headquarters in Coral Gables and Greater Miami. This economic enterprise aids Latin American development and provides jobs and money at home.

The U.S. also needs important materials and foodstuffs from Latin America. Oil, copper, and other strategic material; coffee, sugar, meat and other agricultural products and some manufactured goods.

Latin America has the potential of being the great new consumer market of the world. The U.S. must be competitive in those markets. Already we have seen that many nations, the Japanese, Germans, French, and others have aggressively sought and obtained Latin American trade.

Economic relationship is important and mutually beneficial. It is in our own interest to encourage it and not discourage it.

Latin America's strategic importance to the United States is just as clear. The Cuban missile crisis did not end U.S. concern on that issue. Even with the new spirit of detente, the Russians have not lessened their interest in Cuba as a political satellite and a very important military base. As recent hearings before the Subcommittee on Inter-American Affairs clearly indicate, the Russians are still interested in probing and showing that the Caribbean is no longer the sole province of the Western Hemisphere. There is also U.S. interest and concern in the Panama Canal and Guantanamo Naval Base.

The export of violent revolution either from abroad or from Cuba does show evidence of decreasing but the use of violence as a method of economic, political and social change has not been abandoned and the violent struggle in many Latin countries still goes on. It is unrealistic to think that the United States can and should ignore all these matters.

The importance of Latin America and the Caribbean to the United States politically, socially and economically must be admitted, understood, recognized and dealt with accordingly not only in Greater Miami but at the highest levels of our government.

Until recently U.S.-Latin-Caribbean relations were going downhill. There has been a lack of any coherent and meaningful U.S. policy. These relations have been on the back burner.

Studies by the Subcommittee on Inter-American Affairs, among others, have noted and warned of the strong trend in Latin America toward economic nationalism, a new militarism, an independent foreign policy and a determination to be on an equal basis not only with the United States but other major powers of the world.

Growth of economic nationalism in Latin America threatens polarization of the Hemisphere. The U.S. cannot be insensitive to the need for creative response to a growing confidence and a sense of identity which we incidentally deliberately tried to achieve, and I believe helped to do so, through the Alliance for Progress.

As chairman of the Subcommittee on Inter-American Affairs I have carefully watched events in Latin America. From that vantage point several other key elements stand out:

The growing incapacity of democratic institutions as we in the U.S. understand them to deal effectively with the political and economic problems of Latin America; the definite shift there in the political ideology toward centralism, statism, and militarism; the emergence of new groups who are and continue to challenge the status quo and the old order.

The new intellectuals, the young Catholic clergy, the technocrats and the new military are in the forefront of change and molding the future of their countries. There is a growing awareness and comprehension of the needs of the masses, the common man, and the average citizen. Latin American military governments are showing signs of adapting to the need of the times.

Perhaps the most critical element is that the great mass of the people in Latin America and the Caribbean still remain outside of any meaningful involvement or benefit from the economic and political life of their respective countries, and have not been allowed to participate in the development of any responsible, acceptable and effective leadership.

This explosive situation has been compounded by another factor, the rapid population growth. This has negated most of the economic gains of the Alliance and of each country's efforts.

This administration, coming into office at the time when recognition of these elements was paramount as a basis for new policies called for in their own studies, somewhat understandably resorted to rhetoric. The term, "new mature partnership", was substituted for substantive policy. Thus until now U.S. Latin American relationships were going downhill.

We in the United States have held ourselves up to Latin Americans as an example, but increasingly the Latins have felt that our way is not necessarily the best for them. Our common goals, aims and needs remain the same, but the framework within which we can achieve these continues to be in a constant change with radical shifts left and right taking place.

It is now clear that the theories of classical economists with respect to development have not worked—they have failed in large measure in improving the lot of men and women in the developing world—and this means we must join them in seeking new and more viable solutions.

The interface between our private capital economy with high consumption and economies necessarily organized in different ways will be a constant source of tension. Both U.S. business and the U.S. government are going to have to develop new ways of maintaining our society the way we want it without imposing our values and way of life on others who must have and demand the freedom to develop as they wish.

I am confident we can halt the downhill drift in Latin American-U.S. relations.

The Congress will take up soon in the House of Representatives, the new trade bill. It contains the President's promised assistance to Latin America for preferential trade treatment.

Our new Secretary of State, Dr. Henry Kissinger, has issued an invitation to the Latins, which they have eagerly accepted, for a new and meaningful joinder of dialogue with the United States.

Many of us in the Congress who believe that the same old foreign aid approaches won't work, took the lead in getting the Congress to adopt a change in the structure of U.S. bilateral assistance to Latin America. This new approach would focus aid on acute problem areas and encourage countries to allow participation of their poorest people in the development of their country. This means stressing real social change in areas of nutrition, health and education for the poorest people.

It was to energize this spirit that I sought and Congress approved several years ago, the creation and the establishment of the Inter-American Foundation—a government corporation—the majority of whose board are non-governmental. The foundation provides U.S. financial assistance on a highly selective basis to those social programs conceived and operated by indigenous groups in Latin countries. We thus help innovative programs and those which show the best promise for helping the great masses of people in Latin and Caribbean countries. After all, it is their needs and desires which will shape the future of those areas and the relationship with the United States.

It is too soon to say that our problems with Latin America and the Caribbean are diminishing. They are not. They are likely to continue and increase. But the U.S. does need a new commitment to improve our relations in this Hemisphere.

For care and concern about what happens.

To genuinely understand the new forces in Latin America and the Caribbean.

To exercise caution and restraint when reacting to forces difficult to understand.

To respond in creative and constructive ways to the legitimate needs and concerns of the other peoples of this hemisphere.

To use our own resources to adjust here at home to the changed circumstances of these other countries.

A new spirit of U.S. commitment in the

hemisphere will not eliminate our problems but it will and can provide an atmosphere in which they cease to be the controlling factors in our relations and become instead steps in the process of building a mutually creative framework for cooperation and benefit.

RECESS

The **SPEAKER**. The Chair declares a recess until approximately 8:40 o'clock p.m.

Accordingly (at 2 o'clock and 52 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 43 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 413 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The **SPEAKER** of the House presided.

The Doorkeeper, the Honorable William M. Miller, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and Members of the Senate the seats reserved for them.

The **SPEAKER**. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber the gentleman from Massachusetts, Mr. O'NEILL, the gentleman from California, Mr. MCFALL, the gentleman from Texas, Mr. TEAGUE, the gentleman from Arizona, Mr. RHODES, and the gentleman from Illinois, Mr. ARENDS.

The **VICE PRESIDENT**. Pursuant to the order of the Senate, the following Senators are appointed to escort the President of the United States into the House Chamber: the Senator from Montana, Mr. MANSFIELD, the Senator from Mississippi, Mr. EASTLAND, the Senator from West Virginia, Mr. BYRD, the Senator from Pennsylvania, Mr. SCOTT, the Senator from Michigan, Mr. GRIFFIN, and the Senator from North Dakota, Mr. YOUNG.

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the acting Chief Justice of the United States and the Associate Justices of the Supreme Court.

The acting Chief Justice of the United States and the Associate Justices of the Supreme Court entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 9 o'clock and 3 minutes p.m., the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The **SPEAKER**. My colleagues of the Congress, I have the distinct privilege and the high personal honor of presenting to you the President of the United States.

[Applause, the Members rising.]

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–206)

The **PRESIDENT**. Mr. Speaker, Mr. President, my colleagues in the Congress, our distinguished guests, and my fellow Americans:

We meet here tonight at a time of great challenge and great opportunities for America. We meet at a time when we face great problems at home and abroad that will test the strength of our fiber as a nation. But we also meet at a time when that fiber has been tested, and it has proved strong.

America is a great and good land, and we are a great and good land because we are a strong, free, and creative people, and because America is the single greatest force for peace anywhere in the world.

Today, as always in our history, we can base our confidence on what the American people will achieve in the future on the record of what the American people have achieved in the past. Tonight, for the first time in 12 years, a President of the United States can report to the Congress on the state of a Union at peace with every nation of the world.

Because of this, in the 22,000-word message on the state of the Union that I have just handed to the Speaker of the House and the President of the Senate, I have been able to deal primarily with the problems of peace, with what we can do here at home in America for the American people, rather than with the problems of war. The measures I have outlined in this message set an agenda for truly significant progress for this Nation and the world in 1974.

Before we chart where we are going, let us see how far we have come. It was five years ago on the steps of this Capitol that I took the oath of office as your President. In those five years, because of the initiatives undertaken by this administration, the world has changed—America has changed. As a result of those changes America is safer today, more prosperous today, with greater opportunity for more of its people than ever before in our history.

Five years ago America was at war in Southeast Asia. We were locked in confrontation with the Soviet Union. We were in hostile isolation from a quarter of the world's people who lived in mainland China. Five years ago our cities were burning and besieged. Five years ago our college campuses were a battleground. Five years ago crime was increasing at a rate that struck fear across the Nation. Five years ago the spiraling rise in drug addiction was threatening human and social tragedy of massive proportion, and there was no program to deal with it.

Five years ago, as young Americans had done for a generation before that, America's youth still lived under the shadow of the military draft.

Five years ago there was no national program to preserve our environment. Day by day our air was getting dirtier, our water was getting more foul, and five years ago American agriculture was practically a depressed industry with a hundred thousand farm families abandoning the farm every year.

As we look at America today we find ourselves challenged by new problems, but we also find a record of progress to confound the professional cryers of doom and prophets of despair.

We met the challenges we faced five years ago, and we will be equally confident of meeting those that we face today.

Let us see for a moment how we have met them. After more than ten years of military involvement, all of our troops have returned from Southeast Asia and they have returned with honor.

And we can be proud of the fact that our courageous prisoners of war, for whom a dinner was held in Washington tonight, came home with their heads high and on their feet, and not on their knees.

In our relations with the Soviet Union we have turned away from a policy of confrontation to one of negotiation. For the first time since World War II the world's two strongest powers are working together toward peace in the world. With the People's Republic of China, after a generation of hostile isolation we have begun a period of peaceful exchange and expanding trade. Peace has returned to our cities, to our campuses. The 17-year rise in crime has been stopped. We can confidently say today that we are finally beginning to win the war against crime. Right here in this Nation's Capital, which a few years ago was threatened to become the crime capital of the world, the rate in crime has been cut in half.

A massive campaign against drug abuse has been organized. The rate of new heroin addiction, the most vicious threat of all, is decreasing rather than increasing.

For the first time in a generation no young Americans are being drafted into the armed services of the United States.

And for the first time ever we have organized a massive national effort to protect the environment. Our air is getting cleaner. Our water is getting purer.

And our agriculture, which was depressed, is prospering. Farm income is up 70 percent. Farm production is setting all-time records. And the billions of dollars the taxpayers were paying in subsidies has been cut to nearly zero.

Overall Americans are living more abundantly than ever before today. More than two and a half million new jobs were created in the past year alone. That is the biggest percentage increase in nearly 20 years. People are earning more. What they earn buys more, more than ever before in history. In the past 5 years the average American's real spendable income, that is, what you really can buy with your income even after allowing for taxes and inflation, has increased by 16 percent. Despite this record of achievement as we turn to the year ahead we hear once again the familiar voices of the perennial prophets of gloom, telling us now that because of the need to fight inflation, because of the energy shortage, America may be headed for a recession. Well, let me speak to that issue head on. There will be no recession in the United States of America.

Primarily due to our energy crisis our economy is passing through a difficult period. But I pledge to you tonight that the full powers of this Government will be used to keep America's economy producing and to protect the jobs of America's workers.

We are engaged in the long and hard fight against inflation. There have been and there will be in the future ups and downs in that fight.

But if this Congress cooperates in our efforts to hold down the cost of Government we shall win our fight to hold down the cost of living for the American people.

As we look back over our history the years that stand out as the ones of signal achievement are those in which the administration and the Congress, whether of one party or the other, working together had the wisdom and the foresight to select those particular initiatives for which the Nation was ready and the moment was ripe and in which they seized the moment and acted.

Looking at the year 1974 which lies before us, there are ten key areas in which landmark accomplishments are possible this year in America.

If we make these our national agenda, this is what we will achieve in 1974. We will break the back of the energy crisis. We will lay the foundation for our future capacity to meet America's energy needs from America's own resources, and we will take another giant stride toward lasting peace in the world, not only by continuing our policy of negotiation rather than confrontation where the great powers are concerned, but also by helping toward the achievement of a just and lasting settlement in the Middle East.

We will check the rise in prices without administering the harsh medicine of recession and we will move the economy into a steady period of growth at a sustainable level.

We will establish a new system that makes high quality health care available to every American in a dignified manner and at a price he can afford.

We will make our States and localities more responsive to the needs of their own citizens. We will make a crucial breakthrough toward better transportation in our towns and in our cities across America.

We will reform our system of Federal aid to education to provide it when it is needed, where it is needed, so that it may do the most for those who need it the most.

We will make a historic beginning on the task of defining and protecting the right of personal privacy for every American and we will start on a new road toward reform of a welfare system that bleeds the taxpayer, corrodes the community, and demeans those that it is intended to assist.

Together with the other nations of the world we will establish the economic framework within which Americans will share more fully in an expanding worldwide trade and prosperity in the years ahead, with more open access to both markets and supplies.

In all of the 186 state of the Union messages delivered from this place in our history, this is the first in which the one priority, the first priority is energy.

Let me begin by reporting a new development which I know will be welcome news to every American. As you know, we have committed ourselves to an active role in helping to achieve a just and durable peace in the Middle East on the basis of full implementation of Security Council Resolutions 242 and 338.

The first step in the process is the disengagement of Egyptian and Israeli forces which is now taking place. Because of this hopeful development, I can announce tonight that I have been assured through my personal contacts with friendly leaders in the Middle Eastern area that an urgent meeting will be called in the immediate future to discuss the lifting of the oil embargo.

Now this is an encouraging sign. However, it should be clearly understood by our friends in the Middle East that the United States will not be coerced on this issue. Regardless of the outcome of this meeting, the cooperation of the American people in our energy conservation program has already gone a long way towards achieving a goal to which I am deeply dedicated. Let us do everything we can to avoid gasoline rationing in the United States of America.

Last week I sent to the Congress a comprehensive special message setting forth our energy situation, recommending the legislative measures which are necessary to a program for meeting our needs. If the embargo is lifted, this will ease the crisis but it will not mean an end to the energy shortage in America. Voluntary conservation will continue to be necessary.

Let me take this occasion to pay tribute once again to the splendid spirit of cooperation the American people have shown which has made possible our success in meeting this emergency up to this time.

The new legislation I have requested will also remain necessary. Therefore I urge again that the energy measures that I have proposed be made the first priority of this session of the Congress. These measures will require the oil companies and other energy producers to provide the public with the necessary information on their supplies. They will prevent the injustices of windfall profits for a few as a result of the sacrifices of the millions of Americans.

They will give us the organization, the incentives, the authorities needed to deal with the short-term emergency and to move toward meeting our long-term needs. Just as 1970 was the year in which we began a full-scale effort to protect the environment, 1974 must be the year in which we organize a full-scale effort to provide for our energy needs, not only in this decade but through the 21st century.

As we move toward the celebration 2 years from now, of the 200th anniversary of this Nation's independence, let us press vigorously on toward the goal that I announced last November for Project Independence. Let this be our national goal. At the end of this decade in the year 1980 the United States will not be dependent on any other country for the energy we need to provide our jobs, to heat our homes and to keep our transportation moving.

To indicate the size of the Government commitment, to spur energy research and development we plan to spend $10 billion in Federal funds over the next 5 years. That is an enormous amount. But during the same 5 years private enterprise will be investing as much as $200 billion and in 10 years $500 billion to develop the new resources, the new technology, the new capacity America will require for its energy needs in the 1980's.

That is just a measure of the magnitude of the project we are undertaking. But America performs best when called to its biggest tasks. It can truly be said that only in America could a task so tremendous be achieved so quickly and achieved not by regimentation but through the effort and ingenuity of a free people working in a free system.

Turning now to the rest of the agenda for 1974, the time is at hand this year to bring comprehensive, high-quality health care within the reach of every American.

I shall propose a sweeping new program that will assure comprehensive health insurance protection to millions of Americans who cannot now obtain it or afford it, with vastly improved protection against catastrophic illnesses. This will be a plan that maintains the high standards of quality in America's health care and it will not require additional taxes.

Now, I recognize that other plans have been put forward that would cost $80 billion or even $100 billion and that would put our whole health care system under the heavy hand of the Federal Government. This is the wrong approach. This has been tried abroad and it has failed. It is not the way we do things here in America. This kind of plan would threaten the quality of care provided by our whole health care system. The right way is one that builds on the strengths of the present system and one that does not destroy those strengths; one based on partnership, not paternalism.

Most important of all, let us keep this

as the guiding principle of our health program. Government has a great role to play but we must always make sure that our doctors will be working for their patients and not for the Federal Government.

Many of you will recall that in my state of the Union address 3 years ago I commented that most Americans today are simply fed up with government at all levels and I recommended a sweeping set of proposals to revitalize State and local governments to make them more responsive to the people they serve. I can report to you today that as a result of revenue sharing passed by the Congress and other measures we have made progress toward that goal. After 40 years of moving power from the States and the communities to Washington, D.C., we have begun moving power back from Washington to the States and communities and, most important, to the people of America.

In this session of the Congress I believe we are near the breakthrough point on efforts which I have suggested, proposals to let people themselves make their own decisions for their own communities, and particularly on those to provide broad new flexibility in Federal aid for community development, for economic development, and for education. I look forward to working with the Congress, with members of both parties, in resolving whatever remaining differences we have in this legislation so that we can make available nearly five and a half billion dollars to our States and localities to use not for what a Federal bureaucrat may want, but for what their own people in those communities want. The decision should be theirs.

I think all of us recognize that the energy crisis has given new urgency to the need to improve public transportation, not only in our cities but in rural areas as well. The program I have proposed this year will give communities not only more money, but also more freedom to balance their own transportation needs. It will mark the strongest Federal commitment ever to the improvement of mass transit as an essential element of the improvement of life in our towns and cities.

One goal on which all Americans agree is that our children should have the very best education this great nation can provide.

In a special message last week, I recommended a number of important new measures that can make 1974 a year of truly significant advances for our schools and for the children they serve. If the Congress will act on these proposals, more flexible funding will enable each Federal dollar to meet better the particular need of each particular school district. Advance funding will give school authorities a chance to make each year's plans, knowing ahead of time what Federal funds they are going to receive. Special targeting will give special help to the truly disadvantaged among our people. College students, faced with rising costs for their education, will be able to draw on an expanded program of loans and grants. These advances are a needed investment in America's most precious resource—our next generation. I urge the Congress to act on this legislation in 1974.

One measure of a truly free society is the vigor with which it protects the liberties of its individual citizens. As technology has advanced in America, it has increasingly encroached on one of those liberties that I term the right of personal privacy. Modern information systems, data banks, credit records, mailing list abuses, electronic snooping, the collection of personal data for one purpose that may be used for another—all these have left millions of Americans deeply concerned about the privacy they cherish. The time has come, therefore, for a major initiative to define the nature and extent of the basic rights of privacy and to erect new safeguards to insure that those rights are respected.

I shall launch such an effort this year at the highest levels of the administration, and I look forward again to working with this Congress in establishing a new set of standards that respects the legitimate needs of society and that also recognizes personal privacy as a cardinal principle of American liberty.

Many of those in this Chamber tonight will recall that it was three years ago that I termed the Nation's welfare system a monstrous, consuming outrage—an outrage against the community, against the taxpayer, and particularly against the children that it is supposed to help. That system is still an outrage. By improving its administration, we have been able to reduce some of the abuses. As a result, last year for the first time in 18 years, there has been a halt in the growth of the welfare case load. But as a system, our welfare program still needs reform as urgently today as it did when I first proposed in 1969 that we completely replace it with a different system.

In these final 3 years of my administration I urge the Congress to join me in mounting a major new effort to replace the discredited present welfare system with one that works, one that is fair to those who need help or cannot help themselves, fair to the community, and fair to the taxpayer—and let us have as our goal that there will be no government program which makes it more profitable to go on welfare than to go to work.

I recognize that in the debates that have taken place within the Congress over the past three years on this program, we cannot expect enactment overnight of a new reform, but I do propose the Congress and the administration together make this the year in which we discuss, debate, and shape such a reform so that it can be enacted as quickly as possible.

America's own prosperity in the years ahead depends on our sharing fully and equitably in an expanding world prosperity. Historic negotiations will take place this year that will enable us to insure fair treatment in international markets for American workers, American farmers, American investors, and American consumers. It is vital that the authorities contained in the trade bill I submitted to the Congress be enacted so that the United States can negotiate flexibly and vigorously on behalf of American interests.

These negotiations can usher in a new era of international trade that not only increases the prosperity of all nations, but also strengthens the peace among all nations.

In the past 5 years we have made more progress toward a lasting structure of peace in the world than in any comparable time in the Nation's history. We could not have made that progress if we had not maintained the military strength of America.

Thomas Jefferson once observed that, "The price of liberty is eternal vigilance." By the same token and for the same reason, in today's world that price of peace is a strong defense, as far as the United States is concerned.

In the past 5 years we have steadily reduced the burden of national defense in the share of the budget, bringing it down from 44 percent in 1969 to 29 percent in the current year. We have cut our military manpower over the past 5 years by more than a third—from 3.5 million to 2.2 million. In the coming year, however, increased expenditures will be needed. They will be needed to assure the continued readiness of our military forces, to preserve present force levels in the face of rising costs, and to give us the military strength we must have if our security is to be maintained, and if our initiatives for peace are to succeed.

The question is not whether we can afford to maintain the necessary strength of our defense; the question is whether we can afford not to maintain it—and the answer to that question is "no." We must never allow America to become the second strongest Nation in the world.

I do not say this with any sense of belligerence, because I recognize the fact that is recognized around the world: America's military strength has always been maintained to keep the peace—never to break it. It has always been used to defend freedom—never to destroy it. The world's peace, as well as our own, depends on our remaining as strong as we need to be, as long as we need to be.

In this year 1974 we will be negotiating with the Soviet Union to place further limits on strategic nuclear arms. Together with our allies, we will be negotiating with the nations of the Warsaw Pact on mutual and balanced reduction of forces in Europe, and we will continue our efforts to promote peaceful economic development in Latin America, in Africa and in Asia.

We will press for full compliance with the peace accords that brought an end to American fighting in Indochina, including particularly the provision that promised the fullest possible accounting for those Americans who are missing in action.

And having in mind the energy crisis to which I have referred earlier, we will be working with the other nations of the world toward agreeing on means by which oil supplies can be assured at reasonable prices on a stable basis in a fair way to the consuming and producing nations alike.

All these are steps toward a future in which the world's peace and prosperity, and ours as well, as a result, are made more secure.

Throughout the 5 years that I have served as your President I have had one overriding aim. And that was to establish a new structure of peace in the world that can free future generations of the scourge of war. I can understand that others may have different priorities. This has been and this will remain my first priority, and the chief legacy I hope to leave in the 8 years of my Presidency.

This does not mean that we shall not have other priorities, because as we strengthen the peace we must also continue each year the steady strengthening of our society here at home. Our conscience requires it, our interests require it, and we must insist upon it. As we create more jobs, as we build a better health care system, as we improve our education, as we develop new sources of energy, as we provide more abundantly for the elderly and the poor, as we strengthen the system of private enterprise that produces our prosperity, as we do all of this and even more, we solidify those essential bonds that hold us together as a Nation. Even more importantly, we advance what in the final analysis government in America is all about.

What it is all about is more freedom, more security, a better life for each one of the 211 million people that live in this land. We cannot afford to neglect progress at home while pursuing peace abroad. But neither can we afford to neglect peace abroad while pursuing progress at home. With a stable peace, all is possible. But without peace, nothing is possible.

In the written message that I have just delivered to the Speaker and to the President of the Senate, I commented that one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our Nation, selecting each year among many worthy projects those that are ripe for action at that time. What is true in terms of our domestic initiatives is true also in the world. This period we now are in in the world—and I say this as one who has seen so much of the world, not only in these past 5 years, but going back over many years—we are in a period which presents a juncture of historic forces unique in this century. They provide an opportunity we may never have again to create a structure of peace solid enough to last a lifetime and more. Not just peace in our time, but peace in our children's time as well. It is on the way we respond to this opportunity more than anything else that history will judge whether we in America have met our responsibility, and I am confident we will meet that great historic responsibility which is ours today.

It was 27 years ago that John F. Kennedy and I sat in this Chamber as freshmen Congressmen, hearing our first state of the Union address delivered by Harry Truman. I know from my talks with him as members of the Labor Committee on which we both served, neither of us then even dreamed that either one or both might eventually be standing in this place that I stand in now and that he once stood in before me.

It may well be that one of the freshmen Members of the 93d Congress, one of you out there, will deliver his own state of the Union message 27 years from now, in the year 2001.

Well, whichever one it is, I want you to be able to look back with pride and to say that your first years here were great years and to recall you were here in this 93d Congress when America ended its longest war and began its longest peace.

Mr. Speaker, Mr. President, my distinguished colleagues, and our guests, I should like to add a personal word with regard to an issue that has been of great concern to all Americans over the past year. I refer, of course, to the investigations of the so-called Watergate affair. As you know, I have provided to the Special Prosecutor voluntarily a great deal of material. I believe that I have provided all of the material that he needs to conclude his investigations and to proceed to prosecute the guilty and to clear the innocent.

I believe the time has come to bring that investigation and the other investigations of this matter to an end. One year of Watergate is enough. And the time has come, my colleagues, for not only the Executive, the President, but the Members of Congress, for all of us to join together in devoting our full energies to these great issues that I have discussed tonight which involve the welfare of all of the American people in so many different ways as well as the peace of the world.

I recognize that the House Judiciary Committee has a special responsibility in this area, and I want to indicate on this occasion that I will cooperate with the Judiciary Committee in its investigation. I will cooperate with it so that it can conclude its investigation, make its decision, and I will cooperate in any way that I consider consistent with my responsibilities to the Office of the Presidency of the United States.

There is only one limitation. I will follow the precedent that has been followed by, and defended by every President from George Washington to Lyndon B. Johnson of never doing anything that weakens the Office of the President of the United States or impairs the ability of the Presidents of the future to make the great decisions that are so essential to this Nation and to the world.

Another point I should like to make very briefly: Like every Member of the House and Senate assembled here tonight, I was elected to the office that I hold. And like every Member of the House and Senate, when I was elected to that office I knew that I was elected for the purpose of doing a job and doing it as well as I possibly can. And I want you to know that I have no intention whatever of ever walking away from the job that the people elected me to do for the people of the United States.

Needless to say, it would be an understatement if I were not to admit that the year 1973 was not a very easy year for me personally or for my family, and, as I have already indicated, the year 1974 presents very grave and serious problems, as very grave and serious opportunities are also presented. But, my colleagues, this I believe: With the help of God who has blessed this land so richly, with the cooperation of the Congress, and with the support of the American people, we can and we will make the year 1974 a year of unprecedented progress toward our goal of building a structure of lasting peace in the world and a new prosperity without war in the United States of America.

[Applause, the Members rising.]

The state of the Union message, referred to by the President, and submitted to the Congress, is, in its official text, as follows:

To the Congress of the United States:

We enter 1974 not at the beginning of an historical cycle, but in the middle of one. Beginnings have been made in many vital areas, beginnings which we now must build upon. New needs have arisen which we are in the process of addressing. Opportunities are coalescing which give us a chance to make historic progress toward a stable peace and expanding prosperity.

In looking at the agenda for 1974, we cannot consider the work of this or of any one year in isolation. What we select as our tasks in 1974 must build on the work of the years before, and anticipate needs of those ahead. Indeed, one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives.

It would be as false to pretend that we could do—or afford to do—everything at once, as it would be to maintain that we can do nothing. Therefore, we must strive to maintain steady progress, selecting each year among many worthy projects those that are ripe for action at that time, and that can be accommodated within the constraints of our budget—but pressing to ensure that the most that can be done is done.

In discussing my legislative recommendations for this Congressional session, therefore, I shall do so in the context of the advances that have already been made, the problems that remain, and the special opportunities we have in 1974 to make further progress.

I have started with certain basic premises:

—The basic tax burden on the American taxpayer should not be increased.

—Our new initiatives, therefore, should be scaled to what can prudently be spent given the level of revenues that would be generated by the existing tax structure at full utilization of our resources.

—Increases in Federal spending should be kept to a minimum, but the budget should be flexible enough to be used, if necessary, to maintain jobs and prosperity.

—It is essential that we break the old habit of regarding any Federal program, once established, as permanent; we must learn to scrap old programs that are no longer effective or needed in favor of new ones that are. This is the only way we can afford to do what must be done.

Within these guidelines, there are a number of major new initiatives which are ripe for action in 1974—several of which can be milestones on our march to a life of greater freedom, greater opportunity and greater prosperity for all.

In particular, 1974 can be the year in which:

—First, we not only break the back of the energy crisis, but also, through Project Independence, lay the foundation for our future capacity to meet America's energy needs from America's own resources—at reasonable prices and with adequate environmental protection.

—Second, we take another giant stride toward lasting peace in the world—not only by continuing our policy of negotiation rather than confrontation where the great powers are concerned, but also by helping toward the achievement of a just and lasting settlement in the Middle East.

—Third, we will check the rise in prices, without administering the harsh medicine of recession, and move the economy into a period of steady growth at a sustainable level.

—Fourth, we establish a new system of comprehensive health insurance that makes high quality health care available to every American in a dignified manner and at a price he or she can afford.

—Fifth, we continue to build a new era of achievement and responsiveness in State and local government, by cutting the strings of too tight Federal control that have bound the hands of State and local officials in community and economic development programs.

—Sixth, we make a crucial breakthrough toward better transportation by strengthening the ability of local communities to deal with their transportation problems.

—Seventh, we reform our system of Federal aid to education to provide it when it is needed, where it is needed, and so that it will do the most for those who need it most.

—Eighth, we make an historic beginning on the task of defining and protecting the right of personal privacy.

—Ninth, we start on a new road toward reform of a welfare system that bleeds the taxpayer, corrodes the community and demeans those it is meant to assist.

—And tenth, together with the other nations of the world, we establish the economic framework within which Americans will share more fully in an expanding world trade and prosperity in the years ahead, with more open access to both markets and supplies.

MEETING OUR ENERGY NEEDS

At the start of this Congressional session, the number one legislative concern must be the energy crisis.

The cooperative efforts of the American people, together with measures already taken by the Administration, have significantly reduced the immediate impact of the energy crisis. There has been some economic dislocation and some individual hardships, but these have been minimized by our policy of encouraging broad conservation measures and allocating scarce energy resources so as to do the least possible harm to jobs and the economy. The object has been to keep our farms and factories producing, to keep our workers on the job, and to keep our goods and services flowing, even if this means that we must live and work in somewhat less comfortable surroundings and drive fewer miles at slower speeds.

Even with the full cooperation of most Americans, however, we will still face real challenges—and genuine shortages—in the months and years immediately ahead. To meet these challenges, we must change our patterns of energy consumption and production, we must press forward with the development of reliable new energy sources, and we must adjust to the fact that the age of unlimited supplies of cheap energy is ended.

The immediate energy crisis began with the oil embargo imposed in the Middle East last fall. But the embargo only hastened a shortage that was already anticipated. For a number of years our fuel consumption had been climbing while our production of domestic energy supplies declined. We became more and more heavily dependent on oil imports and, consequently, more vulnerable to any interruption or reduction in those imports, as well as to sudden increases in foreign prices. Today, we have an interruption in supplies and we face sharply increased prices for those supplies when they are restored.

Irrespective of the possibility of restoring the flow of Middle East oil, we must act now to ensure that we are never again dependent on foreign sources of supply for our energy needs. We must continue to slow the rise in our rate of consumption, and we must sharply increase our domestic production.

The effects of energy conservation can be felt at once. Already the responsiveness of the American people to the recent crisis has proved to be the major factor in helping to avoid the serious consequences that the winter might have brought. That conservation must continue.

The required increase in domestic supplies cannot be achieved so rapidly. It will involve the development of entirely new sources of energy as well as the expanded development of oil and coal resources; it will require a significant expansion of our research and development efforts; it will require a shift from the use of scarce fuels to those which are more plentiful but also more expensive than the cheap energy to which we have been accustomed; it will require that we encourage both exploration and production; it will mean that as we act to prevent the energy industry from making unconscionable windfall profits, we must also avoid crippling that industry with punitive legislation; and finally, it will require that we make some difficult decisions as we sort out our economic and environmental priorities.

As we seek to act domestically to increase fuel supplies, we will act internationally in an effort to obtain oil at reasonable prices. Unreasonable increases in the cost of so vital a commodity as oil poses a threat to the entire structure of international economic relations. Not only U.S. jobs, prices and incomes are at stake, but the general pattern of international cooperation is at stake as well. It is our hope that we can work out cooperative efforts with our friends abroad so that we can all meet our energy needs without disrupting our economies and without disrupting our economic relationships.

Last week I sent to the Congress a comprehensive special message setting forth our energy situation, our energy prospects, our energy needs, and the legislative measures I consider necessary for meeting those needs. I shall not repeat that analysis nor the full list of those recommendations today.

I do want to urge, however, that the critical energy measures which I have proposed be made the first order of legislative business in this session of the Congress, and that work go forward expeditiously on the others. Those measures which I request be given the highest priority are the following:

—A special energy act which would permit additional restrictions on energy consumption and would postpone temporarily certain Clean Air Act requirements for power plants and automotive emissions;

—A windfall profits tax which would prevent private profiteering at the expense of public sacrifice;

—Unemployment insurance for people in areas impacted by serious economic dislocation; and

—Mandatory reporting by major energy companies on their inventories, their production and their reserves.

I am also asking that the Congress quickly establish the Federal Energy Administration and the Energy Research and Development Administration to provide the appropriate organizational structure for administering the national energy policy, as we work toward the establishment of a Department of Energy and Natural Resources.

The 13 other energy measures I requested last week deal with longer-term needs, extending beyond the present emergency. But these also require expeditious action if we are to achieve the goal of Project Independence—a capacity for energy self-sufficiency by 1980. The success of Project Independence is essential to the continued strength of our position in world trade, and also to our independence of action as a great power.

I hope that our joint efforts now to resolve the energy crisis and to move toward a capacity for self-sufficiency in energy will enable the President who addresses the 98th Congress a decade from now to look back and say we made it possible for America to enjoy continued peace and prosperity in the 1980's.

THE NATION'S ECONOMY

The world economy

During the past three years the United States has reached an unprecedented level of material prosperity. Industrial output has set new records. Trade has flourished. Consumption has risen to the highest levels in history. Even our inflation rate—the most serious economic problem we now face—has been one of the lowest in the industrialized free world.

The major policy decisions we took in 1971 contributed significantly to this prosperity—both here and in other countries. It was clear, for example, as we moved into the 1970s that the international monetary system adopted after World War II needed major adjustments. Unsustainable imbalances had developed, threatening a resurgence of protectionism and a disruption of world trade. This is why I decided to take some very strong measures in August of 1971, measures that have resulted in a major realignment of world currency values, progress toward new and more flexible international monetary management, and negotiations toward a more open and equitable trading system.

These adjustments, while essential, were not easy. But now we have finally entered into a more flexible and realistic international financial system. Much remains to be done to complete the transition, but its beneficial results are already clear.

The realignment of currency values helped produce an increase of 80 percent—or more than $50 billion—in the rate of U.S. exports during the past two years, along with a major improvement in our trade balance. This improvement was good not only for us, but also for the rest of the world. In addition, the shocks to the world economy arising from reduced food supplies in 1972 and 1973, and in recent months from the oil embargo and the arbitrary increases in the price of oil, all were managed without panic under the new arrangements. Indeed, world trade has continued to expand, despite these temporary difficulties.

INTERNATIONAL TRADE BARRIERS

A vigorous international trade is vital to the American economy. Jobs for American workers depend on our ability to develop foreign markets. Moreover, American consumers deserve access to foreign-made products that might be less expensive, or more interesting, or unavailable in the United States. But if trade is to be advantageous over the long run, it must be conducted on a basis which is fair to all participants.

There are still many unnecessary barriers to trade which need to be lowered or removed. While improvements have been made in this situation during the last 10 years, we need now to build on this progress and to negotiate for more open access both to markets and supplies. This is why I call upon the Congress with special urgency to complete action on my proposed Trade Reform Act, in order to provide the authority we will need to negotiate effectively for reductions in barriers to trade, to improve the trading system, and to manage trade problems at home more effectively.

As the Senate considers this legislation, I would draw its attention particularly to provisions added in the House which would seriously impede our efforts to achieve more harmonious international relationships. These provisions would effectively prevent both the extension of nondiscriminatory tariff treatment and of credits to certain Communist countries unless they followed a policy which allowed unrestricted emigration. I am convinced that such a prohibition would only make more difficult the kind of cooperative effort between the United States and other governments which is necessary if we are to work together for peace in the Middle East and throughout the world. I am confident that by working with the Congress we can find a solution to this problem that will avoid a major setback in our peacemaking efforts.

At the same time, we must move forward with current negotiations to reform the international payments system under the auspices of the International Monetary Fund. These negotiations are designed to increase the opportunities for all nations to trade and invest profitably. The U.S. has already presented proposals for deterring the growth of significant imbalances in international monetary affairs while preserving for each nation a wide freedom in choosing how necessary adjustments can best be accomplished. In addition, the system will also have to accommodate the increased payments flow and prospective reserve accumulations occasioned by higher oil prices. If, however, other nations share with us the will to preserve a healthy and growing world economy, I am confident that a mutually acceptable solution to this problem will be achieved.

In practice, this means that our markets must increasingly be open to imports from developing countries—a condition that would be significantly facilitated by enactment of the Trade Reform Act. It also means that the Congress must continue to authorize and appropriate our fair share of both bilateral and multilateral economic assistance, including a substantial contribution to the International Development Association which helps the poorest countries. In 1973 we successfully negotiated a reduction of the United States share from 40 percent to one-third of IDA funds. We cannot let the action of the House in voting against IDA stand as our final answer. We will work hard with the Congress to ensure that this country continues to play a leadership role, consistent with our own economic situation, so that long-term economic development can continue to be planned in an orderly manner.

Along with trade and monetary problems, new international agreements on investment policies and new mechanisms for dispute settlement are high on our negotiating agenda for the coming year. We must continue to work for economic arrangements which permit the beneficial flow of international investment so that all may derive the maximum benefit from their own resources. To that end, I am glad to be able to note that this week the United States completed the phase-out of controls on flows of capital from this country.

The recent oil embargo and especially arbitrary increases in the price of oil have created major economic problems for many countries, including the United States. If continued, these policies would require enormous transfers of goods and assets from oil importing nations, transfers which would represent a serious burden for even the wealthiest countries and which would be virtually unbearable for the less developed countries.

Our objectives are clear—we must get world oil prices down from levels that are arbitrary and exploitative. We must also cooperate to ensure that the international and domestic economic policies of the advanced countries do not compound the economic disturbances created by the current emergency but rather that we do all that can be done to contain and limit those disturbances.

THE DOMESTIC ECONOMY

Despite our general prosperity, inflation remains a most serious economic problem, not only in the United States but also for the rest of the world. We see clear evidence of this problem at every hand. World oil prices have gone up recently at dramatic rates. World food, metals and other commodities prices are also up sharply. Because domestic prices cannot be isolated from international prices, worldwide inflationary pressures have helped to drive up prices here at home.

Inflation has been a continuous problem for nearly a decade, and it got worse in 1973. The result has been that people have come to expect continuing price increases—and to behave accordingly in their own economic life. Their behavior, in turn, adds further to inflationary pressures, contributing to a vicious inflationary spiral which is difficult to break.

Some people have said that the best way to wring these inflationary expectations out of our economy is by taking the economy into a recession. I disagree. It is true that a lower level of economic activity would reduce demand and thus lower the pressure for higher prices. However, the cost of such a policy in terms of increased unemployment would simply be unacceptable.

By the same token, I also reject the notion that we should totally ignore inflation and concentrate solely on stimulating higher levels of employment. This policy would also involve too high a cost since it would unleash a further acceleration of the inflation rate.

In developing my economic policy for 1974, I have chosen what I believe is a sound middle road: to cushion the economic slowdown we expect during 1974 without providing additional stimulus for inflation. We expect this policy to reduce the rate of inflation by the end of the year. Should there appear to be a serious threat of a severe slowdown, then we will act promptly and vigorously to support the economy.

As we cope with the challenge of inflation, we must recognize the clear lesson of recent years: While direct controls over prices and wages can help fight inflation in the short-run, they have a very limited useful life. Inevitably, their eventual effect is to create or aggravate significant distortions in production and distribution. Accordingly, I will continue to watch the wage-price situation closely and to pursue a policy of gradual, selective decontrol except in particularly troublesome areas.

At the same time, those Federal programs that will help reduce inflation by increasing the supply of scarce resources will be strengthened. One key area where we can look forward to expanded supplies is that of food. With a new national farm policy that encourages rather than discourages output, we achieved a record harvest in 1973 and another record harvest now appears likely in 1974. Increased agricultural output is the only sure way to bring food prices down—and increased output is what our new policies are producing.

Rapid inflation is not inevitable and it must not be tolerated. To regain control of inflation, however, will require patience and persistence over the long course. My Administration is dedicated to achieving this objective and we are confident that with the help of the American people we will succeed.

Another most pressing economic problem—and a major contributor to inflation—is the energy crisis. As the cost of using our own fuel resources came to exceed the cost of imports in the 1960's, it became increasingly attractive for us to import oil and petroleum products. Unfortunately, our growing dependence on imports made our entire economy more vulnerable to outside forces. That vulnerability has been tested in recent months—as has the even greater vulnerability of the developed countries of Western Europe and Japan and the less developed countries which have no oil. Every American has learned the consequences of this vulnerability: short fuel supplies and higher fuel prices.

To a large extent, our flexible, adaptable economy will solve the longer run energy problem through the normal workings of the marketplace. As energy prices reach somewhat higher levels than the bargain rates of the past, conservation will be encouraged while domestic energy production will be expanded. One example of normal market forces at work has been the recent shift to smaller cars with better gas mileage. Over the next few years we can also expect to see an expansion of coal production and new output of oil and natural gas.

Nevertheless, we will still have to import some of the oil we will need in the immediate future. It is essential, therefore, that we seek a more reasonable price for oil in the world market.

It is also imperative that we review our current and prospective supplies of other basic commodities. I have therefore directed that a comprehensive report and policy analysis be made concerning this crucial matter so that governmental actions can properly anticipate and help avoid other damaging shortages.

Even with the inflation and energy problems, 1973 was a year of many important economic gains for American people.

First, employment in 1973 increased by 2.7 million persons; this 3.3 percent rise in employment was the largest since 1955. New job opportunities greatly benefitted all categories of workers, including women, non-whites, teenagers, and Vietnam veterans. Unemployment reached low levels, especially for skilled workers.

Second, the purchasing power of the American people reached new highs last year. Even after allowing for price increases, people are now consuming more goods and services than they did a year ago, or in any other year in the entire history of the United States.

Not everyone's purchasing power went up, of course. Inflation took its toll on many families whose income did not rise as fast as that of the average American. It is for this reason that we continue to regard inflation as a very serious enemy. At the same time, however, we should not ignore the substantial economic gains that have been made.

PERSPECTIVE ON 1974

We have known for some time that a slowdown in economic growth is inevitable in 1974. It has been clear that our economy has simply been growing at an unsustainable rate. Shortages of skilled workers, full utilization of plant and equipment in key industries, and short supplies of a number of essential raw materials have all provided clear indications that our rate of growth would have to taper off. Unfortunately, the very mild slowdown which we anticipated for 1974 now threatens to be somewhat more pronounced because of the oil embargo, the resulting shortages, and the oil price increase.

We expect, therefore, that during the early part of this year output will rise little if at all, unemployment will rise somewhat and inflation will be high. Our objective, however, is to turn this situation around so that later in the year output will be rising more rapidly, while unemployment will stop rising and will then decline, and the rate of inflation will slow.

ROLE OF THE FEDERAL BUDGET

The budget that I will recommend to the Congress next week will help us achieve our goals for this period. It will support the economy, resisting a major slowdown, but it will not provide a degree of stimulation that could accelerate inflation. If future events suggest that a change in fiscal policy is desirable, I will promptly recommend the appropriate changes. In particular, I will not hesitate to use the stimulus of fiscal policy if it becomes necessary to preserve jobs in the face of an unexpected slackening in economic activity.

For fiscal year 1975, my budget recommends total spending of $304.4 billion, an increase of $29.7 billion over the current year. The increase is being held to the minimum level necessary—nearly 90 percent of the increase is unavoidable under existing law. The budgeted increase in relatively controllable outlays is only 4.2 percent.

Federal receipts should reach $295 billion during fiscal year 1975, an increase of $25 billion. The projected budget deficit is $9.4 billion. Under conditions of full employment, however, Federal receipts would be substantially higher and there would instead be a moderate budget surplus.

The Federal budget remains an essential tool in the fight against inflation. With the energy supply limitations we are experiencing and the price pressures they create, budget discipline is still required.

I have noted with satisfaction that most Members of the Congress have also recognized the need for budgetary discipline, and that work is going forward to establish a more systematic budgeting procedure. The Congress devoted considerable effort in 1973 to developing a mechanism for coordinating its individual spending decisions with the budget as a whole. I continue to support this effort, although I have been troubled by some of the extraneous amendments which have been added to some of the measures for achieving this goal. I urge the Congress to enact workable budget reform in this legislative session.

TAX REFORM

Our entire economy is affected by the incentives for job-creating investments that are embodied in our tax laws. Major steps have been taken to reform our tax laws in the past five years, but much remains to be done.

Since 1969—primarily through the Tax Reform Act of 1969 and the Revenue Act of 1971—major changes have been introduced to make the personal income tax system conform more nearly to contemporary standards of fairness. Both the higher level of personal exemptions and the low income allowance have worked to free more than eight million low income families from their entire Federal income tax burden. The difference in the tax liability for single and married taxpayers has also been reduced. As a result of these and other tax changes, individual income taxes will be about $25 billion less in 1974 than they would have been under the old tax laws. The saving in the tax burden for a typical family will be more than $270, or the equivalent of two weekly take-home paychecks for the average worker.

I look forward to working with the Congress during the next few months not only to simplify our tax laws themselves, but also to simplify the tax forms that individuals fill out and to distribute the income tax burden more equitably.

Last April, the Secretary of the Treasury presented to the Congress a set of Administration proposals for major and fundamental tax reform. Included in these proposals were the establishment of a minimum taxable income so that no one could avoid paying a fair share of the tax burden, the establishment of new rules for taxing income from foreign sources, and also a limitation on artificial accounting losses to eliminate so-called "tax shelters." I urge the Congress to consider the Administration's tax reform proposals early in the year.

I have also been concerned about the excessive burdens imposed on our low income elderly families by State and local property taxes. To deal with this problem, I have proposed a refundable tax credit for those low income elderly persons whose property taxes exceed five percent of their income. The proposal would also provide equivalent relief for the low income elderly individual who pays rent. I again urge the Congress to enact this very important proposal.

FINANCIAL REFORM

The health of our economy depends upon an efficient and flexible private financial system—commercial banks, thrift institutions, credit unions, and a host of other institutions and individuals that comprise the financial sector of our economy. The average family depends on these institutions, both to provide a fair and reliable return on its savings and to provide credit on reasonable terms when needed to buy homes, automobiles and other purchases. There have been occasions recently when this financial system has not worked as well as it should—occasions, for example, when mortgage lending has been very difficult to obtain. In large part these problems have been the result of legislation, regulations and institutional arrangements which were suited to an earlier time but which are now obsolete.

To remedy this problem I submitted draft legislation last year which reflected the results of careful study by a Presidential commission and Government experts. I again urge the Congress to act promptly on this matter so that American families, businessmen, and local governments can be served by a financial system suited to the economic conditions of the 1970s.

The Administration is also studying the competitive position of foreign banks within this country and of American banks abroad to make sure that discriminatory regulations do not prevent American banks and other financial institutions from doing business they are entitled to do. I will be following the results of this study with considerable interest and will submit to the Congress any proposals resulting from the study which seem desirable.

A HEALTHY AGRICULTURAL ECONOMY

Abundance is the primary goal of our farm policy—abundance that can guarantee lower food prices for every American and higher incomes for all American farmers.

Five years ago, agriculture was a troubled industry:

—Government controls were reducing incentives for production and costing the taxpayers over $3 billion a year in farm subsidies designed to hold down production.

—Farm income was low ($14.7 billion) and the long hours worked by farmers earned them an average income that was 26 percent below the nonfarm average. Farm families had been leaving the farm at an average rate of over 100,000 a year.

Today, that picture has been dramatically altered:

—Farm markets have expanded dramatically. Farm exports have set new records in each of the last four years, becoming the largest single factor in the Nation's balance of payments and strengthening the dollar in international money markets.

—Farm production has reached new record levels in each of the last three years, and a new record harvest should be forthcoming in 1974.

—The billions of tax dollars which used to go for farm price support payments for basic commodities every year will be reduced to nearly zero.

—Farm income has reached record levels. By 1973, the gap between farm income and nonfarm income had closed from 26 to 7 percent. Net farm income was up from $14.7 billion to $26.1 billion.

We are making this progress not through more Government regulation but less. One of the proudest achievements of this Administration was the enactment of the Agriculture and Consumer Protection Act of 1973, which places production decisions where they belong—with farmers, not with the Government.

A primary challenge for Federal agricultural policies now is to encourage greater production of agricultural goods—which will mean more income for the farmer, greater international trading benefits for the Nation, and reasonable food prices for the consumer. I am therefore asking the Congress to revamp the programs which still require restrictive Federal control over the production of some remaining farm commodities—especially rice, peanuts, tobacco, sugar, and extra long staple cotton.

To further enhance agricultural activity, the Administration will also:

—Promote longer-run soil and water conservation practices.

—Consolidate the locations of local offices of Federal agricultural agencies—specifically, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation — creating one-stop agricultural service centers on the local level to make things easier for the farmer and less costly for the Government.

—Place high priority on directing agricultural research into those areas which will assure plentiful agricultural goods at reasonable prices, maintain our competitive advantage in world agricultural production, and protect the land.

At my direction, Secretary Kissinger recently proposed to the United Nations that it convene a World Food Conference, a concern made urgent by acute food shortages in many parts of the world. This conference, to be held in November of 1974, should prove of particular importance to the American farmer, whose extraordinary productivity has made this Nation the world's leading food exporter and whose own prosperity will continue to increase as we help to meet the needs of a hungry world.

Our farm policy must of course address not only the needs of the farmer but also those of the consumer. During 1973, we experienced a period of rapidly increasing food prices. Those prices leveled off in late 1973, but now we appear to be heading into a period of increasing food prices for at least the next few months. It is our intention to hold these increases to the smallest possible rate through executive actions such as lifting the quota on wheat imports, an action that I took last week. But the most significant force in the battle against higher food prices is higher production. This summer and fall, the large 1974 harvest should be coming on the market, serving as the best possible damper on higher prices.

ECONOMIC SECURITY

One of the most significant legislative achievements of 1973 was the enactment of the Comprehensive Employment and Training Act (CETA). A form of manpower revenue sharing, this bill transfers from the Federal Government to States and localities significant control over the design and operation of programs to improve the employability of the unemployed and the underemployed. CETA is a landmark of the New Federalism. It is also a landmark on the way to better manpower programs.

Under this legislation, State and local governments will be able to use Federal funds to meet locally-determined needs and to devote special attention to employment problems with particular local impact—as, for example, those that might arise in certain areas as a result of the present energy shortage. In my new budget, I am including an additional $250 million for CETA in the current fiscal year, and $350 million in the year beginning July 1, for distribution to areas with high unemployment. Overall, I am requesting more than $2 billion to fund our training and employment programs in the coming year.

Other proposals related to economic security that I made to the Congress last year, and on which I again urge action, include:

—The establishment of minimum vesting, funding and fiduciary standards for private pension programs, so that workers could have greater assurance of receiving the pensions they expect and deserve when they retire. I urge that we work together to resolve speedily the remaining disagreements and to enact responsible legislation which increases employee protection without burdening employers to such an extent that existing plans are jeopardized or new ones discouraged.

—Extension to State and local governments of the law forbidding employment discrimination against older workers.

—Improvement of the Federal-State unemployment insurance program in several ways: by increasing the State limits that keep some unemployed workers from receiving a reasonable proportion of their normal wage, by extending coverage to farmworkers, and by prohibiting payment of benefits to strikers while assuring benefits to non-participants unemployed as a result of a strike.

These general improvements in unemployment insurance should be augmented by a special extension of present benefits for those specific areas of the country which experience particularly high levels of unemployment over the next 12 months. In addition, basic coverage should be provided for those in these areas who do not at present have any unemployment insurance. I will submit special legislation to achieve this purpose.

I also continue to support legislation to raise the minimum wage. Higher prices have eroded the purchasing power of workers receiving the current minimum wage. But we must be careful to guard against enacting a bill which includes sharp increases or coverage extensions that would keep low income workers from being employed or a bill with a minimum wage for youths so high that we unwittingly deny them jobs.

Finally, we must attack one of the most troublesome problems faced by both rural and urban areas; the existence of persistent and often severe unemployment or low incomes in areas whose character has been altered by changes in our economy and technology. Within the next several weeks, I will propose an Economic Adjustment Assistance program to help States and communities in overcoming problems caused by structural changes in their economies. This program would replace the present Economic Development Administration and the Regional Action Planning Commissions after a period of orderly transition.

INCOME SECURITY

One measure of a nation's character is the respect it accords to its elderly. Another is the way it helps those in need. We can be proud of the efforts we have made, but it is time to reassess where we are and what direction we should take in the future.

We can take pride in the fact that:

- —Cash benefits under social security have risen from $26 billion in fiscal year 1969 to $63 billion in fiscal year 1975, primarily as the result of five benefit increases totaling almost 70 percent and reaching 29 million persons.
- —A program of Supplemental Security Income has been initiated and will soon be providing benefits to more than 5 million of the low-income aged, blind, and disabled, on a uniform, nationwide basis in a way that respects their dignity.

But our income security programs need more than improved benefits.

Over the past thirty-five years, a multitude of federally funded programs has grown up whose primary purpose is income security for those in need. Each of these efforts reflects a humane attempt to respond to a worthy goal. However, as cash, in-kind and service programs have rapidly expanded in the past few years, two things have become painfully clear:

- —First, the result is an extremely costly set of generally unrelated, uncoordinated programs with many unintended and undesirable consequences; and
- —Second, these efforts neither efficiently nor equitably accomplish the overall objective of assisting lower income families and individuals to achieve greater economic independence.

The fact that a third of the new Federal budget—$100 billion—will be spent on income security programs in fiscal year 1975, compared to the $38 billion, or one-fifth of the budget, which they received just five years ago, highlights the need to rationalize and integrate our income assistance programs.

As long ago as 1969, I called for a complete overhaul of our discredited welfare programs. I said then that "whether measured by the anguish of the poor themselves, or by the drastically mounting burden on the taxpayer, the present welfare system has to be judged a colossal failure."

At that time, I proposed the Family Assistance Plan. Neither the Congress nor the country accepted that proposal. I do not intend to resubmit a new version of the Family Assistance Plan.

Since then, we have made a concerted effort to improve the administration of the existing programs. In 1973, for the first time in recent years, because of vigorous new Federal and State initiatives to enforce the rules more strictly, growth in the Aid to Families With Dependent Children case load was halted. But, in their overall impact, the welfare programs remain a failure and an outrage.

As an example of the failure, recent studies have shown that fully 40 percent of the AFDC benefits being paid are either going to ineligible persons or are incorrect in amount. This peformance is not just the result of fraud, although there is some of that. It is primarily and overwhelmingly the result of a system which is so complex and so riddled with obscure, obsolete and incomprehensible regulations that it defies fair and efficient administration.

I plan to make a major new effort to replace the current maze of welfare programs with a system that works. This task will be difficult, but we have no other alternative, save further waste—both of lives and dollars. I welcome the evidence that thoughtful Members of the Congress, after careful study, have reached the same conclusion.

While this effort goes forward, I will make every possible effort to improve the operation of the existing programs through administrative reforms, recognizing that a replacement system cannot be developed, enacted, and put into operation overnight. But, unless we move urgently to the development of a new system, efforts to improve the administration of the present programs will eventually be undermined by their basic structural flaws.

In the development of my proposal, I will be guided by five principles:

(1) All Americans who are able to work should find it more rewarding to work than to go on welfare. Americans would strongly prefer to have good jobs rather than a Federal handout. While we should provide cash assistance to those in need, we must always encourage complete self-support for those who are capable of it.

(2) Cash assistance is what low-income people need most from the Federal Government. The people themselves, not the Federal Government, know their own needs best.

(3) We need to focus Federal help on those who need it most. People in need should receive equal treatment from the Federal Government regardless of their place of residence.

(4) The new system should be as simple as possible to administer with rules that are clear and understandable. It should be based on objective criteria rather than the personal judgment of administering officials. And it should be sufficient.

(5) This new approach should not require an increased tax burden for any of us. Too much of the income of all of us now goes to support Government. We help no one—certainly not those in poverty—by weakening our free enterprise system by even higher taxation.

Starting from these basic principles, I believe we can develop a new system which would insure that those who can help themselves do help themselves, and which would allow those who cannot help themselves to live with dignity and self-respect.

IMPROVING OUR PEOPLE'S HEALTH

In February of 1971, I outlined to the Congress a new national health strategy to assure that no American would be denied access to high quality medical care because of an inability to pay. Much has already been accomplished toward meeting that objective.

A little over two years ago, I took special satisfaction in signing into law the National Cancer Act, which enabled us to launch an accelerated effort to conquer this dread disease. Considerable progress has been made in our attack on cancer and there is much hope that additional knowledge can be developed in the future. In the budget that I will submit to the Congress next Monday I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer. In addition, biomedical research in other areas, including heart disease, has been intensified—and the total 1975 budget for biomedical research will exceed $2 billion, more than double the total in fiscal year 1969.

We are also making headway toward increasing the Nation's supply of health manpower. During the last ten years, first year medical school enrollments have grown by more than 55 percent. The number of other health professionals also can be expected to grow dramatically. Just last month, I approved legislation along the lines I requested in 1971 to permit the Federal Government to support the demonstration of health maintenance organizations across the Nation. During both 1974 and 1975, $125 million will be provided through health maintenance organizations to demonstrate the benefits of prepaid health care to our citizens.

Federal programs to finance health services for the aged, for the disabled, and for low income persons have been greatly expanded. Since 1969, Medicare and Medicaid coverage has been extended to an additional 21 million aged, disabled, and low-income Americans. The range of services covered under Medicare and Medicaid has also increased.

Consumer safety programs—to assure safe foods, drugs, cosmetics, and other consumer products—have received almost a fourfold increase in Federal funding since 1969.

Despite all these advances, however, too many Americans still fail to receive needed health care because of its costs. And too often the costs of health care threaten our citizens with bankruptcy while the services that can prevent or cure disease are not fully utilized.

As one of my major new initiatives for 1974, I shall soon submit to the Congress a comprehensive health insurance proposal which would:

—Make available health insurance protection to millions of Americans who currently cannot obtain or afford the private health insurance coverage they need.

—Provide all Americans with vastly improved protection against catastrophic illness.

—Place a new emphasis on preventive health care.

—Provide State and Federal subsidies for low-income families, and for those whose special health risks would otherwise make them uninsurable or insurable only at exorbitant expense.

My comprehensive health insurance proposal will build upon the strengths of the existing health system, rather than destroying it. It will maintain the high quality of medical care without requiring higher taxes. It will be based on partnership, not on paternalism. And most importantly, it will require doctors to work for their patients, not for the Federal Government.

This plan would require that employers offer a comprehensive health insurance plan to all their full-time employees, with the employer paying a share of its costs. The role of private health insurance in financing health care would be expanded and the consumer's opportunity to choose between competing health insurance plans would be enhanced.

In addition to this plan, there are a number of other health-related measures that I urge the Congress to enact this year. These include:

—A Health Resources Planning Act, to help States and localities improve their planning and use of health resources;

—New and expanded national health service scholarship legislation, to increase the number of Federal scholarships available to students in health professions, and also to help ensure that the Federal Government can meet its needs for physicians; and,

—A general expansion of the guaranteed student loan program, to provide adequate financial assistance to all professional and graduate students, including health professionals.

IMPROVING EDUCATION

The Federal Government should provide strong leadership in assuring equal access to a high quality education for all Americans and in bringing about renewal and reform of all of our education programs.

Since 1969, we have raised Federal spending for education from $4.3 billion to $7.6 billion—an increase of 76 percent.

In special messages to the Congress on education in the past, I set forth five major proposals to improve American education. They were:

—A new program of student assistance to help to insure—for the first time in the Nation's history—that no qualified person is barred from attending college by lack of money.

—A National Institute of Education, to be the focal point for educational research and development aimed at increasing our knowledge of how to help students learn.

—A National Foundation for Higher Education, to encourage innovation in learning beyond high school.

—An Emergency School Aid program to assist desegregating school districts.

—A thorough reform of the programs for Federal support of elementary and secondary education, consolidating the myriad separate categorical grant programs in order to transfer educational decisions back to the State and local levels where they belong.

The first four of these basic proposals have been enacted, in whole or in part, and a great deal has already been accomplished through them. As for the fifth, reform of Federal funding for elementary and secondary education, I believe that 1974 should be the year of its enactment.

COLLEGE STUDENT ASSISTANCE

The Basic Educational Opportunity Grant Program is the primary vehicle in my effort to ensure that no qualified student be denied a college education because of lack of funds. In my new budget, I am asking Congressional approval to strengthen this program by providing grants of up to $1,400 a year for needy students. Altogether, when combined with other student funding efforts, the Federal Government in the coming fiscal year would provide an estimated $2.2 billion of financial aid to post-secondary students, an increase of over $900 million from the level of five years ago.

Since the present student assistance programs are targeted to help the neediest, and because the costs of higher education have risen dramatically, many middle income students are now finding it increasingly difficult to make ends meet. I therefore also recommend that the limit on total borrowing be increased so that professional and other graduate students will be able to find adequate student loans.

EDUCATIONAL RESEARCH AND DEVELOPMENT

When I originally proposed the creation of a National Institute of Education, I suggested that providing equal opportunity for quality education means, in part, increasing our knowledge about the ways that students learn and then changing the way we teach them. For too long we have followed the belief that bigger educational programs are necessarily better educational programs and that money alone can solve our educational problems. But now we are beginning to see that the quality of our thinking about education can be as important as the size of our educational budget.

The National Institute of Education can help us to marshal our educational resources in ways which will produce the best results. It has already begun to provide the kind of leadership in educational research and development which I have long believed was needed.

EDUCATIONAL INNOVATION BEYOND HIGH SCHOOL

While the National Foundation for Higher Education which I proposed in 1970 has not been established, the Fund for the Improvement of Post-Secondary Education was set up by the Congress. The fund is now providing support for the development and demonstration of more effective approaches to college level education. Our initial assessment leads me to believe that the fund will, in the years to come, become the primary focal point for innovation in higher education.

ASSISTING SCHOOL DESEGREGATION

Under the Emergency School Aid Act of 1972, an estimated $467 million in Federal funds will have been provided to local school districts by the end of 1975 to assist in the process of elementary and secondary school desegregation, to encourage voluntary programs to overcome minority group isolation, and to assist in meeting the educational needs of children who, because of racial isolation, have not had an equal educational opportunity.

By the 1975–1976 school year, the bulk of the problems incident to "de jure" segregation should have passed. However, to provide assistance to those other school districts which may still be required to take special desegregation measures as the result of court rulings, I have budgeted an additional $75 million for fiscal year 1975. In addition, the Federal Government will continue to provide civil rights education advisory activities to local districts to assist them in meeting any remaining problems.

BUSING

I have often expressed my opposition to the use of forced busing for purposes of achieving racial balance. I have also proposed legislation which would dictate reasonable limits on the use of forced busing, and I have opposed the consolidation of school districts in an effort to achieve racial balance in the larger district. Such consolidation plans have only led to more busing and the eventual disappearance of the neighborhood school. The end result of an excessive reliance on forced busing and the imposition of arbitrary ratios has frequently been an increasing concentration of the poor and minorities in our central cities and the serious weakening of the very school systems which must serve them. In some cases, the education of minority children has actually suffered, not benefited from such plans.

I shall continue to support the passage of legislation which makes busing only a last resort—tightly circumscribed even then. I will also continue to work with the Congress to revise my proposals in light of unfolding events in this area.

FUNDING ELEMENTARY AND SECONDARY EDUCATION

I am encouraged by the interest the Congress has continued to show in legislation which follows the concepts put forward in my proposed Better Schools Act. I believe that meaningful compromise is now possible, and that we can at last reform and consolidate Federal grants for elementary and secondary education, vocational programs and adult education.

I hope that the Congress will include four basic elements in this reform:

—Consolidation of existing categorical grant programs.

—Granting greater decision-making authority to State and local educational agencies.

—Greater equity in the distribution of Federal funds to the States for the education of disadvantaged children.

—Reform of the impact aid program to concentrate support in those districts where the Federal presence has substantially decreased the tax base, rather than those in which it has increased the tax base.

Upon enactment of legislative authorities that accomplish these goals for elementary and secondary education, vocational programs and adult education, I will propose special supplemental appropriations to provide funding for the 1974–1975 school year. This funding would place most elementary and secondary education grant programs on a "forward funded" basis, letting State and local agencies know how much they will receive while plans for the next school year are being made. "Forward funding" is an important concept in the financing of education, and its merits the full support of the Federal Government.

As I noted in my message sent to the Congress on education policy last week, I also recommend additional support for several other educational programs—some old and some new. These include:

—An additional increase in aid to black colleges and other developing institutions during fiscal year 1975, thus quadrupling Federal funds for these important educational institutions since I took office.

—Continuation and extension of the Head Start program, our single largest child development program. In 1975, Head Start will reach 282,000 disadvantaged youths year-round, as well as some 78,000 pre-schoolers during the summer—and it will extend its activities to include handicapped youth.

—The consolidation of eight separate authorities for education of the handicapped into four broader and more flexible programs.

NON-PUBLIC SCHOOLS

I remain firmly committed to the principle of educational diversity. The continued health of the Nation's non-public schools is essential to this concept. Although governmental efforts aimed at supporting these schools have encountered difficulty in the courts, I believe we must continue our efforts to find ways to keep these schools open.

For that reason, I continue to support legislation which permits tax credits for parents who pay to send their children to non-public schools.

HELPING OUR VETERANS

Twenty-nine million Americans living today have given military service to their country. As a group, veterans are among our most productive citizens. Studies show that they generally have higher incomes, more education, and better health than non-veterans of the same age.

We can be proud of the veterans' contributions, but we must also be concerned for those veterans and veterans' families who remain in need.

The assistance provided to veterans and their families in recent years has been substantial:

—Total compensation payments for veterans disabled or killed in military service have been increased from $2.7 billion in 1969 to $3.9 billion in the coming fiscal year.

—Medical care in VA hospitals and clinics has been greatly improved and expanded, with ten new or replacement hospitals now in service and five more in preparation.

—Educational benefits per trainee have more than doubled since 1969.

—Last year two key measures—one expanding health care and the other improving the national cemetery system for veterans—were passed and signed into law.

—Of vital importance, the unemployment rate for Vietnam era veterans has been sliced from 11 percent in early 1971 to 4 percent by late 1973. As a result, Vietnam era veterans have a higher employment rate than others of their same age, a significant achievement that is well deserved.

Earlier this week, in a special message to the Congress, I proposed additional legislation to help veterans in two crucial areas in 1974—pensions and education.

My pension proposals would benefit some 1 million veterans and 1.3 million veterans' survivors who are in economic need because of disability, age, or the loss of a breadwinner. VA pensions already go a long way toward meeting such needs, but the pension structure itself is fraught with inequities and anomalies that are technical in nature but tragic in consequence. My proposals would correct these deficiencies.

Veterans now in training require additional help if their GI bill allowances are to keep pace with rising costs. I shall therefore propose that GI bill benefits be raised by an average of 8 percent.

I have also set a 1974 goal for the Government of placing an additional 1.2 million veterans in jobs or job training. There remain sizable numbers of educationally disadvantaged veterans and service-disabled veterans who have never taken advantage of Federal training opportunities and are now unemployed. I have directed that, as a matter of high priority, the Federal Government's efforts to reach these veterans be intensified and that they be counselled and encouraged to use the available services.

EQUAL OPPORTUNITY FOR ALL AMERICANS

This Administration has made a determined effort to secure equal opportunity for those who have been previously denied such opportunity. I am personally very proud of the success those efforts have already achieved, and I am committed to building on that success in the future.

PROGRESS FOR MINORITY GROUPS

Members of racial minority groups have made considerable strides toward equal opportunity in recent years. The following are among the more notable benchmarks of this progress:

—Setting an example as an Equal Opportunity Employer in the past five years, the Federal Government has added more than 35,000 minority group members to its civilian employee roles.

—In the Armed Forces, more than 850 minority-group cadets are now enrolled in the military academies; and whereas prior to 1971 only four minority group members had ever achieved general or flag rank in the armed forces, now sixteen serve on active duty as generals and admirals.

—Federal aid to minority business enterprises—one of the cornerstones of the Administration's effort to open new economic horizons for minority group members—has nearly tripled since 1970.

—Civil rights enforcement activities have continued at a vigorous level, with their funding substantially increased.

—Since 1969, combined Federal expenditures on civil rights activities and minority economic development programs have grown from less than $1 billion to $3.5 billion.

—Five years ago 68 percent of all black children in the South were still attending all-black schools. Now that figure has been reduced to 8 percent, and the dual school system has been virtually eliminated.

—The Government has also sought to expand job opportunities through legal actions of its own against those who may be engaged in discriminatory practices. During 1972 and 1973 the Department of Justice initiated 34 pattern and practice lawsuits against approximately 207 defendants. These suits directly covered more than 248,803 employees. During the same period of time, approximately 37 cases were fully resolved by entry of decrees and an additional six were partially resolved by the entry of decrees. The decrees entered in those two years alone covered more than 217,000 employees and provide specific goals for the hiring of more than 21,800 minorities and women in traditionally white and male jobs. In addition, those decrees provide new transfer of seniority rights for approximately 12,700 minorities and women and provide for back pay awards which are estimated to amount to well over $6,000,000.

The real story lies not in these figures themselves, but in the facts and the attitudes they represent. They do not represent a flamboyant promise, but rather a quiet determination to work not only toward the symbols but also toward the substance of equal opportunity. They represent an effort to build foundations that will last—in particular, the foundation of economic independence, and of a basic faith in the equal dignity of mankind.

JUSTICE FOR AMERICAN INDIANS

For too many years the American Indians—the first Americans—have been the last Americans to receive the rights and opportunities to which they are entitled. This Administration has taken the initiative to change this picture.

For its part, the Federal Government must put behind it the role of autocratic manager of Indian reservations. We shall continue to encourage Indians and their tribal governments to play an increasing role in determining their own future. We are also particularly determined to defend the natural resources rights of Indian people.

The last five years have been historic steps in Federal Indian policy. In 1971, we worked closely with Indian leaders to achieve a settlement of Alaska Native claims, a settlement consistent with America's sense of fairness and also indispensable to the growth and development of all of Alaska.

We also returned lands taken away long ago from the Taos Pueblo at Blue Lake. We returned lands wrongfully taken from the Yakima people. Because the Menominee people have seen their tribal states involuntarily terminated but had nevertheless kept their land and their tribal structure together, the Congress enacted and I signed the bill which restored the Menominee tribe to trust status. In the courts, we are forcefully asserting Indian natural resources rights, as we have done in protecting Indian rights in Pyramid Lake.

One measure of our attempt to foster a better, more humane policy is the level of Federal funding benefiting American Indians—over twice what it was five years ago or about $1.6 billion.

I am especially encouraged by the fact that the rate of infant deaths, pneumonia, influenza, and tuberculosis is significantly lower among Indians than ever before. Although we have not yet achieved our full goals of health and educational services for the Indian people that are fully compatible with those of the general population, this progress demonstrates our continuing commitment.

The Congress has shared in these accomplishments in a spirit of bipartisan cooperation. I hope that I will soon have on my desk two more enactments on which Congressional action is progressing; measures to speed Indian economic development and to upgrade the position of the Commissioner of Indian Affairs to the Assistant Secretary level. Also still waiting Congressional action are four other proposals I have submitted previously: to permit turning over to Indian tribal governments the management and control of Indian programs; to create an Indian Trust Counsel with authority to safeguard Indian natural resources rights; to help ensure that funds for Indian education actually reach Indian children; and to provide greater local control over federally assisted reservation programs through a program of tribal grants.

Looking forward, I shall ask that the Bureau of Indian Affairs make specific plans to accelerate the transfer of significant portions of its programs to Indian tribal management, although I repeat my assurances that, while accelerated, these transfers will not be forced on Indian tribes not willing to accept them.

THE SPANISH-SPEAKING

The Spanish-speaking citizens of our Nation face special problems in obtaining equal opportunities because of language and cultural barriers. For that reason, my Administration has made a special effort to expand those opportunities.

Our progress on this front is reflected in many ways. Nearly 3,800 Spanish surnamed Americans have been employed by the Federal Government, despite an overall reduction in Federal jobs. The Small Business Administration has also increased its loans to Hispanic businessmen, reaching a total of $109 million in fiscal year 1973.

In 1969, the Cabinet Committee on Opportunities for the Spanish-speaking people was created. The Cabinet Committee has both made the Government more aware of the needs and the talents of Spanish-speaking citizens and helped to expand Federal employment of the Spanish-speaking. Since the authorization for this organization expires this year, I am asking the Congress to extend its life through June 30, 1975. The Cabinet Committee on Opportunities for the Spanish-speaking serves to focus the Administration's continuing efforts in this important area of concern.

THE RIGHTS OF WOMEN

Both men and women have become increasingly aware of the pattern of sometimes blatant but often subtle discrimination to which women are subjected. Some of this discrimination can be erased by existing law; some requires new law; some would be rectified by the Equal Rights Amendment, now nearing ratification by the required three-fourths of the States. It is my hope that the Equal Rights Amendment will be ratified speedily so that equal justice under our laws will become a reality for every American.

One of the primary goals of this Administration is to ensure full equal employment opportunity for women by striving to open to women jobs that previously were reserved for men, often simply by habit or custom. Specifically, we have moved vigorously both to enforce the law and to lead by example—by insisting on equal employment and promotion opportunities within the Federal services, by promoting more women into the professionally critical areas of middle management and by continuing our special recruiting drive to bring more women into the highest levels of Government.

To help advance these goals I have appointed the first woman Counsellor to the President, and she, in turn, has set up a new Office of Women's Programs within my executive office. We are particularly proud that this Administration is the first to have women as heads of three independent Federal agencies—the Atomic Energy Commission, the Federal Maritime Commission, and the United States Tariff Commission.

The effort to improve the economic status of women outside the Government is also continuing. The Equal Employment Opportunity Commission, which has been given enforcement power in the Federal Courts, has reported a marked increase in its activities to end sex discrimination in employment.

We will continue to pursue all these efforts with vigor. This emphasis is especially appropriate as we approach 1975, which has been declared International Women's Year by the United Nations.

One especially invidious form of sex discrimination in particular is ripe for correction now through new legislation: the discrimination that often denies women equal access to credit. In an economy that increasingly operates on credit, this is a particularly grievous practice.

The Congress already has before it a proposal to ensure that credit is extended to all persons on an equitable basis, without regard to their sex or marital status. This Administration strongly supports this proposal and is sending to the Congress amendments which we believe will strengthen it even further. I urge prompt consideration and passage of this vital legislation.

PROTECTION AGAINST CRIME AND INVASIONS OF PRIVACY

Over the past five years I have had no higher domestic priority than rolling back the tide of crime and violence which rose in the 1960s. I am therefore especially pleased with the progress we are making on this front:

—After 17 years of continuous and often dramatic increases, crime in 1972 registered its first overall decline. Although in 1973 it again registered a slight increase, it still held below the level of 1971. Now that the momentum of increase has been broken, I am confident that we can look forward to further reductions in crime rates in the years ahead.

—Serious crime in our largest cities was actually reduced by 13 percent between 1971 and 1973.

—In Washington, D.C., where the Federal Government has special law enforcement responsibilities, crime has been cut in half since 1969.

Indictments and convictions of organized crime racketeers have more than tripled since 1969, thanks in large measure to the 1970 Organized Crime Control Act and to expanded Federal interagency strike forces. In addition, of course, the riots, urban terrorism, and burnings of the 1960s have now become a thing of the past.

These indications of success do not mean that we should slacken our anticrime effort, but that we should intensify it. Key elements of our strategy to do so—most of which will require the assistance of the Congress—include:

—Comprehensive reform of the Federal Criminal Code. Last year I submitted a proposal which was based upon the work of the Justice Department and a 5-year study completed by the National Commission on Reform of Federal Criminal Laws. The Federal Criminal Code has not been completely revised in a quarter century and the need for reform is urgent. I call upon the Congress to act expeditiously in reforming our criminal code, to make it both more workable and more responsive to the demands of our complex society.

—Restoration of the death penalty under the Federal Criminal Code for several especially heinous specific crimes which result in the death of innocent victims. Examples of such crimes are hijacking, kidnaping, or bombing.

—Increased Federal assistance to State and local law enforcement agencies. For the next fiscal year, I propose funding through the Law Enforcement Assistance Administration of $886 million—up from only $60 million in 1969.

—Increasing the resources available to the U.S. Attorneys' offices throughout the Nation—offices which have, in the last three years, increased the number of criminal convictions by 28 percent.

—Creation of additional Federal judgeships to assure speedier disposition of criminal cases. Legislation to accomplish this goal is now before the Congress.

—Comprehensive improvement of Federal correctional programs. Already 15 additional correctional institutions have been built, acquired or begun. My 1975 budget request would represent a tripling of 1969's budget levels.

—A new effort to deal more effectively with employment problems caused by the increase in the number of illegal aliens entering this country. Legislation to achieve this objective is also before the Congress.

PROTECTING THE RIGHT OF PRIVACY

One of the basic rights we cherish most in America is the right of privacy. With the advance of technology, that right has been increasingly threatened. The problem is not simply one of setting effective curbs on invasions of privacy, but even more fundamentally one of limiting the uses to which essentially private information is put, and of recognizing the basic proprietary rights each individual has in information concerning himself.

Privacy, of course, is not absolute; it may conflict, for example, with the need to pursue justice. But where conflicts occur, an intelligent' balance must be struck.

One part of the current problem is that as technology has increased the ability of government and private organizations to gather and disseminate information about individuals, the safeguards needed to protect the privacy of individuals and communications have not kept pace. Another part of the problem is that clear definitions and standards concerning the right of privacy have not been developed and agreed upon.

I have therefore ordered an extensive Cabinet-level review—which will be undertaken this year—of both government and industry practices as they relate to the right of privacy, of the conflicts that arise and the balances that must be struck between legitimate needs for information and the right of privacy, and of those measures—including appropriate legislation—that can be taken to ensure that these balances are properly struck.

ENDING DRUG ABUSE

During the decade of the '60s, increasing numbers of Americans—including a high percentage of young people—each year turned to heroin and other drugs in search of "new highs" and "synthetic solutions" to the problems of life. In this retreat from reality, the Nation's drug problem grew dramatically. Residents of our proudest cities were gripped by fear as addicts turned to crime to support their habits, and thousands of families suffered devastating personal tragedies.

I am pleased to be able to report that since then, Federal spending on drug treatment and enforcement have increased tenfold, and progress has been made. We have indeed turned the corner on hard drugs:

—Better drug law enforcement, at home and abroad, has caused an acute heroin shortage throughout much of the country.

—Enough treatment capacity has now been created so that virtually all addicts who want medical help and counselling can get it.

—Our drug abuse indicators all suggest that we have at last succeeded in reducing both the total number of heroin addicts and the number of new addicts.

Nevertheless, the drug battle is far from over.

For the sake of the next generation, I am determined to keep the pressure on—to ensure that the heartening progress made to date is translated into a lasting victory over heroin and other drugs.

As enforcement efforts meet with success in one area of the world, pressure increases on other trafficking routes. To meet these new threats, we will step up our support of joint drug enforcement programs. I have also directed that plans for increased vigilance at our own borders be put into effect.

In the treatment area, we are intensifying our efforts to encourage hard-core addicts to undergo treatment.

To provide added incentive for those not motivated to seek help on their own, I have directed Federal agencies to expand their support for local programs which direct addicts charged with crimes into treatment pending trial and sentencing.

Continued progress will also require help from the Congress:

—I will shortly recommend severe new penalties for both heroin traffickers and those engaged in illegal distribution of other illicit drugs. This legislation will supplement my proposals currently pending before the Congress.

—The Psychotropic Convention, a key international treaty regulating manufactured drugs worldwide, has—after 2½ years—still to be ratified. Affirmative action in this session is of the utmost importance.

I will continue to pursue a balanced approach to the drug problem in the next year by emphasizing both vigorous law enforcement, and treatment and rehabilitation programs to help speed the return of ex-addicts to productive lives in society.

ENHANCING THE ENVIRONMENT

Both our Nation and the world have made imposing strides during recent years in coping with the problems of our national environment. Building upon well-justified concerns, we have created institutions, developed policies and strategies, and deepened public understanding of the problems that face us.

Now we are entering the second phase of environmental action. It may prove to be a more difficult period.

In this second phase, we will be looking at our environmental problems in new ways which are more complex and far-reaching than those to which we have been accustomed. We must be concerned not only with clean air, clean water and wise land use but also with the interaction of these environmental efforts with our need to expand our energy supplies and to maintain general prosperity.

In facing up to these tough, new problems, we can draw strength from the progress we have already made and from the knowledge that there can be no turning back from our general commitment to preserve and enhance the environment in which we live.

Our record over these past five years includes the vigorous enforcement of air quality legislation and of strengthened water quality and pesticide control legislation, the enactment of new authorities to control noise and ocean dumping, regulations to prevent oil and other spills in our ports and waterways, and legislation establishing major new parks, recreation and wilderness areas.

We have also tried to reorganize the Federal structure in ways that are more responsive to environmental needs. The National Environmental Policy Act, passed in 1969, has provided a basis for reform in our Federal agencies and has given citizens a greater opportunity to contribute to environmental decisions. In 1970, I established the Environmental Protection Agency and National Oceanic and Atmospheric Administration to provide more coordinated and vigorous environmental management. Also in that year, I appointed the first Council on Environmental Quality.

PRODUCING RESULTS

The results of our vigorous anti-pollution efforts are now being seen and felt.

In our major cities, levels of dangerous sulfur oxides and particulates have declined, and pollutants from automobiles have been reduced. Water pollution is being conquered, assisted by a massive Federal commitment of over $14 billion in municipal treatment plants during this Administration. Major misuses of pesticides are now under control, and major sources of noise are being regulated for the first time.

During these five years Federal agencies have acquired over 800,000 additional acres for preservation for future generations, many of them near our heavily-populated urban centers such as New York and San Francisco. In addition, the Legacy of Parks program, which I initiated in 1971, has made massive strides in bringing parks to the people. To date, 400 separate parcels covering almost 60,000 acres of under-utilized Federal lands in all 50 States have been turned over to State and local governments for park and recreational use. Many of them are near congested urban areas. We will continue to expedite transfer of additional surplus properties to State and local governments for park and recreation use.

IMPROVING THE WORLD ENVIRONMENT

On our small planet, pollution knows no boundaries. World concern for the environment is as necessary as it is encouraging. Many significant international actions have been taken in recent years, and the United States can be proud of its leadership.

These actions have included the signing of international conventions to protect endangered species of wildlife, to regulate ocean dumping, to extend the national park concept to the world, and to control marine pollution.

A United Nations Environment Program was established last year. With it, the UN Environment Program Fund came into being, fulfilling a proposal I had made in 1972.

Under the US-USSR Environment Agreement, which I signed in Moscow in May, 1972, Soviet and American scientists and environmentalists have been actively working together on serious environmental problems.

THE CHALLENGE AHEAD

As part of this Administration's continuing effort to conserve outdoor recreation areas, my new budget will propose full funding of the Land and Water Conservation Fund for 1975. Nearly two-thirds will aid State and local governments in acquiring their own recreation lands and facilities. Coupled with the change I have proposed in the formula for allocating funds to the States, this measure would encourage the development of more recreation sites closer to the places where people live and work.

This year we have the unique opportunity and responsibility to determine the future use of enormous land areas in America's last great frontier—Alaska. Last month, in accordance with the Alaska Native Claims Settlement Act, I transmitted to the Congress recommendations that would add 83.47 million acres in Alaska to the National Park, National Forest, Wildlife Refuge and Wild and Scenic Rivers Systems. If the Alaska frontier is thoughtlessly developed, it will be gone forever. But we now have the opportunity to make considered judgments as to the appropriate uses of these outstanding Alaskan lands for the American people of all future generations.

This session of the Congress has before it 17 major natural resources and environment proposals that I have previously submitted, and on which I again recommend action. These include:

—*Department of Energy and Natural Resources:* While I discuss this new department elsewhere in this message, I want to reemphasize that I consider it of cardinal importance in ensuring that complex, interrelated environmental and natural resource issues receive an appropriately wide policy overview and administrative coordination.

—*National Land Use Policy:* Adoption of the National Land Use Policy Act, first proposed in 1971, remains a high priority of my Administration. This legislation would reaffirm that the basic responsibility for land use decisions rests with States and localities—and would provide funds to encourage them to meet their responsibility. I am pleased that the Senate has passed legislation incorporating some of the policies that I proposed. I urge the Congress to pass legislation which would assist States and localities, but which does not inject the Federal Government into their specific land use decisions.

—*Coastal Wetlands:* These environmentally vital wetlands are increasingly threatened by development. My proposed Environmental Protection Tax Act would amend Federal tax laws to discourage the unwise use of these areas, and to enhance our opportunities for sound land use planning within the coastal zone.

—*Wilderness:* Traditionally, we have looked westward for our wilderness areas. Last year, however, I proposed that 16 Eastern areas be designated as "wilderness" and that 37 others be studied for possible wilderness designation.

—*Historic Preservation:* Because we have an irreplaceable historic and architectural heritage, I have proposed an Environmental Protection Tax Act to discourage the demolition of historic structures and to encourage their rehabilitation.

—*Big Thicket National Biological Reserve:* The Big Thicket area of east Texas is a biological crossroads unique in the United States. I am gratified that the House has acted and I urge the Senate promptly to consider my proposal to preserve key segments of the Thicket in a Big Thicket National Biological Reserve.

—*Big Cypress National Fresh Water Reserve:* Protection of the Big Cypress Swamp in Florida is essential to the preservation of the water supply in the Everglades National Park. I have recommended legislation which would authorize the acquisition of over 500,000 acres, enabling us to protect this vital water supply.

—*Public Land Management:* The Secretary of the Interior needs additional authority to protect the environmental values of our public domain lands. I again urge that he be given that authority.

—*Controlling Pollution:* Three of my legislative proposals aimed at controlling pollution have not yet received final Congressional action:

—*Toxic Substances:* New chemicals with unknown environmental effects come into use each year. Authority to test these substances and to restrict their use in the event of danger, while still permitting the orderly marketing of needed chemicals in a timely fashion, is highly desirable.

—*Hazardous Wastes:* Disposal of wastes on land is increasing due to advances in industry and technology and because of our stringent controls on air and water pollution. These wastes can be hazardous to human health and other forms of life. My proposal provides for national standards for treatment and disposal of hazardous waste with primary regulatory responsibility resting with State governments.

—*Safe Drinking Water:* The water we use in our homes should not endanger our health. Under my proposal on safe drinking water, Federal standards would provide health protection by requiring strict limitation of any contaminants in drinking water, but primary enforcement responsibilities would be left to the States. Alternative legislation is now being seriously considered by the Congress which would require unnecessary Federal standards on operating treatment plants, generate a domineering Federal enforcement role, and create several new categorical subsidy programs.

COMMUNITY DEVELOPMENT

Although American communities share many of the challenges of our age, the relative intensity and the particular nature of these challenges vary sharply from one community to another.

The current way of providing most Federal aid to our communities—with each dollar tied to a string pulled and manipulated by a Federal planner—is wrong. Much of the money that pays the Federal planners could better be spent in the local community; the decisions made by the planners could better be made by the people who live on the scene.

In these past few years, we have sought to change the old system. We have recognized that the Federal policy that will work best is one that helps the people of a particular community define their own needs and meet those needs in the way which they consider best. While in this Administration we have tried to be generous, we have also tried to grant communities greater freedom to set their own priorities. Since 1969, we have:

—Spent twice as much money on community development programs as the Federal Government had spent for this purpose in the entire previous history of the Nation.

—Reduced the red tape and arbitrary restrictions on local action that were so much a part of these programs in the past.

—Moved authority for administering community development programs from Washington to the field, where administrators are more accessible to local officials, and where they can become more familiar with local problems.

—Stepped up Federal support for State and local planning and management, again spending more for this purpose than had been spent in all previous years combined.

As a result, not only have cities received *more* Federal dollars, but they have been able to accomplish *more* with each dollar than before.

Despite this progress, we need a much more sweeping reform than has been possible under existing laws. Therefore, I once again urge passage of *The Better Communities Act*, a $2.3 billion bill which would give local officials new flexibility and provide greater effectiveness in the expenditure of Federal community development funds. This legislation would consolidate seven categorical grant programs into a single program. Funds would be distributed on the basis of need, and then local communities could decide for themselves what projects should come first. Thus we could eliminate a mountainous volume of red tape and allow local government to play a larger role in determining their own destinies.

Two Congresses have now addressed community development legislation. Both of them have agreed, for the most part, with the basic principles and approaches that the Better Communities Act represents. But we have still had no action. Cities and towns that have counted on having this legislation in effect in the next fiscal year now face an uncertain future. I urge the Congress to move ahead as quickly as possible with the Better Communities Act—and I pledge every effort to work out our remaining differences so that our cities and towns can benefit from this program as soon as possible.

I also urge the 93d Congress to pass the *Responsive Government Act* that I submitted last year. This measure would enable State and local officials to improve their planning, decision-making and managerial capabilities through broad-based, flexible grants.

RURAL DEVELOPMENT

Over $12 billion has been invested in rural development through Agriculture Department programs alone during the five years of this Administration. Annual Federal funding for these rural development programs has been tripled during that time. These funds have been spent for:

—Rural housing, where more than $6.4 billion has been provided through 487,000 housing loans.

—Electrification and telephone systems, where over $3 billion has been spent to bring service to 177,000 new rural consumers.

—Water and waste disposal, where some 8,500 loans and grants totaling $1.4 billion have been provided to rural communities for water and waste disposal systems.

—Loans to farmers, who received more than 489,000 loans totaling over $4.2 billion.

In addition to these efforts under Department of Agriculture programs, almost 200 other Federal programs have had a significant impact on rural areas. As a result, rural residents receive as much Federal support per capita as residents of urban areas.

During the past year we have markedly increased our activity on behalf of the Nation's rural residents:

—During 1973, the Rural Development Act was funded for the first time to provide over $750 million in loans and grants to States under procedures which give them a new flexibility in promoting rural industrialization and in improving the quality of rural life.

—An interim rural housing policy was developed, placing greater emphasis on more effectively utilizing existing housing and making Farmers Home Administration programs more responsive to those with the greatest housing needs.

—To ensure continuing Government attention to rural development needs, this Administration has also created both a special Cabinet-level Rural Development Committee and the new post of Assistant Secretary of Agriculture for Rural Development.

As we look to the future patterns of national growth, we must never forget that the prosperity, the vitality and the character of rural America are essential cornerstones of our Nation's balanced growth. It is essential that rural America receive its proper share of our attention—and I am determined that this shall be the case.

HELPING DISASTER VICTIMS

Seldom is swift and effective Government action needed so urgently as when a natural disaster strikes.

Since taking office, I have had to declare over 160 major disasters in 42 States and in 3 territories. In recent years, the amount of Federal assistance given to disaster victims has been greatly expanded, and we have also pressed an intensive effort to provide this aid more equitably and expeditiously.

Since more than 90 percent of all property damage resulting from natural disasters is caused by floods, I was especially pleased by the Congress' approval last year of our proposed Flood Disaster Protection Act, which significantly expands and improves the national flood insurance program.

More remains to be done, however, if we are to meet our basic humanitarian responsibility to those who fall helpless and innocent victims to nature on the rampage. Therefore, I have also proposed a Disaster Preparedness and Assistance Act, which places new emphasis on the essential element of preparedness, while also increasing the role of State and local officials in allocating Federal disaster funds cutting the tangle of red tape. It also provides for the automatic use of Federal resources when major disasters strike, and it includes generous grant features for those individual disaster victims unable to repay Government loans, as well as for communities faced with the task of restoring damaged public facilities.

That natural disasters will continue to strike is certain; the only uncertainty is how well prepared we will be. As a generous and compassionate Nation, we should be prepared to give the victims of these disasters the prompt and effective help they so desperately need.

BETTER HOUSING FOR ALL

As I have stated many times, this Administration will not waver from the Federal commitment first outlined in the Housing Act of 1949: "a decent home and a suitable living environment for every American family."

The state of America's housing will continue to depend on the state of America's economy more than on any other factor. The forces of the marketplace are the forces that count the most—families with sufficient real income and sufficient confidence to create an effective demand for better housing on the one hand, and builders and credit institutions able to respond to that demand on the other.

The Federal Government must play a major supporting role through its actions in the mortgage credit market and its help for low income families who need assistance in obtaining adequate housing.

Last September, as credit for housing was becoming increasingly scarce, the Administration acted to make more credit available to home buyers. Recently, mortgage market conditions have begun to improve. However, to assure continuing improvement, I recently authorized a reduction in the maximum allowable interest rate for mortgages insured by the FHA, the Farmer's Home Administration and VA—a more than $6 billion mortgage insurance program that will assist in financing the construction of up to 200,000 housing units.

These actions should have a favorable impact on housing production. If the anticipated results are not fully achieved I will recommend further action to ensure a reasonable level of production.

In the last 5 years a substantial effort has been made to address the country's housing problems:

—Largely because of a general upswing in the economy, housing production has occurred at record levels.

—FHA mortgage insurance has enabled nearly 3½ million families to purchase homes.

—Over two million units of subsidized housing for low and moderate income families have been approved, more than during the previous 33 years of federally subsidized housing programs.

—Over $1.4 billion has been committed to improving and modernizing existing public housing.

—Subsidies to local housing authorities have grown from $33 million in 1969 to $350 million in 1974.

Even as good housing has become a reality for most Americans, it is clear that important problems still exist. Two are especially significant. First, our credit institutions often encounter problems in providing adequate housing credit. Second, too many low income families are unable to obtain adequate housing—even as good housing sits vacant in their community. We must help them to meet their needs.

In order to increase the availability of housing for all families, I urge passage during this session of two key measures I have already proposed:

—The Financial Institutions Act to enable savings and loan associations to compete more effectively for funds during periods of tight money, as well as to encourage increased investment in housing through a tax credit on income earned from residential mortgages.

—The Administration's proposed Housing Act which would ease the present tight mortgage credit situation and make homeownership easier in the long term by:

—Authorizing increases in the permissible mortgage amounts eligible for FHA insurance.

—Permitting home buyers to pay market interest rates on FHA and VA insured mortgages, and reducing the cost of buying a home by doing away with the present system of charging points on mortgage loans.

—Authorizing on an experimental basis more flexible repayment plans on FHA insured mortgages.

—Authorizing more flexible interest rates, longer repayment terms and higher amounts for mobile homes and home improvement loans.

This legislation would extend authority for extensive experiments with a new approach—direct cash assistance—for addressing the housing problem of low income American families. Despite the commitment of over $66 billion, evidence has clearly shown that the subsidized housing programs for low income families have not worked well. Instead of programs to treat symptoms, I will continue to press for a longer term solution—which goes to the root of the problem—lack of sufficient income—and which permits the private housing market to work in as efficient a way as possible. Additionally, this legislation would improve the operation of our existing public housing projects, by helping them move to a more effective, efficient and self-sufficient basis of operation.

IMPROVING TRANSPORTATION

The energy crisis has made urgent what once seemed only necessary: the building of a transportation system that permits all Americans to travel efficiently and at reasonable cost.

While some elements of our transportation system—such as the Federal highway network—have been dramatically improved or expanded in the past decade, others—notably the railroads—have fallen into serious difficulties. It is also apparent that our public transit system must be greatly improved within our urban centers. The measures already taken and others which I shall propose this session are particularly important in helping to deal with the energy crisis by encouraging a more sensible utilization of our transportation resources.

During the past four years, several key measures have helped lay the basis for a greatly improved transportation system.

Under the Urban Mass Transportation Act of 1970, we increased annual Federal aid to urban public transportation to $1 billion by 1973—8 times the level of 1968—and in 1973 another $3 billion was made available for the years immediately ahead. For the first time since World War II the downward trend in transit ridership has been reversed, and is now moving upwards. And for the first time, under the provisions of the Federal-Aid Highway Act of 1973, States and localities can now use a portion of their Federal highway funds for public transit purposes.

There has also been improvement of rail passenger service under AMTRAK, a public corporation created by the Rail Passenger Service Act of 1970. After years of steady decline in rail passenger service, the past year saw a 14 percent increase in the number of passengers carried on AMTRAK.

Just this past year, we also went to work to avoid a major rail crisis through passage of the Regional Rail Reorganization Act of 1973, which provides for the restructuring of the bankrupt railroads of the Northeast and Midwest region into a streamlined system. By 1976, we hope that the affected railroads will be able to operate profitably and can survive as producers, not consumers, of tax revenues.

Significant new initiatives have also been taken in airport and airway development, making vitally needed improvements in the merchant marine, and in promoting transportation safety, especially on our Nation's highways.

Clearly, however, there is still much to be done. It is my hope that 1974 will be the year when we make major advances by enacting two critical transportation bills.

One of these proposals, which I will send to the Congress in the near future, would give our communities not only more money but also more freedom to balance their own transportation needs—and it will mark the largest Federal commitment ever to the improvement of public transportation. This bill would increase Federal assistance for metropolitan areas by nearly 50 percent over the level of fiscal year 1974. More than two-thirds of those funds would be allocated by formula to State and local governments and those governments could better determine their own transportation priorities, choosing between construction of highways or public transit systems, or the purchase of buses or rail cars. Additional transit aid would also be made available to rural communities for the first time.

Under this bill resources would also be available for the first time to augment the operating funds for public transportation systems in both urban and rural areas. By permitting Federal resources to be used for operating purposes, this proposal should make it unnecessary to establish a new categorical grant program for transit operating subsidies as is now contemplated in bills before the Congress.

As a second major transportation initiative this year, I shall propose that we modernize the regulatory system governing railroad operations. This legislation would make it easier for railroads to consolidate service on a sustainable basis. It would make changes in the system of rate regulation to allow rail carriers to compete more effectively with one another and with alternative modes of freight transportation. Discriminatory State and local taxation of interstate carriers would be barred. It would also provide $2 billion in Federal loan guarantee authority to finance improvements in rights-of-way, terminal and rail plant facilities, and rolling stock, where necessary, which would be a major step in our effort to improve the Nation's railroad system.

Additional transportation measures I shall soon propose will include:

—Improvements in highway safety through the earmarking of approximately $250 million of the 1975 Federal highway program for the elimination of death traps from the highways—by, for example, improving high-hazard intersections and replacing dangerous bridges. New bonus grants to the States will also be initiated to encourage the adoption of improved safety legislation and to reward States for outstanding safety accomplishments.

—A restructuring of the airport and airway financing system to allocate costs more equitably among the users of our airways and to provide more flexibility in the use of funds.

DISTRICT OF COLUMBIA

Last Christmas Eve, when I signed the new home rule bill into law, the Nation's Capital reached a significant milestone. If the voters of the District accept the proposal in the forthcoming referendum, the city will soon have its first elected mayor and city council in 100 years. In addition to giving the citizens of our Nation's Capital the right to elect their own officials and a greater role in decisions affecting local affairs, the act also transfers to the District functions now carried out in Federal agenices which should rightfully be under local control.

In order to accomplish this transfer of responsibilities to the local government, much work will have to be done. This Administration will make every effort to assist in the transfer and to ensure that it is both timely and effective.

While our attention to the affairs of the District of Columbia has been captured by the transition to home rule, we must not ignore another important task before us. As the city moves into a new era of self-government, it must also prepare for the Nation's celebration of the Bicentennial.

A Federal Bicentennial Task Force has been working to ensure that the Federal Government meets its financial and program commitments in the Nation's Capital. Under the leadership of the Bicentennial Coordination Center, which I established over two years ago, a number of projects are moving forward. The National Visitors' Center, Constitution Gardens, the Eisenhower Civic Center, the Fort Circle Parks, the National Air and Space Museum and other projects will contribute enormously to the celebration which takes place here in 1976. In addition, the Pennsylvania Avenue Development Corporation will soon present its plan to restore and improve this central, historically important thoroughfare.

During the coming year, I also urge the Congress to take action on pending legislation to create a District of Columbia Development Bank, which would do much to broaden the economic base of the District.

THE BICENTENNIAL

As we near the celebration of America's Bicentennial, which officially begins in March of 1975, the tempo of preparations has picked up. A sound organizational framework has now been established, with the approval by the Congress last year of a new American Revolution Bicentennial Administration. Each of the 50 States, the District of Columbia and the four territories has also established its own Bicentennial Commission to plan and coordinate local Bicentennial projects. Some 370 counties, cities, towns, villages and tribal units have been recognized as Bicentennial Communities, and some 600 applications for this designation are currently being reviewed.

On the Federal level, I have created the Domestic Council Committee on the Bicentennial. This Cabinet-level Committee has approved the goals for Federal participation in the Bicentennial, established an Interagency Bicentennial Task Force, and approved over 200 Bicentennial projects of the Departments and agencies.

The Department of the Interior will complete the development of historically significant National Park sites; the National Foundation on the Arts and the Humanities will support cultural activities relating to the Bicentennial; and many of our other national institutions, such as the Smithsonian Institution, will present special exhibitions across the Nation.

Other nations are actively responding to the "Invitation to the World" that I issued on July 4, 1972 to participate with us in this celebration which is not ours alone, but one which draws on the heritage of every nation from which people have come to our shores.

In celebrating America's Bicentennial, we shall, of course, commemorate our national achievements. We shall honor our celebrated leaders even as we remember those whose contributions were less well known. We shall take stock of our shortcomings and resolve to overcome them.

What we will celebrate most of all in 1976 will be the vitality of the American people. We have tried to ensure that Federal Bicentennial activities reflect the diversity which is ours alone, and which is appearing in community Bicentennial planning across the country.

CULTURE AND COMMUNICATIONS

When I took office in 1969, I was determined to give support to the goal of substantially strengthening the arts and humanities in the United States. The result has been the rapid growth of the National Endowment for the Arts and the National Endowment for the Humanities—which had existed before but at a very low level of activity.

In the current year, the National Endowment for the Arts will spend $60.8 million on a large scale of programs intended to enrich America's cultural present and future. A broad range of individuals as well as institutions, both public and private, are being assisted. And special support is being given to projects which will add to the celebration of our Bicentennial.

The Congress has in the past given strong bipartisan support to the Arts Endowment. That same support will be needed in the future. Increased Federal funds, eliciting greater financial support from the private sector and State and local governments, will ensure the flourishing of American arts in the years ahead.

The National Endowment for the Humanities has likewise made outstanding contributions to the stimulation of our intellectual and cultural life. One measure of the growing importance of its activities is the fact that the Humanities Endowment has a program today which is ten times as large as it was five years ago.

The Humanities Endowment will also play a major role in promoting the Bicentennial and will emphasize activities which reach large numbers of people, such as film and television productions and traveling exhibitions.

In America, television is by far the best means of communicating with the widest audience. To assure the American audience a greater range of television programming of a type not financially feasible for commercial television, we have dramatically increased our support for public television in the last five years.

Public Broadcasting matured during the past year. Both the television and radio licensees reorganized themselves in a way which encouraged a more rational relationship between them and the Corporation for Public Broadcasting, and increased the ability of each local station to provide programs uniquely tailored to their local communities.

Another aspect of electronic media that has recently become a public policy issue is cable television, a development that could lead to a vast expansion of the Nation's communications capabilities. In June of 1971, I established a Cabinet Committee to develop proposals for a comprehensive national policy on cable communications. I have recently received and am now reviewing the report which is the product of that committee. I have also asked the Director of Telecommunications Policy to prepare legislation to move toward the adoption and implementation of a national cable television policy and I expect to submit such legislation to the Congress in the near future. I encourage the Congress to review carefully the issues prescribed by cable television and I especially encourage a widespread national debate on this subject which could play such a major role in all of our lives during the future.

SCIENCE AND TECHNOLOGY

One of the great strengths of this Nation has been its preeminence in science and technology. In times of national peril we have turned to the men and women in the laboratories in universities, Government, and private industry to apply their knowledge to new challenges.

Once again, in the current energy crisis, we are calling upon them to respond. I have outlined, in my recent energy message to the Congress, the first step in a five-year, $10 billion research and development effort in energy: $1.8 billion for direct energy R&D for the coming fiscal year and an additional $216 million for supporting research—a total increase of 80 percent over this year.

A look at the broad scope of this energy effort tells a great deal about our confidence in the capabilities of the Nation's scientists and engineers. We are calling on them to accelerate the development of nuclear power systems, to determine how we can use our abundant supplies of coal in ways that are environmentally acceptable and to improve technology for harnessing natural energy sources such as the sun and the heat of the earth. At the same time, we are asking them to explore new ways of conserving the energy that we already use for everyday conveniences such as our automobiles.

This Administration recognizes that the need for progress in every major area of American life requires technological input. We are therefore committed to giving all our major programs a broad scientific underpinning. The new budget will call for an increase of over 20 percent in civilian research and development expenditures.

In addition to a major increase for energy, research and development funds will be spread across a large number of programs for enhancing the prosperity, well-being, and health of Americans. Science will continue to be vital to our efforts to fight drug abuse, to prevent infant mortality, to combat venereal disease, and to aid in treating mental illness.

We will call upon the services of our scientists and engineers to design better forms of transportation, and to make safer the transportation we already have. We will examine ways of making our vast agricultural establishment yield more food at lower prices, and try to lessen agriculturally-related pollution. We will attempt to develop methods of mining that will not only yield greater mineral wealth but also give the miner greater safety and the landscape greater protection. We will study ways to protect our wildlife from natural and man-made attack, and we will attempt to learn how to protect ourselves from the violence of nature in the form of floods, landslides, earthquakes, tornadoes and other natural calamities.

This Administration recognizes the vital role which the social sciences must play in America's growth. Money will be made available for studying the social effects of various Government income distribution and redistribution plans, such as social security, welfare benefits, health insurance, and varied and experimental educational forms.

In every great area of national endeavor, the Administration will see that adequate funds for making scientific progress are spent.

That also means we will continue our important efforts in space. The exploration of space is today making a key contribution to man's understanding of his universe and to our abilities to manage our resources on earth wisely. As our Skylab astronauts have proven, space is now an acceptable working environment for man.

While we explore our planetary system, the stars, and the galaxies, we are also using space technology to monitor the earth's environment. The Earth Resources Technology Satellite is allowing us to search for scarce resources from high above the earth. Already, many of our intercontinental communications are by satellite. This year new commercial satellites will also be used for domestic telephone, telegraph, and television services. Satellite weather forecasting is now commonplace as a result of our space efforts.

Space exploration in the future should become more economical as we develop the Space Shuttle, a reusable vehicle for space transportation. A cooperative international aspect of the space program will come with the European developed Spacelab as an integral part of the Shuttle program. In addition, we are now moving full speed ahead with our plans for a joint space venture with the Soviets in 1975.

THE NEW FEDERALISM

Just as rapidly changing and increasing demands placed upon Government have made it necessary to reorganize the Federal structure, they have made it even more imperative to make State and local government stronger and more effective.

During the last four decades, almost every major attempt by the Government to meet a major social need has resulted in a new national program administered in Washington by a new bureaucracy. Forty years ago there were more than 600,000 Federal employees; today there are more than 2.7 million. In the last decade, this problem has grown acute. In 1960 there were some 200 Federal grant-in-aid programs with outlays of $8 billion, but by 1970 there were nearly 1,000 and the total outlays had risen to $22 billion. And in the next fiscal year we expect outlays for grant-in-aid programs to reach $52 billion, even after our substantial efforts to cut their number. This growth in size, power and complexity has made the Federal Government increasingly inaccessible to the individual citizen it seeks to help.

Many of our new national social programs have actually impeded the development of effective local government. By creating a Federal categorical grant system of staggering complexity and diversity we have fostered at the State and local level:

—Overlapping and wasteful programs;

—Distorted budgets and priorities;

—Additional administrative expense;

—Delay and uncertainty; and

—A diminution in the authority and responsibilities of State and local elected officials, as Federal grants have become the special province of competing bureaucracies.

In one of the basic new directions of my Administration, I proposed in 1969 that we create a new and fundamentally different relationship between State and local government, on the one hand, and the Federal Government on the other. This new relationship has come to be known as the New Federalism. As I said in 1969, its purposes are:

—To restore to the States proper rights and roles in the Federal system with a new emphasis on local responsiveness;

—To provide both the encouragement and necessary resources for local and State officials to exercise leadership in solving their own problems;

—To narrow the distance between people and the Government agencies dealing with their problems;

—To restore strength and vigor to State and local governments where elected officials know best the needs and priorities of their own constituents; and

—To shift the balance of political power away from Washington and back to the country and the people.

With the help of both the Congress and the Administration, this new relationship among local, State, and Federal governments has begun to take shape:

—In 1972, the Congress enacted our General Revenue Sharing program, and already more than $11 billion of new money has been put to work in over 38,000 units of State and local government.

—Funding through the Law Enforcement Assistance program has demonstrated the flexibility of the New Federalism in leaving to State and local authorities the decisions on how best to combat crime in their jurisdictions. This program has helped to make America's streets safer for our citizens.

—The Comprehensive Employment and Training Act which I signed into law in 1973 is a landmark example of the New Federalism's broad and more flexible forms of assistance—and it represents a leading example of what can be achieved when the Executive and the Congress team up to enact solid legislation.

—New authorities under the Rural Development Act are being exercised this year in a way which is supportive of State and local development plans and priorities.

—In addition, within the limits of law, we have moved administratively to strengthen the role of State and local governments by simplifying and streamlining Federal grant systems—including procedures for State and local review of project proposals affecting their juridictions, opportunities for grant integration and joint funding, and the decentralization of many Federal activities to ten Federal Regional councils.

In the remaining three years of this term I shall continue to take every sound administrative action within the authorities available to me to support and strengthen State and local government, but we must have the support of the Congress to maintain the progress which has begun. Proposals for furthering the New Federalism now before this body and for which I urge your support include:

—Federal education reforms to consolidate support for elementary and secondary schools as well as vocational and adult programs, and to promote better planning on the local level through advance funding.

—The Better Communities Act, to replace several ineffective and restrictive urban programs with a flexible approach that would allow local officials to make essential decisions on the way community development funds would be spent.

—The Responsive Governments Act, to provide needed Federal assistance for improving State and local planning, decisionmaking and management capabilities. This would help to strengthen the capacity of State and local governments to assume greater responsibility for the administration of their own programs, whether federally assisted or not.

—The Disaster Preparedness Act, to increase the role of State and local officials in allocating Federal disaster funds and to cut the tangle of Federal red tape.

In addition to these proposals now pending, a number of the new initiatives that I describe elsewhere in this message also reflect the principles of new Federalism. These include:

—A new public transportation initiative that would permit States and localities—both urban and rural—to allocate highway and mass transit funds in accordance with local conditions and priorities.

—An economic adjustment assistance program, that would help States and communities to create employment opportunities where they have been affected by structural changes in their economies which have brought about persistent unemployment or depressed incomes.

—In the field of health, a comprehensive health insurance plan which would bring protection against medical expenses within the reach of all our citizens.

MAKING GOVERNMENT WORK BETTER

On taking office five years ago, one of the first needs I sought to address was the organization of the executive branch of Government—for the plain fact is that the only way Government gets anything done is through its organizational structure, and how well it can perform depends in large measure on how well it is organized.

Because the needs of the Nation continue to change, and because the activities of Government must respond to those changes, the patterns of Government organization that might have been fine in the 1930s or even in the 1960s, may be hopelessly out of date in the 1970s. Therefore, early in my first term I established an expert commission to survey the organization of the executive branch and to recommend improvements to meet present-day needs. The reports of this commission contributed significantly to the reorganizations that I ordered and that I recommended, including the proposal I put forward three years ago for a sweeping reorganization of the executive branch, consolidating seven of the present Cabinet departments into four new units.

Although this basic restructuring has not been enacted by the Congress, other progress of a substantial nature has been made in modernizing the Government. For example, we have established:

—The United States Postal Service, taking the post office out of politics;

—The Office of Management and Budget, providing a strong management arm to assist in coordinating the functions of the executive branch;

—A restructured National Security Council;

—The Domestic Council to coordinate domestic policy formulation;

—The Council on Environmental Quality, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration, all to provide leadership in meeting our vital environmental needs;

—The Special Action Office for Drug Abuse Prevention and the Drug Enforcement Administration;

—The Council on Economic Policy, to facilitate the formation and execution of overall economic policy;

—The Council on International Economic Policy, to focus on an area increasingly important both to our foreign relations and to our domestic economy;

—ACTION, to provide stronger coordination and incentives for volunteer activities;

—The Cost of Living Council, to help stabilize prices; and,

—The Federal Disaster Assistance Administration, to help individuals and communities struck by natural disasters.

Each of these reorganization steps was designed to meet a specific need more effectively, or to respond to newly urgent needs. Several were accomplished under the reorganization plan authority which has been available to every President in the last 25 years, but which expired last March. This authority—which is utilized only with the concurrence of the Congress—continues to be necessary in order to keep abreast of changing needs, and I urge that it be reinstituted.

Of special concern today is the reorganization of the Government to meet the energy crisis. I have by Executive Order already established the Federal Energy Office to serve as a focal point for energy actions taken by the Government.

But that office lacks a statutory base and does not have sufficient authority to do the full job. That is why I have asked the Congress to establish the Federal Energy Administration and I once again urge it to act on this matter. Recognizing that this country should no longer remain dependent upon foreign energy sources, I have also urged the creation of an Energy Research and Development Administration to develop the necessary technology to tap new domestic sources of energy and a separate Nuclear Energy Commission to carry on the regulatory activities presently assigned to the Atomic Energy Commission.

While these organizational initiatives are needed now, the best organization to knit together the future energy and natural resource programs of the Federal Government would be a comprehensive Department of Energy and Natural Resources. This concept is consistent with the major Federal departmental reform I submitted to the Congress in 1971. Today, I again urge swift, favorable action by the Congress on this proposal so that we will have the broad organizational base that will ultimately be needed to meet many of our energy needs in the most effective manner and to balance energy and natural resource considerations in the future.

That same consolidation and reorganization of the executive branch that I proposed in 1971 would also have created new departments for community development, human resources and economic affairs. The basic problems of fractionated, sometimes overlapping and often conflicting organizations that prompted these original proposals remain acute today. I therefore urge the Congress to join with me in a serious effort to achieve an effective reorganization in these areas.

In view of the close relationship between food assistance programs and other income security programs, I will also propose new legislation to transfer the food stamp and related programs from the Department of Agriculture to the Department of Health, Education and Welfare.

Another important organizational proposal still awaiting Congressional action is the creation of an independent Legal Service Corporation. My Administration will work closely with the Congress in the weeks ahead to obtain final passage of our proposal which would provide the poor with quality legal representation, would create an organization free from political pressures, and would include safeguards to ensure its responsible operation. Legal services legislation has already passed the House. I am hopeful that reasonable legal services legislation will now be passed by the Senate.

A major new opportunity for better Federal management has been initiated at my direction by the Office of Management and Budget. Frequently termed "management by objective," it involves the identification of specific, high-priority objectives for each year for each of the departments and agencies. During the year, progress in reaching these objectives can be closely measured and reported to agency heads and to me. In the years ahead I expect this technique will help make the Government both more responsive and more accountable.

Nothing is more important to improving the efficiency of our Government than the recruiting of top flight personnel for Federal jobs—including positions in the career civil service. We will be working in the months ahead to ensure that executive compensation, career development and training all attract and hold the best possible personnel in the public service.

The compensation we provide our top officials is integral to these efforts to recruit and retain the best men and women for Government service. Salaries of Federal judges, Members of the Congress, and heads and assistant heads of executive agencies have not been adjusted for 5 years, during which time comparable pay rates in the private sector increased 30 percent and pay for other Federal employees has increased significantly. The report of the Commission on Executive, Legislative and Judicial Salaries notes that this lag in compensation also produces serious salary compression among the top ranks of career employees. I am therefore recommending a three-stage increase in executive, legislative and judicial salaries in the budget, at the rate of 7½ percent annually for each of the next three years. This will make salaries within the top levels of the Federal Government more competitive with industry. And it will help us to make Government work better.

CAMPAIGN REFORM

For several years it has been clear that reforms were needed in the way we elect public officials. The intense public focus placed on the campaign abuses of 1972 has now generated sufficient support for this issue that we now have an opportunity to make a genuine breakthrough.

In a national radio address on May 16 of last year, I announced my proposal for a non-partisan commission on campaign reform. This commission would have reexamined the entire Federal election process to come up with a comprehensive set of legislative recommendations. The Commission would have filed a public report no later than December 1, 1973.

Eight months have now passed since that proposal was submitted to the Congress and the Commission is not even close to being created. If it had been created expeditiously, we would now have its report recommending meaningful reforms for Federal campaigns and as I had originally hoped, those reforms might be in place prior to the 1974 elections.

In light of the delay, I have now decided to submit a comprehensive set of Administration proposals on campaign reform for consideration by the Congress during this session. While I do not believe mine will be the only workable proposals, I do hope they will lead to meaningful debate and reform in this critical area. To that end, I look forward to working with the Congress in a long-overdue effort to clean up the Federal election process.

AMERICA AND THE WORLD

When this Administration took office, it was apparent that the world had changed in fundamental ways, and that America's foreign policy had to change in equally fundamental ways.

We needed to end our military involvement in the Vietnam war in a manner consistent with our responsibilities and commitments as a major world power.

We needed to adjust to the changes in the strategic situation between the Soviet Union and the United States which presented a unique opportunity to build a solid foundation for peace but which also threatened our own security if that foundation could not be built.

We needed to end a quarter century of hostile isolation which had kept one-fourth of the world's population outside the framework of international cooperation. The world could not afford another generation of hostility between the United States and the People's Republic of China.

We needed to adjust our partnerships with Western Europe and Japan, recognizing their increasing political and economic strength and self-reliance, and emphasizing our important common goals.

We needed to alter the world monetary system to reflect the new realities of the international economic system and America's place in it.

During the past five years we have made striking progress in meeting each of these needs.

CONTINUING RESPONSIBILITY IN VIETNAM

The United States is at peace for the first time in more than a decade. But peace must be something more than the absence of the active engagement of American forces in conflict.

We must guard against the tendency to express relief at our military extrication for Southeast Asia by "washing our hands" of the whole affair. Men and women are still dying there. We still have a responsibility there. We must provide those ravaged lands with the economic assistance needed to stabilize the structures of their societies and make future peace more likely. We must provide, as well, the continued military aid grants required to maintain strong, self-reliant defense forces. And we will continue to insist on full compliance with the terms of the agreements reached in Paris, including a full accounting of all of our men missing in Southeast Asia.

BUILDING NEW RELATIONSHIPS

As we work through detente to reduce conflict in areas of the world where both we and the Soviet Union have important interests, we must also continue to work to reduce the potential causes of conflict between us.

We must persevere in our negotiations with the Soviet Union to place further limits on strategic arms competition and in our talks with the Warsaw Pact nations to reduce forces in Europe in a way that will increase security and stability for all.

We will pursue our relations with the Soviet Union in the climate of detente established two years ago in Moscow and reaffirmed by General Secretary Brezhnev's visit to Washington last year. During the fateful weeks of the Middle East war last October, the strength of our detente was severely tested. Since then, American diplomatic leadership and initiative have played a central role in the search for a final settlement in the long-troubled Middle East. This began with the ceasefire of October 22, worked out with the Soviet Union's assistance, and was later strengthened by the Six-Point Agreement in November to consolidate the ceasefire, then by the Geneva Peace Conference—under the co-sponsorship of the United States and the Soviet Union—and most recently by the agreement on the disengagement of Egyptian and Israeli military forces, which is being implemented in cooperation with the United Nations Emergency Force. These steps are but the beginning of broadened efforts to find a lasting settlement of the area's problems.

The process of building a normal relationship with the People's Republic of China continues. Liaison offices have been established in our respective capitals and there continues to be fruitful contact between our governments at very high levels.

STRENGTHENING OUR FREE WORLD PARTNERSHIPS

As our relationships with old adversaries are changing, so are our relationships with old friends. Western Europe and Japan have put behind them the post-war struggle to rebuild their economies, re-order their societies and re-establish their political force. Their success in these endeavors is something we helped to foster and in which we can take pride. But now times have changed and our past role in their success cannot be the sole basis for a continuing relationship. We must instead adjust our relationships to recognize their new economic capacities and their international political objectives. We must accommodate all of these within the framework of the friendship and goodwill of our allies and our whole past history of cooperation in the pursuit of our common goals. This is a cornerstone of the structure of peace we are seeking to build.

With our closest neighbors, here in the Western Hemisphere, we shall continue to seek additional ways of working cooperatively to solve the problems which face the Americas. Secretary of State Kissinger will be meeting in a few weeks with the foreign ministers of Latin America to begin a new and constructive dialogue in the family of American states.

INTERNATIONAL TRADE AND COMMERCE

As we turn from an era of confrontation to one of cooperation, trade and commerce become more important. We have moved from a position of virtual economic hegemony in the world to a new role in a more interdependent world economy. We must create an equitable and efficient system of integrating our own economy with that of the rest of the world.

Much has already been accomplished on this front. The markets of the USSR and China are now accessible, thereby providing jobs for American workers. Our major trading partners in Western Europe and Japan share our interest in further reducing international trade barriers and increasing world trade. The rigid and outmoded international monetary system which over-valued the dollar and impeded our foreign trade has been decisively altered. After two years of trade deficits, American achieved a trade surplus in 1973.

But we must persevere in our international monetary, investment and trade negotiations. The greatest tasks still lie ahead and the stakes are high. Avoiding the economic and political disruptions associated with international monetary turmoil and restrictive trade and investment practices increases in importance as international interdependence grows.

As I noted earlier in this message, prompt passage of the pending Trade Reform Act is essential to achieving the goal of a less restrictive and more equitable international economic system. In addition, we must move forward with the current negotiations to reform the international payments system under the auspices of the International Monetary Fund, reforms which will markedly increase the opportunities for nations to trade and invest profitably.

We must also strengthen our resolve as the world's most prosperous nation to help less fortunate countries. In the world of today, no nation will be fully secure or prosperous until all nations are. As in the past, we will take pride in our efforts to work with developing nations which aspire to greater economic and social well-being. The United States has called for the World Food Conference which will be held in November under the auspices of the United Nations. We will also actively observe 1974 as World Population Year, as proclaimed by the United Nations.

MAINTAINING A STRONG DEFENSE FORCE

But as we work for peace, we must be conscious that the opportunity to build a structure of peace came because our arms have served as a deterrent to war. We must maintain that deterrent.

In the last five years, outlays for the Department of Defense have been reduced by about ⅓—measured in constant dollars—and military personnel have been cut from 3.5 million to 2.2 million.

This year, I will recommend a substantial increase in the 1975 budget for the Department of Defense. These increases are necessary to improve the readiness of our armed forces, to build up levels of essential equipment and supplies and to preserve present force levels in the face of rising costs.

CONCLUSION

Throughout these five years, I have had one overriding aim: to establish a structure of peace in the world that can free future generations from the scourge of war. Others may have different priorities; this has been and will remain my first priority, the chief legacy that I hope to leave from the eight years of my Presidency.

As we strengthen the peace, we must also continue each year a steady strengthening of our society here at home. Our conscience requires it. Our interests require it. We must insist on it.

As we create more jobs, as we build a better health care system, and improve education; as we develop new sources of energy, as we provide more abundantly for the elderly and the poor, as we strengthen the system of private enterprise that produces our prosperity—as we do all this and more, we solidify those essential bonds that hold us together as a nation. Even more importantly, we advance what in the final analysis government in America is all about: more freedom, more security, a better life, for each one of the 211 million individual persons who are America.

We cannot afford to neglect progress at home while pursuing peace abroad. But neither can we afford to neglect peace abroad while pursuing progress at home.

With a stable peace, all is possible; without peace, nothing is possible.

Earlier in this message, I comment that "one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives . . . selecting each year among many worthy projects those that are ripe for action at that time."

What is true in terms of our domestic initiatives is true also in the world. This period we now are in—these few years—presents a juncture of historic forces unique in this century, which provide an opportunity we may never have again to create a structure of peace solid enough to last a lifetime and more—not just peace in our time but peace in our children's time as well. It is on the way we respond to this opportunity, more than anything else, that history will judge whether we in America have met our responsibility.

I have full confidence that we will meet that responsibility.

RICHARD NIXON.

THE WHITE HOUSE, *January 30, 1974.*

At 9 o'clock and 48 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Acting Chief Justice of the United States and the Associate Justices of the Supreme Court.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly, at 9 o'clock and 55 minutes p.m., the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

REFERENCE OF PRESIDENT'S MESSAGE

Mr. ROSE. Mr. Speaker, I move that the message of the President together with the accompanying documents be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

RESIGNATION OF CONFEREE ON THE ENERGY EMERGENCY ACT

The SPEAKER laid before the House the following letter of resignation of a conferee:

JANUARY 30, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The press of business makes it impossible for me to continue as a conferee on S. 2589, the Energy Emergency Act.

Please remove my name from the list of conferees.

With all good wishes,
Sincerely yours,
JOHN D. DINGELL,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. The Chair appoints to the committee of conference the gentleman from California (Mr. MOSS).

The Clerk will notify the Senate of the appointment by the Speaker.

OPEN CAMPAIGN DISCLOSURE A NECESSITY

The SPEAKER. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, one of the great unfinished tasks of this Congress is the reform of campaign financing laws. Money, secretly collected and secretly used, has corrupted the campaigns and degraded the authorized activities of many elected public officials. In 1973, this corruption became well known. As a result, public confidence in our political system has seriously eroded.

The events of the last 2 years have forcefully demonstrated that money and secrecy have been a corrupting influence in American elections. Millions of dollars were collected in 1972 by the Committee for the Re-Election of the President. Most of it was accumulated without public knowledge. Much of it was extracted in illegal contributions from corporations doing business with, or regulated by the Federal Government.

The enormous amounts of unreported cash provided support for a wide array of abuses and illegal activities we call Watergate. The full impact of these contributions on Government policies might never be known.

Neither party has a monopoly on campaign scandals. Members of my own party in other years have engaged in illegal financing practices.

I believe that the only way to remove the taint of private interest from public affairs and to assure maximum objectivity in Congress is to provide for public financing of Federal election campaigns. The cost to the public would be small—probably less than 50 cents for each American citizen. Returns on this moderate investment in the form of effective and responsible Government performance would be substantial: An objective and uncompromised Congress and Presidency.

Last fall Congress had the opportunity to pass a bill authorizing public campaign financing. I was genuinely disillusioned when many of my friends in Congress joined to defeat the proposal, because the bill would have assured them viable opposition in future campaigns. I am convinced that we must have public campaign financing and that we must provide an equitable opportunity for our opponents to contest our incumbency.

The present law is riddled by loopholes and inadequacy. The raising and spending of large sums without public knowledge of source and recipient is still permitted. Pending passage of any new legislation, I call on all candidates for public office to join me in pledging complete candor and openness in campaign finances. Let the people know who is paying for our campaigns.

In my campaign this year for U.S. Senator, I pledge to follow these self-imposed limitations which conform to and go far beyond the requirements of the law:

First. Every contribution to my campaign in money or in kind, except for purely volunteer assistance, will be reported to the appropriate public offices and released to the public as I did in my 1972 campaign. The occupation of each contributor will be revealed. The present law requires that only contributions over $100 be reported. This has produced the standard technique of donations in multiples of $100.

Second. Every expenditure will be reported to the appropriate public offices and released to the public. The present law does not require public disclosure of all expenditures.

Third. No cash contributions over $50 will be accepted, and all cash contributions will be receipted and reported.

Fourth. I have asked Utah Common Cause to audit both income and expenditures of my campaign on a periodic basis, at whatever frequency they recommend, and to release their findings publicly.

Fifth. I have established one central campaign committee which will disburse all moneys. No other campaign committee will be permitted to spend money on my behalf. All funds collected by any other committee after payment of their own expenses will immediately be turned over to the central committee.

Sixth. If I am nominated by my party, I expect to raise and spend approximately $300,000 during this campaign. To the people of my State, this may seem to be a great deal of money, and it is. However, allowing for inflation, this is about half the amount which committees for each Senate candidate spent in Utah 4 years ago, even though neither faced a primary contest. According to figures released by Common Cause on the last Senate elections, one candidate in Idaho spent $405,000, another in South Dakota spent $427,000, and a third in New Mexico spent $517,000. The fact that $300,000 is probably the minimum amount required to do an effective job underscores the need for limited campaign expenditures financed by tax revenues.

Lastly, I pledge that I will personally supervise all fundraising in my behalf and will take responsibility for the activities of those who are helping me in that task. I reject the fiction that candidates can place themselves above knowledge of those who contribute to their campaign. This is a time-honored escape from accountability, but it is not possible under our system. Any questionable contribution will be returned to the donor.

All of this public disclosure cannot alone restore public confidence in politicians or the political process. I hope this statement will be interpreted as a good faith effort to prove my campaign will have nothing to hide and to assure Utah voters that campaigns can be conducted openly.

WINDFALL PROFITS IN THE PETROLEUM INDUSTRY

The **SPEAKER**. Under a previous order of the House, the gentleman from California (Mr. Moss), is recognized for 5 minutes.

Mr. **MOSS**. Mr. Speaker, American consumers took a beating in the U.S. Senate yesterday.

The decision to recommit the Emergency Energy Act to conference was a victory for the oil industry and a defeat for the consumer. Profits of the major oil companies rose in excess of 50 percent in 1973. A similar increase is in prospect for 1974. The administration, which is supposed to protect the American consumer against inequitable petroleum price increases, predicts another 10 cents per gallon rise in the price of gasoline by March and comparable increases in the price of home heating oil. This translates into $10 to $15 billion annually in windfall profits for the petroleum industry.

Some of those who voted to recommit the Emergency Energy Act yesterday claimed this was necessary, because the provision forbidding windfall profits was unworkable. To the American consumer it must be ludicrous that legions of tax lawyers and accountants can successfully master thousands of pages of largely incomprehensible Internal Revenue code provisions providing deductions, credits, and assorted other benefits to special interests, but when it comes to a provision which would refund windfall profits to the consumer, these alleged experts throw up their hands and claim it is unworkable. Emergency Energy Act restriction on windfall profits was and is workable—workable on behalf of the American consumer.

The following letter, which was sent to Senator Jackson and several other Senators prior to yesterday's vote by myself, Representative John Dingell and Representative William Roy, describes why we believe the restriction on windfall profits was and is in the public interest:

January 29, 1974.

Hon. Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: We are writing in connection with the Emergency Energy Act which we understand will be considered by the Senate today.

Among the most important parts of the Conference Report are Section 110, prohibiting windfall profits; Section 124, requiring public disclosure of reserve and production data on petroleum products; and Section 103, directing the Federal Energy Administration to submit budget estimates and legislative recommendations simultaneously to Congress and the Office of Management and Budget.

We particularly want to comment on the windfall profits section. We believe the section incorporates many innovative procedures. They will operate effectively to limit excess profits in the petroleum industry at a time when American consumers are paying sharply increased prices for gasoline and home heating oil and when profits of the major oil companies have increased in the range of 50% during the past year. There is obviously a need for legislation insuring that the burdens of the energy crisis will be shared equitably by all Americans.

1. It has been argued by some that the standard for determining what is a "windfall profit" is indefinite. We disagree. Section 110 of the Conference Report provides an absolute ceiling on oil industry profits for the next year and four months. That ceiling is the average profit from 1967–1971 of the individual company, or for the petroleum industry, whichever is higher. Thus, petroleum companies can know in advance specifically what profits are permissible and what profits are subject to refund under the terms of the Act.

2. It has been argued that a tax on windfall profits would inhibit investment in the petroleum industry and the development of new sources of energy. We do not agree. The restriction on windfall profits applies only after allowances for all necessary exploration costs. Thus it will not in any way limit the reasonable expenditures of any company seeking to expand its capacity to produce oil and gas. Furthermore, the major oil producers have not experienced difficulty in raising new equity capital. Even during the period from 1967–1972 when the industry claims its profits were low, virtually every debt and equity offering was promptly and completely subscribed.

3. It has also been asserted that Section 110 will be difficult for the Renegotiation Board and the Courts to implement and that delays will ensue. Those who have made this argument obviously have not read the section carefully. The Renegotiation Board has subpoena power which would enable it to obtain necessary information promptly. Furthermore, the Board is authorized to establish an escrow fund appropriate to "assure that sufficient funds will be available for the refund of windfall profits. . . ." With such a provision in the law there will be no incentive for delay by the oil companies, since the excessive portion of their profits will be in escrow pending a final determination. No excess profits tax in the past has ever included such a provision and examples of delays involved in the administration of such provisions are inapplicable to Section 110. It should be noted that the "interested persons" who may bring a proceeding include the United States or any State government. The Board is given authority to tailor equitable relief in a manner appropriate to refund the windfall profits to the public. Included might be reductions in price to purchasers in specific geographic areas. Our courts and administrative agencies have, in the past, shown great ability to devise remedies to protect the public. We believe they can and will act similarly in this case.

Finally, it is important to note that Section 110 of the Conference Report is *not* an excess profits tax provision. It is a "Prohibition on Windfall Profits." Section 110 directs the President to specify prices to avoid windfall profits in the first instance and provides a remedy for individual citizens should the President fail to execute the law appropriately. This is the fundamental difference between the Administration's excess profits tax proposal and the windfall profits prohibition of the Emergency Energy Act.

We wish to commend you on your past efforts to meet the energy problems of our nation and protect American consumers. We hope you will have similar success with the Emergency Energy Act.

Sincerely,

John E. Moss,
John D. Dingell,
William R. Roy,
Members of Congress.

GENERAL LEAVE

Mr. **ROSE**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the special order of Mr. Flood.

The **SPEAKER**. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Fuqua, for January 31 and February 4, on account of committee business.

Mr. Roncalio of Wyoming, for January 29 and January 30, on account of official business, at the request of Mr. O'Neill.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Veysey), to revise and extend their remarks, and to include extraneous matter:)

Mr. Young of Alaska, today, for 5 minutes.

Mr. Railsback, today, for 5 minutes.

Mr. McDade, today, for 5 minutes.

Mr. Edwards of Alabama, today, for 5 minutes.

Mr. Bauman, today, for 5 minutes.

(The following Members (at the request of Mr. Breckinridge) and to revise and extend their remarks and include extraneous matter:)

Mr. Leggett, today, for 30 minutes.

Mr. Gonzalez, today, for 5 minutes.

Mr. Fuqua, today, for 5 minutes.

Mr. Murphy of Illinois, today, for 5 minutes.

Mr. Morgan, today, for 5 minutes.

Mr. Dent, today, for 5 minutes.

Mr. Burke of Massachusetts, today, for 5 minutes.

(The following Members (at the request of Mr. Rose) and to revise and extend their remarks and include extraneous matter:)

Mr. Owens, today, for 10 minutes.

Mr. Moss, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Smith of Iowa and to include extraneous matter.

Mr. Young of Alaska and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $5,016.

(The following Members (at the request of Mr. Veysey), and to include extraneous matter:)

Mr. Burke of Florida.

Mr. Roncallo of New York in two instances.

Mr. Landgrebe in 10 instances.

Mr. Derwinski in two instances.

Mr. O'Brien in two instances.

Mr. McKinney.

Mr. Archer in two instances.

Mr. Goldwater.

Mr. Burgener.

Mr. Lujan in two instances.

Mr. Talcott.

Mr. Hanrahan in five instances.

Mr. Wyman in two instances.

Mr. Huber.

Mr. Erlenborn.

Mr. McDade.

Mr. Symms.

Mr. Ashbrook in three instances.

Mr. Robison of New York.

Mr. Cronin in two instances.

Mr. Pritchard.

(The following Members (at the request of Mr. Abdnor) and to include extraneous matter:)

Mr. Dickinson.

Mr. McClory in two instances.

Mr. Camp.

(The following Members (at the request of Mr. Breckinridge) and to include extraneous matter:)

Mr. Harrington in three instances.

Mr. Badillo in three instances.

Mr. Rostenkowski.

Mr. Reuss in five instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Riegle in three instances.

Mr. Leggett.

Mr. Studds in three instances.

Ms. Holtzman.

Mr. Cotter in 10 instances.

Mr. Kazen.

Mr. Steed.

Mr. Hungate.

Mr. Roush in three instances.

Mr. Dan Daniel.

Mr. Rogers in five instances.

Mr. Vanik in five instances.

Mr. James V. Stanton.

(The following Members (at the request of Mr. Rose) and to include extraneous matter:)

Mr. Yatron.

Mr. Owens in 10 instances.

Mr. Blatnik in five instances.

Mr. Roe in three instances.

Mr. Andrews of North Carolina.

ADJOURNMENT

Mr. ROSE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 9 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Thursday, January 31, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1790. Under clause 2 of rule XXIV, a letter from the Chairman, National Commission on Libraries and Information Science, transmitting the second annual report of the Commission, pursuant to section 5(a)(7) of Public Law 91–345, as amended; to the Committee on Education and Labor.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 12389. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to provide for an advisory referendum on the Eisenhower Memorial Bicentennial Civic Center; to the Committee on the District of Columbia.

By Mr. BAUMAN:

H.R. 12390. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 12391. A bill to amend section 232 of the Trade Expansion Act of 1962 in order to prohibit the imposition under the authority of that section of duties, taxes, or fees on the importation of petroleum and petroleum products, and for other purposes; to the Committee on Ways and Means.

By Mr. BLATNIK (for himself, Mr. Fraser, and Mr. Nelsen):

H.R. 12392. A bill relating to the practice of psychology in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BYRON:

H.R. 12393. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes; to the Committee on Education and Labor.

By Mr. BYRON (for himself and Mr. Landgrebe):

H.R. 12394. A bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland if it continues to be used as such; to the Committee on Ways and Means.

By Mr. CARNEY of Ohio:

H.R. 12395. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. DENT:

H.R. 12396. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. FRASER:

H.R. 12397. A bill to protect the constitutional rights of professional athletes; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 12398. A bill to improve the quality, reliability, and usefulness of data on urban mass transportation systems and on other urban transport operations, systems, and services; to the Committee on Banking and Currency.

By Mr. FUQUA:

H.R. 12399. A bill to amend the Small Business Act to provide loans for making payments on mortgages to small businesses adversely affected by the energy crisis; to the Committee on Banking and Currency.

By Mr. GILMAN:

H.R. 12400. A bill to amend the Export Administration Act of 1969 by establishing a temporary embargo on the exportation of wheat; to the Committee on Banking and Currency.

By Mr. GONZALEZ:

H.R. 12401. A bill to provide for the compensation of persons injured by certain criminal acts, and for other purposes; to the Committee on the Judiciary.

By Mr. GUNTER:

H.R. 12402. A bill to provide for the termination of certain oil and gas leases granted with respect to land located in the Ocala National Forest; to the Committee on Interior and Insular Affairs.

By Mr. GREEN of Pennsylvania:

H.R. 12403. A bill to authorize the Administrator of the Federal Energy Administration to obtain certain information with respect to current supplies of crude oil and petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. HANSEN of Idaho:

H.R. 12404. A bill to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Committee on Banking and Currency.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.R. 12405. A bill to amend titles 10 and 37, United States Code, relating to the appointment, promotion, separation, and retirement of members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. KEMP:

H.R. 12406. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. KETCHUM:

H.R. 12407. A bill to amend title XI of the Social Security Act to repeal the recently added provision of the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 12408. A bill to amend the Internal Revenue Code of 1954 to provide that the percentage depletion method may be used only for oil and gas wells located in the United States or adjacent to the North American Continent; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 12409. A bill relating to the public lands of the United States; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 12410. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for home hemodialysis performed by a nurse or health aide; to the Committee on Ways and Means.

By Mr. MILLER:

H.R. 12411. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN (by request):

H.R. 12412. A bill to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nations of Africa; to the Committee on Foreign Affairs.

By Mr. MURPHY of Illinois (for himself, Mr. Madden, Mr. Kluczynski, Mr. Gray, Mr. Rostenkowski, Mr. Derwinski, Mr. Metcalfe, Mr. Thone, Mr. Yates, and Mrs. Collins of Illinois):

H.R. 12413. A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole or in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings; to the Committee on Interstate and Foreign Commerce.

By Mr. NELSEN:

H.R. 12414. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide increased assurance against adulterated or misbranded food; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS:

H.R. 12415. A bill to amend title 38 of the United States Code to increase the unearned income limitation governing the payment of pensions to certain children of deceased veterans; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

H.R. 12416. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Heinz, Mr. Hudnut, Mr. Vander Jagt, and Mr. Steiger of Wisconsin):

H.R. 12417. A bill to require the development of a long-range plan to advance the national attack on diabetes mellitus, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania (for himself and Mr. Eckhardt):

H.R. 12418. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide improved enforcement of motor carrier safety regulations by the Secretary of Transportation; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSTENKOWSKI:

H.R. 12419. A bill to amend section 4216 (b) of the Internal Revenue Code of 1954 to provide a special rule for determining constructive sale price in the case of automotive parts; to the Committee on Ways and Means.

By Mr. ROY:

H.R. 12420. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 12421. A bill to increase the availability of urgently needed mortgage credit for the financing of housing, and for other purposes; to the Committee on Banking and Currency.

By Mr. SMITH of New York:

H.R. 12422. A bill to amend section 403(b) of the Federal Aviation Act of 1958 to permit the continuation and family fares and to authorize reduced-rate transportation for young people and for elderly people on a space-available basis; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES V. STANTON (for himself, Mr. Rostenkowski, Ms. Abzug, Mr. Ashley, Mr. Aspin, Mrs. Boggs, Mr. Brown of California, Mr. Carney of Ohio, Mrs. Chisholm, Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Cronin, Mr. Dan Daniel, Mr. Davis of South Carolina, Mr. Duncan, Mr. Ford, Mr. Forsythe, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Howard, Mr. Ichord, Mr. Johnson of Pennsylvania, and Mr. Jones of Oklahoma):

H.R. 12423. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON (for himself, Mr. Rostenkowski, Ms. Jordan, Mr. Koch, Mr. Lehman, Mr. Madden, Mr. Mallary, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Mosher, Mr. Moss, Mr. Murphy of Illinois, Mr. Nix, Mr. O'Brien, Mr. Pepper, Mr. Podell, Mr. Riegle, Mr. Sandman, Mr. Sarbanes, Ms. Schroeder, Mr. Seiberling, Mr. Sisk, Mr. Slack, and Mr. Stark):

H.R. 12424. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON (for himself, Mr. Rostenkowski, Mr. Thompson of New Jersey, Mr. Tiernan, Mr. Treen, Mr. Waldie, Mr. White, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Yatron, Mr. Young of Georgia, and Mr. Wolff):

H.R. 12425. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

By Mr. STEIGER of Arizona:

H.R. 12426. A bill to further the economic advancement and general welfare of the various Indian tribes; to the Committee on Interior and Insular Affairs.

By Mrs. SULLIVAN (for herself and Mr. Grover):

H.R. 12427. A bill to amend section 510 of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

H.R. 12428. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 12429. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. VANIK (for himself, Mr. Eckhardt, Mr. Moss, Mr. Addabbo, Mr. Badillo, Mr. Bennett, Mr. Boland, Mr. Brasco, Mr. Brown of California, Mrs. Burke of California, Mr. Carney of Ohio, Mrs. Chisholm, Mr. Clay, Mr. Cotter, Mr. Dellums, Mr. Dent, Mr. Drinan, Mr. Dulski, Mr. Edwards of California, Mr. Eilberg, Mr. Evins of Tennessee, Mr. Fauntroy, Mr. Froehlich, Mrs. Grasso, and Mr. Gude):

H.R. 12430. A bill to amend the Internal revenue Code of 1954 to eliminate in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Harrington, Mr. Helstoski, Mr. Kastenmeier, Mr. Leggett, Mr. Lehman, Mr. Mazzoli, Mr. Meeds, Mr. Metcalfe, Mr. Minish, Mrs. Mink, Mr. Mitchell of New York, Mr. Nedzi, Mr. Nix, Mr. Obey, Mr. Pepper, Mr. Podell, Mr. Rees, Mr. Rodino, Mr. Roush, Mr. Roybal, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, and Mrs. Schroeder):

H.R. 12431. A bill to amend the Internal Revenue Code of 1954 to eliminate, in case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Studds, Mr. Thompson of New Jersey, Mr. Tiernan, Mr. Waldie, Mr. Charles H. Wilson of California, Mr. Won Pat, Mr. Yates, Mr. Hanrahan, and Mr. Stark):

H.R. 12432. A bill to amend the Internal Revenue Code of 1954 to eliminate, in case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 12433. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. BOLAND (for himself, Mr. Burke of Massachusetts, Mrs. Grasso, Mr. Kyros, Mr. Donohue, and Mr. St Germain):

H.R. 12434. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the committee on Interstate and Foreign Commerce.

By Mr. DENT (for himself, Mr. Perkins, and Mr. Dominick V. Daniels):

H.R. 12435. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 12436. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. FROEHLICH:

H.R. 12437. A bill to further the conduct of research, development, and commercial demonstrations in geothermal energy technologies, to direct the National Science Foundation to fund basic and applied research relating to geothermal energy, and to direct the National Aeronautics and Space Administration to carry out a program of demonstrations in technologies for commercial utilization of geothermal resources including hot dry rock and geopressured fields; to the Committee on Science and Astronautics.

By Mr. HARSHA:

H.R. 12438. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 12439. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ:

H.R. 12440. A bill to require the development of a long-range plan to advance the national attack on diabetes mellitus, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. QUILLEN:

H.R. 12441. A bill to amend title II of the Social Security Act to establish more effective procedures for the conduct of hearings, and the appointment of hearing examiners, with respect to claims under such title or title XVIII of such act; to the Committee on Ways and Means.

H.R. 12442. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

By Mr. RONCALLO of New York:

H.R. 12443. A bill to amend title 18 of the United States Code to permit the mailing, broadcasting, or televising of lottery information and the transportation, mailing, and advertising of lottery tickets or any other materials concerning lotteries in interstate commerce, but only with respect to lotteries which are lawful in the State in which conducted; to the Committee on the Judiciary.

By Mr. WALDIE:

H.R. 12444. A bill to authorize pay and benefits for members and survivors of members of the Philippine Scouts on the same basis as such pay and benefits are authorized for other members of the Armed Forces and their survivors; to the Committee on Armed Services.

By Mr. BADILLO (for himself, Mr. Matsunaga, Mr. Steele, Mr. Brown of California, Mr. Breaux, Mr. Conyers, Mr. Addabbo, Mr. Rangel, Mr. Bell, Mr. Roe, Mr. Harrington, Mr. Corman, Mr. Dominick V. Daniels, Mr. Waldie, Mr. Thompson of New Jersey, Mrs. Mink, Mr. Edwards of California, Mr. Stark, Mr. Railsback, Mr. Fraser, Mr. White, Mr. Brasco, Mr. Helstoski, Mr. Dulski, and Mr. Anderson of California):

H.J. Res. 883. Joint resolution: proclamation of Bilingual Education Week; to the Committee on the Judiciary.

By Mr. BADILLO (for himself and Mr. Charles H. Wilson of California):

H.J. Res. 884. Joint resolution: proclamation of Bilingual Education Week; to the Committee on the Judiciary.

By Mr. KEMP:

H.J. Res. 885. Joint resolution to authorize the President to designate April 30, as "Honor Our Nation Day"; to the Committee on the Judiciary.

By Mr. KETCHUM (for himself, Mr. Michel, Mrs. Burke of California, Mr. Goldwater, Mr. Matsunaga, Mr. Heckler of Massachusetts, Mr. Biester, and Mr. Edwards of California):

H.J. Res. 886. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. RIEGLE:

H.J. Res. 887. Joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as National Volunteer Week; to the Committee on the Judiciary.

By Mr. SIKES:

H.J. Res. 888. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H. Con. Res. 419. Concurrent resolution expressing the sense of Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs; to the Committee on Banking and Currency.

By Mr. GREEN of Pennsylvania:

H. Res. 798. Resolution to direct the Interstate and Foreign Commerce Committee of the House of Representatives to conduct an investigation of the causes and conditions of the current petroleum shortages; to the Committee on Rules.

By Mr. ICHORD (for himself, Mr. Aspin, Mr. Dent, Mr. Harrington, Mr. Dan Daniel, Mr. Cronin, Mr. Hinshaw, Mr. Nedzi, Mr. Ruth, Mr. Dulski, Mr. Taylor of Missouri, Mr. Treen, Mr. Goodling, Mr. Alexander, Mr. Henderson, Mr. Hechler of West Virginia, Mr. Ketchum, Mr. Ginn, Mr. McKinney, Mr. Addabbo, Mr. Spence, Mr. Hillis, Mr. McCormack Mr. Lent, and Mr. Annunzio):

H. Res. 799. Resolution declaring the sense of the House with respect to prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. PATMAN (for himself, Mr. Barrett, Mrs. Sullivan, Mr. Ashley, Mr. Stephens, Mr. St Germain, Mr. Gonzalez, and Mr. Minish):

H. Res. 800. Resolution to provide additional funds for the expenses of studies, investigations, and inquiries authorized by House Resolution 18; to the Committee on House Administration.

By Mr. STEELE:

H. Res. 801. Resolution expressing the support of the House for the formation of an Organization of Petroleum Consuming Nations; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK:

H.R. 12445. A bill for the relief of Valery Chalidze; to the Committee on the Judiciary.

By Mr. ASPIN:

H.R. 12446. A bill for the relief of Do Thi Nguyet Anh; to the Committee on the Judiciary.

By Mrs. BOGGS:

H.R. 12447. A bill for the relief of Airlift International, Inc., and Slick Corp.; to the Committee on the Judiciary.

By Mr. BURTON:

H.R. 12448. A bill for the relief of Mildred Del Carmen Galtan Tijerino; to the Committee on the Judiciary.

By Mr. LEGGETT:

H.R. 12449. A bill for the relief of Candido Badua; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 12450. A bill for the relief of Mr. Sawkat Anwer; to the Committee on the Judiciary.

By Mr. SMITH of New York:

H.R. 12451. A bill for the relief of the Lockport Canning Co.; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 12452. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson, of Juneau, Alaska, to be documented as a vessel of the United States so as to be entitled to engage in coastwise trade and the American fisheries; to the Committee on Merchant Marine and Fisheries.

PETITIONS, ETC.

Under clause 1 of rule XXII,

388. The SPEAKER presented a petition of Hon. Malcolm M. Lucas and the other active judges of the U.S. District Court for the Central District of California, Los Angeles, relative to the report of the Commission on Revision of the Federal Court Appellate System; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

MY CHILDREN ARE ORDINARY

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, January 30, 1974

Mr. JAVITS. Mr. President, it is too often the nature of things that the aberrations of behavior grab the daily headlines, which tends to give a distorted view of events. It is for this reason that I am especially pleased to bring to the attention of this body an article which appeared in the January 6 issue of the New York Teacher, the publication of New York State United Teachers. This article was written by Ms. Judi Silverman, a teacher at public school 127 in the East Elmhurst section of Queens, New York City. It is heartening and warming.

I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

My Children Are Ordinary

(By Judi Silverman)

You read about boys setting fire to a young girl, or stoning an old man to death. You hear about kids mainlining their life away, or wasting each other in a gang fight.

My children are ordinary. They don't make headlines, or columns, or richly-financed studies.

Their names aren't Kool Sly, or Ace, or Hit Man. They have ordinary names, like Mark, Steven, Gina, and Lesley, Carole, Becky, and Tyrone. There were 50 names in all, and they made up the senior glee club of PS 127 in New York City.

These children decided to take their holiday show last month to a local hospital, and they took their show, their warmth, their youth, and their innocence to Creedmoor Hospital. Arrangements were made to visit the building where the aged were cared for.

My 50 high-spirited, wonderful children began in the ward on the eleventh floor. They sang four songs, smiling, but the smiles slowly faded as they looked around. Their faces were serious as they repeated the show on the tenth floor. Their fists began to clench, and they huddled closer together.

They couldn't become accustomed to the human degradation they saw. They remained poised, though their throats were tightening and they were visibly shaken.

By the eighth floor, one of my girls broke down. On the seventh floor, our fifth show, Lonnie was singing in the sweetest voice, when the room was split with what can only be described as a shattering cackle.

My children continued without a falter, and wished the patients happy holidays.

When they were six floors below, the girls broke down and cried. They cried for the misery and suffering of others. They cried for people they didn't know, and would probably never see again. They cried for the sorrow of the forgotten, the aged and sick and lonely. They cried and they were beautiful.

I saw the school's toughest boy tenderly comfort a sobbing girl, while tears streamed down his cheeks. I saw children, black and white, Christian and Jew, cross every man-made boundary in a moment of complete empathy.

I was proud of them. I tried to tell them just how proud I was. I love these magnificent children, and I just wanted to tell you this story about them.

DEDICATION OF IMPORTANT SAN ANTONIO HOSPITAL

HON. ABRAHAM KAZEN, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. KAZEN. Mr. Speaker, one of the major boasts of San Antonio, a city for which I am proud to share representation in the House, is the high concentration and quality of medical care provided to the community and the State. Last month an important new facility was dedicated. Metropolitan General Hospital is the first new hospital to be built in the downtown area in 40 years. It rises seven stories high, contains 258 beds, and cost $13,500,000.

It is also unique in that it is the first multifloor module unit hospital anywhere in the world, using construction methods developed by the H. B. Zachry Co. of San Antonio.

My friend and able colleague, HENRY B. GONZALEZ, delivered the dedication address. I am grateful that Charles M. Sanders, president of the hospital, has provided a text of that address which I am pleased to share with my fellow Members:

DEDICATION REMARKS OF HON. HENRY B. GONZALEZ

Mr. and Mrs. Sanders, Mr. and Mrs. Biggs, Canon McAllister, Rabbi and Mrs. Jacobson, all of the distinguished honored guests and everybody here. In a way, everyone is an honored guest because I think you share my sentiments that we indeed are honored today. The afternoon is beautiful. It is one of these typical beautiful, gorgeous San Antonio autumn days. I must admit that Washington was not too dis-similar yesterday, but I am here only because we have left the Senate to wrestle with the mistake of having to work on the Sabbath day tomorrow. But for awhile it looked as if the Speaker would compel us to stay in today, in order to complete work on what some claim is necessary before the government can continue to function properly. And that is the complete action on the so called "debt ceiling legislation." So I think we are all honored that we have this opportunity. We are honored because this new construction represents, and more than represents, it symbolizes a very great and a tremendous achievement.

I think that we are all aware that in San Antonio we have had as Mr. Sanders amply described as a joining of talent, of know-how, of facilities that have been worked into a magnificent co-operative delivery system for health care.

But we are just on the threshold of the future and this Metropolitan General Hospital is a really substantial contribution to this forward thrust in San Antonio.

I am sure we are all aware of the cost of this structure, some 13.5 million dollars. We may not be aware of the fact that it takes a lot of work, a lot of talent and a lot of faith to put that amount of money together for just the construction.

Remember in order to operate this hospital—an almost equal amount of money must be necessary annually, not one time, but every year to sustain the 550 employees and staff it will take to operate fully. The fact that you have the initial investment of 13 million dollars that will have to be paid for, the unique thing is that again San Antonio shows how utilizing the resources on the government level, on the private level, local, state and Federal levels you can do this and perform this achievement.

We are also honored and we are very privileged to have one of the outstanding construction and building men in the United States in the person of H. B. Zachry. I share a lot of things with Mr. Zachry, but mostly our initials "HB". I think we are aware that the figure perhaps of 13 million might have been greater if the techniques and the ingenuity of the mind of Mr. H. B. Zachry had enabled the use of techniques which were considered at one time impossible of achievement.

I think that it can very conservatively be stated that it reduced the initial cost substantially. But this building is inanimate. It consists of brick and stone mortar and the new technique, but in a few days, if not already, the thing that gives it life, are human beings that will be performing their duties, the nurses, the surgeons, the skilled physicians, the technicians and all the modern equipment that we know of. This is what is going to give life to this building. We know that we will be performing and seeing miracles performed. If we give birth today, almost 100% of it is done in an environment that we call a hospital. This was not true in my generation, here in San Antonio. Here will be fought, day after day and night after night, the battle of science for the right to life.

Certainly the citizens of San Antonio and Bexar County should be congratulated today. Out of this cooperative spirit I have described, we have for the first time in the Southwest, a hospital financed through a combination of FHA (Federal Housing Administration) and HEW (The Department of Health, Education and Welfare) this is in itself a unique and historical achievement. And again, it shows in this day and time, in which some days we feel it isn't possible of achievement, we can do things through cooperative spirit in and out of the government.

Out of the spirit within the community, out of your belief in the future, out of your concern for your fellow man has grown an institution which is a living monument to man's humanity to man. At this time when we are continually confronted with man's in-humanity to man this is indeed a most joyous occasion. As we look at this building today our thoughts are on the future. We should also be conscious of the great men and women in the past. Without their contribution we could not possibly be here to inaugurate this structure. And I am not only talking about the great men and women of science generally in medicine throughout the world, but, also those in San Antonio who again our history shows are exceptional.

Great men of medicine, names that we associate with the early period of this great delivery medical system in San Antonio. Names like Dr. Ferdnand Herff, names like Dr. P. I. Nixon are inextricably linked with the development and the pace of modern medicine in this area.

This is the site of an experiment held at the turn of the century with a dreaded disease in San Antonio—Smallpox. San Antonio was the site of the famous house where literally infected people, some of whom were fortunate to survive, but still participated in an experiment to achieve a breakthrough technique to try and control this dreaded disease. It was still in my generation, not far from this area, where it was customary to see the quarantine signs of the skull and crossbones posted on trees and telephone posts designating that neighborhood as a quarantine area because of somebody there either had Scarlet Fever, Diptheria or, earlier than that, Smallpox. Our generation, thank God, isn't confronted with that. But we can't be smug. There are those who feel that a facility of this kind may be surplus. The truth is that it barely contributes to the giving of essential needs of this community must have in the way of hospitals and bed care.

This hospital invisions 258 beds but it is the quality of that care and its accessibility to it that means the contribution that we celebrate today.

When we review the contribution of these men and women in and out of San Antonio that have enabled us to enjoy these facilities we must then silently remember, recall and give a silent vote of thanks to these individuals. The hospital is what I said, a place to be cured in. It is a haven during critical periods in our lives, though, it is true, we may not suffer from such diseases as scarlet fever and pneumonia in a fatal way such as we use to take for granted. But we have equally other deadly developments in the maladies of mankind that we must still confront and hopefully overcome. It has not always been this way and for each brick of this building, as I said and repeat, there is at least one man or one woman who in our long history has helped to transform the early test houses where death was the only form of relief from suffering to the life giving institution of today. So I end as I began by sincerely congratulating all of the individuals who specifically contributed either with money, talents or services to the construction of this eminent facility.

I wish to thank you for your interest and your presence. And I wish to thank Mr. Biggs, Chairman of the Board and Mr. Sanders for his ever constant courtesy for making it possible for me to be here to share these minutes with you. Thank you very much.

PRESIDENT'S PAGE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. HUNGATE. Mr. Speaker, American Bar Association President Chesterfield Smith, in the December 1973 issue of the association's journal, reiterates that organization's position regarding the need for truly independent prosecutors in our judicial system.

Mr. Smith's comments are certainly worthy of consideration.

PRESIDENT'S PAGE

(By Chesterfield Smith)

In 1937 President Roosevelt sought to make significant alterations in the size and composition of the Supreme Court of the United States. The American Bar Association took vigorous action in mobilizing opposition to what it perceived to be an unwarranted attempt to bend the judicial system to serve political expediency. Thirty-six years after its success in that matter, the Association is again involved in a great public debate which, in my opinion, is of equal significance and will be of equal historical consequence.

On October 20, 1973, the President of the United States discharged Archibald Cox from his office as special Watergate prosecutor. There followed promptly thereafter the resignation of Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus. These events and those following have produced a constitutional crisis without parallel in our generation.

The publication schedule of the *Journal* requires that I write these words several weeks before you read them. Each new day is accompanied by new developments so there is risk that what I write now will be rendered out of date by subsequent events. Still, I am proud of what the Association has done. I believe its action rests on principles which do not change and which are not made inoperative by circumstance, and I think it is important for you to know why the Association has done what it has done.

Elsewhere in this issue there is printed the complete text of a resolution adopted by the board of governors at an emergency meeting on October 27, 1973. There is appended to that resolution and made the official position of the Association as of the date it was issued a statement which I released to the news media on October 22. These documents speak for themselves. What is missing, perhaps, is a further exposition of the general principle which led to these actions.

During my professional life, it has always been evident to me that lawyers bear a special responsibility in our society for the preservation of a free and democratic government. As officers of the court and thus as guardians of the law, lawyers are peculiarly well qualified to protect the rule of law. Lawyers should above all others jealously defend and promote the rule of law against all assault. For this reason I called an emergency meeting of the board of governors on October 27.

The board debated at length and with a seriousness in keeping with the gravity of the subject. It considered the Association's Code of Professional Responsibility and its Standards for Criminal Justice. Behind the specific provisions of these policy statements there lies a general consensus of the function of the judicial system in this country.

The board considered carefully the facts as they were known, prior policy of the Association, and reached this consensus. The issues are novel and complex, yet in the final analysis the action of the Board is justified by a very few and, I submit, unassailable propositions.

First, the rule of law has universal application, and no person is above the law.

Second, the investigation and prosecution of crime under the rule of law requires that the investigation be completely free of the control of the subject, of the investigation and possible prosecution.

Third, independence of the prosecuting official means, at the minimum, that neither the appointment nor tenure of the persons conducting the investigation nor its scope on the lines of evidence to be examined should be controlled in any way by the subject of the investigation.

Fourth, any controversy relating to evidence is properly to be determined by the court and not determined unilaterally by the subject of the investigation.

Under these principles the board has called for a congressionally created office of the special prosecutor to be filled by the United States District Court for the District of Columbia. The board has not taken a position on executive privilege, and this is not necessary, for the court is well qualified to decide those issues. The legality of Professor Cox's discharge is not in issue, but the fact of the discharge underlines the necessity of the establishment of a special prosecutor whose independence of those under investigation is clear and absolute. In this respect, the board's action looks forward; it is constructive and positive.

On November 1 President Nixon appointed a distinguished past president of the Association, Leon Jaworski, as special prosecutor. On that day I was giving testimony to the Select Committee of Reform of Federal Criminal Laws of the House of Representatives. I told the members of that committee, and I write not without qualification, that I can think of no one better qualified to be special prosecutor by reason of his professional competence and experience and his unquestioned integrity than Leon Jaworski.

Notwithstanding this, I believe and it is the policy of the Association that the special prosecutor, functioning as a presidential appointee, no matter who may fill that job, is not in the interest of a credible investigation or the interest of the country. The special prosecutor deserves to have a truly independent base of authority. The special prosecutor deserves to perform free from any prior understanding of what evidence is germane and appropriate. The special prosecutor deserves to do his work free from the possibility of discharge by one whom his duty requires him to investigate. The Association will do whatever it can to provide this opportunity.

REPRESENTATIVE SYMMS OPPOSES FUTURES TRADING ACT

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. SYMMS. Mr. Speaker, I enclose the following article from the Journal of Commerce of January 29, 1974, for information of my colleagues on important legislation that is now before the House Agriculture Committee:

REPRESENTATIVE SYMMS OPPOSES FUTURES TRADING ACT

WASHINGTON, Jan. 28.—Rep. Steven Symms, R-Idaho, this weekend said that he is opposed to any measures which would restrict free trading in commodity futures markets.

The Futures Trading Act currently being considered by the House Agriculture Committee, of which Rep. Symms is a member, would, in Rep. Symms' words, "bring futures trading under almost limitless government control."

Rep. Symms said he is actively seeking to kill the proposed legislation while it is in committee. If this bill is passed out of the committee, he promised he would do everything in his power to see that the bill is killed on the floor.

OFFER SUPPORT

Most trade representatives testifying before the committee recognize that the bill is not in the national interests, Rep. Symms said, but they think the legislation is inevitable so they offer support for the bill and attempt only to have the most restrictive clauses removed. Reiterating a statement he made before the Agriculture Committee Jan. 24, Rep. Symms said, "I'm just waiting for the day when American businessmen stand up and tell the government to mind its own damn business."

There appears to be a feeling among industry spokesmen that all of the committee members support this legislation, Rep. Symms said, and this isn't true. There are a number of the members who do not want to pass legislation limiting free trade on the futures markets, but they will vote in favor of the legislation unless industry spokesmen start opposing it, he said.

PREFER HOUSE VERSION

Some trade officials are supporting the House bill because they prefer the House version to the proposals that have been offered in the Senate by Hubert Humphrey, D-Minn., and George McGovern, D-S.D., Rep. Symms said. They must remember that any proposals passed in the Senate must get through the House Agriculture Committee before they can come up for consideration by the House as a whole. If members of the House committee do not pass the Futures Trading Act because it is too restrictive, Rep. Symms said, they certainly wouldn't pass a Senate version.

Rep. Symms, an ardent supporter of free enterprise, called upon industry spokesmen to oppose the proposed futures trading legislation in the upcoming hearings. More hearings on the subject are scheduled for tomorrow.

EQUAL PAY FOR EQUAL SERVICE DUE PHILIPPINE SCOUTS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. WALDIE. Mr. Speaker, the Philippine Scouts—U.S. Army, a component of the U.S. Army, was established by the U.S. Congress in the Reorganization of the Army Act of February 2, 1901.

During the Bataan and Corregidor campaigns and at the height of those fierce and bloody battles, they were promised equal pay and allowances equal to those of the regular U.S. Army.

Such a promise was rightly made. We firmly believe in the concept of equal pay for equal service.

I feel that these men deserve the same benefits. I believe they are entitled to the same benefits. I believe that we are obligated to secure for them the same benefits give to the other members of the Armed Forces.

Today I am introducing legislation that will secure just benefits for members and survivors of members of the Philippine Scouts.

Mr. Speaker, a full copy of the bill follows:

H.R. —

A bill to authorize pay and benefits for members and survivors of members of the Philippine Scouts on the same basis as such pay and benefits are authorized for other members of the Armed Forces and their survivors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Army shall pay to each person who served as a Philippine Scout after December 6, 1941, and before December 31, 1946, in a lump sum the difference between the basic pay which he would have received for his military service during that period if the rates of pay of the Philippine Scouts had been the same as the rates of basic pay for other members of the Army of the United States of corresponding grades and length of service, reduced by the basic pay actually received by such person.

(b) In the event a person entitled to payment under subsection (a) is deceased, payment shall be made to the persons, and in the manner, prescribed in section 2771 of title 10, United States Code.

SEC. 2. The retired pay of each former Philippine Scout shall be computed for periods after the effective date of this Act on the basis of the rates of pay prescribed for other members of the Army of the United States of corresponding grades and length of service.

SEC. 3. This Act shall take effect as of the first day of the first calendar month which begins after the date of enactment of this Act.

DRIVER OF THE YEAR

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. LUJAN. Mr. Speaker, in honor of Wilbur R. "Bill" Moore who has been chosen as Driver of the Year, Senator JOSEPH MONTOYA, Senator PETE DOMENICI, Congressman HAROLD RUNNELS and I wish to have printed as Extensions of Remarks the text of the enclosed letter:

JANUARY 28, 1974.

Mr. WILBUR R. "BILL" MOORE,
Albuquerque, N. Mex.

DEAR BILL: The New Mexico Congressional Delegation would like to take this opportunity to extend our heartiest congratulations and thanks for your many years of outstanding service to the Nation. Your experiences from the days of being a member of the United States Marine Corps, driving for Faria Brothers Trucking Company, Greyhound Lines, and the past 19 years with Pacific Intermountain Express Company, coupled with your acts of heroism on the road, have been recognized in the past when in 1966 you were one of the few Pacific Intermountain Express drivers to make the Million Milers, in July 1968 when you were named California Driver of the Month, in June 1973 when you were named New Mexico Driver of the Month, and in 1973 when you were named New Mexico Driver of the Year.

We are all greatly proud, now, to be a part of the celebration of your selection as 1974 National Driver of the Year. Any man who can log 99,000 miles per year, for a total of 3,363,750 miles without major mishap, who can maintain an easy-going approach to life, who can handle twin rigs, put in 36 years of safe driving, can raise a fine family, enjoy his grandchildren, and maintain his hobbies and continue to help others, deserves everything this Nation can offer him.

In a time when uncertainty prevails in so many aspects of our lives, when more and more traffic fatalities occur each year, when there is a vital need to "move" our Country in a timely manner, and when we all too often lose sight of the true meaning of things, it is refreshing, gratifying, and noteworthy that a man like you is an American. It is especially gratifying to us, as well as a great source of pride, that you are a New Mexican.

Please accept our heartiest and most sincere congratulations on your selection as Driver of the Year, our deepest thanks for your years of dedication and devotion, and our heartfelt best wishes for many, many more years of happiness and success.

Very sincerely,
Senator JOSEPH M. MONTOYA,
Senator PETE V. DOMENICI,
Congressman MANUEL LUJAN, Jr.,
Congressman HAROLD RUNNELS,

VOTING RECORD OF CONGRESSMAN JOEL PRITCHARD, 93D CONGRESS, ROLLCALLS NOS. 521 THROUGH 726

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. PRITCHARD. Mr. Speaker, last November, at the request of a number of constituents who have asked for copies of my voting record, I inserted my voting record in the CONGRESSIONAL RECORD. That voting record covered 520 rollcalls and quorum calls and indicated that I had an attendance figure of 94 percent.

Since last November, there have been 205 additional rollcalls and quorum calls, which concluded the 1st session of the 93d Congress. My voting record through the first session indicates a cumulative attendance figure of 95.1 percent. My voting record for the remainder of the year is as follows:

Roll-call	Date	Description	Member's response
521	Oct. 12, 1973	H.R. 10203, on passage	Aye.
522	do	Quorum, call of the house	Absent.
523	Oct. 15, 1973	do	Present.
524	do	do	Do.
525	do	S. 907, suspend rules and pass	Yea.
*526	do	H.R. 8346, suspend rules and pass	No.
527	Oct. 16, 1973	Quorum, call of the House	Present.
528	do	H.R. 9590, agreeing to conference report	Yea.
529	do	H.R. 9590, recede and concur in Senate amendment	Yea.
530	do	do	Yea.
531	do	H.R. 6691, agreeing to conference report	Nay.
532	do	H.R. 10717, suspend rules and pass	Yea.
533	do	H.R. 9681, on agreeing to the amendment	Aye.
534	do	H.R. 9681, motion to limit debate	Aye.
535	Oct. 17, 1973	Quorum, call of the House	Present.
536	do	H. Res. 601, on agreeing to resolution	Yea.
537	do	H.R. 9681, on agreeing to the amendment	No.
538	do	H.R. 9681, on passage	Yea.
539	do	S. 2016, agreeing to conference report	Yea.
540	Oct. 18, 1973	Quorum, call of the House	Present.
541	do	H.R. 10397, on passage	Aye.
542	do	H.R. 9639, concur in Senate amendment	Nay.
543	Oct. 23, 1973	Quorum, call of the House	Present.
544	do	H.R. 10586, on passage	Yea.
545	do	Quorum, call of the House	Present.
546	Oct. 24, 1973	do	Do.
547	do	H. Res. 600, on agreeing to the resolution	Yea.
548	do	Quorum, call in committee	Present.
549	do	H.R. 3927, on agreeing to the amendment	Aye.
550	do	H.R. 3927, on passage	Yea.
551	Oct. 25, 1973	H. Res. 655, on agreeing to the resolution	Yea.
552	do	H.R. 10956, on passage	Yea.
553	Oct. 30, 1973	H. Res. 656, on agreeing to the resolution	Yea.
554	do	H.R. 9456, on passage	Yea.
555	Oct. 31, 1973	Quorum, call of the House	Present.
556	do	H.R. 9286, reject sec. 817 of conference report	Nay.
557	Nov. 6, 1973	Quorum, call of the House	Present.
558	do	H.J. Res. 735, suspend rules and pass	Yea.
559	do	H.R. 5875, suspend rules and pass	Yea.
560	do	H.R. 8219, suspend rules and pass	Yea.
561	do	H.R. 10937, suspend rules and pass	Yea.
562	Nov. 7, 1973	Quorum, call of the House	Present.
563	do	H.J. Res. 542, on Presidential veto	Yea.
564	do	H. Res. 687, ordering the previous question	Yea.
565	do	Quorum, call in committee	Present.
566	do	H.R. 11104, on agreeing to the amendment	Aye.
567	do	H.R. 11104, on passage	Yea.
568	Nov. 8, 1973	H. Res. 688, on agreeing to the resolution	Yea.
569	do	Quorum, call in committee	Present.
570	do	H.R. 9142, on agreeing to the amendment	Aye.
571	do	do	Yea.
572	do	H.R. 9142, on passage	Nay.
573	Nov. 13, 1973	Quorum, call of the House	Present.
574	do	S. 1081, recommit conference report with instructions	Nay.
575	do	S. 1081, agreeing to conference report	Yea.
576	do	Quorum, call of the House	Present.
577	do	H.R. 8916, agreeing to conference report	Yea.
578	do	H. Con. Res. 378, on agreeing to the resolution	Nay.
579	do	H.R. 8877, recommit the conference report	No.
580	do	Quorum, call of the House	Present.
581	do	S. 1570, agreeing to conference report	Yea.
582	Nov. 14, 1973	H. Res. 128, on agreeing to the resolution	Yea.
583	do	Quorum, call in committee	Present.
584	do	do	Present.
585	do	H.R. 11459, on passage	Yea.
586	Nov. 15, 1973	Quorum, call of the House	Present.
587	do	H. Res. 702, previous question on amendment	Nay.
588	do	H. Res. 702, ordering the previous question	Nay.
589	do	H. Res. 702, recommit with instructions	Aye.
590	do	H. Res. 702, on agreeing to the amendment	Aye.
591	do	H.R. 11333, on agreeing to the amendment	Aye.
592	do	H.R. 11333, on passage	Aye.
593	Nov. 26, 1973	Quorum, call of the House	Present.
594	do	H.R. 11238, on passage	Yea.
595	Nov. 27, 1973	H.R. 7446, agreeing to conference report	Yea.
596	do	H. Res. 718, on consideration of resolution	Yea.
597	do	H.R. 11324, on passage	Yea.
598	Nov. 28, 1973	H. Res. 719, on agreeing to the resolution	Yea.
599	do	H.R. 11010, on agreeing to the amendment	Aye.
600	do	do	No.
601	do	do	No.
602	do	H.R. 11010, on passage	Yea.
603	Nov. 29, 1973	H. Res. 721, on agreeing to the resolution	Yea.
604	do	Quorum, call in committee	Present.
605	do	H.R. 11575, on agreeing to the amendments	Aye.
606	Nov. 30, 1973	Quorum, call of the house	Present.
607	do	H.R. 11575, on agreeing to the amendment	No.
608	do	do	Aye.
609	do	do	Aye.
610	do	H.R. 11575, on passage	Yea.
611	do	Quorum, call in committee	Present.
612	do	H.R. 11576, on agreeing to the amendment	No.
613	do	H.R. 11576, on passage	Yea.
614	Dec. 3, 1973	Quorum, call of the House	Present.
615	do	S. 1191, suspend rules and pass	Yea.
616	do	H.R. 11710, suspend rules and pass	Nay.
617	do	H.R. 9437, suspend rules and pass	Yea.
618	Dec. 4, 1973	Quorum, call of the House	Present.
619	do	H. Res. 725, on agreeing to the resolution	Yea.
620	do	S. 1443, agreeing to conference report	Yea.
621	do	H. Con. Res. 173, suspend rules and agree	Yea.
622	Dec. 5, 1973	H.R. 8877, agreeing to conference report	Yea.
623	do	H.R. 8877, recd. and con. in Senate amendment with amendment.	Yea.
624	do	H.R. 7130, on agreeing to the amendment	No.
625	do	do	Aye.
626	do	do	Aye.
627	do	do	No.
628	do	do	No.
629	do	do	Aye.
630	do	do	Aye.
631	do	H.R. 7130, on passage	Aye.
632	Dec. 6, 1973	Quorum call of the House	Present.
633	do	H. Res. 738, on agreeing to the resolution	Yea.
634	do	H. Res. 735, on agreeing to the resolution	Yea.
635	Dec. 7, 1973	H.R. 11459, agreeing to conference report	Yea.
636	do	H. Res. 673, on agreeing to the resolution	Nay.
637	do	H.R. 9107, on passage	Yea.
638	Dec. 10, 1973	Quorum call of the House	Present.
639	do	H. Res. 657, on agreeing to the resolution	Yea.

Roll-call	Date	Description	Member's response
640	do	Quorum, call in committee	Absent.
641	do	Quorum, call in committee	Present.
642	Dec. 11, 1973	Quorum, call of the House	Do.
643	do	H.R. 10710, on agreeing to the amendment	Aye.
644	do	H.R. 10710, on agreeing to the amendment	No.
645	do	H.R. 10710, on passage	Aye.
646	do	H.R. 11088, on agreeing to the amendment	Aye.
647	do	H.R. 11088, call in committee	Aye.
648	do	Quorum, call in committee	Present.
649	do	do	Do.
650	do	H.R. 11771, on agreeing to the amendments	No.
651	do	H.R. 11771, on agreeing to the amendment	Aye.
652	do	H.R. 11771, on agreeing to the amendment	No.
653	do	H.R. 11771, on passage	Yea.
654	Dec. 12, 1973	Quorum, call of the House	Present.
655	do	do	Do.
656	do	H. Res. 744, on agreeing to the resolution	Aye.
657	do	Quorum, call in committee	Present.
658	do	H.R. 11450, on agreeing to the amendment	Aye.
659	do	do	Aye.
660	Dec. 13, 1973	Quorum, call of the House	Present.
661	do	H.R. 11450, on agreeing to the amendment	Aye.
662	do	do	No.
663	do	H.R. 11450, on motion to limit debate	No.
664	do	H.R. 11450, on agreeing to the amendment	No.
665	do	do	No.
666	Dec. 14, 1973	Quorum call of the House	Present.
667	do	H.R. 11450, on agreeing to the amendment	No.
668	do	do	No.
669	do	do	Aye.
670	do	H.R. 11450, on motion to limit debate	No.
671	do	H.R. 11450, strike enacting clause	No.
672	do	H.R. 11450, on agreeing to the amendment	Aye.
673	do	do	Aye.
674	do	do	Aye.
675	do	H.R. 11450, motion that committee rise	No.
676	do	H.R. 11450, on agreeing to the amendment	Aye.
677	do	do	Aye.
678	do	do	Aye.
679	do	do	Aye.
680	do	do	No.
681	do	do	No.
682	do	do	Aye.
683	do	H.R. 11450, motion that committee rise	No.
684	do	H.R. 11450, on agreeing to the amendment	Aye.
685	do	do	No.
686	do	do	Aye.
687	do	do	No.
688	do	H.R. 11450, on motion to recommit	No.
689	do	H.R. 11450, on passage	Yea.
690	Dec. 17, 1973	Quorum call of the House	Present.
691	do	do	Do.
692	do	S. 1435, on motion to recommit	Nay.
693	do	S. 1435, agreeing to conference report	Aye.
694	do	S.J. Res. 180, suspend rules and pass	Yea.
695	do	S. 2482, suspend rules and pass	Yea.
696	Dec. 18, 1973	Quorum call of the House	Present.
697	do	H.R. 9256, agreeing to conference	Yea.
698	do	H. Res. 746, on agreeing to the resolution	Yea.
699	do	S. 2166, suspend rules and pass	Nay.
700	do	S. 2316, suspend rules and pass	Yea.
701	do	H.R. 11714, suspend rules and pass	Nay.
702	do	H.R. 11763, suspend rules and pass	Yea.
703	Dec. 19, 1973	Quorum, call of the House	Present.
704	do	H.R. 11576, on motion to recommit	Yea.
705	do	Quorum, call in committee	Present.
706	do	H.R. 11510, on agreeing to the amendment	No.
707	do	H.R. 11510, on passage	Aye.
708	Dec. 20, 1973	Quorum, call of the House	Absent.
709	do	S. 1559, recommit conference report	Nay.
710	do	S. 1559, agreeing to conference report	Yea.
711	do	H.R. 11575, recommit conference report	Yea.
712	do	H.R. 11575, agreeing to conference report	Aye.
713	do	H.R. 11771, agreeing to conference report	Yea.
714	do	S. 1983, agreeing to conference report	Yea.
715	do	H. Res. 754, suspend rules and pass	Aye.
716	do	H.R. 9142, agreeing to conference report	Nay.
717	do	H.R. 11576, agreeing to conference report	Yea.
718	Dec. 21, 1973	Quorum, call of the House	Present.
719	do	H.R. 11333, concur in Senate amendment	Aye.
720	do	H. Res. 759, motion for a second	Nay.
721	do	H. Res. 759, suspend rules and pass	Yea.
722	do	H. Res. 760, suspend rules and pass	No.
723	do	H. Res. 761, suspend rules and pass	Yea.
724	do	H. Con. Res. 411, on agreeing to the resolution	Nay.
725	Dec. 22, 1973	Motion to adjourn	Not voting.
726	do	Quorum, call of the House	Present.

IS THE UNITED STATES BUILDING COMMUNIST CHINA'S MILITARY MACHINE?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ASHBROOK. Mr. Speaker, efforts of the Nixon administration toward Communist China have resulted in a number of different reactions, from unqualified approval to almost total opposition. I have criticized these moves, pointing out many of the misconceptions that have arisen therefrom and the dangers of this policy.

Expanding trade with Communist China has also gained plaudits from some and criticism from others. Even those who are in favor of expanding trade with the Red Chinese I doubt are in favor of building the military capabilities of Mainland China. All must recognize that the national interests and the goals of the United States of America and the Peoples Republic of China are in opposition in a great number of areas, including the Middle East, Africa, Southeast Asia, and Eastern Asia. The Communist Chinese have given both vocal and military support to guerrillas fighting against our ally Portugal, to terrorists in the Middle East, and to the Vietcong and North Vietnamese, to mention only a few. The Communists still speak of "liberating" Taiwan.

In the December 24, 1973, issue of U.S. News & World Report an article reported that the M. W. Kellogg Co., has announced contracts to build in mainland China five fertilizer-ammonia plants valued at a total of $130,000,000. Of course, historically the Chinese have been short of fertilizer. This would lead many not to see any problem with American firms building fertilizer plants for the Communist Chinese. However, one factor is overlooked. The ammonia and other products that are manufactured in such fertlizer plants are also an important ingredient in the manufacture of explosives. As knowledgeable observers realize, fertilizer plants are easily convertible into explosive plants. The question then arises: Is the Kellogg Co.'s construction program in Communist China a program for the construction of fertilizer plants or explosive plants? Of course, once these plants are built it will be the Communist Chinese and not us who will be making that determination.

I seriously question if building such plants whose end use can be military is in the national interest of the United States or of the American people.

At this point I include in the RECORD the short article from the U.S. News & World Report entitled ". . .While China Seeks Trade Lift."

The article follows:

. . . WHILE CHINA SEEKS TRADE LIFT

Mainland Chinese trade officials are to visit the U.S. in 1974 in response to a bid from a group of American business leaders during a trip to Peking.

It would be the first commercial delegation from Communist China to travel to America.

The invitation, extended by the Washington-based National Council for U.S.-China Trade comes when the flow of goods is weighted heavily in favor of American exports. Of an estimated two-way trade in 1973 of 900 million dollars, U.S. imports account for less than 70 million.

Observers say this imbalance stems largely from continuing Chinese purchases of American technology and equipment, especially in the field of farm fertilizers.

The M. W. Kellogg Company, for example, announced in late November new contracts to build in China five fertilizer-ammonia plants valued at a total of 130 million dollars. These agreements, together with three previous awards totaling more than 70 million, are said to give Kellogg—a Pullman, Inc., division—the largest dollar volume of business with Peking of any U.S. firm having commercial links with the People's Republic of China.

In a related deal, Domain Industries, Inc., has sold 10 heavy-duty packaging systems to China. These are to be used for bagging fertilizer. Eighteen additional units were purchased by a Japanese firm that is building a fertilizer plant for the Chinese.

THE HOUSING AND COMMUNITY DEVELOPMENT LEGISLATION

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. GONZALEZ. Mr. Speaker, last year was a very frustrating one for those who have a strong interest in, and feel a responsibility toward housing and community development legislation.

The housing assistance programs were suspended by the administration and this was followed by a similar action in community development programs.

Communities across the country have worked long and hard to develop projects, only to find that funds for these activities were no longer available, even though legislation for these programs is public law.

The impoundment issue is now in the courts, and the cases decided to date have been against the actions of this administration, but I feel that Congress should take a stand to assure the American people that we are not turning our backs on them, and that it is the intent of Congress that funds authorized and appropriated for housing and community development should be spent until such time as they are exhausted or Congress terminates or replaces them.

We cannot reenact housing and community development legislation which has been enacted and signed by the President. Nor can Congress administer the housing and community development programs, which it has enacted; that is left to the President and agency heads.

Today I am introducing a resolution which expresses the sense that Congress wants the funds authorized and appropriated to be used unless we say otherwise, and I hope that the American people will be convinced that Congress continues to be committed to the goal of decent housing and a suitable living environment for all, even though the administration does not seem to have this same commitment.

ON FORMULATING AN APPROACH TO IMPEACHMENT

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RIEGLE. Mr. Speaker, former Special Watergate Prosecutor Archibald Cox has written an excellent article entitled "On Formulating an Approach To Impeachment." It appears in the New York Times, of January 24, 1974, and I insert it in the RECORD for the interest of my colleagues:

ON FORMULATING AN APPROACH TO IMPEACHMENT

(By Archibald Cox)

The impeachment process now under way poses novel and unusual difficult challenges to lawyers, to men in government and other forms of public life, indeed to all of us. We write upon an almost clean slate. Little law or political precedent is available to guide the hard decisions. Yet, regardless of the outcome, the value of the proceeding will depend on whether the process is so conducted that the country perceives it as a fair and legitimate measure for restoring integrity to government.

If President Nixon should be impeached and convicted, the question of legitimacy will be paramount. If Mr. Nixon is acquitted, the country will still need assurance about the integrity of that conclusion. Whatever the event, we may fairly ask that the leadership build better for the future than its predecessors at the impeachment of Andrew Johnson.

The central challenge is to formulate the principles, the general standards of conduct, by which a President is to be judged in a proceeding that vacates, without direct expression of the popular will, a choice made by the people—in this case overwhelmingly made by the people—in the regular election only a few years before.

Too much discussion, public and private, has been concerned either with loose generalities about the ultimate question of impeachment or with the excitement and speculation stirred by particular disclosures. Too little hard debate has focused upon what should be impeachable offenses—upon why some wrongdoing should be grounds for impeachment while other misconduct is left to popular judgment at the polls.

I am convinced that the legitimacy of the final conclusion in the view of the American people will depend upon the success of counsel and other public men in formulating general standards of conduct fairly applicable to any President, and in educating the public upon their meaning and legal and moral base. For Democratic Senators and Representatives to keep silent upon the ground that impeachment is a Republican problem and for Republicans to keep silent while they test the political winds is to deny the country the debate necessary to educated self-government and the development of governmental institutions.

We might give two polar meanings to the "high crimes and misdemeanors" for which a President, a judge or any other civil officer may be impeached: anything that satisfies the Congress of the day, or at the other extreme only violations of the criminal law. Convincing historical materials exclude both these poles and leave us with a third view: that the phrase "high crimes and misdemeanors" covers some but surely not all political offenses—"political" in the sense of governmental.

Reaching this conclusion moves us along, but it is only the beginning of the challenge. What are the wrongs against the people, the body politic, for which a President may properly be impeached?

The Gallup poll and like measures of public opinion report that a very large majority believes that President Nixon is guilty of covering up wrong-doing, but of those expressing an opinion a majority opposes removal by impeachment. The difference, in my opinion, is attributable to a fear of impeachment not unlike the fear of regicide and the horror of the regicide once accomplished during the time of Cromwell and King Charles I.

Of course, impeachment cannot be wholly illegitimate—the Constitution provides for it—but I think that the country has a deep, intuitive understanding that impeachment is extraordinary, radical surgery, legitimate only upon some equally fundamental wrong, doing such grave injury to the nation as to make any incumbent's further continuance in office unacceptable even though his previous entitlement was based upon popular election.

Surely any wrong so fundamental as to require setting aside the results of one election without holding another must be one that can be stated in general terms plainly applicable to any President at any time. The need is to quiet the fear that impeachment may be or become a partisan substitute for a premature election. Political opposition, emotion, dislike, distrust and lack of public confidence (which may be temporary even when mixed with suspicion of some kind of wrongdoing) are not enough.

Equally surely, in my opinion, any general standard of political conduct the violation of which would support impeachment must have a broad and generally accepted moral base, understood by the country, so that again the same rule would apply to any President, so that we should not be resolving questions of public policy by impeachment. Nor should we be making up new rules of conduct as we go along. Of course, it is unnecessary to draw up a complete code of Presidential conduct. Mixing pragmatism with principle is one source of much of the creativity in Anglo-American law and government.

We work eclectically up to a point, passing judgment upon particular sets of facts, but we also test our judgment by asking whether it rests upon reasons that we can articulate and apply to other situations having the same essential elements, with enough generality both in scope and continuity to give guarantees against caprice, prejudice, self-interest or unreasoned emotion.

So here, the articulation of minimum acceptable standards of conduct for any President or high executive officer can begin with facts proved or assumed.

It is fair to say that evidence may be available to show that President Nixon's lawyers and accountants, without deliberate misrepresentation, zealously sought every loophole and cut every corner in an effort to avoid or minimize the payment of taxes; to show that others acting on his behalf likewise stretched every possible point to add to the convenience and comfort of Key Biscayne and San Clemente at public expense; and, finally, to show that in some cases they claimed more than the law allows.

Bad taste? Surely. Avariciousness? Yes. Bad leadership? Again, surely. Morally shabby? I think so, even though the same shabbiness infects thousands of tax returns and expense accounts. Grounds for impeachment? I wonder.

We are hardly prepared to say that any officer of the United States who, without concealing or misrepresenting material facts, claims a tax deduction not due should be removed from office. If not, does my phrasing omit some essential element in President Nixon's situation? Would convincing proof of material misrepresentation make a decisive difference?

Let us try again. Is it tolerable or a high offense against the liberty and security of a whole people for a President to approve in principle electronic surveillance, mail covers and burglaries for the purpose of gathering domestic intelligence, over the objection of the established agencies to set in motion a small force of his own irregulars—the Caulfields, Ulasewiczes, Liddys and Hunts—who will operate from the executive office outside all the regularizing rules and procedures of the established agencies in order to effectuate Administration policy and political objectives and to hamper inquiry into their activities?

Move to a third area. The President's duty is to see that the laws are faithfully executed. Is it an impeachable violation of this responsibility for him to refrain for months from any form of personal intervention when there is, first, suspicion and later at least some evidence that his highest personal aides and party officials are obstructing justice by covering up criminal misconduct, for him to withhold disclosure and refuse evidence when investigation leads to papers taken into his files, and for his aides, apparently with his approval, to cooperate with those seeking to avoid indictment and conviction?

I do not imply answers to these questions, nor do I suggest that my factual predicates represent the actual facts. The evidence may show more, or less.

The point I wish to emphasize is that it is past the time for all those deeply concerned with our Government to bend some of their time and effort away from the excitement of factual disclosures to the very arduous task of formulating and thus creating a substantive law of impeachment where now there is none. Whether the present proceedings help to rebuild confidence in our system of government or push us further down the slope to cynicism and despair will depend upon the ability of the House Judiciary Committee to sense the as-yet-unstated moral intuition of the country and articulate it in operative principles by which President Nixon's conduct can be judged.

FACELESS CASUALTIES MUST NOT BE FORGOTTEN

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BURGENER. Mr. Speaker, last December 10, the San Diego Evening Tribune published an editorial concerning the plight of our men who are still missing in action in Southeast Asia. I believe that the sentiments expressed in this editorial have a special significance in light of this week's visit to the Capitol by many of the wives and parents of some of our MIA's. I ask that the text be printed at this point in the RECORD and I commend it to the attention of every Member of the House:

"FACELESS CASUALTIES" MUST NOT BE FORGOTTEN

The miseries of the fuel shortage, high prices and general national unrest cast a pall over the entire nation during this season that traditionally is one of joy.

But in 1,200 American homes, the distress is compounded by grief and uncertainty over the fate of loved ones described by one San Diego family as "faceless casualties of war."

Ten months after the signing of the Vietnam peace agreement in Paris, more than 1,200 servicemen and civilians—once listed as prisoners-of-war or missing in action—remain unaccounted for.

And the question that nags anxious and lonely wives, children and parents during this Christmas season is: "Are our men alive in Communist hands?"

It is possible, of course, and concerned relatives feel understandably that they have been betrayed by North Vietnamese leaders who pledged release or accounting of all Americans in Southeast Asia. They believe they have been neglected by a U.S. government that has failed to pursue vigorously fulfillment of the pledge.

The Paris agreement calls specifically for all parties to the pact to "help each other" obtain information about the missing, to determine the location of graves of the dead and to facilitate the exhumation and repatriation of remains of the dead.

To date, not one body of the 60 Americans reported to have died in captivity has been returned. There has been no effort to reconcile discrepancies in respect to men known to have been captured but unaccounted for at the time of the prisoner exchange. American search and rescue teams have been denied access to areas where most of the missing disappeared.

The American government has been reluctant to press the issue. Only one formal protest has been made to the North Vietnamese government and that under prodding of the National League of Families, which has dedicated itself to ripping down the curtain of cruel silence.

The families of the missing men have not forgotten.

Neither should the millions of Americans who so recently gave a hero's welcome to each of the prisoners-of-war released from prison camps in Southeast Asia.

And neither should our elected representatives in Congress, the White House, the State Department, the Defense Department or our embassies abroad.

Those brave men who put their lives on the line for us remain, dead or alive, the concern of each and every compassionate American.

IOWA STATE SCORES AGAIN

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. SMITH of Iowa. Mr. Speaker, scientists and investigators at Iowa State University have from time to time, over the years, been the inventors and developers of every significant and far reaching program, chemicals, drugs, and machines. Dr. Speeding headed the program which was an important part of the Oakridge atomic project; numerous superior metals for the space program; building materials made from corn stalks or wastewood shavings; many inventions incorporated in farm machinery; stilbestrol; and many other contributions to mankind were products of Iowa State; and now it has been established that Vincent Atanasoff, a former Iowa State physics professor should be recognized as the true father of the important computer industry. Probably nothing else has changed our lives more or contributed to producing on a mass basis more than computers. Computers are hooked up to machines of production, they are used to store, memorize and retrieve important statistics and information. The limit of their use is still not known. The head of the Washington Bureau for Cowles Publications, Clark Mollenhoff, has documented the fantastic story of Dr. Atanasoff's part in the development of the computer industry.

Now that it has been legally established that Dr. Atanasoff is the true father of the computer, I assume Iowa State may want to extend appropriate recognition and justly point with pride to the fact that one more of a long list of important inventions is directly related to this University which has contributed so much to our scientific and technological advancement. Following is the story as related by Clark Mollenhoff:

[From the Des Moines Sunday Register, Jan. 27, 1974]

COURT: COMPUTER IOWAN'S IDEA

(By Clark Mollenhoff)

MONROVIA, MD.—More than 35 years after his initial work on the theory of development of a computer at Iowa State College, Dr. John Vincent Atanasoff has been recognized as the true father of the multibillion-dollar-a-year computer industry.

The affable, 70-year-old former Iowa State College mathematics and physics professor and his Iowa-born wife, Alice, have "little bitterness" and "few regrets" over the tardiness of the recognition.

In fact, they take some consolation that the lengthy Minneapolis federal court trial that brought forth the facts has solidified the record of Dr. Atanasoff's contribution in a manner that is seldom achieved.

The federal court record that established Dr. Atanasoff as "the Thomas Edison" of the electronic digital computer also establishes just as clearly that essentially all of the pioneer work was done in the shop and basement of the Old Physics Building of the compus of what is now known as Iowa State University at Ames.

REVAMPED MACHINE

"J.V.", as the handsome grey-haired scientist is called, said last week that it was in Room 52 of "Old Physics" where he mulled over the extensive and frustrating problems of graduate students in the early 1930s, and in 1934 revamped an IBM punch-card machine into a crude mechanical device for solving complex mathematical equations.

The young associate professor's tinkering outraged the IBM serviceman and resulted in a letter of criticism from the company for that first try at a mechanical means of getting around the tedious calculations involved in the advanced experiments of his doctoral candidates.

Dr. Atanasoff relates that it was in a basement room in "Old Physics" that he and Clifford Berry, an assistant, worked between 1938 and May, 1942, in putting together the prototype and then the ABC (Atanasoff-Berry Computer) machine that the court opinion now recognizes as containing most of the principles in ENIAC—generally accepted as the world's first automatic electronic digital computer.

ENIAC (the acronym for Electronic Numerical Integrator and Computer) was completed in 1945, the creation of Dr. John Mauchly and Dr. J. Preser Eckert, who have been generally acclaimed in the industry as the original thinkers of the computer industry.

INDUSTRY FOLKLORE

In the folklore of the industry and in its textbooks, Mauchly and Eckert were treated as the originators of the ideas in the ENIAC computer. The patents of Sperry Rand were based on the legend that the basic ideas in ENIAC flowed from meetings of Dr. Mauchly and Dr. Eckert over a sundae and a cup of coffee in a Philadelphia, Pa., restaurant.

Conveniently forgotten was that Dr. Mauchly had visited Dr. Atanasoff in Ames in 1940, had been his houseguest, and had been given access to Dr. Atanasoff's papers and the machine then under construction.

He had even asked if he could take with him a copy of a 35-page study that incorporated the ideas of "regenerative memory" and "logic circuits," but Dr. Atanasoff rejected the request, feeling that he had been sufficiently hospitable in free discussions and permitting Dr. Mauchly to read the paper.

On Oct. 19, 1973, U.S. District Judge Earl H. Larson, ruling on a $200 million patent infringement suit brought by Sperry Rand against Honeywell, Inc., made a finding that Dr. Atanasoff's work was the source of most of the ideas in ENIAC and invalidated the patent rights.

Had Dr. Atanasoff felt compelled to challenge the Mauchly-Eckert legend, it is doubtful if he could have afforded the long court struggle with such a corporate giant as Sperry Rand.

8-YEAR FIGHT

But, as the financial interest of one corporate giant denied Dr. Atanasoff his proper recognition, the financial interest of another giant—Honeywell, Inc.—created the conditions for an 8-year court fight over patent rights.

That fight ended with Sperry Rand's ENIAC patents declared invalid. Sperry Rand then made a $3.6 million settlement with Honeywell.

The court verdict is based upon thousands of pages of pre-trial depositions and an extensive 135-day trial on the patent rights that cost both firms millions of dollars for investigations, legal fees, and court costs.

Dr. Atanasoff was a key witness for Honeywell, gave extensive depositions as early as November, 1968, and testified for nine days in June, 1971.

It was the opinion of Judge Larson that Dr. Mauchly obtained the ideas incorporated in ENIAC from Dr. Atanasoff during the 1940 visit to Ames.

NO SECRECY

"The discussions Mauchly had with both Atanasoff and Berry while at Ames were free and open and no significant information concerning the machine's theory, design, construction, use or operation was withheld," Judge Larson stated.

The Minnesota judge noted that "prior to his visit to Ames, Mauchly had been broadly interested in electrical analog calculating devices, but had not conceived an automatic electronic digital computer."

Judge Larson commented that he found the testimony of Dr. Atanasoff "to be credible." He found Dr. Mauchly's lack of memory to fall short of "a finding of willful and intentional fraud" but declared it was filled with "various derelictions" on the initial representations to the patent office.

Mauchly said that he still takes the position that the Atanasoff-Berry Computer was "just a crude little machine that wouldn't really do anything" and that ENIAC was "a highly sophisticated and operational machine."

"Dr. Eckert and I wish that the Sperry Rand people would have appealed this, because it does leave us in a bad position because of the misunderstanding of the court," Dr. Mauchly said.

Dr. Mauchly told The Register that he admitted having gone over all of Dr. Atanasoff's material in 1940.

"I don't think I learned anything from his papers, and I was merely trying to help the guy in case Iowa State didn't want to finance him," Dr. Mauchly said. "I really don't know what the judge's decision means from a standpoint of the individual patents on ENIAC because I haven't had time to review it yet."

Dr. Mauchly conceded that it would be difficult to get a more thorough dredging for evidence than in a lawsuit involving the corporate giants of the computer world, but that in this instance Judge Larson "didn't take into account some very important technical evidence."

Although Dr. Mauchly and representatives of Sperry Rand visited Dr. Atanasoff at his farm during the litigation in an effort to get him "to testify for them, and to just not have as good a memory on some things as I had," Dr. Atanasoff said, "they gave up when I told them the nature of some of the documentation I had."

LETTER TO J.V.

One of the documents was a Sept. 30, 1941, letter to "Dear J.V." from John W. Mauchly that was unsigned. Dr. Atanasoff said that Sperry Rand lawyers indicated that they would challenge it as evidence until Honeywell lawyers indicated that they had done considerable research on distinctive defects in the type.

In the letter Dr. Atanasoff was asked: "Is there any objection, from your point of view, to my building some sort of computer which incorporates some of the features of your machine . . . For the time being, of course, I shall be lucky to find time and material to do more than merely make exploratory tests of some of my different ideas, with the hope of getting something very speedy, not too costly, etc.

"Ultimately, a second question might come up, of course, and that is, in the event that your present design were to hold the field against all challengers, and I got the Moore school interested in having something of the sort, would the way be open for us to build an 'Atanasoff Calculator' (a la Bush Analyzer) here?"

Mauchly admitted to The Register that he had written the 1941 letter to Atanasoff.

At this point in history, Dr. Atanasoff is "more disappointed than bitter" about his dealings with Dr. Mauchly, and he says he has "very little bitterness" toward the men and corporations who fought for years to deny him his rightful place in computer history.

Nor is he particularly regretful of the fumbling uncertainty of Iowa State College officials and lawyers who failed to file the proper patent applications in the early 1940s.

"I would have received half the money Iowa State received from the sale of the patent rights," Dr. Atanasoff said. "But from a practical standpoint, they probably wouldn't have sold for anymore than $25,000 to $50,000. I tried several times to get IBM and others interested in the late 1930s, and I have their letters expressing no interest or saying they saw no practical use for such equipment."

LEFT IN 1942

The energetic scientist left Iowa State in late 1942, shortly after completion of the computer, and although he remained a full professor in absentia until 1945, he did not return.

During the war years he worked in the Naval Ordnance Laboratory in Washington, and became chief of the acoustic division where he directed the Navy's FUZE program and served as chief scientist of the U.S. Army field forces.

Absorbed in his war work, Dr. Anatasoff lost touch with the details of computer developments.

After the war, he turned down an opportunity to return to Iowa State as head of the Physics Department.

When he left government in 1952, he established his own consultant firm known as Ordnance Engineering Corp., a firm that "was financed with the help of some of my old friends from Iowa" and that "teetered on the brink of bankruptcy" in its first years.

Dr. Atanasoff studied accounting methods for two days before setting up the accounting for his corporation with the help of his wife, the former Alice Crosby of Webster City, whose only prior accounting experience was "as a cashier in a five and dime at Webster City" in 1941 and 1942.

Dr. Atanasoff, who speaks enthusiastically about "all of the talents of my Iowa farm girl," made Alice the secretary-treasurer of the corporation and she handled the books after some initial guidance from him.

BRIEF HINT

To learn the law necessary, Dr. Atanasoff spent a concentrated month of study before drawing up the papers that drew the admiration from the lawyers for Aerojet General when he sold Ordnance Engineering to that major defense corporation in 1957.

Before he sold the firm to Aerojet General, Dr. Atanasoff had only one brief hint that his work on the Iowa State computer with Berry might be linked to the development of ENIAC by Dr. Mauchly and Dr. Eckert.

In 1954, lawyers for IBM came to him to inquire about his early work on the ABC computer and his dealings with Mauchly. Initially, they indicated that the information Dr. Atanasoff had given them might be enough to break the Sperry Rand patents.

"But they went away and did not come back, so I assumed that the investigation by IBM failed to prove the case against Sperry Rand's patents," Dr. Atanasoff said.

He didn't learn until midway in the trial of the Honeywell suit that in August, 1956, IBM and Sperry Rand had entered into an agreement to provide for a complete cross-licensing of patents in vital areas, and "a complete sharing" of equipment which was criticized by Judge Larson as "an unreasonable attempt" to "solidify their monopoly in the EDP (electronic data processing) industry."

But Dr. Atanasoff was too busy with the sale of his consultant firm to Aerojet General to be chasing the will-o-the-wisp of a possible patent suit against the giants of the computer world.

He received Aerojet General stock for half of the value of the purchase price, and as a result of a 10-for-one stock split within three years, he realized more than a million dollars out of the sale. He eventually became a vice-president of Aerojet General.

UNIQUE HOUSE

He retired in 1963 at the age of 60 and immediately embarked upon construction of a unique cement slab farm house on his 195-acre farm in the rolling countryside near Monrovia, Md.

Although aware he had made a substantial contribution to the pioneering on computers, Dr. Atanasoff had no occasion to make deep inquiry into the substance of Sperry Rand's ENIAC patents until early 1967 when lawyers for Control Data contacted him, followed shortly by lawyers for Honeywell, Inc.

Both Control Data and Honeywell were involved in patent disputes with Sperry Rand, and were interested in breaking Dr. Mauchly's claims of a patentable right in key features of ENIAC. Dr. Atanasoff soon came to a conclusion that "anything that was worth a damn in ENIAC had been in the papers I'd gone over with Mauchly in 1940."

With that realization came the desire to produce all the evidence that would set the record straight for himself and for his late friend and assistant, Cliff Berry.

"I had most of the initial mathematical concepts, but it was largely Cliff's hands that made the parts in the shop and his ideas on how to get things done that were vital in putting the machine together," Dr. Atanasoff said. Berry died in 1963, four years before the serious litigation started.

VITAL CONCEPTS

Although the court record is filled with accounts of Dr. Atanasoff and Berry wrestling with the problems of computer development at "Old Physics," it is related that the vital concepts of "regenerative memory" and "logic sequence" came to J.V. in the cool quiet of an Illinois tavern on a night in the winter of 1937–38 after a 200-mile drive.

He had gone to Room 52 in Old Physics after an early dinner. Frustrated and trembling with an idea that would not be born, the young mathematics and physics professor got in his Ford V8 to go for a ride. He drove east on Highway 30 to Cedar Rapids, and at some point dropped down to Highway 6 and crossed the one Mississippi River bridge then in existence at Davenport.

"I drove two or three miles, saw the lights of a tavern on a hill to my right and turned in," Dr. Atanasoff recalled last week. "I don't know whether I could find the place, and I don't know whether it still exists."

In testifying about the incident at the trial, Dr. Atanasoff related that he was in the tavern for at least two or three hours, had "a couple of drinks" and at some point removed a heavy coat he was wearing.

"Suddenly, I was calm and my thinking was clear and the concepts of a regenerative memory and a logic sequence fell into place, and I knew it could be done," the mathematical genius said.

He left the tavern, got in his car and drove back to Ames, arriving sometime after 3 a.m., and went to bed without putting his ideas on paper.

"I might have scratched some little notes on a piece of paper at the honky tonk, but I didn't need that once the thoughts fell into place," Dr. Atanasoff said. Sometime "in the next few days" the young professor put those ideas on paper for the first time. But with a heavy teaching schedule, he did not get back to a serious attempt to execute the plans until 1938.

A $650 GRANT

In 1939, with the help of Dean R. E. Buchanan, who was then dean of the College of Agriculture and dean of the Graduate School, Dr. Atanasoff obtained a $650 grant to launch his computer project. Most of the money went to pay Berry for the work done on the computer project, and the rest went for the purchase of material for parts.

"You see this was not something you could go out and buy parts for, because there were no mechanisms in existence to do the things we wanted to do," Dr. Atanasoff said.

The prototype was completed in the fall of 1939, and even before it was finished Dr. Atanasoff and Berry moved into the construction of the first operational computer, which was completed in the spring of 1942.

In December, 1940, Dr. Atanasoff first met Dr. Mauchly while attending a meeting in Philadelphia of the American Association for the Advancement of Science, and they engaged in discussion of the computing machine that was under construction at Iowa State.

A few weeks later, Dr. Mauchly went to Ames, lived with Dr. Atanasoff for several days, talked with Berry, read Dr. Atanasoff's 35-page analysis of the computer problem and made an unsuccessful effort to obtain a copy to take back to Philadelphia.

The fact that Dr. Atanasoff "hasn't received a dime" from his pioneer work on computers is cushioned by the fact that other contributions he has made to scientific leadership have been coupled with business success that provides a comfortable retirement in rural Frederick County, Maryland.

QUIET LIFE

"Our life has been satisfying, and we like our life style," Dr. Atanasoff said. It is a quiet life in the country, with a "farm room" for the two huge deep freezers that store the frozen foods Alice prepares from the big garden that J.V. loves to tend when he isn't busy in his workshop.

J.V. has appropriated a part of Alice's farm room for some electrical experimentation, and has moved into her huge kitchen with a wine-making project.

The same drive, energy and brilliance that Dr. Atanasoff put into the development of the first computer go into every project he tackles.

"If there is a book written that tells how to do it, J.V. knows he can do it," his wife says.

And he is just as admiring of Alice, nearly 20 years his junior. He praises her accomplishments as a business manager, as a professional draftsman, as a social companion, as a voracious reader, and "for the great thing she has been to my life."

He relies upon Alice to call his attention to things he should read, and for the ready knowledge of the details of testimony in the computer patent suit, the names of people he has met in connection with the suit, or on their 1970 trip to Bulgaria where Dr. Atanasoff was honored for his contribution to the computer science field with a decoration by the Bulgarian Academy of Sciences.

IRONIC TIMING

Ironically, the decoration with the order of Cyril and Methodius, First Class, which is the highest award for science in Bulgaria, came at a time when the scientific world in America was still caught up with the ENIAC myths.

Dr. Atanasoff was born in Hamilton, N.Y. His father had been born in Bulgaria, and Dr. Atanasoff makes light of the award with a quip that "Bulgarians wanted to believe that someone of Bulgarian blood was a pioneer in the field of computers, and so they were eager to find evidence that I was a pioneer."

But he added that while the Bulgarians "had a special interest, they did a quite thorough job of research."

LOYALIST REALISM

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. CRONIN. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

LOYALIST REALISM: THE BOAL INITIATIVE

(By Fred Burns O'Brien)

Approximately one year ago, I wrote an article on the benefits of regional government in Ireland that in my opinion would be the solution for the crisis that confronts Northern Ireland. At that time my corollary theories were premised on the proposal initiated by the Provisional Republicans led by Ruairi O'Bradaigh and Northern Republicans led by Frank McManus, M.P. The feasibility of this plan still holds true and in addition to it, a parallel formula has been devised by a member of the Loyalist Community.

The idea of a federated or amalgamated Ireland is the structure constructed by Mr. Desmond Boal, Q.C., a Protestant Loyalist, who foreshadows the future in an Irish nation with qualifications to be negotiated for Ulster that will assure Loyalists a continuance of their way of life, but with ultimate authority now held by the British in a federal Irish parliament.

His plan has the backing of the IRA, UDA and UVF, three paramilitary organizations formed to protect communities with Northern Ireland. This fact can guarantee peace, something the British Government and Southern Irish Government cannot implement. In addition it would be the construction of an entirely new Irish nation without interference from Britain. The Boal Plan is a compromise between the Regional Plan of Sinn Fein as espoused by O'Bradaigh and McManus and the call for an independent Northern Ireland as suggested by Mr. John Taylor, Mr. William Craig and the Reverend Ian Paisley. It has a basic appeal to the various factions mentioned and without the support of all, nothing can work in Ireland.

Loyalism

The appelation "Loyalist" at one time designated the connotation of loyalty to Britain, but in reality the Loyalist is true to the State or Province of Ulster. This would have the overtones of an Irish connection rather than the strict British implication. This loyalty to Ulster is based on a tradition rooted in Ireland by Irish Ulstermen, taking its rightful place with other Irish traditions in full equality.

A new or rejuvenated pride in Ulster is a healthy sign and a foundation upon which to build a unified province and a nation. All people, Nationalist and Loyalist, can be a part of a New Ulster which will be a significant part of a New Ireland. Regional pride can be emitted from all regions of the proposed federal state and be pertinent to a particular area with a specific history that might differ from others, such being the case in Ulster. It appears that an attitude of Ulster loyalty is the basis for Mr. Boal's initiative and a concrete base far superior to the recent British designations culminating in the Sunningdale Agreement which stipulates a far distant British base.

A new destiny

Desmond Boal, like many Loyalists has come to the realization that Britain does not have the best interests of the people of Ulster in her policy making and that the future lies in the attainment of self-determination within a proposed structure of a federated Irish state, with strong regional parliaments. With the ambiguities of Sunningdale visible, regionalism becomes more a necessity and it is the impetus of Mr. Boal's suggestion as he seeks to establish the best possible governmental power base for the inhabitants of Ulster. Due to his impecible credentials, Mr. Boal cannot be taken lightly; he speaks for a substantial portion of the Loyalist population.

This writer has on previous occasion alleged that the British Government utilized the Protestant Community as a pawn in retaining control over the Province of Ulster by polarizing the major religious communities. The British have played on religious myths and fears that could be diffused if the people were left to guide their own destiny. Desmond Boal apparently seeks that destiny by his overtures to all the people of Ulster and Ireland in general.

Connection Dissolved

It is Mr. Boal's contention that the British connection has been severed by Britain's Sunningdale scheme, and the matter of pledging allegiance to the Crown is no longer a relevant issue. He is dutifully concerned with the fate of Northern Ireland and its people and desires to negotiate the most rewarding political settlement which is a federal Ireland. He feels that Ulster's life is best served by the creation of a strong Stormont Regional Parliament with allegiance to a federal state.

Two noteworthy achievements would be realized under Desmond Boal's design; Ireland would be rid of British control, the dearest desire of Republicans and Northern Ireland would control its own destiny (within an amalgamated Ireland) the urgent need of the Loyalists. Specific details of Boal's federated state and the Republican's regional state are negotiable and not so strict as both sides adhered to in the past. The most significan aspect of the Boal Initiative is that it accomplishes the impossible as alluded to by outsiders.

Britain has been undeserving of Ulstermen's loyalty evidenced by the imposed solution of Sunningdale and the elusive Council of Ireland. She has manipulated Loyalists to her own designs and only people "blind to the significance of recent history" are unaware that the British Government no longer seeks to assure that Loyalists can retain a power base.

Any Source Acceptable

Gallantly, Mr. Boal rejects the allegations that a federal Ireland be denied recognition because it has been proffered as well by the Provisional IRA. He will not denegrate an idea due to its source, unpleasing to most Loyalists. He cites his plan as assuaging Protestant fears and terminating Provisional violence and this has credence, especially in light of the further contention that it would curtail any violence initiated from the Loyalist side.

We who want Ireland molded to one nation with peace and justice amongst all factions plead with all Irish men and women to pay heed to Mr. Boal and Frank McManus as well as others who aspire to see Ireland as one with many strong contributing areas: The federal theory confronts reality foursquare, while the illusions of Sunningdale postpone it.

WE NEED A NEW MINIMUM WAGE BILL

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ERLENBORN. Mr. Speaker, in recent newsletters and speeches, AFL–CIO President George Meany has been bemoaning the veto of the minimum wage bill. I would like to address myself to Mr. Meany's complaint:

The minimum wage bill, so George Meany
complains,
Should not have beeen vetoed, the veto
not sustained.

In part, he is right, I, for one, would agree,
Too long some have waited a raise to see.
The bill, though, was laden with bad as well as good.
The people said, "Do better," and the House agreed we could.
In his heart, George knew the features that were bad;
But, having been the author, he got very mad.
So, forsaking those poor folks, while prices do go up,
Big George commands Congress: Don't you dare fill their cup!
His tactic, I'm sure, does not escape or miss you:
If he can't have his way, he prefers an issue.
What he forgets, although he is very wise,
Is that good laws always come from compromise.
Come now, you scoff, he is but one man;
Does Congress wait 'til he says, "You can!"?
'Tis sad, but true; and as proof I note
Seven other vetoes got another vote.
What then, you ask, can be done about this fellow?
Is there a flicker of hope that he might mellow?
We must keep trying, not give in to skepticism——
George can't be so bad Congress needs an exorcism!

OATH OF ALLEGIANCE

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DAN DANIEL. Mr. Speaker, the Department of Justice has decided not to ask the Supreme Court to review the decision by the U.S. District Court for the District of Columbia which invalidated the oath of allegiance on the passport application form. Because of this, applicants for passports no longer will be required to affirm any support for the Government of the United States and the Passport Office will not be able to question those who apply for passports, even though their disloyalty or avowal of anti-American causes may be a matter of public knowledge.

This raises serious questions which, in my opinion, Congress should deal with before absence of action may be interpreted as approval.

The District Court's decision came on June 26, 1972 and it was upheld by the U.S. Court of Appeals for the District of Columbia on October 26, 1973. Thus, the question has been at issue already too long a time. Prior decisions of the Supreme Court held, in 1952, that the oath of allegiance was a valid requirement, and that the Secretary of State must resolve the question of allegiance before a passport could be issued, in 1958.

The most recent decision raises the question of where this places the Government in having any degree of control over the foreign travel of its citizens. Although the oath, in and of itself, would not be the determining factor, elimination of this requirement certainly makes the task no easier if a national emergency should arise.

Aside from the philosophic reasons which might be brought to bear, one is caused to wonder what strain of conscience there would be in ascribing to the passport oath. Is there objection to oaths in general or to this one in particular? Is there objection to the authority of the Government to require an affirmative act on the part of its citizens? If so, the same complainers must cringe at the thought of paying income taxes, securing an automobile driver's license and a host of other things which the Government commands of its people.

Affirming faith and allegiance to the Government, whether it be on a passport application, in a salute to the flag or in transaction of business involving Government contracts should not be an incumberance in the minds of the loyal. It should cause no great problem to the political theoretician, for somewhere along the way he is going to have to affirm his support of some function of Government if he expects to survive in today's scheme of things.

I hope Congress will move to clarify the situation.

POSTAL SERVICE EXPERIMENTS WITH GASOLINE-WATER MIXTURE

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. STEED. Mr. Speaker, a fuel experiment of particular interest is being conducted at Norman, Okla., by the U.S. Postal Service through its Maintenance Technical Support Center located on the campus of the University of Oklahoma.

Four delivery trucks at the Norman post office are operating on a mixture of water and gasoline, using an emulsified fuel, in which water is suspended in gasoline, developed by Prof. Walter J. Ewbank of the University of Oklahoma faculty.

Tests using 13-percent water have been underway since approximately November 26, Blair M. Wildermuth, Director of the Maintenance Technical Support Center, says. Two one-fourth ton postal vehicles at the Norman office have been used, and since early this month two one-half ton trucks.

Thus far the 13-percent water emulsion has shown good efficiency and fuel economy, as expected, but it is too early for the Postal Service to attempt a comprehensive estimate of the success of the demonstration.

John Shurr, a reporter for the Norman Transcript, gave additional information on the experiments in an article that appeared soon after they got underway. The full text follows:

BUT VEHICLE STILL WORKING . . . WATER, GAS MIXED UP

(By John Shurr)

If University of Oklahoma Prof. Walter J. Ewbank's formula for mixing water and gasoline proves to be workable, the American motoring public may no longer have to worry about the current gasoline crisis.

Tests, begun only a few weeks ago, are under way on U.S. Postal Service delivery vehicles in Norman in an effort to determine the long-range effects of burning the mixture in engines which are designed to run only on gasoline.

Ewbank, a professor of aerospace, mechanical and nuclear engineering at OU, has been working since 1965 on an emulsified fuel which will cause water to suspend in gasoline.

Although it has been believed that higher octane fuels are the answer to complete fuel combustion, Ewbank maintains that the answer is to combine gasoline with water.

"It's a more efficient fuel and a lot cheaper," he says. "I've been convinced of that since about 1967."

In order to test whether the mixed solution is indeed as efficient as Ewbank believes, the Postal Service's Maintenance Technical Support Center (MTSC) in Norman is conducting extensive tests.

Since the latter part of November, MTSC engineers have compared the gasoline-water fuel's efficiency with that of regular gasoline. Most of the testing has been done at the Postal Service's facility where exhaust emissions and combustion efficiency are measured.

The director of the technical support center, Blair L. Wildermuth, says the tests already conducted have shown that the amount of carbon monoxide and other exhaust emission contaminants are reduced by using the mix.

Although only one delivery truck is being used for the current tests, four test vehicles will be put into operation around Norman by the end of next week.

"We want to see what the driveability is," he says. "If we can't get them started in the morning or they stall going from box to box, then we'll know the formula will have to be improved."

So far, Wildermuth says, the tests have shown that the truck using the 13 per cent water and 87 per cent gasoline mix get better gas mileage and lower gasoline emissions.

"We haven't found a single harmful side effect yet," he said. "Ewbank has been running tests on his three cars for a year and has had no problems."

The Postal Service is planning to test the four trucks over a six-month period—three months using the 87–13 per cent (gasoline to water) mixture and three months using a 70–30 per cent mixture.

"The only problem with the higher water mixture," Wildermuth says, "is that we have to do a little more to the engine."

He said that with the 87–13 per cent mix, the MTSC mechanics only have to adjust the truck carburetors. However, when using the higher water concentration, the carburetor's must be modified slightly.

"If the tests are successful after six months," Wildermuth says, "the entire Norman postal fleet will be changed over to using the mixture."

Wildermuth says the concept of using water and gasoline was developed during World War II when water injection systems were used in aircraft engines. These systems, however, involved supplying water and gasoline to the engine separately.

He said the use of water with the aviation gasoline resulted in "better cooling and combustion efficiency."

Ewbank, who has demonstrated the feasibility of the mixture before Environmental Protection Agency (EPA) and Chrysler Motor

Company officials, says motorists using the combination fuel would receive more miles per gallon.

He says that when the emulsion used to combine the water and gasoline is made on a larger scale, the cost per gallon of the mixture will be about the same as that paid for gasoline.

The mixture process Ewbank has developed allows water and gasoline to combine in a suspended state. Without suspension, gasoline, which is lighter than water, would separate from the mixture and rise.

BILL TO ROLL BACK PRICES ON CRUDE OIL AND PETROLEUM PRODUCTS

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Ms. HOLTZMAN. Mr. Speaker. I am submitting a bill relating to price rollbacks on crude oil and petroleum products which I introduced on January 28, 1974. The text of the bill is as follows:

H.R. 12306

A bill to amend the Economic Stabilization Act of 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Economic Stabilization Act of 1970 is amended by inserting in section 203 the following new subsections:

"(k) Immediately upon the date of enactment of this subsection, the President shall issue an order to establish a ceiling on prices of crude oil and petroleum products at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the fourteen day period ending January 19, 1974, for like or similar commodities, or if no transactions occurred during such period, then the highest applicable level in the nearest preceding fourteen day period.

"(l) The ceiling on prices required under subsection (k) shall be applicable to all retail prices and to wholesale prices for unfinished, finished or processed goods.

"(m) As soon as practicable, but not later than 30 days after the date of enactment of this subsection, the President shall by written order stating in full the considerations for his actions, roll back prices for crude oil and petroleum products to levels no higher than those prevailing in the seven-day period ending November 1, 1973, in order to reduce inflation. Price increases announced after November 1, 1973, and made retroactive to dates prior to November 1, 1973, shall not be considered as having been in effect prior to such date for purposes of this subsection. The President may make specific exceptions from the rollback by written order to compensate for increased costs for crude oil and petroleum products produced or refined outside the United States, but in no event shall such exceptions allow more than a passthrough for increases in the costs of such commodities. Such orders shall state procedures and adequate public notice of any price exceptions and shall disallow any profit margins on any crude petroleum or petroleum products in excess of the margin applicable in the seven-day period ending November 1, 1973.

"(n) The President may, by written order stating full the considerations for his actions, make such additional exceptions and variations to the orders required under this section as may be necessary to prevent gross inequities and hardships, and to encourage and preserve the competitive viability of branded independent marketers, small refiners, nonbranded independent marketers, and independent refiners, as refined in the Emergency Petroleum Allocation Act of 1973 (Public Law 93–159).

"(o) The President shall, by written order, issue rules to insure that all corporations or other entities engaging in sales of crude petroleum at the refinery level or petroleum products at the wholesale level reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products.

"(p) Section 406 of Public Law 93–153 is hereby repealed.

"(q) For purposes of this section 'petroleum product' means gasoline, kerosene, distillates (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel."

A CHECK ON THE PRESIDENCY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. REUSS. Mr. Speaker, James L. Sundquist, senior fellow in the Brookings Institution governmental studies program, has some sensible remarks about the need for a workable check on the powers of the Presidency in an article which appeared in the fall 1973 issue of the Brookings Bulletin, based on his remarks at an October 1973 conference at the Washington Journalism Center:

NEEDED: A WORKABLE CHECK ON THE PRESIDENCY

(By James L. Sundquist)

The Presidency puts too much power in one man. That proposition is heard increasingly these days, for a decade of war in Vietnam and now the Watergate affair have revealed a vast potential for abuse of the enormous power that is entrusted to a single human being. And the realization has come as something of a shock. After all, this was exactly what the Founding Fathers, reacting against the tyranny of George III, were supposedly striving to prevent. We were brought up to believe that the unique American contribution to the art of government was "checks and balances."

We were lulled into complacency because we thought the system of checks and balances was more pervasive than it is. The deadlocks we have so often witnessed occur in a particular process of government—the legislative process—and what applies to the legislative power does not necessarily apply to the executive power. Legislation is a shared responsibility; both the President and the Congress have a veto. But once a law is enacted, the power to carry it out is not shared between President and Congress, for the Constitution vests the executive power in the President alone.

The assignment of executive power to the President does not mean that the other branches of government do not exercise some checks. They do get involved in the execution of the laws, in half a dozen ways. But these checks, taken altogether, have always been severely limited in their practical effect.

The courts can check the President and often have, as when they ordered Harry Truman to return the seized steel plants to their owners. But this power is limited to cases of actual lawbreaking; the judicial process imposes no check on presidential actions that are merely unwise or improper. Moreover, in the broad area of national security and foreign affairs, it is difficult to find cases that can be taken into court.

Impeachment can be seen as an extreme form of judicial process; as such, it has at least as many limitations as court proceedings. "High crimes and misdemeanors" must be proved. In today's meanings of those words (which are the meanings the Congress acts on, though a case can be made that the phrase carried a looser meaning when it was written into the Constitution), a President who has simply lost his capacity to lead and govern because of bungling, betrayal by ill-chosen subordinates, or any of the other weaknesses that can lead to misuse of presidential power, cannot for that reason be relieved of power.

The Senate's power to confirm appointments is not an effective check, for the obvious reason that the Senate cannot know in advance which presidential appointees are going to abuse their power. When the names of John Mitchell and Maurice Stans were presented for confirmation, no one could have foreseen that they would be indicted four years later. If the Senate could *unconfirm* appointments, that would be a real check, but such power—for good reason—was not granted by the Constitution.

If the President does something the majority in Congress disapproves, it can amend the law to prevent the President from doing it again. But this possibility is more theory than fact. The President retains the power of veto, and if he wants to go on doing what the congressional majority objects to, a minority of one-third plus one of either house is sufficient to sustain his veto. Nor can an amendment usually be made retroactive to force a reversal of what the President has already done. Moreover, to curtail the executive power by law is liable to prevent the President from accomplishing ends that in the congressional view are still desirable.

Nor is the power of the purse an effective check. Since appropriation bills are only a form of legislation, attempts to control the President through the budget encounter the same difficulties as in attempting to control him through amending substantive law. He can veto bills carrying unpalatable riders, and his vetoes will usually be sustained. To cut funds is no corrective for maladministration.

Lastly, in order to legislate and appropriate, the Congress through its committees may obtain information on how the laws are carried out, using subpoenas if necessary. Through this process, senators and congressmen can kibitz, entreat, heckle, and threaten, and these methods are often effective. But they cannot compel a determined President to change his course.

A common weakness of almost all these checks and balances is that they operate after the fact, often long after. The Congress has been able to exercise a review power in the case of both Vietnam and Watergate—and in the Watergate affair judicial checks have been operating too—but only long after the damage has been done. The one exception, Senate confirmation, operates only before the fact, sometimes long before. None of the checks and balances operate during or close to the fact, which is when the abuse of power needs to be prevented.

THE EXPANDING GOVERNMENT

These checks and balances, weak as they have been throughout our history, have been further weakened by several trends that for the most part are not reversible. While the federal government's budget has increased by 500 percent in a quarter century and the government has been thrust into a multiplicity of new activities, the capacity of the Congress to check executive operations has not increased on anything like the same scale. Nor can the Congress be expected to keep pace, no matter how much it improves itself through reorganizing, strengthening its staff, electing stronger leaders, or attending to its duties with greater diligence. No matter how it changes its practices, its checks and balances will still have to be exercised through difficult, demanding work by individual members, acting mainly in committees. As the size and scope of government expand, the attention of committees, subcommittees, and devoted individual members is inevitably spread thinner and thinner.

Partly because of the incapacity of the Congress to cope with an expanding government, the line separating executive from legislative power has been shifted in favor of the executive. In part, this shift has been made with congressional consent: the Congress has willingly and repeatedly delegated power to the executive. Thus it has recognized, in the case of price and wage controls, that measures to curb inflation must be left to executive discretion. Similarly, major decisions to cope with the energy crisis have been delegated. In other cases, the shift has occurred without express congressional consent but with its acquiescence. In foreign affairs, much of what used to be done through treaties, which require ratification by the Senate, is now done through executive agreements, which do not. Above all, the effective power to declare war, which was granted to the Congress by the Constitution in clearest terms, has passed to the President. Even after Vietnam the Congress has not seriously considered taking back the power to put the country into war; it has only required that after the President has done so, he submit his decision for approval.

The Congress has yet to accept any general principle that the President should be free to impound appropriated funds, but it has repeatedly let presidents do so without rebuke, providing the precedent and the encouragement for President Nixon to go further in this direction than any of his predecessors. Indeed, while congressmen have protested the President's impoundment of appropriated funds, in 1972 both houses voted to grant him broad authority to do exactly that. One day, it can confidently be predicted, the power to adjust tax rates within defined limits will also pass to the President so that fiscal policy can be "fine tuned" to cope with inflationary or recessionary trends.

Congressional checks also have been weakened by the trend toward secrecy, with claims of executive privilege and "national security" extending ever lower into the executive branch. The courts are now reviewing the scope of what can be withheld from Congress and from the courts themselves, and some retreat on the part of the President may be forced. But it is difficult to imagine that the long-term trend toward increasing secrecy will be decisively reversed.

Despite demands that the Congress "reassert" itself, there has been no action yet that would rectify the imbalance even to a slight degree. And it is difficult to see how the balance can be shifted much. The government is not going to become smaller or easier for the Congress to oversee. The speed with which domestic and foreign problems arise and grow is not going to slow down even to the pace of a Congress aroused and streamlined, should that ideal condition ever be attained. Diplomacy will continue to be carried on as every other country carries it on: by the executive in secret. The Congress cannot control inflation or cope with energy shortages or establish tariffs except through delegation of authority to the executive. The presidential rights of impoundment and executive privilege may be curtailed a little, but that is about all. Even with the fullest "reassertion" of its powers, the Congress cannot reassert authority it has never had: Its powers will remain those of a confirming body before the fact, and a reviewing body after the fact, with no means of preventing the abuse of executive power when it is taking place.

THE DECLINE OF THE CABINET

If presidential power has been suddenly aggrandized, it is not only because power has flowed laterally from the Congress but also because it has flowed upward from the Cabinet. The decline of the authority of cabinet members has been perhaps the most fundamental of all the forces affecting the power balance in the national government.

In the early days of the Republic, the Cabinet usually included the principal leaders of the President's party and covered the spectrum of the party's composition. Presidents often named to their cabinets men who had been their principal rivals for the party's nomination. Prominent members of the Senate were commonly appointed, along with political leaders from the major states. Men like Clay and Calhoun, Webster and Seward, Sherman and Bryan sat in presidential cabinets because they had independent power bases that demanded, or deserved, recognition. And cabinets were used as consultative bodies. Presidents could still ignore or overrule them, of course. Lincoln could say, "Seven noes and one aye; the ayes have it." But at least he asked for his Cabinet's opinion, and he took a vote.

Now, all this has changed. Replacing the Cabinet as the President's consultative group has been a presidential-level staff composed of appointees who have no outside power bases and hence no independence. This staff formulates policy for the President, issues orders on his behalf, and supervises and coordinates their execution. It has enabled the President to assume command of the executive branch in a sense that is truly military. As in an army, so in the executive branch it is now the headquarters staff that decides; the cabinet officers, reduced to the status of field commanders, execute.

In the old days, the President had to rely on his Cabinet; its members were all he had to run the government with. Now, with his modern management apparatus, the President need no longer even talk with them. Nor has he time. No President since Eisenhower has used the Cabinet even as a consultative body. It meets pro forma, if at all, as a convenient way for the President to give pep talks and issue instructions. With the Cabinet's decline in status has come an inevitable change in the character of its members. The nineteenth-century tradition that the President appoint strong political leaders with independent power bases has withered away—a trend that has reached a kind of culmination in the present administration.

The last thing an ambitious presidential staff wants is department heads with independent power bases. Such men have the strength to be defiant and cause trouble. What such a White House staff wants is, in the words of one former Nixon aide, men "who will, when the White House orders them to jump, only ask 'how high?' To make doubly sure that department heads would be compliant, the White House has systematically placed in subcabinet positions, as under secretaries or in lesser posts, trusted political and White House aides.

But the flow of power from the departments to the presidency, like the shift in the congressional-presidential balance, has not been the product of pure willfulness. Here, too, the trend has had a basis in the realities of modern government. The executive branch does need central direction and coordination; it cannot be treated as a cluster of independent satrapies, each responsive only to its clientele. There must be a coordinated budget. Departments do have to respond to common policies established by officials responsible to the people through elective processes—and the only such official in the executive branch is the President. These needs, too, are affected by the greater complexity, the faster tempo, and the closer interrelationships among governmental activities. In domestic fields, as in war and diplomacy, the government must be able to marshal its resources and act decisively and consistently whether the battle is against inflation or pollution, a recession or an energy shortage.

The answer to the problem of misused presidential power is not to try to disperse the essential components of that power among semi-independent agencies within the executive branch. That would only reintroduce the problems of conflict and administrative weakness that compelled the centralization of power in the first place. Besides being unwise, such an approach would be essentially unenforceable. The Congress could probably find ways, through its appropriation power, to reduce somewhat the size of the White House and Executive Office staffs, but the Congress has shown no wish to interfere with a President's way of doing business to the point of trying to dismantle the presidential office. Short of such a step, there is no way to enforce a new set of President-Cabinet relations. A President can hardly be compelled to appoint strong and independent political figures to the Cabinet and to repose power in them if he prefers to rely on White House aides. The organization of the executive branch is, by its nature, an executive function.

DID THE FOUNDING FATHERS ERR?

If the power of the presidency cannot be reduced very much—and if, in a fast-moving and complex world, it probably should not be—then how does one solve the basic problem of too much power in one man? I suggest that most current analysis of the problem has been misdirected because it concentrates on the first three words of that phrase; *too much power*. I submit that the solution is to be found by looking, instead at the last three words: *in one man*.

An institutional principle applied almost universally in the English-speaking world is that major decisions should be made not by one man acting alone, but by a collective body of some kind. In the United States, legislatures are all plural bodies. So are juries, the higher courts, and the regulatory commissions. Corporations and voluntary service organizations, school systems and universities are run by plural boards of directors who select and supervise the managers. In political parties the ultimate authority lies in conventions and committees. The one great exception to this principle is the executive branch of the United States government (along with the executive branches of the state governments and some city governments that are patterned after it).

In other English-speaking countries, even such exceptions do not exist. Executive power rests in plural cabinets, as it does in most non-English-speaking democracies as well. Even in the nondemocracies, power is often lodged at least formally in plural bodies such as the Politburo in the Soviet Union.

This pattern is not accidental. Rather, it embodies a wisdom that has evolved over centuries of experience with human organization. Societies have learned again and again that to entrust power to one man is inherently dangerous. He may be erratic or impulsive or obsessive in his judgments, or arbitrary and unfair. He may be incompetent, a bungler. He may be lazy, negligent, or corrupt. He may pervert the ends of the organization for his own benefit, whether to gain money or punish enemies or reward friends, or simply to perpetuate himself and his followers in office. Hence, in almost every organization the restraint of collective decision-making is forced upon the leader. He is made subordinate to, or required to act as a member of, a plural body of some kind. It may be called by many names—commission, council, board, committee, senate, house, cabinet—but its members have a degree of independence of the leader.

Plural decision-making has its own drawbacks, obviously. It can cause delay, undue caution, and resistance to innovation. Those who seek spectacular progressivism are more likely to find it in presidents and governors than in congresses and legislatures, for the single leader can march without having to be in lockstep with anyone. But the experience of centuries has weighed the disadvantage against the merits and given its verdict—that the plural body, not the single leader, is better to be trusted. When a single executive is needed to dispatch the execution of a collective body's policy, he is made responsible to and is supervised by that body. Never is he left free to act unchecked, responsible only to the general membership of the organization and to himself.

If this be the folk wisdom, one must ponder how the Founding Fathers came to stray so far. They were sensitive to the danger of concentrating power in any institution, but in their day it was the prospect of too much power in the legislature that concerned them most. They feared that in a republic, the majority of the legislature would get out of hand and threaten the rights of the minority—and their fear seemed borne out by the experience of the states in the decade before the Constitutional Convention. As men of property, they feared the mob, the levelers. So the question was whether the President would be strong enough. Nevertheless, the vote for a one-man presidency was not unanimous. The Convention debated whether the head of the executive branch should be one man or three; seven states preferred the single executive, three states the plural. Had the Founders foreseen how the system of presidential election they designed would change—how the power of selection would pass from a judicious electoral college made up of leading citizens to a popular process resting largely on the vote of citizens in primary and general elections—one can wonder what the vote on a plural presidency would have been.

A POSSIBLE SOLUTION

Could the presidency be pluralized? No proposal to scrap the institution and begin anew could be seriously considered. What is needed is a remedy that could be grafted onto the existing system with the least possible disruption of its basic structure.

The simplest device that might serve to introduce an element of collective judgment into the exercise of executive power may be the one by which the executive in a parliamentary system is controlled. That is the device of dismissal of a government through a parliamentary vote of "no confidence," which could be added to the American system by a simple constitutional amendment.

This provision would have both a direct and an indirect effect. The direct effect would be to make possible the removal of a President who, though not guilty of the provable "high crimes and misdemeanors" that are the basis for impeachment, has lost the capacity to lead and inspire and unify the country—in short, the capacity to govern. On more than one occasion in the past, a President whose effectiveness had been destroyed through incompetence, gross negligence, egregious errors in foreign or domestic policy, or crimes and misdemeanors committed by those who had intimately shared his confidence and acted in his name, has remained in office until the end of his allotted four years—and nothing could be done about it. No other democratic government leaves itself so vulnerable.

If the "no confidence" procedure were introduced into our Constitution, a President to keep his office would have to do more than keep himself free of indictable crime. He would have to satisfy the Congress—and therefore the people, for the Congress would hardly act in such a matter in defiance of the people—with his conduct of the government. And what could be more consistent with democratic theory than that?

The probability, of course, is that the power to vote "no confidence," like the power to impeach, would be rarely used. Consequently the indirect effect would be more important. Though by no means wholly predictable, the indirect effect would probably be to introduce some elements of plural decision-making at the presidential level.

A President who was forced, under the Constitution, to maintain the confidence of the country and of the Congress would find it necessary to consult with congressional leaders in the exercise of his executive powers. He would not dare to do otherwise: it would be dangerous to flout them and risky to keep secrets from them. To retain their confidence, he would have to take them into his.

What would happen at the other end of Pennsylvania Avenue, on Capitol Hill? The result, one may speculate hopefully, would be a rejuvenation of congressional leadership. The President obviously could not consult with the 535 members of Congress. He would have to share his confidences, and his power, with the leaders chosen by the Congress—the leaders of his own party if they were in the majority, the leaders of both parties if the opposition party controlled the Congress. If the electorate had chosen a President of one party and a Congress of the other, as seems to be its wont these days, there would have to be a degree of bipartisan collaboration. But that has its advantages as well as disadvantages; it has proved fruitful on many occasions in the past.

Working out the mechanics of the simple basic idea would not be easy. The first requirement would be to make sure that the remedy of a "no confidence" vote would be used sparingly. No one would want to introduce into this country a system like that of France's Third Republic or of Italy today under which governments can be toppled every few months for partisan or trivial reasons. Therefore, the proposed power to remove a President should be accompanied by a restraint also present in many parliamentary systems—the provision that the members of the legislature, if they vote "no confidence," can also be forced to face a new election. In other words, senators and congressmen would have to submit their action to the approval of the voters. New terms for everybody—the President and members of Congress (with senators' terms staggered for two, four, and six years)—would begin with the new election. In the meantime the Vice President would head a caretaker government.

The new election presumably should be held as soon as possible, and that would not be easy to square with our system of regular elections held on designated calendar dates. But there is no magic in regular elections beyond the convenience they offer the student in memorizing history in neat four-year blocks. Other countries have done very well with systems of elections that occur at odd times, in any month of the year, whenever a government loses confidence and a new government with a fresh mandate must be formed. When that occurs, those countries have found that it makes little sense to wait a year, or two, or three, as we do, until the calendar rolls around to an appointed month. Yet if the holding of elections in April, June, or even September would violate the criterion of "least possible disruption," the new election could be scheduled for the next November after the vacancy occurred, for new full terms or merely for unexpired terms.

In any case, the purpose would be served. The President would have to level with congressional leaders on matters like Vietnam and make certain they went along. If burglars were discovered in the headquarters of the opposition party, the President could hardly dismiss it as a "bizarre episode." The leaders of Congress would be in a position, on crucial matters, to make demands and say "or else." Major decisions would come to be taken in consultation. The executive power that the Founding Fathers reposed in the President alone would be on its way to being shared—checked and balanced, as it were. The fundamental danger of rash or corrupting decisions taken by a lone President would to that extent be reduced.

RECYCLING GARBAGE AS AN ENERGY SOURCE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. WALDIE. Mr. Speaker, in response to the energy crisis, many agencies have begun research and experimentation programs to develop new energy sources. There is reason to remind these agencies, however, that other long-established groups do exist, which already have valuable energy research programs in effect. These groups have done much pioneer work which need not be redone by other agencies.

Recently, I have been made aware of the work accomplished by the Forest Products Laboratory of the University of California at Berkeley, under the direction of Mr. Fred Dickinson. In particular, the University of California pyrolysis combustion process, which is used to create energy from wood pulp, has been found to be very efficient.

Mr. Speaker, the text of a letter explaining the work achieved by Mr. Dickinson and his coworkers and the text of an article appearing in the Santa Rosa Press Democrat on January 12, 1971, describing their work follows:

UNIVERSITY OF CALIFORNIA, BERKELEY,
Richmond, Calif., December 21, 1973.

Hon. JEROME WALDIE,
Cannon House Office Building,
Washington, D.C.

DEAR MR. WALDIE: A week or two ago I noticed an article in the trade press stating that the Bureau of Mines is intending to build a pilot plant near Albany, Oregon, to produce gases and oils from wood residue, presumably to develop a process which will aid in meeting the energy crisis. The brief description indicated that a pyrolysis process is to be used.

Here at the University's Forest Products Laboratory we have been investigating the pyrolysis of wood and other ligno-cellulosic materials for a number of years and have developed a high level of expertise in this field. This work has been supported by State funds (University of California regular budget funds for the Agricultural Experiment Station) and federal funds (Public Health Service, Bureau of Solid Waste Management and Environmental Protection Agency). Under the first two grants we studied the pyrolysis of solid waste and pulping liquors and under an E.P.A. contract, which is just terminating, we have developed the process of pyrolysis as a chemical recovery process for the kraft pulping of wood which eliminates odors associated with the usual recovery furnace. This process is essentially ready for commercialization. The University of California Pyrolysis Combustion Process is efficient, capable of producing energy, and chemicals (both organic and inorganic). The attached article appearing in the Santa Rosa

Press Democrat, January 12, 1971, essentially describes our studies to that date.

My purpose in writing is to inform you of our research and to indicate that we have both the know-how and the physical plant to conduct studies leading to commercialization of pyrolysis to produce energy. It would seem a waste of dollars and of time to establish another experimental unit to cover the ground which we have already covered. Also as a substantial amount of Federal funds have gone into our studies, it would seem only reasonable that further investigations by Federal Agencies take advantage of the expertise of the Laboratory staff and facilities which have developed as a result of these expenditures.

I would appreciate any assistance you could give us in bringing this to the attention of the proper persons in the Bureau of Mines as well as other bureaus and agencies that might be interested.

Very sincerely,

FRED E. DICKINSON,
Director.

[From the Press Democrat, Jan. 21, 1971]

A BREAKTHROUGH ON GARBAGE DISPOSAL

(By Bob Wells)

RICHMOND.—Dr. David L. Brink, professor of forestry and forest products chemist at the University of California Forest Products Laboratory here, is a proper scientist who would be a bit shocked if anyone said he is "fomenting a revolution."

But that phraseology comes to mind on hearing what he is doing about solving some of the major problems in re-cycling or eliminating wastes—domestic, commercial, industrial—his efforts may have some substantial influence soon on how mankind tackles these problems.

"Fomenting" is a wrong word, of course. The right term is pyrolysis—combustion, described as "Chemical decomposition of organic materials heated in an environment having insufficient oxygen for combustion." A kind of "fire without flame."

And of course the "revolution" is not the bullets-and-barricades sort but one of those long-time, painstaking, scientific struggles that sometimes pay off in major benefits for millions of persons.

Dr. Brink wouldn't say it like that of course. A greying, slender man who likes bow ties and a 12-hour working day, he explains that he is actually working on two processes to handle wastes, both of which originated with experiments relating to wood.

Inside the laboratory he and his assistants are working with an experimental plant using the "wet oxidation" principle which can handle waste materials by oxidizing them in a sealed chamber with oxygen injected from a compressor system.

P-C PLANT

The pyrolysis-combustion setup is behind the laboratory sitting on a concrete pad, and can be called the P-C plant for short. It looks something like a small feed mill with some complex plumbing.

A university publication on sanitary engineering noted the experiment recently, saying the P-C process has been known a long time, being used in wood distillation and coal coking for years, and now in petroleum refining.

The process is being developed "with the ultimate goal of reclaiming a large fraction of organic material from organic wastes and turning them into useful products for fuels for energy."

There is a lot of meat hanging on that bare-bones scientific lingo.

Working with Dr. Brink on the P-C system is Dr. Jerome F. Thomas, a member of the Sanitary Engineering Research Laboratory at the Berkeley campus. That is his primary assignment, but in practice he and Dr. Brink do some work at Berkeley and the Forest Products Laboratory.

Dr. Brink said they started putting the plant together about three years ago. There has been some federal financial aid from the U.S. Public Health Service's National Air Pollution Control Administration and the Bureau of Solid Waste Management.

It is impossible to say how much money has gone into P-C by now. Professors and graduate students have put in a lot of time on it, plus the more prosaic labor of constructing the plant itself.

"At this point," he said, "we are gathering engineering data, demonstrating technological and economic feasibility." This will take perhaps a year to complete.

Then this data can be talked over with interested parties—districts, lumber mills and other plants with a waste problem—anyone with a serious interest.

BEGAN WITH PULP

Dr. Brink stresses that this all began with a study on black kraft liquor, which is the major cause of bad odors around pulp mills. Kraft liquor was run through the P–C process concentrated to 50 per cent solids.

This led to studies in processing other materials so Dr. Brink now is confident that a wide variety of wastes can be processed and "there could be a substantial profit."

These can include "any organic matter of plant origin" which opens up a lot of doors:

The kraft liquor has been noted, Dr. Brink commenting that "One of our major hopes for this is that it will eliminate production of maladorous products."

Other lumber industry residues, like bark and sawdust, may be run through. "We are not disposing of these materials," he commented, "but utilizing them."

Also in the lignocellulosic family are field crop residues, straw from rice, wheat, oats and barley, rice hulls, orchard clippings, grass, cannery wastes, paper, manure, and sludge from sewage treatment plants.

GARBAGE

Here the "revolution" manifests itself, as the applications are something to goad the imagination.

Garbage can be run through the P–C system, possibly with enough profit from derivatives and by-products to pay for the cost of collection.

Dr. Brink won't predict the system could eliminate sewage treatment plants, as handling sewage involves so many elements. However, the P–C could handle sludge, one of the largest disposal problems faced by cities and other agencies.

"This system could be designed as an integral part of sewage treatment plants," Dr. Brink said.

The importance to agriculture is vast, as P–C could solve many problems such as pollution by agricultural burning which is coming under a new set of state laws regulating the practice.

(University experiments with chopping up prunings and working them into the soil have proven inconclusive; such prunings, particularly the larger pieces, carry diseases over for a year or two. Disease control is a prime reason for the burning.)

The P–C experimental plant is fired with natural gas for the reason this is a "constant" or known point of departure, a base for development of data on the process itself.

When fully explored, the system will produce its own gas supply, which will provide heat to carry on the P–C process and excess gas which can be diverted to other uses, such as producing electricity via a steam-driven generator.

POWER SOURCE

This opens up many more possibilities. The nation is running out of electricity so to speak, as shown by the vast blackout in the East some years ago and periodic dim-outs marked by appeals from power companies to conserve power.

In this area, the Pacific Gas and Electric Co. maintains this will not occur. The geothermal plants at The Geysers will help stave off a shortage.

Nuclear power? The supply of fuel is limited, and scientists say we have used up one per cent of the source already—and have barely started nuclear plant development.

There is talk of a "self-breeding" electric plant which would need no fuel but this is years away at least.

Obviously if the mountains of waste materials could be utilized in part for generating electricity the prospects are immense.

Why didn't someone develop this P–C system before Dr. Brink and his associates? It's something like the Wright Brothers and the Dallas Cowboys—they "put it all together."

There are a few ground rules: The P–C plant can't digest metal, glass, brick, stone—These have to be removed mechanically by means already known.

Also the particles can't be too large. They would have to pass through a screen up to an inch in diameter. Generally, the smaller the better.

FIRST STAGE

The plant has a bottom-feed system with a hopper and fan. Then comes a first stage, in which hot gas is shot up, in a carefully metered flow, and pyrolysis starts. This first reactor is stainless steel with high corrosion resistance.

Temperatures range from 700 to 1,400 Fahrenheit.

The second stage probably represents the key factor in the development. This reactor is lined with "alumina castable ceramic material" which can stand high temperatures, the process requiring from 1,400 to 2,000 degrees fahrenheit.

This is necessary to handle the kraft liquor, minimizing production of undesirable products. No metal could withstand the temperature and corrosion at this point.

In the first stage, the solids are dried and steam goes off. In the second stage, several gases are produced such as hydrogen, carbon monoxide, carbon dioxide, methane, and small amounts of propane, acetylene, prophylene and some others.

These gases, most of them useful can be separated by a "stream" system and "scrubbed" to take out particles and other air pollutants.

Then the useful gases are stored, to be used partially to heat the process (as the natural gas is doing now) and partially to produce steam for electricity production.

NO AIR POLLUTION

But what about air pollution? In layman's language, the P-C produces no smoke and no stink.

In Dr. Brink's language, the unit "can be as pollution-free as a power plant that burns what is known as producers' gas. It is clean to the extent that you can burn gas."

This means that in the final stack potential pollutants are injected to be burned before they can enter the atmosphere. (Something like this is done to cut odors from rendering plants and other facilities.)

This article can't very well trace the route of all these materials through the P-C setup, but Dr. Brink says he is "highly optimistic" that it is all going to work—both technically and profitably.

And why has this not been well publicized, aside from the inner university network? It would appear that Dr. Brink and his fellow "fomenters" would be of keen interest to those wishing to preserve the environment—which some doggedly persist in calling the ecology.

Also, it seems that the P-C process would rate close attention from cities like Petaluma, now facing another multimillion dollar bond issue to expand sewer facilities. And many other cities and districts with a waste problem. And counties with dumps.

Time will tell. It won't be long until the researchers here will have it ready to lay out for interested parties.

PRESIDENTIAL PAPERS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. STUDDS. Mr. Speaker, the events surrounding the Watergate break-in have raised many questions in the minds of the people. If any good can be said to have come from this sordid affair it is that we, in Congress, are finding out—most graphically—where the system has failed. For the further information of my colleagues I would like to enter in the RECORD at this point a cogent front page editorial from the January 4, 1974, Quincy, Mass., Patriot Ledger on just one facet of this scandal where legislation may be appropriate:

WHOSE PAPERS?

Amidst the controversy over whether President Nixon did or did not properly meet the requirements of the income tax law in claiming a half-million-dollar deduction for giving his vice presidential papers to the nation lies a more important question:

To whom do the papers really belong?

The documents in question were produced while Mr. Nixon was on the public payroll. Most of them were written in government offices, on government paper, with government pens, pencils and typewriters, all of which were paid for by the taxpayers. They concerned public business, and the market value claimed for them is based on their historic importance.

So why aren't they the public's papers to begin with?

The answer is, they should be, and we think Congress ought to change the law to make it so.

This is not to deny Mr. Nixon or any other public official his right to write memoirs based on documents, or to be allowed to assemble those documents in a library.

But the question of tax write-offs for the "gift" of the papers ought not to arise, because the papers should not be the officials' to give.

It is an affront to the public for an official to magnanimously "give" the nation documents that already belong to the public.

Congress took a quarter step in the right direction by limiting to $50,000 the amount of tax deductions for donating official papers. However, that is still $50,000 too much.

MAKING CONGRESSIONAL SENSE OF THE BUDGET

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ROBISON of New York. Mr. Speaker, one of our more thoughtful colleagues, BARBER CONABLE, has authored concise and "to the point" commentary on the budget-reform legislation that the House passed last year.

It succinctly sets forth the need for the proposed reform and the events that make it necessary. Congressman CONABLE's article deserves our attention for it can help ward off any diminishing commitment to budget reform, should anyone be so tempted.

The article, as it appeared in the January edition of the Ripon Forum, follows:

MAKING CONGRESSIONAL SENSE OF THE BUDGET

(By BARBER B. CONABLE, Jr.)

Reforms are difficult to achieve. There is no more conservative institution than government, particularly about its own functioning, and representative government is the hardest to reform because there are always so many bases to be touched in preparation for change. Thus, while the American total system is dynamic and constantly changing, our government traditionally is a heel-dragging institution, refusing to acknowledge even internal changes long after the need for accommodation has become painfully apparent.

No better evidence is available than the reluctance with which Congress has moved to deal with functional necessities occasioned by the fiscal explosion of the mid-sixties. Any casual observer could see the proliferation of categorical grant programs which escalated domestic expenditures upward even more impressively than the Vietnam War escalated military expenditures. The Great Society, with its great greedy heart, could not conceive of a national need for which a centrally controlled grant program could not be quickly assembled. During the 1960's federal categorical grants expanded five times to $37 billion. As these programs soared past a thousand, some of our governmental departments became not so much administering agencies as a collection of cubbyholes. Partly as a result, Congress could not even count on good policy advice from the Administration about how to differentiate among the forms of largesse. Every program had its vested interest, its unmet need, its bureaucratic defenders, and hence its expectancy.

The typical congressman—never very skilled in oversight capability but increasingly skilled in the techniques of political survival—found it more and more dangerous to try to sort out the relative importance of these myriad programs. The easiest and safest course was to consider each program as though it existed in a vacuum rather than saying "this" was more important than "that," thus offending all the friends of "that." It was hoped that somebody, somewhere, was keeping track of it all and preventing the whole process from getting too much out of control. But since that "somebody" was the budget director and the "somewhere" was the executive branch, thoughtful congressmen began to realize there was a connection between these budgetary practices and the erosion of congressional power.

In a government based on checks and balances, power seems to belong to those who control the negatives. The Office of Management and Budget increasingly performed this function as Congress refused to take responsibility for keeping it all within a manageable whole. Congress could and frequently did quarrel with OMB's priorities; but Congress couldn't quarrel with the need for priorities, nor could it expect to remain a significant part of the government, unless it made the effort to establish its own priorities. Put another way, Congress couldn't effectively argue about OMB's measure if it didn't get a yardstick of its own.

That's what it's all about. The Budget Control Bill passed by the House in December will be before the Senate this year and could take effect in 1975. When the bill becomes effective, Congress will have to set ceilings on outlays and revenues each year, prepare its own budget proposals, return to the Appropriations Committee control of forms of spending which are not now subject to such review, and extend the fiscal year (to begin on October 1 rather than July 1) so that all spending can be compared at one time to the earlier Budget Committee targets. The ceilings set earlier in the year can be reviewed and revised all at one time in September, but every step in the process has to be related to every other step. The process is cumbersome and is not a panacea. It is intended to provide a discipline within which the congressional will to govern can be rediscovered.

In the end, whether the process works or not may depend on competitive factors. The pressure for this reform diminished perceptibly after the Watergate events reduced the effectiveness of the presidency. Congress may resent and circumvent the cumbersome budget procedures the reform embodies if it does not feel threatened by the presidential fiscal alternatives.

It is noteworthy that the budget reform proposal was coupled in the House with a measure automatically reversing presidential impoundments by veto of either House. One wishes that congressional responsibility would rise as the effectiveness of the presidency declines. But in the competitive world of politics, this writer fears that strength is needed to inspire strength, and that discipline is the response to discipline. In any event, congressional fiscal reform is well worth the effort and constitutes "system maintenence work" of worthy purpose.

DR. DAVID BEEMAN

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. O'BRIEN. Mr. Speaker, recently Dr. David Beeman, professor of speech at Olivet Nazarene College in Kankakee, Ill., wrote to me expressing his concern for the speech and hearing handicapped. Dr. Beeman offered his time and assistance in developing legislation and communications with these people. We agreed to meet during the Christmas recess to set up some plans.

But Dr. Beeman and his wife Sudie were killed in a plane crash on December 23, and I never had the opportunity to visit with him. My lost opportunity was minor compared to the loss felt by those who knew him well, but I cannot help but feel a personal loss nonetheless.

Dr. Beeman was diligent in his work at Olivet Nazarene College, and spent many, many hours giving of himself to those less educated and privileged than himself.

The Daily Journal in Kankakee wrote a moving editorial about Dr. Beeman and his life, and I am offering it for your consideration today.

[From the Kankakee (Ill.) Daily Journal, Dec. 26, 1973]

BEEMAN'S SERVICE

Devoutly religious people face an ageless dilemma: staying true to a demanding faith while remaining hard at work in an imperfect world. Dr. David S. Beeman, killed in a plane crash Sunday, was one of those few human beings who successfully meshed their spiritual commitment with vocation, avocations and community service.

We remember the time that a guest speaker, anxious to establish rapport with members of a civic club, asked about the vocations represented at the luncheon meeting.

Any college professors here?

Beeman raised his hand.

Any media executives here?

Beeman raised his hand.

Any preachers here?

Beeman raised his hand.

Well, any car salesmen here?

By this time, the speaker was watching the Olivet Nazarene College professor and Beeman had not raised his hand. As guffaws rose from the audience, Beeman drawled, "If the gas shortage doesn't ease, I may turn into a used car salesman just once."

Dr. Beeman was orthodox in his Nazarene religious convictions but somewhat unorthodox in his teaching and civic activities, endearing him to Olivetians and the general community. "I'd work with anyone, regardless of his creed, if he shares a common goal for a better community," he once told us.

He had, in recent years, served as acting dean of the college, registrar, professor of speech and chairman of the speech department, and faculty manager for the college radio station, but still found time to assist special reading programs at Pembroke, adult education at Kankakee Community College, and be an active member of the Exchange Club.

An ONC student tells of the time that, while completing an examination, he forgot the proper use of Roman numerals and switched to Arabic numbering. The student justified himself with the scribbled note: "Give those back to the Romans."

The graded paper was returned with Beeman's imprimatur: "O.K. with me."

The loss of Dr. and Mrs. Beeman is a tragedy to the college and to the community but we would remind those who grieve that the Beemans believed strongly that the tragedies of this world were small compared to the eternal promises of God. May we all take solace in their faith.

INFLATION

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. LUJAN. Mr. Speaker, during all of 1973, we here in Congress spent quite a bit of time on how and where we should be spending our Federal tax dollars in order to achieve a more sensible economic policy. In fact, most of what we have seen, heard and read in the news media seems to point out one overwhelming concern: Our constituents are worrying about the fiscal situation that is facing our country today.

In short, Mr. Speaker, the American public is starting to ask themselves, "when is Congress going to act responsible to the fiscal needs of the country?" The publics' attitude on this matter has been heightened in light of the spiraling increases in food prices and the skyrocketing prices of home buying, credit, clothes and the other necessities of life.

I believe it is long past due that Congress be honest with itself and put the blame where it belongs—on Congress itself and its apparent approval of the Government's deficit spending programs.

The word "inflation" is on the mind of every person in this country and we here in Congress have nurtured and fed the economic disease for the past 30 years. During this span of time, Congress kept approving higher and most costly programs in the name of social progress and spending billions upon billions of the taxpayer's money to countries abroad for the sake of friendship.

Now the heavy-burdened American taxpayer is tired of it all and is simply asking us to help solve some of his fiscal problems; problems that we, in Congress, have created for him by our wasteful neglect throughout these years.

In the 30 years past, Congress has continually passed appropriation bill after bill without the slightest regard to the Government's income. This type of practice is not economically healthy. In fact, it is deadly.

I do not have to tell you of our spending habits in the fifties or sixties because all one has to do is look at what we have been doing in the past couple of years. For instance, in 1972 we had a total budget of $248 billion yet we managed to overspend $22 billion. In 1973, the budget was $280 billion and yet we managed to overspend almost $25 billion. Last year the budget was increased to almost $290 billion and the latest figures reveal that we will have overspent the budget by about $14 billion.

Now the 1975 budget is being asked for and it will total a whopping $310 billion. How much will be overspent on this one? If a business or individual family followed the same spending practice as does the government it would soon face economic disaster.

The United States is now approaching a debt of almost $500 billion. In more personal terms, that amounts to almost $2,500 for every man, woman and child in this country. Yet, over the vehement objections of many of us, the majority in this Congress has been on a wild and reckless spending spree that consistently forces the Treasury to borrow more money in order to pay the bills.

We are obligated to every citizen and taxpayer of this country to see that their money is not being wasted on programs that have brought failure—be it programs here at home or abroad. We cannot afford, financially or morally, to continue this way. I am urging every member of this body to give serious thought to this problem and to give it top priority in all decisionmaking. We must begin to mend our ways now—we cannot afford to wait any longer.

AMENDMENT TO THE FEDERAL ENERGY ADMINISTRATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BIAGGI. Mr. Speaker, I am submitting for publication in the Congressional Record an amendment I intend to offer to the Federal Energy Administration Act during debate under the 5-minute rule:

H.R. 11793—Federal Energy Administration

Page 36, line 6, strike out "one year" and insert the following: "three months."

THE AMERICAN WEST EXHIBITION

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ROSTENKOWSKI. Mr. Speaker, my colleague, Jim Wright, of Texas, was recently present at the opening of the American West Exhibition in Warsaw, Poland. This exhibition was made possible under the auspice of the National Museum of Art working with the Amon Carter Museum of Western Art in Mr. Wright's native city of Fort Worth, Tex.

I felt that his introductory remarks in honor of this cultural event would be of interest to my colleagues. His remarks not only stressed the historical bonds between Poland and the United States, but also emphasized the continuing ties between these two great nations as demonstrated in the cooperation that existed in the organization and promotion of this great exhibit.

I trust that this will be of interest to my colleagues.

The remarks follow:

Remarks of Congressman Jim Wright, at Opening of the American West Exhibition

Mr. Minister, Mr. Ambassador, Distinquished Guests: Thank you for your warm and hospitable reception here today. It is for me a matter of pride to be present at the opening of this important exhibition, entitled *The American West*. This is a truly significant occasion in the history of cultural relationships between our two countries.

It is fully appropriate in many ways that this exhibition of original 19th and 20th Century American Paintings, the first of its kind ever shown in Poland, should be held here at this prestigious national museum in this historic city. The City of Warsaw, as all men know, symbolizes through its very history the indomitable spirit of man. To all the world this capital city epitomizes the enduring strength of men who would rather die on their feet than live on their knees.

I am told that one of the very few buildings left standing after the systematic devastation of this great capital was the one in which we now are assembled. Perhaps it is the appreciation of this very spirit, symbolically represented by this justly famous museum and national collection, that most of all makes today's opening uniquely significant. For in a very real way, this exhibit is the cultural representation of a similar but slightly different expression of the same indomitable character of men who braved the raw and primitive dangers of a vast unknown territory, with not much more than bare hands and an invincible will to civilize a wilderness.

I am proud to represent the United States as well as the State of Texas on this memorable occasion. I sincerely hope that the people of Poland, who have been so gracious to us in their hospitality, will enjoy these paintings and the rich story they tell. In this way, perhaps you will be able to gain a deeper insight into the true spirit of our West which is inseparably woven into the fabric of American life and thought. I need not remind you that many of the men who helped us win and finally tame the West were born here in Poland. Poles have always played a distinguished role in every aspect of American history. This is one of the deep natural bonds which bring our peoples together.

No American could be unappreciative of the strong and durable Polish ores which went into the cauldron of our national history to form the alloy of our national character. The names of Kosciuszko and Pulaski occupy places of special honor in the struggle for American independence, and several American cities proudly bear their names.

In the Congressional committee on which I serve, I sit side by side with a great American named John Kluczynski, the principal legislative architect and champion of our Interstate Highway system, surely the most extensive public works undertaking in our Nation's history.

He is descended directly from Polish antecedents, as are Senator Edmund Muskie, the Democratic Party's nominee in 1968 for the Vice Presidency of the U.S., and such other important contemporary American lawmakers as Clement Zablocki, the ranking member of the House Foreign Affairs Committee, Thaddeus Dulski, the Chairman of our Committee on Post Office and Civil Service, and other colleagues of mine who bear such names as Derwinski, Rostenkowski, Pucinski, Nedzi and Dingell.

There also is an American legislator named O'Konski, but he may be an Irishman.

There is no need for me to describe or explain these paintings. You can interpret them as well as I. Painting, like music, speaks a universal language which transcends the petty barriers that man in his folly has erected between himself and his neighbor.

Today we build together a bridge rather than a wall. The exhibit we are about to see has been made possible through the generous cooperation of the Polish Ministry of Culture and the National Museum of Art, working with the Amon Carter Museum of Western Art in my native city of Fort Worth, Texas, as well as several other American museums and private collections.

The mutual cooperation demonstrated here exemplifies the growing spirit of cooperation not only in culture but in many other areas of human endeavor as well which now exists between our two countries. The presence of this exhibition in Warsaw today also demonstrates a growing mutual awareness on the part of the peoples of our two countries for the respective national culture of the other. This fact alone gives rise to feelings of great pride and satisfaction for myself and my countrymen.

Permit me, then, to extend my personal thanks and very best wishes for continued success to the organizers and hosts of this important exhibition.

ICE ENGINEERING FACILITIES

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BYRON. Mr. Speaker, this week it was my pleasure to tour the new ice engineering laboratory complex of ARCTEC, Inc., in Columbia, Md. This facility is one of the most advanced of its kind in the country and includes a large model towing basin, a hydraulics laboratory, and a refrigerated flume. The facility contains all the requirements for the Nation's basic and applied investigations of ice phenomena related to oceans, rivers, lakes, harbors, and other navigable waters.

At the present time the U.S. Army Corps of Engineers is in the planning stages of developing an ice engineering facility to be located at the U.S. Army Cold Regions Research and Engineering Laboratory in Hanover, N.H. The price tag of this new facility has not yet been ascertained, but it is possible that a request for authorization will be contained in the budget for the next fiscal year.

It would appear that the Government is about to duplicate a facility that already exists and is doing about 60 percent of its business with the Federal Government now. I would hope that the planners in the Corps of Engineers, who recently visited ARCTEC, will take into consideration the existence of this outstanding extant facility and realize that a laboratory already exists which is fully capable of meeting their requirements.

REV. FATHER HUGH GRAHAM'S 50TH ANNIVERSARY AS A PRIEST

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RONCALLO of New York. Mr. Speaker, I would like to insert in the RECORD the text of a proclamation presented to Father Hugh Graham, of St. Rose of Lima Roman Catholic Church in Massapequa, N.Y., in recognition of his 50th anniversary as a priest.

The proclamation follows:

PROCLAMATION

Whereas, Father Hugh Graham has so diligently and with love and devotion served as a Roman Catholic Priest for 50 years, and is on Sunday, December 16, 1973, celebrating his 50th Anniversary in the service of God; and

Whereas, before coming to St. Rose of Lima in 1959, he served as a Curate at St. Brigid's of Brooklyn, and as a Pastor of St. Anne's of Brentwood and St. Mary's of Long Beach; and

Whereas, he has also served as Chaplain at St. Joseph's Academy in Brentwood and Pilgrim State Hospital, and as a member of the Board of Visitors at Kings Park State Hospital; and

Whereas, under the spiritual guidance and dedication of Father Graham, the growth of St. Rose of Lima has gone from a small-town parish to one of the largest Roman Catholic churches on Long Island, and his encouragement, involvement and example have played an important role in the planning and building of the St. Rose of Lima school, convent, rectory and church; its aesthetic appearance and functional layout are not by accident; and

Whereas, the priests, sisters and parishioners of St. Rose, both young and old, look to Father Graham not only for spiritual guidance, but also leadership, learning, counsel and inspiration. In St. Rose there is a true example and demonstration of Christian love, which he has helped to foster.

Now, therefore, we, the Town Board of the Town of Oyster Bay, do hereby extend to Father Graham, one of our outstanding residents, our most sincere congratulations on this milestone in his life and the life of the community, and thank him for the vital interest he has taken not only in the affairs of the church, but in the surrounding community and in his fellow mankind.

FEDERAL OIL AND GAS CORPORATION ACT

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RIEGLE. Mr. Speaker, today I am introducing legislation which would create a Federal Oil and Gas Corporation. Primarily the Corporation would be responsible for the exploration for, development, and production of natural gas and oil resources on Federal lands. While the legislation will not be a one-step solution to the energy crisis, I feel that it would be a vital component of our Nation's energy program.

For the past several months I have been acutely concerned over the impact of the energy shortages on my congressional district. With Flint, Mich., the principal city, my district is the home of 11 General Motors plants. While other areas of the country have suffered increased unemployment, the latest reports for the Flint area indicate 12 percent unemployment due to plant layoffs.

Meanwhile, the debate over the role of the oil companies in the current energy situation continues to grow. Investigations of the major oil companies have revealed huge profits in the past year while the consumers must bear short supplies and soaring prices. In part, the American consumer is paying billions of dollars for oil because of the control the Mideast oil-producing countries have on prices. Last month the oil ministers of a handful of small countries determined an unprecedentedly high price of oil—$17 per barrel compared to the highest price of oil the year before of $3.60 per barrel.

In addition to setting the prices of world crude oil, the OAPEC—Organization of Arab Petroleum Exporting Countries—states placed demands on countries importing oil from them in terms of their foreign policies during the Arab-Israeli war. The United States cannot afford to sacrifice its independent foreign policy position to meet the demands of oil-exporting countries.

Looking at the domestic oil market, again it appears that the market is "rigged." According to the Federal Trade Commission staff study released last summer, the eight major oil companies control 50 percent of U.S. domestic production of crude oil, 58 percent of the Nation's refining capacity, and 55 percent of the gasoline market. Reports from my district and across the country show that while the top 20 oil companies are making record profits, independent jobbers and retailers are going out of business. One study indicated that 3,000 gasoline retailers were forced to close this year.

Despite the daily toll in terms of independents closed out, workers laid off, skyrocketing fuel prices, and widespread shortages, the energy crisis continues to baffle the country. Despite warnings from many expert sources, the administration did not adequately anticipate the energy crisis and so far has come up with no coherent plan for dealing with it.

While there are many bills now pending before Congress designed to create means of solving our short- and long-term energy problems, I believe the bill to establish a Federal Oil and Gas Corporation is among the most promising. First, the proposed Federal oil and gas corporation would open up to the American people a vast wealth of reserves which they already own. The U.S. Geological Survey estimates that over 50 percent of the 500 billion barrels of proven and potential oil reserves and of the 2,400 trillion cubic feet of proven and undiscovered gas reserves are under Federal lands. The Corporation would undertake exploration and development of these oil and gas resources on Federal lands.

To date, only 2 percent of Federal oil and gas bearing lands have been leased for exploration. However, to insure that the Corporation does not place the private oil and gas companies at a great disadvantage, they would be entitled to not more than 20 percent of the Federal oil and gas rights offered for lease at any single time.

Second, the operation of the Corporation would give the Government a much better idea of what the real costs of exploring for and developing oil and natural gas resources are. This complete and accurate information would greatly aid Congress in devéloping base pricing and regulatory policies for private corporations. Such information is vitally needed and, at the present time, virtually unavailable.

Third, the additional fuel generated by the Corporation would be an important contribution to meeting our energy needs. While the Corporation would be primarily engaged in exploration and production, the Corporation could sell its products if it were necessary to insure competitive conditions within the industry.

Fourth, the profits of the Corporation would return to the American people. Returns on the production of fuel from Federal lands would go to the Federal Treasury. Large dividends to the American people are expected from the development of our country's natural resources. While the bill authorizes up to $50 million for the Corporation each year for 10 years, some feel only a small fraction of these funds will be necessary.

Finally, the Corporation would provide a competitive force in an industry that seems to need such input. The bill is in no way a forerunner of the nationalization of the oil and gas industry. From our experiences with the Tennessee Valley Authority, the involvement of the Government in such an enterprise can have significant and positive ramifications for private power production. Similar Government-owned or controlled oil corporations exist in many countries around the world—for example, Britain, France, Argentina, and India. And in each, the private industries have thrived along side the Government-owned industries.

In conclusion, I am encouraged by the interest that has been shown in the concept of a Federal Oil and Gas Corporation and join my colleagues in the House and Senate who have also introduced legislation to establish such a corporation. In face of the serious problems which our Nation is facing, and in view of the functions of the bill as outlined above, I feel that this legislation could play a critical role in our country's future and urge immediate and serious attention to the proposal. A copy of the bill follows:

H.R. —

A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this title may be cited as the "Federal Oil and Gas Corporation Act".

SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 34. (a) The Congress finds and declares that—

"(1) the Federal Government must become directly involved in securing and developing sources of natural gas and oil to assure adequate supplies of these fuels to American consumers at reasonable and competitive prices;

"(2) the Nation's need for energy supplies is so great that there is an urgent need to stimulate new competition in the production and sale in commerce of natural gas and oil and products refined and derived therefrom;

"(3) the people of the United States through the Federal Government own substantial lands which could be developed for the production of natural gas and oil;

"(4) American consumers would benefit if the forces of competition operated to a greater extent than at present in the world oil and gas market;

"(5) publicly available data on the cost of natural gas and oil production and reserves is needed to assure competition and fair regulation in the public interest; and

"(6) a corporation owned by the Federal Government, engaged in the development and sale of natural gas and oil, could provide competition in the energy industry and, through research and development, assure adequate supplies of these fuels without harm to the environment.

"(b) The Commission is directed to establish, in accordance with the provisions of this section, a corporation to be known as the Federal Oil and Gas Corporation (hereinafter referred to as the 'Corporation').

"(c)(1) The Corporation shall be administered by a Board of Directors (hereinafter referred to as the 'Board'). The individuals appointed as members of the first Board shall be deemed the incorporators of the Corporation. The date of incorporation shall be held to the date of the first meeting of the first Board at which a quorum is present.

"(2) The Board shall consist of five qualified individuals who shall be selected by the President, by and with the advice and consent of the Senate. The President shall designate the Chairman. All members of the Board shall be individuals who believe and profess a belief in the feasibility and wisdom of this Act, and who believe and profess a demonstrable belief in environmental protection and the purposes of the antitrust and consumer protection laws of the United States.

"(3) The terms of office of the members of the Board first taking office shall expire as designated by the President at the time of selection, one at the end of the first year, one at the end of the second year, one at the end of the third year, one at the end of the fourth year, and one at the end of the fifth year following the date of incorporation. A successor to a member of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring five years from the date of expiration of the term for which his predecessor was appointed. Any member of the Board appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed for the remainder of such term.

"(4) Three members of the Board shall constitute a quorum for the purpose of conducting the business of the Corporation.

"(5) The Chairman of the Board shall be compensated at the rate provided for level II of the Executive Schedule pay rates (5 U.S.C. 5313); the other members of the Board shall be compensated at the rate provided for level IV of the Executive Schedule pay rates (5 U.S.C. 5315), to be paid by the Corporation as current expenses. Members of the Board shall be reimbursed by the Corporation for actual expenses incurred by them in the performance of the duties vested in the Board by this section.

"(6) No member of the Board shall, during his term in office, be engaged in any other business, nor may he have any financial interest in any business entity which is engaged in the exploration, development, production, transportation, or sale of natural gas or oil.

"(7) All members of the Board shall avoid all contacts with any person which may tend to create actual or apparent conflict of interest with the Board member's duties and responsibilities under this Act. Each Board member shall refrain from any action which may actually or apparently impugn his stated belief in the purposes of this Act. To further assure the independence of Board members, their compensation shall be continued for a period of one year at a level equal to three-quarters of their compensation at the end of their term.

"(8) Any member of the Board may be removed from office at any time by joint resolution of the Senate and the House of Representatives.

"(d)(1) The Board shall, without regard to the provisions of civil service laws applicable to officers and employees of the United States, appoint such officers, managers, employees, attorneys, and other personnel as are necessary for the transaction of its business (including personnel to perform temporary and intermittent services), fix their compensation, define their duties, require bonds of such of them as the Board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the Board may be removed at the discretion of the Board.

"(2) All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of facilities authorized under this title shall contain a provision that not less than the prevailing rate of wages for work of a similar nature in the vicinity shall be paid to such laborers or mechanics as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a). In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees. The Board shall not enter into any such contract without first obtaining assurance that required labor standards will be maintained on the construction work. Health and safety standards promulgated by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) shall be applicable to all construction work performed under such contracts. Where such work as described in this paragraph is done directly by the Corporation the prevailing rate or rates of wages shall be paid in the same manner as though such work had been let by contract.

"(c) Except as otherwise specifically provided in this section, the Corporation—

"(1) shall nave succession in its corporate name;

"(2) may sue and be sued in its corporate name;

"(3) may adopt and use a corporate seal, which shall be judicially noticed;

"(4) may make contracts, as herein authorized;

"(5) may adopt, amend, and repeal bylaws;

"(6) may purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and many dispose of any such personal or real property held by it;

"(7) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation;

"(8) shall have the power to explore for natural gas and oil on Federal, State, foreign, or private lands: *Provided*, That exploration on State lands shall be in accord with leasing or other State land disposition or utilization programs.

"(9) shall have the power to develop and sell natural gas or oil discovered by exploration, or otherwise obtained by sale, lease, purchase, exchange, or contract, and to build and operate all those facilities necessary for the development or sales of such resources, as herein authorized;

"(10) shall have the power to explore, develop, acquire, or sell natural gas and oil alone or on a joint or cooperative basis with any private or other public entity or entities: *Provided*, That no joint or cooperative basis is authorized if there is any likelihood that exploration, development, acquisition, or sale jointly or cooperatively with another entity or entities may adversely affect competition, restrain trade, further monopolization, or violate the spirit or content of any Federal statute respecting trade or commerce;

"(11) shall have the power to engage in research directed toward the development or utilization of abundant and nonpolluting supplies of energy, from whatever source, and may build, own, and operate research testing, or demonstration facilities, alone or on a joint or cooperative basis with private or other public entities; and

"(12) shall have the power to build, lease, purchase, or otherwise obtain and operate facilities necessary for the sale, purchase, transportation, or delivery of natural gas or oil: *Provided*, That no facility may be constructed or operated unless such facility meets and complies with all of the requirements of any Federal statute relating to environmental quality, or any regulation issued under such statute. As used herein, 'environmental quality' means those aspects of life and those objectives which are delineated in section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) and which it is the purpose of such Act to protect.

"(f)(1) The Corporation is empowered to incur debt for capital purposes. Such debt may be incurred in the form of bonds, debentures, equipment trust certificates, conditional sales agreements, or any other form of securities, agreements, or obligations (hereinafter collectively referred to as 'obligations').

"(2) Payment of principal and interest on obligations issued by the Corporation under this subsection is guaranteed by the United States. Such guarantee shall be expressed on the face of the obligation. The Corporation may also incur debt not guaranteed by the United States. Proceeds realized by the Corporation from issuance of its obligations and the expenditure of such proceeds shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes (31 U.S.C. 665).

"(3) Obligations issued by the Corporation under this subsection may be redeemable at the option of the Corporation before maturity in such manner as may be stipulated therein and shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as shall be determined by the Board.

"(4) At least thirty days before selling any issue of obligations other than obligations having a maturity of less than one year, the Board shall so advise the Secretary of the Treasury in the greatest possible detail, including the amount, proposed date of sale, maturities, terms and conditions of and the expected rate of interest on such issue. If the Secretary of the Treasury so requests, representatives of the Corporation shall consult with him or his designee with respect to the proposed issue: *Provided*, That the issuance and sale of obligations of the Corporation is not subject to approval by the Secretary of the Treasury. If the Corporation determines that a proposed issue of obligations cannot be sold on reasonable terms, it may issue interim obligations to the Secretary of the Treasury, which such Secretary is authorized to purchase. Such interim obligations of the Corporation issued to the Secretary of the Treasury shall mature on or before one year from the date of issuance. Such obligations shall bear interest at a rate or yield no less than the current average yield on outstanding marketable securities or obligations of the United States of comparable maturity, as determined by the Secretary of the Treasury. For the purpose of any purchase of obligations of the Corporation, and to enable him to carry out the responsibility relating to guarantees of obligations made pursuant to this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Corporation under this section. The Secretary of the Treasury may at any time sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations of the Corporation acquired by him. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Corporation shall be treated as public debt transactions of the United States.

"(5) The Board may—

"(A) sell its obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(B) designate trustees, registrars, and paying agents in connection with obligations of the Corporation and the issuance thereof;

"(C) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms in addition to audits and reports required by the Government Corporation Control Act;

"(D) invest, subject to any covenants contained in any obligation contract, the proceeds of any obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in any Federal Reserve bank or bank having membership in the Federal Reserve System; and

"(E) perform such other acts not prohibited by law as it deems necessary or desirable to accomplish the purposes of this section.

"(6) Obligations of the Corporation issued under this subsection shall contain a recital to that effect which shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title and valid. Obligations of the Corporation issued under this subsection shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States and shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The limitations and restrictions as to a National or State bank dealing in, underwriting, or purchasing investment securities for its own account, as provided in section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), and section 5(c) of the Act of June 16, 1933 (12 U.S.C. 335), shall not apply to obligations guaranteed under this subsection.

"(7) There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to pay the principal and interest on notes or obligations issued by him as a consequence of any guarantee under this subsection.

"(8) In the event of any default on any guaranteed obligation, and payment in accordance with a guarantee by the United States, the Attorney General shall take appropriate action to recover the amount of such payments, with interest, from the Corporation or other persons liable therefor.

"(g)(1) The Corporation may request the right to develop natural gas or oil which is or may be located on any Federal lands, including offshore rights, to the extent necessary to carry out its authorized activities: *Provided*, That the Corporation shall not request nor be granted more than 50 per centum of such rights as are offered at that time for sale or lease to other qualified persons.

"(2) Except as provided in paragraph (3) of this subsection, any Federal agency or department having authority to lease, sell, or otherwise dispose of Federal lands or rights to natural gas or oil which is or may be located on Federal lands, including offshore rights, shall, upon the receipt of a request of the Corporation under paragraph (1) of this subsection, grant the Corporation such right to develop without payment within 90 days after the receipt of such request. Rights to develop under this paragraph shall not be subject to any other Federal statute or regulation governing the lease, sale, or other disposition of any such lands or rights by any Federal agency or department.

"(3) Notwithstanding the provisions of section 641 of title 10, United States Code, the Secretary of Defense, acting for the Secretary of the Navy, shall transfer possession of certain properties inside the naval petroleum and oil shale reserves, which are subject to such Secretary's jurisdiction and control, to the Corporation in accordance with this paragraph. Within one year after the date of incorporation of the Corporation, the Secretary of Defense shall prepare and submit to the President a report which specifies the petroleum and oil shale reserves which he finds are necessary for retention to accomplish the purposes of such section 641. Within six months after receiving such report, the President shall designate those petroleum and oil shale reserves which are necessary for retention under such section. Such properties may not be transferred to the Corporation, except on such terms and conditions as may be set by the President.

"(4) The provisions of this subsection shall not apply to any Federal lands or rights within any national park, wilderness, seashore, or wildlife refuge area, or to any lands held by the United States in trust for any Indian or Indian tribe.

"(5) All rights granted and properties transferred to the Corporation shall be explored, developed, and produced in the most rapid manner practicable without excessive risk of losses in recovery in accordance with the purposes of this title and subject to the authorized powers and limitations of the Corporation under subsection (e) of this section.

"(h) (1) The Corporation shall build, lease, or purchase refining facilities for the crude oil it produces or otherwise obtains only if it is unable to make sales of such oil in a manner which will promote competition among suppliers of crude oil.

"(2) The Corporation shall build, lease, or purchase transportation facilities for the natural gas or oil it produces or otherwise obtains only if it is unable to arrange for delivery of such natural gas or oil in a manner which will promote competition among suppliers of natural gas or oil.

"(i) (1) Sales of natural gas or oil by the Corporation shall be made at fair and reasonable prices designed to promote competition among suppliers of these energy resources.

"(2) Sales and transportation of natural gas or oil by the Corporation shall be subject to the jurisdiction of the Commission to the same extent and subject to the same requirements as sales and transportation of these energy resources by other supplies.

"(3) In selling natural gas or oil, the Corporation shall give price, supply or delivery preference to States, political subdivisions of States, cooperatives, and independent refiners.

"(j) Whenever the Corporation owns land, facilities, equipment, or other items, which would normally be subject to taxation by a State or political subdivision thereof, the Corporation shall pay an amount to such entity in lieu of such taxes on the same basis and in like amount as would be paid in the form of taxes by a private owner.

"(k) (1) The Corporation shall make available, by license or otherwise, on a nonexclusive basis, upon payment of a reasonable royalty, and without territorial limitation, the use of any patent, trade secret, and copyrighted or other information obtained or developed by the Corporation in the performance of any of its activities under this section. In appropriate cases where the purposes of this title would be served, the Board may waive the payment of royalties.

"(2) Copies of any written or oral communication, document, intelligence, report, or other information received, prepared, or sent by the Corporation or any of its personnel and, in the case of oral communications, reduced to writing in whole or in summary, shall be made available to any interested person upon receipt of a specific and identifiable request in writing and payment of fees except that nothing in this paragraph shall be deemed to require the release of any information required by law to be kept secret in the interest of the national defense or foreign policy; personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; or information pertinent to a pending negotiation or transaction until the completion thereof.

"(l) Except for compliance with Federal statutes which may be administered by the States, the Corporation shall be exempt from State and local statutes or controls which would impede its ability to perform the activities authorized by this title: *Provided*, That the Corporation shall submit a prior report, together with reasons therefor, to the Commission and the Congress with respect to each incident of noncompliance with any State or local statute or control.

"(m) The Corporation shall transmit to the President and the Congress, annually, commencing one year from the date of incorporation, and thereafter on February 1 of each year, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this section, including a statement of receipts and expenditures for the previous year. Copies of such reports shall be sent to the chairmen of the Senate and House Committees on Appropriations and Commerce, and the reports also shall—

"(1) contain the Corporation's statement of specific and detailed objectives and relate these objectives to those in this title;

"(2) include statements of the Board's conclusions as to the effectiveness of the Corporation in meeting the stated objectives, measured through the end of the preceding fiscal year;

"(3) make recommendations with respect to any changes or additional legislative action deemed necessary or desirable;

"(4) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations; and

"(5) contain the Corporation's annual evaluation plan or plans for its activity through the next fiscal year and the following five years.

At the time of such annual report, the Corporation shall submit a statement of the amount of financial assistance needed, if any, for its operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. The Corporation shall make this annual report readily available to the public.

"(n) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the Corporation deems necessary to carry out its duties under this section.

"(o) There are hereby authorized to be appropriated to the Corporation for the fiscal year ending June 30, 1974, and for each of the next ten succeeding fiscal years $50,000,000 for the Corporation to carry out its activities under this section. All funds appropriated pursuant to this section shall remain available until expended.

"(p) When the annual revenues of the Corporation exceed the amounts necessary to satisfy, in accordance with customary business practices, the obligations and expenses incurred by the Corporation and to maintain the financial reserves necessary for Corporation activities, the Corporation shall pay its remaining funds to the United States."

SEC. 3. Section 101 of the Government Corporation Control Act (31 U.S.C. 846) is amended by (a) striking out "and" in the last clause thereof; and (b) striking out "." at the end thereof and inserting in lieu thereof the following new clause: "and Federal Oil and Gas Corporation."

A SERVICEMAN PRAISES THE U.S. MARINE CORPS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. YATRON. Mr. Speaker, I am very pleased to insert in the RECORD a copy of a letter I received recently from a constituent from Reading, Pa., who is proud to serve our great country. I feel that Pvt. David M. Gabrielli, U.S. Marine Corps, should be commended for his positive attitude and sense of responsibility.

The letter follows:

U.S. MARINE CORPS,
December 5, 1973.

DEAR CONGRESSMAN YATRON: I have just completed my basic training with the United States Marine Corps at Parris Island, South Carolina. Presently I am at home on leave prior to reporting to my next training assignment at Camp Pendleton, California.

I feel it's my obligation to write to you in regards to the Marine Corps especially at a time when many people are condemning the armed forces as a whole. I can't speak for the other branches of the service, only for my own branch, the Marine Corps.

Speaking for myself, I feel the Marine Corps has spent the last thirteen weeks of training me to be a competent, reliable Marine. The Marine Corps preaches morality, pride in one's self, pride in being part of the finest military service in the world, pride in being an American. They have taught me self-discipline, to work as a team, honesty, and integrity.

I feel the United States is wise in having an organization like the Marine Corps. When the Marine Corps advertises for "A Few Good Men," they mean a few good men. I am not bragging, only thanking the Lord who has guided me through so I could achieve my final goal. When the government spends its money on the Marines, I feel it's spent very, very wisely.

I have learned in the past few weeks that I could do things I didn't believe were possible. But the Marine Corps showed me I could.

So when I hear people say, "They aren't like they used to be," I challenge that remark. We are as good as "they used to be," maybe better.

So I've taken time out to write you a letter praising, not condemning, the Marine Corps. When we are needed, we'll be there! The people of this country should be proud of their armed forces, and I get mad when they criticize the service without justification.

Thank you for taking time to hear the opinion of a nineteen-year-old private in the Marine Corps.

May I wish you and your family a Very Merry Christmas and a Happy New Year.

Sincerely yours,
Pvt. DAVID M. GABRIELLI.

A FITTING TRIBUTE

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. HELSTOSKI. Mr. Speaker, one of North Jersey's legendary sports figures, the late Stanley A. Piela, former athletic director of Lodi High School, has been honored for his contributions to the school system and community. The Lodi Board of Education recently decided to name the new Lodi High School gymnasium in honor of Mr. Piela.

This gesture is a fitting tribute because for many years this man was one of New Jersey's finest scholastic coaches. Coach Piela, who died in 1962, coached championship teams in football, basketball, and baseball. However, more important than the excellent record his team amassed through the years, is the fact that many of the young athletes who played for him have gone on to become well-respected citizens dedicated to their own communities. As Stanley Piela built winning teams, he also built men of character.

Mr. Speaker, today I would like to share an article with my colleagues which appeared in the Lodi Messenger recently concerning Mr. Piela. The article gives us further insight into a man whose hard work and determination inspired the lives of countless students. The article follows:

GYM DEDICATION IN HONOR OF PIELA

The late Stanley A. Piela, former Athletic Director of Lodi High School, will be honored for his dedication to the school system and the community. By naming the new Lodi High School gymnasium in his memory, the Lodi Board of Education and the people of Lodi are paying tribute to Piela's more than thirty-five years of devotion and service.

A Dedication Ceremony was held at the new gymnasium on Tuesday, January 15 at 7:30 p.m., prior to the start of a scheduled league basketball game between Old Tappan and Lodi High School.

Piela, who died on December 31, 1962, amassed a record of outstanding achievements in all the major sports in which Lodi High School participated. Although local sports fans consider his entire career as among the most successful of any area coach, old timers will especially recall the era of 1937–39, when the great Stan Piela's boys fielded a superb baseball team which won the Tri-County (Bergen, Passaic, Hudson) Championship in 1937; rolled over their football opponents with an undefeated, untied and unscored upon team in 1938; and captured the State Group Three Basketball Championship in 1939.

STRIPES FOR SKILLS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DICKINSON. Mr. Speaker, it was just 1 year ago that the draft and the Vietnam war ended. Since that time it has been the goal of the Army and of Army Secretary Howard "Bo" Callaway to enlist a viable all-volunteer force. Such an ambitious program has required many innovations and initiatives on the part of the Secretary and the rest of the Army.

This past December the Army initiated an enlistment program whereby a young man or woman with a civilian skill can enter the Army, not as an E–1, but with rank commensurate to that individual's ability.

This is a most interesting program and it should assure the Army of qualified volunteers.

At this point in the RECORD, I insert a speech made by Secretary Callaway which outlines this lateral entry program:

U.S. ARMY LATERAL ENTRY PROGRAM

On 1 December 1973, the United States Army implemented a comprehensive enlistment program to attract qualified men and women of the civilian community who possess a civilian acquired skill required by the Army.

The program, entitled "Stripes for Skills," consists of over 160 skills which have either a direct or closely related civilian counterpart. Stripes for skills is designed to increase enlistment of qualified Army applicants with a civilian acquired skill, increase job satisfaction, improve the Army's personnel classification while maintaining skill performance standards and reduce training costs.

Unlike the Army's previous lateral entry program, which consisted of approximately 50 skills, the expanded program offers applicants who meet skill criteria immediate appointment to grade E–3 upon enlistment. Additionally, the member is also given the option to select a unit of choice with a period of stabilization with that unit guaranteed. After successful completion of required initial training, the new enlistee is sent to the unit selected. After eight weeks successful job performance in the skill, the member is appointed to grade E–4 or E–5. The actual appointment is contingent upon the demonstrated skill proficiency possessed by the enlistee. This method of appointment has an added benefit of having built-in motivation for the new soldier to excel in that accelerated appoinment to grades E–4 or E–5 is not guaranteed.

The skill criteria required for applicants to participate in this program is designed to acquire highly trained members for the Army. As an example, to be eligible for appointment to grade E–4 the applicant must have undergone a minimum of two years formal training and/or experience in the skill. For grade E–5, the applicant must have a minimum of three years formal training and/or experience in the civilian acquired skill. The Army's lateral entry program is designed to fill hard skills required by the Army, in addition to skills perceived by applicants to be attractive. As an example, the stripes for skills program contains hard skills in the communications and electronics field; law enforcement; and electronics maintenance.

While the Army's program has just been initiated, the Army feels that stripes for skills will attract highly qualified, more mature, and career minded applicants to fill its ranks.

GOVERNMENTAL LAWLESSNESS: AN IMPORTANT ISSUE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DELLUMS. Mr. Speaker, Congressional Black Caucus hearings on governmental lawlessness were held in June 1972, which now turns out to have been a very appropriate time for such a conference, for it was then we first saw the beginning of the thread that has led to the unraveling of the greatest example of systematic governmental lawlessness in American history.

The participants in that conference justifiably feel vindicated by events. The theme of the hearings—irresponsible abuse of power—has come forward to the center of public debate. Yet two of the conclusions of the conference have not become so well known: That governmental lawlessness is not just a matter of individuals, but is structured into the whole political process, and that lawlessness exists at all levels of the Government, not just at the top.

For these reasons, reform requires a direct legislative attack, not just calls for renewed dedication. My staff and I have developed the Bureaucratic Accountability Act (H.R. 6223) in response to the conditions uncovered by the conference. The aim of this legislation is to strengthen the levers by which law-abiding administrative decisions are produced. Hearings on this bill are now being scheduled, and other legislation strengthening congressional oversight capabilities is being developed at this time by my staff.

Yesterday the Washington Post ran an article by Colman McCarthy that put this problem in perspective. It points out the pervasiveness of governmental lawlessness in areas that directly affect all of us. I am sure that Mr. McCarthy's article will contribute to a wider appreciation of this issue, and I recommend it to the attention of my colleagues:

GOVERNMENT LAWLESSNESS

(By Colman McCarthy)

The Watergate explosions continue: a new burst of facts one day, a loud clapping of suspicions the next, and always the banging of denials from the White House. A problem in watching these explosions closely is not that they blind but that they make it harder to watch the behavior of the rest of the government. A peripheral vision is needed, a constant shifting of the eyes, watching in one line the nimble positionings of Richard Nixon while simultaneously eyeing an assistant secretary in charge of reporting to Congress on lead paint poisoning, or a deputy assistant running a housing program, or a director of a bureau concerned with inner-city reading problems. The latter are not usually the spectacular figures of government but they are important because they are charged by the citizens with upholding and enforcing the law. In recent months, a run of examples of government lawlessness suggests that contempt for the law is hardly confined to the Watergate figures. A pattern of official lawlessness has emerged, whether the laws are being ignored, broken or defied.

The better-known examples of recent government lawlessness are easily recalled: the illegal dismissal of Archibald Cox, the illegal appointment of Howard Phillips to OEO, the more than two dozen illegal impoundment cases. All of these cases went before judges, but recently the White House didn't even bother with a trial: it merely announced as illegal Pat Nixon's $138-a-day job to a voluntary action council. The administration's lawlessness does not go unnoticed by its once loyal servants. When William D. Ruckelshaus recently spoke before the Environmental Defense Fund, The New York Times reported: "Mr. Ruckelshaus told the audience of 150 that he found it odd to be addressing a group that had sued him and the Environmental Protection Agency several times and won each case."

These examples are in the open, well reported by the press, even though, as the trend of lawlessness continues, new examples tend to be less newsworthy. Less noticed, though, are countless other examples, still important because they affect people's lives. In late January, the AP reported: "Four months and 18 days beyond the date required by law, the Agriculture Department has filed with Congress the government's goal for the development of rural United States." The Washington Post reported that the Food and Drug Administration broke the law last year by banning the growth hormone DES from cattle feed. The Wall Street

Journal reported that a U.S. district court ruled that the Forest Service broke the law by allowing a West Virginia national forest to be clear-cut for wood. These three cases are from but a one-week period in January; other examples are easily found for the other weeks of January, even the other weeks of every month. The lawlessness in government is not confined to Washington; on the state level there is Agnew's Maryland and among cities Addonizio's Newark.

It is hard for Americans to comprehend the awesome idea of a government that breaks laws. Murderers, robbers and rapists are the law-breakers, we think, not well-paid officials who are sworn into office on Bibles and live in clean neighborhoods. Even when a high official is caught and convicted—which is rare (what clear-cutting officials in the Forest Service will be fined or jailed for breaking the law?)—it is called "obstruction of justice," not commiting a crime. Our unwillingness to see government lawlessness may be explained by the expectations of honesty we have for the government; to replace this brightness with the dark shadows of crime—an image we reserve for the back alleys where street criminals are ready to jump us—suggests our own stupidity, a thought as unacceptable as government crime. Yet, citizens are as much victimized—even more victimized in many cases—by the crimes of their government as by neighborhood thugs, even though it is the latest FBI "crime rate" statistics that scare us.

Citizen reaction to official contempt for the law is discussed in "How the Government Breaks the Law" (Stein and Day) by Jethro K. Lieberman. "When the Government breaks the law . . . the psychological reactions are far more complex (than in low-life crime). The community is split. No one need defend a criminal, but 'our government'—as opposed to the 'bureaucracy'—must be sustained and defended; illegal activity, when committed by the Government, quickly becomes fuzzy and political, thus salving the conscience of some, since staunch and 'sincere' political beliefs are highly prized. And when the political activity is illegal, it can put even the most fair-minded citizen in a terrible dilemma, for he is part of the citizenry that nurtures the Government. Thus, whenever the Government takes some action, part of the populace—whether a larger or smaller part depends on this issue—will automatically support it simply because it is action taken in the name of Government."

Occasionally attention in Washington is given to government lawlessness. In June 1972, the congressional Black Caucus held hearings on the subject. After four days of learning the details of the crime wave, Rep. Charles C. Diggs (D-Mich.), said: "To say that we have the existence of government lawlessness would be a supreme understatement. To say that it is even larger than we ever anticipated is also an understatement . . . One thing seems evident: we are seeing a war right here in America, a real war, waged between government officials and agencies who openly refuse to follow statutes and regulations and those citizens who should receive the benefits of those programs and who have to fight like hell to get them, and many times they don't." The Black Caucus hearings received almost no coverage in the media. Rep. Ron Dellums (D-Calif.) recalls that "at the time of the hearings a Democratic party credentials fight was going on across town, and the media and the politicians convinced each other that this was the important news of the day. Yet, for me, the hearings on government lawlessness were the most explosive ones I ever heard." As for the agencies whose lawlessness was detailed by witnesses and confirmed by facts, the hearings were as easily ignored as the law itself.

What is the solution? For the moment, none appears evident, especially when so many in the government refuse to admit there is a problem. How can a criminal be rehabilitated if he is deluded he has done nothing wrong? The attitude is pervasive, not only in cases the government loses in the highest courts but even in traffic violations. The day after Attorney General William B. Saxbe was sworn in, he was stopped on the street and received a citation because his Cadillac had an illegal sticker. Saxbe first tried to talk his way out of it; but that tactic failed. Then the nation's top law official tried the do-you-know-who-I-am argument in an effort to bully two of the nation's lowest law officers. But the latter gave their mighty boss a ticket anyway. Two days later, a news story said the Attorney General "joked about the incident." Perhaps that is the solution to government lawlessness—enjoy a good laugh. If so, it would be logical at a time when the law is being treated as a joke anyway.

BELLEVILLE, ILL., LIONS CLUB SPONSORS PROGRAM TO ELIMINATE DEAFNESS

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. PRICE of Illinois. Mr. Speaker, the Lions International are well known for their valuable work in conservation of human sight, but the Belleville Midtown Noon Club in Belleville, Ill., is the first in our Nation to dedicate itself to elimination of deafness.

The Midtown Noon Lions Club celebrated its charter night on August 25, 1973, with an inaugural ball and dinner.

The charter officers of the club are Lion Jack Wottowa, president, Lion John A. Bock, first vice president, Lion James Radden, second vice president, Lion Al Profant, third vice president, Lion Al Schneider, secretary, Lion Dale Park, treasurer, Lion Charles Steuer, lion tamer, Lion George Gundlach, tail twister, and Lions Les Fischer, Quentin Huber, Art Klein, and Mel Becherer, directors.

Mr. Speaker, the establishment of a Lions Club principally concerned with deafness brings with it the promise of greater progress in this important field of health. Undoubtedly this initial step in Belleville will be only the beginning. Other clubs similarly dedicated will spread across the Nation.

Let us salute the Lions of the Belleville Midtown Noon Club for taking the initiative in bringing to a new field of endeavor the already famed dedication of the Lions international.

RENEGING ON AID

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. GUDE. Mr. Speaker, last Wednesday the House defeated H.R. 11354, a bill to provide for increased U.S. participation in the International Development Association. I regret this decision because I have always felt it important that the United States assume its fair share of the burden of worldwide development assistance. Encouraging world development will ultimately be to our own benefit through the stimulation of new markets for American products and technology. Far from being a "giveaway" program, the International Development Association can be an effective economic tool to promote our own prosperity by encouraging development abroad.

Mr. Speaker, at this point I would like to insert into the RECORD a recent editorial from the Washington Star-News commenting on the House defeat of this bill.

RENEGING ON AID

One can only surmise what motives inspired the members of the House in voting down the American contribution to the World Bank's International Development Association by a whopping margin of 248 to 155. But World Bank President Robert McNamara is right in saying that the action is "an unmitigated disaster for hundreds of millions of people in the poorest nations of the world." And beyond that, the refusal to authorize the contribution of $1.5 billion over the next four years is an act of shocking irresponsibility.

There are plenty of reasons, of course. "Foreign aid"—whether on a bilateral basis or channeled through international agencies—has never been politically popular with the electorate, particularly in view of the persistent and bitter criticism of the United States from most of the recipient countries. In its present distracted state, furthermore, the administration does not seem to have put nearly as much pressure behind its request as it should have.

No doubt also, the current oil crisis had something to do with it. Loss of development aid is by no means the greatest of the unmitigated disasters to have struck the underdeveloped world in recent days. The aid funds represent, in fact, something less than one-fifth of what these countries will be forced to pay for imported oil at the new, vastly increased prices. In this situation, the $4.5 billion in proposed IDA financing by the richer countries becomes almost irrelevant.

Something, however, will surely be done about this. Some of the Arab nations themselves are talking in terms of a two-tiered pricing system to benefit the poorer nations of Africa and Asia. It is also conceivable that they may be induced to use some of their new-found riches to get into the aid business themselves—though so far they have shown a preference for a somewhat heavy-handed buying up of governments, rather than in development aid.

None of this, however, relieves the United States of its obligations as a leading—and the richest—world power to bear its fair share of the very basic and essential projects which the IDA supports. The other developed nations have been increasing their share of the burden. Japan had agreed to triple its share of the IDA loan pool, Germany's contribution was to have more than doubled. The action of the House—unless it can be speedily reversed—places all these agreements in the greatest peril.

WHERE IS THE ADMINISTRATION'S BALANCE-OF-POWER DIPLOMACY IN SOUTHERN AFRICA?

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RARICK. Mr. Speaker, many Americans have been persuaded to accept our balance-of-power diplomacy in the Middle East on the theory that soldiers of some of the Arab countries are trained and supplied with combat arms from the Soviet Union.

Yet in another of our administration's strange double standards in southern Africa, our policies coincide with the Communists in their attacks against Rhodesia, Angola, Mozambique, and the Republic of South Africa.

A report by the International Institute for Strategic Studies in London confirms that the Soviet Union and the Red Chinese are supplying money, weapons, and training to the terrorists seeking to overthrow the governments in those countries.

The report also states:

> African recruits have been trained in Moscow (the Political and Intelligence School), Simferopol (the Guerrilla Warfare Training School) and in the Crimea (the Sabotage and Demolition School).

Additional support for the revolutionaries comes in direct grants and aid from the World Council of Churches and the Organization of African Unity, which was recently given nonprofit, tax-free status for its operations in the United States.

It just does not make political or economic sense to use the forces of the U.S. Government, spend money and waste equipment to stop alleged Communist aggression in northern Africa, while we join in league with Communist-armed guerrillas to fight non-Communist nations in southern Africa.

I insert the following newsclipping and excerpt from a booklet by Father Arthur Lewis at this point:

GUERRILLAS BACKED BY MOSCOW, PEKING

LONDON, Jan. 26.—A warning that white rule in Rhodesia is unlikely to survive a protracted guerrilla war is sounded in a report just published by the International Institute for Strategic Studies.

The paper, by Anthony Wilkinson, a former Rhodesian now with the London School of Economics, gives a comprehensive breakdown of the insurgents' supply and training facilities.

It says the Soviet Union has been the largest source of finance, weapons and training since the early 1960s. In addition to large quantities of small arms, the Soviets have recently supplied 122-mm. rocket launchers with a range of more than seven miles and the one-man SA7 ground-to-air missile.

African recruits have been trained in Moscow (the Political and Intelligence School), Simferopol (the Guerrilla Warfare Training School) and in the Crimea (the Sabotage and Demolition School). Recruits also have been trained in Algeria, Egypt, North Korea, Cuba and Czechoslovakia.

But, says the report, the recent improvement in the abilities of the insurgents is believed to reflect the growing Chinese involvement both in the supply of small arms and in training.

The study says that with a heavy white-to-black population ratio and a chronic foreign-exchange problem, Rhodesia can afford only a small defense force. The problems of equipment obsolescence have been accentuated by sanctions imposed by the United Nations, the report says.

Rhodesia is facing a revolt not by primitive warriors, nor even a Mau-Mau type of revolt, confined to one tribe, but "the prospect . . . of a war of national liberation fought by guerrillas recruited from many tribes increasingly well trained, armed with modern weapons and enjoying the moral or material support of most countries," the report continues.

Examining future possibilities, the IISS study says that as long as the level of violence can be contained within Rhodesia, South Africa will probably continue to provide military and economic assistance to the white administration.

On the other hand, it is conceivable that in the event of an uncontrolled conflict across the Zambezi River—especially if the level of fighting threatened to draw in any of the major powers—South Africa, rather than risk further escalation, would be prepared to countenance and assist in a controlled implementation of majority rule in Rhodesia in return for a restoration of majority rule in Rhodesia regional security.

In this case, a Rhodesian government already heavily dependent on South Africa both economically and militarily, would hardly be in a position to dictate any terms.

RHODESIA LIVE OR DIE

(By Father Arthur Lewis)

THE TRUE NATURE OF THE WORLD COUNCIL OF CHURCHES

It is not suggested that the World Council of Churches is wholly bad. Apart from the grants already referred to, the Council's reconciling work in the Sudan deserves high praise. Yet on balance the evil far outweighs the good.

The true nature of the W.C.C. can be judged from its leaders and its actions.

Until recently the General Secretary of the W.C.C. was Dr. Eugene Carson Blake. In 1967 he was awarded a Lenin Peace Prize. Other recipients of this prize have included Fidel Castro of Cuba and the communist Ahmed Ben Bella! In April 1972 Dr. Blake denounced the U.S. bombing of North Vietnam. He had not denounced the brutal invasion of South Vietnam which had occasioned it.

The present General Secretary is the West Indian Dr. Philip Potter. In his 1972 Christmas message he said: "The liberation movements are the expressions of the cries of the people—our cry—for salvation, liberation." In the March 1973 issue of the "Canadian Churchman" a description of Dr. Potter is given by Archbishop Ralph Dean, Metropolitan of British Columbia and an Anglican delegate to the most recent W.C.C. conference. "Philip Potter equates salvation with social justice. When he talks of salvation he leaves the Bible behind after ten minutes. At times he is a bitchy West Indian cursing the bloody English. But Potter is in Geneva because the English were once in the West Indies." (The W.C.C. headquarters are at Geneva).

The overwhelming bias of the W.C.C.'s activity is in a secularist, anti-Christian and pro-communist direction. In the 1962 Cuban missile crisis a W.C.C. statement expressed "grave concern and regret" at the "unilateral military action by the U.S." It said nothing at all about the Soviets' unilateral military action in putting the missiles in Cuba in the first place. At the time the W.C.C. was calling for boycotts against Rhodesia and South Africa it was demanding an end to the boycotts against communist Cuba!

The English "Church Times" (December 11th 1970) reported a W.C.C. appeal for $90,000 "to help American draft-dodgers and deserters." A special edition of the W.C.C.'s youth magazine was entitled "Just Men Desert."

The Council has provided funds (£3,500 in September 1970) for the West Indian Standing Conference in Britain—"to create a strong black power base in the United Kingdom." It has given money for the "political education" (not general education) of Australian aborigines. Among the grants to the British Anti-Apartheid Movement was one of £2,000 in gratitude for "getting the South African cricket tour cancelled." (The quotations are from the W.C.C.'s own handout.) The current 1973 handout lists another grant to the same body and enumerates its activities. The Movement:—

"lobbies the Government directly and indirectly, and campaigns in and through the trade union movement, political parties, universities and the public generally for an end to all forms of collaboration with the Southern African white minority regimes and for support for African resistance to them:

"urges a ban on emigration to South Africa:" and

"presses for economic sanctions: in particular to prevent South Africa continuing to maintain the illegal Smith regime in Rhodesia."

One is hardly surprised to learn that the W.C.C. opposes the Portuguese Cabora Bassa scheme which will benefit millions of Africans: supports the U.K. Institute of Race Relations which investigates "white racism . . . in Britain" and encourages "the articulation of minority response to white racism:" makes grants to the Malcolm X "black power" university in the U.S., and is organizing a boycott of over 650 business concerns and banks having dealings with Southern Africa. Nor that a recent W.C.C. "constituent" supported "Puerto Rico's long struggle for independence" and pledged solidarity with the organizers of a boycott of non-union lettuce from the western U.S.! (My source for the last two items is the "Church Times," January 26th and March 16th, 1973.)

THE "PROGRAMME TO COMBAT RACISM," THE BANGKOK CONFERENCE—AND RHODESIA

If I labour the leftist political activism of the W.C.C. it is because it has consequences in our own country and implications which affect every Christian everywhere.

The notorious "Programme to Combat Racism" followed the Uppsala Conference of the W.C.C. in 1968 and a special gathering of radicals at Notting Hill, London, in 1969. The latter proposed revolutionary violence in Southern Africa, and if its wording was later toned down by the Central Committee this was only *after* funds had been distributed to terrorist organizations. Following the normal practice member-Churches were not consulted: they were informed of the Programme after it had started.

It was announced in Frankfurt in 1970 that an initial U.S. $200,000 had been set aside from W.C.C. funds for the P.C.R. From this sum U.S. $130,000 went to nine African groups—$105,000 to groups operating in Southern Africa and dedicated to the overthrow of our governments by violence. The financial assistance has gone on ever since, and has included the banned Rhodesian movements ZAPU and ZANU.

A South African beneficiary is the Pan-African Congress which exists (in the words of a 1973 W.C.C. document) to fight "for the overthrow of white domination" and "to unite and rally the African people into one national front on the basis of African nationalism." A Portuguese beneficiary is the G.R.A.E. ("Angolan Revolutionary Government in Exile") of the self-confessed communist Holden Roberto, whose guerillas in 1961 tied their live victims, black and white, to a moving plank and ran them through a sawmill.

But if the W.C.C. has departed from the Gospel of reconciliation it has also reversed Christian *teaching*. The Declaration of Barbados in March 1971 wrote of Latin America: "We conclude that the suspension of all missionary activities is the most appropriate policy." Our Lord said: "Go ye into all the world, and preach the Gospel to every creature" (*Mark* 16.15).

What was begun at Barbados was completed at the W.C.C.'s Bangkok Conference on "Salvation Today" in December 1972 and January 1973. "All round the world," said the official press-release, "people are seeking deliverance from political and economic oppression, racial and social injustice. They are also concerned about their personal destiny." Before the conference the delegates were told to prepare themselves for "an exercise in group dynamics." Professor Peter Beyerhaus, an eminent theologian of Tubingen University, has recalled how the conference was heavily weighted with official consultants and advisers and has described it as a "masterpiece of manipulation." He explains in detail the processes of conditioning used to obtain the predetermined end—processes including the forceful prevention of public debate and a refusal to bring a dissenting motion to a vote. ("American Church News," Lent 1973.)

The result was simple: a call for a " 'moratorium' in sending missionary personnel and funds to the Third World:" i.e. the abandonment of Christian missionary work as hitherto conceived. The Director of the W.C.C.'s Commission on World Mission and Evangelism, Emilio Castro, spoke of "the end of a missionary age and the beginning of World Mission." This has nothing to do with evangelising the world or belief in the uniqueness of Christ: it is specifically stated to mean "partnership and dialogue" with other faiths and ideologies. The suggestion was made that the money saved should go to "liberation" movements.

Could any departure from Biblical Christianity be more complete? This is the wolf of communism in the sheep's clothing of Christianity.

Such then is the W.C.C., to which most of the Christian Churches in Rhodesia belong. Many of the churchmen who support it are innocent and well-meaning dupes of a conspiracy they do not even suspect. Rhodesians cannot afford to be so gullible. Nor can any Christian who takes seriously the historical religion of Christendom and the teaching of Christ himself.

MALVIN ROSEMAN'S SPECIAL GIFT TO VETERANS

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BUCHANAN. Mr. Speaker, every year this Nation pays tribute to the American veteran whose bravery and patriotism helped to create this country and to maintain it as the greatest free republic in the history of the world.

The city of Birmingham, Ala., which it is my privilege to represent in the Congress, annually offers an outstanding Veterans Day program.

I would call to the attention of my colleagues an unique project undertaken by Mr. Malvin Roseman and other members of B'nai B'rith in Birmingham to underline even more strongly our appreciation for the efforts of American veterans and our concern for their welfare.

Under Mr. Roseman's leadership, members of B'nai B'rith distribute gifts on Veterans Day to individuals who were in the Birmingham Veterans' Administration Hospital and who could not, therefore, participate in other Veterans Day activities. This is a commendable idea and one which groups in other parts of the Nation might well wish to adopt.

The following letters and newspaper articles reflect the appreciation of city and Federal officials as well as that of patients of this program and I commend them to my colleagues:

B'NAI B'RITH, COMMISSION ON COMMUNITY AND VETERANS SERVICES,
Washington, D.C., November 9, 1973.

Mr. MALVIN ROSEMAN,
Birmingham, Ala.

DEAR BROTHER ROSEMAN: I have just had the great pleasure and I also may call it an honor to read your scrapbook that you have sent us showing your activities both in B'nai B'rith and in your community for the past year. I say I'm honored because I go through it wishing more people would give of themselves as you have. To be sure, if we had more people like Malvin Roseman there is no doubt there would be a better world.

Mal, wherever you go you brighten the lives of many. Your involvement in the Help One Another Club, of course, your outstanding leadership in Veterans Hospitals, and the countless other organizations that benefit from your caring make all of us at B'nai B'rith proud. You give the most precious commodity, even greater than money, your self. Your time and energies, as shown by the letters of appreciation, are recognized as they should be.

Under separate cover I am returning your scrapbook, and as I said earlier it was a privilege and an honor to have had the opportunity to see all that you have done. Keep up the good work and do keep us informed of your great involvement.

With all best wishes, I am

Sincerely,

ROBERT SCHWARTZBERG,
Assistant Director.

VETERANS' ADMINISTRATION HOSPITAL,
Birmingham, Ala., November 14, 1973.

Mr. MALVIN ROSEMAN,
VAVS Representative,
B'nai B'rith,
Birmingham, Ala.

DEAR MR. ROSEMAN: B'nai B'rith did an outstanding job with the first Veterans Day Program. The patients were all very happy that someone took the time to remember them on this special day.

I hope you will express our appreciation to all the folks who worked so hard to make this a success.

Sincerely,

LEON MILLER,
Chief, Voluntary Service.

VETERANS' ADMINISTRATION HOSPITAL,
Birmingham, Ala.

Mr. MALVIN ROSEMAN,
VAVS Hospital Representative,
B'nai B'rith,
Birmingham, Ala.

DEAR MR. ROSEMAN: The gift program that B'nai B'rith conducted on Veterans Day was an excellent way to pay tribute to hospitalized veterans. Your group's thoughtfulness and concern on this special day were sincerely appreciated by our staff and patients.

B'nai B'rith has always been an outstanding example of dedicated assistance in caring for veteran patients. We are very grateful for their help and your leadership in this program.

Sincerely,

C. G. COX,
Director.

VETS DAY BONUS

As a (recently discharged) patient at Veterans Hospital here in Birmingham where I underwent surgery, my stay at the hospital included National Veterans Day.

Everyone can be proud of Birmingham's National Veterans Day program. It is number one in the nation. We can also be proud of an addition to the program—namely the visitation of a group of B'nai B'rith, that presented gifts to each patient at the hospital. There was a package for each veteran, which contained a minimum of 20 personal items (socks, handkerchiefs, combs, stationery, books, candy, gum, peanuts, toothbrushes, etc.).

This idea of making Veterans Day a day for the veterans in the hospital, was originated by Malvin Roseman.

Service organizations throughout America will be contacted by Mr. Roseman to further this plan.

WILLIAM P. BRAY.

VETERANS DAY GIFTS BEING PREPARED

Gifts already are being prepared for presentation to patients at the Veterans Hospital in Birmingham in conjunction with this year's Veterans Day activities Oct. 22.

Malvin Roseman, chairman of the Veterans Day Gifts Committee, announced B'nai B'rith will sponsor gift packages to patients of the 500-bed hospital.

"I am very proud of the City of Birmingham holding these Veterans Day activities each year," Roseman said, "but Veterans Day is for the veteran so this year we will be at the hospital to present each veteran a gift, which will include 22 personal items."

VETERANS' ADMINISTRATION,
Washington, D.C., November 14, 1973.

MALVIN ROSEMAN,
Birmingham, Ala.

DEAR MR. ROSEMAN: I would like to extend my personal congratulations to you and the Birmingham chapter of B'nai B'rith on a unique and commendable Veterans Day program.

It was heartwarming to watch you and the ladies of B'nai B'rith distributing gift parcels to all the patients in the Birmingham Veterans Administration Hospital. You were remembering men and women who are too often forgotten on "their" day.

Veterans Administrator Donald E. Johnson has asked me to add his personal appreciation for your efforts.

I am keenly interested in your endeavor to make this program a national B'nai B'rith effort every Veterans Day in hospitals from coast to coast. Call on me if I can be of assistance. The reaction of the patients and VA Hospital staff Birmingham is proof that such a project is deeply appreciated.

Sincerely,

RAYMOND J. MCHUGH,
Special Consultant, Office of Administrator.

NATIONAL VETERANS DAY,
Birmingham, Ala., November 20, 1973.

Mr. MELVIN ROSEMAN,
Chairman, Veterans Hospital Committee for Veterans Day, Birmingham, Ala.

DEAR MALVIN: The combined veterans organizations sponsors of National Veterans Day in Birmingham, wish to express their deep appreciation of the outstanding job which you and your committee did in honoring the patients at the Veterans Hospital on the evening of Veterans Day, October 22nd.

Mr. Ray McHugh who represented the Honorable Donald Johnson, Administrator of Veterans Affairs, at the event was most impressed with the planning and the impressive manner in which the program was accepted by the patients and the hospital administrators.

The B'Nai B'rith organization which took the lead in this successful project has our heartfelt thanks for their great community contribution in honoring our veterans. We know that what you and your committee has done will receive deserved consideration for the coveted Leadership Award in the direction of service to veterans.

With kindest personal regards, and best wishes from all of us, I am,

Very sincerely yours,
RAYMOND WEEKS,
Director.

TITLE XVIII OF THE SOCIAL SECURITY ACT

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. McDADE. Mr. Speaker, I am introducing a brief bill today that would greatly benefit all kidney disease victims, as well as save substantial amounts of Federal dollars. The bill is a simple amendment to title XVIII of the Social Security Act to allow Federal coverage of hemodialysis treatment performed by a nurse or health aid in the patient's home. This would grant the same coverage that now applies to in-hospital hemodialysis treatment, but would eliminate the inconvenience to patients and the additional cost of a patient taking up hospital bed space and receiving hospital care.

The additional costs of hospital treatment versus in-home treatment are significant. Presently, routine hospital hemodialysis costs average between $25,000 to $30,000 annually; while in-home treatment costs average between $4,000 to $7,500. It is the same treatment, normally done twice a week, but presently in-home nurse assistance is not covered under the Social Security Act while hospital care is.

This unnecessary cost and inconvenience should be stopped.

There are approximately 8,000 new kidney patients each year that are able to adapt to the successful hemodialysis treatment. There is no point in forcing them into hospitals for care if they could receive it at their homes with some assistance from a nurse or health aid. But that is not how the present system works.

The statistical information indicating the cost differences of hospital care versus in-home care are included in a publication "Kidney Disease and Artificial Kidneys," published in November 1973 by the National Institute of Arthritis, Metabolism, and Digestive Diseases, 1 of the 10 institutes of the National Institutes of Health.

Mr. Speaker, an interesting part of my research on this problem is the way it began. While in my district over the recent congressional recess, I met with some members of the Kidney Hemodialysis Patients Organization of Northeastern Pennsylvania. The patients themselves explained their problems. For instance, the normal procedure involves the spouse without the disease learning how to operate the hemodialysis equipment and thus treating the other spouse at home. But should the spouse without the disease die, then the patient's choice is either to pay for the nurse or health aid herself, which she can often ill afford, or go to the hospital for free. The choice invariably leads to the hospital. But hospital treatment certainly is not free. It is only covered under the Social Security Act while home care is not.

I have discussed this anomaly with the Social Security Administration and found general concurrence with the assessment I have given. Yes, home treatment is less expensive. Yes, it is far more convenient for the patient. No, it is not covered under the present interpretation of the Social Security Act.

The bill I have introduced today is an important one and a sensible one. I hope it will receive prompt attention.

LOWELL, MASS., HOUSING AUTHORITY

HON. PAUL W. CRONIN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. CRONIN. Mr. Speaker, for many, a job begins at and ends at 5:30, revolves around a desk, and seems never to involve others. However, in the time I have worked with Armand Mercier, the executive director of the Lowell, Mass., Housing Authority, I have found that the opposite situation to these rules apply. He has consistently extended himself for the good of the residents of Lowell. I would like to commend this article to you as a fine example of the efforts of Mr. Mercier on behalf of the people of Massachusetts:

[From the Journal of Housing magazine, November 1973]

LOWELL AUTHORITY FOLLOWS UP FOR RESCUED TENANT

The Lowell, Massachusetts housing authority made "human interest" news and the community was given a glimpse of the kind of vigilance and readiness to help that goes into low-income housing management when The Lowell Sun, in its September 6 edition, carried the photograph reproduced on the Journal cover this month. The story accompanying the photograph related that LHA Executive Director Armand P. Mercier, driving by the North Common Village public housing project, noticed smoke curling from a third-story unit. On rushing in to check the situation, he found himself just on time to assist elderly tenant, Mrs. Martha Griffin, from her burning three-room apartment.

Mrs. Griffin was uninjured but the apartment suffered smoke, heat, and water damage to the tune of $1400. The contents of the apartment, of unascertained value, were almost totally destroyed. Authority departments and city agencies mobilized for emergency help to Mrs. Griffin: she was offered relocation to another unit; the authority social services department sorted the contents of the unit, stored what was salvageable, and disposed of the rest; the maintenance department took over the repair, repainting, and refurbishment of the unit, including installation of a new tile floor, replacement of sections of wiring, replacement of glass windowpanes, and deodorizing to get rid of the fire stench the social services department stepped in again to assist Mrs. Griffin in filing for a rent rebate for the no-occupancy period (she had preferred to live with a relative, rather than accept the proffered temporary unit) and in securing new furniture a Lowell model neighborhood organization contributed money for the purchase of new clothing for Mrs. Griffin.

On October 5, one month to the day from the date of the fire, Mrs. Griffin moved back into her apartment.

North Common Village, built in 1937, with initial occupancy in 1941, is the oldest federally-assisted public housing project in Massachusetts. Both families and elderly tenants occupy its 536 units. Its brick construction and fire doors helped to confine the damage from the September fire.

BAN THE HANDGUN—XVI

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BINGHAM. Mr. Speaker, on January 28, a 16-year-old high school student was shot dead by one of his friends who used a .32 caliber pistol. Described as "about as fine a kid as there was," the boy joined the ranks of the thousands of good citizens shot each year by relatives, friends and acquaintances. By allowing the public to have handguns we make it easy to kill.

The attached article appeared in the Washington Post, January 30, 1974:

WOODBRIDGE YOUTH KILLED, FRIEND HELD

(By Ron Shaffer)

A 16-year-old Prince William County youth described as "about as fine a kid as there was" died on the way to the hospital Monday night after being found in a roadside ditch near Dale City with a gunshot wound in the chest.

A 17-year-old youth known as a close friend of the dead youth turned himself in to Connecticut State Police at Westport yesterday afternoon and told of being involved in the shooting, police reported. He was charged with being a fugitive from justice.

Dead is William Joseph Mulgrew, of 1478 California St. in Woodbridge. He was an 11th grade student at Garfield High School in Woodbridge, where he was a "B" student and a first string player on both football and baseball teams. He was found by a passing motorist lying beside Minniville Road near Dale City.

Connecticut State Police Lt. Edward Leonard said the 17-year-old suspect turned himself in at the Westport state police barracks yesterday after driving north on Interstate 95 Monday night, sleeping at a gas station off the New Jersey Turnpike and then continuing north into Connecticut.

Police said that they could not discuss possible motives while the investigation is in progress. The father of the dead youth said he had no idea why his son was killed.

Lt. Leonard said the suspect turned over a gun he had in his possession, which Leonard identified as a .32 caliber automatic pistol. An extradition hearing is scheduled for this morning in the Stamford, Conn. Circuit Court, and the suspect is currently being held without bail.

Mulgrew's death left many of the school's 2,800 students "in shock . . . in disbelief" over the slaying, said Garfield football coach Robert Pruett. "If ever there was a 'good kid' he was it," said an assistant football coach, James Artz. "He was never in trouble, was always where he was supposed to be, doing what he was supposed to—a real good citizen."

Mulgrew's father, William Sr., told a Post reporter yesterday that his son's car had broken down Monday and he had gone to work with a friend.

> The dead youth's father is a postal carrier; his mother is a service representative for the Commonwealth Telephone Company in Prince William County. They live in the the Marumsco Woods section of Woodbridge.
>
> "The policeman came to the door (Monday night) and I thought Bill was involved in an accident," Mulgrew said from his home yesterday.
>
> "I went with my wife and the policeman to the emergency room and the doctor came over to me. I thought he would tell me my son was involved in an automobile accident. Then he said Bill had been shot and was dead. I don't remember much of anything after that."

WILL THE UNITED STATES RELY ON SOVIET CHROME?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ASHBROOK. Mr. Speaker, on December 18, the Senate voted to repeal the Byrd amendment and reinstate the Soviet Union as the virtually exclusive supplier to the United States of high grade metallurgical chrome. This action, if duplicated by the House, poses a threat to the national security and domestic economy of the United States.

Chrome ore is a vital material in our defense industry. It is an essential ingredient in many of our military weapon systems, including long-range missiles, nuclear submarines, and jet aircraft.

In addition to our defense needs, chrome plays an important role in our domestic economy Specialty steel makers—stainless, alloy, and tool steels—are particularly dependent on chrome ore. Stainless steel cannot be made without chromium, as there is no other element which can be used as a substitute.

Rhodesia has the largest reserves of metallurgical grade chromite—the only grade economically suitable for steelmaking applications. In terms of estimated world resources of metallurgical chrome, Rhodesia possesses 67 percent of the total. According to a report of the National Materials Advisory Board—

> Of the free world's supply of high grade ore, 70 percent of the reserves in this quality are found in Rhodesia.

South Africa has almost one-fourth of the free world's resources of metallurgical grade chromite. Only about 6 percent, however, is high-quality ore. Turkey, which has the third largest free world reserve, possesses only 2 percent of the world's share. In addition, Turkey recently signed a long-term contract to supply a majority of Turkish production to Japanese firms.

As can be seen from the above breakdown, exclusion of Rhodesia as a chrome source would force the United States to rely on the Soviet Union. The likely result of this dependency is a sharp increase in chrome prices.

Howard O. Beaver, president of Carpenter Technology Corp.—a major producer of specialty steels—has predicted that repeal of the Byrd amendment would result in a 20- to 30-percent increase in ferrochromium prices. Beaver pointed out that, during the last sanctions between 1967 and 1971, the price of chrome ore from the Soviet Union—the major U.S. supplier during Rhodesia's exclusion from the market—to domestic ferrochromium producers increased from $31.50 per ton to well over $60 per ton.

Even more serious than rising prices is the threat of a complete cutoff in chrome shipments by the Soviet Union. This threat has been discussed in the December 24 issue of the New York Daily News.

> If the U.S. cuts off Rhodesian imports of this vital defense-related metal, that will make this country almost wholly dependent on the Soviet Union for supplies. Hasn't Arab oil blackmail shown our peerless leaders how dangerous it is to be at the mercy of an unreliable source for essential materials? And Russia is about as undependable as they come.

I agree wholeheartedly with the sentiments of the New York Daily News. It would be foolhardy for the United States to rely on the Soviet Union for a material vital to both our national defense and our domestic economy. American security and American economic strength must come first.

THE 56TH ANNIVERSARY OF UKRAINE INDEPENDENCE

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. PRICE of Illinois. Mr. Speaker, this week marks the 56th anniversary of the independence of Ukraine, a nation of 48 million now under the control of the Soviet Union. Ukraine declared its independence early in 1918 and 2 years later the Soviets overran it. Since then the Ukrainians have known almost every form of suppression, from political to religious.

Today, with all our hopes for détente and a world free of international tension, it is easy to forget that these millions still live under a totalitarian regime which stands opposed to any kind of free expression. In describing Ukraine some may find it somewhat misleading to use the word "captive." But there can be no more outrageous captivity than that which thwarts the exchange of ideas, discourages the worship of one's God, and muffles words of national independence. A nation whose people are subjected to these injustices is no better off than if they dwelled behind true bars of iron.

Mr. Speaker, as long as men and women live under such conditions, there can be no real freedom for any of us. For we share their frustration, and we join with them in resisting the forces which have destroyed a nation's independence.

Fortunately, no bars, real or hyperbolic, can stifle the true spirit of freedom, and for this reason I remain confident that the Ukrainians can regain their independence. But it will be all the more difficult if they are forgotten by their friends in the West. Let us take the occasion of their independence day to remind the Ukrainians that they do not stand alone.

RIO GRANDE VALLEY'S LAST SPANISH-AMERICAN WAR VETERAN PASSES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DE LA GARZA. Mr. Speaker, the State of Texas sent some 10,000 men to the front during the Spanish-American War. The famous Rough Riders, commanded by Col. Leonard Wood and Lt. Col. Theodore Roosevelt, were organized at San Antonio.

There are not many survivors of that war, which seems so long ago. One of them, Henry J. Ramsey, the last Spanish-American War veteran in the Rio Grande Valley of Texas and past-post commander of the Spanish-American War Veterans of the Valley, died this month at the age of 99.

Mr. Ramsey was a valued citizen of the south Texas district I represent. He came to the valley 47 years ago from Mississippi. Prior to this retirement some years ago he was in the contracting business and constructed many of the downtown buildings and residences in the city of McAllen.

This fine gentleman is survived by his wife, 4 sons, 2 daughters, a sister, 10 grandchildren, and 6 great grandchildren. One of the daughters, Mrs. Henry Erdmann, is a resident of McAllen. To her and the other surviving relatives I simultaneously extend my sympathy and my congratulations on an ancestor of whom they can well be proud.

OUR NATION SALUTES THE HONORABLE D. STANTON HAMMOND III, OF NEW JERSEY, INSPIRING EDUCATOR AND HISTORIAN OF AMERICA'S HERITAGE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ROE. Mr. Speaker, the eloquence and elegance of America's heritage is fostered and nurtured by our Nation's teachers and kept alive and vibrant by the historians of our time. Today, I would like to call to the attention of you and our colleagues here in the Congress the inspiring lifetime of outstanding service rendered to our people as a teacher-historian by a most distinguished member of our community and good personal friend, the Honorable D. Stanton Hammond III.

Dr. D. Stanton Hammond III, has truly inspired and enriched the lives of many of our people through his teachings and writings and even today, at the young age of 86 years, he continues to actively pursue his dedication and sincerity of purpose on behalf of our people as an esteemed commissioner of our Passaic County Park Commission and industrious learned consultant on historic and educational endeavors of vital importance to the dynamics of our destiny and the quality of life for all of us.

Dr. Hammond, the son of Daniel S. and Helena M. Scott, was born in Brooklyn, N.Y., on September 22, 1887. He is a graduate of Ridgewood, N.J., High School—1903; the Trenton Normal School—1905; and received his B.S. degree in 1912 and J.D. degree in 1923 from the Washington Square College and Law School, respectively, of New York University. He married Mary Catherine Davison on July 8, 1919, and they were the proud parents of three children: Daniel Stanton, P.E., of Arnold, Md., division engineer, Federal Highway Administration, District of Columbia Region III; Eugene Davison, deceased; and Lois Eva—Mrs. Robert V. Kirkendoll.

In his teaching profession, before retiring in February 1954, he excelled on the faculty of New Jersey schools at Montvale, Ridgewood, and Paterson; served as principal of the Hunterdon County school at Flemington; an superintendent of schools at Englishtown and Norwood.

Dr. Hammond has surveyed and prepared official tax maps and mapped and published provincial patents in old Hunterdon County, N.J. Among his many civic endeavors, he has received many commendations for his work with the New Jersey Historical Commission as secretary at George Washington Headquarters, Dey Mansion—1928–31; historian, Washington Bicentennial, Paterson Commission—1932; historian, Passaic County 100th Anniversary—1937; Paterson 100th Anniversary—1951; and Passiac Great Falls for U.S. Registered Landmark—1967; treasurer and president, Passaic County Park Commission—1963–73; president, Passaic County Commission for New Jersey Tercentenary at World's Fair—1964–65; member, Passaic County Heritage Commission—1966–77; and vice president, Passaic County Commission for U.S. Bicentennial—1971.

Having served 30 years as the president of the Passaic County Historical Society, he was appointed as honorary life trustee of this most distinguished historic preservation organization which he founded in 1926.

Dr. Hammond is held in the highest esteem by all of us who have the good fortune to know him. He has been publicly cited for many of his exemplary achievements and is most proud of having received in 1964 the MacArthur Silver Medal, Sons of the American Revolution, and in 1971 the SAR Gold Medal for patriotic State service.

He has been affiliated with the National Education Association where he holds lifetime membership since 1930; his historical society memberships included his active participation in the many noble programs of the New Jersey, Bergen, Passaic, and Hunterdon Counties societies and Genealogical Society of New Jersey. He is a member of the law fraternity of Phi Alpha Delta, prominent member of the Republican Party—secretary of the Hunterdon Republican Club in 1912—and a highly respected parishioner of the Presbyterian faith.

Dr. Hammond will long be remembered for many of his outstanding writings in historical journals, but his most publicized contribution to our local community is his compilation of Erskine and New Jersey Provincial County maps.

All of the members of our congressional district also applaud Dr. Hammond for his most commendable performance in contributing to our cultural and recreational enjoyment as commissioner of the Passaic County Park Commission from 1963 to 1973 where he has just completed a highly successful year as president.

Mr. Speaker, the foregoing highlights of the exemplary lifetime of devoted expertise that Dr. Hammond has imparted to his fellow man only scratch the surface of the standards of excellence and highest order of performance that one man could give in a highly successful career which has truly enriched our community, State, and Nation. I am pleased to seek this national recognition for all of Dr. Hammond's good works and know that you will want to join with me in saluting him and extending our heartiest congratulations and best wishes to him and his family for continued success and happiness. The Honorable D. Stanton Hammond, we are proud to say, is truly a great American.

RICHARD NIXON IMPAIRS CONDUCT OF PRESIDENCY

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. LEGGETT. Mr. Speaker, along with many Americans, I have wondered how the scandals and threat of impeachment have affected President Nixon and his conduct of the duties of his office. A recent article by Washington Post reporter Lou Cannon suggests an answer which, while not surprising, is disturbing.

According to Mr. Cannon and the White House aides with whom he has talked:

Mr. Nixon is unable to sleep;

He is more reclusive than ever, on many days seeing nobody but Alexander Haig, Ronald Ziegler, Bebe Rebozo, and his secretary and family—none of whom have demonstrated competence as Presidential advisers;

He is sometimes unable to carry on coherent policy discussions;

His feelings of persecution are even more pronounced than at other points in his career;

He has turned the conduct of domestic policy over to Alexander Haig, a man with no background or demonstrated competence in this field;

He is disturbed when the weather appears to be against him;

His staff has fallen into thinking of the Presidency as an institution, rather than of the man who must act in behalf of the American people.

In short, the conduct of the supreme office of the executive branch is not going well. And we all know, conduct at the next highest level is also going badly, with unprecedented turnover of Cabinet and other top level positions.

Mr. Nixon would have us believe he is too busy dealing with the problems of the Nation to think about his threatened impeachment. This may be. Perhaps the condemned man does not think about the electric chair. But I doubt it. I believe Mr. Cannon is correct, and the prospect that he will be the first President in history to be removed from office by impeachment weighs heavily indeed on Mr. Nixon. It would be surprising if this were not so.

For the good of the Nation, this state of affairs should not continue. We cannot and should not abandon our impeachment proceedings; the corrupt acts of Mr. Nixon and his administration demand that he be impeached and removed from office. But I believe it is necessary for us to move ahead as quickly as we can. The chairman of the Judiciary Committee has spoken of reporting his findings to the House by April; in my view, close adherence to this schedule would be desirable.

I say this for neither ideological or partisan reasons. I expect I will disagree with the policies of GERALD FORD as frequently as I disagreed with those of Richard Nixon. And there is no question that the longer Mr. Nixon remains in office, the better my party will do at the polls. But I cannot ignore the fact that the conduct of the affairs of the Nation requires a President whose integrity is above suspicion and who can operate with full effectiveness. Mr. FORD meets these requirements; Mr. Nixon does not. So I urge that we do our unpleasant duty, and do it expeditiously.

I insert in the RECORD at this point the article by Lou Cannon entitled "Nixon: a Restless and Sleepless Man in the White House," from the Washington Post of January 28, 1974:

NIXON: A RESTLESS AND SLEEPLESS MAN IN THE WHITE HOUSE

(By Lou Cannon)

He has always been a restless man, this President of the United States, and those who have seen him closely say that he is more restless than ever.

His aides remain loyal to Richard Nixon, or at least to the institutions of the presidency. But in their quiet moments some of these aides talk guardedly about his insomnia and about his preference for flying at night when he could more easily fly by day. They talk, too, of his penchant for retreating from the retreats he has chosen for himself and of his strange habit of changing the subject matter and of abruptly denouncing the "thems" he believes are out to destroy his presidency.

One symptom of this presidential restlessness is Mr. Nixon's present aversion to any detailed discussion of domestic policy. He has never been a man who suffers detail gladly, but he now refers almost all substantive domestic discussions to his chief of staff, Alexander M. Haig.

When Budget Director Roy Ash arrived in San Clemente for an announced and important discussion with the President on the impending budget, Mr. Nixon turned the meeting over to Haig and never saw Ash at all. On most days the President saw only Haig, Press Secretary Ronald L. Ziegler, secretary Rose Mary Woods, his wife and daughter, Tricia, and the ever-present confidant, Bebe Rebozo.

Despite his disavowal of detail, the President made it clear that he was running the show. Though the White House has a longstanding agreement with the news services to inform them of presidential travel, Mr. Nixon gave strict orders that they were not to be informed of his many driving trips with Rebozo at the wheel. He also bluntly warned aides not to make predictive discussions of presidential policies for 1974.

One aide who had engaged in such a discussion subsequently corrected a newsman who had reported his prediction. The aide said he still felt the same way but added: "That's not what El Supremo thinks."

Mr. Nixon's restlessness is most troubling to the Secret Service, which doesn't care whether or not he notifies the press of his travels but is increasingly concerned about his personal safety.

One Secret Service agent, usually the most resolute of professionals, complains that the President's sudden whims to "drive somewhere, anywhere" makes protection difficult.

This agent goes on to state another troubling aspect of Mr. Nixon's embattled presidency: When the President goes anywhere, the placards and the shouts of "crook, crook" are never far behind.

More and more, within the White House, there is talk of "The Scenario." These words are the code words used to describe the method by which Mr. Nixon will leave the office, as in the sentence: "I do not now see The Scenario for impeachment."

This last sentence and many like them vaguely accept the premise that Mr. Nixon may indeed leave office before his term finishes. No one will say how or when, but it has not escaped the attention of White House aides that Mr. Nixon says he will remain in office as long as he is "physically able."

There is no reason to suspect that his health is poor, and there has been no recurrence of pneumonia which forced him to the hospital for nine days last July. But Mr. Nixon abruptly canceled his annual physical examination in December, and he has not rescheduled it. The question is a daily staple at White House briefings, and it is always turned aside by spokesmen.

Those who have seen Mr. Nixon closely say that he was often ill at ease during his recent 18-day stay in San Clemente but they blame it on the stormy, windy weather that plagued the trip.

Both White House aides and the reporters covering the President are as superstitious as ball players about the weather. It is a persistent belief in the presidential entourage that Mr. Nixon is hexed by stormy weather. The weekends in 1973 are recalled when the President was stormed on in San Clemente and in Key Biscayne while the alternative sites were enjoying the balmiest weather.

It was no different the last time. The worst storm in a century and the highest tides in 300 years battered Mr. Nixon's oceanside villa for seven days. The skies cleared and the waters calmed when the President left in a motorcade for the greater isolation of the Annenberg estate in Palm Desert.

But Mr. Nixon's problems are worse than the weather. Even in less troubled times he liked to play the piano in the middle of the night, and he has always possessed a restless driven intelligence that makes sleep difficult. There is a persistent belief at the White House that sleep has become even more difficult. Mr. Nixon's Jetstar flight back to Washington was made in the middle of the night, although the plane had been waiting for him all day at Edwards Air Force Base. "What's the difference," said an aide. "He wasn't going to sleep anyway; he might as well not sleep on the plane."

Officially, all of the above is steadfastly denied. An aide who recalled that Mr. Nixon had said he would remain in office as long as physically able was pressed on the issue by a reporter. The President looked hale and hearty at his 61st birthday party, the reporter said. Do you really think there is anything wrong with him?

The aide shrugged, and permitted a long pause. "Of course not," he said. "There is nothing wrong with the President."

It is in the latter sense that some aides have substituted their loyalty to the presidency for their personal loyalty to Richard Nixon. The Committee for the Re-election of the President, with its institutional slogan of "Re-Elect the President", is finally gone but Mr. Nixon is rarely "Mr. Nixon" to the men who work for him. The incantation of the institution has a magic sound, a magic that does not as easily survive when the President is thought of as a man. There might just possibly be something wrong with Mr. Nixon; all is well with the President.

All is not well. On the California trip the prevailing mood was that this was the last trip to San Clemente. The Laguna Beach press center is being torn down as part of a restaurant remodeling project, and those close to the remodeling say a new one will never be needed.

Aides talked about the way it once had been when President Nixon's administration seemed bright with promise. Others made jokes about "future President Ford."

Few are yet convinced that Mr. Nixon will resign. Many talk vaguely of him not finishing his term but are unwilling to speculate on the method of his removal. Some believe that the subject must never be discussed or the possibility of impeachment admitted.

Mr. Nixon can still be warm and even witty in person, as he was last month at a private party in Washington for his physician, Walter Tkach. He is still capable, aides say, of behaving like the self-styled "coolest man in the room" when he is discussing foreign policy with Henry Kissinger. But he is a man under pressure in the crucible of the White House. The picture painted by those close to him who are willing to talk about it is of a private person surrounded by adversaries. He is depicted as constantly restless and increasingly troubled.

"Anyone would be troubled, really if he couldn't go out anywhere without attracting hostile pickets and impeachment signs," said one aide. "Nobody likes to hear himself called a crook, least of all the President of the United States."

FEDERAL ELECTION FINANCE ACT: FULL FEDERAL FUNDING, PRIVATE CONTRIBUTIONS BANNED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DELLUMS. Mr. Speaker, the lack of an effective Federal campaign finance law did not cause Watergate, but the sordid mess of the past year and a half certainly points out that American politics are virtually controlled by the flow of money.

To remedy that situation I have introduced the Federal Election Finance Act—H.R. 12157—a bill which provides for full public funding of all Federal election campaigns.

I do not consider sacrosanct the concept that the right to give unlimited campaign contributions is basic to our democratic system. To me, claims that the $10 donor is treated the same as the $10,000 contributor are hypocritical. The large contributor invariably obtains access to their representative—and, in many cases these contributions are the cement of a quid pro quo relationship. In contrast, the small contributor receives a form letter reply.

When that double standard prevails, the majority of citizens are not represented; but, rather—through this political auction—the wealthy and elite are well catered. Studies of past elections have shown that candidates able to raise the most money not only stand the best chance of winning, but in a vast majority of cases do win.

For me, that too, is undemocratic, since it means that most candidates come from the ranks of persons either independently wealthy or willing to prostitute themselves to various well-heeled interest groups.

We are long past the day when most of our leading politicians—and most often here in the House—are able to rise from among the "common citizens," yet we still grandly expound that ideal. And as long as unlimited private financing of elections—no matter how stringent the reporting or restriction laws—remains the foundation of our electoral process, the goal of a democratic system of government will be thwarted.

I have studied the various public financing proposals before Congress and discovered that although many of them aim for increased Federal funding, none goes all the way to eliminate completely direct private contributions and to have the Federal Government underwrite all campaigns. That dual objective is met in the Federal Election Finance Act.

In brief the measure:

Establishes a National Election Finance Commission of seven members appointed by the President and confirmed by the Senate. Commission members serve 6-year terms; each political party is limited to two members on the Commission. The Commission would serve as the single, central repository for all campaign reports. Commission powers would be to:

Prescribe rules and regulations for all Federal election campaigns;

Regulate dispersal of campaign funds;

Conduct investigations, subpena witnesses, compel evidence, initiate court actions against violators and impose civil penalties of up to $10,000 for each violation of the act.

Establish within the Treasury a special Election Campaign Finance Fund for the control of the funds.

Establishes eligibility requirements for candidates:

Major party candidates may receive 50 percent of the allocated disbursement after depositing with the Commission funds equal to 10 percent of the total entitlement; upon receipt of an additional 10 percent, the candidates gets the remaining 50 percent;

Candidates without major party backing can receive their funds by two processes—the system described above for major party candidates, or by transmitting to the Commission signatures of 20 percent of the registered voters who reside in the geographical area in which the election is held;

Eligibility contributions are limited to $10; personal contributions by a candidate and relatives for the candidate's own expenses are completely prohibited, as are all other private contributions, other than those for the eligibility deposit. A list of contributors to the security deposit must be submitted to the Commission; if a candidate receives less than half the eligibility deposit total, those funds are turned over to the Commission, which then returns them to the contributors Contributions by political committees and all subsidiaries and affiliates within the scope of political committees are completely prohibited.

Sets expenditure levels for respective individual campaigns:

For the House of Representatives, $125,000—$50,000 for primary or run-off, when held; $75,000 for the general election;

For the Senate, $350,000—$150,000 for the primary or run-off; $200,000 for the general election;

For the Presidency, $20 million—$7 million for primaries, $13 million for the general election.

When a candidate is not involved in a primary or run-off election, or in States where there are no primaries or runoffs, candidates will only receive funds allotted for general elections.

In addition to the campaign finance provisions, the Federal Election Finance Act contains major reforms of the subsidized political mailing and media availability regulations. Candidates would be provided a specified number of low cost political mailings, in both primary and general elections. Presidential candidates would all receive 10 half-hour blocks of low cost guaranteed television time.

As for possible objections to this system:

"It is too expensive." Too expensive compared to what? My calculations show that even under the worst of all possible conditions—in this estimate, 5 primary and 2 general contenders for all 439 House seats; 5 primary and 2 general election opponents for one-third of the Senate who are up for election every 2 years; and 3 Presidential candidates—I calculate that per capita annual cost would be around 60 cents. Add on administrative costs and that figure would be around 70 cents. Seventy cents a year is not expensive by any possible measure.

"It is too cumbersome." True, this is not the easiest method because it forces potential candidates to garner massive community support before they are eligible for funding, but I question whether the imposition of requiring broad support will deter any interested citizens from becoming candidates.

If a potential candidate cannot find 20,000 backers either to sign a petition or contribute $10, then that candidate has no chance of winning anyway, since my research indicates that no primary candidate for the House has won with less than 30,000 votes in recent years. And any less stringent eligibility requirement might be an incentive for persons to enter political races just to receive the cash allotment—even though the proposed act does contain a stringent oversight provision which mandates that candidates must report to the Commission not later than 30 days after the election an accounting of how funds were spent.

"It's undemocratic." Nonsense. What really is undemocratic is the current election financing system. This proposal gives all citizens an equal chance to run for office.

And, finally, "it's biased against incumbents." Possibly, because it would force incumbents to get out among their constituents more often in order to raise the eligibility deposit, but is that so bad?

I am convinced that our Nation cannot afford—both literally and figuratively—any longer the current inequities and problems of the existing Federal election funding system. The Federal Election Finance Act would be the best answer to those problems, and I urge my colleagues to give serious consideration to this proposal.

JULIET KING

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. O'BRIEN. Mr. Speaker, Juliet King is the mother of 10 children, a wife taking care of a handicapped husband, and a domestic worker in Joliet, Ill., my hometown.

She is also an outstanding vocalist who has earned the acclaim of thousands as a result of her concert performances throughout America and all over the world.

My purpose today, however, is not to recite a tale of the sadness of poverty, nor to celebrate a musical talent. The point of my comments, rather, is to tell the truly inspirational story of one woman's faith and determination. With every excuse for giving up, Juliet King made stumbling blocks into stepping stones and bitterness into betterment.

An abiding religious faith was her driving force and constant companion. Her story of courage has been published in the February issue of Guideposts. I am placing this story in the Record for all to admire:

Something to Sing About—What Could the Future Hold for a Domestic Worker With 10 Children and a Handicapped Husband?

(By Juliet King)

I don't know what I would've done that night 21 years ago if it hadn't been for the little golden stars. I had got out of bed to check the potbellied stove that heated our four-room shack.

I threw in some chunks of railroad coal, went back into the bedroom and sat on the side of the bed. The soft sighing of my five sleeping children blended with the heavier breathing of my husband. He tossed and murmured. Charles was a construction worker, weather permitting. And lately the weather had been all bad.

One of the boys coughed hoarsely and my heart jumped. His cough was getting worse and that meant seeing a doctor. But I was afraid to take him. We owed doctors so much already. We owed everybody.

I unconsciously reached for the worn Bible near the bed. As a child I had always carried the Bible with me to Sunday school. The pages fell open and little golden stars glittered in the moonlight. I smiled. They were pasted there by my teacher, next to each verse I had memorized.

The book had opened to the Psalms. I switched on the bedside light and began reading. "Thy wife shall be as a fruitful vine by the sides of thine house; thy children like olive plants round about thy table." "My help cometh from the Lord which made heaven and earth."

Even though I'd memorized those verses years ago it now seemed as if the Lord Himself were saying them to me. I bowed my head, and the bitterness seemed to drain from me. I realized I had been looking to my husband for everything. Now I looked to God.

The days that followed were like a blue sky following a rain squall. It was the difference in my attitude. Our shack had become a home.

I remember stepping out on our raggedy porch early one evening to watch the clouds. My uncle came by, looked up and called, "Child, if I didn't know you, I'd say you were drunk."

"Uncle," I said smiling, "I've just decided to be somebody."

He stopped. "How's that?"

"I've been asking God and He is going to help me." He laughed and shook his head.

I got to thinking about what I could do best. All the folks praised my cooking. In school I had studied commercial catering. My sister worked for a doctor. His family needed a cook, so I applied and was hired. One evening just as I was getting dinner on their table, Aunt Florence, who looked after my children while I worked, telephoned. "Honey, you'd better come home; Jeffery is sick."

The doctor overheard and said, "Don't worry. I'll go look after your boy." From then on he took care of all our medical needs.

I worked hard—cooking, cleaning and scrubbing. It was good being able to help fill my family's needs, since we now had ten children.

Sometimes I'd get discouraged. Then I'd just think about that woman who touched the hem of Jesus's garment. He said, "Your faith has made you whole." And I had faith.

As I worked I'd keep looking up to Him and it got to be like we were having conversations. One day I asked, "Lord, I wish there was something I could do that would give me pleasure."

Inside me welled this strong desire to sing. When I was small, mama had encouraged my love of music. And a lady came to teach me on our old parlor organ at 50 cents a lesson. When I told Charles about my desire, be laughed me to shame.

But my first evening off from work I went to Joilet Musical College. I had heard of a voice teacher there, Lucille Gowey. She asked me to sing something. I stood there and sang Deep River. When I finished, she gave me a strange look. Inside I shriveled.

Months later I learned that when she got home that night, she told her father, "I have found a voice."

Miss Gowey kept her studio open for me at night twice a week so I could study under her. I paid $1.50 a lesson. But Charles was having difficulty finding work and I owed Miss Gowey $83. I was horrified. But she insisted that I come back. "People have helped me," she said. "I'll help you." She wouldn't let me give up.

Then tragedy struck. Out on a construction site, my husband was injured and lost a leg. God helped him through his misfortune, though money became even shorter.

After five years of voice lessons, Miss Gowey said it was time for me to sing in public.

I heard that Mount Olive Baptist Church needed a strong soprano for their Easter sunrise service which was to be held in a cemetery. I applied. I sang my first public solo out among the tombstones. I'll never forget that morning sun breaking through the clouds as I sang Lift Up Your Heads.

Later I was invited to the Central Presbyterian Church where I have been soloist ever since. The people at Central Presbyterian encouraged me to continue my studies under Professor Norman Gulbrandsen of Northwestern University.

Friends at Central Presbyterian and other Joliet people helped with scholarship funds. I began giving concerts at the church. And I still kept up my domestic work.

Concert offers began coming in from other parts of the country. I sang at the American Baptist Convention and at the National Convention of Church Women United.

Last summer I went on a European concert tour. It was wonderful to sing in such places as Westminster Abbey. But I most enjoyed singing for American boys at the big Army bases in Germany, for I had five sons in service.

At the end of the tour we were visiting Brussels and a friend took me to an interesting little church. Inside, the sounds of the street were muted; candles glowed before the altar. I felt a warmth, a close presence of God, and I sank to my knees, feeling unworthy of all He had bestowed on me.

Suddenly the years flew back and once again I was sitting on my bed talking with Him. The candles flickered and as I looked up at them, my eyes misted and the flames seemed to become golden stars.

FETUS IS DOMINANT PARTNER

HON. ANGELO D. RONCALLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RONCALLO of New York. Mr. Speaker, there has been much debate recently as to whether a fetus in the womb has the same rights as any other human being. Indeed, proponents of abortion would have us believe that the fetus is not a live human being at all. They say that a woman should have the right to control her own body, but lose sight of the biological fact that it is the fetus, not the woman, that is firmly in control throughout the pregnancy. In the following paper, presented before the Royal Australasian College of Physicians, Dr. Albert W. Liley, of New Zealand, reveals the fetus as the dominant partner in the relationship. He describes how the unborn child independently dominates among other things, fetal position, amniotic fluid regulation, maternal body function, immunological success, and the initiation of labor.

The proabortionists also confuse the issue by trying to convince us that denominational religious considerations are the prime motivation against abortion. Nothing could be further from the truth. Dr. Liley makes a scientific, not religious, argument and demonstrates that the fetus has an independent life in control of the prenatal environment. Science and ethics are not incompatible. Lest anyone doubt his scientific qualifications, Dr. Liley is known throughout the world as the "Father of Fetology" for developing the intrauterine transfusion to treat unborn children afflicted with Rh disease. A fellow of the Royal College of Obstetricians and Gynecologists, Dr. Liley is the research professor in perinatal physiology at the postgraduate OB–GYN School of the National Women's Hospital in Auckland.

The paper presented by this eminent research scientist follows:

THE FOETUS IN CONTROL OF HIS ENVIRONMENT

(By Albert W. Liley)

My subject, the foetus in control of his environment, is concerned not primarily with the pronouncement of a few facts which are easily come by and soon forgotten but with the more difficult task of presenting a concept—that the foetus is not a passive, dependent, nerveless, fragile vegetable, as tradition has held, but a young human being, dynamic, plastic, resilient and in very large measure in charge of his environment and destiny. The traditional attitude is understandable because for many centuries the only serious students of the foetus were accouchers and embryologists. The accoucher was concerned primarily with mechanical problems in delivery, so that the only aspects of the foetus which mattered were the presenting part and its diameters in relation to the diameters of the birth canal. For proof of this contention we need only reflect that, apart from Semmelweis, the great and famous in obstetrics are those who worked out better ways of delivering breeches or posteriors, better ways to design and use forceps or how to do caesarean sections. No one can deny the tremendous benefits conferred on humanity by these men, but their work left untouched the whole of foetal life and development. The embryologist studied dead, static tissue and attempted to deduce function from structure—no easy task when we remember that there are physicians still practising today who recall being told as medical students that the pituitary gland was a vestigial structure with no known function. The embryologist's wildest surmises fell short of the dynamic realities of foetal life. But in the meantime, the attitude had become fixed; that apart from some aimless kicking which began in the fifth month, the foetus was a placid, dependent creature who developed quietly in preparation for a life that started at birth.

The legacies of this attitude are not hard to find. Birth is the crowning achievement of motherhood. Women speak of their waters breaking or their membranes rupturing, when they really belong to the foetus. The deep symbolism attached to cutting the cord, separating the baby from his mother, is entirely lost when it is realized that cutting the cord really means simply separating the baby from his own organ, the placenta, which he no longer needs. We could dismiss these misconceptions as harmless folklore but for some rather sinister infiltration of these ideas into the law. By legal definition the baby only acquires proper status as a member of the human race when, *inter alia*, the cord is severed and he has independent circulation, a requirement which sublimely ignores the fact that he has had an independent circulation for the whole pregnancy.

We may feel that we have outgrown these fallacies, but the terminology and the viewpoint stubbornly prevail. The sebaceous retention cysts and witch's milk of the neonate, the labial development and withdrawal bleeding of the baby girl are explained in a dozen textbooks as the effects on the foetus of exposure to high levels of maternal hormones, when really it is the mother who is exposed to high levels of foetal hormones. Because the medicine of adults preceded the medicine of the infant, neonate and foetus a tendency has grown up in fields from surgery to psychiatry to start with adult life and work backwards. And since the standard of all that is normal in medicine has been the fit young adult male, any function in the baby which differs from this standard has been considered as immaturity, and by inference inferiority. The net effect has been to consider the foetus and neonate as a poorly functioning adult rather than as a splendidly functioning baby. Neonatal kidney function provides a ready example; for, by adult standards, the baby lacks the ability to concentrate urine. He handles a water load well but cannot cope with a large solute load, or least not unless he has plenty of water to handle it with. Both before and after birth the baby lives on a diet with a very high water content which he must convert to relatively anhydrous tissue. From an osmometric point of view he lives in constant danger of drowning, but his asymmetric kidney function is prceisely what he needs to cope with this situation. It is only misguided adults who embarrass this function by failing to give artificially fed babies additional fluid in situations of high water loss—for instance, heat waves. Left to himself, on demand feeding, the baby would not get into this plight. We do not regard the foetal cardiovascular system as one big heap of congenital defects, but rather as a system entirely appropriate to his circumstances, and there is little reason to regard his "immature" kidney function in any different light.

The foetus lives in a very warm and very wet environment. He is neither in stupor nor hypoxic coma. By electroencephalographic studies he shows cyclical activity, the lighter periods of which correspond in the neonate with a drowsy wakefulness from which he is readily aroused by external stimuli. He is disturbed by flashing lights on the abdominal wall and responds to sound, human voices included, from as early as twenty-five weeks. He is aware of pain and discomfort. The foetus responds with violent movement to needle puncture and the intramuscular or intraperitoneal injection of cold or hypertonic solutions. Although we would accept that these stimuli are painful for adults and children and, to judge from his behavior, painful for the neonate, we are not entitled to assert that the foetus feels pain. It would seem prudent to consider at least the possibility that birth is a painful experience for a baby. Radiological observation shows foetal limbs flailing during contractions, and if one attempts to reproduce in the neonate by manual compression a mere fraction of the cranial deformation that may occur in the course of a single contraction, the baby protests violently.

It is the purposeful search for comfort which determines foetal position *in utero*. Getting comfortable presents little problem in the first half of pregnancy when he is relatively small and in a globular cavity. He has no position of stability and moves freely and rapidly. Occasionally these conditions still prevail in late pregnancy, for instance in the presence of polyhydramnios or with the uterine cavity truncated by a placenta praevia or fundal placenta. Normally in the second half of pregnancy the uterus is no longer globular but ovoid, with the lower pole narrower, and the foetus elongates more rapidly than the uterus. However, amniotic fluid volume reaches a maximum at 28–32 weeks, and up to this time the foetus, although now normally restricted to a longitudinal lie, is by no means cramped or under any obligation to lie well-flexed. As amniotic fluid volume diminishes from 32 weeks to term, comfort becomes more difficult to achieve. If the foetus elects to flex his legs at the knees. he will fit in best as a cephalic presentation. since his head forms a smaller pole than his back, thighs, calves and feet. If, however, he elects to extend his legs at the knees, then he will usually be most comfortable as a breech, since his tapering lower trunk and thighs form a smaller pole than his head, calves and feet. Variations of uterine contour, abnormal size or location of the placenta, and the presence of another foetus may all present further challenges to comfort and ingenuity and result in stable malpresentations.

Foetal position, whether he lies with his back anterior, posterior or lateral, is determined by other influences, notably the tone of the mother's uterine and abdominal wall, the shape of the maternal lumbar lordosis and changes in maternal position, Braxton-Hicks' contractions and external palpation, all disturb the foetus and may provoke him to seek a new position of comfort. He purposefully seeks to evade the sustained pressure of a phonendoscope of knuckle on prominences.

Although the very early embryo develops in flexion, beyond this stage there is little evidence to justify the traditional assumption that flexion is fundamental in foetal musculoskeletal development. In midpregnancy, with plenty of room, the foetus can move as he pleases. Nearly buoyant and with intervertebral discs virtually synovial joints, he can assume postures difficult or imposible for the child or adult. In late pregnancy, when the foetus elongates more than the uterus, he must fold to fit in. Commonly the attitude is again one of flexion, but sometimes he elects to lie with neck, limbs, or trunk entended, and sometimes grossly hyperextended, a preference he continues to express as his position of comfort after birth if nursed naked in a warm environment.

The realization that the foetus himself determines the way he will present in labor by making the best he can of the space and shape available to him puts the practice of version in new perspective, and nowadays fewer obstetricians assume that they know better than the foetus how he will be most comfortable. Of course, in selecting a position of comfort in late pregnancy, the foetus may have chosen a position which is hazardous or impossible for vaginal delivery. In this regard he may be said to lack foresight, but this is a trait not unknown in adults.

The foetus is responsible for the regulation of his own amniotic fluid volume. The foetus does not need his kidneys to regulate his body water and electrolytes, his placenta handling this task; but he does need his kidneys for maintenance of amniotic fluid volume. A patent and functional gastrointestinal tract is also required. That the foetus drinks his amniotic fluid is readily demonstrated, and the rate of drinking averages out at about 25ml per hour. Foetal swallowing is important because it appears to be the major, if not the only, significant route by which the osmotically active colloids of amniotic fluid can be removed.

The foetal swallowing regulates amniotic fluid volume raises the question of what regulates foetal swallowing. Whereas foetal micturition does not contribute to foetal hydration, foetal swallowing does appear to contribute to foetal nutrition, for babies who cannot swallow amniotic fluid (e.g. in oesophageal or duodenal atresia) are smaller, maturity for maturity, than normal babies. This evidence raises the possibility that foetal hunger in fact regulates foetal swallowing. Traditionally it has been considered that hunger is a powerful and brand-new experience for the baby after birth, and that before birth an obliging mother and faithful placenta have supplied all baby's needs. But does the foetus really live in a metabolic Nirvana? We know that fluctuations in maternal blood-sugar levels and many other substances are reflected transplacentally, and the sight of babies who have been malnourished *in utero* makes it difficult to believe that the foetus has been a stranger to hunger before birth. Have we perhaps a clue to the polyhydramnios of the pregnancy in the diabetic mother or the oligohydramnios of toxaemic pregnancy?

The foetus has much greater ambitions, however, than simply the control of his immediate confines. For the duration of pregnancy he rules his mother's body, for it is the foetus who induces all the changes which make his mother a suitable host for him. From soon after conception, neither maternal pituitary nor ovaries are necessary for successful pregnancy; the newly conceived supplies all the hormones necessary for maintenance of the decidua. The effects of foetal rule are seen most strikingly in changes of maternal excretory function. It is progesterone produced by the conceptus which induces the hyperventilation and mild respiratory alkalosis of pregnancy. Since the foetus lacks external surface of his own for heat dissipation, he must use his mother's skin as a radiator. The expansion of the mother's plasma volume necessary for vasodilation and a high skin circulation is induced by oestrogen made by the foetus. Changes in maternal kidney function are the least satisfactorily explained, although in part at least the dilution of plasma protein contributes to the increased glomerular filtration and the fall in haematrocrit to the increased renal plasma flow.

These changes, induced by the foetus, in maternal excretory function appear somewhat extravagant and overdone. They are well established before the conceptus is of any significant metabolic size, and even at peak foetal excretory demand greatly exceeds his needs. On the other hand, from the mother's point of view the additional renal osmotic work required is quite modest, just as the 20–25% increase in cardiac output is quite modest in comparison with effects of even mild exercise. Traditionally, pregnancy has been considered a time of metabolic stress, of increased metabolic rate for the mother's body. In fact there is little evidence to justify this view. The measured increase in oxygen consumption in pregnancy is neatly accounted for by foetal oxygen consumption, a state of affairs mirrored by the increase in maternal haemoglobin mass, which both in time and magnitude matches foetal growth and oxygen consumption. Mother's personal oxygen consumption in pregnancy is virtually unaltered; and since certain structures, notably uterus and breasts, are metabolically more active, it follows then that other tissues must be less active. This quiescence is seen in the diminished muscle tonus, the diminished peripheral thyroid activity and the relative insulin resistance of pregnancy. In summary, the foetus organizes his mother so that she shows an increased acquisition of nutrients, some increase in storage, notably fat and possibly calcium, and a general metabolic quiescence so that nutrients are deflected for foetal needs.

Another type of foetal control, and perhaps his most dazzling achievement, is seen in his command of a parabiotic situation. In an outbred population, mother and foetus are inevitably immunological foreigners, and yet for successful pregnancy they must be made to accept each other as mutual homografts. (The baby is immunologically foreign to the mother as the frequently rejected heart transplant is immunologically foreign to the recipient.) The magnitude of this homograft problem and a measure of its successful solution is the fact that it is quite possible for a woman to bear more than her own bodyweight of babies during her reproductive career. Early explanations of this mutual acceptance of a homograft attempted to give the mother credit for the performance. However, the uterus is certainly not an immunologically privileged site, and the conceptus can grow in sites other than the uterus—for instance, tube or peritoneum. There is no evidence of any but the feeblest weakening of immunological reactivity in the mother during pregnancy. On the other hand, we cannot plead the old parrot cry of immaturity in the foetus. It is now known that transplantation antigens appear very early in embryonic life and that the human foetus is immunologically competent by at least as early as 12–14 weeks, so that clearly the homograft problem is a two-way affair. Nevertheless it is a component of the foetus which ensures the immunological success of pregnancy. This component is the trophoblast, which not only forms a continuous barrier between the circulations of mother and foetus but also fails to express any transplantation antigens itself. The trophoblast acts as an immunological barrier or buffer between mother and foetus so that each is completely indifferent not only to the transplantation antigens of the other but even to a specific sensitivity of the other against its own antigens.

Throughout pregnancy it is the mother, not the foetus, who is passive and dependent. Therefore it might be fitting if we could ascribe to the mother a positive role in ending pregnancy, in initiating labor, just as she had a positive role originally in allowing conception. Older theories generously gave the mother this privilege, but one by one these theories have been found inadequate. The idea that labor is an eventual immunological rejection of the foetus fails to explain labor in isogenic strains. Theories invoking cervical distension cannot explain labor with transverse lies. Uterine distension appears plausible in view of the premature labors with polyhydramnios and multiple pregnancy but founders badly on advanced extrauterine pregnancies where "false" labor is a common presenting symptom. Despite the fact that oxytocin infusion may produce an excellent clinical labor, theories involving maternal oxytocin and oxytocinase are becoming harder to accept with an increasing body of evidence that oxytocin has little if any part in spontaneous labor. The possibility that it was the foetus who determined when labor should start was inherent in theories of hormone, especially progesterone, withdrawal, for it is the foetus who makes the hormones. However, the role of the foetus has been made even more unequivocal by the studies in foetal surgery and endocrinology of my colleague, Dr. G. C. Liggins. His work may be summarized very briefly—no foetal pituitary, no labor! Since even a hydratidifrom mole has a labor of sorts, it is evident that the natural tendency of a uterus to expel any object distending it provides a backstop, but it appears inescapable that normally the onset of labor is a unilateral declaration of independence by the foetus. This conclusion puts concepts of term and postmaturity in new perspective and suggests that in deciding on induction of labor the obstetrician should have good reason to believe that he knows better than the baby when it should be born.

These five topics I have discussed—foetal position, amniotic fluid regulation, maternal body function, the homograft situation and the initiation of labor—demonstrate the physiological dominance of the foetus in pregnancy. The list of topics could be expanded, but always the conclusion is the same—it is the foetus who is in charge of the pregnancy. This of course is not news to any woman with an unplanned pregnancy, but it is a relatively new concept in obstetric physiology and the implications are far-reaching. No longer can we accept the foetus as a placid vegetable, growing structures and maturing in blind anticipation of a life to begin at birth. Instead, from as early as we can recognize, development of structure and development of function go hand in hand.

The foetal visual machinery is bombarded by and responds to photons; it has been shown that flashing lights applied to the maternal abdominal wall produce fluctuations in the foetal heart rate. The foetal auditory system is bombarded by and responds to sound; sudden noise in a quiet room startles the foetus lined up under an image intensifier. Although we do not know if the flavor and taste of amniotic fluid vary much, the great Dutch obstetrician de Snoo demonstrated that the foetus drinks more amniotic fluid it it is sweetened with saccharin. Conversely the foetus swallows very little if the amniotic fluid is injected with the contrast medium, Lipiodol—an iodinated poppy-seed oil which tastes foul to an adult or child and which causes a neonate to grimace and cry. Because the foetus often lies with his face in close proximity to his hands and feet, it is not uncommon in obstetric radiology to detect the foetus sucking thumbs, fingers or toes, and thumb-sucking has been photographed as early as nine weeks. The foetal larynx works at its primary phylogenetic task as a respiratory tract sphincter. All the foetal endocrine glands have their task *in utero*. The foetal gonads might appear exceptions, and certainly the foetal ovary awaits an assignment, but the foetal testis is necessary for male sex differentiation. It is true of course that the task some foetal structures perform is not the same and/or not for the same purpose as they will have after birth. Particular examples are the adrenal glands, which produce large quantities of estrogen precursor for the placenta and the liver, which for much of pregnancy is a major haemopoietic organ.

These multifarious activities of the foetus challenge the obstetric physiologist because clearly we cannot understand the physiology of pregnancy if we remain in ignorance of the physiology of the dominant partner in this relationship, the foetus. Just as nowadays we would maintain that the responsibilities of the obstetrician may start before conception, so we would maintain that the responsibilities of the pediatrician may start before birth—that no longer should pediatricians accept with a resigned fatalism what time, intra-uterine life and the obstetrician present them with at birth—or, worse still, forty-eight hours after birth. The list of foetal maladies which can be dignosed and managed in one way or another grows steadily. Indeed in some conditions we can accurately diagnose and hopefully treat the foetus as a patient as early as seventeen weeks, a time when the reformers of abortion law would cheerfully maintain that he is not yet human. Nowadays, apart from parents, it is only lawyers, administrators and astrologists who attach any significance to the date on which we were born. From a medical standpoint we are looking after the same person before and after birth, and it may be entirely fortuitous whether he be born under Capricorn or Pisces.

There is room for practitioners of adult medicine to show a little more respect for pregnancy and its master, the foetus. We should reserve the right to consider heart disease as a complication of pregnancy rather than take the medical textbook view that pregnancy is a complication of heart disease. Recently, a surgeon friend of mine remarked how fortunate we were at National Women's Hospital in that we dealt with expendable organs. But these expendable organs are the means of creating a new human being, the greatest responsibility and the only immortality most of us will ever know. Not only the obstetrician and immunologist have something to learn from the foetus. He heals fractures much more readily than adults, shows a much more prompt and efficient haematological response to haemorrhage than adults, and his ability to heal experimental burns would be the envy of a plastic surgeon. In many respects it would be more appropriate to consider the adult as a poorly functioning foetus than the foetus as a poorly functioning adult.

In antenatal education the effect of animating the foetus is most dramatic. Fascination with foetal development and life not only takes a mother's mind off all the minor miseries of pregnancy but, most important, leads parents to accept that the baby is not a by-product of pregnancy but the end-product; in fact, he is the pregnancy, and yet the one party who did not enter into the arrangement by choice.

Not all of us will live to be old, but we were each once a foetus. We had some engaging qualities which unfortunately we lost as we grew older. We were supple and physically active. We were not prone to disc lesions and were not obese. Our most depraved vice was thumbsucking, and the worst consequence of drinking liquor was hiccups. We ruled our mothers with a serene efficiency which our fathers could not hope to emulate. Our main handicap in a world of adults was that we were small, naked, nameless and voiceless. But surely if any of us count for anything now, we counted for something before we were born.

REUSABLE RESOURCE STUDY ACT OF 1974

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. TALCOTT. Mr. Speaker, our Nation is inconvenienced by fuel shortages, and threatened with a food shortfall. Possible shortages in other areas can be prevented by thoughtful Federal legislation. Recycling of waste material and returning it to the economy—returning waste into a usable resource—and thereby alleviating some of the drain on our environment and natural resources is just such a move.

Legislation which I have introduced would determine what materials can and should be recycled and what products should be composed of recycled materials. A committee would be established to study the Federal Government's capacity for using recycled materials.

The bill is limited to Government use of materials for two reasons. First, it will allow a comprehensive study to be accomplished within a reasonable time with minimum expense. Second, the findings of this experimental study can be applied to many other facets of our economy.

Mr. Speaker, we can no longer look only at our natural resources to provide us with all the materials we need. We can only "go to the well" so often before it runs dry. Our ingenuity must now be tested to help us carry on and maintain our present levels of consumption; my bill recognizes this necessity. Government has a responsibility to lead the way.

Mr. Speaker, the text of my bill follows:

H.R. 12370

A bill to authorize and direct the Secretary of the Interior and the Administrator of General Services to conduct a study relating to the procurement and use by the Federal Government of products manufactured from recycled materials

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds that—

(1) there are many products and materials which, after they have been used or damaged, are discarded or scrapped as waste matter;

(2) the accumulation of this waste matter presents a danger to the health and welfare of the citizens of the United States;

(3) many products and materials (otherwise discarded as waste matter) could be recovered and reused as the raw material for new products and materials;

(4) such recovery and reuse of such waste matter will abate the noxious and dangerous accumulation of such waste matter and will aid in the effort to conserve our scarce natural resources; and

(5) the Federal Government has the responsibility to lead in the effort to utilize recycled material by procuring, using, and recycling, to the greatest extent possible, those products and materials which have, as part of their composition, recycled or recyclable material.

SEC. 2. The Secretary of the Interior, through the Bureau of Mines, and the Administrator of General Services are authorized and directed to jointly conduct a full and complete study of (1) which products and materials procured or used by the departments, agencies, or instrumentalities of the Federal Government could be required to have, as part of their composition, recycled and recyclable material while meeting the use specifications of such departments, agencies, or instrumentalities, and (2) the feasibility of recycling wastepaper from all Federal offices. For the purposes of this study, wastepaper means any paper which (A) has served the purpose for which it was originally manufactured, (B) has been scrapped or otherwise discarded as an element of solid waste, and (C) can be recovered in whole or in part and reprocessed into a new raw material used in the manufacturing process of new paper.

SEC. 3. (a) The Secretary of the Interior and the Administrator of General Services, in carrying out the joint study under this Act, are authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government any information, suggestions, estimates, and statistics for the purposes of this Act, and each such department, bureau, agency, board, commission, office establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Secretary and the Administrator, upon their joint request.

(b) For the purposes of securing the necessary scientific data and information the Secretary and the Administrator may jointly make contracts with universities, research institutions, foundations, laboratories, and other competent public or private agencies to conduct research into the various aspects of the problem of using products and materials which have, as part of their composition, recycled and recyclable material. For such purposes the Secretary and the Administrator are authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5 of the United States Code.

SEC. 4. The Secretary of the Interior and the Administrator of General Services shall report to the Congress, from time to time, the findings and results of the study conducted under this Act. The final report shall be made on or before the expiration of the twelve-calendar-month period following the date of enactment of this Act. Such final report shall include the findings and results of the study, and specifically—

(1) recommendations as to the necessary and proper legislative, administrative, or

other actions that should be taken in order to insure that the departments, agencies, and instrumentalities of the Federal Government procure and use (whenever possible) products and materials which have, as part of their composition, recycled and recyclable material; and

(2) the feasibility, economically and otherwise, of recycling wastepaper from all Federal offices.

SEC. 5. (a) For the purposes of this Act, the term "recycled material" means any product or material completed for sale or use which has been scrapped, used, damaged, or otherwise discarded; and—

(1) recovered in whole or in part and reused as all or part of the contents of any new material or product; or

(2) the salvageable wastes or byproducts of post-consumer use which are recovered and reused as all or part of the contents of any new material or product.

(b) As used in this Act, "recycled material' does not include any waste or byproduct that results from the production or manufacture of goods intended for sale or use.

SEC. 6. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

FINANCING THE SOVIET UNION: U.S. EX-IM BANK GIVES A HELPING HAND

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ASHBROOK. Mr. Speaker, while the U.S. House of Representatives has passed legislation prohibiting credits to the Soviet Union, the U.S. Export-Import Bank continues to grant credits at subsidized rates to the Soviets. The Journal of Commerce of January 21, 1974, reports that the Ex-Im Bank has authorized four more credits totaling $37.7 million for the Soviet Union. These credits will help finance purchases of U.S. machine tools and other capital goods.

Mr. Kearns, the former President of the Ex-Im Bank has previously expressed caution on the expanding granting of credits to the Soviet Union. He has now been joined by Mr. Malcolm R. Currie, Director of Defense and Research Engineering in the Department of Defense, who states that:

> He is very concerned about exports in high technology areas which have both civilian and military application.

Mr. Currie further states that:

> They [the Soviets] apparently see that they can neither close pivotal gaps in a military capability nor gaps in a general economic growth—domestically and worldwide—until they acquire a manufacturing technology comparable to ours.

The Eximbank is enabling the Soviets to close those pivotal gaps. There has been no evidence that such aid to the Soviets is in any way in the national interests of the United States. Rather, the evidence lies completely on the other side. Aid to the Soviet Union, which has been miscalled trade, harms the security and interests of the United States. The U.S. Eximbank and many American industries are continuing to enable the Soviets to build their military might as I have continued to point out in numerous speeches in this House and throughout the country.

It is suicidal for the American people to be subsidizing the U.S. Export-Import Bank while at the same time that institution subsidizes credits to the Soviet Union. For this reason I have cosponsored a sense of the Congress resolution which would deny loans, guarantees, insurance, or credits by the Eximbank to the Soviet Union. The Eximbank should immediately cease and desist from the granting of any further credits to Moscow. At this point I include in the RECORD and article from the Journal of Commerce of January 21, 1974, entitled "Eximbank Grants More U.S.S.R. Credits." I also include in the RECORD the text of the resolution that I cosponsored.

EXIMBANK GRANTS MORE U.S.S.R. CREDITS

WASHINGTON, Jan. 20.—The Export-Import Bank has authorized four more credits, totaling $37.7 million, to the Soviet Union, to help finance purchases of U.S. machine tools and other capital goods.

The loans bring to 10 the number of credits extended by Eximbank to the Soviet Foreign Trade Bank since last year. They total roughly $158 million.

The largest of the four new credits—$16.2 million—will go for iron ore pellet plant equipment, to be supplied by Allis-Chalmers Corp., Milwaukee. The equipment, valued at $36 million, will be delivered starting the fourth quarter of this year. Private U.S. sources are expected to lend an additional $16.2 million to the Soviet bank for the project.

An $11.8 million Eximbank loan will help finance sales by International Harvester Export Co., San Diego, of gas reinjection compressors to the Soviet Oil Ministry. Wells Fargo Bank, San Francisco, will also extend an $11.8 million loan.

LaSalle Machine Tools, Warren, Mich., has sold $15 million of transfer line equipment to the Soviet Union under a $7 million Eximbank loan, with the French-American Banking Corp., New York, providing another $7 million. The lines will be used for the manufacture of truck engine pistons.

A $2.7 million Eximbank credit, matched by $2.7 million from the Franklin National Bank, New York, will finance the Soviet Union's purchase of $6 million of transfer line equipment for machining friction drums for farm tractors. Jones and Lamson Co., Springfield, Vt., supplied the line.

The loans are to be repaid over periods of seven to eight years, with grace periods varying from 10 months to more than three years. A 6 per cent interest rate will be applied to all four credits.

H. RES. —

Resolved, That it is the sense of the House that, during the period pending consideration and action by the Senate upon the bill H.R. 10710, as introduced in the 1st Session of this Congress, cited as the "Trade Reform Act of 1973", and as amended and passed by the House, no loan, guarantee, insurance, or credit shall be extended by the Export-Import Bank of the United States to any nonmarket economy country (other than any such country whose products are eligible for column 1 tariff treatment on the date of the enactment of this resolution), and no such country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly.

MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—NO. 66

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. HARRINGTON. Mr. Speaker, last November, before the House adjourned for 1973, the Boston Globe published an article by Nathan Cobb describing Congress' activities on gun control legislation. The article documents a largely futile effort by the pro-gun control Members of Congress against the gun lobby, whose influence was strongly felt in many congressional offices.

In the second session of Congress, we will again have the choice of ignoring or promoting responsible bills to control handguns. If we do nothing to stop handgun availability, 10,000 people will die needlessly this year. Certainly, this fact ought to be adequate incentive for strong efforts to pass laws in this area.

The description of Maurice Salvia's death, from the January 1, 1974, New York Times, is included below, together with the November 18, 1973, article from the Boston Globe:

[From the New York Times, Jan. 11, 1974]

AUCTIONEER'S BUSINESS ASSOCIATE ACCUSED OF FATALLY SHOOTING HIM

CAMDEN.—Joseph A. Kaplan, a 26-year-old Israeli citizen, was arrested on murder charges this morning in the fatal shooting last week of Maurice Salvia, an Atlantic City Boardwalk auctioneer for whom he worked as a chauffeur.

The shooting occurred, the police said, on the night of Jan. 2 in Mr. Salvia's home in Cherry Hill. Mr. Kaplan had lived with the Salvia family since September.

He had been held by the Camden County Prosecutor's office and the Cherry Hill township police as a material witness in the killing since last Thursday.

The authorities said that Mr. Kaplan came to New York City from Israel two and a half years ago with a work visa and had lived in New York City before meeting Mr. Salvia and moving in with the family.

In addition to his chores as chauffeur, the police said, Mr. Kaplan was associated in the auctioneering business with Mr. Salvia.

In 1971, Mr. Salvia and Danni Marion, 40, of Cherry Hill, were indicted on loan sharking and extortion charges by Federal authorities. The Camden County Prosecutor's office said the Federal charges were pending.

A spokesman for the Prosecutor, Thomas J. Shusted, said that Mr. Salvia, who was 31 and Mr. Kaplan, had been associated in an auctioneering operation in Atlantic City and at the Pennsauken Mall.

[From the Boston Globe, Nov. 18, 1973]

STRONG U.S. HANDGUN CONTROLS STILL FAR FROM REALITY

(By Nathan Cobb)

The National Rifle Assn. (NRA) recently issued a call to arms.

"Face it," the organization warned its members—"a gun law fight by '74" was lurking on the horizon.

Considering the facts, this exhortation to do battle with impending Federal gun control legislation seems almost to have been written as a joke.

As the first session of the 93d Congress draws to a close, substantially stronger Federal laws pertaining to the possession of handguns in the United States are perhaps as far from becoming reality as they have been at any time.

In the Senate, three stiff handgun bills have been in the Subcommittee on Juvenile Delinquency since February. The chairman of the committee, Sen. Birch E. Bayh (D-Ind.) has indicated he will not act on any type of strong gun control laws because he prefers that action be initiated in the House.

In the House, at least 16 bills calling for a ban on handguns or a system of national registration of such weapons are resting quietly in the Judiciary Committee. This is the body currently dealing with matters related to Watergate, and it is not expected to shift its focus for several weeks or even months.

Even if tough handgun bills are approved in committee, there seems little likelihood they will become law. The trio of strong bills now in the Senate all were defeated in exact or similar form last year on the floor by overwhelming margins.

A major bill, proposed by Sen. Bayh, which did pass the Senate last year, banned the sale, importation and manufacture of certain small handguns. It was aimed at the new domestic manufacturers of so-called "Saturday night specials," but died in the House without reaching a vote.

A discouraged Bayh, whose staff spent a great deal of time and effort on the bill, now feels the Senate should not act until something is initiated in the House.

Rep. Robert F. Drinan (D-Mass.), a member of the House Judiciary Committee, confirmed this week that even if a strong bill were to reach the House floor it would stand virtually no chance of passage.

"Even if it did pass, the President would veto it," Drinan predicted. "With presidential leadership, all things can happen. But why go through thousands of hours of agony and have it defeated?"

Meanwhile, handguns and handgun crime continue to mount. Latest figures released by the Federal Bureau of Investigation show that handguns were used in 54 percent of the homicides in the United States last year, a 3 percent increase over 1971.

Last year, Americans spent as much money on handguns as on equipment to play baseball. There are an estimated 35 million handguns in this country, and figures from the US Treasury Dept. indicate that more than 2 million a year are being manufactured or imported.

In August, the National Advisory Commission on Criminal Justice, Standards and Goals—made up of state and local law enforcement officials under the aegis of the Law Enforcement Assistance Administration (LEAA)—recommended that all state legislatures pass laws prohibiting the ownership, manufacture, sale and possession of handguns by Jan. 1, 1983. It also recommended that penalties for committing crimes with the use of handguns be increased.

To date, LEAA has had no indication that any states have undertaken the commission's firearms recommendations.

Its report stated that the commission "believes that private use and possession of handguns infringes on the right of the American public to be free from violence and death caused by the use of handguns."

The report represented the fourth such national commission in the past six years to recommend substantially stiffer gun control laws.

After the LEAA report was released, then-Attorney General Elliot L. Richardson asked Justice Dept. lawyers to examine the question of gun control. But Richardson resigned on Oct. 20, and a spokesman for the department this week would state only that the investigation "is still going on, with no recommendations yet."

According to the executive director of the National Council For A Responsible Firearms Policy, Inc.—a small Washington-based lobby which favors handgun registration but not confiscation—the blame for lack of stronger gun control legislation rests with the White House.

"The Administration has said it will send up bills pertaining to 'Saturday night specials' but it's never done so," Michael J. Steinberg asserted this week. "It's got nothing to do with Watergate, either. The inertia has always been there.

"We can have all the bills and all the hearings in the world," Steinberg added, "but in the end it's the Administration which has to do something to get the ball rolling."

Two of the strong anti-handgun bills currently in Congress ban all private ownership of handguns except by certain persons such as members of the armed forces, law enforcement officials and members of pistol clubs.

Several other measures prohibit civilian manufacture, sale and purchase of handguns, but allow those now held by the public to be retained. One of these was filed by 17 congressmen including Michael J. Harrington, Thomas P. O'Neill and John J. Moakley, all Massachusetts Democrats.

The remaining bills are a mixed lot. Seven call for handgun registration. Of these, at least two also set up manufacturing standards which would primarily limit the production of inexpensively made "Saturday night specials." One of these was filed by five senators including Edward M. Kennedy (D-Mass.) and Claiborne D. Pell (D-R.I.).

A similar bill, filed in the House, would set the same criteria for domestic manufacture and sale of handguns as are now applied to imports. The importation of "Saturday night specials" is currently prohibited.

At the same time that prospects for stronger gun laws look dim, anti-gun control forces are hoping to subvert the 1968 Gun Control Act. This existing control deals primarily with interstate commerce and the use of the mails.

A dozen bills would repeal the entire Act. This is a step advocated by many gun enthusiasts, and one which was called for this year by the Veterans of Foreign Wars (VFW) during its 74th national convention.

In all, 60 bills pertaining to changing the nation's gun control laws are in both branches of Congress.

The efforts of the "gun lobby" in squelching stronger laws—particularly the efforts of the NRA and the one million members it claims to be able to marshal—are given mixed reviews by legislative staff members who have worked on such measures.

"They tie it all up in masculinity, Communism and everything else," one staffer who helped prepare two strict bills commented this week. "They're very effective in dealing with emotion rather than reason, and it works."

Said another: "The 'gun lobby' is a myth to the extent of its collective power. But there are plenty of individuals out there who feel strongly enough about gun control that they will cast their votes on that one issue alone. Give them some credit: they make themselves heard."

AID AND TRADE WITH THE COMMUNISTS

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. LANDGREBE. Mr. Speaker, in 1967 Eugene Lyons published a small booklet on aid to and trade with Communist countries entitled "Operation Suicide: Those Strange Bridges to Communism." Mr. Lyons, of course, is famous for his books "Assignment in Utopia," "The Red Decade," and "Workers Paradise Lost." Although the booklet was written nearly 7 years ago, its importance has grown as our aid and trade to the Communist nations have increased.

I would like to insert the booklet serially by chapter into the RECORD for the information of my colleagues on this vital matter. Permission for insertion has been obtained from the gracious publishers of "Operation Suicide", Twin Circle, 86 Riverside Drive, New York.

The first chapter, which follows, is entitled simply, "Operation Suicide."

OPERATION SUICIDE

A dispatch from Poland in a Hamburg newspaper on October 1, 1966 reported: "While on one side of the Stettin harbor American wheat is unloaded from freighters, on the other side of the same harbor weapons are loaded which are used against American soldiers."

This was not an exceptional day or an exceptional piece of news. For years the United States has been supplying Poland and other Iron Curtain countries not only with food but with hundreds of commodities that fortify their own and Soviet Russia's capacity to provide military and economic support to North Vietnam.

Even our so-called non-strategic goods enable those countries to divert facilities and manpower to military production for Hanoi. But hundreds of American exports to the communists lend themselves directly to use against Americans and their allies fighting in Southeast Asia. To make matters worse, a Presidential order on October 12, 1966 stuck some 400 items from the list of commodities which for 20 years had been banned for export to communists. But the nature of products cannot be altered by official fiat. Most of them—various metals and electronic components, for example—remain no less strategic than they were in the past.

Our shipments to Communist Europe have included radio-communications equipment, combustion engines, refrigeration compressors, synthetic fibers, computers, rocket engines, air-borne devices, synthetic rubber, containers for explosives, nuclear radiation and detection instruments. They include fertilizer chemicals, which Secretary of Agriculture Freeman has called "as important as bullets"; industrial processing control intruments, vegetable oils, medicinal supplies.

Directly or indirectly such items end up as ingredients in the Soviet-made anti-aircraft system in North Vietnam, one of the largest and most advanced ever constructed; in Soviet airplanes, surface-to-air misssiles, rockets, radar and other implements now taking a toll of thousands of American lives and hundreds of American planes. In effect, we are passing the ammunition to the enemy while he is shooting at us.

SOPHISTICATED SCHIZOPHRENIA

To simple-minded observers handicapped by common sense, this may look like political schizophrenia. But official Washington sees it as a sophisticated policy under the newly fashionable rubric of "building bridges" to communist governments. The administration is ardently committed to wide-open trade, long-term credits, most-favored-nation tariffs for the European allies of Ho Chi Minh and his Viet Cong, plus all possible "accommodations" looking to a full detente or rapprochement.

To promote this so-subtle policy, beyond the grasp of unsubtle peasants througout the country, the administration is most careful to say and do nothing that might offend the men in the Kremlin, no matter how serious the provocation. When Soviet missile ships deliberately harassed a U.S. destroyer in the international waters of the Sea of Japan, the provocation was laughed off by Washington as harmless mischief—boys will be boys. An indication by the Soviet military attaché in our capital that Moscow was prepared to use Soviet pilots against American planes in Vietnam drew neither a protest nor a desist warning from the U.S. Government. The last teeth have been pulled from official and semi-official broadcasts to the communist-captive peoples. The magnitude of exports of strategic materials to the Soviet bloc is played down. Most disastrously, the fable is being spread that the cold war is over or about to expire, thus disarming our world psychologically in meeting the continuing challenge.

Americans who can't follow the logic of this conduct are assailed as "obsessed anti-communists"—and naive. One Congressman who favors long-term credit, Chester L. Mize of Kansas, said frankly and sadly during a House hearing: "You may think them naïve, but I'm afraid a lot of our constituents look upon this as trading with the enemy." Only this "naïveté" at the grassroots, in fact, stands between the bridge-builders and the accomplishment of their grand design.

The Soviet-bloc dictatorships boast that they are the main suppliers against "American imperialist aggressors" in Southeast Asia. And they are telling the truth. The U.S.S.R. and its satellites, according to a study by the U.S. News & World Report (January 30, 1967), "are furnishing the real sinews for major and prolonged war" in Vietnam. Since then both Senator Robert F. Kennedy, Democrat, and Melvin R. Laird, a Republican leader in the House, have estimated that 80 percent of the war materials flowing into North Vietnam now come from the Soviet-bloc countries.

The classic example of economic support of an enemy is the sale of U.S. scrap iron to Japan. In that case, we were not yet at war and there was no certainty that the metal would be returned to us in bombs and bullets. But in the present situation we know as a grim fact that our exports are being translated into American casualties. Moreover, since most of this trade is on the basis of long-term credits guaranteed by the U.S. taxpayer through the Export-Import Bank, we are in effect subsidizing the expansion of enemy strength.

On October 3, 1966, the Soviet bloc announced in Moscow another vast enlargement of its material support of Hanoi. Only four days later President Johnson, in a foreign policy address in New York, said this about economic support to the Kremlin and its satellites.

"We do not intend to let our differences in Vietnam or elsewhere prevent us from exploring all opportunities," he said. But the chief differences are that we are on one side of a war, they on the other; that they are fomenting and arming communist revolutions in Central and South America, where we are laboring for peaceful progress.

The President went on to announce plans for "peaceful engagement" that "will help us build bridges to Eastern Europe." These included Export-Import Bank loans and guarantees of commercial credits. American financing of an Italian Fiat plant in Soviet Russia, most-favored-nation treatment of European communist states not yet enjoying these tariff advantages.

How did the communists react to this magnanimous offer, flawed by no hint that we expected any *quid pro quo?* Their response ranged from cold to insulting. The President's speech was virtually ignored by the Soviet press. In the puppet capitals it touched off new floods of anti-American bilge. Leonid Brezhnev, the Kremlin Party boss, haughtily declared that the U.S.S.R. would not even consider U.S. proposals for accommodation until we removed our forces from Vietnam.

Since then the rebuffs to the President's plea for "peaceful engagement" have multiplied. On April 23, 1967, the U.P.I. reported from Moscow a new "declaration yesterday that American hopes for a United States reconciliation were vain as long as the United States troops remained in Vietnam." A few days later Brezhnev, in East Berlin, called for "unity of action" by all communist governments, Red China included, for "the active, many-sided and steadily increasing brotherly help of the Soviet Union against the United States in Vietnam."

But Soviet refusal to play the game cannot douse the zeal of the political bridge-builders. They wipe off the spit and say it is raining.

The communists, of course, desperately need American machinery, technology, and expertise—on long-term credits. Behind the scenes, possibly, they are encouraging our incredible plans to give it to them. Foreign Minister Andrei Gromyko, after a visit with President Johnson at the White House, went so fas as to tell reporters that he thought America "sincere"—we are so grateful for a kind Soviet word that this momentous admission made news!

Publicly, however, we have maneuvered ourselves into the role of supplicants, in effect begging the communists to help themselves to our wealth and know-how. Washington, amazingly, has chosen to deny itself the advantage of a bargaining position, behaving for all the world as if *they* were doing *us* a favor in accepting American largesse. The mythical man from Mars, reading the record, would suppose that the U.S. was so starved for communist trade that it was willing to demean itself to get it.

While official Washington, in dread of "offending" the Kremlin oligarchs, is curbing its own tongue and preventing others from speaking forthrightly about Soviet conduct, how does Moscow repay this restraint? A few samples, out of the thousands available, give us the answer:

On November 21, 1966, readers of *Pravda* were told, in a review of Soviet books about America, that the United States is ruled by "a tight bloc of military and industrial magnates . . . representing in essence what existed in Hitler's Germany." On March 18, 1967, Moscow Radio informed its listeners that "teams of U.S. experts on bacteriological warfare" in Vietnam have innoculated thousands of rats with bubonic plague, causing "over 100 cases of plague in three coastal towns of South Vietnam." Why Americans would want to spread the horrible disease in territory where their own troops and Vietnamese allies are deployed was not explained.

Ironically, even The *New York Times,* so fervent in its propaganda for those "bridges," is not spared in the relentless anti-American barrage. Thus *Pravda* on November 3, 1966, charged this newspaper with opening its pages to "enemies of communism," purveyors of "tales . . . nonsense . . . deliberate falsehoods . . . rubbish." Some weeks later, on December 25, *Izvestia* accused the *Times* of "playing into the hands of those who are doing everything they can to worsen Soviet-American relations."

In the course of a floor debate in March, 1967, Senator Frank Lausche of Ohio exclaimed: "I want someone to show me one step—one meaningful step—the Soviet Union has taken toward a detente." None of the Senatorial bridge-builders did or could. At this point it is strictly a one-way love affair, with Uncle Sam cast in the role of the eager but rejected wooer.

UNANSWERED QUESTIONS

By this time no one denies that our exports and credits to the Soviet bloc help maintain the military vitality of North Vietnam. Ho Chi Minh could not maintain his aggression for a month without the continuing flow of Soviet materiel and weapons. But the U.S. government and the "liberal establishment" are so persuaded of the wisdom of their "bridge-building" enterprise, that they will pay a heavy and embarrassing price to promote it.

In what they consider the long-term interests of peace, they are knowingly bolstering communist strength for the current war and for future "wars of liberation" on the Vietnamese model to which the Kremlin daily pledges all-out support, including armed force.

To justify itself, a policy so paradoxical and so costly in American blood and substance should be overwhelmingly convincing. It should be foolproof—supported by concrete evidence of its efficacy, as distinct from theorizing guess-work.

But the bridge-building brigades, unfortunately, rest their case on hopes, speculation, and conjectures related to supposed changes in the U.S.S.R. and its European empire since the passing of Stalin 14 years ago. They point, in the recent words of the State Department's chief ideologue of the strange policy, Dr. Walt Rostow, to signs of "pragmatism and moderation" in the communist camp which may open roads to "reconciliation and cooperation." Specifically they refer to alleged trends toward "liberalization" and "economic reform" and, in the satellites, pressures for "national independence."

The bridge-building theory holds that large-scale Western and especially American goods and credits would accelerate these trends, relieve cold-war tensions (if, indeed, there is still a cold war) and encourage the puppet regimes to break away from the country which created them, imposed them on unwilling populations and has defended them against their subjects.

Some even talk of "convergence" of the two worlds, ours moving toward democratic socialism, communists moving toward democracy and free enterprise, the two meeting in the center and living together happily every after. This fanciful prognosis, of course, is angrily rejected by the communist nations as a malicious capitalist fairy tale. It can't come true, Khrushchev warned us, until "shrimps learn to whistle."

Never before has a great and powerful nation based its world policies on such a flimsy foundation of wishful thinking geared to self-deception. Because the risks and the stakes are so enormous, at least two questions must be answered factually:

1. Is there any solid proof that the blue-printed bridges would in fact speed up political mellowing and national independence at the communist ends of the bridges?

2. Is the Washington estimate of what has happened in Communist Europe accurate, or is the administration reading its own hopes into developments there?

A CONGRESSIONAL SALUTE TO HON. FREDERICK L. KRAMER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ROE. Mr. Speaker, it is indeed my great pleasure to have you join with me today in lauding the outstanding achievements of a young man who grew up in my congressional district and was recently projected into international prominence for his highly extensive, in-depth background research, most authentically portrayed and historically accurate publication entitled, "The White House Gardens." On the eve of the 200th anniversary celebration of the founding of our country, this excellent, beautifully illustrated publication already looms in the forefront as a work of excellence and a work of art. Our heartiest congratulations and best wishes are extended to the Honorable Frederick L. Kramer who is the publisher and author of this collector's item on our American heritage.

All of us in my congressional district can point with pride to Fred Kramer and the excellence of his manuscripts on American art history. Many of us who had the good fortune to grow up with him as a good friend and neighbor are especially inspired by not only his exemplary writings but the warmth of his friendship and his quality as an individual. There is no question that Fred is a credit to himself, his family, and the people of America and underlying all of his great progress—and I am sure he would be the first one to agree—is the fine guidance and counseling of his mom and dad, the Honorable and Mrs. Harold Kramer, who enjoy the highest reputation and esteem of all of us who have the good fortune to know them. The sensitivity of the extraordinary achievement of the offspring is the reward of fulfillment from the love and compassion of the most distinguished parents, and Adeline and Harold Kramer exemplify the best and finest.

Mr. Speaker, with your permission I would like to insert at this point in our historic journal of Congress a copy of a recent news article that appeared in the Passaic Herald News, one of New Jersey's prestigious newspapers, reporting on the formal ceremony held in the White House gardens commemorating Fred Kramer's presentation of the first copy of "The White House Gardens" to our First Lady, Mrs. Richard M. Nixon, who wrote the preface to this historic document and living memorial to the serenity and beauty of America's landscape. The news report is as follows:

> AREA MAN WRITES TEXT, PUBLISHES DOCUMENTARY
>
> Frederick L. Kramer, member of a well known area family, is the publisher and author of the text of a first historical and pictorial record of "The White House Gardens."
>
> The book traces both the history of the most famous gardens in the United States from the time of John Adams to the present and gives detailed illustrations on how they are planned and what they look like.
>
> For the past two years, Great American Editions, Ltd., has been working with the cooperation of the White House curator, Clement Conger, the White House florist, Rusty Young, and the head gardener, I. Williams.
>
> For the first time, an artist was permitted to work on location making water colors of the various flowers in the gardens and those used for centerpiece arrangements for state occasions. He is the noted artist, Harold Sterner, son of the turn-of-the-century artist, Albert Sterner.
>
> "The White House Gardens" is an authentic and original documentation of the American heritage. Included are 25 full color plate reproductions of Mr. Sterner's water colors; many pages of fascinating Presidential and political anecdotes gathered by Mr. Kramer, and actual planting plans of the present White House gardener for spring, summer and fall showing in detail all the beds and various flowers. Also in full color done by Mr. Sterner on location are White House flower arrangements for the state occasions.
>
> According to Mr. Kramer, the White House gardens have been as much a part of American history as the White House, itself.
>
> In the preface written by Mrs. Richard M. Nixon, she says, "With the publication of "The White House Gardens," there is now available to all a comprehensive reference on the landscape that has evolved from a countryside terrain to a stately setting of flowers, shrubs and trees."
>
> Mr. Kramer, who now lives in New York City, grew up in the Passaic-Clifton area. A writer and editor of American art history books he is the son of Mr. and Mrs. Harold Kramer of Passaic. The text, which he has written for this book, represents extensive research.
>
> The book was printed by the Hoechstetter Printing Co., Pittsburgh, and bound by A. Horowitz & Son, Bookbinders, Clifton.

Mr. Speaker, I appreciate the opportunity to call to the attention of you and other Members of the House of Representatives this most significant accomplishment by an outstanding young man of my district and know that you and our colleagues here in the Congress will want to join with me in saluting Fred Kramer and all of his good works with our best wishes for continued success and happiness as he progresses in his increasingly upward spiral in documenting the history of the American dream for the enjoyment of all of our people.

THE CURRENT CONSTITUTIONAL CRISIS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Ms. SCHROEDER. Mr. Speaker, Watergate revelations continue unchecked. In a recent letter of my constituents points out that he, as an attorney, would have a hard time avoiding disbarment if material evidence in the control of his office was destroyed during the pendency of a court proceeding. He says that:

> The tremendous disrespect for the legal profession which has arisen as a result of the current Washington revelations is something that I am facing daily with my clients, my professional associates, and most importantly, with the jurors with whom I have so much frequent contact.

He goes on to note that:

> My greatest concern probably arises from the searching inquiries that are made of me, supposedly for the purpose of obtaining wise responses, from my children aged 14, 16 and 18.

I think Mr. Harold Feder, as a citizen, a parent and a member of the legal profession, expresses well the concerns that have been voiced by many of my constituents in recent days.

Following is the full text of Mr. Feder's letter:

> Re: Current Constitutional Crisis And Other Matters
>
> Hon. PATRICIA SCHROEDER.
>
> DEAR PAT: This is probably my first communication with you since I visited with you briefly at the benefit affair held for candidate Alan Mersen at the Regency Hotel last year. A considerable body of traumatic factual events have occurred in government since our last visit, and it is those events which compel me to direct this letter of extreme concern at this time.
>
> It will probably assist if I enumerate the things that concern me most about the present posture in which the President of the United States seems to find himself, at least according to published accounts:
>
> 1. As a concerned citizen I truly fear for the result of the government scandals which now are rocking our country. We tend to be a nation of those who believe that the least government is the best government. This can occur only when the citizens of the United States truly believe that the laws of the United States will be enforced fairly and impartially as to them and that, high or low, they will receive a fair hearing and a fair application of the laws. Recent public events have suggested that there are those in this country in high places who are above the law and cannot be touched by the law or the judicial process. This attitude will surely spell a breakdown in the self governing parameters of a large number of the American population.
>
> 2. As a practicing trial attorney involved almost weekly in the judicial process, I am flabbergasted at the posture which the President of the United States has picked for himself with regard to the judiciary and the judicial process. Should the charges that have now been made against the President be made against any practicing attorney before any bar of the United States, surely that attorney's license to practice law would not long endure. Which one of us could claim with impunity destruction of material evidence in a presently pending court case when that evidence was under the supervision and control of our office, and avoid disbarment proceedings? The tremendous disrespect for the legal profession which has arisen as a result of the current Washington revelations is something that I am facing daily with my clients, my professional associates, and most importantly, with the jurors with whom I have so much frequent contact. This indeed is a dark hour for the legal profession.
>
> 3. My area of greatest concern probably arises from the searching inquiries that are made of me, supposedly for the purpose of obtaining wise responses, from my children aged 14, 16 and 18. Sadly, they were just coming out of the no-peek patriotism "America Love It or Lose It" time frame, and they are now hard pressed for rational answers and explanations, and they do not relent. My statements have been an attempt at reassurance, a reassurance which is founded upon the principle that our precious gem of constitutional government *adequately provides* for a crisis such a this. Conviction of an accused by newspaper articles has never been particularly to my liking. On the other hand, at this juncture the presumption does indeed seem great. The test for my children of the truth of my statements to them of the power of our constitutional government will be determined by Congress in the near future.
>
> It would be hard for me to describe which of the Watergate revelations has been the most difficult for me to cope with. I can only say that the recent article from The Denver Post of January 12, 1974, a copy of which is enclosed, serves somewhat to characterize my grave concern. I don't know whether it is the oil companies' influence for the Alaska pipeline, the Trans-Siberian gas transmission

line, or another crack at the Teapot Dome naval oil reserves which concern me the most. I don't know whether it is the ITT "contribution" or the milk producers contribution or the James Hoffa release from prison contribution or the Vesco contribution or the Hughes contribution, or whether it's maybe a compilation of all the contributions.

Whatever the cause, I feel deeply compelled as a citizen, an attorney, a father, as a former Naval officer and Korean war veteran, and as one of your constituents to suggest—no, not suggest, to urge—your support for impeachment proceedings to be brought at the earliest possible date.

I believe that the longer that this constitutional crisis wears on, the greater will be the damage to our form of government and the confidence of the people in their form of government and the very government itself. Soon, too soon, we all will become insensitive and cynical.

And so I write this letter before I have become insensitive and before I have become cynical to seek your assistance in bringing the matter of impeachment to bear quickly and in a forthright manner. Only through impeachment can the trial that I think we so desperately need be held. Only through this device can the cloud of suspicion which surrounds the President be dispelled, or if it is not to be dispelled, then the innuendoes and the charges will have an airing in a form which will allow their proof. As a citizen and a lawyer and a father, it seems that this is the only alternative, but it must be speedily undertaken.

For these reasons and many more too extensive to set forth in this brief transmission, I urge you to vote in support and in favor of impeachment proceedings. It is with heavy heart that I, a lifelong Republican and continual Nixon supporter, take this most severe step.

Very truly yours,

HAROLD A. FEDER.

GET OFF HIS BACK

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BURKE of Florida. Mr. Speaker, a recent radio broadcast by Mr. Doug Zepp of Pensacola, Fla., was called to my attention. You may or may not agree with his comments, but I think they are worth bringing to the attention of my colleagues. His speech does summarize the views expressed by a large number of my constituents, and I am sure, perhaps, of yours.

The speech follows:

GET OFF HIS BACK

The office of the President of the United States demand more time, energy, intelligence and mental fortitude than any position held by any man in the world.

Our President, in my opinion has done more for this country and under more adverse conditions than any President in my lifetime.

I think it's time we get off his back.

Our President has brought an end to the war in Vietnam.

He has brought all of our POWS home.

He has ended the draft.

He is the first President ever to visit Mainland China.

He has re-structured the Supreme Court for the first time in this century.

He has brought an end to compus unrest and violence.

He has traveled more miles abroad than any other U.S. President.

He was elected to the highest office in this great country by the biggest majority of this century.

Sure, he's made a few mistakes. Nobody's perfect. My Dad made some mistakes in his lifetime. But it didn't change my opinion of him. He was still a good man, and as any good man . . . he profited from his mistakes.

Let's stop talking about impeachment and Watergate and start thinking about the Pearly Gates. Let's show some love and compassion for our President and our country. He can't possibly know what everyone working for him is doing. The company I work for employs over five thousand people. Should the plant manager be judged for something one of his employees does?

I think its' time we started acting like the people who made this country great. . . . I think it's time we started talking about *supporting* our President not *deporting* him. . . . *I say let's get off his back* and let him do the job we elected him to do.

Sure, this country has problems. But it was not our President who created them. But he can help solve them.

We need to find a solution to the energy crisis.

We need to find a cure for cancer and heart disease.

We need to care for our senior citizens.

We need to reduce crime.

We need to fight drug abuse and alcoholism, plus pollution.

And there are many more things that need to be done. . . . *Yes we've got problems.*

But we must work together and get on with the business at hand and stop fighting among ourselves.

But running the President of the United States down and dividing our country won't solve them.

I urge all Americans to unite and pledge their support to the President of the greatest nation in the world . . . and I beg you . . . *Please get off his back.*

THE CONTINUING PLIGHT OF ILLEGAL ALIENS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BADILLO. Mr. Speaker, for several years we have viewed a continuing controversy over the status of certain aliens who have entered the United States illegally and who have been subsequently exploited and threatened by unscrupulous employers, landlords, and creditors and have been unduly and unnecessarily harrassed and degraded by agencies of the Federal Government. As yet, however, no meaningful consideration has been given to the plight of these hapless men, women, and children—either to the misery they are forced to endure while living in a constant state of fear while in this country or the conditions in their native lands which have precipitated their departure.

An especially distasteful aspect of this situation is the fact that the term "illegal alien" has become a code word for Spanish-speaking and our community has been forced to bear the brunt of the Government's ill-conceived policies designed to purge the land of illegals. As a consequence, numerous dragnets have been conducted in the Northeast and the Southwest in which anyone who may speak with a Spanish accent, who may appear to be of Latin background to some immigration inspector or who may otherwise present a "foreign" or Latin appearance is apprehended and is forced to prove he is an American citizen. Basic civil liberties, rights guaranteed by the Constitution and simple human dignity have been violated time and time again by these reprehensible practices.

In the Februray issue of the Progressive, Father Mark Day, a parish priest in Los Angeles, has written a timely and quite perceptive article on the plight of the illegal immigrants and the efforts which some have made to deal with the situation on a more humane, legal, and affirmative basis. The article not only attempts to look at the situation from the Spanish-speaking community's viewpoint but also focuses on certain repressive State and Federal legislation which only exacerbate the problem. I present Father Day's article herewith for inclusion in the RECORD and urge that our colleagues give it full and careful consideration. It is an issue which we cannot ignore and it seems to me that we have an obligation to act in a more responsible, compassionate and progressive manner than we have in the past.

The article follows:

ILLEGAL IMMIGRANTS—A VIEW FROM THE BARRIO

(By Mark Day)

Maria Hernandez was changing her baby's diapers when U.S. Immigration and Naturalization Service (INS) agents arrested her at a deteriorating East Los Angeles apartment house in February 1973. Maria, a Mexican citizen who had overstayed her visitor's visa in the United States, was hysterical when she arrived at the alien detention center in the basement of the New Federal Building in downtown Los Angeles. The young mother cried out desperately for her baby. The agents allowed her to recover the infant hours later, when he was found nearly suffocated in his excrement. The last I heard was that the baby was taken to the County Hospital with a serious case of pneumonia. When an attorney questioned INS officials about the incident, they told him that the child was born in the United States and was not under the jurisdiction of the Service.

The illegal immigrant issue, described by a labor leader in Los Angeles as a dilemma surrounded by an enigma, is one of the most complex social problems in the United States today. Government statistics show a dramatic increase in the number of immigrants deported each year. The majority are Mexicans, refugees attracted by a better standard of living in the United States. In 1972, of the 492,189 aliens arrested, more than eighty per cent were apprehended in the Southwestern states, some 94,000 in Southern California alone.

One method of control has been periodic sweeps of city streets and factors by the INS "It's a crime to have brown skin in this town," one of the members of a Mexican *mariachi* band told me. The band plays each Sunday at our church services. The congregation, whose membership is now almost totally Spanish-speaking, comes to life with blaring trumpets and cheerful hymns at these masses. More than sixty-five per cent of these church-goers at St. Joseph's in downtown Los Angeles are in this country illegally.

Matters worsened last June when the INS conducted a series of dragnet raids in Southern California to round up the illegal immigrants. Soon after the intensified raids began, churches, television stations, and community organizations were inundated with complaints alleging that the agents made unlawful arrests, broke up families, ignored the constitutional right of due process, brutalized and harassed brown-skinned people regardless of their status in this country, and created an atmosphere of terror—especially in the Chicano community. A class action suit on behalf of several plaintiffs was filed by the American Civil Liberties Union to "insure that the law enforcement officers would follow their own [Federal] law in making arrests." As yet no decision has been reached by the Federal court.

Chicano activist Bert Corona, the director of the Center for Autonomous Social Action (CASA) of Los Angeles, an organization working for reforms in immigration law and practices, claims that the present labor certification regulations are designed to keep out foreign labor. Yet, he points out, because the border is, in effect, open, foreign workers enter the country to work and are burdened by the stigma of illegality. Corona believes that many employers find this desirable, since they can pay the aliens lower wages and dispose of workers at whim merely by calling the immigration department—often just before payday.

Corona and a growing number of activists throughout the country disagree with the assertion that the aliens themselves are responsible for depressing wages and depriving local residents of low income jobs. They point to the shortages of workers in some industries such as garment manufacturing and add that local residents generally have a natural edge on the job market since they can speak English, supply references, and are familiar with local community resources.

The real culprits, say the defenders of the immigrants, are the employers who seek to employ these workers—whatever the source—who will work at the cheapest possible pay rates.

National attention focused on the problem of the aliens in October 1971 when INS agents rounded up several of them at a food processing plant belonging to Ramona Bañuelos, President Nixon's appointee as treasurer of the United States. Harry Bernstein, labor reporter for the Los Angeles Times who broke the Bañuelos story, also revealed that an illegal immigrant was working at the Western White House.

It came as no surprise to me that aliens worked for either Ms. Bañuelos or Mr. Nixon. There are from 300,000 to 500,000 such workers in Southern California, occupying menial jobs in places like food packing plants, factories, and restaurants, or pruning rosebushes and trimming hedges on the grounds of most parks and suburban estates.

The concern of the California legislature led to the enactment of the Dixon Arnett law in November 1971. The law, fining employers for hiring illegal immigrants, was to have gone into effect in March 1972. It became a hotly debated civil rights issue, since it authorized employers to question the immigration status of predominantly brown-skinned people. The law was declared unconstitutional in February 1972 for two reasons: The field of immigration and naturalization is preempted by the Federal Government, and the act, with its criminal sanctions, was considered "too vague, indefinite, and uncertain."

The Arnett law was followed by a Federal bill (H.R. 982), introduced by Representative Peter Rodino, New Jersey Democrat. The House passed the bill, almost a carbon copy of the Arnett law, in May 1973. The bill, stalled in the Senate Judiciary Committee, has strong support from many liberal legislators and much of the labor movement, though there is growing dissent within the unions on this issue.

Although farm labor leader Cesar Chavez never made a statement supporting the Arnett law, it is believed that he initially favored the measure. The United Farm Workers have always had the problem of aliens being transported to the fields to break their strikes, especially in the Coachella and San Joaquin Valleys of California. It would follow that any legislation restricting aliens from the labor market would be beneficial to his organizing activities. But Chavez undoubtedly saw the suffering that the Arnett law, even in anticipation of its going into full effect, caused Chicanos and other Latins working in urban areas. He also wanted to avoid any damaging rift between rural and urban Chicanos, since his battle with the Teamsters was just beginning.

Therefore, when the House of Representatives passed the Rodino bill, Chavez condemned it. The UFW leader said that the bill "would not help either urban or rural workers in their common struggle against unscrupulous employers." His major objection was that the bill should have had provisions directed against labor contractors who recruit aliens as strikebreakers. The UFW statement also opposed the bill "for encouraging discrimination against brown-skinned people and for breaking up families who had long standing roots in this country, and who, for the lack of a piece of paper [a visa], are subjected to embarrassing and burdensome practices and rules enforced by government bureaucrats unconcerned with the plight of poor people."

Chavez referred directly to the detrimental effects of the Arnett law. Instead of the employers, it was the workers—both lawful and alien residents—who felt the brunt of the law. Months before the law was to go into effect, employers began to fire anyone suspected of not having proper documentation. Church and social centers, especially in the Los Angeles area, were flooded with hardship cases. Several immigrants told me they had married legal residents and had children born in the United States. Since they could not produce visas, their employers had laid them off. In some cases, Chicanos who were legal residents were turned away because of their skin color or their heavily accented English. On one occasion, a Puerto Rican worker asked me to write a letter for him in English, guaranteeing that he was from Puerto Rico and not from Mexico. His poor grasp of the English language led several employers to believe he was an illegal immigrant.

In a meeting with the bill's sponsor, Assemblyman Dixon Arnett workers complained that their employer, a large soup company, had demanded that all employes without documents put up a $400 cash bond in case of a fine. Other workers complained that their bosses fired them, rather than newer workers, since they enjoyed seniority, paid vacations, and other benefits.

The simplest way for an employer to evade the law, we told Arnett, was by using a simple legalistic device. The boss asks the worker, tongue in cheek, if he is lawfully entitled to work. If the worker answers affirmatively, the employer has exercised his duty under the law. The worker, however, is now in a more dependent position than before because his boss has done him another "favor." Arnett listened carefully, but said that his law was the only way to handle the problems caused by the aliens.

A growing number of legislators fear that the Federal bill will create the same injustices as the California law. The opposition to the Rodino bill in the House was led by Representative Herman Badillo of New York and Representative Edward Roybal of California, both Democrats. Badillo, whose ancestry is Puerto Rican, said that the illegal immigrant "has become one of the most popular scapegoats for our bankrupt economic policies and soaring unemployment problems." He disagreed with claims that aliens take jobs from U.S. citizens, increase welfare costs, and create balance of payments deficits by sending money abroad. Aliens, he said, take jobs that lawful U.S. residents do not want; they pay taxes, are consumers, and stay away from public assistance programs.

Badillo noted that the news media have been responsible for advancing erroneous figures on the number of illegal immigrants living in the United States. He was referring to stories such as the one that appeared in *The Washington Post,* November 12, 1971. The lead sentence read: "Up to one million New Yorkers may not be New Yorkers at all . . . instead, they are aliens."

According to the news story, an INS official claimed that there are more than 2.5 million illegal aliens in New York City, while Sol Marks, the local INS director, expressed doubts that there are even tens of thousands in the New York City metropolitan area. Other newspapers have published such figures without attempting to verify the facts.

Besides Cesar Chavez, other labor leaders have disagreed with the rationale behind the Rodino bill. At a recent rally in New York City, Henry Foner, the president of the Fur, Leather & Machine Workers Union, AFL–CIO, protested the dragnet raids conducted there by the INS. Foner told the group, composed mainly of Latin Americans: "As long as unions allow themselves to be deluded into believing that the illegal immigrant is their enemy—so long will they be demobilized in the important and necessary fight against their real enemies—the big business interests, the profiteers, and their corrupt protectors in government."

The Mexican-American Labor Council of Los Angeles, headed by Trinidad Flores, also has attacked the Rodino bill. In a letter to Andrew J. Biemiller, the AFL–CIO's chief lobbyist in Washington, Flores said that the Rodino bill "does not serve the best interests of the Mexican-American community nor that of labor."

Representative Roybal has suggested several positive solutions to the alien dilemma. As a means of reducing the number of illegal immigrants, Roybal proposes that the Western Hemisphere ceiling for legal admissions to the United States—which is now 120,000 annually—be increased to 170,000 to equal total admissions permitted from the Eastern Hemisphere countries (including Europe and the Orient); that the system which gives preference to reuniting families, now applicable to the Eastern Hemisphere, be extended to all Western applicants; and that immigrants from both hemispheres be permitted to legalize their status while remaining in the United States. As of now, some immigrants have to return to their country and wait more than two years before they can return. Unfortunately, these suggested amendments were killed during the House debate last May.

Bert Corona of CASA has suggested that workers who are not here legally but have jobs as well as roots in the community should have their status legalized. This, he believes, would drastically reduce the problems caused by the present vulnerability of their status.

Senator Edward Kennedy, a member of the Senate Subcommittee on Immigration and Naturalization, spoke sympathetically about the plight of the aliens on a television interview in Fresno, California, during last year's convention of Cesar Chavez's United Farm Workers Union. Kennedy agrees with the UFW position that the Rodino bill would not effectively punish the unscrupulous employer who hires aliens to exploit them.

Another bill, sponsored by Representative Joshua Eilberg, Pennsylvania Democrat, stipulates that all immigrants will be allowed to change their status while remaining in the United States, a privilege which is now accorded only to Eastern Hemisphere immigrants. The House Judiciary Committee approved the Eilberg bill in October. Opponents of this bill argue that the measure limits annual immigration from any one country to 20,000 a year. Representatives Roybal and Henry Gonzalez, Texas Democrat, argue that the bill discriminates against Mexicans, cutting the present immigration quota from Mexico by one-half. Roybal and Gonzalez have supported an amendment to the Eilberg bill which provides for special preference for Mexican immigrants. They maintain that unique historical, economic, and social relationships between the two countries warrant this preference.

It is unfortunate that we have not yet learned to overcome the nativistic mentality in our country which continues to regard the foreign born as economically threatening, unclean, and "un-American." We still tend to hang labels on groups of people, then conclude that any means necessary can be used to get rid of *them*, including aproaches that lessen our basic freedoms and make a mockery of the Constitution.

VIETNAM CEASE-FIRE ANNIVERSARY

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ARCHER. Mr. Speaker, we are witnessing the first anniversary of the cease-fire agreement in Vietnam. The agreement came about after much negotiating and it still remains a fragile agreement. Despite the predictions of critics that the Government of South Vietnam would collapse soon after the withdrawal of American troops, this predicted collapse has not occurred. As we view the American experience in Vietnam a year after the American withdrawal of military forces, we can gain a new perspective on our role in Asia. This significance was stated effectively in a column by Henry Huglin entitled "The Value of Our Role in Vietnam" which appeared in the Chicago Tribune on January 7, 1974.

A YEAR LATER—THE VALUE OF OUR ROLE IN VIETNAM

(By Henry Huglin)

Just a year ago we were in the throes of the intensive bombing campaign of North Viet Nam. This bombing sparked an uproar of criticism, but it was apparently the necessary and key act in finally getting the agreement last January—under which we got our POWs freed and were able to extricate ourselves from Viet Nam with some integrity.

How goes it now with Viet Nam, where we invested so much—our youths' lives, money, and agony? And what of the worth of our involvement from a year's perspective?

Well, the cease-fire has been a farce; fighting has continued sporadically between the South Vietnamese and the North Vietnamese and Viet Cong.

But there is political stability in South Viet Nam. Tho no democratic paragon, President Thieu has been skillful and effective; and his government, the people, and the army have performed quite well, considering the difficult circumstances.

It is certainly evident that the South Vietnamese far prefer any government of their own to Hanoi or the Viet Cong, and will fight persistently for their independence.

On the other side, the Communists are following their pattern of the past. They are obviously still determined to control South Viet Nam, no matter what the cost.

The Communists have consolidated their hold on the areas of South Viet Nam which are under their control and they have tried to expand these areas, with little success. The North Vietnamese have also moved great quantities of weapons and many more troops into South Viet Nam—apparently preparing for another big military offensive.

If another great battle comes off, it will be a crucial test of the basic goal of our help to the South Vietnamese—strength and will to defend themselves.

Hopefully, the South Vietnamese will prevail in all the fighting and ultimately throw out the North Vietnamese and establish lasting peace for themselves.

Tho the fate of South Viet Nam is still uncertain, we can begin to bring into better perspective the worth of our sacrifices there—irrespective of our mistakes.

Certainly the last five years of our involvement deeply and adversely affected our domestic unity, confidence, and view of our responsibilities in the world.

But, in an international geopolitical sense, our fighting for the principle of self-determination in helping the South Vietnamese resist Hanoi's drive to take them over, has helped stabilize the world scene with long-lasting and incalculable benefits.

Had we not responded to the challenge posed in Viet Nam in the 1960s, the whole of Southeast Asia might by now have fallen under the control of the militant expansionist regime in Hanoi, with repercussions far beyond that region.

And, having got involved in Viet Nam, the way in which we extricated ourselves became very important—as Presidents Johnson and Nixon repeatedly and rightly told us.

Had we cut and run in Viet Nam, we would have had little credibility now in the Mideast with the Russians, Arabs, or Israelis. Hence, Henry Kissinger's vital, catalytic role in seeking an enduring, just Mideast settlement would have been impossible.

Further, at some stage, the key to peace in the Mideast is likely to be a commitment from us to insure the security of Israel and to help enforce whatever settlement is reached. Had we dropped the South Vietnamese when the going got tough, no one, least of all the Israelis, would have placed any credibility on such a commitment of ours.

It is ironic that many who were highly critical of our role in Viet Nam and wanted us to cut and run are now depending on us to play the key role in protecting Israel and bringing a lasting Mideast settlement—without acknowledging the linkage.

Reliability, credibility, influence, and effectiveness in the world are built up as the accumulation of policies and actions over years, even generations. And, in trying to be a responsible superpower, we have inescapable duties and commitments in the world. If we don't fulfill these responsibilities consistently, the fragile structure of what stability and peaceful progress there is in the world will be undermined.

As time goes by—and as agonies and divisions over Viet Nam fade—more of us will appreciate the long-term value of our involvement there—as a major step in our helping move the world community toward greater political stability and better chances for more enduring peace.

FORMER CONGRESSMAN ROBERT T. SECREST OF CAMBRIDGE, OHIO, IS HONORED

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. CARNEY of Ohio. Mr. Speaker, on Tuesday, January 22, 1974, I had the privilege and the pleasure of attending a reception in honor of former Congressman, and now State Senator, Robert T. Secrest, of Cambridge, Ohio.

The Honorable Robert T. Secrest served 10 terms in the U.S. House of Representatives, 7 years on the Federal Trade Commission, and is now serving his fifth year as a member of the Ohio Senate. In addition, Senator Secrest resigned his seat in Congress to serve in the U.S. Navy during World War II, and he earned his law degree by attending law school at night while he was a Member of Congress.

Mr. Speaker, Bob Secrest is one of the finest public servants I have ever known. I am proud to call him my friend. He celebrated his 70th birthday this month, and I know that I speak for all of my colleagues in the Congress who know him when I wish him continued good health, happiness, and success.

Mr. Speaker, I insert my tribute to Representative Secrest in the RECORD at this time:

TRIBUTE TO REPRESENTATIVE ROBERT T. SECREST

Over 2,000 years ago the great Aristotle declared that "a man who aspires to any high office should have three qualifications: First, he should be prepared to support the constitution of his country; second, he should have a special aptitude for the office he desires; and third, he should have virtue and justice as they are understood by his fellow-citizens." Those qualifications, embodying the classical wisdom of our civilization, have found honorable expression in the life and public service of Robert Thompson Secrest.

An aptitude for the responsibilities and obligations of public service and an abiding commitment to virtue and justice as guardians of liberty—these qualities have distinguished him whom we honor here tonight throughout his long life.

The celebration of a seventieth birthday, marking the biblical "threescore years and ten", is, indeed, a fitting time for his fellow-citizens to pause, to reflect, and to render grateful and deserving homage. We live in the midst of troubled times for America and for the world, times wherein the faith and idealism which has always sustained this land is called to fresh exertions of the spirit as together we restore the sense of public trust which must always animate free government if it is to endure.

In such a time the example of a man such as Robert Secrest is especially inspiring and significant. In such a time an occasion such as this rekindles our faith and our hope in the abiding vitality of America.

It was in 1933 that Robert Secrest first came to Washington—to serve in the 73rd Congress of the United States. He brought with him a rich background of experience in State and local government, in education and in law. He entered the legislative branch of our Federal Government in a time of grave crisis for America. He was—be it noted—reelected to the four succeeding

Congresses during one of the most significant eras in our history.

In 1942, with the advent of American entry into the Second World War, he resigned his seat to serve in the United States Navy, in which he was appointed a Lieutenant Commander. Later he was promoted to commander. He served his country faithfully, bravely, and well during that terrible conflict, in England, in North Africa, and in Italy. For a year he was also on the staff of Admiral Chester Nimitz in the Pacific theatre as a military government officer.

In 1946 he was released from active duty, and returned to his first and life-long vocation in politics, seeking his old seat in the Congress. At first unsuccessful in his 1946 campaign for the 80th Congress, he was engaged as a legal supervisor in the Library of Congress until his resignation in 1947 and his successful candidacy for the 81st Congress, to which he was elected in 1948. He served this time from 1949 to 1954 in the 81st, 82nd, and 83rd Congresses, resigning to accept a 7-year appointment by President Eisenhower to the Federal Trade Commission, a position he held down from 1954 to 1961. His being named to the FTC was itself a mark of the esteem in which he was held by his colleagues of both parties and within the larger community.

During most of 1962 he served as director of commerce for the State of Ohio. However, his first love could not be denied, and in that same year he again sought public office, and was elected to the 88th Congress, taking office in 1963. He was re-elected to the 89th Congress, but was unsuccessful in his candidacy for the 90th Congress in 1966. In January of 1967, with the close of the 89th Congress, he left Federal service only to turn his energy and ability to public service here in Ohio; in 1969 he was elected to the State Senate, in which he has served with characteristic ability and distinction.

During his years in the House Robert Secrest was a member of the Veterans' Affairs Committee, a post reflecting his lifelong commitment to the needs and aspirations of Americans who have served their country in the armed forces. Himself a life member of AMVETS, the VFW, and the regular veterans association, he is also a former past commander and life member of the Senacaville American Legion Post 747.

I think you will agree with me that this is indeed an extraordinary record, the account of a man's tireless devotion to the public good and his unfailing concern for that goal, in war and in peace, in innumerable political victories and in occasional political defeats, in the legislative and in the executive branches of our Government, in elective and in appointive office alike.

His public career—like his private life—has been marked by integrity of purpose and honorable achievement in behalf of the people he has served. The roots of his loyalty have encompassed his community, his State and his Nation and have flowered in loyalty to God, the common Father.

You will hear much tonight of particular aspects of his career and his personality, but I direct your attention to the larger picture, which, as we look back over some four decades—decades of historic import for this Nation and for the world, moves all who have known him to heightened respect and gratitude for the example he has provided in these troubled days.

My friends, the meaning of a man's life can never fully be known, save to God. But when that life has been characterized by public service, then we may see more clearly the values and ideals by which he has lived. So it is with my friend and colleague, whom it is our privilege and pleasure to honor at this testimonial dinner. In honoring him we are recognizing a life built upon public trust and fidelity to principle; in paying this tribute to his remarkable career we are affirming the validity of our American system of government in the face of the challenges and trials which history sends.

We salute him tonight, we thank God who has brought him and us to this day, and we pray for a renewal of that spirit of service to God and to country which he has demonstrated and which has ever been the mainstay of this Nation and its people in every age.

In the Hebrew Bible it is written that "Gold and silver make the foot stand sure: But counsel is esteemed above them both," and again, "To the counselors of peace is joy." To Robert Secrest, patriot and wise counselor in the affairs of Government, we wish both joy and peace.

A TAX BREAK

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. JAMES V. STANTON. Mr. Speaker, Congressman ROSTENKOWSKI and I are today reintroducing our legislation concerning "downside" income averaging. This bill provides a tax break for the individual whose income falls off abruptly due, for example, to a work layoff or other reason beyond his control. Plant closings necessitated by the energy crisis are leaving thousands of Americans out of work. A work layoff of this nature forces a family who has enjoyed a stable income to suffer a sharp drop in income during a given year. This bill provides this unfortunate individual with a tax break, when he needs it most.

We are pleased with the excellent response we have received so far concerning this bill and we are still welcoming cosponsors to join us in the reintroduction of this bill. At the present time, the following Members have joined us in the reintroduction of this bill:

LIST OF COSPONSORS

Bella Abzug, Thomas Ashley, Les Aspin, Lindy Boggs, George Brown, Jr. (Calif.), Charles Carney, Shirley Chisholm, Cardiss Collins, Silvio O. Conte, John Conyers, Paul Cronin, Dan Daniel, Mendel Davis, John J. Duncan, William Ford, Edwin B. Forsythe, Michael Harrington, and Ken Hechler.

Henry Helstoski, James Howard, Richard Ichord, Albert Johnson, Jim Jones (Okla.), Barbara Jordan, Edward Koch, William Lehman, Ray J. Madden, Richard W. Mallary, Donald J. Mitchell, (N.Y.), Parren J. Mitchell, (Md.), Joe Moakley, Charles A. Mosher, John Moss, Morgan Murphy (Ill.), Robert Nix, and George O'Brien.

Claude Pepper, Bertram Podell, Donald W. Riegle, Jr., Charles Sandman, Paul Sarbanes, Pat Schroeder, John Seiberling, B. F. Sisk, John Slack, Pete Stark, Frank Thompson, Robert Tiernan, David Treen, Jerome Waldie, Richard White, William G. Whitehurst, Charles H. Wilson (Calif.), Larry Winn, Jr., Lester Wolff, Gus Yatron, and Andrew Young (Ga.)

WHEN OMB SPEAKS, NASA ADVISORY COMMITTEES LISTEN

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. OBEY. Mr. Speaker, in recognition of the delay in submission of the President's fiscal year 1975 budget, the National Aeronautics and Space Administration announced today in the Federal Register that a 2½-hour segment of tomorrow's meeting of its Physical Sciences Committee will be held in executive session instead of public session. The change is dutiful but silly.

The notice says that the material to be discussed in this closed session "includes the budgetary planning and levels proposed in the NASA submission for the Office of Space Science in preparation of the President's budget for FY 1975."

That makes the material preliminary, not final, so there is no question of breaking a release date on actual budget figures and no reason to close the session.

It then explains:

> Under instructions from the Office of Management and Budget, this material may not be disclosed publicly until the President's FY 1975 budget is submitted to Congress.

Maybe so, but there are at least three things wrong with this:

First. The Federal Advisory Committee Act does not recognize instructions from OMB, in and of themselves, as justification for closing a meeting. It says that advisory committee meetings shall be open to the public unless they are concerned with matters which the Freedom of Information Act exempts from mandatory public disclosure, and "instructions from OMB" is not one of those exemptions.

Second. Even if the reason were valid, the form of the notice is not. The law requires that a determination be made in writing that a meeting or portion of it qualifies for closure, and no such determination appears in the NASA notice.

Third. It is giving inadequate notice of the changed circumstances of the meeting. Though it is labeled, "Notice of Change of Agenda," the notice is not announcing that something has been added to or subtracted from the agenda. Rather, it is giving only 24-hour advance notice that a meeting NASA said last week would be open will, in fact, not be.

Finally, the excuse that budget material may not be "disclosed publicly" does not fit the facts of the case, since 13 of the 14 members of the Physical Sciences Committee are public members—that is, not Federal employees. How is it that preliminary budget material can be disclosed to these members of the public and not to others?

Mr. Speaker, the text of the NASA notice follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA PHYSICAL SCIENCES COMMITTEE

Notice of Change of Agenda

Due to the revised date of the President's FY 75 budget submission to Congress, it is necessary to make a change in the PSC meeting agenda published last week.

Agenda Item (7): *FY 75 Budget Request* scheduled from 2 p.m. to 4:30 p.m., 31 January 1974, is changed to read: *Executive Session*. The material to be discussed in this closed session includes the budgetary planning and levels proposed in the NASA submission for the Office of Space Science in preparation of the President's Budget for FY 1975. Under instructions from the Office of Management and Budget, this material may not be disclosed publicly until the President's FY 1975 budget is submitted to Congress.

The meeting is still scheduled to be held in Room 5026, FOB No. 6 commencing 9 a.m. Thursday, 31 January 1974. For further information regarding the meeting, please contact Mr. Guenter Strobel: Area Code 202-755-3647.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

JANUARY 23, 1974.

[FR Doc. 74-2359 Filed 1-29-74; 8:45 am]

THE SOUTH AND THE ENERGY CRISIS

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. YOUNG of Georgia. Mr. Speaker, the fall issue of Southern Exposure, a quarterly magazine published by the Atlanta-based Institute for Southern Studies, included a special supplement on Southern power companies.

In this period of an "energy crisis," there is great interest in the energy industries, and I therefore submit for the RECORD Southern Exposure's summary of its special supplement. The magazine's editorial and subscription office address is Southern Exposure, P.O. Box 230, Chapel Hill, N.C. 27514.

The article follows:

SOUTHERN POWER COMPANIES

Every month millions of Americans drop a check for fifteen, or thirty, or even fifty dollars in the mail, addressed to their local power company. The light bill is as "normal" to us as the light switch. And the ubiquitous nature of both—and the lack of control over either—are a reflection of the immense influence the electric industry has come to have over our lives. That's one reason control of such a business by communities is so important.

There are more reasons: The quality of service, the chance for decent work opportunities, the use of huge amounts of cash and invested capital. It takes money to make money, and the utility industry takes more money to keep it going than any other business in America; it's the most capital-intensive industry, which means it consumes large amounts of capital (put into generating plants, transmission towers, etc.) to produce each dollar worth of electricity. In the South, where labor-intensive industries (like textiles, apparels and furniture) prevail, the concentration of capital in the utility business is even more important. For example, the Georgia Power Company spends more each year on building new plants than do all manufacturing industries in the state put together. Thus, Georgia Power virtually controls the construction industry, and with it the wage scale of thousands of workers. The power to decide who gets the big contracts for a new $150,000,000 generating plant is another good reason to bring control of the utilities closer to home.

The sums of money involved in the utility business indicate how they match the impact of having a US Steel or a Ford Motor Company spend all its money for world-wide expansion in a few southern states. In 1971, private, investor-owned electric utilities spent over $12 billion in capital expansion (buying new equipment and building new plants), bringing the total net value of their plants up to $90 billion. (Most power companies say they will double their investment in generating facilities in the next five years.) In the same year, the non-profit, rural electrical cooperatives and municipal power systems, which serve 22% of America's electric customers, spent $1.6 billion to build new facilities.* By contrast, the big four auto makers spent only $1.8 billion in 1971 for new equipment and plants, while the top eight steel producers invested $1.2 billion for their expansion.

Relatively moderate-sized utilities like Arkansas Power & Light, Florida Power, or Carolina Power & Light spent more in capital expansion than did Chrysler Motors ($114,000,000); and the bigger ones, like Virginia Electric, Duke Power, and Florida Power & Light, spent three times this amount. The Southern Company, holding company for utilities in four southeastern states, spent more in 1971 on capital expansion in those four states than did General Electric, IT&T or Ford Motor on a world-wide scale!

Because of the tremendous amounts of capital they require, electric utilities have historically been subject to the will of the Yankee money markets. They have to go to Wall Street to borrow their money, and Wall Street is adept at exacting a high price in return. The large banks, insurance companies and brokerage houses demand growing, ever expanding profits on each dollar they invest. In the past, the utilities have met this requirement by promoting the sale of more and more electricity and by making their plants more "efficient." There was little regard for what the consequences of such policies would be, except that they yielded the greater profits needed for more expansion. Today's energy crisis is the product of such private enterprise at work.

The banks still demand growing profits, even though there is virtually no risk in investing in the power monopolies. But utility plants have reached their maximum efficiency, and the costs of new ones have increased astronomically. So the utilities are forced to go to the regulatory agencies and ask to charge the public more money for the same service it is already getting. Whining about increased costs and threatening blackouts, the utilities demand more money to give the bankers so they can continue their policy of expansion. There is no mention of curtailing growth, no rational discussion of a decent rate of expansion, no thought of simply cutting out the profits in the utility business altogether.

But there is one further rub. It turns out that the utilities are effectively owned by the very same banks and financial institutions which they say they must satisfy. It's bad enough to pay Peter a little extra so he can pay the increased interest charge of his creditor Paul, but when Peter is taking our money to pay off himself, that's absurd. The utilities call it "normal"—like your light bill every month.

The solution to all this is more complicated than bringing control back home from "the North" to "the South." Of course, it is important to recognize the degree of control exercised by Wall Street, and it is a valuable organizing slogan that revises the best of the Populist imagery. But there is little progress in just putting southern faces and southern banks in place of the Yankees. What is needed is a restructuring of the entire industry to cut out the profits, cut out the parasitic money market altogether, and put the reins of the company in the hands of people that care about decent service now and for the future. That means people who we see, who live in our neighborhoods, who work with us—people who we can yell at if we don't like what they're doing and who will have to listen. That's accountability.

There are models for such control of utilities, and Joseph Hughes in the following article describes their historical roots and their contemporary application. Two other fine articles that present even more detail can be found in the Spring issue of People's Appalachia, the magazine of the People's Appalachian Research Collective (see "Resources" on inside back cover for address). In the first article, Richard Simon and Roger Lesser provide an imaginative strategy for developing a region economically (for them it's Appalachia and involves financing all types of small cooperative businesses and service units) with the capital generated by popular control of the area's energy companies, especially the electric utilities. Also in People's Appalachia, David Whisnant explores the history of Public Utility Districts, their capacity to provide resources for community development, and the attempt to institute such Districts in Appalachia.

The Georgia Power Project in Atlanta has met with incredible success in organizing against rate increases and for public ownership of the local private utility, as Hughes explains here. Combining the assets of southern regionalism—the precedent of TVA, populist rhetoric and an instinctive disgust for Yankee bankers—the project has been able to raise crucial questions of community-oriented service versus private gain by the few, and at the same time home in on specific abuses of the company, especially racial discrimination, advertising costs, and regressive rates.

The second part of this special supplement is a research methodology guide for investigating your local power company. It is self-explanatory and is included as a resource. It is, of course, applicable to research and organizing of other companies. The particular method and madness grew out of Bob

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*There are 3,500 electric utility systems in the country. Some 450 of these are investor-owned, and of this number about 75 have annual revenues exceeding $100,000,000. More than 2,000 systems are owned by nonfederal public agencies (primarily municipal governments, like Jacksonville, Florida's Electric Authority), about 1,000 are rural electric cooperatives, and 41 are federal government projects. Because of TVA, the relatively large portion of southerners living in rural areas, and the earlier movements for public ownership of utilities, the South has more than its share of the publicly owned utility business. With only 26% of the nation's population, the South has 54% of the residents served by rural cooperatives living within its boundaries, and 50% of the revenues of these firms. Because of the cheaper price of electricity in the South, brought about partially because of TVA and public power, the average resident in the region consumes more kilowatt hours than his northern counterpart, and pays a smaller bill.

Hall's research of the Georgia Power Company in connection with the Georgia Power Project.

Why utilities are important institutions in the South can be seen from the array of corporate affiliations representing local to international power structures, as well as in the impressive assets of these firms and the equally impressive use of their (the rate payers') money in self-serving and/or wasteful ways. The charts in the third section provide this data for each utility and utility holding company serving the thirteen southern states with electricity sales over $100,000,000. The five utility holding companies each have two or more operating companies providing electricity to southerners.

The key at the beginning of the charts explains the meaning of various terms and the sources of the information. Of note are several items: the control by a few northern banks of a significant percent of each company's stock; the small amount of federal income taxes paid by many firms, even though the base rate is 48% of income over $10,000; the discrepancy between the average price of a kilowatt hour of electricity when bought by a homeowner and by an industry; payment of large sums to firms that are also stockholders or interlocked with the board of directors of the utility; and a number of outrageous expenses, like Kentucky Power contributing money to New York University or Florida Power & Light buying football tickets with ratepayer's money, or the country club dues paid by Louisiana Power & Light or West Texas Utilities, or the millions paid for advertising by all the utilities to promote themselves and their product in a time when they say there's an unprecedented energy crisis.

SOVIET ADVANCES INTO SOUTH ASIA MUST BE WATCHED

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. CRANE. Mr. Speaker, while many in the West are being successfully wooed by the Soviet Union's conciliatory words concerning "détente," the actions of the Soviet Union tell a far different story.

Within the Soviet Union itself, a policy of re-Stalinization is being harshly applied. Within the Communist world, Soviet supremacy is more than ever being imposed. Most important, perhaps, is the manner in which the Soviet Union is continuing to pursue its aggressive policies toward non-Communist countries.

At the present time, one of the Kremlin's key goals is the establishment of a Soviet-dominated collective security system in Asia. During his recent visit to India, Soviet Party leader Brezhnev spent much of his time advancing this idea.

Discussing the current Soviet moves in South Asia, Klaus Natorp, writing in the distinguished West German newspaper, Frankfurter Allgemeine Zeitung, notes that:

> The Soviet advance in South Asia deserves all our attention. Were India, a sub-continent of considerable size size and strategic significance, one day to become fully dependent on the Soviet Union the resulting changes would have repercussions.

Mr. Natorp points out that within India's ruling Congress Party:

> Communist infiltration . . . has already made substantial progress. There can be no belittling the danger that this process will continue at an even faster rate. The Soviet Union has no compunction in shamelessly exploiting the relatively feeble . . . resistance of Indian politicians to material temptations.

While we believe that a "détente" is taking place, the Soviet Union is doing its best to expand and extend its own power and influence. Mr. Natorp reports that—

> Soviet expansion in South Asia represents a challenge to the United States. From its outposts in Aden and Somalia the Red Fleet is slowly gaining ground in the Indian Ocean. It may not yet possess naval bases on the Indian subcontinent, but the right to berth in certain ports is a first step in this direction. If the United States proposes to maintain a balance in this part the world it must take prompt action.

I wish to share this important article by Klaus Natorp from the December 7, 1973, issue of Frankfurter Allgemeine Zeitung fur Deutschland with my colleagues and insert it into the RECORD at this time.

SOVIET ADVANCES INTO SOUTH ASIA MUST BE WATCHED

Remembering how persistently the Soviet leaders pursued and eventually achieved their ambition of convening a European security and cooperation conference, it is hard to imagine the Kremlin slackening the pace until such time as it has achieved its equally determined ambition of establishing a collective security system in Asia.

During his recent visit to New Delhi Soviet Party leader Mr Brezhnev recommended the proposal so enthusiastically that even some of his Indian friends felt ill at ease.

The Soviet advance in South Asia deserves all our attention. Were India, a sub-continent of considerable size and strategic significance, one day to become fully dependent on the Soviet Union, the resulting changes would have repercussions for this country too.

This stage has not yet been reached but Soviet influence in India has powerfully inceased in recent years. Mrs Gandhi will doubtless have had her reasons for reminding Mr Brezhnev on more than one occasion in the course of his visit that her country intended to go its own way.

Admittedly, since the conclusion of the Indo-Soviet friendship pact in late summer 1971 India's ability to resist the tempestuous courtship of a Soviet Union bent on closer cooperation has been largely curtailed.

The Soviet leaders expect India to show gratitude for the political and military services rendered during the clashes between India and Pakistan in respect of the separatist movement in what is now Bangla Desh.

The friendship pact with the Soviet Union was highly praised in India two years ago. It gave New Delhi the much-needed backing for an armed settlement of the Bengali crisis. Now the other side of the coin is increasingly coming to the fore.

It not only restricts India's foreign policy leeway, making nonsense of non-alignment; it also creates domestic problems such as those occasioned by the Soviet desire to forge closer links between the ruling parties in both countries.

Congress could hardly resist an offer of this kind. India still has its Communists, when all is said and done, and this move would really embarrass them.

Yet at the same time New Delhi knows well enough how dangerous it is to cooperate with people who abolish democracy wherever they can, replacing it with totalitarian rule.

Communist infiltration of the Congress Party has already made substantial progress. There can be no belittling the danger that this process will continue at an even faster rate. The Soviet Union has no compunction in shamelessly exploiting the relatively feeble, but in view of India's poverty understandably feeble resistance of Indian politicians to material temptations.

Such, then, are the domestic dangers that may ensue from the Soviet bear-hug of India, but they are nothing in comparison with the international political consequences of an unhampered Soviet advance into South Asia.

For years Communist China has been most upset by Soviet activities in this part of the world. For the Chinese the Soviet suggestion of a collective security system is merely another term for encirclement.

This fear may be exaggerated, but there can be no gainsaying that Soviet policy towards India has a strong anti-Chinese flavour. Peking can certainly be expected to try and foil Soviet attempts to canvass support.

Lending support to pro-Chinese revolutionaries already organised in India (and their numbers could readily be increased) would be but one way of putting a damper on Indian enthusiasm about the alliance with the Soviet Union.

Bangla Desh, a potential trouble spot par excellence, could be transformed into an inferno that might well burn India too.

Another possibility would be for Peking to refuse to re-establish normal ties with India. Relations have been chilly, not to say frozen, for many years, although New Delhi would like to see an improvement.

At the same time China might supply Pakistan with such an arsenal of modern weaponry that Islamabad could be tempted to embark on fresh military adventures against neighbouring India.

Last but not least Soviet expansion in South Asia represents a challenge to the United States. From its outposts in Aden and Somalia the Red Fleet is slowly gaining ground in the Indian Ocean. It may not yet possess naval bases on the Indian sub-continent, but the right to berth in certain ports is a first step in this direction.

If the United States proposes to maintain a balance in this part of the world it must take prompt action, especially if the Suez Canal is reopened in the foreseeable future.

In the West a regrettably large number of politicians tend to dismiss India as unimportant. This factor has contributed towards the Indian tendency to seek refuge in Soviet backing. There is still time to counteract this growing Soviet influence.

KLAUS NATORP.

(Frankfurter Allgemeine Zeitung fur Deutschland, 7 December 1973).

PIONEER 10

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. TEAGUE. Mr. Speaker, Mr. Marquis Childs in the Washington Post of Tuesday, January 8, 1974, discusses the important contribution of Pioneer 10 to the knowledge of our solar system. As pointed out in Mr. Childs' article, the benefits of space research and of Pioneer 10 will have a long-term effect on our life here on Earth. Not only does it provide new knowledge of our universe, but it utilizes and nurtures the technology so essential to our national well-being. I commend Mr. Childs' article to the reading of my colleagues and the general public:

PIONEER 10: ADVENTURES IN NASA'S WONDERLAND

(By Marquis Childs)

MOUNTAIN VIEW, CALIF.—For an escapee from the muddied, muddled, quarrelsome atmosphere of Washington, it is an adventure to come here to NASA's Ames Research Center. The journey into space being directed from the center is thrilling evidence of America's scientific and technological leadership. It is a strength which, if sustained, can transcend the political frailties and foibles of the moment.

The Pioneer 10 spacecraft has been traveling for 21 months. Passing within 82,000 miles of the planet Jupiter only one minute off schedule, Pioneer sent back a mass of data about that planet with its radiation belt at least a hundred times greater than the Van Allen Belt around the earth.

While this was Pioneer's primary goal, it is traveling on in space with four more years of communication from a distance calculated to be close to two billion miles. Two years from now Pioneer will be passing Saturn, which is twice as far from the earth as Jupiter.

Nor is that the end of the journey. At one stage Pioneer will be passing Pluto, farthest out of the planets in the solar system. Then, for anyone interested in far-out statistics, for Pioneer traveling at 10 miles per second it is 8 million light years to Taurus. Project manager Charles Hall reports this in all seriousness, since in the frictionless atmosphere of outer space Pioneer can continue, if not with its own nuclear power then with interplanetary pulls, ad infinitum.

Part of NASA's mission under the charter is to explore the potential of intelligent beings living on other planets. On the inner face of Pioneer is a plaque etched in silver and gold plate of two naked humans, male and female, along with mathematical formulae indicating the wave length of our telecommunication system. The theory is that, if Pioneer should crash-land on a distant planet intelligent beings would find the plaque and set out to communicate with the earthlings.

The project science director, Dr. John H. Wolfe, believes that, in the galaxy of the Milky Way with its thousands of stars, beings far superior to earthlings may live with techniques of communication capable of spanning the light years of interstellar space. Wolfe, a distinguished physicist in the complex field of plasma physics, believes strongly in NASA's role in exploring for other life.

In this time of tight money and demands for federal help from every side, the skeptics ask why millions are spent on this fanciful bit. Wolfe has an answer. One of his specialties is the study of solar winds. He sees this as a vast laboratory related to thermonuclear explosions, a source of unlimited stores of energy. Whether it comes in 10 years or 100 years is anyone's guess, according to Wolfe.

Aside from any practical contribution, Pioneer is a great scientific achievement. Except possibly for highly experimental military satellites, Pioneer is the only spacecraft known to run on nuclear power. Four radioisotope thermoelectric generators developed by the Atomic Energy Commission provided 140 watts at Jupiter and should provide more than 100 watts five years after launch.

Pioneer 11, with a different approach to Jupiter, will be launched in April. Already on the drawing boards is Viking, designed to land on Mars and equipped to scoop up Martian soil, analyze it and send the results back to earth, giving clues as to whether life at any level can exist. The cost of Viking is already pushing a billion dollars.

Beyond that is a manned landing on Mars or, perhaps, on one of the satellites of Jupiter—Ganymede or Callisto—where there is a solid base. Wolfe talks about these matters with the assurance of one who has mastered the incredibly complex language of physics and astrophysics.

The scientific brains that have gone into the Pioneer project are one of America's greatest resources. They underwrite the technological-scientific lead that is perhaps this country's greatest asset.

THE SCHOOLS DO MAKE A DIFFERENCE

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. BADILLO. Mr. Speaker, we are in the midst of a period of reassessment and reevaluation of our national educational policies. Pessimistic voices have been raised to proclaim flatly that the schools are not doing the job expected of them, a reaction from the attitude of a decade ago that the schools would play a fundamental role in solving all the problems of our society. In finding their highest expectations unrealized, some educators and laymen have gone so far as to declare that our schools are not functioning at all.

Taking a more optimistic tack in this renewed debate is Dr. Alan Purves, professor of English education at the University of Illinois, who in the January 16 edition of the New York Times reported on the conclusions of a recent conference of the International Association for the Evaluation of Educational Achievement. In this meeting the association, which has been testing students in various countries for 14 years, found that the quality and emphasis of different types of schools does indeed have a measurable impact on the students' skills and perceptions.

The conference, held at Harvard University last November, did not ignore the role of home and community in the development of the individual, but the identifiable differences it found in such subject areas as foreign language and science underscore the pivotal role of education for the individual and for his society.

I insert Dr. Purves' article in full at this point to share with my colleagues the promising message it contains to support those of us who believe that support of our Nation's schools is vital to our future:

SOME OPTIMISM JUSTIFIED

(By Alan C. Purves)

During the last decade, there has been a continuing re-evaluation of the effectiveness of schools.

Before the nineteen-sixties, schools were thought of as places that produced scientists and patriotic citizens, that could close the arms gap and transmit the nation's culture to the young. Most particularly, schools were thought of as the entrance gates to higher incomes and social equality.

Parents looked to schools with hope and school people looked at themselves with pride.

But a series of reports, beginning with James S. Coleman's "Equality of Educational Opportunity" in 1966, seemed to contradict that sense of pride. Now, from a mood of optimism about education, many people have become deeply pessimistic about whether schools can do anything.

As the assault on schools unfolded, a group of researchers from many countries formed the International Association for the Evaluation of Educational Achievement. First nurtured by UNESCO, then forming a separate organization, the association believed that the evaluation of education had to be viewed in a broad perspective—across national boundaries.

From 1959 to 1973, the group worked at testing the achievement of students in different countries. The first report, on mathematics, was completed in 1967. But the major task has been a survey of achievement in six subjects: reading, science, literature, civics, English as a foreign language and French as a foreign language.

The initial newspaper accounts of these studies seemed to support the contentions of the pessimists. However, an analysis of the contents at a conference held last November at the Harvard University School of Education produced a consensus that a mood of cautious optimism about schools was more warranted than pessimism and that a great deal more sifting and thinking was needed.

The major findings of the association's reports might be summarized as follows:

There is a generally consistent relationship between the social class of a student and that student's relative achievement, particularly in reading.

The relationship between social class and achievement is not consistent from country to country or from age group to age group.

Students acquire much scientific knowledge, patterns of social attitudes, foreign languages and patterns of approach to literature in schools.

Differences in achievement between students from different social classes are paralleled by differences in achievement between industrialized nations and developing nations.

Whether a country has a selective school system like France's or an open one like that of the United States, the top students at the end of secondary school perform equally well.

With all the complex statistical mechanisms and refined data that is used, the association could find an explanation for only half of the variation between a good student and a poor student, between a high-achieving school and a low-achieving school.

Schools are very complex institutions that interact with the community and serve in complex ways that researchers do not fully understand.

SEVERAL MESSAGES FOUND

Throughout the Harvard conference, it was agreed that the results of the association's studies conveyed several different messages, depending on who was asking what. There are messages for students, for teachers, for curriculum-issuers, and for policy-issuers.

One series of findings will be of some hope to students. Schools that place great emphasis on memorizing literary works are schools whose students seem less able to read literary work with some perception. Similarly, schools that place heavy emphasis on patriotic ritual are schools whose students do less well on tests of knowledge of how government works and whose students demonstrate fewer "democratic" attitudes. A related finding in science indicates that, for older students, student-directed or initiated inquiry enhances student learning.

The first message for teachers is that, despite many of the slogans about schools not making a difference, the association's studies indicate that some schools do a better job than others in teaching students foreign languages, science, literature and certain aspects of civics.

Teacher training in the subject matter was particularly important regardless of the subject. This importance increases with the grade level of the students. Teachers need to know the subject they are teaching. In foreign language, the teacher's proficiency in that language enhances student learning, as does the teacher's use of the language in instruction. Concern and commitment to their profession on the part of all teachers also plays a part in the achievement of their students.

The final point for teachers is the truism that it is easier to deal with good students than with poor ones. The performance in literature and science of the top 5 per cent of secondary school students in industrialized nations is uniformly high. These students seem intelligent and interested and they have learned what it was intended for them to learn. They also tend to come from well-to-do homes and to be in academic schools.

At the end of secondary school in some countries, however, these are the only students still in school. In countries like the United States there are many others in school, and their performance on the tests represents a wide range of achievement. The lower half of the group seem to be uninterested in the subject or in school, and one suspects that too many in the school are uninterested in them.

At one remove from the teacher exists the group that decides what is to be taught and, in some instances, how the teaching is to be done. These curriculum-planners have for the last 20 years been on the as yet fruitless quest for some philosopher's stone that will give all children the skills and attitudes of an intelligentsia overnight or at least in six easy lessons. The association's studies uncover no philosopher's stone.

The studies pry loose some chips from that stone, perhaps. The biggest one is the operating curriculum (what actually goes on in the classroom). In science, for example, each country submitted a syllabus drawn from the reported practices of schools and teachers or ordered by some central agency. The tests were based on an aggregate. In each school teachers were asked whether their students had an opportunity to learn each of the items on the test. Often the teachers reported that students had no opportunity to learn topics that were part of the official syllabus. Needless to say, opportunity to learn predicts the students' achievement scores well. Regardless of what an administrator says is being taught, students only learn things that teachers actually teach.

In literature there is a similar result. Teachers and students were asked to select aspects of a literary work (characters, plot or mood) and critical approaches (historical, thematic, personal or evaluative) that they thought most important. At the age of 14, when most students are just beginning the formal study of literature, there were few clear patterns of choices of critical approach. By the end of secondary school, students in each country tended toward one or two sharply defined approaches preferred by the teachers. Students in Italy chose a historical approach; in the United States, a symbolic or moralistic approach.

As in science, there is a clear tendency for students to learn what is presented them in class more than what the official syllabus says are the goals of education.

This tendency is supported in the foreign languages, where students were tested in reading, writing, speaking and listening. It has long been advanced that if one teaches reading and writing, the oral skills will follow, or, more usually, if one teaches oral skills, reading and writing will also be picked up. The association's studies disclose that students taught with an emphasis on one set of skills will learn that set, but that there is little indication of a transfer of learning.

There is one clear message for those who make educational policy (governmental officials, school board members, voters and taxpayers): Despite all the gloom, there is no need to give up hope for the schools.

All of the association's studies point to the conclusion that schools do indeed "make a difference." As Marshall Smith (one of the collaborators with Christopher Jencks on "Inequality," the book that caused a sensation in 1972) said at the Harvard conference:

"Data from I.E.A. indicate that by the age of 10 or so almost all children tested can carry out the basic function of decoding and have some minimal comprehension skills. It seems reasonable to assume that schools play a role in transmitting such knowledge, and that without school opportunities to learn, it would be distributed with much greater inequality."

The effect of school is a cumulative one; earlier schooling is the foundation for later learning. Of particular importance is the length of time a student has had to study a subject.

There is, however, clear indication that many educational systems are socially biased. The percentage of students from professional and managerial families increases and that from unskilled and semiskilled workers' families decreases across the school years, so that by the end of secondary school in the United States the ratio is 5 to 1 in favor of middle-class families.

MANY EXCLUDED FROM THE TOP

Those middle-class students are the ones who do well. In many other countries only a small percentage of the 18-year-olds is even in school. Unlike the United States with its retentive system, these countries exclude many from the chance to rise to the top of the academic ladder. As Torsten Husen showed at the Harvard conference, the claims for superiority of the selective system are ill-founded because the best students in the United States do just as well as the best students in the selective system.

Even so, the relationship of achievement to social class, and particularly to parental education and such factors as the number of books in the home, persists in most subjects and at all age levels tested. This relationship applies not only to individual students but also to schools. The average performance of students in a school seems to be related to the socio-economic milieu of that school; in this country suburban middle-class schools have higher performing students than do inner-city or rural schools.

The relationship even extends to countries; the highly developed nations were uniformly superior to the developing nations (Chile, India, Iran and Thailand) that took part in the study. Within and between countries, the tests and the curriculums they represent favor the students who "have."

Another kind of educational discrimination appears. The association's studies in science and literature raised the possibility of examining the hypothesis of C. P. Snow that there have emerged "two cultures," scientists and humanists. In all of the countries that tested both subjects, it was quite clear that boys outperformed girls in science, and girls outperformed boys in literature, although there is little difference in reading scores.

The "two cultures" seem sex-linked, and hints that this result is not of genetic origin lie in the fact that the disparity between girls and boys increases during the secondary school years. Industrialized society seems to have engendered a sexual bias, and schools have either perpetuated it or done little to counter it.

Through all the studies there is one theme: Schools are a part of their social and cultural environment in two ways. The literature and civic studies show that students acquire patterns of criticizing literature and patterns of political attitudes. These patterns differ from country to country. Schools appear to be a major means of transmitting these patterns.

The schools also appear to interact with their environment, particularly in educating (or not educating) most children. If a nation is concerned with educating all, it must pay attention to all.

WIDE COOPERATION URGED

The association's findings indicate a need for school systems to cooperate with parents and other groups in the community to provide for the total education of the child. At the Harvard conference, Ralph Tyler, the dean of modern curriculum thinking, said:

"In most if not all societies, children and youth learn more of the behavior important for constructive participation in the society outside of school than within. This fact does not diminish the importance of school but underlines the nation's dependence on the home, the working place, the community institutions, the peer group and other informal experiences to furnish a major part of the education required for a child to be successfully inducted into society. Only by clear recognition of the school's special responsibilities can it be highly effective in educating its students."

The association's studies point to some of the school's special responsibilities; certainly they indicate that schools and community must work in concert. Cries that "the schools don't do anything" and that "we can't do anything if the children come to us like this" are fruitless and only hinder the potential education of children.

SAVE ENERGY—ELIMINATE COMPRESSED AIR WASTE

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ANDREWS of North Carolina. Mr. Speaker, the vice president and general manager of the fluid power division of the Scovill Manufacturing Co. is Mr. Donald W. Sicklesteel of Wake Forest, N.C.

In a letter to customers earlier this month, Mr. Sicklesteel offered advice on how to save vast quantities of oil, coal and natural gas by eliminating compressed air wastage in manufacturing facilities.

According to him, about 10 percent of compressed air used by industry is wasted, and this means an annual preventable loss of 100 million gallons of fuel oil, or 1.2 billion pounds of coal, or 15 billion cubic feet of natural gas.

Mr. Sicklesteel discusses at least five major causes of compressed air loss in his letter, which I am inserting at this point in the Record to acquaint my colleagues and others with his valuable energy-saving suggestions:

Scovill, Fluid Power Division,
Wake Forest, N.C., January 10, 1974.

Dear Customer: We are all aware that the first concern of American industry today is how to make the best use of available energy and energy fuels. Not only is this good business and good corporate citizenship, but it could come down to a matter of sheer survival.

Anyone who knows how to stretch out available fuel supplies should share his knowledge. Accordingly, as a manufacturer of air control equipment used on automated production lines, we feel a strong responsibility to spread as widely as possible the awareness that improper handling of compressed air is a major source of loss of industrial energy and fuel, and to work for the minimizing of this loss.

Our experience, based on many plant surveys, shows that about ten percent of compressed air used by industry is wasted, one way or another. This translates into an annual preventable loss of 100 million gallons of fuel oil, or 1.2 billion pounds of coal, or 15 billion cubic feet of natural gas. We base these figures on a conservative estimate of 20 million horsepower compressor capacity in the United States.

The value to industry of compressed air is unquestioned, with uses in virtually all phases of manufacturing operations. Pneumatic energy can be stored for instant high demands; it is flexible; fire hazards are at a minimum; it is clean; it produces high power for its unit size, and it is safe—no one has ever been "pneumaticuted." Yet improper air handling can result in substantial dollar losses as well as fuel losses. Fuel alone represents about $30 million annually at today's prices. And industrial air is anything but free, as you know, costing industry about 12 cents per 1,000 cubic feet at 100 pounds psi. Conversely, proper air handling means more efficient operation with corresponding reduction of capital outlay for worn-out equipment.

A survey of a plant's pneumatic system can uncover at least five major causes of compressed air loss:

(1) Leaks in pipes, couplers, hose fittings, packings and seals. A find-the-hiss leak hunt will turn up worn-out parts. A five-cents packing or seal replacement can pay for itself a thousand times in a year.

(2) Improper pressure for job requirements. When line pressure is 125–175 psi, and the job needs only 80 psi, the appropriate regulator will provide the air-saving adjustment.

(3) Improper component installation. The use of automatic valving permits air to be used only as needed, rather than steady, wasteful blasts.

(4) Excess condensation in lines reducing tool efficiency and encouraging purging of lines by air to remove water. Air line dryers and filters remove water from lines and prevent further condensation.

(5) Inadequate lubrication of equipment. This is overcome by installation and monitoring of air line lubricators which inject atomized oil into the air stream that properly lubricates valves and air tools.

There are other products designed expressly to effect savings, such as a blow gun with an aspirator nozzle that adds surrounding air to compressed air going through the gun, thus requiring less air volume from the compressor. Changes in compressed air systems can be made to obtain significant savings, such as by installing an extra regulator to return air cylinders at lower pressure to their starting point. Conceivably, such system modifications could result in as much as a forty percent air savings on a given installation.

We would be pleased to send you our selector chart for choosing optimum equipment for a particular job or to correct wasteful installations. And, of course, we can supply our specialized expertise for consultation. Just say the word. We'll be glad to reply.

Sincerely,

DONALD W. SICKLESTEEL.

THE NEED FOR REPRESENTATION OF THE POOR IN OUR NATION'S POLICYMAKING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. RANGEL. Mr. Speaker, on December 4, 1973, I sent a letter to President Nixon asking him "Why those in his administration with responsibility for programs for the underprivileged in our society, such as the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, and the Director of the Office of Economic Opportunity, have been excluded from the Special Energy Group you have established to plan the national response to the energy crisis?"

I feel that the inclusion of Secretary Weinberger, Secretary Lynn, and OEO Director Arnett are necessary so that those officials will have the opportunity to inform the President and his energy advisers of the need for special planning to assure that the economically disadvantaged people of this Nation and their special needs are represented in these energy policy meetings. Inner-city residents live in older homes and apartment buildings that are heated with fossil fuels by furnaces that are outmoded and inefficient. Insulation is often poor or nonexistent, ceilings are high, there are no storm windows. It thus takes more fuel to maintain a livable temperature in homes in the inner city during the winter than elsewhere.

Eddie N. Williams, the president of the Joint Center for Political Studies, speaks to the problem of inclusion of the poor in policy planning in a commendable article in the December issue of Focus, the center's monthly newsletter. I present this article with the hope that the directions indicated by Eddie Williams and the joint center will lead to representation of the interest of the minorities and poor of this Nation in policymaking at the highest levels of our Government.

PERSPECTIVE

(By Eddie N. Williams)

Playing catch-up is too often the vulnerable posture forced upon blacks and other minority groups on national policy matters. When problems have already been diagnosed, programs formulated, and policies outlined, our only remaining option is to react. Seldom do we find the openings to get in on the ground floor of policy-formulation or to make a systematic input before decisions are cast in concrete.

The result, of course, is that public policy debates seldom reflect intelligent minority perspectives (special revenue sharing and housing are good examples), and they often lead to programs which, if not detrimental to minority interests, run the unnecessary risks of alienating minorities, frustrating their will, and provoking their hostility and opposition.

In such circumstances, it is the public interest which suffers in the long run. This is true, notwithstanding the feeble arguments put forth that the minority perspective is taken care of in the broader considerations given public policy issues by the traditional white think tanks, task forces, university centers, and special interest groups. While such arguments beg many questions about the insidiousness of racism and discrimination, they also miss the real point. The point is not whether whites can speak intelligently and fairly about black or minority needs. Rather, it is whether informed minority perspectives, articulated by knowledgeable minority spokesmen, are important and ought to be considered as well.

The energy crisis, for example, despite its foreboding implications for the nation as a whole, is but the latest long-range issue which begs for a clear minority group perspective. Are President Nixon, Governor John Love, Melvin Laird, or the white think tanks and special interest groups speaking for blacks and the disadvantaged on such issues as the following?

If a rise in national unemployment results from the energy crisis, blacks no doubt will be disproportionately affected. A gasoline tax would place a relatively greater burden on the poor than would rationing. If the price of fuel increases, would it be feasible to subsidize the poor's use of essential fuel? Is court-ordered busing to be a casualty of the energy crisis? It is one thing to appeal to Americans, on the basis of patriotism, to turn their thermostats down to 68 degrees, but it is quite another to appeal to those Americans who cannot afford to turn their thermostats up to 68 degrees.

Clearly there are issues inherent in this national problem, as well as others (housing, land use, communications, population redistribution, to name a few), which could be focused more clearly with minority group input. The question is why aren't we making a greater input.

Because of our lot, we have been forced to deal more with immediate, survival problems than with long-range issues which will impact down the pike. Another reason for our lack of input is that we seldom have the resources to amass the research and hard data which will arm our spokesmen and attract the attention of national policymakers.

The latter has always been a problem, but it is more crucial today with the impressive increase in the number of black elected officials. These leaders are on the front line of decision-making, and they must be armed with facts and figures which will help shape policies and programs while they are on the drawing boards. They need an early warning system which will alert them to onrushing problems, suggest to them what the basic questions are, from the standpoint of their constituents, and provide an underpinning for their attempts at problem-solving. What this suggests is that we must begin to encourage foundations and other funding sources to make substantial investments in the development of policy analysis programs in our colleges and universities and in our research-oriented centers and organizations.

On our part, the Joint Center plans to initiate a modest policy analysis program in 1974. If we can be successful in harnessing the creative abilities of black scholars and elected officials, we can help establish the basis for more systematic input of minority views during the early stages of policy development. At least we can help cut down our reaction time.

COMPULSORY ANNUAL PHYSICAL FOR COMPREHENSIVE HEALTH CARE

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. DULSKI. Mr. Speaker, as hospital and medical costs continue to spiral upward, there is increased impetus for a national comprehensive health insurance program. A number of different plans have already been proposed, and others will be forthcoming in the next few weeks.

An essential part of any such health program is preventive care, with emphasis on a yearly physical examination. The case for a mandatory annual physical is convincingly stated in the recent Statewide Senior Action Newsletter.

Editor Dwight H. Warren, chairman of the board and corresponding secretary of the Council of Senior Citizens Clubs of Buffalo and Erie County, has personal knowledge of this, and I would like to include his remarks from the January 1974 newsletter:

STATEWIDE SENIOR ACTION NEWSLETTER

Attention: All Legislators—national, State, and local—An annual physical is an essential part of any comprehensive health insurance program.

CANCER

According to American Cancer Society, "If current rates continue 50,000,000 now living, one in four persons, will get cancer. As of now one out of three can be cured. It would be one out of two with early diagnosis and prompt treatment." Over 8,000,000 more lives could be saved by early diagnosis and treatment.

BLINDNESS

The National Association for the Prevention of Blindness states, "half of all blindness is needless." The most frequent cause of blindness is glaucoma. "1,700,000 American are being attacked by glaucoma. Yet for the most part they are doing nothing about it. 850,000 Americans could be saved from blindness by early diagnosis and treatment.

HEART ATTACKS, STROKES, AND KIDNEY FAILURE

According to an article in Readers Digest, "High blood pressure is the largest contributing cause of death in the United States today. It finally kills more than a million Americans every year thru heart failure, stroke or kidney failure. Impossible to treat? On the contrary—of all known risk factors for needless early death this is the one for which evidence is clearest that treatment can be lifesaving. The real problem is that most of the 24,000,000 Americans who have high blood—don't know they have it. The National Heart and Lung Institute has now mounted a massive campaign to find and treat sufferers.

What is true of the above most serious health problems is usually equally true of less serious ailments. The solution is a national health program insurance program which requires an annual physical checkup.

COMPULSORY HEALTH INSURANCE

We now have compulsory car insurance which requires keeping one's car in proper condition so that it may not do injury to others. Perhaps we can not compel a person to protect his health but if he would participate in an insurance program we do have that right in order that others may not be compelled to pay for his failure to protect his health.

Citizens must be educated to the need of placing emphasis on keeping well instead of being concerned only if they are ill. Selfish and uniformed sources will continue to stress the cost of an adequate health program overlooking the fact of the tremendous savings in expense and elimination of needless suffering.

AN OUNCE OF PREVENTION

From the figures given above we can deduce the truth of the old adage, "An Ounce of Prevention is Worth a Pound of Cure". An annual physical with required remedial treatment would reduce considerably the cost of medical treatment, not to mention needless suffering. 83 billion was spent for medical treatment last year. This is a tragic waste of human resources.

I feel I have given adequate information as to the desperate needs of an annual physical as a means of reducing the 83 billion for medical care in the United States each year. Anyone who expects the government and society in general to pay the bill should take all necessary steps to remain healthy. A compulsory health examination should be a requirement of every health insurance program. The following personal observations of the writer are given as evidence such an examination should be made compulsory if a person desires health insurance.

CANCER

A doctor with whom my wife worked for years, recently told her with very bitter tears that his daughter died of breast cancer after a long and agonizing experience. Everything possible was done for her. He said her suffering and death could have been prevented if he had known it in time. She didn't tell him about the growth until it began to cause pain. Her father and brother are both doctors but they didn't know she had cancer.

STROKE

A garage mechanic who worked on my car is a semi-invalid for the rest of his life. Three years ago he was an active, energetic man of 49. Now he is a semi-invalid suffering from the effects of a stroke. He had high blood pressure and didn't know it. His own nephew is a doctor.

HERNIA

As a result of relating the following experience at least a few of my acquaintances have been alerted to the need to take remedial measures. A physical examination revealed I had a hernia. I did not realize the consequences of it until after it bothered me so much that I had it repaired some ten years later after it was first discovered. About a year later I suffered from internal bleeding resulting from those years of neglect. I was rushed to the hospital and almost bled to death. This too could have been prevented if I had been made aware of the consequences.

COMPULSORY HEALTH INSURANCE

I honestly believe the old adage is true, an ounce of prevention is worth a pound of cure. Translated into dollars and cents that would mean a billion dollars spent in preventing disease might save 16 billion in terms of hospitals, nursing homes and long-term illness. It is up to us to insist that those in a position to do something about it, take action.

REPRESENTATIVE REUSS ON THE STATE OF THE ECONOMY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. REUSS. Mr. Speaker, I offer here remarks I made on January 7, 1974, before a student convocation at the Utah State University in Logan, Utah, under the auspices of the Milton R. Merrill chair of political science. The presiding officer was Sherman P. Lloyd, this year's Merrill professor of political science and well remembered as our former colleague.

The remarks follow:

THE STATE OF THE ECONOMY

This is one of a series that my old friend and former colleague, Professor Sherman Lloyd has arranged to have a look at the economy of our country today, how was it last year in 1973, what is it going to be like this year in 1974. I understand that last Friday Senator Wallace Bennett was before you. One of the differences, I suppose, between Republicans and Democrats, liberals and conservatives, is that they can look at the same facts and draw different conclusions. Probably the observations I'm going to make today are somewhat different from those that were made last Friday. That's the point of a university, and that's the reason for a series like this.

Looking back at 1973, and putting to one side some of the political horrors we've been through—the Watergate, wars in the Middle East, threats of war—just looking at our economy—the jobs people have, the price people have to pay in the market for the goods they buy, the interest rates people have to pay—1973, I'm afraid, must go down in history as pretty close to being a disaster.

What happened was that we had an absolutely horrible increase in the cost of living, by the time the year ended almost 9 percent, with particularly strong blows on the chin in just the commodities that the average person particularly needs—food (you've got to eat), fuel (you've got to keep warm and drive a car), medical care (you've got to go to the doctor from time to time) interest rates (you need to pay the interest on your installment purchase or on your home)—these are where the biggest increases in the cost of living occurred. And that meant that the average person, whose income was in the lower half rather than in the upper half of family income throughout the country, somebody with a family income of, say, $13,000 a year or less, took it particularly on the chin.

These are the families under wage control. Salaries and wages were only increased 5½ percent on the average, whereas the cost of living went up 9 percent. That means that you end up 3½ percent behind the eight-ball, because your cost of living has gone up faster than your wage. Such is the unhappy lot of the average American.

As you get up into the upper brackets, of course, the food you buy, the gasoline you buy, show the same increase in price as for a less affluent person. But, since you use a much smaller part of your income on necessities, you come out with much less pain and hardship.

Now, having said that the big economic fiasco of 1973 was our 9 percent inflation, I don't mean to come here and tell you that if I had been running things, we would have had zero inflation, I would have liked to have had zero inflation, but given all the disturbances over the world, that was impossible.

But sensible policies could have held the inflationary sock on the chin that we all experienced to something like 3 or 4 percent. And if that had been true, then the wage-earner and the lower income salary-earner would have had a much easier time of it.

But what happened during 1972 and 1973? Well, food costs went up, for a variety of reasons. One of them was that the Department of Agriculture, for months and months, despite remonstrances from me and others, refused to let cattlemen graze their cattle in the 60 million acres in this country which had been idled under the agricultural program. As a result, fewer beef cattle came to market, and the price increased. Again, as recently as just a year ago, the Secretary of Agriculture was sending a bulletin out to the turkey growers of this country, advising them to keep down the increase in production of their turkeys, and to keep the price up. They took his advice and this Thanksgiving and this Christmas, a turkey cost per pound almost double what it had cost the year before.

Or take the case of milk and dairy products, of interest in my state of Wisconsin and of interest to the Cache Valley. The price of dairy products has of course gone up. And one of the reasons is, as you have read in the scandal section of your newspaper, is that the lobbyist for the milk producers wrote a letter to the President saying, "Look, we want the price of dairy products raised, we want import quotas maintained, and we've always done pretty well, President Nixon, under the Democrats, so we'd like to give you a million dollars for your re-election campaign (this is before the 1972 election). So how about fixing us up with a nice price increase on dairy products?" There were several meetings, and lo and behold, and over the advice of some of the professionals in the administration, the request was granted, the money was paid, or at least $300,000 of it. This is being looked at by the courts today. But, as a result, the American consumer of milk is now paying more than otherwise would have been the case.

Or take the fuel problem. Heaven knows our problems of energy are made worse by the blackmail and extortion now being practiced in the Middle East by the sheiks of Araby. But much of this was brought on by ourselves. The oil industry, in the 1972 campaign, was far and away the largest contributor to the President's re-election campaign; some of it in suitcases, some of it in envelopes, some of it taken down to Mexico to be laundered before finally delivered, some of it illegally emanating from the corporate treasuries of the oil companies. Put it all together, and when the great umpire has finally taken all the bodies of the players off the football, so you can see where the ball is, it turns out that almost five million oil dollars found their way into the Nixon campaign coffers. The oil industry wanted certain things. They wanted quotas kept on the oil imports into this country, and despite the recommendation of loyal administration figures like now Secretary of the Treasury Schulz, who advised modifying the import quotas in 1970, this wasn't done. It wasn't done until a few months ago, in fact. And so, instead of having a nice stockpile of Middle Eastern oil in this country against the days when the Arabs might want to cut it off, we had practically nothing. The price got a start toward getting higher and higher, as a result of these policies. So, because import quotas were kept on oil, refinery capacity in this country was not increased. And this, while not the sole cause of our energy crisis by a long shot, played its part.

I mention what was done in food and in fuel to back up my point that while part of the 9 percent inflation from which we are suffering is inevitable, a large part was manmade, and a large part is inexcusable, and the American people are now suffering for it. We're also suffering because of vacillation in Washington. Last January, just a year ago, the price-wage control program, having worked extremely well, for some reason never satisfactorily explained—maybe it was just because it seemed to be working well—was all but disbanded by the administration. Prices from last January started shooting up, and then, as so often happens, in May and June, the administration overreacted in just the opposite direction. Prices and costs had gotten way out of line. The President then slapped an across-the-board freeze on all prices. Of course this had disastrous effects, farmers quite understandably refused to bring their products, notably meats, to market. And shortages began to appear in dozens and dozens of commodities. So if you look at the whole history of inflation-fighting in the last year or so, you find that it was a series of bad judgments and a series of very questionable deals which led to so large a portion of it.

And then, 1973 neared its end, and we began to run into what has become to be known as the "energy crisis," matters, if anything, grew worse. The prices of commodities increased, and the ugly first symptoms of increasing unemployment came to be seen. TWA Airlines had trouble getting jet fuel, and so cut back on its flights, and that meant that hundreds and hundreds of stewardesses were fired. General Motors found that it could no longer sell all the huge gas-guzzling automobiles that it had planned to make, and so men and women were laid off the production line, and unemployment has begun to nudge ominously upward.

Well, where are we now in the first month of 1974, and what is to be done? I can be sure of this: if we do nothing, if we persist in trying to sweep these problems under the carpet, if we say that all will work out in the end, I can assure you that the consequences will be very serious indeed. I'm very much afraid that our inflation is going to continue unbridled, that it could reach another 8 or 9 percent in this year of 1974, with even worse consequences than last year. Unemployment, despite lots of rosy-colored predicitions out of Washington, could also become very serious, as bottleneck after bottleneck develops in the economy, and men and women are laid off because they either lack the raw materials or because due to the laying off of still other persons, there isn't a market for the goods and services they're producing. We have had before our Joint Economic Committee just in the last couple of weeks economists from all the great universities of the nation. Some of them testified that unemployment could be as high as 8 or 10 percent this year if nothing is done.

Having dangled these horrors before you, let me assure you that as far as I am concerned, something will be done. And there are many things that can be done to contain the inflation and to contain the unemployment that otherwise lies before us.

On inflation, I think the time is past when it is desirable to try to maintain a complete apparatus of price-wage control across the entire economy. That's simply too restrictive, and the "on again-off again" conduct last year has made that as impossible as it is undesirable. However, I think we do need to maintain some sort of a price-control apparatus, and there I like the idea proposed by Dr. Arthur Burns, chairman of the Federal Reserve Board, who suggests that there be a more or less permanent price-wage board to examine inflationary increases in those industries that are characterized by huge firms and huge labor unions. Roughly speaking, there we mean automobiles, petroleum, certain heavy chemicals, steel, aluminum—those industries, by in large, where just a handful of companies control the majority of production, and where huge unions are pretty well able to dictate their own wage terms and have those wages passed on in the form of increased prices of the end product. There, Dr. Burns thinks, and I agree, that we need a permanent board to examine existing and proposed price increases, to evolve guidelines, and if it comes down to a crunch, to actually issue mandatory orders.

A second thing which I think is very important: I'd like to see the federal government set up what you might call a "price ombudsman"—a fellow who represents the forgotten consumer, and does his best to see that prices are kept within reasonable bounds by making himself knowledgable on the various industries, and doing whatever is needed to secure maximum supply and the lowest possible prices. If we had had an ombudsman in being, he would have gone to Secretary of Agriculture Butz a year or two ago, when Secretary Butz was keeping beef cattle out of the grasslands, and was telling farmers to raise fewer turkeys, to challenge the good Secretary on just that point, and maybe induce him to make a little more sense in his policies. An ombudsman, too, would go before the Interstate Commerce Commission, when the Interstate Commerce Commission seems to be up to its old tricks of actually raising freight rates, to try to get lower transportation rates. An ombudsman would see to it that our medical schools in this country are put in possession, through federal legislation, of the funds needed to expand their medical, nursing, and paramedical offerings, so that we can have enough skilled health personnel in this country to meet the needs of the people. One reason you are constantly reading about some roentgenologist making $300,000 a year out of Medicare is because there simply aren't enough of these specialists in the country, and thus there isn't enough competition. There ought to be.

The ombudsman would have a function, too, on the problem of gasoline and oil. We ought to have an independent figure serving the public in a government which is much to much dominated by the oil companies. Take a principle current issue: the Cost of Living Council, in Washington, last month allowed the American oil companies a dollar a barrel increase on their so-called "old" crude oil, not because they've had any cost increases, but simply, as the Cost of Living Council explained, because the Arabs were getting their extortionate rake-off over in the Middle East, so why shouldn't our oil companies be allowed to do the same thing? The answer I'd give, is: Sure, the oil companies need profits. Sure, they need an incentive to explore for new sources of energy. They already control not only the oil, but most of the coal, much of the uranium, much of the natural gas, but that doesn't mean we have to turn the United States of America over to them. It's enough, I think, if we give them absolutely no ceiling on the new oil that they bring in. That should be sufficient incentive to do all the drilling, and refinery building, and pipeline laying and new forms of energy researching and developing, that is needed. So I would hope that if there were some ombudsman, some Johnny Appleseed, some Mr. Represent-the-Public type around, that he would try to work for a policy in which domestic oil doesn't get an absolutely unconditionable, exorbitant price increase. Heaven knows there are going to be enough price increases in oil products anyway, because of the import situation, and the need to discover, at higher prices, new sources. But that doesn't mean we need to go wholly overboard.

What of the Federal Reserve, and money? The Federal Reserve, as you economic students know, creates new money—checking accounts, and the currency in your pockets—by acting on the banking system. By and large, it is a sensible rule, I believe, for the Federal Reserve to create new money at a rate no greater than the economy can grow, 5 or 6 percent increase a year ought to be about the limit, because if at full employment you print up more money than that, figuratively speaking, you're going to make the wheels of the economy spin too fast, and instead of getting more goods you are just going to get higher prices. I'm very hopeful that in this year of 1974, the Federal Reserve will create about just the right amount of money, which I should think ought to be at the upper limits of the band of 2 to 6 percent new money. I have confidence, incidentally, in the present chairman of the Federal Reserve System, Dr. Arthur Burns. From conversations I have recently had with him, I believe that his view of Federal Reserve policy and my own are not far different and I would think that whatever may be the problems of our country in the year ahead, a crazy monetary policy will not be one of them.

Let's now turn to the remaining aspect of what makes for inflation or deflation in this country, namely, federal spending. My own view is that one wants to be very pragmatic about federal deficits if the country is in a recession. If factories and farms in this country are producing less than they are capable of producing, if we have plenty of raw materials, plenty of machinery, plenty of skilled manpower who aren't working, then running a deficit in the federal budget, far from being bad, is good. It's what you've got to do. You've got to create more activity, otherwise you are just going to have more unemployment. But that, unfortunately, is not the situation which now confronts us. The situation which now confronts us is a situation where in many sectors of the economy, we're running at more than capacity. Partly this is due to the energy shortage, partly it is due to the hyper-thyroid economic development of just the last couple of years. Therefore, it does not make sense, and I say this as a liberal Democrat for whom spending is in no way a bugaboo, for the government in Washington to embark upon a wholesale spree of creating ever greater budget deficits.

So much on inflation. Now a word on jobs. As I have said, unless we do something, unemployment is going to increase very drastically. But I don't think the thing to do is to try to create a new general boom in this country by running a huge budget deficit, or by printing new money as if it were going out of style. But neither do I think it's a good idea that we just stand by and see unemployment grow. In the situation that faces us we must take active steps to see that men and women, old and young, aren't alienated from their society, and from their bread, by not having a job if they're ready, willing, and able to get one.

So I think what the government has to do is to embark upon a public service jobs program in which at the state and local level, people who don't have jobs are hired at decent prevailing wages to do work that needs to be done, in the field of health, in the field of education, in the field of public safety, in the field of conservation, in the field of redevelopment and humanization of our cities. To me it's just criminal that a medical corpsmen, back from the wars in Vietnam, is walking the streets of my home town of Milwaukee today, looking for a job as a paramedical orderly at a hospital, and the hospital can't hire him because it doesn't have the wherewithall to do it. It's a crying shame that in all our big cities citizens walk in fear of their lives because there aren't enough old-fashioned police patrolmen walking the streets to see that law and order is maintained. Let young men and women walk the beat with a uniform, perhaps without a gun for a while, as a para-legal police personnel, and you'll find that the crime-in-the-streets rate will drop. The cost of this program is really remarkably low, because every dollar you spend goes directly into the pockets of someone who would otherwise be a welfare or an unemployment insurance case.

I'm talking about a program of, let us say, 500,000 public service jobs. Your parents will tell you that back in the depression, in the 1930s, the Civilian Conservation Corps, a public service employment program, just for young men, and just in the field of conservation alone, employed some three million young men. Today some of the greatest leaders in American life got their start as breadwinners, and got the feeling that they had a contribution to make to American society, because of the CCC. Congressman John Blatnik, who is now chairman of the Public Works Committee, got his start in life as a kid in the "Cs" back in the thirties. So, let there be a public service jobs program, accompanied by programs to develop new sources of energy, in home building, in conservation, and I don't think that we're going to have anything to fear from added unemployment. But if we do nothing, I can assure you that we have plenty to fear.

We are confronted with the stubborn fact: about one-half of the American people, our brothers and sisters, are alienated because they feel they're being ripped off by a society in which big government and big business looks out after its own interests and leaves to the average person, particularly the lower income average person the short end of the stick—grinding inflation, wage rates that are depressed, terribly high taxes which he's got to pay but which someone at the top of the scale who can afford to employ a high-priced lawyer seemingly doesn't have to pay. And so what we need is a political program which has for its watchword: "God tempers the wind to the shorn lamb." The shorn lamb, you see, the family who's getting fleeced, is by and large, the average hard-working, church-going, tax-paying baby-having family in this country who belongs in the low- and middle-income brackets.

So we need to see that the price of essentials doesn't get out of hand; that our tax system, the price we pay for civilization, is fair and that the fellow at the top doesn't shake off and avoid his fair share of taxation; that the right of an American to a dignified job at a decent wage is preserved. We must not let the turmoil of the years ahead while we switch our way of life to the new energy situation to bring agony of mass unemployment to this country.

If we can temper the wind, I have no fear whatever for the survival of the republic, of the institution of the presidency, or of the American people.

You can count it as your good fortune that you are learning what makes the world go round at this university, at this, the most challenging and exciting time in American history. Great are the challenges, and great are the rewards.

MAYOR PRUETER OF PORT HUENEME, CALIF., RETIRES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. GOLDWATER. Mr. Speaker, in March of this year, the mayorality election will once again be held in Port Hueneme, Calif., which is part of the district I am honored to represent in the Congress.

The name of Ray D. Prueter, the mayor since 1962, will be missing from the ballot for the first time. Mayor Preuter has announced his retirement, after 12 years of inspiring and dedicated service to the city he and his family know and regard with such deep affection.

He has indicated he desires to spend more time with his family, and to devote more attention to his business than he has been able to do in the last 12 years. His family and friends, I know, will welcome having more time with Ray, but the city of Port Hueneme will deeply feel his absence in an active capacity.

Ray's accomplishments, which go even further back than his first election as mayor, read like a virtual "Who's Who" in every area of civic concern and responsibility.

Ray took up residence in Port Hueneme in 1950. In 1951, he married the former Laura O'Donnell, and they have two children, Denise Lynn, and Diane Rae. Ray immediately became active in the Port Hueneme Chamber of Commerce, and since 1953 has been a charter member of the organizational board of the Port Hueneme Harbor Days. Since 1954, he has been a member of the Port Hueneme Rotary and served as its president from 1955–56. From those years until now, he has managed to find the time and energy to serve as the Hueneme Elementary School PTA president; the civil defense director; be a member of the Navy League, the Elks Lodge, the Salvation Army advisory board; to serve as an elder in the Westminister Presbyterian Church, and as a member of the Ventura County grand jury for a year in 1961.

Now if that is not enough, he went on to become a Port Hueneme city councilman, and was reelected twice, and was then elected mayor, and reelected four times.

He has since served as president of the Channel Division, League of California Cities; director of the League of California Cities representing the Channel Division; Oxnard Community Hospital director; a member of the Hueneme High School PTA; president of the Ventura County Mayors and Managers Association; a member of the Local Agency Formation Commission; first vice president of the Southern California Association of Governments; and at various times, president, first vice president, and second vice president of the League of California Cities.

To top it all off, Ray was elected co chairman of the $150,000 fundraising drive for Hueneme High School's football stadium and lights, in 1970.

I realize that some people go around collecting titles, and put little effort into the job, but Ray Prueter certainly is not one of them. This man has done an exemplary job with every assignment he ever undertook, and put all of his energies into completing each one. The result has been a better government, and a better city for the people of Port Hueneme.

It is no wonder, then, that Ray was named Port Hueneme citizen of the year in 1959; was given Hueneme PTA life membership in 1960; was named honorary member of the Harbor Days Board, and honorary chamber of commerce adviser. He is also a life member of the Oxnard Community Hospital Board, and an honorary Navy Seabee and U.S. Marine—Ray served in the U.S. Army from 1943 to 1947 as a first sergeant. Last, but certainly not least, Ray is an honorary member of Hueneme Bay Kiwanis Club.

I know that everyone who knows Ray wishes him well in the days ahead, and hopes he and his family will have some well-earned relaxation. But knowing Ray as we all do, I have a feeling he will not be far away should anyone need his help. I am confident I speak for everyone who knows him when I say, "What this country needs is a million more Ray Prueters."

CONGRESSIONAL LEADERSHIP IS ESSENTIAL TO ESTABLISH A NATIONAL POLICY FAIR AND EQUITABLE TO OUR PEOPLE IN TODAY'S ENERGY CRISIS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ROE. Mr. Speaker, as the Congress fritters in its interminable verbosity and indecision, the energy resources of our Nation are being drained from our country's economy and the great State of New Jersey is about to be brought to its knees. The spectrum on the horizon—or for that matter, already here—is wholesale unemployment, economic chaos, to say nothing of the health and safety of our people.

Last Thursday the entire New Jersey delegation in both the House and Senate petitioned the President and Federal Energy Administrator Simon calling for an immediate investigation and resolution to this critical situation in New Jersey in that it is abundantly clear to our congressional delegation that our State is not receiving its fair share allocation of available gasoline and home fuel heating supplies.

As we debate the pros and cons of the provisions of an Emergency Energy Act, it is essential that as the representatives of the people we seek a fair and equitable solution for our people. A lot has been said by the administration on what should be done based on the facts only to learn that we do not have the facts from the source of our oil, gasoline, petrochemicals, and home fuel heating supplies.

More mistakes are made from the lack of facts than from poor judgment and the only true facts we have to direct us as Members of Congress are the hardships and dilemma being expressed by the people in heart-rendering communiques pleading for our help to eliminate the "no gas"—inadequate fuel and oil supplies—and inflationary prices that they are encountering in attempting to meet their basic fundamental needs for survival.

Extraordinary as it may be, the Federal Government literally has no substantive detailed data from the oil companies that would give us accruate and complete figures on fuel supply, demand and reserves and, needless to say, the Federal Energy Office is contributing generously to the confusion by publishing weekly supply and demand figures of the oil industry giving the allusion that the Government knows much more than it actually does.

The fact of the matter is that over the years the oil companies have practically been a government unto themselves and they have not been monitored in any substantive way whatsoever by our Federal Government. They have been given practically carte blanche to manage or manipulate the oil and gas resources in this country and throughout the world with questionable allegiance to the United States nor have they demonstrated any respect or fidelity to the needs of our people.

The price gouging, which is so obvious to all of us, makes a mockery of the so-called Cost of Living Price Control Board.

Although I realize that the oil companies are not totally to blame for our serious dilemma, it may sound as if I am coming down hard on the head of the oil companies and I mean to do just that. In the final analysis the oil companies, in large measure, have a virtual monopoly over our national oil and gas resources on public lands which truly is the estate of the people and they should not be permitted total control over our energy resources.

The ruse they are attempting to foist upon the American people that the energy crisis is totally due to the position of the Arab nations cutting our supply of crude oil imports is, in large measure, a charade, at best. The fact that they are continuing to ship vast quantities of gasoline and oil products overseas further indicates that their contention just does not stand up against the recently published reports of the highest increase and enormous profits in the last quarter of 1973 reported by the oil companies. They say publicly that these enormous profits are necessary to capitalize added research and exploration for new supplies, while at the same time these bloated oil barons are voting themselves unconscionable dividends from windfall profits extracted from the pocketbooks of the people.

To correct this situation once and for all I have sponsored and vigorously pursued legislative action which would force the oil companies to divulge all of the information and needed facts to the Congress and the American people in order that we can work toward a resolution to this most serious crisis. As you know, the Senate is already holding these in-depth investigatory hearings at this time.

In view of what I believe to be "shilly-shalling" on the part of the administration, it is now up to Congress to furnish the long overdue leadership in the energy crisis. It is incumbent upon all of us as Members of Congress to accept the challenge and implement our constitutional rights on behalf of the people through leadership that involves facing the whole unpleasant truth and coming forward with a definite, consistent, and coordinated plan of action in an effort to avert individual hardship, economic recession and intolerable unemployment with the people being told the truth.

Based on the facts at hand, our country does not have nor have we developed an overall coordinated energy resources national policy which is obviously essential to the economic vitality and well being to the quality of our way of life.

LET'S LOOK AT THE ENERGY CRISIS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. ARCHER. Mr. Speaker, there has been much concern over the energy crisis. Two questions which have been raised continually include "is there really an energy crisis," and "are the profits of the oil companies for 1973 unreasonable?" Mr. C. Howard Hardesty, Jr., executive vice president of the Continental Oil Co., presented a discussion of these two questions in a recent address to the 47th Annual Industry Convention of the Soap and Detergent Association. He also considered some major problems involving the free enterprise system, the energy crisis, and media coverage of the petroleum industry. I recommend Mr. Hardesty's remarks for your serious attention. His talk was entitled "Fuels, Feedstocks, and the Future."

The remarks follow:

Fuels, Feedstocks, and the Future

(By C. Howard Hardesty, Jr.)

You should have invited the Shah of Iran to be your speaker. He has more money, more oil, and more credibility. The other day, he observed that the industrial nations should ban the burning of petroleum and reserve it entirely for petrochemical manufacturing. The high importance he recently attached to petrochemicals is one of the most sensible statements to come out of the Middle East. America's "burn-it-up" philosophy is coming to an end, but the present stringency will force us to continue burning—wasting if you will—oil and gas. For the moment we have lost our options on sensible energy usage. When we have intelligently developed alternative sources of energy, then the Shah's recommendation will have a chance.

The fates of the soap and detergent industry and the energy industry, for better or for worse, are closely tied. Unfortunately, at the moment, that means that most energy-industry problems flow downstream to you. When we're short of oil and gas, you are short of feedstocks. When the price of crude oil and feedstocks soar, detergent manufacturers are directly affected. There is no question that your industry must be allowed to buy competitively and pass these costs through to market. Without this right, you will lose out to other consumers of scarce materials.

In my original preparation for this visit, considerable thought was devoted to the details of the proposed allocation of feedstocks and projections of their availability in the days immediately ahead. Because, as economist Walter Heller said last week, "all forecasts are subject to change without notice", I concluded that our time together could more wisely be spent exchanging views on a matter of vital importance to all of us—preservation of the American economic system—some still call it the free enterprise system.

The very future of our free enterprise system is in grave jeopardy. It is my strong personal conviction that our present energy crisis is being seized upon, by some extreme elements in our society, as the vehicle to move aggressively toward nationalization. As I watch the attacks on the petroleum industry by Congressional liberals and media accelerate without regard to fairness or facts, I am convinced there is a conspiracy to exploit this period of hardship and confusion to destroy the industry.

The credibility of business generally, and the petroleum industry particularly, is at a very low ebb. Permit me, therefore, to place several burning national issues in factual perspective. Then, we can think aloud about possible solutions and answers. I refer to just two questions. First, is the energy crisis, real or contrived? Second, are the profit increases of the petroleum companies in 1973 unreasonable? If Americans understand the true nature of our nation's energy problems and are not fooled into thinking that their hardship and inconvenience are generating "windfall profits", calm thought will prevail and our democracy will respond intelligently. So far, calm thought is not prevailing.

First: Is the energy crisis real, or was it contrived in order to raise prices, overcome environmental restrictions and improve profits?

Last year, it seemed to us that the public was becoming aware of our energy problems. Surveys of public opinion bore this out. Even in Washington, the attitude seemed to be—"We have a problem. Let's get on with solutions." The conclusions of the National Petroleum Council study were becoming more widely accepted. The President outlined the extent of the problem in his energy messages. A Federal Energy Office was established. A procedure for allocating scarce materials was proposed. A touch of realism began to creep into price controls. Authority to proceed with the Alaska Pipeline seemed imminent, and an accelerated energy research and development program was being formulated. The gears of democracy were meshing—slowly to be sure—to meet a national challenge.

Just when we seemed to be pulling ahead, we have been confronted with a rapidly deteriorating national scene. Suddenly, the effort to increase energy supplies is being superseded by a concerted effort to destroy private enterprise and institutions that have served this nation so well throughout its history. In their place a vast cumbersome government bureaucracy of agencies and restrictive regulations would be erected.

Why is a systematic, intelligent approach to a serious problem deteriorating into a national shambles?

First, the outbreak of hostilities in the Middle East and subsequent crude oil embargoes telescoped the time frame for effective national response. The energy problems projected for 1975 or beyond were upon us in 1973.

Second, among many who had decried industry warnings, there arose a fear that the public would hold them responsible for the impending economic impact and attendant hardships. Those who stand for election become vulnerable when the electorate is disturbed. This led many in political life to embark upon an unrelenting crusade to find a scapegoat. Facts that are the basis of intelligent decision making quickly became subservient to fiction and distortion. As a natural consequence, confusion reigns.

Third, for many reasons, our problems at this moment are less severe than forecast. Instant authorities on the energy crisis are crying out in disbelief and anger, saying, "It can't be so. I still have a job. There is heat and light in my home. Those who projected shortages must have been deceiving us. It must be a fraud." And they seem sorry that the potential tragedy has momentarily been averted.

Well, our energy problems are real. They have not been contrived. They still exist and are the result of our nation's action and inaction during the 60's, the 70's—even into 1974. What errors have we made?

1. By regulation of prices, the United States encouraged demand for natural gas and discouraged aggressive exploration for reserves.

2. Environmental extremism has discouraged use of coal, offshore leasing, Alaska Pipeline construction, new refinery construction, deepwater ports and has spawned cars with ever increasing appetites for gasoline.

3. By discouraging development of domestic energy reserves, we have also increased our dependence upon foreign energy materials from sources over which we have no control.

4. Through price controls, we destroyed the ability of the free market mechanism to respond and develop additional supplies.

Economist Milton Friedman recently highlighted the situation when he wrote:

"The oil problem offers a particularly *clear* illustration of how the price system promotes both freedom and efficiency, how it enables millions of us to cooperate voluntarily with one another in our common interest. It brings out equally why the only alternative to the price system is compulsion and the use of force. It is a mark of how far we have gone on the road to serfdom that governmental allocation and rationing of oil is the automatic response to the oil crisis."

C. Jackson Grayson, Jr., who administered federal price controls and then got out, warns, in the Harvard Business Review, "The free market system is in danger of collapse under central economic controls."

Grayson is convinced that our economic system is shifting from a free-market economy to one that is centrally directed and under public control. The danger he sees in present wage-price controls is that the public forgets what profits are all about. Those interested in promoting a centralized economic system can use controls as a convenient stone for grinding political axes.

The true remedy? Grayson echoes Friedman when he says:

". . . no one in any society has been able to come up with a central planning model that is more effective than the seemingly uncoordinated actions of the market-place . . . Why not return to the one planning system we have that works—the price system?"

The United States has the strongest economy in the world. In most circles, this nation is the most envied. We owe a good deal of that advantage to the years of cheap and abundant energy provided by the petroleum industry. Just how cheap has it been? The United States has only 6 percent of the world's population, but it consumes 30 percent of the world's energy. Industry critics rattle off these figures. But they do not mention that for 20 years we've used that 30 percent of the world's energy for only 12 percent of the world's cost of energy. This illustrates that the petroleum industry has served the country well. Historically, petroleum products have been the most stable element of our economy. At the same time, the very abundance of low cost energy masked its importance to our way of life. The minute scarcity arises, how the wolves come out of the woods!

The petroleum industry has not overstated the problems that face us. When the Middle East embargoes were announced, they were not difficult to compute. Industry and government had a firm fix on inventories, demand, and supply. If the flow of crude oil from the Middle East were cut back 25 percent; if the flow of refined products from the Netherlands, Italy and the Caribbean were reduced as announced; if demand remained constant; then substantial shortages would quickly occur. Personal and economic hardship would soon follow. There was unanimity in this conclusion. Shortages of 2 to 3 million barrels a day were forecast by industry and government. No one misled anyone. No one contrived the possibility of hardship. It could have been and still can be very real.

Fortunately, during the past 60 days this nation has been blessed by several fortuitous events. Not all Middle Eastern nations reduced their production by 25 percent. Not all Middle Eastern nations embargoed shipments to the extent originally threatened. The oil companies were able to reschedule the destinations of some crude oil shipments. It is generally estimated that between 700,000 and 1,000,000 barrels a day of embargoed oil have been made available to the United States. Is this a result we should complain about? Is there a culprit we should seek out? Wisdom dictates otherwise.

At the same time, demand for most products has been reduced as a result of allocations, voluntary conservation, greater efficiency in energy use, and also because we have had a much milder winter than normal—12.5 percent fewer degree days in the current heating season than last season. Should we complain and find the culprit, that did all these good things? Again, wisdom dictates that we congratulate, not condemn.

As Churchill said: "We have benefitted enormously from criticism and at no point have we suffered from any perceptible lack thereof . . ."

As an industry we don't mind being criticised except when the criticism is aimed squarely at our destruction. Coinciding with all of this destructive criticism has been a massive effort by industry to operate refineries at highest possible levels, maximize distillate production and to locate every barrel of non-embargoed oil for the American consumer regardless of cost. I don't think this is wrong and I caution those who are conducting witch-hunts to take a few moments to think constructively rather than deliberately seeking to mislead the public about industry efforts.

Let me give you an example of the kind of distortion of facts that is occurring. Mobil opened a new refinery in Joliet, Illinois. This meant that it had an immediate sharp increase in refinery capacity. But a new refinery doesn't begin operating at peak capacity on Day One. So Mobil had a sizable decline in the percentage of its capacity that was operating—even though its total production was up. Yet this data was used in a report prepared by the staff of one of Senator Jackson's committees to "prove" that refinery production was not being maximized so as to create a shortage. You read the charge. Have you read the answer? It was in the fine print.

Incidentally, that same Joliet refinery made news for another Senator. Stevenson, from Illinois, recently chastized the petroleum industry for failing to expand refinery capacity, saying that the industry hadn't opened even one refinery. Somehow he overlooked a new one in his own home state. This is an obvious and I believe deliberate unfairness to the newspaper reader and T.V. viewer. No wonder they question our integrity.

I wholeheartedly welcome Mr. Simon's use of a team of auditors to examine industry data. Such an examination will prove their accuracy.

Now, what about petroleum industry profits? Every major T.V. network and liberally oriented newspaper and newsweekly has described—ad nauseum—oil industry profits as "high," "unconscionable", "fantastic", "unreasonable" or "windfall." Day after day, after day, after day, we read of increases of 240 percent; 150 percent; 90 percent; and so on. Most frequently these shockers are headlined along with a charge by some members of Congress, such as Aspin, Stevenson or Mondale, who refers to increases but never bothers to relate profits to investments, risk or comparison with other businesses. Even grade school textbooks on economics do that. Well, what are the facts?

The facts are that oil company earnings, measured by return on invested capital, have lagged behind all manufacturing industries for most of the last decade. During 1973, the petroleum industry has experienced sharp increases in earnings as compared to the prior year, 1972, a depressed year for the industry. *Business Week* surveyed petroleum industry earnings for the nine months ending September 30. That survey reflects that the composite rate of return on equity for the 31 oil companies was 13.2 percent. In the same nine months, 880 companies in 36 industries had a mean return of the same 13.2 percent—and 19 of those 36 industries had a higher return than that of the petroleum industry. So—in terms of return on investment, the petroleum industry was precisely at or close to the average level for all of American industry. And if that is unconscionable, then we are in good company—fully half of American industry is in the same boat. In the first nine months of 1973, oil industry profits were up 47 percent over 1972. The First National City Bank of New York reported that the average increase for all manufacturing during the same time was 35 percent. Iron and steel was up 89 percent. Nonferrous metals, up 75 percent. Paper and paper products, up 60 percent. Media, by the way, had a pretty good year themselves. ABC was up 45 percent and the Washington Post 57 percent. The New York Times had a whopping increase in earnings of 93 percent.

I cannot recall seeing a single New York Times editorial criticizing its own profits as "unjustified." I have not seen one T.V. spectacular rationalizing why there should be strict controls over energy, but not over media prices and profits.

Incidentally, while Conoco was generating a miserly 38 percent increase in third quarter profits in 1973 over 1972, the Times was boosting its profits by 113 percent. And over the last 12 months, the Times has earned a 16.6 percent return on equity, while we at Conoco have had to get along on 12.3 percent. Is there any doubt in your mind about the relative risks of our businesses or respective needs for profits in order to expand capital investments?

A final note on profits. Conoco's profit growth has come principally from foreign operations because of one-time inventory adjustments to reflect increased values of inventory. Price controls have kept domestic oil and gas earnings increases to about 7 percent.

For many years, Conoco has conducted a very aggressive program to develop new supplies of oil and gas in many countries, with its greatest effort concentrated in the United States. In more recent years, we have undertaken programs to develop new supplies of coal and uranium in the United States, and these efforts have been larger than the average for the energy industry. These programs have required substantial amounts of internally-generated funds and extensive external financing. Our capital investment of $1.4 billion in the last three years is about three times our earnings in this period. I'm proud of this record and I think that if the American public knew what we and other energy suppliers did with profits, they would understand and approve not only our profits but the magnitude of their reinvestment.

That leads me to my reasons for saying there has been a conspiracy to destroy the industry. If media were conveying an objective presentation of facts regarding the energy crisis, the public and government would not be responding negatively today. To the contrary, this nation would be responding in a constructive fashion to develop new sources of energy.

Apparently, many in media are not interested, for I have tried. On December 6, I appeared before the Haskell Subcommittee and testified as to concentration in the energy industry, presented an analysis of industry profits, and refuted allegations of contrivance and conspiracy. Although Morton Mintz of the Washington Post and the wire services were present during the testimony, and, although a press release was widely distributed, not one T.V. network or anti-business newspaper mentioned the rebuttal. That same newspaper had headlined every unsupported charge against the industry. Two weeks later, in a Ft. Worth speech, with widely distributed press releases, I repeated the facts and asked media generally to do a documentary or an editorial on why higher rates of return and profit increases are good for media, but bad for the energy industry. None took me seriously. I can only conclude that there is a large and important part of the communications industry that does not want the facts and both sides of this issue disclosed to the public. At the same time our critics in Congress continue their cheap shots while ignoring factual answers to their distortions.

Concern that media will not approach the energy problem objectively has prompted industry to resort to advertising to tell its side of the story. The same Congressional liberals, afraid that the facts would become widely known, suggested legislation and regulations which would prevent even this approach. Why are they so afraid of the truth?

This is a discouraging period. At Conoco, we are getting ready to begin, in 1975, our second century of service to the American people. Yet at the same time, we see our first century of endeavor, responsibility, citizenship and positive contribution to the American way of life forgotten overnight. Now, a handful of misguided zealots threaten to deliberately undermine a responsible industry that has been alerting Washington to the dangers of inaction and pointing to the vital needs for a coordinated national effort.

The soap and detergent industry can't shake its head and say, "That's too bad, but it's your problem." It's more than that, for all industry and everyone in this nation would be hurt by an ill-advised and emotional anti-business response in Congress. If the petroleum industry is so crippled by taxes and regulations that it cannot aggressively expand energy supplies, your industry will be directly affected. If the marketplace is controlled and government is substituted for private industry, where will it stop? Who will be your supplier of feedstocks? Slowly the institutions that have made America great will be destroyed not by accident, but by design.

Further, it disturbs me deeply that legislative processes that have stood the test of time, and have permitted all sides of an issue to be aired, are now being eroded at a frightening rate. When legislation can pass Congress without critical committee analysis and review, then the democratic process has been bypassed. If tax measures can be passed without review by the House Ways and Means or Senate Finance Committees, then we have aborted an essential ingredient of a legislative process designed to prevent emotional and arbitrary action.

There are sensible and rational answers to this nation's energy problems. We can weather the storm without widespread hardship and economic loss if we respond intelligently. Adequate supplies of energy will not flow from the destruction of private industry. Rather, they will flow from a cooperative effort between government and industry, assisted and encouraged by the public. Let's capitalize on our strength, minimize our weaknesses, face our challenges as partners and be guided by the truth. It has been a successful formula in the past and it can resolve our present difficulties.

The Wall Street Journal, in an editorial entitled "The Great Oil Conspiracy", summed it up pretty well when it concluded:

"To us, all of this looks a good deal less like a conspiracy than like each company trying to cope on its own. Yet the conspiracy theory will no doubt thrive, nudging Congress to take all manner of punitive action against the companies, action that will prolong, not shorten, the energy crisis. We only hope that enough people can conceive that just as a nation's foreign policy can be distorted by believing in bogeymen in pinstripes, so energy policy can be warped by visions of bandits in the boardrooms."

As my final note, allow me to repeat what, for months now, I have felt called upon to tell the nation: The only conspiracy I have witnessed is the one of industry critics who have consistently delayed and frustrated sensible energy programs for the past 10 years.

CORPORATE SECRECY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 30, 1974

Mr. WALDIE. Mr. Speaker, over the last few years we have seen the decisionmaking process of Government opened up to public scrutiny, and recent history emphasizes the need for still more openness. This history has shown how secrecy high in the Government decisionmaking process which affect the public interest can often be misdirected, criminal or unethical. A first step toward a solution is disclosure.

We have seen how a few powerful and moneyed interests can subtly exert undue influence in Government and in political campaigns. Part of the solution, again, is disclosure, and in the case of political campaigns, complete financial reform.

And with the energy crisis at hand, we have seen the public interest fall prey to the secret manipulations of the oil companies. And again, part of the solution is disclosure.

In each of these areas I have been active: I have introduced legislation calling for complete disclosure of all lobbyist activity, campaign contributions, and income tax returns for public officials; I have cosponsored Federal campaign financing legislation; and I have introduced legislation establishing a National Energy Information System which would provide the Government with energy information it does not now have but which it needs to make proper decisions.

It would now appear that similar first steps need to be taken with large private corporations.

It would seem reasonable that the larger and more powerful a corporation is, the more people that it affects and, therefore, the more subject to public scrutiny it should be. However, a few of us know much about who votes stock in the major multibillion dollar corporations—entities whose wealth and influence are greater than that of many nations. Removed from the public eye, these companies often make decisions which rival, sometimes supersede in economic, social, and political importance actions taken by States or even the Congress.

The sum of the information which is currently available indicates that a few institutional stockowners are the key voters in many of the major corporations—it is generally considered in a widely held company that 5 percent of the voting interest is controlling, if the rest of the ownership is scattered, and that concentration of stock control has become an ominous characteristic of our economic system. A study done by the Securities and Exchange Commission on 620 representative companies showed that various combinations of from 1 to 3 of the Nation's 230 institutional investors voted at least 10 percent of the stock in a quarter of the companies. Some of the companies thus controlled included such giants as Ford, Chrysler, Gulf Oil, and Standard Oil of Indiana.

The 1972 reports filed by the airlines with the Civil Aeronautics Board showed that Chase Manhattan Bank is a major stockholder in most of the country's airlines: 6.5 percent of TWA, 9 percent of Eastern, 8.1 percent of National, and 7.5 percent of American. Other sources show that Chase owns 6.8 percent of Northwest, 7.26 percent of Western, and 8.5 percent of United.

The bank held this stock with "nominees," also known as "street names" or "straws" in the securities trade, to hide the true beneficial ownership for reporting purposes.

Safeway, the second largest food chain in the country, is another case in point—

nearly 50 percent of the stock was held last year by some of the largest insurance companies, banks, and trusts in the country. Chase again appears, voting and owning 10 percent of Safeway stock through its nominee, "Kane & Co.," an organization which exists only on paper.

In one of the most important of the Nation's industries, electric utilities, Chase, using four different names, appears among the top 10 stockholders of 42 utilities, including Pacific Gas & Electric; Morgan Guaranty Trust, using 12 different names, is among the top 10 stockholders in 42 utilities; and the list continues on to show that 14 banks are each among the top 10 stockholders in 10 or more utilities, indicating the horizontal influence of institutional investors across an entire industry.

The full extent and effect of corporate ownership concentration is not known. Corporate documents have never been public record; their transactions are private except for a few outside of the privileged "insider class." What this information means is that the control of many large corporations is in the hands of a small group of managers of investment portfolios, unknown and, as a result, unaccountable to the public. And corporate secrecy is perpetuating that control. Only recently, through the diligence of Senator METCALF of Montana, and Vic Reinemer, staff director of the Senate Subcommittee on Budgeting, Management, and Expenditures, could the general public find out that Fiveco, Forco, Octo, Oneco, Treco and Twoco are all code words for the Prudential Insurance Co., by consulting a nominee list now printed by the Government Printing Office. Even so, Federal regulatory agencies have a marginal record in battling through the maze of nominees to obtain ownership information, and many companies refuse to divulge the information voluntarily. Indeed, as Ralph Nader stated during testimony before the Senate Select Committee on Small Business in 1972:

> Neither the SEC, the Civil Aeronautics Board nor the Federal Power Commission penetrates the veil of so-called nominee shareholders to determine who the actual owners are—corporate or individual—of the industries they purport to regulate.

As a result, law enforcement and Government regulation in critically important aspects of our economy—including energy, communications, antitrust, and environmental protection—are impeded because responsibility for illegal or unethical actions is not easily ascertainable. Regulatory agencies as well as the Department of Justice need the information for antitrust law. Congress needs, if we are to seriously cope with the energy crisis, current data on the oil companies, on their acquisition of coal companies, uranium companies, and mineral leases, as well as their connections with transportation interests. In 1971, it was determined that oil companies owned 30 percent of our coal reserves and 50 percent of our uranium reserves, the significance of which is apparent.

In addition to the veil of nominees shrouding corporate behavior, corporate power and control is increased through command over credit and interlocking directorships. For example, it was determined that Continental Oil has direct director interlocks with three banks, one insurance company and two coal companies. "Indirectly, these six companies have secondarily overlaps with seven of the country's largest insurance companies, two investment companies, two foundations, seven other oil companies, five banks, five of the largest utilities—two uranium companies, and two gas pipelines." Additionally, Congressman LES ASPIN has recently released a list of interlocking directorships among oil and gas firms which may be in violation of the Clayton Act.

Mr. Speaker, no institution so critical to the people's interest can maintain accountability if its machinations are shrouded with secrecy. Recent events have accentuated the importance of opening to public view more of the Government's affairs, and steps are being taken. Similar steps need to be taken with large private corporations.

There should be easy access to the names and addresses of the individuals voting major blocks of stock in large corporations; principal creditors and amounts involved should be divulged; and the relationships and affiliations between officers of different corporations should be disclosed. The information should be continually updated and publicly available.

As Theodore Roosevelt eloquently stated in 1901 when calling for extensive disclosure of the financial affairs of large corporations:

> Great corporations exist only because they are created and safeguarded by our institutions; and it is our right and our duty to see that they work in harmony with these institutions.

While the Judiciary Committee is understandably occupied with pending impeachment proceedings, I believe it should not delay any longer in commencing hearings and investigations to determine what changes may be needed in our commercial law to insure that major corporations function in harmony with the public interest. The Judiciary Committee should also investigate evidence which indicates widespread violations of antitrust laws by U.S. corporations, including oil companies and the Nation's institutional investors, with a resulting restraint of trade and illegal control of consumer prices.

HOUSE OF REPRESENTATIVES—*Thursday, January 31, 1974*

The House met at 12 o'clock noon.

Rev. Walter G. Nunn, First Baptist Church, Jasper, Ala., offered the following prayer:

Our Heavenly Father, we thank Thee for life, love, and light. Remind us again and again that we are always within the scope of Thy love and the context of Thy judgment. May we never forget that what we do has eternal consequences. Now we beseech Thee to guide these ministers of Thine, these makers of our laws, in their deliberations and decisions. May what they do reflect some measure of Thy will, and may we all be guided by the principles of integrity, fairness, balance, and understanding. Grant unto them, we pray, serenity, courage, patience, and a sense of Thy presence. Moreover, help us always to look unto Thee for guidance.

Through Jesus Christ our Lord we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2606. An act for the relief of Grant J. Merritt and Mary Merritt Bergson; and

S. Con. Res. 61. Concurrent resolution authorizing the printing of additional copies of part I of the Senate committee print entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes."

The message also announced that the President pro tempore, pursuant to Public Law 92-484, appointed Mr. STEVENS to the Technology Assessment Board, in lieu of Mr. DOMINICK, resigned.

DR. WALTER G. NUNN

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Mr. Speaker, I was honored today to have Dr. Walter G. Nunn, from my hometown, Jasper, Ala., give the opening prayer on the floor of the U.S. House of Representatives.

Dr. Nunn is pastor of the First Baptist Church, in Jasper, which I attend as often as my schedule will permit. He received his bachelor of arts degree from Mercer University, master of divinity degree from Southern Baptist Theological Seminary, and doctor of divinity from Samford University.

Dr. Nunn is presently a member of the Southern Baptist Executive Board Committee and the past president of the Alabama Baptist State Convention. He has received the Freedoms Foundation Award for the past 4 years and is a board member of the Alabama Association for Retarded Children.

In addition to his many clergyman's duties, Dr. Nunn works tirelessly for his city, county, and State, taking an active role in various civic activities. In my opinion he is an outstanding religious leader. His Christian work is known not only throughout the State of Alabama but in the entire southern area of our country.

I am pleased to have the privilege of welcoming Dr. Nunn to Washington and honored to have him give the opening prayer.

TOWARD REAFFIRMING THE INDIVIDUAL'S RIGHT OF PRIVACY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, last evening during the President's message to the Congress on the state of the Union he said that as one of the priorities of 1974:

> We will make an historic beginning on the task of defining and protecting the right of personal privacy for every American.

Mr. Speaker, I congratulate the President for recognizing this urgent need. Article IV of the Bill of Rights which became a part of our Nation's Constitution on December 15, 1791, states that:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

I look forward to initiatives by the President and his administration to support those actions which are in progress at the present time in the Congress to accomplish the goal of reaffirming the individual's right of privacy which has been guaranteed by the Constitution for nearly two centuries.

In addition, I would hope that as a first step the President will rescind Executive Order 11697, issued by him on January 17, 1973, and Executive Order 11709, issued by him on March 27, 1973, which authorize the Internal Revenue Service to turn over to the Department of Agriculture the tax returns of 3 million American farmers. Should the Department of Agriculture have a clearly, legally justified need for information which may be available via the IRS any Executive order issued by the President should carry limited authority absolutely limiting the information to be provided to the names, addresses, and taxpayer identification numbers of farmers as was recommended by the Committee on Government Operations, Subcommittee on Foreign Operations and Government Information on October 18, 1973.

That recommendation came at the conclusion of an investigation of the meaning, intent, and implication of Executive Orders 11697 and 11709 which I requested as a member of the subcommittee, that the subcommittee conduct.

I am today sending to the President a copy of House Report No. 93-598 which I hope will be of assistance to him and his administration in moving to insure that the right of privacy of the citizens of our Nation is protected fully.

SUPPORT FOR THE GRAIN RESERVE BILL

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, the Russians have taught us another lesson. It was less than 2 years ago that we sold them wheat at $1.62 a bushel, and now they have announced they will be selling some of it at over $6 per bushel. This is just further evidence of the stupidity of our not creating grain reserves when it is in surplus and cheap. In effect what we are doing is letting others control the reserves of things that we produce. So the Russians buy low and sell high, whereas we sell low and buy high. It is time some of the administration's self-described, "hardheaded, free enterprise businessmen" who opposed my grain reserve bill at the same time they were promoting that wheat sale to show as much business ability as the Communists do. Since we produce the goods for the store, why should they manage it?

I challenge the administration, the bakers, and the broiler producers and the others who opposed my grain reserve bill to come up here now and support the bill so that this same thing will not happen again the next time we have a surplus and a shortage cycle.

LIVE RADIO AND TV COVERAGE OF DEBATE ON IMPEACHMENT

(Mr. YATES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. YATES. Mr. Speaker, I have today filed a resolution providing for live radio and television coverage of the debate in the House Chamber on the bill to impeach the President.

I do so because I believe the American people would want to see and hear what is surely the most historic debate of our time. I do it also because I believe it is essential that the constitutional process of impeachment be made clear throughout the country in showing the separate functions of the House and the Senate.

The traumatic events of last year have shaken the Presidency and the country. The charges and countercharges in the Watergate scandals, the disclosures before the Senate committee and before Judge Sirica, the confessions and indictments of so many of President Nixon's assistants and associates, the firing of Mr. Cox followed by the resignations of Mr. Richardson and Mr. Ruckelshaus, the fiasco of the tapes including the apparently intentional erasure from one tape of a key conversation, and question relating to Mr. Nixon's tax returns all have culminated now in this one historic and dramatic legislative procedure.

It is apparent that within the next 90 days, we in this House shall be called upon to decide whether the President should stand trial before the Senate on the question of whether he is fit to continue in office.

This is not just an awesome burden laid upon the Congress. The procedure of impeachment is an awesome burden for the entire Nation. No living person has experienced or remembers an impeachment of a President and many people—in the House and among the general public—wonder what it is all about. People are worried and uncertain, and rightly so, for it is a grave matter.

The question of impeaching a President has risen only once before. In 1868, over a century ago, President Andrew Johnson was called to the bar of the Senate to defend himself against a resolution of impeachment which had been voted by the House. The country had to wait for information on the outcome of the Senate vote. Today, through the instrument of television, Americans throughout the country would be able to see and hear their representatives deliberate and vote upon this most vital question.

The proceedings of impeachment will have to answer many questions for the public. Not all of them have to do with Mr. Nixon. Some have to do with the Congress itself. We should let the public see that Members do conduct themselves with dignity and seriousness in their activities. Certainly, our actions on the floor in this extraordinary proceeding should be open to the public's scrutiny, for when we have finished our vote, the people must know the decision has not been political or vindictive, but has been based upon solid fact and in accordance with law.

Moreover, there are many crucial questions which must be answered in this matter: What is the impeachment process? What constitutes an impeachable offense? To what degree is the President accountable for the actions of his subordinates? What, of all that has been said, is true and what is false? What are the specific charges and what is the evidence? The people must know the answers to these questions if they are to understand and be willing to accept our final decision.

We pride ourselves on our democratic process, saying that ours is an open government. Yes, the procedures of this House and the other body are open to the public, but they ought to be more open. We are the people's body and the people should know how we work. The galleries necessarily are small and it is inappropriate to point to them as proving the openness of our system. On important occasions, throngs will line up for blocks in the hope that they will be able to witness a historic congressional debate. But when the crush is great, they can watch only for a few minutes because they are allowed to sit in the galleries only for a few minutes before they must move on to make way for a new group.

Mr. Speaker, why should the viewing of our deliberation be limited to the few who will be able to squeeze into the House galleries, when television and radio could bring the entire proceedings to millions throughout the country?

Last summer the Watergate hearings probably provided the greatest quantum jump in the average American's constitutional knowledge because they were televised. The question which will be before us is even more important: Whether or not to impeach the President of the United States. What possible issue is more vital?

Under clause 33 of House rule XI, television and radio broadcasting of committee hearings is "for the education, enlightenment, and information of the general public regarding the operation, procedures, and practices of the House as a legislative and representative body—and for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government." This rule argues eloquently for broadcasting from the House floor as well as from the committee room. Is not action on the House floor as educational and enlightening as committee action?

The country has seen numerous examples of the Presidency in action, but it has never seen any debates in the House or the Senate chambers. Why? Is not our work of equal interest and importance to the public? I think it is. I believe it is time the public was able to see its representatives at work in the House.

EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

(Mr. ASHLEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ASHLEY. Mr. Speaker, today I have introduced legislation to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 by extending the time during which an exemption or realinement of time zones may be granted, based upon a gubernatorial finding that such an exemption or realinement is necessary to conserve fuel or prevent hardship.

Under existing legislation, the authority was limited to those States whose Governors issued a proclamation before the effective date, January 6, 1974, of year-round daylight saving time.

It seems to me clear that it was anything but realistic to expect Governors to make a finding with respect to either conservation or undue hardship prior to the time that daylight saving time took effect. There simply was no experience upon which to base a finding, one way or the other.

The committee report which accompanied H.R. 11324 admits as much when it states that "no studies have been carried out and no information is available which establishes with certainty that an overall reduction in energy consumption will directly result from the year-round observance of daylight saving time." The report went on to say that there is a "high probability" of such a reduction but the requirement that a Governor seek exemption before the time change was even imposed removes any effective means of making legitimate adjustment on the basis of actual experience.

To date the results of daylight saving time have been mixed both in terms of energy conservation and undue hardship.

The statistical data and other evidence of reduced use of electric power consumption indicate a national decrease of [illegible].1 percent for the week of January 12 as compared to the same week a year ago. For the seven States, including Ohio, or parts of States which comprise the central industrial region, the decrease was 0.7 percent as compared to a year ago, according to a recent report of the Edison Electric Institute of New York.

A similar study by the Toledo Edison Co., which serves much of northwest Ohio, indicates that during the first week of daylight saving time the reduction in use of electricity was 0.5 percent, as compared to the same week of January 1973. A comparable study for the same period by Cleveland Electric estimates a saving of about 2 percent, although both companies pointed out—understandably—that the time periods involved were much too brief to support conclusive findings.

Just as Americans accepted "War Time" during World War II, the public, generally speaking, has accepted the personal inconvenience and hardship of year-round daylight saving time as necessary in terms of current national requirements.

However, a persistent and deep-seated concern continues to be expressed over the early morning safety of schoolchildren in a society so highly dependent upon automotive transportation.

Here again, the facts to date simply do not permit conclusions on either side of the question. The Ohio Department of Education, which transports 1,300,000 children each schoolday, has advised me that there have been no accidents thus far which are attributable to daylight saving time; four children have been killed but all during daylight hours.

It is worthy of note that the Ohio House Judiciary Committee voted 11 to 5 to postpone a bill to prohibit public elementary schools from opening earlier than 9 a.m. during year-round daylight saving time. Both the Ohio Education Association and the Ohio PTA requested that the starting time of schools not be regulated or the length of the schoolday altered until further information becomes available.

Similarly, the National Safety Council is in the process of surveying State traffic agencies on the experiences of school children accidents during January of this year as compared to January 1973. The council is asking for age, time of day and other pertinent data with respect to each accident and I am told that it will be several weeks before information is available.

In light of these facts, Mr. Speaker, it seems to me quite evident that the period during which a governor may seek exemption or alteration of time zone limits, where necessary to avoid undue hardship or to conserve fuel in a State or part thereof, should be extended so as to apply at any time during the 2-year life of the legislation.

As we all know, a number of bills have been introduced for the outright appeal of year-round daylight saving time. Others would exempt any State from the new daylight bill either by a majority vote of a State legislature or a proclamation of a Governor.

I am opposed to these approaches because I believe that energy conservation is a necessary and legitimate national objective which requires unified national policy. Exemption or a realignment of time zone limits should require, as under present law, a finding by the Governor of a State that such waiver or modification is necessary to avoid undue hardship or to conserve fuel. In short, a single standard should apply to all States but there must be room for such modifications as are necessary to prevent the kind of rigidity which in fact produces uneven and perhaps inequitable application of the law.

YEAR-ROUND DAYLIGHT SAVING TIME

(Mr. KAZEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KAZEN. Mr. Speaker, I share the concern of many of my colleagues over the impact of recent legislation establishing year-round daylight saving time. I voted against the bill, and I now propose a change in the law. I believe it is time that we stop asking many citizens to operate in the dark.

The four time zones of our Nation are necessarily broad in dimension. The problem develops, in the words of an old saying, "as sure as the Sun rises in the east." Daylight comes much sooner in the eastern portions of each time zone, but on the western edges it is well into the normal workday or schoolday before the Sun is up.

We hold our offices here as Representatives of the people in our States. We should consider the problems of our districts. I am therefore proposing an amendment to Public Law 93-182 that would authorize the Governor of any State to nullify year-round daylight saving time in his State, and direct the President to accept such action by a Governor.

We have been told of fatal accidents to young children leaving home in the dark to attend schools. We know of businesses disrupted, especially certain daytime radio broadcasters. Constituents tell us that they are saving no energy under the new system, because they need light and heat at early hours now that cancel savings in the late afternoon.

I submit that each State may have a different problem. I believe the Governors are better equipped to find solutions than we are here in Washington, so I urge support for my bill granting this authority to the Governors. I say there is need for all good men to come to the aid of time.

CHANGING VETERANS DAY TO NOVEMBER 11

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I am introducing today a bill which, if enacted, will return observance of Veterans Day to November 11, its traditional date of observance. This bill is cosponsored by every member of the Veterans' Affairs Committee with the exception of one. It has the support of the major veterans' organizations: The American Legion, Veterans of Foreign Wars, Disabled American Veterans, Amvets, and Veterans of World War I.

Although Congress changed the observance of Veterans Day to the fourth Monday in October several years ago, this has proven so unpopular that 31 States which had previously changed their laws to conform with the Federal Act subsequently have enacted legislation to return Veterans Day to November 11. I would like to place in the RECORD a list of the 31 States which have voted to return Veterans Day to November 11—two States never changed the State law from November 11. This makes a total of 33 States containing a majority of the Nation's veterans which plan to observe November 11; 18,106,000 reside in these 33 States that will observe Veterans Day on November 11, while only 10,747,000 reside in States that continue to observe the fourth Monday in October. Undoubtedly, additional States will be making the change back to November 11.

It seems, therefore, that it would be appropriate for Congress to enact legislation to return the observance of Veterans Day to November 11, and this is the purpose of my bill.

The following is a list of the States that have passed legislation to restore Veterans Day to November 11:

VETERANS DAY TO NOVEMBER 11 (EFFECTIVE DATE)

Alaska, 1973.
Arizona, 1973.
Arkansas, 1973.
California, Jan. 1, 1974.
Connecticut, 1973.
Florida, May 17, 1973.
Georgia, January 1972.
Illinois, 1973.
Indiana, 1971.
Idaho, Feb. 15, 1973.
Iowa, Nov. 11, 1974.
Kansas, Nov. 1976.
Louisiana, 1973.
Maine, 1974.
Michigan, 1973.
Missouri, Sept. 22, 1973.
Nebraska, 1973.
New Hampshire, 1973.
New Mexico, 1974.
North Carolina, 1974 (Law Mar. 5, 1973).
North Dakota, 1973 (Law July 1, 1973).
Oregon, 1973.
Pennsylvania, 1973.
South Carolina, 1974.
Tennessee, 1973.
Vermont, 1974.
Virginia, 1973 (Law Jan. 1, 1973).
Washington State, 1973.
West Virginia, 1972.
Wyoming, 1973 (Law May 25, 1973).
Wisconsin, 1974 (Nov. 28, 1973).

Two States never changed State law on Veterans Day: Mississippi and Oklahoma.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. DORN. I yield to the gentleman from Arkansas, my distinguished and able colleague.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding.

I want to associate myself with the remarks of our most distinguished chairman of the Veterans' Affairs Committee. I wish to assure him of my individual support. As he has mentioned, I am a cosponsor, and certainly as the ranking minority member of that committee I will attempt to coordinate our actions on this side of the aisle with those of his leadership to insure expeditious and early action on this important legislation.

Mr. DORN. I want to thank my colleague.

I might remind the House that the President recommended the date be changed to November 11.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. DORN. I yield to my colleague, the distinguished gentleman from Alabama.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for yielding.

Representing the city where much of this began so far as Veterans Day is concerned, I want to thank the gentleman for his action here and say I fully support it.

I thank my colleague for his leadership in this matter.

HON. JOHN W. McCORMACK INDO-AMERICAN PEACE HOSPITAL

(Mr. TIERNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, last December 10 Ambassador to India Daniel P. Moynihan authored a tribute to our colleague and friend, former Speaker John W. McCormack, in recognition of Speaker McCormack's efforts and successes in the strengthening of Indo-American bonds. Ambassador Moynihan says it better than anyone I know just how fortunate we in America are to have John W. McCormack in our midst. I take great pleasure as a friend of Speaker McCormack in presenting this tribute for inclusion at this point in the CONGRESSIONAL RECORD:

A MESSAGE FROM AMBASSADOR DANIEL P. MOYNIHAN

That John W. McCormack is a great statesman and a great American is news to no one. What may be less well known are the services he has rendered the people of India and the future of Indo-American relations.

Nearing completion on the campus of the St. John's Medical College in the great city of Bangalore is a seven hundred bed hospital known in those parts as the John W. McCormack Indo-American Peace Hospital. It is a major center of medical education and research, as well as one of the largest and most modern hospital facilities in Asia.

This hospital is being built in large part with the help of a grant of nearly 50 million rupees from the United States Agency for International Development. These funds accrued to the United States in the course of food sales and other aid undertakings during the 1950's and 1960's and, with the concurrence of the Government of India, have been committed to worthy projects such as this throughout the country.

"Where is there a better work to show the world how American surplus farm commodities can be used to feed the hungry and at the same time help to care for the sick and the poor?" asked Speaker McCormack.

The hospital is a symbol of the vision, the humanity and the compassion that have animated John McCormack in his decades of service to the people of the United States and of the world. Its existence owes much to his peerless skills at navigating among the legislative and bureaucratic shoals that lurk throughout the Government, and to his persistence in ensuring that large purposes and noble conceptions do not fail to be realized.

The hospital is tangible. Its purposes, inevitably more abstract, are suggested by the inscription on its cornerstone and well reflected the Speaker's own philosophy:

"Dedicated to the Glory of God
And to the well-being of mankind
Through brotherly love and sacrifice
By the people of America
And the people of India."

Speaker McCormack's interest did not cease with the laying of the cornerstone, with the construction of the hospital itself, nor even with his own retirement from Capitol Hill. He has persisted in myriad ways to enhance the relations and activities that rise to this project.

If I may add a personal vignette, soon after I arrived in New Delhi we undertook negotiations with the Government of India that sought a permanent end to the accumulation of "U.S. rupees". As these words are written, the two governments are about to initial such an agreement, one which I believe is both fully cognizant of the needs of the United States and also gracious in its granting back to the Government of India the bulk of these funds, while simultaneously removing forever the obstacle to happy relations that this mounting debt presented. It is one of the few negotiations in my experience of which it can truly be said both sides were generous and understanding.

John W. McCormack has been one of the strongest voices in support of such an agreement and has walked the corridors of Washington on its behalf. In person and through his many friends and admirers—labor, religious and political leaders prominent among them—he has sought to remove obstacles from the path of an agreement that, as was instantly obvious to a man of his vision, sustained the spirit that gave rise to the Bangalore hospital project and its many activities while recognizing the further needs of both India and the United States.

I salute him for his compassion, I thank him for his actions, and I hope that those reading this modest tribute will join me in paying their respects to a great man and to the splendid medical center that will be among his legacies.

DANIEL P. MOYNIHAN.

CONCERN OVER LITHUANIAN SEAMAN SIMAS KUDIRKA

(Mr. HANRAHAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANRAHAN. Mr. Speaker, I am introducing today a concurrent resolution expressing the sense of Congress that the President of the United States direct the Secretary of State to bring to the immediate attention of the Soviet Government the deep and growing concern among citizens of the United States over the plight of Lithuanian Seaman Simas Kudirka, and to urge his release from imprisonment and his return to his family. Simas Kudirka boarded a U.S. Coast Guard cutter in 1970, seeking political asylum; and through a series of errors, Soviet authorites from his fishing trawler were allowed to seize him and forcibly return him to his ship. For this crime, he was imprisoned in Russia.

I am deeply grateful to be introducing this legislation not only for myself, but for 50 cosponsors who have joined me in this effort. I include my concurrent resolution in the CONGRESSIONAL RECORD at this point:

H. CON. RES. 421

Whereas Simas Kudirka, a Lithuanian seaman, attempted to seek asylum in the United States while his ship was moored beside a United States Coast Guard vessel in United States territorial waters; and

Whereas Simas Kudirka was forcibly seized from the United States Coast Guard vessel and returned by Soviet authorities to a Soviet vessel, and subsequently imprisoned in the Soviet Union; and

Whereas American citizens are increasingly concerned about this flagrant violation of human rights; and

Whereas his continued imprisonment and the inability to learn of his welfare raise among American citizens an impediment to the improvement of relations between the Soviet Union and the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President of the United States direct the Secretary of State to bring to the immediate attention of the Soviet Government the deep and growing concern among citizens of the United States over the plight of Simas Kudirka and to urge his release from imprisonment and his return to his family.

SEC. 2. It is the sense of the Congress that the President of the United States forward a copy of this concurrent resolution to the United States Representative to the United Nations for transmission to the Commission on Human Rights or the Division of Human Rights of the United Nations.

DEMISE OF ECONOMIC STABILIZATION PROGRAM

(Mr. COCHRAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COCHRAN. Mr. Speaker, I rise today to voice my support for the demise of the economic stabilization program. Last year this Congress forced the imposition of wage and price controls on our citizens.

Since then, our workers, our businessmen and women, and our housewives have had to endure the confusion and uncertainties caused by phases I through IV. It is now time for us to try phase zero.

As the expiration date of the Economic Stabilization Act approaches, I hope that we will seriously consider a return to the best method for assuring economic stability—the law of supply and demand. Artificial government controls are not the answer.

AMENDMENTS OFFERED TO H.R. 5463, FEDERAL RULES OF EVIDENCE

Mr. GROSS. Mr. Speaker, under the unprecedented provisions of House Resolution 787, adopted yesterday, I ask unanimous consent to insert in the RECORD at this point the following germane amendments which I intend to offer to the bill H.R. 5463, dealing with rules of evidence:

Strike the necessary number of words;
Strike the requisite number of words;
Strike the last word;
Strike the penultimate word;
Strike the next to the last word.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

NATIONAL PRAYER BREAKFAST

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, today is the occasion of the annual National Prayer Breakfast and many of the Members were in attendance.

I think the record should reflect that the distinguished Speaker of the House, the gentleman from South Carolina (Mr. DORN), and the gentleman from Georgia (Mr. YOUNG), were all participants in the program this morning and each reflected credit on the House of Representatives.

LOW WAGES AS SERIOUS A PROBLEM AS JOBLESSNESS?

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, new labor market indexes are needed to supplement employment and unemployment statistics, according to a statement released by the National Manpower Policy Task Force.

While stressing that the integrity and precision of the currently collected data are not in question, the Task Force casts doubts about the adequacy of the concepts developed during the Great Depression to measure today's labor force activities. According to the task force, low wages are as serious a problem as joblessness, and the Bureau of Labor Statistics almost completely ignores income in measuring work force operations. The relevance of unemployment statistics has also diminished because of the rise in the number of part-time secondary family earners and the growth of income alternatives to work.

The task force, a group of academic manpower experts, recommended the introduction of two indexes to supplement labor force statistics: one measuring the economic hardship caused by employment and earnings problems; and a second, converting the unemployment rate to a full-time job equivalent by giving less weight to secondary workers seeking only part-time employment. The hardship index would exclude all unemployed workers in households with an annual income adequate to weather a period of joblessness, but would include all other workers or would-be workers whose annual earnings were inadequate to provide their families with an acceptable standard of living.

As a basis for the development of such measures, the task force urged the systematic collection of more information on earnings and cost-of-living variations among areas. In order to materialize its recommendation, the task force urged the immediate appointment of a Presidential committee whose mandate would be to appraise the feasibility and usefulness of alternative indexes and to decide on specific definitions that could be incorporated into the official labor market statistics.

The following policy statement by the National Manpower Policy Task Force is incorporated for my colleagues personal information:

ADAPTING LABOR MARKET STATISTICS TO POLICY NEEDS

The concepts underlying current labor market statistics have remained relatively unchanged since the Great Depression. The President's Committee to Appraise Employment and Unemployment Statistics completed the last comprehensive evaluation in 1962, verifying the objectivity of the data. Since that time, the value and integrity of labor force data have remained unquestioned, but their relevance to current policy requirements has diminished. Modified and supplementary measures deserve consideration in light of changing labor market conditions, economic concepts, and policy concerns.

THE CHANGING LABOR MARKET

Changes in the composition and behavior of the work force over the last dozen years raise questions about the meaning of employment and unemployment statistics as measures of deficient aggregate demand, structural labor market problems, and hardship related to failure in the world of work. The labor force which is being measured today is not the same as that at the opening of the 1960s. Women and youth who are secondary family earners have grown as a proportion of the work force:

[In percent]

	1960	*1972*
Civilian labor force	100.0	100.0
Male	66.6	61.5
Female	33.4	38.5
Teenagers (age 16 to 19 years)	7.0	9.3
Adult females (age 20 years and over)	30.4	34.3
Adult males (age 40 years and over)	62.6	56.4
Heads of husband-wife families	50.3	45.2
Unemployed	100.0	100.0
Male	64.5	54.4
Female	35.5	45.6
Teenagers	18.5	26.9
Adult females	28.0	33.3
Adult males	53.5	39.9
Heads of husband-wife families	38.0	26.1

The new labor force participants have introduced new dimensions to the measurement of labor market problems. In 1972, 44 percent of unemployed women age 20 years and over and 71 percent of unemployed teenagers were out of work because of entry or reentry into the labor force as opposed to job loss or change; in contrast, three-fourths of unemployed adult males were job losers or leavers. Moreover, 27 percent of unemployed females and 44 percent of teenagers wanted part-time jobs, while over nine of ten unemployed adult males wanted full-time work. The rising share of part-time jobseekers casts doubts whether aggregate unemployment rates are a good indicator of shortfalls in fulltime jobs and thus of deficient aggregate demand.

These compositional changes have also affected the relationship between unemployment and hardship. Wives and teenagers are more likely than adult males to be supplementary earners rather than the primary providers of family income. In 1972, four of every ten unemployed below age 24 were students who were normally seeking only supplementary income. This was double the proportion a dozen years earlier. The proportion of unemployed women who were widowed, divorced, or separated and thus more likely to be family heads, fell from 24 to 17 percent. Although the personal hardships resulting from unemployment of teenagers and wives should not be minimized, their loss of earnings may not deprive the family of its primary source of sustenance.

INCOME ALTERNATIVES

The massive expansion of income alternatives to work over the past decade has affected the meaning of employment, unemployment, and other statistics. The extension of social insurance and welfare programs has cushioned joblessness and provided some options to low-wage employment, though the income alternatives provided are normally too low to permit recipients to escape poverty in the absence of other income sources.

The growth of the social security system has been especially important. In 1972, there were 28.5 million beneficiaries, nearly twice as many as in 1960. Average social security benefits more than doubled over the period compared with a 70 percent rise in the average wages of nonsupervisory employees. With relatively more attractive benefits, the labor force participation rate of the elderly fell from 33 to 24 percent over the twelve-year period. In 1968, two-thirds of elderly married couples reporting wage and salary incomes were also receiving social security and, therefore, were not solely dependent on their earnings. More and more persons have retired at age 62 with reduced social security benefits. In 1960, only 6 percent of all retired or disabled workers were age 62 to 64 years; by 1972, this proportion had risen to 29 percent.

The growth of welfare programs has also been dramatic. In 1972, 3.1 million families received Aid to Families with Dependent Children, a fourfold increase from 1960. During these dozen years, average payments increased by 76 percent, and combined with rapidly growing in-kind benefits, rose above the market wage available to many of the disadvantaged recipients.

A variety of other programs have also been influential. Manpower programs, which saw their greatest expansion in the late 1960s, offered jobs and subsidized employment, as well as training and stipends. Recorded rates of unemployment were reduced since enrollees in the work experience programs were counted as employed, while those in institutional training were counted as outside the labor force. Unemployment insurance helped to cushion temporary job loss and in some cases reduced the incentive to seek work, although the program grew less rapidly than other social welfare efforts. GI bill benefits providing educational and employment allowances expanded in the late 1960s and early 1970s as a result of the Vietnam war and had a noticeable impact on the way veterans reentered the civilian labor force, while workmen's compensation also expanded over the decade.

There can be no doubt that welfare, social insurance, and training programs have significantly affected labor market behavior. Some individuals may have withdrawn from the labor force to depend upon income maintenance programs. Others desiring jobs have been discouraged from looking because of the high marginal tax rates under social security and welfare, where real income can sometimes be lowered through employment. On the other hand, the unemployment rate has been inflated by persons claiming to look for work only to qualify for assistance. Whatever the exact impacts, the rise of income support programs must be considered in assessing the meaning of employment and unemployment statistics as well as in determining the need for their modification and supplementation.

THEORETICAL ISSUES

Changes in the composition of the work force and in the importance of earnings as a source of income for the disadvantaged can be interpreted from different perspectives which lead to diametrically opposed policy precriptions. According to one theory, labor force changes have altered the relationships between inflation and unemployment, making it difficult if not impossible to achieve sustained "full employment" without causing an intolerable level of inflation. The jobless, protected by income maintenance programs and other sources of support, are not anxious to compete for job openings and many unemployed shun full-time work. Expanding employment thus results in the entry and reentry of secondary earners, not in a proportional reduction in the number of unemployed. Accordingly, it is argued, more inflation must be tolerated to achieve tight labor markets or a decline in aggregate unemployment.

Some economists who developed the notion of a shifting relationship between unemployment and inflation argue that structural measures reducing the high levels of unemployment among less advantaged groups are necessary to improve the aggregate tradeoffs. But others, unconvinced of the value or efficacy of structural measures, have urged a different course—the acceptance of a higher level of unemployment as a national policy, regrettable as it may be. They have argued that because the unemployed are increasingly secondary earners or are cushioned by public income support programs, their needs tend not to be as critical as those of the unemployed in the past. A higher level of unemployment, according to this view, is socially tolerable if it does not result in absolute deprivation.

Without passing on the merits of these arguments, the challenge to existing labor market statistics is clear: The unemployment rate has become less and less useful as a measure of deficient aggregate demand or of deprivation and need. To better assess macroeconomic issues, some weighting would be required to equate the unemployment among secondary workers with full-time joblessness.

A fundamentally different perspective on labor market developments is provided by the segmented or dual labor market theory. Focusing on the more disadvantaged segments of the work force, this theory argues that due to discrimination, personal handicaps, and a system which requires low-cost, unskilled labor, some workers are confined to low-wage jobs with little advancement potential. They consequently have little motivation to acquire skills or training and limited commitment to any particular employer since one job is as bad as another. Employers of such workers expect unstable work patterns and discipline problems, and therefore, structure their operations to adjust to the behavior of the disadvantaged and poorly motivated. Some occupations and industries are therefore characterized by high turnover, frequent withdrawal from the labor force, intermittent reliance on alternative income sources, and lack of advancement.

The dual market analysts suggest that the number of workers locked in a "vicious cycle" has increased. Black teenage unemployment rates have risen to depression levels, and participation rates of adult black males have declined precipitously. The number of female-headed families has increased possibly because many men with limited earning potential have been unable to find adequate employment.

Again, without passing on the substance of the dual labor market arguments, the challenge to labor market statistics is obvious.

First, unemployment rates have become a less and less meaningful measure of hardship as work, welfare, and the hustle have grown increasingly intertwined. Second, the key factor in measuring labor market pathology is low earnings frequently compounded by turnover and limited job commitment. It follows that unemployment, as counted by the Current Population Survey, captures only the tip of the iceberg and that a realistic assessment of problems faced in the labor market must measure income levels as well as hours of work.

In summary, then, the two theories suggest diametrically opposed interpretations of events: the first view, focusing on aggregate resource utilization, claims that the unemployment rate overstates the extent of job deficiency; the second, from the welfare perspective, asserts that conventional unemployment rates fail to measure the level of need. Yet, both views suggest that current labor market statistics need to be supplemented or modified in order to provide a more realistic theoretical perspective.

INFORMATION REQUIREMENTS FOR POLICYMAKING

The crucial issue is whether current labor market statistics fulfill changing policy requirements. Theorists and technicians can usually manipulate or adjust existing information to fill their needs, but policymakers are more dependent on published and widely accepted indices. These standard measures play a vital role in shaping public policy, as witnessed by the importance of the poverty index in generating a national consensus to combat poverty and in helping to shape specific antipoverty programs.

The evidence is mounting that available labor market data have not kept pace with policy requirements. The extensive experimentation with manpower and related social programs indicates the desirability of supplementing current labor market information with data on the income needs of the jobless and on the relationship between structural unemployment, earnings problems, and the aggregate level of unemployment.

An issue perennially confronting policymakers is the scope and level of minimum wages. The positive income and negative unemployment effects of minimum wages are concentrated among the disadvantaged, so that a measure assessing both the employment and earnings problems of low-wage workers over time would be a useful tool in modifying minimum wage standards to aid the disadvantaged. The same measures might also be utilized in considering the feasibility of a wage subsidy effort.

In setting marginal tax rates for earnings under welfare and social security programs, in assessing unemployment insurance and workmen's compensation, and in designing manpower programs, policymakers would find statistics combining employment and earnings useful as indicators of the well-being of individuals and families experiencing difficulties in the labor market.

A related issue is the distribution of funds under manpower and related revenue sharing proposals. Since aggregate unemployment rates are an inadequate measure of need, they are an inequitable basis for allocation of funds. An alternative considering more broadly defined employment and earnings inadequacy is preferable.

ALTERNATIVE MEASURES

To meet these policy needs and to better assess changing economic conditions, supplementary labor market statistics might be considered. Most significant and feasible is a new index which measures the degree of hardship associated with various labor market problems. Indeed, the 1973 Comprehensive Employment and Training Act mandates the Secretary of Labor to develop such an index.

Severity of needs among the unemployed and the working poor could be weighted by using upper and lower-income bounds—excluding all unemployed workers in households with an annual income adequate to weather a period of joblessness, but including all others whose earnings during the base period fell below predetermined minimum levels. Such a measure of employment and earnings inadequacy based on annual earnings and work experience would count the number of persons whose jobs failed to provide a minimum acceptable standard of living for their dependents.

Efforts could also be initiated to develop a full-time equivalent unemployment rate which would weight the unemployed according to their hours of desired employment. Among the preliminary steps which are needed in formulating, applying, and assessing alternative labor market measures are the following:

1. More information is required on weekly family earnings and income. This must serve as a basis for any current needs measure.

2. The poverty thresholds and related family income budgets need to be reexamined and more carefully adjusted to regional and area costs of living differences.

3. An analytical review of the adequacy of the current definition of the "discouraged worker" is needed.

4. Consideration might be given to identifying "peripheral" workers who have minimal labor force attachment and breadwinning responsibilities.

5. The Current Population Survey, which is the primary source of current and annual labor market statistics, might be expanded in scale and scope to provide more information and to allow more detailed reporting by area and group.

RECOMMENDATIONS

To assess currently available labor market statistics and concepts in light of changing conditions, theories, and policy needs, and to modify and supplement these measures where appropriate, the National Manpower Policy Task Force recommends the following actions.

1. An *ad hoc* committee of labor market experts should be convened to examine alternative labor market measures and to suggest alternative subemployment and earnings employment inadequacy indices. Tabulations should then be made with available data to determine the implications of these alternatives.

2. The Current Population Survey should be expanded to cover more households and to add more income data on a current basis. Special studies may also be needed. For instance, regional and area cost-of-living variations should be more carefully documented in order to refine poverty concepts.

3. A Presidential committee should be appointed to fully assess the conceptual and practical issues related to labor market statistics. A primary task of this committee should be to appraise the feasibility and usefulness of measures concerned with weighted unemployment, income and employment needs of the jobless, and the inadequacy of employment and earnings.

THE LONELY CRUSADE—YOUTH CAMP SAFETY

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker,what do you do when you arrive home as usual one summer's evening to find that your 15-year-old son is "presumed drowned?" The same healthy, eager teenage kid that you sent packing off to camp just a few weeks ago is now needlessly, the victim of inexperience and poor judgment.

So you say to yourself, what is going to happen now? Who will pay for this senseless tragedy? If your son's camp is like most, nothing is going to happen. You'll be patted on the back, consoled and sympathized with, then before you know it, it's back to business as usual.

Mitch Kurman is one father who has refused to allow the death of his son to be written off as "just one of those unforeseeable accidents of life." It was not. David Kurman's death was the direct result of careless and inefficient camp policy. David and several other teenage boys, new to the boating experience, were taken canoeing on a raging river, without lifejackets and under the supervision of inexperienced counselors.

Mitch sued the YMCA, certain that there were specific statutes that would hold the camp accountable for hiring inexperienced counselors and for having inadequate safety gear. He was appalled to find that no such laws existed.

So it began, a man who didn't know the first thing about politics, who hadn't the slightest inkling of how a lobbyist operates and who wasn't a lawyer, set out to change the laws of the United States.

That was in 1965. To date, there are still no minimum Federal standards for youth camps.

As Mitch says:

> You wonder who in the world would be against such legislation?

So do I wonder, yet my efforts for the past 7 years for the safety of youth camps has run up against fervent opposition. The ultimate opposition attack resulted in the perfect congressional stalling tactics—the "study."

Following the failure of my bill to establish minimum safety standards, a substitute measure was passed calling for a national survey of youth camps to be submitted to the Congress in 1 year; $300,000 and 2 years later, we are still in the dark—the report is not yet complete.

I will not let this die. I plan to schedule hearing during this session with the intent of passing effective legislation. I am losing patience waiting for the results of a survey—now 1 year overdue.

I submit the following Wall Street Journal article for your information as a vivid illustration of the footdragging that has hindered the passage of this legislation:

[From the Wall Street Journal, Dec. 18, 1973]

LONELY CAUSES: SUMMER CAMP SAFETY IS THE GREAT OBSESSION IN MITCH KURMAN'S LIFE—SPURRED BY HIS SON'S DEATH, HE HAS DEDICATED YEARS TO INSTITUTING TOUGH LAW—A MACABRE CLIPPING BUREAU

(By Barry Newman)

NORWALK, CONN.—It is getting close to deadline, and the cramped little newsroom of The Norwalk Hour is aflutter. Teletype machines are chattering, phones are ringing, reporters are pecking away furiously at their beat-up typewriters. Then, through the confusion, a short, unimposing, fiftyish man marches into the room and straight up to reporter Frank Fay's desk.

"Whaddya want?" Mr. Fay asks, a look of extreme pain on his face. "I'm right on deadline. I can't talk now." The little man mumbles an apology and, as other newsmen glance up nervously and seem to cower closer to their copy, darts over to the editorial writer's desk to ask about reaction to a letter of his that the Hour had printed. There hasn't been any, he is told.

The man nods and moves over to the copy desk, where City Editor John Reilly stands with a phone lodged against his left ear. "I have the utmost respect for this paper," the man tells Mr. Reilly. "You've done plenty of good stories."

"I know that," Mr. Reilly replies, "but not before we started calling you 'Mitch the pest.' "

Around The Norwalk Hour, Mitch Kurman has been known as "the pest" for going on eight years and 350 visits. Mr. Reilly actually called him that in a column. But what began as an epithet has become a nickname of fondness and respect at the Hour, for Mitch Kurman has shown himself to be a man of awesome endurance and formidable inner strength.

Why? Because Mitch Kurman, a 50-year-old wholesale-furniture salesman who lives modestly behind a high hedgerow in nearby Westport, has pitted himself against forces unassailable by most men like him—against newspapers far less accessible than the Hour, against the United States Congress, against steamroller lobbies. His cause is summer-camp safety, aroused by a great personal tragedy, the death of his 15-year-old son, David, in a canoeing accident in 1965.

"YOU ONLY LIVE ONCE"

Wandering along the roads of his salesman's territory from Maine to North Carolina, Mitch Kurman has managed with seemingly tireless fervor to provoke the passage of laws requiring lifesavers on small boats in Maine, New Hampshire, Massachusetts, Connecticut and New York. He has helped push through camp-safety laws in Connecticut and New York and for the last several years has been stumping stubbornly for federal legislation that would protect children when their parents entrust them to a camp for the summer.

Mitch is a fast, tough talker who clenches his teeth and curls his lip when he speaks about the interests that he says have tried to trip up his legislation. And he gives little comfort to citizens who, unlike himself, aren't motivated to stand up for their rights:

"Hell, you only live through this lifetime once, and for crying out loud, if you can't get a little bit of good done, what are you going to do, keep piling up money that's worth less and less every day? If there's anything that disgusts me, it's somebody who says, 'What do you want me to do? I'm only one guy.' "

Frank Fay, who wrote David Kurman's obituary in The Norwalk Hour eight years ago, sees Mitch's motives a bit differently: "The grief he felt over his son's death was unbelievable. He had a tremendous feeling of determination not to let it go unnoticed. The guy was just a good father and a good husband who had a fire inside him that came out in one fantastic epic demonstration of perseverance."

In earlier years, Mitch was content to sell furniture and quietly raise his son and two daughters with his wife, Betty. On weekends, he would spend his spare time by himself in a boat on Long Island Sound, fishing for striped bass and bluefish. His thoughts were far from politics.

"As a kid I was a political animal," he says. "But later I became disillusioned with the whole thing. When the boy was in a debate or took up a petition I said he's just an idealistic kid, he'll get over it."

POLITICAL ANIMAL REBORN

On Aug. 5, 1965, David Kurman died, and his father became a political animal again. Mitch has told the story of the fatal canoe trip dozens of times—to newspaper reporters and radio commentators, to a judge in court and to congressional committees. Every detail of the ordeal, every middle initial of every official involved, seems to be fixed in his memory.

It was early evening of that August day when he swung his station wagon into his driveway after a week on the road. He was carrying a load of logs for David to split when he returned from camp. Inside, he found Betty in tears. David, who had gone on a canoe trip with a YMCA camp in Rochester, N.Y., was missing on a river in Maine. At 10:30 that night a local policeman came to the door. "He looked very uncomfortable," Mitch remembers. "He wouldn't look at either of us and just read from a piece of paper he pulled from his pocket. It said our son David was presumed drowned."

Mitch and Betty drove north, to the Penobscot River in Maine. "When I saw the river my blood ran cold," Mitch says. "I couldn't believe anybody would ever go down it. It was every bit as wild as the Niagara Gorge, and the Great Northern Paper Company shoots hundreds of thousands of logs down it to a pulp mill."

The boy wasn't wearing a life preserver; and, according to Mitch, the young counselor who led the trip admitted that he got into waters that were "more than they bargained for." For three harrowing days, while Mitch and Betty waited, crews grappled in the rapids until they found David's body.

The Kurmans sued the YMCA and, two years ago, settled for $30,000. But back in 1965, Mitch was certain there were specific statutes that would hold the camp accountable for hiring inexperienced counselors and for having inadequate safety gear. He was appalled to find that no such laws existed.

"I thought, as parents everywhere must think, that there must be some legislation to protect kids," Mitch says. "When I saw how ugly the situation was, I said this is just too darn raw to let go on. I don't believe in putting a tombstone over a kid and saying that's the end of it."

So it began. A man who didn't know the first thing about politics, who hadn't the slightest inkling of how a lobbyist operates and who wasn't a lawyer, set out to change the laws of the United States. "It wasn't even clear in his mind at first what he wanted to do," says Frank Fay. "He'd just call up and throw a little tidbit at you. It was tough to deal with."

In his basement, amid washer and dryer and family portraits, Mitch set up an office where he began to collect his evidence—box upon cardboard box of newspaper clippings about accidents at camp; letters from politicians, from camping associations and from parents of injured children; and carbon copies of Mitch's own letters, written by the hundreds in a scrawled hand on his "Early American Furniture" letterhead. His tactics slowly took shape.

Through a network of his customers that is nearly as good as a clipping service, newspaper articles about camping accidents reach him: "57 Youths Injured in Jersey Wreck"; "Boy, Man Drowned in 2 Accidents"; "Girl's Body Recovered by Divers in Patterson." When he catches wind of an accident, Mitch drives to the scene, talks to the police and gets the details. He looks for evidence of the sort of shortcomings that might be eliminated by a law regulating camps.

(There aren't any official accident figures for camps. However, based on incomplete insurance statistics and other rough data, Mitch estimates that each year some 250,000 youngsters in the U.S. end up getting hurt in some way while attending camp; this is out of an estimated total of 8 million young campers.)

"I like rooting out this stuff and getting to the bottom of it," Mitch says. "Then I'll look up the local Congressman or Senator and I'll say, 'Look, it's about time you did something about this—this happened in your own backyard.' "

For good measure, he hits the local newspapers. "If you go to a politician and hope something will be done, you're crazy," Mitch says. "But if he knows you're making the public aware of the situation, that's different." So while other salesmen spend many of their nights hanging around bars and hotel rooms, Mitch spends many of his nights hanging around newsrooms. "I walk in with two suitcases filled with material and throw it at them before they can give me a cold shoulder," he says. "The idea is to sell it and sell it fast."

Based on the number of articles written about his fight for summer camp safety, Mitch's strategy has been strikingly successful. Hometown newspapers throughout his territory have given him editorial support and space in their news columns. So have bigger papers including The Christian Science Monitor, The National Observer and The Washington Post. Mitch says he "got under the skin" of John Oakes, editorial page editor of The New York Times, with the result that the Times has published four editorials backing his legislation.

The publicity has gained Mitch a certain amount of fame—and wary respect—among politicians. "There isn't a legislator from New England to the Carolinas who doesn't know him," says an aide to Sen. Abraham Ribicoff, the Democratic senior Senator from Mitch's home state of Connecticut. The Senator, who is sponsoring a summer-camp-safety bill, is quick to respond to a query about Mitch. "I have the highest regard for him," he says. "There ought to be more Mitch Kurmans in the world."

But Mitch still isn't a complete success. While he points proudly to drops in drowning deaths after lifesaver legislation passed in states like Connecticut, his campaign has nevertheless been marked by some harsh setbacks making it clear that even seemingly innocuous legislation has trouble getting past special interests.

"I would welcome open opposition, but it's all been behind the scenes," Mitch says. "You wonder who in the world would be against this type of legislation."

The history of New York's lifesaver law is a case in point. In 1969, Mitch worked with state officials sponsoring a bill that passed New York's lower house by a vote of 147 to 3. In the state Senate, though, the bill was "starred," a legislative device that enables a single senator to indefinitely block a vote. By the time Mitch found out what "starring" meant and who had done it, the session was over.

As the next session began, Mitch was back; but this time he decided to go directly to Gov. Nelson Rockefeller. Mitch drove to the governor's Pocantico Hills estate only to find it surrounded by high walls and barbed wire. Undeterred he went to see the governor's minister in a nearby church and talked with him for hours. Mitch isn't sure if the conversation had any effect, but the bill passed.

The following summer, the new law got its first test when a 17-year-old girl drowned without a life preserver at a camp in Patterson, N.Y. To Mitch's chagrin the police never charged the camp with a violation. The law's fine print, as it turned out, exempted "private" waters, letting nearly all the state's camps off the hook. State officials still are debating the law's interpretation, but, Mitch snaps, "it isn't worth the paper it's printed on."

Mitch's experience in Washington has also been frustrating. For example, Sen. Ribicoff's bill, which would do little more than goad states into enacting their own summer-camp legislation, languished in the Senate for six years before being passed last session; it didn't make it through the House, however, and now is awaiting reintroduction.

A stronger bill sponsored in the House by New Jersey Rep. Dominick Daniels sweated through years of hearings without squirming out of committee. In 1971, it came up for a vote; but a softer measure, calling for a $300,000 study of the problem, was approved instead.

Behind the study bill was a lobby of camp operators from Texas who took a "states' rights" stand against federal controls. And, though they vehemently deny it, Mitch Kurman is convinced that some of the bills' detractors are from the Boy Scouts of America. "They're always wrapping themselves in the flag and thumping on the Bible," Mitch says, "but they're my most vicious opposition." The Boy Scouts' camping director, Russ Turner, says the organization is against strict federal controls because it feels states can do the job better. But, he adds, "we don't fight legislation and we have no quarrel with Mitch. Our concern is the same as his: the welfare of kids."

The federal camping study is due for completion soon and the regulation of the business is again a real possibility. After eight years, the federal legislation is all Mitch Kurman really wants. If he gets it, he won't go on to another issue and he certainly won't apply his well-honed political skills to running for office. In politics, he says, "you have to be able to say yes when you mean no, and that turns my guts."

Mitch Kurman, more likely, will just go back to selling furniture and fishing on weekends. "I'm prefectly happy in my work," he says. "I like where I live, and I have a wonderful wife. I'd be perfectly contented if I could just get this one bit of legislation through. I've got to get it out of my system."

CONGRESSMAN DOMINICK V. DANIELS URGES SOVIETS TO PERMIT UKRAINIAN CULTURAL PATTERNS TO PERSIST

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, on January 22, 1974, we observed the 56th anniversary of Ukrainian Independence Day. Despite more than a half century of domination by the Great Russian chauvinists of the Soviet Union who have tried to expunge the ancient Ukrainian language and culture, the spirit of the Ukraine persists.

Mr. Speaker, while it is fashionable today to seek better relations with the Soviets, we must also remember the cause of those who have been forcibly incorporated into the Soviet system. Ever since the founding of the Soviet Union, the rights of nationalities have been guaranteed both by statute and even by the Soviet Constitution itself. Unhappily these words have been just words and Great Russian chauvinism has been the order of the day. Every effort has been made to Russianize all of the nationality groups which make up the polyglot U.S.S.R., and especially the Ukraine.

Mr. Speaker, the Soviet Union has indicated that it wishes a spirit of détente with the United States, a thawing of the cold war. If they are sincere the Soviets could build a reservoir of good will among Americans of eastern European origin and their families by living up to their many pledges by permitting the nationality groups freedom to enjoy their own languages and cultural patterns.

Mr. Speaker, as we observe this 56th anniversary, I join with the many Ukrainian descended people in the 14th Congressional District of New Jersey and throughout North America in the fervent prayer that before long conditions in the Ukraine will improve for the better with the political prisoners freed and the Ukrainian people allowed once again to live as Ukrainians.

PRESIDENTIAL RESPONSIBILITY: THE DEFENDANT DOES NOT DIRECT THE PROSECUTION

(Mr. LEGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. LEGGETT. Mr. Speaker, last night President Nixon told the Nation he would cooperate with the Judiciary Committee "in any way I consider consistent with my responsibilities to the office of the President of the United States."

Let us not mince words. Mr. Nixon does not have the right to determine when he shall cooperate and when he shall not. His "responsibilities to the office of the President" are entirely a product of his own imagination. His oath of office pledged him to defend not the Presidency but the Constitution of the United States. His responsibility is to the Constitution, not to whatever conception of the Presidency he may choose to construct for his own convenience.

The Judiciary Committee is carrying out its constitutional responsibility to determine whether impeachment is warranted. We have seen from past performance that Mr. Nixon regards publication of any evidence which incriminates him as an attack on the Presidency. Under the guise of "executive privilege" he has tried to repress all incriminating evidence, and doubtless will continue to do so. But his constitutional duty is to cooperate with all demands of the committee, not simply those which he regards as nonincriminating.

There can be no claim of executive privilege against an impeachment proceeding. Whether he likes it or not, Mr. Nixon must obey the committee's judgment, not his own, as to what evidence should be surrendered. Should he refuse to do so, this in itself will constitute grounds for impeachment.

AVAILABILITY OF THE BUDGET TO MEMBERS OF CONGRESS

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, yesterday I reported to the House that the OMB will gladly make copies of the new budget available to the news media on Friday, but will under no circumstances distribute copies to Members of Congress prior to late Saturday.

After making this announcement to the House yesterday, I received another call from OMB, indicating that now it will be impossible to distribute budget copies to Members of Congress prior to Monday morning—72 hours after they are available to the news media.

The OMB explained that Saturday distribution to Congress would necessitate overtime work by the post office and would create an additional expense. I suggested I would be glad to pick up my budget copy personally at OMB on Saturday, but I was advised that this might create complications with other Members of Congress.

I was further advised by OMB that the reason for the 72-hour lag was because otherwise the news media would not have the time to formulate sharp enough inquiries to Members of Congress.

Perhaps Members of Congress can arrange to be deputized by their local news media to prepare their public reactions to the President's budget, thereby enabling Members of Congress to get access to the new budget on Friday at the same time as the press receives it.

LEGISLATIVE PROGRAM

(Mr. WYDLER asked and was given permission to address the House for 1 minute.)

Mr. WYDLER. Mr. Speaker, I ask unanimous consent to proceed for one moment for the purpose of inquiring of the majority leader the legislative program of the House for the next week.

Mr. McFALL. If the distinguished acting minority leader will yield, I will be happy to respond.

Mr. WYDLER. I yield to the gentleman.

Mr. McFALL. There is no further legislative business for today.

Upon the announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for the House for next week is as follows:

Monday is Consent Calendar Day and there are no bills on the Consent Calendar.

There are two bills to be called up under suspension of the rules:

H.R. 8977, Egmont Key, Fla., National Wildlife Refuge; and

H.R. 4861, Piscataway, Md., National Park.

On Tuesday, there is the Private Calendar and no bills on the Suspension Calendar for Tuesday.

The House resolution for subpena authority for impeachment inquiry, subject to being reported, and H.R. 11221, deposit insurance, with an open rule and 1 hour of debate.

Wednesday and the balance of the week there will be:

H.R. 5463, Federal rules of evidence, to complete the bill that we started this week. We will have votes on amendments on the bill.

H.R. 11864, Solar Heating and Cooling Demonstration Act, subject to a rule being granted.

H.R. 11873, Animal Health Research Act, subject to rule being granted.

Conference reports may be brought up at any time. Any further program will be announced later.

I would like to call attention of the Members that the Lincoln recess will be from the conclusion of business on Thursday, February 7, until noon, Wednesday, February 13.

ADJOURNMENT TO FEBRUARY 4

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. PATMAN. Mr. Speaker, reserving the right to object to dispensing with Calendar Wednesday next—I wish to state that it was my intention to object to dispensing with Calendar Wednesday.

I do this because of the way in which the Banking and Currency Committee has been dealt with concerning the bill, H.R. 10265—a bill to audit the Federal Reserve, and for other purposes—in the Committee on Rules.

The House Committee on Banking and Currency by an overwhelming vote, 21 to 8, ordered the bill reported, and the committee did report the bill. In so doing it directed the chairman of the House Committee on Banking and Currency to take whatever necessary means to secure speedy and expeditious consideration by the House on this legislation.

The Banking Committee did appear before the Rules Committee on this legislation. No member of the Banking Committee appearing before the Rules Committee, including members of the majority and minority, objected to the granting of a rule on this legislation; however, the Rules Committee in its wisdom, via a procedural motion, moved to table the bill for further consideration.

Mr. Speaker, I have requested of the chairman of the Rules Committee, who has been most gracious in his consideration of this matter, a further hearing before the Rules Committee on this legislation.

All I ask, Mr. Speaker, is that the Rules Committee grant a rule on this legislation so that the House may work its will. This to me is certainly a reasonable and rational request.

Mr. Speaker, I shall not object to the dispensing of Calendar Wednesday this time; however, I wish to place myself on record that unless within the immediate future the Rules Committee does grant the committee a rehearing on this matter and a rule allowing the audit bill to be brought up before the House, I shall be forced in living up to the directive I have from the Banking and Currency Committee to seek recognition on a subsequent Calendar Wednesday in order to have this legislation considered.

Mr. Speaker, I withdraw my objection.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. Mr. Speaker, I yield to the gentleman from California.

Mr. McFALL. Mr. Speaker, the gentleman discussed a very important piece of legislation, and every effort will be made to discuss this matter with the Rules Committee so that the orderly processes of the House will be followed.

Mr. PATMAN. Mr. Speaker, I thank the gentleman from California very much.

Mr. GROSS. Mr. Speaker, further reserving the right to object, the gentleman from Texas (Mr. Patman) makes quite a case. Is he content to walk off and leave his bill to the vagaries and uncertainties of the situation he has described?

Mr. PATMAN. No, we expect to get a rule. I am expecting to get a hearing before the Rules Committee and expect to get a rule. I do not know of any reason why it should not be granted in order to give all the Members an opportunity to vote.

Mr. GROSS. Then, what was the object of the gentleman taking this time to advise the Members of the House of the precarious situation he is in?

Mr. PATMAN. To let all Members know.

Mr. GROSS. That there is such a bill in existence?

Mr. PATMAN. No, that we are going to insist upon the passage of such a bill, but this procedure, if possible, would not be looked upon with favor because we would not have time to acquaint all the Members of the House with the bill.

Mr. GROSS. Then why does the gentleman not object to dispensing with the call of Calendar Wednesday?

Mr. PATMAN. Mr. Speaker, of course, if I object, then we would have to dispense with the ordinary proceedings that we have, the normal proceedings.

Mr. GROSS. Mr. Speaker, I dislike very much to see the gentleman circumscribed in his efforts to get what he says is good legislation before the House. Therefore, since the gentleman has made, I believe a good case for at least consideration of his bill, I am constrained, and I do object, to the request of the distinguished acting majority leader.

Mr. McFALL. Mr. Speaker, will the gentleman from Iowa withhold that objection until I have an opportunity to discuss with him briefly?

Mr. Speaker, will the gentleman yield?

Mr. GROSS. Mr. Speaker, will the gentleman withdraw his request?

Mr. McFALL. Mr. Speaker, I would like to allow my request to stand.

Mr. GROSS. Mr. Speaker, does the gentleman wish me to yield?

Mr. McFALL. Yes.

Mr. GROSS. Mr. Speaker, I will be glad to yield to the gentleman, and withhold my objection.

Mr. McFALL. Mr. Speaker, the gentleman from Texas, the chairman of the committee, of course is presenting to the House a very important matter. We hope that this matter will be resolved in the granting of a rule by the committee. As I understand what the chairman of the important Committee on Banking and Currency is saying to the House, I hope that we will get a rule.

I want to allow the Rules Committee the opportunity to do such a thing, which we would prefer, rather than bringing up his important bill on Calendar Wednesday.

At this time he would like to allow the Calendar Wednesday to be dispensed with in order that he be granted a rule.

Later on, if he is not granted a rule, if I understand the gentleman from Texas, then he would be constrained to object to the granting of the request to dispense with Calendar Wednesday.

Mr. Speaker, I would hope that the gentleman from Iowa would allow the gentleman from Texas to see if he can get a rule from the Committee on Rules.

I think he will, and we will have a better opportunity really to consider that bill under the rule than we would under the Calendar Wednesday procedure.

I hope that the gentleman from Iowa will withdraw his reservation of objection.

Mr. GROSS. Mr. Speaker, I would like to ask if the gentleman from Texas has tried to get a rule.

Mr. McFALL. Mr. Speaker, if the gentleman will yield, the gentleman from Texas, as I understand it, has made his application for a rule. This is being considered by the Committee on Rules. I have every confidence that the Committee on Rules will give us a rule on that bill, and I do hope that the gentleman from Iowa will allow this matter to be handled in that fashion and will withdraw his reservation of objection.

Mr. GROSS. All I am trying to do is protect the gentleman from Texas from himself in order to see that he gets fair treatment in the House of Representatives.

Mr. McFALL. Mr. Speaker, if the gentleman from Iowa will permit me to proceed, I would like to join with him in this objective, and I think that we can do it by getting the rule.

Mr. GROSS. And the gentleman thinks that it is possible under that procedure to protect the rights of the gentleman from Texas?

Mr. McFALL. I am sure that that can be done, and if it is not done, then certainly we can dispense with Calendar Wednesday perhaps next week.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR THE COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, FRIDAY, FEBRUARY 1, 1974, TO FILE A PRIVILEGED REPORT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight, Friday, February 1, 1974, to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE A REPORT ON H.R. 8977, EGMONT KEY WILDLIFE REFUGE

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight tonight to file a report on the bill, H.R. 8977, Egmont Key Wildlife Refuge.

Mr. Speaker, I understand that this has been cleared with the gentlewoman from Missouri (Mrs. Sullivan), the gentleman from New York (Mr. Grover), and the gentleman from Michigan (Mr. Dingell).

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRESIDENT'S STATE OF THE UNION HAS GOOD NEWS ON TRANSIT

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. Frenzel) is recognized for 30 minutes.

Mr. FRENZEL. Mr. Speaker, President Nixon, following up the transit emphasis in his message of January 1972, included a strong, and welcome, statement in support of mass transit development. I understand that the President's call for additional mass transit support will soon be followed by a detailed program recommending approximatey $2.5 billion for transit in the coming year.

This package will include about $500 million in new funding. But, more important than the dollars, the President is expected to recommend that we give local governments the previously denied flexibility to make their own transit planning decisions. In my judgment, this is a long overdue and essential reform.

Prior to this year, city fathers had to choose between building highways with 90–10 Federal dollars or going after a much smaller pot of two-thirds Federal dollars for mass transit. The transit choice was particularly unattractive and still is, simply because there are no existing transit options that even come close to competing effectively with the automobile.

The new money and the enlarged local options suggested by the President are steps in the right direction, but the most critical part of our whole Federal transit program lies in the area of research and development. Since I have been in Congress we have been guilty of timid appropriations for R. & D. Each year, the Congress has cut the President's suggested budget for R. & D. This year we will be making capital grants of about $800 million, but spending less than one-tenth of that sum for R. & D. Unless we can develop transit options that people will want to choose, mass transit will continue to show a poor return on an enormous Federal investment.

I have no advance information on what the budget recommendation is for transit R. & D. But, based on the need to develop attractive transit options, especially the promising PRT technologies, any budget of less than $100 million will simply guarantee that we still will be confined to our cars and buses, no matter how much local decisionmaking or capital moneys we grant.

Denver residents have already approved a transit system that has yet to be developed. Leaders in the Twin Cities are anxious to explore new transit technology for deployment in my area. We will go with an improved bus system until something better comes along, but we are impatiently awaiting the development of more promising new technologies.

The Federal Government has spent billions of dollars in an effort to upgrade mass transit ridership, yet all of our cities have experienced increased automobile traffic. Transit ridership has suffered a sharp decline, and the trend continues, despite the fact that its market share is less than 5 percent. The only way I can see to turn the picture around is to figure out what kinds of systems people want to ride and then begin to build them.

Local officials should have maximum flexibility in the use of Federal transportation dollars. But we need to stop kidding ourselves about the available transit options. Without far more attractive, cost-effective transit systems, we will continue to spend huge sums on obsolete systems that people will cheerfully ignore.

I applaud the President's interest in and commitment for mass transit. The new money is welcome and so is the ability for local decisionmaking. But neither of these features will give us a decent payoff until we make a significant investment in the real key to transit ridership—research and development of new technologies that offer a real choice in transportation.

A SUPPLEMENTAL BUDGET REQUEST FOR URGENT ENERGY RESEARCH AND DEVELOPMENT FOR FISCAL YEAR 1974 IS NEEDED

The SPEAKER. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 20 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, we are all aware that our major domestic problem is to maintain adequate supplies of energy and that initial steps have been taken to solve that problem. It is imperative that these actions be carried out efficiently and with continuity. I refer specifically to the need for continuity in the expanded flow of funds for energy research and development.

With the possible exception of our highest priority research and development program—the LMFBR-funding under the original fiscal year 1974 budget did not provide the resources for broad energy R. & D. efforts. With his initiative of June 29, 1973, the President announced a rapid acceleration of the Nation's energy R. & D. efforts through a $10 billion program over the next 5 years. He requested the Chairman of the AEC to conduct a review of Federal and private energy R. & D. activities for the purpose of recommending this integrated R. & D. program. In addition, the chairman was asked to recommend those programs that could effectively use additional funding in fiscal year 1974. On October 11, 1973, the President recommended $115 million in additional fiscal year 1974 funds for energy R. & D. This included an increase of $49.5 million for coal research. Similarly, other programs that offered near- or intermediate-term results received substantial increases.

These additional funds will help to insure orderly program expansion through the hiring of the skilled workers and researchers who are the backbone of the research and development effort. This intermediate buildup will permit efficient implementation in the coming years of the $10 billion energy R. & D. program that the President will submit to Congress.

The President's January 23, 1974, message to Congress reflected many of the recommendations stated in Dr. Ray's energy report. The President recommended that fiscal year 1975 Federal funding for direct energy R. & D. be increased to $1.8 billion, almost double the fiscal year 1974 level. It is evident that many programs will receive substantial increases. Recipient programs must have a continuous expanded flow of funds to build up the necessary manpower and facility resources if increased program support is to have the desired results. The National Laboratories, as an example, will need to rehire personnel lost in previous budget cuts. Continued availability of funds will allow the labs to plan ahead to meet the increased demands resulting from expanded research and development efforts.

Congressional action on appropriations bills is almost never completed until months after the start of the fiscal year. Even though the 1975 budget presumably will provide a higher level of funding for energy R. & D. programs, agencies operating under a continuing resolution would be restricted to the previous year's funding level until the bills are signed and the Office of Management has approved the Agency's apportionments. Frequently this is not accomplished until well into the second quarter of the fiscal year. This could seriously impede progress contemplated by the administration on these research programs, since considerable time is required to gear up to the higher levels of funding once the apportionments are approved.

In view of these factors, I should like to recommend that the President submit to Congress an additional supplemental authorization and appropriation request for fiscal year 1974 relative to energy R. & D. upon submittal of the budget message for fiscal year 1975. The level of this supplemental request should help to bridge the expected gaps between fiscal year 1974 levels and fiscal year 1975 requests. Early availability of funds will provide not only for orderly program expansion but for a higher base of effort should funding under a continuing resolution be required during consideration of program priorities. I am convinced that, in many cases, this increased funding will encourage additional financial support from industry, particularly for programs that offer promise of near- and intermediate-term results.

I believe this action will help to insure satisfactory implementation of Project Independence.

THERE CAN BE NO COMPROMISE ON PRINCIPLES OF BASIC HUMAN DECENCY

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise today to speak on an issue of great humanitarian concern that has developed as a result of the war in the Middle East.

Israel and Egypt have completed their prisoner-of-war exchange, but the Government of Syria has not only refused to agree to such a procedure, it has also refused to fulfill its obligations under international law and the Geneva Convention with regard to the treatment of prisoners.

The Syrians are believed to be holding approximately 125 Israeli prisoners and have not provided the International Red Cross access to them, have denied requests for an immediate exchange of those wounded, and perhaps worst of all for the families of these men, they have not released the names of the POW's.

Mr. Speaker, this lack of action on the part of the Syrian Government constitutes grave and direct violations of the 1949 Geneva Convention. Furthermore, reports are continuing that Syria has barbarically murdered scores of Israeli prisoners in cold blood. Such reports add to the agony of the families whose members are missing in Syria and increase suspicions that the Government of Syria does indeed have crimes to hide.

When I called this critical issue to the attention of our Department of State last month, I was informed:

> The United States has done everything it can, and will continue to do so on behalf of the POW's. We have talked with the Soviet Union, with the Egyptians and with the Syrians through the Soviet Union to try to find a way to reconcile these competing claims. Our difficulty in resolving the issue is accentuated by the fact we have had no diplomatic relations with Syria since 1967. We are hopeful that when the political process of negotiations begins, the question of the POW's can be solved.

Mr. Speaker, I am aware that many Members of Congress have expressed their strong feelings on this humanitarian issue and I am also aware that our Department of State and Secretary Kissinger are actively seeking a resolution of this continuing tragedy.

Nevertheless, we must all continue to make our voices heard. We must continue to demand that these most basic of human rights be granted, and we must continue to insist that Syria fulfill Geneva Convention requirements by providing the International Red Cross with a list of prisoners of Israeli nationality and permitting the Red Cross to contact the captives and to visit POW facilities.

There can be no compromise on this basic issue of human decency and civilized international law.

HEARING SET ON PRETRIAL DIVERSION

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice has scheduled hearings on H.R. 9007, to permit a Federal court, upon the recommendation of the U.S. prosecutor, to place certain persons charged with Federal crimes in programs of community supervision and services; and S. 798, to reduce recidivism by providing community-centered programs of supervision and services for persons charged with offenses against the United States, and for other purposes.

The concept embodied in this legislation is frequently referred to as pretrial diversion. It permits the establishment within our probation system of a program which provides for diversion from the court system for Federal offenders under certain conditions. Upon the recommendation of the Government attorney, and with the concurrence of the defendant and the court, a defendant can enter a probationary program and waive his rights to a speedy trial. If he fulfills the conditions of the program, the criminal charges against him are dismissed. If he fails to meet his obligations under the program, the pending criminal charges can be prosecuted.

The hearing will be held on Wednesday, February 6 at 10 a.m., and on Thursday, February 7 at 10:30 a.m., in room 2226, Rayburn House Office Building. Witnesses will be heard from the Department of Justice, National Legal Aid and Defenders Association, American Bar Association, and the Administrative Office of the U.S. Courts.

HOODWINKING TAXPAYERS WHO USED THE 1973 CAMPAIGN TAX CHECKOFF: CONGRESS MUST RIGHT THE WRONG

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, when taxpayers filled out their 1972 income tax returns, due April 15, 1973, they were told by the Internal Revenue Service that their $1 contribution would be paid over to the 1976 Presidential Election Campaign Fund, pursuant to the existing law. The IRS form stated:

> If you wish $1 to be paid over to the candidate of a specific political party, check the first box and fill in the name of the political party. If you wish $1 to be paid over to a nonpartisan general account for all eligible candidates, check the second box.

According to the IRS, some 4 million taxpayers directed that the money be given to the party of their choice, mainly Democrats or Republicans, or into the nonpartisan fund.

Those who designated a specific political party did so because they preferred that party to the opposition party. Those who marked their choice as the Democratic Party would have been outraged at the thought that someone would later shortstop their contribution and turn part of it over to the Republicans. Those who marked their choice as the Republican Party felt the same way, vice versa. If their direction was not going to be honored, they would have much preferred not to have the $1 contribution at all, and instead let it be used like any other tax dollar: to reduce the deficit, and the resulting national debt.

It would take an inexcusable breach of faith to undo what these taxpayers were led to believe they were doing when they contributed to the candidate of a specific political party. Yet, to my deep regret, I have just discovered that that is precisely what Congress did in Public Law 93-53, which became law on July 1, 1973. When that bill passed the House on June 30, 1973, it passed by an overwhelming vote of 294 yeas—I among them—to 54 nays. The Senate approved the measure, also on June 30, 1973, by 63-2.

Public Law 93-53 was an omnibus, conglomerate, Christmas tree of a bill affecting the debt ceiling, unemployment compensation, maternity and child care, and Presidential campaign financing. But hidden in it was the following cryptic language:

> Any designation made under section 6096 of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall, for purposes of section 9006(a) of such Code (as amended by subsection (b)), be treated solely as a designation to the Presidential Election Campaign Fund.

That language, according to the Internal Revenue Service, authorizes the Treasury to divert the sums contributed last year to the specific Presidential campaigns—Democratic, Republican, and the rest—into a 1976 Presidential nonpartisan fund. In a nutshell, Public Law 93-53 retroactively hoodwinks taxpayers who wanted to support the Democrats into supporting the Republicans, and taxpayers who wanted to support the Republicans into supporting the Democrats. Only those taxpayers who wanted to support a nonpartisan general account were exempt from victimization.

How did Congress come to do this monstrous thing?

Step one in the comedy of errors was the adoption by Congress in Public Law 93-53 of the provision that prospectively—for years after 1972—the taxpayers' contribution could no longer be to a "specific political party" but instead would have to be for the "nonpartisan general account," in which the 1976 Democratic and Republican Presidential candidates would share 50-50, with some accommodation for minor parties. In making this prospective provision, the House and Senate were at least alerted to what they were doing, because the proposal for the future was adequately explained by the managers of the bill in both bodies.

But step two was the adoption of the provision that retroactively the taxpayers' contributions could only go to a nonpartisan fund. It is one thing for Congress to vote, as we did in Public Law 93-53, that from here on out a taxpayer can only give to a nonpartisan general fund, and not to either political party as such. It is quite another thing retroactively to invalidate a choice-of-party decision made by the 1972 taxpayer under laws then in full force and effect.

The reason why Congress committed this breach of faith is that it knew not what it did. It knew not what it did because the retroactive section was never disclosed to Members of the House. On June 29, 1973, when the measure that became Public Law 93-53 on July 1, 1973, first came before the House, the manager asked that the reading of the measure be suspended, promising that the measure "will be fully described." Thus the measure was never read. Nor was mention made in the debate that followed of the retroactive section.

The House again considered the measure which was to become Public Law 93-53 on June 30, 1973. Again, the retroactive language was not read, and again no mention was made of the retroactive provision in the debate.

That same day, June 30, 1973, the Senate considered the same measure. Neither the manager nor any other Member referred to the retroactive provision in the debate.

Mr. Speaker, an injustice has been done. Taxpayers acting in good faith have had their contributions diverted and their intentions distorted. It is no comfort to them to be told that Congress knew not what it was doing.

I have caused to be prepared, and shall shortly introduce, legislation to redress the injustice, by having the 1972 contributions "to the candidate of a specific political party" revert to the Treasury, rather than being used in part for a purpose just the opposite of what the contributors desired.

THE STUDENT LOAN CRISIS

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 15 minutes.

Mr. O'HARA. Mr. Speaker, on Monday, I shall introduce a bill to amend the Higher Education Act with respect to the needs analysis requirement placed in that act by Public Law 92-318. My bill would seek to open up the possibility of obtaining an interest-subsidized, guaranteed college loan to a great many Americans who could have obtained such a loan before the 1972 amendments were enacted, and who, I am convinced, the Congress never intended should be deprived of the opportunity when those changes were made 18 months ago.

Let me explain a little of the history of the problem. Prior to the 1972 amendments, any student whatever his family's income, could qualify for a guaranteed loan without interest subsidy, and any student whose family's income was $15,000 or below could qualify for interest benefits—under which the Government would pay the interest during the student's college career and for 9 months thereafter. This interest benefit was, of course, in addition to the guarantee the States and the Federal Government provided to the private lender in case of borrower default.

In changing the law in 1972, the Congress removed the $15,000 income ceiling for eligibility for guaranteed, interest-subsidized loans. We felt, as any observer of the economic events of the past 5 years must feel, that $15,000 is certainly not what it was when the ceiling was first placed on eligibility. In 1965, $15,000 was a respectable middle-class annual income. It would buy meat for the table, gasoline for the car, and help pay for a college education. Those making $15,000 in 1965 were not among the rich, to be sure, but they were not hard put to make ends meet.

Mr. Speaker, the past 5 years—and I shall not waste time here in recriminations—have seen the value of $15,000 reduced so sharply that "inflation" is hardly the word for it. What was a comfortable middle-class income 5 years ago cannot today buy meat for the daily table—and if bread, gasoline, heating fuel, and the other necessities of life continue to climb, it may hardly begin to pay for a first-class trip to the poorhouse.

The Congress recognized this trend as early as 1972, or earlier, and, in 1972, removed the $15,000 ceiling. Because of the general reluctance of banks to make unsubsidized loans, and because of the upward movement of the threshold of real need for guaranteed and subsidized loans, we decided to remove the ceiling, and stop to ruling out truly needy families whose income might be a few dollars over $15,000 in a given year.

The intention of the Congress, then, was to liberalize access to guaranteed subsidized loans.

But the committee was also given evidence which suggested that, in a few cases, the loan privilege may have been abused. Students who may not have needed the loan to pay their tuition borrowed anyway, and, we are told, used the proceeds to buy automobiles, or the like.

There seems to have been some evidence of this kind of practice, but I believe it fair to say the committee acted more to eliminate the possibility of abuse than to cope with an existing epidemic of abuses.

We put two provisions in the law relating to two classes of borrowers—those whose family incomes were below $15,000, and those whose family incomes were above. For those with incomes above $15,000, the law provided that the college had to determine if he was in need, and the amount of that need, and had to certify those findings to the lender. For those with incomes below $15,000, the law simply requires that the amount of the need be determined, and certified to the lender. In both cases, the lender is the final authority as to whether or not the loan will be made, and the amount of the loan.

The intent of the law, as I have heard it explained by more than one member of the conference committee that wrote it, was to assume need for families below $15,000, and simply secure an idea of the amount of need, while for families of over $15,000, both the existence and the amount of need were to be examined by the institution.

Unfortunately, under the law and regulations as written, families in both categories are treated essentially the same—a vigorous needs analysis is made, and both the existence of need and the amount of need are measured against the needs analysis.

In effect, then, Mr. Speaker, a law which was supposed to liberalize access to guaranteed loans by removing an income test was wound up making it harder by imposing a rigorous income analysis in place of the restrictive but simple size-of-income test.

Needs analysis itself is a phenomenon that is widely misunderstood, and often misapplied. But at its best, it rests on some very stiff assumptions about how much families can and should contribute to the higher education of their children.

My subcommittee has conducted 2 days of hearings dedicated entirely to the theory and practice of needs analysis, and I think that while its practitioners are very careful to point out that they are not trying to provide student aid officers or parents with an ironclad rule as to how much a family can in fact contribute to a young person's education, they do make the kinds of assumptions about the value of higher education that persons in the education profession can be expected to make. And, after making those assumptions, the needs analysts come up with some pretty steep assessments of what families "can reasonably be expected to contribute."

This assessment once made, it is the obligation of the student aid officer and the lender to make their own independent judgments as to how much of a loan the aid officer will recommend and the lender will make. Unfortunately, as seems so often to happen when an impressive data processing operation presents a busy aid officer or banker with a suggested figure, there is a very great tendency to take that figure as binding, and look no more into the problem.

In addition to our 2 days on needs analysis, my subcommittee last summer sent its staff out into the field to find out what was happening in the guaranteed loan program, and held a day-long roundtable discussion with regard to those findings.

Our findings on the basis of those field trips and hearings was that there existed somewhat greater flexibility under the law than most student aid officers and bankers were willing to utilize. We sent to the student aid community an exchange of correspondence between the Committee and the Office of Education, and a subsequent exchange of letters with the Comptroller General, highlighting the flexibility that the institutions and the banks do have. I ask unanimous consent, Mr. Speaker, to insert some of those documents at the end of these remarks.

But in all fairness to the institutions and the banks, I think it is also fair to say that the language of the law, the very stringent regulations by OE, and an historically justified concern over possible audit exceptions to what bureaucrats might consider "excessive student aid packages" have made the schools understandably shy.

I can also, to a certain extent, understand the banking community's attitude. The guaranteed loan is not an attractive consumer loan from a bank's point of view, and if we raised the interest rate to the point where it was attractive, there would be little need and no utility to the program. If we raised interest rates to the level they have reached on commercial loans, many middle-class and low-income families could not afford to borrow, and those who could, could utilize the numerous education loan programs which banks already offer at consumer interest rates.

Given that fact, a bank is not likely to look beyond a recommendation from a student aid officer which simply reiterates what an impressive computer-print needs analysis says, and make a loan in excess of what they both suggest.

And in all three cases—the needs analyst, the student aid officer, the banker, the temptation is irresistible to point to the previous step in the chain and place the responsibility for a difficult and seemingly hardhearted decision at that other point. The banker says "the school did not recommend a loan." The school says "the needs analyst said the kid's family had to make too big a contribution;" the needs analyst says, "I can only go on what the family and the computer tell me."

But the family is unable to make a loan, and the student is unable to complete his education.

That unhappy picture has been the situation during the past year. Loan volume under the program which we sought to liberalize and expand has shrunk. Bankers have become impatient and withdrawn from the program; institutions have been confronted with growing difficulties in filling their classrooms. But above all, students, who can benefit from having them receive one, are unable to get one. We are all losers.

The President who last night told us he was recommending "an expanded program of loans and grants" has already told us that his solution for the loan problem is to have Secretary Shultz and Secretary Weinberger write the bankers and say in effect, "Gee, fellas, won't you lend some money?"

I think that is hardly adequate to get the loan program moving again.

The Senate Labor and Public Welfare Committee yesterday approved an amendment to a pending education bill which would remove the needs analysis requirement for persons with incomes below $15,000.

This is a constructive step in the right direction, but for the reasons I have suggested above, I think it may not be a long enough step in that direction. Fifteen thousand 1974 dollars are simply not the same thing as 15,000 1965 dollars, or even 15,000 1972 dollars, and I think it would be a mistake to treat them as such.

I have therefore introduced legislation today, and I will begin hearings on it next week, which would eliminate needs analysis for any family whose income is below $20,000 and which is making a loan of $2,000 or less. My bill also contains an essentially technical amendment, extending to June 30, 1975, the authority for HEW to establish a special allowance in the amount of interest subsidy paid to keep step with the inflation in prime interest rates.

I think we must move as a beginning in the direction suggested by this legislation, and I hope we can move expeditiously, and with our primary concern focused on the needs of those students who were intended to be helped by the 1972 amendments and have not been.

Let me conclude, Mr. Speaker, with a word to the banking community and to the student loan officers. In the past several months, a great many hours and days have been consumed by the members and staff of the Special Subcommittee on Education in an effort to develop legislation which will help cure the defects in the guaranteed loan program—defects that are admitted by most observers, even those who do not agree on the best way to cure them.

One very important barrier to the active consideration of legislation in this area has been the fear, and the occasional prediction that the introduction of any legislation will so confuse the student aid community and terrorize the banking community that both will throw up their hands in disgust and the program will collapse.

I think these are exaggerated fears. I think the student aid officers and the bankers will recognize that legislative remedies cannot be enacted overnight, and that the overriding public interest in helping young people secure the education they need cannot be replaced by unreasoning panic because an admittedly rickety structure is being examined to see what can be done to make it sturdier.

I am going to take a chance, based on that belief. I am introducing this legislation, and I am calling for hearings, instead of trying to rush the legislation through too fast for anyone to react before it is in place. I do not think the bankers will panic. I do not think the student aid officers will lose touch with reality.

If they cooperate with this subcommittee, if they continue to do business under the rules and regulations now in effect, while we and our colleagues in the Senate move forward speedily but carefully to create an improved program, then they will have justified the faith the guaranteed loan program provisions of the law already place in them.

The bill, Mr. Speaker, has been circulated among my colleagues on the Special Subcommittee on Education, and will be introduced on Monday. Hearings will begin on Tuesday, February 5 at 9 a.m. and will continue thereafter for what will be, I hope, long enough to get all the data we need, but no longer than necessary to enable us to legislate.

Mr. Speaker, I include the text of the draft bill and other documents referred to above at this point in the Record:

H.R. —

A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses I and II of the first sentence of paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 are amended to read as follows:

"(I) less than $20,000, the amount of such loan would not cause the total amount of the student's loans under this part to exceed $2,000 in any academic year or its equivalent (as determined under regulations of the Commissioner), and the student has been accepted for enrollment at an eligible institution or, in the case of a student who is attending such an institution, is in good standing at such institution (as determined by the institution); or

"(II) less than $20,000 and the amount of such loan would cause the total amount of the student's loans under this part to exceed $2,000 in any academic year or its equivalent (as determined under regulations of the Commissioner), or equal to or more than $20,000, and the eligible institution at which the student has been accepted for enrollment, or in the case of a student who is attending such institution, at which the student is in good standing (as determined by the institution) has determined that the student is in need of a loan to attend such institution; has determined, by means other than one formulated by the Commissioner of Education under Part A, subpart 1 of this title, the amount of such need by subtracting from the estimated cost of attendance at such institution the expected family contribution with respect to such student plus any other resources or student aid reasonably available to such student; and has provided the lender with a statement evidencing the determination made under this clause and recommending a loan in the amount determined to be needed."

Sec. 2. Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1974" and inserting in lieu thereof "July 1, 1975."

Sec. 3. The amendents made by this Act shall be effective on and after July 1, 1974.

Department of Health, Education, and Welfare, Office of Education,
Washington, D.C., July 23, 1973.

Bulletin to all Student Financial Aid Officers

THE GUARANTEED STUDENT LOAN PROGRAM

During the last few months, there has been a marked decline in both the number and dollar volume of loans to students as compared to a year ago. We feel that this reduction may be due, in part, to a need for further clarification as to program procedures and the options available to educational institutions in the administration of the program.

By way of background, the Education Amendments of 1972 (P.L. 92-318) specified that in order for a student to be eligible for payment of Federal interest benefits on a guaranteed loan, the student must submit to the lender a recommendation by the educational institution as to the amount needed by the student to meet his educational costs. In making this determination, the school must subtract from the cost of education, the expected family contribution plus any other resources or student aid which the institution determines to be *reasonably available* to the student during the period of the loan.

It must be emphasized that the sole purpose of the school's recommendation is to help determine if the student will qualify for Federal interest benefits. Any student, regardless of need, may still receive an unsubsidized loan if the lender is willing to assist that student.

Furthermore, lenders may make a subsidized loan in excess of the school's recommendation (including $0 recommendation) provided that the lender has reason to believe, based on his specialized knowledge of the family's financial situation, that the school's determination of the expected family contribution is not realistic.

The following guidelines are provided to student financial aid officers to assist them in the administration of the Guaranteed Student Loan Program and its relationships to other student aid programs:

1. Student financial aid officers are permitted to adjust the expected family contribution where, in their judgment, the amount of the computed family contribution does not realistically indicate what the family can contribute to the cost of education. We strongly recommend that the financial aid officer exercise this option by carefully evaluating the results of the needs test in order that the most equitable judgment be exercised in the processing of the student's application. Schools have been provided, in the instructions to Form OE 1260 "Student Loan Application Supplement," 7 codes they may use where the computed need, as determined by the needs analysis system, is not reasonable. Schools should document their files as to the basis for using one of these codes. If reasonable documentation exists, there should be no concern as to exceptions that may be taken in the future by auditors.
2. If the student is not applying for Federal interest benefits, there is no requirement that an assessment of the student's expected family contribution be made. In such cases, the student need complete only the affidavit portion of Form OE 1260. Of course, the school will still have to certify the student enrollment, cost of education, and other aid received on the regular application form. In the case of loans guaranteed by State or private guaranteed agencies, these procedures may vary somewhat.
3. The total of all aid made available to and received by a student may not exceed his cost of education, regardless of when he receives such aid.
4. If the student receives a guaranteed loan before the institution has awarded aid, the institution must treat the guaranteed loan as a resource available to the student towards meeting the cost of education.
5. As previously indicated, lenders may make a subsidized loan to a student that exceeds the school's recommendation. Where this happens, the lender has, in effect, determined a new *"expected family contribution."* If the student receives a guaranteed loan (subsidized or not) after the aid package has been awarded by the school, there is no requirement that the aid package be adjusted, provided that the total aid, including the guaranteed loan, does not exceed the cost of education.

S. W. Herrell,
Acting Deputy Associate Commissioner for Higher Education.

Department of Health, Education, and Welfare, Office of Education,
Washington, D.C., July 23, 1973.

Bulletin to All Lending Institutions—The Guaranteed Student Loan Program

PROGRAM OPERATIONS

During the last few months, there has been a marked decline in both the number and dollar volume of loans made to students as compared to a year ago. We feel that this reduction may be due, in part, to a need for further clarification as to program procedures and the options available to lenders in the administration of this program.

By way of background, the Education Amendments of 1972 (P.L. 92–318) specified that in order for a student to be eligible for payment of Federal interest benefits, the student must submit to the lender a recommendation by the educational institution as to the amount needed by the student to meet his educational costs. In making this determination, the school must subtract from the cost of education, the expected family contribution plus any other resources or student aid which the institution determines to be reasonably available to the student during the period of the loan.

It must be emphasized that the sole purpose of the school's recommendation is to help determine if the student will qualify for Federal interest benefits. Any student, regardless of need, may still receive an unsubsidized loan if the lender is willing to assist that student.

Furthermore, lenders may make a subsidized loan in excess of the school's recommendation (including a $0 recommendamendation) provided that the lender has reason to believe, based on his specialized knowledge of the family's financial situation, that the school's determination of the "expected family contribution" as reported in Part B–Section III of OE Form 1260 (Student Loan Application Supplement) is not realistic. Where the lender makes a subsidized loan that exceeds the school's recommendation, the lender has, in effect, adjusted the "expected family contribution." Lenders should indicate in their files the basis for exceeding the school's recommendation.

Lenders are encouraged to exercise this option by carefully evaluating the school's recommendation coupled with other information available to them in order that the most equitable judgment be exercised in the processing of the student's application. Lenders have been previously provided detailed instructions relating to procedures for utilizing the school's recommendation to determine a student's eligibility for Federal interest benefits. Additional copies of these instructions may be obtained from the nearest regional office of the Office of Education or the appropriate guarantee agency.

SPECIAL ALLOWANCE

The Secretary of Health, Education, and Welfare has approved the Special Allowance at the rate of 1¾ percent per annum for the quarter ending June 30, 1973. It will be applied to the average quarterly balance of loans made since August 1, 1969, and still outstanding. All such loans are eligible for the special allowance, whether or not the loans are eligible for Federal interest benefits and regardless of whether the students are in school, grace, deferred or repayment periods.

Lenders are reminded that this rate is, by law, determined retrospectively. That is, the rate reflects the economic conditions that existed during the period April 1 through June 30. Thus, the effective rate of interest on guaranteed loans during that period is 8¾ percent. The note evidencing the loan, however, may not reflect a rate higher than 7 percent.

STUDENT LOAN MARKETING ASSOCIATION (SALLIE MAE)

On July 16, 1973, Mr. Edward A. Fox, President of the Student Loan Marketing Association, announced plans to offer 700,000 shares of common stock to eligible financial and educational institutions, raising $105 million for the initial capitalization of Sallie Mae. In order to acquaint eligible holders more fully with Sallie Mae and this offering, all lenders have been invited by Sallie Mae to a number of presentations being held throughout the country. Members of Sallie Mae's management and representatives of the several underwriters will conduct these information meetings.

Sallie Mae's objective is to provide liquidity to the student loan market. Caspar W. Weinberger, Secretary of Health, Education, and Welfare (HEW), declared that "Sallie Mae is a milestone in the Government's Guaranteed Student Loan Program (GSLP)." Sallie Mae is empowered to provide liquidity through secondary market activities which can involve the direct purchase and sale of student loans as well as the issuance by Sallie Mae of commitments, guarantees, or other undertakings with respect to student loans. In addition, Sallie Mae can engage in warehousing operations which involve the making of loans to lenders secured by student loans. Advances made in warehousing operations may not exceed 80 percent of the face amount of the student loan collateral and proceeds from such warehousing advances are required to be invested in additional insured student loans.

William M. Simmons, Jr.,
Director, Division of Insured Loans.

Congress of the United States,
House of Representatives, Committee on Education and Labor,
Special Subcommittee on Education,
Washington, D.C., July 27, 1973.

Hon. John R. Ottina,
Commissioner of Education, Office of Education, Washington, D.C.

Dear Commissioner Ottina: On July 23rd, Mr. Herrell of the Office of Education sent student aid officers throughout the nation a letter in which he assured them of their ability to use the flexibility the law affords them with respect to adjusting the amount of need which the aid officers recommend to lending institutions under the Guaranteed Loan Program.

In that letter, Mr. Herrell assures student aid officers that they can indeed exercise their flexibility, and that "if reasonable documentation exists, there should be no concern as to exceptions that may be taken in the future by auditors."

This sentence has, apparently, not had the full effect intended. Aid officers are vividly aware of previous HEW and GAO audits, and of strong exceptions taken by auditors with respect to awards made in alleged "excess of need."

If the student aid officers are to be expected to exercise the discretion the law gives them, and Mr. Herrell's letter urges upon them, they must be given some degree of assurance that they can carry out their professional duties reasonably free from auditors' second guessing.

Toward the end of our July 26 hearing on this subject, you were present when Peter Muirhead engaged in a colloquy with committee members over what constituted "reasonable documentation."

Our hearing was forced to recess before we could work out satisfactory questions and answers clarifying and expanding OE's instructions. Education and Labor Committee staff met subsequently with Mr. Muirhead and discussed such instructions further. This letter seeks to put into concrete form the results toward which that colloquy and subsequent discussions were tending.

If an aid officer (1) has before him the results of a needs analysis showing a computed need of substantially less than the student is asking to borrow, and (2) has in his files a statement by the student and/or his family setting forth, in a manner which does not on its face suggest fraud or misrepresentation, an explanation for being unable to meet part or all of the computed expected family contribution, and (3) that reason is consistent with the economic facts of life within that family's income bracket and region and (4) the aid officer's decision to adjust the amount of need is not clearly unrelated to those facts—may the aid officer have your commitment that your auditors will be instructed to recognize the student aid officer's authority to make an adjustment on that given loan application?

In short, given the circumstances outlined above, may the aid officer feel assured that he will not be held accountable by a future audit, even in situations where the student or the student's family have not correctly stated material facts concerning their situation?

Naturally, we are asking for no such immunity as to the student or his family. We are seeking to hold innocent aid officers harmless, not to shield intentional efforts to defraud the United States.

We would also like you to clarify the kinds of documentation that would be considered adequate to support aid officers' decisions of this kind. Would a letter from a student or from a member of his family be sufficient documentation if the student aid officer noted thereon or in a separate document that he had relied upon the information so furnished by the student or his family? Would such a letter received from a lending institution from whom the student sought a loan be equally acceptable in the same circumstances? Would a notation, however informal, written by a student aid officer to record information furnished him in a telephone communication with a student or his family or with an official of a lending institution similarly be deemed adequate documentation?

We would appreciate an immediate response to these questions. If your answers are in the affirmative, we will undertake to secure the same instructions to the GAO auditors.

Chairman Perkins of the House Committee, and members of the Senate Labor and Public Welfare Committee have indicated to you and to us their deep interest in a speedy resolution of this problem.

Very truly yours,
James G. O'Hara,
Chairman.
John Dellenback,
Ranking Minority Member.

Department of Health,
Education, and Welfare,
Washington, D.C., August 1, 1973.

Hon. James G. O'Hara,
House of Representatives,
Washington, D.C.

Dear Mr. O'Hara: Thank you for your letter of July 27, 1973, in which you set forth many of the questions and concerns regarding current procedures for the Guaranteed Student Loan Program which were raised at the July 26 hearing and in further discussions with Mr. Muirhead. I am hopeful that the information which follows will clarify the position of the Office of Education with respect to the total process of determining need, including the adjustments which can be made and the documentation required.

I should point out that the determination of need under all the financial aid programs has traditionally involved an adjustment process. The existing needs analysis services such as those provided by the College Scholarship Service and the American College Testing Program, the two largest systems, provide only an estimate of a family's ability to pay. The judgment of the financial aid officer is indispensable in determining the amount of financial support that can be contributed for a specific individual. The inherent flexibility in needs analysis is well stated in the instructions provided for the College Scholarship system:

"Although accurate, objective data constitute the basis for systematic need analysis, the resulting expected contribution should not be considered scientifically accurate. Complexities in an individual's financial circumstances and differences in attitudes toward education will require that an aid officer make adjustments in order to determine the appropriate contribution from the student. In doing this, he must evaluate both the objective and subjective information available to him from all sources. *A system of need analysis must always be a guide for judgment, not a substitute.* A financial aid officer has a professional responsibility to make equitable judgments about each individual. If he simply accepts the computed need as an "answer" from a systematic need analysis, he shirks his responsibility to the institution and the student."

On Section III A of form 1260 the amount of a student's family contribution as computed by a uniformly applied needs analysis system is entered and no further documentation is required. Section III B is provided to permit a student financial aid officer to exercise his judgment and take into account the individual circumstances of a student or his family.

The circumstances in which the financial aid officer is permitted to make adjustments are basically those provided in the 7 codes in the instructions to Form OE 1260. For code 6, "cannot meet expected contribution from income", the situation you have outlined on the top of page two of your letter would certainly be reasonable. In this case, there would be no question that the Office of Education would support the institution in any case where an auditor took exception to the action of the student financial aid officer.

There are any number of ways in which such adjustments can be documented. For example, letters from a student or from a member of his family would be sufficient documentation if the student aid officer noted thereon or in a separate document that he had relied upon the information so furnished by the student or his family; or a letter received from a lending institution from whom the student sought a loan would be equally acceptable in the same circumstances. A notation, written by a student aid officer to record information furnished him in a telephone communication with a student or his family or with an official of a lending institution would similarly be deemed adequate documentation provided the financial aid officer also wrote a letter of confirmation of the conversation to the appropriate party.

While the financial aid officer must always be the final authority in any system of needs analysis, he can only do this based on the information provided by the student and his family. The student is now required to execute an affidavit stating that the loan proceeds are to be used solely for expenses related to attendance at the education institution. The federal warning clause on both the application and the supplementary form applies to the student and his family. Naturally, the financial aid officer would not be held accountable if there were fraud on the part of the student or his family.

In conclusion, let me emphasize that the Office of Education is prepared to support the institution in any exception taken in the future by auditors where the financial aid officer has exercised his professional judgment and provided reasonable documentation of the type which I have described above for adjustments in the amount of family contribution. You have my full assurance in this regard.

Best wishes,

Sincerely,

JOHN OTTINA,
Commissioner of Education-designate.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON EDUCATION AND LABOR, SPECIAL SUBCOMMITTEE ON EDUCATION,
August 3, 1973.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. STAATS: Enclosed is an exchange of correspondence between us and Commissioner of Education John Ottina. In these letters, we have sought to obtain an explanation of OE policy toward the exercise of the discretion which Setcion 428(a) of the Higher Education Act as amended vests in student aid officers at postsecondary education institutions.

In our opinion, Commissioner Ottina's August 1 letter, in which he responds affirmatively to the question we posed in our letter of July 27, faithfully reflects the intention of the Congress in enacting Section 428. And it will give student aid officers confidence that their professional judgment will not lightly be set aside by HEW auditors.

In our letter to the Comimssioner, we said that if he could give us an affirmative answer, we would seek to secure similar instructions to the General Accounting Office.

The purpose of this letter, in summary, is to advise you of the interpretation which the Chairman and Ranking Minority Member of the Special Subcommittee on Education have put upon Section 428—an interpretation with which the Office of Education concurs—and to urge that GAO auditors be advised of these views whenever they undertake any audits of the Guaranteed Student Loan Program.

Very truly yours,

JAMES G. O'HARA,
Chairman.
JOHN DELLENBACK,
Ranking Minority Member.

AUGUST 29, 1973.

Hon. JAMES G. O'HARA,
Chairman, Special Subcommittee on Education, Committee on Education and Labor, House of Representatives

DEAR MR. CHAIRMAN: We refer to your letter dated August 6, 1973, written jointly with the Honorable John Dellenback, concerning the role of General Accounting Office auditors in reviewing the Office of Education's Guaranteed Student Loan program.

Your letter of July 27, 1973, to the Commissioner of Education, John R. Ottina, referred to Mr. Herrell's correspondence dated July 23, 1973, to student aid officers throughout the Nation. Mr. Herrell stated that student aid officers can exercise flexibility in determining the amount of an individual student's financial need, and that "if reasonable documentation exists, there should be no concern as to exceptions that may be taken in the future by auditors."

We have always recognized the need for student aid officers to deviate from student aid officers to deviate from student need formulas in providing financial assistance. Our concern has been that student aid officers had not always maintained adequate documentation to support such decisions.

We believe your July 27, 1973, letter to Commissioner Ottina and his August 1, 1973, response provide useful and definitive guidance to all auditors as to the type and nature of documentation expected to be maintained by student aid officers. You may be assured that we will continue to monitor the Guaranteed Student Loan program in conformance with the congressional intent.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

LOUIS W. CASSELS OF UPI

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, Louis Cassels was one of the Nation's leading journalists and writers. We were shocked and saddened by his untimely passing. Lou Cassels will be missed by the countless Americans who followed his reporting of religion and ethics for United Press International. Lou Cassels was a dear personal friend of ours, Mr. Speaker, and had many friends in Washington, in South Carolina, and throughout the Nation. Following, from the Columbia, S.C., State and the Greenville, S.C., News-Piedmont, are articles that indicate the richness of Louis Cassels' contributions to the moral, spiritual, and ethical values of the Nation. Mrs. Dorn joins me in extending to Mrs. Cassels and the family our most heartfelt sympathy and respect.

The articles follow:

[From the Columbia (S.C.) State, Jan. 25, 1974]

RELIGION WRITER LOUIS CASSELS' RITES IN ST. THADDEUS TODAY

AIKEN.—Memorial services for Louis Wellborn Cassels, United Press International senior editor and prizewinning religion writer who covered nearly every major religious and social welfare story during the turbulent 1960s, will be 5 p.m. today in St. Thaddeus Episcopal Church. Burial will be private.

The family suggests that those who wish may make memorials to the Washington Cathedral, St. Alban's, Washington, D.C., or a favorite charity. George Funeral Home is in charge.

Mr. Cassels, 52, who had a history of heart trouble, apparently suffered a coronary attack Wednesday evening shortly after finishing dinner at his home, his widow, Charlotte said. Medical help arrived within four minutes of the attack and he was taken to Aiken County Hospital but efforts failed to revive him.

After his first heart attack, he had written "To say that God is with you when you enter the valley of the shadow doesn't mean you're assured of getting safely through. It simply means that in serious illness you can be aware of His presence and confident of His love to a degree not often attained in the peaceful and painless passages of everyday life."

Mr. Cassels was a veteran of 32 years service with UPI. He covered every presidential election from 1948 until his retirement in Aiken in 1970.

Mr. Cassels won the Christopher Award and the Newspaper Guild of New York Front Page Award. The award he prized the most was a trophy for his series, "The Nation's Negroes in Revolt."

He covered many of the major race riots in the nation and was considered to be one of the experts in urban riots by his coworkers.

He wrote eleven books on the subject of religion but insisted he never specialized in religion. "I am simply a newspaperman who believes in God," he said.

It was Mr. Cassels who persuaded the national wire service to start covering religion. "I felt that they were covering religion in a superficial way. They treated religion as if they were scared to death of it." He urged the wires to start treating religion with the gloves off.

In 1956 his first UPI religion column dealt with the Roman Catholic Church in the Deep South and its effect on politics, a quasi-political subject.

Despite his long years in New York City and Washington, D.C., with United Press, and then its successor UPI, he never lost touch with his kinfolk or his native state.

A coronary forced him to become semiretired in Aiken in 1970.

Although born in Augusta, Ga., Jan. 14, 1922, Mr. Cassels claimed old Ellenton, S.C., as his home. He was a son of the late Horace Michael Cassels II and Mollie Wellborn Cassels.

Mr. Cassels paid great tribute during his life to the influence of his parents. His mother "Miss Mollie" taught school and was very active in her church and in Aiken County community affairs. His father was the popular "Big Mike" Cassels, mayor and general store proprietor in Ellenton, the town which hit the headlines in the 1950's when it was forced to appear from the South Carolina map and was taken over as the site of the Savannah River Atomic Energy Plant.

He started his own newspaper at the age of 12 in his home town of Ellenton. At 17 he became a police reporter for the Augusta Herald, working during the summers while he was at college.

After graduation from high school, he enrolled in Duke University with an inclination to study for the ministry. But he found himself devoting most of his time working on the student newspaper. The Duke Chronicle and decided instead on newspapering as a career. He graduated Phi Beta Kappa from Duke in 1942.

After a brief period of recuperation after his retirement in Aiken, he turned to his typewriter again and enjoyed making frequent reference to the national scene as viewed from his Aiken Southern grassroots perspective.

For a time, he was doing a live radio report for United Press International each morning . . . a kind of "commentary from Coontail Lagoon," as he called his Aiken home surrounded by tall pines in Aiken.

He was for years an active layman of the Episcopal Church. He and his family attended when they lived in Bethesda, Md., and later at St. Thaddeus Episcopal Church in Aiken. He was a contributing editor for The Episcopalian for many years.

At the time of his death, he was J. Rion McKissick lecturer in the University of South Carolina College of Journalism.

He was named to the parttime post to teach feature writing in September, 1973. Mr. Cassels had taught at the USC Aiken Regional Campus in spring, 1972.

In April 1973 Mr. Cassels presented a collection of over 200 items from his personal papers to the University of South Carolina Library. The papers reflect 35 years of his career, beginning with his experience as college editor for the Duke University Chronicle and continuing to his present assignment with UPI.

Mr. Cassels delivered the invocation at the dinner Dec. 7, 1970, on the 20th anniversary of the site selection for the Savannah River Plant.

Mr. Cassels spoke last October to the fall meeting of the South Carolina UPI Association and observed "Race Relations in South Carolina today are light-years ahead of race relations in Washington or New York, or Chicago, or Detroit, or San Francisco or Los Angeles or nearly any other big city of the North, East, or West."

His twelfth and latest book, "Coontail Lagoon," is due out in April and revolves around his rediscovery of God's world of nature and life in a small town since his first illness.

An untitled detective book will be released in September.

Mr. Cassels owned and operated Cassel's Oil Co. in Aiken, a family business he and his family have held for many years.

He was a member of National Press Club, Sigma Delta Chi and Alpha Tau Omega.

Surviving are his widow, Mrs. Charlotte Norling Cassels; a son, Horace Michael Cassels IV of Rockville, Md.; and a sister, Mrs. J. Reese Daniel of Columbia.

[From the Greenville (S.C.) News-Piedmont, Jan. 27, 1974]

LOUIS CASSELS

Louis Cassels lived a relatively short life, but it was a fruitful one. A native South Carolinian, he became a nationally respected journalist and expert on religion and ethics.

A senior editor for United Press International, Cassels was best known for his wire service reporting, columns and books on religion and ethics. But he handled many other subjects as a good all-around journalist.

A native of Ellenton, one of the small towns razed to make room for the Savannah River atomic energy plant, Cassels was the first wire service reporter to write about religion in depth. He became famous because of his ability to report on and explain development in the complex field relating to mankind's deepest emotions and most personal experiences.

He was a credit to the profession of journalism.

Cassels returned to South Carolina a few years go after developing heart trouble, and lived in Aiken. He continued working, writing wire service columns for both morning and afternoon newspapers.

In addition he was taking on an important new work, training prospective young journalists as a part-time instructor in the University of South Carolina's College of Journalism. He was coming to be regarded as a fine teacher of journalism.

Louis Cassel's recent death at age 52 is a severe loss to his many readers, numerous religious leaders and many promising young writers. But the products of his pioneering career will endure for many years.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. VEYSEY) to revise and extend their remarks and include extraneous matter:)

Mr. FRENZEL, for 30 minutes, today.

Mr. HANSEN of Idaho, for 20 minutes, today.

(The following Members (at the request of Mr. ALEXANDER) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. O'HARA, for 15 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. VEYSEY) and to include extraneous matter:)

Mr. BURKE of Florida.

Mr. LANDGREBE.

Mr. MCCLOSKEY.

Mr. HANRAHAN in two instances.

Mr. MCKINNEY.

Mr. DERWINSKI in two instances.

Mr. HUDNUT.

Mr. SARASIN in three instances.

Mr. BUCHANAN in two instances.

Mr. BAUMAN in two instances.

Mr. GOLDWATER.

Mr. SNYDER in two instances.

Mr. WYMAN in two instances.

Mr. GILMAN in two instances.

Mr. SYMMS.

Mr. ARCHER.

Mr. SMITH of New York.

Mr. MAYNE.

(The following Members (at the request of Mr. ALEXANDER) and to include extraneous matter:)

Mr. FUQUA.

Mr. O'NEILL in two instances.

Mr. TEAGUE in six instances.

Mr. ROONEY of New York.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. BOLAND.

Mr. PATTEN.

Mr. NATCHER.

Mr. DOMINICK V. DANIELS in two instances.

Mr. DORN in two instances.

SENATE BILL AND CURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2606. An act for the relief of Grant J. Merritt and Mary Merritt Bergson; to the Committee on Interior and Insular Affairs.

S. Con. Res. 61. Concurrent resolution authorizing the printing of additional copies of part I of the Senate committee print entitled "Confidence and Concern: Citizens View American Government—A Survey of Public Attitudes"; to the Committee on House Administration.

ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 oclock and 31 minutes p.m.), under its previous order the House adjourned until Monday, February 4, 1974, at 12 oclock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 4861. A bill to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes; with amendment (Rept. No. 93–772).

Referred to the Committee of the Whole House on the State of the Union.

Mrs. SULLIVAN: Committee on Merchant Marine and Fisheries. H.R. 8977. A bill to establish in the State of Florida the Egmont Key National Wildlife Refuge; with amendment (Rept. No. 93-773). Referred to the Committee of the Whole House on the State of the Union.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1791. A letter from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the negotiated sale by the Department of Defense of certain equipment, materials, and obsolete spare parts to U.S. purchasers, and for other purposes; to the Committee on Armed Services.

1792. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report of Department of Defense procurement from small and other business firms for July-September 1973, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Banking and Currency.

1793. A letter from the comptroller, Washington Gas Light Co., transmitting the balance sheet of the company as of December 31, 1973, pursuant to 43 D.C. Code 313 to the Committee on the District of Columbia.

1794. A letter from the Chairman, Indian Claims Committee, transmitting the final determination of the Commission in docket No. 144, *the Pillager Bands of Chippewa Indians in the State of Minnesota*, plaintiffs, v. *the United States of America*, defendant, pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

1795. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation; transmitting the financial report of the Corporation for October 1973, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1796. A letter from the Director of Federal Affairs, National Railroad Passenger Corporation, transmitting a report for the month of December 1973, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

1797. A letter from the Federal Cochairman, New England Regional Commission, transmitting the annual report of the Commission for fiscal year 1973, pursuant to section 510 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works.

1798. A letter from the director, National Legislative Commission, the American Legion, transmitting the proceedings of the 55th Annual National Convention of the American Legion, the annual report, and the financial statement of the organization (H. Doc. 93-207); to the Committee on Veteran's Affairs and ordered to be printed with illustrations.

1799. A letter from the Chairman and members, U.S. Atomic Energy Commission, transmitting the annual report of the Commission for 1973, pursuant to 42 U.S.C. 2016; to the Joint Committee on Atomic Energy.

1800. A letter from the Secretary of Health, Education, and Welfare, transmitting the Department's report on the disposal of excess foreign property for calendar year 1973, pursuant to 40 U.S.C. 514d; to the Committee on Government Operations.

1801. A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting the 15th annual report of the Commission, pursuant to 42 U.S.C. 4275; to the Committee on Government Operations.

Received From the Comptroller General

1802. A letter from the Comptroller General of the United States, transmitting a report assessing Federal Regional Councils; to the Committee on Government Operations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY:

H.R. 12453. A bill to amend the Emergency Daylight Saving Time Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL:

H.R. 12454. A bill to authorize the establishment of a mainland headquarters for the Channel Islands National Monument in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BROOMFIELD:

H.R. 12455. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. CAREY of New York:

H.R. 12456. A bill to amend the Department of Housing and Urban Development Act to provide for an additional Assistant Secretary for Housing for the Elderly, to require a minimum percentage of housing for the elderly in all present and future Federal housing programs, and to require the including of certain services and facilities in all Federal housing programs for the elderly; to the Committee on Banking and Currency.

By Mr. DAVIS of South Carolina:

H.R. 12457. A bill to require passport applicants to swear to an oath of allegiance to the United States as a condition precedent to being granted a passport; to the Committee on Foreign Affairs.

By Mr. DORN:

H.R. 12458. A bill to authorize the Secretary of the Interior to convey certain rights in the State of South Carolina; to the Committee on Interior and Insular Affairs.

By Mr. DORN (for himself, Mr. Teague, Mr. Haley, Mr. Dulski, Mr. Roberts, Mr. Satterfield, Mr. Helstoski, Mr. Montgomery, Mr. Danielson, Mrs. Grasso, Mr. Wolff, Mr. Brinkley, Mr. Charles Wilson of Texas, Mr. Hammerschmidt, Mrs. Heckler of Massachusetts, Mr. Zwach, Mr. Wylie, Mr. Hillis, Mr. Maraziti, Mr. Abdnor, Mr. Huber, Mr. Walsh, Mr. Clark, Mr. Young of South Carolina, and Mr. McCormack):

H.R. 12459. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. DORN (for himself, Mr. Young of Florida, Mr. Buchanan, Mr. Spence, Mr. Mann, Mr. Davis of South Carolina, and Mr. Gettys):

H.R. 12460. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. EDWARDS of Alabama:

H.R. 12461. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Interior and Insular Affairs.

By Mr. ERLENBORN (for himself, Mr. Moorhead of Pennsylvania, Mr. Horton, Mr. McCloskey, Mr. Gude, Mr. Thone, Mr. Wright, Mr. Regula, Mr. James V. Stanton, Mr. Alexander, Mr. Hanrahan, and Mr. Udall):

H.R. 12462. A bill to amend the Freedom of Information Act to require that information be made available to Congress; to the Committee on Government Operations.

By Mr. GILMAN:

H.R. 12463. A bill to place a temporary moratorium on the construction of all retail gasoline outlets; to the Committee on Interstate and Foreign Commerce.

By Mr. HAWKINS (for himself, Mr. Perkins, and Mr. Bell):

H.R. 12464. A bill to extend certain programs under the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. HAYS:

H.R. 12465. A bill to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations for the fiscal year 1974; to the Committee on Foreign Affairs.

H.R. 12466. A bill to amend the Department of State Appropriations Act of 1973 to authorize additional appropriations for the fiscal year 1974, and for other purposes; to the Committee on Foreign Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 12467. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. KAZEN:

H.R. 12468. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973 to permit the Governor of any State to exempt that State from the provisions of the act for any reason; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H.R. 12469. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. MOORHEAD of Pennsylvania (by request):

H. R. 12470. A bill to amend title II of the Social Security Act with respect to the conduct of hearings, and the appointment of hearing examiners, in connection with claims arising under that title or title XVIII of such act; to the Committee on Ways and Means.

By Mr. MOORHEAD of Pennsylvania (for himself, Ms. Abzug, Mr. Alexander, Mr. Erlenborn, Mr. Gude, Mr. Horton, Mr. McCloskey, Mr. Moss, Mr. Regula, Mr. James V. Stanton, Mr. Thone, and Mr. Wright):

H.R. 12471. A bill to amend section 552 of title 5, United States Code, known as the Freedom of Information Act; to the Committee on Government Operations.

By Mr. RANDALL:

H.R. 12472. A bill to repeal year-round daylight savings time; to the Committee on Interstate and Foreign Commerce.

By Mr. REES:

H.R. 12473. A bill to establish and finance a bond sinking fund for the Dwight D. Eisenhower Memorial Bicentennial Civic Center, and for other purposes; to the Committee on the District of Columbia.

By Mr. SNYDER:

H.R. 12474. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems; to the Committee on Education and Labor.

H.R. 12475. A bill to amend the Civil Rights Act of 1964 to provide for freedom of choice in student assignments in public schools; to the Committee on the Judiciary.

H.R. 12476. A bill to clarify the jurisdiction of certain Federal courts with respect to public schools and to confer such jurisdiction upon certain other courts; to the Committee on the Judiciary.

H.R. 12477. A bill to limit the jurisdiction of Federal courts to issue busing orders based on race, and for other purposes; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 12478. A bill to authorize and require the President of the United States to establish a mechanism in order to insure that articles, materials, and supplies which are exported from the United States are not sold abroad at higher prices than the prices at which comparable articles, materials, and supplies are sold in the United States; to the Committee on Banking and Currency.

By Mr. DOMINICK V. DANIELS:

H.J. Res. 889. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HANRAHAN (for himself, Mr. Hays, Mr. Frelinghuysen, Mr. Thomson of Wisconsin, Mr. Buchanan, Mr. Fraser, Mr. Riegle, Mr. Findley, Mr. Brown of California, Mr. Rarick, Mr. Collins of Texas, Mr. Michel, Mr. Collier, Mr. Metcalfe, Mr. O'Brien, Mr. Young of Illinois, Mr. Rostenkowski, Mr. Annunzio, Mr. Railsback, Mr. Murphy of Illinois, Mr. Price of Illinois, Mr. Gray, Mr. Anderson of Illinois, Mr. McClory, and Mr. Kluczynski):

H. Con. Res. 420. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment in the Soviet Union of a Lithuanian seaman who unsuccessfully sought asylum aboard a U.S. Coast Guard ship; to the Committee on Foreign Affairs.

By Mr. HANRAHAN (for himself, Mr. Madigan, Mr. Ichord, Mr. Zion, Mr. Cohen, Mr. Crane, Mr. Abdnor, Mr. Moakley, Mr. Flood, Mr. Roncallo of New York, and Mr. Helstoski):

H. Con. Res. 421. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment in the Soviet Union of a Lithuanian seaman who unsuccessfully sought asylum aboard a U.S. Coast Guard ship; to the Committee on Foreign Affairs.

By Mr. HANRAHAN (for himself, Mr. du Pont, Ms. Holtzman, Mr. Mayne, Mr. Dominick V. Daniels, Mr. Horton, Mr. Whitehurst, Mr. Mollohan, Mr. Sarasin, Mr. Stratton, Mr. Huber, Mr. Eilberg, Mr. Long of Maryland, Mr. Sarbanes, Mr. Froehlich, Mr. Zwach, Mr. Cleveland, Mr. McKinney, Mr. Biaggi, Mrs. Grasso, Mr. Mazzoli, and Mr. Frenzel):

H. Con. Res. 422. Concurrent resolution expressing the sense of the Congress with respect to the imprisonment in the Soviet Union of a Lithuanian seaman who unsuccessfully sought asylum aboard a U.S. Coast Guard ship; to the Committee on Foreign Affairs.

By Mr. YATES:

H. Res. 802. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HELSTOSKI:

H.R. 12479. A bill for the relief of Jack George Makari; to the Committee on the Judiciary.

By Mr. SCHNEEBELI:

H.R. 12480. A bill for the relief of M. Sgt. Thomas J. Reid, Jr., U.S. Air Force (retired); to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

341. By the SPEAKER: A memorial of the Senate of the Commonwealth of Massachusetts, relative to the energy crisis; to the Committee on Foreign Affairs.

342. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to research into sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

SENATE—*Thursday, January 31, 1974*

The Senate met at 10 a.m. and was called to order by Hon. Floyd K. Haskell, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, as the leaders of this Nation assemble for prayer, we ask Thee to teach us how to pray, when to pray, and for what to pray. Make us to know that the answer to every prayer is the awareness of Thy presence, and that we may pray at work as well as at worship. Give us grace to listen as well as to speak. Make us a praying nation mindful of Thy word:

The effectual fervent prayer of a righteous. man availeth much.—James 5: 16. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., January 31, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Floyd K. Haskell, a Senator from the State of Colorado, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. HASKELL thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 30, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations placed on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations placed on the Secretary's desk on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Public Health Service which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

TRIBUTES TO THE LATE J. EDGAR HOOVER

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 647, Senate Concurrent Resolution

64, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

S. Con. Res. 64, authorizing the printing of congressional eulogies and other tributes to the late J. Edgar Hoover as a Senate document.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed with an illustration as a Senate document a compilation of materials eulogizing the late J. Edgar Hoover, including: memorial tributes in the Congress; the eulogy by Warren E. Burger, Chief Justice of the United States, in the Rotunda of the United States Capitol on May 3, 1972; the funeral services for Mr. Hoover at the National Presbyterian Church, Washington, District of Columbia, including the eulogy by President Richard M. Nixon and the tribute by the Reverend Edward L. R. Elson, Chaplain of the United States Senate; and various articles and editorials relating to the life and work of J. Edgar Hoover and his contributions to the well-being of the American people.

Sec. 2. There shall be printed five thousand five hundred and fifty additional copies of the document authorized by section 1 of this concurrent resolution, of which four thousand four hundred and twenty shall be for the use of the House of Representatives, one thousand thirty shall be for the use of the United States Senate, and one hundred shall be for the use of the Senate Committee on the Judiciary.

Sec. 3. The copy of such document shall be prepared under the direction of the Joint Committee on Printing, and the document shall be printed and bound in the format currently used for memorial tributes to deceased Members of Congress.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Michigan (Mr. Griffin) is now recognized for not to exceed 10 minutes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum and ask that the time be charged to that time.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, after a consultation with the distinguished majority whip, I ask unanimous consent that the time remaining under my special order, and also the time for the special order of the distinguished majority whip, be made available at this time for the transaction of routine morning business, with speeches therein limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there any morning business?

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Haskell) laid before the Senate the following letters, which were referred as indicated:

Report of the Chesapeake & Potomac Telephone Co.

A letter from the vice president and general manager, the Chesapeake & Potomac Telephone Co., submitting, pursuant to law, a report of receipts and expenditures of the company for 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

Report of Ozarks Regional Commission

A letter from the Ozarks Regional Commission, transmitting, pursuant to law, a report of the Commission for 1973 (with an accompanying report). Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2777. A bill to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes (Rept. No. 93–673).

EXECUTIVE REPORTS OF A COMMITTEE

Mr. MAGNUSON. Mr. President, as in executive session, from the Committee on Commerce, I report favorably sundry nominations in the U.S. Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing on the Executive Calendar, I ask unanimous consent that they lie on the Secretarys' desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Herbert A. Johnson, and sundry other officers of the Coast Guard Reserve, for promotion in the Coast Guard Reserve.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATHAWAY:

S. 2922. A bill to amend the Outer Continental Shelf Lands Act in order to conduct a comprehensive study of the Outer Continental Shelf, to promote the development of Outer Continental Shelf oil and gas resources, to provide for protection of the environment, to promote competition in the production of oil and gas from the Outer Continental Shelf, and to authorize the payment of a portion of the revenue under the act to the coastal States, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE (for himself and Mr. Bayh, Mr. Gravel, Mr. Kennedy, Mr. Mondale, Mr. Montoya, Mr. Randolph, Mr. Schweiker, Mr. Stafford, Mr. Stevens, Mr. Taft, and Mr. Javits):

S. 2923. A bill to amend chapter 55 of title 10, United States Code, to require the Armed Forces to continue to provide certain special educational services to handicapped dependents of members serving on active duty. Referred to the Committee on Armed Services.

By Mr. INOUYE:

S. 2924. A bill relating to the use of revenues from lands on Sand Island, Hawaii. Referred to the Committee on Armed Services.

S. 2925. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the U.S. share of development costs for certain airports. Referred to the Committee on Commerce.

By Mr. GRAVEL:

S. 2926. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson of Juneau, Alaska, to be documented as a vessel of the United States so as to be entitled to engage in coastwise trade and the American fisheries. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. Cotton) (by request):

S. 2927. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself, Mr. Moss, Mr. Tunney, and Mr. Kennedy):

S. 2928. A bill to establish national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes. Referred to the Committee on Commerce.

By Mr. SPARKMAN:

S. 2929. A bill for the relief of Mr. Hugo Medrano. Referred to the Committee on the Judiciary.

By Mr. BUCKLEY:

S. 2930. A bill for the modernization and general revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 2931. A bill to authorize Robert L. Rausch to accept an office or position in a university maintained by the Government of Canada. Referred to the Committee on Labor and Public Welfare.

By Mr. MONTOYA:

S. 2932. A bill to amend title 38 of the United States Code to provide that veterans pension and compensation will not be reduced as a result of certain increases in monthly social security benefits. Referred to the Committee on Veterans' Affairs.

By Mr. EASTLAND:

S. 2933. A bill to provide greater security for the U.S. passport. Referred to the Committee on the Judiciary.

By Mr. YOUNG (for himself and Mr. Humphrey, Mr. Dole, Mr. Burdick, and Mr. Pearson):

S. 2934. A bill to amend the Agriculture and Consumer Protection Act of 1973 to provide for an adjustment in the established price for the 1974 through 1977 crops of wheat and feed grains to reflect any change in the preceding year in the index of prices paid by farmers for production items, interest, taxes, and wage rates. Referred to the Committee on Agriculture and Forestry.

By Mr. GURNEY:

S. 2935. A bill to authorize and direct the Administrator of the Federal Energy Office to conduct a study so as to determine whether or not there has been a disproportionate increase in the prices of propane and butane gases. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY:

S. 2922. A bill to amend the Outer Continental Shelf Lands Act in order to conduct a comprehensive study of the Outer Continental Shelf, to promote the development of Outer Continental Shelf oil and gas resources, to provide for protection of the environment, to promote competition in the production of oil and gas from the Outer Continental Shelf, and to authorize the payment of a portion of the revenue under the act to the coastal States, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HATHAWAY. Mr. President, I am introducing today a bill to promote the development of the oil and gas resources of the Outer Continental Shelf, while requiring full and fair competition in this effort and strict protection of the environment. In addition, the bill authorizes payment of a portion of the Federal Government's revenues from OCS oil and gas operations to the adjacent States, to encourage them to participate in the development of these resources and to compensate them for the environmental risks and economic costs incurred thereby.

The energy crisis is one of the gravest problems facing our Nation, and indeed the whole world, at the present time. U.S. energy consumption has risen rapidly, at an annual rate of about 4 percent over the past 10 years, while the rate of energy production has lagged far behind. The serious shortages we are experiencing this year, and will continue to face in future years, are not simply the result of the unexpected Arab oil embargo. There are many causes which are now being investigated by committees in both the House and the Senate.

For those of us from New England, the energy crisis comes as no surprise. Unlike the rest of the country, we have grappled for years with supply problems and recurrent winter heating oil shortages. For years we argued in vain against the oil import quota system, that short-sighted and ill-advised policy maintained over several administrations which cushioned the U.S. oil industry from price competition and incentives to increase output and efficiency, while forcing the public to pay inflated prices.

Now, of course, the import quota system is gone, jettisoned at the first onset of the current energy debacle and unlamented by an administration which once clung to it against the advice of its own top advisers. In its place has come the massive problem of overall shortages, shortages stemming largely from the failure of a protected oil industry to use money gained from tax breaks to find new sources of oil and build new refineries.

Once again, New England is hardest hit. First, the region is located at the far end of the Nation's energy supply chain. In addition, New England is the region of the country most dependent on imported oil, and especially on the currently embargoed Arab oil. Over one-half of the residual fuel oil imported to the east coast is derived from Arab oil. This residual oil is used primarily to produce 70 percent of New England's electricity. The entire region, and my own State of Maine in particular, faces severe shortages this year and in years to come—shortages of No. 2 oil to heat homes, of residual oil to generate electricity, of gasoline to power cars, trucks, fishing boats, farm equipment, and many aspects of the tourist industry. Thus New England is suffering and will continue to suffer most from the effects of the Arab oil embargo—and more important in the long run—the phenomenal rise in the world price of oil.

Leaving aside the question of how much our current crisis has been engineered by the major oil companies, while not denying that possibility, I think we have to agree that a severe energy problem does exist. Given that premise, what can we do to alleviate that problem?

In the long run, I am convinced that we have to find alternative energy sources—ones which do not involve the consumption of limited natural resources and the spoiling of our air and our oceans and our cliffs and prairies. In the short term, however, we must face the fact that we will continue to be dependent on oil and gas and that we will have to develop our own available resources to meet our energy needs.

Energy experts are generally agreed that the Outer Continental Shelf represents our greatest remaining source of oil and gas. At this time, there is only a very limited amount of hard data available. Testimony given before the Senate Interior Committee in 1972 indicated that less than 3 percent of the U.S. OCS had been adequately mapped to permit assessment of its total energy potential. However, the U.S. Geological Survey has prepared resource estimates for the entire OCS. On the basis of these, some comparisons can be made of potential onshore and offshore production of oil and gas.

The USGS estimates total potential onshore production in the United States—lower 48 States plus Alaska—to be approximately 305 billion barrels of petroleum and 1,424 trillion cubic feet of natural gas. Potential offshore production excluding State offshore is estimated at 368 billion barrels and 1,598 trillion cubic feet. State offshore represents less than 10 percent of potential OCS production.

Cumulative figures for actual onshore production up to January 1, 1973, come to 107 billion barrels of petroleum and 417 trillion cubic feet of natural gas. Thus, potential onshore production in the future amounts to roughly 2½ to 3 times the amount already produced. Furthermore, it should be pointed out that it is likely that most of the prime onshore fields have already been found and exploited, so that the remaining onshore oil and gas should be harder to find and less economical to produce.

The reverse seems true for offshore oil and gas. Production from the OCS to date has represented only a small proportion of total U.S. production—about 12 percent in 1972. There is every indication that most of the prime fields have yet to be found and exploited. While extensive resources are projected to lie off the Atlantic and Pacific coasts, and off the coast of Alaska, as yet the only large-scale development of offshore oil and gas resources has taken place in the Gulf of Mexico.

It is evident, then, that our greatest hope for steming up energy production and meeting our needs of the next decade or two lies in the development of OCS oil and gas resources. This is important for the Nation as a whole. More particularly, it is important for areas of the country which heretofore have been remote from the centers of oil and gas production, especially the Northeast. New England and the Middle Atlantic States have had to bear the economic cost, and at times the uncertainty, of bringing oil and gas in from other parts of the country, or from abroad. These most populous and heavily industrialized areas of the country have been wholly lacking in capability to produce oil. Now USGS studies indicate the existence of immense untapped oil and gas resources off the North Atlantic coast, notably the Georges Bank area off New England and the Baltimore Canyon off Delaware.

I should like to point out, however, that with the hope of developing these resources comes the responsibility of doing it right. The OCS lands are public lands, the property of the American people; the resources lying therein are likewise part of the public treasure. It is incumbent upon the Congress, and upon the Federal Government, to avoid the mistakes of the past and establish wise policies for the development of the OCS. The OCS represents a vast, almost incalculable source of energy.

At the same time, it presents almost

unparalleled opportunities for abuse—for windfall profits to a select few companies, for economic blackmail of our citizens and industries, for despoiling of our coasts and seabeds.

The bill I am introducing today, Mr. President, is designed to establish a comprehensive policy for development of OCS oil and gas resources. It revises and adds to current practices, as well as setting new policy guidelines for the future. The following is a summary of the major provisions of the bill:

First, it directs the Secretary of the Interior to conduct a comprehensive study and collect all relevant data for areas of the OCS potential available for exploitation of oil and gas resources but which have not yet been leased for such purposes. In making this study, the Secretary is directed to consult with the Council on Environmental Quality, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration and any other agencies which are currently collecting or may in future collect data on the OCS. The study is supposed to include a wide range of factors, including geological, biological and oceanographic data, and land use patterns for commercial, recreational and Federal Government purposes.

On the basis of that study, the Secretary is directed to designate priority development areas in the OCS, where consideration of the various factors involved suggests that development of oil and gas would be most favorable, and also to designate areas of critical environmental concern, where leasing shall be prohibited due to risk of environmental damage.

Before making any OCS area available for leasing, the Secretary is required to follow a procedure which involves making an evaluation of the oil and gas resources available in that area, based on Federal agency and private company data which he obtains; public disclosure of information involved in that evaluation; public hearings in the affected coastal area; and consent of the Governor of the State in which that area is located. In addition, the Secretary must make available to the public the terms of the lease, and the bids for such leases, and he is directed to require actual production of oil and gas under new and existing leases as a condition for issuing or renewing the lease.

In order to maintain full and fair competition in the development of OCS oil and gas resources, the Federal Trade Commission and the Antitrust Division of the Justice Department must determine that issuance of any particular lease will not involve a violation of the antitrust laws. Furthermore, the Secretary is directed to report within 180 days after enactment his recommendations for promoting competition and maximizing revenues from the leasing of Outer Continental Shelf lands. The report must include consideration of the royalty bidding system as compared with the bonus bidding system, evaluation of alternative bidding systems not covered in present law, and measures to ease entry of new competitors and to increase supply to independent refiners and distributors.

Another section of the bill authorizes the Administrator of the Environmental Protection Agency to draw up regulations for protection of the environment from operations conducted under OCS leases. It directs him specifically to require best available technology for purposes of pollution control and to provide for regular and spot inspections by EPA and also by relevant State officials.

To give further impetus for maintenance of strict environmental protection standards, there is a liability section in the bill which provides strict liability for damages resulting from oil spills from any onshore or offshore facility or vessel engaged in any aspect of the exploitation of oil and gas resources from the Outer Continental Shelf. Modeled on a section in the recently passed Alaska pipeline bill, it calls for strict liability for damages up to $100,000,000, and sets up an Outer Continental Shelf Lands Liability Fund from which to pay claims arising under the act.

Throughout the bill there is recognition of the fact that State government officials have an important role to play in the development of our offshore oil and gas resources. People in Maine State government with whom I have consulted have advised me that there is insufficient recognition by the Federal Government of this role, and of the States' concern to be active participants and policymakers in offshore development. As mentioned above, this bill involves State governments in the OCS leasing process. Another provision extends the requirements of the National Environmental Policy Act, which already covers Federal lands, to the offshore lands under State jurisdiction, while at the same time giving the States express authority to adopt or enforce any standard which is more stringent than any required under this act.

State and local government officials are involved in the Outer Continental Shelf Operations Advisory Board set up by this legislation, in addition to Federal Government employees and persons from private industry and environmental and other groups. The Advisory Board is charged with reviewing all aspects of the implementation and operation of the Outer Continental Shelf Lands Act, as amended by this legislation.

An important section of the bill provides that a portion of the revenues from Outer Continental Shelf oil and gas operations currently going to the Federal Government be distributed to the adjacent States. This is done to encourage the coastal States to participate in the development of OCS resources, and also to compensate them for the environmental risks and economic costs which they now bear or will have to bear as a result of oil and gas operations off their coasts. These States provide, or in future will have to provide, roads and other support services to enable the carrying on of extensive offshore operations. Plus, of course, they run the inevitable risk of damages from oil spills off their coasts.

A final provision directs the President to take appropriate action to define all extended interstate and international boundaries, a number of which are still in dispute, for purposes of administering this act and apportioning revenues under it.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1973".

The Congress finds—

That it is in the interest of the United States to develop its domestic petroleum resources in order to meet its increasing energy needs, but not at the expense of degrading the environment;

That substantial petroleum resources are located within the lands of the Outer Continental Shelf;

That it is essential for the Federal Government to establish procedures that will allow the development of those resources within a framework of strict environmental safeguards;

That the interest of all U.S. citizens in these vital matters must be recognized, by providing for public disclosure of information and public participation in the procedures involved in the development of Outer Contnental Shelf petroleum resources;

That full and fair competition shall be maintained in all operations on the Outer Continental Shelf lands;

And that a portion of the revenues from such operations shall go to the adjacent coastal States, in return for the efforts undertaken and the environmental risks incurred by these States in the development of Outer Continental Shelf petroleum reourcses;

SEC. 2. (a) Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. Disposition of Revenues.—(a) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the outer Continental Shelf for the period beginning June 5, 1950, and ending with the day preceding the date of the enactment of the Outer Continental Shelf Lands Act Amendments of 1974 shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the outer Continental Shelf for the period beginning with the date of the enactment of the Outer Continental Shelf Lands Act Amendments of 1974 shall be deposited in the Treasury of the United States; and of the amount of the revenues so deposited in each fiscal year which are attributable to that portion of the outer Continental Shelf adjacent to any State or that portion of the outer Continental Shelf to which a State by interstate compact has limited itself—

"(1) 60 per centum shall be paid by the Secretary of the Treasury to such adjacent State, to be added to its general funds and to be used for what it deems to be in its best interests, except that for the purposes of this clause (A) if the revenues attributable to a State in any fiscal year amount to $50,000,000 or more in royalties, then rentals, bonuses, or revenues other than royalties shall not be included, or (B) if the revenues attributable to a State in any fiscal year amount to less than $50,000,000 in royalties, such revenues other than royalties shall be included in such amount as does not exceed $50,000,000 in total revenues attributable to such State; and

"(2) if the revenues attributable to any one State in a single year exceed $25,000,000, the share of the excess payable to that State under clause (1) shall be reduced in accordance with the following table:

"Amounts	*Percentages*
From $25,000,000 to $35,000,000	45
From $35,000,000 to $45,000,000	30
From $45,000,000 to $50,000,000	20
On excess over $50,000,000	10

"(c) Any moneys paid to the Secretary or the Secretary of the Navy under or in connection with a lease but held in escrow pending the determination of a controversy as to whether the lands on account of which such moneys are paid constitute part of the outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute said part of the outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a) if paid before the date of the enactment of the Outer Continental Shelf Lands Act Amendments of 1973, and

"(2) in accordance with subsection (b) if paid on or after the date of the enactment of such amendments."

(b) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify in any manner any right, claim, or interest of any State in any funds received before the date of the enactment of this Act and held in escrow pending the determination of any controversy as to whether the submerged lands on account of which such funds are received constitute a part of the outer Continental Shelf.

(c) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify any claim of any State to any right, title, or interest in, or jurisdiction over, any submerged lands.

SEC. 3. The Outer Continental Shelf Lands Act is further amended by redesignating sections 15, 16, and 17 as sections 25, 26, and 27, respectively, and by inserting after section 14 the following new sections:

"SEC. 15. Study of Outer Continental Shelf.—(a) Within one year following the date of enactment, the Secretary shall, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies, conduct a comprehensive study and collect all relevant data on areas of the Outer Continental Shelf potentially available for exploitation of oil and gas resources, but not yet leased pursuant to this Act. Such study shall include consideration of the following:

"(1) basic geological and geophysical data relating to the presence of oil or gas;

"(2) biological data on marine plant and animal life, sensitivity of all species to changes in the marine environment, and existing pollution conditions;

"(3) oceanographic and meteoroligcal data, including waves, winds, currents, tides, water depth, topographical conditions, and probable behavior of oil spills from given points.

"(4) transportation data, including shipping, pipelines, and any other facilities; and

"(5) other resource use data, including commercial fishing, sports fishing, and boating.

"(b) In conjunction with this study, the Secretary shall consult with other agencies of the Federal Government, including the Department of Commerce and the Department of Defense, to determine other present or projected uses for OCS areas, and shall cooperate with these agencies in developing use patterns which are not in conflict and which do not impede the production of oil and gas from these areas.

"(c) No leasing shall be conducted on any area of the Outer Continental Shelf until the study of that area required under this section has been completed.

"SEC. 16. Designation of Leasing Areas.—(a) On the basis of the study pursuant to section 15, the Secretary shall—

"(1) designate priority development areas in the submerged lands of the Outer Continental Shelf, for purposes of leasing pursuant to this Act. These shall be areas in which there is determined to be the greatest potential for development of oil and gas resources and the least risk of environmental damage resulting therefrom.

"(2) designate areas of critical environmental concern, in which leasing shall be prohibited due to risk of environmental damage, including damage to commercial and recreational activities.

"(b) Before designating any area as available for leasing pursuant to this Act, the Secretary shall—

"(1) make an evaluation of the oil and gas resources available in that area, and shall include in making such evaluation the following:

"(i) information which he directs to be gathered in surveys conducted by the Department of the Interior, using best available techniques, including seismic exploration and subsoil surveys;

"(ii) all data pertaining to that area held by State and local governments and other Federal Government agencies;

"(iii) all data pertaining to that area obtained by private companies under exploratory permits issued by the Department of the Interior;

Provided, That the Secretary shall require submission, in complete and comprehensible form, of such information held by private companies at the time that an area is placed under consideration for leasing, and shall notify the companies to that effect;

Provided further, That the Secretary shall have authority, for purposes of this subsection, to sign and issue subpoenas for the production of relevant books, papers, charts, and other documents or materials, and, in case of refusal to obey a subpoena served upon any person under the provisions of this subsection, the Secretary may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and produce documents before the Secretary;

Provided further, That no private company shall be permitted to conduct further exploration or to bid for or hold a lease in the designated area unless it submits the requisite information to the Secretary.

"(2) make available to the public all information obtained under subsection (1),

Provided, That, except as otherwise provided by law or by this Act, individual company data obtained under that subsection shall be kept confidential for a period of one year, except that such information may be disclosed to other persons empowered to carry out this Act solely for the purpose of carrying out this Act or when relevant in any proceeding under this Act.

"(3) hold public hearings in any coastal area where such leasing may have an environmental or commercial effect and provide an opportunity at such hearings for comments from State and local government officials environmental groups, commercial interests and other interested persons, on both the area to be designated and the terms of leases to be issued thereon, and make transcripts of such hearings available to the public; and

"(4) obtain the consent of the Governor or Governors of the State or States in which such coastal area or areas are located.

"SEC. 17. ADDITIONAL LEASING REQUIREMENTS.—(a) The Secretary shall make public at least 60 days prior to entering into any lease pursuant to this Act—

"(1) the terms of such lease; and

"(2) information which he has obtained under section 16(b)(1) with respect to oil and gas resources available in the area covered by such lease, in usable and summary form.

"(b) Bids for leases and supporting materials shall be made available to the public upon request.

"(c) The Secretary is authorized to include in any lease issued pursuant to this Act such special conditions as he determines necessary as a result of information obtained pursuant to section 16.

"(d) After consultation with State and local officials and other interested persons in the affected area, the Secretary may stipulate as a condition of entering into any lease that priority shall be given to meeting the needs of that area for oil and gas produced under such lease.

"(e) In order to obtain maximum feasible production of oil and gas from leases issued pursuant to this Act, the Secretary shall—

"(1) prior to entering into any new lease, set standards for drilling and production under that lease, including agreements on timetables and commitment of resources;

"(2) prior to renewing any existing lease, determine that oil and gas is being produced in paying quantities under that lease, or set standards for production within a stipulated period of time not to exceed two years;

Provided, that failure to comply with these standards shall result in forfeiture of the lease at the end of that period of time.

"(3) conduct a survey and evaluation of the capacity of all wells currently classified as 'producing shut-in' by the United States Geological Survey, and order production within one year if he determines that production from such a well is technically and geologically feasible and would not violate any environmental requirement imposed by law or regulation,

Provided, that failure to comply with such order shall result in forfeiture by the lessee of acreage containing such well classified "producing, shut-in."

"SEC. 18. PROMOTION OF COMPETITION.—(a) No lease shall be issued pursuant to this Act unless it has been determined by the Federal Trade Commission and the Department of Justice that issuance of such lease will not involve a violation of the antitrust laws. Such determination shall be made within thirty days after receipt of the request for a ruling. The Federal Trade Commission and the Department of Justice shall prepare a detailed memorandum giving the basis of the determination and shall make such memorandum available to interested parties upon request.

"(b) Within one hundred and eighty days after the date of enactment, the Secretary shall prepare and publish a report with recommendations for promoting competition and maximizing revenues from the leasing of Outer Continental Shelf lands, and shall include a plan for implementing recommended changes. Such report shall include consideration of the following—

"(1) royalty bidding system as compared to the bonus bidding system;

"(2) evaluation of alternative bidding systems not covered under present law;

"(3) measures to ease entry of new competitors; and

"(4) measures to increase supply to independent refiners and distributors.

"SEC. 19. AUTHORITY OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—(a) The Administrator of the Environmental Protection Agency, in consultation with the Secretary of the Interior, is authorized to prescribe such regulations as he determines necessary for protection of the environment from operations conducted (including equipment used therein) under leases pursuant to this Act. Such regulations shall include—

"(1) requirements for the use of best available technology, including replacement of existing equipment where necessary;

"(2) provisions for inspections by the Administrator at any time to determine proper compliance with such regulations;

"(3) requirements that a thorough inspection be conducted by the Administrator semi-annually;

"(4) provisions for inspections by officials of the State or States affected by operations under a particular lease; and

"(5) requirements for submission of a contingency plan to be implemented in the event of a discharge of oil.

"(b)(1) Any holder of a lease pursuant to this Act and any other person subject to any regulation issued under subsection (a) who fails or refuses to comply with the provisions of any such regulations shall be liable to a fine of not more than $5000 for each such violation. Each day on which such violation occurs shall be a separate offense. The Administrator may assess and compromise such penalty. No penalty shall be assessed until the holder or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation and the demonstrated good faith of the holder, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the Administrator.

"(2) Willful non-compliance with the provisions of any regulations issued under subsection (a) by a holder of a lease pursuant to this Act or by any other person subject to any such regulation shall be considered a crime punishable by a term of no more than one year in prison.

"(c) In addition to the penalty provided in subsection (b), the Secretary may (1) suspend all or part of operations on any lease for violations of regulations prescribed pursuant to subsection (a), and (2) terminate any lease for repeated serious violations.

"Sec. 20. Requirements For State Development of Certain Lands.—(a) In the interests of protecting the navigable waters of the United States no State shall authorize or provide in any way for any construction or development of any kind on or in any land beneath navigable waters, as defined in Sec. 2(a)(2) the Submerged Lands Act, until it has prepared a report including the following:

"(1) the environmental impact of the proposed action,

"(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(3) alternatives to the proposed action,

"(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any such report, the responsible State official shall consult with and obtain the comments of the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality with respect to any environmental impact involved. Copies of such report and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the State agency review processes.

"(b) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce any standard, limitation, or standard of performance which is more stringent than any required under this Act.

"Sec. 21. Liability. (a) Notwithstanding the provisions of any other law, and except when the discharge was caused solely by an act of war, the owner or operator of any onshore or offshore facility (including, but not limited to, pipelines, terminals, platforms and drilling rigs) or vessel engaged in the extraction, production, transportation, or storage of oil from the Outer Continental Shelf Lands, in conjunction with the Outer Continental Shelf Lands Liability Fund established under this subsection, shall be strictly liable without regard to fault for all damages, including clean-up costs, sustained by any person or entity, public or private, as the result of discharges of oil from such facility or vessel. Damages shall include, but not be limited to, injury to persons; spoiling of beaches and coastal communities; destruction and injury of sea birds; fouling of boats, fishing gear, piers and quays; damage to fish, shellfish, and larvae, including loss of income from harvesting of same; risk of fire in harbors and other enclosed waters; and loss of income from tourism.

"(b) Strict liability shall not be imposed under this subsection with respect to the claim of a damaged party if the damage was caused by the negligence of such party.

"(c) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

"(d) Strict liability for all claims arising out of any one incident shall not exceed $100,000,000. If the total claims allowed exceed $100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or State law.

"(1) The owner or operator of a vessel shall be jointly and severally liable for the first $14,000,000 of such claims that are allowed, and financial responsibility for the $14,000,000 shall be demonstrated in accordance with the provisions of section 311(p) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(p)). The Fund shall be liable for the balance of the claims that are allowed up to $100,000,000.

"(e) The Outer Continental Shelf Lands Liability Fund is hereby established as a nonprofit corporate entity that may sue and be sued in its own name. The Fund shall be administered under regulations prescribed by the Secretary. The Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

"(f) There shall be collected from the owner of the oil as produced at the wellhead a fee of five cents per barrel. The collection shall cease when $100,000,000 has been accumulated in the Fund, and it shall be resumed when the accumulation in the Fund falls below $100,000,000. The owner of the oil shall be required to maintain a device suitable for measuring the amount of oil conveyed, for purposes of collecting this fee.

"(g) The collections under paragraph (f) shall be delivered to the Fund. Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.

"(h) This subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

"Sec. 22. National Petroleum Reserve.—(a) The Secretary shall, on all lands leased pursuant to this Act, require the establishment and maintenance on a pro rata basis of reserve operating capacity which is able if necessary to produce within 90 days an amount of oil equal to one fourth of the amount of crude oil imported into the United States during the calendar year 1972.

"(b) For the purpose of this section the Secretary shall—

"(1) require regular reports from each holder of a lease pursuant to this Act with respect to the quantities and location of oil reserves located on such lease and such reports shall be available for public inspection;

"(2) make necessary inspections of leased areas and facilities thereon to determine the accuracy of such reports and other necessary information; and

"(3) perform such drilling and other exploratory work in areas offered for lease as is necessary to determine oil resources available.

"Sec. 23. Outer Continental Shelf Operations Advisory Board.—(a) There is established in the Department of the Interior an Outer Continental Shelf Operations Advisory Board. The Board shall be composed of the Secretary or his designee, who shall be chairman, and 10 members appointed by the President, one from the Environmental Protection Agency and the others to represent appropriate State, interstate, and local government agencies in coastal areas, experts in the field of operations in the Outer Continental Shelf, private industry involved in such operations and organizations or groups demonstrating an active interest in such operations and the environmental effects thereof.

"(b) The Board shall meet at the call of the chairman or a majority of the members thereof. A majority of the members shall constitute a quorum for the purpose of establishing official positions of the Board.

"(c) The Board shall—

"(1) review the provisions of this Act and the regulations pursuant thereto;

"(2) monitor the enforcement of such provisions and regulations;

"(3) make recommendations to the Secretary for any necessary changes in such provisions or regulations; and

"(4) hold public hearings whenever and wherever appropriate in carrying out its functions.

The Secretary shall forward all such recommendations to the Congress, along with his recommendations with respect thereto, at least annually.

"(d) Members of the Board from Federal departments and agencies and from State and local governments shall receive no additional compensation for their services as members of the Board. Members of the Board selected from the private sector, while serving on business of the Board, shall receive compensation at rates fixed by the Secretary but not exceeding $100 per day, if service on the Board would result in loss of income which would otherwise be earned. All members of the Board, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Secretary shall make available to the Board such office space and facilities, and such secretarial, clerical technical, and other assistance and such information and data in his possession or under his control, as the Board may require to carry out its functions.

"Sec. 24. Extension of Boundaries. Within one year following the date of enactment, the President shall take appropriate action to delineate, adjudicate, and extend all boundaries for the purposes of this Act. This shall include procedures for settling any outstanding boundary disputes, including international boundaries between the United States and Canada and between the United States and Mexico, and establishing boundaries between adjacent states, as directed in section 4 of this Act.

AMENDMENT OF FREEDOM OF INFORMATION PROVISIONS OF TITLE 5, UNITED STATES CODE

SEC. 4. Section 552(b) of title 5 of the United States Code, is amended by inserting "or" after the semi-colon at the end of clause (7), by striking out the semi-colon and "or" at the end of clause (8) and inserting in lieu thereof a period, and by striking out clause (9).

Mr. INOUYE (for himself and Mr. BAYH, Mr. GRAVEL, Mr. KENNEDY, Mr. MONDALE, Mr. MONTOYA, Mr. RANDOLPH, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENS, Mr. TAFT, and Mr. JAVITS):

S. 2923. A bill to amend chapter 55 of title 10, United States Code, to require the Armed Forces to continue to provide certain special educational services to handicapped dependents of members serving on active duty. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, last August, the Office for the Civilian Health and Medical program of the Uniformed Services announced that it would discontinue the funding of special educational services to military dependents. Effective immediately, no further applications for special educational services were to be accepted, and those applications which had been approved would be provided funds only until December 31, 1973.

Upon inquiry, I learned that this change in service was not due to the cost of these services, but because there was no legal basis requiring that Champus provide such services. In fact, Champus has been unable to provide me with any figures on the cost or on the number of children who are affected by this decision. Apparently, these cases have been categorized as problems other than special educational problems, and as of December 18, 1973, they had not sorted through their files to learn who would be cut off from further benefits a mere 13 days later. I need not tell you of the financial hardship that is thrust upon the affected families with so little warning.

In addition to the burden placed upon the families due to the immediacy of this problem is the burden placed upon the States to absorb these students in the middle of the school year, and in the middle of the fiscal year. Many States, including Rhode Island and Connecticut, are not required to provide special educational services to nonresidents unless the home State will pay for the services.

This problem is acute in my own home State of Hawaii. To cite one specific example, there is a private school located on Pearl Harbor which has been providing special education for military dependents with learning disabilities. This school, the Armed Services Special Education and Training School, known as ASSETS, has announced that it will be forced to close on January 31, 1974, unless it can find some source of funds to replace those which Champus has discontinued.

Presently, in Los Angeles, Calif., a suit has been brought against the Department of Defense by 10 families whose children are affected by this decision by Champus. The plaintiffs claim that the Department of Defense had contracted with the fathers of these 10 children to provide certain services to them and their families in exchange for their service in the Armed Forces, and that the Department of Defense is now reneging on that contract by discontinuing this service to their children.

If these children are forced to discontinue their education prematurely, since they cannot be placed into an average public school classroom which does not provide them with the special services which their disabilities require, it will result in a rapid regression of their condition.

The office of CHAMPUS has offered to provide the families of these students with information concerning schools and agencies in their area which provide services which would be beneficial to the child; however, they can not assure the parents that sufficient programs exist even if the child can be admitted in the middle of the school year, or that the parents can afford to pay for those services which do exist.

CHAMPUS claims that such services are strictly educational, and not medical. I personally believe, and it can be documented by professionals in the field, that no such clear distinction is possible.

In December I introduced an amendment to the Defense Appropriations bill during the committee deliberations which was accepted by the committee and approved by the Senate, which was designed to continue these special educational services until the end of the fiscal year. Unfortunately, during the conference, the amendment was deleted.

My colleagues who are cosponsoring this bill and I see a great need to continue this service for the dependent children of active duty military personnel, and we urge a rapid passage of this bill.

By Mr. INOUYE:

S. 2924. A bill relating to the use of revenues from lands on Sand Island, Hawaii. Referred to the Committee on Armed Services

Mr. INOUYE. Mr. President, on August 25, 1958, Congress enacted Public Law 85–756 which provided for the transfer of title to certain land at Sand Island which, as an industrial area near the heart of Honolulu and adjacent to Honolulu International Airport, is used primarily for a variety of public and private, uses, such as, fuel storage, harbor facilities, and industrial storage.

The 1958 act specifically assigned for the support and general purposes of the University of Hawaii all proceeds and revenues arising from any such disposition of this 202-acre parcel.

Since the passage of that measure, the State of Hawaii has reevaluated its current and projected needs for governmental use of this property, and has concluded that better utilization can be made by reassigning use of the area among various State agencies.

Accordingly, today I introduce legislation relating to the use of revenues from lands on Sand Island, Hawaii, which effects such redistribution in the following manner:

First, use by the Foreign Trade Zone as requested by the State Department of Planning and Economic Development.

Second, waterfront industrial use by the State of Hawaii Department of Transportation.

Third, storage of aviation fuel by the airports division of the State of Hawaii Department of Transportation.

Fourth, sewage treatment site for the city and county of Honolulu.

It is to be emphasized that such a proposed change reallocates use of the land on a nonrevenue basis; that is, that the intended governmental uses authorized by the amendment have particular encumbrances attached.

More specifically, the lands set aside to the Department of Transportation for the use of the Harbors Division become security for the Harbors Division indebtedness, and revenues from them must be covered into the division's bond account.

The Federal Aviation Authority requires that airport lands must contain adequate facilities or fuel storage. Such lands are also encumbered by airport bonding agreements, and the revenues produced by them must be used for retirement of bonds or to reimburse the general fund for moneys advanced.

Lands made available as a plantsite for sewage treatment will not produce any revenue.

As for the university benefit problem, the Hawaii State legislature has anticipated this contingency by including in its appropriation bills the requirement that all revenues from the subject property be covered into the general fund of the State of Hawaii in order to reimburse the general fund for moneys appropriated directly to the University.

Given the express needs of the State of Hawaii for such lands, I strongly urge early and favorable consideration of this necessary amendment so as to facilitate the long-range usage plans of the State of Hawaii in this region.

By Mr. INOUYE:

S. 2925. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the U.S. share of development costs for certain airports. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, today I am introducing legislation to modify the Airport and Airway Development Act of 1970 so as to make its implementation more consistent with the actual intent of Congress.

During the past session, the Congress passed the Airport Development Acceleration Act of 1973 because we felt that it was the Federal Government's responsibility to assist the States and local communities in developing viable air transportation networks. Further, because large airports tend to be financially self-sufficient, wording was developed such that the Federal Government's share of allowable project costs "may not exceed 50 percent for sponsors whose airports enplane not less than 1 percent of the total annual passengers enplaned by air carriers certified by the Civil Aeronautics Board." This is in contrast to a 75-percent maximum of those sponsors who enplane less than 1 percent.

Hawaii being a small island State has recognized for many years the great advantage in having an integrated transportation facilities system and has organized its Department of Transportation to foster this goal. At the present time, there are 14 existing airports and 1 heliport located throughout the State with plans for developing 3 additional airports in the making. Honolulu International Airport is the only one which enplanes more than the 1 percent noted in the law.

Yet, since we have an integrated system with the State being the primary sponsor, all of Hawaii's airport construction is limited by the 50 percent ceiling. I am confident that this state of affairs was not the intent of the Congress.

I would like to further emphasize that my State faces an unusual and disproportionate share of our Nation's airport expenses in having to provide Federal border clearance agency facilities for the third largest number of foreign arrival passengers in the Nation, a $75 million reef runway for the military as well as commercial aircraft, and agriculture inspections for the Southwestern States.

At this time, I would like to enter into the RECORD a report prepared by the State which delineates Hawaii's airport system in more detail.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE HAWAII STATE AIRPORTS SYSTEM

The Hawaii Revised Statutes provide that the Department of Transportation of the State of Hawaii shall establish, maintain and operate transportation facilities of the State including highways, airports, harbors and such other transportation facilities and activities as may be authorized by law. The Department is headed by a single executive known as the Director of Transportation.

The activities of the Department of Transportation are carried out through three divisions: Airports, Highways and Harbors. Through the Airports Division, the Department exercises jurisdiction over and control of all State airways and all State airports and air navigation facilities, except those under military jurisdiction and control, and has general supervision over aeronautics within the State of Hawaii.

The Department is authorized by statute to receive federal aid for airports within its jurisdiction and is the sponsor for all public airports in the State of Hawaii.

The Airports Division operates and maintains fourteen existing airports and one heliport located throughout the State and has plans for three other airports in the State.

The two principal existing airports which provide commercial facilities for long-distance overseas flights (i.e., other than inter-island within Hawaii) are Honolulu International Airport on the Island of Oahu and General Lyman Field at Hilo on the Island of Hawaii.

The other existing airports in the airports system are Lihue and Port Allen Airports on the Island of Kauai; Ala Wai Heliport, Dillingham Field, and Ford Island (the latter two are U.S. Air Force and U.S. Navy properties, but the State has an arrangement whereby civilian light planes may use the runways) on the Island of Oahu; Kahului and Hana Airports on the Island of Maui; Ke-ahole, Waimea-Kohala and Upolu Airports on the Island of Hawaii; Lanai Airport on the Island of Lanai, and Molokai and Kalaupapa Airports on the Island of Molokai. All these facilities are utilized by certificated scheduled and non-scheduled operators, general aviation operators, and military, with the exception of the Ala Wai Heliport, Dillingham Field, Ford Island, Kalaupapa, Port Allen, and Upolu Airports which are used principally by general aviation and occasionally by military aircraft.

Honolulu International Airport is located approximately five miles by highway from the center of the metropolitan area of Honolulu. Its principal runway (12,380 feet) is one of the nation's longest and occupies land at both Honolulu International Airport and Hickam Air Force Base which is adjacent to the airport. Serving both the inter-island and the overseas air traffic, Honolulu International Airport is the most important in the statewide system. It serves all foreign commercial flights to and from Hawaii and provides border inspection facilities at no cost to the Federal government.

The following twenty airlines are authorized to serve Hawaii with scheduled overseas flights: Air Micronesia, Air New Zealand, Air Siam, American Airlines, Braniff International Airlines, British Overseas Airways Corporation, Canadian Pacific, China Airlines, Continental Airlines, Japan Air Lines, Korean Air Lines, Northwest Airlines, Pan American World Airways, Philippine Airlines, Qantas Airways, Trans World Airlines, Union de Transports Aeriens, United Air Lines, Varig Airlines, and Western Airlines. Inter-island service is provided by Aloha Airlines, Hawaiian Airlines and several air-taxi and commuter airlines.

During calendar year 1972, the following numbers of passengers were enplaned at the air carrier airports:

Honolulu International Airport	3,994,255
General Lyman Field	587,082
Kahului Airport	827,158
Lihue Airport	758,655
Ke-ahole Airport	307,058
Waimea-Kohala Airport	43,768
Molokai Airport	74,076
Lanai Airport	19,094

Honolulu International Airport is the only airport in the State of Hawaii which enplanes more than one per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and is classified as a large hub airport by the Federal Aviation Administration in the 1972 National Airport System Plan.

For the short-range period of 0 to 5 years, the FAA 1972 National Airport System Plan for Hawaii, Volume APC Pacific Region, recommends the following sums for improvements which are eligible for Federal-aid under the Airport Development Aid Program:

Honolulu International Airport	$71,544,000
General Lyman Field	10,128,000
Kahului Airport	4,471,000
Lihue Airport	6,562,000
Ke-ahole Airport	1,006,000
Waimea-Kohala Airport	4,833,000
Molokai Airport	6,303,000
Lanai Airport	2,490,000
General Aviation and Reliever Airports	6,496,000
Total	113,829,000

Under the provisions of the Airports Acceleration Development Act of 1973, Hawaii is eligible for not more than 50 percent Federal participation and the State's share in the projects would be $56,914,500.

If the airports in Hawaii were sponsored by the local community served by the airport, the sponsor's share in project costs would be $46,343,250.

During the fiscal year ending June 30, 1973, the total revenues of the Airports Division was $30,105,830. Of this amount $26,151,473 was generated at Honolulu International Airport. Revenues collected at airports other than Honolulu International Airport are insufficient to meet the operating and maintenance expenses of these airports.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2927. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes, and ask unanimous consent that the letter of transmittal be printed in the RECORD together with the text of the bill.

There being no objection, the letter and bill were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 28, 1973.

Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation has prepared as part of the legislative program for the 93rd Congress, 2nd Session, the enclosed proposed bill:

"To authorize the Secretary to phase-in motor vehicle safety standards by specified percentages over a period of time, and for other purposes."

The relevant provisions of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.) by which the Secretary of Transportation or his delegate is authorized to set effective dates for motor vehicle safety standards are as follows:

Sec. 103(c): "*Each order establishing a Federal motor vehicle safety standard shall specify the date such standard is to take effect* which shall not be sooner than one-hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding." (Emphasis supplied.)

Sec. 103(f)(3): "In prescribing standards under this section, the Secretary shall . . . consider whether any such proposed standard is reasonable, practicable and *appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed* . . ." (Emphasis supplied.)

Sec. 108(a)(1): "*No person shall manufacture* for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, *any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect* under this title unless it is in conformity with such standard . . ." (Emphasis supplied.)

These provisions thus establish that motor vehicle safety standards shall set minimum performance standards for "particular types" of vehicles, that each standard shall specify an effective date, and that no nonconforming vehicles shall be produced after the effective date. There appears to be no reasonable construction of the language of the statute, and nothing in its legislative history, that would provide authority to require manufacturers to "phase-in" a percentage of their production of a particular type of vehicle to conformity with a standard. We therefore conclude that an amendment of the statute would be necessary to provide authority for such a regulatory action.

Therefore, under its present authority the Department has no choice, when imposing a new safety requirement on manufacturers of motor vehicles, but to order that requirement into effect for all of a particular type of car made on or after a specified date. Frequently, this creates an undesirable situation since many manufacturers change the body designs of various different car lines in successive years over a cycle of three or more years. Thus, the single effective date often either does not achieve the degree of safety improvement that is possible with part of the industry's production, or imposes severe burdens with respect to a portion of production that has special problems.

The proposed bill would amend the National Traffic and Motor Vehicle Safety Act, so as to grant the Department phase-in authority whereby more realistic effective dates for safety standards could be established. Such authority would allow the Secretary, in his discretion, to specify a series of dates by which all motor vehicle manufacturers would have to bring into compliance with a standard specified percentages of their production manufactured for purposes of sale in the United States. For example, he could require a standard to be phased-in over a two-year period, so that after September 1, 1974, 25 percent of the manufacturer's production would meet the standard, after September 1, 1975, 50 percent, and after September 1, 1976, all of its production would conform to the standard.

We do not envision phasing-in every safety standard. However, the phase-in approach could be used with respect to those standards which were determined to entail substantial start-up problems for the industry.

The desirability of this authority can be demonstrated by viewing it in connection with our rulemaking on direct fields of view. A notice of proposed rulemaking was issued last year for a standard that would require all passenger cars, multipurpose passenger vehicles, trucks, and buses to provide drivers with specified amounts of unobstructed view of the driving environment. The standard would accomplish this by limiting the size of vehicle structures, such as roof pillars, that obscure the driver's view of other vehicles and the road. It appears likely that many of the manufacturers will experience difficulty in achieving compliance with the standard since they will need to do substantial redesigning and retooling. It may be practicable, therefore, for some of these manufacturers to achieve compliance only in accordance with their normal model changeover cycle. Under present authority, we would have to set the single effective date at a time when it was practicable for all manufacturers to achieve full compliance. Phase-in authority, however, would permit the Department to phase-in the standard over a several-year period. This approach would assure some improvement in motor vehicle safety at the earliest possible moment. Of course, the percentage of production selected would be applicable to all manufacturers.

In conclusion, we believe, as a general matter, that the gradual phase-in of an increasing percentage of a manufacturer's production to the requirements of a standard requiring major design changes would be beneficial to both manufacturers and the public. It would minimize a manufacturer's cost by permitting him to make the necessary changes in accordance with his normal model changeover, and the public would be afforded added vehicle safety earlier than otherwise possible.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

S. 2927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end thereof a new subsection (i) to read as follows:

"(i) (1) Notwithstanding any other provisions of this section the Secretary may, if by doing so he will be requiring the earlier availability of motor vehicle with improved safety features, by order specify a series of effective dates for a Federal motor vehicle safety standard, on or after which a specified percentage of motor vehicles, to which the standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to that standard. Each order specifying a series of effective dates should include a statement of the reasons for which the series of effective dates is found to be in the public interest.

"(2) The effective dates within any series specified by the Secretary shall be at one-year intervals. During each six-month period after an effective date, the specified percentage of motor vehicles, to which a standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to the standard. The final effective date in a series shall in all cases be not more than two years after the initial effective date, and all motor vehicles, to which the standard applies, manufactured on or after the final effective date for purposes of sale in the United States shall conform to the standard.

"(3) In the case where one or more manufacturers are wholly owned by another person or corporation, those manufacturers together with the owning person or corporation shall be considered as one manufacturer for purposes of this subsection. In all other cases each person or corporation that is a manufacturer shall be considered a separate manufacturer for purposes of this subsection."

By Mr. MAGNUSON (for himself, Mr. MOSS, Mr. TUNNEY, and Mr. KENNEDY):

S. 2928. A bill to establish national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, today I am introducing, along with Senators MOSS, TUNNEY, and KENNEDY, the Consumer Controversies Resolution Act. This bill is designed to make substantial gains in one of the most important areas of consumer protection—the resolution of controversies. We have enacted a number of laws designed to help protect the consumer—such as the Consumer Product Safety Act—and we have passed a number of laws which help bring fair play to the marketplace—such as the Magnuson/Moss Warranty-Federal Trade Commission Improvement Act. The warranty bill includes some attempt at seeing that consumers injured by unfair warranty practices have adequate redress mechanisms, but generally this is an area that has not been adequately treated.

For the majority of Americans, redress of grievances is at best a theoretical concept. The utilization of the legal system in general, and small claims courts in particular, is in most cases too expensive. Although the total amount of money involved each year in consumer controversies in the United States exceeds $100,000,000, the amount involved in any single controversy is apt to be small—less in many cases than the cost of legal representation for the affected consumer.

When the small claims court movement began in the early 1900's, it was geared to provide speedy and inexpensive justice for litigants who could not afford a lawyer. Now, many small claims courts serve only as collection agencies for professional creditors. Even those who dispute this claim concede that small claims courts have not been the panacea to consumer complaints resolution that they were intended to be: forms, rules, and procedures are sometimes complex; courts are not available for resolution of controversies during hours and on days that consumers can easily utilize them; and jurisdictional limitations are often too low.

Other mechanisms are being tried for the resolution of consumer controversies. Some have turned to arbitration. There have been a few successful arbitration programs, and several more have been initiated recently, but there is also a great deal of difference of opinion about the usefulness of arbitration. Business-sponsored mechanisms have not met with any great deal of proven success yet, but we have encouraged the use of such devices where they are fair in the warranty bill.

The Federal Government has for the most part neglected its responsibilities in this important area. A small claims tax court has been created, and the National Highway Traffic Safety Act encourages reforms of traffic courts, but for the most part effective methods to resolve grievances are absent. Furthermore, there is not any agreement on the optimum type or types of grievance redress mechanisms best suited to help consumers and citizens.

The legislation that I am proposing today would go a long way toward developing meaningful complaint resolution mechanisms. It is based on a 2-year study conducted by the National Institute for Consumer Justice which explored the adequacy of existing procedures for resolving disputes arising out of consumer transactions. The Institute grew out of President Nixon's consumer address of February 24, 1971, and was funded by a $150,000 research grant from the Office of Economic Opportunity. The Institute's final report offers 21 suggestions for upgrading small claims courts throughout the United States. Most of these recommendations have been incorporated, either directly or indirectly, in this legislation.

The legislation which I am introducing would establish a new bureau in the Federal Trade Commission which would administer a program of aid to the States so that they can formulate and effectuate ways in which the disputes of their citizens can be resolved effectively, fairly, inexpensively, and expeditiously. It is entirely possible that the programs that the individual States develop will vary considerably. The need of New York, for example, may be quite different than the needs of Utah or Nevada, or my own State of Washington. Any program that tends to effectuate the goals of the act could be approved by the new Bureau within the Commission so long as the State has an administrator and a plan, and it meets the requirements set out by the act and rules promulgated by the Commission. Furthermore, the Commission would be authorized to make demonstration grants for a wide variety of purposes. The bill also would direct the Bureau to conduct experimentation and exploration into ways of better resolving disputes.

The approach adopted in this legislation to rejuvenating small claims courts is adopted from a recommendation of the Institute. On page 30 of the Institute's report entitled, "Redress of Consumer Grievances," it is recommended that Congress allocate funds for payment to the States to stimulate the establishment and maintenance of effective small claims courts. The Institute states:

> A comparatively modest infusion of funds from the Federal Government, either on a non-recurring or a continuing basis, can stimulate states that now do not have small claims courts or that have only ineffective ones to establish efficient systems.

There is one important aspect of increasing the availability of redress to consumers that is not contained in this legislation. Because of various rulings by the Supreme Court, consumers are presently unable to bring class actions in Federal court. The Commerce Committee has worked on this issue in the past, but we were faced with widely differing views on the advisability of allowing consumers to use the class action device in Federal courts. Because of the various charges and countercharges surrounding the consumer class action issue, we tried to get some hard information on the subject, but discovered that there is not any, for example, there is no empirical information available regarding the use of the class action device in Federal courts. In order to correct this deficiency, and in order to form a sound legislative judgment regarding what to do about class actions, the Commerce Committee began the first empirical study of the experience with the class action device in Federal courts since rule 23 was amended to its present form in 1966.

That study has included both a national survey and an indepth study including interviews of the experience in the District of Columbia, and I am advised that it should be completed in the next few months. There are no provisions in this bill regarding class actions because we will not know what to do on that issue until we have the results of our study in hand.

I am looking forward to early hearings and committee consideration of the Consumer Controversies Resolution Act, and ask that the full text of the bill be printed in the RECORD at the conclusion of my remarks and the remarks of my colleagues, Senators Moss, TUNNEY, and KENNEDY, the cosponsors of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOSS. Mr. President, I am pleased to cosponsor the Consumer Controversies Resolution Act along with Senators MAGNUSON, TUNNEY, and KENNEDY. The need for this legislation is well established. Only last November, the Consumer Subcommittee of the Commerce Committee held a joint hearing with the Subcommittee on Representation of the Citizen's Interests of the Judiciary Committee at which we received some very interesting testimony on the need to devise and stimulate the deployment of improved mechanisms by which consumers and citizens can effectively secure redress of their grievances quickly and at low cost.

The recently issued report of the National Institute of Consumer Justice focused on the adequacy of existing consumer redress mechanisms. The conclusions of that prestigious group were testified to at hearings which I chaired November 13. After extensive study and investigation the conclusion was reached that existing mechanisms for dispute resolution are woefully inadequate. The institute made a number of significant recommendations for reform of the way in which consumer disputes are handled, and this bill effectuates many of those recommendations.

Robert Braucher, the chairman of the National Institute for Consumer Justice and associate justice of the Supreme Judicial Court of Massachusetts, outlined for my subcommittee the recommendations of the institute. Included in those recommendations is recognition of the need for the establishment of arbitration machinery and experimentation with the use of arbitration as a mechanism for resolving consumer controversies. While arbitration alone may or may not be a successful method, arbitration used in conjunction with some other sort of dispute-resolving mechanism, such as a small claims court, may be extremely useful. I understand that this combination has worked rather well in the Harlem small claims court in New York City, for example.

The institute also recommended Federal aid to improve the small claims court device for resolving disputes between consumers. There are currently a number of problems facing small claims courts even where they do exist. A few courts have been sufficiently reformed and rejuvenated to indicate the potential of this device, however. A more or less model court exists in Los Angeles, for example, and I have already made reference to the Harlem court in New York City.

While small claims courts have been responsive to the needs of consumers and citizens in a few instances, for the most part they have failed. Today many of our small claims courts are used primarily by skilled lawyers representing large debt collection companies, credit stores, corporate defendants, and insurance companies. Furthermore, these lawyers and their organizations are almost without exception litigating against pro se parties. In spite of the court's informal practices, the pro se party is almost always at a definite disadvantage when he or she appears in court. The disadvantages faced by the citizen litigant have been faced in a few jurisdictions through the use of trained paralegal personnel whose duty it is to help the consumer make the most advantageous use of the legal system, so that the consumer and the corporate or business litigant stands on equal footing.

The institute also made what I consider to be some very significant recommendations regarding consumer class actions in Federal courts. After careful reading of these recommendations and the supporting material, I believe that the institute was able to cut through most of the misunderstanding of the class action device as an aid to consumers. The distinguished chairman of the Commerce Committee, Senator MAGNUSON, has already made reference to the study of the Senate Commerce Committee on this issue, and it would be premature to guess at this point what the position of the committee on consumer class actions will be, but speaking for myself, I can say that the recommendations of the institute make a lot of sense. One of the institute's recommendations on class actions regards the need to develop more information, and I am happy to say that the Commerce Committee will soon fulfill that recommendation through its class action study. At that point, there will be available the first empirical information regarding the use of the class action device in Federal courts, and the committe should then be in a position to make a legislative judgment on the issue.

Aside from the class action recommendations, the legislation we are introducing today goes a long way toward effectuating all the recommendations of the National Institute of Consumer Justice. Furthermore, we have drafted the bill in such a way as to give the maximum possible flexibility to the States in order to allow them to devise mechanisms that will enable the speedy, just, and efficient resolution of disputes while still paying attention to varying local conditions.

I think the bill is well suited to assisting reform on the local level in the most productive way possible, and I am looking forward to holding hearings on it early in the second session of the 93d Congress.

Mr. TUNNEY. Mr. President, I am pleased to cosponsor the Consumer Controversies Resolution Act along with Senators MAGNUSON, MOSS, and KENNEDY. I am interested in this legislation both as chairman of the Judiciary Subcommittee on Representation of Citizens' Interests and as a member of the Commerce Subcommittee for Consumers. At the close of last session both subcommittees held a joint hearing to receive the report of the National Institute for Consumer Justice.

The testimony elicited at that hearing as well as hearings which the Subcommittee on Representation of Citizens' Interests held on the subject of legal fees and their effect on representation showed time and time again a recurring theme. Because the amount in consumer controversies is generally insignificant to anyone but the person who feels wronged, legal representation is almost never available; consumer interests go unrepresented. There is no financial incentive to attorneys to vindicate individual claims, to define existing law, and to make new law. If consumer interests are to be represented in the grievance process, mechanisms for redress have to be structured so that consumers can represent themselves.

A person who buys a car which is a lemon, a family whose new home cannot pass minimum building code standards, an owner of a recently repaired washer that still does not work, are all without practical redress. The existing avenues of obtaining redress are not widely publicized, have limited hours, inconvenient locations, and often hostile judges, arbitrators and supporting personnel. By removing these obstacles consumers can help themselves.

I recognize, of course, that the large number of consumer complaints can and must be handled through informal business procedures. Expanded use of money-back guarantees, recommended by the National Business Council for Business Affairs, and internal business-sponsored mechanisms—such as consumer complaint divisions—are often effective ways to insure consumer satisfaction. And consumer satisfaction is good business. But when an informal resolution of such a dispute is impossible, adequate alternative courses must be open. If these alternative courses are truly effective, their very existence may promote more settlement at the informal level.

This bill would set up a program of matching Federal grants, administered by the Federal Trade Commission, to States that formulate a system of consumer redress, the total result of which is effective, fair, inexpensive, and expeditious resolution of consumer controversies. These mechanisms would include such things as increased use of arbitration, small claims courts, consumer complaint bureaus, and better use and access to already existing grievance mechanisms. It will help bring relief to the consumer which is speedy and inexpensive.

The Federal money will be conditioned on adequate assurances that the redress mechanism will have forms and procedures which the average consumer can understand, and that it will be open at times when working people will have access to it. Lastly, there must be assurances that assistance is provided the citizen in pursuing his claims from start to finish, and that information about the availability and the workings of these mechanisms are widely disseminated. Except for these conditions, the bill is otherwise designed to give maximum flexibility to States in fashioning their own programs.

While the institute looked at several models, including the Los Angeles Small Claims Court which bans attorneys except on their own behalf, and made several specific recommendations, under this legislation each State will be free to design its own program as long as the system furthers the goals set forth in the bill.

One recommendation not specifically dealt with in this legislation is the institute's limited endorsement of consumer class action in Federal courts. Class actions have proved to be an effective device for millions of consumers to obtain redress. As a member of the Commerce Committee and Chairman of the Judiciary Subcommittee on Representation of Citizens' Interests, I join Senators MAGNUSON, MOSS, and KENNEDY in anxiously awaiting the findings of the Commerce Committee study. I am delighted that my subcommittee has been able to work cooperatively with the Commerce Subcommittee for Consumers in the past, and I am looking forward to collaboration in the future on this and other matters of common interest.

I believe that the Consumer Controversy Resolution Act is a timely and effective response to the needs of consumers. Redress through convenient, effective, and inexpensive methods at the local level is the just demand of today's consumer.

CONSUMER CONTROVERSIES RESOLUTION ACT

Mr. KENNEDY. Mr. President, today I am pleased to cosponsor along with Senators MAGNUSON, MOSS, and TUNNEY, the Consumer Controversies Resolution Act. This bill provides financial assistance and encouragement to State governments in their efforts to balance the present disparity in resources that exists between industry and the average consumer in their access to legal remedies. It provides that any State may become eligible for Federal grants by submitting a plan for a statewide consumer courts and arbitration system which meets the requirements of the act. In addition, the act authorizes grants to the States for demonstration projects and directs the board, which will administer grants under the act, to explore new ways of improving consumer access to legal remedies.

This legislation would encourage means by which consumers could redress their grievances without burdensome costs, without undue delay, and while at the same time allowing full flexibility for the varying needs of the States. At present, the cost in legal fees and the time it takes for a case to be resolved in our traditional court system have made utilization of the process prohibitive to the average citizen. For a variety of reasons, alternative methods such as arbitration, small claims courts, business-sponsored mechanisms and class actions have not, in and of themselves, proven adequate for providing efficient, fair, and inexpensive resolution of consumer disputes.

Establishment of alternative consumer redress systems, such as a combination of arbitration and small claims courts, will provide an effective means for resolving consumer disputes.

Joint hearings were held last session by the Subcommittee on Citizens' Interests of the Judiciary Committee and the Consumer Subcommittee of the Commerce Committee on resolution of disputes arising out of consumer transactions. The testimony presented at those hearings, buttressing the conclusions of the report of the National Institute for Consumer Justice, clearly showed that present mechanisms for the resolution of consumer disputes are inadequate for the average American citizen.

The National Institute's report recommended the kind of Federal assistance to States for experimentation with alternative redress mechanisms which is provided for in the Consumer Controversies Resolution Act. As a continuing advocate of greater access by the poor and unrepresented to our legal institutions, I strongly support this bill and the efforts in the area of consumer law reform which it seeks to encourage among the States.

If we are to insure that access to our legal system is available on an equal basis to all Americans, we must make it financially possible for States to act as laboratories in which to implement reforms where that system is found lacking. The Consumer Controversies Resolution Act will do just that by providing the financial encouragement and initiative necessary for States to improve their consumer redress systems.

EXHIBIT 1

S. 2928

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Controversies Resolution Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress hereby finds and declares that—

(1) For the majority of American consumers, mechanisms for the resolution of controversies involving consumers are unavailable, ineffective, unfair, or invisible.

(2) The total amount of money involved each year in consumer controversies in the United States exceeds $100,000,000, but the amount involved in any single controversy is apt to be small, less in many cases than the cost of legal representation for the affected consumer.

(3) This enormous volume of controversies involving consumers is adjudicated, settled, or handled inadequately, if at all, by the existing mechanisms for consumer controversy resolution.

(4) The substantial nonavailability, for the average consumer, of—

(A) meaningful remedies in cases of fraud, deception, and manipulation;

(B) adequate representation of the interests of consumers;

(C) meaningful protections in cases of overreaching and unfair repossession of goods and products;

(D) effective barriers against sewer service, default judgments, and other unconscionable practices; and

(E) readily available forums for the fair, effective, and efficient resolution of disputes, constitutes an undue burden on interstate commerce, adversely affects the general welfare, and causes a loss of faith on the part of some in the free enterprise system itself.

(5) A major and inseparable portion of the goods and services, which form the underlying subject matter out of which most consumer controversies arise, flow through interstate and foreign commerce and the circumstances of their sale and distribution to consumers affect interstate commerce. Almost all of the consumer controversies involving the more than 40,000,000 Americans who live in the 31 metropolitan areas which encompass more than one State arise out of interstate commerce.

(b) Purpose.—It is therefore declared to be the purpose of the Congress in this Act to assure all consumers convenient access to a consumer controversy resolution mechanism which is effective, fair, inexpensive, and expeditious, and to facilitate better representation of consumer interests.

DEFINITIONS

Sec. 3. As used in this Act—

(1) "Administrator" means the individual or government agency which is designated, in accordance with State law, to direct, coordinate, or conduct a State system.

(2) "Bureau" means the Bureau of Consumer Dispute Resolution, established under section 4 of this Act.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation, or any transaction which affects such commerce.

(4) "Commission" means the Federal Trade Commission.

(5) "Corporation" means any corporation, joint-stock company, partnership, association, trust, estate, or organized group whether incorporated or not.

(6) "Federal agency" means any executive department, agency, bureau, board, or independent establishment of the United States and any corporation primarily acting as an instrumentality of the United States.

(7) "Local" means of or pertaining to any political subdivision within a State.

(8) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(9) "State system" means all of the mechanisms and procedures within a State for the resolution of controversies involving consumers, which may involve, but is not limited to, small claims courts, arbitration, and other mechanisms and procedures set forth in the State or local plan or plans under section 6 of this Act.

BUREAU OF CONSUMER REDRESS RESOLUTION

Sec. 4. (a) General.—The Commission shall establish, within 30 days after the date of enactment of this Act, a new Bureau to be known as the Bureau of Consumer Redress.

(b) Duties.—The Commission shall, consistent with the purposes and goals of this Act—

(1) enter into or renew cooperative agreements with the States;

(2) allocate and pay to the States funds appropriated for financial assistance to States under cooperative agreements;

(3) issue, from time to time, such regulations as are necessary to carry out the provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code;

(4) encourage and assist the development and implementation of innovative concepts and approaches, which may include, but is not limited to, adapting or expanding the mechanism of the unsatisfied judgment fund in the automobile compensation law to satisfy unsatisfied judgments;

(5) investigate and award discretionary grants;

(6) determine whether a State plan is in accordance with this Act;

(7) review the operation of each State plan for the resolution of controversies involving consumers which has been approved under this Act;

(8) articulate and evaluate the goals for a model State system of consumer controversy resolution; and

(9) take such other actions as are appropriate.

COOPERATION WITH THE STATES

Sec. 5. (a) General.—In carrying out its functions under this Act, the Bureau and the Commission shall cooperate to the maximum extent practicable with the States. In addition to any other enumerated obligation, the Bureau shall consult, from time to time, with the Administrator, if any, in each State.

(b) Financial Assistance.—The Commission, through the Bureau, is authorized to enter into a cooperative agreement to provide financial assistance to any State which establishes and maintains a system for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers or to assist any State to develop such a system. Before a State shall be deemed eligible to enter into or renew a cooperative agreement for the development or maintenance of a State system, the Director of the Bureau shall make, justify, and publish in the Federal Register a finding that such agreement would further the policy of this Act and that such State has or is developing a system under which—

(1) the State has an administrator who is authorized under the law of the State to receive and disburse moneys, submit required reports to the Bureau and Commission, and supervise, direct, coordinate, or conduct the State system;

(2) a comprehensive survey of the State system has been or will be conducted which discloses (a) the nature, number and location of all consumer controversy resolution mechanisms within the State, (b) the annual expenditure and operating authority for each such mechanism, and (c) the existence of any program for informing the residents of the States of the availability of consumer controversy resolution mechanisms;

(3) funds expended pursuant to such system for the development and maintenance of consumer controversy resolution mechanisms within the State or localities for which application for a cooperative agreement is made are distributed in accordance with need and in a manner which would further the policies of this Act;

(4) the Administrator has submitted a four-year plan for the development or maintenance of consumer controversy resolution mechanisms within the State or locality for which the application for a cooperative agreement is made which is designed to meet or exceed the goals set forth in section 7 of this Act; and

(5) provision is made for participation by consumers, including low-income consumers, in developing and commenting upon such plan or plans, which comments become part of any application for a cooperative agreement.

(c) Allocation of Funds.—Moneys appropriated for financial assistance pursuant to this section shall be available to the Bureau for allocation to the States under cooperative agreements having a duration of no more than four years. The purposes for which such funds may be used include, but are not limited to—

(1) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of controversies involving consumers;

(2) recruiting, organizing, training, and educating personnel described in paragraph (1) of this subsection;

(3) public education and publicly relating to the availability and proper use of consumer controversy resolution mechanisms and settlement procedures;

(4) construction, improvement, purchase, or lease of buildings, rooms, vehicles, and other facilities and equipment for use in the settlement of controversies involving consumers;

(5) continuing supervision and study of the mechanisms and settlement procedures employed in consumer controversy resolution within the State; and

(6) research and development of more fair, less expensive, or more expeditious mechanisms and procedures for consumer controversy resolution.

The Bureau shall consider population density when allocating appropriated funds to the States under cooperative agreements. The proportion of the Federal share of the estimated cost of a cooperative agreement shall not exceed 70 per centum of the total cost of such agreement. The aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for such purposes shall be maintained at a level which does not fall below the average level of such expenditures for the last two full fiscal years preceding the date of application for a cooperative agreement.

(d) Discretionary Grants.—The Bureau is authorized to make grants, in a total amount each year not to exceed 25 per centum of the financial assistance appropriated under this Act. Grants may be made to units of local government, combinations of such units, or private nonprofit organizations, for research and demonstration projects or other activities which will encourage innovation or effectuation of the policies of this Act under such terms and conditions as may from time to time be established by the Bureau, No discretionary grant shall be made to any professional organization whose consumer controversy resolution mechanisms do not fairly represent the consumers of the services provided.

APPLICABILITY WITHIN STATES

Sec. 6. (a) State Plan.—By the end of six months after the date of enactment of this Act, a State may establish and submit a plan in accordance with this Act for the resolution of controversies involving consumers. A plan is in accordance with this Act if it is designed to meet or exceed the requirements set forth in section 5 of this Act, responds to the goals set forth in section 7 of this Act, and represents an effective response to the Nation's need for fair, expeditious, and inexpensive resolution of such controversies. Upon the establishment of such a plan, the Administrator shall promptly transmit a certified copy to the Commission.

(b) Determination.—Within 90 days after the Commission receives a certified copy of a State plan established under subsection (a) of this section, the Bureau shall make a determination whether (1) the State is eligible to receive financial assistance under section 5(b) of this Act and (2) such State has established a plan which is in accordance with this Act. Unless the Commission determines, within 30 days after the Bureau determines that a State plan is in accordance with this Act, that such State plan is not in accordance with this Act, the Bureau shall, to the extent resources are available, enter into a cooperative agreement designed to effectuate such plan. A State may submit a revised or improved plan designed to better effectuate the goals of this Act at any time.

(c) PERIODIC REVIEW.—The Bureau shall periodically, but not less than once every 2 years, review each State plan and each discretionary grant for the resolution of controversies involving consumers which has been approved and for which there is experience to determine whether such plan or grant is still in accordance with the goals of this Act, and to evaluate the success of such plan or grant in terms of the policy of this Act. Any plan or grant which is found not to be in accordance with such goals or which has not been successful shall be terminated in accordance with the procedures set forth in subsection (d). To facilitate such review, the Administrator in each such State shall submit to the Bureau no later than March 15 of each year an annual report containing all relevant information requested by the Bureau. The Commission, through the Bureau, shall submit an annual report to the President and Congress simultaneously each year on the results of such review, including any recommendations or alternative recommendations for legislation.

(d) PROCEDURE.—Before making any determination under this section, the Bureau, through the Commission, shall cause a notice and a summary of the plan under consideration to be published in the Federal Register and afford the affected State and all interested parties a reasonable opportunity to present their views by oral or written submission, or to propose amendments to the plan or grant program which would tend to better effectuate the goals of this Act, or to improve any plan or program. The Bureau, through the Commission, shall notify the affected State or grantee of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register. Any final determination by the Bureau under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States Court of Appeals for the circuit in which is located the State whose plan or grant is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within 60 days from the date on which the determination made by the Bureau is published in the Federal Register.

GOALS

SEC. 7. (a) FOR STATE SYSTEM.—A State system is responsive to national goals if—

(1) there are sufficient numbers and types of readily available consumer controversy resolution mechanisms responsive to the goals set forth in subsection (b) of this section;

(2) a public information program is effectively communicating to the residents of such State the availability and location of consumer controversy resolution mechanisms and consumer complaint offices in such State;

(3) each such mechanism and office files an annual report with the Administrator in such form and with such content as prescribed by him in consultation with the Bureau.

(b) FOR CONSUMER CONTROVERSY RESOLUTION MECHANISM.—A consumer controversy resolution mechanism is responsive to national goals if—

(1) its forms, rules, and procedures are, so far as practicable, easy and inexpensive for the citizens for whose use it is designed to understand and free from technicalities;

(2) it is designed so that assistance and appropriate personnel can be provided consumers and other citizens in pursuing claims and collecting judgments;

(3) it is open or available for the adjudication or resolution of controversies during hours and on days that consumers and other citizens can easily utilize it;

(4) it has a reasonable jurisdictional limit sufficient to allow all or substantially all consumer controversies to be resolved by it;

(5) it is governed by reasonable and fair rules and procedures which are published and approved by the Administrator, and which will—

(A) facilitate the early resolution of controversies by means in addition to the adjudication of claims;

(B) encourage the most effective use of the services of attorneys in the resolution of controversies involving consumers;

(C) discourage default judgments through judicial inquests and other means;

(D) encourage the finality and conclusiveness of the resolution of controversies;

(E) provide for the qualification, tenure, and duties of persons charged with resolving or assisting in the resolution of controversies involving consumers; and

(F) discourage the use of consumer controversy resolution mechanisms by collection agencies, corporations, assignees, and other nonconsumer parties to a controversy in a manner contrary to the policies of this Act.

RECORDS AND AUDIT

SEC. 8. (a) GENERAL.—Each recipient of assistance under this Act shall keep such records as the commission, through the Bureau shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the project or undertaking supplied by other sources, and such other records as will facilitate an effective financial and performance audit. This provision shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Bureau or by subgrant or subcontract from primary grantees or contractors of the Bureau or any Administrator receiving financial assistance from the Bureau under this Act.

(b) AUDIT.—The Commission or any of its designated representatives shall have access for purpose of audit and examination to any books, documents, papers, and records of the recipients of grants and financial assistance under this Act.

(c) COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of 3 years after the completion of the program or project with which the assistance is used, for the purpose of financial and performance audits and examinations, have access to any books, documents, papers, and records of recipients of financial assistance under this Act.

AUTHORIZATION FOR APPROPRIATION

SEC. 11. (a) For purposes of this Act, there are authorized to be appropriated such sums as are necessary, not to exceed $500,000 for the fiscal year ending June 30, 1974; not to exceed $30,000,000 for the fiscal year ending June 30, 1975; and not to exceed $60,000,000 for the fiscal year ending June 30, 1976.

(b) Whenever the Bureau submits any legislative recommendations, proposed testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

By Mr. BUCKLEY:

S. 2930. A bill for the modernization and general revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BUCKLEY. Mr. President, there are pending now two bills S. 1321 introduced by the Senator from Michigan (Mr. HART) and S. 2504 introduced by the Senator from Pennsylvania (Mr. SCOTT). These bills are proposed as amendments to title 35 of the United States Code entitled "Patents." Their purpose is to reform and modernize our U.S. patent incentive system.

The bills have very useful provisions and show that a real effort has been made to improve the patent law. However, the effort, as applied, is now widely recognized to involve costly, substantive as well as procedural provisions. Preliminary cost estimates appear to indicate the bills would require a 50-percent increase in the Patent Office budget, and about a doubling of the professional staff of the Patent Office; that is, an increase in staff of about 1,100 to 1,500 persons.

Accordingly, upon consideration of the many necessary objectives to be obtained, especially to preserve the access to the patent incentive system by the individual inventor and small business, I am introducing the patent law modernization bill prepared by the American Patent Law Association so that the views presented in the bill can be considered along with other patent legislation.

This bill can be helpful in securing the objectives of the other pending bills but will do so in a manner to preserve an equitable cost and budget balance. Also it will permit all inventors and their associates, including investors and business managers to decide readily to avail themselves of the system which has for its purpose to encourage disclosure of invention through the making of the same and through the securing of rights thereto by securing patents.

The U.S. patent incentive system is provided for as you know in article I, section 8, clause 8 of the Constitution which reads for its portion pertinent here that:

> The Congress shall have power "to promote the progress of . . . useful arts, by securing for limited times to . . . inventors the exclusive right to their . . . discoveries."

While I do not pretend that the bill I am introducing will not result in some moderate increase in cost of operation of the Patent Office and some increase in cost to applicants for patents in terms of fees, attorneys, and other costs, I am assured that implementation of this bill will not require any material or greatly increased budget for the Patent Office or increase in its personnel. It will improve operations and quality of product but without slowing up unacceptably the examination of patent applications and issuing of patents on those disclosures which contain an unobvious or patentable concept. My bill will not only place in the administration of the Patent Office, where it belongs, the rulemaking authority because it deals only with the essential statutory guidance without which no Federal bureau can be expected to operate, but it will also permit the Patent Office, ultimately to be in step or in phase with the operation of the Patent Cooperation Treaty which has been ratified by this body.

Essentially there are several broad categories of problems faced by our country now and for the foreseeable future. The bill which I introduce today should help considerably to promote the advancement of science and technology and its early diffusion into industry.

The provisions which tend closely to parallel those of the other pending bills are several. Thus, my bill provides for a 20-year patent, improved disclosure, reexamination of patents after issue on the basis of publications and patents, public use, prior inventorship and originality proceedings.

In the bill, consideration has been given to job content of Examiners to attract and to keep the best possible personnel in the Patent Office. The bill preserves and improves the importance of substantive and procedural aspects of our patent incentive system.

I emphasize that I recognize that a bill finally reported might well partake of the essence of several bills and will not necessarily be based solely on the one introduced by me today.

Other provisions of my bill are: Section 294—Arbitration; Sections 102, 103—Conditions for patentability.

The bill provides in section 112 for disclosures which reasonably can be expected from applicants for patent sufficient to permit those skilled in the particular art involved to practice the invention claimed. The bill is careful to strike a balance between the necessary disclosure of concept, best mode and examples and a burden which can but turn away many applicants, especially the small ones.

Section 115 requires an oath from the inventor that he has in effect not withheld pertinent prior art known to him and that he knows of no prior use which under the law would bar a valid patent. The penalties for improper oath are severe. Under these severe penalties he is required to state under oath that he has fully disclosed all facts which are pertinent to the proper issuance to him of a valid patent.

The applicant under section 131 can be required to cite the best prior art known to him and to state in some detail why his claimed invention is patentable thereover. This gives to the Patent Office examiner a tool with which to pin down the applicant's knowledge in the record and to examine the same. Such provision insures in a proper case that the examiner will have the adequate help he needs when he requires it to more effectively and more rapidly examine the application for patent.

Sections 191 and 192, as earlier alluded to, permit any member of the public within 1 year of issuance of the patent to contest its validity in the form or manner issued. Thus, the public can bring to the examiner's attention prior art, prior use or sale, which would render the patent invalid under the law. Importantly, the disclosure of the patent is at this time available to the public and therefore the primary purpose of the patent incentive system has been fully served.

Section 123 provides that the Commissioner may establish regulations for the publication of pending applications at the request of applicants and that he shall publish applications in accordance therewith. Thus the applicant at his option can request publication to insure at an earlier date the citation by anyone of reasons or art over which the patent, if issued, may be invalid. However, there is no doubt that the applicant should have a reasonable time after filing but prior to publication of his disclosure of invention to decide whether he will continue to go forward toward issuance of his patent or take his chances by keeping his secret toward the disclosure of which he has taken steps in filing and prosecuting his application.

While not all inventions can be kept secret, there are a great many which can be and the applicant should be permitted to be the judge of whether he will continue the prosecution of his application for patent. A proper balance is therefore present in the structure of my Patent Law Modernization bill.

The bill properly leaves implementation as to details which can be changed as required to the Commissioner of Patents by his revision of the rules of practice. It has been designed and so worded that there is a minimum of procedural rigidity thus avoiding need for statutory changes in the foreseeable future.

Section 271(b) provides that whoever without authority imports into the United States a product made in another country by a process patented in the United States shall be liable as an infringer. Such provision which is similar to provisions of patent laws of other countries is needed if there is to be continued incentive to disclose new processes here in this country. Thus, if products are made abroad by the new processes disclosed in this country the patent holder who has disclosed his process in his patent has no recourse and can find the market flooded with the unpatented product made by his improved process abroad for considerably less than it can be made here.

By Mr. MONTOYA:

S. 2932. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits. Referred to the Committee on Veterans' Affairs.

Mr. MONTOYA. Mr. President, today I am introducing legislation to amend title 38 of the United States Code to provide that compensation and pensions for veterans and widows of veterans will not be reduced as a result of certain increases in monthly social security benefits. An identical bill has been introduced in the House of Representatives by Congressman Rogers. Under existing law, veterans pensions would be reduced January 1, 1975, as a result of the 11 percent social security benefit increases scheduled to take effect during 1974.

As a result of the 20 percent social security increases effective in October 1972, pensions for 1,264,000 retired veterans and widows of veterans decreased to offset the social security increase.

I would like to quote two paragraphs from letters which my constituents wrote at that time reflecting the concerns of veterans throughout the country. I am sure their statements are more convincing than anything further I could say.

> I am a veteran of the Second World War and I was getting $98.00 a month from the VA. The VA cut that to $78 a month when I received a $20 increase in Social Security. You take $20 in one hand and add $20 to your other hand, and then take out the first $20—how will that help?
>
> I am coming to you with a problem that I think is unjust. The enclosed copy of a letter from Veterans Administration shows them cutting my Veterans pension due to the raise we had in Social Security. If this raise was to offset the rising cost of living, why is the VA taking part of it away? Seems like they should be trying to help the Veterans instead of pushing him back.

Pensions paid to a veteran in any calendar year are based on the actual income earned by that veteran in the preceding calendar year. A veteran's 1974 pension payment, for example, is based on the actual income—including social security—he received in 1973, and the payment he receives in 1975 will be based on the income he receives this year.

This method of calculating benefits has always been unfair to veterans because it effectively denies them the increase in social security benefits granted to all other social security recipients. While other incomes rise, veterans' incomes remain stationary.

A year from now, the unfairness of this method of calculation will be felt especially keenly by 1,331,800 veterans who will suffer an actual loss in cash benefits over what they will receive in the first three quarters of this year.

The reason for this is simple: It is a result of recent social security legislation; all veterans entitled to social security benefits will receive one increase in social security benefits in April and another in June. These veterans will be allowed to keep the full amount of these increases until December when the annual calculation of their income takes place. At that time, these veterans will find their veterans' benefits cut back by an amount equal to the increases they received earlier in the year in social security benefits.

In short, a veteran will get less income in January 1975, than he will get between April and December of 1974—unless we change title 38.

Mr. President, the men and women who are the concern of this legislation are poor, elderly, and unable to provide extra income for themselves. In many cases they are disabled. The increases which have been made in social security payments were meant to combat the terrible effects of inflation on our elderly citizens.

Certainly if any group is deserving of our consideration these impoverished former servicemen and their widows make up such a group. They should not be penalized because their voice is small and their numbers are few. We must not let them think that we have forgotten them.

Mr. President, I ask unanimous consent to have the bill printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2932

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (g) of section 415 of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying paragraph (1)(G) of this subsection, shall disregard any part of any such benefit which results from (and would not be payable but for) the general increase in benefits under such insurance program provided by section 201 of Public Law 93–66 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act."

(b) Section 503 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In determining the annual income of any individual who is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, the Administrator, before applying subsection (a)(6) of this section, shall disregard any part of any such benefit which results from (and would not be payable but for) the general increase in benefits under such insurance program provided by section 201 of Public Law 93–66 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act."

(c) In determining the annual income of any person for purposes of determining the continued eligibility of that person for, and the amount of, pension payable under the first sentence of section 9(b) of the Veterans' Pension Act of 1959, the Administrator of Veterans' Affairs shall disregard, if that person is entitled to monthly benefits under the insurance program established under title II of the Social Security Act, any part of any such benefit which results from (and would not be payable but for) the general increase in benefits under such insurance program provided by section 201 of Public Law 93–66 or any subsequent cost-of-living increase in such benefits occurring pursuant to section 215(i) of the Social Security Act.

Sec. 2. This Act shall apply with respect to annual income determinations made under the veterans' pension laws and section 415(g) of title 38, United States Code, for calendar years after 1973.

By Mr. YOUNG (for himself and Mr. Humphrey, Mr. Dole, Mr. Burdick, and Mr. Pearson):

S. 2934. A bill to amend the Agriculture and Consumer Protection Act of 1973 to provide for an adjustment in the established price for the 1974 through 1977 crops of wheat and feed grains to reflect any change in the preceding year in the index of prices paid by farmers for production items, interest, taxes, and wage rates. Referred to the Committee on Agriculture and Forestry.

Mr. YOUNG. Mr. President, when the Senate Agriculture Committee was developing the farm bill, known as the 1973 Agriculture and Consumer Protection Act, I proposed the target price concept of $2.28 for wheat. This same concept was then adopted for feed grains at $1.53 for corn.

The level of the target price in the Senate bill was based on 70 percent of parity for the full duration of the farm bill, 1974–77. In the compromise worked out between House-Senate conferees, the Senate agreed to the House position of the escalator provision only applying to the last 2 years of the program, 1976–77. With the sharply rising costs of farming operations, it becomes more necessary now than when the bill was enacted to apply the parity or escalator concept to all 4 years of the program.

The bill I am introducing, which is cosponsored by Senator Humphrey, my colleagues Senator Burdick, Senator Dole, and Senator Pearson, will apply the parity concept to the target price for all 4 years of the program for wheat and feed grains—corn, grain sorghum, and barley. Here is an example of how it will work. Instead of the $2.05 target price for the 1974 crop of wheat, the target price would be $2.40. If the operating costs continued to increase at the same rate as they have in the past year, the target price for 1975 would be $2.81; for 1976, $3.29; and for 1977, $3.85; with similar increases in the target price for feed grains—corn, grain sorghum, and barley.

Even though these target prices are far below present cash prices for these commodities, this will give farmers greater assurance if they go all out in production, as present intentions indicate. They will get greater needed price protection against price busting surpluses which are always possible.

By Mr. GURNEY:

S. 2935. A bill to authorize and direct the Administrator of the Federal Energy Office to conduct a study so as to determine whether or not there has been a disproportionate increase in the prices of propane and butane gases. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. GURNEY. Mr. President, I am today introducing a bill which directs the Administrator of the Federal Energy Office to undertake a study to determine if the current high prices of propane and butane have been caused by disproportionate and unfair price increases. The bill further directs the Federal Energy Office to prepare an assessment within 30 days of the probable effect of such price increases on end-consumers and on the retail liquified petroleum gas industry.

I have become extremely concerned over reports in my home State of Florida to the effect that the wholesale price of propane has increased from 6½ cents per gallon last January, to approximately 22 cents per gallon as of January 10, 1974. This represents an increase of some 267 percent in little over a year, and it means that many Floridians must now pay anywhere from 16 to 18 cents more per gallon than they did last year. No other energy product, not gasoline, heating oil, or natural gas, has increased by such an alarming amount. To those Americans who depend upon propane or butane to heat their homes or prepare their goods, this represents a special hardship. It is even more severe on those farmers, individual consumers, especially the elderly, and industries which use propane and butane to dry and process food products.

It is obvious to me that the price of propane and butane has increased in a manner which in no way resembles an equitable cost increase for all petroleum products, calculated as a percentage of sales or volume. Instead, much of the blame can be attributed to Cost of Living Council regulations which, as early as August 22, 1973, were interpreted to permit refiners to pass-through increased foreign petroleum costs and domestic crude prices in whatever amount they deemed appropriate, so long as the price increases for diesel, gasoline, and heating oil did not exceed the ratio of sales among these three major products.

There were no requirements—and there still are no requirements—that cost increases for products such as propane and butane be equitably distributed on a similar basis. Even Mr. Z. D. Bonner, president of Gulf Oil Corp., U.S.A., has admitted in hearings before the Senate Permanent Subcommittee on Investigations that gasoline and middle distillates are not carrying their share of the increased pass-through cost. According to Mr. Bonner:

> This causes a disproportionate rise in the other products. We don't happen to agree with this. We think it is wrong.

Nonetheless, the American consumer is now suffering from gigantic—and most unfortunately legitimate—price gouging for propane and butane products.

Mr. President, I strongly believe that not only should existing FEO price regulations be amended to remedy this defect, but that consumers have a right to know—once and for all—if propane and butane products have indeed suffered from a disproportionate price increase, and if so, to demand either a freeze, a rollback, or a refund. I, therefore, urge the Senate to adopt this amendment which will enable Congress, working in conjunction with the Federal Energy Office, to take corrective action.

Mr. President, I ask unanimous consent that the bill be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of the Federal Energy Office, shall within 30 days after the date of the enactment of this Act, by written report, inform Congress as to the following:

(1) the extent that increases in the prices of propane and butane gases have exceeded

price increases in other areas of the economy; particularly in those areas related to the petroleum industry; and

(2) the anticipated economic effects of current and projected 1974 price increases of domestic supplies of propane and butane gases upon domestic end consumers, and retail LPG dealers.

ADDITIONAL COSPONSORS OF BILLS

S. 847

At the request of Mr. Nelson, the Senator from Rhode Island (Mr. Pastore) was added as a cosponsor of S. 847, the School Bus Safety Act.

S. 2738

At the request of Mr. Nelson, the Senator from South Dakota (Mr. Abourezk) and the Senator from Illinois (Mr. Stevenson), were added as cosponsors of S. 2738, relating to the necessity of reorganizing certain departments and agencies of the executive branch, and for other purposes.

S. 2757

At the request of Mr. Eagleton, the Senator from Maine (Mr. Hathaway), the Senator from Minnesota (Mr. Humphrey), the Senator from New Jersey (Mr. Williams), the Senator from South Dakota (Mr. Abourezk), the Senator from Wyoming (Mr. McGee), and the Senator from Montana (Mr. Metcalf) were added as cosponsors of S. 2757, to prevent windfall profits by automobile insurance companies during any period when the casualty rates of such companies are reduced as a result of official action in connection with the energy crisis.

S. 2797

At the request of Mr. Nelson, the Senator from Indiana (Mr. Hartke), the Senator from Michigan (Mr. Griffin), the Senators from Minnesota (Mr. Humphrey and Mr. Mondale), the Senator from New Hampshire (Mr. McIntyre), the Senators from Ohio (Mr. Metzenbaum and Mr. Taft), the Senator from Vermont (Mr. Stafford), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of S. 2797, to require that the three U.S. Commissioners on the International Joint Commission of the United States and Canada be appointed by the President by and with the advice and consent of the Senate, to establish fixed terms of office for such Commissioners, and to make the Commission bipartisan.

S. 2801

At the request of Mr. Proxmire, the Senator from California (Mr. Tunney), the Senator from South Carolina (Mr. Hollings), the Senator from Georgia (Mr. Talmadge), and the Senator from Alabama (Mr. Sparkman) were added as cosponsors of S. 2801, to amend the Food and Drug Act to provide that vitamins be treated as foods.

S. 2820

At the request of Mr. Nelson, the Senator from South Dakota (Mr. Abourezk), was added as a cosponsor of S. 2820, to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes.

S. 2854

At the request of Mr. Cranston, the Senator from Colorado (Mr. Haskell), the Senator from Oregon (Mr. Hatfield), the Senator from Wyoming (Mr. McGee), the Senator from Kansas (Mr. Pearson), and the Senator from North Dakota (Mr. Young) were added as cosponsors of S. 2864, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2880

At the request of Mr. McGovern, the Senator from Iowa (Mr. Hughes) and the Senator from Minnesota (Mr. Mondale) were added as cosponsors of S. 2880, to amend the Agriculture and Consumer Protection Act of 1973 to provide additional incentives to farmers to produce wheat, feed grains, and cotton, and for other purposes.

S. 2892

At the request of Mr. Mondale, the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), and the Senator from Connecticut (Mr. Ribicoff) were added as cosponsors of S. 2892, to amend the Economic Stabilization Act of 1970.

S. 2899

At the request of Mr. Abourezk, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of S. 2899 to amend the Clayton Act to preserve and promote competition in the production of oil, natural gas, coal, oil shale, tar sands, uranium, geothermal steam, and solar energy.

REMOVAL OF COSPONSOR OF BILL

At the request of Mr. Nelson, the Senator from Illinois (Mr. Stevenson) was deleted as a cosponsor of S. 2820, to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes.

SENATE RESOLUTION 260—SUBMISSION OF RESOLUTION CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURES BY, THE SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

(Referred to the Committee on Labor and Public Welfare.)

Mr. McGOVERN (for himself, Mr. Bellmon, Mr. Cook, Mr. Cranston, Mr. Hart, Mr. Humphrey, Mr. Kennedy, Mr. Mondale, Mr. Nelson, Mr. Percy, and Mr. Schweiker) submitted the following resolution:

S. Res. 260

Resolved, That the Select Committee on Nutrition and Human Needs, established by S. Res. 281, Ninetieth Congress, agreed to on July 30, 1968, as amended and supplemented, is hereby extended through February 28, 1975.

Sec. 2. (a) In studying matters pertaining to the lack of food, medical assistance, and other related necessities of life and health, the Select Committee on Nutrition and Human Needs is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to subpena witnesses and documents, (4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (5) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (6) to interview employees of the Federal, State, and local governments and other individuals, and (7) to take depositions and other testimony.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

Sec. 3. The expenses of the committee under this resolution shall not exceed $399,000 of which amount not to exceed $100,000 shall be available for the procurement of the services of individual or organizations thereof.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 261—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON PUBLIC WORKS FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH, from the Committee on Public Works, reported the following original resolution:

S. Res. 261

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Public Works, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $904,920.00, of which amount not to exceed $20,000.00 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 262—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE FOR INQUIRIES AND INVESTIGATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MAGNUSON, from the Committee on Commerce, reported the following original resolution:

S. Res. 262

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $1,922,478, of which amount not to exceed $60,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 263—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SELECT COMMITTEE ON SMALL BUSINESS

(Referred to the Committee on Rules and Administration.)

Mr. BIBLE (for himself and Mr. Javits) submitted the following resolution:

S. Res. 263

Resolved, That the Select Committee on Small Business, in carrying out the duties imposed upon it by S. Res. 58, Eighty-first Congress, agreed to February 20, 1950, as amended and supplemented, is authorized to examine, investigate, and make a complete study of the problems of American small and independent business and to make recommendations concerning those problems to the appropriate legislative committees of the Senate.

Sec. 2. For purposes of this resolution, the committee, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, (4) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Seate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (5) to provide assistance for the members of its professional staff in obtaining specialized training, in the same manner and under the same conditions as any such standing committee may provide that assistance under section 202(j) of such Act.

Sec. 3. The expenses of the committee under this resolution shall not exceed $192,000, of which amount (1) not to exceed $2,500 may be expended for the procurement of the services of individual consultants, or organizations thereof, and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee.

Sec. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

Sec. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 264—ORIGINAL RESOLUTION REPORTED TO PROVIDE FOR ADDITIONAL EXPENSES FOR THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

(Referred to the Committee on Rules and Administration.)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported the following original resolution:

S. Res. 264

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(e) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Post Office and Civil Service, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The expenses of the committee under this resolution shall not exceed $235,000.

Sec. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

Sec. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 265—SUBMISSION OF A RESOLUTION RELATING TO MOTIONS TO RECOMMIT ON ACCOUNT OF AMBIGUITIES, INTERNAL INCONSISTENCIES, OR DUPLICATIONS ARISING THROUGH AMENDMENT

(Referred to the Committee on Rules and Administration.)

Mr. HATHAWAY. Mr. President, today I am submitting a resolution to amend the Standing Rules of the Senate to specifically allow for the recommital of a bill when it has become, through amendment, ambiguous, internally inconsistent, or duplicative.

The motion to recommit would instruct the committee having jurisdiction over the bill to report it back within a specified period of time, showing the text of the bill as amended, and pointing out any ambiguities or internal contradictions. Once provided with this information, the Senate could then clarify its position before final passage.

My intention in offering this proposed rules change is to provide a procedure that the Senate can utilize when complicated, technical bills have been amended on the floor, so extensively that it may be unclear how later amendments have affected amendments adopted earlier. We all experienced that problem to some degree in the pension reform bill last year.

I understand this problem is sometimes taken care of by getting unanimous consent to print an engrossed bill. However, I believe good legislative practice requires that a more regularized procedure be provided. Adoption of my proposed rule change would guarantee that there is a regular procedure to help minimize any confusion and uncertainty surrounding the Senate's position on a bill, as amended.

The resolution is as follows:

S. Res. 265

Resolved, That rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following:

4. Whenever a Senator believes a bill or joint resolution may have become, through amendment, ambiguous, internally inconsistent, or duplicative, he may move—

(1) to recommit to the committee from which reported; or

(2) in the case of a bill not reported from a committee, to commit to the appropriate committee (as determined by the presiding officer)—

with instructions to that committee to report the bill or joint resolution back within such period of time as the Senator in his motion may designate—

(A) showing the text of the bill or joint resolution as it existed at the time such motion is made, including all amendments agreed to by the Senate and any committee amendments remaining to be considered; and

(B) stating and explaining any ambiguities, internal inconsistencies, or duplications, relating to the bill or joint resolution at the time such motion is made.

Such a motion is highly privileged and shall be decided without debate.

SENATE RESOLUTION 266—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION FOR INQUIRIES AND INVESTIGATIONS (S. REPT. NO. 93–672)

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $374,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $180,000 shall be available for a study or investigation of privileges and elections.

SEC. 4. Not to exceed $194,000 shall be available for a study or investigation of computer services for the Senate, of which amount not to exceed $20,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 267—SUBMISSION OF A RESOLUTION RELATING TO THE SPECIAL COMMITTEE ON AGING

(Referred to the Committee on Rules and Administration.)

PERMANENT STATUS FOR THE COMMITTEE ON AGING

Mr. CHURCH. Mr. President, I submit for appropriate reference a resolution authorizing permanent committee status for the Senate Special Committee on Aging.

Senator HIRAM FONG, ranking minority member of the committee, is a cosponsor of this resolution; and I welcome his support.

It is my firm belief that the 22-member Committee on Aging has fulfilled a major role in the 13 years of its existence. The time has now come for the Senate to recognize the need for continuing the role for the committee, rather than year-to-year extension, as is now the case.

In establishing the Special Committee on Aging in 1961, the Senate clearly recognized that national issues relating to aging cut across many jurisdictions within the Congress and within the executive branch. Time and time again, it was stressed that the Senate stood in need of a unit which would take a broad view of aging while focusing on specific issues of immediate or long-range concern.

The language of the original resolution, and the subsequent resolutions, was specific about the far-reaching responsibilities of the committee:

> The committee shall make a full and complete study and investigation of any and all matters pertaining to problems and opportunities of older people, including but not limited to: problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, or obtaining care of assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

In the years since 1961, the committee has performed its factfinding mission on a large number of individual subjects and—through its individual members, often acting on committee or subcommittee recommendations—has helped advance important legislation.

Thirteen years of experience have clearly demonstrated that committee studies require continual updating or entirely new perspectives. For example, in the early 1960's, the committee considered many issues directly related to congressional enactment of medicare. In 1974, the committee is studying proposals which would incorporate medicare into a broader national health protection program.

My point is that aging is a dynamic and constantly changing field. Twenty-one million persons in this Nation are now 65 years or older; 29 million can be expected by the turn of the century, now just 26 years away. In addition, the trend toward earlier and earlier retirement is making it clear that "aging" issues are affecting greater and greater numbers of our citizens.

Several other reasons for permanent status should also be considered:

The committee probably should have become permanent under the Legislative Reorganization Act of 1970. That action should be taken now.

With permanent status, the Committee on Aging could be considered in the planning for office space during the expansion of the Dirksen Senate Office Building.

With permanent status, the Committee on Aging would not have to request as much as it does each year by resolution from the Senate Committee on Rules and Administration.

With 22 members, the Senate Committee on Aging is the second largest Senate committee. Its seven subcommittees and the full committee have engaged in a wide range of factfinding missions. Permanent status would enable members and staff to plan such activities more efficiently.

The present resolution would not, of course, give the committee power to receive and report bills. The major purpose remains, as it is now, to engage in factfinding missions and make reports and recommendations to the Senate. I believe that this is a vital function and that it will become even more necessary as the number of older Americans in our Nation continues its growth. A nation with 21 million persons of age 65 and over requires coherent Senate attention and concern on matters affecting older Americans. I believe that the resolution offered today by Senator FONG and by me will help us toward that goal.

The resolution which I submit, on behalf of myself, Mr. WILLIAMS, Mr. FONG, Mr. BIBLE, Mr. RANDOLPH, Mr. MOSS, Mr. KENNEDY, Mr. HARTKE, Mr. PELL, Mr. EAGLETON, Mr. TUNNEY, Mr. CHILES, Mr. CLARK, Mr. MUSKIE, Mr. MONDALE, Mr. STAFFORD, Mr. BROOKE, and Mr. DOMENICI, reads as follows:

S. RES. 267

Resolution providing that the Special Committee on Aging is continued in existence as a permanent special commitee and authorizing additional expenditures therefor

Resolved, That the Special Committee on Aging, established by Senate Resolution 33, 87th Congress, agreed to February 13, 1961, as amended and supplemented, is continued in existence and shall hereafter be a permanent, special committee of the Senate (hereafter referred to as the "committee"). The committee shall continue to consist of twenty-two members appointed by the President of the Senate, thirteen of whom shall be appointed from the majority party and nine of whom shall be appointed from the minority party. The President of the Senate shall continue to appoint the chairman from among members of the committee appointed from the majority party.

SEC. 2. (a) The committee shall make a continuing study and investigation of any and all matters pertaining to problems and opportunities of older people, including but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employement, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, of obtaining care or assistance. No proposed legislation shall be referred to the committee, and the committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(b) A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

(c) The committee shall continue to be an additional committee for purposes of paragraph 6(d) of Rule XXV of the Standing Rules of the Senate.

Sec. 3. (a) The committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to require by subpena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents, (5) to administer oaths, (6) to take testimony orally or by deposition, (7) to employ personnel, (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions that a standing committee of the Senate may procure such services under section 202 (i) of the Legislative Reorganization Act of 1946, and (10) to provide assistance for the training of its professional staff in the same manner and in accordance with the same conditions that a standing committee may provide such assistance under section 202 (j) of such Act.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

Sec. 4. (a) For the period from March 1, 1974, through February 28, 1975, the expenses of the committee under this resolution shall not exceed $415,000, of which amount not to exceed $15,000 shall be available for the procurement of the services of individual consultants or organizations thereof.

(b) The committee shall report the results of its study and investigation for the period referred to in subsection (a) of this section, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date, but not later than February 28, 1975.

(c) Expenses of the committee under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Sec. 5. This resolution is effective March 1, 1974.

Mr. CHILES. Mr. President, as you know the Special Committee on Aging was established in the 87th Congress. Each year it has been rather routinely extended and today Chairman Frank Church is introducing a resolution of which I am a cosponsor to provide that it be named a permanent special committee. I strongly support this effort and view it as an even more firm commitment of the Congress to deal with the concerns of our older Americans.

It is obvious that in the 13 years of its existence the problems of our aged population have grown more and more complex, while at the same time their very number has escalated. At the turn of the century, there were 3 million older Americans—aged 65 or over—comprising 4 percent of the total population. But today this same segment of the population makes up 10 percent of our total. And thus the job of the committee—to keep a close watch over issues crossing many jurisdictions of congressional units and executive branch agencies—has, in my opinion, grown increasingly more important.

I think it is essential we keep in mind the point the President made 2 years ago in a message to the Congress on the aging. He said:

> We often hear these days about the "Impatience of youth." But if we stop to think about the matter, it is the elderly who have the best reason to be impatient. As so many older Americans have candidly told me, "We simply do not have time to wait while the Government procrastinates. For us, the future is now."

I was particularly pleased to have been appointed to the Committee on Aging at the beginning of the 93d Congress as my own State of Florida has a larger percentage of population in the over-65 category than any other State in the Union. Since my appointment I have followed closely and participated actively in the committee's investigations and hearings in a variety of areas pertaining to the problems and opportunities of old people including assuring adequate income, finding employment, engaging in productive and rewarding activity, securing proper housing, health care, and other matters. Through its work and the competent leadership of its chairman, the committee has been able to alleviate some problems and better pinpoint areas where difficulties persist, making recommendations for ways of overcoming them.

I believe the committee's work has been of outstanding value to our older Americans and strongly support Senator Church's resolution authorizing its permanent status. For our older Americans the future is indeed now, and the Congress must channel its energies more vigorously toward the solution of the problems facing this growing segment of our population in order to assure them the security and dignity they deserve.

SENATE RESOLUTION 268—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN, from the Committee on Government Operations, reported the following original resolution:

S. Res. 268

Resolved, That the Committee on Government Operations is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $10,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

SENATE RESOLUTION 269—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. ERVIN, from the Committee on Government Operations, reported the following resolution:

S. Res. 269

Resolution authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Government Operations is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $20,000 for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The Committee on Government Operations, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $2,292,017 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

Sec. 4. (a) Not to exceed $1,056,000 shall be available for a study or investigation of—

(1) The efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public: *Provided,* That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

(2) The extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) Syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions which are in violation of the law of the United States or of the State in which the transactions occur, and, if so, the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, what facilities, devices, methods, techniques, and technicalities are being used or employed, and whether or not organized crime utilities such interstate facilities or otherwise operates in interstate commerce for the development of corrupting influences in violation of the law of the United States or the laws of any State, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activities have infiltrated into lawful business enterprise; and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce, and to determine whether any changes are required in the laws of the United States in order to protect the public against the occurrences of such practices or activities;

(4) All other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety;

(5) Riots, violent disturbances of the peace, vandalism, civil and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes, and measures necessary for their immediate and long-range prevention and for the preservation of law and order and to insure domestic tranquility within the United States; and

(6) The efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge, talents, and skills;

(C) the adequacy of present intergovernmental relationships between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(7) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporation, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies;

(L) research into the discovery (and development of alternative energy supplies. *Provided*, That in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of the particular branch of the Government under inquiry, and may extend to the records and activities of persons, corporations, or other entities dealing with or affecting that particular branch of the Government;

of which amount not to exceed $20,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

(b) Nothing contained in this section shall affect or impair the exercise by any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1974, through February 28, 1975, is authorized, in its, his, or their discretion, (1) to require by subpena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to administer oaths, and (5) take testimony, either orally or by sworn statement.

SEC. 5. Not to exceed $372,900 shall be available for a study or investigation of intergovernmental relationships between the United States and the States and municipalities, including an evaluation of studies, reports, and recommendations made thereon and submitted to the Congress by the Advisory Commission on Intergovernmental Relations pursuant to the provisions of Public Law 86-380, approved by the President on September 24, 1959, as amended by Public Law 89-733, approved by the President on November 2, 1966; of which amount not to exceed $10,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 6. Not to exceed $395,000 shall be available for a study or investigation of the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(1) the effects of laws enacted to reorganize the executive branch of the Government, and to consider reorganizations proposed therein;

(2) the operations of research and development programs financed by the departments and agencies of the Federal Government, and the review of those programs now being carried out through contracts with higher educational institutions and private organizations, corporations, and individuals in order to bring about Government-wide coordination and elimination of overlapping and duplication of scientific and research activities; and

(3) the adequacy of present intergovernmental relationships between the United States and international organizations, exclusive of those principally concerned with national security, of which the United States is a member;

of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

SEC. 7. (a) Not to exceed $278,158 shall be available for a study and investigation of any and all matters pertaining to budget and accounting measures and operations, other than appropriations, including but not limited to—

(1) the formulation of the budget (including supplemental and deficiency appropriations (and its submission and justification to Congress;

(2) the review and authorization of budget obligations and expenditures by the Congress;

(3) the execution and control of such authorized obligations and expenditures;

(4) the accounting, financial reporting, and auditing of all Government expenditures; and

(5) the evaluation of Federal program performance and fiscal information and management capability;

of which amount not to exceed $15,000 may be expended for the procurement of the services of individual consultants or organizations thereof.

(b) Such study and investigation shall be limited to budgeting and accounting measures and operations of the Federal Government, and shall not be extended to the operations of any State or local government, any business or other private organization, or any individual, except that information with respect to these parties may be obtained on a voluntary basis.

SEC. 8. Not to exceed $189,959 shall be available for a study or investigation of Government procurement practices (including a review of recommendations submitted to Congress by the Commisssion on Government Procurement), of which amount not to exceed $15,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 9. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 10. Expenses of the committee under this resolution, which shall not exceed in the aggregate $2,312,017 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 222

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Minnesota (Mr. MONDALE), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 222, to authorize a National Ocean Policy Study.

NOTICE OF HEARINGS ON CREDIT REPORTING ABUSES

Mr. PROXMIRE. Mr. President, the Subcommittee on Consumer Credit of the Committee on Banking, Housing, and Urban Affairs will commence oversight hearings on the Fair Credit Reporting Act at 2 p.m. on February 5 in room 5302, New Senate Office Building.

The subcommittee will receive testimony on credit reporting abuses from former employees of investigative reporting agencies. Persons seeking information about these hearings should contact Kenneth McLean, room 5300, New Senate Office Building; telephone: 225-7391.

NOTICE OF HEARINGS ON CONSERVATION AND DEVELOPMENT TO HARD MINERAL RESOURCES OF THE DEEP SEABED

Mr. METCALF. Mr. President, I take this means to notify my colleagues that the Subcommittee on Minerals, Materials, and Fuels of the Senate Committee on Interior and Insular Affairs will, on March 5 and 6, resume hearings on legislation to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto.

The subcommittee will direct its attention solely to the proposed amendment—No. 946, which appeared at page 893 of the CONGRESSIONAL RECORD of January 28, 1974—in the nature of a substitute for S. 1134, on which we have had extensive hearings.

From previous hearings we know the general position of Federal agencies, representatives of the mining industry, and of public interest groups. We now will take testimony on a specific piece of legislation.

We will not hear a rehash of remarks already a matter of record before the Subcommittee on Minerals, Materials, and Fuels or the Special Subcommittee on the Outer Continental Shelf which held extensive hearings in 1969 and 1970.

The hearings will begin at 10 a.m. on each day in room 3110, Dirksen Senate Office Building. Those wishing to testify will notify Mike Harvey of the committee staff. His telephone number is 225-1076.

Mr. President, a note of urgency to these hearings and to subsequent action on this legislation was added by a press release issued January 29, 1974, by the Kennecott Copper Corp.

The release announced that Kennecott and four other major corporations had joined in a 5-year research and development program to determine the feasibility of mining manganese nodules from the deep sea and extracting metals from them.

Mr. President, I ask unanimous consent that the text of the Kennecott press release and the accompanying fact sheet be inserted in the RECORD following my remarks.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

OCEAN MINING R. & D. PROGRAM ANNOUNCED

(News release issued by Kennecott Copper Corps.)

NEW YORK, January 29.—A five-year research and development program to determine the feasibility of mining manganese nodules from the deep sea and extracting metals from them was announced today by Kennecott Copper Corporation (New York), Rio Tinto-Zinc Corporation, Ltd. (London), Consolidated Gold Fields, Ltd. (London), Mitsubishi Corporation (Tokyo) and Noranda Mines, Ltd. (Toronto). Program costs are estimated to exceed $50 million.

Kennecott Copper Corporation has 50 percent interest in the program, Rio Tinto-Zinc 20 percent, and the other parties 10 percent. Kennecott will manage operations for the group.

Manganese nodules are found at great depths—12,000 to 20,000 feet—on the floor of the deep oceans, far from continental land masses. Pacific Ocean nodules, which contain manganese, nickel, copper, cobalt and molybdenum are a potential major new source for helping meet future mineral needs.

The agreement announced today covers the study of nodule deposits and research and development of economic methods to bring nickel/copper rich nodules to the surface, transport them to land and process them to extract metals—an expensive and complex operation.

A multi-company approach was agreed upon to take advantage of worldwide technical expertise and to share research costs, the high risks involved in such a pioneering effort and the substantial capital required should actual mining prove feasible.

Kennecott has accumulated a bank of information and technology through 10 years of study, including research on the deposits, mining system development and pilot metallurgical operations. Further research and development will take place at, or be coordinated through, existing Kennecott laboratories and through sea-based experiments in the Pacific Ocean.

The agreement assigns a value to this prior Kennecott work and recognizes it as part of Kennecott's financial contribution to the group research project. The agreement also calls for periodic review of progress to expenditures may vary according to developments.

(News release issued by Kennecott Copper Corp.)

OCEAN MINING FACT SHEET

MANGANESE NODULES

Man has been aware of the existence of these black, rock-like nodules for many years. HMS Challenger, a British deep-sea research ship, dredged a supply of them from the Atlantic Ocean 100 years ago. Only within the past decade, however, has their potential as a source for minerals been considered seriously. Growing minerals consumption and the extent of known land-based reserves combined with technology advances have led geologists and scientists throughout the world to propose the nodules as a practical source of metals.

Presently, the United States imports about 18 percent of its copper, 74 percent of its nickel, 95 percent of its manganese and 98 percent of its cobalt. The trade deficit for these metals is now running about $500 million per year and is projected to approach $2 billion in 1935 (1970 dollars). Furthermore, the Department of the Interior projects that by 1985, primary copper consumption in the United States will increase by about 1,400,000 tons, requiring major new sources.

It is estimated that hundreds of millions of tons of useful nodules dot the floor of the Pacific Ocean with typical concentrations of 0.7 to 1.5 percent copper and 0.8 to 1.6 percent nickel. Other metals typically found in the nodules include manganese, cobalt, molybdenum and iron.

Manganese nodules are a variety of rock which grows by inorganic chemical precipitation in an aqueous environment. Such material is called hydrogenous (water-derived) as opposed to terrigenous (land-derived). These nodules are part of a large family of manganese and/or iron-rich chemical precipitates found on the floors of most of the world's oceans, in many large and small lakes, in brackish water inlets, streams, bogs, and even in some man-made reservoirs and water distribution systems. Only those in the deep ocean are of large scale commercial interest, although a variety of iron-rich crust in Swedish lakes has been occasionally recovered.

ENVIRONMENTAL CONSIDERATION

The regions of potential undersea mining are nearly void of sea-bottom life due to a combination of circumstances. There is no light at these great depths. Environmental studies made to date have indicated that there will be no adverse environmental impacts on ocean life due to ocean mining. However, the multi-company agreement announced today calls for continuing impact studies.

Land-based metals processing stations will face waste disposal questions but, generally, processing of nodules appears to have fewer environmental problems than processing of terrestrial ores. For example, unlike much land ore, nodules do not contain sulfur, which eliminates the problem of discharging sulfur gases or acids.

MINING TECHNIQUES

Three primary methods of mining nodules have been proposed for commercial applications:

1. dragline bucket method
2. continuous bucket line method
3. hydraulic suction dredging method

Drag line bucket collecting is the use of a dredge bucket attached to a steel rope. Mud and nodules enter the dredge as it is dragged across the ocean bottom and then, as the dredge is recovered up through the water, mud is washed through a wire mesh screen leaving only nodules.

A continuous bucket line uses a continuous loop of synthetic fiber cable to which a series of buckets is attached. This method of operation is much like the drag line bucket method but with more than a single bucket.

Hydraulic suction dredging involves connecting a ship with the ocean bottom through a conduit. A collector would scoop up nodules which would then enter the water stream in the conduit and be moved upward to the ship by either pumps or air injected into the pipe.

EXTRACTING METALS

Kennecott has done extensive laboratory experimental work on a metals extraction process and in 1973 operated a pilot plant which processed half a ton of ore per day. This work was carried out at the corporate laboratory in Lexington, Massachusetts.

The manganese nodule ore is very porous and, of course, is soaking wet when mined. Actually, when drained, the ore still contains about 40 percent moisture. To dry this ore would require great amounts of energy, so Kennecott has studied hydrometallurgical processes. Several unique chemical processing techniques have been developed, some involving liquid ion exchange.

The metals are produced in the standard forms now marketed and with high purity. There are no minor byproducts. However, if in future it should prove economically justifiable to produce manganese it can be recovered. The tailings, or waste material, could constitute a stockpile of higher grade manganese than any domestic deposit plus small amounts of other metals which could be extracted if metals prices reach a point which justifies recovery.

UNDERSEA MINING LAW

Little specific international law presently covers undersea mining. The subject is to be treated at the upcoming United Nations Law of the Sea Conference at Caracas, Venezuela, in June, 1974.

Present international law does permit exploration, experimental activities, and mining itself to be carried out. Nevertheless many uncertainties exist which would be clarified by a treaty or by legislation now in Congress.

Two bills (HR 12233 and S 2878) designed to remove these uncertainties and to encourage U.S. industry to continue ocean mining research and development have been introduced in Congress.

Lengthy hearings were held on predecessor bills last year by the Senate Interior and Insular Affairs Subcommittee on Minerals, Materials and Fuels and the House Merchant Marine and Fisheries Oceanography Subcommittee.

NOTICE OF ANTIBUSING HEARINGS—FEBRUARY 19, 20, 21, 1974

Mr. ERVIN. Mr. President, on February 19, 20, and 21, 1974, the Senate Subcommittee on Constitutional Rights will hold hearings on legislative proposals dealing with the problem of court-ordered busing of schoolchildren. In addition to considering S. 1737, which I introduced, the subcommittee will take testimony on S. 179, S. 287, and S. 619. The hearings will be held in room 2228, Dirksen Senate Office Building, and will begin each morning at 10 o'clock.

As I stated in the CONGRESSIONAL RECORD of December 17, 1973, when first giving notice of these hearings, more Americans than ever before are expressing opposition to the senseless, massive busing of schoolchildren to achieve "racial balance" in the public schools.

Mr. President, as chairman of the Constitutional Rights Subcommittee, I look forward to conducting these hearings and bringing this most serious subject to the public's attention.

ADDITIONAL STATEMENTS

THE PRESIDENT'S MESSAGE ON THE STATE OF THE UNION

Mr. FANNIN. Mr. President, last night we were privileged to hear a state of the Union message which provides us with an excellent blueprint for attacking the current problems facing America and the world.

It was especially heartening to hear President Nixon state clearly and emphatically that he will not be harassed out of office.

Not for 1 minute have I believed he would resign, nor have I seen any evidence which justifies impeachment proceedings in the Congress.

Regardless of these facts, irresponsible elements have been spreading rumors that the President would resign. In light of this, it is good that the President has made it clear he will not be intimidated by self-appointed inquisitors.

President Nixon stated that he will cooperate with the House Judiciary Committee to the greatest extent consistent with his obligations to the Office of the Presidency. I applaud this statement, and I am astounded that some journalists and some Members of Congress interpret this statement as indicating he will defy committee in its impeachment investigation.

President Nixon is a man of broad vision and he has a deep sense of responsibility to the Presidency, not only during his own term of office but for the future as well. He is not going to let the impeachment investigation destroy the Presidency. There are some men and women of narrow vision who in their determination to destroy Richard Nixon do not care how much damage they do to the American people and the American system of government. There are others who see impeachment as an opportunity to do great damage so that they can radically change the American system of government.

Let me also say that I realize there are some who support impeachment who do so very reluctantly and not out of the motives I have mentioned. Although their motives are pure, I still believe they are wrong.

When the President said 1 year of Watergate is enough, I believe most Americans said "Amen." The time has come for conclusion of the several investigations that are going on. The guilty should be punished and the innocent should be cleared. We should get on with the business of legislating and administrating to serve the people.

President Nixon quite appropriately assigns top priority to solving the energy crisis. This is far away the most serious problem for America now and in the foreseeable future.

The President has provided us with comprehensive, reasonable and effective proposals for dealing with the energy crisis. It is a positive program that is keyed to problem-solving rather than to blame-finding.

Just as too many Members of Congress are preoccupied with persecuting the President rather than solving the problems of the people, so there are too many Members of Congress who are more concerned with finding scapegoats than they are in finding solutions for the energy crisis.

Mr. President, I pray that the positive approach in the State of the Union message will help to cure this negativism that infects Congress.

The program laid down by President Nixon in his message is perhaps one of the most realistic and sensible addresses delivered to Congress by any President in the past decade and a half. It does not propose any grandiose schemes to meddle in the affairs and the freedoms of Americans. It does not make any gigantic promises about what Government can and will do for the people. God knows that we have had enough of these grandiose schemes and gigantic promises.

Such utopian schemes and promises have been great for building bureaucracy and spending tax money, but they have accomplished little to help the Nation. Indeed, too often they have caused the Nation to slip backward rather than make any great jump forward.

President Nixon did not suggest retrenchment in the face of our energy and economic problems. What he did propose, in my interpretation, is that we strive for perfection rather than proliferation in government. Rather than requesting that Congress consider a shiny new parcel of programs, he asked that we resolve some of the issues which have now been before the Congress for a number of years, such as adequate health care for all Americans and welfare reform. He suggested we perfect and expand revenue sharing to help strengthen local government and that we improve the strongest Federal commitment ever for development of mass transit, and he proposed a program to insure the personal privacy of all Americans. He reminded Congress that he must have a flexible trade bill to help create a freer exchange of goods between all nations.

President Nixon once again underscored his devotion to building a stable and lasting world peace. This peace will be possible only if we have a strong national defense to complement the outstanding diplomatic efforts of the Nixon administration.

Mr. President, we have been presented with a program of realistic and achieveable goals. I would urge that we proceed swiftly but deliberately to accomplish these ends.

Mr. President, I also was very pleased that the state of the Union message included a brief summary of some of the great progress that has been made during the past 5 years.

Under President Nixon we have ended our involvement in the Vietnam war, we have ended the draft, we have ended riots on campuses and in our cities, we have brought a new hope for peace both in international relations and within our own borders. These are just a few of the accomplishments.

In conclusion, I would like to restate my hope that the Congress will accept the positive program put forward by President Nixon so that we can all start pulling together in our common desire for an ever better America and an ever more peaceful world.

FAREWELL TO JAMES NEVILLE OF FARMERS HOME

Mr. ABOUREZK. Mr. President, thanks is too seldom accorded to dedicated public servants when they announce plans to leave Government and go trout fishing.

I hope this will not be the case with James Neville, the capable Rural Housing Administrator, who joined Farmers Home after a career at FHA. I understand that he has announced plans to retire.

I have not always agreed with Mr. Neville. Indeed, our offices have had some healthy disputes. We often did not see eye-to-eye on policy matters.

When all of that was said and done, though, it must be said that it was good to have him around.

He is a straight shooter.

He always kept his word.

He was always willing to work with us, to try and iron things out and to come up with good answers to hard problems.

I have enormous personal respect for James Neville and his sincerity, integrity, and dedication.

We will be diminished by his absence in Federal service, and I wish him all good luck and every happiness in the years ahead.

GOVERNOR LANDON DISCUSSES KANSAS RESOURCES

Mr. DOLE. Mr. President, it was recently my privilege to attend the annual meeting of the Native Sons and Daughters of Kansas in Topeka and to hear the comments made there by former Gov. Alf M. Landon regarding the current world situation, and Kansas' important standing in it. Governor Landon's perceptive observations have long been a source of interest to the citizens of his State and Nation, and it was encouraging to me on this occasion to hear his expressions of confidence in the future of our great country.

Governor Landon noted the tremendous technological advances that have benefited farmers during this century, and he brought attention to the fact that improved agricultural procedures and implements have always been obtained as a result of teamwork between the farmer and the technologist. Furthermore, Mr. Landon points with justifiable pride to the significant role that Kansas grain and livestock have played, and will continue to play in meeting international demands for food. In this regard, he foresees 1974 as a recordbreaking year of prosperity for those who are vitally involved in feeding the hungry of the world.

Mr. President, I encourage my colleagues to take note of the remarks of this experienced elder statesman on the essential task that Kansas' and America's agriculture performs in maintaining the prosperity of our Nation, and in contributing to the improvement of our relations with all nations of the world.

I ask unanimous consent to have the statement of Governor Landon printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

KANSAS RESOURCES

The resources of Kansas must first be considered relative to disorderly world conditions and the American economy. I am speaking tonight as a politician and practical economist seasoned by experience. If our professional economists knew more about politics and our politicians knew more about economy, we would all be better off.

I foresee great changes in our daily lives confronting us—in politics—in pleasures and in business. They are all linked together.

The threat of a confrontation between the biggest Communist nation in the world and the biggest capitalistic nation in the world has been put on the back burner at least by President Nixon's reversing our "containment of Communism by force" policy first forced on President Truman in Korea and wisely handled by him in his different international relations. Subsequently that was vastly expanded by Secretary of State John Foster Dulles and the Eisenhower, Kennedy, and Johnson administration.

President Nixon initiated a detente with China in his first sixty days in office. Then subsequently with Russia. For some twenty years, I had urged this policy.

There always has been some doubt as to whether the leopard could change its spots. And whether he wanted to if he could.

At the time of Chairman Khrushchev's visit to the United States and the so-called "Spirit of Camp David," I said I was willing to sleep in the same bedroom with Krushchev but was not willing to leave my wallet in my pants hanging over the back of a chair.

A world nervously watching the Middle East War got its answer two weeks ago in the first test of Chairman Brezhnev's intentions and whether he was able to handle the opposition to his international relations developing in the Soviet hierarchy.

Russian influence is strong today throughout all of Asia and Africa. It was easy for Chairman Brezhnev—after Russia had amply supplied the Arabs and Egypt with military logistic material—to have stepped aside.

Instead, Chairman Brezhnev cooperated with the United States of America to bring about a settlement of that war with a reasonable prospect that it is more than temporary. At the least, he has turned down temporarily the fires under the back burner. That can have far wider and deeper meaning in sowing better Russian and American relations than the Middle East settlement between Israel and Egypt.

It must be noted that the oil rich Arab states are buying tremendous amounts of military equipment and there is a sizeable arms race on to supply their orders.

Two other major political problems are of pressing concern—inflation and the fuel energy crisis—that threaten the economy of the world industrial nations. Both interrupt the need in the world for a steady money market and the current energy fuel supply demand. The unrealistic price of Arab oil, plus the embargo, are worldwide disruptive factors to an orderly world.

I think the settlement of the Middle East War—the opening of the Suez Canal—new discoveries of oil all over the world—and increase in American production—can and probably will ease the present unrealistic price and embargo by Arabs on crude oil. That means a worldwide stimulant to business and more jobs.

The current energy crisis in America could be blurred for the immediate present. The critical long range problem that an unlimited supply of crude oil as energy fuel is no longer dependable still remains.

As we proceed to solve that complicated problem—as we will—the present fuel energy crisis can be a blessing in disguise in the warning it gives of the future. It gives us a breathing spell, as it were, to meet the radical change in the fuel energy supply.

Resurgent, in-built inflation remains a great stumbling block. The world is covered with the wreckage of inflation.

There is only one time-tested answer—a balanced budget. President Nixon's attempt to establish that time-tested fiscal policy failed because the Congress refused to cooperate.

Despite six wars in sixty years—the threat of a nuclear war—three revolutions in three major countries and a number of smaller ones—and a hundred years of colonialism—the world is gradually recovering political and economic stability.

As this intensifies, the Kansas factor in today's world resources grows.

First, I mention the development of small industries all over our state by individual Kansans' resourcefulness—supplementing our big manufacturing plants such as aircraft.

There is a growing successful small industrial plant in our neighboring town of Wamego started because its founder had the wide reputation of being able to temper horseshoes and plows best.

There is another plant up at Seneca that ships its improved equipment all over the world because of the resourcefulness of its founders.

The Hesston Corporation is an example of the growth of a Kansas company. Because of suggestions by farm boys experienced in the field and through its successful management, it is improving and manufacturing new and better farm implements.

The president of the corporation was good enough to take me through its operations one day in 1972 when seven Russians had just left after investigating its new equipment. He showed me a new method they were just experimenting with for eliminating waste in feeding dry ensilage to cattle, at the suggestion of one of the farm boys working in the plant. I asked him if he showed that to the Russians. He laughed, "We are not ready to do that yet."

The first question I asked Mr. Yost tonight was how that new feeder had developed.

Farmers and cattlemen in the largest valley in the United States of America—from the Rio Grande to the frosty north line, and from the Alleghenies to the Continental Divide—have just finished the most profitable peace time year ever.

I foresee that 1974 will break that outstanding record.

Here are a few facts that support that assertion and in particular the place Kansas and its people and their products occupy today in the course of world events.

One hundred years ago, the greatest natural resource of Kansas was its rich earth lands. We come back to that same place today. During that hundred-year cycle we have exhausted our lead and zinc. Our coal—like our oil and gas—has reached its peak production. While they will continue to produce for many years and new discoveries will be made, they will never reach their peak again.

In contrast, our incipient land productivity is just reaching its peak—with 29 million acres of rich crop land and 20 million acres of range and pasture land.

Our weather has not changed. Our soil has not changed. Our people have not changed. Our technoolgy has—by the research and technology of Kansas State University in partnership with the practical experience of our good farmers and stockmen.

However, our markets have basically changed.

I can remember when wheat in Kansas around the turn of the century averaged only ten or eleven bushels to the acre in good crop years. Last year it was a record 37 bushels an acre yield. Research at Kansas State accounts for at least 30 per cent of that increase, or $300 million, by development of better seed and better farming methods. We have not seen the end of that, by any means. Hybrid seed wheat will soon reach the farmers to further increase the yield per acre.

I can remember the old steam threshers. Then came cutting the wheat with tractors. Then the present combines that can account for probably another ten per cent increase in the yield.

Some of the '50's were actually drier than the terrible and tragic black blizzard years of the 1930's. Conservation methods developed and taught at our great agricultural university—cultivating the surface rougher so that it would not blow away—crop rotation, a joint development by the farmers themselves and Kansas State—helped to keep more cover on wheat land so that the dry soil would not blow away.

That is a simple illustration of the place Kansas University occupies among land grant universities. Its faculty is willing to learn from the farmers' practical experience as well as teach. And they have a smart and energetic audience.

Kansas corn averaged 105 bushels in 1973 compared with 25 bushels an acre in 1928, a relatively good farm year. Again, research on corn is reasonably estimated for half the 1973 value of $340 million—or $170 million.

I can remember when kafir corn was first planted and grown in very small quantities for chicken feed. It was a small cob on a stock as tall as regular corn. That was about 1915 or so.

Out of that kafir corn, with so little value that no records were kept, came by research our state's grain sorghum—with a big head and short stock that, with the introduction of hybrids some twenty years ago—came to 477 million bushels in 1973, with an average of 59 bushels an acre in Kansas, at a total value of $480 million that starts from zero as for the value of kafir corn.

Just a few years prior to 1940, soy beans were started in Kansas. The agricultural extension service taught the farmers how to grow them and world war two made them profitable. They went from 15 bushels an acre in Kansas in 1948 to 23 bushels in 1973, with a value of $47 million.

Alfalfa was first started in Kansas somewhere around 1905. With disease and insect-resistant varieties developed at Kansas State University, the record crop in 1973 was 3.8 million tons, worth most conservatively $135 million.

Kansas is thought of as a wheat state. The production of livestock for years has contributed more to the state. That amounted in 1973 to $1.36 billion.

Kansans now harvest millions of tons of high moisture grain to be fed to livestock—a practice first investigated 20 years ago at the Fort Hays branch station. Both high moisture sorghum and corn give eight to ten per cent gain in feed efficiency. That saving is estimated at $2 million annually in Kansas.

K.S.U. veterinary doctors and Garden City branch scientists developed health practices for replacement feeder calves that cut death losses 66%—an estimated annual saving of 2.8 million dollars in our state.

K.S.U.'s discovery that sows do better on less feed saves 1,000 pounds of feed annually per sow, or 5 million dollars a year in Kansas.

There is no way of accurately estimating the tremendous value of veterinary research leading to control of livestock diseases.

When you add meat packing in Kansas to meat production, it may surprise some of us Kansans that livestock becomes our state's major source of wealth, despite the prodigious contributions from wheat and grain—all for human consumption in a hungry world.

In a state that is not supposed to have any trees, Kansas has a burgeoning forest industry increasing at the rate of a million dollars a year.

All this was accomplished by Kansas State agronomists and agriculturalists working it out together with Kansas farmers and ranchers. That's the kind of solid, substantial and efficient people we have in Kansas.

A year ago—speaking in Salina—I supported President Nixon's farm policies of removing a national subsidy and throwing open 26 million acres that had been held out of production by the national government's farm aid programs and policies—approximately 8 million acres in Kansas. There was fear then—and some now—of over-production by farmers that would again create the old cycle of surplus and disastrously low prices.

I supported the President's new farm policies because there is a basic change in the farm produce market.

For a hundred years or more, we have followed a high protective tariff to protect our infant industries for more jobs that would require better living and food.

That has all changed. Kansas farm products are a definite factor in today's world of rising population and living standards. The poorest nation in Africa may have increased only an average of 25 or 50 dollars a year per person, but their first requirement is more and better food with more proteins.

It looks as if Russia will have a bigger wheat crop this year by increased acreage and better weather. It also has increased demands from one-sixth of the world's population facing famine where it has responsibilities from its strengthening influence.

Our wheat and other grains storage carry-over is so low that we may well have a short interim before the 1974 crops are harvested when we may have difficulty in meeting our commitments on wheat and other food crops we have already sold. However, there is no basis for the talk of any shortage of wheat at any time for the American consumer.

According to President James A. McCain of Kansas State University, "1973 was the first billion dollar wheat crop in Kansas history and 1974 will be the first two billion dollar wheat crop in Kansas history."

Likewise, in this huge valley in which we live—unmatched anywhere in the world—1974 is going to be another record-breaking year in farm products cash income. That insures prosperous conditions for every line of activity.

How are you going to have a sweeping economic depression when that great area is going to be so prosperous? Of course farmers face problems. Who does not—and when has that not been so?

Our national economy is tied close today to this record volume of farm and ranch products. Our industrial productivity may slow down somewhat but not our agricultural productivity. What's good for the farmer is good for General Motors—and all Americans generally.

The amazing rise in America's farm exports is due to the mounting world demands that promise to continue to hold true as long as we have a peaceful world. That is going to have a political effect not only here but elsewhere in the world.

President McCain has facetiously said on several occasions that the Kansas wheat farmer can be credited with having overthrown the Russian government of Nikita Krushchev. This assumes that his finding it necessary to buy wheat from the United States was the development that finished him off.

By the same token, Leonid Brezhnev played it differently when Russia had to buy wheat from the United States. He has joined with President Nixon in a detente that so far is amazingly successful. His cooperation with our president in the Middle East gives hope of establishing better relations between all the governments in that area and supports the viability of the Nixon-Brezhnev detente.

I quote from the New York Times News Service from Paris of January 20 in the Kansas City Star:

"The world abroad is not biting its nails over U.S. morality, but over if and whether its foreign policy works. So far it does."

The whole world—relieved of the fear of a third world war—a nuclear war, at that—will be a better place to live and work in, with peace and good will escalating instead of war and the threat of war.

ENERGY AND THE CONSUMER

Mr. STEVENSON. Mr. President, last Friday, January 25, I had the opportunity to address the eighth annual consumer assembly of the Consumer Federation of America. I discussed the energy crisis and, in particular, its disastrous impact on the American consumer.

The President's response to the plight of the consumer comes down to more of the same, higher prices for the consumer and more profits for the major oil companies. I believe, therefore, that it is incumbent on the Congress to protect the consumer and the economy from the ravages of the oil cartel. With the distinguished Senator from Washington (Mr. Magnuson) and other Members, I will soon introduce "The Consumer Energy Act of 1974."' My address before the Consumer Federation of America covers the purposes and thrust of this legislation. As I stated, the energy crisis is not a crisis of nature. There is abundant petroleum in the Earth and under the sea. It is a crisis of our economic and political machinery. The crisis began with failures and misuses of the machinery. It is up to us to find solutions by changing and improving that machinery.

Mr. President, I ask unanimous consent that a copy of my address before the Consumer Federation of America be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Remarks by Senator Adlai E. Stevenson

I'm glad to be here—to pay tribute to an organization that foresaw, more than a year ago, the impact of the energy crisis on the American consumer.

Last January you established an energy task force under the forceful and imaginative leadership of Lee White. Since then you—and he—have distinguished yourselves as energy watchdogs and tough-minded thinkers for the American consumer.

I feel some pride that, like you, some members of Congress have been thinking, talking and working on energy problems—while indifference was the keynote elsewhere in Washington.

Senator Jackson's hearings this week are one example of that Congressional concern. And as we look toward legislation that expresses the consumer's interest, I should mention the Chairman of the Senate Commerce Committee—the great friend of the American consumer, Senator Warren Magnuson. Senator Magnuson, who has made the Commerce Committee the spearpoint for major consumer legislation, last year established a special project on energy legislation. He assigned to me the job of steering its efforts. Out of that effort—four months and twelve hearings—comes the consumer energy action program that I will sketch for you this morning.

The slogan Senator Magnuson has made famous in his campaigns provides an effective motto for us as we face the energy crisis: Let's keep the big boys honest.

We should not be surprised that the major oil companies are more concerned about their self-interest than the public interest; their motive and purpose is profit. But I am shocked by their unwillingness to level with the public.

Despite the concealment or plain non-existence of information, a pattern is emerging:

Energy stocks are not as low as the public had been led to believe.

But prices are higher—far higher—than we were led to expect.

The cartel of oil producing nations and international corporations raises the price of foreign crude oil; the corporations then force up the price of domestic oil. Having shifted about $25 billion in 1973 from United States consumers to the producers of oil, they now seek to do the same with natural gas, the nation's principal source of energy.

The American people are, to put it bluntly, being ripped off.

The White House—which should be the guardian of the public interest and the consumer interest—leaves the American people to the whim of the giant oil companies. In fact, it proposes still more of the same—more tax breaks (an investment credit); more public lands to plunder; and, with de-regulation of natural gas, more inflation. This Administration is threatening, Samson-like, to bring down the American economic temple upon our heads.

On Wednesday the President sent his legislative package on energy to the Congress.

Once again, the President has asked almost nothing from the giant oil companies—and almost everything from the American consumer.

He trumpets the cause of "tax reform"—including elimination of the foreign depletion allowance. But the major oil companies enjoy such large foreign tax credits that to eliminate the depletion allowance on foreign production is virtually meaningless.

The President proposes a so-called "excess profits tax" which is nothing more than an excise tax to be levied on the price of crude oil and passed on to the consumer.

When all is said and done, the President's message comes down to this: higher prices for the American consumer.

For every penny of increase in the price of a gallon of gasoline, one billion extra dollars flow into the coffers of the oil industry. The price of gasoline rose 12 to 15 cents per gallon in the past year; the industry proposes to raise it 10 to 15 cents in 1974. The price of other petroleum products is increasing even more sharply.

At this rate revenues reaped by the major oil companies would increase on an annual basis by far more than their $25 billion increase for 1973.

Why does the Administration tolerate such steeply rising energy prices?

One claim is that domestic oil prices must go up because world oil prices have gone up.

We are told that the price of Middle Eastern oil has tripled in the last three months to nearly twelve dollars a barrel—and that is true.

But that fact alone does not justify ever-increasing domestic prices. The foreign prices are set artificially; they bear no relation to production costs abroad—or in the United States. Actually, the price increases imposed by foreign governments result in higher revenues and profits for the major oil companies which produce in those countries. And the Internal Revenue Code then permits them to receive a credit against United States taxes for the taxes and royalties they pay the government of the foreign producing nations. That credit works so well for them that few of them have any significant tax liability in the United States. The price increases they are passing through to the consumer are far in excess of their actual costs. And the American taxpayer winds up subsidizing the governments of Libya, Saudi Arabia and the other nations of the oil producers' cartel.

Another claim is that prices must go up because the oil companies need more money to spend on exploration.

Let us ask, however: How much is enough?

Certainly we should be spending more on exploration—by the best available estimates, about $2 billion more each year than the $5 billion annual average over the past five years.

But the current squeezing of the consumer has already funneled additional revenues at a $25 billion annual rate into the treasuries of these companies.

There is no way such huge amounts can be spent on new exploration and development. Perhaps this explains why Gulf announced this week that it will invest some of its profits in an important new source of energy—the Ringling Brothers Barnum and Bailey Circus.

In fact, about $13 billion of the oil giants' $25 billion in additional annual revenues will be windfall dollars for the oil giants.

To offer the people no better hope than high prices and more high prices—while the major oil companies grow fat—offends our sense of justice. It cannot be justified as the price for free enterprise because there is little free enterprise in this largest and most basic industry.

Most seriously, a policy of consumer-gouging is a prescription for economic disaster.

The year 1973 saw the consumer price index advance nearly nine percent—the worst inflation since the end of World War II.

For 1974, the median prediction of twenty different economic forecasting groups, including the Council of Economic Advisors, is for inflation of 5.9 percent. Estimates of unemployment range from six to nine percent.

And these gloomy forecasts, for the most part, do not allow for recent massive petroleum price increases—or those that will come if the Administration has its way.

The outlook is bleak indeed. For energy is not some isolated commodity like coffee or chocolate. It is as basic to our economic life as air and water are to our physical life. Its influence on our economy—on supplies, on prices, on our whole standard of living—is pervasive.

The price of steel, for example, includes a 17 percent energy component—and the price of fuels to the steel industry has nearly doubled.

The Agriculture Department tells us that fertilizer makers, farmers, food processors, transporters and others account for 30 percent of annual fuel consumption in the United States. If energy prices rise fast—food prices will rise by at least the amount needed to pay the extra cost.

Rising energy prices hit our economy at every stage of the manufacturing and marketing process. And so they have a reverberating impact—a multiplier effect—that could buffet our national economy unmercifully.

My purpose in saying all this is not to play the dismal role of Cassandra; I have always been an optimist about America—and I am trying, notwithstanding Mr. Nixon, to remain one!

My purpose, rather, is to underscore the danger of imposing ever-higher prices as a device to regulate supplies.

Above all, my purpose is to suggest an immediate alternative to that disastrous policy: a consumer energy action program that is comprehensive, practical, fair to both the public and the oil industry—and urgently needed now.

The Administration has shown its unwillingness or inability to represent the consumer interest.

That leaves us—the Congress and the people.

Next week, Senator Magnuson and I will introduce the Consumer Energy Act of 1974.

It will distribute more fairly the burdens of the energy crisis; infuse new vitality and competition into the oil industry; develop, for the future, increasing energy supplies at reasonable prices.

It offers a plan for action in the Congress and a focus for consumer action across the country.

First, we propose an immediate rollback of petroleum prices.

On December 19, the Cost of Living Council permitted the price of old flowing oil to rise from $4.25 to $5.25 per barrel—a three-billion-dollar-per-year Christmas present to the oil industry. Even before that, the Administration had removed all price controls on so-called new oil—allowing an increase in new oil prices from $3.40 to more than $10 per barrel in less than a year. Neither the Administration nor the petroleum industry have produced any cost figures to justify these increases. Surely the December wholesale price increase—reflecting an annual rate of 26 percent—is proof enough what flagrant price increases for oil and gas will do to the consumer.

The massive transfer of dollars from consumers to oil companies has already gone too far—far beyond the oil companies' ability to invest these funds in expanded exploration. We propose, therefore, a rollback for all domestically produced crude oil prices to December 1 price levels. All price increases in petroleum products would also be rolled back except for actual non-petroleum cost increases, such as gasoline station overhead, that have occurred since then. Such a rollback would cancel approximately one-fourth of the petroleum price increases of the last year. It would be taken from the major oil companies' windfall profits—and it would slow down the runaway inflation brought on by skyrocketing energy prices.

The Administration already has the authority to impose such temporary controls immediately. If it does not act, it is essential that Congress act.

Second, we propose a Federal Oil and Gas Corporation—a TVA for energy—a supplier that could hold down prices and increase competition.

The multinational corporations of the oil industry have told us, in effect, that they are willing to abandon the American consumer; they would rather take their business abroad, where their profits are greater, than try to supply our national energy needs at reasonable prices. They have done so. Even with oil import quotas and all their tax incentives, they developed production and built refineries abroad at the expense of both here.

It is time to create a national enterprise whose first concern is not runaway profits, but the national interest. The Federal Oil and Gas Corporation—first conceived by the Consumer Federation of America and proposed in legislation which I introduced last November—would develop oil and gas resources on publicly owned lands. Those lands contain 50 to 75 percent of all the nation's future oil and gas resources. The people own these resources.

This corporation would stimulate competition in the oil industry. It would offer the public a reliable yardstick on production costs. It would give us a way of checking, through actual experience, the efficiency and pricing performance of the private oil companies. In Senator Magnuson's phrase, it would help "keep the big boys honest."

Most importantly, it would provide additional fuel supplies at reasonable prices to independent refiners and independent marketers who, once again, could compete vigorously with the major oil companies. It would enable us to make a long overdue inventory of the nation's vast publicly-owned oil and gas resources—before they are all exploited by the major oil companies.

Third, we propose regulatory reforms which will revive competition in the energy marketplace—and, while reviving competition, will protect the consumer from price-gouging.

This means giving incentives to the smaller, independent sector of the oil and gas industry—incentives large enough to make them effective competitors of the major oil companies. We propose to create competition by helping the smaller operators enlarge their share of the market, from their current negligible share to one-third of the market.

Consider natural gas. Only one and one-half percent of the nation's 4,700 producers account for 85 percent of the nation's natural gas supply. We propose to remove FPC wellhead price controls from the small producers who compete and deserve a price incentive because they conduct most of the nation's exploratory drilling.

Meanwhile, we propose to retain regulation of the major oil company producers and to streamline the Federal Power Commission's regulatory procedures.

We also believe that wellhead price controls are needed to protect the consumer from these same giants in the oil sector of the industry. The FYC is therefore given authority, in our proposals, to establish wellhead oil prices which will assure the major oil companies their costs and a reasonable return. These controls would give the small exempt companies a chance to compete—and an incentive to explore. The controls would be confined to those large corporations which have used their own economic power to drive competition from every link in the industry chain—from producing to marketing.

To avoid diversions of oil and gas from the interstate to the intrastate markets, the controls would apply in both—but only to the largest oil companies.

When established, these price controls would replace the rollback I mentioned earlier. This approach guarantees the major corporations a reasonable rate of return; it protects the consumer against price extortion—and endeavors to create a free enterprise system in the oil and gas industry.

Any increase exports of U.S. oil and gas to higher priced world markets could be subjected to export controls. Such controls are already in effect.

Fourth, we propose legislation guaranteeing fair access to petroleum pipelines by all members of the petroleum industry.

At present, petroleum pipelines are the private preserve of the major oil companies. They are, for the most part, owned by a few of the largest majors. Yet they are the lifeline upon which independent producers, refiners and marketers depend.

The independent oil company is at the mercy of the majors for storage facilities near major pipelines—and for access to their pipelines.

All too often, the independents have been excluded from the pipeline network; the major oil companies' control over oil pipelines has permitted them to divide markets and to raise prices—in short, to engage in anticompetitive practices.

We propose, for the short run, FPC rules that make the oil pipelines common carriers in fact as well as in name. Over the long run, we propose that the pipelines be divested from the giant companies in an orderly fashion—and transferred to independent ownership. Only thus can all shippers obtain fair access to the pipeline network.

This is an essential step toward restoring true competition. As it is now, the major integrated oil companies transfer oil and gas to pipelines they control; next they move the product to their refineries—and then to their own company marketers, who in turn sell to a helpless consumer. There is no real competition in this chain of transactions. Pipeline divestiture would establish competition in an essential link of the chain.

Fifth, we propose that Federal lands be leased to oil companies under a new system of royalty bidding.

In the past, valuable Federal oil, and now oil shale, leases have been won by a system called "bonus bidding." This system requires an enormous capital outlay by the bidder—so large that even most major oil companies band together in joint ventures. This old bidding system raises a price barrier that only the major oil companies have been able to cross successfully.

Under the royalty system bidders would offer to the Government a share of the oil recovered—or a combination of cash and oil. The royalty to the Government would be paid—in part at least—out of future production.

By moving toward such a system of royalty bidding, we can open up the rich Federal domain to the independent oil man and over time increase the income of the Federal Government too.

Sixth, we propose, on behalf of the small gasoline dealer who must deal with the major oil companies, a major reform of the franchise system.

The nation's independent gasoline dealers have invested their time and money in efficient gasoline stations which sell oil products at a discount and give the major oil companies competition. Today, because major oil companies have cut off or curtailed their supplies of gasoline and other petroleum products, the independent dealers are an endangered species. About 3,000 independent dealers were forced to close their doors last year.

In times of scarcity, the major distributors should be required by law to allocate their products fairly to the smaller independent dealers. And the small gasoline dealer should be protected by an explicit law forbidding arbitrary termination of his lease or franchise.

Seventh, we propose reform of the current energy-wasting rate structure for natural gas and other forms of energy.

In the past, when we imagined our supplies of energy to be limitless, the Federal Power Commission and other agencies adopted rate structures that encouraged waste. As consumption went up, utilities charged less for each unit of energy used.

We are paying a high price for that policy today. Residential consumers are paying far more for each unit of fuel they use than the larger industrial customers. Despite growing shortages and an urgent need for conservation, the incentive for natural gas users is to use more.

The time has come to reverse priorities. We proposed graduated rate increases for increased consumption to encourage conservation rather than waste. This rate structure should also feature lower rates for residential consumers than for industrial consumers. The industrial consumers are far better equipped to convert to alternative sources of energy than the individual householder with a gas stove or water heater.

Eighth—and finally—we propose a full and honest accounting from the nation's petroleum companies.

If we are to restore the nation's faith in a workably competitive energy industry and make policy wisely, then we must have all the facts—facts about supplies and reserves; facts about the major oil companies' tax returns; facts about exports and imports. All these facts should be gathered in a timely fashion and made public. Our bill will call for complete public disclosure; it gives the Federal Trade Commission ample investigative duty and authority to obtain all such information and make it public.

The energy crisis is not a crisis of nature; there is abundant petroleum in the earth and under the sea. It is a crisis of our economic and political machinery. The crisis began with failures and misuses of that machinery—and we can find solutions only by changing and improving that machinery.

The legislation I have outlined is a start toward making those necessary changes.

If we fail, the entire cost of the energy crisis will fall upon the Ameircan people; and that cost could be written in lurid letters of economic collapse.

The energy crisis, and the public frustration and outrage it has produced, are a kind of handwriting on the wall. The message is this: If this country continues to suffer at the hands of one large, concentrated, interconnected and unaccountable industry, public patience will run out—and the industry will some day be totally regulated, broken up, even nationalized. I do not want to see the free enterprise system abandoned. I want to see it work. I believe the American people feel the same way.

So my fellow consumers, let us in the Congress and in the Consumer Federation of America take up the cause of the American people—the cause of two hundred million beleaguered consumers. The Administration by its indifference, and the oil industry by its greed, have proven that unless we advance their cause, no one else will.

WATERGATE NO ISSUE IN UPCOMING ELECTION

Mr. HUGH SCOTT. Mr. President, a recent article by the Associated Press which was printed in the Christian Science Monitor places proper light on the upcoming congressional contest in Pennsylvania's 12th District, left vacant by the untimely death of Congressman John Saylor.

Many are watching this heavily conservative district for anticipated backlash from Watergate. I fear they will find, as AP so aptly points out, that the people of this western Pennsylvania area are more concerned with the issues that come closer to home. Foreign and fiscal policy appear much more important, as I am sure the polls will reflect.

Because of the major importance of keeping this election in perspective and of the insights by AP I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Jan. 25, 1974]

Watergate No Issue in Upcoming Election

Johnstown, Pa.—The first federal election since the Watergate scandal escalated into an overwhelming public concern soon will be held, but the candidates involved are downplaying the issue.

On Feb. 5, voters in Pennsylvania's 12th Congressional District will elect a successor to the late Rep. John P. Saylor, a 13-term Republican congressman. The race pits Democrat John P. Murtha Jr., a state legislator, against Republican Harry M. Fox, Representative Saylor's former executive assistant, in this Appalachian region of steel mills, coal mines, and truck farms.

While many observers see the election as a test of Nixon administration standing, aides for both candidates emphasize that the election is a local race with the stress on local solutions to problems of unemployment, inflation, and the energy crisis.

WATERGATE NO ISSUE

Indeed, neither Mr. Murtha nor Mr. Fox mentions the word Watergate unless asked by voters, and in this conservative district, where Democrats hold a 7,000 registration edge among 223,000 voters there are few questions.

Mr. Murtha has plastered the hillsides with billboards that proclaim: "One honest man can make a difference." And in his door-to-door campaigning, he passes out brochures that declare: "At no time in our national history has there been such a crisis of confidence."

But seeing little value in Watergate as an issue and fearing possible backlash, the Murtha staff declared early not to push it too hard.

Mr. Fox, who worked for Representative Saylor for 24 years, has proposed a $42,500 voluntary limit on campaign spending. He emphasizes the "open" procedure used by district delegates to select him as their candidate while Mr. Murtha, according to party rules, was selected by the executive committee of the state Democratic party.

EXPERIENCE STRESSED

Mr. Murtha, a Johnstown businessman and Vietnam veteran, campaigns most frequently about effecting a compromise with environmentalists to permit increased soft coal mining, an industry that employees some 17,000 workers in the district. He also talks often about finding young people in the area where the population declined 4.3 percent during the 1960's while increasing statewide 4.2 percent

Mr. Fox, from rural Armstrong County, stresses his experience with his World War II shipmate, Representative Saylor.

Both candidates are staunch opponents of gun control and proponents of defense spending. Mr. Fox adds his opposition to detente with Russia and China and says negotiations with Communist countries should only be carried out through the United Nations.

Though Democrats have the registration edge, Republicans have carried the district often enough to consider it a swing district. Mr. Saylor's margin over his Democratic opponent in 1972 was more than 2 to 1.

So far the campaigns have not stirred much enthusiasm. A suburban bank manager noted that many of the people he has talked with complain about the expense of holding an election for an 11-month term.

HEALTHY AND VITAL RURAL COMMUNITIES

Mr. ABOUREZK. Mr. President, the administration has adopted very strange methods to meet its proclaimed goal of healthy and vital rural communities.

A few months before last year's state of the Union message the President froze all the Federal subsidy programs for housing and community development.

To this day he refuses to use all but one of the grant provisions of the Rural Development Act.

Desperately needed water and sewer systems will be denied to thousands of rural communities which cannot afford the remaining 5-percent loan program.

No compilation of the violence done to rural programs could pretend to be complete, so today I will just add another item to the general list.

In his September special housing message to the Congress, the President said:

> The problems of providing good housing in our rural areas are especially challenging, not only because the proportion of substandard housing is greater in rural areas but also because these areas often lack the resources to foster greater economic development and better housing.

That is the rhetoric.

The performance is something else.

During the latter years of its troubled life, the Office of Economic Opportunity also recognized the special problems of rural America and provided resources to Community Action programs in most rural areas to fill the vacuum at least partially.

Despite limited resources and a surplus of difficult problems, these agencies by and large did a yeoman's job in providing services to the poor and elderly. In many rural communities they are the only resource for housing assistance, with emphasis on the word "only."

In characteristic fashion, once the problem had barely been identified, the administration moved to eliminate one of the few resources available to its solution.

The OEO programs were sent hither and yon to various departments. Migrant programs were sent to Labor, Indian programs to HEW, and some of OEO's housing programs found their way to HUD, primarily those of a research nature.

Since the OEO programs were created, at least in part, to pester and otherwise stimulate old-line agencies whose concern for poverty had put us into a condition where it was necessary to declare a war on poverty in the first place, one might wonder for their fate in such new hands.

My staff inquired of HUD as to the fate of what had been what you might roughly call the OEO rural housing research program, never more than a meager affair in its heyday but at least better than nothing.

What was learned was disconcerting. No figures were available as to how much of that program's money fell through the cracks in the floor at OMB in the process of the transfer.

Nor were we able to learn much about how much of that money would be spent on the special programs of rural America as opposed to the ongoing battle in the cities.

Our cumulative impression was that some of the old things that had been started under OEO might be continued. It also seemed clear that little thinking, if any, might be given to original and innovative ideas for rural America.

It also began to look like some of those rural housing research funds were going to be siphoned off into that grand social research scheme which travels under the "housing allowance" label.

Nearly everyone who knows the rural housing program will tell you the simple truth about housing allowances and rural America: there is not enough decent housing stock to make the idea worth wasting a taxpayer nickel.

HUD apparently does not know that, of course, but that is not alarming considering the agency's dismal nonperformance in rural areas. HUD is for the cities.

My interpretations of what we were told about all these things may be lacking somewhat. The usual practice is to insert the correspondent and let it speak for itself. I cannot do that this time, because HUD refused to put their answers in writing.

It appears that those who warned us early on were quite right: the dismembering of OEO, at least in the case of rural housing, amounted to the destruction of its usefulness.

All I can say, Mr. President, is "So it goes."

INTERSTATE HIGHWAY SYSTEM A SUCCESS

Mr. HUGH SCOTT. Mr. President, in a January 18 article in the Philadelphia Inquirer, George F. Will wrote what he called "a defense" of the Interstate Highway System. Chiding critics of the system, Mr. Will said this great highway program, initiated by President Eisenhower, "saves lives and money."

Mr. Will wrote:

> The fact that it is a success distinguishes the system from most of the expensive domestic programs of the New Deal, Fair Deal, New Frontier and Great Society. And it is the kind of success some people find insufferable, a success launched by Republicans, during the Eisenhower Administration.

Mr. President, I agree with Mr. Will that the Interstate Highway System is a great success and I am proud that it began in Pennsylvania when our late colleague, Senator Edward Martin of Pennsylvania, first gave thought to the idea. And it was a much deserved tribute to the late President when the Congress designated portions of this great highway system as the "Dwight D. Eisenhower Highway."

I ask unanimous consent that Mr. Will's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Interstate Highways: A Defense

(By George F. Will)

Washington.—Because symbols have a strong hold on weak minds, some of today's ideologues deride the interstate highway system as a national disaster. The interstate system is a symbol of the American "system" that allegedly is subservient to the internal combustion engine, which has become a threat to men and chipmunks.

The ideologues say the interstate system is a boondoggle foisted on an unsuspecting nation by the sinister "highway lobby" that seduced Americans into reliance on automobiles. As a result, the ideologues say, energy is scarce, air is dirty, cities are congested, and we are on the verge of "paving the nation," thereby depriving cute chipmunks of their green leafy glens.

But the interstate system is a fact, not symbol, and consider the facts about it.

When the $76 billion, 42,500 mile system is completed around 1978 it will involve only 1 percent of the nation's road and street mileage but will carry 25 percent of the traffic, connecting 90 percent of all cities over 50,000.

Traffic will be approximately twice as safe on the system. Recent statistics show that 2.99 persons are killed for each 100 million vehicle miles of travel on the interstate system, compared with 5.62 on all other roads. The completed system will save 8,300 lives each year, one life for every five miles.

Aside from reducing the annual $13 billion cost to the nation of two million personal injuries from accidents, the system will produce huge savings through improved productivity of the men and machines of the transportation industry.

Because there are few step grades and no traffic lights on the system, some truck companies have cut in half the number of engine overhauls. What used to be a two-day trip is made in a day. Given the importance of long-distance trucking to the economy, these productivity gains are significant anti-inflation factors.

Through improved safety and productivity the system should save more than $100 billion—more than the cost of the entire system—each year.

Only 17 percent of the system will be urban, but the urban portion will carry more than 40 percent of the traffic. This statistic causes critics to unfairly blame the system for America's congested downtowns.

Congestion antedates the system. It derives from our love affair with the automobile. But it makes no more sense to blame good highways for that love affair than it does to blame obesity on the existence of knives and forks. The appetite preceded and called into existence the means of enjoying it.

Anyway, the principal effect of the system has been to keep interurban traffic off downtown streets. In the early 1950s when my family drove from central Illinois to grandma's house in Western Pennsylvania we took old U.S. Route 40, and it took us into downtown Springfield and Columbus, O., Wheeling, W. Va., and Washington, Pa. Today Interstate 70 bypasses those downtowns.

The entire pavement area of the completed system will be the equivalent of a parking lot 20.5 miles square. That is big: It would hold half America's motor vehicles. But it involves only 420 square miles, leaving a lot of American real estate for the chipmunks and other fauna.

So the interstate system saves lives and money. It makes life more pleasant in downtown Zanesville, O. And it is not going to cause a ton of concrete to be poured on the last American chipmunk. Why, in spite of its success, is the system so criticized?

I think much of the criticism reflects nothing more serious or high-minded than resentment about the fact that the system is such an obvious success.

The fact that it is a success distinguishes the system from most of the expensive domestic programs of the New Deal, Fair Deal, New Frontier, and Great Society. And it is the kind of success some people find insufferable, a success launched by Republicans during the Eisenhower Administration.

American intellectuals spent the 1950s condescending to the man who administered the defeat of the Axis. They said Mr. Eisenhower couldn't "get things done."

Of course what he did was launch the largest public works program in history, the interstate system, which he rightly considered his most significant domestic achievement.

But, oh, how sharper than a serpent's fang it is to drive over the hills and through the woods to grandmother's house, knowing that President Eisenhower gets credit for the remarkable safety, economy and convenience of the trip.

ISOLATIONISM SHOWS LACK OF WISDOM AND FORESIGHT

Mr. McGEE. Mr. President, there is a growing belief in the Congress that, somehow, this country can go it alone in a world that stands on the brink of economic chaos and collapse.

This mood was never more evident than when the House of Representatives killed the administration bill to fund the International Development Association—IDA. IDA is the World Bank's soft loan window and is vital to the developing nations of the globe.

What is particularly disturbing about this growing isolationism within the United States, as evidenced by the Congress these days, is that it belies a disturbing ignorance on our part as to the international interrelationships that tie us to events around the globe, so much so that our own survival is at stake.

Here stands the United States—the least-affected Nation in the world by the energy crisis. Here stands the United States—the richest Nation in the world. It is a sorry sight, indeed, that our riches and good fortune are not matched by wisdom and foresight.

In yesterday's edition of the Washington Post, there appeared a column by Marquis Childs addressed to the problem upon which I have briefly commented. It would be well worth the time of all in the Senate to give serious consideration to the points made by Mr. Childs in his column.

Mr. Childs makes a very poignant observation which I hope is not lost on members of this body when he points out:

> The underlying belief is that the United States, best able of all nations to ride out the oil crisis, can wall itself off from the poverty, disease, breakdown of the poor nations. This is a perilous illusion as recent history illustrates. In 1930 Herbert Hoover—a President who, for quite different reasons than those of today, suffered a breakdown of authority—signed a tariff bill putting up a wall against goods from the rest of the world. That was a principal reason for the worldwide depression.

In light of the implications of the House vote on IDA, I will do all I can to see that the Senate approves funding for IDA. If the Senate does not reverse the House action, then Congress has not served the interests of this Nation in a responsible manner. It is inconceivable that such foolishness should still permeate our decisions.

I ask unanimous consent that Mr. Childs' column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Jan. 30, 1974]

A Growing Mood of Isolationism on the Hill

(By Marquis Childs)

Absorbed in our own troubles, we are slamming the door on the rest of the world or on that part of the world least able to survive the oil crisis. By a vote of 248 to 155 the House of Representatives killed the administration bill to fund the International Development Association (IDA), the World Bank's soft loan subsidiary.

IDA has been the recourse for sub-Saharan countries suffering a terrible drouth. Up to 55 per cent of supportive loans for India, Pakistan and Bangladesh come from the bank's soft loan window. Without this support and with a boost in oil prices of up to 100 per cent, the outlook is not just for bankruptcy but for starvation and the breakdown of the social structure.

Immediate concern is over how the Senate can undo the action of the House. If it is not reversed and the United States finally defaults on the contribution of $500 million, 33 per cent of the total, then the consortium of the industrialized nations put together in 18 months of effort by the World Bank collapses. It means IDA will be out of business on July 1.

Treasury officials who rushed up to Capitol Hill to try to get quick action on the reversal, urging that it come before the conference of oil consumers in Washington on Feb. 11, came up against a stone wall. They discovered that the mood on the Senate side matched that of the House.

Key members of the Senate foreign relations committee that must first pass on World Bank funds have long been skeptical of the administration's approach to foreign aid. Chairman J. William Fulbright has opposed the bilateral aid programs ranging from $2.5 to $3 billion a year, if only because such a large proportion goes for military assistance. While there was never any doubt of its quick passage, some senators feel that the $2.2 billion for Israel at the time of the Mideast war used up both good will and available surplus.

But as reflected in the Senate, the lopsided House vote signifies a sour attitude that can be described, for lack of a better word, as isolationist. In the House, 130 Republicans voted against the President and only 47 supported him. On the Democratic side, 108 voted for IDA, 118 against.

The underlying belief is that the United States, best able of all nations to ride out the oil crisis, can wall itself off from the poverty, disease, breakdown of the poor nations. This is a perilous illusion as recent history illustrates. In 1930 Herbert Hoover—a President who, for quite different reasons than those of today, suffered a breakdown of authority—signed a tariff bill putting up a wall against goods from the rest of the world. That was a principal reason for the worldwide depression.

A worldwide depression is today no idle threat, given the linkage between the rich and the poor through the medium of oil and the skyrocketing prices levied by the oil shieks. India, for example, is dependent on chemical fertilizers for food production, much of it coming from Japan. Yet with Japan's bill for imported oil, the raw material of fertilizer, doubling last year and likely to double again in 1974, exports to developing countries are being drastically cut.

This means a pinch not only in developing industries in smaller Asian nations, industries dependent on Japanese imports for plastics, textiles and electronics, industries just getting a start in South Korea, Taiwan and Singapore. Far away places with strange sounding names as we once thought, we cannot quarantine away collapse in, say, India or Pakistan with the resulting famine, rioting, breakdown.

To reverse the House vote will take long and painstaking effort. Certainly it cannot come overnight. Whether this administration can bring it about is an open question, given the evident paralysis of will. Much of the effort will have to come from Secretary of State Henry Kissinger, and Secretary of Treasury George Shultz, both of whom have many pressing demands.

Americans are feeling the discomforts of the oil crisis—which may become hardships as it worsens. We have lived at a profligate level: 6 per cent of the world's population using more than 35 per cent of its resources. But with internal reserves far beyond those of any other nations, this is little compared with the suffering of masses of people in large areas of the earth.

THE VA HOSPITAL AT TAMPA

Mr. GURNEY. Mr. President, too often these days, truly fine work goes unnoticed. I believe this is especially true in many of our Government facilities where good service is expected by those who receive it.

In Florida, we are lucky to have a new Veterans' Administration hospital which delivers high-quality care as a matter of course. Mr. Glenn T. Stitt, a retired Air Force lieutenant colonel, received more than average care and took the time to bring that care to the attention of the Administrator of the Veterans' Administration and myself. Believing that good news should be shared with my colleagues, I ask unanimous consent that Lieutenant Colonel Stitt's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MELBOURNE, FLA.,
January 16, 1974.

OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C.

DEAR SIR: During the recent holiday season it was my misfortune to have to undergo cysto surgery in the Tampa Veterans Administration Hospital. Since I am inordinately pleased with the treatment accorded me by the Admission Section and all other hospital sections involved in preparing me for surgery, I would indeed be remiss not to acknowledge the fact.

Unfortunately, I failed to record the names of all of the doctors, nurses, and other personnel in surgery, the recovery room, and on Ward 5W who accorded me the most professional and courteous treatment that it has been my lot to receive of late.

I would specifically mention Dr. Jones in Urology and other doctors in surgery and commend them to you as outstanding men and doctors in their field; the Veterans Administration should be thankful to have these doctors.

For the nurses and other personnel on Ward 5W, words are inadequate to truly express my thanks for their excellent care and solicitude. It may indeed be well worth while for some Veterans Administration hospital representatives in Florida to visit this ward and pattern their actions accordingly.

Frankly, I would rate the Tampa Veterans Administration Hospital as Number One at least in this state, and am well pleased that in my condition it was available to me. Upon reflection and being somewhat familiar with military hospitals, perhaps better medical attention could be afforded in these facilities if under Veterans Administration control.

I would appreciate your office informing the Tampa Veterans Administration Hospital of the esteem in which I hold them.

Respectfully yours,
GLENN T. STITT,
Lieutenant Colonel (Retired).

OIL: BREAKING THE TIES THAT BIND

Mr. BIDEN. Mr. President, many voices, reflecting the strain of eternal optimism which abides in the national consciousness, have recently been raised to welcome the challenge of the snowballing fuel shortage as a stimulus to a renewal of a frontier spirit and an opportunity for review of the lifestyle to which, as consumers of nearly one-third of the world's total energy output, Americans have become accustomed. Perhaps the keenest analysis of the creative possibilities of the fuel slump to date was published in the December 5, 1973, New York Times, editorial opinion column. A choice confronts the Nation, both in its perception of the situation, which can be seen as either severely restrictive or unintentionally liberating, and the public policy which results as well. America's experience in the crucible of energy shortage may find the Nation bending all its sinews to maintain the levels of consumption which have characterized our recent past and rank us as the globe's premiere "energy pigs," to borrow a phrase from former Secretary of the Interior Stewart Udall; or perhaps it will provide her people an opportunity to reforge its lifestyle, as well as its economy, in the light of the realities and dimensions of the tremendous inflation of our cheapest fuel.

Part of the positive possibilities of the crisis are reflected in a speech by Stewart Udall which was reprinted in the New York Times, titled "The Energy Illusions." In it he declares:

> A nation that bases a vital national policy on illusions is inviting trouble. The energy crisis—which is worsening each week—is a classic example of policy-making by myth. For the last two years we have seen monumental miscalculations both by energy executives and the Nixon Administration . . . we have ridden our illusions of omnipotence into a long-term impasse. The crunch this winter is but a preview of things to come. This situation sets the stage for a painful comeuppance. The President must stop pretending there are easy, painless solutions. Billions and bold changes in our policies are needed to build excellent public transportation, to legislate a 25-miles-per-gallon compact car, to squeeze out the scandalous waste in industrial energy uses and to force individuals to make permanent changes in their lifestyles.

As the price of oil soars from $3 a barrel to nearly $10, a wide range of alternate power-generating sources previously noncost effective have become economically feasible investments in a seller's market. The Nation must not compromise its environment, its economy, indeed, even its national security by mindless submission to the crisis mentality which has been generated by the onset of the Arab oil embargo. The fact is petroleum products are in short supply, whether by malice aforethought or inadvertance. And the time is long since past when America can afford to crawl from source to source like a trembling addict, begging after oil sufficient to maintain the consumption rates to which we have accustomed ourselves. If the fuel drought is the product of conspiracy on behalf of the profit-hungry oil conglomerates then it is a criminal betrayal of the principle of the competitive marketplace to subsidize such destructive greed; and, if, indeed, America has exhausted her readily extractable domestic oil supplies, then we owe it to ourselves to preserve the independence of spirit which has nurtured the Nation from its frontier days. Either way, hard-headed decisions need to be made on the basis of some pragmatic analysis of the availability of energy and the uses to which our fuels are to be put. As the Times remarks:

> The notion of national self-sufficiency in energy which President Nixon has set as a goal for 1980 begs a crucial question for the American future: energy sufficient for what purposes? In interrupting the flow of oil, a handful of Arab leaders has inadvertently given this nation an opportunity for far-reaching creativity through short-term adversity, a chance to reorder some priorities which have evolved into something called the American way of life without thought whether this is a rational ordering of a society. President Nixon promises "We will once again have those plentiful supplies of inexpensive energy which helped to build the greatest industrial nation in the world." But the country would fumble an important opportunity if this meant that the national policy is simply to allow Americans to perpetuate their profligate ways of spending energy as if there were no tomorrow, as if there were no other people on earth who also need energy to raise their standard of living. In industry, one Government specialist has calculated that about 40 per cent of the fuel used in the nation's factories is wasted—and needlessly so.

The capacity for dispassionate decisions in the public interest has seemingly lodged by default with the Congress in the area of energy policy. The self-interest of the oil profiteers and the malfeasance of the executive branch have combined to throw the country into the lurch, and Members of Congress are now responsible to their constituents to make themselves expert and knowledgeable on the issues of the fuel crisis, and to use the diversity and resourcefulness inherent in the legislature to focus and resolve an energy overview to direct the Nation in time of crisis. In the words of the New York Times—

> Any serious consideration of energy requires thought to some fundamental points of public policy: Is there some minimal level of energy consumption to which every individual has a right? Does the state have any right to determine how the individual uses energy? Is the tendency toward higher civilization, or the reflex action of a person hooked on a habit-forming drug? Threatened shortages are successfully refining perceptions of energy. It is not a commodity to be bought and sold like any other, it is a central component on the functioning of the society. In that light, the goal of energy self-sufficiency becomes far more profound than the securing of sources; it involves consideration of the uses which the society wants its energy to serve.

In summation, Mr. President, I ask unanimous consent that these two articles be inserted at the conclusion of my remarks, and I quote Stewart Udall:

> The oil companies (with the President acting as their echo) have led us to a cul de sac that is bound to cripple our economy. Their fatuous slogan "A nation that runs on oil can't afford to run short," reveals their disastrous philosophy. From here on, the making of national energy policy is too important to be left to the oilmen.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 5, 1973]

THE NATURE OF ENERGY

The notion of national self-sufficiency in energy, which President Nixon has set as a goal for 1980, begs a crucial question for the American future: energy sufficient for what purposes?

In interrupting the flow of oil, a handful of Arab leaders has inadvertently given this nation an opportunity for far-reaching creativity through short-term adversity, a chance to re-order some priorities which have evolved into something called the American way of life without thought whether this is a rational ordering of a society.

President Nixon promises, "We will once again have those plentiful supplies of inexpensive energy which helped to build the greatest industrial nation and one of the highest standards of living in the world." But the country would fumble an important opportunity if this meant that the national policy is simply to allow Americans to perpetuate their profligate ways of spending energy as if there were no tomorrow, as if there were no other people on earth who also need energy to raise their living standards.

Torrents of energy conservation literature now flooding the public consciousness give ample description of how ordinary Americans can make painless savings in what was once considered an infinite supply of energy. In industry, one Government specialist has calculated that about 40 per cent of the fuel used in the nation's factories is wasted—and needlessly so. There is no virtue in restoring a situation in which such wastage can be held beneath notice.

More important, threatened shortages are successfully refining perceptions of energy. It is not just a commodity to be bought and sold like any other, it is a central component in the functioning of the society. Well before the current crisis, Dr. Marvin R. Gustavson of California's Lawrence Livermore Laboratory wrote:

"The thread of energy runs through so many areas of human endeavor that it creates not only a conflict between various people, but leads to difficult problems of fairness and equity within each thinking person's spectrum of concerns. . . . What is at stake is a whole diversity of value systems which exist, at least in people's minds, as independent and unrelated areas of human concern."

Where to live? What hours to work? How to get to the job? These are questions raised by the energy crisis as much as oil import policies and standards of nuclear safety. Any serious consideration of energy requires thought to some fundamental points of public policy: Is there some minimal level of energy consumption to which every individual has a right? Does the state have any right to determine how the individual uses energy? Is the tendency to use ever more energy a trend toward higher civilization, or the reflex action of a person hooked on a habit-forming drug?

Dr. Gustavson concludes that energy is like "air and water and land—a dimension of human existence inextricably intertwined with all that man chooses to be." In that light, the goal of energy self-sufficiency becomes far more profound than the securing of sources; it involves consideration of the uses which the society wants its energy to serve.

[From the New York Times, Dec. 3, 1973]

THE ENERGY ILLUSIONS

(By Stewart L. Udall)

BETHESDA, MD.—A nation that bases a vital national policy on illusions is inviting trouble. The energy crisis—which is worsening each week—is a classic example of policymaking by myth. For the past two years we have seen monumental miscalculations both by energy executives and the Nixon Administration—and the President's latest special message (his fourth on energy since April) essentially applies a band-aid to hemorrhage.

In my opinion, the President and the energy industries have been floundering because they have been unwilling to push aside their 1950-vintage illusions and face the grim facts. Most of the script for the nineteen-seventies has already been written—by gluttonous increases in U.S. consumption—and not by the new uncertainties about Arab oil supplies. Consequently, we cannot come to grips with the real issues until we first face the urgent need to make drastic changes in our energy economy.

The illusions that are paralyzing bold action are these:

Illusion one is the misconception that the crisis is a "temporary emergency." The crunch is, in fact, a deepening long-term impasse that is certain to escalate and send back shock waves through our economy for at least a decade.

Illusion two is the misconception that we have "reserve" resources which can bail us out in the near term. The hard truth is that for the last five years U.S. consumption has increased much faster than production. All of the energy industries need six- to ten-year "lead times" to produce big results—and these lead times have already been irretrievably lost. The President grossly misled the American people on this point: there is no way we can become energy-sufficient by 1980.

Illusion three is the presupposition that the U.S. is so rich and powerful (and so capable of pulling off quickie "technological miracles") that any serious long-term "energy gap" is unthinkable. Yet the unthinkable has already happened, as a cocksure nation has allowed gargantuan shortages to develop. The hard reality is that the era of abundant, cheap oil has ended—and there have never been any short-cut substitutes in sight for this versatile commodity.

Illusion four is the misconception that radical, mandatory conservation measures are not necessary. Despite the ominous indicators, until this month the Nixon winter conservation program has been largely hortatory. The sooner mandatory across-the-board rationing and waste elimination programs are imposed the better. Our energy economy is bloated and profligate. At least one-third of the energy we use is wasted.

Illusion five is the assumption that the U.S. oil depletion policy is still sound. Depletion was probably wise several decades ago when oil was an infant industry. Now that U.S. oil production has peaked and begun its long decline, rigorous conservation must become our new oil policy.

Illusion six is the wishful thinking that the Arabs would not dare to use their "oil weapon" against us. Events have rudely shattered this mirage. The oil weapon has a sharp edge, and the Arab oilmen are wielding it with relentless skill. From now on they will call the tune for the global oil game.

In a moment of exasperation a few weeks ago, Treasury Secretary George Shultz asserted that we would have to crank up a "crash plan" to develop our own resources (Illusion Two) to "cool the swagger of the Arab nations." Yet it is we who are the swaggerers—and the energy pigs as well. We are consuming nearly one-third of the world's petroleum even though we have only a dwindling 9 per cent of the world's oil reserves. This is the situation that sets the stage for a painful, overdue comeuppance.

We have ridden our illusions of omnipotence into a long-term impasse. The crunch this winter is but a preview of things to come. The President must stop pretending there are easy, painless solutions. Billions and bold changes in our policies are needed to build excellent public transportation, to legislate a 25-miles-per-gallon compact car, to squeeze out the scandalous waste in industrial energy uses and to force individuals to make permanent changes in their life-styles.

The oil companies (with the President acting as their echo) have led us into a cul de sac that is bound to cripple our economy. Their fatuous slogan, "A nation that runs on oil can't afford to run short," reveals their disastrous philosophy. The energy conservation imperative now dictates a new credo: "A nation that is running out of oil must stretch its supplies as far as it can." From here on, the making of a national energy policy is too important to be left to the oilmen.

SITUATION IN SOUTH VIETNAM

Mr. BROOKE. Mr. President, in the past year I have, on several occasions, called attention to North Vietnamese refusal to abide by both the letter and the spirit of several of the provisions of the Paris peace agreements. Massive movement of men and materiel into South Vietnam, as well as refusal to cooperate with U.S. officials in determining the fate of our MIA's, are two examples that come to mind.

While recognizing Hanoi's intransigency, I have not been blind to the fact that the South Vietnamese Government has proved equally unwilling to take the risks necessary to see if some form of political competition can replace the present violence. President Thieu has apparently been more interested in consolidating his own power than effectively coming to grips with the need to seek reconcilation within his country before economic collapse leads to its complete disintegration. In this regard, the recent legislative manipulations allowing President Thieu to serve a third term in office are particularly alarming. In insisting upon a third term, he exhibited a lack of sensitivity to the feelings and views of both intellectuals and moderate politicians who could serve to bridge the gulf of suspicion and hatred separating the belligerents.

Neither side in Vietnam feels any great compulsion to abide by the terms of the peace agreement. Each appears to be searching for the proper balance of military and political coercion that will optimize control over territory and people and create conditions suitable for an eventual triumph of one side over the other. This syndrome of violence and counterviolence is the determinate factor in the situation. Whether or not the United States, by leverage provided by its military and economic aid and/or by diplomatic initiative can influence the relevant parties to alter or break this syndrome, is the crucial question that must be addressed during this session's debate on the Indochina issue.

Mr. President, I ask unanimous consent that the article from the Christian Science Monitor, January 29, 1974, entitled "Thieu Legalizes Stay in Power," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OPPOSITION INFURIATED BY SWIFT ASSEMBLY VOTE: THIEU LEGALIZES STAY IN POWER

(By Daniel Southerland)

SAIGON.—Hardly anyone outside paid attention when President Nguyen Van Thieu's supporters in the National Assembly in Saigon recently rammed through a bill giving Mr. Thieu an almost certain third term in office.

Opposition Senators and Deputies hurled ashtrays and teacups and turned over chairs after the vote. But outside the meeting hall, apathy reigned.

For one thing, the vote came as no surprise. It had long been accepted that Mr.

Thieu intended to stay in power beyond the expiration of his current term.

And thanks to inflation and growing unemployment, most Saigonese are too hard-pressed at the moment to pay much attention to political happenings or the activities of those whom they refer to contemptuously as the "big men."

To ensure the least stir possible, his legislative supporters timed the vote—amending the Constitution to give Mr. Thieu a possible five-year extension in power—to come just before the lunar New Year holiday. It caught most Vietnamese busily preparing for the celebration.

PARIS GUIDELINES IGNORED

The Paris peace agreement signed just a year ago sets down rough guidelines for a political settlement in South Vietnam which would include elections—organized by a new National Council and "under international supervision."

But it has been clear from the start that Mr. Thieu intended to ignore these guidelines and to continue following the plans for consolidating his own control which were formulated well before the agreement was signed. The new measure enabling him to remain in office under an election organized by his own government merely confirmed this.

Many of his opponents among Saigon politicians and intellectuals consider Mr. Thieu a vulgar and ill-educated military man. His attitude toward most of them is equally disdainful.

Throughout the years, his men have bought off those who could be bought off, arrested those who seemed to be moving too close to the Communist-led National Liberation Front, and merely harassed those whose arrest or continued detention might have caused too much of a stir in the U.S. press and Congress.

OPPOSITION FRAGMENTED

This mixture of disdain, intimidation, harassment, and payoffs has helped perpetuate splits in the non-Communist opposition.

It has left many politicians feeling helpless to do anything. They feel impotent, they say, as long as the United States continues to support Mr. Thieu.

Their hopes of somehow coalescing as a "third force" under the terms of the peace agreement have all but vanished.

Some of the politicians saw a possible role for themselves in the National Council of Reconciliation and Concord called for in the agreement. This is the council which was supposed to organize general elections, and would have consisted of three equal segments—including representatives from Mr. Thieu's Republic of Vietnam (RVN), the Communist-led Provisional Revolutionary Government (PRG), and a third neutral segment or "third force."

But Mr. Thieu is not interested in sharing power with politicians, intellectuals, and professional men who see themselves as a potential third force and who might favor a more reconciliatory policy toward the PRG.

ECONOMY IN TROUBLE

Mr. Thieu's real preoccupations, however, are not with the Saigon politicians and intellectuals or the details of the peace agreement. He has his hands full at the moment trying to cope with a deteriorating economic situation.

The American military withdrawal cost the South Vietnamese many jobs and several million U.S. dollars in military spending. With a low-level war persisting, local and foreign investors are reluctant to commit any money to the economy.

In recent months, reports of malnutrition have begun to come in from the northern part of South Vietnam. In the cities, there are widely believed stories of suicides in families which could no longer make ends meet. A U.S. aid index shows general price increases averaging a staggering 60 percent over the past year. The worldwide oil crisis has greatly intensified the price squeeze.

American officials are delighted that none of this has resulted in riots or any other form of open disturbances. But it has resulted in what one official described as "a form of deterioration in government services and the fabric of society."

RURAL STRENGTH DECEIVING?

Because he is still at war, Mr. Thieu has rejected suggestions that he demobilize some of his troops. This means that most of his expenditures have to go toward maintaining his Army, thus perpetuating huge budget deficits. And an Army fighting a war with American-style artillery and air support can be an expensive one indeed.

On the surface, Mr. Thieu's position in the countryside looks as strong as ever. But in some rural areas, accommodations encouraged by the Communists have undermined his efforts to "eradicate" National Liberation Front cadres.

In areas contested by both sides, his Army is not taking advantage of the lower level of combat to win any hearts and minds. If anything, the Army is looting more than ever because of the economic squeeze.

Mr. Thieu is going forward with plans to strengthen the powers of his province chiefs, who are all military men, while weakening the grip of the cumbersome civilian bureaucracy. This, he thinks, will streamline the administration.

But in the end, all of Mr. Thieu's administrative changes and political party organizing are likely to matter much less than the impact of the country's current economic decline.

REFRESHING THE NASA CHARTER

Mr. MAGNUSON. Mr. President, on September 26 and 27, 1973, the Senate Aeronautical and Space Sciences Committee under the chairmanship of my distinguished colleague, Senator Moss, conducted hearings on the state of the aerospace industry.

During these hearings, I introduced S. 2495, for myself, Senator Moss, and Senator Tunney, to provide for the more effective utilization of the scientific and technological resources of the United States in the solution of critical domestic problems. S. 2495 responded to testimony from witness after witness proving that not only have our scientists, engineers, and technicians passed the critical test of outer space, but also they have proven their capability of applying technology to problems in our daily lives.

Mr. Daniel J. Fink, who is the president of the American Institute of Aeronautics and Astronautics for 1974, testified during the hearings. I would like to commend to my colleagues his article in the December 1973 issue of Astronautics and Aeronautics. In this article he reviews the substance of his testimony.

Mr. President, I ask unanimous consent to have the article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Refreshing the NASA Charter

(By Daniel J. Fink)

Recently I appeared before the Senate Committee on Aeronautical and Space Sciences to try to answer questions posed by its distinguished chairman, Senator Frank E. Moss. The questions concerned the aerospace goals set by Congress, government-industry roles, and international competition and cooperation. I would like to share my reflections with you.

You may have joined me in carefully rereading the Space Act of 1958. I finished that reading with a renewed respect for the legislators who drafted this wide-ranging, forward-looking document which has guided us through an era of unprecedented achievements. There is no need for me to enumerate these achievements because we are all familiar with them, but merely to say that the goals of the Act have been realized to a degree that its framers could hardly have hoped for, and that the Act deserves characterization as a singularly appropriate response to the challenge of its time.

The nation can take pride in the agencies that managed the pursuit of these objectives so conscientiously, the industry that carried out demanding aerospace tasks, and the Congress which showed such leadership and wisdom in drawing up the Act.

Nevertheless, as Chairman Moss has pointed out, recent years have brought some tendencies which warrant serious attention. Program terminations and budget reductions have caused massive layoffs and dislocations of highly skilled people; foreign competition threatens our leadership position; the flow of tangible benefits from space technology may not be as rapid as some may have wished; and public enthusiasm for space utilization has waned as familiarity has made even the most dramatic achievements seem almost commonplace. So perhaps it is time for stock-taking, time to renew our perspective.

I would contend that our very success is in part the source of our problem, and perhaps recognition of this success should be reflected in amended goals set by the Congress. A good way to begin is to recreate the environment of 1958 to discover why the Act was framed in the manner it was. I believe two points are most pertinent.

First, we knew there was great potential in space that could benefit mankind, but our crystal ball could not possibly give us the specifics. Thus the Act makes reference to "the expansion of human knowledge" and calls for "long-range studies of the potential benefits." Only the potential military applications of space research were recognized sufficently to call for appropriate cooperation and technology transfer between the DOD and the new civilian space agency.

Second, we had little knowledge of the tools that would be required to venture out and operate in space. So the most specific goals in the Act refer to performance measures and development of space vehicles, instruments, and equipment that would have to serve as the working tools for the investigative process, no less towards meeting any new-found applications.

By 1973 we had attained or surpassed all of the objectives set forth in the Act. We had developed vehicles which operated responsively and reliably in space, put instrumentation, men and life-support systems into them, and used them successfully for the broad investigative and experimental objectives of the Act.

Even more important, we developed space systems that have been directly applied or show clear promise of being applied to endeavors here on Earth—communicating with our neighbors, near and far, predicting the weather, surveying crops and the oceans, monitoring the environment, precisely navigating ships and aircraft, and a myriad of other down-to-Earth occupations.

The question I would now raise is this: Had we known the speed and efficacy with which these space applications would be uncovered, would not the Space Act have made more specific reference to them and to the agencies involved in their development and application to our earthbound problems?

Let's look for a minute at applications which have become truly operational to see if they offer any lessons.

First, as to potential military applications recognized in the 1958 Act, without question operational military space systems have contributed and will continue to contribute to our national security. And this will occur despite occasionally voiced concerns about duplication of effort. Duplication has been minimal because of the scrunity of the Congress and the cooperation of the agencies involved following the guidelines set forth in the Space Act.

Second, the most visible success in space, satellites, have taken a strong position in long-haul communications all across our globe. What was the avenue of success here? Again, it was necessary for Congress to step in to achieve the full benefit of NASA-developed technology, through the appropriate legislation, the Communications Satellite Act of 1962. Technical progress has been so rapid in recent years that the government regulatory processes have now cleared the way for further exploitation by private industry in domestic satellite communications. It is difficult to see how this progress could have been made without the foresighted enabling legislation.

Our meteorological satellite program represents a third successful operational application, one implemented quite differently from the previous two. Here we have an example of an aggressive NASA development program creating a viable weather data-gathering system, now being routinely applied by the National Oceanic and Atmospheric Administration (NOAA). The transfer from NASA to NOAA was managed through an interagency agreement carefully, if sometimes painfully, worked out over a period of time. We have the happy result of these two agencies meshing their unique capabilities in a manner that virtually assures us of continued progress.

What will be the future of new space-application efforts? Will they make the expeditious transition from NASA-developed technology to operational use? I do not see a smooth road ahead; I see budgetary and institutional bumps. And I hope the Congress will smooth these out of the 1958 Space Act that will recognize the tremendous potential to our citizenry of space-system applications, their expedient realization.

The Congress could act in several ways:

1. Specify legislation for each application, in the manner of the Communications Satellite Act. But this could prove a time-consuming burden on Congress, if the applications are as numerous as we predict.

2. Give other government agencies the same recognition that DOD now has, to encourage them to do space-oriented R&D as well as to implement operational programs. But none of the other agencies has the technical base that DOD has developed, and to staff them up to meet new responsibilities would involve duplication of effort and enormous cost.

3. Give NASA responsibility to bring application programs to quasi-operational status matched to the capabilities of the user. I favor this option. It would encourage the using agencies to make best use of NASA's capabilities, with a division of responsibilities similar to what now prevails in the meteorological satellite program.

I would like to turn now to NASA's relationships with one of its working partners in space ventures—the aerospace contractors who support it. Early in its life, NASA recruited competent engineers and scientists to solve the problems of surviving and functioning in space. They led much of the research in power, communications, attitude control, thermal balance, guidance, human factors, and other essential technology.

Now that these space techniques have been in good part mastered, NASA's emphasis should shift to mission management and the science and applications technologies, allowing industry to assume fuller responsibility for subsystem design and development. This division of effort would assure optimum utilization of talent at every level in a strong partnership.

Congress could also maximize the return from our investment in the space-related sciences by chartering NASA to design and manage a broad-based, *goal*-oriented science program. NASA has already provided most of the capability in lunar, planetary, and astronomical hardware. We had a phenomenally successful Apollo moonship program, but we have no continuing lunar-science program. Similar statements could be made regarding other projects. We often have a series of spacecraft programs with catchy titles but miss the long-term commitment that one needs to develop the scientific information base that is being sought. This mission orientation could be embodied in the expressed goals of the Space Act.

Let me turn now to the third area of major concern, international cooperation and competition in space. I would like to point out how closely these are tied to what seem to be purely domestic policies.

As Chairman Moss has noted, competition in space is a fact of life about which we have little choice. The developed nations and their industries inexorably increase their efforts in the space arena. We do have a choice, however, about cooperation in space. From discussions with my colleagues, I know that most of us favor international cooperative space ventures so long as they are backed by an aggressive research and development (R&D) program of our own. We only fear cooperation when we give away our technology with nothing coming in to fill the pipelines.

We are not comforted, for instance, by the recent decision to remove NASA from communication satellite R&D, on the assumption that industry and common carriers are now ready to take on the full burden of R&D, with no further government stimulus. This seems to us to be an illusion, fostered by the phenomenal success of these operational systems. What is forgotten is that in the early 1960s NASA went into flight hardware with multiple approaches to the problem—notably the Echo passive reflectors, the Relay low-altitude repeater, and Syncom. Commercial exploitation was rapid only because this relatively expensive three-way evaluation, paid for by NASA, reduced the technical risk to an acceptable level. Thus U.S. companies gained viable footholds in international markets. Similarly, NASA exploratory flights of competitive technologies advanced operational systems throughout the late 1960s and well into this decade.

Now, however, Canadian, Japanese, and European organizations, with heavy government backing, have technical capability approaching ours and are willing to take high risks. In this environment, can we expect a U.S. publicly-owned company to risk $50-100 million for R&D in the arena of direct-broadcast satellites (or other, more distant capabilities) on which the payoff may not come for 10 years?

More likely, we shall see programs sponsored by foreign governments, and not U.S private industry, take the R&D leads. As a byproduct, leadership in new technology could pass from this nation by the end of *this* decade, because technology will move forward whether we choose to move with it or not. If NASA 10 years ago had been subjected to today's pressures for quick commercialization, I doubt that either the communications or meteorological satellites would have reached their present advanced state of development.

So I ask: Do we see here a loss of perspective in determining the most efficient way to remain viable in a highly competitive international marketplace. NASA has shown great resourcefulness in assuming the front-end risks in the communication-satellite field, leaving commercial companies and common carriers free to devote maximum resources to competition in the services and markets they know best. In communication satellites, we may have seen the end of this productive relationship.

We know that foreign companies have high capabilities also in the technologies for environmental, meteorological, and Earth-resource satellites. We can expect them to be highly competitive in these fields. If the U.S. charter for continuing R&D in these areas, covering cost and risk burdens, passes too quickly from NASA to user hands, the U.S. could lose its competitive position. With it would go most of the basic R&D investment which NASA alone was willing and able to make during the costly gestation period.

In summary, I think our posture in aerospace policy can be summed up rather simply. For 15 years, NASA has done an admirable job as *implementor*, the do-it agency that designs and executes programs of wide national interest, Apollo being the most obvious, but space segments of the application programs and the space-science events being equally important. NASA also served as a *facilitator*, providing a technical base for the use and participation of other organizations in space activities. NASA should continue to do both—as it has done, for example, with the ERTS satellite—developing the hardware and managing the program for all the users who wish to avail themselves of it. Its role in the space-shuttle program should be a step toward a *primary charter* to bring the benefits of space directly to the largest possible segment of the public; but this will require new policies embodying legal, financial, and administrative tools for much more positively encouraging widespread beneficial use by government and commercial users.

NASA will fill these roles best if it is given clearly defined responsibilities in nurturing space applications until they reach the most efficient handover point; if it is directed toward system integration and management rather than subsystem engineering and design; if it becomes the executive agency for an integrated space-science program; if it maintains its role as the advanced space-systems application-technology house for all users; and if it remains the active working partner of the aerospace industry in all programs, domestic or international, cooperative or competitive.

Fifteen years ago, we sent our NASA-Industry team out into strange and hostile territory with a rather vague mandate to investigate, observe, and develop. By applying imagination and flexibility, it fulfilled this mandate better than anyone had any right to expect, and in so doing it changed forever our perspective on our planet and on ourselves.

Today we need the same imagination and flexibility to apply what we have learned to the betterment of the human condition all over the globe. We think the same NASA-Industry team, operating in the same productive relationship, can do this job if it is once more given the right mandate.

MIA'S

Mr. PACKWOOD. Mr. President, somewhere in Indochina, Robert Brett and Ron Dodge may be alive.

These military men are among the almost 1,300 Americans listed as missing in action. They may be alive but, up to this point, all efforts to discover what has become of them—and the other MIA's—have been stymied by an almost total lack of cooperation on the part of the North Vietnamese and the Vietcong. Our continuing hope for any knowledge of the MIA's rests in their hands.

1st Lt. Robert A. Brett, Jr., of Klamath Falls, Oreg., took off from a base in Thailand the evening of September 28, 1972, on a strike mission over North Vietnam. He maintained the scheduled radio silence after crossing the Thailand-Laos border and has not been heard from since. When an intensive search of the area yielded no trace of Lieutenant Brett or his F-111A, he was officially classified as missing in action.

The story of Lt. Comdr. Ron Dodge is a particularly unsettling one. We know that Lieutenant Commander Dodge, who attended college in Oregon, was captured alive. A photo of Dodge, in prisoner pajamas, was on the cover of Paris-Match. Still, he was not returned last spring with the other POW's, nor was he mentioned on any of the prisoner lists exchanged at that time.

Like 57 other men, we have seemingly conclusive proof of Dodge's survival and capture. And, yet, the North Vietnamese have never acknowledged this proof, some of which was gathered from their own propaganda. The lists of prisoners of war repatriated to this country and those of the POW's who died in captivity, released by the DRV last spring, only further confuse and obscure the fate of these 58 men. The path of each life seems to stop with capture by the North Vietnamese.

The specific case of Lt. Comdr. Ron Dodge has been introduced at least three times in negotiating sessions. In each instance, it was mechanically routed to their "channels" for further information. This has been the routine response to all American requests for an explanation of the existing discrepancies and, to date, their "channels" have yielded nothing.

Last Sunday marked the first anniversary of the signing of the Paris peace agreement. In that document, specific provision was made for accounting for those men listed as missing in action:

> The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action.

Immediately, the teams of experts were readied to begin the long and arduous task of piecing together the fates of these men. But, over the last year, we have learned that the cooperation promised in the Paris Peace Agreement has fallen far short of even the most skeptical of estimates.

The North Vietnamese and Vietcong representatives have refused to release any information they have and, with the exception of two trips to Hanoi to view the gravesites of those POWs who died in captivity, our investigators have not been permitted to enter their territory to search for crash sites. Over 95 percent of the crash and combat sites to be inspected lie in areas under Communist control.

Further, Mr. President, on December 15, 1973, one team of investigators was ambushed south of Saigon. An American Army Captain and a Vietnamese pilot were killed and several others injured. These men were unarmed. They were wearing uniforms obviously marked to show that they were part of the Joint Casualty Resolution Center's field operation and the vehicles in which they were traveling were similarly marked. Both the North Vietnamese and Viet Cong officials had been previously notified that the team would be at that location and they were invited to send representatives along with the team. There can have been no mistake about the identity of the investigators or the reason for their being there. The attack on them was unprovoked and they were unable to protect themselves. Mr. President, that is murder. It is intolerable and indefensible.

I think that most people will agree that we have asked the members of the Joint Casualty Resolution Center to perform a Herculean feat and I have no doubt of their dedication and commitment to its accomplishment. The search for the MIAs will go on, despite the frustrations and adversities encountered thus far. But, it is for us to continue to press the North Vietnamese and the Vietcong to cooperate in this humanitarian effort. We must not let them slowly numb our hopes with their cold silence. We must persevere. We must urge them to honor the commitments they made in Paris. Lt. Col. (Ret.) Robert Brett and his wife want to know about their son, Lt. Comdr. Ron Dodge's family and friends want to know about him. I want to know too.

DISINTEGRATION OF THE TWO-PARTY SYSTEM

Mr. McGEE. Mr. President, we stand on the verge of a complete disintegration of the two-party system in this Nation. What is particularly disturbing about this course of events is the apparent lack of concern exhibited over the implications of this development.

In both domestic and international terms, we just cannot afford a fragmentation of our political processes. Such a development could not come at a less propitious time in light of the responsibilities which have fallen on our shoulders over the course of the last 25 years. At a time when the international community is looking more and more to this Nation for leadership in dealing with innumerable crises shaking the globe, it ill-behooves us to destroy the very basis of our stability and continuity. The United States, in its unique international leadership role, is constantly being challenged to deal with monolithic states and nations with varying degrees of political diversity and stability, on a day-to-day basis. Stability and certainty are the necessary ingredients to meeting this challenge.

On the domestic scene, we should heed the lessons of such parliamentary systems of Europe as France and Italy, for example. Governments rise and fall for need of consensus when consensus is required for a change in direction of domestic or international policy. It has been impossible, on many occasions, for these governments to achieve the necessary political consensus during times of crises which have resulted in worsening conditions. These systems experience increasing difficulties in forging a stable and workable policy, whether it be on the domestic or international fronts. They rely more on the personality of their leadership, rather than on the smooth functioning of a system of government.

My point is that both parties have room for a diversity of political thought. The political party serves as the tool for hammering out a consensus from this diversity. It does not require a party for every political philosophy or belief, in hopes that a consensus is achieved at some later stage of the game. Rather than achieving a more effective assault on our problems, we only increase our inability to deal with these problems.

In this connection, it is vitally important that we have a strong two-party system, not just a strong Democratic Party or a strong Republican Party. A weakening of either party only weakens the entire system. As we strive for a strengthening of the two-party system, we must also restore integrity to the office of the Presidency now crippled into near impotence by the Watergate scandals. This integrity must be restored both in the eyes of the Nation and in the eyes of the world. The present situation dangerously weakens the delicate balance of power between the executive and legislative branches of Government, which impedes our efforts to meet domestic problems, and is detrimental to our ability to conduct relations with other nations effectively when so much uncertainty surrounds the Presidency.

What is happening in this country is very serious. We are fast losing our leadership capabilities, our stability, our continuity. The world cannot tolerate the vagaries of a destruction of the two-party system in the United States. On the other hand, our citizens cannot cope with a worsening domestic situation if we disintegrate into the chaos of multiplicity of political groups feebly searching for a handle to these problems.

While all of us can cite many failures and weaknesses in the two-party system, our viability as a Nation has been maintained because of the strengths of such a system.

David Broder, in a column appearing in yesterday's Washington Post, addressed himself to the problem posed by a breakup of our political parties. I think his observations are particularly noteworthy and should force us to reexamine how we view the two-party system in this Nation.

I ask unanimous consent that Mr. Broder's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Breaking Up Political Parties

(By David S. Broder)

"It is common knowledge that in modern day political life in the United States, the individual voter in large part is not wed to any political party."

That down-to-earth comment on the growing independence and ticket-splitting proclivity of American voters comes not from a politician or a journalist or a political scientist but from a federal district judge, ruling, of all things, on the makeup of a political party convention.

It was cited by Judge William B. Jones on Jan. 11 as the grounds for rejecting part of the Ripon Society's lawsuit against the 1976 delegate apportionment formula. And it scared the dickens out of at least one Democrat, William B. Welch.

Welch is the former research director of the Democratic National Committee, now chief political operative for the American Federation of State, County and Municipal Employees (AFL–CIO). He is trying to raise the alarm that the two-party system, already reeling, may soon be demolished by the courts and by Congress.

Welch's argument is essentially this: The only real power that the national parties have is to determine who has access to, and the right to participate in, their national conventions and the selection of the presidential candidates. If that power is taken over by the courts and Congress, the effect is likely to be the speedy disintegration of the national parties.

This is no idle threat. In 1973, the Senate passed one bill declaring that national conventions may not begin earlier than the third Monday in August—a date many party officials, unconsulted by the lawmakers, consider unrealistically late.

It passed another bill prescribing how much money candidates may spend in seeking the presidential nomination and providing part of that sum from Treasury funds.

Welch fears that those measures are only the tip of the camel's nose, hinting a complete federal takeover of the presidential nominating and election process. He notes, for example, that there is increasing interest in proposals for national legislation to regulate the times and places where presidential primaries are held, or to abolish the convention system entirely in favor of a presidential primary.

All these measures reveal an antiparty bias that could quickly undercut the efforts both parties have made in recent years to develop and enforce "party law" that satisfies the constitutional requirements while preserving the party's own role in the nominating process.

The Democratic Party, for example, has ordered that henceforth only Democrats will be allowed to participate in primaries choosing delegates to the Democratic convention—an essential requirement for a responsible party system. But will the courts allow that rule to stand against state "open primary" laws? Will Congress permit the "disenfranchisement" of thousands of independents?

One cannot be optimistic about the prospect. An Illinois judge sowed mischief in 1972 by opening that state's primary to crossover votes on the eve of the balloting. Judge Jones, in the ruling cited earlier, discarded the contention that bonus delegates at the Republican convention should reflect Republican voting strength, on the grounds that it might be unfair to "the political independent who disavows affiliation with any political party."

There is nothing unprecedented, of course, about judicial review of certain aspects of internal party affairs. The courts ruled out the "white primary" long ago and have several times tested convention delegate apportionment plans against the standards of the equal protection clause.

But there is a danger—on both legislative and judicial fronts—that in today's antiparty climate, increasing intervention by the courts and Congress will come at the expense of the already weakened party structures.

Welch's conclusion is that the parties have little time left in which to strengthen their own codes of operation and to draft rules which meet the relevant constitutional standards without sacrificing the needed degree of internal party discipline.

The question, he argues, is not whether there will be codes written for the nominating process; there will. The question is whether these reforms will be prescribed by party people interested in preserving and strengthening the parties, or by legislators and judges who then share the popular antiparty bias.

Will the Democratic Party's charter commission and the Democratic National Committee write rules this year that will protect the integrity of the convention nominating system, or will Senate Democratic Leader Mike Mansfield and his allies succeed in legislating a national primary law?

Will the Republican Party committee taking up the question of vice presidential selection this week find a way to avoid new Agnew cases, or will Senate Republican Whip Robert P. Griffin and his supporters succeed in taking the vice presidential choice away from the party altogether, and substituting a post-election choice by the President-elect and Congress?

"This may be the last real chance to salvage a two-party system," Welch says. And he does not exaggerate.

TEST FLIGHT OF THE MINUTEMAN II

Mr. PACKWOOD. Mr. President, in December of 1973, the Air Force announced that it would seek the approval of Congress to test fly the Minuteman II Missile from two of its operational base sites. As presently projected, the test would involve the launching of two missiles during each of the winters of 1974–75 and 1975–76.

Many Oregonians have expressed special concern about this proposal because the path of the missile—if shot from Malmstrom AFB in Montana—would cut diagonally across the State from the northeastern corner to the southwestern corner. I have been briefed by the Air Force on the Giant Patriot project and I have determined to withhold final judgment on it until I have seen the environmental impact statement and the results of the hazard and feasibility studies.

However, I believe that, in addition to the concerns of those people in the States beneath the flight pattern of the missile, there are legitimate questions we should all be asking about the proposal. In an article on the editorial page of yesterday's New York Times, Alton H. Quanbeck, a retired Air Force Colonel, and Barry M. Blechman, both senior fellows at the Brookings Institution, explored some of the potential risks of the project in light of the anticipated gains. I think their treatment of the matter is worthy of my colleagues' attention and I ask unanimous consent that the text of the article, "Risks of Missile Tests in the Pacific Northwest," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 30, 1974]

Risks of Missile Tests in the Pacific Northwest

(By Alton H. Quanbeck and Barry M. Blechman)

Washington.—The Air Force has long wanted to test-launch Minuteman intercontinental ballistic missiles from operational silos. Under its plan the missiles would be fired from Malmstrom Air Force Base in Montana, pass some 350 miles above parts of five states in the Pacific Northwest, and land 5,000 miles away at Canton Island, southwest of Hawaii.

Early in the Nixon Administration, the former Secretary of Defense, Melvin R. Laird, shelved the proposed experiment quietly, despite intense pressure from the military. Widely known for his political sensibilities, Mr. Laird presumably recognized that the benefits of such tests were not commensurate with the danger to lives and property and the other risks that they implied.

But such proposals do not die easily. In December, the Defense Department announced that it planned to ask Congress to approve four operational test flights during the next fiscal year. The missile's nuclear warhead would be removed, of course, and replaced with test instruments and conventional explosives to destroy the missile during flight should it veer off course.

If the launch were successful, the spent first stage and four other large pieces of debris would fall on sparsely populated sections of Idaho, and the rest of the missile would fall into the Pacific.

The announcement offered assurances that the dangers were minimal. It also indicated that additional tests, possibly from different missile bases, were planned in future years.

The ostensible purposes of these tests would be to demontrate Minuteman's reliability, to provide data not obtainable at normal test facilities, and to train combat crews under more realistic conditions than usual.

But in our view, launches from operational bases would provide only marginal benefits in these respects, if any, as compared with the usual test program. Minuteman missiles originating at Vandenberg Air Force Base on the California coast have been tested hundreds of times on the western test range. For these flights, missiles are selected at random from the 1,000 Minuteman silos. The missiles and crewmen are flown to California and installed in launching facilities almost identical to their operational sites, the only difference being protection in the silo against the intense heat generated by the rocket motor and replacement of the nuclear warhead by a test package.

The missiles have then been launched in a simulated operational environment and followed through flight by radar and radio telemetry. Minuteman has performed very well in reliability and accuracy during this series of tests.

What then would the launches from Montana add to this procedure? Very little. The missiles still must be removed from their silos. The nuclear warhead would be replaced by a test package and the silo would be fireproofed so that expensive electronic equipment was not destroyed. Most of this work would be performed by civilian contractors. Certainly, the publicity that would attend these tests and the extensive safety precautions that would be undertaken would not lead to a more realistic combat simulation.

The data provided by tests on this new course could not possibly match that elicited from firings on the heavily instrumented western test range. And four launches under these conditions hardly can add to already extensive data on Minuteman's performance and reliability. Basically, what would be proved was that a missile could be launched from Montana as well as from California.

As against these minimal benefits one must weigh certain costs and risks. First is the cost—$26.9 million to prepare the silos, provide instrumentation and make other preparations. Second, there would be some danger to lives and property. If all went well, the site of probable damage would be in national forests, and the danger, that of forest fire, would likely be small. If something went wrong, however, the risks would be far more serious.

If the missile appeared to be going off course within the first minutes of flight, the booster, which essentially is a container of high explosives, would be destroyed. In such an eventuality, pieces of the missile and explosive propellant would be scattered over a wide area. And even though the probability of personal injury was still low, the repercussions for domestic attitudes toward the military, should any of this debris land near populated areas, in a schoolyard, for example, would be severe.

In addition, there would be some chance that the missile would veer off course and not be destroyed. In the past United States missiles have crashed in Mexico and Brazil during tests.

The third and most important risk concerns the effects of a series of failures in the tests. In the mid-nineteen-sixties, Minuteman missiles were launched from silos in North and South Dakota. The top two stages of these missiles were inert; they were expected only to fly for seven seconds and land within a few thousand feet of their silos. But the program ended in disgrace after several successive failures.

A similar experience in the new test program would erode United States confidence in, and reduce Soviet respect for, the United States nuclear deterrent. Because of the high success rate in the normal test program, the reliability of Minuteman presently is not questioned either here or in the Soviet Union. And thus there is nothing to be gained in this regard by four successes.

We conclude therefore that the proposed test program is a poor gamble: The nation would be accepting serious risks for minimal gains. Fortunately, the project requires the approval of the Congress, and while Defense Department spokesmen are optimistic regarding its chances, the early announcement indicates that the proposal is more of a trial balloon than a serious initiative at this point.

Governors Tom McCall of Oregon and Cecil D. Andrus of Idaho already have indicated their opposition to the plan. Other interested parties would do well to consider carefully the trade between risks and gains before determining their own positions.

MEETING THE NEEDS OF SPACESHIP EARTH

Mr. MAGNUSON. Mr. President, on September 27, 1973, I introduced S. 2495, a bill to provide for the more effective utilization of the scientific and technological resources of the United States in the solution of critical domestic problems. S. 2495 was introduced for myself, Senator Moss and Senator Tunney because our achievements in space have demonstrated, beyond any doubt, this Nation's capability for marshaling its scientists, its technicians, its managers, its private industry, and its government into a single problem-solving team. The legislation I introduced would build on that model and the knowledge our space program has produced to attack the technological problems we face in our everyday lives—the problems of illness, transportation, safety, housing, pollution, the energy crisis, and many others.

On January 30, my colleague, Senator Moss, spoke before the annual banquet of the American Institute of Aeronautics and Astronautics and clearly presented the case for S. 2495. The remarks of Senator Moss entitled "Meeting the Needs of Spaceship Earth" are of such significance to American scientists and engineers that I request unanimous consent that they be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Meeting the Needs of Spaceship Earth

(By Senator Frank E. Moss)

It is certainly a great honor and a real pleasure for me to be asked to speak tonight. As you know, just this month, I completed my "rookie year" of official connection with aeronautics and space, and here I am speaking to an illustrious assembly of all stars.

I firmly believe we can all take great pride, and even a modestly optimistic stance, in view of the accomplishments of the past year and the hopes for the months immediately ahead.

I'll list just a few—

Skylab was, and is, a fantastic success.

ERTS–1 is proving even more valuable than its strongest boosters predicted, and the launch of ERTS–B will now be nearly 2 years earlier than announced a year ago.

We've looked at Jupiter up close for the first time, and can now have high hopes for the second Pioneer visit late this year.

In a few days we'll fly by Venus again, and then proceed on toward our first visit to Mercury a few weeks later.

The NASA launch rate will double this year, and the long-heralded age of space applications will become a reality with ATS–F, with the first domestic communications satellites, and with synchronous environmental satellites very much in the forefront.

The shuttle program *is* gaining real momentum, despite repeated delays, and though we may not match the record-breaking support in the Senate last year. I believe we're firmly underway.

And finally, and most important, when the NASA budget is unveiled next Monday, it will show a reversal in the dismal downward plunge of recent years. It will not be as high as the level we all worked so hard to attain, but it will represent a modest step back up the ladder toward realistic, stable levels.

Each of you here tonight could add to this list. I have not mentioned progress in aeronautics, or NASA energy efforts, or Apollo-Soyuz, or many other important signs of vitality in aeronautics and astronautics.

The hour is late, and without keeping you overlong, I want to spend a few minutes on a specific subject dear to my heart and important to all of you.

An author always gets in a plug for his latest book. As a Senator, I cannot resist this opportunity to promote a bill I believe you should support.

Let me start by summarizing three main points.

1. Our current drift toward becoming a "status quo" nation is not merely a threat to the employment security of scientists and engineers, it is a very real threat to the livelihood of every American.

2. As a nation, we must do a far better job of predicting the occurrence of critical domestic problems and providing the resources—often scientific and technological—to solve them.

3. Those who view NASA as an agency in search of a mission not only have the shoe on the wrong foot, they are dead wrong.

To take these three points one at a time, I'll begin with the dangers of what I'll call "creeping status-quoism." In recent years, we have seen a flurry of rebellions against rapid societal and technological change, and repeated calls for return to the "good old days," even though a wag tells us "nostalgia ain't what it used to be."

Perhaps in part because of these forces, and certainly in large measure because of well-warranted revulsion at some of our mistakes, there is I believe an increasing trend toward wanting to hold on to what we've got, to stay about where we are, in every important aspect of American life.

Increasingly, one sees our foreign policy referred to in the press as that of a "status quo" power. And perhaps that is what "balance of power" diplomacy is all about.

Other nations, which once marveled at "American ingenuity," seem increasingly more ready, willing and able than we to seize technological opportunity in every field from heavy machine tools to hand calculators, from internal combustion engines to high performance aircraft.

And in less tangible areas, opinion polls show that many of us feel our societal reforms are moving "too far, too fast."

Without getting too deeply immersed in national psychoanalysis, let me say that we need to remind ourselves of some basic truisms.

We cannot turn back the clock, or even stop its hands. No person, no society, and no nation has ever succeeded in standing pat for very long. Every person in this room knows of the great, perhaps almost fatal, mistake we made in the 1950's of assuming we would always far exceed the Russians in technological prowess. And we have learned in recent months how wrong those of us were who assumed, against all available evidence, an inexhaustible supply of cheap fossil fuel.

As Wernher von Braun testified before my Committee last Fall, and I quote, "World leadership and technological leadership are inseparable. A third-rate technological nation is a third-rate power, politically, economically and socially . . . Whether we like it or not, ours is a technological civilization. If we lose our national resolve to keep our position on the pinnacle of technology, the historical role of the United States can only go downhill."

I fully agree. Change is, after all, inevitable. And only those who move ahead of the bow wave of change will avoid being submerged in history.

Now to my second point. We must get to work to improve our ways and means of anticipating problems that science and technology can solve.

Here comes the plug I warned you about, so listen closely. In case I forget to mention it later, the number of the bill is S. 2495. It was introduced by Senator Magnuson, with Senator Tunney and me as cosponsors. My good friend Tiger Teague has introduced it in the House as H.R. 10807.

As I said, the Federal Government does an inadequate job of identifying in advance and moving to meet critical domestic problems.

However severe you may feel the energy crisis is today or will be in the years ahead, I believe you will agree with me that we should not be in our current status of considering hastily a plethora of emergency measures to cope with it.

It's not that no one saw what was coming. Even a casual review of the literature will surface numerous examples of warnings five, ten, even thirty years ago. In a peak of frustration in 1969, one industry association asked "Is anybody listening?"

Yes, the warning signals were clear, but there was no single Federal organization—

no centralized early warning system—to galvanize us into timely action. As David Rose suggests in this month's Scientific American, our present energy difficulties "were largely caused not by ignorance but by irresponsibility." I suggest that it is our responsibility now to better prepare for the next crisis.

For the energy crisis will not be our last crisis. In reality, the term "energy crisis" is a catchall phrase for many shortages and problems we face. Already we are being warned of a materials crisis looming on the horizon. And water, always short in my home state, threatens soon to become in short supply in other areas.

Just as we must work harder to sort out and predict these problems, we need to do a better job of planning the utilization of our vast national scientific and technological resources.

The ups and downs, the stops and starts, that have plagued Federal research and development efforts ever since we embarked on Federal support for R. & D. have created a continuing state of chaos and uncertainty. Facilities are built and closed, scientists and engineers are trained, employed and laid off, all with little apparent foresight.

I needn't remind you that a few short years ago we were simultaneously rushing headlong toward an energy crisis and laying off engineers and scientists by the thousands.

It is time for us to bring these two shortcomings—poor planning and poor use of resources—into focus together, to examine them, and to do something about them.

That's what S. 2495 is all about. The two versions of the bill we have sent to numerous organizations, including AIAA, for comment, have this primary thrust.

We want to establish within the Executive Branch of the Government an improved mechanism, an improved climate, and improved funding for making projections of critical domestic problems which may be susceptible to scientific and technological solutions in whole or in part. And we want to bring into that process careful consideration of the projected availability of the necessary scientific and technological resources to apply to those problems before they become of crisis proportion.

And that brings us to my final point.

We seem, so far as NASA is concerned, to be developing a national blind spot. There she sits, like the proverbial girl next door, while we roam around town looking for someone to work on technological problems.

No one here or abroad has developed a greater capability than NASA and its partners in industry and universities for defining problems, devising solutions, and demonstrating those solutions.

But we have a curious penchant to ignore this proven resource. This is not to say that NASA should be thrown into the fray every time a problem emerges.

There are many problems ahead that NASA is ill-equipped to solve. But where we need a systematic approach to a complex problem with high technological content, why should we studiously avoid our strongest asset?

Let me emphasize one point. We are not in any way suggesting that NASA lacks a mission in aeronautics and space. Support for that mission, as I have said, should *not* be diminished—it should be enlarged. What we are suggesting in S. 2495 is that NASA and its partners should *also* be authorized to tackle other missions, upon assignment by the President and approval by the Congress.

NASA is not, as some gossips suggest, an agency in search of a mission. There are missions in search of a NASA.

To summarize, we should devise an institutional arrangement, with adequate funding, to contemplate our collective futures and identify the likely problems that science and technology can alleviate. At the same time, this organization should be projecting, over the coming ten years, what our scientific and technological resource shortages and overcapabilities will be, and how we should be moving to strengthen and apply them.

Overly idealistic? Perhaps. But worth the try? That it surely is.

Ladies and gentlemen, distinguished friends all, you have been great in hearing me. I thank you for inviting me here tonight, and I look forward with you to the challenging times ahead.

THE SHORTAGE OF REINFORCING STEEL BARS

Mr. BEALL. Mr. President, I rise today to express my deep concern over growing indications that nonresidential construction activity in the coming months will be severely curtailed because of a lack of fabricated steel products, particularly reinforcing steel bars. If allowed to continue, this situation could have disastrous effects on our economy, and I call upon the Cost of Living Council to take whatever action is necessary to diffuse this economically explosive situation.

Although several shapes of construction steel are affected by the current shortage, possibly the most critical situation exists in the area of reinforcing bars. These items are in greatest demand by construction companies since they are a key factor in nonresidential construction. In a recent survey made by the industry, it is projected that should current conditions continue, there will be 600,000 fewer tons of reinforcing steel produced in 1974 than was produced in 1973. Based upon an $80 billion heavy construction industry, this will mean that the reduction of 600,000 tons of reinforcing steel would shut down approximately $10 billion worth of construction projects in 1974. It is estimated that this slowdown will affect 260,000 construction workers in the United States, thus substantially contributing to the growing unemployment roles.

Faced with those statistics, one can reasonably ask, "How did this latest shortage occur?" There are several reasons for the current shortage in construction metals.

First, the world demand for finished steel products is at its highest level in history. The American Iron and Steel Institute has estimated that the world production of steel for 1972 was 690 million tons and estimates go as high as 735 million tons for 1973. Additionally, the world demand for finished steel products is not coming from just one area of the world but from throughout the globe, and thus competing with uses of steel products in the United States for limited resources.

Second, no new major steel facilities have been built in the United States in the past 10 years. Although the steel industry has made large capital expenditures to improve the existing facilities as a means of becoming more efficient, new construction has virtually ceased. One key factor in this lack of expansion has been the fact that for the past 10 years foreign steel imports have been increasing to a point where they account for 16 percent of all steel products consumed in the United States in 1972. This increase approximates the normal growth of consumption in the United States; thus, the steel industry could not justify construction of major additional facilities. Additionally, the rate of return in the steel industry has been low, and thus new capital has not been attracted in sufficient amounts to build a larger capacity.

However, the key factor in the current shortage has been the dislocations in supply caused by Federal price control policies. Traditionally, the price and profit level of reinforcing steel in relationship to other steel products has been low, thus providing little incentive for domestic steel mills to produce this item, particularly at a time of high demand. Additionally, the recent price increases for ferrous scrap has created a situation where reinforcing bar prices are frozen at an unrealistically low level in relation to scrap metal. Thus, domestic mills see no incentive to produce reinforcing bars for consumption in this country.

However, the international market presents a completely different situation. Due to the devaluation of the dollar, the reevaluation of some foreign currencies and the boom in world demand for finished steel products, United States mills are now able to be competitive in exporting finished steel products. At the present time, for most finished steel products, the world market price is higher than the domestic market, due to the cost of living regulations. As an example, trade sources indicate that a number of domestic sales are currently being made at a base price of approximatedy $150 per ton. However, foreign buyers are offering to purchase reinforcing steel at a base price approaching $255 a ton or higher. Thus, it is obvious that unless Federal price controls are relaxed so that the domestic prices are allowed to come closer to the world price, domestically produced steel in critical demand in this country will flow instead into the higher price of the world market, thus making the shortages of finished steel products even more acute.

Statistics point out the tremendous outflow of steel products. In 1972 this Nation's export of domestically produced finished steel products equaled 2,873,000 tons. It is estimated, however, that the export of finished steel products for 1973 will reach a level of 3,750,000 tons. This represents an increase of 20 percent in our export of domestically produced finished steel products in 1 year.

The Cost of Living Council regulations have greatly distorted the historical balance between the price structure of various finished products in this country and in the world market. Therefore, I call upon the Cost of Living Council to take significant steps to relax price ceilings on reinforcing bars and other small steel shapes, and allow the price of this steel product to seek its own level, based on normal competitive conditions. This action will surely increase the supply domestically, and may even lower the current price of reinforcing steel, due to the competitive nature of the industry. I am convinced that we must move away from price controls on these critically important materials. Our economy and the jobs of thousands of Americans are depending upon the adequate supplies of construction materials, and for arbitrary Government policies to aggravate an already serious situation would be intolerable.

I also ask, Mr. President, that the article entitled "Builders Warn: No Rebars, No Building," and the article "Booming Oil Fields Run Out of Pipe," both from the Business Week of December 8, 1973, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

Builders Warn: No Rebars, No Building

The energy crisis may put oil drillers at the head of the line for steel products, but pushing for a spot right behind them is the construction industry. From nearly every corner of the country, construction men predict dire results if the steel industry does not increase production of building steel, especially the type used to reinforce concrete. "Every project with any steel in it is seriously affected," says Earle Beattie of the Associated General Contractors of California.

As with pipe casing for oil wells, some of the products in greatest demand by construction companies are those that are least profitable for the steel companies to produce—and thus have been cut back. Heading the list are concrete reinforcers—bars, tie-wire, and wire mesh. For a time, imports kept the price of so-called "rebars" (reinforcing bars) and the like down. Now, imports have not only trailed off, but U.S. steel companies have sought to take advantage of rising prices abroad by exporting more of the construction steel they produce.

The crux of it all is that steel companies have taken their government-allowed price increases in more profitable lines. This has pressed the users of other steel products so hard that many of them have been lobbying in Washington for higher steel prices. Several major steel companies have already asked the Cost of Living Council for increases averaging 6.5%, on about half of all steel shipments. The price boosts would take effect on Jan. 1 and would include many construction products. Says Robert Burwell, general partner of Seattle's Ace Tank Co.: "A high price and getting steel is a lot better than a low price and not getting it."

OTHER SHORTAGES

There are growing shortages of other construction products besides rebars, including plate, castings, forgings, structural steel, and pipe. Richard M. Hollar, a procurement manager at Fluor Corp., says he is having problems getting steel for two big oil construction projects.

The Dunbar Co. in Cleveland handles industrial commercial, and institutional construction. Its vice-president, James W. Robinson, says: "The real delays will be on jobs we are now bidding." William Acton, vice-president of Sun Shipbuilding & Drydock Co. in Chester, Pa., complains that mills are concentrating on more profitable lines "rather than supplying us." But he adds, "I can't blame them."

The imbalance between demand and supply has produced black markets in parts of the country. In some places buyers are paying twice the domestic price of $170 a ton for rebars. One way this is done, confides a West Coast distributor, is that "rebars sold to dealers for export just don't quite make it into the export market."

Steel executives are especially sensitive on the subject of exports. One export-import company allows that it was part of a deal involving a West Coast steel mill that had committed the entire 1974 output of its small rolling mill to Japan. When the manager of the mill was asked to confirm the report, he refused and snapped: "Where did you get that information?" At some places on the Coast, however, the situation is reversed. Reliance Steel & Aluminum Co. says it is relying almost entirely on Japanese steel these days. The explanation is that mills back East "aren't shipping anything to the West Coast." Added to this, a major source, Kaiser Steel Corp.'s Southern California mill, has withdrawn cold-rolled steel from the local market. The reason: Kaiser must supply its own tube and drum-producing subsidiaries.

FORECAST

The Concrete Reinforcing Steel Institute in Chicago will roll out figures to back its gloomy predictions of what will happen if rebars continue scarce. Robert T. Stafford, executive vice-president of the institute, estimates that 1974 shipments of rebars will be 600,000 tons less than in 1973. Relating that figure to forecasts of nonresidential construction, he predicts that $10-billion of that construction may be "affected next year by postponement, delay, or cancellation."

Raymond C. Heun, executive director of the New York Concrete Construction Institute, has appealed for more government restrictions on exports of scrap iron and steel. Steel mills have been complaining not only because of scrap shortages but also because scrap prices have doubled in the last year. As things now stand, Heun estimates that many projects in the New York area are receiving only about 25% to 50% of their rebar requirements. Even in Florida, where construction seems to boom eternal, there is little optimism about the future, says J. Harley Delph, president of Dade Steel Co.: "On structural steel, we're 60 days behind normal delivery schedules. But the biggest problem is reinforcement rods. If we don't find some shortly, the construction industry could be in real trouble."

Booming Oil Fields Run Out of Pipe

Thanks to price increases for new oil and gas, the most dramatic turnaround in U.S. oil and gas drilling history is developing, with long-term prospects for easing the nation's dependence on Middle East sources. Virtually every rig available is working right now. But suddenly a severe shortage of drilling pipe and well casing has appeared that drillers say could quickly turn the boom into a bust.

Fearful of missing the chance to capitalize on the higher prices, oilmen are pleading with federal officials to looser price controls on tubular steel. They blame controls for causing the shortage by making tubing unattractive for steel companies to produce.

The shortage is so bad that a brisk black market is developing for oil tubing, and pipe rustling is on the rise. "Finding a string of well casing is like finding gold," says James P. Murphy, president of Houston's Inexco Oil Co.

SURPRISED

Steel companies were apparently caught off guard by the sudden demand. Since last August, when prices on newly found domestic oil were decontrolled, the number of drilling rigs in operation has jumped 15% to last week's level of 1,409, the highest in eight years. And in the last two months, the demand for oil tubular goods nearly doubled as oilmen tried to take advantage of the skyrocketing prices—nearly $7 ber bbl., close to double the level a year ago.

The nation's steel mills have increased shipments of oil country tubular goods 26% from the second to the third quarter, but they have not kept pace with the demand. And this has hurt many individual oil companies, which have been forced to cancel plans to drill wells for lack of pipe. This, in turn, has made them sacrifice a commitment for a drilling contractor's rig, which then goes to another oil company with a sufficient supply of tubing.

Oilmen are now warning that by the end of the month a real crunch will be felt in pipe supplies, and some drilling rigs now in operation will be forced to shut down. If the shortage continues, they say, the industry will have to scrub as much as 25% of the wells planned for next year. "We finally have the price incentive to drill, but we can't get the materials, and it makes me sick," laments Midland (Tex.) oilman Thomas Brown. If the shortage continues, he says, he will have to cut back his drilling program for next year from a planned 60 wells to 35. He predicts that a quarter of the nation's rigs now operating could grind to a halt. Adds Houston oilman George Mitchell: "If tubular goods stay this tight, we'll be lucky to drill 50 of the 100 wells we've planned for next year."

The pipe shortage developed in an industry that has been characterized by oversupply for the last decade. Until now, the major producers of oil tubular goods, including U.S. Steel, Youngstown Sheet & Tube, and Armco, went out of their way to lure oil company business. They even provided free inventory service by maintaining so-called "down river" stocks at some 35 yards around the country. Oilmen did not have to order well tubing ahead of their needs since it was available from these inventories on a 24-hour notice. But last month, these stockpiles vanished, and lead times have quickly stretched to five months. Unwilling to wait that long, some oil companies are buying used well casing at black market prices as much as 80% above the controlled price of new tubing.

DEMANDS

Oilmen complain bitterly that prices on tubular goods are being held to less profitable levels than other types of steel, such as sheet steel, and thus encouraging production of sheet steel at the expense of less profitable tubular. They are now demanding that the government permit an increase in the price of tubular steel to make its production more attractive. "Tubular steel prices are being held down to less profitable levels than other steel products at the very moment when things need to go in the other direction," says James E. Barnes, vice-president for purchasing at Continental Oil Co.

In at least one case, Phase IV controls are keeping oil tubular goods already produced off the market. L. B. Foster Co., a supplier of oil well casing, nearly doubled its monthly sales last October, and the sudden spurt in revenues pushed the company to its Phase IV profit margin limit for 1973. It abruptly cut all sales for the last two months to avoid violating Phase IV regulations. It now finds itself sitting on 2-million ft. of well casing—enough for more than 350 wells—at its warehouse, while oilmen are pleading to buy it. "I'm more exhausted explaining to everyone why we can't sell it than I would be if I tried to sell it," moans Richard A. Anderson, a Foster vice-president.

IMPORTS OFF

Another reason for the shortage is the fact that in just the last couple of months, imports of oil tubular goods have all but dried up as foreign suppliers shift their products to Indonesia, China, and Europe, where they can get better prices. At the same time, U.S. exports of pipe are running nearly double last year's levels, partly because pipe in foreign markets is priced at least 20% above U.S. controlled prices. Ironically, about 15% of the exports are going to Arab countries, a fact that disturbs many oilmen. Says Murphy of Inexco: "Exporting tubing to countries cutting us off from oil is completely ridiculous."

Meanwhile, to combat the rapid rise in pipe rustling, many oilmen are putting their pipe in the field under armed guard or moving it into fenced-in warehouse yards. And sheriffs's departments in West Texas are cracking down, too. The sheriff in Odessa,

for example, will soon take delivery of a helicopter to spot pipe rustlers from the air. Says Sheriff Elwood Hill: "When drilling pipe gets scarce in this part of the country, you can expect the thieves to start moving in, and we're getting ready to move in on them."

SEVENTY-FIFTH ANNIVERSARY OF THE VETERANS OF FOREIGN WARS

Mr. EAGLETON. Mr. President, I rise to speak in commemoration of the 75th anniversary of the Veterans of Foreign Wars. While all of us in this body are familiar with the work of the VFW, I am especially proud of the fact that the National Headquarters of the VFW is located in Kansas City, Mo. This headquarters oversees the many programs of the VFW and serves as a focal point for their coordination.

The VFW is the oldest major veterans organization in America, having been originally formed by veterans of the Spanish-American War in 1899. The national membership, which has experienced 20 consecutive years of growth, is now 1.8 million men with an additional 500,000 women in the Ladies Auxiliary. There are almost 10,000 VFW posts throughout the Nation. My home State of Missouri has 40,000 members in 266 posts.

To many of us the VFW conjures the image of patriotic parades on Veterans' Day or the sale of Buddy Poppies. But beyond these highly visible activities, the VFW performs a wide variety of community services which benefit not only veterans, but all citizens.

Realizing that the leadership role of tomorrow will be borne by the youth of today, the VFW places special emphasis on youth. The five major youth programs are "Sons of the VFW," scouting, youth bowling, junior rifle and youth baseball. These programs are intended to instruct young people in participatory democracy. Approximately 7,500 Missouri youngsters currently participate in these activities.

Public safety is another major concern of the VFW. "Drive to Survive" and "Lite-a-Bike" are two of the best known safety projects. "Drive to Survive," a course of instruction for adults, has taught many good drivers to be better drivers—2,000 Missourians have taken advantage of this course. The nationally recognized "Lite-a-Bike" project is designed to assist in saving the lives of and preventing injury to the bicycling youth of America. Since its inception in 1963, millions of bicycles have been made safer by the addition of reflective tape made available through the program.

Educational assistance is also of great interest to the VFW. The widely acclaimed "Voice of Democracy" scholarship program for high school students has benefited hundreds of young people across the country by providing scholarship money to permit them to further their education. More importantly, it has encouraged thousands more to learn for themselves about their rights and responsibilities as American citizens. In Missouri over 5,000 young people have participated in this year's contest.

These are but a few of the very worthwhile programs sponsored by the VFW. In recognition of that organization's many achievements, the U.S. Postal Service has chosen the VFW commemorative stamp as 1 of only 20 to be issued this year. The first day of issue will be March 11, 1974.

Mr. President, I salute the VFW on the occasion of its 75th anniversary. I am confident that the VFW will continue to be a very positive influence in American life and will continue to provide a wide range of public service programs. By working for the betterment of our communities and our citizens, the VFW is living up to its obligation "To honor the dead by helping the living." There can be no nobler purpose.

ENERGY: GET THE FACTS

Mr. HARRY F. BYRD, JR. Mr. President, the efforts by committees of the Congress and by the Federal Energy Office to obtain facts about petroleum prices, profits and supplies are essential as a basis for intelligent legislative and administrative action.

It is astonishing that the Government lacks independently verifiable statistics to provide a foundation for energy policy.

This is not to say that a whole new battery of taxes, or extensive Government regulation, will necessarily provide an equitable solution for the energy dilemma. It is my hope that market forces will provide most of the solution, but Government action must be considered where serious inequities or dangerous shortages would otherwise result.

One area in which I think Government action probably will be appropriate is the reduction or elimination of certain credits against U.S. taxes for sums paid by the oil companies to foreign governments. In view of the dramatic increase in charges which the oil-producing nations designate as taxation, I am concerned about the extent to which such charges should be allowed as credits against U.S. tax on other income.

I think it is important, too, for the Government to look carefully at the petroleum export situation. I recognize that trade patterns are complicated, but we cannot allow U.S. exports to result in any substantial net loss of scarce domestic energy resources.

In every area, the Government must establish the facts. Unless this is done, the national energy program will not have—or deserve—the confidence of the people.

Today, the people are asking a lot of questions—and rightly so. They want to know how the energy problem was allowed to become so critical, and what is going to be done about it.

How did the energy crisis come about?

I think the basic explanation is quite simple.

Today the United States has a trillion-dollar economy. That means that the gross national product—the sum of all our goods and services—is valued at more than a thousand billion dollars a year.

We first reached a trillion-dollar economy in 1971.

Just 10 years earlier—in 1961—the gross national product was a half-trillion dollars.

Think what that means: it took 185 years of American history to reach the half-trillion-dollar level, but it took only 10 years to get the other half-trillion.

What has happened to our energy resources during these years of phenomenal growth? Naturally, they have been seriously depleted.

Let us be frank about this rapid depletion of national energy resources: neither Washington nor the private sector has been very farsighted about this situation. There has been a lot of wishful thinking about the extent and availability of resources, and not much planning or action.

It is not that we were without prophetic voices of warning. Back in 1959—14 years ago—Senator JENNINGS RANDOLPH, of West Virginia, introduced a resolution to establish a joint committee on a national fuels policy. And there have been numerous, more recent warnings of problems lying ahead in the energy field.

But action was long in coming. I gave early support to construction of the Alaska pipeline, and I find it astonishing that as late as last July this legislation—so important to development of domestic resources—passed the Senate by just one vote.

Nothing will be accomplished, however, by looking backward. We must take constructive action.

In the short run, the emphasis must be on conservation and allocation of resources.

Everyone regrets the necessity for the conservation and allocation programs. Long experience with government programs of this kind indicates that despite the best efforts of all concerned, the regulations may not be fair to everyone.

One of the most important provisions that must be included in any energy program is protection against undue economic damage or dislocation. It is absolutely essential that we keep American workers on the job and American goods on the market.

Moreover, those administering energy programs must guard against any tendency to impose unfair burdens upon any single sector of the economy.

Travel is a good example. There is bound to be some reduction in travel, but it is important to remember that a man or woman out of work in the travel industry is just as much unemployed as a factory worker who is laid off.

In framing our energy strategy, we must take a hard look at environmental constraints. I favor easing of automobile emission standards, for the time being, to give an opportunity for development of better technology as well as to conserve fuel in the short run.

I also support temporary easing of stringent sulfur emission standards in the burning of coal and a close examination of other standards that may hamper the struggle to conserve energy resources.

None of this represents an abandonment of the goal of cleaner water and air. It is simply a recognition that technology has not yet caught up with the demand for pollution control equipment and measures that will improve the environment without imposing unacceptable penalties in energy consumption.

Another point which I feel must be kept in mind in dealing with the energy crisis is the need for government to set an example. Wasteful consumption of energy by the Government, in these difficult times, cannot be tolerated.

I might note that I joined in sponsoring legislation to require a reduction in fuel consumption by the Department of Defense, the biggest user in the Government, and that I voted in favor of a provision to ban shipments of critically short petroleum supplies to Southeast Asia.

Because of the embargo imposed by the Arab Nations on shipments of oil to the United States, the energy situation affects—and is affected by—developments in the field of foreign policy and diplomacy.

The situation in the Middle East is explosive. I believe it is imperative that the United States proceed with caution in this situation, and I have made my views on this score known to the State Department.

The best interests of the United States will be served by a lasting settlement, and I think that our representatives should cooperate with the parties in working toward that end.

It has been suggested in some quarters that the United States should embargo all shipments of goods, or nearly all shipments, to the Arab countries. I see the appeal of such a recommendation; striking back is a natural thing to do. But I do not believe it would be effective. The Arabs would be able to obtain nearly everything we might deny them from other sources, especially from the Soviet Union.

The United States, I feel, should use its leverage as an exporting nation in dealing with other countries—especially, I might say, with the Soviet Union—but I do not believe, in the case of exports to the Arabs, that the United States has sufficient leverage to accomplish the objective. Such a boycott could, in fact, be harmful rather than helpful.

Of all the actions we have taken and will be taking in the near future, I think the most important are the ones aimed at achieving self-sufficiency in energy, or at least the greatest possible degree of independence of unreliable foreign countries.

I list among such actions the approval of the Alaska pipeline.

Another important step toward energy independence was the Senate's approval of legislation to foster research and development in the energy field.

In many respects, coal may prove to be the key to the future. It is our most abundant fuel, and I think it is vital that we move ahead with efforts to mine it and burn it in ways that are safer and cleaner than those now available. I hope there will be major efforts in the field of coal liquefaction and coal gasification.

In the long run, I think one of the most attractive possibilities is solar energy. I understand that it is not yet practical for large-scale usage, but I believe that a maximum effort should be made to develop ways to harness and store the power of the sun. Alone among energy sources, it is limitless and without adverse environmental effects.

Nuclear energy is being thoroughly explored. It may well be that nuclear power will "bridge the gap," so to speak, between our reliance on fossil fuels and the energy sources of the future—such as solar and geothermal energy.

I think we must insist, however, that major efforts be devoted to making nuclear energy safe—and that includes dealing realistically with the problem of radioactive wastes. The larger the scale on which we are obliged to use nuclear energy, the greater the problems that will be associated with its use.

A whole host of other possible resources—from oil in shale and tar sands all the way to harnessing the power of the tides—must be given consideration and study.

We will find the answers to our energy problems only if we explore every avenue.

A GERMANENESS RULE

Mr. BENTSEN. Mr. President, I am pleased to join with the distinguished senior Senator from Rhode Island, Senator PASTORE, as a joint sponsor of Senate Resolution 257 which would establish a new Senate rule for germaneness of amendments.

The Senator from Rhode Island and I discussed this amendment during the closing weeks of the first session of the 93d Congress when nongermane amendments were often delaying the consideration of important legislative initiatives. The Senator from Rhode Island, as we all know, has been concerned with the question of germaneness for some time. The Senate rule for debate during the first 3 hours of legislative business bears his name and he has given the Senate consistent leadership on matters of procedure and debate.

I am honored, therefore, to jointly sponsor with the senior Senator from Rhode Island Senate Resolution 257 which would allow the Senate to prohibit nongermane amendments by a two-thirds vote. The resolution would not restrict any Senators right to debate a motion but would merely allow a two-thirds majority of the Senate to prohibit amendments that are not germane to the pending business.

Too often, Mr. President, we in the Senate find ourselves embroiled in issues to quote Shakespeare, " full of sound and fury and signifying nothing." We heatedly debate nongermane amendments, delaying the Senate for days, and then find these amendments summarily dismissed in conference because of the rules and attitude of the other body concerning nongermane amendments. Perhaps there will be times when the Senate will want to debate a nongermane amendment simply to expose an issue or to stimulate interest in a particular problem and this rule will not prevent those debates from taking place.

But when the overwhelming majority of Senators feels that an issue should be dealt with quickly—nongermane amendments could be prohibited and the pending business could be given the Senate's full, undivided attention.

The motion to restrict nongermane amendments could be offered at any time during the consideration of a bill. The motion would not be debatable and could not be offered more than once to a particular bill or resolution. If two-thirds of the Senate were to agree, then all amendments would have to be germane according to the decision of the Chair.

I believe this is a fair proposal but I would be happy to consider any other suggestions for dealing with this issue that Senators might have to offer. I hope that the Rules Committee will hold hearings on this proposal and that some device can be found that will speed up our consideration of important measures and make the legislative process more efficient.

THE DANGER IN CALLING "WOLF"

Mr. PROXMIRE. Mr. President, in the past year we have had the term "national security" invoked so liberally that there is a real question about its meaning. Just what is a question of "national security"? Investigating the tax returns of Americans for political purposes? Ordering the break-in of the psychiatric offices of a former Government employee? The refusal to release requested information necessary for a proper investigation of the Watergate affair? As a justification for withholding data from the Armed Services Committees? To protect the investigation into the systematic spying by high Pentagon officials on the President's national security adviser? Where does it stop? When did it start?

The danger in the continued cry of "national security" is the same as boy who called "wolf." Someday the time will come when there is a real national security question at hand and no one will believe the warning signals. Misuse breeds skepticism and that sometimes leads to contempt.

Mr. President, a recent editorial in Aviation Week and Space Technology puts the problem directly. As Mr. Hotz writes, secrecy breeds corruption as well as poor policy and national disaster when carried to extremes. I recommend this editorial for thoughtful reading.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE FALSE SECURITY BLANKET

Virtually every criminal and malodorous act that was committed during the sordid period now loosely known as Watergate was justified by President Richard M. Nixon and his aides on the grounds of protecting "national security." The use of the false security blanket as an alibi for acts otherwise unacceptable to humanity was certainly not invented by the Watergate conspirators. It was used to justify every atrocity in the Third Reich of Adolf Hitler down to genocide. It is still a standard justification for the police terror and labor prison camps in Soviet Russia. It is also one of the deadly viruses that have been sapping the traditional values of the American system of government for the past 20 years.

There are of course many legitimate areas of national security that require maximum secrecy, but these are seldom the areas involved in the most flagrant exercise of extra-legal power by political leaders. The unfolding of the details of the Watergate affair has revealed exactly what aims these applications of executive force really had, in contrast to the label of national security publicly used for their justification.

We had been dealing with these false security blankets long before Watergate, and our experience invariably showed there was seldom any genuine national security involved. The false security blanket was generally used to conceal policies that were either illegal, corrupt or so patently wrong they could not stand the pressure of public debate. The evidence laid on the public record by the Watergate investigations now confirms the phoniness of the national security issue as routinely peddled by the executive branch of the government.

Was there in any of the Watergate "national security" cases anything that really involved the security of this nation? The record reveals nothing.

The U.S. bombing of Cambodia was one of the worst-kept Administration secrets and the subject of the most elaborate official deception and most vigorous pursuit of "leaks" to the public prints. The Viet Cong and Hanoi troops knew they were being bombed. U.S. insignia on the attack aircraft clearly identified the source. Hanoi, China and the USSR knew we were bombing the Viet Cong supply bases in Cambodia. Only the U.S. Congress and the American people were kept in the dark.

The U.S. position and proposal in the Strategic Arms Limitation Talks (SALT) with the Soviet Union was another major area where the Nixon Administration's "plumbers" unit battled desperately and illegally to hound newsmen who were reporting the story. The inept performance of U.S. diplomats is a sad tale that still has not been fully told to the American people. Disdainful of any technical knowledge of military hardware, these diplomats bargained away a major strategic U.S. technical superiority in missile defense technology and allowed enough loopholes in terminology for the Soviets to exploit their offensive missile technology from inferiority to superiority. It would be far better for the security of this nation if both the U.S. negotiators and the American people understood more about "pop up" cold-launch missile techniques, MIRV warheads and the real status of missile defense technology instead of the secret police technology being developed by the White House staff.

The most ludicrous effort of all was the Pentagon Papers leak by Daniel Ellsberg which, except for its context in the rest of Watergate, would be a fit subject for an old-time Keystone Cops two-reel slap-stick. The Pentagon Papers were pretty stale bread for any espionage agent—more grist for a post-graduate thesis than a Soviet planner. They gave the American public only a peep-show version of how it had been dragged into a bloody, costly and senseless war without even the vaguest idea of its purpose.

The latest case of the Pentagon spying on the National Security Council to find out the real national policy is pure opera bouffe. It speaks volumes of how super secrecy has clogged the functions of this government when the two organizations most concerned with national security have to spy on each other to find out what is really going on.

This problem of the sleazy use of "national security" to justify any action or policy that cannot stand the light of public scrutiny is far more serious than the current political plight of Richard Nixon's presidency. It is a cancerous rot that will erode the very foundations of democratic government if not given a strong antidote of frank public discussion of the major issues and policies on which the real security of this nation rests.

The events set in motion by Watergate have certainly proved the adage that secrecy breeds corruption. That is bad enough for the American system of government. But it is equally true and even worse that secrecy breeds poor policy and national disaster when carried to the extremes of the Nixon Administration and its two Democrat predecessors. The Bay of Pigs and the Southeast Asia fiasco could only hatch in the darkness of government secrecy. Neither could have survived even the preliminaries of public scrutiny.

If it is to survive the next century, the American government and its elected officials must operate with considerably more candor and intelligence with the American people than they have displayed during the past decade. The American people will respond to any genuine challenge with the full measure of their energy and devotion. But they are weary of being conned by self-seeking politicians and are now equally skeptical of phony crises and patent medicine doses of political soothing syrup.

REMUNERATION PAID TO GRAND JURORS

Mr. NELSON. Mr. President, recent reports in newspapers and periodicals have exposed yet another miscarriage of justice related to the Watergate scandals: The very meager remuneration of $20 per day paid to those individuals sitting on the Watergate grand juries and making critical decisions in the resolution of the controversies embroiled in the Watergate affairs.

The injustice of this remuneration is easy to grasp. Government employees who sit as grand jurors receive the full salary or wages they would have normally earned for those days on the grand jury. Most other individuals—especially those paid on an hourly or daily basis by private employers—do not enjoy the same good fortune.

For these people, the $20 daily payment is their only income when they serve as grand jurors. A short term as a grand juror may not work a hardship on most of these people. But when—as in the case of one of the Watergate grand juries—the term as grand juror lasts for 19 months, the financial sacrifices endured by these people is considerable.

Indeed, within the last 2 weeks the foreman of one of the Watergate grand juries quit, because his insurance business "was going down the drain" and his $20 per day compensation could not make up the loss. Two other grand jurors have quit their regular jobs, because it was impossible to fulfill their public responsibilities and also earn a living.

Congress should not tolerate this situation. The Watergate grand jurors have played and will continue to play a critical role in the resolution of the Watergate crimes. This role is mandated by the fifth amendment to the Constitution which provides, in pertinent part, that—

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; . . .

It is thus the constitutional responsibility of a grand jury to determine whether probable cause exists to believe that a crime has been committed. In making that determination, the grand jury must consider all the available evidence; it must weigh that evidence and judge whether, on balance, a particular individual has in fact probably committed a crime.

The significance of the grand jury's role in our judicial system should not be underestimated. The grand jury insures that a group of ordinary citizens will investigate serious crimes and decide which ones shall be prosecuted. Every individual suspected of committing a serious crime is thereby assured that the initial and critical judgment of whether to prosecute shall be made by his fellow citizens. As William Safire recently observed in his New York Times column:

> The genius and the glory of the jury system is that it puts the fate of the accused in the hands of "peers"—that is, people who are as unfamiliar with courtrooms as any defendant, and can readily put themselves in the shoes of the persons on the stand.

The importance of the grand jury's role has also been attested to by numerous legal scholars and judges. In a 1933 case, for instance. Federal District Court Judge Kilpatrick observed:

> The inquisitorial power of the grand jury is the most valuable function which it possesses today and, far more than any supposed protection which it gives to the accused, justifies its survival as an institution. As an engine of discovery against organized and far-reaching crime, it has no counter-part. Policy emphatically forbids that there should be any curtailment of it except in the clearest cases. *In re Grand Jury Proceedings*, 4 F. Supp. 283, 284 (D.C.E.D. Pa. 1933).

Judge Kilpatrick's views were endorsed by Professor Orfield:

> The grand jury serves two great functions. One is to bring to trial persons accused of crime upon just grounds. The other is to protect persons against unfounded or malicious prosecutions by insuring that no criminal proceeding will be undertaken without a disinterested determination of probable guilt. The inquisitorial function has been called the more important. Orfield, *The Federal Grand Jury*, 22 F.R.D. 343, 394.

Nowhere has the importance of the grand jury been more evident in recent years than in the investigations of crimes arising out of the Watergate scandals. Three grand juries have spent many, many months—one of the juries as long as 19 months—investigating those crimes. Already they have returned 12 indictments—and received 11 convictions. Reports indicate the grand juries' work is far from complete.

It is a travesty of justice to think that these grand jurors can perform one of the great duties and privileges of citizenship only at considerable personal financial sacrifice. Already one grand juror has resigned because the personal costs of fulfilling that responsibility have been too great. If more jurors quit, it could greatly impede the grand juries' work and delay the completion of their tasks. For the new replacements would have to review much of the vast amount of evidence already submitted so that future investigations could account for all the relevent information.

It is time to correct this situation—not only for the Watergate grand juries, but also for other Federal grand juries who fulfill one of the critical functions in our judicial system. Accordingly I intend to propose corrective legislation in the very near future.

Mr. President, I ask unanimous consent to have William Safire's excellent column on the injustices done to grand juries printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

ABOUT CLEANING LADIES

(By William Safire)

WASHINGTON, January 20.—A cleaning lady comes into my office every evening, empties the wastbasket, wipes out an ashtray, makes a pass at some dust with a rag and is gone.

We nod at each other with some civility, and say "Happy New Year" at the appropriate time, but I am not moved to inquire into her life, and her interest in my work extends only to hoping I do not make too much of a mess.

The reason why cleaning ladies might well occupy our thoughts now is a published report that two of them have had to quit their regular jobs in order to continue as members of the original Watergate grand jury. Julia L. White, mother of eleven children, quit because "to work on jury duty in the day and then at night as a janitor was too tiring."

Who can blame Mrs. White, or her unnamed fellow juror, for finally putting a stop to two workdays in one? The wonder is that other cleaning ladies (more properly called cleaning women, janitresses, or officekeepers) continue to serve on Watergate grand juries while holding on to their tiring jobs at night.

Think about that. Right here at the Washington bureau of The New York Times, which is filled with reporters probing for every scrap of information being unearthed before the grand juries by the office of the special prosecutor, it could be that a bone-weary, work-ethical woman passes among us unperceived, with a headful of headline-making information that nobody even asks her about.

The cleaning ladies and other patriotic citizens who serve on the grand juries have problems endemic to non-celebrities. The foreman of one of the juries, insurance man Julian Murphy, has just quit jury service because "my business was going down the drain" and the $20 a day paid to jurors hardly compensated for that.

The foreman of another Watergate grand jury, an economist at the Library of Congress named Vladimir Pregeli, can stay on because Government employes get full pay while serving on juries. But he points out that his fellow jurors who work for private companies—such as the cleaning women—are going through economic hardship, and he is trying to get Judge Sirica to put through a raise to $25 a day.

In the Watergate courtrooms, a Federal judge gets $40,000 a year; prosecutors average $22,000 a year; top defense counsels get $100 an hour. The only two classes of people hurt financially in the Watergate affair are the targets of the prosecution—some of whom will soon be called defendants—and the jurors.

The financial squeeze hurts: The prospect of no earnings and high legal costs is a form of coercion that causes some targets to plead guilty while richer targets can fight. The prosecution, on the other hand, spares no expense for investigation or litigation; the process of justice pinches pennies only when it comes to paying jurors.

In a strange way, that is as it should be: As long as targets of investigation are put at an economic disadvantage, jurors should share that hardship. The genius and the glory of the jury system is that it puts the fate of the accused in the hands of "peers"—that is, people who are as unfamiliar with courtrooms as any defendant, and can readily put themselves in the shoes of the person on the stand.

"The horrible thing about all legal officials," wrote G. K. Chesterton, ". . . is not that they are wicked (some of them are good), not that they are stupid (several of them are quite intelligent); it is simply that they have got used to it.

"Strictly they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment; they only see their own workshop . . . Our civilization has decided, and very justly decided, that determining the guilt or innocence of men is a thing too important to be trusted to trained men."

Enter the cleaning lady. In the grand jury room, where there is no defense, she will usually go along with the prosecutors in voting for an indictment, for which only a majority of the 23 grand jurors is needed.

But at a trial, where there is a vigorous defense, she will make it much harder for the prosecution and a unanimous vote from the twelve-person petit jury is required to convict.

What is marvelous, inspiring and humbling about all this is the necessity, in each stage of the judicial process, for all the majesty and pomp and power of government, with its fallen angels and rising stars, to come before the cleaning lady for her judgment.

Next time we are moved to complain about the powerlessness of the individual in a monolithic society, or to denigrate Fourth of July speeches about democracy's trust in the people, we might consider the respect that present and former officials must pay to ordinary citizens thrust into judgment seats.

The cleaning ladies of this cleansing process are not worried about national traumas or darkly interpreted moods; they are tired and their backs hurt, but in their ultimate good sense is the hope and salvation of an amazing system.

ADMIRAL MOORER'S EXPLANATION OF RADFORD INCIDENT

Mr. SYMINGTON. Mr. President, in connection with the so-called military spying incident, I ask unanimous consent that an interview with Adm. Thomas Moorer, Chairman of the Joint Chiefs of Staff, on the Today Show of January 18 be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

ADM. THOMAS MOORER INTERVIEWED ON NBC TODAY PROGRAM

FRANK MCGEE. For the past week there have been disturbing reports that high military officials, including Admiral Thomas Moorer, Chairman of the Joint Chiefs of Staff, were involved in spying on the White House and on Henry Kissinger in particular. The reports were said to be based on an investigation conducted two years ago by what was called the White House "Plumbers" and the reports alleged that the Joint Chiefs were upset because Kissinger had cut them off from highly secret diplomatic information and still, according to the reports, military liaison aides at the White House went ahead and funneled unauthorized documents to the Pentagon.

Admiral Moorer issued a statement calling the charges "ludicrous" but until today he has not appeared in person to comment on the charges. This morning he's in our Washington studios with NBC News Pentagon Correspondent John Cochran.

JOHN COCHRAN. Good morning. Admiral, it's good to have you back with us.

Admiral MOORER. Thank you, John. I welcome this opportunity to be here because, as Frank just said, during the past week there's been an absolute flood of speculations, insinuations, allegations and frankly, John, I am disturbed and I am certainly mystified as to what the motive is, with respect to these people who don't see fit to use their own names. They talk in terms of informed sources, former officials and things of this kind.

I have a personal concern and I have an institutional responsibility here, and so I want to emphasize that the mere thought that the Joint Chiefs of Staff were cut off from sources of information and then as a result set about to establish a system of acquiring this information in an unauthorized way, is as I said "ludicrous," it's "ridiculous" and it's a lie.

Mr. COCHRAN. But, Admiral, at the same time the Pentagon has admitted publicly that perhaps military liaison aides at the White House in 1971 committed acts which were improper; that these aides or an aide, it's not clear how many people were involved, were overzealous in carrying out their duties. Now, at any time, did any documents come across your desk which were obtained by clandestine means from the National Security Council at the White House?

Admiral MOORER. This was some time ago, John, but as I recall, Admiral Welander delivered to me . . .

Mr. COCHRAN. Admiral Welander being the military liaison aide . . .

Admiral MOORER. Yes, delivered to me some working papers and noted that his Yeoman had retained these in his clerical duties. Now it was readily apparent that I'd already received messages, memoranda and in some cases talked to Dr. Kissinger and the NSC staff about these matters. Since I was familiar with these matters, I simply did not follow through as to the precise origin of these papers.

Mr. COCHRAN. What matters are we talking about, Admiral?

Admiral MOORER. Well, these dealt with the military situation in Vietnam, Cambodia, etc. Consequently, in retrospect, particularly in light of what's happened already, I should have perhaps been more alert and followed through on the exact manner in which these papers were acquired. Now at that particular time there was a very free flow of information to my desk. My problem was not to find information; my problem was to deal with the excessive amount of information I had.

Subsequently, when I learned of the full import of this matter, I directed Admiral Welander to return any such papers to the NSC staff. More importantly, John, I want to assure the American people that I have never issued any instructions, or gave any orders, either directly or implied, to anyone to provide to me unauthorized information.

Mr. COCHRAN. Admiral, how did you become aware that the information which came to you; these documents which were put on your desk, that they were obtained through methods which were less than proper?

Admiral MOORER. Well, only that they were just a collection of "roughs" and carbon copies and things of that kind.

Mr. COCHRAN. How was this information obtained? You talk about the liaison aides at the White House getting this information for you; how do they get this information if they got it through clandestine methods?

Admiral MOORER. I don't think you'd call them clandestine methods; this young man was just engaged in . . .

Mr. COCHRAN. You're speaking of the Navy enlisted man at the White House?

Admiral MOORER. Yes. Typing many, many documents and he just assembled the file of the documents he typed.

Mr. COCHRAN. Now there was an investigation at the White House, apparently in 1971 about news leaks. Is this how this whole matter came to your attention that you got these documents which were obtained through whatever methods, improper, if that's the correct word?

Admiral Moorer. Well, if you're referring——

Mr. Cochran. The "Plumbers?"

Admiral Moorer. No, you're referring to the time in December when there was a series of articles in the Anderson column which quoted——

Mr. Cochran. Jack Anderson?

Admiral Moorer. Yes, which quoted verbatim official documents and some of the discussions that have gone on in the decisionmaking process at the highest levels. It was a followup to that that resulted in uncovering the indication that the source was from this individual. You're quite right, that was uncovered by Admiral Welander, who reported this to the NSC staff; he reported to me and I referred it to the Secretary of Defense.

Mr. McGee. Admiral Moorer, these documents that were collected and sent to you were collected by a young man who has been identified by other sources, not yourself, as a Yeoman First Class Charles E. Radford. Are you in any position to shed any light on what his motive might have been; why he would have done this if you already had the information?

Admiral Moorer. No, I can't understand why he would do such a thing although, as has been said by others, he was overzealous. But the point I want to make is that this information was essentially useless and it was more or less buried in large quantities of other information on the same subject, and so when I saw it, I just more or less dismissed it because it was no use to me.

Mr. McGee. Admiral, it's a related question, but it gets into another area somewhat; it is said to be this particular activity and operation that President Nixon had in mind when he so often said that the activities of the "Plumbers unit" could not be investigated without touching on matters of high national security and that this is what he had in mind. Yet, if as you say, it was papers, it was an act done by a young man, perhaps overzealous, did not give you any information you didn't already have, what made it of such sensitive national security nature that it could not be investigated?

Admiral Moorer. Frank, I can't comment on that because I have only a limited amount of information involved in this thing. I will say that it should be quite clear to everyone that the publication of the details of development of policy by the decision-making process of the Government is certainly a national security matter because our Government has no flexibility and certainly other nations will be very concerned about communicating with us if they can pick up the paper the next morning and see in great detail what their position has been during an exploratory phase of development of policy.

Mr. McGee. I concede that point, sir; the thing that puzzles me is why, if it was so important earlier, it is now being dismissed as just an incident involving a low-level clerk. I won't press the matter.

Mr. Cochran. Admiral, we're just about out of time. I thank you for coming in and being with us.

We're talking with the Chairman of the Joint Chiefs of Staff, Admiral Thomas Moorer, and he's denied rather vigorously that he was ever involved in spying on the White House. There had been published reports that high Pentagon officials, including the Admiral, were engaged in espionage activities trying to get information that Henry Kissinger, the President's National Security Advisor, was cutting off from the Joint Chiefs of Staff. Admiral, you say you were getting all the information you needed from Mr. Kissinger?

Admiral Moorer. That is correct; let me carry that a little further. Dr. Kissinger permitted the Chairman of the Joint Chiefs of Staff to participate in the decisions and in all of the activities of the National Security Council machinery, I think more than any other man in his position. I never at any time felt that I was restricted in terms of prying information. As a matter of fact, I could pick up the telephone any time I want to and talk to Henry Kissinger night or day. In addition to that, frequently he called me into his office for further discussions and then the cases where we had large-scale operations, for instance the Cambodian cross-border operations; the mining of Haiphong; the bombing of Hanoi last Christmas, the President himself very actively participated in the planning and the timing and all the details associated with such operations. I was into all of this up to my ears. So I never felt at any time that I had any problem getting information.

I'd like to touch on another point. It's been suggested that the Joint Chiefs of Staff were opposed to the President's initiatives with respect to Russia and China. Well, that's nonsense. The Joint Chiefs of Staff applaud the action taken by the President to open communications with these two large nations.

Mr. Cochran. Admiral, some of these charges specifically relate to the fact that the Joint Chiefs of Staff supposedly were unhappy with the arms negotiations with the Russians, feeling that the White House, Mr. Kissinger were going to "sell us out" in dealing with the Russians; that we would become a secondary power in regard to the Soviet Union and that any agreement reached with the Soviets would hurt the United States. Were the Joint Chiefs indeed concerned?

Admiral Moorer. That's not correct either, John. The Joint Chiefs of Staff certainly do not agree in detail with all of the proposals and options established, but in that case we presented to the top decision-makers, through the Secretary of Defense, a very clear-cut position paper. Let us say; we're not virgins with respect to having recommendatons turned down, as witness the beginning of the Vietnam War. But the Chiefs had a full opportunity to present their positions and by and large the position in the interim agreement was approved by the Chiefs with the assurances that we were going to move ahead with our special programs such as the Trident and the B-52's. So there was none of this conflict and this radical disagreement that people are talking about. As I said, I don't know what the motive is here.

Mr. Cochran. Admiral, we just have about thirty seconds, but the White House in replying to these charges that you were involved in spying, gave sort of a qualified vote of confidence in you, they said they couldn't talk about the entire matter because of national security consideration, but it said reports about you were incorrect in large degree. Are you satisfied with what the White House has said in clearing your name?

Admiral Moorer. Let me first say that I don't like this word spying; about 45 years in the Service, that's a little far-fetched.

Mr. Cochran. Are you satisfied with what the White House has said?

Admiral Moorer. I think that the confidence that the President has in me is complete.

Mr. Cochran. OK. It was good to have you with us.

GAO ASKED TO REVIEW INTELLIGENCE OVERSIGHT AUTHORITY

Mr. PROXMIRE. Mr. President, on January 25, I took what I hope to be the first vital step in at long last bringing the CIA and other intelligence agencies under genuine congressional control.

At that time I sent a letter to Elmer Staats, the Comptroller General of the United States asking the GAO to review intensively all statutory authority in order to establish what powers it has to review, audit, and otherwise examine the programs of the various intelligence agencies. I also asked the GAO to outline the precise oversight authority of Congress with regard to the same agencies.

CONGRESSIONAL CONTROL LACKING

A Member of Congress is extremely limited in what he can do to keep the intelligence community in check. There are too few resources at his disposal. Therefore, it is critical that a highly competent organization, reporting to Congress, be brought into the picture. The General Accounting Office is the right organization for that job. The intelligence agencies have operated beyond congressional control for many years.

For too long the backdoor informal arrangements between selected Members of the Congress and the intelligence community have prevented any effective control. Records are not kept. Congressional staff is almost nonexistent and those involved are inexperienced in intelligence matters, and are denied full access to information.

The well-publicized failures of the intelligence community lie at the doorstep of a blind and deliberately deaf Congress. Promised hearings by both the Senate and House Armed Services oversight subcommittees have not materialized. We can no longer blame the executive branch. It is the fault of a reticent Congress.

I propose that the oversight committees be held responsible for the failures of the intelligence community. When our foreign policy is embarrassed, as in the recent case of the CIA Thai letter, the oversight committees should be held accountable for the agencies under their jurisdiction.

This session, I intend to ask the floor manager of every appropriations bill before the Senate if there are intelligence community funds hidden in his bill. I am also asking the chairman of the Senate Appropriations Committee to make public the total amount spent on intelligence each year. Both Defense Secretary Schlesinger and CIA Director Colby have stated that this would not endanger national security.

In addition I intend to introduce riders to appropriate legislative and appropriations bills until the secret charter of the CIA is made clear, budget data is released, and the oversight function acquires teeth.

Even in an open society certain intelligence matters must be protected and I will honor that commitment. However, the Congress and the intelligence community must begin to honor its commitment to an open society by making available the rudimentary information necesary for Congress to properly fulfill its role.

Mr. President, I ask unanimous consent that my letter to the GAO be printed in the Record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 24, 1974.

Hon. ELMER STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: For some time I have been concerned that Congress has not fulfilled its responsibility with regard to reviewing and controlling the operations of the intelligence community. Obviously new tools are necessary to put teeth into the oversight function. Some corrections can be made by legislation. But other productive avenues seem to be closed due to lack of relevant information.

Would you intensively review all existing statutory authority to determine what powers the GAO has to review, audit or otherwise examine the programs and operations of the various intelligence agencies? I would be interested in knowing what success the GAO has met with obtaining information from and about the intelligence community, what staff support the GAO could provide to the Oversight Committees, and what problems the GAO can foresee with regard to Congressional requests for investigations in the intelligence field?

I consider the following agencies and departments as part of the intelligence community: Central Intelligence Agency, Defense Intelligence Agency, National Security Agency, intelligence components of the Army, Navy, Air Force, FBI, Department of the Treasury, the Atomic Energy Commission, and the Bureau of Intelligence and Reports of the Department of State.

Would you also provide a legal opinion of the precise oversight authority of Congress with regard to these intelligence agencies? What powers of control are vested in Congress? What did Congress intend when it legislated the National Security Act of 1947 and the CIA Act of 1949 with regard to oversight functions?

Will the GAO also provide an opinion as to the legality of the National Security Council issuing classified directives to the intelligence community based on the 1947 or 1949 Acts, if these directives deal with subjects not considered in the original legislation. For example, is it legal for the National Security Council to direct the intelligence community in part or whole, to engage in covert activities when nothing in the 1947 Act mentions covert operations?

Please assess the wording of Section 102(d) (4) and (5) of the 1947 National Security Act to determine if this is a totally open ended provision. What responsibility does the National Security Council have to make available to Congress all directives issued under Section 102(d) (4) or (5)?

My staff will be available to assist in clarifying any of these requests.

Sincerely,

WILLIAM PROXMIRE,
U. S. Senator.

THE PRESIDENT AND HEALTH CARE

Mr. McINTYRE. Mr. President, last night we heard Mr. Nixon's state of the Union message and I rise today to comment on a particular section of that message.

Whatever reservations I have about other sections, and I have some, will be spelled out in coming days. For now, I just want to say I was cheered by the President's call for national health care legislation and by the evidence to date that his new health care proposal is a marked improvement over its predecessor.

Though we do not have the detailed proposal before us as yet, what we have already read and heard about it leads me to believe that the administration bill will recognize many of the principles already set down in my own National Health Care Act (S. 1100).

My National Health Care Act would utilize the knowledge and talent of the private sector in bringing about health care reforms.

It would not impose a large and costly Federal bureaucracy on what is and should remain a pluralistic health care system.

It would, however, improve upon that system by the careful application of public authorities and resources.

It would, for instance, set Federal standards for the benefits provided by private health insurers, including comprehensive protection against the costs of catastrophic illness.

It would insist upon benefits for the poor equal to those who are not and it would pay for that coverage with public funds.

At the same time it would retain such private sector cost saving devices as deductibles and coinsurance to discourage overutilization, while applying additional cost and quality control measures to physician fees and hospital charges.

The President's health care proposal would seem to contain similar provisions while discarding several discouraging features of the former proposal; namely, a double standard of benefits that discriminated against the single poor and the childless poor, and left a large section of the populace unprotected.

I welcome these changes, just as I welcome the fact that renewed White House attention to national health care insurance may restore it to the priority it deserves.

What remains to be seen is how well the new Nixon proposal squares against what I consider the strongest feature of my National Health Care Act; namely, its provisions for strengthening the health care delivery system through Government's underwriting of incentives for health care study and for an equitable redistribution of health care personnel, Federal funding of more low-cost ambulatory care centers, and far more emphasis on preventive care.

It is this feature, in combination with those I listed earlier, that make the National Health Care Act a truly comprehensive national health care bill.

And I want to point out, Mr. President, if ever a challenge deserved a comprehensive response it is health care, for an issue of such multifaceted complexity, such far-reaching ramifications, can never be resolved by piecemeal action. Improving the benefit structure alone will not do the job. Providing catastrophic cost protection alone will not do the job. Broadening coverage alone will not do the job. Indeed, such a fractionated course may well result in an aggravation rather than a cure, for it would overburden the existing system and build further inflationary pressures.

I welcome the apparent fact that the administration proposal is more comprehensive than fractionated, Mr. President, but I intended to take to this floor again whenever that proposal is introduced as legislation. At that time I intend to make a point by point comparison with my National Health Care Act, and I will do it in full confidence that mine is the better bill.

But for now I will only say that I am happy to see the administration adopt a comprehensive approach, happy to see it recognize and correct the failings of its first proposal, and happy that the President's message has pushed the issue of national health care insurance to the forefront of our attention.

PROPANE PRICES: A REAL PROBLEM FOR RURAL MISSOURIANS

Mr. SYMINGTON. Mr. President, in recent weeks, we have received some 60 letters, particularly from rural constituents, expressing concern about significant increases in the price of propane.

As in most States, many rural Missourians depend heavily on propane in their daily lives. Natural gas lines, providing fuel for home heating and cooking at regulated prices to urban residents, are seldom available to rural Americans. Therefore, not only do they rely on propane in their agricultural operations, but often for heating and cooking as well.

Allocation regulations are now in effect to help assure that the available supplies of propane and other fuels are equitably distributed; however, from the letters I have received, it seems all too clear that allocation regulations are not enough. If people cannot afford to pay for the propane, for all practical purposes it is not available to them.

This situation is particularly serious for retired persons on fixed incomes and small farm operators with marginal incomes.

Our colleague, the Honorable WILLIAM J. RANDALL, of Missouri, has scheduled a hearing on the increases in propane prices before his House Subcommittee on Legal and Monetary Affairs on February 4, and on price increases on other petroleum products on February 5 and 6.

In that the price of propane has created an unbearable price squeeze for many Americans who can ill afford the added costs, it is clear that further consideration should be given to this problem as we continue to work on the energy situation. I ask unanimous consent that representative letters from Missourians be included in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

REA, MO.,
January 8, 1974.

DEAR SENATOR STUART SYMINGTON: I'm writing to you about the propane gas and the energy crisis. In September they raised the propane gas to 24 cents a gallon. In November, 26.9. In December, 29.9. In January, 32.9 and it was 16 cents a gallon. They have raised it 16 cents in 4 months. And they said they were going to raise it again. I don't know what a person is going to do living on a pension check. I think something should be done to control the prices. And stop these places from trying to make a profit. It is going to be after a while where you can't afford to heat your homes or buy gas for your cars. Isn't there a price control? It sure is hurting poor people and people like us living on pension. Hope you read my letter and write back.

I thank you.

——— ———.

Parkville, Mo.,
January 14, 1974.

Dear Senator Symington: The enclosed article charges that there has been an inequitable increase (percentage-wise) in the price of our L. P. gas. Is this true, and, if so, what can be done about it?

The percent increase of our propane bill January 7, 1974, over January 13, 1973, was 225% per gallon. The increase in our farm-used gasoline is slightly less than 100%.

Although we are senior citizens, we are proud to "Dial-Down," drive less and walk more or do anything else for the good of our country. So, if you say the price of propane is "in line" we will feel better about it.

Respectfully yours,
Mr. and Mrs. George E. Rife.

Enclosure.

[From the Caldwell (Kan.) Messenger, January 7, 1974]

Increasing Price of Propane Great Concern to Consumers

The rapidly increasing price of propane has been a point of great concern to all of the Kansas consumers of L. P. gas.

Ken Johnson, Executive Secretary of the Kansas L. P. Gas Association, pointed out in a letter sent to all L. P. gas dealer members this week that the increases are largely due to a practice allowed by the Cost of Living Council on the pass-through provision for the increased cost of crude oil.

Producers and refiners are allowed to pass on increased costs of both production and importation of petroleum products. However, much of the recent increase in the wholesale price of L. P. gas (propane) has not been attributable in increased costs of LP-gas. The suppliers, being allowed to distribute the increased costs on any product in any proportion or ratio they desire, have passed a very substantial part of these increases into LP-gas.

"In fact, this unfair and inequitable practice has caused some suppliers to raise the wholesale price of propane as much as 300% in the past year while some other petroleum products have increased less than 15%," Johnson stated.

"Further," Johnson pointed out, "only 34% of our propane supply comes from crude oil including imports and domestic production. The remaining supply comes from natural gas plants. So actually, only a very small percentage of the increased costs should be charged against propane."

Kansas LP-Gas Association has stressed that the retail dealer serving the consumer is allowed under Phase 4 to simply pass on the increased price of product and all other expense he must absorb. In reality, his profit margin has been severely cut. The retail dealers, in fact, are leading the fight to get this unfair loading of propane prices stopped.

It is hoped that consumers will help by writing to their U.S. Senators or Congressmen in an effort to get increased petroleum costs on a fair and equitable basis.

High Ridge, Mo.,
January 15, 1974.

Hon. Stuart Symington,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Symington: I am appealing to you to direct your immediate efforts and attention to determining the reason for the exorbitant propane fuel increases I am experiencing this winter. The letter which follows details the reasons for my extreme anxiety and concern regarding this matter.

Please refer also, to the article on page 2B of the January 13, Sunday edition of the *Saint Louis Post Dispatch* as regards price comparisons.

Sincerely,
Del Hindle.

Sieveking, Inc.,
St. Louis, Mo.

Dear Mrs. Sieveking: This afternoon I entered my home in good spirits. The sun was shining, the temperature was in the 40's and all seemed right with the world. My mood took an abrupt reversal, however, when my wife presented me with the bill for today's delivery of propane gas from your company. The price was an unbelievable 37.3 cents per gallon. In February of last year, just 11 months ago, your charge was 18.1 cents per gallon. This is an increase of 106% in less than a year.

I am a teacher in the Rockwood School District and the sole wage earner for my family of three. Last year the teachers in my district received a salary increase of 4.2% over the previous year. This means my fuel bill increased by 25 times as much as my salary.

I have managed to stretch my dollars fairly well in the past so my wife could be in the home with our children. I'm not sure we can continue much longer under a burden like this. What are we to do?

A most troubled customer,
Del Hindle.

[From the St. Louis Post-Dispatch, January 13, 1974]

Propane Costs in Area Up 83 Percent in a Year

Missourians who use propane gas are paying about 83 per cent more for that fuel than they did a year ago.

A check of area dealers shows an average price of 32 cents a gallon, an increase of 14.5 cents. The average price per gallon last year was 17.5 cents.

That means $480 would be required to buy the 1500 gallons needed to heat a standard-size house this winter, compared with $262 last year.

Prices varied from 29.4 cents a gallon quoted by Geldbach Petroleum Co., Inc., to 36.3 cents charged by Sieveking, Inc., Standard Oil is selling propane for 30.2 cents a gallon.

Propane as a home-heating fuel is used mostly in rural areas and on the fringes of the metropolitan area.

Representative Gene Taylor (Rep.), Sarcoxie, has asked Federal Energy Administrator William E. Simon to investigate "alleged overpricing of propane, butane and other liquified petroleum gases."

He said, "I have many letters in my files from individuals who are paying as much as 10 cents per gallon more than their neighbors who are buying the same product from a different dealer. How do you explain that?"

Dealers say that they had been allocated about 60 to 70 per cent of what they had received a year ago.

Dealers here said that their suppliers were charging more, and that they had had to pay more to have the fuel transported from southern refineries.

They predicted that prices would continue to rise.

AMENDMENT OF GENERAL EDUCATION PROVISIONS ACT

Mr. DOMENICI. Mr. President, I rise today to speak of an issue of utmost importance to the Nation's public schools.

Earlier this week, I became a cosponsor of S. 2890, a bill to amend the General Education Provisions Act to allow school districts to carry over into the 1974–75 school year unused education funds appropriated for fiscal year 1974. This bill would also allow school districts to similarly carry over into fiscal year 1975 any of the impounded fiscal year 1973 Office of Education funds which were released this past December.

Since 1970, school districts have been able to carry over from one fiscal year to the next unused Office of Education program funds as a result of a provision in section 414 of the General Education Provisions Act. However, as of July 1, 1973, this section 414 carryover provision—often referred to as the Tydings amendment—has expired.

It is difficult to overstate the importance of this section 414 carryover provision for sound fiscal management at the local school district level. Many curriculum, financial, and other school management decisions for the regular school year must be made months before there is an appropriation for Federal education programs. As a result, a number of school districts now regularly plan to expend a portion of their Federal program money either in the summer session or during the school session after the end of the fiscal year in which the money was appropriated.

If the section 414 carryover provision is not amended and extended as proposed under S. 2890, it would mean that school districts, which are only now finding out exactly how much of the December Labor-HEW fiscal year 1974 appropriations they are to receive, would have to expend all of their appropriated funds before June 30 or have the balance revert to the Treasury. And, in effect, many school districts which had made cautious and careful spending estimates last spring would be penalized for their prudence.

At the present time, most school districts are already in the final stages of planning next year's school budget. These districts want and deserve to know whether the fiscal year 1974 and recently released fiscal year 1973 education funds will be available after June 30.

Thus, it is my hope that the Senate will both consider and approve S. 2890 in the very near future.

SENATOR RANDOLPH COMMENTS ON PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. RANDOLPH. Mr. President, the 10-point program that the President enunciated last night as embodying his program for 1974 covers many areas of concern. His recommendations touch on the lives of all Americans and would have an effect on all aspects of our national life.

There is, however, very little that is new in the goals which he described in broad terms in his address to the Congress. There can be little argument with the program in general, but specifics will bear close scrutiny by the Congress and the American people.

Each of the areas listed by the President has been subjected to congressional review and action in recent years. I have been personally involved in developing legislation on several subjects addressed by the President. This is why I know that the President's program recommends little that is new. The Committee on Public Works, which I chair, has jurisdiction—either solely or shared with other committees—over several areas of concern to the President.

Energy, economic development and transportation are problems on which we have been working with goals similar to those proclaimed by the President. Often our efforts have been carried out against the opposition of the administration.

The coming of an energy shortage has been apparent for years, but we are only now beginning to mobilize our resources to cope with it realistically. The Committee on Public Works developed legislation in 1965 to begin what the President calls returning government to the people. The Appalachian and economic development programs began that process and have been successful. In the field of transportation, our efforts over the past 2 years were devoted in large part to writing a new, landmark highway law which provides flexibility in the meeting of our country's transportation needs.

The work is not complete in these vital areas. My interpretation of the President's message, at least at this time, is that he is exhibiting a new willingness to join us in a realistic effort to make further advances in areas where the Congress has sometimes had to make a solitary effort.

His proposals mean little if they are enacted but the funds to carry them out are impounded by the administration. Programs for improved water pollution control, transportation, housing, health care, education and other urgent needs are inadequate if the money to implement them is not forthcoming.

The President continues to impound funds in almost all of these areas.

Only a few weeks ago, nearly half of the money provided for building sewage treatment plants next year was withheld from distribution.

More is needed than words. There must be a demonstrated desire to follow through with the commitment of resources necessary to bring the programs to reality.

I hope that we can reach each goal that the President has declared in his program. I share his concerns and am willing to work for realistic solutions to the many problems we face.

CONSTRUCTIVE ACTION BY ADMINISTRATION AND CONGRESS NEEDED IN CHILD EDUCATION

Mr. RANDOLPH. Mr. President, I read with intense interest the President's message on the education of children transmitted to the Congress on Thursday, January 24.

It is gratifying that the President cited education of the handicapped, even though it was not specifically mentioned as one of the priorities or basic principles of constructive action. The focus on this vital need is important. I am disappointed, however, that the only plan of assistance for education of the handicapped is administrative consolidation of present programs. As Senators know, existing programs would be extended by S. 896, which I was privileged to introduce with the cosponsorship of all members of the Subcommittee on the Handicapped. This measure was passed unanimously by the Senate on June 25, 1973. Presently, it is pending in the House Education and Labor Committee.

It is of concern to me and others that the education message did not outline authorization for new programs. I am hopeful that legislation which the President has promised in his message will contain additional initiatives for education of the handicapped. Our subcommittee would welcome the opportunity to participate in any constructive endeavor to expand aid for services to the handicapped children and youth of America.

BYRD INTERVIEWED ON PBS SHOW

Mr. ROBERT C. BYRD. Mr. President, on Monday, January 28, I was the guest on "Washington Straight Talk," a 30-minute production of the National Public Affairs Center for Television. The program, carried on the Public Broadcasting Service network, is produced by Lincoln Furber. Paul Duke, who is in the process of moving to PBS from NBC, conducted the interview.

I ask unanimous consent that the transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

WASHINGTON STRAIGHT TALK

(ROBERT C. BYRD)

GUEST. Robert C. Byrd.
INTERVIEWER. Paul Duke.
PRODUCER. Lincoln Furber.

PAUL DUKE. Senator, since Congress came back last week, there's been a notable increase in talk about the President's resignation or impeachment.

Do you believe Mr. Nixon can now survive?

Senator ROBERT BYRD. It's going to be difficult, but I think he can.

DUKE. Why do you say it's going to be difficult?

Senator BYRD. Well, because the pressures for resignation are growing; the pressures for impeachment are increasing, in some quarters at least. And the courts are moving; grand juries are acting; possible indictments are in the wings. So I think it'll be difficult.

But as yet there is no clear, irrefutable evidence of direct presidential involvement. This is why I say his survival is possible.

Then, too, the man himself I think is determined to try to stick it out. He has said he will not resign. And in a meeting with the President last week, I, along with other congressional leaders were present, discussing the energy crisis. He didn't look like a man who is about ready to resign, and he didn't talk like a man who is ready to resign.

DUKE. More and more Democrats, though, are suggesting that the President should resign. We've had Congressman Mills in the House, one of the most powerful political figures in that chamber. The Democratic Majority Leader in the House, Mr. O'Neill, now saying the President should quit for the good of the country.

Do you think he should resign?

Senator BYRD. Let me say first that I don't think the President is going to bow to any pressure from Democrats that he resign. If he resigns, it will be on the basis of public opinion and the pressure from leaders within his own party.

Now do I think he should resign? Let me approach that in this way. I wish that the President would cooperate in getting at the facts. And I wish that once those facts are clearly revealed, if they ever are, that the President would be exonerated. And thus far it hasn't looked too good. There's been too much ducking and weaving and diversion and excuses. The so-called Operation Candor was a dud And now we hear that there are going to be offensives from the White House, counteroffensives. What the country needs is not a counteroffensive. All the people want is the truth.

I think that most of the truth certainly will ultimately come out. And I would hope that, if the President can show in some way thta he is clear of direct involvement in any crimes, he would not resign. I would also hope that the evidence would not substantiate impeachment. But if the evidence does substantiate impeachment, and if the House does recommend impeachment, then I would hope that the President would resign rather than subject the country to the travail of a Senate trial, which would further polarize the country, paralyze government, especially in the executive and legislative branches, severely impair public morale, and have a bad effect upon our country at home and abroad.

DUKE. Are you saying, Senator Byrd, that it is now up to the President to prove that he is innocent?

Senator BYRD. Well, in our legal system, of course, any person is innocent until he is proven guilty. But unfortunately, this does not seem to be the case with public officials. In the court of public opinion, almost any public official has to prove himself innocent or else the opinion of the people, as reflected in the polls, is going to be against him. Unfortunately, that appears to be the case.

DUKE. You have suggested that the President discuss Watergate in his State of the Union message. Do you also urge Mr. Nixon to appear voluntarily before a federal grand jury to testify before the Senate Watergate Committee or to testify before the House Judiciary Committee?

Senator BYRD. I think the time for appearing before the Watergate Committee has long passed, if there ever was a time when the President should have appeared before that committee. That committee, as you know, was created for the purpose of securing information on which to base legislation to prevent future excesses like Watergate.

As to appearance before a grand jury, yes, I think he or his representatives should appear before a grand jury, if requested to do so. But I don't think it's necessary that he do so voluntarily.

I think that the President ought to cooperate with the courts, with the grand juries, with the Special Prosecutor and with the House Judiciary Committee in their several lines of inquiry. This is the least I think that the American people can expect. They have a right to expect this. And under our constitutional system, the President, any public official, should cooperate to the fullest extent in any inquiry that deals with the possible commission of crimes.

DUKE. Senator . . .

Senator BYRD. By the way, let me say this, too, with reference to his State of the Union Message to which you referred. I don't think that the State of the Union can be addressed without also dealing with the state of the Presidency. I don't know whether the President will address himself to this matter in his State of the Union Message or not. But it would seem to me that this would be a forum in which he has never addressed himself to this question. And he might very well help himself by doing so.

Duke. Well, referring to the state of the presidency, Senator, isn't there a steady erosion of the President's backing now? And isn't there a real question as to whether he can ever regain the confidence of the American people? We have three hundred corporation executives who have said that confidence cannot be regained under Mr. Nixon. We have the conservative columnist James Kilpatrick who now says that friends of Mr. Nixon must face the prospect that he is, indeed, a crook. Doesn't this really put the country in the position of having a President who will never be trusted again, even if he does remain in office?

Senator Byrd. I think that's right. There's no question but that his influence has been greatly eroded. I doubt that he can ever regain the confidence of the American people. I think it has passed that point. The credibility of the President has suffered; but not only the credibility of the President has suffered. The credibility of all government has suffered. Not only is there a growing lack of trust in the President, but this lack of trust extends itself also to the Congress and to the press, and to other areas of our governmental structure and our society.

There was a time when I think the President could have regained and recouped his lost ground. I think that he certainly is due high marks with regard to many of his actions in the five years that he has been in office—and only recently. I think he is to be given great credit for the progress that was made in the Middle East toward a workable peace. I don't think that all of the credit should be given to Mr. Kissinger. Of course, he played center stage and is due a great deal of credit. But there's no question but that he acted with the knowledge that the President was backing him up. And so I think Mr. Nixon is due considerable credit in that regard.

He will have the opportunities to address the country giving his State of the Union Message. He will continue to give messages to Congress, the budget message and so on. He will have an opportunity to speak on trade and various other international questions. And so he has many options and forums. I don't think he's to be counted out. But I, at the same time, don't feel that he can ever regain the trust of the people and re-establish his high credibility, which was reflected in the mandate that was given him in the last election, and at least the high credibility that ought to be associated with any President.

Duke. Well, does this make impeachment more of a realistic possibility now?

Senator Byrd. I think it's more of a realistic possibility, yes. But as I said quite some weeks ago, I think that if either impeachment or resignation should occur, resignation would probably be more likely to occur than would impeachment. There's no ground swell for impeachment. We see this reflected in the polls. I see it reflected in my mail. There's probably one out of every four persons, in the United States who would favor impeachment. But there's an uneasiness on the part of the people regarding impeachment because of the paralysis in government that they would expect to flow from it.

Duke. You say one out of every four persons now would support impeachment. And polls show that only about one out of every eight House members support impeachment. Does this indicate to you that the people are ahead of the politicians on this?

Senator Byrd. I think that this would be the most sensitive political vote ever cast by any member of the House, if it comes to a vote on impeachment. I don't envy any member of the House, because there's no way to win on this vote. Either way a member goes, he creates for himself an unforgiving segment of his constituency. And if I might be a bit facetious, I think I can make a point, however, in saying that the luckiest member of the House on the day on which an impeachment vote occurs would be the fellow who is over at Bethesda Hospital having just undergone a tonsillectomy, and a hemorrhoidectomy and is on his way back to the operating room for the recovery of two kidney stones.

Now, many of the members of the House have been elected by very slight margins, one percent, one-half of one percent, two percent, three percent, five percent. And one can see these margins being eroded by a vote on impeachment, whatever way it goes. This is not to say that the member will follow public opinion. But I think that even without the strong support of public opinion, it will be difficult for members to vote for impeachment.

Duke. You're a lawyer, Senator, and lawyers differ on whether the President . . .

Senator Byrd. May I add one . . .

Duke. Sure.

Senator Byrd. May I interrupt you?

There's a certain mathematics in this equation too. There are about a hundred and ninety Republicans in the House. And there would only need to be, if all members were present and voting, an additional twenty-eight to thirty Democrats in support of the Republicans, if the Republicans held firm, against impeachment of the President.

And so this, it appears to me, would indicate that the votes, at the moment at least, are not there for impeachment. In the Senate, the mathematics is even more binding where two-thirds of the Senate would be required to convict the President. In the Senate, there are forty-two Republicans. Only thirty-four members of the Senate would be required to acquit the President. And I would assume that while this would be a matter that, if it comes to the Senate—and ought to be thoroughly disentangled from partisan considerations—and there would be a proclivity on the part of Republicans, unless the evidence were clear and irrefutable, to support the President. Some of them might be expected to leave him. But in their stead I feel that there would be some Democrats who would be against conviction of the President, unless the evidence were so clear and irrefutable as to be so convincing that they would feel that he was unquestionably guilty.

So I think the arithmetic is against—certainly against conviction now.

Duke. But this is not to say that the votes may not be there at some future date . . .

Senator Byrd. This is not to say . . .

Duke. . . . two months, three months, or six months?

Senator Byrd. That's true. We don't know what blockbusters may be ahead. And we don't know what clear and irrefutable evidence may be discovered or brought to bear in such a trial, if it ever occurs.

Duke. I was going to ask you about the fact that lawyers do disagree as to whether the President can be indicted. Do you feel he can be indicted?

Senator Byrd. I think he can be indicted. There are those who feel, as you've indicated, that indictment and trial and punishment cannot precede an impeachment. I don't believe this. I think one phrase or the other had to come first in the Constitution. And I think the mere fact that the phrase that deals with indictment and punishment in a court of law—the fact that that comes second is no indication that it has to follow rather than precede impeachment. I don't think that the constitutional forebears meant to confine redress to impeachment first and then indictment, because if that were the case, then high officials could commit rather heinous crimes with impunity. And considering the natural reluctance of legislative bodies to impeach. I think this would throw a blanket over and around public officials and protect them from indictment and punishment in a court of law.

So I don't go along with the idea that indictment cannot occur until the President is impeached.

Duke. Vice President Ford made a very controversial speech some days ago in which he suggested that a small band of radicals is responsible for the talk of the President resigning or being impeached. Do you think that the Vice President damaged himself with that speech?

Senator Byrd. I think he did, at least temporarily. Based on our hearings on the confirmation of Mr. Ford, in which I participated as a member of the Rules Committee, and based on my own acquaintance with Mr. Ford over a long period of time—I served in the House with him before I went to the Senate—I've had a great deal of confidence in Mr. Ford, in his integrity and in his ability to be his own man. But the speech shook me a little bit, as it did a lot of people.

I expect the Vice President to defend the President, especially in connection with the President's policies. But we're not talking about presidential policies here. We're talking about his possible commission of serious crimes. And I would like to see the President [sic] be his own man——

Duke. You mean the Vice President.

Senator Byrd. ——the Vice President be his own man and reflect a more independent and detached viewpoint in connection with any discussion about Watergate and related affairs.

Duke. I'd like to discuss now, a democratic problem, Senator. It's no secret to you, I'm sure, that many Democrats in the Senate are concerned about a problem which they discuss privately which relates to Senator Kennedy. Senator Kennedy is the leading prospect for the Democratic Presidential nomination in 1976. And yet, there is concern that, would Senator Kennedy—to some extent you would have a problem of moral credibility just as you do with Mr. Nixon growing out of the Chappaquiddick incident. In the light of this, do you feel that maybe Senator Kennedy shouldn't be the Democratic nominee in 1976?

Senator Byrd. I wouldn't want to go that far. I think Senator Kennedy has a problem. I'm sure he's aware of it. And he would have to deal with that problem. I think that Senator Kennedy will be a very major factor, in the 1976 election. He may be a critical factor.

Duke. You can see that the Chappaquiddick would be a major issue if he were the democratic nominee.

Senator Byrd. I wouldn't want to comment on that.

Duke. In this atmosphere of moral crisis and credibility many people have been looking to Congress, Senator, to provide more leadership. And yet, there's a certain feeling of disappointment about Congress. A feeling that Congress has not faced up to the country's basic problems. It has done nothing about tax reform, campaign reform, welfare reform.

Should the people still have faith in Congress?

Senator Byrd. I think that Watergate has hurt all government at all levels—all public officials. It has hurt both political parties. And Congress has certainly come in for its share.

Two or three things ought to be said about what you just stated. One is, you said that Congress had done nothing about campaign reform, about tax reform. The Senate passed a campaign reform bill. The Senate passed a pension reform bill. The House has held hearings on tax reform. And this is the second session of the Ninety-third Congress. And I believe that before this session is through, one will see action by the House on campaign reform—I would hope so—on pension reform, and possibly by the House and the Senate on tax reform.

Now what can be done to help the—to improve the faith of the people in their Congress? For one thing, the Congress is at a disadvantage when it comes to projecting itself and what it's doing. I think the press ought to—and I'm talking about all areas of the media—should attempt to show more about what Congress is doing and talk about what's good that is going on and not just about what is bad. And I don't say this to cast any reflection on the media, because much credit is due the media for the exposures that have been made and for keeping all branches of government on their toes.

But there can be a better job in projecting the image of the Congress. For example, Congress in the last session, I think—and may I say, especially the Senate—I say especially the Senate because perhaps I know a little more about what's going on there—moved with strong and firm and positive steps toward reclaiming control of the purse and toward re-establishing an equality with the executive branch in our structure of checks and balances.

For example, the War Powers Bill was passed over the President's veto. Bombing in Indochina was brought to a halt because of congressional action. Impoundments by the President were challenged by the Congress by statutes and in the courts, with members of Congress joining in suits. And the courts, by and large, have upheld the Congress and have taken the position that such impoundments were illegal. The exorbitant claims of executive privilege were challenged by legislation and in the courts. And the President's appointments of various officials were closely scrutinized, and, in soem instances, those nominations were withdrawn.

So I think Congress took strong steps to reassert itself and to regain some of the authority that, although not lost, had been temporarily surrendered. And I think that the Congress is going to continue to do this. I believe the people have every right to trust their elected representatives in Congress, by and large.

Duke. Well, let me move on to a more practical issue which concerns every American, namely the rising cost of oil and gas. What's Congress going to do about that?

Senator Byrd. Congress has already acted, but there remains much to be done. The Alaska Pipeline Bill was passed. The National Emergency Energy Act was passed by both houses, but the differences have not yet been resolved. But I would expect action in this regard very soon.

Congress for years has been—at least some of us in Congress for years—I myself going back to my terms in the House of Representatives, from 1953 through 1958—have been pointing to a time when there might be an energy crisis. And we've been talking from the housetops about the dangers of depending upon foreign resources of energy which are interruptable. And for years on the Appropriations Committee, I have been seeking to increase appropriations for coal research. We've finally gotten the appropriations for the Office of Coal Research up to a point now where they ought to have been perhaps five years ago.

There've been hearings going on in the appropriate committees dealing with energy matters long before the President's message came up. As a matter of fact, the President's message in many areas gave support for the first time to measures that have been moving along in Congress.

But we're living in a time when both the executive and legislative need to work together and cooperate in dealing with this very serious crisis. And I think Congress will do its part.

Duke. But specifically, Senator, would you favor something like a ceiling to prevent gas prices, say, from going to seventy-five cents or a dollar?

Senator Byrd. At the moment, this question of deregulation of natural gas is a question that has at least two sides. There are those who say that if its deregulated, then people will have gas. There are those who say if it is not deregulated, the price will be cheap, but people won't have gas.

There may be some middle ground, because I think there has to be the incentive for further exploration for resources. There has to be a fair profit made. At the same time, the people have to be protected.

So I think I would take the middle ground. I might even—I might even be opposed to deregulation of gas. I want to study this more closely.

Duke. One last question. What would you like to be remembered for?

Senator Byrd. Oh, I don't—I haven't had any thoughts along those lines. I don't think I'll be remembered. I often try to view it in this way. If something happens to me today, if I should be killed in an airplane crash or something, ten days from now the Governor of West Virginia would appoint a new Senator and they'd soon forget about Robert Byrd.

We live in such a mad rush and so many things happen—events overtake one another—that not many of us are going to be remembered for much. Hopefully, our grandchildren can remember us. That'll be about it, I guess. I just strive to do the best I can and to perform my duty to the utmost of my ability. I intend to do that. And I think that's about it.

Duke. Thank you, Senator Byrd.

LESS HAZARDOUS CIGARETTES

Mr. MOSS. Mr. President, tomorrow, the American Public Health Association and I will petition the Consumer Product Safety Commission to set a maximum level of tar in cigarettes of 21 milligrams. After considerable consultation, it is our judgment that there is adequate authority for the CPSC to utilize the Federal Hazardous Substances Act to set such a limit. Furthermore, we are convinced that the evidence supports this effort and would result in the public smoking cigarettes with less hazard. There are many cigarettes on the market today which are already below the proposed maximum level.

It is important to note that in no way do we feel that cigarettes would be devoid of health hazards with the 21-milligram tar limit. The only safe cigarette is an unsmoked cigarette.

I would also like to note for my colleagues the excellent work which our counsel has done in preparing the petition and memorandum. This work was performed by the Institute for Public Interest Representation at Georgetown University Law Center. The attorneys and students, led by Victor Kramer, director of the institute have prepared an outstanding brief.

Mr. President, I ask unanimous consent that the petition and memorandum in support of the petition to the Consumer Product Safety Commission be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[The United States of America Before the Consumer Product Safety Commission]

Petition of American Public Health Association and Senator Frank E. Moss for the Promulgation of a Rule Banning From Sale in Interstate Commerce High Tar-Yield Cigarettes

PETITION

This Petition (together with the accompanying Memorandum in support thereof) requests this Commission to promulgate a rule which bans from sale in interstate commerce cigarettes yielding more than 21 milligrams of tar pursuant to a finding classifying those cigarettes as "banned hazardous substance" as that term is defined in Section 2(q) (1) (B) of the Federal Hazardous Substances Act (15 U.S.C. § 1261).

I. The petitioners

1. The American Public Health Association (APHA) is a nonprofit Massachusetts corporation founded in 1872 with its headquarters at 1015 18th Street, N.W., Washington, D.C. 20036. Including its state affiliate organizations, the Association has over 50,000 members. APHA has been concerned and involved in issues concerning smoking and health for a score of years and in February 1964 served as one of the four founding agencies of The National Interagency Council on Smoking and Health. This group, which now includes over thirty national health organizations, has dedicated itself to implementing the recommendations of the Surgeon General's Report on Smoking and Health. During the last twenty years, APHA has provided leadership in activities related to the hazards of smoking. Presently, APHA has a smoking and health project which is seeking to alert people within health professions to their role as exemplars and is working to decrease both the number of smokers and the hazardous contents of cigarettes.

2. Honorable Frank E. Moss—Senator from the State of Utah—is presently serving his third term in the United States Senate after having been first elected in 1958. Senator Moss serves as a member of the Senate Commerce Committee and as Chairman of the Consumer Subcommittee thereof. Senator Moss has consistently demonstrated an interest in protecting the public from a variety of health hazards including those which are the consequences of the inhalation of cigarette smoke. Senator Moss was a sponsor of the Child Health and Toy Safety Act of 1969, the Poison Prevention and Packaging Act of 1970 and the Consumer Product Safety Act of 1972. Senator Moss authored the 1970 amendment to the Federal Cigarette Labeling and Advertising Act of 1965 which blamed broadcast advertising of little cigars.

II. The facts

3. The Surgeon General and the Congress of the United States have determined that cigarette smoking is dangerous to health. Cigarette smoking plays a major role in deaths resulting from many diseases, the most important of which are ischemic heart disease, lung cancer, chronic bronchitis, and emphysema. Cigarette smoking also causes disability from other chest and heart diseases.

4. Two constituents of cigarette smoke which are the predominant contributors to the hazards of smoking are tar and nicotine. Tar is a generic term for the particulate matter of cigarette smoke. Nicotine is a part of the "total tar", but the term tar in common parlance and used herein refers to the par-

ticulate matter which remains after the removal of nicotine and moisture.

5. The dangers of tar to the human body are twofold. Tar contains substances which are known to produce cancer in various parts of the body. The accumulation of tar in the human lung over an extended period of time impairs the filtering capacity of the bronchial cilia and thereby precipitates a host of respiratory complications.

6. Nicotine is generally believed to be a major contributor to cardiovascular disease. It increases adrenalin levels in the blood which cause a thickening and hardening of the arterial walls; consequently, the flow of blood through the arteries is restricted. This condition is commonly known as arteriosclerosis. Finally, because nicotine is part of the "total tar" in cigerette smoke, it too may contain carcinogenic subtances.

7. The hazards of developing cancer and heart and respiratory diseases as a consequence of the ingestion of tar and nicotine into the body are extensively documented. Presently, the most widely shared medical opinion is that there is a dose-response relationship between the ingestion of cigarette smoke and the incidence of disease. Accordingly the greater the dose of tar and nicotine received by the smoker, the more substantial is the risk of disease.

8. Individuals differ in their susceptibility to the diseases to which cigarette smoke contributes, and their exposure to other factors which may cause these diseases. The degree of exposure to tar and nicotine is the most critical factor in the development of tobacco-related diseases, and in view of the fact that there is no known level at which the ingestion of these substances is harmless, any individual who habitually smokes cigarettes containing high concentration of tar and nicotine increases his risk of disease.

III. Reasons for granting petition

9. Section 2 of the Federal Hazardous Substances Act provides in pertinent part as follows:

"(f) The term 'hazahrous substance' means:

1. (A) Any sustance or mixture of substances which (i) is toxic. . . ."

* * * * *

"(g) The term 'toxic' shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface."

* * * * *

"(q) (1) The term 'banned hazardous substance' means . . . (B) any hazardous substance intended, or packaged in a form suitable, for use in the household, which the Secretary by regulation classifies as a 'banned hazardous substance' on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under this Act for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce

10. Section 4 of the aforesaid Act provides in pertinent part as follows:

"Sec. 4. The following acts and the causing thereof are hereby prohibited:

(a) The introduction or delivery for introduction into interstate commerce of any . . . banned hazardous substance."

11. The Surgeon General has found that the inhalation of cigarette smoke has substantial capacity to produce cancer, heart disease, and respiratory problems. Accordingly, those substances in cigarette smoke which are known to have the capacity to produce disease are toxic substances as defined in Section 2(g) of the Act, and therefore are hazardous substances under Section 2(f).

12. Because of the toxicity of the smoke which is the necessary by-product in the consumption of cigarettes, cigarettes *per se* are a hazardous substance intended for, or packaged in a form suitable for use in the household. A regulation of the Food and Drug Administration (21 C.F.R. § 191.1(c)) provides that such substances are:

"any hazardous substance, whether or not packaged that under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell. . . . The test shall be whether under any reasonably foreseeable condition of purchase, storage, or use the article may be found in or around a dwelling."

Cigarettes are sold in small packages which may easily be taken from the place of purchase to the household, and cigarettes are customarily consumed in vast numbers of American homes.

13. Pursuant to the Federal Cigarette Labeling and Advertising Act of 1965 as amended in 1970, all cigarette packages bear this statement: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health." Despite this cautionary labeling both the incidence of lung cancer and sales of cigarettes have increased since 1965. Because scientific evidence of the health hazards of nicotine is not as conclusive as is that of tar, and because a decrease in tar yield necessarily effects a decrease in nicotine, Petitioners propose a regulation of tar yield only. A ban on the sale in interstate commerce of cigarettes especially high in tar would be effective in reducing the incidence of the health hazards posed by the smoking of such cigarettes.

14. Current medical evidence supports the conclusion that the greater amount of tar inhaled, the greater the health hazard. This Commission has no statutory power to proscribe the use of cigarettes after their sale to the smoker. The only alternative is the elimination of as much of the inherent risk in cigarette smoking as is feasible before the product reaches the smoker.

15. In the September 18, 1973 issue of the Federal Register, the Federal Trade Commission published the results of its analysis of the tar and nicotine content of 130 varieties of domestic cigarettes. Approximately 100 of the varieties tested yielded less than 22 milligrams of tar, while 27 varieties yielded between 22 and 23 milligrams of tar. Cigarettes yielding more than 21 milligrams of tar constitute approximately 20% of the varieties and 15% of the number of domestic cigarettes which presently enter interstate commerce.

16. Petitioners propose that this Commission adopt a rule providing for a maximum of 21 milligrams of tar yield as the limit to be allowed in any cigarette sold in interstate commerce. This limit will remove the most dangerous varieties of cigarettes from the market.

17. Presently, there is substantial laboratory evidence of the validity and the feasibility of a variety of techniques for complying with the rule herein proposed. Among these are: (1) the development and incorporation in the cigarette of more effective filters; (2) the use of selected tobacco strains and reconstituted tobaccos; and (3) the enhancement of the cigarette combustion process.

18. Petitioners suggest that the ultimate removal from the market of cigarettes yielding more than 21 milligrams of tar be accomplished by permitting manufacturers gradually to reduce the tar yield over a period of time. Consequently, this Commission's decision to ban the sale in interstate commerce of such cigarettes will be effected in a manner by which the smoker may avoid experiencing a sudden and marked difference in the quality of the smoke. This approach should maximize acceptance by the smoker and hence facilitate the contemplated health benefit to those directly affected by the proposed rule.

19. This Commission is authorized to impose the classification of "banned hazardous substance" when cautionary labeling is inadequate to protect the public from the harmful effects of a particular substance. Because the cautionary labeling of cigarette packages which has been required since 1965 has not reduced the magnitude of the health hazard resulting from the inhalation of cigarette smoke, this Commission, should ban—in accordance with Petitioners' request herein—the sale in interstate commerce of those varieties of cigarettes which yield the largest amounts of tar.

PRAYER

The Surgeon General and the Congress of the United States having determined that cigarette smoking is dangerous to health because of its substantial contribution to the incidence of cancer, respiratory ailments, and heart disease, and

There being unequivocal medical evidence of a direct correlation between the amount of tar yielded by a cigarette and the smoker's risk of being stricken by cancer or respiratory disease, or both,

Petitioners pray that the Commission expeditiously investigate the facts alleged herein and, if substantiated, promptly thereafter promulgate a regulation—

(1) declaring that cigarettes yielding more than 21 milligrams of tar are a banned hazardous substance because the tar that is inhaled in conjunction with smoking of such cigarettes is a toxic substance causing substantial danger to the health of the smoker; and

(2) prohibiting the introduction in interstate commerce of those cigarettes exceeding maximum allowable tar yield limits in accordance with a schedule which would provide for the gradual reduction in the tar yield of cigarettes affected by the aforesaid regulation in order to attain industrywide compliance with the 21 milligram limit at the expiration of 18 months.

Respectfully submitted.

INSTITUTE FOR PUBLIC INTEREST REPRESENTATION.
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FEBRUARY 1, 1974.

[The United States of America Before the Consumer Product Safety Commission]

PETITION OF AMERICAN PUBLIC HEALTH ASSOCIATION AND SENATOR FRANK E. MOSS FOR THE PROMULGATION OF A RULE BANNING FROM SALE IN INTERSTATE COMMERCE HIGH TAR-YIELD CIGARETTES

MEMORANDUM IN SUPPORT OF PETITION OF AMERICAN PUBLIC HEALTH ASSOCIATION AND SENATOR FRANK E. MOSS FOR THE PROMULGATION OF A RULE BANNING FROM SALE IN INTERSTATE COMMERCE HIGH TAR-YIELD CIGARETTES

Preliminary statement

The Petition of American Public Health Association and Senator Frank E. Moss seeks to ban the sale in interstate commerce of cigarettes yielding more than 21 milligrams of tar for the purpose of protecting the health of the smoking public against some of the health hazards of the high tar-yield cigarettes which are presently marketed.

The balance of this memorandum (1) reviews the scientific evidence that the cigarette smoker's risk of disease increases correspondingly with an increase in the amount of tar which his cigarette yields, (2) sets forth the evidence establishing that cautionary labeling has not protected against the health hazards of smoking, and (3) reviews the statutory authority of this Commission to promulgate the rule proposed herein.

I. THE HEALTH HAZARDS IN CIGARETTE SMOKING

A. Tar and nicotine are the major contributors to the dangers of cigarette smoking

The Surgeon General and the United States Congress have determined that cigarette smoking is dangerous to health. There is strong evidence that cigarette smoking plays a major role in the development of ischemic heart disease, lung cancer (and possibly cancer in other parts of the body), bronchitis and emphysema, and that it causes disability from heart and chest diseases, and death and disability from several other conditions.[1]

The Public Health Service has identified and evaluated the substances in cigarette smoke which contribute to the health hazards of cigarette smoking, and categorized and ranked the substances into three groups. The first group consisted of those substances which were found to create the greatest hazards to the health of the smoker. Tar and nicotine were among the three substances in this group.[2]

Tar is the generic term for the particulate matter which remains after the removal of the nicotine and moisture in cigarette smoke.[3] The particulate matter which is collected from cigarette smoke before the removal of nicotine, but after the removal of moisture, is called the "total tar." [4] Therefore, nicotine is a part of the "total tar" of cigarette smoke despite the fact that the term tar, as frequently used (and as used hereafter) excludes nicotine.

Tar is believed to contain the carcinogenic (cancer-producing) substances present in cigarette smoke. Scientists have found that after repeatedly placing a dilute solution of tar on the skin of mice, 60 percent of those mice will develop skin cancer within one year.[5] Similarly, after placing a 1 to 1,000 dilution of benzpyrene (a hydrocarbon present in tar) in paraffin pellets and implanting those pellets in the cheeks of hamsters for twenty-five weeks, 90 percent of those hamsters developed cancer of the mouth.[6] Furthermore, as tar accumulates in the lung, it reduces the filtering capacity of the bronchial cilia, thus increasing the smoker's susceptibility to the development of a host of respiratory diseases.[7]

Unlike the scientific evidence to support the relationship between tar and the development of smoking-related diseases, the evidence as to the disease-producing characteristics of nicotine, while significant, is not conclusive. The opinion that there is a relationship between nicotine and cardiovascular disease is based upon findings that its presence in the human body increases the level of adrenalin in the bloodstream, and this leads to a thickening and hardening of the arterial walls (arteriosclerosis). Furthermore, the increased adrenalin level resulting from the ingestion of nicotine into the blood is thought to induce irregular heartbeats in an already damaged heart.[8]

Insofar as nicotine is a part of the "total tar" present in cigarette smoke, it is suspected that it too may contain some carcinogenic substances. But, independent of such suspicions, scientists have found that nicotine in the lung, liver and other tissues, is chemically converted to a substance known as cotinine. When fed to rats, cotinine results in a high incidence of cancer.[9]

Rather than attempt to regulate both tar and nicotine, the Petition seeks the establishment of a limit only on the tar-yield of cigarette smoke. The rule which Petitioners seek will nevertheless protect the smoking public to some extent against the suspected dangers of nicotine because a reduction in the tar yield of cigarette smoke also reduces the nicotine as a part of the "total tar." [10]

B. A cigarette smoker's risk of disease increases correspondingly with an increase in the amount of tar which the cigarette yields

Even the smallest concentrations of tar and nicotine are known to be detrimental to the smoker's health. Consequently, there is no level at which the inhalation of either substance is without risk. Due to the evidence that tar and nicotine are deleterious substances *per se*, the more widely shared scientific opinion is that there is a dose-response relationship between tar and nicotine and the development of diseases; that is, the greater the dosage of tar and nicotine yielded by the cigarette, the more likely a disease response.[11] The converse of this statement is also true: the lower the dosage of tar and nicotine, the lower the risk of disease.[12]

In 1954, 90 percent of the cigarettes marketed contained 30 to 45 milligrams of tar per cigarette; in 1960, only 15 percent were above 35 milligrams; in 1967, none were over 30 milligrams and the majority were below 25 milligrams. Now, in 1973, the vast majority (approximately 85 percent) are below 22 milligrams.[13] These reductions were apparently the result of market forces acting on the tobacco industry.

Recently, Dr. Ernest Wynder, a distinguished biochemist in cancer research and President of the American Health Foundation, observed that if market forces had not compelled manufacturers to reduce tar and nicotine in cigarettes, there would be a 70 per 100,000 lung cancer rate among smokers in the United States, instead of the current 40 per 100,000 lung cancer rate.[14]

According to Dr. Daniel Horn, Director of the National Clearinghouse for Smoking and Health, there has been a reduction in lung cancer rates in the United States white male population below age 40. Dr. Horn noted that this reduction is attributable to less exposure to total doses of tar and nicotine because of an overall reduction of those substances in cigarette smoke, and because the older males have continued to smoke those varieties of cigarettes which yield the highest concentrations of tar and nicotine.[15]

A study conducted by Dr Wynder and others concerning the incidence of lung cancer among females cites previous studies which compare lung cancer risk for long-term filter smokers to non-filter smokers. The Wynder study states:

> Since most of the currently available cigarette filters do not selectively remove carcinogenic substances from cigarette smoke, *the reduced risk for filter smokers is probably related to the lower tar content of filter cigarettes.*[16] (Emphasis added.)

In another study conducted by Dr. Wynder and others entitled, "The Epidemiology of Lung Cancer: Recent Trends," a study by Dr. Cuyler Hammond of the American Cancer Society is cited as further evidence of the reduced risk of disease resulting from low tar dosage. The Wynder study states:

> The Hammond study on ex-smokers aged 50–69 years who had smoked 20 or more cigarettes daily, shows that after ten years of not smoking, the individuals have a death rate from lung cancer similar to that of non-smokers. After five to nine years, when Hammond's study shows a decline of 50 percent among ex-smokers, *a similar change as found for filter smokers . . . can be expected if smokers change to a lower tar cigarette.*[17] (Emphasis added.)

Thus, there is strong scientific evidence to support the dose-response theory of the development of smoking-related diseases.

Although the results of the research reviewed above substantiate the dose-response theory, they do not warrant the conclusion that the reduction in cigarettes of tar and nicotine levels which has occurred thus far has decreased the incidence of lung cancer. In fact, the incidence of lung cancer is increasing in the United States.

In a recent publication, the American Cancer Society sets forth statistics concerning "Trends in Age-Adjusted Cancer Death Rates Per 100,000 Population 1952–54 to 1967–69." The lung cancer rate for U.S. males per 100,000 was 22.7 for the period 1952–54, and 44.5 for the period 1967–69. The lung cancer rate for U.S. females per 100,000 was 4.0 for the period 1952–54, and 8.1 for the period 1967–69. The percent change for the incidence of lung cancer in each sex group respectively was +96 and +103. The Society's explanatory comments, which appear in juxtaposition to these statistics, state that there was a "steady increase in both sexes due to cigarette smoking." [18] These statistics justify the conclusion that, despite the fact that tar and nicotine levels in cigarettes are lower than in past decades, smoking remains extremely hazardous to health.

II. CAUTIONARY LABELING OF CIGARETTES HAS NOT ADEQUATELY PROTECTED THE PUBLIC HEALTH

The Federal Cigarette Labeling and Advertising Act of 1965 (15 U.S.C. § 1331, *et seq.*), provides that all cigarette packages must be labeled: "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health."

Despite such cautionary labeling, per capita consumption of cigarettes in the United States by persons 18 years of age or older has remained at a high level during the past 10 years as shown by the following table: [19]

TABLE 2.—*Per capita consumption*

U.S. residents and overseas military personnel 18 years of age and older

Year:	*Units*
1963	4286
1964	4143
1965	4196
1966	4197
1967	4175
1968	4145
1969	3986
1970	3969
1971	3982
1972	4018

Total cigarettes sold have increased in all but two of the past 10 years as shown by the following table: [20]

TABLE 1.—*Total cigarettes sold (billions)*

Year:	*Total sales*
1963	516.5
1964	505.0
1965	521.1
1966	529.9
1967	535.8
1968	540.3
1969	527.9
1970	534.2
1971	547.2
1972	561.7

Either more Americans are smoking cigarettes or cigarette smokers have increased the number of cigarettes they are smoking or both. When these facts are added to the statistics appearing on page 8 concerning the incidence of lung cancer, the conclusion becomes inescapable that cautionary labeling is not working adequately to protect the health of cigarette smokers. Therefore, some other remedy than cautionary labeling must be found. One such remedy is that proposed in our Petition—banning the sale of cigarettes especially high in tar.[21]

Footnotes at end of article.

III. THE REMEDY PROPOSED IN THE PETITION IS WORKABLE AND WARRANTED

According to all available evidence, there appears to be no scientifically determined threshold level at which tar inhalation presents no risk of disease.[22] But, in view of the dose-response relationship demonstrated above, pp. 5–8, a reduction in the disease-producing properties of the product, especially tar, is clearly warranted.

The establishment by regulation of an upper limit on the tar-yield of cigarette smoke would allow cigarette manufacturers to exercise independent judgment and ingenuity in adjusting their products to comply with the rule proposed by Petitioners. There are available a variety of techniques which may be employed to reduce the amount of tar in cigarette smoke. Among these are (1) use of homogenized tobaccos and stems which yield less tar,[23] (2) selective filtration,[24] (3) increasing butt length through use of longer filters or overwrap,[25] and (4) enhancement of the cigarette combustion process.[26]

Petitioners recommend that cigarette manufacturers be given a period of 18 months within which to bring their products into compliance with the proposed rule. The delay of 18 months is advisable in order to give the cigarette industry a period of time in which to determine the best means, taking into account the interests of the smoker and the manufacturers, to reduce tar concentration in those varieties of cigarettes which will be affected by the rule.

Our proposal is analogous in some respects to the action of the Commissioner of Food and Drugs in banning surface coating materials containing more than 5.06% of lead. See 21 C.F.R. § 191.9(a)(6) and 37 Fed. Reg. 5231 (1972). There, as here, it was found that "cautionary labeling" did not "effectively eliminate" the "health hazard." There, as here, the preponderance of medical opinion supports a regulation limiting the amount of the "hazardous substances" in the product. There, as here, the regulation does not ban all of the hazardous substance from the product but limits it to a level which will "provide a margin of safety."[27] On the other hand, it must be noted that unlike lead in surface coating material, there is no minimum level below which tar in cigarettes does not constitute a health hazard.

IV. THE CONSUMER PRODUCT SAFETY COMMISSION HAS THE AUTHORITY UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT TO BAN THE SALE OF HIGH TAR-YIELD CIGARETTES

A. The Federal Hazardous Substances Act, as amended, authorizes banning of high tar-yield cigarettes

The Consumer Product Safety Commission (hereinafter the Commission or CPSC), as the agency charged with the administration and enforcement of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. § 1261, *et seq.*), is empowered to promulgate a regulation which bans the sale in interstate commerce of high tar-yield cigarettes. The Commission's authority to administer the FHSA, as originally enacted, remains unqualified by provisions of the Consumer Product Safety Act (hereinafter CPSA) (15 U.S.C. § 2051, *et seq.*). Enacted in 1972, the CPSA provided for the creation of the Commission, empowered it to set minimum safety standards for "consumer products" (15 U.S.C. § 2056) and to ban consumer products for which no adequate standards could be developed (15 U.S.C. § 2057). The Consumer Product Safety Act provides in Section 3(a) (15 U.S.C. § 2052 (a)) in pertinent part as follows:

> Sec. 3. (a) For purposes of this Act:
>
> (1) The term "consumer product" . . . does not include—
>
> * * * * *
>
> (B) tobacco and tobacco products.

In addition, the Consumer Product Safety Act provides in Section 30(a) (15 U.S.C. §2079 (a)) in pertinent part as follows:

> Sec. 30. (a) The functions of the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) and the Poison Prevention Packaging Act of 1970 are transferred to the Commission. . . .

Thus, this Commission was directed, without any qualification whatsoever, to administer the Federal Hazardous Substances Act. The exclusion of tobacco products from "consumer product[s]" was specifically limited to the purposes of the Consumer Product Safety Act; the limitation does not apply to the Federal Hazardous Substances Act. The definition of "consumer product" in the CPSA simply has no relationship to this Commission's power and duty to classify high tar yield cigarettes as a "banned hazardous substance" within the meaning of the Federal Hazardous Substances Act. To state the matter differently: the legal question presented by this Petition is precisely the same as if this Petition had been presented to the Secretary of Health, Education, and Welfare in 1966.

Subsection 2(q) of the FHSA reads in relevant part as follows:

> The term "banned hazardous substance" means . . . (B) any hazardous substance intended or packaged in a form suitable for use in the household, which the Secretary by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required [under the Act] for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce. . . . 15 U.S.C. § 1261 2(q)(1).

Subsection 4(a) of the FHSA in relevant part reads as follows:

> The following acts and the causing thereof are hereby prohibited: (a) the introduction or delivery for introduction into interstate commerce of any . . . banned hazardous substance. 15 U.S.C. § 1263.

The term "hazardous substance" is defined in subsection 2(f) of the Act as "any substance or mixture of substances which is . . . toxic. . . ." And the term toxic as defined in subsection 2(g) of the Act is applicable "to any substance . . . which has the capacity to produce . . . injury or illness to man through . . . inhalation. . . ." 15 U.S.C. § 1261.

B. The Federal Hazardous Substances Act clearly and unanimously includes cigarettes and tar

The words of the Federal Hazardous Substances Act cover cigarettes yielding the most hazardous concentrations of tar as a substance which the Commission may ban. Such cigarettes are suitable for use in the household, they produce illness to man when inhaled, and cautionary labeling has not adequately protected the public health. We have found nothing in the legislative history which suggests, let alone demonstrates, that Congress intended that cigarettes yielding the highest concentrations of tar not be included within the coverage of the Federal Hazardous Substances Act.

As noted *supra*, subsection 2(f) of the FHSA provides that toxic substances are hazardous, and 2(g) carefully defines toxic substances as those which have the capacity to produce injury or illness through inhalation. As defined, this term is subject to no more than one reasonable interpretation, and the meaning of the words is neither obscure nor doubtful. A careful study of the characteristics of cigarettes, as demonstrated by the scientific literature (*see* part I of this memorandum), indicates that cigarette tar clearly comes within the language of the FHSA quoted above on pages 14–15.

There is a superficial plausibility in arguing that the term toxic substances, as commonly used, does not embrace tobacco products, because the term "toxic" is commonly equated with "poisonous"—a term with which cigarettes are not generally associated. This argument fails to recognize that the word, "toxic," as used in the Federal Hazardous Substances Act, is a term of art; as such, it applies to all substances that fulfill the elements of its carefully limited definition. Whether or not that definition enlarges or narrows the term's common meaning is of no consequence. Thus, the more defensible conclusion is that the statutory definition of a "hazardous substance" includes the tar in cigarette smoke.

Next, it might be argued that the phrase, "suitable for use in the household" excludes cigarettes. The term "household" generally refers to a dwelling or place of abode; the term "suitable" means that something is appropriate or of such a nature that its use is reasonable. As distributed and used in the United States, cigarettes are substances "suitable for use in the household" because they are sold in small packages which may easily be taken from the place of purchase and brought into the household, and because they are customarily consumed in vast numbers of American homes.

Even assuming that the phrase is susceptible to several interpretations, Petitioners submit that the most reasonable interpretation would include cigarettes. This conclusion is supported by guidelines formulated by the Food and Drug Administration and subsequently adopted by the Consumer Product Safety Commission (15 U.S.C. § 2051, *et seq.*). Clarifying the meaning of the phrase, relevant portions of those guidelines provide:

> Any hazardous substance, whether or not packaged, that under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell. . . . The test shall be whether under any reasonably foreseeable condition of purchase, storage, or use the article may be found in or around a dwelling. 21 C.F.R. § 191.1(c).

When the Commissioner of Food and Drugs banned any paint or similar surface-coating material in which the lead content exceeded .06 percent, lead was the component in the products which presented the health hazard. Analogously, Petitioners here request that cigarettes yielding more than 21 milligrams of tar be classified as a "banned hazardous substance." This request is based on the fact that, under customary and reasonably foreseeable conditions, such cigarettes will be brought into the home and will yield, when smoked, toxic concentrations of tar.[28]

C. Because the statute is unambiguous, the legislative history is irrelevant and, in any event, does not demonstrate a congressional intent to exclude cigarettes from the FHSA

It is an axiom in our law that where a statute is clear the words of the Act are controlling. Adopting this view in *Fisher Flouring Mills Co. v. United States*, 270 F. 2d 27, 28 (9th Cir. 1958), the court stated:

> [t]he Supreme Court has not abandoned the axiom that the legislative will must be ascertained from the text of the statute if the words are clear and plain and the whole enactment is internally cohesive.

Similarly, in *Diamond A Cattle Co. v. Commissioner of Internal Revenue*, 233 F. 2d 739, 742 (10th Cir. 1956), the court wrote:

> When Congress passes an act in language that is clear and unambiguous, and construed and read in itself can mean but one

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Footnotes at end of article.

thing, the act must be judged by what Congress did and not by what it intended to do.

Indeed, our Circuit has recently held in *National Petroleum Refiners Association v. F.T.C.*, 482 F. 2d 672, 693 (D.C. Cir. 1973), that "[a]mbiguous legislative history cannot change the express legislative intent." The classic statement of the rule appears in *Flora v. United States*, 357 U.S. 63, 65 (1958):

> In matters of statutory construction the duty of this Court is to give effect to the intent of Congress, and in doing so our first reference is, of course, to the literal meaning of the words employed.

D. The fact that HEW failea to apply the FHSA to cigarettes is not persuasive that the act does not apply to cigarettes

As noted above, the Food and Drug Administration had responsibility for enforcing the Federal Hazardous Substances Act prior to the transfer of that responsibility to this Commission. The Food and Drug Administration never applied either the original Federal Hazardous Substances Labeling Act or the subsequently enacted Federal Hazardous Substances Act to cigarettes. The agency recognized, however, that a reasonable argument could be made for concluding that cigarettes are hazardous substances as defined in those Acts.[29]

The fact that the Food and Drug Administration had failed to enforce the FHSA to its fullest extent does not circumscribe this Commission's authority. Petitioners' contention here was endorsed by the Supreme Court when it stated:

> The fact that powers long have been unexercised well may call for close scrutiny as to whether they exist; but if granted, they are not lost by being allowed to lie dormant, any more than nonexistent powers can be prescripted by an unchallenged exercise. We know that unquestioned powers are sometimes unexercised from lack of funds, motives of expediency, or the competition of more immediately important concerns. We find no basis for holding that any power ever granted to the Trade Commission has been forfeited by nonuser [sic]. *United States v. Morton Salt Co.*, 388 U.S. 632, 647–48 (1950).

CONCLUSION

Cautionary labeling of cigarette packages which has been required since 1966 (15 U.S.C. § 1331, et seq.), has reduced neither cigarette sales nor the incidence of lung cancer. Therefore, Petitioners request that this Commission classify as a "banned hazardous substance" those varieties of cigarettes yielding more than 21 milligrams of tar. We have shown above (pp. 2–8) that cigarettes yielding more than 21 milligrams of tar present a special hazard to health. As noted above (pp. 12–13) this Commission is authorized by Section 30(a) of the Consumer Product Safety Act to promulgate the regulation Petitioners seek. That section transferred the functions of the Secretary of Health, Education and Welfare under the Federal Hazardous Substances Act to this Commission. Consequently, the exclusion of "tobacco and tobacco products" from the definition of "consumer product" for the purposes of the Consumer Product Safety Act does not render this Commission impotent to exercise its independent authority under the Federal Hazardous Substances Act to ban high tar-yield cigarettes.

It is clear that the tar in cigarette smoke causes illness as a result of inhalation and that the greater the amount of tar inhaled, the greater the smoker's risk of disease. Due to their disease-producing capacity, cigarettes yielding high concentrations of tar are, we submit, "hazardous substance[s]" within the meaning of the Federal Hazardous Substances Act. Finally, in view of the fact that cautionary labeling has not reduced the health hazards of smoking high tar-yield cigarettes, this Commission is warranted in imposing the classification of "banned hazardous substance" on those varieties of cigarettes which yield more than 21 milligrams of tar.

Respectfully submitted.

INSTITUTE FOR PUBLIC INTEREST REPRESENTATION,
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FEBRUARY 1, 1974.

FOOTNOTES

[1] Fletcher, *et al.*, Limitation of Smoking: A Report by Consultants, WHO Chronicle 1 (Vol. 24, No. 8, 1970).

[2] U.S. Department of Health, Education and Welfare, The Health Consequences of Smoking: A Report by the Surgeon General: 1972, at 142, 143. The other substance listed in the first group is carbon monoxide.

[3] Hearings on S. 1454 before the Consumer Subcommittee of the Senate Commerce Committee, 92d Coug., 2d Sess., ser. 82, at 22 (1972) (hereinafter cited as 1972 Hearings).

[4] H. Diehl, Tobacco and Your Health: The Smoking Controversy 43 (1969); Hearings Reviewing Progress Made Toward the Development and Marketing of a Less Hazardous Cigarette Before the Consumer Subcommittee of the Senate Commerce Committee, 90th Cong., 1st Sess., ser. 52, at 172 (1967) (hereinafter cited as 1967 Hearings).

[5] Diehl, *supra* not 4, at 44.

[6] *Id.*

[7] *Id.* at 45.

[8] 1972 Hearings, *supra* note 3, at 176.

[9] 1967 Hearings, *supra* note 4, at 169.

[10] 1972 Hearings, *supra* note 3, at 30, 32.

[11] Ad Hoc Committee on Smoking and Health, Minutes of March 25, 1973, at 5.

[12] U.S. Department of HEW, *supra* note 2, at 143–43; 1972 Hearings, *supra* note 3, at 176, 181, 183–185.

[13] Ad Hoc Committee on Smoking and Health, Minutes of February 14, 1973 at 3.

[14] Ad Hoc Committee on Smoking and Health, *supra* note 12, at 2.

[15] *Id.* at 3.

[16] Wynder, *et al.*, Lung Cancer in Women: Present and Future Trends, Journal of the National Cancer Institute 400 (Vol. 51, No. 2, August 1973).

[17] Wynder, *et al.*, The Epidemiology of Lung Cancer, J.A.M.A. 2226 (Vol. 213, No. 13, September 28, 1970).

[18] "'74 Cancer Facts & Figures," p. 11 (American Cancer Society).

[19] Federal Trade Commission, Statistical Supp. to Federal Trade Commission Report to Congress Pursuant to the Public Health Cigarette Smoking Act, December 31, 1972 (August 1973), Table 2.

[20] Reference cited in the preceding footnote.

[21] Several persons, organizations, and governmental units have advocated or have been concerned with the development of a less hazardous cigarette. Among these are: Dr. Ernest Wynder and colleagues (*See* Less Harmful Ways of Smoking, British Medical Journal, Vol. 2 (1950) at 739); The Ad Hoc Committee on Smoking and Health (held meetings in 1973 to discuss the reduction of hazardous substances in cigarettes); The World Health Organization (World Health Organization Chronicle, Vol. 24, No. 8, at 22, recommendation 10); The Public Health Service (1972 Report of the Surgeon General on the Health Consequences of Smoking, at 144); and the Consumer Subcommittee of the United States Senate Commerce Committee (held hearings in 1967, reviewing progress made toward the development of a less hazardous cigarette; and in 1972 held hearings to establish acceptable levels of tar and nicotine).

[22] 1967 Hearings, *supra* note 4, at 35; Ad Hoc Committee on Smoking and Health, *supra* note 12, at 4, 6.

[23] Wynder, *supra* note 17, at 2227.

[24] 1967 Hearings, *supra* note 4, at 23.

[25] *Id.* at 25.

[26] Wynder, *supra* note 17, at 2227. There is reason to believe that by decreasing tar and nicotine, the health hazards of carbon monoxide may be decreased. U.S. Dept. of HEW, *supra* note 2, at 142–43; in 1972 Hearings, *supra* note 3, at 31–32, Dr. Daniel Horn stated: ". . . there is a very close correspondence between the level of tar, the level of nicotine and the level of carbon monoxide. . . . I would assume that it is possible to bring all three of them down by changing the combustion characteristics toward more complete combustion."

[27] All of the quotations are taken from 37 Fed. Reg. 5230 (1972).

[28] It should be noted, however, that unlike lead in surface coating materials, there is no minimum level below which tar in cigarettes does not constitute a health hazard.

[29] This appears in a letter from the Secretary of HEW printed in the Senate Commerce Committee Hearings on S. 559 and S. 547, 89th Cong., 1st Sess. p. 24 (1965).

THE HIGH COST OF FARM PRODUCTION

Mr. McGOVERN. Mr. President, less than a year ago the Congress passed and the President signed into law a farm program which, it was generally agreed, was a reasonable approach to meeting our twin goals of abundant food supply at reasonable prices and a fair return to America's farmers.

Unfortunately, the forward rush of inflation has wiped out much of the new farm program's ability to meet the second half of that goal—a fair return to our farmers. And without the second part, the first—abundant food supply at reasonable prices—is in grave danger.

The cost of production index, compiled monthly by the Department of Agriculture, increased 10 percent during 1973. In simpler words, it cost 19 percent more for a farmer to produce his commodities on December 15, 1973, than it did on December 15, 1972.

The central feature of the new farm program is a system of established prices developed in the Senate Committee on Agriculture and Forestry. The farm program provides that, if the market price falls below the price established in the law, the Government will provide a deficiency payment to make up the difference. The law's established prices are $2.05 a bushel for wheat, $1.38 a bushel for corn, and 39 cents a pound for cotton.

Preliminary evidence demonstrates how the rapid increase in production costs has made these established price levels woefully inadequate. South Dakota State University at Brookings, S. Dak., has recently completed a study of production costs and projected yields for South Dakota farms, and it makes clear that farmers in many areas of my State could not make a living on the established prices in the 1973 farm act.

Recently, along with several colleagues, I introduced legislation which would increase the established prices in the farm act and provide for annual adjustment to reflect any changes in the cost of production.

The South Dakota State University

study, I submit, underscores the urgency of the need for legislation such as I have introduced. That study indicates that the cost of production of wheat runs up to $2.25 a bushel, and the cost of production of corn is as high as $1.51 a bushel. I am certain that cotton production costs have increased in the same proportion.

Mr. President, I ask unanimous consent that a summary of the South Dakota State University study, with tables showing projected 1974 production costs of corn and spring wheat in six areas of South Dakota, be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

PROJECTED CROP YIELDS AND EXPECTED 1974 PRODUCTION COSTS FOR SIX AREAS OF SOUTH DAKOTA

(Information included in this preliminary draft was prepared by Dr. Wallace G. Aanderud, Extension Economist, Economics Department, and Dr. Lyle A. Derscheid, Extension Agronomist, Plant Science Department, South Dakota State University, Brookings, South Dakota)

JANUARY 1974.

BASIS FOR ANALYSES

The budget figures in these tables represent the kind of cost structure and potential average yields for each area that most farmers should be able to attain. At the present time average reported yields for the areas are significantly below these projected yields.

Farmers with average to below current average yields will likely have lower per acre costs because they aren't applying the fertilizer, herbicides, and insecticides that are recommended based on research. Because of the fixed costs involved in land charges, machinery and labor charges, their total costs are not lowered proportionately as much as the yield. Consequently for these producers the cost of production per bushel will be significantly higher than in these budgets based on the yield and cost structure that exists for the top 25 percent of the farm operators. Depending upon how far below optimum management levels that they are operating, their cost per bushel may be 10 to 30 percent higher than shown in these tables.

This budget material will be developed into six extension publications for use by county agents in their educational programs. The final form will include a blank form so the individual farmer can calculate his own costs and compare them to the model budget that applies to the better managed farms. Some will find they are already doing as well as the model but many will be able to identify how they can improve their management.

Projected yields

These yields represent potential average yields for the areas if present technical knowledge developed through research is applied on all farms. The top 25 percent of the farmers in the areas already have proven yields at least as high as these projected yields.

Seed, fertilizer and pesticides

Costs for these inputs are based on prices as of January 1974 for the level of use that is currently recommended for typical soil productivity in the area.

Machinery repairs, fuel and lubricants

These costs were estimated on the basis of values used in "Ten Steps in Planning Your Farm or Ranch Business", Extension Circular 632 (rev.), August 1972, South Dakota State University, Brookings. The costs in Planning Step 2, page 3, and Planning Step 3, page 4, were inflated by 30 percent to reflect the expected increase in costs for 1974 compared with 1972. These new base costs were then adjusted for expected differences in costs due to the projected yield level for each area.

Interest charges

An 8 percent charge was made on the cost basis of seed, fertilizer, pesticides, repairs, fuel and lubricants. This charge should pay interest on borrowed operating funds plus a 7 to 8 percent return on the farmers own operating capital.

Crop insurance

The charge made for this cost is nominal. Some farmers may have none while others may carry enough so that their cost would be twice as high as indicated.

Overhead costs

These costs represent an allocation to each acre of overhead costs such as farm share of auto and telephone, legal fees, repairs and insurance on storage buildings, record books, farm magazines and other miscellaneous costs not directly attributed to a specific crop or livestock enterprise.

Machinery depreciation, interest, and taxes

These costs are based on a machinery investment of about $65 per acre for corn and about $45 per acre for small grain.

Labor charges

Labor charges were calculated and based on $2 per hour.

Land costs

Land costs include taxes at 1.5 percent and a capital charge of 6.5 percent on an estimated average per acre value for the land. The average value assumed per acre of cropland was as follows:

Area 1	$400
Area 2	300
Area 3	175
Area 4	275
Area 5	200
Area 6	175

PROJECTED CROP YIELDS AND EXPECTED 1974 PRODUCTION COSTS

AREA 1—MOODY, MINNEHAHA, TURNER, LINCOLN, CLAY, UNION, AND EAST YANKTON COUNTIES OF SOUTH DAKOTA

[Land cost includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at $400 per acre]

Crop	Corn	Spring wheat
1. Projected yield	70	29
DIRECT COSTS		
2. Seed	$5.65	$6.60
3. Fertilizer	14.50	6.00
4. Pesticides	7.70	1.80
5. Machinery repairs	3.00	1.85
6. Fuel and lubricants	3.50	1.65
7. Interest	2.70	1.45
8. Crop insurance	3.00	2.50
9. Overhead	2.00	2.00
Total, direct cost	42.05	23.85
FIXED COSTS		
11. Machinery depreciation	5.80	4.00
12. Machinery interest and taxes	2.90	1.40
13. Labor	6.00	4.00
14. Land charge	32.00	32.00
15. Total, fixed costs	46.70	41.40
16. Total, costs per acre	88.45	65.25
17. Costs per bushel or ton	1.26	2.25

AREA 2—SANBORN, LAKE, MINER, DAVISON, HANSON' McCOOK, HUTCHINSON, BON HOMME, AND WEST YANKTON COUNTIES OF SOUTH DAKOTA

[Land cost includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at $300 per acre]

Crop	Corn	Spring wheat
1. Projected yield	55	25
DIRECT COSTS		
2. Seed	$4.95	$6.60
3. Fertilizer	10.25	4.00
4. Pesticides	7.70	1.80
5. Machinery repairs	2.70	1.90
6. Fuel and lubricants	3.20	1.70
7. Interest	2.30	1.20
8. Crop insurance	2.50	2.00
9. Overhead	1.75	1.75
Total, direct cost	35.35	31.05
FIXED COSTS		
11. Machinery depreciation	5.80	4.20
12. Machinery interest and taxes	2.90	1.50
13. Labor	5.75	4.00
14. Land charge	24.00	24.00
15. Total, fixed costs	38.45	33.70
16. Total, costs per acre	71.80	54.75
17. Costs per bushel or ton	1.31	2.19

AREA 3—LYMAN, TRIPP, GREGORY, BUFFALO, BRULE, JERAULD, AURORA, DOUGLAS, CHARLES MIX COUNTIES OF SOUTH DAKOTA

Land cost includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at $175 per acre]

Crop	Corn	Spring wheat
1. Projected yield	35	23
DIRECT COSTS		
2. Seed	$3.50	$6.60
3. Fertilizer	4.50	3.20
4. Pesticides	7.00	3.15
5. Machinery repairs	2.30	1.75
6. Fuel and lubricants	2.60	1.55
7. Interest	1.65	1.30
8. Crop insurance	1.50	1.25
9. Overhead	1.50	1.50
Total, direct cost	24.55	20.30
FIXED COSTS		
11. Machinery depreciation	5.80	4.00
12. Machinery interest and taxes	2.90	1.40
13. Labor	5.50	4.00
14. Land charge	14.00	14.00
15. Total, fixed costs	28.20	23.40
16. Total, costs per acre	52.75	43.70
17. Costs per bushel or ton	1.51	1.90

AREA 4—MARSHALL, ROBERTS, DAY, GRANT, CLARK, CODINGTON, HAMLIN, DEUEL, KINGSBURY, BROOKINGS COUNTIES OF SOUTH DAKOTA

[Land costs includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at $275 per acre]

Crop	Corn	Spring wheat
1. Projected yield	50	28
DIRECT COSTS		
2. Seed	$4.95	$6.60
3. Fertilizer	8.80	5.50
4. Pesticides	6.50	3.95
5. Machinery repairs	2.60	2.00
6. Fuel and lubricants	3.05	1.90
7. Interest	2.05	1.60
8. Crop insurance	2.50	2.00
9. Overhead	1.75	1.75
Total, direct cost	32.20	25.30

Crop	Corn	Spring wheat
FIXED COSTS		
11. Machinery depreciation	$5.80	$4.40
12. Machinery interest and taxes	2.90	1.60
13. Labor	5.75	4.00
14. Land charge	22.00	22.00
15. Total, fixed costs	36.45	32.00
16. Total, costs per acre	68.65	57.30
17. Costs per bushel or ton	1.37	2.05

AREA 5—BROWN, SPINK, BEADLE, HAND, EAST FAULK, EAST EDMUNDS, EAST McPHERSON COUNTIES OF SOUTH DAKOTA

[Land cost includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at §200 per acre]

Crop	Corn	Spring wheat
1. Projected yield	40	25
DIRECT COSTS		
2. Seed	$4.25	$6.60
3. Fertilizer	5.20	4.00
4. Pesticides	6.50	3.15
5. Machinery repairs	2.30	1.90
6. Fuel and lubricants	2.60	1.70
7. Interest	1.80	1.40
8. Crop insurance	2.00	1.75
9. Overhead	1.50	1.50
Total, direct cost	27.35	22.00
FIXED COSTS		
11. Machinery depreciation	5.80	4.40
12. Machinery interest and taxes	2.90	1.60
13. Labor	$5.50	$4.00
14. Land charge	16.00	16.00
15. Total, fixed costs	30.20	26.00
16. Total, costs per acre	57.55	48.00
17. Costs per bushel or ton	1.44	1.92

AREA 6—HUGHES, SULLY, POTTER, WALWORTH, CAMPBELL' HYDE, WEST FAULK, WEST EDMUNDS, WEST McPHERSON COUNTIES OF SOUTH DAKOTA

[Land cost includes taxes at 1.5 percent and a capital charge at 6.5 percent on land valued at $175 per acre]

Crop	Corn	Spring wheat
1. Projected yield	35	24
DIRECT COSTS		
2. Seed	$3.50	$5.50
3. Fertilizer	4.50	3.60
4. Pesticides	6.50	3.15
5. Machinery repairs	2.30	1.90
6. Fuel and lubricants	2.60	1.70
7. Interest	1.60	1.30
8. Crop insurance	1.50	1.25
9. Overhead	1.50	1.50
Total, direct cost	24.00	19.90
FIXED COSTS		
11. Machinery depreciation	5.80	4.00
12. Machinery interest and taxes	2.90	1.40
13. Labor	5.50	4.00
14. Land charge	14.00	14.00
15. Total, fixed costs	28.20	23.40
16. Total costs per acre	$52.20	$43.30
17. Costs per bushel or ton	1.49	1.80

CPSC REGULATIONS AT A GLANCE

Mr. MAGNUSON. Mr. President, the Consumer Product Safety Act is now over a year old and the Commission which it created has completed its formulative months and has begun to turn to its mandated task: to create a safe marketplace for the American consumer. During the period in which Congress was deliberating over the act, David Swit was the first to publish on a regular basis, a newsletter capsulizing the major events in the product safety field. The Product Safety Letter continues to be published and to provide a concise, but insightful summary of the quickly evolving activities in this area.

In its most recent issue, the Product Safety Letter published a chart entitled "CPSC Regulations at a Glance" which lists all pending and finalized regulations issued pursuant to laws within the jurisdiction of the Commission. Due to the usefulness of this information, Mr. President, I ask unanimous consent that the chart be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

CPSC REGULATIONS AT A GLANCE

This summary—which will be updated frequently as developments warrant—covers regulations issued by the Consumer Product Safety Commission (CPSC) and its predecessor agencies. All pending and finalized regulations are listed for CPSA, FFA and PPPA, and children's articles subject to HSA. Only pending and related actions are listed for other products under HSA; completed regulations on these items are included in the Code of Federal Regulations, published by the Government Printing Office.

CONSUMER PRODUCT SAFETY ACT (CPSA)

Subject	Proposed in Register	Comments due	Final order in Register	Effective date	Notes
Substantial hazard notifications; sec. 15	Aug. 3, 1973	Sept. 4, 1973			
Standards development procedures; sec. 7	Jan. 4, 1974	Feb. 4, 1974			

FLAMMABLE FABRICS ACT (FFA)

Subject	Finding of need	Proposed in Register	Comments due	Final order in Register	Effective date	Notes
Wearing apparel:						
General standard (CS-191-53)					July 1, 1954	Incorporated in legislation; amended Aug. 23, 1954.
Clarification of test method				Nov. 13, 1973	Nov. 3, 1973	
New or amended standard	Oct. 23, 1968					
Large carpets and rugs:						
Standard (DOC FF 1-70)	Dec. 3, 1968	Dec. 18, 1969		Apr. 16, 1970	Apr. 16, 1971	
Testing and record-keeping		Feb. 16, 1972		Dec. 21, 1972	Jan. 20, 1973	
Sampling plan	June 2, 1972	Mar. 7, 1973	Apr. 11, 1973			
Alternate washing: hide rugs				Feb. 10, 1972	Feb. 10, 1972	
Alternate washing: flokati		June 21, 1972		Sept. 7, 1972	Sept. 7, 1972	
Alternate washing: alumina trihydrate backings	May 19, 1972	Mar. 28, 1973				Requirements suspended pending decision.
Alternate washing: general	do	do				
Small carpets and rugs:						
Standard (DOC FF 2-70)	Dec. 3, 1968	Apr. 16, 1970		Dec. 29, 1970	Dec. 29, 1971	
Testing and record-keeping		Feb. 16, 1972		Dec. 21, 1972	Jan. 20, 1973	
Sampling plan	June 2, 1972	Mar. 7, 1973	Apr. 11, 1973			
Alternate washing (see note)	May 19, 1972	Mar. 28, 1973				Same as large carpets, except for alumina trihydrate.
0 to 6X sleepwear:						
Standard (DOC FF 3-71)	Jan. 24, 1970	Nov. 17, 1970		July 29, 1971	July 29, 1973	Labeling required July 29, 1972.
Sampling plan	Aug. 14, 1971	Apr. 18, 1972		July 21, 1972	July 21, 1972	Amended September 21, 1972.
Labeling/record-keeping	Mar. 23, 1972	Aug. 9, 1972				

CPSC REGULATIONS AT A GLANCE—Continued

This summary—which will be updated frequently as developments warrant—covers regulations issued by the Consumer Product Safety Commission (CPSC) and its predecessor agencies. All pending and finalized regulations are listed for CPSA, FFA and PPPA, and children's articles subject to HSA. Only pending and related actions are listed for other products under HSA; completed regulations on these items are included in the Code of Federal Regulations, published by the Government Printing Office.

FLAMMABLE FABRICS ACT (FFA)—Continued

Subject	Finding of need	Proposed in Register	Comments due	Final order in Register	Effective date	Notes
7 to 14 sleepwear: Standard	June 15, 1972	Mar. 12, 1973	Apr. 11, 1973			
Blankets: Standard	June 10, 1970					
Mattresses:						
Standard (DOC FF-4-72)	June 10, 1970	Sept. 9, 1971		June 7, 1972	June 22, 1973	
Amendment to standard	Feb. 8, 1973	Apr. 24, 1973		June 8, 1973	do.	
Labeling/record-keeping		June 11, 1973		Nov. 30, 1973	Dec. 31, 1973	Negative labeling allowed until Dec. 22, 1973.
Sampling plans				(See note)		No. 1 published Apr. 27, 1973; No. 4, June 19, 1973; No. 2, Aug. 8, 1973; No. 9, Sept. 25, 1973; No. 5, Nov. 30, 1973.
Upholstered furniture: Standard	Nov. 29, 1972					
Advisory committee: Membership representation		Jan. 8, 1974	Feb. 7, 1974			
Fireworks: Ban (more than 2 grains pyrotechnic material and audible report)		Jan. 8, 9169		May 13, 1970	June 27, 1970	Earlier banned under Child Protection Act (Nov. 3, 1966). See also Apr. 5, 1972; May 16, 1973.
Combustibility and flammability: Definitions and test methods		Aug. 18, 1970	Sept. 17, 1970			
Petroleum distillates, toluene, xylene: 1st-aid labeling		June 8, 1971	Aug. 7, 1971			
Lead in paint: 0.5 percent limit		Nov. 2, 1971		Mar. 11, 1972	Apr. 25, 1972	Aug. 10, 1972 notice confirmed implementation as of Dec. 31, 1972. See also Dec. 5, 1972; Jan. 4, 1973; Dec. 27, 1973.
Lead in paint: 0.06 percent limit		do.		See note		Originally ordered effective Dec. 31, 1973; action deferred by Aug. 10, 1972 notice. Further research pending.
Fireworks: Delete agricultural exemption from 1970 ban		Apr. 5, 1972		Feb. 20, 1973	Mar. 22, 1973	Provisions for use through Interior Department.
Fireworks: Petition for ban, by National Society for the Prevention of Blindness		do.		May 16, 1973	See note	Petition denied; see also May 16, 1973.
Eye irritants test revision		Apr. 28, 1972	Sept. 25, 1972			
Packaging in food-like containers		Nov. 10, 1972	Jan. 9, 1973			May be withdrawn.
Special-purpose lead paints: Exemption from 0.5 percent limit		Dec. 5, 1972	Feb. 3, 1973			Petition from National Paint & Coatings Association.
Repurchase of banned products		Dec. 16, 1972	Feb. 14, 1973			New version of Dec. 19, 1970 proposal.
Skin irritants test revision		Dec. 19, 1972	Feb. 17, 1973			
Artists' paints: Exemption from lead limit		Jan. 4, 1973		Oct 4, 1973	Dec. 3, 1973	
Aerosol abuse warning		May 3, 1973	July 2, 1973			
Fireworks: Ban and standards		May 16, 1973	July 16, 1973			
Spray adhesives: Imminent hazard ban				Aug. 22, 1973	Aug. 22, 1973	Added item Aug. 29; correction Sept. 12, 1973.
Paint: Continuation of 0.5 percent limit				Dec. 27, 1973		Extension runs through Dec. 31, 1974

HAZARDOUS SUBSTANCES ACT (HSA)—CHILDREN'S ARTICLES

Subject	Finding of need	Proposed in Register	Comments due	Final order in Register	Effective date	Notes
Toys, various mechanical hazards: Ban		Nov. 17, 1970		Dec. 19, 1970	Dec. 19, 1970	See also Apr. 29, 1971; Oct. 14, 1971
Baby bouncers: Standard and ban		Apr. 16, 1971		Nov. 16, 1971	Dec. 16, 1971	
Clacker balls: Ban		Apr. 27, 1971		Nov. 19, 1971	Dec. 19, 1971	
Caps and toy guns: Ban and criteria for exemption		Apr. 29, 1971		July 13, 1971	July 13, 1971	Originally included in Nov. 17, 1970 and Dec. 19, 1970 actions.
Dolls, stuffed animals: Ingestion		Oct. 14, 1971	Nov. 13, 1971			No further action likely.
Electrical toys: Standard and ban		Jan. 21, 1972		Mar. 7, 1973	Sept. 3, 1973	
Pacifiers: Standard and ban		Oct. 18, 1972	Dec. 17, 1972			
Toy test procedures		Dec. 8, 1972	Feb. 6, 1973			
Small parts in toys: Standard and ban		Jan. 22, 1973	Mar. 23, 1973			
Glass in toys: Standard and ban		Apr. 13, 1973	June 12, 1973			
Cribs: Standard and ban		do.		Nov. 21, 1973	Feb. 1, 1974	Full-size cribs only; see also Dec. 4 1973.
Vacuum bottles: Standard and ban		do.	June 12, 1973			
Toy identification coding		Apr. 16, 1973	June 15, 1973			
Toy chests: Standard and ban		Apr. 27, 1973	June 26, 1973			Revisions being considered.
Bicycles: Standard and ban		May 10, 1973	July 9, 1973			
Cribs: Affirmative labeling		Dec. 4, 1973	Dec. 19, 1973	Dec. 28, 1973	Feb. 1, 1974	Requirement ends Feb. 1, 1976.

POISON PREVENTION PACKAGING ACT (PPPA)

Subject	Finding of need	Proposed in Register	Comments due	Final order in Register	Effective date	Notes
Test procedures		July 20, 1971		Nov. 20, 1971	Jan. 20, 1972	See also Dec. 16, 1972; Jan. 15, 1973.
Aspirin products		Sept 1, 1971		Feb. 16, 1972	Aug. 14, 1972	See also July 18, 1972; Sept. 13, 1972.
Liquid furniture polish		Sept. 8, 1971		Mar. 17, 1972	Sept. 13, 1972	
Methyl salicylate		Sept. 29, 1971		Mar. 25, 1972	Sept. 21, 1972	
Controlled drugs		Oct. 15, 1971		Apr. 27, 1972	Oct. 24, 1972	
Sodium/potassium hydroxide (lye): Drain, oven cleaners		Mar. 9, 1972		Oct. 13, 1972	Apr. 11, 1973	Aerosols and pastes by July 10, 1973.
Turpentine		Apr. 14, 1972		do.	July 1, 1973	Extension of Apr. 11, 1973 date granted April 26.
Lighter fluid, kindling products, etc		do.		Jan. 30, 1973	Oct. 27, 1973	Spout types by Jan. 30, 1974.
Methyl alcohol (methanol)		Apr. 18, 1972		Oct. 13, 1972	July 1, 1973	Extension of Apr. 11, 1973 date granted April 26.
Sulfuric acid		Apr. 20, 1972		Feb. 15, 1973	Aug. 14, 1973	
Oral prescription drugs		Apr. 27, 1972		Apr. 16, 1973	Apr. 16, 1974	See also Sept. 12, 1973.
Non-Rx drugs: Request for data		June 20, 1972	Sept. 18, 1972			
Aspirin: Effervescent exemption		July 18, 1972		Feb. 6, 1973	Feb. 6, 1973	
Aspirin and controlled drugs: Exemption for veterinary drugs		do.		Apr. 11, 1973	Apr. 11, 1973	
Aspirin: Powders exemption		Sept. 13, 1972		Dec. 28, 1972	Dec. 28, 1972	
Pesticides		Sept. 14, 1972	Nov. 13, 1972			
Noncomplying packaging		Oct. 18, 1972	Dec. 17, 1972			
Testing: Informed consent		Dec. 16, 1972	Feb. 14, 1973			
Ethylene glycol (anti-freeze)		Dec. 28, 1972		Dec. 3, 1973	June 1, 1974	
Testing: Unit-packaging amendment		Jan. 15, 1973		May 15, 1973	May 15, 1973	
Paint solvents		Feb. 9, 1973	Apr. 10, 1973			
Promotional samples		do.	do.			May be withdrawn.
Oral Rx: Sorbitrate exemption		Sept. 12, 1973	Nov. 12, 1973			
Advisory Committee: Membership representation		Jan. 8, 1974	Feb. 7, 1974			

DOM HELDER CAMERA

Mr. KENNEDY. Mr. President, Dom Helder Camera, Archbishop of Recife, Brazil, and one of the Western Hemisphere's most respected advocates of social justice, recently addressed a symposium on human rights.

Joining him at the conference at the Rothko Chapel in Houston, Tex., were: Dr. John B. Calhoun of the National Institute of Mental Health; Dr. Joel Elkes of the Johns Hopkins Hospital; Dr. Giorgio La Pira, director of the law department at the University of Florence, Italy; and Dr. Jonas Salk, of the Salk Institute for Biological Studies, La Jolla, Calif.

The archbishop has spoken out, despite threats of retaliation and despite the clear threat of physical violence, in defense of human rights in Brazil. It was his voice more than any other which first raised a challenge to the practice of torture by the Brazilian Government. Hopefully, his determined opposition and the protests from leaders of varying political viewpoints around the world will have an effect in reducing the existence of torture in Brazil.

In his discussion, the archbishop once again reiterated his belief in nonviolence and his call for a better world.

For all of those who seem to witness the denial of liberty with silence, whether in Brazil or Chile or Greece or Uruguay or South Vietnam or Cuba, his words are a strong reprimand.

> Liberty interests us only so as to defend justice as a road to peace. Liberty interests us in order to lend a voice to those without voice. With no ambition to function as a controlling force of governments or as mentors of technicians, liberty interests us so as to work for a world with no supermen, and with no sub-men; a world with no oppressors and with no oppressed; a world without racism, without war.

Despite all of the tragic violence and repression of the human spirit that the archbishop has seen, his is not a pessimistic view of the world.

> Our world would fall into the cold and into death, if, one day, Utopia and dreams should leave Humanity. The great dreams and the real Utopias of today are the first rays of the dawn of tomorrow.

I ask unanimous consent that his full statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE RIGHTS OF MAN

THREE VITAL POINTS—FROM AMONG MANY OTHERS

A conference given by Dom Hélder Câmera, Archbishop of Olinda and Recife, in commemoration of the 25th anniversary of the Universal Declaration of the Rights of Man.

The Rothko Chapel, Houston, Texas, USA., December 8 and 9 1973.

1. A decisive crossroad

When one reads and re-reads the Universal Declaration of the Rights of Man, which the Organization of the United Nations solemnly proclaimed on December 10, 1948; when one meditates on its thirty articles, which are a synthesis of the highest and purest aspirations of the human person; and when one witnesses that we have failed to transform these articles into reality, one concludes that:

Either we reject the Declaration as one more paper among many dead letters;

Or we must render the Declaration flesh of our flesh, blood of our blood; piece of our souls.

We have no right to prepare friendly discussions on such a grave subject only to drop the issue afterwards. The ideal is that we make this morning a turning point for all of us.

It is often beyond our power to shake the structures of oppression externally. But let it be that—at least within ourselves—a change occur, an option strengthen, a conversion happen.

In an effort to help the good will of all of us, so that it not be lost in vague desires, permit that—from among many others—I focus on three vital points concerning the human person and his inalienable rights:

Development, yes; but not at an inhuman price;

Security, yes; but without resurrecting the inquisition; and

Effort for placing the moral force over the armed force.

2. Why are these three points vital?

1. Development, yes; but not at an inhuman price.

After the first industrial revolution—which extended from the discovery of the machine to the harnessing of steam—how many other industrial revolutions occurred? Was not electricity a revolution? And nuclear energy? And automation? And cybernetics? How many specific industrial revolutions can we record in modern times?

What afflicts us is to see that the price of progress—or of development, as it is called today—continue to be paid heavily by the poor: poor individuals, and poor countries, that become even poorer; and that founder in sub-human situations from which they cannot save themselves.

Let us try to verify the truth of this assertion. It is clear that we risk committing errors. But it is of value if it achieves our purposes of lending a voice—as Pastor—to those without voice.

As we approach the year 2000, is the spectacle of the world that of a growing, global development of Humanity; or does the polarization increase between a minority of rich countries and an extensive poor world, whose misery is ever more aggravated?

In 1964, the Organization of the United Nations had a beginning that awakened the enormous hope within the poor world. This was the realization—in Geneva—of the First Assembly of the United Nations on Trade and Development (the First UNCTAD: United Nations Conference on Trade and Development).

At the end of the first period of sessions, and at the side both of the First World—the Capitalistic Bloc, and of the Second World—the Socialistic Bloc, a group of seventy-seven countries was formed, which came to be called the Third World—a world of poor countries, producers of raw materials.

Three years later, the Group of Seventy-seven had a ministerial meeting in Algeria—to assess the first UNCTAD, and to prepare for the second, which was to take place (as it actually did) in New Delhi, in 1968.

In preparing for the second UNCTAD, the Third World released the Letter of Algiers, dated 1967. This leter recorded that, between 1956 and 1966, the participation of underdeveloped countries—in the total world exportations—had diminished from 27% to 19.3%.

While the value of manufactured exports of industrialized countries increased by 65 billion dollars between 1955 and 1966, the corresponding increase for undeveloped countries was only 3 billion dollars.

The acquisitive power of underdeveloped countries continues to diminish steadily, at a rate of 25 million dollars per year.

The external debt increased from 10 billion dollars in 1955 to 40 billion dollars in 1966. The rate of increase of the public debt of poor countries was 500 million dollars annually, between 1950 and 1960. From that point it reached 4 billion per year, with a tendency to increase.

The meeting at New Delhi was frustrating to the hopes of the Third World. Even so, in October of 1971, the Seventy-Seven—who had already increased to Ninety-Five, and today number Ninety-Six—promoted in Peru a preparatory meeting for the third UNCTAD in Chile. They established that the polarity between rich countries continues to intensify:

The participation of poor countries in world trade, between 1960 and 1969, decreased to 17.5%.

In the same period, the income per capita in rich countries increased by 650 dollars, while in poor countries it increased by only 40 dollars.

In the last 20 years, the flux and re-flux of foreign capital had caused for the Third World a net loss of more than 100 billion dollars, in addition to a public debt of about 70 billion dollars.

According to data of the Organization of the American States, cited in the Declaration of Lima—an official document of the Third World, as preparation for a third UNCTAD that took place in Santiago, Chile, in April 1972—Latin America, between 1960 and 1967, took in less than 4 billion dollars, and paid out 12 billion dollars.

The third UNCTAD deceived the oppressed countries as much as—if not even more than—did the two previous ones. It was impossible to effect that the poor countries participate effectively in debating and resolving the reform of the financial system and the reform of the trade system. The most they could obtain was that the existing Assembly of 10 be expanded to 20—to discuss the reform of IMF (International Monetary Fund), and of GATT (General Agreement on Tariffs and Trade). And this Assembly of 10 was expanded by the entrance of countries whose local oligarchies opted to collaborate totally with the multi-national Macro-Corporations.

The citing of absurd and revolting injustices could easily be multiplied. But it is enough here to reflect on mercantile shipping, which is indeed modern piracy. Developed countries, with their 217 million tons of mercantile fleet, cripple the poor countries, who have but 16 million and some tons of maritime transport.

In Santiago, Chile, at the end of the third UNCTAD, it was evident that to speak of a Third World was already insufficient. It was now necessary to separate a Fourth World—composed of more than two-thirds of the Third World, a world without hope, and with no prospects of uprooting itself from misery.

2. Security, yes; but without resurrecting the inquisition.

The jubilee of the Universal Declaration of Human Rights—besides occurring at the sad hour when, without exaggeration, more than two-thirds of humanity suffer oppression, witnesses an hour that exploits the just and necessary concept of national security.

The point of departure is easily understood:

If agitators and subversive arise—kidnapping, assaulting, sabotaging; the governments in whose domain these kidnappings, these assaults, these sabotages take place, consider it to be not only their right, but even their obligation to purge the terrorism, thus safeguarding national security.

Those who are imprisoned under such circumstances are not considered to be ordinary prisoners. The governments involved believe it to be their right and duty to extract from these prisoners information that might be of vital importance to the social order and to the security of the country. And such governments readily persist—even to the point of torture; nor hesitate to perpetrate kidnappings and espionage, nor to incentivate denunciations.

There occur, then, scenes of a savagery that many would have difficulty admitting as true, and that all would imagine impossible on the ante-vigil of the Twenty-first century.

Note that these are not phenomena restricted to backward and primitive people. To cite a single, conclusive example; who does not remember that in Germany—a country of philosophers and of religious reformers, of poets and of musicians, a country of high culture—Hitlerism exposed to the world of our day the deplorable spectacle of simply inconceivable concentration camps.

We would need to unite what is of the highest and of the purest that exists on the earth, among all religions and groups of atheistic humanism, so as to obtain from the governments that—in preoccupying themselves with the national security, they not be rash, nor lose their heads, nor commit absurdities, nor end up adopting the worst methods of the lamentable days of Hitler and of Stalin.

Let us try to mobilize what there is of the worthiest among all races and all people, so as to attain that the governments not respond with terrorism to terrorism—or to what seems to them to be terrorism: but rather that they have the good sense to go to the root of the problem.

Without in any way justifying terrorism, let us remember with what frightening stupidity many non-terrorists are seized by mistake or through mere suspicion. Even, however, in relation to acts of authentic terrorism, though condemnable and barbarous, let us seek to have the intelligence to discover in them a primitive revenge against the terrorism of terrorisms: the stratified injustices, the structures of oppression—that in our century, absurdly and inconceivably maintain more than two-thirds of Humanity in subhuman conditions.

When will we understand that—if it is more than necessary to maintain an alarm before eventual consequences of an eventual nuclear war, or before the eventual consequences of an eventual bio-chemical war—it is imperative to keep in sight the very real consequences of the very actual war of misery, that kills more than do the bloodiest wars, and leaves physical, physiological, psychic, and moral scars equal to those from bio-chemical and nuclear war.

Let us try to mobilize the greatest existing moral forces of our day, so as to abolish conclusively the extorting of confessions through physical and moral torture.

How is it possible, in a century of nuclear energy and of space flights, to pretend that one believes in information obtained from one who is having his nails pulled out; from one who is suffering electric shocks in the genital organs and on the tongue; from one who, without food, during long hours, is submerged in water or hung in air; from one who suffers extreme moral disgraces; from one who witnesses the torture of loved ones?

It would at this time be a worthy commemoration of December 10, 1948, to abolish physical and moral torture, as incompatible with human dignity, and as having no place in today's world.

3. Effort for placing the moral force over the armed force.

We allude to the mobilization of moral forces. Therefore, one of the vital points in the commemoration of the jubilee of the Universal Declaration of the Rights of Man is: to reinstate moral force in its rightful place above armed force.

The dictatorships of the left and of the right tend to annul the moral forces:

They control the press, the radio, television; and they silence the intellectuals.

They suppress the political parties and parliaments, or reduce them to puppets; they do the same with the judiciary.

They manipulate the unions and cooperatives if and when they allow these to exist.

They control the schools, including the universities.

They relegate religions to the sacristy—absolutely impeding them from any attempt to denounce injustices or to promote activities of conscientization.

They fear, in a special way, conscientious groups of workers, of intellectuals, and of youth.

Let these various forces—reduced to weakness and inaction—have the courage to verify to what extent were not the errors of the past or of the present grave failures that emboldened the armed forces to penetrate and to annihilate the moral forces.

Let us take, above all, the case of religions. Do we always utilize the moral force of our sacred messages? Were we not weak and conniving before abuse and before despotism? Did we not, consciously or unconsciously, play the game of the oppressors? Were we not manipulated by those who seemed to us the safeguards of the so-called social order? Did not our own organizations let themselves be thrown out of gear?

It is urgent to mobilize what remains of the moral force in free countries, so as to help restore moral force to its rightful place above armed force. Clearly, we include within the predominance and monopoly by armed force the absolutely equal danger of economic power, which—through the multi-national Macro-Corporations—is the true dominator of the world today.

In the measure in which the moral forces are purified—above all, freed from preoccupation with prestige, and reinstated as effective servants, and poor—they will recover the inherent power to exert their prophetic mission.

Liberty interests us only so as to defend justice as a road to peace. Liberty interests us in order to lend a voice to those without voice. With no ambition to function as a controlling force of governments or as mentors of technicians, liberty interests us so as to work for a world with no supermen, and with no sub-men; a world with no oppressors and with no oppressed; a world without racism, without war.

3. Some concrete suggestions

Allow me to present now some concrete suggestions, capable of forcing us to move beyond abstractions while, at the same time, sustaining our good will and our good intentions:

(a) to be careful to avoid pessimism, which is wonderful, for the oppressors.

If we are convinced that it is impossible to do anything; that always we will have injustices on earth; that the oppression, more and more will be increasing, the only end result will be cynicism.

(b) to be careful to avoid the temptation of violence which is also welcome to the oppressors.

If, with the desire of changing the structures of oppression, we will make an option to secrecy and to the use of arms, we will be easily crushed. We must remember that the oppressors are the owners of arms and the creators of wars . . . the manufacturers of death.

(c) To be careful to demand a very active and valuable nonviolence. When we will use the only arms that the oppressors are incapable of controlling, it will be absolutely necessary to adopt and use moral liberating pressures capable of shaking effectively the structure of oppression instead of provoking its scorn and mockery.

(d) Open our eyes to a beautiful reality: there are, already, everywhere, inside all the countries, races, religions and human groups, some minorities who want, really, even at the price of great sacrifices, to help build a world that is more just and more human.

(e) To be conscious that it is not our intention and that we shall never have to justify other very different minorities: of youth, of adults, of old persons; of students, workers, scientists, technicians; of blacks, red and yellow people, morenos and whites . . . It is not our intention—we should not have to create a new political party or a new sect.

Instead we have, and we shall have, to discover some priorities in common, making possible a miracle as powerful as that of nuclear energy. For centuries, nobody had an inkling about the extraordinary force inside the atom.

It is not by chance that the image of the atom is utilized. Perhaps tomorrow, if the priorities unite, they will present a danger on the scale of nuclear energy: we know, all of us, that nuclear manipulation is a nightmare for humanity instead of a decisive instrument for the welfare of all people. It is absolutely necessary for the minorities to gather as a force of truce and love, a force which, until now, has been employed at perhaps 1% of its potential.

And last suggestion: To help the numerous minorities who are preparing within the United States for 1974 as the Year of Justice. To help these existing minorities, now working together, to establish documentation on the grave injustices, internal and external, happening in this country: to help the rising consciousness in the United States.

To all who regard these suggestions as Utopia, I leave a final word:

Our world would fall into the cold and into death, if, one day, Utopia and dreams should leave Humanity. The great dreams and the real Utopias of today are the first rays of the dawn of tomorrow.

A REASSESSMENT OF NATIONAL DEFENSE SPENDING

Mr. BENTSEN. Mr. President, the budget we are to receive next week will be the largest ever proposed for the Federal Government. It represents another benchmark in the spiraling growth of Federal spending. Nearly one-third of the new budget authority requested by the President will be for the Department of Defense, nearly $100 billion in new authority for a single Federal agency. Despite the size of that figure, however, defense spending represents a smaller percentage of our GNP today than it did 20 years ago. In 1953 the defense budget represented 14 percent of our total GNP whereas in 1974 the defense budget accounted for only 6 percent of our GNP.

I do not cite this as an argument for greater defense spending but merely to point out that all Federal spending has grown extraordinarily in recent years. My comments today will be directed toward defense spending but they could be applied in other contexts to nearly all Federal agencies.

I count myself as second to none in my support for a strong national defense. But I do not measure support for defense merely by the size of the expenditures one is willing to support. Rather it is the quality of the forces and the strengths of the deterrent that those dollars secure which is the real test and I believe that we are failing to meet that test in a number of crucial areas. It appears to me that not only are defense expenditures on the increase but also that our defense capabilities in too many areas are checked and on the wane as a result of internal defects and difficulties.

It appears, in short, that too often we are getting less defense for more dollars and that we encourage antidefense sentiment in the process.

I am not referring here to isolated errors or occasional cases of poor management. I am referring to some disturbing trends at the very heart of the basic systems by which defense personnel are utilized, weapons are procured, and the Department of Defense organizes its activities. There are disturbing signs in both the personnel and procurement practices of the Department and I would like to review some of those problems and offer some suggestions on each.

Those who seek to reduce defense spending have directed most of their attention and nearly all of their cuts at the weapon systems in the procurement section of the defense budget. In so doing they are missing the fact that people, not weapons, have accounted for the recent increases in defense spending. Defense personnel costs have grown astronomically and the manner in which these personnel are utilized appears to have changed little at all.

Perhaps some examples would be of interest:

Manpower costs have risen dramatically as a portion of the defense budget. In fiscal year 1954, manpower costs were about 38 percent of defense outlays. In fiscal year 1974, they total 57 percent of defense outlays.

Annual defense outlays have increased about $35 billion over the last 20 years. Of that amount, 93 percent went for additional pay and operating costs and only 7 percent of that increase went for increased capital investments.

Not only are we paying more in manpower costs but we are buying dramatically fewer people for the money. Defense is paying $22 billion more in 1974 than in 1964 for personnel costs and yet has over 400,000 fewer military personnel.

Retirement costs are even more disturbing. In 1974, there are over 1 million military retirees on the retirement rolls at a cost of $5 billion annually. By fiscal year 2000, there will be 2 million retirees on the rolls at a cost of $30 billion, and military retirement expenditures for that 26-year period will total over $400 billion.

Some have indicated that they believe the all-volunteer force is the source of these increased personnel costs, but I would point out that the bulk of pay raises for the lower enlisted ranks was approved in 1967 and 1971 long before the all-volunteer force became a reality. The recent pay increases for the military were long overdue and well justified. The spectacle of military enlisted men living on wages that made them eligible for food stamps could not be tolerated no matter if those men were draftees or volunteers.

The issue then is not how well military men are to be paid but rather how are well paid military men to be used.

By this, I mean that compensation is merely one of many management tools for shaping an effective personnel policy. And the Department of Defense, in my opinion, has failed to make necessary improvements in personnel policy to complement the pay increases approved by the Congress. I think it is time for some fresh thinking, on the part of the Pentagon, particularly about our entire system of promotion pay and retirement in the all-volunteer environment.

The policy of promotion within the military too often elevates some men beyond their capabilities and retards others from ever achieving their potential. I am referring to the promotion concept of "up and out" and to the rigid calendar system of awarding military promotions. By this system, a man's military career is calibrated by the calendar and is locked in on a 20-year schedule that allows him to make promotions only at the appointed time and then moves him out if he fails to make the move up. Not every soldier need move to the top in order to make a contribution, and those soldiers who have the most to contribute should be moved to the top at a rate that reflects their ability and not just their time in service.

Second, I feel that the volunteer force calls for a complete reexamination of the system for determining personnel requirements in the Department of Defense. The system used by the Department to determine its personnel requirements must be adjusted to reflect the increased cost of personnel and the increasing availability of labor-saving devices and techniques.

One of the most troubling legacies of the draft and low military pay is that defense personnel planners have come to view manpower as a cheap and plentiful commodity. The result has been inflated numbers and inefficient utilization, taking a double toll in cost and in poor retention due to lack of job satisfaction. Why, for instance, is it necessary for the armed forces to assign more than a million men and women to support duties? Why is it that with an army of 841,000 active-duty personnel, we can field only 13 divisions?

Can the country really afford a $17 billion a year civilian defense payroll which is purely for support rather than combat purposes? The answer is that the military must begin treating manpower as an expensive commodity that must be allocated carefully. Specialization must be emphasized, labor-saving devices must be pursued, and pay must be made a function not just of rank but of responsibility and performance as well.

I would suggest that our defense planners look at systems such as those recently initiated by the West German Armed Forces where rank, job duties, and human performance are all considered in determining individual pay. Also under this new system, a military man would be allowed to choose a specialty and advance through the ranks in that specialty rather than our present system of rotating a man from job to job so that he can punch the required tickets for his career advancement.

The Defense Manpower Commission which I sponsored along with Senator BAKER will be taking a hard look at some of these problems and possible solutions. I believe we need thoughtful reform in this area and I believe this Commission, working with the Defense Department and the committees of Congress, can make a real difference in how we deal with the issue of manpower within the Defense Establishment.

Personnel is only one consideration, however, and I feel a close look must be taken at procurement and other capital investments as well.

As a portion of the defense budget, investment spending—which includes construction, research and development, and procurement—has remained at about the $20 billion a year level except for the peak war years in Vietnam. The fact that the dollar amount for investment has remained static means that the actual purchasing power of our investment dollars has been seriously eroded. The meaning of this static procurement figure is that the Department of Defense is simply buying fewer numbers of increasingly expensive weapon systems.

In 1951, for example, there were about 20,000 aircraft in the Air Force's operation inventory; today, there are 10,000 and in the 1980's that number will be halved again.

The reason for this is the dramatic increases in the program unit costs of the weapons we must buy. For instance, the same money that bought 100,000 fighter aircraft in World War II, even when adjusted for inflation, would buy fewer than 1,000 F-14 fighters today. Inflation, inefficiencies, and technological advances have all combined to increase weapon prices at a time of diminishing buying power for procurement dollars. The net effect is fewer weapons, at higher prices, providing less defense capability.

In order to reverse this trend, I believe that the Department of Defense must move toward a more critical system of research and development. R. & D. expenditures must be increased, and our R. & D. effort must be rechanneled to place greater emphasis on producing cost-conscious innovations rather than budget-busting technology. Too much of our present R. & D. is geared toward advancing the state of the art instead of advancing modern weapons that we can afford.

In the procurement of weapons, we must look to more programs like the light-weight fighter program which will provide the Congress with a number of choices involving both capability and price. It epitomizes the elements of cost effectiveness, affordable technology, and program management that are essential if we are to change present defense procurement trends.

I understand the budget we are to receive Monday does include some improvements on this score. The Navy will propose a slowdown in the construction schedule of the Trident submarine from three to two a year after 1978. This is a step I urged 2 years ago and again last year when the Congress considered this new strategic submarine program. The result of this Navy decision will be a more orderly construction schedule that avoids concurrency between design and construction and which will assure the country that the future backbone of our strategic forces has been responsibly developed and procured. I am pleased by this new Navy position, and I believe the country will be the ultimate benefactor of their decision.

The Trident debate, Mr. President, represents the kind of role that I hope Congress will continue to play on major defense issues. We must be critics, but we must be constructive critics. The Defense Department and the Congress are partners in providing for the Nation's security. A partnership, though, means mutual trust, shared responsibilities, and a free exchange of ideas and information. It means that Members of Congress must be willing to overlook their own provincial concerns when deciding defense issues. It means also that the Department of Defense must be willing to make the hard choices involving personnel and weapons costs that recognize the limits on Federal resources and the many demands on each Federal dollar.

We cannot continue with the present spiral of Federal spending based on growing deficits. Estimates today are that the defense budget, at current rates of increase, will be about $120 billion by 1980. I believe the Congress and Defense Department must begin this year to reverse the process and to examine every avenue of reform so that the Nation's defense is secure and the Nation's economy is not ruined in the process.

Our goal must be better defense, not just bigger budgets. It is our duty as stewards of both the people's money and their trust to make sure that the security of this country is never compromised. But we must also remember our obligation to hold strictly accountable those who spend the public's money no matter what the cause. I think that the Department of Defense by its own internal reforms can better allocate the public's money and better provide for the Nation's security. That should be our goal in the upcoming year and I hope that my colleagues in the Senate and our partners in the Pentagon will join that effort.

OIL SHORTAGES AND STARVATION?

Mr. KENNEDY. Mr. President, over the past two decades our Government has been committed to the concept of worldwide "freedom from hunger" and the use of our food surpluses in a "food for peace" program. During this period our Nation possessed massive grain surpluses, and the "green revolution" promised unprecedented food production in the developing nations. It was felt that such abundance would at last bring an end to the persistent problem of world hunger.

Those hopes have not materialized. The increased demands for food grains in the affluent nations, coupled with the adverse effects of weather worldwide, have served to deplete the world's food reserves for the first time in modern history.

This crisis in world food reserves is now complicated by the continuing oil shortage—for increased prices and reduced quantities of oil will severely curtail the production of nitrogen fertilizers. And without fertilizer, developing nations simply cannot maintain the levels of production achieved over the past decade, and which are still insufficient in some areas to keep pace with the increase in population.

Thus, in our concern for the inconveniences and even hardships the shortages of oil and food have caused us, we cannot fail to anticipate the tremendous suffering they may cause elsewhere. If we are to honor our commitment to "freedom from hunger" and are to help prevent the starvation of millions in Africa, India, and other areas of the world, we must soon join others in international efforts to bring cooperation rather than uncontrolled competition in the allocation of both food and oil resources.

Two recent articles state this problem graphically. The first, a report from the New Republic, reprinted in the Boston Globe, warns of the effect of the oil shortage and subsequent food deficits on the world's poor. The second, a dispatch from Walter Sullivan in the New York Times, reports the findings of experts on climate and agriculture on shortages resulting from fertilizer cutbacks. Mr. President, I ask unanimous consent that the text of these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Jan. 29, 1974]

OIL SHORTAGE AND STARVATION FOR MILLIONS

WASHINGTON.—Fulani is a girl who lives in India, with small bones and lackluster eyes, who is only 8 but looks 12, and she is probably one of the millions who will die this summer from the food shortage growing out of the oil shortage. About mid-August America is likely to discover that there is a crisis, not merely in India, but possibly in Africa, much of the Mideast and parts of Latin America, and it will send emergency food supplies, by which time it will be too late. If a world food bank is begun it will have to be done now. There seems no sign of movement, however, by the government here.

We are so bemused by our gasoline shortage, that we can't see what's happening on Spaceship Earth. It's not hard to trace, however. Oil is a big component of nitrogen fertilizer; if oil leaps in price so does fertilizer. Japan imports oil, uses it to produce fertilizer, exports it to India. Less fertilizer, less food. Lester Brown of the Overseas Development Council, tells me that Japan has cut fertilizer production 25 percent and its exports will be reduced probably one-third. China will grab what it can. It means the Indian subcontinent of 740 million (including India, Bangladesh and Pakistan) will suffer.

That's only part of it. Food prices depend on irrigation. In Asia two million irrigation wells are often pumped by small motors, chugging along, burning oil. The price of oil rises, irrigation costs more; food costs more; people who can't pay die.

In few places are food and population more delicately balanced than in India. Bernard Weinraub cabled in the New York Times last week from New Delhi of a striking election upset by the Communist Party in the heart of Bombay that jolted Prime Minister Indira Gandhi's New Congress Party. Three years ago the Congress party polled 216,000 votes; now it's 70,185. Among the reasons: the "unprecedented 20 percent rise in the price of food in the last 12 months." Of course democracy in India is a thousand times more worth saving for the United States than the old government in South Vietnam for which we spent billions and 50,000 lives. But what will we do about it?

About a third of the world's 3.9 billion people goes to bed hungry at night. World population increases two percent a year, about 80 million people. It will double at the present rate by the end of the century. That means double the food to feed them. And there are these ominous circumstances:

For the first time America's arable land, the world's great bread basket reserve is all in use.

World grain reserves expressed in days' consumption stood at 95 days in 1961, now is down to 37, smallest in history.

Fertilizer supply is very short and the price is zooming.

Something strange is happening to the world fish catch; some feel the very oceans are overfished; for the past 21 years the total world catch increased every year to 70 million metric tons in 1970; it has dropped in the past three years to 62 million.

Brown comments, "With less fertilizer and two percent regular increase in population, this is the first year in which one can say positively, 'There will be a reduction of food production in Asia, regardless of the weather.' Never before in my memory has it been possible to say that."

Countries are divided into two tiers, the northern tier with relative low birth rate and adequate food supply, North America, Western and Eastern Europe, the Soviet Union and Japan, recently joined by Korea, Taiwan and Mainland China. The other tier are the hungry lands with relatively high birthrate—most of Africa, much of the Mideast, the Indian subcontinent and parts of Latin America. This is the crisis of the 4 F's: food, fuel, fertilizer and fertility.

"This year there is no cushion any longer," Brown says, "things are very thin with a shortfall of fertilizer. With a drought somewhere, or unfavorable weather, there would be a scramble for food unlike anything we've ever seen. And in Washington a feeling that no one's in charge.

"The issue that may well arise before this year is over," Brown says, "is whether the more affluent nations will tighten their belts to fill what will be by far the largest food deficit in Asia that we've ever seen."

Tony Dechant, president of the Farmers Union, recently denounced the lassitude in Washington: "A world grain crop like that of 1972 would doom millions to starvation."

Fortunately prospects are for a bumper crop, but with high fertilizer prices it is not certain that the hungry lands can buy it.

[From the New York Times, Jan. 26, 1974]

MONSOON SHIFT CALLED THREAT TO WORLD FOOD—PARLEY SAYS OIL CUT REDUCES FERTILIZER

(By Walter Sullivan)

Weather changes, notably a southward migration of the monsoons, combined with a sharp reduction in fertilizer production, threaten food supplies for a considerable part of the world population, according to experts on climate and agriculture who completed a two-day meeting yesterday at the Rockefeller Foundation.

The southern shift of monsoon rains is thought to account for the five-year drought in Africa that, it was reported, is causing mass migrations to the south. It is blamed, as well, for severe droughts in India and Latin America.

The curtailment in fertilizer production is a result of the oil shortage. According to Dr. Norman E. Borlaug, of the Rockefeller Foundation, often called "father of the green revolution," as many as 20 million people may die because of crop shortages in the next year. He attributed this in part to the climate changes, but primarily to the fertilizer cutbacks.

Japan, which has been the chief exporter of nitrate fertilizers, has cut its production in half because of the fuel shortage. Since this fertilizer goes to India and other areas already affected by the climate change, the effect may be devastating, he said.

Dr. Borlaug, who won the 1970 Nobel Peace Prize for development of high-yield strains of wheat and rice in what was termed the "green revolution," did not attend the meeting, but was reached by phone at his offices in Mexico City.

An ample petroleum supply is a key to fertilizer production, both because the process demands much energy and because petroleum components, such as naphtha, are used. Dr. Borlaug commented, bitterly, that the Arab oil embargo, aimed at the industrial countries, would ultimately strike most heavily at the developing nations of Asia.

At the conference it was suggested that, while China depends heavily on Japanese fertilizer, the Japanese, for political reasons, would probably honor their obligations to China at the expense of India, Southeast Asia and Indonesia.

Japan itself has been hit by the shift of the monsoon, which in recent summers has not spread its customary rains over Hokkaido, the large northern island of the archipelago.

Monsoons are the dominant winds in regions, such as southern Asia, where they blow from the land toward the sea part of the year and in the opposite direction the remainder of the time. In India the dry monsoon blows from the northeast between April and October and the wet monsoon comes from the southwest the rest of the year, producing the rainy season.

Because of the southward shift of monsoon rains in Africa, it was reported, the Sahara is spreading its sands southward at a rate, in some areas, of 30 miles a year. The result is great social upheavals.

DROUGHT HAS WIDE IMPACT

Bernard Oury, an agricultural economist at the United Nations concerned with aid to this part of Africa, said some six million residents were seriously affected by the drought. Great numbers are migrating south with their cattle, over grazing land that is already heavily burdened.

While there was no consensus as to the cause of the climate changes—or the likelihood of their duration—it was generally agreed that current fluctuations are more extreme than any on record.

Dr. Reid Bryson, director of the Institute for Environmental Studies at the University of Wisconsin, displayed a record of climate in Iceland over the last thousand years, showing an unprecedented shift in the first half of this century.

The record showed a gradual cooling over the 10 centuries until about 1900, when there was a sharp rise in temperature, followed by an equally abrupt drop to the earlier low. The temperatures, except for those of the last few years, were derived by Berg Torsson.

He used temperature records as far back as available and, prior to that, the records of sea ice conditions in the area, which are a sensitive climate indicator.

COOLING TREND REPORTED

Dr. Kenneth Hare, a meteorologist who was formerly president of the University of British Columbia and who was chairman of the meetings, reported that for 19 consecutive months, centered in 1972, weather stations across most of Canada recorded abnormally low temperatures. Some were the lowest on record.

The head of the Soviet weather service, Dr. Yevgeny K. Federov, was quoted as saying that temperatures in central Russia, in 1972, were the lowest in several hundred years.

Dr. Bryson argued that the chilling of climate in the entire Northern Hemisphere, that began a few decades ago, had intensified the westerly flow of air in mid-latitudes and driven the monsoons southward.

The purpose of the two-day meeting was to examine present knowledge on weather and climate change, both natural and manmade, and their influence on food production and interstate conflict. Great concern was expressed at the decline in food reserves, particularly in view of climate uncertainties.

Lester R. Brown, food production specialist at the Overseas Development Council, presented figures on grain reserves of the grain-exporting countries—those capable of averting famine in other regions. In 1961, he said, they were sufficient to feed the world for 95 days. By 1971 the figure was 51 days. Now, he said, it is 29.

DECLINE HELD SERIOUS

This decline in reserves, as population and food requirements rise, is extremely serious, Dr. Borlaug said. "I hope and pray that in the next two years it will be possible to build up some reserves again," he added.

It was recognized that great climate changes occurred in the past, bringing about the rise and fall of civilizations. The Sahara has, at times, extended further south than it does today. During the ice ages it was a grassland.

But, it was noted, earlier, less deeply rooted civilizations were better able to cope with change. Today some of the tribes moving south in Africa are nomadic in any case. But for the farmers who fled the "dust bowl" of the Western Plains, the droughts of the mid Nineteen thirties were catastrophic.

Not only is an industrial civilization firmly rooted, Dr. Hare pointed out, but great migrations are also impeded by national boundaries.

It was noted that much concern was expressed in recent years that air pollution or other factors might be altering the climate in an irreversible manner.

A particularly sensitive Achilles heel of world climate, Dr. Walter O. Roberts said, is the pack ice covering the Arctic Ocean. Dr. Roberts was formerly head of the National Center for Atmospheric Research in Boulder, Colo.

MELTING THE ARCTIC PACK

From time to time it has been proposed that the Arctic ice, that on the average is only about six feet thick, could be melted—for example by spraying with coal dust in summer. Some believe that, once gone, it would not form again and world climate would be drastically altered (though in ways that are uncertain).

Reliable predictions of long-term weather or climate change could be a mixed blessing, it was pointed out. If a northern country were faced by the sure prospect of prolonged drought, it might be tempted to melt the Arctic pack, affecting all inhabited lands in drastic ways.

Hence, it was agreed, some form of international agreements are necessary to avoid conflicts. Yet, it was also proposed, the prospect that, for centuries to come, drought in one region will often be matched by plentiful rain and good crops elsewhere could bring nations closer together.

The massive grain transactions of recent years have, it was said, fostered a new spirit of "global cooperation." With the prospect of more such deals, plus the needed creation of a "world food bank," it was proposed that the one-world atmosphere could be enhanced.

MR. AND MRS. DANIEL W. RHODES

Mr. THURMOND. Mr. President, Mr. and Mrs. Daniel W. Rhodes of Charleston, S.C., recently passed a milestone that represents an enviable record of devotion. On January 12 they celebrated their 70th wedding anniversary.

Not only did they observe the date for its significance in their lives but they also repledged their vows of marriage. In reaffirming those promises they made seven decades ago, they also reaffirmed the meaning of their lives to each other.

Mr. President, when these two people were married in 1904, Orville Wright had just made that historic first flight, Theodore Roosevelt was still in his first term as President and the 20th century was truly in its infancy. Times have changed so rapidly and so decisively since that date, but amidst all the change there are values and principles which remain the same. They are the principles of devotion and honor and love. The sharing of two lives with these characteristics is, indeed, an example for everyone.

The observance of this anniversary must have been a joyful occasion, not only for Mr. and Mrs. Rhodes, but also for the large gathering of friends and family, among their 10 children, 13 grandchildren, and 29 great-grandchildren. An additional cause for celebration was the 90th birthday of Mr. Rhodes who is retired from the Postal Service. I extend my heartiest congratulations to Mr. and Mrs. Rhodes for the continuing celebration of their marriage and for the service they have rendered to others.

Mr. President, in this era of uncertainty and changing customs it is refreshing and encouraging to know of people who have lived their lives together with devotion, honor, and love. All Americans can be guided by such examples of constant value.

At the time of their anniversary celebration, an article appeared in the News and Courier of Charleston, S.C., entitled "70 Years," dated January 27, 1974. I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Seventy Years

Mr. and Mrs. Daniel Rhodes marked their 70th wedding anniversary Jan. 12 with a reception and the readministration of their wedding vows by the Rev. R. H. Jeter.

Various solos and an invocation by the Rev. A. R. Blake were other highlights of the celebration at the St. Philip Street Masonic Temple.

The couple was married in Charleston in 1904 and had 10 children. Rhodes, who also celebrated his 90th birthday on this occasion, was employed by the Postal Service for 28 years.

Still active in community and church affairs, the couple has 13 grandchildren and 29 great-grandchildren.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LEGAL SERVICES CORPORATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 2686, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I am about to suggest the absence of a quorum, but first I should like to propound a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ROBERT C. BYRD. When the Senate is operating under the cloture rule, is it necessary for a Senator who suggests the absence of a quorum, to take the time out of his own 1 hour allotted under the rule or to get unanimous consent for the quorum, or may he suggest the absence of a quorum without taking the time out of his own hour and without asking unanimous consent that he may be permitted to suggest the absence of a quorum without time being charged?

The ACTING PRESIDENT pro tempore. Rule XXII does not direct itself to the specific problem, except that it would permit the Chair to rule that the suggestion of the absence of a quorum is dilatory and therefore out of order. The other limitations are on debate and the requirement that amendments must be germane and be read before the Senate votes to invoke cloture.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 3 minutes out of my time.

When the Senate is operating under a unanimous consent agreement——

Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Those conversing will please leave the Chamber.

Mr. ROBERT C. BYRD. Mr. President, I think it is important that we have some understanding of this question, because the question could arise, if not today, at some future time when the Senate is again operating under the cloture rule.

When the Senate is operating under a unanimous-consent agreement with respect to the division of controlled time, no Senator may suggest the absence of a quorum without the time coming out of somebody's allotment of time, except by unanimous consent, and except also if time has expired or has been yielded back, in which case any Senator, of course, has a right to suggest the absence of a quorum before a vote.

On the other hand, why is it—if I understand the Chair correctly—that when operating under conditions following the invoking of cloture, a Senator may suggest the absence of a quorum and is not obliged to take the time out of his time and is not obliged to ask unanimous consent that he may be allowed to suggest the absence of a quorum without the time being charged?

The ACTING PRESIDENT pro tempore. The Chair's statement was based upon the rule and, more important, the practices of the Senate under that rule.

The Chair requests the clerk to read the provision of the rule relative thereto.

The assistant legislative clerk read as follows:

> Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

Mr. ROBERT C. BYRD. Would the chair direct the clerk to read again the sentence beginning "No dilatory motion"?

The PRESIDING OFFICER. Yes.

The assistant legislative clerk read as follows:

> No dilitory motion, or dilatory amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

Mr. ROBERT C. BYRD. Mr. President, the suggestion regarding the absence of a quorum is not a "dilatory motion," nor is it a "dilatory amendment." I am not arguing with the Chair. I am sure that the Chair must be correct, but it seems to me that we ought to be absolutely sure in the future with respect to this matter.

It seems to me that when cloture is invoked, it is invoked under a rule based upon the concept that at that point the business of the Senate should be expedited within a very narrow framework of strict rules to be strictly enforced. It would seem to me that if a Senator is allowed to suggest the absence of a quorum without charging it to his own time, then the rule and the purpose of the rule are undermined, because there could be a series of quorums; not one after the other without the transaction of business intervening, but there could be any number of quorums that would be live quorums or that would go through 99 names of the alphabet, consuming 15, 20, or 30 minutes, and thus extending the total period before action is completed on the matter which was to be expedited by the greatest bear trap rule of all for expedition—the cloture rule.

Are the precedents clear to the point that they would confute the case which I have presented in a cursory way: That a quorum during the operation of cloture ought to be required to come out of somebody's time or ought to require unanimous consent—of course, recognizing the always standing rule that any Senator is entitled to ask for a quorum just prior to a Senate vote?

The ACTING PRESIDENT pro tempore. The Chair would state that the calling of quorums solely to consume time would obviously be defeating the purpose of the rule. On the other hand, the Chair would state that the rule and practices seem to indicate that the Chair would have that right to rule a quorum out of order.

So the Chair cannot agree, under the present circumstances, with the forceful case made by the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I yield myself 5 additional minutes out of my hour.

Mr. President, would this not be putting the Chair in a most difficult position to declare that a Senator's suggestion that a quorum is absent is dilatory if business has been transacted following an earlier quorum? I think the Chair would find itself in an extremely difficult position if, after a rollcall vote or after the transaction of business, the Chair were to suggest that any Senator's request, or any Senator's observation with respect to the absence of a quorum, was dilatory. If the Chair should do so, would an appeal from the Chair's ruling not lie?

The ACTING PRESIDENT pro tempore. An appeal always would be in order, the Chair would state. There would be certain occasions in which a quorum call would clearly not be dilatory, such as immediately prior to a vote.

Mr. ROBERT C. BYRD. There is no question about that.

The ACTING PRESIDENT pro tempore. That is correct. The Senator is absolutely correct.

As to the Senator's suggestion as to the Chair being put in a difficult position, the Senator possibly is correct in that; on the other hand, I suppose difficult positions are a part of life.

Mr. ROBERT C. BYRD. But that is not the point here. The point involved, I say most respectfully to the Chair, is that the whole object of the cloture rule is to expedite the business of the Senate if it is being obstructed by a minority of less than a third of Senators voting. The business of the Senate is not expedited if 100 Senators may suggest quorums.

Obviously there is no quorum here at this moment, and I could suggest the absence of a quorum. Now, the Chair certainly would not rule me dilatory if I were to suggest the absence of a quorum at this time. But the object of the cloture rule being to expedite the business of the Senate, it seems to me that when the Chair rules that the suggestion with respect to the absence of a quorum is dilatory, and that is appealed, and followed by a rollcall vote on the appeal. That defeats the purpose of the cloture. Must a Senator be required to yield himself time out of his hour—and his time may have already expired—when he argues the case with respect to the appeal of the ruling of the Chair?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia presents a most persuasive case and possibly has demonstrated a need for further consideration of the rule itself. But the Chair has to rule that under the precedents the Chair would have to exercise his judgment, difficult though it may be, and determine whether to rule the motion out of order as dilatory if it were evident, and under the circumstances when cloture is invoked it would occur to the Chair that various requests for quorum calls could be dilatory.

Mr. ROBERT C. BYRD. Is the Chair so ruling? This does not constitute a ruling by the Chair, does it?

The ACTING PRESIDENT pro tempore. No, this does not constitute a ruling by the Chair.

Mr. ROBERT C. BYRD. At this point I suppose the Senate is to understand, and I assume, that the precedents are preeminently, indubitably, and unquestionably clear on this point. Is the Chair willing to so state?

The ACTING PRESIDENT pro tempore. The Chair is not willing to go to that extent. The Chair would merely state that the precedents are reasonably clear.

Mr. ROBERT C. BYRD. But the Chair would not convince the Senator from West Virginia that the precedents, being reasonably clear, are reasonable in their clarity.

The ACTING PRESIDENT pro tempore. The Chair might even go so far as to agree with the Senator from West Virginia on that point.

Mr. ROBERT C. BYRD. I thank the Chair.

I yield myself 2 additional minutes.

Mr. President, nobody seems to be unwilling to allow me to proceed at this point for 2 additional minutes.

At this point, at least, we are to understand from the Chair that although in the case of unanimous-consent agreements a Senator is required to yield himself time or to secure time from someone who controls time, or to get unanimous consent that a quorum call be had without the time being charged to either side—except in the case in which all time has expired or yielded back, and a vote is about to occur—in the case of cloture, on the other hand, which is a more binding unanimous-consent agreement, formally set forth in the rules of the Senate—in many ways, the most exacting time agreement of all—a Senator may suggest the absence of a quorum without taking time out of his own 1 hour, and without asking unanimous consent that the quorum call not be charged to any Senator's time. I suppose that is the understanding we have achieved.

The ACTING PRESIDENT pro tempore. That is the understanding we have achieved.

The Chair's memory goes back to his law school days and the maxim cessante ratione legis, cessat et ipsa lex might possibly be applicable to this situation if it were a court of law, but I assume it would not be in the Senate.

Mr. ROBERT C. BYRD. May I say the Chair's statement is a statement sui generis.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator from West Virginia.

Mr. ROBERT C. BYRD. It might just be well to have a test of this question and have the Chair rule on it during the debate today.

The ACTING PRESIDENT pro tempore. It would occur to the Chair that that might be very useful.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum, and I do not ask consent that it be taken out of anybody's time. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. ROBERT C. BYRD. Now, Mr. President, I raise a point of order that the Senator from West Virginia cannot suggest the absence of a quorum during the operation of the cloture rule without being required to take the time for the quorum call out of his own time, or without being yielded time by some other Senator, in view of the fact that no vote at the moment is imminent. I ask for a ruling by the Chair.

The ACTING PRESIDENT pro tempore. The Chair would overrule the point of order on two grounds: First, there does not appear at the moment to be any attempt to have business transacted in the Senate; second, even though the Chair is not permitted to count a quorum, it is evident that a quorum is not present.

The Chair overrules the point of order of the Senator from West Virginia, and would again observe that there appears to be no attempt to transact business and that under those circumstances it would be very difficult to rule that the suggestion of the absence of a quorum was dilatory. Therefore, the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yielded myself 1 minute.

Under the circumstances, it is obvious that there is no quorum present, and I would not, under these circumstances, assert a challenge of the ruling from the Chair. It may be very profitable for the Senate and for the Senate precedents if, at a more propitious time today, or at a future time, this point of order were raised.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I yield myself 1 minute.

I have listened to the questions and argument propounded by the distinguished Senator from West Virginia, and I think he is absolutely right. Cloture had a very specific purpose, and allowing quorum calls to be made would totally undermine the whole cloture provision in the rules. One need only imagine 30 Senators who decide that they will call up 1,000 amendments to a piece of legislation. It takes just 10 seconds or so to call up an amendment and then get a quorum call on that amendment. Even if it were done in the most expeditious way possible, we would be going on for thousands of hours, and such action would quickly destroy the rule.

I think the Chair should reexamine this technicality. I think it would be very valuable if the Parliamentarian would undertake to write a comprehensive statement on it for the RECORD, because if it is simply an interpretation of the rule; I think it is a mistaken interpretation. And if it is part of the rule itself, I think we ought to undertake to modify the rule, because there is no such thing as cloture if the ruling of the Chair is correct. I do not think there is any logic to this kind of technicality, because the purpose of cloture is absolutely clear, as the distinguished Senator from West Virginia pointed out.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute. I thank the Senator from Wisconsin for his observations. Does the Chair wish to respond?

The ACTING PRESIDENT pro tempore. The Chair would concur with the Senator from Wisconsin that the mechanics as he presents them are absolutely correct, and the Chair would also agree that that would be a method of completely avoiding the purpose and spirit of cloture. The Chair is in the position where the Chair is bound by the precedents of the past.

Mr. NELSON. Mr. President, would the Senator yield for 10 seconds to me?

Mr. ROBERT C. BYRD. I yield.

Mr. NELSON. The distinguished Chair is a lawyer. The precedents are upset by the Supreme Court and in the United States Senate time after time during the history of the country. When they find something is so wrong, they upset the precedents. We are not bound to stick by a bad rule.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is a very competent lawyer, and he is undoubtedly familiar with the doctrine of stare decisis.

However, the Chair will state that one of two things could happen. The Chair could rule the suggestion is dilatory, there could be an appeal from the ruling of the Chair, and the ruling of the Chair could be reversed, and therefore a clear and direct precedent could be set. Those would be two things that occur to the Chair.

Mr. NELSON. Mr. President, may I have a couple of seconds?

Mr. ROBERT C. BYRD. I yield.

Mr. NELSON. The Chair is absolutely correct, but would it not be so much better if the Chair took a rational position and left it up to the Senate to take an irrational position?

Mr. ROBERT C. BYRD. Mr. President, I yield myself a minute or two.

This Senator is thoroughly familiar with the doctrine of stare decisis, but I think it ought to be assumed that the present ruling of the Chair could be supported by the doctrine of res ipsa loquitur.

Mr. President, I yield myself 1 additional minute.

There was another thought that escaped me that I wanted to propound in support of my thesis, but, as I said, it has escaped me. Would the Chair direct the Parliamentarian to assemble the precedents on this point, if possible before the close of the day?

The ACTING PRESIDENT pro tempore. Yes. The Chair will formally direct the Parliamentarian to assemble the precedents on this point that have been discussed concerning quorum calls and cloture and also precedents involving unanimous consent for quorum calls, as soon as he is able to do so.

Mr. ROBERT C. BYRD. Mr. President, I would hope it would be as early as possible, because it may be the intention of this Senator to ask for a ruling of the Chair and make a test of it one day. I say this because I think it is very important. I have not raised this question dilatorily or facetiously. I want to know what I am doing when I vote for and against cloture.

In my viewpoint cloture is a valuable tool to expedite the business of the Senate. At the same time, it should not be invoked lightly, especially where there is a need to protect a minority of Senators, who wish to argue their case before the country, and who need time in which to do so, hoping that they will either improve the legislation before Senate Passage, or that a bad measure will be defeated.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 additional minute. I ask that the Senate be in order.

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will please take their seats and others will please retire to the back of the Chamber.

Mr. ROBERT C. BYRD. Mr. President, I yield myself such additional time as I may require.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, we have opened up an area with respect to the cloture rule which I think ought to be discussed fully and decided upon one way or the other unless the precedents are so preeminently correct and clear as to avoid the necessity of further argument.

By invoking cloture on this measure, in my judgment, we have not invoked what I thought was contemplated by cloture. I think that if a Senator wishes to invoke cloture and if he has reached that decision, he has then reached a decision to go ahead with the legislative process at the fullest possible speed. He has voted to limit each individual Senator to 1 hour—period.

A Senator may talk for an hour. He may not use his hour. He may yield any portion of that hour, if he can get unanimous consent to yield his time. If he is going to be permitted to suggest the absence of a quorum without using his own time, then why should be he required to get unanimous consent to yield 5 minutes to a colleague? The yielding of time to a colleague whose time has expired may be necessary for the edification of the Senate on a matter, but under the rule, he can only yield time by unanimous consent. Yet, according to the opinion of the Chair, a Member may put in quorum calls, after cloture is invoked, without any cost to his own time. In other words, he can conduct a subtle filibuster with quorum calls even after a filbuster has been broken by cloture.

I do not think that the rule of reason would support the ruling of the Chair. I say that most respectfully. The Chair knows that I am not talking about the Senator from Colorado. The Parliamentarian knows that I am not impugning his integrity or sincerity. He is interpreting the precedents of the Senate.

Mr. President, has there ever been a formal ruling of the Chair on this particular point?

The ACTING PRESIDENT pro tempore. The Parliamentarian would have to check that particular point. The Chair directs the Parliamentarian at the earliest possible time today to lay before the Senate the precedents on which the ruling is made so that the matter can be disposed of.

The Chair would further state that in the opinion of the present occupant of the Chair, that particular rule would indicate that the whole purpose of cloture, as articulated by the Senator from West Virginia, would be defeated by this particular rule.

Mr. ROBERT C. BYRD. Mr. President, I may be convinced otherwise after I have seen the precedents. However, I want to see the precedents. If I am not convinced by the precedents and if there has never been a clear ruling by the Chair on this point, I may want to raise the point at another time when it is not so obvious that a quorum is not present.

I simply close what I have been saying by stating that I think we ought to know what we are doing.

If a Senator votes for cloture, he ought to expect that true cloture will proceed, that a minifilibuster cannot be conducted, and that the matter before the Senate will be brought to an end as soon as each Senator utilizes his hour or such portion thereof as he may desire to use.

Surely with 100 hours available, there ought to be enough time to go around to fully accommodate the Senate with respect to all quorum calls that are necessary. However, if we are going to operate, not by the rule, but by the position that has been taken by the Chair as advised by the Parliamentarian, then there could be considerable free wheeling within the operations of the Senate even after cloture has been invoked.

Mr. BROCK. Would the Senator yield at that point?

Mr. ROBERT C. BYRD. Mr. President, I will be glad to yield to the Senator if he will use his time. I have already used a good bit of my hour. If we should return to this today, I may want to again state my case, and may not have the time remaining in which to do so.

The ACTING PRESIDENT pro tempore. The Chair is advised by the Parliamentarian that in all probability the reason that this matter has not been raised by points of order, and rulings by the Chair have not spelled out all of these specific points is that when cloture has been invoked in the past, the Senate has proceeded promptly to a vote.

Mr. BROCK. Mr. President, I think that the Senator from West Virginia stated the case of the Senate. I am not sure that I could support the ruling of the Chair, because I think that there may come a time when circumstances would require that the precedent be used in the national interest. I think that is one protection that I would like to see maintained. However, in this particular setting, I certainly myself would not support any effort to overcome the vote of the Senate or even to further extend debate by parliamentary device.

I am sympathetic with what the Senator from West Virginia is saying.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

The Senator has said something which appeals to me when he raises the question of national security.

I do not want to see the precedents overridden without clear reason to do so. It may be that instead of having a decision by the Senate on an appeal from the ruling of the Chair, the Committee on Rules and Administration or a subcommittee of that committee should take a very thorough look into this question. For the moment, I shall desist from pursuing the matter.

Mr. HATHAWAY. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized for 1 minute.

Mr. HATHAWAY. I hope that the Senator from West Virginia will refrain from bringing up this question today, in view of the fact that it involves a constitutional question, as the Senator well knows. I know that the Senator would like to get an answer to the question today. However, I think that the latter suggestion the Senator from West Virginia has made, concerning the referral of the matter to the Committee on Rules and Administration, would be preferable in this particular situation.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 minute.

What is the constitutional question the Senator refers to?

Mr. HATHAWAY. Under article I of section 5 of the Constitution, it states:

> A majority of each shall constitute a quorum to do business;

I understand that is the basis upon which any Senator may request the call of a quorum while the Senate is doing business.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 additional minute.

The able Senator is correct. However, how does the Senator square that with the incontrovertible fact that under a unanimous-consent agreement no Senator may suggest the absence of a quorum unless he asks unanimous consent to do so without the time being charged—unless all time has expired or been yielded back just before a vote? We cannot have it both ways.

Mr. HATHAWAY. I agree with the Senator. I raised that question in the Senate one previous time this year.

I do not think that under a time agreement a Senator should be prohibited from requesting a quorum call and not having it charged to anybody's time.

Mr. ROBERT C. BYRD. I thank the Senator.

The ACTING PRESIDENT pro tempore. Who yields time?

AMENDMENT NO. 786

Mr. BROCK. Mr. President, if I might have the attention of the distinguished manager of the bill, I would like to ask him a question; and, frankly, depending upon his response, I may or may not have an amendment to offer.

I yield myself 4 minutes for the purpose of the question.

The question is why the committee found it necessary to limit the advisory council to those who have been admitted to the bar of the State. On page 5 in the bill, reading beginning on line 17, there is a qualification for members of the advisory council which, as I understand it at least, requires that all members of these advisory councils be lawyers—which may not be the same thing as being admitted to the bar—and it seems to me that there may be other individuals in the community who could offer a great deal of advice and support to this program, to make it work.

The reason I raise the point is that I do not believe the Federal Government can continue to ram programs down the communities' throats. I do not think the program is going to work very well unless people believe they have a voice in how it is being run. It seems to me that perhaps a more broad definition might be in the interest of the program itself.

Mr. NELSON. Mr. President, I agree with the Senator. I do not think there is any compelling reason why the advisory councils should be exclusively from the bar. As a matter of fact, I do not think we got into that in any depth in the committee. I think it was simply assumed that the advisory councils would consist of lawyers since they would be dealing with legal questions.

I would have no objection personally, but I would like to know the views of the Senator from Minnesota (Mr. MONDALE), who has been deeply involved with this matter, and the Senator from New York (Mr. JAVITS). Unless another Senator has a problem with it, I would have no objection.

Mr. BROCK. I thank the Senator. I think it would affect the program constructively. I call the Senator's attention to amendment No. 786, which I intend to offer, and if the Senator prefers I will withhold offering the amendment until he has had a chance to discuss it with his colleagues, if that is acceptable to the Senator.

Amendment 786 simply requires that a majority of the advisory council—I am not even sure I would want to put any number on it——

Mr. NELSON. That the majority of the advisory council be members of the legal profession?

Mr. BROCK. That is right.

Mr. NELSON. Mr. President, I really find that a perfectly sensible proposal, and I am prepared to accept it at this time.

Mr. BROCK. Well, then, Mr. President, if I may, I call up amendment No. 786.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 5, line 17, after the period, insert the following: "A majority of".

Mr. BROCK. Mr. President, given the nature of the floor manager's statement, for which I am very grateful, I see no reason to debate the matter.

The ACTING PRESIDENT pro tempore. The Senator's 4 minutes have expired. The question on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed——

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that Mr. Moss had been appointed as a conferee at the conference on the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, vice Mr. DINGELL, resigned.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENT NO. 792

Mr. BROCK. Mr. President, I call up my amendment No. 792.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 7, insert a period after the word "Corporation" in line 9 and strike "except as authorized by the Board.", in lines 9 and 10.

Mr. BROCK. Mr. President, this bill attempts to deal with situations of potential conflict of interest, and this particular section is intended to require that full-time employees not develop situations of potential conflict of interest. However, I am afraid that the clause I intend to strike negates the very effect of the proposed legislation itself. I do not see how one can say there shall be no conflict of interest and then authorize the board to approve of potential conflict of interest by a specific act.

It seems to me that it would be very much in the interest of the board itself to protect them from being pressured in this kind of situation. I do not think they would want to face that kind of vote nor be forced to make that kind of choice.

In the interest of trying to clarify the intent of the proposed legislation, my amendment simply would strike the section which authorizes the board to allow outside compensation or salary. I hope the amendment will be accepted by the managers of the bill.

I reserve the remainder of my time.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. BROCK. Of course.

Mr. NELSON. What kind of specific circumstance might the Senator be referring to? For example, would the Senator object if the lawyer who was being compensated by the corporation wrote an article or a book on his own time? Would he object to that? Or suppose he owned a share in a small grocery store. Or suppose he owned a farm. Or suppose he had stock. All of those things tend to produce compensation of some sort. Am I wrong about that?

Mr. BROCK. Yes; I do not think they are covered by salary or compensation for other services. If I understand the language, it is limited to services performed under a contract for a fee or on a salary basis which falls outside the range of activities of the individual's compensation.

Obviously, if the person were a farmer, he would not fall under that description. If he were a stockholder and received dividends, he would not fall under this description. He would be exempt.

What I think the committee was trying to do was to prevent a situation where there are overt conflicts of interest which put the board in a position where it frankly has to make a fine-line determination. I think, No. 1, it is dangerous; No. 2, I think it is unfair to the board itself.

I think we should fully protect the situation so that, under the circumstances, as the job proceeds, they do not get into a situation where there is a personal conflict of interest.

Mr. JAVITS. Mr. President, if the distinguished Senator from Wisconsin will yield the floor, or perhaps yield to me on my own time——

Mr. NELSON. I was merely asking the Senator questions on his time.

Mr. BROCK. I have yielded the floor.

Mr. JAVITS. I yield myself 1 minute.

The point about this amendment is that it is not an effort to lock in the officers of the corporation from getting outside compensation. It is an effort to lock in the corporation so that it cannot get officers. It becomes really an absolute straitjacket on this basis and makes a person cut and trim.

One can get dividends instead of a salary. He can get royalties or interest. There are lots of way to skin this particular cat, if he wants to. It locks him in only on this job. I think we should give the board the authority and flexibility to do whatever is necessary in a situation of this kind.

I hope that we will reject the amendment.

Mr. BROCK. Mr. President, I yield myself 1 additional minute. As the language is written, the board, if it is nominated by a Republican President, could under this language authorize employees of the corporation to draw full salary from the Republication National Committee to operate as fieldmen during a political campaign, if it so chose.

I do not think we want to get into the business of having that kind of charge leveled against this corporation, but there is no prohibition against it, as the language reads toady. I find that ridiculous. It does not serve the corporation or the stated purpose of the legislation well.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I yield myself 30 seconds.

I would like to say to the distinguished Senator from Tennessee that, of course, the Republican National Committee would not accept services of that kind because they know they would be likely to be embarrassed. Legislation cannot be drafted to prevent all conceivable contingencies. Suppose one of these officers or employees decided he wanted to work in the field of legal services and he was able and dedicated. Suppose at the same time he was on the board of directors of a corporation and there was no conflict of interest between that and the duties he was performing for legal services. Under your interpretation, he would have to step off the board; would he not?

Mr. BROCK. I do not find that in the definition here, I am not sure.

Mr. NELSON. It says "services from any other source than the corporation." If he is on the board of directors of another corporation and receiving compensation, as is the common practice, that would be for services from another source.

Mr. BROCK. The problem I have is that there is no definition. If I thought there was some spelling out of the intent perhaps I would have a different approach, but I do not see it. I think there is enormous potential for a conflict of interest that could embarass and reduce the effectiveness of the corporation. By some device I would like to see more safeguards built into this matter. I have no great pride of authorship.

Mr. NELSON. There is no doubt that the Senator is correct. No statute was ever drafted in which there were not some degree of potential abuse. We have to start with the assumption that the board appointed by the President would look closely at the statute, at the officer, or employee who receives other compensation, as well as at the type of compensation. The matter would have to be examined by the board members and they would have to promulgate rules to cover potential situations, or in some cases decide whether or not an individual conflict of interest is involved that would not be reconcilable with duties under the statute.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, will the manager of the bill yield to me for a question on my time?

Mr. NELSON. On the Senator's time.

Mr. CRANSTON. Is it not plainly the intent of this language in the bill to authorize only activities that would not be inconsistent with the purpose of the legislation generally; and also we would have in mind activities of less than a full-time or long-term nature and not permanent assignments?

Mr. NELSON. I think that is generally correct, but as a matter of fact, if an officer were a long-time member of the board of directors of some corporation and did receive compensation for it, his doing so should not be contrary to public policy so long as no conflict is included.

I do not think the Senator from Tennessee is worrying about that specific kind of example, but I do not see how we can draft it. I am sure that we might be able to tighten it up a little more, but I do not think that is necessary because we are dealing with a distinguished Presidentical board that will look at the question of conflict of interest and conflict of activities. Such a board would seek to insure that any outside compensation is from an appropriate source. We must have more confidence in distinguished board members who will make these judgments.

I understand what the Senator from Tennessee is saying but I think the proposal as drafted is satisfactory, and I could not accept the amendment willingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. BROCK. Mr. President, if I may maintain the sequence, I call up my amendment No. 794.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 7, line 25, strike the period and insert the following: "or has been associated within a period of five years.".

Mr. BROCK. Mr. President, the reason I am pursuing this conflict of interest matter is that I think it is one of the areas of the bill that both proponents and opponents can fairly well agree on. Even though my previous amendment was not agreed to, I feel the intent on both sides in this matter is to be sure that the Board, the Corporation, and the employees are as pure as Caesar's wife to the extent we can achieve that situation.

In the bill this section reads:

> (c) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated.

What I would do would be to put that forward in time for a period of 5 years so that we do not entice people in the corporation to take an action which would benefit a law firm, an association, or some particular organization, on the basis that as soon as that is accomplished he is going to leave the Legal Services Corporation, join the new association, and obtain the benefits thereof. I think we fairly well established this precedent with respect to other legislation.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. BROCK. I yield.

Mr. NELSON. I asked the Senator from New York to yield, so that I might have the benefit of his counsel.

As I understand it, the practice in the Federal Government on matters such as this is 2 years. I see the Senator's point, but would the Senator find it acceptable to provide that he may not participate in any decisions that may affect any corporation he has been associated with for 2 years prior to the date he accepted the position as an officer of that corporation? Would the Senator accept that?

Mr. BROCK. As I understand the suggestion, his actions on the board would then project forward for the next 2 years so he would not seek employment from which he benefited; he could not seek employment with that association for the next 2 years.

Mr. NELSON. No; he could not participate as an employee in a decision affecting his previous associates.

Mr. BROCK. I am sorry. I am upside down. I thank the Senator. Two years would be fine.

I am trying to establish a time break so that we do not have motivation for a time break.

Mr. NELSON. I thank the Senator. Does the Senator from New York have an observation?

Mr. JAVITS. The analogy has been made to Federal employment. I understand it is 2 years there, so I would be prepared to agree with the Senator from Wisconsin to accept the amendment if modified.

Mr. BROCK. Mr. President, I ask unanimous consent to modify my amendment to make it 2 years instead of 5 years.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Is there objection to the modification of the amendment?

The Chair hears none.

The clerk will state the modification.

The legislative clerk read the modification, as follows:

> On line 2 of the amendment, change the word "five" to "two."

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

Who yields time?

Mr. NELSON. Mr. President, has the amendment been accepted?

The PRESIDING OFFICER. Without objection, the amendment is agreed to, as modified.

AMENDMENT NO. 795

Mr. BROCK. Mr. President, I call up my Amendment No. 795.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read the amendment, as follows:

> On page 8, strike lines 5 through 10.

The language proposed to be stricken is as follows:

> "(e) Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of, the Federal Government for the purposes of any Federal law or Executive order.

Mr. BROCK. Mr. President, this bill is, I think, a sincere effort to achieve a stated purpose, that is, provision for adequate legal counsel to those who cannot provide it for themselves; but there are a couple of parts of the bill that I simply cannot rationalize or explain or justify.

One of them falls on page 8, and I would like to read the language as the bill states it now:

> Except as otherwise specifically provided in this title, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of, the Federal Government, for the purposes of any Federal law or Executive order.

I cannot possibly understand the logic of that language. In effect, it seems to constitute a decision to annually take $100 million a year, put it in a little brown bag called the Legal Services Corporation, and resign from all future responsibilities to determine exactly how such funds are expended. This is incredible.

If elections are to mean anything and if we are to carry out our trust to the people and our responsibilities to them, we must be in a position to give them an accounting of the manner in which their tax dollars are used, and we must not abdicate our responsibility to work for responsible expenditures of those tax dollars.

It seems to me the effect of this language—whether it is intended or not, I do not know—is to isolate this Board from any review, any further executive review or act of the Congress, and to place them on a path which is subject to no jurisdiction of anybody elected by the people of this country of ours.

I cannot accept that. I cannot understand it. I would hope that perhaps someone could allay my fears and explain just what the purpose of the language is, because if I misread it, then, obviously, I am prepared to back down, but I cannot read it other than I have, which is that it is language which exempts the corporation from any future judgment, evaluation, review, or analysis on the part of the Congress or of the President of the United States. That is intolerable as far as I am concerned.

Mr. JAVITS. Mr. President, may I know the status of my time?

The PRESIDING OFFICER. The Chair advises that the Senator from New York has used 4½ minutes.

Mr. JAVITS. I yield myself 1½ minutes.

Mr. President, the purpose of this section is to make it truly an autonomous legal services corporation. If by Federal executive order, Executive order of the President, its decisions could be reversed, obviously it would not be an autonomous legal services corporation.

Second, if, as employees of the Federal Government with respect to the budget, they could, by use of impoundment or other budget processes, determine that the moneys were to be disbursed only as ordered by the Office of Management and Budget, it would contravene our purpose.

This is sui generis, as we lawyers say, or an original type of corporation. It is intended to have autonomy precisely because it is a legal services rendering corporation; it is not an ordinary corporation which has financial responsibilities. It has autonomy in its operations on the law level. That is why the American Bar Association gave such general support to this legislation.

So, in order to maintain the integrity of the corporation for the purposes we have intended, we have included this section. I hope the amendment will be rejected.

Mr. BROCK. Mr. President, I yield myself 2 minutes.

I must point out that the American Bar Association apparently has reversed its position of strong support for this legislation, or at least one of its committees strongly endorsed the principle of judicare. That is not this legislation.

So let us lay the argument that the American Bar Association is in favor of it to rest. That is no longer an uncontested fact. But I think more important than who supports it or who does not support it—because that does not affect my vote, and I hope never will—is the question of accountability.

Yesterday I offered an amendment, which was defeated, which would have put a 5-year limit on this bill, so that it would force the Congress, after another 5 years, to take another look, to sit back and review the program, to see whether or not it had met its designed purpose, to determine whether the poor people of this country were being served by the Legal Services Corporation.

That amendment failed.

Now we go to another section of the bill in which not only do the proponents of the legislation not want to review the legislation in 5 years, of all things, but now have it so that there is not going to be any review of it by anybody. We are going to exempt it from executive review. We are going to exempt it from congressional review. We are going to exempt it from any budget review. In other words, let us pass a bill which, in the sense that Congress must be the source of all wisdom, is perfect. Let us pass this bill and then wash our hands of the problem.

Well, we have done that too often in the past, and I cannot accept it. I cannot accept the fact that the Congress has no responsibility to the people of this country, not only the poor, but there are other people in the United States, and they pay taxes and they deserve better than a title which says, in effect, that no one shall have oversight, no one shall review, no one shall reevaluate. I think it is wrong.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

We anticipated that this question of the American Bar Association would arise. I have said that the American Bar Association is working in the interest of this legislation. I have a letter from John P. Tracey, associate director from the Washington office of the American Bar Association, addressed to me, dated January 30, 1974, in which he says as follows, among other things. I will put the whole letter in the Record and get it Xeroxed so that anybody may read it.

The letter reads in part:

> With regard to the Association's policy on S. 2686, I would merely reiterate the position reflected by Chesterfield Smith, President of the Association, in his letter to you of November 12, 1973:
>
> "The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted."
>
> Sincerely,
>
> John P. Tracey

Mr. President, I ask unanimous consent to have the letter from which I have just read printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

American Bar Association,
Washington, D.C., January 30, 1974.

Hon. Jacob K. Javits,
Old Senate Office Building,
Washington, D.C.

Dear Senator Javits: I am pleased to respond to the request from your office for information regarding Association policy positions with respect to alternative delivery systems for providing legal services to the poor. Your inquiry relates to S. 2686, the National Legal Services Corporation Act, currently pending before the Senate which the Association supports in principle.

The traditional support of the Association for legal services efforts has not discriminated between alternative types of delivery systems and this position remains unchanged. At the Annual Meeting in New York City in July 1971, the House of Delegates, the policy-making body of the Association, adopted a resolution noting the concern of the Association with "the proper utilization of the private practicing bar in rendering legal services to the poor" and approving action of the Board of Governors of the Association setting up a special subcommittee to examine the issue. The Board subcommittee was specifically mandated to review an American Bar Foundation study then in progress and studies conducted by groups within and without the Association and to render its report to the Board of Governors and the House of Delegates at the earliest practicable date following completion of the American Bar Foundation Study. Finally, the resolution urged that the Office of Economic Opportunity continue and expand experimentation with "various plans involving the use of the private practicing bar in rendering legal services to those unable to afford the services of an attorney, including combinations of legal aid staff lawyers and private practitioners". A copy of the 1971 Resolution is enclosed for your information.

The American Bar Foundation Study cited in the above-referenced Resolution has not yet been published and therefore has not been reviewed by the Board of Governors subcommittee. Thus, there has been no change in Association policy which would preferentially discriminate between service delivery systems.

With regard to the Association's policy on S. 2686, I would merely reiterate the position reflected by Chesterfield Smith, President of the Association, in his letter to you of November 12, 1973:

"The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted."

Sincerely,

JOHN P. TRACEY.

Enclosure.

RESOLUTION ADOPTED BY THE HOUSE OF DELEGATES, AMERICAN BAR ASSOCIATION, 94TH ANNUAL MEETING, JULY 1–7, 1971, NEW YORK, N.Y.

Whereas, The proper utilization of the private practicing bar in rendering legal services to the poor is a matter of concern to the American Bar Association and should be examined at the highest levels within the Association; and

Whereas, The American Bar Foundation and other groups and organizations are currently engaged in studies of this question, *Now Therefore Be It Resolved, That*

1) The House of Delegates approves of the recommendation of the Board of Governors that a special subcommittee of the Board of Governors be appointed to examine the proper utilization of the private practicing lawyer in rendering legal services to the poor; this subcommittee among other things to review the American Bar Foundation Study and studies conducted by groups within and without the Association and to render its report to the Board of Governors and the House of Delegates at the earliest practicable date following completion of the American Bar Foundation Study, and

2) Pending report of the Board of Governors to this House, the House of Delegates urges the Office of Economic Opportunity to continue and expand experimentation with various plans involving the use of the private practicing bar in rendering legal services to those unable to afford the services of an attorney, including combinations of legal aid staff lawyers and private practitioners.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, would the Senator use his own time?

Mr. MONDALE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, the amendment offered by the Senator from Tennessee (Mr. BROCK) in my opinion would undermine if not destroy the whole concept of the Legal Services Corporation. It would fly in the face of the whole purpose behind the establishment of the measure, which is to seek to deliver legal services to the poor consistent with the standards of the Canons of Ethics of the American Bar Association.

Under the concept of the Canons of Ethics, a lawyer is supposed to owe his client but one duty, in addition to, being an officer of the court, and that is to serve the legal interests of his client.

What has happened in the traditional legal services program is that we find politicians trying to interrupt the ability of a lawyer to discharge that fundamental concept of American justice.

If a lawsuit is brought on behalf of some poor client that may have a perfectly sound constitutional and legal basis, sometimes a politician does not like it. The result of that has often been that in the exercise of this program, the politicians try not to meet the merits of the legal points and the facts, but try to undermine the right of the poor person to have his case heard in court.

For several years now we have had—and the record of both the House and Senate committees on this matter are replete with examples—politicians trying to prevent Americans who happen to be poor from asserting their just cases before the courts and tribunals of this land.

The question then was, "How on Earth can we set up a system of justice for the poor which permits them to be represented consistent with the Canons of Ethics and with fundamental and sound justice, and why should a lawyer be incapable of representing the interests of such people without fearing the possibility that he will be denied a chance to represent his client for political reasons?"

The answer to that question is, "Why do we not try to establish an independent Legal Services Corporation which is insulated as far as it possibly can be from political tampering, under the management of a responsible board of directors, selected by the President, confirmed by the Senate, and made up of the best lawyers that can be found? Then through this board, we can try to insulate the legal services program in a way that it has integrity and can responsibly serve the poor as lawyers in the way that every other interest in this country is represented."

If the pending amendment is agreed to, the whole purpose of having an independent Legal Services Corporation is destroyed. These lawyers would once again become wholly subject to the political pressures of the incumbent political power, which would frustrate the whole reason for this provision.

Let me say one other thing. We have broad public support. We have broad taxpayer support for such lawsuits today.

When a corporation decides to sue, it brings a lawsuit. Those legal fees are deducted as a normal business expense. And in effect the taxpayer pays for it.

In the case of every public body from the U.S. Government down to school districts and local municipal bodies, all of the legal fees are paid for by the taxpayers.

In none of those instances would a lawyer dream of accepting even the kind of interference that this Legal Services Corporation will have to accept.

A corporation would never agree to being limited in its range of lawsuits or in its ability to bring lawsuits by the interpretation of a Legal Services Corporation that we are now proposing to establish to govern legal services for the poor.

This does constitute some interference with the independent legal services. However, it is the best that we can come up with.

In effect what they are saying is:

> There is one system of better justice for everyone else. However, if you happen to be poor, your constitutional right is restricted if some politician does not like it.

That is the whole question—whether we believe in justice and whether we believe in the Canons of Ethics and whether lawyers should be able to do for the poor what they do for everyone else.

A lawyer would never think of being denied the right of doing what he believes should be done.

This is an amendment that goes to the very heart of that question.

I might add that the original administration bill offered in 1971, section 901 (a), says that the Corporation shall not be an agency of the United States and will be, consistent with this act, subject to the District of Columbia Nonprofit Corporation Act.

This amendment goes to the very heart of the issue of independence. To adopt this amendment would be to make a mockery of all the efforts of the Congress over the last 3 or 4 years, the desires of the executive branch speaking through the President, and of the Canons of Ethics.

Mr. BROCK. Mr. President, I yield myself 1 minute.

I think the Senator from Minnesota missed his calling. He should have been in construction. He just built the biggest strawman that I have seen on the floor of the Senate in a long time. He has not addressed the point of the amendment.

Has anyone on the floor of the Senate seen an amendment that says that an instrumentality of this Government is not subject to the law of the land? Where is there such a provision? Is there any other law which says that for the purposes of any Federal law that an instrumentality of this Government is not subject to the law of the land? Even if I would accept, and I do not, the criteria that the Executive order with respect to the equal employment of others should apply to this legislation, and even if I would accept some sense of logic to the argument of that question, and I cannot, the Senator cannot show me how we can exempt this group of people from the Federal law. That is not logical, and it is not good business. And it seems to me that it is certainly not the representation that the people of this land want.

I have not heard anyone discuss that on this floor. The point is that we want to give legal services to the poor. The fact is that they have not gotten those services. We have people in the field who would much rather make a case for themselves than they would like to take a tough case.

I can point to people who feel that they were not able to get legal services because some hot shot young legal graduate wanted to take a case to the Supreme Court rather than to defend a rent case or a case for veterans' benefits, something which happened to only a few human beings.

That is the purpose of the amendment. The amendment addresses that problem.

Mr. HATHAWAY. Mr. President, I yield myself 3 minutes.

I would like to point out that the subsection which the Senator from Tennessee would like to delete from the bill does not exempt the Corporation from Federal law. It simply does not make the

Corporation an instrumentality or agency or department of the Federal Government.

Under our Elementary and Secondary Education Act, we give money to the public schools throughout this country. We do not make the public schools departments or agencies of the Federal Government; nevertheless, they are subject to the Federal law, and this corporation, of course, would be subject to the Federal law, except that it is not going to be a department or agency.

Furthermore, to answer the concern of the Senator from Tennessee about whether or not we are going to have any control, there is ample provision in the act. Section 1008, concerning records and reports, section 1009, concerning audits, and section 1013, and there may be others here that I have overlooked, all give ample control by the Federal Government over the spending of money by the corporation that we are attempting to set up.

So I do not think there is any real basis for any concern that this is going to be an instrumentality that is going to run off and spend Federal funds without any accountability whatsoever to the Federal Government.

Mr. BROCK. Mr. President, I yield myself 1 additional minute.

Do not mistake me: I do not underestimate the powers of those who drafted this incredible piece of legislation. It is a beautiful piece of work. It is devious in my opinion, it is well designed to suit its purposes.

It is fascinating. One section says that except as otherwise specifically provided the officers and employees shall not be considered officers or employees. That is an interesting statement in itself. Then it goes on and, in another statement, it says the officers and employees shall be considered officers and employees for the purposes of the following provisions; then it goes on, again, and says they are not considered officers and employees for the purposes of the Hatch Act.

So they are in and they are out and they are in and they are out, and you are weaving your way in and out through the political safeguards that have been established for protecting the American people against political abuse. It is done in a very fine and nice manner, but I am sure the American people do deserve something more from their Congress in terms of their own needs, desires, and interests.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. BROCK. Mr. President, I ask unanimous consent that a member of my staff, Lyle Ryter, and a member of Mr. TOWER's staff, Patricia Watkins, may have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

The question is on agreeing to the amendment (No. 795) of the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT), is absent on official business.

I further announce that the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. HATFIELD), are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK), and the Senator from Oregon (Mr. HATFIELD), would each vote "nay."

The result was announced—yeas 30, nays 58, as follows:

[No. 19 Leg.]

YEAS—30

Allen
Baker
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cotton
Curtis
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hruska
Johnston
Long
McClellan
McClure
Randolph
Roth
Sparkman
Stennis
Thurmond
Tower
Young

NAYS—58

Abourezk
Aiken
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Gravel
Hart
Haskell
Hathaway
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Weicker
Williams

NOT VOTING—12

Cook
Fulbright
Hansen
Hartke
Hatfield
Hughes
Humphrey
McIntyre
Metcalf
Scott, William L.
Talmadge
Tunney

So Mr. BROCK's amendment (No. 795) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATHAWAY. I move to lay that motion on the table

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, I yield myself as much time as I will need, and it will not be more than 10 or 12 minutes.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Senator. May we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. ROBERT C. BYRD. Mr. President, I hope that we may have order in the Senate while the Senator speaks.

Mr. GOLDWATER. Mr. President, in debate on the floor on the legal services matter, I have previously pointed out the abuses that were being practiced under this system in my State of Arizona. Today, I will point out additional abuses that can happen in any State or community under a federally funded Legal Services Corporation.

One thing which the managers of the bill assure us will not happen, but which is just as plain as the Sun on a clear day, is the practice of legislative lobbying by federally paid legal services lawyers. I would point out that under S. 2686, lawyers of the Legal Services Corporation are permitted to lobby for or against legislation at any time that they are requested to testify by a legislative committee or by even a single member of any committee. In other words, any Member of Congress or of a State legislature or of a city council who wants to do so can authorize a legal services attorney to come in and testify before his legislative group by merely asking him.

Mr. President, legislative advocacy of this kind has been the trademark of past legal services programs. I have read working papers from the OEO Office of Legal Services which set out in great detail the ways in which legal services personnel are supposed to do their lobbying work. These lawyers were taught that they have the "clear right" and "certain duty" to lobby. Indeed, on October 21 and 22 of 1971, a meeting was held in Philadelphia of some 50 legal services lawyers to consider how legislative advocacy can be used most effectively as a tool for shaping their social ends. In February of 1972, the OEO sent to every legal services attorney a voluminous three-part collection of articles discussing various aspects of legislative advocacy and calling attention to the Philadelphia meeting.

In these official OEO articles, legal services lawyers were given guidance on numerous welfare statism issues which were labeled ripe for legislative agitation. Part II of these OEO policy guidelines specifically admonished legal services attorneys that:

> At a minimum, every LSP [Legal Services Program] can seek out a friendly legislator, and urge him to introduce a bill or bills for them, and provide him with back-up work needed.

The OEO attorneys were left in no

doubt as to whom they were supposed to emulate. This same part II of the OEO guidelines explained to each legal services attorney that among the forces he can bring to bear on legislators is representation of general groups of the poor, rather than of merely an individual member of the poor, especially if the attorney happens to command instant attention from the press as is the case with Ralph Nader.

In the same OEO documents, the budding legislative lobbyist-attorneys were given assurance that—

> The working press is normally liberal and sympathetic to the poor, and hostile to the "establishment."

This suggestion for manipulation of the free press was set out under a section headed "Forces You Can Bring To Bear On Legislators."

Mr. President, the above description of legislative advocacy as used by OEO is unquestionably a model for the practice of similar advocacy by attorneys of the Legal Services Corporation. Lobbying for social welfare changes has been considered to be no less than the professional responsibility of legal services attorneys, and I do not see how anyone can expect them to have changed a part of their operations which has been practiced from the inception of the legal services program. I certainly do not believe that the language of the pending bill prohibits it, and, in fact, I think the bill leaves the door wide open to it.

Mr. President, I have in a previous debate called the attention of the Senate to political abuses which were occurring in Arizona, where young attorneys, employed for legal purposes, became actively engaged in political work. Again, I would note that there is nothing in the pending bill to prohibit this from happening. It is made quite clear by S. 2686 that each legal services lawyer can engage in political activities, voter registration activities, and providing transportation to the polls for voters whenever necessary to the provision of legal advice and representation for any group or person who is the attorney's client.

In other words, it will be perfectly all right for any attorney to provide voting information and political advice to any groups of the poor whom he already represents. Even if he is not already working with the poor in some legitimate project, and thereby can engage himself in political activities with that group, it would be an easy matter for any neighborhood club to confer authority upon him to give political help by professing to solicit his legal advice about the technical procedures for qualifying to vote or retaining a valid registration.

Mr. President, it also cannot be denied that under the Legal Services Corporation bill, the Corporation is empowered to grant public funds to every species of Ralph Nader-type advocacy group so long as the recipient can arrange his books or divide his operations to indicate that he spends less than one-half of his time on the actual litigation of broad public interest issues. It would be a very easy thing for legal services offices to qualify for grants of public moneys under this standard.

Mr. President, I would remind my friends in the Senate that legal services programs have long had experience in getting around this type of rule. Referring back to the official OEO guidelines which were distributed to all legal services attorneys, one of the important areas about which lawyers were advised in this material was information on how to preserve their status as organizations to whom contributions would be tax deductible. One of the problems in legislative lobbying, which OEO openly recognized, is that the tax status of legal services groups might be questioned if they engaged in a "substantial" amount of lobbying. Accordingly, every legal services office was informed of the existence of an informal "5-percent rule" within the IRS.

But the OEO guidebook suggested that the way around this technicality was easy. All the legal services office had to do was simply to incorporate that office's programs into separate components and pay careful attention to a "clean" separation of the office's funds and activities.

If the legal services offices were clever enough to avoid the "5 percent rule," you can imagine how simple it will be for them to by-pass a "50 percent rule" and remain entitled to public moneys. I, for one, do not think the American public wants to see their tax moneys being funneled into public advocacy shops who are agitating for welfare statism programs of the kind which the average citizen opposes and which are bankrupting America.

Mr. President, I would also alert my colleagues to the fact that the Senate Committee, in reporting S. 2686, has removed several prohibitions which were included in the original House-passed bill and which would have protected the American public against some abuses which I have not yet discussed. Among the activities which the House bill banned, but which by implication the Senate bill permits, is the incitement of litigation, the bringing of court cases to achieve forced school busing for sociological and racial purposes, the bringing of court actions to obtain abortions, and the conferring of legal assistance to draft dodgers. I have never seen an adequate explanation by the managers of the bill as to why these activities are no longer specifically prohibited.

Mr. President, I believe the risk of a resumption of the abuses which I have described above is far too great to take a chance with passage of the Legal Services Corporation bill. Although the Corporation would, on the surface, be established as a new and separate organization, its concern with social welfare and poverty issues would remain the same as it existed when the legal services program was handled by OEO. I am certain the philosophy would be the same, and the activities would be the same.

If the descriptions of actual OEO guidelines which I have revealed above do not give us enough reason for worry about a federally financed, legal services system, I will ask any Senator who is not concerned to educate himself by reading a volume published by the OEO, dated March 10, 1972 on the subject of providing the Office of Legal Services with assessments of management efficiency.

This volume contains lengthy instructions on the conduct of a detailed evaluation of each of the then 97 operating legal services projects, which consisted chiefly of OEO-funded neighborhood law offices. In order to achieve a satisfactory rating in this evaluation project, the local, OEO-funded organizations were asked to prepare a self-analysis for use by the evaluators. Among the range of achievements which the legal services attorneys were expected to report was a description of all test case litigation which they had initiated. In OEO jargon, this meant that good marks would be given to legal services attorneys who had stirred up court cases against "the establishment" in untested areas.

Among the items which this OEO guide directed its evaluators to rate, and report on, was how much advocacy before Congress, State legislatures, or city councils of new legislation, or against legislation, that office had done. The evaluators were also told to measure the extent to which the legal services projects had become involved with and advocated the interest of the local poor people. One way the guide indicated that local attorneys could prove the proper involvement on their part with the poor was by showing that they had consulted with what the guide called, "reliable informed sources," such as the Black Panthers.

Among other aspects of the local, legal services operations which OEO evaluators were told to pay special attention was the extent of advice or representation given by the local attorneys during rent strikes and to welfare demonstrators, the extent to which local attorneys had challenged the suspension or expulsion of college demonstrators, and the amount of time legal services attorneys had worked with welfare organizations to insure that housing developments being built by private developers would provide rent supplement payments.

In other words, Mr. President, publicly funded legal services attorneys were expected—and will be expected—to be at the forefront of all the kinds of social welfare schemes that have ever been thought up by social dreamers. The Legal Services Corporation would not be concerned with helping the individual poor or needy person, who can be given proficient advice and services through programs run by State and local bar associations, but would focus its energies on changing society by challenging the elected representatives of the people with an overwhelming number of test cases and by lobbying in the media and before legislative bodies for statutory changes where their court cases draw a dead end. These are not the kinds of things for which the public wants its tax moneys to be used. I believe S. 2686 is a dangerous proposal and I will vote against the bill.

Mr. BEALL. Mr. President, there is one aspect of the American dream that has shaped and colored our Nation's life since the time of the founding of the Republic. This is the belief that everyone is equal before the law. Even extremists, whether of left or right, find no disagreement with those who prefer to be described as middle America, that at the Bar of Justice all are truly equal. But what has seemed a nearly unanimous consensus on this concept of equality has not always in application resulted in realization of this fundamental principle of justice under the law.

The Legal Services Corporation bill provides new opportunity to assure all of our citizens, regardless of their economic position, of the means to achieve the American dream of equality under the law. In my own State of Maryland, I am aware of what the legal services program, begun under the Office of Economic Opportunity in 1965, has accomplished. The Legal Aid Bureau, which has been a recipient of the OEO funding, in its last year of operation answered total requests for legal assistance for over 35,000 low-income citizens. The basic common denominator of these clients is a lack of money to pay a lawyer. From that point on the problems in which the poverty lawyers provided representation are vast and varied. These are not cases which reach headlines or front pages of newspapers. But to the poor everyone of these cases is important, whether it be the family being evicted or a mother having her child taken away. Thus the poor were provided representation in difficult day-to-day problems in such areas as family law, landlord-tenant problems, problems with employment and consumer cases.

These problems are typical of the gammit of cases brought to the neighborhood law offices by the low-income community. And in every relevant area of the law a legal aid attorney was providing representation to a client who perhaps would have otherwise considered the law his enemy had he not the opportunity to present his side of the case to the courts. At no level were the poor denied representation and poverty lawyers in Maryland and across the country have carried their clients' cases when necessary to the Supreme Court of the United States. They have done this effectively and within the bounds of the code of professional responsibility in the highest traditions of the legal profession. As a result they have given meaning to the concept of equal justice under the law.

The committee's bill comes to the Senate only after careful study. I join with Senator TAFT's views as expressed in the Senate report that the bill represents an effective compromise and a constructive balance on the various points in issue. Notable are the provisions relating to the composition, method of selection and powers of the Board of the Corporation, and the creation of a national and local advisory board which will give local bars the opportunity to evaluate the quality of legal services provided by the corporation. Equally important are the provisions in the bill which preserve necessary existence of research back-up centers for overburdened legal services attorneys, essentially similar to those now in operation. Safeguards are adopted for lobbying and political activities in recognition of the effectiveness of these tools for carrying out the mandate of the Corporation to provide legal services for the poor on one hand, and the necessity to avoid excesses by over-zealous attorneys on the other hand.

The committee's report clearly recognizes the need to protect the most essential relationship of all, the attorney-client relationship, and the committee has urged that the provisions of the bill be read consistently with that need. Finally, the bill provides for safeguards in determining client eligibility so as to assure that only those unable to afford counsel are given the advantages of free representation, while at the same time allowing for a reasonable amount of discretion with the legal services attorney.

The important consideration is to keep existing legal services programs alive and to provide stability and continuity for their operations. The record of the legal services program in Maryland, under the leadership of its executive director, Mr. Joseph A. Matera, is one of constructive accomplishments. The enactment of this legislation will enable Maryland to continue this effort.

Columnist James J. Kilpatrick, in his column "The Case for Legal Aid to the Poor," concluded:

> Conservatives should back such a bill, in the full awareness that from time to time they will be irritated, harassed, and outraged by the "zeal and adrenalin." Mistakes will be made. Incidents of bad judgment can be expected. But if we truly believe in equal justice under law, we ought not to be deterred from supporting an effort to make those words in stone something more than any empty phrase.

Although far from perfect, this compromise bill is the product of much deliberation, and consideration of varying points of view. The fundamental principle of equal justice under the law remains intact. I, therefore, will support the bill and urge its enactment.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE FOR LEGAL AID TO THE POOR

(By James J. Kilpatrick)

WASHINGTON.—There are times, sad to say, when American conservatives appear to constitute "the stupid party," as John Stuart Mill once labeled their British counterparts a century ago. By their failure to give active support to a continuing program of legal services for the poor, my brother conservatives are abandoning their principles and exhibiting a dull-wittedness that makes a man despair.

Of course a legal services program should be extended! Let Congress, if it pleases, scrap everything else that has been funded through the Office of Economic Opportunity. Let the administration, if it can, dismantle a hundred boondoggling, paper-shuffling programs of grants-in-aid. But in one form or another, the Neighborhood Legal Services must be maintained.

Chiseled in stone above the great white columns of the U.S. Supreme Court are four famous words: "Equal Justice under Law." No concept in our public life is nobler and no concept has been more poorly served.

The grim truth is that for all practical purposes, we still have two systems of law in this country, one for the rich, another for the poor. Every newspaperman who ever has covered the small claims and criminal courts of his city knows this is so.

Granted, much has been done in recent years. Indigent defendants, even in serious misdemeanor cases, now have a right to counsel. Bail reform has remedied some of the most flagrant evils of the criminal justice system. Since 1965, the federally assisted legal services program has greatly benefited the poor in areas of civil litigation. Now this civil program—a program seeking to promote equal justice under law—is threatened with abandonment.

Conservatives, dedicated in principles to this elementary proposition, ought to be in the forefront of a fight to push the cause along.

But where are they? They are grumbling that in recent years the program of legal services has been abused. Doubtless this is true. It would be incredible not to discover abuses in a program involving 2,500 lawyers in 900 neighborhood law offices. As Chief Justice Burger once remarked, "this program attracts young idealistic lawyers, and sometimes they have more zeal and adrenalin than judgment and skill."

But these occasional abuses, while serious, have been few. Viewed on the whole record, the legal services program has helped to foster a sense of confidence not only in the courts, but also in what is known vaguely as "the system." In a message two years ago, urging creation of a wholly independent Legal Services Corp., President Nixon made that point: "This program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets."

Unhappily, Mr. Nixon now seems to be dragging his heels. The present $70 million program is to expire in June, and nothing is yet in sight to take its place. It would be calamitous to let the concept go. As a recent report from the General Accounting Office made clear, the great bulk of casework by the NLS lawyers involves legal problems arising from housing, domestic relations, employment and consumer grievances. A million such cases were handled last year.

The typical client is not the young revolutionary, seeking protection for the obscenities he prints in an underground paper. The typical client is an old man, barely literate, about to be evicted from his home.

What is needed—and needed promptly—is a bill to create an independent legal services corporation generously funded with authority to provide essential representation for the poor. Such a corporation should have backup facilities for research. It ought not to be denied a hand in "law reform." Neither should it be prohibited from bringing the class actions that often provide the most effective remedies at law.

Conservatives should back such a bill, in the full awareness that from time to time they will be irritated, harassed, and outraged by the "zeal and adrenalin." Mistakes will be made. Incidents of bad judgment can be expected. But if we truly believe in equal justice under law, we ought not to be deterred from supporting an effort to make those words in stone something more than an empty phrase.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States, submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. CURTIS. Mr. President, I call up my amendment No. 947 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk read as follows:

> On page 13, line 25, it is proposed to insert the following:
>
> (5) No class action suit, appeal, or amicus curiae action may be undertaken, directly or through others, by a legal services project staff attorney, except with the express approval of a project director in accordance with policies established by the governing body of the project, as approved by the Corporation.

Mr. CURTIS. Mr. President, I invite a careful reading of this amendment by each Senator. It is very brief. It happens that I do not favor class actions. I think they get into the political area. I think they invite all the abuses the distinguished Senator from Arizona is talking about.

However, I know that my will will not prevail. I know that I cannot take away the authority in this bill to bring class actions. I wish I could. I doubt that I have sufficient votes.

The amendment merely provides that no class action suit, appeal, or appearance as a friend of the court can be undertaken except with the express approval of a project director in accordance with policies established by the governing body of the project as approved by the Corporation.

In other words, if there are to be class actions, all we ask is an orderly way to handle them, that a uniform policy be applied throughout the country, and that responsibility be fixed. This does not deprive the Corporation of the right to appear as a friend of the court or to bring an action or to take an appeal that is of a class nature. The amendment merely provides that there must be the express approval of the project director in accordance with policies established by the governing board of the project and approved by the Corporation.

I feel that this is a reasonable provision and would strengthen the legislation. It is my hope that the managers of the bill will accept the amendment.

Mr. President, I reserve the remainder of my time.

Mr. COTTON. Mr. President, I shall use 3 minutes of my time.

The problem of authorizing class actions has long been a subject of controversy. The problem of bringing a class action is one that has been a bone of contention within the Committee on Commerce with respect to many measures that have come before us.

Some of us on the committee have taken the position, and fought for it through the years, that the class actions open up a very grave danger, and that danger is largely against the consumer.

Mr. ROBERT C. BYRD. Mr. President, will the Chair clear the aisle so that I can at least see the Senator when he speaks?

The PRESIDING OFFICER. The aisles will be cleared.

The Senator from New Hampshire.

Mr. COTTON. When class actions are permitted, as they have occasionally been in some so-called consumer bills, it eventually simply means that the consumer will pay more for consumer goods that are involved, because if a corporation, a manufacturer or distributor, realizes that it is in constant danger of having some lawyer go around and get 50 or 75 or 25 signatures to bring a class action because of some alleged defect in an electric toaster or washing machine, or anything else, and whereas the defect might be in such small objects—more in the toaster class than the washing machine class—it simply means that the corporation is going to protect itself by raising the price of the article in order to absorb and take care of the harassment it expects to face on any possible alleged defect in even a very small and inexpensive device.

That is a point of view that, it seems to me, leads to an utterly impossible situation, in view of the ardent efforts of people such as the Senator from Arizona described, the eager type, the champion of the consumer. If this measure is going to open the door wider to class actions, it is going to militate against the very people it seeks to benefit. It is going to simply mean that any producer or distributor of even small, inexpensive gadgets of every nature, knowing it may be exposed to suits by groups or by classes encouraged and lined up by lawyers, will, simply to take care of the cost in advance, increase the cost of the article.

I think the amendment of the Senator from Nebraska should be helpful. It does not cure the defect in the bill. It does not cure the opening of this door. But it goes as far as it can to at least place restrictions in the bill, and I shall certainly support it.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TAFT. Mr. President, while the yeas and nays have been ordered, I looked at this amendment and, with some minor modifications, I do not feel I would be inclined to object on behalf of the minority. There is authority provided for a project director to approve. This, as the Senator from Nebraska has indicated, pins down the responsibility for certain types of class actions.

There are, however, in my opinion, a number of types of class actions that do not relate to consumer or public interest types of situations, which perhaps we ought to examine and, if we get to conference on this measure, try to work out some resolutions, with respect to not requiring the project director to approve.

I, for one, do not see why this amendment as such should not be taken to conference.

I ask the Senator from Wisconsin if he has any opinions on it at this time.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. CURTIS. I would certainly propound the request to withdraw the request for a rollcall vote if the committee could accept this amendment and see what could be worked out.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Mr. President, I am opposed to this amendment. The purpose of setting up this corporation to provide legal services to the poor is to put the poor on the same basis as everyone else with respect to their legal rights. There is no inhibition on class actions or appeals or amicus curiae actions by those who can afford legal counsel. I do not see why there should be any prohibition directed against the poor.

Many of their actions—probably the greater proportion of their actions—are going to be class action suits. With their budgetary limitations, I suppose they are going to be more concerned with consumer actions than those of us who are more affluent and able to afford to purchase articles and give up any actions we might have against the purveyor of those articles because we just do not want to be bothered with litigation. But to the poor, consumer actions are extremely important, and I do not see why we should prohibit them.

Furthermore, the project director of any project, with the limited amount of moneys afforded to him, is going to have some direction over all kinds of actions within his area, and probably the purpose the Senator from Nebraska desires to bring about will be taken care of in that way, without such inhibiting language as this placed in the bill.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. CURTIS. The Senator is aware that this amendment does not prohibit class actions. Is he not?

Mr. HATHAWAY. I understand it has to be done with approval——

Mr. CURTIS. It says that class action shall have the approval of the project director in accordance with policies established by the governing body of the project. Without this, the decision goes to nongovernment individuals who assume no responsibility for the Government of the United States.

We are not saying what kind of policies are to be established. We are not saying the policies must include this or cannot include that. We are merely saying there should be a uniformity, there should be a chain of command. We are not requiring that the governing body approve the project. Neither are we requiring that the corporation approve the project. We say the governing body shall include policies which are approved by the corporation before the project director shall approve this action.

I think that is reasonable. I believe to do otherwise removes all persons acting under authorities of government from having any voice in the policymaking concerning these class suits.

Mr. HATHAWAY. Mr. President, let me say in answer to the Senator from Nebraska that in the first place the corporation supposedly is independent of the Government. An amendment to make it otherwise submitted by the Senator from Tennessee (Mr. BROCK) was just recently defeated.

In the second place, there is already a provision in the bill for the corporation to issue guidelines and regulations covering all kinds of legal actions.

I think that we should await the promulgation of such guidelines and regulations before we in Congress decide that in certain areas we want specific things done.

Mr. CURTIS. Mr. President, the ones in the corporation are the ones who have come to the Congress for their funds. And they are the ones that Congress can look to and expect them to do a good job in that area.

We say to them that the governing bodies should develop some policies before we proceed and that this is the manner in which it should proceed.

I believe that if I were an ardent champion of this whole area of activity, I would welcome such a procedure because it could very well save the program from some abuses and unfortunate actions which might well bring it into disrepute.

I hope that the amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, does the Senator mean that the words "class action" apply to an appeal and to an amicus curiae action? The Senator is not talking about appeals that are not related to class actions, I assume?

Mr. CURTIS. This deals only with class actions, whether they bring a suit or take an appeal or appear as a friend of the court in a class action.

Mr. CRANSTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order for the yeas and nays be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Mr. President, the amendment as modified reads as follows:

> No class action suit, class action appeal, or **amicus curiae class action may be undertaken**, directly or through others, by a legal services project staff attorney, except with the express approval of a project director in accordance with policies established by the governing body of the project.

The PRESIDING OFFICER. Would the Senator send the modification of his amendment to the desk?

Mr. CURTIS. I send the modification of my amendment to the desk.

I believe this meets some of the objections to the amendment that I had originally drawn.

Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I have no objection to the amendment as modified. We are willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified. [Putting the question.]

The amendment as modified was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 959

Mr. BELLMON. Mr. President, I call up my amendment No. 959, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON's amendment (No. 959) is as follows:

> On page 13, following the word "referendums", insert a "period", and strike the following: "except as necessary to the provision of legal advice and representation by an attorney for any eligible client with respect to such client's legal rights and responsibilities.".
>
> On page 16, strike line 11 through line 14.
>
> On page 17, strike line 4 through line 10.

Mr. BELLMON. Mr. President, the purpose of this amendment is fairly simple and easily understood. Briefly, it prohibits the use of these funds to advocate or support referendums for any kind of lobbying activity or for any political activity whatsoever.

While I was serving as governor of Oklahoma, the concept of legal aid to the poor was introduced under the economic opportunity program. As with many of the OEO programs, there was opposition to this undertaking from the legal profession and other sources. But after it had been in operation, with the involvement of attorneys at the local level, the legal services program gradually won acceptance because it demonstrated that with a little help in the form of legal guidance, many low-income persons could become more self-reliant and productive citizens.

With the dismantling of the Office of Economic Opportunity the administration proposed the establishment of a Legal Services Corporation to take over the various legal aid programs. A bill creating such a corporation was debated and passed by the 92d Congress, but was vetoed because of White House objections regarding the appointment of board members.

Now the issue is before Congress once again in the form of a compromise measure which has the backing of the administration. However, the present bill has some objectionable features that I strongly feel should be removed. Therefore, I am offering an amendment to eliminate some of these features and tighten up the language of the bill to prevent possible abuses of the program.

Let me make it plain that this amendment is not an effort to weaken the bill, but rather to strengthen it for the protection of all citizens. Nor is it an attempt to further stall consideration of the bill.

First, my amendment would insure that all attorneys engaged in legal assistance activities refrain from any political activity for a particular individual or party. Second, the amendment would further guarantee that no funds, program personnel or equipment could be contributed or made available by the corporation for use in advocating or opposing any ballot measures, initiatives, or referendums, by removing the exception clause in the bill which is a major loophole. Third, another provision of the amendment would insure that no funds made available through grants or contracts could be used by recipients to undertake to influence the passage or defeat of any legislation by the Congress or by any State or local legislative bodies. The only involvement in legislative matters would be in the event a legislative body requests information.

In general, my amendment removes several loopholes which, in my opinion, would permit possible illegal actions or political activities.

Mr. President, consideraton of this legislation has been long delayed, and I am hopeful that a suitable compromise can be reached in order that the matter can be finally resolved.

Mr. President, my hope is that this amendment will be acceptable to the authors of the bill. In the event it is not, I will ask for the yeas and nays.

Mr. NELSON. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BELLMON. I am glad to yield to the Senator from Wisconsin.

Mr. NELSON. In the Senator's preliminary remarks he made reference to political activities. Is the Senator aware that we specifically provide that these employees under this statute are covered by the Hatch Act itself, so that they are barred from political activity?

Mr. BELLMON. These attorneys are prohibited from any voter registration activity to the extent necessary according to the provision—I would invite attention to section (C) on page 17, beginning on line 3, which reads:

> . . . any voter registration activity, except as necessary to the provision of legal advice and representations by an attorney as an attorney for any eligible client with respect to

> such client's legal rights and responsibilities . . .

Mr. NELSON. If I may ask a question on the Senator's time—since I have only 1 hour to speak on all amendments—is the Senator aware that the amendment he is dealing with was carefully drafted by the distinguished Senator from Ohio (Mr. TAFT) and that the sole exception we put in there is on the voter registration question? That is because an attorney should be entitled to provide legal representation to an individual to enable him to register to vote. Is the Senator aware that we were getting at is this: If a client is denied the right to register to vote, as to securing that specific right, the lawyer could assist him?

Mr. BELLMON. Is the Senator saying that it is not the intent of the bill that the attorneys could lead any voter registration drive, that it deals only with the case of a single voter?

Mr. NELSON. Absolutely. He may not lead a voter registration drive.

Mr. BELLMON. Only in the case of a single voter whose right to register had been interfered with?

Mr. NELSON. Each such individual would have to be an eligible client. There might be five individuals who are denied the right to register who assert that they are qualified to register to vote. But legal representation has to be on behalf of a client, and not a voter registration drive.

Mr. BROCK. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. BELLMON. I am glad to yield to the Senator from Tennessee.

Mr. BROCK. I think the Senator from Wisconsin said that these people are covered by the Hatch Act but I do not know where that is in the bill. I thought they were excluded from the Hatch Act. I thought they were not covered by the Hatch Act.

Mr. NELSON. If the Senator will withhold for a moment, I will get the section.

Mr. BELLMON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I call attention to the absence of a quorum so the Senator from Ohio, who offered the language which would be stricken by the Senator from Oklahoma, will have an opportunity to speak to it.

The PRESIDING OFFICER (Mr. ABOUREZK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, unfortunately, I was not able to be on the floor when the Senator from Oklahoma was discussing his amendment. I do want to invite to his attention the exception which occurs in line 21 on page 13, which also applies to the other provisions on pages 16 and 17 to which the Senator's amendment refers.

The Senator's amendment, would strike the following wording on page 13—"except as necessary to the provision of legal advice and representation by an attorney for any eligible client with respect to such client's legal rights and responsibilities". This wording relates to the right of an eligible client of the Legal Services Corporation to ask his attorney for advice and to obtain advice from his attorney as to what his individual rights might be with regard to registering to vote or otherwise participating in the electoral process. The wording "by an attorney as an attorney," I believe effectively limits political activity per se by corporation attorneys.

The Senator from Maine commented that the objective of the bill is not to deny to individuals seeking legal advice and representation the rights that any citizen normally has in going to an attorney and paying for and receiving such services. I believe that we have attempted to rule out—and I certainly feel that the intent of the committee was to rule out—political activity.

Certainly, the advice to a client as to what his rights and responsibilities are under the law would seem to me to be a very legitimate purpose, and I am certain the Senator would not want to limit such rights.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. BELLMON. Mr. President, I would not quarrel with the Senator from Ohio as to the intent of the language, nor would I quarrel with the objective, if we could be certain that these attorneys would not go out on their own and find clients and use those clients as an excuse to do the very things which have brought discredit and criticism upon the legal services program in the past.

Mr. TAFT. I am fully familiar with the problems. It is not the Legal Services Corporation. I am fully cognizant of the problems that arose with regard to the OEO legal services. In my election to Congress in 1966, I recall personally objecting to some of the activities that were being carried on, which I thought were of an extremely political nature and really not of a legal nature at all, by some of the employees of the OEO Legal Services Division at that time. So I am not unfamiliar with the problem.

The reason for my language here is to eliminate that type of activity, but leave in the representation of eligible clients as to what their rights are under the various laws involved.

Eligible clients, for example, may be denied the right to vote. The language that the Senator would strike would eliminate such economically disadvantaged individuals from being advised as to how they could qualify to vote.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. TAFT. I yield.

Mr. GOLDWATER. I want to make clear that I am not a lawyer, but I am interested in language on page 17, line 3:

> Any voter registration activity, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client . . .

Am I correct in assuming that a client could be an organization or could even be, let us say, an Indian tribe in my State?

Mr. TAFT. Whether they would qualify, I would question. An indigent Indian tribe might qualify, and an indigent association of some type, some local community organization which had no resources, might qualify.

Mr. GOLDWATER. So that a client does not mean one person.

Mr. TAFT. Not necessarily.

Mr. GOLDWATER. That is what bothers me.

Both of the exceptions on pages 16 and 17, in my mind, make it possible for these attorneys to practice politics. For example, on page 16, where we get into the exception, the language is very clear:

> . . . except where . . . a legislative body, a committee, or a member thereof requests personnel of any recipient to make representations thereto . . .

In other words, one member of a city council, one member of a county board of supervisors, or one Member of Congress could ask one of these attorneys to come in and be an advocate, in effect, which is engaging in politics.

I do not want to see anyone, including attorneys, denied their right to vote, under any language; but neither do I want to see these attorneys continue to practice politics, as they have been doing.

Mr. TAFT. I appreciate the Senator's concern. I share his concern. That is why I insisted upon the inclusion of the words "by an attorney as an attorney" in the language on page 17, just as I did on page 13.

I feel the same as to the activities the Senator is referring to—if they go beyond advising the individual client or the indigent group as to what their legal rights are. I refer particularly to those abuses where individuals solicit for a particular political cause, organize carpools to take voters to the polls, and other activities of this kind which have occurred in the past. This ought to be ruled out, and I am happy to say that I think this language does statutorily prohibit such activities.

Mr. GOLDWATER. It seems to rule it out, but the House bill had absolute prohibition against this, without any equivocation at all. Why the committee could not take the House language, I do not know.

Mr. TAFT. As I explained to the Senate earlier to the reason why I cannot accept the Senator's amendment is that if the objective is to establish an independent Legal Services Corporation to provide legal services to those who are unable to obtain them, we should not provide second-class legal services.

If an individual who is in this position wishes to be advised by an attorney, acting as an attorney, as to what his particular rights are under the various laws pertaining to elections and his position as a citizen in exercising his rights, I do not think he ought to be deprived of that.

Mr. GOLDWATER. Let me ask the Senator another question that does not refer to this particular part of the bill.

Let us assume that in any Western State where we have large numbers of Indians, where it would be possible, for example, for any one of these attorneys or any number of these attorneys to represent, say, one of the Apache tribes, we find out in the course of a campaign that they are engaged in registration, that they are engaged in transporting people to the polls, and are using Federal money to do it. What is our recourse? What do we do? We have not been able to stop it before. We have been promised. I might say that in debates on this floor, I have been promised time and again that it would not happen again.

Mr. TAFT. I believe we ought to move toward the independent corporate concept for this activity, so that we can actually build up around the legal services activities being financed with public funds a professionalism and a high standard of conduct.

I point out specifically, for instance, language on page 13 of the committee report which states:

> The Committee strongly believes that all legal services attorneys must at all times represent their clients in accordance with the highest ethical standards of their profession as embodied in the Canons and Code, and the Committee places particular emphasis on those provisions governing the inviolability of the attorney-client relationship, the restrictions on, solicitation of clients by attorneys, and the requirements that attorneys in the program, like all other attorneys, provide the highest quality legal advice and representation in a professionally responsible manner.

I think the answer really lies in that language with regard to the Indian tribes, unless the Indian tribes were indigent and unable to secure funds in any other way, which has not been the case in the past.

Page 14 of the committee report details the eligibility requirements. The Director of the Office of Management and Budget "will establish maximum eligibility levels for the assistance of legal services to persons unable to afford legal assistance."

The principal criterion is that a person or group of persons be "financially unable to afford legal assistance."

I think that most of what the Senator is concerned about so far as Indian tribes are concerned would not apply.

Mr. GOLDWATER. To my mind, anything would be better than OEO. I like the general broad idea of a corporation, but I do not agree——

Mr. BROCK. Mr. President, may we have order?

Mr. TAFT. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend briefly. The Senate will be in order.

The Senator may proceed.

Mr. GOLDWATER. Let me put it another way. We are talkng about the ethical conduct of attorneys. I think it is perfectly ethical and proper for an attorney to engage in politics. In fact, I cannot think of many attorneys who are not doing it regularly. But I do not think an attorney employed with tax money should be advocating anything except the rights of his client.

I referred to the Indian tribes. I could well refer to any group, any neighborhood group; it might be a group of 5, 10, or 500 who would seek under a title which would come under the purview of this act the services of one of these attorneys. If they went downtown and got an attorney and paid him out of their own money, that would be another horse; but to have a taxpayer pay for an attorney to represent a group advocating things the taxpayer probably does not believe in or advocate the election of persons they may not support, is a different matter.

Mr. TAFT. I agree with the Senator, if it is not a legal activity, if it is a political activity; if the individual is not acting as a lawyer, I agree.

But I think we have clarified the guidelines. I hope I might satisfy the Senator from Oklahoma and the Senator from Arizona that we are meeting their objections.

Mr. GOLDWATER. If the Senator will yield for one more question, I will be through.

There are no criminal penalties in this bill that I can find. I asked before: What do we do in a Western State when we find a continuation of legal activity, whether it be advocating a cause for the support of a candidate, or registering in either party to stop it if there is no criminal penalty?

Mr. TAFT. First, we are dealing with men who are members of the bar. They are subject to discipline within the Canons of Ethics and the Code of Professional Responsibility. Also, if they are violating the law, they are subject to penalty for violating the law, as well as discipline under the Canons of Ethics.

Mr. GOLDWATER. That does not quite answer my question. Let us say that about the middle of October we find this practice going on. The election is over before any bar association is going to move.

Mr. TAFT. The corporation is responsible to this body. There is that restriction.

Mr. GOLDWATER. I want to know how we stop it the moment we find it happening. We have not been able to do so in the past. I do not care if it is being done in the Democratic Party or the Republican Party; I want to stop it immediately and not have to drag the matter through the State bar associations, and Congress.

We have talked about this before. I recall a debate I had in this Chamber with the Senator from Massachusetts—and I forget who the other Senator was—4 years ago. I was promised: No more politics.

Mr. TAFT. Of course, I suppose one might say the same objections would apply, the same problems could apply. I think there are far better assurances in the corporation concept we are proposing.

Mr. GOLDWATER. I agree they are better. In fact, I tried to get rid of the OEO, and I had the President's assurance that he would help get rid of it. Do not get me wrong. This is an improvement, but I do not see enough change in the bill to change what we have experienced in the past.

Mr. HATHAWAY addressed the Chair.

Mr. GOLDWATER. I yield to the Senator from Ohio any part of my hour that he wants.

Mr. TAFT. I yield the floor.

Mr. HATHAWAY. Mr. President, I would like to call the attention of the Senator from Arizona to page 12 in regard to sanctions that may be promulgated, starting on line 3 with the words "The Board, within 90 days after its first meeting, shall issue rules and regulations."

I think that might satisfy the Senator with respect to enforcement of the provision with which he has expressed a great deal of concern.

Mr. GOLDWATER. Yes, but this does not give very fast relief.

Mr. HATHAWAY. This language states that—

> The board, within 90 days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph.

That could give immediate action such as injunctive relief during the course of campaigns, or immediate dismissal or suspension.

Mr. GOLDWATER. Would not the Senator feel better if we had something in this act to prohibit without any exception any political activity? I feel this bill is not tight enough on that point. That is why I am in favor of the amendment that has been offered. I would say that if I were on the other side of the aisle.

Mr. HATHAWAY. I agree wholeheartedly with the Senator, but I think that actually the exceptions the Senator wants knocked out, in a court of law would be construed to be there anyway because the bill just provides a prohibition against political activity. Certainly a court would not say that would prohibit a lawyer from giving his views on voter registration or lobbying, or picking a candidate for public office. I think the provision the Senator from Ohio clearly spelled out in a way really aids Senators who are concerned about political activities by stating that an attorney can indulge in political activity only to give legal advice as to what a person's rights are with regard to registration and lobbying.

Mr. GOLDWATER. The language is perfectly clear as to that but interrogating the Senator from Ohio he admitted a client could be an organization and the organization could have a very sizable political effect. Let us say the attorney was asked about the rights of this group to vote. There is no question they can vote. But he is asked how do they do it and then he advocates the formation of transportation, he advocates registration in a certain party, not just registration. Those are the kinds of things I object to and they are the kind of things I do not think this bill stops. They are the kind of things I would feel better about if there were some way that members of either party could say, "Wait a minute. We do not want this going on in my State," and you blow the whistle and it stops.

The language is perfectly clear. I just do not think it goes far enough. That is why I support the amendment of the Senator from Oklahoma.

Mr. HATHAWAY. It just seems to me that representation by an attorney as an attorney clearly spells it out. The only advice he can give is legal advice. He cannot advise him to join a political party or do something to enhance political activities.

Mr. BELLMON. Mr. President, I would like to ask the Senator from Ohio to yield for a couple of questions.

Mr. TAFT. I do not have the floor, but I shall be glad to answer the Senator's questions.

Mr. BELLMON. I think we are all in agreement that we want a good bill and what we are concerned about is that we take out the weak parts of the bill that brought the OEO to criticism in the past.

As I read the language in paragraph 4 on page 13:

> Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any ballot measures, initiatives, or referendums, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

What that exception says to me is that if I am an attorney working for the corporation, all I have to do in order to do the things that are first prohibited in that section is to find myself a client who will ask me to do these things.

Mr. TAFT. If he actively seeks a client, he will be violating the canons of ethics.

Mr. BELLMON. That is a matter of judgment. I am not sure how that would be enforced. I might change my mind if the Senator will show me how. The way it reads, the way he can do it and use these funds for that purpose is find someone who will let him do it in his client's name.

Mr. TAFT. What the Senator is saying is that it is almost impossible to eliminate the hazards that may occur. I do not agree. I think the definition of the language in S. 2686 responds adequately to this problem. I think S. 2686 gives very definite standards and guidelines to the Legal Services Corporation in delivering legal services to the economically disadvantaged.

Mr. BELLMON. The Senator from Ohio is an attorney and the Senator from Oklahoma is not, but I would think it is simply impossible to ever convict an attorney for bringing in a client who said he wanted certain services and to convict him for having brought him in in the first place.

Mr. TAFT. There are many laws on our statute books in which that has occurred and in which the lawyer has been disciplined.

Mr. BELLMON. This bill is not on the law books yet.

Mr. TAFT. No. I mean soliciting a client is a violation of the "Canons of Ethics."

Mr. BELLMON. This is a different kind of client. This is a client who normally would not be aware or would not be sophisticated enough to know it is breaking a law to engage in this kind of activity.

Mr. TAFT. The individual who is breaking the law and violating the canons of ethics would be the attorney.

Mr. BELLMON. The attorney who finds a poor person and suggests that the poor person go to the Legal Services Corporation and get this kind of help would be breaking the law?

Mr. TAFT. The attorney would be in violation of the canons of ethics.

Mr. BELLMON. What is the penalty?

Mr. TAFT. The penalty could be disbarment.

Mr. BELLMON. Has that ever been done?

Mr. TAFT. Yes.

Mr. BELLMON. I have a hard time accepting that kind of situation. To me this provides the way to do it whenever such a prohibition appears not only in paragraph 4 but also in other areas covered by my amendment.

What I would like to do by this amendment is make it a strong bill that prohibits the kind of activities that brought about so much crticism of the old OEO. Without my amendment I am sure it will come to the same disrepute that its other activities brought it into and that it finally will go down in defeat someday when it comes before us.

Mr. TAFT. I hope the Senator's fears are not justified. Certainly I, as a member of the committee—and not only I, but other members of the committee—will attempt to oversee matters of this nature, to prevent them from occuring.

Mr. BELLMON. Mr. President, will the Senator yield for a further question?

Mr. TAFT. Yes.

Mr. BELLMON. Are these attorneys now effectively under the Hatch Act?

Mr. TAFT. S. 2686 would extend the Hatch Act to Corporation attorneys.

Mr. BELLMON. I am sorry; I missed the Senator's reply.

Mr. TAFT. Corporation attorneys would be covered by the Hatch Act.

Mr. BELLMON. Would the Senator feel that it would be wise to put them under the Hatch Act?

Mr. TAFT. Counsel calls my attention to the fact that, under the language on page 14, they are covered by the purposes of section 1502 of title V, which is the Hatch Act, not general coverage. It is limited coverage. I wanted to make sure that the Senator understands that.

Mr. NELSON. The provisions of the Hatch Act apply to these people exactly as they apply to all employees of grant-in-aid programs in any State of the Union. We took exactly the Hatch Act and applied it. It is broader as to those who are Federal employees, but we took exactly what applies to all other grant-in-aid programs in the United States and applied it to this bill.

Mr. BROCK. The real answer is that there is no protection against Hatch Act abuses for those employees other than directly during their office hours. That is all the protection they have because if they are playing politics during business hours, they are going to get fired.

The problem is when they go out and attend rallies and other political activities. The Senator has raised an absolutely valid point. They should be covered by the Hatch Act, so far as I am concerned.

Mr. HELMS. Mr. President, on my own time, I should like to direct a question to the distinguished Senator from Wisconsin. I want to have the matter clear in my mind, if I can. The proponents of the bill are not in favor of political lawyers running around the country. Is that correct?

Mr. NELSON. That is correct.

Mr. HELMS. Therefore, I assume the Senator would be willing to accept any proposal that would prevent that.

Mr. NELSON. Well, it depends on what the Senator's definition of "any proposal" is. I think we should all play according to the same rules about employees in the Legal Services Corporation as would apply to all other grant-in-aid programs.

Why should somebody working in a grant-in-aid program be barred from doing anything on a political job? Why should he be barred from a committee? Why should he be barred from working at night on his own time, as any other citizen can do?

Mr. HELMS. The answer to the Senator's question is that other persons are State and local employees; these persons would be Federal employees. The Senator from North Carolina is curious as to why the Senator from Wisconsin has left out Federal employees.

Mr. NELSON. A project attorney is not a Federal employee. Under these statutes, he never has been, since the beginning.

Mr. HELMS. He may not be, but he is drawing tax money paid by the taxpayers to the Federal Government.

Mr. NELSON. What the Senator is saying to them is, "If you work for the welfare department, on your own time at 7 o'clock at night, if you want to, as an American citizen, exercise your constitutional right to support someone you wish to support, it is OK." However, the Senator would bar him from doing so if he were an employee of the legal services department. However, if he were an employee of the welfare department or of an educational institution, it would be OK. It is OK for everyone else who stands in exactly the same position to do this. However, those in the legal services department could not do it.

Mr. HELMS. Mr. President, I am afraid that the Senator is standing on his own petard. The others are not executive agencies. This one is.

I thank the Senator for yielding.

The PRESIDING OFFICER. Is this time charged to the Senator from Oklahoma?

Mr. HELMS. The time is charged to me.

Mr. NELSON. One cannot transfer his time to another Member of the Senate.

Mr. BELLMON. He was speaking on his own time.

I now speak on my own time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I am ready for a vote. However, I first want to point out that from the debate this afternoon it appears that the only disciplinary action available to be taken against attorneys who might act against the prohibition set forth in this law—the ones that I am trying to remove by my amendment—would by disbarment of those attorneys from the practice of the law. That is what the Senator from Ohio said. If a lawyer works for the Corporation and goes out and finds a client, he is guilty of breaking one of the canons of ethics of the American Bar Association. And he could be disbarred for that action.

To me it is inconceivable that any bar association would strip a practicing attorney of the right to earn a livelihood. This would apply to representing a client in his effort to run for office or any of the other things mentioned here.

It would be far better to move to strike these exceptions and make the law read as it is intended to read. Then we do not have the danger of the circumstances that grew up under the OEO.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BELLMON. I would prefer to finish my remarks first.

Mr. President, that is the reason for my amendment. I believe that it improves the bill and would make it possible for people in this country who cannot afford legal services to have those services on a continuing basis. It will make it possible for the Congress to appropriate the money that is needed. And in the long run the people will be better off.

Mr. President, I ask unanimous consent that Charles Waters, of my staff, be granted the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, if the Senator would yield for a question, would the Senator wish to bar an individual from obtaining legal advice who was unable to obtain legal advice on his own as to what his rights might be under the Voting Rights Act, under the right to register, or obtain information on his right to run for political office?

Mr. BELLMON. Mr. President, let me say that I have never noticed any dearth of candidates in this country, certainly not in my own State.

Mr. TAFT. What about the individual who desires to vote but who is denied the right to vote and is unable to consult an attorney to find out how he can exercise his right to vote? That individual would be barred by the Senator's amendment.

Mr. BELLMON. Those kinds of questions are handled regularly by the election officials in the State. I do not believe there is a great problem in that area.

Mr. TAFT. Suppose that the election officials believe that a legal question is involved here?

We have to find some middle ground. The committee has attempted to find a middle ground between the two problems.

Mr. BELLMON. We should make an exception in this case.

Mr. TAFT. I struggled with that question. I disagree with the Senator. I believe that the exception will be effective.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Henry McMasters be given the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Alaska (Mr. GRAVEL), the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that the Senator from Kentucky (Mr. COOK), the Senator from Oregon (Mr. HATFIELD), and the Senator from Wyoming (Mr. HANSEN) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from Kentucky (Mr. COOK) would each vote nay."

The result was announced—yeas 29, nays 59, as follows:

[No. 20 Leg.]

YEAS—29

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Cotton
Curtis
Dole
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hollings
Hruska
McClellan
McClure
Nunn
Packwood
Roth
Thurmond
Tower
Weicker
Young

NAYS—59

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Domenici
Dominick
Eagleton
Eastland
Fong
Hart
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
Metzenbaum
Mondale
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Tunney
Williams

NOT VOTING—12

Church
Cook
Fulbright
Gravel
Hansen
Hartke
Hatfield
McIntyre
Metcalf
Montoya
Scott,
  William L.
Talmadge

So Mr. BELLMON'S amendment (No. 959) was rejected.

Mr. JAVITS. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FANNIN. Mr. President, I had intended to call up my amendment 938 prohibiting class actions. However, now that Senator CURTIS' amendment No. 471 has been accepted, I will not call up my amendment, although my amendment would be more restrictive than his.

Since I am not calling up my amendment, I ask unanimous consent to insert in the RECORD the remarks I intended to make in support of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered:

STATEMENT BY SENATOR FANNIN

Mr. President, my amendment simply states "no funds appropriated under this act shall be used to furnish assistance to any organized group. All assistance is limited to representation of eligible individuals."

I may have no quarrel with the purposes of some organized groups, but I do object to their funding and free legal advice and advocacy at the taxpayers' expense. According to what I have read and the mail I have been receiving, the Committee bill is principally supported by the American Civil Liberties Union, Common Cause and the AFL–CIO. I suggest that each of these organizations has sufficient funds to promote their liberal laws and social reform without saddling the American taxpayer with the expense through legal service lawyers. I have left out one group of supporters—the legal service lawyers who occupy the galleries during debate on this bill. To them, I suggest that there will be plenty of work for lawyers representing the poor on an individual basis. If the legal service lawyer is of the activist type who wishes to work social reform and get notice from the news media by class action suits to obtain legal reform, there is plenty of opportunity elsewhere for their talents. Perhaps they would not be able to handle, or have no desire to handle, the run of the mill divorce case, a garnishment, evictions, bankruptcies, repossession of merchandise, the type of service which I believe the poor really need.

Mr. President, Congress was at fault in 1966 and 1967 in not providing restrictions and guidelines as to what it wanted legal services to do. We were "sold a bill of goods". Many of us, if not most of us, thought of legal services as meeting the frustrations in the lives of its poor clients—handling divorce cases, evictions, social security problems, welfare, bankruptcies, repossession of merchandise, line fence and property line disputes. We were led astray because at that time the overwhelming percent of cases handled by legal services fell into such categories.

Mr. President, Congress did not anticipate the radical change that was about to begin in the activities of legal services. We did not foresee the change in philosophy. Legal services entered the field of "law reform", selecting cases in the form of class action suits designed to benefit not just a single client, or a small group, but thousands in the affected class. Legal staff attorneys, paid from tax funds, began to sue State, local and federal officials in class action suits. Numerous instances of irregularities were publicized as legal service's attorneys acted on behalf of the "voluntary poor" hippies, draft evaders, black militants and even accused criminals. Legal services attorneys became lobbyists before federal and state legislatures; they took on the job of registering people to vote in the political party which the particular legal service employee advocated. They took up the job of organizing the poor into labor unions.

With the change in philosophy the attorney-client relationship fell by the wayside. The lawyer, not the client, dictated the action to be taken. In many cases the action taken was to the adverse interests of the client and his actual desires.

Mr. President, I want to state as strongly as I can that I am for government paid legal services for the poor in non-criminal cases. The poor deserve the legal services—good legal services in handling such things as divorce cases, child support from the runaway father, evictions, eligibility for welfare, repossession of merchandise which some unscrupulous merchant sold them, bankruptcies, line fence disputes, etc.

An evaluation of class action suits by legal service attorneys was made by Harry Brill, now a professor at the University of Massachusetts and former director of the San Francisco Neighborhood Legal Assistance Foundation and placed in the Congressional Record on January 23 by Senator Tower.

I quote from that article:

> What the Foundation has done poorly, unsuccessfully, or not at all must be tallied alongside its real accomplishments. And such an accounting unfortunately reveals that the effects of the Foundation's class action suits have been minimal or even harmful.
>
> Unfortunately, a very large proportion of class action legal victories do not in fact lead to actual social and economic gains. Unlike individual cases, in which favorable legal decisions are readily translated into real gains, class action involves more difficult hurdles—often insurmountable ones. The Foundation won several paper victories in which court orders were ignored because of an inability to comply. For example, the Foundation obtained a favorable decision against the Welfare Department's low rent allotment to recipients. The court ruled that it must be increased to a more realistic figure. The Department, however, was unable to comply without receiving assurances of additional funds from the state legislature. Though the Foundation made legal headway, no concrete gains were achieved for the people on welfare.

Senator McClure put into the record of January 23rd the proceedings of the National Legal Services Colloquim held in Vail, Colorado. I was particularly interested in the recommendations which came out of that meeting with respect to group actions. I quote a portion of the advice given to legal services lawyers:

> "Whenever possible, a Legal Services attorney should act on behalf of a client group rather than an individual client. This brings involvement of the poor; some education about the processes that control their lives and how to deal with them; provides a vehicle for resort to the news media; more credibility in dealing with legislators; and a mechanism for the involvement of groups made up of non-poor persons.
>
> General community representation can be successful in some cases, especially if you happen to command instant attention from the press as in the case with Ralph Nader. Many of the bills that Legal Services lawyers will push are not, however, earth-shattering news stories. In such the news angle may initially be in the group and in its activities.
>
> You can find other allies, preferably already organized in some form or another, wherever you can find some sort of similarity of interest, or parallelism, between the two in the particular legislation. (It would not be unheard of, either, to put in "sweeteners" desirable to other groups you wish to enlist.)
>
> You ought to look to church groups; labor unions; women's clubs and groups, such as the League of Women Voters; partisan political groups; bar associations; university and law faculties; editorial writers; state executive agency officials concerned about the problem; close friends of a key legislator; and "allies of opportunity."

Mr. President, this is the type of thing we have been spending some $70 million per year of the taxpayers' money to support and which the Committee bill would spend even more.

The cases of misuse of funds which Congress provided for legal services to the poor are legion.

In Los Angeles, the Western Center on Law and Poverty filed a suit against the California Youth Authority on behalf of thirteen employees who had been suspended or demoted. The national office agreed with critics that the clients' "incomes place them in the middle or upper income brackets." But the Western Center argued that representation was proper because the clients had been turned down by three private attorneys.

In St. Louis, Governor William Hearnes vetoed a $390,359 grant for the Legal Aid Society of St. Louis, "charging that the project had represented rent strikers in a public housing project, black militants involved in a church confrontation, and black students accused of mutilating an American flag." Investigation proved that a number of the clients were "clearly ineligible."

In New Orleans, the New Orleans Legal Assistance Corporation defended twelve members of the black militant National Committee to Combat Fascism when they were arrested after a two-day shoot-out with police. In Michigan, Upper Peninsula Legal Services turned out to have 25% of its caseload in criminal litigation contrary to the OEO statute.

Senator Mondale, in introducing his version of independent legal services corporation, referred to their current program:

> "This program has done more than cope with the individual problems of individual clients. Recurring patterns of problems—affecting large numbers of the poor—have been discovered and effectively addressed.
>
> "Broad social reform has resulted from legal services cases which:
>
> "Eliminated welfare's 'man-in-the-house' rule and residency requirement;
>
> "Granted tenants in public and private housing substantial new rights in dealing with their housing problems;
>
> "Obtained minimum justice for migrants and farm workers by reducing illegal border crossing and requiring enforcement of minimum wage legislation;
>
> "Forced the Department of Agriculture to feed hungry people as the law requires."

These may be all laudable actions in the opinion of the Senator from Minnesota. I might agree with the Senator from Minnesota that some of these social reforms may be desirable, but I cannot agree that the Legal Service Corporation was the right vehicle to obtain them.

Mr. President, in conclusion, I urge approval of my amendment because it would establish the traditional lawyer-client relationship for legal service attorneys.

AMENDMENT NO. 810

Mr. HELMS. Mr. President, I yield myself such time as I may need to call up my amendment at the desk No. 810 and to ask that it be stated.

The PRESIDING OFFICER (Mr. BARTLETT). The amendment will be stated.

The assistant legislative clerk read as follows:

> **Amendment intended to be proposed by Mr. HELMS to S. 2686, a bill to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes, viz:**
>
> **On page 14, strike out lines 5 through 7.**

Mr. HELMS. Mr. President, if I have read the attitudes correctly of Senators on this floor today, I have heard declarations that no one is in favor of political lawyers financed by the taxpayers of this country.

EXTENSION OF TIME FOR REPORTING S. 1541

Mr. PERCY. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. PERCY. Mr. President, I ask unanimous consent that the previous order of referral of S. 1541 to the Committee on Rules and Administration with instructions to report by February 1 be vacated.

I ask unanimous consent that S. 1541, the Federal act to control expenditures and to establish national priorities, otherwise known as the Budget Control Act, be referred to the Committee on Rules and Administration with instructions that the bill be reported to the Senate not later than February 25, 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, this unanimous-consent agreement reflects an understanding with the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) who is chairman of the Subcommittee on the Standing Rules of the Senate of the Committee on Rules and Administration. It also reflects discussions with the ranking minority member of that subcommittee, the distinguished assistant minority leader, Senator GRIFFIN, and the chairman, Senator CANNON, and ranking minority member, Senator COOK, of the Committee on Rules and Administration. During these discussions, Chairman ERVIN and I have been assured that when S. 1541 is reported on February 25 it will be immediately scheduled for floor action.

This new unanimous-consent agreement has the effect of extending, by a period of 3 weeks, the time during which the Committee on Rules and Administration may complete its work on the budget control bill. S. 1541 was ordered reported by the Government Operations Committee on November 8. On November 28 the bill was formally reported with Senate Report No. 93-579. On November 30, 1973, the bill was referred to the Committee on Rules and Administration to report back by January 21, 1974. On December 7, 1973, the previous order was vacated and the bill was by unanimous consent referred to the Rules Committee until February 1, at which time it was automatically to be placed on the calendar.

Mr. President, I would like to commend the distinguished assistant majority leader, for the diligence with which the Subcommittee on Standing Rules of the Senate has undertaken its work on this very complex and important legislation. The staff of the Rules Committee began work on the bill in December, and continued immediately after the Christmas vacation with hearings on January 15. These hearings were preceded, and have been followed, by intensive work by the staffs of the Government Operations Committee, the Rules Committee, and other committees and joint committees of the Senate and the House which have an interest in this legislation. This group includes staff of the Finance Committee, the Appropriations Committee, seven authorizing committees, the Joint Economic Committee, the Joint Committee on Internal Revenue Taxation, the Joint Study Committee on Budget Control, and the House Appropriations Committee. To the credit of the Rules Committee, all committees of the Senate have been given full opportunity to comment on the bill and to participate in staff discussions. During the past week these staff representatives have met every day, usually all day, in an effort to agree on a bill. I have been kept informed daily of the progress of these exhaustive discussions. Underlying them is a determination on the part of all those committees and members represented that consensus will be reached and that differences about provisions of the bill will be resolved. Based on this understanding, and on evidence that an intensive effort is every day being made to report legislation which achieves the objective of budget reform, I do not hesitate to agree to an extension to February 25 of the date by which the Rules Committee will report the bill.

I want to express to the distinguished gentlemen from West Virginia, my appreciation for his interest in this bill. I know my appreciation is shared by the chairman of the committee. I have no doubt that it will be better legislation because of his interest. We are equally indebted to Senator CANNON, chairman of the Committee on Rules and Administration, Senator COOK, the ranking minority member, and Senator GRIFFIN, the ranking minority member of the Subcommittee on the Standing Rules of the Senate, for their assistance. I also want to express appreciation for the skillful leadership of the Rules Committee staff director, Mr. William Cochrane, and of Mr. Herbert Jasper who I understand has been doing a masterful job as chairman of the staff group that is working on this legislation. The counsel for the minority, Mr. Joseph O'Leary and Mr. Games Medill, have also been most helpful.

Mr. President, based on these reports, and upon my discussion with the leadership, I feel confident that the Rules Committee will report to the Senate on February 25 a better bill, a bill that preserves, and strengthens, the objectives of reform of the congressional budget process, and a bill that hopefully can be supported by all committees and Members of the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I do not presume to speak for the chairman of the Committee on Rules and Administration, who is present on the floor, but I should like to say to the distinguished Senator from Illinois (Mr. PERCY) that he has made an inadvertent oversight. I should like to call to his attention that in my discussions with him, I made clear that, with regard to my request for further time on this bill before reporting it back to the Senate, it was with the full concurrence of, and was after consultations with, the distinguished chairman of the Committee on Rules and Administration, the Senator from Nevada (Mr. CANNON). He is also a member of the Subcommittee on Rules and Administration.

The Senator from Illinois mentioned the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), he mentioned me, for which I am grateful; but I am sure the Senator from Illinois would want to include the Senator from Nevada, the chairman of the Committee on Rules and Administration, who was fully conversant with everything that was done and was agreeable to the idea of a reasonably short further delay.

Mr. PERCY. If the Senator from North Carolina will yield to me further, let me say to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) that the omission was entirely inadvertent. Certainly, the Senator from Nevada (Mr. CANNON) has been extremely cooperative and very helpful and I wish to commend him now, as I have on several other occasions, for the outstanding work of the Committee on Rules and Administration in improving the quality of the bill. We have appreciated that very much indeed.

Mr. ERVIN. Will my distinguished colleague from North Carolina yield to me for 30 seconds?

Mr. HELMS. I am glad to yield to my senior colleague.

Mr. ERVIN. Mr. President, I am pleased to concur in the unanimous-consent request by the distinguished Senator from Illinois (Mr. PERCY) that S. 1541, the budget control bill, be referred to the Committee on Rules and Administration with instructions that the bill be reported to the Senate not later than February 25, 1974, and be automatically placed on the calendar at that time.

Members of the staff of the Committee on Rules and Administration are working diligently every day with staff members of the Government Operations Committee and the other committees and joint committees which have an interest in this important bill. This staff group has been led by Mr. Herbert Jasper, who is working under the outstanding direction of my fellow North Carolinian, William McWhorter Cochrane, the staff director of the Committee on Rules and Administration. I am assured that they are making excellent progress in resolving questions that various Senators have raised about S. 1541 as it was reported by the Committee on Government Operations.

This is a very complex bill that will have far-reaching effects on how the Senate and House of Representatives deal with authorization and appropriation measures in order to devise a congressional budget. The Government Operations Committee and its Subcommittee on Budgeting, Management, and Expenditures spent 10 months developing the bill in its present form, and I well understand the magnitude of the task facing the Committee on Rules and Administration in handling the bill in a short period of time.

Under the leadership of the chairman, Senator CANNON, and the distinguished assistant majority leader, Senator ROBERT C. BYRD, who serves as chairman of the Subcommittee on the Standing Rules of the Senate, the committee is making remarkable progress toward producing a strong bill that will satisfy an overwhelming majority of the Senate.

Mr. President, the 93d Congress can make no more important contribution than enactment of a bill that enables us to get a handle on the Federal budget. For generations, we have operated under a haphazard system of dealing with Federal expenditures, revenues, and deficits, and we desperately need to devise a method of overall control of the budget. We can do this while maintaining the viable roles played by the existing committees of the Senate and House, and I know the Committee on Rules and Administration will perform this task during the month of February. It will be an essential step in redressing the constitutional balance of power between the executive and legislative departments of our Government.

Mr. CANNON. Mr. President, will the Senator from North Carolina yield to me for 30 seconds?

Mr. HELMS. I yield.

Mr. CANNON. Mr. President, I should like to say that it appeared at one point this bill would have gone through the Senate very hurriedly, without the adequate consideration and study it deserved. The distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) has given it that study through the subcommittee and we have pointed out a lot of the deficiencies in the bill as it was presented. We are attempting to correct them and to write a bill that will achieve the desired result that all of us are interested in.

I asked initially for the extension of time that we first received to consider this matter, and I am happy that the proponents of the bill are willing to give us additional time so that the bill can be thoroughly reworked, so that it will achieve the desired result, with the help, I may say, of the proponents—and, really, I do not know that we have any opposition at all as long as we can work and get worked out a real, workable bill.

I thank the Senator for yielding me this time.

Mr. MAGNUSON. Mr. President, I wish that all Senators could spend the time, the long weeks and days, trying to arrive at a total budget figure that reflects fiscal responsibility. We on the Appropriations Committee do just that.

I dislike the implication that the Appropriations Committees of the Senate and the House have not done their job. In fact, we have cut the President's budgets by roughly $26 billion since he first took office.

Furthermore, I do not subscribe to somebody coming in when someone has been doing a good job and saying, "You have been doing fine, but someone else should now take over."

I hope you consider these implications. Otherwise, you are going to lose some of us who are responsible.

Maybe you can hold hearings, if you wish, in the Appropriations Committee. Maybe you can spend 3 months with 500 witnesses and finally, after sweating it out, come to a conclusion. But what is the use if the final decision is referred to others.

Mr. PERCY. The distinguished Senator has left the implication that the Senator from Illinois has——

Mr. MAGNUSON. I do not mean the Senator from Illinois.

Mr. PERCY. In some way detracted from the work of the Appropriations Committee. The Senator will recall that the Senator from Illinois served on the Appropriations Committee, and at no time has the Senator from Illinois ever said anything about the budgetary process when he did not quote from the joint committee and the report filed by the joint committee on which the following Members of the Senate Appropriations Committee served, Senators McCLELLAN, HRUSKA, STENNIS, PASTORE, BIBLE, YOUNG, and COTTON.

The Senator from Illinois did not even serve on that committee, but I have felt free to quote from that report; and I have never gone beyond the words of that report, which the distinguished Senator I just named signed, as the evidence that a budgetary committee and a budgetary process now is needed.

Furthermore, the most important changes we are proposing are to have back-door spending put under the control of the Appropriations Committee, because I was aghast to find that the Appropriations Committee did not control the budget as such. In fact, 56 percent of the budget does not even go through the appropriation process.

Mr. HELMS. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. MAGNUSON. I am glad to have the assurances that the Appropriations Committee is given a little consideration around here.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield 5 minutes of the 1 hour allotted to me under the cloture rule to the distinguished Senator from North Carolina, because I am sure that we have consumed that much of his time in discussing the budget reform bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object—and I will not object—I think it should be made clear to the Senate that we will object when it is just an arbitrary proposition.

The PRESIDING OFFICER. The Senator has a right to object or not object, but this is on the Senator's time.

Mr. JAVITS. I yield myself 30 seconds of my time to state that we will not object to these requests for changes where there is a reason for it, as there is here; but we reserve the right to object when it is just passing time around.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. That, of course, takes unanimous consent, and the Senator has that right.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, why does it require unanimous consent for the Senator from North Carolina to suggest the absence of a quorum?

The PRESIDING OFFICER. The Chair was addressing the Senator from New York.

Mr. ROBERT C. BYRD. I thank the Chair. I misunderstood.

The PRESIDING OFFICER. With respect to objecting to the transfers of time.

Mr. ROBERT C. BYRD. We had quite a long discussion earlier today on the point to which I thought the Chair was addressing itself.

The PRESIDING OFFICER. Does the Senator from North Carolina suggest the absence of a quorum?

Mr. HELMS. I do, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that I may withdraw temporarily the amendment I just called up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HELMS. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that Margo Carlisle of my staff be accorded the privilege of the floor at all stages of the proceedings on the bill now pending.

The PRESIDING OFFICER. Without objection. it is so ordered.

AMENDMENT NO. 958

Mr. BROCK. Mr. President, I call up my amendment 958.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 24, line 16, strike out "FINANCING" and insert in lieu thereof: "FINANCING AND APPORTIONMENT".

On page 25, between lines 12 and 13, insert the following new subsection:

"(d) All funds appropriated pursuant to this section shall be apportioned among the States in amounts prorated according to the proportion of the Nation's poor residing in such States. The poverty definition shall be established by the Office of Management and Budget.".

Mr. BROCK. Mr. President, this amendment should not raise the political hackles as did some of the other amendments. It states:

All funds appropriated pursuant to this section shall be apportioned among the States in amounts rated according to the proportion of the Nation's poor residing in such States. The poverty definition shall be established by the Office of Management and Budget.

The purpose of the amendment is obvious. It is rather simple and open on its face. The purpose is to guarantee that a poor person in Tennessee, Kansas, or Oklahoma has the same privilege as a poor person residing in another State. As the bill is now written more than 30 States are penalized. They range from the State of Texas, to the States of Tennessee, West Virginia, Ohio, Pennsylvania, Iowa, Kentucky, North Carolina, South Carolina, Mississippi, Alabama, Virginia, Indiana, Arkansas, Louisiana, New Mexico, Kansas, and other States.

Just to give an example, the State of Kentucky would be underfunded on a professional basis by more than $1 million. North Carolina would be underfunded more than $1.6 million. I do not think the amendment takes a great deal of conversation. It simply provides that every State should receive funds on the basis of those who are poor who reside in the State or in the affected area, regardless of where they live.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATHAWAY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, while at first blush this amendment may appear to be effective or equitable in the distribution of funds, actually it is not, because in the first place there is not that much money allocated, and if we did divide it up in accordance with the formula of the Senator from Tennessee, probably no State would have a sufficient amount to do a creditable job.

Second, many States are not geared up to do much of anything with money they would receive from the Federal Government, while other States are so geared. This is especially true in view of the low amount that has been authorized and will be appropriated. We would be better advised to continue the present practice.

I assume the corporation is going to continue what Mr. Arnett already has established as the Director of OEO, and that is to distribute the money to those States which show the need and which are equipped to handle the program.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the real problem with this amendment is that it cuts down the efficacy and the efficiency in terms of the good service of the Legal Services program to the lowest common denominator because it has no reference whatever to the effectiveness of the job and it is simply mechanical as to whether anyone is ready to receive the money or not.

The amount of the authorization is increased beginning in 1975 and 1976.

I express my intention now, standing here as the ranking minority member of the committee which exercises legislative oversight, to see that there is every effort to comply with exactly this standard based upon the competence of the programs and the competence to receive the money and to do something effective with it.

In view of the fact that we are picking a very high-level board and really making this a national legal aid operation with tremendous authority in the bar, it would be very unwise to make it mechanistic in this way and thereby risk a serious dilution of the money.

Mr. President, I hope the amendment is rejected.

Mr. BROCK. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I wish to state that I intend to ask for the yeas and nays on the amendment.

I am fascinated by the arguments. I am fascinated by the statement of the Senator from Maine that this would demolish the bill because there is not enough money in the bill to do a job in 50 States and therefore nothing would happen anywhere. If that is the case, the bill is underfunded now. Why do we not go ahead and ask for what is necessary to do the job. The argument is not attractive for that reason.

Second, the Senator from New York indicates an interest in trying to obtain a better grade of equity when the funding goes up. I would be happy to modify my amendment when the quantity of money would go up but I do not get any indications that such a modification would be accepted here.

Mr. HATHAWAY. Mr. President, I would be glad to discuss with the Senator an increase in the authorization, and some triggering mechanism under which the appropriation of so many dollars would reduce the Senator's formula. However, I understand the administration would not recommend any more than the amount authorized. That is why I made the comment that I did.

Mr. BROCK. The logic of the Senator from Maine is because we have a limited amount of funding we have to apply it disproportionately in some States, and he is saying the poor in some States are not going to be given adequate representation so discrimination and inequity are being brought into the legislation in the beginning. As I said, the number of States that are penalized by the present approach exceed 30 States. That covers 60 percent of the people of this country, people who will be disadvantaged by this funding formula.

I just do not understand what the difference is between a poor person in Tennessee, a poor person in Texas, and a poor person in New York.

I am reminded that Tennessee is close to the garden region of North Carolina. It is also part of the garden region of the South.

Mr. HATHAWAY. Mr. President, if the Senator will yield, I shall be glad to discuss some suggested language with him that I think would accomplish his purpose, and we could have a quorum call for that purpose.

Mr. BROCK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BROCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BROCK. Mr. President, I ask unanimous consent that a chart headed "Office of Legal Services Funding Comparison by States" which shows what the current spending level would be today under the pending bill as opposed to the funding level by States under my amendment, based upon the number of citizens in the State be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

OLS FUNDING COMPARISON BY STATES

State	Total funding	Percent of poor	Percent of funding	Percent variation	Dollar variation
Connecticut	$1,436,400	0.78	2.64	+1.86	+$1,010,992
Maine	534,056	.48	.98	+.50	+271,772
Massachusetts	2,184,386	1.74	4.01	+2.27	+1,233,845
New Hampshire	359,826	.24	.65	+.41	+222,853
Rhode Island	470,309	.37	.87	+.50	+271,772
Vermont	332,016	.19	.66	+.47	+225,466
New Jersey	2,840,282	2.11	5.22	+3.11	+1,690,422
New York	6,559,326	7.32	12.06	+4.74	+2,576,398
Delaware	100,961	.21	.19	−.02	−10,871
District of Columbia	1,148,000	.45	2.11	+1.67	+907,718
Maryland	0	1.43	0	−1.43	−777,268
Pennsylvania	2,117,253	4.53	3.89	−.64	−347,868
Virginia	182,459	2.55	.34	−2.21	−1,201,232
West Virginia	750,217	1.40	1.38	−.02	−10,871
Alabama	112,274	3.16	.21	−2.95	−1,603,455
Florida	1,526,334	4.01	2.80	−1.21	−657,688
Georgia	738,350	3.41	1.36	−2.05	−1,114,265
Kentucky	404,214	2.65	.74	−1.91	−1,038,169
Mississippi	629,268	2.83	1.16	−1.67	−907,718
North Carolina	356,449	3.67	.66	−3.01	−1,636,067
South Carolina	356,430	2.19	.66	−1.53	−831,622
Tennessee	527,320	3.08	.97	−2.11	−1,147,300
Illinois	2,645,073	4.10	4.86	+.76	+413,093
Indiana	809,538	1.82	1.50	−.32	−173,934
Michigan	2,382,650	3.02	4.38	+1.36	+739,220
Minnesota	482,545	1.47	.89	−.58	−315,226
Ohio	$1,852,075	3.84	3.40	−0.44	$−239,159
Wisconsin	814,402	1.55	1.50	−.05	−27,117
Arkansas	132,493	1.93	.24	−1.69	−918,589
Louisiana	816,535	3.44	1.50	−1.94	−1,054,475
New Mexico	333,891	.84	.61	−.23	−125,015
Oklahoma	455,398	1.71	.84	−.87	−472,883
Texas	1,935,871	7.55	3.56	−3.99	−2,168,740
Iowa	422,244	1.17	.78	−.39	−211,982
Kansas	302,410	1.02	.56	−.46	−350,030
Missouri	1,007,296	2.98	1.85	−.63	−442,433
Nebraska	306,050	.69	.56	−.13	−70,661
Colorado	967,800	.97	1.78	+.81	+540,271
Montana	460,238	.34	.85	+.51	+377,207
North Dakota	15,000	.34	.03	−.31	−268,499
South Dakota	240,825	.44	.44	0	0
Utah	259,336	.44	.48	+.04	+21,742
Wyoming	95,410	.14	.18	+.04	+21,742
Arizona	1,565,389	.97	2.87	+1.90	+1,132,734
California	10,253,398	7.94	18.80	+10.86	+5,902,888
Hawaii	346,000	.25	.64	+.39	+211,982
Nevada	158,915	.16	.29	+.13	+70,661
Alaska	488,495	.13	.90	+.77	+618,529
Idaho	112,085	.34	.21	−.13	−70,661
Oregon	404,140	.87	.74	−.18	−70,661
Washington	622,750	1.24	1.15	−.09	−48,919

Mr. BROCK. Mr. President, I have nothing further.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absence on official business.

I further announce that the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. HANSEN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "nay."

The result was announced—yeas 28, nays 64, as follows:

[No. 21 Leg.]

YEAS—28

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Brock
Byrd,
Harry F., Jr.
Chiles
Curtis
Dole
Eastland
Fannin
Goldwater
Griffin
Gurney
Helms
Hruska
Mathias
McClellan
McClure
Nunn
Stennis
Stevens
Taft
Thurmond
Tower
Young

NAYS—64

Abourezk
Aiken
Bayh
Bentsen
Bible
Biden
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cotton

Cranston
Domenici
Dominick
Eagleton
Ervin
Fong
Hart
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—8

Cook
Fulbright
Gravel
Hansen
Hartke
Hatfield
Scott, William L.
Talmadge

So Mr. Brock's amendment (No. 958) was rejected.

Mr. NELSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes.

Mr. TOWER. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. I would like to have the attention of the Senate, so that, if possible, we could be able to get a rundown as to the number of amendments still to be offered, and in that way Senators could be able to gauge the rest of their day accordingly.

I ask the Senator from Tennessee (Mr. Brock), the Senator from Texas (Mr. Tower), and the Senator from North Carolina (Mr. Helms) if they have any idea as to how many amendments will be offered.

Mr. BROCK. Mr. President, if the Senator will yield, I think the Senator from North Carolina and I would limit ourselves to one final amendment, which will be an amendment in the nature of a substitute for the entire bill.

Mr. MANSFIELD. The Senator from Texas?

Mr. TOWER. I have two amendments which I intend to call up. I have others; I am uncertain in my mind whether I will call them up. There is a strong possibility I will not.

Mr. MANSFIELD. Well, the Senator never takes too much time, anyway, so even if he does it will not take too long.

Are there any others? On that basis, then, it looks as though we will have three amendments, and that we will be able to get to a final vote around 5 o'clock.

I thank the Senators for their cooperation and understanding.

Mr. HART. Mr. President, I yield myself 1 minute.

I ask unanimous consent that a member of my staff, Darryl Gorman, be permitted the privilege of the floor for the remainder of the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I am proud to add my name to the prominent list of supporters of S. 2686, a bill which deservedly has the support of the American Bar Association, California State Bar, Los Angeles County Bar, San Francisco Bar, the National Legal Aid and Defenders Association, and over 25 State and local bar associations, as well as many others. The bill assures the independence of attorneys representing the poor, strengthens our judicial system and is flexible and open in its search for new methods of financing legal services.

I heartily commend the Subcommittee on Employment, Poverty, and Migratory Labor, as well as the full Labor Committee for this important bipartisan effort. Through months of delicate negotiations, the subcommittee and the administration were able to reach agreement. While I would have supported a bill with even greater assurances of independence for Legal Services attorneys, as the product of a compromise, S. 2686 is a bill acceptable to all concerned. Therefore, echoing the sentiments of Melvin Laird, Counsellor to the President for Domestic Affairs, in his letter to Senator Nelson of October 4, 1973, I, too, am pleased that the full Senate has been presented a bill which assures the "freedom of the attorney to represent his client, and maintains a vital program."

In 1964, Congress made a commitment to equal justice for all in our criminal courts when it passed the Criminal Justice Act insuring representation for indigent criminal defendants. As a result of this commitment, both the judicial system and public faith in the workings of government were strengthened.

Now, as the President stated on May 15, 1973, it is time to extend this commitment to those seeking redress through our civil law by establishing a Legal Service Corporation.

The President stated:

> America's system of law now requires equal treatment for all in our courts of criminal justice. It is no less important that equal access be afforded those who seek redress through our civil laws.

The truth is becoming increasingly clear: Rights granted and protected under the civil law often have a more profound effect on the lives of law-abiding Americans than those protected under the criminal law.

While welcoming the President's support of this bill, I feel compelled to note that it is this President and this administration which, in 1971, vetoed a bill containing provisions similar to S. 2686; and it is this administration which, during the first half of 1973, used all its influence to dismantle the OEO legal services program, a program which, since its enactment in 1965, has reflected the Congress commitment to legal representation for all Americans.

In recent years, both the nature and number of the average citizen's legally protected rights have changed. We have more laws; they are more complex; they deal less with traditional property disputes and more with the environment, job safety, medical care, consumer protection, retirement disability, and other aspects of our personal lives. Because these new rights intimately affect all Americans, unlike the traditional property rights which affected only property owners, the need for representation of all citizens has increased.

Today, Americans at all levels of the economic structure are growing increasingly frustrated by their inability to get access to the legal forums whose decisions affect their lives. It is our obligation as Senators to see that important rights in the civil area are not surrendered either because people cannot afford an attorney or because the high cost of legal services makes the vindication of such rights uneconomical.

Lest there be any doubt about the effectiveness of Government-sponsored Legal Services programs, let us examine the track record. Programs support the handling of over 1½ million cases each year; 18 percent of the cases involve consumer and employment problems; 42 percent involve family problems such as divorce and annulment proceedings; 9 percent involve administrative problems such as the handling of veterans cases, and 20 percent concern other important rights.

In addition to the large number of cases handled, there is evidence that high quality representation is being provided. The figures show that of those cases litigated, 72 percent are won and 6 precent settled while only 12 percent are lost. Furthermore, Government Legal Services attorneys have been successful in avoiding needless litigation by promoting fair settlements. GAO reports indicate that only 28 percent of Legal Services cases lead to court actions with only 1 percent involving appeals.

Sometimes, the voluminous publicity surrounding landmark litigation often brought by Legal Services attorneys creates the mistaken impression that Legal Services attorneys spend too much time trying to reform the law instead of dealing with the more mundane but critical, day-to-day problems of their clients. The evidence available simply refutes this contention. For example, after 16 days of hearings, three justices concluded that from 95 to 98 percent of the cases handled by California Rural Legal Assistance dealt with day-to-day problems. A 1973 GAO report noted that Legal Services attorneys lack sufficient time to devote to law reform cases.

The Judiciary Subcommittee on Representation of Citizen Interests, which I chair, recently held 6 days of hearings concerning the effect of legal fees on the adequacy of representation. These hearings, and the responses which they invoked from citizens across the Nation, clearly showed that we must, as a country, commit ourselves to finding new methods of delivering legal services to all Americans, the middle class as well as the poor.

As we tackle this enormous, but crucial task, the bill presently on the floor is to be applauded; for S. 2686 upholds two principles which must be basic to any legislation in the area of citizen representation.

First, legal representatives must be independent; regardless of whether they are supported by grants, tax incentives, or salary checkoffs, lawyers must be assured of the freedom to decide what types of cases they handle or in what forums their clients' interests may be best represented, subject only to those restraints placed upon the profession at large. In order to guarantee strong independent legal representation, legal representatives must be assured insulation from the sources of the political pressures and the governmental abuses which they seek to check.

Second, there must be room for flexibility and experimentation. Section 1007 (g) of S. 2686 provides for an independent study of demonstration projects, and alternative and supplemental methods of delivering legal services, including, but not limited to, judicare vouchers, prepaid legal insurance, and contracts with law firms. As the need for finding new methods of financing legal services is not peculiar to the poor, all Americans will benefit from this study. This is a subject of extreme interest to the subcommittee which I chair.

Therefore, I urge a strong show of support in the Senate for S. 2686 and would hope that the important principles affirmed by this bill would not be compromised by amendment or in conference.

I ask unanimous consent to insert certain statements in support of S. 2686, to which I have referred to, in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STATE BAR OF CALIFORNIA,
San Francisco, November 20, 1973.

Re: National Legal Services Corporation.
Hon. JOHN TUNNEY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TUNNEY: I understand that S 2686, to establish an independent, federally funded national legal services corporation, is now before the full Senate for action, and that once passed it will go to conference committee to resolve differences between it and HR 7824.

As you know, legislation to establish a legal services corporation consistent with the principles of equal justice and the professionalism and independence of legal services lawyers continues to be of great interest to the State Bar of California. The July 18th statement of former State Bar President Leonard Janofsky contains an excellent exposition of those principles as applied to the deficiencies and restrictive provisions of HR 7824. A copy of his statement was previously sent to you and another copy is enclosed for your convenient reference.

Doubtlessly you are also aware that Leonard's statement has been endorsed, or similar statements have been adopted, by several local bar associations in our State. For example, the Trustees of the Los Angeles County Bar Association specifically approved the statement and Bill Shea, Los Angeles County Bar President, in announcing the approval, praised the statement as a well-reasoned and proper analysis of the several problem areas in the House bill.

We appreciate your continued interest in legal services for our nation's poor and look forward to your continued efforts for the establishment of an independent legal services corporation consistent with the basic principles which have been outlined in Leonard's statement.

Sincerely yours,
SETH HUFSTEDLER,
President.

STATEMENT OF LEONARD S. JANOFSKY, PRESIDENT OF THE STATE BAR OF CALIFORNIA

For some time the Board of Governors of the State Bar of California has closely watched the developments affecting the future of federally funded civil legal services for the poor. We have become increasingly concerned that the pending legislation to establish an independent, nonprofit corporation to continue that funding does violence to equal justice for all our citizens and the independence and professionalism of attorneys who would participate in legal services programs funded by that agency. This nation cannot tolerate one system of legal representation for the rich, and another inferior system for the poor.

The State Bar has supported the OEO program of funding local agencies to provide legal services to the poor virtually since the inception of that program. The State Bar has maintained an active, ongoing interest throughout the approximately eight years of the program's existence, and has opposed politically motivated efforts to restrict the independence and professional integrity of the attorneys who have labored throughout California and the rest of our nation to bring effective legal representation to the poor.

We have recognized for some time that continued federal funding is essential. Experience since the institution of OEO funding has demonstrated that volunteer services and funding from the private sector are not adequate to meet the legal needs of California's poor.

The State Bar has endorsed, for the last two years, the concept of an independent national legal services corporation to continue that funding free from political influences and interference. This endorsement was conditioned on the authorizing legislation containing strong safeguards to assure the professionalism and independence of lawyers in the program.

Independence and professionalism are not empty platitudes or concepts created for the benefit of lawyers. They are essential parts of our system of justice—a system premised on the lawyer's ability and obligation to represent his client's interests and to use the full scope of resources which are available to him as an advocate acting within our system of law.

We are a Nation of laws and adhere to the principle of equal justice for all. There can be no equal justice without equal representation before our judicial and legislative bodies. We cannot, as citizens or members of the legal profession, tolerate two systems of justice—one for the affluent and an inferior one for the indigent.

I am concerned that various provisions in the present form of the proposed legal services corporation bill would contradict or undermine the basic principles of equal justice for all and the professionalism and independence of legal services attorneys. Specifically:

By restricting the involvement of legal services attorneys in the legislative process, the bill would deny the poor person effective access to his Congress or state legislature in seeking resolution of legitimate problems.

The bill would have the corporation establish guidelines governing when appeals can be taken on behalf of clients. It also calls for guidelines governing when legal assistance can be provided to poverty groups and to poor people who want to form an organization for legitimate and socially useful purposes, such as an economic self-help group or day care center. This approach of requiring guidelines is potentially dangerous, especially in the case of group representation where the statutory language is virtually a mandate to the corporation to limit an important form of legal assistance.

The bill would prohibit continued funding of "backup centers"—programs which provide invaluable research, technical assistance, training and guidance for the many neighborhood legal services programs. The backup center concept is sound from an efficiency standpoint and the worth of these centers has been proven in practice.

The corporation would be subject to court awards of legal fees to defendants who prevailed in actions brought against them by legal aid programs funded by the corporation. In the vast majority of cases under our present judicial system the prevailing party is not entitled to an award of attorney fees. Why should the rule be different when poor people are being represented? This provision could bankrupt the already underfunded legal services program and stifle legitimate litigation—except in cases where victory is assured from the inception. We all know that those cases are few and far between. This provision would practically guarantee that poor people would be represented only when they are defendants.

The House has deleted from the bill references to the ABA's Canons of Ethics and Code of Professional Responsibility—insofar as they had reference to legislative advocacy and review of appeals. This must be disturbing to the legal profession. The deletion of these references manifests a lack of understanding that independent and professional representation of every client is mandated by the bar and the judicial system under which we operate.

The bill would effectively delegate to local bar associations the discretion and responsibility for hiring staff attorneys which properly belongs to local program boards of directors and directing attorneys. Input from, and involvement of local bars is essential but this dispersal of operational responsibilities is organizationally unsound.

The House has deleted from the bill a provision for three-year appropriation of funds for the proposed corporation. If the already drastically underfunded program of legal services for the poor is to be further subjected, on an annual basis, to political pressures and apparent lack of sensitivity to independent, professional legal services for the poor, then the future is indeed bleak.

The bill is now in the hands of the Senate where we hope for a version of legislation which is consistent with the basic principles required by the legal profession and its clients. But this is no cause for the legal profession to be optimistic or even temporarily complacent. We must all speak out now, in the strongest of terms, if our national leadership is to be responsive to the basic need for an effective system of justice for the poor. Without equal justice for all, justice for anyone is an illusion."

THE BAR ASSOCIATION OF SAN FRANCISCO,
San Francisco, Calf., November 8, 1973.

Hon. MIKE MANSFIELD,
Hon. HUGH SCOTT,
Hon. ALAN CRANSTON,
Hon. JOHN V. TUNNEY,
Hon. JAMES O. EASTLAND,
Senate Office Building,
Washington, D.C.

GENTLEMEN: On November 7, 1973, the Board of Directors of The Bar Association of San Francisco unanimously endorsed the pending bill to establish a National Legal Services Corporation in the form reported from Committee to the Senate floor the week of November 5, 1973.

The Bar Association of San Francisco has been a consistent supporter of the OEO legal service programs in San Francisco, the State of California and in the nation. Through appointment of our members to the Board of the governing body for the OEO legal service program in San Francisco, we maintain close liaison to that program. In addition many of our members have worked with a variety of other OEO legal service programs as employees, volunteers or Board members. By these contacts we are convinced that the program continues to improve. If its relative independence from the vicissitudes of politics can be assured through the proposed corporation, we have no doubt that legal services to those who cannot afford to pay for them will be materially improved.

The Bar Association of San Francisco urges Senate passage of the pending bill.

Very truly yours,

Michael Traynor,
President.
Robert H. Fabian,
President-elect.

Telegram

John Tunney,
U.S. Senate,
Capitol Hill, D.C.:

Whereas: Federally funded Legal Services programs are providing the much needed services of legal representation for the poor.

Whereas: The continuation of such programs is urgently needed so that the concept of justice and equality for all can become a reality.

Whereas: Fresno County Legal Services has been an excellent example of the constructive value of the Federal legal assistance program of providing competent legal services to low income people and in aiding the local legal community in dealing with low income persons.

Now, therefore, it is resolved:

1. The Fresno County Bar Association does hereby go on record as supporting the passage in Congress of a bill authorizing the establishment of a strong, independent public legal services corporation.
2. The Legal Services Corporation bill of the United States Senate's Committee on Labor and Public Welfare be adopted without any restrictive amendments.
3. Copies of this resolution be sent to our representatives in Government.

Fresno County Bar Association.

AMENDMENT NO. 858

Mr. TOWER. Mr. President, I call up my amendment No. 858, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> On page 19, after line 19, insert the following new paragraph:
>
> "(7) to provide legal assistance under this title with respect to the desegregation of public schools or the transportation of schoolchildren to achieve racial balance.".

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, this amendment prohibits the Legal Services Corporation, any of its grantees, recipients, or staff attorneys from participating in any proceeding or litigation relating to the desegregation of public schools or the transportation of schoolchildren to achieve a racial balance.

Mr. President, Congressman Wilmer D. Mizell, of North Carolina, has provided me with evidence obtained from the Office of Economic Opportunity which shows that an OEO grantee for legal services, the Harvard Center for Law and Education, has participated extensively in the prosecution of at least eight such cases over the last few years, and that an average of $500,000 a year has been awarded by OEO legal services to the Harvard Center over the last 3 years to help finance these activities.

These eight cases I refer to specifically here today involve the school systems of Indianapolis, Ind.; Boston, Mass.; Stamford, Conn.; Dayton, Ohio; Suburban Pittsburgh, Pa.; Stockton, Calif.; El Paso, Tex.; and Detroit, Mich.

OEO files contain a status report on the Detroit case, Bradley against Milliken, now pending before the Supreme Court, written by a Harvard Center attorney from Ann Arbor, Mich. The report states in part:

> This is the Detroit metropolitan school desegregation case in which we are cocounsel with the NAACP. . . . The case was begun in August of 1970, and after 50 days of trial and two trips to the court of appeals the district court found, in September of 1971, that Detroit is, as alleged, an illegally segregated school system.
>
> Further hearings were held this spring as to relief, and on June 14, the district court held that a plan limited to Detroit proper would be constitutionally inadequate and educationally impractical—thus necessitating metropolitan relief affecting approximately 780,000 pupils in Detroit and 52 neighboring districts.

The attorney continues—

> In our view, the State is constitutionally responsible for providing equality of educational opportunity, including "just schools" in place of racially identifiable schools, and certain educationally unjustified State policies contribute to rendering Detroit a racially identifiable system (65 percent black) compared to its neighbors.

Mr. President, I particularly call my colleague attention to the next passage which states:

> Therefore, the State, which has no compelling interest in existing school district lines, is obliged to provide just schools for Detroit's children by disestablishing the interdistrict segregation. The State and suburban defendants contend that such relief is unauthorized unless it can be shown that suburban districts themselves have actively discriminated. To note that this is a landmark case on these issues is to labor the obvious.

Mr. President, this is, indeed, a landmark case, now pending before the U.S. Supreme Court. It involves over 800,000 people in a 1,952-square mile, tricounty area, as well as the litigation pending in at least seven other cities. I, for one, hope, however, that the landmark is established on the side of reason and responsibility for a change, and that the U.S. Supreme Court will reverse this incredible lower court ruling.

Nevertheless, my point in this debate is not the merits of any one case. My concern is that the American taxpayers, who have repeatedly shown their overwhelming opposition to forced busing, have been paying $1.5 million in the last 3 years to help the Harvard Center prosecute this busing case and others from the lowest court on through the appeals process. I can assure you that the people of Texas will not stand for Federal funding of desegregation suits brought against their schoolchildren which result in the forced busing of their children miles away from their homes at even greater expense.

The legal services program was intended to guarantee to every American the right to due process of law and the right to a competent defense in the courts. The program was not intended to be a boon to the advocates of forced busing of schoolchildren any more than it was intended to provide a bankroll for political activity.

I urge my colleagues to join me today in putting an end to this federally financed promotion of forced busing and in preventing these abuses of the past from becoming precedents for the future.

Mr. President, I urge my colleagues the adoption of my amendment.

I ask unanimous consent to have printed in the Record a letter from Representative Wilmer D. Mizell and pertinent material bearing on this issue.

There being no objection, the letter and material were ordered to be printed in the Record, as follows:

Important Legislation Pending Today

June 19, 1973.

Dear Colleague: It has come to my attention that the Office of Economic Opportunity's Legal Services Program has given substantial financial support for the last three years to promote a civil suit in Detroit calling for forced busing across school district lines.

The Legal Services Program has funded, at an average rate of about $500,000 a year, the Harvard Center for Law and Education, for its activity as co-counsel with the NAACP in the case.

I am today introducing an amendment to H.R. 7824, the Legal Services Corporation bill, to prohibit any more federal funds from being used in such promotion of cases involving forced busing.

I strongly urge your support for this amendment.

Sincerely,

Wilmer D. Mizell.

Legal Services Involved in Probusing Activities

The ruling last week by the Sixth U.S. Circuit Court of Appeals may become a critical factor in defeating a revolutionary proposal now on the verge of congressional approval: the Independent Legal Services Corporation to aid the poor.

In reaffirming the decision of a three-judge federal panel that the city and suburban schools of Detroit must be merged into a single district, the Appeals Court has more than aroused the anti-busing forces in Congress. It has also raised the alarm against enactment of the new corporation, even though the corporation is still expected to pass the House handily in its first big test, possibly this week.

Nevertheless, the corporation's future has been jeopardized by the fact that a number of legislators were furious to discover that a key legal services program, the Harvard Center on Law and Education, was instrumental in obtaining the Detroit verdict demanding a city-suburban merger, a desegregation solution so extreme that the Supreme Court refused to apply it to a Southern city, Richmond, Virginia, and its surrounding suburbs last month.

The OEO-funded Harvard Center, which became co-counsel with the NAACP on the Detroit case, is but one of roughly 20 legal services "back-up" centers which do intensive anti-poverty research, publish vast quantities of legal services material and press the courts to make earthshaking constitutional decisions that will tilt our current economic, political and social system to the left.

While such "back-up" centers are currently financed by the present anti-poverty program, a number of lawmakers have been incensed to discover that the new legal services corporation proposal will be in a position to finance literally dozens of such radical legal services centers.

Moreover, the new corporation concept, which was approved by the House Education and Labor Committee without a single hour of hearings, will be even further removed from the control of Congress than the present legal services program.

Thus there is growing concern about the new corporation, with the likelihood that the House would now solidly sustain a veto of the proposal, a course of action hinted at by the President's subordinates.

Furthermore, there is the possibility that Michigan's Robert Griffin, the GOP whip in the Senate may end up swinging his influential weight against the corporation. The reason Griffin has emerged as a leading legislative opponent of busing.

"If Griffin becomes aware of the legal services involvement in forced busing," predicted one informed source, "he may persuade a lot of senators and congressmen to oppose the bill."

While the bill is still likely to pass in its present form, he added. "Griffin's response against the corporation proposal could firm up the President's initial resolve to veto."

The Harvard Center's involvement in zealously pushing integration isn't confined to the Detroit school case, either. In a recent report of its activities, the center referred to its interest in the following cases:

United States and Bradley v. Indianapolis School Commr's. "This is a school desegregation case which was brought by the government in 1968 and culminated in a favorable judgment, looking toward desegregation on a metropolitan basis, in August of 1971. When it appeared that the government was not going to push for effective relief, we assisted the NAACP to intervene on behalf of local black plaintiffs. . . . We expect to participate actively in further discovery and trial of this case."

Moss v. Stamford (Conn.) Board of Education: "We are assisting Norwalk-Stamford Legal Services (primarily Steve Hershey) with his action which was filed earlier this month. Our role so far has been to consult on the theory of the case and to advise on discovery and trial strategy. Stamford adopted and has largely implemented a pupil racial desegregation plan which imposes the burden of desegregation (in terms of pupils transported and schools closed) almost exclusively upon black and Spanish-speaking families. . . ."

Greenhouse v. Greco: "We are cooperating with University Legal Services, Washington, D.C., in this action which challenges racial segregation of parochial schools in the Roman Catholic diocese of Alexandria, Louisiana. We have participated in the preparation of pleadings and discovery and we shall help at trial, which is scheduled for December 1. The case involves some 10,000 children in 35 schools, of which all but two are practically all-white or all-black. The case is novel (a previous one like it in Louisiana ended when the schools desegregated before trial) and significant in that the schools receive substantial federal support and are segregated despite Title VI of the 1964 Civil Rights Act, and the parochial system is impairing public school desegregation by accommodating fleeing whites."

Hoots v. Commonwealth of Pennsylvania: "This case, filed in 1971 by Pittsburgh Legal Services, challenges the school consolidation process in suburban Pittsburgh. It is alleged that racially identifiable districts were created, despite the availability of feasible, less segregatory alternatives. It is also alleged that the district in which the plaintiffs reside is not viable economically or educationally. Upon request of the director of the Pittsburgh Legal Services Office, we have, on several occasions, given advice on the case. In July, 1972, we met here with local counsel to discuss a proposed pretrial statement."

Hernandez v. Stockton Unified School District: "We have been asked by California Rural Legal Assistance to file an amicus curiae brief in the California Supreme Court. The appeal urges that the lower courts erred, under California law, in denying desegregation relief, and we are asked to address certain broader desegregation considerations. We are considering participation."

Briefly, then, the current legal services program, supported by the taxpayers, is eagerly promoting busing and harsh desegregation methods at virtually every opportunity, even though the President has promised to point this country in an opposite direction. Yet the newly proposed legal services corporation, shorn of all safeguards against radical activism, represents the current legal services program raised to the third and fourth power. That's why a goodly number of lawmakers are now growing disenchanted with the new corporation set-up. But whether there are enough to defeat the corporation or provoke a Presidential veto is still an iffy question.

AMENDMENT

On page 19, after line 19, insert the following new paragraph:

"(7) to provide legal assistance under this title with respect to the desegregation of public schools or the transportation of school children to achieve racial balance."

Similar to the House provision.

AMENDMENT

On page 19, after line 19, insert the following new paragraph:

"(7) to provide legal assistance under this title with respect to the desegregation of public schools or the transportation of school children to achieve racial balance.".

OEO REPRIEVE RESCUES CENTER FOR LAW AND EDUCATION

(By Mark C. Rutzick and Phil Spector)

The Harvard Center on Law and Education, the Law School-sponsored OEO back-up center which had been threatened with a March 1 termination of funds, has been given a 30-day reprieve. The extension was announced after Dean Albert M. Sacks and Professor Frank I. Michelman met Wednesday with OEO Acting Assistant Director J. Laurence McCarty in Washington. Michelman emerged from the meeting cautiously optimistic, saying, "We were given no indication this this money would be the end."

The Washington meeting was the culmination of an energetic lobbying effort by the Law School, which involved contact with administration officials and members of Congress. The effort was aimed at keeping the Center alive for a grace period of up to six months, or longer.

The Center, one of 10 OEO Legal Services back-up centers located through the country, was informed last month that its funding would not be renewed when its current grant ran out March 1. The other back-up centers received similar notices. The cutbacks are part of the Nixon Administration's effort to dismantle the poverty programs built up in the 1960s.

The Center is jointly sponsored by the Law School and the Harvard Graduate School of Education, but currently neither supplies any financial support.

Michelman said that he and Sacks had stressed in their lobbying efforts that professional considerations required that the Center be given a "winding down" period longer than the 30 days it had received before yesterday's deadline.

He said that the Center was heavily involved in litigation, and that "simple professional responsibility" made it necessary to extend its life at least temporarily. He added that a "reliance" factor served to prevent the Center's employees from being cut off from their salaries so quickly. The Center employs approximately 10 attorneys as well as a nonprofessional staff.

Michelman emphasized that he thought the political picture for funding beyond July 1 was too murky for prediction, but until a new Legal Services corporation were said that if the center managed to survive formed, its continued existence would be "a whole new ballgame."

Michelman, who serves as liaison between the Law School and the Center, described the Center's budget as "around $350,000" per year.

Sacks had said on Monday that if OEO refused to extend funding beyond yesterday's deadline, the Law School would itself step in and continue funding on a short-term basis. Since Michelman had described the necessary winding-down period as up to six months, Wednesday's reprieve did not end the possibility of future Law School intervention. Sacks said he expected the Education School would share all such expenses.

The Center is headed by Marian Wright Edelman, a prominent lawyer and Democratic political figure. However Michelman said he did not think her political visibility was a factor in the original decision to close the Center.

The Center is currently involved in the school desegregation case in Detroit which has resulted in a court order for massive metropolitan busing. It also is participating in a lawsuit seeking to challenge the Boston school system for failure to integrate. President Nixon has publicly opposed school busing as a method of integrating schools.

In a related action, a group of students at the Law School has been collecting signatures in support of the continuation of the OEO Legal Services program itself, which is also threatened by Nixon Administration cutbacks. The group is circulating a petition calling for "a fully-funded and autonomous legal services program." As of Wednesday it had collected over 800 signatures.

The Law School group is coordinating its moves with a recently-formed national organization called Action for Legal Rights. Alice W. Ballard, 3L, said the national body is asking each OEO lawyer to contribute $25 toward a large-scale Congressional lobbying effort aimed at saving the Legal Services program. The local group is also seeking contributions to the effort.

The Law School petition expresses full support for a resolution recently adopted by the American Bar Association House of Delegates. The resolution urges the creation of an independent well-financed corporation for Legal Services.

According to Dace McCoy, 3L, the signed petitions will be sent to the White House and to Congress. She added that concerned students and faculty should take independent action including writing letters to their Congressman and Senators.

UNITED STATES AND BRADLEY VERSUS INDIANAPOLIS SCHOOL COMMR'S (V.A. No. IP 68–C–225, S.D. IND.)

This is a school desegregation case which was brought by the government in 1968 and culminated in a favorable judgment, looking toward desegregation on a metropolitan basis, in August of 1971. When it appeared that the government was not going to push for effective relief, we assisted the NAACP to intervene on behalf of local black plaintiffs. We have completed substantial investigative work, primarily involving adjacent and suburban school districts. Further district court proceedings are awaiting decision on the defendants' appeal of the original judgment (argued in the 7th Circuit this month) and decision on defendants' motion for a three-judge court, which they assert is required because a metropolitan desegregation order would conflict with Indiana's statewide redistricting arrangements. We expect to participate actively in further discovery and the trial of this case. (Dimond)

BRADLEY VERSUS MILLIKEN (C.A. No. 35257, ED. MICH.)

This is the Detroit metropolitan school desegregation case in which we are co-counsel with the NAACP on behalf of black and white children. The case was begun in August of 1970, and after 50 days of trial and two trips to the court of appeals the district court found, in September of 1971, that Detroit is as alleged an illegally segregated school system. Further hearings were held this spring as to relief, and on June 14 the district court held that a plan limited to Detroit proper would be constitutionally inadequate and educationally impracticable—thus necessitating metropolitan relief affecting approximately 780,000 pupils in Detroit and 52 neighboring districts. The court of appeals stayed implementation of the district court's order in July (but directed that planning as prescribed should proceed), and the appeal on the entire case was argued on August 24 pursuant to an expedited schedule. In our view, the state is constitutionally responsible for providing equality of educational opportunity, including "just schools" in place of racially identifiable schools, and certain educationally unified state policies contributed to rendering Detroit a racially identifiable system (65 percent black) compared to its neighbors (98 percent white). Therefore, the state, which has no compelling interest in existing school district lines, is obliged to provide just schools for Detroit's children by disestablishing the interdistrict segregation. The state and suburban defendants contend that such relief is unauthorized unless it can be shown that suburban districts themselves have actively discriminated. To note that this is a landmark case on these issues is to labor the obvious. Cert. petitions are virtually inevitable following decision by the court of appeals. It should be noted that the NAACP is paying the litigation costs and out-of-pocket expenses in this case (as in Boston and Indianapolis), enabling the Center to engage in important work without quickly expending our modest litigation budget, which otherwise would be a consequence of this case alone. (Paul Diamond) Harvard Atty in Am. Arbs.

MOSS VERSUS STAMFORD (CONN.) BOARD OF EDUCATION (C.A. No. B-586, D. CONN.)

We are assisting Norwalk-Stamford Legal Services (primarily Steve Hershey) with his action which was filed earlier this month. Our role so far has been to consult on the theory of the case and to advise on discovery and trial strategy. Stamford adopted and has largely implemented a pupil racial desegregation plan which imposes the burden of desegregation (in terms of pupils transported and schools closed) almost exclusively upon black and Spanish-speaking families. The plaintiffs are supportive of desegregation, but they view it as illegally discriminatory to adopt a plan—in the presence of equally effective, more equitable alternatives—that is one way in accommodating majority community convenience at the expense of the minority. More than a year ago, when Stamford was weighing its options, the federal (HEW) authorities expressed similar reservations to Stamford about this plan. School authorities have tended widely to adopt one-way plans, usually to gain white acceptance of desegregation itself. Although some courts have disapproved such plans, the issue is relatively underdeveloped and important in that the objectives of desegregation are not fulfilled where the plan is perceived by the minority community as the latest manifestation of "white is right." (Van Loon)

BRINKMAN VERSUS GILLIGAN (C.A. No. 72-137, E.D. OHIO)

We are cooperating with the NAACP and local counsel in this case which challenges alleged de jure segregation in Dayton, including that system's rescission of its own voluntary desegregation plan for reasons related not to education but to white community opposition. We have been assisting with discovery and will participate in the trial, which is tentatively scheduled for the 3rd week in November. The rescission of voluntary plans in districts not previously found to be illegally segregated is recurring and presents relatively novel issues warranting our attention. (Dimond)

GREENHOUSE VERSUS GRECO (C.A. No. 17741, W.D. LA.)

We are cooperating with University Legal Services, Washington, D.C., in this action which challenges racial segregation of parochial schools in the Roman Catholic diocese of Alexandria, Louisiana. We have participated in the preparation of pleadings and discovery and we shall help at trial, which is scheduled for December 1. The case involves some 10,000 children in 35 schools, of which all but two are practically all-white or all-black. The case is novel (a previous one like it in Louisiana ended when the schools desegregated before trial) and significant in that the schools receive substantial federal support and are segregated despite Title VI of the 1964 Civil Rights Act, and the parochial system is impairing public school desegregation by accommodating fleeing whites. (McClung)

HOOTS VERSUS COMMONWEALTH OF PENNSYLVANIA (C.A. No. 71-538, W.D. PA.)

This case, filed in 1971 by Pittsburgh Legal Services, challenges the school consolidation process in suburban Pittsburgh. It is alleged that racially identifiable districts were created, despite the availability of feasible, less segregatory alternatives. It is also alleged that the district in which the plaintiffs reside is not viable economically or educationally. Upon request of the director of the Pittsburgh Legal Services Office, we have, on several occasions, given advice on the case. In July, 1972, we met here with local counsel to discuss a proposed pretrial statement. (Pressman)

HERNANDEZ VERSUS STOCKTON UNIFIED SCHOOL DISTRICT (No. 3 CIV. 13621, SUP. CT. CALIF.)

We have been asked by California Rural Legal Assistance to file an amicus curiae brief in the California Supreme Court. The appeal urges that the lower courts erred, under California law, in denying desegregation relief, and we are asked to address certain broader desegregation considerations. We are considering participation.

ALVARADO VERSUS EL PASO INDEPENDENT SCHOOL DISTRICT (C.A. No. EP-70-CA-279, W.D. TEXAS)

This case was brought by El Paso Legal Services on behalf of Mexican-American children and involves the inadequacy of desegregation and educational programs in that system. The bilingual-bicultural programs have been substantially improved for 1972-73, and the local office is not pressing for an early trial date. We have consulted here and in El Paso concerning discovery and trial preparation. The district may go farther voluntarily on the basis of the 5th Circuit's recent *Austin* and *Corpus Christi* decisions; if not trial will be necessary.

INEQUITY IN EDUCATION

(By David L. Kirp)

INTRODUCTION: SCHOOL DESEGREGATION 1971

A casual newspaper reader might think that, 17 years after the landmark *Brown* decision, the Supreme Court had in *Swann* finally laid to rest all questions concerning the obligation to desegregate public schools. In upholding a plan which ordered extensive busing in one large Southern metropolitan school district while overturning as inadequate a more limited integration proposal, the Supreme Court seemed determined to do what it has long proposed—to eliminate racially separate schools "root and branch." The Court's tart disposition of the claimed right to neighborhood schools, and its approval of busing and non-contiguous school attendance zones as a means of promoting integration give some force to the notion that the battle over race and schools has ended.

For a number of quite different reasons, that optimistic conclusion is unfounded. The problems that persist, while less dramatic than outright refusal to comply with the law of the land, are no less important. This issue of *Inequity In Education* draws together those problems in discussions by lawyers and laymen in the field, people who know the problems first-hand.

The post-*Brown* history suggests that Court opinions remain noble statements of principle if they are not vigorously enforced, by both government and private litigants. President Nixon's recent statement on school integration, and the suit filed in Austin, Texas, indicate that the government intends in some fashion to carry out the *Swann* mandate. Yet the government's position in recent years, most notably its foot-dragging stance in *Alexander v. Holmes County* (unanimously reversed by the Supreme Court), give legitimate cause to wonder how vigorous the government will be in pressing for desegregation. J. Stanley Pottinger, head of HEW's Title VI compliance section, offers the government's position; Cynthia Brown, attorney at the Washington Research Project, takes a more skeptical view.

Yet even if school district integration is in fact accomplished, a new set of problems more difficult to address has clearly begun to emerge. As Southern school districts become increasingly integrated—as the number of black children attending racially mixed schools grows—black students are isolated within schools. So-called "ability grouping" assigns black students to the lowest tracks; school disciplinary codes are applied with particular harshness to black children; obviously antagonistic symbols such as the Confederate flag fly over the schoolhouse. Further, black teachers and administrators who had for many years worked in all-black schools find themselves demoted or fired as school districts integrate. The lame official excuse: they're not good enough to teach (white) children. Rims Barber discusses these practices in Mississippi. One can only wonder with Barber if the story will be very different for the children of those just now entering school.

As Paul Dimond's piece indicates, segregation is hardly a phenomenon confined to the South; indeed, recent data show that while schools in the South have become more integrated during the past decade, Northern school districts are more racially identifiable than ever before. The flight of whites to the suburbs is one significant cause of this increase in Northern segregation; official practices by school officials in most cities are another — and legally attackable — cause. School district boundary-drawing; optional zones; teacher assignment; student transfer provisions; school construction; all these techniques have been employed by schoolmen to preserve the racial character of urban schools. Further, housing policies—including those of the Federal Housing Administration—have locked poor black families into the center city, aggravating racial problems. It makes little sense to describe this pattern as adventitious (*de facto*) and thus beyond judicial purview. By intent and, more importantly, by effect, such segregation is *de jure*, and warrants correction. Successful litigation in such cities as Denver, San Francisco, Los Angeles, and Pontiac suggests that judicial relief may be forthcoming; that within the next decade nominal integration may be a fact of life in the North as well as the South.

Hopefully, courts and schoolmen will learn from Southern history that nominal integration—putting black children and white children in the same schools—is but the beginning of the educational effort. *How* integration is carried out—whether black and white children are treated as "citizens," as Tinker puts it, or simply as human beings with a sense of themselves and their own history—is really the critical racial policy issue of the decade. The article by Robert Green and his associates at Michigan State University analyzes these questions by reviewing the social science research on the effects of interracial education. Alan Exelrod, attorney to the Mexican American Legal Defense and Education Fund, reviews the particular needs of the Chicano community; his comments are readily extendable to other minority groups whose native language and experience is not that of melting pot America.

By and large, the articles are sobering. They serve to remind all of us that integration is not a talismanic phrase, but an infinitely complicated and important social goal. They also suggest that humane and integrated schools—and, necessarily, an integrated society—are unlikely to exist next year, or even 10 years from now.

Swann Song From the Delta

(By Rims Barber)

A year ago Jerris Leonard, head of the Justice Department's Civil Rights Division, predicted that "for all practical purposes the dual school system as it has existed in the South will be eliminated by September 7th [1970]." Again this year, the *Swann* decision holds out hope of final resolution of this issue. The nagging question in the minds of Mississippians concerned with school desegregation is what next year's sayings about the end being in sight will be.

In the Summer of 1971, we are standing in the trough of a calm. We have heard the high court pronounce *Swann*, and know that 18 or 20 of Mississippi's 150 school districts will have to change by the opening of school. We know that the Justice Department has prepared motions on a dozen districts, that HEW has written comprehensive reports on another half dozen, and that the courts are preparing to issue orders on three or four more. But the school boards go about their seemingly normal preparatory duties of fixing up the schools and hiring teachers.

The calm is an anxious one. The white establishment is uneasy, awaiting what it sees as the coming next blow. Defensive and toughened by years of rearguard action, the Establishment is still prepared to fight for its institutions. The black community is anxious, hoping for the real change that never comes, wondering when the wave that finally and inalterably changes the schools will hit. Many have lost hope in the long struggle. For them, changes in the schools have meant a tougher system, not better schools for their children.

THE NEW DISCRIMINATION

The past year proved Mr. Leonard right in one respect: The dual school system—as it had existed—was eliminated. But the legacy is a *new* discriminatory system, hardly a year old, which includes the following facts:

Visible control of the schools is still white; during the past two years, more than half of all black administrators were fired, demoted, or placed in tangential positions.

Non-tenured teachers were released for a variety of reasons. The State Department of Education reports a 5% decrease in black teachers, while independent surveys show the number to be 10–12%. With changes in the law for state reimbursement of teacher units, the State Department predicts a 5½% loss of regular teachers (over 1,000 teachers) in the coming year with a disproportionate number in majority black districts.

Inside the schools are new policemen, new rules, and a new kind of documentation for minor disciplinary incidents. As a result, hundreds of black children have been expelled or suspended, all with the knowledge that their folder, containing details of each time they chewed gum or were late to a class, is waiting to be used.

Over forty percent of black school children attend segregated classes and, cordoned off by the whites, felt the impact of separate tracking.

Teacher recruitment from Mississippi colleges also changed. Black colleges placed 38% fewer certified graduates last year according to State Department figures, while white colleges increased placement 52%. These changing patterns make the future less hopeful for young would-be black teachers and the institutions to which they have gone for their higher education.

The federal government appears to approve of this grim picture. It granted more than $5,000,000 to Mississippi's schools in Emergency School Assistance funds; this in addition to the normal $35–$40,000,000 in Title I ESEA funds. Despite great numbers of complaints, no district lost any money. Everybody was eligible and everybody got.

With this legacy, the year ahead can only be looked at with concern. We must ask how long it will be before we see a wholly new system where all participate equally in the education of the community. Perhaps it will only come when this year's grandchild is old enough to be Superintendent of Education and this generation's problems have died of old age. We must also ask how new patterns of discrimination will affect those living under them. What will be the effect of a generation of discrimination in faculty hiring and assignment that lessens the chance of a black child ever having a black teacher? What will it mean to be placed in a lower track for a whole career? Will the legalism of the struggle finally bind us all? Will there be a year when we know we are on the high road to quality change? This year? No. Is there hope for 1972?

HEW Enforcement of Swann

(By J. Stanley Pottinger)

The Supreme Court's *Swann* decision, read in light of the specific conditions in Charlotte, North Carolina, is a relatively clear pronouncement. Attempting a general assessment of the meaning and applicability of the *Swann* decision to former *de jure* school systems, however, is another matter. The vast differences which exist among Southern school districts today defy formulation of a single definition of the desegregation problem or an approach to it. Reconciling the need for uniformity and clarity of legal standards with the equally important need for flexibility to take account of vastly different situations is a constant struggle, and one which in the end probably can never be fully or nearly resolved. In order to understand how the Court's decision is to be translated into practical results, it is necessary first to have in mind the differing characteristics of former dual systems, what has happened to them in the last few years, and the kinds of remaining problems to which *Swann* may apply.

Although there is tendency to refer to "the South" as if it were a single entity of school districts of equal sizes, shapes and rates of progress, it is as divergent and complex in its makeup as any other part of the country. Some districts, like Charlotte-Mecklenburg, are urban centers having relatively large racially-homogeneous residential patterns too broad to enable school children to walk to integrated schools. Atlanta, Memphis, Miami, Birmingham, Dallas, Richmond and Mobile are other examples. Other school districts are of medium geographic size, having a combination of urban and rural patterns, where some children attend schools near their homes and others are bused for miles. Still other school systems are predominantly rural, where 90 percent or more of the children are transported to school and always have been. School populations vary similarly, ranging from cities like Houston, Texas, with almost a quarter of a million school children, to school districts having less than 300 children.

Superimposed on these wide ranges in geographical and population differences is an equally wide range of racial composition. Contrast the small, rural district of Claiborne, Mississippi, (86 percent Negro children) and the Washington, D.C. system (95 percent Negro children) with Pickens County, South Carolina (about 12 percent black) and Nashville, Tennessee (about one-quarter Negro enrollment). The range between all-black and all-white systems is virtually unlimited, making it impossible to say, for instance, that *Swann* requires a general rule that there be no more majority black schools.

Other factors which the Supreme Court found relevant in defining a school district's constitutional duty also vary from one district to the next. School sizes and capacities are considerably different. The quality of facilities varies, with some in excellent condition (a number of black schools were built after the *Brown* decree with the mistaken hope that this would forestall integration), and others, both black and white, in deplorable shape.

Perhaps the most complicating factor of all, however, stems from the progress that has been made in school desegregation over the last couple of years. Between 1954 and 1968 it was relatively easy to identify dual systems since there had been little actual desegregation, and the duality of the schools remained largely intact. (That is not to say, of course, that there was little federal and private civil rights agency activity during this time. The historic effort to achieve freedom of choice for black children; the failure of that policy once it had been achieved; and the continuing pressure for assuring the actual desegregation of schools are well known).

DESEGREGATION PROGRESS

That there has been substantial change in the racial composition of individual schools in the South during the last two years is a matter of record, although still too dimly perceived by the public generally. When school opened in the fall of 1968, only 18 percent of the 2.9 million Negro children in the 11 Southern states attended schools which were predominantly white in their student enrollments. In the fall of 1970, that figure had more than doubled to 39 percent. Over the same time period, the percentage of Negro children attending 100 percent black schools dropped dramatically from 68 percent to 14 percent. In 1968, almost no districts composed of majority Negro (and other minority) children were the subject of federal enforcement action. It was thought up to that time, and perhaps rightly, that the limited resources of the government ought to be focused primarily on the districts which had a majority of white pupils, where the greatest educational gains might be made, and where actual desegregation was not as likely to induce white pupils to flee the system, leaving a virtually all-black system behind. Nevertheless, this decision to reserve enforcement in these districts was a mixed blessing, inasmuch as almost 40 percent of all the Negro children in the South live in systems where blacks are in the majority. Obviously, the greater the amount of desegregation in majority black districts, the fewer will be the number of black children attending mostly white schools. Ironically, the better the results in such districts, the fewer the number of minority children who will be counted as "desegregated" under a standard which measures only those minority children who attend majority white schools.

In order to account for this recent anomaly, HEW has begun to extract from its figures the number of minority children who live in mostly white districts and who attend mostly white school. Last year, approximately 54 percent of the Negro children in the South who live in such districts attended majority white schools. Conversely, nearly 40 percent of the 2.3 million white children who live in mostly black (or minority) districts now attend mostly black (or minority) schools.

These changes do not stand alone, of course, but are a reflection of changes that have taken place generally in race relations in the South. In voting rights, in public accommodations, as well as in schools and other areas of life, progress has come only recently, but it has been substantial. Indeed, the recent census studies showing a sharp decline in the northward migration of Southern minorities can be attributed in part to a change in attitudes, behavior, and conditions. James Meredith's recent departure from New York for Mississippi, to live in what he terms a more hospitable environment for Negroes, probably should not be considered an aberration.

The purpose of recounting these advances in race relations and school desegregation in the South is not to contradict the need for further vigorous civil rights enforcement, nor is it to offer up gratuitous commendations. It is merely to point out that conditions have been altered substantially enough to complicate significantly the tasks of identifying the remaining problems and devising appropriate remedies.

DISTRICT-BY-DISTRICT APPROACH

When this general progress is examined on a district-by-district basis, as it must be for compliance purposes, the region's varying degrees of progress become obvious. In many districts, the dual system has been fully disestablished, and the communities have moved beyond dealing with *Swann*-type problems to dealing constructively with the kinds of educational problems that exist within any integrated school district, North or South. In other school districts, while most of the schools may be integrated, one or more may still retain racially-identifiable vestiges of the former dual system. And in a few districts, including the urban districts to which *Swann* is primarily addressed, although some desegregation has occurred, additional movement clearly must be made to eliminate substantial remnants of former total segregation.

In the first instance, it seems clear that *Swann* does not change the overall objective of the school desegregation effort—that is, the elimination of the dual system of schools based on race. In *Brown v. Board of Education* the Court stated the principle implicity in its holding that "in the field of public education the doctrine of 'separate but equal' has no place." In *Green v. County School District*, the Court stated the objective by holding that former *de jure* systems have an obligation to operate "not black schools, and not white schools, but just schools." And in *Swann* the Court says that, "The objective today remains to eliminate from the public schools all vestiges of state-imposed segregation." [Slip op. p. 10].

Of course, these generalizations have many practical questions unanswered. What is a "black school" or a "racially-identifiable school," and how does one go about identifying one? If a school is racially-identifiable, what is the appropriate remedy? These and a host of related questions must be answered in light of *Swann* on a case-by-case basis.

DEFINING RACIALLY IDENTIFIABLE SCHOOLS

With regard to how one identifies a racially-identifiable school, the Supreme Court in *Swann* has provided additional guidance consistent with its previous rulings. Traditionally, the focus of the school desegregation effort has been on pupil assignment policies. Nevertheless, the Court clearly indicates that all aspects of a school system must to be taken into consideration.

In *Green*, we pointed out that existing policy and practice with regard to faculty, staff, transportation, extracurricular activities, and facilities were among the most important indicia of a segregation system. 391 U.S., at 435; independent of student assignment, where it is possible to identify a "white school" or a "Negro school" simply by the racial composition of teachers and staff, the quality of buildings and equipment, or the organization of sports activities, a *prima facie* case of (a) violation . . . is shown (*Swann*, slip op., p. 14).

Our first administrative step has been to make a comprehensive analysis of all districts in the 17 Southern and border states in order to identify those districts that appear potentially subject to *Swann* relief. Since pupil assignment is the primary area of concern, we have sought to analyze districts' pupil enrollment status through a review of the information they have provided us in the National School Survey.

Having this information in a data bank, we have compiled a computer print-out revealing the names and locations of all Southern school districts having one or more schools composed mostly of local minority students.* More than 3600 Southern school districts today do not have any schools mostly black in pupil composition (or mostly white in a district composed mostly of blacks). Of the districts surveyed, about 650 were found to have one or more schools of this kind (of which only 219 were found to have had one or more schools between 90 and 100 percent local minority). Of these 650 districts about 350 were found already to be under court order or in litigation, leaving about 300 appropriately subject to further review and potential enforcement action by HEW.

Our next step has been to look at the raw data in these 300 HEW districts in order to determine, as best we can, which ones appear to be required to take additional steps in light of the *Swann* decision. A school system which is 45 percent black, and which has only one majority black school which is 52 percent black, would be eliminated from the group subject to potential enforcement. (This assumes that no other compliance problems, such as a failure to desegregate faculty, discriminatory treatment of teachers, etc., appear in the file.) Of the initial 300 districts, about 75 were eliminated on this basis alone at first review, leaving the balance for further analysis.

In making a further analysis, the task has been more complex. Some districts, of course, show a pattern of racial identifiability clearly indicating the vestiges of the former dual system. In such cases, the need for enforcement action is clear, and steps to this end are currently underway.

The vast majority of non-court involved districts, however, have only one or a few schools racially identifiable, with most of the schools in the system already desegregated. In almost all of these cases, the student enrollment information itself cannot tell the story. Hence, it becomes even more important to look at other pupil assignment factors, and other non-student factors, in order to determine whether the school is still a vestige of the dual system and capable of being desegregated further in line with *Swann*. Is the school which appears, in the words of *Swann*, to be "substantially disproportionate" in its composition a former black school? Has it always been a black school? If not, why has it become one?

ELIMINATING RACIALLY IDENTIFIABLE SCHOOLS

The next series of questions relates to what can be done to eliminate the racial identifiability of the schools. Is the school presently not fully desegregated because remedies were impossible in the past, and if so, in light of *Swann*, are new remedies applicable or still impossible? Is the school located geographically in a position where it cannot be paired with other schools in the system? Is it a sound facility? What capacity problems, transportation problems, or other problems are there, and are they substantial enough to deter a further remedy? If the pupil composition is not clearly racially-identifiable, but only marginally so, what other considerations are to be identified and brought to bear on a decision as to whether the school is still part of a dual system? Is the school a "second-class" school of a kind found when the dual system operated, or is it a full and equally participating member of the school community at large?

It is the gathering and analysis of information bearing on these questions which have engaged our efforts to a large extent during the summer months. In order to assist us in this effort we have sent approximately 65 letters to districts informing them that on the basis of the information on hand, it would appear that the *Swann* decision does or may apply. In some cases the district's reply will permit a prompt determination of the issues, either indicating that the dual system has been disestablished, or that further steps are clearly required. In other cases the letter is only the beginning of further inquiry. In the cases where final analysis establishes a violation, the districts are required to submit a remedial desegregation plan, or become the target for enforcement proceedings.

As for the timing of our enforcement efforts, *Alexander v. Holmes County* and the *Swann* decision require that where remedial steps are required, they must be taken immediately. As a practical matter, this translates to a deadline of the opening of school this fall. We are therefore working to analyze files, notify districts, negotiate for voluntary relief and compel compliance within this time period. We believe that it can be accomplished by Fall in most, if not all, of the district required to take desegregation steps under *Swann*.

Although the Court leaves the definition of the goal of desegregation still in general terms—i.e. the dismantling of the dual system, the elimination of racially identifiable vestiges of state imposed segregation, or the achievement of the "greatest possible degree of actual desegregation"—the Court deals in more specific terms with methods to reach that goal. While court-order and administratively-enforced desegregation generally did not make use of non-contiguous zoning or the additional transportation typically resulting from it, the Court in *Swann* has now held that these are legitimate tools and that these devices, as well as rezoning or gerrymandering, contiguous pairings, and the effective use of existing transportation, must be used if necessary to disestablish the dual system.

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*"Local minority students" means those students who constitute less than half of the student population of the district, regardless of their race. Hence, in a majority black district, "local minority students" will be white-Anglo students. The term "minority student" without the designation "local" refers to a student who is other than white-Anglo—i.e., Negro, Spanish-surnamed, Oriental, or American Indian.

Having significantly added to a school district's tool box for implementing desegregation steps, the Court has also made clear that these tools need to be used within the limits of practicability. It then leaves to schools officials, the executive branch and the lower courts the task of determining what is "practicable" in any particular case. The Court makes clear, for instance, that some all-black or virtually all-black schools, even where they are identified as the vestiges of the dual system, may continue to exist by virtue of the practical limits to be placed on non-contiguous zoning and additional transportation.

In light of the above, it should be clear that the existence of some small number of one-race, or virtually one-race, schools within a district is not in and of itself the mark of a system which still practices segregation by law. The district judge or school authorities . . . will . . . necessarily be concerned with the elimination of one-race schools. No *per se* rule can adequately embrace all the difficulties of reconciling the competing interests involved; but in a system with a history of segregation the need for remedial criteria of sufficient specificity to assure a school authority's compliance with its constitutional duty warrants a presumption against schools that are substantially disproportionate in their racial composition. Where the school authority's proposed plan for conversion from a dual to a unitary system contemplates the continued existence of some schools that are all or predominantly of one race, they have the burden of showing that such school assignments are genuinely nondiscriminatory. [*Swann*, slip op. p. 22].

Since no *per se* rule can be drawn where virtually one-race schools are proposed, what constitutes enough to satisfy the school authority's burden of showing that such schools are permissible? Having indicated on the one hand that remedies may be "administratively awkward," the Court immediately thereafter states that, "No fixed or even substantially fixed guidelines can be established as to how far a Court can go, but it must be recognized that there are limits." [*Swann*, slip op. p. 24]. Specifically, with regard to transportation, the Court also declines to be more specific than to note that transportation has been "an integral part of the public education system for years." The Court states specifically that, "The scope of permissible transportation of students as an implement of a remedial decree has never been defined by this Court and by the very nature of the problem it cannot be defined with precision." [*Swann*, slip op. p. 25]. The Court is a little more specific, (although not much) in noting that—

"An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process. District courts must weigh the soundness of any transportation plan in light of what [has been] said . . . above. It hardly needs stating that the limits on the time of travel will vary with many factors, but probably with none more than the age of the students. The reconciliation of competing values in a desegregation case is, of course, a difficult task with many sensitive facets . . ." [*Swann*, slip op. pp. 26–27].

Despite the clear thrust of the *Swann* decision, we are still left with the need to exercise discretion in defining what limitations on non-contiguous zoning and new busing are appropriate, and what in general constitutes "impracticalities" within the meaning of the Court's qualifying phrase in the *Davis* opinion. Of course, this discretion is not without bounds defined by experience. Ultimately, giving meaning to this standard requires looking at the specific facts in the district and judging its compliance obligations by what can actually be achieved, not by intentions. Transportation is a traditional and legitimate tool, and should not be regarded as otherwise simply as a method of avoiding the constitutional duty to eliminate racially-identifiable schools. At the same time, transportation can, as the Court noted be taken to an excess, to the point where the children transported, regardless of race, are unable to appreciate or function well in the schools to which they are assigned. Reconciling these competing interests must of necessity involve a case-by-case analysis of what can and must be done.

LOCAL BIRACIAL COOPERATION

Experience clearly indicates that this reconciliation is greatly aided when a biracial committee or other mechanism for bringing the communities together is in operation. When the design of a desegregation plan is influenced by honest biracial participation, its chances of working in fact, as well as on paper, are immeasurably improved. Only a few weeks ago in Jackson, Mississippi, with drama unnoticed outside that city, the black community (represented largely by the NAACP, Inc. Fund) and the white community (represented largely by the school board) were able to develop a desegregation plan of their own making and design. As a result, one can hope with at least some justification that when school opens this fall the plan will actually work. Similar kinds of community involvement appear to have had a legitimate impact on the plans recently agreed upon in Mobile, Alabama; Nashville, Tennessee; and other large districts in the South.

Implementation of the *Swann* decision may represent the last chapter in the historic effort to transform the dual school structures of the South into unitary systems. The need for consistent Federal presence continues, and will be provided until the task is complete. With the results that have already been achieved, and the constitutional mandate to culminate the process now clearer, the white and minority communities of the South can look forward to the day when the dual system and all its vestiges will be behind us, and the educational needs of children can be served without regard to race, color, or national origin.

Nixon Administration Desegregation

(By Cynthia Brown)

The Supreme Court's landmark school desegregation decisions in *Swann* v. *Charlotte-Mecklenburg Board of Education* and companion cases,[1] appear to be viewed by the Nixon Administration as a way out, once and for all, of the political controversy over dismantling the dual school structure in the South. This is not to say, even with firm enforcement of the *Swann* standards, that the issue of federal responsibility in providing equal educational opportunity will have been resolved in the South (any more than it has in the North), but the battleground is shifting. New struggles are emerging such as establishment of private segregation academies, discrimination in faculty and staff dismissals, in-school segregation of students, and inequities in school finance. In the meantime, this article focuses on the Nixon Administration's likely implementation of *Swann*.

On April 20, 1971, the Supreme Court ruled that there is a "presumption against schools that are substantially disproportionate in their racial composition"; that the neighborhood school policy is no longer sacrosant; that segregatory school systems must be undone even by arrangements which are "administratively awkward, inconvenient and even bizarre"; and that busing is an acceptable desegregation tool. This ruling should have laid to rest the Nixon Administration's major augments, based upon its political priorites, with respect to school desegregaton.

Apparently, few in the Nixon Administration expected the *Swann* decision. More than two years of political oratory had strongly implied that school desegregation standards would be weakened in the South. Bureaucratic in-fighting involving HEW, the Department of Justice, and the White House had resulted in at least a standstill, if not a significant desegregation retreat.[2] The Administration had sustained some stinging setbacks in the courts—particularly the *Alexander* decision ordering an end to segregation "now" and requiring the desegregation of most southern districts by the fall of 1970. As a result, the Administration seemed to feel that the basic issue of segregated student assignment had been resolved. It was felt that the job was completed, especially in rural areas and medium-sized cities, and that problems accompanying physical desegregation—so-called "second generation" problems—would be worked out with minimum federal effort and low visibility.[3] The Administration apparently felt that, at worst, the Supreme Court would rule that the plans in question—the Mobile neighborhood school plan and the Charlotte racial balance plan—were both acceptable on the ground that each got a fair hearing. With two conflicting plans upheld, no matter what the accompanying language, there would be great room for administrative interpretation and no need to reopen many cases. If this was the Administration's expectation, it must have been disappointed.

The Administration's initial reaction to the *Swann* decision was terse. Ronald L. Ziegler, White House Press Secretary announced the day after the decision that—

"The Supreme Court has acted and the decision is now the law of the land and it is up to the people to obey it. It is up to local school districts and courts to carry out the court decision. The Department of Justice and HEW will carry out their statutory responsibilities."

The Administration's position was somewhat clouded a day later by HEW Secretary Elliot Richardson in a speech to an NAACP Legal Defense Fund dinner in New York City. The Secretary seemed to be falling back on the ambiguous rhetoric which had characterized the Administration:

"The awareness of the indispensable part played by individual understanding and mutual trust is at the heart of Administration policies in the field of civil rights. We are committed to the full enforcement of the requirements of the law. But we are convinced that these requirements can now be fulfilled more effectively by cooperation than by coercion, by persuasion than by force."

COOPERATION AND LOCAL RESPONSIBILITY

Word emanated from the White House that two general principles for dealing with the decision had been adopted: cooperation, not coercion, as Secretary Richardson had said, would be the approach; and the burden of new desegregation requirements would be borne mainly by southerners, not the Federal Government. There were reports that the Cabinet Committee on Education [4] and seven

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Footnotes at end of article.

State Advisory Committees on Public Education (formed last summer in Alabama, Arkansas, Georgia, Louisiana, Mississippi and North and South Carolina) would be reactivated to aid in the local effort. These were alarming signals to those concerned with bringing about total school integration. Politically motivated handholding of local officials would be one thing, but to ignore completely a clear Supreme Court mandate and turn a well-established federal responsibility over to state and local governments would be outrageous and totally unacceptable.

Further clues regarding the Administration's response to the decision were not forthcoming. This was discouraging; if meaningful action were to be required, it would have to be initiated soon because of the time required for major reorganization of large urban school systems. Then on May 13, 1971, syndicated columnists, Rowland Evans and Robert Novak reported that a major struggle was going on between HEW and the Department of Justice over implementation of *Swann*. Attorney General John Mitchell was pushing a "go slow" approach, they reported, while HEW officials were urging vigorous action. Forces in the White House were said to be equally divided. Subsequent reports raised questions about the accuracy of the Evans and Novak interpretation of federal intentions. It is now widely speculated that the Evans and Novak article was planted by the Administration to cover positive federal action.

THE AUSTIN PLAN*

The Administration was forced to respond one way or the other to the *Swann* decision on March 14, 1971. The Department of Justice had been ordered by a federal district judge to submit a final desegregation plan for Austin, Texas on that date. The Austin case had involved the HEW Title VI and Title IV offices and the Justice Department for several years. After prolonged but unsuccessful negotiations over plans proposed by HEW and the Austin School Board, HEW had initiated Title VI enforcement proceedings against Austin. An administrative hearing had been held January 20, 1970, and the hearing examiner ruled in HEW's favor on August 7, 1970. But Austin school officials would not budge, and with the Fall 1970 deadline for the completion of Southwide desegregation fast approaching, the Department of Justice filed suit against the district.

Austin was not a simple case. Strictly segregated housing patterns for blacks and Mexican-Americans made meaningful school desegregation impossible without substantial busing. The judge did not order a final plan to be implemented in September 1970, but instead ordered an interim plan for September and called for final plans for the following September to be submitted later. The Department of Justice did not appeal this two-part ruling because it apparently had not developed thoroughly the portion of the case dealing with Mexican-American students. Further delays by the judge and the Justice Department caused May 14, 1971 to be set as the final date for both the school board's and Federal Government's submission of plans.[5]

The HEW desergregation plan for Austin embraces the most positive principles of the *Swann* decision. It does not racially balance every school, as did Dr. John Finger's plan for Charlotte, North Carolina, but it does use several non-contiguous zones and requires extensive new busing necessitating the purchase of perhaps as many as 100 buses. Under the district's existing student assignment plan, 19 schools have over 85 percent minority student enrollment. Under the HEW plan, all high schools and junior high schools would have Anglo majorities and only eight of 54 elementary schools would remain between 50 and 60 percent black and Mexican-American combined. (All eight would involve contiguous pairing.)

If the Austin case should turn out to be the model Administration response to the *Swann* decision, "cooperation rather than coercion" refers more to the politics of desegregation than to the process itself. The HEW plan was transmitted by letter to the Austin Superintendent with a copy to the judge, rather than directly to the judge as is sometimes the case. The letter began by complementing Austin school officials on their own plan, in which HEW said they had incorporated the concepts of the *Swann* decision and outlined an educationally sound approach.[6] The HEW letter then detailed the Department's recommendations for improvements upon the district's plan.

QUESTIONS FROM AUSTIN

While the HEW-Justice Department plan for Austin seems to be a positive interpretation of *Swann*, two reservations are in order. HEW developed its plan without accurate and up-to-date pupil locator maps so that some of the boundary lines appear to be based on erroneous data. HEW officials have unofficially said they will amend the plan to correct these errors, which so far seem to have been bureaucratic in origin and not based on policy decisions. More importantly, while eight elementary schools will have enrollments of between 50 and 60 percent minority students, there are schools which are still overwhelmingly Anglo. Even though there are several non-contiguous pairing arrangements, there are 11 majority Angeo schools remaining in single school zones. Of these 11, five have over 85 percent Anglo enrollment, including one which is 100 percent Anglo. This imbalance may well lead to resegregation of some of the newly desegregated schools. The Federal Government's legal responsibility to insure that resegregation does not occur is, however, not clear.

The Supreme Court concluded *Swann* by holding that where adequate remedies for past segregation have finally been implemented, federal courts will not continue to require readjustment of attendance zones to reflect changing population patterns. The possible meaning of this is that once the last vestiges of the old system of official segregation have been eliminated, Southern school districts will be on the same legal footing as those outside the South in which subsequent racial imbalance resulting from changing residential patterns will not be attributed to the old *de jure* system. The Administration seems to be reading *Swann* as requiring the elimination of almost all, if not all, majority black schools (and Mexican-American schools, in the Austin case) without regard for the composition of the white schools. It is obviously going to use predominantly or all-white schools in non-contiguous pairings with black schools, but it is not going beyond the issue of predominantly minority schools to the combined issues of "tipping points" and racial balance assignment plans to erase the danger of resegregation. It seems to feel that in *Swann* the Supreme Court has said that elimination of identifiable minority schools is the end of public responsibility for eliminating the *de jure* system of segregated schools, and therefore, the last political controversy in Southern school desegregation. In its view, the South then becomes like the North, and the political implications of that are in the future and have decidedly different dimensions.

While the Administration has gone further than ever before, the fact remains that in the Austin case the Administration reacted defensively—from a direct order of a court outlining the necessity of some response.

NASHVILLE SOUNDINGS

The Administration has repeated its Austin posture in a second case—Nashville, Tennessee. In Nashville, the plaintiffs are represented by the NAACP Legal Defense Fund, but the HEW Title IV Office was ordered to draft a desegregation plan. On June 1, HEW submitted a plan similar to the Austin one, eliminating the racial identification of at least 28 of 29 majority black schools and calling for extensive busing. But here too it left 38 schools (25 percent of all the schools in the system) more than 85 percent white, a situation which may well result in resegregation.

Most large urban areas in the South are involved in suits brought by the NAACP Legal Defense Fund. The Justice Department has intervened in some of these cases, and judges have often called upon HEW to develop the plans. Southern judges have tended to rely more on HEW plans than private plaintiff plans, and the Department of Justice must approve all HEW plans submitted in court cases. The Nashville action is at least a precedent for future Government action to eliminate most identifiable minority group schools in cases brought by private plaintiffs in which a judge orders them to draw up a plan. Some critics, however, have said that Austin and Nashville are "one-shot deals" and do not constitute a pattern. That remains to be seen.

REOPENING OTHER WOUNDS?

Austin is a suit still before the courts but initiated long ago by the Department of Justice. The real question is whether the Justice Department will file new motions in cases now dormant, and whether HEW will renegotiate Title VI desegregation plans where they conflict with *Swann*. At least three of the HEW districts are large urban areas: Prince Georges County, Maryland, a suburb of Washington, D.C.; Columbia, South Carolina; and San Antonio, Texas. HEW and the Department of Justice have several medium-sized cities for which they are directly responsible. HEW, for example, is responsible for Marion County, Florida; Gulfport, Mississippi; Kinston City, North Carolina; Sumter, South Carolina; and Hampton and Alexandria, Virginia, while the Justice Department is responsible for Natchez and Hattiesburg, Mississippi; Florence, South Carolina; and Lubbock, Ector County (Odessa), Port Arthur, and South Park, Texas. The most certain indication that the Administration is responding in a consistent and comprehensive manner to the *Swann* decision will be its decision with respect to correcting plans with seriously imbalanced schools in small districts, many with majority black student enrollments. Two examples are Humboldt County, Tennessee and East Tallahatchie, Mississippi.

Humboldt County has approximately 2800 students, 43 percent of whom are black. Under the court-ordered desegregation plan not appealed by the Justice Department, 88 percent of black elementary school students attend a school which is 83 percent black. The other elementary schools are virtually all white. In East Tallahatchie, Mississippi, with a 2700 student enrollment which is more than 60 percent black, a consent decree was entered into by the school district and the Department of Justice. As described in *The Status of School Desegregation in the South, 1970:*

"The plan provides for a single 'attendance center' for grades 7–12, made up of the former black and the former white high school. At each grade level, some courses are offered at one school and some at the other, and students are bused back and forth between the two 'campuses.'

"At the elementary school level, the district is divided into two zones. One zone produced a school projected to be about 84 percent black, but when our monitor visited the district after school opened, the school turned out to be all-black.

Footnotes at end of article.

"The other elementary zone is served by a single 'attendance center,' made up of three schools. Each elementary student in that zone spends part of his school day at each of three schools, and of course, spends another large part of the day riding around between the schools in a school bus.

"This astonishing plan was apparently adopted in an effort to appease the local white community. White parents would not stand for their children attending formerly black schools for the whole day, but could tolerate them passing through these schools in the course of a bus shuttle tour each school day."[7]

If the Administration decides to pursue all the above types of cases consistently, one further question must be raised—when will it begin the comprehensive approach? It generally takes several months for HEW to notify a district that further change is required and to negotiate a settlement, and for the Department of Justice to file new actions, set a hearing date, develop a new plan, and get a judge to order it. School opens in less than two months. If the government does not act this summer, is it likely to act any nearer to Election Day 1972?

ADMINISTRATION PATHWAYS

All the returns are not yet in on the question of how the Nixon Administration is responding to Swann. But if its actions to date are distinguished from its rhetoric, the Administration, at a minimum, has apparently started on a positive pathway toward eliminating minority group schools—but a cynical one ignoring the dangers of resegregation. There is nothing to suggest it will deviate from that path, but bitter experience has taught caution about characterizing this Administration's intentions with respect to school desegregation. The reasons for the Administration's initial positive position regarding the requirements of Swann are not immediately apparent, but may involve the following factors:

(1) After closer examination, the Administration may have found that the problems of desegregating student assignment in many school districts has indeed been completed. The Swann decision deals with little other than the physical aspects of desegregation, and it probably has less effect on the Administration's required performance than the Alexander decision did. Furthermore, it sets forth conditions under which the Federal Government's responsibility is ended, at least as the Nixon Administration interprets it. The Federal Government has some large urban districts in the South for which it is directly responsible, but most urban areas are handled by private plaintiffs. Inaction of earlier Administrations—not so much for political reasons as for a lack of legal remedy in large southern urban areas with de jure segregated school assignment patterns reinforced by segregated housing patterns—resulted in private plaintiffs filling the litigant void. The Administration may have concluded that it could weather isolated political storms over the limited positive responses to the Swann decision.

(2) While it would be a gross overstatement to speak of a wave of liberalism sweeping the South, it is not too much to say that the blatant politics of race, as practiced throughout the South in the past, are no longer acceptable in most quarters. This must have been perceived by even the "South strategists" within the Administration. Those who have counseled that policies designed to capture the Wallace vote were essential to a second term for this Administration may not be calling the shots. Instead, the Administration may be reacting politically to some moderate straws in the wind—to the successful campaign of Governor John West in South Carolina against his racist Republican opponent, former Congressman Albert Watson; to the public acceptance of the moderate posture of Republican Governor Linwood Holton of Virginia on the race question; the election of Governor Reubin Askew and Senator Lawton Chiles in Florida, and Governor Jimmy Carter and the appointment of Senator David Gambrell in Georgia; and the reported problems of Governor George Wallace in his home state of Alabama. Much of the moderation on the race question appears to have occurred in the Democratic Party, the traditional seat of Southern racial politics. If this could happen in the Democratic Party, the Administration strategists may have reasoned, perhaps—just perhaps—the Republican Party likewise can afford to deal with issues of equal educational opportunity, discrimination in education and segregated schools on the basis of substance without suffering politically. As the conservative columnist and former Mitchell aide Kevin Phillips wrote on June 22:

"The major ingredient of President Nixon's new suburban housing policy appears to be political fakery.

"Mr. Nixon is following the same pattern he has followed in his 'defense' of the neighborhood school—a heavy opening barrage of conservative rhetoric followed by a subsequent activity in the other direction.

"Actually, Nixon officials know they will be moving in liberal directions—with a zig-zag or two—from the moment they completed their calculated conservative public relations buildup."

If indeed the Administration needs to react to race-related issues in the way suggested by Mr. Phillips, perhaps that may account—at least in part—for what appears to be a relatively positive Administration reaction thus far to court rulings on school desegregation and particularly to the Supreme Court's *Swann* decision.

(3) There are now other issues in the school desegregation/integration struggle which may be or will be causing greater administrative and political headaches for the Administration than the physical desegregation issues dealt with in *Swann*. These include (1) the government's responsibility to desegregate northern schools; (2) the growth of segregated private schools as alternatives to public education both North and South, along with the financial crisis of traditionally segregated parochial schools; (3) the signs (such as the school suit in Richmond, Virginia) of possible legal requirements that all metropolitan area schools must be integrated; (4) the destruction of black authority figures in Southern schools through the dismissal and demotion of black principals and teachers; (5) the problems of in-school segregation and of discrimination against students, especially through the use of culturally-biased tests and ability grouping; (6) the general nationwide phenomena of racial conflict and unrest in high schools; and (7) the emerging legal mandates to correct fiscal inequities, at state levels particularly, but also at the federal levels, in the financing of public schools.

With these issues facing them, the Administration may have decided to put the easier issue—physical desegregation—behind it once and for all.

FOOTNOTES

*As this article went to press July 19, 1971, Federal District Judge Jack Roberts rejected the HEW desegregation plan for Austin elementary and junior high schools, and adopted instead the local school district's plan which would establish fine arts, social science, avocation and science centers to which pupils of all races would be bused.

The Junior high plan also reassigns all black pupils to schools "that are not identifiable as Negro schools." The senior high plan, agreed to by both HEW and the local district, would close a predominently black school this year and reassign the black pupils to schools not identifiably black. Judge Roberts rejected the Government's request to give every school the same racial and ethnic mix as the city at large (65% Anglo, 20% Chicano, 15% black). [New York Times, July 20, 1971, p. 17].

The question remains whether the Justice Department will appeal this decision.

[1] *Swann v. Charlotte-Mecklenburg Board of Education*, 91 S.Ct. 1267 (1971); *North Carolina State Board of Education v. Swann*, 91 S.Ct. 1284 (1971); *McDaniel, Superintendent of Schools v. Barresi*, 91 S.Ct. 1287 (1971); *Davis v. Board of School Commissioners of Mobile County*, 91 S.Ct. 1289 (1971); *Moore v. Charlotte-Mecklenburg Board of Education*, 91 S.Ct. 1292 (1971).

[2] Through the early months of the Nixon Administration, the Federal Government attacked school segregation on two fronts—in court by the Department of Justice under Title IV of the Civil Rights Act of 1964 and the Fourteenth Amendment, and administratively by HEW under Title VI of the Civil Rights Act of 1964. Subsequently, the use of Title VI was abandoned and practically all enforcement responsibility was transferred to the Department of Justice. The NAACP Legal Defense and Educational Fund, Inc. is currently suing HEW for failure to enforce Title VI.

[3] "Underlying these problems is the mistaken belief that desegregation is simply the mixing of black and white students in schools and no more. Little attention has been paid to the way in which student assignment has been carried out or to what happens to black students and faculty in 'desegregated' schools. The latter concerns are sometimes viewed as 'second generation' desegregation problems which, it is thought, will work themselves out after the 'primary' task of mixing the bodies is accomplished." *The Status of School Desegregation in the South, 1970*, a Report by the American Friends Service Committee; Delta Ministry of the National Council of Churches; Lawyers' Constitutional Defense Committee; NAACP Legal Defense and Educational Fund, Inc.; and the Washington Research Project; December, 1970; p. 2.

[4] The Cabinet Committee on Education, originally chaired by Vice President Agnew, is now chaired by George P. Shultz, Director of the Office of Management and Budget.

[5] The judge had ordered the HEW Division of Equal Education Opportunity (Title IV Office), the technical assistance unit under Title IV of the Civil Rights Act of 1964, to draw up the plan for the Department of Justice.

[6] "Having had an opportunity to review that proposal, we note that your Board has put forth a plan of desegregation which embraces those concepts of student assignment, such as non-contiguous zoning, which have been recognized by the United States Supreme Court in the recent *Swann* decision as legitimate tools for achieving stable and educationally sound desegregation in former *de jure* school systems.

"Although we have not yet completed a definite review of your locally developed proposal, we believe it provides the basis for an educationally sound approach. We, therefore, wish to offer the following comments on your proposal which we hope will assist you and, according to its request, the Federal District Court in Austin in meeting current United States Supreme Court standards. We feel that it would be more helpful to you and to the District Court for us to start with the essentially sound elements of your plan taking into account the judgments of both your school board and the Tri-Ethnic Citizens Advisory Committee which it appointed." Letter of May 14, 1971, from Mr. Tom Kendrick, Senior Program Officer, Dallas Office of Division of Equal Educational Opportunity, U.S. Office of Education, to Dr. Jack Davidson, Superintendent, Austin Independent School District, p. 1.

[7] *The Status of School Desegregation in the South, 1970*, p. 16.

SEGREGATION, NORTHERN STYLE*

(By Paul R. Dimond)

School segregation in the North is pervasive and, with the exception of a few communities which have implemented systemwide desegregation plans, it is growing.** The question facing the courts is whether this school segregation violates the 14th Amendment. This article describes recent court actions which have held that it does and explains the reasons why.

Examination of Northern school segregation decisions, and the proof underlying them, suggests that in recent years courts have revisited the issue with far greater sophistication than previously. Courts are coming to understand that for many years authorities in almost every community have assigned pupils and teachers to particular schools. School segregation, therefore, has not just "happened" and is not adventitious, but has resulted from the actions of public officials. In such circumstances, it is not surprising that school segregation, North as well as South, is viewed as "state-imposed" and unconstitutional under the 14th amendment.

The early "northern" school segregation decisions were few and conflicting. Three circuits held school segregation constitutional in Cincinnati, Gary and Kansas City,[1] while the 2nd circuit reached the opposite result in New Rochelle.[2] At the time these decisions were made, "free choice" pupil transfers in formerly dual school systems seemed permissible, and the affirmative 14th amendment obligations regularly applied to review of allegations of racial discrimination[3] had not yet been clearly applied to any school segregation.[4] *Green v. County School Board* [391 U.S. 431 (1968)] removed any lingering doubts: the traditional affirmative obligation under the 14th amendment was "in," and any form of "free choice" which did not end school segregation was "out." Since that time, a spate of decisions has consistently held school segregation actionable in many "Northern" cities: South Holland (Illinois),[5] Pasadena,[6] Las Vegas,[7] Los Angeles,[8] Pontiac (Michigan),[9] Benton Harbor (Michigan),[10] Denver,[11] San Francisco,[12] and Oxnard County (California).[13] Significantly, district and circuit judges have used a variety of constitutional theories to get around previous decisions in order to hold school segregation unconstitutional. *Swann*[14]—with its strong language on faculty assignment, equalization of facilities and resources, and school construction—only lends support to such decisions.

PROOF IN THE SEGREGATION PUDDING

In the new Northern cases, proof of a pattern of segregation has also been important to the judicial review of school segregation. This proof usually starts with statistics showing the extent of pupil segregation; the number and percentage of all or predominantly black and white schools, and the number and percentage of black and white pupils attending racially separate schools. In a hypothetical school system with 5,000 white and 5,000 black pupils, if 4,750 black pupils are isolated in schools with 250 whites and 4,750 white pupils are isolated in separate schools with 250 blacks, these figures, standing alone should speak thunder under any theory of constitutional law. Even if a particular judge is stationing to find a Grand Canyon dividing the respective black and white school populations (more than a railroad track presumably would be required), adequate justification for such a school system, dual in fact, will be difficult to find.[15]

In many school systems however, the racial separation of pupils is often not that complete; where the statistics on pupil segregation do not speak so distinctly, other proof may show a constitutional violation just as clearly. School authorities have conconsiderable discretion in assigning teachers and pupils to schools, constructing and locating schools and attendance boundaries, choosing initial student assignments, and setting transfer policies and enforcing them. Careful examination will reveal choices and practices, and their effects, which operate to segregate schools on a racial basis.

I. TEACHER HIRING AND ASSIGNMENT

Perhaps the most obvious, and telling, evidence concerns teacher hiring, and assignment. Whenever there are disproportionately few black faculty in any community's public schools, relative to the adult racial mix, there is a considerable likelihood of racial discrimination in hiring. Perhaps more telling is a pattern of black teachers being assigned primarily to schools with high concentrations of black students and white teachers primarily to schools with predominantly white student bodies. Schools are thereby identified as "black" or "white" by the faculty assignment,[16] and the inference of racial discrimination in teacher assignment is appropriate.

School authorities have little basis for asserting that "neighborhood" schools, transportation problems, or lack of control over the assignment of teachers are adequate justification for the prima facie racial assignment of the faculty.[17] Moreover, such racial patterns and practices in the hiring and assignment of faculty, over which school authorities undeniably have control, compel more careful scrutiny of patterns and practices of pupil assignment and any asserted justification therefore. [See, e.g., South Holland, Ill. and Pontiac, Mich.]

II. PUPIL ASSIGNMENT

The assignment of pupils to various schools often involves many processes. Where schools rely on geographic zoning for pupil assignment, the drawing of boundaries and the policing of the assignments, the size of schools, the grade structure, and the construction and location of new schools, additions to old ones, and placement of portable classrooms all help to determine which students attend particular schools. The pupil composition of schools is further affected by exceptions to strict reliance on geographic zoning. These include transfer policies ("optional zones," "free transfer," "free choice," "open enrollment," "majority to minority," "to promote integration at the receiving school"), transportation practices, and school plant use (i.e., practices relative to overcrowding and undercrowding at school buildings). I include plant utilization—over and undercrowding—in the set of practices which deviate from geographic zoning because administrative practices to equalize plant use may depart from geographic zoning. Manipulation of geographic attendance zones, of course, is also a possible response.

A. EXCEPTIONS TO GEOGRAPHIC ZONING

This set of practices often reveals how acts of school authorities create and perpetuate school segregation. "Optional zones" usually straddle the edges of geographic attendance zones to permit students to attend either school. Whenever optional zones exist between a predominantly black and a predominantly white school, their purpose is usually to allow whites to flee from the "black" school to the "white" one.—An identifiably "black" school is defined as a school with a disproportionately black student body and disproportionately black faculty relative to the systemwide racial mix; a "white" school has a disproportionately white student body and faculty. The almost invariable effect is that whites "choose" to attend the "white" school and blacks, with a few exceptions, the "black" school. In many instances, the constraints on choice inherent in the existence of the optional zone, and the identifiability of the schools, are further accentuated by the hostility school authorities show the few students who attempt to opt for the school of the opposite race.—Such hostility includes silent acquiescence in the pressures applied by students and their parents, especially white, to the child of one race that applies to the school of the opposite race, and simply lying about spaces available. [See, e.g., *HOBSON I*, 269 F. Supp., 401, 415–17, 499, 501; and Denver].

Similarly, "free transfer" and "open enrollment" policies—with transportation provided and space guaranteed at the receiving schools—often operate to intensify school segregation. While these policies theoretically allow any student to transfer from his school of geographic assignment to any other school in the system, purely racial reasons often can be shown to govern the transfer choices. In other instances, subtle pressure by school authorities may also promote a white flight from "black" schools, while discouraging a similar transfer by black students into "white" schools. Invariably, "free transfer" and "open enrollment" policies increase segregation: hordes of whites flee their geographically-assigned schools which are perceived as "black"; no whites transfer into "black" schools; very few blacks transfer into "white" schools; and some blacks "transfer" from "white" to "black' schools. [See, e.g., *Monroe v. Bd of Commissioners of Jackson, Tenn.*, 391 U.S. 448 (1968)]. "Hardship" and even "majority-to-minority-transfer" policies must also be closely examined, for in practice their enforcement may be honored in the breach and operate to segregate schools—Even if the only transfer policy in a school district is the constitutionally appropriate "majority-to-minority" variety with transportation and space guaranteed, *Swann* at 1281, and that policy is rigorously enforced, the results are predictably small: a few blacks elect to transfer to "white" schools and no whites elect to transfer to "black" schools—[See Pasadena and the May 22, 1971 Order of the Massachusetts Commission Against Discrimination].

BUS TRANSPORTATION AND SCHOOL UTILIZATION

Regardless of a system's transfer policies, the actual transportation of children may show how school authorities segregate schools. Black children may be bused to "black" schools past predominantly "white" schools with space available, or white students may be transported to "white" schools past predominantly "black" schools with space available. This patently "dual" transportation sometimes occurs under the guise of relieving overcrowding and maximizing the efficient use of the school plant. Only somewhat less subtle is one-way busing to "white" schools of white students who live much closer to "black" schools with available space. [See South Holland].

The pattern of school plant utilization may also provide proof of racial segregation. "Black" schools may be overcrowded while "white" schools have space. Or "black" elementary and "white' secondary schools may be overcrowded, while "white' elementary and "black" secondary schools are undercrowded. Or there may be a mix of "black" and "white" schools over and undercrowded. In each case, the equalization of school plant use could desegregate schools substantially. Under these circumstances, school authorities are faced with the choice of equalizing school plant use to integrate, or to segregate, or not to equalize plant use at all and perpetuate segregation. When over and undercrowding is clear and consistent over time, the failure to integrate by equalizing use of school plants constitutes a choice to impose segregation: it is the election of an option which intensifies segregation. [See Pasadena].

Footnotes at end of article.

Under any of these exceptions to geographic zoning, white students will never be transferred from "white" schools to "black" schools. [See San Francisco, slip op. at 18]. That practice is an archetype of how school systems cater to the flight of whites and their hostility to association with blacks. In determining and enforcing transfer, transportation and plant use policies, school authorities diverge from what they claim may be a general policy of "neighborhood" zoning. The way they are implemented may reveal not only how school authorities have chosen to impose segregation in any particular instance, but also how the "neighborhood" schools are intended to operate to contain blacks in separate schools.[18]

B. MANIPULATION OF GEOGRAPHIC ZONES

To examine geographic zoning as a basis for school assignment is necessarily to examine the relationship between attendance areas, actual school assignments, and residential patterns. These relationships must be subjected to searching judicial scrutiny. Assertions that school segregation results "from a neutral neighborhood school policy and housing patterns over which the school board has no control" should not be blindly accepted. When courts examine school officials' actions, school composition, and housing patterns, the following practices and patterns of state-imposed segregation in the schools are likely:

SCHOOL BOUNDARIES

Contiguous school attendance zones contain black and white children in separate schools. [See e.g., South Holland, Ill.].

School boundaries track a sharp demarcation between white and black residential areas. [See, e.g., New Rochelle, South Holland, and Pasadena].

Railroad tracks (or other arguable barriers) are used as school boundary lines when only blacks live on the other side, but attendance boundaries cross the tracks freely when both blacks and whites live on either side. [See, e.g., Pontiac and South Holland].

School attendance zones generally follow residential patterns that maximize school segregation. [See San Francisco and Pasadena].

When black residential areas expand, school boundaries are altered or maintained to perpetuate the containment of blacks and whites in separate schools. [See, e.g., Pasadena; *Hobson v. Hansen* (supplemental order of Jan. 1971); *Branche v. Board of Ed.*, 204 F. Supp. 150 (E.D.N.Y. 1962)].

Where pockets of one race reside within a large area of the other race, attendance zones coincide with the pocket and students living there are assigned to a non-contiguous school of their own race or, the equivalent, a school within the pocket just large enough to serve the students living there.

Where attendance zones encompass a mixed population, schools often remain predominantly black because whites are allowed to slip into other schools. The failure to enforce zone lines strictly may make every attendance area an "optional zone" for whites who wish to escape to a "white" school. [South Holland].

Despite this variety of manipulations, the school attendance zones of predominantly white residential areas are never altered to feed into a "black" school. [San Francisco e.g.].

SCHOOL SIZE

School capacities may vary with the racial composition of residential areas in a district. Large schools may serve vast areas which are predominantly black or white, but at the edges between white and black residential areas, smaller schools may minimize interracial education. Or school size may be finely tuned to meet the exclusive needs of a particular racial pocket.

GRADE STRUCTURE

The grade structure of schools may also be varied to segregate schools. Because the area served by a school varies with the number of grades it serves, schools may be structured (e.g., K–8 and 9–12) so that all schools in an area are predominantly of one race. An alternative grade structure (say, K–6, 7–9, 10–12) might lead to substantial integration in the very same schools. [See, e.g., South Holland].

CONSTRUCTION AND LOCATION OF NEW SCHOOLS, ADDITIONS AND PORTABLE CLASSROOMS

The size and location of new schools throughout a school district—in conjunction with attendance boundaries, grade structures, and teacher assignments—frequently create schools which open and remain predominantly white or black. [See, e.g., *Swann, Johnson, Soria, Spangler*]. In view of the vast range of options available to school officials in each decision, a pattern of predominantly one-race schools is strong evidence of that "quantum" of "state-imposed" segregation which compels judicial intervention to enforce the Constitution in the face of default by public officials—"If school authorities fail in their affirmative obligations . . . judicial authority may be invoked . . . In default by the school authorities . . . a district court has broad power to fashion a remedy that will assure a unitary school system." *Swann* at 1276. [See, e.g., Pontiac, Mich.]. A careful examination of the situation at the time of each new school opening—including the underlying residential pattern and the options available to school authorities—will usually confirm the inference compelled by the pattern.]—"The construction of new schools and the closing of old ones, is one of the most important functions of local school authorities and also one of the most complex . . . The result of this will be a decision which, when combined with one technique or another of student assignment, will determine the racial composition of the student body in each school in the system . . . [C]hoices in this respect have been used as a potent weapon for *creating and maintaining a state segregated school system. . . . In ascertaining the existence of legally imposed school segregation, the existence of a pattern of school construction and abandonment is thus a factor of great weight. Swann* at 1278–79 (emphasis added).

AN EXAMPLE IN CONCRETE

An example of how the "neighborhood" school policy is used may clarify how school authorities build upon residential segregation to impose segregation in schools.

In the diagram below, A, B, C, D, and E represent existing attendance areas and their respective elemetary schools for about 30 square blocks in a densely populated section of a city. The chart shows the date of construction, capacity, and enrollment by race for selected years.

Year school opened, school and attendance area	Date	Black	White	Capacity
1930—A	1950	0	600	800
	1960	0	800	800
	1970	3	1,000	800
1930—B	1950	0	800	1,000
	1960	15	900	1,000
	1970	37	1,200	1,000
1960—C	1950	-------	-------	1,100
	1960	20	1,100	1,100
	1970	80	1,200	1,100
1960—D	1950	-------	-------	1,100
	1960	20	1,100	1,100
	1970	40	1,200	1,100
1944—E	1950	550	0	500
	1960	440	3	500
	1970	350	1	500

Schools A and B opened in 1930 and served the entire area within the dotted line, except for a few black children living in shanties in swampy area E. (They walked several miles to a predominantly black school in the inner city.) Eventually, black immigrants to the city, and others from congested downtown areas, joined the black families already in E. Real estate authorities marked off the edges of E and, with the support of neighborhood associations, encircled it by filing racially restrictive covenants, enforceable by state courts, in surrounding areas. World War II and the migration of blacks to work in factories to support the troops brought many more blacks into E.

Federal war housing authorities could not (by their own policy) build housing for blacks except in areas already occupied by them. Because E was one of the few black areas in the city with vacant land, temporary war housing for blacks was built there over the strenuous objections of whites in surrounding areas. School officials in cooperation with federal housing authorities, planned and built a 500 pupil, K–6 school for E-area blacks even though space was available in schools A and B and other nearby "white" schools. The attendance zone for the new school coincided exactly with the black residential area. The crush of black immigrant war workers and the racial restrictions on occupancy in other areas of the city, however, resulted in 700 E-area black elementary students when the school opened. Black persons were directed by both white and black real estate brokers into E. White brokers counseled whites to avoid E. Black brokers could not sell in areas not already having some black families. As a result, only 550 were transferred back to E from the downtown "black" schools they had previously attended; despite available space in A and B, the remaining black elementary children remained in "black" inner city schools. Meanwhile, enterprising whites on the eastern border of E built a brick and cement wall on the school and residential boundary of E, presumably to prevent encroachment by blacks. Both the wall and the coincident school boundary remain today.

By 1953 the temporary war housing was eliminated, and the number of black elementary and junior high students in the E area had declined to 400. In 1953, E became a K–9 school to serve these students, and 100 blacks from overcrowded inner city schools were assigned to E until 1965. During the 1950's, the white residential areas surrounding E grew rapidly, leading school officials to build two new schools to serve 1100 pupils each. The boundaries of the new schools extended away from E to permit their "full use"; the boundaries for E, of course, remain unaltered despite the ease with which E could have been paired with any of the surrounding schools, (E becoming K–2 and the paired school 3–6). The 75 black junior high students in E then could have been assigned to the "white" junior high which served A, B, C, and D.

By 1970, E became a K–6 school again with only 400 elementary students living in the area. Despite a new policy of relieving overcrowding to promote integration, no students from the overcrowded A, B, C, or D schools were transferred to E, nor were boundaries redrawn, or E paired with contiguous schools. Although transfers promoting integration were permitted, no whites transferred into E and only 50 blacks transferred out.

LESSONS FROM THE CONCRETE

At many points in this tale, school officials made choices which contained blacks and whites in separate schools. Any number of available alternatives could have integrated schools in the area.

Write large this single example of a black 'pocket" (with a few variations to fit the

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Footnotes at end of article.

expansion of the ghetto and the variety of segregatory technique available to school officials) and the practice of school officials in most cities and towns where blacks attend separate schools will emerge. Add that many cities in the 1960's recommended plans for school desegregation and the removal of the racially identifiable pattern of faculty assignment and resource allocation. Add that these were adopted as general policy guidelines, but were rejected or only partially implemented in practice. [See, e.g., San Francisco]. In some cities specific desegregation plans were rejected, or adopted and then rescinded, in the face of white hostility to desegregation. [See, e.g., South Holland, Pasadena, Denver, and *Bradley v. Milliken*, 433 F.2d 897 (6th Cir. 1970).] Add that residential patterns result from all forms of public and private racial discrimination [19] and that schools do affect housing choices.[20]

In such circumstances, the state's imposition of segregation in schools is difficult to deny. The burden shifts to school authorities to justify their failure to elect alternatives and make decisions which minimize segregation. The "neighborhood" school policy underlying these practices must also be justified in light of the school segregation it creates and maintains. When adequate justification is not forthcoming, as it almost never can be, earlier Northern court decisions upholding "neighborhood" schools will be distinguished. The Sixth Circuit's opinion in *Davis* (Slip Op at 5) provides a clear example:

> Although each decision considered alone might not compel the conclusion that the Board of Education intended to foster segregation, taken together, they support the conclusion that a *purposeful* pattern of racial discrimination has existed in the Pontiac School system for 15 years.

The *Davis* court evaluated the Pontiac school authority's purpose from the effect of its actions and its failures to act.[21] The court examined the options available to school authorities for pupil and teacher assignments; where they chose alternatives leading to greater racial separation, the resulting segregation was held to be unconstitutional.

INDEPENDENT APPELLATE REVIEW

The major question still unanswered after *Davis* is whether appellate courts will review records independently in order to overrule recalcitrant district judges who uphold school segregation because they find no evil intent from the racial effects. When lower courts view this pattern of facts and find no "purpose" to segregate, independent appellate review must be made if the courts are to apply the affirmative 14th amendment standard traditionally used in reviewing all other claims of racial discriimnation.[22]

ALL SEGREGATION UNCONSTITUTIONAL

When the factors underlying school segregation and the alternatives available to school authorities are subject to search scrutiny, including independent appellate review, the rights of Northern as well as Southern black school children will no longer depend on the ill will or the caprice of school authorities or district judges. The much trumpeted distinction between "de facto" and "de jure" will reach a final deserved resting place. Those labels have always been conclusions; neither is very descriptive nor analytic. By definition, "de jure" means actionable under the 14th amendment; "de facto," not actionable. If, consistent with the historic 14th amendment analysis of racial discrimination in all other areas of life, courts require school authorities to justify segregation by showing the promotion of a compelling state interest by the least onerous (segregatory) means, most Northern school segregation will fall. School authorities will be unable to bear that burden of proof of adequate justification.

The point is not that "de facto" school segregation is unconstitutional, but that all public school segregation is "de jure." That turnabout is consistent with the *Brown* court's answer to *Plessy*: "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." [347 U.S. at 495].

That judgment has nothing to do with achievement test scores, or any implication that black children make "black" schools inferior. It is based on the fact that segregation in the public schools, North and South, is imposed on black people by a dominant white majority which is intent on containing blacks in separate neighborhoods and schools. When that intent is fulfilled in the public schools, in which most of us, for better or worse, are compelled by law to attend for over a decade, the minimum objective remains, as the Supreme Court said in *Swann*, "to eliminate all vestiges of state-imposed segregation."

FOOTNOTES

[*] "Northern," I mean places where racially dual schools were not mandated by explicit statements of public policy as was the case in many places on which I bestow the under-inclusive appellation "Southern." (After all, *Brown I did* include cases from Kansas and Delaware.)

[**] In the Continental United States 68.0% of all blacks attempted 80–100% minority schools in 1968; in 1970 it had dropped to 49.4%. But in the 32 Northern and Western states, 57.4% of all blacks attended 80–100% minority schools in 1968; and in 1970 it was still 57.6%. Table 2–A, *HEW NEWS*, June 18, 1971. The large urban areas in these states have even greater segregation.

[1] *Deal v. Cincinnati Bd. of Ed.*, 369 F.2d 55 (6th Cir. 1966), cert. den., 387 U.S. 935, on remand, 419 F.2d 1387 (6th Cir. 1970), cert. den. because petition untimely filed, 91 S.Ct. 1630; *Bell v. School of Gary*, 324 F.2d 209 (7th Cir. 1963), cert. den., 377 U.S. 924; and *Downs v. Kansas City*, 336 F.2d 988 (10th Cir. 1962), cert. den., 380 U.S. 914.

[2] *Taylor v. Bd. of Ed.*, 294 F.2d 36 (2d. Cir. 1961), cert. den., 368 U.S. 940 [hereafter referred to as New Rochelle].

[3] See, e.g., *U.S. ex rel. Seals v. Wiman*, 304 F.2d 53, 65–66 (5th Cir. 1962); *Avery v. Georgia*, 345 U.S. 559, 561 (1963).

[4] *Brown I, Cooper v. Aaron, and Griffin v. Prince Edward County*, of course, required affirmative action. But the invention of "all deliberate speed" in *Brown II* and the slow progress of desegregation made many believe, or hope, that somehow the 14th amendment was to be read with a malign neutrality for purposes of review of school segregation.

[5] *U.S. v. School District, 151*, 404 F.2d 1125 (7th Cir. 1969), on remand, 301 F. Supp. 201 (N.D. 111. 1969), aff'd as modified, 432 F.2d 1147, cert. den. [hereafter referred to as 151 or South Holland].

[6] *Spangler v. Pasadena Bd. of Educ.*, 311 F. Supp. 501 (C.D. Cal. 1970) [hereafter referred to as *Spangler* or Pasadena].

[7] *Kelley v. Brown*, Civ. No. LV–1146 (D. Nev. Dec. 2, 1970).

[8] *Crawford v. Bd. of Educ.*, Civil No. 822854 (Los Angeles Super. Ct. May, 1971).

[9] *Davis v. School Bd. of City of Pontiac*, 309 F. Supp. 734 (E.D. Mich. 1970), aff'd F.2d (6th Cir. 1971) [hereafter referred to as *Davis* or Pontiac].

[10] *Berry v. School District*, Civ. No. 9 (W.D. Mich., Feb. 17, 1970) [hereafter referred to as *Berry* or Benton Harbor].

[11] *Keyes v. School District No. 1*, 302 F. Supp. 279 (D. Colo. 1969), 313 F. Supp. 61 and 90 (D. Colo. 1970), aff'd in part and rev'd in part, F.2d (10th Cir. 1971) [hereafter referred to as *Keyes* or Denver].

[12] *Johnson v. San Francisco Unified School District* (N.D. Cal. April 28, 1971) [hereafter referred to as *Johnson* or San Francisco].

[13] *Soria v. Oxnard School District Bd. of Trustees*, Civil No. 70–396 (C.D. Cal. May 12, 1971) [hereafter referred to as *Soria*]. In addition, at the close of plaintiffs' proof in *Bradley v. Milliken*, Civ. Act. No. 35257 (E.D. Mich. June 16, 1971) (Detroit) the district court held that plaintiffs had established a prima facie case and issued an injunction, *pendente lite*, on all school classroom construction—new buildings, additions, and portables.

[14] *Swann v. Charlotte-Mecklenberg Bd. of Ed.*, and companion cases, 91 S. Ct. 1267 et seq. (April 20, 1970) [hereafter referred to as *Swann* or Charlotte].

[15] In Mobile, the Supreme Court found use of a major public highway as a barrier to school desegregation an inadequate justification for continuing school segregation. *Davis v. Board of School Commissioners of Mobile*, 91 S.Ct. 1289. Compare the conclusion of the district court in South Holland, Ill.:

> [S]tandards and procedures pursuant to which pupils are assigned to schools, which are alleged to be racially discriminatory and which have resulted in exclusively white student bodies in regular classes in certain of a district's schools alongside almost exclusively Negro student bodies in the district's remaining schools, are subject to the most intensive judicial scrutiny . . . [301 F. Supp. 201, 230].

[16] Usually, any doubts on this score can be clarified by the past practice of assigning no black teachers to all white schools or removing any black teacher assigned to such schools when white parents protest the invasion.

[17] "In its assignment of faculty, a school district is burdened with none of the impediments otherwise present in a desegregation plan. The limiting effect of attendance zones and difficulties of transportation are not present in this area to any substantial degree." *U.S. v. Bd. of Education, Tulsa, Oklahoma*, 429 F.2d 1253, 1260 (10th Cir. 1970); "Defendants and their predecessors undeniably had actual and legal control . . . with respect to the racially patterned allocation of faculty and staff during the pertinent period. . ." *U.S. v. School Dist. 151*, 301 F. Supp. 201. Nor have labor contracts to the contrary ever been recognized as being of any weight, let alone controlling, for purposes of analysis under the 14th amendment.

[18] Proof of resource disparities between predominantly black and white schools may serve a similar function. Yet equality of objectively measurable facilities between black and white schools may also be a belated attempt to buy off desegregation at the price of resource equalization.

[19] The involvement of public officials in the patterns of housing segregation is startling. The F.H.A. and its predecessor agencies long encountered developers and owners to use racially restrictive covenants and to create racially homogeneous neighborhoods. To this day, the F.H.A. has not taken adequate precautions to insure that new housing is open in practice to all races; nor has the F.H.A. taken any affirmative action to alter the racially separate residential patterns it helped to create. Discriminatory real estate marketing and advertising practices, undertaken by licensees of the states, are notorious and pervasive. Public housing authorities everywhere built racially separate projects and still refuse to build racially mixed projects in white residential areas. This litany of public and private housing discrimination could go on; the discrimination and its long persisting effects certainly do.

Upon viewing such facts, post-*Green* courts have consistently held that a neighborhood school policy neutral on its face is an impermissible imposition of segregation in the schools. See, e.g., *Brewer* v. *School Bd. of City of Norfolk*, 397 F.2d 37, 41–42 (4th Cir. 1968); *Henry* v. *Clarksdale Municipal School District*, 409 F.2d 682, 687–689 (5th Cir. 1969); *Spangler* v. *Pasadena City Bd. of Ed.*, 311 F. Supp. 734, 742 (C.D. Cal. 1970);

U.S. v. *Tulsa,* 429 F.2d 1253 (10th Cir. 1970). In such circumstances, any neighborhood school policy may serve to contain blacks and whites, already resident in separate neighborhoods by "state action" in racially separate schools.

[20] "People gravitate toward school facilities. . . . The location of schools may thus influence the patterns of residential development of a metropolitan area and have important impact on composition of inner-city neighborhoods." *Swann* at 1278. By identifying schools as primarily black or white, school authorities are, at least in part, responsible for racially separate housing patterns.

[21] "The purpose of legislation is to be determined by its natural and reasonable effect, and not by what may be supposed to have been the motives upon which the legislature acted," *New York* v. *Roberts,* 171 U.S. 658, 681 (1898) (Harlan, J., dissenting).

[22] See e.g., *Coleman* v. *Alabama,* 339 U.S. 22, 32 (1967).

The Sociology of Multiracial Schools

(By Robert L. Green, John H. Schweitzer, Donald S. Biskin, and Lawrence W. Lezotte)

The ideas discussed in this article reflect the authors' commitment to multiracial schools, nondiscrimination, and equitable treatment for minority students and school personnel after desegregation. Based on our experiences as social scientists and educational researchers, and as expert witnesses and research consultants in three major school desegregation cases,[1] our philosophy of multiracial schools rests on three assumptions: (1) that multiracial schools provide optimal conditions on which to build an egalitarian multiracial society; (2) that school segregation is detrimental to the educational and psychological development of majority and minority children; and (3) that multiracial schools are effective settings for teaching attitudes and behavior essential to dissolving and reducing racial tension. We also believe that multiracial schools are obtainable if the nation will commit itself fully to pursuing the basic principles of the American Constitution.

Although we are committed to multiracial classrooms, we are aware of the negative ramifications they may have for the black community. A recent Race Relations Information Center [2] report, for example, indicates some negative effects of desegregation on black teachers in the South. A black male with 25 years of experience as a principal was assigned to teach social studies and history to seventh graders. A woman with nine years experience scored two points below B certification and did not receive a new contract from her school. A home economics teacher of 23 years was fired for "incompetence" five days after signing her new contract to teach second grade. As these examples illustrate, court actions pressing for multiracial classrooms are not enough. Social scientists must help develop systems to protect minorities from becoming victims of intense racial discrimination in a new system of multi-racial education.

This problem is complicated by the fact that there is no readily-identifiable standard to which school desegregation efforts can be directed. Theoretically, it makes little differenec whether desegregation activities rest on a specific majority-minority student ratio or upon proportional representation. What is important is that the results reflect non-extreme racial composition. The numbers (quota) "game" may become a quagmire which deters rather than facilitates multiracial school efforts. Consequently, the only helpful general recommendation is that every attempt be made to eliminate the racial identifiability of schools.

Footnotes at end of article.

UNIRACIAL SCHOOLS HARMFUL

We believe that racially identifiable schools (white as well as black) have harmful effects on the achievement, self-concepts, and attitudes of all students. While the exact proportion of minority and majority children is not as important as the perceptions of the administrators, teachers, parents and children, any racially identifiable school carries artificial connotations of inferiority or superiority with negative impact on school programming and attitudinal development.

The concept of racially identifiable schools is relative. In one school district a school with 40% black students might be perceived as multiracial, while in another district it would be racially-identifiable. The effect of being perceived as racially distinguishable, however, is not ambiguous: the white educational establishment is able to set minority youngsters aside in isolated educational settings and deny them the full range of cognitive and affective educational experiences.

White parents often change their children's school because they believe that education at predominately black, Mexican-American, or Puerto Rican schools is inferior. Minority parents believe, often justifiably, that minority school resources are less adequate and the teaching personnel less experienced and trained than they are in majority schools. In *Berry,* for example, (and many other cases),[3] teachers with fewer credentials were shown to be assigned to the black schools. A report on Chicago schools [4] showed that inner city schools employed 36% full-time substitutes while no other Chicago schools averaged more than 14%. Eighty-two percent of all Chicago substitutes taught in inner city schools. And the median years of teaching experience in the inner city was four, compared to 19 in upper income schools, 15 in middle income schools, and nine in lower income schools elsewhere in the city.

These facts undermine many minority parents' belief that the educational system works in the best interest of their children. And children, both minority and majority, are quick to internalize their parents' perceptions of the schools they attend. Minority students soon develop resentment, hostility, and resignation because they perceive, and often know, that their education is inferior. White children, on the other hand, often develop feelings of superiority which the educational system fails to counter. They develop a need to keep a distance between themselves and minority children, and the education system reinforces this directly. A vicious cycle resulting in greater separation, both physical and psychological, develops, and the self-fulfilling prophecy of inferior minority schools is continued.

That school segregation is detrimental to the educational and psychological development of both majority and minority children is a well-documented fact. Racially isolated schols do not and cannot promote the attitudes necessary for functioning in a multiracial society. If they did, there would be no need to modify many existing education systems. But since they do not, they must be changed into multiracial learning environments.

MULTIRACIAL CLASSROOMS NEEDED

Merely attaining a multiracial composition within a school is not sufficient to eliminate racial isolation. A mix within each classroom is necessary to eliminate the deleterious effects of racial isolation. Many Southern school districts have blatantly violated the spirit of desegregation orders by creating all-black classrooms within nominally integrated schools. Recently classroom segregation was discovered, for example, in 125 districts.[5] In the North this kind of segregation is produced by "tracking": homogeneous "ability" groupings usually produce predominately black and predominately white classrooms within multiracial schools.[6] Although no evidence proves that tracking improves either the quality of instruction or achievement, there is compelling evidence that the creation of racially identifiable classrooms has grave negative consequences.[7] One researcher,[8] using data originally gathered for the Coleman Report, found that minority students do not benefit from attendance at multiracial schools if they remain in segregated classes. In fact, racially identifiable minority classrooms within a majority white school were found to be *more* detrimental to minority student achievement than were racially identifiable minority schools within a majority white school district. Undoubtedly, the dynamics of negative perceptions toward black schools are also at work in predominately white schools in the development of perceptions regarding black classrooms and artificial views of superiority. The whole system of white education, from administration through the classroom level, is a prototype of the racially exclusive and biased conditions in the greater society, and must be changed.

EFFECT ON WHITE ATTITUDES

The damaging consequences of racially isolated classrooms and schools extend beyond the academic performance of black school children and the subsequent impairment of their ability to compete economically and occupationally with whites. Racial isolation in the schools fosters attitudes and behavior that perpetuate isolation in other important areas of life. Whites who attend racially isolated schools develop unrealistic self-concepts, hate, fear, suspicions, and other attitudes that alienate them from minorities. They tend to resist desegregation efforts in areas such as housing, employment, and schools. Highly trained black university graduates frequently are faced with the same barriers that affect the black high school dropout. Multiracialism is important, therefore, so that whites who attend suburban high schools and predominately white universities will not erect further barriers to minority university graduates, high school dropouts, or minority people who are victims of the welfare system.

Whites who have attended multiracial schools tend to seek racially mixed situations, have a greater probability of having black friends, appear more interested in having their children attend multiracial schools, and more frequently indicate that they would go out of their way to obtain housing in a multiracial neighborhood, than whites who attend racially isolated schools.

Multiracial schooling produces similar attitudes in blacks who express a greater willingness to reside in a multiracial neighborhood and to have their children attend multiracial schools.[9] For both races, behavior validating these attitudes has been observed. Blacks and whites who have attended multiracial schools more frequently have children who attend multiracial schools, live in multiracial neighborhoods, and have close white or black friends than those who have attended segregated schools.[10] However, the most important result is that non-discriminatory whites will not place barriers before minorities and inhibit their progress in all facets of American life.

THE GOAL OF MULTIRACIALISM

The development of multiracial schools, a national policy and national law, is an American objective. But we cannot have a conflict-free multiracial society unless two prerequisites are met. Minority group people must have an equal opportunity to acquire skills that will enable them to compete successfully with members of the dominant group; attitudes that foster multiracial interactions must also be developed. The fulfillment of both these prerequisites can be greatly facilitated by the schools. Segregation has prevented either from being fully accomplished, and we are not optimistic about the future. The federal government has not yet assumed as active a role as it should in attempting to eliminate segregation. The President refuses to respond to the increasing segregation of large northern cities and restrictive housing practices in the suburbs.

We believe that a multiracial society is something more than an optimistic goal which the nation might move toward gradually over generations. The Kerner Commission warned in 1968 of the development of two societies, one white, one black. During the three intervening years we feel that divisions have increased. The situation is becoming critical, and social scientists, to respond effectively to this crisis, must abandon ivory tower neutrality. Colleges of education, for example, must begin to develop teacher training programs to prevent white youngsters from responding to people in racially motivated ways, and must retrain teachers for newly developed multiracial systems.

In speaking for the elimination of racially identifiable schools within the boundaries of the urban units, we do not blind ourselves to the fact that this is only the first step toward the eventual goal. This must be followed by cutting the white suburban noose that is strangling the cities. A multiracial school system is but one step toward eliminating the inequities and creating a healthy society.

FOOTNOTES

[1] *Berry v. School District of the City of Benton Harbor*, Civ. No. 9 (W.D. Mich., Oral Op. Feb. 17, 1971); *Northcross v. City of Memphis Board of Education* (W.D. Tenn. 1970); *Bradley v. Milliken*, Civ. Act. No. 35257 (E.D. Mich. June 16, 1971).

[2] Robert W. Hooker, "Displacement of Black Teachers in the Eleven Southern States," Race Relations Information Center, Nashville, Tennessee (December 1970) p. 1.

[3] Cf., for example, *Swann v. Charlotte-Mecklenburg Bd. of Education*, 91 S.Ct. 1267, 1277; *Hobson v. Hansen*, 269 F. Supp. 401 (D.D.C. 1967), and Order of May 25, 1971,— F. Supp.—(D.D.C.).

[4] Robert J. Havighurst, "Education in Metropolitan Areas" (January 1967).

[5] American Friends Service Committee; Delta Ministry of the National Council of Churches; Lawyers' Committee for Civil Rights Under Law; Lawyers Constitutional Defense Committee; NAACP Legal Defense and Educational Fund, Inc.; and Washington Research Project, *The Status of School Desegregation in the South, 1970*, p. 31.

[6] See *Berry* [note 1].

[7] Findlay, *et. al.*, "Ability Grouping: 1970," Report Prepared for HEW.

[8] James McPartland, "The relative influence of school desegregation and of classroom desegregation on the academic achievement of ninth grade Negro children," Interim Report (September 1967).

[9] U.S. Commission on Civil Rights, *Racial Isolation in the Public Schools*, Vol. 1 (1967).

[10] Meyer Weinberg, "Desegregation research: An appraisal," *Phi Delta Kappan* (1968).

Chicano Education: In Swann's Way?

(By Alan Exelrod)

Although *Swann* and its companion cases address themselves to the desegregation of black and white schools in the South, they provide some basis for an attack on a whole range of educational practices in the Southwest, which could have a profound effect on the quality of Chicano education. This challenge would be based not on the use of the particular remedies prescribed by the Supreme Court, but on the decision's implication that the constitutional principle of racial equality is invested with new vigor and strength for brown as well as black. This article will first discuss the question of how *Swann* will affect the desegregation of Chicano school children, and then speculate on *Swann's* use as a constitutional basis for effecting curriculum and methodology changes in Chicano education.

I. DESEGREGATION

Chicanos themselves are ambivalent about the desirability and value of an integrated education.[1] While there is a tendency today to think that Chicanos, wherever located, share the same educational goals, this is not the case. In rural areas and small urban centers, integration is sought because segregated education invariably means inferior facilities for Chicano schools, as well as psychological feelings of second-class citizenship. In large urban areas, such as Los Angeles (with 1.2 million Chicanos), Denver, and San Francisco, however, there is little desire for integration. The leaders of these "barrios"[2] resist education policies which undermine community control of schools and retard the enactment of bilingual/bicultural education. In the May 1971 Denver school board election, for example, the La Raza Unida Party (a militant Denver Mexican-American political action group) opposed busing despite a court order to integrate.[3] In San Francisco, shortly after *Swann* was announced, a federal district judge ordered the submission of desegregation plans on a black/white basis.[4] From conversations with leaders of the largely Chicano Mission District, it is apparent they do not want to be a part of that plan because the community is achieving a significant voice in its schools for the first time and fears a reduction in the existing bilingual/bicultural programs.[5] In analyzing *Swann*, therefore, it must be understood that many urban Chicano communities will abandon their neighborhood schools only if desegregation is accompanied by bilingualism and biculturalism.

Where the Mexican-American community does seek desegregation, *Swann* offers real benefits. Unlike the South, where segregation of blacks was accomplished by state legislative enactment, segregation of Chicanos in the Southwest (and the North where many Chicanos have migrated) has come about on a district basis by subtle, as well as blatant, means—The proof and law to challenge the segregation of Chicanos is the same as that used in any Northern school segregation suit. [See Dimond article, p. 17.] Ironically, then, a suit challenging Chicano segregation in Texas, for example, will be a "Northern" school case in the "South." And there can no longer be any doubt that segregation of Chicanos, as with discrimination against any racial and ethnic group on the basis of national origin, is suspect and subject to close judicial scrutiny under the 14th amendment. See, e.g. *Korematsu* v. *United States*, 323 U.S. 214, 216 (1944); *Hernandez* v. *Texas*, 347 U.S. 475; *Cisneros* v. *Corpus Christi Independent School District*, 324 F. Supp. 599, 606 (S. D. Tex. 1970); *Alvarado* v. *El Paso Independent School District* (W. D. Tex. 1971), rev'd (5th Cir., June 16, 1971) (No. 71–1555): "This [is a] class action by 14 Mexican-American parents on behalf of themselves and children, and all other children and parents in the El Paso, Texas Independent School District. . . . In our view the complaint clearly states a cause of action."

Because one problem in Chicano desegregation suits is proving discriminatory actions, *Swann* helps by broadening the definition of segregation. The Court made specific reference to school site selection policies, recognizing that "choices in this respect have been used as a potent weapon for creating or maintaining a state-segregated school system." Throughout the Southwest, school boards have built schools which serve single ethnic group neighborhoods, rather than fostering integration.[6] Often "colonias"[7] were built outside the city limits of towns in order to avoid building codes and other city regulations.[8] The school district would build a school to serve the "colonia" and thereby insure that most Chicanos would attend primarily Chicano elementary schools. *Swann* holds that such a pattern of school construction constitutes "a factor of great weight" in identifying legally imposed school segregation. From the strong language in Chief Justice Burger's opinion, it is likely that proof of a discriminatory pattern in school construction would itself be enough to establish the maintenance of a dual school system and hence, a violation of equal protection.

The Court also broadened the definition of segregation by placing on the school district the burden of explaining one-race schools. "Schools all or predominately of one race in a district of mixed population will require close scrutiny to determine that school assignments are not part of state-enforced segregation." In other equal protection cases, application of the "close scrutiny" test requires the state to provide compelling reasons to justify its policies.[9] In the Chicano context it means that school districts must carry the burden of persuasion and explain why ethnically isolated schools exist within their district. Many Southwestern school districts will not be able to meet this burden.

RESIDENTIAL SEGREGRATION AS PROOF

The Chief Justice also implied in *Swann* that acts of governmental discrimination by persons other than school officials, which result in school segregation, would be relevant in proving the existence of a dual school ssytem. Near the end of the decision he suggests that attempts by nonschool governmental officials to "fix or alter demographic patterns to affect the racial composition of the schools" would require federal court intervention in school student assignment. The critical issue for the Chicano community is whether "other governmental action" includes discrimination in housing caused by state action.

Throughout the Southwest, attempts to procure public housing for Chicanos in middle-class areas have been stymied through various forms of governmental action. In Union City, California, a referendum changed a zoning ordinance to prevent the construction of low cost housing.[10] In San Antonio the City Council vetoed a public housing program it had earlier approved, which would have provided single family residences in middle-class neighborhoods primarily for poor Chicanos.[11] *Gautreaux* v. *Chicago Housing Authority*[12] reveals the federal government policy of constructing low cost housing in barrios and ghettos. These actions have resulted in segregated neighborhoods and, consequently, segregated schools. The Chief Justice's statement would be without significance unless it is interpreted to include these types of governmental practices. In proving a case of school segregation, data on housing discrimination, at least by state, would be relevant and should afford a basis for relief. The question of housing discrimination and residential patterns generally raises the issue of whether all school segregation is unconstitutional. Although Chicanos are more able to escape the barrio than blacks the ghetto, Chicanos continue to be concentrated in identifiable areas of cities.[13]

UNEQUAL RESOURCE ALLOCATION

Even a holding that such school segregation is not "state-imposed" does not necessarily foreclose finding a 14th amendment violation and even requiring integration in many Southwestern communities. In *Keyes*, the Denver school case, the court found that such isolation in the schools was not state-imposed. But relying on differences in pupil

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Footnotes at end of article.

achievement, per pupil expenditures, and teacher abilities, the court held that students in minority schools were not receiving an equal educational opportunity. Evidence was presented that integration was necessary to end the denial of equal educational opportunity, and an order was entered employing the equitable remedies outlined by *Swann*. Although the 10th circuit reversed that part of the remedy, the possibility of such remedy will remain until other circuits and finally the Supreme Court speak. Whether Chicanos want the remedy of integration for such denials will depend on the circumstances of each particular community.

Although the issues discussed in the previous paragraphs apply to future litigation, the courts are faced with the immediate remedial problem of what the contents of a desegregation plan should be when more than one minority is involved. In many Southwestern cities there are significant numbers of blacks, Chicanos, and in some places, Asians. One important question is whether placing Chicanos and blacks into schools without Anglos serves to create a unitary school district. Another is the extent to which a desegregation plan must take account of the differing educational needs of non-English speaking children.

Does Black + Brown = Integration?

The Houston Independent School District is currently facing the first problem in a fourteen year old desegregation suit, *Ross v. Eckels*.[14] At no time during the suit have Chicanos (whose barrios adjoin the black ghetto) been recognized as a separate, identifiable group even though they comprise fifteen percent of the school population, their native language is Spanish, and they have been racially isolated. Because Chicanos have been considered white throughout the litigation, the pairing of "black" and "white" schools means in practice that the two minorities will be desegregated with each other. Recently, an attempt by Chicano plaintiffs to intervene was denied. This denial seems clearly wrong. The placing of two historically identifiable, disadvantaged groups together cannot satisfy equal protection. The purposes of desegregation are to improve minority schools, eliminate the psychological stigma attached to segregation, and remove the vestiges of the dominant Anglo's containment of minority children in separate schools. The continuation of minority black and brown schools does not serve these purposes. In *Alvarado v. El Paso Independent School District*, the Fifth Circuit, by holding that Chicanos were a recognizable minority for the 14th amendment discrimination and segregation claims, concurred in this view. *Cisneros v. Corpus Christi Independent School District* held, similarly, that "Mexican-American students are an identifiable ethnic minority class sufficient to bring them within the protection of *Brown*," and "placing Negroes and Mexican-Americans in the same schools does not achieve a unitary system as contemplated by law." [Cites in note, p. 25]. And even more recently, an Austin, Texas district court, while finding no de jure segregation of Chicanos, ordered the parties to submit a tri-ethnic integration plan: "There will be little educational value in a plan which merely integrates one socially and economically disadvantaged group, the blacks, with another, the Mexican-Americans." [15]

PRESERVING CULTURAL IDENTITY

San Francisco Unified School District is currently facing the second problem, preserving cultural identity in integrated schools. In San Francisco, the district court was only presented evidence of the racial isolation of blacks, although all desegregation plans took into account the city's multiethnicity. The danger is that Chicano and Chinese minorities will be so dispersed they will lose or fail to receive needed educational programs. The solution is to view identifiable minority groups—black, brown, yellow and red—as separate and distinct classes for purposes of equal protection analysis and equitable relief.

Integration should be accompanied by curriculum modifications, teacher re-training and other programs which recognize the particular educational needs of these minority groups. If courts find that Chicanos do not comprise a large enough percentage of the school district population to warrant district-wide substantive educational program changes, integration plans should contain schools with large enough proportions of Chicanos to justify special programs which meet Chicano educational needs. This solution recognizes that integration is but one aspect of equal educational opportunity. In multiethnic communities, flexibility is necessary to insure that the rights of all minorities are protected.

In sum, *Swann* offers the Chicano new means of proving discrimination and, of course, powerful remedies to correct it. Because many communities are often multiracial and multiethnic, *Swann* creates new challenges to the courts to insure that desegregation takes into account the needs of all groups.

II. EQUAL EDUCATIONAL OPPORTUNITY

Our past methods of educating children suffering linguistic handicaps in English have clearly been ineffective. The chief reasons for this seem to be that we have not taken advantage of the child's best instrument of learning—his mother tongue—and that we have failed to create in him a sense of dignity and confidence. In a word, we have not put first things first: We have thought it more important from the outset to teach the non-English speaking child English rather than to educate him. We have in short been more interested in assimilating than education.[16]

Swann offers Chicanos an opportunity to correct this situation through the constitutional principle of "equality of educational opportunity." No one expected this principle to die a sudden death in the *Swann* group of desegregation cases, but weak opinions would certainly have minimized judicial scrutiny of the "undereducation" that is taking place in Southwestern schools.

The optimism about "equal educational opportunity" stemming from *Swann* rests on four bases: the specific references to *Brown v. Board of Education* in the opinion; the court's remarks requiring equality of facilities; the powerful remedies given to federal courts to correct desegregation; and the statement in the final paragraphs of the opinion that the federal court's task was only completed when "the affirmative duty to desegregate has been accomplished and *racial discrimination through official action is eliminated from the* (*school*) *system*."

Equal educational opportunity for Chicanos means the implementation of programs compatible with their language and cultural needs. Often this will mean bilingual/bicultural education. Many persons have a misconception of bilingual education, and confuse English as a Second Language (ESL) programs with it. ESL is designed solely to teach English to non-English speaking children and is not meant to preserve a culture, improve knowledge of the mother tongue, or help English-speaking students to learn the community's other language. True bilingual education includes all these goals. As the Draft Guidelines for the Bilingual Education Program state: "Bilingual education is instruction in two languages and the use of those two languages as mediums of instruction for any part of or all of the curriculum. Study of the history and culture associated with a student's mother tongue is considered an integral part of bilingual education.[17] With this definition in mind, the question is, what legal theory will support it?

SECOND CLASS SCHOOLING

The Chicano child brings to the school a different culture and language than that of the Anglo. When he comes to the school he is often forbidden to speak his native language and his cultural traditions are ignored. Often the school he attends is inferior to the school just down the road attended primarily by Anglos. He sees few Chicano teachers and fewer Chicano administrators. His academic life is tainted with the prejudice and the indifference of Anglo teachers who see little prospect for his academic success. He sees his brothers and sisters shunted into mentally retarded classes even though these same siblings care for the whole family when the parents are working. The end result is alienation from school, and eventual dropping out, a process completed in the Chicano's early teens. The high dropout rate reflects the psychological damage done to the child by the school.

AGENDA FOR CHANGE

The Chicano child requires a program compatible with his needs and experiences. Research suggests that a method of instruction combining Spanish and English is the best way to teach Chicanos while preserving essential parts of their culture.[18] The curriculum should contain Chicano contributions to history, art, and literature. None of this can be accomplished without a teaching staff that is sympathetic to a multiethnic approach. The goal of this agenda for change is to develop Chicano students able to recognize their own worth and to succeed in school.[19] Many Chicano leaders, especially in urban areas with large barrios, advocate Chicano community control of identifiably Chicano schools as the most politically feasible and best way to effect the needed change.

THE LAW IN BRIEF

Translated into legal terms, the Fourteenth Amendment argument proceeds as follows. Presently the schools are treating the Anglo and the Chicano children identically. The method of instruction and the curriculum are not geared to satisfy Chicano needs. Achievement test results, dropout rates, the large percentage of Chicanos in classes for the mentally retarded, the lack of Chicano teachers and administrators, all point to this fact. The schools are attempting to change Chicano children rather than accepting the fact that Chicanos bring to school a different background than Anglos. This sameness of treatment between intrinsically different groups, to the educational detriment of one, cannot be justified. It can satisfy neither the compelling interest test nor the rational relationship test used to determine violations of equal protection.

This article is too brief to include a thorough analysis of the applicable case law. Much of what has been said goes beyond what any court has ordered. However, there is precedent for judicial analysis of methodology and curriculum in *Hodson v. Hansen*,[20] *Keyes*, and for compensatory education, *United States v. Jefferson County Board of Education*.[21] In addition, the HEW Office of Civil Rights has issued a Memorandum regulation which requires school districts to make provisions to insure that non-English speaking children participate fully in the school program. Currently, new regulations are being discussed that will state in detail the obligations of school districts in regard to bilingualism.

Needless to say, many issues are not considered in this article: To what extent must Anglos participate in a bilingual program? Does the constitutional right to a bilingual program depend on the strength with which the Chicano community in a particular school district has held onto their language

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Footnotes at end of article.

and culture? Are there manageable judicial standards which can be developed to govern this problem?

Bilingual/bicultural education is a reality in several school districts in this country—Edgewood Independent in San Antonio, United Consolidated outside of Laredo, and Dade County, Florida.[22] Some of these districts have seen bilingual education as their obligation and pay for it out of local revenue sources. Most, however, rely on money from the Bilingual Education Act [20 U.S.C. § 880], which supplies funds only for pilot programs. A constitutional requirement of bilingual education will require that local school districts share with the federal government responsibility for the development and implementation of schools for all our children.

This article has attempted to highlight some of the educational problems facing Chicanos in the Southwest. In the final analysis, the problem centers around both a valid constitutional definition of equal educational opportunity and reform of the schools. Desegregation, clearly, is an important aspect of equal educational opportunity. But for the Chicano, because of his unique educational background, linguistically and culturally, it is not the only solution. For the Chicano, desegregation is the superstructure of the building of the principle of equal educational opportunity; bilingualism is its foundation.

FOOTNOTES

[1] These observations are based on several years experience litigating educational problems for various Chicano communities throughout the Southwest.

[2] Spanish noun meaning "neighborhood" or "ghetto."

[3] *Keyes v. School District Number One,* 313 F. Supp. 90 (D. Colo. 1970), aff'd in part, rev'd in part, —— F. 2d —— (10th Cir. 1971). The district court recognized that Chicanos opposed extensive moving of children to achieve integration.

[4] *Johnson v. San Francisco Unified School District,* No., C–70–1331 SAW (N.D. Cal. 1970).

[5] The Superintendent of Schools proposed a cutback for these programs after a court order was entered. This reaction, of course, is not necessarily a response to desegregation and need not be a part of any desegregation plan. Nor do many "neighborhood" schools provide Chicanos either a voice or a bicultural and bilingual education.

[6] See *Cisneros v. Corpus Christi Independent School District,* 324 F. Supp. 599 (S. D. Tex. 1970); *Perez v. Sonora Independent School District,* No. CA 6–224 (N. D. Tex. 1970); *Keyes v. School District Number One, Denver, Colorado,* 313 F. Supp. 61, 69 (D. Colo. 1970).

[7] Spanish noun meaning a housing subdivision generally in the outskirts of town.

[8] See generally Grebler, Moore & Guzman, *The Mexican American People,* p. 273 (The Free Press, N.Y.).

[9] *E.g., Harper v. Virginia State Bd. Of Elections,* 383 U.S. 663, 670 (1966); *Kramer v. Union Free School District No. 15,* 395 U.S. 621, 628 (1969).

[10] *SASSO v. City of Union City,* 424 F. 2d 291 (9th Cir. 1970). After protracted litigation, the suit was finally settled and some low cost housing constructed.

[11] San Antonio Evening News, Oct. 9, 1969, p. 1.

[12] 296 F. Supp. 907 (N. D. Ill. 1969).

[13] See *e.g., Grebler, et al.,* note 8, p. 271 *et. seq.* Although *Swann* in conclusion suggests that a district need be "unitary" at only one point in time, the Court's discussion of school construction suggests that close judicial scrutiny of all school segregation will continue to determine whether it is "state-imposed." [See Diamond Article, p. 17].

[14] The most recent decision is reported at 434 F. 2d 1140 (5th Cir. 1970).

[15] *U.S. v. Texas Education Agency,* No. A–70–CA–80, Memo. Opinion and Order (W. D. Tex. June 20, 1971).

[16] Anderson and Boyer, *Bilingual Schooling in the United States,* Vol. I, p. 147, Southwest Educational Development Laboratory, Austin, Texas (1970) (available through U.S. Gov't. Printing Office).

[17] Draft Guidelines for the Bilingual Education Program under the Bilingual Educational Act.

[18] H. J. Johnson and W. Hernandez, *Educating the Mexican American,* Judson Press (1970).

[19] Sanchez, "History, Culture and Education," in *La Raza-Forgotten Americans* (1966).

[20] 269 F. Supp. 401 (D. D. C. 1967), aff'd sub nom. *Smuck v. Hansen,* 408 F. 2d 836 (5th Cir. 1966).

[21] 372 F. 2d 836 (5th Cir. 1966) But cf. *McInnis v. Shapiro,* 293 F. Supp. 327, aff'd sub nom., *McInnis v. Ogilvie,* 394 U.S. 322 (1969). See also, Comment, 49 Tex. L. R. 337 (1971).

[22] Massachusetts is considering a statute which would mandate bilingual programs for school districts which have 20 or more students whose native language is not English. Copies of this bilingual education statute are available at the Center for Law and Education.

NOTES AND COMMENTARY

This section of inequality in Education features reports on research, litigation, government action, and legislation concerning education and the law. Readers are invited to suggest or submit material for inclusion in this section.

LOSE A BATTLE, WIN THE WAR: BOSTON RETARDED CHILDREN WIN HEARING RIGHT BEFORE EXCLUSION FROM SPECIAL CLASSES

Flaherty v. Connors, 319 F. Supp. 1284 (D. Mass. 1970).

In this suit, a retarded child sought a temporary injunction ordering his readmission to a special school, and a permanent injunction on behalf of all other retarded children similarly excluded from school. The District Court ruled that the case presented an individual complaint and could not be prosecuted as a class action; intimated that the plaintiff had failed to exhaust his state administrative remedies; found that he had not profited from two years attendance in the special school, because he had become progressively more disruptive over that period; and found that there had been no showing of irreparable harm. Accordingly, it denied the application for a preliminary injunction.

The nub of the complaint, however, was a denial of due process: plaintiff's suspension from school without an adequate hearing. The District Court suggested that the plaintiff had waived the hearing offered by the defendant Boston school authorities, but that he was free to follow the hearing procedure provided by Massachusetts law and regulations of the Boston School Committee.

Negotiations to provide the plaintiff a satisfactory school program, and to promulgate satisfactory hearing procedures, continued until June 21, 1971, when the plaintiff agreed to a dismissal of his law suit for two reasons:

Plaintiff enrolled in a satisfactory school program, and was accorded a full hearing before the Assistant Superintendent; and

The Boston School Committee promulgated a regulation affording students and their parents the right to a hearing prior to exclusion from special classes. The hearing includes the right to notice, to call witnesses, to cross-examine witnesses, and to appear with counsel.

The plaintiff is represented by Michael Altman of the Boston Legal Assistance Project, 474 Blue Hill Avenue, Roxbury, Massachusetts 02121.

THERE JUDGE COURT APPROVES FULL HEARING BEFORE CHANGE IN MENTAL RETARDATION EDUCATIONAL STATUS

Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, Civ. No. 71–42, (E. D. Pa. June 18, 1971).

This complaint on behalf of all Pennsylvania mentally retarded children attempts to secure (1) a full hearing before exclusion from school or assignment to special education, (2) mentally retarded children's right to some publicly supported education, and (3) compensatory education for the period of wrongful exclusion of any mentally retarded child from any educational opportunity. Because a vindication of these rights would require that several state-wide statutes be declared unconstitutional, the convening of a three-judge court was necessary.

District Judge Masterson found that the questions raised by the complaint were not insubstantial and convened a three-judge court. Pursuant to stipulation of the parties, the three-judge court approved and ordered a detailed plan which insured that no Pennsylvania child aged 5½ to 21, who is thought to be mentally retarded by any school official or the parent, would be subjected to a change in educational status (or denied any educational assignment) before being afforded notice and the opportunnity for a full due process hearing at which the local school district, not the parent, shall bear the burden of proof.

Trial before the three-judge court on all other issues raised by the complaint will proceed in August. Copies of the plan are available from the Center for Law and Education. Plaintiffs are represented by Thomas Gilhool, Room 1300, 1 N. 13th Street, Philadelphia, Pennsylvania, and Paul Dimond of the Center for Law and Education.

STUDENT RIGHTS: NINTH CIRCUIT UPHOLDS LIMITS ON STUDENT HAIR (WHILE BERKELEY POLICE LET THEIRS GROW WILD)

King v. Saddleback Junior College District, No. 26,452; *Olff v. East Side Union High School District,* No. 25,132,— F. 2d— (9th Cir. June 25, 1971).

The same week that the Berkeley City Council voted to allow policemen to wear long hair and beards, the United States Court of Appeals for the Ninth Circuit upheld the legality of student dress codes in two nearby California cities which deny students the same choice. The ruling overturned two lower federal court decisions which had prevented the enforcement of the regulations.

Although finding that "in neither case was there any evidence that length of hair led to any disruption among students," Circuit Judge Trask defined the issue as being "the right of school authorities to develop a code of dress and conduct best conducive to the fulfillment of their responsibility to educate . . . without unconstitutionally infringing upon the rights of those who must live under it." The court found no infringement upon first amendment freedoms analogous to the Supreme Court's finding in *Tinker v. Des Moines Community School District,* 393 U.S. 503 (1969); nor, distinguishing *Griswold v. Connecticut,* 381 U.S. 479 (1965), as a "marital privacy" case, any invasion of the "right to be left alone;" nor a denial of equal protection; nor, because the codes were part of the "regulations necessary for the day to day operation of schools, classes, and the general educational processes," any denial of due process.

Relying on affidavits by school officials, and upon their "professional experience that extreme hair lengths of male students interferes with the educational process," the court concluded: "We are satisfied that the school authorities have acted with consideration for the rights and feeling of their students and have enacted their codes, including the ones in question here, in the best interests of the educational process. A court might disagree with their professional judgment, but it should not take over the operation of their schools. *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)."

Contrary decisions include: *Crews* v. *Cloncs*, 432 F. 2d 1259 (7th Cir. 1970); *Griffith* v. *Tatum*, 425 F. 2d 201 (5th Cir. 1970) (partially invalid); *Richards* v. *Thurston*, 424 F. 2d 1231 (1st Cir. 1970); *Breen* v. *Kahl*, 419 F. 2d 1034 (7th Cir. 1969), *cert. denied*, 398 U.S. 937 (1970); and *Crossen* v. *Faisi*, 309 F. Supp. 114 (D. Conn. 1970), (unconstitutionally vague).

DRUGS: N.W.R.O. ASKS F.D.A. TO EXAMINE RITALIN

N.W.R.O. has petitioned the F.D.A. to re*consider* and repeal its rulings approving Ritalin as safe and effective for use in the treatment of "minimal brain dysfunction" ("hyperkinetic behavior disorders"). The petition charges that Ritalin is misbranded and, on the basis of new evidence of its potential for abuse and its possible linkage to a blood vessel disorder, unsafe.

The petition describes (1) the extreme difficulty of accurately defining and diagnosing "hyperactivity;" (2) the likelihood that environmental deprivations create similar symptoms whose appropriate treatment does not include drugs; (3) the potential for dependence and adverse side effects from long-term use; (4) the mushrooming and inappropriate use of Ritalin, pressured by school officials looking for a quick cure for their own shortcomings and accommodated by doctors too quick to diagnose and prescribe; (5) the false, misleading and overbroad advertising of Ritalin by its manufacturer; and (6) given such circumstances, the inevitable failure to regulate Ritalin's use to enable parents and doctors to make informed choices to use the drug appropriately and safely.

The attack is broad and seeks to eliminate all use of Ritalin on children with "minimal brain disorder" or "hyperkinesis" (or whatever other label is placed on the ill-defined "syndrome"). The only exception would be for investigational use under strict controls similar to those applied to methadone maintenance programs.

The attack raises issues which are important and subject to a variety of views. [See *Inequality in Education*, Number Eight]. Hopefully, N.W.R.O.'s petition will permit a thorough and enlightened review of "hyperactivity" in school children and amphetamine treatment for it.

N.W.R.O. is represented by The National Legal Program on Health Problems of the Poor, 2477 Law Building, University of California, 405 Hilgard Avenue, Los Angeles, California, 90024.

TITLE I: TITLE I CLOTHING GRANTS FOUND TO IMPROVE STUDENT SELF-IMAGE AND SCHOOL ATTENDANCE

For some time proponents of the use of Title I money for clothing have been saying that sufficient quantities improve children's self-image and school attendance. This assertion is beginning to receive substantiation.

Last year, responding to the demands of the Rhode Island Fair Welfare Rights Organization (NWRO), Title I officials in Providence instituted a $96,000 Supplementary Clothing Grant (SCG) program. Providence is one of the first school districts in the country to use substantial amounts of Title I money for clothing. A recent study evaluating the results of the program give evidence that it is indeed fulfilling its objectives of improving children's self-image.

A study of the Providence Clothing Grant Program, conducted by members of the Brown University Sociology Department in cooperation with Title I parents, explored the attitudes of children and parents receiving the clothing grants under the Providence Title I program. The Brown sociologists reported that 96% of the children felt that poorly-dressed children feel differently about going to school than well-dressed children ("inferior," "made fun of," or "left out"), and 88% felt that poorly-dressed children were treated differently by other children. A smaller percentage (63%) felt that teachers treated them differently because they were poorly-dressed, but 72% said that poorly-dressed children were likely to make lower grades than well-dressed children. The Brown study also reported that an overwhelming majority of children (84%) sometimes felt like not going to school because their clothes were poor, and 74% have actually stayed home for this reason.

The Brown study also found that parents' perceptions were similar to their children's. 78% of the parents felt that poorly-dressed children were treated differently by other children, and all felt that teachers treated poorly-dressed students differently. (Some parents also felt that a few teachers gave special attention to poorer children.) 70% of the parents reported that their children were sometimes reluctant to attend school or take part in school activities because of poor clothing. Although agreeing that clothing grants were helpful, all felt that the $48.00 per child allowance needed to be increased substantially "so that a greater positive effect on the children might be made." The Brown study concludes that Title I clothing grants should be continued, but with an increased allowance.

Preliminary results of another study of the relationship between a clothing program and absences have been released. The results show that recipients of clothing grants reduced their absences, compared to a matched control group which did not receive grants. Because some recipients also received other Title I services, some of which were designed to improve attendance, the contribution of clothing grants to absence reduction cannot be separated from the contribution of other Title I programs. Inequality in Education expects to publish complete findings of this study when the final report is released.

These studies should be useful evidence for other lawyers and community groups seeking clothing grants out of Title I funds. What was once an unverified assertion has become accepted as fact in Providence—and the superintendent of schools has agreed with Rhode Island Fair Welfare to extend the Title I Supplementary Clothing Grant Program for another year.

Center for Law and Education,
Harvard University,
Cambridge, Mass.

School Desegregation 1954

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. . . . Such an opportunity . . . is a right which must be made available to all on equal terms.—*Brown* v. *Board of Education*, 347 U.S. at 493 (1954).

Busing Is Not the Issue

(By Reubin O'D. Askew [1])

Ralph Waldo Emerson once said that "This time, like all times, is a very good one, if we but know what to do with it." I am not sure what must be done to bring out the good in today's times. But I am convinced that sitting and waiting for the inevitable is not the answer.

For this reason, I want to say a few things with which many will disagree, things which are decidedly unpopular, but things which I feel must be said in the interest of the American people—all of them. In doing so I am not attempting in any way to judge nor place labels on anyone who disagrees.

Two questions with nationwide repercussions for school desegregation were added to our Florida Presidential primary ballot for March 14th. They were

1. Do you favor an amendment to the United States Constitution that would prohibit forced busing and guarantee the right of each student to attend the appropriate public school nearest his home?

2. Do you favor providing an equal opportunity for quality education for all children, regardless of race, creed, color or place of residence, and do you oppose a return to a dual system of public schools?

Many people feel strongly about these subjects, and rightly so. Many Floridians (and many throughout the nation who wish for a similar way to express their sentiments) feel that a constitutional amendment prohibiting busing is a wise and necessary measure. But I feel that it is wiser for people to vote "No" on the anti-busing amendment, and "Yes" on equal educational opportunity.

I strongly oppose a constitutional amendment to outlaw busing—but not because I like it or think it is a panacea for our problems. On the contrary, I recognize and regret the inconvenience, disruption and hardship it often creates for many parents and children. I am not without feeling for them, and I do not think anyone is. Busing is an artificial and inadequate instrument of change. It should be abandoned as soon as we can afford to do so.

VALUE OF BUSING

Yet, by the use of busing (and other methods), we have made real progress in dismantling a dual system of racially segregated public schols in this country. And I believe that until we find alternative ways of providing an equal opportunity for quality education for all, regardless of race, creed, color or *place of residence* (and that last part is important); until we are sure that ending busing will not bring a return to segregated public schools; until we have those assurances, we must not unduly limit ourselves—and certainly not constitutionally.

We must not risk seriously undermining the spirit of the Constitution, one of the noblest documents produced by man. We must not risk returning to the kind of segregation, fear and misunderstanding which produced the very problem that led to busing in the first place. Instead, we must all work together to find ways other than busing to guarantee that no American is denied an equal opportunity to grow and develop in a nonsegregated society.

That is what the present clamor is all about. Nobody is really committed to busing as an end in itself. It is the purpose for which we bus that is all-important. That goal is to put the divisive and self-defeating issue of race behind us once and for all. It is a goal worthy of vigorous pursuit by anyone who believes that all people should live together in peace, justice and harmony.

I believe we are closer to this goal now than ever before. I believe we are closer than any civilization in history to achieving a society in which all races, creeds and religions cannot only live with their differences, but thrive upon them, and learn from them as well. I think we are well within reach of understanding one another, caring for one another, and affirming our commitment to the principles of justice and compassion which made this country what it is today. How sad it would be to turn back now, not only for minority children but for all of us.

Of course we do not want our children to suffer unnecessary hardships. That goes without saying. But neither do we want them to grow up in a world of continuing racial discord, racial hatred and, above all, racial violence. But I fear that this is what we will have if we do not work now to solve our racial problems. This is surely what we will have if we continue to thwart every attempt to bring us together.

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[1] Reubin Askew is the Governor of Florida.

Ignorance is the father of cruelty. But we are beginning at last to overcome the ignorance which has kept us divided for so long, the ignorance which has been responsible for so much cruelty between the races. This is true especially of the South.

THE BUSING SMOKESCREEN

Because of our persistent preoccupation with race related issues, we have all too frequently neglected the real economic and environmental problems of the people, black and white alike. In this way, we have not been fair to ourselves. When people are divided against themselves on racial grounds, they have no time to demand a fair shake on taxes, utility bills, consumer protection, government services, environmental preservation, and other problems. In this session of the Florida legislature, for example, proposals for reform of education, environmental controls, and utility regulation have taken a back seat to a straw vote on busing which, in the final analysis, does not really accomplish anything. Believe me, while the legislature and news media were focusing attention on the busing debate, lobbyists and special interests were hard at work undermining programs that would put money into people's pockets, that would help protect people and the other living things which make Florida a worthwhile place in which to live.

This is probably the greatest reason why the South has been lagging behind other regions on issues such as wages, distribution of the tax burden, health, medical care, and aid to the elderly and others in need. So often when someone attempts to do something about people's basic needs, the race issue is resurrected in one form or another. Interestingly enough, I asked the legislature to put those other kinds of issues on the ballot along with busing. And they refused.

POLITICAL MATURITY

I hope that we are moving beyond racial appeals here in Florida, throughout the South, and the rest of the nation as well. It is time to say that we are not caught up in the mania of stopping busing at any cost, that we are maturing politically, that we know the real issues when we see them, that we will no longer be fooled, frightened and divided against ourselves. This is how we gain a better understanding of what this country is all about.

For many years now, the rest of the nation has been saying to the South that it is morally wrong to deprive any citizen of an equal opportunity in life because of his color. I think most of us have come to agree with that. But now the time has come for the rest of the nation to live up to its own stated principles. Only now are the other regions themselves beginning to feel the effects of the movement to eliminate segregation.

I say that the rest of this nation should not abandon its principles when the going gets tough. I do not say this to be vindictive, I say it to be fair. The rest of the nation has sought to bring justice to the South by mandate and the court order. Now perhaps it is time for the South to teach the same thing to other regions in a more effective way—by example. I certainly hope we will.

Regardless of how people feel about busing or segregation, a constitutional amendment to change things is neither necessary nor desirable. It is dangerous to tamper with the United States Constitution under emotional circumstances, and I have been heartened by the reports that President Nixon and Vice President Agnew have reservations about amending it in this way, that the Senate leaders in both parties are against a constitutional amendment. As one key member of the Nixon administration put it, these proposals "could have the effect of actually under cutting and rolling back the measures that have been taken to dismantle the dual school system."

I hope we can say to those who would keep us angry, confused and divided, that we are more concerned about justice than about transportation, and that while we are determined to solve both, we are going to take justice first.

It never has been my feeling that the majority of the people who oppose busing are racially motivated. On the contrary, I believe that most people who are disturbed by the inconvenience, disruption and hardship of busing, are nevertheless just as concerned that we put an end to segregation, and assure equal opportunity for all. Busing is one way of doing that. Perhaps it is the least desirable way, but it is effective nonetheless.

OTHER DESEGREGATION PATHS

Now is the time for Americans of good faith to search for other effective ways. One way, as I have said before, would be to work at the community level to overcome economic barriers and change our housing patterns—so that every neighborhood school would be a *desegregated* school (not necessarily one with an exact racial balance, but one in which the proper emphasis is on our real goal of quality education for all).

It is regrettable that education has had to shoulder a disproportionate share of the burdens of overcoming the effects of segragation. We can and should put greater emphasis on employment opportunities and fair housing practices as well as education. But we can also put greater emphasis on pre-school education for all children so that they start on an equal footing as early as possible. We can assure that no schools are so lacking in facilities, discipline and properly trained personnel that parents are legitimately fearful for their child's safety, health, development and well-being. For if such schools harm one child, they harm all children and should not be tolerated. School buildings can also be placed to ease the necessity of busing. There is much more we can do, I am sure, and I hope we will.

Then we can put an end to busing without setting the stage for a racial discord such as we have never before imagined. Then we can get on to those other problems which we've neglected for far too long.

In closing, let me say that we should be working together to free ourselves of the fears and divisions of yesterday, and to seek a better tomorrow. If I seem presumptuous in taking this opportunity to say so, I apologize. It is not my intention to impose my will on anyone. But it is my intention to give people cause for sober reflection, so that they are very sure of what they are doing before they encourage an amendment to the United States Constitution, one that would reverse our efforts to make that great document a living testimony to the pursuit of freedom, equality, and justice for all.

PUPIL TRANSPORTATION: A BRIEF HISTORY

(By PAUL V. SMITH)

Throughout America, the evolution of the public school system has shared three characteristics: (1) smaller districts (with one-room schools) have been consolidated into more comprehensive regional schools (often grouping students from different civic jurisdictions); (2) state aid has supplemented the school finances raised by the local property tax; and (3) students have been transported from their home neighborhoods to the more comprehensive, state-supported schools.

This third device, transportation, has attracted the greatest acrimony. One list of objections includes:

1. Bad roads and irregular distribution of public highways.
2. Uncertainty about expense.
3. Loss of the *home* school.
4. Fear that land on the border of enlarged district will depreciate in value.
5. Central school might build a new, large building and the discontinued schools might wish to return to the old regime.
6. Many teachers would be thrown out of employment.
7. Would build up a central school in a rival district. (Jealousy).
8. Disbelief that pupils can be transported comfortably and safely.
9. Doubt whether a graded school is better than an upgraded school.
10. Children would have to leave home too early and could not get back in time to do chores.
11. The evil influences would be much greater, particularly if children are transported to village or town schools.[1]

These arguments were listed by L. D. Harvey, Wisconsin Superintendent of Public Instruction, at a time when the controversy was nearing one of its peaks—1902. When the problem surfaced again, in 1937, the Arkansas Department of Education compiled a new list:

1. Consolidation destroys community life.
2. The consolidation of districts takes away local control of the schools.
3. The opposition of teachers and principals who may lose their positions.
4. The selfish interests of certain individuals.
5. Objections to transportation.
6. The school will be too far away.
7. Religious and denominational interests.
8. Social distinction between rural and urban pupils.
9. Failure to see the advantages of large schools.[2]

Similar arguments are occasionally heard today.[3]

Past controversies, of course, were resolved in favor of consolidation, state aid, and pupil transportation—much to the general satisfaction of the populace thereatfer. (Indeed, this was the course recommended by both state departments of education, although the resolution was probably easier in Arkansas since the school bus had been invented by 1937). There may be a point, nonetheless, to a brief review of school district consolidation and pupil transportation in America. As Professor M.C.S. Noble, Jr. observed in 1939:

> When evaluating such objections, it is well to remember that the school is an agency of society; hence any objections raised by the people must be met in a proper spirit and school receive careful and respectful consideration.[4]

IN EARLIEST TIMES

Schools have been agencies of society in the United States since before the nation existed. The Boston Latin School, founded in 1635, began receiving public funds in 1647 when Massachusetts passed the first law authorizing public secondary schools. The first pupil transported at public expense to an American school is unknown, but was almost certainly an Indian attending Harvard College, back when that venerable thicket of learning was an Indian school. (In those days, ministers were paid from the public purse to transport promising Indian children to the school. Throughout the colonial era, town subscriptions for the transportation and tuition of candidates for the ministry were common.)

The first documented suggestion that pupils attended formal, state-supported schools distant from their homes appears in *New England's First Fruits*, published in 1643. Speaking of the founding of Harvard College (as a college, after the Indian school had

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Footnotes at end of article.

been abandoned), the first public money for education is mentioned:

And as we were thinking and consulting how to effect this great work ["to advance learning"], it pleased God to stir up the heart of one Mr. Harvard (a godly gentleman and a lover of learning, there living amongst us) to give the one-half of his estate (it being in all about £1700) towards the erecting of a college, and all his library. After him, another gave £300, others after them cast in more, and *the public hand of the state* added the rest.

And by the side of the College, a fair grammar school, for the training of young scholars and fitting of them for academical learning . . .

Harvard's earliest Rules and Precepts (No. 6) provided: ". . . Nor shall any, without his tutor's leave or (in his absence) the call of parents or guardians, go abroad to other towns."[5] It is logical to surmise that many candidates in both the college and grammar school came from these "other towns."

Through the eighteenth and early nineteenth centuries, American public education gradually came into being. New England public school districts were based upon township lines, and were financed largely by local taxes (sometimes wealth rather than real property taxes). In the South, school districts were based on county and parish lines and supported by state or county-wide taxes (often commodity or sumptuary taxes). Because the nation was thinly settled and the population largely rural, "neighborhood schools" were impractical. Children journeyed to school by any means available:

From pioneer days until shortly after the close of the war between the States, transportation facilities were decidedly limited. The child who lived more than a walking distance from school, journeyed to and from school by whatever means his family or his neighbors could provide. In the main, transportation meant a long and tedious ride in a rough wagon which had been provided by some family in the neighborhood. However, in many instances the child mounted his horse and rode to school; in other instances, a canoe or rowboat served as a means of travel.[6]

The longest and most arduous school journeys during this period were those of our Southern Black persons who ventured, by Underground Railway,[7] to schools as far away as New England and Canada. Individuals made these efforts, however, but once or twice (and rarely more than a half a dozen times a lifetime) in order to secure the advantages of public education for themselves and their descendants.

INTERNATIONAL PICTURE

Transporting pupils to schools in sparsely settled areas was hardly unique to America. In 1883:

Nearly every Australian school [had] a stable attached in which boys who rode to school put up their horses during school hours. It is most amusing to watch half a dozen "fellows" galloping their ponies up the avenue, not to be late for first school, just as we used to scurry across quad to chapel of a morning![8]

Nor were the occasional use of such strange vehicles as canoes and rowboats solely American. Indeed, England provides an example of the employment, by fervent pupils, of tubs and stilts:

In a meadow upon the skirts of the town, adjoining the road leading to Exeter, stood the grammar-school, from which the famous Bampfield Moore Carew, king of the gypsy tribe, eloped, when a schoolboy, to join his gang of vagabonds. Here, in the good old days, "when George the Third was king," my father being a freeman of the town, I enjoyed the advantage of *hic-haec-hoc*-ing it for a couple of years.

[The students were fond of school.]

As a proof of this I may mention that upon one occasion, when the school was inaccessible, the meadow that divided it from the road being flooded by the heavy rains, many of the boys got across the water in tubs or on stilts . . . .[9]

MODERN TIMES IN AMERICA

The modern period in the United States, beginning about 1840, is dense with change and improvement in the means of school finance, consolidation, and transportation. Table I below offers Professor Noble's admirable summary of this period.

TABLE I

Period.—Major Historical Developments.

1840–1880.—The principle of centralization of schools established in urban communities, extended to other independent districts, and inaugurated in rural sections. Two states enacted transportation statutes.

1880–1894.—Gradual extension of the consolidation and transportation ideas.

1894–1910.—A period of marked increase of interest in rural schools; a general rapid enactment and betterment of consolidation and transportation laws.

1910–1925.—A period of more united effort in bringing about consolidation, determining its value, and working out the best ways to make it effective. Scientific studies initiated to develop improved methods of distributing state aid for transportation and consolidation, and determine factors affecting transportation costs. Transportation by bus succeeded transportation by horsedrawn vehicles as the predominating mode of pupil transportation.

[Adopted from M. C. S. Noble, Jr., *Pupil Transportation in the United States* (1940), p. 33]

SCHOOL FINANCE

The methods by which schools are financed is intimately related to the question of pupil transportation. Until Civil War times, tuition, philanthropy, state aid, and various local funds supported public education. Then, as settlements grew into towns and modest cities, local governments developed the real property tax as the chief instrument of school finance. This trend was not unopposed:

The idea of permitting the stronger, wealthier sections to make more rapid progress with their schools did not meet favor in some cases. In Indiana and Pennsylvania definite attempts were made to keep all the schools at about the same level and to give none any great degree of independence. A Supreme Court decision in Indiana prohibited local school taxes from 1854 to 1867 on the ground that if such taxes were levied the schools would not be general and uniform.[10]

The local property tax prevailed, nonetheless, in New England and in inland areas settled upon the New England model. In the South, local taxes never found root because of the county government system, so property taxes were county-wide and their income was distributed to schools on a per-pupil basis.

Objectors to the local property tax system of school finance were not completely silenced, however. In 1918 the United States Bureau of Education spoke out: "the chief reason for discontent with the local district is that it has become an almost insurmountable obstacle to the type of school organization required by a modern rural population. As a tax area it causes untold injustice and inequity."[11] In 1925, opposing voices were sharper:

The evils of the district system and the hopelessness of endeavoring to equalize educational opportunity and school burdens, as long as the district is maintained as the chief and dominant source of school revenue, have been pointed out by every leading authority on the organization and support of public schools for the last one hundred years.[12]

Property tax critics soon turned from direct attacks upon the system to proposals that would circumvent its injustice. They suggested school consolidations and broadened pupil transportation plans which equalized fiscal support and conferred other advantages. The Arkansas Department of Education praised the county-wide school district in 1930:

This district is controlled by one Board of Education elected by the people exercising powers similar to those exercised by school boards under the local district system. Under the county unit system all the resources of the county are pooled for the education of all the children of the county.[13]

In New York State, statutory provision for district centralization was celebrated in 1937:

But one further important step was needed to perfect our school system, a step to assure equality of opportunity for all children in the rural districts and smaller villages, on a parity with children in centers of population. Hence the centralization act was added to the Education Law to round out and complete the obligations imposed by the fundamental law of the State. In conformity therefore with the mandate of the Constitution, centralization is the capstone of the State Educational System.[14]

Professor Noble's 1939 analysis extended the consolidation idea to include areas larger than single counties, and cited the U.S. Bureau of Education for support:

Furthermore, it is desirable to conduct such reorganization programs on either a county-wide or state-wide basis.

Facilities which provide safe and economical transportation are most readily established as the result of reorganization studies of local school units, when such studies are conducted on a county-wide and (or) a state-wide basis.[15]

This suggests that many citizens may have accepted local taxes for school finance because the taxes were expected, in conjunction with school consolidation and pupil transportation, to make equal education available to all:

He [the rural citizen] has faith in the ideas of American democracy, believing it possible that some day his own son might occupy the White House. Holding that faith, he wants an educational offering for his child equivalent to any in the land. Any attempt to institute a caste system of education in which his children cannot become bankers, lawyers, doctors, or enter any profession, occupation, or vocation arouses his most bitter opposition. He is realizing that if his children are educated in a community with a one-room rural school, taught by an incompetent teacher, with no high school facilities, that they will be unable to compete with their urban colleagues. So at a time when the favorable margin between the farmers' buying and selling dollar is growing narrower and narrower, they are still voting consolidations by overwhelming majorities, they are transporting at their own expense and paying tuition of thousands, . . . and they are demanding accredited high schools, which will give varied curricula and which will prepare them for entrance into the best colleges and universities in the nation.[16]

Such is the faith upon which our modern school—nay, our very nation—is founded.

SCHOOL CONSOLIDATION

School consolidation began as an urban phenomenon, where the limitations of neighborhood schools (often a single room with a single teacher) were clearly seen:

The movement to provide better educational advantages than are offered by the

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Footnotes at end of article.

one-room school in which a small number of children are taught by some one untrained for the work began in New England. Out of it have come our present-day city school systems, independent and special districts of various kinds, district, union, township, and county high schools, union graded schools, rural and state graded schools, consolidated and centralized schools, and other public schools.

Consolidation of schools was first effected in the cities and more densely populated towns, usually under special laws or acts of incorporation.[17]

While state statutes were important, consolidated (or union) districts often preceded the formation of larger cities. New York City is the most prominent example. (In fact, school district boundaries often coincide with municipal boundaries only because the municipal boundaries were first drawn along school district lines.)

The town or township as the unit of local school administration was compulsory throughout New England and New Jersey except for special districts, and these were gradually uniting again with the towns from which they had withdrawn. Under optional township plans township districts were forming steadily in Michigan but slowly or not at all in Wisconsin.[18]

Table II shows the dates of the earliest state statutes which allowed, encouraged, or financed school consolidations. Massachusetts had the first statute in 1838, but Connecticut made the first actual consolidation, in Farmington, in 1839.

The first Massachusetts consolidation occurred in Greenfield in 1869, but the Montague and Concord consolidations of 1875 and 1879 respectively were more interesting. In 1893, Seymour Rockwell wrote of the Montague consolidation:

> For 18 years we have had the best attendance from the transported children; no more sickness among them, and no accidents. The children like the plan exceedingly. . . . We encountered all the opposition found anywhere, but we asserted our sensible and legal rights and accomplished the work.[19]

W. L. Eaton, the Superintendent of Schools at Concord, added:

TABLE II

States (1)	Date of 1st consolidation law or school (2)	Consolidated schools (3)	Percent of total number of schools (4)	Districts (D) or schools (S) discontinued by consolidation (5)	Pupils enrolled in consolidated schools (6)	Percent of State enrollment (7)	Teachers employed in consolidated schools (8)	Percent of State teaching corps (9)	Value of consolidated school property (10)	Percent of State school property (11)
Continental United States		11,890			389,783	[1] 9.3	[1] 11,106	[1] 7.3		
Alabama	1910	328	4.0		37,000	6.5				
Arizona	1907	29	1.8							
Arkansas	1911	170	2.5				[2] 600	5.7	$1,151,200	7.4
California	1901	59	.8							
Colorado	1909	[3] 146	4.2	[3] S 425	[3] 29,000	13.1	[3] 1,078	15.4	[3] 6,003,671	24.9
Connecticut	1839									
Delaware	1861	14	2.9	S 26	6,387	19.1	263	21.2	1,050,000	
Florida	[4] 1889									
Georgia	1911	315	3.7		[5] 18,122	2.6	631	3.9		
Idaho	1900	41	2.2							
Illinois	1905	78	.5							
Indiana	1873	1,040	14.4							
Iowa	1873	288	2.2		[3] 68,619	13.3				
Kansas	1896	118	1.2	[6] D 270	[3] 11,839	[3] 2.9	[3] 590	[3] 3.5		
Kentucky	1908	258	3.1							
Louisiana	1902	[7] 808	22.0		[7] 107,731	30.4	3,538	38.1		
Maine	1854	117	2.4							
Maryland	1904	[8] 180	7.4							
Massachusetts	1838	[9] 126 [10] 2,169	62.3							
Michigan	1843	211	2.3							
Minnesota	1901	255	2.7							
Mississippi	1910	470	6.5		61,821	10.9	2,049	17.0		
Missouri	1901	168	1.6		28,368	4.2	905	4.2		
Montana	1913	69	1.8		12,127	9.5	491	7.9		
Nebraska	1889	101	1.3							
Nevada	1913	15	4.4							
New Hampshire	[11] 1870									
New Jersey	1886	92	3.7							
New Mexico	1907	129	9.0							
New York	1853	354	2.7	[6] D 830						
North Carolina	1885			D 157						
North Dakota	1899	457	8.9							
Ohio	1846	800	5.3							
Oklahoma	1903	262	3.3							
Oregon	1903	61	2.4							
Pennsylvania	1901	137	.8	S 503			682	1.5		
Rhode Island	1898									
South Carolina	1898	[2] 300	6.2	D 288 S 323						
South Dakota	1913	139	2.3		8,778	5.9	288	3.6	1,685,896	9.6
Tennessee	1903	309	4.2							
Texas	1893	635	5.7							
Utah	1896									
Vermont	[11] 1872									
Virginia	1903	[3] 258	3.8							
Washington	1890	274	7.7							
West Virginia	1908	145	2.1							
Wisconsin	1856	80	.9						2,450,000	5.8
Wyoming	1913	11	.7							

[1] Based on returns from 11 States.
[2] Estimated.
[3] Data for 1921.
[4] Giving county boards power to locate schools.
[5] In State-aided schools only.
[6] Number of districts affected.
[7] Data for 1922.
[8] Data for 1918.
[9] Towns of less than 10,000 population having most of the schools consolidated.
[10] Buildings of 2 or more rooms.
[11] Permissive adoption of town system. Note p. 11.

Source: Reprinted from U.S. Bureau of Interior Bulletin No. 41 (1923) p. 56.

> The apprehensions of the owners of real estate that a depreciation of values would result if the local schools were closed have proven to be groundless. The natural reluctance of parents to send their young children so far from home and for all day, to attend the center school, has vanished. The children are conveyed in comfortable vehicles fitted up for their accommodation. They are in charge of trusty drivers en route, and at noon they are under the special care of one of the teachers, who has extra compensation for the service. . . . The attendance of the children conveyed is several percent better than that of the village children, and it is far higher than it was in the old district schools. This is not strange when one reflects that the children are taken at or near their own doors and conveyed to schools without exposure in stormy weather and with entire comfort in cold or snowy weather. Discipline in the carriages is maintained readily, as the driver has authority to put out any unruly child.[20]

It is clear that transportation has played an essential and beneficial part in school consolidations.

Footnotes at end of article.

TABLE III

States (1)	Date of 1st transportation law (2)	Date of 1st available data on amount spent for transportation (3)	1st reported amount spent for transportation (4)	Amount spent for transportation in 1920 (5)	Percent of total current expense of the schools (6)	Number of children transported, 1920 (7)	Percent of the average daily attendance of the State (8)	Percent of total enrollment in consolidated schools (9)	Cost of transportation per pupil per year (10)
Continental United States				$14,514,544	[1] 1.8	356,401	[2] 5.6		
Alabama	[3] 1915	[4] 1918	$9,770	171,925	2.2	7,058	1.9	19.0	[5] $3.33
Arizona	1912								
Arkansas	1911					1,032	.3		
California	1901	1918	272,782	630,797	1.6				
Colorado	1909					[6,7] 11,400	7.5	39.3	
Connecticut	1893	1898	11,416	314,340	2.2	6,030	2.9		
Delaware	1919	1920	68,401	71,444	4.6				
Florida	[8] 1899	1901	3,225	216,691	3.6	7,996	4.8		27.20
Georgia	1911	1911	19,339	69,477	.8	9,499	2.03	52.4	12.40
Idaho	1913	1914	35,000	301,345	4.5	1,526	1.8		
Illinois	1911	1912	16,987	163,254	.2				
Indiana	[9] 1899	1904	[10] 590	1,921,035	6.6	60,142	13.1		
Iowa	1897	1907	25,758	1,354,051	4.1	[7] 34,743	8.5	50.6	
Kansas	1899					[6] 4,000	1.3	33.7	[10] 16-0.23
Kentucky	1912	1914	15,222	95,785	1.3				[10] 10-.19
Louisiana	[11] 1916	1909	45,808	471,059	5.1	18,229	7.1	16.9	26.00
Maine	1880	1896	47,739	296,651	4.9	8,889	7.6		33.37
Maryland	1904	1905	[12] 508	64,734	.8				
Massachusetts	1869	1889	22,118	858,840	2.1	[13] 25,935	5.0		[10] .20—.24
Michigan	1903	1914	49,497	155,116	.4				
Minnesota	1901	1904	4,258	976,475	3.4	[7] 20,450	5.1		
Mississippi	1910	1911	[5] 345	246,078	5.5	30,772	11.8	49.7	[5] 3.18
Missouri	1907								
Montana	1903	1914	26,636	297,796	2.9	3,293	3.5	27.1	[10] .33
Nebraska	1897	1920		[6] 127,500	.7	[7] 3,517	1.5		
Nevada	1915	1920		34,115	2.8				
New Hampshire	1885	1906	38,527	195,127	5.3				
New Jersey	1895	1901	4,421	749,895	2.1	21,727	4.5		
New Mexico	[14] 1917	1918	20,855	136,881	3.8	5,119	8.6		
New York	1896	1913	65,445	470,485	.4				
North Carolina	1911					7,936	1.6		
North Dakota	1899	1906	28,896	876,876	7.0	21,153	16.4		
Ohio	1894	1915	473,470	1,651,157	2.9				
Oklahoma	1905	1920		[15] 228,397	1.2	8,420	2.3		
Oregon	1903	1920		2,286	.02	[7] 2,029	1.4		[10] .35
Pennsylvania	1897	1913	425	83,962	.1	[7] 4,520	.35		
Rhode Island	1918	1918	21,633	32,490	.7				
South Carolina	[16] 1912	1914	11,927	[17] 25,121	.4	[17] 1,723	.51		[17] 13.29
South Dakota	1899	1913	54,399	211,947	2.3	2,388	2.4	27	
Tennessee	1913	1915	18,920	88,883	1.4	5,870	1.2		[5] 1.00-9.00
Texas	[18] 1915	1917	29,631	70,088	.2	2,683	.3		
Utah	[19] 1905	1916	93,091	170,286	2.7	5,000	5.1		
Vermont	1876	1893	9,133	228,532	6.5	4,467	8.8		
Virginia	1903	1906	2,102	153,796	1.5	[7] 8,885	2.5		
Washington	1901	[20] 1911	[20] 44,523						
West Virginia	1908								
Wisconsin	1897	1912	36,468	225,699	.9				
Wyoming	[21] 1919	1918	29,255	74,128	2.3				

[1] Computed on returns of 40 States.
[2] Computed on returns from 31 States.
[3] Permitted in Mobile County at an earlier date.
[4] Mobile County only.
[5] Per month.
[6] Estimated.
[7] Data for 1921.
[8] Assumed in powers of county boards.
[9] Transportation was carried on under general powers of township boards as early as 1888.
[10] Per day.
[11] Transportation also dates to 1902 under general powers of parish boards.
[12] Baltimore County.
[13] Data for 1919.
[14] Not a specific authorization. County boards created.
[15] Special report for 98 schools.
[16] Permitting State aid for transportation.
[17] Data for 1918.
[18] A law of 1905 was also construed as permitting transportation.
[19] In powers of county district board.
[20] Special report.
[21] Not specific; assumed in powers of district board.

Source: Reprinted from U.S. Bureau of Interior Bulletin No. 41 (1923) p. 58.

SCHOOL TRANSPORTATION

The success of school consolidation; students' increased comfort, safety, and scholarly diligence; protection against the inequity of property tax inequities in school finances: all depend upon adequate school transportation. While it has been available in the United States from earliest times, its provision by the state is a latter-day improvement.

The first state act providing for state-aided pupil transportation was passed by the Great and General Court of Massachusetts in 1869. As Table III indicates, other New England states rapidly followed suit, followed shortly by states throughout the midwest.

Interestingly, two states required no specific authorization for the reimbursement of transportation. In Florida and Utah, the act that entailed public transportation was the same act that set forth the powers of the county school boards. In Florida, the statute allowed ". . . all acts reasonable and necessary for the promotion of the educational interests of the county and the general diffusion of knowledge among the citizens." [21] In Utah, C.H. Jensen, the State Superintendent, explained:

It is rather fortunate that the law which consolidated the schools in Utah . . . placed in the hands of school boards, among other powers, the power "to do all things needful for the maintenance, prosperity, and success of the schools and the promotion of education." Boards have interpreted the above law liberally, whenever they have felt that the welfare of the pupils could be best served by so doing.[22]

By 1934, twenty-three states had made pupil transportation mandatory under certain conditions, to be judged by the local school board.[23]

It is unclear what authority allowed school boards to compel students to attend schools located a distance from their homes. Fortunately, traditional American respect for education as an agency of society has been so profound that the question never arose in practice. Compulsory attendance laws exist in almost every state, as does the precedent of mandatory boarding schools. As Monahan reported in 1914: "Maine, Vermont, Minnesota, South Dakota, and Oregon permit payments for board and room for pupils in homes convenient to the schools where the cost of so doing does not exceed the cost of transportation." [24] The Maine act provides that school committees may authorize their superintendents of schools "to pay for board and room at a suitable place near any established school instead of providing conveyance, when it can be done at an equal or less expense." [25] Nobel reports that a 1922 U.S. Bureau of Education bulletin mentions the existence of 225 dormitories "established in connection with the public secondary schools of 21 states." [26] When pupils can be required to board away from home in order to advance educational opportunities, is it any wonder that school officials' powers to mandate daily transportation are seldom questioned?

METHODS OF TRANSPORTATION

The basic plan for public school transportation was outlined by Monahan in 1914:

> Usually the school wagon follows a definite route and children meet it on the route. The wagons are required to run on schedule and leave fixed points at set times. In a few cases wagons go to the homes of the children. Ohio requires the wagon routes to be arranged so that no child will have to walk more than one-half mile to take the wagon; South Dakota, so that no child will have to walk more than five-eighths of a mile. Iowa prohibits the wagons from leaving the public highways to receive or discharge occupants, and provides that children living "unreasonable" distances from school or wagon routes may be

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Footnotes at end of article.

transported by parents or guardians, who receive compensation for so doing.

While the wagon is the usual form of conveyance furnished at most schools, many children are transported in all parts of the country by steam railroads or electric roads. In Massachusetts and California, and undoubtedly in other states, automobile buses are coming into use. In Virginia, on one route, a gasoline launch is used.[27]

By 1940, the types of vehicles in use included: railroads (14 states had legal provisions regarding these), trolleys, taxis, private and public passenger cars, steamboats, and sleighs.[28] Belmont Farley, in his amusing 1938 essay, *Willingly to School,* discovered dog sleds, snowmobiles, motor boats, and even a cable basket in Lemhi County, Idaho.[29] The Superintendent of the Northwestern School District of Alaska, in 1921, accompanied his charges to school on a reindeer-sled.[30]

Monahan adds a pointed warning against reimbursing families for transporting their children to school privately:

> One of the principal disadvantages is the expense. It does not require a larger expenditure of school funds, but the total expended by the school patrons is much greater. A large amount must be invested in horses and vehicles, and stabling and feed for the horses provided. If the children themselves drive, the horse is not available for other work on school days. Another disadvantage is that it does not assure the regularity of attendance and the freedom from tardiness resulting from the use of transportation wagons or of public electric or steam railroads.[31]

Against this must be set the remarkable success of the North Carolina system where, to this day, pupils drive the school buses.

EXTENT OF PUPIL TRANSPORT

Table IV summarizes Massachusetts state contributions to pupil transport from 1889, when the State Board of Education began collecting statistics, until 1912.[32] By 1910, fourteen states were collecting information on transportation expenditures, as reported in Table V.[33] By 1920, the percentages of all pupils who were transported were available; they appear in Table III. The growth of pupil transportation can be traced by comparing the national expenditures gathered by *Bus Transportation* magazine from 1926 to 1938.[34] During this period, the total increased by 180 percent. (Table VI presents these totals.)

TABLE IV.—*Cost of pupil transportation in Massachusetts from 1888–89 through 1912–13*

School year:	*Transportation expense*
1888–89	$22,118
1890–91	30,649
1895–96	91,136
1900–01	151,773
1905–06	236,415
1910–11	329,857
1912–13	384,149

TABLE V.—*Expenditures on Pupil Transportation in 14 States Reporting in the year 1909–10*

State:	*Transportation expense*
Connecticut	$72,077
Florida	24,133
Indiana	155,390
Iowa	25,434
Louisiana	54,000
Maine	114,795
Maryland	5,210
Massachusetts	310,422
Minnesota	63,253
New Hampshire	57,993
New Jersey	145,737
North Dakota	104,150
Vermont	92,019
Virginia	46,908

Footnotes at end of article.

TABLE VI.—*Cost of School Bus Transportation in the United States, from 1926 to 1938*

Year:	*Total cost*
1926	$23,430,195
1927	24,659,598
1928	27,256,738
1929	30,119,302
1930	34,044,138
1931	40,696,398
1932	48,759,730
1933	50,533,603
1934	48,562,565
1935	52,621,881
1936	55,280,496
1937	61,032,340
1938	66,011,592

TABLE VII.—PERCENT OF AVERAGE DAILY ATTENDANCE TRANSPORTED TO SCHOOL AT PUBLIC EXPENSE IN THE SCHOOL YEARS 1920-21, 1937-38, AND 1970-71, BY STATE

State	Percent transported		
	1920–21	1937–38	1970–71
Alabama	1.9	26.3	47.6
Alaska			41.1
Arizona		17.5	29.7
Arkansas	.3	14.6	52.2
California		8.2	19.7
Colorado	[1] 7.5	8.3	[2] 35.3
Connecticut	2.9	11.1	[3] 57.0
Delaware		24.6	60.7
Florida	4.8	[3] 18.9	34.6
Georgia	2.3	16.8	56.4
Hawaii			
Idaho	1.8	20.3	52.2
Illinois		1.5	32.8
Indiana	13.1	30.0	56.6
Iowa	[1] 8.5	11.0	44.0
Kansas	1.3	3.9	35.7
Kentucky		11.8	63.1
Louisiana	7.1	28.8	64.4
Maine		14.2	65.9
Maryland	7.6	17.8	58.1
Massachusetts	[3] 5.0	7.1	[5] 44.5
Michigan		3.7	[3] 36.5
Minnesota	[1] 5.1	22.2	48.2
Mississippi	11.8	23.0	54.7
Missouri		6.4	63.9
Montana	3.5	9.5	30.1
Nebraska	[1] 1.5	1.0	19.9
Nevada		8.9	39.6
New Hampshire		15.2	[3] 60.8
New Jersey	4.5	10.8	[3] 30.5
New Mexico	8.6	20.2	[4] 43.3
New York		5.4	[5] 45.6
North Carolina	1.6	32.6	62.2
North Dakota	16.4	[3] 16.3	40.3
Ohio		20.2	50.9
Oklahoma	2.3	15.6	[2] 39.3
Oregon	[1] 1.4	12.0	[3] 56.5
Pennsylvania	[1] .4	5.3	57.4
Rhode Island		3.8	[2] 50.5
South Carolina	.5	13.3	56.0
South Dakota	2.4	4.6	32.7
Tennessee	1.2	17.3	52.6
Texas	.3	21.2	23.0
Utah	5.1	21.0	32.9
Vermont	8.8	8.4	65.2
Virginia	[1] 2.5	22.6	62.4
Washington		[3] 23.8	49.4
West Virginia		22.2	70.1
Wisconsin		4.6	50.2
Wyoming		21.2	34.7

[1] Data for the subsequent school year.

[2] Percentage based on total school enrollment rather than average daily attendance.

[3] Data for the preceding school year.

[4] Percentage based on average daily membership rather than average daily attendance.

[5] Large cities omitted in some cases. (New York State excludes New York City only.)

As Table VII demonstrates, the percentage of pupils transported to school increased steadily from 1920 to 1970.[35] This increase occurred throughout the country, and especially in the midwest where the early New England type school district disappeared only slowly. Although the percentage of students riding to school continues to increase, as Table VIII shows, the rate of increase has been gradually declining since the 1920's, particularly since 1954.[36]

TABLE VIII.—*Percent of total enrollment transported at public expense from 1920 to the present*

School year:	*Percent transported*
1920–21 *	5.6
1929–30	7.4
1931–32	9.2
1933–34	10.6
1935–36	12.3
1937–38	14.5
1939–40	16.3
1941–42	18.3
1943–44	19.4
1945–46	21.7
1947–48	24.4
1949–50	27.7
1951–52	29.0
1953–54	32.8
1955–56	35.0
1957–58	36.5
1959–60	37.6
1961–62	38.1
1963–64	38.7
1965–66	39.7
1967–68 **	41.3
1969–70 **	42.8

* Percentage based on average daily attendance and not enrollment, for 31 states, some having data only for the preceding or following year.

* * Percentage based on average daily attendance and not total enrollment, for 36 states.

COST OF PUPIL TRANSPORTATION

The per pupil cost of school transportation has grown considerably over the years. The first available figures (from Concord, Massachusetts in 1887) report annual wagon transport costs of $19.44 per child.[37] In 1967–68, for the United States as a whole, annual per pupil costs had risen to $23.06.[38] This increase is doubtless due to the dollar's declining purchasing power, only partly offset by the fact that modern motor buses do not require fuel during idle periods.

A more relevant comparison is the per child cost for transported pupils only. Table IX shows the 1911–12 figures for several states. They range from $10.03 (Georgia) to $28.72 (Vermont).[39]

TABLE IX.—*The cost, per pupil, per year, of pupils transported to school at public expense, for several States in the school year 1911–12*

State:	*Cost per pupil transported*
Connecticut	$23.69
Georgia	10.03
Indiana	19.04
Iowa	20.70
Minnesota	21.70
Ohio	15.00
Oklahoma	13.12
Vermont	28.72
Washington	25.00

Table X shows national figures for 1929 through 1966.[40] During that span of nearly 40 years, the cost per transported pupil has nearly doubled (while the costs of aluminum, electricity, and celluloid have actually declined).

TABLE X.—*Cost, per pupil, per year, of pupils transported to school at public expense, for the years 1929–30 through 1965–66, for the United States*

School year:	*Cost per pupil transported*
1929–30	$28.81
1939–40	20.10
1949–50	30.88
1959–60	39.78
1965–66	50.68

As the cost of motor transport shot up, total school expenditures on all aspects of education also increased (although not quite as quickly). In 1921–22, 1.7 percent of school operating expenditures were committed to pupil transport.[41] By 1935–36 the percent had more than doubled to 3.8.[42] In the next 30 years, the percentage increased another one-fifth of one percent (to 4.0) by 1967–68.[43] Perhaps this shows that, as pupil transportation proves its value, schools commit ever increasing proportions of their resources to its employment.

REASONABLE LIMITS ON PUPIL TRANSPORT

There is considerable interest in establishing a reasonable standard for the amount of time children may be expected to spend getting to school. E.E. Ramsey of the Indiana State Department of Education said, in 1923:

> I believe that the amount of time that pupils should spend in transit to and from school is one point that might be standardized. It occurs to me that if a pupil spends two hours per day going to and from school, that this is as much time as should be allowed for such purpose.
>
> In some of the better portions of Indiana, another condition has arisen in the last 20 years, of which full advantage has not been taken. I refer to the interurban system which is to be found in many parts of central and northern Indiana. Transportation is possible for much greater distances over the interurban lines than in any other way. Fifteen to twenty miles would not be an excessive distance for transportation by such a method. It happens, however, that the unit of administration for rural schools in this State is such that it renders this desirable means almost wholly inoperative. The township unit of administration usually means that pupils will not be transported outside their own school unit.[44]

Other states established different standards, but none less than that proposed by Mr. Ramsey.[45]

A 1924 survey of 260 consolidated school systems reported the lowest average one-way travel time to be 10 minutes; the greatest was 100 minutes; the median 35 minutes.[46] Because these are system-wide averages of all the transit times, it is clear that many systems exceeded the one-hour one-way standard proposed by Mr. Ramsey. By 1940, however, the one-hour one-way standard was generally accepted, although not always adhered to because of cost considerations.[47] One way routes more than 2 hours long still exist in some parts of North Carolina, for example.

TRANSPORTING BLACK CHILDREN

The benefits of attending larger, more socially mixed schools have long been noted. R. F. Gaither, principal of the Mays Lick Consolidated School in Mason County, Kentucky, explained the effect on black children in 1914:

> Everyone knows of the inspiration that comes from numbers. We have all felt the difference between plodding along alone and being carried on by the sweeping current of the crowd. The child feels it perhaps more sensibly than the adult. The Southern Negro, who is more nearly the child of Nature than the white man, feels it to such an extent that he is almost gregarious. This love of the crowd is in almost all normal people. It is one of the influences that draw boys and girls to the city. Its effect is as great in school as it is elsewhere.[48]

Principal Gaither also noted a second effect:

> The benefits accruing to the country pupil from consolidation can hardly be estimated. It gives him a broader life, widens his vision, and affords him an opportunity to more nearly fill up his life to the full measure of its possibilities. In the consolidated school the pupil has a wider circle of acquaintances and learns to estimate his own value. He has a better opportunity to realize that he is really one of the units of an active world. He does not have to come into middle life before it dawns on him that he should be one of the active agents in shaping the trend of affairs, political and otherwise.[49]

Some black children who have attended consolidated schools will doubtless attest to this latter point.

Whatever the benefit of attendance at consolidated schools, many black children became intent upon possessing it. Leo M. Favrot, Louisiana State Agent for Negro Schools, pointed out in 1923:

> Even our Negro population realizes the advantages of a large central school to such an extent that the Negro child is willing to walk great distances to attend a school of this type and demands a school of this type in preference to a one-teacher school.[50]

Mr. Favrot was acute in stressing the black child's willingness to walk. In 1936–37 the proportions of black and white children who were transported to school were quite different in the twelve Southern states. As Table XI indicates, the proportion of whites transported to school at public expense was nine times as great as the proportion of blacks.[51]

TABLE XI.—THE PROPORTIONS OF THE WHITE AND BLACK TOTAL ENROLLMENT TRANSPORTED TO SCHOOL AT PUBLIC EXPENSE IN 12 SOUTHERN STATES DURING THE SCHOOL YEAR 1936–37

	Percent of total enrollment transported to school, by race	
State	White children	Black children
Alabama	38.9	1.7
Arkansas	18.4	3.0
Florida[1]	25.1	1.6
Georgia[1]	25.6	1.0
Louisiana	45.2	.5
Maryland	20.4	7.3
North Carolina	43.9	6.7
Oklahoma	16.2	8.6
South Carolina	24.4	.1
Tennessee	20.5	2.0
Texas	24.2	5.7
Virginia	28.9	5.4
Total	27.3	3.2

[1] For the preceding year.

An explanation for this discrepancy was offered in 1923 by J. T. Calhoun, State Rural School Supervisor of Mississippi:

> In Mississippi we have very few consolidated Negro schools because Negroes, as a rule, live in colonies or on large plantations in such great numbers that it is not necessary to transport them in order to make a school large enough to do efficient work.[52]

He also pointed out that "The western portion of Mississippi is in the Delta, where the land is rich, the tax valuation is high, and the white children are a considerable distance apart."[53]

The proportion of black children transported to school at public expense can be expected to increase substantially, however, as ever greater numbers of blacks relocate to cities. This is because, as Noble observed:

> There are many factors which cause cities to make provisions for the transportation of normal children. Among such factors are: (a) Distance; (b) State laws; (c) the consolidations of schools; (d) poverty; (e) segregation of races; and (f) safety.[54]

Indeed, as the Bureau of Education's survey of city school systems makes clear, cities were making rapid progress in the provision of transportation to children in 1921–22.[55] New York was spending $333,000 annually, Chicago $143,000, Philadelphia $49,000, Cleveland $27,000, Newark $15,000, Los Angeles $29,000, Boston $10,000, and Detroit spent $9,000. By 1938, 71 percent of the largest 327 cities were busing children to school.[56] As blacks move increasingly into larger cities, a greater proportion of them can be expected to benefit from school transportation provisions at public expense.

VOICE OF THE PEOPLE

Research on pupil transportation has grown energetically from the very beginning of the modern period. Only a small portion can be presented here.

One of the most frequent forms has been the public opinion poll. In 1898, Mr. G. T. Fletcher made a public inquiry for the Massachusetts Board of Education which "showed the attitude of the public toward the policy of consolidation as seen by the school authorities—70 percent of the people approved the policy and 30 percent opposed it."[57]

In 1913, 120 Connecticut townships reported these results of a pupil transport poll:[58]

Satisfactory to parents	Beneficial to schools	Number reporting
Yes	Yes	95
No	Yes	9
No	No	4
No	No report	4
No report	do	8

The effect of pupil transportation on the attitudes of parents can be most marked. In 1914 Professor A. B. Fraham of Ohio State University discovered that in Ohio:[59]

> 80 percent of the parents report that their children attend more regulary under transportation than they did previously.
>
> 90 percent report their children are more interested in school than before.
>
> 95 percent think their teachers show more interest in their work.
>
> 100 percent practically agree that the social and educational interests of the township consolidated have greatly improved.
>
> 75 percent of those who were formerly opposed to consolidation and transportation are now in favor of it.

PUPIL SAFETY

The National Safety Council has determined that motor buses are substantially safer than horse drawn conveyances for pupil transport.[60] In fact, school bus safety is generally very high: "pupil transportation has been conducted with few serious accidents. During the five-year period 1931 thru 1935 only nine school bus accidents were reported in the columns of the New York Times."[61]

Compared to private modes of transportation, school bus travel is exceptionally safe: in 1968, the National Safety Council found school buses 4 times safer than ordinary buses, and 40 times safer than private cars.[62] This is certainly one reason why suburban parents are turning to school buses in preference to driving their children to school, because, as *School Management* magazine reported: "Accidents seem to be caused most often by the use of vehicles not designed as carriers of children and by allowing children to stand in aisles."[63]

It is very difficult to compare motor bus transportation with walking because children who walk to and from school so often engage in unsupervised activities, or enter dangerous areas, that their accident and injury rates are far higher than those of children who go to school by any other means.[64] As E. W. Hausser found, in his unpublished 1938–39 study, *Effect of Pupil Transportation on Pupil Health in Spencerville, Ohio*, children who were transported to school benefited in several respects.[65] His conclusions are summarized in Table XII, which shows that transported pupils had fewer absences, and fewer illnesses, and fewer days lost due to personal illnesses.

Footnotes at end of article.

TABLE XII.—INCIDENCE OF ABSENCE AND ILLNESS AMONG TRANSPORTED AND WALKING PUPILS, IN SPENCERVILLE, OHIO, PUBLIC SCHOOLS DURING THE SCHOOL YEAR 1938–39

Rate per pupil	Among transported pupils, per year	Among walking pupils, per year
Days absent	11.2	11.9
Cases of illness	2.3	3.4
Days of illness	5.5	6.6
Number of pupils	202	140

The only study of the psychological consequences of pupil transport shows ". . . no significant medical or psychiatric 'harm' or 'injury' as a result of the travel or change."[66]

Transportation of younger children is a special question because they, of course, cannot be expected to travel as great distances as secondary students can. A 1938 survey of 250 school superintendents recommended a median maximum busing distance to school of 12.25 miles for elementary students, although older students were allowed a maximum of 19.4 miles.[67] With today's better roads and faster buses these distances could perhaps be extended slightly.

IN CONCLUSION

Methods for improving the school as a social agency move in cycles. At first, school consolidation and pupil transportation were confined to cities where they brought about the first modern school systems (and in some cases, modern cities). Then the focus shifted to the countryside, where much of the rural population was congregated. There, school consolidation and pupil transportation transformed the lives of country children, although questions about the equity of the property tax basis for school financing never quite died.

By the 1920's and 30's, attention shifted back toward the cities, and urban transportation and school consolidation grew apace. Because a growing proportion of the black school population was located in the cities, they attained the benefits of school transport "by the hand of the state" in large numbers for the first time.

Today perhaps requires another cycle. New concentrations of suburban country people are growing up in areas of our nation that once were rural. For the benefit of their children, one more extension of school consolidation and pupil transportation can finaly bring about the goal proposed by Monahan in 1914:

> The larger school brings its pupils into contact with several teachers and a larger group of children than in the small school, who come from many different kinds of homes and from a wider territory than those in the single district. This contact with many children widens their visions and gives to them a breadth of view impossible in the small district. There is a disappearance of much of the shyness and bashfulness often particularly noticeable in the country child, a trait which often proves a handicap to him in affairs of his later life. He not only has contact with a large group of children, but he associates with them, measures himself against them, and forms a more correct estimate of himself and his ability than is possible otherwise. He learns to take his part in their activities, to cooperate, a lesson sadly needed in American country life.[68]

FOOTNOTES

[1] L. D. Harvey, *Consolidation of School Districts and Transportation of Rural School Pupils at Public Expense*, Bulletin of Information No. 7, State Dept. of Public Instruction (Madison, 1902) p. 16.

[2] Arkansas State Dept. of Education, *Study of Local School Units in Arkansas* (Little Rock, 1937) pp. 110–13.

[3] *New York Times*, 1972, *passim.*

[4] M.C.S. Noble, Jr., *Pupil Transportation in the United States* (International Textbook Company, Scranton, Pennsylvania, 1940) p. 45.

[5] *New England's First Fruits* (London, 1643).

[6] Noble, footnote 4, pp. 1–2.

[7] F. Douglass, *Life and Times* (Park Publishing Company, Hartford, Conn. 1881) Chapter 14 and *passim.*

[8] R.E.N. Twopenny, *Town Life in Australia* (London, 1883) p. 141–42.

[9] C. M. Smith, *The Working Man's Way in the World* (William and Frederick Cash, London, 1853) p. 3.

[10] J. F. Abel, *Consolidation of Schools and Transportation of Pupils*, Dept. of the Interior, Bureau of Education, Bulletin No. 41 (Washington, D.C. 1923) p. 6.

[11] United States Bureau of Education, *The Educational System of South Dakota*, Bulletin No. 31 (Washington, D.C. 1918) p. 28.

[12] F. H. Swift, F. K. del Plaine, O. L. Troxel, *Studies in Public School Finance, the Middle West—Illinois, Minnesota, South Dakota*, Educational Series 3, University of Minnesota (Minneapolis, 1925) p. 80.

[13] H. A. Dawson, G. C. Lloyd, H. A. Little, and D. M. Hirst, *Larger School Units for Arkansas Consolidated Schools and School Units*, State Dept. of Education (Little Rock, 1930) p. 13.

[14] F. H. Wood, *Central Schools and the Centralization of School Districts in the State of New York* (Carl W. Clark, Publishers, Cortland, 1938) p. 3.

[15] Noble, footnote 4, pp. 68, 92. His authority: United States Office of Education, *Handbook for Planning the Reorganization of Local Schools*, Circular No. 156 (Washington, D.C. 1936).

[16] R. L. Johns, *State and Local Administration of School Transportation*, Teachers College Contributions to Education No. 330 (Columbia University, New York, 1928) pp. 6–7.

[17] Abel, footnote 10, p. 5.

[18] *Id.*, p. 17.

[19] A. C. Monahan, *Consolidation of Rural Schools and Transportation of Pupils at Public Expenses*, Bureau of Education, No. 30 (Washington, D.C. 1914) p. 7.

[20] *Id.*, p. 8.

[21] *Florida Statutes*, Chapter 3, 872, 20, 11 (1889).

[22] C. N. Jensen, *A Study of Transportation in the Schools of Utah*, State Dept. of Public Instruction (Salt Lake City, 1928), p. 4.

[23] J. C. Eddleman, *The Regulation of Pupil Transportation in the United States*. Bulletin of the Bureau of School Service, VI. No. 3 (University of Kentucky, 1934) p. 14.

[24] Monahan, footnote 19, p. 27.

[25] *Id.*, p. 37.

[26] Noble, footnote 4, p. 45.

[27] Monahan, footnote 19, p. 45.

[28] Noble, footnote 4, pp. 25–26, 132.

[29] B. Farley, *Willingly to School*, National Education Association (Washington, D.C. 1938).

[30] United States Bureau of Education, *Report of the Work of the Bureau of Education for the Natives of Alaska*, 1912–1913, Bulletin No. 31 (1914) p. 24, plate 6.

[31] Monahan, footnote 19, p. 45.

[32] *Id.*, p. 12.

[33] Abel, footnote 10, p. 18.

[34] Noble, footnote 4, p. 11.

[35] Data for 1920 from Abel, footnote 10, p. 58. Data for 1936–37 from Noble, footnote 4, pp. 178–79. Data for 1970–71 from HEW Office of Civil Rights.

[36] Data for 1920 to 1965 from *The Digest of Educational Statistics, 1968*, United States Office of Education, p. 37. Later data from HEW Office of Civil Rights.

[37] Monahan, footnote 19, pp. 10–11, computed by this author.

[38] G. Kahn, *Analysis of Financial Statistics of Local Public School Systems, 1967–1968*, HEW National Center for Educational Statistics (Washington, D.C. 1970) p. 25.

[39] Figures variously computed from Monahan, footnote 19, pp. 14, 16–26, 50–54.

[40] United States Office of Education. *The Digest of Educational Statistics, 1968*, p. 37.

[41] Computed from F. M. Phillips, *Statistics of State School Systems, 1921–22*, Bureau of Education, Bulletin No. 31 (Washington, D.C. 1924) Tables 24 and 25.

[42] Noble, footnote 4, p. 28.

[43] Kahn, footnote 38, p. 24.

[44] In J. F. Abel, *Consolidation and Transportation Problems, Report of the Second National Conference on Consolidation of Rural Schools and Transportation of Pupils, Cleveland, Ohio, February 26, 1923*. Dept. of the Interior, Bureau of Education, Bulletin No. 39 (Washington, D.C. 1923) p. 12.

[45] *Id.*, passim.

[46] J. F. Abel, *A Study of 260 School Consolidations* Department of the Interior, Bureau of Education, Bulletin No. 32 (Washington, D.C. 1924) p. 33.

[47] J. E. Butterworth, and V. Ruegsegger, *Administering Pupil Transportation* (Educational Publishers, Minneapolis, 1941) p. 8.

[48] Monahan, footnote 19, p. 76.

[49] *Id.*, p. 75.

[50] Cleveland Conference Report, footnote 44, p. 20.

[51] Noble, footnote 4, p. 182.

[52] Cleveland Conference Report, footnote 44, p. 13.

[53] *Id.*

[54] Noble, footnote 4, p. 121.

[55] F. M. Phillips, *Statistics of City School Systems, 1921–22*, Dept. of the Interior, Bureau of Education, Bulletin No. 34 (Washington, D.C. 1924) Table 2.

[56] Noble, footnote 4, p. 121.

[57] Monahan, footnote 19, p. 12.

[58] *Id.*, p. 49.

[59] *Id.*, p. 50.

[60] *Time*, Feb. 28, 1972, p. 15.

[61] Noble, footnote 4, p. 437.

[62] "Facts About School Buses," *School Management* (Magazine), April 1971, p. 11.

[63] *Id.*

[64] *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 91 S. Ct. 1267 (1971), Appendix to Brief for Petitioners, No. 281, at Br. A16.

[65] *National Survey of School Bus Transportation, 1938–39*, Teachers College, Columbia University, cited in Noble, footnote 4, pp. 425–28.

[66] R. Coles, "Northern Children Under Desegregation," 31 *Psychiatry* 1 (1968) p. 14.

[67] Noble, footnote 4, p. 435.

[68] Monahan, footnote 19, p. 65.

WHITE PARENTS' FEARS

(By Patricia M. Derian)

(NOTE.—Pat Derian is a doctor's wife and the mother of three children.)

Most white parents, raised on the myths of black indolence, ignorance and immorality, fear school desegregation on a basic, if sometimes unconscious, gut-level. This is one white mother's view of what happened to those fears when school desegregation came to Jackson, Mississippi in the late 1960's: what they were and how they were overcome.

From the beginning, most white parents believed that great harm would befall their children at the hands of black teachers and pupils. Poor and working class whites thought, and said, that their children would catch syphilis from sharing toilets with black children. If they escaped this, they feared knifings or other physical assaults. In Mississippi, the Ku Klux Klan and white Citizens' Council promoted these fears.

WHITE-GLOVED CALM

Even in the early sixties, (when supportive whites spoke only of school "desegregation"), small groups of white-gloved, middle class women were trying to allay these fears through "respectable," low-key, non-threatening organizations. With little money, and caution from community leaders, they held coffees, talked to other mothers, spoke in small public meetings, and bought television spots and a handfull of billboards. Like the little boy in the Emperor's New Clothes, they answered "nonsense" politely and quietly, but very firmly, to a hundred years of racism. They reproached white society with their "goodness" and "bravery." And they were not destroyed by the Klan or the "all powerful" white Citizens' Councils. This was the extent of the effort during the middle-sixties, the years of freedom-of-choice, when few black and white children attended the same schools.

The advent of "massive" desegregation in 1969 brought a regrouping. Some women who had worked through dangerous times gave up their advocacy of integration. Some tired of cajoling the middle class, some missed the romance of standing alone against heavy odds. Others (most) thought that massive desegregation was too much, a mistake. They had reached their limit.

THE SECOND COALITION

A new coalition of "respectables" waited in the wings. It included recently arrived yankee parents, stunned chamber of commerce types who knew that no new business would come to a place without public schools, the morally upright whose religions finally declared that racism was a wicked sin—and some outright integrationists. This coalition had its limits too: it was all-white, and an abortive effort to have a bi-racial parent group failed because white parents' worries differed from black parents' concerns. Nor did it include poor whites; it was entirely middle class, chiefly from one geographic location.

Although unwilling to articulate it, middle class people fear loss of approval more than anything else. The new coalition was large enough for the parents to take comfort and courage from each other, and to feel some disdain for friends and neighbors who had stampeded to private segregation academies. Nonetheless, some anxiety remained.

It was widely believed that few black teachers were adequately trained, for who had not heard stories of northern colleges handling out degrees to Southern blacks just to spite the whites? Parents feared that their children would not be able to get into college. They rarely voiced, but still held, fears that their children would not be safe in school. Finally, they worried about their children's isolation in two ways: in schools where whites constituted a small minority, and in white society, because most children and most social organizing had moved to segregation academies.

THE GREAT WHITE BUS

Many working class parents, still feeling desegregation was "wrong," separated themselves from the racist bigot image by attacking the new villain: forced busing. One group even held classes for their children in a parked bus, proclaiming angrily that they were not opposed to school integration. It was a curious sight indeed: counterparts of those contorted faces of Little Rock and New Orleans solemnly affirmed their fidelity to the "traditional" way of school integration. Some borrowed money and cut back expenditures to put their children in white Citizens' Council schools (to which they rode in school buses painted white). Others kept their children out of school a semester, a year, or for years. But most poor and working class whites—without support from the schools, community, or political leaders—simply bit the bullet and sent their children into the unknown because there was no alternative. The result was a large number of white children attending massively desegregated public schools for the first time.

PARENTAL SUPPORT

At this point the middle class parents, organized to meet their own needs, began to have a community-wide impact. Parents popped up in all the schools, tutoring, helping in a thousand ways, adding to the white faces, watching with as much good will as they could muster. They manned telephone rumor centers and tracked down every hysterical story of bombings, rapes and knifings that had not taken place. They spoke to civic clubs, advertised, and visited other white parents door to door so that their children would not remain a small minority.

Parental pressure on school officials began to change the teaching system, radically and fast, to help black children from poorly equipped, understaffed, substandard schools to catch up and keep up. Parents supported school efforts to get every available federal dollar. They joined groups that had formerly been all-black or civil rights oriented, to get community ESAP grants to aid the desegregation process.

Parents also sent their children to school and told them to keep quiet, mind their own business, and stay out of trouble.[1] As a result, most white children were wary of contact with black classmates during the first year of integration. School officials obliged by tracking white children only into classes where there was at least a small group of whites, and whites bunched together cautiously.

Because rabidly anti-black children of rabidly anti-black parents had been removed from the public schools, the segregation academies have served as safety valves, leaving public schools cool and relatively placid. As a consequence, white kids have relaxed enough after two years to make tentative overtures to black kids, which were met in kind. At the junior high level, and above, they are beginning to work across the old myth. Elementary school children are going to be incredulous when they grow up enough to learn how it was in the olden days.

NO UTOPIA

This is not to say that utopian ideals will be realized. Racial hatreds and fears, and the brawls and incidents that spring from them, are not going away. But many American children will have different experiences in these multi-racial classrooms, and they will exert further pressure for improvement and reform. They are learning that class differences outweigh racial differences, and they may become determined to eliminate poverty.

In summary: white parents start with irrational fears about health and safety. Most parents move along, with the uneventful progress of their children, to a guarded acceptance of full integration and busing. But they remain cautious and feel ever-ready to pull their children out of the newly-desegregated schools if things go wrong. About grade ten or eleven another middle-class parental crisis occurs: parents fear that the schools are not good enough and that their children will not be admitted to a decent college, or will be unready for the college load. Most Southern schools have needed improvement at least twenty years, so this worry was valid before any one spoke unpleasantly to white school administrators (who were busy preserving segregation). But facts have little to do with how people handle anxieties.

In schools where whites are now in the minority, a large scale white student return to public schools must occur or the system is likely to lose whites consistently until it becomes all black. In places where whites have remained the numerical school majority, schools should improve so long as parents maintain their interest and insistence. If Jackson's experience is any example, white fears will gradually diminish in the face of cumulative evidence that black and white boys and girls attend school together every day, safely.

BLACK PARENTS' HOPES

(By Roger Wilkins)

(NOTE.—Roger Wilkins, former Director of the Justice Department Community Relations Service and Ford Foundation program officer, has recently joined the Washington Post editorial board.)

Blacks who can remember being bused for the maintenance of segregation find the current heated debate over busing both bemusing and infuriating. We feel the same way about politicians and pundits who seem sure they know that black parents don't want busing any more than white parents do. It puts one in mind of the old white Southerners who used to assure Northerners that, "our darkies are happy down here," and would then trot one out to prove it. Well, this one's not very happy about the whole busing debate.

My first educational experience was in a one room segregated school in Kansas City, Mo., where I was allowed to come and sit in the back of the room at the age of four because all my older friends were there. The next year, that school was closed and my friends and I were bused many miles to a black school in a blacker part of town. Apart from a keen daily sense that the whites were terribly selfish for hogging the newer and prettier school near our homes, I remember the bus rides as generally convivial and sometimes pretty hilarious. My next stop was Harlem where you learned a lot if you were in an upper track and paid for it with lumps dealt out in the school yard or in the street by resentful lower trackers.

And then on to high school in a midwestern city. If I wasn't the first black in the school, I was the only "ones" there then and my family and I were the only "ones" in the neighborhood, in the classroom it was fine with the algebra and the English, but on the street it was tougher than Harlem. Somebody always seemed to have had to clear a clogged throat right on the furry cover of my bicycle seat. Rather than face the humiliation of cleaning it off in view of the passing crowds thronging out of the school, I would often ride home standing up and sometimes through a gauntlet of stones, apple cores and teenage racial epithets.

But it turned out all right. I learned enough in that school to get into college. And I learned some other things too. Things I couldn't have learned in my Kansas City schools nor in my Harlem schools. They were things about white people and things about myself. I learned that whites are not the superior people they were made out to be. Some of them were smarter than I and some not as smart. Some could pump in baskets from the corner better than I and some couldn't make the team at all. And eventually, over time, I came to learn that they and I could deal in human terms across racial lines. And they learned things from me too, about blacks that they could never have learned in an all-white school. Yesterday's coon turned out to be a contemporary kid and tomorrow's man. Though it hurt me a lot in the beginning, it was worth it—for all of us. People don't learn to function very well in multiracial societies when they do all their learning in uni-racial schools.

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[1] Sometimes fate conspires to frighten us all. After the Jackson State killings, a 7th grade girl came home recounting a school conversation about what to do if police came shooting into their school. Her parent's reassurance that that would not happen was answered with an understanding: "Oh, they only shoot college students."

My mother's judgments about my education were based partially on the circumstances of her life and partially on her desire that her child receive the best education her resources could provide. She did not seek an all white high school for me, but she was certainly not displeased that the one I attended was the best school in town. She knew to a moral certainty that she didn't want her son to be an illiterate or an emotional cripple hobbling through the last five or six decades of his life. She figured that knowing how to read was essential, but that learning something about white people was useful too. Inadvertently, I suspect, her decision helped a lot of white kids too.

The choice, then, is not "to bus or not to bus" but to teach children to read and to live among the wide variety of people with whom they will spend their lives. We can either integrate—sometimes using buses as a tool—or we can choose to create a future generation of cripples, savages and bigots.

Years after my mother had made her choices for me, I had to begin thinking about the same kind of choices for my own children. When it became clear by my daughter's fourth year in a largely black school that she was reading at least two years below grade level, my wife and I took her out of her neighborhood school, and put her, on a bus headed for a much better school ten miles from home, which also happened to be integrated. When my son became five, he joined his sister on that same bus headed for the same integrated school where they could learn in a gentler way than I had two decades earlier how to live in an integrated world. They both began to read. And that was the essential point.

Does Busing Harm Children?

(By Robert Coles [1])

(Note.—Robert Coles, a psychiatrist at the Harvard University Health Service, is the author of Children of Crisis.)

I speak as a child psychiatrist who has worked with black and white children in the South as well as the North, in rural as well as urban areas. I also speak as a physician who has been studying what happens to children when they attend desegregated schools, and in that connection, one who once spent over a year and, later, smaller amounts of time (weeks and months) riding with children on school buses as they went from their homes to newly integrated schools.

In this regard, it is possible for me to say a number of negative things, and I had best do so immediately: I never saw children get sick because they were being bused; I never saw children become emotionally disturbed because they were bused; I never saw childrens' school work suffer because they were bused. Physically, psychologically, educationally, the experience of busing was, in fact, neutral.

What mattered was where the children felt themselves going, where their parents felt the bus was taking their children (to what school, for what purpose) and also, very importantly, what went on in the bus. Was the driver friendly or cold? Did he talk with children or ignore them? Were there others aboard who pointed out and explained things to the children? Often enough this turns a bus ride into an important psychological and educational experience in its own right: a different neighborhood looked at, talked about, comprehended in an altogether new way.

Busing is neither new nor rare in this country. Children ride buses every day, usually with the enthusiastic encouragement and support of their parents, their community, and no doubt, their elected Congressmen (not to mention the President). I have watched boys and girls day after day on those buses, black children and white children, and I have not seen them get sick, or disturbed, or apathetic. I have not been called upon to practice medicine or child psychiatry. I have not seen violence or disorder. Nor have I often seen time wasted. The children have been awake, alert, vastly interested in what they see of their city (although children who never board a bus often find themselves bored when they sit in certain classrooms).

The issue of busing, I say from personal observations over a long period, is not a medical one. It is not *per se* a psychiatric one. It may well not even be an educational one (except that some parents actively seek out busing for their children—even pay to have them bused long distances to private schools). Busing as a political issue ought to be argued openly with everyone's cards on the table. It does not even help to talk about "time wasted busing." Children can and do learn all sorts of things on buses—and can and do fail to learn while sitting solidly in classroom chairs for hours on end.

I have no doubt that we will continue to hear about the "harm" busing does to children, and I can only hope that more clinical observers will go out and see for themselves whether such harm can be documented. I fear, however, that our clinical observations are not going to be heeded, that they are not really what people are waiting for or have any interest in.

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[1] This brief communication can only be a summary of what I have tried to present elsewhere: "Bussing in Boston," The New Republic, October 2, 1965; "Northern Children Under Desegregation," Psychiatry, February, 1968; Teachers and the Children of Poverty, The Potomac Institute, 1970; The South Goes North (Volume 3 of Children of Crisis), Atlantic-Little, Brown. 1972.

Race and Learning: A Perspective on the Research

(By Patricia M. Lines)

(Note.—Pat Lines is a staff attorney at the Center for Law and Education.)

The resurgence of school desegregation as a national controversy is forcing a new look at the ideas which permeate popular opinion on racial balance in the schools. Widespread, adamant resistance to "busing"—the code word for affirmative programs designed to promote school racial balance—has sprung up as desegregation efforts extended to the North, and became more than token enforcement in the South. At times this resistance has bordered on hysteria at other times it is clothed in rationality, and included arguments premised on educational effects. Without attempting to analyze all aspects of the busing controversy, this article discusses the supposed educational effects of desegregation. It notes that the evidence supports neither the advocates nor the detractors of desegregation, and concludes that basic decisions affecting school desegregation should rest on legal and moral grounds rather than scientific research, regardless of what the research says.

DESEGREGATION THEORIES

Social scientists have forwarded a variety of theories to explain why racially balanced schools should aid or retard learning. Each has different implications. Most focus on school resources, arguing that predominantly white [1] schools are better endowed with some resource or another, and that equal educational opportunity would require giving minority pupils equal access to these superior resources. These may include pupil-teacher ratio, experienced teachers and diversified facilities (the conventional measures), or it may include the presence of advantaged children who "teach" their less advantaged peers (the "peer group learning" theory), or higher expectations and better morale among teachers in white schools.

The social science research now available fails to show a relationship between conventional resources and achievement. The teacher expectation theory is also tenuous since teachers are able to distinguish poor, minority kids (usually black) from middle-class, white ones, and hold different expectations for each. Thus, by process of elimination, the "peer group learning" theory is most popular among busing advocates while the "teacher morale" theory is supreme among white anti-busing teachers. If any of these resources increase achievement, two-way busing schemes would, according to the theory, dilute resources available to whites while increasing those available to black children, with a consequent improvement in test scores of black pupils and a decline for whites.

Other theoretical explanations can also be postulated. If black pupils feel stigmatized by an all-black school, for example, removal of the stigma would boost their educational attainment without having an adverse effect on whites. If combining two or more cultures in a single school produces a lively and exciting atmosphere unattainable among homogeneous children, everyone might gain.

Although decisions seem to be made on the basis of these theories, none have been proven. No experiment has compared test scores of various racial groups, rich and poor, as classroom racial and socioeconomic composition was systematically varied. Analysis has had to rest instead on surveys, and studies of desegregation efforts. These have led to inconsistent conclusions—or none at all.

COLEMAN REPORT

The Coleman Report, based upon an examination of data collected in HEW's 1965 Equality of Educational Opportunity Survey, lends some support to the "peer group learning" theory. It noted a small relationship between pupils' achievement test scores and the percentage white in the school, and a stronger relationship between test scores and socioeconomic backgrounds.[2] Coleman concluded:

"The higher achievement of all racial and ethnic groups in schools with greater proportions of white students is largely, perhaps wholly, related to effects associated with the student body's educational background and aspirations. This means that the apparent beneficial effect of a student body with a high proportion of white students comes not from racial composition per se, but from the better educational background and higher education aspirations that are on the average found among white students."

Research results often depend, however, on how the data are handled. Christopher Jencks of Harvard's Center for Educational Policy Research, using the same data as Coleman, compared first and sixth grades in schools in the urban North which were 50 to 75 percent white. Black first graders in these schools scored below the national average for black children; black sixth grades scored above. White first graders scored below their peers elsewhere, while white sixth graders in the same school scored very close to the white national average. This analysis must be received with reservations: first grade children might have had different socioeconomic characteristics than sixth grade children in the same schools, the tests administered to the first and sixth grade children were different and the first grade test was not reliable.[3] Nonetheless, the analysis offers tentative support for maintaining that racial balance increases both black and white pupils' test scores. It also undermines the "peer group learning" theory since white pupils expe-

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rienced no loss on attendance at schools 25 to 50 percent black.

Several other surveys of more limited populations have produced mixed results.[4]

STUDIES OF DESEGREGATION PROGRAMS

Studies of actual desegregation reveal more confusing results. Reviews of the research by Meyer Weinberg, Nancy St. John and Robert O'Reilly report mostly statistically insignificant results.[5] However, of the 30-odd studies reviewed, most report a few significant differences in minority pupils' test scores in predominantly white and predominantly minority schools, at some grade levels on some tests.[6] More often than not, the differences show higher scores for minorities attending majority white schools. White kids' scores are reported less frequently, and significant findings are scarcer.

More recent studies of cities implementing desegregation plans—i.e., Ann Arbor,[7] Riverside,[8] Chapel Hill,[9] Evanston,[10] Sacramento [11] and New Albany, Mississippi [12]—have produced similar results. Usually minority pupils in some grades posted small gains on some tests; in a few cases they regressed. Usually the results were statistically insignificant. Changes in white test scores were even more difficult to find. White Ann Arbor pupils improved slightly, but the change was statistically insignificant. White Chapel Hill fifth graders made significant gains in math courses. New Albany, Mississippi also reported a small improvement in white test scores; but statistical significance was not reported. In Evanston both black and white eighth graders scored lower. Usually white test scores were virtually unaffected.

In sum, analysis of surveys and desegregation efforts fail to "prove" any of the theories outlined at the outset of this article. Since school desegregation takes place under a variety of radically different conditions, one school might do well, while another of the same coloration would fail. Breaking the research down more finely might explain the frequent lack of results, suggest a more likely theoretical base, and suggest better methods of achieving desegregation.

THE ABSENCE OF DESEGREGATION

In some studies, a closer analysis has revealed the absence of real desegregation, that is, classroom desegregation. The widespread use of ability grouping, or tracking, in perhaps 75 to 90 percent of all schools [13] sometimes results in studies of "desegregated" youngsters who were actually separated from middle-class whites and isolated in their classroom. After the two years of "desegregation" in Riverside, California, for example, someone noticed that most minority students had been grouped together or placed with low achievers; of course, this group continued to perform below norms. The most able minority-group children, however, were placed in majority-white classes and experienced increases in test scores.[14] The study, in effect, reveals nothing about the effects of desegregation on minority-group pupils generally.

Desegregation may also be too shortlived to be real. A few days in an integrated school are unlikely to produce a long lasting or measurable educational change, and even a full school year may be insufficient. One study of a city-to-suburb busing program, Hartford's Project Concern,[15] noted a cumulative effect after the program had been underway for three years. Children who had been in the suburban system all three years scored consistently higher than children who participated only one or two years. No statistical analysis was made of the data, however. Coleman also reported a small positive relation between the number of years minority students spent in white schools and improvement in their achievement test scores.[16] This relation remained when the socioeconomic stutus of the school was held constant. Similarly, according to surveys in Boston [17] and Pittsburgh,[18] black children in whiter schools for two years scored higher on arithmetic tests than did their peers in such schools only one year. An Indiana study [19] reported black first graders were at roughly comparable levels in segregated and desegregated schools, but by the third grade, those in integrated schools moved ahead. Their advantage continued into the sixth grade. Similarly, a comparison of majority white and majority black schools in an upstate New York town [20] revealed no significant differences in achievement test scores, but a cumulative advantage appeared for black students experiencing at least two years in majority schools. The long-term effect on white test scores has not been adequately measured. Until there are more studies of long-term classroom desegregation, it will be impossible to attempt proof of any theory.

AGE AND THEORY

A closer look at the research might also suggest another theory. Many integration studies suggest, for example, that integration in the early grades may be the decisive element in improving achievement scores of minority children. A Nashville study of 75 black children enrolled in desegregated schools found, for example, that those who entered the desegregated schools in the early grades scored higher on academic achievement tests than peers from the same neighborhoods who remained in segregated schools; in the fifth and sixth grades, however, the segregated children performed better than their black peers in the white schools.[21] A study of 87 low income blacks in a suburban New York town reported similarly that the youngest children showed the greatest test score improvement in achievement after transferring to upper income white schools.[22] In New Rochelle, only kindergarten children showed a significant gain when transferred from all-black to white schools.[23] An Ann Arbor study also found that transferred kindergarten pupils (minority-to-majority) showed the greatest I.Q. gains, but because of the small number, the researcher was unable to conclude that the gain was statistically significant.[24] Hartford's Project Concern reported test score gains for participating children in grades K–3; the first grade children were above grade level, but by the fourth grade, the difference between the scores of children in the suburban schools and children remaining in Hartford schools (80% black) had become less noticeable. By the fifth grade scores evened up.[25] In Sacramento, desegregated children in grades 1–4 surpassed their peers in reading and arithmetic scores. Still segregated fifth graders, however, "beat" desegrated children on the reading test; desegrated fifth graders came out ahead in arithmetic scores, but the margin was slimmer than it was for the younger children.[26] In Evanston, elementary school pupils apparently made small gains following desegration, while eighth grade pupils did not, although other factors may have caused backsliding among older students.[27] Less data is available for analyzing the effects of desegregation on white scores, since many of the desegregation programs studied placed only a few black children in white schools, leaving its racial composition virtually unchanged; or the differences were insignificant.

* * * children lends some support to a theory based on the effects of some stigma attached to a predominantly black school. If racial isolation, for example, produces a sense of inferiority, children probably acquire it early and find it difficult to shake. Disparate responses of younger and older children are inexplicable within the other theoretical frameworks.

PROCEDURAL DEFECTS

This discussion of the research findings demonstrates what little basis supports beliefs about educational gains or losses resulting from busing. The crudity of the techniques is yet another reason for rejecting arguments based on social science research. First, the research usually defines educational attainment by ability or intelligence tests, a wavering and uncertain measure which varies over time for an individual, and for whole groups of children. Moreover, because it is so unclear what it is society really wants schools to do, there is no guarantee that tests measure the right things. At best, test scores provide a somewhat reliable and objective measure of a child's acquisition of specific, limited skills.

But this is not the only defect in the techniques. Some of it, such as the Coleman Report, is based on survey data. Yet, surveys do not "prove" causality. Moreover, where several factors are bound together in a statistical relationship, it is difficult to determine which relates to which. A variety of interpretations may also be extracted from the same data. The close associations of affluence, parental achievement, class status, good health, school quality, and higher test scores, for example, make it difficult to assess the impact of any isolated factor.

Both surveys and studies of actual integration efforts are further plagued by the absence of adequate comparison, or control groups. They are also extremely sensitive to the statistical procedures followed. Thus, in order to evaluate fully the conclusion made in the research, it would be necessary to reexamine data, procedures, statistical methods, and even arithmetic. The list of potential defects is long enough to obscure the results and make it foolhardy to put much faith in any single study or report.

RESEARCH AS A CAPRICIOUS GUIDE

Even if the research tools could be improved, and it would be possible to "prove" desegregation benefited one racial group at the expense of another (or benefited no one), it is nonetheless inappropriate to determine desegregation requirements on the basis of such proof. The fact is the Constitution requires desegregation as a remedy for past wrongful segregation.

Given the present state of the research, allowing it to guide basic desegregation decisions would require absurd results. The research suggests, for example, that it is most beneficial to desegregate younger children. To pursue this logically, without reference to moral standards, would lead governments to desegregate the early grades, but not the older children. The arbitrariness of this should be obvious. The research suggests even more absurd results. Some researchers believe they have detected a difference in male and female responses to integration. Based on her own, and a few other studies, Nancy St. John, for example, has observed a tendency for black boys to benefit more than black girls in recently desegregated schools.[28] If this analysis is followed among blacks, boys, but not girls, would be assigned to schools with white pupils. (Since there is some evidence that white girls fare better than white boys following desegregation, one might also suggest placing them with black boys, while maintaining separate schools for the black girls and white boys.)

Pursuing the research as a guiding star leads into even thicker morasses. The EEOS data show a strong trend in southern metropolitan areas toward higher test scores for children in totally black schools; a similar, but weaker relationship exists in the rural South; in the North it is negligible.[29] If a rise in test scores were the only justification for desegregation, the metropolitan South should be exempted: black pupils would be placed in 100 percent black schools. Profes-

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sor Armor, who examined a sample of black ninth graders, found upper ability males in the Northeast were more likely to plan for college if they attended desegregated schools, and the reverse in the Midwest.[30] This would suggest desegregation for black upper ability males in the Northeast, but not for lower ability peers, or male black students elsewhere in the country. Moreover, it is likely that the groups which benefit will change from time to time. Allowing the evidence of educational benefit to guide desegregation policy leads inevitably to capricious results.

HISTORY AS A GUIDE

To cite research findings as an argument for or against desegregation is to lose sight of the history of race relations in America and the fundamental legal and moral imperatives which compelled the Supreme Court to order desegregation. Even the most dispassionate recital of the history of race relations in the United States makes the point clear: the enslavement of black people was tolerated well into the first half of this country's history. Attempts to justify this lack of humanity extended even to the Supreme Court which, on reviewing the case of Dred Scott, a man classified as slave in one state and freeman in another, declared that black people were "of an inferior order, and altogether unfit to associate with the white race. . . ."[31] and refused to extend the protection of the United States Constitution to black people. After a bloody civil war over the issue, the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments explicitly repudiated this outrageous principle. Yet, even after this, the nation acquiesced in the rapid growth of an officially sanctioned caste system. Black Americans were burdened with Jim Crow laws explicitly circumscribing their role in every conceivable aspect of human activity. Nothing was done to correct this situation until this century, when a new civil rights movement began attacking this humiliating and dehumanizing caste system.

Progress was slow. *Plessy v. Ferguson*,[32] a now infamous turn-of-the-century Supreme Court decision, haunted the schools. In *Plessy* the Supreme Court decided that a state law requiring separate accommodations on railroads did not deny equal protection of the laws, or any other right created in the post-Civil War amendments. While the Court reasoned that laws requiring separation do not imply inferiority, Justice Harlan—in a dissent later hailed as the clearest and only justifiable analysis of the Constitution—noted that laws requiring separation of the races were basically "unfriendly." He regarded them as inimical to the rights guaranteed in the Constitution, particularly in the context in which they were written:

"Everyone knows that the statute in question had its origin in the purpose, not so much to exclude white persons, from railroad cars occupied by blacks, as to exclude colored people from coaches occupied by or assigned to white persons."

In Harlan's view, the separation of the races was not done by mutual consent of the parties involved, but was required by the majority which saw the minority as inferior; the most scrupulous equality in the accommodations would never provide the equality among men required by the Constitution.

After *Plessy*, the Supreme Court became more responsive to the civil rights movement, but rights gained in court were limited nonetheless to narrow, specific situations.[33] Small gains towards equal educational opportunity were made in a series of cases from 1838 to 1950, in which the Supreme Court ordered the admission of black students to all-white graduate schools.[34] In 1954, however, most of the Jim Crow laws were still in effect in the South, where skin color could legally affect a man's birthplace, schooling, marriage, occupation and burial. Racial segregation (but not racial discrimination) was ended in only a few limited areas.

In education the "separate but equal" doctrine was still in force. Southern schools were segregated by law. Even colleges and universities which were opened to black applicants (because the Supreme Court found universities for "coloreds" were too poorly endowed) continued to practice another blatant and ridiculous form of segregation. A graduate student, for example, was placed alone in a separate section of the classroom, and surrounded by a rail. (Later he was simply assigned a separate row.) He was required to eat at a separate dining room table and to use a special library table. In 1856 *Dred Scott* belief still stalked the land: blacks were "unfit to associate with the white race." The Supreme Court rejected the separatist policy, but implicitly accepted the *Plessy* doctrine by examining the training available. (They found he required free discussion with fellow students.)[35]

LEGAL IMPERATIVES

The *Plessy* doctrine was at last rejected in *Brown v. Board of Education*, where the Supreme Court explicitly noted that the case should not turn on the equality of educational facilities. Instead, it found that education could never be equal so long as some children were required to attend separate schools:

"To separate [minority children] . . . from others of similar age and qualifications because of race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."[36]

Quoting at length from a lower court opinion, Justice Warren observed that:

"Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to [retard] the educational and mental development of Negro children and to deprive them of some of the benefits they would receive in a racial[ly] integrated school system."

The Court apparently replaced a test based on equality of resources (inputs) with one measuring educational effects (outputs). Yet this language relating to vaguely defined educational results is hardly an invitation to allow desegregation decisions to turn on test scores. In the first place, the authority cited by the Court was mostly general and theoretical.[37] Second, immediately after deciding *Brown*, the Court invalidated segregated schools in Washington, D.C. without any reference to any educational effects. The Court found that segregation itself violated the due process clause of the Fifth Amendment:

"Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the Due Process Clause."[38]

Conceivably the Court was thinking of educational outcomes, but it appears more likely that *Bolling* represented a moral, rather than an educational, decision. Moreover, the Court did not have to choose between an educational or a moral theory, since both argued for the same result.

Where social scientists and moralists disagree, the issue becomes more clear. The EEOS survey, for example, suggests that children from lower-income families benefit educationally from exposure in school to substantial numbers of children of upper socioeconomic status. Because whites are richer than black families in many school districts, it is arguable that every school must have a majority of white pupils in order to maintain a middle class milieu, and hence, a better educational potential. This thesis was raised in *Brewer* v. *School Board*,[39] in testimony by Dr. Thomas Pettigrew of Harvard University. The Norfolk City School Board sought to keep white students in 60 to 70 percent white schools. Since this would have left many other schools virtually all-black, the Fourth Circuit found the plan insufficient. The question reappeared in *Brunson v. Board of Trustees*,[40] where the white school population was less than 10 percent of the total. The school board sought to concentrate the whites in a predominantly white school, again citing the Pettigrew thesis, and arguing that there was no educational advantage in having schools which had more than 35 to 40 percent black students. The court again rejected this plan. In a separate opinion, Judge Sobeloff wrote a lucid and persuasive opinion explaining why a moral and not an educational decision must be made. Sobeloff reviewed *Dred Scott*, *Plessy* and *Brown* and concluded that:

"*Brown* articulated the truth that *Plessy* chose to disregard: that relegation of blacks to separate facilities represents a declaration by the state that they are inferior and not to be associated with."[41]

Observing that the scientific argument required a majority of whites at a school, Sobeloff retorted:

This idea, then, is no more than a resurrection of the axiom of black inferiority as justification for separation of the races, and no less than a return to the spirit of *Dred Scott*. The inventors and proponents of this theory grossly misapprehend the philosophical basis for desegregation. It is not founded upon the concept that white children are a precious resource which should be fairly apportioned. It is not, as Pettigrew suggests, because black children will be improved by association with their betters. Certainly it is hoped that under integration members of each race will benefit from unfettered contact with their peers. But school segregation is forbidden simply because its perpetuation is a living insult to the black children and immeasurably taints the education they receive. This is the precise lesson of *Brown*. Were a court to adopt the Pettigrew rationale it would do explicitly what compulsory segregation laws did implicitly.

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This is no mere issue of expert testimony. It is no mere question of "sociology and educational theory." There have always been those who believed that segregation of the races in the schools was sound educational policy, but since *Brown* their reasoning has not been permitted to withstand the constitutional command. When the underpinnings of the white majority proposal are exposed, they seem to constitute a direct attack on the roots of the *Brown* decision. The minority's readiness even to entertain the idea reflects, I respectfully submit, a profound misunderstanding of the social and constitutional history of this nation and the Negro people.[42]

In short, the Constitutional argument is clear and logical. Where public officials have denied equal protection to a class of citizens, redress must be made. Where the wrongdoing took the form of school desegregation, the effects of this wrong must be eliminated and schools must be desegregated.

SPIRIT OF THE CONSTITUTION

The moral arguments should be equally clear, although the supporters of a Constitutional amendment apparently see it in another light. A response to these proposals is best grounded in morality and practicality

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rather than educational theory. A good example is that propounded by Representative William McCulloch, announcing his opposition to an anti-busing amendment:

"Never before to my knowledge have we amended the Constitution to change a practice which is itself only temporary. A social issue of such great controversy as this cannot be illuminated by statements of opposition to 'unnecessary' busing or busing to overcome racial imbalance. Such statements create the impression that Federal judges are arbitrarily ordering massive, crosstown busing without any justification other than the racial composition of a particular public school does not reflect the racial composition of the entire school system.

"But the truth is that every court order operating today is predicated on a finding that the Constitution has been violated by agents of the state discriminating on the basis of race. In view of the facts, such statements are highly inflammatory and most irresponsible." [48]

His statement recognizes the apparently forgotten fact that this nation has not yet paid off past debts. The memory of the nation must be short indeed, if citizens can overlook these past wrongs so soon, when men live whose parents were chattels, and when people, who are yet young, can recall a childhood of forced attendance at schools labeled by state law as for "colored" only. The wrongs were serious. It takes time and inconvenience before those debts are paid.

FOOTNOTES

[Portions of this article are adapted from work done for the Report on the Massachusetts Racial Imbalance Act (February 1972) under a contract between the Center for Law and Education and the Massachusetts Department of Education.]

[1] "White," as used here, refers to the HEW census term "other whites;" it excludes, for example, Spanish-speaking whites.

[2] U.S. Office of Education, *Equality of Educational Opportunity*, p. 29 (1965) [hereafter referred to as *Coleman Report*]. A summary and critique of the report and subsequent major reports on the EEOS data is found in R. O'Reilly, *Racial and Social Class Isolation in the Schools*, pp. 160–91 (Praeger, New York, 1970).

[3] C. Jencks, Memorandum to colleagues at the Center for Educational Policy Research, Harvard Graduate School of Education (Feb. 12, 1971).

[4] A review of these studies appears in N. St. John, *Desegregation and Minority Group Performance*, 40 R. of Educ. Research 111, 116–19 (1970). She reviews 12 pre-Coleman surveys, some of which attempted to follow black students for a period of years, and concludes that integration does have a positive effect, and that this might be attributed to factors which co-vary with integration.

M. Weinberg, *Desegregation Research: An Appraisal*, 44–82 (Phi Delta Kappa, Bloomington, Ind., 1970) reports over 30 formal studies which attempt to assess the effect of integration on pupil achievement. Most of the studies failed to control for socioeconomic or other factors, although a possibility existed that the high scoring black pupils were a select group.

In the few studies where some attempt was made to control selectivity factors, results were very mixed. A study of 1388 black ninth graders in Pittsburgh, for example, revealed a positive relation between arithmetic achievement and percentage of whites in the schools, after controlling for sex, and for individual and neighborhood socioeconomic status. N. St. John and M. Smith, "School Racial Composition, Aspiration and Achievement' '(mimeograph, 1969). The Dumbarton Research Council, in a survey sample from Oakland, included children with comparable parental income, educational and occupational status. The researchers found that the high scoring blacks had significantly higher status if family size, stability, and home ownership were taken into consideration. Dumbarton Research Council, "Race and Education in the City of Oakland" (unpublished draft, 1966), reported in Weinberg, pp. 44–56. The results of another survey were not even this encouraging. The researcher reported no relation between attendance at an integrated school and black pupil achievement. R. Klein, "A Comparative Study of the Academic Achievement of Negro 10th Grade High Schools in Metropolitan Areas of the South" (doctoral dissertation, Univ. of So. Car., 1967), reported in Weinberg, pp. 70–71. See also D. Long, "Educational Performance in Integrated and Segregated Elementary Schools" (doctoral dissertation, Yeshiva Univ., 1968), reported in Weinberg, pp. 73–74.

[5] These reviews are described in footnotes 4 and 2.

[6] Of the 14 studies reported in O'Reilly, for example, only one reported *no* significant differences between integrated and nonintegrated students at any grade level. This one imposed the strictest controls for socioeconomic status and school quality. Students in grades K–2 were matched for intelligence and social class and attendance at schools with comparable facilities, personnel and programs. D. Long, "Educational Performance in Integrated and Segregated Elementary Schools" (doctoral dissertation, Yeshiva Univ., 1968), reported in *Dissertation Abstracts* 412 (1968).

[7] P. Carrigan, "School Desegregation via Compulsory Pupil Transfer: Early Effects on Elementary School Children" (Report for the U.S. Office of Education, Bureau of Research, Sept. 1969). The transfer group (all the children from a segregated school which was closed) included 132 blacks, 31 whites and two other minority pupils. At the end of the first year 34 pupils had been lost from the group [p. 22]. The non-transferring group attended a school which was 48 percent black, and therefore comparisons are not of highly segregated *versus* integrated pupils [p. 23]. Moreover, the non-transferring children may have received more supportive services than the transferring group.

Some significant gains were made for the following black pupils; fourth grade non-transferring boys, third grade transferring and non-transferring girls, and fifth grade transferring and non-transferring girls. However, significant gains were also made by non-transferring and receiving white pupils in these same grades [pp. 101–05].

[8] I. Hendrick, "The Development of a School Integration Plan in Riverside, California: A History and Perspective," pp. 34–40 (published by the Riverside Unified School District and the Univ. of Calif., Riverside, 1969); H. Singer, "Effect of Integration on Achievement of Anglos, Blacks and Mexican-Americans" (University of California, Riverside, mimeograph, Mar. 1970); M. Purl, "The Achievement of Elementary Pupils in Integrated Schools, Riverside Unified School District" (Mimeographs, March 1970 and 1971, reading scores only); "Construction and Interpretation of the Achievement Study Baseline, Riverside School Study, A Progress Report," pp. 71, 106 (published by the Riverside Unified School District and the University of California, Riverside, Aug. 31, 1967).

[9] P. Prichard, *Effects of Desegregation on Student Success in the Chapel Hill City School*, Integrated Education, Vol. 7, No. 6, p. 33 (Nov.-Dec. 1969).

[10] Jayjia Hsia, "Integration in Evanston, 1967–71: A Longitudinal Evaluation," (Educational Testing Service, Evanston, Ill., Aug. 1970).

[11] E. Morrison, "A Summary of the Assessments of the District's Integration Program," (Research Report No. 9, Sept. 28, 1971); *Boston Globe*, Sept. 23, 1971, p. 5, col. 4; *National Observer*, Oct. 2, 1971, p. 6, col. 1.

[12] *New York Times*, Oct. 18, 1970, p. 1, col. 4.

[13] A 1962 survey of 3,418 school districts of over 2,500 in population reported that 77% of the elementary schools and 90.5% of the high schools were ability grouped to some degree. National Education Association, Research Division, *Ability Grouping* (Research Memo 1962–69, Washington, D.C., 1962). Most of those who reported no ability grouping were planning to institute grouping in the future. See also, Cohen, Pettigrew and Riley, "Race and Outcomes of Schooling," in Mosteller and Moynihan, eds., *On Equality of Educational Opportunity*, (Random House, 1971), p. 355. Based on EEOS data, they reported that among secondary schools surveyed 89.9% at Grade twelve and 91.3% at Grade nine practiced some form of ability grouping.

[14] H. Gerard, "Factors Contributing to Adjustment and Achievement," (Progress Report 15–16, Dept. of Psychology, U. of C. at Los Angeles, mimeograph, May 1969).

[15] T. Mahan, Jr., "Project Concern, 1966–69: A Report ı the Effectiveness of Suburban School Placement for Inner City Youth," (Conn. Dept. of Educ., Aug. 1968); T. Crane, "A Three Year Summary of Hartford Project Concern," (Conn. Dept. of Education, Oct. 1970).

[16] *Coleman Report* 29, 32 (Table 22), 331.

[17] N. St. John and R. Lewis, "The Influence of School Integration on Academic Achievement," (mimeograph, Harvard Univ., Apr. 1971).

[18] N. St. John and M. Smith, "School Racial Experience, Achievement and Aspiration." (draft mimeograph, 1970).

[19] I. Samuels, "Desegregated Education and Differences in Academic Achievement," (Ph.D. thesis, Ind. Univ., 1968).

[20] J. Lockwood, "An Examination of Scholastic Achievement, Attitudes and Home-Background Factors of Sixth-Grade Negro Students in Balanced and Unbalanced Schools," (Ph.D. thesis, Univ. of Mich., 1966) pp. 47, 50.

[21] L. Anderson, "The Effects of Desegregation on the Achievement and Personality Patterns of Negro Children," (Ph. D. thesis, George Peabody College for Teachers, 1966), pp. 69, 85.

[22] Denmark, Guttetag and Riley, "Communication Patterns in Integrated Classrooms and Pre-Integration Subject Variables as They Affect the Academic Achievement and Self-Concept of Previously Segregated Children," (Aug. 1967), reported in Weinberg, p. 75.

[23] T. G. Wolman, *Learning Effects of Integration in New Rochelle*, Integrated Education, Vol. 2, No. 6, p. 31 (Dec.-Jan. 1965).

[24] P. Carrigan, "School Desegregation via Compulsory Pupil Transfer: Early Effects of Elementary School Children," (Report to U.S. Office of Education, Bureau of Research, Sept. 1967) pp. 101–08.

[25] T. Mahan, Jr., "Project Concern, 1966–69 A Report on the Effectiveness of Suburban School Placement for Inner City Youth," (Conn. Board of Education, Aug. 1968).

[26] *Boston Globe*, Sept. 23, 1971, p. 5, col. 4; *National Observer*, Oct. 2, 1971, p. 6, col. 1.

[27] Jayjia Hsia, "Integration in Evanston, 1967–71; A Longitudinal Evaluation," (Educational Testing Service, Evanston, Ill., Aug. 1970) pp. 38–40.

[28] N. St. John, "The Effects of School Segregation and Desegregation on Children," (draft, 1971) p. B–15.

[29] *Coleman Report*, p. 31 (Table 21), 331. See also D. Armor, "School and Family Effects on Black and White Achievement A Reexamination of the USOE Data," (mimeograph, June 1969) p. 49.

[30] D. Armor, "The Racial Composition of Schools and College Aspirations of Negro Students," (U.S. Civil Rights Commission, 1967) p. 145.

[31] *Dred Scott v. Sanford*, 19 How. 393 (1856).

[32] *Plessy v. Freguson*, 163 U.S. 537 (1896).

[33] The most important were probably the voting rights cases. In 1915, the Supreme Court held that a state may not deny the vote to citizens simply because their ancestors were not entitled to vote, and that a state may not require literacy tests for newly registered voters. *Guinn v. United States*, 238 U.S. 347 (1915). Throughout 1927 to 1953 the Supreme Court reaffirmed the right of blacks to vote in party primaries. *Nixon v. Herndon*, 273 U.S. 536 (1927); *Nixon v. Condon*, 286 U.S. 73 (1932); *Smith v. Allwright*, 321 U.S. 649 (1944); *Terry v. Adams*, 345 U.S. 461 (1953). Other cases in which blacks gained rights through the courts related to restrictive covenants. *Shelly v. Kraemer*, 334 U.S. 1 (1948), jury selection, *Norris v. Alabama*, 294 U.S. 587 (1934), and fair trial rights, *Moore v. Dempsey*, 261 U.S. 86 (1923).

[34] *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938); *Sipuel v. Board of Regents*, 332 U.S. 631 (1948); *Sweatt v. Painter*, 339 U.S. 629 (1950).

[35] *McLaurin v. Oklahoma Regents*, 339 U.S. 637 (1950).

[36] *Brown v. Board of Education*, 347 U.S. 483, 494 (1954).

[37] 347 U.S. at 494, n. 11.

[38] *Bolling v. Sharpe*, 347 U.S. 497, 500 (1954).

[39] *Brewer v. School Board*, 434 F.2d 408 (4th Cir. 1970).

[40] *Brunson v. Board of Trustees*, 429 F.2d 820 (4th Cir. 1970). Dr. Pettigrew's *Brewer* testimony is summarized at 429 F. 2d 831, n. 1 (dissenting opinion).

[41] *Id.* at 825 (concurring opinion).

[42] *Id.* at 824, 826.

[43] *New York Times*, Feb. 29, 1972, p. 18, col. 3.

INTEGRATION: A NO WIN POLICY FOR BLACKS?

(By Derrick A. Bell, Jr.)

Well, son, I'll tell you:
Life for me ain't been no crystal stair.
It's had tacks in it,
And splinters,
And boards torn up,
And places with no carpet on the floor—
Bare . . .

LANGSTON HUGHES.[1]

The opening lines of Hughes' famous poem, "Mother to Son," convey a sense of the deep weariness that people concerned about quality schooling for black children feel when they read, almost two decades after *Brown v. Board of education*[2] that while two-thirds of the American public approves of desegregated public schools, 69 percent opposes busing as a means of achieving them.[3]

These seemingly contradictory findings pose less a paradox than a problem. Despite growing racial isolation in housing patterns, which makes school desegregation impossible without busing, there is no paradox in the survey conclusions. They reflect still another manifestation of the traditional pattern of white America's racial behavior, expressed in the formula of a public posture of democratic ideals combined with actual racial policies that maintain blacks in a subordinate and oppressed status.

This phenomenon is not limited to the schools, but there is perhaps no other area in which it is more apparent, or where it has more consistently frustrated black parents' hopes of obtaining for their children what has been called, since the *Brown* decision, an "equal educational opportunity."[4]

HISTORY RECALLED

It provides some perspective, if little comfort, to recall that white resistance to integrated schools did not begin in 1954, but 175 years earlier. In 1787, the Massachusetts legislature, which was then establishing the first public schools to educate the poor, ignored a petition seeking schools for black children.[5] A century later, in 1899, the Supreme Court refused to honor the "equal" portion of its three-year-old *Plessy v. Ferguson*[6] "separate but equal" doctrine: it upheld a Georgia school board's decision to close its black high school, while continuing to offer a high school education to white students.[7] The Court later affirmed "separateness" by approving a Kentucky statute which forbids a private school from operating on an integrated basis.[8] Both decisions asserted concern for the educational welfare of black children.

Throughout the nineteenth century, black parents filed dozens of lawsuits seeking to obtain public schooling for their children. Later they petitioned, litigated and protested to equalize or integrate their local schools.[9] The suits to provide schools for blacks where none existed were often successful; those seeking integration usually were not.[10]

By the start of World War II, nearly half the states still required or permitted segregation in their public schools.[11] That these schools were inferior as well as separate is a truth that blacks knew well, but which the Supreme Court did not acknowledge fully until 1954.[12] Nor did confession lead to immediate penitence. Resistance took new forms. Racist passwords evolved from "never," to "freedom-of-choice," to "neighborhood schools" and "busing," but the basic unwillingness to accept black children into public schools designated for whites (officially or unofficially) remains.

JUDICAL FIRMNESS TODAY

If there is little solace in history, some reassurance may be gained from the judiciary's present firmness, for opposition to school desegregation is in reaction to federal court orders requiring just that. Despite its new personnel chosen to reflect the President's conservation view, the Supreme Court (albeit with some wavering) [13] has protected and enhanced the Warren Court legacy from *Brown*. Lower federal courts, under the prodding of civil rights lawyers, have enjoined one evasive scheme after another in a slow but steady flow of decisions requiring redrawing of school zone lines and busing to integrate school systems in compliance with *Swann*.[14] Some courts, realizing the need to balance the burden of school desegregation, have prevented districts from closing formerly black schools where these facilities could be used in an integrated system.[15] Others have voided policies that would make school assignments on the basis of standardized achievement tests.[16] Formerly white schools have been required to discard "Dixie" and confederate flags as schools symbols,[17] arbitrary expulsions and suspensions of black students have been challenged successfully,[18] and summary dismissals of black teachers have been reversed.[19]

In a decision of far-reaching implications, a federal district judge (as anticipated by Judge Skelly Wright in *Hobson v. Hansen*[20]) has sought to neutralize white flight to the suburbs by ordering the consolidation of the Richmond, Virginia school district with those of two adjoining counties.[21] This case is on appeal and will likely reach the Supreme Court next year. The support it has generated for anti-busing forces is apparent. Scores of Northern cities have also been ordered to desegregate their schools,[22] even though the Supreme Court has avoided ruling on the oft-presented question of whether *Brown* applies where no formal dual school system exists.[23]

CONSTITUTIONAL TAMPERING

These decisions have aroused passions in the North, where school desegregation was believed to be a "Southern problem." They have also brought renewed hope to a South almost defeated in its decades-long effort to avoid compliance with *Brown*. Now, with nationwide support and election-year fears as a vehicle, opponents of integration seek a constitutional amendment, nominally aimed at "forced busing," which could repeal the principle of the fourteenth amendment upon which most black claims to equality in education are based.[24]

This threat, coming at the end of two decades of often turbulent racial crisis, should be preposterous. But Rutherford B. Hayes (another Republican) secured the presidency a hundred years ago (in 1876) by promising Democrats that he would remove federal troops from the South, thereby insuring that the bloody disenfranchisement of blacks—already well underway—could be completed without federal interference.[25] Much has changed since 1877, but the white racism that underlay the betrayal of black hopes a century ago is all too evident in the public hysteria and political posturing around the busing issue today.

The danger is real. Continued pressure for school integration not only risks the progress made in this area during the last two decades, it also threatens precarious black gains in employment, voting, housing, and other major areas.

SCHOOLHOUSE RESULTS

Is the risk worth it? If we were to base our answer solely on improvement in the quality of education obtained by black children, the question would be close, with increasing numbers of black parents and children answering a resounding "No.' Whatever the difficulties of desegregating public schools, they hardly compare to the hardships endured by black students who have actually obtained "their rights." The physical, mental and emotional abuse heaped on black children enrolled in desegregated schools may have begun, but certainly did not end, with the Little Rock Nine.

Black children are harassed unmercifully by white students, are suspended or expelled by white teachers for little or no cause (when they are not simply ignored), are taunted and insulted, segregated within classes, excluded from extracurricular activities, shunted off into useless courses, and daily faced with a battleground of racial hostility, beyond the ability or willingness of courts to rectify. None of this bares the least resemblance to "equal educational opportunity."[26]

Not surprisingly, the educational achievement level of black children attending these desegregated schools has not improved noticeably, and even in settings like Berkeley which are held out as models of school integration, black achievement levels have been disappointing.[27]

Considering the racial crisis it has caused, black gains in other areas it has endangered, the lack of real educational advantage to blacks required to go to school with hostile whites, there is an overwhelming temptation—not to quit—but to alter strategy, to seek perhaps a compromise on "forced busing," to accept the reality of all black schools and trade away the possibility of integration in return for additional funds. Perhaps they might enable schools to do now what they were unable to do during "separate but equal" days: effectively serve the educational needs of black children.[28]

It was, after all, not simply to go to school with white children that the desegregation cases were brought. It was because black parents and lawyers knew from bitter experience with "separate but equal" schools that their children could only hope to obtain the same quality education that white children received by attending white schools.

While schooling received by blacks today is far from perfect, it is far better than it was in 1954. Should we not consolidate our gains rather than risk the election year passage of statutes, or even a constitutional amendment, that might erase them? Should blacks not compromise on school integration while whites seem so anxious to spend

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substantial sums of money as "educational ransom" for their children?

At least two factors must be discussed before an answer can be given: (1) Are racially-mixed schools the basis for white resistance? (2) Are there alternatives to school integration that offer black children a brighter hope of quality education?

The first question is easy enough to answer. White resistance to integrated schools is the same as white resistance to fair employment opportunities for blacks, or to black representation on school boards or jury panels, or black residents in the house next door. The principle is supported, but the practice is avoided and, when necessary, opposed. The North favored school desegregation as long as it occurred in the South. Decent housing for blacks is a worthwhile goal, except in the suburbs where its presence may threaten the affluent white environment. The examples are endless. The message is the same.

The relatively inferior social, economic, or political status of blacks in this country did not happen by accident. It was dictated and enforced by the relative advantage it provided to whites. The status of blacks cannot be upgraded substantially without threatening and sometimes causing whites to surrender their superior social, economic, and political status. Most whites are simply unwilling to make or even risk making what they deem an unfair sacrifice. This unwillingness, expressed in overt or institutional actions tending to perpetuate the subjugation of blacks, is what is defined as "racism." It is this characteristic of American racial behavior which gives continued validity to Reinhold Niebuhr's statement of 32 years ago:

"It is hopeless for the Negro to expect complete emancipation from the menial social and economic position into which the white man has forced him, merely by trusting in the moral sense of the white race. ... However large the number of individual white men who do and who will identify themselves completely with the Negro cause, the white race in America will not admit the Negro to equal rights if it is not forced to do so. Upon that point one may speak with a dogmatism which all history justifies." [29]

HISTORIC PRECEDENT

Blacks have long known that whites were not going to eliminate racial bias because of their "moral sense," but the history Niebuhr refers to is instructive as to the dangers of attempted compromise on "busing," or on any aspect of full equality for blacks.

By the 1890's, blacks had lost most of their Reconstruction rights. They had been stripped of their voting power, most were in dire economic straits, the federal civil rights statutes had been voided or negated by nonenforcement, and with federal troops withdrawn, they were at the mercy of "Southern Justice."

One black leader sought to gain some benefit out of what he viewed as unchangeable political realities. Booker T. Washington in his famous "Atlanta Compromise" speech in 1895 called for black men to stop seeking social equality with whites. "Cast down your buckets where you are," he urged. "In all things that are purely social," Washington said, "we can be as separate as the fingers, yet one as the hand in all things essential to mutual progress." "The wisest among my race," he continued, "understand that the agitation of questions of social equality is the extremest folly, and that progress in the employment of all the privileges that will come to us must be the result of severe and constant struggle rather than of artificial forcing." [30]

When Washington finished, the audience went wild with glee. They were on their feet yelling. Waves and waves of applause dashed against the buildings. But Blacks in the audience are reported to have wept.[31]

Scholars tell us that Washington hoped to gain support for education, economic development and a curbing of killings and maiming of blacks in return for renunciation of social and political equality. As we know, he obtained none of these. Lynchings and murders reached new heights. Segregation and discrimination increased. The effort to compromise was interpreted by whites as an open invitation to further aggression.[32] Perhaps coincidentally, the Supreme Court issued its *Plessy* v. *Ferguson* decision the next year.

I thought of the Washington speech while reading of a black man who spoke recently at a national anti-busing conference in Detroit. The report described his as the "star" of the meeting. He stated his opposition to busing and complained to the group: "I'm being used by white Federal judges. Some people don't understand that the hearts of black mothers and fathers bleed, too." He was given a standing ovation, punctuated by yells of "Right On!" [33] The story is sad. Reading it, one understands why sensitive black men who witnessed the Booker T. Washington speech might weep.

The conclusion is clear. If blacks cease their pursuit of integrated schools, it must be in favor of a more viable educational alternative, not in the expectation that whites will reward the surrender with concessions they are not forced to make.

Whether or not on the basis of compromise, any abandonment of school desegregation assumes the availability of a more attractive alternative. Although there are alternatives, experience has shown that initial hopes for some of them were too optimistic.

COMPENSATORY EDUCATION

A few years ago, compensatory education programs were expected to become suitable substitutes to integration, particularly in large urban areas where meaningful integration would have been difficult even without the massive opposition that developed. The plans call for special programs in ghetto schools, extra teachers, the latest teaching aids, and committing additional resources to target schools.

Some of these programs have been financed under Title I of the Elementary and Secondary Education Act of 1965, [34] but serious problems have occurred with the administration of this Act. Civil Rights groups have charged incompetent and corrupt administration of Title I funds resulting in misuse, waste, and diversion of a substantial percentage of the billions of dollars appropriated under the Act.[35] There is also evidence that school systems have not, as the Act intended, supplemented target schools already receiving an equal share of state funds. Rather, they have used Title I money to reduce the disparity that existed between have and have-not schools. Money has often been spent to spruce-up black schools to discourage integration, rather than improve the education being provided.[36]

But even if efficient and honest administration of the program could be effected, there is serious doubt that enough money would be provided to insure the sustained effectiveness of compensatory education programs.[37] A society willing to deny black children a decent education in order to preserve segregation is not likely to spend three or four times as much on black children's education as on whites, even if this kept black children out of white schools.

TUITION GRANTS

A similar problem threatens the future of tuition grants. A few years ago educators were excited by the possibility that the quality of education provided the poor could be improved by stimulating competition between existing public schools and private schools.[38] Parents would receive "tuition vouchers" which could be cashed at the school where they enrolled their child. Parents would become education "buyers," and schools would theoretically become more sensitive to satisfying the educational needs of the children enrolled.

For this plan to work, poor parents must receive a substantially larger grant than well-to-do parents to entice schools to undertake the more difficult educational challenge presented by the ghetto child, and to offset the more affluent parent's ability to supplement his grant. A program providing larger grants for poor children would de difficult to enact for political reasons. A program providing equal grants for all would invite middle-class parents to supplement their grants with private funds and set up superior schools that would perpetuate present inequalities.

EQUALIZED SCHOOL FUNDING

For years, educators have been urging state legislatures to eliminate funding disparities between school districts by amending school funding formulas that discriminate against poor districts.[39] After a shaky start in the courts,[40] a number of decisions have invalidated several plans and required state legislatures to restructure funding laws to avoid discrimination based on district wealth.[41]

Even with the successes obtained thus far however, litigation is expected to drag on for years. Implementation will require more years of legislative debate, manipulation, circumvention, and delay. Ghetto schools are likely to need more than equal dollars even to approach the quality of suburban schools, but no court has yet recognized a legal right to such an entitlement. Nor are richer districts likely, in the scramble to arrange a new school funding system, to give up their superior ability to exercise political muscle with the legislature.

Finally, there is little proof that school inputs (dollars) have much relation to school outputs (student achievement), nor are there clear standards for defining, much less measuring, "achievement." [42] School funding reform is needed and appears on the way, but it is not a suitable substitute for school integration for insuring a better education for black children.

COMMUNITY CONTROL

As white resistance to integration persisted, many black parents and leaders who never enthusiastically embraced the idea of sending their children to white schools, changed strategy and sought decentralization and increased local control over the public schools as a means of obtaining equal educational opportunity for their children. Spokesmen for this movement believe that black communities would elect school boards genuinely concerned about their responsibilities, and that these boards would hire administrators and teachers who would create atmospheres of mutual respect and pride in which learning could take place. Emphasizing black history, art and culture, teachers selected for their sensitivity to the special needs of black children would build pride and counteract the low self-esteem that saps black student achievement.[43]

Some experiments in community control have returned impressive results.[44] But the obstacles are overwhelming. In addition to the challenges of efficiently administering such a project, gaining parental support, hiring effective teachers, and securing adequate financing, there is the serious (some would say fanatical) opposition of teachers unions and other groups with strong vested interests in the educational status quo. Mere mention of the New York P.S. 201 and Ocean

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Footnotes at end of article.

Hill-Brownsville experiments suffice to make this point.[45]

Because community control projects seem to represent a voluntary return to "separate but equal" education, they are likely to receive little assistance from the courts, including those most unwilling to require the elimination of *de facto* school segregation.[46] Judicial resistance to any change in racial policy that retards school desegregation may prove a barrier to blacks seeking control over ghetto schools.

Moreover, community control seems more a result than a program, a means of describing a status already achieved rather than a means of acquiring it. The essence of community control is the parental sense that they can and are influencing policy making in their children's schools. Parents in highly regarded suburban school communities have this sense, and teachers and administrators in those schools realize that their jobs success depends on satisfying the parents whose children are enrolled in the school rather than the school board or the teacher union. Achieving this parental outlook in urban ghetto areas, where parents lack the sense of power that education and socioeconomic status provide their suburban counterparts, will be extremely difficult, even in the growing number of urban areas where the percentage of black residents is steadily rising.

FREE SCHOOLS

The real pioneers in the community control movement have given up on public schools entirely. In recent years they have established small private schools in ghetto areas.[47] Moving these schools from idea to reality requires great dedication. Sponsors must overcome myriad problems including state and local educational requirements, health and safety standards, teacher certifications and, of course, ongoing financial support. Many of these projects have nonetheless moved beyond the experimental stage and achieved impressive academic success. Perhaps significantly, many of these schools begun deep in black communities for black children have waiting lists of white children whose parents are more than willing to pay to have their children share in the innovative, integrated educational programs that often characterize free schools.

Again, however, almost by definition, free schools are small and require a degree of commitment, competence and courage difficult to mass produce for the millions of black children whose schooling continues to reflect a separate and highly unequal character.

LIMITED ALTERNATIVES

These are the major alternatives to integrated public schools for black children. How viable are they now that growing numbers of blacks are expressing their disenchantment with integrated schools and seeking means to provide quality in separate, black schools?[48]

For relatively small numbers of black children, alternatives to integrated public schools exist which are available and quite attractive. None of them, however, are attainable by the masses of blacks. Indeed, functioning alternative programs often owe some of the credit for their existence to pressure for school desegregation.

WHY INTEGRATION?

Clearly the mixing of black and white children in a school does not guarantee a quality education for either racial group; in some situations, the degree of racial hostility renders even the suggestion a farce. But, if integration is not a guarantee of quality education, what is it?

The short answer is that the right to an integrated education makes possible a legal and political climate in which the potential for quality education for black children can exist and grow. This potential is not lessened and may increase in the face of white opposition and hostility.

This is not to say that we should not be concerned about the racial fears, violence, and harassment that frequently mar public school integration efforts. But it would be a surprise if these schools did not mirror the racial antagonism of their communities. Sociologist Nathan Glazer suggests in a recent article that racial clashes among students in integrated schools, and the tendency of black and white students to remain separated in non-classroom activity, are indications that school integration has failed or is not worth pursuing.[49]

While school officials must do more to cope with racial harassment, and while courts could certainly be more explicit about this responsibility when writing integration orders,[50] it is not necessary that blacks and whites attending integrated schools love one another, or even get along very well. Given the status of race relations in our society, this would take a miracle. Indeed, it is little short of miraculous that there are as many interracial friendships as exist, to say nothing of the presence of a few of the greatly feared interracial romances.[51]

WHAT EDUCATION IS

Education is more than achievement scores on standardized tests. Education should prepare students for living. In integrated schools, whatever the *academic* value of blacks learning with whites or vise versa, the two groups are forced to cope with the problems of racial hostility and ignorance which have been imposed on them by the society in which they will soon take their places. It may not even be too extreme to say that, to the extent education lacks racial conflict, it is insufficient preparation for living in America as it is and as it is likely to be for a long time.

The damage that can be done to children in these encounters, particularly black children who cannot flee to the suburbs, should not be underestimated.[52] Often, for example, the harm resulting from suspension or expulsion for some racial indiscretion—real or imagined—is permanent. But is this risk any worse than that experienced by black students over many years in segregated institutions administered by men like Dr. Bledsoe, the classic example portrayed in Ralph Ellison's novel, *Invisible Man?*[53]

Honest men who experienced the dictatorial atmosphere that so frequently pervaded old segregated schools and colleges will agree that life, even in a hostile integrated school, cannot be worse. In fact, conflict in desegregated schools may serve as a catalyst for student growth and racial maturity. This growth is not measured by standardized achievement tests and it does not make the wire services, but it can be a crucial educational experience for students, black or white, who will all too soon inherit society's racial problems.

SOUTH CAROLINA RECONCILIATION

A black school board member in South Carolina recently reported an experience at a formerly all-black high school, which was experiencing racial distrust and resentment after desegregation orders produced a 50–50 racial balance in two years. His report of an open student forum is quoted at length:

"The principal opened the meeting with a few well-chosen words about *getting along*. He told them all very bluntly that the time was past for arguing the whys and wherefores of school attendance lines, government regulations, busing, and the rest of it. The job now was to get on with the business of education—to learn to live with the situation as it was.

"Again, like prizefighters, the students began to feel each other out. Members of the bi-racial committee brought out some of the sore points on both sides, and the students began to say what they felt—many of them for the first time.

"A tall, young black boy said, 'The whites act like they're too good to associate with us.'

"A small, earnest white girl said, 'I'm actually afraid to pass by a group of black boys in the hall. I don't want to be, but I am.'

"A sullen white boy with long hair said, 'Why should we take part in anything at this school? The government is making us come here against our will.'

"An equally sullen black girl said, 'I remember the things I had to put up with when I went to a predominately white school, and I'm not going to make a big deal out of being nice to them when they're in my territory.'

"And so it went. Tension was there, and it could have been explosive except for two things: the Principal is a tough-minded man who managed to keep down any uproars that got started, and the other thing was that I began to feel that the children themselves didn't want any trouble to happen.

"Almost as it was building, the tension seemed to be easing—as if the children realized that the things they were thinking, the prejudices and fears they had lived with all of their lives, sounded hollow when said out loud.

"Then it happened. A white boy about halfway back stood up and complained, 'How can we get along with the black kids when we don't know them? They stay to themselves! You always see them at lunch or recess standing together in groups.'

"A black child jumped up and said, 'Well, man, you whites act like we're going to jump on you with a knife every time we start to say something.'

"The white boy said, 'Well, how do you expect us to act? You stay together in groups and talk and laugh, and the only way we could join in would be to walk up and join the group. I'd feel funny being the only white in a big group of black kids.'

"Then down in front where at least 50 or 60 black children were sitting, a little tiny white girl stood up and turned to the boy and said, 'Here I am, and I don't feel funny. If I can sit down here with my friends, why can't you?'

"And somewhere else, a black child stood up to show she was sitting with a group of whites.

"Of course, there was a lot of applause and excitement throughout the auditorium; and the first thing you knew, the white boy and his girl friend moved from their seats and came down front to sit with some of the black children. That started the ball rolling, and all over the room black children and white children were shifting to sit with each other. Introducing themselves. Sharing the one excitement of a new experience as only young people can.

"A small thing. But when you think about the hundreds of years of distrust that have driven people apart, it doesn't seem small at all. White kids and black kids beginning to think of each other as *individuals* rather than as members of an opposing group."[54]

CONCLUSION

The beginning of this article recalled that opposition to school desegregation is neither new nor novel. Because of its pathological components, it is likely to continue. Because white resistance to integrated schools is symbolic—and represents the core of the philosophy that America is a white man's country—it must be fought even by blacks who are convinced that the educational merits of integrated schools are overstated, misconceived, or simply nonexistent. The right of black children to attend integrated public schools—quite literally whether exercised or

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Footnotes at end of article.

not—is a right that is crucial not only to black success, but to black survival in this country.

Anyone doubting this need only re-read the constitutional amendment supposedly designed to curb "forced busing." With so much at stake, we cannot afford to surrender, and dare not risk compromise. Our efforts may or may not be successful, but fighting for survival is never a "no-win" policy. It is much more a "for better or worse" situation in which, for all our weariness and frustration, we can only, as the current expression goes, "keep on-keeping on." But Langston Hughes said it better when he concluded his "Mother to Son" poem, capturing in his lines what is the apparent heritage and inheritance of black men in America:

So boy, don't you turn back,
Don't you set down on the steps
'Cause you finds it's kinder hard.
Don't you fall now—
For I'se still goin, honey,
I'se still climbin',
And life for me ain't been no crystal stair.

FOOTNOTES

* This article was prepared for the "National Policy Conference on Education for Blacks" sponsored by the Congressional Black Caucus, in Washington, D.C. March 29–April 1, 1972.

[1] A. Bontemps, ed., *American Negro Poetry,* p. 67 (1963).

[2] 347 U.S. 483 (1954).

[3] *Newsweek,* Mar. 13, 1972, p. 24.

[4] 347 U.S. at 493.

[5] H Aptheker, *A Documentary History of the Negro People in the United States,* pp. 19–20 (Citadel ed. 1968). Subsequent efforts are reviewed in L. Litwack, *North of Slavery,* pp. 113–52 (Phoenix ed. 1961). Early efforts to educate slaves and free blacks in the South are traced in C. Woodson, *The Education of the Negro Prior to 1861* (1919).

[6] 163 U.S. 537 (1896).

[7] *Cummings v. Board of Educ.* 175 U.S. 528 (1899).

[8] *Berea College v. Kentucky,* 211 U.S. 26 (1908).

[9] See cases collected in Bell, *School Litigation Strategies for the 1970's,* 1970 Wis. L. Rev. 257, 259, n.9.

[10] The most famous of these was *Roberts v. City of Boston,* 59 Mass. (5 Cush.) 198 (1850), where the court refused arguments for school integration quite similar to those adopted a century later by the Supreme Court in *Brown.* Earlier, the Supreme Court cited *Roberts* as a basis for its decision in *Plessy v. Ferguson,* 163 U.S. 537, 544 (1896). Five years after *Roberts,* however, the campaign to end segregated schools in Massachusetts (of which *Roberts* was a part) succeeded in obtaining a state law to this end. See J. Daniels, *In Freedom's Birthplace,* pp. 446–49 (Johnson ed. 1968).

[11] R. Bardolph, ed. *The Civil Rights Record,* p. 210 (1970).

[12] In the decades following *Plessy,* at least 60 factors of disparity were litigated including physical facilities and equipment, number and qualifications of teachers, richness of curriculum and teacher's salaries. See Larson, *The New Law of Race Relations,* 1969 Wis. L. Rev. 470, 482–83.

[13] See Chief Justice Burger's effort to limit the scope of *Swann v. Charlotte Mecklenburg Bd. of Educ.,* 402 U.S. 1 (1971), while denying a stay in *Winston-Salem Bd. of Educ. v. Scott,* (U.S. Aug. 31, 1971).

[14] 402 U.S. 1 (1971).

[15] *Gordon v. Jefferson Davis Parish Sch. Bd.,* 446 F.2d (5th Cir. 1971); *Bell v. West Point Munic. Sep. Sch. Dist.,* 446 F.2d 1362 (5th Cir. 1971); *Lee v. Macon Co. Bd. of Educ.,* 448 F.2d 746 (5th Cir. 1971); *U.S. Bd. of Educ. of Clayton County,* 331 F. Supp. 446 (N.D. Ga. 1971).

[17] *Smith v. St. Tammany Parish Sch. Bd.,* 448 F.2d 414 (5th Cir. 1971).

[17] *Smith v. Tammany Parish Sch. Bd.,* 448 F.2d 414 (5th Cir. 1971).

[18] *Dunn v. Tyler Ind. Sch. Dist.,* 327 F. Supp. 528 (E.D. Tex. 1971).

[19] *Moore v. Bd. of Educ. of Chidester Sch. Dist.,* 448 F.2d 709 (8th Cir. 1971); *Rauls and Hammond v. Baker Co. Bd. of Educ.,*—F.2d—(5th Cir. 1971); *Smith v. Concordia Parish,* 445 F.2d 285 (5th Cir. 1971); *Cornist v. Richland Parish Sch. Bd.,*—F.2d—(5th Cir. 1971).

[20] *Hobson v. Hanen,* 269 F. Supp. 401, 515–16 (D.D.C. 1967), aff'd sub nom. *Smuck v. Hobson,* 408 F.2d 175 (D.C. Cir. 1969).

[21] *Bradley v. Sch. Bd. of Richmond,*—F. Supp.—(E.D. Va. Jan. 5, 1972), 40 U.S.L.W. 2446 (Jan. 18, 1972). See also *Lee v. Macon Co. Bd. of Educ.,* 448 F.2d 746 (5th Cir. 1971), where the court refused to allow a city to secede from a county and operate an independent school system where secession would adversely effect desegregation of the county school ssytem. But see, *Boyd v. Pointe Coupee Parish Sch. Bd.,* 332 F. Supp. 994 (E.D. La. 1971), where the court refused to grant further relief after 1800 white students enrolled in private schools to avoid segregation. The court deemed the resulting all-black schools "de facto segregated," stating, "This is simply an inevitable result of forced integration of schools." 332 F. Supp. at 995.

The Supreme Court has granted writs of certiorari to review two Fourth Circuit cases in which approval was given for the creation of new school districts for cities that were previously included in large county school districts. *U.S. v. Scotland Neck City Bd. of Educ.,* 442 F.2d 584 (4th Cir. 1971), cert. grt. 92 S.Ct. 47 (1971); *Wright v. Council of City of Emporia,* 442 F.2d 570 (4th Cir. 1971), cert. grt. 92 S.Ct. 56 (1971).

[22] In the last few years, orders have been entered in Los Angeles, *Crawford v. Bd. of Educ.,* Civ. No. 822854 (Sup. Ct. L.A. City, Feb. 11, 1970); Pasadena, *Spangler v. Pasadena Bd. of Educ.,* 311 F. Supp. 501 (C.D. Cal. 1970); San Francisco, *Johnson v. San Francisco Unified School Dist.,* — F. Supp. — (N.D. Cal. 1971); Oxnard, Cal., *Soria v. Oxnard Sch. Dist. Bd. of Trustees,* 328 F. Supp. 155 (C.D. Cal. 1971); Las Vegas, *Kelly v. Brown,* Civ. No. LV–1146 (D. Nev. Dec. 2, 1970); Pontiac, Mich., *Davis v. School Dist.,* 309 F. Supp. 734 (E.D. Mich. 1970), aff'd., 443 F. 2d 573 (6th Cir. 1971), cert. den., 92 S. Ct. 233 1971); Detroit, *Bradley v. Milliken,* — F. Supp. — (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct 12, 1971); South Holland, Ill., *U.S. v. School Dist. 151,* 404 F. 2d 125 (7th Cir. 1968), modified 435 F. 2d 1147 (7th Cir. 1970), cert. den., 402 U.S. 943 (1971).

[23] Note the Court's statement in *Swann v. Charlotte-Mecklenburg Bd. of Ed.,* 402 U.S. 1, 13 (1971), that "absent a constitutional violation there would be no basis for judicially ordering assignment of students on a racial basis."

[24] More than 50 amendments are under consideration, but one which has received substantial support in the House (H.J. Res. 620) provides: "Section 1. No public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school." This measure, if adopted, would not merely eliminate busing for integration, but would void *Brown v. Board of Education,* except perhaps as to desegregation resulting from freedom of choice plans.

In the Senate, S.J. Res. 165, that would have a similar effect provides, that: "Section 1. The assignment or transportation of children to a region beyond that covered by the neighborhood school, unless such assignment or transportation is voluntary, is expressly prohibited."

[25] J. Franklin, *From Slavery to Freedom,* pp. 330–32 (Vintage ed. 1969); K. Stampp, *The Era of Reconstruction: 1865–1877,* pp. 186–215 (Vintage ed. 1967).

[26] Reports indicate that black students in some predominately black schools, perhaps reflecting the racial hostility they see around them, have beaten and harassed white children assigned to "their" schools.

[27] The U.S. Senate Select Committee on Equal Educational Opportunity has found that disadvantaged children, without regard to race, tend to perform better in schools with a majority of advantaged children. But in achievement test terms, black students in Berkeley, while improving, are still at an educational level five years behind their advantaged white classmates at the eighth-grade level.

[28] Even committed school integrationist Dr. Kenneth B. Clark has expressed support for emergency programs of compensatory education intended to benefit children in predominately black schools. Clark, *Alternative Public School Systems,* 38 Harv. Educ. Rev. 100, 105(1968).

[29] R. Niebuhr, *Moral Man and Immoral Society,* pp. 252–53 (1932).

[30] B. Washington, *Up From Slavery,* pp. 218–25 (1901).

[31] L. Bennett, *Before the Mayflower,* pp. 227–29 (1966).

[32] *Id.* Washington's policies were vigorously challenged by other black spokesmen of the day, See H. Aptheker, *A Documentary History of the Negro People in the United States,* pp. 876–86 (1968). Of course the classic statement is "Of Mr. Booker T. Washington and others," in W. DuBois, *The Souls of Black Folk,* p. 42 (Premier ed. 1961). The ideological conflict between Washington and DuBois is reviewed in A. Meier, *Negro Thought in America 1880–1915* (1963).

[33] *Newsweek,* Mar. 13, 1972, p. 21.

[34] 79 Stat. 27–35, as amended, 20 U.S.C. §§ 236–44 (1965). Title I is the largest compensatory education plan ever attempted.

[35] "Title I of ESEA—Is it Helping Poor Children?", a study prepared by civil rights groups, was reported in the *New York Times,* Nov. 9, 1969, p. 1, col. 1.

[36] See 1969 Civil Rights Comm'n. Report, p. 32.

[37] Cohen, *Policies for the Public Schools: Compensation and Integration,* 38 Harv. Educ. Rev. 114 (1968). Sen. Walter Mondale, Chairman of the Select Committee on Equal Educational Opportunity, said recently, "With few exceptions, an annual Federal investment of $1.5 billion in compensatory education has little perceptible impact on mounting educational disadvantages." *New York Times,* Feb. 27, 1972, p. E 13, col. 8.

[38] See Sizer and Whitten, "A Proposal for a Poor Children's Bill of Rights," Psychology Today, Aug. 1968, p. 59; Sizer, "The Case for a Free Market," Saturday Review, Jan. 11, 1969, p. 34.

For a thorough discussion of the legal, political, and educational issues, see, Areen, *Education Vouchers,* 6 Harv. Civ. Rights-Civ. Lib. L. Rev. 466 (1971). Serious constitutional questions are posed in King, *Rebuilding the "Fallen House"—State Tuition Grants for Elementary and Secondary Education,* 84 Harv. L. Rev. 1057 (1971).

[39] See Coons, Clune & Sugarman, *Educational Opportunity: A Workable Constitutional Test for State Financial Structures,* 57 Cal. L. Rev. 305 (1969).

[40] *McInnis v. Shapiro,* 293 F.Supp. 327 (N.D. Ill. 1968), aff'd mem. sub. nom. *McInnis v. Ogilvie,* 394 U.S. 322 (1969).

[41] *Serrano v. Priest,* 5 Cal. 3d 583, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971); *Van Dusartz v. Hatfield,* No. 3–71 Civ. 243 (D. Minn. Oct. 12, 1971); *Rodriguez v. San Antonio Ind. Sch. Dist.,* No. 68–175–5A (W.D. Tex. Dec. 23, 1971).

Similar suits are pending in perhaps 20 other states. See Note, *The Evolution of Equal Protection—Education, Municipal Services and Wealth,* 7 Harv. Civ. Rights-Civ. L. Rev. 103, 200–13 (1972).

[42] For what has become the classic exposi-

tion of the community control philosophy, see Hamilton, *Race and Education: A Search for Legitimacy*, 38 Harv. Educ. Rev. 669 (1968). The issues are thoroughly reviewed in A. Altschuler, *Community Control* (1970). See also *Community Control of Schools* (H. Levin ed. 1970); L. Fein, *The Ecology of the Public Schools* (1971).

[44] See, e.g., Fantini, *Participation, Decentralization, Community Control, and Quality Education*, 71 The Teachers College Record 93 (Colum Univ. 1969); Myers, "Schools: Morgan's Tentative Revolution," City Bi-Monthly Rev. of Urban America, Nov.-Dec. 1968, p. 6.

[45] *Confrontation at Ocean Hill-Brownsville* (M. Berube, M. Gittell, eds. 1968); D. Rogers, *100 Livingston Street* (1969).

[46] Community Control is constitutionally permissible. Kirp, *Community Control, Public Policy, and the Limits of the Law*, 68 Mich. L. Rev. 1355 (1970), but note the unreceptive opinion in *Oliver v. Donovan*, 283 F. Supp. 958 (E.D.N.Y. 1968).

[47] G. Dennison, *Lives of Children* (1969); J. Kozol, *Free Schools* (1972).

[48] While the *Newsweek* poll, footnote 3, asserts that ". . . nearly half the blacks interviewed opposed busing," their reasons go to the unfair burden placed on black children in many busing plans, and what some interpret as the subtle implications in all school integration plans that blacks cannot learn unless in the presence of whites. This latter concern is reflected in a controversial antibusing resolution passed at the recent black political convention held in Gary, Ind. *Boston Globe*, Mar. 13, 1972, p. 2, col. 3.

[49] Glazer, "Is Busing Necessary?" Commentary (Mar. 1972) p. 39.

[50] Some courts have required the establishment of bi-racial committees, but all too frequently this leads to the appointment of blacks who, once exposed to the school board's "problems" are coopted and join with the white members in opposing further legal action that may be needed to insure compliance with the plan.

[51] Petroni, "Teen-age Interracial Dating," Trans-Action, Sept. 1971, p. 54.

[52] R. Coles, *Children of Crisis* (1964).

[53] R. Ellison, *Invisible Man* (1947).

[54] Excerpts from speech of Theodore Lester, board member, Florence County School District No. 1 School Board, *Your Schools*, Newsletter of the South Carolina Community Relations Program, American Friends Service Comm., 401 Columbia Bldg., Columbia, S.C. 29201.

METROPOLITAN-WIDE DESEGREGATION

(By William L. Taylor)

Early this year federal district judge Robert R. Merhige ordered the merger of Richmond, Virginia's predominantly black school district with two predominantly white suburban county districts.[1] Several months earlier, federal Judge Stephen Roth in Detroit ordered Michigan officials to submit a desegregation plan for the Detroit metropolitan areas.[2] If the Richmond and Detroit decisions are upheld, they will have a broad impact on metropolitan areas throughout the nation.

For one thing, they provide a school integration remedy in places where it was previously thought to be a rapidly diminishing possibility. Black students now constitute a majority of the school enrollment of many cities, particularly large ones, and their numbers are growing rapidly. Black enrollment in Richmond, for example, is now about 65 percent and Detroit's is more than 60 percent.[3] Substantial school integration can be accomplished in many places only if the area encompassed by a court-ordered desegregation plan is larger than the city itself. In short, *Brown v. Board of Education* could become an anachronism unless its principles are interpreted broadly enough to encompass metropolitan relief. Because thirty-seven percent of the black population lives in the country's twenty-five largest cities (where racial concentrations tend to be highest), school integration, without metropolitan relief, can become a reality only in the smaller cities and rural areas which are rapidly losing population.

LEGAL JUSTIFICATION

The Richmond and Detroit decisions also have wide implications because they rest upon legal principles and factual findings which make them applicable throughout the country. The circumstances and principles, best articulated in the Richmond case, may be summarized as follows:

(1) *Public education is the responsibility of state government, which must make it available to all on equal terms*. This constitutional principle, articulated most clearly in *Brown*,[4] is also at the heart of the recent challenges to school financing systems based on the local property tax.[5] In Richmond, Judge Merhige found that general supervision over public schools was vested in the State Board of Education, which prescribed standards for certifying teachers, set quality standards for school divisions, set school construction standards, and approved local construction programs. In Detroit, Judge Roth found that the Michigan Board of Education had similar responsibilities, as do the state boards of education in all states.

(2) Political subdivisions, including school districts, are creations of the state and will be altered when necessary to meet the overriding demands of the Constitution. This principle, declared as early as *Hunter* v. *City of Pittsburgh*,[6] has had its major contemporaneous applications in the reapportionment cases.[7] It has also been applied to school districts in situations where courts found that the districts were segregated as a matter of law.[8] In Richmond, the court said, ". . . if political boundaries amount to insuperable obstacles to desegregation because of structural reasons, such obstacles are self imposed. Political subdivision lines are creations of the state itself, after all."

(3) *De jure school segregation is established by demonstrating that school assignment policies are based upon segregated housing policies*. This was the question the Supreme Court left unresolved in the *Swann* case.[9] Judge Merhige's resolution of the issue was crystal clear:

"School authorities may not constitutionally arrange an attendance zone system which serves only to reproduce in school facilities the prevalent pattern of housing segregation, be it publicly or privately enforced. To do so is only to endorse with official approval the product of private racism."

In this ruling, the court was following the recent line of decisions in northern school desegregation cases involving Pontiac, Michigan and Pasadena, California,[10] as well as a Fourth Circuit holding affecting the Norfolk schools.[11] A corollary principle is that the appropriate test of the constitutionality of school officials' actions is their operative effect, rather than whether they were the product of invidious intention or racial hostility. Constitutional violations may be established by the "knowing pursuit of policies whch cannot but produce racial separation," [12] and legality will be gauged by the "natural, probable, and forseeable effect" of the action.[13]

In both Richmond and Detroit, these holdings were supported by massive evidence of officially sanctioned housing segregation. This included the policies of the Federal Housing Administration (FHA) during the 1930's and 1940's, which called for the maintenance of racially and economically homogeneous neighborhoods and schools protected from "adverse influences" by "proper zoning regulations and deed restrictions." The persistent effect of these policies can be gauged by continuing segregation in FHA-assisted sale and rental housing. Other important factors include court enforcement of racially restrictive covenants (before *Shelley v. Kraemer*), the location of public housing only in predominantly-black sections of the inner city, the refusal of suburban jurisdictions to permit the construction of federally subsidized housing for low and moderate income families (and the predominantly white occupancy of these units where permitted), and continuing discriminatory practices of realtors and developers unrestrained by effective governmental action. Additional evidence tied these housing segregation practices directly to segregated schools. In Richmond, for example, it was established that when new suburban subdivisions were built, new schools were frequently constructed to serve only the all-white populace of the subdivision.

In short, the core of the Richmond and Detroit decisions was heavy government involvement in housing discrimination which contained blacks within the central cities. This demonstrated that black attendance at geographically-zoned segregated schools was hardly accidental or fortuitous. Metropolitan-wide efforts to integrate schools are well within *Brown's* mandate to end governmentally-imposed segregation, and can not fairly be described as imposing "artificial racial balance."

(4) *The State has no compelling interest in maintaining racially separate school systems within a single bi-racial metropolitan community*. While the Richmond and Detroit defendants repeatedly argued the sanctity of school district lines, they were unable to establish how these boundaries had any paramount significance in what were in practice single metropolitan communities. The evidence of "community of interest" was substantial. In Richmond, the city and the two suburban jurisdictions formed the great bulk of what is defined by the Census Bureau as a single interdependent metropolitan community. A substantial proportion of suburban residents works in the city; suburban people make many of their purchases in Richmond city stores; a large volume of traffic flows back and forth daily across jurisdictional lines; almost everyone in the metropolitan area is born or dies in a Richmond city hospital; many of the recreational and cultural facilities located in one jurisdiction serve people in the entire metropolitan area. In addition, the three governmental entities have contractual arrangements for the use of water and utilities, and are working toward other joint approaches to solve problems that are widely regarded as regional in nature.[14]

In Detroit, even less educational interest justifies existing boundaries. Eighty-five separate school districts exist within the metropolitan area. Unlike Richmond, they vary in their school enrollments and overlap other kinds of political subdivisions.

The justification for existing school boundaries has arisen in another form in Indianapolis where the court, in a school desegregation suit directed initially at the city school board, has asked how the maintenance of separate school districts can be justified in a metropolitan area which has consolidated almost all other functions.[15]

Establishing a "community of interest" is important because it undermines the sanctity of existing district lines, and because it gives content to what otherwise might be viewed as an amorphous state responsibility. The existence of a metropolitan community makes single-race schools racially identifiable and takes the argument out of the realm of whether "racial balance" is what is being sought.[16] Other educational considerations may play a part in determining whether an

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Footnotes at end of article.

entire metropolitan area should be covered by one integration plan, but the existence of a single community establishes the framework for a desegregation plan to remedy past discrimination.

In Richmond much more proof existed than has been summarized here. The case had dragged through the courts for ten years while the city schools were becoming predominantly black, so that metropolitan relief could be viewed simply as an effective remedy under *Brown* and *Green v. School Board of New Kent County*.[17] The state of Virginia had intervened massively to preserve segregation freely transferring children across district lines and busing them long distances. Yet Judge Merhige apparently did not regard these factors as essential to his decision:

"When a school board . . . operating in any area where segregated housing patterns prevail and are continuing, builds its facilities and arranges its zones so that school attendance is governed by housing segregation, it is operating in violation of the constitution . . . These conclusions apply in a case where no history of past intentional seregation was relied on in order to establish an affirmative duty to desegregate. In a situation such as the instant one, when officially mandated segregation was enforced by numerous other means, the legal principles are all the more demanding."

In sum, the crucial elements of the Richmond and Detroit decisions were state responsibility for public education, the containment of black people in the central city by housing discrimination policies, and the lack of justification for maintaining separate districts in a single metropolitan community where they resulted in segregated schools. If the decisions are sustained on these grounds, they will have obvious applicability throughout the country.

REMEDY

The Richmond court has ordered into effect a city school board plan that will consolidate the three districts into one district of 104,000 students governed by a single school board and superintendent. While this ruling has refueled the furor over busing, several key aspects of the decision and of other allied cases are frequently overlooked:

Logistically, metropolitan plans may be less difficult to implement than desegregation plans for a single district. In Richmond, for example, the desegregation plan adopted by the court divides the metropolitan area into six subdistricts. The maximum time for any trip would be 45 minutes in five of the six subdistricts and one hour in the sixth (a rural area of Chesterfield County where long distance busing is already common.) Very few children would actually travel the maximum time, times which are well within limits set by the Virginia State Department of Education twenty-five years ago. And the number of children to be transported would increase by no more than 10,000 (from 68,000 to 78,000).

In Hartford, where another metropolitan-wide case has survived a motion to dismiss and is awaiting trial,[18] the city's North End contains every school with a 90–100% minority group enrollment, and no predominantly white schools. Integrating North End minority students with South End whites would necessitate busing through Hartford's large commercial and industrial center. Logistically, it is simpler to integrate the North End with the adjacent suburban community, where schools are within walking distance for many students. In Hartford, therefore, pairing nearby schools is a feasible technique for metropolitan integration, while busing is the only feasible means of achieving intracity desegregation.

In larger cities, planning for metropolitan integration may be more complex, but logistics may be no more difficult. In Detroit, for example, preliminary state board planning suggests that substantial racial and economic integration can be accomplished without any increase in transportation costs, or the number of children to be transported, if the integration plans encompass a group of adjacent suburbs.

Remedies can be made flexibly enough to achieve the desired educational result. Total consolidation is only one option. Others include partial merger, redistricting, or even the assignment of children across existing boundaries. The only prerequisite would be that the remedy accomplish integration.

Metropolitan plans offer the prospect of stable integration. In metropolitan Richmond, with a minority population proportionately as large as any area in the nation, enrollment in the consolidated school system would be 66 percent white and 34 percent black. Under the Richmond Board's plan every school would have an 18 to 40 percent black enrollment.

This arrangement should enhance stability. Whether "white flight" is based upon racism, or upon a judgment that schools consisting of a majority of advantaged children offer greater educational benefits, the dangers of rapid resegregation are decreased where the obligation to desegregate is systemwide and the racial and economic class composition of each school is defined within a range. Most families would have an incentive to remain living where they were to make integration work, instead of moving to more distant areas.

Metropolitan plans offer greater educational advantages than do simple integration plans. Expert witnesses in the Richmond and Detroit cases testified that metropolitan-wide desegregation will provide economies of scale in many places that will make possible new facilities and services that are too costly for smaller districts. These include special schools and programs to serve the gifted and handicapped, improved facilities for teacher training, and wider use of television and computers as instructional tools. (In some places, such as New York, the state provides incentives to suburban districts, but not to cities, to cooperate in providing services. It seems reprehensible, as well as unconstitutional, for states to hold out incentives for consolidation and cooperation only in a manner that entrenches racial separation.)

Metropolitan plans do not decrease, and may even enhance, school accountability and opportunities for community participation. Under the Richmond plan, the new consolidated district is to be divided into six subareas of about 18,000 students each. While the plan does not specifically apportion responsibility between the central authority and the subdivision, there is no reason why each subdivision cannot be delegated broad authority to determine the kind of educational program that best meets the needs of children in the area. This might include the hiring of faculty and administrative personnel, and decisions about curriculum and the allocation of budget. Thus, there is no basis for the suggestion that metropolitan school integration plans necessarily entail a loss of "local control."

Judge Merhige's order also seeks to protect blacks against various forms of discrimination that have often accompanied past desegregation. It contains detailed provisions prohibiting discrimination in the retention, reassignment and hiring of faculty or staff, and requires plans for "in-service training of staff, creation of biracial committees, employment of black counselors in all schools, and plans for biracial extracurricular activities."

None of this ignores the fact that black children, who will be a minority in each subdivision, frequently encounter difficult problems in desegregated schools. But the battle to win respect for one's heritage, and fair treatment from teachers, administrators, and fellow students is a new phase of the desegregation struggle. Because it is difficult does not mean the effort should be abandoned. The struggle to win equal status in desegregated schools is an integral part of the effort to win equality in a biracial society. It is doubtful that students who are shielded from inter-racial contact in the name of avoiding mistreatment will be well prepared for the struggle for equal status they will face after school.

Nor does the evidence suggest that integrated or predominantly black school systems are more accountable or subject to black parents' influence. On the contrary, it is likely that participation of minority and low income parents in school affairs will increase under metropolitan integration arrangements. Parents in Evanston, Rochester, and Boston whose children have moved from racially isolated to integrated schools have reported feelings of greater participation and influence in their children's education in the new situation than in the old.

THE POLITICS OF METROPOLITANIZATION

One concern about metropolitan school litigation is that it may encourage metropolitan government, which could dilute minority political power, particularly in areas where blacks constitute a voting majority in the central city and have elected (or are about to elect) their own candidates to municipal office.

But there is no necessary link between metropolitan school integration and metropolitan government. This is well illustrated in Richmond where another group of black plaintiffs sued during the school suit to de-annex a predominantly white portion of Chesterfield county that had been merged with the City of Richmond. They claimed that the annexation's purpose was to prevent blacks from becoming a voting majority in Richmond. Judge Merhige, the same judge who later ordered metropolitan school relief, ruled that the annexation was racially motivated and required some form of redress.[19] Equal educational opportunity in a metropolitan area is clearly a separate issue from political representation in the same area. Urging the former does not compel either a legal or a policy commitment to the latter.

Moves toward metropolitan school integration, however, may bring significant political realignments. The Richmond school board, long a defendant, was a principal moving party in the request for metropolitan relief. In Detroit, a group of white city residents initially raised the metropolitan issue. Whether these parties truly believe in school integration varies from situation to situation. But they do assert that whatever social burdens are inherent in school integration should be borne equally by the generally more affluent citizens of suburbia and by the white and black working people of the cities.

There is merit to this view, and the fact that it is being asserted in the courts indicates that the potential support for metropolitan solutions is not limited to black people. It also suggests that despite the controversy the Richmond and Detroit decisions have aroused, a metropolitan approach may help to diffuse conflict between blacks and whites in the inner city.

It is far too early to predict the outcome of metropolitan school integration suits. Given the current hysteria over busing and the sparsity of courageous political leadership, the effort may be thwarted by Congressional action. The Senate has already passed legislation to stay the implementation of any inter-district integration order until all appeals have been exhausted. Any restraints placed upon busing as an integration tool would obviously frustrate metropolitan integration.

Footnotes at end of article.

A WARNING ABOUT FINANCE

A more sophisticated, but no less dangerous development would be for public officials to embrace school financing equalization *as an alternative* to integration. The *Serrano* decision has fostered a surge of litigation and legislation to apply its principle that school finances may not vary because of local districts' property wealth. While fiscal inequities must be remedied, there are limits to what reform can accomplish:

(1) Some states are discovering no correlation between district property wealth and the wealth of families who reside there. New York City is an example of a city with a rich tax base and many poor families.[20] There, poor and minority children would be hurt rather than helped by application of the *Serrano* principle of redistributing property wealth for school financing purposes.

(2) The *Serrano* decision points to an equalization of property tax revenues, rather than a financing system based on educational need (what poor children really require), or even equalized per pupil expenditures.

(3) There is little persuasive evidence that different expenditures produce significant educational differences (except on a major scale). It is problematical at best that increases in funding can by itself bring about the higher quality education that poor children so desperately need.

(4) While implementation of *Serrano*, because it would eliminate the cost of educating new students, strips away the affluent suburbs' traditional rationale for refusing to shelter poor and minority families, it hardly guarantees that suburban barriers to the poor and minorities will fall.

While fiscal reform is needed, it is no panacea for educational ills that are traceable in large part to discrimination and racial isolation. Care must be taken that it does not become the modern equivalent of the "separate but equal" theory of *Plessy* v. *Ferguson*.[21]

If Congress should resolve to support court desegregation efforts, it could do much to assure the success of a metropolitan approach. Much current concern about integration arises from widespread dissatisfaction with the quality of public education. If people become convinced that integration is one part of a broader effort to improve public education for *all* children, some opposition to it would abate. New facilities, such as education parks located in areas accessible both to suburban and city residents, might temper the cross-busing controversy. Federal assistance to individualized instruction programs could help convince parents that their children's learning problems will not be neglected in an integrated system.

This view may be too hopeful at a time when public officials, including the President, are manipulating the integration issue for narrow political gain. But major progress in school integration has been achieved in the South even in the face of massive resistance. A new brand of leadership, best exemplified by Governor Askew of Florida, is emerging. It encourages people to face their problems and solve them rather than retreat to racism. It may be that Richard Nixon's *realpolitik* will prove to be more illusory in the long run than the dream of Martin Luther King.

FOOTNOTES

[1] *Bradley v. School Board of the City of Richmond*, C.A. No. 3353 (E.D. Va. Jan. 5, 1972), 40 U.S.L.W. 2446 (Jan. 18, 1972).

[2] *Bradley v. Milliken*, C.A. No. 35257 (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct. 12, 1971).

[3] In Wilmington, Delaware and Atlanta, where other cases are pending, black enrollments exceed 80% and 60% respectively. In Baltimore and St. Louis they are more than 60%, and in Chicago and Cleveland more than 50%.

[4] "Such an opportunity [the opportunity for an education] where the State has undertaken to provide it, is a right which must be made available to all on equal terms." 347 U.S. at 493.

[5] *Serrano v. Priest*, 5 Cal. 3d 584 (Cal. Sup. Ct. 1971); *Van Dusartz v. Hatfield*, No. 3–71 Civ. 243 (D. Minn. Oct. 12, 1971); *Rodriguez v. San Antonio Independent School District*, C.A. No. 68–175–SA (W.D. Tex. Dec. 23, 1971).

[6] 207 U.S. 161, 178 (1907).

[7] See, e.g., *Reynolds v. Sims*, 377 U.S. 533 (1964); *Wesberry v. Sanders*, 376 U.S. 1 (1964).

[8] See, e.g. *Haney v. County Board of Education of Sevier County*, 429 F.2d 364 (8th Cir. 1970); *U.S. v. Texas*, 321 F. Supp. 1043 (E.D. Tex. 1970), *aff'd*, 447 F.2d 441 (5th Cir. 1971).

[9] *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971).

[10] *Davis, v. School District of City of Pontiac*, 443 F.2d 573 (6th Cir. 1971), *cert. den.*, 92 S.Ct. 233 (1971); *Spangler v. Pasadena City Board of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

[11] *Brewer v. School Board of City of Norfolk*, 397 F.2d 37 (4th Cir. 1968).

[12] *Johnson v. San Francisco Unified School District*.—F. Supp.— (N.D. Cal. April 28, 1971).

[13] *Bradley v. Milliken*, footnote 2, at 12, 23.

[14] The elements of establishing a community of interest were first established in *Jenkins v. Township of Morris School District*, C.A. No. A–117 (N.J. Sup. Ct. June 25, 1971), in which the Supreme Court of New Jersey held that the New Jersey Commissioner of Education was authorized to merge the school districts of a closely related town and suburban area. The community of interest argument is paradoxical in one sense. As suburbs break away from any dependence upon central cities, establishing their own employment opportunities, hospitals, cultural and recreational facilities, it will be increasingly more difficult to demonstrate the existence of a single metropolitan community. Yet racism is certainly an important element in this process of central city abandonment.

[15] *United States v. Board of School Commissioners of the City of Indianapolis*, 332 F. Supp. 655 (S.D. Ind. 1971).

[16] The failure to allege or prove housing discrimination which confines blacks to segregated schools and the lack of compelling justification for separate districts in a single metropolitan community led to the dismissal of an early cases in this area. *Spencer v. Kugler*, 326 F. Supp. 1235 (D.N.J. 1971), *aff'd*, —U.S.— (Jan. 17, 1972). The complaint only alleged that public education was a state responsibility and that the schools were racially imbalanced.

[17] 391 U.S. 430(1968).

[18] *Lumpkin v. Meskill*, C.A. No. 13,716 (D. Conn., filed Feb. 1970).

[19] *Holt v. City of Richmond*, C.A. No. 151–71 R(E.D. Va. Sept. 28, 1971).

[20] U.S. Senate, Select Committee on Equal Educational Opportunity, *Inequities in School Finance*, 92nd Cong. 2nd Sess. (Jan. 1972).

[21] Of course metropolitan integration itself may be a means of removing fiscal inequities. In Richmond, the new consolidated district presumably will have a single tax base and a uniform tax rate.

PENDING DESEGREGATION CASES

(By Robert Pressman)

Allegheny County, Pennsylvania: *Hoots v. Commonwealth of Pennsylvania*, C.A. No. 71–538 (W.D. Pa.).

This action challenges the manner in which school districts have been consolidated in one section of suburban Pittsburgh. Plaintiffs allege that District 16 (42 percent black) is racially identifiable compared with the newly created adjoining systems which are one percent, six percent and one percent black. Plaintiffs also allege that District 16 "does not have the economic capacity nor educational resources to provide an educational program commensurate to those of the adjoining school districts." The parties have reverently submitted proposed stipulations pursuant to the court's request.

Plaintiffs' counsel: R. Stanton Wettick, Jr., Neighborhood Legal Services Association, Pittsburgh.

Benton Harbor, Michigan: *Berry v. School District of City of Benton Harbor*, Civ. No. 9 (W.D. Mich. Feb. 17, 1970).

The district court found discrimination in faculty assignment, school grouping practices, and in the quality of physical plants, and ordered remedial action. The court did not grant any relief on student assignment. Each side has appealed to the Sixth Circuit, plaintiffs challenging the failure to order student desegregation. Plaintiffs have received additional time to file their brief because of a delay in the preparation of the transcript.

Plaintiffs' counsel: Louis Lucas, Memphis, Tennessee; Stuart Dunnings, Jr., Lansing, Mich.

Boston, Massachusetts: *Morgan v. Hennigan*, C.A. No. 72–911–G (D. Mass. filed Mar. 15, 1972).

This action challenges the segregation of pupils and faculty, hiring and promotion of faculty and staff, resource allocation, and the content of the educational program. Plaintiffs seek implementation of a plan fully desegregating the system for the 1972–73 school year. Among other things, the complaint alleges that the system has transported students to schools in ways promoting racial segregation of students.

Plaintiffs' counsel: Thomas M. Simmons, S. Stephen Rosenfeld, John Leubsdorf, Roger Abrams, Boston.

Clark County, Nevada: *Kelly v. Guinn*, F.2d (9th Cir. Feb. 22, 1972).

The Ninth Circuit affirmed the district court's finding that officials had illegally segregated certain elementary schools. The appellate court also affirmed the district court's approval of a desegregation plan providing for clustering of schools, with associated grade reorganization and two-way busing. The school system has filed a petition for rehearing.

Plaintiffs' counsel: NAACP Legal Defense Fund, New York City, New York.

Denver, Colorado: *Keyes* v. *School District No. 1*, 303 F. Supp. 279 (D. Colo. 1969), 303 F. Supp. 289, 313 F. Supp. 61, 313 F. Supp. 90, reversed in part, 445 F.2d 990 (10th Cir. 1971), cert. granted, 92 S.Ct. 707.

The district court found that school officials had deliberately segregated certain schools, and ordered them desegregated pursuant to a plan adopted, but later rescinded by the school board. As to 17 additional schools with minority enrollments of at least 70 to 75 percent, the district court found insufficient proof of deliberate segregation, but ordered their desegregation based upon the finding that their students were denied "an equal educational opportunity." In reaching this conclusion, the court noted in the impacted schools lower test scores and higher dropout rates, less qualified teachers and, in general, a disparity in the age of school buildings and the size of school sites.

On appeal, the Tenth Circuit affirmed as to the finding of deliberate segregation, but reversed on the equal educational opportunity theory. On January 17, 1972, the Supreme Court agreed to review the case; however, the argument will be delayed until the October, 1972 Term. Petitioners raise the question of whether the lower courts erred in looking at the system in segments, rather than as a whole, in assessing system involvement in the creation of segregation. They also challenge the rejection of the equal educational opportunity contention in view of the appellate court's failure to reject any of the factual findings of the district court upon which it was based.

Plaintiffs' counsel: Craig Barnes, Gordon Greiner, Denver; NAACP Legal Defense Fund, New York City.

Detroit, Michigan: *Bradley* v. *Milliken*, C.A. No. 35257 (E.D. Mich. Sept. 27, 1971), 40 U.S.L.W. 2192 (Oct. 12, 1971).

In September 1971, the district court held that the segregation of pupils in the Detroit school system violated the Fourteenth Amendment. The court found, *inter alia*, that school transportation practices had promoted segregation. The district judge also found involvement by the state and its agencies in the maintenance of the pattern of student segregation. The court held that under the federal and state constitutions, "the responsibility for providing educational opportunity to all children on constitutional terms [was] ultimately that of the state."

Thereafter, the court ordered local and state defendants to prepare and file intra-city and metropolitan desegregation plans. Hearings on the plans were held during March, 1972.

Plaintiff's counsel: Louis Lucas, William Caldwell, Memphis, Tennessee; Nathanial Jones, NAACP, New York City; Paul R. Dimond, J. Harold Flannery, Center for Law and Education, Cambridge, Mass.; NAACP Legal Defense Fund, New York City.

Grand Rapids, Michigan: *Higgins* v. *Board of Education of Grand Rapids*, C.A. No. 6386 (W.D. Mich. filed 1971).

Plaintiff's complaint challenged student and faculty segregation in Grand Rapids. The Grand Rapids system moved to join officials of a number of suburban systems as defendants. Plaintiffs filed an amended complaint including state officials and representatives of suburban systems as defendants. The court denied the state defendants' motion to dismiss.

Plaintiff's counsel: Stuart Dunnings, Jr., Lansing, Michigan; Lucas, Memphis.

Hartford, Connecticut: *Lumpkin v. Meskill* C.A. No. 13, 716 (D. Conn. filed Feb. 1970).

This action seeks metropolitan school desegregation in the Hartford area. The three-judge court denied the motion to dismiss in January 1971. Plaintiffs have been conducting discovery.

Plaintiffs' counsel: Douglas M. Crockett, Raymond Marcin, Tolland-Windham Legal Assistance, Willimantic; Paul R. Dimond, Harvard Center for Law and Education, Cambridge, Massachusetts.

Indianapolis, Indiana: *United States (And Buckley) v. Board of School Commissioners of the City of Indianapolis*, 332 F. Supp. 655 (S.D. Ind. 1971).

This suit was filed as a conventional student and faculty desegregation case by the Department of Justice in 1968. In August 1971 the district court ruled that the system had never adequately disestablished the dual system operated pursuant to an Indiana statute repealed in 1949. The court ordered limited in-city relief. In addition, the court discussed the passage of state laws concerning the expansion of the city school system, and creating "Uni-Gov," a metropolitan government for municipal services other than schools. Expressing the view that the effect of these measures "may well have been to retard desegregation and to promote segregation" in the Indianapolis system, the court ordered the United States to file pleadings joining as parties municipal and school officials in the metropolitan area. The court also referred to the stability of the city system (37.4 percent black) compared with adjoining systems (2.6 percent black).

In the fall of 1971, private plaintiffs intervened, joining as defendants almost all school officials in the SMSA. The court has denied motions to dismiss and has under advisement the question of convening a three-judge court.

Plaintiffs' counsel: U.S. Dept. of Justice Civil Rights Division; Nathaniel Jones, NAACP, New York City; J. Harold Flannery, Eric E. Van Loon, Harvard Center for Law and Education, Cambridge, Mass.

Kalamazoo, Michigan: *Oliver* v. *School District of the City of Kalamazoo*, C.A. No. K88–71 (W.D. Mich. 1971), aff'd, 448 F.2d 635 (6th Cir. 1971).

The system's school board adopted a plan of complete student desegregation. After an election, the new board rescinded the plan. Plaintiffs filed suit challenging the rescission. The district court held the rescission violative of the Fourteenth Amendment and entered a preliminary injunction requiring the system to implement its plan for the 1971–72 school year. On appeal, the court of appeals affirmed, finding no abuse of discretion in the granting of the preliminary injunction, and noting that the school board would have an opportunity to press its contentions in the hearing on the merits.

Plaintiffs' counsel: Nathaniel Jones, NAACP, New York City; Stuart Dunnings, Jr., Lansing, Mich.

Los Angeles, California: *Crawford* v. *Board of Education*, Civil No. 822854 (Sup. Ct. L.A. Cty.).

On February 11, 1970, the court held that students in the district were illegally segregated, and directed school officials to prepare a plan under which each school in the system would have between a 10 and 50 percent minority student enrollment. The court also found discrimintaion against minority students with respect to per-pupil expenditures, the quality of facilities, and the qualfications of teachers assigned to schools with concentrations of minority students.

The school system appealed to the California Court of Appeals; implementation of the affirmative aspects of the trial court's decision was stayed. Opening briefs have been filed. The case will be argued after the system files its reply brief.

Plaintiffs' counsel: William Rintala, Bayard Berman, Los Angeles.

Minneapolis, Minnesota: *Booker v. Special School District No. 1*, C.A. No. 4–71 Civ. 382 (D. Minn.).

This action challenges the segregation of students against minorities in hiring for faculty and staff positions and in promoting persons to supervisory positions. The trial is scheduled for April, 1972.

Plaintiffs' counsel: Charles Quaintance, Jr., Minneapolis.

Oxnard, California: *Soria v. Oxnard School District Board of Trustees*, 328 F. Supp. 155 (C.D. Cal. 1971).

Plaintiffs' motion for a summary judgment was granted May 12, 1971, the court finding "sufficient 'de jure overtones' " in school practices to warrant a holding that the segregation of the elementary schools violated the Fourteenth Amendment. Thereafter, a pairing plan was adopted, affecting six schools and increasing the number of students transported. The system appealed. The District Court and Ninth Circuit declined to stay implementation. Filing of briefs awaits preparation of a transcript. The school district is expected to argue on appeal that summary judgment was erroneous because there were genuine issues of material fact on the question of the school officials' intent.

Plaintiffs' counsel: Peter Roos, Western Center on Law and Poverty, Los Angeles; John A. Childers, Legal Service Center of Ventura County, Oxnard, California.

Pasadena, California: *Spangler (and United States) v. Pasadena City Board of Education*, 311 F. Supp. 501 (C.D. Cal. 1970).

The district court held that officials had illegally segregated the system, and ordered the implementation of a plan in September 1970 under which there would "be no school . . . with a majority of any minority students." Minority students constituted 41.7 percent of the enrollment as of the court's order. The plan utilized pairing of schools and transportation. The discriminatory practices identified by the court included busing white students to promote segregation.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil Rights Division: Edgar Boyko and Michael Roberts, Los Angeles.

Pontiac, Michigan: *Davis v. School District of City of Pontiac*, 309 F. Supp. 734 (E.D. Mich. 1970), aff'd, 443 F.2d 573 (6th Cir. 1971), cert. denied, 92 S.Ct. 233 (1971).

May 28, 1971, the Sixth Circuit upheld the district court's finding that school officials had illegally segregated students and faculty. The appellate court also affirmed the lower court's approval of a desegregation plan (submitted by the system, but contested on appeal) utilizing pairing and transportation of students. Two issues are pending. The court of appeals stayed the district court's order that a black assistant superintendent be appointed. The district court is considering the question of counsel fees for plaintiffs' attorneys.

Plaintiffs' counsel: William Waterman, Elbert Hatchett, Pontiac.

Rochester, New York: *Colquhoun v. Board of Education, Rochester City School District*, C.A. No. CIV–1970–97 (W.D.N.Y. filed 1970).

This action challenging student and faculty segregation was initiated in the spring of 1970. After the filing, the school system adopted a plan for complete desegregation in steps beginning in 1970 and ending in 1974, and moved for summary judgment. Plaintiffs filed a cross motion. Following an election, the new school board rescinded a portion of the plan, and plaintiffs filed a motion for a preliminary injunction challenging the rescission as an independent Fourteenth Amendment violation. On March 16, 1972, the board rescinded the remainder of the plan. All motions are under submission.

Plaintiffs' counsel: William A. Shapiro, Monroe County Bar Legal Association Corp., Rochester.

San Francisco, California: *Johnson v. San Francisco Unified School District*, C.A. No. C–70 1331 SAW (N.D. Cal. Ap. 28, 1971).

In April and June 1971, the district court ruled that San Francisco elementary schools were illegally segregated under federal and state law, and that the system had discriminated in the hiring and assignment of black teachers. The court ordered the system to integrate "all public elementary schools so that the ratio of black children to white children will be and thereafter continue to be substantially the same in each school." The system implemented a plan based upon clustering and increased transportation for the 1971–72 school year.

The school system appealed. After the argument in the Ninth Circuit, one of the judges on the panel died. The Ninth Circuit has indicated that a new argument will be held after the Supreme Court decides the *Keyes* (Denver) case.

San Jose, California: *Dias v. San Jose Unified School District*, C.A. No. C–71 2130 RFP (N.D. Cal. filed 1971).

This is an action challenging discrimination against Mexican-Americans in pupil assignment, faculty hiring and assignment, resource allocation, and selection for advanced classes. January 11, 1972, the district judge denied plaintiffs' motion for a preliminary injunction against the construction of thirteen schools, finding insufficient evidence that defendants had "acted to create ethnic imbalance . . . ." Plaintiffs have prepared interrogatories. They may, depending upon the decision on appeal in San Francisco, move for summary judgment.

Plaintiffs' counsel: Stephen Manley, Community Legal Services, San Jose.

Seattle, Washington: *Citizens Against Mandatory Busing v. Palmason*, C.A. No. 731-666 (Superior Ct., King Cty. filed 1971).

In January 1971 the Seattle school board adopted a plan to convert to a system of racially desegregated middle schools at the start of the next school year. The plan required cross busing of some white and some non-white students. CAMB filed suit alleging that this violated a state constitutional provision forbidding racial discrimination.

In August 1971, the trial court held the adoption of the middle school plan to be arbitrary and capricious, and enjoined the board from engaging in mandatory busing. Thereafter the court allowed the system to adopt a middle school program incorporating a desegregation program based upon voluntary busing. The system appealed to the State Supreme Court contesting the ban on mandatory busing and the lower court's conclusion that the case involved no federal issue. The case was argued January 12, 1972.

School board's counsel: Camden Hall, Seattle.

South Holland-Phoenix, Illinois: *United States v. School District 151*, 286 F. Supp. 786 (N.D. Ill. 1968), aff'd 404 F. 2d 1125 (7th Cir. 1968), 301 F. Supp. 201 (1969), aff'd as modified, 432 F. 2d 1147 (1970), cert. denied, 402 U.S. 943 (1971).

Both students and faculty in this K-8 school system were fully desegregated for the 1969–70 school year. The student assignment plan utilized grade reorganization and substantially increased the transportation of white and black students, although distances were small (the total area of the system is 4.5 square miles). Since desegregation began, enrollment has decreased substantially. The district has asked the Department of Justice for permission to close one of the two formerly black schools. This request is under consideration. The discriminatory practices identified by the district court included the busing of white students in a manner promoting segregation.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil Rights Division.

Springfield, Massachusetts: *Maness v. School Committee of the City of Springfield*, C.A. No. 71-143-M (D. Mass. filed Jan. 19, 1971).

This action challenges the school system's proposed desegregation plan for disproportionately burdening black students by one-way busing and eliminating schools in black residential areas. January 20, 1971 the district court denied a TRO, in part, because state officials had questioned the plan on similar grounds. Further action awaits completion of the state court proceeding, where counsel in *Maness* has filed an *amicus* brief.

Plaintiffs' counsel: William Malloy, Neighborhood Legal Services, Inc., Springfield.

Waterbury, Connecticut: *United States v. Board of Education of Waterbury*, C.A. No. 13465 (D. Conn. filed 1968).

This action challenging alleged student and faculty segregation was filed in 1968. There has been no hearing on the merits to date.

Plaintiffs' counsel: U.S. Dept. of Justice, Civil Rights Division.

The PRESIDING OFFICER (Mr. Goldwater). Who yields time?

Mr. DOMINICK. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 3 minutes.

Mr. DOMINICK. Mr. President, I want to congratulate the Senator from Texas for bringing up this amendment. It is not only in Detroit, and it is not only in Texas that this has occurred. Activities of this type have occurred around the country. At the present moment, the capital city of Denver in my own State of Colorado is under an order stating that as one portion of the city is segregated, therefore it will require the forced busing of all portions of the city.

I am not going to challenge the decision of the judge. I think he was wrong. But, I am not a judge. But in the process of trying to determine this, a great deal of activity against the will of everyone in the city has been proven by one election after another. A great deal of activity is now occurring on behalf of overcoming "racial balance" and by trying to determine how far, so far as I can see, children can be bused without having them in limbo forever.

I certainly do not see any reason why the general taxpayers' funds should be used for this purpose. So I congratulate my friend from Texas. I hope his amendment will be agreed to.

Mr. KENNEDY. Mr. President, the Senator from Texas (Mr. Tower) has repeated a charge against the Harvard Center for Law and Education which was raised in the House debate and thoroughly refuted.

The Senator has charged that an average of $500,000 a year has been awarded to the Harvard Center over the last 3 years to help finance school desegregation activities in the courts.

The apparent inference of this complaint is that most of the sum of $1.5 million has gone toward the prosecution of desegregation lawsuits. This is a total distortion of the facts.

There is no question that the Harvard Center has followed its mandate from the Office of Economic Opportunity to provide research and education on behalf of eligible clients and that this has involved issues of school desegregation. Indeed, the record of poverty in this country is replete with examples of how low-income children are denied the full opportunity to achieve a quality education by reason of their attendance at segregated public schools. The Harvard Center—or any other attorney, legal services or private, would have been professionally remiss to have ignored totally any requests for help from such children or their parents.

Neither the Harvard Center nor any other program, however, has allocated its resources so disproportionately as the above complaint suggests. Fewer than 5 percent of the cases in which the Harvard Center has been involved have concerned school desegregation. It has been active counsel in only one such lawsuit—in Detroit, Mich.—and has participated as cocounsel in only two others—Dayton, Ohio, and Indianapolis, Ind. The center has, of course, provided information and technical assistance to other programs on request as part of its function as an OEO backup center. It has not participated extensively in the prosecution of at least seven such cases in any event.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 858 of the Senator from Texas (Mr. Tower).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished senior Senator from Georgia (Mr. Talmadge), who is necessarily absent on official business. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that the Senator from Kentucky (Mr. Cook), the Senator from Wyoming (Mr. Hansen), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. Cook) would vote "yea."

The result was announced—yeas 40 nays 51, as follows:

[No. 22 Leg.]

YEAS—40

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Haskell
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Nunn
Randolph
Roth
Sparkman
Stennis
Taft
Thurmond
Tower

NAYS—51

Abourezk
Aiken
Bayh
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Dole
Domenici
Eagleton
Fong
Hart
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—8

Cook
Fulbright
Gravel
Hansen
Hartke
Mathias
Scott, William L.
Talmadge

So Mr. Tower's amendment (No. 858) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 860

Mr. TOWER. Mr. President, I call up my amendment No. 860.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 19, after line 19, insert the following:
>
> "(7) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Selective Service Act or of desertion from the Armed Forces of the United States.".

The PRESIDING OFFICER. How much time does the Senator from Texas yield?

Mr. TOWER. Mr. President, I yield myself as much time as I may require. By the way, I am delighted to call you "Mr. President." I am not sure I ever would.

The PRESIDING OFFICER (Mr. GOLDWATER). I recognize the importance of that.

[Laughter.]

Mr. TOWER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, quite simply this amendment would prohibit beyond any question the provision of legal assistance under this act in any proceeding or litigation arising from a violation of the Selective Service Act or of desertion from the Armed Forces of the United States.

Now, Mr. President, I am aware of the provision in this bill which would prohibit representation in any criminal proceeding; however, that provision was also contained in section 222(a)3 of the Economic Opportunity Act of 1964, and yet in a number of instances, that prohibition has been ignored under the current program.

Inspection reports indicate that staff attorneys in a number of local offices ignored the needs of the poverty community they were designated to serve and spent most of their time in counseling draft evaders, and deserters on ways of avoiding military service and encouraging antiwar activities.

By offering this amendment, I hope that the Members of the Senate will make an affirmative statement of their intent in this regard.

Mr. President, I urge the adoption of my amendment.

Obviously, the legal services program was not designed for this purpose, and, therefore, I think we ought to nail it down into law because there has been a great deal of counseling on how to go about evading the draft, and I think that is terrible when they ignore the legitimate poverty cases to take on these kind of cases.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. HANSEN), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

The result was announced—yeas 47, nays 44, as follows:

[No. 23 Leg.]

YEAS—47

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hollings
Hruska
Huddleston
Johnston
Long
Magnuson
McClellan
McClure
Montoya
Nunn
Packwood
Pastore
Pearson
Roth
Stennis
Thurmond
Tower
Young

NAYS—44

Abourezk
Aiken
Brooke
Burdick
Case
Clark
Cranston
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NOT VOTING—9

Cook
Fulbright
Gravel
Hansen
Hartke
Mathias
Randolph
Scott, William L.
Talmadge

So Mr. TOWER's amendment was agreed to.

Mr. PERCY. Mr. President, I support S. 2686, the Legal Services bill. I have been a supporter of Legal Services since its inception for the very simple reason that it fleshes out the most fundamental of the rights with which every American is endowed. If we indeed are all created equal, with equal rights, it is only with adequate legal counsel that each of us can insure that our rights are protected, preserved, and defended. Like it or not, we are in a litigious society, where the most trivial matters end up in our courts, and where only in our courts can the most fundamental matters be properly adjudicated. The key to entering this judicial system is the lawyer.

For those who are able to afford attorneys, this is no problem. But for the vast majority of Americans, legal expenses are a luxury that cannot be indulged in too often. And for the poor of our Nation, it is—or used to be—a mere fantasy.

Before legal services, the poor knew the legal system as a system designed to take things from them, a system to be feared. Now, the poor have learned that the law can be used by them the same way it is used by all other Americans. Because of Legal Services, there is no distinction between the poor, the middle class, and the affluent. Each is entitled to full legal counsel.

The legislation before us today will guarantee a continuation of the achievements of Legal Services. I recognize that it is the result of a compromise and that there are some portions of the bill which we might like to see a little different. However, in sum, it is worthy of our support because it continues the Legal Services program while insulating it from political pressure. I have opposed any and all efforts to impose on Legal Services attorneys restrictions on their ability to fully represent their poor clients. The simple guiding principle must be that Legal Services attorneys owe their first allegiance to their clients, and that in fulfilling their duties to their clients, they are entitled to use every legitimate means at their disposal, consistent with their ethical and professional responsibilities. Whether we agree or do not agree on issues like amnesty, abortion, busing, welfare, or any of a myriad of issues which might arise in a legal context, the client should not have his attorney's hands tied in representing him. If it is a just claim, the courts will vindicate him. If it is an unworthy claim, the courts will properly dispose of the matter.

Though there has been a great deal of talk in this Chamber about keeping politics out of Legal Services, we have nonetheless seen repeated attempts to insert politics into this bill by trying to limit the ability of a lawyer to represent his client in certain politically "hot" areas. I do not believe that this is either the responsible or the best way to get at the concerns which have been expressed by those who have deep feelings on these issues.

Mr. President, I have received many letters and communications from lawyers in Illinois, all expressing basically the same thoughts that I have just stated. I ask unanimous consent that two letters, one to Senator NELSON and one to me, from the Chicago Bar Association, along with the material which was enclosed, be inserted in the RECORD at the conclusion of my remarks.

In conclusion, I want to congratulate the Senator from New York (Mr. JAVITS), and the Senator from Wisconsin (Mr. NELSON) for the excellent job they have done on this legislation. It is a good bill, a majority of the Senate agrees that it deserves to be passed, and I am proud to be able to support it.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE CHICAGO BAR ASSOCIATION,
Chicago, Ill., January 25, 1974.

Hon. CHARLES H. PERCY,
New Senate Office Building,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: We are writing to you concerning Senate Bill 2686 since we understand that during the forthcoming week, the Senate will consider the future of a federal legal services program. We have written to you previously on this general subject. Enclosed is a copy of a report from the Legal Aid Committee of our Association listing the specific objections to Senate Bill 2686. We ask that you note and voice these objections in the discussion relative to that bill since the objections are material.

We understand that in addition to Senate Bill 2686 that there is also pending Senate Bill 1990 (the Brock-Helms plan) which advocates in effect an open panel judicare program for legal aid. That approach may suit the rural areas of our country where the number of persons seeking and eligible for legal aid assistance are relatively few in number. That approach would not be feasible in metropolitan areas and particularly in a city such as Chicago.

We hope this letter and a list of specific objections to Senate Bill 2686 will be helpful in your consideration of this type of legislation.

Sincerely,

JAMES W. KISSEL, *President*.

OBJECTIONS TO SENATE BILL 2686

The following provisions to Senate Bill 2686 do not deserve the support of either the Chicago Bar Association or the Congressional Legislators of Illinois:

1. That portion of Section 1006(b)(5) which unnecessarily prohibits attorneys from committing crimes, but also prohibits them from asserting fundamental rights on behalf of themselves and their clients.

2. All of Section 1007(b)(3) which prohibits the corporation from granting funds to private firms which expend 50% of their resources litigating public or poverty issues.

3. That portion of Section 1007(b)(6) which attempts to place guideline restrictions on group representations.

4. That portion of Section 1007(b)(4) which requires the consent of parents before assistance to juveniles could be offered.

5. That portion of Section 1007(a)(7) which prohibits the client and the corporation's attorneys making an independent judgment of whether or not an appeal is necessary in a given case.

6. That portion of Section 1007(b)(1) which may prohibit use of private funds for the purposes stated in this section.

7. That portion of Section 1007(b)(2) which prohibits funds for the activities enumerated in Section 1007(a)(6).

8. That portion of Section 1007(b)(6) which attempts to place restrictions on group representation.

In addition to the above specific objections, there is a provision which limits an attorney in his representation of a client in "lobbying activities" to doing so "as an attorney." It is diffiult to evaluate what sort of limitation this presents to the Legal Aid lawyer in lobbying activities. However, to the extent that it restricts him from doing these things which any private attorney might also do in this area, then it is our belief that such restrictions ought to be opposed.

Respectfully submitted.

PATRICK J. REILLY,
Chairman, Subcommittee on Legal Aid, Committee of Chicago Bar Association.

THE CHICAGO BAR ASSOCIATION,
Chicago, Ill., September 6, 1973.

Hon. GAYLORD NELSON,
Chairman, Employment, Manpower and Poverty Subcommittee of the U.S. Senate Committee on Labor and Public Welfare, Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: The Board of Managers of The Chicago Bar Association has considered at length a report by its Legal Aid Committee discussing Senate Bill 1815, which proposed the establishment of a National Legal Services Corporation. Today, our Board passed a Resolution concerning this legislation and I enclose a copy of that Resolution herewith. You will note that attached to the Resolution various specific items in House Bill 7824 and Senate Bill 1815 are discussed.

We trust that this material will be of material assistance to your Subcommittee in its consideration of this significant legislation.

Yours very truly,

JAMES W. KISSEL, *President*.

RESOLUTION OF THE CHICAGO BAR ASSOCIATION WITH REFERENCE TO ESTABLISHMENT OF A NATIONAL LEGAL SERVICES CORPORATION

The U.S. House of Representatives has passed H.R. 7824 which calls for the establishment of a national Legal Services Corporation. In the Senate there is pending S. 2686, a different version of a bill with similar purposes—that of providing legal services to the poor.

The Chicago Bar Association strongly supports the principles that poor persons are entitled to effective legal representation—legal representation that is not dependent upon the popularity, political or otherwise, of the person or cause being represented; and that legal rights should not rest on the favor of the government, but upon the Constitution and laws of the land.

The Chicago Bar Association strongly supports the establishment of a national legal services corporation. But the pending House and Senate Bills call for too great a variance from the ideal of effective, independent and non-partisan representation of the poor.

The prohibitions on the types of cases which may be handled such as, desegregation, abortion and selective service cases, are particularly odious. There should not be discrimination or selectivity among the legal rights which the poor may enforce.

Nor should a case brought on behalf of a poor person be subject to greater penalties in the event of defeat than those inflicted on wealthy claimants. The provision for payment of costs and attorney's fees by the proposed legal services corporation in all losing cases should be deleted, and the general law governing such matters should apply to all.

The proposed restrictions on the activities of attorneys employed by the legal services corporation, such as legislative advocacy, engaging in political activity, and a host of other acts which are among the rights of every citizen, will serve only to lower the quality of the legal services offered to the poor. Restrictions similar to the Hatch Act might be permissible, but not the complete abnegation of the rights of citizenship called for in the pending bills.

The bills fail to provide for maintenance of legal research facilities—the all-important "back-up" work which plays so great a part in determining the quality of legal representation. Provision should be made for such facilities, to the extent of at least 10% of the corporation's annual authorized expenditure.

The attempt contained in the House Bill to prohibit privately funded charitable legal services for any use prohibited by the proposed statute is an arbitrary, unwarranted and probably unconstitutional infringement on the rights of the poor and those who seek to help them.

Finally, the proposed national legal services corporation should be funded for periods long enough to guaranty continuity and stability—periods of at least three years are minimal.

We strongly urge the Senate to amend S. 1815 to correct the foregoing deficiencies, and we urge the Congress to pass a bill which will give in reality what these bills now promise only partially—effective legal representation to the poor.

There are annexed specific, paragraph-by-paragraph recommendations for amendments to H.R. 7828 and S. 1815.

JAMES W. KISSEL, *President*.

H.R. 7824. THE FOLLOWING PROVISIONS SHOULD BE DELETED

1. That portion of Section 3(d) of House Report 7824 which terminates the corporation in three years time.

2. That portion of Section 6(a)(1) which provides that state and local governments are eligible clients.

3. That portion of Section 6(b)(5) which unnecessarily prohibits attorneys from committing crimes, but also prohibits them from asserting fundamental rights on behalf of themselves and their clients.

4. That portion of Section 6(d)(3) which prohibits non-federal funds for the uses stated in that section.

5. All of Section 6(e) which prohibits representation regarding ballot measures, initiatives, referendums, or similar measures.

6. All of Section 6(a) which imposes costs and attorney's fees on the corporation in all losing cases.

7. That portion of Section 7(a)(4) which prohibits any outside practice of law. This section could be supported if amended to prohibit only outside practice of law for compensation.

8. That portion of Section 7(a)(5) which prohibits representation before federal and state legislative bodies.

9. That portion of Section 7(a)(6) which prohibits certain political activities of the corporation's attorneys.

10. That portion of Section 7(b)(1) which occurs after the disjunctive "or" and prohibits the use of the extraordinary civil remedies.

11. All of Section 7(b)(3) which prohibits the corporation from granting funds to private firms which expend 50% of their resources litigating public or poverty issues.

12. All of Section 7(c) which requires that ⅔ of the recipient boards be attorneys. This section could be supported if only a majority of the recipient boards were required to be lawyers.

13. That portion of Section 7(b)(6) which attempts to place guideline restrictions on group representations.

14. That portion of Section 7(b)(6) which requires the consent of parents before assistance to juveniles could be offered.

15. All of Section 7(b)(7) which prohibits representation in school desegregation suits.

16. All of Section 7(b)(8) which prohibits representation in abortion cases.

17. All of Section 7(b)(9) which prohibits representation in Selective Service cases.

18. All of Section 7(b)(10) which prohibits representation in desegregation cases in institutions of higher learning.

19. That portion of Section 7(e) which provides that state and local governments are eligible to receive grants and contracts.

20. That portion of Section 10(b) which prohibits the use of non-federal funds from uses prohibited by the statute. This section could be supported if the reference to non-federal funds was deleted.

21. All of Section 13 because reference to specific cases ought not to be included in a statute of general application.

S. 1815—THE FOLLOWING PROVISIONS SHOULD BE DELETED

1. That portion of Section 1006(a) appearing on page 5, line 24, which makes state and local governments eligible as clients.

2. That portion of Section 1006(b)(5) appearing on page 7, lines 11–14 which unnecessarily prohibit attorneys from committing crimes, but also prohibits them from asserting fundamental rights on behalf of themselves and their clients.

3. That portion of Section 1006(d)(2) appearing on page 8, lines 20–23 which prohibits certain representations before federal, state and local legislative bodies.

4. That portion of Section 1006(e)(4) appearing on page 8, lines 20–23 which prohibits

the use of non-federal funds for the purposes stated in this section.

5. That portion of Section 1006(e) (4) appearing on page 8, lines 24–25, and on page 9, lines 1–3, which prohibits representation regarding ballot measures, initiatives, referendums, or similar measures.

6. That portion of Section 1007(a) (5) appearing on page 10, lines 4–7 which prohibits *ANY* outside practice of law. This section could be supported if amended to prohibit only outside practice of law for compensation.

7. That portion of Section 1007(a) (6) appearing on page 10, lines 8–13 which prohibits funds made available for representation before federal, state and local legislative bodies.

8. That portion of Section 1007(a) (7) (A) appearing on page 10, line 19 which prohibits ANY political activities of the corporation's attorneys (see page 2, paragraph 1 of this Resolution).

9. That portion of Section 1007(a) (7) (B) (C) appearing on page 10, lines 20–24 and on page 11, lines 1–6 which prohibits certain political activities of the corporation's attorneys.

10. That portion of Section 1007(a) (8) appearing on page 11, lines 7–11 which prohibits the client and the corporation's attorneys making an independent judgment of whether or not an appeal is necessary in a given case.

11. That portion of Section 1007(b) (1) appearing on page 11, lines 14–16 which may prohibit use of private funds for the purposes stated in this section.

12. That portion of Section 1007(b) (2) appearing on page 11, lines 17–18 which prohibits funds for the activities enumerated in Section 1007(a) (7) (A) (B) (C).

13. That portion of Section 1007(b) (6) which attempts to place restrictions on group representation.

14. That portion of Section 1007(b) (3) appearing on page 11, lines 19–23 which prohibits ANY funds being used for grants or contracts with ANY public interest law firm which expends ANY resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor or both.

15. That portion of Section 1007(b) (4) appearing on page 11, line 24 and page 12, lines 1–9 which prohibits assisting juveniles without parental consent.

The following provisions of Senate Bill 1815 has the vigorous support of the Chicago Bar Association:

1. That portion of Section 1006(a) (2) appearing on page 6, lines 4–10 which provides for the necessary "back-up" facilities needed for the Legal Air program.

2. That portion of Section 100(b) (6) appearing on page 12, lines 23–24 which provides that a majority of the recipient organization's board be lawyers licensed to practice in the state where the legal services are to be provided.

3. That portion of Section 1007(g) appearing on page 13, lines 20–22 which provides that 10% of the money appropriated must be allocated to the "back-up" activities.

Mr. WILLIAMS. Mr. President, 9 years ago, when Congress passed the Economic Opportunity Act, one of its stated purposes was:

> To further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, educaton in legal matters, and other legal services.

That need is just as great today as it was in 1964. The Legal Services Corporation will provide a new vehicle from which the highest caliber of legal representation can be dispensed, while assuring the continuity of client services.

As an amendment to the Economic Opportunity Act, S. 2686 will guarantee an uninterrupted flow of these vital legal services. In addition to the existing areas now being served, it is hoped that new ones will be established in order to satisfy those whose legal needs are now unmet.

The intent of this bill is simple—to allow legal services attorneys to be attorneys in the fullest sense of the term.

Participating attorneys must be endowed with the same professional tools as their private sector counterparts.

To do otherwise would not only violate the canons of ethics of the legal profession, but would do grievous harm to the concept of equal justice for all under law.

I am sad to say that there are still those who think it fashionable to debunk all Government-sponsored programs which try to improve the life of this country's poor and disadvantaged citizens.

In the past, these antagonists have been content merely to hurl verbal epithets. Today, they talk about the high costs and low benefits of such programs.

Though I think the accountant's ledger is not the best way to evaluate legislation which seeks goals which include fulfilling social and human needs, I sincerely believe that the legal services program can pass the muster of any management test.

Using my own State of New Jersey as an example, its 120 legal services attorneys in 1972 handled 48,957 cases.

And actually this figure is well over 50,000 when telephone inquiries and informal contacts are taken into consideration.

Based on the Federal Government's contribution, the average cost per case was only $55.

My colleagues, many of whom are fellow lawyers, will quickly attest to the fact that it would be rather difficult to match this figure in the private sector.

A breakdown of the 1972 New Jersey caseload shows that three out of every four cases dealt with matters which were basic to the very existence of the clients being served—such things as housing, family, domestic, consumer, and employment-related problem areas.

I might add that I understand this statistic is representative of the national picture as well.

Without the legal services attorney, there is virtually no one to come forward and handle these cases.

As I have said, one cannot judge a social program solely in terms of dollars and cents.

While these figures I have presented are truly remarkable, they are hardly full measures of success.

Who among us can place a value on dignity and self-respect?

These are intangibles whose intrinsic worth can be calculated only by persons receiving them.

And so it is, most poignantly, with legal services.

Therefore, I am proud to associate myself with these hardworking and dedicated professionals, who with their programs have brought so many of our less fortunate citizens into the mainstream of our society by providing them with something too many of us have taken for granted—our constitutional rights as citizens of the United States.

As chairman of the Labor and Public Welfare Committee, I can vouch for the fact that every possible attempt has been made to reconcile the administration's philosophy on legal services with that of the committee members.

Indicative of the bill's bipartisan support was the fact that it was reported favorably out of committee, 16 to 0.

As drafted by the committee, S. 2686 has been endorsed by major bar associations throughout the country. State and local government officials have likewise communicated their support for legal services to me.

The concept of an independent Legal Services Corporation has been debated at length since the 91st Congress. The arguments pro and con have been stated and restated. The time has now come to stand up and be counted.

Mr. President, I shall vote in favor of S. 2686, and sincerely hope that the establishment of an independent Legal Services Corporation will soon become a reality.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HELMS. Mr. President, I yield myself such time as I may require and call up amendment No. 816.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats. The clerk will not report the amendment until there is order in the Senate. Will Senators please take their seats or go elsewhere to do their talking?

The clerk will report the amendment.

The legislative clerk read as follows:

> On page 10, strike lines 3 through 8.

Mr. HELMS. Mr. President, this amendment would simply strike lines 3 through 8 on page 10 of the bill, that is section 1006(a) (3). This section, under the "Powers, Duties, and Limitations" part of the bill, states as a power of the Legal Services Corporation:

> To provide . . . for research, recruitment, training, and information clearinghouse activities . . .

The purpose of this amendment is to see to it that funds available for legal aid to the poor are assigned to pay for legal representation and assistance, rather than for developing exotic social reform projects that are then passed down the line to the legal services projects. Attorneys in private practice representing poor clients, middle-class clients and affluent clients are able to survive without special Federal funding for research, recruitment, training, and information clearinghouse activities relating to their work. There are law libraries in each community and lawyers for the poor have the same access to them as do other lawyers. There is no reason why we should establish and subsidize a separate system of justice for the poor; and there is no reason why we should subsidize a national network of legal services backup centers which are unrelated to the representation of particular clients.

It is noteworthy that the House of Representatives, on two separate occasions, voted to cut out this kind of research activity by the Legal Services Corporation. Led by the able leadership of Congresswoman Edith Green, the House voted 2 to 1 on both occasions to strike this kind of backup activity. Mrs. Green, as is well known, was originally a strong supporter of the legal services program. She has a reputation for close scrutiny of education and social welfare programs. Yet she came to the conclusions—and the overwhelming majority of her colleagues agreed with her—that the backup centers served no useful purpose, and in fact were harmful.

What is wrong with the backup centers?

First, they are devoted exclusively to nonclient representation. Their specialty is amicus curiae briefs, test cases, class action suits, and appeals. If we want to provide legal services to the poor, let us provide them to the poor. Let us not provide salaries for middle-class lawyers who want training in social action.

Second, they engage in policy advocacy. Policy advocacy should, in our system of government, belong to the legislative branch. It should not belong to the judicial branch. The backup centers by sponsoring travel, seminars, training groups, publications, conferences, and so forth, are able to disseminate policy concepts and legal strategies throughout the legal services movement.

Third, they provide house counsel services to advocacy groups, such as the National Welfare Rights Group, the National Tenants Association, the NAACP, the American Indian Movement, and so on. Whatever one may think of these groups, I presume that everyone agrees that they should operate in the private sector. If their activities are beneficial, they should be supported by private funding. Public funding should not go, even indirectly, to advocacy groups that pit one section of the population against another.

Fourth, they engage in lobbying, drafting model legislation, and providing staff assistance to legislators. Once again, we are talking about advocacy. Lobbying should be prohibited in any form, and the mechanism for lobbying should be eliminated as the best protection against this kind of activity.

I know that it will be said that lobbying is prohibited in this bill. The bill indeed does say that "no funds—at any time, directly or indirectly * * *" may be used for lobbying, except where "necessary to the provision of legal advice and representation," or where "representations" are requested. This renders the prohibition meaningless. It allows more than testimony—representation can be virtually any form of lobbying, whenever requested—and not even a formal request is required—by a legislator or "in the course" of the representation of a client. But the client can be an advocacy group such as the National Welfare Rights Organization.

The only way to eliminate this problem is to eliminate the source. The backup centers must be eliminated.

It must be remembered that the backup centers are into every controversial political field. They have been in the frontline of abolishing abortion laws, of suits requiring forced busing, of so-called welfare reform, of unionizing Government employees, of diminishing parental control, of undermining the authority of educators, of revising the property tax structure. I realize that many people are on both sides of these questions, but that is the point. Advocacy should not be supported by tax funds. It does an injustice to the other side, who must pay their taxes to be attacked.

Mr. President, one of the major projects of the backup centers is the publication of the Clearinghouse Review, which serves as a channel for legal strategies and briefing material.

It recently published a list of Legal Services support projects, which is another name for backup centers. To this list, I have added the annualized funding for 1973.

Mr. President, I ask unanimous consent that this list, with my notes, be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Directory of Legal Services Support Projects

INTRODUCTION

Neighborhood Legal Services lawyers have been provided with specialist assistance from "back-up" centers from the earliest days of the OEO Legal Services program. This support activity now consists of national centers either (1) specializing in subject matter areas of the law or the problems of identifiable subgroups of the poor, or (2) providing technical services to Legal Services lawyers. There are several statewide or regional centers as well.

The support centers work with Legal Services lawyers in many ways: providing written materials of general applicability or answers to specific questions, assisting in litigation or legislative work, and negotiating with administrative agencies, for example. Many centers have established mailing lists for distribution of materials to specialists in each program; others have published material which is provided (when OEO makes funds available) to all local offices. In all of this work the goal is the most effective representation of the clients of Legal Services lawyers.

The back-up centers, like all Legal Services programs, do not have unlimited resources. The larger centers average eight attorneys, and some have as few as two. Centers working in areas that might overlap are in regular communication to avoid any duplication of efforts.

At the time this summary goes to press, one support program, the National Paralegal Institute, is reported to have exhausted its funds and may be terminated. Another, the Legal Services Training Program, has been told that its contract will not be renewed. Three centers (Harvard Center for Law and Education, Migrant Legal Action Project, and National Employment Law Project) have been placed on month-to-month standby funding, at least through such time that the agency can take final action with respect to back-up centers generally. Needless to say, the uncertainty bred by such occurrences may hamper the effectiveness with which some programs can serve Legal Services lawyers at this time.

The following summary of national back-up center activities has been compiled by the Organization of Legal Services Back-Up Centers (OLSBUC), largely through the efforts of Alan Houseman of Michigan Legal Services. As chairman of OLSBUC I welcome any comments or suggestions you might have.

Henry A. Freedman,
Chairman, OLSBUC, Director, Center on Social Welfare Policy and Law.

New York, N.Y.

CENTER ON SOCIAL WELFARE POLICY & LAW

(1973 Annualized Funding, $375,700)

The Center on Social Welfare Policy & Law is the oldest of the back-up centers, having been founded in 1965. Its work is now concentrated in the area of cash assistance programs related to need, with some resources devoted to food assistance, Medicaid, and social security matters.

The Center cooperates with local Legal Services programs in preparing and conducting litigation likely to benefit large numbers of recipients and resolve outstanding issues of federal law. Regular meetings are held with officials of HEW and other federal agencies to seek changes in regulations desired by Legal Services lawyers and their clients, including welfare rights organizations, and to press for enforcement of the law in areas where it is reported that problems of non-compliance exist. The Center follows legislative developments in Congress and provides assistance and information on such matters to Legal Services lawyers.

Extensive materials on welfare law have been provided to each Legal Services office, a periodical newsletter is mailed to all Legal Services lawyers, and additional memoranda and materials are distributed to over 300 Legal Services welfare specialists. Individual questions from Legal Services lawyers are answered as fully as resources permit.

Priorities for the center's work are established by its governing board of directors. The board, organized in 1971 when the center ended its formal affiliation with Columbia University, consists largely of Legal Services lawyers and representatives of organizations of the poor.

CENTER FOR LAW & EDUCATION

(1973 annualized funding, $409,100)

The Center for Law & Education is in its fourth year of operation and is jointly sponsored by the Harvard Graduate School of Education and the Harvard Law School. It assists Legal Services programs and other groups active in education in designing and implementing educational reform on behalf of poor children.

The Center's work continues to fall largely into four categories: litigation, research and publication, administrative monitoring of federal programs and legislative counselling.

The primary subject areas are pupil classification and grouping practices, including in some instances exclusionary devices, which disproportionately affect poor children; elimination and prevention of racial and other invidious discrimination; issues associated with federal educational programs, such as Titles I and VII of ESEA, Title VI of the Civil Rights Act, day care and affirmative action; allocation of educational dollars and other resources within and among districts; the constitutional and statutory rights of students; alternative schools and Indian education issues.

The overwhelming majority of Center cases are in response to and in conjunction with local Legal Services offices. The remainder of our cases and activities are in cooperation with such groups as the Mexican-American Legal Defense Fund, the Puerto Rican

Legal Defense Fund, The NAACP, and the NLADA, all groups actively involved in education problems of the poor.

THE LEGAL ACTION SUPPORT PROJECT

(1973 Annualized Funding, $174,400)

The Legal Action Support Project has been in existence for 4½ years. It provides Legal Services attorneys with social science research services to support efforts to change the law as it adversely affects the poor or to maintain and expand the law where it works to the poor's advantage. It helps with efforts which include litigation and with cases that involve representation before legislative and administrative agencies.

The Project's work, therefore, includes a wide variety of undertaking the preparation of memoranda and statistical calculations based on data collected by themselves or by others, the provision of expert testimony; and the critical analysis of data and social science presentations offered by opposing counsel.

They also undertake special studies of problems of general interest within the Legal Services community. Some of these studies are self-generated. Others are performed at the suggestion of our advisory panel, the National Office of Legal Services, or by attorneys with local programs or with other back-up centers.

The Project is located with the Bureau of Social Science Research, Inc., a private, nonprofit research corporation. This provides access to their staff, including statisticians, criminologists, education specialists, and computer programmers, as well as their library, computation, and reproduction services.

LEGAL SERVICES TRAINING PROGRAM

The Legal Services Training Program provides continuing legal education to lawyers in OEO-funded Legal Services projects and offers training sessions, both national and regional, in lawyering skills as well as the substantive areas pertinent to poverty problems. By combining participatory learn-by-doing methods and video and cassette tapes with more traditional workships and information lectures, the Program also offers diversified approaches to learning.

In addition to sessions in specific subject areas, all planned with the advice of substantive curriculum advisory committees composed of Legal Services lawyers, and experts in the area, the Program offers special training to new lawyers and project directors. The Program employs fellows—Legal Services attorneys on leave for up to three months—to develop teaching materials for conferences. The Program was established by a cost reimbursement-type contract between OEO and the Catholic University of America School of Law which terminates on August 27, 1973.

MIGRANT LEGAL ACTION PROGRAM, INC.

(1973 Annualized Funding, $170,400)

The Migrant Legal Action Program (MLAP) was established in August of 1970 as a successor to the legal staff of the Migrant Research Project. It is presently staffed by seven attorneys and three part-time law clerks, all of whom have prior experience in serving the needs of migrant and seasonal farmworkers.

They prepare, collect, and periodically distribute litigation papers relating to administrative and court litigation in all areas of migrants' concern, and analyses on pending and recently adopted legislation and other legal administrative developments. They assist programs serving the needs of migrant and rural populations in obtaining information from or presenting materials to administrative agencies and congressional committees, and furnish technical assistance to those agencies and committees on matters affecting migrant needs and concerns. Litigation presently emphasizes reform of the rural manpower service through a federal suit and through being of counsel in several state suits; reforms in the land grant college system; promulgation of standards by the Occupational Safety and Health Administration; suits filed under the Federal Fair Labor Standards Act emphasize joint liability among two or more parties or employers; several cases under the standardized agreement for recruitment and employment of Puerto Rican migrants; several housing cases; and two peonage cases and several cases involving access to labor camps.

They also provide telephone advice or technical assistance to any program or individual in need of legal advice or the assistance of a Washington representative, and in selected areas, upon appropriate referral, engage in litigation as co-counsel or in an "of counsel" capacity. They are particularly interested in assisting new programs with training and other support activities which may increase their capability to provide legal services to farmworkers.

NATIONAL CLEARINGHOUSE FOR LEGAL SERVICES

(1973 Annualized Funding, $276,600)

The National Clearinghouse for Legal Services serves as the national communications network and information exchange for OEO-Legal Services through publication of the Clearinghouse Review and the library and document reprint services of the project.

The library is a central repository of pleadings, legal memoranda, briefs, unreported decisions, and other litigation and legislation work products received from OEO-Legal Services Projects and other poverty law practitioners. It also contains practice and training manuals of general application produced by Legal Services lawyers for use within their projects. A significant number of community education materials are also collected. The library, through a reciprocal arrangement with the *CCH Poverty Law Reporter*, contains the original text of all material published in the *Poverty Law Reporter*, with the exception of law review articles and legislation.

Copies of documents in the library and reported in the *Clearinghouse Review* are distributed on request to OEO-funded Legal Services projects free of charge, not to exceed one copy of each document per project. Others are charged duplicating and postage costs.

The *Clearinghouse Review* is a monthly publication designed to make the work product of Legal Services lawyers accessible to their colleagues everywhere. Each issue contains features which attempt to present comprehensive statements of new developments in all areas of Legal Services practice. In addition to articles and columns submitted regularly by the back-up centers, each issue contains an open forum; legislative report; a synopsis of litigation, administrative proceedings and decisions; a positions available service; and a poverty law bibliography.

NATIONAL CONSUMER LAW CENTER, INC.

(1973 annualized funding, $369,100)

The Center aids Legal Services attorneys requesting assistance in a variety of ways depending upon the nature of the case and the needs of the attorney. Responses include consultation, extensive legal research, and aid in writing pleadings and briefs. The Center serves as a source of information on current litigation developments as well as a resource for coordination of nationwide efforts to solve consumer problems through the courts.

The Center seeks to identify the major problems of low-income consumers and to develop litigation having a high potential for significant law reform. The Center works directly with Legal Services attorneys on selected cases which meet the above criteria. The aid may take the form of appearances as co-counsel or of counsel, or the submission of amicus briefs. The Center is involved in attacks on the constitutionality of confessed judgments, prejudgment replevin, self-help repossession and the termination of service by public utilities.

The Center also provides assistance in the development, drafting and promotion of model legislative proposals for consumer law reform at both the federal and state levels. The National Consumer Act and the 1973 Model Consumer Credit Act, drafted by the Center, are the major vehicles for promotion of desired reform and resistance to anti-consumer proposals. Individual model consumer statutes are being developed for states not prepared for a major revision of their consumer laws. Existing state and federal consumer protection agencies are being studied for possible development of model enabling legislation.

The Center has published the National Consumer Act, the 1973 Model Consumer Credit Act, three volumes of the *Consumer Law Handbook*, including a *Truth-in-Lending Manual* and a practice manual for the Federal Fair Credit Reporting Act.

NATIONAL EMPLOYMENT LAW PROJECT

(1973 Annualized Funding, $224,000)

The Project provides legal assistance in the area of the employment problems of the poor. Most of the Project's activity is devoted to litigation dealing with employment discrimination, unemployment insurance, labor relations, manpower programs, minimum wage provisions, compulsory work programs for welfare recipients, and employment rights generally.

The Project provides litigation assistance to Legal Services attorneys specializing in federal court litigation of employment discrimination, unemployment insurance, wages and hours and labor relations matters. The Project assists in administrative advocacy of unemployment insurance claims and labor relations matters before the NLRB. The Project provides legislative drafting and analysis assistance in a wide range of employment law issues with emphasis on unemployment insurance and employment discrimination. The Project also distributes a number of publications and model papers, including the *Legal Services Manual for Title VII Litigation*.

Project personnel are available to assist at training conferences and to provide assistance in the development of local employment law programs.

NATIONAL HEALTH LAW PROGRAM

(1973 Annualized Funding, $356,600)

This Program is designed to study health laws and the unequal provision of health care for the poor. Areas of inquiry include the following. (1) Accessibility of quality health care for poor people including Hill-Burton matters, tax exempt status of nonprofit hospitals without a requirement that charitable medical care be provided, state laws wherein prohibitions concerning the corporate practice of medicine prevent community health systems from delivering care in poor areas and to poor people. (2) Health planning and systems of prepaid health care. Principal project of the National Health Law Program in this area is the major undertaking concerning prepaid health care plans under Medi-Cal in California. (3) The National Health Law Program will continue to work on issues of eligibility for and scope of services under Medicaid and Medicare. (4) Mental health, alcoholism, and drug abuse. Principal efforts of the Program include the right to treatment and the quality of treatment and questions of privacy and confidentiality. The Program also is concerned with rights of persons both before and after they come within the state's jurisdiction because of problems of mental health, alcoholism, and drug abuse. (5) Occupational safety and health. The Program has prepared and distributed two manuals on Occupational Health and Safety and is now seeking ways to implement the requirements of the Act.

Other areas of concern, but currently of lesser priority except to the extent they fall within the purview of the five high priority areas include, but are not limited to, Indian health, family planning and abortion, medical ethics and comprehensive health planning. The Program also provides attorney training and technical assistance in coordination with other OEO technical assistance projects, research at the national and state levels, and the education of law students and professionals.

NATIONAL HOUSING & DEVELOPMENT LAW PROJECT

(1973 Annualized Funding, $260,000)

This Project provides back-up services to Legal Services lawyers and local organizations in housing law and community-based economic development.

Most of the Housing Law Section's activities fall within the following four major categories: Landlord-Tenant Law; Federal Planning and Redevelopment Programs; Public Housing; and Housing Production, Rehabilitation, Related Contracting, and Employment. In each of these areas, the Project undertakes research and the development of model legislation, and provides backup assistance for Legal Services attorneys engaged in litigation of administrative actions. The section's major publications include its *Handbook on Housing Law*, the *Law Project Bulletin*, the *California Defense Manual*, and various law review articles dealing with housing problems from the consumer perspective.

The Project's Economic Development Law Section carries on three broad categories of activity: practicing law-type assistance to Legal Services lawyers, legal research and writing in the field of economic development law, and advisory service to OEO and other government agencies on regulatory and legislative matters related to community economic development.

In the first category, the Project assists Legal Services lawyers and community groups in establishing nonprofit community development corporations and in obtaining financing for their activities. The establishment of such corporations usually involves assistance in drafting articles of incorporation, in preparing applications to the Internal Revenue Service for tax exempt status, obtaining the registration of the corporation within the state or states where it will carry on its activities, preparation of requests for federal grants needed to carry on development activities and in the negotiation and documentation of bank borrowings, SBA loan guarantees and security arrangements designed to raise funds. For already established community development corporations, the Project assists in the creation of subsidiary and affiliated nonprofit and for profit enterprises. Finally, in the practicing law area, the Project serves as counsel to the National Congress for Community Economic Development, an association representing the common interests and dealing with some of the common problems of community development corporations.

In the second category, legal research and writing, the Project has in preparation a "Lawyer's Manual on Community-Based Economic Development," a book which will provide commentary, model legal documents and source materials on all of the major legal and financing aspects of community economic development.

In the last category, dealing with public law, the Project maintains regular contact with various government agencies for purposes of suggesting changes in rules, regulations, and procedures insofar as they affect community-based economic development efforts. Because of the scope of the project's work, it is in a unique position to identify national policy questions arising out of economic development activities and to offer legislative and administrative solutions to problems as appropriate.

NATIONAL JUVENILE LAW CENTER

(1973 Annualized Funding, $198,000)

A principal Center activity is providing assistance upon request to Legal Services programs. It is the policy of the Center to respond to all requests received from Legal Services attorneys. Assistance includes consultation, legal research, drafting of pleadings and motions, and aid in writing trial and appellate briefs. NJLC staff will, to the extent possible, assist in the conduct of litigation where requested.

In selected cases, NJLC attorneys work actively in the field with Legal Services attorneys in litigation seeking to implement the right to counsel in juvenile court, improving conditions in juvenile institutions, reforming standards and practices in juvenile court proceedings and strengthening procedure for the transfer of children from juvenile court to be tried as adults in criminal court.

Center attorneys provide assistance to Legal Services programs concerning state and federal legislation affecting the rights of children and parents. The Center collects proposed legislation from the various states, and serves as a clearinghouse in providing information and assistance to Legal Services attorneys relating to these proposals. In addition, a model state juvenile code is in preparation, which incorporates provisions for improving the organization of juvenile courts, for insuring procedural safeguards for children and parents, and containing definite standards governing court action.

The Center has published and distributed to Legal Services programs a juvenile law litigation manual, *Law and Tactics in Juvenile* Cases. Other publications include occasional position papers and bibliographies, which are sent to all Legal Services programs.

NATIONAL PARALEGAL INSTITUTE

(Funding Terminated)

The Project's main activities include: a library which collects and makes available all information and materials on paralegalism; the development of manuals and guidelines about methodology (recruitment, training, and supervision of paralegals), substantive training (a "core curriculum" of skills training), and paralegal use (systems, manuals, etc.); and the demonstration of training programs, and working with academic institutions to offer useful courses and programs.

The Project also encourages paralegalism generally by working with law schools, junior colleges, and bar associations which are involved in paralegal matters, assisting in the organization of paralegals, helping resolve paralegal issues (salary, education opportunity, job mobility, etc.), stimulating funding for the field (searching for funding sources, helping local LSPs find funding, demonstrating paralegal possibilities, etc.), and doing research on the training and use of paralegals.

NATIONAL RESOURCE CENTER ON CORRECTIONAL LAW

(1973 Annualized Funding, $124,000)

The Center, begun in August, 1972, is funded jointly by OEO and the Ford Foundation. The OEO component, serving as a backup center, provides technical assistance in the field to attorneys involved in prison reform litigation. It does not become directly involved, however, in litigation itself.

Two studies have been completed by the Center on aspects of correctional law. The first determined the degree of compliance by parole boards with the Supreme Court decision of *Morrisey v. Brewer*. The second, which will be available by May 15, is a study of current programs of delivery of legal services to inmates, as well as a model for such programs.

The Center has published a *Prisoners' Rights Litigation Manual*, composed of five monographs on prison law, including mail regulations, due process in disciplinary hearings, medical rights, law libraries, and remedies in prisoner litigation.

NATIONAL SENIOR CITIZENS LAW CENTER

(1973 Annualized Funding, $482,400; $700,000 for WCLP)

NSCLC is a national resource for information and assistance with respect to the legal problems of the low-income elderly.

NSCLC maintains branch offices in Washington, D.C. and Sacramento, California and the NSCLC-CRLA office in San Francisco, California. These offices monitor legislative and administrative activities and draft model legislation, as well as inform Legal Services attorneys of legislative and administrative proposals and actions affecting the interests of the elderly poor.

The Center hopes to persuade Legal Services attorneys throughout the nation and the bar in general of the importance of and the need for redress of the legal problems of low-income elderly; to train Legal Services attorneys to identify and meet these needs; to provide information and technical assistance to Legal Services attorneys who seek to meet the needs; and to seek new ways of delivering Legal Services to the low-income elderly.

The Governing Committee of NSCLC, composed of representatives of the client-community and the Legal Services bar, has selected the following priorities for NSCLC: income adequacy and maintenance, health and nutrition, institutionalization, housing, transportation, guardianship and conservatorship, probate, employment, consumer, and pension reform.

NATIVE AMERICAN RIGHTS FUND

(1973 annualized funding, $65,000)

The Fund is the National Indian Law Back-Up Center and provides the services of at least two attorneys to OEO programs serving Indians. One attorney works full-time on the Back-Up Center. The other 12 staff attorneys, working on requests from Legal Services programs, will provide the equivalent of at least another full-time attorney.

As the Native American Rights Fund is committed to the preservation and protection of tribal governments and Indian self-determination, the Indian Law Back-Up Center will not ordinarily participate as counsel in actions against tribal governments or between Indians except in extraordinary cases authorized by its all-Indian steering committee. Short of litigation, however, the Center will provide pleadings and advice.

Except for this limitation, the Native American Rights Fund seeks to respond with materials, advice, research, and where requested, formal participation as counsel in every case in which Legal Services attorneys who serve Indians desire assistance. The Fund's public designation by the Internal Revenue Service permits the Fund to engage in substantial legislative advocacy with prior approval of the director or steering committee.

The main focus of Native American Rights Fund is on Federal Indian Law—the relationship of federal and state governmnts to Indians. It offers the same type of assistance as other back-up centers, from research to acting of counsel or even the counsel in certain cases. Native American Rights Fund also handles civil rights and educational matters as they relate to Indians but will offer assistance in any area relating to Indians in which they feel they have the expertise.

The project has the following objectives: to protect rights to land, water, and other natural resources; to assist in achieving the fulfillment of trust and treaty obligations to Indians, and to assist in obtaining enforcement of special governmental responsibilities to Indians; to aid in strengthening tribal sovereignty and promoting the preservation of Indian culture, values, and heritage; to protect civil rights and rights to the benefits of the dominant society; to contribute to the development of a body of Indian law that will strengthen the ability of Indian people to maintain their ways of life within the dominant society; and to contribute to the training of Indian lawyers and the development of an Indian bar.

YOUTH LAW CENTER, WESTERN STATES PROJECT

(1973 Annualized Funding, $70,300)

As a section of the Youth Law Center, the Western States Project relies on YLC staff members, in addition to experienced juvenile law litigators in the field, to provide advice and assistance to Legal Services lawyers on issues in juvenile law, education and school law. The following issues are included in juvenile law matters: delinquency adjudications, neglect and dependency, right to counsel, due process, record sealing, probation revocation, institutional care and treatment, community alternatives to juvenile court jurisdiction and institutions, etc. Student rights and quality of education are issues of concern within the area of school law.

The project has the following objectives: (1) assuring that the due process protections established by *In re Gault* are being provided to all juveniles; (2) assuring that institutions in which juveniles are incarcerated provide meaningful care and treatment; (3) assuring that judicial scrutiny and standards are brought into the area of neglect and dependency proceedings; and (4) diverting as many children as possible from juvenile court and institutional jurisdiction into community alternatives.

The Project's jurisdiction includes the following states: Alaska, Arizona, California, Hawaii, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington.

TECHNICAL ASSISTANCE PROJECT, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

(1973 Annualized Funding, $220,000)

The National Legal Aid & Defender Association's Technical Assistance Project is a grantee of the Office of Economic Opportunity. The purpose of this project is to provide substantive and administrative technical assistance to Legal Services programs funded by OEO.

The major thrust of Technical Assistance activities is to be found in on-site visits to individual programs. These visits are usually made at the request of the program itself or at that of the regional office. These visits take, on the average, two to three days, and are made by one consultant or a consultant team, depending upon the needs of the specific project.

On some occasions, the Technical Assistance Project has aided groups of programs who together have sponsored conferences on topics of universal interest such as consumer action or welfare law. In this way the Project has been able to provide assistance to many programs at one time.

The Technical Assistance Project has also entered into some subcontracts, but this has been done only rarely and in cases where the subcontracts will result in systems or materials which would be useful to Legal Services programs on a nationwide basis. Also under Technical Assistance is the FACT Commission which provides fact finding assistance for Legal Services programs involved in disputes or controversies. For further information on Technical Assistance contact the project director.

Mr. HELMS. I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

This is an amendment about which one very vital thing has not been said as yet, and that is that the corporation itself is given the authority to decide whether or not we will have the so-called backup or support centers. That is a critical point, because this is essentially—we have argued this time and again in this debate—pulling at the upper level of control on the program, and one of the amendments that we defeated was an effort to remove the autonomy of this corporation, which is something we have not previously had. It has had a political base in the past.

We have, as the Senator from North Carolina has properly stated, prohibited lobbying, et cetera, including any political activity, which is fully covered by the act, but what he claims is that that is just done to be vitiated.

Whatever may be the claims of the OEO administration, they cannot simply be extended to the corporation which we are organizing, especially because of these queasy feelings which have been had, whether right or wrong. And the form of organization, or respecting whether they will continue or not, is critical.

Finally, Mr. President, I have had personally very extensive experience with the legal services provided, and with the people who actually do the work. If you really want to give the poor a representation which is respectable in terms of the law, you have to have competence in terms of the briefs and in terms of research, and the work-a-day, day-to-day operation of the legal services office is so excessively trying that it is simply impossible for those people in the project offices to do it.

It is a question of whether you have a large firm, such as many Members have and such as I have had, where you have a backup because clients can pay the bill, or whether you have to do it more efficiently and economically in what is called a support or backup center, where you have this kind of funnel with a large number of projects, and that is the reason for it.

The alleged excesses, and so on, which are really the target of Senator Helms' amendment, I respectfully submit, can be best dealt with without killing off the concept which, in legal practice, is entirely sound. This can be accomplished by leaving to the Corporation, which will now be highly professional and very lawyer-like, the decision as to whether you will include monitoring these operations, and second, as to having them or not having them. If we adopt this amendment, we cut it off all together; it has no place to exist. That, I think, would be a great mistake.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. JAVITS. On the Senator's own time, because my time is running short.

Mr. MONDALE. May I have 3 minutes?

Mr. NELSON. The Senator has his own time, does he not?

Mr. MONDALE. Do we have controlled time?

The PRESIDING OFFICER. The Senator has his own time.

Mr. MONDALE. Mr. President, I wish to strongly endorse the statement by the Senator from New York (Mr. JAVITS) about the so-called backup centers. I think there are several arguments for these centers. No. 1, these are basically legal research centers, and it is in these centers that some of the best thinking and development of law affecting the rights of the poor takes place.

Many of them are functioning in conjunction with our better law schools and have been able to draw upon the advice and counsel of some of the best legal minds in the country. One result of these efforts has been to develop some very highly sophisticated and responsible backup centers which provide legal information, research, briefs, and the rest, and which I think have contributed enormously both to a sense of responsibility and to the level of sophistication of law being asserted on behalf of the poor.

Second, it is the efficient way to do this work. Rather than spreading some of the legal questions among several project attorneys across the country, specific legal questions can be selected for in-depth research, which then is available to the whole legal services program. It seems to me that in terms of cost-effectiveness, in terms of legal services, this makes a good deal of sense.

The American Bar Association has repeatedly stressed the importance of backup centers to the quality and effectiveness of the whole program. In House hearings held in early 1973, Robert W. Meserve, then president of the American Bar Association, stressed the economies and efficiencies that flow from backup centers. I ask unanimous consent that that portion of the hearing record be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. STEIGER. You do agree, do you not, that there is a need for the concept of backup services?

Mr. MESERVE. Indeed I do. I don't see how with any efficiency the individual lawyers in the field can do all the types of research which these backup centers can do in specific and particular areas. I think it is a great economic advantage that a backup center in Massachusetts can tell a lawyer in Colorado what is going on in a particular field not only in Colorado and Massachusetts but throughout the United States because they have an actual capacity to correlate and integrate resources into these particular problems. I think the concept of a central organization responsive to legal and drafting questions in particular areas is an excellent one. I do think that the backup center program has worked well from all I have heard. I see no reason to abolish the concept but I am not wholly on the inside on that. I think some kind of backup center services ought to be provided to counsel in the field or they will handle a great many less cases than they are now, which I think is bad for the poor people.

Mr. MONDALE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (putting the question).

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the role.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that the Senator from Kentucky (Mr. Cook), the Senator from Wyoming (Mr. Hansen), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. Cook) would vote "nay."

The result was announced—yeas 24, nays 67, as follows:

[No. 24 Leg.]

YEAS—24

Allen
Bartlett
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Cotton
Curtis
Eastland
Ervin
Fannin
Goldwater
Gurney
Helms
Hruska
Long
McClellan
McClure
Nunn
Roth
Stennis
Thurmond
Tower

NAYS—67

Abourezk
Aiken
Baker
Bayh
Beall
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—9

Cook
Fulbright
Gravel
Hansen
Hartke
Mathias
Muskie
Scott,
  William L.
Talmadge

So Mr. Helms' amendment (No. 816) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 950

Mr. ALLEN. Mr. President, I call up amendment No. 950 and ask that it be stated, and I yield myself 10 minutes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 18, before line 1, insert the following new subsection:

"(b) No funds made available by the Corporation under this title, either by grant or contract, may be used in any State—

"(1) for any purpose in derogation of any valid State law or any public policy enacted by or established by the State legislature or

"(2) for any activity which may be vetoed by a Governor (A) pursuant to a formally adopted resolution by the governing body of a State bar association requesting such veto or (B) pursuant to the exercise of the police power vested in the Governor of a State to protect the life, property, health, or welfare of the citizens of that State.".

Mr. ALLEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, inasmuch as it is technical in nature, and I ask unanimous consent that the remainder of the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the remainder of the amendment will be printed in the Record.

The remainder of the amendment is as follows:

On page 18, line 1, strike out "(b)" and insert in lieu thereof "(c)".

On page 19, line 20, strike out "(c)" and insert in lieu thereof "(d)".

On page 20, line 13, strike out "(d)" and insert in lieu thereof "(e)".

On page 20, line 19, strike out "(e)" and insert in lieu thereof "(f)".

On page 20, line 21, strike out "(f)" and insert in lieu thereof "(g)".

On page 21, line 5, strike out "(g)" and insert in lieu thereof "(h)".

Mr. ALLEN. Mr. President, I might say in the beginning that no number of amendments to S. 2686 can make it sufficiently palatable to me to the point that I would vote for the bill. I have stated on previous occasions that I have no objection to providing legal services for individuals who are unable to pay for them. I do object, and I will continue to object, to the creation of an independent Legal Services Corporation, exempt from congressional oversight in the expenditure of its tax funds and in the promotion of radical and sometimes revolutionary causes and organizations. There are preferable alternatives to meet the problem of providing legal services for the poor and of the several approaches, the administration of legal services programs by an independent corporation is the worst possible approach.

Nevertheless, since there seems to be a strong likelihood that S. 2686 will pass the Senate, before it passes I want to give every Senator an opportunity to vote on what I consider to be critical defects in the independent legal services corporation approach.

Mr. President, it is inconceivable to me that Congress would set up an autonomous Corporation in the nature of a foundation, and permit it the freedom to attack valid public policies established by, and statutes enacted by, State legislatures in the exercise of their discretion and collective wisdom. Why should the taxpayers of this Nation be burdened with the cost of paying attorneys to challenge the legality of public policies established by State legislatures? The idea of the Federal Government authorizing and paying for such actions is incompatible with the maintenance of a republican form of government. This does not mean that attorneys may not challenge the validity of public policies or State statutes implementing such policies. If a problem is of sufficient importance to justify an attack on the validity of the public policies and statutes, there will be adequate clients and private funds to do so without placing the cost on the taxpayers of our Nation.

My proposed amendment provides that the Legal Services Corporation shall make no funds available either by grant or contract for use in any State for activities or purposes in derogation of State laws and public policies.

Mr. President, let me give an example of the types of public policy which under this amendment may not be challenged by Legal Services lawyers whose fees are paid by the taxpayers. The Legal Services program, while administered by the Economic Opportunity Act of 1964, funded certain law schools which I consider to be little more than law degree mills. In all States, the laws prescribing standards for accreditation of law schools are the result of a public policy to upgrade the legal profession by discouraging the establishment of so-called law schools which issue LL.B. degrees in Crackerjack boxes.

The taxpayers should not be burdened with the cost of paying Legal Services attorneys to attack that public policy or any statutes enacted to implement that policy. The same reasoning applies to all professions and to all standards of accreditation applicable to colleges and universities which are authorized to issue degrees indicating proficiency in the separate professions. This is by way of illustration and is not intended adequately to cover the multitude of State public policies and statutes which might be challenged by Legal Services attorneys who may be drooling at the public trough.

Mr. President, this amendment further provides that the governor of a State may veto any program or activity funded by the Corporation either by grant or by contract under two circumstances when a formally adopted resolution by the governing body of a State Bar Association requests such a veto. In addition, the Governor may veto any program or activity if he does so in the exercise of the inherent police power vested in his office to take actions in emergency situations to protect the life, property, health, or welfare of the citizens of that State.

Again, for the purpose of illustration, it is not unusual for a Governor to call out the National Guard or to marshal other State law enforcement personnel under his jurisdiction to meet any number of possible emergency situations. In the event of unlawful rioting, looting, shooting, burning, sniping, and killing innocent citizens, the Governor may invoke the police power of the State in order to protect life and property or to restore law and order. I can think of many instances where Legal Services attorneys might attempt to enjoin a Governor in the exercise of such emergency power. This proposed amendment would prevent such actions by Legal Services lawyers.

It is not that the application of police powers may not be challenged. What I hope to do by this amendment is relieve the taxpayers of the burden of paying for such challenges, many of which would certainly be frivolous, a further burden on the courts, and a means of harassment of a Governor and those who may be called upon to execute the Governor's orders.

Mr. President, these examples are merely illustrative of the potential for mischief if Legal Services lawyers are permitted to feed their egos in frivolous and harassing actions against a State or its agents and agencies while acting under emergency circumstances, and on orders of the Governor of a State.

If this amendment is passed by the Senate, the Legal Services Corporation would, of course, be required to issue regulations indicating that the use of public funds for purposes of this nature are unauthorized. I think we can trust the bar associations in the separate States to take appropriate action in any case where a Legal Services attorney uses public funds for unauthorized purposes.

Mr. President, I challenge every Senator to go back to his State and face his Governor and State legislators and explain to them why he advocated the use of taxpayers funds to thwart the will of elected representatives of the people.

Mr. President, I hope that the practical utility of this proposed amendment will be recognized by a majority of the Senators when it is voted on.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. LONG. Mr. President, I have an amendment that relates somewhat to the same subject. I ask unanimous consent that Messrs. Bill Galvin and Mike Stern, of the staff of the Committee on Finance, be permitted on the floor at this time and during the debate on the amendment I have.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I thank the Senator for yielding. I think the Senator has a meritorious amendment.

Mr. JAVITS. Mr. President, I yield myself 1 minute. I do so out of respect for the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I believe we could decide this matter without a rollcall vote on the amendment, but I would like to call to the attention of the Senator and the Senate that the reason we established this Corporation—essentially a lawyer's enterprise—is to have exactly the kind of professional discipline and professional operation which is set out here, and so far the Senator has agreed with us, as the best way to deal with all the vexing individual problems that have arisen.

In my opinion this amendment overstates that situation and gives more than a Governor veto; it even gives the veto to the State bar association; and under the broadest terms it gives the Governors a veto in respect of police powers.

I shall not quibble about that. I only state what I do to the Senator and the Senate because the scheme of the bill is such and it was designed to make this a lawyer-like operation. We believe that the main problems arose with respect to legal services in that respect. We believe we have proposed a scheme for fundamental correction, which is now agreed on in the House. They have a corporation, which the administration agrees upon in concept. Hopefully, the Senate will do so also, and that is the best way to deal with these nettling issues that have arisen on a case-by-case basis. We think this is the best way to reach the problem—through a professional corporation to handle it in a lawyer-like manner.

Mr. ALLEN. Mr. President, I yield myself 3 additional minutes.

I wish to suggest to the distinguished Senator from New York that I believe he misread the amendment when he states that it gave the bar association the right to veto a grant or activity. It states that the Governor may veto it on the recommendation of the bar association, or if it violates the public policy of the State as established by the legislature. In other words, that would be one condition precedent that would authorize the Governor, still in his discretion, to take that action, but to guarantee that the Governor would not act frivolously in the matter it would require before he could act the bar association would have to make that recommendation. That is quite different from the interpretation the Senator from New York places on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. [Putting the question.]

The "ayes" appear to have it.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. HANSEN), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "nay."

The result was announced—yeas 28, nays 63, as follows:

[No. 25 Leg.]

YEAS—28

Allen
Bartlett
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cotton
Curtis
Dominick
Eastland
Ervin
Fannin
Goldwater
Gurney
Helms
Hruska
Johnston
Long
McClellan
McClure
Nunn
Randolph
Roth
Sparkman
Stennis
Thurmond
Tower

NAYS—63

Abourezk
Aiken
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—9

Cook
Fulbright
Gravel
Hansen
Hartke
Mathias
Muskie
Scott, William L.
Talmadge

So Mr. ALLEN's amendment (No. 950) was rejected.

Mr. DOMENICI. To what extent would this bill, if enacted in its present form, lock in the present system for delivery of legal services in any particular State?

Mr. JAVITS. Although the general intent of the bill is to continue the present program in a new framework as proposed by the President, the committee has taken care to permit flexibility on the part of the corporation in meeting the needs of the poor in a particular State.

To that end, section 1006(a) of the committee bill authorizes the corporation to fund programs through individuals, partnerships, firms, corporations, and State and local government, as well as through nonprofit organizations. The latter, as the Senator knows, have been the principal vehicles for the program to date.

Additionally, section 1007(g) requires the corporation to provide for an independent study of alternative and supplemental methods of delivery of legal services to eligible clients, including the "use of appropriate demonstration projects." Under this provision, a particular State might participate in a demonstration project. There is no funding limitation on section 1007(g).

Accordingly, we have sought to permit flexibility on the part of the board to depart from the existing system, either to insure the most adequate means of delivery in a particular State or to test out new concepts such as judicare.

Mr. DOMENICI. In the city of Santa Fe, N. Mex., there now exists a legal services program utilizing the staff attorney approach and providing assistance to the poor called the Santa Fe Legal Aid Society. This program at the present time is not being funded by OEO, but has been granted a limited amount of money by the Model City program in Santa Fe and also by the city and county of Santa Fe. My question is When the money which has been granted to the Santa Fe Legal Aid Society has been exhausted, which it will be in April of this year, could the program be funded by the Legal Services Corporation under the committee bills?

Mr. JAVITS. Yes; it would be eligible for funding under section 1006(a).

AMENDMENT NO. 914

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LONG. Mr. President, I call up my amendment No. 914 which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 27, between lines 11 and 12, insert the following new section:

PROHIBITION AGAINST USE OF FEDERAL FUNDS TO UNDERMINE PROGRAMS UNDER FEDERAL LAW OR UNDER STATE LAW ESTABLISHED PURSUANT THERETO

SEC. 1016. (a) (1) Subject to paragraph (2), no Federal funds shall be used (whether directly or indirectly) to pay all or any part of the compensation or expenses of any attorney or other person who, as a part of his federally financed activity whether as an employee in the executive branch or under a grant or contractual arrangement with the executive branch (or other employment), engages in any activity, for or on behalf of any client or other person or class of persons, the purpose of which is (by litigation or by actions related thereto) to nullify, challenge, or circumvent any provision of Federal law establishing Federal programs or Federal-State programs or of State law established pursuant thereto to carry out such programs or any of the purposes or intentions of Congress or of the State in enacting any such law or provision thereof or relating thereto; and it shall be unlawful for any such attorney or other person who engages in any such federally financed activity to accept or receive any Federal funds to defray all or any part of his compensation.

(2) The prohibition contained in paragraph (1) shall not apply to any particular case or lawsuit (or to any attorney or other person involved therein) if the Attorney General issues an order specifically waiving such prohibition with respect to such case or lawsuit; except that no such order shall become effective with respect to any case or lawsuit until sixty days after the Attorney General shall have submitted to the appropriate legislative committee of the Senate and the appropriate legislative committee of the House of Representatives a notice of his intention to waive such prohibition with respect to such case or lawsuit.

(b) Any person who authorizes the disbursement of any Federal funds, and any attorney or other person who receives or accepts any such funds, in violation of subsection (a), shall be held accountable for and required to make good to the United States the amount of funds so disbursed or received or accepted.

Mr. LONG. Mr. President, the amendment I offer on behalf of myself and the junior Senator from Georgia (Mr. NUNN) is a similar provision to that which the Senate voted on when it had H.R. 1 before it. It involves the proposition that no one but an idiot would hire a lawyer to sue himself.

I know that one can contend that a lawyer should represent the best interests of his clients, whatever he thinks they may be. However, if someone is asking us to hire a lawyer, especially if he is asking to strike down the law and to strike down the very bill that we reported out of our committee, a bill which the committee had carefully considered and believed to be constitutional, we should not pay Federal money to file a lawsuit to strike down our own bill without the Attorney General at least being given a chance in the committee to testify as to what he thought about the bill and without someone having some sort of responsibility in that matter.

Here is a report put out by the backup Center on Social Welfare Policy and Law, Inc. in New York City, formerly a component of Columbia University. They proudly describe their activities. For example, among other things, any time any State law or any regulation, even a regulation approved by the Department of Health, Education, and Welfare tends to narrow the eligibility of people to go on the welfare rolls, they challenge that law or regulation, declaring it to be contrary to the Constitution and to the intent of the Congress.

There are a good many things in the law which we expressly put in the law.

I think a State can decide how it wants to handle this matter. However, any time an administrator of a State welfare agency does exactly what we intended him to do or any time that a State administrator exercises the discretion we gave to him, it will be immediately challenged.

The Government is expected to pay for a lawsuit challenging the very law it passed. Among other things, they challenge any demonstration project that would require that able-bodied welfare recipients work. They challenge that project. They did it in New York State and had some success in that area.

We have a bill in conference with the House in which we give a State complete latitude to encourage people to go to work and get more money by working than by being on welfare. We can expect anything along that line to be challenged. We should not be willing to pay to strike down our own work.

All we say in this amendment is that we should bring the Attorney General into this case or lawsuit and if he decides that Federal funds may be used, then such funds could not be used for 60 days. So that the appropriate legislative committee could look at the matter and pass judgment on whether the suit has any merit. If it has merit, it should be filed.

Otherwise, what do we find? The Federal Government is paying somebody to sue the Federal Government. We are suing ourselves and defending ourselves. We ought to be able to decide which side is right and be on that side. That does not mean that the Rockefeller Foundation or any other well-intentioned fund, or even a poorly intentioned fund, cannot file a lawsuit and put up the money to file a lawsuit. They can even do that when it does not have merit. However, we should have some idea of what we need to do before someone files a lawsuit to strike down a law, when that party contends something that is exactly contrary to what we intended when we passed the act. Someone should pass judgment on whether the law is meritorious.

We had a provision of this sort in 1972 in H.R. 1. An amendment was offered to strike the provision from the bill. The amendment had 20 or 25 cosponsors when it was called up. They contend that as a matter of ethics a lawyer should be completely free to do anything he wants to do in his client's interest. I explained our position. The Senate adopted the amendment by a vote of 38 to 35. Our position was sustained, that we should not have to pay both sides in a lawsuit without passing some judgment on the relative merits of what we are doing. If we were to leave out the cosponsors, the vote would have been about 3 to 1 or 4 to 1 of those who heard the argument that it does not make any sense to hire somebody to sue one's self.

I am convinced that poverty lawyers will do a great deal more good for the poor—and I have had many judges tell me so—if they did what they were supposed to do instead of trying to find some way to overthrow a provision of law or a regulation by going out and locating a client wherever he may be in the United States to initiate the suit in which they have the petition and the complaint already drawn in the case. They are trying to establish some principle that would increase by 50 percent or even double the welfare rolls of the Nation.

Before we allow that, somebody ought to pass judgment on whether the lawsuit should be filed to strike down all of the Federal law or put an interpretation on those laws that is completely at odds with what Congress had in mind when it passed the act.

Mr. President, that to me is just common sense. I do not think we will find anyone who is asked to put up his money to file a lawsuit who would fail to ask what the lawsuit is all about.

If one is talking about filing a lawsuit to get some poor man out of jail on a habeas corpus petition, by all means, the lawsuit should be filed. However, we can seldom get the poverty lawyers to file that kind of lawsuit.

They are too busy looking for a case that would involve a great number of people all over the entire Nation, so they can say, "You are looking at the man who increased the welfare rolls by 100,000 poor souls in this country."

You cannot get them to take some little case where someone is being sued for eviction, and fool around with that, half the time, and I have had judges tell me this. They are too anxious to file those cases where they have a brief already drafted at this backup center.

It is all right to do all those things, provided that someone who is not in the business of initiating legislation, who has some responsibility—in this case it would be the Attorney General—would give them consent to do that. But to do otherwise, Mr. President, in my opinion, is pretty ridiculous, and that is the result that I would hope to prevent from happening under this legislation.

I would hope that they would devote themselves diligently to looking after the needs of poor people, and stop this nationwide search for some sort of case that would dramatically attract attention all over the land by striking down the dedicated efforts of some person, some welfare administrator, for example, who has issued policies which have the approval of the Department of Health, Education, and Welfare and the acquiescense of the committee initiating the legislation to do the best he can. They have said to some State directors that a welfare client's caseworker cannot inspect the premises where the client may be. They actually filed such a case in New York, and the district court so ruled. Then the State appealed the decision, and finally the Supreme Court said the caseworker does have the right to look at the house and inspect the premises to see if the situation is as it is purported to be, but New York had to take it all the way to the Supreme Court to get that decision. And I am still not sure that someone can go to see a welfare client, to see if someone lives in that house, without making an appointment a week in advance. It is claimed that to do otherwise would be harassment—to see if someone lives at the residence where she purported to live—unless you first notified the person a week or two in advance so that she would be sure to be there when you arrive.

All I am saying is that even those types of things are suits that can be filed under this amendment, provided the Attorney General says it is all right.

But for us to pass laws here and pay someone to strike the laws down at the same time makes very poor sense, if we thought the laws we passed were constitutional in the first instance.

Mr. STENNIS. Mr. President, will the Senator yield to me for one question?

Mr. LONG. I yield.

Mr. STENNIS. I am thinking of this thing from the standpoint of the courts. Under established law and practice, does anyone have the right to pass on, we will call it, the petition or the bill that is filed in the lawsuit? Does anyone above, so to speak, other than the man who is working in the field, have the right to stop it until they can look at it and pass on it?

I am thinking about protecting the courts from small, frivolous, or unfounded suits.

Mr. LONG. I do not know how you can prevent such litigation from being initiated. Here we have, for example, welfare administrators all over the country doing what we thought we had authorized them to do, but every time they change their regulations they are hauled into court and challenged; and now there is a group in New York that say they are going to challenge anything that would limit in any way the eligibility of people to go on those welfare rolls. There is nothing to prevent that from being the case, even though they are not seeking the legislation. All they have to do is send the client into court.

Mr. STENNIS. I know they are cluttering up the courts with lots of these cases, and causing other cases with merit to be delayed.

Mr. LONG. I do not know what they estimate the cost of this thing to be, but I estimate that the legislation allowing the poverty lawyers to bring these suits has cost the Government billions upon billions of dollars. If you initiate all sorts of litigation without merit, you will win some of the cases. You cannot expect anyone to always be right—even judges are human and make mistakes—and then we in Congress strive for years to correct the decisions resulting from a lawsuit that should not have been filed in the first instance.

I am just saying we should not be paying someone to file a lawsuit, when we do not think it has any merit to begin with.

Mr. STENNIS. That is the point I am trying to make. The amendment does not cut anyone off from filing; it just requires them to clear it with someone representing the Federal Government before they can have the right to go in and clutter up the docket?

Mr. LONG. Basically what it says is that lawyers at the so-called backup center—I think it would be more appropriately called the "front-up center," because many times they initiate litigation—but the so-called backup or front-up center at New York and the other poverty lawyers should not be filing suits to strike down State or Federal law without the consent of the Attorney General. If he wants to give them consent, more power to them; let them go in and file it, and win if they can. They can file it anyway if someone else other than the Federal Government will pay for it. But for us to be spending all this American taxpayers' money to strike down a law passed through the Senator's committee, for example, or to restrain a State administrator from doing what we thought we authorized him to do, without the consent of someone speaking for the Federal Government, does not make much sense.

Mr. STENNIS. In other words, the Senator wants an umpire of some kind before they can file suit. I think the Senator makes a lot of commonsense.

Mr. LONG. Well, if we pay some administrator to do one thing, and then pay someone else to sue him to make him do just the opposite, and the Supreme Court makes him do just the opposite of what you had in mind, why not think about it and decide which side we think is right? In other words, if we thought the man was right in filing the lawsuit, we ought to change our way of doing business. But I have had the experience, and I think other Senators have, of having the courts rule that a law which I personally sponsored and pressed through onto the statute books declared by the court to be just exactly the opposite of what I intended when I wrote the thing and passed it through.

This amendment would require if what the lawyer is trying to do is to strike down the law or to make the States do just the opposite of what we intended when we passed the law, that to give him a right to do something like that, we would like the Attorney General to have the right to say whether the suit would or would not be filed, and that if he decided to permit the suit he would notify the committee that initiated the law and let them see what the lawyer had in mind.

That does not mean the committee would have to agree with the case, but at least it would give them a chance to comment on it during the 60-day waiting period.

This would not impede all the things we ordinarily think of as a lawyer representing the poor doing. It only has to do with the striking down of a Federal law, and would provide that if we are going to pay to strike down the State laws or our laws, we ourselves provide that someone speaking on behalf of this Government, with a responsibility to this Government, in this case the Attorney General, would have to give consent to it. So I would think it is meritorious.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. LONG. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NELSON. I have discussed this proposal with the Senator from Louisiana.

I think it should be understood that what we are talking about here is a proposal that would deprive the poor of legal counsel—those unable to afford private counsel when it is the purpose of this legislation to assist; for example, when a statute has been passed which the complainant believes deprives him of some right, discriminates against him, or perhaps even deprives him of a constitutional right.

If this amendment is adopted, what we are really saying is that the poor have different legal rights. If a State legislature passes a law discriminating against the General Motors Corp., they can go to court, challenge the validity of a statutory provision, or see if they can upset the statute by challenging the constitutionality of it.

If you are a rich person, and can afford a lawyer, and there is a statute which you feel discriminates against you, or deprives you of some right—perhaps a constitutional right—you can have your lawyer go to court, and challenge that statute. But if you are poor, you are not going to be able to go to court and challenge that State or Federal statute.

I think, in this program of legal assistance to the poor, we should protect their rights to challenge statutory provisions just as we protect the rights that as anyone who is rich has.

Victories won on behalf of groups of eligible clients against bureaucratic regulations which contravene the constitutional and statutory rights of poor persons have angered critics and inflamed passions against legal services. Needless to say, neither a local housing authority nor Federal agencies like the Department of Agriculture are happy when lawsuits succeed in requiring them to change their regulations, even though the result is to remove obstacles to better low-income housing or to improve nutrition programs for poor children. But those whose passions have been so inflamed should be reminded that the legal process in this country, by which the people govern themselves, is never uncontroversial in the best of circumstances. It was in recognition of the need for this controversy, indeed, that the former Director of the Office of Economic Opportunity Frank Carlucci reminded us, when this legislation was first proposed, that:

> It is an act of great self-confidence for a government to make resources available for testing the legality of government practices. We have written laws and created government agencies that provide food for people who are hungry, homes for people who are homeless, and jobs for people who are unemployed.
>
> Consequently, a lawyer who is going to represent poor people is inevitably going to be an advocate for them against governmental agencies. It is to shield legal services from the repercussions generated by suits of this kind as well as those generated by action against private interests that the President proposes creation of an independent legal services corporation.

Now, Mr. President, this amendment by Senator LONG seeks to prohibit the expenditure of any Federal funds for any activity seeking to "nullify, challenge or circumvent" first, any Federal law establishing Federal programs or Federal-State programs; second, any State law to carry out such programs.

Only one exception is permitted regarding these far-reaching prohibitions: the U.S. Attorney General may issue a waiver as to a specific case but only after he has given 60 days notice to the relevant committees in the Senate and House.

The amendment would prohibit constitutional challenges to Federal and State laws establishing Federal-State programs. It would also prohibit federally subsidized attorneys from challenging State laws that conflict with Federal laws and regulations.

This amendment would deprive the poor of a fundamental right exercised by everyone else who can afford a lawyer: the right to challenge the validity of laws adversely affecting their interests. Indeed, this amendment would deny poor persons the only recourse they may have against illegal or unconstitutional actions taken against them by State and Federal officials with respect to OASDI, unemployment insurance, public assistance benefits, public housing, FHA financed housing, child welfare services, health services, truth in lending violations, occupational health and safety, vocational rehabilitation, school lunches, supplemental food programs, educational achievement and headstart programs, and a host of other programs.

In the guise of preventing courts from undermining Federal laws or congressional intent in enacting those laws, this amendment provides congressional approval for the undermining of the rights of the indigent under Federal laws by State noncompliance and provides further that unconstitutional provisions of State and Federal laws could not themselves be challenged.

This amendment directly interferes with the delicate, but yet unique, balance of power between our legislative, executive, and judicial branches of Government. It seeks to allow the Attorney General, and the Congress, to determine whether court actions should be initiated in a particular case, based upon an incident-by-incident review process. It seems fundamentally unfair—if not clearly unconstitutional—to make the right to seek redress in court dependent on the permission of one's adversary. If the distinguished Senator from Louisiana wishes to restrict the jurisdiction of our courts, let him request the appropriate committee to review the question, and we will consider that issue directly in separate legislation.

Moreover, if he wishes to achieve proper interpretation by the courts of certain substantive provisions of Federal laws, let Congress seek to amend those provisions with the precise language to carry out its intent. But to achieve those goals by discriminating against the rights of the poor—and by upsetting the balance of powers among our three branches—is both wrong and unnecessary. This amendment also threatens a denial of equal protection and due process to the poor. The constitutional guarantee of equal protection could be violated because only the poor would be so restricted from bringing legal action to enforce their rights or to challenge the constitutionality of this particular act of Congress. Imagine a corporation having to seek the permission of the Attorney General, and waiting 2 months for congressional committees to review that question, before challenging governmental actions it considers damaging to its own existence.

A denial of due process might also be involved when the courts are clearly the only forum for the effective resolution of the matter at hand and an indigent person is denied access to such form—*Boddie* v. *Connecticut*, 401 U.S. 371 (1971).

This amendment also sets a dangerous precedent in its disregard for a vital function of the courts in our legal system. The committees of Congress cannot conceivably be available to consider and determine every question of interpretation arising under Federal laws or challenges to State laws on the basis of Federal laws. It would be virtually impossible for them to give careful consideration and seek legislation to avoid the need for litigation within 60 days. It is essential for the resolution of disputes that the courts determine such matters in accordance with the established procedures for construction of legislative language. This amendment seeks to avoid judicial scrutiny of the constitutionality of legislation, while at the same time allowing governmental entities, including low level officials, to interpret the language of Federal laws without fear of challenge.

This amendment poses substantial problems for the Congress if congressional review is put forth as a serious suggestion. Already overburdened committees would have to take on additional responsibilities within short time periods. Moreover, Congress would be turning over to committees the power to determine what is or is not the intent of Congress as a whole with regard to Federal laws or the enforcement and implementation of Federal laws.

Looking at what effect this amendment would have in actual practice might help to provide a better picture of why it must be defeated. In a recent legal services case, *Carelson* v. *Remillard*, 406 U.S. 598 (June 6, 1972), a mother and her children were denied welfare benefits when the father's military allotments were too low to support them. The father was serving his country in Vietnam. The Legal Aid Society of San Mateo County sued the State of California, claiming the mother was eligible under the Federal law; namely, the Social Security Act. The current Supreme Court unanimously upheld the mother's appeal and awarded her benefits. The permission to bring this case might have been denied, since the Attorney General had filed an amicus brief in opposition. But clearly the merits of the case are obvious.

Even more disturbing are cases seeking to enforce present rights and entitlements accorded by long standing Federal laws or regulations against recalcitrant States. One such example involves the failure of several States to implement a mandatory preventive health program established by the Federal Social Security Act and requiring early and periodic screening, diagnosis and treatment of eligible medicaid recipients under 21. Although this provision was originally passed in 1968, nothing was done by HEW to implement it until indigent clients, entitled to benefits under the program, brought suit against HEW. After the resulting regulations became effective, most States failed to take any action to effectuate a program. In fact, as late as March, 1973, 26 States had failed to establish any semblance of the program. In only three States was there a program on paper which conformed to the Federal law. All other States were ignoring the Federal law. Clients denied these Federal benefits had no recourse but to bring suit seeking implementation of the program on the basis of State violation of Federal laws. Such suits would be effectively prohibited by this amendment.

In another example, several suits were brought to implement the Hill-Burton Act. Hill-Burton, you will recall, requires hospitals built with funds distributed under the act to afford a reasonable amount of services to persons unable to pay. These suits against the State health bureaucracies were necessary for several reasons. First, in the cities where they were brought there was a substantial health crisis for the poor. Indigent people without medical insurance were not provided service and many of the hospitals refused to serve medicaid and medicare patients. In New Orleans, for example, four hospitals receiving Hill-Burton funds refused to serve medicaid clients. Second, HEW had done nothing in 25 years since the Hill-Burton Act was passed to enforce these provisions; in fact, regulations were never even promulgated. As a result of the litigation, regulations were promulgated implementing the requirements. Third, the

HEW regulations were inconsistent with the requirements of the Federal laws.

Not only had HEW never acted but the Attorney General also refused to act when given the opportunity. An assistant U.S. attorney from the southern district of New York investigated several New York City hospitals and sought to initiate litigation. The Attorney General refused and forbade any additional steps from being taken.

Under the proposed amendment, these health cases could not have been brought without approval from the Attorney General. Yet when given a chance he refused to give permission. Without the cases, HEW would not have issued regulations to comply with Federal law, and hospitals would have continued to receive massive Federal funds without meeting their Federal statutory obligations.

These illustrations raise another important issue—the vagueness and breadth of the language in the proposed amendment. The intent of the sponsor is apparently to prevent almost all lawsuits which he sees as "challenging or circumventing" Federal statutes or even congressional intent. However, not only have the courts considered many of these suits meritorious, but almost all of these suits have actually sought to enforce the laws, not nullify them. Poverty attorneys are most often allies with Congress in helping to control the recalcitrant activities of low level State and Federal bureaucrats.

Until recently the States have not had any reason to fear that Federal law would be enforced by relevant Federal agencies. Take, for example, the Department of Health, Education, and Welfare. The Assistance Payments Administration—the division of HEW responsible for public assistance—reported that as of June 30, 1973, 27 out of 54 jurisdictions with federally funded public assistance programs had been out of compliance with Federal law for a considerable period of time. The Social and Rehabilitation Services reported that 47 States were out of compliance. But not one State has been notified that sanctions or enforcement proceedings were even being contemplated. Because HEW brought only seven conformity hearings within the last decade, it has fallen to legal services lawyers to enforce Federal law.

Surely we do not want to tell the poor that the system of justice is for everyone but them; that when the Congress acts, the resulting statutes are immune from judicial scrutiny. This Senate cannot reject the national policy commitment symbolized by the legal services program. That commitment is to a government that offers to the powerless the opportunity and the resources to challenge improper acts by both private and public officials.

The Senate must defeat this amendment.

Mr. JAVITS. Mr. President, I would not wish to duplicate anything the Senator from Wisconsin (Mr. Nelson) has said. I have great respect for the Senator from Louisiana (Mr. Long), having heard before and am acquainted now with argument which he makes for this provision. But I rise only to point out that it is the genius of our law to remember that we have had a tradeoff on that—that the sovereign does not wish the individual to be solely subject to the power of the sovereign, he wishes the individual to have the tension between himself and the sovereign—to wit, the United States, which, in our concept, produces the greatest justice.

That trade-off is quite nettling at times. Look at what it has done to us in the energy situation. The Senator from Louisiana (Mr. Long) has made that argument most eloquently as to how irritating and delaying this can be in the future in respect to the particular laws for the good of the people, which Senator Long's committee turns out and we pass and make into law. But that is the trade-off situation in our system. That is my experience as a lawyer, as one who has tried many cases—that we have to establish an agency to assert this authority for the individual. I have pointed out that we ourselves—in a number of bills—have established the means for the court to carry this out, because the plaintiffs had no status. We have also established the means for giving the plaintiff status in order for him to test out the constitutionality of the various actions we ourselves have taken.

It is because we are animated by this principle I have described, as lawyers, judges, individuals, and as Americans that we have made the tradeoff, which is nettling, difficult, and delaying. Sometimes it is an unbelievable, contrary aspect of the public interest but this is our system. This is what we have opted for. Thus, our bill does not try to make any radical change. It is conservative. It will be in the hands of the lawyers, essentially. But it does continue to give the individual that right, which is the thrust of our system; that it, this tension between the all-powerful State and the individual whom we have equipped with rights and the means to assert them.

Mr. LONG. Mr. President, this does not say that we would not be for any valid suit to strike down some laws. All it says, it has to have the approval of the Attorney General. It would stop the filing of a whole bunch of lawsuits some of which are so ridiculous on their face and for all we know, if they filed enough of these ridiculous lawsuits, perhaps one would prevail.

I can recall when I filed a lawsuit which I thought was one of the best, for $1 million. I had only a 1 percent chance of winning, but if I won, I would win $1 million. So it was a $1 million lawsuit.

All I would think is that if the Attorney General thinks that one of the cases does not strike down the law we pass here, it should be heard by the court and by all means authorize it, and pay the expenses for the backup work that the New York center might put behind it. But the idea of paying for both sides, to pay the Attorney General to defend on the one hand and then pay the other attorney to sue on the other side, gets to be ridiculous. Anyone, if he wants to, can sue the Federal Government—that is anyone but us—can hire a lawyer to sue us, but when the United States has to pay for both sides, particularly if we do not think the lawsuit has merit, is absolutely ridiculous.

That type of lawsuit prevents lawyers from putting their time on getting some poor soul out of jail on a habeas corpus, or preventing some poor person from getting a conviction in a case, because the lawyer is looking for some glamorous case in which he can establish a principle, whereby he can increase the welfare rolls by 20 percent.

Mr. MONDALE. Mr. President, in order to accept this amendment as being consistent with the canons of justice, I think we have to assume two things: First of all, that the Government never does anything that is wrong at the Federal, State, or local level; and second, if it does, the Attorney General will always agree to permit the Government to be sued when it does so.

I think all of us in the Senate spend half of our time complaining when the Government is acting improperly, because that happens all the time. We know that sometimes there is a great restriction on the right to sue, even though all the legal expenses that are used when a corporation sues the Government are deducted from its taxes and are actually paid by public money. But those actions are backed by the wealth of the persons who sue the Government.

But what would happen if we proposed that corporations could sue the Government only if the Attorney General agrees? Every Senator knows what would happen. They would try to defeat such a restriction. The corporation lawyers would be down here, and there would not be five votes for it.

These other people are poor, but their constitutional rights are valid. Even though the law we pass might be construed in various ways by the Director, they can sue only if they have a good suit.

A few years ago, I and some of my colleagues held hearings on migrant hunger. Some of the local officials came in and said, "We don't care what the law is. We have migrants here. We refuse to give them any food stamps, because if we do, they won't work."

The only way the migrants could get the food stamps to which they were entitled was to have Legal Services sue the local welfare officials. They won every lawsuit, because there was not a single bit of law on behalf of the welfare department.

Let us suppose that at that time this amendment had been law, and that at that time the Attorney General was that warm, compassionate lover of the poor, John Mitchell. When these poor migrants came to town, they would say, "John, we would like to sue the Government about this." We know what John would do. He would bring the poor people into his office, and find for the Government.

The second part of the argument is that people believe the court makes laws. But everyone who has gone to law school knows that the law is determined in a court by the statutes. The way to protect against faulty lawsuits is to have good judges, not to have a system that nails the courtroom door shut if one happens to be so poor that he cannot afford a lawyer.

Mr. LONG. I had a lawyer friend come to me. He said he was going to plead an important case; that I should just wait, and in due course I would be hearing of a prominent case, and something could be learned.

Here was a good lawyer, who was spending time waiting until he could find a client and find a case. Somebody wanted to try to win a particular point. He was seeking someone to start the case.

The poverty lawyers have had people come to them where they were not interested in obtaining the kind of treatment thought best for these people but were interested in making a certain type application for something thought not appropriate to do and actually injured their health by not permitting them to have the kind of help the doctor thought was appropriate, because the lawyers wanted to initiate a certain type case against the doctor's hospital.

These lawyers, in my judgment, actually are out seeking to stimulate the litigation, to think up the point they would like to sue about, and then find somebody to engage in a certain course of conduct which would lay the foundation to bring this case and make another 50,000 people eligible for the welfare rolls or for some other program.

One would think, to hear the debate on the other side, that there is nobody else, no State government, no foundation, nobody available to pay to file lawsuits that we do not think should be filed, to strike down the laws that we thought were constitutional when we passed them, when we thought the States were acting in pursuance of legislation allowing them the latitude to act one way or the other.

Mr. President, I suggest that Senators go home and try to explain to somebody why they hired a lawyer to sue themselves, why they paid the lawyers on both sides, one to sue and one to defend, particularly when some of these people actually are out looking for cases and creating litigation, to have someone engage in a course of conduct which would lay the foundation for a certain kind of lawsuit.

Mr. PERCY. Mr. President, I am opposed to amendment No. 914 to S. 2686 because it goes to the very heart of the lawyer-client relationship by attempting to prevent an attorney from representing his client, not because the client's case would be unworthy, which is a matter for the courts to decide, but because the client is poor. This amendment would say to a lawyer and his client, "you are entitled to legal representation, but only up to a point. From then on, you become a second-class citizen." The poor have a closer relationship to the Government and its program than most of the rest of society. They often depend on Government programs for their homes and their subsistence. Yet this amendment would prevent a poor person from having adequate counsel in these important areas.

I have received an excellent letter from a Chicago attorney, Mr. Milton Shadur. He very cogently expresses the reasons why this amendment should be defeated. I ask unanimous consent that it be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

January 28, 1974.

Senator Charles H. Percy,
Dirksen Office Building,
Washington, D.C.

Dear Senator Percy: As you know, the Legal Assistance Foundation of Chicago is the not-for-profit non-governmental agency administering the Chicago Legal services program, funded by periodic federal grants (heretofore provided by the OEO Legal Services program). In accordance with federal requirements that the Foundation's Board of Directors have a broad community base, the Board is selected from a number of sources within the legal community (including the organized bar and certain law schools) and the client community; and I have been designated by the Dean of the University of Chicago Law School to serve on the Board since the inception of the Foundation.

My involvement and keen interest in the program and in the general subject of legal services to the poor perforce extends to the pending proposals to create a Legal Services Corporation to supplant the OEO in this area. The continued existence and viability of that program are essential if the rule of law is to have any meaning for the large segment of our society that cannot itself pay for the costs of legal services.

Senator Long's proposed Amendment 914 to the Corporation for Legal Services Bill (S.B. 2686) is inconsistent with the fundamental responsibilities of the legal profession. It would deprive both the legal services lawyers and the poor persons they represent of their basic rights. Canon 5 of the lawyers' Code of Professional Responsibility mandates that every lawyer "exercise independent professional judgment on behalf of a client"—in the great tradition of undivided loyalty to the person the lawyer represents:

"EC 5–1 The professional judgment of a lawyer should be exercised, within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client."

No lawyer in private practice could or would tolerate for a moment a restriction that would prevent him, in representing a client, from seeking (as the Long Amendment provides) "to nullify, challenge, or circumvent any provisions of federal law establishing federal programs or federal-state programs or of state law established pursuant thereto to carry out such programs or any of the programs, or any of the purposes or intention of the Congress or of the state in enacting any such law or provision thereof or relating thereto." Every citizen deals with government every day of his life, and we all know that government is not omniscient or always right. Even Congress has been known to enact unconstitutional legislation.

For the poor person, whose contacts with government are in many respects even more pervasive (often dependent on one or more of the various governmental welfare programs, and perhaps living in public housing), the need to consult a lawyer is even more likely to be related to problems with government. The Long Amendment would subvert the provision of legal representation to the poor by making it ineffective in one of its most critical areas—a classical example of what it means to:

". . . keep the word of promise to our ear
And break it to our hope."

One of the Ethical Considerations stated in the lawyers' Code looks directly at just this kind of inhibition, when sought to be imposed by persons other than the lawyers' clients:

"EC 5–23 A person or organization that pays or furnishes lawyers to represent others possesses a potential power to exert strong pressures against the independent judgment of those lawyers. . . . Since a lawyer must always be free to exercise his professional judgment without regard to the interests or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom."

It is ironic that lawyers in government, our Congressmen, who should be vigilant to protect our freedoms, may seek instead to curtail them (even for motives they deem worthy). The benchmark against which every proposed restriction in the Legal Services Bill should be measured is whether private lawyers would ever countenance comparable legal inhibitions against rendering legal services to their clients. Under that standard, the Long Amendment must be rejected.

For your information, I enclose a copy of the thoughtful resolution of the Chicago Bar Association, expressing similar views in this area.

Let me close by expressing my hope that you will continue both your support of the Legal Services program's continuation and your opposition of the crippling amendments that would strip the program of a substantial part of its desirable strength.

Respectfully submitted,
Milton I. Shadur.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Muskie), the Senator from Georgia (Mr. Talmadge), and the Senator from Montana (Mr. Metcalf) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

I further announce that the Senator fom Kentucky (Mr. Cook), the Senator from Wyoming (Mr. Hansen), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. Cook) would vote "nay."

The result was announced—yeas 38, nays 52, as follows:

[No. 26 Leg.]

YEAS—38

Allen
Bartlett
Beall
Bellmon
Bennett
Bible
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cotton
Curtis
Dole
Dominick
Eastland
Ervin
Fannin
Goldwater
Gurney
Helms
Hruska
Johnston
Long
Mansfield
McClellan
McClure
Nunn
Pastore
Randolph
Roth
Sparkman
Stennis
Symington
Thurmond
Tower
Young

NAYS—52

Abourezk
Aiken
Baker
Bayh
Bentsen
Biden
Brooke
Burdick
Case
Church
Clark
Cranston
Domenici
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pearson
Pell
Percy
Proxmire
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—10

Cook
Fulbright
Gravel
Hansen
Hartke
Mathias
Metcalf
Muskie
Scott, William L.
Talmadge

So Mr. Long's amendment (No. 914) was rejected.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NELSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

Mr. NELSON. Mr. President, may we have order so we can hear the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is entitled to be heard. Senators will please carry on their conversations outside the Chamber.

The Senator from North Carolina is recognized.

Mr. MANSFIELD. Mr. President, will the Senator yield to me on my time?

Mr. HELMS. I yield to the Senator on my time.

Mr. MANSFIELD. Mr. President, because of the fact that we are getting so many votes and the hour is getting late, the Senate willing, I ask unanimous consent that there be a 10-minute time limit on votes from now on.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina may proceed.

AMENDMENT NO. 885

Mr. HELMS. Mr. President, I call up my amendment No. 885.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an amendment for himself and Mr. Brock in the nature of a substitute.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act shall be known as the Federal Legal Aid Corporation Act of 1973.

DECLARATION OF PURPOSE

Section 1. Where fundamental rights are to be protected and justice attained, it is essential that the institutions of government be accessible to all. In a nation where justice is dispensed by the courts it is inherent that they be available to all regardless of race, religion, sex, national origin, or personal wealth.

DEFINITIONS

Sec. 2. (a) The word "State" shall include each of the several States of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(b) An "eligible client" shall be an individual in need of professional legal services who meets certain criteria as established in section 4, subsection (k)(4) of this Act.

(c) A "State instrumentality" shall be an agency of a State government established solely to carry out the purposes of this Act, or an existing State agency which shall have assigned to it by the State the responsibility to carry out the purposes of this Act.

ESTABLISHMENT AND GOVERNANCE

Sec. 3. (a) There is authorized to be established in the Federal city a nonmembership nonprofit corporation chartered by the Congress of the United States of America which shall be known as the Federal Legal Aid Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall be brought into being by a board of directors (hereinafter "Board") consisting of seven members who shall be appointed by the President of the United States of America, to take office upon confirmation by the United States Senate.

(c) Of the initial members of the Board, one each shall be chosen for fixed terms of seven, six, five, four, three, two, and one year(s), respectively. Succeeding appointments to fill terms which have expired, will be for seven years each. Each person duly appointed by the President and confirmed by the Senate, to fill a vacancy, shall serve for the balance of the term to which he was appointed. No member shall be appointed for more than seven years.

(d) No more than four members of the Board shall be members of the same political party. A majority of the members of the Board shall be members of the bar of the highest court of a State and none shall be full-time employees of the United States.

(c) No fewer than four members of the Board may be present to conduct the business of the Corporation. Should there, at any time after the Corporation has come into being be fewer than four members, as a result of the failure of the Senate to confirm nominations submitted by the President of the United States, the President may designate one of the remaining directors or, if none remain, some other citizen of the United States, to supervise the affairs of the Corporation in a manner not inconsistent with policies already established.

(f) The terms of the original members of the Board shall be measured from the date on which this Act is enacted into law.

(g) The Board of Directors shall have a Chairman, to be appointed by the President of the United States from among the duly appointed members of the Board of Directors for a term of one year, with the term of the first Chairman to be measured from the date on which this Act is enacted into law. If the President shall fail to name a Chairman within thirty days of a vacancy in the chairmanship, the members of the Board shall choose a Chairman from their own membership. No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board.

(h) Meetings of the Board shall be held at the call of the Chairman, or by written request of a majority of its members, and shall be required to be held at least once in every four-month period. All meetings shall be held in the Federal city, except by unanimous agreement of the members of the Board.

(i) The purpose of the Corporation shall be—

(1) to render financial assistance to the States to enable the provision of legal assistance to qualified individual citizens who are indigent and in need of professional legal services (hereinafter "eligible clients");

(2) to assist in the provision of legal services to eligible clients by obtaining and making available information of a technical nature to those rendering legal services to eligible clients; and

(3) to, consistent with the provisions of this Act, set forth such procedures and regulations governing the use of Federal funds as may be authorized for expenditure by the Corporation.

(j) The Corporation shall maintain a principal office in the Federal City and shall therein designate an authorized agent for service of process.

(k) Subject to approval by a majority of the members of the Board, the Chairman shall elect an Executive Director of the Corporation who shall serve at the pleasure of the Chairman, and be authorized to secure as many staff members as may be authorized pursuant to law, but in no event shall the Corporation have more than twenty-five employees. Employees of the Corporation shall serve at the pleasure of the Executive Director. No Executive Director may serve more than four years.

(l) Compensation of Board members shall be limited to cost of travel plus a per diem rate equal to one two-hundred-sixtieth the annual pay of the highest civil service grade schedule, on days actually employed on Corporation affairs. The Executive Director shall be compensated at the rate of an employee in the highest civil service grade.

CORPORATION POWERS, REQUIREMENTS, AND PROHIBITIONS

Sec. 4. (a) The Corporation shall assign and disburse all funds appropriated to it to the governments of the several States, as qualify, in amounts proportionate to their respective shares of the total number of eligible clients in the United States (which shall be calculated so as to include eligible clients in the District of Columbia and the Commonwealth of Puerto Rico), as of June 30 of the fiscal year preceding the fiscal year for which an appropriation is made by Congress to further the provisions of this Act, only excepting—

(1) such funds as are necessary for administrative expenses including compensation of the Executive Director and his staff, payment of expenses and per diem of Board members, costs incurred in purchase and rental of space and equipment, and costs necessary to pay such audits, evaluations, and inspections as may be required to assure adherence to the provisions of this Act;

(2) such funds as may be made available by special grant to the various States as incentives to experiment with alternative delivery systems for legal services to eligible clients. Funds available to the Corporation for special grants shall be limited to maximum of 5 per centum of the Corporation's annual appropriation; and

(3) such funds as may be expended by the Corporation in entering into any contract as provided for in subsection (b) below. Funds available to the Corporation for such a contract shall be determined by Congress at the time of the Corporation's appropriation.

(b) The Corporation shall have the power to contract with a private or public group, association, or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients. Such research shall be made available by the Corporation to those rendering legal assistance to eligible clients and to all others interested in such research.

(c) Funds appropriated to the Corporation, or appropriated by the Corporation to the States, shall only be used to make legal assistance available to individual eligible clients, and to pay necessary expenses as authorized by subsection (a), above.

(d) No funds shall be disbursed by the Corporation to any State until said State has qualified as set forth in section 5.

(e) Personnel employed by the Corporation and funds appropriated to the Corporation or disbursed by it to a State shall not be used or commingled with other funds being used—

(1) to initiate, organize, support, represent, or assist any training program, workshop, seminar, school, publication, newsletter, club, association, group, organization, demonstration, boycott, meeting, rally, march, strike, or any other activity, group, or institution;

(2) to support or oppose, directly or indirectly, any candidate for public or party office, or any political party;

(3) to represent any person less than eighteen years of age without formal written consent of one of said person's parents or guardian; or

(4) in a manner which tends to discriminate in favor of or against individual attorneys, employees, or clients, on grounds of race, religion, sex, or national origin;

(f) The Corporation shall not—

(1) initiate or defend litigation on behalf of clients other than the corporate entity itself;

(2) seek to influence, nor shall any funds appropriated or disbursed by it be used to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies or otherwise support any ground or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

(g) The income or assets of the Corporation shall not inure to the benefit of any director, officer, or employee thereof, except as salary or reasonable compensation for services.

(h) Persons directly or indirectly receiving compensation under this Act, as attorneys, for the provision of legal assistance, shall only receive such compensation subsequent to admission to practice law in the jurisdiction where such assistance is rendered.

(i) Persons advocating disregard or violation of Federal or State law, during their service, may not receive compensation under this Act.

(j) Notwithstanding the provisions of title I of the United States Code, all persons salaried by the Corporation, or paid from funds disbursed by the Corporation through the States in an amount which is equal to 50 per centum or more of said person's income during any four-month period, shall be subject to the provisions of rule IV of the civil service rules prescribed by the President of the United States pursuant to section 3301 of title 5, United States Code, as amended as of the date of enactment of this Act, as if said employees were employees of the Federal Government. Said employees shall not be treated as employees of the Federal Government for any purpose not specifically authorized in this Act.

(k) Funds made available by the Corporation, pursuant to this Act, may not be used—

(1) to provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults (including any extraordinary writ, such as habeas corpus and coram nobis, designed to challenge a criminal proceeding); or

(2) for any of the political activities described in this section, or to contribute to or in any way assist any group or association participating in such activities;

(3) to maintain any action at law until such time as any and all administrative remedies provided for in applicable contracts have been exhausted; or

(4) to represent any person who fails to meet eligibility standards established in accordance with this subsection. An individual shall be eligible for legal assistance pursuant to this Act (an "eligible client") if his assets or income would entitle him to receive benefits, in the State in which he is seeking legal assistance, under the program of the State established pursuant to subchapter XIX or chapter 7 of title 42 of the United States Code or, in the event a State has not established a program, an individual shall be eligible for legal assistance pursuant to this Act if his income and assets fall below the official poverty line, as defined by the Office of Management and Budget: *Provided*, That no person shall be eligible for the receipt of legal services provided through this program if his lack of assets or income results from his refusal or unwillingness to seek or accept employment but in no event shall physical or mental incapacity prohibit an individual from receiving benefits under this Act: *And provided further*, That the States may impose additional eligibility criteria.

(l) The Corporation shall evaluate annually the program for provision of legal services to eligible clients being conducted in each State. Should any such evaluation disclose: discrimination on the basis of race, religion, sex, or national origin in the provision of legal services to eligible clients; or violation of the code of professional responsibility for attorneys, in any State's program, the Corporation may terminate disbursal of funds to that State until it is determined by the Corporation that such discrimination or violation of the code of professional responsibility will no longer occur.

(m) Upon request by any Governor, Member of Congress, or authorized officials of executive branch departments and agencies, reports of particular audits, evaluations, and inspections will be made available to the requesting official or to the public. Such inspections, audits, and evaluations shall be initiated in response to the written request of any Governor, Member of Congress, or official of the executive branch whose appointment has been confirmed by the United States Senate or the separate request of a member of the Board or Executive Director of the Corporation.

(n) Violation of any of the provisions of this section by an individual shall constitute a misdemeanor. The penalties for such shall not exceed six months imprisonment or a $500 fine or both.

QUALIFICATION BY STATES

SEC. 5. (a) To qualify for assignment of funds from the Corporation, States shall be required to enact enabling legislation setting forth the manner in which grant funds will be used to furnish eligible individuals with legal assistance. Such enabling legislation shall provide for at least one of (but none other than) the following procedures:

(1) Empower a State instrumentality to administer the funds received from the Corporation and disburse such funds to attorneys representing eligible clients as such attorneys provide proof to such State instrumentality of services actually rendered eligible clients; or

(2) Transmit the funds received from the Corporation to the bar association with overall jurisdiction in the State, which bar association shall have established a method for disbursal of funds to attorneys representing eligible clients as such attorneys provide proof to the bar association of services actually rendered on behalf of eligible clients; or

(3) Establishment of a method of direct payment of funds received from the Corporation to eligible clients or their attorneys based upon a voucher system or other method whereby proof of services actually rendered on behalf of eligible clients is provided to the State.

(b) In their enabling legislation, all States shall (1) permit eligible clients to retain the individual attorney of their choice; (2) insure that all attorneys, while engaged in activities funded by Corporation grants:

(A) Refrain (i) from political activity, (ii) from any voter registration activity, (iii) from any activity to provide voters with, or prospective voters with, transportation to or from the polls or provide similar assistance in connection with an election, and (iv) from any activity organizing individuals or groups or encouraging groups to organize in the community.

(B) Shall not at any time identify the Corporation of any program assisted by the Corporation with any partisan or nonpartisan political activity.

(C) Maintain the highest quality of service and professional standards in providing legal services to eligible clients.

(c) In the event a State does not enact the required enabling legislation within ninety days of the effective date of this Act or the legislature of a State is not sitting when this Act becomes effective and will not be able to enact the required enabling legislation within ninety days of the effective date of this Act, the bar association of the State may submit a plan in the form of a petition, embodying the provisions of subsections (a) and (b), above to the court of highest jurisdiction in the State. Said court may adopt such plans and upon such adoption, the State shall be qualified to receive funds pursuant to this Act. Where such a plan is adopted by the court of highest jurisdiction in the State, the plan shall be annually reviewed by said court: *Provided*, That nothing contained herein shall be construed to prevent the State legislature from reviewing, amending, or revoking such plan adopted by the court of highest jurisdiction in the State.

(d) In the event a State fails to adopt a plan as provided in subsections (a), (b), and (c), above, within one hundred and twenty days of the effective date of this Act, the Corporation may assign funds for expenditure within said State in a manner to be determined by the Corporation: *Provided, however*, That, shall a State determine not to participate in a program of legal assistance to eligible clients, pursuant to this Act, the authority of the Corporation to so assign funds in the State shall be terminated.

ATTORNEY-CLIENT RELATIONSHIP

SEC. 6. (a) As this program is one for the benefit of those individuals financially unable to afford counsel, the Corporation, officers, and employees thereof, may not interfere with any attorney in carrying out his professional responsibility to anyone who has become his client, or abrogate the authority of a jurisdiction to enforce adherence by any attorney to applicable standards of professional responsibility.

(b) Nothing contained herein shall be construed to limit an attorney, representing an eligible client, from taking any necessary legal action to protect the legal rights of his client.

REPORTS AND RECORDS

SEC. 7. (a) The Corporation shall have authority to require, from the States, such reports as it deems necessary.

(b) The Corporation shall have authority to prescribe the keeping of records with respect to funds provided and shall have access to such records at all reasonable times.

(c) The Corporation shall publish an annual report by April 15 of each year which shall be filed by the Corporation with the President and with Congress.

AUDITS

SEC. 8. (a) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of a State.

(b) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. The report of the annual audit shall be available for public inspection during business hours at the principal office of the Corporation. The above shall not be construed to limit the authority of the General Accounting Office to conduct such audits of the Corporation as deemed necessary.

(c) The Corporation may require from every State an annual report conducted in accordance with generally accepted accounting standards by independent certified public accountants, who are certified by a regulatory authority of the State, with respect to funds received from the Corporation. The Comptroller General of the United States shall have access to such reports and may, in addition, inspect the books, accounts, records, files, and all other papers or property belonging to or in use by the State which relate to the disposition or use of funds received from the Corporation.

RIGHT TO REPEAL, ALTER, OR AMEND

Sec. 9. The right to repeal, alter, or amend this Act at any time is expressly reserved.

APPLICABILITY OF OTHER PROVISIONS OF LAW

Sec. 10. (a) In the absence of specific reference to this Act, the provisions of the Economic Opportunity Act (EOA) of 1964, as amended (and references to the EOA in other statutes) shall not be construed to affect the powers and activities of the Corporation or to have any applicability with respect to programs and activities assisted by Corporation grants.

(b) The Economic Opportunity Act of 1964 (78 Stat. 508) is further amended (42 U.S.C. 2701, et seq.) by striking out paragraph (3) of section 222(a) thereof.

EFFECTIVE DATE

Sec. 11. (a) This Act shall take effect on the date of enactment.

(b) Section 10(b) of this Act shall take effect on (1) the date of incorporation of the Federal Legal Aid Corporation, or (2) the date on which the first appropriation after incorporation becomes available to the Corporation, whichever is later.

Mr. HELMS. Mr. President, last June, the Senator from Tennessee (Mr. Brock) and I introduced S. 1990, a bill to establish a Federal Legal Aid Corporation through which the Federal Government may render financial assistance to the respective States for the purpose of encouraging the provision of legal assistance to poor citizens.

I now offer this as a substitute for S. 2686.

We believe that this legislation offers a striking reform of the present legal services program—now in OEO—because it will result in greater freedom for the poor client to choose an attorney who will fully represent his needs, and it will make the program more accountable to the American people through the traditional checks and balances of representative Government.

In the present unitary program, the Washington bureaucracy contracts with local projects and institutions to provide legal services to the poor. In most cases this has resulted in the hiring of staff attorneys to deal with client problems. The client has little or no control over the handling of the case because he is faced with a monopoly situation. Frequently such attorney dominance has resulted in the exploitation of individual cases for political reasons more related to the attorney's ideological interests than those of the client. The proposals to set up an independent, Washington-centered Legal Services Corporation fail to solve this underlying problem.

In the past, the staff-attorney system has distorted the lawyer-client relationship through monopoly dominance. It allowed many project attorneys to concentrate on political advocacy through the courts, seeking to enlarge the law, or make new law through the judicial system. Legal services attorneys, for example, played the key role in striking down the "man-in-the-house" rule in welfare law, in overturning the use of property taxes in California for financing schools, and in the Detroit/suburban busing cases. We believe that these are political questions which, in the American system of representative government, ought best to be solved in the legislatures.

The bill introduced by the distinguished Senator from Tennessee and the Senator from North Carolina sets up a small congressionally chartered corporation which acts as a funding and compliance unit. The funding unit is empowered to transfer appropriated moneys to qualified State governments. A State government qualifies by passing enabling legislation setting up at least one of the following three procedures:

First. To empower an existing or new State agency to disburse funds to attorneys representing eligible clients;

Second. To transmit funds to the Bar Association with overall jurisdiction in the State, if the Bar Association has established a method to disburse funds to attorneys representing eligible clients; for example, judicare;

Third. To establish a method of direct payment to eligible clients or their attorneys based upon a voucher system of proof.

Within this framework, the States would have full freedom to design their own program to suit local conditions, so long as clients were given the right to retain the individual attorney of their choice. The bill also contains appropriate restrictions on lobbying and political activity by attorneys while engaged in activities funded by the program.

Another significant reform proposed by the bill would be the equitable geographic distribution of appropriated funds based upon the proportion of eligible clients in each State. At present there is a serious imbalance in the distribution of funds for the delivery of legal services to the poor, with certain favored projects in selected areas receiving disproportionate amounts. This means that needy people in many parts of the country are unjustly denied the legal services intended by Congress. The standard of eligibility in this bill is the standard of the medicaid formula, a standard already endorsed by Congress, State legislatures, and welfare groups.

We believe that this proposal is client-oriented, restoring freedom of choice to poor people. It provides for greater and more active participation by local bar associations, involving local attorneys more intimately in the problems of the poor community. It sets up a sound basis for a stable, ethical lawyer-client relationship. Finally, it allows the people's representatives in the State legislatures to play a proper role in designing the program in each State.

I earnestly solicit the support of my colleagues in consideration of this matter.

I ask unanimous consent to have published in the Record at the conclusion of my remarks a document which I have, being a comparison and analysis of the key provisions of the four legal services bills which have been presented in the House or the Senate.

There being no objection, the document was ordered to be printed in the Record, as follows:

Comparison and Analysis of Key Provisions

Four Proposals for the establishment of a Legal Services Corporation:

Plan A—The Administration Bill (ADMIN) as announced May 15, 1973.

Plan B—The House Bill (HOUSE)/Passed 276–95 on June 21, 1973, H.R. 7824.

Plan C—The Senate Labor and Public Welfare Committee Bill (LPW)/S. 2686, as reported on November 9, 1973, with Report Language (93–495).

Plan D—The Brock-Helms Substitute (BROCK), S. 1990.

General notation: In certain instances, prohibitions apply only to "staff attorneys" and do not cover para-professional and non-professional employees, such as community organizers.

PREAMBLE

Plan A (Admin)—"To establish a Legal Services Corporation."

Plan B (House)—"To establish a Legal Services Corporation."

Plan C (LPW)—"To amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program" from OEO to "a Legal Services Corporation."

Plan D (Brock)—"Federal Legal Aid Corporation Act of 1973."

ANALYSIS

As an amendment to the E.O.A., the LPW Committee plan would place oversight responsibility for the new Corporation with the Senate Committee on Labor and Public Welfare, giving that Committee exclusive authority to confirm appointees to the Corporation Board. Under the language of the three other proposals, oversight would lie with the Senate Judiciary Committee.

DEFINITIONS

Plan A (Admin)—includes as "State," the fifty states, D.C., Puerto Rico, Virgin Islands, Guam, "or any of the territories and possessions of the United States." "Legal assistance" means the "provision of any legal services under this Act."

Plan B (House)—specifically adds as "State" American Samoa and the Trust Territory of the Pacific Islands. "Legal Assistance" means the "provision of any legal services under this Act."

Plan C (LPW)—specifically adds as "State" American Samoa and the Trust Territory of the Pacific Islands. "Legal Assistance" is broadened to intend not merely "legal advice and representation," but also "other appropriate legal services consistent with the purposes and provisions of this title";

Plan D (Brock)—"State" is limited to mean the fifty states, D.C., and Puerto Rico. No specific definition of "legal assistance" is set forth.

ANALYSIS

Unlike the Administration proposal and Brock-Helms, both the House and LPW Committee versions specifically provide for programs in American Samoa and in our United Nations Trusteeship in Micronesia. The effect is to "lock in" the controversial Micronesia Legal Services Program.

STATEMENT OF PURPOSE AND "FINDINGS"

Plan A (Admin)—None.

Plan B (House)—None.

Plan C (LPW)—"The Congress finds and declares . . . there is a need . . . to continue the present vital legal services program . . . to preserve the strength of the legal services program it must be insulated from political pressures; and (6) lawyers providing such services must have full freedom . . ."

Plan D (Brock)—Accessibility of the "institutions of government" to all. Court dispensed justice should inherently be available "regardless of race, religion, sex, national origin, or personal wealth."

ANALYSIS

The LPW Committee version seeks, through its "statement of findings and declaration of purpose" to establish a statutory prejudice in favor of all presently-funded activities and to negate restrictions on lawyer activities which may be found elsewhere in the bill.

CORPORATION STATUS

Plan A (Admin)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan B (House)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan C (LPW)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan D (Brock)—"a nonmembership nonprofit corporation chartered by the Congress . . ."

ANALYSIS

Only the Brock-Helms plan provides for a Federal charter. Under a non-Congressional D.C. charter, the Corporation would be subject to changes in the D.C. corporation act. With home rule, the D.C. government, rather than Congress, could have a major impact on the Corporation.

BOARD OF DIRECTORS

Plan A (Admin)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan B (House)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan C (LPW)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan D (Brock)—"Seven members who shall be appointed by the President . . . to take office upon confirmation by the United States Senate" for staggered terms of seven years.

ANALYSIS

The object of the Brock-Helms plan is to accord board members insulation and independence like that of the judicial branch by providing that no board member may serve more than seven years, and that the length of a normal term be seven years.

There is the implication in the LPW Committee Report (93–495) that the Administration and the LPW Committee have an understanding on Board appointments. The Report says the Committee will act "on the basis of the following primary criteria:

"(1) a board membership which is adequately representative of the organized bar, legal education, legal services attorneys, the client community, and organizations involved in the development of legal assistance for the poor; (2) the selection of persons who are committed to the Corporation's freedom from political control; and (3) the assurance that the Board members understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation . . . To assure that these criteria are met, it is expected that the initial nominations of the Board, including the nominee for chairman, will be presented together to the Senate, so that the President will have the opportunity to present and the Senate to consider the full distribution of membership qualifications for the Board."

CHAIRMAN OF THE BOARD

Plan A (Admin)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan B (House)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan C (LPW)—"The President shall select" a member of the Board to be its Chairman for an initial three-year term. Thereafter, "the Board shall annually elect a chairman" from its own membership.

Plan D (Brock)—A "Chairman to be appointed by the President" from the Board, for a term of one year, each year. "No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board."

ANALYSIS

Annual Presidential appointment of the Chairman encourages political accountability to the President. *The LPW plan trades to the President one three-year appointment, after which the President's appointive power would be eliminated.* Under the Brock-Helms plan, the chairman can be removed by majority vote of the Board. The LPW Committee Report (93–495) says, ". . . the thrust of the Act is to remove the program from political interference . . . It is contemplated that the initial chairman will be selected from among those nominees for the initial board who have the most extensive familiarity with legal assistance programs and a demonstrated concern for the legal needs of the poor."

TAX-EXEMPT STATUS

Plan A (Admin)—No provision.

Plan B (House)—The corporation and its grantees "shall be eligible to be treated as an organization described in section 170(c) (2) (B) of the Internal Revenue Code of 1954, or as an organization described in section 501(c) (3) . . . which is exempt from taxation under section 510(a) of such Code. If such treatments are conferred . . . (grantees) shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

STATE ADVISORY COUNCILS.

Plan A (Admin)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation."

Plan B (House)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification."

Plan C (LPW)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification." Requires that the Governor make his appointments only "after recommendations have been received from the State bar association."

Plan D (Brock)—No provision.

ANALYSIS

The House and *LPW Committee versions tend to preclude summary action* against a grantee which is found by a state advisory council to be in violation. The *LPW Committee plan could prevent establishment of a state advisory council if its bar association delays acting or fails to act.* It also establishes that all council members should be attorneys, thus negating the thrust of the Administration bill to permit a citizen check on program abuses.

The LPW Committee Report (93–495) also says, ". . . it is expected that the governor will appoint attorneys who have experience and knowledge in the delivery of quality legal services to the poor. The sole function of such advisory councils will be to notify the Corporation of any alleged violations of this legislation."

NATIONAL ADVISORY COUNCIL

Plan A (Admin)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—"There shall be a National Advisory Council to consult . . . especially on all rules, regulations, and guidelines . . ." Its fifteen members "appointed by the Board to serve for terms of three years . . . shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients, and the general public." Provisions of "section 7(d) of Public Law 92–463" shall apply.

Plan D (Brock)—No provision.

ANALYSIS

The LPW provision reflects the view that the corporation should operate in a manner responsive not to the public as a whole but to a narrow interest of "client groups," employees, and professional beneficiaries. This would institutionalize special interest group pressures and assure a program "of the club, by the club, and for the club." The practical consequence of this provision, if past experience is any guide, would be to repose both veto and initiatory authority in the advisory council, for all policy issues, with the Presidentially-appointed part-time board becoming little more than a ratifying group for the NAC.

The LPW Report (93–495) says, "It is intended that the membership of the National Advisory Council will be selected after consultation with, and so as to be representative of, such national organizations as the American Bar Association, the National Bar Association, the American Trial Lawyers Association and other national lawyers groups, the Association of American Law Schools, the National Legal Aid and Defender Association, the ABA Standing Committee on Legal Aid and Indigent Defendants, the ABA Section on Individual Rights and Responsibilities, the Project Advisory Group, the Organization of Legal Services Back-Up Centers, and the National Clients Council and other client organizations, as well as individual legal assistance attorneys, client representatives, and others with expertise in providing legal assistance to the poor. In this way, the Council would be representative of the three basic elements which give special vitality to the program, as well as the general public.

"The Board and the president of the Corporation should consult in advance with the National Advisory Council on the activities of the Corporation, including proposed policies, rules, regulations, and guidelines."

CHIEF EXECUTIVE OFFICER

Plan A (Admin)—Selected by the Board.

Plan B (House)—Selected by the Board.

Plan C (LPW)—Selected by the Board.

Plan D (Brock)—Selected by the Chairman of the Board, subject to majority approval of the Board. Maximum term of four years.

ANALYSIS

A Chief Executive named by a group can avoid accountability or can manipulate the appointing authority. Selection by the Board collectively can unduly enhance the power of "poverty law" professionals in controlling the Chief Executive. Under the Brock-Helms bill, accountability is structured through a single point. This encourages "Board control," rather than "staff control." Under systems of "staff control," special interests have an easier time in manipulating the organization's decisions. With Board Members serving normal terms of seven years, and Executive Directors a maximum of four (under the Brock-Helms bill), Board control would be further enhanced.

The Senate Labor and Public Welfare Committee Report (93–495) says, ". . . the Board should solicit and carefully consider recommendations from those principally involved in or served by legal services programs as to the selection of the initial president of the Corporation and, as to subsequent presidents, should seek the advice of the National Advisory Council, the person selected should be experienced in the legal assistance field and have previously demonstrated a commitment to the provision, in accordance with the highest standards of the legal profession, of quality legal assistance to the poor."

PUBLIC INTEREST LAW GROUPS

Plan A (Admin)—Permits direct funding, grants, or contracts to provide "(i) research, (ii) training and technical assistance, and (iii) to serve as a clearing house for information". But no grants or contracts may be made to "any public interest law firm which expends any resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor".

Plan B (House)—Permits the Corporation to "undertake directly" but "not by grant or contract" research, training and technical assistance, and information clearinghouse functions. However, allows grants and contracts to public interest law firm, if less than "fifty per centum" of its resources and time is spent "litigating".

Plan C (LPW)—Permits direct funding, grants, or contracts for "research, recruitment, training . . . information clearinghouse . . . and for technical assistance". Also permits grants or contracts of "any public interest law firm" which spends less than fifty percent of its resources and time "litigating issues in the broad interests of a majority of the public".

Plan D (Brock)—Permits "making available information of a technical nature to those rendering legal services" and enables the Corporation "to contract with a private or public group, association or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients." Total funding for this category of activity to be set by Congress, through appropriations process.

ANALYSIS

The Administration bill bans support for Naderesque "public interest" law groups, while permitting training and technical assistance by grant. The House passed bill improves accountability for training, technical assistance, and research priorities, by requiring that they be done "in-house", rather than by grant or contract, but negates the safeguard by *allowing subsidy of "public interest" groups which spend less than half their time not actually litigating—virtually none would be disqualified. The LPW bill is the most permissive* on all scores, *negating the impact of any prohibition,* since in the words of the committee report, it merely disallows aid to those purporting to act in the interest of the majority, rather than such "minorities" as the poor, the radical, the perverse, or what have you. The Brock-Helms plan permits research activities, subsidized by contract, so as to clearly define what is sought.

TERMINATION OR SUSPENSION OF GRANTS

Plan A (Admin)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with "provisions of this Act and the corporate charter and by-laws." If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan B (House)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with "provisions of this Act and the corporate charter and by-laws." If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan C (LPW)—Permits termination only if a grantee "fails substantially to comply" and only "after other appropriate remedial measures have been exhausted." In addition, requires that the "Corporation shall prescribe procedures to insure that—(1) financial assistance . . . shall not be suspended" without "reasonable notice and opportunity to show cause . . ." Also says "a grantee's application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days" without reasonable notice and opportunity for a timely, full, and fair hearing."

Plan D (Brock)—Corporation has no power to terminate or suspend a recipient, except for "discrimination on the basis of race, religion, sex, or national origin" or "violation of the Code of Professional Responsibility." But civil penalty, making violation a misdemeanor, is established (up to $50 and six months).

ANALYSIS

The LPW bill makes it more difficult to terminate, suspend, or refuse to refund a grantee. "Procedural" provisions could endlessly tie up in the courts any attempts at remedial action. Brock-Helms involves itself only in violations of basic client rights, on the theory that client choice will impose constraint on free-wheeling activity.

LIMITATION ON SIZE OF NATIONAL STAFF

Plan A (Admin)—No limitation.

Plan B (House)—No limitation.

Plan C (LPW)—No limitation.

Plan D (Brock)—"In no event shall the Corporation have more than twenty-five employees."

ANALYSIS

Unlike the others, the Brock-Helms plan would focus virtually all resources on provision of assistance to individual clients. Barring an oversized national staff helps prevent development of a centrally dominated and directed program.

GRANT AND CONTRACT POWERS

Plan A (Admin)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan B (House)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan C (LPW)—". . . to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with: (i) individuals, partnerships, firms and non-profit organizations and corporations, and (ii) State and local governments (only upon application by an appropriate State or local agency or institution) and upon a special determination by the Board that . . . such agency or institution will provide supplemental assistance which cannot be adequately provided through non-governmental arrangements . . . and (B) to make such other grants and contracts as are necessary . . ."

Plan D (Brock)—"To render financial assistance to the states to enable the provision of legal assistance to qualified individual citizens . . ." States can qualify by enactment of enabling legislation, either to "Empower a State Instrumentality . . . to disburse such funds to attorneys representing eligible clients . . ." or to "Transmit the funds . . . to the Bar Association with overall jurisdiction in the State, which Bar Association shall have established a method for disbursal of funds to attorneys representing eligible clients . . ." or by "Establishment of a method of direct payment . . . based upon a voucher system . . ." If a State does not enact enabling legislation "within ninety days," the Bar Association may "submit a plan . . . to the court of highest jurisdiction in the State. . . ." If, within one hundred twenty days (120) there is either no court approved plan or legislatively enacted plan, the Corporation "may assign funds for expenditure within said State in a manner to be determined by the Corporation."

ADMISSION TO PRACTICE

Plan A (Admin)—Requires that "No attorney shall receive any compensation" unless "admitted to practice law in the state where the rendering of such assistance is initiated."

Plan B (House)—Permits compensation of attorneys "authorized" to practice law.

Plan C (LPW)—Permits compensation of attorneys "admitted or otherwise authorized by law, rule, or regulation" to practice law or provide "assistance."

Plan D (Brock)—Allows compensation "subsequent to admission to practice law in the jurisdiction where such assistance is rendered."

ANALYSIS

Only a strict limitation of compensation to those "admitted" to practice can assure that qualified, locally-based attorneys will render service. A high proportion of program abuses have stemmed from grantees hiring persons not known or qualified locally. The LPW plan, while purporting to be stringent, is, in effect, merely a semantic deception. Many instances of abuse can be traced to non-admitted lawyers who are authorized under law, rule, and regulation to provide assistance.

ANALYSIS

Under the LPW plan, revenue sharing with state and local governments is barred except in most remote circumstances. Under Brock-Helms, if a state fails to take affirmative action for a client-choice approach to legal services, the national Corporation may continue the staff-attorney grantee system.

The LPW Report (93–495) locks in present staff attorney grantees by stating:

"It is the expectation of the Committee that such grants and contractual arrangements will continue to fund legal services operations in the same general manner as they have been funded under the Economic Opportunity Act, with funds, at no less than the existing overall program level, allocated to staff-attorney programs which devote all their time and attention to the probems of the poor and which have demonstrated their ability to effectively carry out the provisions of legal services to the poor . . . it is intended that there should not be a significant shift of resources away from present types of recipients, and it is not intended that assistance should be provided through governmental arrangements where such assistance can be adequately provided directly through private, non-governmental arrangements."

PROHIBITION OF "STREET" ACTIVITIES

Plan A (Admin)—Bars staff employees "from participation in" and "encouragement of others to participate in . . . rioting, civil disturbance, picketing, boycott, or strike . . . activity which is in violation of an outstanding injunction . . ." or "any illegal activity." Termination or summary suspension is a possible remedy for non-compliance.

Plan B (House)—Bars "picketing, boycott, or strike" activity only *"while engaged* in activities carried on by the Corporation or a recipient." Prohibits rioting, civil disturbance, violation or injunction, and illegal activity "at all times." Termination or suspension possible, but *only grantee may take* action against one of its employees.

Plan C (LPW)—Bars "public demonstration or picketing, boycott or strike *"while carrying out* legal assistance . . . *except as permitted.* . . ." Bars "rioting or civil disturbance . . . violation of an outstanding injunction . . . or illegal activity" at any time. Provides for "remedial measures" and "hearing" in case of violation.

Plan D (Brock)—Bars use of resources for any "demonstration, boycott . . . rally, march, strike . . ." or compensation of persons who "during their service" advocate "disregard or violation of Federal or state law."

ANALYSIS

The Administration and Brock-Helms bills are most stringent, in terms of scope and remedy. *The LPW version has modifying language which renders meaningless all prohibitions except those on already illegal activity.*

CITIZEN SUITS TO ENFORCE THE LAW

Plan A (Admin)—"Any interested person may bring an action in a Federal District Court to enforce compliance with the prohibitions . . ." Also provides reimbursement of costs and legal fees if "a final judgment is rendered in favor of the plaintiff."

Plan B (House)—No provision.

Plan C (LPW)—No provision.

Plan D (Block)—No provision.

ANALYSIS

Grants standing to citizens to initiate action mandating compliance with the law if the Corporation fails to act or acts improperly.

USE OF CORPORATION FOR LOBBYING OR POLITICS

Plan A (Admin)—No litigation except on behalf of "the corporate entity itself." Lobbying permitted, in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan B (House)—No litigation except on behalf of "the corporate entity itself." Lobbying permitted, in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan C (LPW)—Same as Plans A and B with respect to corporate lobbying and political aid, but permits use of personnel and resources "for use in advocating or opposing any ballot measures, initiatives, or referendums" whenever deemed "necessary to the provision of legal advice and representation."

Plan D (Brock)—Incorporates all restrictions in Administration bill, adding prohibition of aid to "any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders or similar enactments or promulgations."

ANALYSIS

Only the Brock-Helms bill bars aid to advocacy groups which are substantially involved in organizing or lobbying on issues of public policy. *LPW is most permissive, negating prohibitions whenever deemed "necessary" to aid a client.*

CLIENT ELIGIBILITY/FEE SCHEDULE

Plan A (Admin)—Establishes "a schedule of fees" requiring client "if able" to pay partial cost of assistance. Establishes ceiling for eligibility at twice OMB poverty level. Precludes aid to one whose "lack of gross income results from his refusal or unwillingness to seek or accept employment."

Plan B (House)—Gives Corporation, not OMB, power to set ceiling for eligibility. Eliminates "schedule of fees" provision. Precludes aid to poor who refuse to seek or accept employment "without good cause."

Plan C (LPW)—Gives Corporation, not OMB, power to set ceiling for eligibility, but gives recipients authority to set eligibility "in accordance with factors *related* to financial inability to afford legal assistance, which may take into account, among other considerations, evidence of a *prior determination* that a lack of income results from a refusal, without good cause, to seek or accept an employment situation *commensurate with* an individual's health, age, *education, and ability."* (emphasis added). Eliminates "schedule of fees" provision.

Plan D (Brock)—Imposes Medicaid eligibility standard or, if none applicable, OMB standard, while precluding aid to those unwilling to "seek or accept employment" except by reason of physical or mental disability. No "schedule of fees."

ANALYSIS

The "schedule of fees" proposed in the Administration bill would impose a token but useful economic constraint to help approximate the constraints which cause the non-poor to think twice before initiating legal action. The Administration and Brock-Helms plans set forth clearly defined, if liberal, standards for eligibility to prevent diversion of funds into "cause" litigation involving the non-poor.

LPW has no schedule of fees and allows grantees to serve those who are not poor, and those who are poor by choice.

ALLOCATION OF FUNDS

Plan A (Admin)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan B (House)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan C (LPW)—"Insure . . . the most economical, effective, and comprehensive delivery of legal assistance to persons in both urban and rural areas . . . assure equitable service to the significant segments of the population of eligible clients . . . provide special consideration for utilizing . . . organizations and persons with special experience and expertise in providing legal assistance to eligible clients."

Plan D (Brock)—Assigns funds "in amounts proportionate" to each state's share of the eligible poverty population.

ANALYSIS

Only the Brock-Helms bill establishes a formula for equitable apportionment of available resources, regardless of geographic location, racial, political, or religious considerations. *LPW affords preference to present grantees and other non-federal programs now active in the "poverty law" field.* Thus, the ACLU and Ralph Nader would be preferred recipients under the LPW plan.

OUTSIDE PRACTICE OF LAW

Plan A (Admin)—Totally forbids outside practice of law by staff attorneys.

Plan B (House)—Totally forbids outside practice of law by staff attorneys.

Plan C (LPW)—Prohibits only "compensated" outside practice of law. Uncompensated outside practice would be permitted subject to Corporation guidelines.

Plan D (Brock)—No provision.

ANALYSIS

The ban on outside practice is intended to prevent circumvention of prohibitions on improper activity, by attorneys purporting to act on their own time (e.g., coffee break, lunch hour, comp time, etc.). Brock-Helms does not include such a ban because it relies on attorneys in private practice, rather than staff attorneys. The LPW version would negate the ban on "uncompensated" outside practice by staff attorneys, if the corporation adopted permissive guidelines. Also, without statutory force, it would be easier for grantee employees to bypass with impunity any "guideline" prohibition.

LOBBYING

Plan A (Admin)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "when formally requested to do so by a legislative body, a committee, or a member thereof."

Plan B (House)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "or make a statement when formally requested to do so by a governmental agency, or by a legislative body or a committee or a member thereof, or (B) in the course of providing assistance to an eligible client . . ."

Plan C (LPW)—". . . no funds . . . at any time, directly or indirectly . . ." except where "necessary to the provision of legal advice and representation" or where "representations" are requested.

Plan D (Brock)—No use of funds or personnel "to influence the passage or defeat of any legislation" directly or through others.

ANALYSIS

The Administration bill allows testimony upon formal request of any legislator. The House bill allows testimony or statement upon formal request of governmental agency or legislator or in the course of client representation. *The LPW version allows more than testimony ("representation" can be virtually any form of lobbying), whenever requested (not formally) by a legislator or "in the course" of representing a client (NWRO).* The Brock-Helms bill totally bars lobbying. Inasmuch as groups are eligible clients under all except Brock-Helms, the nuances of definition become very important.

POLITICAL ACTIVITY

Plan A (Admin)—Bars "any political activity" "while engaged" except voter transportation and registration in the course of "legal representation", for part-time attorneys. Totally bans such activity by full-time staff attorneys.

Plan B (House)—Substantially the same as Administration bill.

Plan C (LPW)—Permits political activity, voter transportation and registration when not "engaged" or when "necessary to the provision of legal advice and representation". Limits definition of political activity to party and candidate politics; totally permissive on "issue" politics. Cites Hatch Act only with respect to use of "official authority and influence" or to coerce campaign contributions. Omits key Hatch Act provision barring "an active part in political management or in political campaigns."

Plan D (Brock)—All persons receiving principal compensation through the Corporation are covered by Hatch Act. Prohibits use of funds and personnel to "support or oppose, directly or indirectly, any candidate

. . . or any political party." Also bars aid to "any group or association participating in such activities". Prohibits "any activity organizing individuals or groups", as well as political activity, voter registration, and voter transportation, from being subsidized with Corporation funds.

ANALYSIS

Administration bill bans normal political activity, in an elective sense. Brock-Helms bans this kind of politics in the program, as well as aid to grass-roots political groups like the American Indian Movement, Black Panthers, Gay Lib, etc. *The Labor-Public Welfare bill, by careful wording, permits virtually all such activity*. For example, in classifying employees of the Corporation as state and local employees under Chapter 15 of Title V of the U.S. Code, the Labor and Public Welfare bill "does not prohibit political activity in connection with—(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or (2) a question which is not specifically identified with a National or State political party. For the purpose of this section, questions relating to Constitutional amendments, referendums, approval of municipal ordinance, and others of a similar character, are deemed not specifically identified with a National or State political party."

PROCEDURE FOR APPEALS

Plan A (Admin)—"The Corporation shall establish guidelines for a system for review of appeals to be implemented by each recipient" to prevent "frivolous and duplicative appeals" and "insure the efficient utilization of resources."

Plan B (House)—Is silent on goal of preventing "frivolous and duplicative appeals", but established guidelines for consideration of appeals, "except that such guidelines shall in no way interfere with the attorney's responsibilities."

Plan C (LPW)—Places responsibility for appeals review guidelines directly with grantee.

Plan D (Brock)—No provision.

ANALYSIS

The LPW version destroys the intent of the Administration approach, in essence making it local option whether to allow "test cases" through appeals.

CRIMINAL REPRESENTATION

Plan A (Admin)—No funds may be used to provide "legal assistance under this Act with respect to a criminal proceeding or incarceration for a crime."

Plan B (House)—No funds "to provide legal assistance with respect to any criminal proceeding or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officier of the court or against a law enforcement official."

Plan C (LPW)—No funds "to provide legal assistance under this title with respect to a criminal proceedings."

Plan D (Brock)—No funds to "provide legal services with respect to any criminal proceeding or, in the case of juveniles, procedings which would be criminal if involving adults . . ."

ANALYSIS

All are narrowly construed—the LPW version most of all—allowing, for example, aid to accused or convicted criminals on procedural issues or non-criminal matters which flow from, but are separate from, the "criminal proceeding".

JUVENILE REPRESENTATION

Plan A (Admin)—Bars aid to persons under 18 "without formal written consent" of parent or guardian except in special circumstances, which it spells out.

Plan B (House)—Bars aid to persons under 18 without "written request" of parent or guardian, except in special circumstances, which it spells out.

Plan C (LPW)—Permits juvenile representation "where necessary" to prevent loss of "benefits or services" or "in other cases pursuant to criteria which the Board shall prescribe."

Plan D (Brock)—Bars aid to persons under 18 "without formal written consent" of parent or guardian.

ANALYSIS

LPW offers the apperance, but not the reality of a prohibition since qualifying language can be used to prevent loss of legal "services". House bill is strictest, requiring that parent, rather than attorney, initiate request for representation. *Under the LPW bill, a teenager threatened with "loss" of sterilization "services" could get it without parental consent*. Under the other bills, parental consent would be required. The Administration prohibition was included to limit lawyer-initiated "students rights" and "student protest" uses of Corporation personnel and resources.

TRAINING IN POLICY ADVOCACY

Plan A (Admin)—Denies use of funds to "support or conduct training programs for the advocacy of . . . particular public policies or which encourage political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations."

Plan B (House)—Similar to Plan A, "except that this prohibition shall not be construed to prohibit the training of attorneys necessary to prepare them . . ."

Plan C (LPW)—Prohibits only training for "illegal" boycotts, picketing, strikes and demonstrations, permitting all those which are "legal", with the further exception that encouraging political activities, labor or anti-labor activities, or any illegal boycotts, picketing, strikes, or demonstrations is *permitted* insofar as it involves "rendering of legal advice . . ."

Plan D (Brock)—Bars aid to advocacy training, publications, groups, and activities, including demonstrations, boycotts (legal and illegal), rallies, marches, and strikes.

ANALYSIS

All provide some prohibition except *the LPW version*, which *loses its content in loopholes* and is totally without effect. The Administration provision is intended to limit use of official travel and other T&TA program resources for political purposes.

ORGANIZATION OF GROUPS

Plan A (Admin)—Bars diversion of funds for organizing or otherwise aiding "any organization, association, coalition, alliance, federation, confederation, or any similar entity except as authorized by the Corporation."

Plan B (House)—Similar to Plan A, but slightly more stringent, excepting only "provision of appropriate legal assistance in accordance with" Corporation guidelines.

Plan C (LPW)—Similar to Plan B.

Plan D (Brock)—Total ban on such use of funds—no exceptions.

ANALYSIS

Past experience suggests that exceptions will be broadly construed and be honored more than the prohibitions. Only Brock-Helms is clear-cut.

GOVERNANCE OF GRANTEE GROUPS

Plan A (Admin)—Requires that "any recipient organized solely" to provide legal services be governed by a majority consisting of lawyers who are "members of the bar of the state."

Plan B (House)—Requires "two-thirds" lawyer majority, except when the Board allows a waiver.

Plan C (LPW)—Requires a "majority" of "attorneys who are members of the bar of any state in which such assistance is to be provided" except that all present grantees are excluded from this requirement.

Plan D (Brock)—No provision, since client choice would replace "guild" staff attorneys system.

ANALYSIS

All plans omit mention of process for selecting or replacing local boards, or making them subject to review by bar or elected officials. LPW provision is meaningless anyway, since it excepts all present grantees.

THIRTY DAYS NOTICE

Plan A (Admin)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan B (House)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan C (LPW)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan D (Brock)—No provision necessary, since specific decisions are generally accountable to state authority.

ANALYSIS

Replaces Governor's veto authority, which is part of the OEO legal services program.

CLIENT CHOICE

Plan A (Admin)—Promotes introduction of client choice and market constraints by requiring that "no less than ten percent" of its funds go to "activities which are non-staff attorney oriented". Also requires the Corporation to "conduct a study of alternative methods . . . including judicare, vouchers, prepaid legal insurance and contracts with law firms" with recommendations to President and Congress by June 30, 1974.

Plan B (House)—Requires the Corporation to "conduct a study" and report by June 30, 1974, as in PLAN A, but omits assignment of funds to "non-staff attorney" activities.

Plan C (LPW)—Omits assignments of funds to "non-staff attorney" activities and defers recommendations until "not later than two years after the first meeting of the Board".

Plan D (Brock)—Sets aside up to five percent "of the Corporation's annual appropriation" to be used for special incentive grants which will encourage States "to experiment with alternative delivery systems for legal services to eligible clients." Requires that State enabling legislation "Permit eligible clients to retain the individual attorney of their choice."

ANALYSIS

Only the Administration and Brock-Helms plans take actual steps to decrease exclusive reliance on the subsidized poverty lawyer and move toward client choice of private practitioner. *Under LPW, even formal consideration of moves toward client choice are deferred until 1976*.

FINANCING OF THE CORPORATION-COMMINGLING

Plan A (Admin)—Permits three-year appropriations. Bans commingling of "funds not made available by the Corporation" with those derived from appropriations under this Act.

Plan B (House)—"Funds appropriated pursuant to this section shall remain available until expended." Non-federal funds received by Corporation and grantees "shall not be expended by recipients for any purpose prohibited by this Act"—except to permit certain public defender activities.

Plan C (LPW)—Raises authorization to $100 million for FY1976, after $90 million—FY1975 and $71.5 million for the current fiscal year. "Funds appropriated . . . shall remain available until expended." Retains requirement of separate accounts for non-federal funds, but eliminates House ban on indirect subsidy of prohibited activities.

Plan D (Brock)—No provision necessary, because of reliance on private practitioners.

ANALYSIS

All prohibitions in the bill can be negated if it fails to include the *House provision* barring use of funds from other sources for actions prohibited with Federal funds. The LPW version does not include this at all. The Administration Plan is limited to requiring separate bookkeeping of potentially improper activity.

ACCOUNTABILITY TO CONGRESS

Plan A (Admin)—Right to repeal, alter, and amend.

Plan B (House)—"The Corporation . . . shall be liquidated on June 30, 1978, unless sooner terminated by Act of Congress." Right to repeal, alter, and amend.

Plan C (LPW)—"Except as otherwise specifically provided . . . the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government for the purposes of any Federal law or Executive order." "Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States or of the District of Columbia to exercise any direction, supervision, or control with respect to the Corporation, any grantee, contractor, or person, or entity receiving financial assistance under this title, or any employee thereof, to the bylaws, rules, regulations, or guidelines of the Corporation, to the attorneys providing legal assistance under this title, or to eligible clients receiving legal assistance under this title." Right to repeal, alter, and amend.

Plan D (Brock)—Right to repeal, alter, and amend.

ANALYSIS

The Labor and Public Welfare bill denies the American people, through their elected officials, virtually all right and opportunity to hold the Corporation accountable for its use of public funds. At the same time, special interest groups of providers and consumers of services under the program are assured of prerogatives relating to refunding, political action, issue advocacy, etc. *The House bill sets a time, five years hence, when Congress would be required to specifically approve contiuuation of the program if it were to remain authorized.* The LPW Committee Report (93–495) asserts ". . . the reason for the establishment of the Corporation is the removal of legal services programs from political interference and control." It stresses accountability "to the bar and the poor", as an important goal, rather than simple accountability to the public as a whole.

REIMBURSEMENT OF COSTS TO LS DEFENDANTS

Plan A (Admin)—No provision.

Plan B (House)—If "a final judgment is rendered in favor of the defendant and against the Corporation's or recipient's plaintiff" the court may award reasonable costs and legal fees to the defendant, to be paid directly by the Corporation.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

ANALYSIS

House bill seeks to redress inequity of private parties having to defend themselves at often great personal expense against tax-supported harassment by staff attorneys.

PREFERENCE TO LOCAL ATTORNEYS

Plan A (Admin)—No provision.

Plan B (House)—"Insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions . . . and give preference to qualified persons who reside in the community to be served."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision necessary.

ANALYSIS

The House bill provision works to prevent "separate system" of law for the poor manned by roving "poverty lawyers". Encourages accountability to the local bar, by hiring attorneys with a stake in the community.

FEE-GENERATING CASES/INCITEMENT OF LITIGATION

Plan A (Admin)—No provision.

Plan B (House)—Require attorneys "while engaged" to "refrain from the persistent incitement of litigation . . . and refrain from personal representation for a private fee for a period of two years any cases which are first presented to them" while employed with Corporation funds. Also bars fee-generating cases, except according to guidelines.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

ANALYSIS

The House provision is intended to reduce solicitation of clients, despite more liberal provisions of Code of Professional Responsibility and Canons of Ethics which apply to legal services attorneys.

BUSING—ABORTION—DESERTION—GRANTEE QUOTAS

Plan A (Admin)—No provision.

Plan B (House)—Bars use of funds to provide legal assistance "relating to the desegregation of any school or school system" as well as to "procure a nontherapeutic abortion or to compel" abortion. Also bans legal assistance involving "desegregation of any institution of higher education," or in matters "arising out of a violation of the Selective Service Act or of desertion from the Armed Forces. . . ."

Plan C (LPW)—No provision.

Plan D (Brock)—Bars discrimination "in favor of or against individual attorneys, employees, or clients on grounds of race, religion, sex, or national origin."

ANALYSIS

The anti-discrimination provision of the House bill would preclude resort to quota systems or "reverse discrimination" in hiring and assignment of program funds. It does not, however, ban lawsuits which seek to impose quotas.

TRANSFER PROVISIONS

Plan A (Admin)—No special provisions.

Plan B (House)—Places Secretary of HEW in charge of transition.

Plan C (LPW)—Transfers most OEO legal services personnel to Corporation. Existing union agreements remain in force.

Plan D (Brock)—No special provisions.

ANALYSIS

The LPW version perpetuates "club" control of the program by retaining "sensitized" personnel and limiting authority of the Board (management) under the terms of the existing OEO union contract.

USE OF GSA AND FTS RESOURCES

Plan A (Admin)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—Permits a President to "direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system and other facilities, be utilized by the Corporation or any grantee contractor or person or entity receiving financial assistance under this title. . ."

Plan D (Brock)—No provision.

ANALYSIS

The LPW bill presents a mind-boggling blank check through which a President could turn over free long-distance phone service, GSA facilities, vehicles, or other aid to any group being aided or employed by the Corporation, whether the United Farm Workers, Ralph Nader, the American Civil Liberties Union, or Young Americans for Freedom. This makes the Corporation's appropriations open-ended and places it beyond the normal checks of Congressional appropriations review.

Mr. BROCK. Mr. President, I yield myself 5 minutes.

I will admit a certain sense of weariness after a long day, and I know many of my colleagues share it. Perhaps it is compounded to a degree by the fact that some of the efforts we have made on this floor have been thwarted by those who disagree. I would say at the outset that I personally have great respect for the proponents of this legislation, for their sincerity and ability, and for the quality of the debate. Even though in most instances we have not been successful, I think the effort was worthwhile.

We come now to the point at which we really have to choose between programs that, while both seek to achieve the same purpose, are measurably different in application. On the one hand we have a Federal Corporation. Throughout that piece of legislation, which is the committee bill, are exceptions from any regulatory, executive, or congressional oversight. We treat the employees as Federal employees for compensation purposes, but we treat them as State employees for political purposes. We exempt them from application of any Executive order, for example, a civil rights order which required a certain standard of performance in minority hiring, and the like, yet we hire them under a Federal Corporation.

It is a Federal bill, providing for a totally independent, nonsupervised agency of Government, run without being subject to political jurisdiction or control.

We have tried, during the course of the debate, to insist that the Congress regularly review the progress of the program and its success in assisting the poor. We have asked that it cease in 5 years, so that the Congress would be required at that time to evaluate it. We were not successful in that effort. We have asked the opportunity for State governments to have a voice in the program. That effort was not successful. We have asked for some degree of supervision on the part of the President, and in each instance we have been turned down.

So we come to the point now where we have a totally independent branch of Government, operating under a tremendously broad franchise, without effective limitation, without any real safeguard to protect the very people the legislation is designed to serve.

On the other hand, the so-called Brock-Helms substitute attempts to deal with the same problem in a very different way. What does it do? It says, very simply, that we would create a Federal Corporation whose principal purpose was to assure accountability and equity in the disbursement of funds, but the utilization of these funds, the management of the program, is delegated, as long as it is consistent with Federal law, to the State and the community.

What is the logic of that? Why have we pursued continually this effort to decentralize the program down to the community level? Well, I speak only for myself, but I say, in all sincerity—I think this applies to States outside of my own—that people are up to their necks with Federal programs over which they have no control being crammed down their throats. Their voice is absent. Yet their money is being spent.

We have a desire that serves the poor, and there is much that the Federal Government can do. However, there is a limit to Washington's ability to help the people of a community—whether they be poor, black, or disadvantaged—by some other condition. If they are to be truly assisted, the basic support must come from the other people who inhabit that community, from the individuals, the mayors, and the county judges, from the people who live next door.

It just seems to me that if we really want to solve the problems of this Nation, we have to motivate the community to respond to the needs of their fellow men and enhance its capacity to do so. We do not enhance that desire by saying: "We don't care what you think. We will have a new program whether you like it or not. We will meddle with your political system and lobby and use your tax dollars to enact this legislation which you happen personally to dislike." That is not going to get them to help the disadvantaged of this country.

The choice here is not one of how the system works in mechanical terms. It is not a choice of the statute itself in terms of the amount of dollars that will be spent, or who happens to serve on the board of directors. These are not the real questions.

What concerns me is how much support with we have at the community level. Millions of people in this country are not given access to due process of law today because they cannot afford it.

We show a concern for that fact by debating the issue itself. However, if we really want to get something down to the individual level, rather than force a little cash and a lot of control down through the bureaucratic sieve, we will design a measure which involves local response and involves people at the community level and gets them to help their fellow man, and not just bring in someone from outside of the community or from outside of the State to tell them how they think they should act, live, or with whom they should associate. We should do it by saying: "We care about you and care about providing for you access to the due process of law." We should give our fellow citizens an opportunity to enhance that opportunity for their fellow man, to help them to find a way out of poverty, out of welfare, out of the slums we describe as public housing in this country.

That is the fundamental choice we face in this legislation. I said at the outset that I was getting somewhat weary. That is perhaps an understatement. It is not easy to continue to debate a program in which one happens to believe deeply when he is opposed, not only by a majority of his colleagues, but also by his own administration. Yet I think it is important enough for us at least to make the case for an alternative concept of government, a concept which redignifies the community and the individual participation of that community.

I think it is important enough to try to restate again the basic concept of the federal system of government itself because that is really what it is all about.

I just do not believe that we ever will have the money or the power in Washington to do what has to be done to resolve the problems of this country unless we have the cooperation and the faith and the confidence of the American people to do their part at the local level.

The people just cannot have confidence in a system when they do not have a voice in it. They cannot believe in a system when it is used to thwart their desires and needs and to fight against the very things in which they believe.

Mr. President, I suggest that that is really the question we face here tonight and not whether or not we will help the poor, not whether or not we will give them access to due process of law.

I do not think there is any debate about that. We are all committed to equality of economic as well as legal and social opportunities for each of our citizens.

The question is by what device, by the device of motivation or by the device of control?

It is a choice that we face more and more often these days. I fear our tendency to assume even more power, not only with regard to legal services, but also with regard to wage and price controls, economic controls, and all of the rest of the impediments to freedom that this Congress has recently imposed upon the American people. This is wrong morally, ethically and politically. If we as representatives are to continue to merit our constituent's faith, we must act to enhance their freedoms, not to cripple even their most elementary choices.

I would urge the adoption of the substitute. I commend it to the Senate.

Mr. TOWER. Mr. President, the proposal we are discussing today to establish a permanent national system for the delivery of legal assistance to our Nation's poor is a proposal worthy of our most serious and thoughtful consideration. The goals envisioned by it are ones which we can all endorse. Why then are we engaged in controversy over something which would appear, on the surface at least, to be so universally acceptable? The answer to that question is a simple one. When we strip away our personal political and ideological motivations, the central focus of our differences here is the type of delivery system we will select to make these important services available to the American people.

While any number of bills have been introduced and discussed to varying degrees, two basic proposals have emerged for our serious consideration.

The first, S. 2686—or Javits-Nelson proposal—would establish a totally independent national corporation chartered under District of Columbia incorporation laws, with a permanent $100 million annual appropriation to provide legal services under the staff-attorney or staff-office system.

The second, S. 1990—or Brock-Helms proposal—would establish a Federal corporation chartered by the Congress—and accountable to the Congress through the annual appropriation process—to channel funds to the States for a judicare or client-choice system.

During the last several years we have seen a number of differing versions of the Javits-Nelson proposal and they have received considerable attention and have been rather thoroughly discussed. During this Congress, however, we have for the first time a thoughtfully and carefully developed new approach to the delivery of legal assistance to the poor.

For years it was presumed that the cost-effectiveness of a client-choice or judicare system, such as that being proposed by Senators BROCK and HELMS, would not be comparable to a staff-attorney or staffed-office system. Some careful investigation and research done by my friends from Tennessee and North Carolina, however, have resulted in a surprising contradiction of our original presumption. It is my understanding that they have presented or do intend to present a cost-analysis of the two types of delivery systems themselves. So I shall not do so here. However, the findings indicate not simply comparable cost-effectiveness figures for the two, but in fact a greater cost-effectiveness ratio under the judicare system.

Unfortunately, before a parliamentary question of proper committee jurisdiction for the various proposals to establish a legal services corporation could be resolved, and hearings held to consider the two alternatives in light of the information provided by Senators BROCK and HELMS, the Senate Labor and Public Welfare Committee hastily drafted S. 2686, and reported it to the full Senate for consideration.

As a result of that, Mr. President, my colleagues and I are faced today with making a decision between two types of delivery systems for legal services to the poor without the benefit of the wise counsel of the members of the Senate Judiciary Committee who under the rules of the Senate, have primary responsibility for, as well as unchallengeable expertise in, matters pertaining to our judicial process.

It was certainly my hope throughout this debate that some agreement could be reached whereby this measure would be referred to the Judiciary Committee for a limited period. I have been informed, however, that the managers of the bill are unwilling to agree to such a proposal.

I must admit that I am somewhat confused as to the reasons for their reluctance in this matter for it would appear that we have only to gain by a careful deliberation of the two proposed approaches to the delivery of Legal Services. On the one hand, those of us who question that the staff-attorney system is the best approach might be persuaded by rational discussion that it is, in fact, the best system, which would almost certainly lead to unanimity as we launch this new national effort. On the other hand, if the Senators from Tennessee and North Carolina have evidence that a client-choice system would provide the best approach, we should all be eager to hear what they have to say, for in the final analysis, our responsibility here should be to insure the best possible program to provide for the needs of the American people.

We apparently shall not have the opportunity to achieve this end, Mr. President: Consequently, I have decided on the basis of my own analysis of the two approaches that the Brock-Helms proposal carries the greatest promise of effectiveness, and I intend to support the substitute offered by my distinguished colleagues from Tennessee and North Carolina. Furthermore, on the basis of the information available to us today, I believe it deserves the support of the majority of the Members of this body. I urge the adoption of the Brock-Helms amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, may I know how my time stands?

The PRESIDING OFFICER. Will the Senator repeat his question?

Mr. JAVITS. How does my time stand?

The PRESIDING OFFICER. The Senator has used 17 minutes of his hour.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

This is a proposal to literally—and the offerors of the proposal state it very frankly—change the basis completely as to this legal services matter and, generally speaking, shift it to the States, so that in lieu of a Governor's veto, we have programs which are operated by devolution through State authority. They might be operated privately; they might not. They might be operated by bar associations; they might not. They could be operated through a State agency.

Then, Mr. President, they do one other thing which is very interesting: They try in effect to immunize the State against litigation challenging its own power.

We just defeated that proposal in respect to the Nation. We defeated an amendment, Senator LONG's amendment, which sought to prevent the challenge to the power of the United States by an individual. How much more just is it, therefore, to defeat an amendment which seeks to prevent a challenge by an individual against the power of a particular State.

Again, that is a very essential part of our system. Indeed, it is the reason we say that a citizen has the rights of a citizen of the United States and the rights of a citizen of a State, so that he may juxtapose his rights as a citizen of the United States under, for example, the 14th amendment, as to which we have had 15 years of the most intense struggle in terms of equal opportunity exactly on that proposition. Here in respect of legal representation, a key element in the ability to assert rights, we are asked to take it away.

Mr. President, I do not need to reply upon my own authority in respect of this amendment. I would like to read to the Senate what President Nixon said about State involvement in his message to Congress May 5, 1971. Let me point out here and now that the administration bill takes our tack, that is, the tack of working on the national level with respect to legal services, rather than the State tack, but the door is left open to the extent of the nature of the involvement, and I shall deal with that in a moment.

But, Mr. President, here is what the President said:

> The Nation has learned many lessons in these six short years. This program has not been without travail. Much of the litigation initiated by legal services has placed it in direct conflict with local and State government. The program is concerned with social issues and is thus subject to usually strong political pressures.
>
> Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it a permanent part of our system of justice.

So, Mr. President, it seems to me that the President himself has made clear the line of distinction, as well as the support of the bar association, which I still refer to, and I refer again to the letter which we put into the RECORD dated January 30, 1974. We also have the testimony of Robert W. Meserve, then the president of the American Bar Association, on March 1, 1973, before the House Committee on Education and Labor to the same effect, and I ask unanimous consent that excerpts from his testimony with introductory comments on that point printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

> In testimony before the House Committee on Education and Labor, on March 1, 1973, Robert W. Meserve, then President of the American Bar Association, said:
>
> "As you know, there has been a good deal of controversy surrounding the operations of the Legal Services program. Unfortunately, the criticism, most of which is unfair and overgeneralized, seems to get more public attention than the excellent client service which the more than 2,000 lawyers currently employed deliver to their previously unrepresented clients on a day-to-day basis. We have all heard the outcry against "law reform" activities of poverty lawyers who, according to the criticisms, neglect the legitimate needs of clients in order to pursue their own agenda of social and institutional reform. A look at the record may help to put that criticism in better perspective."
>
> He said also:
>
> "I think any limitation which would bar legislative activity on behalf of a client would violate the code of professional responsibility, if we talk about a client's wishes and a client's interest reasonably adapted to the program.
>
> "Limitations on lobbying for causes or issues not related to a specific client or group of clients would not appear to offend the code if such activity were prescribed as a condition of employment.
>
> "Surely political activity of individual lawyers which seek to promote their own interests of a particular party or individual should not be permitted in the program. I think this could safely be left to the judgment of the board of directors of the corporation which, as I suggested, would at least consist primarily of lawyers acquainted with the restrictions in the code of professional responsibility."
>
> Asked if the rule should be different because the federal government pays the fee, Mr. Meserve said:
>
> "No sir, I do not. I think the lawyer-client relationship does not change just because the Federal Government is paying the fee. There is only one code of professional responsibility. Its provisions are equally applicable to private lawyers and legal services lawyers. That is the way it should be. If we are serious about providing counsel to the poor, I think we should offer the same services as we give to our paying clients."

Mr. JAVITS. Mr. President, there will be a matter in conference on this question of what can be done with State Governors and State agencies. The Senate bill finds that there may be agreements between the new Corporation and State and local governments, where the State or local government applies and there is a special determination by the board of the Corporation that the arrangement to be made will provide supplemental service which cannot adequately be provided through nongovernmental arrangements.

The House bill leaves a very wide-open mandate.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. I yield myself 1 additional minute. The House bill leaves a very wide-open mandate between individuals, partnerships, and so on, and State and local governments, so that contracts can be made for the purpose of providing aid under the legal services program.

I have informed, Mr. President, the authors of this amendment, Senator BROCK and Senator HELMS, that in conference, as I will be a conferee, I will do my best to work out some way in which there may not be any inhibition to dealing with local governments, where they can make an effective and affirmative contribution to the program insofar as the corporation is concerned. It seems to me, Mr. President, that with this issue in conference, rather than to accept a totally different premise entirely, in my judgment highly invidious to the program, by adopting this substitute, we ought to reject it and endeavor to work out the situation in conference as I have described.

The PRESIDING OFFICER. Who yields time?

Mr. BROCK. Mr. President, may I yield myself 1 minute? I would just like to thank the Senator from New York for his contribution. The Senator is certainly a skilled member of this body in all matters, but particularly with reference to this matter, I want to thank him for the quality of the debate, and particularly the quality of his contribution and his very great interest and concern here.

Mr. HELMS. Mr. President, I join my colleague the Senator from Tennessee (Mr. BROCK) in appreciation of Senator JAVITS and others for their consideration of those of us who have not agreed with them, and to state that they have been gracious and cooperative in every way.

Mr. BUCKLEY. Mr. President, it should be apparent by now that, while there are many Senators opposed to the legal services proposal reported by the Labor and Public Welfare Committee, virtually all of us are committed to the general proposition of equal access to justice for all citizens, and to the basic concept of some public assistance in the provision of responsible legal representation for those members of our society who are unable to bear the often heavy cost of legal counsel.

The issue here, Mr. President, is not "shall there be legal services," but, "what kind of legal services shall there be?" Shall there be legal services that deal with the legitimate legal problems of poor individuals, or shall there be legal services that on the record are often tailored to the personal political and social agendas and priorities of self-appointed, elite antipoverty lawyers?

The fundamental issues in this debate are:

First the nature and role of publicly-funded legal services for the poor;

Second. Improved provision of such services;

Third. Freedom of choice for poor legal clients;

Fourth. The best mechanism or structure for the delivery of such services;

Fifth. The builtin weaknesses and abuses found in S. 2686;

Sixth. The politicization of legal services for the poor;

Seventh. The accountability to the peoples' elected representatives of any publicly funded legal services program; and

Eighth. The extent to which the Government of all the people can constitutionally and properly go in subsidizing the agitation for social and political change of one group of people at the literal and figurative expense of the rest of the people.

All these basic issues are closely related to each other. The proper solution to one tends to produce the proper solution in another.

On virtually every one of these questions, Mr. President, S. 2686 fails the test. But the Brock-Helms substitute bill, amendment No. 885, passes muster on virtually all counts.

The current legal services program has been plagued with problems that have resulted from attorneys using the program as a base for promotion of political objectives unrelated to assuring the poor access to justice. Attorneys, on their own, have selected areas of public policy to which they have been opposed and proceeded to work for changes. This, they have tried to do in a number of ways: Recruitment of clients with relevant causes—and rejection of others; efforts to identify areas for class actions which fit their agenda; development of legislative coalitions to push issues of interest to the lawyers; creation of and assistance to quasi-political groups, such as chapters of the National Welfare Rights Organization, which, in turn generate grassroots political pressures and activities; encouragement of dissent in "establishment" institutions, such as prisons, schools, and the military; aid to underground and radical groups by circumvention of prohibitions against assistance to the nonpoor; organization of and assistance to political campaigns—including "nonpartisan", boycotts, demonstrations, et cetera; subsidization of training programs and publications to promote causes and develop technical skills in support of them; conversion of "backup" centers created for research and support purposes into "public-interest" law firms pushing private agendas in such areas as abortion on demand, busing, "prisoners' rights", dissent in the military, aid to conscientious objectors, gay liberation, the anti-Vietnam movement, voter registration, qualification of minority political parties, representation of revolutionary groups, rent strikes, opposition to welfare work requirements, and a host of others.

These abuses were not controlled by the Federal power of OEO, in part because it was a distant national bureaucracy, as would be set up under S. 2686. In addition, the sorry record of most regulatory agencies and independent Government corporations in terms of efficiency and serving the public interest hardly encourages high expectations in yet another such "independent, quasi-public" entity.

But more importantly, virtually all of the existing problems and abuses would continue under the corporation established by S. 2686, because they are either inherent in the structure and approach of S. 2686 or are permitted by the multiplicity of skillfully worded loopholes and exceptions written into nearly every prohibition in the bill.

These abuses stem from two major sources: First, the staff attorney system; and second, the heavy emphasis placed on "law reform" and legislative advocacy by the "old boy" club of activist Legal Services attorneys who dominate the field. These two features are not only implicit in S. 2686, but would be carried on by the "in toto" acceptance of current Legal Services grantees projects, methods, and goals which is encouraged by S. 2686.

The virtually universal staff attorney approach to Legal Services is seriously flawed and contains the incentive for abuse in the following respects:

First. The poor person seeking free legal aid is denied the same free choice of attorney which is available to the more affluent.

Second. The attorney gains dominance in his relationship with the potential client, since both understand the client has nowhere else to go for help.

Third. In the content of monopoly status, priorities for staff involvement are oriented to lawyer preferences, rather than client needs.

Fourth. Subsidized lawyers, with a federally assured income, yet professionally accountable, not to the public, but to themselves, are free to spend their time on high "impact" appeals and test cases, rather than "inefficient" individual representation.

When most Americans think of "legal services," they think of advice and representation provided to individual clients for various civil problems, with litigation used mostly as a last resort aimed at winning that individual's case. However, legal services lawyers and officials view their purpose much differently. A former director of OEO's legal services, E. Clinton Banberger, in 1966 indicated that the role of the legal services attorney was that of redesigning, reforming, and creating not only legal institutions but social, economic, and political institutions as well.

The second Director of the legal services program, Earl Johnson, said that:

> The primary goal of the war on poverty's legal services program should be law reform achieved by significant test cases that can revise the structure of the world in which the poor live.

OEO's former Director, Sargent Shriver, while in office declared that:

> OEO is in the process of making new law through test cases and legislative activity.

Nowhere in statute is there evidence that such a heady definition of the purpose of legal services was authorized or intended. I would suggest that such activities properly belong in the committees and Chambers of Congress and not in publicly funded adjuncts of the executive branch, however far removed.

OEO Director Shriver signalled the beginning of second thoughts about federally-funded test case litigation as an instrument of law reform, to legislative advocacy or lobbying. He wrote that:

> There are several methods of obtaining reform in the substantive laws affecting the poor, the most natural of which is the test-case . . . however, the limitations of the test-case technique when applied to the problems of changing a structure so broad and oppressive as that facing the poor are obvious. In order for real progress to be made, pressure must be brought to bear on Federal and State legislatures.

Fred Speaker, another former Director of the Office of Legal Services, in 1971 delivered a speech to the National Legal Aid and Defender Associaton in which he said:

> In many instances the frontiers of reform are the most open and the most attractive in the legislative halls. Statutory reforms are more permanent than administrative rule changes, and many of the early judicial victories have already been won.

Further evidence of the importance of law reform activities to legal services leaders can be found in the fact that it is one of the major criteria for evaluation of a legal service grantee's success. For example, in 1971 the North Mississippi rural legal services project was rated by OEO as one of the best in the Nation. The project's law reform efforts were prominently mentioned. In the same year the Monmouth County, N.J., legal services organization was criticized in an OEO evaluation for engaging in "little or no law reform."

The twisted logic and somewhat perverted efforts of legal services activists can be seen in the staff manual of the well-known, OEO-supported Dixwell Legal Rights Association of New Haven, Conn. The manual states that:

> The legal service program has realized that it is not fulfilling its mission by simply helping individual poor people. . . . Its answer to the problem has been to focus on test cases.

But, it continues:

> The central difficulty with test cases is that they really don't deal at all with the problem of the caseload. Nearly half of the caseload across the country consists of uncontested divorces.

> Lawyers form only a portion of the staffs of legal services programs. Neighborhood workers . . . can also help amass and maintain a large enough pool of clients to assure successful prosecution of test cases.

There is more:

> Organizing a rent strike, a welfare mothers' group, or a block club is an excellent task for a community worker, especially since after the group is formed, the neighborhood lawyer could represent it.

Explicit permission for such questionable law reform, lobbying, and organizing activities is written into the bill before us, S. 2686.

What has been the effect of all this law reform, test case, and class action effort on the individual poor client?

A partial answer can be found in the disregard for and manipulation of client interests as indicated in the Dixwell staff manual. Further indication is given by the GAO "Report on Legal Services" published last March. It stated:

> There was considerable difficulty interpreting and analyzing the results reported by the grantees because (1) grantees had not defined their objectives in operational terms, (2) grantee records were inadequate, and (3) the confidentiality of the attorney-client relationship precluded our review of certain grantee records.
>
> Adequate data was not available to determine the actual number and types of cases handled, to measure achievements in law reform, economic development, and education, and to compute the average cost for cases handled.
>
> By far the most serious problem, however, was "the number and magnitude of the discrepancies . . ." noted in the grantee's data on accomplishments.

The GAO stated:

> We could not establish the actual number and types of cases handled by the grantees during the 1971 program year nor could we measure grantee achievements in certain program goal areas.

Mickey Kantor, a former official in the legal services program and executive director of Action for Legal Rights, wrote the following in the Clearinghouse Review of Poverty Law in February 1972:

> Litigation was initially viewed as the most relevant and productive forum for the poor. Indeed, the most traumatic and far-reaching decisions on behalf of the poor have been the result of litigation. With all of its benefits, litigation remains expensive, time-consuming, often frustrating and it nearly always results in less for the client than was pleaded for or anticipated.

A more damning complaint can be found in a recounting of an interview with Mary Ellen Hamilton, formerly president of the National Clients' Council. The comment is in an article by Richard Blumenthal in the Yale Law Review. According to Mr. Blumenthal, Ms. Hamilton says that:

> Legal services attorneys have been known to place a high priority on some issues, such as their own status within the program, that are of less concern to the client community. Moreover, on certain issues the interests of the attorneys and the poor may be in direct conflict or at least may be felt to be so. Recently, for example, there have been increasing complaints from clients about attorneys who "exploit" clients to launch sweeping law reform actions, when the individuals may be seeking much more limited solutions to their problems within existing laws. The clients accuse the attorneys of taking law reform "ego trips" at their expense. The National Clients' Council has begun compiling documentation on this problem, and plans to make it a major issue.

Perhaps the most telling commentary was made in a recent lengthy article in the Public Interest entitled "The Uses and Abuses of Legal Assistance." The author, Prof. Harry Brill, was research director of the San Francisco Neighborhood Legal Assistance Foundation—OEO's second largest legal services agency. Professor Brill said:

> The lawyers believe that they had a mission—to devote themselves to bettering the conditions of the poor not only locally but across the state and nation. So if in service to their idealistic aims they breached professional standards of conduct, they experienced no remorse. Though they often felt unappreciated, the lawyers also felt proud of their efforts. They seemed unaware that in the process of doing what they did—falsifying, distorting, and withholding information—these idealists were becoming cynical operators who paid little attention to the means they employed. So the class action strategy the lawyers pursued victimized not only the poor and the organizations that served them; ultimately, the strategy also made casualties of the lawyers themselves.
>
> It is important for those who debate the fate of legal assistance to separate in their minds class action from more conventional legal services. It would be tragic for those who are outraged at government-funded class action to assess and determine the future of the program as a whole on the basis of one of its weakest components. On the other hand, the poor and their representatives, who often tend to regard any attack on existing social programs as an attack on themselves, should realize that, just because something describes itself as a service to the poor, it doesn't follow that, in actuality, it is.

Mr. President, I am not arguing against the merits of many of the causes involved in OEO legal services activism, nor even of the methods used.

What does concern me deeply is that maybe the effects on the nature and structure of a representative government such as ours, of the serious contraventions of the democratic, legislative process caused by the use of citizens' tax dollars to promote changes in our laws and institutions which are desired by a self-appointed vanguard of a group within our society.

The fundamentals of the issue have been cogently described by the highly respected Prof. Geoffrey Hazard of Yale Law School. In an article in the University of Chicago Law Review, Professor Hazard noted that:

> The question in test-case litigation, as in legislation law reform, boils down to the propriety of constituting a publicly funded agency to lobby for the special benefit of a limited sector of the general community . . . there is a serious, if simple, question of principle involved, namely, whether government predicated on equal participation of all members of the electorate is compatible with providing some of them with special political equipage at public expense.
>
> The fact remains that in a constitutional regime partisan political activity is supposed to be a matter of private initiative. For such a regime to survive it has to stay pretty much that way in fact. However inconstantly the principle is fulfilled, it rests on a recognition that a government which creates agencies to formulate what shall be taken as the people's will is no longer a government by the people.
>
> The force of the point is suggested by asking what would be the consequences of generalizing the proposition that the poor should have lobbyists paid by the government; should similar lobbyists be provided the near-poor, the middle-class, the affluent? How does one rationally allocate the political resources through which resource allocation is made? One comes uneasily to the conclusion that the idea simply does not have sustaining attraction.

A review of the history of legal services and of the bill now proposed can only lead to the conclusion that the legal services program has been and will continue to be heavily, in fact, primarily involved in political activities broadly understood, political activities of a conspicuously consistent and pronounced persuasion.

The publicly funded legal services program, with its national network of lawyers attuned to a common agenda for political and social change through law reform efforts in litigation and legislative lobbying, with its wide opportunities for the selection of individual cases to make new law, and with its widespread capacity to mold and mobilize large numbers of people for various forms of pressure and political action, provides an unprecedented national mechanism for the systematic pursuit of their political agenda.

Because of this tacit understanding, those who argue that a so-called independent corporation must be set up free of what they call political control—but what is in reality public accountability for their expenditures and activities to the elected representatives of those citizens who pay the bills and their salaries—those who argue in this manner are guilty of begging the question. For in practice the legal services program is already "independent" and under the current bill, there is every reason to believe it will continue to be heavily involved in political control and politics. The legal services program is not now under the political control of elected politicians; it is in too many instances under the political control and manipulation of the directors who develop the programs and the radical attorneys who staff the projects. It is under the control of the political agendas and ideological biases of these men. This is largely the case now, and under S. 2686, the political control of the program by these individuals in all probability would be greater and much more secure from attempts to loosen it.

The argument for freedom from political control is a fraud, it is an argument to be free to act politically and irresponsibly with public tax money, with no accountability required.

It is also argued that publicly funded legal services lawyers must be free to pursue their cases in whatever manner they wish, with no requirement of public accountability for their actions. In normal, private practice this is certainly necessary and proper. But we have seen that the legal services lawyer is not in the same category as the private lawyer. And as I pointed out earlier, in my discussion of the staff attorney system, that the legal services staff attorney enjoys, in effect, a privileged monopoly status vis-a-vis his poor client. The relationship is very significantly different than that between a private lawyer and his client.

Mr. President, the courts have taken a dim view of political activities by publicly funded organizations. In a case argued before the Pennsylvania Court of Common Pleas, the presiding judge, Judge Sweet, stated:

> We are gravely disturbed by the implications of the "non-service" function referred to indirectly in the application as education, training and research activities. The business of a lawyer engaged by such a nonprofit corporation is to represent indigent persons one by one as they have a need for representation. It is not a class representation of the indigent, as such, nor a collective representation, nor are the poor a single and collective client. To the extent that the Anglo-American legal system still espouses a philosophy of individualism rather than a philosophy of collectivism, rights belong to people, individual people, and not to any great gray mass of "the poor." We do not think that public money should be used to foment rent strikes, promote race riots or encourage civil disobedience.

A prohibition against any public support for political activities and lobbying efforts by particular groups is reflected in another Federal statute, the sections in title 26 of the United States Code which deal with a kind of indirect Federal subsidy, namely the exemption of certain organizations from the requirement to pay taxes. In 1959, in a case which involved this section of the tax code (*Cammarano* v. *The U.S.* 79 S. Ct. 524), the Supreme Court reaffirmed the taboo, noting that the use of tax money to promote the views of a particular group or organization is both unfair and dangerous. The unfairness of such a subsidy was emphasized by Justice Harlan who wrote:

> As early as 1934 Congress amended the code expressly to provide that no tax exemption should be given to organizations, otherwise qualifying, a substantial part of the activities of which "is carrying on propaganda, or otherwise attempting to influence legislation," and that deductibility should be denied to contributions by individuals to such organizations. And a year thereafter, when the code was for the first time amended to permit corporations to deduct certain contributions not qualifying as "ordinary and necessary" business expenses, an identical limitation was imposed. These limitations, carried over into the 1939 and 1954 codes, made explicit the conclusion derived by Judge Learned Hand in 1930 that "political agitation as such is outside the statute, however innocent the aim . . . controversies of that sort must be conducted without public subvention; the Treasury stands aside from them." Petitioners are not being denied a tax deduction because they engage in constitutionally protected activities, but are simply being required to pay for those activities entirely out of their own pockets, as everyone else engaging in similar activities is required to do under the provisions of the Internal Revenue Code.
>
> Nondiscriminatory denial of deduction from gross income to sums expended to promote or defeat legislation is plainly not "aimed at the suppression of dangerous ideas." Rather, it appears to us to express a determination by Congress that since purchased publicity can influence the fate of legislation which will affect, directly or indirectly, all in the community, everyone in the community, should stand on the same footing as regards its purchase so far as the Treasury of the United States is concerned.

Let me quote a portion of that decision again, Mr. President:

> Political agitation as such is outside the statute, however innocent the aim . . . controversies of that sort must be conducted without public subvention: the Treasury stands aside from them. Petitioners are not being denied a tax deduction because they engage in constitutionally protected activities, but are simply being required to pay for those activities entirely out of their own pockets, as everyone else engaging in similar activities is required to do under the provisions of the internal revenue code.
>
> Since purchased publicity can influence the fate of legislation which will affect, directly or indirectly, all in the community, everyone in the community, should stand on the same footing as regards its purchase so far as the Treasury of the United States is concerned.

I believe, Mr. President, that the basic constitutional principle enunciated in this case applies very appropriately to the proposed Legal Services Corporation of S. 2686, in spite of the fancy footwork attempted in the language of the bill.

Mr. President, the dangerous weakness and glaring deficiencies of S. 2686 are legion? Many of them have already been pointed out to this body and scores of amendments have been introduced in a vain attempted to correct them.

The absence of clear statutory guidance on parameters, prohibitions, and penalties regarding the corporation's activities and those of its prospective grantees, limitations placed on the authority of the legislative and executive branches, and the significant influence over the program's governance statutorily accorded private, special interest groups, and individuals, all contribute to the conclusion that the serious problems which now exist in legal services would, in all likelihood, not only be rendered insusceptible to reform, but would increase in frequency, scope, and magnitude.

In addition to the major problems which I have discussed, let me mention some of the lesser shortcomings of S. 2686:

Questionable committee jurisdiction; ratification of present legal services abuses; non-Federal charter; a dominating national advisory council or recipient interest groups; the virtual elimination of State and local governments as eligible grantees; the commingling of public and private funds, negating all prohibitions; permission for lobbying, political activity, aid to demonstration, picketing, strikes and boycotts; representation of minors without parental request; effective elimination of eligibility standards; organization and representation of advocacy groups—the list goes on and on.

With a great many of these loopholes insinuated into the bill by excepting clauses such as "if necessary to the provision of legal advice and representation," or when "deemed appropriate".

Mr. President, I think it is evident to those who will review and face the facts, that past publicly funded legal services programs have seriously exceeded their proper limits, and that S. 2686 would not only continue these serious breaches of propriety and public trust, but, indeed, compound them.

S. 2686 fails on all counts. It embodies an improper conception of the nature and role of publicly-funded legal services for the poor; it will not be an improvement over the careless and neglectful provision of legal services to poor individuals under OEO's programs; it will not provide freedom of choice of attorneys and legal approaches for poor clients; it is not the best mechanism or structure for delivery of such services; builtin weaknesses and abuses exist in it; publicly funded legal services for the poor will continue to be politicized by the political agendas and prejudices of the directors and staff members of the programs; the proposal contains essentially none of that accountability to the people's elected representatives which is both necessary and proper; and finally, the bill, in practice, will require the Federal Government to subsidize the agitation for social and political change on behalf of one group of people at the literal and figurative expense of the rest of the people.

Mr. President, this is one of the worst pieces of legislation I have seen. It attempts to set up a paragovernmental institution that will inevitably see as its objectives to effectuate social change without the usual checks and balances of representative government and without reference to its fundamental purpose of providing adequate legal representation to the poor as individuals and not as faceless members of a class. It establishes a program designed to effectuate major political changes. As the former Vice President commented in the Journal of the American Bar Association.

> What we may be on the way to creating its a federally-funded system manned by ideological vigilantes, who owe their allegiance not to a client, not to the citizens of a particular state or locality and not to the elected representatives of the people, but only to a concept of social reform.

The irreparable flaws of S. 2686 go to the very heart of its conception and structure. This bill would create an organization of social and political activists who would be virtually accountable to no one for their actions, who would enjoy the benefits of Federal tax dollars and Federal employment with virtually none of the concomitant responsibilities and obligations of public service. This bill theratens to short circuit and bypass democratic and constitutional practices.

I strongly urge the Senate to reject S. 2686 and to pass instead as a substitute S. 1990, which offers a proper, reasonable, and effective program for legal services; one that will satisfy the needs of the poor rather than the egos of a few who presume to know what is in the best interests of the poor.

The Brock-Helms bill would set up a small Federal corporation—limited to 25 employees—whose main functions would be to channel to the States funds for the delivery of legal services to the poor and to insure compliance. Each State would then pass enabling legislation to distribute the funds through a State agency, through the State bar association, or through a voucher system directly to clients, for use in payment of legal services rendered by a practicing attorney freely chosen by client to advise and represent the poor. At one stroke, this system would accomplish two important reforms: first, it would restore to the client the normal freedom to choose a lawyer thus enhancing the lawyer-client relationship; and, second, it would restore the normal checks and balances of representative government to the highly political field of law reform.

Thus the Brock-Helms bill solves the abuses in the present legal services program by restructuring, rather than by excessive restrictions and prohibitions. Although overt political and lobbying activity is, of course, prohibited, the new structure tends to be self-enforcing and thus less likely to generate abuses.

The basic premises of this bill are, first, that no single rigid scheme imposed out of Washington is capable of meeting the needs of this Nation. The legal services program that will work best is not one which tries to force all projects into a single restrictive mold. The program that will work best is the one that helps the people in each community meet their own needs in the way they think best, and second, that the individual client should have the maximum freedom to select the attorney and approach of his choice.

This approach will tend to reduce the monopoly power of the present legal services club and its powerful network for social and political action.

It will restore some public accountability to the program by guaranteeing that the States had a voice in the structuring of the program and it would guarantee that poor clients had the same right to choose their attorneys as their more affluent neighbors. By setting up a reasonable eligibility standard—the medicaid formula—it would also provide a uniform basis for assessing need in each State, and guarantee that each State received an equitable share of the funds appropriated for the delivery of legal services.

The Brock-Helms bill contains a reasonable and proper conception of legal services, one which prohibits the worse excesses of law reform and political activism. It concentrates on delivering quality services to the individual poor client. It gives freedom of choice to the poor. It offers a superior mechanism of delivery which allows for variations in order to provide the best delivery of services. It avoids the built-in weaknesses and deficiencies of S. 2686, and it discourages the politicization of legal services by a coterie of political ideologies pursuing their own vision of social reform at public expense. It restores a measure of public accountability to this publicly funded program. And, finally, the Brock-Helms bill does not breach constitutional and democratic principles and does not subsidize the political goals of one group of citizens at the public expense of the rest of our citizens.

One of its most important elements to me is the freedom of choice potentially available to the poor under-voucher payments and judicare systems. These approaches provide a measure of economic empowerment to the poor individual.

The movement toward economic empowerment in other aspects of our antipoverty and welfare programs would expand the freedom of choice and opportunity of the poor, and tend to do away with the need for the costly, wasteful, and oppressive welfare and social services bureaucracy which weighs so heavily upon the poor and tends to dehumanize them within the grip of its impersonality and insensitivity.

Mr. President, in the best interests of the poor and all our citizens, I strongly urge adoption of the Brock-Helms legal services bill.

Mr. BROCK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CLARK). The question is on agreeing to the Helms-Brock amendment No. 885.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. TALMADGE), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Montana (Mr. METCALF) are necessarily absent.

On this vote, the Senator from Mississippi (Mr. EASTLAND) is paired with the Senator from Maine (Mr. MUSKIE). If present and voting, the Senator from Mississippi would vote "yea" and the Senator from Maine would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kentucky (Mr. COOK), the Senator from Wyoming (Mr. HANSEN), the Senator from Maryland (Mr. BEALL), the Senator from Maryland (Mr. MATHIAS), and the Senator from Utah (Mr. BENNETT) are necessarily absent.

I further announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Kentucky (Mr. COOK) would vote "nay."

The result was announced—yeas 24, nays 63, as follows:

[No. 27 Leg.]

YEAS—24

Allen
Baker
Bartlett
Brock
Buckley
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cotton
Curtis
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hruska
McClellan
McClure
Nunn
Sparkman
Stennis
Thurmond
Tower

NAYS—63

Abourezk
Aiken
Bayh
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NOT VOTING—13

Beall
Bennett
Cook
Eastland
Fulbright
Gravel
Hansen
Hartke
Mathias
Metcalf
Muskie
Scott,
William L.
Talmadge

So the Helms-Brock amendment (No. 885) was rejected.

The PRESIDING OFFICER (Mr. ABOUREZK). The bill is open to further amendment.

AMENDMENT NO. 948

Mr. McCLURE. Mr. President, I call up my amendment No. 948.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Add as a new subsection (9) after line 24 on page 17:

"(9) insure that no funds appropriated under this Act may be assigned to any project, program, or activity employing staff attorneys deriving more than half their income from the Corporation, unless said project, program, or activity operates under the authority of a governing board whose members have been either designated or approved by the highest elected legislative and administrative officials of the jurisdiction(s) in which said projects, programs, or activities have their offices. This provision may be waived only by three-fourths vote of the national Corporation's Board of Directors. No funds shall be assigned to any project, program, or activity which assigns representation on its governing board to any organization which is involved in advocacy on questions of public policy.".

Mr. McCLURE. Mr. President, I have a number of amendments pending. It is my intention to offer this amendment and ask for yeas and nays on this amendment alone; and pending the action on that, I do not intend to ask for votes on the other amendments. With that, Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, I will be very brief with respect to this amendment, because I know it is getting late, and I know that the die is pretty well cast with respect to the opinions of the Members of the Senate.

Senators voting against this amendment will be doing a great service to their constituents. Those constituents will have then been notified that their Senators have no confidence in the elected officials back home. A vote against this amendment says, in effect, your mayors, your Governors and your State legislators are not responsible and not worthy of trust. Such a vote will say that you must place your trust in a Federal bureaucracy, responsible to no constituency—a Washington, D.C.-based group which will decide for Senators' constituents how their States, counties, and cities may best spend their tax dollars.

If they chose, they could spend those tax dollars advocating strikes, boycotts, and demonstrations, instead of assisting the poor in their very real every day struggles against fraud, breach of contract, and discrimination. It may be that an individual citizen prefers one approach or the other, but he will have no means of expressing it effectively, whatever his preference.

If these remarks are primarily addresed to the citizens of this country and in particular to my own constituents, it is for two reasons: first, so that they may be put on notice to determine which Senators have confidence in the local officials in their State; and, second, because the Senate of the United States has already shown by its vote to shut off debate that it does not care to listen to the objections of those Senators who put their constituents first, especially their needy constituents. After all, the poor bear their greatest political leverage at the ballot box.

The assertion has been made that the structure of the corporation as outlined in the Senate bill would insulate the program from political control. There is excellent available evidence that instead of preventing political control, it would lock in and make invincible the political powers already entrenched. It is a matter of record that in one State, a group using money provided by OEO for purposes of establishing a health clinic and ancillary public health services used the money instead to provide the leverage with which an entire slate of public officials for one town was elected. These officials, not coincidentally, were all activists in a leftwing political third party which was fielding its own candidates at State and local levels. No one challenges their right to win a place on the ballot, to campaign, and to take office if they win. But to require the public to subsidize their efforts with the tax dollars taken from citizens of their own State—who might have preferred other candidates—or the tax dollars from citizens of a State 2,000 miles away is patently unconstitutional. Local control of legal services activities would assure that such activities were responsive to State, county, and municipal needs instead of the individual emotions of a single lawyer or the collective designs of a small group.

Let me cite a couple of examples of what the individual legal services lawyers have said about their own aims. Jim Lorenz, a founder and former executive director of the CRLA—California Rural Legal Assistance program said:

> In part we've been trying to begin reversing the legal processes now at work, but for that to happen requires a change in consciousness and in the larger political processes.

He added:

> For the next five years I want to go more into political organizing, trying to work with the people in the State who are split on the race and student issue.

Bob Gnaizda, who is another attorney in the main CRLA office, expresses himself this way:

> I have no respect for the institutions or the system per se, but I can't think of a viable alternative that isn't going to cause enormous bloodshed and not be acceptable to the majority of the people. As far as courts, I don't think the court system now is capable of remedying what's wrong with society, but I don't think there's ever been a court system that has been . . . Overall I have little respect for the legal services program.

Senators who are going to lock these lawyers and their organization into an untouchable legal services corporation are going to have to do some fancy talking to convince anyone that those statements are not political. They are not only political in the general sense; they are political in that their ideas demonstrate that they are using their positions as legal services attorneys and the public's money to institutionalize their own personal brand of politics.

Martin Spiegel, who practiced in CRLA's Santa Rosa office, provides us with this observation:

> The guys who run CRLA have real political moxie like I've never seen . . . the people in it are really able, fantastic lawyers, and they know how to get their friends to back them and how to confuse their enemies.

Here is clear evidence that these lawyers are political and are delighted with themselves and with one another for being so. Nobody speaking in good faith could possibly characterize those remarks as nonpolitical. Alan Houseman, the director of the Michigan legal services program, would be very upset if he thought that this bill would separate politics from legal services. He stated that obtaining justice—

> Can only be accomplished when groups of the poor become politically powerful, so we try to work with groups that are and ones that are beginning to grow in that direction.

Notice that he does not want the poor better fed, better housed, or protected from fraud or discrimination. He wants them politically powerful and is working to see that they become so.

How, may I ask, can politics be nonpolitical?

So it seems that as this bill is in the process of passage we will have a Legal Services Corporation. Since it locks in the lawyers and groups already funded by OEO, it will be political. Since it will be at least in part political, why is it asking too much to suggest that local officials have at least a part in reviewing those people whose decisions will have so much effect upon their counties and towns?

Does the Senate not trust the judgment of the Governors of the States?

Does the Senate not trust the judgment of the State legislatures?

Does the Senate not trust the judgment of the mayors in each community?

Does the Senate not trust the judgment of the elected city councils?

Must the Senate say it trusts only the nonelected, responsible-to-no-one Federal bureaucracy?

Local review would not assure us of a well-run program, but it could help to keep the people of any one locality at least in partial control of what happens in their own community. It could prevent special interest groups from preempting the individual direction that the program should have, and it could prevent the conflict of interest that has already occurred when such seats have been used for political leverage.

Mr. MONDALE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MONDALE. Mr. President, I hope the amendment is rejected. The amendment is the equivalent of the Governor's veto which we have just rejected by an overwhelming margin. Instead, this amendment would confer the veto on lower elected officials in a complicated process set forth in the amendment.

Once again, one of the fundamental concepts of the Legal Services Corporation is to try to separate from the political apparatus the legal judgments that are made on behalf of the poor clients sought to be served by the program. The reason for the separate corporation is so that we will not go through the process that has been so obviously dispiriting over the past number of years, when a perfectly good and decent lawsuit is brought and some politician in power tries to cut off the lawsuit before the case is heard.

We have dealt with this in several different forms today. The Governor's veto is the closest to this proposition. This amendment would give authority to local elected officials to block legal service programs for political purposes.

The American Bar Association and other groups are strongly opposed to this amendment and I am sure that under the canons of legal ethics it should be opposed because it interposes between the lawyer and his client a judgment which could be entirely alien to the lawyer's obligations and duties under the canons of ethics.

Mr. President, as we are nearing the close of debate on this bill, I would like to express my thanks to the distinguished majority leader (Mr. MANSFIELD) and the distinguished majority whip (Mr. ROBERT C. BYRD) for their cooperation throughout the long and sometimes difficult course of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), the Senator from Georgia (Mr. TALMADGE), the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

On this vote, the Senator from Mississippi (Mr. EASTLAND) is paired with the Senator from Maine (Mr. MUSKIE). If present and voting, the Senator from Mississippi would vote "yea" and the Senator from Maine would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Maryland (Mr. MATHIAS), the Senator from Utah (Mr. BENNETT), the Senator from Wyoming

(Mr. Hansen), and the Senator from Kentucky (Mr. Cook) are necessarily absent.

I further announce that the Senator from Virginia (Mr. William L. Scott) is on official business.

I further announce that, if present and voting, the Senator from Kentucky (Mr. Cook) would vote "nay."

The result was announced—yeas 27, nays 59, as follows:

[No. 28 Leg.]

YEAS—27

Allen
Baker
Bartlett
Brock
Buckley
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cotton
Curtis
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hruska
Johnston
Long
McClellan
McClure
Nunn
Roth
Sparkman
Stennis
Thurmond
Tower
Young

NAYS—59

Abourezk
Aiken
Bayh
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—14

Beall
Bennett
Cook
Eastland
Fulbright
Gravel
Hansen
Hartke
Mathias
Metcalf
Muskie
Scott,
  William L.
Symington
Talmadge

So Mr. McClure's amendment (No. 948) was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. Biden). The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. BUCKLEY obtained the floor.

Mr. BUCKLEY. Mr President, I yield to the Senator from Idaho (Mr. McClure) without yielding my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I have six other amendments pending at the desk, which I shall not call up: Amendments No. 842, 846, 848, 849, 843, and 845.

I think the pattern of the votes this afternoon and on the most recent amendment indicates the will of the Senate at this moment to get to final passage without consideration of these other amendments.

Therefore, I merely wish to make certain statements for the Record at this point.

AMENDMENT NO. 842

Mr. President, my amendment No. 842 pertains to that part of the bill which would supposedly outlaw political lobbying. The purpose of this section of the bill is ostensibly to: "Insure that all attorneys engaged in legal assistance activities supported in whole or in part by the Corporation refrain, while so engaged, from—

First, any political activity associated with a political party or association, or the campaign of any candidate for public or party office,

Second, any activity to provide voters or proposective voters with transportation to the polls or provide similar assistance in connection with an election,

Third, or any voter registration activity," but there follows an exception which neatly cancels the previous paragraph and leaves it up to legal services just what representation it should provide. The bill says:

> Except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities; and insure that all staff attorneys refrain, at any time, from any of the activities prohibited pursuant to paragraphs (1) and (3) of subsection (e) of section 1006 of this Act.

In other words, do not play politics. But if you do, do not get caught. If the purpose of this legislation is to provide campaign assistance to left wing candidates, why do we not come out and say so?

In this era when it has become obvious to even the least politically sophisticated citizen that political efforts must be made in the open, that the protective shields of secrecy and efforts to attempt one action in another's name must cease, it is ironic that anyone should vote to provide taxpayer's money to political agitators even if that is not the official intent of their bill.

This situation is typical of the entire bill in that unacceptable political behavior is hidden behind a facade of good intentions. It would be far more straightforward for Senators to come out and say "Yes, I think it is good for poor people to be lobbied leftward." Many of the Legal Services lawyers have cheerfully admitted that this is precisely their goal. Why should we ignore them when they candidly admit their own intentions?

This legislation was carefully drafted so as to provide loopholes against many of its own strictures. Why does the Senate refuse to discuss the monsters that will emerge through these loopholes?

If the sponsors of this bill want to make it clear that we mean to prohibit political activity, then they should have no objection to my amendment which spells it out in unmistakable language.

AMENDMENT NO. 846

The purpose of this legislation is to give Federal sanctity to a new breed of lawyer. Many of the Legal Services lawyers announce proudly that they are no longer members of the club. They find it intelligent to announce this by appearing in court in bare feet and belching in public. They think that by defying rules of courtesy that their clients are in some way being assisted. And anyone who opposes them is, of course, guilty of indifference toward the poor.

If we say that the poor do not need lawyers who live up to the same standards as our own lawyers, are not we slandering the poor?

We should reexamine all our reasons for prohibiting lawyers the same freedom to advertise as brush salesmen. Were those prohibitions not initiated for our protection? Why should the poor have less protection?

Marlise James, the author of the "People's Lawyers," tells us what the good poverty lawyer's idea of his work is:

> What happened was, a lot of these rights lawyers took their work seriously. Instead of just taking care of the personal civil problems of poor people—things like divorces, adoptions, name changes, consumer frauds—*as the government had intended*, they began to defend poor people in criminal prosecutions (which was illegal), and they even had the effrontery to bring class actions . . . against government agencies on issues that would affect the poor communities, that would give them power.

Poor people would rather have their divorces and fraud protection than be turned down in favor of drummed-up legislation on behalf of something they may never have heard of.

This whole notion of a new kind of lawyer exempt from the usual high standards of the profession implies that a new class of law is necessary for a static class of people. I have more faith in the American citizen than that and I have a great deal more faith in the ability of the legal profession as we have known it. Upward mobility is constantly occurring and will continue. All this amendment No. 846 does is to insure that Legal Service lawyers abide by the same standards as their counterparts in private practice. And there is no reason in the world why it should be defeated.

AMENDMENT NO. 848

Mr. President, it is virtually impossible to come up with a good definition of who is poor. Perhaps that is why this bill, already filled with contradictions and loopholes, has one of the most glaring loopholes in defining who is eligible to be served by the Legal Services attorney. The legislation quite commendably requires the establishment of guidelines that would take into account "a refusal—to seek or accept an employment situation commensurate with an individual's health, age, education, and ability."

Unfortunately, right in the middle of that phrase, the words, "without good cause" have been inserted. "Without good cause" is an empty phrase. Who defines it? Who decides on its application? It is obviously put in there to provide a loophole. We hear a lot about loopholes these days, and most of what we hear is unpleasant. My amendment No. 848 would strike those words and insert instead the following: "except for reason of physical or mental incapacity." These are words with intrinsic meaning; they intend to perform the proper function of language, which is to include and exclude specific meaning.

I doubt that there is a man among us who does not feel there is something wrong with the Nation's poverty laws. I am equally sure that most of us have, at one time or another, called for a tightening of the eligibility requirements. Do any of us want to return to our constituents and confess that once again we have passed legislation so fuzzily written that we made it easier for a man to remain poor than to become self-sufficient again? I think not.

The language I propose adding merely states the only valid reasons why an individual should refrain from accepting employment commensurate with his ability—reasons of physical and mental incapacity.

As sure as I am standing before you today, the American people have grown sick and tired, disgruntled, and impatient, with Congress for supporting with tax funds those who have made feeling at the Federal through a way of life.

This amendment gives you an opportunity to take the first step toward doing something about it.

AMENDMENT NO. 849

Mr. President, the purpose for writing qualifications for eligibility in the bill is to make sure that only the genuinely poor derive assistance under it. However, inclusion of the phrase "of prior determination" in the eligibility clause demonstrates again some of the lamentable weaknesses of syntax and intent which pervade S. 2686, and my amendment No. 849 strikes those words.

This phrase could be interpreted to constitute a waiver of any eligibility check intended to assure that only those clients who are truly poor could be assisted.

Now there is a great deal of difference between the voluntary poor and the involuntary poor. And the more I read this bill, the more I question just who it is designed to serve.

A good example of the voluntary poor are those college students who use the working man's tax money to indulge in political demonstrations.

The voluntary poor are the indolent who prefer to luxuriate in litigation rather than go to work.

Surely even the most dreamy-eyed among the bill's advocates cannot miss seeing the fallacy in serving those who merely masquerade as the needy.

AMENDMENT NO. 843

Mr. President, this amendment No. 843 merely says that Legal Services, at taxpayer's expense, will not be provided to anyone who is incarcerated on a felony conviction.

I doubt that the amendment needs a great deal of explanation. We know that attorneys for the present Legal Services program within the Office of Economic Opportunity have used Federal funds to try and free felons. But it seems to me that if we must turn to the Nation's prisons in order to find poor to serve, then the welfare roles are padded far more heavily than even I had imagined.

My amendment is narrowly drawn. It would permit aid to the accused or to convicted criminals on procedural issues, or noncriminal matters which flow from, but are separate from, the criminal proceeding. The filing of amicus curiae briefs, a technique long employed by radical lawyers, is not prevented.

If prison reform is what we want, then let penal authorities, not poverty warriors, attend to it.

But if serving the Nation's poor is our goal, then let us make sure the funds actually reach the truly needy. After all, he is most often the felon's victim.

AMENDMENT NO. 845

Mr. President, if there is one objective all of us should have in deliberations over this bill, it should be to see that the end result is beneficial to the poor—the genuinely poor. The do-gooder instinct which springs from the heart of so many Members of Congress unfortunately leads us down so many avenues that we often find our original objectives have not been met and that those in need of Federal assistance still go wanting. The Federal bureaucracy often reminds me of the way Jack Paar once described Zsa Zsa Gabor—as one who does social work among the rich. Be that as it may, the prohibitions in the grants and contracts section of this bill do not include any restrictions on assistance to those who are confined to prisons. This amendment No. 845 merely adds such a restriction by inserting a prohibition against legal assistance with respect to "incarceration for a crime, or the circumstances of incarceration for a crime."

Every dime that is spent in behalf of someone in prison denies some of the benefits of this bill to the genuinely poor. To say otherwise makes a mockery of the whole purpose of the legal services program.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I am conscious of the hour. I had three amendments, but I hasten to assure my colleagues two of them, I understand, will be accepted, and the third I will withdraw after having a colloquy, and a brief one at that.

The first amendment I call up is amendment No. 874.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. NELSON. Mr. President, may we have order so I can hear what the proposed amendment is? I think we can dispose of and accept two of the amendments, and discuss the third one in a brief colloquy, in about 7 or 8 minutes.

Mr. BUCKLEY. If that.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read amendment No. 874 as follows:

> On page 15, after line 11, insert the following new subsection:
>
> "(3) establish a schedule of fees which will require the client, if able, to pay at least a portion of the cost of legal assistance in accordance with his or her ability to pay.".

Mr. BUCKLEY. Mr. President, the bill as it has been reported establishes a short demarcation between those who are eligible to have full payment of legal services and those who cannot get any public support for legal services.

One of the common complaints, and a complaint with which I have enormous sympathy, these days comes from those who are hovering just above the arbitrary demarcations between those who will have full access to public payments and those who have no access.

In Head Start we make provision for a graduated scale of fees, with the idea that some people can contribute 5 percent of the cost of the service, other people 10 percent, other people 15 percent, and so on up. It seems to me that this is an approach that ought to be applied in the sphere of legal services. It would be fairer to those who would otherwise be excluded. It would also eanble lines to be drawn at the lower level of this gray area. It would also create a greater sense of quieter responsibility in seeking a lawyer's help in situations where there is a question whether it is worthwhile strictly on the legal basis.

For those reasons I ask adoption of the amendment, but I understand the proponents of the bill have a recommendation of their own.

Mr. NELSON. Mr. President, I will say the Senator raises a point which is valid. We have here the old notch question, of where we are to have a cutoff line for poverty program eligibility.

If the Senator is prepared to withdraw his amendment, I will undertake to assure him that, within a reasonable time, we will have hearings on that exact point and hear from all the interested parties, such as the American Bar Association, the clientele, and the proponents of this amendment. Perhaps we can then arrive at some provision that does what the Senator seeks to accomplish.

I think he raises a point that has considerable merit. I am willing to conduct hearings on it, but we have had no hearings on that precise question so far.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr JAVITS. I should like to join in that assurance. I would like the record however, to show that there is concern by the bar associations about this matter professionally in perhaps assuring at a fuzzy line which may put people in doubt with respect to hiring a lawyer or getting legal services under the committee bill.

There is some difference between this and the fee schedule in Headstart. In Headstart, we wanted to get a mix of children, rather than tax people according to their capacity to pay, and hence give them a greater interest in cooperation.

But there is enough merit to the Senator's idea. I do not wish in any way to prejudice this matter by anything that I have said. However, just in fairness to the bar association, I have made the statement I made.

I will join in an effort to see if there is anything to it.

Mr. BUCKLEY. Mr. President, I very much appreciate the statement made by the Senator from Wisconsin and my distinguished senior colleague.

I do recognize the motivation between the start of the Headstart and the facts here. However, we now have a provision for an arbitrary limit between those who can initiate the most expensive kind of legal actions at public cost and those who are prevented from even modest legal actions because they cannot afford the expense that is entailed today.

Mr. President, I am delighted to learn that there is an undertaking to have appropriate hearings. On that basis, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amndment is withdrawn.

Mr. BUCKLEY. Mr. President, I call up amendment No. 875.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> On page 18, line 13, strike the word "consent", and insert the word "request".

Mr. BUCKLEY. Mr. President, this amendment deals with a provision dealing with the representation of minor children. In this particular area of the bill there is a provision that parents must consent to special representation by the legal services lawyer.

The word "consent" is a wobbly word. It can be implied. It is imprecise.

I believe that we should require from the parents an explicit act that is implied in the word request to assure us that the parent is fully cognizant of what is involved and indeed authorizes that the child be represented by a legal service attorney.

Mr. NELSON. Mr. President, I am prepared to accept the amendment.

Mr. JAVITS. Mr. President, the amendment is acceptable. I would like, however, to explain that the word "written" appears in the text of the bill. So it is a written request. We think that certainly nails it down.

Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [putting the question].

The amendment was agreed to.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 879.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> On page 14, line 22, after the word "Budget", insert the words "and with the Governors of the several States".

Mr. BUCKLEY. Mr. President, this particular provision involves the machinery for establishing levels of eligibility.

The present provision requires, for example, consultation—and the word "consultation" I underline—with the Office of Management and Budget. However, there is no requirement that there be any consultation with appropriate officials in the States within which that level of eligibility will apply.

What this amendment does is to require that before that level be established, the Governors of the several States be consulted. I believe that this will assure us of a more precise understanding of who is really in need in any case.

Mr. JAVITS. Mr. President, I am in favor of the Senator's amendment. I have no objection to it. However, I would like the Senator to put an interpretation of the words on the record. The Senator used the word "several." Does the Senator mean respective? The Senator does not expect the Governor of Connecticut to consult with the Governor of New York?

Mr. BUCKLEY. No; it would involve just the Governor of the State involved.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York [putting the question]

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent to have printed in the RECORD editorials published in the Wall Street Journal, the New York Times, and the Washington-Star News, in support of this bill.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 29, 1974]

Survival of the Fittest?—Antipoverty Office Seems Likely To Be Abolished, But Some Parts, Like Legal Aid, Are Alive, Well

(By Arlen J. Large)

WASHINGTON.—The rules of evolution shape not only biology but politics as well. A case in point is the "war on poverty" and what has been happening to it since President Johnson started it 10 years ago.

Parts of the original antipoverty program have shown political unfitness to survive criticism and face extinction, such as the Office of Economic Opportunity itself. But other antipoverty components, by changing bureaucratic colors and dropping controversial appendages, seem headed toward respectability and even growth.

The Senate this week is debating one such adaptive part—subsidized legal services for the poor. The program is one of the few remaining arms of the Office of Economic Opportunity, once a thriving command post for the whole catalog of Antipoverty Act activities. Up for expected passage in the Senate is an administration-backed bill transferring the legal-services operation to a new federal "corporation" assigned to dispense money to the poverty lawyers and keep them out of political trouble.

The Legal Services Corporation proposed by President Nixon would in the main allow the 2,200 full-time poverty lawyers staffing 900 neighborhood offices to keep functioning as they have been, although under different supervision. The plan is keenly supported by the American Bar Association, and it has been unanimously approved by the 16-member Senate Labor Committee. One committee Republican, Sen. Robert Taft of Ohio, originally had doubts about the bill but finally decided that it has enough safeguards to keep the lawyers lawyering and not politicking.

OBJECTIONS BY CONSERVATIVES

The Legal Services Corporation is opposed by a group of conservative Republican Senators echoing the objections of Howard Phillips, who a year ago headed the OEO with a presidential mandate to abolish it. Mr. Phillips complained particularly that legal-services lawyers were more interested in pushing lawsuits to achieve "social change" than in helping individual clients.

Mr. Phillips was triply thwarted in his efforts last year. A federal judge not only ruled that Mr. Phillips couldn't destroy an agency that Congress said should exist but also threw him out of office because he lacked Senate confirmation. And the White House ignored many of Mr. Phillips' recommendations for curbing what he regarded as too much activism in the legal-services program.

Sen. Jesse Helms, a North Carolina Republican, and other opponents of the legal-services bill successfully filibustered last month to prevent its passage during the 1973 session; this week's debate is a resumption of that fight. The Senate is scheduled to vote tomorrow on whether to stop the talk, and the bill's sponsors say they have a good chance to get the needed two-thirds majority. With Senate passage, the bill would go to a conference committee for merger with a different version already * * * are forcing some survival-of-the-fittest adaptations.

The House Labor Committee originally approved a bill providing for a legal-services corporation much like the Nixon administration requested. When it reached the House floor last June, however, members insisted on barring poverty lawyers from activities that have angered some people.

The House amendments would bar poverty lawyers from initiating some kinds of suit on school desegregation, abortion and amnesty for draft dodgers. The lawyers also would be forbidden to conduct voter-registration drives, even during their time off. Legislative lobbying would be sharply restricted to testifying before a committee when asked. Such was the mood of the House that it even went for a playful ban on legal-services assistance to "indigent, abandoned Watergate defendants."

THE "BACKUP" CENTERS

A key House departure from the administration proposal would stop any further federal money for 13 "backup" centers, mostly university-based research outfits specializing in legal problems of the poor. This work has led to successful suits requiring local housing and welfare officials to comply with existing law, as supporters of the backup centers see it. But to critics like Rep. Edith Green, an Oregon Democrat, the backup centers symbolize what she thinks is a poverty lawyers' penchant for suits seeking "sweeping social change" instead of sticking to divorce cases and other legal chores for individuals.

The program's supporters deny that the lawyers shun humdrum cases, citing OEO figures showing that of the 1.5 million legal problems handled annually, more than four-fifths are settled out of court.

The role of the backup centers and the exact restrictions on the lawyer's professional and personal behavior would have to be settled by House-Senate conferees. Some of the restrictive House amendments probably would be dropped. Nevertheless, the debate so far points toward a legal-services program concentrated somewhat more heavily on individual-client casework and supervised by a new control mechanism designed to dampen political controversy.

The OEO first began subsidizing lawyers for the poor in 1965, a year after the agency was created by Congress. The legal program was a hit with most of the organized bar from the beginning, being praised that year by Lewis F. Powell, then president of the American Bar Association and currently a Nixon-appointed Supreme Court Justice. But before long, the poverty lawyers were winning welfare cases in California that antagonized Republican Gov. Ronald Reagan.

A BATTLE WITH REAGAN

Existing law allows a governor to veto a proposed federally financed legal-services project in his state, but the OEO director in Washington can override the veto. In 1971 the Nixon administration got into an embarrassing scrap with Gov. Reagan, who vetoed a legal-services project on grounds that the OEO director thought had little merit.

The project finally got a go-ahead, but both the Nixon administration and the antipoverty program's liberal defenders in Congress decided that the lawyers should be protected from governors' vetoes and other political hazards by getting their money from an independent federal corporation.

In proposing this plan in 1971, Mr. Nixon told Congress: "The legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit." There was general agreement on ground rules banning political activity and forbidding poverty lawyers from defending people accused of crimes. But tnere was a quarrel over the key question of who gets to appoint the corporation's directors. The board will decide which poverty-law groups get federal money (running about $71 million this year) and whether the lawyers are spending it as they are supposed to.

Mr. Nixon vetoed a 1971 bill that included the new corporate setup, in part because it would have let him name fewer than half the directors. An attempt to revive the bill with some changes failed in 1972. Last year, however, liberal lawmakers agreed to let Mr. Nixon appoint all 11 directors subject to Senate confirmation, and the administration agreed to let the corporation support backup centers and other functions wanted by the liberals.

ENDORSEMENT BY LAIRD

As a result, the bill pending in the Senate has been generally endorsed by Melvin Laird, Mr. Nixon's departing domestic adviser. Sen. Walter Mondale, a Minnesota Democrat and chief sponsor of the corporate-control concept, says that "while it doesn't thoroughly insulate the board from politics, I think it will help." Because the members must win Senate confirmation, he says, "I don't think the administration can load the board with wild ones."

To the Senator, that means people like Howard Phillips, who is decidely unhappy with the idea of insulating poverty lawyers from control by elected public officials. "When you extract money coercively from an American citizen, he should be able to look to his elected officials to hold the users of that money to account," he says. From an office-in-exile at the American Conservative Union here, Mr. Phillips has been writing Republican Party leaders around the country warning that the Senate bill is "a menace to your family, community and party. It is undermining the security of our nation."

Representing sharply different viewpoints, neither Mr. Phillips or Sen. Mondale is especially pleased with the evolution of Lyndon Johnson's entire antipoverty program over the years. One by one, various activities have been removed from the OEO's control and lodged in the traditional federal departments.

Head Start, the program of classes and health care for preschool children, is operating quietly in the Health, Education and Welfare Department. Job Corps centers for slum youths, cut to 65 from their heyday of 124 late in the Johnson administration, now are the property of the Labor Department, which also runs some job-training and recreational activities once under the OEO. Vista Volunteers, domestic counterparts of the Peace Corps, are under a different bureaucratic umbrella.

"As far as I can see, the programs are bigger than ever," Mr. Phillips says.

COMMUNITY-ACTION PROGRAMS

If, as expected, the OEO loses control of legal services to the new corporation, the antipoverty command post will have just one major activity left to supervise: community-action programs run by local groups for job training and other services for the poor.

Mr. Nixon didn't want any new money for community-action programs last year, but Congress voted $218 million, and the President has agreed to spend most of it. But both this money and the basic law authorizing the OEO run out next June 30, and it is questionable whether an increasingly uninterested Congress will sail an extension past Mr. Nixon's likely veto.

"The promise of the poverty program has been largely destroyed," Sen. Mondale says. "It assumed an administration that wanted to see it work." Mr. Mondale doesn't sound very optimistic about getting an extension of the OEO's life. "That's the one that Nixon's ego is involved with," he says. "He may take it down with him."

[From the New York Times, Jan. 29, 1974]

Lawyers for the Poor

Among the useful accomplishments of the "war on poverty" initiated by President Johnson a decade ago was establishment of a Government-funded but politically independent legal services program to assure high-quality legal assistance in civil cases to those who would not otherwise be able to afford it.

This program now embraces more than 2,250 lawyers operating in 900 neighborhood law offices. Much of their work is involved in challenging bureaucratic regulations that discriminate against the poor—a mission not calculated to make this branch of law popular with the public officials who find themselves called to account.

By way of safeguarding the program against new efforts to cripple it and to strip its lawyers of their necessary freedom of advocacy, a bipartisan group clearly representing a majority in the Senate has been trying vainly to get a floor vote on a proposal for a permanent Legal Services Corporation. The bill is the fruit of compromise between the White House and the Senate Committee on Labor and Public Welfare—a middle-of-the-road effort, in President Nixon's own words, to "protect and preserve a basic right of all Americans." Despite its balanced nature, however, the bill has been blocked by filibuster.

A third attempt to shut off the filibuster will be made in the Senate tomorrow. Its success is essential to keep alive and vigorous a program designed to remove the economic barriers to equal treatment and equal standing in the courts. The House passed a mangled version of the same bill last June; the first round in the redemption effort comes tomorrow on cloture.

[From the Washington Star-News, Jan. 26, 1974]

Legal Services Impasse

One of Congress' lesser-noted failures in last year's session was its dismal performance on continuation of free legal services for poor people. This was, nonetheless, a sizable failure when measured by the scale of public justice, and the lawmakers should move speedily to correct it in this new session.

Legal services without doubt is the most successful of the anti-poverty programs conceived in the '60s. Both liberals and a great many conservatives are committed to its main premise—that citizens must not be deprived of access to the courts because of poverty, lest our claim of equal justice under law appear as something of a mockery. So more than 2,250 lawyers in 900 neighborhood offices across the country are giving free services, through this federal endeavor, which their clients otherwise could not accord. Mainly, the aid is in family law matters that are part of everyday life, along with a good many landlord-tenant cases. On a few occasions, legal-services attorneys have strayed too far into political areas, but legislation to reconstitute the program under a new Legal Services Corporation has safeguards against that.

And certainly this proposed system, designed to give the program independence from political pressures, deserves speedy approval. It is the product of much compromise between liberals and conservatives, and, most notably, between Congress and the Nixon administration. President Nixon vetoed an earlier measure, largely because it didn't empower him to appoint all members of the corporation's governing board, but Congress has bowed to him on this. The current legislation has strong support from the administration and the American Bar Association. Its passage is many months past due, because the legal services program has been hanging on precariously for a long while within the diminished Office of Economic Opportunity.

For this delay, the Senate is mainly to blame. In the final days before adjournment last month, it failed twice to shut off an astonishing filibuster against the bill by two of its more rigid conservatives, Senators Helms of North Carolina and Brock of Tennessee. One thread seems to run beneath all the obstructionist rhetoric: an aim to protect local and state officials from challenges by the poor to the administration of government programs. There is some intent, quite obviously, to make legal services attorneys subject to local interference. and this cannot be tolerated.

If the filibuster resumes when this measure is brought up again, the Senate should hasten to invoke cloture and pass the bill. For a nettlesome task will lie ahead, even after that, in reconciling the Senate version with a weaker bill passed by the House.

LEGISLATIVE REPRESENTATION

Mr. KENNEDY. Mr. President, legal services clients and their lawyers are coming to realize that State legislatures and the Congress are forums where they should be heard. In a number of States, clients have presented their problems to legal services lawyers, the lawyers have drafted legislative bills to solve those problems and both clients and lawyers have pursued passage of those bills. These developments only give recognition to the importance that legislatures play in the fortunes of poor people.

Those who have criticized the "judicial activism" of courts when they try to grapple creatively with the serious legal and social issues presented to them should be among the first to applaud this new emphasis on resort to the legislative branch of government. There are practical and constitutional limits on how far courts can go in promoting comprehensive solutions to these issues. The legislative and executive branches of government must fulfill their constitutional responsibilities to help solve these problems.

In terms of effective legal representation of poor people there are many benefits in resorting to legislative as well as judicial representation. Clients can initiate legislative suggestions, draft the bills, and discuss the bills with their own legislators. Legislation can more comprehensively cover the issues. More people and viewpoints are usually represented in the formulation of a legislative solution than is the case with a judicial solution. The product finally arrived at is approved by the elected representatives of the people and opposing points of view are usually compromised into a consensus solution. The legislature makes budget decisions which cannot be reached through the courts. And a legislature can address itself to an entire field in an organized and consistent manner, such as with a consumer code, a landlord-tenant act or a code on mental commitments. In sum, it makes eminent sense for low income people and their lawyers to be able to seek legislation remedies.

Despite these persuasive reasons why we should be encouraging our neediest citizens to participate in our legislative processes, there are some who would deny poor people the right to have their lawyers to provide legal assistance with regard to legislative matters. This would be highly unfair and unwise, for the following reasons:

A large amount of legislative business vitally affects poor people. Governmental benefit programs are shaped and funded there. Laws regulating such areas as landlord-tenant relations, the sale of consumer goods, domestic relations, and child care responsibilities are controlled primarily, if not exclusively, by State and Federal enactments. Poor people must have advice and technical assistance in presenting their positions in these forums. They must be advised what matters are appropriate for legislation, what legislative approach to take, how legislative bills should be drafted and how best to present their bills to legislators. This important assistance is only afforded by their lawyers. Just as other groups ask lawyers to represent them before the legislatures, low income people have turned to their lawyers to do the same.

The legislature is often the only available forum in which to overturn harsh or unfair laws and practices. For example, in Massachusetts, any tenant seeking to appeal a judgment of eviction in order to obtain a constitutionally required jury trial was required to post a bond. The amount of the bond was often set at $500 or more. Few poor persons could afford to post such a bond; many had to forfeit their right to jury trial. Legal services lawyers and their clients then went to the State legislature and persuaded it to pass a bill requiring the courts to waive the bond where the appealing tenant is indigent and asserts a nonfrivolous defense. As another example, Michigan tenants found that landlords were insisting on large security deposits, were in many cases not paying interest on them and sometimes refused to give them back when the tenancy terminated. These tenants asked legal services lawyers to draft a bill correcting these problems and now Michigan has a sensible and comprehensive statute making security deposit practices more fair and uniform.

Second, resort to legislatures is also necessary because courts suggest that it be done. In Minnesota, a court-ordered settlement agreement between the State and an Indian tribe required changes in State legislation. The legal services attorneys representing the Indians had to represent their client's position before the State legislature in order to see that an effective solution to their client's problem was reached.

In Massachusetts, low-income tenants challenged in Federal court the constitutionality of termination of gas and electric services because of the failure of their landlord to pay the bills. The judge suggested that the parties work out a complex settlement of the matter through State legislation and administrative regulation. The legal services lawyers involved had to engage actively in legislative representation in order to carry out successfully the judge's suggestion. In New York, lower court judges became concerned about the large number of cases raising a defense to eviction on the ground that the landlord was retaliating against the tenant because the tenant had reported alleged code violations. These judges asked legal services lawyers to prepare a legislative proposal that would clear up the courts' confusion over this issue, and these lawyers, on behalf of their clients, are in the process of doing so.

Third, access to legislatures is critical if poor people are to be able to participate in the shaping of programs designed to benefit people with special disabilities. Take the problem of lead paint poisoning. Medical people have only recently begun to discover the insidious effects which lead paint has on children who eat paint flakes in older housing. In Massachusetts, legal services lawyers and clients persuaded the legislature to set up a comprehensive program for the testing and regulation of the use of lead-based paint on surfaces to which children might have access. In New York, legal services lawyers who had won an important court decision declaring that handicapped children might have a right to special education have, on behalf of their clients, pursued implementation and funding of this program through State legislation.

What the legal services program has done is to begin to right a severe imbalance in the legal resources available to low income citizens in this country. The interests of business and government have been well represented in the legislatures and these interests are frequently adverse to the interests of low income people. Many of these same interests have their legislative expenses funded out of public money.

Examples are:

First. Public subsidy of private business lobbying exists by virtue of the income tax deduction for business expenses. [26 United States Code 162(e).]

Second, Public money regularly is used to finance directly a wide range of lobbying activities—for example, in California, more than 25 percent of the registered lobbyists are directly financed with public funds, including advocates of cities, counties, and school districts.

Third, tax exemptions are available to many organizations that use their income to pay attorneys to lobby. [See 26 United States Code 501(c) (4) and (5) (Labor, agricultural and horticultural organizations); 26 United States Code 501 (a) and (d)—religious organizations; 26 United States Code 501(c)(7)—nonprofit corporations; 26 United States Code 501(c)(3)—nonprofit tax-exempt corporations.]

Fourth, publicly regulated industries such as utiilties have their legislative expenses charged as business expenses and rate-making agencies charge them ultimately to the customers.

Furthermore, Government itself funds many agencies and organizations that watchdog or monitor the actions of Government itself. One need only mention the General Accounting Office, OMB, the FBI and various legislative watchdog committees. These institutions insure greater accountability in Government. Legal services lawyers often perform the same vital function on behalf of their clients.

In fact, legislative solutions promote greater efficiency in the use of scarce legal services resources The problems faced by the poor accumulate in large numbers every day in each legal services office. It is virtually impossible for everyone of these problems to be worked out for each person individually; to do so would require far more attorneys than are available and would clog court calendars. Thus, when faced with repeated problems or when patterns of problems begin to emerge, the most efficient and economical use of resources requires representation before legislative or administrative bodies. A recent report by the Government Accounting Office on legal services made exactly this point when it criticized the Legal Services program for not working harder in the legislative forum to solve the multitude of everyday problems plaguing legal services offices.

Fourth, the resources of legal services lawyers benefit the legislatures and legislators. Legislators realize how valuable it is to be able to look to legal services resources in shaping legislation. Legal services lawyers can help translate constituent concerns into legislative proposals and can help constituents present these proposals to the legislatures. These lawyers can provide expertise and information in areas where there is little other expert knowledge, such as landlord-tenant laws, public assistance programs and consumer problems. And these lawyers can assist legislatures in working out comprehensive solutions in major areas of the law, such as a uniform consumer code or a landlord-tenant code.

In recognition of the value of legal services lawyers and the high regard in which their legislative work is held, many State officials have contacted Congress to urge that legal services lawyers be permitted to represent clients in legislative matters. Included in this group are some 60 legislators from Michigan, 43 from Ohio, the Governor and legislative leadership from Massachusetts and numerous others from California to New Hampshire. This strong support would not be possible if people in the States had serious doubt about the propriety and value of legislative representation by legal services lawyers.

Fifth, permitting legislative representation only fulfills the ethical duties of a lawyer to his clients and the constitutional rights of his clients to equal representation before legislative bodies. Canon 26 of the lawyer's code of professional responsibility states:

> A lawyer openly and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of government, upon the same principles of ethics which justify his appearance before the courts . . .

Most lawyers feel they have a duty to pursue legislative solutions to their clients' problems, just as they have a duty to advise their clients to resort to court in appropriate circumstances. In fact, a former president of the American Bar Association, Edward Wright, has stated that any government-imposed restriction on a lawyer's right to seek legislative solutions to his clients' problems would violate that lawyer's ethical duties to his client.

Furthermore, denial to poor people of

legal representation in legislative forums may violate their constitutional rights. Since Government subsidizes legal representation of other groups before legislatures, the denial of this right to poor people may deny them equal protection of the laws.

To conclude, there is every reason why we should encourage poor people to be heard and to involve themselves, as others have long done, in the legislative processes at the State and Federal levels. The legislatures are the tried and true forums where everybody's interests are weighed in the balance and the will of the people is expressed in a consensus and distillation of all viewpoints. To deny poor people the right to the technical and legal help that is so vital to effective presentation of their views is to deny them the tools to make their voice heeded. It makes no sense for the Congress to deny our low-income citizens their right to this kind of legal representation.

Mr. MOSS. Mr. President, Anatole France, the great French writer, once said that:

> The law prevents the rich as well as the poor from sleeping under bridges and stealing bread.

This is indeed true. Within any society where the division of labor dictates that processes of the administration of law are apportioned to legal specialists who benefit economically from their vocations, the poor are likely to suffer at the hands of justice. Because of this specialization there are those who are not able to utilize their rights through the legal process. This amounts to denial of their rights as individuals—in effect a negation of their liberties enunciated in the Constitution, the Bill of Rights, and our other legal codices. This effectual denial of rights is an affront to the ideological bases from which our form of government draws its strength.

It was in response to the problems of the poor that we in Congress enacted legislation which provided a means by which those who were "locked out," unable to participate in the legal system, could enjoy the full benefits of having their "day in court."

We are now faced with a bill to renew this program—a program that must continue. But the extensions of this bill must be made in such a way as to protect the rights of both the defendants and the lawyers who participate in this program. There have been attempts to make it as difficult as possible for the lawyers who would practice in this program to practice effectively. There were amendments proposed which would have gone far beyond the canons and code of practice. This is unacceptable. Should we require the attorneys who practice on behalf of the poor to operate under a different code of ethics than those who practice for the rich? The answer is, of course, a resounding "No." To proscribe a different standard for these lawyers makes folly of the motto "Equal justice under law." A motto so fundamental to the American legal system that it is emblazened above the entrance to the Supreme Court.

The experience of those attorneys who have been involved in this program in Utah has been a heartening one. What other task in our society is as important as bringing justice to those who have been deprived of it? The clients of these attorneys, I am sure, are also heartened, their faith in the American system restored, when they can experience a fair trial, in an open atmosphere, with proper representation. Through this system they are able to have representation before the bench in equal measure with their neighbors.

The legal services agencies in Utah have performed vital and necessary work for the citizens of the State. Through the legal skills internship program of the Salt Lake County legal services program, increased service on administrative problems of the entire community have been provided. This internship program has also provided an opportunity for prospective students of the law to develop skills which will bring an added dimension and background to their study.

Generally speaking, the legal services system in Utah has worked to bring about an assurance of rights for individuals in their dealings with government agencies. They have also undertaken necessary representation for juveniles in their dealings with our legal system.

The bill before us creates the much needed independent body to administer the National Legal Services Corporation. This corporation, if properly administered, will provide for an independence that is necessary for any form of legal services. The creation of a corporation will free the Legal Services Administration from political pressure, pressure from which could hamper the effectiveness in the delivery of legal services to the needy.

It is said that we are a nation of laws, not of men. But we revert to the status of a nation of men when any man is deprived of the benefits of our judicial system of his economic status.

So let us continue the legal services system through an independent corporation so that justice can be brought to all our people. And while bringing justice to our people let us hope that we can restore trust and confidence in our governmental system—trust which any form of government needs to survive, and trust which has been so badly undermined through the misfortunes of the past year. Let us pass this legislation in order that justice can still be served.

Mr. TAFT. Mr. President, I have actively supported the concept of an independent Legal Services Corporation during my service in the Congress and I am greatly encouraged by the adoption of S. 2686 by the Senate today.

I am especially pleased by the constructive leadership that the administration has shown on this issue. Melvin Laird has been particularly effective in stressing the importance of the independent corporation concept. Jim Cavanaugh of Mr. Laird's staff has constantly kept the committee staff advised as to administration's concerns on this issue and been equally receptive to considering views of members of the committee. Paul O'Neil of the Office of Managemnt and Budget has also performed an equally valuable role in this regard.

Congratulations are also in order to my colleagues on the Labor and Public Welfare Committee. Senators NELSON, CRANSTON, and HATHAWAY have shown excellent leadership on this issue and I am pleased to have had an opportunity to work with them on this legislation. Senator JAVITS provided exceptional leadership for the minority and all members of the committee. I am hopeful that the conference committee will expeditiously consider this legislation and send to the President for his consideration.

Mr. KENNEDY. Mr. President, I urge my colleagues to vote in favor of this measure to create an independent Legal Services Corporation.

It has been too long delayed, impeded and frustrated. The entire future of this bright and promising program which seeks to achieve equal justice for the 25 million poor rests on the passage of this legislation.

The record of the Legal Services program over the past 9 years has been astounding in its success, in its bringing to the poor access to competent legal counsel which they have never had.

This bill reflects the overwhelming belief of the organized bar, of the administration and of this committee, that providing access to the legal system on an equal footing to the poor is vital to the future of the Nation.

This bill reflects the mutual concern of Members on both sides of the aisle that Legal Services attorneys have the capacity and the independence from political pressure to provide to the poor, competent legal counsel.

The statement of findings and declaration of purpose of this legislation, which clearly enunciates the objectives which this measure seeks to insure:

First, there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;

Second, there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital Legal Services program;

Third, providing legal assistance to those who face an economic barrier to adequate legal counsel will serve justice far better and more rationally than leaving them with recourse only to less peaceful means;

Fourth, for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;

Fifth, to preserve the strength of the legal services program it must be insulated from political pressures; and

Sixth, lawyers providing such services must have full freedom to protect the best interests of their clients in keeping with the code of professional responsibility, the canons of ethics, and the high standards of the legal profession.

Business executives and corporations deduct from their income taxes the cost of legal expenses, including legislative representation, related to the conduct of their business. That deduction represents a subsidy by taxpayers to a wide variety of individuals, corporations, and organizations.

In this measure we are seeking to provide the poor the same right to competent representation of their interests that we have traditionally given to the economically powerful. It is the poor who are most vulnerable to economic pressures, to illegal acts, to the neglect of institutions, and it is the poor who are least able to seek a remedy through the laws which are supposed to protect all of our citizens equally.

I want to recall for my colleagues the language of the Supreme Court in Gideon against Wainwright:

> From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

Equal treatment in criminal matters is a matter of right, and I believe that this bill fulfills an equivalent need, the need to provide equal access to the legal system in civil cases is a matter of justice.

Mr. CRANSTON. Mr. President, this is the third time in as many years that the Labor and Public Welfare Committee has reported legislation creating an independent National Legal Services Corporation. This bill amends the Economic Opportunity Act of 1964—the authority under which the present excellent Legal Services program has developed—and provides for the transfer of the program to an independent private, nonprofit corporation.

This is a legislation that is long overdue.

I wish to take this opportunity—I sincerely hope for the last time with regard to this legislation—to express my admiration for the leadership and tireless work over the last 3 years contributed by Senator MONDALE and Senator KENNEDY, original authors of this concept with me; Senator NELSON, the distinguished chairman of the Employment, Poverty, and Migrator Labor Subcommittee; Senator TAFT, the ranking minority member of the subcommittee; and the chairman and the ranking minority member of the full Labor and Public Welfare Committee, Senator WILLIAMS and Senator JAVITS.

Additionally, a new member of the committee, Senator HATHAWAY, has contributed significantly to the development of S. 2686, and has proven to be an effective and knowledgeable advocate of the provision of unfettered legal services to those who cannot afford private counsel. I believe they have all done a magnificient job in debating and deleting the many debilitating amendments offered yesterday and today, and in working to secure the truly magnificient cloture victory we achieved—on only the third try 68 to 29.

Mr. President, the Legal Services program has been the most productive of all the war on poverty programs. It has provided the poor with vital tools to gain the opportunity for full participation in our society. But, even more importantly, the Legal Services program has helped to restore the faith of one segment of our population in the fairness and viability of our system of order and justice under law.

The commitment of the Legal Services program and the attorneys who staff it has begun to counter that image among the poor that the law is their enemy, not to be trusted, and designed and administered in a way to control them—and to protect others.

In my own State of California, Mr. President, I have witnessed again and again the tremendous impact of the legal services program. Successful proding of the established order has resulted in making food available to hungry citizens in every county in the State; senior citizens have been afforded essential health care to which they were entitled; various consumer fraud schemes preying on the poor have been successfully halted; discrimination in employment is being challenged; and 80,000 Spanish-speaking citizens were enfranchised by the elimination of an English literacy requirement for voting.

Prior to the establishment of the Legal Services program, as the committee report on S. 2686 points out—committee report No. 93-495—the poor had little or no access to civil representation before the courts. From rather uncertain beginnings, the provision of legal services for the poor through the Office of Economic Opportunity—OEO—has taken on a constantly expanding role. The original Economic Opportunity Act of 1964 did not mention the provision of legal services. Some legal services projects were inaugurated in 1965, however, as part of the community action program, but without a clear definition of the role of legal services in the war on poverty. In the EOA amendments of of 1966, the provision of legal services was specifically authorized by section 222(a) of the act, which served as the basis for setting up the Office of Legal Services within OEO. The program was set up in its present form, with restrictions upon representation in criminal cases, under the EOA amendments of 1967.

In 1966 the Legal Services program consisted of approximately 157 projects with about 1,000 attorneys. Today, the program has more than 900 offices staffed by 2,200 full-time attorneys. It is estimated that in 1973 the program will have served over half a million clients and handled upward of 1½ million separate legal problems. Well over 80 percent of these difficulties are satisfactorily resolved out of court—and nearly 85 percent of the cases that are actually litigated are won.

But the same effectiveness which has resulted in the many successes of the program, has also engendered strenuous opposition to the Legal Services program. Case after case won by legal servvices attorneys on behalf of their clients has compelled our institutions to be more responsive to the legitimate grievances of the poor. But such victories in courts of law have inevitably generated political opposition to Legal Services programs from those who see their roles as preserving the present state of things.

It has become all too clear—indeed it has been apparent for some time—that the Legal Services program must be isolated from political interference. The struggle to isolate the Legal Services program from the kinds of political pressures which its very success has generated is one in which I believe most fervently. The very integrity of the adversary system of justice in the United States, and of the attorney-client relationship, requires that the provision of legal services be free from political interferences.

Throughout the history of the Legal Services program it has been continually threatened by extra-legal pressure and reactions. There has been broad recognition of that fact.

In 1971 the Ash Council—the President's Advisory Council on Executive Reorganization—strongly recommended that the Legal Services program be set up as an independent Corporation, rejecting proposals that it be located permanently in the executive branch. This recommendation was shared by the consultant's report of the American Bar Association's Committee on the Right to Legal Services.

In March of 1971, following the Advisory Council recommendation, Senator MONDALE, Senator KENNEDY, Senator BROOK, Senator CASE, Senator JACKSON and I, and eventually 17 other Members of the Senate as well, introduced S. 1305, the first National Legal Services Corporation bill. Shortly thereafter, the President sent his message to the Congress also proposing the creation of an independent Legal Services Corporation. At that time, the President noted:

> Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments. The program is concerned with social issues and is thus subject to unusually strong political pressures. . . . If we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.

The President further said:

> The attorneys in the program must have full freedom to protect the best interests of their clients in keeping with the Cannons of Ethics and the high standards of the legal profession.

Mr. President, there have been several issues in dispute between the administration and the Congress since we first began this long, long effort to establish the Corporation, but paramount among them has always been the composition of the Corporation Board of Directors. It is predominately that issue which resulted in the veto of the 1971 legislation—then proposed as a new title IX in the EOA—which would have established the Corporation.

Even in 1971, the Congress attempted to reflect a spirit of compromise with regards to the Board of Directors. S. 1305, as introduced, would have set up a 19-member board. The President would have named five members, and the Chief Justice of the United States would have been named one member after consultation with the Judicial Conference of the United States. Six members of the Board would have been officials of legal organizations; the president and the president-elect of the American Bar Association, the president of the National Bar Association, the president of the National Legal Aid and Defender Association, the president of the American Association of Law Schools, and the president of the American Trial Lawyers Associations. Three members would have been selected by the Client's Advisory Council, and three by the Project Attorney's Advisory Council. The Board would then have chosen an Executive Director who would have been the 19th voting member of the Board.

In the administration's 1971 bill, the Board would have consisted of 11 members appointed by the President by and with the consent of the Senate. A majority would be members of the bar of the highest court of a jurisdiction, and none would be a full-time employee of the United States. Members would be appointed for 3-year terms, and serve no longer than 9 years consecutively. The Board chairman would be elected by the members from among their number and serve for 1 year.

Neither the President's proposal nor S. 1305 emerged intact from congressional deliberations. The Senate adopted a version that I supported—reluctantly because of my strong feelings about the need for a tri-partite board representing the organized bar and legal education, clients and project attorneys, and the general public—proposing 15 board members. Under the Senate bill, the President could appoint four plus an additional five selected by him from lists submitted by two new advisory panels: a client's advisory council, and a project attorney's advisory council. The five legal associations would each appoint one member, and the Chief Justice one.

The version adopted by the House proposed 17 members, all appointed by the President with senatorial consent. Of the 17, 10 would be selected from nominating lists provided by the 5 legal associations and the Judicial Conference. An advisory council would propose names of legal services clients and of legal services staff attorneys.

The final bill reported by the House and Senate conferees—as part of the EOA amendments—provided for 17 board members, of whom 6 were to be appointed outright by the President and the others from lists submitted by various groups.

The EOA amendments were vetoed in December of 1971.

From the very beginning of the second session of the 92d Congress, we were determined to achieve legal services legislation which could be acceptable to as many of the parties as possible. Again, the Senate modified its position with regard to the Corporation Board of Directors, adopting a measure, S. 3010, which provided for outright Presidential selection of 10 of the 19 Board members; the remaining 9 would have been selected, 5 from names submitted by the five law groups, and 2 each from names submitted by client and project attorney groups.

Agreement was reached by the House and the Senate conferees—in a July 26, 1972, conference report—to a Board composed of 19 members all of whom were to be appointed by the President with the advice and consent of the Senate, one of whom would be elected annually to serve as Chairman. Ten members of the Board were to be individuals in the general public, at least six of whom were to be members of the bar of the highest court of a State; five members were to be representative of the organized bar and legal education; two members were to be selected from individuals eligible for legal services assistance—that is, clients; and two members from among former legal services project attorneys.

The July 1972 conference bill further specified that the ABA, the American Association of Law Schools, the NBA, NLADA, and ATLA could submit recommendations to the President with respect to representatives of the organized bar and legal education to serve on the Board. The Client's Advisory Council and the Project Attorneys' Advisory Council were also both provided with the opportunity to submit recommendations to the President with respect to their representative members on the Board. It was also noted in the joint statement of managers that "representative of" did not mean that an individual appointed to the Board has to represent a specific organization, but rather meant an "outstanding individual."

Unfortunately, the July 1972, report was sent back to conference after the administration made clear the President would veto the bill in that form. Thereafter in conference, agreement on the nature of the Corporation legislation could not be reached, and the conferees reported back in disagreement on the legal services title. The result was that independent Legal Services Corporation legislation was not enacted in the 92d Congress.

Mr. President, throughout our attempts to gain agreement on the nature of National Legal Services Corporation legislation, support for the concept has not waned. Earlier this year in testimony before the House, then ABA president, Robert W. Meserve, stated:

> The current status of the program has to be a matter of great concern to the Congress, the Administration, the bar, and most importantly, the poor who have derived so much benefit from the services which it has provided . . . The program, its lawyers, and clients appear to have suffered the most serious threat to the continuing availability of legal services to the poor in its [the program's] eight-year history.
>
> The pendency of the legislation and the continuing debate over its provisions have resulted in a rudderless course in national program administration. Crucial decisions and policy directives have been postponed because of the continued anticipation that the new structural autonomy of a corporation was just around the corner.

Another past ABA president, Edward L. Wright, had testified in 1972 that—

> Recurring attacks on the Legal Services program have helped shape our view that the Legal Services program should be provided a new and independent home.

Mr. President, the concern of ABA presidents is well justified and widely shared.

Attacks on the Legal Services program have occurred persistently and periodically throughout the last 5 years under the present administration. During the first 6 months of 1973, the Legal Services program was seriously wounded by the attacks it suffered then. These recent blows to the program indicate once again that a free and independent Legal Services program cannot be guaranteed while it remains within the Office of Economic Opportunity—subject to the heavy hand of politics and political gamesmanship.

Let me hasten to add that since July, when Alvin Arnett assumed the helm of OEO, things have improved markedly for Legal Services programs. But the potential for abuse remains very real and continuing. And the authorization for appropriations for the present program under the Economic Opportunity Act expires next June 30.

The extra-legal pressures and reactions to which the Legal Services program has been subjected are anathema to a system of law which requires, under its code of professional responsibility and canons of ethics, that the lawyer be free from outside interference and be able to represent his client in the most effective and meaningful way possible—using all permissible legal tools and arguments. To provide any less is to tell legal services attorneys and their clients that they cannot share fully in the basic premises of our system of justice.

Through the Legal Services program we have demonstrated that the poor can participate in our society and have their grievances redressed within the governmental structure. We must continue to keep these avenues open and to expand them through a strong and independent Legal Services program.

It is to preserve this vital thrust of the program that we have moved again this year to try to create an independent, National Legal Services Corporation.

The committee has acted in developing the clean bill it reported, with a clear recognition of the essential need for the Corporation. The committee bill before us today, S. 2686, represents a very great retreat from the committee's previous position on the structure of the Board of Directors. I have serious reservations about the compromise we have now forged, but, at the same time, I am hopeful that we can enact reasonable legislation.

S. 2686 specifies that the Corporation will have a Board of Directors composed of 11 members, all appointed by the President by and with the advice and consent of the Senate. At least six of the Board members must be members of the bar of the highest court of a State. Political party membership will be relevant for the sole purpose of insuring that no one party dominates the Board—no more than six Board members may be members of the same political party—since the reason for the establishment of the Corporation is the removal of legal services programs from political interference and control.

Mr. President, these provisions are identical to those contained in the administration bill.

The committee report, I believe, clearly reflects the committee's expectation with regard to its review of Presidential nominees for Board membership. The report, on page 10, states:

> The Committee expects that, in exercising its advice and consent function, the Senate will want to review the nominations on the basis of the following primary criteria: (1) a board membership which is adequately representative of the organized bar, legal education, legal services attorneys, the client community, and organizations involved in the development of legal assistance for the poor; (2) the selection of persons who are committed to the Corporation's freedom from political control; and (3) the assurance that the Board members understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation that it is in the national interest that the poor have full access under law to comprehensive and effective legal services.
>
> To assure that these criteria are met, it is expected that the initial nominations for the Board, including the nominee for chairman, will be presented together to the Senate, so that the President will have the opportunity to present and the Senate to consider the full distribution of membership qualifications for the Board.

Mr. President, I have worked on this legislation for the last 3 years, and have been deeply involved in the development of S. 2686 in its present form. The measure we have reported, is admittedly much less than I would have hoped for in other circumstances. But it will, I believe, provide a foundation for the continuation of quality legal services to the poor. Indeed, in light of the June debacle on the floor of the other body, the Senate committee bill is far more acceptable than seemed possible only a short time ago.

It is not a more perfect bill because we felt it was necessary to try to work out a settlement with the administration to secure prompt and favorable action on an acceptable bill. We believe we have done that. The alternative to this approach could well have been a replay of the past 3 years.

Although we have now had to accept an unstructured Corporation Board of Directors, those of us who forged this settlement—and who will be Senate conferees on the bill—intend to stand firmly behind the Senate bill. The room remaining for further accommodation is extremely minimal. We will staunchly oppose in conference with the House any proposals which would permit a second-class quality of justice for the poor.

I believe that enactment of this bill will free the provision of legal services from the stranglehold of governmental bureaucracy and the extraneous and extra-legal political considerations which have threatened the program over the years. At the same time, the bill seeks to insure that legal services lawyers will be free to offer their best efforts, consistent with professional ethics, on behalf of their poverty clients.

Mr. President, I would not—I will not—support legislation that would do any less.

Mr. President, I want to make one specific point with respect to the transfer of OEO personnel to the new Corporation. Although the only personnel mandated to be transferred to the Corporation are those OEO personnel employed directly in connection with any legal services function under the Economic Opportunity Act.

The Board of Directors of the Corporation, in consultation with the Director of the Office of Economic Opportunity, will have the task of determining the number and description of personnel positions necessary for the management and operation of the Corporation. It is our intention that the Corporation's Board, when employing personnel to perform necessary support functions—such as payroll, finance, and accounting—should retain those OEO employees currently effectively engaged in providing such support to the Office of Legal Services.

Mr. President, if the poor are to be meaningful participants in our society, they must have the same access to the courts and other tribunals, as those able to hire attorneys in order to pursue their claims and vindicate their rights through the judicial process.

Providing redress of grievances within legally constituted channels is the very cornerstone of our Republic.

In his well-known article in the ABA Journal, OEO's first Director, Sargent Shriver, pointed out this essential character of the Legal Services program when he wrote:

> The legal services program of the OEO is . . . a deeply conservative program which at once enables and admonishes us to take the most fundamental principles of our legal system seriously. It is only a first step. But it represents a new fruition for this generation of a centuries' old tradition.

Mr. President, S. 2686 is part of a new spirit of cooperation between the administration and the Congress. The provisions of the bill are the result of much communication, compromise, and cooperation between the Senate and the administration. It is a very hopeful sign that this bill has been worked out with the administration.

I hope that the veto-compromise-enactment cycle will be broken again with this bill as it was during consideration and with the enactment of the Rehabilitation Act of 1973, Public Law 93–112, the Veterans' Health Care Expansion Act of 1973, Public Law 93–82, and the Domestic Volunteer Service Act of 1973, Public Law 93–113.

If the administration will only continue to talk with the Congress—through reliable, authoritative, and reasonable representatives—about the legislation we are developing, I feel confident we can continue to accomplish the kind of cooperation that has characterized our work on the legislation before the Senate today and on these other measures over the last several months.

In the past, only after vetoes, have we been able to work out acceptable compromises with the administration on a number of bills with which I have been closely involved. I welcomed these negotiations, but they came much too late. I was deeply involved in a number of these bills: S. 50, the Older Americans Comprehensive Services Amendments of 1973—now Public Law 93–29—S. 59, the Veterans' Health Care Expansion Act of 1973, a bill I authored which is now Public Law 93–82; S. 49, the Veterans' Cemeteries Act of 1973—now Public Law 93–43—and S. 1875, the Rehabilitation Act of 1973, twice vetoed and now Public Law 93–112, and S. 1559, the Comprehensive Employment and Training Act of 1973, now Public Law 93–203. Senate and House leaders also last summer successfully negotiated with the administration on the August 15 Cambodia and Indochina bombing cutoff date.

In other areas, an accord was reached on the highway trust fund bill; the President signed two compromise health bills last June; the Emergency Medical Services Systems Act of 1973, which I authored in the Senate, vetoed in August, was signed as Public Law 93–154 this past fall, and similar progress seems possible on other pending measures. Coming up in the Comimtee on Labor and Public Welfare is a measure I am deeply involved with, S. 1708, the Family Planning Services and Population Research Amendments of 1973. We have tried to work out our differences with the administration on this bill, but thus far have not been able to do so.

I fervently hope, Mr. President, that the administration will continue to reflect the spirit of compromise which has characterized our deliberations on S. 2686.

Mr. MELVIN Laird, Counselor to the President for Domestic Affairs, has contributed greatly to our sucecss on this other legislation, as well as on S. 2686. After considerable discussion he sent the committee an October 4, 1973, letter, which I ask be set forth in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., October 4, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR GAYLORD: We are pleased that the Subcommittee on Employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

Sincerely,

MELVIN R. LAIRD,
Counselor to the President for Domestic Affairs.

Mr. CRANSTON. Mr. President, I strongly believe that, although the struggle to establish a viable, independent Legal Services Corporation is by no means over, we are well on our way to the end of a long, painful, and often frustrating road, which has been laden with innumerable roadblocks and detours.

Mr. President, the support for the enactment of an independent, unfettered, National Legal Services Corporation—in which attorneys for the poor are not hampered from providing the best and highest quality legal services—comes from all corners of our society. A basic consensus supports the most fundamental of concepts in our democratic system—that the test of the system is its capacity to remedy inequity and injustices through its legal and judicial processes.

Mr. President, I ask unanimous consent that a speech I delivered before the National Legal Aid and Defender Association on October 27, 1973—which details my very strong feelings about the implications of the legislation before us today—be printed in the RECORD at the conclusion of my remarks, followed by several resolutions and letters of support for the program, and several articles which I believe will help my colleagues in the Senate to gather the magnitude and broad, bipartisan nature of the support for the creation of the Corporation.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, in closing, I would like to quote from a recent telegram from former Attorney General Richardson—sent to the NLADA Convention the day after his resignation from the Cabinet. The telegram was occasioned by the former Attorney General's inability to attend the convention as previously scheduled. The telegram reads:

> During my tenure as Attorney General and as Secretary of Health, Education and Welfare, Attorney General of Massachusetts, and United States Attorney—the work of your group, and specifically the movement to obtain fully adequate legal representation for the less privileged, whether as plaintiffs or defendants, has had my enthusiastic support. I applaud your current efforts to help secure passage of legislation in the current Congress establishing an independent, active, sufficiently funded Federal Legal Services Corporation to operate throughout the Nation. For Congress and the Administration to underwrite a vigorous legal services program is, to me, a necessary step in ensuring the continuing responsiveness of our legal institutions.

Mr. President, in closing, I want to pay special tribute to the outstanding cooperation which the leadership on our side, the distinguished majority leader (Mr. MANSFIELD) and the distinguished assistant majority leader (Mr. BYRD), as well as their counterparts on the other side, gave to us in moving this bill through to final passage today. Their assistance was indispensable to our success.

Mr. President, I urge all of my colleagues to give their strong support to the moderate provisions of S. 2686 as reported by the committee. It is a fair compromise.

EXHIBIT 1

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION—51ST ANNUAL CONVENTION, OCTOBER 27, 1973, SAN DIEGO, CALIF.

(By SENATOR ALAN CRANSTON)

The opportunity to address the 51st annual convention of the National Legal Aid and Defender Association is indeed an honor. It is most appropriate that this convention is meeting in California. California has long been the Nation's leader in providing comprehensive legal aid to criminal defendants.

The attorneys here are representative of lawyers across this country who are in the forefront of the struggle for needed change—both in our society and in the legal profession itself. In particular, your steadfast contribution to the Legal Services program has provided strength and encouragement to the Congress in our continuing efforts to ensure the continued integrity of the process of providing legal assistance to the poor.

The Legal Services program has been the most productive of all the War on Poverty programs—it has provided the poor with vital tools to gain the opportunity for full participation in our society. But even more importantly, the Legal Services program has helped to restore the faith of one segment of our population in the fairness and viability of our system of law and order.

The commitment of the Legal Services program has begun to counter the image among the poor that the law is their enemy, not their friend.

One of the best measures of the great success of the Legal Services program is the opposition the program has engendered. Case after case won by legal services attorneys on behalf of their clients has compelled our established order and institutions to be more responsive to the legitimate grievances of the poor. Such victories in courts of law have inevitably generated political opposition to the program from those who see their roles as preserving the present state of things.

The struggle to isolate the Legal Services program from these kinds of political pressures which its very success has generated is one in which I believe most fervently. The very integrity of the adversary system of justice in the United States, and, indeed, of the attorney-client relationship, requires that the provision of legal services be free from political interferences.

The Legal Services program has been seriously wounded by the attack it suffered during the first six months of 1973. This type of attack has occurred persistently and periodically throughout the last five years under the present Administration. Recent blows to the program indicate once again that a free and independent Legal Services program cannot be guaranteed while it remains within the Office of Economic Opportunity—subject to the heavy hand of politics and political gamesmanship. Let me hasten to add that since July, when Alvin Arnett assumed the helm of O.E.O., things have improved markedly for legal services programs. But the potential for abuse remains very real and continuing.

The extra-legal pressures and reactions to which the Legal Services program has been subject are anathema to a system of law which requires, under its Code of Professional Responsibility and Canons of Ethics, that the lawyer be free from outside interference and be able to represent his client in the most effective and meaningful way possible—using all permissible legal tools and arguments. To provide any less is to tell Legal Services attorneys and their clients that they cannot share fully in the basic premises of our system of justice.

Through the Legal Services program we have demonstrated that the poor can participate in our society and have their grievances redressed within the governmental structure. We must continue to keep these avenues open and to expand them through a strong and independent Legal Services program.

It is to preserve this vital thrust of the program that the Congress has moved again this year to create an independent, National Legal Services Corporation. Many, if not all, of you here today are intimately familiar with what a painful—and, to my view, in the House of Representatives, unsatisfactory—process this has been so far.

The Senate Labor and Public Welfare Committee, on which I serve, has now ordered that legislation creating the Corporation be reported to the Senate. I expect it will be taken up on the Senate floor within the next few weeks. It is legislation on which I have worked laboriously for the last three years, and in the development of which, in its present form, I have been deeply involved. The measure we have reported, is admittedly less than I would have hoped for in other circumstances. But it will, I believe, provide a foundation for the continuation of quality legal services to the poor. Indeed, in light of the June fiasco on the House floor, the Senate Committee bill is far more acceptable than seemed possible only a short time ago.

Although we have now had to accept an unstructured Corporation Board of Directors, I pledge to you today that those of us who forged this settlement, and who will be Senate conferees on the bill, intend to stand firmly behind the Senate bill. The room remaining for further accommodation is extremely minimal. We will staunchly oppose in conference with the House any proposals which would permit a second-class quality of justice for the poor.

I believe that enactment of this bill would free the provision of legal services from the stranglehold of government bureaucracy and the extraneous and extra-legal political considerations which have threatened the program over the years. At the same time, the bill seeks to ensure that legal services lawyers will be free to offer their best efforts, consistent with professional ethics, on behalf of their poverty clients.

I would not support legislation that would do any less!

But while the legal services program has restored a measure of faith for one segment of our population under our justice system and the rule of law, we have not reached the vast majority of Americans. I fear that events of the past days and months have severely shaken the faith of most Americans in the integrity and non-partisanship of the administration of justice in this nation.

The cornerstone of the formation of an independent Legal Services Corporation has been to insulate from partisan political pressures, the process of dispute settlement and the avenue to evenhanded dispensation of justice through the courts.

Now, that same need confronts us with regard to the viability of the rule of law throughout our democratic system. The nonpartisan nature of the judicial system and the preservation of the concept of equal protection under law for all Americans now rests in the balance.

This Nation is experiencing a deep crisis of confidence in its criminal and civil justice system with charges of serious conflicts of interest, and sensationalized trials in which political overtones and influences are evident.

The capacity of government to administer justice in an even-handed fashion—so fundamental in our society of laws and the very basis of the people's delegation of the power to govern—has come under an enormous cloud.

Lawyers have always held a special position in a society of laws. They are the essential ingredient of the adversary system—and crucial to ensuring that laws are respected and enforced, that the Constitution is upheld, and that our system of justice is truly even-handed. Attorneys are, in effect, private servants of the public interest. Never has their public responsibility been greater than today.

It is imperative that we find a way of institutionalizing fairness and equity and nonpartisan administration of justice in this Nation. A fundamental part of that is the fair and unbiased representation of the public interest before the courts by the Department of Justice, or, in extraordinary cases, by a Special Prosecutor.

Indeed, it is not called the Department of Selective Application of the Law, or of Equal Rights for those of Equal Means and Circumstances—but the Department of Justice.

Manipulation of the Department of Justice to serve particular political ends is not unique to the present Administration—but the magnitude of that manipulation has never before been so gross. Never before was the Office of the Presidency itself so deeply involved in twisting the system which was investigating possible criminal conduct by the incumbent himself and his principal assistants.

The Attorney General of the United States—and in fact the entire Justice Department—wields great power which, if not used judiciously, threatens the basic rights and liberties of Americans, either as individuals or as members of groups.

The person who holds the position of Attorney General should, in my judgment, be especially sensitive to and protective of our constitutional rights because of the enormous power of his office. His dedication to law and justice should be no less compelling than his enthusiasm for law and order. Such a man has Elliot Richardson proven to be.

It is important to recall that the Department of Justice under its prior leadership showed a pattern of being "soft" on certain repressive practices which, if given further license, could be the precursors of an authoritarian society—practices we should be particularly wary of in this age of electronic snooping devices and computerized data banks.

The chaos of the past week follows several years of tolerance for wiretapping, mass arrests, and preventive detention. Former Attorney General Mitchell's thinking was fuzzy, at best, when it came to distinguishing between people who threatened our nation's security and people who merely disagreed with Nixon policies. There was manifested a disturbing desire to have us all rely entirely on the good will of members of the executive bureaucracy as the ultimate safeguard of our freedoms.

I believe that partisanship must stop at the doorways of the Justice Department.

It is ironic, and more than a bit frightening that the office of Attorney General has become more and more politicized during the very time when more and more power over the lives and the liberties of our people has become concentrated in a Federal bureaucracy in Washington.

For the sake of democracy and of freedom, we should have been heading in the very opposite direction over the past 40 years.

If political power was to become more and more centralized, then it was all the more vital that the men named to the one Cabinet post charged with upholding the law and the Constitution against the oppressive power of government be men far removed from the pressures and the temptations of partisanship. This has been less and less the case over the past twenty-five years.

And instead of more protections of our liberties and our privacy, the past four decades have seen a steady intrusion of government into all facets of our lives and a steady erosion of individual rights and liberties.

It is no wonder that the people of America doubt the credability of our adversary system. The Vice President has resigned after conviction of a felony; a past Attorney General, a former Secretary of Commerce and the ex-White House Domestic Counsellor to the President are all under indictment for illegal activities; the President's former Chief Counsel has pleaded guilty to obstruction of justice. And now, the most recent Attorney General and his Deputy—both men of high integrity—have been forced from office because they could not conscientiously carry out a Presidential order. One of the most chilling incidents in the latter development came when General Haig, who is called the White House "Chief of Staff" in the paramilitary jargon which seems so alien to our civil government—informed Mr. Ruckleshaus that he was getting "a direct order from the Commander-in-Chief". To those on the ordering side it was irrelevant that the order to fire Cox was in clear violation of a pledge, through the United State Senate, to the people, that the whole Watergate-related affair would be investigated and prosecuted totally independently.

I believe that of all the remarkable statements of the past remarkable week, the original statement of the Special Prosecutor most clearly describes the issue at hand. In his one sentence comment upon notification of his abrupt dismissal he said:

"Whether ours shall continue to be a government of laws and not of men is now for the Congress and ultimately the American people."

Various alternatives are now under consideration in the Congress. Many, many members in both the House and the Senate have indicated their refusal to accept the President's actions.

It is absolutely essential to the maintenance of our system of justice that the independent, publicly accountable prosecution of the Watergate and related crimes be pursued.

President Nixon himself last April 30 agreed to that concept. The Senate in confirming Elliot Richardson as Attorney General insisted on it.

Mr. Richardson in his recent press conference again confirmed his own view that an independent prosecutor is necessary. Mr. Ruckleshaus has expressed the same view.

It is not enough to say that the Justice Department will prosecute the Watergate crimes with the same independence provided Mr. Cox. Even if the Justice Department is, in fact, given that independence, the suspicion will remain that these men, appointed by President Nixon, will be doing *his* will and will not be acting independently.

We cannot survive still more doubt about the integrity of the system of justice in this matter.

In a 1972 opinion of the Supreme Court, Mr. Chief Justice Burger outlined the basic contours of the respective Constitutional powers of the branches of government and the neutral authority of the judiciary as follows:

"The check-and-balance mechanism, buttressed by unfettered debate in an open society with a free press, has not encouraged abuses of power or tolerated them long when they arose. This may be explained in part because the third branch has intervened with neutral authority."

It is imperative that faith in that neutral authority be re-instituted.

We cannot allow the sacrifice of the principle of equal justice for the profits of political power. The corollary of the essentially apolitical preservation of the judicial system is that political leaders must willingly accept that neutral authority. When the Supreme Court invalidated President Truman's seizure of the steel mills, the fact that U.S. Marshalls could not overcome the U.S. Army was not an issue in the matter. President Truman believed in the rule of *law*—not of might. So he accepted the judgment of the neutral arbiter despite the fact that it was without the power to enforce its decision. Contrast that to the events of the past four days!

Only after the Court of Appeals forcefully reminded the President that "he does not embody the nation's sovereignty"; that "he is not above the law's commands"; only after scores of impeachment resolutions were filed in the House of Representatives; only after the Judiciary Committee of the House had launched an investigation of impeachment proceedings; only after an absolutely unprecedented outpouring of almost unanimous condemnation of the President's weekend actions (as of this Friday, my California and Washington offices had received 13,625 pro impeachment communications from Californians—and 599 opposed; and only after former Attorney General Richardson explicitly refused to rule out impeachment or to defend the President's actions;—only then did the President finally agree to abide by the principle acceptance of the neutral authority of the courts.

That's hardly a reassuring commitment to the rule of law!

The American people must be assured that the Department of Justice will pursue a full investigation. As its chief, Mr. Bork, is, to my mind, unacceptable—his first act as Acting Attorney General was to fire an honest man. Indeed, our experiences with the appointments by the President have been most unsatisfactory. I remember all too well what we went through in the Senate to prevent Judge Haynesworth's elevation to the Supreme Court—only to be confronted by the nomination of Judge Carswell.

President Nixon miscalculated badly yesterday when he declared that he was confident that the Congress would drop its consideration of separate legislation to ensure the appointment of a truly independent prosecutor.

Yesterday I joined with Senator Bayh, Senator Hart and 50 other members of the Senate in introducing legislation which directs that a new Special Prosecutor be selected by Judge Sirica—totally independent of any direction from the Executive Branch, and removable only by Judge Sirica and only for "Extraordinary Improprieties". I believe, contrary to the President's prediction, that the Congress will pass this important legislation, and if necessary, override any Presidential veto.

I have believed for some time that we need some permanent mechanism which will restore in the long run public confidence that wrongdoers in positions of public trust will be investigated and prosecuted.

The best first step would be for Congress to study ways to set up a permanent means of triggering independent investigations and prosecutions of breaches of the public trust by persons who hold high positions of power. Some way must be found to overcome the built-in conflicts of interest which exist, or appear to exist, whenever the powerful are asked to investigate themselves.

I have confidence that we eventually will overcome the crisis of Watergate. Our system of government is strong enough to do that task.

But the record of official misconduct during past decades is not good. Few cases have been prosecuted.

Too often, there is an appearance that corruption in high places is being swept under the rug. Because of the political nature of the office, an Attorney General can come under enormous pressure not to prosecute some cases.

There is another reason why an independent permanent agency to look into and prosecute charges of official misconduct can restore credibility to government. As former Special Prosecutor Archibald Cox has remarked, often the most important decision a prosecutor makes is the decision not to prosecute.

Such a decision affecting persons in high public office, even if taken by an Attorney General as outstanding as Elliot Richardson, might lack general public acceptance. Such a decision by an independent special prosecutor would have greater credibility.

The restoration of public confidence in the administration of justice, and in our institutions responsible for order and justice under law, is vitally important to the future of our Nation. No one political party today commands a consensus capable of restoring the degree of confidence necessary. We must seek to establish some independent institutions which would guarantee to the public that those in positions of high trust will not abuse that trust.

I have consulted with other Senators, and will push ahead. As, hopefully, we determine how best to replace Mr. Cox, some light may be shed on the best procedure to follow in dealing with the long range problem.

Lloyd Cutler, distinguished Washington attorney, has called for the establishment of an office of permanent prosecutor to investigate and prosecute cases of political corruption. Mr. Cutler persuasively argues that we need to address official and campaign misconduct on a continuing basis, not once every 50 years.

A permanent special prosecutor is one way. It may be that a bipartisan independent commission empowered to appoint an ad hoc special prosecutor in a case of unusual national dimensions would be the soundest approach. I am sure that Mr. Cutler would agree that there are other ways which ought to be examined as well. But his proposal is well worth considering.

I know that all of us here today are dedicated to justice. Justice is a reality only when all people have equal access to that system and to the protections of that system, and are subject to its ultimate judgments.

I call on you and your colleagues across the nation—in your capacity as private servants of the public trust—to lend your knowledge to the American people. I call on you to help them to clarify the many, many, complex legal issues which have arisen in the past weeks, so that public opinion may be an informed public opinion.

The alternatives we in the Congress are faced with—and our choice from among them—are important for two reasons. Not merely because of the very serious ramifications they have in terms of the present crisis—but also because our choice and the judiciousness of our actions will set a course for our Nation for decades to come.

The Congress, like the community at large, needs the support, counsel, and wisdom of the legal profession in the national dialogue in the days and weeks ahead. I urge you to provide that substantial assistance—by whatever means you have at your disposal, with all of the many talents you possess.

We must all summon up the very best that is within us to decide with the greatest care how best to meet this paramount national crisis.

THE STATE BAR OF CALIFORNIA,
San Francisco, November 20, 1973.

Re National Legal Services Corporation.

Hon. ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR ALAN: I understand that S 2686, to establish an independent, federally funded national legal services corporation, is now before the full Senate for action, and that once passed it will go to conference committee to resolve differences between it and HR 7824.

As you know, legislation to establish a legal services corporation consistent with the principles of equal justice and the professionalism and independence of legal services lawyers continues to be of great interest to the State Bar of California. The July 18th statement of former State Bar President Leonard Janofsky contains an excellent exposition of those principles as applied to the deficiencies and restrictive provisions of HR 7824. A copy of his statement was previously sent to you and another copy is enclosed for your convenient reference.

Doubtlessly you are also aware that Leonard's statement has been endorsed, or similar statements have been adopted, by several local bar associations in our State. For example, the Trustees of the Los Angeles County Bar Association specifically approved the statement and Bill Shea, Los Angeles County Bar President, in announcing the approval, praised the statement as a well-reasoned and proper analysis of the several problem areas in the House bill.

We are well aware of your deep interest in equal justice and an effective legal services program for our nation's poor. I appreciate your sincere and dedicated efforts in shaping the Senate bill and your future efforts to enact a corporation bill consistent with the principles you have outlined.

Sincerely yours,

SETH HUFSTEDLER,
President.

STATEMENT BY LEONARD S. JANOFSKY, PRESIDENT OF THE STATE BAR OF CALIFORNIA

"For some time the Board of Governors of the State Bar of California has closely watched the developments affecting the future of federally funded civil legal services for the poor. We have become increasingly concerned that the pending legislation to establish an independent, nonprofit corporation to continue that funding does violence to equal justice for all our citizens and the independence and professionalism of attorneys who would participate in legal services programs funded by that agency. This nation cannot tolerate one system of legal representation for the rich, and another, inferior system for the poor.

"The State Bar has supported the OEO program of funding local agencies to provide legal services to the poor virtually since the inception of that program. The State Bar has maintained an active, ongoing interest throughout the approximately eight years of the program's existence, and has opposed politically motivated efforts to restrict the independence and professional integrity of the attorneys who have labored throughout California and the rest of our nation to bring effective legal representation to the poor.

"We have recognized for some time that continued federal funding is essential. Experience since the institution of OEO funding has demonstrated that volunteer services and funding from the private sector are not adequate to meet the legal needs of California's poor.

"The State Bar has endorsed, for the last two years, the concept of an independent national legal services corporation to continue that funding free from political influences and interference. This endorsement was conditioned on the authorizing legislation containing strong safeguards to assure the professionalism and independence of lawyers in the program.

"Independence and professionalism are not empty platitudes or concepts created for the benefit of lawyers. They are essential parts of our system of justice—a system premised on the lawyer's ability and obligation to represent his client's interests and to use the full scope of resources which are available to him as an advocate acting within our system of law.

"We are a nation of laws and adhere to the principle of equal justice for all. There can be no equal justice without equal representation before our judicial and legislative bodies. We cannot, as citizens or members of the legal profession, tolerate two systems of justice—one for the affluent and an inferior one for the indigent.

"I am concerned that various provisions in the present form of the proposed legal services corporation bill would contradict or undermine the basic principles of equal justice for all and the professionalism and independence of legal services attorneys. Specifically:

"By restricting the involvement of legal services attorneys in the legislative process, the bill would deny the poor person effective access to his Congress or state legislature in seeking resolution of legitimate problems.

"The bill would have the corporation establish guidelines governing when appeals can be taken on behalf of clients. It also calls for guidelines governing when legal assistance can be provided to poverty groups and to poor people who want to form an organization for legitimate and socially useful purposes, such as an economic self-help group or day care center. This approach of requiring guidelines is potentially dangerous, especially in the case of group representation where the statutory language is virtually a mandate to the corporation to limit an important form of legal assistance.

"The bill would prohibit continued funding of 'backup centers'—programs which provide invaluable research, technical assistance, training and guidance for the many neighborhood legal services programs. The backup center concept is sound from an efficiency standpoint and the worth of these centers has been proven in practice.

"The corporation would be subject to court awards of legal fees to defendants who prevailed in actions brought against them by legal aid programs funded by the corporation. In the vast majority of cases under our present judicial system the prevailing party is not entitled to an award of attorney fees. Why should the rule be different when poor people are being represented? This provision could bankrupt the already underfunded legal services program and stifle legitimate litigation—except in cases where victory is assured from the inception. We all know that those cases are few and far between. This provision would practically guarantee that poor people would be represented only when they are defendants.

"The House has deleted from the bill references to the ABA's Canons of Ethics and Code of Professional Responsibility—insofar as they had reference to legislative advocacy and review of appeals. This must be disturbing to the legal profession. The deletion of these references manifests a lack of understanding that independent and professional representation of every client is mandated by the bar and the judicial system under which we operate.

"The bill would effectively delegate to local bar associations the discretion and responsibility for hiring staff attorneys which properly belongs to local program boards of directors and directing attorneys. Input from, and involvement of local bars is essential but this dispersal of operational responsibilities is organizationally unsound.

"The House has deleted from the bill a

provision for three-year appropriation of funds for the proposed corporation. If the already drastically underfunded program of legal services for the poor is to be further subjected, on an annual basis, to political pressures and apparent lack of sensitivity to independent, professional legal services for the poor, then the future is indeed bleak.

"The bill is now in the hands of the Senate where we hope for a version of legislation which is consistent with the basic principles required by the legal profession and its clients. But this is no cause for the legal profession to be optimistic or even temporarily complacent. We must all speak out now, in the strongest of terms, if our national leadership is to be responsive to the basic need for an effective system of justice for the poor. Without equal justice for all, justice for anyone is an illusion."

The Bar Association of
San Francisco,
San Francisco, Calif., November 8, 1973.

Hon. Mike Mansfield,
Hon. Hugh Scott,
Hon. Alan Cranston,
Hon. John V. Tunney,
Hon. James O. Eastland,
Senate Office Building,
Washington, D.C.

Gentlemen: On November 7, 1973, the Board of Directors of The Bar Association of San Francisco unanimously endorsed the pending bill to establish a National Legal Services Corporation in the form reported from Committee to the Senate floor the week of November 5, 1973.

The Bar Association of San Francisco has been a consistent supporter of the OEO legal service programs in San Francisco, the State of California and in the nation. Through appointment of our members to the Board of the governing body for the OEO legal service program in San Francisco, we maintain close liaison to that program. In addition many of our members have worked with a variety of other OEO legal service programs as employees, volunteers or Board members. By these contacts we are convinced that the program continues to improve. If its relative independence from the vicissitudes of politics can be assured through the proposed corporation, we have no doubt that legal services to those who cannot afford to pay for them will be materially improved.

The Bar Association of San Francisco urges Senate passage of the pending bill.

Very truly yours,

Michael Traynor,
President.
Robert H. Fabian,
President-elect.

American Bar Association,
Chicago, Ill., November 12, 1973.

Re S. 2686, National Legal Services Corporation.

Hon. Gaylord A. Nelson,
Chairman, Subcommittee on Employment, Poverty and Migratory Labor, Washington, D.C.

Dear Mr. Chairman: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

Chesterfield Smith.

Telegram on the Crisis in OEO Legal Services

The Honorable Richard M. Nixon,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: We write in urgent concern that full access to our system of justice be maintained for low income citizens. We write in particular to ask your personal intervention to reverse the present acute trends which threaten the legal services program.

1. *The immediate crisis.* We are concerned, first, with the uncertain state of funding for legal services operating programs. Some 16 California legal services programs face refunding shortly. Their closure would leave tens of thousands of cases now pending in California courts without counsel, jeopardizing those clients and their sense of justice, and jeopardizing the integrity of the legal system.

2. *The direction of the legal services programs.* The refunding of operating legal services programs has been slowed. Back-up centers and training programs have been placed in danger of defunding. These actions are expressive of deeper problems. Callow assertions have been made about the functions and professional obligations of the lawyer, which affront the deepest traditions of the legal profession. Statements recently made by some OEO officials betray ignorance of the proper role of a government in guaranteeing access to its courts for all—a role which dates to the 1495 Statute of Henry VII; and which has been acted upon now in virtually all democratic nations of the west.

3. *Restructing national funding.* We write also to seek your aid in shaping whatever corporate or other form the national administration of funds for legal services may take. Lawyers must be free to fully execute their duty to their clients under the Code of Professional Responsibility, in whatever forums and against whatever parties the clients' interest may require.

You so eloquently expressed a judgment in November 1962, addressing the National Legal Aid and Defender Association which is exactly in point:

"There is . . . no subject that is more important to this nation than . . . the realization of the ideal of equal justice under law for all."

You also spoke about legal services at San Clemente on August 11, 1969; we ask a return to that proper conception of the lawyers' role which you then expressed:

"The Office of Legal Services [will] be strengthened and elevated so that . . . it will taken on central responsibility for programs which help provide advocates for the poor in their dealings with social institutions. The sluggishness of many institutions at all levels of society in responding to the needs of individual citizens is one of the central problems of our time."

We ask the careful attention of your administration to extending legal services for the poor to those many still denied it. As Mr. Justice Harlan wrote for the Supreme Court in *Boddie* v. *Connecticut*, 401 U.S. 371 (1971):

"American society, of course, bottoms its systematic definition of individual rights and duties, as well as its machinery for dispute settlement, not on custom or the will of strategically placed individuals, but on the common-law model. It is to courts, or other quasi-judicial official bodies, that we ultimately look for the implementation of a regularized, orderly process of dispute settlement. . . . Without [the] guarantee that one may not be deprived of his rights, neither liberty nor property, without due process of law, the State's monopoly over techniques for binding conflict resolution could hardly be said to be acceptable under our scheme of things. Only by providing that the social enforcement mechanism must function strictly within these bounds can we hope to maintain an ordered society that is also just."

Very truly yours,

Eadie Deutsch, Dean, University of San Fernando Valley, College of Law, Sepulveda, Calif.

Jerome Sack, Dean, Lincoln University, Law School, San Francisco, Calif.

George J. Alexander, Dean, University of Santa Clara, College of Law, Santa Clara, Calif.

Thomas A. Ehrlich, Dean, Stanford University, School of Law, Stanford, Calif.

Daniel J. Dykstra, University of California, School of Law, Davis, Calif.

Edward C. Halbach, Jr., Dean, University of California, School of Law, Berkeley, Calif.

Murray L. Schwartz, Dean, University of California, School of Law, Los Angeles, Calif.

Paul L. Wildman, Southwestern University, School of Law, Los Angeles, Calif.

Dorothy W. Nelson, Dean, University of Southern California, School of Law, Los Angeles, Calif.

Resolution of the American G.I. Forum on National Legal Services Corporation for the Poor, H.R. 7824

Whereas, the American G.I. Forum has always displayed a deep concern for justice for Chicanos and minority groups and for the poor generally; and

Whereas, OEO legal service programs have provided the poor, especially Mexican-Americans, with access to legal services which have increased their sense of dignity, enlarged their experience of human rights and enhanced their hope in and support of the American system of justice; and

Whereas, the structure of any legal services corporation enacted into law will significantly affect the quality and effectiveness of legal services available to the poor; and

Whereas, the American G.I. Forum has repeatedly endorsed OEO legal services programs free from political interference; Therefore, be it

Resolved, that the American G.I. Forum:

Reaffirms its support of OEO legal services free from political interference; and

Strongly urges that the Bill establishing a National Legal Services Corporation will generally assure the poor, especially the Chicano poor, access to effective, independent, professional legal services and, specifically, the G.I. Forum urges that the legislation contain the following provisions:

1. An assurance that attorneys employed by legal services programs funded by the corporation have all the latitude to advise, counsel and represent their clients in *all* civil matters before judicial, administrative or legislative branches, as fully as any private attorney being paid by his clients, consistent with the canons of ethics and code of professional responsibility of the American Bar Association; and

2. An assurance of the protection of the First Amendment rights of employees of projects funded by the corporation; and

3. An assurance that legal services offices funded by the corporation be permitted to carry on educational programs in client communities to alleviate legal and social problems associated with poverty; and

4. An assurance that legal services offices may assist eligible clients to organize themselves into effective groups to seek their goals through the legislative, judicial or administrative process and especially to develop business or other economic entities to

develop the resources of the low-income community; and

5. An assurance that a majority of the eleven-member corporation board of directors is made up of representatives of the minority and poverty community served by the programs funded by the corporation and representatives of national bar associations.

RESOLUTION OF THE MEXICAN-AMERICAN POLITICAL ASSOCIATION ON H.R. 7824, NATIONAL LEGAL SERVICES CORPORATION FOR THE POOR

Whereas, the United States Senate will soon consider legislation to establish a legal services corporation; and

Whereas, the House of Representatives has considered such legislation and has taken such action as to severely limit the ability of attorneys for the poor to maintain adequate and full representation; and

Whereas, the Mexican-American Political Association strongly supports the concept of a truly independent corporation to provide legal services to the poor; and

Whereas, the Mexican-American Political Association supports the statement by the President of the United States that "[t]he legal problems of the poor are of sufficient scope that we should not restrict the right of their attorneys to bring any type of civil suit." * Therefore, be it

Resolved, That the Mexican-American Political Association call upon the Members of the U.S. Congress to establish a corporation which includes the following provisions:

1. That the programs funded by the legal services corporation should provide full and adequate legal assistance to the poor;

2. That services provided by the attorneys for the poor should be limited only by the Code of Ethics and Canons of Professional Responsibility of the American Bar Association to insure the poor equal access through our civil laws before judicial, administrative or legislative branches of local, state or federal governments;

3. That no specific issue, due to its "controversial" nature, be singled out as an issue for which attorneys will not be available to represent the poor;

4. That attorneys for the poor have equal latitude in representing client interests before any legislative bodies as do attorneys in private practice, consistent with the Canons of Ethics and the Code of Professional Responsibility of the American Bar Association;

5. That costs and attorneys' fees not be charged against legal services attorneys, programs nor the corporation where such costs and fees would not be so charged against a private attorney nor private law firm;

6. That legal services attorneys have full latitude to advise clients of their First Amendment rights as would any private attorney;

7. That the First Amendment rights of all employees of legal services programs be protected.

THE BAR ASSOCIATION OF
SAN FRANCISCO.
SAN FRANCISCO, CALIF., *July 26, 1973*.

DEAR SENATOR CRANSTON: The Bar Association of San Francisco strongly supports the State Bar of California in its advocacy of an independent and effective national legal services corporation, in contrast to the organization that would result if the bill pending in the Senate is not substantially revised.

The State Bar's position is set forth in President Leonard Janofsky's statement of July 18, 1973, which we understand has been communicated to you. We agree with the State Bar's summary of the major defects of the pending bill:

The bill unnecessarily restricts legal services attorneys seeking legislative relief for problems affecting their clients' interests.

The bill tends to cripple appellate advocacy by legal services attorneys, and their advocacy on behalf of groups.

The bill arbitrarily cuts off important poverty law research and training, the back-up centers, without guaranteeing any efficient alternative.

The bill deletes references to the ABA's Canons of Ethics and Code of Professional Responsibility—insofar as they relate to legislative advocacy and appeals.

The bill improperly subordinates the responsibility of program boards of directors for hiring staff attorneys to the discretion of local bar organizations.

The bill continues the annual political war over funding of legal services programs, even though the corporation has been proposed primarily to overcome the fundamental inequities of this funding process.

We join State Bar President Janofsky in his conclusion regarding the bill as proposed: "This Nation cannot tolerate one system of legal representation for the rich, and another, inferior system for the poor."

The current version of the bill, in these discriminatory and unfair provisions and in its deletion of references to accepted ethical standards, is a matter of particular concern to the profession and the public at this time. In this context, the very least that our government can do is to insure that lawyers for the poor are permitted to represent their clients responsibility, ably, and vigorously within the highest ethical traditions of our adversary system of justice.

We urge you to vote against any proposal that would prevent adequate legal representation for the poor and to take all steps necessary to assure that an adequately funded, independent, and effective legal services corporation is established.

Sincerely,

MICHAEL TRAYNOR,
President.
ROBERT H. FABIAN,
President-Elect.

FRIENDS COMMITTEE ON
NATIONAL LEGISLATION,
Washington, D.C., October 25, 1973.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: The Senate will soon consider on the floor the whole question of a Legal Services Corporation and under what conditions it should exist. I would like to take this opportunity to express very simply what I have already expressed to a number of you or your legislative assistants personally.

The Friends Committee on National Legislation strongly endorses the concept of a Legal Services Corporation as long as the lawyers working for that Corporation enjoy the same working legal privileges as any other member of the legal profession.

While it is obvious to most senators that "equal access" to legal services is a right in America today, it seems odd that some of these same senators can turn around and demand that the lawyers who represent the poor should practice under different conditions than those in private or business or government employ.

To be specific, it looks as if the biggest challenge is going to come from those who feel that public money should not be spent to salary any form of legislative advocacy. While this as an abstract principle might be interesting to pursue, it is a matter of realistic fact that business and governments have (and many times pay for out of public monies) public and governmental lobbying efforts. Governors' offices, state governments, even the "Defense" Department provide lobbyists at tremendous expense to the public. Does it seem too much to allow our poorest citizens' lawyers the same rights that everybody else already practices?

In essence we strongly urge the passage of the Legal Services Corporation bill without amendments. We also would urge strong support of Conference appointees to get the bill out of conference as close to the Senate version as possible. Needless to say, the House bill is a disaster, but many House members realize today that they bought a package from Howard Phillips and the rest of this Administration's "law and order" people that they now recognize for what it was—a different law and a different order dependent on your wealth. We know you cannot accept the assumptions therein and will insist that "equal justice under law" is not an approachable ideal if the poor do not have untrammelled equal access to counsel.

Sincerely yours,

HAROLD B. CONFER.

[From the Fresno Bee, Oct. 19, 1973]

EFFECTIVE LEGAL SERVICES FOR POOR WOULD ENCOURAGE PEACEFUL CHANGE

Those who wish to see the poor and powerless obtain the rights to which everyone is entitled under the law will be watching the poverty subcommittee of the US Senate Labor and Public Welfare Committee closely as it draws up a Legal Services bill.

The committee holds the last hope of salvaging one of the most useful, effective and economical pieces of what is left of the poverty program.

The measure, to provide legal services for the poor for whom the ordinary benefits of our judicial system have been out of reach, is an integral part of any sincere and enlightened attempt to alleviate the harsh consequences of poverty by peaceful change.

The antipoverty program itself, administered by the US Office of Economic Opportunity, has been emasculated by the lockjaw right wingers President Richard Nixon has put in charge of the OEO since his second term.

The proposal before Congress to take legal services to the poor out of the OEO and put them in an independent corporation whose board Members would be appointed by the President essentially would be a good move.

However, in June the House of Representatives, in an atmosphere reminiscent of an end-of-the-session rampage by a state legislature, amended the measure to make it virtually impossible for the legal services corporation attorney to provide effective representation for impoverished clients.

Under the OEO, the Legal Services program, demonstrated effective and constructive change can occur peacefully within the system through court action.

About 2,500 lawyers in 900 offices around the country participated in the OEO program. They helped the impoverished with the everyday problems which are the bane of the poor—landlord-tenant disputes, debtor-creditor problems, domestic matters. The government-funded lawyers were especially successful in securing for the poor rights guaranteed by law but denied them by administrative directive.

The bill passed by the House would so hobble lawyers for the poor they would not act forcefully for their clients.

Legal rights are worth nothing if those who possess them lack effective legal representation.

The Senate committee has before it the difficult task of drawing up a bill which would be meaningful for the poor, by keeping open the avenues of orderly redress of grievances for those who cannot afford to hire a lawyer.

[From the Santa Barbara News-Press, Sept. 25, 1974]

LEGAL AID FOR POOR IN DANGER

Legal services for the poor, a program introduced by the "war on poverty" legislation a decade or so ago, has proved effective in equalizing the right of the poor to legal counsel and in correcting customs and precedents that now are seen as contrary to constitutional principles. It has been so effective that powerful enemies have been made among state and federal officials, legislators and bureaucrats.

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* President Nixon's message to the U.S. Congress, May 5, 1971.

The Nixon administration, aware of complaints from governmental figures who were defeated in many class-action cases in the courts, decided to abolish the legal services from the anti-poverty program, and instead set up a semi-autonomous corporation to provide legal services for the needy under certain limitations. The announced purpose was to take the legal services out of the arena of social political action, and to free it from political pressure.

A bill was introduced in the House, which was mildly restrictive, but still generally acceptable to those firmly committed to the principle of equal legal rights. But before it was passed it was loaded down with restrictive amendments in a frenzied session just before the summer recess, so that now even the American Bar Association spokesman regards it as violating the rights and obligations of lawyers, and compromising their professional independence.

William R. Klaus, chancellor of the ABA's standing committee on legal aid, declared against any limit on a lawyer's activity as a legislative or administrative advocate. "The bar's code of professional responsibility specifically states that representation before municipal, state and legislative bodies is part of the obligation of a lawyer if he is to represent his client well," Klaus said. The Connecticut state bar head commented: "What this bill says, essentially, is that if you're a poor person, you can have a lawyer, but you can't have a 100 percent lawyer." The president of the New York City Bar said "legal service lawyers will be coming into court with one hand tied behind their backs," and he charged that the anti-lobbying provision and bans on certain kinds of lawsuits are "constitutionally suspect," violating both First Amendment rights of free speech and Sixth Amendment rights to effective assistance of counsel.

This week the bill comes up for hearing in the Senate Committee on Labor and Public Welfare, where moderates of both parties will try to remove the crippling amendments imposed by the House. They will be encouraged and advised by spokesmen for the American Bar Assn. and various state bar organizations, who are ready to fight to protect the prerogatives and ethical responsibilities of all lawyers.

[From the Los Angeles Times, Sept. 25, 1973]

Maiming of Legal Aid for the Poor

Everyone is equal before the law in theory. In fact, some are more equal than others. Those who have money to hire a competent lawyer enter the fray with a great advantage over those who do not. In recognition of this, the federal government established a legal services program for the poor eight years ago.

During these eight years, the program has been under constant attack, and may soon be emasculated. Success may be its downfall. Legal service lawyers have won too many cases—about 85% of them. More than that, they have frequently gone to the Supreme Court and have achieved precedent-setting victories that established not only the rights of clients but, through them, have advanced the cause of the poor in general.

This came about not because the program's attorneys were decisively superior to opposing counsel in every case but because the courts recognized the injustices suffered by the poor and acted to redress these wrongs.

During the controversy this year over the poverty legal services, President Nixon proposed legislation to continue the program under an independent federal corporation. The House, shortly before Congress recessed for the summer, approved the bill but, in doing so, maimed it almost beyond recognition. In its present form the bill would: (1) prohibit lawyers for the poor from lobbying before state legislatures and Congress or even testifying unless subpoenaed; (2) stop these attorneys from filing school desegregation, abortion and amnesty cases or representing any juvenile without consent of parents; (3) deny federal funds to "backup centers," which provide poverty lawyers with research materials, and (4) require the corporation to pay court costs and attorneys' fees of defendants who win suits brought against them by legal service lawyers.

The purpose of these restrictions is clear. They are designed to cut the heart out of the legal defense of the poor. Orville Schell, president of the New York City Bar Assn., points out that this bill means that poverty lawyers will be going into court "with one hand tied behind their backs."

President Nixon, in endorsing legal assistance for the poor, said last spring that "justice is served far better and differences are settled more rationally within the system than on the streets." If that is so—and it is—the Administration, which apparently is wobbling in support of its own bill, and the Senate should come to the rescue of the legislation and cut off the crippling amendments imposed by the House. The rescue operation should begin this week when the bill is taken up by the Senate Committee on Labor and Public Welfare.

[From the Sacramento Press-Journal, July 26, 1973]

Legal Services Corporation Bill Criticized by State Bar

San Francisco.—State Bar President Leonard S. Janofsky today called upon the Senate to adopt a national legal services corporation bill consistent with the principles of equal justice and the professionalism and independence of legal aid attorneys. His remarks were addressed to legislation introduced by the Nixon Administration, amended by the House of Representatives, and recently sent to the Senate.

Janofsky noted that two years ago the State Bar endorsed the concept of a legal services corporation which assured the independence of participating lawyers. He expressed deep concern, however, about several provisions in the corporation bill as it was sent to the Senate.

"For some time the Board of Governors of the State Bar of California has closely watched the developments affecting the future of federally funded civil legal services for the poor," the State Bar President said. "We have become increasingly concerned that the pending legislation to establish an independent, nonprofit corporation to continue that funding does violence to equal justice for all of our citizens and the independence and professionalism of attorneys who would participate in legal services programs funded by that agency. This nation cannot tolerate one system of legal representation for the rich, and another, inferior system for the poor."

PROBLEM AREAS

In pointing out problem areas in the present form of the bill he highlighted:

1. Prohibitions on legislative advocacy which, he said, would deny poor people any "effective access" to their elected representatives "in seeking resolution of legitimate problems."

2. Prohibitions against the continued funding of "backup center." Janofsky noted that these specialized research and training programs have proven their worth and provided "invaluable assistance for the many neighborhood legal services programs."

3. A provision which would subject the corporation to court awards of legal fees to defendants who prevail in actions brought against them by legal aid programs funded by the corporation. Janofsky explained that this is inconsistent with the general rules in civil litigation and could bankrupt the legal services programs. Its practical effect, he said, would be to "guarantee that poor people would be represented only when they are defendants."

4. Provisions which encourage the corporation to adopt "guidelines" severely limiting legal assistance to poverty groups and require it to set standards governing when appeals can be taken. He characterized these proposals as "potentially dangerous."

The State Bar of California.

State Bar Calls for Effective Legal Services Corporation

State Bar President Leonard S. Janofsky today called upon the Senate to adopt a national legal services corporation bill consistent with the principles of equal justice and the professionalism and independence of legal aid attorneys. His remarks were addressed to legislation introduced by the Nixon Administration, amended by the House of Representatives, and recently sent to the Senate.

Janofsky noted that two years ago the State Bar endorsed the concept of a legal services corporation which assured the independence of participating lawyers. He expressed deep concern, however, about several provisions in the corporation bill as it was sent to the Senate.

"For some time the Board of Governors of the State Bar of California has closely watched the developments affecting the future of federally funded civil legal services for the poor," the State Bar President said. "We have become increasingly concerned that the pending legislation to establish an independent, nonprofit corporation to continue that funding does violence to equal justice for all of our citizens and the independence and professionalism of attorneys who would participate in legal services programs funded by that agency. This nation cannot tolerate one system of legal representation for the rich, and another, inferior system for the poor."

In pointing out problem areas in the present form of the bill he highlighted:

Prohibitions on legislative advocacy which, he said, would deny poor people any "effective access" to their elected representatives "in seeking resolution of legitimate problems."

Prohibitions against the continued funding of "backup center." Janofsky noted that these specialized research and training programs have proven their worth and provided "invaluable assistance for the many neighborhood legal services programs."

A provision which would subject the corporation to court awards of legal fees to defendants who prevail in actions brought against them by legal aid programs funded by the corporation. Janofsky explained that this is inconsistent with the general rules in civil litigation and could bankrupt the legal services program. Its practical effect, he said, would be to "guarantee that poor people would be represented only when they are defendants."

Provisions which encourage the corporation to adopt "guidelines" severely limiting legal assistance to poverty groups and require it to set standards governing when appeals can be taken. He characterized these proposals as "potentially dangerous."

[From the Los Angeles Times, July 6, 1973]

Crippling of Legal Aid for the Poor

The House of Representatives has approved the independent federal corporation proposed by President Nixon to provide legal services to the poor. But in so doing, the House has attached such restrictive amendments that the bill little resembles the original proposal and would, in effect, deny the poor the quality of legal services intended.

What makes the House action particularly shocking is that it was encouraged and abetted by Howard J. Phillips, while acting director of the Office of Economic Opportunity, without so much as a public reprimand from Mr. Nixon. This open sabotage left the suspicion that the Administration was talking out of both sides of its mouth.

It is time that Mr. Nixon made clear where he stands. Phillips is now out of office—driven out by the courts, not Mr. Nixon, because he had never been confirmed for the job. He has been succeeded by Alvin J. Arnett. Within the White House itself, Melvin Laird has succeeded John Erlichmann as principal domestic adviser. If the President intends to keep his earlier promises on legal services, he must speak, and with him Arnett and Laird, loudly and clearly, opposing what the House has done and encouraging the Senate to get on with a bill to provide truly effective services.

House amendments are crippling to a strong and useful service. Poverty lawyers would be denied the right to back legal reforms, would be prohibited from entering integration, school busing and abortion cases, their hands further tied by more than 20 floor amendments.

Anyone familiar with the American system of law knows that the priority today is not to restrict legal action in behalf of the poor. The need is to encourage it, broaden it. The codes and canons of the American Bar Assn. provide adequate safeguards as to the ethics and activities of lawyers for the poor as they do for lawyers serving the rich.

The hope for reasonable regulations for the corporation now lies with the Senate, which is expected to take up the legislation immediately after the present recess. In the meantime, legal services apparently are assured a continuation under OEO through special legislation. An interruption of these services would have been an injustice. But it would also be an injustice to create a corporation that could not contribute to the ultimate goal, the goal of equality before the law for all regardless of income.

[From the Washington Star-News, Apr. 11, 1973]

Continue Legal Services? By All Means

(By James J. Kilpatrick)

There are times, sad to say, when American conservatives appear to constitute "the stupid party," as John Stuart Mill once labeled their British counterparts a century ago. By their failure to give active support to a continuing program of legal services for the poor, my brother conservatives are abandoning their principles and exhibiting a dull-wittedness that makes a man despair.

Of course a legal services program should be extended! Let the Congress, if it pleases, scrap everything else that has been funded through the Office of Economic Opportunity. Let the administration, if it can, dismantle a hundred boondoggling, paper-shuffling programs of grant-in-aid. But in one form or another, the Neighborhood Legal Services must be maintained.

Chiseled in stone above the great white columns of the U.S. Supreme Court are four famous words: Equal justice under law. No concept in our public life is nobler and no concept has been more poorly served. The grim truth is that for all practical purposes we still have two systems of law in this country, one for the rich, another for the poor. Every newspaperman who ever has covered the small claims and criminal courts of his city knows this is so.

Granted, much has been done in recent years. Indigent defendants, even in serious misdemeanor cases, now have a right to counsel. Bail reform has remedied some of the most flagrant evils of the criminal justice system. Since 1965, the federally assisted legal services program has greatly benefited the poor in areas of civil litigation. Now this civil program—a program seeking to promote equal justice under law—is threatened with abandonment. Conservatives, dedicated in principle to this elementary proposition, ought to be in the forefront of a fight to push the cause along.

But where are they? They are grumbling that in recent years the program of legal services has been abused. Doubtless this is true. It would be incredible not to discover abuses in a program involving 2,500 lawyers in 900 neighborhood law offices.

But these occasional abuses, while serious, have been few. Viewed on the whole record, the legal services program has helped to foster a sense of confidence not only in the courts, but also in what is known vaguely as "the system." In a message two years ago, urging creation of a wholly independent Legal Services Corporation, President Nixon made that point. "This program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets."

Unhappily, Nixon now seems to be dragging his heels. The present $70 million program is to expire in June, and nothing is yet in sight to take its place. It would be calamitous to let the concept go. As a recent report from the General Accounting Office made clear, the great bulk of case-work by the NLS lawyers involves legal problems arising from housing, domestic relations, employment, and consumer grievances.

What is needed—and needed promptly—is a bill to create an independent legal services corporation, generously funded, with authority to provide essential representation for the poor. Such a corporation should have backup facilities for research. It ought not to be denied a hand in "law reform." Neither should it be prohibited from bringing the class actions that often provide the most effective remedies at law.

Conservatives should back such a bill, in the full awareness that from time to time they will be irritated, harassed, and outraged by the "zeal and adrenalin." Mistakes will be made. Incidents of bad judgment can be expected. But if we truly believe in equal justice under law, we ought not to be deterred from supporting an effort to make those words in stone something more than an empty phrase.

[From the Los Angeles Times, Apr. 15, 1973]

Legal Aid Program Must Go On

A bipartisan group of senators is moving to make sure that there is no interruption in federal funds for poverty legal services, and so it should. This is a program of unquestioned merit, one of the most successful of the experiments dealing with poverty, and it must not be handicapped by an interruption of funding during consideration of reorganization.

President Nixon has suggested that the program, now part of the Office of Economic Opportunity, be continued under an independent corporation. He has proposed a budget of $71.5 million for next year, the same as this year. But he has not sent to Congress any details of his proposal. So there are legitimate concerns that the program may be left without money at the end of this fiscal year while the new plan is being debated.

Senator Jacob K. Javits (R-N.Y.) has rounded up a group of senators, including Sen. Alan Cranston (D-Calif.), to support an amendment to the second supplemental appropriation bill to continue funding next year at the level proposed by the President. The administration of the program during this interim period would be left to OEO, if it survives, or handed over to the Department of Health, Education and Welfare.

This is a sensible procedure that will allow time for adequate consideration of the new legislation. It is already clear that there will be a confrontation on the details between Mr. Nixon and Congress. The President has insisted in the past on absolute authority to choose the directors of the legal services corporation. Congress, which has approved several bills to set up such corporations, has required the President to choose the board members from representative lists, submitted by interested groups, to assure balance on the board. This seems to us a reasonable restriction on the powers of the President.

[From the Washington Post, Oct. 2, 1973]

Last Chance for Legal Services

This week the poverty subcommittee of the Senate Labor and Public Welfare Committee will begin to mark up the Legal Services bill. This is probably the last chance to salvage one of the most useful, effective and economical pieces of the poverty program. Last summer, in a late night temper tantrum generated largely by the deposed bully-boy of OEO, Howard Phillips, the House virtually gutted the program. Yet, any fair reading of the history of Legal Services would have to result in the judgment that it was the most conservative part of the anti-poverty effort and that it helped prove that effective change can occur peacefully within the system. Thus, the Senate is faced with the question of whether our concept of "the system" is even broad enough to include effective legal representation of the rights and interests of the poor.

The fact that more than 20 state bar associations have passed resolutions calling for a strong legal services program and that some of them denounced the House bill attests not only to the program's essential conservatism, but also to its past effectiveness. If effectiveness is to be retained, however, there are a number of issues which the Senate must face squarely. The first is the independence of the program. The President has insisted for a number of years that he wants Legal Services to be housed in an independent corporation which would shield it from politics. Few would argue with that concept and, indeed, Legal Services advocates have accepted it.

The problem has been just how independent the President has wanted the corporation to be. Would the board be completely independent, representing the interests of the organized bar and other groups logically interested and involved in the program or would it be appointed solely by the President? A presidentially appointed board, it has been argued, would seriously undercut an independent and professional effort. The House not only imposed the presidentially appointed board, but went on to add such severe restrictions on the activities of the poverty lawyers that their work can no longer fairly be called a legal services program.

Conceding, a board controlled by the President, as legal services proponents may have to, the only way to preserve the professional integrity of the new corporation is to remove the stifling restrictions on its lawyers' activities imposed by the House. One of those restrictions was the elimination of the backup centers, usually located at law schools, which provided the lawyers with much more effective research capabilities in major poverty law areas than the program could otherwise muster.

The importance of another legal function eliminated by the House was illustrated, ironically, last week by the case of Vice President Agnew, one of the program's leading opponents. A lawyer, in properly representing his client's interests must have as wide a range of options as possible, including representation before administrative, legislative and executive bodies. The House bill eliminates representation in some of those forums. If the Vice President's lawyers had been operating under the House's restrictions, he could not have obtained their advice in preparing his appeal to the House last week.

Finally, the House has imposed a virtually impossible burden on the program by requiring a legal services office to pay court costs and attorneys' fees whenever it loses a case—no matter how meritorious—that sought affirmative relief. It is a formula for bankrupting the program or turning the lawyers into legal eunuchs.

Legal rights are worth nothing if those possessing the rights lack effective representation. The House has made it virtually impossible for the legal services attorneys to provide effective representation, so the real challenge to the Senate and the White House is whether they believe sufficiently in the system to restore effective representation to the poor. The new team at the White House has a remarkable opportunty to turn away from the thuggishness that characterized the Howard Phillips approach to this problem and to help put together a corporation that has real integrity. Some weeks ago, Domestic Counselor Melvin R. Laird may have signaled a new attitude by naming legal services legislation among four priority domestic items on his agenda. Let us hope that it was a real signal, because White House determination coupled with the resolution the Senate has shown in past years on this issue, can turn the House's disaster into a credible indication that the administration believes the system should be open to all.

[From the Sacramento Bee, Feb. 17, 1973]

DISMEMBERING OEO: "BLOODY BUSINESS"

(By Jack Anderson)

WASHINGTON.—Howard Phillips, the young arch-conservative whom President Richard Nixon picked to demolish the Office of Economic Opportunity, has in two weeks turned the war on poverty into a purge of moderate Republicans.

Phillips is supposed to be dismantling OEO and reducing the staff. Actually, he has been hiring dozens of arch-conservatives who, collectively, are earning tens of thousands of dollars per month to advise Phillips where to aim his wrecking ball.

Phillips' demolition crew is replacing moderate Republicans who are being summarily dismissed—some without even a wave of the hand from the new "acting" poverty chief.

"Phillips isn't dismantling OEO. He's dismembering it," one outgoing OEO official complained. "It's a bloody business. It could have been done with dignity."

A typical firing took place late one afternoon when a phone call from Phillips' eighth floor suite came down to Rodger Betts, an able Republican administrator who served as a deputy assistant director. Betts was told he and his staff had 30 minutes to clean out their desks and move across the street where OEO outcasts are now in a holding pattern until they can find new jobs.

DIRECT OPERATIONS

The next morning, New York Sen. James Buckley's administrative assistant, David Jones, took over Betts' fifth floor offices and began to direct operations. Buckley's office tells callers that Jones is "on temporary leave of absence."

Conservative consultants earning $100 a day are invading other OEO offices. "My office has actually doubled," an OEO administrator told us. "I've got three consultants now, and three professional staff people."

The "consultants" are busily creating thousands of OEO documents—some for the warehouse, others for the incinerator.

AGNEW MEMO

Meanwhile, Vice President Spiro Agnew's office has sent over a document which Phillips' wrecking crew is guarding closely. In no uncertain terms, the memo spells out what Phillips should attack first.

"Of all the OEO programs, Legal Services is the one most capable of fundamentally altering America," states the memo. "For that alone, it should be the first eliminated."

This program has been providing free legal services to the poor—much to the consternation of landlords, employers, banks and local officials, who have been hauled into court by the disadvantaged and deprived.

The White House has assured liberals on Capitol Hill the President will submit a bill to Congress soon to establish a legal service corporation. But Phillips' people apparently are ignoring the President's promise and considering alternative ways of reforming legal services.

In the memo which vice presidential aide David Keene forwarded to Phillips' office last week, President Nixon's legal corporation is dismissed as "not salable politically." In place of the corporation, the memo suggests that the federal government channel "seed money" to "more traditional" private legal aid groups.

"First," the memo points out, "control of the traditional legal aid societies rests with the ABA-type lawyers, a group not noted for a penchant for radical reform. Second, the local groups are necessarily fragmented, and with no special focus. Although national coordination by law reform povertyists is still possible, it is made considerably more difficult."

Footnote: A spokesman for the vice president insists Agnew personally endorses the President's idea of a legal services corporation. "The memo," added the spokesman, "was sent to OEO without the vice president's official endorsement."

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? [Putting the question.]

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and several Senators voted.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Mr. President, has third reading been conducted?

The PRESIDING OFFICER. Third reading has been conducted.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to third reading of the bill. I had left word that I was to be notified. Unfortunately, I was absent for a second.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 7824, and ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER laid before the Senate H.R. 7824, to establish a Legal Services Corporation, and for other purposes, which was read twice by title.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. ALLEN. Mr. President, reserving the right to object, as I understand what the distinguished majority leader is asking, it is that the House bill be brought up and used as a vehicle for putting the Senate version on the House bill, thereby preventing the House from having another opportunity to consider the provisions of the bill. In other words, the bill would go to conference, rather than to the House?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Mr. President, further reserving the right to object, I feel that there is a time to flee and there is a time to fight. On a legislature measure, I believe that the time to fight would be when one has more than two-thirds of the Senators in his corner. And inasmuch as the Senator has disclosed that he wants to pass this bill, an objection to the majority leader's request would leave open to the opponents of the Legal Services bill the opportunity to discuss at length the motion to bring up the House bill?

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. And that would probably take 2 or 3 days?

Mr. MANSFIELD. At least 2.

Mr. ALLEN. And then there would be an opportunity to discuss the House bill after it had been brought up, and that might take 2 or 3 days.

Mr. MANSFIELD. At least.

Mr. ALLEN. Mr. President, if I should withdraw my reservation it would save the Senate some 5 or 6 days in which it could grapple with other problems; would it not?

Mr. MANSFIELD. At least.

Mr. ALLEN. It might leave the Senator in a frame of mind where, when another cloture motion is up, the efforts of the Senator from Alabama and his willingness to withdraw his reservations and accommodate the wishes of the majority leader might be brought to mind.

[Laughter.]

Mr. MANSFIELD. No. Knowing the Senator from Alabama as we all do, it would just be another affirmation of his parliamentary skill and tenacity. However, as I gathered from the indications which he has thrown out here and there along the way, he intends to withdraw his reservation. I would deeply appreciate it if he would allow this request to stand at this time.

Mr. ALLEN. I thank the majority leader.

Mr. President, one further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, this bill is not on the calendar. It has been indicated that a request was made that it be held temporarily at the desk when it came from the House.

Mr. MANSFIELD. The Senator is correct.

Mr. ALLEN. Mr. President, may I inquire of the Chair how long this bill has been held temporarily?

The PRESIDING OFFICER. The bill has been here since June 22, 1973.

Mr. ALLEN. Mr. President, I thank the Chair. I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

The Chair hears none and it is so ordered.

Mr. MANSFIELD. Mr. President, I move that all after the enacting clause of H.R. 7824 be stricken and that the text of S. 2686, as amended, be substituted therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. DOMINICK. Mr. President, I am not sure what the parliamentary situation is. To begin with, we have not even voted on this bill. Yet, somehow or other, we are moving on to some other bill. I have not read the measure.

Mr. MANSFIELD. Mr. President, it is the House bill. We are amending the House bill by substituting the language of the House bill as amended.

Mr. DOMINICK. Mr. President, I understood that the way to do it was to pass the bill and then to proceed to the consideration of the House bill.

Mr. MANSFIELD. No. This is the usual way. I raise my right hand.

Mr. DOMINICK. The Senator does not have to do that.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Mr. President, I was not in the Chamber. Do I correctly understand that the rollcall vote had started?

The PRESIDING OFFICER. That is correct. There was a unanimous consent request to vitiate that rollcall.

Mr. GOLDWATER. Can we, under the rules, stop that rollcall vote?

The PRESIDING OFFICER? Had anyone insisted to the contrary, it could not have stopped. There being no objection, it could be stopped, and it was.

Mr. GOLDWATER. What does the Chair mean by there was no objection?

Mr. MANSFIELD. I was detained off the floor.

Mr. GOLDWATER. I was, too.

The PRESIDING OFFICER. At the time unanimous consent was requested, there was no objection heard in the Chamber.

Mr. GOLDWATER. Does not this establish a rather bad precedent?

The PRESIDING OFFICER. This has occurred a very few times in the history of the Senate on prior occasions. This is not the first time.

Mr. GOLDWATER. Mr. President, I do not like the proceeding. I think it is bad, but I am not going to prolong the matter.

Mr. PASTORE. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order has been called for. The question is on agreeing to the motion to strike out all after the enacting clause and substitute the language of the Senate bill as amended therefor.

Mr. MANSFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MANSFIELD. This is on final passage, now.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. MANSFIELD. I withdraw the request for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to strike out all after the enacting clause and substitute the language of the Senate bill as amended.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

Mr. ALLEN. Mr. President, the parliamentary situation now is in the condition that the proceedings have reached the stage that the bill as passed by the House of Representatives, which is a much superior bill to the Senate bill, is now before the Senate, and the majority leader is offering the provisions of the Senate bill as a substitute for the House bill. This would give the Senate an opportunity to vote down the proposed amendment, and then go ahead and proceed to pass the House bill.

Those who want instant legal services have their opportunity to get them by voting down the amendment of the distinguished majority leader, and then going on to pass the House bill as it came over to us—which is, as I say, a much superior bill, with a much superior Legal Services Corporation, and it would not require a conference. It would not require that the conferees meet. It would allow the bill to become law if the President would sign it, as I understand he would, and we could have a Legal Services Corporation in a matter of a day or so.

So, Mr. President, I am going to request the yeas and nays, so that we will have an opportunity to vote down the Senate bill and take the House bill. Let us face whether we want the House bill or the Senate bill, keeping in mind that in the latter case we will have to send it to conference, where we will have an uncertain situation, where we might have as a result a hybrid sort of bill as between the two versions, or we might not have a bill at all, if the House should reach the conclusion that it does not want a Legal Services Corporation.

By voting down the amendment of the distinguished majority leader, we can get the House bill on the next vote, if the Senate wants an instant Legal Services Corporation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested on the question on agreeing to the motion of the Senator from Montana.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. Biden). The question is on agreeing to the motion of the Senator from Montana to strike out all after the enacting clause of H.R. 7824, and substitute therefor the language of the Senate bill, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Mississippi (Mr. Eastland), the Senator from Arkansas (Mr. Fulbright), the Senator from Alaska (Mr. Gravel), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Muskie), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

On this vote, the Senator from Mississippi (Mr. Eastland) is paired with the Senator from Maine (Mr. Muskie). If present and voting, the Senator from Mississippi would vote "nay" and the Senator from Maine would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. Beall), the Senator from Maryland (Mr. Mathias), the Senator from Utah (Mr. Bennett), the Senator from Wyoming (Mr. Hansen), and the Senator from Kentucky (Mr. Cook) are necessarily absent.

I further announce that the Senator from Virginia (Mr. William L. Scott) is absent on official business.

The result was announced—yeas 66, nays 21, as follows:

[No. 29 Leg.]

YEAS—66

Abourezk
Aiken
Baker
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—21

Allen
Bartlett
Bellmon
Brock
Buckley
Cotton
Curtis
Ervin
Fannin
Goldwater
Griffin
Gurney
Helms
Hruska
McClellan
McClure
Nunn
Sparkman
Stennis
Thurmond
Tower

NOT VOTING—13

Beall
Bennett
Byrd,
  Harry F., Jr.
Cook
Eastland
Fulbright
Gravel
Hansen
Hartke
Mathias
Muskie
Scott,
  William L.
Talmadge

So Mr. MANSFIELD's motion was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BIDEN). The question is on the engrossment of the amendment and the third reading of the House bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill (H.R. 7824) pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Maine (Mr. MUSKIE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

On this vote, the Senator from Maine (Mr. MUSKIE) is paired with the Senator from Mississippi (Mr. EASTLAND).

If present and voting, the Senator from Maine would vote "yea" and the Senator from Mississippi would vote "nay."

On this vote, the Senator from Indiana (Mr. HARTKE) is paired with the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

If present and voting, the Senator from Indiana would vote "yea" and the Senator from Virginia would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Maryland (Mr. MATHIAS), the Senator from Utah (Mr. BENNETT), the Senator from Wyoming (Mr. HANSEN), and the Senator from Kentucky (Mr. COOK) are necessarily absent.

I further announce that the Senator from Virginia (Mr. WILLIAM L. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Maryland (Mr. BEALL) and the Senator from Kentucky (Mr. COOK) would each vote "yea."

The result was announced—yeas 69, nays 17, as follows:

[No. 30 Leg.]

YEAS—69

Abourezk
Aiken
Baker
Bayh
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Dole
Domenici
Dominick
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams
Young

NAYS—17

Allen
Bartlett
Brock
Buckley
Cotton
Curtis
Ervin
Fannin
Goldwater
Gurney
Helms
Hruska
McClellan
McClure
Stennis
Thurmond
Tower

NOT VOTING—14

Beall
Bennett
Byrd,
  Harry F., Jr.
Cook
Eastland
Fulbright
Gravel
Hansen
Hartke
Mathias
McGee
Muskie
Scott,
  William L.
Talmadge

So the bill (H.R. 7824) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the title of the bill H.R. 7824 be amended to reflect the title in S. 2686 as reported.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections and clerical corrections in engrossing the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill, H.R. 7824, as amended by the Senate, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Mr. President, it is always fitting in these matters to pay tribute to our staffs. Senator NELSON, I know, would wish me to pay that tribute to the members of his staff and the staff of the subcommittee—Richard Johnson and Larry Gage, who serve him as experts, and John Scales, of the minority staff, who serves me as an expert. These are always the real architects of these bills, and I should like to express our gratitude to them.

ORDER FOR THE PRESIDENT'S STATE OF THE UNION MESSAGE TO BE PRINTED IN THE RECORD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the state of the Union message which was handed by the President to the Vice President last evening be printed in full in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Congress of the United States:

We enter 1974 not at the beginning of an historical cycle, but in the middle of one. Beginnings have been made in many vital areas, beginnings which we now must build upon. New needs have arisen which we are in the process of addressing. Opportunities are coalescing which give us a chance to make historic progress toward a stable peace and expanding prosperity.

In looking at the agenda for 1974, we cannot consider the work of this or of any one year in isolation. What we select as our tasks in 1974 must build on the work of the years before, and anticipate needs of those ahead. Indeed, one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives.

It would be as false to pretend that we could do—or afford to do—everything at once, as it would be to maintain that we can do nothing. Therefore, we must strive to maintain steady progress, selecting each year among many worthy projects those that are ripe for action at that time, and that can be accommodated within the constraints of our budget—but pressing to ensure that the most that can be done is done.

In discussing my legislative recommendations for this Congressional session, therefore, I shall do so in the context of the advances that have already been made, the problems that remain, and the special opportunities we have in 1974 to make further progress.

I have started with certain basic premises:

—The basic tax burden on the American taxpayer should not be increased.

—Our new initiatives, therefore, should be scaled to what can prudently be spent given the level of revenues that would be generated by the existing tax structure at full utilization of our resources.

—Increases in Federal spending should be kept to a minimum, but the budget should be flexible enough to be used, if necessary, to maintain jobs and prosperity.

—It is essential that we break the old habit of regarding any Federal program, once established, as permanent; we must learn to scrap old programs that are no longer effective or needed in favor of new ones that are. This is the only way we can afford to do what must be done.

Within these guidelines, there are a number of major new initiatives which are ripe for action in 1974—several of which can be milestones on our march to a life of greater freedom, greater opportunity and greater prosperity for all.

In particular, 1974 can be the year in which:

—First, we not only break the back of the energy crisis, but also, through Project Independence, lay the foundation for our future capacity to meet America's energy needs from America's own resources—at reasonable prices and with adequate environmental protection.

—Second, we take another giant stride

toward lasting peace in the world—not only by continuing our policy of negotiation rather than confrontation where the great powers are concerned, but also by helping toward the achievement of a just and lasting settlement in the Middle East.

—Third, we will check the rise in prices, without administering the harsh medicine of recession, and move the economy into a period of steady growth at a sustainable level.

—Fourth, we establish a new system of comprehensive health insurance that makes high quality health care available to every American in a dignified manner and at a price he or she can afford.

—Fifth, we continue to build a new era of achievement and responsiveness in State and local government, by cutting the strings of too tight Federal control that have bound the hands of State and local officials in community and economic development programs.

—Sixth, we make a crucial breakthrough toward better transportation by strengthening the ability of local communities to deal with their transportation problems.

—Seventh, we reform our system of Federal aid to education to provide it when it is needed, where it is needed, and so that it will do the most for those who need it most.

—Eighth, we make an historic beginning on the task of defining and protecting the right of personal privacy.

—Ninth, we start on a new road toward reform of a welfare system that bleeds the taxpayer, corrodes the community and demeans those it is meant to assist.

—And tenth, together with the other nations of the world, we establish the economic framework within which Americans will share more fully in an expanding world trade and prosperity in the years ahead, with more open access to both markets and supplies.

MEETING OUR ENERGY NEEDS

At the start of this Congressional session, the number one legislative concern must be the energy crisis.

The cooperative efforts of the American people, together with measures already taken by the Administration, have significantly reduced the immediate impact of the energy crisis. There has been some economic dislocation and some individual hardships, but these have been minimized by our policy of encouraging broad conservation measures and allocating scarce energy resources so as to do the least possible harm to jobs and the economy. The object has been to keep our farms and factories producing, to keep our workers on the job, and to keep our goods and services flowing, even if this means that we must live and work in somewhat less comfortable surroundings and drive fewer miles at slower speeds.

Even with the full cooperation of most Americans, however, we will still face real challenges—and genuine shortages—in the months and years immediately ahead. To meet these challenges, we must change our patterns of energy consumption and production, we must press forward with the development of reliable new energy sources, and we must adjust to the fact that the age of unlimited supplies of cheap energy is ended.

The immediate energy crisis began with the oil embargo imposed in the Middle East last fall. But the embargo only hastened a shortage that was already anticipated. For a number of years our fuel consumption had been climbing while our production of domestic energy supplies declined. We became more and more heavily dependent on oil imports and, consequently, more vulnerable to any interruption or reduction in those imports, as well as to sudden increases in foreign prices. Today, we have an interruption in supplies and we face sharply increased prices for those supplies when they are restored.

Irrespective of the possibility of restoring the flow of Middle East oil, we must act now to ensure that we are never again dependent on foreign sources of supply for our energy needs. We must continue to slow the rise in our rate of consumption, and we must sharply increase our domestic production.

The effects of energy conservation can be felt at once. Already the responsiveness of the American people to the recent crisis has proved to be the major factor in helping to avoid the serious consequences that the winter might have brought. That conservation must continue.

The required increase in domestic supplies cannot be achieved so rapidly. It will involve the development of entirely new sources of energy as well as the expanded development of oil and coal resources; it will require a significant expansion of our research and development efforts; it will require a shift from the use of scarce fuels to those which are more plentiful but also more expensive than the cheap energy to which we have been accustomed; it will require that we encourage both exploration and production; it will mean that as we act to prevent the energy industry from making unconscionable windfall profits, we must also avoid crippling that industry with punitive legislation; and finally, it will require that we make some difficult decisions as we sort out our economic and environmental priorities.

As we seek to act domestically to increase fuel supplies, we will act internationally in an effort to obtain oil at reasonable prices. Unreasonable increases in the cost of so vital a commodity as oil poses a threat to the entire structure of international economic relations. Not only U.S. jobs, prices and incomes are at stake, but the general pattern of international cooperation is at stake as well. It is our hope that we can work out cooperative efforts with our friends abroad so that we can all meet our energy needs without disrupting our economies and without disrupting our economic relationships.

Last week I sent to the Congress a comprehensive special message setting forth our energy situation, our energy prospects, our energy needs, and the legislative measures I consider necessary for meeting those needs. I shall not repeat that analysis nor the full list of those recommendations today.

I do want to urge, however, that the critical energy measures which I have proposed be made the first order of legislative business in this session of the Congress, and that work go forward expeditiously on the others. Those measures which I request be given the highest priority are the following:

—A special energy act which would permit additional restrictions on energy consumption and would postpone temorarily certain Clean Air Act requirements for power plants and automotive emissions;

—A windfall profits tax which would prevent private profiteering at the expense of public sacrifice;

—Unemployment insurance for people in areas impacted by serious economic dislocation; and

—Mandatory reporting by major energy companies on their inventories, their production and their reserves.

I am also asking that the Congress quickly establish the Federal Energy Administration and the Energy Research and Development Administration to provide the appropriate organizational structure for administering the national energy policy, as we work toward the establishment of a Department of Energy and Natural Resources.

The 13 other energy measures I requested last week deal with longer-term needs, extending beyond the present emergency. But these also require expeditious action if we are to achieve the goal of Project Independence—a capacity for energy self-sufficiency by 1980. The success of Project Independence is essential to the continued strength of our position in world trade, and also to our independence of action as a great power.

I hope that our joint efforts now to resolve the energy crisis and to move toward a capacity for self-sufficiency in energy will enable the President who addresses the 98th Congress a decade from now to look back and say we made it possible for American to enjoy continued peace and prosperity in the 1980's

THE NATION'S ECONOMY

The world economy

During the past three years the United States has reached an unprecedented level of material prosperity. Industrial output has set new records. Trade has flourished. Consumption has risen to the highest levels in history. Even our inflation rate—the most serious economic problem we now face—has been one of the lowest in the industrialized free world.

The major policy decisions we took in 1971 contributed significantly to this prosperity—both here and in other countries. It was clear, for example, as we moved into the 1970s that the international monetary system adopted after World War II needed major adjustments. Unsustainable imbalances had developed, threatening a resurgence of protectionism and a disruption of world trade. This is why I decided to take some very strong measures in August of 1971, measures that have resulted in a major realignment of world currency values, progress toward new and more flexible international monetary management, and negotiations toward a more open and equitable trading system.

These adjustments, while essential, were not easy. But now we have finally entered into a more flexible and realistic international financial system. Much remains to be done to complete the transition, but its beneficial results are already clear.

The realignment of currency values helped produce an increase of 80 percent—or more than $50 billion—in the rate of U.S. exports during the past two years, along with a major improvement in our trade balance. This improvement was good not only for us, but also for the rest of the world. In addition, the shocks to the world economy arising from reduced food supplies in 1972 and 1973, and in recent months from the oil embargo and the arbitrary increases in the price of oil, all were managed without panic under the new arrangements. Indeed, world trade has continued to expand, despite these temporary difficulties.

INTERNATIONAL TRADE BARRIERS

A vigorous international trade is vital to the American economy. Jobs for American workers depend on our ability to develop foreign markets. Moreover, American consumers deserve access to foreign-made products that might be less expensive, or more interesting, or unavailable in the United States. But if trade is to be advantageous over the long run, it must be conducted on a basis which is fair to all participants.

There are still many unnecessary barriers to trade which need to be lowered or removed. While improvements have been made in this situation during the last 10 years, we need now to build on this progress and to negotiate for more open access both to markets and supplies. This is why I call upon the Congraess with special urgency to complete action on my proposed Trade Reform Act, in order to provide the authority we will need to negotiate effectively for reductions in barriers to trade, to improve the trading system, and to manage trade problems at home more effectively.

As the Senate considers this legislation, I would draw its attention particularly to provisions added in the House which would seriously impede our efforts to achieve more harmonious international relationships. These provisions would effectively prevent both the extension of nondiscriminatory tariff treatment and of credits to certain Communist countries unless they followed a policy which allowed unrestricted emigration. I am convinced that such a prohibition would only make more difficult the kind of cooperative effort between the United States and other governments which is necessary if we are to work together for peace in the Middle East and throughout the world. I am confident that by working with the Congress we can find a solution to this problem that will avoid a major setback in our peacemaking efforts.

At the same time, we must move forward with current negotiations to reform the international payments system under the auspices of the International Monetary Fund. These negotiations are designed to increase the opportunities for all nations to trade and invest profitably. The U.S. has already presented proposals for deterring the growth of significant imbalaces in international monetary affairs while preserving for each nation a wide freedom in choosing how necessary adjustments can best be accomplished. In addition, the system will also have to accommodate the increased payments flow and prospective reserve accumulations occasioned by higher oil prices. If, however, other nations share with us the will to preserve a healthy and growing world economy, I am confident that a mutually acceptable solution to this problem will be achieved.

In practice, this means that our markets must increasingly be open to imports from developing countries—a condition that would be significantly facilitated by enactment of the Trade Reform Act. It also means that the Congress must continue to authorize and appropriate our fair share of both bilateral and multilateral economic assistance, including a substantial contribution to the International Development Association which helps the poorest countries. In 1973 we successfully negotiated a reduction of the United States share from 40 percent to one-third of IDA funds. We cannot let the action of the House in voting against IDA stand as our final answer. We will work hard with the Congress to ensure that this country continues to play a leadership role, consistent with our own economic situation, so that long-term economic development can continue to be planned in an orderly manner.

Along with trade and monetary problems, new international agreements on investment policies and new mechanisms for dispute settlement are high on our negotiating agenda for the coming year. We must continue to work for economic arrangements which permit the beneficial flow of international investment so that all may derive the maximum benefit from their own resources. To that end, I am glad to be able to note that this week the United States completed the phase-out of controls on flows of capital from this country.

The recent oil embargo and especially arbitrary increases in the price of oil have created major economic problems for many countries, including the United States. If continued, these policies would require enormous transfers of goods and assets from oil importing nations, transfers which would represent a serious burden for even the wealthiest countries and which would be virtually unbearable for the less developed countries.

Our objectives are clear—we must get world oil prices down from levels that are arbitrary and exploitative. We must also cooperate to ensure that the international and domestic economic policies of the advanced countries do not compound the economic disturbances created by the current emergency but rather that we do all that can be done to contain and limit those disturbances.

THE DOMESTIC ECONOMY

Despite our general prosperity, inflation remains a most serious economic problem, not only in the United States but also for the rest of the world. We see clear evidence of this problem at every hand. World oil prices have gone up recently at dramatic rates. World food, metals and other commodities prices are also up sharply. Because domestic prices cannot be isolated from international prices, worldwide inflationary pressures have helped to drive up prices here at home.

Inflation has been a continuous problem for nearly a decade, and it got worse in 1973. The result has been that people have come to expect continuing price increases—and to behave accordingly in their own economic life. Their behavior, in turn, adds further to inflationary pressures, contributing to a vicious inflationary spiral which is difficult to break.

Some people have said that the best way to wring these inflationary expectations out of our economy is by taking the economy into a recession. I disagree. It is true that a lower level of economic activity would reduce demand and thus lower the pressure for higher prices. However, the cost of such a policy in terms of increased unemployment would simply be unacceptable.

By the same token, I also reject the notion that we should totally ignore inflation and concentrate solely on stimulating higher levels of employment. This policy would also involve too high a cost since it would unleash a further acceleration of the inflation rate.

In developing my economic policy for 1974, I have chosen what I believe is a sound middle road: to cushion the economic slowdown we expect during 1974 without providing additional stimulus for inflation. We expect this policy to reduce the rate of inflation by the end of the year. Should there appear to be a serious threat of a severe slowdown, then we will act promptly and vigorously to support the economy.

As we cope with the challenge of inflation, we must recognize the clear lesson of recent years: While direct controls over prices and wages can help fight inflation in the short-run, they have a very limited useful life. Inevitably, their eventual effect is to create or aggravate significant distortions in production and distribution. Accordingly, I will continue to watch the wage-price situation closely and to pursue a policy of gradual, selective decontrol except in particularly troublesome areas.

At the same time, those Federal programs that will help reduce inflation by increasing the supply of scarce resources will be strengthened. One key area where we can look forward to expanded supplies is that of food. With a new national farm policy that encourages rather than discourages output, we achieved a record harvest in 1973 and another record harvest now appears likely in 1974. Increased agricultural output is the only sure way to bring food prices down—and increased output is what our new policies are producing.

Rapid inflation is not inevitable and it must not be tolerated. To regain control of inflation, however, will require patience and persistence over the long course. My Administration is dedicated to achieving this objective and we are confident that with the help of the American people we will succeed.

Another most pressing economic problem—and a major contributor to inflation—is the energy crisis. As the cost of using our own fuel resources came to exceed the cost of imports in the 1960's, it became increasingly attractive for us to import oil and petroleum products. Unfortunately, our growing dependence on imports made our entire economy more vulnerable to outside forces. That vulnerability has been tested in recent months—as has the even greater vulnerability of the developed countries of Western Europe and Japan and the less developed countries which have no oil. Every American has learned the consequences of this vulnerability: short fuel supplies and higher fuel prices.

To a large extent, our flexible, adaptable economy will solve the longer run energy problem through the normal workings of the marketplace. As energy prices reach somewhat higher levels than the bargain rates of the past, conservation will be encouraged while domestic energy production will be expanded. One example of normal market forces at work has been the recent shift of smaller cars with better gas mileage. Over the next few years we can also expect to see an expansion of coal production and new output of oil and natural gas.

Nevertheless, we will still have to import some of the oil we will need in the immediate future. It is essential, therefore that we seek a more reasonable price for oil in the world market.

It is also imperative that we review our current and prospective supplies of other basic commodities. I have therefore directed that a comprehensive report and policy analysis be made concerning this crucial matter so that governmental actions can properly anticipate and help avoid other damaging shortages.

Even with the inflation and energy problems, 1973 was a year of many important economic gains for American people.

First, employment in 1973 increased by 2.7 million persons; this 3.3 percent rise in employment was the largest since 1955. New job opportunities greatly benefited all categories of workers, including women, non-whites, teenagers, and Vietnam veterans. Unemployment reached low levels, especially for skilled workers.

Second, the purchasing power of the American people reached new highs last year. Even after allowing for price increases, people are now consuming more goods and services than they did a year ago, or in any other year in the entire history of the United States.

Not everyone's purchasing power went up, of course. Inflation took its toll on many families whose income did not rise as fast as that of the average American. It is for this reason that we continue to regard inflation as a very serious enemy. At the same time, however, we should not ignore the substantial economic gains that have been made.

PERSPECTIVE ON 1974

We have known for some time that a slowdown in economic growth is inevitable in 1974. It has been clear that our economy has simply been growing at an unsustainable rate. Shortages of skilled workers, full utilization of plant and equipment in key industries, and short supplies of a number of essential raw materials have all provided clear indications that our rate of growth would have to taper off. Unfortunately, the very mild slowdown which we anticipated for 1974 now threatens to be somewhat more pronounced because of the oil embargo, the resulting shortages, and the oil price increase.

We expect, therefore, that during the early part of this year output will rise little if at all, unemployment will rise somewhat and inflation will be high. Our objective, however, is to turn this situation around so that later in the year output will be rising more rapidly, while unemployment will stop rising and will then decline, and the rate of inflation will slow.

ROLE OF THE FEDERAL BUDGET

The budget that I will recommend to the Congress next week will help us achieve our goals for this period. It will support the economy, resisting a major slowdown, but it will not provide a degree of stimulation that could accelerate inflation. If future events suggest that a change in fiscal policy is desirable, I will promptly recommend the appropriate changes. In particular, I will not hesitate to use the stimulus of fiscal policy if it becomes necessary to preserve jobs in the face of an unexpected slackening in economic activity.

For fiscal year 1975, my budget recommends total spending of $304.4 billion, an increase of $29.7 billion over the current year. The increase is being held to the minimum level necessary—nearly 90 percent of the increase is unavoidable under existing law. The budgeted increase in relatively controllable outlays is only 4.2 percent.

Federal receipts should reach $295 billion during fiscal year 1975, an increase of $25 billion. The projected budget deficit is $9.4 billion. Under conditions of full employment, however, Federal receipts would be substantially higher and there would instead be a moderate budget surplus.

The Federal budget remains an essential tool in the fight against inflation. With the energy supply limitations we are experiencing and the price pressures they create, budget discipline is still required.

I have noted with satisfaction that most Members of the Congress have also recognized the need for budgetary discipline, and that work is going forward to establish a more systematic budgeting procedure. The Congress devoted considerable effort in 1973 to developing a mechanism for coordinating its individual spending decisions with the budget as a whole. I continue to support this effort, although I have been troubled by some of the extraneous amendments which have been added to some of the measures for achieving this goal. I urge the Congress to enact workable budget reform in this legislative session.

TAX REFORM

Our entire economy is affected by the incentives for job-creating investments that are embodied in our tax laws. Major steps have been taken to reform our tax laws in the past five years, but much remains to be done.

Since 1969—primarily through the Tax Reform Act of 1969 and the Revenue Act of 1971—major changes have been introduced to make the personal income tax system conform more nearly to contemporary standards of fairness. Both the higher level of personal exemptions and the low income allowance have worked to free more than eight million low income families from their entire Federal income tax burden. The difference in the tax liability for single and married taxpayers has also been reduced. As a result of these and other tax changes, individual income taxes will be about $25 billion less in 1974 than they would have been under the old tax laws. The saving in the tax burden for a typical family will be more than $270, or the equivalent of two weekly take-home paychecks for the average worker.

I look forward to working with the Congress during the next few months not only to simplify our tax laws themselves, but also to simplify the tax forms that individuals fill out and to distribute the income tax burden more equitably.

Last April, the Secretary of the Treasury presented to the Congress a set of Administration proposals for major and fundamental tax reform. Included in these proposals were the establishment of a minimum taxable income so that no one could avoid paying a fair share of the tax burden, the establishment of new rules for taxing income from foreign sources, and also a limitation on artificial accounting losses to eliminate so-called "tax shelters." I urge the Congress to consider the Administration's tax reform proposals early in the year.

I have also been concerned about the excessive burdens imposed on our low income elderly families by State and local property taxes. To deal with this problem, I have proposed a refundable tax credit for those low income elderly persons whose property taxes exceed five percent of their income. The proposal would also provide equivalent relief for the low income elderly individual who pays rent. I again urge the Congress to enact this very important proposal.

FINANCIAL REFORM

The health of our economy depends upon an efficient and flexible private financial system—commercial banks, thrift institutions, credit unions, and a host of other institutions and individuals that comprise the financial sector of our economy. The average family depends on these institutions, both to provide a fair and reliable return on its savings and to provide credit on reasonable terms when needed to buy homes, automobiles and other purchases. There have been occasions recently when this financial system has not worked as well as it should—occasions, for example, when mortgage lending has been very difficult to obtain. In large part these problems have been the result of legislation, regulations and institutional arrangements which were suited to an earlier time but which are now obsolete.

To remedy this problem I submitted draft legislation last year which reflected the results of careful study by a Presidential commission and Government experts. I again urge the Congress to act promptly on this matter so that American families, businessmen, and local governments can be served by a financial system suited to the economic conditions of the 1970s.

The Administration is also studying the competitive position of foreign banks within this country and of American banks abroad to make sure that discriminatory regulations do not prevent American banks and other financial institutions from doing business they are entitled to do. I will be following the results of this study with considerable interest and will submit to the Congress any proposals resulting from the study which seem desirable.

A HEALTHY AGRICULTURAL ECONOMY

Abundance is the primary goal of our farm policy—abundance that can guarantee lower food prices for every American and higher incomes for all American farmers.

Five years ago, agriculture was a troubled industry:

—Government controls were reducing incentives for production and costing the taxpayers over $3 billion a year in farm subsidies designed to hold down production.

—Farm income was low ($14.7 billion) and the long hours worked by farmers earned them an average income that was 26 percent below the nonfarm average. Farm families had been leaving the farm at an average rate of over 100,000 a year.

Today, that picture has been dramatically altered:

—Farm markets have expanded dramatically. Farm exports have set new records in each of the last four years, becoming the largest single factor in the Nation's balance of payments and strengthening the dollar in international money markets.

—Farm production has reached new record levels in each of the last three years, and a new record harvest should be forthcoming in 1974.

—The billions of tax dollars which used to go for farm price support payments for basic commodities every year will be reduced to nearly zero.

—Farm income has reached record levels. By 1973, the gap between farm income and nonfarm income had closed from 26 to 7 percent. Net farm income was up from $14.7 billion to $26.1 billion.

We are making this progress not through more Government regulation but less. One of the proudest achievements of this Administration was the enactment of the Agriculture and Consumer Protection Act of 1973, which places production decisions where they belong—with farmers, not with the Government.

A primary challenge for Federal agricultural policies now is to encourage greater production of agricultural goods—which will mean more income for the farmer, greater international trading benefits for the Nation, and reasonable food prices for the consumer. I am therefore asking the Congress to revamp the programs which still require restrictive Federal control over the production of some remaining farm commodities—especially rice, peanuts, tobacco, sugar, and extra long staple cotton.

To further enhance agricultural activity, the Administration will also:

—Promote longer-run soil and water conservation practices.

—Consolidate the locations of local offices of Federal agricultural agencies—specifically, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration, and the Federal Crop Insurance Corporation—creating one-stop agricultural service centers on the local level to make things easier for the farmer and less costly for the Government.

—Place high priority on directing agricultural research into those areas which will assure plentiful agricultural goods at reasonable prices, maintain our competitive advantage in world agricultural production, and protect the land.

At my direction, Secretary Kissinger recently proposed to the United Nations that it convene a World Food Conference, a concern made urgent by acute food shortages in many parts of the world. This conference, to be held in November of 1974, should prove of particular importance to the American farmer, whose extraordinary productivity has made this Nation the world's leading food exporter and whose own prosperity will continue to increase as we help to meet the needs of a hungry world.

Our farm policy must of course address not only the needs of the farmer but also those of the consumer. During 1973, we experienced a period of rapidly increasing food prices. Those prices level off in late 1973, but now we appear to be heading into a period of increasing food prices for at least the next few months. It is our intention to hold these increases to the smallest possible rate through executive actions such as lifting the quota on wheat imports, an action that I took last week, But the most significant force in the battle against higher food prices is higher production. This summer and fall, the large 1974 harvest should be coming on the market, serving as the best possible damper on higher prices.

ECONOMIC SECURITY

One of the most significant legislative achievements of 1973 was the enactment of the Comprehensive Employment and Training Act (CETA). A form of manpower revenue sharing, this bill transfers from the Federal Government to States and localities significant control over the design and operation of programs to improve the employability of the unemployed and the underemployed. CETA is a lankmark of the New Federalism. It is also a landmark on the way to better manpower programs.

Under this legislation, State and local governments will be able to use Federal funds to meet locally determined needs and to devote special attention to employment problems with particular local impact—as, for example, those that might arise in certain areas as a result of the present energy shortage. In my new budget, I am including an additional $250 million for CETA in the current fiscal year, and $350 million in the year beginning July 1, for distribution to areas with high unemployment. Overall, I am requesting more than $2 billion to fund our training and employment programs in the coming year.

Other proposals related to economic security that I made to the Congress last year, and on which I again urge action, include:

—The establishment of minimum vesting, funding and fiduciary standards for private pension programs, so that workers could have greater assurance of receiving the pensions they expect and deserve when they retire. I urge that we work together to resolve speedily the remaining disagreements and to enact responsible legislation which increases employee protection without burdening employers to such an extent that existing plans are jeopardized or new ones discouraged.

—Extension to State and local governments of the law forbiding employment discrimination against older workers.

—Improvement of the Federal-State unemployment insurance program in several ways: By increasing the State limits that keep some unemployed workers from receiving a reasonable proportion of their normal wage, by extending coverage to farmworkers, and by prohibiting payment of benefits to strikers while assuring benefits to non-participants unemployed as a result of a strike.

These general improvements in unemployment insurance should be augmented by a special extension of present benefits for those specific areas of the country which experience particularly high levels of unemployment over the next 12 months. In addition, basic coverage should be provided for those in these areas who do not at present have any unemployment insurance. I will submit special legislation to achieve this purpose.

I also continue to support legislation to raise the minimum wage. Higher prices have eroded the purchasing power of workers receiving the current minimum wage. But we must be careful to guard against enacting a bill which includes sharp increases or coverage extensions that would keep low income workers from being employed or a bill with a minimum wage for youths so high that we unwittingly deny them jobs.

Finally, we must attack one of the most troublesome problems faced by both rural and urban areas; the existence of persistent and often severe unemployment or low incomes in areas whose character has been altered by changes in our economy and technology. Within the next several weeks, I will propose an Economic Adjustment Assistance program to help States and communities in overcoming problems caused by structrual changes in their economies. This program would replace the present Economic Development Administration and the Regional Action Planning Commissions after a period of orderly transition.

INCOME SECURITY

One measure of a nation's character is the respect it accords to its elderly. Another is the way it helps those in need. We can be proud of the efforts we have made, but it is time to reassess where we are and what direction we should take in the future.

We can take pride in the fact that:

—Cash benefits under social security have risen from $26 billion in fiscal year 1969 to $63 billion in fiscal year 1975, primarily as the result of five benefit increases totaling almost 70 percent and reaching 29 million persons.

—A program of Supplemental Security Income has been initiated and will soon be providing benefits to more than 5 million of the low-income aged, blind, and disabled, on a uniform, nationwide basis in a way that respects their dignity.

But our income security programs need more than improved benefits.

Over the past thirty-five years, a multitude of federally funded programs has grown up whose primary purpose is income security for those in need. Each of these efforts reflects a humane attempt to respond to a worthy goal. However, as cash, in-kind and service programs have rapidly expanded in the past few years, two things have become painfully clear:

—First, the result is an extremely costly set of generally unrelated, uncoordinated programs with many unintended and undesirable consequences; and

—Second, these efforts neither efficiently nor equitably accomplish the overall objective of assisting lower income families and individuals to achieve greater economic independence.

The fact that a third of the new Federal budget—$100 billion—will be spent on income security programs in fiscal year 1975, compared to the $38 billion, or one-fifth of the budget, which they received just five years ago, highlights the need to rationalize and integrate our income assistance programs.

As long ago as 1969, I called for a complete overhaul of our discredited welfare programs. I said then that "whether measured by the anguish of the poor themselves, or by the drastically mounting burden on the taxpayer, the present welfare system has to be judged a colossal failure."

At that time, I proposed the Family Assistance Plan. Neither the Congress nor the country accepted that proposal. I do not intend to resubmit a new version of the Family Assistance Plan.

Since then, we have made a concerted effort to improve the administration of the existing programs. In 1973, for the first time in recent years, because of vigorous new Federal and State initiatives to enforce the rules more strictly, growth in the Aid to Families With Dependent Children case load was halted. But, in their overall impact, the welfare programs remain a failure and an outrage.

As an example of the failure, recent studies have shown that fully 40 percent of the AFDC benefits being paid are either going to ineligible persons or are incorrect in amount. This performance is not just the result of fraud, although there is some of that. It is primarily and overwhelmingly the result of a system which is so complex and so riddled with obscure, obsolete and incomprehensible regulations that it defies fair and efficient administration.

I plan to make a major new effort to replace the current maze of welfare programs with a system that works. This task will be difficult, but we have no other alternative, save further waste—both of lives and dollars. I welcome the evidence that thoughtful Members of the Congress, after careful study, have reached the same conclusion.

While this effort goes forward, I will make every possible effort to improve the operation of the existing programs through administrative reforms, recognizing that a replacement system cannot be developed, enacted, and put into operation overnight. But, unless we move urgently to the development of a new system, efforts to improve the administration of the present programs will eventually be undermined by their basic structural flaws.

In the development of my proposal, I will be guided by five principles:

(1) All Americans who are able to work should find it more rewarding to work than to go on welfare. Americans would strongly prefer to have good jobs rather than a Federal handout. While we should provide cash assistance to those in need, we must always encourage complete self-support for those who are capable of it.

(2) Cash assistance is what low-income people need most from the Federal Government. The people themselves, not the Federal Government, know their own needs best.

(3) We need to focus Federal help on those who need it most. People in need should receive equal treatment from the Federal Government regardless of their place of residence.

(4) The new system should be as simple as possible to administer with rules that are clear and understandable. It should be based on objective criteria rather than the personal judgment of administering officials. And it should be sufficient.

(5) This new approach should not require an increased tax burden for any of us. Too much of the income of all of us now goes to support Government. We help no one—certainly not those in poverty—by weakening our free enterprise system by even higher taxation.

Starting from these basic principles, I believe we can develop a new system which would insure that those who can help themselves do help themselves, and which would allow those who cannot help themselves to live with dignity and self-respect.

IMPROVING OUR PEOPLE'S HEALTH

In February of 1971, I outlined to the Congress a new national health strategy to assure that no American would be denied access to high quality medical care because of an inability to pay. Much has already been accomplished toward meeting that objective.

A little over two years ago, I took special satisfaction in signing into law the National Cancer Act, which enabled us to launch an accelerated effort to conquer this dread disease. Considerable progress has been made in our attack on cancer and there is much hope that additional knowledge can be developed in the future. In the budget that I will submit to the Congress next Monday I plan to ask for an additional $100 million above last year's request of $500 million for the expanded attack on cancer. In addition, biomedical research in other areas, including heart disease, has been intensified—and the total 1975 budget for biomedical research will exceed $2 billion, more than double the total in fiscal year 1969.

We are also making headway toward increasing the Nation's supply of health manpower. During the last ten years, first year medical school enrollments have grown by more than 55 percent. The number of other health professionals also can be expected to grow dramatically. Just last month, I approved legislation along the lines I requested in 1971 to permit the Federal Government to support the demonstration of health maintenance organizations across the Nation. During both 1974 and 1975, $125 million will be provided through health maintenance organizations to demonstrate the benefits of prepaid health care to our citizens.

Federal programs to finance health services for the aged, for the disabled, and for low income persons have been greatly expanded. Since 1969, Medicare and Medicaid coverage has been extended to an additional 21 million aged, disabled, and low-income Americans.

The range of services covered under Medicare and Medicaid has also increased.

Consumer safety programs—to assure safe foods, drugs, cosmetics, and other consumer products—have received almost a fourfold increase in Federal funding since 1969.

Despite all these advances, however, too many Americans still fail to receive needed health care because of its costs. And too often the costs of health care threaten our citizens with bankruptcy while the services that can prevent or cure disease are not fully utilized.

As one of my major new initiatives for 1974, I shall soon submit to the Congress a comprehensive health insurance proposal which would:

—Make available health insurance protection to millions of Americans who currently cannot obtain or afford the private health insurance coverage they need.

—Provide all Americans with vastly improved protection against catastrophic illness.

—Place a new emphasis on preventive health care.

—Provide State and Federal subsidies for low-income families, and for those whose special health risks, would otherwise make them uninsurable or insurable only at exorbitant expense.

My comprehensive health insurance proposal will build upon the strengths of the existing health system, rather than destroying it. It will maintain the high quality of medical care without requiring higher taxes. It will be based on partnership, not on paternalism. And most importantly, it will require doctors to work for their patients, not for the Federal Government.

This plan would require that employers offer a comprehensive health insurance plan to all their full-time employees, with the employer paying a share of its costs. The role of private health insurance in financing health care would be expanded and the consumer's opportunity to choose between competing health insurance plans would be enhanced.

In addition to this plan, there are a number of other health-related measures that I urge the Congress to enact this year. These include:

—A Health Resources Planning Act, to help States and localities improve their planning and use of health resources;

—New and expanded national health service scholarship legislation, to increase the number of Federal scholarships available to students in health professions, and also to help ensure that the Federal Government can meet its needs for physicians; and,

—A general expansion of the guaranteed student loan program, to provide adequate financial assistance to all professional and graduate students, including health professionals.

IMPROVING EDUCATION

The Federal Government should provide strong leadership in assuring equal access to a high quality education for all Americans and in bringing about renewal and reform of all of our education programs.

Since 1969, we have raised Federal spending for education from $4.3 billion to $7.6 billion—an increase of 76 percent.

In special messages to the Congress on education in the past, I set forth five major proposals to improve American education. They were:

—A new program of student assistance to help to insure—for the first time in the Nation's history—that no qualified person is barred from attending college by lack of money.

—A National Institute of Education, to be the focal point for educational research and development aimed at increasing our knowledge of how to help students learn.

—A National Foundation for Higher Education, to encourage innovation in learning beyond high school.

—An Emergency School Aid Program to assist desegregating school districts.

—A thorough reform of the programs for Federal support of elementary and secondary education, consolidating the myriad separate categorical grant programs in order to transfer educational decisions back to the State and local levels where they belong.

The first four of these basic proposals have been enacted, in whole or in part, and a great deal has already been accomplished through them. As for the fifth, reform of Federal funding for elementary and secondary education, I believe that 1974 should be the year of its enactment.

COLLEGE STUDENT ASSISTANCE

The Basic Educational Opportunity Grant Program is the primary vehicle in my effort to ensure that no qualified student be denied a college education because of lack of funds. In my new budget, I am asking Congressional approval to strengthen this program by providing grants of up to $1,400 a year for needy students. Altogether, when combined with other student funding efforts, the Federal Government in the coming fiscal year would provide an estimated $2.2 billion of financial aid to post-secondary students, an increase of over $900 million from the level of five years ago.

Since the present student assistance programs are targeted to help the neediest, and because the costs of higher education have risen dramatically, many middle income students are now finding it increasingly difficult to make ends meet. I therefore also recommend that the limit on total borrowing be increased so that professional and other graduate students will be able to find adequate student loans.

EDUCATIONAL RESEARCH AND DEVELOPMENT

When I originally proposed the creation of a National Institute of Education, I suggested that providing equal opportunity for quality education means, in part, increasing our knowledge about the ways that students learn and then changing the way we teach them. For too long we have followed the belief that bigger educational programs are necessarily better educational programs and that money alone can solve our educational problems. But now we are beginning to see that the quality of our thinking about education can be as important as the size of our educational budget.

The National Institute of Education can help us to marshal our educational resources in ways which will produce the best results. It has already begun to provide the kind of leadership in educational research and development which I have long believed was needed.

EDUCATIONAL INNOVATION BEYOND HIGH SCHOOL

While the National Foundation for Higher Education which I proposed in 1970 has not been established, the Fund for the Improvement of Post-Secondary Education was set up by the Congress. The fund is now providing support for the development and demonstration of more effective approaches to college level education. Our initial assessment leads me to believe that the fund will, in the years to come, become the primary focal point for innovation in higher education.

ASSISTING SCHOOL DESEGREGATION

Under the Emergency School Aid Act of 1972, an estimated $467 million in Federal funds will have been provided to local school districts by the end of 1975 to assist in the process of elementary and secondary school desegregation, to encourage voluntary programs to overcome minority group isolation, and to assist in meeting the educational needs of children who, because of racial isolation, have not had an equal educational opportunity.

By the 1975–1976 school year, the bulk of the problems incident to "de jure" segregation should have passed. However, to provide assistance to those other school districts which may still be required to take special desegregation measures as the result of court rulings, I have budgeted an additional $75 million for fiscal year 1975. In addition, the Federal Government will continue to provide civil rights education advisory activities to local districts to assist them in meeting any remaining problems.

BUSING

I have often expressed my opposition to the use of forced busing for purposes of achieving racial balance. I have also proposed legislation which would dictate reasonable limits on the use of forced busing, and I have opposed the consolidation of school districts in an effort to achieve racial balance in the larger district. Such consolidation plants have only led to more busing and the eventual disappearance of the neighborhood school. The end result of an excessive reliance on forced busing and the imposition of arbitrary ratios has frequently been an increasing concentration of the poor and minorities in our central cities and the serious weakening of the very school systems which must serve them. In some cases, the education of minority children has actually suffered, not benefited from such plans.

I shall continue to support the passage of legislation which makes busing only a last resort—tightly circumscribed even then. I will also continue to work with the Congress to revise my proposals in light of unfolding events in this area.

FUNDING ELEMENTARY AND SECONDARY EDUCATION

I am encouraged by the interest the Congress has continued to show in legislation which follows the concepts put forward in my proposed Better Schools Act. I believe that meaningful compromise is now possible, and that we can at last reform and consolidate Federal grants for elementary and secondary education, vocational programs and adult education.

I hope that the Congress will include four basic elements in this reform:

—Consolidateion of existing categorical grant programs.

—Granting greater decision-making authority to State and local educational agencies.

—Greater equity in the distribution of Federal funds to the States for the education of disadvantaged children.

—Reform of the impact aid program to concentrate support in those districts where the Federal presence has substantially decreased the tax base, rather than those in which it has increased the tax base.

Upon enactment of legislative authorities that accomplish these goals for elementary and secondary education, vocational programs and adult education, I will propose special supplemental appropriations to provide funding for the 1974–1975 school year. This funding would place most elementary and secondary education grant programs on a "forward funded" basis, letting State and local agencies know how much they will receive while plans for the next school year are being made. "Forward funding" is an important concept in the financing of education, and it merits the full support of the Federal Government.

As I noted in my message sent to the Congress on education policy last week, I also recommend additional support for several other educational programs—some old and some new. These include:

—An additional increase in aid to black colleges and other developing institutions during fiscal year 1975, thus quadrupling Federal funds for these important educational institutions since I took office.

—Continuation and extension of the Head Start program, our single largest child development program. In 1975, Head Start will reach 282,000 disadvantaged youths year-round, as well as some 78,000 pre-schoolers during the summer—and it will extend its activities to include handicapped youth.

—The consolidation of eight separate authorities for education of the handicapped into four broader and more flexible programs.

NON-PUBLIC SCHOOLS

I remain firmly committed to the principle of educational diversity. The continued health of the Nation's non-public schools is essential to this concept. Although governmental efforts aimed at supporting these schools have encountered difficulty in the courts, I believe we must continue our efforts to find ways to keep these schools open.

For that reason, I continue to support legislation which permits tax credits for parents who pay to send their children to non-public schools.

HELPING OUR VETERANS

Twenty-nine million Americans living today have given military service to their country. As a group, veterans are among our most productive citizens. Studies show that they generally have higher incomes, more education, and better health than non-veterans of the same age.

We can be proud of the veterans' contributions, but we must also be concerned for those veterans and veterans' families who remain in need.

The assistance provided to veterans and their families in recent years has been substantial:

—Total compensation payments for veterans disabled or killed in military service have been increased from $2.7 billion in 1969 to $3.9 billion in the coming fiscal year.

—Medical care in VA hospitals and clinics has been greatly improved and expanded, with ten new or replacement hospitals now in service and five more in preparation.

—Educational benefits per trainee have more than doubled since 1969.

—Last year two key measures—one expanding health care and the other improving the national cemetery system for veterans—were passed and signed into law.

—Of vital importance, the unemployment rate for Vietnam era veterans has been sliced from 11 percent in early 1971 to 4 percent by late 1973. As a result, Vietnam era veterans have a higher employment rate than others of their same age, a significant achievement that is well deserved.

Earlier this week, in a special message to the Congress, I proposed additional legislation to help veterans in two crucial areas in 1974—pensions and education.

My pension proposals would benefit some 1 million veterans and 1.3 million veterans' survivors who are in economic need because of disability, age, or the loss of a breadwinner. VA pensions already go a long way toward meeting such needs, but the pension structure itself is fraught with inequities and anomalies that are technical in nature but tragic in consequence. My proposals would correct these deficiencies.

Veterans now in training require additional help if their GI bill allowances are to keep pace with rising costs. I shall therefore propose that GI bill benefits be raised by an average of 8 percent.

I have also set a 1974 goal for the Government of placing an additional 1.2 million veterans in jobs or job training. There remain sizable numbers of educationally disadvantaged veterans and service-disabled veterans who have never taken advantage of Federal training opportunities and are now unemployed. I have directed that, as a matter of high priority, the Federal Government's efforts to reach these veterans be intensified and that they be counselled and encouraged to use the available services.

EQUAL OPPORTUNITY FOR ALL AMERICANS

This Administration has made a determined effort to secure equal opportunity for those who have been previously denied such opportunity. I am personally very proud of the success those efforts have already achieved, and I am committed to building on that success in the future.

PROGRESS FOR MINORITY GROUPS

Members of racial minority groups have made considerable strides toward equal opportunity in recent years. The following are among the more notable benchmarks of this progress:

—Setting an example as an Equal Opportunity Employer in the past five years, the Federal Government has added more than 35,000 minority group members to its civilian employee roles.

—In the Armed Forces, more than 850 minority-group cadets are now enrolled in the military academies; and whereas prior to 1971 only four minority group members had ever achieved general or flag rank in the armed forces, now sixteen serve on active duty as generals and admirals.

—Federal aid to minority business enterprises—one of the cornerstones of the Administration's effort to open new economic horizons for minority group members—has nearly tripled since 1970.

—Civil rights enforcement activities have continued at a vigorous level, with their funding substantially increased.

—Since 1969, combined Federal expenditures on civil rights activities and minority economic development programs have grown from less than $1 billion to $3.5 billion.

—Five years ago 68 percent of all black children in the South were still attending all-black schools. Now that figure has been reduced to 8 percent, and the dual school system has been virtually eliminated.

—The Government has also sought to expand job opportunities through legal actions of its own against those who may be engaged in discriminatory practices. During 1972 and 1973 the Department of Justice initiated 34 pattern and practice lawsuits against approximately 207 defendants. These suits directly covered more than 248,803 employees. During the same period of time, approximately 37 cases were fully resolved by entry of decrees and an additional six were partially resolved by the entry of decrees. The decrees entered in those two years alone covered more than 217,000 employees and provide specific goals for the hiring of more than 21,800 minorities and women in traditionally white and male jobs. In addition, those decrees provide new transfer of seniority rights for approximately 12,700 minorities and women and provide for back pay awards which are estimated to amount to well over $6,000,000.

The real story lies not in these figures themselves, but in the facts and the attitudes they represent. They do not represent a flamboyant promise, but rather a quiet determination to work not only toward the symbols but also toward the substance of equal opportunity. They represent an effort to build foundations that will last—in particular, the foundation of economic independence, and of a basic faith in the equal dignity of mankind.

JUSTICE FOR AMERICAN INDIANS

For too many years the American Indians—the first Americans—have been the last Americans to receive the rights and opportunities to which they are entitled. This Administration has taken the initiative to change this picture.

For its part, the Federal Government must put behind it the role of autocratic manager of Indian reservations. We shall continue to encourage Indians and their tribal governments to play an increasing role in determining their own future. We are also particularly determined to defend the natural resources rights of Indian people.

The last five years have been historic steps in Federal Indian policy. In 1971, we worked closely with Indian leaders to achieve a settlement of Alaska Native claims, a settlement consistent with America's sense of fairness and also indispensable to the growth and development of all of Alaska.

We also returned lands taken away long ago from the Taos Pueblo at Blue Lake. We returned lands wrongfully taken from the Yakima people. Because the Menominee people have seen their tribal states involuntarily terminated but had nevertheless kept their land and their tribal structure together, the Congress enacted and I signed the bill which restored the Menominee tribe to trust status. In the courts, we are forcefully asserting Indian natural resources rights, as we have done in protecting Indian rights in Pyramid Lake.

One measure of our attempt to foster a better, more humane policy is the level of Federal funding benefitting American Indians—over twice what it was five years ago or about $1.6 billion.

I am especially encouraged by the fact that the rate of infant deaths, pneumonia, influenza, and tuberculosis is significantly lower among Indians than ever before. Although we have not yet achieved our full goals of health and educational services for the Indian people that are fully compatible with those of the general population, this progress demonstrates our continuing commitment.

The Congress has shared in these accomplishments in a spirit of bipartisan cooperation. I hope that I will soon have on my desk two more enactments on which Congressional action is progressing: measures to speed Indian economic development and to upgrade the position of the Commissioner of Indian Affairs to the Assistant Secretary level. Also still waiting Congressional action are four other proposals I have submitted previously: to permit turning over to Indian tribal governments the management and control of Indian programs; to create an Indian Trust Counsel with authority to safeguard Indian natural resources rights; to help ensure that funds for Indian education actually reach Indian children; and to provide greater local control over federally assisted reservation programs through a program of tribal grants.

Looking forward, I shall ask that the Bureau of Indian Affairs make specific plans to accelerate the transfer of significant portions of its programs to Indian tribal management, although I repeat my assurances that, while accelerated, these transfers will not be forced on Indian tribes not willing to accept them.

THE SPANISH-SPEAKING

The Spanish-speaking citizens of our Nation face special problems in obtaining equal opportunities because of language and cultural barriers. For that reason, my Administration has made a special effort to expand those opportunities.

Our progress on this front is reflected in many ways. Nearly 3,800 Spanish surnamed Americans have been employed by the Federal Government, despite an overall reduction in Federal jobs. The Small Business Administration has also increased its loans to Hispanic businessmen, reaching a total of $109 million in fiscal year 1973.

In 1969, the Cabinet Committee on Opportunities for the Spanish-speaking people was created. The Cabinet Committee has both made the Government more aware of the needs and the talents of Spanish-speaking citizens and helped to expand Federal employment of the Spanish-speaking. Since the authorization for this organization expires this year, I am asking the Congress to extend its life through June 30, 1975. The Cabinet Committee on Opportunities for the Spanish-speaking serves to focus the Administration's continuing efforts in this important area of concern.

THE RIGHTS OF WOMEN

Both men and women have become increasingly aware of the pattern of sometimes blatant but often subtle discrimination to which women are subjected. Some of this discrimination can be erased by existing law; some requires new law; some would be rectified by the Equal Rights Amendment, now nearing ratification by the required three-fourths of the States. It is my hope that the Equal Rights Amendment will be ratified speedily so that equal justice under our laws will become a reality for every American.

One of the primary goals of this Administration is to ensure full equal employment opportunity for women by striving to open to women jobs that previously were reserved for men, often simply by habit or custom. Specifically, we have moved vigorously both to enforce the law and to lead by example—by insisting on equal employment and promotion opportunities within the Federal services, by promoting more women into the professionally critical areas of middle management and by continuing our special recruiting drive to bring more women into the highest levels of Government.

To help advance these goals I have appointed the first woman Counsellor to the President, and she, in turn, has set up a new Office of Women's Programs within my executive office. We are particularly proud that this Administration is the first to have women as heads of three independent Federal agencies—the Atomic Energy Commission, the Federal Maritime Commission, and the United States Tariff Commission.

The effort to improve the economic status of women outside the Government is also continuing. The Equal Employment Opportunity Commission, which has been given enforcement power in the Federal Courts, has reported a marked increase in its activities to end sex discrimination in employment.

We will continue to pursue all these efforts with vigor. This emphasis is especially appropriate as we approach 1975, which has been declared International Women's Year by the United Nations.

One especially invidious form of sex discrimination in particular is ripe for correction now through new legislation: the discrimination that often denies women equal access to credit. In an economy that increasingly operates on credit, this is a particularly grievous practice.

The Congress already has before it a proposal to ensure that credit is extended to all persons on an equitable basis, without regard to their sex or marital status. This Administration strongly supports this proposal and is sending to the Congress amendments which we believe will strengthen it even further. I urge prompt consideration and passage of this vital legislation.

PROTECTION AGAINST CRIME AND INVASION OF PRIVACY

Over the past five years I have had no higher domestic priority than rolling back the tide of crime and violence which rose in the 1960s. I am therefore especially pleased with the progress we are making on this front:

—After 17 years of continuous and often dramatic increases, crime in 1972 registered its first overall decline. Although in 1973 it again registered a slight increase, it still held below the level of 1971. Now that the momentum of increase has been broken, I am confident that we can look forward to further reductions in crime rates in the years ahead.

—Serious crime in our largest cities was actually reduced by 13 percent between 1971 and 1973.

—In Washington, D.C., where the Federal Government has special law enforcement responsibilities, crime has been cut in half since 1969.

Indictments and convictions of organized crime racketeers have more than tripled since 1969, thanks in large measure to the 1970 Organized Crime Control Act and to expanded Federal interagency strike forces. In addition, of course, the riots, urban terrorism, and burnings of the 1960s have now become a thing of the past.

These indications of success do not mean that we should slacken our anticrime effort, but that we should intensify it. Key elements of our strategy to do so—most of which will require the assistance of the Congress—include:

—Comprehensive reform of the Federal Criminal Code. Last year I submited a proposal which was based upon the work of the Justic Department and a 51-year study completed by the National Commission on Reform of Federal Criminal Laws. The Federal Criminal Code has not been completely revised in a quarter century and the need for reform is urgent. I call upon the Congress to act expeditiously in reforming our criminal code, to make it both more workable and more responsive to the demands of our complex society.

—Restoration of the death penalty under the Federal Criminal Code for several especially heinous specific crimes which result in the death of innocent victims. Examples of such crimes are hijacking, kidnaping, or bombing.

—Increased Federal assistance to State and local law enforcement agencies. For the next fiscal year, I propose funding through the Law Enforcement Assistance Administration of $886 million—up from only $60 million in 1969.

—Increasing the resources available to the U.S. Attorneys' offices throughout the Nation—offices which have, in the last three years, increased the number of criminal convictions by 28 percent.

—Creation of additional Federal Judgeships to assure speedier disposition of criminal cases. Legislation to accomplish this goal is now before the Congress.

—Comprehensive improvement of Federal correctional programs. Already 15 additional correctional institutions have been built, acquired or begun. My 1975 budget request would represent a tripling of 1969's budget levels.

—A new effort to deal more effectively with employment problems caused by the increase in the number of illegal aliens entering this country. Legislation to achieve this objective is also before the Congress.

PROTECTING THE RIGHT OF PRIVACY

One of the basic rights we cherish most in America is the right of privacy. With the advance of technology, that right has been increasingly threatened. The problem is not simply on of setting effective curbs on invasions of privacy, but even more fundamentally one of limiting the uses to which essentially private information is put, and of recognizing the basic proprietary rights each individual has in information concerning himself.

Privacy, of course, is not absolute; it may conflict, for example, with the need to pursue justice. But where conflicts occur, an intelligent balance must be struck.

One part of the current problem is that as technology has increased the ability of government and private organizations to gather and disseminate information about individuals, the safeguards needed to protect the privacy of individuals and communications have not kept pace. Another part of the problem is that clear definitions and standards concerning the right of privacy have not been developed and agreed upon.

I have therefore ordered an extensive Cabinet-level review—which will be undertaken this year—of both government and industry practices as they relate to the right of privacy, of the conflicts that arise and the balances that must be struck between legitimate needs for information and the right of privacy, and of those measures—including appropriate legislation—that can be taken to ensure that these balances are properly struck.

ENDING DRUG ABUSE

During the decade of the '60s, increasing numbers of Americans—including a high percentage of young people—each year turned to heroin and other drugs in search of "new highs" and "synthetic solutions" to the problems of life. In this retreat from reality, the Nation's drug problem grew dramatically. Residents of our proudest cities were gripped by fear as addicts turned to crime to support their habits, and thousands of families suffered devastating personal tragedies.

I am pleased to be able to report that since then, Federal spending on drug treatment and enforcement have increased tenfold, and progress has been made. We have indeed turned the corner on hard drugs:

—Better drug law enforcement, at home and abroad, has caused an acute heroin shortage throughout much of the country.

—Enough treatment capacity has now been created so that virtually all addicts who want medical help and counseling can get it.

—Our drug abuse indicators all suggest that we have at last succeeded in reducing both the total number of heroin addicts and the number of new addicts.

Nevertheless, the drug battle is far from over.

For the sake of the next generation, I am determined to keep the pressure on—to ensure that the heartening progress made to date is translated into a lasting victory over heroin and other drugs.

As enforcement efforts meet with success in one area of the world, pressure increases on other trafficking routes. To meet these new threats, we will step up our support of joint drug enforcement programs. I have also directed that plans for increased vigilance at our own borders be put into effect.

In the treatment area, we are intensifying our efforts to encourage hard-core addicts to undergo treatment.

To provide added incentive for those not motivated to seek help on their own, I have directed Federal agencies to expand their support for local programs which direct addicts charged with crimes into treatment pending trial and sentencing.

Continued progress will also require help from the Congress:

—I will shortly recommend severe new penalties for both heroin traffickers and those engaged in illegal distribution of other illicit drugs. This legislation will supplement my proposals currently pending before the Congress.

—The Psychotropic Convention, a key international treaty regulating manufactured drugs worldwide, has—after 2½ years—still to be ratified. Affirmative action in this session is of the utmost importance.

I will continue to pursue a balanced approach to the drug problem in the next year by emphasizing both vigorous law enforcement, and treatment and rehabilitation programs to help speed the return of ex-addicts to productive lives in society.

ENHANCING THE ENVIRONMENT

Both our Nation and the world have made imposing strides during recent years in coping with the problems of our national environment. Building upon well-justified concerns, we have created institutions, developed policies and strategies, and deepened public understanding of the problems that face us.

Now we are entering the second phase of environmental action. It may prove to be a more difficult period.

In this second phase, we will be looking at our environmental problems in new ways which are more complex and far-reaching than those to which we have been accustomed. We must be concerned not only with clean air, clean water and wise land use but also with the interaction of these environmental efforts with our need to expand our energy supplies and to maintain general prosperity.

In facing up to these tough, new problems, we can draw strength from the progress we have already made and from the knowledge that there can be no turning back from our general commitment to preserve and enhance the environment in which we live.

Our record over these past five years includes the vigorous enforcement of air quality legislation and of strengthened water quality and pesticide control legislation, the enactment of new authorities to control noise and ocean dumping, regulations to prevent oil and other spills in our ports and waterways, and legislation establishing major new parks, recreation and wilderness areas.

We have also tried to reorganize the Federal structure in ways that are more responsive to environmental needs. The National Environmental Policy Act, passed in 1969, has provided a basis for reform in our Federal agencies and has given citizens a greater opportunity to contribute to environmental decisions. In 1970, I established the Environmental Protection Agency and National Oceanic and Atmospheric Administration to provide more coordinated and vigorous environmental management. Also in that year, I appointed the first Council on Environmental Quality.

PRODUCING RESULTS

The results of our vigorous anti-pollution efforts are now being seen and felt.

In our major cities, levels of dangerous sulfur oxides and particulates have declined, and pollutants from automobiles have been reduced. Water pollution is being conquered, assisted by a massive Federal commitment of over $14 billion in municipal treatment plants during this Administration. Major misuses of pesticides are now under control, and major sources of noise are being regulated for the first time.

During these five years Federal agencies have acquired over 800,000 additional acres for preservation for future generations, many of them near our heavily-populated urban centers such as New York and San Francisco. In addition, the Legacy of Parks program, which I initiated in 1971, has made massive strides in bringing parks to the people. To date, 400 separate parcels covering almost 60,000 acres of under-utilized Federal lands in all 50 States have been turned over to State and local governments for park and recreational use. Many of them are near congested urban areas. We will continue to expedite transfer of additional surplus properties to State and local governments for park and recreation use.

IMPROVING THE WORLD ENVIRONMENT

On our small planet, pollution knows no boundaries. World concern for the environment is as necessary as it is encouraging. Many significant international actions have been taken in recent years, and the United States can be proud of its leadership.

These actions have included the signing of international conventions to protect endangered species of wildlife, to regulate ocean dumping, to extend the national park concept to the world, and to control marine pollution.

A United Nations Environment Program was established last year. With it, the UN Environment Program Fund came into being, fulfilling a proposal I had made in 1972.

Under the US-USSR Environment Agreement, which I signed in Moscow in May, 1972, Soviet and American scientists and environmentalists have been actively working together on serious environmental problems.

THE CHALLENGE AHEAD

As part of this Administration's continuing effort to conserve outdoor recreation areas, my new budget will propose full funding of the Land and Water Conservation Fund for 1975. Nearly two-thirds will aid State and local governments in acquiring their own recreation lands and facilities. Coupled with the change I have proposed in the formula for allocating funds to the States, this measure would encourage the development of more recreation sites closer to the places where people live and work.

This year we have the unique opportunity and responsibility to determine the future use of enormous land areas in America's last great frontier—Alaska. Last month, in accordance with the Alaska Native Claims Settlement Act, I transmitted to the Congress recommendations that would add 83.47 million acres in Alaska to the National Park, National Forest, Wildlife Refuge and Wild and Scenic Rivers Systems. If the Alaska frontier is thoughtlessly developed, it will be gone forever. But we now have the opportunity to make considered judgments as to the appropriate uses of these outstanding Alaskan lands for the American people of all future generations.

This session of the Congress has before it 17 major natural resources and environment proposals that I have previously submitted, and on which I again recommend action. These include:

—*Department of Energy and Natural Resources:* While I discuss this new department elsewhere in this message, I want to reemphasize that I consider it of cardinal importance in ensuring that complex, interrelated environmental and nautral resource issues receive an appropriately wide policy overview and administrative coordination.

—*National Land Use Policy:* Adoption of the National Land Use Policy Act, first proposed in 1971, remains a high priority of my Administration. This legislation would reaffirm that the basic responsibility for land use decisions rests with States and localities—and would provide funds to encourage them to meet their responsibility. I am pleased that the Senate has passed legislation incorporating some of the policies that I proposed. I urge the Congress to pass legislation which would assist States and localities, but which does not inject the Federal Government into their specific land use decisions.

—*Coastal Wetlands:* These environmentally vital wetlands are increasingly threatened by development. My proposed Environmental Protection Tax Act would amend Federal tax laws to discourage the unwise use of these areas, and to enhance our opportunities for sound land use planning within the coastal zone.

—*Wilderness:* Traditionally, we have looked westward for our wilderness areas. Last year, however, I proposed that 16 Eastern areas be designated as "wilderness" and that 37 others be studied for possible wilderness designation.

—*Historic Preservation:* Because we have an irreplaceable historic and architectural heritage, I have proposed an Environmental Protection Tax Act to discourage the demolition of historic structures and to encourage their rehabilitation.

—*Big Thicket National Biological Reserve:* The Big Thicket area of east Texas is a biological crossroads unique in the United States. I am gratified that the House has acted and I urge the Senate promptly to consider my proposal to preserve key segments of the Thicket in a Big Thicket National Biological Reserve.

—*Big Cypress National Fresh Water Reserve:* Protection of the Big Cypress Swamp in Florida is essential to the preservation of the water supply in the Everglades National Park. I have recommended legislation which would authorize the acquisition of over 500,000 acres, enabling us to protect this vital water supply.

—*Public Land Management:* The Secretary of the Interior needs additional authority to protect the environmental values of our public domain lands. I again urge that he be given that authority.

—*Controlling Pollution:* Three of my legislative proposals aimed at controlling pollution have not yet received final Congressional action:

—*Toxic Substances:* New chemicals with unknown environmental effects come into use each year. Authority to test these substances and to restrict their use in the event of danger, while still permitting the orderly marketing of needed chemicals in a timely fashion, is highly desirable.

—*Hazardous Wastes:* Disposal of wastes on land is increasing due to advances in industry and technology and because of our stringent controls on air and water pollution. These wastes can be hazardous to human health and other forms of life. My proposal provides for national standards for treatment and disposal of hazardous waste with primary regulatory responsibility resting with State governments.

—*Safe Drinking Water:* The water we use in our homes should not endanger our health. Under my proposal on safe drinking water, Federal standards would provide health protection by requiring strict limitation of any contaminants in drinking water, but primary enforcement responsibilities would be left to the States. Alternative legislation is now being seriously considered by the Congress which would require unnecessary Federal standards on operating treatment plants, generate a domineering Federal enforcement role, and create several new categorical subsidy programs.

COMMUNITY DEVELOPMENT

Although American communities share many of the challenges of our age, the relative intensity and the particular nature of these challenges vary sharply from one community to another.

The current way of providing most Federal aid to our communities—with each dollar tied to a string pulled and manipulated by a Federal planner—is wrong. Much of the money that pays the Federal planners could better be spent in the local community; the decisions made by the planners could better be made by the people who live on the scene.

In these past few years, we have sought to change the old system. We have recognized that the Federal policy that will work best is one that helps the people of a particular community define their own needs and meet those needs in the way which they consider best. While in this Administration we have tried to be generous, we have also tried to grant communities greater freedom to set their own priorities. Since 1969, we have:

—Spent twice as much money on community development programs as the Federal Government had spent for this purpose in the entire previous history of the Nation.

- —Reduced the red tape and arbitrary restrictions on local action that were so much a part of these programs in the past.
- —Moved authority for administering community development programs from Washington to the field, where administrators are more accessible to local officials, and where they can become more familiar with local problems.
- —Stepped up Federal support for State and local planning and management, again spending more for this purpose than had been spent in all previous years combined.

As a result, not only have cities received *more* Federal dollars, but they have been able to accomplish *more* with each dollar than before.

Despite this progress, we need a much more sweeping reform than has been possible under existing laws. Therefore, I once again urge passage of *The Better Communities Act*, a $2.3 billion bill which would give local officials new flexibility and provide greater effectiveness in the expenditure of Federal community development funds. This legislation would consolidate seven categorical grant programs into a single program. Funds would be distributed on the basis of need, and then local communities could decide for themselves what projects should come first. Thus we could eliminate a mountainous volume of red tape and allow local government to play a larger role in determining their own destinies.

Two Congresses have now addressed community development legislation. Both of them have agreed, for the most part, with the basic principles and approaches that the Better Communities Act represents. But we have still had no action. Cities and towns that have counted on having this legislation in effect in the next fiscal year now fact an uncertain future. I urge the Congress to move ahead as quickly as possible with the Better Communities Act—and I pledge every effort to work out our remaining differences so that our cities and towns can benefit from this program as soon as possible.

I also urge the 93d Congress to pass the *Responsive Government Act* that I submitted last year. This measure would enable State and local officials to improve their planning, decision-making and managerial capabilities through broad-based, flexible grants.

RURAL DEVELOPMENT

Over $12 billion has been invested in rural development through Agriculture Department programs alone during the five years of this Administration. Annual Federal funding for these rural development programs has been tripled during that time. These funds have been spent for:

- —Rural housing, where more than $6.4 billion has been provided through 487,000 housing loans.
- —Electrification and telephone systems, where over $3 billion has been spent to bring service to 177,000 new rural consumers.
- —Water and waste disposal, where some 8,500 loans and grants totaling $1.4 billion have been provided to rural communities for water and waste disposal systems.
- —Loans to farmers, who received more than 489,000 loans totaling over $4.2 billion.

In addition to these efforts under Department of Agriculture programs, almost 200 other Federal programs have had a significant impact on rural areas. As a result, rural residents receive as much Federal support per capita as residents of urban areas.

During the past year we have markedly increased our activity on behalf of the Nation's rural residents:

- —During 1973, the Rural Development Act was funded for the first time to provide over $750 million in loans and grants to States under procedures which give them a new flexibility in promoting rural industrialization and in improving the quality of rural life.
- —An interim rural housing policy was developed, placing greater emphasis on more effectively utilizing existing housing and making Farmers Home Administration programs more responsive to those with the greatest housing needs.
- —To ensure continuing Government attention to rural development needs, this Administration has also created both a special Cabinet-level Rural Development Committee and the new post of Assistant Secretary of Agriculture for Rural Development.

As we look to the future patterns of national growth, we must never forget that the prosperity, the vitality and the character of rural America are essential cornerstones of our Nation's balanced growth. It is essential that rural America receive its proper share of our attention—and I am determined that this shall be the case.

HELPING DISASTER VICTIMS

Seldom is swift and effective Government action needed so urgently as when a natural disaster strikes.

Since taking office, I have had to declare over 160 major disasters in 42 States and in 3 territories. In recent years, the amount of Federal assistance given to disaster victims has been greatly expanded, and we have also pressed an intensive effort to provide this aid more equitably and expeditiously.

Since more than 90 percent of all property damage resulting from natural disasters is caused by floods, I was especially pleased by the Congress' approval last year of our proposed Flood Disaster Protection Act, which significantly expands and improves the national flood insurance program.

More remains to be done, however, if we are to meet our basic humanitarian responsibility to those who fall helpless and innocent victims to nature on the rampage. Therefore, I have also proposed a Disaster Preparedness and Assistance Act, which places new emphasis on the essential element of preparedness, while also increasing the role of State and local officials in allocating Federal disaster funds and cutting the tangle of red tape. It also provides for the automatic use of Federal resources when major disasters strike, and it includes generous grant features for those individual disaster victims unable to repay Government loans, as well as for communities faced with the task of restoring damaged public facilities.

That natural disasters will continue to strike is certain; the only uncertainty is how well prepared we will be. As a generous and compassionate Nation, we should be prepared to give the victims of these disasters the prompt and effective help they so desperately need.

BETTER HOUSING FOR ALL

As I have stated many times, this Administration will not waver from the Federal commitment first outlined in the Housing Act of 1949: "a decent home and a suitable living environment for every American family."

The state of America's housing will continue to depend on the state of America's economy more than on any other factor. The forces of the marketplace are the forces that count the most—families with sufficient real income and sufficient confidence to create an effective demand for better housing on the one hand, and builders and credit institutions able to respond to that demand on the other.

The Federal Government must play a major supporting role through its actions in the mortgage credit market and its help for low income families who need assistance in obtaining adequate housing.

Last September, as credit for housing was becoming increasingly scarce, the Administration acted to make more credit available to home buyers. Recently, mortgage market conditions have begun to improve. However, to assure continuing improvement, I recently authorized a reduction in the maximum allowable interest rate for mortgages insured by the FHA, the Farmer's Home Administration and VA—a more than $6 billion mortgage insurance program that will assist in financing the construction of up to 200,000 housing units.

These actions should have a favorable impact on housing production. If the anticipated results are not fully achieved I will recommend further action to ensure a reasonable level of production.

In the last 5 years a substantial effort has been made to address the country's housing problems:

- —Largely because of a general upswing in the economy, housing production has occurred at record levels.
- —FHA mortgage insurance has enabled nearly 3½ million families to purchase homes.
- —Over two million units of subsidized housing for low and moderate income families have been approved, more than during the previous 33 years of federally subsidized housing programs.
- —Over $1.4 billion has been committed to improving and modernizing existing public housing.
- —Subsidies to local housing authorities have grown from $33 million in 1969 to $350 million in 1974.

Even as good housing has become a reality for most Americans, it is clear that important problems still exist. Two are especially significant. First, our credit institutions often encounter problems in providing adequate housing credit. Second, too many low income families are unable to obtain adequate housing—even as good housing sits vacant in their community. We must help them to meet their needs.

In order to increase the availability of housing for all families, I urge passage during this session of two key measures I have already proposed:

—The Financial Institutions Act to enable savings and loan associations to compete more effectively for funds during periods of tight money, as well as to encourage increased investment in housing through a tax credit on income earned from residential mortgages.

—The Administration's proposed Housing Act which would ease the present tight mortgage credit situation and make homeownership easier in the long term by:

—Authorizing increases in the permissible mortgage amounts eligible for FHA insurance.

—Permitting home buyers to pay market interest rates on FHA and VA insured mortgages, and reducing the cost of buying a home by doing away with the present system of charging points on mortgage loans.

—Authorizing on an experimental basis more flexible repayment plans on FHA insured mortgages.

—Authorizing more flexible interest rates, longer repayment terms and higher amounts for mobile homes and home improvement loans.

This legislation would extend authority for extensive experiments with a new approach—direct cash assistance—for addressing the housing problem of low income American families. Despite the commitment of over $66 billion, evidence has clearly shown that the subsidized housing programs for low income families have not worked well. Instead of programs to treat symptoms, I will continue to press for a longer term solution—which goes to the root of the problem—lack of sufficient income—and which permits the private housing market to work in as efficient a way as possible. Additionally, this legislation would improve the operation of our existing public housing projects, by helping them move to a more effective, efficient and self-sufficient basis of operation.

IMPROVING TRANSPORTATION

The energy crisis has made urgent what once seemed only necessary: the building of a transportation system that permits all Americans to travel efficiently and at reasonable cost.

While some elements of our transportation system—such as the Federal highway network—have been dramatically improved or expanded in the past decade, others—notably the railroads—have fallen into serious difficulties. It is also apparent that our public transit system must be greatly improved within our urban centers. The measures already taken and others which I shall propose this session are particularly important in helping to deal with the energy crisis by encouraging a more sensible utilization of our transportation resources.

During the past four years, several key measures have helped lay the basis for a greatly improved transportation system.

Under the Urban Mass Transportation Act of 1970, we increased annual Federal aid to urban public transportation to $1 billion by 1973—8 times the level of 1968—and in 1973 another $3 billion was made available for the years immediately ahead. For the first time since World War II the downward trend in transit ridership has been reversed, and is now moving upwards. And for the first time, under the provisions of the Federal-Aid Highway Act of 1973, States and localities can now use a portion of their Federal highway funds for public transit purposes.

There has also been improvement of rail passenger service under AMTRAK, a public corporation created by the Rail Passenger Service Act of 1970. After years of steady decline in rail passenger service, the past year saw a 14 percent increase in the number of passengers carried on AMTRAK.

Just this past year, we also went to work to avoid a major rail crisis through passage of the Regional Rail Reorganization Act of 1973, which provides for the restructuring of the bankrupt railroads of the Northeast and Midwest region into a streamlined system. By 1976, we hope that the affected railroads will be able to operate profitably and can survive as producers, not consumers, of tax revenues.

Significant new initiatives have also been taken in airport and airway development, making vitally needed improvements in the merchant marine, and in promoting transportation safety, especially on our Nation's highways.

Clearly, however, there is still much to be done. It is my hope that 1974 will be the year when we make major advances by enacting two critical transportation bills.

One of these proposals, which I will send to the Congress in the near future, would give our communities not only more money but also more freedom to balance their own transportation needs—and it will mark the largest Federal commitment ever to the improvement of public transportation. This bill would increase Federal assistance for metropolitan areas by nearly 50 percent over the level of fiscal year 1974. More than two-thirds of those funds would be allocated by formula to State and local governments and those governments could better determine their own transportation priorities, choosing between construction of highways or public transit systems, or the purchase of buses or rail cars. Additional transit aid would also be made available to rural communities for the first time.

Under this bill resources would also be available for the first time to augment the operating funds for public transportation systems in both urban and rural areas. By permitting Federal resources to be used for operating purposes, this proposal should make it unnecessary to establish a new categorical grant program for transit operating subsidies as is now contemplated in bills before the Congress.

As a second major transportation initiative this year, I shall propose that we modernize the regulatory system governing railroad operations. This legislation would make it easier for railroads to consolidate service on a sustainable basis. It would make changes in the system of rate regulation to allow rail carriers to compete more effectively with one another and with alternative modes of freight transportation. Discriminatory State and local taxation of interstate carriers would be barred. It would also provide $2 billion in Federal loan guarantee authority to finance improvements in rights-of-way, terminal and rail plant facilities, and rolling stock, where necessary, which would be a major step in our effort to improve the Nation's railroad system.

Additional transportation measures I shall soon propose will include:

—Improvements in highway safety through the earmarking of approximately $250 million of the 1975 Federal highway program for the elimination of death traps from the highways—by, for example, improving high-hazard intersections and replacing dangerous bridges. New bonus grants to the States will also be initiated to encourage the adoption of improved safety legislation and to reward States for outstanding safety accomplishments.

—A restructuring of the airport and airway financing system to allocate costs more equitably among the users of our airways and to provide more flexibility in the use of funds.

DISTRICT OF COLUMBIA

Last Christmas Eve, when I signed the new home rule bill into law, the Nation's Capital reached a significant milestone. If the voters of the District accept the proposal in the forthcoming referendum, the city will soon have its first elected mayor and city council in 100 years. In addition to giving the citizens of our Nation's Capital the right to elect their own officials and a greater role in decisions affecting local affairs, the act also transfers to the District functions now carried out in Federal agencies which should rightfuly be under local control.

In order to accomplish this transfer of responsibilities to the local government, much work will have to be done. This Administration will make every effort to assist in the transfer and to ensure that it is both timely and effective.

While our attention to the affairs of the District of Columbia has been captured by the transition to home rule, we must not ignore another important task before us. As the city moves into a new era of self-government, it must also prepare for the Nation's celebration of the Bicentennial.

A Federal Bicentennial Task Force has been working to ensure that the Federal Government meets its financial and program commitments in the Nation's Capital. Under the leadership of the Bicentennial Coordination Center, which I established over two years ago, a number of projects are moving forward. The National Visitors' Center, Constitution

Gardens, the Eisenhower Civic Center, the Fort Circle Parks, the National Air and Space Museum and other projects will contribute enormously to the celebration which takes place here in 1976. In addition, the Pennsylvania Avenue Development Corporation will soon present its plan to restore and improve this central, historically important thoroughfare.

During the coming year, I also urge the Congress to take action on pending legislation to create a District of Columbia Development Bank, which would do much to broaden the economic base of the District.

THE BICENTENNIAL

As we near the celebration of America's Bicentennial, which officially begins in March of 1975, the tempo of preparations has picked up. A sound organizational framework has now been established, with the approval by the Congress last year of a new American Revolution Bicentennial Administration. Each of the 50 States, the District of Columbia and the four territories has also established its own Bicentennial Commission to plan and coordinate local Bicentennial projects. Some 370 counties, cities, towns, villages and tribal units have been recognized as Bicentennial Communities, and some 600 applications for this designation are currently being reviewed.

On the Federal level, I have created the Domestic Council Committee on the Bicentennial. This Cabinet-level Committee has approved the goals for Federal participation in the Bicentennial, established an Interagency Bicentennial Task Force, and approved over 200 Bicentennial projects of the Departments and agencies.

The Department of the Interior will complete the development of historically significant National Park sites; the National Foundation on the Arts and the Humanities will support cultural activities relating to the Bicentennial; and many of our other national institutions, such as the Smithsonian Institution, will present special exhibitions across the Nation.

Other nations are actively responding to the "Invitation to the World" that I issued on July 4, 1972 to participate with us in this celebration which is not ours alone, but one which draws on the heritage of every nation from which people have come to our shores.

In celebrating America's Bicentennial, we shall, of course, commemorate our national achievements. We shall honor our celebrated leaders even as we remember those whose contributions were less well known. We shall take stock of our shortcomings and resolve to overcome them.

What we will celebrate most of all in 1976 will be the vitality of the American people. We have tried to ensure that Federal Bicentennial activities reflect the diversity which is ours alone, and which is appearing in community Bicentennial planning across the country.

CULTURE AND COMMUNICATIONS

When I took office in 1969, I was determined to give support to the goal of substantially strengthening the arts and humanities in the United States. The result has been the rapid growth of the National Endowment for the Arts and the National Endowment for the Humanities—which had existed before but at a very low level of activity.

In the current year, the National Endowment for the Arts will spend $60.8 million on a large scale of programs intended to enrich America's cultural present and future. A broad range of individuals as well as institutions, both public and private, are being assisted. And special support is being given to projects which will add to the celebration of our Bicentennial.

The Congress has in the past given strong bipartisan support to the Arts Endowment. That same support will be needed in the future. Increased Federal funds, eliciting greater financial support from the private sector and State and local governments, will ensure the flourishing of American arts in the years ahead.

The National Endowment for the Humanities has likewise made outstanding contributions to the stimulation of our intellectual and cultural life. One measure of the growing importance of its activities is the fact that the Humanities Endowment has a program today which is ten times as large as it was five years ago.

The Humanities Endowment will also play a major role in promoting the Bicentennial and will emphasize activities which reach large numbers of people, such as film and television productions and traveling exhibitions.

In America, television is by far the best means of communicating with the widest audience. To assure the American audience a greater range of television programming of a type not financially feasible for commercial television, we have dramatically increased our support for public television in the last five years.

Public Broadcasting matured during the past year. Both the television and radio licensees reorganized themselves in a way which encouraged a more rational relationship between them and the Corporation for Public Broadcasting, and increased the ability of each local station to provide programs uniquely tailored to their local communities.

Another aspect of electronic media that has recently become a public policy issue is cable television, a development that could lead to a vast expansion of the Nation's communications capabilities. In June of 1971, I established a Cabinet Committee to develop proposals for a comprehensive national policy on cable communications. I have recently received and am now reviewing the report which is the product of that committee. I have also asked the Director of Telecommunications Policy to prepare legislation to move toward the adoption and implementation of a national cable television policy and I expect to submit such legislation to the Congress in the near future. I encourage the Congress to review carefully the issues prescribed by cable television and I especially encourage a widespread national debate on this subject which could play such a major role in all of our lives during the future.

SCIENCE AND TECHNOLOGY

One of the great strengths of this Nation has been its preeminence in science and technology. In times of national peril we have turned to the men and women in the laboratories in universities, Government, and private industry to apply their knowledge to new challenges.

Once again, in the current energy crisis, we are calling upon them to respond. I have outlined, in my recent energy message to the Congress, the first step in a five-year, $10 billion research and development effort in energy: $1.8 billion for direct energy R&D for the coming fiscal year and an additional $216 million for supporting research—a total increase of 80 percent over this year.

A look at the broad scope of this energy effort tells a great deal about our confidence in the capabilities of the Nation's scientists and engineers. We are calling on them to accelerate the development of nuclear power systems, to determine how we can use our abundant supplies of coal in ways that are environmentally acceptable and to improve technology for harnessing natural energy sources such as the sun and the heat of the earth. At the same time, we are asking them to explore new ways of conserving the energy that we already use for everyday conveniences such as our automobiles.

This Administration recognizes that the need for progress in every major area of American life requires technological input. We are therefore committed to giving all our major programs a broad scientific underpinning. The new budget will call for an increase of over 20 percent in civilion research and development expenditures.

In addition to a major increase for energy, research and development funds will be spread across a large number of programs for enhancing the prosperity, well-being, and health of Americans. Science will continue to be vital to our efforts to fight drug abuse, to prevent infant mortality, to combat venereal disease, and to aid in treating mental illness.

We will call upon the services of our scientists and engineers to design better forms of transportation, and to make safer the transportation we already have. We will examine ways of making our vast agricultural establishment yield more food at lower prices, and try to lessen agriculturally-related pollution. We will attempt to develop methods of mining that will not only yield greater mineral wealth but also give the miner greater safety and the landscape greater protection. We will study ways to protect our wildlife from natural and man-made attack, and we will attempt to learn how to protect ourselves from the violence of nature in the form of floods, landslides, earthquakes, tornadoes and other natural calamities.

This Administration recognizes the vital role which the social sciences must play in America's growth. Money will be made available for studying the social effects of various Government income distribution and redistribution plans, such as social security, welfare benefits, health insurance, and varied and experimental educational forms.

In every great area of national endeavor, the Administration will see that adequate funds for making scientific progress are spent.

That also means we will continue our important efforts in space. The exploration of space is today making a key contribution to man's understanding of his universe and to our abilities to manage our resources on earth wisely. As our Skylab astronauts have proven, space is now an acceptable working environment for man.

While we explore our planetary system, the stars, and the galaxies, we are also using space technology to monitor the earth's environment. The Earth Resources Technology Satellite is allowing us to search for scarce resources from high above the earth. Already, many of our intercontinental communications are by satellite. This year new commercial satellites will aso be used for domestic telephone, telegraph, and television services. Satellite weather forecasting is now common place as a result of our space efforts.

Space exploration in the future should become more economical as we develop the Space Shuttle, a reusable vehicle for space transportation. A cooperative international aspect of the space program will come with the European developed Spacelab as an integral part of the Shuttle program. In addition, we are now moving full speed ahead with our plans for a joint space venture with the Soviets in 1975.

THE NEW FEDERALISM

Just as rapidly changing and increasing demands placed upon Government have made it necessary to reorganize the Federal structure, they have made it even more inperative to make State and local government stronger and more effective.

During the last four decades, almost every major attempt by the Government to meet a major social need has resulted in a new national program administered in Washington by a new bureaucracy. Forty years ago there were more than 600,000 Federal employees; today there are more than 2.7 million. In the last decade, this probem has grown acute. In 1960 there were some 200 Federal grant-in-aid programs with outlays of $8 billion, but by 1970 there were nearly 1,000 and the total outlays had risen to $22 billion. And in the next fiscal year we expect outlays for grant-in-aid programs to reach $52 billion, even after our substantial efforts to cut their number. This growth in size, power and complexity has made the Federal Government increasingly inaccessible to the individual citizen it seeks to help.

Many of our new national social programs have actually impeded the development of effective local government. By creating a Federal categorical grant system of staggering compexity and diversity we have fostered at the State and local level:

—Overlapping and wasteful programs;

—Distorted budgets and priorities;

—Additional administrative expense;

—Delay and uncertainty; and

—A diminution in the authority and responsibilities of State and local elected officials, as Federal grants have become the special province of competing bureaucracies.

In one of the basic new directions of my Administration, I proposed in 1969 that we create a new and fundamentally different relationship between State and local government, on the one hand, and the Federal Government on the other. This new relationship has come to be known as the New Federalism. As I said in 1969, its purposes are:

—To restore to the States proper rights and roles in the Federal system with a new emphasis on local responsiveness;

—To provide both the encouragement and necessary resources for local and State officials to exercise leadership in solving their own problems;

—To narrow the distance between people and the Government agencies dealing with their problems;

—To restore strength and vigor to State and local governments where elected officials know best the needs and priorities of their own constituents; and

—To shift the balance of political power away from Washington and back to the country and the people.

With the help of both the Congress and the Administration, this new relationship among local, State, and Federal governments has begun to take shape:

—In 1972, the Congress enacted our General Revenue Sharing program, and already more than $11 billion of new money has been put to work in over 38,000 units of State and local government.

—Funding through the Law Enforcement Assistance program has demonstrated the flexibility of the New Federalism in leaving to State and local authorities the decisions on how best to combat crime in their jurisdictions. This program has helped to make America's streets safer for our citizens.

—The Comprehensive Employment and Training Act which I signed into law in 1973 is a landmark example of the New Federalism's broad and more flexible forms of assistance—and it represents a leading example of what can be achieved when the Executive and the Congress team up to enact solid legislation.

—New authorities under the Rural Development Act are being exercised this year in a way which is supportive of State and local development plans and priorities.

—In addition, within the limits of law, we have moved administratively to strengthen the role of State and local governments by simplifying and streamlining Federal grant systems—including procedures for State and local review of project proposals affecting their jurisdictions, opportunities for grant integration and joint funding, and the decentralization of many Federal activities to 10 Federal regional councils.

In the remaining 3 years of this term I shall continue to take every sound administrative action within the authorities available to me to support and strengthen State and local government, but we must have the support of the Congress to maintain the progress which has begun. Proposals for furthering the New Federalism now before this body and for which I urge your support include:

—Federal education reforms to consolidate support for elementary and secondary schools as well as vocational and adult programs, and to promote better planning on the local level through advance funding.

—The Better Communities Act, to replace several ineffective and restrictive urban programs with a flexible approach that would allow local officials to make essential decisions on the way community development funds would be spent.

—The Responsive Governments Act, to provide needed Federal assistance for improving State and local planning, decisionmaking and management capabilities. This would help to strengthen the capacity of State and local governments to assume greater responsibility for the administration of their own programs, whether federally assisted or not.

—The Disaster Preparedness Act, to increase the role of State and local officials in allocating Federal disaster funds and to cut the tangle of Federal red tape.

In addition to these proposals now pending, a number of the new initiatives that I describe elsewhere in this message also reflect the principles of New Federalism. These include:

—A new public transportation initiative that would permit States and localities—both urban and rural—to allocate highway and mass transit funds in accordance with local conditions and priorities.

—An economic adjustment assistance program, that would help States and communities to create employment opportunities where they have been affected by structural changes in their economies which brought about persistent unemployment or depressed incomes.

—In the field of health, a comprehensive health insurance plan which would bring protection against medical expenses within the reach of all our citizens.

MAKING GOVERNMENT WORK BETTER

On taking office five years ago, one of the first needs I sought to address was the organization of the executive branch of Government—for the plain fact is that the only way Government gets anything done is through its organizational structure, and how well it can perform depends in large measure on how well it is organized.

Because the needs of the Nation continue to change, and because the activities of Government must respond to those changes, the patterns of Government organization that might have been fine in the 1930s or even in the 1960s, may be hopelessly out of date in the 1970s. Therefore, early in my first term I established an expert commission to survey the organization of the executive branch and to recommend improvements to meet present-day needs. The reports of this commission contributed significantly to the reorganizations that I ordered and that I recommended, including the proposal I put forward three years ago for a sweeping reorganization of the executive branch, consolidating seven of the present Cabinet departments into four new units.

Although this basic restructuring has not been enacted by the Congress, other progress of a substantial nature has been made in modernizing the Government. For example, we have established:

—The United States Postal Service, taking the post office out of politics;

—The Office of Management and Budget, providing a strong management arm to assist in coordinating the functions of the executive branch;

—A restructured National Security Council;

—The Domestic Council to cordinate domestic policy formulation;

—The Council on Environmental Quality, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration, all to provide leadership in meeting our vital environmental needs;

—The Special Action Office for Drug Abuse Prevention and the Drug Enforcement Administration;

—The Council on Economic Policy, to facilitate the formation and execution of overall economic policy;

—The Council on International Economic Policy, to focus on an area increasingly important both to our foreign relations and to our domestic economy;

—ACTION, to provide stronger coordination and incentives for volunteer activities;

—The Cost of Living Council, to help stabilize prices; and,

—The Federal Disaster Assistance Administration, to help individuals and communities struck by natural disasters.

Each of these reorganization steps was designed to meet a specific need more effectively, or to respond to newly urgent needs. Several were accomplished under the reorganization plan authority which has been available to every President in the last 25 years, but which expired last March. This authority—which is utilized only with the concurrence of the Congress—continues to be necessary in order to keep abreast of changing needs, and I urge that it be reinstituted.

Of special concern today is the reorganization of the Government to meet the energy crisis. I have by Executive Order already established the Federal Energy Office to serve as a focal point for energy actions taken by the Government.

But that office lacks a statutory base and does not have sufficient authority to do the full job. That is why I have asked the Congress to establish the Federal Energy Administration and I once again urge it to act on this matter. Recognizing that this country should no longer remain dependent upon foreign energy sources, I have also urged the creation of an Energy Research and Development Administration to devlop the necessary technology to tap new domestic sources of energy and a separate Nuclear Energy Commission to carry on the regulatory activities presently assigned to the Atomic Energy Commission.

While these organizational initiatives are needed now, the best organization to knit together the future energy and natural resource programs of the Federal Government would be a comprehensive Department of Energy and Natural Resources. This concept is consistent with the major Federal departmental reform I submitted to the Congress in 1971. Today, I again urge swift, favorable action by the Congress on this proposal so that we will have the broad organizational base that will ultimately be needed to meet many of our energy needs in the most effective manner and to balance energy and natural resources considerations in the future.

That same consolidation and reorganization of the executive branch that I proposed in 1971 would also have created new departments for community development, human resources and economic affairs. The basic problems of fractionated, sometimes overlapping and often conflicting organizations that prompted these original proposals remain acute today. I therefore urge the Congress to join with me in a serious effort to achieve an effective reorganization in these areas.

In view of the close relationship between food assistance programs and other income security programs, I will also propose new legislation to transfer the food stamp and related programs from the Department of Agriculture to the Department of Health, Education and Welfare.

Another important organizational proposal still awaiting Congressional action is the creation of an independent Legal Service Corporation. My Administration will work closely with the Congress in the weeks ahead to obtain final passage of our proposal which would provide the poor with quality legal representation, would create an organization free from political pressures, and would include safeguards to ensure its responsible operation. Legal services legislation has already passed the House. I am hopeful that reasonable legal services legislation will now be passed by the Senate.

A major new opportunity for better Federal management has been initiated at my direction by the Office of Management and Budget. Frequently termed "management by objective," it involves the identification of specific, high-priority objectives for each year for each of the departments and agencies. During the year, progress in reaching these objectives can be closely measured and reported to agency heads and to me. In the years ahead I expect this technique will help make the Government both more responsive and more accountable.

Nothing is more important to improving the efficiency of our Government than the recruiting of top flight personnel for Federal jobs—including positions in the career civil service. We will be working in the months ahead to ensure that executive compensation, career development and training all attract and hold the best possible personnel in the public service.

The compensation we provide our top officials is integral to these efforts to recruit and retain the best men and women for Government service. Salaries of Federal judges, Members of the Congress, and heads and assistant heads of executive agencies have not been adjusted for 5 years, during which time comparable pay rates in the private sector increased 30 percent and pay for other Federal employees has increased significantly. The report of the Commission on Executive, Legislative and Judicial Salaries notes that this lag in compensation also produces serious salary compression among the top ranks of career employees. I am therefore recommending a three-stage increase in executive, legislative and judicial salaries in the budget, at the rate of 7½ percent annually for each of the next three years. This will make salaries within the top levels of the Federal Government more competitive with industry. And it will help us to make Government work better.

CAMPAIGN REFORM

For several years it has been clear that reforms were needed in the way we elect public officials. The intense public focus placed on the campaign abuses of 1972 has now generated sufficient support for this issue that we now have an opportunity to make a genuine breakthrough.

In a national radio address on May 16 of last year, I announced my proposal for a non-partisan commission on campaign reform. This commission would have reexamined the entire Federal election process to come up with a comprehensive set of legislative recommendations. The Commission would have filed a public report no later than December 1, 1973.

Eight months have now passed since that proposal was submitted to the Congress and the Commission is not even close to being created. If it had been created expeditiously, we would now have its report recommending meaningful reforms for Federal campaigns and as I had originally hoped, those reforms might be in place prior to the 1974 elections.

In light of the delay, I have now decided to submit a comprehensive set of Administration proposals on campaign reform for consideration by the Congress during this session. While I do not believe mine will be the only workable proposals, I do hope they will lead to meaningful debate and reform in this critical area. To that end, I look forward to working with the Congress in a long-overdue effort to clean up the Federal election process.

AMERICA AND THE WORLD

When this Administration took office, it was apparent that the world had changed in fundamental ways, and that America's foreign policy had to change in equally fundamental ways.

We needed to end our military involvement in the Vietnam war in a manner consistent with our responsibilities and commitments as a major world power.

We need to adjust to the changes in the strategic situation between the Soviet Union and the United States which presented a unique opportunity to build a solid foundation for peace but which also threatened our own security if that foundation could not be built.

We needed to end a quarter century of hostile isolation which had kept one-fourth of the world's population outside the framework of international cooperation. The world could not afford another generation of hostility between the United States and the People's Republic of China.

We needed to adjust our partnerships with Western Europe and Japan, recognizing their increasing political and economic strength and self-reliance, and emphasizing our important common goals.

We needed to alter the world monetary system to reflect the new realities of the international economic system and America's place in it.

During the past five years we have made striking progress in meeting each of these needs.

CONTINUING RESPONSIBILITY IN VIETNAM

The United States is at peace for the first time in more than a decade. But peace must be something more than the absence of the active engagement of American forces in conflict.

We must guard against the tendency to express relief at our military extrication for Southeast Asia by "washing our hands" of the whole affair. Men and women are still dying there. We still have a responsibility there. We must provide those ravaged lands with the economic assistance needed to stabilize the structures of their societies and make future peace more likely. We must provide, as well, the continued military aid grants required to maintain strong, self-reliant defense forces. And we will continue to insist on full compliance with the terms of the agreements reached in Paris, including a full accounting of all of our men missing in Southeast Asia.

BUILDING NEW RELATIONSHIPS

As we work through détente to reduce conflict in areas of the world where both we and the Soviet Union have important interests, we must also continue to work to reduce the potential causes of conflict between us.

We must persevere in our negotiations with the Soviet Union to place further limits on strategic arms competition and in our talks with the Warsaw Pact nations to reduce forces in Europe in a way that will increase security and stability for all.

We will pursue our relations with the Soviet Union in the climate of détente established two years ago in Moscow and reaffirmed by General Secretary Brezhnev's visit to Washington last year. During the fateful weeks of the Middle East war last October, the strength of our detente was severely tested. Since then, American diplomatic leadership and initiative have played a central role in the search for a final settlement in the long-troubled Middle East. This began with the ceasefire of October 22, worked out with the Soviet Union's assistance, and was later strengthened by the Six-Point Agreement in November to consolidate the ceasefire, then by the Geneva Peace Conference—under the co-sponsorship of the United States and the Soviet Union—and most recently by the agreement on the disengagement of Egyptian and Israeli military forces, which is being implemented in cooperation with the United Nations Emergency Force. These steps are but the beginning of broadened efforts to find a lasting settlement of the area's problems.

The process of building a normal relationship with the People's Republic of China continues. Liaison offices have been established in our respective capitals and there continues to be fruitful contact between our governments at very high levels.

STRENGTHENING OUR FREE WORLD PARTNERSHIPS

As our relationships with old adversaries are changing, so are our relationships with old friends. Western Europe and Japan have put behind them the post-war struggle to rebuild their economies, re-order their societies and re-establish their political force. Their success in these endeavors is something we helped to foster and in which we can take pride. But now times have changed and our past role in their success cannot be the sole basis for a continuing relationship. We must instead adjust our relationships to recognize their new economic capacities and their international political objectives. We must accommodate all of these within the framework of the friendship and goodwill of our allies and our whole past history of cooperation in the pursuit of our common goals. This is a cornerstone of the structure of peace we are seeking to build.

With our closest neighbors, here in the Western Hemisphere, we shall continue to seek additional ways of working cooperatively to solve the problems which face the Americas. Secretary of State Kissinger will be meeting in a few weeks with the foreign ministers of Latin America to begin a new and constructive dialogue in the family of American states.

INTERNATIONAL TRADE AND COMMERCE

As we turn from an era of confrontation to one of cooperation, trade and commerce become more important. We have moved from a position of virtual economic hegemony in the world to a new role in a more interdependent world economy. We must create an equitable and efficient system of integrating our own economy with that of the rest of the world.

Much has already been accomplished on this front. The markets of the USSR and China are now accessible, thereby providing jobs for American workers. Our major trading partners in Western Europe and Japan share our interest in further reducing international trade barriers and increasing world trade. The rigid and outmoded international monetary system which over-valued the dollar and impeded our foreign trade has been decisively altered. After two years of trade deficits, America achieved a trade surplus in 1973.

But we must persevere in our international monetary, investment and trade negotiations. The greatest tasks still lie ahead and the stakes are high. Avoiding the economic and political disruptions associated with international monetary turmoil and restrictive trade and investment practices increases in importance as international interdependence grows.

As I noted earlier in this message, prompt passage of the pending Trade Reform Act is essential to achieving the goal of a less restrictive and more equitable international economic system. In addition, we must move forward with the current negotiations to reform the international payments system under the auspices of the International Monetary Fund, reforms which will markedly increase the opportunities for nations to trade and invest profitably.

We must also strengthen our resolve as the world's most prosperous nation to help less fortunate countries. In the world of today, no nation will be fully secure or prosperous until all nations are. As in the past, we will take pride in our efforts to work with developing nations which aspire to greater economic and social well-being. The United States has called for the World Food Conference which will be held in November under the auspices of the United Nations. We will also actively observe 1974 as World Population Year, as proclaimed by the United Nations.

MAINTAINING A STRONG DEFENSE FORCE

But as we work for peace, we must be conscious that the opportunity to build a structure of peace came because our arms have served as a deterrent to war. We must maintain that deterrent.

In the last five years, outlays for the Department of Defense have been reduced by about ⅓—measured in constant dollars—and military personnel have been cut from 3.5 million to 2.2 million.

This year, I will recommend a substantial increase in the 1975 budget for the Department of Defense. These increases are necessary to improve the readiness of our armed forces, to build up levels of essential equipment and supplies and to preserve present force levels in the face of rising costs.

CONCLUSION

Throughout these five years, I have had one overriding aim: to establish a structure of peace in the world that can free future generations from the scourge of war. Others may have different priorities; this has been and will remain my first priority, the chief legacy that I hope to leave from the eight years of my Presidency.

As we strengthen the peace, we must also continue each year a steady strengthening of our society here at home. Our conscience requires it. Our interests require it. We must insist on it.

As we create more jobs, as we build a better health care system, and improve education; as we develop new sources of energy, as we provide more abundantly for the elderly and the poor, as we strengthen the system of private enterprise that produces our prosperity—as we do all this and more, we solidify those essential bonds that hold us together as a nation. Even more importantly, we advance what in the final analysis government in America is all about: more freedom, more security, a better life, for each one of the 211 million individual persons who are America.

We cannot afford to neglect progress at home while pursuing peace abroad. But neither can ge afford to neglect peace abroad while pursuing progress at home.

With a stable peace, all is possible; without peace, nothing is possible.

Earlier in this message, I comment that "one of the continuing challenges facing us in the legislative process is that of the timing and pacing of our initiatives . . . selecting each year among many worthy projects those that are ripe for action at that time."

What is true in terms of our domestic initiatives is true also in the world. This period we now are in—these few years—presents a juncture of historic forces unique in this century, which provide an opportunity we may never have again to create a structure of peace solid enough to last a lifetime and more—not just peace in our time but peace in our children's time as well. It is on the way we respond to this opportunity, more than anything else, that history will judge whether we in America have met our responsibility.

I have full confidence that we will meet that responsibility.

RICHARD NIXON.

THE WHITE HOUSE, *January 30, 1974.*

ORDER FOR REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2908, a bill to establish a mass transportation trust fund and to amend the Urban Transportation Act of 1964 in order to assure adequate local transportation service, which is now in the Committee on Banking, Housing, and Urban Affairs, be referred to the Committee on Finance, if and when it should be reported by the former.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY, FEBRUARY 4, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEFINITE POSTPONEMENT OF S. 2686

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 2686 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER AND THE MINORITY LEADER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished majority leader and the distinguished minority leader each be recognized for not to exceed 15 minutes and in the order stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that my previous request for the recognition of the distinguished majority leader and the distinguished minority leader on tomorrow, each for not to exceed 15 minutes, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two orders previously entered for the recognition of the distinguished leaders on tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE GENOCIDE CONVENTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the transaction of routine morning business tomorrow, the Senate go into executive session to resume consideration of the Genocide Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD ON MONDAY, AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, the assistant Republican leader and the assistant Democratic leader be recognized, each for not to exceed 15 minutes, in that order; and that following their recognition, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR 5-MINUTE LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements made tomorrow during the period for the transaction of routine morning business be limited to 5 minutes each rather than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ASSISTANT LEADERS TO BE RECOGNIZED ON MONDAY AFTER THE RECOGNITION OF SENATOR CLARK

Mr. ROBERT C. BYRD. Mr. President, I inadvertently overlooked the fact that an order had been previously entered for the recognition of the distinguished junior Senator from Iowa (Mr. CLARK) on Monday.

Therefore, I ask unanimous consent that the order for the recognition of the distinguished assistant Republican leader and the junior Senator from West Virginia on Monday follow the completion of the order previously entered for the recognition of Mr. CLARK.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on tomorrow, the Senate will convene at the hour of 11 a.m. After the two leaders or their designees have been recognized under the standing order there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 5 minutes each. At the conclusion of routine morning business the Senate will go into executive session to consider the Genocide Convention. I assume there will be no rollcall votes tomorrow; none are anticipated, barring the unexpected, such as, for example, a motion to table could occur at any time, but as I have indicated no such motion is anticipated.

As for next week, it is difficult to say with certainty when and what may occur. However, the following should be considered. A vote could occur on a motion to invoke cloture on the Genocide Convention; a vote could occur on a motion to table the Genocide Convention. Inasmuch as a two-thirds vote is required to either invoke cloture or adopt cloture it may be that a vote up or down on the convention could occur. Votes on reservations may occur and such votes would require a majority rather than a two-thirds majority.

Indications are also that the conference report on the Energy Emergency Act may come to the floor on any day beginning with Tuesday. If this occurs yea and nay votes can be expected.

In summary, yea-and-nay votes will undoubtedly occur next week.

ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, unless the distinguished assistant Republican leader has something further, I move, in accordance with the previous order, that the Senate stand in adjournment till the hour of 11 a.m. tomorrow.

The motion was agreed to; and at 7:25 p.m., the Senate adjourned until tomorrow, Friday, February 1, 1974, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1974:

SECURITIES AND EXCHANGE COMMISSION

Irving M. Pollack, of Maryland, to be a member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1975, vice Hugh F. Owens, resigned.

THE JUDICIARY

Richard P. Matsch, of Colorado, to be U.S. district judge for the district of Colorado vice Olin H. Chilson, retired.

Joseph L. McGlynn, Jr., of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania vice Thomas A. Masterson, resigned.

Thomas C. Platt, Jr., of New York, to be U.S. district judge for the eastern district of New York vice George Rosling, deceased.

IN THE NAVY

The following-named captains of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Henry A. Sparks.
Dudley E. Brown, Jr.

SUPPLY CORPS

James E. McKenna.
James R. Ahern.

CIVIL ENGINEER CORPS

Robert F. Jortberg.

DENTAL CORPS

George A. Besbekos.

The following named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualification therefor as provided by law:

James W. Montgomery
Lee W. Fisher
Earl B. Fowler, Jr.
Kent J. Carroll
Claude P. Ekas, Jr.
Robert B. McClinton
Murray C. Cook
John C. Dixon, Jr.
James B. Linder
Richard E. Nicholson
Roy D. Snyder, Jr.
Sylvester R. Foley, Jr.
Edward W. Carter III
Bobby R. Inman
Steven A. White
"M" Staser Holcomb
John A. Walsh
Thomas J. Hughes, Jr.
Frederick F. Palmer
William D. Robertson,
Normal K. Green
Albert J. Monger
John H. Alvis
Donald P. Hall
Lucien Capone, Jr.
Arthur K. Knoizen
Paul H. Speer
William P. Lawrence
Gerald E. Thomas
Hugh A. Benton
Robert W. Chewning

IN THE MARINE CORPS

The following-named officers of the Marine Corps for temporary appointment to the grade of captain:

Gary W. Barnes
John L. Borst
Robert J. Boyd, Jr.
Bruce A. Cripe
Ronald J. Cruz
Charles Demello
Donald V. Demikis
Robert W. Dyar, Jr.
David C. Eberhart, Jr.
Robert G. Essink
Kenneth R. Falasco
Arnold Fields
Paul R. Fields
Lloyd D. Fitzpatrick
Eugene Frazier
John D. Frew
Ernest D. Gill
Wilson C. Grier
Robert L. Gruber
James L. Hayes
Askold T. Haywas
Allen T. Head, Jr.
Roger D. Herring
Frank W. Hicks
Richard F. Holihan
Stephen D. Hopkins
Richard A. Houston, Jr.
Thomas P. Hudson, Jr.
Jan C. Huly
Jerry D. Humble
Robin S. Jackson
David C. Johnson
John M. Kelleher
Paul M. Lee, Jr.
Timothy B. Levan
Charles V. Long III
Michael E. Maher
Roger J. Mauer
John B. Middleton, Jr.
Stephen A. Miller
Alex G. Mitkevich
Michael F. Monigan
Thomas B. Moore
Rollin G. Napier
James M. Naylor
John J. Niemyer
Thomas F. Oreilly
Michael C. Osajda
Frederick D. Parker
Ronald B. Pevey
William T. Pettit
Andrew N. Pratt
William T. Ramsey IV
Garrett V. Randel, Jr.
Robert W. Rathbun
James L. Reid
Louis A. Rehberger III
Raymond W. Schellinger
Alan A. Schultz
James R. Schwenk
Michael J. Shaw
James E. Smith
Terry A. Smith
Joe R. Stewart
John D. Stokes
James P. Sureau
Lewis A. Taylor, III
John L. Thompson
John A. Vansteenberg
Roger C. Wahls
Charles N. Wells
Paul A. Whitham
Norris E. Williams
Richard T. Willard
Fredrick H. Wolfrom
John P. Wright
Frank Yohannan
Brian M. Youngs

The following named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer, W–4:

James M. Barnes
Timothy C. Bell
Delmar G. Booze
Norman D. Braden
Shelia R. Bray, Jr.
Lionel H. Bridges
Edwin J. Brown
William L. Buck, III
Kenneth F. Burris
Donald R. Cameron
James J. Castonguay
Roger J. Combs
Willam J. Clancy, Jr.
Jack N. Clow
Allen D. Crosier
Ralph W. Deaver
Charles F. Denison, Jr.
Roland A. Desjarlais
James H. Divis
Peter Dobson, Jr.
Paul J. Donley
John Doyle
William E. Duke
Roger A. Essi
Thomas E. Evans
Gerald D. Fabricius
James P. Fleming
Harry A. Florence, Jr.
Bernard C. Glinka
Donald W. Gregory
Glenn R. Hammond
Robert H. Hanevik
Charles H. J. Henderson
Jack R. Hoy
Henderson B. Jones
William Kasten
Robert E. Katz
Ronald R. Kendall
James J. Knocke
Donald C. Lanson
William P. Lepore, Jr.
Willard R. Lewis
Carl K. Lunn
Harry B. Malnicof
Edmund J. Mazzei
Roger A. McIntosh
John L. Meyers
Jacques L. Miller
Robert J. Mocny
Richard C. Moran
Charles L. Morrow
Richard A. Nailor
Monte V. Nelson
Donald D. Nimmow
Billy W. Owens
Porter G. Pallett
Charles D. Parker
Leonard J. Patchin
Dean C. Pedlar
George A. Pelletier
Billy E. Perry
Robert G. Pontillas
Richard L. Porter
Joseph C. Raymond
Donald D. Redmond
Carroll J. Riley
Robert D. Rogers
Frederick W. Schroeder
Arthur I. Swanson, Jr.
Gary R. Thompson
Charles G. True
Morton Vaserberg
Alan E. Wickens
Jack A. Wilder
Sydney M. Wire
Robert H. Yoder
David A. Zefferjohn
James H. Zimmerman

The following named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer, W–3:

Charles W. Adams
James L. Anderson
Ferdinand J. Appl, Jr.
Ronald H. Asmus
James E. Bailey
Charles M. Banks
John E. Baughman
James A. Belfiore
Kenneth C. Bickley
Gary W. Bisplinghoff
Roy H. Baxler
Gilbert H. Bolton
Donald R. Book
Clyde P. Boudreaux
Lawrence C. Brinkmar
James J. Brisson
William C. Brown, Jr.
Walter J. Bruderer
Joseph A. Bryant
Gerald S. Bucklin
Dudley L. Burgess
Allen F. Burton
Donald N. Bush
Christopher P. Butler
Everett J. Campbell, Jr.
Gary G. Carley
James T. Chaffee
Marion L. Cotten
Patrick C. G. Coulter
Frederick M. Cunningham
Charles A. Dankmyer Jr.
Raymond L. Dedual
Oscar Delagarza, Jr.
Acie N. Derossett
Armand H. Desjardin
Joe H. Driver
Donnie L. Fauver
Orlando Fernandez
Franklin A. W. Field
Donald H. Finley
Carl J. Fisher
Clyde L. Fisher
Joseph R. Fitzgerald
Richard F. Fleming, Jr.
Jack W. Flynn
Robert W. Forsberg
Rose J. Franco
John A. Frank
Edgar Franklin, Jr.
Eugene T. Franklin
John B. Funk
Carl H. Gassoway
Louis P. Glassburner
James A. Grebas
Johann Haferkamp
David L. Harris
Franklin R. Hester
Ernie W. Howe
Michael P. Hudson
Donald W. James
William J. Janning
James R. Jennings
Ernest E. Johnson
Richard C. Jonely
Charles J. Julian
John S. Keene
John J. Keenan, Jr.
Floyd M. Kennedy
Albert Lane, Jr.
Enrique Lariosa, Jr.
Ronald J. Lauzon
Thomas C. Lish
Redmond J. Loftus, Jr.
Bernard L. Lee
Gary A. Lucus
John G. Lyle, Jr.
William S. Maire
Michael T. Mallick
Thomas H. Marino
Larry A. Martin
Jack L. Matlack
Raymond M. Matthias
Charles A. McCartney
Jerome M. McGuire
Thomas J. McIntyre
Benjamin H. McNutt
Kenneth H. Medeiros
John M. Miller
George A. Miller
James R. Milner
Jimmy Miranda
Kenneth L. Mitchell
Patrick J. Mongoven
William R. Moody
David D. Moore
Jim B. Morgan
John V. Morris
James E. Mulloy, Jr.
Louis N. Panchy
Roger L. Peterson
Eugene L. Polderdyke
Carl W. Polk
Raymond G. Prefontaine
Ivan D. Puett
James S. Rayburn
Merle W. Reese
Robert L. Richendrfer
Wade A. Robinson, Jr.
Alfred R. Rocheleau
Gerald L. Rodden
Mack I. Rogers
Tommie D. Rose
William H. Rosser
Efrain F. Sanchez
Stephen A. Sandwich
Ray H. Scott
Arthur W. Seabury, Jr.
Coburn L. Sergent
John R. Shultz, Jr.
Henry L. Singer
Billy W. Smith
Charles L. Staigle
John A. Steward, Jr.
Donald R. Syring
Richard A. Teeter
Leonard J. Tevebaugh
Raymond D. Tevis
William T. Troutner
John E. Upah, Jr.
Bruce W. Vance
Cullen R. Vinson
William J. Walker
Frederick M. Waller, Jr.
Napoleon K. Weaver
Willis D. White
John Whitley, Jr.
Dennis Wilczewski
Nathaniel C. Wilson
Francis O. Williams
Larry L. Wine
James W. Wofford, Jr.
Rudolph E. Woltner, Jr.
Billy E. Wright

The following named officers of the Marine Corps for temporary appointment to the grade of chief warrant officer, W–2:

Homer L. Allen
Clarence T. Anthony, Jr.
Paul T. Ashe
Jewel F. Bain
James V. Branum
Harold M. Brown, Jr.
Nearlin Carter, Jr.
James D. Churchman
Wayne R. Cote
George F. Deckert III
Donald F. Deline
Thomas W. Dolman
Fritz G. Franz
Michael L. Furgal
Joseph F. Gomes, Jr.
Michael B. Graddy
Robert I. Hall

William Hohnhorst, Jr.
Charles A. Johnson
Lorenzo G. Jordan
Carl M. Jozaitis
Ernestine A. Koch
Paul J. Labarge
Jerry L. Lamerson
Jerome F. Lawson
Jack D. Mathis
Ellory M. Medor
Gerald B. Moore
Roland N. Pannell, Jr.
Jack C. Parker
Kenneth D. Roebuck
James E. Russell
John B. Samples
Roger A. Sherman
Lloyd D. Songne
Robert Skyles, Jr.
William L. Steigner
David W. Streagle
John M. Sweeney, Jr.
Gary O. Thompson
Donald R. Troutt
Marcelo J. Tyler
Daniel Vallee
Paul R. Weigley, Jr.
Jerrold A. Wohlfarth
John D. Yarbrough

Department of State

Thomas R. Pickering, of New Jersey, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Department of Justice

Laurence H. Silberman, of Maryland, to be Deputy Attorney General vice William D. Ruckelshaus, resigned.

In the Army

The following-named officers for promotion in the Army of the United States under the provisions of Public Law 92–129:

ARMY PROMOTION LIST

To be colonel

Ackerman, Albert A., [redacted].
Adams, John E., [redacted].
Adams, Robert B., [redacted].
Adamson, George W., [redacted].
Agnew, James B., [redacted].
Ainslie, Robert E., [redacted].
Albritton, Herbert, [redacted].
Allen, Charles B., [redacted].
Alvey, Everett L., [redacted].
Ames, William I., Jr., [redacted].
Anderson, Benjamin, [redacted].
Anderson, James L., [redacted].
Anoffsinger, Gordon, [redacted].
Bachman, Clayton J., [redacted].
Bacon, Robert C., [redacted].
Baggett, Ronald L., [redacted].
Bailey, Kenneth R., [redacted].
Bain, John R., [redacted].
Baker, Frank H., [redacted].
Baldwin, Jessie E., [redacted].
Balzhiser, Robert M., [redacted].
Bambery, James R., [redacted].
Barrett, Otrie B., Sr., [redacted].
Barton, Robert E., [redacted].
Bass, Richard H., [redacted].
Bauer, Daniel H., [redacted].
Bauerband, Edward H., [redacted].
Bayer, William S., [redacted].
Beckwith, Charlie A., [redacted].
Beelman, Dale C., [redacted].
Bell, Dale M., [redacted].
Bell, Frederick D., [redacted].
Bennett, Joseph D., [redacted].
Bennett, Willard M., [redacted].
Berry, William W., [redacted].
Bieri, Leon D., [redacted].
Biggerstaff, Allan, [redacted].
Bilderback, Gerald, [redacted].
Bindrup, Lavere W., [redacted].
Bingham, Ellis D., [redacted].
Blackledge, David W., [redacted].
Blakely, William R., [redacted].
Blalock, Charlie L., [redacted].
Blanche, John G., III, [redacted].
Blasingame, Josiah, [redacted].
Blastos, Constantin, [redacted].
Blum, Robert W., [redacted].
Bole, Albert C., [redacted].
Boling, Douglas L., [redacted].
Boon, Ivan G., [redacted].
Bort, Edward H., [redacted].
Boucher, Leo P., Jr., [redacted].
Bowling, Frederick, [redacted].
Bradbury, Donald K., [redacted].
Bradford, Zeb B., [redacted].
Bramlett, James T., [redacted].
Brandt, Leo M., [redacted].
Brannen, Barney L., [redacted].
Breckenridge, R., [redacted].
Briggs, Charles F., [redacted].
Brookshire, Grail L., [redacted].
Brosious, George D., [redacted].
Brown, Charles W., [redacted].
Brown, John M., [redacted].
Brown, Ollie [redacted].
Browne, Robert T., Jr., [redacted].
Brownlee, Emory W., [redacted].
Bukoski, James R., [redacted].
Bullock, Charles A., [redacted].
Burnett, Clark A., [redacted].
Burr, Richard A., [redacted].
Butler, Alman I., [redacted].
Butler, Robert E., [redacted].
Byrne, Thomas D., [redacted].
Caldwell, James K., [redacted].
Callahan, Bernard L., [redacted].
Canonico, John N., [redacted].
Cantrell, Jack R., [redacted].
Cantrell, Waniford, [redacted].
Carpenter, Thomas E., [redacted].
Carr, Eldon, D., [redacted].
Carrasco, Valentine, [redacted].
Carter, John B., [redacted].
Caruso, John P., [redacted].
Carvell, Richard F., [redacted].
Caudle, Lester C., Jr., [redacted].
Chaney, Otto P., Jr., [redacted].
Ching, Harry L., [redacted].
Ching, John Y [redacted].
Craver, Roger H., [redacted].
Christman, Daniel P., [redacted].
Churchill, Ralph T., [redacted].
Churchman, Robert E., [redacted].
Clark, Donald O., [redacted].
Coder, John D., [redacted].
Cole, William A., [redacted].
Collier, Alvis W., [redacted].
Collins, Ashby F., [redacted].
Collins, Franklin W., [redacted].
Connell, Charles R., [redacted].
Connell, Thomas E., [redacted].
Conrad, Michael J., [redacted].
Cook, Larry L., [redacted].
Cook, Richard R., [redacted].
Cooley, Andrew L., Jr., [redacted].
Cooper, Robert G., [redacted].
Corliss, Reginald H., [redacted].
Cosby, Lloyd N., [redacted].
Costello, John L., Jr., [redacted].
Cottingham, John B., [redacted].
Coverdale, Craig G., [redacted].
Craig, Robert B., [redacted].
Crain, Leonard B., [redacted].
Cranford, Charles R., [redacted].
Crim, William T., [redacted].
Crosmun, Clifford A., [redacted].
Cross, George M., [redacted].
Crowell, William B., [redacted].
Curl, Richard L., [redacted].
Daggett, Robert W., [redacted].
Daniels, Walter C., [redacted].
Daoulas, Arthur, [redacted].
Darden, Fred A., [redacted].
Daschle, Charles L., [redacted].
Davies, Joseph F., [redacted].
Davis, Harold M., Jr., [redacted].
Davis, Jack C., [redacted].
Davis, Jethro J., [redacted].
Davis, Thomas H., [redacted].
Davis, Willys E., [redacted].
Davisson, Henry L., [redacted].
Defrance Rudolph B., [redacted].
Dejarnette Larry N., [redacted].
Delamain, Frederick, [redacted].
Delsanto, Michael J., [redacted].
Derouen, Milton, Jr., [redacted].
Derrick, George E., [redacted].
Dewald, Arthur B., [redacted].
Dillard, William H., [redacted].
Diller, Richard W., [redacted].
Dobson, Dale E., [redacted].
Doctor, Henry, Jr., [redacted].
Dolfi, Eugene, [redacted].
Drenz, Charles F., [redacted].
Duffy, James P., Jr., [redacted].
Dukkony, Stephen J., [redacted].
Dyson, William E., [redacted].
Eberle, John S., [redacted].
Echols, Herald V., [redacted].
Edgar, Charles E., II, [redacted].
Edmiston, Charles H., [redacted].
Edmonds, Maurice O., [redacted].
Elder, Robert L., [redacted].
Elliott, Richard L., [redacted].
Engle, Phillip D., [redacted].
Evans, Herbert C., [redacted].
Fair, Cecil G., Jr., [redacted].
Farr, Robert A., [redacted].
Farrell, Joseph G., [redacted].
Farris, Jack B., Jr., [redacted].
Farris, John T., [redacted].
Feeley, Robert F., [redacted].
Feist, Robert J., [redacted].
Fernandez, Robert N., [redacted].
Ferullo, Generoso J., [redacted].
Fifer, William A., [redacted].
Fischer, Arthur F., [redacted].
Fischer, Richard F [redacted].
Fisher, George E., Jr., [redacted].
Fitzsimmons, Eugene, [redacted].
Flanagan, Eugene P., [redacted].
Flint, Robert W., [redacted].
Foley, William R., [redacted].
Foradori, Harry L [redacted].
Ford, Allan T., [redacted].
Fountain, Charles D., [redacted].
Fowlre, Thomas R., [redacted].
Fox, Lothar, [redacted].
Francois, Frank [redacted].
Freeman, Clinton A., [redacted].
Friedersdorff L [redacted].
Galvin, John R., [redacted].
Garcia, John L., [redacted].
Gardner, Morris L., [redacted].
Garvais, Donald F., [redacted].
Gay, Forrest T., III, [redacted].
Gilbert, Wendell H., [redacted].
Giles, George R., [redacted].
Gillespie, John W [redacted].
Glover, Rupert F., [redacted].
Godwin, William C., [redacted].
Goldstein, Jack [redacted].
Goode, Franklin C., [redacted].
Goodman, William G., [redacted].
Goodwin, Clifton R., [redacted].
Goodyear, Clyde E., [redacted].
Green, William T., [redacted].
Greene, Dereef A [redacted].
Gregerson, William, [redacted].
Grier, Reginald C., [redacted].
Guenther, Leo A., [redacted].
Guffey, Howard R., [redacted].
Guidroz, Evans J., [redacted].
Guyton, James S., Jr., [redacted].
Hains, Peter C., [redacted].
Hall, Harry T., [redacted].
Hammill, William C., [redacted].
Hammond, Robert D., [redacted].
Hampton, Wade, [redacted].
Hannum, David B., [redacted].
Harrover, James D., [redacted].
Hart, Franklin A., [redacted].
Hayes, Alva W., [redacted].
Hayes, Jack O., [redacted].
Hayes, Walter P., [redacted].
Heinicke, Martin W., [redacted].
Heiter, James A., [redacted].
Henry, Cecil M., [redacted].
Henry, Frank L [redacted].
Heyward, James O., [redacted].
Hicks, William W., [redacted].
Hight, Adolph A., [redacted].
Hobbs, Richard W., [redacted].
Holihen, Joseph M., [redacted].
Holley, James P., [redacted].
Hornish, William E., [redacted].
Hubbard, Norman F., [redacted].
Hungerford, Franklin, [redacted].
Hurd, Philip S., [redacted].
Hutchinson, Cary B., [redacted].
Hyatt, Frederic D., [redacted].

Ianni, Francis A., [redacted].
Imhoff, Maximilian, [redacted].
Iverson, Harold E., [redacted].
Jackson, James L., [redacted].
Jackson, Wilfred A., [redacted].
Jackson, William S., [redacted].
Jacobsen, Richard L., [redacted].
Janairo, Maximiano, [redacted].
Jennings, Gerald R., [redacted].
Johnson, David L., [redacted].
Johnson, Edward K., [redacted].
Jolemore, Kenneth A., [redacted].
Jones, Charles L., [redacted].
Jones, Gordon D., [redacted].
Jones, Isaac R., [redacted].
Jorns, Russell L., [redacted].
Katt, Beaufort C., [redacted].
Keaton, Jack L., [redacted].
Keener, Robert E., [redacted].
Kelman, Manfred, [redacted].
Kenyon, Peter B., [redacted].
Kenyon, Richard D., [redacted].
Kesterson, William, [redacted].
Kicklighter, Claude, [redacted].
Kinne, Milton J., Jr., [redacted].
Kirkwood, Clifford, [redacted].
Klingenfus, Emil J., [redacted].
Klugh, James R., [redacted].
Kobata, Katsuji, [redacted].
Koehler, William F., [redacted].
Koos, Frank S., [redacted].
Kourakos, George St., [redacted].
Kros, William J., [redacted].
Krueger, William H., [redacted].
Kupau, Richard A., [redacted].
Lacquement, Hubert, [redacted].
Lafever, Morris, [redacted].
Lambert, Richard T., [redacted].
Lamphere, Robert F., [redacted].
Lampkin, George W., [redacted].
Land, Joe E., Jr., [redacted].
Lander, Robert B., [redacted].
Lanier, Albert B., Jr., [redacted].
Lax, Joseph O., Jr., [redacted].
Layne, Leslie A., [redacted].
Ledford, William V., [redacted].
Ledwidge, Augustine, [redacted].
Lees, Robert E., [redacted].
Leger, Jean C., [redacted].
Leiser, Maurice H., [redacted].
Leszczynski, Joseph, [redacted].
Leuer, Kenneth C., [redacted].
Levine, Edwin R., [redacted].
Levitt, David M., [redacted].
Lewi, Kenneth E., [redacted].
Liles, Donald E., [redacted].
Linka, James E., [redacted].
Loeffke, Bernardo, [redacted].
Logan, Jack R., [redacted].
Long, James L., [redacted].
Lowman, Charles J., [redacted].
Luepnitz, Carl A., [redacted].
Lutsch, John W., [redacted].
Lynn, Charles T., Jr., [redacted].
Lynn, Robert G., [redacted].
Madigan, John J., III, [redacted].
Mahlberg, Donald S., [redacted].
Mallonee, John B., [redacted].
Malone, Dandridge M., [redacted].
Marcrum, Robert H., [redacted].
Marini, James L., [redacted].
Marshall, James L., [redacted].
Marshall, Milford L., [redacted].
Martin, Paul E., [redacted].
Martin, Quinton T., [redacted].
Massengale, Eugene, [redacted].
Masters, Barrie P., [redacted].
Mathias, Robert E., [redacted].
Matthews, Lloyd J., [redacted].
Maus, William C., [redacted].
Mayhew, John W., [redacted].
McClelland, Thomas, [redacted].
McConnell, Lewis J., [redacted].
McCrea, J. Hollis, V., [redacted].
McGinn, Harry L., [redacted].
McGraw, Russell M., [redacted].
McGregor, Thomas, [redacted].
McIntyre, Graham W., [redacted].
McIver, James C., [redacted].
McKay, William L., [redacted].
McKnight, Don A., [redacted].
McLeod, John S., [redacted].
McLeod, Purdy B., Jr., [redacted].
McMurrer, James E., [redacted].
McNutt, Donald L., [redacted].
McRill, Billy I., [redacted].
Meador, Marion F., [redacted].
Meekison, Malcom V., [redacted].
Menzies, Neil A., [redacted].
Merritt, Allen S., [redacted].
Meyer, Richard M., [redacted].
Mihas, Leo B., [redacted].
Mikle, Franklin O., [redacted].
Miller, Harold L., [redacted].
Miller, Harry W., II, [redacted].
Miller, John T., [redacted].
Miller, Kenneth M., [redacted].
Miller, Thomas A., Jr., [redacted].
Miller, William D., [redacted].
Mills, Robert W., [redacted].
Minix, Thomas E., [redacted].
Mitchell, Aubrey, Jr., [redacted].
Mitchell, Frederick, [redacted].
Mitchell, William L., [redacted].
Moffeit, Norman A., [redacted].
Monclova, Irving, [redacted].
Mooneyhan, Jack L., [redacted].
Moore, Gordon E., [redacted].
Moore, Patrick J., [redacted].
Moran, Otis A., [redacted].
Moretti, Francis C., [redacted].
Morris, Henry F., [redacted].
Morsey, James A., [redacted].
Motsko, Myron M., [redacted].
Mott, Carl M., Jr., [redacted].
Mounts, James A., Jr., [redacted].
Moye, Harold W., [redacted].
Murphy, Alvin F., [redacted].
Naumu, John F., Jr., [redacted].
Needles, Paul E., [redacted].
Negris, Rocco, [redacted].
Neilson, Clifford C., [redacted].
Nelson, Thomas C., [redacted].
Nerone, Francis A., [redacted].
Neuberger, Jack A., [redacted].
Nichols, Calvin E., [redacted].
Nicholson, Allison, [redacted].
Noll, Wallace W., [redacted].
Nosek, George F., [redacted].
Nowalk, Charles L., [redacted].
Oates, John T., [redacted].
O'Connell, Marvin G., [redacted].
Odiorne, David W., Jr., [redacted].
Old, William D., II, [redacted].
Omalley, John M., [redacted].
Ornstein, Alvin, [redacted].
Osborn, Robert B., [redacted].
Owens, Joe S., [redacted].
Page, Harold R., [redacted].
Papajohn, Carroll, [redacted].
Pappageorge, John G., [redacted].
Parker, David H., [redacted].
Parker, Hassel L., [redacted].
Parker, Russell W., [redacted].
Partridge, Charles, [redacted].
Patte, Chris, [redacted].
Payne, James A., [redacted].
Payne, James N., [redacted].
Peachey, William N., [redacted].
Pede, August R., [redacted].
Penney, Hubert F., [redacted].
Perkins, Andrew D., [redacted].
Perlow, Joseph P., [redacted].
Perry, William R., [redacted].
Petersen, Peter B., [redacted].
Petree, Neal C., Jr., [redacted].
Phillips, Edward L., [redacted].
Phillips, Ted N., [redacted].
Pierce, Samuel M., [redacted].
Pigg, Jimmy L., [redacted].
Pinney, David R., [redacted].
Pitts, Russell N., [redacted].
Pointer, Robert W., [redacted].
Ponder, Arno L., Jr., [redacted].
Porter, Covington B., [redacted].
Poteat, John A., Jr., [redacted].
Priem, Charles M., [redacted].
Puckette, Cecil L., [redacted].
Pugliese, Nicholas, [redacted].
Quedens, Bernard B., [redacted].
Ralls, Dan H., [redacted].
Randels, Dale K., [redacted].
Ratcliff, Walter A., [redacted].
Reding, Charles H., [redacted].
Reed, Leonard F., [redacted].
Reed, Robert T., [redacted].
Register, Benjamin, [redacted].
Remus, Melvyn D., [redacted].
Reniker, Gene B., [redacted].
Renner, William D., [redacted].
Resley, Robert D., [redacted].
Richards, Howard C., [redacted].
Richards, John H., Jr., [redacted].
Rickards, Donald A., [redacted].
Robinson, Richard T., [redacted].
Robinson, Robert E., [redacted].
Rogers, Clare R., [redacted].
Rogers, Ellietson D., [redacted].
Rogers, John E., [redacted].
Rogers, Roland B., [redacted].
Rollinger, Jack R., [redacted].
Rose, Llewellyn P., [redacted].
Rose, Myron W., [redacted].
Rosenstein, Marvin, [redacted].
Ross, Ernest E., [redacted].
Rue, Norman L., [redacted].
Rumph, Horry L., [redacted].
Rush, Early J., III, [redacted].
Rynott, Keith J., [redacted].
Sager, Robert A., [redacted].
Saint, Crosbie E., [redacted].
Sanders, Bobby L., [redacted].
Sarnowski, Francis, [redacted].
Scales, David E., [redacted].
Schmidt, Carl F., [redacted].
Schmidt, Theodore H., [redacted].
Schneider, George J., [redacted].
Schneider, William, [redacted].
Scholtes, Richard A., [redacted].
Schumacher, David J., [redacted].
Schwarz, Charles E., [redacted].
Scibilia, Anthony J., [redacted].
Scott, Charles G., [redacted].
Scott, Charles H., [redacted].
Scott, Hugh A., [redacted].
Scott, Thomas L., [redacted].
Scott, Thomas L., [redacted].
Scott, William T., [redacted].
Scovel, James L., [redacted].
Segal, Robert, [redacted].
Sell, Charles E., [redacted].
Serra, Robert R., [redacted].
Sharp, Benjamin F., [redacted].
Shave, Kenneth L., [redacted].
Shaw, Donald P., [redacted].
Sherron, Gene T., [redacted].
Shields, George D., [redacted].
Siebert, Frederick, [redacted].
Sigler, Nolan M., [redacted].
Simmons, Jerry A., [redacted].
Simmons, Marvin E., [redacted].
Simpson, Henry E., Jr., [redacted].
Sims, Emmett W., [redacted].
Sisson, Deryl A., [redacted].
Skaife, Stanley T., [redacted].
Skibbie, Lawrence F., [redacted].
Skidmore, Lowell H., [redacted].
Slingerland, Douglas, [redacted].
Smith, Anthony A., [redacted].
Smith, Douglas S., [redacted].
Smith, Isaac D., [redacted].
Smith, James D., [redacted].
Smith, John G., Jr., [redacted].
Smith, Otto B., [redacted].
Smith, Raymond C., [redacted].
Snyder, Clinton W., [redacted].
Sorrels, Charles V., [redacted].
Spence, Thomas H., [redacted].
Spotts, Rodney W., [redacted].
Spry, Alfred E., [redacted].
Stanberry, Billy M., [redacted].
Stanton, Martin P., [redacted].
Stearns, Clarence L., [redacted].
Stein, Henry J., Jr., [redacted].
Stelmachowicz, Peter, [redacted].
Stevens, Perry G., [redacted].
Steverson, James R., [redacted].
Stewart, Dennie W., [redacted].

Stillwell, John W., [redacted].
Stodter, Charles S., [redacted].
Stoessner, Richard, [redacted].
Stotser, Don M., [redacted].
Stovall, Don O., [redacted].
Strand, Vincent W., [redacted].
Stuart, Douglas B., [redacted].
Suddath, Leroy N., [redacted].
Sullivan, Harry E., [redacted].
Sullivan, Jerome J., [redacted].
Sullivan, William F., [redacted].
Sunell, Robert J., [redacted].
Suso, Anthony, [redacted].
Swanson, Robert L., [redacted].
Swaren, John W., Jr., [redacted].
Sweeney, Kenneth J., [redacted].
Tanzer, John B., [redacted].
Tate, Clyde J., [redacted].
Teal, James A., Jr., [redacted].
Teberg, David T., [redacted].
Thompson, Charles H., [redacted].
Thompson, Howard B., [redacted].
Thornton, James F., [redacted].
Tigh, Leland F. Jr., [redacted].
Tobin, Daniel J., [redacted].
Ton, James G., [redacted].
Torsani, Joseph A., [redacted].
Travas, John E., [redacted].
Trobaugh, Edward L., [redacted].
Trowbridge, Clarence, [redacted].
Tucker, Charles E., [redacted].
Turner, Gary L., [redacted].
Underwood, John R., [redacted].
Vail, Nathan C., [redacted].
Vanhorn, Jonathan S., [redacted].
Vanness, Richard E., [redacted].
Varljen, Frank E., [redacted].
Vermillion, Russell, [redacted].
Vernon, Graham D., [redacted].
Vesser, Dale A., [redacted].
Vidrick, Robert L., [redacted].
Viereck, Ennis A., Jr., [redacted].
Visscher, Robert E., [redacted].
Wagner, Julian F., [redacted].
Waible, Leo C., Jr., [redacted].
Wall, John F., Jr., [redacted].
Wardinski, Michael, [redacted].
Ware, Flecher K., Jr., [redacted].
Watkins, William W., [redacted].
Watson, Elmer E., [redacted].
Watson, Gerald G., [redacted].
Watson, Jack D., [redacted].
Watts, Ronald L., [redacted].
Watts, Willim E., [redacted].
Weaver, Calvin G., [redacted].
Weinstein, Saunder, [redacted].
Welch, Gene B., [redacted].
Welch, William J., [redacted].
Wells, Norman S., [redacted].
Westerman, Ted G., [redacted].
Westervelt, John R., [redacted].
Wheeler, William P., [redacted].
Whitley, George R., [redacted].
Whitsett, Bernard D., [redacted].
Whittington, Richard, [redacted].
Wiegand, Robert D., [redacted].
Williams, Howard M., [redacted].
Williams, Thomas E., [redacted].
Wilmot, Richard W., [redacted].
Wilson, Dennis F., [redacted].
Wilson, Gerald F., [redacted].
Wilson, Jack D., [redacted].
Wilson, Parks W., Jr., [redacted].
Wilson, Robert E., [redacted].
Wilson, William E., [redacted].
Witherell, John R., [redacted].
Wolfe, Oren, [redacted].
Wood, Joseph S., Jr., [redacted].
Worth, Clifford, Jr., [redacted].
Wright, Gilbert P., [redacted].
Wright, Lewis W., [redacted].
Wulbbena, William L., [redacted].
Wyatt, James E., [redacted].
Wyatt, Lloyd L., [redacted].
Young, John D., [redacted].
Zaborowski, Edward, [redacted].
Zapata, Roland T., [redacted].
Zeleznikar, Louis J., [redacted].

CHAPLAIN CORPS

To be colonel

Bainbridge, Clarence, [redacted].
Benton, Homer G., [redacted].
Blom, John O., [redacted].
Causey, Calvin G., [redacted].
Christoph, Edward J., [redacted].
Dinkel, Emil L., [redacted].
Ford, Francis C., [redacted].
Fosmire, William L., [redacted].
Hessian, Patrick J., [redacted].
Johnson, Kermit D., [redacted].
Lamm, Harold C., [redacted].
Lent, Peter S., [redacted].
McCullough, Mark M., [redacted].
Mueller, Edward M., [redacted].
O'Connor, Francis X., [redacted].
Peters, Roy V., [redacted].
Russo, Nicodemus A., [redacted].
Smith, Benjamin E., [redacted].
Wetzel, William I., [redacted].
Willers, Ralph K., [redacted].
Weathers, Clifford, [redacted].

WOMEN'S ARMY CORPS

To be colonel

Fisher, Audrey A., [redacted].
Hopfenspirger, Nancy, [redacted].
Macmichael, Kitt M., [redacted].
Russell, Marilyn J., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Albertson, John N., [redacted].
Axtens, Frank W., [redacted].
Beltran, Gilbert, [redacted].
Bentley, William R., [redacted].
Bullard, John W., [redacted].
Burke, James C., [redacted].
Cabell, Ben M., [redacted].
Harder, Richard Cha, [redacted].
Herwig, Lee C., Jr., [redacted].
Johnson, Marion P., [redacted].
Jordan, France F., [redacted].
Killo, William S., [redacted].
Lewis, John P., [redacted].
Maillet, Edward L., [redacted].
Mateer, Charles A., [redacted].
Randolph, George B., [redacted].
Rocke, Donald C., [redacted].
Rose, Gerald S., [redacted].
Russell, James L., Jr., [redacted].
Steinberg, Marshall, [redacted].
Thomas, Tommy, [redacted].
Thompson, Helmer W., [redacted].
Triano, Donald H., [redacted].
Vanstraten, James G., [redacted].
Webb, Richard, III, [redacted].
Wilks, Norman E., [redacted].
Williams, Glenn M., [redacted].
Willis, David B., [redacted].
Zbylski, Joseph R., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Barr, Virginia M., [redacted].

VETERINARY CORPS

To be colonel

Anderson, William, [redacted].
Oakes, Richard G., [redacted].

ARMY NURSE CORPS

To be colonel

Bloxham, Carolyn, An, [redacted].
Brantley, Ruth S., [redacted].
Costello, Barbara R., [redacted].
Delaney, Ramona E., [redacted].
Gann, Ellen J., [redacted].
Gunuskey, Dolores, [redacted].
Hill, Nellie M., [redacted].
Johnson, Hazel W., [redacted].
Quinn, Mary C., [redacted].
Rancourt, Dorothea, [redacted].
Rogers, Janet A., [redacted].
Scheffner, Lawrence, [redacted].

DENTAL CORPS

To be colonel

Andrian, James C., [redacted].
Allwein, John B., [redacted].
Barnes, George P., [redacted].
Beckelheimer, Robert, [redacted].
Berube, Joseph D., [redacted].
Betts, Alan F., [redacted].
Brunton, Donald A., [redacted].
Cali, Thomas, [redacted].
Caulfield, John J., [redacted].
Cherry, Norman L., [redacted].
Collins, George R., [redacted].
Decker, Richard M., [redacted].
Donovan, William C., [redacted].
Farkas, Joseph A., [redacted].
Floto, Edward E., [redacted].
Frantz, Wayne R., [redacted].
Hann, John R., [redacted].
Hart, Richard I., [redacted].
Jones, Richard A., [redacted].
Kleehammer, Daniel, [redacted].
Lyon, Thayer C., Jr., [redacted].
McConnell, Richard, [redacted].
Miller, Thomas E., [redacted].
Morton, Charles B., [redacted].
Neaverth, Elmer J., [redacted].
Nelson, Donald R., [redacted].
Parker, Warren A., [redacted].
Perez, Bienvenido, [redacted].
Purdy, Robert B., [redacted].
Reed, Robert T., [redacted].
Russell, Emery A., [redacted].
Saari, James T., [redacted].
Sanfilippo, Francis, [redacted].
Schoultz, Edward R., [redacted].
Shelton, David W., [redacted].
Staehle, William, [redacted].
Stanford, Hilton, Jr., [redacted].
Thomas, Philip C., Jr., [redacted].
Tye, Edward J., [redacted].
Williford, John W., [redacted].
Zablotny, Florian H., [redacted].
Zelin, John R., [redacted].

MEDICAL CORPS

To be colonel

Ansbacher, Rudi, [redacted].
Arneson, Leslie A., [redacted].
Aton, James K., Jr., [redacted].
Bannister, Gary L., [redacted].
Bartelloni, Peter J., [redacted].
Benincaso, Frank V., [redacted].
Bezreh, Anthony A., [redacted].
Brott, Walter H., [redacted].
Bruckman, Joseph A., [redacted].
Cass, Kenneth A., [redacted].
Chamlian, Dikran L., [redacted].
Corby, Donald G., [redacted].
Diazball, Fernando, [redacted].
Dycaico, Armin G., [redacted].
Fagarason, Lawrence, [redacted].
Fearnow, Ronald G., [redacted].
Feltis, James M., Jr., [redacted].
Gimesh, John S., [redacted].
Greely, Robert L., [redacted].
Haas, John M., [redacted].
Hardee, Erasmus B., [redacted].
Hawes, William J., [redacted].
Hazlett, David R., [redacted].
Heydorn, William H., [redacted].
Hill, Paul S., [redacted].
Holtzapple, Kenneth, [redacted].
Hutton, John E., Jr., [redacted].
Isom, Lawrence E., [redacted].
Kopp, Albert A., [redacted].
Larsen, Lowell D., [redacted].
Lennox, Kenneth W., [redacted].
Lindefjeld, Oleand, [redacted].
Lloyd, Joseph D., [redacted].
Mansfield, John O., [redacted].
Mayfield, Gerald W., [redacted].
Mays, Edward E., [redacted].
McCarthy, Richard J., [redacted].
Moore, William L., Jr., [redacted].
Park, Richard, [redacted].
Patterson, Joseph R., [redacted].

Pauling, Fred W., III, [redacted].
Reister, Henry C. [redacted].
Sakakini, Joseph, Jr., [redacted].
Scavarda, Angelo [redacted].
Schamber, Dean T., [redacted].
Soriano, Franklin M., [redacted].
Stansifer, Philip D., [redacted].
Strader, Lorenzo D. [redacted].
Stuart, Richard B., [redacted].
Szymonski, Zdzislaw, [redacted].
Top, Franklin H., Jr., [redacted].
Ulisnik, Wayne R., [redacted].
Vilabalzac, Gilber, [redacted].
Virtue, Clarence M., [redacted].
Williamson, Harold, [redacted].
Winter, Phillip E., [redacted].

Yhap, Edgar D., [redacted].

The following-named officers for promotion in the Regular Army of the United States under the provisions of title 10, United States Code, sectons 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Adams, Mitchell K., [redacted].
Clark, Freeman C., [redacted].
Hunt, Kenneth D., [redacted].
Jones, Louis G., [redacted].
McGilvray, David H., [redacted].
Moore, Bidwell D., [redacted].
Muir, David N., [redacted].
Pearson, Charles D., [redacted].

Peckitt, Fred D., [redacted].
Wells, Brian F. [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate January 31, 1974:

IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning John C. Bailar III, to be a senior surgeon, and ending Jon P. Yeagley, to be an assistant health services officer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on January 22, 1974.

EXTENSIONS OF REMARKS

THE DECLINING ROLE OF FATHERS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, January 31, 1974

Mr. THURMOND. Mr. President, as important as the women's rights movement may be, there is still a need for increased emphasis to be given to the role of the father in the home as well as throughout our system.

As a consistent advocate of full rights for American women, which I have expressed in many positive ways, it nevertheless concerns me when I view the eroding of the traditional role of the father as the strong masculine center of the family. A decisive masculine personality is also important in our economic as well as our family life.

An interesting article on this subject has been written by the Rev. W. Lee Truman, which appeared in the January 22 issue of the Aiken Standard newspaper in Aiken, S.C. Mr. President, I ask unanimous consent that this article be published in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FATHER'S ROLE IS DECLINING

(By Rev. W. Lee Truman)

Father's dominion is under attack.

Mothers are becoming liberated and children are rebelling against authority, but Dad's job keeps him away from the home at least eight hours a day, and many more hours if he drives to the inner-city. Like never before, old Dad needs to understand the pressures that are on him if he is helping to raise a modern family.

What kind of a man is it that makes a good father? That is a question that no one asks. It once was that a man married, he worked hard, and he got his promotions. The children came, and he was the breadwinner and undisputed head of the family. If he wanted some help he either talked to the pastor if he was a church goer, or checked with his pals at the poker club or the local pub if he wasn't.

In truth, the man is no longer king of his castle, and in case you haven't caught on, there is a court revolution going on. Father has been dethroned and his new position seems to be the court jester, according to most American humor.

Dr. Egbert writes that the "eroding of the power and glory of the American father" began during the depths of the depression when the father was no longer the major or certain breadwinner. The doctor sees the embattled father now struggling to maintain his self-esteem in the face of an aggressive wife-mother and powerful adolescent peer group.

The main means of entertainment, television, is no help to the father because there is a large segment of TV programming in which the women and children consistently outwit the father. This is sanctioned by the advertisers who seek the dollars that the women are spending.

Certainly Dad is no longer as powerful a figure as he once was. Part of the cause is that he is no longer as available as he once was. Dad has to be out of the home to earn a living, and if he is to achieve a better living for his family, he can be absent 12 or more hours each day.

A second factor beyond the half-absent father, is the wholly absent father. One out of eight children lives in a single-parent family, and in ghetto areas 85 per cent of the homes have no live-in father. This is all changing the effect that the fatherhood role has on children.

In the studies on delinquency and crime, it is found that the presence of father is vital to the mental health of youngsters. It maintains a crucial part of the socialization of children in that they learn to accept restraints on their behavior, and it is the father that is most likely to impose those restraints.

In early years, male and female children tend to develop dependency on mother. Later, the father is better qualified than the mother to pry them loose from this dependency, which allows them to grow up, and prepares them to leave the nest and accept responsibility as adults.

If a son is to accept his normal masculine personality, he must become firmly fixed in his masculine identity in his early years. One has to read little in literature dealing with juvenile delinquency to find the constant factor of broken marriages and absent fathers as predominant.

Dr. Merriweather, of Drew University, has pointed out in his studies that in both black and white male children, parental absence has been found to be associated with strong preference for immediate gratification, lack of social responsibility, inaccurate time perception, a variety of intellectual deficits, differences in interpreting relationships, highly aggressive behavior, a lack of trust in adult males as well as other antisocial behavior problems. The professor's conclusion is that in divorce cases when circumstances are balanced, sons should stay with their fathers.

The role of father is in so much difficulty, that this may be one area for sociological help in reestablishing a role and identity for the American male parent, and a major responsibility of the mass media to recast Dads in some other role than the in-resident clown.

TAIWAN'S ECONOMIC PROGRESS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. GILMAN. Mr. Speaker, I appreciate this opportunity for calling attention to the economic development and progress of the Republic of China.

During my recent visit to Taiwan I met and spoke with officials and representatives of the Republic of China, learning first hand of the remarkable economic growth of that small, independent nation.

Despite successive setbacks, including its exclusion from the United Nations and the severing of diplomatic relations by many countries, this industrious nation has made substantial progress in solving internal problems, emerging as a serious contender in the world trade market.

It is remarkable to note that the gross national product of Taiwan, with its 15 million population, increased four times between 1952 and 1970, and even more interesting to learn that the distribution of these increases have been shared by the poorest 20 percent of the population.

While we can readily appreciate growth in developing countries as a natural occurrence, the manner in which the people of Taiwan have effectively dealt with this growth is even more impressive. In one decade, Taiwan has moved from an agricultural to a predominantly industrial economy.

As the third largest economic trader on the Pacific Ocean, Taiwan has set an outstanding example for developing countries not only because of its marked economic progress, but even more importantly because of the enterprising attitude of its government in addressing itself to its critical problems of poverty, unemployment, education and health care. The industrious, diligent Taiwanese have produced dramatic results, setting an example we can all admire.

Following its inception in 1949, Taiwan was assisted by the United States in the strengthening of its economy. By 1965, the hard work of the Island's population had changed its role from aid recipient to aid donor, with Taiwan funding highly successful agricultural programs in Africa, Asia and Latin America.

. While I laud the initiatives by our

President in bridging the gap with the People's Republic of China, a vast expanse we cannot ignore, we must at the same time be ever mindful of our old friend and ally, Taiwan.

May the emergence of the Republic of China as a prosperous, industrial nation, her economic and cultural contributions to the world and her continuing friendship to the United States only strengthen our relationships and close ties to the Taiwanese.

BLACKMARKETING IN HOME HEATING OIL AND DIESEL ALLEGED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. McCLORY. Mr. Speaker, the shortage in essential fuels has become a topic of general concern in this country. While evidence at present is scant, there is fairly widespread belief that blackmarketing of allocated fuels is taking place. One case in point is related to middle distillates.

The middle distillate designated No. 2 can be used either as home heating oil or diesel oil. If a blackmarket exists in heating oil, it happens when heating oil is diverted at some point on the supply stream and sold as diesel oil. When such a transaction takes place, the homeowner loses out because heating oil for his home is in shorter supply than before. The State and Federal Governments do not collect excise taxes on the heating oil used as diesel fuel.

Mr. Speaker, my office has been informed by Federal Energy Office—FEO—officials that there is a general suspicion that an illegal traffic in home heating oil exists. In some States and in foreign countries, such suspicions have been proved.

An alert constituent of mine, Mr. James C. Vlazny, who resides at 480 Essex Lane, Crystal Lake, Ill., has informed me that with the simple addition of a dye to the heating oil, an increase in excise tax revenues can be realized. Mr. Vlazny, who is employed by the Morton Chemical Co. in Chicago, Ill., has information relating in particular to Canada and France, countries where a dye has been added to the fuel oil. Mr. Vlazny is willing to come to Washington, D.C., and to give a briefing and demonstration.

Mr. Speaker, for the benefit of my colleagues, I am including the entire text of the letter dated December 20, 1973, that Mr. Vlazny received from Mr. Paul E. Moreau, Assistant Deputy Minister, Bureau du Sous-Ministre, Ministère du Revenu, Gouvernement du Québec. Mr. Moreau says that it was estimated that the Government was losing about $25 million a year on diesel tax. In 1972, when the dye program began, increases in revenue became apparent. For example, between July 1972, and July 1973, the increase in revenue was 42.1 percent. While the letter covers the period up to October 1973, Mr. Vlazny informs me that the November 1972, to November 1973, increase in revenue is 55.8 percent. Because of the apparent effectiveness of the dye program, Mr. Moreau expects to be able to reduce his audit staff by 50 percent. He also noted that in the cases brought before the courts, there is evidence that organized crime is heavily involved in the blackmarketing activities, which may be a similar circumstance in this country.

Mr. Speaker, the following is the letter from Mr. Moreau:

QUEBEC,
December 20, 1973.

Mr. JAMES C. VLAZNY,
Morton Chemical Co.
Chicago, Ill.

DEAR MR. VLAZNY: In answer to your letter of December 13, 1973, in connection with our marking program of heating oils, I take pleasure to give you some information on the progress of this program.

Firstly, I am glad to say that we are very enthusiastic about our coloring program which has already brought a substantial increase in our monthly revenues as revealed by the following statistics:

	Revenue diesel tax 0.25¢ gal	Increase (percent)	Revenue diesel tax 0.03¢ gal
July 1972	$3,576,475	....	$150,366
July 1973	5,083,110	+42.1	188,388
August 1972	4,525,441	....	143,542
August 1973	6,079,010	+34.3	107,738
September 1972	4,712,599	....	148,924
September 1973	5,907,999	+24.5	165,807
October 1972	4,306,273	....	149,282
October 1973	6,144,371	+42.7	222,423

It has been esimated that we were losing about $25 million a year on diesel tax. We are confident that additional revenue from $15 to $18 million will be recuperated in the first year of operation and the $25 million target should be reached in the second year when the control and enforcement of the Act are fully put into force.

In order to appreciate fully the benefits derived from our dyeing program it must be taken into account that our Quebec Department of Revenue has for years made constant efforts to crack down on motor fuel tax dodgers. The following statistics in our revenues over the last five fiscal years are self revealing:

Year	Revenue diesel tax 0.25¢ gal.	Increase (percent)	Revenue diesel tax 0.03¢ gal.
1968–69	$24,094,533	−3.75	$2,228,467
1969–70	28,583,879	+18.6	2,272,121
1970–71	35,336,208	+23.6	2,122,792
1971–72	39,399,847	+11.5	2,172,941
1972–73	43,679,612	+10.7	2,053,005

It is our contention that the major increases in 1969–70 and 1970–71 were the direct result of aggressive investigation programs, court actions and prosecutions against tax evaders.

In order to achieve these already encouraging results we used to have an audit staff of 95 employees; i.e. 25 professional auditors and 70 audit agents. After July 1st, 1973, we have engaged 25 inspectors to check in the field the illegal use of colored fuel in self propelled vehicles. Besides our audit staff of 95 auditors and agents, from 10 to 12 special agents of our Special Investigation Branch were continuously engaged in investigating fraud cases, rackets in the illegal use of fuel oil and in building up cases for prosecution.

We honestly believe that after we have completed our audit programs related to the application of our former Fuel Tax Act we will be in a position to gradually reduce our audit staff by 50 percent.

Should we be able to attain this objective our cost for the dye and compensation paid to the oil companies will be compensated by a reduction in our operating cost. According to our estimates our cost for the dye would be around $270,000 for 12 months, this for the marking of 1.6 billion gallons of fuel oil.

In addition we are paying the oil companies a compensation of 0.01 cent per 100 gallons for the coloration, i.e. an additional cost of $10,000 per year. This compensation is being paid to cover any extra storage tanks and facilities paid by the oil companies as well as operating cost related to the marketing program.

The overall cost of extra storage facilities and equipment for the coloration (mechanical injectors and equipment) has been estimated at $3.5 million for the whole petroleum industry. This estimate was determined after a detailed study and discussions of the additional facilities needed with officials of the refiners, importers and wholesalers. The original cost claimed by the petroleum people was $21 million.

Although, at first, we have faced a strong opposition on the part of people of the petroleum industry we have since received a very good cooperation after our regulations were published late in March 1973. The marking of fuel oil was in full operation on July 1st, 1973. As a temporary measure we have accepted that the dyeing of fuel oil be done by hand at the refineries and terminals. The oil companies are now completing the installation of mechanical injectors and by the end of December or early in January the coloring will be done and controlled entirely by mechanical equipment.

We are fully satisfied with the use of your Blue No. 10 dye and the tests at the laboratory are quite conclusive so far even on illegal blending of 5% colored fuel with clear diesel fuel

We have now 25 cases pending before the Courts for illegal use of colored fuel, besides we won our first case in Court on a charge of illegal use of colored fuel; the trucker was sentenced to a fine of $200.

For your information, you will find attached clippings of the publicity we had on our court cases against people with heavy criminal records engaged in fuel oil rackets. We have evidence that these operators were closely linked with ranking members of the underworld in Montreal, same being well known to be related with crime families of the Casa Nostra of New York and Buffalo.

We are glad that our marking program has already closed the door to a number of existing rackets. We are also confident that we now have the necessary tools on hand to exercise a good control over the illegal use on non taxable fuels especially in the present fuel crisis period where diesel oil sells at high price.

Should you need additional information do not hesitate to call on us at any time.

Best regards,

PAUL E. MOREAU,
Assistant Deputy Minister.

Mr. Speaker, "Lost: $100 Million in Diesel Fuel Taxes" is the title of an article by Mr. Bernie Swart, which appeared in the February 1973, issue of Fleet Owner. Because this article so directly addresses itself to the questions raised above, the complete text of the article follows:

LOST: $100 MILLION IN DIESEL FUEL TAXES

(By Bernie Swart)

Illegal practices involving the sale and use of diesel fuel are diverting at least $100 million in taxes from state and federal tax coffers.

This figure may go as high as $1 billion a year, according to Albert T. Stoessel, an Iowa oil dealer and past president of the Iowa Petroleum Association. Stoessel estimates his state alone is losing more than $50 million a year in fuel taxes.

The taxes are lost, according to Stoessel, when Number two heating oil is substituted for diesel fuel. The two fuels are almost identical in chemical composition, Stoessel said, although diesel fuel is heavily taxed while home heating fuel is not.

The tax dodge works several ways, according to Stoessel. Some fleets knowingly buy untaxed heating oil at a bargain price in order to beat the fuel tax. In some cases, drivers buy untaxed heating oil rather than diesel fuel, turn in falsified fuel receipts, and pocket the difference. In other cases, independent service station operators will substitute heating oil for diesel fuel, collect, and pocket the taxes.

According to Stoessel, lack of supervision of stations by refinery companies is a factor that makes for easy chiseling by some gas station operators who sell to fleets. However, because most stations are lessee-operated, effective policing often proves extremely difficult.

In still other cases, Stoessel pointed out, what started out as a tax dodge ends up in out-and-out theft. He cited as an example the fuel oil delivery truck driver who shorts homeowners on deliveries and sells the surplus fuel oil to independent station operators, who, in turn, sell it to truckers as taxed diesel fuel. Or, bargain-priced diesel fuel may be heating oil that was stolen from an oil distributor's tank with the collusion of employees. Finally, the bargain-priced diesel fuel may be hijacked heating oil, or it may actually be diesel fuel obtained by a driver who makes a habit of shorting trucking companies on diesel fuel deliveries.

Several midwestern tanker truck drivers confirmed these theft techniques as authentic and added their own experiences.

All fuel delivery trucks aren't metered and comparatively few oil distributors use meters with split loads. But even if they do, the procedure can still be beaten and provide extra gallons to be sold by the drivers through shorting large heating oil users.

One way this is done: Air can be pumped through the meters via the power takeoff unit by connecting the pumps to an empty compartment on the tanker. The meters register as if fuel is being pumped through them. Therefore, the customer gets a metered receipt for gallonage he did not receive and the driver has extra gallons to sell for himself.

If the customer double-checked the delivery with his own "stick" reading he'd spot the inaccuracy. But drivers are wise to who checks and who doesn't. Some large heating oil customers who should know better are regularly gypped this way. One police barracks in the midwest is regularly shorted because no one checks deliveries, fuel oil drivers said.

Here's another way drivers cheat both customers and fleet management: A driver delivers diesel fuel to a service station, and charges the correct price. Then he makes deliveries to private homes for heating use. At the end of the day he destroys the legitimate gas station tickets, makes out fake tickets for home deliveries and pockets the difference. Drivers say that it's easy for them to obtain stacks of blank receipts from their companies.

After shorting large users of heating fuel, drivers may sell a couple of hundred gallons to a friend at a gas station for as low as 10¢ per gallon.

Then again, some of the racket happens because many service stations neither check diesel deliveries nor order correctly. Often they may order too much for their tanks, so the driver fills them to the brim and keeps the extra gallonage. The service station pays for the amount it ordered.

Both federal and state taxes are beaten this way, many times with apparent knowledge of trucking company management, the drivers say.

According to drivers, instructions, at several tanker outfits are that if they have fuel left over—meaning some users may have been shorted—they are to bring it back and place it in the company's storage tanks. The drivers claim that trucking management seldom asks the reason for the overage.

Although the fuel tax problem takes on national proportions, enforcement is apt to be lax. Little interest is shown by most county, state, and federal officials, and most state legislators aren't excited by the situation. The federal government prefers to leave fuel tax collection to the state, and performs little auditing.

In Chicago, John A. Ainlay, executive secretary of the American Petroleum Institute, commented, "Experienced tax men are almost unanimous in their opinion that nothing will improve diesel fuel tax collections more than a rigid enforcement program backed by an adequate force of field men and auditors."

Stoessel, owner of the Albert Stoessel Co., in Ottumwa, and the oldest fuel oil dealer in the state, has been the sparkplug of much action against diesel fuel fraud, even though he is 77 years old. He recently charged the Iowa Petroleum Council's Tax Evasion Committee with making "no effort over the past 12 years to assist the revenue department to collect the diesel fuel tax."

"Many major interstate truck operators take advantage of the fuel tax situation on a large scale," Stoessel told Fleet Owner. "This would include drivers as well as moonlight operators. However, I don't think trucking companies or private fleets have anything to do with setting up the illegalities."

Stoessel told the Iowa Petroleum Council that one major refinery "sent a letter to all of its dealers in the U.S., telling them to stop selling fuel oil to truckers for use as diesel fuel. The letter received prominence in some of the oil trade publications in 1971, and shows to what extent this evasion has gone."

Supporting Stoessel in his claim that the situation is serious, is a 1970 Iowa State survey of the number of miles trucks travel in the State. According to that survey, an estimated $13.5 million in diesel fuel taxes is being lost annually.

According to Stoessel, the latest petroleum market price listing indicates diesel fuel in 32 cities costs 12¢ to 14¢ more per gallon at the pump than in Iowa, where prices run from 25¢ per gallon for less than 50 gal., to 23¢ per gallon for larger quantities. The price difference, he said, could indicate that the Iowa tax is not being collected equally.

Checking with Stoessel at press-time, Fleet Owner learned that diesel fuel was still selling for 23.9¢ per gallon in the Ottumwa area. This is below the price at which he says he can buy diesel fuel in tranport quantities. The inference is that some dealers are not paying taxes and forcing others who are to lower their prices to stay in business. If diesel fuel taxes were collected with the same efficiency as gasoline taxes. Stoessel added, diesel fuel taxes in Iowa could be reduced 2¢ a gallon.

Stoessel has long advocated that truckers be permitted to buy fuel at the pump without paying taxes, in exchange for a single report and a single tax payment at the end of each month. He feels this type of system would eliminate much of the diesel fuel fraud now existing in Iowa and other states.

Labeling estimates of $100 million in state and federal tax losses as "very conservative," Carl F. Schach of the Iowa Highway Commission claims Iowa's 1970 diesel fuel tax collections amounted to $10.8 million, when it should have totaled $24.3 million. Iowa's diesel fuel tax collections jumped to $12.5 million in 1971, but still short of what Schach says they should be.

"Iowa has little or no requirements to differentiate between diesel fuel used for non-highway purposes," Schach said. "The bulk station operator, the tank wagon operator, or even the retail dealer makes this determination. All they need to do is to make a fake set of receipts or records, and no tax is paid."

Schach kicked over a hornet's nest in 1970, when he suggested that trucking associations stop "defending every moonlighter who gets involved in fuel tax violations." The associations don't defend them in any other instances, he said.

Answering protests from the American Trucking Associations and the Iowa Trucking Association, Schach said, "Trucking companies that choose to belong to state and national associations are generally straightforward business firms. However, the organized trucking industry does not represent a majority of operators on the American highway today," Schach added that he intended no inference that non-membership indicated questionable conduct.

"Each time someone avoids the payment of his fair share for road tax use," he continued, "all users are deprived of the use of an improved facility. In defense of the trucker when he pulls into a station, what assurance does he have that the 8¢ per gallon of diesel fuel tax he pays ever gets turned over to the department of revenue?'"

Don Briggs, Iowa director of revenue, says his department is conducting a three-year auditing program of trucking operations in the state. By the end of last spring, he said, 140 carriers had been audited, and each one ended up paying an average of $1,200 in additional taxes. If this percentage holds true throughout the program, Briggs said, the state should reap an annual $3.6 million in additional taxes. These efforts may be starting to pay off. Iowa diesel fuel collections for the first half of 1972 show a tax gain of $1,096,626 over 1971.

Briggs appears to be taking a careful, conservative look at the problem, challenging unsubstantiated figures and loss estimates. He is interested in determining whether certain changes in the law would improve collections without hurting the trucking industry. Efforts are also being made by the IRD to simplify reciprocity, increase cooperation with other states, reduce the trucker's information burden, and create uniform reports and filing dates.

"The trucking industry is not fighting us," Briggs said. "They don't like the violators either."

Because of weak enforcement and truck traffic three times greater than Iowa's, Illinois may be losing up to $100 million a year in diesel fuel taxes.

Even though there has been some progress in the Illinois battle, Revenue Director George E. Mahin said many of the tax dodges used in Iowa are also present in Illinois. Very prevalent in Illinois, Mahin claims, is the practice of shorting large motor carriers on fuel deliveries in order to obtain diesel fuel for untaxed sales.

To thwart this practice, Mahin said the department of revenue has cracked down on oil distributors pumping diesel fuel directly from tankers into the tanks of groups of trucks on the streets and in terminal yards. One such "mobile" operation operated in the old Chicago Stockyard area. This practice, Mahin pointed out, avoids payment of 7.5¢ per gallon in state tax, 4¢ per gallon in federal and 1.5¢ per gallon in sales tax.

In Georgia, the Motor Fuel Tax Division of the Department of Revenue actively enforces the payment of fuel taxes. The department is currently investigating a misbranding case in which the suspect oil dealer has been under surveillance for several weeks.

"From time to time we run into these situations," Georgia Revenue Director Curtis Modling said, "and most of them occur around the borders of the state."

In a recent action, Modling's division rendered an assessment of approximately $104,000 against an agent of a national service station chain. Filed in the Carroll County (Ga.) Superior Court, following an audit, the suit charged the station operator with failing to pay state taxes.

New Jersey is also becoming more active in clamping down on fuel tax violators. One recently investigated case involved a sand and gravel fleet making suspiciously large purchases of heating fuel during summer months.

Large-scale fuel tax evasion exists in Maryland, despite an energetic campaign by John K. Coleman, gasoline tax division chief, who has increased diesel tax collection more than $300,000 in each of the past three years. Coleman's crack-down—one of the most effective in the nation—is aimed primarily at mislabeling and fuel adulteration, and involves heating fuel oil distributors, service stations, and truckers who buy heating oil or untaxed diesel fuel.

Working very closely with the Internal Revenue Service and FBI, the Maryland Revenue Department is now involved in investigations in Maryland, the District of Columbia, Norfolk, Va., and New Jersey. Coleman insists that fuel tax evasion exists in every state, even though state officials don't know it. In Maryland, Coleman has noted an increase in violations in all fuel tax categories including violations by truckers.

Maryland truck consumers of diesel fuel are licensed and must post surety bonds. Under this procedure, Coleman explained, diesel fuel ordered from a supplier is placed in the fleet operator's underground storage tanks, and the fleet operator pays for it minus taxes. Each month the trucker files a report with the state tax commission, indicating his inventory, additional purchases, and the tax he owes. These reports are computerized and show a 24% gain in collections of diesel taxes as of July 1972, compared with the 1971 period.

Although some licensed fuel distributors in Maryland are permitted to blend and compound petroleum products, Coleman said, service station operators cannot, and there are severe penalties for violations of this law. And under Maryland law all additives must be added at the refinery to prevent customers from being defrauded. Nevertheless, he added, many investigations of diesel fuel tax evasion turn up incidents of fuel adulteration by water or other foreign substances.

Coleman told Fleet Owner that the problem of fuel tax evasion is not so much with regulated motor carriers as it is with owner-operators and small truckers. "Legitimate truckers," he said, "favor our activities and will often loan us trucks to use in an investigation." Many times, he added, fleet drivers and owner-operators will notify officials if they discover an "obviously suspicious deal." Coleman's staff includes 32 auditors plus 16 inspectors.

Much of Coleman's investigation has been undercover, using trucker informants, hidden cameras, tape recorders, and state troopers planted as gas station attendants. Coleman said hijacking accounts for a substantial diversion of fuel in his state. He cited a few recent investigations by his department:

Truck drivers reported a Baltimore heating oil firm which they believed were shorting certain government and industrial users. Subsequent investigation by Coleman's office disclosed that the firm sold more fuel than it had a record of purchasing. Further investigation revealed the distribution operation, over a two year period, resulted in certain military bases being charged for some 500,000 gal. more than they received.

Military Intelligence aided Coleman's department in an investigation that cost the distributor $21,000 in fines and a trucking company $29,000 in fines. One of the military installations recently shorted on deliveries was the U.S. Naval Academy at Annapolis.

A 1971 investigation revealed a Baltimore service station operator was selling fuel oil to steel-haulers and owner-operators. Because he was passing the fuel oil off as diesel fuel and selling it without paying diesel fuel tax, the service station operator was arrested on charges of filing false tax reports, rebranding, and tax evasion, and was hit with a lien of $127,000.

In another of Coleman's cases, eight state troopers uncovered a re-branding operation involving a long-haul trucking company, operating between Boston and Florida, and a truck stop. Arrests were made and assessments of $70,000 each were levied against the trucking company and truck stop operator.

Another case broke when FBI agents, working on a hijacking case, noticed a heating oil delivery truck making "midnight" deliveries to a truck stop. Further investigation revealed the truck stop had sold between 500,000 gal. and 1.5 million gal. of heating oil to unsuspecting truckers. Although the station operator claimed his records were destroyed by fire, he was convicted and fined $70,000.

Coleman also described a case in which an abandoned, weed-covered truck terminal in the Curtis Bay area of Baltimore was used as a "drop" for home heating oil by delivery drivers who shorted their customers. The heating oil was sold to "gypsy" truckers at bargain prices.

This system was able to operate, Coleman said, because so few residential and industrial users of heating oil bother to check their fuel indicator gage after a delivery.

In this connection, Coleman suggests that fleet operators buying bulk fuel check delivery tankers when they arrive to make sure they are filled. Tanker compartments should be checked again after delivery, to make certain they are empty.

To encourage more uniformity in state specifications and enforcement programs, the State of Maryland invited eastern corridor states to a fuel tax evasion seminar in 1970, to discuss the whole spectrum of plugging holes in fuel tax laws. During the meeting, about 18 states said they had enforcement programs, but only four states were able to prove they had effective programs. Some states didn't even own a pair of binoculars for surveillance work!

Tax officials were shown copies of a "crime manual" prepared by Coleman's department complete with photographs made by hidden cameras, outlining the various ways of preventing fuel tax evasion. For more than a year now, Coleman has been involved in writing a new manual, one dealing with future state specifications for diesel fuel and heating oil.

Fleet Owner's research shows that two enforcement problems continue to exist:

The federal tax authorities are riding on the coat tails of state enforcement and doing comparatively little on their own.

Secondly, oil companies generally cannot effectively police the stations that carry their names because the dealers or operators are technically independent business men, operating under a lease arrangement. Coleman says, however, this may change in the future because oil companies appear interested in buying back their stations.

In addition, the oil companies are marketing "secondary" brands in new stations under direct company control, competing against regular brands in some areas.

Several recent developments will affect Maryland's diesel tax collection efforts.

As of 1973, Maryland tax authorities will not accept major oil company credit card receipts as evidence that taxes have been or will be paid. The state prefers meter imprinted tickets or statements which must be signed by company presidents under penalty of perjury.

In this connection several Maryland gas stations were accepting competitive company gas credit cards when offered by truckers. Later these cards were taken to another state and cashed in at other service stations at a discount.

Coleman points out that there have been instances at so-called truck stops in Louisiana where prostitutes were available and their services charged through the truck driver's company credit cards. The "special services" were billed to the trucking company as gallonage placed in the truck's fuel tank.

A signed and witnessed statement obtained from a Florida owner-operator by the Maryland Gasoline Tax Division also indicates that prostitutes were available at a Georgia truck stop where fake Maryland and Delaware fuel tax receipts were readily available to truck drivers.

Maryland is also starting to generate a microfilm file to be placed at all of the state's truck weigh stations. The file will contain the names of truck fleets who haven't paid their fuel taxes.

The situation can only be truly corrected by a combination of state and federal teamwork, together with new efforts and understanding by the major refineries. The trucking industry must also recognize its responsibility in remaining above reproach to eliminate the possibilities of restrictive tax legislation.

Mr. Speaker, Because of the national impact of the oil crisis and because the FEO is being established to give uniformity of regulation and compliance to the interstate movement of petroleum products, it is imperative that the use and control of dyes in fuels be controlled at the national level. By doing this, we will be taking a significant step toward insuring that we have sufficient fuel for our homes and vehicles. The problem of blackmarketing can be eliminated through institution of the steps mentioned above. Mr. Vlazny's proposal is timely and important. It is our hope that it will receive the consideration that it rightly deserves.

OUR HERITAGE

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, January 31, 1974

Mr. HELMS. Mr. President, North Carolina has been blessed over the years with a number of dedicated public servants. High among them is a longtime friend of mine, Hon. Edwin M. Gill, State treasurer. Mr. Gill is a Democrat, but he has earned the respect of all North Carolinians—Republicans and Democrats alike.

He began his public service in the General Assembly of North Carolina in 1922. For the past 20 years, he has served our State as its treasurer.

Due to his prudent handling of the taxpayers money, North Carolina ranks at the very top in the Nation in its fiscal reputation.

A truly outstanding North Carolinian, Mr. Gill is first and foremost, a Christian gentleman and a great American.

Recently, he spoke to the Greensboro Bar Association in North Carolina and addressed himself to the heritage of our great country. This story can never too often be told; and Mr. Gill's comments are worthy of the attention of all of us who love America. I commend him on his insight, his patriotism and his dedicated public service.

Mr. President, I ask unanimous consent that Mr. Gill's address be printed in the Extensions of Remarks.

There being no objection, the address was ordered to be printed in the Extensions of Remarks, as follows:

Remarks by Edwin Gill

I want to talk to you briefly tonight about our country, and how it is being governed. I will have something to say about the origin, purpose and accomplishments of the United States Constitution, which is, after all, the true charter of our liberties.

Of late, we have heard many people express disillusionment with the way things have been going lately in Washington. They wonder if our system of government is really functioning as it should. More than ever, I think our people wish to be reassured as to the kind of government we have. I hope tonight that I can not only be optimistic about the nature of our government, but also point out that it is now functioning as anticipated by the Founding Fathers.

Before I discuss some of the problems now facing the American people, I would like to note, parenthetically, that lawyers, because of the very nature of their profession, have played a major part in the drafting of such great papers as the Declaration of Independence and the Articles of Confederation. Among the fifty-five delegates attending the Constitutional Convention of 1787 at Philadelphia, thirty-four were lawyers. So, I think it is both proper and timely that I discuss matters of this kind with members of the Bar.

The men who went to Philadelphia in 1787 had very little precedent to go by. However, they had learned from their English inheritance to be careful not to clothe the executive with too much power. Generally speaking, it was their job to devise a form of goverment that would separate and limit public authority so that the nature of the government itself would make tyranny impossible.

The thinking of the Convention is paraphrased in the famous statement of Lord Acton: "Power tends to corrupt, and absolute power corrupts absolutely."

The problem was how to reach a concensus of the many divisions of opinion among the delegates. They wanted to devise a written document that would insure the rights of the states against the new federal government, and vice versa, and to devise a way to protect the small states from the large states, and to define the circumstances under which new states could be admitted. It was their job to devise a union comprising 3½ million people, 13 states and a territory that potentially reached across the continent—to the Pacific.

I have referred to the fact that the Founding Fathers had little precedent to go by. However, many of them were experienced in drafting the Constitutions of their States and some had had experience in the Continental Congress. Also they had done a bit of reading among classical writers as to theories of government. They were greatly impressed by Baron Montesquieu, a Frenchman who suggested that government should be separated into three branches—executive, legislative and judicial. They adopted this theory and made it basic to the Constitution. By the way, it turned out that the Baron had mistakenly gotten this idea from the English government, which he was studying. However, this principle was of tremendous value to those writing our Constitution.

The bitter debate between the States of large and small population over representation in the Congress was brilliantly solved by a process of give and take that was characteristic of other solutions in the writing of the Constitution. It was agreed that there should be two houses in Congress, and that no law could be enacted without the approval of both.

Representation of states in the House of Representatives would be according to population, but all states, no matter how large or how small, would have equal representation in the Senate—that is, two Senators. This simple but wise solution, which has worked so well, has been called "The Great Compromise."

The Founding Fathers knew human nature. They knew of the temptations connected with the holding of public office. How were they to devise a system of checks and balances that would insure that corruption in public office and abuse of public power would be discovered and effectively dealt with? Their answer was the writing of the Constitution of the United States, which mirrors their hopes and fears, which expected human beings to be fallible, and yet hoped that out of a consensus of conflicting opinions, to construct an organic law that would make constitutional democracy possible—not perfect, mind you, but workable if the people have faith in it. Considering all of the problems facing them, all of the varieties of opinion dividing them, as well as the ordinary ambitions, jealousies and fears of mankind, they created a masterpiece, which has been termed "The Miracle of Philadelphia!"

After the Constitution was adopted, there came the first Ten Amendments, which are popularly called "The Bill of Rights." The purpose of these amendments was to spell out the rights of individual citizens to be free from the oppression of the government that had been created. It is impossible in this short time to pay tribute to each and every one of these rights. However, I wish to emphasize Article I, which dealt with freedom of religion, freedom of speech, freedom of the press and the right of the people peaceably to assemble and petition the government for the redress of grievances. Here we have an affirmation not only of the right of the people to worship God as they pleased, but also the right of the people to criticize their government and to be protected in the process of doing so.

Let's take a look at the office of the Presidency. There were those who went to the Convention who wanted a strong Central government, and who thought perhaps the President should be chosen for life. But a majority of the delegates rightly rejected this idea. They were afraid it would lead to monarchy or dictatorship, so they began to discuss the length of term the President should serve. We know there were those who suggested seven years, some six years, and finally, as we all know, they agreed to a four year term with the right of reelection.

In modern times, we had a President who was elected for a third term, and while he was obviously very popular, the idea began to grow that the President should have a four year term with the privilege of reelection for one term only—a maximum of eight years. That is the law today.

Within the last few months, the idea is being advanced that the President's term of office be lengthened to six or seven years, and that he be denied the privilege of reelection. Those acquainted with what has been happening in Washington lately will understand this desire to separate the Presidency as much as possible from the politics of reelection.

There were those in the Convention who advocated a plural Executive; that is, they proposed that there be three Executives, acting together, one representing the States of New England, one the middle Atlantic States, and the other the States of the South. This proposal, however, was rejected because the Convention felt that it would emphasize regional viewpoints and not accomplish the unity that was desired.

The Convention, remembering the powers that Kings and Emperors had exercised in the old world, were anxious that the President, notwithstanding the great prestige of his office, obey the limitations of his powers set forth in the Constitution. And so they provided that he could be impeached for treason, bribery or high crimes and misdemeanors. In order to construct an appropriate tribunal for the trial of the Chief Executive, they provided that the House of Representatives should have the power of impeachment, and that the Senate should sit in judgment. And so that the whole paraphernalia of government should be represented, they provided that the Chief Justice of the Supreme Court should preside at the impeachment trial. There could not be conviction without a verdict in which two-thirds of the Senate concurred. In all of our history, only one of our Presidents has been impeached and he was acquitted. However, this *threat* of impeachment throughout the life of our Republic has stood as a wholesome reminder to all Presidents that they must obey the law.

The members of the Convention were afraid that the representatives of the people in Congress might, under pressure, enact unwise laws, so they gave the President of the United States the right of veto. And yet knowing that Presidents are fallible and liable to err, they gave Congress the right to override the veto by a two-thirds vote.

Although the President of the United States is one of the most powerful and important persons in the world, he must have the concurrence of the Senate in making treaties and in all major appointments, including ambassadors and ministers, and judges. This requirement that the President cannot act without the approval of the Senate is another sign of the reluctance of the Founding Fathers to invest absolute authority in anyone.

Students of constitutional government have deplored the tendency of Congress to yield its authority to a strong Chief Executive. Within recent months, the Congress has attempted to reassert its powers, questioning for instance, the President's authority to impound funds which had been appropriated, and also seeking to limit to some extent the power of the President to involve the nation in war *without a declaration of war by the Congress*. Without passing judgment on these issues, efforts of the Congress to reassert its powers are generally regarded as a healthy sign. Of course, the issues between the President and the Congress on any of these matters may ultimately be determined by the Supreme Court unless they are settled earlier by compromise.

In this connection, the Senate has sought to bring in question certain activities in the Executive Department. This movement is non-partisan, being headed by Senators Ervin and Baker, representing the Democratic and Republican Parties. Although the investigation of this Committee is wide-ranging, it pinpoints alleged wrongdoing in the Executive Department.

As we all know, many fine constitutions have been written and adopted with the best of intentions. Some of them have imitated our Constitution, but the people often became dissatisfied, and men who were eager for power have seized control of the government, usually through a military coup d'etat, and have nullified the constitution. Examples of this are republics in South America, as well as in some nations in Europe—a recent example is Greece. Now the reason our Constitution has survived all of the vicissitudes of two hundred years is because our people have had faith in our constitutional democracy. The problem is how to pass on from generation to generation this veneration and this faith that our people have had in constitutional government. This, of course, involves the educational process, and here is where I think the Bar can be of value.

I wish that the Bar in every County of North Carolina would select some of its members who are knowledgeable in the history of our government, to go at least once a year into the school rooms and tell our children the whys and the wherefores of our Constitution. It might be possible, through the use of television, for leaders of the Bar, including the Chief Justice of the Supreme Court of North Carolina, to talk directly to the children in the high schools of the State, making them aware of their liberties and duties under our Constitutional form of government. Such a program, of course, would have to be worked out between the leaders of the Bar and the leaders in public education in North Carolina.

I do not have to tell this informed audience that our children should be instructed in the meaning of the supremacy of the law, that our nation is a government of laws and not of men, and that, simply put, these famous principles reaffirm the idea that no man, though he be Governor of a State or President of the United States, is in any way above or exempt from the provisions of the law of the land; and that, while it is important for every citizen to obey the law, from the standpoint of public example, it is more important that people in authority do so.

I now wish to record our debt to the press and other media of communication that have, under the protection of the First Amendment, alerted the people of the United States to the failure of some public officials to be true to their trust. For instance, the details of the sordid Watergate story might never have been known to the people of America had it not been for freedom of speech and press as guaranteed by our Constitution. While the press and other media may, at times, be inaccurate, this nation, over all, owes a debt of gratitude to them for alerting our people to the possibility that crimes involving the abuse of power might have been committed by those in government. Where did such papers as the New York Times and the Washington Post get their authority to speak out? Of course, the answer is they were protected by the wisdom of the Founding Fathers who were determined that American citizens should have a right to criticize publicly the policies of their government.

As I pointed out in the beginning, many of the things that the Founding Fathers did in 1787 seem to us to have been obvious. But at that time they were plowing new ground. Those who had been subjects of a king were to become citizens of a Republic, and most all of the acts of men like Washington, Jefferson, Madison, Franklin and Hamilton were unprecedented. Surely no nation has ever been more fortunate in the high character and abilities of those who founded it. What a great heritage they have left us! It is the story of what they did and why they did it, that should be known to every citizen of the United States.

It would be difficult in such a brief time as I have to mention all of the important provisions of the Constitution of the United States, but I would especially like to quote from a portion of Article VI, which reads as follows:

"This Constitution and the Laws of the United States which shall be made in pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

This portion of Article VI helped mightily to cement the States together into "a more perfect union."

I think the most significant words used in writing the Constitution were the first three in the Preamble which were: "We, the people . . . " The reason for my opinion is obvious because it was thus that the Founding Fathers acknowledged that all powers given to government are derived from the people themselves. This simple declaration was a turning point in constitutional history!

By way of summary, I think we should be proud of the Founding Fathers who in 1787 sat down at Philadelphia and planned a Constitution that would stand the test of time; a Constitution that had built in it the separation of powers and all the checks and balances that were needed in the days ahead. I also think that we should be proud of the way this Constitution has withstood such vicissitudes as The War Between the States, two World Wars, inflation and deflation, recessions and depressions, and is still the best hope of liberty and justice for mankind.

I have also paid tribute to the Bar and the press and other media of communication for being alert to the dangers that always threaten both the liberty and stability of our society. I have tried to emphasize that no written instrument can possibly survive unless it has the overwhelming support of our people. I have tried to point out that other great documents have been scrapped and succeeded by dictatorship because the people expected too much or too little from those in government. We are indebted to the patience and the fidelity of the American people for helping to make our constitutional system work.

In closing, I would like to suggest that in celebrating the Two Hundredth Anniversary of our political birth, this nation, should portray on stage and screen a dramatization of what happened in 1776 and 1787. The thrilling story of American fidelity to freedom should be enacted—a pageant with all the color, the drama and eloquence of which our talented people are capable.

The men of 1787 were extraordinary in their learning and experience, and we pay tribute to them for their vision and foresight. They had in abundance a love of their country, a love of freedom, and, above all, they were men of high character and principle. As I have tried to point out in giving the highlights of our Constitution, its future depends not only upon the wisdom of those who went before us, but upon the continuing loyalty and integrity of the American people.

CONGRESSMAN DANIELS HAILS MASTRONARDY AS "RECOGNIZED PROCUREMENT EXPERT"

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. DOMINICK V. DANIELS. Mr. Speaker, we here in the House of Representatives expend much of our energies in attempting to fulfill our special responsibility to the Nation to make certain that the Government is run on an economical basis and that the taxpayers receive full value for the public funds that are spent in running our Government. We are, therefore, frequently striving to motivate the executive agencies to display the utmost zeal in spending the funds allotted to them with an eye to obtaining the best price for the product needed to do the job.

I have been encouraged during my many years of service in this House to find that there are dedicated civil servants in the executive branch who display that motivation. I want to take this occasion to commend to my colleagues an article on this subject which was written by one such public servant. I am referring to Andrew F. Mastronardy, a recognized procurement expert in the Controller's office of the Atomic Energy Commission. His article on "Relative Overall Cost to the Government" was selected by the National Contract Management Association as one of the most significant articles over the last 3 years.

I want to commend Mr. Mastronardy for his keen insight into how the executive can deal effectively with an ever-increasing problem. I also want to take this opportunity to urge officials with procurement responsibilities in the executive agencies to heed his counsel. I would also urge my colleagues here in the Congress to read this concise article, which I have asked be reprinted here for your convenience, with the hope that each of you may spark other Government procurement officials to follow the splendid advice and example of Andrew F. Mastronardy.

I am hopeful that Mr. Mastronardy will see fit to honor his Government and his country with several more years of such dedicated and effective service.

The article follows:

RELATIVE OVERALL COST

(By Andrew F. Mastronardy)

This presentation is intended to provide a better understanding of the potential use of certain "business-management" information (non-technical resources, financial, and administrative) in selecting a contractor through the employment of Board evaluation process. The emphasis here will be restricted to a discussion of procurements involving the acquisition of large scale complex research and development capabilities under cost-type contracts and will be directed to estimating the "relative overall cost to the Government."

The contractor selected should, of course, be the best qualified to do the work. The requirement of "best qualified" should be considered together with the requirement of "all things considered, including price and other factors."

A Board operating to serve the best interest of the Government occasionally dictates the selection of a more costly contractor. Such selections are generally based on such factors as trade-off of potential additional costs against a risk of probable schedule slippage, anticipation of poor quality of work, the proposer's lack of proper facilities and other unfavorable factors which may inhibit the successful accomplishment of overall program objectives. While such factors may not be discovered during an objective review of a contractor's proposal, systematic subjective analysis and anticipation of potential problem areas should be weighed and considered before final selection is made.

Programmatic needs can be best protected by objectively selecting the best qualified contractor on the basis of strict assessment of the technical aspects of each of the proposals considered. However, there are some instances in which the Government's interest may best be served by selecting the qualified contractor who can perform most economically without serious risk in accomplishing the overall programmatic objectives, even though the technical qualifications of another firm may seem to be superior.

There appears to be a misunderstanding or lack of appreciation of the extent to which probable costs can be evaluated and compared in cost-type situations. Would a prudent businessman engage a high salaried, experienced chemist to maintain a proper level of chlorine in his swimming pool or would he select a high school graduate with appropriate experience at an obviously lower salary rate? It may be argued that this analogy is not appropriate because it does not suggest the necessity to obtain a contractor who will push the "state of the art" and the success of the project "to maintain a proper chlorine level in the pool" does not depend on the individual's ability to push the "state of the art."

The question to be considered in large complex research and development projects, could be more properly stated, as follows: "Is the small difference in technical capability gained worth the indicated higher costs?"

Recently, at a seminar sponsored by a prominent university, the participants were told that cost should not be a factor in selecting contractors for highly technical complex research and development efforts. When questioned on this point, the speaker explained that the cost factor should not be used as a criterion in the initial evaluation of the proposals, but that it should be considered in the final selection. The rationale underlying this assumption is based upon the recognition in its initial stages the evaluation process is designed to screen in a group of proposers who have approximately equal capability to perform the research services, etc. sought by the buyer; cost becomes a factor subsequent to consideration of these finalists as each is presumed to be capable of performing the required work albeit with less than identical competence.

It is then of paramount importance to advise prospective contractors that estimated costs are a factor and will be considered in arriving at a final selection. They should be requested to include within their proposals a section addressed to cost consideration. This section should be carefully reviewed whenever the proposal, based on the results of the technical evaluation, is considered to be acceptable and within the final competitive technical range.

In evaluating the "business-management" aspects of the proposals under final consideration, the general items to be considered in developing estimated "relative overall cost to the Government" should include, but not be limited to, the following:

1. Specific Cost elements.
2. Workload—present and future (related to capacity and capability.
3. Past experience.
4. Management organization.

Man-power projections, labor rates, material costs, overhead, and other related items should be carefully examined and adjustments made, if necessary, to establish realistic estimates. This may require negotiation leading to an adjustment of the proposer's estimate.

As part of this review, the materials costs should be reviewed by technical representatives to determine the reasonableness of quantities and costs involved and verified to the extent deemed necessary. The accuracy of proposed overhead rates and direct labor rates should be verified; this can often be accomplished rather quickly by checking with cognizant Government auditors. Manpower projections should be reviewed by responsible technical personnel. The estimates for subcontract costs should be supported by quotations or other evidence, if possible, and in any event should be reviewed in detail, particularly where subcontracting represents a significant amount of the total estimated costs.

With respect to workload and its relationship to capacity and capability, it is important to ascertain the extent to which the contractor is capable of providing the facilities and personnel skills necessary to perform the required work on a timely basis. A review of this type would also reveal the need, if any, for additional facilities or people, and provide some indication as to the extent of Government support the proposer will require in this area.

A careful review of the proposer's performance on similar contracts will enable the Board to arrive at a fairly accurate assessment of his ability to perform the work requested at a reasonable cost and within established time schedules.

A review of the proposed management organization should show whether it is stable, adequate, and one which can be relied upon to respond to the needs of the program. For example, does the proposed management organization enhance the proposer's ability to more effectively employ the various skills and talents required? Obviously a poorly organized, poorly managed contractor organization will be a more costly one.

At this point in time it can be safely stated that no two contractors use the same accounting standards or methods of allocation. Therefore, it is necessary to dissect and rearrange each cost proposal if reasonable comparisons of costs of direct labor, overhead, average hourly labor costs and man-year costs are to be made.

The following discussion suggests an approach that might be used in developing comparative cost information assuming, of course, that the proposer has responded with appropriate presentation of its estimate of costs and fee.

1. TOTAL DIRECT LABOR COSTS

Determine the composition of the direct labor dollars. In some cases it will be found that the contractor has included fringe benefits in establishing the direct labor costs. Accordingly, in order to make a reasonable direct labor comparison all other cost factors such as fringe benefits, "loadings," etc. should be set aside for use in developing the overhead costs factor.

2. AVERAGE DIRECT LABOR HOURLY RATE

Divide the amount developed in (1) by the total estimated direct labor hours reported by the contractor.

3. OVERHEAD

Some contractors may assign "loadings" to materials, subcontracts, etc., and may charge other "loadings" directly; other contractors may include all "loadings" in one overhead pool. Therefore, to develop a proper overhead rate for purposes of making a valid comparison, it will be necessary to collect all "loadings," whether designated as direct or indirect charges, including general and administrative expenses. Examples of such "loadings" are listed below:

1. Material overhead.
2. Subcontract work overhead.
3. Fringe benefits.
4. Travel costs.
5. General and administrative expenses.
6. Telephone and telegraph.
7. Printing and reproduction costs.

The total of the above should be divided by the direct labor dollars and the resultant rate established as the normalized overhead rate for each cost proposal. This would enable the Board to accurately compare the proposed overhead costs anticipated by each proposer.

4. AVERAGE MAN-YEAR COSTS

Convert the total man hours to man years. Exclude the costs of materials, subcontracts and consultants from the total estimated price and divide the remainder by the total man years. This will produce a reasonable estimate of average man year costs for comparison purposes.

5. SUBCONTRACTS

To determine whether the costs of subcontracting by one firm are more expensive than another, an analysis and review of such subcontracts should be made along the same lines and in similar detail as recommended above.

Presented below are some examples of actual results obtained from the application of the technique of cost analyses that are presented for consideration.

In one instance, in which the average direct labor cost of one proposer was substantially lower than the average of several other proposers, a further review indicated that the lower rate was based on an unusually high total labor hour base and included a high ratio of production effort to engineering effort. It was concluded that the contractor either assumed that he would be required to fabricate a substantial portion of the required material, or failed to understand the program's requirements and had as a result overestimated the production needs of the program. Further review indicated that the contractor's approach to the problem was in error. This was confirmed in the course of the technical evaluation wherein the relative points in the weighting assigned to "technical approach" and "understanding of the problem" were substantially lower than the points assigned to others. In another instance, it was observed that a particular proposer's average man years cost was significantly higher than his competitor and that he planned to subcontract a sizable portion of the work. This would normally reflect lack of in-house capability. In such a case, the Board's technical representatives should be alerted to these factors during its technical evaluation of proposers for selection.

In the case where a contractor proposes an unusually high overhead rate, the Board must carefully examine the components of that rate to determine whether or not such rates are justified. It may be that the contractor is presently operating, and expects to continue to operate at considerably less than full capacity, thereby producing high cost effort in terms of the relationship of direct labor to overhead costs: he may just be very expensive or his total business may be at a very low ebb with the result that the overhead he expects to pass on to the Government is unrealistic.

In evaluating the contractor's management capability, the Board may make unfavorable findings or comment critically on certain aspects. In such instances the contractor should be afforded an opportunity to respond to these points before the Board makes its final selection. Often the contractor will present a satisfactory explanation or give assurance that appropriate corrective action has been taken to cure the deficiencies. The Board should give full consideration to all such dialog.

In summary, I believe that Government personnel frequently realize that cost is generally an important factor to consider in selecting a contractor and that there is a tendency to minimize the consideration of cost factors in procurements contemplated under cost-type contracts. To minimize or eliminate the consideration of cost factors in the selection process is to suggest that an accurate evaluation of estimated costs of cost-type proposals is virtually impossible. As a result, cost comparisons are frequently not attempted. I hope this discussion will contribute to a re-evaluation by procurement personnel of the role of cost consideration in cost-type contracts.

The time has come to reexamine the generalized contentions that "the more money spent, the more research received" and "only the contractor with the best technical qualifications should be selected." It is in the best interests of the Government to get the job done by qualified personnel, and to contract for only that work deemed necessary to accomplish the objectives of a program, at the least overall cost to the Government.

THE OIL INQUISITION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. DERWINSKI. Mr. Speaker, I believe it is essential that we try to maintain a reasonable emphasis on the economic approach to the subject of the energy crisis. Certainly, a subject this complex requires an understanding of the economic facts of life.

An editorial, carried in the January 24 edition of the Chicago Tribune, discusses in a very sharp fashion, a substantially different insight on the effectiveness of the Senate Energy Committee hearings.

I believe the editorial merits a very objective consideration:

THE OIL INQUISITION

One can't follow the Senate energy committee's persecution of the oil industry without wondering what in the world its purpose is. Are Sen. Jackson and his colleagues really trying to find a solution to our present and future energy problems, as they ought to be? Or are they simply yielding to the public and political clamor to find a scapegoat—any scapegoat?

The senators seem to be asking every conceivable question except the right ones. We don't for a minute pretend that the oil barons deserve to be canonized. We have criticized them when they insisted on import quotas and more recently when they have proved unable or unwilling to produce reliable statistics on our supply and consumption of oil. In the present crisis some of them may very well have been guided by motives other than altruism. Like the rest of us, they are in business to make a profit.

But all of this talk about sharply rising and "windfall" profits and "illegal" investment in alternative sources of energy such as coal and uranium are pure demagogery and a waste of time.

It's perfectly true that industry profits rose sharply last year—the committee says 46 per cent for seven companies. But even the most ardent critic of the oil industry must admit that one year's profit statistics are hardly enough to support a conviction. A multi-billion dollar corporation which barely breaks even one year can have a 10,000 per cent increase in profits the next and still be making too little to attract investment.

What counts is the relationship of profits to invested capital. In this respect the oil industry says that it is earning less than industry as a whole—about 12 per cent. If the senators want to dissect the industry finances, this is the figure they should concentrate on. And if it proves reasonably accurate, then all of their ranting about profiteering will be pointless.

An investor can put his money in government agency or high grade corporate bonds, where there is almost no risk at all, and earn 9 per cent on his money. Twelve per cent is hardly excessive for an industry which obviously entails more risk than most. And some of the greatest risks, not so incidentally, can be found without even drilling a well. They can be found above ground, right on Capitol Hill.

The more Sen. Jackson & Co. rail against the oil industry, and the more they threaten punitive taxation, the more wary investors will become and the greater the profit margin—and therefore prices—will have to be in order to attract the capital which even Mr. Jackson recognizes is essential for the development of new sources of energy. To that extent, the greatest obstacle in the committee's path is itself.

Given the present political climate, the industry will probably have to make some concessions in order to avoid disaster. Even the administration has proposed a limited sort of "windfall" profits tax. But it must be carefully devised so as not to penalize a company which uses its increased profits to produce more oil. Even Sen. Percy, a member of the committee who ought to know better, seems to have taken up the chorus of "windfall profits." Perhaps some day he will be good enough to define them.

As for the charge that oil companies shouldn't invest in coal and uranium, can you imagine anyone going up to old Clement Studebaker, back in the 1900s, and telling him that because he was in the carriage business, he couldn't make automobiles? As it turned out, the Studebaker company made some of the best cars on the market—until fortune turned against it. One of the great assets of American enterprise has been its foresight and its readiness to move into new fields, even uncertain ones.

If it is true that even with higher prices our supply of petroleum will run out in our lifetime—and we're not at all sure that this is so—then it is more important than ever to see that companies with adequate resources are at work on such things as getting gas and oil out of coal and developing nuclear energy. Anybody who suggests that the government can do better—and we're thinking of Sen. Stevenson's proposal for a federal oil and gas corporation—has been oblivious to events in the Soviet Union and, for that matter, Britain. The government's first responsibility is to see that there is competition within the industry.

We commend these thoughts to the members of the Jackson committee with the fervent prayer that they stop stampeding and ask themselves calmly what they can do to be useful.

DR. BUDD E. SMITH

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, January 31, 1974

Mr. HELMS. Mr. President, one of the great educators of North Carolina and an outstanding Christian gentleman will be retiring soon. Dr. Budd E. Smith, a dear and valued friend, has served as president of Wingate College for over 20 years. I commend him for this service and call attention of my colleagues to his unselfish dedication to the causes of education and the betterment of mankind.

It has been my privilege, as a member of the board of trustees of Wingate College, to observe first hand the accomplishment of near miracles by this man, so devoted to hard work and the principles that have made America so great.

The Wingate campus, in 1953 when Budd Smith arrived on the scene, consisted of a half-dozen buildings on a 33-acre campus. Today Wingate College has a campus of more than 300 acres and more than 40 permanent buildings; and the institution is debt-free.

Budd Smith, man of the year, in his community of Monroe and Union County, N.C., would be honored for these physical accomplishments at Wingate College, if these alone represented the total of his efforts.

But, exceeding these visible accomplishments are feats far more lasting. The impact Budd Smith has had on the lives of thousands of young people traveling the halls of Wingate College are immeasurable except to the individuals who will forever hold a special place in their hearts for Doctor Budd.

I am one of those people whose lives have been touched by his tenderness, his understanding and his love. He does today and he will forever hold a special place in my life.

I wish the very best for this genuine friend, community leader, and inspirational Christian as he enters a new phase of his life. I am convinced that Budd Smith, even in retirement, will continue to serve his God and his fellow man.

STATEMENT OF DENNIS A. TURNER

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. SYMMS. Mr. Speaker, today in the House Committee on Agriculture, Mr. Dennis A. Turner spoke to the committee to reassure us as Members of Congress that the pulse of liberty still beats in the hearts of many Americans.

In his brief remarks prior to the enclosed statement he said that he spoke the thoughts of many of the small traders and brokers in the commodities business.

He further stated that when businessmen come to Washington and testify on behalf of this type of legislation he is reminded of Lenin's statement that "the capitalist will be fighting over who gets the sale order of the rope which will be used to hang them with."

I enclose his refreshing testimony for the readership of my colleagues:

STATEMENT OF DENNIS A. TURNER, DIRECTOR OF RESEARCH, INCOMCO, BEFORE THE HOUSE COMMITTEE ON AGRICULTURE JANUARY 31, 1974

Mr. Chairman and Members of the Committee:

H.R. 11955 is malicious and stupid. The Bill is malicious because it provides stupendous and arbitrary powers to the Government over the livelihood of private citizens, and is stupid because, as with most state programs it will fail to have any of the salubrious effects on futures markets which its proponents claim. The Bill demonstrates ignorance of the free market price system, hostility to private economic activity, and ambiguity of language which would undoubtedly cause widespread corruption, the replacement of market pricing by Government edict, and the hiding from the public the consequences of capricious and incorrect Government interventions into the market.

A small allotment of time permits comment on only a few of H.R. 11955's many specifics.

Let us discuss Section 215. Several conditions are given under which the Government can force suspension of futures trading. It is important to note that the Government here is empowered to suspend trading or to capriciously alter the contract whenever "it has reason to believe. . .which threatens orderly trading." In between the two phrases are the conditions under which the Government can suspend trading. Is orderly trading defined, or even described? No. Even lacking a definition of orderly trading, is its provable absence required in order for the Government to suspend trading? No. It—"orderly trading"—need only be "threatened". Who decides if orderly trading is threatened? A Court of Law, where the victims of Government intervention can defend the trading, can cross-examine the Government, can make the Government prove its case? No. The Government merely itself decides that orderly trading, not defined, is threatened, and then intervenes into the market, answerable to nobody, and particularly not to any of the participants in the market who may be victimized by its actions.

Let us speak in plain English. Section 215 in fact gives the Government authority to suspend trading in a market, or to alter the contracts already entered into by private individuals, anytime it feels like it, for whatever reason, as long as it states that reason in such a manner as to conform to the provisions delimited in section 215, which are so broad as to not limit the Government whatsoever.

The power of the Government is complete. There are two words I know to describe economies over which the Government has absolute authority: Communism and Fascism. Why are not the proponents of this Bill sufficiently honest to call it one or the other?

When is Section 215A likely to be invoked? Obviously when prices are high and price variation is substantial. Wide price variation occurs because of sudden or drastic changes in the supply or demand situation for a commodity, causing uncertainty as to the economic price under the new situation. It can also occur when traders have expectations of sudden changes in the market supply and demand, or when there is little way of knowing what the supply or demand situation is really going to be.

These situations are primarily the consequences of government intervention into the market place. When in 1972 400 million bushels of wheat were sold to the USSR for a ridiculously low price, it was Government intervention in the form of export subsidies that was the cause. Without these export subsidies, no private company could commit a price for so large an amount of wheat, as they had no way of knowing at what price they would pay for the wheat to cover their commitment. If wrong, the grain companies would be bankrupt. So it was the promise of subsidies that enabled the companies to commit to the Russians so much wheat at a fixed, low price. Naturally, the price of wheat rose as this became known, and the companies began to cover their commitments by purchasing wheat.

The problem in the grains in late 1972 and throughout 1973 was further compounded by the devaluation of the dollar, which in one step made foreign currencies increase in value against the dollar by from 20 to 25 percent. The consequence of the devaluation was primarily that a German Mark or Japanese Yen or Swiss Franc purchased more U.S. goods than before the devaluation. Twenty or 25 percent more goods. As a consequence, naturally, foreign nations purchased more U.S. agricultural products and decreased the supply even more relative to the demand.

Now the devaluation of the dollar was an act of Government. If there had been a free market in currencies in the past as in the present, no devaluation would have occurred, as the dollar would have been depreciating in value over the years, and no sudden drop in value would have been necessary. The devaluation was caused by the Government pretending that the dollar did not change in value, and forcing others to pay a certain price for it, until they finally refused. If there had been a free market in currency, the demand for US products would have increased slowly over the years, and American farmers would have been raising more grains. If there had been a free market in currency, no export subsidies would have been necessary for the balance of payments, as the value of currencies would move to equalize the value of imports, exports, and capital transactions.

Thus government interventions caused the sudden increase in demand. Increased prices were only a symptom, an indicator, of the drastically changed supply and demand situation with which agricultural commodities were faced. And it is here that the government would have applied Section 215.

Yet these high and fluctuating commodity prices were only indicating that the grain situation had become unstable, a condition which Government activity had caused. Higher prices told us that we needed more grain, and supplied the capital to buy the equipment and fertilizer to grow more grain. Fluctuating prices told us that there was a great deal of uncertainty as to the demand and inventory of grain. If futures trading had been suspended, the uncertainty would not have disappeared. The only consequence would have been that the public would have not known about it. Futures prices made headlines, thus informing the public of the shortages and the uncertainty. A suspension of trading would have kept the public from knowing the consequences of Government intervention into the free market. Perhaps that is the intent of the section.

There is a myth that speculation caused prices to increase more than would have occurred without speculation. Some Senators and Congressmen claim this. Nonsense. Perhaps certain Congressmen, who are hostile to the free market, would like this to be true. But let them show some hard facts. Although the evidence is not perfect, all the evidence and studies that exist tend to show the opposite.

During the rising grain markets, speculators were net short. That is, most of the hedging was done by exporters covering their commitments. They bought futures contracts. The speculators took the other side. They were net short. If anything, speculators tended to keep the prices of the grains lower. Now perhaps certain Congressmen and others hostile to the free market system in general, and speculation in particular, wish this wasn't so. But the evidence shows it is so. Thus section 215 wouldn't keep prices from rising. It would only hide the fact from the public. It wouldn't mitigate the deleterious effect of government intervention into the free market; it would only keep the fact from the public. After Watergate, I doubt that what America needs is more secrecy in Government and its consequences.

There is also a myth that futures markets cause widespread price variation that would not occur otherwise. Naturally, those who propagate this myth just say it is so, without evidence. The evidence once again is otherwise. And once again perhaps certain people, including some Congressmen, wish that speculation caused price fluctuations, but the evidence indicates that these people are wrong.

Studies of the Onion market, in which futures trading was banned by the infinite wisdom of the Congress, show that price variation was larger before, and has been larger since futures trading was banned, than during the time futures trading existed. Other studies indicate similar conclusions—that futures trading tends to reduce price fluctuation, and its lack tends to increase it. This is the evidence whether or not Congressmen like it.

Section 215 would accomplish, then, the following:

1. Hiding from the public government-created uncertainty and shortages.
2. Increasing prices and price volatility.
3. Allowing the Government to pretend that it is saving the public from evil speculators and higher prices, when in fact it is the speculators who are keeping the prices down.

There is a section of the Bill allowing the Government to regulate the activities of floor traders. A general feeling exists that floor traders, by trading both for their own account and for customers' accounts, are able to cheat their customers, and that the Government must intervene to prevent it.

The feeling specifically, is this: A customer puts in an order to buy, say; wheat. The floor trader does so. If the price in the next minute or so increases, the floor trader puts the purchase into his own account and buys another, at a higher price, for his customer. However, if the price declines, the floor trader assigns it to his customer. This is called clipping, or the Skids. I believe it has happened to me on more than one occasion, but I do not support the provision to regulate floor trading.

First, the provision would not reduce clipping. Floor traders so inclined would either open up a dummy account in the name of a friend or co-thief, or could operate similarly in conjunction with another broker or brokers. The provision then would not reduce clipping, but rather would only reduce liquidity. Customers are hurt more by lack of liquidity than by clipping. Look at some of the New York markets, such as cocoa, cotton, coffee, or copper. There is very little liquidity in these compared to Chicago markets. The prices between trades are enormous. Even without clipping, the lack of liquidity severely hurts people in these markets. What futures markets need least is a further reduction in liquidity. What should a speculator who feels he or she has been clipped do? Sue the floor trader and the Exchange in small claims court. This would do more to reduce clipping than any government regulation, and would not reduce liquidity as would this provision in the Bill.

Lastly, I would like to comment on the provision permitting the all seeing wise men calling themselves government officials to decide whether or not a proposed futures market is "economically justified", that is, serves users or producers of the commodity. As Congressman Symms has stated in the Congressional Record, an official of the CEA has stated he does not feel Silver Coins futures serve an economic purpose, and therefore supposedly would not be permitted.

Serves an economic purpose to whom? If the CEA official thinks the silver coin market serves no purpose, I suggest he does not trade in the market. That the market in fact serves a purpose is proven by the fact it is actively traded. Many markets, including those in butter, shrimp, turkeys, frozen eggs, and others have failed because they serve no economic interest. If a market does not serve users and producers of the commodity, they won't use it. By what megalomania does the Government presume to tell users and producers of a commodity that it knows better than they whether or not a futures market serves their interest. The claim is astounding. Should not the public decide whether or not a market serves an economic purpose, by using or not using it?

Thank you.

COMMONWEALTH POLAND-IN-EXILE

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. PATTEN. Mr. Speaker, I am inserting into the RECORD a Declaration of Support by the Government of the Commonwealth of Poland-in-Exile, the successor of the wartime London Polish Government-in-Exile. The Declaration of Support is offered to the State of Israel and its people.

The publication of the Commonwealth of Poland-in-Exile Poland-Polska-Polonia also pointed out in a further article the plight of Poland today; and may I take this opportunity to congratulate the Ambassador of the Commonwealth of Poland-in-Exile, Baron Alex Ostoja Starzewski who also edits the paper Poland-Polska-Polonia for the outstanding work he is doing for the people of Poland.

The articles follow:

DECLARATION OF SUPPORT

On behalf of the President of the Commonwealth Poland in Exile, Juliusz Sokolnicki, and on behalf of the Polish American Revival Movement Conference, we are issuing the following statement of support and concern for the State of Israel and the Jewish Nation.

1. As a continuation of the old Polish tradition for support of the nations who fought for their independence, we wholeheartedly support the struggle of the Jewish people in Israel for their independence. We believe that the people of Israel have the right to their land as the Polish Prime Minister Beck once stated in the League of Nations before W.W.II.

2. We believe that the Western Powers, especially the United States of America, should not bow to the Soviet Russian pressure and should not agree to any "provisions" which would endanger the independent State of Israel.

3. We ask all people in the world, especially Polish people, to assist and support the Israeli cause as we did in the past before W.W.II when we trained in Polish Army Camps the armed units of the Polish Jewish Organization "IRGUN" and "HAGANAH", who later took part in their fight for independence in Palestina.

4. We ask Polish people abroad to send money to the Jewish organizations who are collecting money for Israel.

5. We ask the President of the United States, the members of the Congress and Western diplomats to prevent any Yalta-type "agreements" with the Soviets which would bring Israel and their people under foreign slavery as it happened to Poland and other East Central European countries.

Alex. Ostoja Starzewski, Ambassador (in Exile) U.S.A.

Zygmunt Nowicki, Nat. Chairman, First National Polish American Revival Movement Conference.

Zenon Piotrowski, Representative for the Polish Gov. in Exile in Virginia.

POLAND IS NOT A FREE COUNTRY

We deplore and affirmatively reject the constant and perfidious statements that Poland is an independent country which is voiced by foreign politicians, statesmen, representatives of the churches, industry and finance, semi-appointed so-called Polish Freedom Fighters and Polish Renegades who are paid by the Communists and foreign sources.

The truth is that Poland is not free and never regained its independence since the division of Poland was concluded by Stalin and Hitler in 1939, as officially stated in the Ribbentrop-Molotov Pact.

The Polish nation has lost 6 million people while struggling for their independence against Adolf Hitler from 1939–45. The proof of the Polish uncompromised position against Adolf Hitler are the graves of the Polish soldiers in Poland, France, Belgium, Holland, Italy, Tobruk, and other places where Polish soldiers proved Polish bravery and our loyal position.

At the same time, ironically, foreign powers traded Polish independence to the Soviet Russian Imperialism for their now very questionable definition of "peace."

While we do understand that Polish slavery is a shameless act and a black spot on the "white political vest," of the western free world we cannot accept any attempt to introduce the communist usurpers in Warszawa as Polish Government, as they were "appointed" against Polish will by foreign powers.

We would like to remind our "friends and foes" that as long as Poland is not free from occupation forces, free from usurpers, with freely elected Polish Government, we will fight for Polish independence with all means as our fathers did in the past. Some nations have waited 2,000 years to be free. We will wait and be ready to fight when the hour comes to act.

We ask all our people and friends to support the President in Exile of the Commonwealth Poland in Exile, Juliusz Nowina Sokolnicki.

Some individuals who made a mockery out of the past President, August Zoleski, are now trying to take over his "constitutional continuity" and present the Polish Government in Exile to their "bosses" as proof of the total Polish paralysis in exile. This will not work and *you* can prove it. Act now—help now.

MORE THAN 5.6 MILLION ILLNESSES AND INJURIES

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. DOMINICK V. DANIELS. Mr. Speaker, those who scoff at the necessity of federally regulated safety standards should take a closer look at the Labor Department's illness and injury statistics for 1972. These figures, accounting for more than 5.6 million job-related injuries or illnesses, were gathered during the first full year of surveillance by the Occupational Safety Health Administration. All of the incidents required more than mere first aid treatment and about 30 percent of them involved lost workdays.

Of the major industry groups, contract construction had the poorest record with 19 out of every 100 workers involved in an injury or illness. The rate for the manufacturing industry was 15.5 followed by transportation and public utilities, wholesale and retail trade, finance, insurance, and real estate.

One out of nine persons suffered an injury or illness while on-the-job during 1972 yet there are still those skeptics who see no need for legislation to protect these workers. The Occupational Safety and Health Act was the congressional response to this serious national concern. Congress declared the purpose of OSHA to be to assure, so far as possible, safe and healthful working conditions for every employee in America. It is my belief that OSHA has gone far toward achieving its stated objective, without overburdening employers.

As chairman of the Select Subcommittee on Labor, I intend to schedule oversight hearings on OSHA which I am sure will illustrate both the problems as well as the successes experienced under the act.

PAYMENT IN LIEU OF TAXES LEGISLATION

HON. JOHN A. BLATNIK

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. BLATNIK. Mr. Speaker, rural America, severely weakened by outmigration and a dwindling natural resource base, faces an uncertain financial future. County government, the mainstay of rural areas, is struggling valiantly to stimulate a resurgence of economic growth and to respond to citizen demands for an expanding variety of services, but with diminishing financial resources.

Historically, property taxes have provided the basic source of income for the vast variety of health, transportation, educational, manpower, law enforcement, and welfare services provided by county governments. But the property tax base has not kept pace with the economy and the gap has further widened during the uncontrolled inflation of the past several years.

In over 700 of the Nation's rural counties, the problem is even more severe due to the presence of the Federal Government which makes minimal payments to the counties for the tax-exempt Federal land located there. Unfortunately, not only are the payments inadequate, but the Federal presence also removes from the tax rolls land that otherwise developed would be an important source of revenue.

It is true the Federal Government returns to the county a percentage of revenue from natural resources in the county. However, in most cases the amount does not equal the revenue which the land would have yielded if it had been on the private tax rolls.

For example, in Itasca County, Minn., in my own congressional district, the Federal payment on 300,000 acres of Federal forest land located there is about $40,000 or 13 cents per acre; it amounts to an astonishingly low 36 percent of the total annual county budget. Adjacent land in the county which is on the private tax rolls has been assessed at $2.35 per acre. If Federal land were assessed at the private rate, revenue to the county would be $705,000 or 6 percent of the budget.

When the Federal land in Itasca County is combined with Indian lands and land in State or other public ownership, only 37 percent of the county's land remains in private ownership, on the tax rolls.

In general, the northlands counties which are rich in pines, birch, lakes, and streams are poor in financial resources. The present system of Federal Government payments actually penalizes them by denying them their natural source of revenue.

For this reason, I have introduced legislation to modify the system of payments-in-lieu of taxes. This legislation has been developed on a bipartisan basis, with strong support from all geographical areas of the country.

Under the provisions of this bill, each county containing natural resource lands could choose to continue receiving payments under the existing Federal shared-revenue programs related to public lands within their boundaries, or they could choose to accept a payment based on the assessed value of the Federal lands.

At present, 685 counties nationwide have Federal forest land on which they receive payments from the Federal Government. In addition, other counties receive payments for fish and wildlife, grazing and minerals on Federal land. These payments range from as little as 1 cent per acre in some Colorado, Idaho, and Montana counties to as much as $9.69 in some Oregon counties. Of the counties receiving payments for Federal forest lands, 435 average less than 45 cents per acre and only 6 States—with 163 counties—averaged over $1 per acre.

Congress first recognized the Government's role and responsibility in providing compensation for the Federal presence within the counties in 1908 when the first legislation was passed establishing the rate of revenue payment for Federal forest lands. The law was revised in 1910 and the payment rate set at 25 percent of the revenue from the forest land; it has not been updated since.

The rates for grazing lands and mineral lands were also set over 40 years ago when country doctors still made house calls and the motorized buggies were chugging along dirt roads. Meanwhile, the need for sophisticated health services, universal education, well-maintained public roads, and adequate legal protection have become an accepted and necessary part of daily existence. In short, counties are trying to provide services for the seventies with a turn-of-the-century budget.

This legislation would not penalize those counties which are receiving adequate payments under the current formula, nor would it set up a special system of payments which would overcompensate others, but it does seek to create an equitable system under which the Federal Government would shoulder its fair share of financial responsibility.

It is no coincidence that 146 counties, which are classified as distressed areas under title I of the Public Works and Economic Development Act, also contain large amounts of Federal forest land. These counties cover about 25 percent of the national forest system and account for 44.4 million acres.

The overwhelming situation in county after county is that the Federal payment does not approach tax equivalency and that the Federal Government's financial contribution is not commensurate with its presence in the county's backyard.

This legislation would allow each county the flexibility of deciding which system of Federal payments—the present percent of revenues or the proposed tax equivalency—would be the most advantageous for that county. It would reinforce decisionmaking at the county level where responsible local officials live with these problems day to day; and would provide a reliable and equitable payment system for county government, which would also bear the substantial responsibility of investing this new income wisely and stretching the new dollars to cover a multitude of growing expenses.

A great deal of credit for this legislation must go to the groundwork laid by the Public Land Law Review Commission, chaired by our former colleague, the Honorable Wayne Aspinall and to our late colleague, the Honorable John Saylor who initiated similar legislation in 1971.

I would like to include for the RECORD statistics on Federal payments by State for forest lands nationwide.

In conclusion, Mr. Speaker, recognizing the vital importance of this legislation, its farreaching benefits to local governments, and the equity it affirms in Federal-local relationships, I earnestly hope we can look forward to committee action on this measure during this session of Congress.

The table referred to follows:

TABLE I.—AVERAGE PAYMENTS PER ACRE AND PER CAPITA FOR FISCAL YEAR 1973 TO COUNTIES BY STATES FROM NATIONAL FOREST UNDER 16 U.S.C. 500 (25 PERCENT OF REVENUE FROM NATIONAL FORESTS)

State	Population in national forest counties	Number of counties paid	National forest acreage	Payments 1973	Average payment per capita	Average payment per acre
Alabama	595, 310	16	636, 415	297, 364	$0. 50	$0. 47
Alaska	300, 380	9	20, 717, 236	973, 915	3. 24	. 05
Arizona	1, 710, 080	13	11, 383, 613	1, 970, 705	1. 52	. 17
Arkansas	618, 760	28	2, 458, 307	968, 199	1. 56	. 39
California	13, 770, 060	40	20, 050, 109	27, 520, 688	2. 00	1. 37
Colorado	1, 120, 910	42	13, 748, 900	866, 240	. 77	. 06
Connecticut						
Delaware						
District of Columbia						
Florida	328, 920	9	1, 081, 605	725, 161	2. 20	. 67
Georgia	436, 910	25	843, 582	355, 627	. 81	. 42
Hawaii						
Idaho	531, 120	34	20, 300, 090	6, 413, 165	11. 57	. 30
Illinois	195, 660	10	250, 794	43, 443	. 22	. 17
Indiana	251, 110	9	172, 259	20, 212	. 08	. 12
Iowa						
Kansas						
Kentucky	446, 080	24	625, 957	120, 844	. 27	. 19
Louisiana	294, 110	7	595, 215	1, 435, 712	4. 88	2. 41
Maine	155, 060	2	49, 638	9, 150	. 06	. 18
Maryland						
Massachusetts						
Michigan	1, 231, 040	34	2, 698, 068	308, 971	. 25	. 11
Minnesota	333, 820	7	2, 048, 038	108, 598	. 54	. 09
Mississippi	821, 000	33	1, 136, 694	1, 662, 454	2. 02	1. 46
Missouri	428, 180	27	1, 431, 486	712, 067	1. 66	. 50
Montana	478, 240	34	16, 706, 338	4, 561, 074	$9. 54	$0. 27
Nebraska	20, 370	5	256, 474	28, 219	1. 39	. 11
Nevada	474, 910	14	5, 110, 627	133, 249	. 28	. 03
New Hampshire	107, 750	3	683, 254	136, 092	1. 26	. 20
New Jersey						
New Mexico	751, 890	21	9, 086, 942	903, 135	1. 20	. 10
New York						
North Carolina	863, 230	25	1, 137, 097	252, 693	. 29	. 22
North Dakota	8, 980	1	756	0	0	0
Ohio	347, 630	11	159, 617	19, 854	. 06	. 12
Oklahoma	60, 780	2	244, 384	143, 317	2. 36	. 57
Oregon	1, 853, 840	31	14, 900, 511	42, 471, 875	22. 91	2. 85
Pennsylvania	142, 290	4	498, 925	225, 894	1. 59	. 45
Rhode Island						
South Carolina	611, 620	13	598, 466	792, 611	1. 30	1. 32
South Dakota	107, 480	6	1, 122, 403	82, 628	. 77	. 07
Tennessee	414, 120	10	617, 652	82, 786	. 20	. 13
Texas	266, 130	12	661, 780	702, 754	2. 64	1. 06
Utah	1, 056, 580	29	7, 995, 365	284, 243	. 27	. 04
Vermont	231, 000	6	246, 080	148, 313	. 64	. 60
Virginia	731, 980	30	1, 586, 723	101, 835	. 14	. 06
Washington	2, 775, 000	27	10, 625, 411	17, 395, 765	6. 27	1. 64
West Virginia	178, 290	12	954, 308	151, 902	. 85	. 16
Wisconsin	172, 850	11	1, 490, 987	146, 202	. 85	. 10
Wyoming	249, 280	19	8, 702, 578	587, 059	2. 36	. 07

BAN THE HANDGUN—XVII

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. BINGHAM. Mr. Speaker, in his state of the Union message the President claimed that the Nation's Capital, which a few years ago threatened to become the crime capital of the world, has, under his administration, experienced a 50-percent reduction in crime. Nevertheless, during the 24-hour period ending at 4 p.m. yesterday, 12 robberies of a serious nature occurred, 10 of them involved pistols. During the same period five serious assaults occurred, three involving guns. The victims of these assaults at gunpoint care little for statistics. Strict gun control laws are needed.

The attached article appeared in the January 31 edition of the Washington Post:

CRIME AND JUSTICE

(The following serious crimes, arrests, indictments, sentences and trial results were reported by Washington police and courts in the 24 hours ending at 4 p.m. yesterday. Serious crimes include burglaries of more than $500 or of public facilities, assaults that result in injuries that require medical treatment and robberies of more than $100 or those involving personal injury or the use of a weapon:)

ROBBED

High's Dairy Store, 617 Sligo Ave., Silver Spring, was robbed of cash shortly before 11 a.m. Sunday by four men, one armed with a pistol.

Claudia Washington of Washington was robbed of cash at 11:35 p.m. Tuesday by two men, one armed with a pistol, who followed her into a hallway in her apartment building in the 600 block of Bellevue Street S.E.

Miles Long Sandwich Shop, 1302 Rhode Island Ave. NE, was held up about 10:45 p.m. Tuesday by a gunman who fled on foot.

Drug Fair, 2207 N. Pershing Dr., Arlington, was robbed of cash at 4:20 p.m. Tuesday by a man armed with a pistol.

Holiday Inn, 730 Monroe St. NE, was robbed of cash shortly after 1 a.m. yesterday by a gunman who told a clerk to lie on the floor while he fled.

Milton Brown Moore, a Washington taxicab driver, was held up about 12:15 a.m. yesterday by a man who got into his cab at 15th Street and Rhode Island Avenue NE and, when they reached his designation in the 4800 block of New Hampshire Avenue NW, police said he forced the victim to drive around the corner to the 400 block of Emerson Street NW and demanded cash at gunpoint.

Joseph A. Casciano, an employee of the Washington Star-News, was robbed by three youths who jumped onto his truck at 7 p.m. Tuesday and asked if he was going to the Star-News building. He told them he was and drove to the building, where one of them pulled a gun and told him to drive to the 100 block of Virginia Avenue SE. They then took his cash and fled on foot.

Johnnie Edward Jones of Washington was robbed about 3 p.m. Tuesday by two men, one of whom hit him on the left cheek as he was leaving his apartment in the 3300 block of Wheeler Road SE and forced him back inside. The pair then made him go into his bathroom while they ransacked his apartment and fled on foot with goods.

Robert Leon Brown of Washington was robbed of cash shortly after 8 p.m. Tuesday by two gunmen, both of whom he knew, at Lawrence Street and South Dakota Avenue NE.

A Northwest Washington woman was robbed of cash at 1:15 p.m. Tuesday by a man who forced his way into her car in the 200 block of Adams Street NW at gunpoint. When she told the man she had no money, he made her drive into an alley and was about to rape her when she told him she had a check for $208 and that she would cash it for him, police reported. They then drove to a bank near 18th Street and Columbia Road NW, where she cashed the check while he accompanied her and gave him $125, the amount he demanded. She then drove him back to the 200 block of Adams Street NW, police said, where he fled on foot.

Diane Taylor, Muriel E. Hart and Edith Reineck, all of Washington, were robbed of cash at 8:40 p.m. Tuesday by three men, one of whom tricked the first victim into opening the door to her home in the 4100 block of Arkansas Avenue NW by telling her that her car was being damaged across the street. When she opened the door to investigate, they forced their way in at gunpoint.

Tyrone Gary Cope of Landover was robbed of cash at 7:45 p.m. Tuesday by a man who asked the victim to accompany him from 13th and K Street NW to a nightclub in the 1200 block of 12th Street NW. Once there, the man pulled a knife and ran out of the building with the victim's cash.

STOLEN

Tools valued at $800 were stolen from the Sleepy Hollow Texaco Station on Arlington Boulevard in Arlington Sunday.

Cash totaling $486 was stolen from McDonald's Restaurant, 14041 Lee Hwy, Arlington, Sunday.

Stereo equipment valued at $750 was stolen from a home in the 7100 block of Fairchild Drive in Alexandria Friday.

Goods, including a rifle, savings bonds and stocks, were stolen from a home in the 1900 block of Dana Drive in Adelphi sometime Jan. 23.

A freezer, a refrigerator and a dishwasher, with a total value of $900, were stolen from an unoccupied house in the 10800 block of Potomac Avenue in Glenn Dale between Jan. 17 and last Thursday.

A color television set and a black-and-white television set, with a total value of $525, were stolen from an apartment in the 3400 block of Dodge Park Road in Landover last Thursday.

Coins totaling $270 were stolen from some vending machines in the Pizza Plus Carry Out, 2427 Chillum Rd., Hyattsville, between 11 p.m. last Thursday and midnight Friday.

Goods, including a leather coat, an electric typewriter, a camera and a television set, were stolen from a home in the 1700 block of L Street NE sometime Saturday.

Goods, including a television set, a tape recorder, and jewelry, valued by the police at a total of $1,200 and by the complainant at a total of $1,255, were stolen from a home in the 2700 block of Olive Street NW about 6 p.m. Sunday.

A gold cart was stolen from a parking lot at Freedman's Hospital about 2:30 p.m. Tuesday.

ASSAULTED

A 20-year-old Wheaton woman was raped at 3:40 a.m. Saturday by a gunman wearing a ski mask who forced his way into her car in a parking lot, assaulted her and fled with cash.

Neal Lovett, Arthur Buchanan, Marie Mantz and Dinell Cheeks, all of Washington, were treated at Freedman's Hospital after a man ordered them to come out of a house in the 1700 block of Seaton Place NW and he and about five other men cut them with knives when they came out.

James William Jackson of Washington was treated at Freedman's Hospital for injuries he received about 2 p.m. Tuesday when he became involved in a fight with a man in the 1200 block of 9th Street NW and the man cut him on the left side of the face with a knife and fled on foot.

Rudolph Smith of Washington was admitted to Washington Hospital Center after he became involved in an altercation with a man at 4th and M Streets NW and the man shot him three times in the leg.

Andrew Jackson of Washington was treated at Providence Hospital for a wound he received about 5 p.m. Tuesday when two men robbed him of cash at Georgia Avenue and Upshur Street NW and one of the men shot him in the left foot when he attempted to run.

CLASS OF 1936 REUNION

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. BOLAND. Mr. Speaker, recently the class of 1936, Boston College, of which my good friend and colleague, "TIP" O'NEILL, was a graduate, honored him with a luncheon.

On that very special and, memorable occasion, the Most Reverend Lawrence J. Riley, Auxiliary Bishop of Boston, and a few fellow classmate of "TIP" O'NEILL, gave a beautiful and inspirational invocation, which I am privileged to have placed in the RECORD, as follows:

INVOCATION BY THE MOST REVEREND LAWRENCE J. RILEY, AUXILIARY BISHOP OF BOSTON

Bless us, O Lord. Upon each of us, Thy love and Thy grace are bestowed abundantly, in accordance with our striving to fulfill Thy designs, in whatever post Thy Providence has assigned to each. To our honored guest, whose lofty position in our national government is freighted with gravest responsibility, grant wisdom and vision and foresight and judgment and patience and impartiality. Bestow upon him a keen sense of justice, a sympathetic understanding of his fellowman, a deep compassion for the needy and the injusticed, and a profound respect for the sacredness of human life and the dignity of the human person—for all of us have been created in the image and likeness of God. May his leadership, his decisions, and his legislative activities bring honor to him, to his family, to his country, to his Church, to us who esteem him as a classmate, and most of all to Thee, O God. In these troubled times may the Holy Spirit be his constant companion. And may Thy graces be bestowed upon him in abundance, in order that he may always be Thy faithful servant, Thomas P. O'Neill, Jr.

We pray also for those members of the Class of 1936, whom Thou has called out of the world. Give them peace and rest for all eternity.

Bless all of us, O Lord. And bless these Thy gifts, which we are about to receive, from Thy bounty, through Christ our Lord. Amen.

THE 64TH ANNIVERSARY OF THE BOY SCOUTS

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. NATCHER. Mr. Speaker, on Friday, February 1, the Boy Scouts of America will launch a month-long observance of the 64th anniversary of this noteworthy organization. As you know, the purpose of the Boy Scouts of America, which was incorporated in 1910 and chartered by Congress in 1916, is to provide an educational program, for boys and young adults, designed to train in the responsibilities of participating citizenship, to build desirable qualities of character, and to develop personal fitness, thus to help in the development of American citizens.

Over the years we have seen evidence that these programs have been very successful in preparing our youth to meet the future with courage, and a deep commitment to contribute to the growth of their community and country both morally and spiritually. I am always delighted to have an opportunity to express my appreciation for the great achievements of this outstanding organization.

"Boypower '76," an 8-year, long-range plan, which was launched in 1969, to involve in scouting a representative one-third of all American boys by 1976, is proving to be highly successful inasmuch as at the start of the plan the BSA was reaching 1 out of every 4 boys and now there are increasing numbers of boys in the inner city, poverty pockets in rural areas, and on Indian reservations.

Project SOAR—save our American resources—one of the programs of Boypower '76 has as its focus for 1974 the

SOAR phase of GIFT—get involved for them—which is a concern with the world's environment and will emphasize a three-pronged approach—education, action, and aid—all directed toward improving the global environment, including our own.

Their plans include programs to collect solid waste materials such as paper, metal, and glass for recyling in order to earn money for a troop or pack and from these earnings a contribution will be made to the World Friendship Fund. This fund will in turn allocate funds to scouting associations of other countries for their own educational, environment, and action programs.

Operation Reach, another program which was inaugurated to create a climate and framework in which young people could help each other find their highs in real things instead of drugs is now a nationwide program. This program has been very effective inasmuch as it provides a positive approach to drug abuse prevention by making reliable drug information available to youth and their parents, thereby creating an atmosphere in which there can be frank discussion and better understanding between the two generations.

In 1973, for the first time in history, the National Scout Jamboree was held in two locations in order to make the jamboree experience available to more Scouts and leaders. Jamboree-East was held at Moraine State Park, Pa., and Jamboree-West was held at Farragut State Park, Idaho, during the first part of August. A national or world jamboree is an unequaled opportunity which provides experiences in travel, learning, and human understanding that are seldom available to youth in their formative years and undoubtedly there are many adults who still consider their jamboree experience a high point in their life.

As I have stated on previous occasions, I always enjoy recalling with sincere appreciation the experiences and adventures that were mine as a Boy Scout and I firmly believe that the basic concepts of this fine organization cannot fail to generate a deep realization of one's duty to God and country as well as a keen respect for the fundamental rights of all people.

The Second Congressional District of Kentucky again reflects an increase in the progress of Scouting and I am, of course, delighted to note this expansion.

Mr. Speaker, I am proud to have this opportunity to express my appreciation for this wonderful organization and I sincerely wish them every success in their future endeavors.

CONGRESSMAN JACK KEMP ANSWERS CONSTITUENT INQUIRIES ON ENERGY CRISIS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. KEMP. Mr. Speaker, the American public has been urged to restrict driving, turn down thermostats, and dim lights to conserve energy. The average American must wait in lines blocks long for a few gallons of gasoline and send his children to school in the dark. There is not an individual, an industry, or function of government that has not been affected by the energy emergency and its attendant pressure on high prices and shortages. There are serious implications for our foreign policy and national security with the shortages putting unbelievable strains on our military commitments. The public is asking for and deserves justification for the inconvenience and sacrifice it has been asked to make.

Judging from the inquiries I have received, these aspects of the energy issue are foremost in the mind of the consuming public:

Are we faced with a real shortage or manipulation by the oil companies to increase their prices?

If there is, in fact, a shortage, what are our short- and long-term prospects?

Are sharp increases in petroleum prices inevitable?

What adjustments should be made in our tax laws relating to the oil industry?

INVENTORY REPORTING REQUIREMENTS

There is understandable and widespread uncertainty regarding the actual scope of the oil shortage. The energy gap expands and contracts from day to day and from report to report. It is not surprising, therefore, that there is a considerable lack of public confidence in available data on reserves of oil, gasoline, natural gas, and other forms of energy, with wide speculation that the oil companies themselves are the culprit for our present difficulties, having deliberately contrived the shortfalls to their own advantage.

Public skepticism over the severity of the energy crisis in itself constitutes a severe crisis in confidence which must be addressed by the Congress. It is vitally important for Congress, executive agencies, and the consuming public to have access to more complete and timely statistical data on oil industry operations.

RECENT SMALL BUSINESS HEARINGS

My Select Small Business Subcommittee recently held hearings in an effort to determine the adequacy of current Government procedures for collection of energy inventory and consumption data. The testimony presented coupled with my own research indicate substantial gaps in vitally important energy data. I have therefore sponsored legislation requiring producers of oil, refined petroleum products, and natural gas to provide the Federal Energy Office with all requested information concerning location and volume of crude oil, natural gas reserves and refined petroleum products and with reports of both existing and potential production rates of oil refineries and gas wells. The Comptroller General will audit these reports and verify their accuracy.

THE EXTENT OF THE SHORTAGE

While more accurate data is needed for both long- and short-term planning, I am convinced that a real energy shortage does exist, caused primarily by misdirected and ineffective action by the Federal Government. Inept regulations and controls on the oil and gas industry for many years have lessened the incentive to explore for and develop additional sources of energy. Between 1956 and 1971, exploratory drilling dropped 57 percent. Why? During the same period, the Consumer Price Index climbed 60 percent, yet artificial Government controls on petroleum products and natural gas allowed a price increase substantially less than the Consumer Price Index. Combine these disincentives to produce with our critical lack of both refining and storage capacity and we have all the necessary ingredients for a severe shortage, with or without the Arab embargo. Economist John Kenneth Galbraith recently stated:

> In the United States the scarcity of gasoline and home heating oil is due primarily to a shortage of American refining capacity. . . . So long as capacity is inadequate, the product will be short even if crude oil is available without limit.

While domestic production has leveled off, there has been a simultaneous and natural continuation of the historic trends in demand growth. The United States consumes approximately 17.3 million barrels per day of petroleum. Consumption this year is expected to reach over 19.1 million barrels per day. We depend increasingly, therefore, on imports of crude oil and refined products. The Arab embargo has reduced our imports to 5 million barrels per day. If the embargo were lifted now, we would need 7 million barrels per day for the immediate future just to compensate for the period of reduced imports.

In summary, charges of a contrived shortage are simply not borne out by the facts. Is it contrivance that demand has increased by 5 percent per year, while production started leveling off and even decreasing in the 1950's? Are curtailment of our imports because of decisions by foreign governments contrived? Is it contrived that with 6 percent of the world's population, we consume 35 percent of the world's energy output? Is it contrived that we are not drilling on the Outer Continental Shelf, on the North Slope of Alaska or converting oil shale or coal?

U.S. News & World Report recently cited statistics demonstrating that U.S. resources are by far the greatest energy potential of any Western nation. Our reserves include: 346 billion barrels of oil—a 58-year supply at current rates of consumption; 1,178 trillion cubic feet of natural gas—a 52-year supply; 1.6 trillion tons of coal—a 3,094-year supply; 1.6 trillion tons of nuclear fuel, uranium—a 100-year supply; and 189 billion barrels of shale oil—a 32-year supply. Devising a long-range plan to bring this vast energy potential to market is no easy task, but, given a policy of Government encouragement rather than disincentives, it is certainly not beyond the ability of American technology.

SHORT TERM PROJECTIONS

A recent report from the Federal Energy Office indicates that our situation is not as difficult as was originally projected. There are many reasons for this.

First, the oil embargo has not been completely effective. It is estimated that some 500,000 barrels per day of crude and refined products are still finding their way into the American market. In addition, the conservation measures asked of the American public and industry have been effective. During the 4 weeks ending December 28, 1973, a 6.3 percent savings in a group of selected products was seen. The various factors have resulted in a shortage of 1.4 million barrels per day in the last quarter of 1973, and a projected shortage of 2.7 million barrels per day for the first quarter of 1974. This is down from an original projected deficit of 3.3 million barrels per day. However, the gap between supply and demand is expected to increase in the second quarter of 1974 as we continue to draw on our reserves.

PRICING

The substantial increases in petroleum prices during the last year is due, in large part, to the very sharp rise in the cost of imported foreign crude oil and products. U.S. oil companies are permitted to "pass through" only the added cost to them of foreign crude and products.

The Government requires oil companies to blend domestic and foreign prices on the basis of mix. This requirement makes it difficult to rationalize the benefit of keeping full tankers off shore in expectation of higher prices and higher profits as has been charged in recent weeks.

"New" domestic oil and oil produced from low-volume "stripper" wells are no longer price controlled, and increases of about $1 a barrel have been allowed for "old" domestic oil in recent months. We must make every effort, however, to insure that this pricing policy will result in increased drilling and greater production, adding to our total domestic supplies.

The price of controlled domestic crude oil is now $5.15—a 36-percent increase over the past year. By comparison, the cost of imported crude oil has risen, on the average by more than 300 percent in 1 year—and is now in the neighborhood of $12.80 a barrel. These figures become even more revealing when you consider the cost of producing the oil. It costs $2.05 to produce one barrel of domestic oil; it costs $0.08 to produce 1 barrel of oil from the Persian Gulf.

While prices generally should be determined by market forces rather than politicians—witness what happened when the administration tried to freeze the price of beef—the consumer should be protected against violent price aberrations and I will certainly support responsible attempts to protect consumers.

TAX REFORM BADLY NEEDED

Efforts are already underway in Congress to review and overhaul the Federal tax laws relating to the oil industry. I support this review and believe changes in the tax laws are necessary to both encourage investment in domestic exploration, production, and refining facets of the industry as well as to assure the American public that its sacrifices have not been undertaken merely to add to corporate profits.

The American taxpayer now subsidizes oil production worldwide under current tax laws. Now that the Arab nations have realized the effectiveness of the oil weapon, the American public is put in the ridiculous position of having that subsidized production embargoed or made available only at outrageous extortion prices. I do not believe that the American consumer and taxpayer should continue to provide the privilege of tax writeoffs, when these subsidies fail to produce oil for the American market.

The administration has submitted new oil tax provisions to the Congress for consideration. While they are a first step, actually they would have a negligible effect on the oil companies and would not produce the needed incentives to make domestic drilling more attractive than foreign drilling in order to increase this country's self-sufficiency. I therefore plan to sponsor legislation to terminate the overseas use of the percentage depletion allowance and the intangible drilling expense provision, to convert the use of the foreign tax credit by the oil companies to a business deduction and simultaneously to decontrol the petroleum industry from excessive federal regulation. As well as increasing Treasury revenues, these reforms will make investment in domestic production a much more economically feasible alternative than in foreign sources of production.

At the same time, the goal of total self-sufficiency is a very short-sighted objective. Project Independence is good to the extent that we are increasing domestic supplies. However, we cannot lose sight of the fact that our domestic resources are limited and, by replacing our consumption of foreign supplies with total self-sufficiency, we deplete our own resources that much more rapidly and bring on the day when our limited resources run out and we become totally dependent on overseas petroleum. The oil producing countries are clearly not lacking for customers and I believe it would be a serious diplomatic and economic mistake to use up our own oil—at current production cost of $2.05 a barrel—and drop out of the market for Arabian oil—at 8 cents a barrel.

TRIBUTE TO DR. STEPHEN A. GREDEL

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. DULSKI. Mr. Speaker, many people in this Nation and abroad were deeply saddened by the recent death of Dr. Stephen A. Gredel of Buffalo, N.Y.

Although he had only been in the United States since 1957, he left a great mark on his adopted country, and is credited with revitalizing western New York's ethnic heritage. He was a founder and president of the Niagara Frontier Folk Art Council, and senior research historian for the Buffalo and Erie County Historical Society.

Dr. Gredel was born in Croatia in 1911, attained his master's and doctor's degrees at the University of Zagreb, served as an officer in the Yugoslav Army, then worked for the government in Zagreb, Vienna, and Essen. At the end of World War II, he became a librarian for the U.S. Army, then was an archivist with the Historical Society of Bamberg, Germany, before coming to the United States.

He is perhaps best known for contributions to the advancement of multiculturalism, but his historian's nature spanned the entire range of his new city's background, and work with the historical society led to both scholarly publications and ethnic presentations.

He was actively involved in the Erie County Sesquicentennial Committee; contributed to "History of Erie County 1870–1970"; and was the author of "Eight People of Our City and County" as well as "Pioneers of Buffalo, Its Growth and Development."

He was the recipient of numerous civic, ethnic, and national commendations and awards. Leader and honorary member of many ethnic organizations, his primary interest was in bringing together ethnic efforts and awareness while maintaining individual nationalistic pride and heritage.

I feel privileged to have been a personal friend of Stephen Gredel's. He was a good man, who lived an active life and contributed greatly to present and future generations. My deepest sympathy is extended to his wife Ljerka, his daughters, and grandson in their loss. Stephen Gredel will be greatly missed.

A VERY, VERY GRAY MARKET—PETROCHEMICALS

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. SARASIN. Mr. Speaker, the energy crisis and its economic hardships, discomfort and inconvenience are all too familiar to all of us now, as are the doubts and unanswered questions many of us share with our constituents. We are all seeking facts, and they are not easy to come by.

We in New England and the Northeast know, and Mr. Simon has confirmed, that we are effected to an exceptional degree. Gasoline, heating oil, natural gas, industrial fuels, all these things are in short supply. The public—and we in Congress—must wonder about the information we have. For this reason, I am already joining in sponsorship of legislation calling for full and verifiable reporting of the things we need to know.

More immediately, however, information has been provided to me, and further documentation dug out, which supports the allegations that a very, very gray market, if not an outright black market, exists in the petrochemical supply system.

Petrochemicals, a term only now becoming generally known to the public, refers to that portion of the crude oil "barrel" that is processed into the myriad products dependent—but not identified with—petroleum. This came to my attention because of the number of jobs directly dependent upon this industrial feedstock. By best estimates, there are about 10,600 jobs in my Connecticut district, and about 2 million in the country, dependent upon this supply. The name of the game is jobs, and I am committed to keeping people employed, in my district and all of America.

The information about marginal, questionable, probably unethical and possibly illegal activity I have uncovered in this area has already been placed in the hands of the proper investigative and enforcement officials. It certainly does not bode well for the confidence any of us might place in the information we have been provided regarding the overall "energy crisis" situation.

Based on the information I have before me, I will be introducing legislation dealing directly with this aspect on the problem on Monday. I am confident my colleagues will support this initiative. I look forward to a sharing of further information by my colleagues concerned with this situation.

NATIONAL ORGANIZATION FOR WOMEN'S MARRIAGE AND DIVORCE CONFERENCE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Ms. ABZUG. Mr. Speaker, on Saturday, January 19 in New York City over 1,000 women and men participated in a Conference on Marriage and Divorce sponsored by the National Organization for Women. The conference was initiated and planned by many outstanding women but the main force behind the program was Betty Berry. Ms. Berry for the last 5 years has chaired the NOW Task Force on Marriage and Divorce and opened the conference. I would like to commend the opening remarks of Ms. Berry to the attention of my colleagues. I would also like to insert the full text of the keynote address that I made to the conference because the problems of marriage and divorce goes to the root of so many of our societal problems:

OPENING REMARKS BY BETTY BERRY, NATIONAL ORGANIZATION FOR WOMEN, MARRIAGE AND DIVORCE CONFERENCE, JANUARY 19, 1974

On behalf of the National Organization for Women, I would like to welcome you to the First Conference of the Marriage and Divorce Task Force. I am Betty Berry, Advisor to this Task Force which I headed for five years. It is a very great pleasure for me to open this historic Conference sponsored by the N.Y. State Chapters and the Eastern Regional Directors of N.O.W. The assistance of the N.Y. State Women's Unit of the Governor's Office in planning this event is also gratefully acknowledged. We are very happy to have those of you who are not members of N.O.W. with us today and to point out that membership in N.O.W. is open to men as well as women.

Our President, Wilma Scott Heide, regrets she cannot be with us today but has sent this message.

"My heartiest congratulations to those of you who initiated, planned and will be participating in this important Conference. To challenge and charge the basic institutions of marriage—of whatever form, if any, and divorce, is to move from a double standard to a single standard for women and men. These are "gut level" societal issues. Only prior commitments prevent my being at the Conference to share in the discussions, plans and actions. I will be thinking of you all. Warmly, Wilma Scott Heide, President."

Since this Conference has been organized essentially by housewives I would like to open by paraphrasing a quotation from Isaiah which seems appropriate, "And they shall beat their pots and pans into printing presses, and weave their cloth into protest banners, nations of women shall lift up their voices with nations of other women, and they shall not accept discrimination anymore."

Before introducing our great keynote speakers, I would like to tell you about the Marriage and Divorce Task Force and the purpose of this Conference. N.O.W. was founded to bring women into fully equal partnership with men. The Marriage and Divorce Task Force has striven to change the concept of marriage to one of real equality—to make marriage a truly equal partnership. This is a philosophical idea, for at present the hard cold fact is that legally under our laws, and particularly in New York State, marriage for the dependent housewife can mean living under a benevolent dictatorship.

Financially, full equality in marriage for the housewife seems impossible until women receive their half of the dollar in the home. While our society pays lip service to the value of the housewife's role, our own government does not recognize the worth of her work in monetary terms. For instance, she cannot even get a social security card for her occupation as housewife.

Other concepts of marriage are changing and the traditional concept of lifetime marriage is being seriously challenged. Since 1968 the national divorce rate has increased 11% a year. In New York the number of divorce cases leaped 1,000% in five years. Divorce has become an oppressive social problem. It is no longer simply a legal matter for the courts, it is a sociological revolution, with many facets, whose magnitude and scope has scarcely been studied or outlined.

We do know that in the five years since 1968, broken homes have cost the American tax payer $21 billion in welfare. We know that 13 million persons are divorced. We cannot even begin to calculate the human cost—but this weekend you will hear and see some of the tragic consequences.

N.O.W. is an action organization and for seven years we have lobbied in Washington and Albany, spoken at hearings and bar association meetings, appeared on t.v., and even picketed the courts to change the laws. We are now presenting this statewide conference whose purpose is to provide an open forum on marriage and divorce. The Conference was called because there is an urgency about the divorce situation that requires immediate action. This gathering provides an opportunity for the lawyers, judges, lawmakers, clergy, psychiatrists, sociologists and other professionals to hear and deal with the problems of divorced women and men.

We hope to come out of this Conference with a better understanding and knowledge of each other's problems and with creative, pragmatic solutions. For that is what N.O.W. is all about.

In particular we want to accomplish three things this weekend.

1. Proposed specific suggestions to the bar associations and courts for improving certain practices.

2. Issue immediate state and federal legislative demands to correct the inequities in marriage and divorce.

3. Submit an outline to the N.O.W. national board for a national marriage and divorce program.

(Later, Ms. Berry reported the recommendations of the workshop on the Status of Marriage:)

The workshop on marriage was concerned with improving the status of marriage, making it more of an equal partnership and changing things within the structure of marriage.

Legislative action can be taken to implement better preparation for marriage and we have a national *first* coming from this workshop. That is Assemblyman Anthony Olivieri will introduce a bill in the N.Y. State Legislature providing for legal education for marriage, informing persons of their legal rights in marriage before marriage!

Another bill to be introduced in the State Legislature would make it clearly possible to retain one's maiden name upon marriage without any question, if the person so chooses.

Other recommendations for consideration called for homemaker payments. This would be devising a system whereby half of the income of the person who worked outside the marriage would be given to the person who stayed home. Possibly this could be done through federal legislation. An allotment system was mentioned. Other suggestions were a minimum wage for the housewife. Further exploration of marriage or divorce insurance was recommended.

A bill has been introduced in the legislature calling for tax deduction for the work of the homemaker in the home and for tax deductions for child care. Passage of a bill (introduced by Rep. Bella Abzug) giving homemakers social security coverage was endorsed.

A suggestion was made that the standard work week be more flexible, that is that hours be staggered so that more persons would have an opportunity to work.

SPEECH BY CONGRESSWOMAN BELLA ABZUG TO NOW MARRIAGE AND DIVORCE CONFERENCE, HOTEL COMMODORE, NEW YORK, JANUARY 19, 1974

I am very pleased to be here with you this morning to lead off the conference on marriage, divorce and associated problems. I don't know whether I was invited to speak because as a woman who has been married to the same man for almost 30 years I am considered an increasingly rare specimen or because as a Congresswoman, a member of N.O.W. and one of the activists in our great and growing women's movement I might have some comments to make on the politics of marriage. Perhaps those words are interchangeable because politics, like marriage, has been described as the art of compromise.

In any case, you could not have picked a more universal theme. It affects all women, whether we're engaged, married, divorced, separated, widowed or single, whether we're convinced that wedlock is the most blissful way of life or, on the contrary, that it's a male conspiracy to keep women wedded to and locked into subjugation.

Subjugation in the home, on the job, in education and personal relationships is the condition that has sparked the women's rebellion of the late 1960's and 70's. The rebellion takes many forms, it varies in tactics and emphasis, but our ultimate goals are the same: Women must be treated as individuals rather than as prisoners of sex stereotypes. We must have the same right and opportunity as men to develop our earning and creative capacities. We must be full and equal partners with men in the exercise of power, whether the arena is the family, the work place, or government.

While we are meeting here, on the other side of town at a union headquarters on

West 43rd Street hundreds of women are getting together this morning for the first time to organize a caucus of New York women trade unionists. Similar caucuses of union women have already been organized in other parts of the country. This is a development of enormous significance for working women and for our whole movement, and I know you will join me in welcoming its existence and its potential.

Too often, and for malicious purposes of ridicule, we have been described as a faddist movement of middle and upper class women engaged in nitpicking over how we should be addressed or where we are allowed to drink martinis.

In fact, we are primarily concerned with the most basic bread and butter aspects of living. We are concerned with the kinds of jobs women get, what we are paid, how we are promoted, and our conditions of employment, including employment in the home.

We are concerned with women's right to credit, to paid maternity leave and benefits, child care centers, pensions and social security, our right to such benefits as severance pay. And I think it is time that alimony be regarded as a form of severance pay to which women and, in some cases men, have a contractual right. We are concerned with women's rights to control our own bodies and to decide when and if to have children. And, most of all, we are concerned that 1974 see the final adoption of the equal rights amendment, which will make first class citizens at last of more than half our population.

One of the most unjustified charges leveled against our women's movement is that we do not speak for or represent the interests of housewives. The housewives referred to by our critics exist only in the imaginations of the dimwits who write those incredibly silly TV commercials in which women seem to exist solely in a world of coffee pots, waxed floors, Geritol and toilet bowls.

I wonder, has anyone here ever been able to identify with the so-called model housewives simpering at us from the TV screens? And yet many of us at some time in our lives have been housewives.

In fact, working women are housewives and housewives are working women, but without a weekly paycheck. We live longer than men and we do many different things in our lives, sometimes simultaneously and certainly over the years.

Nine out of ten of all American women work at some time in our lives, and more than half are working at any given time. The average woman worker is now 40 years old and married, and the average number of years she will spend in the workplace is 25.

According to a recent study, wives who are employed 30 hours or more a week spend an average of an additional 34 hours a week, almost five hours each day, on unpaid household work. For many of these women we need more part-time jobs and more flexible hours. I have proposed in a bill I recently introduced that the Federal civil service should provide more part-time flexible hours jobs to meet the special needs of working mothers.

What about the woman who at some period in her life works exclusively in the home, the woman who is described slightingly as "just a housewife?"

I am indebted to the Chase Manhattan Bank for its pamphlet, "What's a Wife Worth?" which calculates that the average housewife, with no outside job, puts in a total of 99.6 hours a week at 12 different jobs in the home—all unpaid.

Listing jobs like nursemaid and laundress, cook and dishwasher, seamstress and maintenance worker, and in the suburbs, chauffeur, Chase estimates that if all those services were paid for, they would cost $159.34 each week, or $8,285.68 a year. That happens to be more than the average salary of the woman who works outside the home. All together, Chase puts the worth of America's housewives at more than $250 billion a year. Still another study, by Ann Crittenden Scott, estimates that the total wage of the average housewife should be more than $13,000 a year, at present rates of pay.

More precious than gold, silver or even gasoline is the combined energy of millions of American housewives, and yet their unpaid work is taken for granted as something that will just spring forth eternally from compliant domestic slaves who are not reguarded as individuals in their own right. If America's housewives ever placed an embargo on dispensing their free labor, the pilot lights on gas ranges would go out all over this land, the washing machines and vacuum cleaners would fall silent, husbands would not be driven to suburban trains, children would not be fetched and carried, and this Nation would discover a whole new definition of crisis.

I am not suggesting that housewives flex—or unflex—their muscles in that way, but I think it is time that their work be given dignity and their personal investment in marriage and family be given legal recognition.

It is a disgrace that under our present social security system, a woman who has spent most of her life working in the home has protection, such as it is, only as her husband's dependent. If her husband is not covered under social security, neither is she. If the marriage is terminated before 20 years she is not eligible for social security nor does she receive any credits for the years she has put in as a housewife.

I have introduced a Householders Benefit Act (HR 3217) which amends the Social Security Act to provide that "an individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes."

The bill also provides that "the amount of wages which an individual is deemed to have been paid for householder service . . . with respect to any month shall be in an amount equal to the national average monthly wage for employment in service occupations in such month."

I believe that is a fair and modest proposal. What happens to it depends on whether women fight for it and get together to demand that the House Ways and Means Committee schedule hearings on the bill and bring the concept of equal rights into the Social Security system.

I have introduced another bill (HR 3218) which will extend Social Security equity to divorced women. The bill reduces from 20 to five years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for a wife's or widow's benefits.

Another piece of relevant legislation I have presented in Congress is HR 9240, which would remove the exemption from Federal employees whose salaries are now protected from garnishment even though the employee in question is refusing to comply with a court order for child support.

Marriage and divorce laws remain under state jurisdiction, although I understand that Betty Berry of N.O.W. suggested recently that we might redefine interstate commerce to include marriage, an interesting and provocative concept. Certainly there is an overwhelming need for a uniform marriage and divorce law which will be operative in all the states.

The N.O.W. equal rights divorce reform bill, proposed in New York State, can serve as a model for all states. It recognizes the true nature of marriage as an equal economic partnership and the right of the wife to equal division of property at divorce.

You will be hearing the details of this proposed reform later, but I would like to express here my full support for this bill and to commend the sisters who have gathered the data that refute the misconception of divorced women as heartless alimony-seekers and present the truer and much harsher picture of women and children victimized by discriminatory divorce laws and failure of the courts to enforce support orders.

We must also recognize that the 1967 reform of New York's antiquated divorce law went only a small part of the way toward true reform and even created new problems. As a result of the so-called "no fault" amendment, there have been an increasing number of cases in which older women have had their marriages of 15 or 20 years or even longer arbitrarily dissolved through no fault or desire of their own.

One of the most pathetic sights in our culture is the older woman who has spent a lifetime caring for husband and children, submerging her own needs and talents, only to be cast aside for a younger and less workworn woman. Too late she discovers that the law sees her only as an appendage of her husband. Too often she is denied her marital and constitutional right in the estate of her husband, estates which are often acquired by the contribution of the wife's earnings, inheritance, family gifts and years of unpaid labor in the home.

Divorced women with low incomes, and these are the majority, cannot afford the legal fees required by lawyers for the constant enforcement procedures now necessary. Court delays, inadequate legal representation, discriminatory decisions by male-dominated courts and the scandalous conditions in family courts are especially hard on women who do not have the financial resources to fight for their rights.

The law must be made explicit in its protection of women and children and this must be implemented by procedures that require no costly services of lawyers or lengthy delays.

Like all of you, I look forward to the day when marriage will truly be an equal partnership with both husband and wife sharing equally in their responsibilities toward each other and toward their children. Until that day comes, however, women and children must receive the full protection of the law to guarantee that they will no longer be the main losers and victims in divorce and separation cases.

That guarantee ultimately will come from the organized strength we show as women and our ability to use that strength where it counts. We can use it in public campaigns, in legislative lobbies, at the ballot box and, most important, we can use it to elect more women to political office and to get more women into the courts as judges.

We want equal partnership in marriage. We want equal partnership in political power.

Until recently, as you know, women have been assigned to the housework of politics doing the drudge work of mailings, telephoning, canvassing, and making coffee. They have donated literally hundreds of thousands of woman-hours to help elect men to office, men who then exclude them from any policy-making role.

In the 1972 election campaign, the National Republican Congressional Committee put out a manual instructing women on how

to comport themselves on just about every occasion. Dress, for example. They were told: "Not too short. Be certain hemline is straight. No missing buttons." They were told to wear light cologne instead of perfume, and wives of candidates received special instructions: "When your husband is speaking, watch him proudly, never appear bored, even if you have heard the same speech repeatedly." [*]

The Democrats, a little more in tune with the times, put out an instruction sheet for both wives and husbands, since several dozen Democratic women were running for Congress. A thoughtful husband, the manual advised, should squelch any rumors that his wife is running for office because their marriage is on the skids. (According to masculine folklore, why else would a woman want to be in Congress?) Husbands were also advised: "You can't become a homemaker. But you can serve TV dinners in a pinch. Help with the small daily tasks that pile up. Take her out to dinner when she's tired, and be understanding about inevitable changes that affect the household routine."

What *more* could we ask?

Actually, women are asking for a great deal more. We have the notion that since women are 53% of the electorate and 40% of the paid work force, since women are fully as competent, intelligent, educated and committed as men, and since we have had so little opportunity to be corrupted by power, that our time has come to have an equal share of political leadership.

We have a long way to go. Despite some modest gains made in the last election, we still have only 16 women out of 435 Members of the House of Representatives. There are no women at all in the United States Senate, which has 100 members. At a recent political action meeting I attended, which had been called by the National Women's Political caucus, one woman offered the following slogan: "A stag Senate means a stag-Nation."

Women are organizing to change that. We now have a national women's political action caucus, a multipartisan group—which is at work in most of the 50 States. Our objective is to make 1974 the political year of the woman. As a result of our efforts and the growing strength of the national women's rights movement, more and more women are running for office, and more are winning. They're running for local school boards, town councils, judgeships, county executives, State legislatures, statewide offices, and national office.

We did very well in Tuesday's elections. In my own State of New York, women broke through in a number of tradiitonally conservative areas and won election at the local and county level. I think we're going to see even more of that next year. In the aftermath of Watergate, voters will be looking for clean, honest, compassionate political leadership and they will be looking to women to help provide that.

The full entry of women into political life can mean a significant change in the existing power structure which has made the White House the private preserve of special interest groups and corporations, and made Congress a predominantly male, white, middle and upper class enclave.

We have a great country and a great constitution. That greatness is now being tested. The final returns are not yet in. The most corrupt government we have ever had remains in power, although badly crippled. With the exception of the vote in Congress to override Mr. Nixon's veto of the War Powers Act, this Congress—throughout the unfolding of the Watergate scandal—has failed to override Nixon vetos of other essential programs—programs to provide emergency health services, a minimum wage bill, aid to the elderly and the handicapped, programs for basic human needs.

Under Mr. Nixon, our national purpose has been sold to the highest bidders—to the corporations and big business interests—while the needs of millions of ordinary Americans have been pushed aside. Our indignation can change that. Our protests can change that. Our determination to make this a genuinely open and democratic society with full participation of the electorate can change that. I have faith, as I know you do, that we shall prevail.

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[*] Reported in Time magazine, October 30, 1972, page 12.

CONGRESS SHOULD REJECT PAY INCREASE

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. HUDNUT. Mr. Speaker, according to a report filed this week by the Associated Press, the President's fiscal year 1975 budget will propose salary increases for Members of Congress, the Cabinet, and other top Federal officials.

Under present law, the raise is almost automatic once the President proposes it formally. The only way to stop it is a negative vote by Congress within 30 days after the recommendation is submitted.

Once again I wish to state that I strongly oppose both the pay raise and the procedure whereby it would be adopted under present law. I feel that such a raise would be unconscionable. It would set a bad example for the Nation at a time when we are trying to hold the line against inflation and all Americans are being asked to make sacrifices. I think it would be unjustifiable inspite of the fact that Members of this great body have many heavy expenses.

Furthermore, I am very much against the procedures whereby pay raises would be slipped through the back door, so to speak. I believe we should have an opportunity to stand up and be counted on this subject. We should express our will and indicate by recorded vote whether we approve or disapprove of what is proposed.

Finally, if the pay raise is adopted, I will feel conscience bound not to accept the increase. I believe I made a contract with my constituents to serve and represent them in this Congress at a salary rate of $42,500, and I also believe that having taken a stand for fiscal conservatism, balanced budgets, and restraints on spending elsewhere in this Congress, to be true to and consistent with my own principles, I must take a similar stand on this matter.

I am a cosponsor with the distinguished minority leader, the gentleman from Arizona (Mr. RHODES), of H.R. 9557, which would require a direct vote by Congress on the pay raise issue. It is my hope that immediate action will be taken by the Post Office and Civil Service Committee on this bill.

FIFTEEN WAYS TO BE A GOOD CONGRESSMAN

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. SARASIN. Mr. Speaker, many issues have captured the attention and concern of the American public during the last year, and one that commands a top priority position is the energy crisis.

A nationwide effort to conserve our energy resources was implemented, and the public's response was overwhelmingly enthusiastic. While notifying residents of my district of my intention to hold open forums on national matters, I took the opportunity to help in this effort by including a list of energy saving steps. One of my constituents responded in kind by providing his own check list, "15 Ways To Be a Good Congressman"—in italic. The points he made were certainly interesting and, without a doubt, food for thought.

The list follows:

CHECK LIST

1. Check the heating plant thoroughly. Cleaning and adjustment should take place yearly, preferably before the start of the heating season.

1. Checks the promises you made your constituents, preferably before the start of the voting season.

2. Keep thermostat setting at the lowest acceptable temperature. (Just two degrees lower will save approximately 7% of your fuel consumption.)

2. Keep oil profits at lowest acceptable. Just .05 gallon less will save me approximately $150.00.

3. When leaving the house for a day or more, lower the thermostat to 60°.

3. When leaving Congress for a day or more, take a train or drive a 6-cylinder car.

4. Draw draperies and window shades and close shutters at night to limit heat loss through glass. Leave open during day to get benefits from solar heat.

4. Keep your doors and phones closed to high pressure lobbyists. Leave open to your constituents to get benefits of true concerns.

5. Check weather stripping around doors and windows for leaks. Install or replace when necessary.

5. Check your attendance record for absences. Be sure to be on hand when necessary.

6. Insulate your attic floor. This step alone can save up to 20% on fuel. Install storm windows and doors.

6. Insulate yourself from big business. This step alone can save up to 17% on bread and fuel for your car.

7. Make sure that heat sources (radiators and hot air registers) are not blocked by furniture, rugs or draperies. Let the heat circulate.

7. Make sure that true issues are not blocked by Watergate. Let the truth about Exxon and Gulf, etc., circulate.

8. Since heat rises, there will be an appreciable fuel saving if upper areas, particularly attics, are sealed off. Weather stripping the doors to the attic will be helpful, as well. Closing upstairs bedroom doors will also keep more heat in the living areas.

8. Since taxes rise, there will be an appreciable reduction if Congress and the Senate and the Administration are sealed off from private profit margins.

9. If you have a fireplace, make sure the damper is completely closed when the fire is

out. Don't allow heat to escape up the Chimney.

9. If you have a private office, make sure your thermostat is lowered when you're "in session."

10. Repair leaking hot water faucets promptly. A leak which fills a tea cup in ten minutes wastes 3,280 gallons of heated water per year.

10. Repair poor wheat and technological deals promptly. A poor deal wastes at least 100 pounds of steak a year.

11. Turn off the heat in rooms being ventilated and close the doors.

11. Turn off the heat on Watergate and close in on the cost of living.

12. If your garage is heated, keep the doors closed.

12. If your aim is to keep the pressure on big oil profiteers, keep the doors closed to oil deals.

13. Check the radiator enclosures to be sure they are not trapping heat.

13. Check your political contributions to be sure they are not trapping you into commitments.

14. Add a shield of metal or aluminum foil behind radiators to reflect heat into the room.

14. Add a periodical questionnaire to your periodicals to reflect the opinions of your constituents.

15. Be sure humidifier is functioning properly to increase heating comfort.

15. Be sure Congress is functioning properly to insure proper government.

America might be slightly cold, and there are legitimate concerns for the future, but, unfortunately, nothing seems to dampen the ingenuity or spirit of our people.

AGRICULTURAL LAND ASSESSMENT REFORM BILL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. BYRON. Mr. Speaker, today I introduced the Agricultural Land Assessment Reform bill. Basically this bill would allow an owner of land that has been utilized as agricultural land, woodland, and scenic open space to elect to have this land assessed as farmland, woodland, or open space upon his death for estate tax purposes. At present, this land would be assessed at market value based on its highest use. The purpose of the bill is to help preserve the family farm in America.

When the owner of a family farms dies, under existing law his land is assessed at its highest use value. This type of assessment often requires the heirs to sell some of the inherited land to pay estate taxes. My bill would help keep agricultural land for farm purposes.

To qualify for an agricultural assessment, the owner would have to file an election with the Secretary of the Treasury or his delegate and would have to maintain the land as agricultural land 60 months before his death. His heirs would continue to benefit from the assessment unless the land was: first, sold or transferred or second, converted to a use other than farming, woodland, or scenic open space.

In the last 2 years it has become apparent that agriculture plays an extremely important role in this country. The world food requirements are increasing and our agricultural sector has greatly aided our balance of payments in 1973. It is important to maintain our family farms and their contributions to our economy and our society. This bill would make these ends possible.

CPA AT USDA—III

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. FUQUA. Mr. Speaker, a subcommittee on which I serve is now considering proposals to create a Consumer Protection Agency. They are: H.R. 14 by Congressman Rosenthal, H.R. 21 by Congressmen Holifield and Horton, and H.R. 564 by Congressman Brown of Ohio and myself.

I have asked selected agencies for lists of their proceedings which would be affected by a CPA under these bills, and have inserted their replies in the Record as received. I have already inserted, in two segments, part of the lengthy reply of the Department of Agriculture listing its 1972 proceedings and activities. Today I wish to call attention to those informal activities of USDA into which CPA agents would be authorized to intrude under the bills to protect consumers.

Mr. Speaker, for these reasons I insert in the Record that part of Secretary Earl Butz' letter listing those 1972 USDA informal activities which would have been subject to advocacy by a CPA under these bills if any were enacted at that time.

I include 13 through 20, inclusive:

Question 6: Will you please furnish me with a list of representative public and nonpublic activities proposed or initiated by your agency during calendar year 1972?

Answer: The following lists representative activities of the Department during 1972. Most of these activities are of a continuing nature and, therefore, would be initiated in any given year. Also, many of the activities of the Department are implicit in the responses to previous questions.

1. Determining eligibility of animals, animal products and other regulated articles for movement in interstate commerce or exportation (*e.g.*, inspections, tests, and review of documents) prior to such movement, and determining eligibility of animals, animal products and other regulated articles for importation (*e.g.*, by inspections, tests and review of documents) prior to shipment from foreign country or at U.S. port, under regulations (9 CFR Chapter I, Subchapters C and D) issued pursuant to various animal quarantine laws (19 U.S.C. 1306, 21 U.S.C. 102–105, 111–135b).

2. Issuance of orders for disposal of animals involved in interstate or foreign commerce and affected with or exposed to communicable disease of livestock or poultry or illegally moved; or orders for disposal of animals, carcasses, products and articles affected with or exposed to dangerous diseases of livestock or poultry on any premises in extraordinary emergency declared by the Secretary of Agriculture (21 U.S.C. 134a).

3. Seizure and disposal of animals, carcasses, products and articles if disposal orders under 2. are not obeyed (21 U.S.C. 134a)

4. Seizure and disposal of hay, straw, forage and similar material, and meats, hides or other animal products coming from infected foreign country or in transit in interstate commerce (21 U.S.C. 111).

5. Conduct of programs for control or eradication of livestock or poultry diseases and pests, including payment of certain claims (21 U.S.C. 114a, 114b–114f, 114g–114h).

6. Issuing notices to carriers and publishing newspaper notices regarding the existence of contagion of livestock or poultry diseases and the establishment of quarantines and regulations to prevent their interstate spread (21 U.S.C. 117, 123, 126).

7. Accreditation of veterinarians under regulations in 9 CFR Part 161.

8. Issuance of warning letters to accredited veterinarians for minor violations of standards for accredited veterinarians and to violators of regulations and statutes administered by the Department.

9. Determination of existence of disease pursuant to agreements with States.

10. Determining eligibility of plants, plant products and other articles for movement in interstate commerce, or importation (*e.g.*, by inspections and certifications) prior to such movement or importation, under various regulations (7 CFR Chapter III, Parts 301–352), issued pursuant to the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*).

11. Issuance of orders for disposal of products, articles and means of conveyance moved into or through the United States or interstate and moved in violation of the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*) or regulations thereunder or reasonably believed to be infested by a plant pest (7 U.S.C. 150dd).

12. Disposal of products, articles and means of conveyance if orders under 11. are not obeyed (7 U.S.C. 150dd).

13. Disposal of plants, plant products and other articles moved in interstate commerce or into the United States in violation of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) or regulations thereunder.

14. Certification as to freedom from insect pests and plant diseases of plants and plant products for export (7 U.S.C. 147a(b)).

15. Programs for control or eradication of insect pests, nematodes, and plant diseases, including payment of claims for certain destroyed property (7 U.S.C. 147a, 148–148e, 150–150g).

16. Issuing notices to carriers and publishing newspaper notices concerning establishment of quarantines and regulations to prevent the interstate spread of dangerous plant diseases or insect infestations (7 U.S.C. 161).

17. Issuance of standards for livestock carcasses, parts thereof, meat, meat food products, poultry and poultry products (21 U.S.C. 457, 607).

18. Approval of livestock carcasses, parts thereof, meat food products, poultry and poultry products or condemnation of adulterated articles (21 U.S.C. 455, 604, 606).

19. Approval or disapproval of labeling and containers for meat or poultry products (21 U.S.C. 457, 607).

20. Refusal or withdrawal of meat or poultry inspection under the Federal Meat Inspection Act or the Poultry Products Inspection Act.

21. Refusal or approval of entry of imported meat and poultry products (21 U.S.C. 466, 620).

22. Designation of states and specific establishments for application of Federal Meat or Poultry Products Inspection Act requirements to intrastate activities (21 U.S.C. 454, 661).

23. Detentions of adulterated, misbranded, or otherwise apparently violative meat and poultry products (some 640 in 1972) (21 U.S.C. 467a, 672).

24. Participating with international offi-

cials in developing international food product standards of acceptance.

25. Conducting reviews of firms regulated under the Federal Meat Inspection Act or the Poultry Products Inspection Act, or other laws administered by this Department when a bona fide consumer complaint is received.

26. Various activities, including informal rulemaking, meetings and decisions, of the Commodity Credit Corporation concerning programs under which producers of agricultural commodities receive loans, payments, and other benefits, under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*), the Agricultural Act of 1949, as amended (7 U.S.C. 1421 *et seq.*), the Agricultural Act of 1970, and the National Wool Act of 1954, as amended (7 U.S.C. 1781–1787).

27. Inventory and disposal operations of the Commodity Credit Corporation, including utilizing customary channels of trade in carrying on purchasing and selling activities and conducting warehousing, transporting, processing, and handling operations.

28. Commodity export programs of CCC including sales for export, disposition abroad of agricultural commodities under barter contracts, financing commercial credit sales by U.S. exporters of agricultural commodities, and making export payments on certain commodities exported by commercial exporters.

29. CCC program to provide storage adequate to fulfill its program needs, including purchase of storage bins and equipment, loans to producers for purchase, building or expansion of on-farm storage facilities, and sales to producers and others of storage bins.

30. Various activities of CCC relating to procurement and disposition (including donations) of agricultural commodities and products.

31. Advising the President when there is reason to believe imports of any articles interfere with Department of Agriculture programs wtih respect to agricultural commodities or products, with a view to consideration of import controls, under section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624).

32. Various activities under the Sugar Act of 1948, as amended (7 U.S.C. 1100 *et seq.*), such as determination of fair and reasonable rates of pay for workers employed in production, cultivation or harvesting sugar beets or sugar cane (7 U.S.C. 1131(c)(1)).

33. Issuance of directives concerning supervision of ASCS State and County offices and program management and issuance of press releases concerning various program announcements.

34. Establishing lists of agricultural commodities eligible for export under the barter program and establishing commodity-country listings of eligible exports.

35. Announcing (during 1972) daily export payment rates applicable to exports of wheat and wheat flour and weekly for rice.

36. Chartering vessels to carry bulk grain to developing countries under the Title II, Public Law 480 export program and enforcing the Cargo Preference Act.

37. Negotiating with representatives of importing countries about contract conditions that apply to P.L. 480 agricultural commodities; developing and issuing P.L. 480 commodity purchase authorizations that contain the terms that apply to export sales by U.S. suppliers; making certain that importing countries comply with all provisions of purchase authorizations; and assuring that U.S. suppliers comply with terms of both purchase authorizations and P.L. 480 financing regulations.

38. Determinations of class, quality, quantity or condition of agricultural products under Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

39. Compiling statistics on cotton from reports from the industry (7 U.S.C. 473).

40. Contacts by field representatives and other field personnel with cotton growers, ginners, warehousemen, merchants, and others to discuss day-to-day program matters.

41. Determining whether a cooperative is a "cooperative association" under the Federal milk order program.

42. Issuance of interpretive samples to illustrate various grading factors under the U.S. standards for grain and rice under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), and Part 68 of the regulations under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

43. Designation of persons to operate as official inspection agencies under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*).

44. Investigation of alleged violations under the Federal Seed Act (7 U.S.C. 1551 *et seq.*).

45. Issuance of certificates of plant variety protection and interpretations of the Plant Variety Protection Act and the regulations thereunder (7 U.S.C. 2321 *et seq.*).

46. Meeting with the Plant Variety Protection Board to review the regulations and rules of practice under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

47. Various activities relating to procurement of agricultural commodities under Section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)).

48. Approve or reject proposed research under the Wheat Research and Promotion Act (7 U.S.C. 1292).

49. Informal discussion-type meetings with Federal agencies, cooperating non-Federal agencies, and trade groups to discuss standards and inspection of grain, rice, and seed.

50. Informal discussion-type meetings with trade groups to discuss marketing agreements and orders to stabilize prices under the Agricultural Marketing Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

51. Intervening in proceedings before the Interstate Commerce Commission to assist in improving transportation services and facilities and in obtaining equitable and reasonable transportation rates and services and adequate transportation facilities for agricultural products and farm supplies (7 U.S.C. 1291, 1622(j)).

52. Designating boards of trade as contract markets (7 U.S.C. 8), and disapproving violative bylaws, rules, regulations, or resolutions made or proposed by contract markets that relate to terms and conditions in sales contracts (7 U.S.C. 12a).

53. Designating the form and manner of keeping of books and records by registrants under the Commodity Exchange Act (7 U.S.C. 6g).

54. Investigating the operations of contract markets and other persons subject to the Commodity Exchange Act and publishing the results of such investigations and such statistical information gathered therefrom as the Secretary may deem of interest to the public (7 U.S.C. 12, 12–1).

55. Meeting with commodity exchange liaison groups.

56. Posting and deposting of stockyards under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202).

57. Registering and approving bonds of livestock market agencies and dealers (7 U.S.C. 203, 204).

58. Authorizing the charging and collection of fees for brand inspection services and registering as market agencies the parties so authorized (7 U.S.C. 217a).

59. Attendance at industry conferences and meetings of technical and manufacturing groups.

60. Working with State and local welfare agencies to put significant changes in the Food Stamp Act into effect.

61. Making compliance visits to retailers participating in the Food Stamp program, investigating alleged violations, and disqualifying retailers for violations (some 353 retailers were disqualified in 1972).

62. Inaugurating a food stamp quality control system to validate the eligibility and basis of coupon issuance determinations of non-assistance households and to determine if households denied participation were correctly denied.

63. Outlined State agency responsibilities in operating an outreach program required by the Food Stamp Act, established guidelines to organize and operate the program, and provided over five million copies of 30 different publications (some in Spanish) to help bring more eligible families into the program.

64. Conducted training courses for field supervisors and realigned field offices of the Food and Nutrition Service.

65. Various activities of the Forest Service relating to the management and sale of forest products, use of national forest land for grazing, commercial recreation facilities, and other commercial enterprises where authorized, and recreation services or other land uses, such as timber sales, issuance or denial of grazing permits, granting of special use permits, application of pesticides and herbicides, road construction, and fire prevention and suppression.

66. Conducting studies of wilderness areas, wild and scenic rivers, and areas and rivers for potential addition to these systems and making recommendations to the President and Congress.

67. Developing land use plans for the National Forests and accompanying environmental impact statements.

68. Cooperating with State forestry departments (providing funds and expertise) in land use planning, fire control, forest pest control, and management of State and private forest lands.

69. Making loans and carrying out related activities pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*), for rural electrification and rural telephone service.

70. Initiated activities of Rural Telephone Bank created by P.L. 92–12.

71. Making, insuring, servicing, and collecting loans for rural housing, community development, farm ownership and operation, water and waste disposal, land conservation and utilization and emergencies caused by disasters.

72. Various activities relating to crop insurance programs under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*), including issuance of regulations containing terms and conditions of insurance, issuing interpretations of regulations, handling claims, computing coverages and premium rates, and processing reports of acreage and interests insured.

73. Initiating and entering into Market Development Agreements, for example, with the Brown-Swiss Cattle Breeders' Association and the Idaho, Oregon and Washington State Potato Commissions to assist in development of export markets for U.S. agricultural commodities and products.

74. Various activities in connection with programs administered by the Soil Conservation Service relating to conservation, flood prevention, watershed protection, and resource conservation and development, including determining land rights, planning and engineering requirements for projects, prescribing methods of and providing financial assistance for installing works of improvement, providing technical assistance to landusers, and making snow surveys to determine water availability.

75. Entering into research agreements relating to various aspects of cooperatives, such as (in 1972), cooperative sugar beet processing, market concentration and business strategies, marketing practices and factors affecting Southeastern broiler demand and supply, and economic potentials for cooper-

atives through integrated grain marketing systems.

76. Conducting educational meetings, seminars and conferences with cooperative organizations.

77. Various activities relating to funding of agricultural research carried out by State agricultural experiment stations, approved forestry schools, land-grant institutions and other institutions, including approval in advance of each research project submitted, disbursement of funds, and continuous review and evaluation of research programs.

78. Conducting national program of economic research relating to agriculture and rural America.

79. Carrying out statistical research and service, including review, clearance, coordination and improvement of statistics in the Department, research on and development of improved statistical techniques used in gathering and evaluating statistical data, data processing activities, with related systems analysis, and research, programming and processing of data.

80. Preparation and issuance of estimates of production, supply, price, and other aspects of the agricultural economy.

81. Developing regulations governing administrative processes for award and administration of grants and agreements by the Department of Agriculture.

SUPPORT FOR AUTO-TRAIN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. O'NEILL. Mr. Speaker, modern and innovative intercity rail passenger service is making a vital contribution to America's public and private efforts to combat the present energy crisis. Citizens in the New England area as well as people all over this Nation are realizing that rail transportation makes good sense. It is safe, economical, and perhaps most importantly, it conserves our scarce gasoline supplies.

But a tremendous increase in rail ridership, due in part from the present gasoline shortages, has severely taxed the limited existing capacity that is currently available. While Amtrak has made dramatic improvements to satisfy the increase in demand, it suffers from inadequate equipment, often outmoded in quality.

Although I applaud Amtrak's attempts to up-grade its service, I think it is self-evident that Amtrak alone cannot do the job. For this reason, I have enthusiastically supported the creative and impressive efforts of Auto-Train to institute high-quality auto-ferry service in the East and in other parts of the country. In the 2 years in which it has been in operation between Washington and Florida, Auto-Train, a completely privately financed enterprise, has demonstrated that it can carry more than a quarter of a million passengers with comfort, speed, and convenience.

Now, Auto-Train is planning to inaugurate a similar service between Louisville and Florida which would bring to the people of the Midwest and upper South the same efficient service presently available to those along the Atlantic seaboard. This additional service of Auto-Train promises to offer substantial benefits to even a larger share of the traveling public.

Like other Members of the House and Senate, I am deeply shocked to learn that Amtrak is seeking to frustrate Auto-Train's planned Louisville service. Last year, Amtrak led us to believe that it would take no such delaying action; Amtrak shared our conviction that Auto-Train could play a positive role in providing additional intercity transportation service. It was on the basis of this understanding that I supported the Amtrak Improvements Act, for I felt that it signified a mature recognition by Amtrak that Auto-Train has something of great value to offer.

Since then, Amtrak has reversed its position and is using Federal appropriations to deter Auto-Train, a relatively small and completely privately financed company, from trying to serve the public with badly needed transportation. In my opinion, this is absolutely contrary to the public interests. Rather than use its resources for the refurbishing of equipment and for other laudable objectives, Amtrak is mounting a senseless war against a small company that has already proven its value.

Today, I want to urge Amtrak to cease and desist from its blockading tactics against Auto-Train. This ridiculous legal bickering, which can only harm the public, should stop. Auto-Train should be authorized to begin its Louisville service at the earliest conceivable moment. If Amtrak also wants to provide auto-ferry service, I have no objection. At a time when this country so sorely requires better means of intercity travel, there is no justification for Amtrak, which was set up to service the public, to be devoting its energies to tactical maneuvers designed to keep a company which is not using taxpayers' dollars from trying to do its share.

THE 56TH ANNIVERSARY OF DECLARATION OF INDEPENDENCE OF ESTONIA

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. GOLDWATER. Mr. Speaker, tomorrow marks the beginning of the month which commemorates the 56th anniversary of the Declaration of Independence of the Republic of Estonia, now under Soviet control.

Even though the Estonian people have been occupied by Soviet Russia for several decades, they have tenaciously preserved, against all odds, their national identity and Western orientation. Their desire for freedom and national self-government remains strong. Realizing this, the United States has not recognized the forcible incorporation of Estonia into the Soviet Union.

These people, along with their fellow Baltic States Lithuania and Latvia which also suffer under Soviet oppression, maintain their strong desire for freedom, but their will is stifled and dwarfed by the sheer size of their oppressor.

Their hopes, then, naturally turn to the greatest free democracy in the world, the United States. The question of liberation of Estonia and her fellow Baltic States must be pursued until withdrawal of all Soviet troops, and the return to their homes of all Baltic exiles is a proud accomplishment.

GILMAN SEEKS MORATORIUM ON GAS STATION CONSTRUCTION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. GILMAN. Mr. Speaker, I am today introducing legislation placing a 1-year moratorium on the construction of new retail gasoline stations in the United States. I do this regretting the circumstances that make this legislation necessary.

Two months ago, when public awareness of our energy crisis was first being generated, I wrote to the presidents of 30 major oil companies requesting information on the number of proposed new gas stations for 1974 and inquiring what parameters they were utilizing in planning new construction.

With the gasoline supply dwindling to critically low levels, it was my belief then, as it is now, that construction of new stations is not only imprudent but unfair to both the public and to gas station owners.

The costs of new stations—including land acquisition—must be considered since these costs are passed on to the consumer in the form of higher prices. Moreover, new station construction is unfair to gasoline retailers since demand far exceeds all available supplies. With limited amounts of gasoline available, more stations can only dilute the supply available to each retailer. Because all available gasoline can be readily sold, increasing the number of stations will only benefit the oil companies.

I would like to bring to the attention of my colleagues some of the replies I received from oil company representatives in response to my queries about new construction:

J. Carter Perkins, Vice President, Shell Oil Company: "We have stopped development in most instances where our contractual commitments allowed us to do so. . . . During the coming year we expect to complete approximately 40 to 45 stations nationwide."

Alton Whitehouse, Jr., President, Standard Oil of Ohio: "Our 1974 Sohio/Boron building program has been reduced 70% from normal levels. . . ."

Maurice Granville, Chairman of the Board, Texaco Oil Company: "Therefore it is necessary that some new construction continue. . . ."

J. E. Hamilton, General Manager, Amoco Oil Company: "There will be some service station relocation activity. . . ."

O. N. Miller, Chairman of the Board, Standard Oil Company of California: "Last spring we revised our retail construction budget policies. These new guidelines severely limit new service station construction."

R. M. Lilly, General Manager, Exxon Company, U.S.A.: "We have reexamined our investment policy earlier this year in light of the current supply situation. As a result of this reexamination, no new stations are being put under construction except in rare instances where a prior commitment exists."

While most of these responses indicate that gasoline station construction is being slowed down in some instances, it is by no means being brought to a halt. In my own district, I have received reports of stations under construction, which probably is the case in other districts across the country.

Accordingly, in light of the current energy crisis, it is appropriate to suspend such new construction in the best interests of our consumers.

Mr. Speaker, I invite my colleagues to join me in support of this measure and respectfully request that the full text be included in the Record as follows:

H.R. 12463

A bill to place a temporary moratorium on the construction of all retail gasoline outlets

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. That during the one-year period after the date of the enactment of this Act, no person, corporation, association, cooperative, or similar group shall construct a retail gasoline outlet or station in the United States. This Act shall in no way impair the performance of current outstanding contractual obligations of retail gasoline outlets now underway.

Sec. 2. Any person, corporation, association, cooperative, or similar group who violates the first section of this Act shall be fined not more than $100,000.

Sec. 3. This Act shall take effect immediately.

AMERICANS CONCERNED ABOUT BIG GOVERNMENT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ARCHER. Mr. Speaker, one problem which has been a major concern of mine is the growing power of the Federal Government. This power of the Central Government has been steadily increasing its hold over the lives of our citizens for the past four decades. Mr. Louis Harris conducted a poll recently for the Senate Subcommittee on Intergovernmental Relations, and the results reveal a serious concern by Americans over the role of big government. I share that concern. As big government continues to increase its powers, the rights of the individual citizen become less and less. Mr. Allan C. Brownfeld wrote an interesting column recently on the significance of this survey. I enter this informative column into the Record.

[From the Anaheim Bulletin, Dec. 18, 1973]

Polls Reveal Americans Leery of Big Government

A recent survey of public opinion conducted by Louis Harris and Associates for the Senate Subcommittee on Intergovernmental Relations has come up with a number of revealing discoveries. One is that the American people are not only disillusioned with the current Administration and its machinations over Watergate and related matters—but that most Americans distrust government itself. If the poll is correct, the majority of Americans believe that government programs have made their lives worse, and not better.

The survey sought to measure public attitudes and those of state and local government leaders on a wide range of issues facing the country. Its authors concluded that, in the wake of disclosures of government scandals this year, the public had become pessimistic and alienated. A clear majority, the survey showed, believe that "there is something deeply wrong" in the country.

Among the things that were wrong in the public's belief, according to the study, were that politicians were greedy and corrupt, that there was too much secrecy in Government and that "wiretapping and spying under the excuse of national security" were a threat to personal privacy.

The percentage of Americans who showed "a great deal of confidence" in the executive branch of government dropped from 41 per cent in 1966 to 27 per cent in 1972 to 19 per cent last September. The disenchantment cut across a number of statistical lines, with high proportions of persons in every income level and in every section of the country evidencing the feeling.

Asked what they thought were the two or three biggest problems facing the country, 72 per cent listed what the survey called "the traditional worry over economic problems." In second place, with 43 per cent calling it a problem was "integrity in government." Only 5 per cent had cited government integrity in answer to the same question in 1972. Asked whether life had improved or deteriorated during the previous ten years—the decade with the most government involvement in the economy and other aspects of American life—45 per cent expressed the view that the quality of life had deteriorated.

The American people believe that big government is no longer responsive to them and to their wishes. Louis Harris noted that, ". . . the main thrust of the people's disaffection can be traced to a growing sense of powerlessness, to a deep feeling that those with power seek to abridge, deny, and even strip away the ultimate power of the governed. This felt tyranny of erosion of the people's power and freedom has not been viewed as a sudden development, is not limited to one act or one leader or one period in recent history. It has been taking place for several years, and its very duration escalates a serious condition into a full-blown crisis of confidence."

Pollster Harris found that only 24 per cent of those polled believe that government officials place "the good of the country above special interests," only 34 per cent believe that "public officials are dedicated to helping the country," and only 13 per cent believe that "corruption and payoffs never take place."

It is no wonder that Americans have no faith in government. Government programs have on almost every level, created problems rather than solved them. Inflation, for example, is caused by an artificial increase in the money supply required by increased deficit spending. Still, political leaders who say they want to cure the problem of inflation only make things worse with coercive wage and price controls. No one in public life any longer speaks of balanced budgets. The same government coercion has made things far worse for all Americans in such fields as housing, agriculture, welfare, and education.

To most Americans, government means coercion. It means paying ever higher taxes, having children bused to school far from home, being forced to wear automobile seat belts, being denied necessary vitamins and drugs by the F.D.A., being told what categories of people to hire, and what conditions to provide for them in business, being told what to plant and how much you may be paid for it in agriculture. If government has any real function to perform all would agree that it is protecting the honest citizen from crime and violence. Yet here, government is weighted on the side of the criminal, and our streets are increasingly unsafe.

Government's mounting involvement in all aspects of our social and economic life is reminiscent of the increased power of the bureaucracy at the beginning of the decline of Rome. Discussing Rome's twilight years, Trevor notes that, "The relentless system of taxation, requisition and compulsory labor was administered by an army of military bureaucrats . . . Everywhere . . . were the ubiquitous personal agents of the emperors to spy out any remotest case of attempted strikes for evasion of taxes . . ."

Trevor writes that, ". . . the endless round of government, bureaucracy, taxation, arbitrary governmental decision, interference in private lives, and destruction of the small operator, produced the situation in which the Roman Empire no longer enjoyed economic health . . . Rome was then headed for decline."

The Harris poll indicates that most Americans are coming to the conclusion Murray Rothbard expressed in his book, "For a New Liberty": "We have the police to protect us from the criminals, but who do we have to protect us from the government?" If conservatives believe that the path to electoral success is to provide voters with a carbon copy of liberal, big-government programs, Louis Harris indicates that they are mistaken. In this case, good politics, good government, and what is best for a free society seem to go hand in hand.

NAPOLEON GARCIA AND HIS ENDANGERED DREAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. KEMP. Mr. Speaker, as I observed in the Record last November when I commented on the now famous remarks of Gordon Sinclair, the Canadian radio and television commentator, it is not too often that we get a chance to see ourselves as our neighbors see us.

Today, I wish to bring your attention to one of our neighbors from south of the border, Mr. Napoleon Garcia, 26 years old and a native of Chicalyo, Peru.

This young man's views of the United States, his beliefs in the opportunities afforded in our country and his related concern for the people of his homeland, I believe, are akin in several respects to those held by both the immigrants who came here in generations past and millions of others, still living in other lands who maintain their faith in the American dream.

I have recently been privileged to become acquainted with Napoleon, a close acquaintance of one of my congressional staff assistants.

When I heard his story, Mr. Speaker, I decided I would share it with my colleagues.

This young man is from a family of nine, including seven children. With ancient Inca roots, he grew up in a family of limited means. Every scrap of food was precious, eyes of fish were prized for protein and clothing was handed down from one child to the next.

He grew up with strong beliefs in man's Creator, family ties, and self-sufficiency based on a day's pay for a day's hard work.

From the time he was 12 years old, Napoleon dreamed of studying medicine and becoming a doctor.

A voracious reader, he discovered early in his boyhood that medical training in the United States was more readily available, and in many respects, superior to that available in his native Peru.

Besides, this one-time candidate for the priesthood became convinced that one of the best ways he could contribute to the many needs of those in his community, where there are less than 50 doctors for a population of more than 50,000, was to be able to help heal the sick and minister to the infirm.

He has, he told me, witnessed the dying of friends and relatives because they could not readily obtain medical attention.

So early in his life he became determined to find a way to travel to the United States to fulfill his dream.

He and other members of his family worked, saved, and scraped to accumulate the necessary funds. Finally, on July 1, 1967, at the age of 20 and with a student visa, he arrived in the United States, the first member of his family to journey to the land of promise and opportunity, far to the north.

Napoleon traveled directly to Washington where he had the commitment of a job in exchange for half of his tuition and with a pledge from his family to pay remaining fees and provide him with $150 a month for expenses.

He could not speak, read, nor write English. Although he had the opportunity to reside with other Peruvians, he decided to room with Americans to develop his English skills.

Napoleon worked at the university as a laborer, cleaning laboratories, cutting grass, raking leaves, and shoveling snow as he concentrated on his goal of learning the language of his new American acquaintances and to be able to pursue additional studies.

Tuition, just to study English, was $520 a semester. During his first two semesters, he paid half of this amount because of the work agreement. But in his third semester, he had to relinquish his role as a university part-time employee to another worthy student, a change in circumstances that required him to pay the full $520.

Feeling he needed additional training in English, he enrolled at Temple where he paid $300.

He recalls:

> I quickly found that it is nearly impossible to enroll in an American university for the pursuit of varied subjects unless you possess the skill to pass the English entrance test which even some native U. S. students find difficult.

Napoleon mastered English. He speaks it with more precision than many U.S. high school graduates. He has never failed any academic course. He has proved to be an exceptional student in many fields of learning.

From Temple, he went on to Montgomery Junior College where he completed seven semesters. The first three cost him $550 each because he was not a county resident, compared to a resident's cost of $198 a semester. The remaining four semesters each cost him $620, some $400 above a resident's cost.

These expenses did not include books, which he estimates cost him about $60 a semester, and such expenses as a place to live, transportation, and food.

He mastered such subjects as biology, mathematics, including trigonometry, chemistry, physics, comparative anatomy, sociology, psychology, and advanced English composition.

On last December 7, Napoleon suffered what was to become his own, personal Pearl Harbor of sorts.

As he was driving his old Volkswagen beetle to school in Montgomery County, a policeman signaled him to halt his car to allow a funeral procession to pass his line of traffic.

A large, loaded dump truck, two vehicles behind him, failed to halt. It rammed a station wagon behind him which, in turn, collided with his car and hurtled him nearly half a block onto a median strip.

Napoleon's car was totally demolished. He suffered a whiplash and was fitted with a neck brace, at a time when he was preparing for final semester examinations.

Despite his injury, he took his examinations before Christmas and passed them, going as far as he could go in his premed studies at a junior college.

But he was without transportation he needed to apply for entrance at the University of Maryland. He incurred medical bills, piled on top of already inflated expenses, for housing, for food, and other daily cost-of-living requirements. He is still under a doctor's care.

His family's guarantee of $150 a month barely met his expenses for food. At $5 a day, that amount would eat up all of the monthly stipend, leaving nothing for lodging, nor other expenses.

During the second week of December, after the accident, he applied for a working permit from the Immigration Department.

But it was not forthcoming.

Confronted with bills, expenses he could not meet without supplementary income, he took a job as a restaurant waiter.

Early last week, he reported to work early. As he waited to go on duty for the evening dinner rush, Immigration inspectors entered his place of employment.

Napoleon was cited for violating a requirement not to work while on a student visa.

Two days later, he was officially notified by the Immigration Service that he must leave the United States by February 12.

As the result of an accident beyond his control, as the result of an inflation he cannot cope with and as a result of his compulsion to gain knowledge to help others, he had violated the rules of the Immigration Code.

Mr. Speaker, Napoleon Garcia has never asked for something for nothing in his 26 years on this Earth. He has never been a recipient of a single American tax dollar, nor has he ever sought public assistance.

He and his family in Peru have contributed to the economy of the United States. His tuition, alone, has totaled $5,470 since he came to Washington. What he has paid in terms of books, shelter, and other living expenses—in an effort to acquire the knowledge and skills to serve his countrymen—is in addition to that paid U.S. educational institutions.

I, for one, have an abiding belief in the sanctity of our laws, including those designed for the protection of American workers. But I know of tens of thousands of immigrants who are recipients of food stamps and other public assistance.

As Gordon Sinclair has so eloquently stated, America has not been wanting for those in want.

But, I for one, believe America has a heart. I believe that the people of the United States, a land where opportunity is the greatest of the human freedoms, would not consciously end the dream of such a dedicated young man.

I will urge the Immigration Service to reconsider their decision in the case of Napoleon Garcia. In the spirit of the Alliance of Progress and the other programs designed to help those who help themselves, I will urge that the decision for his deportation be delayed until he is given the fullest, fairest hearing commensurate with our traditional spirit of international neighborliness.

Mr. Speaker, I have the honor of being a Member of Congress from the State of New York. To me, the Statue of Liberty still represents the opportunity envisioned by those who came before us.

Mankind is one. Freedom is universal. True opportunity should not be confined to national borders. The world is too small. Spirits like that of Napoleon Garcia should not be suffocated.

STATEMENT OF NASS ON POSTCARD REGISTRATION BILL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. FRENZEL. Mr. Speaker, the executive committee of the National Association of Secretaries of State—NASS—and their Federal elections subcommittee met this week in Washington, D.C. The chairman of NASS, the Honorable James C. Kirkpatrick from Missouri, forwarded to me a copy of their statement on H.R. 8053, the postcard voter registration bill. It is as follows:

This resolution was considered by the Executive Committee of the National Association of Secretaries of State. It was not adopted, due to the absence of a quorum.

It is the consensus of the Executive Committee, however, that it accurately represents the NASS position, and should be used as such in negotiation sessions with other groups regarding the proposed bill.

Whereas, the smooth functioning of America's election systems is of vital importance to all citizens, both to guarantee unimpeded access to the right to vote as well as to encourage full participation by the nation's voters, and,

Whereas, the National Association of Secretaries of State has supported and developed new programs and methods of election administration, for the purpose of increasing voter registration and participation, and,

Whereas, the various states and their local election officials have been most successful in the past two years in adding voters to the registration rolls and simplifying voting procedures, and,

Whereas, the House of Representatives is presently considering H.R. 8053, a bill allegedly designed to further increase registration, and,

Whereas, as presently drafted, H.R. 8053, in the opinion of the Executive Committee of the National Association of Secretaries of State, will not achieve its desired effect, but will, in fact, have the contrary effect, by confusing voters, eliminating existing safeguards against fraud, complicating election procedures, disenfranchising voters, and tremendously increasing administrative costs, now, therefore,

Be it resolved, that the Executive Committee of the National Association of Secretaries of State hereby express its total and complete opposition to the present draft of H.R. 8053, for the reasons stated above, and, further,

Be it resolved, that the officers of this association are directed to communicate to the members of the House of Representatives our position regarding the present draft of H.R. 8053, and to urge them to support our position.

The following resolution was passed in August at their national conference in Williamsburg. The resolution also appears in the minority views in the committee report on the postcard bill.

Whereas, elections for local, state and federal officers are conducted by, and under the election laws of, the respective states and;

Whereas, the proper administration and effectiveness of the elections process depends upon the maintenance of a single and coordinated system for the election of all public officials and;

Whereas, the Congress of the United States has evidenced ever-increasing involvement and interest in the elections process, now, therefore,

Be it resolved by the National Association of Secretaries of State that the Congress, and all federal officials who prepare rules and regulations affecting elections, are hereby memorialized and requested to confer with representatives of the National Association of Secretaries of State, and the chief elections officials of the respective states, to the end that every effort be made to continue to provide unified and single laws, rules and procedures for all elections, rather than a dual system—one for federal officials, and another for state and local officials, and that the states be permitted to continue to adopt uniform laws applicable to all types of elections.

Be it further resolved that the Congress is hereby memorialized and requested that any funds it appropriates for elections or registration should be appropriated in the form of "bloc" rather than categorical grants.

Be it further resolved that no federal election legislation should attempt to place federal work assignments and responsibilities on state and local officials or employees except in audit procedures instituted on federal grants made to the states or other local governments or local governmental subdivisions.

Be it further resolved that copies of this resolution be transmitted to the members of the Congress of the United States.

This resolution initially proposed by Wade O. Martin, Jr.

Approved by:

WADE O. MARTIN, JR.,
Secretary of State, Louisiana, Chairman.

TRIBUTE TO A DISTINGUISHED FRIEND, THE LATE HONORABLE HAROLD D. COOLEY OF NORTH CAROLINA

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ROONEY of New York. Mr. Speaker, I was deeply shocked and saddened, as I am sure a great many of the Members of this House were, at the recent passing of our distinguished former colleague and my good and long-time friend, the Honorable Harold D. Cooley of North Carolina.

Harold Dunbar Cooley was a man of extraordinary ability and insight both as a legislator and as a human being. He represented his congressional district well and honorably for over 30 years. For 16 of those years he was the chairman of the House Committee on Agriculture where he oversaw and greatly aided the continued growth and progress of all phases of American agriculture.

As you know, Mr. Speaker, Harold was considered a fighting, tart-tongued debater who was normally right in the center of most farm debates here on the House floor. I always enjoyed the opportunity to watch and hear him work on the floor in handling his difficult bills. His reputation for aggressively working for the betterment of the tobacco and cotton farmers, particularly those in his native North Carolina, was never legendary.

Harold Cooley was a southerner who was internationally minded and served his country in a number of important and difficult assignments abroad. In 1947 he was a delegate to the Interparliamentary Conference held in Cairo. He was a delegate to the 1948 conference held in Rome to which I was also a delegate. Harold acted as a consultant and congressional adviser to the United Nations Educational, Scientific, and Cultural Organization and was a member of the Select Committee on Economic Aid to European Countries in the 80th Congress. He was also a strong supporter of foreign reciprocal trade agreements.

Mr. Speaker, many of us here will miss Harold Cooley very much. I well remember his kindness and hospitality in April 1953 when he insisted that Mrs. Rooney and I stay at his fine home in Nashville.

To his gracious and lovely wife, Madeline, and to his son and daughter, the ROONEYS extend their deepest sympathy and prayers in their great loss.

INTERDEPENDENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

INTERDEPENDENCE

Even though many Americans are finding inconvenience and hardship in the energy shortage, I have come to the conclusion that the shortage may not be all bad because it signals to us an important warning.

Many of our troubles today stem from our extravagant consumption, and perhaps it is better to learn now that we live in a finite world with limited resources, when it won't hurt too badly, than to learn the lesson later, when it could ruin us.

No country is endowed with all the resources needed by a modern industrial society. Although Americans usually think of poor countries being dependent upon rich countries, the U.S. and the other industrial giants are increasingly dependent upon the resources of the poor countries.

The U.S., which consumes each year from ¼ to ½ of most minerals, is now almost completely dependent on foreign sources for 22 of the 74 non-energy mineral commodities considered essential to a modern industrial country, and depends on imports for more than ½ of its supply of 6 of 13 basic raw materials (aluminum, chromium, manganese, nickel, tin and zinc). The natural reserves of these critical items are in underdeveloped countries, and in many instances a handful of nations have the bulk of the supply.

A chief worry of many government officials is that a few nations that have most of the supply of a given material may follow the example of the Arab oil countries and try to blackmail the rest of the world. Four countries control more than 80% of the world copper supply, two countries account for 70% of all tin exports and four countries control half of the natural rubber. Bauxite is another example. It is the basic ingredient for the manufacture of aluminum, and only five countries are the chief suppliers. Last week the principal bauxite producers were called to a February meeting, which has U.S. officials concerned.

Another worry is that at present rates of consumption the materials will be used up. Coal and iron will not be exhausted for centuries, but others, like oil, have a potential exhaustion date early in the next century. To be sure, there is doubt about these dates, and many actions and events could alter them, but whatever the exhaustion dates turn out to be, they will come sometime because resources are finite. Competition among nations for these scarce materials is already getting fierce.

Still another concern is that the cost of these raw materials, projected to run about $18 billion for the U.S. in 1985, will place enormous pressure on the U.S. balance of payments. U.S. dependence on other countries will be reflected in the rising prices of these materials, as well as actual and threatened cut-off of supplies.

The situation isn't entirely bleak. The U.S. is not helpless because it is rich in natural resources, but, even so, it must take several steps to assure an adequate supply of raw materials for the future. We must develop more fully the resources we have, even if the material, like our low grade iron ore, has some disadvantages. Emergency supplies should be stockpiled, and conservation programs developed. In foreign policy, which in recent years has focused on the big powers, more attention will have to be paid to the underdeveloped countries, as we realize how vital to us the countries are that furnish us raw materials.

We will have to redouble our efforts toward international cooperation in the exploitation and distribution of the world's resources, even though reconciling conflicting interests around the world will be difficult until many more people see the necessity of it.

In an era of resource scarcity, international economic policy must provide for access, in equal terms, to the raw materials of the world, and a major thrust of U.S. foreign policy must be to develop new international rules and procedures to assure this equal access. Import and export controls will need to be regulated and limited; interested parties must be heard before action is taken; and other more advanced steps, like long-term contracts and sharing arrangements, may be required.

International cooperation is the only conceivable basis for structuring a world economic order capable of meeting the challenge of scarce resources.

STATEMENT OF MR. SMITH ON THE PROPOSED AMENDMENT TO RULES 803 AND 804 OF THE FEDERAL RULES OF EVIDENCE

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. SMITH of New York. Mr. Speaker, I have today caused to be inserted in the CONGRESSIONAL RECORD the text of an amendment which I shall offer to H.R. 5463, the Federal Rules of Evidence, dealing with exceptions to the hearsay rule. So that other Members may consider this important matter prior to the floor debate, I would like briefly to explain the background of and reasons for this proposed amendment.

The Federal Rules of Evidence, as submitted by the Supreme Court to Congress, contained identical provisions situated at the end of rules 803 and 804—which set forth the various hearsay exceptions—to the effect that the Federal courts were empowered to admit any hearsay statement not specifically covered by any of the foregoing exceptions, if the hearsay statement were found to have "comparable circumstantial guarantees of trustworthiness." The argument for these rules was that, notwithstanding that the Federal Rules of Evidence are a code of evidence designed to be as precise and complete a statement of the law as is possible, some judicial flexibility was still needed to take account of situations which might arise that were unforeseen by the draftsmen of the code, yet where hearsay evidence was so clearly reliable that it would be unjust not to admit it.

After considering these rules, however, the Criminal Justice Subcommittee of the Judiciary Committee, with my concurrence, voted to delete them on the ground that they allowed too much judicial discretion in the hearsay area and prevented parties from preparing adequately for trial since they could not know with sufficient certainty what evidence would be admissible.

Thereafter, when the subcommittee's draft containing the omission of these proposed rules was circulated to the bar and the public, much comment was received on this issue, most of it adverse to the elimination of these provisions. Among the constructive comments which the subcommittee received were those of a special committee of the American Bar Association and a District of Columbia Bar Committee recommending reinsertion of the provisions but in a modified form designed to cure the objections that had motivated the subcommittee to delete them. It is the specific recommendation of the ABA special committee that I intend to offer as an amendment.

Under the amendment, the principal change from the court's version of these rules is that the party seeking to introduce a hearsay statement not specifically covered by an enumerated exception must give adequate notice to the adverse party of his intention to do so; thus the adverse party is enabled to prepare to meet the evidence at trial. In addition, the amendment substitutes the phrase "equivalent circumstantial probability of trustworthiness" for the court's phrase "comparable circumstantial guarantees of trustworthiness," with the word "equivalent" intended to narrow the degree of discretion exercisable by the trial judge to admit the evidence.

In my view, the proposed amendment's benefits far exceed any possible disadvantages. For example, it would permit the courts to take account of changes in technology which may render some forms of hearsay evidence, such as a lie detector test, hitherto deemed unreliable, sufficiently accurate so that their admission into evidence is proper. It is, of course, true, as opponents of the amendment may argue, that the rules of evidence can be amended to deal with presently unforeseen fact situations and technological developments, but that is of small consolation to the individual litigants whose cases first bring the problem to light. Moreover, the amendment process is cumbersome and involves the valuable time of both the judicial branch and the Congress. Particular situations will arise which are not so frequently recurring as to warrant an amendment to the rules, yet where, if the court cannot act under these general provisions to admit a hearsay statement, a party will be deprived of reliable evidence and justice may not be done. Accordingly, I urge the House to adopt this amendment.

The amendment text follows:

AMENDMENT OF MR. SMITH OF NEW YORK TO H.R. 5463: RULES 803 AND 804

In rule 803 on page 98 of the bill after line 9 and in rule 804, on page 100 of the bill after line 25, insert the following identical subdivisions numbered respectively (24) and (5): "Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial probability of trustworthiness; provided that the proponent's intention to offer the statement was made known to the adverse party sufficiently in advance of the trial or hearing to provide him with a fair opportunity to prepare to meet it."

AID AND TRADE WITH THE COMMUNISTS—II

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. LANDGREBE. Mr. Speaker, yesterday I included in the RECORD the first chapter of Eugene Lyons' booklet "Operation Suicide: Those Strange Bridges to Communism." Today I would like to insert chapter 2, "The Bridge That Failed." It is a brief historical overview of our policy of aid and trade with Communist Poland. This case history is most important in view of the position we now occupy in foreign affairs: In our eagerness to reach détente with the Communists, we are only propping up governments that are staggering under the criticism of only one man, Alexander Solzhenitsyn, who now appears to be the only anti-Communist in the world. I include chapter 2 in the RECORD at this point for the information of my colleagues:

II. THE BRIDGE THAT FAILED

With respect to the first question, it happens that we have an instructive case history at hand: the bridge we built to Red Poland more than ten years ago, long before the slogan was invented. It was exactly like those now being urged for all other communist regimes and erected, following the Posnan uprising in 1956, under far more favorable conditions than exist anywhere in the Soviet bloc today.

The sad truth is that Warsaw since then has become not less but more subservient to Moscow. In dancing to the Kremlin's tune, Poland's Gomulka is second only to East Germany's Ulbricht. He has not even dared suggest that the Soviets remove the large Red Army forces quartered on his country. At the same time the impulses to wholesome political and economic change released by Posnan and its aftermath have gone sharply into reverse. In the last two years especially the regime has stepped up repressions against freethinking in literature, the arts and education and has intensifield its harassments of the Church.

U.S. Ambassador *Jacob Beam*, on leaving Warsaw in 1964, said bluntly: "The American policy of helping the Gomulka regime surmount its economic difficulties has not led to the more liberalizing evolution in Poland which could have been expected."

Congressman *Paul Findley* of Illinois, after an intense personal study, informed the President that "Poland is more dependent upon the Soviet Union and the people have less individual freedom than was true a decade ago." Speaking in the House on January 31, 1967, he posed an all-important rhetorical question: "In Poland, freedom is in retreat . . . . Could it be that American aid worked in reverse, financing regression instead of advance?"

Professor Richard F. Staar of Emory University, an authority on Eastern Europe, writing in *Current History* (April, 1967), concluded that "most of the gains" of the Polish revolution in 1956 "have been lost."

Wladyslaw Tokocinski, former head of the Polish Mission in Berlin, is one of the most highly placed Communists to defect to the West. Testifying before a Congressional committee in April, 1966, he declared that "in the Party the hard-liners are taking the upper hand, clearly . . . . As to the general position of the Polish people, I would say that it is a general feeling of grim despair."

In short, the bridge, built at the cost of at least half a billion taxpayer dollars, has accomplished none of the things Washington now promises to achieve by the same methods in the U.S.S.R. and its satellites. It has not even bought us relief from hate-America propaganda, in which Warsaw matches Moscow. This despite the fact that our open-handed credits to Gomulka, *extending beyond the year 2000,* are in truth more *aid* than trade: the first dollar payment, due in 1967, found Poland strapped and our State Department working out face-saving devices for taking it in nearly worthless zlotys.

In a recent book on American foreign policy, *Power and Impotence,* by Edmund Stillman and William Paff, the authors remark of Poland: "Indeed, one might argue that American economic aid had the effect of stabilizing an unpopular regime's power and slowing up the process of domestic change."

They put their fingers on the central fallacy of the bridge-building doctrine. The Kremlin and its imposed regimes want access to American technology and finance. But they want it so that they can *slow down* the processes of reform and relaxation being forced upon them by economic crises and popular discontents.

U.S. policy-makers have convinced themselves that the Red tyrannies are eager to liberalize their societies. Actually, the communist oligarchs are determined to maintain the *status quo* as far and as long as they can. The limited concessions to their citizenry and some very skimpy economic revisions have been made most reluctantly and only under pressure of conditions. To the extent that we help relieve those pressures, the regimes will be able to postpone and evade genuine reforms. In the bitter struggle between Party "dogmatists" and political "liberals," Western aid therefore helps the dogmatists. It enables them to consolidate their dictatorial power and beat down the elements hoping to loosen their bonds.

The communist rulers can dilute their economic monopoly, thereby endangering their total political authority, or they can obstruct change and thereby deepen the internal opposition moods. Referring to this awkward plight, one of the most knowledgeable East European exiles, Brutus Coste, a former Romanian diplomat, wrote recently:

"Only substantial credits and aid from the West could free the communists from this dilemma. Such aid would enable the regimes to avoid reforms that would lend greater freedom to the technological and managerial elites and better living conditions to the workers at the exepnse of their own safety."

Under the impact of the popular uprising of 1956, an Economic Council was set up to diagnose Poland's ills. It proposed sweeping economic changes along Yugoslav lines. In March, 1958, Gomulka, rightly fearful that far-reaching economic reform would weaken his political grip, rejected the proposals. This he could do because assurances of massive American aid took off the heat and thus hard-liners were better able to cope with the liberalizing dangers.

Romania, on which American bridge-builders pin their most optimistic hopes, is the one communist nation today where even discussion of economic reform is outlawed. In terms of political easements, too, it remains among the most Stalinist of the satellites. Its rulers can afford to stick to a hard line, in part at least, because since 1964 they have been receiving most-favored-nation treatment and credits from the United States.

The concrete evidence is thus that American help, far from encouraging the changes we favor, operates to retard them. It strengthens the regimes against the "reformers" and, moreover, allows them to divert production from domestic needs to world-revolutionary commitments such as liberation wars. Congressman Melvin Laird was entirely right when he said that "the ability of the Soviet bloc to pursue its policy of fomenting and sustaining so-called 'wars' of liberation" will be greatly strengthened by long-term credits.

Secretary of State Dean Rusk himself, in telling a Senate committee in April, 1964, that the Soviet Union "should be forced to face up to internal readjustments," wisely warned that *"long-term credits would make it easier for the U.S.S.R. to avoid those decisions."* His point applied no less to the satellites and, if anything, is more valid today because the current trend in the entire bloc is toward tighter ideological orthodoxy and police repression.

Some "liberalizing" progress may yet be made in Communist Europe in response to internal economic troubles and popular pressures, but it would come *despite* our intrusive help to the dogmatists. American economic generosity is their best insurance against the "decisions" mentioned by Mr. Rusk.

A sober comment on the bridge-building enterprise was made recently by Brutus Coste, in collaboration with Hal Lehrman, in an article prepared for *Barron's*. "Essentially," they wrote, "the administration is proposing a kind of Marshall Plan for East Europe. The original Marshall Plan, in West Europe, used similar devices—credits, guarantees to American traders, export of U.S. technology, machinery and material resources—in order to save the economies of our allies. But in France, Italy and the others we were defending *democratic* regimes against an internal communist threat which was feeding and fattening on postwar misery. Behind the Iron Curtain we will be reducing the internal democratic 'threat' now feeding on communist-induced misery."

We should "make the most of the forces of moderation which have emerged in the Soviet Union and Eastern Europe since 1953," Dr. Rostow urged in a speech in Leeds, England, on February 23, 1967. But how do we "make the most" of the opportunity? Is it by fattening up the despots who seek to *restrain* those "forces of moderation," as Rostow and his associated bridge-builders advocate? Common sense seems to demand, on the contrary, that we encourage the liberalizing forces in economy, culture, and political life—that we build bridges to the long-suffering peoples, not over their heads to their masters. We may not be able to give them direct help at this time (other than understanding and moral support), but at least we might remain neutral, refraining from policies and actions that fortify the power of their opponents and masters.

"We need to make unmistakably clear to the communist nations in Eastern Europe," Secretary Rusk said recently, "that their best interests lie in economic development and peaceful trade, not in support of futile attempts to gain advantage through the use of force." That, alas, is putting the cart before the horse—offering them the economic help before they have shown the slightest sign of abandoning the use of force, either at home or abroad.

Auberon Waugh, writing in the *National Review* (December 27, 1966) put the matter rudely but logically: "Only an idiot would suppose that by bolstering a communist regime he could make it less communist and less of a danger to world peace." Alluding to the argument that trade and aid would spread "goodwill," he added:

"It is surely the very reverse of goodwill, indeed evidence of an almost insane malice, to underwrite a process which keeps half the world enslaved. In this matter we are in effect trying to protect our own skins, in the doubtful belief that a fat communist is less dangerous than a thin one, while simultaneously indulging our distorted appetite for the consumer product which is sold under the label of goodwill."

HOLLYWOOD HILLS HIGH SCHOOL

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. BURKE of Florida. Mr. Speaker, last Saturday, January 26, the parent-teacher council, and the student council of Hollywood Hills High School, which is located in my home town of Hollywood, Fla., which is located in my congressional district, gave a huge party at the school to honor its "Spartans." Although the name "Spartans" applies to all students, nevertheless, this occasion had another significance because the students and parents honored their athletes, band, Spartanettes, cheerleaders, students, parent organizations, and faculty.

The mayor of Hollywood, Dave Keating, proclaimed January 30, as Hollywood Hills Day.

You may wonder why this commotion. Particularly for an area that, not too many years ago, in fact, a dozen or less, was undeveloped, and covered over with scrub pine and weeds. However, as south Florida grew and developed, so did Hollywood Hills and it is now one of the very fine areas in the city of Hollywood, and for that matter, in all Broward County.

There is a reason. They did so because the Hollywood Hills High School football team proved beyond any question or doubt that they are the No. 1 football team in the State of Florida, and, in doing so, became the first Hollywood team to ever receive a State crown.

They proved themselves beyond any question or doubt as No. 1 in the AAAA Football Conference by defeating, first, all of their opponents in regular competition, and finally, by defeating Jacksonville Raines football team 22–9. There was no question in the minds of the Hollywood Hills players that they were No. 1, but when they played Jacksonville Raines, they faced a bigger line than any team they defeated during the season. The Hollywood Hills team faced tough competition before, however, since they defeated what was rated at the time, the No. 1 team in Florida, Orlando Edgewater High School 28–8, in the regional finals.

Hollywood Hills High School had a perfect record with a 13–0 win-loss record for the season. In fact, in the past two seasons Hollywood Hills football team has won 26 out of 27 games.

It is not surprising, in some respects, that Hollywood Hills would become a football power because Bill Brennan, their present principal, was at one time a coach at South Broward High School. I feel extremely close to Hollywood Hills School since I have had the pleasure of meeting a number of the students, and because Bill Brennan, and some of the other members of the faculty, have been friends for a number of years.

In addition, their outstanding coach, Dick Saltrick, taught my daughter history in junior high school.

I want my colleagues in the House of Representatives to know of the activities of this outstanding high school, and since I could not be present in person last Saturday to pay my respects to all those Spartans—athletes, band, Spartanettes, cheerleaders, students, and faculty—I am proud to do so in this fashion.

SOLAR ENERGY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. TEAGUE. Mr. Speaker, as a nation conscious of the need to conserve our precious resources, it is interesting to note that the National Aeronautics and Space Administration, which is in the forefront of new technology, is undertaking the construction of a new engineering building at the Langley Research Center which will utilize solar heating and cooling.

A recent article in the Wednesday, January 2, 1974, edition of the Newport News, Va., Daily Press discusses the plan for the new NASA building and its potential. This activity is particularly important since NASA has the technological expertise to develop, measure, and utilize such a building generating the data needed to provide similar efficient facilities for the use of the general public.

I commend this significant article to the reading of my colleagues:

[From the Newport News (Va.) Daily Press, Jan. 2, 1974]

SOLAR ENERGY TO HEAT, COOL NEW NASA ENGINEERING PLANT

The use of solar energy to heat and cool a new engineering building is planned for NASA's Langley Research Center in a practical demonstration of how alternate sources of power may help alleviate America's energy problems.

Planned for completion in mid-1975, the 53,000-square-foot Systems Engineering Building is expected to have all of its heat and some of its cooling provided by a "solar garden." Studies made at NASA's Lewis Research Center in Cleveland show solar collectors, devices that trap and absorb up to 50 per cent of the sun's energy, are feasible for heating and cooling.

Plans for the solar powered building at Langley were announced by Dr. James C. Fletcher, NASA administrator. He calls the project a non-space related dividend that shows how technology can be developed in a commercial use.

"This building, as far as we know, will be the first of its size in the world for which solar energy will provide a significant part of the building's heating and cooling load," Fletcher said.

The announcement was made during recent testimony by Fletcher before the subcommittee on energy of the House Committee on Science and Astronautics.

"A 15,000-square-foot collector is planned, since this size collector will provide most of the heating requirements, some of the cooling requirements, and test the energy storage capacity in order to obtain feasibility data on all aspects of the system.

"As these data are analyzed and the state-of-the-art advances, we will be able to expand the collector system to supply all the energy requirements for the building," Fletcher told the subcommittee.

Water-filled tubes inside about 5,000 solar collectors would absorb the sun's heat, using it for direct baseboard heating in cold weather, and to operate an absorption refrigeration unit for cooling in hot weather. The solar units will be located beside the building.

The solar-heated building is the result of two separate NASA projects. The Systems Engineering Building has long been needed to provide a central location for 300 to 350 Langley employes who now work at several sites. The one-story building will house the plant engineering, systems engineering and research facilities engineering divisions.

The second project involved a study funded by NASA's Lewis Center. Honeywell of Minneapolis, under contract to Lewis, studied several types of solar collectors to evaluate their feasibility and effectiveness. When the collectors proved to be practical, NASA management decided to demonstrate the new technology in an energy-saving application.

An additional 20,000 to 30,000 square feet of collector area would be required to provide total heating and cooling for the building. About one square foot of collector is required to heat and cool one square foot of building space.

A typical solar collector consists of a metal plate covered by glass plates or enclosed in a vacuum tube. Radiation passes through the glass and is absorbed by the metal plate. The collectors must absorb a large amount of incoming radiation and produce energy at a useful temperature.

NASA researchers hope to develop solar collectors that cost from one to three dollars a square foot and last for as long as 15 years.

Several kinds of collectors are planned at the Langley building as an experiment to develop the best type.

One type is a flat plate collector, measuring about four-by-eight feet. The surface is coated to enhance solar absorption and covered with two plates of glass. The glass acts as insulation to reduce heat loss.

Another candidate collector is an absorber inside a vacuum tube. It is about eight to 10 feet long and four inches in diameter. Sunlight passes through the glass tube and reflects off a coating on the backside. The reflected radiation is then absorbed by the surface. Much of the solar energy stays in the collector because the vacuum transfers no heat. About half the radiation entering the collector is lost, however, through re-radiation.

Both kinds of collectors contain hollow tubes filled with water. Energy retained in the collectors is enough to heat the water to more than 200 degrees Fahrenheit for use in the heating and cooling system.

The solar system will be equipped with water tanks to store excess energy for several days, ready for use during periods when sunlight is not available. Langley's central stream system will be a backup system during long sunless periods. Because of the relatively mild climate at the Langley Center, however, the steam system should be needed only a small percentage of the time.

While not a complete answer to the problem of power shortages the NASA experiment should offer a valuable demonstration of how commercial and industrial buildings can be climate-controlled through different sources of power.

Solar heating systems like the one planned for Langley may also become practical for private residences in the future. NASA and other government agencies are investigating the possibilities.

According to Fletcher, the Langley solar-powered building will test two assumptions that underlie current interest in solar energy:

First, "the use of solar energy for heating and cooling has great potential in an era of fuel shortages and environmental concern" and, second, "this potential will be realized only after practical solar energy heating and cooling systems have been demonstrated to be economically competitive with conventional systems."

THE PRESENT CRISIS

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. SARASIN. Mr. Speaker, 1973 was a year of tremendous difficulties, both domestically and internationally. Many constituents have shared their concerns, offered suggestions, agreed or disagreed with courses of action.

One of my constituents, Mr. William H. Baldwin, has sent me a poem which was written almost a century ago but is timeless in its meaning. "The Present Crisis" offers us the eternal choice between that which is noble and that which is ignoble:

THE PRESENT CRISIS

When a deed is done for Freedom, through the broad earth's aching breast
Runs a thrill of joy prophetic, trembling on from east to west,
And the slave, where'er he cowers, feels the soul within him climb
To the awful verge of manhood, as the energy sublime
Of a century bursts full-blossomed on the thorny stem of Time.

Through the walls of hut and palace shoots the instantaneous throe,
When the travail of the Ages wrings earth's systems to and fro;
At the birth of each new Era, with a recognizing start,
Nation wildly looks at nation, standing with mute lips apart,
And glad Truth's yet mightier man-child leaps beneath the Future's heart.

So the Evil's triumph sendeth, with a terror and a chill,
Under continent to continent, the sense of coming ill,
And the slave, where'er he cowers, feels his sympathies with God
In hot tear-drops ebbing earthward, to be drunk up by the sod,
Till a corpse crawls round unburied, delving in the nobler clod.

For mankind are one in spirit, and an instinct bears along,
Round the earth's electric circle, the swift flash of right or wrong;
Whether conscious or unconscious, yet Humanity's vast frame

Through its ocean-sundered fibres feels the gush of joy or shame;—
In the gain or loss of one race all the rest have equal claim.

Once to every man and nation comes the moment to decide;
In the strife of Truth with Falsehood, for the good or evil side;
Some great cause, God's new Messiah, offering each the bloom or blight,
Parts the goats upon the left hand and the sheep upon the right,
And the choice goes by forever 'twixt that darkness and that light.

Hast thou chosen, O my people, on whose party thou shalt stand,
Ere the Doom from its worn sandals shakes the dust against our land?
Though the cause of Evil prosper, yet 'tis Truth alone is strong,
And, albeit she wander outcast now, I see around her throng
Troops of beautiful, tall angels, to enshield her from all wrong.

Backward look across the ages and the beacon-moments see,
That, like peaks of some sunk continent, jut through Oblivion's sea;
Not an ear in court or market for the low foreboding cry
Of those Crises, God's stern winnowers, from whose feet earth's chaff must fly;
Never shows the choice momentous till the judgment hath passed by.

Careless seems the great Avenger; history's pages but record
One death-grapple in the darkness 'twixt old systems and the Word;
Truth forever on the scaffold, Wrong forever on the throne,—
Yet that scaffold sways the future, and, behind the dim unknown,
Standeth God within the shadow, keeping watch above his own.

We see dimly in the Present what is small and what is great,
Slow of faith how weak an army may turn the iron helm of fate,
But the soul is still oracular; amid the market's din,
List the ominous stern whisper from the Delphic cave within,—
"They enslave their children's children who make compromise with sin."

Slavery, the earth-born Cyclops, fellest of the giant brood,
Sons of brutish Force and Darkness, who have drenched the earth with blood,
Famished in his self-made desert, blinded by our purer day,
Gropes in yet unblasted regions for his miserable prey;—
Shall we guide his gory fingers where our helpless children play?

Then to side with Truth is noble when we share her wretched crust,
Ere her cause bring fame and profit, and 'tis prosperous to be just;
Then it is the brave man chooses, while the coward stands aside,
Doubting in his abject spirit, till his Lord is crucified,
And the multitude make virtue of the faith they had denied.

Count me o'er earth's chosen heroes,—they were souls that stood alone,
While the men they agonized for hurled the contumelious stone,
Stood serene, and down the future saw the golden beam incline
To the side of perfect justice, mastered by their faith divine,
By one man's plain truth to manhood and to God's supreme design.

By the light of burning heretics Christ's bleeding feet I track,
Toiling up new Calvaries ever with the cross that turns not back,
And these mounts of anguish number how each generation learned
One new word of that grand *Credo* which in prophet-hearts hath burned
Since the first man stood God-conquered with his face to heaven upturned.

For humanity sweeps onward; where to-day the martyr stands,
On the morrow crouches Judas with the silver in his hands
Far in front the cross stands ready and the crackling fagots burn,
While the hooting mob of yesterday in silent awe return
To glean up the scattered ashes into History's golden urn.

'Tis as easy to be heroes as to sit the idle slaves
Of a legendary virtue carved upon our fathers' graves,
Worshippers of light ancestral make the present light a crime;—
Was the Mayflower launched by cowards, steered by man behind their time?
Turn those tracks toward Past or Future, that make Plymouth Rock sublime?

They were men of present valor, stalwart old iconoclasts,
Unconvinced by axe or gibbet that all virtue was the 'Past's
But we make their truth our falsehood thinking that hath made us free,
Hoarding it in mouldy parchments, while our tender spirits flee
The rude grasp of that great Impulse which drove them across the sea.

They have rights who dare maintain them; we are traitors to our sires,
Smothering in their holy ashes Freedom's new-lit altar-fires;
Shall we make their creed our jailer? Shall we, in our haste to slay,
From the tombs of the old prophets steal the funeral lamps away
To light up the martyr-fagots round the prophets of to-day?

New occasions teach new duties; Time makes ancient good uncouth;
They must upward still, and onward, who would keep abreast of Truth:
Lo, before us gleam her camp-fires! we ourselves must Pilgrims be,
Launch our Mayflower, and steer boldly through the desperate winter sea,
Nor attempt the Future's portal with the Past's blood-rusted key.

JAMES RUSSELL LOWELL, *1819–1891.*

CITIZENSHIP FOR CHALIDZE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ASHBROOK. Mr. Speaker, Alexander Solzhenitsyn is both a man of great courage and a symbol of those thousands and even millions of Soviet citizens who refuse to accept the deception that is communism. In the words of Solzhenitsyn:

> Everyone must decisively stop cooperating with the lie everywhere he sees it himself: where they try to force him to speak, write, quote or sign or simply to vote or even to read. In our country [Soviet Union] the lie has become not just a law category but a pillar of the State. In breaking with the lie, we perform a moral act, not a political one and not one that can be punished by criminal law—but an act that would immediately have an effect on our way of life.

With these words Solzhenitsyn has laid bare the basis of the Soviet state. He has also shown the way for many in the West to become aware of the designs of the Soviet Union upon other nations and upon the freedom of all.

Though at the present time we can give little more than verbal support to the efforts of Solzhenitsyn, there is something more concrete that can be done to show support for those who have presently or have in the past spoken out for freedom in the Soviet Union. This is to support legislation that would strike down some of the time barriers to Valery Chalidze in obtaining his American citizenship.

Mr. Chalidze, now a resident of the United States, while in the Soviet Union was in the forefront of the efforts to bring justice to Soviet citizens and to the Soviet system. He was a founder of the Committee for Human Rights. While in Moscow, Chalidze defended other well-known Soviet dissidents such as Grigorenko, Medvedev, and Piminov. In his one-room Moscow apartment he gave an interview to a Western newsman in which he stated his goal was "to implement the rights of man in this country [Soviet Union]." The secret police met his efforts with attempts at intimidation. His phone calls and mail were interrupted and the Soviet secret police made a number of visits to his residence. As Chalidze has said, "The Soviet Union does not persecute for thoughts or convictions—only for expression of them."

While Soviet officials could not stop Chalidze from speaking out while he was in the Soviet Union, they did find a way to make sure that he did not return. After receiving governmental permission to leave the Soviet Union to lecture in the United States, the Soviet Government turned around and removed his citizenship leaving him a person without a country. It is this event that I am attempting to change with the introduction of a private bill for the relief of Valery Chalidze. This private bill, if passed, will result in the legally required periods of physical presence within the United States being considered satisfied thus allowing Mr. Chalidze to become a naturalized citizen as he has expressed an interest in doing.

Mr. Chalidze has written of the dangers of friendship with the Soviet Union at any price. He has expressed the danger of a "vogue for friendship at any price, a vogue which is not dictated by real striving for peace and mutual understanding but instead is simply useful to mask indifference." My bill will show that the United States extends a welcome hand to those who have fought for freedom in other lands and who have repaired to our land. It will also show the citizens of the Soviet Union and of the world that we in the United States continue to advocate freedom and justice.

Valery Chalidze has asked to become

a U.S. citizen. Let us not turn our backs on him as the American Government turned its back 3 years ago on that Lithuanian seaman Simas Kudirka, who sought asylum on an American ship off New England but was brutally returned to the Soviet ship where he was bound and beaten. Let us not make the same mistake today. Let us not callously turn our backs on the plight of the Soviet dissidents. Let us give them our encouragement. As the Soviet dissidents have earned our respect, Chalidze has earned our citizenship.

The following is the text of the bill (H.R. 12445) that I have introduced:

H.R. 12445

A bill for the relief of Valery Chalidze

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Valery Chalidze shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and, notwithstanding the provisions of section 310(d) of that Act, he may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Nationality Act.

IMPEACHMENT AND GOVERNMENT FUNCTIONING

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. McCLOSKEY. Mr. Speaker, as the debate on impeachment continues, one argument against impeachment has been that it will hamper the proper functioning of Government.

The President's determined refusal to allow the public to learn the truth, however, has had perhaps an even more deleterious impact on governmental efficiency.

In yesterday's Wall Street Journal, reporter Norman C. Miller described this impact in concise terms, I commend his article to those who fear the dangers of impeachment:

[From the Wall Street Journal, Jan. 30, 1974]

Government Agencies Struggle To Keep Going in Face of Watergate

(By Norman C. Miller)

Washington.—At the Department of Transportation there is a public-relations man who used to make sure President Nixon's name was featured in press releases. He has stopped that. "I wouldn't want to give our programs a bad name," he explains.

At the Securities and Exchange Commission, a high official reacts scornfully when asked if the White House influences important staff appointments as it once did. "Right now, the worse thing the White House can do is recommend anyone for a job—it would be the instant kiss of death," he declares.

At the White House itself, occasional criticism of the President breaks into the open, William Eberle, the President's top trade adviser, recently signed a statement by a group of businessmen deploring Mr. Nixon's handling of the Watergate scandal.

"The public has witnessed a dizzying revelation of scandal, corruption and wrongdoing in very high places," declared a unit of the Committee for Economic Development, of which Mr. Eberle is a member. "The doubt and suspicion in the public mind as a result must be erased" by the "fullest possible disclosure" by Mr. Nixon, the group said. "The President of the United States must be above reproach," it added.

What if Mr. Nixon objects to a Cabinet-level appointee's participation in this public rebuke? "I don't think anyone should take offense at an effort to begin a dialogue" on ways to remedy Watergate misdeeds, Mr. Eberle says coolly.

HOW TO COPE

Thus, an independent, often contemptuous attitude toward President Nixon now pervades his own administration at levels high and low. It is a consequence, of course, of the Watergate scandals that refuse to go away despite Mr. Nixon's efforts. In a shell-shocked officialdom that is long past surprise or outrage about White House horror stories, aiming barbs at the President is a common way of coping.

Moreover, the sour mood is having a tangible and deepening effect on the workings of government, although Wall Street Journal reporters find a strikingly uneven pattern in making the rounds of Washington power centers. Some agencies have almost ceased to function purposefully, at least partly because there isn't any direction from a Watergate-obsessed White House. Others are seizing on that very lack of direction to strike out on their own, sometimes in direct conflict with Nixon desires. Still others, including the entire foreign-policy and defense apparatus, continue to accomplish Nixon-designed objectives despite Watergate brushfires within their perimeters.

The Labor Department is one agency suffering Watergate-related paralysis. "Everybody is just turning the engine over once a week to make sure the block doesn't freeze," one official says. Vast provinces of the Health, Education and Welfare Department, including key medical and education agencies, are drifting aimlessly. John Sherman, the No. 2 man at the National Institutes of Health, reflects a prevailing mood as he quits. "The atmosphere is one of gloom, if not despair," he says.

THE MAJOR ISSUE: "SURVIVAL"

At the Housing and Urban Development Department, a veteran community-development specialist complains: "You knock yourself out on a policy paper, pointing out and clarifying the options, and then it doesn't make any difference because you don't get any direction from the White House and nothing is settled." An official of the White House Office of Telecommunications Policy has the same problem. "The leadership void is tremendous," he says. The President and his top aides "are just struggling with the broad issue—survival," he believes.

While some bureaucracies stagnate, more active agencies treat the White House as a hostile power—and get away with it. The Consumer Product Safety Commission tells the White House to keep hands off its budget and staff appointments, maintaining that it is responsible only to Congress. "Something like this wouldn't have happened or at least it wouldn't have come out in public—if it hadn't been for Watergate," a frustrated Nixon loyalist complains.

At the Environmental Protection Agency, officials openly fight to persuade Congress to reject White House recommendations for relaxation of clean-air laws. "The Office of Management and Budget sent the message to the Hill without bothering to clear it with us, so we said, 'Forget it, we'll ignore it,'" an EPA official says.

Amid such infighting, it is often hard to get much accomplished. Robert Sansom, a top EPA official, quit this Monday partly because of White House failure to resolve numerous conflicts EPA has had with other agencies. He cites "the frustration of trying to participate in the formulation of national policy while the country is burdened with Watergate."

SAXBE'S INDEPENDENCE

At the badly battered Justice Department, new Attorney General William Saxbe takes pains to emphasize his independence. Asked if it is significant that his swearing-in was held without the President in attendance, Mr. Saxbe replies, "Yes." He says his top goal is to dispel Watergate-created cynicism that "the fix is on"—a cynicism that reaches into the Justice Department itself. Such cynicism is indicated by a favorite joke among staffers: "If the Attorney General calls, get his name."

In some agencies, there is more or less open sabotage of a once-powerful White House campaign to spread Nixon loyalists throughout the bureaucracy. Thus an effort to load up the Census Bureau with people picked by the White House is dead. "There's a large stack of applications being held up—they're on a career man's desk—and he just isn't going through with placing them anymore," a high bureaucrat says.

Yet several of the most important governmental branches carry on effectively. Certainly, the long-dormant State Department shows new life since the arrival of Henry Kissinger as the boss. And, of course, Mr. Kissinger brought home a glowing achievement for Nixon policy when he helped still the guns in the Mideast and disengage warring troops, perhaps setting the stage for a real relaxation of Arab-Israeli tensions.

At the Pentagon, tough-minded James Schlesinger is confidently adding billions to the military budget in keeping with Nixon doctrine that détente with the Soviet Union is practical only if the Russians are impressed by U.S. military might. Indeed, preoccupation with Watergate may give Defense Secretary Schlesinger an ironic advantage in steering weapons increases through Congress. "The Pentagon is no longer the fashionable liberal target" now that the focus is on the impeachment issue, a high official says.

At the Treasury and other economic agencies, officials argue convincingly that Watergate hasn't hampered their policy actions on wage-price controls and the like. And at the supercharged Federal Energy Office, William Simon's crew cranks out regulation after regulation in an effort to manage fuel shortages.

WATERGATE AND ENERGY

Still, even the fast-charging Mr. Simon finds himself running into Watergate-related problems that stump him. Widespread public suspicion of a "phony" oil shortage is "absolutely a major effect of Watergate," he says. And the Watergate climate makes it hard to convince people that the administration is competent to handle the energy crisis. For instance, after the Interior Department's Under Secretary John Whitaker spoke to a group of state officials recently, the department got this letter from Pat Moran, an Arkansas fuel-allocation official:

"Secretary Whitaker delivered an absolutely ridiculous speech (although it was mercifully short) in which he sought to convince the audience that President Nixon had seen the present fuel shortage coming for years and that it was the Congress who was at fault for failing to act. Please spare us any more under secretary's speeches about how the present administration is on top of our energy problem. I don't believe we can stand it (literally)."

At the Pentagon, some officials worry that a Watergate-weakened President, eager to show arms-reduction progress, could be tempted to make unnecessary concessions to the Russians in coming negotiations. Similarly, Treasury officials worry that Mr.

Nixon may be too weak to fend off economic-policy initiatives by congressional Democrats. "If we were in better shape, we'd have much more influence on Congress," one economic official says.

Even Secretary Kissinger finds Watergate marring his announcements of Nixon diplomatic triumphs. Over and over, he has to tell skeptics that the President still is running foreign policy and hasn't forfeited control to the Secretary himself. And Mr. Kissinger has to keep denying what he calls "outrageous" rumors—like a report last week that he had told two Israeli diplomats that the President will leave office within six months.

CHECKING THE RUMORS

Indeed, Washington is continually awash in bizarre rumors, and after months of bizarre but accurate Watergate revelations, nothing is automatically discounted. Thus, the special Watergate prosecutor's office recently sent an investigator halfway around the world to check one farfetched tale. The story was that a clandestine Army group had been established at Fort Devens, Mass., to doctor White House Watergate tapes. One of the soldiers supposedly involved had been transferred to Thailand by the time the prosecutors picked up the rumor. So they sent a sleuth to Thailand to interview him; the soldier convinced the investigator that the story was false.

Nowhere are rumors more rife than on Capitol Hill, where some House members and aides already have laid their bets in pools guessing the exact date of President Nixon's resignation. The resignation speculation is rampant despite Mr. Nixon's insistence that he will never do it. "I'm saying that resignation for health sometime in the future could be an honest one," says Rep. Edwin Eshleman, a conservative Pennsylvania Republican. On what basis? "Just a feeling," the Congressman replies.

The resignation talk reflects a fervent congressional wish for an easy way out of the looming impeachment crisis. Republicans fearing that they will be wiped out in the fall elections, are unhappiest of all, although not yet ready to take the traumatic impeachment step. In their desperate search to somehow escape the Nixon burden short of impeachment some Republicans make rather far-out proposals.

Freshman GOP Rep. Samuel Young of Illinois, for instance, suggests a way for the President to sort of disappear from the raging domestic scene. His idea: Mr. Nixon should confine himself to foreign affairs and delegate "day-to-day affairs of domestic government to Vice President Gerald Ford."

THE HOAX OF THE VINLAND MAP

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ANNUNZIO. Mr. Speaker, last week Yale University announced that the Vinland map is a hoax and a forgery.

This revelation comes a little more than 8 years after the same respected university had announced, on the basis of the map's discovery in 1965, that Leif Ericson allegedly had beaten Christopher Columbus to North America by at least half a century.

When existence of the Vinland map and its purchase by Yale University first became known, I discussed it here on the House floor and declared at that time the map was a fraud because no evidence could be found to prove its authenticity.

In 1966, the distinguished Justice Michael A. Musmanno of the Supreme Court of Pennsylvania, a graduate of five universities and a jurist of note who is now deceased, published a slim but powerful and highly enlightening volume, "Columbus Was First." In this book, Justice Musmanno gave a devastating analysis of so-called documentary proof offered by Yale in support of the Vinland map and concluded it was a complete hoax and only the renowned Genoese Adm. Christopher Columbus is entitled to be called Discoverer of America.

Prophetically, Justice Musmanno ends one of the chapters in his book:

> And might not the Yale Library, someday, be very cross when it finds out what it bought?

Indeed, might not the entire world be very cross over this hoax that was perpetrated upon all of us? It is a sad commentary on our educational system when a respected institution of higher learning, Yale University, allows its name to be used in connection with a forgery. Of course, this isn't the first time that a forgery has been uncovered and brought to light—for instance, Piltdown man in 1953 was proven to be a brazen forgery—but what is of tremendous concern to me is that as time goes on it becomes increasingly more commonplace to find fraud in every facet of life involving not only America and Americans, but people all over the world.

It is no wonder that our young people who are graduating from institutions of higher learning are disassociating themselves from "the establishment" and no longer know what to believe, for the values imparted to us in school days are being challenged and discredited on every side.

The highly respected historian, Samuel Eliot Morison, said that the Vinland map "has been used as a stick to beat down the reputation of Columbus." He also termed Columbus' discovery of America as "the most spectacular and far-reaching geographical discovery in recorded human history."

Mr. Speaker, the hoax of the Vinland map should not be forgotten, for attempts are constantly being made to discredit the time-proven and fact-proven contents of our history books, and especially to discredit the notable contributions that have been made by all peoples to the growth and development of our culture.

Let us remain ever vigilant against these unwarranted attacks and let us reserve a rightful place in history to recognize the creative achievements and enduring contributions of all nations and all ethnic groups to the advancement of civilization in our world.

Mr. Speaker, at this point in the CONGRESSIONAL RECORD I include an article from the January 27 edition of the Washington Post entitled: "Yale Says Vinland Map May be a Fake." The article follows:

YALE SAYS VINLAND MAP MAY BE A FAKE

(By Tom Zito)

The Vinland Map, whose announced discovery in 1965 seemed to indicate that Viking explorer Leif Ericson had beaten Christopher Columbus to North America by at least a half-century, appears to be a hoax, Yale University announced yesterday.

The revelation came yesterday in a release from the Yale University Library where the 11-by-16-inch parchment rendition in brown ink including northeastern North America, Greenland and Iceland has reposed since 1965 when an anonymous donor, believed to be Paul D. Mellon, bought the map from a Connecticut antique book dealer for a price reported as high as $260,000.

In making public the accession three days before Columbus Day, the university called the Vinland Map "the most exciting cartographic discovery of the century."

Now, almost 8½ years later, Yale reported "that the famous Vinland map may be a forgery."

Yale said that after two years of tests made possible by new methods of "chemical analysis only recently developed," the ink used in drawing the map appears to be "indistinguishable from commercial pigment . . . first made during the 1920s."

Test director Walter McCrone, president of McCrone Associates, the Chicago firm that examined the ink with various electron microscope techniques, told Reuter news service, "It's a titanium dioxide pigment not developed until 1920.

"This pigment was used to make the map. The answer to the forgery was as simple as that," McCrone said.

McCrone's methodology and results were reviewed by Dr. Kurt Heinrich of the National Bureau of Standards, known for his work in small particle analysis, the method used to date the map's ink.

Announcement of the map's acquisition by Yale in 1965 immediately caused cultural and scientific history shock. A Pennsylvania judge accused the university of flinging "metamophorical mud" at the Columbus image that would make school children doubt what they had been taught about Caesar, Socrates and Copernicus. The Norse considered it evidence to bolster Ericson's fading image. And the Smithsonian Institution in 1966 brought together scholars from around the world, whose opinions were published five years later in a volume, "Proceedings of the Vinland Map Conference."

The British in 1966 criticized the map on several counts. G. R. Crone of the Royal Geographic Society said the book's writing style simply didn't match that of the period (1431–1449) from which it was claimed to date. Prof. Eva Taylor said the map's rendition of Greenland was too exact to pre-date the 19th century.

Studies also indicated that the two books in which the map had been sandwiched—"The Tartar Relation" and "The Speculum Historiale"—were of a different script and done in different ink than that of the Vinland Map.

Tests conducted by McCrone showed that inks from the two were similar and, when compared with other 15th century manuscripts, were determined to be "almost certainly authentic. But the ink on the Vinland Map was discovered to be different from the inks used on the two documents with which it was bound."

Lawrence Witten, the American bookdealer who sold the map, said he acquired it in 1957 from a Spanish book dealer, Enzo Ferrajoli de Ry, now deceased, for many years a resident of Barcelona. The person who sold it to Ferrajoli is alleged, according to Yale's release, to have claimed that the map had been in his family for two or more generations.

"There's always the possibility that someone will challenge these findings and we don't mind," Library Director Rutherford Rogers told the Associated Press. "The evidence, however, seems to be pretty strong that this ink is 20th century."

Next Monday, Yale said its Beinecke Rare Book Library will put the Vinland Map on display.

"Scholars don't think in these terms, but the thing is going to be a fantastic curiosity now," said Steven Kezerian, director of the university's news bureau. "Several of us decided that the best way to protect the library from the hundreds of requests it'll obviously get about the map was to put it on display."

CONGRESSMAN WILLIAM LEHMAN AND THE BLACK COMMUNITY

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. YOUNG of Georgia. Mr. Speaker, it is most encouraging to see Congressmen like BILL LEHMAN take an assertive role on so many matters of interest to the black community—both by his voting record on the floor of the House of Representatives and with the bills he has sponsored.

During his first year in Congress, BILL LEHMAN has worked closely with my colleagues on the Congressional Black Caucus regarding legislation which affects black Americans all across this country.

On more than 50 major rollcall votes of the House in 1973, BILL LEHMAN has clearly demonstrated his concern for black America.

Along with cosponsoring numerous bills with members of the Black Caucus, BILL LEHMAN has worked with national and local civil rights organizations such as the Urban League; the Southern Christian Leadership Conference, SCLC; and the National Welfare Rights Organization, NWRO.

On almost every issue that counts to black Americans, BILL LEHMAN has respected and met the legitimate needs and expectations of his black constituents.

During the 1st session of the 93d Congress, BILL LEHMAN sponsored a number of bills with members of the Congressional Black Caucus. These include:

CIVIL RIGHTS

H.R. 4846.—Establishment of voter registration administration with Congressman CHARLES RANGEL of New York.

FOREIGN AFFAIRS

House Joint Resolution 268.—Forbids any government contracts to U.S. firms whose subsidiaries engage in unfair employment practices in South Africa with Congressman CHARLES DIGGS of Michigan.

H.R. 8573 and H.R. 7574.—Prohibition on exporting herbicides to South Africa and Portugal with Congressman CHARLES RANGEL of New York.

ECONOMIC OPPORTUNITY

H.R. 6566.—Requires Congress to approve the Office of Economic Opportunity cuts before they are made by the Nixon administration with Congressman AUGUSTUS HAWKINS of California.

House Concurrent Resolution 175.—Approves the continuation of Office of Economic Opportunity programs with Congressman AUGUSTUS HAWKINS of California.

SOCIAL SERVICES

H.R. 4564.—Eases disability insurance eligibility requirements with Congressman LOUIS STOKES of Ohio.

H.R. 6222.—Expands and increases money for the Family Planning and Population Research Act with Congressman RONALD DELLUMS of California.

KEY VOTES

On the following key votes affecting the black community, BILL LEHMAN voted with the Congressional Black Caucus each time:

Rollcall 32.—H.R. 4278 amends the National School Lunch Act to assure that Federal assistance to each child is maintained for child nutrition programs for the coming fiscal year. March 5, 1973, "yes."

Rollcall 45.—H.R. 71 strengthens and improves the Older Americans Act. March 13, 1973, "yes."

Rollcall 105.—House Resolution 360 provides for consideration of a bill continuing the funding for the Emergency Employment Act for only 2 years. April 18, 1973, "no."

Rollcall 108.—S. 50 strengthens and improves the Older Americans Act. Vote to concur in the Senate amendment to the less liberal House amendment. April 18, 1973, "yes."

Rollcall 169.—H.R. 7806 extends through June 30, 1974, appropriations in the Public Health Service Act, Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act. May 31, 1973, "yes."

Rollcall 190.—H.R. 7935 increases the minimum wage rates. Expands the coverage to include thousands of domestic workers as well as youths. June 6, 1973, "yes."

Rollcall 197.—H.R. 2246 amends the Public Works and Economic Development Act to extend authorizations for a year. Agreement to the conference report. June 8, 1973, "yes."

Rollcall 255.—Amendment that would permit individuals to bring suit against the Legal Services Corporation and recover costs in case of favorable rulings. This was clearly aimed at reducing the number of suits filed by legal services attorneys for fear of costs being levied against them if they lost the suit. June 21, 1973, "no."

Rollcall 257.—Amendment to the legal services bill that restricts from partisan or nonpartisan activities all lawyers who earn 1.3 percent of their income from the program. This would prevent even part-time attorneys from participating in political activities. June 21, 1973, "no."

Rollcall 260.—Amendment to legal services bill to send it back to committee, effectively killing the bill. June 21, 1973, "no."

Rollcall 262.—H.R. 7824. Final passage of the Legal Services Corporation bill. June 21, 1973, "yes."

Rollcall 271.—H.R. 8825, providing for appropriations for the Department of Housing and Urban Development. June 22, 1973, "yes."

Rollcall 287.—House Resolution 455, provides appropriations for the Departments of Labor and Health, Education, and Welfare and related agencies including the Office of Economic Opportunity and Headstart programs. June 26, 1973, "yes."

Rollcall 290.—H.R. 8877. Amendment to the HEW and Labor appropriations bill which seeks to reduce funds for OEO. June 26, 1973, "no."

Rollcall 291.—H.R. 8877. Amendment to the HEW and Labor appropriations bill seeking to reduce funds in 26 sections of the bill. June 26, 1973, "no."

Rollcall 292.—H.R. 8877. Amendment to HEW and Labor appropriations bill seeking to increase funds for bilingual education programs. June 26, 1973, "yes."

Rollcall 294.—H.R. 8877. Amendment to HEW and Labor appropriations bill which seeks to reduce funds in 26 sections of the bill by $600 million. June 26, 1973 "no."

Rollcall 295.—H.R. 8877. On final passage of the bill making appropriations for the Departments of Labor and Health, Education, and Welfare and other agencies including the Office of Economic Opportunity and Headstart program. June 26, 1973, "yes."

Rollcall 365.—H.R. 8538 would extend authorization for the Corporation for Public Broadcasting for television and radio Broadcasting facilities. CLAY of Missouri amendment to insure compliance with civil rights regulations and forcing increased participation of minorities on boards and in station personnel. July 20, 1973, "yes."

Rollcall 395.—H.R. 9360. Passage of the Foreign Assistance Act which includes $30 million for famine and disaster relief to the African Sahel. July 25, 1973, "yes."

Rollcall 398.—H.R. 9360. Amendment by YOUNG of Georgia providing for a quarterly analysis of funds going to Portugal. This is to make sure that the President does not permit the money to be used for military purposes, especially against Portugal's African colonies. July 26, 1973, "yes."

Rollcall 408.—H.R. 9286. Military procurement. Amendment by DELLUMS of California to reduce U.S. troop levels oveseas. July 31, 1973, "yes."

Rollcall 428.—Conference report in bill to increase the minimum wage. August 3, 1973, "yes."

Rollcall 430.—S. 1888 to amend the Agriculture Act to assure consumers of plentiful supplies of food and fiber at reasonable prices. August 3, 1973, "yes."

Rollcall 441.—H.R. 8547. To amend the Export Administration Act to protect domestic economy from drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand. September 6, 1973, "yes."

Rollcall 449.—A vote to override the President's veto of the emergency medical services bill providing assistance in planning, research and training projects for systems for the effective provision of emergency health care services. September 2, 1973, "yes."

Rollcall 450.—H.R. 7974. To amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations. September 12, 1973, "yes."

Rollcall 455.—H.R. 9639. Amendment to the National School Lunch and Child Nutrition Act to delete the section of the bill which raises reimbursement by the Federal Government for school lunches from 8 cents per lunch to 10 cents. September 13, 1973, "no."

Rollcall 456.—H.R. 9639. Amendment to the School Lunch Act to provide additional Federal financial assistance to the school lunch and school breakfast programs. September 13, 1973, "yes."

Rollcall 459.—H.R. 8070. Conference report to authorize grants for vocational rehabilitation services. September 18, 1973, "yes."

Rollcall 465.—A vote to override the Presidential veto of the minimum wage bill. October 3, 1973, "yes."

Rollcall 483.—H.R. 981. Revision of the Immigration Act which would allow the entrance of political refugees from all countries including Haiti. September 26, 1973, "yes."

Rollcall 495.—Amendment to the Urban Mass Transportation Act to delete provisions for Federal funding of operating expenditures of mass transportation systems. October 3, 1973, "no."

Rollcall 496.—Amendment to the Urban Mass Transportation Act to increase the total amount authorized for assistance. October 3, 1973, "yes."

Rollcall 512.—H.R. 9682. To provide self-government for the District of Columbia. October 10, 1973, "yes."

Rollcall 544.—H.R. 10586. To authorize use of health maintenance organizations in providing health care. October 23, 1973, "yes."

Rollcall 552.—H.R. 10956, the Emergency Medical Services Systems Act of 1973. October 25, 1973, "yes."

Rollcall 560.—H.R. 8219. Authorizes the President to extend special privileges and immunities to the Organization of African Unity. November 6, 1973, "yes."

Rollcall 561.—H.R. 10937. Extends the life of the Watergate grand jury. November 6, 1973, "yes."

Rollcall 563.—House Joint Resolution 542. Override of President Nixon's veto of the War Powers Act limiting the capacity of the President to introduce, employ, or commit U.S. Armed Forces into hostile areas. November 7, 1973, "yes."

Rollcall 564.—H.R. 11104. Adoption of an increased temporary limit on the public debt without consideration of an immediate 7 percent social security increase for the elderly. November 7, 1973, "no."

Rollcall 577.—H.R. 8916 appropriates funds for certain Federal agencies including the Commission on Civil Rights, Equal Employment Opportunity Commission and Small Business Administration. November 13, 1973, "yes."

Rollcall 592.—H.R. 11333 provides for a 7-percent increase in social security benefits beginning in March 1974, payable in April, and an additional 4-percent raise beginning in June 1974, payable in the July 1974 check. November 15, 1973, "yes."

Rollcall 601.—H.R. 11010. Amendment by the gentleman from California, Mr. Hawkins, to increase funds for manpower training. November 28, 1973, "yes."

Rollcall 602.—H.R. 11010. Passage of the Comprehensive Manpower Act. Programs under this act include public employment services, opportunities industrialization centers, and Office of Economic Opportunity job training programs. November 28, 1973, "yes."

Rollcall 605.—H.R. 11575. Amendment by the gentleman from California, Mr. Dellums, to restore funds cut from the race relations and equal opportunity programs of the Department of Defense. November 29, 1973, "yes."

Rollcall 622.—H.R. 8877, approves funding for Headstart, Office of Economic Opportunity programs and Departments of Labor and Health, Education and Welfare. December 5, 1973, "yes."

Rollcall 628.—H.R. 7130. Amendment would eliminate the anti-impoundment provisions from the budget control bill. December 5, 1973, "no."

Rollcall 629.—H.R. 7130. Amendment declares that both Houses of Congress must disapprove an impoundment action by the President. December 5, 1973, "no."

Rollcall 631.—H.R. 7130 provides for a budgetary control system in the Congress with strong anti-impoundment provisions. December 5, 1973, "yes."

Rollcall 662.—H.R. 11450. Amendment to the Energy Emergency Act to prohibit the allocation of fuel for busing. December 13, 1973, "no."

Rollcall 669.—H.R. 11450. Amendment to the Energy Emergency Act to permit the allocation of fuel for school-board-ordered busing. December 14, 1973, "yes."

SPONSORED LEGISLATION

Although still a freshman Congressman, Bill Lehman already has a distinguished record in offering and supporting legislation that directly affects the lifestyle of black Americans. In his first year, he has sponsored more than 50 measures of direct concern to blacks.

Among them:

ARTS AND HUMANITIES

H.R. 3926.—To extend the National Foundation on the Arts and the Humanities.

BUSINESS AND INDUSTRY

H.R. 6752.—To aid cities and businesses in urban industrial development.

H.R. 8288.—To allow nonprofit organizations to get small business loans.

CIVIL RIGHTS

House Joint Resolution 268.—To require fair employment in South Africa for U.S. firms seeking Federal contracts.

H.R. 4846.—Establish postcard voter registration system.

H.R. 7956.—Tighten the age discrimination law and apply it to all Government employees.

H.R. 9563.—Protect citizens' financial privacy.

H.R. 10613.—Restrict inspection of tax returns.

COMMUNITY DEVELOPMENT

H.R. 424.—Make cities eligible for technical services aid.

H.R. 3220.—Establish community planning programs for small communities.

H.R. 4822.—Extend the Economic Development Act.

H.R. 6317.—Create a Federal Disaster Insurance Corporation.

CONSUMER

H.R. 3705.—Require date labeling on perishable food.

DRUG ABUSE

H.R. 10295.—Control international drug traffic through the use of trade policy.

EDUCATION

H.R. 2559.—Provide home tutors for handicapped children.

H.R. 3212.—Establish a comprehensive child development program.

H.R. 3826.—Extend vocational rehabilitation grants.

H.R. 4055.—Expand the Headstart program.

H.R. 4228.—Improve child care personnel training.

H.R. 7186.—Allow a tax credit for higher education.

House Joint Resolution 670.—Establish a national education policy.

H.R. 10049.—Promote community education.

FOREIGN AFFAIRS

House Joint Resolution 486.—End involvement in Cambodia.

H.R. 8005.—Halt import of Rhodesian chrome.

H.R. 8574.—Ban sale of herbicides to Portugal and South Africa.

HEALTH

H.R. 2712.—Include drug costs under Medicare.

H.R. 10754.—Establish National Health Insurance.

HOUSING

H.R. 1998.—Provide tax deduction for home improvements.

H.R. 3526.—Provide tax deduction for tenants.

INFLATION

H.R. 3709.—Stabilize meat prices.

H.R. 4792.—Establish Rent Control Board.

House Resolution 341.—Establish Committee on Food Costs.

H.R. 11074.—Regulate food exports.

JUSTICE AND CRIME

H.R. 4962.—Create a Legal Services Corporation.

H.R. 6212.—Guarantee the continuation of legal services programs.

House Resolution 665.—Investigate grounds for impeachment of President Nixon.

H.R. 11700.—Provide compensation for victims of crime.

LABOR

H.R. 1416.—Provide public service jobs for the unemployed.

H.R. 7597.—Require migrant labor contractor registration.

H.R. 11070.—Establish a migrant labor office within HEW.

SENIOR CITIZENS

H.R. 4534.—Strengthen the Older Americans Act.

H.R. 6245.—Provide property tax credit for the elderly.

H.R. 7085.—Ease limits on social service grant aid to the aged, blind and disabled.

H.R. 7957.—Provide care for the elderly in their own homes.

H.R. 11105.—Improve nutrition of elderly.

H.R. 10238.—Provide for social security cost of living increase.

SOCIAL SERVICES

H.R. 3216.—Provide a tax deduction for home child care expenses.

H.R. 4242.—Extend maternal and infant care grants.

H.R. 5515.—Tax deduction for dependent care services.

H.R. 5627.—Stop implementation of new HEW regulations which would limit social service programs.

H.R. 5704.—Allow government grantees the use of excess Federal property.

H.R. 6332.—Extend public health programs.

H.R. 6566.—Require congressional approval of cuts in the Office of Economic Opportunity.

House Concurrent Resolution 175.—Approve the continuation of the Office of Economic Opportunity.

TAXES

H.R. 968.—Tax reform—close tax loopholes.

TRANSPORTATION

H.R. 3344.—Open the highway trust fund for mass transit.

H.R. 11917.—Tax credit for public transit fares.

BIG PROBLEMS WITH MANDATORY ALLOCATION PROGRAM

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. McKINNEY. Mr. Speaker, there is no question that certain areas of the Nation are suffering severe hardships under the petroleum allocation program which went into effect on the 15th of this month. I would like to alert my colleagues to the problems I have encountered in Connecticut and the actions I have taken to meet these problems.

According to the mandatory allocation regulations for gasoline, every gasoline retailer is limited to purchasing gas from his supplier at an adjusted level based on his 1972 allocations. In Connecticut at least, 1973 was a big growth year for many gas stations and, thus, turning back the calendar to 1972 has aggravated an already bad situation.

What can a gas station owner do? Under section 211.13, page 1934, of the regulations, he may apply for an upward adjustment of his allocation if his station had unusual growth in 1973. Unusual growth is defined as more than 10 percent from 1972 to 1973. If the station does qualify, the owner should obtain a form—FEO–17—from the Federal Energy Office. Since most gas station owners are not aware of this regulation or the necessary procedure to apply for an adjustment, I have sent a letter to each gasoline station owner in the Fourth Congressional District of Connecticut informing him of this exception to the rule.

At the same time, I have called on the major oil companies that supply Connecticut to advise their customers of their eligibility under section 211.13. At this writing, I have received only one response to my telegram. Amoco has promised that they "will assist our dealers in applying for an adjustment to their base period volume" and that they "welcome our help in avoiding unnecessary hardships." I applaud Amoco's message of assistance and I look forward to their cooperation.

On another front, the mandatory allocation regulations for heating oil, published on January 15, require home owners to maintain their homes at 6 degrees colder than last year. Strict compliance to this rule would require homes that set their thermostats at 68 degrees last year to sustain a potentially unhealthy 62 degrees this year. Again, responsible citizens are asked to bear an extraordinary burden in fighting the shortage while those who might have been wasting fuel last year are not. In a letter to William Simon, Federal Energy Administrator, I have asked that this section of the regulations be amended to establish a 68-degree minimum standard.

Mr. Speaker, I feel that my colleagues in the House will agree that prompt and responsible action in the areas I have outlined, today, are necessary if this body is to sustain its credibility with the American people.

For your information, I am enclosing pertinent documents to this article:

House of Representatives,
Washington, D.C., January 29, 1974.

Dear Gasoline Retailer: In the past two weeks, you and the driving public in Fairfield County have faced intolerable problems with no immediate sign of relief. The facts are simple. According to the mandatory petroleum allocation regulations issued on January 15th, you are limited to purchasing gas from your supplier at an adjusted level based on 1972. Since 1973 was a big year for many of you, this arbitrary rule seems highly unfair. *But there is a way to get more gas.*

If you had unusual growth in 1973 (anything more than 10% over 1972), you should obtain an FEO–17 form from either the Energy Office in Boston, at 617–223–5215 or from one of my district offices at 325–1428 (Stamford) or 384–2286 (Bridgeport).

After you have completed the form, you have two courses at your disposal. If your growth was more than 10% and less than 20%, you should send the form to your supplier. If your growth was more than 20%, you should send the form directly to Mr. Lawrence Rogers, Regional Administrator, Federal Energy Office, 150 Causeway Street, Boston, Massachusetts 02114.

I cannot over emphasize the importance of acting on this matter immediately. If you have any further questions please do not hesitate to call one of my district offices.

Sincerely,

Stewart B. McKinney,
Member of Congress.

[Telegram]

The residents of Connecticut are suffering severe hardships due to a shortage of gasoline.

Under Section 211.13 of the Petroleum allocation regulations wholesale purchasers who have had unusual growth between the base period, in this case, 1972, and the effective date of the regulations, may apply to their supplier for an adjustment to their base period volume. I am sure that you are aware of this section and I am sure that most dealers in Connecticut are not.

I respectfully request that you inform your customers in Connecticut of this regulation and immediately release additional allocations where they are warranted. I personally have found many instances of unusual growth in my Congressional District.

Your consideration will not only alleviate great hardship to the many people of our state but also prove to the whole nation that your concern is genuine.

Stewart B. McKinney,
Member of Congress.

SENT TO

Mr. Frank Osmet, Amoco, Chicago, Ill.
Mr. T. F. Bradshaw, Atlantic Richfield, Los Angeles, Calif.
Mr. H. J. Haynes, Chevron, San Francisco, Calif.
Mr. Charles Waidelich, Citgo, New York, N.Y.
B. P. Corp., Atlanta, Ga.
Mr. Randall Meyer, Exxon, Houston, Tex.
Mr. J. P. Getty, Getty, Los Angeles, Calif.
Mr. B. R. Dorsey, Gulf, Pittsburgh, Pa.
Mr. William Tavoulareas, Mobil, New York, N.Y.
Mr. Harry Briges, Shell, Houston, Tex.
Mr. Robt. Sharbaugh, Sun, St. Daniels, Pa.
Mr. N. W. Freeman, Tenneco, Houston, Tex.
Mr. John McKinley, Texaco, New York, N.Y.

House of Representatives,
Washington, D.C., January 15, 1974.

Hon. William Simon,
Administrator, Federal Energy Office,
Washington, D.C.

Dear Bill: I have long supported the implementation of a mandatory allocation system of all petroleum products and was, therefore, heartened by your action today. However, I have one major reservation regarding the implementation of the six degree drop of thermostats in households across the nation. According to officials in your office, households which set their thermostats at sixty-eight degrees last year will now be asked to set their thermostats at sixty-two degrees this year.

This rule is unfair, especially in Connecticut, where most homes are heated by oil. Responsible citizens are being asked to bear an extraordinary burden in fighting this shortage while those who might have been wasting fuel last year are not. I would be most interested in your planned execution of this rule and how you plan to alleviate, what seems to me, a gross injustice.

Your prompt reply to this letter would be greatly appreciated and please do not interpret this letter as a rebuke of the fine work you have done up to this time.

Sincerly,

Stewart B. McKinney,
Member of Congress.

VIETNAM PEACE—50,000 DEATHS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. DRINAN. Mr. Speaker, I would like to bring to the attention of my colleagues an article from the January 28 Boston Globe entitled "Vietnam Peace—50,000 Dead" by Frances Fitzgerald.

Ms. Fitzgerald, author of the Pulitzer Prize-winning book, "Fire in the Lake: The Vietnamese and the Americans in Vietnam," describes the history of American involvement in this tragic war and thoughtfully concludes that—

Over the past six years about a million Indochinese have died for the prestige of two men.

Ms. Fitzgerald cautions us that many more will die if the American public continues to pay the war no more attention than it did in 1964.

The article follows:

VIETNAM PEACE—50,000 DEATHS

(By Frances Fitzgerald)

A year ago yesterday the United States signed the Paris Agreement on Ending the War and Restoring the Peace in Vietnam. Since then the number of combat deaths in Vietnam has reached far above 50,000, or to about the level it reached in 1966, an "average" year in the war. Only the cause of these deaths has changed.

Whereas a year ago Vietnamese were dying in military operations, they are dying today in cease-fire violations. According to Richard Nixon they are dying not to win the war but to win the peace in South Vietnam. From these facts many might draw the conclusion that the peace agreement accomplished nothing, that it changed nothing in the history of the Vietnam war. They would be wrong.

This Christmas was the first Christmas in 12 years that the United States was not bombing Indochina or maintaining American ground troops in Vietnam. Furthermore, the other events in Vietnam this past year did not duplicate those of the year before. They were repetitions of events much further back in history. Take any recent news dispatch—"Thieu declares he will not hold a national election as the peace accord specifies," "Tracts given to South Vietnamese peasants revert to former landlords," "Military intelligence analysts fear foe will cut country in half"—and you won't fine a similar report since 1956 or 1964. It is just that there is a certain symmetry to the war—a symmetry that extends beyond the period of American troop engagement to the beginning of the American intervention in Vietnam.

The United States has been actively engaged in a war against communism in Indochina since 1950. As the history books for American children unborn at the time now show, the policy has been perfectly consistent: only the means have changed. In 1950–54 the Eisenhower Administration paid up to 80 percent of the French colonial war. After the French defeat, the Administration created and financed a regime in South Vietnam that would contravene the Geneva Accords by refusing to hold national elections and by building an army to compete with that in the North. When the southern guerrillas came near to defeating this regime on their own, the US introduced counterinsurgency teams and helicopter squadrons; in 1964, just after the passage of the Tonkin Gulf resolution, it began to bomb North Vietnam and a few months later to send regular American forces into the South. Four years later, in the wake of the Tet offensive President Johnson ended the troop buildup; he did not however change the policy of pursuing the war in Vietnam. For Mr. Johnson, and later Mr. Nixon, the means became known as "Vietnamization"—the slow withdrawal of American troops combined with a further buildup of the Saigon government army and the increased use of American firepower.

The period of American withdrawal ended with the peace agreement; it took 4½ years to accomplish, or slightly longer than the buildup, and in the first three years of the Nixon Administration it cost the lives of 20,000 Americans and some half a million Vietnamese. Since then the Nixon Administration has been carrying on the war in the traditional way, by proxy. Last year, it spent $3 billion in support of a military regime that resists any form of political settlement as specified in the peace accords.

The history books for children recount most of this story, but they do not answer the question of why the United States pursued this policy for so long. As the intelligence documents in the Pentagon Papers show, neither Mr. Eisenhower, Mr. Kennedy nor Mr. Johnson could have had any confidence of winning the war with the measures they were using. In 1961, for example, Defense Secretary Robert McNamara queried the value of sending a token American force to Vietnam, warning, "We would be almost certain to get increasingly mired down in an inconclusive struggle."

A few months later the Kennedy administration sent just such a token force and publicly predicted success for it, suggesting that no further measures would be necessary. In his analysis of the Pentagon Papers, an essay called "The Quagmire Myth and the Stalemate Machine," Daniel Ellsberg addresses the question of why three administrations concealed their most realistic estimates and continued to step up the war on that basis. His answer, in short form, is that even though all three Presidents strongly suspected the war could not be won, they also strongly suspected they could not politically survive the "loss" of Saigon or a land war in Asia. Their solution, therefore, was to maintain the stalemate as cheaply as possible while hoping for a miracle. And if the miracle did not happen, they could pass the problem on to their successors. Mr. Johnson's misfortune was that he occupied the White House at a time when the guerrilla war had reached such a peak that he could not maintain the Saigon government without committing American troops. Nixon, by contrast, came to the presidency after the crisis had passed.

The Ellsberg theory is, I think, sound. But it is not necessary to accept it in order to predict the future course of the war under a Nixon presidency. Mr. Nixon himself has already made that perfectly clear by his actions in Indochina over the past six years. Elected at the height of the peace movement and over a vice president whose administration had been discredited by the war, Mr. Nixon had the option of disavowing the Johnson war policy and making peace in Vietnam. He did not do so.

Instead, he chose to maintain the stalemate at a price far higher than any other president had paid.

Militarily the cost included the invasion of Cambodia and the beginning of a destructive, long-term war in another country, the invasion of Laos, the secret bombing of North Vietnam and Cambodia, the mining of North Vietnamese harbors and inland waterways and the terror bombing of Hanoi last Christmas. But these actions were only the most spectacular of his military measures. Equally important was the sustained bombing of three countries, the destruction of two or three national economies, the uprooting of several million Indochinese and the building of an army that, statistically-speaking, drafts all able-bodied South Vietnamese men for the duration of the war.

These measures, taken before the cease-fire, have had an important impact on the military situation in Vietnam, but they have not meant victory for the United States. In the Paris agreement the United States had to accept what it refused to acknowledge in the Geneva Accords of 1954: the principle of unity and territorial integrity of all of Vietnam and the presence of North Vietnamese troops in the South.

Mr. Nixon's measures have not insured a stable situation—as it were, a permanent stalemate—because the Saigon government, while larger, remains what it always was: a parasite that lives on what one Frenchman called 'la densite de la pourriture," the density of corruption. President Thieu's control over South Vietnam (never mind the Northern troops) rests on his ability to maintain American aid at a level where he can keep the majority of the population in the army, the jails, the cities and the refugee camps. While American military and CIA analysts predict a North Vietnamese offensive and propose more military aid for Saigon, Thieu is actively trying to realize that prediction and that aid by calling for an invasion of North Vietnamese and Provisional Revolutionary Government base areas in the South.

What Mr. Nixon has done is to create a stalemate that may last until the end of his term and whose preservation may well require the renewal of American bombing in the United States full circle to the same moment of decision in which the Tonkin Gulf resolution was passed.

One difference is that now the war is a decade older—three countries have been partially destroyed. The other difference is that because the American public will not permit the reintroduction of American ground troops, Nixon and his advisers know precisely what the final outcome will be. They support the war in perfect cynicism. After the visit to Peking they have no ideological pretext, much less a justification. Over the past six years about a million Indochinese have died for the prestige of two men. A lot more will die if the American public continues to pay the war no more attention than it did in 1964.

A BILL TO REPEAL WINTER DAYLIGHT SAVING TIME

HON. WILEY MAYNE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. MAYNE. Mr. Speaker, on January 29, I introduced H.R. 12354, a bill to repeal one of the worst mistakes ever made by the Congress when it enacted winter daylight saving time last month. I urge the House Interstate and Foreign Commerce Committee to take immediate action favorably reporting my repeal bill so that it can be passed by the full House without a delay. As far as I am concerned, we cannot act soon enough to start undoing the damage which has already been done by the hurried enactment of the Emergency Daylight Saving Time Energy Conservation Act of 1973, which put year-round daylight saving time into effect on Sunday, January 6. I am one of the Members who strongly opposed the passage of this legislation in floor debate when it was before the House. We challenged Chairman STAGGERS and other sponsors of this unwise legislation to show us how it would save energy and they were completely unable to do so. It was nevertheless enacted in the rush "to do something about the energy crisis" before adjourning for Christmas.

We have now been operating under winter daylight saving time for 25 days and the results have been even worse than we predicted. Surely the experience of these nearly 4 weeks should have convinced most Members of the House by now that a mistake was, indeed, made which must be corrected. Congress should own up to this error and immediately repeal this legislation.

I talked with hundreds of northwest Iowans about this issue from December 24 through January 20 during the congressional recess, hearing their objections to winter daylight saving time in face-to-face interviews and telephone calls.

The first concern of farmers and others who live in rural communities is, of course, for their children, and fears that winter daylight saving would increase hazards of walking to and waiting at bus stops an hour darker and colder have proved well justified. Several schoolchildren have already been killed in Florida walking or waiting in the darkness. A Sioux County farmer told me children have difficulty distinguishing schoolbuses from milk trucks in the dark. This can be fatal if the milk truck swings into the farmhouse lane where children wait expecting it to stop like a bus on the highway. Schoolteachers and administrators and school board members have also expressed their deep concern for children's safety under such conditions since January 6.

I will not recite the entire range of legitimate complaints of farmers arising from the loss of this morning hour, but here are a few:

It makes a mighty short forenoon and a long afternoon for most Iowa farmers. Livestock will not move around much until a half hour after daylight which means you cannot get them out to eat before 8:30 on a cold winter morning. Its almost dinner time by the time feeding is over.

It's inconvenient and down right dangerous working with machinery in the dark, especially for farm boys who have morning chores before leaving for school.

Getting repairs for machinery is made more difficult. The repair shop in town usually closes at 5:30 and if mechanical feeding equipment breaks down during evening chores there is no chance to get repairs till next morning.

It effectively bars farm families from evening church and other community activities which commence at 7:30 p.m.

It is not just on the farms that winter daylight saving is hurting agriculture. I happened to be at the Sioux City stockyards in the bitter cold, early morning hours of Monday, January 7, the first business day that the new law was in effect. It was obvious that the additional hour of darkness was creating great difficulties. Yards personnel had been unable to get cattle sorted and ready to show by the time the market opened. I heard experienced handlers protest that they could not tell a heifer from a steer in the pitch dark, especially with Angus cattle. The orderly marketing of livestock has been seriously impaired at terminal markets, auction sales, and wherever livestock are sold in the midwest.

Mr. Speaker, I have also received many complaints from workmen on construction projects and their employers. They too are worried about the increased hazards of working in the early morning darkness. Dangers have been decreased on some projects by floodlighting, but this obviously increases energy consumption drastically at direct cross purposes to the professed purpose of the Emergency Daylight Saving Time Energy Conservation Act.

Mr. Speaker, we are now into the 4th week of this fiasco, and no responsible official can claim that winter daylight saving time has saved one smallest unit of energy. Certainly Mr. William Simon, the head of the Federal Energy Office, readily admits he has no proof of any such savings. He concedes that the claims for energy savings made by proponents of the act last fall were based on sheer speculation then and are still based on sheer speculation today.

I want to emphasize that I have no objection to summer daylight saving time, which has proved its worth through many long years and is effective during periods of much longer daylight. But I do urge my colleagues to join me in pushing for the speedy enactment of H.R. 12354, my bill to end winter daylight saving by repealing the so-called Emergency Daylight Saving Time Energy Conservation Act of 1973.

MURDER BY HANDGUN: THE CASE FOR GUN CONTROL—NO. 67

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. HARRINGTON. Mr. Speaker, I find myself in partial agreement with the National Rifle Association's adage that "Guns don't kill people; people do."

It is true that handguns do not fire of their own accord; but on the other hand, there is no other commonly used weapon that has the convenient effectiveness of a firearm—especially the handgun. Handguns were responsible for 65 percent of the homicides in 1972, a figure that increases annually.

Included below is a report of two murders from the Washington Post, and an analysis of the U.S. current gun laws by the Boston Globe:

[From the Washington Post]

POLICE REPORT TWO NW MEN FATALLY SHOT

Two Washington men were fatally shot last night in separate incidents in the Northwest, metropolitan police reported.

In the first incident, two unidentified men knocked on the front door of Mitchell L. Williams' apartment at 6501 14th St. NW at about 8:30 p.m. When Williams opened the door, police said, he was shot once in the chest. The two men then fled after the shooting.

Williams, 24, was taken to the Washington Hospital Center, where he was pronounced dead.

Police said they have established no motive for the killing and have made no arrest.

About 1½ hours later, Ernest R. Edwards, 24, of 1436 Fairmont St. NW, was shot once with a pistol during an altercation inside the apartment of his neighbor, Harvey Thomas, of the same address, police reported.

Edwards was taken to the Washington Hospital Center, where he died at 11:20 p.m.

Thomas, 54, was arrested at the scene and charged with homicide. He was being held last night pending arraignment in D.C. Superior Court today.

[From The Boston Globe]

U.S. GUN LAWS: 20,000 WEAK, CONFUSING CONTROLS

Gun laws in the United States are a maze of 20,000 overlapping Federal and state regulations.

There is no such thing as Federal handgun licensing, although mid-1972 Gallup and Harris polls revealed that 70 percent of the nation's citizens favor gun registration or permits.

Instead, handgun purchase is governed by the Federal Gun Control Act of 1968 and the 1968 Gun Control Amendment to the Omnibus Crime Control and Safe Streets Act.

The laws are not difficult to skirt.

They prohibit, for example, handgun purchase in a state where the buyer is not a resident, but "residency" is so loosely defined that a person owning a Summer home in another state may purchase handguns in that state.

Further, when a handgun is purchased the buyer must only "identify himself in any manner customarily used in commercial transactions, e.g., a driver's license." No secondary proof of residency is required, and in many states drivers' licenses do not carry a photograph of the bearer.

As a result, the law has not stopped the flow of illegal guns into states with relatively tough state gun laws, such as Massachusetts, from states with weak gun laws, such a Vermont.

Federal laws also ban importation of guns into the United States unless they are "particularly suitable or adaptable for sporting purposes," a measure designed to stop the flow of inexpensive so-called "Saturday night specials" into the country.

The laws do not, however, prohibit the importation of parts for such guns (except frames), and a whole new domestic industry has sprung up which manufactures inexpensive and easy-to-conceal "Saturday night specials" principally from these imported parts.

Federal laws also prohibit sale of handguns to certain persons such as minors, fugitives from justice and unlawful drug users.

But the laws provide no method checking the background of a buyer. He must only sign a statement when he purchases a gun stating that he is not a person prohibited from purchasing one.

Finally, gun dealers must keep a record of each transaction on Federal form 4473, giving the name, address and physical details of the buyer, as well as a description of the gun purchased.

But this is not gun registration. The records are not forwarded in any record-keeping or law enforcement agency. Instead, they are kept on the premises of the dealer.

ARAB WAR CRIMES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ROSENTHAL. Mr. Speaker, I have seen personally the evidence of Egyptian and Syrian war crimes committed during the Yom Kippur war last October.

Israeli prisoners captured by the Arabs had been bound, blindfolded, mutilated, and shot or stabbed to death.

An exchange of prisoners has been completed between Israel and Egypt, but the Syrian Government refuses to permit the International Committee of the Red Cross access to Israeli prisoners, it will not release the names of those held captive and it refuses all requests for an immediate exchange of the wounded.

Syria's action is in direct violation of the 1949 Geneva Convention relative to treatment of prisoners of war.

Mr. Speaker, I am inserting in the RECORD a monograph "On PW's and War Crimes" written by Albert P. Blaustein and Jordan J. Paust plus a copy of the Geneva Convention of 1949 relative to the treatment of prisoners of war. On December 13, 1973, I submitted for the RECORD the text of formal complaints submitted by the Government of Israel to the International Committee of the Red Cross in Geneva and to the Secretary General of the United Nations regarding the killing of Israeli prisoners of war by Egypt and Syria. I direct colleagues to page E8033 of the RECORD of that date.

Albert Blaustein is professor of law at Rutgers University School of Law—Camden, in New Jersey, where he teaches a seminar in law and the military establishment. He is also a member of the Committee for Protection of Human Life in Armed Conflicts; the committee is an arm of the International Society on Military Law and Laws of War.

Jordan Paust is completing work on his J.S.D. at Yale Law School. He taught on the subject of war crimes—and human rights—at the Judge Advocate General's School, U.S. Army, in Charlottesville, Va., from 1969 to 1973.

Professor Blaustein and Mr. Paust have recently completed a book on human rights and war crimes which will be published in April by Prager.

The material follows:

ON POW'S AND WAR CRIMES

(By Albert P. Blaustein and Jordan J. Paust)

Commission of Egyptian-Syrian war crimes began within minutes after the opening of the Yom Kippur War on October 6. And these war crimes—ever continuing and ever more serious—were still being committed as Arab and Israeli leaders met in Geneva on December 21 to begin "negotiations."

What has been violated is the Third Geneva Convention of August 12, 1949—the *Geneva Convention Relative to the Treatment of Prisoners of War*.

Government responsibility for prisoners of war is declared in general terms in Article 12: "Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them." Supplementing this responsibility is Article 1, common to all four of the 1949 Geneva Conventions, which declares that all parties must undertake "to respect and to insure respect" for the Conventions "in all circumstances."

What each warring party must do *"immediately," "at the outbreak of a conflict,"* is set forth in Article 122. This involves the establishment of an Information Bureau whose primary task is to notify all concerned of those who have been captured. Other mandates which have been violated are set forth in Articles 71, 109, 126, in Article 118 and, finally, in Articles 13, 17 and 130.

Israel's acceptance of the October 24th cease fire was contingent upon the early identification and release of the more than 400 prisoners captured by Egypt and Syria. But where are the lists of all of the Israeli soldiers who were indeed captured? Where are the men yet to be repatriated? And what kind of treatment did (*and do*) Israeli PW's undergo in captivity?

As of the opening of the Geneva talks, the list of Israelis missing in action totaled 406 on the Egyptian front and 102 on the Syrian front. Egypt did repatriate 232 prisoners of the Yom Kippur War and nine who had been taken previously in exchange for 8,301 Egyptians released by Israel. And many of the others missing on that front are known to have been killed. But Syria has even refused to supply the names and numbers of the prisoners they have taken.

In addition to the "information" requirement of Article 122, PW's are given the right (under Article 71) to communicate with their families. They also have (under Article 126) the right to meet with representatives of the International Committee of the Red Cross (ICRC) and delegates of the "Protecting Powers" who must be free to visit all confinement facilities. And Article 109 requires the automatic repatriation of the seriously sick and the seriously wounded.

Further, the Convention requires under Article 118 that prisoners of war be released and repatriated immediately after the cessation of hostilities.

Articles 13, 17 and 130 provide that prisoners must be "humanely treated" and outlaw willful killing, torture, serious bodily injury, etc. [All of these key articles are reproduced here in Appendix A.]

Less than a week after the cease fire, Israel took steps to advise the world of these Geneva Convention violations. One medium was the Standing Committee for the Protection of Human Life in Armed Conflict of the International Society for Military Law and the Law of War. [Attached here is a copy of a telegram (Appendix B) sent to co-author Blaustein, a member of that Committee. It is signed by Meir Shamgar, Israeli Attorney-General, who is likewise a member of that Committee, and Dr. Zvi Hadar, the Israeli Army Colonel who served as chief legal adviser to the armed forces.]

Then, on November 10, a complaint was lodged with the International Committee of the Red Cross on the "murder and multilation" of Israeli PW's by Syria. This has since been supplemented by a further complaint to the Red Cross on December 8. Charges have been made that at least 42 Israeli soldiers were murdered by Syrian, Moroccan and Iraqi soldiers serving in Syria.

What of Arab charges that the Israelis have also violated the Geneva Convention on PW's? The following is taken from ICRC communiqué No. 180, dated October 28:

"The International Committee of the Red Cross confirms that since the beginning of hostilities it has been insistent in requiring all parties within the shortest possible time to furnish it with the lists of prisoners of war and to allow it to visit them.

"On these two points it has obtained satisfaction from the Israeli authorities. On the other hand, to this day, its representations have not led to any result in Syria, while in Egypt the 46 names furnished some ten days ago and the visit of a few of the wounded are only a first step which has not been followed by any other since."

APPENDIX A

GENEVA CONVENTION, RELATIVE TO THE TREATMENT OF PRISONERS OF WAR, AUGUST 12, 1949

(Treaties and Other International Acts Series 3364)

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929, relative to the Treatment of Prisoners of War, have agreed as follows:

ARTICLE 12*

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

ARTICLE 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

ARTICLE 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5x10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a langauge which they understand.

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* In ratifying the present Convention, the Union of Soviet Socialist Republics and certain other governments made specific reservations with respect to this Article.

ARTICLE 71

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners' of war accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labeled so as clearly to indicate their contents, and must be addressed to offices of destination.

ARTICLE 109

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavor, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article may be repatriated against his will during hostilities.

ARTICLE 118

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

In the absence of stipulations to the above effect in any agreement concluded between the Parties to the conflict with a view to the cessation of hostilities, or failing any such agreement, each of the Detaining Powers shall itself establish and execute without delay a plan of repatriation in conformity with the principle laid down in the foregoing paragraph.

In either case, the measures adopted shall be brought to the knowledge of the prisoners of war.

The costs of repatriation of prisoners of war shall in all cases be equitably apportioned between the Detaining Power and the Power on which the prisoners depend. This apportionment shall be carried out on the following basis:

(*a*) If the two Powers are contiguous, the Power on which the prisoners of war depend shall bear the costs of repatriation from the frontiers of the Detaining Power.

(*b*) If the two Powers are not contiguous, the Detaining Power shall bear the costs of transport of prisoners of war over its own territory as far as its frontier or its port of embarkation nearest to the territory of the Power on which the prisoners of war depend. The Parties concerned shall agree between themselves as to the equitable apportionment of the remaining costs of the repatriation. The conclusion of this agreement shall in no circumstances justify any delay in the repatriation of the prisoners of war.

ARTICLE 122

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall institute an official Information Bureau for prisoners of war who are in its power. Neutral or non-belligerent Powers who may have received within their territory persons belonging to one of the categories referred to in Article 4, shall take the same action with respect to such persons. The Power concerned shall ensure that the Prisoners of War Information Bureau is provided with the necessary accommodation, equipment and staff to ensure its efficient working. It shall be at liberty to employ prisoners of war in such a Bureau under the conditions laid down in the Section of the present Convention dealing with work by prisoners of war.

Within the shortest possible period, each of the Parties to the conflict shall give its Bureau the information referred to in the fourth, fifth and sixth paragraphs of this Article regarding any enemy person belonging to one of the categories referred to in Article 4, who has fallen into its power. Neutral or non-belligerent Powers shall take the same action with regard to persons belonging to such categories whom they have received within their territory.

The Bureau shall immediately forward such information by the most rapid means to the Powers concerned, through the intermediary of the Protecting Powers and likewise of the Central Agency provided for in Article 123.

This information shall make it possible quickly to advise the next of kin concerned. Subject to the provisions of Article 17, the information shall include, in so far as available to the Information Bureau, in respect of each prisoner of war, his surname, first names, rank, army, regimental, personal or serial number, place and full date of birth, indication of the Power on which he depends, first name of the father and maiden name of the mother, name and address of the person to be informed and the address to which correspondence for the prisoner may be sent.

The Information Bureau shall receive from the various departments concerned information regarding transfers, releases, repatriations, escapes, admissions to hospital, and deaths, and shall transmit such information in the manner described in the third paragraph above.

Likewise, information regarding the state of health of prisoners of war who are seriously ill or seriously wounded shall be supplied regularly, every week if possible.

The Information Bureau shall also be responsible for replying to all enquiries sent to it concerning prisoners of war, including those who have died in captivity; it will make any enquiries necessary to obtain the information which is asked for if this is not in its possession.

All written communications made by the Bureau shall be authenticated by a signature or a seal.

The Information Bureau shall furthermore be charged with collecting all personal valuables, including sums in currencies other than that of the Detaining Power and documents of importance to the next of kin, left by prisoners of war who have been repatriated or released, or who have escaped or died, and shall forward the said valuables to the Powers concerned. Such articles shall be sent by the Bureau in sealed packets which shall be accompanied by statements giving clear and full particulars of the identity of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Other personal effects of such prisoners of war shall be transmitted under arrangements agreed upon between the Parties to the conflict concerned.

ARTICLE 126

Representatives or delegates of the Protecting Powers shall have permission to go to all places where prisoners of war may be, particularly to places of internment, imprisonment and labour, and shall have access to all premises occupied by prisoners of war; they shall also be allowed to go to the places of departure, passage and arrival of prisoners who are being transferred. They shall be able to interview the prisoners, and in particular the prisoners' representatives, without witnesses, either personally or through an interpreter.

Representatives and delegates of the Protecting Powers shall have fulll liberty to select the places they wish to visit. The duration and frequency of these visits shall not be restricted. Visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure.

The Detaining Power and the Power on which the said prisoners of war depend may agree, if necessary, that compatriots of these prisoners of war be permitted to participate in the visits.

The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives. The appointment of such delegates shall be submitted to the approval of the Power detaining the prisoners of war to be visited.

ARTICLE 130

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or properly protected by the Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or willfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

CAMDEN, N.J., *October 29, 1973.*

Prof. ALBERT P. BLAUSTEIN,
University Rutgers School of Law,
Camden, N.J.:

Call the attention of members of Committee for Protection of Human Life in Armed Conflicts to the persistent and unjustified refusal of Egypt and Syria to implement articles 71, 109, 122, 126 of Third Geneva Convention: The names of POW's (with the exception of names of 40 POW's taken prisoners by Egypt in presence of ICRC representatives) have not been transmitted either to the ICRC or to Israel, no notification from them has been received, the ICRC is not permitted to meet the POW's to visit places of detention or to visit the seriously wounded and sick who have to be repatriated.

MEIR SHAMGAR.
Dr. ZVI HADAR.

SPIRO AGNEW

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ROUSH. Mr. Speaker, it has now been 3½ months since former Vice President Agnew on October 10 resigned his official position and took that of a private citizen. We have had a new Vice President since the December 6 swearing-in of our former colleague in the House, Mr. GERALD FORD. Thus it is difficult for me to explain to my constituents, and to figure out myself, why the U.S. Government maintains an office, a special staff, Secret Service protection, and transportation for Mr. Agnew.

The chief investigative arm of the U.S. Congress, the Office of the Comptroller General of the United States, has been asked to look into this matter and has issued a preliminary report on staff and services provided the former Vice President by the Government. Their figures carry through only mid-December, but they are revealing.

It seems that the American taxpayer has been footing the bill for office space at the monthly expense of $2,075 for a transitional office for the former Vice President who had the services of a staff from October 10 through December 4 which cost a total of $89,132.75 and $287.12 was spent on the franking privilege, $887.61 for office supplies. During that period of time Secret Service protection, including limousines and drivers, cost a total of $89,222.

Figures on the additional expenses since December are not available, but a transitional office is still functioning, with a reduced staff, I understand, and the Secret Service protection continues.

Let me say that I have no personal feeling of vindictiveness toward Mr. Agnew. I deeply regret the circumstances that surrounded his departure from the high office that he held. And I would certainly not want this Government to be remiss in protecting public officials. But Mr. Agnew is no longer among these. He pleaded no contest to charges of tax evasion and departed the Government.

The GAO in their report could reasonably account for the staff that had served Mr. Agnew in his Office as Vice President and those in the Office of President of the Senate in the October-December period before the inauguration of Mr. FORD. But what the GAO questioned, and continues to question, is the 7 or 8 persons who have worked and continue to work in a transitional office for Mr. Agnew. These persons accounted for $15,225.24 of that $89,132.75 staff figure mentioned previously, and that was for only a 2-month period. The GAO could find no legal authority for the Secret Service protection.

We now have a fully functioning Vice-Presidential Office. It would seem to me that the present Vice-Presidential Office could assume the responsibility for official papers and the like that have carried over. The Government should pay for carrying out the duties, responsibilities, obligations, and answering correspondence relative to the official position Mr. Agnew held, only. Nor can I easily justify to my constituents this prolonged Secret Service protection including chauffer service, to a man who left publice service in disgrace 3½ months ago. Where does it all end?

AMERICAN FLAGSHIPS AND FOREIGN OIL: A QUESTION TO BE RESOLVED

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Ms. ABZUG. Mr. Speaker, a recent change in Liberian Government policy again calls our attention to our country's vulnerability in the transportation of imports. As reported in an excellent article from the January issue of the NMU Pilot, Liberia is challenging the right of foreign-owned ships under Liberian flag transport the goods they choose. This is an obvious threat to the United States as many of our ships are under Liberian registry. More disquieting, however, is the precedent. Economic coersion imposed upon the United States by foreign countries through manipulation of their flagships is a very real possibility. The stark truth is we are more than 95 percent dependent on foreign flagships for our oil imports. Liberia's recent actions constitute a clear signal to us that we must remedy our dependence on foreign flagships to carry goods vital to this country.

A clear remedy to this situation would be the legislation requiring that a percentage of oil imports be carried on U.S.-flag tankers. Oil is certainly one of the most critical import commodities. The Arab oil boycott indicates the political purposes for which petroleum can be used. We cannot allow ourselves to remain open to attack from another aspect of oil procurement; namely, its transport.

I, therefore, call for the expediting of H.R. 8193, which is similar to a measure that I have cosponsored (H.R. 9918), through hearings to a vote on the House floor. This legislation will require that immediate steps be taken to insure that 20 percent of our oil imports be carried in U.S.-registered tankers. After a period of time, this percentage will be raised to 25 percent and later to 30 percent. In this way we can be secured in the ability to deliver available foreign oil supplies.

To emphasize the need for this legislation, I insert the recent article from the NMU Pilot and commend it to the attention of my colleagues:

[From the NMU Pilot, Jan. 1974]

LIBERIAN EXECUTIVE ORDER EXPOSES DEFECTS IN "EFFECTIVE CONTROL" POLICY

One useful purpose served by the Arab embargo on oil for the U.S. may be that it opened some eyes here to the dangers of reliance on foreign sources for a number of materials and services essential to our national life. One of these is overseas vessel transportation. We've been relying on foreigners for no less than 94% of that vital element * * *

The question about our reliance on foreign flag tankers was further heightened by a series of announcements by the Liberian government last month. The great majority of tankers bringing oil into the U.S. have been of Liberian registry. Last month the Liberian government broke relations with Israel and took a strong stand on the side of Egypt in the dispute there. At the same time, Liberia issued an executive order restricting operations of Liberian flag vessels in relation to the mid-East situation. The order restricts carrying of arms or "other implements of war" to countries in the "Middle East" and applies to all ships of Liberian registry, regardless of ownership.

The strong Liberian position on one side of the conflict coupled with its order to ships flying its flag was seen as a serious challenge to the so-called "effective control" theory.

The theory is one concocted by U.S. oil companies and adopted by the Defense Department and Maritime Administration many years ago. It has been opposed consistently by maritime labor. Essentially the theory is that American-owned runaway-flag ships can be regarded as under "effective control" of the U.S. for defense purposes. In the face of contrary evidence in a number of national emergency situations, the theory has formed one of the main legal and strategic defenses for the oil companies' use of runaway tankers.

The theory, such as it is, depends entirely on the concept that the Liberian flag is nothing more than a "flag of convenience", not subject to the kind of "executive order" issued last month by the Liberian government. The kind of understandings that "effective control" was allegedly based on would have to give way in the court of world opinion to the executive orders of sovereign governments, such as the Liberian order.

Observers see the recent events as creating a different climate for the hearings in Congress on HR 8193 to require a substantial share of U.S. oil imports be carried on U.S. flag ships. In testimony before the House Merchant Marine and Fisheries Committee several weeks ago, oil company spokesmen and several government officials tried to dismiss the bill as, at best, "unnecessary".

The demonstration by the Arab nations of how economic blackmail can be used against us and the Liberian demonstration of the defectiveness of "effective control" may have put another light on the matter. HR 8193 would require that 20% of oil imports be carried on U.S. ships with the quota rising to 25% and then to 30% at each five-year interval.

TRIBUTE TO AN OLD FRIEND, THE LATE DR. ANTONIO FERNÓS-ISERN, FORMER RESIDENT COMMISSIONER OF THE COMMONWEALTH OF PUERTO RICO

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. ROONEY of New York. Mr. Speaker, the passing last week of my good and longtime friend and former colleague, Dr. Antonio Fernós-Isern, former Resident Commissioner of the Commonwealth of Puerto Rico, came as a shock and was a great loss not only to myself but to all the people of Puerto Rico.

Dr. Antonio was a giant of a man intellectually whose contributions to his beloved island and his people in a myriad of fields and endeavors are his greatest memorial. Like many of his contemporaries he excelled in many disciplines. He was a scientist, a physician by profession, but he was also irresistibly attracted by literature, the social sciences, the art of conversation, and of course, politics. He was truly outstanding in all those areas by the depth of his convictions, and his natural ability to express himself. He was truly a gentleman not only with his friends but also with those who held opposite views from his, whether they were political adversaries or dissenting medical professionals.

Dr. Antonio's career of public service was a brilliant and diverse one. In 1920 at the age of 25 he had already been graduated from medical school and was Puerto Rico's Assistant Commissioner of Health. He continued to champion the cause of public health through the next decade and a half.

Mr. Speaker, in the 1930's Antonio heeded the call of the future and together with Jesús Piñero, Andrés Grillaska, Father Rivera, and others formed the new Popular Democratic Party headed by Luis Muñoz Marin. In 1946, he was appointed Resident Commissioner of Puerto Rico here in Washington and served brilliantly until 1964 when he voluntarily stepped down. He returned to Puerto Rico where he was elected to its Senate until he retired from public life in 1968.

Mr. Speaker, my fondest and most deeply cherished memory of Dr. Antonio was of the many long and arduous months of work required to finally pass the necessary legislation to establish Puerto Rico as a Commonwealth. It was my great privilege and honor under appointment of the late Speaker Rayburn to have chaired the proceedings in this chamber in July 1952, that resulted in the passage of the bill providing commonwealth status for Puerto Rico.

Finally, Mr. Speaker, Dr. Fernós was an aristocrat of both verbal and written expression and the clarity of his reasoning had many an opponent scurrying for cover during debate. He was a respected gentleman and a diplomat in the true sense of these concepts. His achievements made him one of the true authentic leaders during the last half century of Puerto Rico's history.

INDIANA LEGISLATURE OPPOSES COURT'S ABORTION DECISION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. LANDGREBE. Mr. Speaker, it is clear that, a full year after the Supreme Court's decision on abortion, the House Committee on the Judiciary has no intentions of even holding hearings on the proposed constitutional amendments which I and other Members of this House have introduced.

The public outcry against the Court's abortion decision has been overwhelming; and I must question exactly how "representative" this body is when an issue of such overriding importance is totally ignored by the majority for this intolerable length of time.

The people of my own State of Indiana, through their elected representatives, have clearly stated their strong disapproval to the Supreme Court decision in the form of Indiana Senate Joint Resolution No. 8 which was passed by both the house and senate in the first regular session of the 98th General Assembly. With this resolution, the State of Indiana goes on record as favoring a constitutional amendment to reverse the disastrous abortion policy promulgated by the Court last year.

The full text of the Indiana Senate joint resolution is printed below:

A joint resolution directing the United States Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States relative to the protection of the right to live

Whereas, the Declaration of Independence of the United States of America affirms that the right to life is an inalienable right given to all people by their Creator; and

Whereas, the Federal Constitution and those of the several states, as well as the laws and courts of both the Federal and State Governments have traditionally affirmed and reaffirmed this basic right up to the present time; and

Whereas, this basic tradition has been broken and was called into question by the unprecedented decision of the United States Supreme Court on January 22, 1973, in Roe v. Wade and Doe v. Bolton which sanctioned the abortion of an unborn child during the first three (3) months of pregnancy upon the decision of the mother and her physician alone, and up to the moment of birth under certain circumstances; and

Whereas, this erosion of the most basic principle, the right to life, on which this country was founded, portends untold conflicts in our society and endangers the very existence of our nation and the Judeo-Christian culture which supports it; and

Whereas, the Legislature of this state believes it to be for the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to protect the right to live; Therefore,

Be it resolved by the General Assemby of the State of Indiana:

Section 1. That the Congress of the United States be, and hereby is requested to call a constitutional convention for the purpose of proposing the following amendment to the Constitution of the United States:

Sec. 1. That each state shall have the right to determine whether to eliminate or regulate abortion.

Sec. 2. Neither the United States nor any State shall deprive any human being of life on account of age, illness or incapacity.

Sec. 3. Congress and the several States shall have power to enforce this article by appropriate legislation.

Section 2. If the Congress shall have proposed an amendment to the Constitution of the United States identical with that contained within this resolution prior to June 1, 1975, this application for a convention shall no longer be of any force or effect.

Section 3. The Secretary of the Senate is directed to transmit immediately copies of this resolution to the Secretary of the Senate of the United States and the Clerk of the House of Representatives of the United States and to each member of Congress from this state.

SENATE—*Friday, February 1, 1974*

The Senate met at 11 a.m. and was called to order by Hon. Quentin N. Burdick, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our Creator, Preserver, Redeemer, and Judge, deliver us this moment from the pressure of daily duties, the tension of our times and the confusion of many voices that we may hear again the "still small voice" of Thy spirit—deep, clear, and unmistakable—speaking of that which is eternal, summoning us to profounder thoughts and higher endeavors.

Assure us of Thy presence, above us, beneath us, around us, and within us, granting us some fresh insight, some new grasp of the truth, some clear direction which will help us serve the Nation better and advance Thy kingdom on Earth. Keep the flame of devotion burning brightly on the altar of our hearts as day by day we show our love for Thee by service to our fellow man.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., February 1, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. Quentin N. Burdick, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, January 31, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar placed on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations placed on the Secretary's desk on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Nos. 646 and 648.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEDICAL DEVICE AMENDMENTS OF 1973

The Senate proceeded to consider the bill (S. 2368) to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Medical Device Amendments of 1973".

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

TITLE I—PRELIMINARY CLASSIFICATION OF MEDICAL DEVICES

SEC. 101. Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding the following:

"PRELIMINARY CLASSIFICATION OF DEVICES

"SEC. 511. (a) Within sixty days after funds are first appropriated for the implementation of this section, the Secretary shall appoint and organize separate classification panels of experts, qualified by scientific training and experience, to review and classify devices intended for human use into appropriate categories based on the safety and effectiveness of such devices. Each panel shall review all devices intended for human use within its respective scientific field for purposes of appropriate classification and shall submit within one year of its appointment a report of its findings and conclusions to the Secretary. To the maximum extent practical the panel or panels shall provide an opportunity for any interested person to submit data and views on the classification of a device (or type or class of device). The Secretary may utilize any such panels which may have been formed for the purpose of such classification prior to enactment of this section and such panels may utilize information and findings developed prior to enactment of this section in making such reports. Such panels shall also serve as scientific review panels under section 514.

"(b) (1) Panel members shall be qualified by training and experience to evaluate the safety and effectiveness of devices in the category or class of devices to be referred to such a panel and to the extent feasible shall possess skill in the use of or experience in the development, manufacture, perfection, or utilization of such devices. In addition to such experts, each panel shall include as nonvoting members a representative of consumer interests and a representative of industry interests. Panel members may be nominated by appropriate scientific, trade, and consumer organizations.

(2) The panels shall be organized according to the various fields of clinical medicine and the fundamental sciences which utilize medical devices, and shall consist of members with diversified expertise in such fields as clinical and administrative medicine, engineering, biological and physical sciences, or other related professions. The Secretary shall designate one of the members of each panel to serve as chairman thereof. Panel members shall, while attending meetings or conferences of the panel or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS–18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently. The Secretary shall furnish each panel with adequate clerical and other necessary assistance, and shall prescribe by regulation the procedures to be followed by each panel.

"(c) Panels appointed pursuant to subsection (a) shall submit (in the final report of the panel or such interim reports as may be appropriate) recommendations for the classification of devices for purposes of and in accordance with sections 513 and 514 into one of the three following classes and shall, to the extent practicable, assign priorities within such classes:

"(1) Those devices (A) for which insufficient information exists to—

"(i) assure effectiveness, or

"(ii) assure that exposure to such devices will not cause unreasonable risk of illness or injury, and

"(B) for which standards or other means may not be appropriate to reduce or eliminate such risk of illness or injury and which therefore should be subject to premarket scientific review pursuant to section 514. Such review, either initial or continuing, shall be required if the panels determine that such device purports or is represented to be for a use which is life sustaining or life supporting.

"(2) Those devices for which in order to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury it is appropriate to establish reasonable performance standards pursuant to section 513 relating to safety and effectiveness and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury.

"(3) Those devices which are safe and effective when used in conjunction with instructions for usage and warnings of limitation, which are adequate for the persons by whom the device is represented or intended for use, which present a minimum risk, and which should be exempt from requirements for scientific review or performance standards.

"(d) As soon as possible after filing of the report required for compliance with subsection (a), the Secretary shall publish such report in the Federal Register and provide interested persons an opportunity to comment thereon. After reviewing such comments the Secretary shall by regulation provide for preliminary classification of such devices. The Secretary may establish priorities for implementing the action warranted by such classification under sections 513 and 514 and may defer such action for any device until an appropirate time, consistent with expeditious implementation of these provisions.

"(e) The Secretary, with the advice of the appropriate panel and after making a specific finding and publishing such finding in the Federal Register and providing interested persons an opportunity for comment thereon may by regulation change the preliminary classification of a device or group of devices from one category to another.

"(f) The preliminary classification of a device shall constitute public notice that, as expeditiously as is feasible, the Secretary will issue a final classification in the form of a determination of a need for a performance standard pursuant to section 513 or a determination of the need for scientific review pursuant to section 514. The preliminary classification shall not relieve the Secretary of any obligation to provide notice as required by sections 513 and 514. Any interested person will have an opportunity, pending such final classification, to undertake studies and other work appropriate to develop a performance standard or to demonstrate the safety and effectiveness of a device.

"(g) After the promulgation of regulations under subsection (d) of this section and commensurate with the effective date of section 501(f), a manufacturer of a medical device which has not been classified in accordance with this section shall file an application for the classification of the device and must receive from the Secretary notification of the classification of such device. The Secretary shall act on the application within sixty days unless the Secretary and the manufacturer agree to an additional period of time. The Secretary shall classify the devices in accordance with the criteria and procedures listed in 511, 513, and 514 including the requirement for consultation with the appropriate panel or panels. The appeal provisions of sections 513 and 514 shall apply."

TITLE II—AUTHORITY TO ESTABLISH PERFORMANCE STANDARDS

SEC. 201. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C., ch. 9, subch. VI) is amended by adding at the end thereof the following new section:

"PERFORMANCE STANDARDS FOR MEDICAL DEVICES

"Authority To Set Standards

"SEC. 513. (a) (1) Whenever in the judgment of the Secretary such action is appropriate to assure effectiveness or to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device (including the need for uniformity and compatibility with systems or environments in which it is intended to be used) and for which other means may not be appropriate to reduce or eliminate such risk of illness or injury he shall by order issued in accordance with subsection (c) of this section promulgate for any device, or type or class of device, for which a performance standard has been determined to be appropriate pursuant to section 511(d), a performance standard relating to safety and effectiveness (including effectiveness over time), and including where necessary: the composition, the construction, the compatibility with power systems and connections, and the properties, and including where appropriate the uniform identification of such device. Such performance standard shall where appropriate include provisions for the testing of the device and the measurement of its characteristics (including individual lot testing by or at the direction of the Secretary where necessary to assure the accuracy and reliability of results when it is determined that no other more practicable means to assure accuracy and reliability are available to the Secretary) and shall where appropriate require the use and prescribe the form and content of instructions or warnings necessary for the proper installation, maintenance, operation, and use of the device.

"(2) A performance standard may require that the device or any component thereof be marked, tagged, or accompanied by clear and adequate warnings or instructions reasonably necessary for the protection of health or safety.

"(3) The Secretary shall provide for a periodic evaluation of the adequacy of all performance standards promulgated under this section in order to reflect changes in the state of the art of the development of devices and in applicable medical, scientific, and other technological data.

"(4) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined with regard to such intended use.

"Consultation With Other Federal Agencies and Interested Group; Use of Other Federal Agencies

"(b)(1) Prior to (A) initiating a proceeding under subsection (c) to promulgate a performance standard under this section, (B) initiating the development of a proposed performance standard under subsection (f) of this section, or (C) the taking of any action under subsection (g) of this section, the Secretary shall to the maximum practicable extent consult with, and give appropriate weight to relevant standards published by, other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting agencies or organizations. In considering proposals for the development of performance standards, the Secretary shall to the maximum extent practicable invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, and consumer organizations which in his judgment can make a significant contribution to such development.

"(2) In carrying out his duties under this section, the Secretary shall utilize to the maximum practicable extent the personnel, facilities, and other technical support available to other Federal agencies.

"Initiation of Proceeding for Performance Standards—Development by Interested Parties

"(c) (1) A proceeding to promulgate a performance standard under this section shall be initiated by the Secretary by publication of notice in the Federal Register. Such notice shall advise of the opportunity for comment on the need to initiate such proceeding and shall include—

"(A) a description or other designation of the device (or type or class of device) to which the proceeding relates;

"(B) the nature of the risk or risk intended to be controlled;

"(C) a summary of the data on which the Secretary has found a need for initiation of the proceeding;

"(D) identification of any existing performance standard (if known to the Secretary) which may be relevant to the proceeding; and

"(E) on invitation to any person, including any Federal agency, which has developed or is willing to develop a proposed performance standard to submit to the Secretary, within sixty days after the date of such notice (i) such a performance standard; or (ii) an offer to develop a proposal performance standard in accordance with procedures prescribed by regulations of the Secretary. Such invitation shall specify a period of time, during which the performance standard is to be developed, which shall be a period ending one hundred and eighty days after the publication of the notice, unless the Secretary for good cause finds (and includes such finding in a notice published in the Federal Register) that a different period is appropriate.

"(2) Prior to his issuance of an order to promulgate a performance standard, the Secretary shall consider—

"(A) the degree of risk of illness or injury associated with those aspects of the devices subject to the order;

"(B) the approximate number of devices, or types or classes thereof, subject to the order;

"(C) the benefit to the public from the devices subject to the order, and the probable effect of the order upon the utility, cost, or availability of the devices to meet that need;

"(D) means of achieving the objective of the order with a minimal disruption or dislocation of competition and of reasonable manufacturing and other commercial practices consistent with the public health and safety; and

"(E) data and comments submitted pursuant to subsection (c) relevant to such order.

"(3) Before taking action pursuant to subsection (d), (e), and (f) concerning the use of an existing performance standard or the designation of a person or governmental body to formulate a proposed performance standard, or simultaneous with such action, the Secretary shall publish a notice in the Federal Register containing his findings pursuant to paragraph (2) on the need to establish a standard. Such findings shall be made only after consideration of the report, comments, and regulation provided for in section 511(d) and the comments received under the notice described in subsection (a)(1), and may be appealed to the courts pursuant to subsection (g)(5) within thirty days after publication in the Federal Register.

"Use of Existing Performance Standards

"(d) If the Secretary (1) finds that there exists a standard which has been published by any Federal agency or other qualified agency, organization, or institution, (2) has made reference to such standard (unless it is a standard submitted under subsection (c)(1)(E)) in his notice pursuant to subsection (c)(1)(D), and (3) determines that such performance standard may be substantially acceptable to him as a device standard, then he may, in lieu of accepting an offer under this section, publish such performance standard as a proposed device performance standard in accordance with subsection (g).

"Acceptance of Offers To Develop Performance Standards

"(e)(1) Except as otherwise provided by subsection (d), the Secretary may accept one or more offers to develop a proposed performance standard pursuant to the invitation prescribed by subsection (c)(1)(E) if he determines that (A) the offeror is technically competent to undertake and complete the development of an appropriate performance standard within the period specified in the invitation under subsection (c)(1)(E) and (B) the offeror has the capacity to comply with procedures prescribed by regulations of the Secretary under paragraph (4) of this subsection. Where more than one offer is received and the Secretary determines that the requirements of subparagraphs (A) and (B) have been met, the Secretary shall, wherever practicable, give priority to offerors who have no proprietary interest in the device for which the standard is to be developed. The Secretary shall require, by regulation, that in making an offer, each offeror and appropriate individual directors, officers, consultants, and employees of each offeror company, disclose the following information:

"(i) all current industrial or commercial affiliations;

"(ii) sources of research support other than the offeror;

"(iii) companies in which offerors have financial interests;

"(iv) such additional information as the Secretary deems pertinent to reveal potential conflicts of interest with regard to the offer.

The information received by the Secretary from an offeror whose offer has been accepted shall be made public by the Secretary at the time that an offer is accepted.

"(2) The Secretary shall publish in the Federal Register the name and address of each person whose offer is accepted, and summary of the terms of such offer as accepted.

"(3) When an offer is accepted under this subsection the Secretary may agree to contribute to the offeror's cost in developing a proposed performance standard, if the Secretary determines that such contribution is likely to result in a more satisfactory performance standard than would be developed without such contribution and that the offeror is financially responsible. Regulations of the Secertary shall set forth the items of cost in which he may participate, except that such items may not include construction (except minor remodeling) or the acquisition of land or buildings.

"(4) The Secretary shall prescribe regulations governing the development of proposed performance standards under this subsection and subsection (f). Such regulations shall include requirements—

"(A) that performance standards recommended for promulgation be supported by test data or such other documents or materials as the Secretary may reasonably require to be developed, and be suitable for promulgation under subsection (g);

"(B) that performance standards recommended for promulgation contain such test methods as may be appropriate for measurement of compliance with such performance standards;

"(C) for notice and opportunity by interested persons, including representatives of consumers or consumer organizations, to participate in the development of such performance standards;

"(D) for the maintenance of such records as the Secretary prescribes in such regulations to disclose the course of the development of performance standards recommended for promulgation, the comments and other information submitted by any person in connection with such development, including comments and information with respect to the need for such recommended performance standards, and such other matters as may be relevant to the evaluation of such recommended performance standards; and

"(E) that the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records, relevant to the expenditure of any contribution of the Secretary, under paragraph (3).

"Development of Performance Standards by the Secretary

"(f) If the Secretary has published a notice as provided by subsection (c), and—

"(1) no person accepts the invitation prescribed by subsection (c)(1)(E);

"(2) the Secretary has accepted neither an existing performance standard pursuant to subsection (d) nor an offer to develop a proposed performance standard pursuant to subsection (e); or

"(3) the Secretary has accepted an offer pursuant to subsection (e) but determines that the offeror is unwilling or unable to continue the development of the performance standard which was the subject of the offer or the performance standard which has been developed is not satisfactory;

then the Secretary shall proceed to develop a proposed performance standard pursuant to procedures prescribed by subsection (g).

"Procedure for Promulgation, Amendment, or Revocation of Performance Standards

"(g)(1)(A) Within one year after expiration of the period provided for persons to submit a proposed performance standard or offer to develop a proposed performance standard (which time may be extended by the Secretary by a notice published in the Federal Register stating the good cause therefor) and after review of any proposal submitted under subsection (e), the Secretary shall publish in the Federal Register either a proposal to promulgate a performance standard applicable to the device (or type or class of device) subject to the proceeding, or a notice that the proceeding is terminated. The proposal to promulgate a performance standard shall set forth the performance standard, the manner in which interested persons may examine data and other information on which the performance standard is based, and the period within which interested persons may present their comments on the standard (including the need therefor) orally or in writing. Such period for comment shall be at least sixty days, but not to exceed ninety days which time may be extended by the Secretary by a notice published in the Federal Register stating the cause therefor.

"(B) Within ninety days after the expiration of the period for comments pursuant to paragraph (A), the Secretary shall, by order published in the Federal Register, act upon the proposed performance standard or terminate the proceeding. The order shall set forth the performance standard, if any, the reasons for the Secretary's action, and the date or dates upon which the performance standard, or portions thereof, will become effective. Such date or dates shall be established so as to minimize, consistent with the public health and safety, economic loss to, and disruption or dislocation of, domestic and international trade. If any performance standard set forth in the order is substantially different from that set forth in the proposal an additional period of thirty days shall be permitted for comment on such performance standard:

"(C) The Secretary may include in the order promulgating a performance standard such findings in addition to those made pursuant to subsection (c)(3) as he may determine to be necessary to support the judgment required by subsection (a)(1).

"(2) The Secretary may revoke any performance standard, in whole or in part, upon the ground that there no longer exists a need therefor or that such performance standard (or part thereof) is no longer in the public interest. Such revocation shall be published as a proposal in the Federal Register and shall set forth such performance standard or portion thereof to be revoked, a summary of the reasons for his determination that there may no longer be a need therefor or that such standard (or any part thereof) may no longer be in the public interest, the manner in which interested persons may examine data and other information relevant to the Secretary's determination, and the period within which any interested person may present his views, orally or in writing, with respect to such revocation. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall publish such order in the Federal Register. The order shall include the reasons for the Secretary's action and the date or dates upon which such revocation shall become effective.

"(3) The Secretary may propose an amendment of a performance standard on his own initiative or on the petition of any interested person by publishnig such proposal in the Federal Register. Such proposal shall be subject to paragraphs (4) and (5) of this subsection and subsection (h).

"(4) To the extent not inconsistent with this section, the provisions of section 553 of title 5 of the United States Code, shall govern proceedings under this section to promulgate, amend, or revoke a performance standard.

"(5)(A) In a case of actual controversy as to the validity of any order promulgating, amending, or revoking a performance standard or findings that a standard is needed or a regulation banning a device, any person who will be adversely affected by such order if placed in effect may at any time prior to the thirtieth day after such order is issued file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

"(B) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary the court may order such additional evidence (and evidence in rebuttal thereof) to be presented to the Secretary. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence, so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

"(C) Upon the filing of the petition referred to in subparagraph (A) of this paragraph, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action with respect to such regulation, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(D) The judgement of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended.

"(E) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

"(F) A certified copy of the transcript of the record of the proceedings before the Secretary shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal libel for condemnation, exclusive of imports, or other proceeding arising under or in respect of this Act, notwithstanding proceedings with respect to the order have been previously instituted or become final under this subsection.

"(6) The Secretary may by regulations prohibit a manufacturer of a device from stockpiling any device to which a performance standard applies, so as to prevent such manufacturer from circumventing the purpose of such performance standard. For purposes of this paragraph, the term 'stockpiling' means manufacturing or importing a device between the date of promulgation of such performance standard and its effective date at a rate which is significantly greater (as determined under the regulations under this paragraph) than the rate at which such device was produced or imported during a base period (prescribed in the regulations under this paragraph) ending before the date of promulgation of the performance standard.

"Referral to Independent Advisory Committee

"(h)(1) The Secretary may refer a proposal under subsection (g) to an advisory committee of experts for a report and recommendation with respect to any matter involved in such proposal which requires the exercise of scientific judgment. Such referral shall be prior to or after publication under such subsection, and shall be so referred upon a request, within the time for comment specified in the proposal, of any interested person (unless the Secretary finds the request to be without good cause). For the purpose of any such referral, the Secretary shall appoint an advisory committee (which may be a standing advisory scientific review panel established under section 514 (b)) and shall refer to it, together with all the data before him, the matter so involved for study, and for a report and recommendation. The advisory committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or bias for the recommendations. A copy of such report shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order, or, if no such prior order has been issued, shall by order act upon the proposal. Any interested person shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person, in connection with the matter referred to it.

"(2) The Secretary shall appoint as members of any such advisory committee persons qualified in the subject matter to be referred to the committee and of appropriately diversified professional background. Members of an advisory committee who are not in the regular full-time employ of the United States, while attending conferences or meetings of their committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not at rates exceeding the daily equivalent for grade GS–18 of the General Schedule for each day so engaged, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. The Secretary shall furnish the committee with clerical and other assistance, and shall by regulation prescribe the procedures to be followed by the committee.

"Testing or Manufacture of Devices To Assure Compliance With Standards

"(i) (1) Every manufacturer of a device subject to a standard under this section shall assure the Secretary, at such times and in such form and manner as the Secretary shall by regulation prescribe, that testing methods prescribed by the performance standard show the device to comply therewith, or that the device has been manufactured under a program of quality control which is in accord with current good manufacturing practice (as may be determined by regulations of the Secretary) designed to assure such compliance.

"(2) To assure that devices conform to performance standards under this section, the Secretary shall review and evaluate on a continuing basis testing and other quality control programs carried out by manufacturers of devices subject to such performance standards.

"Exemption

"(j) This section shall not apply to any device (1) intended solely (A) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man or (B) to affect the structure or any function of the body of such animals; or (2) subject to section 514 except for those characteristics of the device made subject to provisions of existing performance standards by an application approved pursuant to that section; or (3) any device of a particular manufacturer which the Secretary finds pursuant to regulations issued after an opportunity for a hearing may notwithstanding any standard promulgated under this section be marketed pursuant to an approval under section 514.

"Temporary Permits

"(k) The Secretary shall issue regulations permitting the interstate shipment of devices varying from an applicable performance standard for the purpose of investigation or other testing prior to amendment of the standard. Such regulations may include reasonable conditions related to the safety and effectiveness of the devices.

"Custom Devices

"(l) This section shall not apply to any custom device to the extent that it is ordered by a physician (or other specially qualified persons, authorized by regulations promulgated by the Secretary, after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically ordered by a physician or such other authorized person to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof.

"Banned Device

"(m) (1) Whenever the Secretary finds after consultation with the appropriate panel or panels established under section 514(b) and after affording all interested persons an opportunity for an informal hearing, that—

"(A) a device presents an unreasonable risk of illness or injury or deception; and

"(B) no feasible performance standard or approved application under section 514 would adequately protect the public from the unreasonable risk of illness or injury or deception associated with such device,

he may propose and, in accordance with subsection (g), promulgate a regulation declaring such product a banned device.

"(2) The Secretary may declare a proposed regulation banning a device to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g) (3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such banning will expeditiously reduce or eliminate a hazard to the public health or safety, fraud, or gross deception associated with such device.

"Expedited Amendment

"(n) The Secretary may declare a proposed amendment of a performance standard to be effective on an interim basis after publication in the Federal Register, pending completion of the procedures established in subsection (g) (3), if he determines, after affording all interested persons an opportunity for an informal hearing, that such amendment will permit rapid implementation of desirable changes or will expeditiously reduce or eliminate a hazard to the public health or safety without prohibiting devices permitted by the existing performance standard and that to do so is in the public interest."

CONFORMING AMENDMENTS

SEC. 202. (a) Section 501 of such Act (21 U.S.C. 351) is amended by adding at the end thereof the following new paragraph:

"(e) (1) If it is, or purports to be or is represented as, a device with respect to which, or with respect to any component, part, or accessory of which there has been promulgated a performance standard under section 513, unless such device, or such component, part, or accessory, is in all respects in conformity with such performance standard; or

"(2) if it is a banned device."

(b) Section 502 of such Act (21 U.S.C. 352) is amended by adding at the end thereof the following new paragraph:

"(q) If it is a device subject to a performance standard promulgated under section 513, unless (1) its labeling bears such instructions and warnings as may be prescribed in such performance standard; and (2) it complies with the requirements of section 513(i) (1)."

TITLE III—SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

SEC. 301. (a) Section 501 of such Act, as amended by section 202(a) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(f) If (1) is a device, and (2) such device, or any component, part, or accessory thereof, is deemed unsafe or ineffective within the meaning of section 514 with respect to its use or intended use."

(b) Chapter V of such Act, as amended by this Act, is further amended by adding at the end thereof the following new section:

"SCIENTIFIC REVIEW OF CERTAIN MEDICAL DEVICES

"When Scientific Review Is Required

"SEC. 514. (a) (1) The Secretary may declare that a device (or type or class of device) for which scientific review has been determined to be appropriate pursuant to section 511(d) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if, after consultation with the appropriate panel or panels specified in subsection (b), he finds that (A) such review is appropriate to assure effectiveness or is appropriate to reduce or eliminate unreasonable risk of illness or injury associated with exposure to or use of a device and (B) other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. (2) The Secretary may declare that a device (or type or class of device) shall be subject to scientific review under this section with respect to any particular use or intended use thereof if he (A) determines that scientific review for any device is appropriate to protect the public health and safety and (B) finds that other means available to the Secretary may not be appropriate to reduce or eliminate such risk of illness or injury. To the maximum extent practicable the panel or panels shall provide an opportunity for any interested person to submit data and views on the appropriateness of applying scientific review to a device (or type of class or device) or any particular use of a device. The declaration shall be by regulation (which may be rescinded by the Secretary) which shall set forth and be based upon the report, comments, and regulations provided for in section 511(d), the findings prescribed in this subsection, and findings as described in section 513(c) (2). The promulgation of such regulation may be appealed to the courts pursuant to the provisions of section 513(g) (5) within thirty days after publication in the Federal Register. A device (or type or class of device) declared to be subject to scientific review shall be deemed unsafe or ineffective for the purpose of the application of section 501(f) unless either—

"(i) there is in effect an approval of an application with respect to such device under this section,

"(ii) such device is exempted by or pursuant to subsections (k), (l), or (m) of this section, or

"(iii) such device is intended solely (I) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man, or (II) to affect the structure or any function of the body of such animals.

"Standing Advisory Scientific Review Panels

"(b) For the purpose of reviewing applications filed under subsection (c), and of reviewing plans and protocols submitted under subsection (k) (4), and of reviewing product development protocol under subsection (m) (2), the Secretary shall utilize the standing advisory panels established under section 511. The selection, payment, and administration of these panels shall be governed by section 511.

"Application for Scientific Review

"(c) (1) Scientific review of a device (or type or class of device) which has been declared subject to such review in accordance with subsection (a) may be obtained by submitting to the Secretary an application for his determination of the safety and effectiveness of the device. The application shall contain (A) full reports of all information, published or known to or which should reasonably be known to the applicant, concerning investigations which have been made to show whether or not such device is safe and effective for use; (B) a full statement of the composition, properties, and construction, and of the principle or principles of operation, of such device; (C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of such device; (D) an identifying reference to any performance standard, applicable to such device, or component of such device, which is in effect pursuant to section 513, and either adequate information to show that such device fully meets such performance standard or adequate information to justify any deviation from such standard; (E) such samples of such device and of the articles used as components thereof as the Secretary may require; (F) specimens of the labeling proposed to be used for such device; and (G) such other information, relevant to the subject matter of the application, as the Secretary, upon advice of the appropriate panel or panels established pursuant to subsection (b), may require.

"(2) Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary shall refer such application to the appropriate panel or panels (established pursuant to subsection (b)) for study and for submission (within such period, if any, as he may establish) of a report and recommendations, together with all underlying data and the reasons or basis for the recommendations. The provisions of section 706(d)(2) shall apply with respect to the material so submitted.

"Consideration of an Initial Action on Application

"(d) As promptly as possible, but in no event later than one hundred and twenty days after the receipt of an application under subsection (c), unless an additional period is agreed upon by the Secretary and the applicant, the Secretary, after considering the report and recommendations referred to in paragraph (2) of such subsection, shall—

"(1) approve the application if he finds that none of the grounds for denying approval specified in subsection (e) applies.

"(2) advise the applicant that the application is not in approvable form; and inform the applicant, insofar as the Secretary determines to be practicable, of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols, prescribed by the Secretary); or

"(3) deny approval of the application if he finds (and sets forth the basis of such findings as part of or accompanying such denial) that one or more grounds for denial specified in subsection (e) applies.

"Bases for Approval or Disapproval; Opportunity for Review

"(e)(1) If, upon the basis of the information submitted to the Secretary as part of the application and any other information before him with respect to such device the Secretary finds, after opportunity to the applicant for the review prescribed by paragraph (4), that—

"(A) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof;

"(B) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing and installation of such device do not conform to the requirements of section 501(g);

"(C) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof;

"(D) based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; or

"(E) such device is not shown to conform in all applicable respects to a currently effective performance standard promulgated under section 513;

he shall issue an order denying approval of the application and stating the findings upon which the order is based. In determining if a device is shown to be safe for purposes of this paragraph, the Secretary shall weigh any benefit to the public health probably resulting from the use of the device against any hazard to the public health probably resulting from such use.

"(2) As used in this subsection and subsection (f), the term 'adequate scientific evidence' means evidence consisting of sufficient well-controlled investigations, including clinical investigations where appropriate, by experts qualified by scientific training and experience to evaluate the effectiveness of the device involved, on the basis of which it could fairly and responsibly be concluded by such experts that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof, unless the Secretary determines that other valid scientific evidence is sufficient to establish the effectiveness of the device.

"(3) For the purposes of this section, when a device is intended for use by a physician, surgeon, or other person licensed or otherwise specially qualified therefor, its safety and effectiveness shall be determined in the light of such intended use.

"(4)(A) An applicant whose application has been denied approval may, by petition filed on or before the thirtieth day after the date upon which he receives notice of such denial, obtain review thereof in accordance with subsection (i). The Secretary shall consider and give appropriate weight to the report and recommendations received from the advisory committee conducting such review under such subsection.

"(B) In lieu of the review provided by subparagraph (A), such applicant may petition to obtain a hearing in accordance with section 554 of title 5 of the United States Code.

"Withdrawal of Approval

"(f)(1) The Secretary may, upon obtaining where appropriate, advice on scientific matters from a panel or panels established pursuant to subsection (b), and after due notice and opportunity for hearing to the applicant, issue an order withdrawing approval of an application with respect to a device under this section if the Secretary finds—

"(A)(i) that clinical or other experience, tests, or other scientific data show that such device is unsafe for use under the conditions of use for which the application was approved; or (ii) on the basis of evidence of clinical experience, not included in or accompanying such application and not available to the Secretary until after the application was approved, or of tests by new methods or by methods not reasonably applicable when the application was approved, evaluated together with the evidence available to the Secretary when the application was approved, that such device is not shown to be safe for use under the conditions of use on the basis of which the application was approved;

"(B) on the basis of new information before him with respect to such device, evaluated together with the evidence available to him when the application was approved, that there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof;

"(C) that the application filed pursuant to subsection (c) contains or was accompanied by an untrue statement of a material fact;

"(D) that the applicant has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation or order under subsection (a) of section 516, or that the applicant has refused to permit access to, or copying or verification of such records as required by paragraph (2) of such subsection;

"(E) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such device do not conform to the requirements of section 501(g) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary; or

"(F) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that the labeling of such device, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary; or

"(G) on the basis of new information before him, evaluated together with the evidence before him when the application was approved, that such device is not shown to conform in all respects to an applicable performance standard promulgated pursuant to section 513.

"(2) If the Secretary (or in his absence the officer acting as Secretary) finds that an imminent health or safety hazard is involved, he may by order suspend the approval of such application immediately and give the applicant prompt notice of his action and afford the applicant an opportunity for an expedited hearing under this subsection. Such authority to suspend the approval of an application may not be delegated.

"(3) Any order under this subsection shall state the findings upon which it is based.

"Authority To Revoke Adverse Orders

"(g) Whenever the Secretary finds that the facts so require, he shall revoke an order under subsection (e) or (f) denying, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate.

"Service of Secretary's Orders

"(h) Orders of the Secretary under this section shall be served (1) in person by any officer or employee of the Department designated by the Secretary or (2) by mailing the order by registered mail or certified mail addressed to the applicant at his last known address in the records of the Secretary.

"Referral to Independent Advisory Committee

"(i)(1) A person who has filed an application under subsection (c) may petition the Secretary, in accordance with subparagraph (A) of subsection (e)(4), to refer such application, or the Secretary's action thereon, to an advisory committee of experts for a report and recommendations with respect to any question therein involved which requires the exercise of scientific judgment. Upon such petition, or if the Secretary on his own initiative deems such a referral necessary, the Secretary shall appoint an advisory committee and shall refer to it, together with all the data before him, the question so involved for study thereof and a report and recommendations thereon. The committee shall, after independent study of the data furnished to it by the Secretary and other data before it, certify to the Secretary a report and recommendations, together with all underlying data and a statement of the reasons or basis for the recommendations. A copy of the foregoing shall be promptly supplied by the Secretary to any person who has filed a petition, or who has requested such referral to the advisory committee. After giving consideration to all data then before him, including such report, recommendations, underlying data, and statement, and to any prior order issued by him in connection with such matter, the Secretary shall by order conform or modify any prior order or, if no such prior order has been issued, shall by order act upon the application. The applicant, as well as representatives of the Secretary, shall have the right to consult with such advisory committee, and such advisory committee is authorized to consult with any person in connection with the question referred to it.

"(2) Section 513(h)(2) shall apply to the appointment, compensation, staffing, and procedure of any such advisory committee.

"Judicial Review

"(j) The applicant may, by appeal taken in accordance with section 505(h), obtain judicial review of a final order of the Secretary denying or withdrawing approval of an application filed under subsection (c) of this section or a final order under subsection (m) revoking an exemption in effect under that subsection. Judicial review of such final order shall not be denied upon the ground that the petitioner has failed to avail himself of the review or hearing provided by subsection (e)(4) or the hearing provided by subsection (m).

"Exemption for Investigational Use

"(k)(1) It is the purpose of this subsection to encourage, to the maximum extent consistent with the protection of the public health and safety and with professional ethics, the discovery and development of useful devices and to that end to maintain optimum freedom for individual scientific investigators in their pursuit of that objective. All information required under this section to be submitted to the Secretary or to an institutional review committee shall be concise and no more burdensome than is necessary to permit adequate review.

"(2) Subject to the succeeding paragraphs of this subsection, there shall be exempt from the requirement of approval of an application under the foregoing provisions of this section any device which is intended solely for investigational use (in an appropriate scientific environment) by an expert or experts qualified by scientific training and experience to investigate the safety and effectiveness of such device.

"(3) The Secretary shall promulgate regulations after an opportunity for a hearing, relating to the application of the exemption referred to in paragraph (2) to any device which is intended for use in the clinical testing thereof upon humans, in developing data required to support an application under subsection (c).

"(4) Such regulations may provide for conditioning the exemption, in the case of a device intended for such clinical use, upon—

"(A) the submission, by the manufacturer of the device or the sponsor of the investigation, of an outline of the plan of initial clinical testing—

"(i) to a local institutional review committee which has been established to supervise clinical testing in the facility where the initial clinical testing is to be conducted, the composition and procedures of which comply with regulations of the Secretary, for review as being adequate to justify the commencement of such testing, or

"(ii) if no such committee exists or if the Secretary finds that the process of review by such committee is inadequate or that protection of health and safety so requires (whether or not the plan has been approved by such committee), to the Secretary for review by the appropriate panel or panels established pursuant to subsection (b) as being adequate to justify the commencement of such testing;

"(B) prompt notification to the Secretary by such manufacturer or sponsor (under such circumstances and in such manner as the Secretary prescribes) of approval of any plan, pursuant to clause (A)(i);

"(C) the submission, by the manufacturer of the device or the sponsor of the investigation, of an adequate protocol for clinical testing to be conducted by separate groups of investigators under essentially the same protocol, together with a report of prior investigations of the device (including, where appropriate, tests on animals) adequate to justify the proposed testing, either (i) to a local institutional review committee for review in accordance with the provisions of clauses (A)(i) and (B), or (ii) to the Secretary for review in accordance with the provisions of clause (A)(ii) if such testing involves facilities in which no such committee exists, or facilities served by more than one local institutional review committee if such committees are unable to agree on the adequacy of the submission;

"(D) the obtaining, by the manufacturer, of the device or the sponsor of the investigation, if the device is to be distributed to investigators for testing, of a signed agreement from each of such investigators that humans upon whom the device is to be used will be under such investigator's personal supervision or under the supervision of investigators responsible to him;

"(E) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer of the device or the sponsor of the investigation, of data (including but not limited to analytical reports by investigators) obtained as a result of such investigational use of the device, as the Secretary finds will enable him to evaluate the safety and effectiveness of the device in the event of the filing of an application pursuant to subsection (c) and

"(F) such other conditions relating to the protection of the public health and safety as the Secretary may determine to be necessary.

Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of devices. The Secretary shall within thirty days of the receipt of a notification or submission pursuant to this paragraph, determine whether the proposed investigation conforms to the requirements of this section. An investigation shall not begin until the sponsor receives notice from the Secretary that the proposed investigation conforms with the requirements of this section. The Secretary may not delay the beginning of an investigation pursuant to this paragraph until he finds that the investigation does not conform to the requirements of this section and he has notified the sponsor of such findings. The Secretary may exempt investigations from part or all the requirements of this subsection when he determines that to do so is in the public interest.

"(5) Such regulations shall assure that the rights and welfare of the subjects involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained and that informed consent is to be attained by methods that are adequate. Such informed consent shall be obtained in all but exceptional cases.

"(A) For the purposes of this section only, the term 'informed consent' shall mean the consent of a person, or his legal representative, so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, or other form of constraint or coercion. Such consent shall be evidenced by an agreement signed by such person, or his legal representative. The information to be given to the subject in such written agreement shall include the following basic elements:

"(1) a fair explanation of the procedures to be followed, including an identification of any which are experimental;

"(2) a description of any attendant discomforts and risks reasonably to be expected;

"(3) a fair explanation of the likely results should the experimental procedure fail;

"(4) a description of any benefits reasonably to be expected;

"(5) a disclosure of any appropriate alternative procedures that might be advantageous for the subject;

"(6) an offer to answer any inquiries concerning the procedures; and

"(7) an instruction that the subject is free to either decline entrance into a project or to withdraw his consent and to discontinue participation in the project or activity at any time without prejudicing his future care. In addition, the agreement entered into by such person or his legal representative, shall include no exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, or to release the institution or its agents from liability for negligence. Any organization which initiates, directs, or engages in programs of research, development, or demonstration which require informed consent shall keep a permanent record of such consent and the information provided the subject and develop appropriate documentation and reporting procedures as an essential administrative function.

"(B) The term 'exceptional cases' as used in paragraph (5) shall be strictly construed; shall permit the waiver only of those elements of consent listed in subparagraph (A) as may be justified by the circumstances of each case; and shall require the written concurrence in the acting physician's decision by at least two other licensed physicians not involved in the research project, unless in a life threatening situation, it is not feasible to obtain such concurrence.

"(6) Whenever the Secretary determines that a device is being or has been shipped or delivered for shipment in interstate commerce for investigational testing upon humans, and that such device is subject to the proceeding subsections of this section and fails to meet the conditions for exemption therefrom for investigational use, he shall notify the sponsor of his determination and the reasons therefor, and the exemption will not thereafter apply with respect to such investigational use until such failure is corrected.

"(7) In determining whether this subsection is applicable to any device and, if so, whether there has been compliance with the conditions of exemption, or upon application for reconsideration of any such determination, the Secretary shall, if so requested by the sponsor of the investigation, or may on his own initiative, obtain the advice of an appropriate expert or experts who are not otherwise, except as consultants, engaged in the carrying out of this Act.

"Custom Devices

"(l) This section shall not apply for any custom device to the extent that it is ordered by a physician (or other specially qualified persons authorized by regulations promulgated by the Secretary after an opportunity for a hearing) to be made in a special way for individual patients. Any such device shall comply with all aspects of any applicable performance standard except those specifically ordered by a physician or such other authorized person to be changed. This subsection shall apply only to devices ordered for individual patients, and shall not otherwise exempt a device from subsection (k). Custom devices shall not be used as a course of conduct and shall not be generally available in finished form for purchase or for dispensing upon prescription, and, whether in finished form or otherwise, shall not be made available through commercial channels by the maker or processor thereof.

"Product Development Protocol

"(m)(1) Any device (or type or class of device), manufactured or distributed by a particular person, which has been made subject to this section by a regulation promulgated by the Secretary, may be exempted by the Secretary from the requirement of approval of an application under the foregoing provisions of this section if—

"(A) the nature of the device (or type or class of device) is such that it is likely that it will be subject to frequent modification or rapid obsolescence or will not be produced in substantial volume; and

"(B) it is intended solely for use by or under the direction or supervision of a practitioner licensed by law to use or to prescribe the use thereof; and

"(C) it is, or will be, investigated in accordance with an approved product development protocol established pursuant to paragraph (2) of this subsection, or it is subject to an effective notice of completion of the requirements of such protocol.

"(2) Any person may submit a petition to the Secretary to establish a product development protocol with respect to a particular device (or type or class of device) meeting the requirements set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection. Such petition shall include supporting data and a proposed protocol. The Secretary shall, within thirty days, refer any such petition to the appropriate panel of experts appointed pursuant to subsection (b) of this section. Such panel may, within sixty days, or such other time as may be agreed upon by the panel and the petitioner, approve with or without modification the proposal protocol. The protocol, if approved, shall provide—

"(A) the investigational and testing procedures required prior to the commencement of clinical trials of such device and subsequent significant modifications thereto;

"(B) a requirement that an institutional review committee similar to that described in clause (1) of subparagraph (A) of paragraph (4) of subsection (k) of this section shall make a written finding that the predicted risk-to-benefit ratio applicable to the use of the device justifies clinical trials and that one or more such committees will continually monitor and make periodic written records on all clinical trials conducted in connection with the institution in which such committee operates;

"(C) the type and quantity of clinical trials and findings therefrom required prior to the filing of a notice of completion of a product development protocol;

"(D) a requirement for complete records of the investigation to be maintained which are adequate to show compliance with the product development protocol;

"(E) a requirement that consent, as described in paragraph (5) of subsection (k) of this section, be obtained from all subjects of the investigation; and

"(F) a requirement that copies of all records which are to be maintained pursuant to this paragraph be made available to the Secretary upon request.

"(3) If the panel to which such petition has been referred does not approve the proposed protocol within sixty days (or within such other time as may be agreed upon), the Secretary may consider and approve with or without modification the proposed protocol within sixty days after the date he is notified that the panel has concluded not to approve a protocol. If neither the panel nor the Secretary approves a proposed protocol, the Secretary shall issue a final order denying the petition and stating the grounds therefor.

"(4) At any time after a product development protocol for a particular device (or type or class of device) has been approved pursuant to this section, the petitioner may submit a notice of completion stating that the requirements of the protocol have been fulfilled and that, to the best of his knowledge, there is no reason bearing on safety, effectiveness, or other public health considerations why the device should not be marketed. Such notice shall contain all the data and information from which the petitioner made this determination. The Secretary shall approve or disapprove the notice of completion within ninety days after receipt of such notice.

"(5) The Secretary may, after providing the petitioner an opportunity for an informal hearing, at any time prior to approving a notice of completion, issue a final order to revoke a product development protocol or disapprove a notice of completion if he finds that—

"(A) the petitioner has failed substantially to comply with the requirements of the protocol; or

"(B) the results of the clinical trials conducted differ so substantially from the results required in the protocol that further trials cannot be justified; or

"(C) such device is not shown to be safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

"(D) there is a lack of adequate scientific evidence that the device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof. A final order issued under this paragraph shall be in writing and shall contain the reasons to support the conclusions thereof.

"(6) The Secretary (or in his absence the officer acting as Secretary) may at any time, by an order in writing stating the findings on which it is based, immediately revoke an exemption from the requirement of approval of an application under the foregoing provisions of this section, if he finds that there is an imminent hazard to the public health or safety caused by the existence of the exemption. In taking such action the Secretary shall give prompt notice to the person following the protocol of having filed the notice of completion, and afford such person an opportunity for an expedited hearing under this paragraph.

"(7) At any time after a notice of completion has been approved, the Secretary may issue an order revoking an exemption of the device (or type or class of device) from the requirement of approval of an application under the foregoing provisions of this section if he finds that any of the grounds listed in subparagraphs (A) through (F) of paragraph (1) of subsection (f) of this section apply. The provisions of paragraphs (1) and (3) of subsection (f) and subsections (g) through (j) of this section shall apply.

"(8) Whenever the Secretary finds that the facts so justify, he may reconsider an order under this subsection revoking the exemption granted by this subsection and reinstate the exemption.

"Transitional Provisions

"(n)(1) If, on the day immediately prior to the date upon which a device is declared to be subject to scientific review under this section, the device was in use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or for the purpose of affecting the structure or any function of the body of man, section 501(f) shall become effective with respect to such preexisting use or uses of such device on the closing date (as defined in paragraph (2) of this subsection) or, if sooner, with respect to any person who has filed an application, on the effective date of an order of the Secretary approving or denying approval of such application with respect to such use of the device under this section.

"(2) For the purposes of this subsection, the term 'closing date' means, with respect to a device, the first day of the thirty-first calendar month which begins after the month in which the device is declared to be subject to scientific review under this section, except that, if in the opinion of the Secretary it would not involve any undue risk to the public health, he may on application or on his own initiative postpone such closing date with respect to any particular use or uses of a device until such later date (but not beyond the close of the sixtieth month after the month of such declaration) as he determines is necessary to permit completion, in good faith and as soon as practicable, of the scientific investigations necessary to establish the safety and effectiveness of such use or uses. The Secretary may terminate any such postponement at any time if he finds that such postponement should not have been granted or that, by reason of a change in circumstances, the basis for such postponement no longer exists or that there has been a failure to comply with a requirement of the Secretary for submission of progress reports or with other conditions attached by him to such postponement."

PROHIBITED ACTS

SEC. 302. (a) Paragraph (e) of section 301 of such Act is amended (1) by striking out "or" before "512(j), (l), or (m)" and (2) by inserting ", 514(k), or 516(a)" after "512(j), (l), or (m)".

(b) Paragraph (l) of such section 301 is amended (1) by inserting "or device" after the word "drug" each time it appears therein, and (2) by striking out "505," and inserting in lieu thereof "505 or 514, as the case may be,".

TITLE IV—NOTIFICATION OF DEFECTIVE DEVICES; REPAIR OR REPLACEMENT

SEC. 401. Chapter V of such Act, as amended by sections 201 and 301(b) of this Act, is further amended by adding at the end thereof the following new section:

"NOTIFICATION OF DEFECTS IN, AND REPAIR OR REPLACEMENT OF, DEVICES

"SEC. 515. (a)(1) Every person who acquires information which reasonably supports the conclusion that a device intended for human use, which has been produced, assembled, distributed, or imported by him (A) contains a defect which could create a substantial risk to the public health or safety, or (B) on or after the effective date of an applicable performance standard promulgated pursuant to section 513 fails to comply with such standard, shall immediately notify the Secretary of such defect or failure to comply if such device has left the control of the manufacturer. No information or statements exclusively derived from the notification required by this subsection (except for information contained in records required to be maintained under any provision of this Act) shall be used as evidence in any proceeding brought against a natural person pursuant to section 303 of this Act with respect to a violation of law occurring prior to or concurrently with the notification.

"(2) The notifications required by paragraph (1) of this subsection shall contain a clear description of such defect or failure to comply, an evaluation of the hazard related thereto, and a statement of the measures to be taken to correct such defect or failure or to effect protection against the hazard created by the defect or failure.

"(3) For purposes of this section, the term 'defect' means a deficiency in design, materials, or workmanship, and does not include any deficiency resulting from use of improper accessories or from improper installation, maintenance, repair, or use of the device or any deficiency resulting from normal use of the device after the lifetime represented by the manufacturer has expired.

"(b)(1) If the Secretary determines that a device intended for human use distributed in commerce presents a substantial hazard to the public health or safety and that notification is required in order adequately to protect the public from such hazard, he shall immediately make certain that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons (including manufacturers, distributors, retailers, health professionals, and users) who should properly receive such notification in order to reduce or eliminate the effects of such hazard.

"(2) Where the Secretary determines that users shall not be notified under paragraph (1), he shall provide those health professionals who receive notification an opportunity to comment on the advisability of notifying the general public of the hazard. Within 30 days after such notification the Secretary shall notify the general public of the hazard, if after reviewing such comments, he determines that such notification will not endanger the public health.

"(C) If the Secretary determines (after affording parties, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e)) that a device intended for human use distributed in commerce, presents a substantial hazard to the public health or safety and that action under this subsection is in the public interest, it may order the manufacturer or any distributor or retailer of such device to take whichever of the following actions the person to whom the order is directed elects to the extent that the consent of the purchaser and, where appropriate, his physician, is obtained;

"(1) bring such device into conformity with the requirements of the applicable performance standard or repair the defect in such device;

"(2) replace such device with a like or equivalent device which complies with the applicable performance standard or which does not contain the defect; or

"(3) refund the purchase price of such device (less a reasonable allowance for use) if such device has been in the possession of a user for one year or more (A) at the time of public notice under subsection (c), (B) at the time the user receives actual notice of the defect or noncompliance, whichever first occurs.

An order under this subsection may also require the person to whom it applies to submit a plan, satisfactory to the Secretary for taking action under whichever of the preceding paragraphs of this subsection such person has elected to act. The Secretary shall specify in the order the persons to whom refunds must be made if the person to whom the order is directed elects to take the action described in paragraph (3). If an order under this subsection is directed to more than one person, the Secretary shall specify which person has the election under this subsection.

"(d)(1) No charge shall be made to any person (other than a manufacturer, distributor, or retailer) who avails himself of any remedy provided under an order issued under subsection (c), and the person subject to the order shall reimburse each person (other than a manufacturer, distributor, or retailer) who is entitled to such a remedy for any reasonable and foreseeable expenses incurred by such person in availing himself of such remedy.

"(2) An order issued under subsection (b) or (c) with respect to a device may require any person who is a manufacturer, distributor, or retailer of the device to reimburse any other person who is a manufacturer, distributor, or retailer of such device for such other person's expenses in connection with carrying out the order, if the Secretary determines such reimbursement to be in the public interest.

"(3) An order under subsection (c) may be issued only after an opportunity for an informal hearing. If the Secretary determines that any person who wishes to participate in such hearing is a part of a class of participants who share an identity of interest, the Secretary may limit such person's participation in such hearing to participation through a single representative designated by such class (or by the Secretary of such class fails to designate such a representative).

"(e) The remedies provided for in this section shall be in addition to and not in substitution for any other remedies provided by law."

PROHIBITED ACTS

SEC. 402. Section 301 of such Act, as amended by section 302 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(q)(1) The failure or refusal to furnish any notification or other material or information as required by section 515 or 516; or (2) the failure or refusal to comply with any requirement prescribed under authority of section 515(c)."

CONFORMING AMENDMENT

SEC. 403. Section 502(j) of such Act is amended by inserting "or manner" after "dosage".

TITLE V—REQUIREMENT OF GOOD MANUFACTURING PRACTICE

SEC. Section 501 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 202 and 301 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(g) If it is a device and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, holding, or installation do not conform to, or are not operated or administered in conformity with, current good manufacturing practice, as determined by regulations of the Secretary promulgated after consultation with all interested persons and after an opportunity for a hearing, to assure that such device is safe and effective."

TITLE VI—RECORDS AND REPORTS; INSPECTION AND REGISTRATION OF ESTABLISHMENTS; OFFICIAL NAMES

SEC. 601. Chapter V of the Federal Food, Drug, and Cosmetic Act is further amended by adding at the end thereof the following new section:

"RECORDS AND REPORTS ON DEVICES

"SEC. 516. (a)(1) Every person engaged in manufacturing, processing, distributing, or selling a device that is subject to a performance standard promulgated under section 513, or with respect to which there is in effect an approval under section 514 of an application filed under subsection (c) thereof, shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such device, and bearing on the safety or effectiveness of such device, or on whether such device may be adulterated or misbranded, as the Secretary may by general regulation, or by special regulation or order applicable to such device, require. In prescribing such regulations or issuing such orders the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, wherever he deems it appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(b) Subsection (a) shall not apply to—

"(1) practitioners licensed by law to prescribe or administer drugs and devices and who manufacture or process devices solely for use in the course of their professional practice;

"(2) persons who manufacture or process devices solely for use in research or teaching and not for sale; and

"(3) such other classes of persons as the Secretary may by or pursuant to regulation exempt from the application of this subsection upon a finding that such application is not necessary to accomplish the purposes of this section.

"(c) Every person engaged in manufacturing a device subject to this Act shall provide to the Secretary upon his request such technical data and other data or information with respect to such device as may be reasonably required to carry out this Act."

INSPECTION RELATING TO DEVICES

SEC. 602. (a) The second sentence of subsection (a) of section 704 of such Act is amended by inserting "or prescription devices" after "prescription drugs" both times it appears.

(b) The third sentence of such subsection is amended (1) by striking out "for prescription drugs", (2) by striking out "and antibiotic drugs" and inserting in lieu thereof ", antibiotic drugs, and devices", (3) by striking out "or section 507 (d) or (g)" and inserting in lieu thereof ", section 507 (d) or (g), section 514(k), or section 516", and (4) by inserting "or devices" after "other drugs", inserting "or of a device subject to section 514" after "new drug", and inserting "or section 516" after "section 505(j)".

(c)(1) Paragraph (1) of the sixth sentence of such subsection is amended by inserting "or devices" after "drugs" each time such term occurs.

(2) Paragraph (2) of that sentence is

amended by inserting ", or prescribe or use devices, as the case may be," after "administer drugs"; and by inserting ", or manufacture or process devices," after "process drugs".

(3) Paragraph (3) of that sentence is amended by inserting ", or manufacturer or process devices," after "process drugs".

REGISTRATION OF DEVICE MANUFACTURERS; OFFICIAL NAMES OF DEVICES

SEC. 603. (a) Section 510 of such Act is amended as follows:

(1) The section heading is amended by inserting "AND DEVICES" after "DRUGS".

(2) Subsection (a)(1) of such section is amended by inserting "or device package" after "drug package"; by inserting "or device" after "the drug"; and by inserting "or user" after "consumer".

(3) Subsections (b) and (c) of such section are amended by inserting "or a device or devices" after the word "drugs" every time such term occurs.

(4) Subsection (d) is amended to read as follows:

(d)(1) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs, or of a device or devices.

"(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) or (c) or paragraph (1) of this subsection shall, if any device is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact."

(5) Subsection (g) is amended by inserting "or devices after "drugs" each time such term occurs in paragraphs (1), (2), and (3) of such subsection.

(6) The first sentence of subsection (i) is amended by inserting ", or a device or devices" after "drugs or drugs"; and the second sentence of such subsection is amended by inserting "shall require such establishment to provide the information required by subsection (j) in the case of a device or devices and" immediately before "shall include", and by inserting "or devices" after "drugs".

(7) Subsection (j) is amended—

(A) in paragraph (1), preceding subparagraph (A), by striking out "a list of all drugs by established name" and inserting in lieu thereof "a list of all drugs and a list of all devices in each case by established name"; and by striking out "drugs filed" and inserting "drugs or devices filed in lieu thereof;

(B) in subparagraph (A) of paragraph (1), by striking out "such list" and inserting "the applicable list" in lieu thereof; by inserting "or a device contained in the applicable list with respect to which a performance standard has been promulgated under section 513 or which is subject to section 514," after "512,"; and by inserting "or device" after "such drug" each time it appears;

(C) in subparagraph (B) or paragraph (1), before clause (i), by striking out "drug contained in such list" and inserting "drug or device contained in an applicable list" in lieu thereof;

(D) in clause (i) of paragraph (1)(B), by amending such clause to read as follows—

"(i) which drug is subject to section 503(b)(1), or which device, is a prescription device a copy of all labeling for such drug or device, a representative sampling of advertisements for such drug or device, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular drug product or device, or";

(E) in clause (ii) of paragraph (1)(B), by amending such clause to read as follows:

"(ii) which drug is not subject to section 503(b)(1), or which device is not a prescription device, the label and package insert for such drug or device and a representative sampling of any other labeling for such drug or device;"

(F) in subparagraph (C) of paragraph (1), by striking out "such list" and inserting "an applicable list" in lieu thereof;

(G) in subparagraph (D) of paragraph (1), by striking out "the list" and inserting "a list" in lieu thereof; by inserting "or the particular device contained in such list is not subject to a performance standard promulgated under section 513, or is not a prescription device" after "512,"; and by inserting "or device" after "particular drug product;

(H) in paragraph (2), by inserting "or device" after "drug" each time it appears and, in subparagraph (C), by inserting "each" before "by established name".

(b) Subsection (o) section 502 of such Act is amended by striking out "is a drug and".

(c) The second sentence of section 801(a) of such Act is amended by inserting "or devices" after "drugs" both times such words appear.

Official Names

(d)(1) Subparagraph (1) of section 502(e) of such Act is amended by striking out "subparagraph (2)" and inserting in lieu thereof "subparagraph (3)".

(2) Subparagraph (2) of section 502(e) of such Act is redesignated as subparagraph (3) and is amended by striking out "this paragraph (e)" and inserting in lieu thereof "subparagraph (1)".

(3) Paragraph (e) is further amended by inserting a new subparagraph (2) as follows:

"(2) If it is a device, unless its label bears, to the exclusion of any other nonproprietary name, the established name (as defined in subparagraph (4)) of the device, if such there be, prominently printed in type at least half as large as that used thereon for any proprietary name or designation for such device: *Provided*, That to the extent compliance with the requirements of this subparagraph is impracticable, exemptions shall be established by regulations promulgated by the Secretary."

(4) Such paragraph is further amended by adding at the end thereof a new subparagraph as follows:

"(4) As used in subparagraph (2), the term 'established name', with respect to a device, means (A) the applicable official name designated pursuant to section 508, or (B) if there is no such name and such device is an article recognized in an official compendium then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name of such device, if any."

(e) Section 508 of such Act is amended (1) in subsections (a) and (e) by adding "or device" after "drug" each time it appears; (2) in subsection (b) by adding after "all supplements thereto," the following: "and at such times as he may deem necessary shall cause a review to be made of the official names by which devices are identified in any official compendium, and all supplements thereto"; (3) in subsection (c)(2) by adding "or device" after "single drug", and by adding "or to two or more devices which are substantially similar in design and purpose" after "purity,"; (4) in subsection (c)(3) by adding "or device" after "useful drug", and after "drug or drugs" each time it appears; and (5) in subsection (d) by adding "or devices" after "drugs".

(f) Section 301 of the Drug Amendments of 1962 (76 Stat. 793) is amended by inserting "and devices" after "drugs" each time such word appears, except that "or devices" is inserted after "which drugs" and after "intrastate commerce in such drugs".

TITLE VII—GENERAL PROVISIONS

ADVISORY COUNCIL ON DEVICES, ETC.

SEC. 701. Chapter VII of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON DEVICES, AND OTHER ADVISORY COMMITTEES

"SEC. 708. (a) For the purpose of advising the Secretary with respect to matters of policy in carrying out the provisions of this Act relating to devices, there is established in the Department an Advisory Council on Devices appointed by the Secretary without regard to the civil service and classification laws. The persons so appointed shall be manufacturers and other persons with special knowledge of the problems involved in the regulation of various kinds of devices under this Act, members of the professions using such devices, scientists expert in the investigational use of devices, engineers expert in the development of devices, and members of the general public representing consumers of devices.

"(b) The Secretary may also from time to time appoint, without regard to the civil service or classification laws, in addition to the advisory councils and committees otherwise authorized under this Act, such other advisory committees or councils as he deems desirable.

"(c) Members of an advisory council or committee appointed pursuant to subsection (a) or (b) who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the council or committee or otherwise engaged on its business, be compensated at per diem rates fixed by the Secretary but not in excess of the rate for grade GS-18 of the General Schedule at the time of such service, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by title 5, United States Code, section 5703, for persons in the Government service employed intermittently."

RESEARCH AND STUDIES

SEC. 702. Chapter VII of such Act, as amended by section 701 of this Act, is further amended by adding at the end thereof the following new section:

"RESEARCH AND STUDIES RELATING TO DEVICES

"SEC. 709. (a) The Secretary is authorized, directly or through contracts with public or private agencies, institutions, and organizations and with individuals, to plan, conduct, coordinate, and support—

"(1) research and investigation into the safety and effectiveness of devices, and into the causes and prevention of injuries or other health impairments associated with exposure to or use of devices;

"(2) studies relating to the development and improvement of device performance standards, and device testing methods and procedures; and

"(3) education and training with respect to the proper installation, maintenance, operation, and use of devices.

"(b) In carrying out the purposes of subsection (a), the Secretary, in addition to or in aid of the foregoing—

"(1) shall, to the maximum practicable extent, cooperate with and invite the participation of other Federal or State departments and agencies having related interests, and interested professional or industrial organizations;

"(2) shall collect and make available, through publications and by other appropriate means, the results of, and other information concerning, research and other activities undertaken pursuant to subsection (a); and

"(3) may procure (by negotiation or otherwise) devices for research and testing purposes, and sell or otherwise dispose of such products."

PUBLICITY

Sec. 703. Section 705 of such Act is amended by adding at the end thereof the following new subsection:

"(c) To assist in carrying out the provisions of this Act, the Secretary may cause to be disseminated information regarding standards, testing facilities, and testing methods promulgated, established, or approved under this Act and other information relating to the nature and extent of hazards subject to this Act. Subject to the provisions of section 301(j), the Secretary may also cause to be published reports summarizing clinical data relevant to marketed products approved under this Act."

Sec. 704. Chapter IX of such Act is amended by adding at the end thereof the following new subsection:

"EFFECT ON STATE REQUIREMENTS

"Sec. 903. (a) Whenever a performance standard pursuant to section 513 or scientific review pursuant to section 514 under this Act is in effect, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same device unless such requirements are identical to the Federal requirements.

"(b) Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to a device for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal requirements.

"(c) Upon application of a State or political subdivision thereof, the Secretary may by rule, after notice and opportunity for oral presentation of views, exempt from the provisions of subsection (a) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

"(1) imposes a higher level of performance than the Federal standard,

"(2) is required by compelling local conditions, and

"(3) does not unduly burden interstate commerce."

Sec. 705. Section 301(j) of such Act is amended by inserting "511" before "512", by inserting "513, 514, 515, 516" after "512", and by adding at the end thereof the following new sentence: "The Secretary may provide any information which contains or relates to a trade secret or other matter referred to in this section or in section 1905 of title 18, United States Code, to a contractor in furtherance of the provisions of this Act, and such contractor shall take such security precautions as are prescribed in regulations promulgated by the Secretary and shall be subject to the provisions and penalties established in this Act and in section 1905 of title 18, United States Code."

Sec. 706. Section 201 of such Act is amended by striking subsection (h) and inserting in lieu thereof the following new subsection.

"(h) The term 'device' (except when used in paragraph (n) of this section and in sections 301(i), 403(f), 502(c), and 602(c)) means instruments, apparatus, implements, machines, contrivances, implants, in vitro reagents, and other similar or related artcles, including their components, parts, and accessories (1) recognized in the official National Formulary, the official United States Pharmacopeia or any supplement to them; or (2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease in man or other animals; or (3) intended to affect the structure or any function of the body of man or other animals; and (4) which do not achieve any of their principal intended purposes through chemical action within or on the body of man or other animals and which are not dependent upon being metabolized for the achievement of any of their principal intended purposes."

Sec. 707. Section 502 of such Act is amended by adding at the end thereof the following new paragraphs:

"(r) In the case of any device that is a prescription device, if its advertising is false or misleading in any particular.

"(s) In the case of any prescription device distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements, and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that device a true statement of (1) the established name as defined in section 502(e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, (2) a full description of the components of such device or the formula showing quantitatively each ingredient of such device to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing, and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations which shall be issued by the Secretary after an opportunity for a hearing: *Provided*, That (A) except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement, and (B) no advertisement of a prescription device, published after the effective date of regulations issued under this paragraph applicable to advertisements of prescription devices, shall, with respect to the matters specified in this paragraph or covered by such regulations, be subject to the provisions of sections 12 through 17 of the Federal Trade Commisison Act, as amended (15 U.S.C. 52–57). This paragraph shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in section 201(m) of this Act.

Sec. 708. (a) Section 201 of such Act is amended by adding at the end thereof the following:

"(y) The term 'prescription device' means any device which the Secretary shall designate by regulation as being restricted to sale or distribution only upon the written or oral authorization of a practitioner licensed by law to administer or use such device and under such other conditions as the Secretary may by regulation prescribe. The Secretary may designate as a prescription device, pursuant to the preceding sentence, only a device which:

"(1) because of its potentiality for harmful effect, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer or use such device; or

"(2) is limited by an approved application under section 514 to use under the professional supervision of a practitioner licensed by law to administer or use such device."

Sec. 709. Section 304(a)(2) of such Act is amended to delete "and" before "(C)," to replace the period with a comma, and to add the following at the end thereof: "and (D) Any adulterated or misbranded device."

EXPORTATION OF DEVICES

Sec. 710. The last sentence of section 801 (d) of such Act is amended by inserting before the period at the end thereof: ", or to authorize the exportation of any device which does not comply with section 513 or 514 of this Act. The Secretary may permit exportation of any article if he determines that such exportation is in the interest of public health and safety, and has the approval, of the country to which it is intended for export."

EFFECTIVE DATES AND TRANSITIONAL PROVISIONS

Sec. 711. (a) Except as provided in subsections (b) and (c) of this section, the foregoing provisions of this Act shall take effect on the date of the enactment of this Act.

(b) Paragraph (f) of section 501 of the Federal Food, Drug, and Cosmetic Act, as added to such section by section 301(a) of this Act, shall, with respect to any particular use of a device, take effect (1) on the first day of the thirteenth calendar month following the month in which this Act is enacted, or (2) if sooner, on the effective date of an order of the Secretary approving or denying approval of an application with respect to such use of the device under section 514 of such Act as added by section 301(b) of this Act.

(c) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act) engaged in the manufacture or processing of a device or devices, shall, if he first registers with respect to devices, or supplements his registration with respect thereto, in accordance with subsection (b) of section 510 of that Act (as amended by section 603 of this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1974. Such registration, if made within such period and effected in 1975, shall also be deemed to be in compliance with such subsection for that calendar year.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 93–670), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

EXCERPT

I. HISTORY OF REGULATION OF MEDICAL DEVICES AND NEED FOR LEGISLATION

Federal authority to regulate medical devices was first provided in the Federal Food, Drug, and Cosmetic Act of 1938. There had been no provisions in the Food and Drugs Act of 1906 to regulate device safety and claims made for devices. During the 1930's reformers pressed for enactment of legislation to enable the Food and Drug Administration (FDA) to undertake the same kind of effort against unsafe or quack devices as the 1906 Act had allowed against impure or fraudulent drugs.

The 1938 Act defined "device" and provided the same basic authority over devices as applied to drugs, with the important exception of preclearance authority which was only provided for new drugs. From legislative history it is clear the term "device" was intended to include both quack machines and legitimate articles such as surgical instruments, trusses, prosthetic devices, ultraviolet lights, contraceptives, and orthopedic shoes. No additional authority has been provided since 1938 to improve public protection against unsafe or unreliable devices.

At the time the 1938 Act became law, many of the legitimate devices were relatively simple items which applied basic scientific concepts so that experts using them could recognize whether the device was functioning. The major concern with these devices was assuring truthful labeling. In the early years, FDA's activity concerned grossly hazardous products such as lead nipple shields which exposed nursing infants to danger of lead poisoning. FDA also attacked nasal vaporizors and stem pessaries used in contraception or for producing abortion which had the potential for causing puncture or infection. FDA efforts against thermometers which failed to record properly stimulated the development of standards for these products which greatly improved their reliability. Similarly, FDA actions against prophylactics (condoms) forced industry measures to reduce the incidence of defects in these products.

Immediately after enactment of the 1938 Act, FDA made numerous seizures of misbranded devices. During World War II, however, regulatory activity in this area dropped off because war needs resulted in scarcity of metals and other materials used to make nonessential devices. When metals and other materials were again available after the war, numerous devices again appeared, many of which were in violation of the Act.

Many of FDA's legal actions involved fraudulent devices. Since ancient times, mankind has used various kinds of gadgetry to cure or ward off serious ailments. Charms and talismans have been used throughout recorded history by people who have attributed magical qualities to them. Inventive individuals have sought to apply the latest scientific discoveries to the alleviation of health conditions. For example, after Benjamin Franklin's discovery of the electric force present in lightning, numerous individuals sought to use electrical energy to treat human ailments. At the time of the American Revolution, a gadget known as the Perkins Tractor became quite popular. This device was claimed to be capable of drawing disease out of the body by its electrical current. Although the construction and fantastic claims made for many quack devices over the years often seem quite amusing, use of these devices can have serious health consequences. Whether sold to a consumer or a health professional, a device which does not perform as promised may pose a risk to health as well as an economic detriment to the purchaser. Reliance on unwarranted claims made for a device, recommending use in serious disease conditions, may induce the purchaser to forego seeking timely and appropriate medical treatment. Fraudulent devices were a major concern of Congress in 1938 when it gave FDA authority to regulate devices.

A quack device which was the subject of FDA action in the late 1940's was the Spectochrome, of one Dinshah P. Ghadiali, which consisted of a 1,000-watt lamp, in a cabinet supplied with colored glass slides to fit an aperture through which the light bathed the patient. By becoming a member of Ghadiali's "Institute" for a fee of $90 a person could obtain the lamp plus voluminous literature which sought to cloak the scheme in oriental mysticism and sanctity. Claims were made for its value in treating such diseases as diabetes, cancer, tuberculosis and syphilis, and several thousand lamps were distributed. The first action against the lamp was a single seizure. After a trial which lasted thirty days, the jury rendered a verdict for the Government, and the court enjoined distribution of the lamp. Ghadiali, nevertheless, continued to ship it. Multiple seizures followed which did not stop him. Criminal prosecution was then filed against Ghadiali and his corporation. After a trial, in which the Government presented an array of physicians and relatives of victims who had used the device and died from the diseases it was represented to cure. After a verdict of guilty, the court imposed against Ghadiali and his corporation fines totaling $20,000 and a three-year prison sentence against Ghadiali, but imprisonment was suspended on the condition that the business be stopped.

The Spectochrome case is related in detail, since it indicates the vast amount of effort the Government must expend in stopping the marketing of bogus devices.

Another type of device which was the subject of FDA action was the "Zerret Applicator," popularly called the "Plastic Dumbell," which consisted of two plastic water tumblers filled partially with water, sealed with paraffin, joined at their mouths by scotch tape, and set into paraffin in the handle of plastic baby rattles. It was claimed to introduce in the human body the energy given off by "expanded hydrogen atoms" or "Z rays" alleged to be present in the liquid sealed in the tumblers. The user was to hold the article in his hands keeping the feet flatly on the floor without crossing the legs, or while reclining. This it was claimed, caused the atoms of the body to expand and bring health through the hands. This article costing $50, was offered to correct obesity and abnormal thinness due to glandular malfunctioning, correct diarrhea and constipation, reverse the aging process, rejuvenate the user, and cure "any disease known to mankind."

The "Vrilium Tube" was a small pencil-shaped tube containing a glass vital of a white granular substance (barium chloride) worth one two-thousandths of a cent, but this tiny gadget, also called the "Magic Spike," was sold for $300 to gullible sick people. They were told that it had radioactive powers that would cure disease when it was worn on the body, and these trusting purchasers were using it for cancer, diabetes, leukemia, ulcers, and other serious diseases.

One popular area for quack devices has been diagnostic products. During the 1950's the biggest source of such devices was the Electronic Medical Foundation of San Francisco. On March 16, 1954, an injunction barred shipment in interstate commerce of "Blood Specimen Carriers" for use in the Foundation's diagnostic machine, the "Radioscope." There were estimated to be about 5,000 of the devices throughout the country. The diagnostic service was based upon the theory that any ailment can be diagnosed by measuring emanations from a dried blood spot on sterile paper. Practitioners who mailed in the blood spots taken from their patients received, for a fee, a diagnosis blank filled in with the diseases which the patient was supposed to have, their location in the body, and the recommended "dial settings" for treatment with the Foundation's devices. The blood-spotted paper was put into a slot of the electrical device called the "Radioscope" while the operator stroked with a wand the abdomen of a person holding metal plates connected to the device. If a wand "stuck" to a particular location, that was supposed to be a manifestation of an "electronic reaction," and the operator determined from this the identity, kind, location, and significance of any disease present. Investigation disclosed that this diagnostic service was incapable of distinguishing the blood of animals or birds from that of man, or that of the living from the dead. Even a spot of coal-tar dye was reported as indicating systematic toxemia. The Foundation's literature listed hundreds of diseased conditions which could be treated by their machines once the diagnoses had been made by means of the "Radioscope." Other devices for which diagnostic as well as therapeutic claims were made were the "Drown Radio Therapeutic Instrument," the "Magnetic Affinitizer," and the "Neuromicrometer." These devices involved their own bizarre intricacies of operation.

A considerable number of devices for applying electricity to the body were subject to regulatory action. This included: (1) devices which produced galvanic (direct) current of low voltage by means of dry cells or batteries ("Electreat," "Acme Electric Machine"), (2) devices which used alternating current with a transformer to reduce the voltage ("Sinuothermic," "Elector-Way"), (3) devices in which alternating current as added to galvanic in order to obtain a rippled or pulsating galvanic current ("Facial and Body Genie," "Vitalitone," "Elector-Pulse"). Other devices sought to use radioactivity, ultrasonic energy, or infrared, or ultraviolet light to diagnose or treat disease.

Some fraudulent devices have been sold to practitioners rather than consumers. One such device as the Micro-Dynameter, a string galvanometer for measuring minute electrical currents which was claimed to be capable of allowing diagnosis of particular diseases based on each disease's electrical potential. Nearly 1,200 units of the product were destroyed during one 12-month period after FDA obtained an injunction against continued shipment of the device in 1963.

FDA began focusing more attention on hazards from legitimate medical devices around 1960. The post-war era was characterized by many new medical discoveries and saw the development of a vast array of new and complicated medical equipment. Inventions included heart pacemakers, kidney dialysis units, and artificial blood vessels and heart valves.

Although many lives have been saved or improved by the new discoveries, the potential for harm to consumers has been heightened by the critical medical conditions in which sophisticated modern devices are used and by the complicated technology involved in their manufacture and use. In the search to expand medical knowledge, new experimental approaches have sometimes been tried without adequate premarket clinical or animal testing, quality control in materials selected, or obtaining patient consent.

The present law's inadequacy has become a matter of acute concern because of the rapid technological change in the medical device field. The sophistication of modern medical devices makes careful testing necessary to determine if a device operates safely and as claimed. In early regulatory actions FDA was able to carry its burden of proof that a device is unsafe or misbranded through expert testimony; more recently FDA has had to undertake testing of devices suspected of violating the law. Many devices are so intricate that skilled health professionals are unable to ascertain whether they are defective. Increasing numbers of patients have been exposed to increasingly complex devices which pose serious risk if inadequately tested or improperly designed or used.

S. 2368 recognizes the benefits that medical research and experimentation to develop devices offers to mankind. It recognizes, too, the need for regulation to assure that the public is protected and that health professionals can have more confidence in the performance of devices.

The need for device legislation is demonstrated by the history of several cases against unsafe devices undertaken by FDA during the past few years. Hundreds of thousands of consumers bought a device caled Relaxicisor during the 1950's and 1960's. This device was represented as an aid in reducing weight and operated by sending shocks through the muscles. Testing revealed the device could aggravate muscular, gastrointestinal, and other disorders. It took FDA five years to complete court proceedings necessary to eliminate Relaxicisors from the market. FDA expended some half-million dollars in this effort.

FDA's experience eliminating the Diapulse device from the market is another case demonstrating the unwieldy procedures and lack of preventive provisions of present law. Diapulse was a heat-generating device which was marketed to medical practitioners for some 121 therapeutic claims. The firm lacked scientifically valid data to substantiate the efficacy of the device in any of the conditions for which it was promoted. The first seizure of a Diapulse device occurred in December 1965. As a result of lengthy court proceedings against the device and company appeals it was not until 1972 that injunction against the manufacturer was obtained. During fiscal year 1973, FDA seized over 350 Diapulse devices.

In the late 1960's two important court decisions indicated that certain products which are in the legal grey area between drugs and devices may be considered drugs and hence subject to premarket clearance. In *Amp, Inc.* v. *Gardner*, 389 F. 2d 825 (2 Cir. 1968), the Court of Appeals for the Second Circuit held that a nylon suture was a new drug and not a device. Shortly thereafter the Supreme Court held that an antibiotic sensitivity disc was a drug in *United States* v. *An Article of Drug . . . Bacto-Unidisk*, 395 U.S. 954 (1968). As a result of these decisions FDA classified as drugs soft contact lenses, a pregnancy kit, and intrauterine contraceptive devices which contain drugs or trace metals. FDA has administratively developed a distinction between drug and device, which favors classifying a product as a drug if its intended action is chemical, or based on highly complex technology potential hazards of which may be reduced through new drug controls. FDA has tried to avoid lengthy court battles that could tie up the rest of its efforts.

The need for more comprehensive authority to regulate medical devices has been recognized by Presidents Kennedy, Johnson, and Nixon. In 1969, Dr. Theodore Cooper, Director of the National Heart and Lung Institute, headed a panel to review the need for additional medical device legislation. That panel reported its results in 1970. The Cooper committee searched the scientific literature for accounts of injuries from medical devices. Some 10,000 injuries were recorded, of which 731 resulted in death. For example, 512 deaths and 300 injuries were attributed to heart valves; 89 deaths and 186 injuries to heart pacemakers; 10 deaths and 8,000 injuries to intrauterine devices. After hearing the views of the medical community, the industry and consumer representatives, the Cooper Committee agreed with past proposals calling for device legislation to provide for standard-setting for certain devices and premarket clearance for others. A third category would be exempt from standards or preclearance. The Cooper Committee also recommended that a balance be struck between the need for continuing research and the need for improved patient protection through a system of independent peer review for experimental devices.

II. HEARINGS

The Committee held two days of hearings on medical device legislation and received testimony from twenty witnesses representing the Administration, industry groups, consumer groups, and professional groups. All witnesses agreed that there was a general need for medical device legislation although each had specific recommendations for changes in the Chairman of the Health Subcommittee, Senator Kennedy's bill, S. 2368; S. 1446, the Administration's bill introduced by Senator Javits; and S. 1337, introduced by Senator Nelson.

Congressman L. H. Fountain, Chairman of the House Intergovernmental Relations Subcommittee testified that "medical device legislation is sorely needed." In his testimony, he reviewed the findings of 5 days of hearings before his Subcommittee concerned with issues regarding the safety and effectiveness of particular medical devices; intrauterine contraceptive devices.

The Administration was represented by Assistant Secretary for Health Charles C. Edwards, who was accompanied by Dr. Alexander M. Schmidt, Commissioner of the Food and Drug Administration. Dr. Edwards stated "we support this legislation and urge its prompt enactment." His testimony recounted the experience FDA has had in trying to regulate medical devices in the absence of specific device legislation. Dr. Edwards' testimony also reviewed the findings of the "Cooper Committee," established by the Department of Health, Education, and Welfare in 1969 to review the need for medical device legislation. After a thorough search of the scientific literature for injuries associated with medical devices, the "Cooper Committee" reported that there were 10,000 serious injuries of which 731 resulted in death. The "Cooper Committee" also endorsed the need for medical device legislation. Dr. Edwards testified that "the increasing sophistication of medical devices has outpaced the Department's ability to protect the public from those that are faulty. One reason for this is that current law imposes no duty upon medical device manufacturers to establish a safety or efficacy of their products prior to marketing." Dr. Edwards went on to testify that the Department did not "have authority to prescribe standards of safety to which devices must conform."

Dr. Sidney Wolfe testified on behalf of the Health Research Group of Washington, D.C. Dr. Wolfe's testimony described the hazards associated with the use of life-supporting medical devices which had been developed without any regulatory oversight. He expressed the view that the premarket clearance section of the legislation was the key to appropriate safeguarding of the public health, and questioned whether standard setting would provide an adequate guarantee of safety or efficacy.

Dr. Russell J. Thompson, M.D., of the Silas B. Hayes Army Hospital at Fort Ord testified about his experience with the intrauterine device. He felt that the history of the development of IUDs illustrated the need for device regulation and testified:

"* * * under current standards of nonregulation in the United States, I could take a paperclip and fashion it into an IUD. I could begin inserting it into women without even informing them that it is an experimental and never-tested IUD, and I would not even have to inform the EDA of my newly invented IUD."

The testimony of Joel J. Noble, the Director of the Emergency Care Research Institute in Philadelphia also endorsed the need for medical device legislation. He testified about the results of his research which showed that:

"* * * the problems associated with most medical devices which may lead to adverse affects, including injury or death, are, in order of decreasing incidence: (1) operator error resulting from inadequate training, (2) deficiencies in repair maintenance inspection and control of devices within health care facilities, (3) fundamental design deficiencies, (4) deficiencies in manufacturing quality control."

Foster Whitlock, Vice Chairman, Board of Directors, Johnson and Johnson and the Chairman-Elect of the Board of Directors of the Pharmaceutical Manufacturers Association, spoke on behalf of an industry panel which consisted of Kenneth Marshall of the Health Industries Association; James D. Weirman of the Medical Surgical Manufacturers Association; Thomas E. Holleran of the National Electrical Manufacturers Association; Rodney R. Munsey of the Pharmaceutical Manufacturers Association; and Adrian L. Ringuette of the Scientific Apparatus Makers Association. Mr. Whitlock, on behalf of the panel, testified:

"Let me start by saying that in our opinion, S. 2368 is in most respects responsive to the needs of the public. We are in basic accord with its major provisions."

Mr. Whitlock and each of the panel members presented a series of specific recommendations for changes in S. 2368, each of which was considered by the Committee during its Executive Committee consideration of the measure, and many of which were incorporated into the Committee-reported bill.

Dr. Ralph B. Wolfe testified on behalf of the Planned Parenthood Federation of America. He responded to the concerns raised by Russell Thompson about the safety and effectiveness of IUDs and recounted the experience of his organization using the IUD. With regard to the specific legislation, Dr. Wolfe testified overall that:

"* * * The proposed legislation is comprehensive and meritorious. It should satisfy the long overdue need for strict regulation in an increasingly important area related to the public's well-being."

Dr. George Meyers representing the American Dental Association testified to the effect that the House of Delegates of the ADA had not yet formally reviewed the legislation, but that he personally endorsed it and that it was appropriate for the dental industry to be included in its jurisdiction. Mr. James Murray represented the American Dental Trade Association. In his testimony, he agreed that there was a need for medical devices legislation but argued that dental devices should be exempted from the provisions of the legislation. He pointed out that most dental devices do not have great potential for harm and are not life-threatening, and that the market for dental products is very small. He testified:

"* * * To subject dental devices to the costly premarket clearance provision of the proposed legislation would seriously impair the improvement of existing dental devices and the development of new ones."

Carl Parker represented the Dental Manufacturers of America. His testimony also opposed the inclusion of the dental industry under the jurisdiction of this legislation.

Dr. Arthur Beall, Professor of Surgery at the Baylor College of Medicine, represented the American College of Chest Physicians, the American College of Cardiology and the Society of Thoracic Surgery. Dr. Beall testified, "at the outset, Mr. Chairman, let me say that S. 2368 is fundamentally a sound and helpful piece of legislation." Dr. Beall's testimony presented specific suggestions for improvement in this legislation all of which were considered by the Committee during its Executive session consideration of the measure and many of the suggestions were incorporated into the Committee-reported bill.

Dr. Gerald Ranier, a practicing thoracic and cardiovascular surgeon and Associate Clinical Professor of Surgery on Voluntary Faculty of the University of Colorado Medical School, testified on behalf of the Association for the Advancement of Medical Instrumentation. In his testimony, he stated that "AAMI supports, in principle, this legislation." His testimony also offered several specific suggestions for improvements, which were reviewed by the Committee during its Executive session consideration of the bill.

The final witness was Dr. Richard E. Palmer, member of the Board of Trustees of the American Medical Association. He testified on behalf of the AMA that:

"We support the principles and many of the provisions contained in your bill, S. 2368, which are similar to a House counterpart bill, but we would like to offer in our supplementary statements suggestions for modifications with respect to the bill for the consideration of the Committee."

He also testified that:

"We believe that the general approach taken in the legislation should be supported. We think it is advisable that devices should be defined, identified and classified. Similarly, it is beneficial that provision should be made for maximum use not only of the expertise within the FDA, but also significant expertise which is to be found in the medical scientific and manufacturing communities. We are pleased that the legislation provides for the use of expert consultation on recommendations in the classification and evaluation of evidence upon which determination for safety effectiveness and proper classification are based."

III. COMMITTEE VIEWS ON THE MEDICAL DEVICES BILL

Committee views—Section 511

The Committee recognizes the great diversity among the various medical devices and their varying potentials for harm as well as their potential benefit to improved health. Therefore the Committee recommends that all medical devices be classified into one of three categories based upon the degree of risk to the public health and safety represented by each individual device or class of devices. The Committee believes that those devices for which insufficient information exists to assure effectiveness or to assure that exposure to such devices will not cause unreasonable risk of illness or injury, and for which standards or other means may not be appropriate to reduce or eliminate such risk of illness or injury, should be subject to the most rigorous kind of premarket scientific review. The Committee believes that in respect to other devices, if the nation's experts, who will be well represented on the classification panels, determine that it is appropriate to establish reasonable performance standards relating to safety and effectiveness in order to protect the public health and safety, then the devices may be placed in the standard-setting category. Finally, the Committee believes that if the panels conclude that still other devices are safe and effective when used in conjunction with instructions for usage and warnings of limitation, then neither the premarket clearance nor standard-setting mechanism should be necessary to protect the public health and safety.

It is the Committee's intent that the widest range of national expertise in the medical devices area should be utilized in the establishment of classification panels. The Committee recognizes that experts from the industry could significantly contribute to the work of such panels because of their knowledge of industry practices and available technology. The Committee was concerned, however, about potential conflict of interest if industry representatives were to have ultimate decision-making responsibilities in an area that could vitally affect their own interest and perhaps their employment. The Committee therefore has provided that industry members may serve on the panels, but has specified that they be non-voting members.

The Committee was equally concerned that representatives of consumer interests be able to participate on the panels. The Committee has therefore designated a non-voting consumer panel member for each of the panels.

The Committee is aware that the Food and Drug Administration has already begun a preliminary classification of medical devices. In this regard, there have been considerable questions with regard to the appropriate weight that should be given to classifications already made by the panels now in existence under present law. These panels have not fully utilized or adhered to the criteria for classifications as embodied in this bill. Therefore the Committee does not believe that prior classifications should be accepted as such, but that a review of the work of these existing panels should be carried out. On the other hand, the Committee believes that the work of these panels has been most valuable and should wherever applicable, be utilized. Therefore, the Committee has authorized the Secretary to utilize the existing panels, and the information and findings developed by such panels, wherever review determines that to be the appropriate procedure.

The Committee recognizes the importance of the classification process. The report of the panel is considered to be a preliminary classification. This is to avoid a conflict which could arise if a device was classified by a panel under one classification and yet later failed to meet the statutory prerequisites for being so classified or met the statutory prerequisites for a different classification. The Committee wishes to make it clear that the classification report is to be used as guidance by the Secretary in pursuing the procedures set out in other sections for permanently subjecting devices to particular regulatory procedures. This preliminary report is intended to serve as notice to manufacturers and others of the intent to proceed in a certain direction and thereby provide industry with an opportunity to begin developing any data or information which may be needed later to support continued marketing of a device. Because of the preliminary nature of the classification there is no need to provide full administrative safeguards for this process, which thereby facilitates and expedites the chore of classifying thousands of devices. The Committee has provided for full administrative safeguards once classification is final and a course of action has been embarked upon.

The Committee believes that a manufacturer who thinks he has developed a significantly new or modified medical device should have the opportunity to petition for a classification of that new device. Until such time as that new product is classified the manufacturer may not market the product. The purpose of this provision is not intended to be strictly comparable to the new drug provisions in the Food, Drug and Cosmetic Act. This section is simply intended to provide a mechanism whereby devices which are new or which significantly differ from those devices previously classified, can be brought to the attention of the Secretary for the purpose of classification prior to marketing.

Section 513

This section authorizes the Secretary to establish standards for medical devices. The Committee purposely added the word "performance" before the word "standards" in this section. It is not the intention of the Committee to simply authorize the establishment of standards for the purpose of mechanically standardizing medical devices. The Committee believes that standards must relate to the safety or effectiveness (including reliability over time) of the device or other "performance" characteristics. The Committee intends that performance standards shall also go to questions of indicated uses, proper labeling, instructions for use, warnings and uniformity of manufacture when those are in the interest of safety or proper and effective use.

The Committee recognizes that the state of the art in the medical devices field is rapidly changing and continually improving and has therefore provided that the Secretary shall undertake a periodic evaluation of the adequacy of all performance standards to be sure that they reflect changes in technology or medical science.

The Committee believes that maximum use should be made of standards that have already been developed by other Federal agencies and other nationally recognized standard-setting agencies or organizations. The Committee believes that the Secretary should review existing standards and should determine their applicability to meeting the requirements of this section.

The Committee has provided for procedural safeguards in the standard-setting process. There is time to comment upon the published notice of the need to develop a standard. If after reviewing those comments the Secretary publishes findings which are not responsive to the comments, a mechanism is provided for an appeal of the Secretary's findings to the Court of Appeals and eventually to the Supreme Court. There is further review once a standard has been developed and the Secretary has issued a proposal to promulgate a standard. At that point interested parties may comment upon the proposal or can request referral of the proposal to an independent scientific advisory committee for review. There is further recourse in terms of appealing the order establishing the standard to the Court of Appeals and, if necessary, to the Supreme Court. The Committee believes that the availability of these safeguards will protect and balance the rights of the different interests involved in the regulation of medical devices.

The Committee believes that the development of standards requires the application of sophisticated knowledge. It is recognized that a considerable amount of expertise in this area exists outside the Government. The Committee wanted to use this expertise and yet at the same time guard against a potential conflict of interest which might result if a standard were developed by a party having a proprietary interest in the nature of that standard. Therefore, the Committee-reported bill provides that when more than one offer to develop a standard is received, and where each offer is technically competent, the Secretary shall give priority to offerors who have no proprietary interest in the device for which the standard is to be developed. The Committee believes that, when nongovernmental groups (offerors) offer to develop standards for the Secretary's consideration, members of such groups should be required to disclose certain information in order to minimize the potential for conflict of interest that might arise. Such information, as required by regulation, shall be made publicly available at such time as an offer is accepted by the Secretary, in order to aid in the assessment of a proposed standard. The language in the bill is derived from the guidelines used by the National Academy of Sciences in requiring disclosure by committee members "On Potential Sources of Bias". The Committee intends that the Secretary shall be guided by these guidelines, and by the Conflict of Interest provisions of Public Law 87–849 (18 U.S.C. 202(a)), in drafting regulations under this section.

The Committee has authorized the Secretary, under this Section, to impose individual lot-testing where it is necessary and where no more practical means to achieve consistency or reliability are available. The Committee's intent is not to thwart the use of this procedure, but rather to insure that it will not be required as a regular part of each and every standard. To the extent that safety, effectiveness and reliability can reasonably be achieved without imposing individual lot-testing, the Committee intends that the procedure not be used.

The Committee was impressed by testimony at the hearings to the effect that the skill of the user of the medical device has a direct and significant bearing on the safety and effectiveness of that device. Therefore the Committee intends that the evaluation of the safety and efficacy of a device be done in relation to the skill of the person who is to utilize it. The Committee intends that if a device is safe only in the hands of eminently qualified specialists, that that device will be restricted to use by those specialists.

The Committee believes it necessary to specifically prohibit manufacturers from stockpiling devices from the date of promulgation of a performance standard and the effective date of such a standard. This is analogous to provisions of the Consumer Product Safety Act and is intended to prohibit manufacturers or distributors from building abnormal inventories of products which would not meet an appropriate standard.

The Committee wishes to make it clear that standards and premarket approval mechanisms are not mutually exclusive. A component of a device which is subject to premarket clearance may also be required to conform to an applicable standard. The basic intent of the legislation is to assure safe and effective devices and the Secretary is authorized to use all of the authorities contained in this Act in any combination deemed necessary to protect the public health and safety.

The Committee has specifically exempted all veterinary devices from the purview of this legislation.

The Committee is aware of the special relationship that each health practitioner has with his patients. It is also aware of the need to develop special customized devices to meet the particular needs of a given patient. It is also aware of the need for individual research on medical devices. Therefore the Committee exempts custom devices from the standard setting requirements and from premarket scientific review. This exemption shall apply only for devices ordered by physicians and the other health professionals designed by regulation, according to their own specifications. Those medical devices which are ordered for individual patients, to qualify for this exemption, may not be used as a course of conduct and may not be generally available through commercial channels to the professions. It is the intent of these provisions to allow physicians to order custom-made products but not to permit manufacturers to circumvent standards-setting and scientific review requirements by commercially exploiting these products. The phrase "devices not being used as course of conduct" does not prohibit a physician from ordering a custom instrument and using it in his practice on several patients. This exemption has been a cause of serious concern for the Committee, although it recognizes the need to exempt such devices so that innovation is not stifled and so that custom fitting or sizing would not be prohibited. It is not the intent of this exemption to allow for the development of customized "quack" devices or devices known to be unsafe or ineffective.

The Committee has approached the problem of "quack" or worthless devices in an additional way, by authorizing the ban of certain devices which present a risk of illness, injury, disability or deception and for which feasible standards could not be established and premarket scientific review would not be adequate. This section is aimed primarily at quack, worthless or totally unproven devices, but the Committee envisions that there will be other instances in which the banning of devices would be the appropriate regulatory action to be pursued. The Committee has also included a provision to authorize the seizure of devices which are distributed wholly in intrastate commerce. This provision will be applicable to all devices and will assist enforcement by doing away with the cumbersome and time consuming task of establishing interstate shipment. This provision will be particularly useful against quack devices.

The Committee recognizes the rapidly changing nature of the devices field and therefore feels that provisions must be made to amend standards on the basis of improved technology or new scientific evidence. Such amendments should be made in an expedited fashion to that appropriate changes can be rapidly implemented. The purpose of this authority is to permit new or improved devices to be marketed without delay so that the public may have such beneficial devices available to them as soon as possible.

Section 514

This section provides for the premarket scientific review of medical devices. The Committee spent a great deal of time deciding upon the criteria to be used in determining whether or not a particular device should be subject to premarket scientific review. The Administration's bill would have restricted such review to devices used in "life threatening situations" among other preconditions for such review. The Committee believes that this approach would be too restrictive because many devices could cause serious illness or injury which are not necessarily used in life threatening situations. The Committee believes that the potential for harm inherent in a certain device may not be determined solely on the basis of its intended use. Therefore the Committee has provided that the Secretary may declare a device subject to premarket clearance if, after consultation with appropriate panels, such review is found appropriate to insure safety and effectiveness or to reduce or eliminate unreasonable risk of illness or injury. The Committee intends that devices which are considered to be "life supporting or life sustaining" shall be subject to premarket scientific review. In addition, the Committee believes that the Secretary should have the authority to declare a device subject to scientific review whenever the Secretary feels that such a classification would be appropriate to protect the public health and safety. This authority would enable the Secretary to require premarket review even if the classification panels had not recommended such review. Additionally, the Committee has provided that premarket scientific review should be imposed only when there is no more practical means available to reduce or eliminate such a risk of illness or injury. However, the Committee wishes to make clear that this latter criterion should not be viewed in the absolute. It is not intended to impose upon the Secretary that he establish beyond any doubt that there is no other means available to accomplish the goals of safety and effectveness. Rather, he must reasonably find that other readily available means do not offer the same assurance of success or probability of success as premarket review does.

In the course of its deliberations the Committee was guided by the decisions that have been made by the classification panel on the review of cardiovascular devices already in existence. In particular the minutes of the panel meeting on October 9, 1973 said:

The panel also reviewed the classification results for all of the cardiovascular devices. It was pointed out that since the scientific review or premarket clearance process may be the only method available to the panel by which it may request and analyze data pertinent to a device's safety and efficacy, that several different types of devices may show up in this proposed regulatory category. Obviously those devices which are life supporting, life sustaining or potentially hazardous to health, and which at the same time are in a stage of rapid development need premarket clearance in order to insure their safety and efficacy. Other devices which are also potentially hazardous to health or life supporting or life sustaining may also be placed in the scientific review category even though their widespread clinical use may generally be considered safe and effective. It is not expected that this latter group of devices would require the same type of review as the first group of devices mentioned. However, under proposed legislation, placing them in scientific review would give the Secretary and the advisory panel the opportunity to request and analyze the safety and efficacy data when this appears necessary in order to protect the public health.

Pacemakers and artificial heart valves are examples of life supporting devices which are in a stage of development which is rapidly changing and which would require scientific review. Monitoring devices used in an intensive care unit and a number of devices used to diagnose cardiac function are examples of the latter group of scientific review devices discussed in the paragraph above.

The Committee understands that the decision to require premarket clearance is one of the most crucial decisions to be made under this Act. It has therefore constructed appropriate appeal mechanisms into the legislation. Once a regulation has been published declaring that a device shall be subject to scientific review, a mechanism is provided whereby that decision may be appealed to the Court of Appeals and eventually the Supreme Court.

The Committee believes that the scientific review process must be one that is characterized by the highest standards of scientific excellence. In order to avoid a proliferation of scientific panels under this Section, the Committee has decided that the panels used for classification shall, to the extent possible, be utilized during the process of premarket scientific review. These panels will be subject to the Federal Advisory Committee Act.

The Committee has built further appeals mechanisms into the scientific review process. Once an application for scientific review has been submitted and reviewed under this Section, the applicant may appeal a negative decision by requesting that his application be referred to an independent advisory committee (in lieu of a hearing). If the independent advisory committee concurs in the decision to deny the applicant's proposal or if the Secretary does not concur in the committee's recommendation to permit marketing, the applicant may seek review by the Court of Appeals and eventually appeal to the Supreme Court.

The Committee recognizes the necessity to encourage scientific investigation in the medical devices field and has attempted to provide optimum freedom for individual scientific investigators in their pursuit of that objective. The Committee has therefore provided an exemption to qualified scientific investigators from the requirements of this Section during the time of the investigational use of devices in order that they may collect sufficient data to establish that the device should be on the market. The Secretary may, by regulation (after an opportunity for an informal hearing), establish procedures governing this exemption in addition to those set out in the legislation. The Committee has provided in the reported bill that the Secretary shall have thirty days after the receipt of a submission under this Section to determine whether or not the investigation is appropriate. The Secretary may not delay the beginning of an investigation beyond thirty days unless he finds that the investigation does not or will not conform to this Section or to the regulations issued thereunder and has notified the sponsor of such findings. The Committee has also specifically defined the meaning of informed consent which must be obtained in all but exceptional cases from any individual being used in investigations under this Section.

The Committee was impressed by the argument presented by the devices industry of the need to establish a mechanism for the approval of devices subject to rapid obsolescence or frequent modification. Therefore, the Committee has established in the reported bill the product development protocol mechanism for such devices. The decision on whether or not this provision should be used in a particular case rests solely with the Secretary and in his discretion. The Committee wishes to make it clear that only an informal hearing shall be provided for a revocation of a product development protocol before the Secretary has approved a notice of completion. However, once a notice of completion is approved, the applicant shall have the same administrative rights as the holder of an approval under scientific review.

Section 515

The Committee has been guided in the development of this section by the provisions of the Federal Hazardous Substances Act and the Consumer Product Safety Act. The Committee believes that producers, assemblers, distributors and importers of devices should immediately notify the Secretary of any defect which could create a substantial risk to the public health or safety or fails to comply with the established standards. The Committee wants to make it clear that information or statements exclusively derived from the notification required by this Section cannot be used as evidence in any proceeding brought against a natural person pursuant to Section 303 of the Federal Food, Drug and Cosmetic Act with respect to a violation of law occurring prior to or concurrently with a notification. The Committee feels that the Secretary should have considerable discretion in determining whether or not users of devices must be notified of defects in any given case. The Committee believes, however, that notice of defective devices should go to the general public unless the Secretary determines that such notification would endanger the public health or is unwarranted because of the insignificant nature of the deviation from the standard.

Section 501

The Committee has amended Section 501 of the Federal Food, Drug and Cosmetic Act to authorize the Secretary to issue substantive current good manufacturing practice regulations which will be applicable to medical devices and establishments manufacturing, processing or handling medical devices. The Committee believes that both industry and consumers have a vital interest in these regulations and that each should have a full opportunity to participate in the development of such regulations.

Section 502

The Committee believes that the Secretary of Health, Education, and Welfare should have authority to regulate prescription medical device advertising. Therefore, the Committee has provided that the Federal Trade Commission Act (15 U.S.C. 52–57) will not be applicable to the advertising of prescription medical devices. The Committee believes that the Secretary of HEW in administering this new law will develop significantly more expertise in the area of medical devices than the Federal Trade Commission and that therefore the regulation of prescription device advertising is more properly vested in the agency most knowledgeable about the area and the one that is truly charged with matters affecting public health and thus assuring the safety and efficacy of medical devices.

Section 700

The Committee recognizes that the medical device field is a rapidly expanding industry. The Committee feels that the Secretary should be authorized to provide for (either directly or through contracts) new research and investigation into the safety and effectiveness of devices and the causes and prevention of injuries or other health impairments associated with exposure to or use of such devices. In addition, research should be carried out to lead to the development and improvement of device performance standards. The Committee recognizes that a device is only as good as the expert who uses it and therefore authorizes the Secretary to conduct programs for the education and training of individuals with respect to proper installation and use of devices.

Section 201

The Committee recognizes that there is confusion at the present time about whether certain articles are to be treated as devices or drugs under the Food, Drug and Cosmetic Act. Therefore, the Committee reported bill has carefully defined "device" so as to specifically include implants, in vitro diagnostic products and other similar or related articles. In vitro diagnostic products include those products which are not ingested and which are used to assist in the diagnosis of disease or other conditions of the body.

Section 801

The Committee reported bill has amended Section 801 of the Food, Drug and Cosmetic Act, which relates to the exportation of devices. The Committee does not believe that substandard or unsafe or ineffective devices should be permitted to be exported to foreign nations and has thus provided in its bill that the Secretary may deny export of any devices which do not fully conform to the provisions of this Act. The Committee has, however, found that in many instances, articles subject to the Federal Food, Drug and Cosmetic Act which may not meet domestic standards for one reason or another might properly and significantly benefit foreign nations. The Committee has therefore provided in this section of the bill that such articles may be exported to foreign countries when the Secretary finds that the non-compliance is not of such a nature as to expose the populations of foreign nations to undue risks of the public health and provided that the foreign nation specifically approves of such an export.

General

The Committee wishes to take specific note of the testimony of a number of witnesses, both within and without the industry who expressed concern about the impact of this legislation on the small manufacturer of medical devices. The concern stemmed from the importance of the small innovative manufacturer in the invention and development of new medical devices and the inability of these firms, because of limited financial resources, to sustain the high level of administrative costs demanded of a highly regulated industry. The Committee believes that these concerns are legitimate, as long as they are concerns for the preservation of small business consistent with the public's need for safe and effective medical devices. The Committee is confident that the administration of this new law will also take into account the need to preserve the small manufacturer's role in the device industry.

IV. TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1949, as amended, the following is a tabulation of votes in Committee:

There were no rollcall votes cast in the Committee.

1. A Kennedy amendment making technical and conforming changes carried unanimously by voice vote.
2. A Dominick amendment excluding veterinary devices from the jurisdiction of the legislation carried unanimously by voice vote.
3. Several Nelsen amendments with regard to premarket clearance and standard setting were adopted unanimously by voice vote.
4. The motion to favorably report the bill carried unanimously by voice vote.

V. COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510, 91st Congress) the Committee estimates that the cost which would be incurred in carrying out this bill is as follows:

No new funds are authorized by this legislation. The administration estimated that supplemental funds in the amount of $14 million would be requested in order to carry out the provisions of this act.

Mr. NELSON. Mr. President, I am pleased to support the Medical Device Safety Act, a long-overdue and significant piece of legislation that will fill a serious regulatory gap in the Federal Food, Drug, and Cosmetic Act.

For the first time, medical devices, like drugs, will be required either to be premarket tested for safety and efficacy, or to meet minimum standards showing that they are safe and reliable for use over time.

An estimated 12,000 medical devices are now on the market. This rapidly growing industry now has retail sales of some $3 billion, about half that of the pharmaceutical industry.

This legislation distinguishes medical devices from drugs for the purpose of regulation, so that devices shall be classified in three ways: those requiring premarket scientific review; those requiring evidence that they meet performance standards; or those exempt from both such requirements, if they are determined to be safe and effective when used in conjunction with adequate instructions and warnings.

In 1967, the late President Johnson called for medical device legislation in his consumer protection message to Congress. A bill that I first introduced in 1969 responded to that message. The same bill was reintroduced in 1971, and as S. 1337 on March 22, 1973.

A number of provisions from that bill, with modifications, are incorporated in the bill now before the Senate, S. 2368.

The bill requires that devices found by classification panels to be "life-sustaining or life-supporting" shall be subject to premarket scientific testing. This insures that devices having the greatest potential for hazard or human harm are subjected by manufacturers to careful scientific study and testing before they are marketed.

The Secretary of HEW, based on scientific expert advice, will establish protocols for such testing, and require that test data be submitted to HEW, when a manufacturer seeks approval of a device for marketing. This is comparable to the drug law.

The bill does not specify what the scientific testing protocols should be. That is up to the scientific experts in the agency. Test requirements obviously will vary in degree, depending on the type and use of a device.

The Secretary also has the authority to require premarket clearance for any device when he determines such action will protect the public health and safety. Thus, the Secretary has the broad authority to require such test data without having to wait for a specific classification by a panel, if he determines it is necessary, such as in emergency situations.

These are vitally important provisions in the legislation, and will significantly strengthen the authority of the Federal Government to protect the public from inadequately tested medical devices.

The public should not be the guinea pig for such testing. Life-sustaining or life-threatening medical devices should be thoroughly studied and tested for safety and efficacy before they are widely used.

No one should be exposed to possible electrocution, unwarranted infection, or permanent disability by faulty manufactured or poorly designed medical devices.

The bill also contains safeguards against misuse of a "custom device" exemption. Under the bill, "custom devices" may be used if they are "ordered by a physician—or other specially qualified persons authorized by regulations promulgated by the Secretary after an opportunity for a hearing—to be made in a special way for individual patients." Such devices are exempt from the premarket clearance or standard requirements of the legislation.

"Custom devices" should be allowed to be developed. However, there must be assurances that such exempt devices cannot be used as a course of practice or sold commercially, without adequate safeguards that they are safe and effective.

The legislation contains language prohibiting "custom devices" from being used widely as a course of conduct, or marketed commercially.

The bill contains a requirement for disclosure of information about potential sources of bias by persons outside the Government who participate in the drafting of proposed standards, which the Federal Government adopts. This information will be required by regulation, and will be made public at such time as a standard is accepted by the Government. This provides the opportunity to determine whether such offerors of standards have potential sources of bias or conflicts of interest. The language in the bill is derived from the guidelines now used by the National Academy of Sciences in requiring disclosure by their committee members of potential sources of bias. It is intended that the Secretary shall be guided by these guidelines, and by the conflict of interest provisions of Public Law 87–849 (18 U.S.C. 202(a)) in drafting regulations under this provision.

Furthermore, the bill contains provisions insuring against domination of the classification panels by industry or others with potential conflicts of interest. Both industry and consumer representatives will sit on such panels as nonvoting members, who can offer their expertise to the panel deliberations.

The bill insures that defective devices will be reported to the Government, and removed from the market where necessary.

It prohibits the export of unapproved devices, unless the Secretary determines such devices are not harmful, and the country importing the devices approves.

The bill also requires the Secretary to regulate the advertising of prescription devices, as he does for prescription drug advertising.

The committee carefully considered this legislation, and in my view, has recommended a strong bill that will protect the public health and safety while at the same time encourage continued advances in this fast growing and remarkable scientific field.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. KENNEDY. Mr. President, the Senate has today passed a landmark piece of health regulatory legislation. This will give the Food and Drug Administration authority to regulate for the first time the development and marketing of medical devices.

The need for this regulatory legislation has been well documented. Over 10,000 injuries have been recorded resulting directly from unsafe medical devices; 731 of these injuries resulted in death. For example, 512 deaths and 300 injuries were attributed to heart valves; 89 deaths and 186 injuries were attributed to heart pacemakers; 10 deaths and 8,000 injuries were attributed to intrauterine devices.

S. 2368 provides for a flexible use of powerful regulatory authority. Those devices which are used in life-supporting or life-sustaining situations and which represent a real hazard to the public health and safety will be subject to the most rigorous kinds of premarket clearance. Such critical devices as heart valves and pacemakers fall into this category. Those devices for which experts agree standardsetting is sufficient to protect the public health and safety will not have to go through the premarket clearance.

Finally, those devices which are generally safe when used in accordance with agreed-upon labeling instructions are exempted from either premarket clearance or standard-setting procedures. Tongue depressors are an example of devices that fall into this category. The purpose of this multifaceted approach is to apply the proper amount of regulation for each device so as to both protect the public health and safety and assure a continuing effort in the research and development of new medical devices.

Hearings before the Health Subcommittee last February demonstrated that in this country a physician is free to prescribe a drug for any purpose that he wishes, be it an approved purpose or an unapproved and experimental purpose; he is free to perform experimental surgery solely on the basis of his own independent judgment without subjecting that judgment to peer review; and he is free to develop and use experimental medical devices without regard to any standards. We saw examples of cases where medical practitioners developed medical devices in isolation which eventually did grievous harm to several patients. The legislation enacted today by the Senate will assure that this never happens again. It is a long missing and much needed piece of authority for the Food and Drug Administration and is a significant step forward in our efforts to improve the quality of health care for all Americans.

ADDITIONAL EXPENDITURES BY COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 266) authorizing additional expenditures by the Committee on Rules and Administration for inquiries and investigations was considered and agreed to, as follows:

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $374,000 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), in accordance with such succeeding sections of this resolution.

SEC. 3. Not to exceed $180,000 shall be available for a study or investigation of privileges and elections.

SEC. 4. Not to exceed $194,000 shall be available for a study or investigation of computer services for the Senate, of which amount not to exceed $20,000 may be expended for the procurement of individual consultants or organizations thereof.

SEC. 5. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished acting minority leader wish to be recognized?

Mr. GRIFFIN. No, Mr. President.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATOR BIBLE

Mr. STENNIS. Mr. President, I rise to pay a special tribute to my fellow Senator and good friend, Senator ALAN BIBLE, of Nevada.

We all know, as his colleagues, that he is one of the busiest of Senators. But at the same time he is a most unselfish man, in that he is always ready to take time from his tremendously busy schedule to do something helpful for a colleague.

As the Senators know, I was hospitalized for part of the last session of Congress. When the time came that I should be starting to hold hearings as chairman of the Public Works Subcommittee of the Senate Appropriations Committee, I asked ALAN BIBLE if he would undertake to do this for me. I reminded him that if he were kind enough to accede to my request, it would also involve taking the public works appropriations bill to the floor and then to conference.

As Senators know, Senator BIBLE already has this responsibility as Chairman of the Interior Appropriations Subcommittee, as well as his many other demanding duties. Nevertheless, in typical helpfulness, he agreed immediately to undertake the handling of the public works appropriations. He said that when he could hold the hearings himself, he would do so; that when there were conflicts with Interior hearings, he would ask other members of the subcommittee to chair the hearings; and that he would be glad to handle the bill on the floor and in conference. He said this cheerfully and without hesitation, although I know from past observation that he already had a backbreaking schedule.

With his usual competence he accomplished these tasks, and I am deeply grateful to him. I am also very grateful to the several other members of the Public Works Appropriations Subcommittee who shared in chairing the hearings and in the subcommittee markup, including the Senator from Oregon (Mr. HATFIELD), who is the senior member of the minority. They all gave me their help when I needed it badly, and I appreciate it.

We who know ALAN BIBLE so well are never surprised at how much he can do, and how quickly he can do it. I have served with him in the Senate for 20 years, and he has always been able to do this. He is gifted with an extraordinary amount of commonsense, and he has a strong background of legal learning and experience. These qualities enable him to ask very penetrating questions and to arrive with minimum loss of time at accurate judgments. When these abilities are combined with the fact that he has as much energy as any man I have ever known, then we have a man of extraordinary competence. And this is what ALAN BIBLE is.

He is also my close and valued friend. I learned with great regret of his decision to retire at the end of this Congress. I do not challenge his judgment, and I will miss him greatly. We will all miss him. He is a real workhorse, and a stalwart in the Senate. He is a dedicated spokesman for the people of Nevada, and is a great citizen of the United States.

My warm thanks go to the Senator from Nevada for his assistance to me during the last session.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATOR SYMINGTON

Mr. STENNIS. Mr. President, I wish to pay a special tribute to our distinguished colleague from Missouri, Senator SYMINGTON, for his accomplishments, during the first session of this Congress, as the acting chairman of the Senate Armed Services Committee.

I was not able to return to carry on my duties in the Senate from January 30 of last year until September 5. At this time the military procurement authorization bill was ready to report. In fact it was reported the following day, September 6.

All of the work connected with the preparation and reporting of the bill, and the military construction bill which followed, was accomplished while Senator SYMINGTON was serving as acting chairman of the Armed Services Committee. This included the long hearings on the bill. At my request he was the floor leader when the bill was considered by the Senate, and he headed the Senate conferees in the eminently successful resolution of the differences between the Senate and House bills.

Senator SYMINGTON is a man of strong conscience and great dedication. When these responsibilities fell to his lot, he applied himself with much diligence. He worked day and night, and he is entitled to be very proud of what he accomplished. He rendered a very fine service to the committee, to the Senate, and to the Nation.

My respected friend from Missouri is a man of great fairness, as well as a man of conviction. Over a considerable number of years of association with our national military establishment including a tenure as the first Secretary of the Air Force he has learned the fundamentals and a great amount of detail about many military matters, and he has formed some firm convictions as a result of this knowledge. However, as I said, he has a great sense of fairness in all matters. In chairing the Armed Services Committee he was careful to see that all members had a voice, that all problems were fully explored to the satisfaction of the members, and that the committee majority view prevailed and was presented to the Senate. If he had differing individual views he presented them as such. He showed an attitude toward committee work that is admirable.

I wish to extend my warm thanks to Senator STUART SYMINGTON for all the hard work he did, which under normal circumstances would have fallen to my lot. I thank him for his unfailing courtesies to the committee members, and for the many special courtesies he so graciously extended to me. I wish to state my admiration for the manner in which he accomplished his tasks as acting chairman of the Armed Services Committee.

Also, Mr. President, I wish especially to thank every member of the Committee on Armed Services for the work and attention they gave to the affairs of the committee in 1973. All the time I was away every thought I had of the committee was of the fullest satisfaction that they would perform their duties to the very best of their ability and their judgment, and that is exactly what they did, to the credit of the committee, the Senate, the Nation.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the morning hour be continued indefinitely.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

APPOINTMENTS TO DEFENSE MANPOWER COMMISSION

Mr. MANSFIELD. Mr. President, on behalf of the minority leader and myself, and in accordance with Public Law 93-155, we appoint the following persons to the Defense Manpower Commission: **Karl Bendetsen and Curtis Tarr.**

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The Senate is now in morning business.

Is there further morning business?

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia, the assistant majority leader (Mr. ROBERT C. BYRD), be granted an official leave of absence from the Senate for today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR READING OF WASHINGTON'S FAREWELL ADDRESS ON FEBRUARY 18, 1974—APPOINTMENT BY THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of Washington's Farewell Address this year occur on February 18 instead of on February 22 as provided in the order of the Senate on January 24, 1901.

The ACTING PRESIDENT pro tempore. Without objection, as is legislative session, it is so ordered.

The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, as modified February 1, 1974, appoints the Senator from Alabama (Mr. ALLEN) to read Washington's Farewell Address on February 18, 1974.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. METZENBAUM) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Joint Economic Committee. The message is as follows:

To the Congress of the United States:

The United States enters 1974 in a position of leadership in the world economy. The dollar is strong, we have constructive economic relations throughout the world, and we have the greatest freedom of action resulting from our great capacity to produce. We must take the responsibilities and the opportunities this position of leadership gives us.

Nineteen hundred and seventy-three was a year of problems and progress in the American economy. In some respects the problems were greater than we expected and the progress was less than we had hoped. But the areas of our solid achievements were more important than the areas of our disappointments. We and the world around us have difficult tasks ahead—primarily to deal with an old problem, inflation, and to deal with one that has just become acute, energy. But the United States confronts these difficulties with a strong and adaptable economy, which means an economy of capable and enterprising people.

In the middle of 1971, when the New Economic Policy was launched, the country had three economic objectives: To promote the expansion of output and reduce unemployment, to correct the persistent deficit in the U.S. balance of payments, and to check the inflation which had been going on for 5½ years. To achieve these objectives a comprehensive program of action was initiated. Taxes were reduced. Price and wage controls were instituted. The exchange rate of the dollar was set free to adjust to market conditions, and steps were initiated to improve the international monetary system.

There has been great progress toward two of these three objectives. Production and employment have risen rapidly. Total civilian employment was 6.8 million higher in December 1973 than in June 1971. The unemployment rate had fallen from 6 percent to a little under 5 percent. In 1973 a larger percentage of the civilian population over the age of 16 was employed than ever before.

With vigorously rising employment, and rising productivity as well, there was a big increase in output of goods and services, the essential ingredients of higher living standards. In the 2½ years of the New Economic Policy, total output increased by 14 percent, which is about 35 percent above our average for a period of this length. The real income of American consumers per capita, after taxes, rose by 8½ percent, also well above our long-term rate. Both real output and real income, of course, reached record highs.

The second goal of the New Economic Policy, to strengthen the international financial position of the United States and of the world, was also largely achieved. The significance of this goal is commonly neglected in America. But a country whose currency is weak, whose currency others don't want to hold, is greatly limited in what its government and citizens can do—in buying goods abroad, in traveling freely, in investing freely, in maintaining forces abroad if necessary. And if a country goes on spending more abroad than it earns abroad, its freedom of action is going to be curtailed. There has been a dramatic change in our balance of trade, from a deficit of $917 million in the first half of 1971 to a surplus of $714 million in the second half of 1973. We have not only improved our own position but we have also taken the lead in strengthening the international system. The more flexible system we have promoted withstood numerous shocks during 1973, and at the same time the world economy and international trade and investment continued to expand.

It is the third of the three objectives of the New Economic Policy—the control of inflation—that has been our great difficulty. Until the end of 1972 the New Economic Policy, drawing on the results of earlier fiscal and monetary restraints, worked well in getting the rate of inflation down, even though worrisome rises in food prices appeared. But in 1973 inflation speeded up sharply. During the year, consumer prices increased by almost 9 percent.

Of course, the progress on the first two objectives was connected with the disappointment on the third. The rapid rise toward full employment, the expansion of our net exports, and the reduction in the value of the dollar to make the United States more competitive, all contributed to the resurgence of inflation. But there were other factors at work, less directly under our control. Food production lagged in major producing countries, including the United States. An extraordinary combination of booms in other countries boosted prices of industrial materials. Countries jointly controlling a large part of the world's exportable oil supplies decided to raise their prices substantially. During 1973 food prices accounted for 51 percent of the total rise of consumer prices, and energy prices accounted for another 11 percent.

The American people generally prospered despite the inflation in 1973. Their incomes, on the average, rose more than prices. But there were many families for which that was not true. We cannot accept continuation of the inflation rate of 1973, and still less can we risk its acceleration. We must dedicate ourselves to carrying on the fight against inflation in 1974 and thereafter.

There are at least four lessons we can learn from our past experience in combating inflation:

1. *The importance of patience.* To correct a powerful trend of the economy which has been going on for some time requires time. Sharply squeezing down the economy in an effort to halt inflation would produce a severe drop in employment and economic activity and create demands for a major reversal of policy. Pumping up the economy to get quickly to full employment would risk setting off even swifter inflation. We need a greater steadiness of policy.

2. *The importance of the rest of the world.* The events of 1973 brought our external economic relations sharply to our attention. Most simply put, it will be exceedingly hard for us to have a stable economy in an unstable world. We must contribute a stabilizing influence to the world economy of which we are a large part. We must promote concerted efforts to maintain the health of the world economy.

3. *The importance of production.* Despite other vicissitudes, what determines the economic well-being of the American people more than anything else is the rate of production. The rapid increase of production has provided the rising real incomes of the American people. More specifically, increasing food production is the best way to deal with the food price problem, and increasing our energy supplies is the best way to deal with the energy shortage. We think of ourselves as a Nation with high and strongly rising output. We are. But we can do better and it is important that we do better.

4. *The importance of free markets.* In the past several years, under the pressure of emergency conditions, we have made great, but temporary, departures from reliance on free prices and free markets. In special circumstances and for short periods these departures have been helpful. But taken together, these experiences have confirmed the view that the free market is, in general, our most efficient system of economic organization, and that sustained and comprehensive suppression of it will not solve the inflation problem.

At the beginning of 1974 the three problems which have dominated economic policy for many years—inflation, unemployment, and the balance of payments—have been joined by a fourth—the energy problem. Or rather, the other three problems have been pervaded by the energy problem. The present oil situation means that we are paying much higher prices for imported oil than formerly and that the volume of imports at the present time is less than we would freely buy even at those prices. But the prices and volumes are both highly uncertain and add uncertainties to the economic picture for the year.

The current and prospective oil situation will at the same time raise prices, limit production in some industries, and reduce demand in others. It will be the objective of the Administration's policy to do three things in this circumstance:

1. To keep the moderate slowdown of the economic boom from becoming excessive because of the energy shortage;
2. To keep the rise of fuel prices from spilling over unnecessarily into more inflation in other parts of the economy; and
3. To set the stage for stronger economic expansion with greater price stability after the initial price and output disruptions caused by the energy shortage have been absorbed.

Achieving these goals in this unpredictable economic environment will require alertness and adaptability. We cannot set a policy at the beginning of the year and let it run without further consideration. But we can describe the main elements of our present strategy.

1. We will maintain a budget of moderate economic restraint. Even though the combination of urgent requirements and inescapable commitments generates pressures for huge expenditure increases, the budget I will propose will keep the expenditures within the revenues that the tax system would yield at full employment.
2. We will be prepared to support economic activity and employment by additional budgetary measures, if necessary.
3. We urge the Congress to enact the legislation I proposed last year for improving the unemployment compensation system, with further strengthening amendments I will submit. This would provide better protection for workers who may lose their jobs, whether because of the energy shortage or for other reasons, and also help to protect the economy better against the secondary effects of their unemployment.
4. Working together with other consuming countries, including the developing countries, and with the oil-exporting countries, we will try to arrive at an understanding on mutually beneficial conditions of exchange.
5. We will try to manage the energy shortage in such a way as to keep the loss of jobs and production to a minimum, although some loss is inevitable in the short run. The allocation system is designed to assure an adequate flow of oil to those industries where lack of it would limit employment the most. We shall also have to provide or permit incentives—including higher prices—for maximum imports, for maximum domestic exploration and production, and for efficient use of our scarce supplies. To prevent higher prices from causing excess profits, I have proposed an Emergency Windfall Profits Tax, which I urge the Congress to enact promptly.
6. We will work with other oil-importing countries to prevent the higher prices of oil and its limited supply from generating a downward spiral of recession. The higher prices will cause dislocations and impose burdens on all consuming countries; they do not have to cause a spreading recession if we manage our affairs cooperatively and wisely.
7. We will continue our policy of maximum agricultural production to help hold down food prices.
8. We will continue our policy of progressive removal of price and wage controls in order to restore the flexibility needed for efficiency and expansion in a time of economic strain.

The effort to maintain the stability of our economy in the face of the present unusual conditions will absorb a great deal of attention this year. But we must not neglect the fundamental factors which determine the prosperity of the American people in the longer run. One of these has come to general public attention with a rush—the need for adequate supplies of energy at reasonable cost. We are seeing the possible consequences of being deprived of these, and we must not allow it.

The energy problem has had two main parts for some time:

First, with rapidly rising world demand for energy, most of which comes from depletable resources, we could run into sharply increasing costs of energy unless vast investments are made in research, development, experimentation, and production.

Second, we are exposed to the danger of being thrown back upon inadequate or very expensive sources of energy earlier than necessary by joint action of a few countries that control a large part of the existing low-cost reserves of oil.

To deal with this problem I began proposing almost 3 years ago, a number of governmental measures to permit or assist development of energy within the control of the United States. In 1973 the second part of the problem, which had formerly been a threat, became a reality at least temporarily, and this has demonstrated unmistakably the urgency of the steps I have recommended.

I propose that the United States should commit itself to "Project Independence" to develop the capacity for self-sufficiency in energy supplies at reasonable cost. One key element of Project Independence is a 5-year, $10 billion program of federally financed research and development in the field of energy. My budget for fiscal year 1975 will include almost $2 billion for this purpose. By far the largest part of the research, development, and production required by Project Independence will be private, and steps to stimulate the private contribution are essential. Among the numerous measures to this end which I called attention to in my latest energy message on January 23, were several tax proposals. Last April I proposed that the investment credit be extended to cover exploratory drilling for new oil and gas fields, while the tax shelters for wealthy taxpayers associated with such drilling would be eliminated. In my recent message I asked Congress to eliminate the depletion allowance given to U.S. companies for foreign oil production but to retain it for domestic production, in order to shift the incentive to exploration and production at home. I have also asked the Treasury Department to prepare proposals for revising the treatment of taxes paid by oil companies to foreign governments, both to improve tax equity and to increase the incentive for domestic production.

Energy is only the most dramatic example of the need for policies to promote a rising American standard of living by increasing production and assuring the stability of supplies. There are many others.

I. We have discovered that we no longer have a surplus of food, in the sense of producing more than we need either to consume at home or to sell abroad in order to pay for the things we buy abroad. We no longer have great reserves of food in storage and acreage withheld from us. We have freed the American farmer to produce as much as he can and we should keep him free. American agriculture is, and should be, heavily involved in exports. This means that the American food price level and the American consumer are directly influenced by the forces of world demand and supply. International cooperation is needed to promote food production and the maintenance of stocks adequate to shield consumers from the more extreme variations of output. At the call of the Secretary of State, preparations are now being made for a conference on this subject to be held under United Nations auspices.

II. Our ability to buy abroad what is produced more efficiently abroad, and to sell abroad what we produce more efficiently, contributes to the productivity of the American economy. At my recommendation the countries of the world are now preparing to negotiate new steps in foreign trade policy which will further invigorate this beneficial process. I urge the Congress to enact promptly the trade legislation I have proposed to permit the United States to participate in these negotiations.

III. One of our most essential industries—freight transportation—is unfortunately shot through with inefficiencies. Many of these inefficiencies are the result of obsolete, shortsighted, and excessive regulation. Hundreds of millions and probably billions of dollars a year could be saved by unleashing carriers and shippers to carry the freight on the most efficient mode of transportation, in the most efficient way. I have sent to the Congress new proposals to this end.

IV. In 1973, as in 1972 relatively few days of work were lost as a result of industrial disputes. Continuation of this record would be a valuable contribution to the level and stability of production. I have appointed a Commission on Industrial Peace, composed of leaders of management and labor with an impartial chairman, to make recommendations for bringing that about.

V. In addition to the major research and development effort to provide secure supplies of energy, without abusing our natural environment in doing so, this Administration is continuing its support of research and development projects that will help maintain a healthy rate of innovation and productivity growth in the rest of our economy. These activities will be supported at record levels in the coming year, and we are also trying to get a higher return for every dollar we spend.

VI. An indispensable source of economic growth is saving and investment in productive facilities. It should be the policy of government to interfere with this process as little as possible. The government should not absorb private savings into financing its deficits in times when private investment would otherwise utilize all the private saving. Our basic budget policy of balancing the budget or running a surplus under conditions of high employment carries out this principle. Moreover, taxation should not depress productive investment by unduly burdening its return. We should not indulge in demagogic and shortsighted attacks upon profits.

VII. We must push forward, as we have been doing, to remove barriers against the entry of women and minorities into any occupation and against their maximum training and advancement. The men and women of the country are its greatest economic resource. To fail to use any of this resource to its full potential is a serious loss to us all.

* * * * *

Compared with our parents and grandparents we are enormously rich. We have protections against the ebbs and flows of economic life that they never expected and barely imagined. But I cannot assure the American people of an easy time. Like our parents and grandparents, we have our own tests. If we meet them with fortitude and realism the period ahead can be one not only of material advance but also of spiritual satisfaction.

RICHARD NIXON.

February 1, 1974.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. METZENBAUM) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following letters, which were referred as indicated:

REPORT ON OVEREXPENDITURE OF AN APPROPRIATION

A letter from Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Labor for "Limitation on Grants to States for Unemployment Insurance and Employment Services" for the fiscal year 1974, had been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation. Referred to the Committee on Appropriations.

REPORT ON FINAL DETERMINATION OF DOCKET NO. 144

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination of Docket No. 144, the Pillager Bands of Chippewa Indians in the State of Minnesota, plaintiffs, v. The United States of America, defendant. Referred to the Committee on Appropriations.

PROPOSED LEGISLATION BY THE DEPARTMENT OF DEFENSE

A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the negotiated sale by the Department of Defense of certain equipment, materials, and obsolete spare parts to U.S. purchasers, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON NUMBER OF OFFICERS ASSIGNED OR DETAILED TO PERMANENT DUTY AT THE SEAT OF GOVERNMENT

A letter from the Secretary of the Air Force, reporting, pursuant to law, that, as of December 31, 1973, there was an aggregate of 2,291 officers assigned or detailed to permanent duty in executive part of the Department of the Air Force at the seat of Government. Referred to the Committee on Armed Services.

REPORT ON CONSTRUCTION PROJECTS PROPOSED TO BE UNDERTAKEN FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense, reporting, pursuant to law, on construction projects proposed to be undertaken for the Army National Guard (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms, for July 1973–September 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the Director, Federal Affairs, National Railroad Passenger Corporation, a report of that Corporation, for the month of October 1973 (with an accompanying report). Referred to the Committee on Commerce.

A letter from the Director, National Railroad Passenger Corporation, a report of that Corporation, for the month of December

1973 (with an accompanying report). Referred to the Committee on Commerce.

Detroit 5-Year Financial Forecast

A letter from the controller, city of Detroit, Mich., transmitting, for the information of the Senate, the Detroit 5-year financial forecast (with an accompanying document). Referred to the Committee on Finance.

Proposed Legislation by the Department of State

A letter from the Administrator, Agency for International Development, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 to authorize an appropriation to provide disaster relief, rehabilitation, and reconstruction assistance to Pakistan, Nicaragua, and the Sahelian nation of Africa (with accompanying papers). Referred to the Committee on Foreign Relations.

Report of Advisory Commission on Intergovernmental Relations

A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, a report of that Commission, dated January, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Report of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on assessment of Federal Regional Councils, Office of Management and Budget and other Federal agencies, dated January 31, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Report of Secretary of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a negative report covering the disposal of excess property in foreign countries for calendar year 1973 (with an accompanying report). Referred to the Committee on Government Operations.

Report of General Services Administration

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, the 1973 annual report of the Administration (with an accompanying report). Referred to the Committee on Government Operations.

Report of Colorado River Basin Project

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, the annual report of the Colorado River Basin Project for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Proposed Legislation by the Department of the Interior

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that 3.308 acres, more or less, of federally owned land is held by the United States in trust for the Pueblo of Cochiti (with an accompanying paper). Referred to the Committee on Interior and Insular Affairs.

Report of National Park Foundation

A letter from the Chairman, National Park Foundation, transmitting, pursuant to law, a report for 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Report of National Commission on Libraries and Information Science

A letter from the Chairman, National Commission on Libraries and Information Service, transmitting, pursuant to law, his 1972–1973 annual report (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Report on GS–17 Positions by Immigration and Naturalization Service

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the number of GS–17 positions. Referred to the Committee on Post Office and Civil Service.

Report of New England Regional Commission

A letter from the Federal Cochairman, New England Regional Commission, transmitting, pursuant to law, a report of the Commission for fiscal year 1973 (with an accompanying report). Referred to the Committee on Public Works.

Report of Coastal Plains Regional Commission

A letter from the Federal Cochairman, Coastal Plains Regional Commission, transmitting, pursuant to law, the sixth annual report of the Commission for fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Public Works.

Proposed Legislation by Veterans' Administration

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons (with accompanying papers). Referred to the Committee on Veterans' Affairs.

Report of Atomic Energy Commission

A letter from the Atomic Energy Commission, transmitting, pursuant to law, a report of the Commission for 1973 (with an accompanying report). Referred to the Joint Committee on Atomic Energy.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Burdick):

A resolution adopted by judges of the U.S. District Court for the Central District of California, relating to the report of the Commission on Revision of the Federal Court Appellate System. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Labor and Public Welfare, with amendments:

H.R. 12253. An act to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975 (Rept. No. 93–674).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ABOUREZK:

S. 2936. A bill for the relief of Jack George Makari. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to terminate the percentage depletion method of computing the depletion deduction for oil and gas wells and oil shale, to deny the deduction of intangible drilling and development costs, to impose certain limitations on the foreign tax credit allowable to oil extracting or refining corporations, and to require the President to report annually the amount of revenue lost under provisions of such code permitting credits, deductions, or exclusions and to explain in such report the reason for the existence of such provisions. Referred to the Committee on Finance.

By Mr. JACKSON (for himself, Mr. Metcalf, Mr. Haskell, Mr. Fannin, and Mr. Bartlett):

S. 2938. A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 2939. A bill to authorize the Comptroller General of the United States to acquire and make available to the Congress, the President, and the public certain information and data relating to energy supplies and shortages. Referred to the Committee on Government Operations.

By Mr. FANNIN (for himself and Mr. Bible):

S. 2940. A bill to authorize the construction, operation, and maintenance of certain works in the Colorado River Basin to control the salinity of water delivered to users in the United States and Mexico. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH (for himself, Mr. Bennett, Mr. Bible, Mr. Dole, Mr. Gravel, Mr. Hart, Mr. Hathaway, Mr. Humphrey, Mr. Javits, Mr. McGee, Mr. McGovern, Mr. Moss, Mr. Percy, Mr. Randolph, Mr. Taft, Mr. Thurmond, and Mr. Williams):

S. 2941. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of medicare for routine Papanicolaou tests for the diagnosis of uterine cancer. Referred to the Committee on Finance.

By Mr. BAYH:

S. 2942. A bill to authorize and direct the Administrator of the Federal Energy Office to establish an inventory of the total aggregate amount of crude oil, and other petroleum products currently held by certain oil producers, refiners, distributors, and pipeline corporations, and users. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF:

S. 2937. A bill to amend the Internal Revenue Code of 1954 to terminate the percentage depletion method of computing the depletion deduction for oil and gas wells and oil shale, to deny the deduction of intangible drilling and development costs, to impose certain limitations on the foreign tax credit allowable to oil extracting or refining corporations, and to require the President to report annually the amount of revenue lost under provisions of such Code permitting credits, deductions, or exclusions and to explain in such report the reason for the existence of such provisions. Referred to the Committee on Finance.

AN END TO TAX LOOPHOLES FOR THE OIL COMPANIES

Mr. RIBICOFF. Mr. President, the same American oil companies that are reaping huge profits from the Nation's energy crisis continue to take advantage of enormous loopholes in the U.S. tax laws. These tax loopholes needlessly increase the profits of companies that already are making more money than they need to finance the development of new sources of oil. The loopholes also encourage the companies to drill for gas and oil in foreign countries that then deny this country the use of such oil. Today I am introducing legislation to end these glaring faults in our tax laws by eliminating the oil depletion allowance, and the special deduction for intangible drilling costs for both domestic and foreign operations, and by severely restricting the use oil companies can make of the foreign tax credit.

The plain but shocking truth is that under the present tax laws the oil companies pay practically no U.S. income taxes. In 1972, the latest year for which figures are available, four of the largest oil companies paid U.S. income taxes at an average rate of 2.89 percent. Exxon paid taxes at a 6.5-percent rate, Mobil at a 1.3-percent rate, Standard Oil of California at a 2.05-percent rate, and Texaco at a 1.7-percent rate. As meager as these taxes are, they were up from 1969 when Gulf paid 0.4 percent and Texaco paid 0.7 percent on net income.

The taxes the oil countries pay on their foreign operations alone is even lower. In 1973 two-thirds of the profits of the Nation's five biggest international oil companies came from their overseas operations. Yet, because of the foreign tax credit laws, the oil companies will not pay $1 of U.S. taxes on these profits.

Because the U.S. oil companies have clearly not been paying their fair share of taxes, the American people end up paying twice. Once, when they pay sky-high prices for gas, and once on April 15 when they pay higher personal income taxes required to make up for the exceptionally low income taxes paid by the oil industry.

At the same time that the oil companies are enjoying a tax bonanza, they are recording excessive profits. The 1973 profits of the 16 largest oil industry companies were up over 50 percent from last year. For the fourth quarter of 1973 alone, when the United States was just beginning to feel the critical energy shortage, profits were as much as 70 percent above 1972 profits for the same period.

The oil industry has already posted huge price increases this past year. The cost of a gallon of gasoline has jumped from around 35 cents to over 50 cents, while the cost of heating oil has at least doubled. All indications are that prices will continue to rise. Domestic oil now selling for $5.25 a barrel may be selling before long for $7 a barrel. All these past and future price hikes will assure large profits for the oil companies for years to come.

The huge profits—and tiny taxes—that the U.S. oil companies are making make it totally unnecessary to continue to afford the companies special tax preferences. Even without them, the oil companies will have sufficient profits to drill for new oil.

While our present tax laws grant special preferences to an industry that no longer needs it, they also have contributed to our energy crisis by encouraging the oil companies to locate more and more of their business in foreign countries where they can avoid paying any U.S. taxes. The result has been to make the Nation overly dependent on foreign oil. Despite the fact that the demand for energy has been growing at a rate of 4 to 5 percent a year for the last 20 years, refinery capacity hardly grew at all during the 1960's and early 1970's. Production of crude oil in the United States is today at the same rate as it was 3 years ago even though large oil reserves still exist in this country. As a result, our dependence on foreign oil has increased from close to none in 1968 to over one-third of our total demand. The present embargo has forced the country to pay a very high price for this dependence on foreign oil in terms of lost jobs, inflation, disrupted lives, and general inconvenience. We must amend our foreign tax credit laws so it is no longer more profitable to build a refinery, or drill a well, in Saudi Arabia than in the United States.

One of the three inequitable, unwise, and unnecessary loopholes eliminated by my legislation is the 50-year-old oil depletion allowance. Every other business can deduct from its gross sales only the actual cost of replacing the goods it sells. Oil companies, however, can deduct 22 percent of their gross revenues from their taxable income, whether or not this deduction bears any relation to the actual cost of replacing the oil sold. It is as if a taxpayer first reduced his yearly salary by 22 percent before he even started to fill out his tax forms.

The industry saved about $705 million in U.S. taxes in calendar year 1971 because of the oil depletion allowance. It has been estimated that because of rising prices this provision will cost the U.S. taxpayer $2.6 billion in fiscal year 1975.

My bill eliminates the oil depletion allowance for both foreign and domestic operations of U.S. oil companies. Like any other industry, oil companies would still be entitled to deduct the actual cost of replacing each barrel of oil they sell.

Another special tax preference now permits an oil company to deduct in the first year all the intangible drilling costs incurred in finding and developing a new oil well. If any other company bought a new machine with the expected life of 10 years, the company would be required to amortize its cost, and each year deduct only one-tenth of the total cost of the machine. An oil company can, however, deduct in the first year the costs of all the goods or services without lasting value which it uses in the exploration and development of the new well. This includes such items as labor, equipment rentals, cost of building roads to a drilling site, and preparing the site. As a result, the company is able to show a paper loss for the first year of successful operation even though the well, in fact, operates at a profitable rate during the first year, and for many years thereafter. The income tax savings which the company as a result enjoys during the well's first year of operation amounts, in effect, to an immediate, interest-free loan which no other business gets.

This particular tax break will save the oil companies—and cost the country—an estimated $800 million in revenues in fiscal year 1975.

Under my proposed legislation the oil company could no longer write off all its intangible drilling costs in the first year. Like any other business, the oil companies would be forced to amortize their intangible drilling costs over the estimated life of the well.

Finally, American oil companies with branches or subsidiaries operating abroad have avoided paying huge amounts of U.S. taxes on their overseas operations through exploitation of the foreign tax credit. This greatest of all abuses must be eliminated immediately. If it is not, eliminating the oil depletion allowance and the intangible drilling costs provisions would not raise by even $1 the amount that oil companies now pay in taxes on their foreign operations.

The basic concept of a foreign tax credit is a fair one. If an American company has to pay a 48-cent foreign income tax on every dollar earned in a foreign country it is unfair to make the same company pay another 48 cents in U.S. income taxes. This would amount to double taxation and leave the company with practically no net earnings. The law therefore provides that a company can subtract from its potential U.S. tax liability for its overseas operations the taxes paid on the same operations to foreign countries. But the American oil companies have grossly abused this right to foreign tax credits.

The first gimmick the oil companies use is to simply overstate the size of their so-called foreign tax bills. They do this by classifying royalties and other normal business expenses as income taxes. When a company pays a royalty or bonus to the United States for the right to drill oil on U.S. lands it treats this as a business expense which it deducts from the earnings on which it must pay U.S. income taxes. But since the early 1950's, the oil companies have obtained a number of rulings from the Government permitting them to treat as an income tax payment, rather than a business expense, the payment to a foreign country of the exact same type of oil royalties or bonuses. Every time an oil company now pays $1 in royalties to an Arab sheik, the company subtracts $1 from the tax that it would otherwise have to pay to the United States on its foregoing operations.

By calling a business expense a tax, the oil prdoucing countries, in collaboration with the oil companies, thus divert money from the U.S. Treasury and into the already brimming coffers of the oil companies.

A few figures demonstrate how huge a loophole the foreign tax credit has in fact been for U.S. oil companies.

The U.S. oil companies account for more than 45 percent of all the foreign tax credits claimed by all U.S. industry. While U.S. businesses on the whole use the foreign tax credit provision to reduce taxes paid to the United States by 15 percent, the Treasury Department has estimated that oil companies used the foreign tax credit in 1971 to reduce their U.S. taxes by more than 75 percent. And the size of the loophole has increased tremendously since 1971. In Saudi Arabia alone, the so-called taxes paid the government on a barrel of oil have increased over eight times since February 1971.

Because of the oil company's use of foreign tax credits, U.S. corporations earned $1,085,000,000 on mining and oil operations abroad in 1970, but paid not one penny in U.S. taxes on that income. It has been estimated that for fiscal year 1975, the taxes that the oil companies would pay to the United States, were it not for the tax credit, could be as high as $1.75 billion. Yet, because of the foreign tax credit, the companies will in all likelihood pay not 1 cent of taxes. Foreign credits from profitable overseas operations have, in fact, exceeded U.S. tax liabilities every year since 1962.

The legislation I am introducing today specifically prohibits an oil company from including in its foreign tax credit the royalties, bonuses, or other payments made to a foreign country which are not bona fide income taxes. The provision provides that in determining what portion of an oil company's payments to a foreign country represents a bona fide income tax payment, the Secretary of the Treasury shall consider whether the payments claimed as foreign tax payments are roughly similar to the income taxes paid by other persons in the country who are not in the oil business. Such a comparison should prove a reliable way to judge whether the payments made to foreign countries are in fact bona fide taxes.

It appears, for instance, that domestically owned corporations in Kuwait and Saudi Arabia that are unrelated to the oil business actually pay little or no income taxes.

My proposal will drastically reduce the size of the foreign tax credits that oil companies can use to avoid paying U.S. taxes on their overseas operations. It will not prohibit them, however, from claiming as an income tax credit any payments which can be shown to the satisfaction of the Government to be bona fide income tax payments. But royalties and other business expenses which are not true income taxes would be deductible by U.S. oil companies, just as in the case of similar payments made in this country.

In addition to treating business costs as taxes, some oil companies inflate the size of the foreign tax credit yet further by taking advantage of a law which allows companies operating in several countries to spread the foreign tax credit around from country to country to get advantage of as much of its foreign tax credit as possible. For instance, an oil company operating in a foreign country with low income taxes might use all the foreign tax credit available to it from that country, and still be left with a U.S. tax liability of one-half million dollars. But by calculating its foreign tax credits under the so-called overall limitation method, the oil company can in fact offset this tax by using a one-half million dollar excess foreign tax credit it earned from the payment of high foreign income taxes in another country. For example, some of the major international oil companies have large tanker fleets flying the flags of such countries as Panama, Liberia, and Honduras that require no corporate income taxes. Profits made on these operations could be sheltered from U.S. taxes through use of some of the excess foreign tax credits generated in other countries such as Saudi Arabia.

This must be stopped. Under my proposal an oil company would be required in most cases to limit its foreign tax credits in any foreign country to the income tax actually paid to that country. This is known as the per country limitation. If, however, because of losses on some operations, the oil company could reduce its U.S. taxes more by using the per country limitation than by combining the credits earned in different foreign countries under the overall limitation method, the company would then be forced to use the overall limitation. This would prevent the company from using the losses incurred in one country to reduce its U.S. taxes, while at the same time using the full amount of the foreign tax credits earned in other countries.

Finally, the oil companies line their coffers by storing up their excess foreign tax credits over a number of years. Because they have been allowed to treat royalties as taxes, the oil companies have earned tax credits far in excess of what they could possibly use in the year the income was earned. Under the present law these excess credits are not, however, lost, for the oil companies are allowed to carryover their excess credits for up to 5 years. Even if oil companies are forced by this legislation to treat royalties as a deductible business expense when filling out their 1974 taxes, the companies could still avoid paying any significant amount of taxes on their foreign investments for a number of years because of the excess tax credits they still have from past years. It has been estimated that the five largest companies have stored up from past years more than $2 billion in foreign tax credits.

Consequently, my bill prohibits an oil company from using a foreign tax credit earned in 1 year to offset U.S. taxes incurred in other years.

Elimination of all these special tax breaks simply means that the oil companies will from now on be treated on an equal basis with any other business in this country. Up to now, this country has showered the oil companies with tax preferences. Yet, this country now finds itself beset by an energy crisis of very serious proportions. Obviously, the answer to the energy crisis is not in retaining the unfair tax preferences which have proved so ineffectual in preventing the crisis in the first place.

Even if these tax preferences were once justified in order to assure adequate exploration and development of new sources of oil, they can no longer be justified in light of the high oil prices the oil companies are now charging, and the record profits they are making, and will continue to make, for as many years as the energy crunch lasts.

Since these special preferences reduce the taxes oil companies pay on their foreign operations they are doubly unwise, for this country can no longer help finance the development of oil in foreign countries which then sell the oil back to us at exorbitant prices, or refuse us, for political reasons, the use of such oil at all.

Even apart from the energy crisis, the encouragement our tax laws give to foreign investments is very ill-advised. It means that money that would otherwise be used at home to bolster this country's economy is instead diverted to fuel the economies of Arab sheikdoms. The book value of U.S. investment abroad in petroleum approached $25 billion in 1971. This represented almost 30 percent of total U.S. direct investments abroad.

Economists and other experts in the field widely agree that the special tax preferences now provided oil companies are no longer justified. The administration itself has recognized the need for eliminating the oil depletion allowance for foreign wells and for a reduction in the foreign tax credits available to oil companies. Two of the largest oil companies in the country, Atlantic-Richfield and Shell, have publicly stated that the oil depletion allowance should be eliminated.

Clearly, the time has arrived to reform the oil tax laws and save the country the over $4 billion a year of potential tax revenues now lost to the oil companies.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF PERCENTAGE DEPLETION.

Section 613(b) of the Internal Revenue Code of 1954 (relating to percentage depletion rates) is amended by—

(1) striking out subparagraph (A) of paragraph (1) and redesignating subparagraphs (B) and (C) as (A) and (B), respectively; and

(2) striking out paragraph (2) and inserting in lieu thereof the following:

"(2) 15 Percent.—if from deposits in the United States, gold, silver, copper, and iron ore.".

SEC. 2. INTANGIBLE DRILLING AND DEVELOPMENT COSTS.

Section 263(c) of the Internal Revenue Code of 1954 (relating to intangible drilling and development costs in the case of oil and gas wells) is repealed.

SEC. 3. LIMITATIONS ON FOREIGN TAX CREDIT.

(a) DEFINITIONS OF CREDITABLE TAXES.—Section 903 of the Internal Revenue Code of 1954 (relating to credit for taxes in lieu of income, etc., taxes) is amended to read as follows:

"(a) IN GENERAL.—For purposes of this subpart and sections 164(a) and 275(a), the term 'income, war profits and excess profits taxes' means a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any foreign possession of the United States.

"(b) BONA FIDE FOREIGN INCOME TAXES.—For purposes of this subpart, and sections 164(a) and 275(a), in the case of tax paid or accrued to any foreign country with respect to income derived from the extraction, production, transportation, or refining of oil or gas in such country, the term 'income, war profits, and excess profits tax' does not include and royalty, bonus, or other payment which does not constitute the payment of a bona fide federal or national income tax, as determined by the Secretary or his delegate. In determining whether a payment is the payment of a bona fide federal or national income tax, the Secretary or his delegate shall take into consideration whether the effective rate of tax, or the amount of tax, bears a reasonable relationship to any income, war profits, and excess profits taxes actually collected by the foreign country from its citizens, or from business entities owned by its citizens which are engaged in activities other than the extraction, production, transportation, or refining of oil or gas. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provision of this subsection.

(b) Lesser of Overall or Per County Limitation.—Section 904(b) of such Code (relating to election of overall limitation) is amended by adding at the end thereof the following new paragraph:

"(4) Election required or denied in certain cases.—A taxpayer who, for the taxable year, paid taxes for which a credit is allowable under this subpart on income from the extraction, production, or transportation, or refining of oil or gas in more than one foreign country shall elect the limitation provided by subsection (a)(2) for that taxable year if the total amount of the taxes payable under this chapter, taking into account such election, is greater than the total amount of taxes which would be payable if the limitation imposed by subsection (a)(1) were elected. Such a taxpayer shall elect the limitation provided by subsection (a)(1) for that taxable year if the total amount of taxes payable under this chapter for such year, taking into account such election, is greater than the total amount of such taxes which would be payable if the limitation under subsection (a)(2) were elected."

(c) Termination of Carryover or Carryback.—Section 904(d) of such Code (relating to carryback and carryover of excess taxes paid) is further amended by inserting the following at the end of subsection (d): "The provisions of this subsection shall not apply in the case of taxes paid to any foreign country on income from the extraction, production, transportation, or refining of oil or gas in that country.".

SEC. 4. EFFECTIVE DATE.

The amendments made by sections 1, 2, and 3 apply with respect to taxable years beginning after December 31, 1973.

By Mr. JACKSON (for himself, Mr. METCALF, Mr. HASKELL, Mr. FANNIN, and Mr. BARTLETT):

S. 2938. A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

INDIAN HEALTH LEGISLATION

Mr. JACKSON. Mr. President, I am introducing for appropriate reference, legislation which addresses one of the most deplorable situations in the United States, that of the provision of basic health services to Indians.

Earlier this Congress, the Senate passed the Indian Financing Act, to provide economic assistance to enable the Indian people to design and build their own future. By unanimous vote on January 28 of this year, the Indian Self-Determination and Educational Reform Act was ordered reported to the Senate by the Committee on Interior and Insular Affairs. Both of these measures reaffirm the policy of this body that it is the Indian people who must decide their own future and they provide the educational and economic tools to shape that future.

The most basic human right must be the right to enjoy decent health. Certainly, any effort to fulfill Federal responsibilities to the Indian people must begin with the provision of health services. In fact, health services must be the cornerstone upon which rest all other Federal programs for the benefit of Indians. Without a proper health status, the Indian people will be unable to fully avail themselves of the many economic, educational, and social programs already available to them or which this Congress will provide them.

The purpose of the legislation I introduce today is to augment and expand upon presently established health programs and services for Indian citizens. It is designed to eliminate enormous backlogs of essential patient care, to construct and renovate hospitals and other health facilities which at the present time are either nonexistent or in a state of general deterioration, and to provide financial and organizational support for the development and growth of urban Indian health projects.

In the early history of this country, Federal health services provided to Indians were confined to those military physicians assigned to frontier forts and reservations. Primarily the attention of these physicians focused on preventing the spread of smallpox and other contagious diseases; diseases, I may point out, which were virtually unknown to Indians before their contact with the white man.

In 1849, with the transfer of the Bureau of Indian Affairs to the Department of the Interior, Indian health policy shifted from military to civilian administration. Although some limited progress occurred under this new administrative arrangement, by 1875 there were still only about half as many doctors as there were Indian agencies, and by 1900 the physicians serving Indians numbered only 83. During this time Indian health services were financed out of miscellaneous funds of the Bureau of Indian Affairs. It was not until 1911 that general Indian health appropriations began.

In the mid-1920's a more concerted effort was made to assist the health needs of Indian communities, facilitated by the assignment of commissioned officers of the Public Health Service to Indian health programs. Considerable improvement in Indian health can be said to have resulted from the contributions of these officers. While these highly trained medical and public health officers strengthened the overall direction of the Federal Indian health program, they were unable to overcome the serious health problems of Indians due to other shortcomings in the Indian health program. Outdated and inadequate Federal health facilities and delivery systems were incapable of sustaining the demands for service found on Indian reservations. Finally, in an effort to consolidate and expand the diverse and disjointed programs of Indian health care and to accommodate Indian health needs which had grown to crisis proportions, Congress, in 1955, transferred all authority for Indian health from the Department of the Interior to the Public Health Service.

Presently, the responsibility for providing adequate health and medical services for Indian people resides with the Indian Health Service, a special branch of the Public Health Service within the Department of Health, Education, and Welfare. Of the approximately 827,000 Indians in the United States representing some 260 tribes and 215 Alaskan Native villages, more than half a million Native Americans depend almost entirely upon the Indian Health Service for medical and hospital care. To meet the needs of these citizens, the Service operates 51 hospitals in 13 States offering a total of 2,700 beds with an additional 1,000 beds provided through contract facilities with local private and public hospitals. The total manpower of these services constitutes more than 7,000 professional and staff personnel, including some 450 physicians and 170 dentists in the Commissioned Officers Corps of the Public Health Service. Contracts with some 300 private and community hospitals and 500 physicians provide additional personnel and facilities.

Although the Indian Health Service has begun at long last to achieve a limited progress in improving the health status of Indian people, health statistics reveal that in spite of this progress the vast majority of Indians live in an environment characterized by inadequate and understaffed health facilities, improper or nonexistent waste and water systems, and continuing dangers of deadly or disabling diseases. These circumstances have produced a situation in which the health of Indians ranges far below that of other Americans. Health concerns which most of our communities have forgotten as long as 25 years ago continue to plague Indian communities. For every Indian health need treated by existing services, another need will go unmet, only to arise at a later date, inhibiting the lives and pursuits of native citizens and strangling their development as free, self-determined people.

Illustrative of this situation are the following facts: the incidence of tuberculosis for Indians and Alaska Natives is 6.4 times higher than the rate for all citizens of the United States; the Indian and Alaska Natives rate for diabetes is almost twice that of all races of the United States; and while respiratory and gall bladder illnesses are not reported in the general population, Indian Health Service officials state emphatically that the rates for these diseases among Indians and Alaska Natives are significantly higher than the general population. Otitis media, an infection of the inner ear, affecting most commonly children under the age of 2 years, continues to be a leading cause fo disability in American Indians and Alaska Natives.

Although surgical treatment is possible which can generally prevent the long-term and serious disabilities of deafness and learning deficiencies, only a fraction of this essential surgery is now being provided. The infant mortality rate among Indians is almost 1½ times the national average while the Indian birth rate soars at a ratio twice that of other Americans. The frequency with which these events occur and the prevalence of disease in Indian communities cannot help but have a significant impact on the social and cultural fiber of Indian societies, contributing to their general disintegration and attendant problems of mental illness, alcoholism, accidents, homicide and suicide. For example, suicide within Indian communities is approximately twice as high as in the total U.S. population. The real life facts of Indian health in this Nation add up to the simple yet deplorable conclusion that while every other American can expect to live to the age of at least 70.4 years, the Indian and Alaska Native can expect to live only to age 64.9.

All efforts to alter these conditions are met with an initial and fundamental impediment of outdated or inadequate health facilities. Of existing facilities, some 38 hospitals, 66 health centers and 240 other health stations are at least 20 years old.

Many of them are old one-story Army-style buildings with inadequate electricity, ventilation, insulation, and fire protection systems, and of such insufficient size to jeopardize the health and safety of their occupants. To meet the needs of some 530,000 Indians, Service and contract facilities provide some 3,700 hospital beds. Compared with a national average of 1 hospital bed per 125 persons Indian facilities provide 1 bed per 132 persons, a shortage of more than 200 beds under existing standards of service and demand. A special committee of the American Medical Association has investigated the condition of Indian health services. It is their conclusion that only 21 of the 51 existing Indian Health Service hospitals meet their standards of accreditation (either because of insufficient staffing or poor physical plants), that two-thirds of the hospitals are obsolete, and that 22 need complete replacement.

In order to overcome the gross deficiencies in the quantity and quality of existing facilities, more money must be allocated. Per capita expenditures for Indian health purposes are 30 to 40 percent below expenditures for the average American community. The greater incidence of disease among Indians renders this deficiency all the more acute. It is further compounded by the fact that many of our more modern national health programs, designed to assist the general population, are difficult or impossible to apply to Indians. Medicare, medicaid, and social security programs afford little relief because, given their unique social situation, few Indians either know they are eligible for medicare or have not worked long enough for social security eligibility.

At the center of this tragic set of circumstances is probably the most pressing and serious problem facing Indian Health Service, the manpower shortage among physicians and related health personnel. At present there are 450 physicians in the Indian Health Service. Simply translated this represents a ratio of one physician for 1,080 Indians as against a national average of slightly over 600 persons per physician. These shortages are complicated by the highly dispersed and remote nature of Indian tribes, vast distances between settled areas on reservations, and the lack of adequate roads and minimum emergency transportation systems

Unfortunately, the Indian people cannot look to their own tribal members for relief in this vital health manpower shortage category. There are only 50 known physicians of Indian descent engaged in the practice of medicine today, and all but 2 or 3 are serving non-Indian patients. My proposed legislation holds promise for opening new opportunities for young Indian men and women to enter medicine and other health professions for service to their own people.

I find particularly disturbing the projection that severe manpower shortages are likely to become even more acute in the coming years due in large part to the decline in recruitment for the Public Health Service Commissioned Officers Corps. In past years the main source of the Service's physicians enlisting in the Public Health Service has greatly declined. An absence of adequate housing facilities and the remoteness and cultural isolation of assignments have added to the problem of recruiting professional manpower. Leading medical officials have given truly dire warnings that any further decline in manpower could have critical implications for the health of Indians.

By and large the problems I have described for you are with respect to those Indians who live on or near reservations and are members of federally recognized tribes or Indians. However, a substantial segment of the Indian population—300,000 to 400,000—resides away from the reservation, mostly in large urban centers.

My bill contains a provision aimed specifically at assisting urban Indians to develop health leadership among their own members and to establish the kind of resource identification which will help to meet the most pressing health needs of these deserving people. An integral aspect of this effort will involve an outreach program to seek out individuals and families who require health care and refer them to services at the earliest possible date.

While current Indian policy prohibits the extension of the special Indian Health Service hospital and medical care program to the urban centers, I am convinced that my proposal in this area of concern will do much to alleviate a serious health situation among the Indian people concentrated in a number of major cities throughout the United States. I want to underscore the fact that the funds designated for these programs will in no way reduce the level of funding I have proposed to meet the serious health and medical needs for thousands of Indian people residing on federally recognized reservations and in Indian communities. I want both the members of federally recognized tribes and the urban Indians to understand that my bill in no way sets up a "tug of war" over limited financial resources and services but rather the measure addresses itself to the needs of both groups.

Title I of my bill is designed to augment the inadequate number of health professionals serving the Indian community. Part A provides scholarship grants to individuals who are enrolled in medical schools: schools of optometry, osteopathy, dentistry, pharmacy, podiatry, public health or nursing; or schools licensed by a State to train persons in the allied health professions. These grants contain the condition that the individuals who receive them must serve the Indian community after completion of their professional training. Part B provides scholarship grants to Indians who have finished high school and demonstrate a capability of successfully completing a premedical, predental or pre-osteopathy course of study.

Part C addresses the problem of maintaining the physicians, once trained, in the rural and remote areas where a significant portion of the Indian people reside. The difficulties associated with meeting physician needs in rural America are well known. These difficulties are based on several critical factors among which are lack of sufficient monetary reward, few social amenities available in rural communities, inadequate housing and the inability to have frequent association with professional colleagues. While it is difficult to say with certainty that any one of these factors is overriding when a young physician is preparing to initiate his career, the ability to frequently associate with professional colleagues can be an important consideration in determining where he will practice. Part C attempts to offset the negative impact of the lack of such associational opportunities in rural areas by providing allowances to Service physicians to enable them to leave their duty station for prescribed periods of time for professional consultation and refresher training courses.

Title II provides added appropriations over a 5-year period to alleviate the tremendous backlog in basic patient care, field health care and dental care. In addition, funds are provided for basic maintenance and repair of existing hospitals and related facilities. Also provided are such additional health personnel and administrators necessary to implement this massive effort to reduce the patient backlog.

Title III, part A, attacks the problem of inadequate or outdated Service hospitals, health centers and health stations by authorizing $400 million over 5 years for construction of new facilities. This title, if enacted, would constitute a major effort at eliminating some of the more archaic health installations and at the same time providing some new facilities in geographic areas where they are critically needed. The Secretary of Health, Education, and Welfare is also authorized to equip and staff these facilities at levels commensurate with their operation at optimum levels of effectiveness.

Part B authorizes $470 million over a 5-year period to supply vitally needed safe water and sanitary waste disposal facilities in both existing and new Indian homes and communities. It requires the Secretary of Health, Education, and Welfare, together with the Secretaries of Interior and Housing and Urban Development, to come forth within 3 months with a plan to provide the essential water and sanitation facilities in accordance with the 5-year expenditure schedule.

Title IV is designed to give Indians greater access to and benefits from the present social welfare programs presently available to all Americans. To accomplish this the bill will provide for direct medicare and medicaid payments to Indian health hospitals instead of to the general Treasury.

Title V encourages the establishment of "outreach programs" in urban areas to make health services more accessible to the urban Indian population. A few urban Indian organizations have already established referral services to assist their members in securing the fullest possible access to adequate medical services and facilities. This bill gives recognition to the modest success of these organizations in the urban Indian community. To encourage additional efforts, the Secretary of Health, Education, and Welfare is authorized to enter into contracts with urban Indian organizations to provide them with financial assistance. These contracts are conditioned upon the urban Indian organizations identifying the available health resources within the urban centers in which they are situated, determining the Indian population which are or could be recipients of health services; and assisting urban Indians in utilizing these available resources.

Title VI provides for an evaluation system whereby the Secretary of Health, Education, and Welfare is required within 3 months of the end of fiscal year 1978 to submit a report containing a review and assessment of the programs provided under this bill including recommendations of additional programs and assistance designed to bring Indians to a health status equal to that of the general population.

Mr. President, in conclusion I want to state emphatically that unless our Government is willing to take affirmative action to improve the health status of Indian people, I am convinced that many of our efforts to improve the social and economic progress of Indians will stand as mere hollow promises. I ask my colleagues how individual Indians and their tribes whose health status is at least a generation behind that of the general population can aggressively pursue complex community, social and economic development plans when they are faced with such serious health constraints?

Mr. President, I stand on the principle that every Indian man, woman and child in this Nation has the God given right to enjoy sound physical and mental health. The members of this great body can help Indian people to achieve that right. In fact we owe them that right due to the Indians' unique historic and legal relationship with the Federal Government which has its basis in the Constitution itself. But to do so we must be prepared to provide them with appropriate tools—financial resources, facilities, manpower training and flexible authorities—to develop a health delivery system capable of achieving this highly desirable goal.

Mr. President, that concludes my formal remarks. I ask that the bill be printed in the RECORD along with several tables which demonstrate all too clearly the deplorable health conditions presently existing among Indians.

There being no objection, the bill and tables were ordered to be printed in the RECORD, as follows:

S. 2938

A bill to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Health Care Improvement Act."

FINDINGS

Sec. 2. The Congress finds that—

(a) Federal Indian health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, the resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduced prevalence and incidence of preventable illnesses and unnecessary and premature deaths among Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of Indian is far below that of the general population of the United States. Illustratively, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate about 20 percent greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient and undermanned facilities. For example, only 21 of 51 Indian Health Service hospitals are accredited; only 12 meet national fire and safety codes; and 57 areas with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about two-thirds of the service hospitals, four-fifths of service hospital outpatient clinics, and one-half of the service health clinics meet only 80 percent of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services and services available through contracts with private physicians, clinics, and agencies. For example, about 82 percent of the surgical operations needed for otitis media are unperformed, over 57 percent of required dental services have not been provided, and about 98 percent of the need for hearing aids is unmet;

(4) related support factors. For example, over 700 housing units are needed for staff at remote service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climatic conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over 40,000 existing, and 62,000 planned replacement and renovated, Indian hosuing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growing confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

Sec. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

Sec. 4. For purposes of this Act—

(a) "Indian", unless otherwise designated, means a person who is a member of an Indian tribe.

(b) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native community as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(c) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(d) "Service", unless otherwise designated, means the Indian Health Service.

TITLE I—INDIAN HEALTH MANPOWER

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

PART A—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 102 (a). The Secretary shall, in accordance with the provisions of this title, make scholarship grants to individuals (i) who are enrolled in medical schools; schools of optometry, osteopathy, dentistry, pharmacy, podiatry, public health, or nursing; or schools licensed by a State to train persons in the allied health professions and (ii) who agree to provide their professional services to Indians after completion of their professional training.

(b)(1) The Secretary shall, in awarding scholarship grants under this part, accord priority to applicants as follows—

(A) first, to any qualified applicant who is a member of an Indian tribe and resides on an Indian reservation;

(B) second, to any qualified applicant who is a member of an Indian tribe and resides in a place other than an Indian reservation;

(C) third, to any other qualified applicant.

(2) Scholarship grants under this title shall be made with respect to academic years.

(c)(1) Any scholarship grant awarded to any individual under this title shall be awarded under the condition that such individual will, after the completion of his professional training, provide his professional services to Indians.

(2) The Secretary shall prescribe by regulations—

(A) the criteria for determining when an individual is providing professional services to Indians in fulfillment of the condition for scholarship assistance provided in paragraph 1, and

(B) the reasonable period of time said condition must be complied with by such individual.

(3) If any individual to whom the condition referred to in paragraph (1) is applicable fails, within the period prescribed pursuant to regulations under paragraph (2), to comply with such condition for the full period, the United States shall be entitled to recover from such individual an amount equal to the amount produced by multiplying—

(A) the aggregate of (i) the amounts of the scholarship grant or grants (as the case may be) made to such individual under this part, and (ii) the sums of the interest which would be payable on each such scholarship grant if, at the time such grant was made, such grant were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such grant was made, and if the interest on each such grant had been compounded annually, by

(B) a fraction the numerator of which is the number obtained by subtracting from the number of months to which such condition is applicable a number equal to one-half of the number of months with respect to which compliance by such individual with such condition was made, and the denominator of which is a number equal to the number of months with respect to which such condition is applicable.

Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this part is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury pursuant to clause (A) with respect to the grant on account of which such amount is due the United States.

(4)(A) Any obligation of any individual to comply with the condition applicable to him under the preceding provisions of this subsection shall be canceled upon the death of such individual.

(B) The Secretary shall by regulations provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

SEC. 103. The Secretary may enter into agreements with any schools referred to in section 102(a), hospitals, or appropriate public or private agencies under which such schools, hospitals, or other agencies will, as agents of the Secretary, perform such functions in the administration of this part, as the Secretary may specify. Any such agreement with any such school, hospital, or agency may provide for payment by the Secretary of amounts equal to the expenses actually and necessarily incurred by such school, hospital, or agency in carrying out such agreement.

SEC. 104. There are authorized to be appropriated for the purpose of this part $8,000,000 for fiscal year 1975, $16,000,000 for fiscal year 1976, $22,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $34,000,000 for fiscal 1979, and, for each succeeding fiscal year, such sums as may be necessary to continue to make such grants to individuals who (prior to July 1, 1979) have received such grants and who are eligible for such grants under this part during such succeeding fiscal year.

PART B—HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM

SEC. 105. (a) The Secretary shall, in accordance with the provisions of this part, make scholarship grants to Indians who—

(1) have successfully completed their high school education; and

(2) have demonstrated an aptitude for being capable of successfully completing a pre-medical, pre-dental, or pre-osteopathy course of study.

(b) A scholarship grant made under this part shall be for a period not to exceed two academic years.

(c) A scholarship grant made under this part may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this part $1,000,000 for fiscal year 1975; $2,000,000 for fiscal year 1976; $3,000,000 for fiscal year 1977; $3,000,000 for fiscal year 1978; and $3,000,000 for fiscal year 1979.

PART C—CONTINUING EDUCATION ALLOWANCES

SEC. 106. (a) In order to encourage professionals to join the Service and to provide their services in the rural and remote areas where a significant portion of the American Indian people reside, the Secretary may provide allowances to Service physicians to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) There are authorized to be appropriated for the purpose of this section $350,000 for fiscal year 1975, $350,000 for fiscal year 1976, $375,000 for fiscal year 1977, $390,000 for fiscal year 1978, and $410,000 for fiscal year 1979.

TITLE II—HEALTH SERVICES

SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, dental and other Indian health needs, the Secretary is authorized to expend, through the Service, $123,500,000 over a five fiscal year period in accordance with the schedule provided in subsection (c). As such funds which are appropriated pursuant to this Act are to eliminate health services backlogs, they shall not be used to offset or limit the appropriations required by the Service to continue to serve the health needs of Indian people during and subsequent to such five fiscal year period but shall be in addition to the annual appropriations required to continue the health service program to the Indian people.

(b) The Secretary is also authorized to employ persons to implement the provisions of this section during the five fiscal year period in accordance with the schedule provided in subsection (c). Such persons shall be in addition to, and shall not reduce the number of, the employees required to conduct ongoing activities of the Service during and subsequent to such period.

(c) The following amounts and positions are authorized, by fiscal year, for the specific purposes noted:

(1) patient care (direct and indirect): for fiscal year 1975, $11,000,000 and 240 positions; for fiscal year 1976, $17,000,000 and 540 positions; for fiscal year 1977, $14,000,000 and 410 positions; for fiscal year 1978, $9,000,000 and 500 positions; and for fiscal year 1979, $7,000,000 and 490 positions;

(2) field health, excluding dental care (direct and indirect): for fiscal year, 1975, $12,000,000 and 300 positions; for fiscal year 1976, $10,000,000 and 225 positions; for fiscal year 1977, $7,000,000 and 200 positions; for fiscal year 1978, $7,000,000 and 200 positions; and for fiscal year 1979, $5,000,000 and 100 positions;

(3) dental care (direct and indirect): for fiscal year 1975, $900,000 and 60 positions; for fiscal year 1976, $700,000 and 75 positions; for fiscal year 1977, $700,000 and 75 positions; for fiscal year 1978, $600,000 and 75 positions; and for fiscal year 1979, $600,000 and 60 positions; and

(4) maintenance and repair (direct and indirect): for fiscal year 1975, $6,000,000 and 30 positions; for fiscal year 1976, $4,000,000 and 30 positions; for fiscal year 1977, $4,000,000 and 30 positions; for fiscal year 1978, $4,000,000 and 30 positions; and for fiscal year 1979, $3,000,000 and 30 positions.

TITLE III—HEALTH FACILITIES

PART A—CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

SEC. 301. For the purpose of eliminating inadequate, outdated and otherwise unsatisfactory Service hospitals, health centers, health stations and other Service facilities, the Secretary is authorized to expend $400,000,000 over a five fiscal year period in accordance with the following schedule:

(a) hospitals: for fiscal year 1975, $40,000,000; for fiscal year 1976, $76,000,000; for fiscal year 1977, $65,000,000; for fiscal year 1978, $55,000,000; and for fiscal year 1979, $80,000,000.

(b) health centers and health stations: for fiscal year 1975, $4,000,000; for fiscal year 1976, $6,000,000; for fiscal year 1977, $2,000,000; for fiscal year 1978, $2,000,000; and for fiscal year 1979, $11,000,000.

(c) staff housing: for fiscal year 1975, $13,000,000; for fiscal year 1976, $21,000,000; for fiscal year 1977, $16,000,000; for fiscal year 1978, $5,000,000; and for fiscal year 1979, $4,000,000.

SEC. 302. The Secretary is authorized to equip and staff such Service facilities at levels commensurate with their operation at optimum levels of effectiveness.

SEC. 303. For the purpose of implementing the provisions of this part, the Secretary shall assure that the rates of pay for personnel engaged in the construction of renovation of facilities constructed or carried out in whole or in part by funds made available pursuant to this part are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1921 (48 Stat. 1491), as amended.

PART B—CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 304. (a) For the purpose of reducing health hazards, the Secretary is authorized to expend, pursuant to Public Law 86–121, $470,000,000 within a five fiscal year period following the enactment of this Act, in accordance with the schedule provided in subsection (b), to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

(b) The following amounts are authorized, by fiscal year, for the purpose prescribed in subsection (a): $90,000,000 in fiscal year 1975; $95,000,000 in fiscal year 1976; $95,000,000 in fiscal year 1977; $95,000,000 in fiscal year 1978; and $95,000,000 in fiscal year 1979.

(c) The Secretary is authorized and directed to develop a plan, together with the Secretaries of Housing and Urban Development and the Interior, to assure that the schedule provided for in subsection (b) will be met. Such plan shall be submitted to the Congress no later than ninety days from the date of enactment of this Act.

TITLE IV—ACCESS TO HEALTH SERVICES

SEC. 401. (a) Notwithstanding any other provision of law, for the purpose of Title XVIII of the Social Security Act, as amended, the Service facilities used to provide health care and services to Indians are hereby deemed to be accredited facilities, the services so provided shall be deemed to be provided by licensed practitioners in their respective fields, and the facilities may receive payment for such services on the same basis as other providers of service.

(b) The Secretary shall undertake to improve and maintain such service facilities such that they will, at a minimum, meet the accreditation standards imposed on other providers of service.

(c) Any payments received for services provided to beneficiaries hereunder shall be credited to the appropriation charged for the actual provision of care and services and shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under Title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

SEC. 402. (a) Notwithstanding any other provision of law, for the purpose of Title XIX of the Social Security Act, as amended, the Service facilities used to provide health care and services to Indians are hereby deemed to be accredited facilities and the services so provided in these facilities are deemed to be provided by licensed practitioners in their respective fields.

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of receiving reimbursement for health care and services provided to Indians who are beneficiaries under Title XIX of the Social Security Act, as amended.

(c) The Secretary shall undertake to improve such facilities such that they will meet or exceed any applicable accredited standard.

(d) Any payments received for services provided beneficiaries hereunder shall be credited to the appropriation charged for the actual provision of care and services, which amount shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Nothing in this section shall authorize the Secretary to provide services to an Indian beneficiary with coverage under Title XIX of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

TITLE V—ACCESS TO HEALTH SERVICES FOR URBAN INDIANS

SEC. 501. The purpose of this title is to encourage the establishment of outreach programs in urban areas to make health services more accessible to the urban Indian population.

SEC. 502. For the purpose of this title—

(a) "Urban Indian" means any individual who resides in an urban center and who is (i) an Indian as defined in section 4(a) of this Act or (ii) a person of Indian descent who is considered ineligible for the special programs and services of the Service and the Bureau of Indian Affairs and who, in accordance with regulations promulgated by the Secretary which take into consideration such person's health needs, lack of access to health services, and other relevant factors, is identified as an appropriate recipient of assistance from an urban Indian organization in accordance with the provisions of this title.

(b) An "urban Indian organization" is a non-profit corporate body situated in an urban center, composed of urban Indians, and providing the maximum participation of all interested Indian groups, which body is capable of legally cooperating with other bodies, Federal, State and local, for the purpose of performing the activities described in section 503(c).

(c) An "urban center" is any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under this title, as determined by the Secretary.

SEC. 503(a). The Secretary shall enter into contracts with urban Indian organizations to provide Federal assistance to such organizations for the purpose of establishing and administering outreach programs to make urban Indians in the urban centers in which such organizations are situated knowledgeable of the health service resources available within such centers and the means of gaining access to those resources.

(b) Urban Indian organizations shall make use of Federal assistance provided by contracts pursuant to this title not to provide health services to urban Indians but to render advice and consultation to such Indians concerning the availability and means of access to all public and private health services.

(c) The Secretary shall place such conditions as he deems necessary in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following tasks:

(1) determine, in accordance with the regulations promulgated pursuant to section 502(a), the population of urban Indians which are or could be recipients of such services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health educaton to such urban Indians;

(6) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs; and

(7) make recommendations to the Secretary and Federal, State, local and other resource agencies on methods of improving health service programs to meet the needs of urban Indians.

(d) The Secretary shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration—

(1) the extent of the unmet health care needs of the urban Indian in the urban center in question;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, that the project would duplicate any previous or current public or private project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of a project assisted pursuant to this title in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (c) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation of appropriate health and health-related State, local, and other resource agencies.

SEC. 504 (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended.

(b) Payments under any contracts pursuant to this Act may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) The contracts authorized under this title may include provisions for the performance of personal services which would otherwise be performed by Federal employees: *Provided,* That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(f) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision by such organizations of services and assistance to Indians in the conduct and administration of programs or activities under such contracts.

SEC. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, the organization which requested such contract or grant shall submit to the Secretary a report including information gathered pursuant to 503(c) (6) and (7), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract or grant shall be subject to audit by the Secretary and the Comptroller General of the United States.

SEC. 506. There are authorized to be appropriated for the purpose of this title $3,000,000 for the fiscal year 1975; $4,000,000 for the fiscal year 1976; and $5,000,000 for the fiscal year 1977.

SEC. 507. Within six months after the end of fiscal year 1976, the Secretary shall review the program established under this title and shall submit to the Congress his assessment thereof and recommendations for any further legislative efforts he deems necessary to meet the purposes of this title.

TITLE VI—MISCELLANEOUS

SEC. 601. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1978, the Secretary shall review the programs established or assisted under this Act and shall submit to the Congress his assessment thereof and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which is at a parity with the health services available to, and the health status of, the general population.

SEC. 602. The Secretary may prescribe such regulations as he deems necessary to carry out the purposes of this Act. Such regulations shall provide the opportunity for maximum participation of Indians in the planning and implementation of Indian health programs.

SEC. 603. The funds appropriated pursuant to this Act shall remain available until expended.

HEALTH MANPOWER STATISTICS

The number of Indian Health Service physicians and registered nurses per 100,000 persons served by the Indian Health Service has continually lagged behind the rate for the United States.

A degree of success has been shown in closing the gap between the physician rates for the Indian Health Service and the United States all races. The number of physicians per 100,000 population in 1971 in the Indian Health Service was 58 percent of the U.S. rate. In 1960 the IHS rate was less than 40 percent of the U.S. rate.

The rate for registered nurses within the IHS has remained almost constant since 1967. The range during this period was from a low of 213 registered nurses per 100,000 population in 1967 to a high of 230 in 1956. The rate for the United States has experienced a continual increase from 1956 through 1971.

NUMBER OF REGISTERED NURSES AND PHYSICIANS—INDIAN HEALTH SERVICES AND UNITED STATES, ALL RACES

Year	Registered nurses: Number IHS staff	Registered nurses: Rate per 100,000: IHS	Registered nurses: Rate per 100,000: United States [1]	Physicians: Number IHS staff	Physicians: Rate per 100,000: IHS	Physicians: Rate per 100,000: United States [2]
1971	1,073	228	356	458	98	[3] 170
1970	1,007	219	347	449	93	[3] 166
1969	981	217	338	425	94	[3] 163
1968	984	222	331	392	88	[3] 161
1967	930	213	325	357	82	158
1966	909	212	319	335	78	156
1964	913	222	306	299	73	151
1962	875	221	298	256	65	NA
1960	809	213	282	216	57	148
1958	828	229	268	209	58	NA
1956	790	230	259	195	57	NA

[1] Facts about Nursing.
[2] Health Resources Statistics, 1971.
[3] Estimated.
NA—Not available.

INFANT DEATH RATES BY AGE

The 1971 Indian and Alaska native infant death rate is 24 percent higher than the provisional U.S. all races rate for 1971. The Indian and Alaska native infant death rate was 65 percent higher than the U.S. all races rate in 1966. Thus, we have seen considerable improvement in the Indian and Alaskan native infant death rate just since 1966.

The neonatal death rate for the Indian and Alaska native is below that of the U.S. However, the postneonatal rate is over 2.3 times the U.S. rate. This ratio, however, is improving. In 1966 the Indian and Alaska native rate was 3.3 times the U.S. rate.

INFANT DEATH RATES BY AGE AT DEATH—INDIANS AND ALASKA NATIVES AND UNITED STATES, ALL RACES

[Rates per 1,000 live births]

	Infant death rate	Neonatal: Total	Neonatal: Under 1 day	Neonatal: 1 to 6 days	Neonatal: 7 to 27 days	Postneonatal, 28 days to 11 mo.
Indians and Alaska Natives:						
1971	23.8	12.5	7.4	3.4	1.7	11.4
1970	NA	NA	NA	NA	NA	NA
1969	NA	NA	NA	NA	NA	NA
1968	30.9	14.4	7.9	4.1	2.4	16.5
1967	32.2	15.3	8.4	5.1	1.8	16.9
1966	39.0	17.3	9.0	5.6	2.7	21.7
United States, all races:						
1971 [1]	19.2	14.3	NA	NA	NA	4.9
1970 [1]	19.8	14.9	NA	NA	NA	5.0
1969 [1]	20.7	15.4	NA	NA	NA	5.4
1968	21.8	16.1	9.5	5.1	1.5	5.7
1967	22.4	16.5	9.6	5.3	1.6	5.9
1966	23.7	17.2	10.0	5.6	1.6	6.5

[1] Provisional, Monthly Vital Statistics Report, NCHS, vol. 20, No. 11.

NA—Not available.

MEDICAL CARE COST

The consumer price index for medical care shows a continuous upward trend. Physician fees, hospital daily charges, and drugs and prescriptions costs increased; physician fees were 32 percent above the base year 1967, hospital daily charges 66 percent, and drugs and prescriptions 6 percent.

CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND CLERICAL WORKERS, U.S. CITY AVERAGE

[1967=100]

Year	Medical care: March	Medical care: June	Medical care: September	Medical care: December	Physicians' fees: March	Physicians' fees: June	Physicians' fees: September	Physicians' fees: December	Hospital daily services charges: March	Hospital daily services charges: June	Hospital daily services charges: September	Hospital daily services charges: December	Drugs and prescriptions: March	Drugs and prescriptions: June	Drugs and prescriptions: September	Drugs and prescriptions: December
1961	80.8	81.4	81.9	82.3	78.3	78.9	79.4	80.2	58.9	60.8	61.8	62.7	103.4	103.7	103.1	102.7
1962	83.1	83.7	83.9	84.3	80.8	81.3	81.7	82.2	64.3	64.7	65.5	66.1	102.3	102.1	101.0	100.0
1963	84.9	85.7	86.0	86.2	82.9	83.1	83.4	83.8	68.1	68.9	69.8	70.4	100.8	100.8	100.8	100.0
1964	86.8	87.3	87.6	88.0	----------	85.0	----------	86.3	71.7	72.3	73.0	73.7	----------	100.7	----------	100.2
1965	88.8	89.4	89.8	90.5	----------	88.0	88.7	89.6	75.4	76.2	77.4	78.5	----------	100.2	100.0	100.2
1966	91.7	92.9	94.7	96.5	91.2	93.0	95.1	96.6	80.4	82.1	86.3	91.5	100.5	100.7	100.6	100.4
1967	98.5	99.7	101.3	102.7	98.5	99.8	101.3	102.5	97.1	100.0	102.0	105.6	100.1	99.8	100.0	100.2
1968	104.5	105.6	107.1	109.1	104.1	105.3	106.5	108.4	109.9	112.2	115.8	119.6	100.3	100.1	100.1	100.0
1969	111.6	113.5	115.3	115.7	110.9	113.0	114.8	116.3	124.5	126.8	130.9	133.9	100.9	101.4	101.4	101.7
1970	118.2	120.5	122.6	124.2	119.0	121.6	123.3	125.7	139.4	142.1	147.5	152.0	102.5	103.8	104.3	104.2
1971	126.8	128.6	130.4	130.1	128.0	129.9	131.5	132.2	157.1	160.5	164.4	165.5	104.9	105.7	105.7	105.0
1972	131.4	132.4	133.1	134.4	132.9	133.9	134.4	135.4	NA	NA	NA	NA	105.7	105.8	105.7	105.6

DENTAL SERVICES PROVIDED BY AGE

In fiscal year 1972, 72 percent of the required services in the age group 5–14 were provided. This age group has historically seen the highest percentage of required services provided. The percentage decreased with each successive age group.

Estimated services required for the Indian and Alaska native population in fiscal year 1972 was over 2 million. The percentage of required services provided was 40.3.

It is estimated that a total dental program should provide comprehensive dental services to 70–80 percent of the population 3–19 years and 46 percent of the population over age 20. The IHS dental program provided less than 60.2 percent of the needed services for Indian children less than 20 years of age and only 18.9 percent of the services needed for the Indian population age 20 and over.

PERCENT OF ESTIMATED REQUIRED DENTAL SERVICES PROVIDED, FISCAL YEAR 1972

Age group (in years)	Services required per person examined	Indian health service population	Estimated services required in population	Services provided direct and contract	Percent of required services provided
All ages	8.06	469,632	2,098,215	844,724	40.3
Under 5	6.66	61,287	102,042	41,596	40.8
5 to 9	6.45	70,698	364,801	268,554	73.6
10 to 14	5.72	66,800	305,676	214,057	70.0
15 to 19	7.03	53,172	261,659	119,883	45.8
20 to 24	9.80	33,057	161,979	49,615	30.6
25 to 34	10.72	52,148	279,513	63,727	22.8
35 to 44	11.29	43,192	243,818	39,387	16.2
45 to 54	11.57	33,997	177,005	24,927	15.1
55 to 64	11.19	27,135	121,456	14,267	11.7
65 to 74	10.91	18,086	59,195	6,603	11.2
75 and over	10.47	10,060	21,065	2,108	10.0

INFANT DEATHS

The infant death rate among Indians and Alaska Natives declined 61.9 percent between 1955 and 1971. The 1955 rate of 62.5 had been reduced to 23.8 deaths per 1,000 live births by 1971. Concurrently, the U.S. general population experienced a drop of 27.3 percent. The 1955 Indian and Alaska Native infant death rate was 2.37 times the U.S. All Races rate. By 1971 the Indian rate had been reduced to 1.24 times the U.S. rate. The Alaska Native rate has consistently exceeded the Indian rate. In 1971 the Alaska Native rate was 17 percent higher than the Indian rate.

INFANT DEATHS AND DEATH RATES—INDIAN AND ALASKA NATIVES IN 24 RESERVATION STATES AND UNITED STATES, ALL RACES, CALENDAR YEARS 1955–71

[Rates per 1,000 live births]

Year	Indian and Alaska Native		Indian		Alaska Native		United States all races	
	Number	Rate	Number	Rate	Number	Rate	Number	Rate
1971	560	23.8	513	23.5	47	27.4	NA	[2] 19.2
1970	[1] 570	NA	[1] 523	NA	[1] 47	NA	NA	[2] 19.8
1969	579	NA	533	NA	46	NA	75,073	21.5
1968	668	30.9	606	30.2	62	40.4	76,263	21.8
1967	666	32.2	571	30.1	95	55.6	79,028	22.4
1966	822	39.0	722	37.7	100	51.4	85,516	23.7
1965	872	39.0	740	36.4	132	65.4	92,866	24.7
1964	856	37.6	747	35.9	109	54.8	99,783	24.8
1963	972	43.6	864	42.9	108	50.7	103,390	25.2
1962	967	44.2	827	41.8	140	66.8	105,479	25.3
1961	961	44.4	827	42.3	134	64.0	107,956	25.3
1960	1,064	50.3	914	47.6	150	76.3	110,873	26.0
1959	1,016	49.5	870	46.7	146	76.7	112,008	26.4
1958	1,123	58.0	989	56.7	134	69.0	113,789	26.1
1957	1,136	60.4	989	58.2	147	80.2	112,094	26.3
1956	1,066	59.4	900	56.1	166	87.0	108,183	26.0
1955	1,065	62.5	936	61.2	129	74.8	106,903	26.4

[1] Estimated.

[2] Provisional, Monthly Vital Statistics Report, NCHS, vol. 20, No. 12.

TUBERCULOSIS DEATHS AND DEATH RATES

Tuberculosis death rates for Indians and Alaska Natives, combined, declined about 86 percent from 1955 to 1971. In 1971 the Indian rate was about 1/6 what it was in the 1954–1956 period, and the Alaska Native rate was only 1/16 as high as it had been in the 1954–1956 period. Concurrently, there was a decline in the U.S. All Races rate from 9.1 deaths per 100,000 population in 1955 to a provisional figure of 2.1 in 1971. As a result, the combined Indian and Alaska Native rate, which was 6.1 times the U.S. rate in 1955, was still 3.7 times as high in 1971.

TUBERCULOSIS MORTALITY—INDIANS AND ALASKA NATIVES IN 24 RESERVATION STATES AND UNITED STATES, ALL RACES CALENDAR YEARS 1955 TO 1971, RATES PER 100,000 POPULATION[1]

Year	Indian and Alaska Native		Indian		Alaska Native		United States, all races		Ratio Indian and Alaska Native to United States, all races
	Number of deaths	Rate	Number of deaths	Rate	Number of deaths	Rate	Number of deaths	Rate	
1971	56	7.8	51	7.6	5	9.7	[2] 4,380	[2] 2.1	3.7
1970	NA	NA	NA	NA	NA	NA	[2] 5,560	[2] 2.7	NA
1969	86	12.6	82	13.0	4	8.0	5,567	2.8	4.5
1968	78	12.8	71	12.8	7	12.9	6,292	3.1	4.1
1967	90	13.5	82	13.4	8	14.3	6,901	3.5	3.9
1966	91	15.3	85	15.4	6	15.3	7,625	3.9	3.9
1965	104	19.0	96	19.3	8	16.0	7,934	4.1	4.6
1964	111	21.8	103	21.6	8	24.0	8,303	4.3	5.1
1963	130	25.1	114	24.8	16	28.5	9,311	4.9	5.1
1962	150	26.0	137	25.3	13	34.0	9,506	5.1	5.1
1961	120	25.4	105	24.5	15	34.8	9,938	5.4	4.7
1960	115	26.6	98	25.1	17	43.1	10,866	6.1	4.3
1959	163	29.0	140	27.9	23	41.8	11,456	6.5	4.5
1958	150	34.3	138	31.5	12	65.1	12,361	7.1	4.8
1957	186	38.2	134	34.2	43	83.3	13,324	7.8	4.9
1956	212	46.2	171	40.2	41	116,8	14,054	8.4	5.5
1955	253	55.1	208	47.3	45	157.5	14,940	9.1	6.1

[1] Indian and Alaska Native rates are 3-year averages through 1968. All other rates are based on single year data.

[2] Provisional figures —Monthly Vital Statistics Report.

NA Not available.

INDIAN AND ALASKA NATIVE ADMISSIONS

Admissions to IHS and contract hospitals have experienced an upward trend since 1955. Admissions for fiscal year 1972 are more than double the admissions reported in 1955. Admissions to contract hospitals have increased more rapidly than for IHS facilities. The rate of increase for IHS hospitals has been 77.9 percent as contrasted to a 257.9 percent increase in contract hospital admissions.

NUMBER OF ADMISSIONS TO PHS INDIAN AND CONTRACT HOSPITALS, FISCAL YEARS 1955–72

Fiscal year	Total	PHS Indian hospitals	Contract hospitals
1972	102,472	76,054	26,418
1971	94,945	70,729	24,216
1970	92,710	67,877	24,833
1969	94,490	69,560	24,930
1968	92,186	68,086	24,100
1967	89,556	65,456	24,100
1966	91,799	67,049	24,750
1965	91,744	67,744	24,000
1964	89,934	65,934	24,000
1963	87,549	64,749	22,800
1962	81,476	59,976	21,500
1961	74,313	54,313	20,000
1960	76,754	56,874	19,880
1959	73,268	54,568	18,700
1958	71,859	55,649	16,210
1957	66,455	53,160	13,295
1956	57,975	46,218	11,757
1955	50,143	42,762	7,381

OUTPATIENT VISITS

Outpatient visits to IHS Hospitals, Health Centers, and Field Stations have increased each year since fiscal year 1955. Total outpatient visits in fiscal year 1972 was 2,235,881. This is five times as many visits as reported in 1955. Outpatient visits to field clinics have increased almost tenfold during the period 1955–1972.

NUMBER OF OUTPATIENT MEDICAL VISITS[1] TO PHS INDIAN HOSPITALS AND FIELD HEALTH CLINICS, FISCAL YEARS 1955–72

Fiscal year	Total	Hospitals	Field clinics
1972	2,235,881	1,275,726	[2] 960,155
1971	2,195,240	1,202,030	993,210
1970	1,786,920	1,068,820	718,100
1969	1,661,500	982,300	679,200
1968	1,575,440	926,640	648,800
1967	1,494,600	849,800	644,800
1966	1,367,000	788,500	578,500
1965	1,325,400	757,700	567,700
1964	1,295,000	742,400	552,600
1963	1,271,400	721,700	549,700
1962	1,142,300	673,200	469,100
1961	1,022,600	628,700	393,900

Fiscal year	Total	Hospitals	Field clinics
1960	989, 500	585, 100	404, 400
1959	957, 900	546, 900	411, 000
1958	900, 000	533, 440	366, 500
1957	650, 000	510, 000	140, 000
1956 [2]	540, 860	415, 860	125, 000
1955 [3]	455, 000	355, 000	100, 000

[1] Excludes visits for dental services.

[2] Estimate.

[3] Decreased because of underreporting of grouped services.

TUBERCULOSIS MORBIDITY

The incidence rate for tuberculosis for the Indian and Alaska Native has declined 79 percent since 1955. The U.S. All Races rate has declined 72 percent during the same period. The Indian and Alaska Native rate in 1971 was 9.3 times the U.S. All Races rate. The 1955 ratio was 12.6.

The rates shown prior to 1962 include some newly reported inactive cases while the later years are for newly reported active cases only. However, the trends mentioned are not affected.

TUBERCULOSOS MORBIDITY

[Rates per 100,000 population]

Calendar year	Indian and Alaska Natives	Indian	Alaska Native	United States all races
1971	157. 4	152. 0	200. 3	[1] 17. 0
1970	154. 1	154. 1	154. 0	18. 3
1969	140. 8	141. 6	134. 3	19. 1
1968	133. 8	128. 0	179. 1	21. 3
1967	155. 8	152. 7	179. 8	23. 0
1966	141. 7	127. 8	247. 8	24. 4
1965	201. 5	160. 5	507. 8	25. 3
1964	237. 8	184. 1	630. 2	26. 6
1963	234. 0	192. 3	534. 9	28. 7
1962	257. 7	209. 4	604. 7	28. 9
1961	318. 8	284. 8	562. 8	37. 0
1960	322. 4	292. 3	547. 5	39. 4
1959	418. 0	338. 2	1, 048. 0	42. 6
1958	485. 0	421. 8	978. 7	47. 5
1957	565. 2	426. 9	1, 649. 7	51. 0
1956	680. 6	474. 3	2, 283. 8	54. 1
1955	758. 1	563. 2	2, 225. 7	60. 1

[1] Provisional.

Mr. FANNIN. Mr. President, I am pleased to join with my distinguished colleagues, Senator JACKSON and Senator BARTLETT, in introducing this vital piece of legislation. The health of our Indian citizens has long been of concern to me and this legislation will, I believe, mark a new beginning in our Indian health programs. It also represents a renewal of our long-standing commitment to the Indian people to provide a program of quality health services.

This legislation is significant because its objective is to redraw the legislative authority of the Indian Health Service so that it can meet the contemporary needs of the Indian people. It has become increasingly clear that the existing authority of the Indian Health Service is no longer capable of meeting the ever pressing health problems of its clients and clearly needs new tools, resources, and innovative programs to meet those needs. That is the basic purpose of this bill.

In addition, this legislation seeks to meet the objective of Indian self-determination by developing a program which will serve to increase the number of Indian health personnel. Earlier this week the Senate Interior and Insular Affairs Committee ordered reported S. 1017, The Indian Self-Determination and Educational Reform Act, which provides authority to the Secretary of the Department of Health, Education, and Welfare to contract the services and programs of the Indian Health Service to tribal organizations. But if we are to realize, to the fullest, the opportunity which exists under the contracting provisions of S. 1017, we must develop Indian personnel who can manage such programs and individuals who can serve those who are in need of health services.

President Nixon, in his Indian message of July 8, 1970, reminded us of the problem facing Indian control of health programs and facilities when he noted:

> These and other Indian health programs will be most effective if more Indians are involved in running them. Yet—almost unbelievably—we are presently able to identify in this country only 30 physicians and fewer than 400 nurses of Indian descent.

It is my personal hope that through this legislation we will reverse such depressing statistics and report by the end of the decade a substantial increase in the number of Indian doctors, nurses, administrators, and other allied health personnel serving our Indian people.

Yet beyond the long range effort to develop Indian health personnel there is the immediate need to ease the shortage in doctors and other trained personnel. When the military draft was in existence, the Indian Health Service found itself with a number of young health professionals wanting to serve reservation health facilities. In 1969, for example, over 3,000 medical students sought Public Health Service jobs with many indicating that they would serve in the Indian Health Service program. In 1973, however, with the elimination of the draft, the number of applications had dropped to 500 with 525 slots available in the Indian Health Service facilities. What makes the situation even worse is that many of the current professionals will be ending their 2-year commitment in 1974, thus causing even further shortages. This problem is a critical one, especially when one considers that there were 2.2 million outpatient visits in 1972 alone. Without replacements valuable health services may need to be cut. Thus, this legislation has an immediate problem to solve; one that will not be easily resolved, but which cannot be ignored.

Another basic objective of this legislation is to provide increased resources to meet the backlog in construction of health facilities. While the Federal Government has made a major effort to meet the physical plant needs of the Indian Health Service, there are still many facilities which need substantial renovation and expansion. There is also a need for new facilities, not only hospitals, but outpatient clinics as well. The need for quality facilities is becoming increasingly critical as the Joint Committee on Accreditation of Hospitals has reported that of the 51 IHS facilities, only 22 percent are accredited. Clearly there is need to correct such a deficiency and it is the objective of this bill that such deficiencies be removed.

Since the organization of the Indian Health Service in 1955 a number of serious health problems have been resolved. According to Dr. Emery Johnson, the Director of the Indian Health Service:

> The decline in deaths from tuberculosis, diseases of infancy, influenza, pneumonia and gastro-intestinal illnesses has been dramatic. Strides also have been made in correcting environmental deficiencies such as inadequate housing and water and sewage disposal facilities, that give rise to a high incidence of disease and premature deaths.

But Dr. Johnson also notes that:

> Although the gap has narrowed between the Indian and Alaska Native state of health and that of the rest of the Nation, it is still far below national standards. Infant death rates are 1.4 times higher than the U.S. all races rate, gastroenteric death rate is 4 times higher, and the incidence of tuberculosis is 8 times as high.

There are obviously still many challenges confronting the Indian Health Service. There is a need to combat a wide range of serious diseases such as otitis media, alcoholism, mental illness, and nutritional problems. In addition, there is also a need for expanded sanitation programs and other endeavors to build a lasting preventive health care program so that our Indian citizens can be relieved of the afflictions of disease and illness.

It is in this context that the IHS appears as the chief instrument through which a whole range of health services can be delivered. Yet, the time has come to redesign that instrument to give it the strength to meet the continuing challenges of providing an environment and a system which will promote better health and better health care.

I am pleased to join in this major legislative endeavor, and our goal must be the goal that Dr. Johnson set out during his testimony on the 1974 IHS appropriations request when he stated that:

> The future of the Indian Health Service lies in expanded Indian community development, increased meaningful involvement of Indian people, and a responsive high quality comprehensive health care system.
>
> Our commitment is to identify and mobilize all available Federal, State and private resources, and through effective management processes to develop those resources to maximum potential. As we continue to evolve in this direction, we look forward to a significantly improved health status for Indian and Alaska Native people.

By Mr. DOMENICI:

S. 2939. A bill to authorize the Comptroller General of the United States to acquire and make available to the Congress, the President, and the public certain information and data relating to energy supplies and shortages. Referred to the Committee on Government Operations.

Mr. DOMENICI. Mr. President, the bill I am introducing today arises directly from face-to-face contact with my own constituents.

Thus, it seems to me a striking example of the best workings of this great Republic, in which citizens can be heard and action can be taken, here at the Federal legislative level, because they have spoken.

I returned to Washington from my native State after our most recent recess with a series of impressions, based upon almost every private conversation I had and almost every group meeting I attended.

The first is that our people are confused about the extent—perhaps even the reality—of the Nation's worsening situation in regard to energy sources.

The second is that these same people have great resources of good will, even an ability to take on a program of sharp sacrifice, on an entirely voluntary basis, if they are convinced that it is in the country's best interests for them to do so.

What these people lack is information—that information which, if they had it, would first of all define the true parameters of our problem and secondly motivate them to act wisely for the good of us all.

It is not a pleasant task to face those citizens, as I am sure most Members of this body experience for themselves, and admit frankly that their own Government does not have the information for which they hunger. It is even more difficult to have to admit that neither the legislative nor the executive branch have the kind of information required for appropriate action and informed decisions. This is an intolerable situation and it must be corrected.

Hence the purpose of this bill: to begin to collect, immediately and vigorously, all available information, from whatever source, on current inventories, supplies and reserves—first on the American petroleum industry and then, on a longer term basis, on all potential sources of energy.

There will be resistance to this step. But crises make demands which everyday life does not make, and the fact is that we appear to be in such a crisis now.

The paradox is that, until such traditionally private information has been made available for thorough analysis, we cannot even know the extent of our crisis.

So I would say by this bill to all those who plead the privacy of business information: "This may once have rightfully been only yours to know; now it is the business of the American people to be used by their leaders for vital decisions for the common good."

I will also call the attention of our Members to one other feature of this bill, the fact that it vests the power and the responsibility to gather this information in the Office of the Comptroller General.

My reasoning here is a double one.

First of all, this is an existing office, so no new levels of bureacracy will need to be created—an approach which I earnestly wish we had taken in other of our efforts to solve these pressing problems.

Second, I remind our Members that this office is an arm of the Congress and hence most responsive to its wishes. It appears to me to be the single body most likely to respond to the needs of Congress by supplying it the factual bases for its legislation, while at the same time cooperating with Federal executive agencies, State and local governments, and our citizens at large.

Mechanically, this bill is very simple in that it sets out as its purpose the acquisition, analysis, and dissemination of information essential to adequately inform the public about our true energy situation and allow the Nation's leaders to make informed decisions in accordance with that true situation.

The Comptroller General is authorized and directed to take all steps necessary to carry out that broad and important purpose and to establish whatever procedures are required to do so.

The bill would specifically require the Comptroller General to acquire information and report to the Congress, the President, and the public within 25 days after enactment on the total quantity of crude oil and petroleum products controlled by oil interests engaged in interstate or foreign commerce. This is necessary to define the dimensions of the immediate petroleum shortage and allow intelligent actions by governments, businesses, and private citizens. Based on that initial inventory of the petroleum industry, the Comptroller General would develop an information acquisition, analysis, and dissemination system necessary to the intelligent management and conservation of all energy sources. This would then be the wide-ranging energy information function other legislative initiatives before the Congress would assign to an Energy Information Center either as a separate agency or as part of the Federal Energy Office.

I have already elaborated on my basic reasons for choosing the General Accounting Office for the performance of this vital function. I realize that the collection and verification of information of this kind has been traditionally assigned to the executive branch and that the function of the General Accounting Office has been limited in most cases to monitoring and reporting to the Congress. As I said before, the situation we face today is one so severe, so unusual that we need to at least consider whether we want to handle it as we do "in most cases."

The unusual aspect of the current situation to which I refer, of course, is the widespread skepticism about the very existence of any "energy crisis," not to mention legitimate questions by many about its magnitude. We simply have not had good information and yet we have tried to move ahead. As a result, Government credibility has suffered, due in part—whether justified or not—to the fact that regulatory functions and information functions are presently performed by the same Federal agency. We can help eliminate that credibility problem by separating these functions as proposed in this bill. I think the need to do so offsets the difficulties associated with a nontraditional approach under these rather unique circumstances. Accordingly, I have chosen this route and urge my colleagues to seriously consider it as the best means both to obtain the required information and rebuild credibility that we seriously lack at this point.

Mr. President, you will not fail to note the urgency which the bill expresses. That returns me to my original thesis: our people need to know, candidly and completely, what our situation really is—and they need such knowledge as quickly as is consonant with accuracy and completeness. Only when they know the whole truth will they act wisely and well. Unless they act in this manner, there is nothing but deepening gloom ahead. Consequently, I hope this bill will be considered along with other relevant legislation in hearings soon to be held by appropriate committees.

I request unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of keeping the Congress, the President, and the public fully apprised concerning the status and impact of energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, the nature, extent, and projected duration of shortages of energy supplies, and for the purpose of supplying to the Congress, the President, and the public information and other data related to the management and conservation of energy, including, but not limited to, information and data related to energy costs, transportation, equipment, facilities, supplies, reserves, demand, industry structure, and environmental impacts, the Comptroller General of the United States is authorized and directed to establish and carry out, on a continuing basis, such programs and procedures for gathering, analyzing, interpreting, and disseminating to the Congress, the President, and the public, such energy statistics, data, and other information as he determines necessary to enable the Comptroller General to carry out the purposes of this Act.

(b) The procedures provided for under subsection (a) of this section, shall include, among others, procedures for determining and reporting to the Congress, the President, and the public—

(1) as to the total aggregate inventory of crude oil and petroleum products held, owned, or controlled by oil producers, refiners, distributors, and pipeline entities, engaged in interstate or foreign commerce, on the twenty-fifth day following the date of the enactment of this Act; and

(2) on a periodic basis, as to the total aggregate amount of such crude oil and petroleum products so held, owned, or controlled by such producers, refiners, distributors, and pipeline entities during the period covered by each such report.

(c) In carrying out his responsibilities under this Act, the Comptroller General or his authorized representative shall have access to such information from any public or private source whatever, notwithstanding any other provision of law, as is necessary to carry out his responsibilities under this Act.

(d) The Comptroller General, or any of his authorized representatives, in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information and records of any public or private organization necessary to enable the Comptroller General to carry out such responsibilities.

(e) The Comptroller General may sign and issue subpoenas requiring the production of such books, documents, papers, statistics, data, information, and records as may be necessary to enable the Comptroller General to carry out his responsibilities under this Act. In case of disobedience to a subpoena issued pursuant to this section, the Comptroller General may invoke the aid of any United States district court in requiring the production of such books, documents, papers, statistics, data, information, and records. Any United States district court within the jurisdiction in which the public or private organization is found or transacts business may, in the case of contumacy or refusal to obey a subpoena issued by the Comptroller General, issue an order requiring such organization to produce the books, documents, papers, statistics, data, information, or records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

SEC. 2. The Comptroller General of the United States shall have the authority, when he determines it necessary in order to carry out his responsibilities under this Act, to make any investigation, and in connection therewith, he may, at reasonable times, enter places of business and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto.

SEC. 3. The Comptroller General shall, from time to time, but not less than on a quarterly basis, report to the Congress and the President of the United States with respect to the information and other data obtained by the Comptroller General in carrying out his responsibilities under this Act. Copies of such reports shall be made available by the Comptroller General to the public at reasonable costs and upon identifiable request, except that the Comptroller General may not disclose to the public, under this Act, any information which could not be disclosed under other provisions of Federal law.

SEC. 4. The Comptroller General of the United States is authorized to issue such rules, regulations, and orders as he may determine necessary to enable him to carry out the provisions of this Act.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 6. Whoever willfully fails to comply with any rule, regulation, or order issued by the Comptroller General of the United States pursuant to this Act, or whoever, while complying with such rule, regulation, or order, willfully submits false or misleading information, shall be imprisoned for not more than three months, or fined not more than $10,000, or both.

By Mr. BAYH (for himself, Mr. BENNETT, Mr. BIBLE, Mr. DOLE, Mr. GRAVEL, Mr. HART, Mr. HATHAWAY, Mr. HUMPHREY, Mr. JAVITS, Mr. McGEE, Mr. McGOVERN, Mr. MOSS, Mr. PERCY, Mr. RANDOLPH, Mr. TAFT, Mr. THURMOND, and Mr. WILLIAMS):

S. 2941. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of medicare for routine Papanicolaou tests for the diagnosis of uterine cancer. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, today I am introducing a bill to include the "Pap" test for uterine cancer as a covered service under part B of medicare. Data from the National Cancer Institute's most recent national cancer survey indicate that the various types and stages of uterine cancer account for 25 percent of all cases of cancer among women in the United States, rivaling even breast cancer in the number of women struck.

The most common form of uterine cancer is cancer of the cervix which accounts for about 75 percent of all cases. Current estimates are that about 13,000 women die each year in the United States from cervical cancer. Like other forms of this disease, cervical cancer progresses in stages and is easier to control at its early stages than when it becomes more advanced and has invaded surrounding tissue. But the most impressive thing about the treatment of cervical cancer, Mr. President, is that when it is discovered at its earliest stage, it is just about 100 percent curable. Unlike some other types of cancer, a cervical cancer which is caught and arrested when it is just beginning is extremely unlikely to recur in later years. A woman who is discovered to have early cervical cancer—cancer in situ or stage 0 of this disease—if she has appropriate medical treatment at that point, is expected to live just about as long as women in her age group who have not had this type of cancer. This is a remarkable record, Mr. President, but it depends entirely on the cancer being at an early stage when it is discovered. If the cancer is not discovered until it is at a more advanced stage, the survival rates of women affected with it decrease each year, even if they have what we believe to be appropriate medical treatment.

Dr. Eleanor Macdonald and her colleagues recently published a comprehensive study of "The Incidence and Curability of Cancer of the Uterine Cervix in El Paso County 1944–67," in the January 1973 issue of the Journal of the American Medical Women's Association. This study shows that if this disease is caught not at stage 0 but at the later stage 1, less than 80 percent of the women affected will still be alive 5 years later, whereas in a group of similar age without uterine cancer, we would usually find almost all alive 5 years later. As the disease progresses further, survival becomes less likely, even when treatment is given. If it is not discovered until stage 4, less than 20 percent of the women affected can be expected to be alive only 2 years later. Mr. President, I recite these grim statistics to point out the critical importance of discovering cervical cancer early, when it is virtually completely curable.

Given a disease that has such a good prognosis at its earliest stage and is so difficult to cure later, it seems that a full scale effort would be in effect to discover a simple diagnostic test to uncover cervical cancer as early as possible and to get every adult woman in this country to take this test as often as the medical profession thinks is necessary. If this were the case, we could insure that every single case of cervical cancer discovered will be at the earliest stage where it is more easily curable.

In this respect, Mr. President, there is good news and bad news. The good news is that such a test is available and has been available for two decades. This is the well known Pap smear, invented by the late Dr. George N. Papanicolaou, who received many well-deserved honors for his immensely important work in this area. The test is simple, requires just a few minutes of the patient's time, is painless, and is inexpensive. Mr. President, 13 years ago, Dr. C. J. Lund, writing in a January 1961 issue of the Journal of the American Medical Association, said:

> The epitaph for cervical cancer has been inscribed. The methods, skills, and techniques are available to destroy it. The date of death remains unwritten in the hands of the practicing physicians and their patients.

Mr. President, the date of death of this type of cancer depends almost entirely on the extent to which we can get women to take this simple test which will identify the cancer when it is at the early, curable stage.

This brings me to the bad news: Since that optimistic statement was written 13 years ago, approximately 169,000 women in this country have died of cervical cancer. Their dates of death were written before the date of death of cervical cancer because we have not made the decision to somehow get each and every woman in this country to take this test on an annual or semiannual basis. In spite of tremendous efforts by the American Cancer Society and various public health groups over the last 15 or so years, there are still very large numbers of women who have never taken a Pap test in their lives, to say nothing of taking one at the recommended interval of once a year for women under 35 and twice a year for women over 35.

But whether a woman has a Pap smear or does not is not random. Medical researchers have identified specific groups of women who are less likely than others to have this test done. One group whose members are quite unlikely to have this test done are older women. Another group is poorly educated and poor women. Thus, the tremendous advances in control of cervical cancer over the last two decades, insofar as they depend on the Pap test, have been mainly among young and better educated women whom we are more likely to reach with public education programs and who are more likely to realize the tremendous benefits of taking this test regularly. But particularly among the elderly, it is difficult to get this message across. In one comprehensive study in the State of Connecticut, "Cancer of the Cervix in Connecticut," by Dr. Barbara W. Christine and her colleagues, reported in Connecticut Medicine of December 1972, it was found that while approximately 40 percent of women in the 20 to 29 age group had received a Pap smear, only 9 percent of women 60 or over had done so. Yet it is in this older group that the mortality rate due to cervical cancer is highest. This is at least partially because a cancer discovered in an older woman is more likely to be at a later stage for the very reason that the older woman is unlikely to have had the simple test which would have discovered the disease when it was curable. This means that we must do everything possible to encourage the more widespread use of the Pap test among women in the older age groups.

Mr. President, eventually I would hope that this test will be available free of charge, on a walk in basis, to every woman in this country. In the meantime, we must find a way to make a start in this direction. I believe the legislation I am introducing does this. We have a vehicle to encourage women to take Pap tests, and that is the medicare program. The medicare program is, of course, restricted to the disabled and those in the older age groups. But since it is older women who are least likely to take the Pap test, the medicare program is a natural place to begin. If the medicare program were to cover the Pap test as part of their coverage of diagnostic laboratory tests, there is no doubt in my mind that we could raise dramatically the proportion of women in the older age groups who would avail themselves of the opportunity to take this test. The only reason I can discover why this test is not now covered is the exclusion from the medicare program of "routine physical checkups." But a test to discover uterine cancer should not be placed in the same class as a routine checkup. A woman has no possible way to observe her uterus, to check up herself on whether there is possibly something wrong with it, until it is too late. The early stages of this disease are not painful and frequently present no physical symptoms which would cause a woman to have a complaint and go to her doctor for this complaint. If we wait for that complaint to develop—in which case the Pap smear would be covered by medicare because it would then be nonroutine—it may very well be too late for this woman to be in the group which can expect to be completely cured of this disease. What we need is to do everything possible to have this test done on a routine basis. The Congress has already recognized the importance of general preventive health care through recent legislation on Health Maintenance Organizations. The proposed legislation is another effort in this direction. Preventive medicine makes particularly good sense in an area such as uterine cancer where there is little possibility of a disease being discovered in a curable stage when one waits for symptoms to develop.

The Connecticut study to which I referred earlier documents very clearly the need for a preventive approach to uterine cancer through the routine application of diagnostic tests. In the oldest group of women studied in the Connecticut report—age 50 and over—who would be most comparable to the women enrolled in the medicare program, 60 percent of the cases of early cervical cancer—cancer in situ or stage 0—were discovered on strictly routine office calls or calls involving a nongynecological complaint. The remaining 40 percent of the cases of early cervical cancer were discovered after the woman made a gynecological complaint. In strong contrast, 85 percent of advanced stage cervical cancer was diagnosed after a specific complaint was made. Only 15 percent of the cases of advanced cervical cancer were discovered through examinations which were strictly routine or initiated after a nongynecological complaint. Of the women over age 50 who ultimately proved to have cervical cancer and waited until they had a gynecological complaint to have the Pap test taken, 88 percent already had advanced stages of the disease when cure is most difficult. Of the women in this age group who ultimately proved to have cervical cancer but who took the Pap test on a routine basis, only 46 percent had an advanced stage of the disease, and 54 percent had the earliest stage of the disease which is almost always curable. These data make crystal clear that if we are to find cervical cancers in their early stages, we must rely on routine use of the Pap test rather than wait until symptoms are felt. If we wait for complaints to develop, we are waiting too long to expect that the cases of cervical cancer which are discovered will be in the early curable stages.

A number of public health efforts to control uterine cancer through encouraging more widespread pap testing have been undertaken. An intensive program was begun in 1967, for example, in El Paso, Tex. The results of this program were reported in the study by Dr. Macdonald. She estimates that between 70 and 80 percent of all women in El Paso were reached by the program, which provided a free Pap test on a walk-in basis. Most impressive is their finding that the rates of cervical cancer for the 3 years following the inception of this program show marked increases in the incidence of early in situ cervical cancer and corresponding marked decreases in the incidence of advanced stages of the disease. Dr. Macdonald points out that the increased rate of early stage cancer means that cancers are being discovered that ordinarily would be undetected until later stages. Because of this, the incidence of later stage cancers becomes lower. The prognostic implications of this are clear: the women who are discovered to have early stage cervical cancer through this type of program can be given prompt treatment and can expect to enjoy just about a normal lifespan. If their cancers had remained undetected until later, the story would not have such a happy ending. Similar programs, with similarly good results, have been carried out in Louisville, Ky., where the death rate from cervical cancer was cut in half in 15 years, and in other cities in the United States and other countries. In New York State, a Pap test must now be offered to all women who are admitted to a hospital for any reason unless they have had such a test in the previous 3 years. But we still need to do much more to get to older women in all cities and counties of the country so that the benefits of this remarkable test are not denied to anyone.

Mr. President, some Senators may feel that this amendment would provide services to people who are not in financial need and who could very well afford to pay for these tests themselves. Since the Pap test is not an expensive one, at the same time that the program would not be prohibitive for the medicare program to undertake, some may feel that it is also not prohibitive for individuals to pay for it themselves. This is not an unreasonable argument. Certainly it is a good bargain to be able to pay $5 twice a year for a test that could diagnose a cancer when it is just about 100 percent curable instead of skipping this test and taking the risk that one will not discover a cancer at that stage but that it might show up later when the chances of cure are much less. I think that would be a bargain and I am sure that the millions of women who take this test religiously once or twice a year also think it is a great bargain. The problem, Mr. President, is not only that many of our elderly are also poor, but more importantly that many of our elderly women do not know about this test, or do not realize its importance. Thus, they do not avail themselves of the opportunity of getting this tremendous bargain. As I mentioned before, every study that I have seen of the use of the Pap test has shown that most tests are performed on young women and that elderly women are least likely to have this test done. All this in spite of the fact that deaths from invasive uterine cancer are highest among elderly women. Thus, Mr. President, my concern is that we find a way to encourage the use of this test, hopefully among all women, but at the very least among our aged citizens who are least likely to know about it, and to whom we have made a national commitment, through medicare, of assisting them with their health problems.

What I would hope is that every time a medicare recipient goes to a doctor's office, a clinic, or a hospital, regardless of the reason she is there, the doctor who attends her, knowing that the Pap smear is covered by medicare, will inquire whether she has had this test in the last 6 months, and if not, would encourage her to have one done. For every doctor that is successful in that regard, Mr. President, and causes us to spend a few dollars from the medicare program to pay for that test, we will be saving the Federal Government and the people of this country approximately nine times as much in what they would eventually have to pay out for treatment of advanced cases of cervical cancer. This is true, Mr. President, because programs for early diagnosis and prevention of uterine cancer are the most cost-effective programs in the cancer area. A study by the Public Health Service estimates that for every $1 spent on early diagnosis and prevention of uterine cancer, the taxpayer saves $9. This is because treatment of advanced cases is extremely expensive, to say nothing of the fact that it is less likely to be effective than the treatment in the early stages. Thus, we can spend less money and save numerous lives by endorsing this program.

One dramatic example of the cost-effectiveness of routine screening programs was found in the Louisville, Ky., program to which I referred before. Before this project, the Louisville General Hospital devoted almost one-third of all of its beds to cases of advanced uterine cancer, requiring many days of hospitalization and treatment. Today they hardly ever see a case of this type. Thus, enormous amounts of hospital expenses are avoided and hospital facilities are freed to care for persons with illnesses for which we have yet to find as effective screening and early cure programs as we have here.

Furthermore, knowing that the test is covered by medicare will encourage women to go to their doctor to get it, even if they are feeling fine and would not otherwise go. This has a secondary benefit, too, Mr. President, because many doctors have noted that going for routine Pap tests is of tremendous importance in increasing discoveries of other diseases in their early stages because the patient then is likely to have a routine physical as long as she is there for the Pap test. And I do not believe there is any illness or disease that cannot be helped to a somewhat greater extent when it is discovered at an early stage than when it goes undetected until it is far advanced. Thus, encouragement to routine administration of the Pap test would have three important advantages:

First, it would enable discovery of cervical and other uterine cancers at the earliest stages of the disease when they are much more easily curable, thus avoiding unnecessary deaths from this disease;

Second, it is a cost-effective program which would save the people of this country approximately $9 for every $1 spent in early detection;

Third, it will encourage routine physical examinations during which other serious illnesses may be discovered in their early stages when cure or treatment is more effective, thus reducing deaths, incapacities, and financial costs due to those diseases.

Mr. President, in the interests of the health and welfare of every elderly woman in this country, and therefore of all our citizens, I urge the passage of this legislation.

By Mr. BAYH:

S. 2942. A bill to authorize and direct the Administrator of the Federal Energy Office to establish an inventory of the total aggregate amount of crude oil, and other petroleum products currently held by certain oil producers, refiners, distributors, and pipeline corporations, and users. Referred to the Committee on Interior and Insular Affairs.

Mr. BAYH. Mr. President, I introduce for referral to the appropriate committee a bill to authorize and direct the Administrator of the Federal Energy Office to conduct a national inventory of crude oil and petroleum products within 45 days. This bill is not intended to substitute for more far-reaching energy data gathering legislation already introduced, but rather is designed to complement those proposals and fill an immediate need for reliable information on available crude oil and refined products.

There is wide agreement that the executive branch has been derelict in not assembling independent data on available fuel supplies. William Simon, the Government's top energy official, has said:

> We have never had what one might call an adequate reporting system for this industry.

Several different times in recent weeks, in testimony before congressional committees and in the media, Mr. Simon and his assistant, Mr. Sawhill, have repeated the essence of the problem—we have relied for too long on oil industry statistics of available fuel supplies.

Yet, Mr. Simon has yet to respond to a letter I sent him almost 2 months ago urging that he use his existing authority to conduct a national fuels inventory. In view of Mr. Simon's refusal to couple positive action with his admission of the inadequacy of the data available to him, I am introducing this bill to direct him to conduct such a fuels inventory.

It is folly to think we can effectively manage the national energy problem without solid information on who has what oil and where that oil is in the refining, distribution, and marketing system. We need an immediate inventory for short-term crisis management. It is not sufficient to rely on piecemeal reports from the oil companies.

Such reports, which are done voluntarily, are not necessarily complete. There is no assurance that all supplies will be reported, that the reports will show specific supplies of various refined products, nor that the reports will show where the stocks are located. Moreover, with some companies not reporting at all, and with the reporting companies following whatever system they want, it is impossible to assemble the data to provide a coherent national inventory.

The bill I am introducing today would require the FEO Administrator to publish in the Federal Register, within 15 days of enactment, regulations requiring all oil producers, refiners, distributors, pipeline companies, and petroleum users with storage capacity of 10,000 gallons or more to report all crude oil and refined petroleum products on hand 10 days following publication of the regulations.

Such an inventory would go far beyond anything previously suggested in that it would require the major oil companies to provide specific data on what crude oil or refined stocks they have, where those stocks are located—whether in the United States or not, and, quite importantly, the inventory would also include large petroluem users who may be maintaining higher inventories than usual. This provision, reaching to those with the capacity to store 10,000 gallons or more, is a key element in any successful inventory. This is important since there have been repeated reports that large petroleum users are maintaining high inventories so as to avoid getting caught short during the fuel shortage. Obviously, a significant amount of the Nation's available fuel at any given moment is in the tanks of such large users.

In order to accomplish the inventory quickly, the responsibility is placed on the oil companies and large users to report directly to the FEO, with appropriate civil and criminal penalties for failure to report or for willfully providing false information.

Initial reports under this plan would have to be filed in ample time for FEO to pass this information to Congress within 45 days of the bill's enactment, with periodic updates thereafter. In order to prevent the FEO from providing only partial information to the Congress, the bill specifies that the reports to Congress includes specific data for each reporting entity, including the precise data on available stocks of crude, residual and refined petroleum.

I realize there are those who suggest that making such data public would somehow violate a basic right to corporate privacy. It is my judgment that there is an overwhelming national interest to be served by such a detailed inventory and that must supersede the private interests of any firm.

Mr. President, I have deliberately drafted this legislation to meet an immediate need for this inventory of crude oil and refined products. It is designed to provide the data for short-term decisions on what products should receive priority in the refining process, what regions of the country have too much or too little fuel in relation to other regions, what large users are stockpiling fuel, whether allocation rules need to be revised, and whether end-use rationing has become necessary.

Such an approach is a first step in correcting the grave failure of the administration to establish independent means for gathering relevant energy data. It is not intended to serve as the basis of a longer term program to get the Government into the business of gathering comprehensive independent data on all energy reserves and supplies.

Since I wrote to Mr. Simon on December 5 suggesting such a fuels inventory, the FEO has tried to collect scattered information from oil companies and some large fuel users. However, this incomplete program and selected reporting by some oil companies have not provided the comprehensive overview of available crude oil and refined product stocks that is essential to successful management of the energy problem.

Mr. President, the American people have received many varied reports on the magnitude of the energy problem since the Arab oil embargo was imposed in October. Those reports, from the Government and private interests, have repeatedly contradicted each other and pointed to the inadequacy of current information gathering.

It is unfair and inappropriate to expect the American people to vest their confidence in an energy program that is itself based on incomplete and inexact information. An inventory would bridge this information gap and prove a crucial element in maintaining public support for energy conservation and allocation programs.

I hope and urge that this bill receive prompt consideration so we can make certain the FEO does the job it should have done months ago. Otherwise we will continue to be in the untenable position of making energy policy without the basic information that is necessary to the development of sound policy.

Finally, Mr. President, I think it important to emphasize that in no other area of such national importance does the government conduct its business based on data collected solely by the very industry whose own political interests are at stake in government policy. As long as we continue to rely on oil company data, as long as we get our information from those who the public believes helped created the energy problem and who are reaping record profits as a result, we will be doing a serious disservice to the American public—and the public in turn, will continue to express doubts about the existence of an energy shortage.

No energy program can survive these inherent disabilities.

Mr. President, I request unanimous consent to include a copy of the bill in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, within fifteen days following the date of the enactment of this Act, the Administrator of the Federal Energy Office shall, without regard to any other provision of law, issue and publish in the Federal Register such regulations as may be necessary for the purpose of requiring each oil producer, refiner, distributor, and pipeline company, engaged in commerce, to submit to the Administrator, in such form as he may by regulation prescribe, reports, information, or answers in writing to specific questions as may be necessary to enable the Administrator to report to the Congress, not later than forty-five days following the date of the enactment of this Act, as to the total aggregate amount of crude oil, residual fuel oil, and all refined and other petroleum products held, owned, or controlled by such producers, refiners, distributors, and pipeline companies, without regard to whether such oil or petroleum products are located within or outside of the United States, on the tenth day following the publication of such regulations in the Federal Register. Such regulations shall further provide for such subsequent reports, information, or answers, on a periodic basis, as may be necessary to enable the Administrator to keep the Congress fully informed as to the total aggregate amount of such crude oil, residual fuel oil, and refined and other petroleum products so held, owned, or controlled by such producers, refiners, distributors, and pipeline companies at a prescribed time during the period with respect to which such report, information, or answer is submitted.

SEC. 2. Within fifteen days following the date of the enactment of this Act, the Administrator of the Federal Energy Office shall, without regard to any other law, issue and publish in the Federal Register such regulations as may be necessary for the purpose of requiring each user of petroleum products having storage facilities capable of storing 10,000 or more gallons of petroleum products, to submit to the Administrator, in such form as he may by regulation prescribe, reports, information, or answers in writing to specific questions as may be necessary to enable the Administrator to report to the Congress, not later than forty-five days following the date of the enactment of this Act, as to the total aggregate amount of petroleum products held, owned, or controlled by such users, without regard to whether such petroleum products are located within or outside of the United States, on the tenth day following the publication of such regulations in the Federal Register. Such regulations shall further provide for such subsequent reports, information, or answers, on a periodic basis, as may be necessary to enable the Administrator to keep the Congress fully informed as to the total aggregate amount of such petroleum products so held, owned, or controlled by such users at a prescribed time during the period with respect to which such report, information, or answer is submitted.

SEC. 3. All reports to the Congress by the Administrator under the provisions of this Act shall include specific information for each entity reporting to the Administrator under Sections 1 and 2 of this Act. Such reports to the Congress should further indicate the total amount of each fuel controlled by a reporting entity and the location of stocks on the reporting date.

SEC. 4. (a) Any person who fails to comply with any of the reporting requirements under any regulation issued pursuant to this Act shall be subject to a civil penalty of not more than $2,500 for each day he fails to so comply.

(b) Any person who submits false or misleading information or other data in connection with any reporting requirements under regulations issued pursuant to this Act shall be subject to a civil penalty of not more than $2,500 for each such violation.

(c) Any person who willfully fails to comply with any such reporting requirements or who willfully submits false or misleading information or other data in connection with such reporting requirements shall be subject to imprisonment for not more than six months, or fined not more than $5,000, or both.

ADDITIONAL COSPONSORS OF BILLS

S. 1844

At the request of Mr. ABOUREZK, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 1844, the American Folklife Preservation Act.

S. 2495

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2495, to amend the National Aeronautics and Space Act of 1958 to apply the scientific and technological expertise of the National Aeronautics and Space Administration to the solution of domestic problems, and for other purposes.

S. 2747

At the request of Mr. WILLIAMS, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 2747, the minimum wage bill.

S. 2861

At the request of Mr. BEALL, the Senator from Nevada (Mr. BIBLE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 2861, to authorize the Administrator of the Federal Energy Office to obtain certain information with respect to current supplies of crude oil and petroleum products.

SENATE CONCURRENT RESOLUTION 66—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO IMPRISONMENT OF A SEAMAN

(Referred to the Committee on Foreign Relations.)

Mr. PERCY. Mr. President, on November 23, 1970, the Lithuanian seaman Simas Kudirka jumped from a Soviet fishing trawler on to the Coast Guard cutter *Vigilant*, in U.S. territorial waters, seeking political asylum in the United States.

As we all remember with deep chagrin and sorrow, crew members of the Soviet ship were allowed to board the *Vigilant*, seize Kudirka and remove him to the Soviet ship. Soon thereafter Kudirka was tried in the U.S.S.R. and sent to prison. We have no official word on his welfare or that of his family since that time.

When the events of November 23, 1970, became known through the media, there was a great outpouring of shock and indignation. Even the President of the United States expressed his dismay over the grave misjudgment which had made it possible for Kudirka to be returned to Soviet custody when he had sought haven in our country.

Because Kudirka's momentary freedom was abruptly abrogated by the unfortunate actions of a few Americans, I feel that we have a continuing moral responsibility for him and his well being.

I have personally discussed my own concern with the very able and influential ambassador from the U.S.S.R., Anatoly Dobrynin.

Today I am introducing a concurrent resolution intended to encourage official efforts to seek freedom for Simas Kudirka.

The resolution, which is cosponsored by Senators HART, HUMPHREY, JACKSON, STEVENSON, and DOMINICK asks the President to direct the State Department to bring to the attention of the Soviet Government the deep concern among U.S. citizens over the plight of Simas Kudirka and to urge his release from imprisonment. It also asks the President to forward a copy of the resolution to the U.S. Representative to the United Nations for transmission to the UN Commission on Human Rights.

The same resolution is being introduced in the House by Congressman ROBERT HANRAHAN of Illinois and 50 other sponsors.

The concurrent resolution reads as follows:

S. CON. RES. 66

Whereas, Simas Kudirka, a Lithuanian seaman, attempted to seek asylum in the United States while his ship was moored beside a United States Coast Guard vessel in United States territorial waters; and

Whereas, Simas Kudirka was forcibly seized from the United States Coast Guard vessel and returned by Soviet authorities to a Soviet vessel, and subsequently imprisoned in the Soviet Union; and

Whereas, American citizens are increasingly concerned about this flagrant violation of human rights; and

Whereas, his continued imprisonment and the inability to learn of his welfare raise among American citizens an impediment to the improvement of relations between the Soviet Union and the United States:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President direct the Secretary of State to bring to the immediate attention of the Soviet Government the deep and growing concern among citizens of the United States over the plight of Simas Kudirka and to urge his release from imprisonment and his return to his family.

SEC. 2. It is the sense of the Congress that the President of the United States forward a copy of this resolution to the United States Representative to the United Nations for transmission to the Commission on Human Rights of the United Nations.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. PERCY, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of Senate Concurrent Resolution 63, to seek new efforts to obtain compliance with the terms of the Paris peace agreement as they apply to prisoners of war and personnel missing in action.

SENATE RESOLUTION 270—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

(Referred to the Committee on Rules and Administration.)

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution:

S. Res. 270

Resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing rules of the Senate, the Committee on Armed Services, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Armed Services is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $25,000, for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

Sec. 3. The Committee on Armed Service, or any subcommittee thereof, is authorized from March 1, 1974, through February 28, 1975, to expend not to exceed $495,000, to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries in accordance with such succeeding sections of this resolution.

Sec. 4. Not to exceed $346,000 shall be available for a general study or investigation of—

(1) the common defense generally;

(2) the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force generally;

(3) soldiers' and sailors' homes;

(4) pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces;

(5) selective service;

(6) the size and composition of the Army, Navy, and Air Force;

(7) forts, arsenals, military reservations, and navy yards;

(8) ammunition depots;

(9) the maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone.

(10) conservation, development, and use of naval petroleum and oil shale reserves;

(11) strategic and critical materials necessary for the common defense; and

(12) aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

Sec. 5. Not to exceed $149,000 shall be available for studies and investigations pertaining to military readiness and preparedness for the common defense generally.

Sec. 6. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 28, 1975.

Sec. 7. Expenses of the committee under this resolution, which shall not exceed in the aggregate $520,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

NOTICE OF HEARING ON A NOMINATION

Mr. JACKSON. Mr. President, I wish to announce for the information of the Members of the Senate and other interested persons that the Committee on Interior and Insular Affairs has scheduled open hearings for February 8 on the nomination by President Nixon of Thomas V. Falkie, of Pennsylvania, to be Director of the Bureau of Mines.

The hearings will be held in room 3110 of the Dirksen Senate Office Building and will begin at 10 a.m.

Persons wishing to testify or submit statements for the hearing record should so advise the staff of the Interior Committee.

Mr. President, I ask unanimous consent that a biographical sketch on Mr. Falkie be printed in the Record at this point in my remarks.

There being no objection, the biographical sketch was ordered to be printed in the Record, as follows:

Biographical Sketch of Thomas V. Falkie

HOME ADDRESS

1454 Park Hills Avenue, State College, Pennsylvania 16801, Area Code 814–237–9038.

BUSINESS ADDRESS

Department of Mineral Engineering, Pennsylvania State University, 118 Mineral Industries Building, University Park, Pennsylvania 16801, Area Code 814–865–3437.

PERSONAL DATA

Born September 5, 1934; 5'10"; 180 lbs.; Married, five children; U.S. Citizen.

EDUCATION

Ph.D. 1961—Mining Engineering (Minor in Industrial Engineering/Operations Research); M.S. 1958—Mining Engineering (Minor in Mineral Preparation); and B.S. 1956—Mining Engineering (with Honors). All at the Pennsylvania State University, University Park, Pennsylvania 16802.

EMPLOYMENT SUMMARY

Sept. 1969—Present: Head Professor, Mineral Engineering Department, Pennsylvania State University, University Park, Pennsylvania. Chairman of Interdisciplinary Graduate Program in Mineral Engineering Management.

Jan. 1963—Aug. 1969: International Minerals & Chemical Corporation, Bartow, Florida.

Mar. 1968—Aug. 1969: Noralyn/Clear Springs Production Superintendent—Directed the mining, beneficiation, preparation and shipping activities of two phosphate operations producing 6 million product tons per year.

Dec. 1966—Mar. 1968: Minerals Planning and Production Control Manager—Directed all technical, staff and support activities including capital planning, production planning, profit planning, mining engineering, mine planning, production control, traffic, property, earthmoving, prospecting, geology, metallurgical laboratory, civil engineering, dam building, land reclamation and process engineering.

July 1965–Dec. 1966: Assistant Manager of Special Projects—Directed and participated in exploration, geology, metallurgy and evaluation activities in several reserves acquisition projects ranging from the southeastern United States to the Spanish Sahara.

June 1964–July 1965: Chief of Minerals Operations Planning—Directed all planning and administrative activities.

Jan. 1963–June 1964: Operations Research Engineer—Performed economic studies using operations research techniques; developed computerized management information systems; conducted feasibility studies and venture analyses.

June 1961–Dec. 1962: Operations Research Consultant, Corporate Industrial Engineering Department, International Minerals & Chemical Corporation, Skokie, Illinois—Internal Corporate Consulting on sales, production, farm management, exploration and a variety of other kinds of projects.

July 1956–June 1961: Fellow, 3 years; Research Assistant, 2 years—Department of Mining, Pennsylvania State University, University Park, Pennsylvania—Pioneered the application of computers and operations research techniques to mining and exploration problems.

RESEARCH PROJECTS

Simulation of Underground Mine Haulage (Completed).

Mathematical Programming Applications in the Crushed Stone Industry (Completed).

Simulation of an Open-Pit Mine with Wheel Excavators and Associated Transport Systems (Completed).

Systems Evaluation and Simulation Models of Mining Systems (In Progress).

Economic Study of Tunneling for Peru Irrigation Tunnel (Completed).

Application of Geostatistics and Other Methods of Computing Ore Reserves for Venezuela Nickel Deposit (Completed).

Comparison of LHD vs Conventional Methods for Mining Canadian Uranium Deposit (Completed).

Determination of the Optimum Production Rate for a Mineral Property (Completed).

Study of Effect of Fringe Benefits on Mining Costs (Completed).

Development of Economic Minability Models for Multi-Seam Surface Mining (Completed).

Determination and Description of Characteristics Affecting Performance of the Loading Function in Underground Coal Mining (Completed).

Survey of Capital Investment Procedures Actually Used by the Mining Industry (Completed).

Developing Ways to Design Land Reclamation Into the Mining Cycle (Proposed and in progress).

Development of Master Design Simulator for Underground Coal Mining (In progress).

Analysis of Bulk Transportation of Miners (Completed).

Risk and Sensitivity Analysis in Mineral Property Evaluation (Completed).

MAJOR RESEARCH INTERESTS

Management Theory and Practice Applied to Mining.

Mineral Resource Management.

Surface and Underground Mining.

Mine Systems Engineering.

Management Science/Operations Research as Applied to Mining and Mineral Management.

Land Reclamation, Waste Disposal and Other Phases of Mine Environmental Control.

Planning and Control of Mineral Operations.

Industrial Engineering as Applied to Mineral Operations.

Economic Analysis.

PROFESSIONAL ACTIVITIES

American Institute of Mining, Metallurgical and Petroleum Engineers (Member Board of Directors of SME, Chairman-Elect M&E Division, also several national committee assignments including nominating, program, stature, education committees).

American Institute of Industrial Engineers.

American Society for Engineering Education (Chairman-Elect of Minerals Division 1972–73).

Operations Research Society of America (1961–1972).

Coal Mining Institute of America.

Listings: American Men and Women of Science (1971 Edition); Engineers of Distinction (1973 Edition).

Member, National Academy of Sciences, National Academy of Engineering, Committee on Feasibility of Disposal of Mine Wastes Underground (1973/74).

Neutral Chairman, Joint Industry Health and Safety Committee—Bituminous Coal Operators Association and United Mine Workers of America (1973).

Chairman, Engineering Foundation Research Conference on Coal Mine Safety and Survival (1972).

Member, National Academy of Engineering Commission on Mineral Engineering Education (1972).

American Mining Congress, National Program Committee (1971–72).

Member, Graduate School Committee on Operations Research and Management Science (Penn State University) (1970 to present).

Member, Earth and Mineral Science College Committee on Rules and Procedures (1970 to present).

Consultant to United Nations on Mining and the Environment (1971).

Participant, Conference on Mineral Science and Technology Education Policy—Washington, D.C., March 1971—Sponsored by National Academy of Engineering and U.S. Bureau of Mines.

U.S. Delegate to OECD (Organization for Economic Cooperation and Development), International Advisory Conference on Tunnelling, June 1970, Washington, D.C.

Industrial Advisory Committee to the College of Engineering, University of South Florida, Tampa, Florida (1965–1969).

Adjunct Professor of Industrial Engineering—University of Florida/University of South Florida (1966) (Taught off-campus graduate course in economic evaluation).

Florida Phosphate Council (Industry-wide trade organization): Chairman of Sub-Committee on Dam Specifications and Construction (1966–68); Water Resources Committee (1967); Negotiating Committee on Manatee Country Mining, Waste Disposal and Land Reclamation Ordinance (1966–67).

Consultants to Florida State Board of Regents (1966–67).

U.S. Steel Foundation Fellow in Mining, Pennsylvania State University (1958–60).

International Minerals and Chemical Corporation—Fellow in Mining, Penn State University (1960–61).

Sigma Gamma Epsilon—Mineral Industries Honorary Society.

Tau Beta Pi Honorary Society (Engineering).

Phi Kappa Phi Honorary Society (Scholastic).

Theta Delta Chi Social Fraternity.

Taggart Memorial Scholarship (from Reading Anthracite Company) in Mining Engineering—Pennsylvania State University (1952–56).

PUBLICATIONS AND SPEECHES

"Volute Separator for Solid-Fluid Systems"—M.S. Thesis, Pennsylvania State University, 1958.

"Operations Research and Statistical Applications for Mineral Exploration"—Discussion Summary, Ninth Drilling Symposium, Pennsylvania State University, Bulletin 72, 1962.

"An Operations Research Approach to Mine Haulage"—Ph.D. Thesis, Pennsylvania State University, 1961.

"Probability Simulation in Mine Haulage," with D. R. Mitchell—presented at National AIME Meeting in Dallas, 1963. Also appears in AIME Transactions, September, 1964.

"Economic Analysis and Justification"—presented to Region IV Conference of AIIE in Augusta, Georgia, on October 31, 1964. Also appears in conference proceedings.

"Down to Earth Economic Analysis"—presented to Central Florida Chapter of AIChE on January 19, 1965.

"Economic Alternatives"—presented at Fourth Annual Management-Engineering Conference of the Florida West Coast Chapter of AIIE in Tampa on March 6, 1965.

"Taught graduate course in Engineering Economics"—University of Florida off-campus program—1965.

"Economic Analysis—Some Practical Aspects"—presented to AIIE in Nashville, Tennessee, on October 5, 1965.

"Operations Research and Computer Applications in Mining and Exploration—1966" Mining Engineering, February, 1967.

"A Review of the State of the Art of Operations Research as Applied to the Mining Industry"—presented at the 1967 Annual AIME meeting in Los Angeles on February 21, 1967.

"Florida's Mineral Resources"—presented to Conference on Conservation and Resource Use Education in the Space Age at Florida Southern College, Lakeland, June 23, 1967.

"Production Systems Engineering"—presented as a chapter in *Surface Mining*, a book sponsored by AIME, 1968.

"Computer Applications in Mining and Exploration"—presented to Florida Section of AIME on March 4, 1968, at Winter Haven, Florida.

"Phosphate Wastes," with J. L. Cox—presented at Mineral Waste Utilization Symposium IIT Research Institute, Chicago, Illinois, March 27–28, 1968.

"A Survey of Current Open it Practices in Florida Phosphate"—presented at SME Annual Fall Meeting (II International Surface Mining Conference) in Minneapolis in September, 1968. Published in book, *Case Studies of Surface Mining*, AIME, 1969.

"The Phosphate Industry in Florida"—presented to graduate-faculty colloquium at Pennsylvania State University, University Park, Pennsylvania, June 13, 1969.

"Computerized Planning and Control for Mining Operations," presented at Mineral Engineering management Seminar at Pennsylvania State University, November 10–14, 1969.

"The Future Role of the Mineral Engineer in Management Science and Systems Engineering," presented as opening remarks at a session of the same name at the 9th International Symposium on Techniques for Decision Making in the Mineral Industries, Montreal, June 14, 1970.

"Operations Research, or Quantified Common Sense in Mine Production—an Aid to Managers," presented at the 9th International Symposium on Techniques for Decision Making in the Mineral Industries, Montreal, June 16, 1970.

"Land Reclamation for the Mining Industry," with L. W. Saperstein, *Earth and Mineral Sciences*, V. 4, N. 2, November 1970.

"A Positive Approach for Recruiting and Training People for the Mining Industry," presented at the 25th Annual Off-the-Record try," with L. W. Saperstein, *Earth and* November 6, 1970.

"Applications of Managerial Economics and Management Science," presented at the Pennsylvania Water Well Contractors' Conference, Penn State University, February 5, 1971.

"Image and Manpower—Related Problems and How to Solve Them," presented at 1971 American Mining Congress Coal Convention, May 18, 1971, Pittsburgh, Pennsylvania, and published—*Mining Congress Journal*, June 1971.

"Land Reclamation for the Mining Industry—An Overview," with L. W. Saperstein, Preprint Volume AIME Environmental Quality Conference, June 7–9, 1971, Washington, D.C., pp. 119–126.

"Mathematical Programming Applications in Crushed Stone Industry," with R. Venkataramani and C. B. Manula, presented at the AIME Annual Meeting in New York, March 1–4, 1971, and published in AIME Transactions, J. 250, December 1971, pp. 322–328.

"The Power Line," editor with R. Stefanko—series of monthly Coal Division articles in *Mining Engineering* on wide ranging topics.

"Trends in Mineral Industry Management," *Earth and Mineral Sciences*, V. 41, N. 4, January 1972.

"Mining and Exploration—1971," introduction to annual Mining and Exploration review, *Mining Engineering*, V. 24, N. 2, February 1972.

"An Analysis of Blue Collar Wages and Fringe Benefits in the Mining Industry," with Thomas H. Parker, *Mining Congress Journal*, V. 58, N. 2, February 1972.

"Professional Encroachment and Mineral Engineering," presented at 1972 Annual AIME Meeting, February 20, 1972, San Francisco, California.

"Economic Surface Mining of Multiple Seams," with William E. Porter, presented at 10th International Symposium on the Application of Computer Methods in the Mineral Industry, Johannesburg, South Africa, April 1972; to be published in Symposium Proceedings.

"Trends and Prognostications in Mineral Engineering Professionalism and Education," presented at Spring Technical Meeting, Upper Peninsula Section, AIME, Hougton, Michigan, May 18, 1972.

"Economic Aspects of Solid Wastes from Mining," presented at Annual Meeting, American Society for Engineering Education, Lubbock, Texas, June 21, 1972.

"The Role of Higher Education for the Coal Industry in the 1970's," presented at Conference on Coal Industry—Implications of Image and Awareness to Industry Education and Community in the 1970's, Lebanon, Virginia, June 15–16, 1972.

"Determination of a Rate Generating Equation for Continuous Miners," with R. V. Ramani and T. E. Wilson, presented at Annual Meeting, AIME, Chicago, Illinois, February 1973.

"OMPHS—A Total Systems Simulator for Open Pit Mining," with C. B. Manula and Y. L. Su, presented at 11th International Symposium on Computer Applications in the Mineral Industry, Tucson, Arizona, April 16–20, 1973. Also published in Proceedings.

"Coal Mining Research Today," with Robert Stefanko, *Earth and Mineral Sciences*, V. 42, N. 9, June 1973.

"Status of Education and Training for the Mineral Industry," presented to Florida Section of AIME, June 4, 1973, Bartow, Florida.

"Coal Utilization, Present and Future," invited lecture at Roundtable on Energy Policy, Brookings Institution, Advanced Study Program, Washington, D.C., October 16, 1973.

"Overview of Outside Training for the Coal Industry," presented at Annual Meeting of Coal Mining Institute of America, Pittsburgh, Pennsylvania, December 14, 1973.

Keynote speaker for APCOM, Colorado School of Mines, April 1974. Speech will deal with Application of Computers in the Mineral Industry.

"An Application of a Weighted Moving Average Model for Coal, of Coal Reserves and Coal Seam Characteristics," with P.M.T. White and R. V. Ramani. To be presented at APCOM, Colorado School of Mines, April 1974.

"General Purpose Simulator for Coal Mining," with C. B. Manula and R. V. Ramani. To be presented at American Mining Congress meeting, Pittsburgh, Pennsylvania, May 1974.

ADDITIONAL STATEMENTS

SMOKING AND HEALTH—10 YEARS LATER

Mr. MOSS. Mr. President, recently, the Federal Trade Commission suggested to the Congress that the familiar "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health" does not seem to be the deterrent which we intended it to be. Nevertheless, that is a better warning than the one which we imposed in the original cigarette legislation.

Whether or not the Congress will act to change this warning at any time in the near future is not a critical matter.

However, a speech recently delivered at the Nonsmokers Bill of Rights Congress, on January 11, 1974, by Luther L. Terry, M.D. former Surgeon General of the U.S. Public Health Service, charts a course which we should review in considering for the future of the smoking and health problem.

Mr. President, I ask unanimous consent that the speech by Luther L. Terry be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REFLECTIONS 10 YEARS AFTER ADVISORY COMMITTEE'S REPORT ON SMOKING AND HEALTH

(By Luther L. Terry, M.D.)

Today we celebrate the 10th Anniversary of the report of the Surgeon General's Advisory Committee on Smoking and Health. Most of us can remember the sensation it caused and the wide publicity which it received at the time it was released on January 11, 1964. It was truly a dramatic event which has been rarely equalled in this Nation's recent history. At the time of the report all of us were pleased by the tremendous response of the news media, the health professions and the general public. We had made a significant beginning and we looked forward toward a continued response on the part of the public and a gradual elimination of smoking as a major health problem. In light of this beginning it seems quite appropriate today for us to review the events of the last 10 years and to project a course for the future.

In the first place, let me say that I am proud of the work of the Advisory Committee and the responsibility of their excellent report. The Committee was composed of 11 of the most outstanding biomedical scientists in this country and I am proud of the scientific responsibility with which they studied the subject and rendered their report. In my opinion their report was one of the most outstanding medical documents produced in this Nation's history. Furthermore, we should all be proud of the manner in which this document has stood the test of time. During these 10 years the report has not only been reaffirmed time and again, but it also pointed the way for subsequent scientific studies which have explained underlying biomedical mechanisms to confirm and extend the observations of this outstanding group. We are deeply indebted to each and every member of the Advisory Committee, both living and dead, and I would suggest that at this time we observe a standing moment of silent appreciation for their outstanding work!

In spite of our tremendous beginning and subsequent developments, smoking today remains as our single most preventable cause of disability and death in this country. Mr. Lane W. Adams, Executive Vice President of the American Cancer Society has recently expressed its importance when he said "Smoking remains as one of our major health problems and I think that history will reveal that it is one of the most important programs of the American Cancer Society." Many other leaders of our National Volunteer health organizations attribute similar significance to the subject. In other words, much has been done but much more remains to be done, and I think it is the responsibility of those of us who represent the concerns and interests of those who are supporting this battle to provide leadership in planning and developing our future course of action. No more appropriated time could be found than this the 10th Anniversary of the Surgeon General's Advisory Committee Report.

Before we proceed to a discussion of our future course I think it would be well for us to review the highlights of the most significant developments on the subject since January 1964. If I may, I would like to enumerate briefly the events which I feel have been most significant and then I would like to point out to you some of the major directions toward which I feel we should direct our activities. Here is a brief chronological arrangement of the most significant developments to date:

1) The immediate response of the federal regulatory agencies, especially the Federal Trade Commission under the chairmanship of Mr. Paul Rand Dixon, to determine the role and responsibility of those agencies in relation to the problem. In retrospect, there is no question but that the proposed regulations of the FTC immediately after the report goaded the Congress into taking action as early as it did.

2) The establishment of the National Clearinghouse on Smoking and Health in the Public Health Service as the official unit of the federal government to gather and analyze scientific information on the subject and to compile the annual reports to the Congress which have been required by law.

3) The organization of the National Interagency Council on Smoking and Health to represent the civilian segment of the population on a national basis and to support the formation of a similar voluntary group on a state, regional and local basis.

4) The passage of "The Cigarette Labelling Act of 1965". This action not only represented the first official acknowledgement of Congress of the problem but required the first health warning on cigarette packs and provided for annual reports from HEW and the FTC to the Congress.

5) The ruling of the Federal Communications Commission in 1967 that the "Fairness Doctrine", hitherto applied only to political issues, should be operative also in the cigarette smoking controversy. This opened the way for the great anti-smoking messages prepared by the voluntary health organizations and the PHS.

6) In 1969 the National Association of Broadcasters proposed a plan for the step-by-step phase-out of radio and televised cigarettee commercials culminating in their complete elimination in 1973. Three days later the FTC called upon the Congress to ban all cigarette advertising from the electronic media.

7) The passage of the Public Health Smoking Act of 1970 which strengthened the wordage of the warning on packages and banned the advertising of cigarettes on the electronic media effective January 2, 1971.

8) After much discussion in the public sector, as well as in the Congress, the FTC announced hearings on the subject of listing the tar and nicotine content in the printed advertising of cigarettes. When the hearings were announced the tobacco industry offered voluntarily to list tar and nicotine contents in advertisements though there is still no provision for such a listing on the cigarette packs.

9) Over the past 2–3 years there has been a rising appreciation of the rights of the non-smoker. The regulatory agencies responsible for buses, trains and airplanes in interstate travel have taken a more positive position and are now requiring non-smoking areas for those who desire it and are imposing severe penalties for those not observing those regulations. Many of our National Medical and other types of organizations have banned smoking at their meetings and many governmental agencies have banned smoking in its meeting and conference rooms.

10) Finally, the Congress passed into law an Act preventing the advertising of "small cigars" on the electronic media. This had been a matter of serious contention for many months. Of the three manufacturers of "small cigars," two had voluntarily agreed to cease advertising on radio and television but since the 3rd would not agree the Congress felt that it was necessary to prohibit such advertising by law. Such an Act was passed and signed into law by the President in September 1973.

One can see from this brief review that there have been many actions taken since 1964 but what has all this legislation, regulation and education accomplished? I believe there is a tide running for us and that with diligence and devotion we can continue to reduce cigarette smoking as a causative agent in disability and death. Just look at what we have accomplished thus far:

1) Though the total consumption of cigarettes has remained high, the per capita consumption has never reached the all-time high of 1963, the year before the report. This is in contrast to a consistent increase each year in the per capita consumption up to that date. As a matter of fact, the per capita consumption for 1972 more nearly equals the rate for 1958, 5 years before the report was issued.

2) The per capita consumption of both cigarette tobacco and all tobacco products in 1972 was 18.1% lower in pounds of cigarette tobacco and 18.85% lower in total tobacco products than in 1963.

3) Since 1964, more than 10,000,000 smokers have given up cigarettes, making a total today of 29,000,000 ex-smokers in our population.

4) Between 1965 and 1970 (the latest figures available) the percentage of smokers in our adult population (18 years of age and older) has decreased from 41.6% to 36.7%. It is believed that the current figure is no higher than 35%.

5) The cigarette smoked today is a much less potent weapon than that of 15 years ago. In 1954, 95% of cigarettes sold fell in a range between 35 and 53 mg. of tar per cigarette, whereas in 1972, 90% of all cigarettes sold yielded between 14 and 29 mg. In general, the nicotine content has roughly paralleled the tar content. With these facts in mind, Dr. Cuyler Hammond has estimated that even among current smokers the health risk has been significantly decreased. Mind you, no one has intimated that the current cigarette is harmless, just that it is less harmful than its predecessor of 10–15 years ago.

6) Recent surveys have indicated that a vast majority of the public, both smokers and non-smokers, are aware that smoking is harmful to health and that more than 75% of the current smokers have tried to quit on one or more occasions. In general, we are assured that our general educational information is getting across.

7) However, there is evidence to indicate that our youth, especially girls, are starting to smoke at a younger age and possibly in an increasing incidence. Somehow, our edu-

cational activities do not appear to be heeded as well by youth as by adults.

In light of the above facts it is important at this time for us to chart a course for the future, giving attention to all elements but emphasizing those efforts of higher priority. I shall now attempt to give you my evaluation of the direction in which we should go.

1) Education and informational campaigns should not only be continued but should be intensified. There is special need for us to adapt our educational approaches so that they would be better appreciated and accepted by our youth. Special attention should be directed toward young girls.

2) Health workers, especially physicians and dentists, have been most personally responsive to the dangers of smoking. Recent studies have indicated that nurses are less so. It should be appreciated that health workers at all levels are not only looked upon as exemplars but they are expected to speak out strongly on matters relating to health and disease. They should be urged to fulfill that important role in a responsible manner.

3) To assist that smoker who wishes to quit, more cessation clinics should be established. It is important to have such units located in Medical Care institutions where they not only have the support of medical care personnel, but also, so that they may operate on a continuing basis. Every community should have a cessation clinic in continuous operation.

4) The loss of anti-smoking messages from radio and television was a serious blow. Local and National broadcast media should be urged to resume the use of these messages as an important public service.

5) Efforts should be continued to obtain further reductions in the tar and nicotine content of marketed cigarettes. The preferable way would be the enactment of National laws and regulations limiting the maximum limits permissable. If and until this is accomplished we should strongly support differential taxation based on tar and nicotine content. In addition, these facts should be required on cigarette packs as well as in printed advertising.

6) Though the Congress did improve the nature of the health warning in 1970, it is still far from adequate. We should continue to urge Congress to require a warning which specifically refers to cancer, heart disease, emphysema and chronic bronchitis and that the warning be in larger print and more prominently displayed on the face of the pack (front or back).

7) The public and Congress must deplore the devious actions of the cigarette industry to gain reentry to television advertising by sponsoring sporting and other events with large television audiences. The current actions are not only in violation of the voluntary code of the tobacco industry of 1964 but they are obvious circumventions of the will of the Congress. Furthermore, I believe that the Congress should not only act to prevent these circumventions but that they should enact a law to prohibit all advertising of cigarettes. You really can not expect a manufacturer of a death dealing substance to advertise it in a light which is truly honest and fair to the consumer.

And, finally, to the theme of our National Education Week which is being opened here today on the 10th Anniversary of the Advisory Committee's Report—*"Non-Smokers Have Rights Too"*.

There has been in recent years a rising concern, and even indignation, on the part of large segments of our population at the discomfort and sometimes abuse heaped on the non-smoker by his smoking associates. The reaction has risen to the level that is now strongly felt and often evident.

Today approximately one-third of our adult population are smokers. This should be borne in mind when one considers the rights of the smokers and of the non-smokers. A few non-smokers are genuinely sensitive to tobacco smoke and can be made very uncomfortable or even ill by exposure to significant amounts of smoke. There is, additionally, a segment of our population which has chronic disease such as sinusitis; emphysema and bronchitis, or heart disease that can suffer deleterious effects from exposure to significant concentrations of tobacco smoke. Recent studies have shown that exposure of the non-smoker can result in a rise in the carbon monoxide content of the blood and thus compromise the oxygen carrying capacity of the blood. This could be serious to a person with a disease in which the oxygen carrying capacity of the blood is already pushed to its maximum.

However, the vast majority of non-smokers simply find intense tobacco smoke to be unpleasant or obnoxious. And even though they may not face any health dangers, they do have a right to be protected from such unpleasantness. It is in this light that we are observing an increased concern in the rights of the non-smoker.

I am happy to note that many organizations, especially medical and scientific groups, have been responsive to this problem and have largely banned smoking from their meetings and conferences. Others have passed resolutions disapproving smoking in meetings but have not attempted to apply an absolute ban. Either way, it emphasizes to the smoker that his actions may be unpleasant to others and that he should respect their rights.

An encouraging and pleasant observation has been the more attention given to non-smokers on public transportation. No doubt we owe a great debt to Mr. Warren Burger, Chief Justice of the United States. All of you will remember his strong protest of the unpleasant experience he and his wife suffered aboard a metroliner traveling between New York to Washington. His esteemed position as well as his forthright protest resulted in a much more comfortable ride for many of us who use Amtrak facilities regularly. Not only do we have enforced non-smoking cars on the Metroliner but instead of one such car out of six, there are now 4 of the 6 cars which are designated non-smoking cars.

In addition, as a result of action by the Civil Aeronautics Board one is able to get a seat on commercial planes in a favorable section of the plane in a non-smoking area. Even interstate buses have begun to provide non-smoking areas and to enforce the regulations. Though many cities and states have such regulations relating to intrastate buses, I am told that their regulations are still not well enforced.

There are many other examples which could be cited of rising respect for the right of the non-smoker but they need not be mentioned to carry the point. The majority of the population does consist of non-smokers! And that majority has the obligation to speak up strongly for our rights to live and work in a clean environment with unpolluted air. Not that we should ignore the rights of the smoker even though he is a member of the minority group. Rather, we should work to try to make his group a smaller and smaller minority and we should work to reconcile his personal habits and rights with a reasonable consideration for the rights of every other individual.

I am happy to be a part of a group which is endorsing another "Bill of Rights". And what could be more fitting than to have the "Non-Smokers Bill of Rights" adopted in the very building where our nation was born and where the Bill of Rights which has made this country the leading Nation of the World was also adopted. It certainly offers great inspiration to all of us to move strongly ahead with the task before us.

ADDRESS OF VICE PRESIDENT FORD BEFORE ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH

Mr. JAVITS. Mr. President, on January 26 Vice President Ford delivered his first major address as Vice President on the Middle East situation. The Vice President reviewed the administration's policies in the area which culminated with the negotiations of Secretary of State Kissinger resulting in the disengagement of Israeli and Egyptian forces. And he also quite properly stressed the importance of resolution of the prisoner of war issue with respect to negotiations between Israel and Syria.

The Vice President drew a conclusion which has universal application when he stated:

> Our enemies are not other nations or groups of humanity different from ourselves. Our enemies are hunger, disease, poverty, ignorance, hopelessness, fear, and hatred. Our great challenge is not in military confrontation but in harnessing the natural resources and industrial genius of humanity to assure better lives for all Americans and the entire family of man.
>
> A Jewish sage made the beautiful prophecy that Israel will be rebuilt only through peace. This applies to the Arab states and to our own country as well.

I ask unanimous consent that the full text of Vice President FORD's address be printed as part of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDRESS OF VICE PRESIDENT GERALD R. FORD BEFORE THE ANTI-DEFAMATION LEAGUE OF THE B'NAI B'RITH

Today I want to talk about peace.

It was with a dream of peace that Albert Einstein came to America from Germany. Einstein brought more than the genius that introduced the nuclear age. He also brought the insight that we must evolve a new consciousness in which all mankind ascends to higher levels of human compassion, imagination, and cooperation.

Einstein said that peace cannot be kept by force. It can only be achieved by understanding.

Another visionary came to the United States from Germany. He is Henry Kissinger, whose diplomatic skills are helping to bring fulfillment to Albert Einstein's dream.

There were those whose eyebrows lifted in surprise—yes even skepticism—when President Nixon announced that Henry Kissinger as his choice for the Secretary of State's office. The doubters wondered whether the office might limit the marvelous persuasive powers which helped open the long-closed door to China and accomplished other major changes in the way we looked at the world and in the way the world looked at us.

But now I think it is obvious, even to those skeptics, that the President's action strengthened rather than weakened Henry Kissinger's influence on diplomacy.

Now, Henry Kissinger speaks as the Chief Foreign Policy officer for our government with the full weight of the Presidency behind him. This, I believe, was a positive factor in Henry Kissinger's successful effort to achieve a settlement in the Middle East.

But before going into more detail about the remarkable diplomacy of Henry Kissinger, I want to refer to the President who established the policies that the Secretary of State implements. So much attention has been focused on controversial events in Washington I fear we are losing sight of the

Nixon Administration's creative relationship with the rest of the world.

The fact is that President Nixon's Middle East policy is a study in credibility, integrity, and consistency. The President's 1968 address before the B'nai B'rith organization clearly outlined his views of the Arab-Israeli impasse, his commitments, and his visionary concept of the dangers and hopeful possibilities for that vital region.

The Nixon doctrine emerged in 1969. It was a concept of the world that would lead America to listen more and lecture less, inclining us toward partnership rather than paternalism. The State of Israel was concerned at that time lest unilateral concessions be demanded of her and an arbitrary settlement imposed. The President pledged that the United States would only use its good offices to assist the parties to the conflict to fashion their own settlement. He kept his word.

Mr. Nixon made a commitment to help Israel maintain an arms balance to provide the necessary defense capapability. He was mindful of the massive flow of Soviet arms to Egypt and Syria. He kept his word.

There was no credibility gap when the U.S. Air Force rushed transport after transport loaded with arms to Israel during and after the October war. This was done to replace Israeli losses and maintain the balance in the face of the heavy shipments of Soviet arms to the area. To finance the airlift and other assistance, the Administration sponsored a $2.2 billion emergency aid bill. Mr. Nixon kept his word.

The President was forced to order a military alert in October to avert the possibility of unilateral direct intervention by an outside power in the Middle East conflict. Some in Washington saw a credibility gap. But there was no question that the alert was necessary and there was no credibility pay in the nations directly concerned. They knew what was happening. Again, the President was consistent with our stated policies.

In recent years there was great concern over the plight of Soviet Jewish citizens who wanted to emigrate to Israel. President Nixon said he would intercede. He did. There is no credibility gap among the many thousands of Soviet Jews who continue to find new homes in Israel.

Secretary Kissinger's recent mission profited from the new climate that exists in the world. This is the climate that ensued from the President's historic initiatives in visiting Moscow and Peking and from the understandings reached there and in subsequent exchanges. This is the climate that flows from the President's extricating our nation from the war in Vietnam, his terminating the draft, and other accomplishments.

I am convinced that prejudice and hatred between Arabs and Israelis can be transcended just as we have moved forward in our own relations with the People's Republic of China. Accordingly, we look toward the continued momentum of Arab-Israeli settlement. Both sides now have much to gain by not permitting the situation to stagnate where it is, but to translate it into steady progress toward further agreements encompassing the remaining issues, resulting in a just and durable peace in the Middle East.

This is a test for the parties directly involved as well as for all powers with interests in the area and, in addition for the United Nations forces entrusted with peacekeeping on behalf of the parties and the world community.

Secretary Kissinger's handiwork has relieved a dangerous global pressure point. The Israeli and Egyptian forces are physically disengaging themselves, with the U.N. forces in between acting as a buffer. Each side now has the opportunity to carry out this agreement in such a manner as to instill confidence in the other side that agreements between them can succeed and can contribute to the building of peace.

All of the credit does not belong to American diplomacy. A large share accrues to the courage, goodwill, and vision of leaders in both Egypt and Israel. I salute the statesmanship of President Sadat of Egypt and Prime Minister Golda Meir of Israel.

Secretary Kissinger's genius was in narrowing the distance between the parties without imposing a formula from outside. He acted as a go-between for the two sides. This is far better than coercion. It enhances America's moral standing with both parties, increases our influence, and decreases the chances of American military embroilment.

I wish to reaffirm that Israel will not be expected to negotiate from a position of weakness. We are continuing our policy of appropriate arms supply to Israel. We are carefully observing developments to ascertain that redeployment of Israeli troops strengthens the mutual desire to pursue peace and lessens the chances for a renewal of hostilities.

We are continuing to work with the Soviet Union in efforts to minimize regional friction.

We have felt that the oil embargo imposed by some nations against the nations of the industrialized world and particularly against us was ill-advised. Its implications for the world's economic stability are far reaching. I share Secretary Kissinger's stated view that failure to end the embargo in a reasonable time would be highly inappropriate and would raise serious questions of confidence with respect to the nations with whom we have dealt on this issue.

Meanwhile, we must proceed with our own energy development. Exploitation of domestic petroleum and natural gas potentialities, along with nuclear, solar, geothermal, and non-fossil fuels is vital. We will never again permit any foreign nation to have Uncle Sam over a barrel of oil.

Cooperation by consumers has reduced energy demands to the point where we will get through the winter without serious hardship in American homes. We have been able to defer gasoline rationing and hope we will be able to avoid it entirely. But this depends on continued conservation by the public and industry.

While I am more optimistic now about a lifting of the Arab embargo, even this will not solve the basic shortage. Our American living standard continues to improve with an ever-expanding need for energy.

President Nixon has invited other oil-consuming nations to meet in Washington next month to discuss the energy shortage. Control of inflation is linked with the price of oil. The President has said that the energy shortage "threatens to unleash political and economic forces that could cause severe and irreparable damage to the prosperity and stability of the world."

Against this background, it is particularly encouraging that peace is becoming popular. A first step toward a permanent settlement has been taken in the agreement on military disengagement.

A logical next step would involve disengagement along the Syrian-Israeli lines. Any such move, of course, would also have to address the issue of Israeli prisoners of war. I recall all too vividly the torment of Americans over the unknown fate of our P.O.W.'s in North Vietnam.

Secretary Kissinger judged very astutely the moment when Egypt and Israel were equally ready to go from a state of permanent hostility to a state of possible accommodation. He converted that readiness into a formula that both countries could accept. We pray that this can now likewise be done with regard to the confrontation on the Syrian-Israeli front.

A process of awakening has started in the region where fear and death have stalked frontiers for over a quarter of a century. It has come at a terrible cost. The United States will continue to work in every way to encourage a permanent settlement acceptable to both sides. It is my fervent hope that from such a peace will flow a spirit of greater cooperation not only between the Arabs and Israelis but among all peoples.

Our enemies are not other nations or groups of humanity different from ourselves. Our enemies are hunger, disease, poverty, ignorance, hopelessness, fear and hatred. Our great challenge is not in military confrontation but in harnessing the natural resources and industrial genius of humanity to assure better lives for all Americans and the entire family of man.

A Jewish sage made the beautiful prophecy that Israel will be rebuilt only through peace. This applies to the Arab states and to our own country as well.

The great religions of the Western world, Christianity and Judaism, emerged in that holy land which is at long last on the threshold of peace. That land is also sacred to the believers in the Koran, the faith of Islam. All of us—Christian, Jew, and Moslem—share the same supreme Creator.

In that spirit, I pray that God will bless our country, that it may ever be a stronghold of peace, and its advocate in the council of nations. May He strengthen the bonds of friendship and fellowship among the inhabitants of all lands.

LAW ENFORCEMENT AND QUALITY CONTROL

Mr. MOSS. Mr. President, in an article in the February 1974 issue of the FBI Law Enforcement Bulletin, Joseph L. Smith, Salt Lake City's assistant chief of police, discusses the usefulness of police inspection procedures. Chief Smith says:

> Quality control has been used by industry for many years to insure that their products meet specified minimum standards during each phase of production. It is a concept that law enforcement agencies would do well to adopt. Many already have, but they call it inspection.

I congratulate Chief Smith on his excellent article, and the Salt Lake City Police Department for their farsighted approach to maintaining the high quality of their law enforcement efforts. I am sure that Chief Smith's report on this subject will be of great interest and assistance to police officers and police departments throughout the country.

Mr. President, I ask unanimous consent that Chief Smith's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Police Inspection and Complaint Reception Procedures

(By Joseph L. Smith)

Quality control has been used by industry for many years to insure that their products meet specified minimum standards during each phase of production. It is a concept that law enforcement agencies would do well to adopt. Many already have, but they call it *inspection*.

The modern concept of inspection had its beginning for the Salt Lake City Police Department in the fall of 1963. Capt. Calvin C. Whitehead, who commanded the combined traffic and patrol divisions, issued instructions to his lieutenants to collect a random sampling of field activity reports and traffic citations. They were to interview involved citizens concerning their impression of the officer who contacted them and of the police department.

Captain Whitehead reasoned that the contacts might accomplish these purposes: (1) The public would be made aware that the department was concerned with the conduct of its officers. (2) The approach of officers to traffic violators, victims, and witnesses would improve. (3) The number of complaints against officers would be reduced.

Naturally, the lieutenants were cautioned to evaluate carefully remarks made by citizens who were contacted. A few might harbor extreme negative feelings, and use the interview as an opportunity to "get back" at the officer.

The program met with only limited success—limited because it remained in effect less than 6 months. When it was ended, there were fewer complaints against officers, but the results were not quantified.

The inspection program was dormant until February 1970 when Captain Whitehead was named chief of police. One of his first acts was the creation of an inspections and complaint reception unit within the department's administrative services division.

AN ADMINISTRATIVE TOOL

To head the new unit, Capt. Edgar A. Bryan, Jr., was appointed an assistant chief of police. Two lieutenants and a sergeant were assigned to conduct inspections on a regular basis, and to receive complaints and conduct investigations.

Inspections. It was anticipated that an inspections program would meet resistance. To minimize it, until the program proved its value, all police personnel were informed that the new unit had been formed, and what its purpose was. The department's weekly newsletter printed several articles explaining inspections.

The articles pointed out that inspection is a necessary administrative tool intended to promote efficiency, assure economy of operations, maintain an acceptable level of service, and standardize operations. All personnel could expect to be subject to inspection at least once each year.

Our present inspections program is patterned after the original. The inspector selects at random from several different kinds of police activity. On a typical day, an inspector might interview a burglary victim, a homicide witness, a juvenile arrested for shoplifting, and a citizen who was cited following a traffic accident. Each person contacted will have one thing in common—his life was in some way affected by the same officer.

Our inspection form lists the officer's name and division, the citizen interviewed, and the date. It shows the type of police contact: robbery victim, field interrogation, initial report, etc. It lists specific questions to be answered concerning the officer's attitude, emotional control, personal appearance, and other factors. Completed inspection forms are maintained in a file separate from the officer's personnel file.

It is important to note that the majority of citizens contacted are positive in their comments about police officers. However, there are some serious negative observations made, and when this happens the inspector selects at least five more citizens to interview. This is done to test the validity of the complaint. Ultimately, the officer is counseled, or the complaint is identified as possible hostility on the part of the citizen.

Inspections are not limited to uniformed officers. Supplementary reports filed by plainclothes detectives are pulled, and victims, witnesses, and offenders are contacted.

Each officer is informed by letter of the results of his inspection. He is informed of his strong and weak points, and of the general image he is projecting to the public. Inperson counseling is done only when serious problems are noted.

After the program was in effect for more than 1 year, Assistant Chief Bryan made the observation that "Inspection is one of the best public relations tools this department has ever had. Complaints against officers dropped from about five a day to an average of five a month."

Since inspection was adopted as a regular function, the administration of the department has changed. The present chief of police, J. Earl Jones, changed the name of the unit to *police standards*, and has placed it in the administrative services division under the command of Capt. David C. Campbell.

RESULTANT CHANGES

Chief Jones supports the concept of inspection and has added to it. For example, he may direct the unit to inspect for proper utilization and acceptance of new programs such as the misdemeanor citation.

Another addition is a policy of at least two surprise inspections each year of the department's evidence room. Case files are opened at random so that the inspector can make sure that all items of evidence listed, such as drugs, money, and property, are actually stored in the evidence room—not just on paper. The inspector must certify that evidence custodians are following all accounting safeguards built into the evidence handling and storage system.

Complaint reception. Law enforcement agencies normally exert more control over employee conduct than private business. It has been said that law enforcement functions within a fish bowl. It is subject to constant scrutiny, especially by the news media. Therefore, misconduct improperly handled, or attempts to whitewash or cover up, are usually discovered and made known to the public.

A better way is to let the public know that the department is constantly alert for misconduct, and that reported cases will receive a prompt and fair investigation. A law enforcement agency should not discourage the reception of complaints. Without them, problems would quickly multiply.

Any complaint reception or inspection program will be more acceptable to officers and employees by encouraging their input. They may have valuable suggestions concerning rules of conduct and the operation of the program itself. Input can be formal through the formation of committees, or informal via the suggestion box or group discussion.

When complaints are received, the department should make sure that the person complaining is free from any fear of reprisal. Complainants should also be notified of the final disposition of their complaint.

This department makes a full complaint report and notates a separate log for quick reference. Before an investigation is started, the investigator informs the officer and his commanding officer of the complaint, unless doing so would positively jeopardize a successful and impartial investigation.

Most complaints are resolved by skillful and understanding interviews with all parties. Frequently, it is necessary to check dispatch tapes and logs to establish or verify times, places, names, and circumstances.

When all other methods fail, the officer may be asked to submit to a polygraph examination; however, the complainant must be willing to take the examination first to establish the validity of the complaint.

Whatever methods are used for complaint reception, and whatever policy is established for regular inspections, the public must be informed frequently that these functions are an ongoing part of the department's operating procedures.

It is vital that officers be given every opportunity to present their side of an issue when a complaint is made against them. Their confidence in the internal investigative system should be established in the beginning. They must know, without question, that if they are innocent, they will have complete support from the chief of police or sheriff. Conversely, if they are guilty, they should be confident that discipline will be as consistent and fair as it is swift and sure.

HUGH SIDEY'S COMMENTS ON PROFITS

Mr. STEVENS. Mr. President, as I was driving home the other day, I heard the views of a man I have known and respected for many years, Mr. Hugh Sidey, on a "WTOP Commentary." Many Members of the Senate, I believe, know Hugh Sidey's background with Time magazine and also as a participant in well-known television and radio programs.

As Hugh Sidey remarked "Several things need saying." It is my opinion that Hugh Sidey succinctly stated a point of view that deserves our attention as we proceed to review the question of profits in this period of crisis. I ask your unanimous consent to place Mr. Sidey's "WTOP Commentary" in the Record.

There being no objection, the commentary was ordered to be printed in the Record, as follows:

Commentary

The profits of the big oil companies do look suspiciously high. Considering their well-deserved reputations from previous decades for greed and rapaciousness it is perhaps no wonder Senator Jackson and a lot of other people seem a bit angry and more than a bit skeptical about the behavior of these firms in the current crisis. But there is developing not only on the Hill but in the press a strident and indiscriminate attack on the entire industry and on their profits.

Several things need saying. Profits of many, many industries, including sections of the press, have jumped remarkably in the last months because they were depressed prior to that time. Some of the same certainly is true for the oil firms.

More important, the enticement of high profits, sometimes excessive profits, has been and probably always will be a distinct feature of our system. Our railroads, steel mills, farms and oil fields were not developed entirely out of our noble concepts of liberty. There was the idea around among a lot of men of daring, imagination and ability (with a good share of rascality) that they could get rich.

That idea persists and should. If we are going to have people come up with the courage and ingenuity to develop practical solar energy, thermal energy and shale oil, that old, often maligned idea of getting rich—real rich—and getting rich quick has got to be lurking there in the background. That is as American as apple pie or another congressional hearing.

One more point. For all of this century we have been provided by the oil industry an abundance of cheap energy for fuel and heat. That achievement has been spectacular, despite some rather dark chapters of greed and arrogance and ignorance. It deserves remembering as the debate goes on.

What we need now is not the repeal of the profit motive, but a molding of that incentive to get rich with a profound awareness of the public well being. That seems entirely possible. This is Hugh Sidey.

OIL: THE DATA SHORTAGE

Mr. NELSON. Mr. President, the Senate Committee on Interior and Insular Affairs will begin hearings next Tuesday, February 5, on S. 2782, the "Energy Information Act," which I introduced on December 6 for myself and Senater JACKSON.

To date, 18 other Senators have cosponsored the bill: Senators EAGLETON, MUSKIE, CANNON, KENNEDY, CLARK, NUNN, MONDALE, HATHAWAY, MOSS, STEVENSON, PROXMIRE, BIBLE, MCGOVERN, PELL, HUMPHREY, MCGEE, HUGHES and MONTOYA.

An excellent article appeared in the current—February 1974—issue of The Progressive concerning the problem to which this legislation is addressed. Written by Julius Duscha, it is entitled "Oil: The Data Shortage."

I ask unanimous consent to print that article, and also a recent editorial on the same subject from the Washington Star-News, in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OIL: THE DATA SHORTAGE

(By Julius Duscha)

THE BASIC FIGURES ON SUPPLY OF OIL AND GAS REMAIN THE BEST KEPT SECRETS OF THE ENERGY CRISIS

Last October 12, when the Arab-Israeli war was beginning to raise fears of an Arab boycott of oil sales to the United States, White House petroleum expert Charles Di Bona said American imports of Arab oil had been averaging 1.2 million barrels a day. Eight days later, on October 20, the Nixon Administration was talking about U.S. dependence on Arab oil totaling 1.6 million barrels daily. Four more days passed, and on October 24 the Administration estimate escalated to two million barrels. By October 30 the figure was up to 2.5 million barrels, and then, early in November, the Defense Department, never to be outdone even by the White House, proclaimed a three-million-barrel-a-day U.S. dependence on Arab oil.

When estimates varied within a month all the way from 1.2 million to three million barrels, it was obvious that no one in the Federal Government knew with any accuracy how much Arab oil was being used in the United States. The problem isn't that Federal oil economists and statisticians can't count; it is rather that there are no reliable figures for them to count.

The statisticians do know that last September shipments of oil directly from the Middle East to the United States averaged 1.2 million barrels a day. However, U.S. petroleum experts believe—but have no way of knowing for certain—that as much or more Arab oil also got here after being transshipped or processed somewhere along the way, usually in the Caribbean.

Once crude oil from the Middle East or from any other area enters world commerce, its route is difficult to follow; oil bears no serial numbers or other distinguishing marks of manufactured goods. The Federal Government could be forgiven the wide variances in its estimates of Arab oil imports were it not for the fact that the Arab import statistics are symptomatic of the problem with most petroleum figures.

As everyone concerned wih the oil crisis, from energy czar William Simon to Senator Henry M. Jackson, has quickly come to realize, the United States has all too few solid figures on oil and natural gas, and for what statistics are available the Government is almost wholly dependent on the oil industry itself.

Just as Arab import figures have jumped all over the place, so have Administration estimates of the dimensions of the overall U.S. oil shortage this winter. Early in November, when President Nixon first talked about a serious shortage, he put the likely daily shortfall at 3.5 million barrels. Since then estimates by experts within the Administration and on Capitol Hill have ranged all the way down to 1.6 million barrels; Simon came out at 2.7 million barrels at the news conference late in December at which he outlined the Administration's standby gasoline rationing plans.

Whether the oil statistics are proclaimed by Simon's Federal Energy Office or by Jackson's Senate Interior Committee, almost all of the figures originate with the American Petroleum Institute, the trade association of the major U.S. oil producers.

The API's basic statistical document is its *Weekly Statistical Bulletin*, which purports to keep track of the output of U.S. refineries, available supplies of refined petroleum products, exports and imports, production of domestic oil wells, and gasoline consumption. Of these figures, the only up-to-the-minute ones are for refinery production and available supplies, and even these must be viewed with some skepticism.

They are, first of all, industry figures supplied on a voluntary basis, with no independent check on their accuracy.

Every Wednesday, refinery production and available-supply figures are made public for the previous week, and even oil industry critics agree that the statistics could hardly be produced much faster and still be put together with reasonable accuracy and cost.

Import and export statistics are based on U.S. Customs Bureau figures, with which no one quarrels much, except that the figures give no hint of the country where the crude oil was produced, or any indication of U.S. oil being exported and then re-imported under more favorable prices.

As for the domestic crude oil production figures, they are estimates based on the most recent statistics from the Texas Railroad Commission and the other regulatory agencies that monitor production in the thirty-one oil-producing states. The official state figures lag months behind, as do accurate gasoline consumption figures based on state and Federal tax figures.

Once fuel oil, gasoline, and other petroleum products have left refineries, bulk terminals, and pipelines, neither the API nor any Government agency keeps track of the products. How much gasoline is generally in the supply pipelines beyond the primary storage facilities of the refiners, the bulk terminals, and the big pipelines? How much No. 2 heating oil is in supply lines? How much oil and gasoline is kept in storage, or perhaps being hoarded, by large corporations and other heavy users of petroleum products? A recent *New York Times* survey indicated that major users of oil products have been building up their supplies, but there is no reliable statistical information available.

Oil pricing information is even scarcer. Not until last fall did the U.S. Bureau of Labor Statistics start collecting enough information on retail gasoline prices to come up with reasonably accurate figures on gasoline price trends throughout the nation. And there simply are no reliable figures on crude oil production costs, refinery costs, and costs on down the petroleum supply pipelines. There is more information on natural gas because most of its production and prices at the wellhead are still regulated by the Federal Power Commission, but the Nixon Administration has called for ending such regulation. And even data published by the FPC on natural gas production are heavily dependent on unaudited reports from the industry.

What government oil statistics there are come largely from the Interior Department's Bureau of Mines and Office of Oil and Gas. These are unchecked industry figures issued only monthly. To keep up with the fast-moving oil and gasoline situation, energy director Simon and his aides rely, however, not on the ponderous Bureau of Mines and Office of Oil and Gas, but rather on the API weekly bulletins. For it is true, as John E. Hodges, director of API's Division of Statistics and Economics, says, that "if the Government didn't have our weekly statistical bulletin, it wouldn't have anything." Oil is by no means the only industry for which audited statistics are hard to come by. American corporations jeolously guard their figures—in part because of fears that competitors will use them to exploit market situations and in part because of the traditional feeling that the Government (and the public) have no right to pry into the affairs of private corporations, no matter how big or dominant they may be. Most Census Bureau figures, as well as statistics compiled by other government agencies, are based on unchecked material submitted by industry sources. BLS and population figures are, of course, the Government's own.

But if oil production and supply statistics cause problems, figures on oil and natural gas reserves are even more difficult to weigh and interpret. The API and the American Gas Association are the only sources for systematic compilations of what oilmen call proved reserves. Such reserves are defined as oil and gas in the ground that can be efficiently recovered under current economic conditions in the industry, which means that reserves increase as oil prices go up.

Every spring API, AGA, and the Canadian Petroleum Association jointly publish a detailed compilation of crude oil and natural gas reserves in the United States and Canada. The figures are based on surveys made by geologists and others employed by oil and natural gas companies. It is generally assumed that the industry has a vested interest in underestimating reserves, but government oil experts cannot even agree on that. A recent Federal Trade Commission study concluded that natural gas reserves were overestimated, while an FPC study showed that gas reserves were being underestimated in at least one rich field.

"I wouldn't argue one way or another about the reliability of the oil and natural gas reserve figures," a Senate staff aide who has been immersed in the quarrels over oil statistics observes. "There's just too much guesswork in estimating reserves. The only thing that's clear to me is that we still have an awful lot of oil in the world, and are likely to find a lot more."

However unreliable figures on U.S. oil and natural gas reserves may be, there is general agreement even among oil industry economists that statistics on foreign reserves are hopeless. API's Hodges says flatly that there are no good figures on overseas reserves.

The United States thus finds itself groping for facts as it faces what appears to be the most serious fuel shortage in its history. But are things as bad as the Nixon Administration has made them seem? There is wide skepticism in Washington and elsewhere in the country—not only because of Nixon's personal credibility crisis, but also because of the uneasy feeling so many people have that the oil companies and not the Nixon Administration are in charge of whatever crisis there may be.

The oil industry certainly is in charge of whatever statistical evidence there is to back up the crisis atmosphere. And the industry obviously does not want the Government to get into the information-gathering business. Industry lobbyists fought against inclusion of a Government fact-gathering clause in the energy legislation that was shoved aside in the pre-Christmas Congressional adjournment rush. But Simon's energy office has set up a committee to review oil and gasoline statistics, and Simon himself told reporters at his late December news conference: "You're darn right we're going to get better figures."

Senator Gaylord Nelson has presented the Senate with a plan to establish a Bureau of National Energy Information in the Commerce Department to collect and verify statistics involving all aspects to energy. "We have failed to manage energy because we have failed to manage energy information," Nelson says. "We are sitting in the dark because we have been making our energy policy in the dark.

"Beyond the energy crisis," Nelson continues, "the basic premises of this legislation are, first, that the power of giant corporations over the quality of life has become so great that such corporations must now be regarded as if they were governments, for govern they do; second, that governments—including corporate governments—derive their just powers from the consent of the governed; third, that consent, to be meaningful, even to be real, must be informed consent; fourth, that the free exchange and availability of industrial as well as political information are therefore the lifeblood of a free society; and fifth, that the Congress has no higher duty than to provide channels and mechanisms for the exchange and availability of information about the holders and uses of governing power."

It seems all but certain that out of the energy crisis will emerge audited government figures on the facts of oil and natural gas. It would be useful to know as much about the oil industry as advertisers know, for example, about television audiences. The fact that more information is available about how to influence television viewers than about oil says much about the haphazard ways of the American economy and the relationship of the Government to it.

GETTING THE ENERGY FACTS

By far the most frustrating aspect of the energy crisis is that nobody knows enough to take its measurement. The government's information about oil supply comes mainly from the petroleum industry, and projections have gone up and down like a roller-coaster during the past year. One day the fuel outlook is horrific, the next day things seem to look much brighter, then the next week brings scary prophecies again. No wonder the public takes a cynical view of the whole affair.

Obviously, the information-gathering system, which always has been a loose and poorly coordinated effort, must be perfected if the energy dilemma is to be coped with, and if the government hopes to generate public confidence. Too many people still question the reality of a critical oil shortage, which undoubtedly is real in spite of the variations in estimating its size. The Federal Energy Office, under the new directorship of William E. Simon, has tried to estimate for the worst eventualities, but only time will tell whether enough margin has been left for error. Admittedly, the FEO is waiting to see if intolerable car backups develop at service stations before it decides on gasoline rationing. This is what the early aviators referred to as flying by the seat of one's pants.

Of course the big oil companies, upon which the government depends for its data, have been all too secretive about their operations. Simon now is launching the first mission to pry the essential facts from them—about their supplies, prices and profits. Using his own investigators, and agents of the Internal Revenue Service, he proposes to audit every petroleum refinery in the nation, to get a clear picture of total inventories and test the fairness of price hikes. It's a bold stroke, long overdue, but more is needed. This short-term process should be institutionalized in law and expanded for the years of energy insufficiency that lie ahead.

And that would be achieved through legislation offered by Senators Henry M. Jackson of Washington and Gaylord Nelson of Wisconsin. Their full-disclosure bill calls for creation of a federal Bureau of Energy Information, empowered to collect all needed facts from every element of the energy industry. No less important than acquiring this vast information is having such a central, separate agency to coordinate and analyze it.

Some beneficial alterations in the bill may be proposed, in hearings to be held soon, but the concept is right. For energy, as we all finally have realized, is the key element in our economic life, and shocking surprises of supply and demand must be avoided in the future. The country could be brought to great grief if a big enough shortage shock should come along.

SENATOR ERVIN HONORED

Mr. HELMS. Mr. President, on January 24, the Farmers Cooperative Council of North Carolina honored my distinguished colleague (Mr. ERVIN) in recognition of his service to agriculture.

Senator ERVIN is, indeed, worthy of this latest recognition that has come to him, and I personally am grateful to the council for taking note of my colleague's distinguished service.

I ask unanimous consent that the text of the citation honoring Senator ERVIN be printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

CITATION: SAMUEL JAMES ERVIN, JR.

For his conspicuous, sustained interest in the welfare of farmers of this State and Nation, the Farmers Cooperative Council of North Carolina salutes the Honorable Samuel James Ervin, Jr., a distinguished member of the Senate of the United States for the past 20 years.

Let all know that it is to his credit that he has never failed to respond to petitions and requests on behalf of the agricultural community, and for this sympathic understanding and appreciation of farmers' problems, this Council is duly grateful.

In a day and time when agriculture is beset on all sides, it is heartening to know that farmers have a strong and trusted advocate in the person of this wise representative of the people and that his voice carries weight and authority when he speaks. Furthermore, he has not been afraid to protect and defend the position and rights of agriculture in any place and at any time, regardless of personal consequences.

In like manner, the distinguished Senator has well represented all other segments of our complicated society, but particularly has he given of his best to the common man and to the constitutionally-guaranteed liberties of these individuals.

It is with regret that we learn he is retiring from the United States Senate at the end of his present term, but his brilliant attainments and his folksy wit and wisdom will cause him to be long remembered in the minds and hearts of good people everywhere.

The Council and the people it represents are proud of Senator Ervin and the record he has made in a lifetime of dedicated service to his community, his State and his Nation. He is truly one of the great men of his time, and there can be no doubt that historians will accord him a place of honor reserved only for our most respected Americans.

He has our best wishes and gratitude as he nears the end of his public career. With sincere affection, we can say, "Well done, good and faithful servant."

This 24th day of January, 1974, at Durham, North Carolina.

PERMANENT STATUS FOR THE SPECIAL COMMITTEE ON AGING

Mr. WILLIAMS. Mr. President, I join the distinguished Senator from Idaho (Mr. CHURCH) in his resolution to authorize permanent status for the Senate Committee on Aging.

To my way of thinking, it is now time for the Senate Committee on Aging to be made permanent, rather than being continued on a year-to-year basis.

The committee has already been in existence for 13 years. During that time, it has performed magnificently in its factfinding mission concerning the problems and challenges of aged and aging Americans.

Moreover, it has provided valuable assistance to Senate standing committees which develop legislation for older Americans.

As chairman of the Labor and Public Welfare Committee, I have been especially impressed by the superb cooperation of the Senate Committee on Aging.

Their assistance has always been professional and of the highest caliber.

This same degree of cooperation is also readily apparent on another standing committee on which I serve—the Banking, Housing and Urban Affairs Committee.

There are now 17 standing committees in the Senate. And, at least 13 of them have some jurisdiction over proposals affecting the elderly. Consequently, it is reassuring to know that the Senate has this built-in resource to provide complete and factual information on issues affecting aged and aging Americans.

For these reasons, I urge early and favorable approval of this resolution.

REASONS FOR SUPPORTING THE LEGAL SERVICES CORPORATION BILL

Mr. DOMENICI. Mr. President, there has been a great deal of controversy regarding the Legal Services Corporation bill as illustrated by the lengthy debate and numerous amendments before it finally passed the Senate. This bill generally will remove Legal Services from the OEO—Office of Economic Opportunity—and place it within the jurisdiction of a new national Legal Services Corporation to be governed by an 11-member Board of Directors appointed by the President of the United States.

I have followed the floor debate and considered various alternatives and proposed amendments very carefully and I have taken into account opinions expressed by concerned and interested citizens and organizations. I have sought the advice and guidance of attorneys in New Mexico who have firsthand experience in providing legal services for New Mexicans unable to afford those services.

From all of this I have determined in my own mind that there is one relatively simple question involved in the Legal Services Corporation bill. That question is: Should the Federal Government continue to provide basic legal assistance to those who cannot afford to pay for basic services? Feeling as I do that the people of this Nation are committed to a goal of "equal access for all to our system of justice," as provided for in this bill, I must answer that question in the affirmative. I take very seriously, as I believe the American people do, those noble words chiseled in stone above the great white columns of the U.S. Supreme Court: "Equal Justice Under Law."

Accordingly, Mr. President, I determined a long time ago to support this bill unless I found either a better alternative with a realistic chance of enactment or unless I found this bill to be so full of unacceptable deficiencies that I felt it could not achieve its main purpose—the delivery of basic legal assistance to poor people. My evaluation of these issues is that there is no better alternative measure with a chance of enactment and although not perfect by any means, this bill has great potential for promoting equal justice under the law—a principle to which we all ought to be committed. Consequently, I voted with the overwhelming majority of this body when it passed the Legal Services Corporation bill.

I have already mentioned that this bill contains provisions with which I do not agree and I supported some of the amendments I felt would have improved the bill. I would be remiss if I did not also mention several of the outstanding features which this bill contains.

First, in this era of constant confrontation between the Congress and the President, this bill represented the culmination of a long series of negotiations between the proponents of this bill and the administration. In fact, the bill as reported by the Labor and Public Welfare Committee was consistent in all essential respects with the principles spelled out in the President's message requesting the enactment of legislation creating a Legal Services Corporation.

One of the major concerns of many New Mexico attorneys whose judgment I respect was that this bill was not flexible enough regarding the means of delivery of legal assistance and that it would "lock in" the existing staff attorney system and organizations completely. Sharing their concern, I raised these issues with the distinguished floor manager of the bill for the minority (Mr. JAVITS) which is detailed in the following excerpt from pages 1684–1685 of CONGRESSIONAL RECORD of January 31, 1974:

> Mr. DOMENICI. To what extent would this bill, if enacted in its present form, lock in the present system for delivery of legal services in any particular State?
>
> Mr. JAVITS. Although the general intent of the bill is to continue the present program in a new framework as proposed by the President, the committee has taken care to permit flexibility on the part of the corporation in meeting the needs of the poor in a particular State.
>
> To that end, section 1006(a) of the committee bill authorizes the corporation to fund programs through individuals, partnerships, firms, corporations, and State and local government, as well as through nonprofit organizations. The latter, as the Senator knows, have been the principal vehicles for the program to date.
>
> Additionally, section 1007(g) requires the corporation to provide for an independent study of alternative and supplemental methods of delivery of legal services to eligible clients, including the "use of appropriate demonstration projects." Under this provision, a particular State might participate in a demonstration project. There is no funding limitation on section 1007(g).
>
> Accordingly, we have sought to permit flexibility on the part of the board to depart from the existing system, either to insure the most adequate means of delivery in a particular State or to test out new concepts such as judicare.
>
> Mr. DOMENICI. In the city of Santa Fe, N. Mex., there now exists a legal services program utilizing the staff attorney approach and providing assistance to the poor called the Santa Fe Legal Aid Society. This program at the present time is not being funded by OEO, but has been granted a limited amount of money by the Model City program in Santa Fe and also by the city and county of Santa Fe. My question is When the money which has been granted to the Santa Fe Legal Aid Society has been exhausted, which it will be in April of this year, could the program be funded by the Legal Services Corporation under the committee bills?
>
> Mr. JAVITS. Yes; it would be eligible for funding under section 1006(a).

Based on such direct expressions of this kind, I was convinced that the bill contains sufficient flexibility to allow for approaches that might improve the delivery of services to the poor. I am sure that appropriate officials and interested citizens and organizations will avail themselves of this flexibility to address unique situations that may exist in New Mexico.

I was also aware, Mr. President, that the House had previously passed a bill for this same purpose with many of its basic provisions, but which also contined some further restrictions on the activities of attorneys in their legal assistance roles. Some of these restrictions are quite justified, I feel, while others probably hinder rather than enhance this bill's effectiveness. I am confident that the conference committee will produce a bill that has the best of both versions.

I am also pleased that the President will be able to appoint the 11 members of the corporation's board of directors with the advice and consent of the Senate. This will help insure, I feel, that the flexibility to depart from past practices envisioned in the bill will in fact become a reality.

Finally, Mr. President, I am relieved that we now have a vehicle, acceptable to the President, which will insure the continued delivery of legal assistance to those people who would not have it otherwise. We have an excellent foundation on which to build, to improve, and progress toward that ultimate goal of equal justice under the law. I urge all who deal with this bill and all who are affected by it to join together for realization of that goal.

MO AREL: COURAGE, DIGNITY, AND COMPASSION

Mr. McINTYRE. Mr. President, all of us are well aware of the hard work and long hours associated with our jobs here in the U.S. Senate, but I sometimes wonder if the men and women who work in local government do not face a tougher task.

One such worker is Maurice Arel, a longtime friend of mine from Nashua, N.H.

"Mo" Arel has been president of the Nashua City Board of Aldermen for many years, and that job and others he has taken on voluntarily have gobbled up what most people would cherish as leisure time.

It is no easy job for any man or woman. Faced with staff and money resources far more limited than those we encounter, men like Mo Arel must answer the challenge of leadership on issues which directly affect their friends and neighbors.

Over the years, Mo Arel has met that challenge with courage, dignity, and compassion. Here is one man whose integrity has never been questioned and whose progressive outlook should be a model for local leaders not only in our State, but throughout the Nation.

Sometimes—unlike us—those who serve the public on a local level fail to get the recognition they merit. Happily, the friends and coworkers of Mo Arel have seen to it he receives the honor he deserves at a testimonial on February 6 when he retires as president of the board of aldermen.

Mr. President, I do not want to give the impression that anyone expects Mo Arel to retire from public service after this testimonial. He is a young man and I am confident we will be hearing more, not less, about him in the months and years ahead. But I do want to take this opportunity to join with his other friends in congratulating him on a job well done and encourage him to stick with it. If there were more Mo Arels around, the people of this country would have much more confidence in their government.

CHAMPION McDOWELL DAVIS

Mr. HELMS. Mr. President, I rise on this occasion to call to the attention of my colleagues the inspiring service rendered the people of my State—and, indeed, our Nation—by Mr. Champion McDowell Davis, one of the truly great citizens of North Carolina.

Mr. Davis recently was named "Citizen of the Year" in New Hanover County for 1973, an honor which he richly deserves. On a personal note, Mr. President, Mr. Davis has had a profound influence on my life. I shall not attempt to recount either that influence or the highlights of his outstanding business career except to say that his multiple accomplishments reflect the vision, enterprise, faith, and human qualities that are so characteristic of this man.

At the age of 14, he served as a messenger boy for the Atlantic Coast Line Railroad; and through determination and hard work he subsequently became president of that same railroad in 1942. Despite the success of his career, Mr. Davis has never been too busy to take time for another's problems and to take a personal interest in their resolution.

Mr. President, Champion McDowell Davis retired in 1957 at the age of 77. Most men would have contented themselves with the joy of a relaxed schedule, but not Mr. Davis. In 1963, at the age of 83, he founded the Cornelia Nixon Davis Nursing Home, one of the finest institutions to be found anywhere in the Nation. The success of this nursing home is due largely to his dedicated determination and perseverance in the cause of aiding senior citizens.

When I think of Champion McDowell Davis, I recall the words found on a cellar wall in Cologne, Germany, after World War II:

> I believe in the sun even when it is not shining; I believe in love even when I feel it not; I believe in God even when He is silent.

Mr. President, such is the deep and abiding faith of Champion McDowell Davis. He is truly a giant among men. I am proud to call him friend, and I am particularly grateful that his efforts have been recognized by the folks of New Hanover County.

Mr. President, the Wilmington Sunday Star-News of January 13, 1974, announced the selection of Mr. Davis; and I ask unanimous consent that the article be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wilmington (N.C.) Star-News, Jan. 13, 1974]

Davis Chosen Citizen of Year for 1973

Champion McDowell Davis, retired railroad president, has been named as the Star-News Newspapers' Citizen of the Year in New Hanover County for 1973.

His election was made by an anonymous committee of local citizens and was based on his long record of public service and on his leadership in 1973 in the planning, financing and construction of a new addition to the Cornelia Nixon Davis Nursing Home.

Announcement of Davis' selection as Man of the Year was made Saturday after the committee completed its deliberations. The award, which is in the form of the traditional engraved sterling silver ash tray, was presented to Davis by Rye B. Page, publisher of the Star-News.

In citing the accomplishments of Davis, the committee said:

"Champion McDowell Davis has long been a devoted public citizen; his accomplishments are many and they have meant much to the community.

"During the past year he served as the prime mover in the program to expand the Nursing Home and to increase its service to the aged citizens in need of nursing care.

"His foresight and determination were the major factors in the decision to proceed with the construction of the two new 40-bed annexes at the Nursing Home, thus climaxing the 10-year building program conceived in the original planning.

"This culmination of a most difficult project is typical of the leadership and drive exhibited by the person selected by this committee as the Man of the Year of 1973.

"His public service starts with the Nursing Home program and extends through many facets of community life. Much of his work is anonymous, and will never be known. But the respect and admiration in which he is held by the citizens from all walks of life offer silent tribute to his concern for his fellow man and his willingness and determination to be involved in service to others, particularly the senior citizens.

"In the fields of religion and education, Mr. Davis has compiled outstanding records of service, again demonstrating his devotion to public service.

"And particularly noteworthy is the fact that at a time of life when most men would be inclined to rest, relax and savor their past accomplishments, Mr. Davis is still exerting dynamic leadership."

Davis, who is 94, retired in 1957 as the president of the Atlantic Coast Line Railroad. He started his career as a 14-year-old messenger boy and became president in 1942.

His retirement enabled him to concentrate on a life-long dream—to establish a charitable foundation what would build and operate a nursing home.

Founded in 1963, the foundation planned and broke ground for the Cornelia Nixon Davis Nursing Home in 1965 and the facility today has more than 100 resident-guests.

The home, since its inception, has received close and personal attention from Davis. The latest expansion program, costing approximately $900,000, was the direct result of his personal and determined leadership.

Davis has had an active interest in the Episcopal Church and was chairman of the Finance Department of the church's National Council and a former trustee of the Protestant Episcopal Theological Seminary in Virginia.

His educational work included service as a trustee of Wilmington college and trustee emeritus of the Cape Fear Technical Institute.

He has served as a director of the U.S. Chamber of Commerce and as a member of the governing boards of a number of national corporations.

Davis, who is a bachelor, makes his home at Porter's Neck Plantation.

HOUSING FOR THE ELDERLY

Mr. WILLIAMS. Mr. President, during the recent recess I took my Subcommittee on Housing for the Elderly to New Jersey for hearings in Trenton, Atlantic City, and East Orange. The testimony we received was not encouraging. In fact, I am convinced that the chronic housing shortage facing our older generation is becoming worse, not better. The housing moratorium declared by the present administration a year ago has ground to a halt the building of new housing for the elderly in my home State.

The need for more and better housing for older Americans in New Jersey is compelling, and yet, New Jersey stands as only one example of a State where the need is great. More than 21,000 elderly are currently on waiting lists for housing projects in New Jersey, and that figure only represents a small percentage of the real need. Several persons testified that actual waiting lists do not reflect the true demand because many elderly persons do not bother to apply when they are told the waiting list is 3 years long. In East Orange, the Department of Housing and Urban Development—HUD—has told the local housing authority not to accept any more applications.

Even though the number of new public housing units for the elderly has increased in the last 3 years by 1,973 units in New Jersey, the number of elderly persons on waiting lists for public housing actually increased by 2,388 during that same period.

New Jersey does not face this problem alone, by any means, but the housing picture for senior citizens in my State presents an intensified example of what is truly a national disgrace.

There is simply no excuse for some of the living situations I heard about at the hearings. For example, one elderly woman in Atlantic City told my subcommittee that she is living in a small apartment which has been without hot water and without heat since last February. She has run her gas bill sky high trying to get a little heat into her rooms by leaving her stove on. She visits her sister who lives in public housing so that she can stay warm during the day.

Some other hardship cases:

A widowed homeowner pays $206 in monthly expenses to cover her mortgage, interest, and taxes. Her social security income is $234 per month.

A widower disabled from arthritis, bronchial congestion, and deafness, lives in a fourth floor apartment. The rent has just jumped to $150. His income of social security and supplemental security income—SSI—comes to only $144.

One elderly family makes its home in a storefront with only a toilet bowl and a basin for plumbing.

In city and in suburb, the story is the same: Senior citizens are caught in an ever-tightening squeeze between low incomes and the rising costs of rent, food, fuel, and property tax.

I do not need to remind my fellow Senators and Congressmen that last year we saw the end to rent controls, the highest rise in food prices in 20 years, and the emergence of an energy crisis. It takes little imagination to see that these forces can have a devastating effect on the elderly, an 11 percent increase in social security notwithstanding.

The vivid testimony we heard depicting the intolerable living conditions of so many aged was persuasive in itself. But this compelling picture was brought even closer in focus by the joyful testimony we heard from those elderly lucky enough to have found a home in subsidized housing. Without exception, the public housing and subsidized housing for the elderly in New Jersey has been an exciting success. Again and again, witnesses spoke of the new lease on life they experienced. One lady said:

> It's added 20 years to my life.

Another widow wrote poems about her wonderful life in public housing.

The contrast in testimony could not have been more dramatic, or more heartrending.

Throughout the State, I received strong support for the bills I introduced last summer—S. 2179, 2180, 2181, and 2185. With some important changes, these measures have received the endorsement of the Housing Subcommittee of the Senate Banking, Housing and Urban Affairs Committee, and now await full committee action.

Several other important points were discussed in our hearings, and I would share with you some of the highlights:

Mayor Arthur J. Holland, of Trenton, testified that the most serious obstacle to construction of subsidized housing for the elderly in his city "is the moratorium imposed by the administration." He added:

> The moratorium has resulted in the indefinite postponement of two very important projects for the elderly, in addition to several projects for moderate-income families.

James J. Pennestri, director of the New Jersey Office on Aging, called for the need for supportive services as well as housing. He noted that the new Governor, Brendan Byrne, in his inaugural address 2 days before the hearing, had said:

> More housing must be built: senior citizens should be given an opportunity to live in dignity.

Mrs. Vivian Carlin, consultant, housing for the elderly for the New Jersey State Office on Aging, whose testimony incorporated a wealth of valuable statistics, pointed out:

> Even if we include the new supplemental security income which started January first, and the New Jersey supplements, we find a maximum annual income of $2,424 for singles and $3,240 for couples. Therefore, the number of elderly with incomes of under $5,000 remains essentially the same. These new increases have not appreciably affected their ability to compete in the private housing market.

Jack Volosin, executive secretary of the New Jersey Council of Senior Citizens, testified:

> Housing needs of the elderly, the disabled and the poor can only be met with subsidies for construction and rent supplements. The 18 month freeze is a crime against the poor and elderly of this nation. Experts in housing calculate a minimum of three (3) years from ground breaking to moving in of tenants.

Mrs. Vera Weinlandt, director, New Jersey, American Association of Retired Persons, testified:

> The future of the elderly housing program is of great concern to us. The level of new housing starts has dropped sharply and threatens to go still lower. Meanwhile, the vacancy rate has declined also in many places. Our older people are having increasing difficulty in finding suitable housing at rates they can afford.

Mr. John Brown, secretary-treasurer, New Jersey State AFL–CIO, stated:

> I would ask you to remember that 45 to 46 percent of the elderly who live in New Jersey are sub-existing on $3,000 per year. On that type of income our retired citizen can hardly afford the luxury of having to pay 35 percent of that income for rent.

Sister Rita Margaret Chambers, O.P., Vicaress General of the Sisters of St. Dominic, was one of several witnesses representing religious communities concerned about better housing for the elderly. She spoke, in part, of an issue that recurred often at our hearings: the reluctance of many suburban communities to do their part:

> If other suburban municipalities attempt to determine the needs of the aged, I am certain that many of them will find "housing" very high on the list of priorities. Prejudice, exclusionary zoning, misconceptions and lack of awareness of the need have prevented many suburban areas from responding and making a reality the desideratum of the 1949 Housing Act: a decent home and a suitable living environment for every American family.

Another frequent subject of testimony was the proposed housing allowance or cash assistance payment program now under heavy examination by the administration. Although we heard mixed reactions to this approach, weighted heavily on the negative side, my own feeling is that such a program may have its place in certain areas. But I am especially skeptical of its merits in a State such as New Jersey whose effective vacancy rate is 1.85 percent, unless there is a strong new construction element in operation with housing allowances.

I would point out that HUD's first annual report on the housing allowance program sounded a direct warning to champions of housing for the elderly. It observed that housing allowances could only offset rentals on existing housing, and therefore—

> The program is unlikely to fulfill the objectives of a new housing program (1) by adding directly to the housing supply, and (2) by meeting special housing needs not adequately met by the existing supply, such as elderly units or units for large families.

Since the administration has indicated its intention to begin this program with the elderly—if it should pass final muster—I am particularly concerned that their many experiments take into account the many different ways such an approach might affect the aged.

Therefore, last month I wrote to Secretary Lynn to ask for information about the elderly participation in the various experiments underway on housing allowances. The American Association of Retired Persons—National Retired Teachers Association has made a similar request. As yet, there has been no response.

Many important issues lie before us as we begin the second session of the 93d Congress, and to my mind, there is no more compelling need than better housing for senior citizens. I would urge my colleagues to take note of the well-documented story that has emerged from our hearings in New Jersey as the issues of housing and community development come before them in the months to come.

The record is there for everyone to see, and I sincerely hope that our efforts this year will bring a program of housing worthy of our older generation, and more importantly, one that will rekindle hope in the hearts of so many elderly who have given up on the chance to live in dignity.

Mr. President, I ask unanimous consent to have printed at the close of my statement my letter and the letter from AARP–NRTA to Secretary Lynn, the testimony of Mrs. Vivian Carlin, and a list of case histories submitted by Mr. Leroy Smith of East Orange.

There being no objection, the material was ordered to be printed in the Record, as follows:

December 21, 1973.

Hon. James T. Lynn,
Secretary, Department of Housing and Urban Development, HUD Building, Washington, D.C.

Dear Mr. Lynn: Much has been said in recent months about the value and viability of housing allowances as a major means of providing assistance to low income persons to enable them to find better shelter.

The President's Message of September 19, 1973, said that direct cash assistance, in his judgment, appears to be the most promising way to achieve decent housing for all of our families.

It is my understanding that your Department will be continuing extensive experiments in the coming months to determine whether a policy of direct cash assistance can be put into practical operation. I also understand that first priority under this approach would be directed at the elderly poor.

My purpose in writing is just exactly that—my concern over direct cash assistance as it relates to the elderly. Many elderly groups, including the major national organizations, have expressed deep concern over the viability of housing allowances for older adults. Without going into all their concerns, let me just say that the major point expressed is that housing as well as cash is scarce, and cash cannot buy a commodity that does not exist.

In addition, even assuming an adequate supply of housing did exist in a given market, the elderly person faces many other obstacles. In many instances, the older person will be hampered in his search for better housing. He is more tied to his neighborhood, and has more difficulty simply getting around to search for new quarters.

Services such as transportation, nearby shopping areas, close proximity to places of worship and health facilities, are especially vital to the everyday needs of the elderly.

In short, I have serious reservations about the appropriatness of direct cash assistance for the aged, when not accompanied by production subsidy where needed. Taking into consideration the particular problems that will be faced by the elderly under such an approach, and realizing the extra counseling and assistance that may be needed, I would sincerely hope that the large number of experiments now under way to test the feasibility of this approach are, in some way, accurately measuring the effects of this system on the older person. Testing results, in a general way, referring to the population as a whole, will in no way convince me, nor I dare say the major organizations representing the interests of the elderly, that such an approach will be worth their support.

Therefore, I would appreciate it if you would let me know as soon as possible to what extent special efforts are being made to assess the effects that direct cash assistance will have on older persons.

Thank you for your assistance.

Sincerely,

Harrison A. Williams, Jr.,
Chairman, Subcommittee on Housing for the Elderly.

American Association of Retired Persons, National Retired Teachers Association,
Washington, D.C., December 6, 1973.

Hon. James Lynn,
Department of Housing and Urban Development, Washington, D.C.

Dear Secretary Lynn: The American Association of Retired Persons and the National Retired Teachers Association are in the process of formalizing their legislative objectives for 1974. We have a natural concern with the progress being made by the several demonstration projects now underway to test the validity of the cash allowance as a means of providing adequate housing for the elderly.

This leads us to inquire as to whether the demonstration projects now begun or contemplated include representative numbers of the elderly and are designed to test whether an income allowance for the elderly is a feasible means of providing housing for them. It is all the more important that the demonstrations now in operation propose to first initiate the cash allowance program with the elderly.

We need to know whether more limited mobility, less capable bargaining ability, greater financial insecurity and more limited education will make ineffective the use of a cash allowance for the elderly.

We would appreciate your advice as to the numbers of elderly in or planned to be in such demonstration projects and how the Department is attempting to assess the impact of cash allowances on the elderly.

Sincerely,

Cyril F. Brickfield,
Legislative Counsel.

TESTIMONY BEFORE THE U.S. SENATE SUBCOMMITTEE ON HOUSING FOR THE ELDERLY

• (By Mrs. Vivian F. Carlin)

I am Vivian F. Carlin, Consultant, Housing for the Elderly of the New Jersey State Office on Aging. I appreciate the opportunity to appear before you to comment on the housing needs of New Jersey's elderly population.

Many of the witnesses today have touched on the reasons why the elderly have a housing problem. The most important reasons, in my opinion, are:

(1) Older people are on limited fixed incomes and cannot compete in the private housing market. Many, therefore, are living in unsuitable or too expensive quarters.

(2) The present housing market has the greatest scarcity of low and moderate income units and an extremely low vacancy rate.

(3) Due to changes in life styles and size of family, and physical and psychological needs, many elderly require specially designed housing, which can be best provided under some form of government-sponsored programs.

(4) The January, 1973 federal moratorium on housing funds has virtually brought to a halt the efforts to provide adequate housing for the elderly at prices they can afford.

(5) The bureaucracy and enormous amount of paper work plus local municipal obstacles in the form of zoning and building code restrictions and property taxes, and community resistance to low and moderate multi-unit developments has caused delays as long as 10 years in building suitable housing projects for the elderly.

An analysis of the reasons which I have just given indicate that the solution lies in a major federal commitment. The states and municipalities do not have, and are not likely to have, revenue sources adequate to provide more than limited support in housing for the elderly.

Now, let us go back and look at the supporting data for each of my points.

(1) Limited income of elderly—In 1970, the 65 plus population constituted approximately 10% of the total population in New Jersey, but the households with the head 65 plus were 18% of the total households in New Jersey. If we look at income distribution in New Jersey we see that in 1970, 125,824 elderly or 18.1% were at or below the poverty level. In that year, poverty was defined as $1,749 maximum income for singles and $2,194 for couples. 46.3% of elderly households had total incomes of below $3,000 and 15.8% were between $3,000 and $4,999 or more than three-fifths of all elderly had incomes under $5,000. The poorest group were those living with children or other younger heads, since almost 88% of them had less than $3,000 income a year. Of the 65 plus renters with incomes below $3,000, almost 76% were paying more than 35% of their income for rent.

Since there have been three substantial social security increases since 1970, the last of which becomes effective with the June, 1974 check, I took the average social security check paid in New Jersey in 1970 of $128.33 and found that the *average* older recipient in June, 1974 would be getting $188.50 a month or $2,262 a year. Since in July, 1973 the poverty level was defined as $2,200 for single persons and $2,900 for a couple, the *average* social security recipient is still near or below the poverty level. This is especially true, since approximately 84% of all persons 65 plus in New Jersey were receiving social security payments and these payments are a major source of income for most elderly.

Even if we include the new supplemental security income which started January 1st, and the New Jersey supplements, we find a maximum annual income of $2,424 for singles and $3,240 for couples. Therefore, the numbers of elderly with incomes of under $5,000 remains essentially the same. These new increases have not appreciably affected their ability to compete in the private housing market.

In addition to looking at income and percent of income spent for housing, I want to comment briefly on the government subsidized special units for the elderly. A survey of all elderly state and federal units completed by this Office in January, 1973, showed that there were 15,619 units designed for and occupied by senior citizens.

Of these, 12,439 are low rent public housing, 2,619 are other federally supported, and 451 are funded by the state. There is currently a total of 4,355 units of subsidized housing for the elderly under construction. This study revealed a total of 21,368 eligible elderly on waiting lists for these units. These lists only represent the communities where elderly housing exists, and therefore this report does not indicate the need in other municipalities. Even in the communities with subsidized housing, we feel that the figure of 21,368 represents only a minimum need, since many older people, due to the length of the waiting lists and relatively low turnover, feel it hopeless and do not even bother to apply.

(2) Scarcity of low and moderate income housing units—We know that inflation has caused the cost of land, labor and materials and interest rates to spiral, pricing homes and rental units out of range for the low and moderate income person. In New Jersey at the end of 1972, the average monthly rent for a new multi-family apartment was $224.35. On the basis of paying 25% of income for rent, this would require an annual income of $10,800. (As of 1970, only 17.6% of all elderly had incomes of over $10,000.)

In addition to the high cost of housing, the vacancy rate in New Jersey in 1970 was 1.85% and most of the cities were lower, many being below 1%. At levels such as these, one can say, in essence, that housing choice is non-existent, particularly in view of the fact that this rate incorporates substandard but habitable units which may represent between 25 and 50% of vacant units. As a result, no effective housing market can be said to function.

(3) My third point is obvious. The elderly have special housing needs due to reduction in size of family, retirement from work, physical and psychological losses, etc.

(4) As a result of the January 1973 housing moratorium, no new public housing, 236 or 101 applications have been processed. However, in addition, this moratorium has adversely affected the New Jersey Housing Finance Agency, the New Jersey State housing program, since without at least some type of 236 federal assistance, no non-profit state housing for the low and moderate income elderly can be built. Previous testimony has revealed that many such projects have been stalled or lost due to the federal housing moratorium.

(5) Bureaucracy and local resistance—Both federal and state housing programs require such enormous amounts of paper work that a great deal of time is consumed and expensive consultants are necessary. In addition, community resistance in the form of zoning and building codes which require features not applicable to elderly housing, such as size of rooms, parking space, etc., makes local acceptance difficult.

In almost every elderly project, it is necessary to apply for zoning variances. In many of these cases, I have been asked to testify on behalf of the housing sponsor re the need for such housing in the community and in every case there has been tremendous opposition due to fears that the housing will cause an influx of out-of-towners, will open the door to multi-unit family housing with school children and adversely affect property taxes, too.

Because of the magnitude of the problems briefly outlined above, I feel that it is necessary for the federal government to provide the resources for building the specially designed housing required. Due to the low vacancy rate, a housing allowance program alone will not help elderly to find suitable housing. In May, 1973, the New Jersey State Office on Aging estimated a housing need of 73,721 units of low and moderate income housing for the elderly by 1980. Since the number of units needed is obviously so much greater than can be built, it is necessary to also provide some form of federal assistance to the homeowner to enable him to stay in his own home.

Housing takes a long time to build. The moratorium has caused further delays. Many of the elderly will not live long enough to get an apartment.

CASE HISTORIES SUBMITTED FOR THE RECORD BY MR. LEROY SMITH, OUTREACH AIDE, EAST ORANGE, N.J.

Mrs. A. Age 76—SS $192.10—Rent $150, has terrible fear that she cannot maintain apartment and has no place to go. Needs low income housing.

Mrs. B. Lives in one room on top floor—was disabled from mugging (coming along fine now) SS $160.—Rent $100. Needs housing badly—cannot climb the stairs.

Mrs. C. Lives over drugstore on third floor—building in bad condition—tried very hard to find place, but cannot—SS $158.60. Rent $100. Needs low-income housing.

Mrs. D. Rent going up constantly—private apartment building. Needs middle income housing—no application to be had. SS $174.10. Rent. $175.

Mrs. F. Scared, want to move but has no place to go. Mail boxes broken into several times. SS $139.—Rent $112.—rent going up. Needs low income housing.

Mrs. G. Lived here for several years—rents going up constantly—has part-time job to maintain home. SS $214. Rent $200—Needs low income housing.

Mrs. H. Rent always rising—now $159. Needs low income housing but nowhere to go—SS $150—works part time to keep up. Doesn't know how long she can keep up.

Mrs. J. Lives on 2nd floor—has a heart condition—is in hospital approximately every 3 months—rent too high $136. SS $187. has no family—no place to go. Needs low income housing.

Mr. & Mrs. K. Live in one room on top floor—family owned house. No other place to go—combination SS $201.40. Rent $60. Want a place of their own—wife a diabetic—need low income housing.

Mrs. L. Very much in need of clothes and food because rent so high—Rent $175.—SS $189. plus a veteran's pension. Little left for medicine—cannot afford a telephone. Needs low income housing.

Mrs. O. On disability age 54—receives $100—had to move in with daughter temporarily who doesn't have room. Has asked for low income housing, but there doesn't seem to be a chance. Doesn't know where to go.

Mrs. MB Age 78—she has become a burden to her son and daughter-in-law with whom she lives due to the forced retirement of son because of severe heart trouble which will force a move to smaller quarters. Soc. Sec. under $130—needs low income housing.

Mrs. EB Age 68—lives in dark cramped one room apt. Poor health SS $131.50 Rent $100. needs low income housing.

Mrs. CB Age 72. Attic apartment, very steep stairs and poorly maintained. Has arthritis in knees—SS under $130. Rent now $80 but is going up—needs low income housing.

Mr. & Mrs. J.B. Ages 62 and 64—First floor of 2 family house in terrible condition—hole in bathroom ceiling through which water pours every time upstairs toilet is flushed. Rent was $125. just increased to $150. Combined income uncertain for future as she is collecting unemployment insurance for limited time and he is on disability—SS $148.—Refused my offer to report conditions to proper city department because of fear of landlord. Needs low income housing.

Mrs. HD Age 92—lives in large rooming house called hotel in poor repair—pays weekly—approx. $120 per month SS $135.80. Needs low income housing.

Mrs. MG Age under 65—Multiple sclerosis patient on disability. Has 5 room apartment which she cannot take care of—rent $128. SS $166.

Mrs. RK Age 66—severe arthritis—lives in 1 room with hot plate for cooking—has lavatory—needs decent housing desperately SS $165—rent $100.

Mrs. L. R. Age 62—she has been declared legally blind but cares for herself very well. Needs services of 4 specialists SS under $130—Rent $100—Needs low income housing.

Mrs. S. Age 72—Very bad conditions. Lives with wife and children of deceased son—is not wanted—Daughter-in-law is re-marrying and has no room in her life for Mrs. S. SS $67.60—VA pension $78.81—total income $146.41—needs housing desperately.

Miss LT Age 46—on total disability—SS $192—rent now $115 but house has been sold and she anticipates a raise—no relatives—completely alone—no resources—needs low income housing.

Miss JW Age 40—is on total disability due to crippling arthritis—has steep stairs to climb—SS $139.70—Rent $95. Needs housing.

Note: It should be noted that with the exception of those who live in rooming houses, gas and electric plus a necessary telephone must be added to fixed expenses.

A Widow home owner—Husband died early 1963. Following husband's death there was a large cut in income; so large that it has created an inability to meet high medical bills. She has arthritis, high blood pressure, chest hernia and serious eye trouble. Her SS is $234. A monthly package payment of $206 includes amortization, 3% interest and taxes. This package payment was arranged thru a previous city home improvement plan. Because of this situation she feels she will have to leave East Orange where she has lived and raised her family.

B Widower Age 66 SS $106.90, SSI $36.80—4 room, top floor apartment (4th floor) roof leaks causing ceiling water leak in one room. No repairs made. Rent was $135 now increased to $150 (7 years ago rent $85) rent now higher than total income. Formerly he received disability from Essex County Welfare. He has been disabled due to arthritis, severe bronchial congestion and suffers severe deafness. He lost this assistance when he received a lump sum of money in June 1973 from Social Security for back payments. In addition he lost his food stamp allotment and, most important, his medicaid. According to all our information this medicaid was terminated illegally. As a result he discontinued medications and failed to make necessary physicians' appointments. What money he had has gone to meet rent and food needs.

C A husband, 66 and wife 57, live in an illegal apartment. They fear to report this because of the great difficulty in finding an apartment. Rent is $90 plus utilities. There was some talk of a rent increase. The apartment is created by partitions to form three rooms; There is a makeshift shower placed in what is referred to as a kitchen. This plus the usual store toilet constitutes the bathroom. The husband has very little vision in one eye none in the other. He suffers from glaucoma and is officially classified as blind. Low income housing is needed.

D Woman living alone, age 72. She was a licensed practical nurse and had raised two sons on her own. She has spent thousands on hospital bills and has depleted all her resources. She could not get Welfare Assistance but received Medicaid. Her current income is $153.20 SS. She has a room in a private home that imposes severe restrictions on her use of kitchen and bath. Rent is $75, with current talk of increase. She has been on low income housing list for 4 years. Due to a chronic urinary condition and other illnesses she needs a small apartment with a private bath.

Her doctor has stated that her very life is at stake because of the above conditions. In a letter he wrote that "She has difficult arrangements for living and eating and above all for toilet facilities which are so important for her. In addition she doesn't feel safe due to steps, lack of railing and her poor eyesight. May I urgently request that she be given some consideration before it is too late".

Since the writing of this letter in the early part of 1973, she has been mugged a second time (the first time in October 1972). She was hospitalized both times. She feels unable to continue her life under these conditions. She needs low income housing.

Case history. Mr. & Mrs. E. were tenants at one of our low income buildings-managing nicely. They both became ill. Were hospitalized and their daughter made arrangements to have them admitted to an EO Nursing home under Medicaid and gave up the low rent apartment. Since then Mrs. E. has died; Mr. E. is in very good condition but will be maintained at the nursing home at $800 per month because there are no vacancies in low rent housing where he could manage on his own Social Security.

Mrs. BD. She was in need of immediate hospitalization when we first saw her. She has now returned in reasonably good health to her apartment where she pays $165 per month in rent out of an income of $154. (her family help her pay this) The apartment is large and in poor condition—she should be in low income senior housing but there is none available. We are recommending her for middle income housing with her son co-signing the lease.

Case A.—Income $327—Client is disabled—has to spend good portion of income for hired help to maintain apartment & drugs. Needs low income or middle income housing.

Case B.—Income $234—Client has heart condition—Needs living quarters all on one floor, at present must climb 2 flights of stairs.

Case B–1.—Income O.A.A. $162—Client had neat and clean quarters on 3rd floor but no cooking facilities. Had to eat out most of the time. Has since moved out of the area.

Case G.—Income $200 plus SS. Wife chronically ill—best portion of income goes for rent. At the time of interview was receiving some help from children.

Case G–1.—Income low SS—Rooms on 3rd floor of private home. Gets about with difficulty—has arthritis—Should be in quarters without stairs.

Case H.—Income $170—Client lives with granddaughter. Very depressed due to conditions under which she lives.

Case R.—Income $171. Client presently housed in quarters that have been questioned by the health dept. Owner wants the tenants out. Furnace out of order—makeshift arrangements for heat and cooking. No room in low cost housing.

Case S.—Client was living in a luxury apartment, had his own business and took early retirement. In the meantime wife came down with cancer and completely wiped client out even to cashing in of insurance policies.

Client no longer able to maintain himself in a luxury apartment. Client applied for old age assistance but was turned down because of having one month rent in reserve. Income from SS low. Did not realize by not paying in he was hurting himself. To best of my knowledge took refuge with nephew.

Note: Rent for the above 10 cases are well over 25% of income.

ALASKA'S D–Z PROPOSALS

Mr. STEVENS. Mr. President, on December 18, 1973, Rogers Morton, Secretary of the Department of the Interior, recommended that 83.47 million acres of Federal land in Alaska be added to the national park, national wildlife refuge, national forest, and the wild and scenic rivers systems.

I am flattered that the Department of Interior has such an appreciation for the scenic beauty of Alaska. I, as well as all other Alaskans, also share this love of the majestic beauty of "The Great Land" and would not consider calling any other place home.

However, I would like to point out to my fellow Members of Congress that several factors mitigate against making my entire State a national park for the rest of the Nation to enjoy. First, over 350,000 Americans call Alaska home and should not be deprived of an economic base necessary for survival. Second, the United States is faced with an energy crisis unparalleled by our Nation before. Alaska holds the key to alleviating much of this crisis.

The Interior Department proposes that over three-quarters of the D–2 lands be relegated to a single-use classification. Mr. President, I believe that this is far too much land to be locked up. Sensible development and scenic beauty are not necessarily inherently contradictory.

Since Congress has 5 years from the date of Secretary Morton's proposals to act, I would like to make sure that the Members of Congress realize the significance of their votes.

To that end I would like unanimous permission to include a chart depiciting the possible oil and reserves invalued in the proposed Federal withdrawal in the Congressional Record. These figures were compiled by W. M. Lyle and R. M. Klein of the Alaska Department of Natural Resources, Division of Geological and Geophysical Surveys at the request of the Joint Land Use Planning Commission.

The calculations were prepared by using known recoverable reserves in the Cook Inlet and in known sedimentary basins of the world. The cubic miles of sediment were recalculated by using reasonable or known thickness of sedimentary rocks under each of the withdrawals .

The reserve figures are entirely speculative and are intentionally conservative.

Results of this evaluation are subdivided into separate calculations for each proposed withdrawal area, and are listed on the tabulation set out below. I ask unanimous consent to have the tabulation printed at this point in the Record.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

POSSIBLE OIL AND GAS RESERVES INVOLVED IN PROPOSED FEDERAL WITHDRAWAL, NOVEMBER-DECEMBER 1973

Proposed withdrawal areas	Area with possible oil potential		Possible recoverable	
	Acres	Square miles	Oil, millions of barrels	Gas, trillion cubic feet
1. Gate of the Arctic National Wilderness Park	2,119,680	3,312	432.0	3.2
2. Kobuk Valley National Monument				
3. Cape Krusenstern National Monument				
4. Aniakchak Caldera National Monument	369,640	578	24.0	.175
5. Katmai National Park	2,257,920	3,528	159.0	1.138
6. Harding Ice Field—Kenai Fjords National Monument				
7. Lake Clark National Park				
8. Mount McKinley National Park	944,640	1,476	38.0	.277
9. Wrangell—St. Elias National Park	1,175,040	1,836	420.0	3.000
10. Yukon—Charley National Rivers	737,280	1,152	51.1	.373
11. Yukon Flats National Wildlife Refuge	4,008,960	6,264	390.0	2.7
12. Arctic National Wildlife Range	2,304,000	3,600	340.0	2.5
13. Koyukuk National Wildlife Refuge				
14. Selawik National Wildlife Refuge	990,720	1,548	25.5	.186
15. Chukchi—Imuruk National Wildlands	921,600	1,440	42.0	.304
16. Coastal National Wildlife Refuge				
17. Yukon Delta National Wildlife Refuge	4,170,240	6,516	360.9	2.64
18. Togiak National Wildlife Refuge				
19. Noatak National Ecological Range	2,787,840	4,356	250.0	1.8
20 Iliamna National Ecological Range	3,340,800	5,250	142.0	1.04
Total	[1] 26,128,360	[1] 40,856	2,674.5	19.333

[1] Difference due to rounding.

NEW SUPPORT SEEN FOR FOREIGN SERVICE GRIEVANCE ACT

Mr. BAYH. Mr. President, on Wednesday of this week we learned of yet another instance of injustice being perpetrated against a Foreign Service officer by the State Department hierarchy.

Mr. John Cramer, of the Washington Star-News, devoted his January 30 column to the case of Col. Henry J. Schneider, a Foreign Service staff officer who returned to the State Department in 1966 after 18 years in the Army. The facts, briefly, are these. Upon his return he was assigned to the grade of FSSO–2, but 2 years later learned that he should have been given the rank of FSSO–1. He then began a 6-year struggle for justice, during which on three separate occasions the Department's personnel office rejected his appeal—with, as Cramer reports, "three essentially different explanations."

Colonel Schneider then took his case to the newly established Foreign Service Grievance Board. This agency, as Senators know, was State's answer to the Foreign Service grievance legislation which the Senate has three times passed but which is still waiting approval by the other body. The present case shows why it is an inadequate answer. For the Board very properly found that Schneider was indeed entitled to the higher rank—and to retroactive pay from 1966. But the Secretary of State thought differently. He accepted the recommendation for promotion but denied the back pay—without explanation. This was Mr. Kissinger's first decision on a Grievance Board case, and the first time in 87 cases that the Secretary has failed to accept the Board's recommendation.

That may seem a fine record of accomplishment for the Grievance Board, and indeed mathematically it is. But surely this is the exception that proves the point of our legislation, namely, the Foreign Service personnel are still subject to the exercise of arbitrary administrative power—the only career employees in the Federal Government who are so subject.

Colonel Schneider has now taken his case to the U.S. Court of Claims. No doubt we should be thankful that he has that legal option. But I point out, Mr. President, that that is a long and expensive route for a career employee to have to follow. If the State Department had to abide by procedures to which all other administrative agencies are rightly subject, that would not be necessary.

I strongly commend John Cramer for bringing this matter to our attention and I urge my colleagues to read his article and consider it carefully in advance of the time I once again ask Senate approval of the Foreign Service Grievance Act. For that reason, Mr. President, I ask unanimous consent that the text of Mr. Cramer's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO CHEERS FOR KISSINGER DECISION ON FSO'S CASE

(By John Cramer)

Secretary of State Henry Kissinger has a reputation as a hotshot diplomat, a renowned wit and a bachelor with a discerning eye for beautiful women.

But he'll win no cheers from State Department employes for what he did to Henry J. Schneider, a Foreign Service staff officer in communications and an Army reserve colonel.

Indeed, he'll please only the handful of personnel officers and attorneys who fought a year's-long and bitter battle to keep Schneider out of a Grade FSSO–1 rank—one to which he was entitled even by Kissinger's own tacit admission.

When Schneider returned to the Foreign Service in November 1966, after 18 years in the Army, he was assigned as an FSSO–2 (then $12,905).

But the Foreign Service Grievance Board held last Aug. 31 that he should have been assigned to FSSO–1, at the top of the staff officer career ladder. Had that been done, his present grade would be FSSO–1, step 4 ($28,380).

The board also recommended retroactive pay from 1966.

Kissinger's response was to order the promotion (here his tacit admission that the original assignment was improper), but deny the back pay without explanation.

It was his first action on a grievance board ruling and the first time since State brought the board into being 2½ years ago that a secretary of state failed to follow its recommendations—87 in all.

Schneider's case came to light in a U.S. Court of Claims suit for some $33,000 to $34,000 in back pay, filed several days ago by his attorney, Alan Raywid.

His story is a complicated one, punctuated by at least three major State Department blunders.

After two years in Foreign Service as an FSSO–9, Schneider, then a reserve major, was called to active duty in 1948. He extended his service through the Korean war after getting written advice from State that his military leave was "indefinite." That was State's Blunder No. 1.

But when he sought confirmation of his re-employment rights prior to scheduled release from the army in 1953, he erroneously was advised by State that he had forefeited his rights to re-employment. Blunder No. 2.

So he stayed in the Army until retirement in 1966, only to learn, soon after, that he had not forfeited his rights. They were specifically guaranteed by the Reservists Act.

At this point, give State credit. The Reservists Act entitled Schneider only to restoration to his FSSO–9. He had, indeed, forfeited rights under the Selective Service Act, which would have given him whatever FSSO grade he might have attained had he not returned to the Army.

But State, in effect, elected to give him something very close to SS Act rights.

It evaluated him for reemployment in several ways. But the main one was a "peer group" method, measuring the average of promotions won by his former coworkers in FSSO–9 during his 18 years in the Army.

It thus assigned him to FSSO–2.

But it wasn't until two years later, 1968, that Schneider learned about State's Blunder No. 3. Its "peer group" evaluation had been either phony or an error. It hadn't taken into account the 1956–66 promotions of his peers.

He then began a six-year battle which saw State's personnel office three times reject his grievance appeals for an FSSO–1—with three essentially different explanations.

But before his case finally went to the grievance board, State settled on a single explanation. It stimulated, in writing, that the "peer group" method was the sole one for determining his proper grade.

And on that basis, coupled with State's admission of Blunder No. 3, the board held that Schneider was the victim of administrative error, entitled to an FSSO–1 with back pay.

Kissinger's memo denying the back pay came 4½ months later, on Jan. 10.

His legal advisers, bitter-enders to the last, used the interim to try an end run. They had sat in on grievance board hearings; they were fully aware that its decision was based on State's stipulation that the "peer group" evaluation was controlling and State's admission of error on the original evaluation.

But they tried to persuade the Comptroller General that the decision involved a retroactive promotion (back pay not permitted), rather than correction of error (pay permitted).

Congress left them dangling by enacting legislation permitting back pay for certain retroactive promotions ordered by the board.

And in the wake of the Schneider case, Congress may well take a new look at Senate-approved legislation introduced by Sen. Birch Bayh, D-Ind., which would greatly strengthen Foreign Service job protection rights.

TRIBUTE TO DR. CARROLL G. BRUNTHAVER

Mr. BELLMON. Mr. President, in the interest of encouraging knowledgeable, competent, honorable men to take responsible Government jobs in the future, I would like to call the attention of the Senate to the outstanding accomplishments of Dr. Carroll G. Brunthaver as he leaves the U.S. Department of Agriculture for his return to private life. He has served 5 years as Assistant Secretary for International Affairs and Commodity Programs.

For these past 5 years, Dr. Brunthaver has rendered dedicated service to the farmers and consumers of this Nation. He has helped make it possible for the American farmer to make a fuller contribution to meeting the needs of the Nation. This country and our trading partners abroad are better off as a result.

Dr. Brunthaver was one of the first to see the impact of growing world affluence on world food demand—and on U.S. agriculture. He was one of the first to state publicly that our farm policies should be geared to the emerging world market opportunities. He accurately forecast the need to change policy to take advantage of growing world farm product demand. Dr. Brunthaver argued successfully that developing markets abroad would mean a stronger economy for the Nation, an improved balance of payments, and greater income opportunities for farmers and nonfarmers alike in the United States.

He worked tirelessly to help turn opportunity into reality. Carroll Brunthaver would be the last to say that Government officials should play a dominate role in U.S. agriculture. He feels keenly that American agriculture's greatest assets are the management ability of its farmers and the effectiveness of its competitive marketing system in directing production.

It could certainly be said, however, that Carroll Brunthaver has played a key role in making it possible for American farmers to respond to their opportunity.

Five years ago, when he came to USDA, the Government was telling millions of American farmers what they could plant, what they could market, and what they would get for it. Government farm subsidies were costing taxpayers $4 to $5 billion per year. We were paying farmers not to grow crops on some 60 million acres of cropland per year—wasting that resource—and cutting both farmers' incomes and our national economic output. Most of rural America was seriously economically depressed. Our farm exports were only $6 billion, and the dollar was in a tailspin on its way to devaluation.

Today, American farmers are gearing up for full output—responding to real market demand for farm products at home and abroad. Indications are that farm output this year will break all records by a wide margin—not because of Government price supports but because people want and can pay for more food. Farm exports are running at record levels, totaling $19 billion for fiscal 1974. Nearly one-third of our current national exports are farm products. Our farmers are almost totally responsible for the current national trade surplus, and for the fact that the dollar is recovering its strength in international money markets. Farm exports are making it possible to maintain our standard of living in the face of the oil shortage and the increasing cost of imports.

Today, the Government is no longer telling farmers what they can grow. We are no longer paying farmers not to grow crops. Economic health has returned to our rural heartland.

Agriculture—still our largest employer—today is providing additional jobs and billions of dollars in extra income both on the farm and in off-farm supporting industries.

The country owes a hearty "thank you" to Dr. Brunthaver for his role in helping make it all possible. I commend and congratulate him for his record of accomplishment as he leaves his important part in Government.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

GENOCIDE CONVENTION—EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under a previous order, the Senate will go into executive session to consider Executive O, 81st Congress, 1st session, which the clerk will report by title.

The legislative clerk read as follows:

Executive O (81st Cong. 1st Sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, I ask unanimous consent that in the consideration of the treaty Pat Shakow, of my staff, and Charles Warren, of my staff, may have the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PRINTING OF RESOLUTION OF RATIFICATION TO EXECUTIVE O (81ST CONG., 1ST SESS.)

Mr. JAVITS. Mr. President, inasmuch as the reservation sponsored by Senators CHURCH, PROXMIRE, and me, has been printed and is at each Senator's desk, I ask unanimous consent that the Resolution of Ratification, to which the reservation applies, be printed as well.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, we are here today on a special day to debate the Genocide Treaty, a treaty which has waited 25 years for its time to come, and of that 25 years waited about 23 for a President to ask that it be laid before the Senate, which, on February 19, 1970, President Nixon did, in a letter to the Senate. The treaty was adopted by the General Assembly of the United Nations on December 9, 1948—by a vote of 55 to 0. It entered into force in 1951, and as of now, according to our records, some 78 nations have actually adhered to the treaty.

It is a shocking fact, Mr. President, that the treaty was first submitted to the Senate by President Truman on June 16, 1949. Hearings were held by a subcommittee of the Committee on Foreign Relations in 1950. It was reported favorably to the full committee, together with recommended understandings and a declaration, but no final committee action was taken.

In 1953, Secretary of State John Foster Dulles expressed some doubt as to the solution of the problems envisaged by the treaty, and said he would not press for its ratification.

Ten years later, in 1963, Secretary of State Rusk said that the Kennedy administration would ratify the Genocide Convention if the Senate gave its advice and consent. This was repeated in the Johnson administration in 1965. But no one asked that it actually go through the Senate.

On February 19, 1970, President Nixon did exactly that. Subsequently, therefore, the committee acted over a period of time, and finally the convention was formally reported to the Senate on December 8, 1970. It then remained on the calendar, and was not brought to a vote before the close of the 92d Congress, so, a fresh start had to be made when the 92d Congress convened in 1971. On March 30, 1971, the committee again reported the convention favorably to the Senate by a vote of 10 to 4, again subject to the understandings and the declarations previously recommended. But no further action ensued. Again the treaty was referred, in the succeeding Congress, to the Foreign Relations Committee which at an executive session, February 27, 1973, considered that particular measure.

Finally, as I said before, the measure was reported favorably by the Committee on Foreign Relations to the Senate. It has taken us all this time actually to get it to a hearing before the Senate. I do not wish for a moment to place any blame for that on the leadership, which has been very cooperative in this matter. It was simply a question of finding the right time and the right place. It was supposed to be done last year, but all of us agreed that a matter like this required a reasonable and balanced discussion and we would not want to be caught in any jam as it would have been last year. So, by common consent, it was to be called up in January 1974 and the leadership, true to its word, did call it up in January. It is here now.

Mr. President, I give this history to emphasize the fact that we have been several days on this treaty. The Senator from Wisconsin (Mr. Proxmire) has spoken. I have spoken. The Senator from Idaho (Mr. Church) has spoken. Others may have an interest in the treaty either for or against. I most respectfully submit that the time has come for them to be heard. It takes exactly the same vote to ratify this treaty as to have a cloture vote. I hope that the treaty opponents will simply not stand mute simply awaiting the time when we have to seek a cloture vote merely by their silence, because they have done absolutely nothing. I do not think it would be the disposition of the leadership in a matter of this kind merely for all of us to sit around and wait for some of the opponents to come in with their ideas or the grounds for their opposition.

The proponents of the treaty, Senators Church, Proxmire, and myself, have offered a reservation—reservation No. 1—now printed and before all Senators—which we will, in due course, hope to have accepted and made a part of the resolution of ratification.

This reservation, in my judgment, is not necessary to the legal impact of the treaty now. I do not believe that this resolution is essential in terms of all the proper interests of our country and its citizens which need to and should be protected.

The organic treaty itself, as we have discussed and deliberated on, plus the three understandings and the one declaration, very adequately and fully protect every American against any imposition, deprivation of rights, or extradition, et cetera.

But, Mr. President, there were these disquieting feelings expressed to us in the testimony and we think that there is a necessity for a declaration by our country upon this subject, which is probably the most barbaric manifestation of the inhumanity of man to man as we saw it in operation in Nazi Germany which recorded history showed us in its 10,000 years. But we do not want to leave any stone unturned to reassure any Member of the Senate who feels in his heart that he should vote to ratify the treaty that there is some domestic reason—criminal law, or whatever it may be—that would prevent him from doing so.

We show, by this reservation, a recognition of the fact that what we are trying to accomplish is a universal condemnation by the nations—and that must include the leading nation of all, the United States of America—of the crime of genocide, and the fact that it will be made an international crime, thereby demonstrating mankind's revulsion against it and mankind's determination that it shall not occur again.

That is really the purpose because there is no international tribunal, for example, such as is contemplated by the treaty. If there is to be one, we would have to be a party to it. And accept its jurisdiction. So we have complete control over that, as to extradition to another country, where the act of genocide may have been judged to be performed in that other country. One, the treaty itself leaves that completely to the country which is concerned—to wit, our own. Second, this reservation locks, double locks, and triple locks that proposition to the resolution of ratification.

As to the essentials of the crime, it is a unique crime because it requires a fundamental finding which is simply not present in any other crime, and that is "intent to destroy, in whole or in part, a nation, ethnic, racial, or religious group"—that is from article II of the treaty. Just to lock even that in, so that there is no question about that, we have specified that the intent must be to destroy the entire group—Dean Rusk testified to that as far back as 1950—or a substantial number of a group immediately affected in order to bring it into action. So that a few or several or a small number, relatively speaking, may not be considered as an operative act in respect of the international crime of genocide.

Then, even further to give insurance, we make it clear that the convention is not self-executing. Article 5 of the convention says so. Then, it is stipulated in the resolution that implementing legislation is required—and we will have to pass implementing legislation. We have actually attached to our report a draft of that implementing legislation which again locks in the manifold protection to which we have referred.

So, it really strains the imagination of anyone to think for one moment that this is an untoward act respecting the individual rights of citizens of the United States under the Constitution, under the extradition treaties, or in any way to deprive by any stretch of the imagination any State or the Federal Government of jurisdiction over Americans who are here.

One other point of confusion we find so very frequently in this matter is when Americans are not here, when they are somewhere else. Whether we have a Genocide Treaty or not, we cannot control what happens in other countries except by virtue of our diplomatic initiatives, whatever they may be—even if there is a treaty.

I think the most salient example is that of the terrible punishments handed out in other countries—one example is Turkey—to individual Americans who are caught carrying or dealing in narcotic substances, including marihuana. But the important point is that when someone is sentenced, as they are, to life—or even to death, as has happened in some foreign countries in respect of narcotics violations, and as Americans we cannot do anything about it unless that country is willing to cooperate with us in a diplomatic sense; hence it is completely irrelevant to argue what might happen to an American in another country if that American is "charged" with the crime of genocide. The treaty will not make that situation worse than it is now.

The treaty might even help Americans abroad if they are in a country that has ratified the treaty since a common definition of genocide would be applicable.

To use that as the feeble excuse, that straw, to prevent us from joining in an international denunciation of mass murder or mass brain transformation or mass delivery of children away from their parents, and the other crimes which have occurred by the name of genocide, simply boggles the imagination.

Senator Church, Senator Proxmire and I have labored under the difficulty of making an argument in this case, because it just overwhelms the imagination that anybody should not understand and feel in his heart, let alone understand in his mind, the revulsion which the human race must express at this most horrible and heinous of all crimes.

Yet, for 25 years we have found it, for practical purposes, impossible to break through with that concept enough to get this treaty ratified, until, at long last, here we are in 1974, with the leadership giving us an opportunity to get this treaty ratified by the Senate.

Mr. President, as we all know, it can happen here. It can happen anywhere. The depths of man's inhumanity to man are still unfathomable, and we were given very excellent examples of situations occurring in the world. Whether it is proscribing people because of caste or some tribal identification, or because they are a part of some kind of national group, the simple elimination of all members of that group still remains a threat hanging over all mankind, and we see evidences of it even in contemporary history.

We always speak here of a development whose time has come. This development, the ratification of this treaty, is certainly a concept which almost outrages our consciences, those who feel deeply about it, who have to debate it on the elementary ground of justification.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ABOUREZK. I should like to say to the Senator from New York that I am fully in accord with what he has said about the Genocide Convention and the need for ratification by the Senate. This matter, as I understand, was first offered in the Senate in 1948. Is that correct?

Mr. JAVITS. That is correct.

Mr. ABOUREZK. And it has been lying dormant since that time. I think it is an idea whose time is long past due.

I have had the argument raised to me that if this convention were ratified and adopted by the United States, Indian people, in whom I have an interest both as a Senator from South Dakota and as chairman of the Indian Affairs Subcommittee, would be able to charge the Government and the people of the United States with genocide because of certain acts of mistreatment accorded to the Indian people. That might have been true 100 years ago, but it is not true today. Whoever has those fears, I should like to try to lay the fears to rest at this point, because that will not be the case; that will not happen.

As a matter of simple humanity, as a symbolic act, and as a real act of trying to enunciate the principle of humanity on the part of the United States, we ought to ratify this treaty.

I thank the Senator for yielding.

Mr. JAVITS. I thank my colleague. He has had a great deal of experience with American Indians.

As the Senator has properly said, considering the fact that the essential element is the intent to eliminate a whole group, it is inconceivable that there is anything to that now.

As to what people can charge, they often charge simple murder very quickly, many times a day. So there is no reason why they cannot include genocide. But that should not discredit such a great act of conscience on the part of the American people; because in that case, we would certainly be very simplistic if anybody could dissuade us from something we ought to do simply by making a charge.

Mr. ABOUREZK. I think it is a false argument and one that is used in an effort to stop the act itself.

Mr. JAVITS. I thank my colleague very much.

Mr. President, another thing that I think is critically important is the position which results from the fact or the showing that we have not ratified the treaty. I should like to read into the RECORD a letter dated January 21, 1974, to the chairman of the Committee on Foreign Relations (Mr. FULBRIGHT), from Dr. Henry A. Kissinger, Secretary of State:

THE SECRETARY OF STATE,
Washington, D.C , January 21, 1974.

Hon. J. W. FULBRIGHT,
Chairman, Foreign Relations Committee, U.S. Senate.

DEAR MR. CHAIRMAN: I have been gratified to learn that the Genocide Convention, which was reported favorably by your Committee, is finally due for consideration by the full Senate. Since this was brought to my attention, I would like to take this opportunity to express to you my personal view concerning the desirability of prompt United States ratification.

As is well known, the United States played an important role in the negotiation of this Convention, which was adopted in 1948 and first transmitted to the Senate in 1949. President Nixon in 1970 renewed the request that the Senate consider it and grant its advice and consent to ratification.

There can be no question that the United States is fundamentally opposed to the crime of genocide. Our failure to ratify this important Convention has been a constant source of embarrassment to us in the international community. The extensive hearings that were held in 1970 and 1971 by the Subcommittee of the Foreign Relations Committee chaired by Senator Church convincingly demonstrated the desirability of ratifying the Convention. The reports issued by your Committee, and most recently the report of March 1973, have in my view, effectively dealt with all the points that have been raised in connection with the Convention and support the conclusion that there should be no further delay in ratifying it.

The important policy reasons cited by the President in 1970 for ratifying the Convention remain as persuasive today as they were then. By giving its advice and consent to ratification of this Convention, the Senate will reaffirm our country's desire to participate in the building of an international order based on law and justice.

The letter is signed by Henry A. Kissinger.

Mr. President, so here we are, conscious of the deep religious belief of each of us—I can say that without exception; of a very gifted and brilliant new Secretary of State, who himself sees the scars of exactly this crime through the sufferings of his own kin and of the world from which he came; and of the President of the United States; and we are conscious of the international situation, on which so much depends in terms of humanity, if America's great standing in the world is to be maintained.

This is an unexplained situation on the part of our country. It has been for years; it is now. We should allow it to continue no longer, but should, at long last, ratify the treaty.

As to its opponents, there is no element of disrespect in anything I say or feel. Every man contends for his right to express his view and to challenge our judgment that the Senate ought to ratify the treaty. But I do believe that it is really only fair that these arguments be made, that they be developed on the floor of the Senate, and that they dictate what humanity demands—a vote on the treaty, up or down. Bear in mind that not a single right of our opponents is given up by not allowing us to come to a vote, because it takes the same number of votes to ratify the treaty.

To assume that some Members have a hangup about cloture who do not have a hangup about the treaty and, therefore, that someone might succeed in filibustering this resolution, as contrasted with voting it up or down, is really pressing fairness to its outermost limits; it is just too much. I hope very much that the Senate will vote on this treaty, hopefully next week.

Second, Mr. President, I hope that those who may contemplate debate in opposition come forward with their debate and whatever measures they have in the way of reservations, understandings, and declarations to deal with their particular scruples about the treaty, but that all understand the profound humanity which is involved here and, therefore, the basic fairness of coming to a vote. If that is not the case I hope that in this particular case all Members, even those who have scruples about cloture will realize that if there ever was a case which is unique in terms of demanding from the Senate basic action and from individual Senators basic fairness, it is this one; and if they do intend to be for the treaty then, in my judgment, I hope very much they will examine deeply their own consciences in this case, because they really do have to be for cloture, too.

If the Senator from Idaho is ready to proceed, I am ready to yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, first I commend the distinguished Senator from New York for the able argument he has presented this afternoon in support of the ratification of the Genocide Convention. When the treaty first was brought up for consideration, earlier in the week, it had been my intention to lay it before the Senate and make an opening argument. At the time, however, I was presiding at executive hearings with out-of-town witnesses; so it was not possible for me to come to the floor. So I would like, at this time, to make the argument I would have made then, had it been possible for me to be present. I will refer, in the course of my remarks, to a reservation to be offered which would eliminate any possible basis for concern that this treaty might somehow lead to the extradition of American citizens for trial in a foreign court on the charge of genocide where the accused would not be guaranteed his basic rights under the Constitution of the United States.

I would hope that Senators who harbor some misgivings on account of this apprehension—however tenuous it may be, as the Senator from New York has already explained—would study the reservation and take note of the fact that it is drafted in such a way as to avoid any possibility in the future that any American citizen would not be fully protected in his constitutional rights.

Having said that, I would like now to proceed on behalf of the Committee on Foreign Relations to make what I had intended to be the opening argument.

Mr. JAVITS. Mr. President, if the Senator will yield, I would like to suggest the absence of a quorum.

Mr. CHURCH. I yield.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. CHURCH. Mr. President, I ask unanimous consent that throughout the debate regarding the Genocide Convention and votes relating thereto, Mr. Thomas A. Dine be permitted access to the Senate floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, as chairman of the Ad Hoc Genocide Subcommittee of the Committee on Foreign Relations, it is my responsibility to present the Genocide Convention to the Senate and ask for its advice and consent to ratification. The committee recommends this action as a responsible exercise of the treaty-making power of the United States and an enlightened step in the orderly development of international law.

So much has been written and said about this treaty over the long period of time that it has been pending before us that the most useful thing I can do at this time is to try to put it into a reasonable perspective, explain the committee understandings and declaration, and then offer, on my own behalf, and on behalf of the distinguished Senator from New York (Mr. JAVITS) and the able

Senator from Wisconsin (Mr. Proxmire) a reservation, as a substitute for one of the understandings recommended by the committee.

First of all, let me agree that the Genocide Convention is not a work of perfection. The handiwork of many nations can never suit each one of them absolutely. This observation, however, applies to all treaties. I have never seen a perfect treaty, and I do not ever expect to see one. But have we ever in the Senate passed a perfect law? If not, I suggest we leave the notion of perfection out of our discussions.

Having said this, I believe the Genocide Convention is the best agreement that can be reached on the subject. Its imperfections depend on the eye of its beholders. For some, it does not go far enough. For others, it goes too far.

While I would not, like some witnesses have, put it in a class with the 10 Commandments or the Magna Carta, neither would I consider it the handiwork of the Devil or a conspiracy against American independence. I look upon it, and ask my colleagues to share this view, as a significant statement of human decency—a code of conduct, if you will, for nations to observe in dealing with their religious ethical, racial, or national constituent parts.

Many semantic games have been played with this treaty, but I ask my colleagues to evaluate it on the strength of its principal purpose. On that purpose we should all agree. To a man we must all deplore genocide—that is to say, the systematic and deliberate destruction of a group of people because of common religious, ethnical, racial, or national ties. That is what we subscribe to by approving the Genocide Treaty, and this is what we must not lose sight of as we debate this proposition.

The convention is short and consists of nine substantive articles. In the first article, the parties to the treaty confirm that genocide is an international crime which they undertake to prevent and to punish. Genocide, in article II, is declared to consist of certain acts which must be committed with the intent—and I stress the word intent—to destroy in whole or in part, a national, ethnical, racial, or religious group, as such. These acts include: killing of group members, causing them serious bodily or mental harm, inflicting on them conditions of life calculated to bring about the destruction of the group, imposing measures to prevent births, and the transferring of children from one group to another. Included among punishable acts in article III are conspiracy, public incitement, attempt to commit, and complicity in genocide. By article IV, rulers, public officials, and private individuals are punishable.

Article V reads as follows:

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

This article makes it clear that the treaty is not self-executing and that our ratification of the treaty does not make it ipso facto the law of the land. Implementing legislation is required and the Foreign Relations Committee has incorporated into the resolution of advice and consent a declaration that the U.S. Government will not deposit its ratification of the treaty until such legislation has been enacted. So we are concerned here principally with the broad question of joining with the international community in condemning genocide. How we shape our laws to comply with the obligation of article V is an important, but separate, question to be debated whenever the Judiciary Committee recommends such legislation, which incidentally is pending before it now as S. 1758.

By the terms of article VI of the convention, accused persons are subject to trial at the place where the crime was committed or by an international penal tribunal. However, such a tribunal has not been established nor are there any prospects of its being established.

Moreover, were such an international tribunal to be established in the future, the question of our consenting to its jurisdiction would be a separate matter that would have to come before the Senate for its consent at that time. Therefore, the ratification of this treaty would not bind the United States to the acceptance of the jurisdiction of some future international tribunal, if it were ever to be established.

There is no present prospect that this will happen nor any expectation. Nevertheless, as I have indicated, should the unexpected occur, we would, at that time, have full opportunity to then consider whether or not the United States should accept the jurisdiction of such a court.

Under article VII, the parties to the treaty pledge themselves to extradite the accused in accordance with their laws and treaties in force. The parties can, by article VIII, call on the United Nations to take such action as appropriate under the Charter for the prevention or punishment of genocidal acts. Finally, under article IX, disputes relating to the interpretation, application or fulfillment of the convention shall be submitted to the International Court of Justice at the request of any party to the dispute. All of these articles are explained in further detail in the committee report which also discusses the various questions that were raised about them and the understandings and declaration designed to take care of the questions that the committee felt had some measure of merit.

Mr. President, inasmuch as these details are pertinent, for Senators to have a full understanding of the treaty, I think it would be appropriate to have printed in the Record excerpts from the committee report following my remarks.

I ask unanimous consent that excerpts from the committee report be printed in the Record following this address.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Among these questions some concerning the effects of articles VI and VII which deal with trials and extradition and I address myself to them now.

A deep-seated fear has been expressed by some witnesses and letter writers that these articles would lead to American citizens being tried in foreign lands, under alien procedures, and without the constitutional guarantees of due process of law. This, of course, is presently the case if an American citizen overseas commits a crime. He is then subject to prosecution by the foreign government, and under the laws of the country in which he has committed the crime. The word genocide, however, brings out exceptional fears of mischievous prosecution and to alleviate these fears the committee has recommended an understanding to article VI which links our interpretation of that article to the negotiating history of the convention, specifically to the explanatory text inserted in the Report of the Legal Committee of the United Nations General Assembly on the Convention which I read:

> The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

This is incorporation in the recommended resolution of ratification and reads as follows:

> That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committees of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

Mr. President, at this point I wish to observe that a reservation is at the desk which the sponsors propose to substitute in place of the understanding which I have just read. At the appropriate time, the Senator will be asked to vote on substituting the reservation in place of the understanding.

The reason for this is that the reservation has binding legal effect; it becomes a condition on which the ratification of the treaty rests. It surely should eliminate any basis for argument that this convention could somehow lead to the extradition of an American citizen for trial on the charge of genocide, allegedly committed outside the United States, in a tribunal where he would not be guaranteed the rights of an accused under the Constitution of this country.

I ask unanimous consent that the corrected text of the reservation be printed in the Record at this point.

There being no objection, the corrected reservation and amendments were ordered to be printed in the Record, as follows:

Reservation and Amendments

In the introductory matter preceding clause 1, strike out "and declaration" and insert in lieu thereof a comma and the following: "declaration, and reservation."

Strike out clause 3.

Strike out "4" and insert in lieu thereof "3".

Insert a new section 4, as follows:

4. That, subject to the reservation, which

> is hereby made a part and condition of the resolution of ratification,
>
> (a) nothing in article VI of the convention shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States; and
>
> (b) the Secretary of State, in negotiating extradition treaties conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and
>
> (1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or
>
> (2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or
>
> (3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution

Mr. CHURCH. Mr. President, the reservation states in a simple and straightforward way that by ratifying the treaty "nothing in article VI of the convention shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States." This plain sentence should remove any question about the meaning of article VI.

It reserves to the United States the right to try before its own courts citizens who have committed genocide crimes outside the United States. This theory of concurrent jurisdiction over a criminal act—one based on the nationality of the alleged criminal and the other on the site of the alleged crime—is not unique. Any number of nations have asserted it and so has the United States in certain matters, such as treason, counterfeiting, hijacking, and terrorist acts against foreign officials, among other crimes.

If the United States asserts the right to try its own citizens for the crime of genocide no matter where commited, it follows, of course, that article VII on extradition will have little or no effect as far as the United States is concerned.

The article on extradition, moreover, is not self-executing. None of our laws and treaties now in force contain genocide as an extraditable crime. To give this article legal effect would require the long and tedious renegotiation of all of our extradition treaties which are generally with countries whose judicial systems contain safeguards compatible with our own.

As a further safeguard, however, I have included language in my reservation set forth in subsection (b), which reads as follows:

> (b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and
>
> (1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or

I do not know how language could be drafted that would make the protection of the constitutional rights of our own citizens more clear.

Mr. President, I believe that this wording should remove any lingering fear of U.S. citizens being extradited to some dictatorship abroad and thus deprived of the fundamental guarantees of a fair trial.

Moreover, I point out to the Senate that we do not have to trust future Secretaries of State in order to make certain that this protective language is inserted in any future extradition treaty, inasmuch as all such treaties must be brought before the Senate for ratification, and the Senate can then determine whether or not the Secretary of State has fully complied with the provisions of this reservation.

Now let me turn to the opposite side of the coin. There are some Senators who have expressed a fear that a reservation of this kind might somehow vitiate the object and purpose of the Genocide Convention. I can assure them that they are, indeed, compatible with the objective of the treaty, and do not alter or affect its major humanitarian goal.

In this connection, I would point out that 26 other governments, presently parties to the treaty, have made reservations to various articles of the convention. Indeed, so many countries entered reservations that an advisory opinion was sought from the International Court of Justice as to their effect on the treaty. This opinion is discussed in some detail in a legal memorandum prepared for me which concludes that the reservation we are offering is consistent with the treaty under the guidelines laid down by the Court in 1957. I ask unanimous consent to have excerpts from this memorandum inserted in the RECORD at the conclusion of my statement.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHURCH. The reservation we propose is also consistent with the testimony of the executive branch during the hearings a copy of which is at each Senator's desk. The thrust of the testimony was that the concerns addressed by the reservation about site of trial and extradition were met implicitly in the negotiation of the treaty or would be met explicitly in future extradition treaties which, in turn, would have to be approved individually by the Senate. The executive branch, therefore, may argue that the reservation we offer is unnecessary. Nevertheless, I believe in making these matters explicit, here and now, without reference to past or future negotiations.

I have gone into some detail about these articles and the effect of the proposed reservation to demonstrate that even the most tenuous worries expressed during the hearings by some of my colleagues have not gone ignored; I have attempted to meet their concern in what I believe to be the legal, the practical and the effective way.

Why is it important then that we give our advice and consent to the ratification of this instrument? Are we engaging in a purely symbolic act? I asked this question of some of the witnesses at the hearings, pointing out that not one of the 78 nations that are now parties to the convention has ever brought a case under the treaty against anyone, nor raised an issue under the treaty in the United Nations. In response to my question, there was much talk about its "deterrent" effect, much talk about the building of international law, the importance of world public opinion, and of human rights. While I do not wish to belittle the importance of these concepts, the response reinforced my personal belief that approval of this treaty is largely a symbolic gesture.

But such gestures are at times important and I believe this is one of those times because the convention itself has acquired a status and significance totally unrelated to its actual application. It has become symbolic of the world's abhorrence of the barbarism of genocide. If it were possible to roll back time and rewrite the treaty as a simple statement of general principles for the civilized conduct of nations, perhaps that would be the easier way. But this is not possible. The very vagueness of the wording of the treaty, however, casts it in the form of a statement of principles relating to genocide to which the American people can fully subscribe.

As a symbolic act, it is not an empty gesture. As a people we abhor genocide. Why should we be so hesitant, therefore, to say so by approving this convention? In fact, by remaining outside the convention, we tend to give substance to vicious propaganda that the United States refrains from ratifying the treaty because it wishes to reserve the right to practice genocide at home and abroad. While we know this propaganda is maliciously absurd, why give it a semblance of credence in the eyes of the world?

Speaking of propaganda, the committee was fully aware that the word "genocide" has been bandied about loosely by various groups to describe acts committed by other groups. While approving the convention will not put an end to such wild charges, it will provide a definition agreed upon by the international community as to what constitutes genocide and what does not. Propaganda, I am afraid, will always be with us; but propaganda, we must remember, is far from being the same as a case in court. As a major world power, we will always be a target of malcontents, whether we approve the genocide convention or not. But our position on this issue, in the eyes of the world, would be strengthened by acting favorably on the treaty.

To conclude this opening statement, let me again stress the fact that I have omitted a detailed analysis of every word of the convention because, as I pointed out earlier, this is contained in the committee report, which now, by act of the Chair, will be made a part of this RECORD. As our debate proceeds, I will be ready to answer questions on any article that other Members of the Senate wish to raise. But the reservation we propose, if adopted by the Senate, should eliminate any basis for further doubt about safeguarding the individual rights of U.S. citizens.

Mr. President, I was a student studying law at the time this treaty was first submitted to the Senate. Whatever reasons there may have been in 1950 for deferring action on this treaty, these last 20 years of increasing domestic and international concern over human rights should lay them to rest. The time is at hand for the ratification of the Genocide Treaty.

EXHIBIT 1

EXCERPTS—INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Committee on Foreign Relations, to which was referred the International Convention on the Prevention and Punishment of the Crime of Genocide (Ex. O, 81st Cong., first sess.), having considered the same, reports favorably thereon with three understandings and one declaration and recommends that the Senate advise and consent to ratification thereof.

MAIN PURPOSE

The purpose of the treaty is to make genocide an international crime, whether committed during peace or war. To that end, the treaty defines genocide to be certain enumerated acts, which whether committed by constitutionally responsible rulers, public officials, or private individuals are punishable. Other articles deal with implementing legislation, trial of persons charged with genocide, extradition, reference to the United Nations, and settlement of disputes regarding interpretation or application of the convention. These provisions are described in detail below as are the understandings and declaration the text of which follows:

"1. That the U.S. Government understands and construes the words 'intent to destroy, in whole or in part, a national ethnical, racial, or religious group, as such' appearing in article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in article II in such manner as to affect a substantial part of the group concerned.

"2. That the U.S. Government understands and construes the words 'mental harm' appearing in article II(b) of this convention to mean permanent impairment of mental faculties.

"3. That the U.S. Government understands and construes article VI of the convention in accordance with the agreed language of the report of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state.

"4. That the U.S. Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted."

PROVISIONS OF THE CONVENTION

Because the term "genocide" has been so loosely bandied about, the committee wishes to be quite explicit in the following analysis on what it construes the provisions of the convention to mean. Articles X to XIX are entirely procedural in nature; thus only articles I to IX are discussed below.

Genocide—An international crime

Article I

The contracting parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

The article largely speaks for itself. It adds genocide to a number of other international crimes which nations have agreed to punish in international agreements pertaining to such matters as protection of submarine cables, pelagic sealing, oil pollution, and antisocial conduct like slave trading, and production and trade in narcotics.

In the past, the power of the United States under the Constitution to make treaties in the human rights field has been questioned on the grounds that the treatment by a state of its nationals is a matter of domestic jurisdition. This was one of the points raised in opposition to the Genocide Convention by officials of the American Bar Association and by Senator Ervin. The argument runs that the definition of crimes and prescription of punishment is a matter of purely domestic—and not international—concern and therefore the treatymaking power does not extend to this area. On both moral and practical grounds, the commission of genocide, involving as it must mass action, cannot help but be of concern to the community of nations. An indication that this is so is the fact that 76 nations have subscribed to the proposition that genocide is an international crime.

The committee also finds some merit in the argument that if the U.S. Government is conceded the power to make treaties governing the killing of seals, it is capable of acceding to a treaty on the killing of people.

Since the treaty, in article I, specifically refers to "time of war," the possible effect of the Genocide Convention on U.S. military forces abroad, especially when in combat, was carefully considered. This is particularly relevant since the word "genocide" has been loosely applied to the incidents at My Lai. However, as will be seen in the discussion of article II below where genocide is defined, whatever occurred at My Lai—and the committee does not prejudge the matter—it was not genocide, as defined in the treaty. Combat actions do not fall within the meaning of the Genocide Convention. They are subject to other international and national laws.

In the opinion of most witnesses, ratification of the Genocide Convention would not alter the situation of American military forces in peace or war in any way or create any new hazard for them. This is an essential point to bear in mind in connection with the treaty's effect on our Armed Forces.

Acts constituting genocide

Article II

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

The testimony and discussion of article II turned on the alleged vagueness of certain of its terms—"in whole or in part," "groups," "as such," and "mental harm." While the committee had no particular problem with the meaning of these words, in order to allay any misconceptions, it recommends to the Senate two understandings to this article:

(1) That the U.S. Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" appearing in article II to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in article II in such a manner as to affect a substantial part of the group concerned.

(2) That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) to mean permanent impairment of mental faculties.

The first of these understandings serves to emphasize the importance which the committee attaches to the word "intent." Basic to any charge of genocide must be the *intent* to destroy an entire group because of the fact that it is a certain national, ethnical, racial, or religious group, in such a manner as to affect a substantial part of the group. There have been allegations that school busing, birth control clinics, lynchings, police actions with respect to the Black Panthers, and the incidents at My Lai constitute genocide. The committee wants to make clear that under the terms of article II none of these and similar acts is genocide unless the *intent* to destroy the group as a group is proven. Harassment of minority groups and racial and religious intolerance generally, no matter how much to be deplored, are not outlawed per se by the Genocide Convention. Far from outlawing discrimination, article II is so written as to make it, in fact, difficult to prove the "intent" element necessary to sustain a charge of genocide against anyone.

In its construction of article II, the committee is not only expressing its own view but also that of the Department of State in testimony presented in 1950 by then Deputy Under Secretary of State Dean Rusk:

STATEMENT OF DEAN RUSK, DEPUTY UNDER SECRETARY OF STATE, BEFORE THE GENOCIDE SUBCOMMITTEE, JANUARY 23, 1953—EXCERPT

Mr. RUSK. * * * Genocide, as defined in article II of the convention, consists of the commission of certain specified acts, such as killing or causing serious bodily harm to individuals who are members of a national, ethnical, racial, or religious group, with the intent to destroy that group. The legislative history of article II shows that the United Nations negotiators felt that it should not be necessary that an entire human group be destroyed to constitute the crime of genocide, but rather that genocide meant the partial destruction of such a group *with the intent to destroy the entire group concerned.*

Senator McMAHON. That is important. They must have the intent to destroy the entire group.

Mr. RUSK. That is correct.

Senator McMAHON. In other words, an action leveled against one or two of a race or religion would not be, as I understand it, the crime of genocide. They must have the intent to go through and kill them all.

Mr. RUSK. That is correct. This convention does not aim at the violent expression of prejudice which is directed against individual members of groups.

Senator LODGE. Is that the difference between genocide and homicide?

Mr. RUSK. That is the principal difference, yes. [Emphasis supplied.]

The second of the understandings was suggested by the executive branch in 1949, and while the executive branch no longer considers this understanding to be necessary, the committee thinks it will be helpful to eliminate any doubt as to what is meant by "mental harm."

These two understandings are further defined in the implementing legislation which is printed as an appendix to this report.

Some witnesses deplored the omission of "political" groups in article II. While inclusion of the word "political" might have been desirable, the difficulty of defining a "political group" would have raised further questions about the scope of the convention. In any event, the absence of this word from the treaty is no reason not to protect the groups that are covered by it.

Punishable acts

Article III

The following acts shall be punishable:

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

The principal question about the meaning of article III concerned the relationship of the words "direct and public incitement to commit genocide" to the freedom of speech guarantees of the first amendment. This question was raised with Assistant Attorney General William H. Rehnquist in 1970 as follows:

> Senator CHURCH. In other words, you are satisfied that such constitutional protection, as presently exists in the field of free speech, would not be adversely affected in any way by the terms of this convention?
>
> Mr. REHNQUIST. I am satisfied, first, that they would not be and, second, that they could not be.

The 1969 case of *Brandenburg* v. *Ohio* was cited by several witnesses as the most recent reaffirmation of the line drawn by the Supreme Court between protected speech and prohibited direct and immediate incitement to action. In that case, the Court said: "* * * the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." (395 U.S. 444.) This is a 1969 per curiam decision of the Supreme Court and there is no reason to expect any reversal of this doctrine, with which the language of the Genocide Convention is consistent.

Among those citing this case was the witness for the American Civil Liberties Union who added: "* * * if this convention did interfere with the first amendment the American Civil Liberties Union would be the first one to be complaining, without regard to whether or not we commend the objectives of the convention. However, we do not think there is any problem under the first amendment to the Constitution."

Punishment of persons

Article IV

Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

While most of the testimony on this article attempted to establish that governments, as well as individuals, could be held responsible for commission of genocidal acts, the committee believes that this argument is somewhat strained. The article clearly refers to "persons." The government's responsibility is to punish such persons, whether they are constitutionally responsible rulers, public officials, or private individuals. Since it is unlikely that genocide could be committed without the explicit or implicit approval of the government of the country in which it occurred, the absence of specific references to governments in article IV could be considered a drawback. However, the committee points out that there is nothing the international community could effectively do to prevent and punish government-instigated genocide in any case. To be sure, charges could be brought before the International Court of Justice and the United Nations to bring moral pressures to bear on the offenders but that is all. Thus, while on the one hand the committee believes that the convention would have been stronger for being directed at governments as well as individuals, on the other hand it recognizes that there exists no present means in international law to punish a government in power. A successor government would, of course, be obligated under the convention to bring charges against its former public officials for genocidal acts.

Implementing legislation

Article V

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

This article makes clear that the convention is construed not be self-executing and that implementing legislation is required to give effect to its provisions. Indeed, the committee regards Senate approval of the convention as the first in a two-step procedure. The Department of State is already on record as proposing to recommend to the President that the instrument of ratification of the convention not be deposited until the implementing legislation has been enacted. This statement by the Department has been incorporated into a declaration to be included on the resolution of ratification as follows:

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

While Senate approval constitutes the first step towards the United States becoming a party to the treaty, the committee attaches equal importance to the second step—enactment of the implementing legislation. The committee has not concerned itself directly with the implementing legislation in the belief that his should be judged on its own merits. In light of the interest expressed in this legislation, however, the committee asked the executive branch to expedite its submission to the Congress which it did. This legislation was introduced on February 16, 1972 by Senators Scott and Javits as S. 3182 and is reproduced in the appendix for the information of the Senate, inasmuch as it will be helpful in the consideration of the convention as an indication of how the domestic law is proposed to be shaped to fulfill our treaty obligations. While this bill died at the close of the 92d Congress due to lack of action, the Committee has been informed that the executive branch is prepared to resubmit the proposed legislation at an early date. The committee expects the draft of this legislation to be considered in accordance with the regular legislative procedures.

The argument made during the course of the hearings that in the absence of a treaty the Congress would have no power to enact the kind of legislation required by the treaty is discussed below in the section on "The Convention and the Constitution" but the committee notes at this point its belief that the Congress is full empowered to define certain acts as Federal crimes, as it has already done in many instances—as the killing of heads of state and other foreign officials—and is continuing to do in other categories.

Trial of persons charged with genocide

Article VI

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

This article provoked considerable discussion, not because of its language but because of the means suggested for its implementation. Executive branch and other testimony brought out that the negotiating history of the convention makes it clear that the courts of the country in which the accused has citizenship can likewise have jurisdiction over the crime. This theory of concurrent jurisdiction—jurisdiction based on the site of the alleged offense and jurisdiction based on the nationality of the offender—was thoroughly explored during the hearings. It was pointed out that a number of nations, particularly colonial powers, have consistently asserted the right to try their own nationals for crimes committed outside their territory. Even the United States in certain limited areas—counterfeiting, theft of Government property, treason, antitrust violations—has exercised jurisdiction over its citizens for acts committed abroad. This concept of concurrent jurisdiction no doubt will be closely examined during consideration of the implementing legislation. However, the U.S. Government should make it clear to the other contracting parties that it intends to construe article VI so as to permit it to try its own nationals for punishable genocidal acts whether committed at home or abroad. For this reason, the committee recommends to the Senate the following understanding:

(3) That the U.S. Government understands and construes article VI of the convention in accordance with the agreed language of the report of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

The pertinent excerpt from the report referred to in the understanding follows:

Report of the Sixth Committee—U.N. Document A/760 and Corr. 2, 3 December 1948

[Excerpt]

24. At its 131st meeting, the Committee had agreed to insert in its report to the General Assembly the substance of an amendment to article VI submitted by the representative of India, according to which nothing in the article should affect the right of any State to bring to trial before its own tribunals any of its nationals for *acts committed outside the State*. Following this, the representative of Sweden had requested that the report should also indicate that article VI did not deprive a State of jurisdiction in the case of *crimes committed against its nationals outside national territory*. After some discussion of the questions raised in this connexion, the Committee, at its 134th meeting, adopted, by 20 votes to 8, with 6 abstentions, an explanatory text[1] for insertion in the present report. (Italics supplied.)

It should go without saying that the United States cannot exercise jurisdiction unless the accused is in U.S. territory.

Only brief reference needs to be made to the clause in article VI which provides that persons charged with genocide shall be tried "by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction." No such international penal tribunal has been established and the International Court of Justice has no penal or criminal jurisdiction. That part of article VI is therefore a dead letter at this time. If a penal tribunal should be established—and there are no present plans to do so—separate action either through ratification of a treaty or enactment of a law would be required for the United States to accept its jurisdiction.

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[1] The text reads as follows:

"The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, *it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State*." [Emphasis supplied.]

Extradition

Article VII

Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.

Article VII has no immediate effect. It does not constitute an extradition treaty in itself. It obligates the contracting parties to grant extradition in accordance with their laws and treaties in force and neither U.S. law, nor any extradition treaty to which the United States is a party, covers genocide at this time.

The question of extradition was carefully examined by the committee and subcommittee in the light of concerns that American citizens might be extradited for trial in foreign courts without the protection of U.S. constitutional guarantees. Ratification of the Genocide Convention, however, does not affect any problem which may exist in this respect. It merely opens the way for adding one more crime—genocide—to the list of crimes for which Americans may be extradited under ratified extradition treaties. Extradition treaties are carefully worded to be as explicit as possible about the definition of the crimes covered and the procedure under which a citizen will be surrendered to another nation for trial. No general sweeping accusation would suffice.

During the extensive committee discussion of the extradition article, Senator Cooper offered the following reservation:

That a U.S. Citizen in the United States charged with having committed an act outside the United States in violation of the treaty provisions shall not be subject to extradition unless the Secretary of State determines such person is guaranteed all the constitutional rights of an accused under our Federal laws.

As previously noted, the committee voted 7 to 6 to table this reservation, not so much because members were opposed to its thrust but because such policy would be more properly expressed in the implementing legislation.

In this connection, the committee calls particular attention to Sec. 3 of the implementing legislation which reads:

"SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

"(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

"(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense."

Role of the United Nations

Article VIII

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

In the discussion of this article, the question was raised whether it would broaden or enlarge the powers of the United Nations. Genocide, as the term is accepted by the committee, namely, mass murder on a broad scale, would either jeopardize human rights provisions of the charter or pose a threat to world peace and therefore it would clearly be within the powers of the United Nations to discuss it. The article itself moreover refers to "action under the Charter of the United Nations" which limits its scope to that document, including the article 2(7) proscription against intervention "in matters which are essentially within the domestic jurisdiction of any state * * *."

As a practical matter, whether we are a party to the Genocide Convention or not, the United Nations can discuss alleged genocide in the United States or anywhere else any time it so chooses. The committee moreover is quite certain that for propaganda and other purposes spurious charges of this nature will continue to be made in the United Nations, whether we do or do not ratify the Genocide Convention, if only because our position in the world makes us a visible target of discontent. Indeed, we lend more color to such charges by not being a party to the Genocide Convention. This being the case, the question whether article VIII gives the United Nations greater scope to discuss genocide seems relatively immaterial. It is important, moreover, in this connection to bear in mind that such enforcement powers as the United Nations has are lodged in the Security Council, subject to the veto power, which the United States now has demonstrated it is prepared to exercise.

Settlement of disputes

Article IX

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

The jurisdiction of the Court will extend to disputes relating to the interpretation, application, or fulfillment of the convention, including those relating to the responsibility of a state for genocide. It must be noted that such cases will fall under article 36(1) of the Court's statute which provides:

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or *in treaties and conventions in force*. [Emphasis added.]

Cases arising under the Genocide Convention will not be covered by the Connally amendment under which the United States reserves to itself the right to determine which cases it considers to be within its domestic jurisdiction and therefore outside the jurisdiction of the Court. The Connally amendment applies only to article 36(2)—the so-called compulsory jurisdiction clause.

Provisions similar to Article IX are included in many multilateral and bilateral conventions to which the United States is a party. A list of these appears on page 215 of the 1970 hearings. Prominent examples include the Japanese Peace Treaty, the Antarctic Treaty, and the Statute of the International Atomic Energy Agency.

It must also be noted that a number of countries, notably the Communist bloc, have ratified the treaty subject to the reservation that they do not consider themselves bound by article IX. Other countries have taken exception to this and other reservations. The United States is expected to do likewise. As a consequence, the United States could invoke the Communist bloc reservation in its own behalf in cases brought by members of the bloc.

The committee does not envisage any real difficulties resulting from article IX. No disputes arising from alleged violations of the Genocide Convention have been brought before the Court to date; moreover, hardly any disputes of any kind have been brought before the Court. This is not to say, of course, that the United States might not be some day charged with nonfulfillment of the treaty by another signatory and might even be found in default of its treaty obligation—though this is hard to conceive—but as a practical matter that is where it would end. The Court has no enforcement powers. It is also well to recall that only states party to the Statute can bring cases before the World Court—not individuals or groups. In the committee's view, the fears expressed about the role of a moribund court in genocide matters appear very far fetched.

THE CONVENTION AND THE CONSTITUTION

Discussion of the Genocide Convention during the hearings renewed the debate over whether a treaty can authorize what the Constitution prohibits. The Supreme Court, in its own words, "has regularly and uniformly recognized the supremacy of the Constitution over a treaty" (*Reid* v. *Covert*, 354 U.S. 1, 16–18). It is therefore fallacious to claim that the Genocide Convention will supersede or set aside the Constitution of the United States. It will not and cannot do so.

A related argument was raised by some witnesses to the effect that the Congress would have no power to enact legislation making genocide a crime if the convention were not approved. The power of Congress to do so rests on article I, section 8, clause 10, of the Constitution: "The Congress shall have the Power * * * To Define and Punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations * * *," as well as on the necessary and proper clause. The fact that the Congress enacts a statute pursuant to a treaty, as would be the case in the Genocide Convention, does not alter its competence to enact such legislation in any event.

As regards the respective jurisdiction of Federal and State governments over the crime of genocide, if the treaty is approved, the committee calls attention to Sec. 2 of the proposed implementing legislation, which provides:

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

UNDERSTANDINGS

The understandings and declaration which the committee agreed to recommend to the Senate have been discussed in the text of the report as well as reproduced at the beginning and in the resolution of ratification which is appended to this report.

There was considerable discussion as to the nature and effect of these understandings. For this reason, there follows a memorandum on this question, prepared at the committee's request by the Department of State.

DEPARTMENT OF STATE,
Washington, D.C., March 26, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In the hearings on March 10, 1971, on the Genocide Convention before a subcommittee of the Senate Foreign Relations Committee, questions were raised concerning the difference between a "reservation" and an "understanding" and as to the legal effect of the latter. In response to Senator Javits' request, I enclose a memorandum on the subject, prepared in the Office of the Legal Adviser.

There was also some discussion in the hearings as to whether the understandings to the Genocide Convention recommended by the Foreign Relations Committee in Executive Report No. 91-25 were properly designated as such or whether they should more appropriately be termed reservations. I would like to take this occasion to express the view of the Department of State that the proposed understandings and declarations set forth in the report are properly designated. We feel that it is neither necessary nor desirable to redesignate any of them as reservations.

The first of these understandings merely serves to emphasize that the element of "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such" is basic in proving a charge of genocide, and consequently proof would be required that the genocidal acts charged had been committed "in such a manner as to affect a substantial part of the group concerned."

The second proposed understanding construes the words "mental harm" in article II to mean "permanent impairment of mental faculties." This construction is in keeping with the generally understood meaning of the term in the context of article II. It would make clear that the term could not be construed as applying to various lesser forms of mental harassment toward minority groups. This construction is consistent with the negotiating history of the convention.

The third proposed understanding is explicitly based on the negotiating record of the convention, which clearly adopts the interpretation that nothing in Article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state. The possibility of concurrent jurisdiction thus created is supported not only by the negotiating record but by the practice of other states.

The Department regards all three of these understandings as consistent with the terms of the convention and as not excluding or modifying their legal effect.

We trust that this information will be useful in answering the questions raised in the subcommittee hearings, but if we can be of any further assistance, please let us know.

We are looking forward to prompt and favorable action on the Genocide Convention by the committee and the Senate as a whole.

Sincerely yours,

DAVID M. ABSHIRE.

[From the Office of the Legal Adviser, Department of State, March 22, 1971]

MEMORANDUM CONCERNING RESERVATIONS AND UNDERSTANDINGS TO TREATIES

A statement made in or accompanying the ratification of a treaty constitutes a reservation when it would exclude or vary the legal effect of one or more of the provisions of the treaty in their application to the reserving State.

A statement made in or accompanying the ratification of a treaty which merely explains or clarifies the meaning of the provisions of the treaty but does not exclude or vary their legal effect would constitute an understanding.

A statement intended by a ratifying State to exclude or to modify the legal effect of one or more provisions of a treaty as applied to that State should be designated by that State as a "reservation". Where a State wishes to set forth its interpretation of the provisions of a treaty without intending to change their legal effect as understood by it, the statement should be designated as an "understanding".

The designation by the ratifying State is not controlling. Whether the statement modifies the legal effect of the treaty or merely expresses its true intent depends on the substance of the statement and is not solely within the judgment of the State making the statement.

A statement made as a condition to a State's ratification, whether designated as a "reservation" or an "understanding", is communicated by the depository to the other signatory and acceding States. Each of those States has the right to decide whether the statement modifies the legal effect of the treaty and whether it will consider itself in treaty relations with the reserving State. Failure of other States to object within a reasonable time may be regarded as acceptance by them of the reservation or understanding, which thereupon has legal effect internationally as a condition to the ratification of the State making it.

In United States law a condition placed by the Senate on its approval of a treaty—whether by reservation or by understanding—and included by the President in the instrument of ratification takes effect as domestic law along with the treaty itself. This is a necessary result of the shared constitutional role of the President and the Senate in the treaty-making process.

It is to be noted that the term "reservation" applies only when a statement accompanying ratification "would exclude or vary the legal effect of one or more of the provisions of the treaty in their application to the reserving state." None of the statements recommended by the committee, nor indeed otherwise suggested to date, falls under this definition since, in the view of the committee concurred in by the Department of State, they are consistent with the treaty, its negotiating history, and the practice of other contracting states. Indeed, it can be argued that they merely describe the tenor of the implementing legislation to be enacted which is a matter of our domestic concern. The same logic also applies to the argument that the committee-sponsored understandings somehow weaken or lessen the effect of U.S. ratification of the treaty. It is the committee's view that undertaking to explain what the convention means to the United States in no way downgrades the treaty or the obligations assumed by the U.S. under its provisions. It is a legitimate exercise of the Senate's advise and consent function. The essential point remains that ratification of the convention is worthwhile, regardless of the effect of the understandings.

A related concern that the Supreme Court would disregard the proposed understandings, reverts to the allegation that the understandings contravene the explicit language of the convention despite the committee's expressed view to the contrary. The Supreme Court can be expected to give full weight to the view of the committee and the negotiating history of the convention in any matter that might come before the Court in connection with the treaty.

WHAT THE CONVENTION DOES NOT DO

At the risk of being repetitious, the committee emphasizes again what the convention does not do.

It does not alter the rules of warfare, or the obligations of parties to the Geneva conventions on the treatment of prisoners of war and protection of civilian persons in time of war.

It does not apply to civil wars as such.

It does not apply to persecutions such as the currently headlined Soviet treatment of its Jewish population.

It does not apply to discrimination, racial slurs, and insults, and the like.

It does not apply to voluntary population control measures.

It does not apply to the past.

Charges that any or all of these actions might constitute genocide in one nation or another have been bandied about loosely over the years but here the committee again wishes to emphasize that a charge does not constitute proof of an act of genocide. In every case, the element of intent is crucial. In the 22-year history of the Genocide Convention no single prosecution has taken place in any of the nations party to it.

Illustrative of the type of charge involved here—and the kind the United States might have to contend with from time to time—is one cited by the ABA representatives. It is contained in a booklet entitled "We Charge Genocide: The historic petition to the United Nations for relief from the crime of the United States Government against the Negro People." This petition was first presented to the United Nations in 1951 and has now been reprinted with a new preface and foreword. The United Nations has done nothing with it in 22 years, even though, under the charter it can discuss anything that is brought to its attention, irrespective of adherence or nonadherence of a member to a particular treaty. The committee cites this to put such charges, past and future, in a practical perspective. Charges have been made and will no doubt be made again, even though the United States has enacted historic civil rights legislation since 1951, but the committee cannot stress enough that such charges, domestic or foreign, do not constitute genocidal acts just because someone labels them so. Genocide is what the convention says and not what crusaders for human rights, no matter how well motivated, allege.

The convention, in fact, leaves so many areas unaffected that this is, oddly enough, one of the main criticisms made by some of the opponents. The committee was told that the convention "is so full of holes" as to be worthless and that the United States should instead work to persuade the United Nations to negotiate one with teeth in it—one which would cover political groups and governments and which would correct other alleged deficiencies. Even if there was merit to this view, the practical difficulties of renegotiating a 25-year-old treaty by the now 132-member United Nations are formidable.

CONCLUSIONS

Genocide has become a word in altogether too common usage. The committee therefore has been careful in this report to narrow its meaning and not to overstate the scope of the convention. We have been concerned largely with describing what it does not do. We find no substantial merit in the arguments against the convention.

Indeed, there is a note of fear behind most arguments—as if genocide were rampant in the United States and this Nation could not afford to have its actions examined by international organs—as if our Supreme Court would lose its collective mind and make of the treaty something it is not—as if we as a people don't trust ourselves and our society. The rhetoric of the opponents, and to a degree the proponents, has obscured what a modest step the convention represents.

Philosophical, moral, and constitutional questions have been raised which go far beyond this modest step and probe man's relationship to his fellow man and the responsibilities of governments to protect the rights of their citizens. These questions appear inherent in the area of human rights treaties and legislation, and it is good that they are raised, because they serve to lift our sights to what is really at issue here, an attempt to curb the excesses of mankind. As our planet becomes more crowded, man's behavior towards his fellows must be governed by standards ever higher and more humane. This treaty seeks to set a higher standard, of international morality and should be judged on that basis.

This higher plane of viewing the convention is suggested in the following statements of our Presidents:

The words of President Truman in submitting the Genocide Convention in 1949 still hold true:

> By giving its advice and consent to my ratification of this convention, which I urge, the Senate of the United States will demonstrate that the United States is prepared to take effective action on its part to contribute

to the establishment of principles of law and justice.

The words of President Kennedy, in submitting three related human rights treaties, also apply:

The day-to-day unfolding of events makes it ever clearer that our own welfare is interrelated with the rights and freedoms assured the peoples of other nations. * * * There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

And, finally, the committee concurs with the words of President Nixon:

I believe we should delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever.

The committee, therefore, earnestly recommends to the Senate that, subject to the understandings and declarations, the Senate give its advice and consent to ratification of the Genocide Convention by an overwhelming vote. Respect for the feelings of mankind, expressed by the 76 ratifications to date, should lead to no less.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O, Eighty-first Congress, first session), subject to the following understandings and declaration:

1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial, or religious groups as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

2. That the United States Government understands and construes the words "mental harm" appearing in Article II(b) of this Convention to mean permanent impairment of mental faculties.

3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

EXHIBIT 2

Washington, D.C., December 10, 1973.

To: Hon. Frank Church.

Subject: Genocide Convention.

Reference is made to your request concerning the above subject. Specifically, you asked for an analysis of a draft reservation to the Genocide Convention which may be offered in the Senate, and a specific finding whether the effect of this reservation would require submission to other signatory parties for approval.

Taking the latter question first, it should be noted that the "effect" of a particular reservation to a multilateral Convention does not necessarily determine whether the reservation must be submitted *per se* to other signatories for approval. "It is customary for the depositary of ratifications (either a state or the secretariat of an international organization) to call to the attention of all signatories any reservation communicated to the depositary and to request an express statement of position as to the reservation." American Law Institute, *Restatement of the Foreign Relations Law of the United States* § 128 (1965) at Comment "d." Moreover, the International Court of Justice has indicated that with respect to the Genocide Convention "each State which is a party to the Convention is entitled to appraise the validity of the reservation, and it exercises this right individually and from its own standpoint," and that "no State can be bound by a reservation to which it has not consented." *Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide,* [1951] I.J.C. Reports 4, 15. Finally, Article 23(1) of the Vienna Convention on the Law of Treaties, signed by the United States on April 24, 1970, but as yet not in force, indicates that "[a] reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty."

A different, and somewhat more complex question, which arises after a reservation has been submitted to other contracting State for approval, concerns the effect of the reservation upon the legal position of the reserving State *vis a vis* the Convention. The traditional rule, and one which has been acknowledged by the International Court, holds that—

"It is . . . a generally recognized principle that a multilateral convention is the result of an agreement freely concluded upon its clauses and that consequently none of the contracting parties is entitled to frustrate or impair, by means of unilateral decisions or particular agreements the purpose and *raison d'etre* of the convention. To this principle was linked the notion of the integrity of the convention as adopted, a notion which in its traditional concept involved the proposition that no reservation was valid unless it was accepted by all the contracting parties without exception, as would have been the case if it had been stated during the negotiations.

"This concept, which is directly inspired by the notion of contract, is of undisputed value as a principle." [1951] I.C.J. *Reports, supra*, at 21.

The traditional rule has been modified, however, in regard to the Genocide Convention. The International Court has indicated that with respect to this Convention "it is proper to refer to a variety of circumstances which would lead to a more flexible application of this principle." [1951] I.C.J. Reports, *supra*, at 21. The Court has identified a number of factors which demonstrate that the signatory States intended participation to be as wide as possible. Among these are "the universal character of the United Nations under whose auspices the Convention was concluded," the "very wide degree of participation envisaged by Article VI of the Convention," the more recent "flexibility in international practice" as evidenced by "more general resort to reservations" and the "very great allowance made for tacit assent to reservations," and finally the "manifestly . . . humanitarian and civilizing purpose" of the Convention. *Id.,* at 21 and 23. In light of these considerations the Court has concluded that "[t]he object and purpose of the Convention thus limit both the freedom of making reservations and that of objecting to them. It follows that it is the compatibility of a reservation with the object and purpose of the Convention that must furnish the criterion for the attitude of a State in making the reservation on accession as well as for the appraisal by a State in objecting to the reservation. Such is the rule of conduct which must guide every State in the appraisal which it must make, individually and from its own standpoint, of the admissibility of any reservation." *Id.,* at 24.

Accordingly, the Court advised the General Assembly as follows:

"In so far as concerns the Convention on the Prevention and Punishment of the Crime of Genocide, in the event of a State ratifying or acceding to the Convention subject to a reservation made either on ratification or on accession, or on signature followed by ratification,

* * * * *

"A State which has made and maintained a reservation which has been objected to by one or more of the parties to the Convention but not by others, can be regarded as being a party to the Convention, if the reservation is compatible with the object and purpose of the Convention; otherwise that State cannot be regarded as being a party to the Convention;

* * * * *

"If a party to the Convention objects to a reservation which it considers to be incompatible with the object and purpose of the Convention, it can in fact consider that the reserving State is not a party to the Convention; . . . if, on the other hand, a party accepts the reservation as being compatible with the object and purpose of the Convention, it can in fact consider that the reserving State is a party to the Convention . . ." *Id.,* at 29–30.

The General Assembly noted the Court's advisory opinion and directed the Secretary-General of the United Nations to follow the advisory opinion in connection with the Genocide Convention. G.A. Res. 598, 6 U.N. GAOR Supp. 20, at 84, U.N. Doc. A/2119 (1952). The legal position of the United States, should it decide to accede to the Convention with the proposed reservation, would appear to depend, therefore, on whether its reservation is compatible with the object and purpose of the Convention. Moreover, under the Vienna Convention "a State may, when signing, ratifying, accepting, approving, or acceding to a treaty, formulate a reservation unless . . . the reservation is incompatible with the object and purpose of the treaty." Art. 19(c). The Vienna Convention further provides, in applicable part, that—

"Acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States; Art. 20(4) (a)

"An objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State; Art. 20(4) (b).

"An act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation." Art. 20(4) (c).

Turning to a consideration of the proposed United States reservation it should be noted that a unilateral determination of compatibility by the reserving State (i.e. the United States) is not binding upon other parties to the Convention. As previously indicated, the International Court has stated that the compatibility of a reservation with the object and purpose of the Convention is an issue not only for the reserving State but also for other party States, who are not bound by the reservation until they have given their consent thereto. Moreover, only those States which have actually "ratified" or "acceded to" the Genocide Convention are entitled to a legally effective objection to the proposed reservations of the United States:

An objection to a reservation made by a

signatory State which has not yet ratified the Convention can have legal effect . . . [with respect to the reserving State] . . . only upon ratification. Until that moment it merely serves as notice to the other State of the eventual attitude of the signatory State.

An objection to a reservation made by a State which is entitled to sign or accede but which has not yet done so, is without legal effect." [1951] I.C.J. Reports, *supra*, at 30.

Similarly, the Vienna Convention provides that acceptance of, and objection to, a reservation, is made by "contracting States" [Art. (1)(a) and (b)] which are defined as those States which have "consented to be bound by the treaty. Art. 2(1)(f). The consent to be bound by a treaty may exist by signature, ratification, accession, or by other means if the party States so agree. Art. 11. The Genocide Convention specifies that "[t]he present Convention shall be ratified . . ." and that [a]fter 1 January 1950, the present Convention may be acceded to . . ." Art. XI. It would seem, therefore, that under either the International Court's formulation or that of the Vienna Convention the compatibility of the United States reservation with the object and purpose of the Genocide Convention will be the subject of concern to both the United States, as the reserving State, and to those States which have ratified or acceded to the Convention.

Part (a) of the draft reservation to the Genocide Convention provides as follows:

"(a) nothing in Article VI shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States . . ."

This part of the reservation appears to be consistent with the object and purpose of the Convention. Article IV indicates that "persons committing genocide . . . shall be punished . . . ," and does not purport to specify the jurisdiction where such punishment must occur. Moreover, Article V, in providing that the "Contracting Parties undertake to enact . . . the necessary legislation . . . to provide effective penalties for persons guilty of genocide . . . ," also seems consistent with the trail of offenders by their national State. Article VI adds two additional forums for the trial of offenders, the first of these being "a competent tribunal of the State in the territory of which the act was committed." Under this formulation, the trial of a United States national would be permitted in the State where the act of genocide occurred. Such a procedure would be consistent with the general rule of international law that aliens (in this case, U.S. nationals) are subject to the legal regime applicable to nationals of other States. The United States would remain free to pursue a diplomatic claim against the State where the U.S. national was tried if the tribunals of that State failed to comply with minimum standards of international justice. Finally, the United States would be permitted under the Genocide Convention to try its own nationals. As noted in a recent *Report* of the Senate Foreign Relations Committee:

"Executive branch and other testimony brought out that the negotiating history of the convention makes it clear that the courts of the country in which the accused has citizenship can likewise have jurisdiction over the crime. This theory of concurrent jurisdiction—jurisdiction based on the site of the alleged offense and jurisdiction based on the nationality of the offender—was thoroughly explored during the hearings [on the Genocide Convention]. It was pointed out that a number of nations, particularly colonial powers, have consistently asserted the right to try their own nationals for crimes committed outside their territory. Even the United States in certain limited areas—counterfeiting, theft of Government property, treason, antitrust violations—has exercised jurisdiction over its citizens for acts committed abroad." Senate Executive Rept. No. 93–5, 93rd Cong., 1st Sess. 10 (1973).

During the Third Session of the U.N. General Assembly, the Sixth (Legal) Committee adopted the following explanatory text concerning Article VI:

"The first part of Article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State." Report of the Sixth Committee, U.N. Doc. A/760 (1948).

The second forum recognized by Article VI for the trial of offenders is an "international penal tribunal." The proposed United States reservation seems consistent with this provision because the acceptance of the international tribunal's authority applies only "to those Contracting Parties which shall have accepted its jurisdiction." A possible conflict between part (a) of the proposed reservation and Article VI might arise if the United States actually accepted the jurisdiction of the international tribunal, but consideration of this matter would appear to be speculative at the present time. As noted by the *Report* of the Senate Foreign Relations Committee, "[n]o such international penal tribunal has been established and the International Court of Justice has no penal or criminal jurisdiction. That part of Article VI is therefore a dead letter at this time. If a penal tribunal should be established—and there are no plans to do so—separate action either through ratification of a treaty or enactment of a law would be required for the United States to accept its jurisdiction." Senate Executive Rept. No. 93–5 *supra*, at 11.

* * * * *

Part (b) of the proposed reservation provides that:

"(b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and

"(1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or

"(2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or

"(3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution."

This part seems consistent with the object and purpose of the Genocide Convention. Article VII of the Convention provides that "[g]enocide and the other acts enumerated in Article III shall not be considered as political crimes for the purpose of extradition." This part of the proposed reservation is consistent with Article VII because no attempt is made to limit the extradition of political criminals.

The reservation is merely intended to insure that *all* United States citizens who have allegedly committed genocide are guaranteed federal constitutional rights. The reservation also appears to be in harmony with that part of Article VII of the Convention which specifies that "[t]he Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force." One of the "laws . . . in force" for the United States is the Constitution and specifically, the Bill of Rights, which is applicable in domestic criminal proceedings. Thus, the proposed reservation seems to fulfill the express requirements of Article VII by providing, in effect, that the Secretary of State shall not grant extradition unless he has determined that the accused will receive Bill of Rights protections in the requesting State. In this regard, the Senate Foreign Relations Committee *Report* indicates that "extradition treaties are carefully worded to be as explicit as possible about the definition of the crimes covered and the procedure under which a citizen will be surrendered to another nation for trial. No general sweeping accusation would suffice." Senate Executive Rept. No. 93–5 *supra*, at 11.

In conclusion, it may be noted that this memorandum has been limited solely to the legal questions raised by the inquiry. Nothing contained herein should be construed as a commentary upon the wisdom or necessity of the proposed reservation.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, few, if any, actions that the Senate of the United States could take would be more ill-advised and ill-conceived than would be the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, which is now under consideration by this body, and especially is that true with respect to the convention as reported by the Committee on Foreign Relations.

This is not because the people of the United States favor genocide or because they oppose efforts to prevent genocide. Like other civilized nations, the American people are unalterably opposed to this hideous crime in any and all of its forms and consequences. We firmly believe that such acts are contrary to moral law and are abhorrent to everyone who has a decent regard for the lives and dignity of all human beings.

Nevertheless, Mr. President, the convention before us, as reported by the Committee on Foreign Relations, and now being debated—despite the noble and humane intentions of its authors and supporters—would open a Pandora's box of complexities and uncertainties which the articles of the convention do not resolve within the framework of our Constitution and in a fashion so as to provide adequate security and protection for the American people.

The proposed treaty commits a surrender of sovereignty over vital internal affairs of our country to other nations and international tribunals.

This convention could lead to the creation of an international court to conduct trials of American citizens and members of our Armed Forces charged with the vaguely worded and poorly defined crime of "genocide" without reserving to them the constitutional safeguards and legal rights accorded to Americans charged with domestic crimes.

To illustrate: American soldiers who killed or seriously wounded North Vietnamese soldiers or civilians, members of the Vietcong, or South Vietnamese civilians while obeying the legitimate orders of their superiors might have been, under the terms of this convention, punishable by courts sitting in North or South Vietnam.

American pilots who happened to have killed North Vietnamese soldiers and civilians in bombing raids on targets in North Vietnam might well have been subject to trial and punishment in the courts of our enemies. And this is especially true of those who were captured and became prisoners of war.

They could have been tried by tribunals which have no tradition of individual freedom according to our concept of freedom and which have no regard or respect for human rights as we believe in human rights.

Our troops in Vietnam could have been tried without the basic consitutional guarantees for which they risked their lives and for which many of them died.

They could and would have been tried without the presumption of innocence and without protection in such vital matters as double jeopardy, search and seizure, and self-incrimination, which are imposed and enforced under our legal system.

This convention is so broad and all-encompassing that it could be construed to authorize any party to call upon the United Nations to take such action against the United States under the U.N. Charter as it considers "appropriate for the prevention and suppression of actions of genocide."

The legislative history of this treaty is compelling evidence of the complexities and uncertainties which surround it and of the confusion and chaos it is certain to generate in both national and international jurisprudence.

Mr. President as further evidence of this and in confirmation of what I have just said, we have only to look at our desks to find the proposed reservation and amendments which will be submitted, I assume, by the authors of the amendments—Senators CHURCH, JAVITS, and PROXMIRE. It has taken 25 years of consideration by the Committee on Foreign Relations of the Senate of the United States to report this treaty.

Mr. President, even after it is reported we find an amendment proposed here to it in reservations that obviously the Committee on Foreign Relations did not consider, or if it did, it did not act on them because this does not appear to be a committee amendment. If after 25 years of consideration we now at this late hour find that an amendment and reservation such as this that will be presented without the approval of the Committee on Foreign Relations, without its endorsement, without the Committee on Foreign Relations having considered it as such, I think we can wonder about what this original convention may contain and what it would authorize if it ever became effective.

This convention was first submitted to the Senate by President Truman on June 16, 1949, nearly 25 years ago. Since then, or for nearly a quarter century, the Senate in its wisdom has declined to consent to the Genocide Convention.

I am firmly of the opinion that this body was correct in withholding its ratification all these years, and we should not now approve it. There has been no change of circumstances or alteration of fact which has made suddenly expedient, desirable, and appropriate in 1974 that which was inappropriate and unwise in 1949.

If anything, the passage of time has confirmed the misgivings of those of us who are convinced that ratification of the Genocide Convention would have been inappropriate and unwise at anytime.

A year ago, the people of the United States were proudly hailing the return of the American prisoners of war from captivity in North Vietnam. But let us not forget that these prisoners might never have returned to their loved ones had this convention been ratified by the Senate and been fully in effect during the Vietnam war.

As Eberhard P. Deutsch, speaking in behalf of the American Bar Association, warned the Senate Foreign Relations Committee on March 10, 1971:

> The authorities in Hanoi have charged that members of armed forces of the United States have been guilty of committing genocide in the "alleged massacres of civilians in a South Vietnamese village."
>
> If the United States were a party to the Genocide Convention, she would necessarily have agreed that these soldiers would be subject to trial in Vietnam under the provisions of Article VI, and, if the United States and Vietnam should have an extradition treaty, would be subject to extradition for trial in Vietnam, even if deemed (or even found) innocent in this country.
>
> Of course, no extradition would be necessary as to our American prisoners in North Vietnam. That country, it may be assumed, would cite the Genocide Convention, if we were a party to it, as our consent to trial of those prisoners on such charges in that country, with the Nuremberg trials as a precedent sanctioning such procedure.

Let us note that Hanoi did charge members of our Armed Forces with acts—the crime—of genocide. Can anyone doubt, therefore, what action Hanoi would have taken if this treaty had been in effect? There can be no doubt about it.

Mr. Deutsch pointed out that the Foreign Relations Committee in a favorable report submitted to the 91st Congress recommended that the United States, if it ratified the Convention, should state that it "understands and construes article VI as containing nothing that would affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

I submit, however, that this expressed understanding and construction provides no protection whatever to the most flagrant faults and dangers of this Convention. The same language is contained in the report now before us. But as Mr. Deutsch pointed out:

> Such an understanding would under no circumstances, deprive any other country of its concurrent jurisdiction over the trial of such individuals, especially since the understanding pointedly fails to negative the obligation of the United States, under Article VII, to grant extradition of its citizens for trial in other countries with which it has extradition treaties.

In the light of these facts, Mr. President, it is noteworthy that during his 8 years in office, President Eisenhower did not urge the ratification of the Genocide Convention. Undoubtedly, his vast experience as a military commander enabled him to see clearly the potential dangers posed by this well-intentioned, but tragically misguided, agreement to America's Armed Forces and their personnel.

If the Senate were to make the grievous mistake of giving its advice and consent to the convention, it would dismantle our Constitution and demolish the entire structure that we have built up over the years to prevent the subordination of American sovereignty to the International Court of Justice.

The Connally amendment, which is designed to prevent this Court from exercising jurisdiction over the domestic affairs of the United States without our consent, would be made inapplicable to any of the matters covered by the convention. And the Vandenberg reservation to the jurisdiction of the International Court of Justice would also be nullified. Surely, the U.S. Senate is unwilling to do that.

In summary, the intentions of the proponents of this convention are well-intentioned, but they are tragically mistaken as to its full implications and the risks and dangers that are inherent therein.

I am convinced, Mr. President, that the Senate of the United States should not be persuaded, by even the noblest of sentiments, to give its advice and consent to a convention embodying the evils contained in this one—a convention that would deny our constitutional rights to American troops stationed abroad.

The full import of the meaning and the effective application of the amendment at the desk is not immediate, clear, and understandable. Even if it is to be considered, it should be considered, first, by the appropriate committee of this body. But it is presented here not as a committee amendment. It is presented here to a proposed treaty or convention that has been before this body for 25 years.

It does appear, Mr. President, that if the provisions contained in the proposed reservation and amendments have real merit and would cure the evils that are in the original convention as it appears before this body at this time, then they should have study and appropriate consideration and recommendation of the Foreign Relations Committee. I doubt if it is wise, I doubt if it is safe, in a matter of this consequence and magnitude for the Senate to undertake to place its stamp of approval on amendments of this nature that obviously have not had appropriate consideration by the Foreign Relations Committee. Or, if those provisions did have appropriate consideration by the committee, then it suggests the question why, if they are good, did the committee not approve of them and recommend them?

So, Mr. President, this is no time for haste. This is a time for thorough, careful, examination and deliberation with this 11th hour proposed reservation and the amendments.

Mr. President, in my judgment it would be the height of irony—a consummate folly—for us, by this treaty, to vitiate and abrogate the very rights of freedom and national sovereignty that we send American boys to war to protect and defend.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. CHURCH. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and at 1:49 p.m., the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 1:51 p.m., when called to order by the Presiding Officer (Mr. CLARK).

Mr. PROXMIRE. Mr. President, next week this body will have an opportunity to vote on the Genocide Treaty after more than 20 years, almost 25 years, that the treaty has been in the Senate. It has been in the Committee on Foreign Relations since 1950, and before the Senate for a number of months.

There has been a great deal of opposition to the Genocide Treaty, concentrated opposition, from people who are badly misinformed, and who feel that there is no future or possibility in cooperation with other countries or in working with the United Nations.

Mr. President, this is a treaty that has been supported by every President since President Truman. It is a treaty that has been supported as constitutional by every Attorney General since the Truman administration. It is a treaty that has been ratified by every major country in the world except the People's Republic of China and the United States. It is a treaty which would outlaw the most monstrous crime imaginable.

Mr. President, we all know that the most hideous genocide in our time perpetrated by Hitler and the Nazis in Europe in World War II, when 6 million Jews were gassed and cremated, a hideous tragedy. We know how intensely and deeply the Jewish groups feel about it, and properly so. But I think few of us recognize how widely felt the matter is by all religious groups. The testimony in the hearings makes it clear that the Baptists, Episcopalians and others, and the National Council of Churches have gone on record.

The other day I received a telegram from one of the most distinguished Catholic clergymen in the country, the Reverend Theodore M. Hesburgh, the president of Notre Dame University. I think what he has said in his brief telegram is something that should be called to the attention of the Senate, so I would like to take this moment to read it to the Senate.

He said:

DEAR SENATOR PROXMIRE: I write in support of the United Nations convention on the prevention and punishment of the crime of genocide.

As you know, the United States took a leading role in the drafting of this convention and joined in the unanimous vote of the United Nations General Assembly which adopted it in December 1948. Every administration, Republican and Democratic alike has urged the ratification of the convention since President Truman first submitted it to the Senate in 1949. Most regrettably, however, the Senate of the United States never has taken up the convention.

The United States should without delay join the 75 other nations who already are parties to the convention. The arguments against ratification which have been loudly raised in the past have been thoroughly discredited and refuted. It is long past time for the United States to put itself on record as officially opposed to the crime of mass murder that has so marred the history of this century.

I commend you for your strong support of this convention.

REV. THEODORE M. HESBURGH, C.S.C.,
Notre Dame, Ind.

Mr. President, there has been objection to the treaty on technical grounds, on the ground that it is not constitutional, and on grounds that it would jeopardize American citizens. The constitutionality argument has been met very effectively, as I say, by the Attorney General of the United States and by other legal experts who have appeared before the Foreign Relations Committee, but I think what many of us do is lose sight, in some of these debates, of the fundamental moral justification for taking this kind of action. I am delighted to read that anyone who wishes to get a real understanding of the necessity for this action has only to turn on his television set tonight at 7:30. The Washington Post today reviews what is going to be shown tonight on television, and I would like to read from that. The article reads:

Some lessons are worth repeating, and none more so than the one about the Nazi death camps, where millions of human beings were systematically eradicated. Nazi symbols—the swastika and all the rest—have been tossed around in an offhand or derisive way in a variety of contexts over the past decade or so.

Now may be a more appropriate time than most for a reminder of their true historical significance. If you've got the stomach for it, the "Genocide" chapter of the "World at War" series will trace the whole unholy record on Channel 9 (WTOP-TV) tonight, starting at 7:30. It just happens that the U.N. Genocide Convention, endorsed by every American President since and including Truman, is finally reaching the Senate floor for a debate on ratification this week. The program may be a help in setting the emotion-laden issue into factual perspective.

Make no mistake, this is strong stuff, for television especially. The viewer will see as graphic and explicit a documentation of the Nazi extermination camps as any ever been assembled, including, for example, shots of the bulldozing of piles of ripped, emaciated corpses. Because of the nature of the materiel, Channel 9 is televising this segment of the series without any commercials at all.

The "Genocide" installment is as expertly produced as the rest of the "World at War" series, an import from England's Thames Television with narration by Laurence Olivier. A remarkable amount of history has been skillfully and effectively compressed into an hour of screen time.

The segment makes use of captured German film and stills, newsreel footage and the live testimony of both survivors and participants, including SS officers who were eyewitnesses to some of the carnage. The Nazi campaigns against Jews, dissenters and other "undesirables" is developed against the background of the encompassing warfare and official Third Reich "justification" for its deeds.

If men are to know themselves, somewhere along the line they must confront the fact that the species which gave rise to a Mozart and a Martin Luther King Jr. also produced Hitler, Eichmann and the "final solution."

That's the reason for a program such as "Genocide," and it's more than reason enough.

Mr. President, I do hope that when Senators vote on this treaty, they will recognize our obligation to those who have died, and our obligation to do our best to set not only a moral example to the world, but to provide a legal framework so that this crime can be punished.

The Church reservation, which Senator CHURCH will offer later, meets the only argument that seems at all telling on the part of the opposition, and that is the argument that some other country might use the Genocide Convention as a basis for persecuting and punishing an American citizen. The fact is, of course, that a country can do that now if it wishes to do so, but we are in a much stronger position to defend that American citizen if we ratify the convention, especially with the Church reservation, which provides that we will not permit an American citizen to be extradited for that purpose unless the President is assured that in any trial all the rights and protections that are provided in our own courts would be provided. Obviously, a citizen who is seized in a foreign country can be tried by any kind of trumped-up charge now. There is a constituent of mine, a young lady from Grant County, Wis., who was seized in Turkey and was tried on a drug charge and sentenced to death. Fortunately, the State Department has intervened and persuaded the Turkish officials to commute that to life imprisonment and we are working hard trying to secure the young lady's release because we are convinced the trial was not fair.

But there is ample basis for any country which wants to persecute an American citizen, or any other citizen who happens to be within its borders, and there is no way—but no way—that this treaty, especially with the Church reservation applied, could be used to aggravate that situation. On the contrary, it enables us to provide protection for the American citizen.

Thus, I hope that Senators who are being swamped with mail—and I have received literally hundreds and hundreds of letters on this issue from those opposed to the Genocide Convention, from both John Birch Society members and other—will recognize the moral issue involved and the necessity for this country, at long last, to ratify the treaty.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. PROXMIRE. Mr. President, I have discussed with the Senator from Idaho (Mr. CHURCH) the situation on the floor. It is my understanding, under the circumstances, that he would like for the Senate to be restored to its position before I spoke. So I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and, at 2:02 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:50 p.m., when called to order by the Presiding Officer (Mr. DOMENICI).

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. CHURCH. Mr. President, I send to the desk a cloture motion, and ask that it be read.

The PRESIDING OFFICER (Mr. DOMENICI). The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The second assistant legislative clerk read the cloture motion, as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide (Executive O. 81-1).

Mike Mansfield, Frank Church, Jacob K. Javits, Alan Cranston, Edward W. Brooke, Abraham Ribicoff, John V. Tunney, William Proxmire, Charles H. Percy, James B. Pearson, Richard S. Schweiker, Hugh Scott, Lowell P. Weicker, Jr., Gale W. McGee, Bob Packwood, Robert P. Griffin.

ADJOURNMENT UNTIL MONDAY

Mr. CHURCH. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until Monday next.

The motion was agreed to; and at 2:53 p.m., the Senate, in executive session, adjourned until 12 o'clock noon on Monday, February 4, 1974.

NOMINATIONS

Executive nominations received by the Senate, February 1, 1974:

DEPARTMENT OF STATE

Donald B. Easum, of Virginia, a Foreign Service Officer of class 1, to be an Assistant Secretary of State.

DEPARTMENT OF JUSTICE

Robert E. Johnson, of Arkansas, to be U.S. attorney for the western district of Arkansas for the term of 4 years vice Bethel B. Larey, resigned.

Robert D. Olson, Sr., of Alaska, to be U.S. marshal for the district of Alaska for the term of 4 years (reappointment).

SECURITIES INVESTOR PROTECTION CORPORATION

Jerome W. Van Gorkom, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1975, vice George J. Stigler, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 1, 1974:

IN THE COAST GUARD

Coast Guard nominations beginning Herbert A. Johnson, to be captain, and ending James L. Howard, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on January 23, 1974.

Coast Guard nominations beginning Walter J. Hall, to be captain, and ending Victor J. Zoschak, Jr., to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on January 28, 1974.

EXTENSIONS OF REMARKS

MIDDLE EAST, NORTH AFRICA ABOUND IN CRUDE OIL

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. HELSTOSKI. Mr. Speaker, the very distinguished Dr. Nasrollah Fatemi evaluated the oil situation in an article which appeared on January 14 in the Morning News.

Dr. Fatemi, one of the Nation's leading authorities on the Middle East, was born in Iran in 1917. He came to the United States in 1946, and served in varying capacities as a diplomat at the United Nations. He received his M.A. and Ph. D. degrees from Columbia University and the New School of Social Research, respectively. In 1960, Dr. Fatemi became a naturalized U.S. citizen.

He is an outstanding scholar who has written many books and articles, and at the present time he serves as the Director of the Graduate Institute of International Studies at Fairleigh Dickinson University in New Jersey. Professor Fatemi's reputation and popularity can be gaged by the fact that he always has more students applying to his Graduate Institute than there is space to accommodate them.

The article written by Dr. Fatemi, which I would like to call to the attention of my colleagues, discusses in a quick, lucid, and cogent fashion the outlook on the world oil situation, and suggestions on how we can solve some of the problems with which we are faced.

The article follows:

MIDDLE EAST, NORTH AFRICA ABOUND IN CRUDE OIL

(By Dr. Nasrollah Fatemi)

(EDITOR'S NOTE: Dr. Nasrollah Fatemi is the director of the Institute of International Studies at Fairleigh Dickinson University and distinguished professor of international affairs. He is one of the nation's leading authorities on the Middle East and is listed in "The International Who's Who," and "International Notables." He is the author of several books, among them: Oil Diplomacy, The Dollar Crisis, and The Contemporary Middle East.)

In current estimates the Middle East and North Africa contain about 419,000 million barrels of crude oil, around 65 per cent of the world's proven reserves of 627,000 million barrels. These figures compare with 42,000 million barrels or 6 per cent in the U.S.A. and Alaska; 91,000 million barrels or 15 per cent in the U.S.S.R.; 2,800 million barrels so far discovered in the North Sea; 5 per cent in Africa; 2 per cent in Canada; 2 per cent in Indonesia; 2 per cent in Venezuela, and 3 per cent in Mexico, the Caribbean and other South American countries.

The bulk of the combined Middle Eastern and North African reserves is found around the Persian Gulf and six states—Saudi Arabia, Iran, Kuwait, Iraq, Abu Dhabi and Qatar—possess over half of the known oil reserve of the world. Up until three months ago, the greatest part of the enormous wealth of the black gold was divided among Standard Oil of New Jersey, Shell, Texaco, Standard of California, Mobil, Gulf, British Petroleum and Compagnie Francaise des Petroles.

Of the producing states the best placed is Saudi Arabia with 23 per cent of the world's total and the world's largest oil fields—Al Mazalij, discovered in 1971; Alghawar onshore and Safaniya offshore.

Kuwait, where no official estimates of reserves have been made, is second and Iran is considered third in reserves.

North Africa with 49,000 million barrels has proved less prolific. Occidental, Marathon, Amerada, and Continental Oil Companies have been responsible for the development of Libya.

In general production costs, up to the end of 1972, both in the Middle East and North Africa were extremely low varying around the Gulf from 6 cents a barrel in Kuwait to 33 cents offshore Dhabi. This compared very well with the United States where costs average $3.50 a barrel, investment per barrel a day of production capacity in the Middle East is very low—averaging out about $100 onshore in the Gulf areas, as against $600 in Nigeria, $2,500 in the North Sea and $4,500 in the United States.

The United States heads the list with 12 million barrels; Soviet Union, 9 million barrels; Saudi Arabia—until October—8.3 million barrels; Iran, 6.3 million barrels; Kuwait, 3.5 million; Venezuela, 3.4 million; Libya, 2.3 million; Iraq, 2.2 million; Nigeria, 2.2 million; Abu Dhabi, 1.4 million; Indonesia, 1.5 million; Algeria, 1.2 million; Qatar, 600,000 barrels a day.

The total investment of the American oil companies in the petroleum industry in the Middle East and North Africa at the end of 1970 was $1,466 million, and $1,916 million respectively. At the same time their income for the same year was $1,194 million and $544 million respectively.

In 1972, the Middle Eastern governments' share of oil per barrel was $1.50. As a result of two devaluations of the dollar and the high rate of inflation in Europe, Japan, and the United States, the share of the governments per barrel has been increased to $3.00. This new arrangement will produce an income of close to $12 billion in 1974.

Up until the end of 1972, the United States used very little of the oil of the Middle East. As a matter of fact, because of the pressure of the independent oil companies, the Johnson and the Nixon Administrations imposed a quota system and tariffs on petroleum imported into the United States, At no time the imports exceeded 20 per cent or three million barrels a day. Most of the imports came from Canada and Latin America.

2. Lack of long-range planning by the United States and the other governments for the development of other sources of energy and their dependence upon the cheap oil of the Middle East. For instance, only four per cent of the energy of the United States is produced from water resources, and less than one per cent from nuclear power, resources, and less than one a single new refinery has been built in the United States.

3. The demand of the producing countries for partnership and higher prices.

4. The monopoly nature of the oil industry and the pressure for higher prices and higher profits. The British Petroleum Corporation last week reported a 480 per cent profit. Other oil companies' profits have been up more than 50 per cent.

5. Finally, the war in the Middle East. In the spring of 1972 President Nixon through an emissary of King Faisal of Saudi Arabia promised to pressure Israel to make concessions, provided that: (1) President Sadat got rid of the Soviet forces stationed in Egypt, and (2) that Saudi Arabia increased her oil production to 8 million barrels a day. The Arabs complied with both requests. The Russian forces were expelled from Egypt and Saudi oil production was increased to 8.2 million barrels. The Arabs complained that President Nixon did not fulfill his part of the bargain. When war came the Arab countries, except Iraq and Libya, reduced their production and put an embargo on the crude petroleum to the United States. On the other hand, Iran, Nigeria, and Indonesia increased their production 15 per cent.

The present production in the United States is close to 12.5 million barrels a day. This is 5 per cent more than a year ago this time.

The stocks of distillate oils are higher new than they were last year at this time; 204.9 million barrels Nov. 23, 1973, and 188.4 million at the same time last year.

The stocks of residual fuel oil last week were 55.19 million barrels and production per day was 896,000 barrels. Last year at this time the stocks were 57 million barrels and production was 822,000.

Gasoline production for the week of November 28 totaled 6.29 million barrels a day. Last year at the same time production was 6.4 million barrels. Gasoline stocks are 203.76 million barrels or the same as last year.

Imports from Iran, Nigeria, Canada, and Latin America to the United States can very easily reach 7.5 million barrels a day. Therefore, the maximum falls short close to 700,000 barrels a day which either must be filled by oil from Arab countries or by curtailing consumption.

Up until October the American oil companies have been shipping distillate and heating oil to The Netherlands and Britain. It is not clear whether the shipping continued after October or whether they have stopped it.

The era of the American and British monopolies in the Middle East is over. The oil producing countries are asking a 51 per cent partnership and the oil companies have no other alternative but to agree. Already independent oil companies in Libya have complied, and those which refused their concessions have been nationalized.

Beginning with 1973 an energy shortage was felt throughout the world. What were the causes?

1. Increase in consumption. In the course of seven years oil consumption in Japan and Western Europe has doubled. At present the world demand is rising at the rate of seven per cent a year.

What is the energy situation in the United States? The normal consumption is 16 million barrels a day. Oil supplies 45 per cent of the United States energy needs; natural gas, 32.2 per cent; coal, 17.2 per cent; hydropower, 4.1 per cent, and nuclear power, 0.9 per cent. Thus a 10 per cent cut in oil means a reduction of about 5 per cent in the total energy consumption.

The Japanese companies are moving with utmost haste into the Middle East, investing heavily in exploration, production, and refining industries. During 1973 the Japanese companies have invested close to one billion dollars in the oil industry. They paid $780 million to purchase British interests in Abu Dhabi oil concessions. Japan's vigorous efforts to develop reliable sources to meet its large and growing petroleum requirements presage continued significant investment in the Middle East. The French, West German and Italian interests are also filling the vacuum created by the Americans and the British.

The present high price of oil will blunt the growth of the Western world which for 20 years has prospered on the cheap oil of the Middle East. On the other hand, a great economic and financial market for the United States, Western Europe, and Japan would become available in the Middle East and North Africa. Here the industrial world will find 250 million people with close to $20 billion, eager to buy technology, machinery, and consumer goods.

The United States Government and oil companies have to prepare a longe-range plan for investing more money on the exploration and development of the oil industry in the United States and Alaska—speeding the pace of plant construction, research on more advanced nuclear technology and the direct recovery of solar energy, the commercial development of shale oil, and the improvement of mass transportation.

MCPL LETTER CALLING FOR U.S. DRAFT CONVENTION ON CHEMICAL WARFARE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. FRASER. Mr. Speaker, January 24, a bipartisan group of 25 Senators and Representatives sent a letter to President Nixon urging him to direct appropriate administration officials to develop a Draft Convention on Chemical Warfare. Once developed, the draft convention could be submitted to the United Nations Conference of the Committee on Disarmament—CCD—at Geneva.

The letter was an initiative of Members of Congress for Peace Through Law—MCPL—UN and International Law Committee chaired by Senator CRANSTON of California. The Vice Chairman is Representative MAILLIARD, also of California.

The text of the letter and a list of those who signed it follow:

(File Copy of Letter to President on Chemical Warfare)

MEMBERS OF CONGRESS FOR
PEACE THROUGH LAW,
Washington, D.C., January 24, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We, the undersigned Members of Congress for Peace through Law, deplore the failure of the United States Government to submit a draft Convention on Chemical Warfare at the United Nations Conference of the Committee on Disarmament (CCD) at Geneva.

As you know, since the conclusion of the agreement on biological weapons in 1971, there has been no significant progress at the CCD meetings on a draft treaty banning chemical weapons. The U.S. delegation has commented at length on features in the draft submitted by the Soviet Union which it finds unacceptable. These revolve primarily around the nature of on-site verification procedures proposed in the Soviet draft. We do not question the legitimacy of these objections.

However, it is our view that until this Government submits its own draft convention, there can be no real progress toward the negotiation of a draft acceptable to the major parties involved. In the interim period, pressures to develop more deadly chemical weapons continue to build, making final resolution of this potential threat to world peace increasingly difficult to achieve.

We believe that the United States has a major responsibility to come forward with its own views if there is to be any forward movement in this area of international disarmament activity. We therefore urge you to direct the appropriate officials in the Arms Control and Disarmament Agency, the Department of State and the Department of Defense to develop a draft convention for your consideration and subsequently, that it be submitted to the CCD.

Sincerely,

Alan Cranston, Chairman, United Nations and International Law Committee; Mike Gravel, Frank Moss, and Robert Packwood; U.S. Senators.

William Maillard, Vice Chairman, United Nations and International Law Committee; John Anderson, Herman Badillo, Jonathan Bingham, John Conyers, Jr., Robert Drinan, Don Edwards, Donald Fraser, Bill Frenzel, William Hungate, Paul McCloskey, Jr., Mike McCormack, Charles Mosher, Claude Pepper, Charles Rangel, Edward Roybal, John Seiberling, Louis Stokes, James Symington, and Frank Thompson, Jr.; U.S. Representatives.

AID AND TRADE WITH THE COMMUNISTS—III

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. LANDGREBE. Mr. Speaker, so far I have inserted two chapters from Eugene Lyons booklet "Operation Suicide: Those Strange Bridges to Communism." Today I would like to insert chapter 3 of this booklet into the RECORD for the information of my colleagues. It points out the utter folly of resting any of our hopes for peace in the world on the "liberalization" of Communist governments, or as it has been called, the "mellowing" of the Communists. The periodic "thaws" in the history of Communist tyranny may correctly be seen as: first, plans to allow the relatively free actions of subjects to stave off complete collapse of the Communist system for a while longer; and second, plans to lure the "economic criminals" out into the open where they can be appropriately dealt with as soon as the "thaw" freezes over. I insert chapter 3 of Mr. Lyons' booklet, entitled "The Bogus 'Liberalization'," to be included in the RECORD at this point:

III. THE BOGUS "LIBERALIZATION"

We come now to the second question. Are changes in the Soviet bloc big and basic enough, their permanence sufficiently assured, to provide a dependable foundation for bridges, detente, and *rapprochement?*

There has been a relaxation in police terror, though not remotely to the extent that some would like us to believe. Limited experiments are under way with parodies on free-market methods. More latitude of expression has been allowed in science and the arts, within strict limits set by the authorities and guarded by their thought-police.

The people are grateful even for small favors—but not so grateful as to pretend that they add up to "liberalization," an approach to free enterprise and open societies. This is a myth spread only in the outside world by statesmen and pundits strangely determined to believe the best at any risk.

Testimony on this subject came recently from an unexpected and sensational source: Svetlana Alleluyeva, daughter of Joseph Stalin. Though she obviously had to pull her punches to protect her two children in Soviet Russia, she managed to refute the fantasy that her native land had gone "liberal." She decided to defect to the West, she said, to find freedom—freedom of expression and freedom of religion. In her first interview she declared quietly: "I can say that I lost hopes which I had before . . . that we are going to become more liberal somehow."

For the "horrible things" that have happened, she blamed the entire Communist Party, "the regime and the ideology as a whole," pointing out that her father's closest collaborators still rule the country. As to that "convergence," Svetlana Stalin was convinced, she said, that communism and democracy were incompatible. The *New York Times* called her interview "the most devastating critique of communism and the Soviet system heard since the denunciation of Stalin and Stalinism."

The irony of it is that the Fulbrights, Lippmanns, Kennans and Rostows, unlike Stalin's daughter, apparently have not *lost* those hopes. Their seeming insistence that the "liberalization" is real and vast surpasses understanding. It is an *idée fixe* that seems to thrive on proof to the contrary. Stepped-up arrests, more drastic death decrees, increased persecution of religion, do not make a dent in their consoling assumptions.

The Red governments themselves make few of the claims made for them by over-excited outsiders. They detest liberalism and denounce the implication that they are edging up to capitalism—a notion "so naive that it borders on the grotesque," as the Slovak *Pravda* put it. They have not confirmed the relaxations and reforms by law, or pledged even in words any program of continuing moderation. The changes have all been gifts from above, subject to withdrawal without notice.

In fact, some are being withdrawn. In Soviet Russia, Hungary, and Poland especially, the movement in more recent years has been toward more repression, more arrests, more capital punishments. In the entire block at present, there is a new emphasis on Marxist-Leninist orthodoxy. Ideology is being firmed up, with "liberation wars" as its primary expression on a world scale.

The actual changes have been exaggerated in the free world to the point of dangerous self-deception. The phenomenon of runaway optimism about evolution in Russia is not new. It springs from the anxiety for a return to normalcy that will magically relieve the West of the need to defend itself against an unpleasant and costly challenge.

A similar orgy of optimism developed in the mid-thirties, during Stalin's own brief "thaw." It appeared again during the wartime alliance with democracies forced upon the Kremlin by the Nazi invasion, then in the intoxicating years of the Spirit of Yalta, the Spirit of Geneva, the Spirit of Camp David. Despite the painful hangovers, the old euphoria today grips our world once more.

The simple, ascertainable fact is that the communist nations are still totalitarian police-states, ruled by the same self-perpetuating party, led largely by men who were enthusiastic collaborators in Stalin's worst crimes. The people, and even rank-and-file communists, have no more voice in government and policy-shaping than in the past. The state, as always, holds absolute control of the press, education, foreign trade, employment, trade unions, everything. "Socialist realism," the official formula in the fields of culture, is still the only safe guide for writers and artists. An underground literature, passed from hand to hand in manuscript, challenges the published literature. The blackout on foreign newspapers and magazines remains total. Broadcasts from abroad, except for the mild, toothless varieties, are jammed.

The peasants, some 40 per cent of the population in the U.S.S.R., remain collectivized state-serfs chained to the land. Non-Russian minorities continue to be governed with an iron hand from Moscow, with constant purges of so-called "bourgeois nationalists." The security-police establishment is still, with the possible exception of China's, the largest and most ruthless in the world and is used continually to crush strikes and smash demonstrations. The anti-God drives have been intensified sharply in the 1960's. The fate of the three million Jews, treated as second-rate citizens, has not improved since the passing of Stalin.

The population of Soviet forced-labor camps and colonies must still be reckoned in hundreds of thousands—in millions according to some Western analysts. More assorted political "crimes have been made subject to the death penalty than in the Stalin era. Trying to leave the country without permission is still punishable by death." Millions of young people, in vigilante formations reminiscent of China's Red Guards, spy on the personal and political morals of their neighbors, with authority to "try" and punish sinners.

Most important, the ideology, the immoralism and political system which made Stalinism at its worst possible, remain unchanged. The regime zealously safeguards its monopoly of political power. All alleged reforms stop dead at the point where they might affect that monopoly. Economists, for instance, may analyze economic ailments and suggest remedies—but they dare not question the Marxist-Leninist theory or the basic doctrine of national planning. Poets may again sing of love, the soul, truth—provided they acknowledge the eternal verities of communism and raise no doubts about the rights of the dictatorship to rule. Beyond these limits, scientists and writers alike face punishment, or in some cases, confinement in lunatic asylums.

These are the realities which the bridge-builders equate with liberalization, democracy, an open society—surely they must have a low opinion of such concepts!—and they base foreign policies on the fantastic equation. Robert Conquest, a British poet who is also a seasoned student of Soviet affairs, writing in 1962 in the scholarly American journal, *Problems of Communism*, put the facts in focus: "If Khrushchev's Russia were judged by any standards operating before the rise of Hitler and Stalin, it would be thought a revoltingly oppressive dictatorship."

Nothing has happened since 1962 to discredit that judgment. Attacks on Stalin and "rehabilitation" of his victims have stopped. He is increasingly hailed as a "great communist leader." In this respect, the process now under way amounts to *re*-Stalinization.

The notion that the satellite regimes are seeking "national independence" is pure mythology. Not one of them could survive if it were not shielded by Moscow against its restive people. They would reject true independence, leaving them naked at the mercy of their unhappy subjects, even if the Kremlin offered it.

Colonial satraps have always wanted more local maneuverability. Even Vidkun Quisling, Hitler's creature in Norway, pressed Berlin for some independence of action. Seeming gestures of "defiance" by Romania and other East European states are understood, and doubtless sanctioned, by the Soviet overlords as useful in placating their deeply anti-Russian citizenry. It is being said that these states are no longer a "monolithic" unit. But they never were. There have always been ethnic, frontier and economic conflicts among them, precisely as there were among various colonies within the British empire. Talk of "liberalization" is especially strong in Czechoslovakia; yet the liberal American columnists, Rowland Evans and Robert Novak, attested in a recent dispatch from Prague that "Czechoslovakia remains in foreign policy an undeviating satellite of the Soviet Union."

To people in East-Central Europe, independence means not only the removal of the Russian yoke but of the communist harness. The politically conscious Romanians, Hungarians, etc., crave autonomy as a prelude to ridding themselves of their communist quislings. The Red regimes thus have a plain life-and-death stake in avoiding genuine independence. Renunciation of Soviet military support against their own intellectuals and the masses would amount to suicide.

Faced, like the U.S.S.R. itself, by decay of their planned economies, the puppet governments naturally reach out for Western technology and credits. In this, we may be sure, they have the blessings of Moscow, since it invigorates the entire Red bloc. Satellite business with the non-communist world has been growing, but no faster than Soviet trade with that world. *It is a common policy geared to common needs*. There is little excuse for reading into it a struggle for independence.

INVENTOR DREAMS OF HARNESSING MAGNETISM

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, February 1, 1974

Mr. BROYHILL of Virginia. Mr. Speaker, the letter below, dated January 23, is submitted for inclusion in the RECORD as a matter of interest to those who have observed the efforts of my constituent, Mr. John W. Ecklin, to present his idea of harnessing magnetism:

ARLINGTON, VA., *January 24, 1974.*

Representative JOEL T. BROYHILL,
House of Representatives,
Washington, D.C.

DEAR SIR: Enclosed is a 23 Jan 74 letter to the editor of the Washington Post which I would like to see printed in the Congressional Record.

I make this request because I think it is very important that children learn this very simple concept and the world of science will just not move and correct their past oversights.

Enclosed also is the Jan 10, 1974 story from the Post and I circled the paragraph in red that refers to you.

Could you please advise whether your office has had any activity from either the story in the Post or your entry in the Congressional Record.

I ask people who call whether they know this very simple fact and not but about one in a hundred does. This just doesn't seem quite right.

Sincerely,

JOHN W. ECKLIN.

ARLINGTON, VA.,
January 23, 1974.

LETTER TO THE EDITOR,
Washington Post,
Washington, D.C.

DEAR SIR: Since "Arlington Inventor Dreams of Harnessing Magnetism" was printed in the Panorama section of the Jan. 10, 1974 Washington Post I have received over 200 calls and letters. A very penetrating question was asked—"How could such a simple device have been overlooked for so long?"

My answer—we teach kids like magnetic poles repel and unlike poles attract but we DO NOT teach magnets repel much further than they attract. It is this difference in speed and distance of repulsion compared to attraction that the 25-cent device harnesses as useful energy.

If kids had been taught this basic fact in beginning science then when they got in high school and college and studied momentum and energy many of them would have arrived at this same simple solution decades ago.

I hope anyone concerned with the teaching of science will begin to teach this simple basic fact and get it incorporated in textbooks. Get two like magnets, hold like poles tightly together and release one magnet. You can measure the difference in distance for yourself.

Sincerely,

JOHN W. ECKLIN.

ARLINGTON INVENTOR DREAMS OF HARNESSING MAGNETISM

(By Thomas Grubisich)

Diet Smith has competition. He is John Ecklin, an Arlington computer technician who, like Dick Tracy's industrialist-inventor, thinks magnetism is an overlooked but potentially rich and clean source of energy.

Unlike Diet Smith, who speeds around in a space coupe and does other wonderful things with magnetic power, Ecklin isn't having too much success putting his ideas to work.

Engineers and scientists tell him he's trying, impossibly, to rewrite the first law of thermodynamics. They say it's impossible to get energy from a machine without putting an equal amount of energy into it. All perpetual motion machines failed because of this immutable law, they say, and so will a machine trying to tap magnetism instead of gravity.

Ecklin's answer to his critics is a handmade demonstration project that he claims shows how magnetic force can be converted into energy. The project consists of two dime-size magnets, a steel ball bearing, a piece of tin can sandwiched between two pieces of cardboard and two strips of Scotch tape holding his magnets to a piece of cardboard. Total cost: less than 25 cents.

When the cardboard-enclosed piece of tin can (actually a piece of steel) is placed between the ball bearing and one magnet, the bearing is attracted to the other magnet. When the shield is placed between that magnet and the bearing, the bearing is attracted to the other magnet.

Ecklin says the back and forth motion of the bearing can be captured and converted into usable energy. Three pairs of 15-pound magnets with proportionately-sized ball bearings, he claims, could power a car. Smaller ones could be used to provide household electrical power, he says, and larger ones could be used for industrial purposes.

When asked how he reconciles his device with the first law of thermodynamics, Ecklin points to his little piece of tin can wrapped in cardboard. "This shield," he says, "solves the problem."

The shield, Ecklin explains, interrupts one magnetic field so the ball bearing can be attracted to another field. But where will the energy come from to move shields through the magnetic fields? Won't that energy requirement cancel out the energy gained from the movement of the bearing?

No, says Ecklin. He explains: The shield moves at a right angle through the magnetic field. Moving laterally, it requires only a fraction of the force it would need if moved in a parallel motion.

Ecklin says this fractional energy need could be supplied by the energy extracted from the movement of the bearing.

In a larger, more sophisticated assembly, Ecklin would mount his shields on a shaft that would be turned by power supplied by the reciprocating bearing. Furthermore the bearing, when it was attracted to one magnetic field, would compress a powerful spring that would push it toward the other magnetic field. But right now Ecklin would like to see thousands of people construct their own 25-cent demonstration project, then, having convinced themselves it works, write their congressmen about the untapped power of magnetism.

Ecklin's 10-year-old son built a model and mailed it to President Nixon. Rep. Joel T. Broyhill (R.-Va.) has inserted Ecklin's explanation of his scheme (with sketches) in the Congressional Record, with this comment: ". . . I believe Mr. Ecklin's theory will be of interest to many who are now engaged in attempts to solve the problem of power shortages."

So far, Ecklin has been greeted by more skepticism than enthusiasm. "The universities won't talk to me," he says. "A professor of physics would throw my idea into the wastebasket. He'd say it isn't in the books. But you know, according to the laws of aerodynamics, the bumblebee isn't supposed to be able to fly, but he does.

Ecklin doesn't have the money, or the mechanical expertise, to build a model that would work entirely under its own power. He says the Environmental Protection Agency told him it wasn't interested in such experiments because "we are trying to improve on known technology." Inquiries to foundations and other sources failed.

Ecklin is an amateur expert on magnetism. He learned his first facts about the subject from a book he bought for his boy, called "The How and Why Wonder Book of Magnets and Magnetism."

Magnetic power, he says, would not only be clean, it would be inexhaustible. If a magnet becomes weak, it can be repowered by another magnet.

If magnetism is harnessed, Ecklin says, the implications would go far beyond the energy crisis. "It would put unlimited power in the hands of individuals. They wouldn't be dependent on the energy companies. That would mean they couldn't be controlled."

Diet Smith's creator, Chester Gould, has often used his Dick Tracy comic strip to illustrate the potential power of magnetism. One of his ideas is "atomically energized magnets that amplify the pull of gravity a billion times, if need be, to climb in space, or to brake speed by reversing the poles of the magnets."

Gould, who conceived the two-way wrist radio and other scientific and electronic marvels that proved feasible, concluded: "I have great faith in our ability to harness magnetism."

SENATE—*Monday, February 4, 1974*

The Senate met in executive session at 12 o'clock noon and was called to order by Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, as our fathers created a nation under Thy guidance and we have pledged to keep it "one nation under God," so wilt Thou continue to rule over us. Deliver us from moral paralysis and from spiritual impotence. Renew us in our understanding of and commitment to divine law and encompass us with Thy love and grace.

Our Father, be graciously near to the President. Open his heart and his mind to wise counselors. Give him sound judgment, clear direction, and courage to act for the welfare of the whole Nation. To all leaders in government, impart Thy higher wisdom and the grace of compassion, conciliation, and cooperation. Let Thy spirit so indwell all the people of this land that through these difficult days our common life may be shaped according to the pattern of Thy kingdom.

For Thine is the kingdom and the power and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 4, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

THE BUDGET FOR FISCAL YEAR 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the following message from the President of the United States, which, with its accompanying report, was referred to the Committee on Appropriations. The message is as follows:

To the Congress of the United States:

The Federal budget must be both a consistent statement of our national objectives and a responsible plan for achieving them. The budget that I propose for fiscal year 1975 meets these standards. It places special emphasis on:

- —the proper fiscal balance to keep the economy on the track to sustain high employment and more stable prices;
- —a strong defense force in support of our efforts to build an enduring structure of peace in the world;
- —a comprehensive energy program to deal with current shortages and to reestablish our ability to be self-sufficient in energy;
- —the New Federalism philosophy of strengthening the role of State and local governments, and of the individual citizen;
- —basic reforms of major domestic programs; and
- —efficient management of the Federal Government in the years ahead, through a more intensive focus on the tangible results that programs achieve

In the face of economic uncertainty, my budget recommendations provide for a fiscal policy that would support high employment while restraining inflation. It would maintain the flexibility to take further action, if needed, to offset the effects of energy shortages. My budget recommendations hold the rise of Federal spending to the minimum increases necessary.

The budget recommends total outlays of $304.4 billion in 1975, $29.8 billion more than in 1974, and anticipates receipts of $295 billion, a $25 billion increase over 1974. About 90% of the increase in outlays between 1974 and 1975 represents mandatory spending increases that are unavoidable under current law.

THE BUDGET AT A GLANCE

[In billions of dollars]

Item	1973 actual	1974 estimate	1975 estimate
Receipts	232.2	270.0	295.0
Outlays	246.5	274.7	304.4
Deficit (−)	−14.3	−4.7	−9.4

Under conditions of full employment—conventionally defined as a 4% unemployment rate—Federal receipts would be substantially higher and outlays somewhat lower than these figures. Thus, on a *full employment basis* the budget shows a surplus of $4 billion in 1974 increasing to $8 billion in 1975.

The budget proposes increases for defense activities so that we can increase our defense preparedness and preserve present force levels in the face of rising costs. These proposals reflect minimum prudent levels of defense spending consistent with maintaining adequate armed forces to assure our national security.

The budget includes my program, Project Independence, to reestablish our capability for self-sufficiency in energy. I plan Federal funding of $10 million for the accelerated energy research and development component of this program over the next 5 years. Other measures already underway or proposed will help reduce low-priority energy use and minimize economic dislocations due to shortages. Our vigorous diplomatic efforts to restore an acceptable pattern of world trade in petroleum will complement these measures.

The budget carries forward the New Federalism philosophy. This philosophy stresses the need to recognize the different roles appropriate to each level of government, and to the private sector—thereby strengthening individual choice and self-reliance in America. The New Federalism calls for Federal support in meeting national problems and holds that State and local authorities are best able to make decisions on local and statewide needs in accordance with local conditions and community aspirations. Federal aid in the areas of law enforcement, manpower, and rural development incorporate the principles of the New Federalism. I now propose to apply this philosophy in major reforms of Federal assistance for health, education, community development, and transportation.

Our welfare system is inefficient and inequitable. I urge the Congress to work with my Administration in developing a new system that is simple, fair, and compassionate.

I am once again proposing a comprehensive plan for national health insurance that would make adequate insurance against the costs of health care available to *all* Americans. This far-reaching reform is long overdue. I urge early congressional action on it. The budget proposes measures to prepare for this program.

Federal taxes impose a large burden on the Nation. Each Federal program, therefore, must be managed as efficiently as possible, and each must be subject to continuous scrutiny as to how well it meets today's highest priority needs. This budget supports the major management initiatives I have undertaken to ensure that Federal programs produce results that truly satisfy the needs of the American people—and do so at the lowest possible cost to the taxpayer.

The end of American combat involvement in the Vietnam war and the reduction of cold war tensions in recent years have contributed to a significant shift in the composition of the Federal budget. Defense outlays remained virtually constant from 1968 to 1974, despite substantial cost increases and the pay raises which have accompanied the transition to an all-volunteer armed force. These added costs were offset by large savings resulting from reductions in men and materiel. Defense costs have been a decreasing share of our national budget, falling from 44% of Federal spending in 1969 to an estimated 29% in 1975.

Conversely, Federal nondefense spending has increased from 56% of Federal spending in 1969 to 71% in this budget. In the process, the form that Federal spending takes has shifted dramatically away from support for direct Federal operations and toward benefit payments to individuals and grants to State and local governments.

When I took office as President in 1969, defense outlays were nearly one-fifth more than combined outlays for aid to individuals under human resource programs and for aid to State and local governments. While our defenses are being maintained and strengthened, this budget proposes spending nearly *twice* as much money for aid to individuals and to State and local governments as for defense. This dramatic shift in Federal spending both reflects and supports the New Federalism.

THE BUDGET AND THE ECONOMY

During the past year, our economy operated at close to full capacity. In fact, the Nation's capacity for producing basic materials was used at a higher rate than in any previous year since World War II. New jobs were created for about 2¾ million people. Unemployment fell from a 5.4% average rate in the second half of calendar year 1972 to a 4.7% rate in the second half of 1973. At the same time, adverse weather and other conditions cut into the world's food supplies, including ours, while the policies of exporting countries cut supplies of oil and raised its price sharply.

These developments created a severe inflation during calendar year 1973, particularly in prices of food and energy. Our budget policy has been a key element in the effort to control that inflation. Strict limitation of expenditures in 1973 applied fiscal restraint to an economy that was expanding at an unsustainable rate. The budget totals recommended here continue a policy of fiscal responsibility as part of a continuing anti-inflation program.

THE BUDGET TOTALS

[Fiscal years. In billions]

Description	1972 actual	1973 actual	1974 estimate	1975 estimate
Budget receipts		232.2	270.0	295.0
Budget outlays		246.5	274.7	304.4
Deficit (−)		−14.3	−4.7	−9.4
Budget authority		276.7	310.9	322.1
Outstanding debt, end of year:				
Gross Federal debt	437.3	468.4	486.4	508.0
Debt held by the public	323.8	343.0	346.5	359.0
Outstanding Federal and federally assisted credit, end of year:				
Direct loans	50.1	43.9	45.9	48.2
Guaranteed and insured loans[1]	133.7	147.7	159.7	170.7
Government-sponsored agency loans[2]	48.9	67.2	83.3	86.8

[1] Excludes loans held by Government accounts and special credit agencies.

[2] See table E-7 in Special Analysis E, Federal Credit Programs, published in a separate volume.

There is now evidence that the economy is slowing down. In part this is due to the energy shortage, which limits our ability to produce some products and reduces demand for others. Our energy-use policies are designed to minimize the adverse impact of the energy shortage on the economy, but some effect is inescapable.

Some slowdown in the growth of demand is appropriate to help check inflation. This is especially true in view of supply limitations. But this slowdown should not be permitted to go too far. Therefore, I propose a budget which will continue a posture of moderate restraint rather than greatly intensifying that restraint. Also, my Administration is developing and will be prepared to use a range of measures to support the economy if that should be necessary—measures tailored to the special conditions of the energy shortage. Along these lines, the Congress should enact the proposals I made last year to improve our regular unemployment insurance system by establishing higher minimum benefit standards and extending coverage to farmworkers.

Under conditions of full employment the budget outlays I propose would be less than the receipts from present and proposed taxes by about $4 billion in 1974 and $8 billion in 1975. A 4% rate of unemployment is used as a measure of full employment in calculating these surpluses. These surpluses, following a small full-employment deficit in 1973, and rising somewhat from 1974 to 1975, are consistent with our objective of moderate restraint.

In large part, the estimated increase in the full-employment surplus is the result of the high inflation rate experienced in calendar year 1973 and expected to continue for the first half of 1974. In the short run, inflation increases receipts more than it increases outlays. Thus, it increases for a time the surplus that would be achieved at high employment. This means that the budget has the effect of restraining inflation. The rising full-employment surpluses estimated here are largely the product of an inflation that is proceeding too rapidly. To use the size of these surpluses as an invitation or an excuse for more spending would only make the inflation rate worse.

THE FULL EMPLOYMENT BUDGET

[Fiscal years. In billions]

Description	1973 actual	1974 estimate	1975 estimate	1976 projection
Full-employment receipts	243	278	311	339
Full-employment outlays[1]	245	274	303	329
Full-employment surplus or deficit (—)	—2	4	8	10

[1] In these estimates, outlays for unemployment insurance benefits and the Emergency Employment Act program are calculated as they would be at an unemployment rate of only 4 percent.

A 4% unemployment rate is used in calculating full-employment receipts and outlays as a conventional standard which approximately removes the effects on the budget estimates of year-to-year changes in the level of economic activity. To serve this purpose the unemployment rate used for the calculations must be reasonably stable from year to year. However, this does not mean that the feasible and proper target for unemployment is always represented by the same figure. In fact, as a result of changes in the composition of the labor force, a 4% overall unemployment rate today would mean much tighter conditions in labor markets than would have been true ten or twenty years ago.

The estimate of receipts in this budget include the windfall profits tax on oil producers which I have proposed. This tax would recapture the excess profits that these producers would otherwise realize due to rising oil prices.

I continue to urge action on the tax reform and simplification proposals that were discussed with Congress last year. These proposals would not appreciably affect the *overall* tax burden on the economy; they would simply distribute it more equitably.

Our ability to carry out sound fiscal policy and to provide the resources needed to meet emerging problems is limited by decisions made in the past. The portion of the budget subject to discretionary control has shrunk in recent years primarily because of the relative decline in controllable defense spending, the growth in mandatory grants to State and local governments, and the growth in human resource programs (which largely take the form of benefit payments, set by law, to individuals and families). In 1975, over $223 billion in outlays, or nearly three-quarters of the budget, will be *virtually uncontrollable* in the short run due to existing law and prior-year commitments. This represents a substantial decline in the controllability of the budget since 1967, when only 59% of outlays were uncontrollable.

Just as each budget is heavily influenced by commitments embodied in those that have preceded it, so each, in turn, strongly influences those that follow. Therefore, the future impact of current decisions must be taken into account by projecting future available resources and the known claims against these resources. This is why the 1975 budget presents detailed projections of its 1976 spending implications; this is also the reason that all five budgets submitted by my Administration have contained 5-year projections of full employment outlays and receipts.

The costs of existing programs and of the new programs I have proposed will rise over time in response to growth in the number of eligible beneficiaries for programs such as social security and other entitlement programs, and in response to price increases. The rise in outlays for existing and currently proposed programs, however, will be less rapid than the rise in tax receipts. Thus, by 1979, receipts are projected to reach about $428 billion on a full-employment basis, while outlays for existing and proposed programs will be $391 billion. This leaves a budget margin—a margin which can be used for tax reduction, new initiatives, or retirement of public debt—of about $37 billion for 1979. This compares with a margin of $10 billion projected for 1976. The 1979 margin is a relatively small one—less than 9% of the projected 1979 receipts—to cover the exigencies of the next 5 years. But it is indicative of longer-term fiscal health if proper fiscal discipline is exercised.

TOWARD A LASTING WORLD PEACE

The overriding goal of American foreign policy is to build a lasting world peace, a peace resting on the solid foundation of mutual respect among all nations.

We have made great progress toward this objective during the past few years. During this Administration we have:

—ended American combat involvement in the war in Vietnam;

—ended the draft;

—established more cooperative relations with the Soviet Union;

—developed promising new relationships with the People's Republic of China;

—concluded an initial strategic arms limitation treaty with the Soviet Union; and

—provided diplomatic leadership toward a Middle East peace settlement.

Building sound foundations for a durable peace requires patient and skillful diplomacy. To be effective, statesmanship must be backed by credible military strength. The 1975 budget provides for the defense forces essential to protect our national security and to maintain the credibility and effectiveness of our diplomatic efforts to preserve world peace.

Increases in spending for military functions are necessary for both 1974 and 1975. Outlays of $85.8 billion are proposed for 1975, compared to $79.5 billion for 1974. These figures include the outlay impacts of proposed supplemental appropriations. These increases are required to improve the readiness of our armed forces, to build up levels of essential equipment and supplies, and to meet today's higher costs of maintaining force levels. They would also provide for a vigorous research and development effort that would enable us to produce new weapon systems if they are needed to maintain the strategic balance.

Because of the urgency I attach to a strong defense effort, I am recommending supplemental appropriations for 1974. An increase of $2.8 billion in budget authority is proposed to improve combat readiness and modernize forces, to augment munitions stock levels in accordance with lessons learned in the Middle East war, and to meet higher fuel costs.

The increases proposed for defense should be viewed in the context of the substantial—but prudent—reduction in our defense forces that has taken place since I took office. This reduction has resulted primarily from our success in bringing about a general easing of world tensions, in achieving mutual arms limitations, and in improving weapons systems and military efficiency. We have 36% fewer men under arms today than we had in 1968. In constant dollar terms, we will spend substantially less for defense in 1975 than we did in 1964, before the Vietnam buildup began.

The dollar costs of defense manpower are much higher with an all-volunteer armed force than they were under the draft. The Nation is now paying the full real costs of its defense in dollar terms; we no longer "tax" the young by commanding their services at less than their market value. I hope that we will never again need a draft.

Strengthening international economic cooperation is essential to our quest for peace. Expansion of peaceful trade relationships helps bind together the peoples of the world. We have already made considerable progress toward international monetary reform, progress which has helped bring about dramatic improvement in our balance of payments. The Trade Reform Act, now before the Congress, would authorize U.S. participation in a new round of international discussions to reduce trade barriers. Failure to enact this measure in a responsible form could result in a wave of trade protectionism that would undermine the economic well-being of all nations. I urge the Congress to approve it.

This budget provides for the continuation of our foreign assistance programs to strengthen the economies of developing nations, to provide humanitarian assistance and disaster relief, and to help friendly nations provide for their own defense.

MEETING THE NATION'S NEEDS FOR ENERGY AND BASIC RESOURCES

Until recent years, this country was largely self-sufficient in energy production. The rapidly growing demands of our households and industries for more energy, however, have now outstripped available low-cost domestic supplies. During the past few years we have become dangerously dependent on imported petroleum, which until recently was low in price. Development of relatively high-cost domestic sources has lagged.

Three years ago, in the first energy message delivered to the Congress by any President, I warned that the long era of abundant low-cost supplies of energy was drawing to a close. I proposed an expanded program to produce greater supplies of clean energy. Last April, in my second energy message, I warned that if existing trends continued unchecked, the Nation would face a serious energy problem; I proposed legislative action to meet this challenge. Since then, I have repeated my previous warnings and proposed urgent measures to restore our capability for energy self-sufficiency. The interruption of oil exports by Arab countries following the Middle East war last October has aggravated the energy problem and underscored sharply the need for this country to regain its ability to be self-sufficient in energy. I have taken all responsible actions I can within my existing authority to meet this challenge.

The 1975 budget reflects a comprehensive national energy policy to deal with current shortages and provides funds to initiate the Federal portion of Project Independence, an accelerated private and governmental effort to reestablish our capability for self-sufficiency in energy by 1980. I anticipate that the research and development component of this program will require about $10 billion in Government funds during its first 5 years; greater amounts may be needed thereafter. These funds will complement an even larger research and development investment in the private sector, which I will continue to encourage.

Higher prices will be necessary to stimulate development of adequate supplies of fuel through the mechanism of the free market. To assure that this will not result in excess profits for oil producers, I have proposed an emergency windfall profits tax on these producers.

Other elements of my comprehensive national energy policy include:

—reorganization of Federal administrative machinery to deal more effectively with short- and long-term energy needs;
—stringent energy conservation measures and mandatory allocation of petroleum products as long as shortages persist;
—mandatory reporting of oil production, inventories, reserves, and costs;
—modernization of regulations for railroads in order to permit energy savings and other economies;
—policies to accelerate development of domestic oil and gas reserves, including removal of ceilings on wellhead prices for new natural gas, production from the Elk Hills, Calif., Naval Petroleum Reserve, and development by private industry of western oil shale and of off-shore oil and gas deposits;
—measures to permit increased use of our vast coal reserves, including environmental safeguards for surface mining, conversion of oil-fired electric powerplants to coal, improvement of mining techniques, and accelerated efforts to develop technology for coal gasification, coal liquefaction, advanced combustion systems, and pollution control;
—development of fast breeder nuclear reactors, which will greatly increase the amount of energy recoverable from our nuclear fuel resources;
—more timely approval of sites for energy facilities and accelerated construction of nuclear powerplants; and
—increased research on advanced energy sources, including fusion power, and geothermal and solar energy.

The budget provides for $1.5 billion in outlays for direct energy research and development programs in 1975, compared to $942 million in 1974. An additional $128 million in outlays is provided in 1975 for complementary basic research and for environmental and health effects research. I will submit additional details on this accelerated effort to the Congress shortly.

The Federal Government alone cannot overcome the energy crisis. Project Independence will require a maximum effort by private industry as well. The measures proposed in this budget provide the essential governmental leadership to get this joint public and private program underway. In addition, every American household and every American business must economize on energy usage if we are to share temporary shortages equitably, as we must, and reestablish our energy independence in the long run.

The energy crisis has brought to the fore the need for a realistic balancing of the demands of economic growth and the demands of environmental protection. Shortages of "clean" fuels will mean that some temporary variances from air quality plans will be necessary to meet high priority energy needs. The progress we have made in pollution control in recent years, however, along with reductions in energy consumption, should insure that overall air quality will continue to improve.

The adverse impact of energy shortages on the economy could be aggravated by shortages of other raw materials. A comprehensive study on supplies of metal ores and other basic resources and our needs for them is now underway. This study will help insure that our policies properly anticipate potential problems.

We must also do everything we can to avoid a shortage of agricultural commodities such as we experienced last year. For many years this country enjoyed abundant agricultural production. This abundance not only met domestic needs, but aided greatly in alleviating hunger and malnutrition abroad. In 1972, however, adverse conditions throughout much of the world created widespread agricultural shortages. Food costs began to spiral, both here and abroad.

My Administration made a number of important program changes in 1973 to bring more farm land into production and to increase farm output. These steps, combined with favorable weather conditions, made 1973 a record crop year; farm income reached an all-time high level. Agricultural income now depends more upon the private market, and less upon the Government, than has been the case for over 3 decades. In 1973, direct Government payments to farmers experienced their largest dollar decline in history.

HELPING PEOPLE THROUGH STATE AND LOCAL GOVERNMENTS

Ours is a *federal* system of government. Our Constitution, now nearly two centuries old, provides for a logical division of responsibilities among:

—a strong national government, concerned with essential national needs;
—State and local governments close to, and responsive to, the needs of individuals and local communities; and
—private citizens endowed with civil liberties that are secure from governmental encroachment.

During the first century and a half of our national experience, State and local governments were able to meet community and State needs from their own revenue sources. They were financially independent of the Federal Government. During the past 40 years, however, the needs of State and local governments have outstripped their resources. The Federal Government has therefore come to play a larger and larger role in financing their day-to-day operations. In the 4 years between 1969 and 1973, Federal grants to States and localities doubled. In 1973 this financial aid, disbursed through literally hundreds of separate programs, provided more than 20% of total State and local revenues.

Unfortunately, these Federal programs have all too often been accompanied by regulations and restrictions which have stifled innovation and initiative on the part of State and local officials, severely limiting the ability of those officials most familiar with problems at the local level to respond to local needs.

In response to this problem I have applied a philosophy of government that has come to be known as the New Federalism. It calls for each level of government to focus its attention on the functions most appropriate to that level. By strengthening the resources and responsibilities of State and local governments, it permits their policies and programs to reflect local needs more sensitively.

Broader sharing of Federal revenues with State and local governments is helping to make this philosophy a reality. Under the General Revenue Sharing program, now in its second year, State and local governments receive over $6 billion a year for use in meeting State and local needs as they see them.

This administration has also sought to substitute broad-based formula grants for narrow categorical grant programs, giving State and local governments significant discretion as to how funds are used and insuring that Federal aid is more equitably distributed among recipients. These principles now apply to several major areas of Federal assistance.

The *Law Enforcement Assistance* program has demonstrated the feasibility of broad-based formula grants. Aid under this program is being increased from $28 million in 1969 to $747 million in 1975 and is helping to make the streets of America safer.

The *Comprehensive Employment and Training Act* which I signed in December extends these same grant principles to manpower programs. Under this Act, the Federal Government will no longer specify the types, methods, and proportions of various manpower services to be provided. Instead, State and local governments will be able to use the funds allocated to them to provide the mix of services which they decide best meets the needs of their areas. The budget provides for $2 billion in outlays for this program in 1975.

New authorities under the *Rural Development Act* are being implemented this year in a manner which is supportive of State and local development plans and priorities.

I urge congressional action to achieve similar reform in additional areas this year:

The principles embodied in the *Education Grants Consolidation and Reform* I proposed last year deserve priority attention. State and local education agencies should have greater freedom to direct Federal assistance toward meeting what they view as high priority local needs. I will continue to work with the Congress, therefore, on legislation to consolidate and improve education grant programs.

The *Better Communities Act* would replace several ineffective grant and loan programs with a more streamlined approach to the problems of urban areas. This act would allow localities to decide for themselves how to allocate community development funds. The budget proposes funding for this program of $2.3 billion in 1975.

The *Unified Transportation Assistance Program* I am proposing this year would provide $2.3 billion in highway and mass transit funds, and permit States and localities to allocate these grant funds flexibly in accordance with local conditions and priorities. Since transportation is a major consumer of energy and is strongly affected by the energy crisis, high priority must be given to enabling States and localities to make decisions on transportation systems based on their assessment of economy, energy conservation, environmental impact, and safety considerations.

I am proposing legislation for a new *Economic Adjustment Assistance* program. This legislation would permit States and communities to respond flexibly to problems of economic change and unemployment.

Another central feature of the New Federalism is strengthening the ability of State and local governments to perform effectively. The *Responsive Governments Act* would broaden Federal assistance available for improving State and local planning, decisionmaking, and management capabilities.

I urge the earliest possible enactment of all these measures.

In parallel with these legislative initiatives, my Administration is continuing its efforts to consolidate and streamline categorical grant programs, to simplify complex and burdensome procedures, and to remove unnecessary, inflexible program restrictions.

As part of this same effort, Federal programs are being decentralized along uniform regional lines, and the Federal Regional Councils are being strengthened to facilitate coordination of Federal with State and local activities at the operating level.

The budget accelerates our programs for aiding State and local governments in improving water quality. The Environmental Protection Agency has allotted $4 billion to the States for 1975 to make grants for municipal sewage treatment plants, a $1 billion increase over the allotment for 1974. Priorities for grants within these allotments will be determined by the States. A total of $6.9 billion was made available for this program in 1973 and 1974, more than twice the amount made available in the preceding 2 years.

STRENGTHENING THE ROLE OF THE INDIVIDUAL

Abraham Lincoln believed that:

> The legitimate object of Government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot do so well, for themselves, in their separate and individual capacities. *In all that the people can individually do as well for themselves, government ought not to interfere.*

I share this belief. This philosophy underlies the efforts of my Administration to strengthen the role of the individual in American society. It is a cornerstone of the New Federalism.

I believe that government policy should seek to maintain an economic environment in which all who are able to work can find employment and adequate earnings. For those unable to support themselves, government should help to provide the means necessary to meet personal and family needs, while preserving individual dignity and self-respect.

My Administration has consistently endeavored to strengthen the role of the individual in American society and to ensure that all Americans enjoy equality of opportunity in education, in employment, in business, and in housing. We have consistently worked to improve assistance for the retired, the disabled, and the unemployed.

Reflecting these concerns, Federal human resource programs have grown dramatically. Between 1969 and 1975, outlays for these programs will have increased by 139%, while outlays for all other programs will have risen only 26%.

The national health insurance plan I am proposing represents another major step toward improving the lives of individual Americans. My proposal calls for basic reform in the financing of medical care. It would bring comprehensive insurance protection against medical expenses within reach of all Americans, including millions of people who cannot now obtain adequate insurance coverage. Costs of coverage for low-income families would be federally supported, with payments scaled according to family income.

It will take several years for this reform to become fully operational. In the interim, the 1975 budget provides $26.3 billion for existing health programs. Under this budget, the momentum of cancer, heart, and other research initiatives would be sustained, and total funding for biomedical research would exceed $2 billion in 1975, almost double the 1969 level. To support continued reform of our medical care system, the budget proposes a total of $125 million in 1974 and 1975 to demonstrate health maintenance organization concepts throughout the Nation. I am also proposing a Health Resources Planning Act to enhance State and regional capabilities and responsibilities for planning and regulating health services.

The rapid growth of human resource programs in recent years has brought about many improvements in the wellbeing of the American people. Higher social security benefits and extension of the Medicare program, for example, have increased the economic security of the elderly and the disabled. Cash benefits under social security programs will rise from $26.2 billion in 1969 to $62.9 billion in 1975. They now reach 29 million beneficiaries. Five social security benefit increases have been enacted since 1969. Taken together, these increases total nearly 70%, far exceeding the increases in the cost of living, and in average wages, over this period. I continue to urge enactment of legislation to reform private pension plans, legislation which would further strengthen the economic security of millions of Americans in their retirement years.

The Supplemental Security Income

program began operation on January 1, 1974, replacing the various State public assistance programs for the aged, the blind, and the disabled with a more uniform and equitable national system. This broad reform provides higher benefits for these disadvantaged groups. In addition, Federal assumption of responsibility for these programs will provide substantial fiscal relief to State and local governments.

Also during the past month, food stamp benefits have been increased by over 20%, and the program has been extended to those parts of the country where it was not available before. Outlays for food stamps will be $3.9 billion in 1975, 78% higher than the 1973 level.

I propose further measures to improve the income security of Americans, including:

- —reform of pensions for veterans and their dependents, with provisions for automatic cost-of-living adjustments in benefits, and better matching of pensions to family need;
- —an increase in education benefits for veterans to help meet cost increases since these benefits were last raised;
- —automatic cost-of-living increases for the aged, blind, and disabled beneficiaries of the Supplemental Security Income program;
- —transfer of food stamps and related nutrition programs to the Department of Health, Education, and Welfare, to improve coordination of income maintenance programs; and
- —continued priority efforts to develop a practical program of direct cash assistance for housing.

One of the major unfinished pieces of business of my Administration is the replacement of the current welfare system with a new system that *works*. Figures collected over the past year are grim testimony to the fact that our current welfare system is a mess; these figures show that fully 40% of the payments made are incorrect. I intend to make new proposals to solve this continuing problem.

As we begin this effort, I hope that the debate can focus on the substance of the issues, not on superficial labels. I believe that the majority of the American people agree on the principles that should guide Federal income assistance:

- —the system should provide strong work incentives for those able to help themselves;
- —income assistance should be provided in cash, rather than in kind, so that families can make their own spending decisions;
- —the system should be as simple as possible, replacing the chaotic rules and overlapping programs that we have now;
- —the levels of support provided should reflect the compassionate spirit of the American people toward those who cannot provide for themselves; and
- —Federal aid should be provided on an equitable basis nationwide.

I believe that the Administration and the Congress, working together, can *and must* find a solution that accords with these principles.

IMPROVING MANAGEMENT IN THE FEDERAL GOVERNMENT

The recommendations contained in this budget are part of a broad effort by my Administration, working with the Congress and with State and local officials, to improve public services at all levels. The New Federalism is a crucial element of this broad endeavor. A second, complementary element consists of improving the efficiency and effectiveness of Federal programs in carrying out Federal responsibilities.

Concern for meeting problems must extend beyond the well-intended commitment of public funds. What really matters are the tangible results produced through the effective use of these funds—results measured in terms of better lives for all Americans.

Since I assumed office as President I have encouraged extensive efforts to streamline and revitalize the organization and management of the Federal Government. These efforts are helping to ensure that the taxpayers get their money's worth from the Government.

To enable the Federal Government to meet emerging challenges more effectively, several new organizations have been created during my Administration, and existing ones have been improved. Among these new offices are Action, the Environmental Protection Agency, the Council on Environmental Quality, the National Oceanic and Atmospheric Administration, the Domestic Council, the Office of Management and Budget, the Drug Enforcement Administration, the Consumer Product Safety Commission, the Council on International Economic Policy, and the Federal Energy Office.

In 1971 I proposed creation of four new departments, including a department to be responsible for energy and natural resources. I continue to urge congressional approval of this proposal as revised in legislation submitted last year. In addition, I ask the Congress to join me in renewing consideration of other departmental reorganization legislation that will permit more effective management of the Government.

During the past 25 years, Presidents have been able to make many improvements in Government organization under Presidential Reorganization Plan Authority. This legislation has now expired. I urge the Congress to restore this authority as soon as possible in order to facilitate continued modernization of our governmental structure.

Good organization is only a first step toward improving governmental performance. Government can be effective only if the public service can develop and retain capable leadership. In response to this need, this Administration has placed high priority on the identification and development of the most able career managers. We intend to intensify this effort.

Increasing the effectiveness of individual programs is another essential step in improving overall governmental performance. During the past year I have launched an intensive effort to strengthen the management of major Federal activities. The emphasis in this management initiative is not on producing a great display of activity, nor on merely rearranging work processes; the emphasis is on producing significant *results*. To help keep a constant focus on program results, I have asked each major department and agency to work with me in developing a set of specific objectives to be achieved during fiscal year 1974. As we approach 1975, we will identify further objectives. Currently, we are working toward more than 200 such objectives, ranging from international monetary reform to improvement of opportunities for minorities and women.

These objectives will not simply be identified and then filed away and forgotten. Specific results are to be achieved by specific deadlines. These commitments will be reviewed continually and will guide day-to-day operations until the objectives are met.

Congressional procedures, too, are in need of reform—particularly those that deal with the budget. In my last three budget messages I encouraged the Congress to reform its procedures for considering the budget. I noted that the Congress faced a fundamental problem because it lacks a system for relating each individual spending decision—whether or not it is part of the appropriation process—to overall budget totals. The need for a more systematic congressional process was once again illustrated during the session just concluded. Congressional actions, taken together, increased spending totals over my proposals by $3.8 billion in 1974 and by $8.2 billion in 1975.

The Congress is currently moving toward a new budgetary system. I commend this action and urge that the final procedures worked out by the Congress recognize the necessary and proper role of the President and his responsibility for efficient administration of the executive branch. I am particularly concerned about provisions which would subject some of the most routine financial actions of the executive branch to veto by either house of the Congress.

CONCLUSION

The proposals set forth in this budget are constructive and forward-looking. They meet the Federal Government's responsibility to provide vigorous national leadership toward the solution of major national problems. They do so within the bounds of fiscal prudence.

But the Federal Government cannot do everything. It should not be expected to. Nor can money alone solve all of our problems. Recognizing these limitations, my Administration has made an intensive effort to identify and *do well* those things which the Federal Government should do. By the same token, this budget, like my previous ones, stresses the revitalization of individual initiative and of State and local capabilities. It represents an important further step in my efforts to restore a proper balance of individual and governmental power in America.

RICHARD NIXON.

FEBRUARY 4, 1974.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, February 1, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ASSISTANT SECRETARY FOR INDIAN AFFAIRS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 649, S. 2777.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2777, to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment, to strike out all after the enacting clause and insert:

That there shall be in the Department of the Interior, in addition to the Assistant Secretaries now provided for by law, one additional Assistant Secretary of the Interior for Indian Affairs, who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe with respect to the conduct of Indian Affairs, and who shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

SEC. 2. Section 5315 of title 5 of the United States Code is amended by striking out "(6)" at the end of item (18) and by inserting in lieu thereof "(7)".

SEC. 3. Section 462, Revised Statutes, as amended and supplemented (25 U.S.C. 1), and paragraph (45) of section 5316 of title 5 of the United States Code are repealed: *Provided*, That this section shall not take effect until an Assistant Secretary of the Interior for Indian Affairs has been confirmed and takes the oath of office.

SEC. 4. Subsection 7(c) of the Alaska Native Claims Settlement Act (85 Stat. 688) is hereby amended by deleting that subsection in its entirety and inserting in lieu thereof a new subsection as follows:

"(c) The Secretary shall establish a thirteenth region for the benefit of Natives who are nonresidents of Alaska who, pursuant to section 28 of this Act, shall be enrolled therein, and they may establish a regional corporation pursuant to this Act."

SEC. 5. The Alaksa Native Claims Settlement Act (85 Stat. 688) is hereby further amended by inserting at the end thereof a new section 28 as follows:

"SEC. 28(a) A Native who elected to be enrolled in a thirteenth region, pursuant to subsection 5(c) shall be so enrolled, notwithstanding the fact that a majority of the Natives eligiblie to elect enrollment in that region may not have so elected and notwithstanding the certification, on December 18, 1973, of a final roll by the Secretary pursuant to section 5(a) of this Act.

"(b) Any Native who, on or before December 1, 1973, had filed with the Secretary or his delegate any application to amend his enrollment application regarding his election whether or not to be enrolled in the thirteenth region shall, within ninety days of the enactment of this section, inform the Secretary whether or not he wishes to be enrolled in the thirteenth region. Any Native who so informs the Secretary shall be enrolled according to his preference as indicated in the information so submitted to the Secretary. Any Native who fails so to inform the Secretary shall be enrolled according to the information provided in that Native's original enrollment application. The Secretary shall, within thirty days of enactment of this section, take such action as he may deem necessary to insure that every Native affected by this section is aware of his option to change his enrollment decision.

"(c) Within one hundred and twenty days of the enactment of this section the Secretary shall amend the final roll to reflect the changes required by this section as well as other changes made by the Secretary in accordance with this Act and shall immediately certify such amended final roll.

"(d) Within thirty days of the certification of the amended final roll pursuant to this section, any bona fide organization representing nonresident Natives shall submit to the Secretary the names of not more than five Natives who have elected to be enrolled in the thirteenth region as nominees for the positions of the five incorporators of the thirteenth regional corporation. Not less than thirty days nor more than sixty days after such certification, the Secretary shall mail to all eligible voters ballots containing the names of all nominees and their associational affiliations for the purpose of an election by mail of the five incorporators who shall serve as the initial directors of the thirteenth regional corporation. Eligible voters in the election shall be only Natives eighteen years of age or older on the date of election of incorporators pursuant to this subsection who are enrolled in the thirteenth region. Valid ballots shall be only those ballots mailed to the Secretary or his designee not later than ninety days after such certification. The five nominees for whom the most votes are cast shall be elected incorporators of the thirteenth regional corporation and shall promptly take all steps authorized by this Act for such incorporators. All rules, regulations, and information relating to the election shall be transmitted directly to all known organizations representing nonresident Natives, the twelve regional corporations representing resident Natives, and all eligible voters.

"No moneys distributed or to be distributed pursuant to this Act may be expended or obligated by any Native, Native corporation, Native organization, representative thereof, or adviser thereto, to assist in, communicate on, or otherwise influence the election.

"(e) The articles of incorporation of the thirteenth regional corporation shall be submitted to the Secretary for approval in accordance with subsection 7(c) within eighteen months of the enactment of this section.

"(f) Any distribution of funds from the Alaska Native Fund pursuant to subsection 6(c) of this Act made by the Secretary or his delegate prior to enactment of this section on the basis of the final roll certified on December 18, 1973, shall not be affected by the provisions of this section. Immediately upon certification of the amended final roll as provided in subsection (c) of this section, the Secretary shall make any necessary adjustments in future distributions of funds pursuant to subsection 6(c) to accommodate the changes in the final roll by the amended final roll provided in subsection (c) thereof: *Provided*, That such adjustments shall not take effect until the next regularly scheduled distribution period following certification of the amended final roll: *Provided further*, That the Secretary is authorized to make payments to the thirteenth regional corporation, once established, during the period prior to such next regularly scheduled distribution period from the Fund pursuant to this Act which such payments shall be in the form of advances on such corporation's adjusted share of such regularly scheduled distribution.

"(g) Except as specifically provided, nothing in this section shall be construed to alter or amend any of the provisions of this Act."

SEC. 6. The Alaska Native Claims Settlement Act (85 Stat. 688) is further amended by adding a new section 29, to read as follows:

"SEC. 29. Any corporation organized pursuant to this Act shall through December 31, 1976, be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789), as amended. Nothing in this section shall, however, be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of the Investment Company Act of 1940."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire to be recognized at this time?

Mr. GRIFFIN. No, Mr. President.

ACCESS TO THE MEDIA

Mr. McCLELLAN. Mr. President, the Supreme Court of the United States agreed on January 14, 1974, to hear arguments in a case which will have the most fundamental and far-reaching implications for the right of access to the media by persons under criticism by the press.

The case, Miami Herald Publishing Co. against Tornillo, is being heard on appeal from the Supreme Court of Florida which upheld a 1913 State law requiring a newspaper to give equal space for a reply from a political candidate if it "assails" his personal character or charges him with "malfeasance or misfeasance in office or otherwise attacks his official record."

To briefly summarize the facts of the case in question, Mr. Tornillo was a candidate for the Florida Legislature in 1972. In accordance with Florida's right-to-reply law, he requested the Miami Herald to print verbatim replies to two editorials attacking his personal character. The newspaper refused, and Mr. Tornillo filed suit alleging a failure to comply with the statute.

He argued that if a newspaper may attack a candidate with impunity and he is provided no right to reply, the public interest suffers because they can only hear the publisher's side of the argument and are denied a dissenting viewpoint.

The Circuit Court for Dade County dismissed the complaint and held that the statute was in violation of the 1st and 14th amendments of the U.S. Constitution. Mr. Tornillo appealed, and the Florida Supreme Court, by a 6-to-1 margin, reversed the lower court and held that the newspaper was bound by the right-of-reply law.

The case reached the Supreme Court upon the appeal of the Miami Herald, which argues that the decision "represents a severe restraint upon the exercise of journalistic discretion by putting the Government in the editor's chair."

Inasmuch as this matter is now pending before the High Court. I do not intend to advocate a particular point of view at this time. But I believe that the issue raised here—the right of access by the public to the mass media—is of such transcendental importance that the Senate cannot afford to ignore it.

As the Florida Supreme Court noted, the right of the public to hear all sides to a controversy and then to make a judgment is being jeopardized by the growing concentration of the ownership of the media into fewer hands, "resulting ultimately in a form of private censorship."

In fact, as the Arkansas Democrat of January 21, 1974, has pointed out, the number of newspapers published in the United States is steadily decreasing. In 1904, for example, there were 17,000 different newspapers; today, there are but 11,000.

As a result of this trend toward monopolization of the media, the Florida Supreme Court took a new and arresting view of the first amendment, which I would like to call to the attention of the Senate. It stated:

> Freedom of expression was retained by the people through the First Amendment *for all the people* and *not merely for a select few*. The First Amendment *did not create a privileged class* which through a monopoly of instruments of the newspaper industry would be able to *deny to the people the freedom of expression* which the First Amendment guarantees.

The court reasoned that access to the media at least for a reply to an attack is particularly critical in the case of political candidates, since the very integrity of our system of democratic elections depends upon an informed public.

In view of these facts, Mr. President, if the Supreme Court holds there are no constitutional barriers to right of reply laws, I believe that the Senate might wish to give careful study and consideration to the possibility of enacting a national law similar to the Florida statute.

The need for such a study is now even more urgent in light of court decisions in libel cases which virtually deprive officials of the opportunity to recover damages unless they can prove malice.

In essence, a national right to reply law would entail the application of some form of the "fairness doctrine" now applicable to broadcasters to the print media. I am convinced that further study will show that such access would not infringe, but would enlarge the use of first amendment rights by extending their enjoyment beyond those who happen to own newspapers.

In recent years, Mr. President, the Senate has taken decisive action to allow broadened access to grand jury and Civil Rights Commission reports by public officials criticized in them so they may file answers before the documents are made public.

During 1970, such safeguards were added at my request to the Organized Crime Control Act of 1970 and to the Civil Rights Act of 1957.

Several interesting discussions have recently come to my attention regarding the question of access to the media which I would like to call to the attention of the Senate. One is a thoughtful speech by the retired Chief Justice of the California State Supreme Court, Roger J. Traynor, at the dedication on January 11, 1974, of the Arkansas Bar Center in Little Rock. The other is an editorial from the Arkansas Democrat of January 21, 1974.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the speech and editorial were ordered to be printed in the RECORD, as follows:

SPEECH IMPEDIMENT AND HURRICANE FLO

(Remarks of Retired Chief Justice Roger J. Traynor of the California State Supreme Court at the dedication of the Arkansas Bar Center)

The new Arkansas Bar Center comes alive in the center of the state and at the heart of middle America, where it can magnetize lawyers from every direction for creative workshops or conferences. In the family of the United States, this Center has an ideal place. It comes alive also at a significant time, a new year that is heir apparent to the 182nd birthday of the first ten amendments. Though that Bill of Rights is doing reasonably well for its age, it has nonetheless suffered wounds from right and left that need healing in such sanctuaries of law as this Center.

We lawyers are apt to do best at restoration when we think small instead of in grandiose terms. It is not the sweeping gesture, but the precise stitch in time that saves nine. In that spirit, surely the animating force of this Center, I proceed directly, not through time immemorial back to Runnymede or to all the nearer groves of the Bill of Rights, but only to the First Amendment. Even here, we can dispense with a study of all of its ramifications the better to focus on a singular recent offshoot. That offshoot, first curling outward as a question of access to the news media, is now unfurling back to cling to the First Amendment as a constitutional right. If the offshoot clenches its cling, will the First Amendment wax or wane?

Getting down to cases, the salient details of the offshoot, we find in them less than a clear reading of the meaning and portent of access. Much depends upon who demands access to the media and why. Something may depend on how tightly a journal or broadcasting station controls access to the public and how significant that public is. Something may also depend on who the beggar for access is. Can the beggar address a plea only to some metropolitan megaphone or also to some provincial journal or some trade publication or scholarly bulletin? Does he seek vindication in sequence of an attack upon him, or does he seek equal time on some controversial issue, or does he simply demand an exclusive easement for some crusade of his own? Does it matter whether the beggar outside publication gates is in public or private life, a leading citizen or an obscure one, a well-tempered spokesman or a zealot with the gleam of half-truth in his eye? On an issue such as women's liberation would it matter whether the would-be spokesperson were an adult male, an adult female, or a child under or over thirty?

As lawyers well know, there is widespread ignorance about such questions as these that relate to the Bill of Rights. The public has slept right through the walls of the news media over a recent decision that rolled out of Florida shortly after the Fourth of July, headed in all directions. We might well call it Hurricane Flo. A taciturn downeaster might be moved to observe that henceforth "As Flo goes, so goes the nation." That depends, of course, on how appealing Flo will look upon final appeal. The Supreme Court of Florida held that the Miami Herald Publishing Company is bound by Florida's right-of-reply statute to publish the reply of a candidate for public office to two editorials allegedly attacking his personal character.

An editor of the Wall Street Journal, Michael Gartner, thereafter quoted Yale Professor Thomas Emerson: "It means the government can tell the newspapers that the newspapers can be forced to print material they don't want to print. This is the very opposite of freedom of the press." Editor Gartner's own comment on the decision is that "the government is our new managing editor."

Certainly the new religion of Open Up prescribed for editors is shoving hard against editorial freedom, the old-time religion of Shut Out. Whoever cries Wolf or Censor, however, had better first make sure that others will trust his message that the danger is indeed at the door. The Florida case has no such open-and-shut simplicity. It is in fact a classic hard case, and no one can predict whether it will finally lead to bad law or good.

Consider, for example, the sweet reasonableness attending the plea that a publisher who dominates or perhaps even monopolizes access to a large audience should leave some access road open to others for response to whatever attack he publishes against them. His very power delineates his freedom, so goes the argument; he cannot be equated with legendary Tom Paines who had no dominant access to large audiences and whose own freedom would have been destroyed by any compulsion to share access with others. There was no need for every Tom, Dick, and Harry to go down Paine's alley when they had equal opportunity to open up alleys of their own. The situation is quite otherwise, said the Florida court, when one or two publishers dominate the main avenues of communication. The fewer they are, the more powerful they become as they edit the news and voice their editorial opinions thereon. When they use their power to attack anyone without comparable access to their audience, they have a corresponding responsibility to observe Florida's right-of-reply statute.

Newspeople may view such legal workings as the work of the devil, but it is sound practice to give the devil his due. It may be particularly appropriate for a Californian to assume the role of devil's advocate for Florida.

Many have revolted against what Florida has wrought, on the usual hearsay of not necessarily unimpeachable sources. It would be wiser to examine the original source, the opinion itself of the Florida Supreme Court. There is plausibility to that opinion. The language is cool, not florid. The Court believes that Florida's right-to-reply statute "enhances rather than abridges freedom of speech protected by the First Amendment. . ." and it explains why. Consider the reasoning straight from the Florida opinion:

"The right of the public to know all sides of controversy and from such information to be able to make an enlightened choice is being jeopardized by the growing concentration of the ownership of the mass media into fewer hands, resulting ultimately in a form of private censorship. Through consolidation, syndication, acquisition of radio and television stations and the demise of vast numbers of newspapers, competition is rapidly vanishing and news corporations are acquiring monopolistic influence over huge areas of the country.

"Freedom of expression was retained by the people through the First Amendment *for all the people and not merely for a select few.* The First Amendment *did not create a privileged class,* which through a monopoly of instruments of the newspaper industry would be able to *deny to the people the freedom of expression* which the First Amendment guarantees."

The Florida Supreme Court reasoned that access at least for reply to an attack is particularly necessary in the case of a political candidate, since the very integrity of democratic elections depends upon an informed public.

The Florida Court is beaming a twofold message. First, those who rule the fine or gross print, like those who rule the airwaves, have a constitutional obligation to fulfill the public's need to know. Second, they are accordingly obliged to give reply space to whomever they have attacked.

The outcry of the print media at this twofold message carries undertones of injured amour-propre. Suddenly the scribblers, far from being the untouchable loners of the communications industry, find themselves charged with social obligations like any ordinary licensee of broadcasting. No longer can they be sure of breathing a headier freedom than the poor licensees, whose rich livelihood depends on their pleasing as many people as possible, with better programs or worse, for richer ratings or richest, in news as in entertainment, in sick comedies as in health messages, always with eyes at the back of their heads to see whether Granny them live another few years. It has come as Government also looks pleased enough to let them live another few years. It has come as a jolt to proud earthlings that their freedom may not be much loftier than the pedestrian freedom of those who tiptoe on air.

A devil's advocate is bound to remind the shaken freemen that the Florida Supreme Court spoke the language of freedom, not repression. It leaned heavily on the 1964 decision of the United States Supreme Court in *New York Times v. Sullivan* and its 1971 decision in *Rosenbloom v. Metromedia*. These two cases were landmarks of freedom for the press. Are they also landing fields for Hurricane Flo as the Florida opinion suggests?

New York Times v. Sullivan holds that a government official cannot recover damages from a publisher for a defamatory falsehood relating to his official conduct if he fails to prove "actual malice," namely, that the defendant made the statement with knowledge that it was false or with reckless disregard of its truth or falsity. The United States Supreme Court thus declared the First Amendment to be the safeguard of a right to speak on public issues forcefully, carelessly, and even falsely, without stammering deference to other points of view.

The *Times* case involved no reporter's tall story, no columnist's small talk, no editor's slip of a paragraph, but a paid advertisement that allegedly libeled a local police commissioner. Nonetheless, the Court found that, unlike the usual commercial advertisement, this one "communicated information, expressed opinion, recited grievances, protested claimed abuses, and sought financial support on behalf of a movement whose existence and objectives are matters of the highest public interest and concern."

In the area of public issues the *Times* case thus marks a new tolerance for misstatements, cracker-barrel views, and freewheeling language. Better the smog of error or eccentricity or zealotry that others are free to deplore or dissipate than a pall of black-letter law whose immutable and oppressive presence would impel people not only to watch for fatal flaws in the words of others but also to keep uneasy watch on their own words. Self-censorship, in the view of the Court, is as deadly as any other censorship to freedom.

The Florida opinion is also forcefully linked to the language of the more recent decision in *Rosenbloom v. Metromedia,* which not only accorded *Times* freedom to a broadcaster, thus narrowing the gap between print media and government-stamped broadcasters, but also extended *Times* freedom of speech about a private citizen, on the ground that it concerned primarily a matter of public interest, namely, the peddling of allegedly obscene materials.

By clothing the distribution of nudist magazines as an issue of public interest, the United States Supreme Court in the *Metromedia* case went beyond the *Times* case to enlarge not only the chorus but the score of freedom. Now the rising voices of mere licensees could join with those of venerable *Times* publishers, and the newly aggrandized chorus could sound out lustily on new great social issues of the day, such as girlie magazines. On high constitutional ground an aggrieved peddler, charging libel in vain, bit the dust as had an aggrieved police commissioner before him.

Given the heady freedom of the *Times* and *Metromedia* cases, the old boys and girls of the print media may have failed to take note of all the sobering implications of their new links with the lads and lassies of broadcasting. It took the Florida connection in the *Miami Herald* case to bring them to a day of reckoning with the most sobering implication of all. If *Times* and *Metromedia* are kissing counsins in a family chorus of freedom, they may then likewise be linked in an obligation to accord to an importunate outsider a right of access to their professional chorus, at least when they have been singing away about his failings in matters of public interest.

When a government itself has little right to make a newspaper shut up, why should a newspaper that has freely criticized a political candidate shut out his right of reply in its pages? If a candidate cannot shout back to the same audience the newspaper reached, has he encountered an insurmountable obstacle to speech more serious than the restraining threat of official sanctions would be? If he is cut off from even whispering to the only audience he wants, is he any less bereft because he can shout at the moon from the rooftops?

The growing clamor now for a right of access should hardly come as a surprise. A complainant carrying the heavy burden of proving actual malice feels doubly aggrieved if his already meager chance of proving such malice is cut down at the very time the press has gained new constitutional freedom to publish falsehoods without liability. It is no longer enough for a complainant to catch the publisher in a lie; he must catch him in a malicious lie, while sinking under a crushing burden of proof. If a publisher fails to distinguish true from false and then fails to retract the falsehood and still remains immune from liability, it does not seem so unreasonable to grant the target of the falsehood at least a chance to bring the facts into line. It was grievance upon grievance that drove complainants to demand a right of reply.

Hurricane Flo might not be blowing so hard without the opinion of the United States Supreme Court in *Red Lion Broadcasting Co. v. FCC* in 1969, five years after the *Times* case. The Court let no one forget that FCC was the den mother of Red Lion. It upheld the authority of the FCC to implement the established Fairness Doctrine on coverage of public issues by spelling out mandatory procedures in the event of a broadcasting of a personal attack or political editorial. The opinion recognized that broadcasting "is clearly a medium affected by a First Amendment interest," but also clearly viewed broadcasters such as Red Lion as a special breed of cat because their capacity to roar can drown out other voices.

The Court was concerned not only with how raucously a Red Lion could roar, but also how it could dominate the air to the exclusion of others, given the shortage of frequencies. In its view, "it is idle to posit an unabridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish."

It is significant that in the four years between the *Red Lion* case of 1969 and the *Miami Herald* case of 1973 technology has advanced by leaps and bounds to give promise of many more frequencies for broadcasting and hence many more possibilities for making inroads into the current domination of the airwaves. The more frequencies there are, the fewer may be the problems of short supply, or of oft-mentioned chaos and cacophony, still invoked as a basis for regulating broadcasters and not print media. At the same time there has been a growing domination of major print media by fewer publishers, as well as recent severe shortages of timber for newsprint. The fewer major print media there are, the more their domination of major audiences will come to resemble the current domination of the airwaves. Hence it is a good deal more plausible in 1973 than it would have been earlier for the public to view broadcasters and print publishers as Tweedledee and Tweedledum rather than as Red Lion and Tom Paine.

It took Hurricane Flo to bring that news home to us. The Florida court desegregated the broadcasters. The newly integrated print publishers learned from the court's opinion that Florida's right-of-reply statute, applied against a newspaper, is consistent with the Frst Amendment by virtue of such cases as *Metromedia.* The *Metromedia* case, like the *Times* case before it, had won new freedom to comment without liability on "social issues." Nonetheless there were signs that the United States Supreme Court was increasingly troubled by the problem of access. The times they were achanging.

In sum, the *Times* case let freedom ring for the newspaper publishers, and the *Metromedia* case let freedom tinkle for the broadcasters when the Fairness Doctrine was not at issue, but there were outsiders who felt correspondingly stifled. Given the concentrated power of the media, the *Red Lion* case found justification for an outsider's right of access to the broadcasting stations, in the context of the Fairness Doctrine. The *Miami Herald* case found comparable justification for access to newspapers. Let freedom ring for everyone, said the Florida court in effect, across airwaves and the rivers of ink.

With such words a devil's advocate for Hurricane Flo might close his case. For the good sake of an open hearing, however, I now likewise present the other side.

The Florida Court has attempted a soft landing for Hurricane Flo on constitutional grounds. The right of access was presented narrowly in the *Miami Herald* case as a right of reply in the event of a newspaper's attack on a political candidate. Is such access of a piece with the theme of "uninhibited, robust, and wide-open speech" that runs through the opinions of the United States Supreme Court on First Amendment freedom? To answer this question, we must first answer another. When a newspaper dominates an audience, it is then constitutionally obliged to fulfill what has been vaguely called the people's right to know? Just what is this right to know?

The people's right to know means everyone's freedom to seek out information from others and to receive whatever information others wish to dispense. The right carries no power, however, to compel others to dispense information to the public at large. No thirster after knowledge can compel even his own government to dispense information. A fortiori he cannot demand access to the Government Printing Office to publicize a rejected request for information, let alone to publicize his own arguments against government secrecy. Whatever limited access he can gain results not from any First Amendment mandate, but from such statutes as the Freedom of Information Act, wherein the government voluntarily grants a measure of access to official information. Such access for the passive receipt of information is a far cry from access for the active distribution of one's own views.

If the right to know, in the light of the First Amendment, does not empower an outsider to compel even his own government to print and distribute his copy, how can he compel a newspaper to do so? Moreover, the First Amendment mandate against abridging the freedom of the press is closely attuned to the editorial freedom of large pubishers as well as small, the corporation as well as Tom Paine. The complex task of putting together a large daily newspaper could be disrupted by volunteer composers in the composing room.

An adherent of this thesis may have been nearly blown out of his mind by Hurricane Flo in July. He may find some reassurance, however, in recalling the merrier month of May when the United States Supreme Court held the line against access even to electronic media. The Democratic National Committee and the Business Executives' Move for Vietnam Peace had demanded access to broadcasting facilities for paid editorial advertisements. The Court upheld the FCC ruling that a broadcaster had discretion to deny such access, in light of its record of full and fair coverage of the controverted issues. The Court squared such discretion with the FCC's statutory authority to command access, as in the *Red Lion* case. Once the FCC determined that a broadcaster met the obligations of the Fairness Doctrine incumbent upon him, would-be advertisers could not invoke the First Amendment to plead access. The right of the public to be informed did not endow a private individual or group with "a right to command the use of broadcast facilities."

These various opinions combine to remind the public that the First Amendment continues to stand guard against access to newspapers. Nonetheless the case narrowed the gap between newspapers and broadcasters, not by reducing the First Amendment freedom of the press, but by augmenting the freedom of broadcasters via an outward push against the flexible boundaries of statutory regulation. Any Tom Paine remained the darling of the First Amendment, even when he had grown to monstrous size. The new twist in the case was the Court's concern over Red Lions, which had been kept in captivity since infancy, because of their own monstrous size, and now bleeped more than they roared. There were intimations that maybe even a firmly regulated old Red Lion should be trusted to exercise a little more freedom to make it a little more robust. Too many bleeps in the bellows and a lion loses its tone.

There are many straws in this case that go counter to Hurricane Flo. It would be premature, however, to rest easy that the hurricane has spent its force. There are other straws to indicate that it may still blow strong.

In the decade since the *Times* case made waves in the flow of communication, the United States Supreme Court has been of various minds on what amateurs, if any, can crash onto the established routes of publishers. The rationale of amateur hours is that they counteract the concentrated power of publishers. The dilemma remains, however, that every amateur entry is by grace of an official ruling, and each ruling strengthens the power of government over the press. Whatever the grievance of an amateur shut out by a powerful broadcaster or publisher, there is still the risk that he may lose more than he gains when he gains access with the help of a government more powerful than the press. Is he not then in turn subject to government control in a rulemaking process without end? As against the government is his First Amendment freedom now worth any more than that of the one ordered to yield him time or space? Will he not also feel the king's chilling presence at the microphone or typewriter?

Oppressive supervision is apt to begin with incidents too small for general notice. Few take alarm if an official referee appears on the bank of a tributary to the main flow of communication to gain access to someone else's facilities for a would-be sender of messages or a would-be editor of other people's messages. The scene may even appear to illustrate our democratic way of life.

Nonetheless, as Justice Brandeis has warned, " 'Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.' "

A speech impediment is never a minor ailment, even when it affects only the commercial tract, only the tone of a want ad. Orders for fairness go to the heart of editorial judgment, which is by definition partisan. An editor cannot also be a carrier of sandwich signs, his head lost between neatly balanced sides of Pros and Cons. A speech impediment becomes incurable when official observers take a permanent stand to make an editor watch his words. An editor's freedom may be vitiated when he is ordered to distribute the occasional compositions of others; but it risks total destruction when he must take orders on the writing of his own compositions. Only by dehumanizing his own mind can he assemble his words as a Commissioner of human relations or community relations or foreign relations dictates, in the name of justice of fairness or Regulation X.

The case for an editor's freedom might be summed up as a case for everyman's freedom. If First Amendment freedom once ceased to ring, we would know from deadly drumbeats the dominant force of our new commanders on the front lines of communication.

This presentation of both sides of the access problem is the merest introduction to its defiant complexity. The times may be achanging, but the morrow is not yet clear. Will Hurricane Flo be stopped dead in its tracks at some ivied temple of Fair Comment or some more recent shrine of Fair Falsehood? Will it gain instead enough momentum to carry along Red Lion, still up in the air, and deposit it as a graven image of the Fairness Doctrine for a new cloverleaf of intertwining access routes to land, sea, and air? Or will the hurricane wind down in the gray lands between the temples and shrines and a distant cloverleaf site?

We need to know much more about those gray lands, if we are to deal with storms more rationally than by adding wings at random to the sanctums of wise or wanton editors or by embarking on random sorties of road construction with wise or wanton Populists. As a step toward rational exploration and development, the recently established National News Council has begun work on its first project, the question of access to news media.

Whatever the measures taken to contain a hurricane, however random or rational, they are bound to have repercussions on the interaction of government, the press, and the people; on what access each should have to the others. It is time to keep a weather eye out on that basic question of freedom, for more storms are on the way. Lawyers can still find occasions to rejoice, as we do today, that such stations of law as the Arkansas Bar Center will be more than a match for the storms.

Shivers From Florida

In July the Florida Supreme Court sent shivers through all of journalism by upholding a 60-year-old statute that guaranteed the right of reply to any person attacked by a newspaper. Last week the U.S. Supreme Court agreed to consider the case, itself an indication of its importance since the high court tries not to take cases from state supreme courts whenever it can avoid it.

A controversial school teacher, Pat Tornillo Jr., a candidate for the Florida legislature, was opposed by the Miami Herald, which is five times the size of its only competitor and a member of a national newspaper chain. It called Tornillo irresponsible and accused him of illegal conduct in two editorials. The Herald refused to print his reply verbatim, and Tornillo resurrected this old statute and sued. A lower court decided against Tornillo, but he persisted and suddenly came the thunderbolt from the state supreme court. The decision, which was 6 to 1 against the newspaper, quickly drew such predictable reactions as this one from the editor of the Wall Street Journal: "The government is now our new managing editor."

While we do not endorse the decision, we must say that it is neither nutty nor insignificant. At the beginning, we should say that the conventional interpretation of the first amendment demands the overturning of this or any other law that seeks to regulate the press. After all, government telling a newspaper what it has to print is just as obnoxious as telling it what it cannot print.

But the Florida Supreme Court has made

a new and arresting interpretation. The first amendment, it says, did not create a privileged class for just newspaper editors. What it means is that everyone should enjoy freedom of expression, not just journalists. Obviously, when a newspaper has a monopoly—or a near-monopoly—it is absurd to say that a person enjoys freedom of expression when he is denied the opportunity to respond to an attack—and to the same audience addressed by his attackers. This is no longer the day of the pamphleteer, when everyone's publication had about the same circulation, which was determined largely by how far the publisher-editor-printer wanted to carry his broadsides.

As a matter of fact, this is not even 1904, when there were 17,000 different newspapers in America. Today, there are only 11,000, with the Miami Herald being one of the very largest. The man shouting from the roof of his house, buying a billboard or even speaking on the radio to defend himself is not quite the same thing as having it printed in the Miami Herald.

So maybe this old statute is not as ridiculous as it first appears to be. In fact, just last year, Jerome Barron, a scholar who has written a great deal about access to the media, wrote a book, "Freedom of the Press for Whom?", that suggested that the right of reply was so important that a national law should be drawn very similar to the Florida statute. This is more important now because of libel decisions that virtually give public figures no chance to recover damages unless they can prove malice. After all, they argue, the broadcast media have been able to live and to profit with the fairness doctrine—a guarantee of the right of reply—so why not the newspapers?

Well, without getting into that thicket, we can only say that the question is not one that is going to be solved by hysterical outbursts or by counting on the first amendment as a complete shield. It is marvelously broad but in this day of disappearing newspapers—more precisely, their acquisition by a few owners—there is reason to question whether it is broad enough to protect us from the luxury that we have enjoyed until now, which is every publisher doing as he damned well pleased.

While we think and hope that the Miami Herald will win its case at the Supreme Court, the question is not certain and will by no means be settled finally. The case should certainly cause newspaper owners to look to their ethics and to thing about the wisdom of having some voluntary self-policing. The alternative is to one day have government decide that, like so many other things, the first amendment needs a modern interpretation.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Iowa (Mr. CLARK) is now recognized for not to exceed 15 minutes.

(The remarks Senator CLARK made at this point on the introduction of S. 2943, the Comprehensive Election Reform Act, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

SENATOR MANSFIELD'S STATE OF THE NATION ADDRESS

Mr. GRIFFIN. Mr. President, along with millions of other Americans, I listened Friday evening with close attention as the distinguished majority leader of the Senate (Mr. MANSFIELD) spoke on nationwide television in response to the President's earlier state of the Union address.

If there are any who may have concluded that Senator MANSFIELD was not effective as a spokesman for his party because he spoke with restraint and a high degree of statesmanship, I would say, as a spokesman from the ranks of the other political party, that they are wrong.

Through his candor and his forthrightness, Senator MANSFIELD, was particularly effective—and I would observe that it is precisely because of those qualities that he is so well respected and so well liked by the Members of both parties in the Senate.

Senator MANSFIELD made the point that a party leader should make—and he made them in a very telling way. In so doing, he was both constructive and eloquent.

I would observe that Senator MANSFIELD spoke on Friday night for his own party—but in part, at least—and I know he intended it that way—he spoke also on behalf of the legislative branch and those of both parties who serve in it.

For the most part, I thought the speech by the distinguished majority leader was a positive, constructive statement laying out attainable goals for this session of Congress. He deserves to be commended for recognizing the areas in which there is substantial agreement between Republicans and Democrats as well as an agreement between the Democrats in Congress and the administration. Nor did he shy away from acknowledging and conferring credit upon the President of the United States and Dr. Kissinger for their extraordinarily effective leadership in foreign affairs.

As I watched and listened, I had the impression—perhaps not justified—that many in the press corps might even be disappointed by the performance of the majority leader. On the whole, his speech was political with a minimum of partisanship; it was effective with a maximum of objectivity.

While not necessarily agreeing with all that he said, I salute the majority leader for the presentation he made. It was a credit to him, to his party, and to the Senate.

Mr. MANSFIELD. I thank the distinguished Senator.

APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, appoints the following Senators to attend the meeting of the Assembly of Parties of the International Telecommunications Satellite Organization—INTELSAT—to be held in Washington, D.C., February 4–8, 1974: the Senator from Rhode Island (Mr. PASTORE) and the Senator from Alaska (Mr. STEVENS).

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 14 minutes.

Mr. ROBERT C. BYRD. Does the distinguished Senator from Michigan yield back his time?

Mr. GRIFFIN. Yes, I do.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes or more out of my order to the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.).

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

MEMORIAL SERVICE FOR THE LATE ADM. LEWIS L. STRAUSS

Mr. HARRY F. BYRD, JR. Mr. President, on Friday, January 25, 1974, there was held in the city of Washington a memorial service for the late Adm. Lewis L. Strauss. The service was held in the sanctuary of the Washington Hebrew Congregation. Two eulogies were delivered that day, one by Rabbi Joshua O. Haberman and the other by Adm. Arleigh Burke, former Chief of Naval Operations. It was a beautiful service.

Mr. President, Rabbi Haberman captured so beautifully the qualities of Lewis Strauss and delivered the eulogy so eloquently that I asked Rabbi Haberman to send a copy so that I might have it printed in the RECORD. Rabbi Haberman, in the course of his remarks, said of Lewis Strauss: "Yes, he was a prince and a great man."

Admiral Burke, in his comments on Lewis Strauss, proclaimed him "a great American—a great man, and a great friend."

Two Virginia newspapers had beautiful editorials on Admiral Strauss. One is the Richmond Times-Dispatch, under the date of January 26, 1974. The editorial was written by the chairman and publisher of the Richmond Times-Dispatch, Mr. David Tennant Bryan. Another editorial appeared in the Norfolk, Va., Ledger-Star of January 24, 1974, captioned "Mr. Strauss' Able Service."

Mr. President, I ask unanimous consent that the eulogy by Rabbi Haberman, the eulogy by Admiral Burke, the editorial in the Richmond Times-Dispatch captioned "Lewis Strauss," and the editorial in the Norfolk, Va., Ledger-Star, captioned "Mr. Strauss' Able Service," be printed in the RECORD.

There being no objection, the eulogies and editorials were ordered to be printed in the RECORD, as follows:

In Memory of Adm. Lewis L. Strauss

(Delivered by Rabbi Joshua O. Haberman)

"The righteous shall flourish like the palm tree;
He shall grow like a cedar in Lebanon.
Planted in the house of the Lord,
They shall flourish in the courts of our God.
They shall still bring forth fruit in old age;
They shall be full of sap and richness;
To declare the Lord is upright,
My Rock, in whom there is no unrighteousness."—(Psalm 92:13–16)

Good friends: We have entered this sacred place anxious to share with one another memory of Lewis L. Strauss. This large assembly of men and women of different walks of life, of diverse faiths, of all sorts of authority and competence, reflects the extensive spread of his fruitful life and the wide range of his contact and influence. Because of his brilliant mind, his nobility of character and his uprightness as a man, we are now a community of mourners, each bringing to this hour a measure of affection, of friendship, of respect. It is as though all our hearts had become one heart, filled with loving sympathy for his sorely bereaved household. A link has been broken in the chain of love that bound them together in family union. As Walt Whitman put it, ". . . the best is that which must be left unsaid,"—we shall be unable to express adequately the meaning of his life to those who were dearest to him, the gentleness of his love as a husband, the tenderness of his heart as father and grandfather, the devotion of a brother. However family, friends or aquaintances might differ in the quality and intensity of their feelings, we are all as one in our appraisal of the stature of the man we lost. We may apply to him the words of King David's lament over the death of one of his ablest generals:

Know ye not that there is a prince and a great man fallen this day in Israel?" (II: Samuel 3.38)

Admiral Strauss had the qualities of the authentic leader: vision, daring, tenacity, the princely qualities of leadership. But, matching all these endowments that make for victory and success were the inner spiritual qualities of greatness which produced excellence of character, a life of spotless integrity and honor.

He was princely in his generosity, a compassionate son of the Covenant, whose heart and hand responded readily to the Jewish people's desperate cry for help. Yet, he knew that while charity begins at home, that was not where it must end. And so, he became a philanthropist who showered his beneficence upon all kinds of non-sectarian institutions of learning and healing.

The public career of our departed, his crucial role in one of history's decisive moments, has already been prominently recognized in the press, in contemporary literature and in the utterances of the nation's highest authorities. To all this I should only wish to add a glance at his inner spiritual core. His Jewish heritage, received from revered parents, ennobled his soul. Words of Hebrew prayers sanctified his daily life. He observed the Sabbath as a day with God. He knew and loved and read and re-read the sacred Scriptures and was proud to be able to study them in the original Hebrew language. He undertook to teach the Bible to his son and, together, they published a private edition of selected Bible portions to mark the boy's attainment of the age of Bar Mitzvah.

He gloried in the ancient Biblical Covenant as the faith of his fathers and accepted its mandates as the spiritual foundations of his life. Characteristically, he asked to be laid to rest in the traditional Jewish manner, with a "tallit," the prayer scarf, wrapped around his shoulders.

Political controversy has projected a public image of this man which unduly accentuates his fiercest fighting capacity. Tough he was, but also gentle, an affable, delightful man of great sensitivity and tact, a man of charm and culture with whom conversation was edification, a man who met his fellow with a warm heart and a cheerful countenance.

His name is linked to the creation of the most awesome weapons system of the ages. He meant it as America's most potent guarantee of freedom and world peace. He was one of the fathers of the Atoms-For-Peace program. His heart was bent upon peace, not war. A great idea of his whose time unfortunately had not yet come was a project of international cooperation in the Middle East. The Eisenhower-Strauss De-salting Plan which could have made the desert bloom with Arabs and Israelis turning swords into plowshares. Symbol of his devotion to "shalom," peace, as a personal ideal, was the provision in his will to smash all firearms in his possession following his death so that no one might say that he inherited a gun from Lewis L. Strauss.

As I think of him, I see him in the image of the 92nd Psalm:

"The righteous shall flourish like the palm tree; He shall grow like a cedar in Lebanon."

Why like a palm tree or a cedar? asked one of our sages. Because the other, smaller trees soon fade from view as we go past them. But the stately cedars and palm trees are seen long after the others have disappeared. So it is with those who live righteous lives.

Even after the passage of many years, there will stand out in our memory this stately, noble man, with sturdy Jewish ancestral roots, nurtured in the generous soil of America, rugged in character like the trunk of the tree, a straight man of sound fiber and true grain, upright and forthright, not only outstanding but upstanding. Yet, beneath the tough bark of the tree was the living sap of human kindness and above rested the crown of a keen mind, spreading out in numerous branches of knowledge.

As the psalmist said:

"Planted in the house of the Lord, They shall still bring forth fruit in old age."

His spirit remained unbroken, down to the last. He never cringed nor cowered. Yes, he was a prince and a great man. We must match his faith with ours and face this moment with the same fearlessness which, throughout the ages, moved our people to say at a time such as this:

"The Lord has given.
The Lord has taken.
Blessed be the name of the Lord." Amen.

Memorial Service for Rear Adm. Lewis L. Strauss

(By Adm. Arleigh Burke)

We are here today to do honor to the memory of a dear friend and a renowned American—Admiral Lewis Strauss.

Every great nation has been made great by the men that nation has produced. In the history of the two centuries of the United States, it has been given to very few men to make extraordinary contributions to our country and to our society.

Such a man was Lewis Strauss.

We could wish that we might have known young Lewis in those early days when he was formulating his ideals, days when his parents firmly instilled in him appreciation of the privilege of growing up in this land of the free. We can only guess at the lessons he learned in the hard competitive school of salesmanship. Even then the scholar was beginning to appear, for these were times on the road when he was free to read the books he always carried. The goal was always before him—earning enough money to go to college and study physics.

But the first World War was now in progress, and the newspapers in Lewis' hometown of Richmond were filled with the tales of suffering in Belgium, and of Mr. Herbert Hoover who was hard at work to bring the stranded Americans home. President Wilson was calling Mr. Hoover to Washington where he would work without pay.

Young Lewis had saved his money for college, but he decided that instead he would also go to Washington to help Mr. Hoover, and also without pay. He was well received in his Senator's office by the Senator's secretary. His request for a letter of introduction to Mr. Hoover created no problem. One was struck off immediately, and the Senator's name was signed by the secretary.

But even in those days integrity was a way of life for Lewis. The coveted letter was useless in his eyes.

The story of how this young man made his own way into Mr. Hoover's office and into Mr. Hoover's life as advisor, friend and confidant, is only the beginning of a great career.

When World War II loomed, Lieutenant Commander Strauss, United States Naval Reserve, was called to active duty. He early provided an invaluable source of workable ideas to the Bureau of Ordnance. It was then that those of us in the Navy first came to appreciate his ability to get to the heart of complex problems. During those five years of active duty he was given greater and greater responsibilities, and as before he became the chief advisor and trusted confidant of the Secretary of the Navy, who was later to become the first Secretary of Defense.

It was then too that his naval officer associates came to recognize his dedication to his country, his great patriotism, and his courage to stand for what he felt was right for mankind and his country. In those years friendships were formed that stood the test of years.

After the war was over, Admiral Strauss was appointed a member of the Atomic Energy Commission by President Truman. There he took part in history making decisions familiar to us all.

Retirement from those arduous years did not last long. A trusted experienced chairman of the Atomic Energy Commission must be found. President Eisenhower gave Lewis the task of finding a qualified man to take this important position who would be willing to accept the necessary sacrifice of personal considerations including financial loss. The search was long and difficult and finally President Eisenhower drafted Lewis once more into the service of his country.

Both Presidents gave him their complete trust and confidence because they knew him to be a staunch man devoted and loyal to the best interests of his country. They respected his rare wisdom and good judgment. Their faith in his strength of character was justified for he did defend the best interests of the United States, and under his guidance the security of the United States was maintained and enhanced.

In all of these years of devoted service to his nation, he made great contributions in many fields. His services were sought by Presidents for he demonstrated again and again his great ability to organize and direct large organizations so that they were successful in their endeavors. His work, his achievements, helped the United States become a great, generous, responsible nation.

His great accomplishments were not solely, or even the foremost reasons that Lewis Strauss was admired—respected—and loved—by his many friends, great as his achievements were. In his personal life, as well as in his official life, his outstanding characteristic was integrity. He was straightforward—direct—a man of high principles and high standards—standards by which he lived—standards by which he measured himself and his actions.

Last of all, he was a kindly, modest man. He liked people—he understood people. He was a pleasant man to be with—for he exuded warmth and graciousness. He was also fun—for he had a keen sense of quiet humor.

It was these personal characteristics that made him a staunch reliable friend—so many people thought of him as one of their best friends—and he was.

Lewis Strauss was a great American—a great man—a great friend.

We shall miss him.

[From the Richmond (Va.) Times-Dispatch, Jan. 26, 1974]

Lewis Strauss

In the death of Lewis Lichtenstein Strauss on Monday, Virginia and the nation have lost a truly great citizen whose enthusiastic dedication to the best interests of both led him into a life of service to mankind.

Though he was born in the neighboring state of West Virginia, Lewis Strauss grew up and lived most of his life in Virginia. He always thought of and referred to himself as a Virginian. An honor graduate of Richmond's John Marshall High School, he would have gone on to study at the University of Virginia had not his family loyalty led him to join his father in business.

At the age of 21, he went to Washington where he offered his services to the newly formed Belgian Relief Commission. There his industry, intelligence and judgment soon brought him an appointment as secretary and principal assistant to Herbert Hoover, then chief of the commission, who remained his lifelong friend and admirer.

In his many fields of endeavor, ranging from war relief to high finance and atomic energy, Lewis Strauss demonstrated his understanding of the basic purposes he sought to serve, refusing to be diverted by political or self-serving considerations from what he knew to be the right course. As a result of his fidelity to his convictions, including the belief that America should provide adequately for its national security, he accumulated a host of enemies. There were those who resented his determination to develop the hydrogen bomb (and to encourage the peaceful use of atomic energy by private enterprise) during his chairmanship of the Atomic Energy Commission, and they helped to cause the narrow defeat of his confirmation as secretary of commerce in President Eisenhower's administration.

Even this heavy blow to his pride did not embitter him, however. He continued to give his time and talents wherever they were needed in the service of his country until his retirement at 70 to his Brandy Rock Farm in Culpeper County.

A detailed account of Lewis Strauss' career in business and public service would show the breadth of his interests and depth of his intellect, but it could give only an inadequate account of the spirit that motivated him. His vitality and ambition were matched by his conscience. But over and above this dedicated man's love of his country, his family, his state and his fellow man was always his unquestioning reverence for his God.

[From the Norfolk (Va.) Ledger-Star, Jan. 24, 1974]

Mr. Strauss' Able Service

Lewis L. Strauss, the former Atomic Energy Commission chairman who died at his farm near Culpeper the other day, served his country in public life with the same distinction he achieved in private life as a financier.

The public schools in Richmond were the total springboard of formal education from which he rose to a partnership in one of Wall Street's biggest banking houses and to seats on the boards of several major corporations. One of those decisionmakers in American business who were called to help manage the United States' vast effort in World War II, he performed ordnance and production duties for the Navy so ably that he advanced from lieutenant commander to rear admiral and the post of special assistant to the vice chief of naval operations.

Political controversy and the hot glare of congressional hearings were an unlikely encroachment on the life of this banker who went to Washington during the emergency and willingly would have retired to the boardrooms afterward. Such notoriety came his way, though, because the government's enlarged role after the war required men of ability and strength of personality in responsible positions.

Named by President Truman to the original Atomic Energy Commission, he served as the AEC chairman for five years during the Eisenhower administration. The decisions he had to make involved him in such issues of the day as the personal tragedy of Dr. Robert Oppenheimer and his revoked security clearance, and the political football of "Dixon-Yates" and that now all-but-forgotten power plant contract. Fallout from such disputes, complicated by the oncoming 1960 elections and, to be sure, the brittleness of his responses to critics and inquisitors, led to Mr. Strauss' nomination as secretary of commerce being rejected by the Senate.

Today we are more accustomed to seeing confirmation battles go beyond the proper question of the abilities and qualifications of presidential nominees, by which test Mr. Strauss was a distinguished choice. But it was not so commonplace then; he was the first Cabinet nominee in a generation to be turned down. Mr. Eisenhower said at the time that the American people had lost more than did Mr. Strauss. That will probably be the judgment of history, too.

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. Presidet, I yield back my remaining time to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. Chiles). The Senator has 10 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield 10 minutes to the distinguished Senator from Idaho (Mr. Church), if there is no objection.

Mr. CHURCH. Mr. President, I thank the Senator very much.

SENATE RESOLUTION 271—SUBMISSION OF A RESOLUTION DISAPPROVING THE SALARY RECOMMENDATIONS OF THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

STOP THE PAY RAISE

Mr. CHURCH. Mr. President, the President of the United States has today transmitted to the Congress a budget request for fiscal year 1975 of over $304 billion. Included in that budget are recommendations of pay increases for Members of Congress, Federal judges and all high officials in the executive departments of the Government, totaling, for fiscal 1974 and 1975, $34 million.

This year's budget request is nearly $30 billion higher than for 1974, and represents a vast increase in Federal spending at a time when the economy is near chaos. Furthermore, like all previous Nixon budgets, this one is deeply in the red, projecting still another deficit of nearly $10 billion. Congress will have to pare this budget to the very bone. To do less would make the Congress derelict in its responsibility to the American people.

Obviously, we face hard decisions as to where we must apply the knife to the President's new spending requests. But I submit that the first cut we should make is his recommendation for pay increases for Members of Congress and other high Government officials.

Just a few nights ago, the President assured—even promised—the American people that there would be no recession this year. It was noted that several administration economists grimaced during that pronouncement. The facts are that inflation continues at a record pace, unemployment continues to rise and interest rates are sky high. Add to that the energy crisis and the resultant increases in the price of fuel, and the conclusion is inescapable: the economy is quivering on the verge of collapse.

It is the inflation that concerns me the most. Every day I receive letters from people in my State who are getting desperate. The average income for a family of four in Idaho is well under $10,000. With the cost of every necessary commodity rising faster than wage and salary increases can match, many Idahoans can literally no longer afford enough food or fuel. And in the face of all this, the President has recommended an increase in salaries for top officials in Congress, the executive and judicial branches. I might add that $27 million of the $34 million in pay raises requested would go to officials in the executive branch, with $3 million and $4 million going to the legislative and judicial branches, respectively.

I am aware that the Commission on Executive, Legislative, and Judicial Salaries has recommended an immediate 25-percent increase in these salaries, and that the President has pared that recommendation to about 7.5 percent annually over the next 3 years. Nonetheless, in view of the shaky state of our economy, this is not the time to be raising the salaries of the best paid people in Government.

Therefore, for myself and Senator Chiles, I am today introducing a resolution which, if adopted, would disapprove the salary recommendations of the President with respect to section 225(h) of the Federal Salary Act of 1967, for the fiscal year 1975.

I urge passage of this resolution and ask unanimous consent that it be printed in the Record at this point.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 271

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress in the budget for the fiscal year 1975 pursuant to section 225(h) of the Federal Salary Act of 1967.

PREDATOR CONTROL

Mr. CHURCH. Mr. President, predator control has always been an emotional issue in the Western States. Since 1972, when President Nixon issued an Executive order banning the use of chemical toxicants for predator control on public lands the issue has become more heated. Charges and countercharges have been made over the effectiveness of poisons in the control of predators.

Idaho woolgrowers have stated, very loudly, that the Executive order was based on insufficient information and that depredations have increased as a result of the ban on poisons. Various conservation groups, on the other hand, have claimed that the estimates of loss given by our cattlemen and sheepmen are inflated and, therefore, should not be given credence.

In the interest of clarifying the conflicting positions and in order to gather substantive evidence on either side of the issue, I called for field hearings, in January of 1973, on the subject of predator control. Those hearings, held in Sun Valley, Idaho, and Casper, Wyo., were informative, because they highlighted the fact that the Presidential order came from on high with evidence that was, at best, subject to strong rebuttal.

Seeking further explanation, and in response to some very serious charges about laundering of research data by the Department of the Interior, here in Washington, I signed a letter to Secretary Rogers C. B. Morton, along with 20 other Senators, asking for clarification. Subsequent to the sending of that letter, those of us who signed have been charged with advocating the use of poisons to control predators. The plain truth is the letter in no way advocated the use of poisons.

Mr. R. K. "Bill" Siddoway, of St. Anthony, Idaho, president of the National Wool Growers Association, has responded to an editorial in the New York Times which both criticized the signing of the letter and asserted that the letter implied that poisons should again be used. I ask unanimous consent that the editorial and the text of Mr. Siddoway's letter to the New York Times appear at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHURCH. Mr. President, I have also received a letter from the National Audubon Society expressing serious concern over what that association has determined is an implied advocacy for use of poisons. I also ask unanimous consent that the text of that letter appear at the end of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. CHURCH. Mr. President, I believe that these two letters crystallize the conflicts in the evidence that is available. I commend these letters to my colleagues for their reading. The dispute of facts cited in both letters appears to me to exemplify the very reason I signed the letter to Secretary Morton.

EXHIBIT 1

[From the New York Times, Jan. 14, 1974]

BACK TO POISON?

Just two years ago, President Nixon signed—to the warm praise of conservationists—an Executive order that was intended to put an end to the horrid practice of poisoning prairie dogs and predatory birds and animals on the public lands. Of all man's intrusions on nature's order, the wholesale use of poison in the United States has been among the most reckless and indefensible.

Like most Executive orders, this one required aggressive leadership if it was actually to produce a change in long-established Government practice. In this instance, the Interior Department managed to find language in the order that enabled it to continue the use of poisons against prairie dogs. Meanwhile, the pressure from Western sheep and cattle ranchers for resumptions of large-scale use of poison has been unremitting.

Twenty-one Western Senators led by Senator Henry M. Jackson, who used to be known as a conservationist, have now intensified this pressure by sending Secretary of the Interior Morton a joint letter complaining that his department has failed to protect ranchers against "substantial losses of domestic livestock to coyotes."

The sheep ranchers have come up with the fantastic and unprovable estimate of 800,000 lambs and sheep lost to predators. Whatever the figure, the ranchers make no secret of their preferred solution to the predator problem: back to poisons.

It is impossible to zero in on particular predators and poison only them even if that were desirable, which it is not. The slaughter of millions of prairie dogs, amounting now almost to extermination, has resulted in the virtual disappearance of the unique animal—the black-footed ferret—that preys on prairie dogs. Numerous other predators and scavengers have incidentally been decimated by the use of poison, including falcons, hawks, owls, condors and even the nation's symbol, the eagle. Moreover, the coyote—instead of being the dread menace depicted in sheepmen's propaganda—is, like the wolf, a useful species whose very existence is threatened.

Ranchers and their political patrons must come to understand that the indiscriminate use of poison on the public domain is morally offensive and ecologically inexcusable. If the White House and the Interior Department stand their ground, the ranchers may come to realize that for once they cannot prevail by political bullying.

When that is clearly established, they will drop their exaggerated claims of damage and begin to cope with the modest problem of predators, where it exists, in more humane and more effective ways. Instead of relying upon chemicals to police the natural enemies of their lambs and sheep, they might even consider hiring shepherds to tend their flocks. That was how man raised sheep over ages past—before he became greedy enough to resort to the cruel practice of mass poisoning.

NATIONAL WOOL GROWERS ASSOCIATION,
Washington, D.C., January 28, 1974

Mr. ARTHUR OCHS SULZBERGER,
Chairman and President, New York Times Corporation, New York, N.Y.

DEAR MR. SULZBERGER: The New York Times, a fountainhead of contemporary American knowledge has been had—or else your editorial staff knows better, but chooses to expound as it would have the public believe. I refer specifically to an editorial entitled "Back to Poison," which appeared in the edition of Monday, January 14, 1974. This expression of opinion is so biased and misleading and so replete with falsehoods and inaccuracies that it seems impossible it could have been written by persons with any sense of objectivity—especially considering your newspaper has recently printed several excellent news accounts of coyote predation upon livestock in the Western United States.

I know the persons who communicated with your editorialists in this instance, and they deceived and misled them just as they have other segments of the news media, the American people, and even committees of the Congress of the United States. Hopefully the principal informants won't be around much longer. Had your staff wanted to write a sensible editorial they could have done so because factual information is available which, if studied would produce a balanced judgment on this very critical subject.

To begin with, the twenty-one Western Senators who signed the letter of complaint to Secretary Morton, referred to in the editorial, have not, as an impartial reader might infer, advocated a presumption of the use of poison as a method of controlling coyotes. Such an inference does them a great disservice. It took considerable courage and conviction to compose and sign the letter because they knew full well that by so doing they would be subjected to editorial abuse and a spate of hysterical, form letter, hate mail. They are not the "political patrons" of ranchers, but concerned legislators troubled by the west-wide peril of coyote predation who are seeking some straight answers. It is a grave problem and if you were to ask your own Western reporters they would attest to this fact. The editorial skillfully clouds the issue by irrelevant references to the poisoning of prairie dogs and other supposedly endangered species. The editorial should have focused on the coyote issue, as the Senators did.

Now let's get a few things straight. Regarding the use of the chemical toxicants in question for predator control, there is absolutely *no evidence* that these ecologically sound tools were harmful to the environment. *No evidence!* The shrill cries of irresponsible environmentalists that millions of innocent animals were slaughtered by the "wholesale" use of toxicants has no factual basis. There is only the much heralded study of 1971, known as the "Cain Report." At least one member of the Cain Committee has publicly recanted on his critical contribution. The report was intended to be only a preliminary study, and it cautioned against an immediate elimination of toxicants. Yet it was used as the basis for the Presidential Executive Order prohibiting toxicant use on Federal lands.

The Cain Committee overlooked a vast collection of material compiled by the Department of Interior to defend a 1971 lawsuit brought by two environmental groups to force an end to predator control. These reports are a thorough and factual defense of the program. They have been long suppressed, but recently pried loose by the Committee on Agriculture of the House of Representatives. They deal with each of the wildlife species mentioned in the editorial and conclude that the breeding populations of none of these animals, nor any others for that matter, were reduced by toxicants being used for predator control. This is substantial data, which was and is available to your reporters and editorial writers—if they were inclined to look for it.

As a matter of interest it would be well to note that the same chemicals which were banned for use in predator control are still being used in rural and urban areas to combat rodents. The Environmental Protection Agency recently dropped a legal inquiry into the rodent aspect for lack of evidence that such use was harmful to the environment. Yet the evidence is the same for the predator program and no hearing was held, despite governmental promises to do so, before the substances were removed for that purpose.

The use of chemical toxicants to control wild animal predators was not indiscriminant and although it may have offended some uninformed segments of society, it was ecologically sound.

Let's talk about fact and fiction. Does it not seem strange to you that regarding this subject the assertions of some radical environmentalists—most of whom have never bothered to observe conditions in the West—are unquestioned for accuracy, whereas the claims of those of us who live with this problem are dismissed as exaggerations. Is the word of someone blindly accepted just because he speaks in the name of a better environment? The losses of sheepmen are substantiated. This is being done every day by government officials, veterinarians, trappers, professors, researchers, etc. The loss figure of 800,000 sheep, which ranchers were supposed to "have come up with", and which the editorial labeled as a "fantastic and unprovable estimate", is modest in relation to that just reported by a Department of Agriculture expert on January 25, in San Diego, California. Dr. Clair Terrill estimates 2,000,000 sheep were killed by coyotes in 1972 alone with a loss valued at $50,000,000. That represents 100,000,000 pounds of meat.

The President's Executive Order which banned toxicants was another example of environmental overkill politically perpetrated on the American public, by a handful of arrogant administrative appointees, who have dealt irreparable harm to the nation's food supply in the name of ecology. What is so discouraging is that it has taken so long for the truth to emerge. But it is. Pseudo-environmentalists have cried wolf (or black footed ferret) once too often. Their credibility is shattered. I refer to pseudo-environmentalists because the more professional environmental groups have either taken no position on this subject or have endorsed the carefully controlled use of some toxicants—as has the International Association of Fish, Game and Conservation Commissioners and the National Wildlife Federation.

The New York Times carried a letter last Sunday from the President of the Audubon Society in which he stated wool growers are only interested in toxicants, where we should be supporting research for improved methods. Where was the Society during all those years—before the environment became a popular cause which filled the coffers of the New York Office—when wool growers were pleading alone for interest in predator research? We welcome other means of control.

Wool growers are sometimes too eager to find new answers. A report was made last fall at a sheep management symposium in Denver by a rancher who felt he had found an effective repellent for coyotes. As a result, a great many sheep throughout the West were sprayed with the substance until the Environmental Protection Agency and the Food and Drug Administration advised the product had no clearance and ranchers were risking condemnation of their lambs at the slaughter plant.

Mr. Sulzberger, we sheepmen don't like toxicants any more than their critics do. A panel of scientists presented to the National Wool Growers Convention in San Diego last week, the full range of predator research endeavors. It's impressive research and an impressive effort. But, to a man, they emphasized that results are, at best, several years away; and that we should expect no panaceas. Several projects show promise of helping under some circumstances, just as the currently developed tools are effective under some conditions. For now toxicants are the only effective weapons in some areas under some circumstances. They are no panacea either. Unless we have a variety of tools available to us which can be selectively employed by trained professionals, until toxicant substitutes are perfected, the senseless waste of food and fiber, which is so desperately needed today, will continue.

Sheep raising is one of the most ecologically sound of agricultural enterprises. These helpless animals are generally raised in natural environments on a renewable resource—natural forage. They produce red meat and natural fiber, with simple efficiency, using little more than solar energy. Such efficiency is vital in today's world.

Another absurdity contained in the editorial is the statement that the coyote is a species whose "very existence is threatened". Perhaps you might be interested in knowing a fact your writers have not cared to develop. Today there are more coyotes in more states than there have ever been. They are seen where never observed before. They are more dense in sections of states which border the Western banks of the Mississippi River than in many regions of the Far West. Nebraska, for example, experienced an increase of over 140% between 1972–1973 according to Department of Interior trend data.

The coyote is an extraordinary species, prolific and adaptable, with a remarkable ability to respond rapidly to any relaxation of control. Sheepmen have been forced to absorb enormous losses since the ban on toxicants because there are sometimes no adequate alternative control methods. All we ask is the supervised use of toxicants which are known to be environmentally safe until substitutes are available. Researchers, in at least two independent economic studies, have declared predators to be the single most important factor in the rapid decline in sheep raising. We must be able to control this menace or there won't be any of us left.

I found the editorial reference to sheepherders particularly offensive. We are told to hire herders to tend our flocks "as man raised sheep over ages past." What do they think we do, turn the sheep loose in the mountains and let them fend for themselves. Most Western sheepmen use all the herders they can find, and most of them are from Spain and South America because we can't get United States citizens to do the work. Herders are not a sufficient answer to predation—and any observer who has ever bothered to visit the West and observe the problem knows this. Scarce herders, in fact, are quitting in disgust at the suffering of their sheep which they feel is caused by a stupid and callous government.

We are accused of "political bullying". Is that really fair? We are a small industry fighting for our livelihood and being destroyed by a handful of biased bureaucrats and a few well-organized special interest groups. These groups use their plentiful tax exempt dollars to mount political pressure campaigns that make our efforts look paltry in comparison. One of these organizations gives a free subscription of its very slick, full color, magazine to the wives of every member of Congress. They place dishonest articles in the magazines of airlines which carry Congressmen to and from Washington, D.C. when critical votes on predator legislation are imminent. They distribute flatly dishonest TV films to stations all over the nation under the guise of public service commentary. They are the ones who are really "bullying" the American public.

Whatever we are accused of, please remember this. The propriety of using chemical toxicants to control predatory animals will ultimately be decided in court, and neither we, the press, nor the environmentalist pressure groups can "bully" a Federal judge. We will abide by a judicial outcome. Let's hope others can accept it.

I have written the New York Times in the past, oddly enough, to commend the paper on news coverage of the sheepman's plight. But my communications haven't been published. I ask you to print this one. But in the event you choose not to, I have sent copies of both the editorial and my response to members of the Senate and House of Representatives in the hope that one or more will see fit to publish them in the Congressional Record.

You are invited, Mr. Sulzberger, to come West any time, at wool growers expense, to stay with me or my fellow ranchers and view, firsthand, the facts of the predator issue.

Yours sincerely,
R. K. "Bill" Siddoway,
President, National Wool Growers Association.

Exhibit 2

National Audubon Society,
New York, N.Y., January 10, 1974.

Hon. Frank Church,
U.S. Senator, Senate Office Building, Washington, D.C.

Dear Senator Church: We are deeply concerned over the letter you and other Senators signed recently and sent to Secretary Mortion about predator control as reported in the New York Times January 2, 1974. We have since seen the letter you signed.

We are loath to get caught in a crossfire between distinguished members of the Senate and the Secretary of the Interior, but we do believe—and with abundant reason—that the Interior Department has made a good faith effort both to reduce damage from predators and, through expanded research, to find more effective means of preventing damage.

The National Audubon Society for some years has closely followed the predator control issue. It has opposed the field use of Compound 1080, strychnine and cyanide to kill predators because these poisons are nonselective, highly dangerous to man, lethal to non-target wildlife species and domestic animals and, in the case of Compound 1080 and strychnine, inhumane.

Moreover, we can document the point that poisons simply are not the answer to the predator problem. They did not work in the past, when widely used. There is no reason to believe they will if the current ban is overturned.

Since the promulgation of the 1972 Executive Order halting the use of predator poisons on federal lands, Interior has conducted an accelerated predator control program using mechanical methods. In fiscal 1973, without using poisons, Interior's program killed 85,000 coyotes, 14,000 more than in fiscal 1972. Even allowing for an increase in coyote populations, and assuming that not all poisoned wildlife—including non-target species—were retrieved in past years, we believe these figures show quite clearly that predator control is possible without the use of poisons.

I realize that you don't have time to read every word of the voluminous testimony before Senate Committee on this subject. I respectfully suggest, however, that the record of recent congressional hearings on predator control contains no credible evidence that the poison ban has caused total losses to predators to increase. Moreover, at those hearings, witnesses from the Interior Department—including the scientists working on predator research—testified at length and candidly answered questions on every aspect of the predator problem.

Before the poison ban was announced, the wool growers were claiming the losses were increasing. Yet since the ban they contend that the ban is the cause of higher losses. For instance, some wool growers have blamed the supposed 0.3% increase in losses from 1971 to 1972 on the poison ban. Consider the facts, however: Since poisons set out in the winter of 1971–72 affected the predator breeding population of the *following* spring and poison baits were not removed from the high country until as late as June, 1972, the ban's total effect could not *possibly* have been felt for months after it was announced.

Moreover, even if losses are up in one year, that in itself is of little significance in determining the effectiveness or lack of effectiveness of a predator control program. Losses fluctuated even during the years when 1080, strychnine and cyanide were widely used. According to the U.S. Agriculture Department, which is pro-poison, the highest losses—8.1%—in recent years occurred in 1970, two years *before* the poison ban!

Final loss figures for 1973 have not yet been compiled, as far as we know. It is certainly possible that when the final figures for 1973 are in, they may show increases in some states—and decreases in other states. But regardless of what they show, one year is hardly enough to establish a valid statistical trend!

We also point out that the loss *figures*—be they higher or lower—cannot be accepted as gospel. Too often these figures are based on projections which, in turn, are based on questionnaires sent to individual sheep ranchers who may or may not be reporting losses accurately.

As the Final Report to the Four Corners Regional Commission on an important Predator Control Study noted:

"Unbiased estimates of the *causes* of loss, whether predation or otherwise, are more difficult to get and tend to fall in the surmise category. While stockmen frequently feel that their veracity is held in question on this matter, this is not the case at all. The basic problem is that it is almost always difficult, if not impossible, to see all or most of the animals that die. A prime example is the Davenport et al. study in which a small, selected group of stockmen were asked to report all dead sheep they found, and the investigators themselves spent a great deal of time searching the range areas. Even under this intensive regime, only half of the dead animals were found on the limited spring ranges, and only about one fourth of the dead animals were seen in the more extensive summer ranges.

"When only a fraction of the dead animals is found, the observer is always left with the problem of *surmising* what the causes of loss have been *in the unobserved animals*. It is a natural tendency to assume that the same pattern of loss prevails among the unobserved animals as among the observed animals.

"This may or may not be true. Davenport et al. considered the possibility that predation losses were more observable because they occurred in the vicinity of bedding grounds and open terrain nearby. The implication was that predation losses constituted a lower percentage of the unseen deaths which comprised roughly three-fourths of the total, summer losses. They did not assert this as necessarily being true, but it left sufficient uncertainty to prevent any confident projections to total predation loss for their data."

We are well aware that some sheep ranchers have testified at hearings that their losses are higher. But this does not mean that all sheep raisers have higher losses this year; indeed, those with few losses have little incentive to report at all—and many don't.

The *New York York Times* story of January 2 also quoted the executive secretary of the National Wool Growers Association as saying that sheep losses will continue to worsen as long as ranchers are barred from using poisons.

I submit that while predators are indeed a real problem for sheep ranchers, the loss figures used by spokesmen for the wool growers are unreliable, unscientific and quite possibly self-serving. I suggest that no member of Congress would want to base his election campaign strategy on survey or polling techniques of the type used to compile estimated sheep loss due to coyotes.

Another factor to be kept in mind in evaluating claims to sheep losses is that poisons are still being used in some sheep states. For example, in the past year and one half, the Colorado Agriculture Department issued more than 200 permits to poison predators on private land. (The EPA order does not affect intrastate sale of poisons.) Thus, while claiming high losses *due* to the poison ban, some wool growers have been *using* poisons all along.

Incidentally, although the Executive Order provides for emergency use of 1080 and other poisons, in the nearly two years since the order became effective, the Interior Department has received only five requests for such use, only one of them for protection of domestic livestock.

The Nation's wool-growing industry is suffering from a variety of economic pressures, as the wool growers themselves admit in their industry magazine. In their frustration, some wool growers blame predators for their ills. I suppose it is much easier to hate a coyote than to change management practices or compete with synthetic fibers and foreign wool. From their point of view, wool growers face an emergency which they blame on the poison ban.

But as Mr. William Mau, past president of the Wyoming Wool Growers, said at the Senate Commerce Committee hearings last March: "Predatory animal control is a continuing emergency in Wyoming. History shows that 37 of 42 Wyoming legislative sessions have had to deal with predatory animal problems."

If a predator-caused emergency has existed for so many years in Wyoming, during which time poisons were broadcast on public and private lands, can the problems of the wool growers be blamed on the relatively recent poison ban? Would relaxing the poison ban solve the problems of the wool growers?

The National Audubon Society believes the answer to both of those questions is definitely "no."

We also believe that predators, especially coyotes, are indeed a problem for some sheep ranchers. We further believe that the answer to the coyote problem will be found through a predator control program based on research and technical and financial aid to States to help them control nuisance coyotes without using poisons, and on improved livestock husbandry techniques.

We believe that the wool growers themselves are responsible for stalling the enactment of new legislation. Despite all the evidence to the contrary, too many wool growers still see poisons as the only solution to the coyote problem, and their efforts to overturn the poison ban have obstructed passage of needed new legislation.

We will be happy to work with you, the Interior Department, and the wool growers to help implement an improved predator control program. But we urge you not to be misled by unsubstantiated charges and loss claims. Poisons simply are not the answers to the coyote problem. If they were, the problem should no longer exist, what with all the poisons spread upon western lands through the years before the ban.

Thank you for considering our views.

Sincerely,

ELVIS J. STAHR,
President.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. MANSFIELD. Mr. President, I am delighted that the distinguished Senator from Idaho has made his remarks on predator control this morning, because I am the subject of the same kind of criticism relative to my signing the letter along with 21 of my colleagues from the West.

It is getting so one cannot even call for an inquiry or clarification without being criticized for taking such action. I would hope that those groups on both sides of this question would not become so emotionally involved and would recognize the fact that Senators, once in a while at least, would like to get all of the facts laid before them for the purpose of enhancing their education on a particular subject which is of primacy at this particular moment.

I thank the Senator for yielding.

Mr. CHURCH. I thank the majority leader for his comments.

This is one field, Mr. President, where a reasonable solution is obtainable. If we could get the facts laid out in an objective manner, I am certain that the problem can be solved in a way that would be satisfactory both to the wool growers and the cattlemen, as well as the various conservation and environmental groups that have been involved in this controversy. However, unless we can get the facts and lay them out carefully and make the objective assessment that is required, emotions will continue to dominate.

Mr. President, I yield back the remainder of my time.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes with statements made therein limited to 3 minutes.

PRESIDENT'S BUDGET: ENGINE OF INFLATION

Mr. PROXMIRE. Mr. President, the President's budget for the coming year has been released within the hour. The President has proposed by far the largest dollar increase in Federal spending in the history of this country, in peacetime, and one of the largest percentage increases this country has ever had.

Our No. 1 economic problem today is inflation. The colossal $30 billion in additional spending the President proposes is going to make that inflation worse.

What irony—on Wednesday night in his state of the Union speech the President said and I quote:

> The way to hold down inflation is to hold down Federal spending.

Now, less than 5 days later, he proposes a budget which not only fails to hold down Federal spending, but it explodes Federal spending.

Consider what the last three administrations—Democratic and Republican—have done to the American taxpayer just in the last 14 years.

In 1961 the Federal budget was less than $98 billion.

For the coming year it will be $304 billion. Now think about that for just a minute. In 14 short years the budget has tripled. It has increased threefold.

Mr. President, the last 5 years have been especially discouraging. The Republican Party in general and Mr. Nixon in particular have made a great deal of economy in Government. But since the President assumed office the budget has gone from about $196 billion to more than $300 billion, an increase of well over 50 percent, and to make the increase even more astonishing this increase has come after the conclusion of a war.

Mr. President, this is the first war in this Nation's history which has been followed—not by a reduction in spending but an increase in spending.

After the Korean war, Federal spending dropped more than $8 billion or in excess of 10 percent.

After World War II, Federal spending dropped from $95 billion down to $36 billion or a remarkable 60 percent, but after the Vietnam war the budget not only did not drop but it increased by billions, so that next year it will be more than 50 percent higher than at the peak of the war.

But, Mr. President, the situation is even worse than I have indicated. Thanks in part to revenue sharing and a series of Federal programs that virtually dictate increased State and local spending, spending by State and local government has increased even more rapidly than Federal spending.

In fiscal 1961 State and local spending was about $56 billion. In the coming fiscal year it will be about $210 billion. So, whereas Federal spending has increased threefold, State and local spending is well on its way to a fourfold increase.

Mr. President one of the alibis advanced for the increase in spending is that there is nothing the President or the Congress can do about it. The spending is called uncontrollable.

In any one year of course there is something to that. Contract commitments must be honored. Social security payments increased by past Congresses to take effect in the coming year must be honored.

How did we get into this kind of fix? We got into it because we adopt immensely expensive programs without really concerning ourselves with their cost. Who is to blame? The answer: Both the President and the Congress are to blame.

Take the Nixon proposal for a universal health care program. The cost, $40 billion each and every year. And on the basis of our experience with medicare, that $40 billion is just a beginning.

Take the guaranteed annual income program cost: a few billion to begin with, but once we start—watch out. That program with its built-in, like social security—every election year a boostershot will make the military budget look penny ante.

And future Presidents and Congresses will talk about another huge uncontrollable spending obligation.

Mr. President in the next few days I expect to make a series of speeches on the budget and to offer a counterbudget.

For those Members of Congress and the public who believe Federal spending is becoming a smothering burden, this is going to seem like a lonely road. The newspapers I have read, the television commentaries I have heard on the budget—all either take the spending increase for granted or argue that it may not be enough if recession hits us.

But I am convinced that the American people overwhelmingly have quite a different view. They are vehemently opposed to the suffocating tide of increased Federal spending and they are anxious to see it stopped and reversed. I am not talking about conservative Republicans. I am talking about all the American people—all income groups, occupational groups—all ages. All regions of this country favor holding down Federal spending. Mr. President, I venture to guess that there is not a State in this country in which a majority of voters would not vote for a reduction in almost every major phase of the President's budget—domestic, military, you name it.

Remote as the prospects may seem, I think it is worth a fight to try to get that sentiment together.

THE PROPOSED PAY RAISE

Mr. GRIFFIN. Mr. President, earlier the distinguished Senator from Idaho (Mr. CHURCH) submitted a resolution of disapproval of the 7.5 percent pay raise which President Nixon has recommended for certain officers in the judiciary branch, in the legislative branch, and the executive branch.

From a political point of view, perhaps it would be expedient to have no comment or, perhaps, to join in cosponsoring the resolution of disapproval. However, I feel it is important that someone undertake to put this matter in perspective.

For example, in the remarks which accompanied submission of the resolution, I did not hear it said that judges, Members of the Congress, and those in the executive branch who would be affected have had no adjustment in pay since March of 1969. It was not pointed out in the presentation that since March of 1969, the cost of living has gone up nearly 30 percent.

We hear a lot these days about the need for confidence in Government and how essential it is that good people be attracted to Government service and be willing to stay in Government.

If Members of Congress are reluctant to vote themselves a cost-of-living adjustment, I hope they will at least take a look at the need for such an adjustment in the case of other officers in the judicial and executive branches.

It is essential that able and distinguished lawyers be willing to serve as Federal judges. But the fact is that Federal judges have experienced a pay cut of more than 25 percent since March of 1969.

If we hope to attract the best of the legal profession to serve in the judiciary and to stay in the judiciary, certainly some kind of a catchup, cost-of-living adjustment is in order at this time.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order. The Senator is entitled to be heard.

The Senator's 3 minutes have expired.

Mr. PERCY. Mr. President, I seek recognition, and I yield to the Senator from Michigan.

Mr. GRIFFIN. There is another point I should like to make. It should be noted that the President has not recommended a 25- or 30-percent increase—which would be necessary to catch up with the cost of living. Instead, he has recommended only a 7½-percent increase, which will accomplish nothing more than keep pace this year with the approximate increase in the cost of living that most economists anticipate this year.

I thank the distinguished Senator from Illinois for yielding.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further statements during the transaction of routine morning business be limited to 6 minutes rather than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FISCAL YEAR 1975 BUDGET

Mr. PERCY. Mr. President, the President's office released the President's fiscal year 1975 budget request about 12 o'clock noon today. My comments will be brief, but, having spent an interesting weekend reviewing the proposed budget, I should like to make a few comments.

I was pleased by the offer of cooperation extended to the Congress by the President and administration officials in presenting the President's budget requests for fiscal 1975. Such cooperation is vital if the Federal Government is to respond effectively to our Nation's economic and social needs this year and in the years ahead.

I am concerned that the President's fiscal year 1975 budget request may be based on overly optimistic assumptions about the economy in 1974.

The President declared in the state of the Union message that there will not be recession. The Council of Economic Advisers projects a slow rate of economic expansion in the first half of the year, while admitting the possibility of a decline.

These forecasts seem to me to be too optimistic. Unfortunately, I think there is a better than even chance that in both the first and second quarters of this year real GNP will actually drop. Two quarters of negative, or zero, GNP growth would, by the commonly accepted definition, mean an actual recession.

It is in fact a sorry state of affairs when the best that the administration can even hope for is inflation close to 7 percent and unemployment close to 6 percent. But even these projections may be overoptimistic.

If the administration's projected upturns do not occur by the beginning of the second quarter the administration should be prepared with a contingency plan to promote recovery. It should not wait, however, until the spring to prepare this plan. Rather it should have programs developed and ready to put in place should the upturn fail to develop, and it should begin now to develop alternatives in consultation with Congress.

The lesson of the last year or two is that there will be surprises and that being unprepared turns surprise into disaster.

The administration's assumptions about the economy, and the fiscal policies derived from those assumptions, contain a kind of "time bomb." If we wait too long to see whether the assumptions are right or wrong, and do not have corrective programs to implement, we risk plunging the economy into an even deeper downturn. For example, if unemployment continues to rise dramatically additional fiscal stimulus will be needed.

There are at least two areas in which additional Federal spending would be desirable. Secretary of the Treasury Schultz has suggested improvements in the unemployment compensation program as a major response to growing unemployment. This is a partial, but not an adequate solution.

What is needed now is an immediate supplemental appropriation of at least $800 million for the public employment program to offset the job losses occasioned by the energy crisis and its side effects. This amount of additional funding would allow State and local governments in areas of high unemployment to immediately hire at least 170,000 persons.

Conspicuously present in this budget are dramatic expenditures to increase energy supplies, in a long-range basis. What is conspicuously absent is a package of incentives—tax and otherwise—to promote energy conservation and to offset the additional costs of energy to the consumer.

The volatile nature of the economy and the necessity to work closely together to see that the Federal budget has the necessary fiscal impact makes enactment of congressional budget reform urgent. I predict that Congress will respond and that the Senate will adopt the most sweeping budget reform since 1921 within the next 45 days, and that the legislation should be on the President's desk for signature during the second quarter of this year.

Mr. President, more than ever when we have a volatile economy, with a potential for a downturn, or an upturn if the embargo is lifted quickly and we can respond quickly to it, we need to stay sensitive to the economic needs of the Nation, and this calls for closer coordination and cooperation than ever before between the executive branch of the Government and the congressional branch.

We can be very grateful indeed that two committees of the Senate, the Committee on Government Operations and the Committee on Rules and Administration, have been laboring long and hard; that, together with the expertise exercised through the years by the Appropriations Committee and other committees, can bring about a change this year in Congress that is long overdue, but which is now vital and absolutely essential for us to pursue a policy of fiscal responsibility and fiscal responsiveness to the economic needs of the country.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later this order was changed to provide for the Senate to convene at 10 a.m. tomorrow.)

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

ORDER FOR SENATE TO CONVENE IN EXECUTIVE SESSION AT CONCLUSION OF MORNING BUSINESS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at the conclusion of routine morning business today, the Senate go into executive session to resume consideration of the Genocide Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time remains for morning business?

The PRESIDING OFFICER. Eight minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

DIVISION AND CONTROL OF TIME ON CONSIDERATION OF GENOCIDE CONVENTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, the distingiushed Senator from Idaho (Mr. CHURCH) and the distinguished Senator from North Carolina (Mr. HELMS) control the time for the 1 hour of debate under rule XXII on the Genocide Convention.

Mr. JAVITS. Mr. President, before that request is agreed to—the Senator moved rather fast for me on that—I should like to reserve the right to object on that division of time to ask the Senator from West Virginia a question.

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. What assurance does the Senator have that Senator HELMS has requested that time or will use it? It is most extraordinary that there have been a number of days of debate now on this matter and the opposition professes to be determined in its opposition, but we have yet to hear the arguments in opposition. Thus, I believe we have a right to ask, is the Senator from North Carolina going to take the time that he has asked for and, hopefully, will use it?

Mr. ROBERT C. BYRD. I cannot answer the Senator. The Senator from North Carolina did not ask me for the time, but as is usually the case, we do attempt to divide the time between the two opposing sides. I just went on the assumption that Senator HELMS would control the time for the opposition.

Mr. JAVITS. I thank my colleague very much. I shall not object, of course, because this is the way we usually do it. But I do think it is important to note for the RECORD and for all Senators that we have been here prepared to debate. We could have taken Monday off, too, but we are prepared to stay as late as anyone wishes. I will stay here until midnight tonight if necessary. We have made our arguments. We have heard none, notwithstanding, as I say, the assurance of the determined opposition. The leadership has kind of assumed that that is so, too, but without any tangible evidence on the floor, because there has been no desire on the part of the opposition to close up this matter. Under those circumstances, as I understand it, I shall, of course, not object. But I believe it should be noted exactly what the situation is with respect to disposition of this Genocide Treaty which was so widely advertised as being absolutely dug in and irreconcilable, but we have yet to hear from them.

I thank my colleague.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

VALIDATION OF AMENDMENTS TO BE PROPOSED TO GENOCIDE CONVENTION

Mr. ROBERT C. BYRD. Mr. President, as in exectutive session, I ask unanimous consent that all amendments involving reservations, understandings, and declarations proposed to the resolution of ratification on Executive O, 81st Congress, 1st session, at the desk, by the beginning of the vote to invoke cloture, now be considered as having been read so as to comply with the reading requirements under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees, as the case may be, have been recognized under the standing order tomorrow, there be a period for the transaction of routine morning business of not to extend beyond the hour of 11 o'clock a.m., with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR EXECUTIVE SESSION ON GENOCIDE CONVENTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock a.m. tomorrow the Senate go into executive session to resume the consideration of the Genocide Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees, as the case may be, under the standing order tomorrow, I be recognized for not to exceed 15 minutes, or in any event not to extend beyond the hour of 11 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would eliminate the period for the transaction of routine morning business tomorrow.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, has morning business been closed?

The PRESIDING OFFICER. Morning business has been closed.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Government Operations, with amendments:

S. 1414. A bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps (Rept. No. 93–675).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CLARK:

S. 2943. A bill to provide for public financing of all Presidential and congressional election campaigns, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and the Presidential Election Campaign Fund Act, and for other purposes: Referred, by unanimous consent, jointly to the Committees on Rules and Administration, Commerce, and Finance.

By Mr. PEARSON:

S. 2944. A bill to provide for the assignment of Foreign Service officers to certain public organizations. Referred to the Committee on Foreign Relations.

By Mr. BELLMON (for himself and Mr. Bartlett):

S. 2945. A bill to repeal the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. TALMADGE (by request):

S. 2946. A bill to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. CHILES:

S. 2947. A bill to amend the Export Administration Act of 1969 to authorize the imposition of export controls when necessary to bring about adjustments in economic policies or actions by foreign governments. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. DOMINICK (for himself, Mr. Bennett, Mr. Domenici, Mr. Montoya, Mr. Fannin, and Mr. Haskell):

S. 2948. A bill to amend section 5(c) of the National Trails System Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH:

S. 2949. A bill to amend title XVIII of the Social Security Act to include breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program. Referred to the Committee on Finance.

S. 2950. A bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder. Referred to the Committee on Finance.

By Mr. BAYH:

S. 2951. A bill to provide for public ownership of certain documents of elected public officials. Referred to the Committee on Government Operations.

By Mr. HUMPHREY:

S. 2952. A bill to provide for project grants for the development and demonstration of programs for rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of identified population areas. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS:

S. 2953. A bill for the posthumous promotion of Lt. Comdr. Herbert Montgomery Hayter, U.S. Navy. Referred to the Committee on Armed Services.

By Mr. MATHIAS (for himself and Mr. Ervin):

S. 2954 A bill to amend the Economic Stabilization Act of 1970 to establish improved procedures for the implementation of that act, and to assure due process under that act. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MOSS (for himself and Mr. Goldwater) (by request):

S. 2955. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. SCHWEIKER:

S. 2956. A bill to establish the Federal Energy Production Corporation, and for other purposes. Referred, by unanimous consent, to the Committee on Government Operations; and, when and if reported by that committee, jointly to the Committees on Finance and Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLARK:

S. 2943. A bill to provide for public financing of all Presidential and congressional election campaigns, to repeal the Campaign Communications Reform Act. to amend the Federal Election Campaign Act of 1971, and the Presidential Election Campaign Fund Act, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Rules and Administration, Commerce, and Finance.

COMPREHENSIVE ELECTION REFORM ACT OF 1974

We shall not finally come to grips with the problem except as we are prepared to pay for the public business of elections with public funds. (Sen. Mike Mansfield, Feb. 1, 1974).

Mr. CLARK. Mr. President, it has been 18 months, now, since a small group of men broke into the Democratic Party's national headquarters setting in motion what has become the most serious and devastating episode of political scandal and corruption in this country's history. Since that day in June, the revelations and criminal charges have not stopped—bribery, perjury, illegal wiretapping, burglary, and a score of illegal campaign contributions.

Through the efforts of the Special Prosecutors' Office, the Senate Select Committee, Judge Sirica, and the grand juries, and now the House Judiciary Committee, everyone knows just how widespread the disease has been. The evidence is not all in, of course, and the investigations and trials will continue. But the people of this country have heard enough and seen enough to expect that something be done to change the political practices that allowed this to flourish. They expect a significant change, and they expect the Congress to make it, if only because the administration certainly is not going to lead the reform effort.

A few days ago, we listened to the President's reflections on the state of the Union. It was ironic that he would ignore one of this country's most critical problems; the public's widespread, growing distrust for public officials and Government. It is not enough to proclaim: "One year of Watergate is enough," and then to say that we should end the investigations before they are complete; and to "get on with the business of the country" is to say that trying to prevent political corruption is not the country's business. Unfortunately, it is very much a part of it.

Like political corruption, the liabilities of a political system like ours—based on private financing—are not limited to the executive branch. The impact of the private dollar on the legislative process has been pervasive, and there probably is not a single Member of the U.S. Congress who has not felt it or wished that it might be changed.

Many people in Iowa, like people across this country, feel disillusioned, frustrated, and angry. They are upset about the energy situation and the high profits of the oil companies, but they become even angrier when they learn that oil companies financed a significant part of the President's reelection campaign. As a result, people do not trust the administration—or Congress, for that matter—and they do not believe that the Federal Government can even deal with the energy emergency, the inflationary economy, and any number of problems that face the Nation today.

They strongly suspect that Government's principal interest is not their interest. And that suspicion is gradually becoming disdain and apathy. Already, this country has the lowest voter participation of any country. The events of the last year have had their strongest impact upon young people, and I am terribly afraid that unless we move decisively to improve the political process, to make it more responsive, more and more young people are going to stay away from Government and public service. If they do stay, if they do decide that the political process is simply not worth the effort, what is this country going to be like 20 years from now?

At the heart of that public distrust is a fundamental suspicion of the political process that provides for the election of public officials heavily dependent on private contributions. "You don't get something for nothing," as the saying goes, and too many people have applied to Government; and all too often, there is little distinction between a campaign contribution and a bribe.

PUBLIC FINANCING

Mr. President, late in December, the Senate recognized the problems of the present system and came very close to passing a limited public financing proposal, one advanced by Senator KENNEDY and Senator HUGH SCOTT of Pennsylvania, with the support of a number of Senators who have introduced their own public financing legislation.

If the need for public financing was well-established then, it is even more so now. This is a new year, and it presents new opportunities for improving the political process that has been so crippled over the last 18 months. If we do not take advantage of the opportunity, the result may be even more tragic than the legacy of Watergate.

Today, I am introducing a bill to establish total public financing for political campaigns. It virtually would eliminate the role of the private dollar in public elections, requiring that all campaign funds be exclusively and strictly controlled by a Federal Election Commission. The proposed legislation is an attempt to define what could be—in my judgment—the most basic reform possible. It goes beyond the public financing proposals introduced last year, but I am convinced that it will take nothing less than legislation of this scope to begin to restore trust and confidence in Government.

The events of last year brought it into the open, but even without Watergate, the need for far-reaching political reform through public financing should be apparent.

The 1972 general election was only the latest example that in politics, money works wonders. Fewer than 20 incumbents in the entire Congress were not reelected in that election. Ideally, that could be explained by the exemplary records of Congressmen and Senators—or, at worst, by the incumbents' traditional advantages of office. But it is no secret that the only real difference between incumbents and challengers in many cases is money, and money is a poor standard for Government leadership.

After studying the 1972 campaign, Common Cause reported that incumbents were able to raise—and spend—twice as much money as their challengers. By and large, the money for political campaigns, whether for an incumbent or a challenger, does not come from a broad range of concerned citizens giving small amounts. Instead, more than two-thirds of the money raised in political campaigns comes from a very small number of wealthy individuals and groups.

Any public officials, willing to admit it, knows what this means: Each time a political campaign accepts such "gifts"—and no candidate could now choose not to—that candidate may sacrifice a small piece of independence, integrity, and the ability to serve the public in office, and even if he does not, the public will think he has. Congress, then, may become farther and farther removed from the people, less reflective of their views, and more responsive to the "big" contributors. In the eyes of many public officials an "unofficial" distinction emerges—between people who contribute and people who do not contribute. By giving money to a political campaign, some people are trying to improve the political system—they expect only the best representation—but many contributors are far less altruistic. The distinction cannot help but seriously damage the principle of "one person—one vote," often destroying the people's confidence in Government in the process.

The bill I am introducing today relies heavily on the experience of several Senators who have led efforts for public financing. No public financing proposal even would be possible were it not for the work of Senator RUSSELL LONG, who has been advocating the concept for the last 10 years. And I have drawn on the bills introduced earlier in this Congress by Senators CRANSTON, HART, KENNEDY, MATHIAS, MONDALE, PELL, SCHWEIKER, SCOTT, STAFFORD, and STEVENSON. Representative BILL GUNTER of Florida, has introduced legislation in the House which includes many of the same concepts. The legislation also has benefited from the advice of a number of groups, primarily the Center for Public Financing of Elections, and Ralph Nader's Congress Watch and Common Cause as well.

The basic substance of this total financing concept first was presented by Prof. Joel L. Fleishman of Duke University, in hearings last September before Senator PELL's Subcommittee on Privileges and Elections. An associate professor of law and director of the university's Institute of Policy Sciences and Public Affairs, he is regarded as one of the leading scholars in this area.

PROVISIONS

To raise revenues for Federal election campaigns, this bill uses an expanded version of the income tax checkoff originated by Senator LONG. The amount would be raised to $2 for each taxpayer, and it would be automatic unless the taxpayer objected.

As with the other bills, the proposal calls for a seven-member bipartisan Federal Election Commission. As with other bills, the Commission would be given primary responsibility for administering and regulating Federal election campaigns—with full investigative, subpena, and prosecutorial powers. However, in this proposal, the Commission also would control all campaign funds, setting up a central account for each candidate, paying campaign bills, and salaries directly.

Such a system obviously would necessitate significant changes in the way campaigns have traditionally been conducted. But I strongly believe that such changes would lead to better planned and better organized campaigns, better for the candidate and for the public. I do not think that such a system would create a new bureaucracy. Under this bill, the manpower required would be that of a small town bank with a few thousand checking accounts.

This proposal incorporates roughly the same campaign expenditure limits as the Senate Rules Committee version of S. 372—for Senate and Presidential primaries, 15 cents for each voter, and 20 cents in the general election; for House primaries 25 cents for each voter, and 30 cents in the general election.

It repeals the equal time provisions of the Communications Act of 1934 and bans the use of the frank for mass mailing within 90 days of any Federal election. In addition, it would require the U.S. Postal Service to establish a reduced postage rate for all candidates for Federal office.

The central feature of this proposal—the one that sets it apart from other bills—is the establishment of total public funding for all major party candidates in both primary and general elections, outlawing all private contributions and expenditures. I will include in the Record a summary of the bill's proposals and cost; but briefly, major party candidates would qualify for public funds by submitting a prescribed number of petition signatures to the Election Commission—a fairer test of public support than money. From that point on, their campaigns would be financed solely from the Federal election campaign fund. Minor party and independent candidates also would qualify for substantial—even total—public funding, depending on their performance in the election.

COST

Assuming three candidates in each party primary for every Federal office, the system would cost about $250 million a year. That is only a dollar a year for each person in America. When one thinks of the benefits of a government truly responsible to all the people, it would be, as author Philip Stern has said:

> The greatest bargain the people could possibly get.

One dollar a year, from each of us—surely a small price to pay for better Government.

This measure does not incorporate a security deposit or matching formula approach to granting public funds to a candidate, as other legislation has done. Instead, it uses petition signatures. Even with these other approaches, there is some inequity involved—the candidate still must raise money from private individuals. The more doors left open for private contributions, it seems to me, the more doors left open for abuse.

Mr. President, it is clear that private financing has no place any longer in this country. It does not work well—practically or theoretically. In the recent case of Bullock against Carter, the Supreme Court ruled that the Texas system of requiring substantial candidate filing fees was unconstitutional. In that decision, the Court said:

> Many potential office seekers lacking both personal wealth and affluent backers are in every practical sense precluded from seeking the nomination of their chosen party, no matter how qualified they might be, and no matter how broad or enthusiastic their popular support . . . not only are voters substantially limited in their choice of candidates, but also there is the obvious likelihood that this limitation would fall most heavily on the less affluent segment of the community . . . [A]t the same time it gives the affluent the power to place on the ballot their own names or the names of persons they favor . . . [which] is endemic to the system . . . [W]e would ignore reality were we not to recognize that this system falls with unequal weight on voters, as well as candidates, according to their economic status. 405 U.S. 143–4 (1972)

The Court concludes by saying:

> [T]o the extent that the system requires candidates to rely on contributions from voters in order to pay the assessments . . . it tends to deny some voters the opportunity to vote for a candidate of their choosing . . .

The present system of campaign financing encourages abuse and discourages participation. Others, of course, have made the case that prohibiting private contributions would violate the first amendment. Professor Fleishman offered an excellent response to these charges in his article in the most recent edition of the North Carolina Law Review. Citing Bullock against Carter and others, he wrote:

> It has been ably argued that there is a protected right to spend one's private money without restriction for political purposes. One must ask, however, how such a right can conceivably coexist side by side with the Court's repeated affirmation of a diametrically opposite right—the right of citizens to be free of wealth distinctions in acting, and being acted upon, in the political process. Moreover, those same opinions imply an affirmative obligation to reduce or eliminate wealth-derived influence in political campaigns. If there is such an affirmative obligation to reduce or prevent the impact of money in politics, there can hardly be a right to use one's money freely in politics. Thus, in theory, and on the basis of more than enough practical reasons, a legal right to act politically by means of one's material wealth cannot be seriously maintained. North Carolina Law Review, Vol. 52, p. 349.

There has been much support for the concept of total public campaign financing. Howard K. Smith, the ABC network broadcaster, said it very simply in an evening news commentary last September:

> Drop complicated plans in some present bills for government to match private contributions on a graduated scale. Simply forbid all private financing. Have government pay all costs.

And Charles W. Colson, the former special counsel to President Nixon, wrote in the New York Times:

> No half-way measure like that now pending in Congress will suffice. Those who seek to corrupt will find loopholes in any purely regulatory statute Congress can draw. What is needed is a complete substitution of public for private financing.

Mr. President, I understand that the Senator from Nevada (Mr. Cannon) and the Rules Committee will soon be preparing public financing legislation for the Senate's consideration. I hope the committee will consider the approach outlined in this bill.

We can help stop corruption and the predominance of special interests, and the need to take action now should be readily apparent.

Mr. President, I ask unanimous consent to have printed in the Record the text of the bill, a brief explanation and summary of the bill, and a financial analysis.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 2943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Election Reform Act of 1974".

DECLARATION OF PURPOSE

Sec. 2. It is the purpose of this Act—

(1) to provide total public financing of federal political campaigns, eliminating the necessity of financial contributions from private sources;

(2) to enable more people to become directly involved in the democratic process as candidates, eliminating individual wealth or access to wealth as prerequisites for public office;

(3) to give the electorate equal exposure to the ideas and viewpoints of candidates in each election, eliminating the advantages that wealth and public office may bring.

FEDERAL ELECTION CAMPAIGN FINANCING

Sec. 3. (a) The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new title:

"TITLE V—PUBLIC FINANCING OF FEDERAL ELECTION CAMPAIGNS

"DEFINITIONS

"Sec. 501. When used in this title—

"(1) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not he is elected, and, for purposes of this paragraph, an individual seeks nomination for election, or election, if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, (B) receives contributions or makes expenditures, or (C) gives his consent for any other person to receive contributions or make expenditures for the purpose of bringing about his nomination for election, or election, to such office;

"(2) 'Commission' means the Federal Election Commission established under section 502;

"(3) 'contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or as a Presidential or Vice-Presidential elector; or

"(ii) influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

"(C) means a transfer of funds between political committees; and

"(D) means the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; but

"(E) does not include—

"(i) (except as provided in subparagraph (D)) the value of personal services rendered to or for the benefit of the candidate by an individual who receives no compensation for rendering any service to the candidate;

"(ii) payments under section 509;

"(iii) news stories, commentaries and editorials on broadcast stations or in newspaper, magazines and other periodical publications (other than a publication of a political party, a political committee as defined in section 591(d) of title 18, United States Code, a candidate or an agent of any of the foregoing); non-partisan registration and get-out-the vote activity; communications by an establishes membership organization (other than a political party) to its members, or by a corporation (not organized for purely political purposes) to its stockholders;

"(4) 'expenditure' means—

"(A) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office, or as a Presidential and Vice-Presidential elector; or

"(ii) influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President;

"(B) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure; and

"(C) a transfer of funds between political committees;

"(5) 'Federal office' means the office of President of the United States or of Senator or Representative in the Congress of the United States;

"(6) 'general election' means any election, including special elections, held for the election of a candidate to Federal office;

"(7) 'major party' means a political party which, in the preceding general election nominated a candidate who—

"(A) received, as the candidate of that party, twenty five percent or more of the total number of popular votes cast for all candidates for election to that office; or

"(B) received, as the candidate of that party, the largest number or second largest number of popular votes cast for any candidate for election to that office;

"(8) 'minor party' means a political party which is not a major political party;

"(9) 'political party' means a committee, association, or organization the primary purpose of which is to select and to support individuals who seek election to Federal, State, and local office as the candidate of that committee, association, or organization;

"(10) 'primary election' means (A) an election, including a run-off election, held for the nomination of a candidate for election to Federal office, (B) a convention or caucus of a political party held for the nomination of such a candidate, (C) an election held for the selection of delegates to a national nominating convention of a political party, and (D) an election held for the expression of a preference for the nomination of persons for election to the office of President;

"(11) 'Representative' includes Delegates or Resident Commissioners to the Congress of the United States; and

"(12) 'State' means each State of the States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"FEDERAL ELECTION COMMISSION

"SEC. 502. (a)(1) There is established, as an independent establishment of the executive branch of the Government of the United States, a commission to be known as the Federal Election Commission.

"(2) The Commission shall be composed of seven members who shall be appointed by the President by and with the advice and consent of the Senate. Of the seven members—

"(A) two shall be chosen from among individuals recommended by the President pro tempore of the Senate, upon the recommendations of the majority leader of the Senate and the minority leader of the Senate; and

"(B) two shall be chosen from among individuals recommended by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House.

The two members appointed under subparagraph (A) shall not be affiliated with the same political party; nor shall the two members appointed under subparagraph (B). Of the three members not appointed under such subparagraphs, no more than two shall be affiliated with the same political party.

"(3) Members of the Commission shall serve for terms of seven years, except that, or the members first appointed—

"(A) two of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for terms ending on the April thirtieth first occurring more than six months after the date on which they are appointed;

"(B) one of the members appointed under paragraph (2) (A) shall be appointed for a term ending one year after the April thirtieth on which the term of the member referred to in subparagraph (A) of this paragraph ends;

"(C) one of the members appointed under paragraph (2) (B) shall be appointed for a term ending two years thereafter;

"(D) one of the members not appointed under subparagraph (A) or (B) of paragraph (2) shall be appointed for a term ending three years thereafter;

"(E) one of the members appointed under paragraph (2) (A) shall be appointed for a term ending four years thereafter; and

"(F) one of the members appointed under paragraph (2) (B) shall be appointed for a term ending five years thereafter.

"(4) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment. A member may be reappointed to the Commission only once.

"(5) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the office of member of the Commission shall be filled in the manner in which that office was originally filled.

"(6) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of two years. The chairman and the Vice Chairman shal not be affilated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and four members thereof shall constitute a quorum.

"(c) The Commission shall have an official seal which shall be judicially noticed.

"(d) The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken; the names, salaries, and duties of all individuals in its employ and the money it has disbursed; and shall make such further reports on the matters within its jurisdiction and such recommendations for further legislation as may appear desirable.

"(e) The principal office of the Commission shall be in or near the District of Columbia, but it may meet or exercise any or all its powers in any State.

"(f) The Commission shall appoint a General Counsel and an Executive Director to serve at the pleasure of the Commission. The General Counsel shall be the chief legal officer of the Commission. The Executive Director shall be responsible for the administrative operations of the Commission and shall perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission. The Commission shall not delegate the making of regulations regarding elections to the Executive Director.

"(g) The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(h) In carrying out its responsibilities under this title, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of the General Accounting Office and the Department of Justice. The Comptroller General and the Attorney General are authorized to make available to Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(i) The provisions of section 7324 of title 5, United States Code, shall apply to members of the Commission notwithstanding the provisions of subsection (d) (3) of such section.

"(j) (1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation requested by the Congress or by any Member of Congress to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(k) In verifying signatures on petitions required under this title, the Commission shall avail itself of the assistance, including personnel and facilities, of State and local governments to the extent those governments have already established programs to verify signatures on petitions. The Commission may make agreements with State and local governments to reimburse those governments for such assistance.

"POWERS OF COMMISSION

"SEC. 503. (a) The Commission shall have the power—

"(1) to make, pursuant to the provisions of chapter 5 of title 5, United States Code, any rules necessary to carry out its functions under this Act, including rules defining terms used in this Act and rules establishing procedures for gathering and certifying signatures on petitions required under this title;

"(2) to make rules governing the manner of its operations, organizations, and personnel;

"(3) to require, by special or general orders, any person to submit in writing reports and answers to questions the Commission may prescribe; and those reports and answers shall be submitted to the Commission within such reasonable period and under oath or otherwise as the Commission may determine;

"(4) to administer oaths;

"(5) to require by subpena, signed by the Chairman or the Vice Chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

"(6) in any proceeding or investigation, to order testimony to be taken by deposition before any person designated by the Commission who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (5) of this subsection;

"(7) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

"(8) to initiate (through civil proceedings and through presentations to Federal grand juries), prosecute, defend, or appeal any court action in the name of the Commission for the purpose of enforcing the provisions of this title and of sections 602, 608, 610, 611, 612, and 613 of title 18, United States Code, and to recover any amounts payable to the Secretary of the Treasury under section 510, through its General Counsel; and

"(9) to delegate any of its functions or powers, other than the power to issue subpenas under paragraph (5) to any officer or employee of the Commission.

"(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission—

"(1) in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith; and any failure to obey the order of the court may be punished by the court as a contempt thereof; and

"(2) upon the request of the Commission, convene a special Federal grand jury to investigate possible violations of this Act.

"(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

"(d) Notwithstanding any other provision of law, the Commission shall be the primary civil and criminal enforcement agency for violations of the provisions of this title, and of sections 602, 608, 610, 611, 612, and 613 of title 18, United States Code. The Attorney General shall prosecute violations of this Act or those sections of title 18 only upon the request of the Commission.

"(e) Upon application made by any individual holding Federal office, any candidate, or any political committee, the Commission, through its General Counsel, shall provide, within a reasonable period of time, an advisory opinion whether any specific transaction or activity may constitute a violation of any provision of this title or of any provision of title 18, United States Code, over which the Commission has primary jurisdiction under subsection (d).

"ELIGIBILITY FOR FEDERAL CAMPAIGN FINANCING

"SEC. 504. (a) Every political party and candidate shall—

"(1) agree to obtain and to furnish to the Commission any evidence it may request about the expenditures by that party or candidate;

"(2) agree to keep and to furnish to the Commission any records, books, and other information it may request; and

"(3) agree to an audit and examination by the Commission under section 510 and to pay any amounts required under section 510.

"(b) Every political party and candidate shall certify to the Commission that—

"(1) the candidate will not incur expenditures greater than the limitations in section 506; and

"(2) no contributions greater than the limitations on contributions in section 507 have been or will be accepted by the party or candidate.

"(c) To be eligible to have the Commission make any payments under section 509, a candidate shall file all agreements and certifications required under subsections (a) and (b) with the Commission before the date of the relevant election at the time required by the Commission.

"(d) To be eligible to have the Commission make any payments in connection with a major party primary election campaign under section 509, a candidate who seeks the nomination of that party must, in addition to the requirements of subsection (c), file with the Commission not later than 210 days before the date of that primary election—

"(1) a declaration that the candidate is seeking the nomination of a named major party for election to the office of Representative and a petition in support of his candidacy signed by a total number of people in excess of two percent of the voting age population (as certified under section 104 (a)(5)) of the Congressional district in which he seeks election; or

"(2) a declaration that the candidate is seeking the nomination of a named major party for election to the office of Representative in a State which is entitled to only one Representative, to the office of Senator, to the office of Vice President, or to the office of President, and a petition in support of his candidacy signed by a total number of people in excess of one percent of the voting age population (as certified under section 104(a)(5)) of the geographic area in which that primary election for that office is held.

"(e)(1) No candidate may be eligible under subsection (d) until the Commission verifies that the petition filed by the candidate meets the requirements of subsection (b) and that—

"(A) the signatures on the petition are valid;

"(B) the individuals who signed the petition are eighteen years of age or older;

"(C) the individuals who signed the petition live in the geographic area in which the general election for the office the candidate seeks is held or are qualified to vote in the primary election under the laws of the State in which that election is held; and

"(D) no individual who signed the petition has signed a petition required under this section of any other candidate for the same office.

"(2) The Commission shall approve or disapprove any petition filed under this subsection not later than 180 days before the date of the primary election in connection with which that petition is filed

"(f) To be eligible to have the Commission make any payments under section 509, a political party must, in addition to the requirements of subsection (c), file with the Commission, at the time and in the manner the Commission prescribes by rule, a declaration that the political party will nominate candidates who will actively campaign for election in the next regular general election.

"ENTITLEMENT TO PAYMENTS BY THE COMMISSION

"SEC. 505. (a)(1) Every candidate who is eligible for Federal financing of his campaign under section 504 is entitled to payment by the Commission of expenditures he incurs in connection with his campaign for nomination by a major political party.

"(2) No candidate who seeks the nomination of a major party is entitled to payment of his expenditures by the Commission under this subsection in excess of an amount which is equal to the amount the candidate is permitted to incur in connection with his primary election campaign under section 506 (a)(1) or (b), as applicable.

"(b)(1) Every candidate nominated by a political party who is eligible for Federal financing of his campaign under section 504 is entitled by the Commission of expenditures he incurs in connection with his general election campaign.

"(A) No candidate of a major party is entitled to payment of his expenditures by the Commission under this subsection in excess of an amount which is equal to the amount the candidate is permitted to incur in connection with his campaign for election under section 506 (a)(2) or (b).

"(B) No candidate of a minor party is entitled to payment of his expenditures by the Commission under this subsection in excess of an amount which is equal to the greater of—

"(i) an amount which bears the same ratio to the amount of payments to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the candidate of that minor party for that office in the preceding general election bears to the average number of popular votes received by the candidate of a major party for that office in the preceding general election; or

"(ii) an amount which bears the same ratio to the amount of payments to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the candidate in the current general election bears to the average number of popular votes received by the candidate of a major party for that office in the current general election.

"(2)(A) Every independent candidate who is eligible for Federal financing of his campaign under section 504 is entitled to payment by the Commission of expenditures he incurs in connection with his general election campaign.

"(B) No independent candidate is entitled to payment of his expenditures by the Commission under this subsection in excess of an amount which is equal to the greater of—

"(i) an amount which bears the same ratio to the amount of payment to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the independent candidate as a candidate for that office in the preceding general election bears to the average number of popular votes received by the candidate of a major party for that office in the preceding general election; or

"(ii) an amount whch bears the same ratio to the amount of payment to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the independent candidate in the current general election bears to the average number of popular votes received by the candidate of a major party for the same office in the current general election.

"(c) A minor party candidate or an independent candidate who (1) was the candidate of a major party for the same office in the preceding general election, (2) received the largest or second largest number of popular votes cast for a candidate for that office in the preceding general election, or (3) received more than twenty-five percent of the total number of popular votes cast in the preceding general election for that office, shall be considered to be the candidate of a major party for purposes of this section.

"(d)(1) Every political party which is eligible for Federal financing under section 504 is entitled to payment by the Commission of expenditures it incurs in connection with Federal election activities such as voter registration drives, get-out-the-vote drives, and nominating conventions.

"(2) No political party is entitled to payment of its expenditures by the Commission under this subsection in excess of—

"(A) twenty percent of the amount of payment by the Commission to which the Presidential candidate of that party is entitled under subsection (b), in any year in which a regular quadrennial Presidential election is held; or

"(B) fifteen percent of the amount of payment by the Commission to which the Presidential candidate of that party is entitled during a regular quadrennial Presidential election year under subsection (b) in any other year.

"(e) Notwithstanding the provisions of subsection (b), no minor party candidate or independent candidate is entitled to payment by the Commission of any expenditures under this section which, when added to the total amount of contributions received by him in connection with his campaign, exceed the amount of expenditures he may incur in connection with that campaign under the provisions of section 506.

"EXPENDITURE LIMITATIONS

"SEC. 506. (a) (1) Except to the extent that such amounts are changed under subsection (e), no candidate, other than a candidate for the office of President, may incur any expenditure in connection with his primary election campaign in excess of—

"(A) in the case of a candidate who seeks nomination for election to the office of Senator, the greater of—

"(i) fifteen cents multiplied by the voting age population (as certified under section 104 (a) (5)) of the State in which he seeks nomination for election; or

"(ii) $175,000;

"(B) in the case of a candidate who seeks nomination for election to the office of Representative—

"(i) twenty-five cents multiplied by the voting age population (as certified under section 105 (a) (5)) of the Congressional district in which he seeks nomination for election; or

"(ii) the limitation under subparagraph (A) if the State in which he seeks nomination is entitled to only one Representative.

"(2) Except to the extent that such amounts are increased under subsection (e) no candidate, other than a candidate for election to the office of President, may incur any expenditure in connection with his general election campaign in excess of—

"(A) in the case of a candidate who is seeking election to the office of Senator, the greater of—

"(i) twenty cents multiplied by the voting age population (as certified under section 104(a)(5)) of the State in which he seeks election; or

"(ii) $250,000;

"(B) in the case of a candidate who is seeking election to the office of Representative—

"(i) thirty cents multiplied by the voting age population (as certified under section 104 (a)(5)) of the State in which he seeks election; or

"(ii) the limitation under subparagraph (A) if the State in which he seeks election is entitled to only one Representative.

"(b)(1) No candidate for nomination for election, to the office of President may incur any expenditure in any State in connection with his campaign in excess of the amount which a candidate for nomination for election, or election, to the office of Senator (or for nomination for election, to the office of Delegate, in the case of the District of Columbia) may incur within the State in connection with his campaign for that nomination or election.

(2) No candidate for election to the office of President may incur any expenditure in connection with his general election campaign in excess of twenty cents multiplied by the voting age population (as certified under section 104(a)(5)) of the United States.

"(3) The Commission shall prescribe rules under which any expenditure incurred by a candidate who seeks nomination for election, to the office of President for use in two or more States shall be attributed to that candidate's expenditure limitation in each such State based on the number of persons in each State who can reasonably be expected to be reached by that expenditure.

"(4) The Commission shall prescribe rules under which a candidate for nomination for election to the office of President may authorize his national campaign committee to incur expenditures in connection with his national campaign in an amount not in excess of ten percent of the amount of expenditures which he may incur in connection with his primary election campaign in a State under this section. The expenditure limitation applicable to that candidate for such campaign in that State shall be reduced by an amount equal to the amount the candidate authorizes under this section.

"(c)(1) No candidate who is unopposed in a primary election may incur any expenditure which is in excess of an amount which is equal to twenty percent of the limitation applicable to that candidate under subsections (a) or (b) of this section.

"(2) A candidate in a primary or general election run off election shall have an expenditure limitation which is fifty percent of the limitation in subsections (a) or (b) of this section, as applicable.

"(3) A candidate who seeks the nomination of a political party which selects its nominee by means of a convention or caucus system which does not include a popular election or elections shall have an expenditure limitation which is ten percent of the limitation in subsections (a) or (b) of this section, as applicable.

"(d) (1) Expenditures incurred on behalf of any candidate are, for the purpose of this section, considered to be incurred by that candidate.

"(2) For purposes of this subsection, an expenditure is considered to be incurred on behalf of a candidate if it is incurred by—

"(A) an agent of the candidate for the purposes of incurring any campaign expenditure,

"(B) any person authorized or requested by the candidate to incur an expenditure on his behalf, or

"(C) in the case of the candidate of a political party for President, the candidate of that party for Vice President, or his agent, or any person he authorizes to incur an expenditure on his behalf.

"(e) Each amount under subsection (a) shall be changed at the beginning of each calendar year by the percentage difference between price indices as determined by the Secretary of Labor under section 104(a)(4). Each amount so changed shall be the amount in effect for that calendar year.

"CONTRIBUTION LIMITATIONS

"SEC. 507. (a)(1) No person may make a contribution to a major party, to a candidate who seeks the nomination of a major party, or to the candidate of a major party for use in connection with a primary election or general election campaign of that party or candidate.

"(2) No major party, candidate who seeks the nomination of a major party, or candidate of a major party may knowingly accept a contribution from any person in connection with a primary election or general election campaign of that party or candidate. For purposes of this paragraph, a contribution accepted by any political committee which makes any expenditures in connection with the primary or general election campaign of a major party or the candidate of a major party shall be considered to be received by that party or candidate.

"(b) No minor party may accept contributions in connection with its Federal election campaign activities in excess of an amount which, when added to the maximum amount of payments by the Commission to which that party is entitled under section 505, exceeds the amount of payments by the Commission to which a major party is entitled under section 505.

"(c)(1) No candidate who seeks the nomination of a minor party may accept total contributions in connection with his primary election campaign which exceed the amount of the limitation on expenditures which applies to a candidate in a primary election campaign under section 506(a)(1) or (b).

"(2)(A) A candidate of a minor party or an independent candidate may accept contributions in connection with his general election campaign only during the period beginning 180 days before the date of the general election, or on the date on which a major party nominates a candidate for the office the minor party or independent candidate seeks, whichever date is earlier, and ending on the date of the general election.

"(B) No candidate of a minor party or independent candidate may accept local contributions which, when added to the maximum amount of payments by the Commission to which that candidate is entitled under section 505, exceed the limitation on expenditures which applies to a candidate in a general election campaign under section 506 (a)(2) or (b).

"(d) For purposes of this section, a contribution accepted by any political committee which makes any expenditures in connection with the primary or general election campaign of a minor party, a candidate who seeks the nomination of a minor party, a minor party candidate, or an independent candidate, is considered to be accepted by that party or candidate.

"(e)(1) No person may make a contribution which, when aded to all other contributions made by that person to the same party or candidate in connection with the same campaign, exceeds $100. This $100 limitation applies separately to contributions made in connection with a primary election campaign and with a general election campaign.

"(2) No party or candidate may knowingly accept contributions in connection with its Federal election campaign from any person which, when added to all other contributions accepted by that party or candidate which were made by that person in connection with the same campaign, equals an amount in excess of $100. This $100 limitation applies separately to contributions made in connection with a primary election campaign and with a general election campaign. For purposes of this paragraph a contribution accepted by any political committee which makes any expenditures in connection with the primary or general election campaign of a candidate shall be considered to be accepted by that candidate.

"(f) No person may make a contribution which, when added to all other contributions made by that person to all political parties and candidates in connection with any primary election or general election campaigns during the preceding twelve months, exceeds $1,000.

"(g) All contributions which a party or candidate receives shall be sent to the Commission in the manner and with any information about the identity of the contributor which the Commission prescribes by rule.

"(h)(1) No person shall make any expenditure advocating the election or defeat of a clearly identified candidate or political party during any calendar year (other than an expenditure made on behalf of a candidate, as defined in section 506(d)(2)) which, when added to all other such expenditures made by that person during that year exceeds $1,000.

"(2) For purposes paragraph (1), 'clearly identified' means—

"(A) the candidate or political party is named;

"(B) a photograph or drawing of the candidate appears; or

"(C) the identity of the candidate or political party is apparent by unambiguous reference.

"(3) For purposes of paragraph (1), 'person' does not include a political party.

"(1) For purposes of this section, 'contribution' does not include monies collected for a petition drive under section 508.

"PETITION DRIVES

"SEC. 508. (a) Except to the extent that such amounts are changed under subsection (d)—

"(1) no candidate who seeks a major party nomination for election to the office of Representative may incur any expenditures in connection with his petition drive to meet the requirements of section 504 which exceed an amount equal to two cents multiplied by the voting age population (as certified under section 104(a)(5)) of the congressional district in which he seeks election; or

"(2) no candidate who seeks a major party nomination for election to the office of Representative from a state which is entitled to only one Representative, Senator, or President, may incur any expenditures in connection with his petition drive to meet the requirements of section 504 which exceed an amount equal to the greater of—

"(A) one cent multiplied by the voting age population (as certified under section 140(a)(5)) of the geographic region in which he seeks election; or

"(B) $7,500.

"(b)(1) No person may make a contribution to any candidate for use in connection with the petition drive of that candidate to meet the requirements of section 504 which, when added to all other contributions made by that person to that candidate in connection with the same petition drive, exceeds $100.

"(2) No candidate may knowingly accept a contribution from any person made in connection with the petition drive of that candidate which, when added to all other contributions from that person made in connection with that petition drive, exceeds $100. For purposes of this paragraph, a contribution accepted by any person who makes any expenditures in connection with the petition drive of a candidate is considered to be accepted by that candidate.

"(c) No candidate may make any expenditure or accept any contribution in connection with his petition drive except during the period beginning 300 days before the date of the primary election of the major party whose nomination the candidate seeks and ending 210 days before that date.

"(d)(1) Each candidate who files a petition with the Commission under section 504 shall report to the Commission the amount of each contribution he receives in connection with his petition drive, the identity of each contributor, and any other information the Commission requires at the time and in the manner the Commission prescribes.

"(2) If a candidate meets the requirements of section 504, the Commission shall pay an amount to each person who contributed to the petition drive of that candidate an amount equal to the contribution made by that person under subsection (b) to that candidate.

"(e) Each amount under subsection (a) shall be changed at the beginning of each calendar year by the percentage difference between price indices as determined by the Secretary of Labor under section 104(a)(4). Each amount so changed shall be the amount in effect for that calendar year.

"PAYMENTS BY THE COMMISSION

"SEC. 509. (a)(1) There is established on the books of the Treasury of the United States a fund to be known as the Federal Election Campaign Fund.

"(2) There are authorized to be appropriated to the fund such amounts as are necessary to carry out the provisions of this title.

"(3) On the day after the effective date of this title, the Secretary of the Treasury shall transfer to the fund any monies in the Presidential Election Campaign Fund established under section 9006 of the Internal Revenue Code of 1954.

"(4) The Secretary of the Treasury may transfer to the general Fund of the Treasury any amounts from the Federal Election Campaign fund which he determines, after consultation with the Commission, are in excess of the amounts which are necessary to carry out the provisions of this title.

"(b) The Secretary of the Treasury shall transfer to the Commission such amounts as the Commission certifies to the Secretary from time to time are necessary to make payents under this section.

"(c)(1) The Commission shall create on its books an account for each political party and candidate eligible for payments under section 504.

"(2) The Commission shall allocate the funds it receives from the Secretary of the Treasury under paragraph (1) among the accounts of each political party and candidate according to the amount to which each party and candidate is entitled under section 505.

"(3) The Commission shall credit all contributions which a political party or candidate sends to the Commission under section 507 to the account of that party or candidate.

"(d)(1) A candidate who seeks the nomination of a major political party may contract for goods, services, or other expenditures in connection with his primary election campaign only during the period beginning 180 days before the date of the primary election of that party and ending on the date of that primary election.

"(2) A candidate may contract for goods, services, or other expenditures in connecttion with his general election campaign only during the period beginning on the date on which he is nominated by a major political party for that election and ending on the date of that general election. A minor party or independent candidate may contract for such goods and services only during the period beginning 180 days before the date of the general election, or on the date on which a major party nominates a candidate for the office the minor party or independent candidate seeks, whichever date is earlier, and ending on the date of the general election.

"(3) A political party may contract for goods, services, or other expenditures in connection with its Federal election campaign activities only during the period beginning two years before the date of the next general election in which it will nominate candidates and ending on the date of that general election.

"(4) The Commission may void any contract made by a party or candidate under this subsection which is fraudulent or illegal before performance of that contract begins according to procedures it prescribes by rule.

"(e)(1) The Commission shall pay all expenditures incurred by each political party or candidate by contracts created by that party or candidate under subsection (d). The Commission may not pay any amount in excess of the amount to which that political party or candidate is entitled under section 505.

"(2) If a candidate becomes entitled to an increased amount of payments under section 505(b)(1)(B) or (b)(2)(B) because of the number of votes he receives in an election, the Commission shall pay the amount of that increase in payments to which the candidate is entitled on a pro rata basis directly to the persons who contributed to that candidate in connection with that election under section 507.

"(f)(1) The Commission shall make all payments under this section directly to the person with whom the political party or candidate contracts for goods, services, or other expenditures. Except as provided in paragraph (2), no political party or candidate shall pay any expenditures which it or he incurs in connection with a Federal election campaign except through payments by the Commission under this title.

"(2) A candidate may maintain a petty cash fund out of which he, or one individual he authorizes in writing, may make expenditures not in excess of $25 to any person in connection with a single purchase or transaction. A candidate for Vice President or President may maintain one petty cash fund in each State. Records and reports of petty cash disbursements shall be kept and furnished to the Commission in the form and manner the Commission prescribes.

"EXAMINATIONS AND AUDITS; REPAYMENTS

"SEC. 510. (a) After each Federal election, the Commission shall conduct a thorough examination and audit of the expenditures incurred by every candidate.

"(b)(1) If the Commission determines that any portion of the payments it makes for a political party or candidate under section 509 was in excess of the aggregate amount of the payments to which the party or candidate was entitled under section 505, it shall so notify that party or candidate, and the party or candidate shall pay to the Secretary of the Treasury an amount equal to the excess amount.

"(2) If the Commission determines that any amount of any payment made by the Commission for a political party or candidate under section 509 was used for any purpose other than—

"(A) to pay expenditures, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to pay expenditures which were received and expended) which were used, to pay expenditures,

it shall notify the party or candidate of the amount so used, and the party or candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) If the Commission determines that a major party candidate for whom it has made payments under section 509 received—

"(A) a total number of popular votes in the primary election, in connection with which the Commission made payments for that candidate, which is less than fifteen percent of the total number of popular votes cast for all candidates seeking the same office that candidate seeks in that primary election;

"(B) a total number of delegate votes in the nominating convention in connection with which the Commission made payments for that candidate which is less than fifteen percent of the total number of delegate votes cast for all candidates seeking the same office that candidate seeks in that convention; or

"(C) a total number of popualr votes in the general election in connection with which the Commission made payments for that candidate which is less than twenty-five percent of the total number of popular votes cast for all candidates seeking the same office that candidate seeks in that general election, it shall notify that candidate and the candidate shall pay to the Secretary of the Treasury an amount equal to the total amount of payments which the Commission made for him under section 509.

"(4) No payment shall be required from a political party or candidate under this subsection in excess of the total amount of all payments by the Commission for that party or candidate under section 509.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a Federal election more than three years after the day of the election.

"(d) A candidate for whom the Commission has made payments under section 509 in an amount which is less than twenty-five percent of the amount to which that candidate is entitled for a primary or general election under section 505 may withdraw as a candidate in that primary or general election at any time up to the forty-fifth day before the date of the primary election, or the thirtieth day before the date of the general election, in connection with which the Commission made those payments. A candidate who withdraws under this subsection shall pay to the Secretary of the Treasury an amount equal to fifty percent of the payments which the Commission made for him under section 509.

"(e) All payments received by the Secretary under subsections (b) and (d) shall be deposited by him in the fund.

"REPORTS TO CONGRESS; INVESTIGATIONS; RECORDS

"SEC. 511. (a) The Commission shall, as soon as practicable after each Federal election, submit a full report to the Senate and House of Representatives setting forth—

"(1) the expenditures incurred by each political party and candidate which received a payment under section 509 in connection with that election;

"(2) the amounts paid by it under section 509 for that political party or that candidate; and

"(3) the amount of payments, if any, required from that political party or candidate under section 510, and the reasons for each payment required.

"(b) The Commission may conduct examinations and audits (in addition to the examinations and audits under section 510), investigations, and require the keeping and submission of any books, records, and information, necessary to carry out the functions and duties imposed on it by this title.

"JUDICIAL REVIEW

"SEC. 512. (a) Any agency action by the Commission made under the provisions of this title or title III shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the agency action by the Commission for which review is sought.

"(b) The Commission, a political party; a candidate, and individuals eligible to vote in an election for Federal office, are authorized to institute any action, including actions for declaratory judgment or injunctive relief, which are appropriate to implement any provision of this title.

"(c) The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551 of title 5, United States Code, by the Commission.

"PENALTIES

"SEC. 513. (a) Any person who violates the provisions of sections 506, 507, 508, or 509 of this title shall be fined not more than $50,000, or imprisoned for not more than five years, or both.

"(b)(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by him for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $50,000, or imprisoned not more than five years, or both.

"(c)(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expenditure incurred by a candidate or political party which the Commission pays under section 509.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $50,000 or imprisoned not more than five years, or both.

"(d)(1) Any person who violates any provision of this title or of section 602, 608, 610, 611, 612, and 613 of title 18, United States Code, may, in addition to any other penalty, be assessed a civil penalty by the Commission under paragraph (2) of this subsection of not more than $10,000 for each violation. Each violation of this title and each day of noncompliance with an order of the Commission shall constitute a separate offense. In determining the amount of the penalty the Commission shall consider the person's history of previous violations, the appropriateness of such penalty to the financial resources of the person charged, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

"(2) A civil penalty under this subsection shall be assessed only after the person charged with a violation has been given an opportunity for a hearing and the Commission has determined, by decision which includes findings of fact, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be held in accordance with section 554 of title 5, United States Code.

"(3) If the person against whom a civil penalty is assessed fails to pay the penalty, the Commission may file a petition for enforcement of its order assessing the penalty in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and his attorney of record, and thereupon the Commission shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Commission or it may remand the proceedings to the Commission for such further action as it may direct. The court may determine de novo all issues of law but the Commission's findings of fact, if supported by substantial evidence, shall be conclusive.

"RELATIONSHIP TO OTHER FEDERAL ELECTION LAWS

"SEC. 514. The Commission shall consult from time to time with the Secretary of the Senate, the Clerk of the House of Representatives, the Federal Communications Commission, and with other Federal officers charged with the administration of laws relating to Federal elections, in order to develop as much consistency and coordination with the administration of those other laws as the provisions of this title permit. The Commission shall use the same or comparable data as that used in the administration of such other election laws whenever possible.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 515. There are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under this title, such funds as are necessary for the fiscal year ending July 30, 1975, and each fiscal year thereafter.".

(b) The Federal Election Campaign Act of 1971 is amended by—

(1) striking out "Comptroller General" in sections 104(a) (3), (4), and (5) and inserting "Federal Election Commission";

(2) striking out "Comptroller General" in section 105 and inserting "Federal Election Commission";

(3) amending section 301 (g) (relating to definitions) to read as follows:

"(g) 'Commission' means the Federal Election Commission;";

(4) striking out "supervisory officer" in section 302 (d) (relating to organization of political committees) and inserting "Commission";

(5) amending section 302 (f) by—

(A) striking out "appropriate supervisory officer" in the quoted matter appearing in paragraph (1) and inserting "Federal Election Commission";

(B) striking out "supervisory officer" in subparagraphs (A) and (B) of paragraph (2) and inserting "Commission"; and

(C) striking out "which has filed a report with him" in paragraph (2)(A) and inserting "which has filed a report with it";

(6) amending section 303 (relating to registration of political committees; statements) by—

(A) striking out "supervisory officer" each time it appears and inserting "Commission"; and

(B) striking out "he" in the second sentence of subsection (a) and inserting "it";

(7) amending section 304 (relating to reports by political committees and candidates) by—

(A) striking out "appropriate supervisory officer" and "him" in the first sentence of subsection (a), and inserting "Commission" and "it, respectively;

(B) striking out "supervisory officer' where it appears in the second sentence of subsection (a) and in paragraphs (12) and (13) of subsection (b), and inserting "Commission"; and

(C) striking out everything after "filing" in the second sentence of subsection (a) and inserting a period;

(8) striking out "supervisory officer" each place it appears in section 305 (relating to reports by other than political committees) and section 306 (relating to formal requirements respecting reports and statements) and inserting "Commission";

(9) striking out "Comptroller General of the United States" and "he" in section 307 (relating to reports on convention financing) and inserting "Federal Election Commission and "it", respectively;

(10) striking out "SUPERVISORY OFFICER" in the caption of section 308 (relating to duties of the supervisory officer) and inserting "COMMISSION";

(11) striking out "supervisory officer" in the first sentences of subsections 308(a) and 308(b) and inserting "Commission";

(12) amending section 308(a) by—

(A) striking out "him" in paragraphs (1) and (4) and inserting "it"; and

(B) striking out "he" each place it appears in paragraph (7) and (9) and inserting "it";

(13) amending section (c) of section 308 by—

(A) striking out "Comptroller General" each place it appears therein and inserting "Commission", and striking "his" in the second sentence of such subsection and inserting "its"; and

(B) striking out the last sentence thereof;

(14) amending subsection (d)(1) of section 308 by—

(A) striking out "supervisory officer" each place it appears therein and inserting "Commission";

(B) striking out "he" the first place it appears in the second sentence and inserting "it"; and

(C) striking out "The Attorney General on behalf of the United States" and inserting "The Commission or the Attorney General on behalf of the United States"; and

(15) striking out "a supervisory officer" in section 309 (relating to statements filed with State officers) and inserting "the Commission".

(c)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following paragraph:

"(60) Members, Federal Election Commission (7).".

(2) Section 5316 of such title is amended by redesignating the second paragraph (133) as (134), and by adding at the end thereof the following paragraphs:

"(135) General Counsel, Federal Election Commission.

"(136) Executive Director, Federal Election Commission.".

(d) Until the appointment of all of the members of the Federal Election Commission and its General Counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as those titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its General Counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within thirty days after the date on which all such members are appointed, of all records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as it existed on the day before the date of enactment of this Act.

(e) Subtitle H (Financing of Presidential Election Campaigns) of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is repealed.

(f) The amendments made by this section shall take effect on January 1, 1975.

MAILING PRIVILEGES

SEC. 4. (a) Title III of the Federal Election Campaign Act of 1971 is amended by redesignating section 311 as 312 and by inserting after section 310 the following new section:

"SUSPENSION OF FRANK FOR MASS MAILINGS IMMEDIATELY BEFORE ELECTIONS

"SEC. 311. (a) No Senator, Representative, or Vice President shall make any mass mailing of a newsletter or mailing with a simplified form of address under the frank, as permitted under section 3210 of title 39, United States Code, during the period beginning ninety days before the date on which any Federal election is held in which he is a candidate and ending on the date of that election.

"(b) The Postal Rate Commission shall establish a reduced rate of postage for the class of correspondence, not exceeding four ounces in weight, sent by any candidate to any person in connection with the campaign of that candidate for nomination for election, or election. This special rate shall be available to a candidate only after the Commission certifies to the Postmaster General that the candidate meets the requirements of section 504.".

CRIMINAL PENALTIES

SEC. 5. Section 608 (a) of title 18, United States Code, is amended to read as follows:

"(a)(1)(A) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of $1,000.

"(B) For the purposes of paragraph (1), 'candidate' means an independent candidate, a candidate who seeks the nomination of a minor party, as defined in section 501 of the Federal Election Campaign Act of 1971, or a minor party candidate.

"(2)(A) No major party candidate may make expenditures from his personal funds, or the personal funds of his immediate family in connection with his petition drive for purposes of title V of the Federal Election Campaign Act of 1971 in excess of $1.000.

"(B) No candidate who seeks the nomination of a major party, as defined in section 501 of the Federal Election Campaign Act of 1971, or who is the candidate of a major party may make any expenditures from his personal funds, or the personal funds of his immediate family in connection with his campaign for nomination, or election, to Federal office.

"(3) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of those persons.".

REPEAL OF EQUAL TIME PROVISIONS AND THE CAMPAIGN COMMUNICATIONS REFORM ACT

SEC. 6. (a) Section 315 (a) of the Communications Act of 1934 (47 U.S.C. 315 (a)) is amended by inserting after "'public office" in the first sentence thereof a comma and the following: "other than Federal elective office (including the office of Vice President)".

(b) (1) The Campaign Communications Reform Act is repealed.

(2) Section 312 (a) of the Communications Act of 1934 (47 U.S.C. 312 (a)) is amended by—

(A) inserting "or" after the semicolon in paragraph (5);

(B) striking out "; or" in paragraph (6) and inserting in lieu thereof a period; and

(C) striking out paragraph (7).

(3) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking out subsections (c) through (f) and redesignating subsection (g) as (c).

INCREASE OF TAX CREDIT AND DEDUCTION FOR POLITICAL CONTRIBUTIONS

SEC. 7. (a) Section 41 (b)(1) of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is amended to read as follows:

"(1) Maximum credits.—The credit allowed by subsection (a) for a taxable year shall be limited to $100 ($200 in the case of a joint return under section 6013).".

(b) The amendment made by subsection (a) applies to any political contribution the payment of which is made after December 31, 1974.

DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND

SEC. 8. (a) Section 6096(a) of the Internal Revenue Code of 1954 (relating to designation of income tax payments to the presidential election campaign fund) is amended to read as follows:

"(a) IN GENERAL.—Two dollars shall be paid over to the Federal Election Campaign Fund for every individual (other than a nonresident alien) whose income tax liability for any taxable year is $2 or more unless the individual designates that $2 shall not be paid over to the Fund. If a husband and wife file a joint return and have an income tax liability of $4 or more, $4 shall be paid over to the Fund unless they designate that $4 shall not be paid to the Fund."

(b)(1) The caption of part VIII of subchapter A of chapter 61 of the Internal Revenue Code of 1954 is amended to read as follows:

"PART VIII. DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND".

(2) The table of parts for subchapter A of chapter 61 of the Code is amended to read as follows:

"PART VIII. DESIGNATION OF INCOME TAX PAYMENTS TO FEDERAL ELECTION CAMPAIGN FUND."

(c) The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1973. Any designation made under section 6096 of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1973) for the account of the candidates of any specified political party shall be treated solely as a designation to the Federal Election Campaign Fund.

SUMMARY: "COMPREHENSIVE ELECTION REFORM ACT OF 1974" (S. 2943)

PROVISIONS

Candidates and elections covered

President: Primary and general (incorporates Presidential check-off fund).

Congress: primary and general.

Type of funding

Automatic full funding of all qualifying major party candidates with partial funding of minor and independent candidates on basis of vote performance. Campaign bills paid by and through Federal Election Commission.

Party organizations covered

National party (major and minor) automatically receives funding in presidential election year of up to 20% of amount allowed its presidential candidates. In all other years, it is up to 15% of that amount. Party may spend public funds for election activities such as voter registration, nominating conventions, get-out-the-vote drives. Bills paid directly by Federal Election Commission.

How administered

Seven member Federal Election Commission, appointed by President with consent of Senate to serve staggered seven year terms. Two recommended by Senate leadership, two by House. No more than four of seven of same political party. Responsible for administering, auditing, enforcing federal campaign finance program. Has full investigative, subpoena, prosecutorial powers. Commission specifically required to submit to Congress copies of all statements or responses to Executive Branch.

Executive Branch prohibited from censoring Commission comments or testimony.

Commission sets up accounting system for each qualified candidate, pays all bills directly, except for petty cash expenses of $25.00 or less.

Amount of funding

President: Primary: 15¢ x VAP* in each state. General: 20¢ x VAP in each state.

Senate: Primary: 15¢ x VAP (or $175,000 if greater). General: 20¢ x VAP (or ($250,000 if greater).

House: Primary: 25¢ x VAP (or Senate amount if state has only one Congressional district). General: 30¢ x VAP.

How qualify

Candidate agrees to file all necessary records and comply with audit requirements, certifying that he or she will not exceed spending and contribution limits.

President: Primary: Petition signatures of 1% of VAP in each primry state must be filed with Commission 210 days before primary, to be validated by Commission within 30 days.

General: Major party candidates automatically qualify for full funding.

Senate: Primary: Petition signatures of 1% of VAP in state must be filed with Commission 210 days before primary.

General: Major party candidates automatically qualify for full funding.

House: Primary: Petition signatures of 2% of VAP in district must be filed with Commission 210 days before primary (1% if single district state).

General: Major party candidates automatically qualify for full funding.

National party: Automatically qualifies for funding based on a percentage of the presidential candidate entitlement.

Candidate spending limit

Same as total entitlement allowed major party candidates (see "Amount of Funding"). In presidential primary, candidates can authorize his or her national committee to spend up to 10% of his or her total allowable limit in states entered, reducing own spending by that same amount. Unopposed primary candidates may spend only 20% of amount allowed opposed candidate.

Limits on individual private contributions

No private contributions can be given to or accepted by major party candidates or major parties in primary or general elections. (Except for $100 maximum contributions allowed in petition gathering, all contributions to be refunded later from primary entitlement). Limit of $100 on contribution to minor party, independent candidate (separate limit for primary, runoff, general). Minor party, independent candidates may accept private contributions up to overall spending limit.

Limits on contributions by political committee to Candidate

No contributions allowed to major party candidates or to major party. $100 limit on contributions to minor, independent candidates.

Treatment of minor and new parties/candidates

Entitled to a fraction of major party funding based on ratio of minor/new party candidate votes received to average votes received by major party candidate. May raise proportionately more in private funds up to spending limit.

Can receive additional funding—up to total funding—after election on basis of performance.

Specific restrictions

Major party candidate must repay full entitlement if he or she receives less than 15% of votes in primary or 25% in general election.

Candidates may withdraw under certain conditions, repaying half of entitlement received.

Post election audit can require repayment of excess funds received by candidates.

Minor party candidate or his or her family can spend $1,000 on primary or general election (treated separately); major party candidate or family can spend $1,000 in connection with petition drive.

All private contributions to minor, independent candidates must be sent to Election Commission, fully identified.

Full reporting of petition drive contributions. Spending limits for petition drives:

House: 2¢ x VAP.

Senate: 1¢ x VAP or $7,500, whichever is more.

Limit of $100 on individual's contribution to petition drive.

Tax incentives for small contributions

Increase tax credit to 100% of contribution up to $100 ($200 on joint return). Provides automatic income tax payment to Election Fund of $2, unless taxpayer specifically designates "no".

Other provisions

Repeals Sec. 315 "equal time" requirements of Communications Act for all federal candidates.

Bans use of frank for mass mailings 90 days before any federal election. Directs Postal Service to establish special rates for all federal candidates.

Penalties

Up to $50,000/five years.

Civil penalty: Up to $10,000 per day per violation.

Estimated annual cost

$250 million (assumes three candidates in each party primary for every Federal office).

Effective Date: January 1, 1975.

PROJECTED ANNUAL COST FOR PUBLIC FINANCING OF ELECTIONS UNDER THE PROVISIONS OF THE COMPREHENSIVE ELECTION REFORM ACT OF 1974

PRESIDENTIAL ELECTIONS	
Presidential primary elections	$31, 419, 450
Presidential general elections	13, 964, 200
Total annual Presidential costs	45, 383, 650
SENATE ELECTIONS	
Senate primary elections	45, 113, 064
Senate general elections	9, 666, 784
Total annual Senate costs	54, 779, 848
HOUSE OF REPRESENTATIVES	
House primary elections	109, 062, 150
House general elections	43, 839, 860
Total annual House costs	152, 902, 010
Total annual costs, all Federal elections	253, 065, 508

1. These are *annual* costs for all plans. In other words, the costs for Presidential elections are spread over four years, those for Senatorial elections over six years, those for House elections over two years.

2. The cost analysis presumes a major party primary in both parties with three candidates in *each* party primary. It assumes that presidential candidates will enter a primary election in each of the fifty states and the District of Columbia, although this could not happen now.

3. The analysis does not consider minor party allocations, or run-off primaries.

4. Figures have been calculated on the basis of population figures as of July 1, 1972, certified by the U.S. Department of Commerce.

PROPOSED FEDERAL CANDIDATE EXPENDITURE/ALLOCATION LIMITATIONS

House of Representatives

Average Congressional District—324,541 (voting age population).

Primary (25¢ per voter): $81,135.

General (30¢ per voter): $97,362.

SENATE AND PRESIDENTIAL RACES

Geographical areas	Voting age population (18 years and over)	Primary (15 cents per voter)	General (20 cents per voter)
United States	139,172,000	$20, 875, 800	$27, 834, 400
Alabama	2, 294, 000	344, 100	458, 800
Alaska	194, 000	175, 000	250, 000
Arizona	1, 262, 000	189, 300	252, 400
Arkansas	1, 326, 000	198, 900	265, 200
California	13, 910, 000	2, 086, 500	2, 782, 000
Colorado	1, 560, 000	234, 000	312, 000
Connecticut	2, 083, 000	312, 450	416, 600
Delaware	369, 000	175, 000	250, 000
District of Columbia	527, 000	175, 000	250, 000
Florida	5, 087, 000	$763, 050	$1, 017, 400
Georgia	3, 067, 000	460, 050	613, 400
Hawaii	526, 000	175, 000	250, 000
Idaho	487, 000	175, 000	250, 000
Illinois	7, 508, 000	1, 126, 200	1, 501, 600
Indiana	3, 477, 000	521, 550	695, 400
Iowa	1, 924, 000	288, 600	384, 800
Kansas	1, 538, 000	230, 700	307, 600
Kentucky	2, 191, 000	328, 650	438, 200
Louisiana	2, 348, 000	352, 208	469, 600
Maine	683, 000	175, 000	250, 000
Maryland	2, 679, 000	401, 850	535, 800
Massachusetts	3, 937, 000	590, 550	787, 400
Michigan	5, 876, 000	881, 400	1, 175, 200
Minnesota	2, 542, 000	381, 300	508, 400
Mississippi	1, 426, 000	213, 900	285, 200
Missouri	3, 223, 000	483, 450	644, 600
Montana	468, 000	175, 000	250, 000
Nebraska	1, 021, 000	153, 150	204, 200
Nevada	347, 000	175, 000	250, 000
New Hampshire	513, 000	175, 000	250, 000
New Jersey	4, 986, 000	747, 900	997, 200
New Mexico	657, 000	175, 000	250, 000
New York	12, 626, 000	1, 893, 900	2, 525, 200
North Carolina	3, 468, 000	520, 200	693, 600
North Dakota	411, 000	175, 000	250, 000
Ohio	7, 130, 000	1, 069, 500	1, 426, 000
Oklahoma	1, 797, 000	269, 550	359, 400
Oregon	1, 487, 000	223, 050	297, 400
Pennsylvania	8, 174, 000	1, 226, 100	1, 634, 800
Rhode Island	668, 000	175, 000	250, 000
South Carolina	1, 719, 000	257, 850	343, 800
South Dakota	444, 000	175, 000	250, 000
Tennessee	2, 710, 000	406, 500	542, 000
Texas	7, 614, 000	1, 142, 100	1, 522, 800
Utah	690, 000	175, 000	250, 000
Vermont	304, 000	175, 000	250, 000
Virginia	3, 182, 000	477, 300	636, 400
Washington	2, 310, 000	346, 500	462, 000
West Virginia	1, 209, 000	181, 350	241, 800
Wisconsin	2, 965, 000	444, 750	593, 000
Wyoming	226, 000	175, 000	250, 000

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2943, introduced by Mr. CLARK today, be referred jointly to the Committee on Rules and Administration, Finance, and Commerce; that a bill introduced by Mr. SCHWEIKER be referred to the Committee on Government Operations, and that if and when reported, it be referred jointly to the Committees on Interior and Insular Affairs and Finance for consideration of matters falling within their respective jurisdictions.

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*VAP—voting age population.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PEARSON:

S. 2944. A bill to provide for the assignment of Foreign Service officers to certain public organizations. Referred to the Committee on Foreign Relations.

Mr. PEARSON. Mr. President, the Foreign Service officers who represent the United States in countries around the world and perform vital foreign policy analysis in Washington are as fine a group of civil servants as this country has. Willing to serve anywhere in the world from Europe to dangerous assignments in Southeast Asia, time and again, Foreign Service officers have proven their expertise in the arts of diplomacy and execution of foreign policy. These men and women deserve the high esteem and thanks of us all.

Foreign Service officers recognize better than most that the Foreign Service and the Department of State are badly in need of reform. One of the most positive contributions made by Federal employees was the work done by the American Foreign Service Association's task forces which studied the Service and made recommendations for change. Those efforts at reform from within have already produced and will continue to produce positive changes in the Department of State and the Foreign Service.

The task of reform is, however, not yet complete. Too many outstanding young officers are leaving the Service, in part, because the number of qualified candidates for interesting, responsible, and rewarding positions far exceeds the availability of those positions. Young people are turning elsewhere for careers in foreign affairs because they, too, understand that the Foreign Service may not have jobs to match their training and aspirations.

The legislation I introduce today would help to alleviate this problem, and alleviate it in a positive, productive way. This bill would make four basic contributions to the Foreign Service and to the United States. It would reduce the number of officers competing for the limited number of responsible positions. It would utilize the talents and training of Foreign Service officers while providing badly needed skilled personnel to State and local governments and other public institutions in the United States. It would help to reacquaint the Foreign Service officers with their own country at a time when they are on the threshold of assuming their most responsible posts. Finally, it would provide a new means of informing Americans in all parts of the country about American foreign policy.

This bill is not complex. It provides that each Foreign Service officer serve 22 to 26 months in a position in the public service outside of Washington, D.C., between the 8th and 15th years of his Foreign Service career. At present, the Secretary of State has the necessary authority to assign officers to such service; this legislation simply makes such service mandatory unless the Secretary should waive its provisions in the interest of the United States. The officer may, of course, state preferences with respect to the type of organization and job to which he would be assigned and certainly should be encouraged to do so.

This bill would, in my opinion, offer several positive remedies to current problems. For the Foreign Service, it would provide interesting, rewarding positions for a larger number of officers. Those familiar with the Department understand how unfortunate it is for the bright, capable officer seeking responsibility to be given a task in the Department or abroad which underutilizes his talents and training. I believe that this underemployment of Foreign Service officers is, in large part, responsible for the low morale of the Foreign Service. In addition to that, as the officers seek responsibility, they sometimes attempt to secure a "piece of the action" of foreign policy decisions. This too often adds to the list of horizontal and vertical clearances and unnecessarily slows down the decisionmaking process in the Department of State. This bill would help to alleviate both of those serious problems.

The quality of the positions Foreign Service officers hold under provisions of the bill is of critical importance. The Government of the United States will be paying their salaries and other expenses; they are, therefore, virtually free help for State and local governments and other public institutions in this country. I would anticipate a high demand for their services. The personnel office and the officers themselves should be quite demanding concerning the positions and the responsibilities involved in the job.

It would not be in the interest of the Foreign Service officers, the Department or the host institution to ask for an officer unless the function he will perform is challenging and interesting to him. The positions may range from city manager of some small community to instructor in a community college. At this time, Foreign Service officers, skilled in techniques and administration and planning, would be valuable additions to the governments of small- and medium-sized American cities who are now faced with the responsibility of establishing priorities for the spending and administering of revenue sharing funds. But the important point is that the task be a mutually beneficial one for the officer and the institution.

I believe that the corollary benefits to a 2-year assignment in the United States are almost as beneficial as the job itself. It is vital that the men and women who represent the United States and help formulate and execute its foreign policy remain in touch with their own country and its people. This is no idle, populist statement; it has a sound basis in principle.

Part of the function of the Foreign Service officer is to explain what is happening in the United States to officials and citizens of foreign countries. This cannot be done properly if one only reads about the United States from the New York Times, the Washington Post, or the International Herald-Tribune. To interpret properly events in this country, a diplomat must have what can only be described as a "feel" for what is happening in the United States. To acquire this understanding, a Foreign Service officer must spend time in this country, but not in Washington, which, for all its merits and attractions, is not representative of the entire Nation.

Finally, a Foreign Service officer living in a small community or even some larger cities would be a reservoir of knowledge and experience about the foreign relations of this Nation that is seldom available to people outside of major metropolitan areas or university communities. To the extent that isolationism still exists, the experience and explanations of a foreign affairs professional could bring some of the intricacies of foreign affairs home to the people of this country.

This legislation provides a simple, positive answer to some very complex problems, and it does so at little or no additional cost to the American taxpayer. It is beneficial to the Foreign Service officers, to the Department of State, and to the country. I urge prompt consideration of this bill.

By Mr. BELLMON (for himself and Mr. BARTLETT):

S. 2945. A bill to repeal the Economic Stabilization Act of 1970. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. BELLMON. Mr. President, last month I traveled to about 40 counties in my home State, talking with people who own small businesses, who work in all sections of the economy, including agriculture, the oil industry, banking, retail stores, wholesalers, and public officials. While many problems concern the people of Oklahoma, the No. 1 problem is clear: The uncertain state of the economy. Today, to help bring more economic stability to the country. I am introducing a bill to repeal the Economic Stabilization Act of 1970. If the Congress acts on this bill, the decisions of the marketplace will be dictated by the law of supply and demand functioning in a free market rather than by the artificial restrictions of wage and price controls.

Roughly 2½ years ago, the President took a generally popular step when he announced a wage and price freeze on August 15, 1971. At that time, the freeze worked, as did phase II, which followed in November and lasted through 1972. Consumer prices in 1972, by which many economists judge the inflationary rate, rose only by 3.2 percent. That was in sharp contrast to the inflationary rate of about 6 percent in early 1971. It seems clear that up until mid-1973 the administration's controls were effective. However, at that point the causes of inflation apparently changed.

The controls had clearly worked for awhile, but in 1973 the inevitable inequities, distortions, and disincentives began to pile up. Several factors contributed to the ineffectiveness of the controls, which no administration and no Government could control. With the economy reaching nearly full employment, the general demand for goods and commodities rose to a point where it exceeded the supply available at then existing prices. Because of the control ceilings, business had no real incentive to increase production capacity, so the shortages worsened. A further contributing factor to the economic disarray was the explosion of food and raw commodity prices in the world market. We were placed in the position of attempting to control prices in the markets of the American economy which, because of increased international trade, were only subsectors of world markets. As the differences between world export prices and domestic controlled prices extended to more and more commodities at increasing spreads, incentives were created for American producers to sell their products on the world market rather than the domestic market. By maintaining price controls in our economy, within an environment of worldwide inflation produced by increased demand, more domestic shortages were produced than would otherwise have been the case.

Because of these three factors, today we have serious shortages which threaten the stability of our economy. The evidence is all around us: late delivery days on furniture, aluminum, fertilizer, bottled gas, paper, newsprint, food freezers, baling wire, cement, structural steel, oilfield equipment such as pipeline and mud pumps, cotton goods, copper, zinc, many chemicals, and even, on some items on specific days, food. The distortions we witnessed were perhaps most explicit last summer, when we saw the drowning of millions of baby chickens because it was cheaper to kill them than to raise them and sell them for food.

Perhaps the best description of the problem is contained in a survey produced by the National Association of Manufacturers. Of some 500 member firms, nearly all of them said they were having trouble getting supplies and mainly attributed their problems to controls; 85 percent predicted worsening shortages if controls continued, and most predicted that shortages would cease if controls were lifted. Two-thirds of those surveyed indicated that they would be encouraged to expand their own productive capacity after decontrol. A high percentage believe consumers will end up paying more over the long haul than they would have without controls. The National Associations of Business Economists found that economists at 900 companies favor decontrol by a ratio of 2 to 1. It is difficult to think of an industry that does not have some sort of shortage problem, and the cause of the problem in most cases has been an unrealistic supply and demand situation created by artificial prices not realistic with those existing in the world economy.

We have seen workers being laid off and production slowdowns because raw materials are being shipped out of the country at attractive export prices, rather than selling at domestic prices. The answer to this problem is not further trade controls or relaxation of price controls but rather ending the controls and returning to the free marketplace where goods are valued by the price which buyers operating in a free market are willing to pay. It is fair to ask whether or not in a free market situation, shortages and shutdowns will occur because of rising raw material prices and the possibility that specific products may be priced out of the market.

The answer is that if rising material costs decide a product's fate it would at least signify that those products were less important to consumers than other products bidding for the same materials. And if these increased material prices raise the prices of the products and the consumer vote begins to turn against those products, the businessman will at least have some time to try to improve his relative position by cutting costs, producing different products, improving his efficiency, and so forth. If he succeeds, it will be better for the American economy and the consumer will benefit.

However, under our system of controls, he does not have this chance. Rather, the businessman wakes up one morning and cannot get raw materials because U.S. prices are controlled and foreign prices are not. He finds himself the victim of artificially created market forces that are irrational and produce diseconomies in their impact.

It is clear, then, that after a period of success, the wage and price controls are failing because they are challenging fundamental market forces. In the long run, the continuation of wage and price controls will do more harm than good.

William J. Fellner, a member of the President's Council of Economic Advisers, has said:

> Any large-scale interference with the price structure beyond a very limited period, is a mistake.

Arthur Burns, Chairman of the Federal Reserve Board and recently reappointed to a second term, said:

> A control system can help for a time—and it did. But it is time to return to the free markets.

Dr. C. Jackson Grayson, Jr., a former Chairman of the Price Commission, argued in a recent article in the Harvard Business Review that—

> The free market system is in danger of collapse under central economic controls; we must put the brakes on now.

Grayson views with alarm the trend of economic controls and suggests that unless we return promptly to a market system "conceived on the concepts of competition, monetary reward, excellence, and change," we will "have helped to build our own cages" of a society with limited personal and economic freedoms.

In short, the controls are now counterproductive, and they are doing very little, relatively, to hold down general price levels and are creating shortages by holding back expansion of productive capacity and making many items unprofitable to produce.

It is fair that one would ask, "If prices are decontrolled, what can we anticipate?" Certainly prices will increase somewhat. On the basis of evidence of the last 2 years, however, it can be predicted that prices will rise even if controls are left on in the future, just as they have in the recent past. In the long run, the only way to curb inflation and stabilize the economy is to bring supply to a better balance with demand, which will happen only if the controls are ended, and to hold down the Federal deficit by operating under a realistic fiscal policy. This, of course, will put the burden upon our backs. Members of Congress will have to stand up against pressures of increased Federal spending and make hard decisions on where available funds will do the most good.

The past Chairman of the Council of Economic Advisers, Paul McCracken, has indicated that another probable effect of decontrol would be a higher rate of capital investment, which would accelerate economic growth, alleviate production bottlenecks, and make the United States more competitive in international markets. The effect on another of our pressing problems, the energy crisis, would also be significant. Although tremendous price increases have been allowed already under the control program, we have seen an immediate pressure on practically every consumer to conserve its use and reduce consumption of energy. There is no other form of rationing as quick and efficient as rationing by the marketplace and by the purse. The supply, on the other hand, can be increased by speeded-up transportation and deliveries, and can lead to the reopening and working of marginal oil wells which did not produce a profit margin at lower prices. Further, exploration will be stimulated, and funds will be provided for new refining capacity. Also, it will be possible to utilize recovery techniques which are not now economically feasible at recent prices.

Based on the above, it is clear that controls have caused serious disruptions and instabilities in the economy, and after a period of holding down inflation, they have failed to contain the inflationary rate in the United States. Until controls are ended, we can expect continued shortages, artificially reduced capacities, and continued inflation. Therefore, I urge the Senate to repeal the Economic Stabilization Act of 1970 and face up to the real solution for ending inflation by holding down the cost of Government and Federal spending.

By Mr. TALMADGE (by request):

S. 2946. A bill to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, by request, I introduce a bill relating to unfair practices in the marketing of perishable agricultural commodities, and I ask unanimous consent that the letter of transmittal from the Department of Agriculture be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 21, 1973.

Hon. GERALD FORD,
President,
U.S. Senate.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft of a proposed bill to amend Section 2(5) of the Perishable Agricultural Commodities Act, 1930, relating to unfair practices in the marketing of perishable agricultural commodities.

The proposed bill would amend the Perishable Agricultural Commodities Act to provide the option of imposing either a monetary penalty, not to exceed $2,000, for violations of the misbranding provisions of the Act, or institution of a formal proceeding for suspension or revocation of the license issued under this Act to trade in the fruit and vegetable industry. The only penalties which can presently be imposed for such violations are public disclosure of the facts and circumstances and/or the suspension or revocation of the license of the violator.

In utilizing the monetary penalty option, if the law is revised as set forth in the proposed amendment, we would expect that in most instances a warning letter would be issued on the first violation by a licensee. Monetary penalties would be assessed for violations after the first violation, where the violator and this Department consent to such procedure. The amount of the penalty assessed will depend on the nature of the violation. As we gain experience in this area, we will be able to judge the amount of penalty which best acts as a deterrent to possible violators. The authority to assess monetary penalties, if granted, will fill a gap in the law where either no penalty is imposed or suspension or revocation of the license is ordered. It is understood that the monetary penalty provision is to be in addition to other penalties provided in the law, and that the violations on which monetary penalties are assessed may be used as a part of the evidence to support an action to suspend or revoke the license of a person who engages in repeated and/or flagrant violations of this provision of the Act.

The proposed bill has been considered by the PACA-Industry Advisory Committee, an official advisory committee representing the various segments of the fruit and vegetable industry and established by the Department to counsel on all aspects of the Perishable Agricultural Commodities Act. The Committee has recommended its enactment.

The proposed legislation would not result in an increase in the cost of living or in an increase in food costs to consumers. Consumers would benefit if the legislation is adopted, since deterrence of misbranding and misrepresentation offers a measure of consumer protection.

Adoption of the proposed legislation should not result in an increase in the cost of administration of the Perishable Agricultural Commodities Act. Monetary penalties paid for violations of the misbranding provisions of the Act would be deposited into the Treasury of the United States as miscellaneous receipts.

In accordance with the provisions of Public Law 91-190, Section 102(2)(C) this proposed legislation would have no significant impact upon the quality of the environment.

The Office of Management and Budget advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

By Mr. CHILES:

S. 2947. A bill to amend the Export Administration Act of 1969 to authorize the imposition of export controls when necessary to bring about adjustments in economic policies or actions by foreign governments. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. CHILES. Mr. President, I am introducing today proposed legislation which would amend the Export Administration Act of 1969 to provide authority, subject to careful review, for the President to contemplate and exercise the use of export controls as a means of seeking adjustment in foreign economic policy actions by other governments which may cause serious inflation shortages or unemployment in the United States. The Export Administration Act authority expires on June 30 of this year and the Committee on Banking, Housing and Urban Affairs will be reviewing this legislation to determine the desirability of its extension. I submit this legislation today in order to focus attention on the need to be able to respond with foreign economic policy actions of our own to meet the damaging economic effects that embargoes, price hikes, and productive restraints abroad may have on our own economy. I think there is a need to hold hearings on the need for such authority, the role of Congress in exercising and reviewing the use of such authority, and to examine specifically the exports that we sell to the oil producing nations to see what sort of leverage we may have to seek a downward adjustment in oil prices.

I also feel that it is vital to this Nation's economic interests to avoid international economic warfare. The purpose of this legislation is to provide us with the power to persuade other nations that unilateral action by them that is damaging to us is not in their interests. Nevertheless, the existence of such authority could in some circumstances be the instrument for the use of that authority, and that is certainly something we need to consider.

Today, Mr. President, all of us are against nuclear warfare, but at the same time we recognize that we do not want to be completely without defense; therefore, we want to make sure that our nuclear capabilities are always adequate that we will be able to respond, and that no nation that felt we were without adequate defense could take advantage of us or ultimately destroy us. Yet, at the same time, in an economic area, we seem to be without capability in order to respond when nations decide that they want to place tremendous taxes on their oil. Today it is oil; tomorrow it may be some other scarce material. These countries think it is perfectly proper for them to take that action. At this time, it seems that we are without the legislative authority to be able to respond.

I do not think this kind of economic warfare is wise or sound; but if we cannot engage in it, I think we are very much like a nation that has no nuclear capability, and we are going to be forced, as we see ourselves now forced, into sitting back and seeing exorbitant price rises because we are unable to respond.

I look at some of the letters I am receiving from people in Florida and see what is happening to them because of the large price increases and other problems with respect to energy. A tremendous hardship is now being placed on this Nation because of this situation.

It appears that at present we are taking no countermeasures and are not even able to bring those countries to the table so that we can talk about this policy. It makes me feel very strongly that we need to be able to respond, and then perhaps we can have sanity come from this situation.

Mr. President, we are entering a new era in world economic relations. It used to be that trade and financial flows between countries were a relatively less important aspect of foreign affairs than military, security and political relations. For the United States, the combination of our predominant economic strength and the small role of trade in our economic life shielded our economy from ups and downs of international trade and finance. We could be an unqualified advocate of free trade because of our strong competitive position and relatively great size.

Now all this is beginning to change. Economic relations are becoming the main focus of foreign policy as nations become more interdependent economically. The tremendous growth of Europe and Japan, and other countries as well, has created a more pluralistic world economy, in which the United States plays a relatively less dominant role. With this the competitive position of the United States has been challenged and the vulnerability of the United States to fluctuations in world economic conditions has increased. Furthermore, as economic interdependence has grown and military-security questions have become less primary, international economic questions have become highly political matters affecting as they do price levels, unemployment and growth internally in all countries. This is new. In the past foreign policies of other countries have affected our foreign policies and interests. Now foreign policies of other countries are affecting our internal policies and interests.

Mr. President, we have seen very concrete evidence of these changed world economic conditions and the tremendous upheaval they can cause in the recent rise in oil prices by oil producing nations, and the oil embargo and production restrictions imposed by the Middle East oil-producing nations. The effect that these foreign economic policy actions abroad have had on our economy here at home is the dominant political issue of the people of this Nation today. The effect on prices and jobs in the United States of these actions by the oil-producing countries is of tremendous concern.

During 3 weeks in Florida in early January I found the people at home to be most worried about the energy crisis and the effects it will have on employment and inflation in the United States. After returning to Washington I received a letter from a woman in Florida who described herself as an "irate taxpayer" and who told me to put some action where my mouth is because she does not see anyone in Government doing anything to insure jobs and better prices as oil shortages and oil price rises take hold. I feel it is necessary to speak out for this concern I found among the people of Florida.

At the present time there is no legal basis for our Government to respond to foreign policy decisions abroad with foreign policy actions of our own. I do not think that the United States can leave itself in the position of being affected by these foreign actions without having the legal authority ourselves to make an equivalent response. Other nations are living in an unreal world if they think that they are any less dependent on us than we are on them. On January 29 I introduced and the Senate passed a resolution calling on our Government to communicate our concern to the oil producing nations for the effect their actions have had on our economy and to convey the fact that we can take reciprocal economic action.

Export controls is one instrument which can be the most effective in making an appropriate response to foreign economic actions which affect our economy. As the Export Administration Act now reads, export controls can now be used "to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand." This language restricts the use of export controls to only those cases where there is a drain on our supplies and a serious inflationary effect caused by foreign demand. So three conditions have to prevail simultaneously for export controls to be legally involved. There has to be, first, a drain on our supplies, and second, an inflationary impact, soon caused by, third, foreign demand. So the law does not now cover foreign economic policy actions, like those taken by the oil producing nations, which raise price or control production or embargo exports of goods that due to their importance in our economy can affect employment, price levels, and supply in our economy as a whole.

The legislation I am introducing would enable the President to take equivalent foreign economic policy decisions to respond to such actions abroad in order to seek a favorable adjustment in these decisions by other governments. The legislation would provide an entirely new legal basis for implementing export controls. I think the consideration by the Congress of this legislation is vital to the interests of the United States and the well-being of the American people in this new economic era we are living in. We cannot allow these actions abroad to be taken without having the capacity to take action ourselves. Only if we have the authority to take reciprocal economic action will we have the power to persuade other nations that drastic economic action by them, as in the case of oil, which has damaging effects on our economy is not to their advantage to take because it will only result in equally harmful effects on them.

So I call for a thorough examination of the trading conditions and procedural practicalities involved in vesting the President with authority to use export controls for these purposes. This is a complicated matter fraught with dangers and difficulties. Hearings need to be held and careful consideration needs to be given to vesting the President with this new and far reaching authority. I do not believe that the Congress which is the branch of Government with the constitutional responsibility "to regulate commerce with foreign nations" should delegate this authority to the President without careful thought and without some measure of control over when this authority can be exercised. In the hearings I think we need to explore just how checks and balances in this area might be drawn.

Also in the hearings, there should be a thorough exploration of the trade relationship we have with the oil-producing nations to see what alternatives we have to exerting leverage. I am hopeful that extensive hearings can be held on all dimensions of this legislation as I believe that response of the United States to the oil price rise is vital to our domestic economic interests.

The legislation I introduce now follows up on the Senate resolution I introduced and the Senate passed on January 29 which reads:

S. Res. 249

Resolved, That it be the sense of the Senate that it be an urgent matter to communicate to the governments of Canada, Venezuela, and the Arab oil producing countries that the United States views with utmost concern recent oil price increases as detrimental to prices, real income and employment in the United States and that such actions by these countries should not be taken without regard for these effects on the life of the American people and for the possibility of reciprocal economic action by the United States which might adversely affect the economies of these countries.

Mr. President, I ask unanimous consent to have printed in the Record letters I have received from taxpayers, together with the text of the bill.

There being no objection, the material and bill were ordered to be printed in the Record, as follows:

Dear Mr. Chiles: We've gone thru wars and wars we've supported all the allies with equipment and oil and "energy" and we've never gone thru anything like this. Think about it. The only country in the world really making it is Japan—you really want us to give up everything for everyone else in the world?

You got no guts or would have done something about this.

You've walked! Who's gonna buy our shoes if we walk and don't have jobs?

Put your action where your mouth was!

You better answer this.

Irate Citizen.

Plantation, Fla.,
December 29, 1973.

Senator Lawton Chiles,
New Senate Office Building,
Washington, D.C.

Dear Senator Chiles: This letter concerns the economic policy of the oil producing countries towards the United States. I realize that I am certainly far from being qualified in the field of economics and foreign relations, but I feel the need to at least express my opinion.

The Arabs, of course, have cut us off completely. When they again turn on the spout, the price will probably double. Venezuela has increased their royalties from a little over $3.00 a barrel in January 1972 to over $17.00 a barrel effective January 1974. Even our Canadian "friends" are putting the screws to us. As usual, the American consumer will suffer by paying even more for energy.

I think this economic warfare is getting out of hand. These oil producing countries are basically agrarian and backward societies. Certainly they must depend on our technology to provide them with manufactured goods and machinery. If they can use their oil to their advantage, then let us use our technology likewise. If we pay their price without retaliating in some way, then who knows what they will do next year.

Our foreign policy has always been extremely generous. We rush to the rescue with money anytime someone yells help. But when we are in trouble, all we get is a kick in the teeth. I'm tired of this. From now on when our charity is requested, lets put a price on it.

Thanks for taking the time to read this letter. I wish you a Happy and successful New Year.

Sincerely yours,

Charles I. Young.

Port Huron,
November 6, 1973.

Senator Lawton Chiles,
Senate Office Building,
Washington, D.C.

Dear Senator: Canada, our "friendly" neighbor, just socked a 400% increase onto their export tax of crude oil. Sure doesn't ease our fuel crises and rising prices.

The U. S. should increase by 400% it's export tax on coal. Canada imports this natural resource from the U. S. by the millions of tons every year.

Another interesting fact few U. S. Taxpayers are aware of:

The St. Marys Canal at Sault Ste Marie, Michigan has cost U. S. Taxpayers millions of tax dollars to build; millions more are required annually to operate and maintain these canals. There are thousands of passages by Canadian vessels, being lifted from the level of Lake Huron to the level of Lake Superior . . . every year. These Canadian vessels are going from Canadian ports to Canadian ports and have no benefit whatsoever, not one red cent, to American Commerce. This is a free service for the Canadians . . . the bill is 100% paid for by American Taxpayers.

Americans do not receive reciprocity when an American vessel transits Canadian canals. It's time the U.S. take inventory of its financial relations with its so-called "friendly" neighbor to the North.

Very truly yours,

Wm. E. Terrell.

January 2, 1974.

Letter to Editor,
St. Petersburg Times:

Blackmail only brings more blackmail unless it is dealt with directly and courageously at the outset.

The outrageous increase in oil prices by Venezuela is pure blackmail. I think we as a nation should tell them to go to hell and get by on the 85% of total oil requirements we produce here. I know everyone can't do this, but I would be willing to put my car on blocks for all of 1974 if such action would be taken. I think thousands of others would do the same to protect the economic and social future of this country. It is too much the common thing today to take care of problems with Chinese Fire Drills day to day rather than looking to the long term pull.

If strong resolute action is not taken on this matter, next it may be Venezuela telling U.S. Steel and Bethlehem Steel the price of iron ore has been doubled. Then Peru may advise the copper companies the price of copper ore has been doubled, and similar action may be taken by the bauxite producing countries with the aluminum companies. The chaos caused by such action would be tremendous and inflation would be beyond imagination.

Cut off everything to Venezuela now—pharmaceuticals, manufactured equipment, food shipments, etc. If they do not wish to participate in sound international trade practices between nations to assure world progress and stability then we have no obligation to them.

The Arab nation should have enough sense to realize also that the balance of power in the mid-East rests with the United States. If all those Shieks wish to hold on to their lush kingdoms, they won't do so by hurting the strength of the United States by economic measures.

Let's take some positive action now for the benefit of the future, by tightening our belts more than it looks necessary for current expediency.

JOHN W. FINLAY.

NORTH MIAMI, FLA.,
December 26, 1973.

Senator LAWTON CHILES,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHILES: I have become increasingly disturbed by recent news items that are of interest to all citizens of this country.

I would like to know the reason why the United States continues to supply all forms of aid (monetary, food, clothing, etc.) to those countries of the world that persist in perpetrating political, judicial, and even economic blackmail upon our nation.

Among the countries to which I refer are those that grant political asylum to murderers (such as terrorists who have killed many innocent Americans), specifically Lebanon, Jordan, Syria, Iraq, Egypt, Saudi Arabia, Iran, and most recently Kuwait. In return for our aid, these countries have refused extradition of these people to the country of criminal origin.

I feel that they have added injury to insult by taking advantage of our "energy crisis" by boosting their oil export prices by over 100%. Is this the kind of thanks that we are to expect for our efforts?

Agencies of our government, not to mention American private industry, have poured millions of dollars into the economy of Venezuela. During their many times of need, our country has not hesitated to flood Venezuela with assistance. But what thanks do we receive during our time of need? Boosted oil prices take every advantage of our economic energy situation. I might also remind you that this increase will particularly effect *your* home state, as Florida Power and Light Company utilizes Venezuelan oil in their electrical generators and power plants.

I can never remember the United States of America ever taking advantage of other countries during a time of crisis as we have been taken advantage.

My suggestion is to cut off all aid to those countries that refuse to reciprocate appropriate assistance with America. I think that this should include *any* country regardless of the nature of the blackmail . . . be it political, economic, or otherwise.

Perhaps these types of measures would give our nation a better image in the world. I do not believe that a "soft-touch" nation presents very much credibility to the world at large.

Perhaps these types of measures would also give our Congress more money to be wasted on inflated defense budgets and less to be wasted on ungrateful foreign aid.

With warm personal regards,

PAUL M. GOELD.

S. 2947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(2) of the Export Administration Act of 1969 is amended—

(1) by inserting after clause (A) the following: "(B) to the extent necessary and with respect to the articles, materials, supplies, and information necessary or appropriate, to seek an adjustment in any economic policy or action of a foreign government which has or may have a serious domestic inflationary impact, which has caused or may cause a serious domestic shortage, or which has had or may have a serious adverse effect on employment in the United States,"; and

(2) by redesignating clauses (B) and (C) as clauses (C) and (D), respectively.

SEC. 2. Section 4 of the Export Administration Act of 1969 is amended—

(1) by inserting ", or the need to seek adjustments in economic policies or actions by foreign governments" after "scarce materials" in subsection (c); and

(2) by striking out "(B) or (C)" in subsection (e) and inserting in lieu thereof "(B), (C) or (D)".

SEC. 3. Section 10 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new sentence: "Such report shall also contain—

"(1) an analysis of any economic policy or action of any foreign government affecting the price or availability of any article, material, or supply imported into the United States which is essential to the economy of the United States;

"(2) the effect of such policy or action on price, supply, or employment in the United States; and

"(3) any economic action proposed or contemplated by the United States Government with respect to such foreign economic action.".

SEC. 4. Section 14 of the Export Administration Act of 1969 is amended by striking out "1974" and inserting in lieu thereof "1975".

By Mr. DOMINICK (for himself, Mr. BENNETT, Mr. DOMENICI, Mr. MONTOYA, Mr. FANNIN, and Mr. HASKELL):

S. 2948. A bill to amend section 5(c) of the National Trails System Act. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMINICK. Mr. President, on February 3, 1967, my colleagues, Senator JACKSON and Senator NELSON, and I introduced the National Trails System Act. This bill, which was passed and enacted on October 2, 1968, authorized the creation of the Pacific Crest Trail and the Appalachian Trail and the study of other trails for possible inclusion at a later date. Since the passage of the National Trails Act, we have witnessed the remarkable success of the Appalachian and Pacific Crest Trails. The beauty of these areas are enjoyed not only by hardy backpackers, but also the equally important day hikers. I feel the greatly increasing usage of these two trails warrants the consideration of others. This would relieve some of the pressure being experienced by both the Appalachian and Pacific Crest Trails and keep them as beautiful as they should be.

The bill I am introducing today would amend the National Trails System Act so as to provide for the inclusion of the Escalante Trail to the study category. I feel very strongly, as do my colleagues from New Mexico, Arizona, Utah, and Colorado that this trail should be considered as an excellent addition to the present system which is still in its infancy. There are several reasons for my enthusiasm. First, as we all know, in 1976 we will be celebrating the bicentennial of our great Nation. It would be well, however, to recognize that the United States was being brought to life that year not only on the east coast, but also in a very different manner thousands of miles to the west. In July of that historic year of 1776, only a few days after the signing of the Declaration of Independence, Father Silvestre Velez de Escalante with nine companions set out from Santa Fe, N. Mex., in search of a route to Monterey, Calif. Before his trek ended, he and his party covered 2,000 miles of wild territory, most of it unmapped, unexplored, and unseen by white man. In his own way, Father Escalante helped give birth to a part of America which now encompasses four States and over 8 million citizens.

Mr. President, the route Father Escalante took included some of the most beautiful and rugged areas left in the United States today. They started the trek from Santa Fe, which was then a city already over 200 years old. They stayed with well known trappers' routes at the outset. Following the Rio Grande and Chama Rivers, they rode northwest into Colorado. Crossing the San Juan to the Dolores, the party rode through southwestern Colorado, skirting the cliff-dwellers' ruins at Mesa Verde. Hoping to further religious education and trade with the Indians of the area, they made a detour to the east. The path grew more rugged as it crossed the Uncompahgre Plateau and went up the Uncompahgre and Gunnison Rivers. This detour brought praise from Father Escalante because of the rugged beauty of the territory and the mild manner of the nearby Sabuagana Indians.

This was as far as known trappers' routes could lead them, so onward to the northeast they went, breaking new paths. A pair of Laguna Indians joined the party and led it on one of the roughest detours of the entire trek. They rode west along Buzzard Creek, northwest on a narrow rocky path over Battlement Plateau and across the Colorado River, near what is now Una, Colorado. Next, the guides led the explorers up Roan Creek and Carr Creek both full of steep and treacherous arroyos. By a steep and fear-inspiring trail, they climbed the side of Roan Mountain, then north along 40 miles of Douglas Creek. On the steep gorged sides of Douglas Creek, Father Escalante notes the primitive pictographs painted by a long forgotten tribe of Indians. Finally, they reached the White River near Rangely, Colo., and left the State near the now famous Dinosaur National Monument. The explorers turned west along the Green and Duchesne Rivers, crossed the Wasatch Mountains and arrived at Utah Lake, then called Lagua de los Timponogos. After walking 200 more miles, they came to the estimated latitude of Monterey.

However, it was now October and snow was falling on the Sierras. Unable to cross during the bad season, they turned for home. The Virgin River and Hurricane Fault became their trail markers as they headed through Arizona and southern Utah. After a long and difficult search for a fiord, the party finally recrossed the Colorado. The difficult part of the journey had ended so the fathers and their companions headed straight for Zuni and Santa Fe. This completed a journey of 2,000 miles and 5 months. The exploration aroused interest and stimulated trade with several tribes of Indians.

Mr. President, as I indicated before, I am enthusiastic about this particular trail for several reasons other than its historical appropriateness. This trail fits the criteria outlined in the National Trails Act particularly well. First, a national trail should incorporate the maximum of scenic, historic, natural, or cultural qualities of the area. We can readily see how this trail fits the historical criterion and anyone who has seen the territory can attest to its scenic and wilderness qualities.

Second, the trail should be located so as to provide the maximum outdoor recreation potential. The Escalante Trail passes through several national forests, wilderness areas, and national parks. This provides facilities, easy maintenance, and avoids mining areas, highways, and power transmission lines. Public access to the trail is also readily usable. This access, in many areas, is at intervals which would allow trips of shorter duration for those less inclined to the strain of lengthy backpacking.

National trails should adhere to an actual historical trail, be continuous, and of several hundred miles in length or longer. The trail follows as closely as possible the day-by-day trek of Father Escalante as recorded in his diary and is 2,000 miles of continuous land-based hiking.

In addition, I feel it would be appropriate to honor the Spanish-speaking heritage of our country as well as the English heritage. It would truly be fitting in the year of our National Bicentennial, to recognize the Escalante Expedition which opened up the great Southwest to Spanish- and English-speaking Americans.

In conclusion, Mr. President, let me urge speedy consideration of this bill so that all necessary studies and preparations may be made in order to designate this a part of the National Trails System by 1976, its bicentennial year, the Nation's bicentennial year, and Colorado's centennial year.

By Mr. BAYH:

S. 2949. A bill to amend title XVIII of the Social Security Act to include breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, probably the most dreaded disease of American women is breast cancer, which strikes approximately 80,000 women in this country each year. It is the single most common type of cancer occurring in this country. Unfortunately, the usual treatment for breast cancer is rather drastic. It involves surgical removal of the breast and usually of varying amounts of tissue in the chest and under arm. This surgery imposes both a physical and a psychological trauma on an afflicted woman.

Mr. President, we all look forward to the day on which a cure for all types of cancer is found. Short of that, we must continue to develop treatments for cancer which disturb as little as possible the normal configuration of the human body. But until medical science can achieve these goals, at least we can provide prostheses to replace parts of the body which must be removed to save people from this dread disease. These prostheses—artificial legs, arms, and eyes, for example—are truly a part of the treatment for the disease in that they at least partially restore the function and the appearance of a healthy human body. Surely any medical treatment or device which furthers this goal is a legitimate medical necessity.

I, therefore, find it incomprehensible, Mr. President, that our medicare program has interpreted a breast prosthesis for postmastectomy patients as a "cosmetic" device which it will not cover. Contrary to this very limited point of view, the breast prosthesis serves functions similar to those of any other replacement of a lost body part: Protective, psychological, and functional purposes. This type of prosthetic device should therefore be covered by medicare just as an artificial leg, arm, or eye is covered. The legislation I am introducing will accomplish this. Until our national effort to conquer cancer is successful, this legislation will at least improve the medical treatment now available to medicare recipients. Similar legislation has been introduced in the House by Congresswoman CARDISS COLLINS of Illinois. I am very pleased to join her in this important effort, and I urge the support of other Members of the Congress.

By Mr. BAYH:

S. 2950. A bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, the central fact about social security is that, even with the increased benefits of recent years, it still does not provide enough income for retired people to live decently. Those who have no income other than their social security check live—strictly speaking—in poverty. In all too many cases welfare payments provide the only alternative to actual physical deprivation. And yet despite these undoubted facts, existing law makes it impossible for many older Americans to raise their standard of living to a comfortable level.

The obstacle here is the earnings limitation under title II of the Social Security Act. This provision now allows a beneficiary to earn $2,400 a year without reduction in benefits. Above that amount, however, he or she must sacrifice a dollar in benefits for every $2 earned. This means that a single person between the ages of 65 and 72 who is able and willing to hold down an even modestly paying fulltime job must give up every cent of the social security benefits to which a lifetime of work and as much as 35 years of paying into the trust fund entitle him.

This latter fact, Mr. President, leads me to an observation concerning the basic philosophical character of our social security system. At the insistence of President Franklin Roosevelt, the system was designed as a contributory insurance plan instead of simply—as some of his advisers urged—an old age benefit paid out of general revenues. Mr. Roosevelt's point, which he made very explicit, was that if people paid insurance premiums into a special fund out of their own earnings, no future generation of politicians could ever take it away from them by labeling it a Government "handout."

In other words, because of the way the system was consciously designed by one of our greatest Presidents, social security benefits today are a matter of earned right, not Federal largess. It, therefore, seems to me not only mistaken but improper for anyone to try to claim that benefits are and ought to be conditional upon an agreement not to be gainfully employed. Social security was not designed to include a "means test." Its benefits are not predicated upon how much private income one might have. One does not have to plead poverty in order to qualify for a monthly social security check. For those who have paid into the system over these many years, the benefit is a matter of right.

Mr. President, that is the philosophy underlying the social security system. Why then should there be an earnings limitation, which so weakens the automatic, rightful character of benefit payments?

The simply, pragmatic answer is that when the system was instituted in 1937 the Nation was still suffering from a fearsome level of unemployment. Jobs were in such scarce supply that the Government needed to do all in its power to discourage people from working when they did not absolutely have to work. The reasoning was that if you could give a 65-year-old man with grown children a decent pension, he ought not to continue to hold a job that was desperately needed by, say, a 35-year-old father with young children. So the Government said, in effect, "Take your pension or take your paycheck; you can't have both." We might also bear in mind that in those early years of social security, those who were retired or just about to reach age 65 had paid little or nothing into the trust fund. The rationale then for an earnings limitation, while it might not have been philosophically consistent, was at least understandable as a practical device to help deal with a critical emergency.

The situation today is very different. While unemployment is once again at an uncomfortably high level, most of it is concentrated among the very young and unskilled members of the work force, who for the most part are not competing for the jobs which are held by prospective retirees. In other words, forcing a skilled older worker to retire before he wants or needs to will not open up a job for a teenage high school dropout. It will only remove one more productive, taxpaying citizen from the work force. And it will require him to accept a much lower standard of living than his talents and strengths should warrant.

One other factor in this unhappy situation needs to be noted. The earnings limitation penalizes only those social security recipients who earn wages or are self-employed. Pensions, no matter how large, are not counted in the limitation. Nor is interest and dividend income. The retired corporation executive can enjoy a pension of $50,000 a year and have investment income double that amount and still not lose one penny of social security. But the cabinetmaker or electrician who wants to continue his life's work and be paid for it may have to give up his entire social security check.

That is not fair. It is not sensible. It is not necessary.

Certainly, Mr. President, I do not begrudge the corporation executive the social security payment to which his own contributions entitle him. But I deeply resent the discrimination practiced against working people by a system that penalizes them for the fruits of their own labor.

There can be no doubt that, if we were designing a brand new social security system today, most of us would want to eliminate the earnings limitation altogether. Proposals to do so are introduced in every session of Congress. In practical terms, however, given the existing structure of social security financing, complete elimination of the earnings ceiling would, in my judgment, be too costly to be absorbed all at once. I, therefore, propose a very substantial increase—doubling the present amount of exempt earnings—with a view to complete elimination as soon as it is fiscally responsible to do so.

The bill I introduce today, Mr. President, would permit earnings of $4,800 a year without loss of benefits. In monthly terms, the beneficiary could earn $400 a month, instead of the present $200 a month, before his check is reduced. Above $400 a month, benefits would be decreased $1 for every $2 earned.

This would still leave us with some distance to go down the road to full equity for our older citizens who can and want to continue working. But it is certainly a very long step in the right direction. By enacting it now we can renew our commitment to that ideal which lies at the heart of President Roosevelt's great dream. By enacting it now we can reaffirm our intention to move as rapidly as possible toward the goal of true justice for all older Americans.

By Mr. BAYH:

S. 2951. A bill to provide for public ownership of certain documents of elected public officials. Referred to the Committee on Government Operations.

Mr. BAYH. Mr. President, as I have traveled through the small towns and cities of Indiana over the past several weeks, my constituents had much on their minds to communicate to their representative. As I listened to their troubles, their indignant complaints, their hopes, the one question that came through more clearly than all the rest was "Why don't you do something about all these things?" The bill I am introducing today is designed to correct one specific abuse about which a great number of my constituents were very unhappy—the use of documents prepared by an elected public official in the course of his official duties to avoid the payments of taxes on more than half a million dollars of income.

The papers of public officials are of inherent interest and, therefore of taxable value only because the individual involved held public office for which he was paid a salary out of public funds. In the case of Presidents and many other lesser officials, these papers are not personal in any real sense because they were generated by the flow of public business and were prepared in Government offices with the help of publicly paid secretaries and assistants.

Over the years neither custom nor the law have made clear how the papers of such public officials should be handled. George Washington took his papers with him when he left office and most other early Presidents followed the same practice. Some of these early letters and documents were donated to libraries and historical societies, others were eventually purchased by the Government from heirs, and still others became scattered and lost. Andrew Jackson and other Presidents or their heirs followed a different practice by giving their papers to the Library of Congress without receiving any financial compensation. Herbert Hoover began the modern practice of conveying Presidential papers to a special library, first to Stanford University and later to the Hoover Library in West Branch, Iowa. President Franklin D. Roosevelt followed the same practice by creating the Presidential library at Hyde Park, N.Y. Roosevelt treated his papers as public property, and after his death there was a a New York State court decision which upheld his interpertation.

In succeeding years, however, Presidents Eisenhower, Johnson, and Nixon, as well as Members of Congress and others have taken sizable tax deductions for the "gift" of their papers, papers which I believe were clearly public property.

In 1969 Congress put an end to such practice by making it impossible for any taxpayer, whether public official or not, to claim a charitable deduction for the gift of such papers, but the question of the ownership of such papers remains unclear.

The bill I am introducing today would settle the question of who owns such materials by clearly designating them as public property. The bill would require that all documents, correspondence, and other materials which were prepared by or for any elected Federal officeholder, which involve public business, and which would not have been prepared if the individual had not held public office shall be turned over to the National Archives within 180 days after the individual leaves office. The bill does not require any official to retain any particular documents, but to the extent he elects to do so, they become public property once he has left office. Nor would the bill interfere with the practice begun by President Hoover of placing Presidential papers in special libraries since the Archivist would be free to determine that such libraries were an appropriate depository. Finally, the present provisions of the law which permit the individual from whom the documents originated to place limitations on access to them for specific periods of time and for specific reasons would continue to be applicable.

The polls tell us, Mr. President, that public confidence in elected officials is at an all-time low. In my view, no single incident has done more in recent years to undermine this confidence than the manner in which President Nixon handled his income tax obligations. Whether these actions were technically legal has yet to be determined, but the American people have reached their determination on this conduct, and they do not like it. This bill will finally assure the citizens of the country that no longer will any elected representative be able to profit by retaining those materials generated because of his office.

I ask unamious consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Documents Act".

SEC. 2. (a) Title 44, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 39—Public Documents of Elected Officials

"Sec.
"3901. Definitions.
"3902. Papers of elected officials.
"3903. Preservation of public documents.
"3904. Judicial review.

"§ 3901. Definitions

"For purposes of this chapter—

"(1) 'elected official of the United States' means the President, Vice-President, Senator, and Members of (or Resident Commissioner or Delegate to) the House of Representatives, including any individual holding such office for any period by reason of appointment to such office or succession to such office; and

"(2) 'public documents' means, with respect to an elected official of the United States, the books, correspondence, documents, papers, pamphlets, models, pictures, photographs, plats, maps, films, motion pictures, sound recordings, and other objects or materials which shall have been retained by an individual holding elective office under the United States and which were prepared for or originated by such individual in connection with the transaction of public business during the period when such individual held elective office and which would not have been prepared if that individual had not held such office; except that copies of public documents preserved only for convenience of reference, and stocks of publications and of public documents previously processed under this title are not included.

"§ 3902. Papers of elected officials

"Within 180 days after an elected official of the United States ceases to hold his office, the Administrator of General Services shall obtain any objects or materials of that elected official which the Administrator determines to be public documents within the meaning of section 3901(2) of this title, and such elected official shall transmit such documents to the Administrator.

"§ 3903. Preservation of public documents

"The Administrator of General Services shall deposit in the National Archives of the United States the public documents of each elected official of the United States obtained under section 3902 of this title. Sections 2101–2113 of this title shall apply to all public documents accepted under this section.

"§ 3904. Judicial review

"A decision by the Administrator of General Services that any object or material is a public document of an elected official of the United States within the meaning of section 3901(2) of this title shall be a final agency decision within the meaning of section 702 of title 5."

(b) The table of chapters, preceding chapter 1 of such title 44, is amended by adding at the end thereof the following:

"39. Public Documents of Elected
Officials ---------------------- 3901".

By Mr. HUMPHREY:

S. 2952. A bill to provide for project grants for the development and demonstration of programs for rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of identified population areas. Referred to the Committee on Labor and Public Welfare.

NATIONAL CHRONICARE DEMONSTRATION CENTER ACT OF 1974

Mr. HUMPHREY. Mr. President, the bill I am introducing today addresses the serious need to establish a comprehensive, efficient, and humane system to fulfill the health needs of chronically ill or disabled persons.

At the present time, over 700,000 Americans are long-term hospital patients, and over 1 million more persons are patients in nursing homes, and 90 percent of these patients are elderly persons. But there are almost 20 million additional people in our Nation who are not in an institution but have disabilities severe enough to restrict or prohibit their major activities.

The patient confined to a hospital bed over a sustained period faces the terrible burden of skyrocketing hospital costs. However, over half the costs of hospital care are accounted for in the treatment of chronic conditions. This is totally indefensible, in the light of recent Government studies establishing the fact that substantial savings could be realized by promoting the maximum use of residential, outpatient, and nursing home care as an alternative to hospitalization.

Across America, current expenditures for the treatment of chronic conditions amount to some $28 billion. Therefore, this area of health care demands major consideration as Congress approaches legislative action on establishing a program of national health insurance. And there can be no further delay in addressing this high-priority agenda, to assure every American the right to quality health care at the lowest possible cost.

We know that fundamental reforms must be undertaken in our health care delivery system if such a national health insurance program is to be effective, rather than result simply in cost inflation from increased demand placed upon existing and limited health care resources. Moreover, the quality of health care will suffer proportionately, unless there is a comprehensive program for the effective distribution and coordination of delivery system resources. Such a program must promote multiple approaches to health care and must emphasize alternatives to intensive care, or hospitalization. Certainly, a key part of this emphasis must be the extensive development of diagnostic services, preventive health care, outpatient and home health services, and comprehensive rehabilitation and counseling services to enable those who might otherwise be institutionalized to participate and contribute in their home communities.

All of these new directions for health care in America are reflected in the National Chronicare Demonstration Center Act of 1974. The bill I am introducing today is an expanded and revised version of legislation which I submitted toward the close of the 92d Congress and again at the outset of the 93d Congress as S. 393.

The present bill would provide for project grants for the development and demonstration of programs offering a comprehensive range of services to chronically ill residents of areas with different needs and health care delivery capabilities. Specifically, grants would be made by the Secretary of Health, Education, and Welfare to a limited number of community chronicare health centers serving rural, suburban, and urban populations, as demonstration programs to study and evaluate the scope of required services and associated costs, as well as the effective utilization of paraprofessional personnel.

In addition, two special test programs are authorized. One would evaluate a community chronicare health center project operated in conjunction with an existing health maintenance organization which is not currently providing long-term health care.

A second category of projects would be funded where a center is operated under contract with a State chronicare commission, to be appointed by the Governor of that State. The seven-member commission, composed of professional persons in medical administration, and representatives of the providers and consumers, respectively, of community chronicare health center services, would also have at hand a State chronicare data center to compile and evaluate information on services provided, available resources and facilities, and the allocation of expenditures in these projects.

The community chronicare health center would provide medical, dental, and mental health services for chronically ill persons, as well as rehabilitation, optometric, speech pathology, and audiology services and nutritional counseling. The point of entry into this system of health care would be a complete diagnostic service. But the community chronicare health center would also reach out into the community, providing home health services as well as outpatient preventive services.

What is presented here is a total program of personal care for the chronically ill. A key component of the chronicare system would be the therapeutic service team in each center, including a licensed physician, a registered professional nurse, a center administrator, a physical therapist, a mental health specialist, and a social worker. This team would establish and constantly monitor an individual total care plan for each patient.

Mr. President, the fundamental purpose of the National Chronicare Demonstration Center Act is to provide a solid foundation of hard facts and in-depth analysis for establishing a firm commitment to an ongoing program of long-term health care for the chronically ill. I believe this can and must be done without delay.

Mr. President, I ask unanimous consent that the text of this bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Chronicare Demonstration Center Act of 1974".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) long-term care has always been neglected in the development of the Nation's health care delivery system;

(2) present programs, such as medicare and medicaid, have neglected to provide adequate coverage for long-term care;

(3) any program of national health insurance must address the critical need for coverage of long-term care;

(4) most Americans lack direct access to nonhospital health care;

(5) society has been largely unwilling to deal with the problems of persons who are unproductive over extended periods because of poor health;

(6) outmoded laws or policies limit the realistic use of paramedical personnel, resulting in increased health care costs; and

(7) the nursing home industry has been the one health specialty which has accepted the responsibility for developing long-term care through the years.

(b) It is the purpose of this Act to establish demonstration programs to study and evaluate the—

(1) effect of diagnostic services in the detection of chronic conditions;

(2) breakdown of costs and expenditures by acute and chronic conditions;

(3) breakdown of services required by age, chronic condition, and impairment;

(4) role of midlevel medical workers and other paraprofessionals in caring for the chronically ill; and

(5) role of a comprehensive, integrated, midlevel health care delivery system designed for the chronically ill;

to provide a basis for a commitment to a lasting national program for long-term health care for the chronically ill.

PROGRAM ESTABLISHMENT

SEC. 3. (a) There are authorized to be appropriated $6,000,000 for the fiscal year ending June 30, 1974, $5,000,000 for the fiscal year ending June 30, 1975, and $4,500,000 for the fiscal year ending June 30, 1976, to enable the Secretary to make grants to any public or private entity to cover all or any part of the cost of a project, in an area of the country representative of a rural population, for the development or demonstration of programs designed to provide a combination of rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of such area through a community chronicare health center.

(b) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $7,000,000 for the fiscal year ending June 30, 1976, to enable the Secretary to make grants to any public or private entity to cover all or any part of the cost of two projects, in areas of the country representative of suburban populations, for the development or demonstration of programs designed to provide a combination of rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of such area through community chronicare health centers.

(c) There are authorized to be appropriated $11,000,000 for the fiscal year ending June 30, 1974, $9,000,000 for the fiscal year ending June 30, 1975, and $8,000,000 for the fiscal year ending June 30, 1976, to enable the Secretary to make grants to any public or private entity to cover all of any part of the cost of two projects, in areas of the country representative of metropolitan populations, for the development or demonstration of programs designed to provide a combination of rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of such area through community chronicare health centers.

(d) There are authorized to be appropriated $4,500,000 for the fiscal year ending June 30, 1974, $4,000,000 for the fiscal year ending June 30, 1975, and $3,500,000 for the fiscal year ending June 30, 1976, to enable the Secretary to make grants to any public or private entity to cover all or any part of the cost of a project which will operate in conjunction with an existing health maintenance organization which is not currently providing long-term health care and which will develop or demonstrate programs designed to provide a combination of rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of an identified population area through a community chronicare health center.

(e) There are authorized to be appropriated $14,000,000 for the fiscal year ending June 30, 1974, $11,500,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976, to enable the Secretary to make grants to any public or private entity to cover all or any part of the cost of two projects, for the development or demonstration of programs designed to provide a combination of rehabilitative, habilitative, personal support, residential, medical, dental, and mental health services for the chronically ill residents of an identified population area through community chronicare health centers, in conjunction with a State chronicare commission, and a State chronicare data center, as further provided under section 5 (b), (c), and section 6(c). Each of the two projects assisted under this subsection shall be located in the same State and one of the projects shall be located in a rural area.

(f) Each community chronicare health center utilized under a project assisted under this section shall serve an area with a population of no less than twenty-four thousand.

(g) Five of the community chronicare health centers utilized under a project assisted under this section shall serve a population area that is underserved by long-term health resources.

(h) Not more than 20 per centum of the amounts appropriated under any subsection of this section for any fiscal year may be used to make grants in that fiscal year under another subsection of this section; except that the sum of the amount of appropriations made available under this subsection for grants in any fiscal year under any subsection of this section and the amount appropriated under that subsection for grants in that fiscal year may not exceed 20 per centum of such appropriated amount.

ELIGIBILITY

SEC. 4. (a) To be eligible for a grant under section 3, an applicant must give satisfactory assurances of its capability of providing—

(1) diagnostic service (as described in subsection (b)),

(2) inpatient care,

(3) day care,

(4) rehabilitation service (on both an inpatient and outpatient basis), and

(5) outreach service.

The applicant must itself provide directly (not by contract) at least one of the abovementioned services.

(b) Diagnostic service shall be the point of entry into the system of health care provided by a community chronicare health center and must be available for initial entry or screening and for diagnostic workup on patients located within a facility.

ADMINISTRATION AND REVIEW

SEC. 5. (a) Each community chronicare health center assisted under this Act shall maintain a therapeutic service team which shall be responsible—

(1) for establishing and maintaining a total patient care plan following initial screening;

(2) for assesment of patient health status on a continuing basis; and

(3) for the involvement of additional ancillary service professionals for provision of required services.

(b) Each community chronicare health center assisted under section 3(e) shall enter a contract with a State chronicare commission to provide services, consistent with section 4. It shall be the responsibility of the commission to allocate funds in such a manner as will, in the judgment of the commission, reasonably assure the availability of needed services provided by the community chronicare health centers.

(c) Each State chronicare commission shall establish a State chronicare data center for the purpose of gathering and supplying information, with regard to one or more of the following:

(1) The diagnosis, treatment, and therapy provided specific beneficiaries or individuals.

(2) The resources and facilities available for the delivery of health care, including the available physical facilities (plant, equipment, laboratories, and beds) as well as the professional medical paramedical staff, and other personnel and other available resources.

(3) The proper distribution of funds for payment of materials, services, use of facilities, and other expenses used in the chronicare system.

(4) Such other information as the State commission shall determine is necessary for the administration of the Act.

DEFINITIONS

SEC. 6. For the purposes of this Act:

(a) The term "community chronicare health center" means a skilled nursing home, intermediate care facility, or home health agency, which may provide—

(1) primary physician's services;
(2) primary dentist services;
(3) rehabilitation services;
(4) outpatient preventive services;
(5) optometic services;
(6) durable medical equipment;
(7) drug prescribed on an outpatient basis;
(8) prosthetic and supportive devices;
(9) speech pathology;
(10) audiology services;
(11) nutritional counseling; and
(12) home health services,

(b) The term "therapeutic service team" means the combination of the following personnel working in a community chronicare health center—

(1) a licensed physician;
(2) a registered professional nurse;
(3) a community chronicare center administrator who shall serve as secretary to the team;
(4) a physical therapist;
(5) a mental health specialist; and
(6) a social worker.

Other paramedical personnel may be utilized in a manner prescribed by the Secretary in regulations.

(c) The term "State chronicare commission" means the combination of—

(1) three persons who are of recognized professional competence in fields related to medical and paramedical organization and administration;

(2) two persons who are representative of providers of community chronicare health center services; and

(3) two persons who are representative of consumers of community chronicare health center services.

The personnel shall be appointed by the Governor of the State where the commission is located, and shall receive such salaries and compensation for expenses as may be necessary for carrying out the functions of the State commission.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

REPORT

SEC. 7. The Secretary shall make a report to the President for transmission to the Congress within two years after the date of enactment of this Act stating the progress under this Act and making recommendations for such further action as may be required.

By Mr. MATHIAS (for himself and Mr. ERVIN):

S. 2954. A bill to amend the Economic Stabilization Act of 1970 to establish improved procedures for the implementation of that act, and to assure due process under that act. Referred to the

Committee on Banking, Housing and Urban Affairs.

Mr. MATHIAS. Mr. President, I am introducing today legislation to improve the fairness of the Government's wage-price program by guaranteeing business and the public the right to obtain information about the Cost of Living Council policies and rulings.

This bill is the result of hearings conducted by the Subcommittee on Separation of Powers during the first session of this Congress. Those hearings demonstrated that the public has experienced difficulties in obtaining basic information regarding decisions and guidelines from the Cost of Living Council. Such information is essential to the businessman who must know whether rules apply to him and under what circumstances he may seek exceptions, to the wage earner who faces Federal limitations on earning power, and to the consumer who deserves to know whether price increases are granted fairly or haphazardly. Among witnesses heard at these hearings who were critical of the way in which the wage-price program is being administered was Laurence H. Silberman, the President's nominee for Deputy Attorney General.

The immediate problems addressed by this bill, however, are not the whole problem. In addition to the very practical abuses which the bill addresses—reliance by the Council on unpublished rules which are kept secret, failure to give detailed reasons for granting or denying exemptions, failure to give notice or provide sufficient time for comment on proposed regulations before they are issued, and failure to publish internally or externally information that allows everyone to know what policies are, and whether they are being applied consistently across the Nation—this legislation also represents a response to a new trend in government regulation. That trend is the increasing power of the executive branch to control the economy. The administration's original energy bill, rejected last week by the Senate, was another example of this trend. The enormous power proposed for the energy administration would have reached each market transaction, just as that which the Economic Stabilization Act gives to the Cost of Living Council. I proposed and the Senate accepted an amendment to that energy bill with essentially the same provisions I am now proposing for the Cost of Living Council.

The bill which I propose is designed to:

Set a time limit by which the Cost of Living Council would be required to take action on requests for interpretations or modifications of rules or for exceptions or exemptions from rules;

Require the issuance of a statement of exhaustion of administrative remedies;

Require notice of at least 7 days and opportunity to comment on all proposed general rules;

Require public hearings in cases likely to have a substantial impact upon the Nation's economy or large numbers of individuals;

Require the publication of all rules or guidelines—including internal agency documents—which may form the basis for agency actions; and

Support each decision in individual cases with written opinion with findings of fact and an explanation of the rationale for the decision.

Economic intervention on the scale now permitted to the Cost of Living Council under the wage-price program is certain to have an impact on traditional values, such as the due process of law and the accountability of government for its actions, unless those values are rigorously preserved. The demands of an "emergency," no matter how great, should not lead to enormous grants of unfettered discretion to an insulated bureaucracy.

This legislation is an attempt to make the wage-price program fairer and less burdensome for the citizens who are regulated. If the program is to be extended in any form, it must be accompanied by workable procedures. No program will long retain, or deserve, popular support if its decisions are not arrived at by a process which appears open, fair, consistent, thorough, rational, enforceable and necessary. The preservation of these values is more, not less, important today than ever.

While recent actions of the Cost of Living Council in lifting some retail price controls will help some aspects of the problems addressed by this bill, such partial lifting has the potential for exacerbating other problems as regulation is applied to some and not to others.

I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 207 of the Economic Stabilization Act of 1970 is amended to read as follows:

§ 207. Administrative Procedure.

"(a) The functions exercised under this title are excluded from the operation of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 555(c) and (e), and 702 of such title, and except as to the requirements of section 553 of such title as modified by subsection (c) of this section.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. Such regulations shall include provision for a statement of exhaustion of administrative remedies which must be issued within 60 days of a request therefor unless a grant or denial is made. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section, except that such agency shall issue no order which has the effect of reducing wages, or salaries in effect, or proposed to be in effect, in an appropriate employee unit unless such order is made on the record after opportunity for a hearing. Not less than 30 days after issuance of such an order a statement of explanation shall be directed to the affected parties and made available to the public. Such statement shall include a full explanation of the reasons why the existing wage or salary, or proposed wage or salary adjustment, does not meet the requirements of or the standards established by the regulations prescribed by the agency.

"(c) All rules, regulations, or orders promulgated pursuant to this title shall be subject to the provisions of section 553 of title 5, United States Code, except that all rules, regulations, or orders promulgated must provide for the following:

"(1) Notice and opportunity to comment which shall be achieved by publication of all proposed general rules, regulations, or orders issued pursuant to this title in the Federal Register. In each case, a minimum of 7 days following such publication shall be provided for opportunity to comment.

"(2) Any agency authorized by the President or by this title to issue rules, regulations, or orders under this title shall hold public hearings on those rules, regulations, or orders which are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses or when such hearings serve to inform the public or aid in obtaining information on actions taken or proposed to be taken. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than 60 days after the issuance of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

"(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by the President or by this title to issue rules, regulations, or orders shall publish in the Federal Register all internal rules and guidelines which may form the basis, in whole or in part, for any rule, regulation, or order. Such agency shall also support any grant or denial of a request for exception or exemption from rules, regulations, or orders provided for in subsection (b) above with a written opinion setting forth its findings of fact and a specific statement explaining the rationale for such grant or denial. Such opinions shall be published with such modifications as are necessary to ensure confidentiality of information protected under section 55(b) of title 5, United States Code.

"(e) All rules, regulations, or orders issued pursuant to this title shall include the following:

"(1) Findings of fact and a specific statement explaining the rationale for each provision contained in such rules, regulations, or orders; and

"(2) Administrative definitions of the terms used in this title when pertinent to the rule, regulation, or order."

By Mr. SCHWEIKER:

S. 2956. A bill to establish the Federal Energy Production Corporation, and for other purposes. Referred, by unanimous consent, to the Committee on Government Operations; and, when and if reported by that committee, jointly to the Committees on Finance and Interior and Insular Affairs.

FEDERAL ENERGY PRODUCTION CORPORATION ACT

Mr. SCHWEIKER. Mr. President, I am today introducing legislation which can begin almost at once to increase our supplies of energy using only domestic sources. My bill would establish the Federal Production Corporation Act. Unlike other energy bills considered by the Senate, it emphasizes the immediate production of energy using processes currently developed, available, and capable of producing energy on a commercial scale in the immediate future. The bill would encourage the use of under-utilized energy sources or unconventional energy processes for production or exploration by having Government assist the private sector in underwriting some of the financial risk in bringing these sources on stream. The unconventional processes would include, but not be limited to, production of syncrude and liquid petroleum products from coal, production of substitutes for natural gas—including coal gasification—nuclear energy from geothermal resources, solar energy, production of hydrogen gas from water sources, and the use of agricultural and urban wastes.

The Federal Energy Production Corporation will take a moon-shot approach to putting on line additional energy production sources. By taking this approach, just as we did in responding to the challenge of Sputnik, we can quickly and easily demonstrate our ability to compete successfully with the foreign oil monopoly. I predict once we demonstrate our ability and commitment to increased energy production, oil prices will come down even before our new sources are operating at full production.

The following is a section by section analysis of the bill:

Section 1. Cites the Federal Energy Production Corporation Act and lists some of the energy sources which are to be considered by the Corporation.

Section. 2. Establishes the Corporation. The Board is composed of 15 Directors, 8 of whom shall be public officials representing the Secretaries or Administrators—or their representatives—of agencies with some involvement in energy. The remaining seven members are to be appointed by the President with the advice and consent of the Senate. Of these seven private members, three shall be from private industry engaged in the production of energy, and of these no two shall be from the same industry with regard to the energy source. Of the remaining four private members, one shall be from a citizen's group representing consumer interests, and one from a citizen's group representing environmental protection interests. The other two shall be from private life. The remainder of this section concerns the election of the Chairman of the Board, the definition of a quorum for conducting business, remuneration for private Board members, and the establishment of officers and employees of the Board.

Section 3. Requires the Corporation to determine within 1 year which under-utilized or unconventional energy sources can be developed into energy production on a commercial basis and operating within a 24-month period of the enactment of the bill. The Board will have a variety of methods available to use in joining and assisting private industry in energy production, including the ability to enter into contracts and agreements, make grants, loan guarantees, price supports, guaranteed purchases or loans and other methods. This shall also apply to the exploration, production, or transportation of crude oil, natural gas, and coal resources.

Section 4. Details the guidelines under which the Board may receive applications and enter into financial agreements as well as the financial conditions of those arrangements. It also gives the Board authority to dispose of any energy it may acquire through price support or purchase agreements and to sell such energy in the marketplace. Revenues received from the sale of energy are to be deposited in a trust fund established in section 6 to carry out the purposes of the bill. Thus to a certain extent, funds to operate the program will be self-renewing.

Section 5. Enumerates further operating functions of the Corporation.

Section 6. Requires establishment of the Energy Production Trust Fund which the Corporation shall use in carrying out its duties. The trust fund shall be funded for fiscal year 1975 and the next following 4 years by congressional appropriations. A high level of funding would not only show immediate results through increased energy production but also demonstrate our commitment to domestic energy production, and as a member of the Appropriations Committee I would hope to further address this matter during the appropriations process.

Section 7. Requires the chairman of the Corporation to keep the Congress fully informed concerning all activities of the Corporation and to submit an annual report. All actions taken by the Corporation and the private sector will be done with the protection of all existing laws relating to every area of its operation including safety and environmental standards.

This bill can be a vital major step in providing in the shortest possible time tangible results by increasing immediately our own supply of energy to fill the vacuum while we wait for research and development programs to produce.

Mr. President, I ask unanimous consent to have printed in the Record following my remarks the text of the bill.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Federal Energy Production Corporation Act".

(b) As used in this Act, the term "unconventional energy source" includes, among others, the production of syncrude and other synthetic liquid petroleum products derived from coal, advanced power cycles for the generation of electricity from coal, the production of substitutes for natural gas, including coal gasification, the production of hydrogen gas from water sources, nuclear energy, the production of syncrude from oil shale, the production of useful forms of energy from geothermal resources, solar power, and agricultural and urban wastes.

Sec. 2. (a) For the purpose of developing and carrying out a comprehensive and aggressive program designed to make available to American consumers our large domestic energy reserves, including energy produced by environmentally acceptable processes from under-utilized or unconventional energy sources, there is hereby established the Federal Energy Production Corporation (hereinafter referred to as the "Corporation").

(b) The Corporation shall have a Board of Directors (hereinatfer referred to as the "Board") whose membership shall be as follows:

(1) Secretary of the Interior;

(2) Administrator of the Environmental Protection Agency;

(3) Chairman of the Council on Environmental Quality;

(4) Chairman of the Atomic Energy Commission;

(5) Secretary of Transportation;

(6) Secretary of Commerce;

(7) Secretary of Housing and Urban Development;

(8) Chairman of the Federal Power Commission;

(9) seven members appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) Of the members appointed pursuant to clause (9) of subsection (a) of this section, three shall be from private industries engaged in the production of energy, one shall be from citizens' groups representing consumer interests, one from a citizens' group representing environmental protection interests, and two from private life. With respect to such members appointed from private industries engaged in the production of energy, each such appointment shall be made from an industry engaged in such production from an energy source other than a source of the kind utilized by each of the other of such industries with respect to which such appointments are made.

(d) The Board shall annually elect one of its members to serve as Chairman. Pending the appointment of the members pursuant to clause (9) of subsection (b) of this section, five members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board.

(e) Each member of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. Each member of the Board shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(f) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. Such officers and employees shall be compensated in an amount fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(g) In carrying out its functions under this Act, the Corporation shall have, in addition to the powers conferred by this Act, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by laws of the District of Columbia. The Corporation shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841).

Sec. 3. (a) It shall be the function of the Corporation, within the twelve-month period following the date of the enactment of this Act, to determine, on the basis of the best engineering and other information available to it, which of the under-utilized or unconventional energy sources are currently capable, by reason of existing technology, information, and data, of being developed into energy on a commercial basis, and which of such sources are likely to be so capable of being developed into energy on a commercial basis, within the twenty-four-month period following the date of the enactment of this Act.

(b) On the basis of its determinations pursuant to subsection (a) of this section, the Board is authorized to—

(1) enter into contracts or other agreements with any person, firm, association, corporation, or other entity, pursuant to which the Board shall, by means of grants, loan guarantees, price supports, guaranteed purchases, and low interest, short- or long-term loans, financially assist such person, firm, association, corporation, or other entity, from moneys available in the trust fund established by section 6 of this Act, in designing, constructing, equipping, operating and maintaining, in accordance with applicable law, a full-scale commercial facility or facilities to produce energy from under-utilized or unconventional energy sources determined by the Board under subsection (a) of this section to be currently capable of being developed into energy on a commercial basis, or from such sources so determined as likely to be capable of being developed into energy on a commercial basis within such twenty-four-month period; and

(2) enter into contracts or other agreements with any person, firm, association, corporation, or other entity engaged in the prospecting, exploration, development, production, or transportation of crude oil, natural gas, and coal resources pursuant to which the Corporation shall financially assist such person, firm, association, corporation, or entity, from moneys available in the trust fund established by section 6 of this Act, in carrying out, in accordance with applicable law, such prospecting, exploration, development, production, or transportation by means of grants, loan guarantees, price supports, guaranteed purchases, and low interest, short- and long-term loans.

SEC. 4. (a) In order to financially assist any person, firm, association, corporation, or other legal entity in carrying out any contract or other agreement entered into pursuant to pargaraph (1) or (2) of section 3 (b) of this Act, the Board may, in accordance with the provisions of this section, guarantee to non-Federal lenders making loans to any such person, firm, association, corporation, or entity, payment of principal of and interest on loans, made by such lenders, which are approved under this section.

(b) No loan guarantee under this section for any such purpose referred to in subsection (a) of this section may apply to so much of the principal amount thereof as exceeds 90 per centum of the cost of carrying out any such purpose.

(c) For each project for which a guarantee of a loan is sought pursuant to this section, there shall be submitted to the Board an application by any such person, firm, association, corporation, or entity seeking such guarantee. Such application shall contain such information as the Board may require to carry out the purposes of this section.

(d) The Board may approve such applications only if—

(1) it is assured that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Board may reasonably require; and

(2) it determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loans are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Board determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(e) (1) In the case of any such loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any such guarantee under this section, unless the Board for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(2) Guarantees of loans under this section shall be subject to such further terms and conditions as the Board determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Board to the extent it determines such modification to be consistent with the financial interest of the United States.

(f) Any guarantee of a loan pursuant to this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

(g) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

(h) With respect to any contract or other agreement entered into pursuant to paragraph (1) or (2) of section 3(b) of this Act, the Board is authorized to include as a part of such contract or agreement provisions pursuant to which the Board agrees to purchase any such energy so produced on a cost and reasonable profit basis, or to provide financial assistance through price supports in accordance with regulations prescribed by the Board. Any energy so acquired by the Board shall be disposed of in such manner and under such terms and conditions as the Board shall prescribe. Revenues received by the Board arising out of the disposition of such energy so acquired shall be deposited in the trust fund established by section 6 of this Act and shall be available for use by the Board in the same manner and to the same extent as other moneys within such trust fund.

SEC. 5. In carrying out its functions under this Act, the Corporation is authorized—

(1) to acquire by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia for the use of the Corporation;

(2) to enter into and perform contracts, leases, cooperative agreements, or other transactions;

(3) to use, with their consent, the services, equipment, personnel, and facilities of Federal agencies, with or without reimbursement;

(4) to obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(5) to adopt and amend bylaws, consistent with the provisions of this Act, governing the operations of the Corporation.

SEC. 6. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the Energy Production Trust Fund (referred to in this Act as the "trust fund"). The trust fund shall consist of such amounts as may be appropriated or credited to it as provided in this section.

(b) For the fiscal year ending June 30, 1975, and each of the next following four fiscal years, there is authorized to be appropriated to the trust fund such sums as may be necessary to enable the Corporation to carry out the provisions of this Act, such sums to remain available until expended.

(c) It shall be the duty of the Secretary of the Treasury to manage the trust fund and (after consultation with the Board) to report to the Congress not later than the 1st day of March of each year on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall include the recommendations of the Board as to the amount of revenues needed by the trust fund during the following fiscal year to meet expenditures from the trust fund during such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(d) It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current wtihdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, as hereby extended to authorize the issuance at par of special obligations exclusively to the trust fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(e) Any obligation acquired by the trust fund (except special obligations issued exclusively to the trust fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(f) The interest on, and the proceeds from the sale or redemption of, any obligations held in the trust fund shall be credited to and form a part of the trust fund.

(g) Amounts in the trust fund shall be available, as provided by appropriation Acts, for carrying out the provisions of this Act, and shall remain available until expended.

SEC. 7. The Chairman of the Corporation shall keep the Congress fully and currently informed of all the activities of the Corporation and shall submit to the Congress an annual report.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this bill introduced by Senator SCHWEIKER be referred to the Committee on Government Operations, and that when and if reported, it be jointly referred to the Committees on Interior and Insular Affairs and Finance for consideration of matters falling within their respective jurisdictions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1017

At the request of Mr. Jackson, the Senator from Oklahoma (Mr. Bartlett), the Senator from Idaho (Mr. Church), the Senator from New Mexico (Mr. Domenici), the Senators from Arizona (Mr. Fannin and Mr. Goldwater), the Senator from Colorado (Mr. Haskell), the Senator from Idaho (Mr. McClure), and the Senator from Montana (Mr. Mansfield) were added as cosponsors of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

S. 1414

At the request of Mr. Chiles, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 1414, a bill to strengthen congressional control in determining priorities of appropriations and expenditures by a budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps.

At the request of Mr. Church (for Mr. Chiles), the Senator from Minnesota (Mr. Humphrey), the Senator from Oregon (Mr. Hatfield), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 1414, supra.

S. 2394

At the request of Mr. Dominick, the Senator from Colorado (Mr. Haskell) was added as a cosponsor of S. 2394, a bill to authorize the acquisition of certain lands for addition to Rocky Mountain National Park in the State of Colorado, and for other purposes.

S. 2510

At the request of Mr. Chiles, the Senator from Georgia (Mr. Nunn), the Senator from Kentucky (Mr. Huddleston), and the Senator from Tennessee (Mr. Brock) were added as cosponsors of S. 2510, a bill to create an Office of Federal Procurement Policy within the Executive Office of the President, and for other purposes.

S. 2822

At the request of Mr. Mathias, the Senator from Oregon (Mr. Hatfield) and the Senator from Utah (Mr. Bennett) were added as cosponsors of S. 2822, a bill to encourage the preservation of open lands in or near urban areas by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open scenic land and forms part of an estate shall be valued, for estate tax purposes, at its value as farmland, woodland, or open scenic land—rather than at its fair market value—if it continues to be used as such for at least 5 years after the date on which the estate tax return is filed.

S. 2846

At the request of Mr. Mansfield (for Mr. Hart), the Senator from New Jersey (Mr. Case), the Senator from Maine (Mr. Hathaway), the Senator from Alaska (Mr. Gravel), the Senator from New Jersey (Mr. Williams), the Senator from Florida (Mr. Gurney), the Senator from Illinois (Mr. Stevenson), the Senator from Kentucky (Mr. Cook), and the Senator from New York (Mr. Javits) were added as cosponsors of S. 2846, the Emergency Chlorine Allocation Act.

S. 2867

At the request of Mr. Church, the Senator from Montana (Mr. Mansfield), the Senator from Oregon (Mr. Packwood), the Senator from South Dakota (Mr. Abourezk), the Senators from Maine (Mr. Muskie and Mr. Hathaway), the Senator from Idaho (Mr. McClure), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Montana (Mr. Metcalf) were added as cosponsors of S. 2867, a bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail transportation system to provide service to certain States.

S. 2877

At the request of Mr. Tower, the Senator from Maryland (Mr. Beall), the Senator from Kansas (Mr. Dole), the Senator from South Dakota (Mr. Abourezk), the Senator from Utah (Mr. Moss), the Senator from North Carolina (Mr. Helms), the Senator from Rhode Island (Mr. Pell), the Senator from Oklahoma (Mr. Bartlett), the Senator from Utah (Mr. Bennett), the Senator from Colorado (Mr. Dominick), the Senator from Tennessee (Mr. Brock), the Senator from Minnesota (Mr. Humphrey), and the Senator from Oregon (Mr. Hatfield) were added as cosponsors of S. 2877, the Meeting House Preservation Act.

SENATE JOINT RESOLUTION 181

At the request of Mr. Dominick, the Senator from Idaho (Mr. McClure) was added as a cosponsor of Senate Joint Resolution 181, designating the third week in April of each year as "National Coin Week."

SENATE RESOLUTION 272—SUBMISSION OF A RESOLUTION RELATING TO DISAPPROVAL OF CONGRESSIONAL SALARY INCREASES RECOMMENDED BY THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. HRUSKA submitted the following resolution:

S. Res 272

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay, for the offices referred to in section 225(f)(A) of the Federal Salary Act of 1967 (relating to Members of Congress), transmitted to the Congress on February 4, 1974, pursuant to section 225(h) of that Act.

SURVEILLANCE PRACTICES AND PROCEDURES ACT OF 1973—AMENDMENT

AMENDMENT NO. 960

(Ordered to be printed and referred to the Committee on the Judiciary.)

INDIVIDUAL PRIVACY AND THE NATIONAL SECURITY

Mr. NELSON. Mr. President, the time has come to end the wiretapping abuses perpetrated in the name of national security. These national security taps today are not authorized by a judicial warrant. The Government is, therefore, free to determine whom it can tap and when it can tap.

Warrantless taps pose a grave danger to fundamental constitutional liberties. Recent events demonstrate that the individual's right to privacy has been and may continue to be violated by the Government's use of such wiretaps. Often they reflect nothing more than a desire to pry into an individual's private affairs. Generally they are not supported by concrete evidence to justify the invasion of an individual's privacy. And always they escape the scrutiny of the courts, the Congress and the public at large because the Government is not required to disclose their existence unless it prosecutes the individual involved—a rare occurrence in the history of national security wiretaps.

Congress should act now to end this intolerable situation. Every American citizen should be assured that his privacy will not be invaded unless a court has determined that the invasion is justified.

Last December I offered a bill (S. 2820) which would provide this assurance. The bill would prohibit the use of warrantless wiretaps against American citizens in national security cases. The basis of this legislative proposal is clear.

The fourth amendment to the U.S. Constitution prohibits Government invasions of a citizen's privacy without a judicial warrant. Supreme Court decisions make clear, moreover, that the fourth amendment protections generally apply to Government wiretaps.

Despite the clear meaning of the fourth amendment, the Government continues to authorize wiretaps without a judicial warrant. A couple of weeks ago the Justice Department reported that it had authorized three warrantless wiretaps for national security cases.

The danger of warrantless wiretaps is not confined to the criminal and truly subversive elements without our society. Warrantless wiretaps are a serious threat to everyone, regardless of his or her station in life. Many distinguished Americans, for instance, have been among those subject to national security wiretaps.

Those wiretapped in recent years include Dr. Martin Luther King, Jr., who was wrongly suspected of being a Communist dupe in the early 1960's; Joseph Kraft, the syndicated newspaper columnist; 17 newspapermen and Government officials who were suspected of leaking or reporting sensitive information in 1969—despite the fact that some of those tapped did not even have access to such information; congressional aides who knew reporters involved in the publication of the Pentagon Papers; and only last week the Washington Post revealed four more warrantless wiretaps conducted by the White House "plumbers" in 1972 against friends of a White House to the Chairman of the Joint Chiefs of Staff of the U.S. Armed Forces.

These and other incidents show that often national security wiretaps have been used to protect an administration from adverse publicity rather than to protect the Nation against foreign attack or subversion.

The abuses of warrantless wiretaps have rightly aroused concern among the public. Numerous opinion polls indicate that more than 75 percent of the people now favor legislation to curb Government power to wiretap.

The vast majority of the public instinctively recognize that lack of control breeds an official state of mind that condones the Government's invasion of a citizen's privacy. This official attitude is a dangerous threat to freedom. It led to Watergate and other illegal acts of political espionage.

It is incumbent upon Congress to adopt measures to prevent future abuses and alleviate public concerns. S. 2820 provides Congress with a timely opportunity to meet its responsibility.

The basic purpose of the bill is to guarantee that the individual's constitutional rights and liberties do not fall prey to national security wiretaps. It would indeed be ironic if the Government's invocation of "national security" could justify a violation of those constitutional rights and liberties which the Government is supposed to make secure.

After the bill was introduced, comments from legal scholars and other authorities throughout the country were solicited by my office. Their responses, as well as the additional materials which they brought to our attention, were considered carefully. That consideration, in turn, has made clear that certain amendments are both necessary and appropriate to insure that the bill strikes a proper balance between constitutional liberties and legitimate national security needs.

Accordingly, I am introducing those amendments today. These amendments effect three basic changes in the bill.

First, before the Government could wiretap American citizens in national security cases, it would have to obtain a judicial warrant based on probable cause that a specific crime has been or is about to be committed. This change would help protect an individual's constitutional rights against national security wiretaps.

Second, before the Government could wiretap a foreign power or its agents, it would have to obtain a judicial warrant based on the belief that the tap is necessary to protect national security interests. The warrant standards for foreign powers and their agents would thus be less rigorous than those required for American citizens. This warrant requirement will not in any way undermine the Government's ability to protect against foreign attack or subversion; the Government will be able to wiretap foreign powers and their agents any time there is a need for such surveillance.

The justification for this warrant procedure is plain. The Government's desire to wiretap should be reviewed by a court. There should be no exceptions. Otherwise the exceptions may be stretched to sanction an unreasonable invasion of a citizen's privacy—a situation which would violate the rights and liberties guaranteed to every citizen under our Constitution.

Third, every American citizen wiretapped would be informed of the surveillance within 30 days after the last authorized interception. This change would assure every wiretapped American citizen the opportunity to protect against violations of his constitutional rights. The disclosure of the wiretap could be postponed, however, if the Government satisfies the court that the person wiretapped is engaged in a continuing criminal enterprise or that disclosure would endanger national security interests.

These amendments are essential to achieve the bill's stated purposes. Mr. President, I, therefore, ask that the amendments be referred to the Judiciary Committee so that the committee can consider them when it reviews the bill.

I. THE SCOPE OF THE FOURTH AMENDMENT'S PROTECTION

To appreciate the dangers of warrantless wiretaps, it is first necessary to understand the scope of the Fourth Amendment's protection. That amendment provides that—

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This amendment thus restricts the Government's power over the individual. As James Madison observed, this amendment, as well as the other amendments in the Bill of Rights:

> Limit and qualify the powers of Government, by excepting out the grant of power those cases in which the Government ought not to act, or to act only in a particular mode. 1 *Cong. Journal* 483 (June, 1789).

In this light, the basic purpose of the fourth amendment is clear. It is designed to protect each citizen's privacy from unreasonable invasion by the Government.

The fourth amendment was borne from the American Colonies' bitter experience with their British rulers. The English King's officers—armed with nothing more than a general warrant and a desire to suppress political dissent—frequently entered an individual's home and rummaged through his personal effects. Those warrants, and the indiscriminate searches which they sanctioned, quickly became a subject of dread among the American Colonies. See N. Lasson, "The History and Development of the Fourth Amendment to the United States Constitution," chapters 3 and 4 (1937).

In drafting a constitution to govern their new nation, the American citizens were concerned that there be no resurrection of those indiscriminate searches by the Government. The fourth amendment was, therefore, adopted to meet that justified concern.

The fourth amendment's protection is twofold. On the one hand, it precludes unreasonable invasions of an individual's privacy by the Government. On the other hand, the fourth amendment guarantees that that privacy can be invaded only when there is a judicial warrant based on probable cause. The fourth amendment's twofold protection was aptly summarized in a recent issue of the Arizona Law Review:

> The fourth amendment was intended not only to establish the conditions for the validity of a warrant, but also to recognize an independent right of privacy from unreasonable searches and seizures. Justice Frankfurter, dissenting from the (Supreme) Court's decision in *Harris* v. *United States*, interpreted "(t)he plain import of this (to be) . . . that searches are 'unreasonable' unless authorized by a warrant, and a warrant hedged about by adequate safeguards."
>
> NOTE.—"Warrantless Searches in Light of *Chimel:* A Return to the Original Understanding," 11 *Ariz. L. Rev.* 455, 472 (1969).

It is quite clear, moreover, that the fourth amendment's protections were not to be suspended in cases of national security. When the fourth amendment was adopted, our Nation was only 11 years old. Foreign threats to the Nation's newly won independence remained ever present. Yet the fourth amendment provides for no exception to its application. The compelling conclusion is that the amendment should be applicable to all situations, including cases involving national security crimes. This conclusion is supported by innumerable constitutional scholars, including Justice William O. Douglas, who has stated:

> There is, so far as I understand constitutional history, no distinction under the Fourth Amendment between types of crimes. *Katz* v. *United States*, 389 U.S .347, 360 (1967) (concurring opinion).

Our Founding Fathers, of course, did not contemplate the advent of telecommunications. Consequently, the amendment does not expressly include wiretaps of telephones within the ambit of its protection. But there is no question that the constitutional right to privacy is no less important in cases where the Government listens to a telephone conversation than when it physically enters an individual's home.

In the 1967 decisions of Berger against New York and Katz against the United States, the Supreme Court held that the fourth amendment therefore generally requires the Government to obtain a judicial warrant before it can wiretap a citizen's phone. In issuing the Katz decision, the Supreme Court made clear that—

> The fourth amendment protects people, not places.

The soundness of the Berger and Katz decisions have been reaffirmed repeatedly by the Supreme Court. See, for example, *Alderman* v. *United States*, 394 U.S. 165 (1969). Most recently, in *United States* v. *United States District Court* (407 U.S. 297 (1972)), commonly referred to as the Keith case, the Court held that the Government could not wiretap American citizens without a judicial warrant—even when the citizens' activities threatened the domestic security of the Nation. Again, the Court made clear that wiretaps must adhere to the safeguards delineated by the fourth amendment:

> Though physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed, its broader spirit now shields private speech from unreasonable surveillance.

The Supreme Court has not yet decided whether the fourth amendment's protections apply to cases involving foreign powers and their agents. In the Keith case, the Court stated explicitly that it did not consider those situations where American citizens have a "significant connection" with foreign powers and their agents.

Because the Court has not ruled on these "national security" wiretaps, the present administration maintains that it may install warrantless wiretaps in certain situations. In a September 1973 letter to Senator WILLIAM FULBRIGHT, chairman of the Senate Foreign Relations Committee, then Attorney General Elliot Richardson stated that the administration would continue to install warrantless wiretaps against private citizens and domestic organizations if the administration believes that their activities affect national security matters.

Mr. Richardson's comments apparently still reflect administration policy. A couple of weeks ago the Justice Department reported that it had authorized three warrantless wiretaps concerning national security matters.—See N.Y. Times, January 16, 1974, p. 18, col. 1— The Justice Department did not indicate whether the wiretaps included surveillance of American citizens. And that is precisely the problem of national security wiretaps.

The discretion to determine when such warrantless wiretaps are justified and properly executed has been the sole province of the executive branch. There has been no opportunity for the Congress, a court, or any other public body to examine the exercise of that discretion in order to prevent abuses. The results are not surprising. Warrantless wiretaps have produced and continue to produce the very evils which the fourth amendment was designed to eliminate.

II. THE HISTORY OF WARRANTLESS WIRETAPS

Warrantless wiretaps were first employed early in the 20th century. Almost from the very beginning, constitutional scholars and law enforcement officials recognized the serious dangers of warrantless wiretaps. In an early surveillance case, the venerable Justice Oliver Wendell Holmes referred to warrantless wiretaps as "dirty business." *Olmstead* v. *United States,* 277, U.S. 438, 470 (1928) (dissenting opinion.)

In 1931, J. Edgar Hoover, who by then had been FBI director for 7 years, commented that—

> While [the practice of warrantless wiretaps] may not be illegal. I think it is unethical, and it is not permitted under the regulations by the Attorney General.

In 1939 Mr. Hoover wrote to the Harvard Law Review that he believed wiretapping to be "of very little value" and that the risk of "abuse would far outweigh the value."

By 1939, however, pervasive reservations about wiretapping had inspired enactment of a law by Congress. In 1934, Congress passed the Communications Act. Section 605 of that act prohibits the "interception and divulgence" or "use" of the contents of a wire communication. From the moment of enactment, the provision seemed to erect a total prohibition to wiretapping and the use of information obtained from wiretapping. See *Nardone* v. *United States,* 308 U.S. 338 (1939); *Nardone* v. *United States,* 302 U.S. 379 (1937). This, at least, was the interpretation of civil libertarians acquainted with the legislative history. Indeed, subsequent efforts in the 1940's and 1950's to legalize certain kinds of wiretapping were repeatedly rebuffed by those in Congress who feared the consequences which wiretapping would have for civil liberties. See Theoharis and Meyer, "The 'National Security' Justification for Electronic Eavesdropping: An Elusive Exception," 14 Wayne L. Rev. 749 (1968).

On the eve of World War II, however, President Franklin D. Roosevelt became convinced that use of warrantless wiretaps would be necessary to protect the Nation against the "fifth column" and other subversive elements. Roosevelt, therefore, instructed his Attorney General, Robert Jackson, to authorize wiretaps against subversives and suspected spies.

But Roosevelt was not insensitive to the risks which wiretapping could have for constitutional rights and liberties. In a memorandum to Jackson dated May 21, 1940, Roosevelt indicated that he was aware of section 605 and had read the Supreme Court's interpretive decisions. Roosevelt basically agreed with the restrictions against wiretapping:

> Under ordinary and normal circumstances wiretapping by Government agents should not be carried on for the excellent reason that it is almost bound to lead to abuse of civil rights.

Roosevelt consequently instructed Jackson—

> To limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens.

Roosevelt's sensitivity to the dangers of warrantless wiretaps did not necessarily rescue their legality. Many legal scholars have suggested that until enactment of title III of the Omnibus Crime Control and Safe Streets Act of 1968, all wiretapping was illegal. See, for example, Navasky and Lewin, "Electronic Surveillance," in hearings before Senate Subcommittee on Administration Practices and Procedures (U.S. Senate, 92d Cong., 2d sess., pp. 173–74, 180 (June 29, 1972). Theoharis and Meyer, for instance, observed that until 1968:

> All wiretapping violated the absolute ban of section 605 of the Federal Communications Act of 1934, and all other electronic eavesdropping which resulted in trespass of a constitutionally protected area was prohibited.

The questionable legality of wiretapping did not deter its use after World War II. In the 1950's and 1960's the Government's reliance on warrantless wiretaps mushroomed. No precautions were taken, though, to minimize the dangers to civil liberties recognized by Roosevelt. Concern for "national security" consequently led to the use of warrantless wiretaps against political dissidents—including Dr. Martin Luther King, Jr., who was wrongly suspected of being an unwitting dupe of the Communists.

The use of warrantless wiretaps had become a monster with its own momentum. Even the President did not always know the full extent to which such taps were used. Thus, upon learning of the taps on Dr. King and others, President Lyndon Johnson became irate.

On June 30, 1965, Johnson issued a directive placing severe restrictions on the use of warrantless wiretaps. Johnson initially made clear his general opposition to warrantless wiretaps:

> I am strongly opposed to the interception of telephone conversations as a general investigative technique.

Johnson nonetheless ordered that wiretaps be permitted in national security cases—but only with the specific authorization of the Attorney General. Johnson apparently believed, in good faith, that authorization of warrantless wiretaps by the Attorney General would prove to be an adequate safeguard for the individual's constitutional right to privacy and other constitutional liberties.

Sadly, but not unexpectedly, Johnson's belief proved to be illusory. Recent events have demonstrated that warrantless wiretaps—no matter how benign the Government's motives—cannot insure the sanctity of the individual's right to privacy. Reference to the examples cited in my statement of December 17, 1973—41864—makes this clear:

> On December 5, 1973, Eugene La Roque, a retired rear admiral in the U.S. Navy, revealed that the Pentagon currently has a unit which is authorized to engage in the same kind of surveillance activities conducted by the "Plumbers Unit" in the White House. The purported basis of these activities is a need to protect "national security." Rear Adm. LaRoque emphasized that there is currently no procedure for Congress, the courts, or the public to determine the scope—or lawfulness—of the Pentagon unit's surveillance activities.
>
> In a report issued in October 1973, a House subcommittee found that certain White House officials invoked national security considerations to make the CIA their "unwitting dupe" in the burglary of Daniel Ellsberg's psychiatrist's offices and in other unlawful surveillance activities.
>
> Recently it was learned that in 1969 the administration installed warrantless taps on 13 government officials and 4 newsmen for the purported reason that these individuals were leaking or publishing sensitive foreign intelligence information. In virtually all the cases there was little or no concrete evidence to justify the taps. In many cases the evidence shows that the individual tapped did not even have access to such information. Indeed, in at least two cases the taps were continued after the individual had left Government service and had joined the Presidential campaign staff of Senator Muskie.
>
> In 1969 the White House authorized the burglary of the home of newspaper columnist Joseph Kraft so that a warrantless tap could be installed. The alleged basis for this action was again national security. But there was and is no concrete evidence to establish that

Mr. Kraft was acquiring or reporting any information which compromised our national security.

Testimony before the Senate Watergate Committee revealed that the White House authorized warrantless wiretaps "from time to time" when it was conducting an independent investigation of the publication of the "Pentagon papers" in 1971. The taps were placed on numerous citizens, including aides of Members of Congress, whose only connection with the "Pentagon papers" was a personal relationship with some of the reporters involved. Again, the taps were justified on national security grounds and, again, there was and is no concrete evidence to support the need for the taps.

In 1970, the White House conceived and drafted a broad plan which proposed warrantless wiretapping, burglary, and other insidious surveillance practices. The staff assistant responsible for the plan stated in a memorandum to the President that certain aspects were "clearly illegal." Nonetheless, the plan was approved on the basis of national security, only to be scrapped shortly afterward when FBI Director J. Edgar Hoover objected.

In addition to these abuses, the Washington Post disclosed last week four more warrantless wiretaps conducted by the White House "plumbers" in 1972 against American citizens. The presumed basis for these taps was again national security. But there was no involvement of foreign powers or their agents. Nor were the taps in any way necessary to protect our Nation from foreign attack or subversion. The taps were instead justified on the grounds that a White House official was distributing certain information to the Chairman of the Joint Chiefs of Staff of the U.S. Armed Forces. In order to stop this distribution, the "plumbers" believed it necessary to wiretap the official's friends.

These abuses of warrantless wiretaps underscore the wisdom of the fourth amendment's protections. It would be naive to assume that the Government can make a disinterested judgment as to whether a planned search by Government agents is reasonable. The Government cannot properly be both advocate and judge of its own.

Our Founding Fathers recognized this problem and adopted the fourth amendment. That amendment contemplates that a disinterested court will decide whether searches desired by the Government are reasonable. See, for example, the Keith case; *Coolidge* v. *New Hampshire,* 403 U.S. 443 (1971). The need for this disinterested judgment is no less necessary in cases involving the national security than it is in other cases. This essential point was advanced eloquently by Justice Douglas in the Katz case:

> Neither the President nor the Attorney General is a magistrate. In matters where they believe national security may be involved they are not detached, disinterested, and neutral as a court or magistrate must be. Under the separation of powers created by the Constitution, the Executive Branch is not supposed to be neutral and disinterested. Rather, it should vigorously investigate and prevent breaches of national security and prosecute those who violate the pertinent federal laws. The President and the Attorney General are properly interested parties, cast in the role of adversary, in national security cases. They may even be the intended victims of subversive action. Since spies and saboteurs are as entitled to the protection of the Fourth Amendment as suspected gamblers like petitioner, I cannot agree that where spies and saboteurs are involved adequate protection of Fourth Amendment rights is assured when the President and Attorney General assume both the positions of adversary-and-prosecutor and disinterested, neutral magistrate. 389 U.S. at 359–60 (concurring opinion).

In short, regardless of how beneficient the Government's intentions, warrantless wiretaps—whether in "national security" cases or in any other kind of case—pose serious dangers to the right to privacy as well as other constitutional rights and liberties.

III. AMENDMENTS TO PROTECT AGAINST WIRETAP ABUSES IN NATIONAL SECURITY CASES

The history of warrantless wiretaps for "national security" cases demonstrates the need for corrective action. For too long Congress has closed its eyes to the abuses of those wiretaps—perhaps in the hope that the country would be better served if implicit trust were placed in the executive branch to safeguard constitutional rights. The history underlying the fourth amendment should have given Congress pause before being so trusting.

But whatever the rationale for past inaction, the Watergate scandals make clear that Congress must act now to insure the preservation of precious constitutional rights—especially the right to privacy. Invocation of "national security" should not enable the Government to wiretap without regard to traditional constitutional limitations. These amendments provide Congress with an opportunity to assure the sanctity of those limitations.

The amendments effect three basic changes in S. 2820, the bill offered last December.

First, before the Government could wiretap Amreican citizens in national security cases, it would have to obtain a judicial warrant based on probable cause that a crime had been or was about to be committed. The crime involved, moreover, would have to be one affecting this Nation's security. Such crimes include those under the Atomic Energy Act, treason, espionage, and sabotage.

This change merely reasserts the traditional safeguards provided by the fourth amendment. That amendment states that the Government cannot invade an American citizen's privacy without first obtaining a judicial warrant based on probable cause. The history of the amendment suggests that, except in certain matters—such as housing inspections—the "probable cause" requirement must relate to the commission of a crime. See, for example, *Wyman* v. *James,* 400 U.S. 309 (1971); *Camara* v. *Municipal Court,* 387 U.S. 523 (1967).

The history of the fourth amendment also underlies the need for prior judicial authorization for national security wiretaps. In United States against Brown, Circuit Judge Goldberg explained the importance of the court's role in supervising such wiretaps:

> It remains the difficult but essential burden of the courts to be ever vigilant, so that foreign intelligence never becomes a *pro forma* justification for any degree of intrusion into zones of privacy guaranteed by the Fourth Amendment. 484 F. 2d 418, 427 (1973) (concurring opinion).

The Watergate scandals should teach us that the courts cannot carry this essential burden unless prior judicial approval is required for national security wiretaps.

The amendments offered today provide a second basic change: Before it can wiretap foreign powers or their agents, the Government would have to obtain a judicial warrant. This warrant would be issued if the Government satisfies a judge only that the wiretap is necessary to protect the national security. The Government need not establish that the commission of a crime is involved. The standards for foreign power taps, therefore, would be less rigorous than the standards applied for American citizens.

This second change is to insure that the power to wiretap foreign powers is not abused in a manner which infringes on the rights of American citizens. A power to conduct warrantless wiretaps for foreign powers and their agents might enable the Government to violate the constitutional rights and liberties of American citizens. The recent past provides many occasions when legal restrictions on Government wiretapping have been ignored or misinterpreted. Those abuses, in fact, have inspired deep public concern that individual privacy can be violated at any time by Government wiretaps. Public opinion polls reveal that more than 75 percent of the public now favors a curb on the Government's power to wiretap.

Many of those most familiar with foreign power wiretaps share this concern. Former Attorney General Ramsey Clark, for example, recently testified at a congressional hearing:

> Certainly there should be absolutely no use of wiretap or electronic surveillance without a court order under any circumstances. . . . Foreign as well as domestic.

Morton Halperin, a former member of Secretary Henry Kissinger's National Securty Council staff, is another individual who shares this view.

There should be no concern that a requirement of judicial warrants for foreign power wiretaps will undermine the security of this Nation. Courts will be most responsive to legitimate requests for foreign power taps; as a result, there will be no restriction on the Government's ability to protect the Nation against foreign attack or subversion. Moreover, the implementation of title III of the Crime Control Act—which requires judicial authorization for domestic criminal wiretaps—demonstrates that judges will jealously guard any sensitive information made available to them.

In short, judicial warrants for foreign power wiretaps will have no adverse consequences for this Nation's security. Indeed, former Attorney General Clark has testified that the impact of such warrants on national security "would be absolutely zero."

The third basic change provided by the amendments concerns national security wiretaps on American citizens. Within 30 days after the last authorized interception, the Government would have to disclose the existence of the surveillance to those citizens tapped. This disclosure could be postponed, however, if the Government satisfies the court that the individual involved is engaged in a continuing criminal enterprise and that disclosure would endanger national security interests. This option for postponement would prevent disclosures from undermining the Government's ability to protect the Nation against foreign attack or subversion.

This change again merely codifies the traditional safeguards afforded by the fourth amendment. From the beginning, it was assumed that the courts would protect the individual's right to be secure from unreasonable searches by the Government. In proposing adoption of the fourth amendment and the other amendments in the Bill of Rights, James Madison outlined this role to be played by the courts:

> Independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the Legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights. 1 *Cong. Journal* 440 (June, 1789).

The courts could guard the right to privacy in one of two ways. Either the courts could refuse to issue a warrant authorizing a Government search; or the courts could respond to an individual's complaint that the Government had conducted an unconstitutional search.

The latter response of course presumed that the individual would know that the Government had in fact conducted a search. In the early days of our Republic the Government agents would generally knock at the individual's door, present the warrant, and conduct the search. Having knowledge of the search, the individual could complain to a court that the warrant was insufficient—or, perhaps, that the Government executed the search despite the lack of a warrant. This opportunity to complain existed even when the American colonies suffered under British rule. Indeed, if the colonials were not informed of the indiscriminate searches conducted by the British, they would have had no basis to believe that adoption of the fourth amendment was necessary. See N. Lasson. "The History and Development of the Fourth Amendment to the United States Constitution," chapters 3 and 4 (1937).

The advent of telecommunications has changed all this. Warrants can be issued and searches conducted without the subject ever learning of them. Unless the Government decides to prosecute the individual tapped, it need not make any disclosure to the individual at any time. For this reason, few of the American citizens tapped for national security reasons in the last few decades have ever learned of the Government's surveillance—even though in some cases it continued for years.

The fourth amendment's protection against Government invasion of individual privacy is weakened if a citizen can be kept ignorant of Government wiretaps. Without knowledge of those wiretaps, the individual is stripped of all opportunity to complain to a court that they have violated his rights. Telecommunications have enhanced considerably the Government's power to snoop on its citizens; telecommunications should not become an excuse to avoid constitutional safeguards.

IV. CONCLUSION

For decades the Government has used warrantless wiretaps to serve its view of the national security. These wiretaps have always posed a fundamental danger to the freedoms guaranteed by our Constitution. The Watergate scandals and other recent events have exposed that danger in a dramatic and clear fashion.

We should not fail to heed the warning signs. Constitutional provisions empowering the Government to protect the Nation's security were never thought to justify the subversion of individual freedoms afforded by other constitutional provisions. As Judge Ferguson declared in the United States against Smith, a case concerning the use of warrantless wiretaps for national security purposes:

> To guarantee political freedom, our forefathers agreed to take certain risks which are inherent in a free democracy. It is unthinkable that we should now be required to sacrifice these freedoms in order to defend them. 321 F. Supp. 424, 430 (1971).

Congress cannot and should not tolerate governmental violations of the individual's constitutional right to privacy by wiretaps or any other means. That right to privacy, as well as other constitutional liberties, are the cornerstone of our democratic system. If those rights and liberties are eroded, the very fabric of our constitutional system is imperiled. Congress should, therefore, act now to protect our cherished rights and liberties from abusive national security wiretaps.

Mr. President, I ask unanimous consent to insert in the Record the text of this amendment.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 960

On page 3, line 5, strike out after "of" the following: warrantless".

On page 3, line 20, strike out after "are" the following: "designed"; and substitute in lieu thereof the following: "intended".

On page 3, line 21, insert the following after "power": "and to undermine the security of the United States.".

On page 3, line 25, insert the following after "agents": ", pursuant to the procedures delineated in Section 2518A,".

On page 4, strike out lines 1 through 4 inclusive, and substitute in lieu thereof the following: "(b) Section 2511(3) of title 18, United States Code, is amended by deleting the second sentence.".

On page 4, strike out lines 5 through 15, inclusive, and substitute in lieu thereof the following:

"(c) Section 2511(3) of title 18, United States Code, is amended by striking out the third sentence and adding in lieu thereof the following:

'Notwithstanding any other provision of this chapter, neither the contents nor the evidence derived therefrom, of any wire or oral communication intercepted through application of this subsection shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State Court, except in civil proceedings against foreign agents.'".

On page 4, before line 16, insert the following new section: "Sec. 4A. Section 2516 of title 18, United States Code, is amended by deleting subsection (a); subsection letters "(b)", "(c)", "(d)", "(e)", "(f)", and "(g)" of Section 2516 shall be deleted and respective subsections shall be identified as "(a)", "(b)", "(c)", "(d)", "(e)", and "(f)".

On page 4, line 21, strike out the following: "(1)".

On page 5, line 4, strike out the following: "gathering of intelligence in-".

On page 5, strike out lines 5 through 11, inclusive, and substitute in lieu thereof the following: "investigations of the offense as to which application is made, when

(1) there is probable cause to believe that the individual(s) whose oral or wire communications are to be intercepted has committed or is about to commit an offense punishable by death or by imprisonment for more than one year under

(a) sections 2274 through 2277 of title 42 of the United States Code (relating to enforcement of the Atomic Energy Act of 1954), or

(b) one of the following chapters of this title: Chapter 37 (relating to espionage), Chapter 105 (relating to sabotage), and Chapter 115 (relating to treason); and

(2) such interception will probably provide or has provided evidence concerning the commission of that offense.".

On page 5, line 19, insert after "section" the following: "2511(3) or section".

On page 5, line 21, insert after "tion" the following: ", or, in cases involving section 2511(3), a judge on the Federal District Court for the District of Columbia,".

On page 6, line 8, strike out the following: "type of".

On page 6, line 9, insert after "munications" the following: "with as much particularity as is possible and practical,".

On page 6, line 11, insert after "intercepted;" the following: "and (iv) in cases involving application of section 2516A, details as to the particular offense that has been, is being, or is about to be committed.".

On page 6, line 12, insert after "A" the following: "detailed".

On page 6, line 14, strike out after "they" the following: "reasonably".

On page 6, strike out line 20 and substitute in lieu thereof the following: "the described communications have been first ob-".

On page 7, line 17, insert after "section" the following: "2511(3) or section".

On page 7, line 22, insert after "sitting," the following: "or, in cases involving section 2511(3) when application has been made to a judge on the Federal District Court for the District of Columbia, anywhere within the territorial jurisdiction of the United States,".

On page 8, line 2, insert after "section" the following: "2511(3) or section".

On page 8, line 5, insert after "section" the following: "2511(3) or section".

On page 8, line 8, strike out after "or" the following: "reasonably".

On page 8 strike out line 9, and substitute in lieu thereof the following: "likely to succeed if tried or to be too dangerous; and".

On page 8, strike out lines 13 through 15, inclusive, and substitute in lieu thereof the following: "or are about to be used by the subject whose wire or oral communications are to be intercepted.".

On page 9, line 14, insert after "making" the following: "anew".

On page 9, line 15, insert after "section." the following: "In making this new finding under subsection (3), the judge shall, in cases involving section 2516A, require the applicant to furnish additional information and evidence independent of that relied upon in granting the initial order and which, standing alone, would satisfy the requirements of subsection (3).".

On page 10, strike out lines 10 through 24, inclusive.

On page 11, strike out lines 1 through 22, inclusive.

On page 11, before line 23, insert the following: "(7) The contents of any wire or oral communication intercepted by any means authorized by section 2511(3) or section 2516A shall be subject to the requirements of section 2518(8)(a). Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs.

(8) Notwithstanding any other provision of this chapter, any individual, other than a foreign agent, whose wire or oral communications have been intercepted through application of section 2511(3) or section 2516A shall, not less than thirty days after the expiration of a judicial order authorizing such interception, be furnished a copy of the court order(s), and accompanying application(s), under which such interception was authorized or approved, and a complete and accurate transcript or other record of the intercepted communications, such transcript or record to also include the date(s) and time(s) at which such interception occurred; provided that, upon application of the Attorney General, or any Assistant Attorney General specifically designated by the Attorney General, the judge who authorized or approved the interception may postpone the disclosure of such intercepton if he is satisfied that the individual whose communications have been intercepted is engaged in a continuing criminal enterprise or conspiracy and disclosure of the interception will endanger vital national security interests, such postponements to be as long as the judge deems necessary; and, provided further, that any interception, disclosed pursuant to this subsection and which involves application of section 2511(3), need not disclose the foreign power or agent whose wire or oral communications were intended to be or were intercepted, nor those facilities at which the interception was intended to or did take place.

(9) (a) Notwithstanding any other provision of this chapter, any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

(i) the communication was unlawfully intercepted;

(ii) the order of authorization or approval under which it was intercepted is insufficient on its face;

(iii) the interception was not made in conformity with the order of authorization or approval; or

(iv) subsection 2511(3) requires such suppression.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the ground of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter.

(b) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

On page 11, line 23, after "SEC." strike out the following: "7"; and substitute in lieu thereof the following: "6".

On page 12, line 6, after "SEC." strike out the following: "8"; and substitute in lieu thereof the following: "7".

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia for the term of 4 years (reappointment).

John W. Spurrier, of Maryland, to be U.S. marshal for the district of Maryland for the term of 4 years, vice Clarence A. Butler, resigned.

Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Monday, February 11, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

THE HONORABLE JESSE HELMS: SPEAKER FOR FREEDOM

Mr. HANSEN. Mr. President, the annual Freedom Day rally held at Taipei, Taiwan, is regarded as a curiosity by many in America, where we have for so long taken our freedoms for granted.

Freedoms are not taken for granted in the periphery of large and powerful nations dominated by communism.

Our distinguished colleague from North Carolina (Mr. HELMS) was a featured speaker at this year's world Freedom Day rally in Taipei, January 23. The date is significant to the entire free world, and especially among Asian peoples, because it marks the anniversary of the day in 1954, when more than 14,000 soldiers from Communist-controlled China who had been captured by United Nations forces in the Korean war, declined the opportunity to return to mainland China and live under the Mao Tsetung Communist government.

These soldiers, given their free choice by the United Nations, chose freedom over communism, and made the decision to join the people of the Republic of China, headquartered on Taiwan. Their decision was a severe international blow to the myth the Communists had tried to create—that life in a Communist society, a tyrannical society, was tolerable. As our colleague pointed out, "the natural laws of human nature cannot be repealed," and "when given a choice, men will always choose freedom."

This year, more than 15,000 people jammed the Freedom Hall in Taipei to hear our distinguished colleague's remarks, which were relayed throughout the Republic of China by live broadcast, and transmitted to the United States and other countries by satellite. This wide broadcast paid tribute to the power of an idea—the idea of freedom. Those thousands on Taiwan who heard the speech of the junior Senator from North Carolina daily are confronted with the abundance which freedom has provided them; and they can never forget the losses which their own relatives have suffered at the hands of Communist tyrants in other lands. Those behind the Iron and Bamboo Curtains who may have heard the address by broadcast probably can only wonder what this strange word, "freedom," is all about.

Our colleague referred in his speech to the contagious quality of the idea of freedom, and to the courage of the Chinese people in the face of tyranny. His message is inspirational, and I ask unanimous consent that it be printed in the RECORD so that all Members will have the opportunity to consider his words.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

FREEDOM DAY RALLY—TAIPEI

MY DEAR FRIENDS: I come today to thank you on behalf of my fellow countrymen who believe, as you do, that the nations of the Free World must stand together in defense of the liberties of man. And I salute the Republic of China—which to me will forever be the only real China, and the only China that is interested in a true and lasting peace.

This day marks an epochal event in the history of modern mankind. For on this day, twenty years ago, 14,340 Communist soldiers, captured during the Korean War, chose to live under the government of the Republic of China rather than return to those areas of China dominated by the Communist regime of Mao Tse Tung.

Think of that, my friends. These were the crack troops, the heavily indoctrinated and motivated troops, molded by every trickery of brainwashing developed by Communist ideology. They had performed to the utmost for the Communist cause. Thousands of their comrades lay dead in the campaign they had fought. But the moment that they were given the choice, they chose freedom.

But is it really so remarkable that they chose freedom? Isn't it the natural instinct of mankind to choose freedom, if and when given the choice? Is there any man alive, anywhere in the world, who would not leap at the chance to throw aside a tyranny that controls his every action, that destroys his personal and family relationships, that attempts to dictate even his very thoughts?

My friends, the evidence is very clear. The fourteen thousand prisoners of war made their decision in 1954. But in Germany, the Communists are shill shooting at men who make the same decision every day at the Berlin Wall. And thousands brave the cold waters for the exhausting and dangerous swim to Hong Kong. Meanwhile, men who want their freedom in the Soviet Union are thrown into mental hospitals and jails.

Occasions like this remind us of the eternal truth that the natural laws of human nature cannot be repealed. No treaty, no communique, no diplomatic agreement can permanently abrogate the natural laws.

When given a choice, men will always choose freedom.

We need to remember this because there are some who would have us believe that tyranny is good for people. Tyranny, the people are told, can feed their bodies. The people are told that tyranny can build factories and tyranny can sweep the streets. People who live under tyranny are told that they ought to be grateful that tyranny is so good to them. And those who tell us this propose to deal with tyranny by drinking toasts to each other.

My good friends, I come today as one United States Senator who does not believe in tyranny, and as one who is proud to join hands with you in every way, at any time, to combat the forces of tyranny in the world, wherever they may be.

My good friends let us be plain. Not all Americans agree that the United States policy of dealing with the Communist regime on China's mainland as though they were legitimate rulers has been a triumph of statecraft and diplomacy. You must remember that some Americans often confuse actions with wisdom. In the brief history of our Nation, a quarter of a century is a millenium, while in the rich history of the Chinese people, a millenium is only a moment's pause.

But a policy that is so fraught with error cannot long endure. The novelty of secret diplomacy and dramatic shifts in alliances is fading. As the fruits ripen, their taste is surprisingly bitter.

We set out on a policy of stepping up trade with the Soviet Union so as to increase mutual understanding. But we found out that the Communists understood the capitalist markets perhaps better than we. With typical Communist duplicity, they secretly negotiated for feed grains while they secretly bought our wheat in such huge quantities that a market of surplus turned into a market of scarcity. Food prices in the United States went up twenty-two percent in one year. Now the United States, which emptied its granaries for political reasons, is faced with the possibility that it may have to import wheat this year.

We set out on a policy of bringing the Vietnam War to a close. But the costly victories on the battlefield were swept aside by the secrets of the conference table. The tragic result was an incredible document giving *de facto* recognition to the enemy in the South, leaving even the enemy troops and supply lines effectively in place. It is only the heroic determination of the people of South Vietnam that has kept the enemy from launching its long-planned assault on the free regions of the country.

We set out on a policy of détente with the Soviet Union so that the two so-called super-powers could work together to bring peace to the world. But while we were speaking daily to officials of the Soviet Union about peace, the Soviet Union was shipping arms of war to the Arab Nations and laying plans for war. And not only did war break out because we were blinded by the illusions of détente, but the economic systems of the free world have been placed in jeopardy and the freedoms of our people have been under constraint. In my view, if we had worked directly to satisfy the legitimate grievances of all peoples in the Middle East we would have been much more quickly successful in preventing war than by pursuing the illusions of détente.

My friends, if I speak in criticism of some of my country's policies, I do so because it is a sign of hope. The American people are learning that foreign policy and domestic policy are no longer separate categories. The politics of the negotiation table abroad affect the menu of the dining table at home. We are learning, the hard way, that you cannot simultaneously and separately out-double-deal the two greatest masters of duplicity and expect to divide anything except our own freedoms.

And that is why the United States needs the firm friendship of the Republic of China. Oh, it is true that there are differences in the amount of territory our respective governments control, and the size of our economic and military power. But the United States needs the Republic of China more than the Republic of China needs the United States. For size and economic power will not be the determining factors in the struggle for the survival of freedom. History is filled with the records of great and powerful civilizations that have ceased to exist. The determining factors are the will to resist and the conviction of the rightness of your cause. Maintain the conviction and the American people will not be able to abandon you.

For who really represents the Chinese people? Is it a regime that imposes its power through force and thought control? Or is it the government of the Republic of China which encourages each man to work out his own destiny?

Is it the ideology tyranny that has swept away centuries of Chinese culture and philosophy? Or is it the Republic of China where universities are flourishing, art treasures are protected, the theater is recreated, and poetry is cherished?

Are the Chinese people represented by a morally corrupt regime, torn with purges and executions, that wipes out individual property and choice of livelihood? Or is their true representative the government that enables the farmer to buy and till his own land, the businessman to use his own initiative, and the worker to choose his employment? In my mind, there is no choice between freedom and tyranny. For my part, my choice is the Republic of China.

The Republic of China can be proud of its accomplishments here on Taiwan. But never forget that your economic success is strong only because it grows out of individual freedom. And your freedom is strong only when it is based on a determination to stand up against tyranny as well as against the foolish mistakes of your friends. You are a beacon in a world that sometimes is not sure of its bearings. Do not forget that history has appointed you to set an example for the free world; the American people need that example, and they will never be able to forget your courage.

DOES DAYLIGHT SAVING TIME SAVE ANYTHING?

Mr. STENNIS. Mr. President, I am not persuaded that year around daylight saving time is a good thing for the Nation. Advancing the clocks during the wintertime causes a great deal of disruption and inconvenience in American households. Worse yet, it creates some dangers for American schoolchildren.

I did not favor the Emergency Daylight Saving Time Energy Conservation Act of 1973 when it was proposed. I did not vote for it in December when it was passed by the Senate. I am a cosponsor of legislation to terminate year-round daylight saving time.

When the Daylight Saving Time Act was proposed, it was said that a 3-percent saving in oil or the equivalent of 2 percent in total energy would result, because of reduced demands for electricity. It was said that better traffic safety would result, and that there would be a reduction in crime.

As for savings in electricity, about the best argument that can be advanced is that people who shop after work would have some daylight left in which to do so. This is manifestly correct, but it does not necessarily follow that electricity will be saved. The lights are going to be on in the supermarket in the late afternoon anyway, whether it is fully dark yet or not. And in the mornings when families have to get up and get started for work and to school in the pitch dark, they end up with lights on in every room in the house. Schools turn on their lights and turn up their furnaces an hour earlier than they usually would. It may well be that more electricity is being used in the early morning than is saved in the evening.

I might point out that as to shopping in the evening, there are many people in this country who do most of their shopping on Saturdays anyway, and who do not follow the urban practice of evening shopping.

As to better traffic safety because the evening rush hour would be in daylight, I submit that anyone who works full hours and drives any distance to work in the winter is going to drive in some darkness either in the morning or in the evening, and it would seem that which it might be would not have a great effect on traffic safety. Reducing highway speeds has had a much greater effect on traffic safety.

Concerning the crime rate and daylight saving, about all that can be said is that street criminals would have to get up earlier or stay out later. A man motivated to street robbery as a way of living is not apt to be a clock watcher. Here again it would seem that the validity of the reasoning can be questioned.

I have not seen any convincing evidence that energy savings are at present being effected as a result of the change in time. There is ample evidence, however, of adverse effects of advancing the clocks.

By far the worst effect is the danger to school children in the dark hours of the early morning. There have been a number of accidents in which school children have been injured or killed. There has been some increase in crimes relating to children. These hazards are simply something that should not be permitted to continue. Young children should go to school in daylight and come home in daylight.

The problem of the schools is not one that can be solved by varying school hours for primary schools, and junior and senior high schools. In many school districts the schedules are already spread out because of the requirement for busing and the limited number of buses available to school districts. If school opening hours are delayed, secondary schools may end up with no daylight for post-school-hour athletics. Family schedules are built around coordinating work hours and school hours. There simply is not a real solution to the school problem except to go back to the regular winter system of standard time for all our population.

So Mr. President, a realistic evaluation of our experience to date with winter daylight saving time shows that there are apparently no realistic benefits demonstrated. There are genuine drawbacks. There are some real dangers to schoolchildren. The people are conforming because it has been imposed on them and they have no choice. But they do not want it. I say let us do away with winter daylight saving and get back to a system we know will work and which I believe the American people desire. The sooner Congress can do this the better.

If it should not prove possible to pass legislation to go back to 6 months of standard time and 6 months of daylight saving, then I would advocate a compromise of 8 months of daylight saving and 4 months of standard time. This would be preferable to the present year-round daylight saving time.

ENERGY CRISIS IN MARYLAND

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague from Maryland (Mr. Mathias) and I held hearings in Baltimore to determine the effect of the energy crisis on Marylanders. Representatives from business, labor, environmental, scientific, and the academic communities testified, and provided us with a complete, and unfortunately a grim, picture of tne energy shortage in our State.

Because the problems facing Marylanders are not unique I intend to place selected copies of testimony we received at the hearings in the Record for the benefit of my colleagues, whose States face similar problems.

Today, I ask unanimous consent that the testimony of Dr. James Sensenbaugh, Maryland State superintendent of schools, be printed in the Record. Dr. Sensenbaugh points out the tremendous problems facing the State educational system, and I recommend his remarks to my Senate colleagues.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Statement of James A. Sensenbaugh, State Superintendent of Schools, at Public Hearing on Energy Crisis Before Senators Mathias and Beall, at the Federal Building, Baltimore, Md., on December 27, 1973

When the young people of Maryland return to school on January 7, the schools will have conserved upwards of 10 million gallons of fuel oil by our estimate, compared with consumption to that date last year. The saving represents about 15% of our estimated need for the whole school year as calculated before the fuel crisis came upon us.

We would like to take credit for the entire saving as a consequence of our conservation measures, but that would be unfair. We must give some credit to a benign Providence for one of the mildest falls in 20 years. Also contributing were two snow days in December and three extra days of Christmas holiday ordered by the Governor—January 2, 3, and 4. The three extra days will be made up during spring vacation or in June.

Our measurements are not yet so sophisticated that we can isolate the saving creditable to our conservation efforts, but as an educated guess I would say somewhere between 1 and 2 million gallons.

The schools are taking very seriously their responsibility to conserve fuel. On November 2 the school superintendents of the state resolved unanimously to take four fuel-saving actions:

To reduce classroom temperatures to 68°;

To reduce nighttime temperatures to lower settings;

Depending on the recovery characteristics of heating plants;

To maintain heating plants at peak operating efficiency;

To develop a conscious concern for conservation among all those using school facilities.

Those basic resolves, now only seven weeks old, seem rather unsophisticated to us today as we discover and implement new ways to save fuel. Some school systems have reduced temperatures in non-instructional areas (like cafeterias and gymnasiums) to 60°. At least two whole systems have dropped classroom temperatures to 65°. We're not stowing books on classroom heater units any more. We're keeping doors and windows closed. We're checking automatic door closers. We're repairing broken windows quickly.

In other energy areas we're encouraging staff car pools, turning off idling bus engines, eliminating artificial light where natural light is adequate; and finding out almost every day other ways, big and little, to save energy.

The State Board of Education involved students more directly in a resolution passed on November 28, urging them to use the school bus instead of the private automobile to get to and from school. Student and parent support is expected.

We recognize that the energy crisis may get worse and that it may be with us a long time. Priorities established now may fix our status for years. The superintendents of the state made clear in their November 2 resolution their concern for the integrity of the daytime instructional program. They urged that it be the last affected activity. Before they would curtail daytime programs, they said, they would prefer to take the following actions:

1. Eliminate non-instructional activities, such as evening and weekend programs, including athletic events, some of which may be rescheduled to daytime hours.
2. Eliminate evening adult education classes.

The Washington Post, in a December 10 editorial, makes the case for the schools' priority:

"We pass an unflattering judgment upon ourselves if we shut the schools while every other kind of public facility—stores and theaters, bars and bowling alleys, offices and all the rest—keep rolling merrily along. There is one obvious principle that ought to guide us in the difficult decisions over conservation: the best places to save fuel are those where the effects will be least permanent. If we are cold this winter in our homes and offices, springtime will remedy it. But if our children's school year is chopped up by bizarre and unfamiliar schedules, the deficit will be cumulative and the arrival of warm weather will not cure it."

That is *our* position. But we are mindful that the crisis may worsen. In response to a request from the Governor's Public School Energy Task Force we have collected data from local school systems on the additional savings in fuel to be accumulated if it becomes necessary to make further and undesirable decisions with respect to the schools.

If we operate the schools only four days a week the weekly saving is estimated at 160,000 gallons of heating oil of all types, with additional savings of 1.3 million cubic feet of natural gas, 1.8 million kilowatt hours of electricity, and 78,000 gallons of transportation fuel.

If we eliminate all evening and weekend activity our weekly saving for all types of heating oil would be about 371,000 gallons; additionally about 1.9 million cubic feet of natural gas, 3.1 million kilowatt hours of electricity, and 23,000 gallons of transportation fuel.

If we close the schools down completely during the coldest period of the year, our weekly fuel oil savings would be just under a million gallons, plus 55 million cubic feet of natural gas, 10 million kilowatt hours of electricity, and 330,000 gallons of transportation fuel.

In the extraordinary circumstances that any of these extreme measures should become essential, we would opt for the elimination of the evening program. Not only is it less disruptive than either of the other two possibilities, it promises greater savings, except in transportation fuel, than the four-day week option.

We have heard public criticism of the conservation actions we have taken so far. Why, our correspondents ask, are the schools making sacrifices while department stores remain open late every night, while sports arenas and movie houses conduct business as usual, and while non-essential business and industry go unregulated? Why, indeed! The schools have taken the initiative in conservation measures. We challenge other elements of our society to match our accomplishments. And at the same time, we believe we have done almost as much as it is possible for us to do without damaging the instruction program. We believe that in any establishment of priority allocations the schools and other agencies that deal in human services should be high on any priority list.

We would finally urge two courses of action at the national level:

1. Establishment of priority allocations with due consideration to the schools so that we may plan our programs intelligently.
2. Establishment of firm price controls for heating oil. We cannot afford to engage in price competition for scarce supplies with others whose resources are greater than ours. Our national priorities cannot be permitted to yield to those best able to pay.

BUREAUCRACY OF FCC YIELDS TO PRESSURE GROUPS, FRUSTRATES LOCAL BROADCASTERS

Mr. HELMS. Mr. President, I suppose it will do no good, but I am constrained to offer a few comments for the record about the Federal Communications Commission, and specifically as to the schizophrenia suffered by the FCC in its efforts to perform as the guardian of the broadcast airways.

I do not suggest that the FCC is any worse than any other Federal agency. But, sadly, it is scarcely any better. On the one hand, the FCC lets the television networks get by with murder in the distribution of biased news and propaganda. On the other hand, local stations are required to march to the beat of bureaucratic drums so laborious and restrictive that first, many stations are afraid of their own shadows, and second, absurd and costly paper work, that does nobody any good—and which the FCC could not possibly examine—is imposed upon local broadcasters.

I realize, Mr. President, that very few Members of this Senate have the foggiest notion, for example, about a "log inspection procedure" recently adopted by the FCC. Most Senators, I suspect, would not know a broadcaster's log from a Chinese translation of the Declaration of Independence. Neither would more than 99 percent of the rest of the American people.

It is an operational tool, used by broadcasters—but now the FCC has ordered that this daily document be prepared and put on constant public display, so that it can be examined by every two-bit pressure group that comes down the pike.

A few weeks ago, just after the FCC order was handed down, I saw a letter written by a very talented and dedicated lady who is a part of the management of station WRAL–TV in Raleigh, N.C. Her name is Mrs. Louise S. Stephenson, office manager of WRAL–TV. She eloquently describes her own frustrations and bewilderment in confrontation with the rigidity of this latest FCC directive. Senators, if they have time to read it, may be fascinated.

I ask unanimous consent, Mr. President, that excerpts of Mrs. Stephenson's letter be printed in the Record at the conclusion of my remarks.

There being no objection, the excerpts were ordered to be printed in the Record, as follow:

Excerpts From Letter Written by Mrs. Stephenson of WRAL–TV

This latest defeat has really gotten to me. It appears that the FCC has abandoned the industry at every turn in knuckling under to every demand of every pressure group. Sane arguments based on practical realities are drowned by the clamor of a better-organized bunch of trouble-makers.

I do not believe a single one of the pressure groups could survive in the marketplace. Nor would they tolerate for long the unreasonable requirements they have been able to convince the FCC are entirely reasonable for the rest of us. Will the next step be to have all of us in commercial television "public servicing" simultaneously so that the only viewer escape from the do-gooders is the "off" switch?

I'm sure members of the FCC Bar Association must be discouraged with this never-ending diet of set-backs even though the attorneys are not the direct victims of the ensuing upheavals.

For whatever it's worth I think the time has come for those of us who, with monotonous regularity, have to wrestle with new demands to stop running scared, to abandon traditional concepts of attacking the ridiculous with reason based on experience, and to go on the offensive for a change. Let's do something revolutionary: attack the sacred cows!

Why don't we suggest, for example, that the machinery to satisfy the needs and demands of the pressure groups is all ready tooled up and available to do their bidding—prime time and all. If it is so all-fired imperative that they have proper exposure via TV and radio, utilize that resource known as educational TV and radio, or the Public Broadcasting System—which comes complete with government control which would enable them to regulate and inundate with paper work to their heart's content. Educational broadcasting could use a "pick-me-up" (look at the audience figures and the silent hours) and if this type of service is in the demand the FCC is convinced it is, here's their chance to forge ahead with it—and probably with the full cooperation of commercial stations insofar as programs production expertise is concerned. Assuming the educational station situation is as adequate elsewhere as it is here in North Carolina, everybody should win: the stations, the pressure groups, and those who find this type of programing to their liking.

And let's stop pussyfooting around with respect to audience figures. If there is one overwhelming fact of life in broadcasting, it's audience figures. Saying they are not relevant, or cannot be discussed in FCC matters, is like saying guilt or innocence is an improper area for exploration in the courtroom. After all, this is where the proof of the pudding is spelled out. The absence of significant local numbers seemingly could have the effect of minimizing the great-public-uprising aspects of the propaganda peddlers and legal "eagles" who pounce on any and every thing broadcasting does or does not to. (I'll bet there's not a half-dozen people in Raleigh who would know who-the-hell the National Citizens Committee for Broadcasting might be, let alone that this organization was able to prevail presumably in behalf of a significant segment of the population with a requirement as onerous [and expensive] as public access to program logs—as a means for better broadcast service.)

Last but not least, let's propose dispersal of the members of the Federal Communications Commission. One in each of six regional offices and the chairman in Washington. This would put them a lot closer to the folks they're supposed to regulate; might create some empathy with the industry; would certainly fragment the efforts of lobbyist-types who gravitate to wholly Washington-oriented agencies. (This way they'd have to do their selling job region by region with some semblance of support.) The Commissioners could have quarterly meetings in Washington!

I know this may sound as if I've really flipped, but they've tackled the seemingly impossible and certainly the highly unlikely and pulled it off. Why can't we? We know we can't lick them on the accustomed terms so why not take off on some innovative tactic? If nothing else we might keep them busy working on the defense for a while, and therefore off of our backs.

NEW DEFENSE ALTERNATIVES REQUIRE CLOSE CONGRESSIONAL STUDY FOR STRATEGIC AND BUDGETARY IMPLICATIONS

Mr. CHILES. Mr. President, the Secretary of Defense, James R. Schlesinger, during the early part of January has been discussing various options that he feels ought to be considered within U.S. defense strategy. He has talked about orienting U.S. nuclear missiles toward Soviet silos so as to be in a position to knock out Soviet retaliatory capacity without hitting civilian localities directly as would now be the case. This shift to what Secretary Schlesinger calls a counterforce capacity would require expenditure by the United States for research and development of missiles with more manuevering capability.

These discussions of U.S. defense strategy by the Secretary have opened a considerable controversy over the strategic implications of such a shift in relation to the SALT talks, first strike capability, and United States-Soviet military build-ups. I think these issues should be thoroughly explored by the Congress in all their various ramifications so that we are fully informed and aware as we play our role in determining the Nation's defense policy.

From my experience in reviewing budget reform and procurement legislation now before the Senate, I would like to call attention to the fact once again that decisions regarding research and development, though in and of themselves of relatively minor cost, are almost always a trigger for much larger expenditures down the road on major programs. Research and development seem inevitably to provide enough of a foothold for the start of a program that the step from R. & D. to the full-throttle go-ahead is much easier than the initial step to undertake R. & D. in the first place. This fact is the way that the tail gets to wagging the dog in our Federal budget, not just in defense but in social programs as well. Because of this as a general matter I think we in the Congress need to be especially careful about authorizing research and development expenditure on anything because once we do that a constituency gets put together and some sunk costs are made which people always want to get some results from rather than scrap the program and we are off and running on a program despite ourselves. In particular, the strategic alternatives discussed by the Secretary of Defense require our closest scrutiny not only from the point of view of national defense but also from the point of view of the budgetary implications.

My real concern is often a major shift in policy or a new major weapons system decision is made by the initial inclusion of a small sum of R. & D. expense and Congress never debates and decides the major issues. We can lose perspective and control over budgets and defense policies if we focus only on pieces of the budget—agencies, R. & D. items, and weapons—without asking what purposes—what missions—what goals—these pieces are ultimately going to serve. What we need is a functional budget that relates these pieces to specific programs or purposes.

I am confident that Senator McClellan and Stennis are planning to examine these matters with great thoroughness in their respective committees and I add my support to their efforts.

For the information of my colleagues I ask unanimous consent to have the following article and editorial printed in the Record.

There being no objection, the article and editorial were ordered to printed in the Record, as follows:

Schlesinger and Debate on Nuclear Strategy

(By John W. Finney)

Washington, January 21.—Should the United States be able to fight a nuclear war as well as deter one? That question has been raised by Secretary of Defense James R. Schlesinger, as he tries to stir up a national debate on future American nuclear strategy.

For 20 years, the strategy has been built around deterence. Initially known as "massive retaliation," it later came to be called "mutual assured destruction"—or MAD by its detractors.

For all the variations in name, the idea remained basically the same: if one side had enough nuclear power to absorb a surprise attack and still retaliate with devastating force, the other side would never dare attack. In effect, a position of mutual deterrence developed between the United States and the Soviet Union.

Mr. Schlesinger is not proposing abandonment of this deterrent strategy. But he wants to add a new idea, called a counterforce strategy.

LIMITED NUCLEAR WAR

In essence, the counterforce strategy contemplates an ability to wage a nuclear war short of an all-out exchange between the two superpowers. Rather than attacking cities, as is envisioned under the strategy of mutual assured destruction, the two sides would be able to strike at military targets, such as airfields, production centers or even missile silos.

The rationale Mr. Schlesinger offers for this shift in nuclear strategy is that although the Soviet Union is deterred from an all-out attack on the United States, it might be tempted to strike at American military targets. In such a situation, he argues, the President should have some other option than retaliating against Soviet cities, knowing that in return the Soviet Union would be able to attack American cities.

Thus, Mr. Schlesinger concludes, the United States must be able to strike at Soviet military targets. He presumes the Soviet Union will have a similar ability if it does not already.

PUBLIC PRONOUNCEMENTS

Mr. Schlesinger has chosen to herald this change in strategies with public pronouncements starting almost from the time he took over as Secretary of Defense last July. Before a group of reporters two weeks ago, he volunteered that there had been a change in strategies so that some intercontinental missiles were now aimed at Soviet military installations as well as at cities.

Then, last week, he announced a reorganization of the Pentagon's command and control system as part of the move "to develop a wider variety of strategic options for the President in crisis situations."

What Mr. Schlesinger, in his professional way of discussing nuclear war games, has yet to make clear is how this counterforce differs from the present abilities of the United States strategic forces.

As Mr. Schlesinger acknowledges, the United States has more warheads than it needs to destroy Soviet cities and industries under the strategy of massive assured destruction. For some years, the surplus has been aimed at Soviet military installations.

PSYCHOLOGICAL EFFECT

In effect, therefore, the United States already has a counterforce ability, and the question arises as to what is new in Mr. Schlesinger's proposal.

Part of the answer given by associates of Mr. Schlesinger is that the well-publicized shift is as much psychological as it is real, as much name as fact.

The target of the Schlesinger publicity is the Soviet Union. The Schlesinger theory is that the way to deter the Soviet Union from a counterforce strike is to publicize that the United States can retaliate against Soviet military targets. Indeed, associates suggest that one reason Mr. Schlesinger is so intent on stirring up debate on the subject is to underscore this message to the Soviet Union.

To an extent, this exercise is also linked to the arms negotiations with the Soviet Union. In the absence of an agreement Schlesinger fears that the Soviet Union, by marrying its larger missiles to advanced multiple warheads, could by 1980 have a greater counterforce ability than the United States.

WHAT IS NEW

Mr. Schlesinger is therefore trying to get across the message that if the Soviet Union does not agree to make the two nations basically equivalent in strategic arms, the United States is prepared to match the Soviet Union step for step in building up its counterforce weapons.

If only as a hedge against failure of the talks on strategic arms, however, the Schlesinger proposal does contemplate some changes in the present nuclear arsenal. It is at this point that his proposal becomes embroiled in controversy.

What is new about the Schlesinger counterforce idea is that it provides for development of more accurate missiles and warheads that would be able to attack Soviet missile silos. The Defense Department, for example, wants to develop such "silo killers" for the Trident submarine missile that on the last part of their trajectory could change course.

ACADEMIC VIEW

Academic strategic planners generally agree that the United States needs more flexibility than just a strategy of mutual assured destruction. While this suggests the need for some counterforce ability, most of the experts, including some on whom Mr. Schlesinger leans for advice, believe such flexibility should not extend to an ability to attack Soviet missile silos.

The reasoning is that "silo killers'" destabilize the nuclear balance by raising fears that a nation is seeking a "first strike" ability to knock out the retaliatory force of the other side in a surprise attack.

Mr. Schlesinger's response to this objection is that since both the United States and the Soviet Union have invulnerable retaliatory forces in their submarine-based missiles, neither side can acquire a first-strike ability.

In the nuclear balance, however, perceptions can be as important as abilities. Five years ago, the United States started off on an abortive multibillion-dollar program to develop a missile defense system because it thought the Soviet Union was seeking a first-strike ability against its land-based missiles.

ARGUMENT OF CRITICS

Similarly, it is argued by some critics of the Schlesinger proposal, the Soviet Union might be tempted to build up its own nuclear forces or to use them in a crisis situation if it thought that the United States, under the name of counterforce, was developing "silo killers" capable of knocking out its land-based retaliatory force.

One suggested solution to the action-reaction cycle is to get rid of the land-based missiles, whose vulnerability makes both sides feel insecure. But this is a step that neither side is willing to take, partly because each now wants to use the land-based missiles as counterforce weapons.

Mr. Schlesinger has still not explained why he presumes that a counterforce attack, which with its radioactive fallout would probably kill millions of civilians, would not lead inevitably to an all-out nuclear exchange.

This, in turn, gets to a basic question of why must it be presumed that the present strategy of massive retaliation will not continue to deter any nuclear attack, including the use of counterforce weapons. It is around this question that the debate will revolve in the coming months.

Nuclear Targeting

Defense Secretary Schlesinger's explanation last week of the Administration's altered nuclear strategy answered some—but not all—of the major concerns advanced by its critics.

The new strategy involves re-targeting some Minuteman intercontinental ballistic missiles (ICBM's) for a "counterforce" role of striking at Soviet military installations, including missile sites, as well as cities. If this were to lead to an American pre-emptive first-strike capability—and a similar capability on the Soviet side—the advantages of shooting first might create such nuclear nervousness on both sides that an atomic exchange might be triggered in a crisis.

Mr. Schlesinger has now indicated, however, that the American objective remains crisis stability and avoidance of hair-trigger nervousness, through a continued strategy of deterrence based on a "second-strike" force capable of surviving a Soviet "first strike" and of retaliating against Russian cities. He told a news conference that the Administration was not now seeking to develop "a major counter force capability"—although he held that possibility open if the Strategic Arms Limitation Talks (SALT II), which resume next month, do not bar such a capability for the Soviet Union.

Also reassuring was Mr. Schlesinger's statement that expansion or improvement in the present arsenal of nuclear weapons would not necessarily occur—presumably if adequate limitation of Soviet forces can be achieved in SALT II. The Defense Secretary is taking the position that the size and character of the American nuclear forces will be "primarily paced" by the force structure developed by the Soviet Union.

The danger is that once an improved weapon is developed, the pressures to deploy it become almost irresistible, as former Defense Secretary McNamara warned the nation after leaving office. Moreover, MIRV multiple warhead missiles can only be brought under control by limiting flight tests and development, to head off a second generation of bigger, more accurate warheads. The United States developed the MIRV, but now, as the Soviet Union catches up, it has suddenly become the chief threat to American security.

What must be avoided now is another "action-reaction" cycle of research and development in the MIRV race that carries the United States and the Soviet Union beyond another point of no return. American nuclear superiority, by Mr. Schlesinger's own testimony, cannot be overtaken before the early 1980's by the current Soviet build-up. Warnings to Moscow to avoid a new MIRV race and to negotiate seriously in SALT undoubtedly are justified.

But if Mr. Schlesinger really means to let any future American build-up be "primarily paced" by the Soviet force structure, there is no need to rush ahead with some of the programs now under way, such as the incredibly costly Trident nuclear-missile submarine. This is designed to meet a hypothetical anti-submarine warfare threat, the character of which not only is not known but cannot even be guessed right now.

Above all is the need to hold back in development and testing of bigger, more accurate MIRV warheads. Instead of replacement and improvement of American and Soviet nuclear war capabilities, which one day might tempt a nervous leader into their use, the aim should be to limit, to reduce, and even to eliminate those capabilities by progressive cutbacks in MIRV-tipped, land-based ICBM's on both sides.

NEBRASKA WILDLIFE FEDERATION RESOLUTION

Mr. HRUSKA. Mr. President, recently a letter came to my office from Charles D. Peebler, Jr., president of the Nebraska Wildlife Federation, transmitting certain resolutions adopted in the annual meeting of this organization.

The subject matter of three resolutions had to do with wilderness areas in Nebraska. In separate resolutions, the following were the subject matter: Valentine and Crescent Lake Natural Refuges; Niobrara River; and Platte River.

At Mr. Peebler's request, I ask unanimous consent that the text of these resolutions be printed in the Record at the conclusion of my remarks.

It should be observed that the Nebraska Wildlife Federation is affiliated with the National Wildlife Federation. Its officers and members are to be commended for their deep and continued interest in the Nation's natural resources and environment—in their advancement, improvement, and preservation.

Such subjects are of high priority in our Nation's overall program. The resolutions are timely.

There being no objection, the resolutions were ordered to be printed in the Record, as follows:

Resolution No. 1—Wilderness Areas in Nebraska

Whereas, the wild and wilderness areas of this state, the country, and the world are rapidly being destroyed by the encroachment of man; and

Whereas, it is recognized that such areas are necessary as sanctuaries for the survival of native flora and fauna; and

Whereas, in a world which is increasingly urban, such areas are also essential for the well being of mankind; and

Whereas, it is recognized that one of the best and surest ways to protect and preserve these areas not already despoiled is to officially designate them wilderness areas;

Now, therefore be it resolved that the Nebraska Wildlife Federation, at its annual meeting assembled December 8, 1973, in Grand Island, Nebraska, hereby commends that the appropriate Federal and state agencies for giving emphasis and priority in establishing designated wilderness areas in Nebraska, with particular emphasis and priority placed on designating portions of the Valentine and Crescent Lake National Refuges as wilderness areas.

Resolution No. 2—Niobrara River

Whereas, the Niobrara River is one of the few remaining rivers still having significant stretches of water not already irreparably despoiled or altered by impairments or channelization; and

Whereas, such a natural area should be considered both a state and national heritage; and

Whereas, the protection and continued existence of such a heritage should receive the utmost support of all individuals and organizations concerned with the preservation of our environment; and

Whereas, without this protection these remaining natural stretches will inevitably be despoiled under the guise of progress;

Now, therefore be it resolved that the Nebraska Wildlife Federation, at its annual meeting assembled December 8, 1973, in Grand Island, Nebraska, hereby strongly recommends and urges that the presently remaining wild portion of the Niobrara River be granted the protection necessary for its continued existence as a natural area by being designated a wild or scenic river.

Resolution No. 3—Platte River

Whereas, the Platte River, for much of its course through Nebraska lies within major migratory flight paths for many species of ducks and geese and is used extensively by these species during their annual migrations; and

Whereas, the Platte River Valley from Grand Island to North Platte serves as the staging area for a large portion of the Sand Hill Crane and Whooping Crane populations during their annual migrations; and

Whereas, the destruction or alteration of any significant portion of this ecosystem would be highly detrimental to many of these species; and

Whereas, the potentially disastrous effect of the alteration of this ecosystem on the population of the whooping crane (an endangered species) and the Sand Hill crane populations could contribute materially to the decline and/or possible extinction of one or both of these species; and

Whereas, the Midstates Project will alter or destroy significant portions of the Platte River ecosystem;

Now therefore be it resolved that the Nebraska Wildlife Federation, at its annual meeting assembled December 8, 1973, in Grand Island, Nebraska, hereby strongly opposes the Midstates Project and recommends that it be permanently abandoned.

TESTIMONY OF SENATOR CLARK BEFORE THE HOUSE AGRICULTURE COMMITTEE

Mr. HART. Mr. President, recently the able Senator from Iowa, Mr. Dick Clark testified before the House Agriculture Committee on H.R. 11955, a bill to regulate the trading of futures contracts on a variety of commodities. His thoughtful remarks on this $500 billion industry are of value and interest. Thus, I request unanimous consent that his remarks be printed in full in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Testimony of Senator Richard Clark

Mr. Chairman and members of the Committee, I have come before the House Agriculture Committee this morning on behalf of myself and Senators Hugh Scott, Philip A. Hart and Clifford P. Case.

Like you, we are concerned about futures trading because of the impact on the lives of every American—and the lives of people all over the world. It affects the price the farmer receives for his produce, the price middlemen pay for raw goods and the price the housewife pays for food on the supermarket shelf. The impact of futures trading is so pervasive and important that it merits the careful and cautious attention of the Congress.

The commodity trade has received a great deal of attention in the last year. Members of the Congress certainly have taken a growing interest in it and, more importantly perhaps, so have the American people.

These hearings are focusing on H.R. 11955, one of a number of comprehensive bills that have been introduced by members of both parties in both Houses to correct the abuses—real and threatened—which have come to light. This Committee no doubt is considering all of these proposals, and my testimony this morning reflects the provisions of S. 2837, legislation that we have cosponsored. We recognize that our legislation—as with most proposed legislation—does not represent the last word when it comes to improving the regulation of the commodity trade.

Right now, for example, we are waiting for the results of an unprecedented, year-long investigation by the General Accounting Office (GAO) of the commodity trade and the government's regulation of it. As you know, GAO also did a study of the Commodity Exchange Authority (CEA nine years ago, recommending a number of important improvements. When this report is finished, it will be made available to the Congress. I understand that the report will analyze the pending bills and may recommend additional legislation. Any proposals which are not in present bills, I plan to introduce as supplementary legislation. I would hope that this Committee would consider the GAO study before reporting out H.R. 11955.

In the final analysis, the best bill probably will be an amalgam of the best of these many proposals.

The House Agriculture Committee should be commended for the many days of hearings it is holding on futures trading and the hard work that has gone into H.R. 11955. The legislation has many attractive features—no other bill sets up an insurance corporation to protect customers, for example. Nevertheless, this bill does contain some provisions that give us some cause for concern. In addition, it does not cover some areas we believe are essential to the operation of fair markets.

If there were only one thing that could be done to strengthen the regulation of futures trading, it would be to remove regulatory authority from the Department of Agriculture. This should be done for a number of reasons. First and foremost, a futures contract is not a transaction in agricultural products. When commodity exchanges were opened in the United States in the 1700's, they did indeed serve as a marketplace for the actual exchange of goods. Gradually, that function has all but vanished. Delivery of goods now takes place less than three percent of the time. In reality, futures contracts are a bet, a bet on what the price will be in the future. They certainly are not identical to a security or an insurance policy, but they are more like them than a transaction for the purchase or sale of agricultural products. Because a futures contract is so unique, it is important that the market be regulated by an independent body.

Almost 30 percent of the products, the tangibles or intangibles, which support futures contracts have not been regulated by the Department of Agriculture previously. This is because they have little relation to United States agriculture products. They include such items as silver, nickle, plywood, silver coins, propane, pepper, copper, diamonds and foreign currencies.

Some testimony has stated that 90 percent of the volume of trading is United States agricultural products. We find the figure to be closer to 70 percent, and based on the success of the new monetary market at the Chicago Mercantile Exchange expect that the percentage of trading in nonagriculture commodities will increase. Recently, a contract in ship charters was announced and contracts have been proposed in home mortgages and petroleum. Thus, we question the jurisdiction of the Department of Agriculture over these nonagriculture commodities.

Certainly, the size of the commodity trade itself warrants a special, independent agency even if nothing else does.

Right now, there are 14 active commodity exchanges, and in the last fiscal year alone, $268 billion worth of regulated commodities was bought and sold in this country. That matched the entire federal budget for the same fiscal year. If unregulated commodities are included, the total volume is close to $400 billion and expected to reach $500 billion for calendar year 1973. By comparison, the New York Stock Exchange had only $200 billion in business. With so much at stake, the commodity trade certainly deserves a bit more attention from the Federal government, and that attention should come from a regulatory commission with the stature and independdence of the Securities and Exchange Commission.

Right now, the commodity trade is "regulated"—in the loosest sense of the world—by an agency of the Department of Agriculture, the Commodity Exchange Authority. The CEA has been severely criticized for inadequate regulation by the General Accounting Office, newspapers, Congress and even by those who are regulated by it. Perhaps its lack of effective enforcement is due to insufficient personnel and funds. But one doubts that this is the only reason—especially when we recall that the General Counsel of the Department of Agriculture ruled that the CEA had the power to seek injunctions, but the CEA refused to exercise it. They said such power was not specifically spelled out by Congress.

H.R. 11955 does not appear to sufficiently remedy these problems. While the bill provides for higher pay for top-level employees, its own lawyers and four part-time public members on the Commission, these are relatively small changes. The personnel of the present Commodity Exchange Authority are transferred automatically to the new commission. The Secretary of Agriculture or his designee will be the chairman. Commissioners still may be part-time employees.

Under the Commodity Exchange Act today, there is a commission, called the Commodity Exchange Commission, whose members are the Secretary of Commerce, the Attorney General, and the Secretary of Agriculture who acts as chairman. H.R. 11955 expands the commission to five members, retaining the Secretary of Agriculture as chairman with four members selected from the general public. Under present law, the commissioners serve only part time, as may they under H.R. 11955. This is not acceptable in our judgment.

As long as the commissioners are part-time employees, there is little assurance that they will do more than routinely approve the decisions of the Secretary of Agriculture, just as the present commission has done. The full commission has seldom met in the past. Under H.R. 11955, it need only meet once a month. At first glance, it might seem that four public members of the commission would be preferable to the Secretary of Commerce and the Attorney General, but the bill also requires that they be "knowledgeable in futures trading" without further elaboration. Doesn't this mean that the members necessarily will have to be chosen from the industry that they are supposed to regulate? This certainly has been the disturbing trend on all too many other Federal regulatory agencies—and one not to be encouraged as this legislation does. We believe that it would be preferable merely to require that the Commission members be chosen from the public.

Thus, we would hope that this Committee might reconsider the approach in this legislation, creating instead an agency totally independent from the Department of Agriculture with full-time commissioners chosen from the public.

The framework of the bill also causes some concern. It is in the form of amendments to a law which already has been amended 18 times, a law which is repetitive and almost unintelligible. To add another 78 pages to that law, may invite problems. It will increase the ambiguity of the law, make it more difficult to determine the intent of Congress and thus make it more difficult to monitor the performance of the commission. As with all too many of our laws, it will be so complex that only a handful of men and women will completely understand it.

The bill permits the Commission to grant antitrust immunity, providing that anyone who acts in accordance with a rule, regulation or order of the Commission, or one approved by it is exempt from antitrust laws. This provision assumes that the Commission members will have sufficient expertise in the complex antitrust laws to evaluate every rule, regulation and order for its antitrust implications. Today, many lawyers devote their entire careers to the area of antitrust law. The Department of Justice maintains a division of some 300 attorneys just to deal with the antitrust laws. The Federal Trade Commission has an equally large and qualified staff. This provision would transfer authority over the antitrust laws from the Department of Justice, the Federal Trade Commission and the federal courts to the Commission. We cannot ignore the fact that the Department of Justice has a suit pending against the Chicago Board of Trade, charging it with illegally fixing commission rates. Under this bill, if the Commission approved price fixing by the Chicago Board of Trade, the Department of Justice suit would be mooted. Such a broad delegation of power—especially in such an important area as antitrust—is not warranted.

The bill also permits floor brokers and futures commission merchants to trade for their own accounts under rules promulgated by the Commission. Iowa Congressman Neal Smith testified before your Committee on the subtleness and multitude of deceptive practices and abuses possible in trading for one's own account and at the same time trading for a client. In his bill, H.R. 11195, he prohibited this kind of trading. A study released by Yale University a few months ago also recommends that floor traders be prohibited from trading for their own accounts. As the "Yale Legislative Services Report on Commodity Exchange Reform" said, "it is well known that clever manipulation of stop, buy, or other market orders can be used to manipulate prices by unscrupulous traders." The Securities and Exchange Commission prohibited such trading in 1964.

Some have argued that in thin markets floor brokers may need to trade for their own accounts to provide liquidity. This argument is unpersuasive. First, there is no requirement that a broker trade for his own account when the market is thin. If he does so, it is completely voluntary, and it can be safely assumed that he does so because of a monetary benefit, not out of charity. Moreover, brokers more often trade in the liquid markets rather than the thin ones. The Securities and Exchange Commission has solved the liquidity problem by creating specialists who deal only for their own accounts and are required to do so whenever the market is thin. The Yale Study recommends specialists as the solution to any similar liquidity problems on futures markets.

No one is suggesting that floor traders be eliminated. Rather, it is simply proposed that a person be required to make a choice—between trading for himself and trading for others. If the floor trader does provide any liquidity, he would be available to do so. Some may argue that not enough people trade solely for their own account. However, there seems to be no evidence to support that. In fact, an official of the Chicago Mercantile Exchange has said that on that exchange almost all specialize as brokers or traders.

While H.R. 11955 provides for injunctions, it requires the Attorney General to take the case to court and prohibits ex parte temporary restraining orders. The inability of the Commission to go directly to the courts could result in delay and, it will give the Attorney General veto power in an area in which he has no expertise. In an area as complex as futures trading, it would seem more appropriate to permit the Commission to seek an injunction instead of leaving it to the Attorney General. Not surprisingly, the Securities and Exchange Commission has the power to seek its own injunctions.

The bill's provision forbidding a court to issue a restraining order ex parte also raises questions. Rule 65(b) of the Federal Rule of Civil Procedure provides that a temporary restraining order may be issued ex parte, for up to ten days, if an attempt is made to give notice to the adverse party and if immediate and irreparable harm will result before the adverse party can be heard. If H.R. 11955 provisions are designed to protect the adverse party, it would seem Rule 65(b) already does so. To require the Commission to wait for the adverse party in a situation that demands immediate action and would result in irreparable harm would negate the entire purpose of temporary restraining orders.

The bill also requires the Commission to approve all bylaws, rules, regulations and resolutions of an exchange except those relating to margins. While, generally speaking, an exchange is in a better position to set margins than the Commission, we think the Commission ought to have the power to yellow margins. An exchange might set a margin at an unreasonably low amount—or no margin at all. In such a case the Commission would be powerless to act.

There are a number of provisions in S. 2837 which I hope you will consider.

A requirement that exporters and importers report to the Commission the status of negotiations for exports and imports and of sales and purchases abroad (Sec. 209). This would forewarn the Commission of large foreign sales and purchases which may affect futures trading and permit the Commission to take action to prevent a chaotic market.

A requirement that daily records be kept by exchanges showing the time of a trade, the price, the contract, the name of the trader and that this information be available to the Commission (Sec. 208). Such information would alert the Commission to large trades by particular traders or to patterns of trades which might be a sign of market manipulation or of large foreign sales.

A requirement that a foreign trader post a surety bond before he is permitted to trade in United States exchanges (Sec. 303(b)). Such a requirement would help ensure that foreign traders are subject to the jurisdiction of United States courts. During recent volatile markets, there have been charges that foreign traders, immune from United States jurisdiction, traded on United States exchanges and may have manipulated prices. If they use United States markets they should be subject to United States laws—just as domestic traders are.

A requirement that futures commission merchants determine that traders are financially able and suitable to trade futures contracts and advise traders of the speculative nature of the contracts (Sec. 301(1) and (2)). To protect the market from those who can't meet the financial obligations (and protect those persons from themselves) futures contract merchants must do more than take a potential trader at his word. The Securities and Exchange Act regulations have a similar requirement.

A requirement that the exchanges give prior approval to advertising and that all advertising warn of the speculative nature of futures trading (Secs. 201(3) and 306). This also would help keep speculators out of the market who do not understand it and who cannot meet its financial obligations.

Require members of a clearinghouse to maintain adequate minimum capital and margin requirements (Sec. 201(b)(2)(A)). The clearinghouse members are the most crucial people in the financial functioning of the exchange. While a clearinghouse may require adequate financial backing out of self interest, the Commission should have power to police it.

Require that a member of the consuming public be represented on the Commission (Sec. 104(a)). Certainly, futures markets affect consumer prices. Therefore, consumers ought to have a voice in regulation. Consumer representation would help to eliminate the bias that is built into H.R. 11955 by requiring that all members of the Commission (other than the Secretary of Agriculture) "be knowledgeable in the commodity trading business."

Require fair representation of members of the public on the Board of Directors of exchanges (Sec. 201(b)(2)(A)). Public members should be on the board because they have a direct interest in their operations.

Mr. Chairman, no one should underestimate the importance of this work—here in the House Agriculture Committee and the Senate Committee—in reforming the regulation of the commodity trade. After spending the earlier part of this month in Iowa, it is obvious to me that both the farmer and the consumer are very much aware of the significance of the commodity trade and its impact on their lives. And they certainly don't have much confidence in the way things are now.

The Senate Agriculture Committee sponsored hearings in two of Iowa's beef producing centers several weeks ago, and Congressman Mayne and I both had the opportunity to listen to more than 40 representatives of the industry—farmers, packers, retailers, whoesalers—and virtually without exception, they were seriously concerned about the role of the commodity trade.

They strongly suspect that manipulation on the commodity exchanges has resulted in higher grain prices, higher beef prices, and shortages. And, after the infamous Soviet Wheat Deal, I don't think they're willing to trust the Department of Agriculture any longer with regulation of such an important industry. They realize that just as a political party or an Administration cannot investigate itself neither can an industry police itself. They expect vigilance. They know that vigilance requires independence and strength from a government agency, and because the commodity trade deals not in pieces of paper, but in their food, the people of this country are entitled to nothing less.

Thank you.

NATIONAL AVIATION FACILITIES EXPERIMENTAL CENTER, POMONA, N.J.

Mr. CASE. Mr. President, 15 years ago the Federal Aviation Administration elected to locate its research center, the National Aviation Facilities Experimental Center (NAFEC), at Pomona, N.J.

The site was selected because of the special advantages which Atlantic County offers.

Although the Federal Aviation Administration has undertaken a review of NAFEC, I am confident that the considerations which led to the location of NAFEC at its present site are as valid today as they were 15 years ago.

For this reason I have worked with the officials and citizenry of Atlantic County and Atlantic City in bringing their case to retain NAFEC to the attention of FAA Administrator Butterfield.

I was pleased when the Administrator returned the study team's review and asked the team to work with local officials in finding ways to strengthen the economic and operational effectiveness of the facility.

So that my colleagues may know the full support that NAFEC has in New Jersey, I ask unanimous consent to print the following resolution in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

ASSEMBLY RESOLUTION NO. 15—STATE OF NEW JERSEY

An Assembly Resolution memorializing the Secretary of Transportation of the United States to desist in plans to transfer the National Aviation Facilities Experimental Center, or any part thereof, from Pomona, New Jersey

Whereas, The Federal Aviation Administration has indicated that it is considering plans to move its existing installation known as NAFEC from its location in Pomona, New Jersey, and

Whereas, Municipal, county and State leaders, together with the community at large, have expressed opposition to the transfer on grounds that it is most injurious to the economy of Atlantic county and New Jersey, and not in the best interests of the Nation; now, therefore,

Be it resolved *by the General Assembly of the State of New Jersey:*

1. That the General Assembly hereby expresses its opposition to the movement of the National Aviation Facilities Experimental Center, or any part thereof, from Pomona, New Jersey, as inimical to the economy of this State.

2. That the Secretary of Transportation of the United States be, and is hereby, respectfully requested to direct the Federal Aviation Administration to cease and desist in its present plan to move the National Aviation Facilities Experimental Center from New Jersey.

3. That authenticated copies of this resolution, signed by the Speaker of the General Assembly, and attested by the Clerk be transmitted to the Secretary of Transportation.

4. That further copies of this resolution be transmitted by the Clerk of the General Assembly to each member of the Congress of the United States elected from the State of New Jersey.

PREDATOR CONTROL

Mr. HANSEN. Mr. President, tomorrow afternoon, 20 of my distinguished colleagues in the Senate, and Congressman W. R. POAGE, chairman of the House Agriculture Committee, will be meeting with Secretary Morton to discuss the Interior Department's objectives with respect to controlling predators.

I am concerned that some people have misconstrued this meeting to be primarily a plea for relaxation of the Executive order prohibiting the use of toxicants in predator control; its real purpose is to obtain factual information on the Department's research and control efforts.

It is the responsibility of the Interior Department to provide protection for livestock and wildlife from wanton depredation. We want to know how the Department proposes to do this, and what methods of control can best be utilized to come to grips with the problem.

Furthermore, I am troubled by the state of hysteria that has come about as a result of certain accusations in newspaper editorials and environmental newsletters that we are responding to the "political muscle" of the National Wool Growers Association. The fact is the ranks of the Wool Growers are so decimated by economic factors brought about in significant degree by predators that they have very little political muscle. The industry, nevertheless is important to the State of Wyoming and to the Nation.

So long as I am in the Congress I intend to do my best in representing my State and Nation.

Wyoming has experienced severe depredation problems for several years. So that my colleagues in the Senate might be able to recognize the seriousness of this situation in Wyoming, I ask unanimous consent to have the Wyoming Senate Enrolled Joint Resolution No. 1 of the 42d legislature of the State of Wyoming, 1974 session, requesting the Environmental Protection Agency, the Department of the Interior, and the President of the United States to provide the State of Wyoming with a means of controlling predatory animals which threaten deer, antelope, sheep, and cattle, printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

ENROLLED JOINT RESOLUTION NO. 1

A joint resolution requesting the Environmental Protection Agency, the Department of Interior and the President of the United States to provide the State of Wyoming with a means of controlling predatory animals which threaten deer, antelope, sheep and cattle.

Whereas, predatory animals are causing losses in the deer and antelope populations in the State of Wyoming, and

Whereas, predatory animals are causing great financial losses to the sheep industry in the State of Wyoming, and

Whereas, the cattle losses in the State of Wyoming are increasing due to predatory animals, and

Whereas, rabies occurs in Wyoming and increased predatory animal populations provide the reservoir for outbreaks of rabies, and

Whereas, the Environmental Protection Agency, the Department of Interior and the President of the United States have banned all effective and economical means of control of predatory animals and have not provided any alternative methods of control as was promised and also have denied all applications for emergency relief action which had been promised.

Now therefore be it resolved by the Legislature of the State of Wyoming that the Director of the Environmental Protection Agency, the Secretary of the Department of Interior and the President of the United States be requested to provide the State of Wyoming adequate relief immediately.

Be it further resolved that the Legislative Service Office transmit copies of this resolution to each United States Congressman and United States Senator, the Director of the Environmental Protection Agency, the Secretary of the Department of Interior and the President of the United States.

THE ENERGY CRISIS

Mr. HATHAWAY. Mr. President, there have been a number of predictions lately about the potential effect of the energy crisis on all segments of our national economy. In Maine, as elsewhere, we are already experiencing heating oil shortages and rising gasoline prices, with the worst of the winter yet to come. But the inconvenience of cooler houses and restricted Sunday driving cannot compare to the tragedy of a significant increase in unemployment—something we are now told to expect before the end of 1974. And, as past experience has taught us, when the national economy sneezes, New England gets pneumonia. During the last nationwide recession, many areas of Maine had unemployment levels of twice the national average, with some in the neighborhood of 20 percent.

I applaud the efforts of the administration to make industrial fuels a high priority in order to minimize the impact of the energy crisis on jobs. But, ironically, this policy, which necessarily limits nonessential travel, could well have the effect of further exacerbating the troubles of northern New England. I refer, of course, to the essential part which tourism plays in the economics of Maine, New Hampshire, Massachusetts, and Vermont. In the three Northern States, almost 10 percent of the total jobs are directly or indirectly related to the tourist industry. Close to 3 million automobiles entered Maine alone between May and October of last year, considerably more than half of which were visitors to our State. I am quite confident that the figures for New Hampshire and Vermont are comparable.

But the best estimates now are that the height of the gasoline shortage—with skyrocketing prices and closed stations—will hit sometime this summer, during the peak of the New England tourist season. The economic and human consequences of this, Mr. President, could be catastrophic. I am told, for example, that the Maine tourist figures I just mentioned mean more than $500 million in annual income to the State and generate the equivalent of more than 24,000 year-round jobs. This is not a trivial problem; solutions will require imagination and serious effort by all concerned.

One of the best approaches I can think of would be the initiation of autoferry service via Amtrak to Boston and Portland. Such service could originate in either Cleveland or Washington or both. Upon disembarkation at Boston or Portland, visitors to New England would have their cars and campers for travel within the region without the long initial drive presently necessary. I realize that there are technical problems involved such as limited overpass height and a general lack of passenger equipment. But in times of crisis, these are the kinds of problems we have traditionally been able to surmount.

At this moment Amtrak is preparing for the initiation of autoferry service this spring and summer—but the new service is slated for the Midwest to Florida run—the same route which is on the drawing board for the successful private Autotrain company. Mr. President, why do we need duplicate service to Florida, especially in the summer, when there is no service at all into New England?

Why cannot Amtrak use the equipment it is assembling for the Florida run in New England in the summer and Florida in the winter? This would appear to me to be a more rational use of scarce and vitally important resources and I intend to elicit Amtrak's views on the matter. This question may at first glance appear unimportant, but I would remind my colleagues, and Amtrak, that in many areas, vacations are serious business.

By way of conclusion, I would like to introduce an article on this subject by Red Chaplin of the Boston Sunday Herald-Advertiser of January 27, 1974, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RAILROADS CAN HELP CAMPERS

(By Red Chaplin)

Somewhere there must be a junior executive in either the recreational vehicle industry, a tourism promotion bureau, or Amtrak or perhaps another railroad, whose boss has told him to come up with new ideas.

This writer would like to propose an idea that can help all three industries, and maybe get the junior executive who pushes it a fat promotion. In fact, we'll donate our idea as this column's contribution to keeping things going in spite of the fuel crisis.

The problems faced by all three industries—and faced by the public that might benefit—have to do with moving large numbers of people long distances to get to vacation areas. The gas shortage threatens cutbacks if not an end to use of recreational vehicles and less business for tourist areas. And everybody knows the railroads need help.

My idea is a simple one. Transport recreational vehicles and their owners by train to vacation areas! I can visualize an "Amtrak Vacation Special", made up of flat cars for the vehicles and dining cars and coaches for the people, loading up at Boston. As it travels south more RV's and their vacationing owners board at New York, Philadelphia, etc. headed for Florida and other southern watering spots.

This summer, similar trains could head up into northern vacations areas in Maine, New Hampshire, Vermont and other New England states. There could be trains to take camping families and their equipment to the Mexican and Canadian borders, or cross country to the U.S. west coast.

The customers would not need gasoline for the trip, only enough to get to the loading area, and from the point of unloading to their campground. Think of the fuel savings!

And there are customers. Over four and one-half million travel trailers, truck campers and motor homes are registered in the United States. There are another nine to ten million families who camp by tent or rent equipment. Recent surveys of this market indicate that it has an extremely high degree of dedication. People owning camping equipment say that they intend to keep on using it as much as ever—even if they have to camp close to home because of gasoline supplies. Why should they have to, when vacation areas are crying for the business and the railroads need help?

Finding ways to keep Americans camping is a good way of saving energy. A family of four will use one-fifth the energy resources while camping that their average suburban dwelling consumes when they're home. Saving 80 percent of the nation's energy resources is a worthy goal! Every family that can be delivered to a campground this summer will help the energy crisis by that much.

There are a couple of small tourist businesses in Mexico that are already using trains to transport recreational vehicles and their owners. Admittedly, these are package tours with everybody getting on and getting off at the same time. This alone would be workable here, but its only a matter of scheduling and loading according to destination to provide for people disembarking wherever they want to.

Who will be the first to see himself named in this column as the imaginative businessman who put his idea into effect?

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to U.S. Census Bureau approximations, the total population of the United States as of February 1, 1974, is 211,759,102. In spite of widely publicized reductions in our fertility levels, this represents an increase of 80,257 since January 1—that is, in just 1 month. It also represents an increase of 1,463,464 since February 1, 1973.

Over the year, therefore, we have added enough additional people to fill a city the size of Milwaukee and Indianapolis combined. And in just 2 short months, we have added as many people as now reside in Wilmington, Del.

I KNEW BRANDEIS

Mr. HUMPHREY. Mr. President, in these troubled times it is gratifying to be reminded that there remain many good and wonderful people in this great land of ours.

It is, therefore, with pleasure that I take this opportunity to say a few words about a friend and constituent who has devoted much of his 80-plus years to the service of the people of Minnesota and the United States. I speak of Mr. Alex Kanter, whose honesty and integrity in the practice of law have been well recognized in my State, and who has participated actively for many years in the Jewish War Veterans Department of Minnesota.

I have received an article written by Alex Kanter entitled, "I Knew Brandeis." It is an historical piece and of great interest.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

I KNEW BRANDEIS

(By Alex Kanter)

All of the great things of life come into being because some man or woman has a dream, a vision, an idea, coupled with courage and foresight. The great man neither breaks the ground nor gleans the harvest; he is the sower who casts the seed upon the field already to receive it and make it grow.

When a man establishes in his thoughts and conduct the proper relation between himself and the rest of the world, he is always good and often great. Brandeis was erudite and wise, distinguished as an American and as a Jew was such a man.

Brandeis was a dreamer of dreams. He lived in an era when Jews in transition—snug and secure—did not want to becloud their emancipation by allowing themselves to dream with him. They thought him radical.

Looking back over the flood of years which pass with the fleetness of an express train, we often feel that on many an occasion Brandeis must have thought of the lines of Rabbi Ben Ezra, "Now who shall arbitrate—ten men who love what I hate, shun what I follow, slight what I respect, ten men whose eyes and ears watch me—they this thing and I that—who shall my soul believe?"

In our student days at the university we worked after school in the office of George Loftus, a member of the Grain Exchange and an outstanding national authority on Interstate Commerce. Under his guidance we rose to the position of the company's rate clerk. Our office a cubby hole, its furnishings a desk, a rickety chair and a bow-legged stool; rate tariffs crammed the shelves.

It was in the era when the Seattle-Spokane rate case was pending in the United States Supreme Court. Brandeis, in his capacity as Amica Curia, met with Loftus to gather statistical data. It was to this little office that Loftus brought Brandeis, saying, "I want you to meet a great American; he is one of your people and he is in your hands. Have him meet the people of your faith." But the so-called upper strata of the people of our faith were cool and hesitant and neglected our pleas. For me this meeting grew into a life-long friendship. I admit that Loftus told Brandies that I was in a position to give him whatever statistical data he needed. We spent days and days checking and evaluating freight rates.

Ordinarily, as a rule, we brought a cheese sandwich from home as our lunch, but Brandeis insisted we eat with him. We went to a coffee shop with counter service in the Grain

Exchange. Brandeis instructed the waitress to add pie and ice cream to whatever the order—then a luxury. Evening after evening we spent talking to Brandeis in his hotel room or just walking.

One could talk more openly to Brandeis than to one who comes to the Temple after eating bacon. We told him how the North Side was amazed that six boys from the heart of the Ghetto, their fathers pack peddlers, wagon peddlers, entered high school at one time, and the people on the Avenue said that it truly must be a Messianic age for such a miracle to happen. We told him that when the butcher asked Mother that now that we had entered high school, what we were going to be, she told him that he was trying to divert her from complaining that there were too many bones in the meat that he sold her. To this the butcher said, "If I throw in a piece of liver with the order, will you tell me?" Mother replied, "Yes, he is going to be a professor."

Brandeis explained that life is like a house with many windows; that he very much would like to visit an area where one can feel the heartbeat and pulse of the people, so on foot we tarried to the North side, the then heart of the Ghetto. Here the language spoken was the traditional Yiddish; in the stores they sought articles they were accustomed to buy in the old country; the signs on the butcher shops were written in Hebrew characters—the papers they read were Yiddish. They thought in their own language, worshipped according to the rituals to which they were accustomed; all other atmosphere was foreign to them—a people whose whole world had no larger horizons than the little town in which they were born in some obscure part of Europe.

A visit to the North Side without dropping in at Brochin's Delicatessen, a stone's throw from the "Shul" (synagogue), is like a sumptuous dinner without dessert. At Brochin's the Jews of the city actually rubbed shoulders, even if one be a socialite he was still possessed of a stomach—and where else was there a place where one could get the best pastrami, smoked meat, bagel, and lox than at Brochin's? One of social status might be noticed nudging a less fortunate creature in search of a herring—if in his opinion the smoked white fish was fresh.

Brandeis was fascinated as to what we observed, and then said, "Now you know what I mean by an open window."

We went across the street to the old "Shul". It was explained to him that daily, men, scholarly men, at times hungry, regardless of the clime, at sunset wend their way to the Beth Hamadrash (study chapel) to pour over the Talmud, and split hairs over the interpretation of Mamonades, Spinoza, Socrates, and even delve into Copernicus and Darwin. Brandeis commented that these men were thirsty for knowledge—a thirst never quenched. When it was pointed out that there was another study group of men, not so learned, the Mishna group, he said, "Here there is only one aristocracy—that of learning."

To best describe the character of Brandeis, we recall an incident in Child's Restaurant. He noticed that some aged patriarchs, their heads covered with skull caps, ordered dry toast and tea in a glass. Brandeis changed his order to toast and tea.

On leaving the North Side, he expressed a desire to met with the Jewish students at the University, then some seventy in numbers; so we took ourselves by trolley to the campus of the University of Minnesota, where we met them in front of the old Library Building. What did Brandeis tell them? He told them that they must evaluate to the elders the culture which they had accumulated—it was something that must be shared.

The face of Brandeis beamed when informed that three nights a week students conducted a night school in the vestry room of the old Synagogue, where pack peddlers, wagon peddlers, patriarchs with flowing beards, and women wrapped in shawls, predominated the class. He was even told of Herschel, the aged patriarch of four score and ten, who said he came to class for one reason—that when he approached the gates of heaven he could recite the "Shma" in English.

Brandeis was not without a sense of humor and enjoyed a little banter. Once when he was sitting in a coffee shop, Dr. Kallen ordered a glass of hot milk, but became perturbed when the waiter said they had no hot milk. Brandeis suggested to the waiter that if they had milk they could warm it. Kallen said he never thought of that.

On another occasion one Chana, a wag of national repute, approached Brandeis to spell out Chana der Bewooster (well-known). When Brandeis replied he did not know, Chana said, "A fine man they make for a judge—he cannot even spell 'Chana der Bewooster'."

SOME PLAIN FACTS FROM AN EXPERT: HARRY THORSON

Mr. HANSEN. Mr. President, I have received a letter from a man who I regard as one of the Nation's most knowledgeable in the area of sound business practice for the independent petroleum operator, and I would like to share some of his views with my colleagues.

The letter is from Harry Thorson of Newcastle, Wyo., and he is among Wyoming's most successful businessmen in the mineral industry. Harry Thorson knows as much about the petroleum industry from the independent's standpoint as any man in this country—having spent more than 50 years of his life in the business, and working his way up from laborer to head of his own company.

Mr. President, I ask unanimous consent that Mr. Thorson's letter, which capsules some sound advice for the Congress of the United States, be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: "Knowing you (Hansen) are a Member of the Energy (Interior) Committee in the Senate, I was shocked beyond belief when I listened to the remarks of the Chairman of the Committee, Senator (Henry) Scoop Jackson, on a television interview last Sunday, Januray 27. Although Senator Jackson belongs to a different political party than I, he had always impressed me as a conservative and able Senator, who did his homework, know what he was talking about, was sincere, and was dedicated to doing what was best for our country.

"As one who has worked more than 50 years in the oil industry, I am able to speak from experience.

"My first work was for the Illinois Pipeline, a division of the Marathon Co., where I worked for nine years. Then, for 10 years I was production and drilling superintendent for the largest independent in the Osage Oil Field in Weston County, Wyo. In 1941, I secured my own oil production and have battled in the oil game as an indepedent ever since. I have served as a director of the Rocky Mountain Oil and Gas Association for 25 years, and was a member of the National Petroleum Council for two years, 1958 and 1959.

"Senator Jackson makes a lot of fuss about the oil producers' profits in 1973. Granted, they were larger than in 1972. But he must not forget about the many lean years, especially back in the 1930s, when high gravity oil sold for 40-cents per barrel in the mid-continent. He should also remember that most oil producers pay a royality of 15 to 20 per cent of the production to the landowner. Much of this royalty goes to the Federal Government in the Rocky Mountain states, and also to the states, on state land. No depletion is collected by producers on royalties paid.

"In addition to royalties, most states have a severance tax of from 1 to 5 per cent. As a result, the producer has to give away a fourth of the oil he produces before any money is available for expenses and drilling new wells.

"Senator Jackson should know that while percentage depletion permits mineral producers to deduct a percentage of their gross income from each producing property in computing taxable income, the deduction is limited to 50 per cent of the net income from the property, before deducting depletion. Consequently, a great deal of crude is produced without anyone taking depletion.

"Stripper wells (those producing less than 10 barrels per day) account for 13 per cent of our national production. Senator Jackson and the others on the Committee should know there are many small independent producers who make their livelihood from producing stripper wells, while providing employment for many others.

"Senator Jackson should know also that the oil producers in this country pay a greater proportion of school, county and state taxes than any other business. A great deal of time and money has been expended by the oil producers in development of secondary recovery methods. Some of these ventures have been successful, and others have not. Nevertheless, millions of barrels of oil have been recovered by secondary recovery, that otherwise would have been lost. The producer pays the same royalty and taxes on the secondary oil as well as the primary.

"It is well for Senator Jackson, and you other Members of the Energy Committee, to know that the pipe to case these wells, and production equipment, constantly increase in price. Unless stripper wells can be produced at a profit, they will be abandoned, and the equipment sold—and no more oil will come out of these locations.

"One reason this country finds itself in an energy crisis is the restrictive position the Federal Power Commission has taken in pricing natural gas at the well head. The restrictive measures the Bureau of Land Management has placed on the leasing of federal land, including oil shale lands, has contributed further to the dilemma, as well as the many impractical rules the U.S. Geological Survey forces compliance with by producers—and, on top of all this, the Congress gave us OSHA (Occupational Safety and Health Act).

"The idea that Senator Jackson suggests—that all profits be put back into the search for new oil—is entirely academic, and not practical. Just give the industry a fair chance, and some day they will figure out a way to recover most of the 70 per cent of the oil that is now left underground. Through their endeavors, and with new technology, many new fields will be discovered.

"In closing, let me say to all of you: don't forget the stripper wells. Don't fence us in with a lot more laws and regulations that make it more difficult to operate."

Sincerely,

HARRY THORSON.

NATIONAL HEALTH POLICY

Mr. HUMPHREY. Mr. President, in response to my request, subsequent to hearings last year on the costs of health care by the Subcommittee on Consumer Economics of the Joint Economic Committee, a study paper, entitled "An Approach to National Health Policy," was prepared by two witnesses at these hearings, Dr. Eugene S. Mayer and Mr. Glenn Wilson, of the School of Medicine at the University of North Carolina.

Dr. Mayer is an assistant professor in the division of family medicine and Mr. Wilson serves as associate dean of community health services.

A workable and responsible national health plan is of paramount importance in the United States today. I believe that this outline of certain basic requirements under such a plan, provided by these gentlemen whose competence is well recognized, contains valuable insights and recommendations, and merits the attention of Senate and House colleagues.

Mr. President, I ask unanimous consent that this study paper be printed in the Record.

There being no objection, the study paper was ordered to be printed in the Record, as follows:

An Approach to a National Health Policy[1]

INTRODUCTION

The highly elastic demand for health services and the highly inelastic supply of personnel, determined largely by the guild nature of health professional organizations, lie at the heart of the American dilemma of making quality health services both available and accessible at a socially acceptable price.

Historically, government at the local, state, and federal level has responded to this dilemma as a financier of health services and as an underwriter of the cost of training health manpower. Viewed in this perspective, it is not difficult to understand (1) why more than half of the recent cost increases in health have been pure inflation and (2) why accessible health care is unequally available to the American people. Insurance companies and Blue Cross/Blue Shield also have evolved a role of laissez-faire paymaster for services provided with little, if any, potential for impact on the nature, scope and organization of these services. Indeed, Blue Cross/Blue Shield and the commercial insurance companies have developed as a conduit collecting money from the public and passing it along to those legally entitled to collect it. To assume financial responsibility for demand generated outside their control, while underwriting the cost of supply created by professionals, appears to be unwise public policy.

We have had twenty years of relative affluence in meeting generated demand, frequently category by category. In addition, the government has provided generous support in behalf of image fulfillment of the various guilds. This has led to the development of an intransigent, complex, highly articulate series of political power groups. Development of a rational national health policy will not evolve easily nor can it emerge out of simplistic politically expedient solutions. Each of the foregoing factors must be dealt with directly.

THE APPROACH

Health services have traditionally been examined from the health professional's perspective of financing, facilities, organization, manpower, research and utilization. The inevitable conclusion has been that there are too few people working in health fields, and that we need more research, more facilities and more financing. Only recently has there been reasonable attention to the notion that better organization is necessary. If the nation is to develop a national health policy that is in the public interest and which influences the above factors in a coordinated manner, it appears that policy formulation needs to start with a set of criteria more oriented to the consumer than to the provider of service.

It must be accepted that any national health policy will necessarily entail making certain assumptions and ultimately establishing some value judgments. While unanimous agreement on the criteria is unlikely, the best available must be determined. Then it will be essential to review our existing national experience to develop some range of quantification for these criteria which can at least carry us through the decade of the nineties. At a minimum, those responsible for public policy would have at least some tangible objectives by which the policy could be measured.

CRITERIA

The following are offered as appropriate consumer-oriented criteria:

1. *Availability and Accessibility of Service*—Some definition of accessibility and availability which can be measured in quantifiable terms appears to be essential. Since these factors relate to both the geographic and temporal proximity of services, a series of questions can be formulated. For example, how near, either in terms of time or distance, should primary medical care be to every citizen? (One half hour? One hour?) What should be the longest any person should have to wait for urgent or emergency medical services? What should be the maximal delay for routine annual checkups? These criteria also deal with a much more complex set of social, cultural and economic questions and although services may be in the neighborhood, these services may not be available because the hours of work of the individual and the hours that services are available are not compatible. Services may not be available because the individual is black, poor, etc.

2. *Scope of Services*—Some definition of the scope of the overall program with the establishment of priorities appears essential. It appears improbable, even prior to quantifying the demand for all health services, that a national health policy can provide all services. For example, can complete psychiatric services be available and accessible to the entire population?

3. *Cost*—Some estimates of the socially acceptable percent of the gross national product which is to be devoted to health would appear necessary in order to establish the parameters of a national health policy. For example, is seven, eight, or nine percent of the gross national product the socially acceptable level? Is there no limit?

4. *Continuity*—Some definition of the consumer's potential for receiving emergency service, primary care, secondary care and highly specialized care in some orderly fashion must be developed. It is an important element if one wishes to have more than episodic, uncoordinated services which are frequently duplicative and wasteful.

5. *Quality*—Some yardstick and machinery for the evaluation of quality is an important consideration. There is a developing body of knowledge on this subject which needs to be brought together in the definition of national health policy.

RECOMMENDATIONS

Once these criteria have been agreed to and then sufficiently defined, an important second step would be to make some short- and long-term projections of the demand for services, category by category, illness by illness, on an age and sex specific basis for the nation. Although this would undoubtedly have to be expressed as a range of services, a review of the existing experience would make it possible to project the demand for specific types of services and to provide some objective basis for evaluating policy.

Further examination of the organizational structure of health services and further elaboration of the self-policing guilds in health appears essential if a national health policy is to be successful. Public policy is unlikely to be served so long as a self-appointed body controls entrance into the structure, generates its own demand and publicly articulates the need for more or less personnel, once the demand has been generated.

Based upon the demand assumptions, projections could then be made on the number of specific personnel required in each area to meet the demand and to estimate the physical resources required. One could also project population movements within the country so a systematic approach to the distribution of personnel would be possible.

It appears appropriate, if there is to be a national public policy for health to define, for purposes of that policy at least, the range and scope of services to be available in primary and specialty care for all citizens. In the absence of such definitions, one finds an unequal and often inappropriate assortment of primary and specialty care in various centers. This directly relates to our existing problems with the duplication of expensive physical facilities and equipment and with the inefficient use of personnel.

Having established the criteria by which policy and program would be evaluated, and having established the assumptions for demand and the personnel to meet that demand, priorities could then be established to implement the program. One could project estimated need, the geographic location of need, the priorities of need and then stimulate the training of personnel and the allocation of resources in order to meet the need previously agreed upon. One could also develop guidelines which would identify which aspect of the program is to be managed at the local level, the regional level and the federal level and permit a delineation of the role of government and the private sector in managing the health care system.

Essentially, this proposal suggests criteria needed for the development of a comprehensive national health policy from the perspective of the consumer. It also indicates the need for further elaboration and definition of these criteria. It then moves to the need for a quantification of the determinants for these services. In summary, it is proposed that this information would make it possible to establish priorities and permit those responsible for a national health policy to stimulate financing, facilities, organization, manpower and research, based upon the criteria previously agreed upon.

The need for a rational national health policy is clear. It appears most appropriate for this to come from the Congress with assurance that such a policy be followed over a sufficient period of time and with sufficient consistency to allow for an accurate measure of the impact of the policy.

THE ENERGY EMERGENCY ACT

Mr. FANNIN. Mr. President, today the conference reconvened on S. 2589, the Energy Emergency Act. This body has twice rejected the conference report dated December 20, 1973.

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[1] Developed for the Joint Economic Committee Subcommittee on Consumer Economics by Mr. Glenn Wilson, Associate Dean, Community Health Services and Eugene S. Mayer, M.D., Assistant Professor, Division of Community Medicine, Department of Family Medicine, School of Medicine, University of North Carolina

On December 21 the conference report was set aside and a substitute in the form of title II to the Wild and Scenic Rivers Act passed the Senate.

Just last week the Senate again rejected the conference report by sending it back to conference. The Senate refused to accept the result of the conference work with just cause. We need not here repeat at length the many infirmities of the conference report. The following list of its inadequacies should suffice.

1. *Section 103*—Establishes a Federal Energy Emergency Administration, into which all powers under the bill (and some previously existing powers now held by the President) are placed.

Establishes an independent agency with virtually no administrative authorities, no viable staff structure, no funding authorization, and no provision for continuity with existing activities under FEO. Would establish a marginal, if at all operable, agency.

Should be deleted in favor of well-tracked, separate Congressional action (S. 2776, passed Senate; H.R. 11793, report to House Floor) proceeding on course.

Deleting this provision should also be accompanied by deletions of "Administrator" throughout the bill and substituting "President" where appropriate.

2. *Section 105*—Provides a staged system of Congressional approval/disapproval for energy conservation plans proposed by the Administrator (President): (a) until March 1 plans are effective immediately, subject to disapproval by either House within 15 days; (b) between March 1 and June 30 plans must lie over for 15 days before taking effect, subject to disapproval by either House; (c) after June 30 plans must be approved through legislation.

The staging in this bill poses administrative difficulties. While we do not object to Congressional participation in conservation plans, there should be a uniform system of submission to Congress which permits the voicing of objections within 15 days. The objective would be to provide consistency and yet allow sufficient administrative flexibility.

3. *Section 107*—Requires promulgation of a contingency plan for allocating energy-related supplies and equipment, which must be submitted to Congress before it can take effect under the same staged system applicable to conservation plans.

This should be authorized, as with conservation plans, rather than directed to be done within 30 days. This will permit greater responsiveness to rapidly changing conditions.

The submission to Congress ought to be modified as suggested with respect to Section 105, above.

4. *Section 110*—Provides a mechanism designed to discourage windfall profits and price gouging. The Renegotiation Board is established as the agency which will receive petitions and complaints from "any interested person" who believes that in any transaction involving petroleum products the seller has obtained a windfall profit (as defined to include excesses beyond "reasonable profit," which the Board will determine considering several listed factors). Further judicial review is available. This procedure will become effective one year after the bill's enactment, but will then retroactively cover all transactions since enactment. During the intervening year the President is directed to exercise his price control authorities under existing law to avoid windfall profits.

The administrative and judicial workload which would be produced by the *ad hoc* type procedure strongly argues against its adoption. There would be major judgemental and procedural problems in determining price-cost relationships for individual transactions, producing both inequities and multiple appeals. The intervening year would additionally produce great uncertainty pending the effective date of the Renegotiation Board procedure and its retroactivity.

Immediate and effective action to preclude excess profits can be taken through an appropriate taxing scheme, which will be equitable and yet allow incentives for exploration and development. The Administration's windfall profits tax proposal will shortly be before Congress, and we urge deletion of this provision pending enactment of such a tax.

5. *Section 112*—Requires factors of equity and fairness to be considered in taking action to allocate or restrict energy use.

Largely duplicates other similar requirements stated in Section 4 of the Emergency Petroleum Allocation Act. To the extent it goes further in speaking against arbitrary action and discrimination, could give rise to litigation since allocation can be by definition somewhat arbitrary and discriminating.

Proviso in 112(a) would require U.S. to allocate only 3 days' supply of energy to British firms in U.S. so long as England operates on a 3-day work week. This proviso and entire section should be deleted as unnecessary.

6. *Section 114*—Deals with the potential antitrust difficulties which may arise through voluntary agreements and plans of action among members of the petroleum industry in order to assist the Government in resolving the energy emergency. Involves the Attorney General and the Federal Trade Commission in administering and monitoring such agreements or actions.

This provision is unduly restrictive and burdensome, to the extent that it would discourage potentially helpful voluntary agreements and plans of action.

Section 314 of S. 2589 as passed by the Senate takes a more reasonable approach which is favored by the Justice Department over the present provision. It would provide more effective results, and therefore should replace the present conference language. In the alternative, existing law may be relied upon.

7. *Section 115*—Provides authority to impose restrictions on exports of fuels and related products.

In effect this duplicates existing authority now being exercised under the Export Administration Act and the Mandatory Petroleum Allocation Act. To avoid confusion this section should be deleted.

8. *Section 116*—Provides for consideration of and assistance to those unemployed as a result of the administration of this legislation.

Unemployment should be avoided and eliminated where possible as an evil in itself, not through an attempt to determining its cause. Determining who fell within the scope of such a program would be impossible. It would be far preferable to enact the broad unemployment insurance program proposed last year by the President, which would assist all unemployed.

9. *Section 117*—Provides for involvement by the Secretary of Transportation in a national carpool effort through grants and other assistance administered through an Office of Carpool Promotion in the Transportation Department.

This provision is unnecessary because of the Emergency Highway Conservation Act enacted just prior to adjournment, which provides sufficient authority to carry out the objectives of this provision.

10. *Section 118*—Provides complex procedures for administrative and judicial review of rules and orders under this legislation.

Close study during the recess has raised a number of ambiguities and inconsistencies which seriously affect the ability of any organization to operate under this section. It is also difficult to determine to what extent this section applies to other sections of the bill. Because of the potential confusion which this section would create in its administration, deleting it and permitting the Administrative Procedures Act to apply in the ordinary course would be the better action.

11. *Section 124*—Requires the promulgation of a regulation requiring persons doing business in U.S. engaged in exploring, extracting, and refining for petroleum, natural gas, or coal to provide detailed reports every 60 days on energy supplies. Retail operations are exempted from reporting and further exemptions may be granted persons where they now provide similar data to Federal agencies.

This requirement will place a huge administrative burden on persons engaged in such businesses as well as the Government, even though such data will not be needed bimonthly on such a comperhensive basis. On far more *selective* basis, the additional data not now collected by the Government can be gathered to develop the necessary information on petroleum, natural gas, and coal supplies in the energy development process.

We feel strongly that additional data is required from industry, and the Federal Energy Office has already instituted a plan to collect all appropriate data. To insure prompt collection, there is a need to carefully define the types of information needed and how it should be made available consistent with the preservation of full industry competition.

The Senate/House FEA bills have a general authority provision that provides the Administrator with authority to require reports from persons in the energy business. In addition, the Administration plans to submit draft legislation to the Congress for authority to gather the necesary data on a selective basis.

12. *Section 203*—Provides with respect to automobile emissions that (a) interim standards for emission of carbon monoxide and hydrocarbons applicable to 1975 model year light duty vehicles and engines shall be extended to apply also to the 1976 model year; (b) the Administrator of EPA may extend these standards for one additional year under certain circumstances; and (c) that standards for oxides of nitrogen applicable to 1975 model year (3.1 grams per mile) shall also apply to the 1976 model year, and that the standard for the 1977 model year shall be 2.0 grams per mile.

The interim 1975 standards for hydrocarbons, carbon monoxide and oxides of nitrogen should be extended *now* for 2 years—to cover model years 1976 and 1977—so that there will be a steady target for a known and fixed period of time enabling manufacturers to concentrate on maximizing gasoline mileage. Extending the standards for 2 years would have no significant adverse impact on our progress in improving air quality.

13. *Section 206*—Requires (a) a study and report to Congress within 6 months of potential methods of energy conservation; (b) an "Emergency Mass Transportation Assistance Plan" to expand and improve mass transit to be submitted to Congress in 90 days; and (c) a study of a proposed high-speed ground transportation system between Tijuana, Mexico and Vancouver, Canada to be reported to Congress and the President by December 31, 1974.

The "Emergency Mass Transportation Assistance Plan" contemplates a Federal program of operating subsidies for mass transit, which we strongly oppose. The appropriate Federal concern should relate, in our view, to extending service for the purpose of shifting riders from autos to transit, which studies show subsidies tied to fare reductions would not tend to accomplish.

The Transportation Department has already studied the Tijuana to Vancouver system issue, and has developed information which indicates serious technical and economic problems. Rather than devote additional resources to further study, it would seem more useful for the Department to discuss their findings with the appropriate Congressional committees.

The leader of the Senate conferees today is attempting to inject a totally new provision into the conference report to roll back prices. He failed to give any of the conferees detailed advance notice of his plan. It was requested. He denied the request.

Under the ruse of conducting hearings on a price rollback bill, S. 2885, he asked for testimony, but he told the witnesses he had no intention of acting on any manner of legislation resembling it. Instead, he had a secret substitute which he was not going to bother acting upon according to the Senate rules. He was going to impose it upon the conference report. Only today did he release his substitute.

The day before yesterday the chairman received testimony from five economists, all experts on energy.

John Lichtblau, executive director of the Petroleum Industry Research Foundation, said he favors a price rollback but not prior to further study based upon testing the impact of the proposed rollback scheme on an economic model.

He said:

> To do otherwise could be disastrous.

Dr. C. Jackson Grayson, Jr., of the School of Business Administration at Southern Methodist University in Dallas; Dr. Thomas Stauffer, research associate, Harvard University Center for Middle Eastern Studies; Mr. Warren Davis, Gulf Oil Corp.'s chief economist; and Mr. John Emerson, energy economist of Chase Manhattan Bank, all opposed a rollback for various reasons ranging from its adverse impact on domestic energy supply to international economic and political dangers.

I call the attention of my colleagues to the testimony of these witnesses who were unanimous in opposing incorporation of a price rollback scheme into the Energy Emergency Act. I ask unanimous consent that the written testimony which is available be printed in the RECORD, because it will not be available to Members in committee print form by the time they are called upon for the third time to vote on the conference report on S. 2589.

I urge my colleagues on both sides of the aisle to carefully study this testimony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DALLAS, TEX.,
February 2, 1974.

Senator PAUL J. FANNIN,
Capitol Hill, D.C.:

Appreciate the invitation to testify before your committee on the subject of price ceilings for roll back. Regret that on such short notice (less than 24 hours) I will be unable to attend. I believe this issue is important enough that some statement should be made available to the committee. Accordingly I am sending you the following brief comments in this telegram. I understand that it is the chairman's intent that price ceilings for price roll back provisions be contained in the energy emergency bill the conference on which is to be convened this Monday.

In my opinion the energy pricing issue is far too complex to be handled in pending legislation without considerable additional investigation. The consequences of moving too quickly and without sufficient background information on such a measure could place this Nation in greater international jeopardy by inhibiting rapid movement toward domestic energy self sufficiency. Specifically before legislation is developed regarding this matter the following issue should be addressed: (1) what impact would such a provision have on the domestic production of energy to include crude production of old oil, new oil and stripper crude synthetic energy materials such as oil shale, gasification and liquification of coal, nuclear energy, geothermal energy, solar energy, and other new energy forms? (2) What precedent would such ceilings have on establishing additional ceilings for other internationally traded commodities whose price has also risen? Such commodities might include ferrous scrap, nonferrous metals, raw cotton, etc. (3) What impact would such measure have if additional legislation were enacted involving any of the following: A. repeal of depletion allowance, domestic and international. B. Repeal of intangible drilling expense allowances. C. Imposition of excess profit tax? (4) What are the hazards of imposing price ceilings on crude oil or petroleum products when cost of producing and refining oil have dramatically increased? (5) What positive impact has higher petroleum prices had in reducing demand and thereby conserving energy? (6) What are the dangers to be contemplated by any proposed arrangement for petroleum price ceilings, no matter how carefully drafted, on the operation of the market place?

In light of these issues and other issues which I have not begun to be able to contemplate I would advise against taking unnecessarily quick action regarding price roll backs or related matters in the pending energy emergency bill.

Dr. C. JACKSON GRAYSON, Jr.,
School of Business Administration,
Southern Methodist University,
Dallas, Tex.

TESTIMONY OF DR. THOMAS STAUFFER, RESEARCH ASSOCIATE, CENTER FOR MIDDLE EASTERN STUDIES, HARVARD UNIVERSITY

I would oppose a price roll back at the present time, in the absence of much more careful consideration and better information, because a price roll back could have a number of important and serious repercussions on our national economy, and possibly on national security.

(1) It would perpetuate our dependence upon foreign sources of unreliable oil imports.

(2) It could mortgage our future supplies of energy in order to offer a very short-run dividend in the form of slightly lower prices. This might be good politics, but it is bad economics.

(3) The hidden costs of energy shortages can be a much greater burden than the visible costs of higher oil prices. It is better to pay more but to have energy, than to pay less and thus to get less energy—and cause still more jobs to be lost.

(4) There is a disastrous precedent for unwise price regulation of energy resources. We must remember what FPC price regulation did to the natural gas industry. Those price controls were implemented in the name of consumerism. And those policies of Commissioners Swidler and White promoted the waste of energy and created today's shortages.

(5) Finally, last October we embarked on a policy in the Middle East which created today's energy crunch and cost American jobs. In the face of today's shortages, it seems unwise if not folly itself, to make another political decision which would reduce the incentives for the production of domestic energy. Having cut ourselves off from oil from Middle Eastern producing countries, if not careful we might find that price rollbacks and revisions of the oil tax laws might dry up our otherwise promising domestic sources.

Price rollbacks and oil tax revisions as called for by Chairman Jackson are definitely not the direct route to achieving energy self-sufficiency. On the contrary such actions can impede the attainment of self-sufficiency.

Such measures do not contribute to any solution of our country's energy problem. Indeed, the proposed price rollbacks and possible revisions in the tax laws seem better designed to perpetuate and worsen the energy crisis. Specifically, these measures would reduce our production of domestic oil and increase the already dangerous import gap. Senator Jackson's proposals could ultimately render us still more dependent upon foreign oil imported from the Middle East. Far from fostering energy self sufficiency for the U.S., these measures would render us still more vulnerable to more serious oil embargoes in the future.

The United States has already lost some 20% of its oil supply as a consequence of our political policy in the Middle East, and now millions of Americans must bear increasing inconvenience, while hundreds of thousands have already sacrified their jobs. Any act which could impair the remaining domestic supply is at best perverse, if not an act of absolute folly. At this point we need all the oil which we can produce. Higher prices are certainly unpleasant—no one wants to pay more—but higher prices alone are the most direct route towards emancipating ourselves from the political dangers of greater oil imports. Given our commitment to Israel, the best alternative to imported oil is a strengthened domestic oil industry, not one weakened by price cuts.

Such measures appear to be expressly designed to perpetuate and exacerbate the present energy crises. If price rollbacks are implemented, the consumer in the short run obviously pays less for gasoline or heating oil, but over the longer period the consumer would also get less. We must ask which poses the greater burden for the consumer—some market-related price for a commodity or the ramified costs of shortages such as we begin to see now? Which is more serious—paying market-related prices for an indispensable resource or the still greater costs resulting from not having enough?

Given that we are confronted with acute shortages in key areas, it seems imprudent, if not irresponsible, to reduce the incentives for energy production until the ramifications and implications of these steps are fully understood. Otherwise, we shall resemble the farmer who decides to get more in the short-run by eating all of his seed corn. His belly was certainly more full for a few months, but the price for such a short-lived bounty can be long years of unpleasant deprivation.

A central issue here is the relationship between the prices of oil and gas and the additional production which can be obtained from increased prices. It is clear that our potential reserves of oil and gas are very large. In particular, these are large enough that exploitation of such conventional reserves can greatly facilitate our switch to coal or nuclear sources over the longer-run.

It is exceedingly difficult to estimate the supply elasticity for oil or gas, i.e. how much more one can discover and produce at higher prices, or, conversely, how much less one might have if real prices were to decline. Conventional econometric calculations are so unreliable that I for one do not believe them even when I might agree with the result.

However, a simple-minded set of engineering-type calculations leads to the suggestion that there should be about a fifty-percent increase in potential production for every doubling of the price. Thus, very approximately, a twenty-five per cent reduction in price equates to a loss of about 12.5% of potential production, or about 1.5 million barrels per day. This is roughly equivalent to one half of the present level of shortfall induced by the oil embargo. Therefore, we are talking about effects which are serious.

This very rough computation allowed only for the ability to drill deeper wells in response to higher wellhead prices. Everything else remaining equal, an average price increase of 50% would permit the depth of the average well to increase from around 5600 feet to circa perhaps 6800. In a special sense this means that 20 per cent more stands may be tapped.

More generally, however, two additional effects contribute to a still greater increase in production as a consequence of a price increase. First, it is economically justified to explore for smaller or less certain deposits in older, less more shallow zones. Second, secondary or tertiary recovery projects may be implemented more thoroughly, increasing output both from new finds and also from older reservoirs. Finally, one can operate in deeper water offshore, increasing the scope for new discoveries, or one can develop lower-quality, higher-cost fields when found.

All of these factors contribute significantly to a higher yield of new energy supplies when price incentives are raised. But, conversely, such opportunities can be lost if prices are cut or tax incentives reduced. Especially at this time, when we have lost some 20% of our oil supply as a consequence of our Middle Eastern policy, we should be cautious indeed before we jeopardize any fraction of our remaining domestic supplies of energy. These price rollbacks and tax modifications deserve the most careful scrutiny, lest we sacrifice future crops while savoring enjoying the seed corn.

Complex issues with complex ramifications cannot be resolved overnight nor even in 48 hours. The issues raised in this hearing deserve review, but once again, in conclusion, I urge the utmost caution and discretion.

Testimony of Warren B. Davis, Before the Senate International Committee, Concerning S. 2885, February 2, 1974

My name is Warren B. Davis. I am Director of Energy Economics for the Gulf Oil Corporation and reside in Pittsburgh, Pa. I was Chairman of the Coordinating Subcommittee of the National Petroleum Council's U.S. Energy Outlook Study.

I would like to discuss some of the aspects of S. 2885.

I believe the goal of 85–90 percent self-sufficiency in crude oil by 1980 will be an extremely difficult one to attain. It will require an all-out effort to explore for and develop domestic oil supplies. In the context of the National Petroleum Council's Study on the U.S. Energy Outlook, only Cases I and II approach this goal. These cases both assume a finding rate about 50 percent above the past trend. Thus, it would be dangerous to count on them in laying plans. A more realistic possibility might be the Case I drilling rate which envisions an increase of six percent per year in drilling, combined with a discovery rate in line with past trends. This produces results similar to Case II which results in 80 percent of the U.S. energy requirements being supplied by domestic fuels in 1980.

Then if we are to be 85–90 percent self-sufficient by 1980, we will need to develop synthetic fuels at an even greater rate than the projections in any of the cases in the National Petroleum Council study. Thus, it will require an all-out effort, not only on domestic crude oil, but also on synthetic fuels.

I cannot forecast for you exactly what oil price is needed to encourage an all-out effort, and I doubt if anyone else can either. There is a great deal more involved than just the price of oil in encouraging all-out efforts in the development of fuels in this country. Rather than list other factors here, I would simply refer you to the National Petroleum Council study.

I think it worthwhile to try to compare the present situation with one that occurred in the past. After World War II, war-time price controls were removed and the average price of crude oil increased from $1.22 per barrel in 1945 to $2.60 per barrel in 1948. Between 1946 and 1957, drilling increased from 28,000 wells to over 50,000 wells, and as a result U.S. crude oil reserves increased by about 50 percent. I cannot say for certain that the same would happen today, but it looks as if we face a similar situation. It is interesting that during this 1946–1957 period, the oil industry did not have extremely large profits for more than a very short period of time, because the high prices induced people to spend more money looking for and developing oil.

If the U.S. is to achieve a high degree of self-sufficiency, then we need prices that will induce very large investments in synthetic fuels. Referring again to the National Petroleum Council study, the committee estimated synthetic oil from shale and coal to have costs, including a return on investment, in the range of $5.00–$8.00 per barrel. However, these estimates did not include land costs and there is great uncertainty about the magnitude of the environmental costs. Both of these factors tend to make the upper end of this range look more likely at the present time than the lower end. The most significant fact, however, is the basic uncertainty as to what oil price will encourage a forced-draft development of our synthetic fuel resources in this country. The results of the recent shale oil lease sale make it appear that the present new oil prices are sufficient to encourage the development of synthetics. It is questionable whether a substantially lower price would, and it is reasonably certain that putting an arbitrary ceiling price on the new oil price will be a discouraging factor.

A factor that is most discouraging to the idea of arbitrarily lowering the new oil price is the inability of anyone to accurately determine what will be the effect of an arbitrary reduction in price. At the present time, the new oil price in the U.S. is free of control and presumably is either seeking or has already found its natural level. I believe the course of action most likely to maximize the development of our domestic fuel resources is to continue to leave this price free of control. At least two factors are working to prevent free prices from resulting in "windfall profits" to producers: (1) When oil producers get more revenue, they traditionally use it to explore more territory and drill more wells. This normally has gone on until their profitability level is back somewhere near the level before the price increase, and instead of resulting in a lot more profit, it results in more production. (2) The only really good long-term solution to high oil prices is a substantial increase in supply. If the supply is great enough, the prices will go down, and the sooner we get to that point the better.

The dual price structure maintained by the Cost of Living Council has been livable, but it creates economic anomalies to have a single lease producing identical oil with two different prices. I endorse the statement made by the Cost of Living Council in the introductory material to its Phase IV Regulations, published August 17, 1973 in which they say, "The Council will continually monitor the ceiling prices of domestic crude petroleum and intends to make periodic upward adjustments in the ceiling price toward the higher world prices for crude petroleum."

In closing I would like to comment on Senator Jackson's remarks in the Congressional Record of January 24, 1974. On Page 728, the Senator interpreted the National Petroleum Council report as saying that the U.S. would achieve the greatest feasible level of domestic self-sufficiency with a crude oil price of $4.35 per barrel in 1975. I would like to call your attention to a statement on Page 39 of the Summary Report of the National Petroleum Council's study which says, "These required 'prices' and production rates provide useful information about supply and price. However, they should not be construed as measures of supply-price elasticity." I would also like to point out that National Petroleum Council study was directed at the long-range outlook, particularly toward the period 1980-1985 and if any such interpretations are to be made, they should be directed to that period. I believe Mr. Vincent M. Brown, Executive Director of the National Petroleum Council, has commented on this matter and I endorse his comments.

If I seem to be uncertain about these matters, it is simply because there are many uncertainties. I don't know how many of them could be resolved with thorough study, but I strongly recommend that any action such as S. 2885 be delayed until some thorough studies can be made.

The Role of Prices in the U.S. Energy Crisis

Statement of John D. Emerson, Energy Economist, The Chase Manhattan Bank, N.A., New York, N.Y.

My name is John Emerson. I am an energy economist of the Chase Manhattan Bank in New York. I have been associated with the Bank as an energy analysist for almost 17 years. During this time I have co-authored many of the Bank publications and have counseled the Bank's management and customers on matters relating to energy. I appear here today as an individual, not to testify for or against any specific legislation, but to contribute whatever I can to a better understanding of some of the dimensions of the energy situation currently facing the nation.

I would like to say at the outset that prices and pricing is one of the most difficult aspects of any industry to pin down. This is not surprising since price is only one of the factors that are agreed to in buy and sell contracts. The same commodity may change hands at differing prices, reflecting the volume, the length of the contract, and the urgency of the buyer's or seller's need, among other things.

For example, Iranian light 34° crude oil was sold at auction in December by National Iranian Oil Company at $17.04 a barrel. This same oil is currently being traded by the industry at about $8.45 a barrel. Arabian light 34° oil, a somewhat similar crude oil, is being sold back to the oil companies by the Saudi Arabian Government at about $10.85 a barrel.

Who is to say which of these prices represents the true market value of this grade of crude oil? Is it not more correct to say that at this point in time this grade of oil has differing market values to different customers? Left to itself, without outside interference, the market will sort this situation out.

In attempting to assess the market for crude oil, it is important to consider how much oil is being sold at what price. We cannot say that the price of crude oil in the United States is $10 a barrel if only a quarter of all the oil produced is being sold at that price. Equally, we cannot say that the price of Iranian oil is $17 a barrel when the great bulk of Iranian oil is moving at half that price.

In a free market, that is a market which is not being manipulated by governments, price is part of a dynamic relationship involving supply and demand. For twenty years we lived in a world in which price was subject to constant downward pressure because new supply was created faster than new demand could absorb it. This situation ended at the time of the Teheran agreement of February, 1971. In fact, the revenue gains won by producing governments and the consequent higher prices for oil came about because the supply/demand balance had turned in favor of the producer. After all, OPEC was founded in 1960. For more than 10 years, they achieved very little because the underlying economics of the sixties were not conducive to change.

Since the Teheran conference, the demand for oil relative to the supply has permitted further price increases for crude oil. When crude oil production in the United States peaked in 1970, any increases in demand had to be met from imports. Thus, the United States market was no longer insulated from the world market. As foreign crude prices rose higher and higher, they moved beyond domestic prices and began to drag the latter up into the vortex of world prices.

Until October 16, 1973, world crude oil price increases were the result of the normal economic interplay of supply and demand. At that time they became involved in Middle East politics. For political reasons Arab governments reduced the supply of crude oil. In economic terms, supply became managed by the only effective oil monopoly the world has seen in sixty years. The price of marginal supplies shot up. The January 1 increase in Posted Prices mandated by producing governments did not, however, reach the marginal price level. It was, nevertheless, an increase in costs of all crude oil as far as the rest of the world was concerned.

It is worth noting that between October 1, 1973 and January 1, 1974, the cost of the 40 per cent of our oil supplies that we import rose by 15 cents a gallon. On February 1 our Canadian friends will be increasing the export tax on oil they ship to us to a level of 15 cents a gallon, also. Driven by higher costs abroad, it is obvious that oil product prices are rising.

In the United States, costs including taxes are not rising as fast as they are overseas. This is leading to the idea that windfall profits are being generated. Before we pluck some arbitrary price out of the air, however, and chop off all profits arising from sales above this arbitrary number, we should consider what our objectives are as a nation.

Members of this distinguished committee have gone on record in support of greater energy self-sufficiency for the United States. And I cannot think of a more important objective for this country. What is involved in achieving this objective? Reduce to the bare essentials, improving our energy self-sufficency requires "opportunity and incentive". Private investors must be given the opportunity to increase our domestic energy supplies. This means they must have the opportunity to lease government owned oil, gas, coal and shale lands. They must have the opportunity to build pipelines, deep water ports, and refineries. Incentive without opportunity will get us nowhere. Neither, on the other hand, will opportunity without incentive. Investors have many opportunities to invest. They will select those that offer the prospect of earning the best return. I will give you a very simple example. The wellhead price of Canadian crude is fixed by the Canadian government at $4.10 a barrel. The going rate for new oil in the United States is more than twice that amount. If you had a million dollars to invest in oil exploration and production, would you invest it in the United States or Canada? The same principles apply to investment choices between different industries and between investments in different countries.

If our national objective is to eliminate wasteful energy use and increase our domestic energy supply as rapidly as possible, then it follows as surely as night follows day that the best way to do this is to maintain a high price for energy which will discourage wasteful use and which at the same time will encourage as many investors as possible, from anywhere in the world, to put their money into U.S. energy supply projects. The Soviet Union understands this principle very well, and at this time is trying to interest the United States and Japan in investing in projects to develop Soviet energy resources.

There is an obvious link, even though a changing one, between prices and profitability. If we arbitrarily lower energy prices in the United States, we will lower profitability; we will lower the incentive to invest. Two things will happen. At lower prices the demand for energy will be higher, and the supply will be lower.

Lowering oil prices now will win some quick popularity for the present administration, but it will create additional problems for the next administration. Our dependence on foreign oil will continue to rise. And as a result, our balance of payments problems will be harder to solve. Investment funds which might be attracted to this country will go elsewhere. Since the demand for energy will remain relatively high, rationing will be inevitable.

Many of our present energy problems have their origin in our attempts to over-protect the consumer. It began twenty years ago when we controlled the wellhead price of natural gas. Today's young people are paying the price of that decision. Gas is still a bargain if you can get it, but there is not enough of it to go around, and many young people who would like a gas heated home cannot obtain one.

Let us not make the same mistake again. If we try to overprotect today's consumers, what will happen to their children when they grow up? If we lower prices today, we will postpone the day when shale oil, when oil and gas from coal, when oil and gas from the Arctic and the continental shelves, will help our children fill their energy needs.

Thank you, gentlemen, for this opportunity to share these thoughts with this distinguished committee.

AMERICAN CIVIL LIBERTIES UNION LETTER TO SENATE-HOUSE CONFERENCE ON S. 2589

Mr. BUCKLEY. Mr. President, the House and Senate conferees are today resuming their meetings on the Energy Emergency Act, S. 2589, which the Senate decisively recommitted to conference last week. At every stage of the Senate's deliberations on this proposed legislation I expressed my serious objections to the excessive delegation of authority to the Executive, the curtailment of procedural safeguards, and the general abdication of responsibility that has characterized the Congress reaction to the energy crisis. The Energy Emergency Act, in its present form, is a classic example of the cure being worse than the disease.

I recently learned that similar criticisms have been given eloquent voice by the national director of the American Civil Liberties Union, Mr. Charles Morgan, Jr., in a letter dated January 16, 1974, to the cochairmen and members of the conference on S. 2589. I hope that the conferees will have read Mr. Morgan's letter with the care it deserves. While I may not personally endorse each and every suggestion in the precise form proposed, in general I find the thrust of the critique and recommendations to be consistent with what is required to insure procedural safeguards against the sweeping authority which this bill bestows upon the President to deal with the energy emergency.

Mr. President, I ask unanimous consent to have the letter referred to printed in the Record. I urge all Members of this body to take the few minutes required to read it so that they may have a better understanding of the emergency energy legislation's potential threat to individual liberties.

There being no objection, the letter was ordered to be printed in the Record, as follows:

American Civil Liberties Union,
Washington, D.C., January 16, 1974.

Hon. Henry M. Jackson,
Senate Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.

Hon. Harley O. Staggers,
House Committee on Interstate and Foreign Commerce, Rayburn House Office Building, Washington, D.C.

Cochairmen Senate-House conference committee on S. 2589.

Gentlemen: The American Civil Liberties Union is a nationwide, nonpartisan organization of more than 256,000 members devoted to the protection of the Bill of Rights. Over the years the ACLU has consistently sought to protect and expand the political freedom of American citizens and to implement the constitutional guarantees of freedom of speech and press, freedom of travel, free exercise of religion, due process and equal protection of the laws.

Today these constitutional rights are endangered by an unexpected problem—the national energy crisis. Perhaps because Americans have long been accustomed to almost unlimited supplies of fuel, the elected representatives of the people seem to have forgotten that the effort to distribute now limited energy resources can have a dramatic impact on individual freedoms.

The energy bills passed by the House and Senate and the compromise Conference report rejected by Congress in the closing days of 1973 do not safeguard the people's liberties. They do not even list the protection of civil liberties among the purposes to be fulfilled by the legislation.

On the contrary, these bills grant the President sweeping authority to regulate the daily lives of American citizens without consideration of the impact on constitutional rights. They set no standards to guide the virtually unlimited discretion granted to the President.

Provisions for Congressional veto power, included in all three versions, are no substitute for positive exercise by Congress of its responsibility to legislate to meet the current crisis while protecting the rights and liberties of all Americans.

The Conference version of the Energy Emergency Act is awaiting reconsideration by Congress on its return from vacation January 21. Unless this bill is substantially modified to ensure the protection of civil liberties, a President who has already displayed his insensitivity to individual rights will have the power to:

1. Create a federal "energy police" with the power to snoop into all kinds of private activities, from thermostat setting to driving habits, including destinations;

2. Establish a federal bureaucracy with the authority to determine priorities in the allocation of scarce fuels and to decide whether an individual's use of energy resources is essential or nonessential;

3. Limit or ban Sunday travel, thereby interfering with the free exercise of religion

and the individual right to choose whether to use limited gasoline for travel to church or work, or for recreational purposes;

4. Issue orders and regulations, directly or indirectly through an administrative agency, which become effective immediately without any requirement for public hearings until afterwards. Enforcement of such orders against uninformed, or inadequately informed, individuals or businesses violates the very essence of legal due process by failing to give notice of what the law commands;

5. Restrict the energy use of communications media, especially television and radio, thereby endangering the freedom and responsibility of the press and interrupting the free flow of ideas guaranteed by the First Amendment; and

6. Delegate much of this new authority to the states, which in turn could create an energy police force and an energy bureaucracy to regulate even more closely the travel, work, play, and political activity of their citizens.

These are not idle threats. Although a few Senators and Congressmen stood firm against the tide and warned their colleagues against overriding the rights of religious, racial, and political minorities in the rush to formulate a national energy policy and program, most were swept away.

In an exercise of political opportunism, the House amended the Senate energy bill to prohibit allocation of scarce fuels for busing children beyond their neighborhood schools—regardless of whether the affected school systems are under court order for busing to fulfill the educational rights of minority-group students. This amendment—removed from the Conference report—was not only unconstitutional but an abdication of Congressional responsibility to protect the civil rights of all citizens equally in a time of national emergency.

The ACLU urges Congress to revise its energy measures to safeguard the civil liberties of all Americans. In particular, the ACLU requests Congress to reconsider its wholesale delivery of our constitutional rights into the hands of the President, and to fulfill its responsibility to represent the interests of all the people of the United States.

The ACLU recommends revision of the energy bills (S. 2589) to:

1. Establish as a purpose of the legislation the minimization of any adverse impact on civil rights and individual liberties of any energy conservation plan or measures thereunder (Sec. 102—Senate bill; Sec. 101—House bill; Sec. 101—Conference report).

2. Limit, and set precise standards for, Presidential action by setting forth a complete energy conservation plan establishing national policy and priorities for fuel use, and prescribing specific measures for enforcement.

3. If gas rationing is among those specific measures, establish priorities among users, instead of leaving it to the President and a federal energy agency to decide. Any such list of priorities should begin with a careful definition of vital services—entirely undefined in both the Senate bill (Sec. 203(a)) and the Conference report (Sec. 101(b)(4))—and the order in which they are to be maintained. Although the Conference report in Sec. 104 incorporates the "objectives" listed in the Emergency Petroleum Allocation Act of 1973, P.L. 93–159, Sec. 4(b)(1), those objectives are themselves too vaguely defined to guide decision-making about which services are most necessary to protect public health, safety, and welfare. The House bill (Sec. 105(b)) is an improvement, since it at least identifies those services the House considers essential, including new housing construction, education, health care, hospitals, public safety, energy production, agricultural operations, mail, and transportation. But even this section fails to set priorities among these services or to provide criteria for determining such priorities.

4. Clarify and limit provisions for criminal and civil penalties for violation of the bills or orders issued thereunder. The ACLU opposes any blanket provision creating a huge new category of regulatory civil offenses not requiring the government to prove willfulness. Both bills and the Conference report contain such a provision. Due process must be strictly followed in imposing sanctions against certain kinds of behavior in an area where personal choice has long been the rule (Sec. 307—Senate bill; Sec. 111—House bill; Secs. 119 and 120—Conference report).

5. Provide adequate procedures for challenging administrative action. Judicial review of general administrative rules or orders should not be limited to within 30 days after their promulgation, as it is in the Senate bill (Sec. 312) and the Conference report (Sec. 118(b)(1)), since many persons affected will not learn of the rules in time to challenge them effectively. The House bill (Sec. 109(b)) is preferable. It accords Judicial review to all aggrieved persons under the normal procedures without restrictive time limits.

6. Require public hearings prior to the issuing of orders and rules, with exceptions only for extraordinary cases of public emergency. Both the Senate (Sec. 311) and House (Sec. 109(a)) versions and the Conference report (Sec. 118(a)) permit public hearings on rules which substantially affect large numbers of individuals or businesses to be held after the implementation of such rules—within 60 days afterward in the Senate version and 45 days afterward in the House measure and Conference report. Public input is vital to fairness in governmental regulation of heretofore unregulated activity.

7. Protect the rights of the poor (and other persons without substantial economic resources) so that they are not made to bear a disproportionate share of the energy shortage. Congress should investigate to determine and select energy conservation measures which most equitably distribute scarce resources among all citizens.

8. Protect the educational rights of all children by placing a high priority on the fuel needs of public education. Public schools should not be singled out, as they are in the Senate bill (Sec. 203(b)(2)), as early candidates for limitations on energy use. The House anti-busing amendment (Sec. 103(a) (proposed new Subsection (k) of Sec. 4 of the Emergency Petroleum Allocation Act of 1973)), which was removed from the compromise bill by Senate and House conferees, should not be revived under any circumstances.

9. Protect the free exercise of religion and maximize freedom of individual choice in the use of fuel by prohibiting restrictions on Sunday travel or business operation. If time restrictions on automobile travel are necessary, individuals should be permitted to select the day or days on which they will do without their cars. Similarly, businesses should be permitted to select which day or days they will close in order to conserve fuel.

Sincerely,

CHARLES MORGAN, Jr.,
Director.

HARRY S. TRUMAN AND THE NATION'S HEALTH

Mr. HUMPHREY. Mr. President, Harry Truman was one of our greatest Presidents, and his contributions to the Nation in many fields are gratefully acknowledged by one and all. Some of his most important proposals concerned the Nation's health. Mr. Truman initiated a sustained effort to insure quality health services for all Americans. Many of our recent accomplishments in this field, such as medicare, might have been impossible had not this farsighted President laid the groundwork.

Yet today, at this critical time in our country's development, the area of responsible health care for all of our people remains an uncompleted agenda. I believed in the 1940's that this was a crucial issue, and I supported wholeheartedly the efforts of President Truman to secure congressional approval of the historic legislation he had proposed. Now, in the 1970's, it is all the more urgent that we proceed toward the goals that Harry Truman dreamed about and tried to make possible.

I have obtained a summary concerning President Truman's campaign in the health field for which I wish to thank Mr. Edward J. Pfeiffer, a research grantee of the Truman Library.

Mr. President, I ask unanimous consent that this account be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT TRUMAN AND THE NATION'S HEALTH: A RECORD OF IMPACT, VISION

(By Edward J. Pfeiffer)

Of all of the sound, creative and farsighted proposals, known as President Truman's Fair Deal, none perhaps was closer to basic human needs than his persistent pursuits for equitable health legislation to provide better health services and adequate, essential medical care for all Americans. It was an historic effort, unmatched by previous Presidents, with sufficient depth towards the understanding and solution of the problems surrounding the area of medical manpower, hospital facilities and a fair national health insurance program.

One rightfully wonders whether Medicare and the Health Security Act of 1971 would have come to fruition without the groundwork, innovation and perceptive perspectives of the late President Harry S. Truman.

Homeward from the Potsdam Conference in August 1945 on the ship Augusta Mr. Truman gave serious indication of his interest in a comprehensive domestic program by instructing his Special Counsel Judge Samuel I. Rosenman, to draft his post-war twenty-one point Fair Deal message, detailing a program of liberalism and progressivism which became the theme of the Truman Administration. In it, as delivered to the Congress on September 6, 1945, Mr. Truman made specific recommendations for the support of medical research and public health. It also forecast his intentions to submit a health message.

Urged and moved in the White House on September 8, 1945 by Mrs. Mary Lasker to the effect that he would be the first President in American history to do so, a special health message was carefully prepared and submitted by Mr. Truman on November 19, 1945 to the Congress with the following provisions in a pioneer effort:

(a) Prepayment of medical costs through compulsory insurance premiums and the general revenues.

(b) Protection against loss of wages from sickness and disability.

(c) Expansion of public health, maternal and child health services.

(d) Federal aid to medical schools and for research purposes.

(e) Stepped-up construction of hospitals, clinics and medical institutions under local administration.

It was a remarkable basic proposal with proper scope to health legislation, including the observance of physicians' rights, within responsible national and individual guidelines.

President Truman took the following further steps to achieve a meaningful health program:

On May 19, 1947 he sent a special message to the Congress on Health and Disability Insurance so as to assure, as he pointed out, ". . . the ultimate strength from the vigor of our people." The President's earnest call was for a fair chance for a healthy life in the order of ". . . a great and free nation to bring health care within the reach of all its people." This was a significant and far-reaching recommendation in the interest of public health with particular emphasis on the need for more doctors, hospitals and increased medical research for preventive medicine and for the cure of disease.

Mr. Truman suggested that a national health insurance program be made into a part of the Social Security Act. Said he, "A national health insurance program is a logical extension of the present social security system which is so firmly entrenched in our American Democracy. National health insurance should be a part of our total health program. Until it is part of our national fabric, we shall be wasting our most precious national resource . . ."

It is in this magnificent sense that President Truman advocated the well-justified need for a national health and disability insurance system.

After several unsuccessful efforts to achieve Congressional approval of proposed appropriations measures, President Truman renewed his struggle by sending another health message to the Congress in April 1949. His premise was that of his original appeal of November 1945. He called again to good sense in order to provide, (a) A nation-wide system of health insurance, (b) Congressional action to help medical schools to expand, (c) Government help to provide aid for the construction of medical facilities, and (d) Consolidation of existing grants with provisions of State matching funds to adjust financial resources.

And he went beyond.

Said the President in characteristic candor, "The real cost of medical services and the need of them cannot be measured merely by doctor's bills and medical bills. The real cost to society is in unnecessary human suffering and the yearly loss of hundreds of millions of working days." He directed Congressional attention to the shattering of family budgets, disruption of family life, the suffering of disabilities, the permanent impairments left by crippling disease and the death of tens of thousands of persons who might live. This is the price, Truman wisely warned, America pays for inadequate health care.

Frustrated by the lack of Congressional action on his health program, in December 1951 Mr. Truman created the President's Commission on the Health Needs of the Nation. It was his hope to produce a critical study of the nation's health requirements, immediate and long-range, and thus to provide useful data for comprehensive action.

But the creation of the Commission itself was an unhappy compromise by the President. Faced with a tepid response by the Congress and with the effective, well-financed lobbying effort of the American Medical Association, Mr. Truman was left with little choice except to "study" the situation with concerned interest.

The Truman health effort had some specific successes, however. It produced increased hospital construction, it established health institutes and, within serious budget restrictions, it did manage to pass a crippled children bill.

The President had ample reasons not to be discouraged as he must have thought at the time President Johnson signed the Medicare Bill into law with Mr. Truman at his side in the Truman Library. Because he had made a lasting impact of innovation in his sound health initiatives with an eye on the future with vision and ability to tackle perennial problems in the awesome area of national health care. He paved the way for effective health legislation in the interest of all Americans, for those over the age of 65 already realized and for the rest of us, in my view, in the conceivable future to materialize.

At a time when the Nixon Administration deliberately avoids considering the nation's health needs in a meaningful manner, it is particularly worthwhile to remind ourselves of the depth of President Truman's attempts. The health field is not a partisan matter. Concerns in health matters should not, in the making of public policy, be reduced to special interests when indeed the well-being and the quality of our society hang in the balance.

A vigorous effort is urgently needed to bring government, doctors, patients and above all, as I see it, private insurance companies together to reason out in good faith the roadblocks to ensure general health care for the sick, preventive medicine and the massive infusion of funds for medical research.

Surely, it is a large request. But we are committed in principles, as a nation, to respond to the misfortune of the just and yet we seem immobilized at a time when our inventive genius should be most active for many solutions of the problems of national health care.

I wish that the Congress had listened and acted favorably on President Truman's health proposals in 1945. We would be a healthier nation today as a result. After all, Truman was often ahead of his time.

NEW ARTIST OF THE OLD WEST

Mr. MATHIAS. Mr. President, one of the vital forces in American life has been the urge to go west. For 300 years, residents of the eastern seaboard have found excitement in the beauty of America as they have explored the interior of the continent. There was a theory that the frontier ended with the 19th century and in strictly geographical terms that may be true. The spirit of pioneer America, however, is still strong and is still felt by easterners who have been capivated by the different kind of life they find far from the tidewater and salt marshes of the Chesapeake Bay.

An article in the Baltimore Sun of December 16, 1973, and in the Omaha World Herald, January 6, 1974, describes one of our western artists and his work which is known to many, not only in Maryland, but also throughout the United States. Mel Gerhold, a native Marylander, now residing in Nebraska, lives the life he paints and, indeed, is recording history on canvas, which will serve perhaps to make even more valid to coming generations some of the unique traditions of our great country. I would like to commend to the attention of my colleagues the article by Ron Speer, writer and journalist and ask unanimous consent that it be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Baltimorean Lives the Rough Cowboy Life To Paint It

(By Ron Speer)

With the rising sun sending golden gleams off nearby Crow Butte, Mel Gerhold leaves the log house where he lives and drives to Crawford, 7 miles to the west.

He parks his pickup on Main street, and swaggers on his cowboy boots into Audrew's Cafe, leaving his big, brown cowboy hat pulled low on his head while he has a cup of coffee or two with ranchers and shopkeepers and deputy sheriffs from this little town of 1,290 in northwest Nebraska.

Usually he and his friends, swapping barbed comments as cowboys do about each other's wealth and laziness and intelligence, play a numbers game on a napkin to see who picks up the tab for the dime-a-cup coffee.

Then Mr. Gerhold goes to work—but not on a ranch.

He goes around the corner, climbs some rickety wooden stairs to what once was a small apartment over an old house and picks up an easel and a brush.

The 45-year-old Baltimore-born man is an artist, a western artist, despite his eastern background, who is living the life he paints.

He rides, brands, dehorns, chases cattle, works with horses and drives his pickup over the trails that pass for roads in the cattle country, visiting with cowhands and Indians and old-timers to learn more about the lifestyle of the Old West.

And then he paints detailed, realistic pictures of the life he lives and loves.

"I wish I could have been born a hundred years ago," Mr. Gerhold says. "Since I wasn't, I think living around Crawford is as close as I can come to the Old West.

"To paint it, you have to be where your subject is. And although I have traveled all through the Southwest and Colorado and Wyoming and Montana and California, I never found a place where I wanted to live and still could work around my subjects, until I came to Crawford.

"They still rope and brand and push cattle around here like they always have—and the town is a nice place to be around.

"The people here are my kind of people—seldom do you ever find a phony. They work hard and they play hard."

Painting the Old West after growing up in Baltimore seems odd, but Mr. Gerhold is following in the footsteps of famous western artists of the past.

Frederic Remington was from New York, George Catlin was reared in Pennsylvania, Alfred Jacob Miller was Baltimore-born, William R. Leigh was from West Virginia, and even Charles W. Russell—probably the most famous of all western painters—came from St. Louis.

Mr. Gerhold first came to Crawford four years ago, when he was working out of a studio in Frederick, on a study and vacation trip to Fort Robinson, 2 miles west of Crawford.

Around Crawford, towering clay buttes—Saddle Rock, Lover's Leap, Chimney, Seven Sisters, Crow—punch into the sky like exclamation points.

Crazy Horse and Sitting Bull and Red Cloud and Sheridan and Custer and black and white cavalrymen and settlers and circuit riders roamed the land not too many years ago.

And Mr. Gerhold decided this was where he wanted to be, moving his wife and two sons here in the summer of 1972.

He's seen the now-dim tracks of the Deadwood stake run, and he's sat cross-legged with Indians while they went through old ceremonies. He's watched while American Indian Movement leaders threw fears into folks around Crawford. He's danced in Marv's Bar on Saturday nights, next to the hat-wearing cowboys who don't dress much differently than their grandfathers.

The deer and the antelope still play on the hills and plains, and there's even a herd of buffalo at Fort Robinson.

And the colors of nature around Crawford, Mr. Gerhold says, are unmatched.

"People back East wouldn't believe the colors of the sunrises and the sunsets," he says. "They've never seen purple buttes like we have around here when the sun is right."

He takes color photographs of cowboys and Indians and sunrises and sunsets and cattle roundups and herds of horses, using them as background ideas for his oil paintings, his sketches and his sculpture.

Without a doubt, though, his favorite subject is horses.

"Horses are everything to me, as far as painting goes," says Mr. Gerhold, who first fell in love with horses in Baltimore when he hung around riding stables near his suburban home.

As a boy, he used to earn lunch money from classmates at Baltimore Poltyechnic Institute drawing horses heads, and from then on, he says, "I just drew and drew and drew."

There wasn't money enough then to send him to art school, but after a Navy hitch late in World War II he qualified for the GI Bill and used it to attend the Maryland Institute.

That's where he decided to become a western artist, after meeting western painter William R. Leigh. Mr. Gerhold graduated in 1954, after another Navy hitch in the Korean war.

Since then he's been painting professionally and traveling through the West to learn more about the old days, and to collect pack saddles and gold panning utensils and Indian clothing and bits of history to make his pictures authentic.

His interest in the West helps him fit into Crawford, where ranchers and conservation officers and Indians and cowhands and retired cavalrymen tell him about Crawford's early days.

Some even buy his paintings, although the price tag is high to folks accustomed to the ways of amateurs.

He lives in a log house, just below the buttes east of town, which was built in 1933 by Levi Richardson, a rancher who is his landlord and friend. Mr. Richardson calls on Mr. Gerhold to help round up his cattle, to help brand and dehorn and castrate, to chase after strays and to share a drink in the setting sun after the chores are done.

And Mr. Richardson doesn't mind pulling a cowboy trick or two on Mr. Gerhold, who is known as a kidder and practical joker when he isn't painting.

Mr. Gerhold recently accompanied Mr. Richardson to a hog sale, and the rancher introduced the artist to strangers as "my new hog man."

At the next sale Mr. Gerhold wasn't along, and Mr. Richardson was asked what happened to "that new hog man you hired."

"Oh, hell," he replied, "that son of a gun wasn't worth a damn around hogs, and I had to let him go."

Probably Mr. Richardson was right—Mr. Gerhold isn't much of a hog man. There's never been a hog in a Gerhold painting.

But he has pictures of cowboys and hunters and Indians and winter scenes and Sand Hill landscapes and horses hanging in galleries in Wyoming and Arizona and in homes and institutions in various parts of the country. One of his pictures is being displayed this winter on a greeting card, and a Nebraska banker just commissioned him to paint a huge picture of a watering hole for cattle.

Before moving to Crawford, when he was painting out of his studio in Frederick, Mr. Gerhold presented one of his pictures to President Johnson. He also has painted a favorite horse of former New York Yankee baseball slugger Charlie Keller.

Mr. Gerhold says he has no desire to return to the East.

His father, Charles, a retired Baltimore policeman who lived on Ramona avenue, died in November.

"I tell my friends back East to come see me out here, and a lot of them do," he says. "Usually we'll go riding in the hills, and most of them like to watch the cowboys dance on Saturday night.

"Whenever I go away and then come back to Crawford, I come over the ridge and see the buttes and the pine trees and the kills—and I know I'm home."

And he has no plans to give up western painting for "modern" creations.

"I despise modern art," he says bluntly. "To appreciate a picture, I have to see the drawing ability in it. And I don't see any in most modern art.

"I may spend a couple of days just getting one cow head right out of a whole herd, while some modern painters can do a whole picture of red and white lines in less time.

"I don't think that is art. I think western art is the true American art. No other place in the world had cowboys and Indians.

"I hope I can help preserve and portray the history of the Old West. And western painting is becoming more and more popular. I believe there is a lot of cowboy and Indians in all Americans."

There definitely is in Mel Gerhold.

AN ARTIST FINDS PEACE IN THE PINE RIDGE

(By Ron Speer)

CRAWFORD, NEBR.—With the rising sun sending golden gleams off nearby Crow Butte, Mel Gerhold leaves the ranch where he lives and drives every morning to Crawford, seven miles to the west.

He parks his pickup on Main Street and swaggers into Audrey's Cafe, where he has a cup of coffee or two with ranchers, carpenters, shopkeepers and deputy sheriffs from this community of 1,290 in the Pine Ridge section of Nebraska.

Gerhold and his friends swap barbed comments about each other's richness and laziness and intelligence; play a numbers game on a napkin to determine who picks up the tab for the coffee.

Then Gerhold goes to work—but not on a ranch, despite his boots, hat and other cowboy apparel. He goes around the corner, walks up some rickety wooden stairs to what once was a small apartment over an old house, and picks up a pallette and brush.

The 45-year-old transplanted Nebraskan is an artist, a western artist who lives the life he paints.

Gerhold rides, brands, dehorns, chases cattle, works with horses and drives his pickup over the country trails that pass for roads in the cattle country. He visits with cowhands and Indians and oldtimers to learn more about the lifestyle of the Old West. Then he paints detailed, realistic pictures of the life he lives—and loves.

"I wish I could have been born a hundred years ago," Gerhold says. "Since I wasn't, I think living around Crawford is as close as I can come to the Old West.

"To paint the West, you have to be where your subject is," he says. "And although I have traveled all through the Southwest, and Colorado and Wyoming and Montana and California, I never found a place where I wanted to live and could still be working around my subjects until I came to Crawford.

"They still rope and brand and push cattle around here like they always have—and the town is a nice place to be around. The people here are my kind of people—very seldom do you ever find a phony. They work hard and they play hard."

Gerhold first came to this country four years ago on a vacation and study trip to Fort Robinson, two miles west of Crawford, one of the last outposts of the Indian wars.

The towering buttes—Saddle Rock, Lover's Leap, Chimney, the Seven Sisters, Crow—punch into the blue sky like exclamation points.

Historic streams—Soldier's Creek, White River, Squaw Creek, Sand Creek—curve through the pinestudded hills and the white buttes.

Crazy Horse and Sitting Bull and Red Cloud and Little Bat and black soldiers and white cavalry men and settlers and circuit riders roamed the land not too many years ago.

Gerhold decided this was where he wanted to be, moving his wife and two sons here in the summer of '72.

"The settling of the West was the most romantic period in this country's history," Gerhold says. "And I don't think there is any place where you can find as much history as you can within fifty or one hundred miles of Crawford."

He's seen the now-dim tracks of the Deadwood stage run, and he's sat with Indians while they went through ceremonial dances.

He's danced in Marv's Bar on Saturday nights next to the cowboys who don't dress much differently than their granddads did.

Sheepherders still roll their own cigarets, the deer and the antelope still play on the hills and plains, and there's even a herd of buffalo at Fort Robinson. The colors of nature around Crawford, Gerhold says, are unmatched.

"People back East where I come from wouldn't believe the colors of the sunrises and the sunsets," he says. "They've never seen purple buttes like we have around here."

Gerhold takes scores of color photographs of cowboys and Indians and sunrises and sunsets and cattle roundups and herds of horses, using them as background ideas for his oil paintings, his sketches and his sculpture. Without a doubt, though, his favorite subject is horses.

"Horses are everything to me, as far as painting goes," says Gerhold, who first fell in love with horses in his hometown of Baltimore when he hung around riding stables near his suburban home.

"Painting horses is a lifelong study—nobody ever gets them perfect," he says.

As a boy, he earned lunch money from classmates by drawing horses' heads. There wasn't enough to send him to art school, but after a Navy hitch late in World War II he qualified for the G.I. Bill and used it to attend the Maryland Institute of Fine Arts in Baltimore.

That's where he decided to become a western artist, after meeting famed western painter William R. Leigh. Gerhold was graduated from the Baltimore school in 1954, after another Navy hitch in the Korean War.

Since then he's been painting professionally and traveling through the West. Easterner Gerhold is following in the footsteps of famous Western painters of the past.

Frederic Remington was from New York, George Catlin was raised in Pennsylvania, Alfred Jacob Miller was Baltimore-born like Gerhold, William R. Leigh was from West Virginia, and even Charles W. Russell—perhaps the most famous of them all—came from St. Louis, a river town settled long before cowboys drove cattle up the trail from Texas to Nebraska's Panhandle.

Gerhold has had no trouble fitting into this little community, where ranchers and conservation officers and Indians and cowhands tell him about Crawford's early days. Some even buy his paintings, although the price tag is a bit startling to folks accustomed to the ways of amateurs.

Gerhold has painted Crow Butte and favorite horses and portraits for his friends and neighbors, and he also works with them when they need riders.

He lives in a log house, just below the

buttes east of town, which was built in 1933 by Levi Richardson, a rancher who is Gerhold's landlord and friend. Richardson calls on Gerhold to help round up cattle, to help brand, to chase after strays, and to share a drink in the setting sun after the chores are done.

Gerhold, who is known as a kidder and practical joker when he isn't painting, has all he can do to hold his own with Richardson. Once Gerhold accompanied Richardson to a hog sale, where Richardson introduced the painter to strangers as "my new hog man."

At the next sale, Gerhold wasn't along, and Richardson was asked what happened to "that hog man you hired."

"Oh, hell," replied Richardson, "That son of a gun wasn't worth a damn around hogs and I had to let him go."

Probably Richardson was right—Gerhold isn't much of a hog man, and there's never been a hog in a Gerhold picture.

But he has pictures of cowboys and hunters and Indians and winter scenes and Sand Hill landscapes and horses hanging in galleries in Wyoming and Arizona, and in homes and banks in Nebraska.

His latest commission was a huge painting of a Sand Hill watering hole for cattle, wanted by a Loup City bank. Gerhold finished it just in time to pack up his other pictures, load them in his pickup-camper and head for art shows in Death Valley and San Bernardino Calif.

He also has displayed his work at shows in Lincoln, North Platte and Great Falls, Mont., this year, and some of his paintings are being displayed on greeting cards this winter.

Before moving to Crawford, when he was painting out of a studio in Frederick, Md., Gerhold gave one of his pictures to the late President Lyndon B. Johnson, and also has painted a favorite horse of former New York Yankee baseball slugger Charlie Keller.

Gerhold says he has no desire to ever return to the East, preferring the openness of westerners to the fear and worry of city residents.

"Whenever I go away and drive back to Crawford," he says, "I come over the ridge and see the buttes and the pine trees and the hills—and I know I'm home."

MEDAL OF HONOR GROVE

Mr. HUMPHREY. Mr. President, the 200th anniversary of our great Nation's birth is fast approaching and there are many preparations for the Bicentennial already in progress. One of these is the Medal of Honor Grove, now being erected at Freedom Foundation at Valley Forge.

This grove will enshrine the names of all Medal of Honor recipients by State. It will stand as a lasting memorial to the courage and heroism of those young men who served above and beyond the call of duty to their country.

However, further capital is needed to insure that this fitting tribute becomes reality. National Sojourners, Inc., a military-Masonic-patriotic organization, has agreed to undertake the task of fundraising in each State. For this they are to be heartily commended. In Minnesota, Col. A .G. Silverson, of St. Paul, has been selected as State chairman of the Medal of Honor Grove Committee. This is a great honor and a great responsibility, and I congratulate Colonel Siverson on his appointment.

The Medal of Honor Grove will be an important contribution to the Bicentennial effort, and I sincerely hope it will receive the support that it deserves.

SENATOR RANDOLPH STRESSES PETROLEUM SAVINGS THROUGH COAL CONVERSION

Mr. RANDOLPH. Mr. President, over 500,000 barrels per day of oil can be saved by reconverting electric utilities from oil to coal.

Today during the House-Senate conference on emergency energy legislation I discussed potential reductions in this years demand for residual oil and heavy distillates. Some 46 electric powerplants have been identified by the Federal Energy Office and the Environmental Protection Agency that could be readily converted from oil to coal. This represents 79 percent of the generating capacity which earlier converted from coal to oil—principally, then low cost imported oil.

During the first quarter of 1974, 23 facilities could be converted with minimum environmental impact. These plants alone represent some 200,000 barrels per day of residual oil. The coal requirement would be 49,000 tons per day, or 14 million tons per year.

The remaining 23 facilities, however, will require close examination to determine their potential environmental impacts since reconversion may not be practical or consistent with environmental policies.

As of January 9, 1974, nine plants have already reconverted from oil to coal. These voluntary conversions amount to one-quarter of the administration's goal for the first quarter of 1974, which is 200,000 barrels per day.

The Emergency Energy Act requires firm commitments to meet environmental standards by 1979 before these conversions are undertaken. Thus we are coming to grips with the formulation of a true national energy policy that reflects environmental and energy concerns.

GOVERNMENT BY CRISIS

Mr. MOSS. Mr. President, the present energy crisis is due not so much to the Arab oil embargo, as to poor planning. Because we have had no forward-looking, comprehensive policy of relating our scientific and technological advances to our domestic problems, we have had to confront one crisis after another. Even now, while all our energies are directed toward resolving the fuel dilemma, a material shortage looms disturbingly on the horizon.

Yet, an editorial by C. W. Borklund in the January issue of Government Executive reveals that:

> Design teams have been broken apart, technical expertise scattered, and the art of design—has—in some cases—stagnated. And do you know there are people in high places who can't see the cause-effect relationship between that and the shortage of good schools, adequate medical care and a higher U.S. standard of living?

Senator MAGNUSON has proposed, and Senator TUNNEY and I have cosponsored S. 2495, a bill which offers an alternative to such mismanagement. It provides for the more effective utilization of our scientific and technological resources to the solution of our critical domestic problems.

Thus, we have a choice between rational management and the "government by crisis" of which Borklund spoke.

For the benefit of my colleagues, I ask unanimous consent that his editorial be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT BY CRISIS

Shivering in a fuel-less mid-winter, we are suffering once more the penalties of a basic flaw in this democratic government. Its leadership has great difficulty leading. Its machinery does not permit its leadership to conceptualize, at least not with any particular effectiveness. For the record, as a matter of policy, program, practice and legislation, it can not anticipate a problem and work around it until it belts us on the nose.

Government has a talent—of debatable sorts—for reacting to a crisis. It has first-rate ability for arguing a subject endlessly without reaching any special conclusion. It can respond with a payoff—mostly through further increase in taxes—to the pleas and vociferous demands for "help" from just about any minority sliver of our ethnic culture.

It can even lead us out of the wilderness, though not often with any great degree of efficiency. But its most glaring shortfall, we think, is that it can't seem to keep the Nation from stumbling into the jungle in the first place.

We don't think it's crying over spilt milk to complain now that this energy crisis should never have happened in the first place. The Great Teacher in the Sky is trying to tell us there is a lesson to be learned here if we care enough about our own future to listen. Otherwise, this country's democratic institutions will survive only so long as we continue to be the most affluent nation on earth. The greater the wealth, the higher the level of incompetence that a country or a business or even a person can afford.

Twenty-eight years ago, then-Navy Secretary James Forrestal warned us of the threats to world fuel supplies if a Middle East war forced people to choose up sides between Arabs and Jews. For this trouble, all he got was an indictment of being anti-semitic by columnist Drew Person.

Proposals from the White House on preventing the energy crisis have been fermenting on Capitol Hill for more than two years while most Congressmen concentrated on reacting to some variation of a thing more than accusations of self-styled Senator Henry Jackson drum-thumped for alertness and action. But not until the fuel flow dropped did his urging earn him anything more than accusations of self-styled (and mostly uniformed) environmentalists that he harbored a callous disregard for Mother Nature's cleanliness.

Energy is not the only field where Government has fumbled.

Item: experts on international trade and the economic aspects of foreign policy say the basic merits of the Trade Reform Bill (know what that is?) are inarguable. Yet, largely through procrastination and thumb-twiddling its passage is now threatened. And the irony is a lot of the people who will vote on it have previous little notion of how non-politically important it is to this country.

Item: about five years ago a panel of experts produced a study which said, basically, the Nation's economic and environmental well-being, as well as military security, would be enhanced immensely if we poured as much effort now into developing our oceanic resources as we had a decade earlier into the Space race.

But the Space race was a reactive program. A National Oceanographic and Atmospheric activity is a conceptual idea. Thus, what has been done about the proposal since is, essentially, nothing.

Item: In April, 1970, the President's Task Force on Science Policy issued a six-section plan for using "Science and Technology (as) Tools for Progress." Said the report: "The management, strength, and proper allocation of these vital (scientific and technological) resources are political responsibilities of the highest significance."

If they are, then it follows logically that Government is politically irresponsible, because it hasn't done anything appreciably significant about science policy since 1970—except to whack down research and development expenditures.

Item: as, in part, a tool for keeping the peace, the President is trying to launch a program of trade expansion and economic interdependence with Russia, China and the other Socialist countries. But, summarized one leading industrialist recently, "The U.S. Government bureaucracy is thwarting the thrust of the President's program with the USSR and is failing to properly support his trade expansion objectives with the other Socialist countries."

Item: a joint Defense-NASA-Department of Transportation study, completed in August, 1972, on "R&D Contributions to Aviation Progress" pointed out that Government R&D support is what had made the U.S. the world's leader in military and commercial aerospace technology.

But, as a result of the dramatic reduction in that support in recent years, it noted, "Design teams have been broken apart, technical expertise scattered, and the art of design has—in some cases—stagnated." And do you know there are people in high places who can't see the cause-effect relationship between that and the shortage of good schools, adequate medical care and a higher U.S. standard of living?

We could "item" you into numbness with examples of how the Federal Government (let alone state and local governments) can't seem to think and plan ahead. Maybe, if it manages it, Congress reshaping its machinery so it can budget within our income will help. Maybe, if they manage it, the Office of Management and Budget's creating a method for measuring Executive Department performance will help.

Wise and perceptive people are struggling mightily to modernize the machinery of Government. We have got to see that they succeed. The price we're paying for what we have now is too horrendous to be borne much longer.

MATERIAL SHORTAGE LOOMS

Mr. MOSS. Mr. President, in my prior remarks, I noted that a reduced supply of materials is a very real threat. According to an article in the February 4 issue of U.S. News & World Report:

> Anxiety over a cutback in raw materials from abroad is no idle concern . . . America—blessed with a wealth of natural resources—may have to worry about becoming a "have not" nation in some basic raw materials.

It is imperative that this Nation embark on a course of efficient utilization of our science and technological resources to meet our critical domestic problems. As I have indicated previously, such a course is available to us through legislation such as S. 2495.

I ask unanimous consent that this recent article from U.S. News & World Report be printed in the Record.

There being no objection the article was ordered to be printed in the Record, as follows:

Suppose Other Countries Cut Off United States From Raw Materials

For Americans already worried over the cutback of oil supplies to the United States by Arab nations comes this new concern:

A threat that other countries may follow the Arabs' lead and shut off supplies of a broad list of basic raw materials—or demand inflated prices for them.

It's a danger that is focusing fresh attention on just how heavily the U.S. depends on imports of commodities vital to its status as the world's most prosperous nation.

The fact is that this country is counting more and more on other nations to supply a major portion of metals, minerals and other substances without which American industry cannot continue to function.

As the Pictogram on these pages shows, the U.S. relies on import for all of its natural rubber, and for most of a wide range of other items including manganese, cobalt, chromium, platinum, aluminum, tin, and nickel.

The U.S. can still meet most of its needs for copper, uranium, coal, iron ore, lead, potash and a number of other materials from domestic sources.

LOOKING AHEAD

But demand is growing so rapidly, Goverment officials say, that by 1985 the U.S. could depend on imports for half of its suppliers of raw materials—including even iron ore and lead.

Anxiety over a cutback in raw materials from abroad is no idle concern.

Scheduled in February is a meeting in Guinea of major producers of bauxite, an ore from which aluminum is produced. The avowed goal: a common front to control production and fight for the highest possible prices for bauxite.

Zaïre and Zambia, two major producers of copper, recently announced plans to coordinate production of that metal to keep prices high.

What worries U.S. officials is the spread of such tactics to an increasing number of commodities—helped by the concentration of production of key materials in just a handful of nations.

C. Fred Bergsten of the Brookings Institution says that two countries, Malaysia and Bolivia, account for 70 per cent of all tin exports. Four nations control more than 80 per cent of the world's copper exports. A similar number of countries hold more than half the world's reserves of bauxite, and half the supply of natural rubber.

As officials see it, the danger is a sharp increase in prices rather than a total shutoff of raw materials. A major reason: Most developing countries could not afford to go without revenues for any length of time.

Even without concerted action by raw-material suppliers, intense competition among consuming nations will drive prices further up in years ahead.

The United States, with less than 6 per cent of the world's population, consumes one third of the world's mineral output each year—including 56 per cent of all natural gas, 35 per cent of the free world's silver and aluminum, 32 per cent of all lead.

Rate of growth in demand among other industrial nations is expected to be even greater than in the U.S. And as developing nations industrialize their economies, they are likely to hang on to more raw materials themselves.

PUSH TO SUBSTITUTES

Higher prices, officials note, may encourage production of minerals in the U.S.—now too expensive to extract—from low-grade iron, aluminum, titanium and other ores.

A search for substitute products and synthetics for some of the rarer and costlier minerals is likely to be speeded up, too. Stockpiles of key commodities that the U.S. has built up can help to meet immediate needs for a while.

Still, America—blessed with a wealth of natural resources—may have to worry about becoming a "have not" nation in some basic raw materials.

NIXON ADMINISTRATION IMPOUNDMENT ABUSES

Mr. HUMPHREY. Mr. President, while some Nixon administration officials have recently told a number of reporters that they can eliminate the word "impoundment" from their type, we in Congress must continue to scrutinize the OMB's actions vigilantly until illegal impoundment, by whatever name the administration chooses to call them, are themselves eliminated.

As the President's budget proposal is about to be presented, I think it is very timely to remind ourselves that the abuses of impoundment are still an important issue.

Dr. Louis Fisher, a leading researcher on the impoundment issue, has written an outstanding article for the fall, 1973 issue of the Buffalo Law Review, entitled "Impoundment of Funds: Uses and Abuses."

Given the contradictory views on impoundment between the White House and the Congress, many Americans are confused as to what issues are involved. This article is particularly relevant because it clarifies the constitutional and statutory authority for impoundment. In three case studies that he has prepared on the Nixon administration's impoundment of agriculture, HUD, and environmental program funds, Dr. Fisher concludes that the executive branch has failed to respond to the practical need for good faith efforts. More specifically, the Nixon administration frequently has interpreted a lack of mandatory language in a bill to mean an administrator is at liberty to ignore a program in its entirety. The Nixon administration has clearly substituted "administrative convenience" in place of legislative responsibility, both in failing to report billions of impounded dollars, and in justifying impoundments on the basis of the broadest possible interpretation of constitutional authority. This is certainly diametrically opposed to the claims the President has made of being a "strict constitutional constructionist."

This article is worth the attention of all my colleagues because it clearly delineates the major elements of the impoundment controversy currently flaring within and between the executive, legislative, and judicial branches of government.

Mr. President, I ask unanimous consent that Dr. Fisher's article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Impoundment of Funds: Uses and Abuses

(By Louis Fisher*)

In his news conference of January 31, 1973, President Nixon raised a number of academic and congressional eyebrows by asserting that the "constitutional right for the President of the United States to impound funds[,]

Footnotes at end of article.

. . . not to spend money, when the spending of money would mean either increasing prices or increasing taxes for all the people . . . is absolutely clear."[1] Far from laying the issue to rest, this sweeping declaration triggered a strong countermovement within Congress.

The debate on impoundment, spirited and fervent though it may be, has a tendency to generate more heat than light. A rich lode of percedents is available to comfort either side. Despite the volume of commentary on the subject, no one can say precisely what "impoundment" is.[2] This has resulted in a confusion of terms and misleading statistical claims. The first part of this article attempts to clear away some of the conceptual underbrush by offering a typology of impoundment, suggesting which are controversial and which are not. Then, three case studies are offered to demonstrate that apart from the broad issue of constitutionality is the practical need for good-faith efforts on the part of administrative officials. Without such efforts, administrators cannot expect to receive from Congress the customary broad grants of discretionary power. The system of delegation would then be profoundly altered, with many of the informal and nonstatutory controls frozen into law.

PART I—TYPES OF IMPOUNDMENT

Discussion of impoundment requires distinguishing among various types of action. Some actions are legitimate exercise of executive power, while others trespass directly on the legislative domain. To say that "impoundment has been used in the past" is to say nothing at all. The proper inquiry must be "What *kind* of impoundment?" It comes in many shapes and colors, legitimate in one case and highly suspect in another. As an omnibus term, "impoundment" tells us very little. To state the definition in a manner analogous to Mr. Justice Jackson's description of security, impoundment is like liberty in that many are the crimes committed in its name.[3]

The first of four categories, efficient management, covers instances in which funds are withheld either (1) to effect savings, (2) to accommodate changing events which make an expenditure unnecessary, or (3) to satisfy basic managerial responsibilities. Impoundments of this type are of a commonsense variety, evoking few protests, if any, from members of Congress.

A second category includes impoundment actions based upon statutory authority. Some statutes provide a routine delegation of power, calling upon the expertise and managerial talents of the executive branch. Other statutes represent a surrender of power that could have been exercised at the legislative level, had there been the desire to do so. In both cases, impoundment authority is derived from statute.

A third category concerns the general constitutional powers of the President, particularly his duties as Commander in Chief. Impoundments in this area are highly controversial, placing the President's power directly in conflict with Congress's responsibility to provide for the common defense.

The last category covers executive policy making. In pursuing such goals as curbing inflation or rendering budget priorities, the President uses impoundments to further his objectives at the expense of legislative preferences. In such cases it is not sufficient to agree with administrative goals, for that easily degenerates into a philosophy wherein "the end justifies the means."

These four categories are not mutually exclusive. For example, efficient management has been partially enacted into statute (the Antideficiency Act) and may even be regarded as part of the President's constitutional responsibility to faithfully execute the laws. The value of categorizing impoundments is to separate their various underlying sources of authority.

I. EFFICIENT MANAGEMENT

It has long been the practice of the executive branch to regard appropriations as permissive rather than mandatory. Impoundment has thus existed since the days of George Washington, at least to the extent that expenditures occasionally fall short of appropriations.

A. To effect savings

Attorney General Judson Harmon declared in 1896 that an appropriation is not mandatory "to the extent that you are bound to expend the full amount if the work can be done for less. . . ."[4] This same point was made in 1942 by President Roosevelt. The setting aside of budgetary reserves for the purpose of preventing deficiencies or for effecting savings was defended as sound fiscal practice. Roosevelt wrote that to mandate that all funds be fully expended "would take from the Chief Executive every incentive for good management and the practice of commonsense economy."[5]

In 1950 the House Committee on Appropriations emphasized that economy "neither begins nor ends in the Halls of Congress."[6] According to the Committee, an appropriation of a given amount for a particular activity constituted only a ceiling upon the amount which should be expended for that activity. The administrative officials responsible for administration of an activity for which appropriation is made bear the final burden for rendering all necessary service with the smallest amount possible within the ceiling figure fixed by the Congress.[7]

These are *limited* powers of impoundment. President Roosevelt expressly recognized the constraints on this type of action by saying that the use of budgetary reserves to prevent deficiencies or to effect savings was not "a substitute for item or blanket veto power, and should not be used to set aside or nullify the expressed will of Congress. . . ."[8] The 1950 statement by the House Committee on Appropriations warned that "there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds."[9]

B. Changing events

If Congress provides funds for a purpose, and later events make the expenditure unnecessary, administrators are expected to withhold the funds and return them to the Treasury. Jefferson, for example, found is unnecessary on a number of occasions to use all of the money provided in a contingent fund. He regularly returned the unexpended balances to the Treasury.[10]

A more publicized impoundment by Jefferson concerned the withholding of $50,000 in 1803. When Jefferson notified Congress that the funds appropriated for gunboats would remain unexpended, he explained: "The favorable and peacable turn of affairs on the Mississippi rendered an immediate execution of that law unncessary . . ."[11] Since the emergency contemplated by Congress failed to materialize, because of the Louisiana Purchase. Jefferson saw no reason to spend the money. Neither did Congress. A year later, having taken the time to study the most recent models of gunboats, Jefferson informed Congress that he was proceeding with the program.[12]

C. Managerial responsibilities

An administration may have a number of other valid reasons for suspending a program or payment. In 1840, the Supreme Court upheld a decision of the Secretary of the Navy to withhold payment from a widow whose claim was based on a resolution passed by Congress.[13] Had the Secretary mechanically followed the direction of Congress, without exercising judgment or discretion, the widow would have received two pensions: one from the specific resolution adopted on her behalf, and a second from a general pension bill. The Secretary properly concluded that Congress could not have intended double benefits.

After World War II, President Truman temporarily withheld funds from a program to build hospitals for veterans. The administration had thought it better to wait until the returning servicemen had settled in order to achieve the most effective placement of medical facilities.[14]

In January 1971, the Department of Housing and Urban Development interrupted a mortgage-subsidy program designed to help poor families buy their own homes. HUD Secretary Romney suspended part of the program when it became apparent that abuses by real estate speculators were "more prevalent and widespread than had previously been evident."[15] After the potential for abuse had been corrected, the program was reinstated.

Several months later HUD suspended a low-income housing program in New Jersey because of inadequate administration by the Newark Housing Authority. The money was released when the Authority complied with HUD's request for organization changes.[16]

A final example involved HEW's 1971 withholding of federal funds from black nationalist Col. Hassen Jeru-Ahmed's drug rehabilitation program. Inadequate bookkeeping was cited as the reason. A report by the General Accounting Office disclosed that at least $171,533 in federal drug treatment funds were paid to a relative and friends of Hassan, were spent for automobiles and real estate, or were unable to be counted for.[17]

II. STATUTORY AUTHORITY

The President is not only permitted limited powers of impoundment to be exercised at his discretion; in some cases he is required or directed by law to withhold funds under conditions and circumstances prescribed by Congress.

A. Economy and Reorganization Acts

Economic collapse in 1929 led to broad presidential authority for reducing expenditures. In 1932 President Hoover received authority to make partial layoffs, reduce compensation for public officials, and consolidate executive agencies in order to effect savings. Funds impounded by this Economy were to be returned to the Treasury.[18] The House of Representatives disapproved the initiatives offered by Hoover, preferring to leave reorganization changes to the incoming President, Franklin D. Roosevelt.[19] Before leaving office, Hoover signed two more economy measures authorizing his successor to effect further reorganization and to reduce military spending in accordance with an economy survey to be ordered by the President.[20]

Once in office, Roosevelt requested authority to reduce veterans' benefits and the salaries of federal employees.[21] The Economy Act of March 20, 1933, authorized him to reduce veterans' payments by several hundred million dollars.[22] The Reorganization Act of 1939,[23] which declared that continuing deficits made cutbacks desirable, directed the President to effect savings by consolidating or abolishing agencies for more efficient operation. Of the five purposes identified in the act, spending reduction was listed first.[24]

Another general grant of impoundment power appeared in the single-package ("omnibus") appropriation bill of 1950, directing the President to cut the budget by not less than $550 million without impairing national defense.[25] President Truman fulfilled the statutory directive by placing $572 million in reserve, including $343 million in appropriations, $119 million in contract authority, and $110 million in authorizations to borrow from the Treasury.[26]

B. Spending ceilings

In 1967 Congress directed a spending cut of $4.3 billion. Legislative action reduced spending by $1.8 billion, leaving $2.5 billion

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Footnotes at end of article.

to be trimmed by the President. The budget-cutting formula required each civilian agency to reduce its budgeted obligations by an amount equal to 2 percent of payroll, plus 10 percent of other controllable obligations. Defense Department obligations were to be reduced by an amount equal to 10 percent of non-Vietnam programs.[27]

In 1968, 1969, and 1970, Congress enacted ceilings on expenditures, and thereby gave the Nixon administration additional statutory authority to impound funds.[28] Policy making inevitably resulted, since the administration unilaterally selected the programs to be sacrificed.[29]

In retaliation, Congress refused to adopt a spending ceiling in 1971. Representative Joe L. Evins explained that Congress did not want to give the Nixon administration "a flexible ceiling which could [be] use[d] as a tool to freeze and impound funds as [they] did in the past." [30] The subject of a spending ceiling reappeared in the fall of 1972, but the two Houses of Congress were unable to agree on a formula, which would restrict executive discretion.[31]

The Ervin impoundment bill, reported out on April 17, 1973, included a spending ceiling of $268 billion for fiscal 1974. If withholding were necessary to protect the ceiling, the bill provided that it be done on a roughly proportional basis. The Ervin bill passed the Senate three times: as an amendment to the Par Value Modification Bill,[32] as an amendment to the Debt Limit Bill,[33] and as a separate bill.[34] On July 25, 1973, the House adopted a spending ceiling with a proportional cutback formula.[35]

C. Antideficiency Act

The Antideficiency Act, as amended in 1950, authorizes the President to establish budgetary reserves to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available.[36]

To comprehend the purpose and scope of this provision, it must be viewed in the context of an earlier Post Office dispute.

In the spring of 1947, the Post Office Department announced that it would exhaust its funds long before the end of the fiscal year. Instead of apportioning its funds to avoid a deficiency situation (*e.g.*, in roughly equal amounts by quarters), the Post Office allotted $370 million for the first quarter, $409 million for the second, $364 million for the third, and only $9.5 million for the final quarter. Congress found itself in a predicament: If it did not provide extra money in a deficiency bill, the Post Office would have to suspend operations.[37]

The difficulties of the Post Office caused the Senate Appropriations Committee to request that the Bureau of the Budget (hereinafter referred to as "BOB") and the General Accounting Office (hereinafter referred to as "GAO") recommend ways to improve the Antideficiency Act.[38] The resulting joint BOB-GAO report began with the assumption that it was impossible to completely eliminate deficiencies; changing conditions, unforeseen at appropriation time, would always breed new expenses. The report noted, however, that changing conditions should also produce *surpluses* by way of overfunding. Unless some action was taken to conserve these excess funds, they might be obligated by the end of the fiscal year "even though there may be no essential need thereof." [39]

The obvious means for avoiding deficiency bills in the future was to encourage the setting aside of surpluses. A draft bill prepared by the BOB and the GAO recommended this language:

"In apportioning any appropriation, reserves may be established to provide for contingencies or to effect savings whenever savings are made possible by or through changes in quantitative or personnel requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available." [40]

Section 1211 of the 1950 omnibus appropriation act closely followed the BOB-GAO language:

"In apportioning any appropriation, reserves may be established to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available." [41]

The legislative history of this provision clearly demonstrates that its purpose was to build up surpluses in some accounts as a means of balancing deficiencies elsewhere. Nowhere was there an implied authority to set aside reserves to cancel or curtail a program. On the contrary, immediately after the above cited passage the Act provides that [w]henever it is determined by an officer designated in subsection (d) of this section to make apportionments and reapportionments that any amount so reserved will not be required *to carry out the purposes of the appropriation concerned*, he shall recommend the rescission of such amount in the manner provided in the Budget and Accounting Act, 1921, for estimates of appropriations.[42]

In short, if an administrator could execute a program by spending fewer dollars than appropriated, all well and good. But the purpose of the appropriation itself was not to be denied.

This was a well established policy. The BOB-GAO report had cautioned that the authority to set aside reserves "must be exercised with considerable care in order to avoid usurping the powers of Congress." [43] The same position was taken two years later by the Hoover Commission when it recommended that the President "should have authority to reduce expenditures under appropriations, if the purposes intended by the Congress are still carried out." [44] In reporting out the antideficiency language in 1950, the House Appropriations Committee explained that this grant of authority to set aside reserves was not to be taken as "justification for the thwarting of a major policy of Congress by the impounding of funds." [45] The intent of the 1950 language was amplified by the BOB in its Examiners Handbook for 1952: "Reserves must not be used to nullify the intent of Congress with respect to specific projects or level of programs." [46]

Roy L. Ash, Director of the Office of Management and Budget (hereinafter referred to as "OMB"), during the Nixon administration, argued that inflationary pressures can be considered "other developments" within the meaning of the Antideficiency Act and thus an authority for withholding funds.[47] However, there is nothing in either the language or the history of the Antideficiency Act to support that proposition.

D. Employment Act of 1946

Caspar W. Weinberger told a Senate committee on January 17, 1973, that the Employment Act of 1946 [48] "requires the President to maintain policies that guard against inflation." [49] That is inaccurate. The Act merely requires the President to present an economic report to Congress.[50] It did not confer upon the President any special powers. The Act's goals of maximum employment, production, and purchasing power were to be the responsibility of the entire federal government.

Furthermore, the Act did not confer any discretionary spending power upon the President. Significantly, Section 6 of the Employment Bill of 1945 *did* contain discretionary spending authority, allowing the President to vary expenditure levels in whatever manner he determined to be necessary for the purpose of "assisting in assuring" full employment, but that section was conspicuously absent from the Employment Act of 1946.[51]

As a final point, the Employment Act of 1946 was enacted as an instrument for countering a possible postwar depression. Maximizing purchasing power, a primary goal, was to be attained by promoting employment and production. Impoundment has precisely the opposite effect.

E. Economic Stabilization Act

Deputy Attorney General Joseph T. Sneed told a Senate committee on February 6, 1973, that President Nixon had substantial latitude to refuse to spend or to defer spending for general fiscal reasons, such as control of inflation. This view is supported by the Congressional intent revealed by the Employment Act of 1946, the Economic Stabilization Act Amendments of 1971, and the debt limit imposed by Public Law 92–599.[52]

A report by OMB also cited the Economic Stabilization Act as authority and reason for withholding funds from a number of projects: the Appalachian regional development programs, rural electrification loans, FHA rural water and waste disposal grants, federal aid to highways, payment to the Tennessee Valley Authority Fund, and several housing and urban development programs.[53]

On February 19, 1973, Senator Eagleton introduced an amendment to provide that nothing in the Economic Stabilization Act "may be construed to authorize or require the withholding or reservation of any obligational authority provided by law, or of any funds appropriated under such authority." [54] The Eagleton amendment was incorporated into a bill to extend and amend the Economic Stabilization Act [55] and was enacted into law on April 30, 1973.[56]

F. Public debt limit

Several administrations have relied on the debt ceiling as authority for withholding funds. In 1957, in order to keep within the statutory debt limit imposed by Congress, the Eisenhower administration issued a series of orders and announcements for cutbacks and stretchouts in defense programs.[57] When Congress later raised the debt limit, the money was released.[58] The "debt ceiling" argument has also been invoked frequently by the Nixon administration.[59]

In adhering to a debt limit established by Congress, an administration is nevertheless able to give preference to its own programs and priorities. Thus, the Nixon administration extended revenue sharing to the states without feeling constrained by the debt limit, while at the same time it withheld funds from a number of other programs ostensibly on the ground that the debt limit could not accommodate them.

G. Discretionary language

Statutes frequently provide for discretionary spending authority, which is sometimes explicit in the statute itself, sometimes implicit in the statute's legislative history.

Explicit authority is illustrated by the Labor-HEW appropriation bill for fiscal 1970. President Nixon vetoed the bill on January 26, 1970, because it provided $1.3 billion more than he had requested.[60] After sustaining [61] the President's veto, Congress reduced the appropriation from $19.7 billion to $19.3 billion—still $900 million more than Nixon had desired. But in order to avert the possibility of a second veto, the bill included a provision that limited expenditures to 98 percent of appropriations, provided that no amount specified in the appropriation could be cut by more than 15 percent. The 2-percent cutback allowed for a further spending reduction of $347 million. President Nixon signed the amended bill.[62]

Footnotes at end of article.

A similar situation arose three years later. President Nixon vetoed the fiscal 1973 Labor-HEW appropriation bill, which was $1.8 billion higher than he had requested.[63] Congress passed the bill again, this time including presidential authority to withhold from obligation and expenditure as much as $1.2 billion, provided that no activity would be reduced by more than 13 percent.[64] In contrast with his action three years earlier, the President pocket vetoed the amended bill.[65]

The Labor-HEW appropriation bill for fiscal 1974, enacted into law,[66] authorizes the President to withhold up to $400 million, with the restriction that none of the appropriations, activities, programs and projects may be reduced by more than 5 percent. If the discretion is used to its fullest, the statute will exceed the President's budget request by approximately $978 million.[67]

A more difficult area, concerning the degree of spending discretion implicit in an act, is illustrated by the Federal Water Pollution Control Act Amendments of 1972.[68]

H. Other miscellaneous statutory provisions

The President has been granted discretionary spending powers in a variety of other legislative formulations. For example, he has been directed to withhold economic assistance in an amount equivalent to that spent by an underdeveloped country for the purchase of sophisticated weapons systems, unless he informs Congress that the withholding of such assistance would be detrimental to national security.[69] Economic assistance is not to be furnished to any nation "whose government is based upon that theory of government known as communism," unless the President determines that the withholding of such assistance would be contrary to the national interest.[70] An overthrow of a regime by "communist" forces might therefore be a basis for cutting off assistance. Furthermore, according to the "Hickenlooper amendment," if a foreign government seizes any property from U.S. corporations and fails to compensate them within a reasonable amount of time, the President is required to suspend assistance.[71]

The 1964 Civil Rights Act empowers the President to withhold funds from federally financed programs in which there is discrimination by race, color, or national origin.[72] On the basis of that provision, special desegregation grants may be terminated when school districts violate civil rights requirements.

States that fail to enact billboard control legislation, as required by the Federal Highway Beautification Act of 1965, have been threatened with a loss of federal aid for highway improvement.[73] A 1968 act requires states to update their welfare payments standards in order to reflect cost-of-living increases. Failure to comply with this act can lead a cutoff of federal welfare assistance.[75]

III. CONSTITUTIONAL POWERS

A. Executive power

Legislative efforts to control impoundment have been resisted by the Nixon administration as a "serious infringement" upon the President's constitutional responsibility to execute the laws enacted by Congress. The establishment and release of budgetary reserves was regarded as an action of "an administrative nature, fully consistent with the President's constitutional duty to 'take care that the laws be faithfully executed.' "[76] A more general proposition by the Nixon administration rested on the belief that the President's authority to establish reserves "is derived basically from the constitutional provisions which vest the executive power of the President."[77]

This latter proposition opens the door to the shadowy area of implied powers. And yet, to deny the President any discretion and judgment over the expenditure of funds, other than what Congress specifically delegates to him, would convert his office from that of Chief Executive to Chief Clerk.[78] It would prevent the executive branch from making the kinds of decisions previously described as "efficient management."[79] Finally, it would carry to extremes the Brandeis dictum that the doctrine of separated powers was adopted "not to promote efficiency but to preclude the exercise of arbitrary power."[80] The period from 1774 to 1787 furnishes ample proof that the framers indeed intended to create a separate executive branch for the purpose of imparting efficiency and accountability to government.[81]

The issue is thus not *whether* a degree of discretion and judgment is implied in Article II of the Constitution.[82] Rather, inquiry must be made as to the boundaries of that discretion.

B. Foreign affairs

Officials of the Nixon administration have argued that the President's discretion to withhold funds is especially broad in the area of foreign affairs. In a statement before the Ervin-Chiles impoundment hearings on February 6, 1973, Assistant Attorney General Sneed offered these remarks:

> The President has substantial authority to control spending in the areas of national defense and foreign relations. Such authority flows from the President's constitutional role as Commander-in-Chief of the Armed Forces and from his relatively broad constitutional authority in the field of foreign affairs.[83]
>
> In [the areas of national defense and foreign relations] Congressional directives to spend may intrude impermissibly into matters reserved by the Constitution to the President. It is noteworthy that Congress has never successfully challenged an impounding action in the foreign relations and national defense funds.[84]

Of course, ample statutory authority exists for withholding foreign assistance funds.[85] If the President were to withhold funds he would be acting in support of congressional policy, not in defiance of it. Moreover, the administrative patterns in foreign assistance is not to impound funds but to spend every available dollar. In 1971, when it was learned that a series of domestic programs had been affected by impoundment, congressional hearings revealed that not one dime had been withheld from projects overseas.[86] This led to a provision in the Foreign Assistance Act of 1971, prohibiting the obligation or expenditure of funds available under the Foreign Assistance Act and the Foreign Military Sales Act unless certain funds withheld from the Departments of Agriculture, HEW, and HUD were released.[87] A similar effort was made in 1973 to make the expenditure of foreign assistance funds contingent upon the release of domestic funds.[88]

C. Commander in Chief

Assistant Attorney General Sneed's contention that there exists executive authority for impoundment of funds in national defense and foreign relations matters relies upon the President's constitutional role as Commander in Chief.[89] The scope of that constitutional provision remains a source of continuing dispute. As Mr. Justice Jackson once said of the Commander in Chief clause:

> These cryptic words have given rise to some of the most persistent controversies in our constitutional history. Of course, they imply something more than an empty title. But just what authority goes with the name has plagued presidential advisers who would not waive or narrow it by nonassertion yet cannot say where it begins or ends.[90]

1. *During Wartime*. Impoundment pursuant to this authority was used before, during, and after World War II, sparking objections from some members of Congress but without creating a major crisis. With war imminent in January 1941, President Roosevelt told Congress that it seemed appropriate to "defer construction projects that interfere with the defense program by diverting manpower and materials."[91] Despite some opposition, the Roosevelt administration was generally able to withhold funds from domestic projects in order to promote the war effort.[92] When Congress authorized public works projects in December 1944 and in March 1945, it did so in the "interest of the national security" and for the purpose of providing a reservoir of useful projects during the postwar period. Projects were to be initiated "as expeditiously and prosecuted as vigorously as may be consistent with budgetary requirements."[93] No project was to be funded or constructed until six months after the end of the war, unless recommended by an authorized defense agency and approved by the President as being "necessary or desirable in the interest of the national defense and security, and the President had notified the Congress to that effect."[94]

Surrender of the Axis powers left the federal government with tens of billions of dollars in excess of military needs. That balance was brought under control by Congress (rescinding appropriations) and by the President (impounding funds). In June 1944, Congress directed the President to undertake a continuous study of war appropriations and contract authorization so that he would be able to recommend the rescission of appropriations no longer needed.[95] The following year it called upon the administration to reduce the number of federal employees and to bring about the reduction of administrative costs by way of reorganization. Savings were to be placed in reserve and returned to the Treasury.[96] Also in 1945, Congress passed the first recission bill, cancelling a number of funds previously appropriated.[97]

In September 1945, President Truman submitted to Congress a series of proposed reductions in the civilian war agencies and in the naval and military establishments. The proposed rescissions of appropriations and contract authorizations came to approximately $49 billion.[98] But when Congress passed the recission bill, it included a rider to require decentralization of public employment offices. Truman opposed this latter provision both in substance and procedure, insisting that such issues "should not be dealt with as riders to appropriation bills." He refused to sign the bill into law, yet he told Congress that he would heed those sections which dealt with rescissions. He then directed the BOB to designate those amounts as nonexpendable.[99]

Congress responded by passing a number of statutes to rescind appropriations and contract authority.[100] Spending reductions for the budget year ending June 30, 1946, eventually came to $55 million.[101] Thus, under appropriate conditions, Congress as well as the President can "impound" appropriations previously made.

2. *Peacetime Military Procurement*. Prior to the Nixon administration, most of the controversial impoundment actions involved weapons systems. The complicated political setting of this type of action may be illustrated by providing details of two major examples: one involving Air Force funds withheld by Truman and the other concerning funds for B–70 bombers during the Kennedy administration.

In 1949 Congress voted to increase President Truman's Air Force request from 48 to 58 groups. Truman countered by placing the unwanted funds, totalling $735 million, in reserve. Several factors produced this collision between the two branches.

First, Louis Johnson, who replaced James Forrestal in March 1949 as the new Defense Secretary, subjected the military budget to fresh scrutiny. Even though the Berlin airlift was in operation and the Korean War

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Footnotes at end of article.

little more than a year away, Johnson was optimistic about the chances for peace.[102] This period was also dominated by the theory that it was the intention of Soviet Russia to force the United States to spend so much on defense that this would bankrupt the American economy. Instead of aiming for a military victory, it was widely believed that Russia planned to undermine the American economy—to "bleed the economy to death." [103]

Retrenchment in defense spending because even more likely when the Eberstadt task force of the Hoover Commission released its findings on the Pentagon. In December 1948 the task force criticized the military services for hampering defense policy with their fierce rivalries. More directly to the point, the services lacked a "sense of cost consciousness" and were "far too prodigal" with government funds.[104] The following April former President Hoover advised Congress that $1.5 billion could be cut from the military budget without impairing national security.[105] In June, Franz Schneider, who had headed the Eberstadt study of the fiscal 1950 budget, told a Senate committee that defense savings could run as high as $2 billion.[106]

Secretary Johnson, who considered the defense budget too small when he presented it in 1949, nevertheless concluded that larger appropriations—because of waste within the Pentagon—would be throwing money "down a rat hole." [107]

Still another factor was Truman's fiscal policy of relying on budget surpluses and debt retirement to restrain inflation. Twice in 1947 he vetoed tax-reduction bills.[108] In 1948, when he again vetoed a tax-reduction bill, Democrats joined with Republicans to override him.[109] With revenues lost to tax relief, and tax receipts down because of the 1948–49 recession, Truman had to redouble his efforts to control expenditures.[110]

The Senate joined with the President in opposing Air Force funds added by the House. But as the matter lay deadlocked in conference committee, the House rejected a Senate motion to vote continuing appropriations.[111] With adjournment close at hand and the military services in need of payroll funds, the Senate reluctantly agreed to the 58 groups. It did so, however, on the understanding that the money might not be spent. Senator Elmer Thomas, a ranking Democrat on the Appropriations Committee, left the impression that "if the money is appropriated it may not be used." [112]

Truman signed the bill, announcing that he was directing his Secretary of Defense to place the extra funds in reserve: $577 million in contract authority for aircraft construction, $130 million for maintenance and operations, and lesser amounts for contingencies, special procurement, and research and development—a total of $735 million.[113] He justified impoundment on the need to maintain a balance between national security and a sound economy, the importance of preserving the elements of a unified strategic concept among the military services, and the President's authority as Commander in Chief.[114]

Neither Senator McKellar nor Representative Cannon—Chairmen of the Appropriations Committees—questioned Truman's authority to withhold the money.[115] Defense Secretary Johnson regarded Truman's action as inherent in the President's responsibilities as Chief Executive and Commander in Chief.[116] When Truman was later asked if he saw any conflict between his constitutional duty to enforce the law and his impoundment of Air Force funds, he replied:

"That is the discretionary power of the President. If he doesn't feel like the money should be spent, I don't think he can be forced to spend it. How would you go about making him spend it . . . ?[117]

Another hotly contested impoundment action involved the B–70 bomber (later the RS–70), a long-range aircraft billed as successor to the B–52. President Eisenhower had restricted the B–70 program to production of prototype aircraft, to be made available in 1963 for flight testing. Although U.S. strategy in the postwar period depended on manned bombers Eisenhower felt that an increasing part of the strategic force would be composed of fixed-base and mobile ballistic missiles. Hence, he doubted the need for B–70s in an age of ICBMs and Polaris submarines.[118]

In 1961 Congress added $180 million to the $200 million requested by the Kennedy administration for development of the B–70. Defense Secretary McNamara, stressing our advantage over the Soviets in bombers and the deterrent capability of American missile strength, refused to release the unwanted funds.[119]

In March 1962 the House Armed Services Committee, under the leadership of Carl Vinson, voted to direct the Secretary of the Air Force to spend not less than $491 million during fiscal 1963 toward production of the aircraft (then redesignated RS–70). The committee figure was $320 million above the administration's request. To remove any doubts about its intentions, the committee said that the Secretary was "directed, ordered, mandated, and required" to spend the full $491 million. In casting down the gauntlet, the committee declared: "If this language constitutes a test as to whether Congress has the power to so mandate, let the test be made. . . ." [120]

President Kennedy, in a letter to Vinson, urged that the word "authorized" be used in place of "directed." The President contended that the change in language would be more suitable for an authorization bill, since funds would still have to be appropriated in a separate bill. He also thought the wording would be "more clearly in line with the spirit of the Constitution" and its separation of powers. Kennedy insisted on "the full powers and discretions essential to the faithful execution of [his] responsibilities as President and Commander in Chief, under article II, sections 2 and 3, of the Constitution." [121]

Other than the backing of his own committee, Vinson was isolated from other congressional power centers. Among the military, he was supported only by the Air Force. The rest of the Joint Chiefs supported McNamara.[122]

Vinson also encountered stiff opposition from the House Appropriations Committee. Committee chairman George H. Mahon said that it was improper and impractical to direct the President to spend money before it was appropriated. He was opposed to the Armed Services Committee's directing his committee to appropriate money.[123] Gerald Ford, ranking minority member on House Appropriations, was "unalterably opposed" to the use of the word "directed." According to Ford, the "directed" language invaded the responsibilites of the President, usurped the authority of the Appropriations Committee, and created inflexibility in the program.[124] Opposition to the mandatory language came from Charles Halleck, House Minority Leader, John McCormack, Speaker of the House, and Carl Albert, House Majority Leader.[125]

To assuage Vinson's embarrassment, Kennedy announced that McNamara would initiate a "new study" of the aircraft.[126] Vinson took the floor to claim that Congress "has made its point and . . . caused the Department of Defense to see the error of their ways." [127] Interpretations from other Members were less flattering. Representative Leslie Arends called it a "paper victory." He said he would "wait the translation of the assurances, we now have into affirmative action." [128] Representative Frank Becker claimed that McNamara's offer was "an old legislative trick—that when you want to get rid of something, agree to a study. This is the surest way to brush something under the rug that you want to get rid of." [129] Representative H. R. Gross regretted that the fight had ever started, "for it is apparent now that it has been lost. This is not a compromise; it is a defeat for the entire House of Representatives." [130]

The administration proceeded with its original plan to build two prototypes of the RS–70 before considering full-scale production. One prototype crashed in June 1966; the second ended up in the Air Force Museum at Dayton, Ohio.[131]

IV. ADMINISTRATIVE POLICY MAKING

Any impoundment action by an executive official represents at least some degree of policy making, even when in compliance with statutory language. Policy is part of every budget and fiscal decision.[132]

A few cases of impoundment, however, illustrate policy making in such pure form that they are included here as a separate section.

A. Unwanted projects

Prior to the 1960's, several Presidents practiced a form of "item veto" on public works legislation—obeying certain portions of a bill while ignoring others. Senator Stephen Douglas of Illinois recalled that an appropriation act of 1857 had failed to benefit his state. The President had quarreled with Representatives from Illinois and penalized them by withholding funds:

> To this hour [in 1861], you could not get the law executed. Other custom-houses could be built; other post offices could be made; but not a dollar could be expended at Springfield or at Cairo, in Illinois, although the law required it.[133]

In 1876, in signing a river and harbor bill, President Grant expressed his objections to particular projects:

> If it was obligatory upon the Executive to expend all the money appropriated by Congress, I should return the river and harbor bill with my objections, notwithstanding the great inconvenience to the public interests resulting therefrom and the loss of expenditures from previous Congresses upon completed works. Without enumerating, many appropriations are made for works of purely private or local interest, in no sense national. I cannot give my sanction to these, and will take care that during my term of office no public money shall be expended upon them.[134]

This selective execution of the laws occasionally received support from influential legislators. In 1896, Senator John Sherman—second-ranking Republican on the Finance Committee—regarded President Cleveland's veto of a river and harbor bill as unnecessary. The appropriation bill was permissive:

> If the President of the United States should see proper to say, "That object of appropriation is not a wise one; I do not concur that the money ought to be expended," that is the end of it. There is no occasion for the veto power in a case of that kind.[135]

In 1923, President Harding threatened to use his impoundment power to curb river and harbor spending. Whether he could have won this confrontation with Congress is academic; within a matter of months he was dead, and there is no evidence to suggest that his successor was inclined to impound the funds.[136]

With regard to a dispute in the early 1940's concerning the Kings River Project in California's Central Valley Basin, President Roosevelt instructed his Secretary of War not to allocate any funds or submit any estimates for appropriations without review by the BOB and by the President.[137] When Congress funded the project in the spring of

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1946, President Truman announced that he would submit his own plan for developing water resources in that area. He then impounded the funds pending a determination of the prospective costs. In February 1947, after he submitted his report to Congress, Truman released the money.[138]

In 1965 a dispute over legislative procedures led to impoundment of funds for small watershed projects. Instead of vetoing a river and harbor bill, President Johnson noted his opposition to a committee-veto provision and asked that it be repealed in the next session. Congress refused and the funds for small watershed projects remained impounded.[139] On March 27, 1969, President Nixon advised his Secretary of Agriculture that he would not object to the committee-veto procedure.[140] A list of 18 projects was submitted to Congress on June 30 for committee approval.[141]

In a fiscal 1966 appropriation, Congress provided $9.2 million for construction of a national aquarium.[142] The Johnson and Nixon administrations impounded practically the entire amount.[143] On January 19, 1971, President Nixon halted construction of the $180 million Cross Florida Barge Canal, a project that was years in the making and more than one-third complete. The project was halted, the President said, "to prevent serious environmental damages." [144]

Lastly, during December 1972 and January 1973, the Nixon administration announced the termination or postponement of numerous agricultural, environmental and housing programs.[145]

B. Anti-inflation policy

In signing an agricultural appropriation bill in 1966, President Johnson was displeased that Congress had added $312.5 million to his budget request. "During a period," he said, "when we are making every effort to moderate inflationary pressures, this degree of increase is . . . most unwise." Instead of vetoing the bill, and losing funds he wanted, he reduced expenditures for certain items "in an attempt to avert expending more in the coming year than provided in the budget." [146]

President Johnson's economic message to Congress, on September 8, 1966, estimated that spending had to be cut by $3 billion to protect the nation's economy. Whenever possible, appropriations surpassing the President's recommendations would be withheld.[147] After the November elections, Johnson announced a $5.3 billion reduction in federal programs, requiring more than a $3 billion reduction for the remaining seven months of the fiscal year.[148]

The Nixon administration's anti-inflation policy was buttressed by congressionally-enacted spending ceilings for fiscal years 1969, 1970, and 1971.[149] Apart from those statutory limitations, however, the President relied upon general executive authority to restrain inflationary pressures.

For example, the spending ceiling established in July 1969 ranged from $191.9 billion to $193.9 billion (to allow for uncontrollables), plus whatever Congress wanted to add to the budget. But the President announced his intention to follow his *own* ceiling of $192.9 billion.[150]

During the fall of 1970, while signing an authorization bill for sewer and water lines, President Nixon warned that appropriations in excess of his budget would have a "disastrous fiscal effect." Nixon said that in the event that Congress refused to exercise restraint, "I must and will act to avoid the harmful fiscal consequences of this legislation. I will be compelled to withhold any overfunding." [151] The following day he signed a public works appropriation bill, stating his intention to consider all means possible "to minimize the impact of these inflationary and unnecessary appropriations, including the deferment of the proposed starts and the withholding of funds." [152]

The Nixon administration went ahead with public works projects that it had recommended. It also deferred, without exception, all of the additional projects that Congress had added. Caspar Weinberger offered this explanation to a House subcommittee: "Given the necessity for retrenchment in some areas, I think it is inevitable that the President would feel that the items he included were items that should be released first." [153]

Why only the President's items? Did the executive branch enjoy some special technical or professional advantage in selecting top-priority projects? The administration made no effort to justify its choices in terms of project merit, such as cost-benefit ratios or any other criteria.

Weinberger even acknowledged that congressional committees explored in "much greater depth" than OMB the technical merits of public works projects:

> The point I made is that the discretion we exercise is done on a single basis, the idea that the President's budget should stand and that all of the congressional add-ons be deferred, when a deferral is necessary in this amount, rather than exercising a cavalier or an independent judgment on individual projects. We don't feel qualified to do that.[154]

OMB depended on advice from the Corps of Engineers or the Bureau of Reclamation as to which projects had lower priority—"by definition those projects that are not included in the budget. . . ." [155] In short, instead of treating the budget as a set of recommendations, to be acted on at the discretion of Congress, OMB decided that "the President's budget should stand and that all of the congressional add-ons be deferred. . . ." [156]

In the fall of 1972, after Congress had refused to establish a spending ceiling, President Nixon announced that he intended to "use every weapon at [his] command" to hold spending in fiscal 1973 as close as possible to $250 billion.[157] Having asked for a statutory ceiling of $250 billion, and having been rejected, the President proceeded to adopt that figure as an administration target, impounding whatever funds were necessary to stay within that limit. Speaker Albert commented that this action made "a monkey out of the legislative process." [158]

C. Shifting priorities

After inheriting the "Great Society" programs of the Johnson years, President Nixon relied on impoundment to move toward his own priorities. During the latter part of 1969 and into 1970, the Nixon administration announced plans to reduce research health grants, Model Cities funds, and grants for urban renewal to help check inflation.[159] The President's critics noted that these cutbacks were made at the same time the administration was sponsoring such costly projects as the supersonic transport, a manned landing on Mars, revenue sharing, a larger merchant marine fleet, and the Safeguard ABM system.

In the spring of 1971, the Nixon Administration reported that it was withholding more than $12 billion, most of which consisted of highway money and funds for various urban programs.[160] It became evident that part of the withholding was tied to the administration's desire to drop the system of categorical grant-in-aid programs in favor of bloc grants and general revenue sharing. When Congressman Zablocki complained about the impoundment of water and sewer funds, he was told by Weinberger that the administration shares your concern over the public facility needs of cities. . . . However, the President firmly believes that revenue sharing represents a much more effective way of helping local governments provide for local needs than the narrowly-focused categorical grant programs which now exist.[161]

This was the administration's way of saying that it intended to implement a program which was not yet law, but would not implement a program already authorized and funded.

The withholding of water and sewer grants was defended in 1972 by OMB Director George Shultz:

"I might say that this is one area where there are some funds in reserve that are restrictive in nature. I think it reflects our feelings that while other funds will be released by the end of the fiscal year, we can appropriately drag our feet just a little bit while the Congress examines the extent to which it wants to transfer to the Federal Government what has historically been a function of local government, usually financed by the people who benefit directly." [162]

This is essentially a states' rights argument, perhaps compatible with the political philosophy of John Calhoun and John Taylor, but not even remotely supported by statutory authority, by constitutional grants of power, or by the present distribution of power between the federal government and the states.[163] The argument is not consistent with the reality of federal financing of health, education, and welfare — responsibilities which also at one time were "a function of local government." Consistency in this position would require the Nixon administration to withhold from local governments still other funds for programs which the President strongly supports, such as law-enforcement grants.

PART II—THE NIXON ADMINISTRATION'S "GOOD FAITH" EFFORTS: THREE CASE HISTORIES

The examples offered in the first part of this article are illustrative of the broad areas of spending flexibility available to the executive branch. Discretion and judgment are essential qualities of executive power. And yet the fact that spending flexibility exists does not indicate that an administration may operate without limits. A lack of mandatory language cannot be taken to mean that an administration is at liberty to ignore a program in its entirety. In such cases an unwritten code of custom and interbranch comity obliges executive officials to operate on a good faith basis, preserving a foundation of trust with Congress and its committees.

This nonstatutory system of controls, constructed over a period of decades, has collapsed in recent years. The Nixon administration has ignored its "good faith" obligations and stretched discretionary authority beyond its customary limits. In self-defense, Congress has begun to delete from legislation various forms of executive spending discretion. The three case histories offered here provide concrete evidence of congressional disapproval.

I. AGRICULTURE

During December 1972, the Nixon administration made wholesale reductions in farm programs. The first two casualties were the $225.5 million Rural Environmental Assistance Program (REAP) and the $10 million Water Bank Program. Subsequently, the administration also terminated the emergency disaster loan program (of the Farmers Home Administration), the rural electrification program and the water and sewer grant programs.

A. REAP and water bank

The Rural Environmental Assistance Program operated to relieve the problem of water pollution caused by sediment; the Water Bank Program was established to preserve wetlands for waterfowl. Both programs were terminated on December 26, 1972. A legal memorandum from the Department of Agriculture argued that the action was "consistent with provisions of the legislation authorizing the REAP and Water Bank Programs since that legislation authorizes but does not require that the programs be carried out by the Secretary." [164] "Since it is

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Footnotes at end of article.

clear," the memorandum continued, "that neither the substantive legislation nor the appropriation act compels the obligation and expenditure of the full amount authorized but merely authorizes a program to be carried out, it is our opinion that the program may be legally terminated."[165] That is a wholly remarkable interpretation since Congress authorized and funded a program after holding hearings, writing committee reports, and enacting a bill into law.

The response from Congress was predictable. In place of discretionary language, Congress inserted mandatory clauses. The House Committee on Agriculture said that while it normally sought to give the Secretary "maximum discretion in administering the programs assigned him by the Congress as a contribution toward sound administration, the REAP termination signals an abuse of that discretion."[166] Instead of providing that the Secretary "shall have power" to carry out REAP, the committee proposed that he "shall" carry it out. Instead of allowing the Secretary to make payments "in amounts determined by the Secretary to be fair and reasonable," he was directed to make payments "in an aggregate amount equal to the sums appropriated therefor . . . ."[167]

The Senate Committee on Agriculture and Forestry added the requirement that the Water Bank Program "shall" be carried out.[168] The bill was amended on the Senate floor by deleting from the Water Bank Act the words "shall have authority to" and replacing them with language directing that the Secretary "shall, to the full extent permitted by available appropriations therefor."[169] Because of differences between the two houses,[170] and because of some doubts as to whether either house had the two-thirds majority needed to override a veto, the bill was not presented to the President.

Another effort was made to reinstate REAP by amending, on the Senate floor, the Agriculture and Consumer Protection Act.[171] Five days later the House Committee on Appropriations directed that the REAP and Water Bank Programs be reinstated for fiscal 1974. In the event that Department of Agriculture studies indicated that the same work could be carried out with less personnel, the committee stated that it would consider such proposals "with the understanding that no reductions be made until prior Committee approval has been obtained."[172] An amendment by Representative Robert H. Michel to limit the scope of the REAP program was later rejected on the House floor by a vote of 23 to 69.[173]

The Agriculture and Consumer Protection Act of 1973, as enacted, contained a modified REAP program entitled "Rural Environmental Conservation Program." The Act directed that the Secretary of Agriculture "shall carry out the purposes" of specified clauses in the Soil Conservation and Domestic Allotment Act and in the Water Bank Act.[174] The conference report on the agriculture appropriation bill included funds both for the modified REAP program and for the Water Bank Act.[175]

B. FHA disaster loans

The emergency loan program of the Farmers Home Administration was established to provide a source of loan funds for farmers and ranchers in areas designated to be disaster areas. In a press release dated December 27, 1972, the Department of Agriculture announced that funds were being cut off to counteract inflationary pressures and to enable adherence to the President's $250 billion spending limit.[176]

As a result of judicial and legislative efforts, the program was partially restored. A Minnesota district court decision ordered Secretary Butz to reinstate the program for natural disaster victims in 15 Minnesota counties.[177]

Secretary Butz had designated 14 of the counties eligible for emergency loans on June 26, 1972.[178] On September 20, 1972, he added another county to the list.[179] Farmers in those areas were advised that applications would be accepted and processed through June 30, 1973. They were also advised that it would be preferable to file after the harvest (late November or early December) to ensure that all eligible losses were included in the applications. Because of the large number of applications after the harvest, many farmers were told that appointments for review could not be made until early 1973. Then, on December 27, Secretary Butz directed the Minnesota State FHA office not to accept any applications for the 15 Minnesota counties.[180]

The Minnesota court distinguished between two types of secretarial actions: discretionary (declaring which areas were entitled to disaster assistance) and ministerial (processing applications after a designation is made). The court held that while an individual does not have a "right to receive a loan under the disaster loan program, he does have the right to file an application and to have his application reviewed."[181] It was determined by the court that Secretary Butz' refusal was "in excess of the Secretary's authority and [was] unlawful."[182]

Moreover, the court concluded that Secretary Butz had ignored several departmental regulations, including a requirement to give prior notice in the *Federal Register* for proposed rules, and a requirement to provide an opportunity for interested parties to participate in rulemaking. Also ignored was a requirement to publish an adopted rule in the *Federal Register* not less than 30 days before its effective date. The court noted that the Department "did not comply with even one of these mandatory requirements . . . ."[183]

Congress rewrote the FHA emergency loan program to eliminate a $5,000 forgiveness feature and to raise the interest rate on loans from 1 percent to 5 percent.[184] The new law also eliminates what was previously discretionary authority for the Secretary of Agriculture. Instead of "authorizing" him to make loans, the law states that he "shall" make them.[185] And whereas previous law provided that the Secretary "may" designate any area as an emergency area when he finds that a need exists, it now provides that he "shall."[186] Finally, the law included an 18-day grace period for eligible applicants in areas designated by the Secretary of Agriculture after January 1, 1972 and prior to December 27, 1972.[187]

C. REA loan program

On December 28, 1972, without advance warning and without prior consultation with the leadership of Congress, the Department of Agriculture terminated the program of direct loans to rural electric and telephone borrowers of the Rural Electrification Administration. Instead of offering federal loans at a fixed 2-percent interest rate, the Government planned to insure or guarantee private loans at 5 percent.

In his news conference of January 31, 1973, President Nixon resorted to ridicule in an effort to justify the administration's decision:

> [W]hat I have found is that when I first voted for REA, 80 percent of the loans went for the purpose of rural development and getting electricity to farms. Now 80 percent of this 2 percent money goes for country clubs and dilettantes, for example, and others who can afford living in the country. I am not for 2 percent money for people who can afford 5 percent or 7.[188]

Several days later, at hearings before the Senate Agriculture and Forestry Committee, Secretary Butz was asked whether he agreed with the President's statement that most REA loans were going to dilettantes and country clubs. Butz replied:

> "No, not most of them. There are some going like that, of course, in rural areas." I think the choice of the word "most" was probably unfortunate and not premeditated on his part. There are some going like that, Mr. Chairman, but surely not most of them.[189]

Legislation was introduced in each house to reactivate the program. The Senate report concluded that the association between REA and "2-percent money" was an exaggeration. Most loans were a combination of 2-percent REA loans and supplemental assistance from the Rural Utilities Cooperative Finance Corporation (CFC), a private credit cooperative. Fewer than 10 percent of the borrowers were eligible for 2-percent loans. The remainder relied on blended loans, with about 54 percent eligible for 70 percent REA/30 percent supplemental funds, about 20 percent for 80/20 loans, and about 17–18 percent for 90/10 loans.[190]

The Senate bill replaced discretionary language with mandatory provisions. Instead of providing that the Administrator is "authorized and empowered" to make loans, with discretion as to the amount, the bill "authorized and directed" loans to be made "in the full amount determined to be necessary by the Congress or appropriated by the Congress. . . ."[191] The House version, which also contained mandatory clauses, proposed a compromise measure designed to meet some of the objections of the administration. For example, the House incorporated a new revolving fund for two types of insured loans, one at a "special rate" of 2 percent and the other at a "standard rate" of 5 percent.[192]

Secretary Butz pledged to carry out the REA program on the condition that the mandatory language be stricken from section 305, which "authorized and directed" the Administrator to make insured loans. The conference committee complied with his request.[193] The enacted statute reflects that change and retains the concept of a revolving fund.[194]

When the administration failed to implement the REA program, Congress threatened to prevent payment of certain salaries and expenses for persons responsible for the delay. The threat was withdrawn after Congress received assurances from the OMB Director that he would recommend and support implementation of the program.[195]

D. Rural water and sewer grants

On January 10, 1973, the Department of Agriculture announced that it was "terminating" planning and development grants in the water and waste disposal programs of Farmers Home Administration. The effect was to impound $120 million for fiscal 1973. An opinion from the General Counsel of the Department justified the action on the ground that the statute "authorizes but does not require that the programs be carried out by the Secretary."[196]

The House Committee on Agriculture, in reporting out a bill to restore the program said that the grant of discretion by Congress and the subsequent abuse of that discretion made the remedy apparent: "The Committee has little choice but to act to remove the discretionary features of the original Poage-Aiken Act, and reinstate the program as originally established by law."[197] The House bill, substituting the word "shall" for the words "is authorized to" and "may," passed by a vote of 297 to 54.[198] The Senate passed the bill 66 to 22.[199]

Despite the generous margins of those votes, Congress was unable to override the President's veto. The House could muster only a vote of 225 to 189 on the override attempt.[200] Nevertheless, the conference report on the agriculture appropriation bill contained $30 million in new funds for FHA water and sewer grants, supplemented by $120 million in carryover funds.[201]

As a general approach to the impoundment of agriculture funds, the Senate adopted

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Footnotes at end of article.

an amendment to the agriculture appropriation bill requiring that all money appropriated by the bill "shall be made available for expenditure except as specifically provided by law."[202] The exception was intended to cover such statutes as the Antideficiency Act.[203] Senator Bayh elaborated on the purpose of this provision:

> This amendment will send the administration a message about what Congress means when it passes an appropriations bill. It will tear asunder the administration's argument—which I think specious in any event—that the amount granted in an appropriations bill is only the maximum which can be spent on the program in question, and that the administration has discretion to spend less—down to nothing if it feels like it.[204]

The amendment was deleted in conference without prejudice as an unnecessary restatement of existing provisions of law.[205]

II. ENVIRONMENT

The Federal Water Pollution Control Act Amendments of 1972[206] were enacted into law when both houses overrode a presidential veto, the Senate 52–12 and the House 247–23.[207] A month later the President instructed the head of the Environmental Protection Agency (hereinafter referred to as "EPA") to withhold from the states more than half of the waste treatment allotments. Instead of following the statutory ceilings of $5 billion for fiscal 1973 and $6 billion for fiscal 1974, the President established the maximum allotments for those years at $2 billion and $3 billion.[208]

A. Statutory coverage

The administration had potential spending control in (1) the initial allotments of contract authority to the states and (2) the obligation and expenditure of funds at a later date. The statute appeared to make the first step mandatory, in the sense that section 205 of the Act directed that sums "shall" be allotted. However, the original language in the House bill had been even stronger, directing that "all" sums shall be allotted.[209]

Representative William H. Harsha, ranking Republican on the conference committee handling the bill, explained that elimination of the word "all" was intended "to emphasize the Presidents flexibility to control the rate of spending."[210] Flexibility was enhanced by inserting the phrase "not to exceed in section 207 of the Act which described the amounts authorized to be appropriated for fiscal years 1973, 1974, and 1975. The EPA Administrator could also pace the expenditure of funds by virtue of his authority to approve plans, specifications, and estimates.[211]

Representative Harsha concluded by saying that he did not see how "reasonable minds could come to any other conclusion than that the language [of section 207] means we can obligate or expend up to the sum—anything up to that sum but not to exceed that amount."[212] Representative Robert Jones, chairman of the House conferees, agreed: "there is no doubt in anybody's mind of the intent of the language."[213] Minority Leader Gerald Ford summed up the situation:

"[T]his clarifies and certainly ought to wipe away any doubts anyone has. The language is not a mandatory requirement for full obligation and expenditure up to the authorization figure in each of the 3 fiscal years."[214]

Edmund Muskie, leading Senate sponsor of the bill, remarked that the President knew "that all the money authorized in the bill would not have to be obligated."[215] According to Muskie, the "not to exceed" language, coupled with the deletion of "all," was to be taken "to give the administration some flexibility concerning the obligation of construction grant funds."[216] Hence, these speakers were in agreement that the President could exercise some discretion in obligating and expending funds.

A separate question presented was whether the President also enjoyed flexibility in allotting the contract authority to the states. In a decision handed down on May 8, 1973, the U.S. District Court for the District of Columbia held that the Act required the administration to allot the full sums authorized to be appropriated by Section 207.[217] Instead of allotting $5 billion for the first two years, the administration should have allotted the full $11 billion. In reaching that decision, however, Judge Gasch did not try to determine "whether the Administrator should *spend* any given amount of money for sewage treatment works."[218] He stated that the question whether "the entire amount should be *obligated* is, of course, not before this Court."[219]

The question of obligation and spending was at issue in *Campaign Clear Water v. Ruckelshaus*.[220] Judge Merhige found that the Nixon administration's failure to allot $6 billion in clean-water money constituted an abuse of discretion.[221]

Unlike Judge Gasch, Judge Merhige warned that excessive withholding at the obligation and expenditure stages would contravene the letter and spirit of the Act.[222] But whereas Judge Gasch decided that the Act required allotment of all funds, Judge Merhige drew from the legislative history—particularly the omission of the word "all" from section 205—a willingness on the part of Congress to allow *some* discretion at the allotment stage. However, the degree of impoundment—55 percent ($6 billion out of $11 billion for fiscal years 1973 and 1974)—represented "a violation of the spirit, intent and letter of the Act and a flagrant abuse of executive discretion."[223]

B. Legislative commitment

The Merhige decision reconciled two central features of the clean-water legislation: (1) the grant of discretionary authority to the executive and (2) the commitment on the part of the Government to combat water pollution within a scheduled period of time. The administration used its discretion to undermine its commitment.

The concept of an overriding legislative commitment is described most clearly in a decision by Judge Roberts of the Western District of Texas.[224] He emphasized Congress's concern with the ability of state and local governments to effect long-range plans in combating pollution: "Indeed the planning problem was the reason for the implementation of the allotment procedure rather than the normal appropriation procedure in the Act."[225] Without unequivocal federal financial assistance, state and local governments would have difficulty entering into long-term contracts and financing long-term bonds. "It is illogical," wrote Judge Roberts, "to think that Congress would inject the same uncertainty back into the system it had sought to avoid with the allotment procedure by giving the Administrator discretion to choose the amount to be made available to the state and local governments."[226]

Administrative spokesmen claimed that it was possible to use the full amount of contract authority provided by Congress. John D. Ehrlichman, in his capacity as Director of the Domestic Council, said that there are "only so many contractors who can build sewer plants. There is only a certain amount of sewer equipment that can be purchased. It becomes obvious that there is no point in going out and tacking dollar bills to the trees. That isn't going to get the water clean."[227]

Why assume that the environmental industry would be unable to increase its capacity? It would be more reasonable to expect that if the Government committed itself financially and established target dates for the goal of clean water, industry would gear up to meet that commitment. That is what happened in the 1950s with the highway program. That is the lesson from 1961 when President Kennedy set the national goal of putting a man on the moon by the end of the decade. No one argued that those commitments could not be met because of a lack of contractor capability. The commitment came first; the capability followed.

After the President's veto, Mr. Ruckelshaus argued that it was economically unwise to allot the full amounts authorized by Congress: "the fastest way to increase inflation is to pour more money into the community than the construction industry can absorb."[228] That conflicts with his own letter to the Office of Management and Budget, *prior* to the veto, in which he strongly recommended that the President sign the bill:

> The total value of construction initiated in the near-term under the enrolled bill is expected to correspond closely to the total value of construction that would have been initiated under the Administration bill. . . . With the projected close correspondence in total near-term value of construction starts, the potential inflationary impact upon the entire construction sector would be minimized.
>
> The total amount of contract grant authority contained in the enrolled bill is formulated from the Administration's estimate of construction needs as submitted to the Congress in February of this year. The total estimate amounted to $18.1 billion. The Federal share at 75% would amount to $13.6 billion. This needs estimate did not include any allowance for inflation, nor did it include funds for combined, storm and collection sewers, or for recycled water supplies. These are project eligibilities newly specified by the enrolled bill.[229]

In this same letter, Mr. Ruckelshaus pointed out that the needs estimate provided to Congress was constructed to support the commitment of the President in his State of the Union message of January 22, 1970, to "put modern municipal waste treatment plants in every place in America where they are needed to make our waters clean again, and to do it now.

This Presidential commitment was repeated in the environmental messages in 1970 and 1971.[230] Mr. Ruckelshaus further noted that the additional spending authority provided by Congress was "largely the result of the Congress adopting a later EPA needs survey than the one that provided the basis for the Administration's request."[231]

Notwithstanding the discretion included in the bill, the trust of the legislation was to establish a clear commitment and to provide the necessary budget authority. To say we can't afford this sum of money," said Representative Harsha, "is to say we can't afford to support life on earth."[232] Senator Muskie stressed that the "whole intent of this bill is to make a national commitment."[233] The discretionary language in the bill was not to be used, Senator Muskie warned, "as an excuse in not making the commitments necessary to achieve the goals set forth in the act."[234]

When the administration used that discretion to cut in half a legislative commitment, the lesson for some legislators was to be less generous with discretionary authority in the future. It was a temptation to Congress to be mere inflexible when drafting legislation. Senator Muskie directed these remarks to Mr. Ruckelshaus:

"I could now write better language and believe me, I will. Believe me, I will.

"The clear language and debate was what we were giving you, is what we understood to be legitimate administrative discretion to spend the money, not defeat the purposes.

Footnotes at end of article.

Then to have you twist it as you have, is a temptation to this Senator to really handcuff you the next time." [235]

III. HOUSING AND URBAN DEVELOPMENT

A. Housing moratorium

On January 5, 1973, the Nixon administration placed an 18-month moratorium on subsidized housing programs: low-rent public housing, rent supplements, homeownership assistance, and rental housing assistance. In a speech three days later, HUD Secretary Romney offered the following justification:

"It became crystal clear by 1970 that the patchwork, year-by-year, piecemeal addition of programs over a period of more than three decades, had created a statutory and administrative monstrosity that could not possibly yield effective results even with the wisest and most professional management systems " [236]

That position was repeated a week later by the Director of Domestic Council, Kenneth R. Cole, Jr., who argued that—

"The program structure we have now cannot possibly yield effective results even with the most professional management. There is mounting evidence that the present programs, for the most part, have proven inequitable, wasteful, and ineffective in meeting housing needs." [237]

Members of Congress pressed the administration for analyses and studies which justified the moratorium. Senator Proxmire, for example, wanted to know if the Cole statement was true and "what documentation he has for it and how you can establish that. . . . Where is the evidence?" [238] It appears that the moratorium was imposed *before* such documentation was available. William Lilley, III, HUD's Deputy Assistant Secretary for Policy Development, was "distressed" to find that "no sophisticated analytical work" had been done prior to the moratorium. After the subsidized housing program was suspended, HUD devoted a day and a half to an initial rationalization, which Lilley called "paper thin, highly subjective and totally unsupported by any back-up data." [239]

Did the housing program "fail to work" because of defects in the law or because of mismanagement and administrative disinterest? Dr. Anthony Downs, in a study dated October 1972, described the homeownership and rental housing programs as "effective instruments for meeting the key objectives of housing subsidies." The basic designs were considered sound, while the basic inadequacies so far encountered in the execution of these programs have stemmed mainly from either poor administration by HUD or the inherently higher risks of investing capital in housing for relatively low-income households in relatively deteriorated areas. Such higher risks are inescapable in any meaningful attempts to achieve the basic objectives of housing subsidies.[240]

Regarding public housing leasing and rent supplements, Dr. Downs said that the programs had "major advantages that indicate they should be significantly expanded." [241] After identifying and analyzing the major criticisms of housing subsidies, the Downs study stated that "the widely expressed conclusion that current housing subsidy programs 'have failed' or are generally ineffective is false." [242]

The Joint Economic Committee reported in March 1973 that most of the scandals and abuses were due to faulty administration by the Department of Housing and Urban Development rather than to any inherent defects in the legislation. Shoddy construction, poor inspection procedures, almost no tenant counseling, no careful analysis of the cause of high default rates, excessive land costs, and excessive legal and organizational fees are examples the Subcommittee found where HUD simply did not do its job. While some legislative improvements are needed, our present housing programs are *not* inherently unworkable as some White House spokesmen have charged.[243]

On June 30, 1973, the Senate adopted an amendment to prohibit the use of any HUD funds unless the Secretary of HUD, during fiscal 1974, made funds available for obligation contract authority for rent supplements, homeownership, rental housing assistance and public housing.[244] The amendment was deleted in conference.[245]

In a decision of July 23, 1973, Judge Charles R. Richey of the U.S. District of Columbia called the housing moratorium unlawul. He ordered Secretary Lynn to accept applications for subsidies, to process existing and new applications in accordance with HUD regulations, and to approve and complete the processing of projects found to be qualified under HUD regulations.[246] It was not within the discretion of the Executive "to refuse to execute laws passed by Congress but with which the Executive presently disagrees." [247]

The Nixon administration had four years to study housing programs and to propose remedies. Each budget presentation could have identified for Congress the inadequacies and what should be done to correct them. Nothing was proposed except for a consolidation and simplification bill. To wait four years and then impose a moratorium, without adequate evidence that the program was structually unsound or administratively unworkable, was in act of administrative bad faith.

B. Community development

In a March 1971 appearance before a Senate committee, Secretary of HUD Romney explained that funds were being held back from various urban programs in anticipation of the President's revenue sharing proposal.[248] He remarked that there was no point in accelerating programs that were "scheduled for termination." [249] The fact that Congress had yet to register an opinion about the "termination" of urban grants was apparently immaterial to Mr. Romney.

Two years later, during Senate hearings on February 1, 1973, Senator Ervin challenged the right of the administration to use impoundment in this manner. He was assured by OMB Director Ash that the Romney example "dealt not with this year but earlier activities. This year the reasons are very compelling ones and different ones.[250]

Contrary to the Ash reassurance, impoundment was still very much a part of the administration's stategy to enact urban revenue sharing. Secretary Romney, in his speech of January 8, 1973, announced that "we have ordered a temporary holding action on new commitments for water and sewer grants, open space grants, and public facility loans until these activities are folded into the Special Revenue Sharing program." [251] That was underscored a week later by Kenneth R. Cole, Jr., Director of the Domestic Council.[252]

To impound funds in this prospective sense—holding on to money in anticipation that Congress will enact an administration proposal—was a new departure for the impoundment technique. Money was not being withheld to avoid deficiencies, to effect savings, or even to fight inflation, but rather merely to shift budget priorities from one administration to the next, all before any congressional action.

In its report of June 19, 1973, the House Committee on Appropriations expressed "great concern" that termination of categorical grant programs for community development by impoundment of funds or executive fiat is of questionable legality. Until modified or repealed by the Congress, the Committee directs that the programs be continued.[253]

In that same report, Representative Robert O. Tiernan pointed out that the omission of mandatory language in the bill created uncertainty as to the future of community development programs.[254] On April 6, 1972, the District Court for the Northern District of California had concluded that nonmandatory language in federal housing legislation made it impossible for the court to order the release of $150 million in urban renewal funds.[255] The court had held that Congress appeared "to have created much of the executive's discretion to withhold funds and would also appear to be able to limit that discretion if it so desired.[256]

When the housing appropriation bill reached the floor, Representative Tiernan offered an amendment to mandate spending for three community development programs: Model Cities, urban renewal, and open space. His amendment was rejected on a point of order.[257] Senator Cranston successfully proposed an amendment to the housing appropriation bill to prohibit the Secretary of HUD from using any funds for administrative expenses unless the full amount appropriated for community development assistance programs was released during fiscal 1974. That amount included funds to be available in the fiscal 1974 bill as well as those impounded from prior appropriations.[258] The Senate also adopted an amendment that made air conditioning for the Office of Management and Budget contingent upon the release of $10.1 million for air conditioning of Veterans Administration hospitals.[259] As passed by the Senate, the fiscal 1974 appropriation bill contained a general provision to induce the administration to spend the funds; the bill specified that all funds "shall be made available for expenditure except as specifically provided by Law. . . ." [260] These amendments to the HUD bill were rejected in conference.[261]

A general directive to spend funds for all federal programs was included, however, in the continuing appropriations bill passed by the Senate on June 29, 1973. The provision stated that funds "shall be made available for expenditure except as specifically provided by law." [262] The Senate Appropriations Committee intended that all funds [would] be available for obligation except those for which a specific reservation ha[d] been provided in this bill or those which may legally be withheld under the Anti-Deficiency Act or other specific statutory authority.[263]

The provision was deleted in conference because it was considered an unnecessary restatement of existing provisions of law.[264] The continuing appropriations bill also provided that "[a]ny provision of law which requires unexpended funds to return to the general fund of the Treasury at the end of the fiscal year shall not be held to affect the status of any lawsuit or right of action involving the right to those funds." [265]

IV. CONCLUSION

Impoundment of funds by the Nixon administration provoked not only ad hoc efforts to restore specific programs but also more general remedies. Even members of Congress who at one time were sympathetic to impoundment now joined the ranks of those insisting on greater congressional control.

A good example of the change in congressional thinking is George H. Mahon, chairman of the House Committee on Appropriations. In 1969 he stated that—

"The weight of experience and practice bears out the general proposition that an appropriation does not constitute a mandate to spend every dollar appropriated. . . . I believe it is fundamentally desirable that the Executive have limited powers of impoundment in the interests of good management and constructive economy in public expenditures. . . . " [266]

Four years later, no longer confident that the Executive could be trusted to exercise "limited powers of impoundment," Mahon

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Footnotes at end of article.

sponsored a bill to prohibit impoundment if both Houses of Congress, within 60 days, adopted a resolution of disapproval.[267] To President Nixon's claim that it was "absolutely clear" that he had the constitutional right to impound funds to prevent an increase in prices or taxes,[268] Mahon insisted that Congress could not concede such broad authority: "To concede that would mean that we were practically out of business as a legislative branch."[269] According to Mahon a failure to check the administration's use of impoundment "would destroy the coequal status of Congress . . . . [and] would be demeaning the Congress."[270]

The Mahon impoundment bill, after extensive modification by the House Committee on Rules, was reintroduced by Representative Ray J. Madden.[271] The new House bill provided for disapproval by only one House instead of two, reliance on the expertise of the General Accounting Office, a provision to discharge from the Appropriations Committees any impoundment actions referred there, and a spending ceiling of $267.1 billion for fiscal 1974.[272] The bill passed the House on June 25, 1973.[273]

The Ervin impoundment bill, which had already passed the Senate,[274] prohibited an impoundment after 60 days unless both Houses ratified it. Whereas the Madden bill placed upon either the House or the Senate the burden of disapproving an impoundment action, the Ervin bill placed upon the administration the burden of gaining the support of both Houses. Furthermore, the Ervin bill relied to an even greater extent on the GAO for assistance, brought impoundment actions directly to the floor rather than referring them first to Appropriations Committees, and established a spending ceiling of $268.0 billion for fiscal 1974.[275]

Both Houses moved forward with these bills somewhat reluctantly; they were concerned about the effect to anti-impoundment legislation on government economy and efficiency. But the extraordinary and unprecedented use of impoundment by the Nixon administration left Congress with no other choice. Congress could not allow the President to justify impoundment on the grounds of fighting inflation and higher taxes. Those policy objectives, attractive though they may be, do not stand alone. Constitutional government depends on more than the pursuit of desirable goals. More fundamental than goals are the means employed. Who is to set the goals? What standards and procedures are to be devised to ensure that public policy is built upon the law rather than administrative convenience?

For all its trappings of conservatism and "strict constructionism," the Nixon administration has never demonstrated an understanding of what lies at the heart of our political system: a respect for procedure, a a sense of comity and trust between the branches, an appreciation of limits and boundaries. Used with restraint and circumspection, impoundment is a viable instrument, capable of being used without precipitating a crisis. But restraint was replaced by abandon, precedent stretched past the breaking point, and statutory authority pushed beyond legislative intent. Basic courtesies were neglected, and OMB's reputation for objectivity and professionalism damaged.

Without good-faith efforts and integrity on the part of executive officials, the system of delegation, discretion, and nonstatutory controls will not last. Under such conditions Congress is forced to act.

APPENDIX

STATISTICAL CLAIMS

A. Impoundment reports

A debt limit bill, enacted October 27, 1972, required the President to transmit an impoundment report to Congress.[276] Although the language of the law called for "prompt" reporting, the President still had not complied by January 6, 1973. On that day the Senate considered an amendment by majority whip Robert C. Byrd to establish a specific deadline for the information.[277] As finally enacted, the date was set for February 10.[278]

The resulting report from the Office of Management and Budget stated that "budgetary reserves," as of January 29, 1973, amounted to $8.7 billion.[279] Administration spokesmen relied on this report to announce that Presidents Kennedy and Johnson had both impounded a higher percentage of funds than President Nixon. Secretary Weinberger wrote:

"Here are the facts: as of Jan. 29 of this year, 3.5 per cent of the total unified budget was being impounded. That compares with 7.8 per cent on June 30, 1961, under President Kennedy, 6.1 per cent in 1962, 4 per cent in 1963; 3.5 per cent in 1964 under President Johnson's first budget, 4.7 per cent in 1965, 6.5 per cent in 1966, 6.7 per cent in 1967, and 5.5 per cent in 1968."[280]

The "facts" of the matter are a little more complicated. As will be demonstrated herein, the OMB report omitted approximately $9 billion in impounded funds. Moreover, percentages and dollar amounts fail to capture the nature and character of impoundment actions. Not until they are analyzed on a case-by-case basis—separating the routine from the controversial, the deferred from the cancelled—is it possible to comprehend the full impact on programs and activities.

1. *Amounts.* Five instances of impoundment were omitted from the OMB report. The largest of such items was $6 billion in contract authority withheld from water pollution control programs: $3 billion each year for fiscal 1973 and fiscal 1974. However, since the President acted in fiscal 1973 to withhold the amounts for both years,[281] the entire $6 billion should have been included in his report.

The justification for omitting the $6 billion may be found in the definition of contract authority—buget authority "which permits obligations, but requires an appropriation or receipts 'to liquidate' (pay) these obligations."[282] Since states could not enter into obligations until the President allotted the authority, the unallotted portion ($6 billion) never satisfied the technical definition of either contract authority or budget authority. By this reasoning, nothing existed to impound or place in reserve. Casper W. Weinberger noted that "the authority to obligate the United States comes into existence on the date the allotments to the states are made and the amount of the total obligational authority thus provided is determined by the total amount allotted."[283] Still, it is clear that Congress regarded the failure to allot the $6 billion as an act of impoundment. Moreover, the act of October 27, 1972, called for reports on *impoundment*, not "budgetary reserves" or some other category more convenient to the administration.

The OMB report also failed to include $441 million in contract authority withheld because of the housing moratorium.[284] This amount included $38,584,000 for rent supplements, $220,983,000 for homeownership, $171,473,000 for rental assistance, and $10,209,000 for college housing. HUD explained that those amounts were not reported because contract authority is not apportioned by HUD and therefore cannot be placed in "budgetary reserve."[285]

A third item omitted from the OMB list was $382.8 million in proposed rescissions (requests to cancel budget authority). This was comprised of $283.8 million for manpower training services; $17.3 million for the Food and Drug Administration; $4.7 million for Indian health services; and four programs in the Office of Education: $18 million for Indian education; $44.3 million for higher education; $2.9 million for library resources; and $11.9 million for educational renewal.[286] Those amounts were apportioned to their respective agencies, pending congressional action. Since they were actually apportioned, and thus not placed in "budgetary reserve," they were omitted from the OMB list.[287]

Whether apportioned or not, the proposed rescissions were functionally identical to impoundment. The agencies were instructed not to obligate the funds until Congress acted. Even if Congress rejected the proposed rescissions there was no guarantee that the money would be used. Weinberger explained:

"Our determination of what steps to take if the funds are not rescinded will be dependent upon a number of factors which are currently unknown, such as the status of Congressional action on other fiscal year 1973 appropriations and where we stand with respect to our firm target of maintaining outlays below $250 billion in fiscal year 1973."[288]

Part of the proposed rescissions were released as a result of court action. Of the $44.3 million withheld from higher education, $25 million was for veterans' cost-of-education grants to colleges and universities. Judge Gesell of the U.S. District Court for the District of Columbia ordered the Office of Education to issue regulations so that colleges and universities could apply for grant assistance.[289] The Office later agreed to fund the program in its entirety.[290]

The $18 million for Indian education was also released because of pressure from litigation.[291] When the fiscal 1974 budget proposed to rescind $10 million for land-grant colleges (the Bankhead-Jones Act),[292] the National Association of State Universities and Land Grant Colleges brought suit against HEW Secretary Weinberger in the U.S. District Court for the District of Columbia.[293] The Department of Justice informed the court that, in view of Congress' failure to approve the rescission requests, HEW was now implementing the program. The case was dismissed as moot.[294]

In rejecting the rescission requests,[295] both houses were "highly critical of the Department's actions with respect to items proposed for rescission. Little was done in the way of anticipating Congressional action on these items. As a result, those who wish to apply for funding are required to do so on extremely short notice. The conferees are aware that to date the Department has acted with less than alacrity, and expects that all possible considerations be given to applicants."[296]

A fourth category omitted by OMB was $1.9 billion withheld from the Departments of Labor and Health, Education, and Welfare. The appropriation bill for those departments had been vetoed once by the President and pocket-vetoed a second time.[297] During this period the Labor-HEW programs were financed by means of a continuing resolution, under which departments and agencies were generally funded at the level approved by the House or the Senate, whichever was lower. Instead, the administration decided to fund the programs at an even lower level—the President's revised 1973 budget requests.[298] The difference of $1.9 billion was not technically "budgetary reserves," since the apportionment process was waived for continuing appropriations.[299] Yet the effect was identical to impoundment.

Because of the administration's action in withholding Labor-HEW funds, House Appropriations prepared a continuing appropriations bill to establish spending authority for the Departments of Labor and Health, Education, and Welfare, and related agencies "as now or hereafter passed by the House and Senate." The "current rate" for projects and activities in the Labor-HEW bill was defined to be those established by Congress in the continuing resolution for fiscal

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1973—a level higher than the actual ongoing administrative rate.[300]

The fifth, and final, item omitted from the OMB impoundment report was approximately $300 million withheld from the FHA disaster loan program. That is the estimated saving that would have been realized had the program been cancelled.[301] Adding the five omissions to the OMB list of $8.7 billion brings the impoundment total up to $17.7 billion. Instead of only 3.5 percent of the Nixon budget being impounded, the actual percent was at least twice that amount.

2. *Program Impact.* Although it is not very hepful to compare administrations with aggregate figures, either by dollar amounts impounded or by percentages, such comparisons are instructive in showing the impact of impoundment *within an* administration.

The OMB report listed $1.899 billion withheld from the Department of Defense (military functions), $1.497 billion from the Department of Agriculture and $529 million from HUD. As percentages of total available budget authority for fiscal 1973 that translates to 2.4 percent for Defense, 13.0 percent for Agriculture, and 10.5 percent for HUD.[302] As Defense is underrepresented, the main burden of impoundment obviously falls on the domestic sector.

Those percentages actually understate the full extent of that burden. Two other calculations are needed. The first involves the OMB report's omission of $300 million in FHA disaster loan funds and $441 million in HUD contract authority.[303] Thus, a more accurate comparison would be: 2.4 percent for Defense, 15.6 percent for Agriculture, and 19.2 percent for HUD.

A second focuses on the amount of unobligated funds which lapse at the end of the fiscal year. Deferral of spending is less serious to an agency than outright loss of funds. Of the Defense impoundments, all unobligated funds will be available beyond fiscal 1973 except for $7.5 million in annual accounts; $5.1 million in Reserve Personnel, Marine Corps. and $2.4 million in the Special Foreign Currency Program.[304] Thus, less than one-half of 1.0 percent of Defense impoundments was scheduled to lapse.

That stands in stark contrast that $207 million of Agriculture money not available beyond fiscal 1973.[305] Moreover, there are additional funds which are technically or legally "available" after fiscal 1973, of which the administration had no intention of spending: $300 million for the FHA disaster loan program, $210 million for REAP, $11 million for the Water Bank Program, $456 million for REA loans, and $120 million for rural water and waste disposal grants. In a practical sense, then, 72.6 percent of Agriculture impoundments would have been lost after fiscal 1973 without legal and legislative efforts to restrain the administration.[306]

All of the $970 million withheld from HUD was technically available after fiscal 1973. But with the single exception of $6.6 million in housing production and mortgage credit, the administration had no plans to spend the money.[307] In the area of Defense, none of the funds that extended beyond fiscal 1973 faced political impoundment.

Thus, a comparison of the three Departments in terms of the percent of impoundments that would lapse—either legally or politically——reveals: 0.4 percent, Defense; 72.6 percent, Agriculture; and 99.3 percent, HUD.

B. *The $11 billion saving*

During the fall election months of 1972, when President Nixon asked Congress for a $250 billion ceiling for fiscal 1973, administration spokesmen argued that congressional action threatened to drive federal spending to an irresponsible inflationary level. The President declared his intention to "fight every attempt by the Congress to bust that budget, because a big spending spree by the Congress will have only one result, a hangover of higher taxes or higher prices for every working family in America."[308] After Congress refused to grant him a spending ceiling, the President announced his determination to "use every weapon at my command to hold spending in this fiscal year as close as possible to $250 billion . . . ."[309]

In an article for *The New York Times*, Secretary Weinberger claimed that "only Presidential intervention" prevented an additional $11-billion increase in the fiscal 1973 budget, Weinberger maintained that the President ordered the "most exhaustive evaluation of Federal programs ever undertaken" in order to ferret out waste and inefficiency.[310] The alleged saving came from two sources: $6.5 billion in program reductions and terminations, and $4.7 billion attributed to the following items (in billions):[311]

Additional stockpile disposals	—0. 4
Additional non-federal financing for federal credit programs	—1. 1
Deferral of various payments:	
General revenue sharing	—1. 5
Other	—0. 5
Additional offshore oil receipts	—1. 0
Increase in user charges and other actions	—0. 2

Starting with this list of $4.7 billion, most of the action consists of bookkeeping processes and deferrals rather than actual savings. To sell $1.5 billion in stockpile assets and federal credit is not a saving in the sense that a program is eliminated or reduced. Nor is it a saving to push certain costs into the early months of the next fiscal year, such as the $2.0 billion in general revenue sharing and other deferrals. Furthermore, the $1.0 billion in offshore oil receipts is more properly considered as additional revenue rather than "outlay savings".

Turning now to the $6.5 billion, a significant percentage of the program reductions and terminations resulted from factors over which the administration had no control. For example, $2.343 billion represented monies which might have been spent had Congress not established a ceiling of $2.5 billion for the social services grant program.[312] To designate that as part of the President's $11 billion savings is a strange use of statistics.

Several other large savings resulted from congressional action or inaction. Highway spending was reduced by $100 million because Congress failed to pass the Highway Act of 1972.[313] Similarly, the defeat of the appropriation bill for the Corporation for Public Broadcasting resulted in an outlay saving of $10 million.[314] Also significant was legislation enhancing the marketability of bonds for the Washington Metropolitan Area Transit Authority, permitting earlier use of bond revenues and $80 million in outlay savings.[315] Still another factor external to administrative action was the termination of the European Monetary Agreement by the Organization for Economic Cooperation and Development, producing an outlay saving of $242 million.[316]

Projects were delayed in some cases because of environmental considerations, especially projects that had been authorized prior to the National Environmental Policy Act of 1969. Those delays affected projects by the Corps of Engineers and the Bureau of Reclamation, airport grants, the Federal Law Enforcement Training Center, AEC's Plowshare program, and TVA construction activity—a total of $155 million related to environmental factors.[317] The motivating force here was not administrative initiative but compliance with legislative standards.

Other large savings resulted from normal administrative responsibilities: eliminating unnecessary advance payments in the Medicare program, and eliminating overpayments or payments to ineligible recipients in the Medicaid and public assistance programs. Those items amounted to $572 million.[318] Surely it cannot be argued that the Congress would want the administration to pay for unnecessary advancements, overpayments, or ineligible recipients.

Nor could Congress have expected the administration to spend funds for FAA equipment subject to procurement delays;[319] for Urban Mass Transportation research and development experiencing problems with new technology;[320] for intermodal research and development in the Transportation Department affected by administrative delays;[321] for termination payments on the supersonic transport delayed by negotiations to settle claims;[322] or for maritime subsidies delayed by late shipments of grain.[323] Outlay savings for those items came to $90 million.

In short, more than half of the $6.5 billion in reductions and terminations can be accounted for by the following four categories: $2.775 billion related to congressional action or inaction; $155 million related to environmental factors; $572 million in normal administrative responsibilities; and $90 million produced by administrative delays or late shipments—a total of $3.592 billion.[324]

FOOTNOTES

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The views expressed in this article are those of the author, not the Congressional Research Service.

[1] 9 WEEKLY COMP. PRES DOC. 110 (1973).

[2] For an exploration of the definitional problem, see Note, *Presidential Impoundment: Constitutional Theories and Political Realities,* 61 GEO. L.J. 1295, 1296–97 (1973).

[3] In United States *ex rel.* Knauff v. Shaughnessy, 338 U.S. 537 (1950), Mr. Justice Jackson said that "security is like liberty in that many are the crimes committed in its name." *Id.* at 551.

[4] 21 OP. ATT'Y GEN. 415 (1896); similar statements appear *id.* at 392, 422.

[5] *Hearings on First Supplemental National Defense Appropriation Bill for 1944 Before the Senate Comm. on Appropriations,* 78th Cong., 1st Sess. 739 (1943) (letter from President Franklin D. Roosevelt to Senator Richard Russell, Aug. 18, 1942).

[6] H.R. REP. No. 1797, 81st Cong., 2d Sess. 9 (1950).

[7] *Id.*

[8] *See Hearings, supra* note 5.

[9] *See* H.R. REP. No. 1797, *supra* note 6, at 311.

[10] 1 A COMPILATION OF MESSAGES AND PAPERS OF THE PRESIDENTS 325 (J. RICHARDSON ed. 1925). *See also id.* at 354, 366, 382–83, 405, 421, 447.

[11] *Id.* at 348.

[12] *Id.* at 360. For a discussion of the historical background for this by Professor Joseph Cooper, see *Hearings on Impoundment of Appropriated Funds by the President Before the Ad Hoc Subcomm. on Impoundment of Funds of the Senate Comm. on Government Operations and the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. 676–77 (1973) [hereinafter cited as *1973 Ervin Hearings*].

The Nixon administration attempted to use the routine impoundment by Jefferson to justify much more serious actions. *See Hearings on Department of Housing and Urban Development; Space, Science, Veterans and Certain Other Independent Agencies Appropriations for Fiscal 1973 Before the Senate Comm. on Appropriations,* 92d Cong., 2d Sess. 565 (1972) (statement by George Romney, Secretary of Housing and Urban Development); *Hearings on Caspar W. Weinberger To Be Secretary of Health, Education, and Welfare (Part 1) Before the Senate Comm. on Labor and Public Welfare,* 93d Cong., 1st Sess. 29 (1973).

[13] Decatur v. Paulding, 39 U.S. (14 Pet.) 497 (1840). For other early cases distinguishing between ministerial and executive duties, see Fisher, *Funds Impounded by the President: The Constitutional Issue,* 38 Geo. Wash. L. Rev. 124, 126–28 (1969).

[14] *Hearings on Executive Impoundment of Appropriated Funds Before the Sub-Comm. on Separation of Powers of the Senate Comm. on the Judiciary,* 92d Cong., 1st Sess. 85 (1971) [hereinafter cited as *1971 Ervin Hearings*].

[15] Washington Post, June 15, 1971, at A2, col. 1, Section 235 of the Omnibus Housing Act of 1968, 12 U.S.C. § 1715z (c) (2) (1971), authorizes payment by the government of up to all but one percentage point of the interest rate on a mortgage loan for a low-income buyer.

[16] N.Y. Times, Apr. 23, 1971, at 36, col. 2.

[17] Washington Post, June 26, 1971, at B1, col. 6; *id.,* May 31, 1972, at A1, col. 3.

[18] Act of June 30, 1932, ch. 314, pt. II, tit. I,IV, 47 Stat. 382.

[19] 76 Cong. Rec. 233, 2103–2126 (1932). On June 30, 1932, President Hoover signed the legislative appropriation bill, section 2 of which, the economy act, contained a provision for the reorganization of the executive departments, and in which the President was given certain limited authority to group, coordinate, and consolidate Government activities. Acting under that authority, the President submitted on Dec. 9 a very thorough and exhaustive message containing recommendations for the consolidation of some 58 government activities. *Id.* at 2103.

[20] Act of March 4, 1933, ch. 281, tit. II, § 4, 47 Stat. 1602; Act of March 3, 1933, ch. 212, § 16, 47 Stat. 1519.

[21] 2 Public Papers and Addresses of Franklin D. Roosevelt 50 (1938).

[22] Act of March 20, 1933, ch. 3, 48 Stat. 8. *See* 2 Public Papers and Addresses of Franklin D. Roosevelt, supra note 21, at 28, 51, 69.

[23] Act of April 3, 1939, ch. 36, 53 Stat. 561.

[24] For additional background on this and other impoundment disputes, see Fisher, *The Politics of Impounded Funds,* 15 Ad. Sci. Q. 361 (1970).

[25] Act of Sept. 6, 1950, ch. 896, § 1214, 64 Stat. 768.

[26] H.R. Doc. No. 182, 82d Cong., 1st Sess. (1951).

[27] Act of Dec. 18, 1967, Pub. L. No. 90–218, 81 Stat. 662. *See* 2 Public Papers of the Presidents of the United States; Lyndon B. Johnson, 1967, at 1174.

[28] Act of July 6, 1970, Pub. L. No. 91–305, § 501, 84 Stat. 406; Act of July 22, 1969, Pub. L. No. 91–47, § 401, 83 Stat. 82; Act of June 28, 1968, Pub. L. No. 90–364, § 202, 82 Stat. 271. *See* L. Fisher, President and Congress: Power and Policy 106–10 (1972).

[29] For a discussion of the policy-making issue, see notes 132–63 *infra* & accompanying text.

[30] *Hearings on Public Works for Water and Power Development and Atomic Energy Commission on Appropriations (Part 6) Before the House Comm. on Appropriations,* 92d Cong., 1st Sess. 13 (1971).

[31] *See* 118 Cong. Rec. p. 37306 (Oct. 18, 1972); *id* at pp. 36831–36854 (Oct. 17, 1972).

[32] 119 Cong. Rec. p. 11072 (Apr. 4, 1973).

[33] *Id* at p. 21657 (June 27, 1973). Rejected by conferees, *id.* at p. 22397 (June 29, 1973); *id* at p. 22598–99 (June 30, 1973).

[34] *Id* at p. 15255 (May 10, 1973).

[35] 119 Cong. Rec. p. 25848 (July 25, 1973).

[36] Act of Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 765 (codified at 31 U.S.C. § 665(c) (2) (1970)).

[37] *Hearings on Second Deficiency Appropriation Bill for 1947 Before the Senate Comm. on Appropriations,* 80th Cong., 1st Sess. 125, 137 (1947).

[38] *Id.* at 142–43.

[39] Director of the Bureau of the Budget & Comptroller General of the United States, Report and Recommendations with Respect to the Antideficiency Act and Related Legislation and Procedures 7 (mimeographed report with appendices submitted to Senator Styles Bridges, chairman of the Committee on Appropriations, June 5, 1947).

[40] *Id.* § (c) (2) of draft bill.

[41] *See* Act of Sept. 6, 1950, ch. 896, § 1211, 64 Stat. 765.

[42] *Id.* (emphasis added).

[43] BOB–GAO Report at 21.

[44] Commission on Organization of the Executive Branch, Budgeting and Accounting, A Report to the Congress 17 (1949).

[45] H.R. Rep. No. 1797, 81st Cong., 2d Sess. 311 (1950).

[46] Williams, *The Impounding of Funds by the Bureau of the Budget 32, Inter-University Case Program No. 28 (1955)*, reprinted in *1973 Ervin Hearings, supra* note 12, at 859.

[47] *1973 Ervin Hearings* at 286. The author discusses the history of the Antideficiency Act more thoroughly in *id.* at 395–99.

[48] Act of Feb. 20, 1946, ch. 33, 60 Stat. 24 (codified at 15 U.S.C. §§ 1021–25 (1970)).

[49] *Hearings on Caspar W. Weinberger To Be Secretary of Health, Education, and Welfare (Part 1) Before the Senate Comm. on Labor and Public Welfare,* 93d Cong., 1st Sess. 30 (1973).

[50] Act of Feb. 20, 1946, ch. 33, § 3, 60 Stat. 24 (codified at 15 U.S.C. § 1022 (1970)).

[51] S. Bailey, Congress Makes a Law 248 (1950); S. 380, 79th Cong., 1st Sess. (1945), as introduced on Jan. 22, 1945 and referred to the Committee on Banking and Currency.

[52] *1973 Ervin Hearings* at 366.

[53] 38 Fed. Reg. 3475 [Code 6c], 3476–93, (1973).

[54] 119 Cong. Rec. p. 4375 (Feb. 19, 1973).

[55] S. Rep. No. 63, 93d Cong., 1st Sess. 6–7 (1973).

[56] Act of April 30, 1973, Pub. L. No. 93–28, § 4, 87 Stat. 28.

[57] Rep. Mahon explained the stretchout policy at 103 Cong. Rec. A7337 (1957). In brief, the stretchout policy involves slowing down the rate of expenditures during a given fiscal year, and spending the balance in subsequent years.

[58] Budget Director Stans said that funds were released after the debt ceiling was raised. *Hearings on the Budget for 1960 Before the House Comm. on Appropriations,* 86th Cong., 1st Sess. 40 (1959).

[59] *See 1973 Ervin Hearings at* 270, 366–77; *1971 Ervin Hearings at 96; Hearings on Withholding of funds for Housing and Urban Development Programs, Fiscal Year 1971, Before the Senate Comm. on Banking, Housing and Urban Affairs,* 92d Cong., 1st Sess. 94 (1971).

[60] 116 Cong. Rec. 1365–67 (1970).

[61] *Id.* at 1552.

[62] Act of March 5, 1970, Pub. L. No. 91–204, § 410, 84 Stat. 48. *See* discussion at 116 *Cong. Rec.* 5926–27 (1970).

[63] 8 Weekly Comp. Pres. Doc. 1240 (1972).

[64] *See* H.R. Rep. No. 1591, 92d Cong., 2d Sess. 2–3 (1972).

[65] 8 Weekly Comp. Pres. Doc. 1578 (1972).

[66] Act of Dec. 18, 1973, Pub. L. No. 93–192.

[67] H.R. Rep. No. 682, 93d Cong, 1st Sess. 7 (1973).

[68] *See* notes 206–35 *infra* & accompanying text.

[69] Act of Feb. 9, 1970, Pub. L. No. 91–194, § 119, 84 Stat. 10; 22 U.S.C. § 2370(s) (1970).

[70] Act of Feb. 9, 1970, Pub. L. No. 91–194, § 109(b), 84 Stat. 9; 22 U.S.C. § 2370(f) (1970).

[71] 22 U.S.C. § 2370(c) (1970). That provision has been applied only once against Ceylon in 1963. *Hearings on Foreign Assistance and Related Agencies Appropriations for 1973 (Part 2) Before the House Comm. on Appropriations,* 92d Cong., 2d Sess. 142 (1972).

[72] 42 U.S.C. § 2000(d) (1) (1970).

[73] Washington Evening Star, Feb. 27, 1971, at A2, col. 6; Washington Post, Feb. 12, 1972, at A4, col. 1.

[74] Act of Jan. 2, 1968, Pub. L. No. 90–248, 81 Stat. 898, § 213(b) (codified at 42 U.S.C. §602(a) (23) (1970)).

[75] HEW threatened during 1971 to cut off relief funds from California, Indiana, Nebraska, and Arizona. *See* National Journal, Feb. 20, 1971, at 401–09; N.Y. Times, Apr. 1, 1971, at 24, col. 3; *id.,* March 29, 1971, at 19, col. 1; *id.,* Jan. 20, 1971, at 15, col. 1; Washington Post, Jan. 28, 1971, at A18, col. 1; *id.,* Jan. 9, 1971, at A2, col. 1; *id.,* Jan. 8, 1971, at A5, col. 6.

[76] *Hearings on the Budget of the United States, Fiscal Year 1973, Before the Senate Comm. on Appropriations,* 92d Cong., 2d Sess. 126 (1972) (statement by the Office of Management and Budget). Repeated, Feb. 1, 1973, by OMB Director Roy L. Ash, in *1973 Ervin Hearings, supra* note 12, at 272.

[77] *1971 Ervin Hearings, supra* note 14 at 95. In his statement of Feb. 1, 1973, OMB Director Ash said that the "detailed administration of projects, the negotiating and letting of contracts, the identification of payees and determination of their eligibility for payment, and the essential exercise of judgment in the normal conduct of Government operations—all of these, by their very nature, are clearly executive functions. These functions are undeniably within the executive authority. Indeed, he has an absolute responsibility to carry out these functions." *1973 Ervin Hearings supra* note 12, at 270. At the latter hearings, Deputy Attorney General Sneed doubted whether Congress can legislate against impoundment, even in the domestic area: "To admit the existence of such power deprives the President of a substantial portion of the 'executive power' vested in him by the Constitution. . . ." *Id.* at 369.

[78] *Id.* (statement by Deputy Attorney General Sneed).

[79] *See* notes 4–17 *supra* & accompanying text.

[80] Myers v. United States, 272 U.S. 52, 293 (1926) (dissenting opinion).

[81] L. Fisher, President and Congress 1–27, 241–70 (1973); Fisher, *The Efficiency Side of Separated Powers,* 5 J. American Studies 113 (1971), Fisher, *Presidential Tax Discretion and Eighteenth Century Theory,* 23 Western Pol. Q. 151 (1970).

[82] L. Fisher, *supra* note 81, at 29–42.

[83] *1973 Ervin Hearings, supra* note 12, at 368. citing United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–20 (1936). The sweeping assertions by Mr. Justice Sutherland in the Curtiss-Wright case rest on an overly simplistic dichotomy between foreign affairs and domestic affairs. Executive commitments abroad have sharply reduced the availability of funds for domestic programs. *See* L. Fisher, *supra* note 81, at 64–65, 117–18, 127–31.

[84] *1973 Ervin Hearings, supra* note 12, at 368.

[85] *See* notes 69–71 *supra* & accompanying text.

[86] *Hearings on Foreign Assistance and Related Agencies Appropriations for 1972 Before the House Comm. on Appropriations,* 92d Cong., 1st Sess. 275–77 (Part 1), 70, 181–91, 351–55 (Part 2) (1971).

[87] Act of Feb. 7, 1972, Pub. L. No. 92–226, § 658, 86 Stat. 32. The Senate Committee on Foreign Relations explained that the purpose of the impoundment provision was to tell the American taxpayers: "You will be assured of getting the funds appropriated by Congress for domestice programs and projects before additional foreign aid funds can

be obligated for similar programs and projects in Rio de Janeiro, Nairobi or New Delhi." S. Rep. No. 432, 92d Cong., 1st Sess. 15 (1971). The General Accounting Office subsequently reported that the domestic funds in question had been released. 118 Cong. Rec. p. 15693 (May 3, 1972).

[88] *Id.* at 19066–68 (June 11, 1973); 119 Cong. Rec. 4041–43 (Feb. 8, 1973). The Nixon Administration's first impoundment report, in response to P.L. 92–599, included various types of withholdings, including Code 8: "The President's constitutional authority and responsibility for the conduct of foreign affairs (U.S. Constitution, Article II, section 2)." No funds were withheld for that reason, 38 Fed. Reg. 3475 (1973).

[89] *See* note 83 *supra* & accompanying text.

[90] Youngstown v. Sawyer, 343 U.S. 579, 641 (1952).

[91] 9 Public Papers and Addresses of Franklin D. Roosevelt 656 (1941).

[92] *See* Williams, *supra* note 46.

[93] *See* Act of March 2, 1945, ch. 19, § 2, 59 Stat. 11; Act of Dec. 22, 1944, ch. 665, § 10, 58 Stat. 891.

[94] Act of March 2, 1945, ch. 19, § 2, 59 Stat. 12.

[95] Act of June 28, 1944, ch. 304, § 303, 58 Stat. 623.

[96] Act of December 20, 1945, ch. 582, §§ 3, 10, 59 Stat. 617; Act of June 30, 1945, ch. 212, § 607, 59 Stat. 304.

[97] Act of July 3, 1945, ch. 266, 59 Stat. 407.

[98] Public Papers of the Presidents of the United States: Harry S. Truman, 1945, at 259, 320, 343.

[99] *Id.* at 579.

[100] Act of July 30, 1947, ch. 357, 61 Stat. 572; Act of July 23, 1946, ch. 591, 60 Stat. 600; Act of May 24, 1946, ch. 271, 60 Stat. 221; Act of February 18, 1946, ch. 30, 60 Stat. 6.

[101] Public Papers of the Presidents of the United States: Harry S. Truman, 1947, at 385. *See id.* 1946, at 17, 288; *id.* 1947, at 100.

[102] *Hearings on Military Situation in the Far East (Part 4) Before the Senate Comms. on Armed Services and Foreign Relations*, 82d Cong., 1st Sess. 2607 (1951).

[103] W. Schilling, P. Hammond & G. Snyder, Strategy, Politics and Defense Budgets 103–07 (1962) [hereinafter cited as W. Schilling].

[104] N.Y. Times, Dec. 17, 1948, at 18, col. 3.

[105] *Id.*, Apr. 12, 1949, at 1, col. 5.

[106] W. Schilling, *Supra* note 103, at 110,

[107] *See Hearings, supra* note 102, at 2607.

[108] 93 Cong. Rec. 7073–74, 9303 (1947).

[109] 94 Cong. Rec. 4018–19, 4026, 4051–53 (1948).

[110] A. Holmans, United States Fiscal Policy: 1945–1959, at 56–84 (1961).

[111] 95 Cong. Rec. 14591–92 (1949).

[112] *Id.* at 14355. *See also* Exchange between Senators Ferguson and Saltonstall, *id.* at 14855. For pointed critiques on the failure of Congress to analyze the defense budget so as to rationally justify an expanded Air Force, see E. Kolodziej, the Uncommon Defense and Congress 79–81, 97–107 (1966); W. Schilling, supra note 103, at 71–87.

[113] Public Papers of the Presidents of the United States: Harry S. Truman, 1949, at 538–39; *Hearings on Department of Defense Appropriations for 1951; Additional Supplemental Hearing Before the House Comm. on Appropriations*, 81st Cong., 2d Sess. 27 (1950).

[114] Public Papers of the Presidents of the United States: Harry S. Truman, 1949, at 538–39. *See also* Letter from Harry S. Truman to Defense Secretary Johnson, Nov. 8, 1949, in *1971 Ervin Hearings, supra* note 14, at 525.

[115] N.Y. Times, Oct. 30, 1949, at 3, col. 3; *id.* at 40, col. 5.

[116] *Hearings on Department of Defense Appropriations for 1951 (Part 1) Before the House Comm. on Appropriations*, 81st Cong., 2d Sess. 61 (1950).

[117] Public Papers of the Presidents of the United States: Harry S. Truman, 1950, at 661. For more background on the Air Force impoundment dispute, see E. Huzar, The Purse and the Sword 177–92 (1950).

[118] Public Papers of the Presidents of the United States: Dwight D. Eisenhower, 1960–61, at 52, 951 (1961).

[119] N.Y. Times, Oct. 28, 1961, at 1, col. 5.

[120] H.R. Rep. No. 1406, 87th Cong., 2d Sess. 1, 9 (1962).

[121] 108 Cong. Rec. 4694 (1963). Kennedy's reasons for holding up on the RS–70 were given at a news conference on March 7, 1962, in Public Papers of the Presidents of the United States: John F. Kennedy, 1962, at 202.

[122] Business Week, Mar. 17, 1962, at 34.

[123] *Id. See also* 108 Cong. Rec. 4720 (1962) (remarks of Rep. Mahon).

[124] 108 Cong. Rec. 4714 (1962).

[125] E. Kolodziej, The Uncommon Defense and Congress 415–17 (1966).

[126] 108 Cong. Rec. 4694 (1962).

[127] *Id.*

[128] *Id.* at 4699.

[129] *Id.* at 4707.

[130] *Id.* at 4714.

[131] For studies on the RS–70 and other impoundments of weapons systems, see Davis, *Congressional Power to Require Defense Expenditures*, 33 Fordham L. Rev. 39 (1964): Moore, To . . . *Provide for the Common Defense*, in Public Administration 371–400 (2d ed., R. Golembiewski, F. Gibson, G. Carnag eds. 1972); Stassen, *Separation of Powers and the Uncommon Defense: The Case Against Impounding of Weapons System Appropriations*, 57 Geo. L.J. 1159 (1969).

[132] *See* statement by Caspar W. Weinberger, in *1971 Ervin Hearings, supra* note 14, at 98.

[133] Cong. Globe, 36th Cong., 2d Sess. 1177 (1861).

[134] 9 A Compilation of Messages and Papers of the Presidents 4331 (J. Richardson ed. 1925).

[135] 28 Cong. Rec. 6031 (1896).

[136] N.Y. Times, Feb. 8, 1923, at 4, col. 6; *id.*, Jan. 23, 1923, at 20. 2. *See* 64 Cong. Rec. 3507 (1923).

[137] A. Maass, Muddy Waters: The Army Engineers and the Nation's Rivers 237 (1951). The dispute involved a contest between the Corps of Engineers and the Bureau of Reclamation. *Id.* at 215.

[138] H.R. Doc. No. 136, 80th Cong., 1st Sess. (1947); Public Papers of the Presidents of the United States: Harry S. Truman, 1946, at 229–30.

[139] 2 Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965, at 1083.

[140] Department of Agriculture Release No. 1015–69 (1969).

[141] Forwarded to the author by Senator Talmadge, Chairman, Subcommittee on Watershed Projects of the Senate Committee on Agriculture and Forestry. For entire list of 96 projects affected by the Johnson impoundment, see 115 Cong. Rec. 5923 (1969).

[142] *1971 Ervin Hearings, supra* note 14, at 217.

[143] *Id.* at 139–42, 211–17.

[144] 7 Weekly Comp. Pres. Doc. 81 (1971). See 117 Cong. Rec. p. 8089 (Mar. 25, 1971) (statements by Rep. Bennett); 118 Cong. Rec. p. 17775 (May 17, 1972) (statement by Rep. Sikes).

[145] *See* Part II, *infra*.

[146] Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1966, at 980. *See also* notes 108–10, 114 *supra* & accompanying text (anti-inflationary efforts by President Truman).

[147] Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1966, at 987–88.

[148] 2 *id.* at 1406–10.

[149] *See* note 28 *supra*.

[150] 5 Weekly Comp. Press. Doc. 1142, 1759 (1969).

[151] 6 *id.* at 1343 (1970).

[152] *Id.* at 1349.

[153] *Hearings on Public Works for Water and Power Development and Atomic Energy Commission Appropriations (Part 6) Before the House Comm. on Appropriations*, 92d Cong., 1st Sess. 22 (1971).

[154] *Id.* at 19.

[155] *Id.* at 17. Still another explanation for impounding all of the new congressional projects was that it seemed more "impartial" to do it that way. It was argued that a more selective list, impounding projects in some congressional districts while allowing other add-ons to go forward, might have invited charges of discrimination and political favoritism. *Id.* at 10–11.

[156] *Id.* at 19.

[157] 8 Weekly Comp. Pres. Doc. 1553 (1972). The fiscal 1974 budget reduced and terminated a number of programs in order to adhere to the President's $250 billion target. United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1974, at 47–57 (1973). For two recent decisions striking down the Nixon administration's argument that it could withhold highway funds to combat inflation, see State Highway Comm'n v. Volpe, 347 F. Supp. 950 (W.D. Mo. 1972), *aff'd*, 479 F.2d 1099 (8th Cir. 1973).

[158] Washington Post, Mar. 7, 1973, at A4, col. 1.

[159] N.Y. Times, Jan. 9, 1970, at 1, col. 8; *id.*, Oct. 2, 1969, at 28, col. 1; *id.*, Sept. 16, 1969, at 16, col. 1; *id.*, Sept. 13, 1969, at 1, col. 4; *id.*, Sept. 11, 1969, at 1, col. 1.

[160] *1973 Ervin Hearings, supra* note 12, at 877–79; *1971 Ervin Hearings, supra* note 14 at 164–65.

[161] *1971 Ervin Hearings, supra* note 14, at 310.

[162] *Hearings on the Budget of the United States, Fiscal Year, 1973, Before the Senate Comm. on Appropriations*, 92d Cong., 2d Sess. 129–30 (1972).

[163] In his budget message for the fiscal 1974 budget, President Nixon quoted the tenth amendment and said that the "philosophy of the Founding Fathers embodied in this amendment is also my philosophy." United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1974, at 11 (1973). For comments on the tenth amendment, see L. Fisher, President and Congress 37–39 (1972).

[164] Memorandum from Edward M. Shulman, General Counsel, to Kenneth E. Frick, Administrator of the Agricultural Stabilization and Conservation Service, in H.R. Rep. No. 6, 93d Cong., 1st Sess. 2 (1973).

[165] *Id.* at 4. A letter from Elmer B. Staats, Comptroller General of the United States, to Senator Sam J. Ervin Jr., July 26, 1973, B–135564, at 25, stated: "[W]e do not believe it follows that by employing permissive language the Congress envisions the bulk of appropriations acts as carrying with them the seeds of their own destruction in the form of an unrestricted license to impound."

[166] H.R. Rep. No. 6, 93d Cong., 1st Sess. 8 (1973).

[167] *Id* at 11.

[168] S. Rep. No. 49, 93d Cong., 1st Sess. (1973).

[169] 119 Cong. Rec. 6190–92 (Mar. 1, 1973).

[170] *See* H.R. Rep. No. 101, 93d Cong., 1st Sess. (1973).

[171] 119 Cong. Rec. 11844–46 (June 8, 1973).

[172] H.R. Rep. No. 275, 93d Cong., 1st Sess. 34 (1973). *See id.* at 78–80. Concurred in by the Senate Committee on Appropriations, S. Rep. No. 253, 93d Cong., 1st Sess. 22–23 (1973).

[173] 119 Cong. Rec. 19854–56 (June 15, 1973). 15, 1973).

[174] Act of Aug. 10, 1973, Pub. L. No. 93–86, 87 Stat. 241.

[175] H.R. Rep. No. 520, 93d Cong., 1st Sess. 22–23 (1973).

[176] H.R. Rep. No. 15, 93d Cong., 1st Sess. 2 (1973).

[177] Berends v. Butz, 357 F. Supp. 143 (D. Minn. 1973).

[178] *See* 37 Fed. Reg. 12,854 (1972).

[179] *Id.* at 20,122.

[180] Berends v. Butz, 357 F. Supp. 143, 148 (D. Minn. 1973).

[181] *Id.* at 151, *citing* Dubrow v. SBA, 345 F. Supp. 4 (C.D. Cal. 1972).

[182] *Id.*

[183] *Id.* at 154. For a similar situation where the Nixon Administration tried to close down the Office of Economic Opportunity, acting in violation of OEO procedures, see Local 2677, Am. Fed'n of Gov't Employees v. Phillips, 358 F. Supp. 60 (D.D.C. 1973).

[184] Act of April 20, 1973, Pub. L. No. 93–24, 87 Stat. 24. The first section is directed against the forgiveness and low-interest features. *See* S. Rep. No. 85, 93d Cong., 1st Sess. 4 (1973).

[185] Act of April 20, 1973, Pub. L. No. 93–24, § 3, 87 Stat. 24. *See* H. Rep. No. 15, 93d Cong., 1st Sess. 10 (1973).

[186] Act of April 20, 1973, Pub. Law No. 93–24, § 6, 87 Stat. 25.

[187] *Id.* at § 8.

[188] 9 Weekly Comp. Pres. Doc. 107 (1973).

[189] *Hearings on Impoundment of Funds for Farm and Rural Programs Before the Senate Comm. on Agriculture and Forestry,* 93d Cong, 1st Sess. 22 (1973).

[190] S. Rep. No. 20, 93d Cong., 1st Sess. 7–8 (1973).

[191] *Id.* at 25–26.

[192] H.R. Rep. No. 91, 93d Cong., 1st Sess. 12–13, 19–20, 38 (1973).

[193] H.R. Rep. No. 169, 93d Cong., 1st Sess. 5, 10 (1973).

[194] Act of May 11, 1973, Pub. L. No. 93–32, 87 Stat. 65.

[195] H.R. Rep. No. 520, 93d Cong., 1st Sess. 15–16 (1973).

[196] H.R. Rep. No. 21, 93d Cong., 1st Sess. 1 (1973).

[197] *Id.* at 3.

[198] 119 Cong. Rec. 6027–28 (Mar. 1, 1973).

[199] *Id.* at 9321 (Mar. 22, 1973).
(1973).

[200] *Id.* at 11690–91 (Apr. 10, 1973). For veto message, *see id.* at H2454 (daily ed. Apr. 5, 1973). For fiscal 1974 funding, *see* H.R. Rep. No. 275, 93d Cong., 1st Sess. 46 (1973). An amendment by Rep. Michel to delete the funds was rejected. 119 Cong. Rec. pp. 19846–47 (June 15, 1973).

[201] H.R. Rep. No. 520, 93d Cong., 1st Sess. 21

[202] 119 Cong. Rec. 22006 (June 28, 1973).

[203] S. Rep. No. 243, 93d Cong., 1st Sess. 6 (1973).

[204] 119 Cong. Rec. p. 22034 (June 28, 1973).

[205] H.R. Rep. No. 520, 93d Cong., 1st Sess. 6 (1973).

[206] Act of Oct. 18, 1972, Pub. L. No. 92–500, 86 Stat. 816.

[207] 118 Cong. Rec. pp. 37056–61 (Oct. 18, 1972) (House override); *id.* at pp. 36871–79 (Oct. 17, 1972) Senate override).

[208] Letter to William Ruckelshaus, EPA Administrator, from President Richard M. Nixon, Nov. 22, 1972, in *Hearings on the Federal Budget for 1974 Before the House Comm. on Appropriations,* 93d Con., 1st Sess. 194–95 (1973).

[209] H.R. 11896, 92d Cong., 2d Sess. (1972) (reported out of House Comm. on Public Works).

[210] 118 Cong. Rec. p. 33754 (Oct. 4, 1972).

[211] *Id.*

[212] *Id.* at p. 33755.

[213] *Id.*

[214] *Id.*

[215] Id. at p. 36874 (Oct. 17, 1972).

[216] *Id.* at p. 36871.

[217] City of New York v. Ruckelshaus, 358 F. Supp. 669 (D.D.C. 1973).

[218] *Id.* at 675 (emphasis in original).

[219] *Id.* at 679 (emphasis in original). Similar decisions were handed down in Minnesota v. EPA, Civil No. 4–73 (D. Minn. ------ ------, 1973); Martin-Trigona v. Ruckelshaus, Civil No. 72 C 3044 (N.D. Ill. ------ ------, 1973). In *dicta,* Judge Hauk of the U.S. District Court for the Central District of California concluded that the administration did have discretion in allotting funds. Brown v. Ruckelshaus, Civil Nos. 73–154–AAH and 73–736–AAAH (D. Cal. Oct. 7, 1973).

[220] 361 F. Supp. 689 (D. Va. 1973).

[221] *Id.* at 700.

[222] *Id.*

[223] *Id.*

[224] Texas v. Fri, Civil No. A–73–CA–38 (D. Tex. ------, ------ 1973).

[225] *Id.* at 2.

[226] *Id.* at 5.

[227] Washington Post, Feb. 5, 1973, at A4, col. 5.

[228] *1973 Ervin Hearings, supra* note 12, 417.

[229] Letter from William D. Ruckelshaus to OMB, Oct. 11, 1972, in Staff of the Senate Comm. on Public Works, 93d Cong., 1st Sess., 1 A Legislative History of the Water Pollution Control Act Amendments of 1972, at 155 (Comm. Print 1973).

[230] *Id.*

[231] *Id.* at 152.

[232] 118 Cong. Rec. p. 37056 (Oct. 18, 1972).

[233] *Id.* at p. 36872 (Oct. 17, 1972).

[234] *Id.* at p. 33694 (Oct. 4, 1972).

[235] *1973 Ervin Hearings, supra* note 12, at 411.

[236] Speech by Secretary Romney, National Association of Home Builders, Houston, Texas, Jan. 8, 1973, at 7 (on file at the *Buffalo Law Review*).

[237] Letter from Kenneth R. Cole, Jr., to Senator John Sparkman, Jan. 15, 1973, in 119 Cong. Rec. 2786 (Jan. 31, 1973).

[238] *Hearings on Oversight on Housing and Urban Development Programs: Washington. D.C. (Part I) Before the Senate Comm. on Banking, Housing and Urban Affairs,* 93d Cong., 1st Sess. 256 (1973).

[239] Washington Post, Dec. 3, 1973, at Al, col. 5.

[240] A. Downs, Federal Housing Subsidies: Their Nature and Effectiveness, and What We Should Do About Them 17 (1972).

[241] *Id.* at 19.

[242] *Id.* at 21.

[243] Subcommittee on Priorities and Economy of the Joint Economic Committee, 93d Cong., 1st Sess., Housing Subsidies and Housing Policy 6 (Comm. Print 1973) (emphasis in the original).

[244] 119 Cong. Rec. 22513–15 (June 30, 1973).

[245] *Id.* at H6815 [Amendment No. 42] (daily ed. July 28, 1973).

[246] Pennsylvania v. Lynn, 362 F. Supp. 1363 (D.D.C. 1973).

[247] Id. at 1372 (footnote omitted). On July 31, 1973, Judge Richey ruled that the administration's refusal to further process, improve and implement applications for Farmers Home Administration interest credit loans was unlawful. Pealo v. Farmers Home Adm'n, Civ. No. 1028–73 (D.D.C. Aug. 3, 1973), *appeal docketed,* No. 73–1870, D.C. Cir., Aug. 10, 1973.

[248] *Hearings on Withholding of Funds for Housing and Urban Development Programs, Fiscal year 1971 Before the Senate Comm. on Banking, Housing and Urban Affairs,* 92d Cong., 1st Sess. 159 (1971).

[249] *Id.* at 163, 165.

[250] *1973 Ervin Hearings, supra* note 12, at 278. *But see id.* at 277.

[251] Speech by Secretary Romney, National Association of Home Builders, Houston, Texas, Jan. 8, 1973, at 5 (on file at the *Buffalo Law Review*).

[252] Letter from Kenneth R. Cole, Jr. to Senator John Sparkman, Jan. 15, 1973, in 119 Cong. Rec. 2786 (Jan. 31, 1973).

[253] H.R. Rep. No. 296, 93d Cong., 1st Sess. 6 (1973). For 1974 funding of HUD water and sewer grants, see H.R. Rep No. 275, 93d Cong., 1st Sess. 73 (1973); S. Rep. No. 253, 93d Cong., 1st Sess. 50–51 (1973).

[254] H.R. Rep. No. 296, 93d Cong., 1st Sess. 31 (1973).

[255] Housing Authority v. United States Dep't. of Housing and Urban Dev., 340 F. Supp. 654, 656 (N.D. Cal. 1972).

[256] An earlier decision on housing impoundment ruled that there was no precedent to suggest that a U.S. district court may compel the President "to take any action whatsoever." San Francisco Redev. Agency v. President Nixon, 329 F. Supp. 672 (N.D. Cal 1971)

[257] 119 Cong. Rec. 20981–83 (June 22, 1973).

[258] *Id.* at 22514 (June 30, 1973).

[259] *Id.* at 22521.

[260] *Id.* at 22504. *See* S. Rept. No. 272, 93d Cong., 1st Sess. 4 (1973)

[261] 119 Cong. Rec. 26524–25 (July 28, 1973) (Amendment Nos. 1, 9 & 36).

[262] 119 Cong. Rec. 22281 (June 29, 1973).
1973).

[263] S. Rep. No. 277, 93d Cong., 1st Sess. 4 (1973).

[264] H.R. Rep. No. 364, 93d Cong., 1st Sess. 3 (1973).

[265] Act of July 1, 1973, Pub. L. No. 93–52, § 111, 87 Stat. 134.

[266] Letter from Rep. George H. Mahon to Senator Sam J. Ervin, Jr., Feb. 25, 1969, in *1971 Ervin Hearings, supra* note 14, at 501–02. Mr. Mahon had noted in 1949, in reference to impoundment, that "economy is one thing, and the abandonment of a policy and program of the Congress another thing." 95 Cong. Rec. 15126 (1949).

[267] H.R. 5193, 93d Cong., 1st Sess. (1973).

[268] *See* note 1 *supra* & accompanying text.

[269] *Hearings on Impoundment Reporting and Review (Part 1) Before the House Comm. on Rules,* 93d Cong., 1st Sess. 7 (1973).

[270] *Id.* at 9.

[271] H.R. 8480, 93d Cong., 1st Sess. (1973).

[272] *See* H.R. Rep. No. 336, 93d Cong., 1st Sess. (1973).

[273] 119 Cong. Rec. 25848 (July 25, 1973).

[274] *See* notes 32–34 *supra* & accompanying text.

[275] *See* S. Rep. No. 121, 93d Cong., 1st Sess. (1973).

[276] Act of Oct. 27, 1972, Pub. L. No. 92–599, § 402, 86 Stat. 1325.

[277] 119 Cong. Rec. 418 (Jan. 6, 1973). *See id.* at 1053 (Jan. 16, 1973); *id* at p. 1209 (Jan. 15, 1973).

[278] Act of Jan. 19, 1973, Pub. L. No. 93–1, § 2, 87 Stat. 3. A continuing appropriation bill, enacted March 8, 1973, provided for four impoundment reports a year. The first report shall be transmitted on or before October 15, covering the period through September 30. The second and third reports shall be submitted on or before the 15th and 90th days after submission of the budget, and shall cover the periods through the date of submission and 75 days after that date (*i.e.,* around the end of January and mid-April). The fourth report shall be submitted on or before July 15 following the end of the fiscal year. Act of March 8, 1973, Pub. L. No. 93–9, § 3, 87 Stat. 7.

[279] 38 Fed. Reg. 3474 (1973) (reprinted as S. Doc. No. 4, 93d Cong., 1st Sess. (1973)).

[280] Weinberger, *Congress as the Crisis,* N.Y. Times, Mar. 27, 1973, at 45, col. 5.

[281] *See* notes 208–23 & accompanying text.

[282] United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1974, at 315 (1973).

[283] *Hearing on Nominations of Caspar W. Weinberger, of California, to be Secretary of Health, Education, and Welfare, and Frank C. Carlucci, of Pennsylvania, to be Under Secretary of Health, Education, and Welfare, Before the Senate Comm. on Finance,* 93d Cong., 1st Sess. 48 (1973).

[284] *See* notes 236–47 *supra* & accompanying text.

[285] Statistics and argument obtained from HUD budget office.

[286] United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1974, Appendix 1074 (1973).

[287] 38 Fed. Reg. 3474 (1973).

[288] Letter from Caspar W. Weinberger to Senator Jacob K. Javits, Feb. 22, 1973, in *1973 Ervin Hearings, supra* note 12, at 732.

[289] National Ass'n of Collegiate Veterans v. Ottina, Civil No. 349–73 (D.D.C., May 24, 1973). *See* Washington Post, Mar. 28, 1973, at A2, col. 7.

[290] Washington Evening Star and Daily News, May 23, 1973, at B4, col. 1; Washington Post, May 23, 1973, at A7, col 1.

[291] Minnesota Chippewa Tribe v. Carlucci, Civ. No. 628–73 (D.D.C. ------, 1973). *See* Education Daily, May 10, 1973, at 2; *id.*, Apr. 30, 1973, at 4; N.Y. Times, June 25, 1973, at 14, col. 1.

[292] United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1974, Appendix 1074 (1973).

[293] National Assoc. of State Univ. & Land Grant Colleges v. Weinberger, Civil No. 1014–73 (D.D.C., dismissed June 29, 1973).

[294] U.S. Dep't of Justice, Impoundment Cases, at 5, Aug. 10, 1973 (memorandum).

[295] H.R. Rep. No. 164, 93d Cong., 1st Sess. 3-4 (1973); S. Rep. No. 160, 93d Cong., 1st Sess. 3 (1973).

[296] H.R. Rep. No. 295, 93d Cong., 1st Sess. 11 (1973). The veto of this supplemental appropriation bill by President Nixon on June 27, 1973, does not alter the fact that his requests for rescission were rejected by the Appropriations Committees of both houses. As enacted, the Second Supplemental Appropriation Act, 1973, extended by three months the availability of certain higher education funds affected by the rescission requests. Act of July 1, 1973, Pub. L. No. 93–50, 87 Stat. 106–07.

[297] 8 Weekly Comp. Pres. Doc. 1240, 1578, (1973).

[298] 119 Cong. Rec. 19379–80 (June 13, 1973) (statement by Rep. Bell); *id.* at 5376 (Feb. 26, 1973) (statement by Sen. Cotton).

[299] *See e.g.,* Act of July 1, 1972, Pub. L. No. 92–344, § 103, 86 Stat. 404.

[300] Act of July 1, 1973, Pub. L. No. 93–52, § 101(a)(4), 87 Stat. 131. *See* 119 Cong. Rec. 21305–07, 21524–25 (June 26, 1973). *See* H.R. Rep. No. 328, 93d Cong., 1st Sess. 2–3 (1973); S. Rep. No. 277, 93d Cong., 1st Sess. 2 (1973).

[301] Obtained from the Agriculture budget office. Some of this will be spent because of court and congressional actions taken after the OMB impoundment report. For details on the FHA disaster loan program, see notes 176–87 *supra* & accompanying text.

[302] Based on the following fiscal 1973 estimates for budget authority: Agriculture, $11.532 billion; Defense-Military, $77.804 billion; and HUD, $5.048 billion. United States Bureau of the Budget The Budget of the United States Government, Fiscal Year 1974, at 329 (1973).

[303] Information obtained from Agriculture and HUD budget offices.

[304] The OMB report, *supra* note 279, included a column "Available beyond fiscal year 1973?"

[305] *Id.*

[306] For details on these agriculture impoundments, see notes 164–205 *supra* & accompanying text.

[307] Information obtained from HUD budget office. Some of this budget authority could be made available for the Administration's special revenue sharing proposal or for the suspended housing programs, but that will require legislative action.

[308] 8 Weekly Comp. Pres. Doc. 1497 (1972).

[309] *Id.* at 1553.

[310] Weinberger, *Congress as the Crisis,* N.Y. Times, March 27, 1973, at 45, col. 5.

[311] United States Bureau of the Budget, The Budget of the United States Government, Fiscal Year 1973, at 49 (1972).

[312] *Id.* at 49, 53.

[313] Much of the information in footnotes 314–24 can be found in *id.* at 50–57, but a more detailed examination by OMB was forwarded to the Joint Economic Committee and reprinted in *Hearings on The 1973 Economic Report of the President* (*Part 1*) *Before the Joint Economic Committee,* 93d Cong., 1st Sess. 124–86 (1973) [hereinafter referred to as *1973 Economic Report*]. For information on Highway Act of 1972, see *1973 Economic Report* at 171.

[314] *1973 Economic Report* at 184.

[315] *Id.* at 186.

[316] *Id.* at 130.

[317] *Id.* at 144–45, 165, 172, 175–76, 186.

[318] *Id.* at 145, 157.

[319] *Id.* at 172.

[320] *Id.* at 173.

[321] *Id.* at 173–74.

[322] *Id.* at 174–75.

[323] *Id.* at 141–42 .

[324] For other critiques of the "$11-billion saving," see 119 Cong. Rec. 13060–62 (Apr. 18, 1973) (statement by Elmer B. Staats, Comptroller General of the United States); *id.* at 12345–48 (Apr. 13, 1973) (staff study of Joint Economic Committee); E. Fried, A. Rivlin, C. Schultze & N. Teeters, Setting National Priorities 444–46 (1973).

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the purpose of considering Executive O, 81st Congress, 1st session, which will be stated.

The legislative clerk read as follows:

> Ex. O (81st Con., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, on Friday I circulated a letter to other Members of the Senate calling attention to the reservation to the pending treaty that had been introduced by me and other Senators relating to the question of retaining for the United States jurisdiction over its own citizens in cases involving the charge of genocide.

The letter reads as follows:

> February 1, 1974.
>
> Dear Colleague: Today, I discussed in the Senate the reservation that has been offered to the resolution of ratification of the Genocide Convention now before the Senate. Enclosed is a copy of the reservation for your examination and review.
>
> The reservation which, if adopted, becomes a condition of ratification, would insure that no American citizen would be tried in foreign lands, under alien procedures, without the Constitutional guarantees of due process of law.
>
> The reservation retains for the United States the right to try its own citizens for genocide in American courts, even though the crime was allegedly committed abroad.
>
> Moreover, the Secretary of State is expressly instructed in negotiating any extradition treaty in the future, to reserve for the United States the right to refuse extradition, in any case, "where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution."
>
> I hope the Senate will adopt the proposed reservation to the treaty, since it would remove all basis for any fear, however remote, that the treaty might somehow deprive American citizens of their Constitutional rights.
>
> Please let me know if you have any questions regarding this important matter, or get in touch with my assistant, Thomas A. Dine, at extension 51281.
>
> With best wishes,
>
> Sincerely,
>
> Frank Church.

I would also like to read into the Record the text of the reservation which accompanied this letter. It has been introduced by me, by the distinguished Senator from New York (Mr. Javits) and the able Senator from Wisconsin (Mr. Proxmire).

I ask unanimous consent that the name of the respected Senator from Florida (Mr. Chiles) also be added as a cosponsor of the reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, the substantive part of the proposed reservation reads as follows: Insert a new section 4 as follows:

> 4. That, subject to the reservation, which is hereby made a part and condition of the resolution of ratification,
>
> (a) nothing in article VI of the convention shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States; and
>
> (b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States; and
>
> (1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or
>
> (2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or
>
> (3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution

Mr. President, I call this reservation to the attention of my colleagues because it is addressed to the one fear that some Senators have expressed that this treaty might somehow lead to the extradition of an American citizen for trial on a charge of genocide before a foreign tribunal, where the basic rights of an accused under our own Constitution would not be respected. I think the adoption of this reservation should eliminate any rational basis for such a fear. I would hope that the Senate would adopt it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, on Friday night, on the local CBS outlet, channel 9, a superb film was run—a very strong, powerful film on the genocide conducted by the Nazis under Hitler in Europe against the Jews.

This was some of the most moving and disturbing film footage I have ever seen. Viewers were counseled to prevent their children from watching it because it was so strong. It vividly told the story of the hideous, monstrous crime that the Nazis planned, programed, and performed in determining that they would wipe out the Jews in Germany and throughout Europe. It showed how 6 million innocent human beings who had committed no crime at all were deliberately murdered—an appalling story.

After that film was finished, the Senator from Idaho (Mr. CHURCH) and the Senator from New York (Mr. JAVITS) both commented on the film and its significance. The program was a local show, and I am sure many Senators were undoubtedly either out of town or busy, and failed to see it. But I hope they will reflect on the message in that film, because that is really what is behind the treaty we will vote on tomorrow. We will have no chance to vote on that treaty, obviously, if our opponents do not let it come to a vote. It is clear from what is happening this afternoon that they have had an opportunity to speak today and had an opportunity to speak last week, and so far I believe there has been one 10-minute speech against the treaty, and that is it. But it is obvious that there is an effort to prevent us from coming to a vote. We attempted to agree to vote at a time certain, but they would not permit that agreement.

Mr. President, the hearings on the treaty were very helpful. The committee report is strong. But, Mr. President, as I say, the real force, the moral justification, the absolute mandate for our voting in favor of this treaty was expressed as no words could express it by that devastating film on Hitler's genocide shown on the local CBS television outlet on Friday night.

Mr. CHURCH. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. I am happy to yield to the Senator from Idaho.

Mr. CHURCH. I commend the able Senator from Wisconsin for his reference to the gripping film that did appear, as he stated, on a local television station. It is hard to believe that so many Americans have forgotten the terrible Nazi persecution of the Jews during World War II. This motion picture consisting largely, as the Senator knows, of film taken during the period, some by the Nazis themselves, and some by the Allied occupation forces following the conquest of Germany, makes a more eloquent statement of the Genocide Convention than anything we might say on this floor.

Two articles have appeared in the Washington press, one in the Washington Evening Star and the other in the Washington Post, reviewing the film. I ask unanimous consent that the two articles be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Feb. 1, 1974]

ON THE AIR: THE NAZI HORRORS

(By Philip M. Kadis)

"What we went through will be difficult to understand, even for our contemporaries . . . and even much more difficult for those who have no experience of those days."

Resonant and somber, the voice of Laurence Olivier intones the declaration by an unidentified survivor of one of Hitler's death camps.

It is a stark prologue to one of the goriest chapters of the British-produced "World at War" television series documenting the massive carnage of World War II. The installment will be shown tonight at 7:30 p.m. on WTOP-9.

Station officials are warning the public that sections of the program on genocidal Nazi extermination camps may be too strong for some stomachs. They say the caveat is no publicity ploy, but acknowledge they would like as many people as possible "who might want to see it" to have the opportunity to do so.

As a good faith gesture, the station has excised all commercials from the showing. The resulting seven-minute gap in program time is filled with remarks by Sens. Frank Church, D-Idaho, and Jacob K. Javits, R-N.Y., who are managing debate on the proposed Genocide Convention that has reached the Senate floor for the first time in 25 years.

And to be sure, there are scenes that might upset even the non-squeamish:

Human nakedness. A charred skull with jaws stiffened into an eternal gape of unspeakable horror. Mass executions . . . by hanging, shooting, gassing. A huge pile of women's scalps waiting to be made into wigs. And an ultimate numbing obscenity . . . the use of bulldozers to dispose of a heap of rotting, emaciated corpses as though they were trash at the city dump.

For viewers whose relatives or friends were victims of Nazi persecution, the whole experience may be too painful to recall.

But others who are dissuaded from watching the hour-long segment by the possibility they may be offended are also cheating themselves of challenge: to try to grasp what it meant to be arbitrarily and brutally condemned to annihilation as an individual, a family, a people and a tradition.

One now hefty Jewish survivor, whose starvation rations had reduced him to 42 pounds when his camp was liberated, describes how the more able-bodied inmates were given buckets to bail out the fat rendered from bodies in a burning pit.

"Every person was capable of doing the worst things just to live another minute," said the survivor, apparently an Israeli citizen, in Hebrew. "Since then, I bless every day that I live . . . every day is pure profit."

But sympathy for the victim is only one side of the coin. A corollary challenge is to try to understand the mentality that spawned Auschwitz, Belsen and Dachau.

And so we listen to an "exonerated" former adjutant to Heinrich Himmler, Reichsfuehrer of the elite S.S. which ran the camps.

Himmler wanted to see how the exterminations were carried out, according to Reichard Bock.

As he watched row upon row of the inmates being shot, his face and elegant Nazi greatcoat were suddenly spattered with the brains of one of the victims.

"Himmler went green and pale," said Bock, who had to hold him steady and lead him away from the open grave. Faced with the reality of murder, the Nazi functionary could reel with nausea, but he couldn't sustain the empathic jump that was necessary to halt the slaughter.

He and his fellow Germans, the program shows, were also prisoners of their mind sets—a pseudo Social Darwinism and equally unfounded but no less pernicious racial theories.

To understand is not to pardon, but to recognize the dark potential in ourselves and guard against it.

[From the Washington Post, Feb. 1, 1974]

HITLER'S "FINAL SOLUTION"

(By Alan M. Kriegsman)

Some lessons are worth repeating, and none more so than the one about the Nazi death camps, where millions of human beings were systematically eradicated. Nazi symbols—the swastika and all the rest—have been tossed around in an offhand or derisive way in a variety of contexts over the past decade or so.

Now may be a more appropriate time than most for a reminder of their true historical significance. If you've got the stomach for it, the "Genocide" chapter of the "World at War" series will trace the whole unholy record on Channel 9 (WTOP-TV) tonight, starting at 7:30. It just happens that the U.N. Genocide Convention, endorsed by every American President since and including Truman, is finally reaching the Senate floor for a debate on ratification this week. The program may be a help in setting the emotion-laden issue into factual perspective.

Make no mistake, this is strong stuff, for television especially. The viewer will see as graphic and explicit a documentation of the Nazi extermination camps as any ever been assembled, including, for example, shots of the bulldozing of piles of ripped, emaciated corpses. Because of the nature of the material, Channel 9 is televising this segment of the series without any commercials at all.

The "Genocide" installment is as expertly produced as the rest of the "World at War" series, an import from England's Thames Television with narration by Laurence Olivier. A remarkable amount of history has been skillfully and effectively compressed into an hour of screen time.

The segment makes use of captured German film and stills, newsreel footage and the live testimony of both survivors and participants, including SS officers who were eyewitnesses to some of the carnage. The Nazi campaigns against Jews, dissenters and other "undesirables" is developed against the background of the encompassing warfare and official Third Reich "justification" for its deeds.

If men are to know themselves, somewhere along the line they must confront the fact that the species which gave rise to a Mozart and a Martin Luther King Jr. also produced Hitler, Eichmann and the "final solution."

That's the reason for a program such as "Genocide," and it's more than reason enough.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator. One of the strongest points that was made by Senator JAVITS and Senator CHURCH, and one of which we should remind ourselves, is that the strongest argument and the only really logical argument I have heard against the treaty is that it might conceivably jeopardize American citizens and result in their being tried for genocide in a way that would not give them the protections of our Constitution.

Mr. President, this is why the Church reservation is so important. While there was objection within the American Bar Association and by one or two members of the Committee on Foreign Relations, it seems to me that that Church reservation goes right to the heart of the matter, because it does provide the clearest kind of protection for an American citizen in the event that he is tried for engaging in this crime and in the event that the trial did not give him all the protections of the American Constitution.

What the reservation does—and I hope the Senator from Idaho will correct me if I am wrong—is to provide that if an American citizen is accused by a foreign government, before he will be extradited to that foreign country, the President must be assured that constitutional safeguards under our Constitution will be observed in any trial in which he may engage, or he will not be extradited. It has been brought to my attention by a Member of the Senate that perhaps our prisoners of war or Americans overseas might be seized in a foreign country and tried. This is a legitimate concern, and a concern I share. But I point out that this treaty, if we ratify it, will provide additional protections which, absent our ratification, a citizen would not have, because there is no question that if a citizen should engage in what is considered genocide, he can be tried now in a foreign country whether we ratify this convention or not.

We have constituents who have been subjected to travail. I have one right now, who is in Turkey and was sentenced to death—a sentence which was commuted—under a drug statute that they have there. But what this treaty would do, however, if we ratify it, would be to put us in a much stronger position to insist, with the force of our Government, that because we have ratified the treaty and are part of it, because the Church reservation was ratified during the ratification process, then any citizen tried in any foreign country would be given protections that we have insisted, as part of our reservation, should be provided to him.

Mr. CHURCH. Mr. President, if the Senator will yield on that point, I would like to comment on the very strong argument he is making. As the Senator has mentioned, any American arrested abroad and charged by a foreign government with a violation of its laws can now be subjected to trial for any crime, including genocide. With the adoption of the reservation we propose, there is no question at all that a larger measure of protection would be extended, not only to American citizens within the United States who might be charged by a foreign government with having committed genocide outside this country, but, indeed, to those who are abroad and might be subject to arrest and trial in some foreign land.

Either way we look at it, a greater measure of protection will be afforded American citizens with this treaty in force than without it.

I thank the Senator for calling this so forcefully to the attention of the Senate.

Mr. PROXMIRE. Mr. President, as I understand it, the pending business before the Senate is the ratification of the genocide treaty; is that not correct?

The PRESIDING OFFICER (Mr. HELMS). That is correct.

Mr. PROXMIRE. Mr. President, I hope we can come to a vote now. I do not see any reason why not—unless the Senator from Alabama (Mr. ALLEN) or the Senator from Idaho (Mr. CHURCH) wishes to speak on the treaty further. I think we are ready for a vote and I would hope that the Senator from Alabama, with his mastery of the rules and his understanding of equity and fairness, will agree that this is a good time to come to a vote. We have spoken now for more than a week on the treaty. It has been before the Committee on Foreign Relations for more than 20 years, and before the country for some 24 or 25 years.

Under the circumstances, I would hope, at long last, that we could come to a vote. Would the Senator from Alabama agree that we could vote now? I mention him, because I know the Senator from Idaho is in favor of the treaty and I would hope that the Senator from Alabama would be able to join us in enabling us to come to a vote now.

Mr. ALLEN. Mr. President, does the Senator from Wisconsin yield the floor?

Mr. PROXMIRE. I am happy to yield the floor.

Mr. ALLEN. I thank the distinguished Senator from Wisconsin (Mr. PROXMIRE). I believe, actually, the question would be on the adoption of some reservations first; would it not?

Mr. PROXMIRE. The Senator is correct. That is right. I just want to start voting on the treaty.

Mr. ALLEN. I would be in favor of the additional reservation offered by the Senator from Idaho, but I have not had the opportunity before now to speak to the convention and I would like to have some little something to say in opposition, not to the reservation of the Senator from Idaho (Mr. CHURCH), because I have no objection to loading down the convention with any number of reservations that will weaken the thrust of the convention, the thrust being to subject our citizens to trial before international courts, rather than in our own domestic courts.

Mr. President, after extensive hearings——

Mr. PROXMIRE. Mr. President, would the Senator yield on that point, just for a question?

Mr. ALLEN. Yes. I am delighted to do so.

Mr. PROXMIRE. Is it not true that there is no international court that would have any standing on that at the present time, and such a court would not come into existence if ever until some future date? And then it would be necessary for the Senate to act again in order to concur with the creation of such an institution.

Mr. ALLEN. Yes; but it would be the understanding of the Senator from Alabama that these further actions could be statutory in nature as distinguished from a treaty obligation which requires a two-thirds vote. Also, it seems logical to the Senator from Alabama that the steps be taken as a condition precedent to the ratification of the treaty rather than as steps subsequent to the ratification of the treaty. As the distinguished Senator from Wisconsin says, also joined in by the Senator from Idaho, these foreign governments can try law violators in their countries now, even if they be Americans, under their existing rules and laws.

Mr. PROXMIRE. Without our taking any action on the treaties——

Mr. ALLEN. Sir?

Mr. PROXMIRE. Whether we acted on the treaties or not.

Mr. ALLEN. That is correct. The treaty would add the fact that American citizens could be tried before this court for offenses committed in this country.

Mr. PROXMIRE. The fact is that the reservation would make it clear that we would not permit a citizen who committed such a crime to be extradited unless he had all the protections necessary.

Mr. ALLEN. The reservation has not yet been adopted. It was only offered—I do not even know that it has been offered.

Mr. CHURCH. Would the Senator from Alabama yield at that point for an observation?

Mr. ALLEN. Yes.

Mr. CHURCH. The International Penal Tribunal to which the Convention refers is set out in article 6.

Article 6 of the treaty states:

> Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Now, in the hearings, when witnesses were questioned concerning the meaning of the article, the testimony was uniform with regard to two points. One, the International Penal Tribunal has never been established and it is not now anticipated that it ever will be, even though 78 countries are now parties to the treaty, which has been in effect for some 25 years.

Second, before any party to the treaty would become subject to the jurisdiction of an international tribunal, were it to be established, that party would have to give its consent. Under the language of the treaty, the consent would have to be given by the treaty process and, therefore, before the United States could become a party to any such international tribunal, even in the unlikely event it were to be set up, we would have to do so through the treaty process, which would bring the question back to the Senate for ratification, and a two-thirds vote would be required.

Mr. ALLEN. But this would merely pave the way for that action. If this action were not taken, it would be a moot question about the other action being taken.

Also, if this is such a fine idea, which has been before the Senate for 25 years, it does not seem that the Senate thinks it is such a fine idea if it has not been willing to give its approval in that time. I believe the distinguished Senator from Idaho said that a large number of nations, possibly 75, have adopted this treaty. If it is so good, why do not these 75 nations put in this court themselves, without waiting for the United States? It is as if the finger of blame and fault and guilt is being pointed at the United States as being the international culprit that does not come in and ratify this convention, which would subject our citizens to trial before an international court.

The Senator from Wisconsin said that the Church reservation cures all that. The Church reservation has not even been offered. It has been discusssed, I believe.

Also, the Church reservation, as I heard it, provided that we would not allow extradition from our country of one of our citizens to be tried before a foreign court unless assurance is given that they would be given the same safeguards in the trial as our citizens are guaranteed in this country. That does not sound like much of a guarantee to the Senator from Alabama. What assurance would be have, if an oath were taken on a stack of Bibles 10 feet high that their rights would be safeguarded in that foreign country and we turned our citizens over to an international court for trial? What sort of protection would they have, once they had the bodies of our citizens in this foreign land?

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes; I would be delighted to yield. But I point out that the distinguished Senator from Wisconsin was inviting the Senator from Alabama to speak on this subject, and no sooner does the Senator from Alabama speak, than he is interrogated by three Senators who favor ratification of this treaty; and the Senator from Alabama has not even been able to give one sentence stating his position on the treaty before he is interrupted.

Mr. JAVITS. I thank the Senator.

I doubt that we would find many Senators, considering the Senator from Alabama's ability, who would think him outdistanced by the three of us. I think the Senator is well able to hold his own.

I point out to the Senator that in his remarks he assumes two things which in my judgment are not true. One is that the only criterion under the reservation by which an extradition may be judged is the third item on page 2, lines 21 to 23 of the criteria. It reads:

> Where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution.

I point out that the two others are equally applicable. One is where the United States is competent to prosecute and intends to exercise its jurisdiction. We have but to say so. The word "or" then appears, and it reads "or where the person whose surrender is sought has already been or is at the time of the request being prosecuted—"

The other point I would like to leave with the Senator is this: The fact is that our contention is—I believe it is valid, and I will undertake to prove it when I make my own speech—that the treaty does not require this reservation; that this reservation represents caution, endeavoring to satisfy the concerns of some few Members who may feel that the treaty is not adequate; and that the binding proof that the treaty is adequate—and I hope the Senator will address himself to this question—is that an article of the treaty specifically provides for implementing legislation. This treaty is not operative until there is implementing domestic legislation. With that implementing legislation, attached to the draft which Senator SCOTT and I have introduced to this committee report, it is made crystal clear that unless we want to or unless we have entered into some other treaty for an international tribunal, requiring two-thirds, we are not obliged to surrender anybody, any more than we are under this reservation, which simply locks it in, in so many words.

Mr. ALLEN. Would the Senator enlighten the Senator from Alabama as to whether it is necessary to ratify the convention before taking the enabling legislation?

Mr. JAVITS. Yes, it is. I believe that in order to get the enabling legislation properly before the Senate, it is necessary to ratify the convention. Otherwise, what is it all about? What are we implementing? We are committed in the report, and the administration is committed, not to file the instrument of ratification until such time as it is enacted, together with whatever amendments we may think of.

Mr. ALLEN. Would that take a majority vote?

Mr. JAVITS. A majority vote of the two Houses—unless we have the same situation we have now, when there is no argument to speak of, what we have called the silent filibuster, something unique. The measure managed to be hung up, although nobody said anything in opposition until today.

Mr. ALLEN. The Senator makes the point that there is nothing wrong with going ahead and ratifying the convention, which takes a two-thirds vote, because we have a safeguard built in here. Enabling legislation, which takes only a majority vote, will have to be approved before the ratification can be deposited. So it seems to the Senator from Alabama that the wisdom of ratification or nonratification should be decided at a time when it takes a two-thirds vote for passage.

I have not yet heard the explanation given, on the floor, as to why this fine convention, which has been before the Senate for 25 years and which has been adopted by scores of foreign countries, has to wait on ratification by the United States before it is implemented. It seems to me that something so good, so protective of the rights of citizens of foreign countries, should not wait on the action of the United States.

What is the Senator's answer to that?

Mr. JAVITS. May I state to the Senator that the reason for the 25 years is exactly such groundless fears as are now being voiced, and the fact that the Senate was unwilling to face them. I do not want to be invidious to the Senate; but it has the backbone, the vertebrae, to face these issues at long last and fight them out and let the United States stand in the eyes of the world as ratifying a genocide convention, or, if it does not want to, at least to face the issue and vote it down, and then the world would know where it is. That is all it is, and that has taken 25 years, and it is no credit to the Senate or to the country.

Second, the other countries have ratified, and the convention is in effect. They are not waiting on us, except that we are, I believe, without any question, the most powerful nation on Earth, which has carried the enormous burden of World War II, in which this possibility first came to light. Naturally, there is an enormous amount of significance in our ratifying this convention as compared with other countries ratifying it. That is all it amounts to.

Really, the 25 years is nothing for us to brag about, I assure the Senator from Alabama. I realize his position, and I know it is as sincere as mine.

Speaking from the vantage point of some like myself, for 7 years Senator PROXMIRE has stood up here and protested the assault on our own conscience in allowing this matter to drag.

I have said this many times before but the indefatigable zeal with which he has pursued this subject has been one of the most splendid examples of true Americanism that I know.

Mr. ALLEN. Can the Senator answer this question? Is or is not the international court provided under the convention in operation?

Mr. JAVITS. It is not.

Mr. ALLEN. I see.

Mr. JAVITS. It may be in operation but it will not bind us until we ratify the treaty making us a party to it.

Mr. ALLEN. Then the Senator was not correct when he said it is already set up and in operation.

Mr. JAVITS. Not at all; the Senator was correct. This treaty is entirely operative in terms of its declaratory aspect, or what any individual nation wishes to do about it when a given number of ratifications are deposited to bring it into operation. The treaty contemplates that the international courts will be a matter for the future. As the Senator from Idaho (Mr. CHURCH) just read, the article in question states clearly:

> Or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which have accepted its jurisdiction.

Mr. ALLEN. If there is a need for this convention and this international court, why not have these nations—is the number 78? I heard that number mentioned.

Mr. JAVITS. That is correct.

Mr. ALLEN. These 78 nations having ratified the convention and put it into effect—and this would seem to be splitting hairs; their not having implemented it—would the Senator tell me why these nations have not seen fit to implement the convention by setting up this desirable court that will supposedly serve the ends of justice? It seems to me that the finger of blame is being pointed at the United States and it is being said, "If the United States does not come into this convention so we can have defendants to try we are not going ahead with the court."

Mr. JAVITS. As far as the finger is concerned, I am pointing it at ourselves. As far as implementation is concerned, this treaty does not require implementation by an international court. That is an extra added matter which may or may not occur. It is self-implementing which we must do before this treaty affects our country. By implementing legislation we would be making genocide a crime. The fact that the law may not be enforced in many nations is something which unfortunately in this rather lawless world you cannot control, but at least you have a beginning. Enough nations, including the United States, will have defined, denounced, and made an international crime of genocide.

Then, we have our implementing statutes; other nations will have theirs. Maybe there will be an international court; maybe there will not be. But we do not undertake to make one or join in one which does not give full protection, which I feel the treaty does, and which the reservation works toward, to any individual American, which I always understood was the argument of those who oppose the treaty. I think the Senator from Idaho, in offering this reservation, has reiterated in unmistakable language, so no one can have doubts that no individual American is in jeopardy unless this country puts him in jeopardy. We can extradite anybody, anywhere if according to the laws of the country that can happen and today that cannot happen with an individual American we wish to try the minute we pass this implementating legislation.

Again, I would like to repeat to the Senator from Alabama, and the Senator and the Senate know me well—those on the other side are just as sincere as we are. I do not challenge that, but really I think that here is a call to decency by mankind.

Implementation fully locks in, especially with the reservation, any individual American's right to be tried here. There is no international tribunal—if there is one, we will see about it—which may deal with this subject. It may deal with other subjects, but in such a lawless world, it seems to me that at least this is a declaration we can make.

Mr. ALLEN. Is any machinery provided at this time for the trial and punishment of those who are guilty of the crime of genocide in those nations which have now ratified the convention?

Mr. JAVITS. That depends upon the national laws of those nations which have implemented it by statutes which they have passed. We can make a study overnight, but I assume there are nations in which such laws are in effect, just as such a law would be in effect in our own Nation when we pass an implementing statute. The important point I wish to emphasize to the Senate and to the country is that it does not put any individual American in jeopardy of being chained and sent abroad. The treaty itself does not say that, and the reservation certainly lacks any. That is my basic point.

As to international basic tribunal, that is not the proposition we now have. When and if it does come around to the proposal, we will have to ratify it by a two-thirds majority. But there will be plenty of time. The essence now is that if we pass the implementing statute, genocide will be a domestic crime, and it would put us in line with so many of the other nations. I think that is really what it comes to.

It is regrettable that it has taken so very long to get to it, but I think that is an argument against our own dereliction rather than against the proposition.

Mr. ALLEN. The Senator from Alabama finds it hard to be charged with the delay that has taken place in acting on this convention, inasmuch as he has been talking for only about 15 minutes. So this Senator is not to blame for the delay.

One thing I should like to inquire of the Senator from New York: Does he know of any acts that have been charged as being crimes of genocide, and that have been punished under the convention that has been ratified by 78 states?

Mr. JAVITS. I do not know of one. I could not answer the Senator. But I will undertake to get some answers to his question.

Mr. ALLEN. I should like to know if there have been any.

Mr. JAVITS. We cannot get that information today, as I explained, while we are debating the matter; but I will take pains to ascertain the answer to the question and have it for the RECORD by either tonight or in the morning, if there is any question on that.

There have been many charges, and that is one of the things that I think have incited opposition to the treaty. But such charges can be made anywhere.

Look at the terrible charges against young people in connection with narcotic violations in countries like Greece and Turkey. I myself have had occasion to deal with them, as have other Senators.

We simply are powerless when a person is outside the jurisdiction of this country.

Surely, many accusations are made. Lots of letters have been written to the United Nations. Lots of accusations have been made here. Lots of complaints are lodged. If we are going to ratify treaties or pass implementing laws because of some claim that somebody makes, the work would be just endless; we would never get anywhere. We would hardly be men of character and decision, which I think history shows that, in the main, we are, and which our country expects of us.

People are going to claim that somebody who has to do with Indians is committing genocide by trying to take over Wounded Knee. Some people will claim genocide in the killing of four policemen in Chicago. Somebody else will claim genocide in the killing of Japanese or Cubans. They will make all kinds of claims.

See what the Russians have claimed about us. They claim they invented baseball. It is ridiculous, of course. Nonetheless, they seem to have had a very important influence in respect of the quarter of a century's delay in respect to this treaty. That is the only reason I mention it, but the claims do not stand up in the face of the treaty itself.

In addition, in the understandings, in the declaration, now in the reservation, it seems we have provided a triple lock on the safeguards for individual Americans. If we have not done it—I think we have most thoroughly—it certainly is not the result of any intention on our part not to do it.

Mr. ALLEN. Mr. President, will the Senator yield further?

Mr. JAVITS. The Senator has the floor.

Mr. ALLEN. Will the Senator indulge me to the extent of asking some questions, then?

The Genocide Convention was initiated back in December 1948 in the United Nations. Is that correct?

Mr. JAVITS. That is correct.

Mr. ALLEN. Was not an effort made in the U.N. to require that the crime of genocide be directed against government participation in the act which was claimed to be genocide?

Mr. JAVITS. No; as a matter of fact, it was directed against rulers, because it was felt nothing could be directed against governments, which were sovereign, and a government could not be arraigned or tried, but ruler for the time being in any government could be arraigned or tried, and that is contained in article IV, which is defined as follows:

> Persons committing genocide or any of the other acts enumerated in Article III—

Which is the definition article—

> shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

And to that extent the treaty covers official personalities, but it cannot cover a government, and it is not seeking to, because of the point of governmental sovereignty, which is fully recognized in the United Nations or its convention.

Mr. ALLEN. Yes, but the effort was made that there be a requirement that it be linked to government action or sanction rather than individual action.

Mr. JAVITS. Not at all; there is no requirement that it be linked to government action.

Mr. ALLEN. I know there is not. I say, there was an effort made to require that.

Mr. JAVITS. In the case of Hitler's Germany it was governmental action, but against it was the rulers who were held responsible in Nuremberg—that is, the individuals who carried out that act—but there is nothing in the treaty which would make a crime of genocide some action by some government that practiced genocide. The definition in article IV includes "responsible rulers, public officials, or private individuals." It seeks to cover the crime—that is the standard here—not who perpetrated it. The thrust of the treaty, as I say, is not to indict or arraign governments, because that just cannot be done.

Mr. ALLEN. When the convention refers to the wiping out or destruction of a race or any part of a race, would the

Senator feel then that action against one individual might possibly constitute genocide?

Mr. JAVITS. Definitely not, and we have made clear the great difference between "homicide" and "genocide" in two ways: One, by the provision that the action must affect a substantial part of the group, and our understanding, and the implementing statute reads as follows:

> "Substantial part" means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

That is locked in further by the other definition respecting genocide which says it shall be with the intent to eliminate the whole group.

Mr. ALLEN. Who would determine that? Would it be an international court?

Mr. JAVITS. If it were an international court, if we were to agree by treaty that it would be; but we are not going to be so quick to give this jurisdiction to an international court which we do not know front and back. Without this, we still have complete volition, whether there is or is not an international court, as to whether we will participate or extradite. We retain that jurisdictional authority whether or not there is an international court. That is the thrust of this treaty, but certainly it is made crystal clear, with which I think the Senator from Idaho (Mr. CHURCH) will agree, that we have preserved that.

Mr. ALLEN. Who would have power to set up the court?

Mr. JAVITS. The court would be set up pursuant to whatever the treaty said. I do not know what that treaty would say. It is not even a gleam in anybody's eye at this time.

Mr. ALLEN. Does the Senator mean that the 78 nations that have ratified the convention have not yet seen fit to set up a court?

Mr. JAVITS. That is right, perhaps for the same kind of concerns we discuss here. In any event, they have bitten off the genocide treaty, but they are not biting off the court yet.

Mr. ALLEN. Suppose we ratify the convention and then the other nations set up the court. We have the authority not to go under the court?

Mr. JAVITS. That is absolutely right, I would like to state—and I hope the Senator from Idaho (Mr. CHURCH) will agree—that there is nothing whatever in this treaty, its ratification, the reservation, or anything else, that we contemplate by way of intent or argument at all, which will make this ratification a precedent or an initiation of a process by which we will then claim, "Well, we have got to ratify the treaty for an international tribunal." Not at all. This stands strictly on its own, by itself, with a strict reservation for the Senate to cut it off, and to say we are not going to an international court even if one is proposed.

Mr. CHURCH. Mr. President, I am in complete accord.

Mr. ALLEN. So the establishment of an international court is not necessarily included?

Mr. JAVITS. Not necessarily. The international court may come up whether we ratify this treaty or not. We may be asked to ratify an international court whether or not we ratify the treaty.

Mr. ALLEN. Would the Senator be in favor of that?

Mr. JAVITS. I have no notion on that. I am in favor of a world court which deals with civilian matters and does retain jurisdiction, but I cannot say here whether I would be for this kind of international court. I cannot define at this time what such a court of penal jurisdiction is going to be when it is submitted.

Mr. ALLEN. Would the Senator be willing to state what benefit such a Convention has served in the 25 years it has been in existence?

Mr. JAVITS. I think it has served the benefit of being an instrument which contains the declaration by mankind that genocide is a crime, and indeed, if there were genocide, that it would serve the taking cognizance of it and avoiding the argument that surrounded the Nuremberg trial, which was that it was an undefined international crime. At least it is now a defined international crime, but everybody would be given advance notice that it is an international crime, even if one is a ruler of government, and that goes for the Soviet Union, too. That is pretty important. It is one of the few things upon which we are all surrounded with that kind of definition. Speaking unilaterally, I believe it is extremely desirable in the interest of the morality of this world that this be also iterated by our own country.

Mr. ALLEN. If such a court were in existence, how could that international court enforce its decree against the Soviet Union, and if so, how?

Mr. JAVITS. I do not know that it will or will not. I do not know what the court would do to enforce its decrees, but I believe that such a declaration, such a definition, is better than not having it—much better—enough better so that we should ratify this treaty. Indeed, all the arguments about it, all the arguments that it is nothing but a declaration, even when we add the word "pious," are all the more reason why we should ratify it.

Mr. ALLEN. Would not a resolution be just as effective as a convention?

Mr. JAVITS. It would not, because it would not put us in the company of a great assemblage of nations who would be putting themselves together under one tent.

Mr. ALLEN. Is Russia one of those nations?

Mr. JAVITS. Yes.

Mr. ALLEN. That would put us in good company, then?

Mr. JAVITS. I think we put ourselves together in the SALT agreement, where each said it would not go ahead and use the MIRV. Is the Senator against that?

Mr. ALLEN. I was before.

Mr. JAVITS. That is the Senator's privilege, but I do not believe that ought to be the view of this country.

Mr. ALLEN. Mr. President, I thank the Senator from New York.

Mr. JAVITS. Mr. President, I thank the Senator from Alabama.

Mr. ALLEN. Mr. President, after extensive hearings on the Genocide Convention by the Senate Committee on Foreign Relations in 1950, it was not sent to the Senate again until 1970 by President Nixon. The reasons for its rejection are as valid today as they were in 1950, and our moral condemnation of the crime of Genocide is as firm as ever.

It does not take reaction to this convention to put the U.S. Senate and the Congress of the United States and the American people in opposition to the crime of genocide.

Objections to ratification relate to constitutional limitations on the treatymaking power of the United States, the danger of subjecting our Government to the jurisdiction of the International Court of Justice, and to the possibility of subjecting our citizens to trials in nations where our constitutional safeguards are not observed.

The Senator from Idaho has a reservation which says—

> We will not allow the extradition of American citizens to answer to a crime in a foreign country unless they are guaranteed the same safeguards that defendants in our courts are guaranteed.

As I stated a moment ago in answer to some of the questions raised on the floor, it would seem to the Senator from Alabama that assurances of observance of U.S. constitutional safeguards in a criminal trial would not be worth the paper they are written on if the foreign court was determined to punish American citizens.

What good would their assurances be if they guaranteed the right to trial by a jury, if they guaranteed the right of a defendant to be confronted with his accuser, if they guaranteed any other right which the defendant might enjoy? That guarantee would be absolutely worthless unless they saw fit to honor it, unless they thought it was to their advantage.

Mr. President, many respected authorities have been marshaled in support of and in opposition to ratification. From the welter of conflicting arguments, one central and controlling question emerges. Is the crime of genocide an appropriate subject for the exercise of the treatymaking power of the United States?

Mr. President, I hope to be able to demonstrate that it is not because the inherent constitutional limitations on the treaty power would not allow it. I believe, too, that it can be demonstrated that even if the crime of genocide were an appropriate subject for exercise of the treaty power, the convention would be fatally defective because the understandings attached to the resolution of ratification recognize constitutional conflicts but do not and in fact, cannot cure them.

Mr. President, the most effective way to demonstrate these points may be to examine the arguments of those who advocate Senate consent to the resolution of ratification.

Mr. President, it does seem, if this treaty is of such humanitarian concern and interest and if it has been adopted by 78 nations, that these nations would have gone forward to set up this international court to try all of these crimes that have been committed.

Could it be said that in the last 25 years there have been no acts of genocide committed in Russia and other nations behind the Iron Curtain, or in South America? I believe I saw in the paper the other day an article which said that some 3,000 people were killed in the overthrow of the Allende government. Seventy-eight nations, over half of the nations of the world, would be signatories to this treaty. I believe that there are some 132 or 133 members of the United Nations. But if this convention is so good, if these other nations are so anxious to ratify and implement it, why have they not done it?

Mr. President, another important fact for consideration occurs to the Senator from Alabama. And that is that many nations of the world do not have the same regard for individual liberties, individual freedoms, individual rights, human rights, and the dignity of the individual that the United States has.

Why, we recall that North Vietnam said, when there was some discussion over the exchange of prisoners of war, that they did not have a single North Vietnamese that was a prisoner of war in South Vietnam. They said that not even a single one of the North Vietnamese was a prisoner of the South Vietnamese. So they do not care anything about the individual. He is just a little bit of the great corporate state.

However, here in the United States, Mr. President, we do value human life. We do have concern for individual rights. We do not want to see one of our citizens picked up bodily and returned to a foreign nation or to a foreign court or to the international court and tried far away from these shores without any of the guarantees that we accord to American citizens.

It seems to me, with or without the Church reservation, that they would not have any rights that are really guaranteed them that are similar to those which our citizens receive in a trial before an American tribunal.

You know, there has been a concern on the part of the courts, for which the Supreme Court has been criticized a great deal, and I will say that the Senator from Alabama has joined in that criticism, where they have leaned over backwards to protect the rights, freedoms, and privileges guaranteed our people under the Constitution. But with an international court, we do not know what rules they would operate under. We do not have any idea.

I asked the Senator from New York how many acts constituting genocide had been tried in the 25 years since the Genocide Convention was proposed by the United Nations, and he did not know of any. He stated that he was taken by surprise, and that there may have been some or there may not; he would have to check.

What good has this convention accomplished up to now? Seventy-eight nations have adopted it. They are perfectly free to put it into effect, get the vast benefits supposedly obtainable under the convention, and go their merry way, and point to the United States as a country which has little concern for those who might be convicted or those who might have been treated in such a way that the acts committed against them would constitute the crime of genocide.

This convention was transmitted by President Truman to the Senate on June 16, 1949, after having been adopted by the General Assembly of the United Nations on December 9, 1948. Hearings were held by the Committee on Foreign Relations.

In 1953, Secretary of States John Foster Dulles expressed—

> Some doubts as to whether * * * the Genocide Treaty is going to accomplish the purposes which were in the minds of those who drafted it.

Dulles added:

> I believe that the solution of the problem which must be envisaged by that treaty could better be reconsidered at a later date. I would not press at the moment for its ratification

Well, the proponents of ratification might state that 20 years have now elapsed since Secretary of State Dulles said that it would be reconsidered at a later date, and here the matter is before the Senate, nothing having been accomplished by the ratification of the treaty by other nations, so far as has been presented here on the floor. We have heard a lot of pious utterances about how ratification would put us on the side of equal rights, or put us in a position of humanitarian concern, but I have not heard of one single constructive act—not one single constructive act—that has resulted from the adoption of this convention by 78 nations of the world. If one such act has resulted, the Senator from Alabama would like to be advised about it.

Mr. President, the most effective way to demonstrate some of my objections to the ratification of the convention may be to examine the arguments of those who advocate Senate consent to the resolution of ratification.

In this connection, it was pointed out in an article by Phillips and Deutch, entitled "Pitfalls of the Genocide Convention," which appeared in the July 1970, issue of the American Bar Association Journal, that the Department of State, as far back as 1950, had supported the proposition that, there is no longer any distinction between "domestic" and "foreign" affairs. The same point of view is expressed somewhat differently in "A Report in Support of the Treatymaking Power of the United States in Human Rights Matters," published by the President's Commission for the Observance of Human Rights in 1968. It is a stated conclusion of this report that:

> Treaties which deal with the rights of individuals within their own countries, as a matter of international concern, may be a proper exercise of the treatymaking power of the United States.

Can you imagine anything more ridiculous than that statement by the President's Commission for the Observance of Human Rights? These Presidential commissions that are set up from time to time by the President have a very poor batting average, in the opinion of the Senator from Alabama, in coming back and recommending anything that is worthwhile. As far as I am concerned, I think this is about as ridiculous a statement as I have heard:

> Treaties which deal with the rights of individuals within their own countries, as a matter of international concern, may be a proper exercise of the treatymaking power of the United States.

I surely do not want to make a treaty with the Soviet Union respecting the rights of individual Americans here in this country. I do not believe that is a proper subject of treatymaking powers. That is something we decide here in this country. We may have a whole lot of differences about how to approach it, but once the duly constituted authorities in this country—that is, Congress and the President—have passed legislation and put it into execution, the fact is that the legal manner in which we act in this country is by statute or by constitutional amendments, not by treaty with foreign nations dealing with our citizens' rights in our country.

Mr. President, I call attention to the word "may," because the statement would be just as meaningful and just as revealing had it said "may not" be a proper exercise of the treatymaking powers of the United States. In fact, nothing is said in the statement to suggest limitations on the rights of individuals which may or may not properly be regulated by treaty laws. So, three criteria are developed in the text of the report to test the appropriateness of a treaty's subject matter. First, the subject matter must be of international concern. This is as set up in the report of the President's Commission. Second, the exchange of international obligations on the subject must serve U.S. interests. Third, the treaty must not "contravene a specific provision in the Constitution" in a manner that cannot be cured by a reservation.

Mr. President, let us examine each criterion in sequence. Let us consider the "international concern" criterion. Every treaty between two or more nations is, by definition, of international concern. However, a subject which may be of international concern is not necessarily a proper subject of treaty law under our Constitution. This criterion simply begs the question.

The second criterion to the effect that to undertake international obligations consistent with the objects of the treaty must serve the interest of the United States is empty verbiage. Hopefully, every treaty is negotiated with the intent of serving the interest of the United States. Yet, I confess that the United States is a party to many treaties, which in my judgment, do not serve the interest of the United States. The point is that this criterion, like the first, does not help us determine what subjects are and are not appropriate for treatment by treaty law under the U.S. Constitution.

Mr. President, the third criterion applies a constitutional conflict test. It is flawed by the fact that it presumes the validity of the first two criterion. In other words, it assumes that if individual rights happen to be of international concern, and it is decided that it is in our interest to regulate these rights by treaty law, then such rights thereby become appropriate for the exercise of the treatymaking power. Let us test these criteria against commonsense reasoning.

The 10 commandments deal with individual rights of international concern, and it might well serve the interests of the United States to undertake international obligations to enforce them. So that would comply with two of the criteria. But are the commandments an appropriate subject for regulation and enforcement by treaty law? I submit that they are not.

Again, the Communist manifesto, which deals with individual rights, is of international concern. Judging by the extent to which the objectives of the manifesto have already been implemented by the United States, it could reasonably be argued that it would serve the interest of the United States to undertake treaty obligations to help implement the manifesto throughout the world. But is it an appropriate subject for enforcement by treaty law? I think not.

If a subject is tested only by the criteria of "international concern" and "U.S. interest," we could properly enter into a treaty to implement any or all of the provisions of the "Universal Declaration of Human Rights." In fact, such a course of action is strongly advocated by the President's Commission on Human Rights which I have already mentioned—not in complimentary fashion, however. It may be helpful at this point to examine some of the human rights covered by that declaration. The subjects reach every phase and aspect of the life of individuals from birth to death. The 30 articles of the declaration cover civil, economic and political rights, social and cultural rights, religious and educational rights, and even such personal domestic relations matters as marriage. But are political, religious, economic, and similar rights proper subjects for negotiation and treaty regulation? I think not.

Mr. President, the prevention of the crime of genocide is but one of the many objects of the Declaration of Human Rights. All are worthy goals, but by their nature they are domestic and internal problems of a nation. They cannot be made international problems without obliterating the distinction between domestic and foreign affairs and this distinction cannot be removed without doing extreme violence to the Constitution.

In short, the internal affairs of this Nation, normally not matters subject to negotiations between nations and regulation by treaty, cannot be made subject to treaty regulation simply by first subscribing to a convention on the subject and then declaring the subject to be a matter of international concern and, as such, a proper subject for the exercise of the treatymaking power.

If this argument were valid, we would have to concede that there are no limitations on the treatymaking power. As a consequence, we would have to admit also that there are no limitations on subjects over which Congress has the power to legislate. The Constitution specifically delegates to Congress the power to enact legislation in the implementation of treaties. So, the power of Congress to legislate would extend to every domestic subject which might be made the subject of a treaty.

Unfortunately, or probably more properly, fortunately, this is not permissible in the Constitution. Unfortunately for those who advocate the ratification of the genocide convention, but fortunately for those who oppose it.

The limitations on the powers of Congress to legislate are well known. Yet, there are those on the President's Commission, to which I have referred, who insist that the United States may invoke the treatymaking power to reach any subject that does not contravene "a specific prohibition in the Constitution." The argument is carried a step further by implying that a treaty can contain provisions which conflict with the Constitution if such provisions can be cured by reservations.

Mr. Justice Story, in his commentaries, appealed to commonsense reasoning in pointing out that the treatymaking power must be limited by the provisions of the Constitution, which created the Government and which distributed, balanced and limited, its powers.

Among other things, he said, and I quote:

> A power given by the Constitution cannot be construed to authorize a destruction of other powers given in the same instrument.

That is certainly a logical statement.

> It must be construed, therefore, in subordination to it; and cannot supersede or interfere with any other of its fundamental provisions. Each is equally obligatory and of paramount authority within its scope; and no one embraces a right to annihilate any other.

The same sentiment is expressed more concisely by Mr. Justice Field:

> The treaty power, as expressed in the Constitution, is in terms unlimited, except by those restraints which are found in that instrument against the action of the government, or of its departments, and those arising from the nature of government itself, and of that of the States.

Mr. President, it should not be necessary to demonstrate inherent constitutional limitations on the treaty power. However, others have failed to acknowledge such limitations and I feel compelled to make the demonstration.

All will agree, I believe, that the rules of the House and the Senate and their organizational structure are not proper subjects for negotiations and regulation by treaty. Yet, there is no specific prohibition in the Constitution limiting the treaty power in a manner to exclude these subjects from regulation by treaty.

The method of electing a President and Vice President cannot be changed by a treaty. The subject of elections and legislative and judicial reforms are not subject to negotiation with foreign nations and resolution by treaty obligations. States cannot be abolished by treaty, nor can they be deprived, by means of a treaty, of the powers reserved to them under the Constitution. These and hundreds of other subjects are nowhere expressed in the Constitution as specific limitations on the treaty power. Yet, they are inappropriate subjects for the exercise of the treatymaking power because of inherent constitutional limitations on that power.

Mr. President, the criminal laws of the separate States and of the United States relating to murder, manslaughter, assault, rape, arson, and other criminal offenses are traditionally matters of national and not international concern. Defendants in such cases cannot be deprived of constitutionally protected rights by an act of Congress, by the Executive, or by a combination of the President and the Senate acting in the exercise of the treatymaking power. The Genocide Convention conflicts not only with inherent constitutional limitations on the treatymaking power, but also with a specific provision of the Constitution concerning the vesting of judicial power.

For example, the Constitution provides by article III, section 1:

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The judicial power of the U.S. Supreme Court is extended to treaties by section 2 of the same article.

Yet, article IX of the Convention vests in the International Court of Justice the judicial power to interpret the treaty, to determine its proper application, and the adequacy of the fulfillment by the United States of its obligations assumed under the treaty.

It would be like sending a rabbit on a mission to deliver a carrot to a distant place, to have the United States in the hands of an international court of justice which has the judicial power to interpret the treaty, to determine its proper application, and the adequacy of the fulfillment by the United States of its obligations assumed under the treaty.

Mr. President, I will hazard this guess: If this convention is ratified by the Senate and it occupies whatever position it would hold as a treaty, whether on a level with the constitutional provision or not—and there seems reason to believe that this court, when established, would have authority to determine these factors—there will not be many days before we will see an effort made to set up whatever additional enabling legislation is necessary, which requires only a majority vote, as against the two-thirds vote required to ratify this treaty.

We will see an effort to set up this international court and an effort by Members of the Senate and of the House to put the United States under that court. We will see the right to extradite our citizens for trial before that court, even with the Church reservation adopted, in which assurances are given of protecting the rights of our accused citizens. We will see our citizens tried in whatever manner this international court desires to try them.

Thus, should the Convention be given force and effect of a treaty, three conclusions are inescapable.

First, the U.S. Supreme Court will have been deprived of its constitutional powers to make a final determination in disputes involving the interpretation and application of provisions of the Convention.

Mr. President, it is bad enough to leave this power in the Supreme Court; but to leave this power in this international court of justice—so-called justice—would be absolutely unthinkable. That is what is going to result if we allow this entering wedge. It is said that we have to do other things before this goes into effect. We have to pass legislation. We have to come under the court. And we have to pay the bills, too. We can rest assured that that is going to be part of it. We will pay the bills for this court. Our people will pay the bills, and I dare say that our people will be defendants before that court. People will be tried whether they are guilty of anything or not, just on the say-so of some person in a foreign land who brings our citizens before an international court.

Mr. President, if this Convention is so good, why have not these 78 nations gone forward with implementing it? For all that appears, they have done absolutely nothing but sit around and wait for the United States to come in and, in effect, be the fall guy. They are doing nothing about it. We can rest assured that action will pick up if the U.S. Senate has little enough judgment to ratify this Convention and implement an international court that we will come under and before which our citizens will be in danger of being hailed. How much chance do you think they would have?

Second, the Connally amendment to the reservations of the United States to its declaration of adherence to the International Court of Justice will have been circumvented. The reservation provides that the United States is not to be subjected to the processes of the International Court of Justice as to disputes which are essentially within our domestic jurisdiction, and most importantly, that the question what is within the domestic jurisdiction of the United States shall be determined by the United States.

Mr. President, I take it that even members of the Committee on Foreign Relations—by the way, I believe the convention was reported by that committee by a one-vote margin. I could be wrong but I think I read that in the report. It did not come out by an overwhelming vote. This matter has been carried in the Senate since I have been in the Senate. It has been No. 1 on the calendar and has not been brought up before. I guess Friday was the first day that this matter has been before the Senate; possibly ever within the memory of the Senator from Alabama. So there has not been any lengthy debate in the Senate. If this matter has been voted on in the Senate I do not recall it. The distinguished Senator from Idaho will correct me if I am wrong. I do not believe this matter has been voted on in the Senate although it has been pending in the Senate for some 24 to 25 years. It has gone just about as far this year, within the last few days, as it has been in 25 years.

But the distinguished members of the Committee on Foreign Relations reported the matter favorably with three understandings and one declaration. Now, the distinguished Senator from Idaho comes in with a reservation. It is a new reservation which would be in addition to the three understandings and the declaration.

An understanding, I guess, is where we say on the part of the United States that we understand this to mean thus and so. Maybe that understanding would be effective or not. I do not know.

It has one declaration. I assume that is a statement of our understanding of what the Convention provides. But suppose the other nations say, "We do not understand it to be that way at all. We understand it just as it is written." Our saying we understand it in a different way may not be conclusive in the matter. But who knows what it means? Apparently the signitory nations have not thought it meant enough to activate it.

I say again, Mr. President, that once the Senate puts the head of the United States in the noose to the extent of ratification of this convention it is going to see the action come very rapidly after that.

I say again that such action, coming under the provisions of the court, would take only a majority vote. So if this convention were ratified by two-thirds vote does anyone think there is a possibility of stopping a majority vote? Of course not. So the battleground is right here. We have got to stop them at the pass, as we hear in the late evening movies. We have to stop them at the pass. We cannot say, "Wait until they get on down the trail." We have to stop the entering wedge here and this is where the decisive vote is going to be.

Mr. President, I hope this matter will be defeated. I would rather see it defeated on an up and down vote. I hope the majority leader can get the contending sides to agree to an up and down vote; that is a yea and nay vote on the convention. I believe there will be a vote tomorrow on whether or not debate on this issue shall end and if that cloture vote passes we will have a vote up and down on the issues.

Third, the three understandings attached to the resolution of ratification in an effort to cure constitutional defects in the convention are not worth a row of beans.

Mr. President, the first two of these conclusions needs no elaboration. The third one does. It is utterly futile for the U.S. Senate to pretend that understandings intended to resolve conflicts between the provisions of the convention and provisions of the Constitution will accomplish that end. The judicial power is vested in the International Court of Justice to make these determinations. That agency—not the Senate—is empowered to decide if we adequately fulfill our obligations under the treaty. That agency—not the Senate—is empowered to decide if the understandings are to be given effect. For all practical purposes, the treaty might just as well have prohibited any understandings or reservations—as some international conventions now do. The understandings mean in international law what the International Court of Justice will say they mean. Nothing more and nothing less.

It is sad to say that article IX of the convention not only deprives the U.S. Supreme Court of its constitutional power to render final judgments on questions relating to interpretation of the treaty, but also it is deprived of it power to render a final judgment on the adequacy of the understandings to cure conflicts with the U.S. Constitution. It can not be done by treaty.

Let us read these reservations, Mr. President, this is the text of the resolution of ratification. I think it would be interesting to read it.

> That the Senate advise and consent to the ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O, Eighty-first Congress, first session), subject to the following understandings and declaration:

So this document was signed by somebody representing the United States on December 11, 1948—under President Truman, of course. These are the understandings that are attached by the United States: That the U.S. Government understands and construes the words—these are words in the definition of genocide—

> Intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such," appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

That is not what the convention says, though. Let us see what the convention says on that subject. The convention says:

> Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.

So "part of a group" unquestionably could be one person. One person is part of a group. So any assault or violence done with intent to kill or to do bodily harm or cause mental harm, the convention says, to a part of any group would be the crime of genocide.

The reservations coming from the Foreign Relations Committee, despite the clear language speaking of intent to destroy in whole or in part, which could mean as few as one person, says:

> The United States government understands and construes these words to mean "intent to destroy . . . a national, ethnical, racial, or religious group . . . in such manner as to affect a substantial part of the group concerned."

There is no justification for this understanding. The English clearly indicates that it could apply merely to an altercation between individuals.

So once we adopt this convention with this reservation, the Court of International Justice—what a misnomer—could construe our reservation to mean nothing; that we were wrong in reaching that conclusion. This is not borne out by the facts:

> 2. That the United States government understands and construes the words "mental harm" appearing in Article II(b) of this

> convention to mean permanent impairment of mental faculties.

How is that justified from the words "mental harm"? It is ambiguous. It is certainly unclear, because the Committee on Foreign Relations, which has handled literally dozens of treaties, does not understand what it means. They had to write down their interpretation of what they think it means.

There are two areas where our committee does not understand what the convention is saying. The committee puts its meaning on it. What good is that going to do if the Court of International Justice puts an international meaning on it? They are going to say—speaking for themselves—it means what they say. They will say, "You fellows just drew an erroneous conclusion."

> 3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

Fine. That is what the Committee on Foreign Relations would say the U.S. Government understands. But this does not hit the idea of double jeopardy. Nor would the United States assert its power.

None of this language gives much meaning. Getting down to the words of significance, that "Nothing in article VI shall affect the right of any State"—that would mean any nation, rather than a subdivision of the 50 States of our own Nation—"Nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State."

Would that be before or after trial by the international tribunal? It does not say that we would have exclusive jurisdiction. In fact, it would apply, it would seem to me—I would have to put an understanding on here myself, because I do not understand what the committee says it understands. I do not believe that many other Senators would understand it. Would it mean that the United States could try someone after the International Court of Justice had tried him? Or could the International Court of Justice try an American citizen after he had been tried in our courts? Would the plea of double jeopardy be available anywhere along the line? Or must the person stand trial in both jurisdictions?

I do not believe that the understanding sent up by the Foreign Relations Committee clarifies the matter at all. It seems to me that it obscures it and confounds the meaning.

Three of these are called reservations, and the other is called a declaration.

Paragraph 4 reads as follows:

> 4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

There again is another condition under which this convention would be ratified. Here is what article V would provide:

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

So actually that is no barrier to the convention going into effect. It has been stated here on the floor that they would have to move forward and enact legislation. However, once the convention or treaty is ratified by a two-thirds vote of the Senate, there is no doubt that a majority vote would come along to support anything necessary to put it into effect, including, in my judgment, a matter going to the International Court of Justice.

We have enough courts already, it seems to me. To subject our citizens to prosecution before an international court, it seems to me, is not in the best interests of the people of Alabama or of this Nation.

Mr. President, it is obvious that neither Congress as a whole, nor the Executive alone, can deprive the Supreme Court of any power vested in it by the Constitution.

That is what this convention would seek to do, if it were to let a court of international justice interpret this treaty or ratification and determine whether we are living up to the requirements placed on us by the treaty, whereas the Constitution of the United States gives our Supreme Court the power to rule upon and to interpret a treaty.

Mr. President, I am not one to decry efforts to limit the power and jurisdiction of the Supreme Court of the United States, provided that power is left in State courts or removed from the Supreme Court altogether. However, I am certainly not in favor of taking power away from the Supreme Court of the United States and lodging it in a court of international justice, sitting I know not where. However, I presume it would not be within the boundaries of the United States of America.

It should be equally clear that the Executive, together with two-thirds of the Senators voting on the issue, cannot do so—that is, deprive the Supreme Court of any power vested in the Constitution—under the guise of exercising the treatymaking power. It stands to reason, and the Supreme Court has so held that the treaty power cannot be used to supersede, amend, modify, or alter the powers of the document from which the treaty power derives.

Neither can the treaty power be used to deprive a single citizen of a constitutionally protected right as finally determined by the U.S. Supreme Court. Yet, article IX of the convention would do just that, and it will not wash.

That is the reason I oppose the ratification of the genocide convention.

Many great Senators have served in this Chamber, Senators who were internationally minded, and great patriots, I am sure, every one of them.

After World War II there was a great emotional surge to do something to prevent the mass extermination of whole populations of people. Certainly we all decry that and want to see that crime punished and see those who perpetrate such crimes brought to justice. However, when we enact something that will bring it down to such a small equation that acts committed against one person of one ethnic group, be he Indian, be he black, be he yellow, or be he white, can be made into a crime of genocide and a person uprooted from this country, transported to a foreign land, and tried before a foreign court, I would say, "Let us stop." That is not what we are talking about. We are talking about a mass extermination of whole populations.

If the Senate of the United States back in 1949 when this matter was first sent to the Senate by former President Truman was not willing to yield to the emotionalism of that issue by a ratification of this convention, I wonder how it is expected that the Senate of the United States today will ratify the convention.

If the great Senators who served in the Senate 25 years ago did not see fit to make the U.S. citizens subject to the possible rule of this international court of justice, then I do not believe that this Senate sitting in the second session of the 93d Congress is going to be stampeded into ratifying this convention.

Mr. President, this brings up an extremely unique situation. In the Resolution of Ratification it is said:

> The United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The implementing legislation has been introduced. Whether or not it will be considered adequate to uphold our obligation under the treaty remains a question for determination by the International Court of Justice.

Mr. President, for these and many more compelling reasons, I shall vote against the Resolution of Ratification and trust most sincerely that other Senators will do likewise.

Mr. HELMS. Mr. President, I wish to commend my good friend, the distinguished Senator from Alabama (Mr. ALLEN), for his clear, lucid, and enlightening discussion of this very important matter. As always, he has done his homework. I congratulate him, and associate myself with his remarks.

Mr. President, the presentation of this treaty, the so-called Genocide Convention, marks a watershed in the history of law in the United States. If it is approved by this body, it will bring about profound changes in the independence of our legal system and the objectivity of our system of justice. While the notion of a treaty to prevent genocide has emotional appeal in the abstract, the difficulty of translating such prohibitions into workable law that does not do violence to our system of justice has proved to be insurmountable.

My remarks fall into three categories: On the scope of the treatymaking power of the United States; on the effect of the treaty on domestic legal jurisdiction; and on the articles of the treaty text itself. Since this discussion necessarily involves reference to legal precedent and law, my prepared statement includes the necessary citations, but I will omit them as I read for the sake of clarity.

However, Mr. President, I ask unanimous consent that the citations appear in the RECORD, as though read.

I. SCOPE OF THE TREATYMAKING POWER OF THE UNITED STATES

In a series of cases reaching from *Ware* v. *Hylton* (3 Dall 199 (1796)) to *Santovincenzo* v. *Egan* (284 U.S. 40 (1930)) the Supreme Court has firmly established that the treatymaking power of the United States extends only to "any matter which is properly the subject of negotiations with a foreign country" *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890). No court has ever said that the treaty power can be exercised to affect matters which are of purely domestic concern and do not pertain to this country's relations with foreign nations.

The classic statement of the scope of the treatymaking power was made by Charles Evans Hughes, just before he became Chief Justice and after he had been Secretary of State, when he addressed himself to the question whether there are any constitutional limitations of the treaty power. He said on April 26, 1929, in his capacity as president of the American Society of International Law that:

> . . . The power [i.e., the treaty power] is to deal with foreign nations with regard to matters of international concern. It is not a power intended to be exercised . . . with respect to matters that have no relation to international concerns. . . . If we attempted to use the treaty-making power to deal with matters which do not pertain to our external relations but to control matters which normally and appropriately were within the local jurisdiction of the States, then I again say there might be grounds for implying a limitation upon the treaty-making power that is intended for the purpose of having treaties made relating the foreign affairs and not to make law for the people of the United States in its internal concerns through the exercise of the asserted treaty-making power."
>
> Charles Evans Hughes in Proceedings of ASIL (1929) 194–196.

In deciding whether a matter of domestic concern was also of sufficient international concern to justify the use of the treatmaking power, Hughes said:

> I imagine that the same doctrine [i.e., weighing of interests] would be sustained in regard to the treaty-making power where concerns, which perhaps under former conditions had been entirely local, had become so related to international matters that an international regulation could not appropriately succeed without embracing the local affairs as well. Id.

In commenting on Hughes' statement, Charles Cheney Hyde said that—

> These words seem to imply that by the adoption of the Constitution the Republic as a State relinguished the capacity to conclude treaties designed or calculated to restrict the American people in their purely internal concerns, as with respect to matters having no relation to international affairs, and that the existence of an international relationship is to be taken as a test of unrelinguished power.

Hyde explains further in a footnote:

> In a word the United States, by adoption of the Constitution, relinguished the capacity to conclude a treaty, which, . . . purported to deal with matters not to be deemed to pertain to external relations."
>
> 2 Hyde, International Law, Chiefly as Interpreted and Applied by the United States (1947) 1459.

Similarly, the American Law Institute in its restatement—second—The Foreign Relations Law of the United States, 1965—hereinafter "Restatement" refers in its comment to section 40 which deals with limitations "where two States have jurisdiction to prescribe and enforce rules of law" to—

> a. Balancing of Interests: general. It is clear that if each state having a basis of jurisdiction were in every case to exercise its jurisdiction without considering the interests of another state also having jurisdiction, disputes between states and hardship would often arise.

A few years after his aforementioned 1929 statement, Chief Justice Hughes said with respect to the extent of the treatymaking power of the United States, that—

> In its international relations, the United States is as competent as other nations to enter into such negotiations, and to become a party to such conventions. . . ." *Burnet v. Brooks*, 288 U.S. 378, 400 (1933).

John Foster Dulles said as Secretary of State that the treatymaking power may be exercised with respect to a matter which—

> . . . reasonably and directly affects other nations in such a way that it is properly a subject for treaties which become contracts between nations as to how they should act.

And not with respect to matters—

> Which do not essentially affect the actions of nations in relations to international affairs, but are purely internal.
>
> Hearings on S.J. Res. 1 before a Subcommittee of the Senate Judiciary Committee, 84th Cong., 1st Sess., 183 (May 2, 1955).

On an earlier occasion, Secretary Dulles had testified:

> I do not believe that treaties should, or lawfully can, be used as a device to circumvent the constitutional procedures established in relation to what are essentially matters of domestic concern.
>
> Hearings on S.J. Res. 1 and S.J. Res. 43 before a Subcommittee of the Senate Judiciary Committee, 83d Cong., 1st Sess., 825 (April 6, 1953).

On December 13, 1955, the Department of State issued Circular No. 175, which reads in part:

> 2. Scope of the Treaty-Making Power. Treaties should be designed to promote United States interests by securing action by foreign governments in a way deemed advantageous to the United States. Treaties are not to be used as a device for the purpose of effecting internal social changes or to try to circumvent the constitutional procedures established in relation to what are essentially matters of domestic concern.

Both sentences of the circular define the scope of the treatymaking power: The first sentence defines the power in the form of an affirmative statement whereas the second sentence defines it in the negative form of exclusion. Thus, the fact that the second sentence was deleted at a later date, does in no way alter the scope of the power as defined by the circular because the exclusory definition of the second sentence is, of necessity, already inherent in the affirmative statement made in the first sentence.

Similarly, the restatement, supra, states:

> Section 118. *Scope of Treaty.*
>
> (1) An international agreement made by the United States as a treaty may deal with any matter as to which the United States has the constitutional power to make an international agreement under the rules stated in Section 117.

These rules are:

> Section 117. *Scope of International Agreements.*
>
> (1) The United States has the power to make an international agreement if
>
> (a) the matter is of international concern.

The comment to section 117 of the restatement reads:

> An international agreement of the United States must relate to external concerns of the nation as distinguished from matters of purely internal nature. As the effect of international agreements is the creation or modification of relationships under international law, it would be inconsistent to utilize them for the regulation of matters bearing no relation to international affairs.

In conclusion, the treatymaking power of the United States is specifically designed to promote "United States interests by securing action by foreign governments in a way deemed advantageous to the United States." Conversely, since matters which are essentially a domestic concern of the United States are under international law exclusively in the domestic jurisdiction of this country, they are not and cannot be made the object of treaties whose very purpose is that of "securing action by foreign governments."

Incidentally, even those who have habitually been in favor of limiting the domestic jurisdiction of this country and for expanding the frequently ill-defined scope of international law to matters which are in the domestic jurisdiction of the United States, had to admit that—

> . . . the treaty-making power is limited . . . with reference to the *ends* for which it may act. . . . In other words (1) treaties must be international in character, not a mere subterfuge for domestic relations. . . . Wright, "The Constitutionality of Treaties" in 13 AJIL (1919) 242, 262–263.

II. CRIMINAL LAW: THE OUTSTANDING EXAMPLE OF A MATTER OF DOMESTIC JURISDICTION

The importance of domestic jurisdiction. The most important right and duty of a state under international law is the preservation and protection of its external independence and of its internal jurisdiction.

> From the viewpoint of sovereignty, jurisdiction means internal sovereignty, exclusive control over all persons and things within its territory. . . . In practice, vast powers are left to the states, and the community interferes very little with their internal administration. It should be noted that the state not only administers its own affairs, but acts also as the agent of the community of nations to enforce international law within its territory. Eagleton, International Government (1957) 87–88 as quoted in 5 Whiteman, Digest of International Law (1965) 216–217.

The principle of territoriality. It is well settled that criminal law, that is, the definition and designation of certain acts as crimes and the prescription of punishment for such crimes are within the "reserved domain" of the domestic jurisdiction of the various nations. An analysis of general principles of international law and of criminal law shows that—

> The territorial principle, determining jurisdiction by the place where the act has been committed . . . is everywhere regarded as of primary importance and of fundamental character. Harvard Research on International Law: Jurisdiction with Respect to Crime, 29 Am. J. Int. L , Sup. 1 (1935) 435, 445.

This analysis led to the following formulation of article 3 of the Draft Convention on Jurisdiction with Respect to Crime:

> Article 3. Territorial Jurisdiction.
>
> A State has jurisdiction with respect to any crime committed in whole or in part within its territory. Havard Research, *supra*, 439.

The American theory of criminal jurisprudence was clearly set forth in a note of Secretary of State Charles Evans Hughes to the French Ambassador where he said that—

> The territorial sovereign has the strongest interest, the greatest facilities, and the most powerful instruments for repressing crimes . . . in his territory . . . 2 Hackworth, Digest of International Law (1941) 181.

Similarly, the Department of State instructed the U.S. Ambassador in Germany that—

> . . . under Anglo-Saxon legal theory, crime is territorial, not personal. . . . *Id.*, at 180.

It follows from the rules governing the principle of sovereignty that, to any extent to which states are not limited by international law, they are free to determine, as they see fit, their municipal criminal laws. Thus, in principle, the actual exercise of criminal jurisdiction must take place in the territory of the state in which the crime was committed or in places assimilated to it, for example, territorial seas, flag vessels or aircraft, and so forth.

> The practice of extradition is in itself a recognition not only of the principle that crime should be punished, but also of the fact that it can best be punished at the place of its commission. Nowhere else can it be so conveniently and so successfully prosecuted. 2 Hackworth, *supra*, at 182.

Therefore:

> It is a rule of international law that no law has any effect of its own force beyond the limits of sovereignty from which its authority derived. *Southern Pacific RR Co of Mexico* v. *Gonzalez*, 61 P.2d 377, 382 (Supreme Court, Arizona, 1936).

Conversely, "A government has no substantial interest in punishing crimes in the territory of another state" 2 Hackworth, supra, at 182, because—

> The importance of State territory lies in the fact that it is the space within which the State exercises supreme authority. 1 Lauterpacht, Oppenheim's International Law (1955) 452.

Secretary Hughes concluded from the foregoing that—

> The experience of this and other countries show that a criminal law applicable to offenses committed in foreign lands is for the most part a *brutum fulmen*, and that it can rarely be carried into execution. 2 Hackworth, *supra*, at 181.

The American doctrine has been set forth in restatement—second—supra, under the heading "Jurisdiction to Prescribe with Respect to Conduct—or Other Interest Within Territory" where it states that—

> A state has jurisdiction to prescribe a rule of law
>
> (a) attaching legal consequences to conduct that occurs within its territory. . . .

Within the aforementioned limits it is left to every system of municipal law to determine for itself whether, and to what extent, it applies to crimes with a foreign element, that is to say, to crimes committed abroad. In this sense, international criminal law does not belong to international but to municipal law.

Only if the interests of a nation are threatened by criminal conduct, do states prescribe rules of law attaching legal consequences to extraterritorial acts, provided that the conduct is generally recognized as a crime—Restatement, supra, section 33, entitled "Protective Principle". In the words of Justice Holmes:

> They [sovereign nations] go further, at times, and declare that they will punish any one, subject or not, who shall do certain things, if they can catch him, as in the case of pirates on the high seas. In cases immediately affecting national interest, they may go further still and may make, and, if they get the chance, execute similar threats as to acts done within another recognized jurisdiction. An illustration from our statutes is found with regard to criminal correspondence with foreign governments. . . . But the general and almost universal rule is that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done. . . . For another jurisdiction, if it should happen to lay hold of the actor, to treat him according to its own notions rather than those of the place where he did the act would not only be unjust, but would be an interference with the authority of another sovereign, contrary to the comity of nations. . . . *American Banana Company* v. *United Fruit Company*, 312 U.S. 347, 355–357 (1909).

It is important to realize that there are fields in which the various systems of municipal criminal law claim concurrent or conflicting jurisdiction—Lotus case, PCIJ, series A, No. 10, page 20 (1927). However, in practice, the chaos that might result from such concurrent or conflicting claims is reduced to manageable proportions by the governing principle of the territoriality of criminal jurisdiction.

The foregoing shows clearly that criminal law is one of the outstanding examples of matters which are of purely domestic concern even if a nation under the protective principle should attempt to extend its jurisdiction to extraterritorial conduct. Therefore, it has been aptly stated that—

> It is not the function of treaties to enact the . . . criminal law of a nation. . . . Congress may be under a duty to enact that which has been agreed upon by treaty, but duty and its performance are two separate and distinct things. Nor is there any doubt that the treaty-making power has its limitations. . . . Certain it is that no part of the criminal law of this country has ever been enacted by treaty. *The Over The Top*, 5 F 2d 838 (D.C., D. Conn., 1925).

Offenses against the law of nations. Article I, section 8, clause 10 of the Constitution reserves to Congress the power "To define * * * offenses against the law of nations". This covers acts which under customary international law are already considered crimes by the state practice of civilized nations, that is, crimes which are not artificially created by treaties but which have organically developed by way of state practice and which have only to be defined by Congress in order to meet the constitutional requirement that criminal statutes must not be so vague as to leave the standard of guilt to the "variant views of the different courts and juries which may be called to enforce it" *United States* v. *Cohen Grocery Co.*, 264 F. 218, 220 (1920), aff'd 225 U.S. 81 (1921). Therefore, the aforementioned power of Congress refers to acts which customary international law prescribes, or authorizes, to be treated as criminal law under the municipal law of the United States—ex parte Quirin, 317 U.S. 1 (1942)—and to crimes which, owing to their general noxious character, are punishable in most civilized countries—*United States* v. *Arjona*, 120 U.S. 479 (1887). Again, both categories of crimes can be described only in the loosest sense as offenses against the law of nations.

Since criminal law is in the reserved domain of domestic jurisdiction, the concepts "international crime" or "crime under the law of nations" has a very limited scope. In fact, it has been correctly said that "international law has not yet evolved a criminal law of its own" Schwarzenberger, "The Problem of an International Criminal Law" in Three Current Legal Problems (1950) 263, 275, as quoted in 11 Whiteman, supra, 837. The same author (Schwarzenberger) has also aptly said that—

> This term [international criminal law] has at least six different meanings. It may be identified with the territorial scope of municipal criminal law. It may be equated with internationally authorised municipal criminal law. It may mean municipal criminal law common to civilised nations. It may signify international co-operation in the administration of municipal criminal law, and finally, stand for international criminal law in the material sense of the term. 1 International Law (1957) 255 as quoted in 11 Whiteman, *supra*, 837.

Thus, five of the aforementioned six meanings of the term "international criminal law" are clearly identified either as the internationally recognized reserve domain of domestic jurisdiction of which criminal law is an essential part; as international or extraterritorial implications and ramifications of municipal law. Only one of these meanings stands for "international criminal law in the material sense of the word" which, as the author admits "has not yet evolved."

Clearly, the "offenses against the law of nations" to which article I, section 8, clause 10 of the Constitution refers is in Schwarzenberger's above-mentioned terminology nothing else but "internationally authorised municipal law." In this connection, Whiteman's point that the question as to "What acts should be classified as crimes under international law is intimately connected with the question of the machinery by which such acts should be dealt with"—11 Whiteman, supra, 835—is of paramount importance.

III.—THE GENOCIDE CONVENTION, ARTICLE-BY-ARTICLE ANALYSIS

ARTICLE I

> The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.

It has already been shown in (II), supra, that there are very few offenses which fall under the provision of article I, section 8, clause 10, of the Constitution which confers upon Congress the power to define and punish offenses against the law of nations, and that customary international law by way of continued and uninterrupted state practice is the only legitimate source for designating certain acts as offenses against the law of nations. Congress has the power to define and punish such offenses only if certain acts have been clearly designated as offenses by international customary law. However, article I of the Convention fails completely to state in concrete terms any specific state practices or rules of customary international law which it seeks to confirm in the form of a treaty. In fact, neither state practice nor customary international law have developed any concepts whatsoever which could conceivably serve as the basis for the assumption that the acts to which the Convention refers as genocide are offenses against the law of nations. In the absence of applicable state practice or customary law, any confirmation that genocide is a crime under international law has no basis in fact because both, state practice and rules of customary law, are considered facts which have to be proved and cannot be assumed. Even the fact that it was considered necessary to establish in article I of the Convention genocide as "an international crime" militates against any assumption that it is already a crime against the law of nations. The International Court of Justice has correctly held that the singling out of a set of facts for regulation by treaty leads to the presumption that such factual situations or acts had hitherto not been regulated by international law. In other words, in cases of treaty regulation it has to be assumed that the factual situations or acts regulated there had been hitherto in the domestic jurisdiction of the nations concluding the treaty.—Asylum case, *Colombia* v. *Peru*, ICJ, Rep. 1950, p. 266.

The word "confirm" has been chosen in article I of the Convention because resolution 96(I) of the U.N. General Assembly—1949—had affirmed that genocide was a crime under international law. However, resolution 96(I) as all other U.N. resolutions has no constitutive or legally binding effects. Such resolutions are mere recommendations—Kunz, "The Genocide Convention," 43 Am. J. Int. Law (1949) 741.

Thus, the Convention proposes to remove legislation and jurisdiction with respect to the acts listed in articles II and III of the Convention from the domestic sphere of the ratifying countries by making them by way of a treaty a matter of international concern. It will be shown below that this is an attempt to use a treaty as a vehicle for legislating on essentially domestic matters. This would make ratification of the Convention not only unconstitutional but would also undermine the most important right and duty of a State under international law, namely that of preserving and protecting its sovereignty and jurisdiction—Eagleton, International Government (1957) 87, as quoted in 5 Whiteman, supra, 216.

Judge Orie L. Phillips, then chief judge, U.S. Court of Appeals for the 10th circuit, drew the logical conclusion from article I of the Convention when he said:

> If genocide and kindred offenses defined in the treaty are in fact international crimes, would not the wise course be to enact domestic legislation under Section 8, Clause 10, Article I of the Constitution of the United States, defining such offenses, and providing for the trial and punishment of persons committing such offenses, in our domestic courts, ... We would thus set our own house in order, would offer the same protection to the accused as one charged with any domestic crime, and would reserve to our own courts the final determination of questions as to the interpretation of the penal statute. To agree, by international convention, to so define, try, and punish persons . . . would avoid many serious questions with respect to the incipient effects of ratification of the Convention on our constitutional and legal system. . . . ABA Journal (August 1949) as quoted in Hearings on Genocide Convention, 91st Cong., 2d sess., 210.

Article I of the Convention provides also that genocide is a crime under international law "whether committed in time of peace or in time of war." So far, insufficient attention has been given to this unconventional phraseology of article I. If genocide were a crime under international law, it would be such at all times. Why then, the specific phraseology of article I? The only possible interpretation of the aforementioned phraseology leads to the conclusion that the vague terminology of articles II and III of the Convention is expressly to be applied to otherwise legitimate acts of warfare. If ratified, the treaty would remove—even without implementing legislation on the part of the United States—the members of the armed forces from the protective umbrella of international law—customary and codified—and would subject them not only to jurisdiction but to the hitherto unknown implementing legislation of potentially hostile countries.

In this connection, the testimony of Carl B. Rix, then chairman of the American Bar Association's Committee on Peace and Law through the United Nations before the Senate Foreign Relations Committee has to be recalled. He said that—

> The mere fact of the necessity of implementation by legislation, such as . . . fixing penalties, does not make a treaty non-self-executing. Only clear intent in the treaty itself can prevent the automatic operation of the Constitution of the United States. Thus there may be created, as law, a third body of treaty law in this country with no constitutional basis whatsoever, of equal dignity with our Constitution, as supreme law of the land. . . . Con. Digest (Dec. 1950) 299–300.

If ratified, the treaty would immediately clearly provide enemy countries not only with a powerful propaganda but also with a psychological warfare weapon of unique effectiveness. The more ruthless the implementing legislation of various countries, the greater the deterrent effect upon members of the Armed Forces of the United States to execute their otherwise perfectly legitimate military duty.

ARTICLE II

> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measure intended to prevent births within the group;
>
> (e) Forcibly transferring children of the group to another group.

In other words, the aforementioned acts are considered to constitute a "crime under international law" if they are committed against an individual or a group of individuals "with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. * * *"

Article II of the Convention introduces a completely new intent element; namely "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. . . ." Since it is difficult to prove intent in even otherwise simple felony cases, the December 1970 report of the Foreign Relations Committee—Executive Report 91–25; page 5—emphasized this point when it said that "article II is so written as to make it, in fact, difficult to prove the intent element. . . ." If in view of these practical difficulties the intent element is disregarded, it becomes obvious that essentially all of the acts defined in article II and punishable under article III of the Convention are already, when committed on U.S. territory, identical with or, at least, similar to the common law crime of homicide and other offenses and torts under American law. Jurisdiction with respect to common law offenses, as well as the legislative jurisdiction to define other common offenses and/or statutory torts, has been essentially and primarily vested in the several States of the United States. It has been correctly said that—

> There are no common law offenses against the United States. Only those acts which Congress has forbidden, with penalties for disobedience of its command, are crimes. The Constitution of the United States of America: Analysis and Interpretation, Senate, 88th Cong., 1st Sess., Doc. No. 39 (1964) 999–1000.

Since the legislative and judicial jurisdiction with respect to practically all of the aforementioned felonies and/or torts has been vested in the several States of the United States, Congress has used its power to declare such acts to be Federal crimes only in cases where—

> . . . the law of nations casts upon every government [the duty] to prevent a wrong being done within its own dominion to another nation with which it is at peace, or to the people thereof. . . . *United States* v. *Arjona*, 120 U.S. (1887) 479, 487, 488; as quoted in The Constitution of the United States, *supra*, 325.

Therefore, when Executive Report 91–25, page 7 says that—

> Moreover, the Congress has enacted laws making certain homicides Federal crimes; i.e., the killing of heads of foreign states and other designated foreign officials.

It refers to the protection of the aforementioned foreign officials while on U.S. territory which protection is clearly a duty imposed upon the United States by the law of nations. This being the case, Congress had the power to define and punish such homicides pursuant to article I, section 8, clause 10 of the Constitution. Where—

> . . . Congress defines with particularity a crime which *is* (sic) "an offense against the law of nations", the law is valid. . . .
>
> The Constitution of the United States, *supra*, 325.

The very fact that the legislative and judicial jurisdiction with respect to offenses and torts identical with or similar to those listed in articles II and III of the convention is vested in the several States of the United States shows clearly that they have been traditionally within the reserved domain of domestic jurisdiction and are essentially a matter of domestic concern to which the treaty power does not extend. Ratification of the convention would thus be an unconstitutional device to bypass the constitutional procedures established for matters which are essentially of domestic concern. In addition, the proponents of ratification have never claimed and/or shown that existing State and Federal laws are not sufficient to cope within the constitutional framework and under the constitutional safeguards of this country with such offenses as the convention would designate as genocide. Therefore, as far as the United States is concerned, a need for international regulation has not been established.

The argument that genocide would become a matter of international concern after ratification of the convention is self-defeating because it admits that it is now essentially a matter of domestic concern to which, as already stated, the treaty power does not extend. It has recently been correctly said that—

> . . . the adherence of developed states to the current human rights treaties would be tinged with the hypocritical intent to interfere abroad without permitting any interference at home. . . .
>
> By the test of realism, therefore, the previous internal matters of the political, economic and social rights of nationals of developed states *inter se* within their own territories remain entirely internal, and are not appropriate subjects for the exercise of the treaty power. G. L. Dorsey, "Subject Matter Limitation on Treaty Power", 6 International Lawyer (1970) 220.

The working of the Genocide Convention shows that a similar line of reasoning applies to all ratifying states with respect to the acts listed in articles II and III of the convention.

However, regardless of the unconstitutionality of concluding a treaty concerning matters which are essentially a domestic concern, the treaty must be regarded as void or unconstitutional if it obligates the United States to enact implementing legislation or perform other acts which—without such treaty—would be void or unconstitutional. The statement filed in behalf of the Department of State with the subcommittee of the Committee on Foreign Relations on April 24, 1970, shows that the proposed implementing legislation defines genocide exactly as it is defined in the convention.

It has already been said that a criminal statute must be unambiguous, definite and precise in order to meet the constitutional requirements protecting the rights of defendants to be informed of the nature and cause of the accusation. See United States against L. Cohn Grocery Co., supra.

The first question which has to be raised in this connection is that of the vagueness of the intent element, namely to inflict different kinds of harm upon individuals: First, because they are members of a national, ethnical, racial or religious group; and second, because the ultimate aim or purpose of the harm is the destruction of such a group in whole or in part.

The precise meaning of the various groups has been left vague. A group has been judicially defined as a number of persons or things existing or brought together with or without interrelation, orderly form, or arrangement, 18A Words and Phrases, 630, citing *Hope* v. *Flentge*, 140 Mo. 390, 41 S.W. 1002 (1897). One example will suffice to show the indefiniteness of the term. Since the Communist countries have opposed the inclusion of political groups, the designation of group members of one of the listed groups as "enemies of the state" would leave the individuals concerned without the protection supposedly provided by the Convention. How can national, ethnical, racial, or religious groups be clearly defined in the absence of objective natural standards as, for example, territory; or legislative standards as, for example, nationality; corporate membership, et cetera. Against how many individuals do the acts listed in articles II and III of the Convention have to be committed in order to prove intent to destroy the group? Is it sufficient to harm two individuals? Or is it 10 or 500,000 individuals?

Article II is also vague with respect to the concept of "mental harm." The question arises as to what the constituent elements of mental harm are.

Article III raises the issue of the specific nature of "direct and public incitement to commit genocide."

Article IV: What does article IV understand by "constitutionally responsible rulers"? The French text of the Convention uses in this connection the French term for "government." Are, then, members of the administration of any other government punishable under article IV? Without violent overthrow of a government or defeat of a nation in war, can it be assumed that members of a government or public officials will be held liable under article IV? This would pose a problem if the number of individuals against whom an act under article II had been committed is such that it suggests "complicity in genocide" pursuant to article III (e).

Article VI raises the issue of the concurring jurisdiction of an international penal tribunal. Article VI is sufficiently vague to give rise to the question whether or not, once the Convention is ratified, the President has the power under the treaty to accept jurisdiction of an international tribunal by executive agreement.

The argument that such a tribunal does not exist now is no protection against it being organized in the future and in a way which would infringe upon the sovereignty of the United States by claiming jurisdiction over acts committed on American territory by individuals within the United States.

Attention has to be directed to the fact that the Nuremberg and Toyko tribunals were organized and set up on the basis of executive agreements.

Article VII raises the issue whether the rule of general international law that political crimes are not extraditable can be set aside by treaty even if it is clear that genuine acts of genocide could only be political or politically motivated crimes.

Again, article VII raises the question whether the Convention, if ratified, confers sufficient power upon the President to enter into executive extradition agreements.

Article VIII: This article raises the question of the general nuisance and propaganda value of this treaty by offering an opportunity to bring charges before the United Nations to the effect that a country failed to take appropriate action for the prevention and suppression of genocide.

Article IX: This article, ratified, would not only be a violation of the Connally reservation, but also an admission of the "responsibility of a state for genocide or for any of the other acts enumerated in article III." What does the convention specifically understand by "responsibility of a state for genocide" or for any of the aforementioned acts?

In conclusion two questions have to be raised:

First, in view of the various reservations attached by Communist and other countries and in view of the doubts whether these reservations do or do not substantively influence their ratification of the Convention, the following issue arises: If the reservations do substantially influence ratification, has the Convention not to be renegotiated? In view of the reservations by other countries, do we actually know what the present status of the Convention is? Would not the United States find itself in a position where it would be the only major power ratifying the Convention without serious reservations?

Second, similarly, if the Senate gives its consent to ratification of the Convention, subject to serious and legally binding reservations, would it not be necessary to renegotiate the Convention before it can be ratified? On the other hand, "understanding," or reservations would be legally completely meaningless if they do not in legally binding form challenge the substance of the Convention.

Mr. ALLEN. Mr. President, I have discussed somewhat the four reservations by the Committee on Foreign Relations to the Genocide Convention. I would certainly favor each and every one of those reservations, because they state the position of the United States with regard to certain of the language in the convention. But this would only open the door for further confusion, further misunderstanding, and a further hodgepodge as to the exact meaning of the convention.

As a matter of fact, Mr. President, it is most interesting in the report of the Committee on Foreign Relations—and I do not have the privilege of serving on that committee—to find that the United States is not the only country which does not understand this convention, or its legislative body does not. Many other nations, in ratifying it, have said, "We do not want this to be construed to mean this or that or the other."

The effect of our reservations is that we take certain language and say, "We think this means thus and so."

Let us look at this just a little bit. I read beginning on page 29 of the record of hearings on the Genocide Convention.

Mr. CHURCH. Mr. President, will the Senator be good enough to yield to me for a unanimous-consent request?

Mr. ALLEN. I yield.

Mr. CHURCH. I have previously spoken to the Senator about it, and also the distinguished Presiding Officer.

Mr. ALLEN. Yes.

Mr. CHURCH. Mr. President, I ask unanimous consent that notwithstanding the fact that the understandings and declarations reported by the committee have not been agreed to, I be permitted to call up my reservation and amendments to the resolution of ratification, and that my amendments be considered en loc.

The PRESIDING OFFICER (Mr. HELMS). Is there objection to the request of the Senator from Idaho? The Chair hears none, and it is so ordered.

Mr. ALLEN. Mr. President, may I make one inquiry? Does this add the additional reservation to the reservations already made?

Mr. CHURCH. The committee's report included three understandings and one declaration, but not a reservation, which has a different legal effect.

Mr. ALLEN. Yes.

Mr. CHURCH. So this would, if adopted by the Senate, substitute the reservation proposed in place of the delcaration that the committee reported out.

Mr. ALLEN. Would the Senator drop that?

Mr. CHURCH. No, it would substitute. Under the language of the reservation, clause 3 as it appears in the proposed resolution of ratification would be stricken, and in its place the proposed reservation would be inserted.

Mr. ALLEN. Mr. President, I favor the Senator's reservation.

The PRESIDING OFFICER. The Chair would inquire of the Senator whether he wishes to call up his reservation.

Mr. CHURCH. Yes, I call up the reservation.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

In the introductory matter preceding clause 1, strike out "and declaration" and insert in lieu thereof a comma and the following: "declaration, and reservation".

Strike out clause 3.

Strike out "4" and insert in lieu thereof "3".

Insert a new section 4 as follows:

4. That, subject to the reservation, which is hereby made a part and condition of the resolution of ratification,

(a) nothing in article VI of the convention shall affect the right of the United States to bring to trial before its own tribunals any of its nationals for acts committed outside the United States; and

(b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and

(1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or

(2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or

(3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution

Mr. ALLEN. Mr. President, the Senate Committee on Foreign Relations is not the only legislative group or government that has issued reservations, declarations, or understandings with respect to this convention. On page 29 of the record of hearings before the subcommittee of the Committee on Foreign Relations of the 91st Congress, 2d session, on Executive O, 81st Congress, 1st session, there are listed a number of reservations and declarations of other nations, and some of those reservations are summarized.

The point that I am seeking to make, Mr. President, is that when you get through with all of the reservations, understandings, and declarations of all of the nations, you do not know what in the world you have when you get through as to who is bound by what.

Starting off here, the Philippine Government cannot sanction any situation which would subject its head of state who is not a ruler, to conditions less favorable than those accorded other heads of state, whether a constitutionally responsible ruler or not.

Then it goes on and develops that for a while.

Then on the matter of what is competent penal tribunal, Algeria, Burma, and Morocco, they say that the provisions of the article shall not be construed as depriving courts and tribunals of the said country of jurisdiction over acts of genocide or other acts enumerated in article III committed within its territory, nor conferring jurisdiction on foreign tribunals.

Mr. President, Algeria, Burma, and Morocco, they see the same danger in this that the Senator from Alabama did, as to conferring jurisdiction on foreign tribunals.

Algeria and Morocco may, in exception cases, recognize the competence of international tribunals by specific agreement.

So, Mr. President, these nations of Algeria, Burma, and Morocco, they are not world powers by any means, but they see the defects in this convention and they are interested in maintaining their sovereignty. They might not have sovereignty over very much, but they are intent on retaining their sovereignty over the rights and privileges and the lives, if you please, Mr. President, of their nationals.

The Philippines and Venezuela—proceedings to which Venezuela may be a party before an international penal tribunal would be invalid without Venezuela's express acceptance of the jurisdiction of such international tribunal.

Here again a nation such as Venezuela, with its chief asset, I assume, being its oil deposits down there, they are seeking to protect their sovereignty by putting in this stipulation.

Now the Philippines and Venezuela have exceptions on extradition and genocide.

On article VIII, Burma says that this article would not apply to it. They accepted without article VIII.

On article IX, on submission of disputes to the International Court of Justice—this is interesting, Mr. President—Albania, Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, India, Mongolia, Morocco, Poland, Romania, the Ukrainian Soviet Socialist Republic, and the Union of Soviet Socialist Republics—I believe that is the U.S.S.R.—Agreement of all parties to a dispute is required for submission of that dispute to the court.

If I recognize some of these nations correctly, they are behind the Iron Curtain and they have stipulations that the agreement of all parties to a dispute is required for submission of that dispute to the court.

Algeria, Hungary, Spain—they reserve their rights or do not consider themselves bound by article IX.

So, Mr. President, these other nations at the time they accepted this convention, reserved their rights and did not go along with the full document.

Argentina reserved the right not to submit to the procedure laid by in article IX. The Philippines the same thing. And Venezuela.

On article XI, states eligible to accede to the convention—on Mongolia, they declare that the convention deals with matters which affect the interests of all states and should, therefore, be open for accession by all states.

On article XII—the Territorial Application of the Convention—Albania, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Mongolia, Poland, Romania, the Ukrainian Soviet Socialist Republic, and the Union of Soviet Socialist Republics—the U.S.S.R.—say that the provisions of the Convention should extend to non-self-governing territories, including trust territories.

Albania has an exception as to article IX. Algeria—the Democratic and Popular Republic of Algeria—does not consider itself bound by article XI of the Convention, which confers on the International Court of Justice jurisdiction in all disputes relating to the said Convention.

Hurrah for Algeria.

The Democratic and Popular Republic of Algeria declares that no provision of article VI of the said Convention shall be interpreted as depriving its tribunals of jurisdiction in cases of genocide or other acts enumerated in article III which have been committed in its territory or as conferring such jurisdiction on foreign tribunals.

That is Algeria speaking, Mr. President. They do not want their nationals tried by foreign courts. I do not blame them.

Argentina makes exceptions to article IX and article XII. Bulgaria has exceptions as to article IX. Burma offers reservations as to article VI. The Byelorussian Soviet Socialist Republic has exceptions as to articles IX and XII. Czechoslovakia the same way.

Finland says—subject to the provisions of article 47, paragraph 2, of the Constitution Act, 1919, concerning the impeachment of the President of the Republic of Finland.

They do not want that matter considered by the tribunals.

Argentina and Hungary reserve their rights with regard to the provisions of article IX. India, Mongolia, Morocco, the Philippines, Poland, Romania, as to articles IX and XII, likewise.

Spain has a reservation with respect to the whole of article IX—the jurisdiction of the International Court of Justice. The Ukrainian Soviet Socialist Republic and the U.S.S.R. both have exceptions as to articles IX and XII.

Here is what the U.S.S.R. has to say on article IX:

> The Soviet Union does not consider as binding upon itself the provisions of article IX which provides that disputes between the Contracting Parties with regard to the interpretation, application and implementation of the present Convention shall be referred for examination to the International Court at the request of any party to the dispute, and declares that, as regards the International Court's jurisdiction in respect of disputes concerning the interpretation, application and implementation of the Convention, the Soviet Union will, as hitherto, maintain the position that in each particular case the agreement of all parties to the dispute is essential for the submission of any particular dispute to the International Court for decision.

In other words, as I read this, they have the veto power on whether they would be hailed into Court, about the same way as they have in the U.N. Security Council.

Venezuela, Australia—all have filed reservations.

Belgium, they do not accept the reservations made by Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Poland—on, on, and on.

So one group says we accept with certain reservations and another group says we do not accept your making those reservations.

Brazil objects to reservations by other countries. Ceylon does not accept reservations made by Romania.

China objects to all the identical reservations made at the time of the signature on the ratification by the Soviet Republics here.

The Chinese Government considers the above-mentioned reservations as incompatible with the object and purposes of the convention; and therefore, by virtue of the advisory opinion of the International Court of Justice—I thought someone said that had not been set up yet—of May 28, 1951, would not regard the above states as being parties to the convention.

Mr. President, we might sign this document with our reservations, and China might come forward and say, "We do not regard you as having signed this, as being a party to the convention."

Cuba objects to some of the reservations made by some of the other nations.

Ecuador is not in agreement with reservations made by some of these governments.

Greece:

> We further declare that we have not accepted and do not accept any reservation which has already been made or which may hereafter be made by the countries signatory to this instrument or by countries which have acceded or may hereafter accede.

The Netherlands declares that it considers these reservations to be incompatible with the object and purpose of the convention. The Government of the Kingdom of the Netherlands therefore does not deem any state which has made or which will make such reservation a party to the convention.

Norway does not accept the reservations made to the convention by the Philippines.

Let us see what the Republic of Vietnam objected to.

Referring to the reservations to articles IX and XII made on signature by the Byelorussian Soviet Socialist Republic, Czechoslovakia, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics, and on accession by Bulgaria, and to the reservations to articles IV, VI, VII and IX of the convention made on ratification by the Philippines, the Government of the Republic of Vietnam informed the Secretary-General that it was the intent of the Government of Vietnam in acceding to the Convention for the Prevention and Punishment of the Crime of Genocide, to accept only the text of that convention as approved on December 9, 1948 before the United Nations and not the reservations submitted by the above-mentioned states or by any other state at the time of signature by their representatives, or of deposit of their instruments of ratification or accession to the convention.

These are some of the reservations made by some of the signatory States; and if we come in with reservations which I think are all valid and should be made, I am wondering just what our position is going to be. Will we be a signatory? Will we be regarded by the other signatories as having properly signed, or will they file objections? Who would decide, if it is not the court of international justice, what applies to what nation and what does not apply and who are valid signatories?

It seems to the Senator from Alabama that we are just opening a can of worms here if we go forward with the ratification of the convention.

If this matter does come to a vote on the floor, I am hopeful that the Senate, in the exercise of its wisdom, will vote against the ratification of the convention.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, the Genocide Convention was adopted by the General Assembly of the United Nations on December 10, 1948. It was submitted by President Harry S. Truman to the Senate for its consideration on June 16, 1949. In my judgment, it is an unnecessary and dangerous treaty. I am glad that its ratification has been delayed during the past 25 years. In 1950, the Senate Foreign Relations Committee appointed a subcommittee, composed of very able Senators, which conducted hearings and reported to the full committee that the United States should not ratify the convention in any event, unless the Senate adopted four substantial understandings and one substantial declaration. Since this report was made, the Senate Foreign Relations Committee and the Senate itself, by inaction, have refused to ratify this convention.

In contrast to the attitude represented by this inaction during the preceding 25 years, the Senate Foreign Relations Committee has revived the question of ratification during the past few months, notwithstanding the fact that there has been no change of circumstances which would make what was unwise in 1950, wise in 1974.

The major argument now advanced for ratification of this convention is that it would improve the image of the United States in the eyes of Russia and other totalitarian parties to the convention, which, strange to say, have repudiated by understanding and reservations many of the provisions of the convention.

Before discussing the provisions of the Genocide Convention and the objections to it, I would like to emphasize that what I am going to say in no way militates against the good intentions of those who drafted the convention, or those who seek its ratification. All of us are strongly opposed to the systematic, planned annihilation of any national, ethnical, racial, political, or religious group. However, we should not permit ourselves to ratify a convention which would have such a drastic impact upon the system of law which has always existed in our land.

Briefly, the provisions of the Genocide Convention are as follows:

In article 1, the contracting parties affirm "that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent or to punish."

Article 2 reads as follows:

> "In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> "(a) Killing members of the group;
>
> "(b) Causing serious bodily or mental harm to members of the group;
>
> "(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> "(d) Imposing measures intended to prevent births within the group;
>
> "(e) Forcibly transferring children of the group to another group.

Article 3 states that:

> "The following acts are punishable:
>
> "(a) Genocide;
>
> "(b) Conspiracy to commit genocide;
>
> "(c) Direct and public incitement to commit genocide;
>
> "(d) Attempt to commit genocide;
>
> "(e) Complicity in genocide."

Article 4 specifies that persons committing genocide or any of the other acts enumerated in article 3 shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals.

Article 5 obligates the contracting parties to enact the necessary legislation to give effect to the provisions of the convention and to provide effective penalties "for persons guilty of genocide or of any of the other acts enumerated in article 3."

Article 6 provides that "persons charged with genocide or any of the other acts enumerated in article 3 shall be tried by a competent tribunal of the nation in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

Article 7 provides that the parties to the treaty pledge themselves in genocide cases to grant extradition in accordance with their laws and treaties. Article 8 provides that "any contracting party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article 3."

Article 9 provides that "disputes between the contracting parties relating to the interpretation, application, or fulfillment of the present convention—shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

This brings me to the considerations which ought to deter the Senate from ratifying the Genocide Convention. Time compels me to limit my statement to only the most substantial of them.

First, if the Senate should ratify the Genocide Convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide.

The definition of genocide appears in article 2 which states that the term genocide embraces five specified acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The convention definition of genocide is inconsistent with the real meaning of the term, which is "the systematic, planned annihilation of a racial, political, or cultural group." The word annihilation clearly contemplates the complete destruction or the complete wiping out of the designated group.

Yet, the convention definition covers the destruction, either in whole or in part, of members of a group embraced by it. This could mean that a public official or a private individual is to be subject to prosecution and punishment for genocide if he intentionally destroys a single member of one of the specified groups.

The Senate Foreign Relations Committee has recommended the Senate announce that it understands this article to mean "the intent to destroy a national, ethnical, racial, or religious group by the acts specified—in such a manner as to affect a substantial part of the group concerned." While this does clear up some of the ambiguity, in my opinion it is still not celar enough. The phrase "substantial part" is obviously subject to interpretation.

Second. Article 2, section 2 of the Constitution provides that "the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Article 6 of the Constitution provides that "the Constitution and the laws of the United States, which shall be made in pursuance hereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

If the Senate should ratify the Genocide Convention, these constitutional provisions would automatically make the convention the law of the land, put all of its self-executing provisions into immediate effect as such, and impose upon the United States the obligation to take whatever steps are necessary to make its non-self-executing provisions effective. This means that the provisions of the Genocide Convention would immediately supersede all State laws and practices inconsistent with them, and could nullify provisions of acts of Congress and prior treaties of the United States inconsistent with them. Obviously ratification of the Genocide Convention would have a drastic impact on our system of government, particularly on the States.

Third. Another drastic impact that ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings, covered by categories (a), (b), and (e) of article 2 of the convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of jurisdiction workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country could experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

In the absence of ratification of the convention, demands have already been made that the United Nations investigate the slaying of Black Panthers by police officers on the ground that their slaying constituted genocide under article 2(a), and that the United Nations investigate the action of the legislature of one state in respect to welfare benefits on the ground that the legislative action constituted genocide under article 2(c). Furthermore, questions have been raised whether birth control clinics, school busing, discrimination against minority groups, and the incidents at My Lai in Vietnam could also constitute genocide.

I strongly question whether it is desirable to ratify a convention which would necessitate such fundamental alterations in the way in which criminal justice has been administered in the United States ever since our country was founded.

A fourth objection to the convention is that many of its terms are shrouded in uncertainty. For example, if the convention is ratified, article 2(b) would impose upon the United States the duty to prevent and to prosecute and punish public officials and individuals who cause "mental harm to members" of any one of the four groups named in the convention. What mental harm means in this context is totally incomprehensible, and what psychological acts or omissions are made punishable in this context are left in obscurity. The Foreign Relations Committee would construe this term to mean "permanent impairment of mental faculties." In my opinion, this construction adds little clarity.

If the convention is ratified, article 2(c) would impose upon the United States the duty to prevent and to prosecute and punish anyone who deliberately inflicts "on the group conditions of life calculated to bring about its physical destruction in whole or in part." What this means, no mind can fathom. Does it mean that a State or county official who refuses to give to a member of one of the four groups, designated in the convention, the amount of welfare benefits deemed desirable is to be punished or prosecuted for genocide? Does it mean that the Court of International Justice shall have power under article 9 to adjudge that Congress or a State legislature which does not make available to members of one of the four groups what the Court deems to be adequate welfare benefits has violated the convention?

Able lawyers have expressed the fear that article 6 imposes upon the Congress an implied commitment to support the creation of an international court for trials of American citizens for genocide. I find myself in complete harmony with their opposition to subjecting our citizens and other persons within our territorial jurisdiction to trial, conviction, and sentence for acts of genocide committed in the United States by an international penal tribunal where they might not be surrounded by the constitutional safeguards and legal rights accorded persons charged with a domestic crime.

A fifth objection is that the convention could make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

This is made indisputable by article 1 which provides that genocide is punishable under the convention whether it is committed in time of peace or in time of war, and by the fact that it contains no provision exempting soldiers engaged in combat from the coverage of the provisions of the convention. When soldiers kill or seriously wound members of a detachment of the military forces of a hostile nation, they certainly do so with intent to destroy, in whole or in part, a national group as such. Hence, their acts in combat fall clearly within the purview of the convention. In such cases, they are triable and punishable under article 6 in the courts of the nation in whose territory their acts are committed, or in such an international penal tribunal "as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction." These things being true, American soldiers who killed or seriously wounded North Vietnamese soldiers or members of the Vietcong, or South Vietnamese civilians in South Vietnam, would have been triable and punishable in courts in South Vietnam, and American aviators who bombed North Vietnam would have been triable and punishable in the courts of North Vietnam. No sophistry can erase this obvious interpretation of the Genocide Convention.

A final objection to the convention relates to article 9, which provides that disputes between the parties to the convention relating to the "interpretation, application, or fulfillment" of the convention "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

Under this article the International Court of Justice would be empowered to decree that the President of the United States, as Chief Executive Officer of the United States, had interpreted and applied the provisions of the convention incorrectly and by doing so impose upon the President of the United States its notions as to how the convention should be interpreted and enforced. The International Court would have the power to adjudge that legislation enacted by Congress to give effect to the provisions of the convention was insufficient to fulfill the obligations imposed upon it by the convention, and to adjudge that the Supreme Court of the United States and Federal courts inferior to it had interpreted and applied the provisions of the convention incorrectly and by doing so require these tribunals to apply its notions as to how such provisions should be interpreted and applied to future cases coming before them. This would constitute a drastic and dangerous invasion of the sovereignty of the United States of America.

In this short talk, I have attempted to briefly outline the major objections to the Genocide Convention. In my opinion, these objections mandate that the convention not be ratified. The existing laws of the United States and the several States are adequate to punish all of the physical acts of violence denounced by the Genocide Convention. The Genocide Convention is an unnecessary and dangerous treaty which could severely damage our system of law and government.

Mr. McGEE. Mr. President, I find it particularly disturbing that, once again, the Senate business is being hindered by delaying tactics on the part of opponents of the Genocide Convention.

I have supported Senate passage of this convention as long as this issue has been before the Foreign Relations Committee and long before I was elected to this body.

There probably has never been an issue which has generated so many expressions of opinions over so long a period of time as the Genocide Convention. Everyone is familiar with the arguments pro and con. Therefore, I am dismayed that opponents of this measure will not let each individual Senator express his own views on this convention. The U.S. Senate, it seems, has become increasingly plagued by an unwillingness on the part of some Members to allow consideration of legislation which they oppose. Such tactics are only an admission on their part that they are unwilling to allow decisions to be made on the merits of an issue.

As everyone is well aware, the Genocide Convention is the direct outgrowth of the atrocities committed in Hitler's Germany on various minorities during World War II, particularly the Jews. The convention was adopted by the United Nations General Assembly on December 9, 1948, by a vote of 55 to 0. As of today, 75 nations are parties to the convention.

I find it to be a particular anathema that the world's leading economic and military power should find itself in the position of not having exercised its responsibility as the leader of the free world by failing to ratify this convention for the past 25 years.

Our democratic traditions center on the proposition of majority rule. Therefore, I believe these democratic traditions should be placed into practice and the Senate should move quickly to a vote on the Genocide Convention.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS PROXMIRE AND HUGHES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, and prior to the recognition of the junior Senator from West Virginia under the order previously entered, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. PROXMIRE and Mr. HUGHES.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. CHURCH. Mr. President, I send to the desk a cloture motion and ask that it be read.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read the cloture motion as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide (Executive O. 81-1).

1. Mike Mansfield.
2. Frank Church.
3. Jacob K. Javits.
4. Robert P. Griffin.
5. Charles McC. Mathias, Jr.
6. William D. Hathaway.
7. Gale W. McGee.
8. William Proxmire.
9. Birch Bayh.
10. Hugh Scott.
11. Richard S. Schweiker.
12. Adlai E. Stevenson III.
13. Jennings Randolph.
14. Hubert H. Humphrey.
15. Edmund S. Muskie.
16. James B. Pearson.
17. Charles H. Percy.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. PROXMIRE, Mr. HUGHES, Mr. ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business, not to extend beyond 11 a.m., with statements therein limited to 3 minutes each. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. At the conclusion of the transaction of routine morning business, the Senate will go into executive session, and the 1 hour of debate under the cloture rule will begin to run.

At 12 o'clock noon, the automatic quorum call will occur; and upon the establishment of a quorum, circa 12:15 p.m., the Senate will proceed to take a yea-and-nay vote, which is also mandatory under rule XXII, on the motion to invoke cloture.

What occurs during the rest of the afternoon depends upon the outcome of the cloture vote.

Mr. President, that is the statement of the program. If I have failed at some point to secure unanimous consent in accordance therewith, with respect to some detail, I ask unanimous consent at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 10 A.M.

Mr. CHURCH. Mr. President, in accordance with the previous order, I move that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and at 4:45 p.m., the Senate in executive session, adjourned until tomorrow, Tuesday, February 5, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 4, 1974:

U.S. COAST GUARD

Rear Adm. Owen W. Siler, U.S. Coast Guard, to be Commandant of the U.S. Coast Guard for a term of 4 years with the grade of admiral, while so serving.

Rear Adm. Ellis Lee Perry, U.S. Coast Guard, to be Vice Commandant of the U.S. Coast Guard with the grade of vice admiral, while so serving.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Robert Edmondston Coffin, [redacted], Army of the United States (major general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Monday, February 4, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I am ready for anything through the strength of Him who lives within me.—Philippians 4: 13.

O Thou who art from everlasting to everlasting and whose truth endureth forever, prepare us in mind and in heart for the tasks of this week and may the work done be for the highest good of our people.

Give grace and wisdom to those who labor as our representatives under the dome of this Capitol that they may be examples of integrity, insight, and intelligent action on behalf of our beloved country. Enlighten their minds, purify their hearts, strengthen their hands, and so fill them with Thy spirit that their labors may lift our country to loftier levels of united action and to the higher heights of moral living.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heiting, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 7824. An act to establish a Legal Services Corporation, and for other purposes.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 64. Concurrent resolution authorizing the printing of congressional eulogies and other tributes to the late J. Edgar Hoover as a Senate document.

The message also announced that the majority leader and minority leader, pursuant to Public Law 93–155, appointed Mr. Karl Bendetsen and Mr. Curtis Tarr to the Defense Manpower Commission.

PROJECTED SURRENDER OF U.S. SOVEREIGNTY OVER U.S.-OWNED CANAL ZONE: A DIRECT CHALLENGE TO THE CONGRESS THAT MUST BE MET

(Mr. FLOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLOOD. Mr. Speaker, the press has recently announced that on Thursday of this week Secretary Kissinger will fly to Panama to sign a "declaration of principles" for a new canal treaty. Any agreement under its guidelines would surrender U.S. sovereign contract over the U.S.-owned Canal Zone, and this without the authority of the Congress to which it is a direct challenge that must be met.

Later today, I plan to address the House on this subject and to offer a plan of action to meet the threat. I trust that as many Members as possible will be present and take part in the discussion for the issue is a crucial one affecting the security of the entire Western Hemisphere and about which citizens all over the Nation are deeply concerned, especially in coastal States with shipping that uses the canal.

ARMY TRADITION—A CRUEL HOAX

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ANDERSON of California. Mr. Speaker, many of you can recall your days in the military and you can remember the service's pride in taking care of its family.

A certain esprit de corps was built by the fact that you knew the military would take care of its own.

But today, that tradition of the Army "family" has become a cruel joke to the 100,000 military retirees and dependents in the Los Angeles area.

After serving their country—many through battles ranging from Iwo Jima, Pork Chop Hill, and the Iron Triangle—the Army sergeant or lieutenant colonel retires near a military post for a couple of reasons: first, to stay near the "family," and second, to avail themselves of the services which help make up for the paltry retired pay.

And now, the Department of Defense wants to close Fort MacArthur—established in 1888—the only Army post in all of southern California—the only fort in an area with over 11 million people—a population larger than any State save two—New York and Pennsylvania.

And, so, the Army abandons these Americans—it disregards their needs, it disregards the Army tradition, and it proves the Army "family" to be a hoax—only to be used to draw enlistments, and then forgotten.

THANK YOU, ROY ASH!

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, on behalf of my colleagues I would like to extend thanks to the Director of the Office of Management and Budget, the Honorable Roy Ash, for his personal intervention to enable Members of Congress to get copies of the President's 1975 budget on Friday at the same time they were made available to the news media.

Otherwise, it had been planned to keep Members of Congress in the dark for 72 hours before making the budget available to Members of Congress today. The ridiculousness of this was made apparent when Tass, the Russian news agency, could get its copy of the budget and inform its readers and leaders in the

Soviet Union 72 hours before such information was even available to Members of Congress.

It is heartening to discover that the OMB, even if it impounds funds, has decided not to impound the text of the budget itself.

DISAPPROVAL OF SALARY INCREASE

(Mr. FLYNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, I have today introduced a House resolution calling for the disapproval of the salary increase proposal for certain officials in the executive, legislative, and judicial branches as transmitted by the President to the Congress in the budget for the fiscal year ending June 30, 1975.

In 1967 the Congress enacted the Postal Revenue and Salary Act, which unwisely established the Commission on Executive, Legislative, and Judicial Salaries. I opposed the act in 1967, and I oppose the act now because it provides a convenient backdoor approach to permit a congressional salary increase without requiring a recorded vote on such a proposed upward adjustment. I felt in 1967 and I continue to feel that authorization of salary increases by nonaction is bad government. All Members should be willing to stand up and be counted and be recorded.

The issue before us today is not whether Members of Congress and other top officials of the Federal Government deserve an increase in pay. The fundamental issue centers on whether we in Congress are going to set the example for increased wage demands in the United States and further accelerate the dangerous inflationary spiral, afflicting our economy. Are we going to repeat the mistake we made in 1969 when we failed to reject the salary increase proposed then? I am convinced that the 1969 congressional pay raise—much of which I then opposed—was a basic contributory factor to the inflation we are experiencing today.

A Federal congressional, executive, and judicial salary increase at this time would be unconscionable. It would set a bad example for the country at a time when we are trying to curb inflation and limit wage and price increases to modest amounts. I do not believe that most Members of Congress are overpaid. But, the essential consideration is the example of self-discipline and fiscal restraint we in Congress should set. All Americans—Members of Congress included—are being asked to hold the line on prices and wages in the fight against inflation. Let us in the Congress not ask less of ourselves than we do of the American public, and vote to disapprove the proposed wage increase.

THE PRICE OF FUEL

(Mr. HAYS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. HAYS. Mr. Speaker, I have had numerous calls from individual truckers and trucking firms this morning who cannot operate, part of them because they are afraid, part of them because they cannot get fuel, and part of them because they cannot afford to pay the price. I told them that the President has the power to roll back the price in emergency legislation now in effect. All he has to do is sign his name.

But I also told them with Simple Simon and Stupid Sawhill running the program, I did not expect much relief, because every time either one of them goes on television, about the only thing he winds up with is saying that the price of fuel ought to go up another 10 cents.

They do not really have to invite the oil companies to raise the price; they will do it without invitation; but when they invite them to do it, the oil companies will jump right in and do it real fast.

I might say that the people are not being fooled by this because the biggest applause I got during the recess was in a speech where I happened to mention the term Simple Simon, and the audience stood up to applaud, so they know him for the phony and faker he is.

If we are going to impeach anybody around here, maybe we ought to start with him.

MAJORITY LEADER THOMAS P. O'NEILL SAYS BUDGET PRIORITIES MUST BE REVISED

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, the President's $304 billion budget is top-heavy in favor of the military. It does nothing to retard inflation, and it threatens a further shortchanging of vital domestic programs.

The duty of this Congress is clear. First, we must cut the budget well below the $304 billion total if we are to make any progress toward economic stability this year. Second, we must revise the priorities in this budget so that the money we do spend is oriented toward the vital domestic areas where we need it most: energy research and development, education, health, housing, and other programs. This Congress must be concerned with the problems of unemployment, food production and distribution and other areas that affect the great majority of our people.

One good place to start is by diverting funds from a military budget that has just gotten out of hand. We need to make a start at reducing our commitments abroad, including those 400 expensive military bases that we persist in maintaining. These constitute a severe drain on our domestic economy that we can no longer afford. Other nations are outstripping us in production and economic capacity; the time has come for them to bear a greater portion of their own defense costs while we tighten up at home.

This administration has not given proper emphasis to this budget in terms either of priorities or economic stability. We must revise this budget to fit this era of energy, economy and environment.

CUTTING THE BUDGET

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I am delighted to hear the majority leader of the House talking about cutting the budget. I hope he means it. I hope he and the Congress as a whole will work to accomplish the stated goal. I hope he will vote that way, because a majority of the Members on our side of the aisle have been trying to do that for years. Every time we try to cut big spending bills the Members on the Democrat side of the aisle come in with supplemental appropriations rolling over the ceilings and add more and more spending to the cost.

Let us state today where the responsibility really is. It is right here in this Congress. If the majority leader wants to cut the budget, let him show us by deeds and I believe the House will follow his suggestion.

BILL TO REQUIRE PLEDGE OF ALLEGIANCE FOR MAKING APPLICATION FOR PASSPORT

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, recently the U.S. court of appeals ruled that it was no longer necessary to pledge allegiance in making application for a passport in this country. Someone in the Department of State apparently decided they did not want to appeal this decision to the Supreme Court and the appeal time has now passed.

Accordingly, I have today introduced a bill that would require the oath of allegiance to this Nation not only in being eligible for a passport but for making application for a passport.

AMENDMENT TO BE OFFERED TO H.R. 5463, FEDERAL RULES OF EVIDENCE

(Mr. DENNIS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DENNIS. Mr. Speaker, under the rule adopted by the House last week I insert in the RECORD at this point the text of an amendment which I may offer to H.R. 5463, the Federal rules of evidence bill, when it is considered later on this week, the amendment being to rule 803(8)(B).

The amendment is as follows:

Amendment offered by Mr. DENNIS: Page 94, line 11, after the word "law," in said line insert "excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel."

Remember succeeding lines accordingly.

AMENDMENT TO BE OFFERED TO H.R. 5463, FEDERAL RULES OF EVIDENCE

(Mr. MAYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, in compliance with House Resolution 787, the resolution providing for House consideration of H.R. 5463, the Federal Rules of Evidence, and for the consideration of amendments printed in the CONGRESSIONAL RECORD 2 calendar days prior to consideration of amendments to the bill, I request that my amendments to rule 405(a) and to rule 608(a) of H.R. 5463 as reported by the House Judiciary Committee be printed at this point in the RECORD, following my remarks. These amendments in effect restore the language recommended by the Advisory Committee of the Judicial Conference of the United States with respect to these two rules, and will permit testimony of character based on opinion of the witness.

Amendment of Mr. MAYNE to rule 405(a): On page 76, line 20 of the bill, after the word "reputation", insert the words "or by testimony in the form of an opinion".

Amendment of Mr. MAYNE to rule 608(a): On page 82, line 3 of the bill, strike the word "Reputation", and insert the words "Opinion and reputation".

On page 82, line 5 of the bill, after the word "reputation", insert the words "or opinion".

On page 82, line 9 of the bill, after the term "attacked by", insert the words "opinion or".

Mr. Speaker, I further intend to propose an amendment to rule 801(d)(1) of H.R. 5463, to restore the language of that Rule to the form reported by the Subcommittee on Criminal Justice in its committee print. The effect of the amendment would be to remove from the definition of hearsay the prior inconsistent statements of a witness when those statements were made under oath, as in a trial, a deposition, a hearing or a grand jury proceeding. Such prior inconsistent statements would be admissible not only to impeach the witness but also as substantive evidence, that is, as evidence that a jury may accept for the truth of the matter asserted. This is clearly constitutional according to the Supreme Court decision of *California* v. *Green*, 399 U.S. 149 (1970), and is in accord with the thinking of many legal commentators including Professor McCormick. The amendment is as follows:

Amendment by Mr. MAYNE to H.R. 5463, rule 801(d)(1): On page 90, line 24 of the bill, after the word "oath", strike the words "subject to cross-examination,".

On page 91, line 1, of the bill, after the word "deposition", insert the words "or before a grand jury".

REJECT PAY RAISE

(Mr. GROSS asked and was given permission to address the House for 1 minute.)

Mr. GROSS. Mr. Speaker, I have today introduced on behalf of Mr. BAUMAN of Maryland and myself, a resolution of disapproval for the purpose of rejecting the President's recommendations with respect to executive, legislative, and judicial pay which he has sent to the Congress with his budget proposals.

In his recommendation, the President proposes to increase the pay of Federal judges, top level Federal executives, and Members of Congress at the rate of 7½ percent annually for each of the next 3 years.

Under the provisions of the Federal Salary Act of 1967, these Presidential recommendations become effective after 30 days unless within that time either House of the Congress disapproves all or part of the recommendations.

Mr. Speaker, considering the present state of our economy and Federal finances, I cannot imagine a more inappropriate time for such increases to be proposed. At a time when many segments of our Nation and its people are faced with unemployment and belt-tightening, it is inconceivable that fattening the payroll of upper echelon Federal executives, Federal judges, and Members of Congress would even be proposed.

The resolution I introduce denies the implementation of these proposed increases, and if adopted by the House, will lay the matter to rest. If Members' pay is an urgent matter, then I suggest that pay proposals should rightfully be initiated by the Congress.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Indiana.

Mr. DENNIS. I would like to take the opportunity to strongly agree with what the gentleman says, and to ask if he has any suggestion as to how we can get this matter to a vote in this body.

Mr. GROSS. I can only say to my friend from Indiana that we who are opposed will do the best we can to obtain a record vote.

PROGRAM CHANGE

Mr. O'NEILL. Mr. Speaker, I take this time to announce a change in the legislative program for this week. We are moving House Resolution 803 subpena authority for the impeachment inquiry from Tuesday to first thing Wednesday.

APPOINTMENT AS A MEMBER OF NATIONAL FOREST RESERVATION COMMISSION

The SPEAKER. Pursuant to the provisions of 16 U.S.C. 513, the Chair appoints as a member of the National Forest Reservation Commission the gentleman from Mississippi (Mr. LOTT) to fill the existing vacancy thereon.

COMMUNICATION FROM CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
February 1, 1974.

Hon. CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's office at 12:45 p.m. on Friday, February 1, 1974, and said to contain the Economic Report of the President, together with the Annual Report of the Council of Economic Advisers.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. No. 93–278)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Joint Economic Committee and ordered to be printed with illustrations:

To the Congress of the United States:

The United States enters 1974 in a position of leadership in the world economy. The dollar is strong, we have constructive economic relations throughout the world, and we have the greatest freedom of action resulting from our great capacity to produce. We must take the responsibilities and the opportunities this position of leadership gives us.

Nineteen hundred and seventy-three was a year of problems and progress in the American economy. In some respects the problems were greater than we expected and the progress was less than we had hoped. But the areas of our solid achievements were more important than the areas of our disappointments. We and the world around us have difficult tasks ahead—primarily to deal with an old problem, inflation, and to deal with one that has just become acute, energy. But the United States confronts these difficulties with a strong and adaptable economy, which means an economy of capable and enterprising people.

In the middle of 1971, when the New Economic Policy was launched, the country had three economic objectives: to promote the expansion of output and reduce unemployment, to correct the persistent deficit in the U.S. balance of payments, and to check the inflation which had been going on for 5½ years. To achieve these objectives a comprehensive program of action was initiated. Taxes were reduced. Price and wage controls were instituted. The exchange rate of the dollar was set free to adjust to market conditions, and steps were initiated to improve the international monetary system.

There has been great progress toward two of these three objectives. Production and employment have risen rapidly. Total civilian employment was 6.8 million higher in December 1973 than in June 1971. The unemployment rate had fallen from 6 percent to a little under 5 percent. In 1973 a larger percentage of the civilian population over the age of 16 was employed than ever before.

With vigorously rising employment, and rising productivity as well, there was a big increase in output of goods and services, the essential ingredients of higher living standards. In the 2½ years of the New Economic Policy, total output increased by 14 percent, which is about 35 percent above our average for a period of this length. The real income of American consumers per capita, after taxes, rose by 8½ percent, also well above our long-term rate. Both real output and real income, of course, reached record highs.

The second goal of the New Economic Policy, to strengthen the international financial position of the United States and of the world, was also largely achieved. The significance of this goal is commonly neglected in America. But a country whose currency is weak, whose currency others don't want to hold, is greatly limited in what its government and citizens can do—in buying goods abroad, in traveling freely, in investing freely, in maintaining forces abroad if necessary. And if a country goes on spending more abroad than it earns abroad, its freedom of action is going to be curtailed. There has been a dramatic change in our balance of trade, from a deficit of $917 million in the second quarter of 1971 to a surplus of $714 million in the third quarter of 1973. We have not only improved our own position but we have also taken the lead in strengthening the international system. The more flexible system we have promoted withstood numerous shocks during 1973, and at the same time the world economy and international trade and investment continued to expand.

It is the third of the three objectives of the New Economic Policy—the control of inflation—that has been our great difficulty. Until the end of 1972 the New Economic Policy, drawing on the results of earlier fiscal and monetary restraints, worked well in getting the rate of inflation down, even though worrisome rises in food prices appeared. But in 1973 inflation speeded up sharply. During the year, consumer prices increased by almost 9 percent.

Of course, the progress on the first two objectives was connected with the disappointment on the third. The rapid rise toward full employment, the expansion of our net exports, and the reduction in the value of the dollar to make the United States more competitive, all contributed to the resurgence of inflation. But there were other factors at work, less directly under our control. Food production lagged in major producing countries, including the United States. An extraordinary combination of booms in other countries boosted prices of industrial materials. Countries jointly controlling a large part of the world's exportable oil supplies decided to raise their prices substantially. During 1973 food prices accounted for 51 percent of the total rise of consumer prices, and energy prices accounted for another 11 percent.

The American people generally prospered despite the inflation in 1973. Their incomes, on the average, rose more than prices. But there were many families for which that was not true. We cannot accept continuation of the inflation rate of 1973, and still less can we risk its acceleration. We must dedicate ourselves to carrying on the fight against inflation in 1974 and thereafter.

There are at least four lessons we can learn from our past experience in combating inflation:

1. *The importance of patience.* To correct a powerful trend of the economy which has been going on for some time requires time. Sharply squeezing down the economy in an effort to halt inflation would produce a severe drop in employment and economic activity and create demands for a major reversal of policy. Pumping up the economy to get quickly to full employment would risk setting off even swifter inflation. We need a greater steadiness of policy.

2. *The importance of the rest of the world.* The events of 1973 brought our external economic relations sharply to our attention. Most simply put, it will be exceedingly hard for us to have a stable economy in an unstable world. We must contribute a stabilizing influence to the world economy of which we are a large part. We must promote concerted efforts to maintain the health of the world economy.

3. *The importance of production.* Despite other vicissitudes, what determines the economic well-being of the American people more than anything else is the rate of production. The rapid increase of production has provided the rising real incomes of the American people. More specifically, increasing food production is the best way to deal with the food price problem, and increasing our energy supplies is the best way to deal with the energy shortage. We think of ourselves as a Nation with high and strongly rising output. We are. But we can do better and it is important that we do better.

4. *The importance of free markets.* In the past several years, under the pressure of emergency conditions, we have made great, but temporary, departures from reliance on free prices and free markets. In special circumstances and for short periods these departures have been helpful. But taken together, these experiences have confirmed the view that the free market is, in general, our most efficient system of economic organization, and that sustained and comprehensive suppression of it will not solve the inflation problem.

At the beginning of 1974 the three problems which have dominated economic policy for many years—inflation, unemployment, and the balance of payments—have been joined by a fourth—the energy problem. Or rather, the other three problems have been pervaded by the energy problem. The present oil situation means that we are paying much higher prices for imported oil than formerly and that the volume of imports at the present time is less than we would freely buy even at those prices. But the prices and volumes are both highly uncertain and add uncertainties to the economic picture for the year.

The current and prospective oil situation will at the same time raise prices, limit production in some industries, and reduce demand in others. It will be the objective of the Administration's policy to do three things in this circumstance:

1. To keep the moderate slowdown of the economic boom from becoming excessive because of the energy shortage;
2. To keep the rise of fuel prices from spilling over unnecessarily into more inflation in other parts of the economy; and
3. To set the stage for stronger economic expansion with greater price stability after the initial price and output disruptions caused by the energy shortage have been absorbed.

Achieving these goals in this unpredictable economic environment will require alertness and adaptability. We cannot set a policy at the beginning of the year and let it run without further consideration. But we can describe the main elements of our present strategy.

1. We will maintain a budget of moderate economic restraint. Even though the combination of urgent requirements and inescapable commitments generates pressures for huge expenditure increases, the budget I will propose will keep the expenditures within the revenues that the tax system would yield at full employment.
2. We will be prepared to support economic activity and employment by additional budgetary measures, if necessary.
3. We urge the Congress to enact the legislation I proposed last year for improving the unemployment compensation system, with further strengthening amendments I will submit. This would provide better protection for workers who may lose their jobs, whether because of the energy shortage or for other reasons, and also help to protect the economy better against the secondary effects of their unemployment.
4. Working together with other consuming countries, including the developing countries, and with the oil-exporting countries, we will try to arrive at an understanding on mutually beneficial conditions of exchange.
5. We will try to manage the energy shortage in such a way as to keep the loss of jobs and production to a minimum, although some loss is inevitable in the short run. The allocation system is designed to assure an adequate flow of oil to those industries where lack of it would limit employment the most. We shall also have to provide or permit incentives—including higher prices—for maximum imports, for maximum domestic exploration and production, and for efficient use of our scarce supplies. To prevent higher prices from causing excess profits, I have proposed an Emergency Windfall Profits Tax, which I urge the Congress to enact promptly.
6. We will work with other oil-importing countries to prevent the higher prices of oil and its limited supply from generating a downward spiral of recession. The higher prices will cause dislocations and impose burdens on all consuming countries; they do not have to cause a spreading recession if we manage our affairs cooperatively and wisely.
7. We will continue our policy of maximum agricultural production to help hold down food prices.

8. We will continue our policy of progressive removal of price and wage controls in order to restore the flexibility needed for efficiency and expansion in a time of economic strain.

The effort to maintain the stability of our economy in the face of the present unusual conditions will absorb a great deal of attention this year. But we must not neglect the fundamental factors which determine the prosperity of the American people in the longer run. One of these has come to general public attention with a rush—the need for adequate supplies of energy at reasonable cost. We are seeing the possible consequences of being deprived of these, and we must not allow it.

The energy problem has had two main parts for some time:

First, with rapidly rising world demand for energy, most of which comes from depletable resources, we could run into sharply increasing costs of energy unless vast investments are made in research, development, experimentation, and production.

Second, we are exposed to the danger of being thrown back upon inadequate or very expensive sources of energy earlier than necessary by joint action of a few countries that control a large part of the existing low-cost reserves of oil.

To deal with this problem I began proposing, almost 3 years ago, a number of governmental measures to permit or assist development of energy within the control of the United States. In 1973 the second part of the problem, which had formerly been a threat, became a reality at least temporarily, and this has demonstrated unmistakably the urgency of the steps I have recommended.

I propose that the United States should commit itself to "Project Independence" to develop the capacity for self-sufficiency in energy supplies at reasonable cost. One key element of Project Independence is a 5-year, $10 billion program of federally financed research and development in the field of energy. My budget for fiscal year 1975 will include almost $2 billion for this purpose. By far the largest part of the research, development, and production required by Project Independence will be private, and steps to stimulate the private contribution are essential. Among the numerous measures to this end which I called attention to in my latest energy message on January 23, were several tax proposals. Last April I proposed that the investment credit be extended to cover exploratory drilling for new oil and gas fields, while the tax shelters for wealthy taxpayers associated with such drilling would be eliminated. In my recent message I asked Congress to eliminate the depletion allowance given to U.S. companies for foreign oil production but to retain it for domestic production, in order to shift the incentive to exploration and production at home. I have also asked the Treasury Department to prepare proposals for revising the treatment of taxes paid by oil companies to foreign governments, both to improve tax equity and to increase the incentive for domestic production.

Energy is only the most dramatic example of the need for policies to promote a rising American standard of living by increasing production and assuring the stability of supplies. There are many others.

I. We have discovered that we no longer have a surplus of food, in the sense of producing more than we need either to consume at home or to sell abroad in order to pay for the things we buy abroad. We no longer have great reserves of food in storage and acreage withheld from use. We have freed the American farmer to produce as much as he can and we should keep him free. American agriculture is, and should be, heavily involved in exports. This means that the American food price level and the American consumer are directly influenced by the forces of world demand and supply. International cooperation is needed to promote food production and the maintenance of stocks adequate to shield consumers from the more extreme variations of output. At the call of the Secretary of State, preparations are now being made for a conference on this subject to be held under United Nations auspices.

II. Our ability to buy abroad what is produced more efficiently abroad, and to sell abroad what we produce more efficiently, contributes to the productivity of the American economy. At my recommendation the countries of the world are now preparing to negotiate new steps in foreign trade policy which will further invigorate this beneficial process. I urge the Congress to enact promptly the trade legislation I have proposed to permit the United States to participate in these negotiations.

III. One of our most essential industries—freight transportation—is unfortunately shot through with inefficiencies. Many of these inefficiencies are the result of obsolete, shortsighted, and excessive regulation. Hundreds of millions and probably billions of dollars a year could be saved by unleashing carriers and shippers to carry the freight on the most efficient mode of transportation, in the most efficient way. I have sent to the Congress new proposals to this end.

IV. In 1973, as in 1972, relatively few days of work were lost as a result of industrial disputes. Continuation of this record would be a valuable contribution to the level and stability of production. I have appointed a Commission on Industrial Peace, composed of leaders of management and labor with an impartial chairman to make recommendations for bringing that about.

V. In addition to the major research and development effort to provide secure supplies of energy, without abusing our natural environment in doing so, this Administration is continuing its support of research and development projects that will help maintain a healthy rate of innovation and productivity growth in the rest of our economy. These activities will be supported at record levels in the coming year, and we are also trying to get a higher return for every dollar we spend.

VI. An indispensable source of economic growth is saving and investment in productive facilities. It should be the policy of government to interfere with this process as little as possible. The government should not absorb private savings into financing its deficits in times when private investment would otherwise utilize all the private saving. Our basic budget policy of balancing the budget or running a surplus under conditions of high employment carries out this principle. Moreover, taxation should not depress productive investment by unduly burdening its return. We should not indulge in demagogic and shortsighted attacks upon profits.

VII. We must push forward, as we have been doing, to remove barriers against the entry of women and minorities into any occupation and against their maximum training and advancement. The men and women of the country are its greatest economic resource. To fail to use any of this resource to its full potential is a serious loss to us all.

* * * * *

Compared with our parents and grandparents we are enormously rich. We have protections agains the ebbs and flows of economic life that they never expected and barely imagined. But I cannot assure the American people of an easy time. Like our parents and grandparents, we have our own tests. If we meet them with fortitude and realism the period ahead can be one not only of material advance but also of spiritual satisfaction.

RICHARD NIXON.

FEBRUARY 1, 1974.

CALL OF THE HOUSE

Mr. MONTGOMERY. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 12]

Abzug
Addabbo
Andrews, N.C.
Andrews, N. Dak.
Badillo
Bafalis
Bell
Brademas
Brasco
Burke, Calif.
Carey, N.Y.
Chappell
Chisholm
Clark
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Cronin
Culver
Davis, Ga.
de la Garza
Dellums
Diggs
Dingell
Donohue
Dorn
Dulski
Eckhardt
Eshleman
Fish
Fisher
Fraser
Froehlich
Fuqua
Gettys
Gilman
Gray
Gubser
Haley
Hammerschmidt
Harrington
Hawkins
Hébert
Heckler, Mass.
Hinshaw
Jarman
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Kemp
Ketchum
Kluczynski
Kyros
Landrum
McEwen
McKinney
McSpadden
Madden
Mann
Maraziti
Mathias, Calif.
Mathis, Ga.
Metcalfe
Mills
Mink
Minshall, Ohio
Mollohan
Nelsen
Nichols
Parris
Passman
Pepper
Pettis
Pickle
Rangel
Reid
Rhodes
Rinaldo
Rodino
Roncallo, N.Y.
Rooney, N.Y.
Rose
Roy
Runnels
Ruppe
Satterfield
Smith, N.Y.
Snyder
Stark
Steele
Stuckey
Teague
Thompson, N.J
Van Deerlin
Veysey
Ware
Wilson, Bob
Winn
Wydler
Young, Ga.
Young, Ill.
Young, S.C.

The SPEAKER. On this rollcall 324 Members have recorded their presence by electronic device, a quorum

By unanimous consent, further proceedings under the call were dispensed with.

THE BUDGET MESSAGE OF THE PRESIDENT, 1975—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-265 AND 93-266)

The SPEAKER. The Clerk will read the message from the President of the United States.

The following message from the President of the United States was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed with illustrations:

To the Congress of the United States:

The Federal budget must be both a consistent statement of our national objectives and a responsible plan for achieving them. The budget that I propose for fiscal year 1975 meets these standards. It places special emphasis on:

—the proper fiscal balance to keep the economy on the track to sustained high employment and more stable prices;

—a strong defense force in support of our efforts to build an enduring structure of peace in the world;

—a comprehensive energy program to deal with current shortages and to reestablish our ability to be self-sufficient in energy;

—the New Federalism philosophy of strengthening the role of State and local governments, and of the individual citizen;

—basic reforms of major domestic programs; and

—efficient management of the Federal Government in the years ahead, through a more intensive focus on the tangible results that programs achieve.

In the face of economic uncertainty, my budget recommendations provide for a fiscal policy that would support high employment while restraining inflation. It would maintain the flexibility to take further action, if needed, to offset the effects of energy shortages. My budget recommendations hold the rise of Federal spending to the minimum increases necessary.

The budget recommends total outlays of $304.4 billion in 1975, $29.8 billion more than in 1974, and anticipates receipts of $295 billion, a $25 billion increase over 1974. About 90% of the increase in outlays between 1974 and 1975 represents mandatory spending increases that are unavoidable under current law.

THE BUDGET AT A GLANCE

[In billions of dollars]

Item	1973 actual	1974 estimate	1975 estimate
Receipts	232.2	270.0	295.0
Outlays	246.5	274.7	304.4
Deficit (−)	−14.3	−4.7	−9.4

Under conditions of full employment—conventionally defined as a 4% unemployment rate—Federal receipts would be substantially higher and outlays somewhat lower than these figures. Thus, on a *full employment basis* the budget shows a surplus of $4 billion in 1974 increasing to $8 billion in 1975.

The budget proposes increases for defense activities so that we can increase our defense preparedness and preserve present force levels in the face of rising costs. These proposals reflect minimum prudent levels of defense spending consistent with maintaining adequate armed forces to assure our national security.

The budget includes my program, Project Independence, to reestablish our capability for self-sufficiency in energy. I plan Federal funding of $10 billion for the accelerated energy research and development component of this program over the next 5 years. Other measures already underway or proposed will help reduce low-priority energy use and minimize economic dislocations due to shortages. Our vigorous diplomatic efforts to restore an acceptable pattern of world trade in petroleum will complement these measures.

The budget carries forward the New Federalism philosophy. This philosophy stresses the need to recognize the different roles appropriate to each level of government, and to the private sector—thereby strengthening individual choice and self-reliance in America. The New Federalism calls for Federal support in meeting national problems and holds that State and local authorities are best able to make decisions on local and statewide needs in accordance with local conditions and community aspirations. Federal aid in the areas of law enforcement, manpower, and rural development incorporate the principles of New Federalism. I now propose to apply this philosophy in major reforms of Federal assistance for health, education, community development, and transportation.

Our welfare system is inefficient and inequitable. I urge the Congress to work with my Administration in developing a new system that is simple, fair, and compassionate.

I am once again proposing a comprehensive plan for national health insurance that would make adequate insurance against the costs of health care available to *all* Americans. This far-reaching reform is long overdue. I urge early congressional action on it. The budget proposes measures to prepare for this program.

Federal taxes impose a large burden on the Nation. Each Federal program, therefore, must be managed as efficiently as possible, and each must be subject to continuous scrutiny as to how well it meets today's highest priority needs. This budget supports the major management initiatives I have undertaken to ensure that Federal programs produce results that truly satisfy the needs of the American people—and do so at the lowest possible cost to the taxpayer.

The end of American combat involvement in the Vietnam war and the reduction of cold war tensions in recent years have contributed to a significant shift in the composition of the Federal budget. Defense outlays remained virtually constant from 1968 to 1974, despite substantial cost increases and the pay raises which have accompanied the transition to an all-volunteer armed force. These added costs were offset by large savings resulting from reductions in men and materiel. Defense costs have been a decreasing share of our national budget, falling from 44% of Federal spending in 1969 to an estimated 29% in 1975.

Conversely, Federal nondefense spending has increased from 56% of Federal spending in 1969 to 71% in this budget. In the process, the form that Federal spending takes has shifted dramatically away from support for direct Federal operations and toward benefit payments to individuals and grants to State and local governments.

When I took office as President in 1969, defense outlays were nearly one-fifth more than combined outlays for aid to individuals under human resource programs and for aid to State and local governments. While our defenses are being maintained and strengthened, this budget proposes spending nearly *twice* as much money for aid to individuals and to State and local goverments as for defense. This dramatic shift in Federal spending both reflects and supports the New Federalism.

THE BUDGET AND THE ECONOMY

During the past year, our economy operated at close to full capacity. In fact, the Nation's capacity for producing basic materials was used at a higher rate than in any previous year since World War II. New jobs were created for about 2¾ million people. Unemployment fell from a 5.4% average rate in the second half of calendar year 1972 to a 4.7% rate in the second half of 1973. At the same time, adverse weather and other conditions cut into the world's food supplies, including ours, while the policies of exporting countries cut supplies of oil and raised its price sharply.

These developments created a severe inflation during calendar year 1973, particularly in prices of food and energy. Our budget policy has been a key element in the effort to control that inflation. Strict limitation of expenditures in 1973 applied fiscal restraint to an economy that was expanding at an unsustainable rate. The budget totals recommended here continue a policy of fiscal responsibility as part of a continuing anti-inflation program.

THE BUDGET TOTALS

[Fiscal years. In billions]

Description	1972 actual	1973 actual	1974 estimate	1975 estimate
Budget receipts		232.2	270.0	295.0
Budget outlays		246.5	274.7	304.4
Deficit (−)		−14.3	−4.7	−9.4
Budget authority		276.7	310.9	322.1
Outstanding debt, end of year:				
Gross Federal debt	437.3	468.4	486.4	508.0
Debt held by the public	323.8	343.0	346.5	359.0
Outstanding Federal and federally assisted credit, end of year:				
Direct loans	50.1	43.9	45.9	48.2
Guaranteed and insured loans[1]	133.7	147.7	159.7	170.7
Government-sponsored agency loans[2]	48.9	67.2	83.3	86.8

[1] Excludes loans held by Government accounts and special credit agencies.

[2] See table E-7 in Special Analysis E,' 'Federal Credit Programs," published in a separate volume.

There is now evidence that the economy is slowing down. In part this is due to the energy shortage, which limits our ability to produce some products and reduces demand for others. Our energy-use policies are designed to minimize the adverse impact of the energy shortage on the economy, but some effect is inescapable.

Some slowdown in the growth of demand is appropriate to help check inflation. This is especially true in view of supply limitations. But this slowdown should not be permitted to go too far. Therefore, I propose a budget which will continue a posture of moderate restraint rather than greatly intensifying that restraint. Also, my Administration is developing and will be prepared to use a range of measures to support the economy if that should be necessary—measures tailored to the special conditions of the energy shortage. Along these lines, the Congress should enact the proposals I made last year to improve our regular unemployment insurance system by establishing higher minimum benefit standards and extending coverage to farm workers.

Under conditions of full employment the budget outlays I propose would be less than the receipts from present and proposed taxes by about $4 billion in 1974 and $8 billion in 1975. A 4% rate of unemployment is used as a measure of full employment in calculating these surpluses. These surpluses, following a small full-employment deficit in 1973, and rising somewhat from 1974 to 1975, are consistent with our objective of moderate restraint.

In large part, the estimated increase in the full-employment surplus is the result of the high inflation rate experienced in calendar year 1973 and expected to continue for the first half of 1974. In the short run, inflation increases receipts more than it increases outlays. Thus, it increases for a time the surplus that would be achieved at high employment. This means that the budget has the effect of restraining inflation. The rising full-employment surpluses estimated here are largely the product of an inflation that is proceeding too rapidly. To use the size of these surpluses as an invitation or an excuse for more spending would only make the inflation rate worse.

THE FULL EMPLOYMENT BUDGET

[Fiscal years. In billions]

Description	1973 actual	1974 estimate	1975 estimate	1976 projection
Full-employment receipts	243	278	311	339
Full-employment outlays[1]	245	274	303	329
Full-employment surplus or deficit (−)	−2	4	8	10

[1] In these estimates, outlays for unemployment insurance benefits and the Emergency Employment Act program are calculated as they would be at an unemployment rate of only 4 percent.

A 4% unemployment rate is used in calculating full-employment receipts and outlays as a conventional standard which approximately removes the effects on the budget estimates of year-to-year changes in the level of economic activity. To serve this purpose the unemployment rate used for the calculations must be reasonably stable from year to year. However, this does not mean that the feasible and proper target for unemployment is always represented by the same figure. In fact, as a result of changes in the composition of the labor force, a 4% overall unemployment rate today would mean much tighter conditions in labor markets than would have been true ten or twenty years ago.

The estimates of receipts in this budget include the windfall profits tax on oil producers which I have proposed. This tax would recapture the excess profits that these producers would otherwise realize due to rising oil prices.

I continue to urge action on the tax reform and simplification proposals that were discussed with Congress last year. These proposals would not appreciably affect the *overall* tax burden on the economy; they would simply distribute it more equitably.

Our ability to carry out sound fiscal policy and to provide the resources needed to meet emerging problems is limited by decisions made in the past. The portion of the budget subject to discretionary control has shrunk in recent years primarily because of the relative decline in controllable defense spending, the growth in mandatory grants to State and local governments, and the growth in human resource programs (which largely take the form of benefit payments, set by law, to individuals and families). In 1975, over $223 billion in outlays, or nearly three-quarters of the budget, will be *virtually uncontrollable* in the short run due to existing law and prior-year commitments. This represents a substantial decline in the controllability of the budget since 1967, when only 59% of outlays were uncontrollable.

Just as each budget is heavily influenced by commitments embodied in those that have preceded it, so each, in turn, strongly influences those that follow. Therefore, the future impact of current decisions must be taken into account by projecting future available resources and the known claims against these resources. This is why the 1975 budget presents detailed projections of its 1976 spending implications; this is also the reason that all five budgets submitted by my Administration have contained 5-year projections of full employment outlays and receipts.

The costs of existing programs and of the new programs I have proposed will rise over time in response to growth in the number of eligible beneficiaries for programs such as social security and other entitlement programs, and in response to price increases. The rise in outlays for existing and currently proposed programs, however, will be less rapid than the rise in tax receipts. Thus, by 1979, receipts are projected to reach about $428 billion on a full-employment basis, while outlays for existing and proposed programs will be $391 billion. This leaves a budget margin—a margin which can be used for tax reduction, new initiatives, or retirement of public debt—of about $37 billion for 1979. This compares with a margin of $10 billion projected for 1976. The 1979 margin is a relatively small one—less than 9% of the projected 1979 receipts—to cover the exigencies of the next 5 years. But it is indicative of longer-term fiscal health if proper fiscal discipline is exercised.

TOWARD A LASTING WORLD PEACE

The overriding goal of American foreign policy is to build a lasting world peace, a peace resting on the solid foundation of mutual respect among all nations.

We have made great progress toward this objective during the past few years. During this Administration we have:

—ended American combat involvement in the war in Vietnam;

—ended the draft;

—established more cooperative relations with the Soviet Union;

—developed promising new relationships with the People's Republic of China;

—concluded an initial strategic arms limitation treaty with the Soviet Union; and

—provided diplomatic leadership toward a Middle East peace settlement.

Building sound foundations for a durable peace requires patient and skillful diplomacy. To be effective, statesmanship must be backed by credible military strength. The 1975 budget provides for the defense forces essential to protect our national security and to maintain the credibility and effectiveness of our diplomatic efforts to preserve world peace.

Increases in spending for military functions are necessary for both 1974 and 1975. Outlays of $85.8 billion are proposed for 1975, compared to $79.5 billion for 1974. These figures include the outlay impacts of proposed supplemental appropriations. These increases are required to improve the readiness of our armed forces, to build up levels of essential equipment and supplies, and to meet today's higher costs of maintaining force levels. They would also provide for a vigorous research and development effort that would enable us to produce new weapon systems if they are needed to maintain the strategic balance.

Because of the urgency I attach to a strong defense effort, I am recommending supplemental appropriations for 1974. An increase of $2.8 billion in budget authority is proposed to improve combat readiness and modernize forces, to augment munitions stock levels in accordance with lessons learned in the Middle East war, and to meet higher fuel costs.

The increases proposed for defense should be viewed in the context of the substantial—but prudent—reduction in our defense forces that has taken place since I took office. This reduction has resulted primarily from our success in bringing about a general easing of world tensions, in achieving mutual arms limitations, and in improving weapons systems and military efficiency. We have 36% fewer men under arms today than we had in 1968. In constant dollar terms, we will spend substantially less for defense in 1975 than we did in 1964, before the Vietnam buildup began.

The dollar costs of defense manpower are much higher with an all-volunteer armed force than they were under the draft. The Nation is now paying the full real costs of its defense in dollar terms:

we no longer "tax" the young by commanding their services at less than their market value. I hope that we will never again need a draft.

Strengthening international economic cooperation is essential to our quest for peace. Expansion of peaceful trade relationships helps bind together the peoples of the world. We have already made considerable progress toward international monetary reform, progress which has helped bring about dramatic improvement in our balance of payments. The Trade Reform Act, now before the Congress, would authorize U.S. participation in a new round of international discussions to reduce trade barriers. Failure to enact this measure in a responsible form could result in a wave of trade protectionism that would undermine the economic well-being of all nations. I urge the Congress to approve it.

This budget provides for the continuation of our foreign assistance programs to strengthen the economies of developing nations, to provide humanitarian assistance and disaster relief, and to help friendly nations provide for their own defense.

MEETING THE NATION'S NEEDS FOR ENERGY AND BASIC RESOURCES

Until recent years, this country was largely self-sufficient in energy production. The rapidly growing demands of our households and industries for more and more energy, however, have now outstripped available low-cost domestic supplies. During the past few years we have become dangerously dependent on imported petroleum, which until recently was low in price. Development of relatively high-cost domestic sources has lagged.

Three years ago, in the first energy message delivered to the Congress by any President, I warned that the long era of abundant low-cost supplies of energy was drawing to a close. I proposed an expanded program to produce greater supplies of clean energy. Last April, in my second energy message, I warned that if existing trends continued unchecked, the Nation would face a serious energy problem; I proposed legislative action to meet this challenge. Since then, I have repeated my previous warnings and proposed urgent measures to restore our capability for energy self-sufficiency. The interruption of oil exports by Arab countries following the Middle East war last October has aggravated the energy problem and underscored sharply the need for this country to regain its ability to be self-sufficient in energy. I have taken all responsible actions I can within my existing authority to meet this challenge.

The 1975 budget reflects a comprehensive national energy policy to deal with current shortages and provides funds to initiate the Federal portion of Project Independence, an accelerated private and governmental effort to reestablish our capability for self-sufficiency in energy by 1980. I anticipate that the research and development component of this program will require about $10 billion in Government funds during its first 5 years; greater amounts may be needed thereafter. These funds will complement an even larger research and development investment in the private sector, which I will continue to encourage.

Higher prices will be necessary to stimulate development of adequate supplies of fuel through the mechanism of the free market. To assure that this will not result in excess profits for oil producers, I have proposed an emergency windfall profits tax on these producers.

Other elements of my comprehensive national energy policy include:

—reorganization of Federal administrative machinery to deal more effectively with short- and long-term energy needs;

—stringent energy conservation measures and mandatory allocation of petroleum products as long as shortages persist;

—mandatory reporting of oil production, inventories, reserves, and costs;

—modernization of regulations for railroads in order to permit energy savings and other economies;

—policies to accelerate development of domestic oil and gas reserves, including removal of ceilings on wellhead prices for new natural gas, production from the Elk Hills, Calif., Naval Petroleum Reserve, and development by private industry of western oil shale and of off-shore oil and gas deposits;

—measures to permit increased use of our vast coal reserves, including environmental safeguards for surface mining, conversion of oil-fired electric powerplants to coal, improvement of mining techniques, and accelerated efforts to develop technology for coal gasification, coal liquefaction, advanced combustion systems, and pollution control;

—development of fast breeder nuclear reactors, which will greatly increase the amount of energy recoverable from our nuclear fuel resources;

—more timely approval of sites for energy facilities and accelerated construction of nuclear powerplants; and

—increased research on advanced energy sources, including fusion power, and geothermal and solar energy.

The budget provides for $1.5 billion in outlays for direct energy research and development programs in 1975, compared to $942 million in 1974. An additional $128 million in outlays is provided in 1975 for complementary basic research and for environmental and health effects research. I will submit additional details on this accelerated effort to the Congress shortly.

The Federal Government alone cannot overcome the energy crisis. Project Independence will require a maximum effort by private industry as well. The measures proposed in this budget provide the essential governmental leadership to get this joint public and private program underway. In addition, every American household and every American business must economize on energy usage if we are to share temporary shortages equitably, as we must, and reestablish our energy independence in the long run.

The energy crisis has brought to the fore the need for a realistic balancing of the demands of economic growth and the demands of environmental protection. Shortages of "clean" fuels will mean that some temporary variances from air quality plans will be necessary to meet high priority energy needs. The progress we have made in pollution control in recent years, however, along with reductions in energy consumption, should insure that overall air quality will continue to improve.

The adverse impact of energy shortages on the economy could be aggravated by shortages of other raw materials. A comprehensive study on supplies of metal ores and other basic resources and our needs for them is now underway. This study will help insure that our policies properly anticipate potential problems.

We must also do everything we can to avoid a shortage of agricultural commodities such as we experienced last year. For many years this country enjoyed abundant agricultural production. This abundance not only met domestic needs, but aided greatly in alleviating hunger and malnutrition abroad. In 1972, however, adverse conditions throughout much of the world created widespread agricultural shortages. Food costs began to spiral, both here and abroad.

My Administration made a number of important program changes in 1973 to bring more farm land into production and to increase farm output. These steps, combined with favorable weather conditions, made 1973 a record crop year; farm income reached an all-time high level. Agricultural income now depends more upon the private market, and less upon the Government, than has been the case for over 3 decades. In 1973, direct Government payments to farmers experienced their largest dollar decline in history.

HELPING PEOPLE THROUGH STATE AND LOCAL GOVERNMENTS

Ours is a *federal* system of government. Our Constitution, now nearly two centuries old, provides for a logical division of responsibilities among:

—a strong national government, concerned with essential national needs;

—State and local governments close to, and responsive to, the needs of individuals and local communities; and

—private citizens endowed with civil liberties that are secure from governmental encroachment.

During the first century and a half of our national experience, State and local governments were able to meet community and State needs from their own revenue sources. They were financially independent of the Federal Government. During the past 40 years, however, the needs of State and local governments have outstripped their resources. The Federal Government has therefore come to play a larger and larger role in financing their day-to-day operations. In the 4 years between 1969 and 1973, Federal grants to States and localities doubled. In 1973 this financial aid, disbursed through literally hundreds of separate programs, provided more than 20% of total State and local revenues.

Unfortunately, these Federal programs have all too often been accompanied by regulations and restrictions which have stifled innovation and initiative on the part of State and local officials, severely limiting the ability of those officials most familiar with problems at the local level to respond to local needs.

In response to this problem I have applied a philosophy of government that has come to be known as the New Federalism. It calls for each level of government to focus its attention on the functions most appropriate to that level. By strengthening the resources and responsibilities of State and local governments, it permits their policies and programs to reflect local needs more sensitively.

Broader sharing of Federal revenues with State and local governments is helping to make this philosophy a reality. Under the General Revenue Sharing program, now in its second year, State and local governments receive over $6 billion a year for use in meeting State and local needs as they see them.

This Administration has also sought to substitute broad-based formula grants for narrow categorical grant programs, giving State and local governments significant discretion as to how funds are used and insuring that Federal aid is more equitably distributed among recipients. These principles now apply to several major areas of Federal assistance.

The *Law Enforcement Assistance* program has demonstrated the feasibility of broad-based formula grants. Aid under this program is being increased from $28 million in 1969 to $747 million in 1975 and is helping to make the streets of America safer.

The *Comprehensive Employment and Training Act* which I signed in December extends these same grant principles to manpower programs. Under this Act, the Federal Government will no longer specify the types, methods, and proportions of various manpower services to be provided. Instead, State and local governments will be able to use the funds allocated to them to provide the mix of services which they decide best meets the needs of their areas. The budget provides for $2 billion in outlays for this program in 1975.

New authorities under the *Rural Development Act* are being implemented this year in a manner which is supportive of State and local development plans and priorities.

I urge congressional action to achieve similar reform in additional areas this year:

The principles embodied in the *Education Grants Consolidation and Reform* I proposed last year deserve priority attention. State and local education agencies should have greater freedom to direct Federal assistance toward meeting what they view as high priority local needs. I will continue to work with the Congress, therefore, on legislation to consolidate and improve education grant programs.

The *Better Communities Act* would replace several ineffective grant and loan programs with a more streamlined approach to the problems of urban areas. This act would allow localities to decide for themselves how to allocate community development funds. The budget proposes funding for this program of $2.3 billion in 1975.

The *Unified Transportation Assistance Program* I am proposing this year would provide $2.3 billion in highway and mass transit funds, and permit States and localities to allocate these grant funds flexibly, in accordance with local conditions and priorities. Since transportation is a major consumer of energy and is strongly affected by the energy crisis, high priority must be given to enabling States and localities to make decisions on transportation systems based on their assessment of economy, energy conservation, environmental impact, and safety considerations.

I am proposing legislation for a new *Economic Adjustment Assistance* program. This legislation would permit States and communities to respond flexibly to problems of economic change and unemployment.

Another central feature of the New Federalism is strengthening the ability of State and local governments to perform effectively. The *Responsive Governments Act* would broaden Federal assistance available for improving State and local planning, decisionmaking, and management capabilities.

I urge the earliest possible enactment of all these measures.

In parallel with these legislative initiatives, my Administration is continuing its efforts to consolidate and streamline categorical grant programs, to simplify complex and burdensome procedures, and to remove unnecessary, inflexible program restrictions.

As part of this same effort, Federal programs are being decentralized along uniform regional lines, and the Federal Regional Councils are being strengthened to facilitate coordination of Federal with State and local activities at the operating level.

The budget accelerates our programs for aiding State and local governments in improving water quality. The Environmental Protection Agency has allotted $4 billion to the States for 1975 to make grants for municipal sewage treatment plants, a $1 billion increase over the allotment for 1974. Priorities for grants within these allotments will be determined by the States. A total of $6.9 billion was made available for this program in 1973 and 1974, more than twice the amount made available in the preceding 2 years.

STRENGTHENING THE ROLE OF THE INDIVIDUAL

Abraham Lincoln believed that:

> The legitimate object of Government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot do so well, for themselves, in their separate and individual capacities. *In all that the people can individually do as well for themselves, government ought not to interfere.*

I share this belief. This philosophy underlies the efforts of my Administration to strengthen the role of the individual in American society. It is a cornerstone of the New Federalism.

I believe that government policy should seek to maintain an economic environment in which all who are able to work can find employment and adequate earnings. For those unable to support themselves, government should help to provide the means necessary to meet personal and family needs, while preserving individual dignity and self-respect.

My Administration has consistently endeavored to strengthen the role of the individual in American society and to ensure that all Americans enjoy equality of opportunity in education, in employment, in business, and in housing. We have consistently worked to improve assistance for the retired, the disabled, and the unemployed.

Reflecting these concerns, Federal human resource programs have grown dramatically. Between 1969 and 1975, outlays for these programs will have increased by 139%, while outlays for all other programs will have risen only 26%.

The national health insurance plan I am proposing represents another major step toward improving the lives of individual Americans. My proposal calls for basic reform in the financing of medical care. It would bring comprehensive insurance protection against medical expenses within reach of all Americans, including millions of people who cannot now obtain adequate insurance coverage. Costs of coverage for low-income families would be federally supported, with payments scaled according to family income.

It will take several years for this reform to become fully operational. In the interim, the 1975 budget provides $26.3 billion for existing health programs. Under this budget, the momentum of cancer, heart, and other research initiatives would be sustained, and total funding for biomedical research would exceed $2 billion in 1975, almost double the 1969 level. To support continued reform of our medical care system, the budget proposes a total of $125 million in 1974 and 1975 to demonstrate health maintenance organization concepts throughout the Nation. I am also proposing a Health Resources Planning Act to enhance State and regional capabilities and responsibilities for planning and regulating health services.

The rapid growth of human resource programs in recent years has brought about many improvements in the well-being of the American people. Higher social security benefits and extension of the Medicare program, for example, have increased the economic security of the elderly and the disabled. Cash benefits under social security programs will rise from $26.2 billion in 1969 to $62.9 billion in 1975. They now reach 29 million beneficiaries. Five social security benefit increases have been enacted since 1969. Taken together, these increases total nearly 70%, far exceeding the increases in the cost of living, and in average wages, over this period. I continue to urge enactment of legislation to reform private pension plans, legislation which would further strengthen the economic security of millions of Americans in their retirement years.

The Supplemental Security Income program began operation on January 1, 1974, replacing the various State public assistance programs for the aged, the blind, and the disabled with a more uniform and equitable national system. This broad reform provides higher benefits for these disadvantaged groups. In addition, Federal assumption of responsibility for these programs will provide substantial fiscal relief to State and local governments.

Also during the past month, food stamp benefits have been increased by over 20%, and the program has been extended to those parts of the country where it was not available before. Outlays for food stamps will be $3.9 billion in 1975, 78% higher than the 1973 level.

I propose further measures to improve the income security of Americans, including:

—reform of pensions for veterans and their dependents, with provisions for automatic cost-of-living adjustments in benefits, and better matching of pensions to family need;

—an increase in education benefits for veterans to help meet cost increases since these benefits were last raised;

—automatic cost-of-living increases for the aged, blind, and disabled beneficiaries of the Supplemental Security Income program;

—transfer of food stamps and related nutrition programs to the Department of Health, Education, and Welfare, to improve coordination of income maintenance programs; and

—continued priority efforts to develop a practical program of direct cash assistance for housing.

One of the major unfinished pieces of business of my Administration is the replacement of the current welfare system with a new system that *works*. Figures collected over the past year are grim testimony to the fact that our current welfare system is a mess; these figures show that fully 40% of the payments made are incorrect. I intend to make new proposals to solve this continuing problem.

As we begin this effort, I hope that the debate can focus on the substance of the issues, not on superficial labels. I believe that the majority of the American people agree on the principles that should guide Federal income assistance:

—the system should provide strong work incentives for those able to help themselves;

—income assistance should be provided in cash, rather than in kind, so that families can make their own spending decisions;

—the system should be as simple as possible, replacing the chaotic rules and overlapping programs that we have now;

—the levels of support should reflect the compassionate spirit of the American people toward those who cannot provide for themselves; and

—Federal aid should be provided on an equitable basis nationwide. I believe that the Administration and the Congress, working together, can *and must* find a solution that accords with these principles.

IMPROVING MANAGEMENT IN THE FEDERAL GOVERNMENT

The recommendations contained in this budget are part of a broad effort by my Administration, working with the Congress and with State and local officials, to improve public services at all levels. The New Federalism is a crucial element of this broad endeavor. A second, complementary element consists of improving the efficiency and effectiveness of Federal programs in carrying out Federal responsibilities.

Concern for meeting problems must extend beyond the well-intended commitment of public funds. What really matters are the tangible results produced through the effective use of these funds—results measured in terms of better lives for all Americans.

Since I assumed office as President, I have encouraged extensive efforts to streamline and revitalize the organization and management of the Federal Government. These efforts are helping to ensure that the taxpayers get their money's worth from the Government.

To enable the Federal Government to meet emerging challenges more effectively, several new organizations have been created during my Administration, and existing ones have been improved. Among these new offices are Action, the Environmental Protection Agency, the Council on Environmental Quality, the National Oceanic and Atmospheric Administration, the Domestic Council, the Office of Management and Budget, the Drug Enforcement Administration, the Consumer Product Safety Commission, the Council on International Economic Policy, and the Federal Energy Office.

In 1971 I proposed creation of four new departments, including a department to be responsible for energy and natural resources. I continue to urge congressional approval of this proposal as revised in legislation submitted last year. In addition, I ask the Congress to join me in renewing consideration of other departmental reorganization legislation that will permit more effective management of the Government.

During the past 25 years, Presidents have been able to make many improvements in Government organization under Presidential Reorganization Plan Authority. This legislation has now expired. I urge the Congress to restore this authority as soon as possible in order to facilitate continued modernization of our governmental structure.

Good organization is only a first step toward improving governmental performance. Government can be effective only if the public service can develop and retain capable leadership. In response to this need, this Administration has placed high priority on the identification and development of the most able career managers. We intend to intensify this effort.

Increasing the effectiveness of individual programs is another essential step in improving overall governmental performance. During the past year I have launched an intensive effort to strengthen the management of major Federal activities. The emphasis in this management initiative is not on producing a great display of activity, nor on merely rearranging work processes; the emphasis is on producing significant *results*. To help keep a constant focus on program results, I have asked each major department and agency to work with me in developing a set of specific objectives to be achieved during fiscal year 1974. As we approach 1975, we will identify further objectives. Currently, we are working toward more than 200 such objectives, ranging from international monetary reform to improvement of opportunities for minorities and women.

These objectives will not simply be identified and then filed away and forgotten. Specific results are to be achieved by specific deadlines. These commitments will be reviewed continually and will guide day-to-day operations until the objectives are met.

Congressional procedures, too, are in need of reform—particularly those that deal with the budget. In my last three budget messages I encouraged the Congress to reform its procedures for considering the budget. I noted that the Congress faced a fundamental problem because it lacks a system for relating each individual spending decision—whether or not it is part of the appropriation process—to overall budget totals. The need for a more systematic congressional process was once again illustrated during the session just concluded. Congressional actions, taken together, increased spending totals over my proposals by $3.8 billion in 1974 and by $8.2 billion in 1975.

The Congress is currently moving toward a new budgetary system. I commend this action and urge that the final procedures worked out by the Congress recognize the necessary and proper role of the President and his responsibility for efficient administration of the executive branch. I am particularly concerned about provisions which would subject some of the most routine financial actions of the executive branch to veto by either house of the Congress.

CONCLUSION

The proposals set forth in this budget are constructive and forward-looking. They meet the Federal Government's responsibility to provide vigorous national leadership toward the solution of major national problems. They do so within the bounds of fiscal prudence.

But the Federal Government cannot do everything. It should not be expected to. Nor can money alone solve all our problems. Recognizing these limitations, my Administration has made an intensive effort to identify and *do well* those things which the Federal Government should do. By the same token, this budget, like my previous ones, stresses the revitalization of individual initiative and of State and local capabilities. It represents an important further step in my efforts to restore a proper balance of individual and governmental power in America.

RICHARD M. NIXON.

THE WHITE HOUSE, *February 4, 1974.*

THE PRESIDENT'S BUDGET

The SPEAKER. Pursuant to the previous unanimous-consent request, the Chair now recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, Congress should in all years and under all circumstances and under all administrations be skeptical of all budgets submitted by the Executive. The Executive proposes, but it is up to Congress to write the laws.

PROVOCATIVE BUDGET PROPOSED FOR FISCAL 1975

Yes, the Congress should challenge the assumptions and recommendations of all budgets. We should always seek ways to reduce and improve the budget, which is always set forth in a voluminous and highly complex document. The President has submitted a provocative budget today. It is now up to Congress to proceed promptly to examine it. That we must and will do.

I am sure that all thoughtful Americans will be disappointed in the President's budget. No doubt the President is disappointed. He would, of course, have liked to present a balanced budget which would preclude an increase in the national debt. But the budget anticipates an increase in the national debt this year in the sum of $16.3 billion and the next year in the sum of $19.8 billion.

CONFUSING TERMINOLOGY

It is fair to say that the most compelling figures in the budget relate to the deficit and the debt increase. It is vitally important for the American people and the Congress to have a clear idea of our deficit situation. It is most unfortunate, then, that the unified budget serves to camouflage the facts and soften what is an alarming message, involving estimated spending for the first time in American history of in excess of $300 billion, indeed $304.4 billion. The terminology is confusing.

FEDERAL BORROWING UP BY $20 BILLION IN FISCAL 1975

The unified budget tells us that the deficit is $9.4 billion. But the unified budget does not reflect large amounts of borrowing from the trust funds for the general purposes of Government, funds which add to the public debt and which must be repaid with interest.

This budget projects an increase in Federal borrowing of $19.8 billion for fiscal 1975, pushing our total Federal debt to a level of $495.2 billion.

ONE-QUARTER OF TOTAL FEDERAL DEBT ACCUMULATED IN LAST 5 YEARS

Judging from recent decades in our fiscal history, it would seem that the firmest resolve of the Government is that we not balance the budget. It is a sobering fact that with the projected increase for fiscal 1975 we will have accumulated about one-quarter of our total Federal debt in the last 5 years.

Apparently we as a nation prefer not to pay our way. We prefer instead to pass onto future generations the increased costs of Government. This practice seems to me to be unkind and unfair, except in cases of greatest urgency. We cannot forever embrace the policy of "Robbing Peter to pay Paul" without at some time paying the consequences. Paying the consequences is what we are doing now.

CONSEQUENCES OF UNCHECKED BORROWING

Can anyone seriously doubt that a series of gigantic Federal deficits over the past several years has had a disastrous impact on the value of the dollar and on the economy? We have just witnessed two—back-to-back—dollar devaluations, and chronic and severe inflation stalks our people relentlessly.

RAISING A FEW QUESTIONS ABOUT THE BUDGET

The budget has just been submitted. Nobody in the legislative branch can pretend to have analyzed these massive documents in depth at this point. This would seem to be an inappropriate time for dogmatic assertions about the recommendations which have been made. I do believe, however, that at the moment we might very usefully raise some pertinent questions about the budget, the answers to which we must later seek to find.

WILL THERE BE A RECESSION?

The President stated emphatically in his state of the Union message that "There will be no recession." The budget and economic messages which he submitted to the Congress, however, were far less sanguine.

It is my view that we are dealing with two very perpelxing questions. First, are we facing an imminent recession? And if we are, how should the budget attempt to deal with it? How should the Congress attempt to deal with it?

WHAT ROLE SHOULD BUDGET PLAY?

In our present situation, we suffer a scarcity of basic resources and a lack of substantial additional heavy industrial capacity. It may be that the traditional responses of increased spending or lowered taxes are not the answer. Would heavy reliance on the budget to prop up our economy under the present circumstances aggravate an already bad situation?

DRAMATIC INCREASE IN DEFENSE SPENDING

The most dramatic increase in the budget is for defense. The new budget includes proposals for a $6 billion increase in fiscal 1974, the current fiscal year, and another $6 billion in fiscal 1975. Taken together this represents a total recommended increase for defense spending of $12 billion over the current level provided by the Congress.

PURPOSE OF THE INCREASED DEFENSE BUDGET

These increases for defense will raise valid questions in the minds of the Congress and the country. It will be alleged that the increase for defense spending is only partially for military purposes. It will be alleged that the dramatic increases for the defense budget spring largely from the desire to keep industry humming, to keep people on their jobs. Questions as to the primary purposes of the defense increases will inevitably be raised.

If Congress concludes that the defense increases are based to a considerable extent on economic grounds, it cannot avoid confronting the question of what to do about it. No one takes issue with the goal of keeping people on their jobs, and no one can successfully take issue with the urgent need for maintaining an adequate national defense. These are valid objectives. The question raised is whether there is a more preferable yet equally effective and productive way of creating jobs and keeping the country moving economically and maintaining an adequate defense. Congress must address these questions.

WINDFALL PROFITS TAX ON OIL INDUSTRY

Under a proposal to tax windfall profits on petroleum, revenues of $3 billion are anticipated to be collected in fiscal 1975. Here again we must remember that one of the driving forces of our current inflationary problems is a scarcity of basic resources.

Obviously we must do everything we reasonably can to encourage industry to expand our energy resources. We must ask then, to what extent a windfall profits tax on oil might dampen incentives to discover new sources of energy and discourage production.

IS THE BUDGET REALISTIC IN TERMS OF THE ECONOMY?

As with all budgets, the budget for fiscal 1975 is subject to the onslaught of unknowns in the world economy, our own economy and nature itself. It seems that this year we face an economic wonderland of greater unknown proportions than in the recent past. The economic impact of the energy crisis cannot be fully known by anyone at this time, assuming or not assuming a resumption of Arab oil shipments to our shores.

It is also true that this budget addresses a fiscal year which concludes some 17 months from now.

We must be aware under these circumstances that while it is important to ask what we must do to cause the budget to impact favorably on the economy, it is also vitally important to ask what the economy is likely to do to the budget.

THE ECONOMY AFFECTS REVENUES

We should remind ourselves that in the past fiscal year in the course of just 4 short months revenue estimates jumped a remarkable $10 billion—almost all due to inflationary pressures. Part of our problem this year is a possible dip in economic growth. Under these circumstances we cannot ignore the fact that estimated revenues can drop just as well as they can increase.

THE ECONOMY AFFECTS INTEREST COSTS

Another indicator of how the economy can impact on the budget is the increased estimates for interest payments on the public debt for fiscal 1974, the current year. One year ago they were estimated to be $26.1 billion. In this budget they are estimated to be $29.1 billion, an increase of $3 billion—and there are 5 months yet remaining in fiscal 1974.

Clearly the economy does impact heavily on the budget. The economic forecasts in this budget are none too rosy—only a 1 percent real growth rate in the economy is predicted—but even so we must approach them cautiously and raise questions about their accuracy.

IS THE BUDGET REALISTIC IN TERMS OF CONGRESSIONAL PRIORITIES?

Every President has the responsibility to recommend in his budget the termination of or sharp reduction in programs which he regards as marginal.

It must be pointed out that this budget proposes sharp reductions totaling some $2 billion in many programs which Congress has regarded as urgent in the past and has refused to abandon. Some of these include the Hill-Burton hospital construction program, the regional medical program, aid to land-grant colleges, the impacted school aid program. So the question must be raised: "How realistic is this budget in terms of congressional priorities?"

CONCLUSION

Mr. Speaker, I have not sought to make a definitive statement on the nature of this budget. Rather I have tried to raise some questions that we should keep in mind as we begin to dig into the nitty-gritty of the budget review process that lies before us.

Mr. Speaker, at this point I ask unanimous consent that I may revise and extend my remarks and include extraneous matter and tables.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, we recognize that the budget is very voluminous and the fiscal problems are very complex, so under the leave granted to me I shall place in the RECORD extensive information which will be of interest and assistance to all Members of the House and of interest to the American people generally. The Printing Office does a remarkable job in producing the CONGRESSIONAL RECORD overnight, but with extensive insertion of lengthy and complex tables and material, a certain number of printing errors are inevitable.

BUDGET TOTALS

Mr. Speaker, budget outlays for 1975 are estimated at $304.4 billion and receipts are estimated at $295 billion, yielding a deficit on the unified basis of $9.4 billion. The unified budget includes borrowing from surplus trust funds such as social security. This year these borrowings amount to $8.5 billion, and thus the real deficit is actually $17.9 billion. It is this latter figure which actually contributes to the real increase in the national debt.

New budget authority is estimated at $322.1 billion compared to $310.9 billion in 1974. New budget authority is the barometer of the direction of the spending budget. It is the leading edge that precedes the actual expenditure. About 60 percent of it is provided in appropriation bills and about 40 percent otherwise.

While the increase in new budget authority in fiscal 1975 over 1974 is estimated at $11.2 billion, I point out that the new budget also contains requests for supplementals, amendments, and allowances of $14.3 billion for this fiscal year which are included in the 1974 totals in the budget, but which have not yet been acted on by the Congress. So, in these terms the 1975 budget is $25.5 billion over the level the Congress has provided so far for this fiscal year.

Supplemental requests of this magnitude are as large or larger than the huge supplementals of 1966 and 1967 associated with the Vietnam buildup. It should be kept in mind that these partial year costs tend to expand the current base and are the springboard for larger programs and greater spending in future years.

Of the $14.3 billion in 1974 supplemental and related items in the budget, $6.2 billion is for defense including $2.8 billion for pay raises. There is another $800 million for civilian agency pay raises, $927 million for veterans, $500 million for food stamps, $462 million for labor programs, $292 million for civil service retirement, $236 million for the Postal Service, $282 million for housing, and $184 million for HEW. There is also $3.3 billion proposed for later transmittal, most of which is for education programs.

GROWTH IN FEDERAL BUDGET

Mr. Speaker, I include a table which shows the growth of outlays in the Federal budget since 1960. It also reflects the deficit on the unified budget basis and on the Federal funds basis. It will be noted that on the unified basis the size of the total deficit is hidden. This is because account is not taken of borrowing from the trust funds.

OUTLAYS, RECEIPTS AND SURPLUSES OR DEFICITS ON THE UNIFIED BUDGET AND FEDERAL FUNDS BASIS, FISCAL YEARS 1960–75

[In millions of dollars]

Fiscal year	Outlays	Receipts	Surplus or deficit (—) unified budget	Surplus or deficit (—) Federal funds
1960	92, 223	92, 492	269	785
1961	97, 795	94, 389	—3, 406	—4, 157
1962	106, 813	99, 676	—7, 137	—6, 891
1963	111, 311	106, 560	—4, 751	—6, 591
1964	118, 584	112, 662	—5, 922	—8, 556
1965	118, 430	116, 833	—1, 596	—3, 864
1966	134, 652	130, 856	—3, 796	—5, 085
1967	158, 254	149, 552	—8, 702	—14, 944
1968	178, 833	153, 671	—25, 161	—28, 379
1969	184, 548	187, 784	3, 236	—5, 490
1970	196, 588	193, 743	—2, 845	—13, 143
1971	211, 425	188, 392	—23, 033	—29, 866
1972	231, 876	208, 649	—23, 227	—29, 113
1973	246, 526	232, 225	—14, 301	—25, 046
1974 (est.)	274, 660	270, 000	—4, 660	—18, 133
1975 (est.)	304, 445	295, 000	—9, 445	—17, 878

Source: Budget documents.

RECEIPTS

Receipts in 1975 are estimated at $295 billion, an increase of $25 billion over 1974 and $63 billion over 1973. The increase between 1973 and 1974 is estimated at $38 billion. In this connection the proposition should be kept in mind that in the short run, inflation tends to increase receipts more than it increases outlays.

The estimates are based on a gross national product for calendar 1974 of $1,390 billion, a figure which I understand is about in the middle of the various studies made by leading economists in the country.

Of the estimated net increase in revenue of $25 billion, $19.8 billion is attributable to tax rates and structures in effect on January 1, 1972. Another $5.2 billion of the increase is associated with recently enacted rate and taxable earnings base increases in the social security program.

Included in the 1975 revenue estimate is $3 billion for the proposed windfall profits tax to which I made reference earlier. The budget indicates legislation will also be proposed in the area of tax reform and liberalized deductions for individual contributions to pension plans which will have the net effect of reducing revenues in fiscal 1975 by $1 billion and $900 million, respectively.

Questions will be raised as to the validity of the revenue estimates. If the economy falters below the assumptions in the budget, personal income and corporate profits might not achieve expectations and the estimated revenues might not be forthcoming.

TAX REDUCTIONS

Further, if it appears that the economy is stagnating we will hear the usual recommendations for tax cuts. Indeed, they are already being heard. The Congress since 1962 has taken actions which have the effect of reducing revenues to the general fund of the Treasury 1974 by $51 billion assuming that the economy would have behaved like it has.

Mr. Speaker, I include a table which shows the effect of tax legislation since 1962:

ESTIMATED EFFECT ON TAX LIABILITIES OF TAX ACTIONS SINCE 1962, EXCLUDING TRUST FUND TAXES

[In billions]

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974
Revenue Act of 1962	—$1.0	—$0.6	—$0.8	—$1.3	—$1.6	—$1.7	—$2.0	—$2.2	—$2.4	—$2.4	—$2.7	—$3.2	—$3.6
Revenue Act, of 1964			—8.3	—15.2	—16.6	—17.5	—18.9	—19.9	—20.4	—22.0	—24.8	—27.9	—30.2
Excise Tax Reduction Act of 1965 (excluding reductions later rescinded)				—.9	—2.8	—2.8	—3.0	—3.1	—3.2	—3.4	—3.5	—3.6	—3.7
Revenue and Expenditure Control Act of 1968 (including extensions)							+8.6	+11.2					
Tax Reform Act of 1969								+.9	+5.0	—1.0	—3.7	—5.8	—5.7
Revenue Act of 1971										—3.5	—9.2	—7.2	—7.6
Proposed legislation in fiscal year 1975 budget													+2.3
Other actions	—1.2	—1.0	—.9	—.8	—.8	—.7	—.7	—.7	—.8	—.8	—1.9	—2.5	—3.0
Grand total	—2.2	—1.6	—10.0	—18.2	—21.8	—22.7	—16.0	—13.8	—21.8	—33.1	—45.8	—50.2	—51.5

DEFICITS, DEBT, RED INK

Mr. Speaker, increasingly through the years I have risen in the House to call to the attention of my colleagues and the country our propensity to spend beyond revenues in hand or in sight. The Congress and the President under administrations of both parties have gone hand in hand down the road of deficit spending. The budget transmitted to Congress today propels us further on this journey.

To what extent has deficit spending contributed to the painful inflationary problems we are experiencing? To what extent has it contributed to the fact that we have twice in a 2-year period been forced to devalue the dollar? Certainly, our unwillingness to live within our means has been an important factor.

Obviously, the $100 billion-plus of Federal deficit spending of the last 4 years has contributed heavily to inflation and higher interest rates.

At this point, Mr. Speaker, I include a table which shows that today's budget is estimated to increase the national debt by $20 billion. It shows that the debt in 1970 was $373 billion and will have increased by about $122 billion or one-third, by the end of fiscal year 1975—5 short years:

Debt subject to statutory limitation at end of fiscal years 1933–75

[In billions of dollars]

1933	22.5
1938	36.9
1939	40.3
1940	43.2
1941	49.5
1942	74.2
1943	140.5
1944	208.1
1945	268.7
1946	268.9
1947	257.5
1948	251.5
1949	252.0
1950	256.7
1951	254.6
1952	258.5
1953	265.5
1954	270.8
1955	273.9
1956	272.4
1957	270.2
1958	276.0
1959	284.4
1960	286.1
1961	288.9
1962	298.2
1963	306.1
1964	312.2
1965	317.6
1966	320.1
1967	326.5
1968	350.7
1969	356.9
1970	373.4
1971	399.5
1972	428.6
1973	459.1
1974 (est.)	475.4
1975 (est.)	495.2

House Committee on Appropriations.

Sources: Annual Report of the Secretary of the Treasury on the State of Finances (Table 21) and Budget Documents.

UNIFIED BUDGET TENDS TO MASK FEDERAL BORROWING REQUIREMENTS

As recently as several months ago we saw encouraging reports that the budget for this year was in balance. A razor-thin surplus was advertised.

That thin margin has now disappeared and today's budget projects a deficit of $4.7 billion on the unified basis for the current fiscal year ending June 30, 1974.

The point I wish to make again, Mr. Speaker, is that the unified budget tends to mask the enormity of our borrowing requirements, as well as our national debt. The Federal funds deficit for this year is now estimated at $18.1 billion and at $17.9 billion in 1975. The Federal debt is estimated to increase by about $36 billion in this 2-year period.

As Members know, the budget is submitted on the so-called unified basis. Under this system surpluses in the trust funds are used to partially offset the enormous deficits in Federal funds. These surpluses are borrowed and used for general Federal expenditures, and eventually, of course, are to be repaid with interest. Borrowings from the trust funds to finance the Government in fiscal year 1974 are now estimated to be about $13.5 billion. Borrowings from the trust funds for fiscal year 1975, which will begin July 1, are estimated to be $8.4 billion.

How long can we count on these trust funds to help finance the debt? Will the full extent of borrowing tend to be shifted to the private money markets, thus putting additional pressure on interest rates? After all, these borrowings must eventually be repaid and with interest.

Mr. Speaker, I include two tables. One indicates the trust fund surplus which is used to help finance the increased debt. The other reflects outlays, receipts, and deficits since 1960 on the unified budget basis and on the Federal funds basis:

TRUST FUND SURPLUSES

(In millions of dollars)

Description of trust funds	1974	1975
Federal old-age, survivors, and disability insurance	3,086	1,178
Health insurance	3,297	2,523
State and local government fiscal assistance	−92	31
Unemployment	1,060	−410
Railroad retirement	−84	15
Federal employees retirement	3,237	2,781
Airport and Airway	279	−186
Highways	1,679	1,115
Foreign military sales	161	1,450
Veterans life insurance	172	179
Other trust funds (nonrevolving)	−83	−59
Trust revolving funds	763	815
Total	13,473	8,433

OUTLAYS, RECEIPTS AND SURPLUSES OR DEFICITS IN FEDERAL FUNDS, TRUST FUNDS, AND THE UNIFIED BUDGET, FISCAL YEARS 1960–75

[In millions of dollars]

Fiscal year	Federal funds			Trust funds			Intragovernmental transactions	Unified budget		
	Outlays	Receipts	Surplus or deficit (−)	Outlays	Receipts	Surplus or deficit (−)		Outlays	Receipts	Surplus or deficit (−)
960	74,865	75,650	785	19,743	19,228	−515	−2,385	92,223	92,492	269
961	79,336	75,179	−4,157	21,048	21,800	752	−2,589	97,795	94,389	−3,406
962	86,594	79,703	−6,891	22,898	22,652	−246	−2,680	106,813	99,676	−7,137
963	90,141	83,550	−6,591	23,958	25,799	1,841	−2,788	111,311	106,560	−4,751
964	95,761	87,205	−8,556	25,884	28,518	2,634	−3,061	118,584	112,662	−5,922
965	94,807	90,943	−3,864	26,962	29,230	2,268	−3,339	118,430	116,833	−1,596
966	106,512	101,427	−5,085	31,708	32,997	1,289	−3,568	134,652	130,856	−3,796
967	126,779	111,835	−14,944	36,693	42,935	6,242	−5,218	158,254	149,552	−8,702
968	143,105	114,726	−28,379	41,499	44,716	3,217	−5,771	178,833	153,671	−25,161
969	148,811	143,321	−5,490	43,284	52,009	8,725	−7,547	184,548	187,784	3,236
970	156,301	143,158	−13,143	49,065	59,362	10,297	−8,778	196,588	193,743	−2,845
971	163,651	133,785	−29,866	59,361	66,193	6,833	−11,586	211,425	188,392	−23,033
972	177,959	148,846	−29,113	67,073	72,959	5,886	−13,156	231,876	208,649	−23,227
973	186,403	161,357	−25,046	81,447	92,193	10,746	−21,325	246,526	232,225	−14,301
974 (est.)	203,715	185,581	−18,133	92,075	105,548	13,473	−21,129	274,660	270,000	−4,660
975 (est.)	220,636	202,757	−17,878	107,385	115,818	8,433	−23,575	304,445	295,000	−9,445

Source: Budget Documents.

THE INCREASINGLY UNCONTROLLABLE NATURE OF THE FEDERAL BUDGET

Mr. Speaker, it is a shocking fact that 73 percent of the new budget before us is "uncontrollable" under existing law. By this I mean that decisions and actions of past years by both the Congress and the President have—unless we change existing law—taken away our discretionary authority to have any meaningful input of 73 percent of what is proposed in the budget.

This amount is made up in large part of the income transfer and related programs and interest on the national debt. In other words, these are the programs that would require drastic changes in the basic authorizing legislation before reductions could be made in the spending levels.

Examples of such programs are social security, medicaid, and medicare, veterans benefits, interest, general revenue sharing, food stamps, farm price supports, housing payments, and the Postal Service.

Certain proposals are also contained in this budget, such as national health insurance and various special revenue-sharing plans, which would further reduce the ability of the Congress and the President to control the Federal budget. If we wish to be able to exercise some control over the economy through the Federal budget, we simply must refrain from increasing the uncontrollable portions of the budget. Otherwise we will find ourselves cast in concrete, and simply unable to deal effectively with the fiscal problems confronting the Nation.

At this point I would like to insert in the RECORD a table which shows the growing uncontrollable nature of the Federal budget. In 1967 "uncontrollables" accounted for $93.8 billion or 59 percent of the budget; in 1975 that figure has grown to $223.6 billion or 73 percent of the total budget.

CONTROLLABILITY OF BUDGET OUTLAYS, 1967–75

[Fiscal years; in billions]

	1967 actual	1968 actual	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 estimated	1975 estimated
Relatively uncontrollable under present law:									
Amount	$93.8	$107.2	$116.4	$125.7	$140.4	$153.5	$172.9	$197.1	$223.6
Percent	59	60	63	64	66	66	70	72	73
Relatively controllable:									
Amount	$66.1	$73.5	$70.1	$73.3	$73.7	$81.1	$76.5	$81.0	$84.4
Percent	42	41	38	37	35	35	31	29	28
Relatively controllable civilian programs:									
Amount	($19.5)	($20.2)	($17.0)	($20.9)	($21.5)	($27.1)	($23.2)	($26.5)	($25.9)
Percent	(12)	(11)	(9)	(11)	(10)	(12)	(9)	(10)	(9)
Undistributed employer share, employee retirement:									
Amount	−$1.7	−$1.8	−$2.0	−$2.4	−$2.6	−$2.8	−$2.9	−$3.5	−$3.6
Percent	−1	−1	−1	−1	−1	−1	−1	−1	−1
Total outlays	$158.3	$178.8	$184.5	$196.6	$211.4	$231.9	$246.5	$274.7	$304.4

Source: Budget Documents, House Committee on Appropriations.

LEGISLATIVE BUDGET CONTROL

Mr. Speaker, today I have made reference to our mushrooming debt, to the uncontrollability of the budget in the short run and have raised questions about the budget. I do not mean to be critical. The budget this year is largely the outcome of decisions made in the past. The decisions we make this year, while perhaps not impacting significantly on current outlays, will heavily influence budgets for many years to come.

I think it is fair to say that the Congress has been frustrated by its inability to get a handle on the budget and to hold the reins on expenditure and revenue totals.

In December of last year the House took a giant step forward by the passing of the budget control bill. While it is not perfect in every respect, it goes a long way toward the objective of creating a workable mechanism for legislative budget control. A Senate bill is now being readied for consideration.

The House bill, in my judgment, contains three essential ingredients. First, it closes to a large extent the back door of the Treasury. Second, it provides a vehicle for relating spending to taxes. Third, it includes a provision to improve the timeliness of the appropriations business by establishing a cutoff date for authorizing legislation.

DELAYS IN AUTHORIZATIONS

I believe that most serious students of the appropriations process will identify delays in the availability of authorizing legislation as the single largest factor in the lack of timeliness in the appropriation process. It is impossible to accurately measure the waste that occurs in the administration of the hundreds of Federal programs by virtue of uncertainty. Continuing resolutions have suffered the abuse of having to carry legislative intent for large portions of the Government for long periods of time.

Some improvement in the timetable can be expected under the recently passed bill. The fiscal year is extended by 3 months allowing the Congress more time for consideration of the budget. Authorizations are required to be enacted by April 1. In my opinion and in the opinion of many others, it would have been desirable to have authorizations enacted sufficiently early to provide legislative guidance to the executive branch in submitting its budget to the Congress. This is really the manner in which Congress can improve its impact on priority questions in the Federal structure. I urge, Mr. Speaker, that the date for authorization bills not be allowed to slip.

Last year, House consolidation of 10 of the 13 regular appropriation bills was affected to varying extents by the lack of legislative authorization. We were able to pass 9 of the 13 bills by June 30, but we were forced to go to the Rules Committee in order to waive points of order due to the lack of legislative authorization on eight occasions.

Three bills—defense, military construction, and foreign aid—could not be brought forward until near the end of the session because of authorization problems.

Mr. Speaker, I include a listing of authorizing bills arranged by appropriation bill which shows the date of final enactment and tends to spotlight the extent of the authorization problem:

ITEMS IN THE FISCAL YEAR 1974 BUDGET REQUIRING AUTHORIZING LEGISLATION PRIOR TO ENACTMENT OF APPROPRIATIONS

AUTHORIZATION REQUEST AND DATE OF ENACTMENT

Agriculture, Environmental and Consumer Protection Appropriation Bill:

Office of Environmental Quality (S. 1379, P.L. 93–36), May 18.

Department of Agriculture:

International programs (S. 1888, P.L. 93–86), August 10.

Food stamp program (S. 1888, P.L. 93–86), August 10.

Rural development (H.R. 8879, S. ——).

Environmental Protection Agency:

Clean air (H.R. 5445, P.L. 93–15), April 9.

Solid waste disposal (H.R. 5446, P.L. 93–14), April 9.

Defense Appropriation Bill:

Department of Defense:

Procurement (H.R. 9286, P.L. 93–155), November 16.

Foreign Assistance and Related Agencies Appropriation Bill:

Foreign military assistance (S. 1443, P.L. 93–189), December 17.

Foreign economic assistance (S. 1443, P.L. 93–189), December 17.

U.N. environmental fund (H.R. 6768, P.L. 93–188), December 15.

Action-International programs (Peace Corps) (H.R. 5293, P.L. 93–49), June 25.

Department of State-Migration and refugee assistance (H.R. 7645, P.L. 93–126), October 18.

HUD, Space Science and Related Agencies Appropriation Bill:

Department of Housing and Urban Development-comprehensive planning grants (H.J. Res. 719, P.L. 93–117), October 2.

National Aeronautics and Space Administration (H.R. 7528, P.L. 93–74), July 23.

Veterans Administration—Philippine grants (H.R. ——, S. ——).

National Science Foundation (H.R. 8510, P.L. 93–96), August 16.

Renegotiation Board (H.R. 7445, P.L. 93–66), July 9.

Interior and Related Agencies Appropriation Bill:

Department of Interior:

Trust Territory of the Pacific Islands (S. 1385, P.L. 93–111), September 21.

National Park Service:

JFK Center (S. 1759, P.L. 93–67), July 10.

Historic preservation (S. 1201, P.L. 93–54), July 1.

Office of Saline Water (S. 1386, P.L. 93–51), July 1.

American Revolution Bicentennial Commission (H.R. 7446, P.L. 93–179), December 11.

Indian Claims Commission (S. 721, P.L. 93–37), May 24.

National Foundation on the Arts and Humanities (S. 795, P.L. 93–133), October 19.

Labor, Health, Education, and Welfare and Related Agencies Appropriation Bill:

Department of Health, Education, and Welfare:

Mental health (S. 1136, P.L. 93–45), June 18.

Health services planning and development (S. 1136, P.L. 93–45), June 18.

Health services delivery (S. 1136, P.L. 93–45), June 18.

Preventive Health (S. 1136, P.L. 93–45), June 18.

National health statistics (S. 1136, P.L. 93–45), June 18.

National Library of Medicine (S. 1136, P.L. 93–45), June 18.

Development disabilities (S. 1136, P.L. 93–45), June 18.

Office of Education (H.R. 69, S. 1539).

Vocational rehabilitation (H.R. 8070, P.L. 93–112), September 26.

Older Americans (S. 50, P.L. 93–29), May 3.

Grants to States for public assistance (repatriated citizens) (H.R. ——, S. ——).

Department of Labor:

Manpower programs (S. 1559, P.L. 93–203), December 28.

Action—Operating expenses, domestic programs (S. 1148, P.L. 93–113), October 1.

Cabinet Committee on Opportunities for Spanish-Speaking People (H.R. 10397, S. ——).

Corporation for Public Broadcasting (S. 1090, P.L. 93–84), August 6.

Military Construction Appropriation bill:

Department of Defense:

Military Construction (S. 2408, P.L. 93–166), November 29.

Public Works and Atomic Energy Appropriation Bill:

Department of Defense-Corps of Engineers:

Construction—general (H.R. 10203, S. 606, S. 2798).

Flood control (H.R. 10203, S. 606, S. 2798).

Atomic Energy Commission (S. 1994, P.L. 93–60), July 6.

Water Resources Council (S. 1501, P.L. 93–55), July 1.

State, Justice, Commerce, the Judiciary and Related Agencies Appropriation Bill:

Department of Commerce:

Minority business (H.R. ——, S. ——).

U.S. Travel Service (S. 1747, P.L. 93–193), December 9.

Sea grant program (NOAA) (H.R. 5452, P.L. 93–73), July 10.

Maritime Administration (H.R. 7670, P.L. 93–70), July 10.

Department of Justice:

Law Enforcement Assistance Administration (H.R. 8152, P.L. 93–83), August 6.

Department of State:

Foreign service buildings (H.R. 5610, P.L. 93–47), June 22.

Other programs (H.R. 7645, P.L. 93–126), October 18.

International Radio Broadcasting (S. 1914, P.L. 93–129), October 19.

United States Information Agency (S. 2681, P.L. 93–168), November 29.

Transportation and Related Agencies Appropriation Bill:

Department of Transportation:

Coast Guard (H.R. 5383, P.L. 93–65), July 9.

Federal Highway Administration: Highway beautification (S. 502, P.L. 93–87), August 13.

National Highway Traffic Safety Administration:

Trust fund—Highway Act (S. 502, P.L. 93–87), August 13.

General fund—National Traffic and Motor Vehicle Safety Act (S. 355, H.R. 5529), . . .

Federal Railroad Administration:

Railroad safety and research (S. 2120, P.L. 93–90), August 14.

Amtrak grants (S. 2016, P.L. 93–146), November 3.

Treasury, Postal Service and General Government Appropriation Bill:

Council on International Economic Policy (S. 1636, P.L. 93–121), October 4.

Economic stabilization activities (S. 398, P.L. 93–28), April 30.

Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped (S. 1413, P.L. 93–76), July 30.

APPROPRIATION BILLS UNDER BUDGET FOR 30 YEARS

Mr. Speaker, I believe it is becoming increasingly recognized that the problem of spending above budget requests does not rest with the appropriation bills. In each of the last 30 years appropriation bills reported by the Appropriations Committee and enacted by the Congress have been below the President's budget. The principal problem in recent years has been "backdoor" and mandatory spending.

Classified as backdoor spending or "mandatory spending" are payment levels established in basic legislation which constitute a binding obligation on the part of the Federal Government. In these cases, although appropriations are required to finance the program, there is, in fact, little or no discretion in the appropriation process. Public assistance, black lung benefits, veterans benefit payments, and general blue collar wage board increases are examples of this type of spending commitment. In practice, commitments of this type are as binding in effect as appropriations, since in most cases court action can be obtained to require payment.

Backdoor or mandatory spending in recent years has proved in practice to be more difficult to control than spending through the regular appropriation process. In the last 6 fiscal years, for example, Congress, in its action on appropriation bills, reduced the requests of the administration for new budget authority by approximately $33 billion. However, during this same 6-year period, Congress approved in legislative bills other than appropriations bills budget authority which exceeded the budget estimates by slightly over $40 billion.

At this point I would like to insert a table which shows that the actions of the Congress in appropriation bills are below the budget proposals for the last 30 years. I would also refer Members to table 11 in the "Scorekeeping Report" of December 22, 1973, of the Joint Committee on Reduction of Federal Expenditures, which shows the reductions made by the Appropriations Committee and the increases made through mandatory and backdoor spending for the last 6 years:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS, COMPARISON OF ESTIMATES AND AMOUNTS ENACTED

Calendar year	Session of Congress	Estimates	Amounts enacted	(+) or (−)
1944	78th, 2d	$63, 513, 471, 020	$61, 257, 906, 152	−$2, 255, 564, 868
1945	79th, 1st	62, 453, 310, 868	61, 042, 345, 331	−1, 410, 965, 537
1946	79th, 2d	30, 051, 109, 870	28, 459, 502, 172	−1, 591, 607, 698
1947	80th, 1st	33, 367, 507, 923	30, 130, 762, 141	−3, 236, 745, 782
1948	80th, 2d	35, 409, 550, 523	32, 699, 846, 731	−2, 709, 703, 792
1949	81st, 1st	39, 545, 529, 108	37, 825, 026, 214	−1, 720, 502, 894
1950	81st, 2d	54, 316, 658, 423	52, 427, 926, 629	−1, 888, 731, 794
1951	82d, 1st	96, 340, 781, 110	91, 059, 713, 307	−5, 281, 067, 803
1952	82d, 2d	83, 964, 877, 176	75, 355, 434, 201	−8, 609, 442, 975
1953	83d, 1st	66, 568, 694, 353	54, 539, 342, 491	−12, 029, 351, 862
1954	83d, 2d	50, 257, 490, 985	47, 642, 131, 205	−2, 615, 359, 780
1955	84th, 1st	55, 044, 333, 729	53, 124, 821, 215	−1, 919, 512, 514
1956	84th, 2d	60, 892, 420, 237	60, 647, 917, 590	−244, 502, 647
1957	85th, 1st	64, 638, 110, 610	59, 589, 731, 631	−5, 048, 378, 979
1958	85th, 2d	73, 272, 859, 573	72, 653, 476, 248	−619, 383, 325
1959	86th, 1st	$74, 859, 472, 045	$72, 977, 957, 952	−$1, 881, 514, 093
1960	86th, 2d	73, 845, 974, 490	73, 634, 335, 992	−211, 638, 498
1961	87th, 1st	91, 597, 448, 053	86, 606, 487, 273	−4, 990, 960, 780
1962	87th, 2d	96, 803, 292, 115	92, 260, 154, 659	−4, 543, 137, 456
1963	88th, 1st	98, 904, 155, 136	92, 432, 923, 132	−6, 471, 232, 004
1964	88th, 2d	98, 297, 358, 556	94, 162, 918, 996	−4, 134, 439, 560
1965	89th, 1st	109, 448, 074, 896	107, 037, 566, 896	−2, 410, 508, 000
1966	89th, 2d	131, 164, 926, 586	130, 281, 568, 480	−883, 358, 106
1967	90th, 1st	147, 804, 557, 929	141, 872, 346, 664	−5, 932, 211, 265
1968	90th, 2d	147, 908, 612, 996	133, 339, 868, 734	−14, 568, 744, 262
1969	91st, 1st	142, 701, 346, 215	134, 431, 463, 135	−8, 269, 883, 080
1970	91st, 2d	147, 765, 358, 434	144, 273, 528, 504	−3, 491, 829, 930
1971	92d, 1st	167, 874, 624, 937	165, 225, 661, 865	−2, 648, 963, 072
1972	92d, 2d	185, 431, 804, 552	178, 960, 106, 864	−6, 471, 697, 688
1973	93d, 1st	176, 778, 549, 255	173, 515, 852, 804	−3, 262, 696, 451

Source: Appropriations estimates, etc., House Committee on Appropriations.

NEW INITIATIVES

Mr. Speaker, several new programs and important changes in old programs are proposed by the President in this budget which will have significant fiscal impact both in 1975 and in later years.

The largest of these programs, of course, is a proposal for national health insurance. Spending for this program would not begin until fiscal year 1977, and at that time would cost $6 billion, according to the President's estimate. However, the decision that is made now on this program will have major impact on the budget in later years. This program, if passed by the Congress, would become another major uncontrollable factor and would further reduce the ability of the Congress and the President to deal effectively with the Federal budget.

Mr. Speaker, at this point in the RECORD I would like to insert a table which shows the major new programs recommended by the President in this budget. I should caution Members that this table by no means shows the total amount of program expansion that is recommended in this budget, but only deals with new programs requiring initial legislative authorization:

BUDGET AUTHORITY FOR LEGISLATIVE PROPOSALS FOR MAJOR NEW AND EXPANDED PROGRAMS, 1974–75

[In millions of dollars]

Department or agency	1974	1975	1976	1977	1978	1979	Explanation
Funds appropriated to the President: International financial institutions.	121	136	546	375	375	375	Contributions to IDA Asian Development Bank, and African Development Fund.
Commerce:							
Economic adjustment Assistance		(100)	(220)	(350)	(350)	(350)	New program to help States and communities adjust to economic change.
National Bureau of Fire Prevention	4	13	13	13	13	13	Process assistance for fire prevention and control.
Commerce and Labor: Trade Reform Act		220	220	130	20	20	Provides for trade adjustment assistance.
Defense:							
Naval petroleum reserve	−62	−173	27	24	25	20	Provides for exploration of reserves.
Other legislation	99	242	229	169	111	22	Amounts represent additional costs of All Volunteer Armed Force, reform of retirement pay systems, and flight pay.

Footnotes at end of table.

BUDGET AUTHORITY FOR LEGISLATIVE PROPOSALS FOR MAJOR NEW AND EXPANDED PROGRAMS, 1974-75—Continued

[In millions of dollars]

Department or agency	1974	1975	1976	1977	1978	1979	Explanation
Health, Education, and Welfare:							
Health resources planning		67	67	67	67	67	Provides support for State and local health services planning regulation.
National health insurance				(1)	(1)	(1)	Health insurance coverage nationally.
Consolidated education grants	(2,852)	(2,875)	(2,875)	(2,875)	(2,875)	(2,875)	Provide for reform of elementary, secondary, adult, and vocational education grants.
Supplemental security income			360	750	750	1,450	Provides for automatic cost-of-living adjustments to benefits.
Other legislation	5	55	55	55	40	40	National Health Service scholarships, Allied Services, and 3-year library resources demonstration.
Housing and Urban Development:							
Better Communities Act		(2,300)	(2,300)	(2,300)	(2,300)	(2,300)	Provides for broadcast grants for locally determined community development.
Responsive Governments Act		(110)	(110)	(110)	(110)	(110)	Provides for expanded Federal support for planning and management at State and local levels.
Interior:							
Indian programs	9	34	39	39	39	39	Loans and grants to Indians for resource, economic and human development.
Land use control and mined area protection	1	49	49	40	40	40	
Labor: Unemployment Insurance Reform				215	600	850	Higher maximum benefit levels and extends coverage to farm workers.
State: International Salinity control project, Colorado River		95					Reduction of salinity in waters going to Mexico.
Transportation: Unified transportation assistance program	(2)	(2)	(2)	(2)	(2)	(2)	Grants for highway and mass transit systems.
Environmental Protection Agency	24	32	40	45	45	45	Provides for new programs for toxic substances, hazardous wastes and safe drinking water.
Veterans' Administration:							
Pension system improvements		250	275	318	364	412	More adequate and equitable pensions.
Readjustments benefits		200	194	172	152	135	Increased veterans education benefits.
Other independent agencies: Payments to Legal Services Corporation.		72	72	72	72	72	Establishes an independent, nonprofit corporation to provide legal aid to low income individuals.
Allowance for relatively small and unforeseen items	150	250	350	400	450	500	
Total authority	351	1,542	2,536	2,754	3,163	4,100	

[1] This program is still being developed. The estimated cost is $6,000,000,000.

[2] Many authorizations for this program have already been enacted.

( ) Items in parenthesis are not added into the total since the cost of the programs is less than the amount shown due to replacement of existing narrower categorical programs.

CHANGING BUDGET PROJECTIONS

Mr. Speaker, in last year's budget the President estimated that $288 billion would be spent in 1975. The budget just submitted increases that figure by $16.4 billion and a 1975 spending level of $304.4 billion is now proposed.

The biggest area of change is in income security; this item has increased by $12.5 billion. Other major increases are $3.7 billion in estimated interest on the national debt and $2.2 billion in national defense.

Major overestimates occurred in the areas of agricultural and rural development with $3.1 billion and natural resources and environment with $2.5 billion.

Mr. Speaker, at this point I will insert a table that shows the change in estimates in all areas that has occurred since last January in the 1974 and 1975 budget projections:

CHANGES IN BUDGET PROJECTIONS BETWEEN 1974 AND 1975—BUDGET OUTLAYS (BY FUNCTION)

[In billions of dollars]

		1974		1975		
	1973	As estimated in 1974 budget	As estimated in 1975 budget	As estimated in 1974 budget	As estimated in 1975 budget	Change
National defense	76.0	81.1	80.6	85.5	87.7	2.2
International affairs and finance	3.0	3.8	3.9	3.8	4.1	.3
Space research and technology	3.3	3.1	3.2	3.2	3.3	.1
Agriculture and rural development	6.2	5.6	4.0	5.8	2.7	−3.1
Natural resources and environment	.6	3.7	.6	5.6	3.1	−2.5
Commerce and transportation	13.1	11.6	13.5	12.4	13.4	1.0
Community development and housing	4.1	4.9	5.4	5.4	5.7	.3
Education and manpower	10.2	10.1	10.8	10.2	11.5	1.3
Health	18.4	21.7	23.3	25.2	26.3	1.1
Income security	73.1	82.0	85.0	87.6	100.1	12.5
Veterans benefits and services	12.0	11.7	13.3	11.9	13.6	1.7
Interest	22.8	24.7	27.8	25.4	29.1	3.7
General Government	5.5	6.0	6.8	6.4	6.8	.4
General revenue sharing	6.6	6.0	6.1	6.2	6.2	
Allowances[1]		1.8	.3	3.3	1.6	−1.7
Undistributed intragovernmental transactions	−8.4	−9.1	−10.0	−9.9	−10.7	−.8
Total budget outlays	246.5	268.7	274.7	288.0	304.4	16.4

[1] Allowances for 1975 budget estimate include acceleration of energy research and development programs, civilian agency pay raises and contingencies.

THE 1976 BUDGET ESTIMATE

This year's budget estimates that spending will amount to $329.4 billion in 1976. This would be an increase of $25 billion over 1975. However, the budget admits that even this high increase is based on the assumption of full employment. Currently, the outlook for that is somewhat dim indeed. Let us hope that the margin of understated spending for 1976 is not as great as it was for 1975, or we will truly face budget problems of monumental gravity.

CHANGE IN ESTIMATED SPENDING AND ACTUAL SPENDING

A 20-year look at the President's proposed budgets and what actually occurred is also revealing and shows the difficulties and uncertainties which surround the Federal budget process. A table that I will insert at this point generally shows that budget deficits are understated, particularly if due consideration is given to the short-term effects that inflation has in generating unanticipated additional revenue:

VARIATIONS IN ORIGINAL BUDGET PROJECTIONS

[In billions of dollars]

Fiscal year	Budget receipts: Estimate	Budget receipts: Actual	Budget receipts: Swing	Budget expenditures: Estimate	Budget expenditures: Actual	Budget expenditures: Swing	Surplus or deficit: Estimate	Surplus or deficit: Actual	Surplus or deficit: Swing
Administrative budget:									
1955	62.5	60.2	−2.3	65.4	64.4	−1.0	−2.9	−4.2	−1.3
1956	59.7	67.8	+8.1	62.5	66.2	+4.1	−2.4	+1.6	+4.0
1957	65.0	70.6	+5.6	64.6	69.0	+4.4	+.4	+1.6	+1.2
1958	73.1	68.6	−4.5	71.2	71.4	+.2	+1.8	−2.8	−4.6
1959	74.0	67.9	−6.1	73.6	80.3	+6.7	+.5	−12.4	−12.9
1960	76.4	77.8	+1.4	76.3	76.5	+.2	+.1	+1.2	+1.1
1961	83.3	77.7	−5.6	79.1	81.5	+2.4	+4.2	−3.9	−8.1
1962	82.3	81.4	−.9	80.9	87.8	+6.9	+1.5	−6.4	−7.9
1963	93.0	86.4	−6.6	92.5	92.6	+.1	+.5	−6.3	−6.8
1964	86.9	89.5	+2.6	98.8	97.7	−1.1	−11.9	−8.2	+3.7
1965	93.0	93.1	+.1	97.9	96.5	−1.4	−4.9	−3.4	+1.5
1966	94.4	104.7	+10.3	99.7	107.0	+7.3	−5.3	−2.3	+3.1
1967	111.0	115.8	+4.8	112.8	125.7	+12.9	−1.8	−9.9	−8.0
1968	126.9	[1] 114.7	−12.2	135.0	[1] 143.1	+8.1	−8.1	−28.4	−20.3
Unified budget:									
1969	178.1	187.8	+9.7	186.1	184.6	−1.5	−8.0	+3.2	+11.2
1970	198.7	193.7	−5.0	195.3	196.6	+1.3	+3.4	−2.8	−6.3
1971	202.1	188.4	−13.7	200.8	211.4	+10.6	+1.3	−23.0	−24.3
1972	217.6	208.6	−9.0	229.2	231.9	+2.7	−11.6	−23.2	−11.6
1973	220.8	[2] 232.2	+11.4	246.3	246.5	+.2	−25.5	−14.3	+11.2
1974 estimate	256.0	[2] 270.0	+14.0	268.7	[2] 274.4	+6.0	−12.7	[2] −4.7	+8.0
1975 estimate	295.0			304.4			−9.4		

[1] Represents Federal funds portion of unified budget concept totals.

[2] Estimate in 1975 budget.

CHANGES IN UNCONTROLLABLE ESTIMATES

Since the budget is so dominated by "uncontrollable" outlays, the estimates that are made in these categories are particularly important. I am inserting a table that shows the changes that have occurred between the original estimates and the actual outlay of funds since 1969. In nearly every instance estimates on spending in social security, interest payments, veterans benefits, and the other major categories are underestimated and result in spending being significantly higher than was projected:

SELECTED "UNCONTROLLABLE" OUTLAYS (ORIGINAL ESTIMATE COMPARED TO ACTUAL, EXCLUDING CONGRESSIONAL ACTION)

[In billions]

	Outlays: Original estimate	Outlays: Actual	Outlays: Change
FISCAL YEAR 1969			
Social insurance trust funds	38.5	39.8	+1.3
Interest	14.4	15.8	+1.4
Veterans benefits	5.2	5.7	+.4
Public assistance	5.7	6.3	+.5
Farm price support	2.9	4.1	+1.6
Postal service	.3	.5	+.2
Military retired pay	2.3	2.4	+.2
Housing payments	.3	.4	+.1
	69.6	75.0	+5.4
Congressional increases in above categories as scored by Joint Committee			−.3
			+5.1
FISCAL YEAR 1970			
Social insurance trust funds	42.4	45.2	+2.8
Interest	16.0	18.3	+2.3
Veterans benefits	5.9	6.6	+.7
Public assistance	7.4	8.0	+.6
Farm price support	3.1	3.8	+.7
Postal service	.5	1.5	+1.0
Military retired pay	2.7	2.8	+.1
Housing payments	.6	.5	−.1
	78.6	86.7	+8.1
Congressional increases in above categories as scored by Joint Committee			−2.1
			+6.0
FISCAL YEAR 1971			
Social insurance trust funds	51.5	54.9	+3.4
Interest	17.8	19.6	+1.8
Veterans benefits	6.7	7.6	+.9
Public assistance	8.5	11.3	+2.8
Farm price support	3.7	2.8	−.9
Postal service	.9	2.2	+1.3
Military retired pay	3.2	3.4	+.2
Housing payments	.6	.7	+.1
	92.9	102.5	+9.6
Congressional increases in above categories as scored by Joint Committee			−1.4
			+8.2
FISCAL YEAR 1972			
Social insurance trust funds	55.8	61.7	+5.9
Interest	19.7	20.6	+.9
Veterans benefits	8.4	8.3	−.1
Public assistance	13.4	15.0	+1.6
Farm price support	3.6	4.0	+.4
Postal service	1.3	1.8	+.5
Military retired pay	3.7	3.9	+.2
Housing payments	1.3	1.1	−.2
	107.2	116.4	+9.2
Congressional increases in above categories as scored by Joint Committee			−2.3
			+6.9

	Outlays: Original estimate	Outlays: Latest revisions	Outlays: Change
FISCAL YEAR 1973			
Social insurance trust funds	68.1	71.0	
Interest	21.2	22.8	
Veterans benefits	8.7	9.1	
Public assistance	14.6	14.0	
Farm price support	4.3	3.4	
Postal service	1.4	1.7	
Military retired pay	4.3	4.4	
Housing payments	1.8	1.7	
	124.4	[1] 128.1	+3.7
Congressional increases in above categories as scored by the Joint Committee			−2.9
			+.8
FISCAL YEAR 1974			
Social insurance trust funds	80.4	80.3	
Interest	24.7	26.1	
Veterans benefits	9.1	9.1	
Public assistance	17.0	17.0	
Farm price support	2.7	2.7	
Postal service	1.4	1.4	
Military retired pay	4.7	4.7	
Housing payments	2.0	2.0	
	142.0	[1] 143.3	+1.3
Congressional increases in above categories as scored by the Joint Committee			

[1] Estimated on basis of June 1 revisions.

Source: Uncontrollable tables Budget Documents.

CHANGES IN THE FEDERAL PRIORITIES

Mr. Speaker, over the past 20 years some profound changes have occurred in the Federal budget. In 1955 national defense spending accounted for over half the budget—58.7 percent—while human resource programs amounted to barely a fifth of the budget—21.1 percent.

Today, we see before us a budget that proposes human resources spending amounting to 49.8 percent of the total and defense spending amounting to 28.8 percent.

Mr. Speaker, I think it would be useful for Members to take time to look at a table that I will insert at this point that shows the relative changes that have occurred in the distribution of outlays since 1955:

PERCENT DISTRIBUTION OF BUDGET OUTLAYS BY FUNCTION

Function	1955	1960	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974 (est.)	1975 (est.)
National defense	58.7	49.8	41.9	42.2	44.3	45.0	44.0	40.8	36.7	33.8	30.8	29.3	28.8
Human resources	(21.1)	(27.6)	(29.8)	(31.0)	(32.0)	(32.1)	(34.4)	(36.9)	(41.8)	(44.2)	(46.1)	(48.1)	(49.8)
Education and manpower	.8	1.1	1.9	3.2	3.7	3.8	3.5	3.7	3.9	4.2	4.1	3.9	3.8
Health	.4	.8	1.4	1.9	4.2	5.4	6.3	6.6	6.8	7.4	7.5	8.5	8.6
Income security	13.3	19.7	21.7	21.5	19.7	19.1	20.5	22.2	26.5	28.0	29.6	30.9	32.9
Veterans benefits and services	6.6	5.9	4.8	4.4	4.4	3.8	4.1	4.4	4.6	4.6	4.9	4.8	4.5
Physical resources	(8.3)	(10.9)	(12.3)	(11.6)	(10.5)	(11.1)	(10.0)	(10.8)	(10.7)	(11.3)	(9.7)	(8.6)	(8.2)
Agriculture and rural development	5.9	3.6	4.1	2.7	2.8	3.3	3.4	3.2	2.4	3.0	2.5	1.5	.9
Natural resources and environment	.7	1.1	1.7	1.5	1.2	1.0	1.2	1.3	1.3	1.6	.2	.2	1.0
Commerce and transportation	1.6	5.2	6.3	5.4	4.8	4.5	4.3	4.8	5.4	4.9	5.3	4.9	4.4
Community development and housing	(1)	1.1	.2	2.0	1.7	2.3	1.1	1.5	1.6	1.8	1.7	2.0	1.9
General revenue sharing											2.7	2.2	2.0
Interest	8.8	9.0	8.7	8.4	8.0	7.7	8.6	9.3	9.3	8.9	9.3	10.1	9.6
Other	(4.9)	(5.1)	(9.8)	(9.4)	(7.8)	(6.6)	(5.9)	(5.4)	(4.9)	(5.2)	(4.7)	(5.2)	(5.1)
International affairs and finance	3.0	3.3	3.7	3.3	2.9	2.6	2.1	1.8	1.5	1.6	1.2	1.4	1.3
Space research and technology	.1	.4	4.3	4.4	3.4	2.6	2.3	1.9	1.6	1.5	1.3	1.2	1.1
General government	1.7	1.4	1.8	1.7	1.5	1.4	1.5	1.7	1.8	2.1	2.2	2.5	2.2
Allowances[2]												.1	.5
Undistributed intragovernmental transactions	−1.8	−2.5	−2.6	−2.5	−2.5	−2.5	−2.8	−3.2	−3.5	−3.4	−3.4	−3.6	−3.5
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Less than 0.05 percent.

[2] Includes allowances for acceleration of energy research and development, civilian agency pay raises and contingencies.

ECONOMIC ASSUMPTIONS

Mr. Speaker, whether the economic assumptions made in this budget are too optimistic is a crucial question that Congress must answer.

The prediction made for growth in the gross national product is $102 billion. This is an increase of 8 percent over 1974, but with only 1 percent in real growth and the rest in inflation. It is further assumed that unemployment will increase in 1974 to a rate of 5.5 percent from the present rate of 5.2 percent.

Worsening economic conditions, particularly growing unemployment rates, will, of course, significantly add to the difficulties of dealing with this budget.

The hardest hit sector of our economy during this time of inflation is the consumer. The cost of food rose 14.5 percent during 1973. It can only be assumed that shortages in basic commodities and oil products will cause prices to increase even further.

The basic question which confronts us all is the role of Federal spending in fighting inflation. Is increased Federal spending the way to improve an inflationary situation which is being fanned by shortages in basic resources?

Mr. Speaker, at this point I would like to insert three tables into the RECORD showing changes in GNP, unemployment, and the Consumer Price Index over the past several years:

PERCENTAGE INCREASES IN THE CONSUMER PRICE INDEX

			Commodities		
	All items	Commodities	Food	Fuel and utilities[1]	Services
1963	1.2	0.9	1.4	0.9	2.0
1964	1.3	1.1	1.3	.2	1.9
1965	1.7	1.2	2.1	−.1	2.2
1966	2.9	2.6	5.0	.5	3.9
1967	2.9	1.8	.9	1.2	4.4
1968	4.2	3.7	3.6	1.3	5.2
1969	5.4	4.5	5.1	2.3	6.9
1970	5.9	4.7	5.5	3.9	8.1
1971	4.3	3.4	3.0	7.0	5.6
1972	3.3	3.0	4.3	4.4	3.8
1973	6.2	7.4	14.5	5.7	4.4

[1] This figure is a component of the Housing Index and does not include gasoline.

Note: These figures are seasonally adjusted.

GROWTH IN GNP (ACTUAL AND FORECAST)

	GNP (billions)		Percent growth		Actual growth[1]	
	Forecast	Actual	Forecast	Actual	Real	Inflation Factor
1964	623	632.4	6.5	7.1	5.4	1.6
1965	660	684.9	6.1	8.3	6.3	1.8
1966	722	749.9	6.9	9.5	6.5	2.8
1967	787	793.9	6.4	5.9	2.6	3.2
1968	846	864.2	7.5	8.9	4.7	4.0
1969	921	930.3	7.0	7.6	2.7	4.8
1970	985	977.1	5.7	5.0	−0.4	5.5
1971	1,065	1,055.5	9.0	8.0	3.2	4.7
1972	1,145	1,155.2	9.5	9.4	6.1	3.2
1973	1,267	1,288.0	10.0	11.5	5.9	5.3
1974 (estimates)	1,390		8.0		1.0	7.0

[1] Due to the method of calculation the real growth figure and the inflation figure cannot be added to equal the actual percentage of growth.

Sources: Economic Report of the President, Department of Commerce, Department of Labor.

UNEMPLOYMENT RATES

				Males			Females		
	Total	Males	Females	16 to 19	20 to 24	25 and over	16 to 19	20 to 24	25 and over
1960	5.5	5.4	5.9	15.3	8.9	4.3	13.9	8.3	4.6
1961	6.7	6.4	7.2	17.1	10.8	5.2	16.3	9.8	5.8
1962	5.5	5.2	6.2	14.7	8.9	4.1	14.6	9.1	4.8
1963	5.7	5.2	6.5	17.2	8.8	4.0	17.2	8.9	4.9
1964	5.2	4.6	6.2	15.8	8.1	3.3	16.6	8.6	4.6
1965	4.5	4.0	5.5	14.1	6.4	2.8	15.7	7.3	4.0
1966	3.8	3.2	4.9	11.7	4.6	2.2	14.1	6.3	3.3
1967	3.8	3.1	5.2	12.3	4.6	2.0	13.5	7.0	3.7
1968	3.6	2.9	4.8	11.6	5.1	1.8	14.0	6.7	3.2
1969	3.5	2.8	4.7	11.4	5.1	1.7	13.3	6.3	3.2
1970	4.9	4.4	5.9	15.0	8.4	2.8	15.6	7.9	4.1
1971	5.9	5.3	6.9	16.6	10.3	3.5	17.2	9.6	4.9
1972	5.6	4.9	6.6	15.9	9.2	3.1	16.7	9.3	4.6
1973	4.9	4.1	6.0	13.9	7.3	2.5	15.2	8.9	4.0

Source: Bureau of Labor Statistics.

CONCLUSION

Mr. Speaker, as I acknowledge, the foregoing material is extensive, but I believe it will prove of some help in providing perspective to those in and out of Congress who undertake the formidable task of examining the budget of the U.S. Government.

The Committee on Appropriations will now begin our detailed review. On February 19, 20, and 21 we will have overview hearings on the budget with Budget Director Ash, Treasury Secretary Shultz, Mr. Stein, Chairman of the Council of Economic Advisers, and Federal Reserve Chairman Burns. The 13 subcommittees will then begin hearings.

We want to move forward in an efficient and vigorous fashion and bring the appropriations bills to the floor in the best possible form as soon as reasonably possible.

Mr. **CEDERBERG**. Mr. Speaker, I generally support the budget that the President submitted to the Congress today.

The 1975 budget is far more than a financial plan for the Federal Government for the year ahead. It is, above all, a statement of a philosophy of government that emphasizes a stronger role for State and local governments and for individuals in a revitalized Federal system. This emphasis on what has come to be called the New Federalism does not mean that there will be any weakening of the commitment by the Federal Government to meet essential national needs. In fact, three subjects—the economy, defense, and the energy problem—that can be dealt with adequately only on a national basis—receive special attention in the 1975 budget.

The budget proposes a fiscal policy that seeks a balance between keeping the economy on the path to sustained high employment, and assuring a return to more stable prices. The moderate fiscal restraint of the recent past is continued to help hold price increases down, while the flexibility to take additional actions is maintained in the event that they are needed to counter the effects of energy shortages.

Total outlays of just under $304½ billion are recommended, nearly $30 billion more than in 1974. This increase is consistent with fiscal objectives of the budget. About 90 percent of this increase consists of mandatory spending that cannot be avoided under current law. The increase in relatively controllable spending amounts to about 4 percent, not even enough to cover the expected rise in pay and prices.

The recent flareup of war in the Middle East proved once more the absolute need for the United States to maintain a continuous state of defense readiness if there is to be any chance of a durable world peace. Substantial, but reasonable, reductions have been made in our defense forces since 1969. These forces cannot be reduced much further without weakening the ability of our diplomats to achieve a secure world peace through negotiation. The budget increases for defense that are proposed for 1974 and 1975 are the minimum prudent amounts needed to assure us of modern, ready forces, to provide for the development of future weapons, and to offset the higher costs of probable pay and price increases.

The budget also focuses intensely on, and reflects the need for, a comprehensive energy program to deal with the current shortages and to move us toward self-sufficiency in energy. The research and development part of this program will require about $10 billion of Federal resources during its first 5 years to complement an even larger investment by the private sector. The measures proposed in the budget provide the Federal leadership to get this program underway, but they recognize explicitly that the bulk of the effort must come from American producers and consumers.

The 1975 budget reflects the President's efforts over the last 5 years, to strengthen the resources and the responsibilities of the State and local governments and of individual citizens. The philosophy of the New Federalism is being implemented by the adoption of general revenue sharing and the substitution of broad-based formula grants for narrow categorical grants. At one and the same time, State and local governments are being given increasing discretion as to how funds are used, and Federal aid is being distributed more equitably among recipients. Programs that move in this direction have been adopted or are well along in:

Law enforcement,

Rural development,

Manpower training and employment,

Education,

Community and area development, and

Transportation.

The intended beneficiaries of the New Federalism are the federal system of government and the American people.

As a corollary, the Federal Government has also strengthened the role of the individual in America during the last 5 years. Between 1969 and 1975, outlays for human resources programs will have increased by 139 percent, while total outlays will have grown by only 26 percent. Cash or inkind payments for individuals will have risen even more—by nearly 150 percent. The 1975 budget proposes major new steps in strengthening the well-being of individuals, notably in its proposed reform in the financing of medical care and in the current welfare system, and in its continued support of equal opportunity, civil rights, anticrime, and drug abuse programs.

And, finally, the 1975 budget puts heavy stress on improving public services at all levels, with particular emphasis on improving the efficiency and effectiveness of Federal programs in carrying out Federal responsibilities.

This budget presents a balanced program for the Congress to consider. This is a program that meets America's urgent needs of the years immediately ahead. It deserves prompt support by the Congress.

In this regard, it is important to review just what we did with last year's budget, the 1974 fiscal year budget. This Congress last year increased budget authority requested by the President for fiscal 1974 by $5,615 million. This resulted in an outlay increase of $3,526 million for fiscal 1974.

Now, it seems to me that what we are going to have to do is to review this budget within the Congress, not only in the Committee on Appropriations, but in the other legislative committees, because there is where the real outlay impact comes. If Members will look at the actions taken by the members of the Committee on Appropriations, they will find we reduced the budget authority request by over $3 billion. Our actions would have reduced outlays by $534 million; but actions by other committees increased 1974 outlays by more than $3 billion.

In fact, we are not finished with the 1974 budget. We have some supplementals coming up, pay supplementals are an example, that we are going to have to consider in this 1974 budget.

To look at another very practical problem, we find ourselves year after year confronted with a situation where more and more of the money that we deal with in the budget is absolutely uncontrollable.

My indication is that of this $304 billion budget, only $84,400 million, or 28 percent, is relatively controllable under the present law.

We are all concerned that we are presented for the first time with a budget over $300 billion. I can tell you that OMB and the President and everyone else did the best they could in their work with the agencies to keep the budget below that figure. They just were not able to do it.

Now, we are going to discuss and express our concerns about the size of this budget; but I predict that after this talk has died down, we will then proceed to see how much we are going to increase it. As I see what happens around the country, our mayors tell us that there is not enough in here, there is not enough for mass transit for our cities, there is not enough for many, many items.

While all of them are increased, the difficulty is, do we know how much is enough?

So as our various subcommittees will be wrestling with the items that are involved here, I predict that we will go down the same course we have over the years, increasing almost all the items that have been requested, except defense. We will reduce defense, which is under the able chairmanship of the gentleman from Texas, to what is prudent and will provide the kind of defense that is necessary in this troubled world.

Mr. Speaker, I do not intend to take any more time on this matter. I am going to insert some tables in the RECORD and a few remarks that I think may be of assistance to Members as we start these next very, very interesting few months, and as I stand here I see some Members of the Committee on Appropriations that are going to be willing to work with us very hard in both increasing and decreasing this budget.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. PATTEN. Mr. Speaker, would the gentleman from Michigan fix a date when this will be ready?

Mr. CEDERBERG. Mr. Speaker, I am not the chairman of the committee, but I think I can say for the chairman—and he has discussed this with me—it is our desire to get this budget completed as rapidly as we possibly can. We want to get hearings started. We want to take wise actions prudently and as quickly as possible.

Mr. Speaker, I think the chairman would certainly verify that.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CEDERBERG. Mr. Speaker I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's remarks about the fact that it is also the responsibility of the authorizing committee to share, along with the appropriations committee, the task of controlling the budget. But, by constantly passing legislation that is far above our ability to finance, we are failing to meet this responsibility.

I also think the gentleman is correct in saying that this Congress, right here, can stop the spending if it will be inclined to do so. As a matter of fact, prior to the gentleman from Michigan's coming to the floor today, the majority leader took the floor and said that he favors the concept of cutting the budget, which is just fine if he will do it, but I think the gentleman from Michigan is correct when he says that we get an awful lot of conversation, and then when the appropriations come to the floor there are all kinds of amendments to increase the expenditures. We really do not mean what we say when we talk about budget cutting.

Mr. CEDERBERG. Mr. Speaker, I think probably the statement of the gentleman from California is a correct statement. We are wrestling with the problem of budget control. We passed the budget control act as far as the House was concerned. The matter is over in the Senate and we really do not know what is going to happen there. Whatever does happen in the area of budget control, which is designed for the Congress to get its teeth into these budget matters and to control them, I doubt that it will have any effect on this 1975 budget at all.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield further, I would like to say that all this conversation about saving money in the Federal expenditures while the average taxpayer is putting out 44 cents of every dollar in taxes for local, State, and Federal Government, will mean nothing if we do not actually take concrete action here on the floor or in the committees to cut instead of increase spending.

Mr. CEDERBERG. Mr. Speaker, I do not disagree with the gentleman. I think I can assure him that the appropriations committee will take those kinds of actions. It always has over the years, but we must recognize that there is a large part of this budget over which the Appropriations Committee will have no control whatsoever.

Mr. Speaker, at this point I include certain tables and additional comments which might be of interest to the Members.

BUDGET OVERVIEW

[Dollars in millions]

1. Budget totals	Fiscal year 1975 request	Increase over fiscal year 1974
Budget authority	$322,141	+$11,288, or 3.6 percent.
Obligations incurred	312,378	+$17,481, or 5.9 percent.
Outlays	304,445	+$29,785, or 10.8 percent

2. BUDGET FINANCING

Outlays of $304,445 million are financed by:

$295,000 million in budget receipts;

$12,500 million in net borrowing from the public;

—$3,055 million in other financing.

This description of budget financing does not account for borrowing from the trust funds, which is estimated to increase by $8.5 billion in FY 1975.

3. BUDGET DEFICITS

Fiscal 1975	Outlays	Receipts	Surplus or deficit (—)
Federal funds	$220,636	$202,757	—$17,878
Trust funds	107,385	115,818	8,433
Interfund transactions	—23,575	—23,575	----------
Budget totals	304,445	295,000	—9,445

4. CONTROLLABILITY

Of the $304,445 million in fiscal 1975 outlays:

Only $139,792 million, or 46 percent is available through current action by the Congress;

Only $84,400 million, or 28 percent, is relatively controllable under present law.

PROGRAM PRIORITIES: THE SHORT RUN

In the short run, program priorities must be considered in the context of budgeting "from the top down". Total outlays are established in relation to receipts for fiscal policy purposes, and program priorities are established within the number of absolute dollars available.

Put another way, the President had an additional $29.8 billion in outlays to spend in fiscal 1975. Here is how he spent it:

[Outlays in billions]

Income security	+15.1
National defense	+7.1
Health	+3.0
Natural resources and environment	+2.5
Allowances for pay and contingencies	+.8
Education and manpower	+.7
Other	+.5
Total increases in outlays, 1974–75	+29.7

PROGRAM PRIORITIES: THE LONG VIEW

There is really no basis for the argument that domestic priorities have been neglected, either relative to defense expenditures, or relative to the gross national product.

Consider the following increases in outlays, 1970 to 1975 (in billions of dollars):

Total outlays plus $107.8 (54.8 percent).

National defense plus $7.4 (4.4 percent).

Human resources plus $78.9 (108.7 percent).

Education and manpower plus $4.2 (57.5 percent).

Health plus $13.4 (103.9 percent).

Income security plus $56.4 (129.1 percent).

Veterans benefits and serv. plus $4.9 (56.3 percent).

Physical Resources plus $3.7 (17.5 percent).

Interest plus $10.8 (59.0 percent).

Other plus $7.0 (166.7 percent).

As a percentage of total Federal outlays, 1970 compared to 1975:

National defense outlays have declined from 40.8 to 28.8;

Human resources outlays have increased from 36.9 to 49.8.

As a percentage of gross national product, 1970 compared to 1975:

National defense outlays have decreased from 8.4 to 6.0;

Human resources outlays have increased from 7.6 to 10.4.

DEFENSE VERSUS HUMAN RESOURCES: THE INFLATION PROBLEM

The debate over defense spending vs. spending for human resources is really a non-debate. Human resources spending dominates the budget, and this dominance is increasing. It *is* important to look at the trends in spending for defense and human resources, and to note the staggering impact which inflation has had on both.

OUTLAYS

[Fiscal years; millions of dollars]

	1968	1975	Change, 1968-75 (percent)	
National defense:				
Current dollars	80,517	87,729	+7,212	(9.0)
Fiscal 1975 dollars	128,184	87,729	—40,455	(—31.6)
Human resources:				
Current dollars	57,367	151,502	+94,135	(164.1)
Fiscal 1975 dollars	97,728	151,502	+53,774	(55.0)

Accordingly, during the 7 fiscal years since fiscal 1968, inflation has:

In defense spending, converted an apparent increase of $7.2 billion (9 percent) into a reduction of $40.5 billion (32 percent);

In human resources spending, converted an apparent increase of $94.1 billion (164 percent) into a much more modest increase of $53.8 billion (55 percent).

FEDERAL FUNDS AND TRUST FUNDS

The fiscal 1975 budget continues the substantial deficits in Federal funds. The increased unified budget deficit in fiscal 1975, compared to fiscal 1974, consists of:

1. A comparable deficit in Federal funds:
1974=−$18.1 billion.
1975=−$17.9 billion.
2. A reduced surplus in the trust funds:
1974=+$13.5 billion.
1975=+$8.4 billion.

Historically, the deficits look like this:

[In billions of dollars]

	1970	1971	1972	1973	1974	1975
Federal funds	−13.1	−29.9	−29.1	−25.0	−18.1	−17.9
Trust funds	+10.3	+6.8	+5.9	+10.7	+13.5	+8.4
Unified budget	−2.8	−23.0	−23.2	−14.3	−4.6	−9.4

OUTLAYS, FOR FISCAL 1975, ARE PROPOSED AS FOLLOWS

[In billions of dollars]

	Fiscal year 1975 proposed	Increase over 1974
Federal funds	$220.6	$16.9 (8.3%)
Trust funds	107.4	15.3 (16.6%)
Interfund transactions	−23.6	−2.4
Unified budget	304.4	29.8 (10.8%)

CONGRESSIONAL ACTION ON THE FISCAL 1974 BUDGET

[In millions of dollars]

Summary	Budget authority	Outlays
Appropriation bills	*−3,020	−534
Legislative bills	*+5,040	+3,332
Shifts due to timing	+3,890	
Inaction	−295	+728
Total action and inaction	+5,615	+3,526

*The Agriculture Appropriations bill for 1974 contained $300 million over the budget for food stamps. The Scorekeeping Report charged this amount against the legislative bills. Consistent with Appropriations Committee practice, this table charges that amount against the appropriations bills.

Effect on the Deficit

[In millions of dollars]

Original deficit	12.7
Outlay re-estimates not due to congressional action, detailed below. (reduced outlays reduce the deficits)	−1.6
Revenue re-estimates (increased revenues reduce the deficit)	−13.9
Congressional action and inaction on outlays (increased outlays increase the deficit.)	+3.6
Revised deficit	0.7

Detail of outlays re-estimates not due to Congressional action

Interest on the debt	+2.9
Disaster assistance	+.6
Budget amendment, assistance to Israel and Cambodia	+.6
Other	+.7
Offsetting receipts from sales of offshore oil, leases, and stockpile sales	−3.8
Farm price supports	−1.2
Sale of financial assets	−.9
Unemployment trust fund	−.5
Net budget revisions of outlay estimates	−1.6

Source: Scorekeeping Report No. 11 of the Joint Committee on Reduction of Federal Expenditures. Cumulative through December 22, 1973.

CONSENT CALENDAR

The SPEAKER. The Chair desires to announce that there are no bills on the Consent Calendar.

ESTABLISHING THE EGMONT KEY NATIONAL WILDLIFE REFUGE

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8977) to establish in the State of Florida the Egmont Key National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 8977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall establish the Egmont Key National Wildlife Refuge (hereafter referred to in this Act as the "refuge") as part of the national wildlife refuge system, which shall consist of that area of land and water described in section 2 of this Act.

SEC. 2. The Secretary of the Interior shall designate as the refuge, subject to existing valid rights, the land and water, being approximately two hundred and fifty acres, which are—

(1) generally depicted on the map entitled "Egmont Key National Wildlife Refuge", dated October 1973, and

(2) located within sections 23, 24, 25, and 26 of township 33 south, range 15 east, Tallahassee meridian, but excluding (A) the land therein under the jurisdiction of the United States Coast Guard which lies at the north end of the island north of a line drawn east to west six hundred feet south of the geometric center of the light tower, and (B) the land therein conveyed by the United States to the county of Hillsborough, Florida, by deed dated March 8, 1928,

by publication of a precise description of such land and water in the Federal Register. The may referred to in the preceding sentence shall be on file and available for public inspection in the office of the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

SEC. 3. The Secretary of the Interior shall administer the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended (80 Stat. 927; 16 U.S.C. 668dd-ee).

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, the purpose of H.R. 8977 is to preserve and protect the valuable wildlife and habitat on Egmont Key by designating the key a national wildlife refuge.

Mr. Speaker, Egmont Key is located at the entrance of Tampa Bay, in Hillsborough County, Fla. It is a typical barrier sand island which supports numerous species of resident land birds, including wading and shore birds. Probably most important is the use of the beach at the southern end of the island, and the adjacent shallow flats by the endangered brown pelican for resting and feeding.

Mr. Speaker, Egmont Key is about 300 acres in size. The Coast Guard utilizes about 55 acres on the north end of the island. The Tampa Bay Pilots Association, under a 99-year lease, utilizes a 5½-acre tract of land in the southern portion of the island.

Mr. Speaker, the remainder of the island, containing about 250 acres, is the area that would be included in the Egmont Key National Wildlife Refuge.

Mr. Speaker, Egmont Key consists of public lands under the administration of the Department of the Interior. The Department is being pressured to make the island into a recreational park or a national wildlife refuge, or to allow the area to be utilized as an oil depot and port facility.

Mr. Speaker, the Department has indicated its interest in seeing the island made a part of the National Wildlife Refuge System, but as of this date, it has not taken the necessary steps to accomplish this purpose.

Mr. Speaker, briefly explained, this legislation would merely do what the Department of the Interior says it wants to do, but has not done. The legislation would provide for the designation of all of the land on Egmont Key—except for those lands being utilized by the Coast Guard and the lands under lease to the Tampa Bay Pilots Association—as the Egmont Key National Wildlife Refuge. When so designated, as provided by the legislation, it would be administered as a part of the National Wildlife Refuge System.

Mr. Speaker, this legislation has the sponsorship of the entire Florida Congressional Delegation, which clearly indicates the importance they attach to its passage. It was unanimously ordered reported by the Committee on Merchant Marine and Fisheries, and I strongly urge its immediate passage.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, as one of the introducers of this bill, I rise in its support without taking a great deal of time of the Members of the House. I point out that this is one of the very few islands remaining anywhere in the United States which has this type of natural terrain. We want to preserve it for all the people of Florida and the Nation.

It lies in a very strategic spot adjacent to the district I am honored to represent. It is in or near the districts represented by the gentleman from Florida (Mr. GIBBONS) and the gentleman from Florida (Mr. HALEY). It is at the natural entrance to Tampa Bay.

Mr. Speaker, this bill is strongly supported by the people in all of our districts, and, without taking any more time of the House, I urge that the bill be passed.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Florida (Mr. GIBBONS), the author of the legislation.

Mr. GIBBONS. Mr. Speaker, I am pleased that we have before us today legislation to establish in the State of Florida a refuge to be known as "Egmont Key National Wildlife Refuge." I want to personally thank the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, JOHN DINGELL, for his interest in this legislation. Under his leadership, we now have this bill before us which is extremely important to the State of Florida. The entire Florida delegation is behind it, having cosponsored the legislation and worked for its enactment.

It is not only important to Florida, however, but to the Nation for it would preserve in its natural state one of our great environmental heritages that are so rapidly vanshing.

This legislation would designate all of Egmont Key as a refuge except for approximately 55 acres of land at the north end of the island retained by the Coast Guard as a lighthouse, and 5.5 acres of land previously deeded to Hillsborough County, Fla. The 250-acre refuge would be administered subject to existing rights, such as the utilization of 5 acres of land by the Tampa Bay Pilots Association under a revocable 5-year license, and an easement over the land to the Florida Power Corp.

The Department of the Interior has stated it wants to make Egmont Key a national wildlife refuge, but as of this date, no steps have been taken to do so. This legislation would protect Egmont Key by declaring it a refuge by an an act of Congress, and would prevent any future administrative action reversing the use of this valuable key as a wildlife refuge.

The cost is minuscule for the protection of Egmont Key as a refuge for various species of wildlife and wading birds and for the public's use as a recreational facility.

I would like to make a part of the record today my testimony before Mr. DINGELL's subcommittees in behalf of H.R. 8977, to establish in the State of Florida the Egmont Key National Wildlife Refuge.

My statement follows:

STATEMENT OF CONGRESSMAN SAM M. GIBBONS BEFORE THE SUBCOMMITTEE ON FISHERIES, WILDLIFE CONSERVATION, AND THE ENVIRONMENT

Mr. Chairman and members of the committee, I'm very pleased to be here today to testify on the bill to establish an Egmont Key National Wildlife Refuge. This bill concerns something of especial importance to the people of my state, and I think this is evidenced by the fact that all my fellow Representatives from Florida have cosponsored this measure and that the two Senators from Florida have introduced similar legislation. Such solidarity makes this occasion particularly pleasant.

Although Egmont Key is located at the mouth of busy Tampa Bay, it has largely resisted the more unsettling effects of civilization. While the Key has physically been involved with the settling and development of this country for over 400 years, and still bears the evidence of this development, it is nevertheless a striking example of our great environmental heritage that seems so rapidly disappearing. Recently most of the Key's 295 acres have been declared excess to the needs of the United States Coast Guard. I believe that we should take steps now to ensure that this unspoiled island is preserved and protected in the form of a National Wildlife Refuge.

Ecologically, the Key is a beautiful example of some of the original wilderness of coastal Florida. Surrounded by beaches and covered with sable palms, the island is used by several rare and important species of shorebirds and waterfowl. Probably most significantly, the island and its adjacent flats serve as a feeding and roosting area for the endangered eastern brown pelican. These birds apparently fly back and forth between the Key and the Pinellas National Wildlife Refuge about a mile away. Last year it was estimated that 1500 pairs of these rare birds were nesting at the Pinellas Refuge, and it has been indicated that the two sites are of mutual importance in maintaining the brown pelican of this area.

In addition, the shallow water to the east of the island serves as an excellent feeding area for an enormous variety of water and shore birds including herons, egrets, terns, cormorants, and gulls. Colonies of least terns and oystercatchers are known to nest on the Key, and in the past, nesting colonies of the great blue heron were also known to use the island.

Aside from its considerable ecological importance, Egmont Key's value as a historical site is also of considerable significance. The Key's history spans back into the early sixteenth century when the early Spanish explorers were attracted to its strategic position at the mouth of the largest bay on the west coast of Florida. The pro-Dominican Martyrs of America anchored off the tiny island's shore as they made a doomed attempt to establish an Indian mission on the Tampa Bay Coast in 1549. Sixteen years later the Spaniards erected a small fortification on the Key.

In the early eighteenth century English freebooters frequented the island; in fact, the Key's earlier name was "Castor Key" after one of these pirates. Later when Britain came to possess Florida from 1768–1783, the Key was officially designated "Egmont Key." It was evidently named in honor of the second Earl of Egmont, an Irish Peer, who served King George III as Lord High Admiral and Postmaster General.

After the Americans took over and Tampa's Fort Brook was founded in 1824, the Key's strategic location was again noted and a detachment of American forces was placed on the Key. During the Second and Third Seminole Indian Wars, the Key was often used as a gathering spot, or depot, where captured Indians were incarcerated before being deported to the West. During these conflicts when hundreds of transports and supply vessels began using Tampa Bay's harbor, the Egmont Key lighthouse was erected. After it was partially destroyed by a severe hurricane in 1848, it was immediately rebuilt. This is the same structure maintained today at the northern tip of the island, a hundred and twenty-five years later, by the United States Coast Guard.

In February of 1849, young Robert E. Lee, then a Colonel in the U.S. Army, visited the coast and islands of Tampa Bay on a survey mission with the Board of Engineers. This group in their report to the Secretary of War recommended that Egmont Key and its sister island, Mullet Key, be reserved by the Government as a key to the defense of the area.

More peaceful years existed until 1861 when Florida withdrew from the Union and joined her sisters in the Confederate States. During the ensuing war years the Key was a land base for the Union's blockading squadron and small raids were made from there on the mainland. The island also served as a refugee camp for escaped slaves and Union sympathizers until they could be transported by ship to the North and Key West.

After the Civil War the Key lay silent until 1898 when the Spanish-American War broke out. At this time the Government built Fort Dade on Egmont Key. This fortress, along with Fort DeSoto on Mullet Key, leveled its guns across the Bay to protect the Tampa harbor from Spanish invasion. Today on Egmont Key are to be seen the historic ruins of this fort—its fortifications, cannon, sandbagged dugout, munition magazine, post hospital and long strips of paved roads are all silent reminders of a threat once weathered and a time long past.

When 240 acres of Egmont Key were declared surplus to the needs of the Coast Guard, several parties made their interests known. Commercially, there has been some speculation that the island's important location in relation to Tampa's shipping channels would make Egmont Key ideal as an oil depot and port facility. Local governments keen on the idea of preserving the Key from such use proposed that it be converted into a recreational park along the lines of nearby Fort DeSoto Park on Mullet Key. I think that in light of the Key's precious ecological values, both of these concepts should be forgone in favor of the establishment of a National Wildlife Refuge. The development of the island as either a port facility or as a purely recreation-oriented park would pose a grave threat to the wildlife population of the island, especially the endangered eastern brown pelican.

While I believe it's important that the public be able to use Egmont Key as a recreational facility, I also believe that this use must not be to the detriment of the island's great natural values. With its policy of allowing only that public use that is harmonious with the primary objective of protection and preservation of wildlife resources, the National Wildlife Refuge Program is the best safekeeper Egmont could have.

I have been informed that the Department of the Interior is in favor of the establishment of such a Wildlife Refuge on Egmont Key, and in my efforts I have received the support of many organizations and individuals strongly interested in the protection and preservation of the Key's great historical and natural resources. I hope that you all will regard this bill favorably and help ensure that Egmont Key will be unspoiled and enjoyed for many more generations.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to compliment the gentleman from Florida (Mr. GIBBONS) and all the members of the Florida delegation for the leadership which they have given in bringing this legislation to the point where it can be passed, preventing controversy, and wisely foreseeing the need for conservation and protection of this area.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for his remarks.

Mr. HALEY. Mr. Speaker, I would like to express to you my support for the bill H.R. 8977, which I have joined my colleague, Representative SAM GIBBONS, in introducing and which would establish a National Wildlife Refuge on Egmont Key in Hillsborough County, Fla.

In recent years the island and the shallow waters to its east have become a nesting, roosting, feeding, and loafing area for numerous species of waterfowl—in particular the brown pelican. The effort to protect this island and what it offers to man and wildlife, has evoked strong support from many organizations and private citizens in my congressional district.

I would like to urge the House to vote for this bill which would make Egmont Key a national wildlife refuge to be utilized by wildlife for their livelihood and to be enjoyed by those who wish to share the unique experience of visiting a quiet, unspoiled area so rich in historical and environmental significance.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Speaker, I would like to associate myself with the remarks of my distinguished colleague, the gentleman from Michigan (Mr. DINGELL), and the other Members who have spoken in favor of this legislation.

I have had the privilege of visiting Egmont Key in Florida, and I certainly think that it should be preserved as a national wildlife refuge.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. GUNTER).

Mr. GUNTER. Mr. Speaker, as a cosponsor of the legislation to establish the Egmont Key National Wildlife Refuge in the State of Florida, I join with my other colleagues who have worked so hard to bring this legislation to the point of passage in urging its adoption by the House.

I particularly wish to commend my colleague, Mr. GIBBONS, for his persistence in pressing for this legislation. Also to be commended is the Subcommittee on Fisheries, Wildlife Conservation, and the Environment of the Committee on Merchant Marine and Fisheries, under the strong leadership of Mr. DINGELL, which has favorably reported this bill to the House.

The decision of the subcommittee to take action despite the view of the Interior Department that it did not need further authority to accomplish the objectives of the bill was, in my view, wise and proper.

Those of us who have been working for this legislation feel that creation of the Egmont Key refuge is of sufficient importance that the question ought not to be left to the future discretion of the Interior Department. This bill would create the refuge in fact as well as intention.

Mr. Speaker, we are all aware of the persistent and, perhaps in many instances, unavoidable encroachment on our natural environment and wildlife, including many considered to be endangered species.

Where the proximity of population centers exists, as it does in this instance, the threat to our remaining natural resources and the corresponding need to act in order to retain some semblance of natural refuges are equally great.

The proposed Egmont Key refuge consists of approximately 300 acres at the entrance to Tampa Bay and is a habitat for endangered species, along with a wide variety of other forms of wildlife. The natural population pressures are such in the vicinity that some action is required if the area is to retain at least a small portion of acreage for the preservation and protection of these species.

While public use of the general area will be continued, this legislation would also act to preserve those forms of wildlife which also enhance the pleasure of visitors in observing a wide variety of species in their natural habitat.

The alternatives to enactment may well be to make the area either totally open to recreation on one hand, or to transform it to an oil depot and port facility on the other. The Interior Department appears to be under heavy pressure in this regard.

I therefore join with my colleagues from Florida in urging the prompt passage of this measure and to reaffirm the values this legislation is designed to enhance and preserve.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 8977, a bill to create in the State of Florida, the Egmont Key National Wildlife Refuge.

The refuge is to be created on Egmont Key which is located at the mouth of Tampa Bay on Florida's west coast. This is an historic area, and the island has felt the influence of man's presence dating from Spanish colonial times when a small fortification was erected. At present, the U.S. Coast Guard maintains a lighthouse, a radio station, a barracks and other facilities on 55-acre area comprising the northern tip of the island. The refuge would be comprised of the island's remaining 250 acres. There are no other human residents of the island.

The area of which Egmont Key is a part is the natural habitat for migratory birds and for local species including an endangered species, the eastern brown pelican. The island is composed of open beaches, dunes, and thick stands of palms and some Australian pines. The beach-dune complex provides a home for a variety of sea and shore birds, plus a few small mammals, numerous tortoises, and other species. The shallow waters near Egmont Key are sometimes home to the endangered Florida manatee. Loggerhead turtles, which have been proposed for listing on the endangered species list, nest on Egmont's beaches.

At present Egmont Key is owned by the United States. The Department of the Interior has considered taking administrative action to make the island a refuge, but has been under increasing pressure to allow its use as an oil depot and port facility or a park. The Department of the Interior did testify in favor of making the island a wildlife refuge because of the great need for protected breeding areas and living space for local and migratory wildlife. Egmont Key will join two other wildlife refuges in the general area in providing just such a safe habitat. At the present time, as many as several hundred boatloads of people visit the island on weekends and this pressure poses an increasing threat to the loggerhead turtle and other species. Public use of the island will be continued, but it must be carefully regulated so as to have minimal impact on the natural habitat.

The refuge would be administered subject to a revocable 5-year lease on 5 acres of land held by the Tampa Bay Pilots Association. There is an easement over the land in favor of the Florida Power Corp. H.R. 8977 authorizes the appropriation of funds needed to carry out the legislation. The costs involved are estimated by the committee at approximately $15,000 per year. The land will not cost the Federal Government anything as it is already Federal property.

There has been no testimony against the establishment of the Egmont Key National Wildlife Refuge. By acting favorably on H.R. 8977, the Congress will preserve a beautiful and ecologically important example of the original wilderness of coastal Florida for man's benefit and enjoyment.

Mr. BURKE of Florida. Mr. Speaker, I rise in support of H.R. 8977, to establish Egmont Key, Fla., as a national wildlife refuge. I cosponsored this legislation with all the other Members of the Florida delegation. I am, indeed, proud to be associated with them in this effort.

As I testified before the Committee on Merchant Marine and Fisheries I support preservation of this small island in Tampa Bay in its natural state with recognition of its historical sites which date back to the early Spanish explorers of the 16th and 17th centuries for future generations of Floridians, Americans, and tourists from other lands.

1973 saw many new threats to Florida's environment, including the sale of offshore drilling leases off Florida's west coast. There is also the continuing demand for development of land adjacent to metropolitan areas which forces wildlife further and further from their natural habitat. The Department of the Interior has testified that the key is located in an area where the natural habitat for wildlife is fast diminishing. This is particularly true of the endangered brown pelican.

I hope my colleagues will join with me in voting for this legislation, which will help to insure that Florida's unique environment will be preserved.

Mrs. SULLIVAN. Mr. Speaker, I rise in support of H.R. 8977, a bill to establish Egmont Key National Wildlife Refuge.

Mr. Speaker, Egmont Key is located at the entrance of Tampa Bay in the State of Florida. Except for the portion of the island under the jurisdiction of the Coast Guard and a small tract of land under lease to the Tampa Bay Pilots Association, the remainder of the island would be designated as a wildlife refuge and administered as a part of the National Wildlife Refuge System.

Mr. Speaker, it is urgent that this refuge be established at the earliest possible date, because there are pressures being exerted upon the Secretary of the Interior to allow this island—consisting entirely of public domain land—to be used for such purposes as an oil depot and port facility and a recreation-oriented park.

Mr. Speaker, this island serves as habitat for the endangered brown pelican and a number of other species of water birds, such as egrets, herons, gulls, and terns.

Mr. Speaker, because of the possible threat of turning this historical island into an oil depot or a recreation-oriented park, our colleague, SAM GIBBONS, along with the 14 other Members of the House from the State of Florida, all of whom I would like to commend at this time, took the initiative in introducing legislation that is designed to give the habitat on this island the protection to which it is entitled.

Mr. Speaker, H.R. 8977 was unanimously ordered reported by my Committee on Merchant Marine and Fisheries, and I urge its prompt passage.

Mr. ROGERS. Mr. Speaker, I rise to support H.R. 8977, a bill to establish Egmont Key National Wildlife Refuge. On April 12, 1973, I joined other members of the Florida delegation in introducing a similar bill, H.R. 6911, in order to assure that the unique and unspoiled natural beauty and wildlife of this island would be preserved for years henceforth.

Egmont Key is located just west of Fort DeSoto State Park off the coast of St. Petersburg, Fla., near the entrance of Tampa Bay. Unlike many of the islands and keys off the west coast of Florida, Egmont is a "high-and-dry" island covered with large trees and other vegetation not generally indigenous to the area. The only remnants of civilization remaining on the Key include an old lighthouse rebuilt in 1848, a small unpretentious Coast Guard station and the skeleton of an off-shore gun battery and other fortifications used during the Spanish-American War. The island is a shell collectors paradise and a retreat for many weekend boaters.

I believe that it is necessary for our Nation to preserve these islands of beauty and rich historical significance in Florida and elsewhere. Development of the keys and peninsulas off the coast of Florida has increased at a staggering pace. Orderly development is consistent with the economic growth of the State and necessary to the financial well-being of Florida residents. However, we must not jeopardize the principal drawing card of Florida's tourist industry—its coastal beauty. We can assure people for generations to come that when they gaze out to sea from the bastions of Fort DeSoto, that visions of Spanish galleons, blockade runners, and island dreams are beheld—not high-rise apartments.

Mr. Speaker, I urge my colleagues to join me and the other cosponsors in support of H.R. 8977, which would give the Secretary of the Interior authority to protect and preserve its historical, natural, and recreational values.

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of H.R. 8977, a bill to add Egmont Key in the State of Florida to the National Wildlife Refuge System. As a cosponsor of H.R. 5282, the predecessor bill to this legislation, I was proud to join my colleagues of the Florida delegation in the introduction of H.R. 8977, as approved by the House Merchant Marine and Fisheries Committee.

Located at the mouth of Tampa Bay, Fla., Egmont Key remains today one of the dwindling places of refuge for a large variety of flora and fauna native to Florida. The brown pelican nests in its secluded marshes, safe from the encroachments of civilization.

At the same time, the beaches of Egmont Key provide a valuable recreational resource for the residents of the Tampa Bay area, and on any given weekend there may be hundreds of visitors to the key, boating, picnicking and swimming.

By incorporating Egmont Key into the National Wildlife Refuge System, the House will protect both of these important aspects of the key for the future. The Department of the Interior will be responsible for maintaining Egmont Key as a wildlife habitat and for developing recreational uses compatible with these conservation goals. The cost to the government will be very little, but the future benefits to all Americans will be great. I therefore urge my colleagues to lend their support to final passage of H.R. 8977.

Mr. BENNETT. Mr. Speaker, I rise in support of this legislation. As a boy, many years ago, I walked the sandy shores of this island with my father, who was the meteorologist in that area and had there the help of a resident cooperative weather observer. It is a beautiful and historic piece of land. I am delighted that this legislation, primarily sponsored by our distinguished and able Congressman SAM GIBBONS, is now about to become law.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill before us.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan (Mr. DINGELL) that the House suspend the rules and pass the bill H.R. 8977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRESERVATION OF LANDS KNOWN AS PISCATAWAY PARK

Mr. TAYLOR of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4861) to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes, as amended.

The Clerk read as follows:

H.R. 4861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 4, 1961 (75 Stat. 780), providing for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, as amended, is amended as follows:

(a) In section 2(b), amend the first sentence by striking out "drawing entitled 'Piscataway Park,' numbered NCR 69.714–18, and dated January 25, 1966," and inserting in lieu thereof "drawing entitled 'Piscataway Park,' numbered PIS–P–7000, and dated Revised January, 1973,".

(b) In section 2(b), delete the words "The property herein described is more particularly depicted on the drawing numbered 1961–1, a copy of which is on file with the Secretary of the Interior.".

(c) In section 2(c), delete the first sentence and insert in lieu thereof the following: "Effective on the date of enactment of this Act, there is hereby vested in the United States all right, title and interest in, and the right to immediate possession of, all real property within the boundaries of the parcels designated A, B, C, and D, as shown on the drawing referenced in subsection 2(b). The United States will pay just compensation to the owners of any property taken pursuant to this subsection and the full faith and credit of the United States is hereby pledged to the payment of any judgment so entered against the United States. Payment shall be made by the Secretary of the Treasury from moneys available and appropriated from the Land and Water Conservation Fund, subject to the appropriation limitation contained in section 4 of this Act, upon certification to him by the Secretary of the Interior of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking to the date of payment therefor. In the absence of a negotiated agreement or an action by the owner within one year after the date of enactment of this Act, the Secretary may initiate proceedings at any time seeking a determination of just compensation in a court of competent jurisdiction. The Secretary shall allow for the orderly termination of all operations on real property acquired by the United States in parcels A, B, C, and D of this subsection, and for the removal of equipment, facilities, and personal property therefrom. To further the preservation objective of this Act, the Secretary of the Interior may accept donations of scenic easements in the land within the area designated as 'Scenic Protection Area' on the drawing referred to in subsection (b) of this section."

(d) In section 4, delete "$5,657,000" and insert "$10,557,000".

The SPEAKER. Is a second demanded?

Mr. SKUBITZ. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina and the gentleman from Kansas will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself 5 minutes. I rise in support of H.R. 4861—a bill to amend the act creating the area known as Piscataway Park in the State of Maryland.

BACKGROUND

As most of the Members of the House will recall, in 1961 the Congress enacted legislation which endeavored to assure the preservation of the scenic view from Mount Vernon and Fort Washington. To accomplish this, we created a new unit of the National Capital Park System which is commonly known as Piscataway Park.

After the park was created, several public spirited people—including our former colleague in the House, the Honorable Francis P. Bolton—donated the lands which they had acquired through the Accokeek Foundation in fee simple to the United States for inclusion in the park. Unfortunately, the Government was slow in acquiring the remaining lands and values in this area—as in all areas around Washington—began to escalate. On two separate occasions, the Congress has reconsidered this situation and both times it has voted to increase the authorization ceiling to complete this program.

At the present time, the authorization ceiling totals $5,657,000. During the hearings on this legislation, the members of the Subcommittee on National Parks and Recreation were assured that this amount would be adequate to complete the present land program, but that additional sums would be necessary if additional lands were to be acquired.

Originally, the park was divided into two distinct zones: A fee acquisition zone along the river over which complete Federal ownership was contemplated; and a scenic protection area located adjacent to, but behind, the fee zone.

WHAT H.R. 4861 WOULD ACCOMPLISH

H.R. 4861, as recommended, would modify the park plan by adding certain lands presently within the scenic zone to the fee acquisition area. Briefly, the tracts to be added are these:

First, Marshall Hall Amusement Park—an 11-acre area with existing structures and facilities typical of an area of this kind. Presently, the Government owns a scenic easement covering the area which restricts its future development, but which allows the existing noncompatible uses to continue indefinitely.

Second. Tricent Corporation tract.—A 330-acre tract of land—most of which was once part of the Marshall Hall property. Most of this land was purchased at auction from the owners of Marshall Hall in order to assure its preservation. The current owners, which include Mrs. Bolton, voluntarily sold a scenic easement covering this tract to the Government and they are willing to sell the remainder of their interest to the Government at cost. The members of the subcommittee were told that this land was bought as a holding action until the Government could act.

Third. 4.7-acre parcel.—This small parcel of land is sandwiched in between the boundaries of the existing fee acquisition zone and the areas which would be acquired if H.R. 4861 is approved.

Fourth. Of the three remaining tracts, the members of the subcommittee were told that all are within view of the Mount Vernon Estate, all are outside the existing park boundary, and that some or all of them have already been zoned for commercial development: 157 acres adjacent to the southwest side of Marshall Hall; 14 acres of riverfront land immediately adjacent to Marshall Hall on the downstream side; and 9 acres of land and the marina adjoining Fort Washington Historical Park.

Mr. Speaker, if H.R. 4861 becomes law, these six parcels would become a useful part of the park and would add significantly to the land base upon which the Government could place modest public use facilities. Their acquisition would remove from the scene existing noncompatible uses and would eliminate threatened adverse developments in the future.

H.R. 4861 includes a provision for a legislative taking. The members of the subcommittee concluded and the members of the full committee agreed that this provision was essential if we were to assure the prompt acquisition of the lands involved in this proposal. While there may be arguments on both sides of this question, it is clear that we must move forward quickly if we are to avoid the escalating land prices that we have experienced in this area in the past and if we are to complete this program in time for the celebration of the Nation's Bicentennial.

COST

According to the estimates provided to the committee by the spokesmen for the Department of the Interior, the costs associated with this legislation may total as much as $4.9 million. While the members of the committee do not have the professional expertise which is available to the Department in making estimates of this kind, we certainly hope that these lands can be acquired at a price substantially lower than the estimates provided to the committee.

CONCLUSION

Mr. Speaker, few places are as sacred to the hearts of all Americans than the home of our first President. Probably no park area has consistently generated more mail from our constituents in the last few years than this small park across from Mount Vernon. If H.R. 4861—by our late and beloved colleague from Pennsylvania, Hon. John Saylor—is enacted we should, I hope, close the book and consider our mission accomplished.

I have a statement by the Honorable CARL ALBERT, the Speaker of the House of Representatives, which I will read into the RECORD:

> Mr. Speaker, I rise in support of H.R. 4861. This measure would culminate the long-time effort to complete the National Piscataway Park opposite Mt. Vernon. Our late beloved colleague, the Honorable John P. Saylor, labored to this end for better than a decade and it would be a fitting tribute to those efforts to finalize this park in time for the Bicentennial in 1976. It is a pleasure to join with the distinguished Chairman of the Committee on Interior, Mr. Haley, the distinguished Chairman of the Subcommittee, Mr. Taylor, and the distinguished ranking Members, Mr. Hosmer and Mr. Skubitz, respectively, in an effort to complete one of the outstanding parks, to beautify the area and honor our first President.

Mr. SKUBITZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. HOSMER. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I am happy to yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, I give my support to H.R. 4861. This bill is designed to bring to completion the acquisition of lands in Piscataway Park, so as to embrace within the park those lands needed to fully protect the historic view from Mount Vernon.

Much of the land to be acquired is yet threatened by the possibility of commercial development. After 12 long years of continuing effort to complete this project since its inception with Federal legislation, we are now putting the finishing touches on the effort with this bill.

Had we acted years earlier to do what we are doing today, we would have saved considerable money. I have not known of a case yet where procrastination in buying parkland has saved any money, and in many instances, such as this one, the delay has resulted in the complete loss of the land to conflicting and adverse uses.

We can be grateful that in the case of Piscataway Park, the interest of local people has been intense in safeguarding this land and the historic view it represents. More than half of the acres and costs of preserving it have been borne by dedicated individuals and organizations. It seems warranted therefore, that the Federal Government should take the necessary action to bring the completing, and hopefully final protective steps, to assure the permanent integrity of the lands which provide this great and historic view from the estate of our Nation's first President.

Mount Vernon is expected to be one of the most popular and heavily visited sites in the country during our Bicentennial celebration. It seems only logical and responsible that the Congress should take this most important and timely step to assure the increased protection of this historic view, and I urge my colleagues to vote with me in support of this important piece of legislation.

This legislation was introduced and strongly supported by our departed colleague, the former ranking member of the Interior and Insular Affairs Committee, the late John Saylor, of Pennsylvania. I think we should pass it particularly in tribute, at least, to this great protector of America's natural heritage.

PURPOSE

The purpose of H.R. 4861 is to authorize the acquisition of certain lands in Maryland across the Potomac River from Mount Vernon so that the integrity of the view from George Washington's home can be preserved.

BACKGROUND

Piscataway Park, along the Maryland shore of the Potomac River, was created in 1961 as a unit of the National Capital Parks system for the purpose of assuring the preservation of lands in their historic State within view of the Mount Vernon estate across the river. Because most of the desired property was then in private hands, the 1961 act called for the purchase of parts of it and the acquisition of scenic easements—agreements to restrict development—from the owners for other parts. To accomplish these purposes, Congress has authorized the spending of some $5.66 million up to this time.

Since 1961, scenic easements covering much of the designated territory have been conveyed voluntarily to the Government by private owners, while more than half of the acreage in the fee acquisition zone has been donated. But a sizable portion, about 300 acres, is presently controlled by the owners of an amusement park, Marshall Hall, which is operated on part of this land. In the 1961 act this tract was included in a scenic easement zone. It was not until 1972, however, that an agreement was reached with the owners to regulate the use of the land. During the intervening years, the owners of Marshall Hall considered several different schemes for developing their land. At one point, plans were unveiled and a zoning permit obtained for the establishment of a theme park similar to Disneyland, but litigation halted this. Later an agreement between the Park Service and the owners was worked out to exchange this land for parklands in Greenbelt, Md., but this agreement was voided by the Interior Department. The present agreement forbids the owner from altering the general appearance or dimensions of the present structures, except that they may construct low density, single-family residences. They may continue to operate the amusement park as it presently exists.

Many people concerned with preserving and enhancing the historical and cultural value of the Mount Vernon area, including the late Representative John P. Saylor, have come to the conclusion that full control over the use of the lands within the protected area should be secured and that some small additional tracts should be included. The site of Fort Washington, which is currently maintained by the Park Service, is located on a tract just across the mouth of Piscataway Creek from the Marshall Hall site. A marina serving the amusement park is considered by many to be detrimental to the value of Fort Washington and to the view from there to Mount Vernon.

Since Mr. Saylor's death, the gentleman from Kansas (Mr. **SKUBITZ**) has led an effort in the House to secure support for H.R. 4861. To date he and others have secured almost 250 signatures in support of the bill.

PROVISIONS

H.R. 4861 amends the 1961 act by granting to the Government immediate title to various tracts of land encompassed in the preservation area. These tracts include the 111 acres on which the Marshall Hall amusement park is located and two adjacent tracts—controlled by the Marshall Hall operators and comprising about 170 acres—which include a portion of Potomac River shoreline and are presently zoned for commercial development and are not covered by a scenic easement. The other parcels of land conveyed are a 330-acre tract of undeveloped land over which a scenic easement was voluntarily conveyed by the present owners; and two smaller tracts not covered by scenic easements, one containing the present Marshall Hall marina adjacent to Fort Washington. The bill authorizes whatever sums are necessary to compensate the present owners adequately for the land conveyed.

COSTS

The Interior Department contends that some $4.9 million in additional funds will be needed for the acquisition of the remaining lands and interests in the area encompassing Piscataway Park.

COMMITTEE ACTION

By a record vote of 28 for and 5 against—two voting present—the full committee approved H.R. 4861 after full consideration of the Interior Department's expressed lack of support for the bill.

DISSENTING VIEWS

Mr. **O'HARA**—along with cosigners **SAM STEIGER**, **TOWELL**, and **KETCHUM**—questions the wisdom of additional spending for Piscataway Park when the uses to which it will be put have not been clarified. He wonders if $4.9 million is needed if the park is to provide primarily a scenic background to Mount Vernon. If this is the case, he argues that the existing scenic easement would probably be adequate, although he does admit that some additions might be necessary. But if the park is to be developed as a recreational facility, he points out that little development has occurred to date or is planned and that objections to this have been voiced in the past by local landowners.

VIEWS

The Department of the Interior, contends that the existing restrictive easements and land acquisitions cover all of the territory included in the purview of the original act of 1961 and give adequate protection for these interests. The Department takes the position that new legislation and new spending for land acquisition is not needed.

Mr. SKUBITZ. Mr. Speaker, for 12 long years John Saylor fought to protect the panoramic view across the Potomac River from Mount Vernon—considered to be one of the finest in the world.

John Saylor knew that spoilation would inevitably result from the unchecked encroachment of man's development.

First it was the threat of the Washington Suburban Sanitary Commission which threatened to build a sewage disposal plant. When the National Park Service found itself helpless and the State of Maryland could do nothing, it was John Saylor and our former colleague, the Honorable Frances Bolton of Ohio, who took the initiative.

Through the generosity of Mrs. Bolton, who purchased 444 acres of land and donated it to the Federal Government, the first battle was won.

But that was not the only battle—nor will it be the last—unless this Congress acts favorably on H.R. 4861.

At another time, it was proposed to use a part of the area for an oil tank farm—at another as an excellent spot for a housing development and high-rise apartments—still another, as a Disneyland-type theme park.

In 1961, Congressmen John Saylor and Wayne Aspinall introduced legislation to preserve for the benefit of present and future generations, the historic and scenic values of lands located in Princes Georges and Charles Counties in a manner that would insure the retention of the natural beauty of such lands, as it existed at the time of construction and active use of Mount Vernon.

It was never intended to be a recreational area except in a very limited sense. The hearings and discussion on the initial legislation will bear out.

The 1961 act and subsequent legislation has resulted in most of the land coming under Federal supervision, through fee acquisition or scenic easements.

So strong has been the support of local residents that more than half of all the acreage in the park has been by donation, either in fee or in scenic easements.

There are yet remaining several parcels of land which are unprotected and whose potential development still constitutes an ominous threat to the complete preservation of this view.

H.R. 4861—the bill before us—is John Saylor's final effort to complete the acquisition of lands for Piscataway Park—to guarantee forever, that majestic view across from Mount Vernon.

There are still several key parcels which are currently zoned commercial—parcels upon which we have no easements and upon which commercial developments can be constructed up to 70 feet in height. These areas have been the subject of recurring speculation and rumors of plans for various forms of obtrusive development which would be clearly visible from Mount Vernon.

Considering how much effort has been devoted over the years to securing the protection of the acreage embraced by the park, how ironic it would be, at this late date, to permit some adverse development in the small remaining unprotected areas.

It is true that the Department did submit a negative report; but the Interior Committee, after full consideration, reported the bill favorably by a vote of 28 to 5.

Mr. Speaker, the gross inaccuracies and misrepresentations of facts in the departmental report are shocking.

The kindest thing that could possibly be said for it is that the author did not review the history of the project prior to the writing of the report.

For example, the report, in recommending against the enactment of the bill says:

> Neither at the time of the original enactment nor at the time of subsequent increases in appropriation authorizations in 1966 and 1972 did the Congress or the Department consider fee acquisition of Marshall Hall . . . necessary to protect the overview.

Now, what are the facts?

The initial legislation introduced by John Saylor and Wayne Aspinall in the House and by Senator ANDERSON in the Senate specifically provided for the taking of Marshall Hall.

Why was it finally excluded from the bill in 1961? Was it because the Department did not consider it necessary to protect the overview?

Well—let me read from the hearings on H.R. 7852 and House Joint Resolution 459 dated August 17, 1961. T. Sutton Jett, Superintendent of the National Capital Parks, speaking of the Marshall Hall area said:

> We have recommended as you will see in the departmental report, that the southern tip of this property, which is Marshall Hall, be excluded.
>
> We did this purely because of economic reasons only. We thought this would be very expensive property.

So we see that the determining issue was cost. The facts are that we could have purchased the land then for a few dollars more than the easement cost in 1972.

On March 8, 1972, Richard Stanton, Assistant Director for National Capital Parks of the National Park Service, prepared a report for the Department entitled, "Potential Adverse Environmental Impact of Two Tracts of Land Controlled by Joseph I. Goldstein Across From Mount Vernon."

That report says:

> Lands zoned commercial in Charles County may be used for virtually any commercial use . . . with a height limitation of 70 feet.

Mr. Stanton then submitted a photograph and said:

> Photograph A was taken from the lawn at Mt. Vernon and shows Marshall Hall Amusement Park and the boat landing dock. Superimposed over this photograph is a sketch of a six story, 70 foot apartment project . . . which would be a disastrous intrusion on the Mt. Vernon scene.

Mr. Speaker, that is what this bill is all about—to remove the possibility of such intrusions and to not wait until they happen and the costs shoot sky high.

As further evidence that the Department misrepresented the facts when it says it never contemplated acquiring the Marshall Hall area in fee simple, I read from the Senate subcommittee hearing on February 27 and 28, 1972, on a similar bill to H.R. 4861:

> Senator BIBLE. Did the Park Service or did they not enter into an agreement with Mr. Goldstein on the Marshall Hall property for exchange?
>
> Mr. HARTZOG. I entered into an agreement with Mr. Goldstein to trade him completely off the river for all of his properties, subject to administration approval of legislation and its enactment by the Congress, which would have the effect of adding this 14 acres, this 157 acres and this 9 acres and acquiring the remaining 111 acres in Marshall Hall in fee. Then Mr. Goldstein is off the river and we are both happy about it.

Mr. Speaker, note, this is precisely what John Saylor's bill provides:

> Mr. BIBLE. Does that meet the approval of—is that the administration's position?
>
> Mr. HARTZOG. No, sir; it is not.
>
> Mr. BIBLE. Why doesn't the administration approve this?
>
> Mr. HARTZOG. I have not had an opportunity to talk with the Assistant Secretary [Nat Reed], but I am advised by the staff when they briefed him on this last week he indicated that he was not going to approve it and he was in turn going to ask for additional money to buy it in fee.
>
> Mr. BIBLE. To buy in fee?
>
> Mr. HARTZOG. Yes, sir.

In light of this testimony, Senator BIBLE directed Assistant Secretary Reed to appear before the committee and this interesting exchange took place:

> Senator BIBLE. You are familiar with the letter of agreement under date of February 4, 1972, between George Hartzog and Joseph I. Goldstein, president of Star Enterprises, Ltd.?
>
> Mr. REED. Yes, sir.
>
> Senator BIBLE. My understanding of the testimony of Mr. Hartzog yesterday was though he approved of an agreement, you did not?
>
> Mr. REED. That is correct.
>
> Senator BIBLE. Why do you not approve it?
>
> Mr. REED. I would have difficulty in supporting a plan that exchanged lands within Greenbelt Park for that very desirable effort to protect the Piscataway view.
>
> Mr. BIBLE. Why?
>
> Mr. REED. I believe the Greenbelt Park is of inestimable value at this time. I think the value is so great that I cannot conceive of transferring it.
>
> Mr. BIBLE. The fact that it was in a letter that they were going to put an amusement park on the Beltway, does that have anything to do with your decision?
>
> Mr. REED. Yes, sir. I think that besides the amusement park aspect, to allow this number of acres to go into high-density development is contrary to my personal belief as to the value of 1,100 acres of urban open space, of natural park. I believe wholeheartedly in the concept of trying to clean up the view of Piscataway and protecting that majestic view from the Mt. Vernon front lawn. But if we do that, I believe we should pay for it in cash and not by a land swap.

Well, there you have it—the facts completely contradict the departmental report.

Now, what has happened since February 1972, when the Department requested that the Senate Committee defer action on the companion bill pending the outcome of the legal action by the Department for the condemnation of a scenic easement on Marshall Hall proper.

The Senate granted the request, and since then the Department purchased a scenic easement on Marshall Hall.

Do you know what it cost—$8,100 an acre—34 percent of the fee value of the land. The amusement park still stands as an eye sore and Mr. Goldstein still operates his amusement park.

Nothing was done about the additional lands which are zoned commercial. Structures up to 70 feet high can be constructed, and the Department admits such structures would be visible from Mt. Vernon.

This bill serves to correct the miserable mess the Department is getting us into.

Make no mistake—let the bulldozers roll on this now unimproved land, and the Department will come running and we will be called to pay manifold what we can get it for now as unimproved land.

Mr. Speaker, October 16, 1973, is a day I shall not forget. That was the day John Saylor learned of his health condition. That was the day Nat Reed submitted the Department's negative report. That was the last day John Saylor ever attended a National Park subcommittee meeting.

I waited for John to speak out. Instead, he smiled and in a quiet voice said:

> Mr. Secretary, I do not expect to be around here a decade or two from now, at least not as a Member of Congress . . . if I have to wait ten or twenty years my only hope is that my grandchildren can go to Mt. Vernon, look at it and say, well, at least Granddad thought about it and tried to do something about it, and maybe if they had listened to him . . ."

And then looking at Nat Reed he said:

> Maybe someday long after Nat Reed is gone—long after John Saylor is gone—someone may be able to do this.

Mr. Speaker, neither you nor I believe that John Saylor would want this bill passed if it was not a meritorious measure. He had nothing to gain personally. It was not in his district. Nor would Wayne Aspinall support it if he did not believe in it.

Mr. Speaker, I urge its passage.

Mr. Speaker, I would like to have inserted in the RECORD at the end of my statement, the following letter which is addressed to you and bears the signature of 227 Members of the House.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 20, 1973.

Hon. CARL ALBERT,
Speaker of the House,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: H.R. 4861 was ordered to be favorably reported by an overwhelming majority (28 to 5) of the Interior and Insular Affairs Committee. This bill seeks to complete, after 12 years, the Piscataway Park on the Potomac River across from Mount Vernon.

When H.R. 4861 was introduced by our late and beloved colleague, the Honorable John P. Saylor from Pennsylvania, it was judged to be a culmination of his pioneering efforts in behalf of this important area. Congressman Saylor's last committee meeting on October 16, 1973, concerned H.R. 4861. It was on that day that John learned the sad news of his bad health condition, and also learned of the unfavorable position of the Department of the Interior on this bill.

While I am sure the passage of this legislation can serve as a living memorial to our late respected colleague, if this were the only basis for favorable action, John Saylor would be the first to object. His more than twenty years as one of the Nation's outstanding conservationists was achieved by supporting and working for highly meritorious programs and projects.

Two basic elements are involved in bringing this legislation to the floor. The first is that it not only completes the Park but, in so doing, removes serious hazards to the Park's scenic resources and provides greater access for recreation within the purposes of the act. The second is the almost incomprehensible inaccuracies of the unfavorable report submitted by the Department.

Some areas of private commingled lands are zoned commercial, and such development can do serious disservice to the entire Park. Other areas, some covered with scenic easements, still maintain uses not in conformance to the Park proper.

The report of the Department contended that the fee acquisition of Marshall Hall and other lands had never been considered. Actually the original 1961 proposals by Congressman Saylor, Congressman Aspinall and Senator Anderson did precisely that. Three later instances further disprove this allegation in the report as evidenced by bills introduced, and hearings regarding the specific lands that would be acquired in fee by H.R. 4861 occurred as recently as last year.

The report contended that the areas in the bill were either not visible from Mount Vernon or were currently under protection. The Department's own study, including pictures completed only one year ago, clearly refutes their unfavorable report and this was finally admitted during the hearings by the Administration witness. Also, the area is not under adequate protection and one owner is reported to be planning the construction of an "observation tower" on land which currently has no restraints on such construction.

We support H.R. 4861, as reported by the Interior Committee, as a needed final step. With the Bicentennial Year soon to be celebrated, what would be more appropriate?

ALPHABETICAL LIST OF SIGNERS

Abdnor, James; Adams, Brock; Anderson, Glenn; Anderson, John; Andrews, Mark; Archer, Bill; Arends, Leslie, Baker, LaMar; Barrett, William A.; Bauman, Robert; Bell, Alphonso.

Bennett, Charles; Biester, Edward; Bingham, Jonathan; Blatnik, John; Brademus, John; Brasco, Frank; Bray, Bill; Breckinridge, John; Brooks, Jack; Broomfield, William.

Brown, Clarence; Brown, Garry; Brown, George; Broyhill, James; Broyhill, Joel; Buchanan, John; Burke, J. Herbert; Burke, James A.; Burke, Yvonne B.; Burleson, Omar.

Burlison, Bill; Burton, Phillip; Butler, M. Caldwell; Camp, John N.; Carey, Hugh; Carter, Tim Lee; Chamberlain, Charles; Clancy, Don; Clark, Frank.

Clausen, Don; Cochran, Thad; Cohen, William; Collins, James M.; Conte, Silvio; Corman, James; Crane, Philip; Cronin, Paul; Daniel, Dan; Davis, John.

Davis, Mendel J.; Dennis, David; Dent, John H.; Devine, Samuel; Dickinson, William; Dingell, John; Donohue, Harold; Dorn, Wm. J. Bryan; Duncan, John; Eckhardt, Bob.

Edward, Don; Eilberg, Joshua; Erlenborn, John; Esch, Marvin; Eshleman, Edwin; Fascell, Dante; Findley, Paul; Fish, Hamilton; Flood, Daniel.

Foley, Thomas; Frelinghuysen, Peter; Frenzel, Bill; Frey, Louis; Fuqua, Don; Gaydos, Joseph; Gettys, Tom; Gibbons, Sam; Goodling, George.

Gonzalez, Henry; Gary, Kenneth; Green, William; Grover, James; Guyer, Tennyson; Hammerschmidt, John Paul; Hanrahan, Robert; Hansen, Orval; Harsha, William; Hastings, James.

Hechler, Ken; Heckler, Margaret; Heinz, H. John; Helstoski, Henry; Henderson, David; Hicks, Floyd; Holifield, Chet; Horton, Frank; Hosmer, Craig; Howard, James.

Hudnut, William; Hungate, William; Hunt, John; Hutchinson, Edward; Ichord, Richard; Johnson, Albert; Johnson, Harold; Johnson, James; Jones, James; Karth, Joseph.

Kazen, Abraham; King, Carlton; Kluczynski, John; Kuykendall, Dan; Latta, Delbert; Leggett, Robert; Lujan, Manuel; McClory, Robert; McCloskey, Paul; McCollister, John.

McCormick, Mike; McDade, Joseph; McEwen, Robert; McFall, John; McKay, Gunn; McKinney, Stewart; Macdonald, Torbert; Madden, Ray; Mallary, Richard; Mann, James R.

Mathias, Robert; Mathis, Dawson; Meeds, Lloyd; Melcher, John; Metcalfe, Ralph; Miller, Clarence; Minish, Joseph; Mink, Patsy; Mizell, Wilber; Montgomery, G. V.

Moorhead, William; Morgan, Thomas; Mosher, Charles; Moss, John; Myers, John; Nelsen, Ancher; Nichols, Bill; Parris, Stanford; Patten, Edward; Pettis, Jerry.

Pickle, J. J.; Podell, Bert; Powell, Walter; Preyer, Richardson; Price, Robert; Quie, Albert; Railsback, Tom; Randall, William; Regula, Ralph; Rees, Tom.

Robinson, J. Kenneth; Robison, Howard; Rogers, Paul; Rhodes, John; Roncalio, Teno; Roncallo, Angelo; Rooney, Fred; Rosenthal, Benjamin; Roush, J. Edward; Roy, William.

Roybal, Edward; Ruth, Earl B.; Sandman, Charles; Satterfield, David; Schneebeli, H. T.; Sebelius, Keith; Seiberling, John; Shriver, Garner; Shoup, Dick; Shuster, E. G.

Sisk, B. F.; Skubitz, Joe; Slack, John; Smith, Henry; Smith, Neal; Snyder, Gene; Spence, Floyd; Stanton, J. William; Stanton, James; Stark, Fortney.

Steed, Tom; Steele, Robert; Steelman, Alan; Steiger, William; Stephens, Bob; Stratton, Samuel; Talcott, Burt; Taylor, Roy; Thomson, Vernon; Thone, Charles.

Udall, Morris; Ullman, Al; Van Deerlin, Lionel; Vander Jagt, Guy; Vanik, Charles; Veysey, Victor; Vigorito, Joseph; Waggonner, Joe; Waldie, Jerome; Wampler, William.

Ware, John; Whalen, Charles; White, Richard; Whitehurst, G. William; Widnall, William; Wiggins, Charles; Wilson, Charles; Wilson, Charles H.; Williams, Lawrence; Winn, Larry.

Wright, Jim; Wylie, Chalmers; Yatron, Guy; Young, C. W.; Young, Don; Young, Samuel; Zablocki, Clement; Zion, Roger; Zwach, John.

Mr. BROYHILL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Speaker, I associate myself with the remarks of the gentleman from Kansas (Mr. SKUBITZ) and rise in support of this legislation.

Mr. Speaker, in previous deliberations, Congress determined that the Government of the United States would protect the scenic view from the veranda of George Washington's home at Mount Vernon.

Therefore, the question before us today is not "if" but "how."

There is only one way, Mr. Speaker, and that is by fee acquisition of any and all property across the river from Mount Vernon known as the Piscataway Park area, which may now or in the future be savaged in a manner that will destroy the historic tranquillity and breathtaking beauty of Mount Vernon.

Millions of our citizens, Mr. Speaker, visit the Nation's Capital each year, young, old, the average American, distinguished citizens from abroad, the people they represent who yearn to see the magic of democracy performing its miracles of freedom now and in another era.

The shrine of their hope is Mount Vernon.

The restoration of their faith is Mount Vernon.

The historic transcendency of respect for this country is Mount Vernon.

It was a vision of excellence that led George Washington to select Mount Vernon as the site of what became the Nation's eternal home.

It was a decision of excellence that led to its preservation and the actions of previous Congresses to see that that decision was sustained.

We here in this Congress can reaffirm that historic excellence by a similar act of excellence of our own today.

There are no cost-overruns involved in H.R. 4861, Mr. Speaker. We are not deliberating the intricies of sophisticated missiles or computer-complex guidance systems to defend America.

We are talking about the meaning of freedom and their effort to preserve its visibility by an expenditure of $4,900,000—a sum that probably would not cover the cost of cigarette sales in the District of Columbia in the month of February.

In 1966 and again in 1972 Congress turned its attention to what was going on across the river from the historic panorama of Mount Vernon.

Aroused private citizens were generous in their efforts of support to fend off commercial developers; twice Congress lent a hand. Subsequent developments have brought about the need for further congressional action, to meet the spawning efforts of commercialism some landowners contemplate despite the pleas of many of us for restraint.

What we thought we were taking were conclusive actions on two previous occasions but now we are threatened anew by the rising pursuit of Disneyland dollars.

We are the people's weapon in this assault on history, Mr. Speaker, you and me, this Congress, today.

The pink glow of a setting sun on the storied white columns of the veranda at Mount Vernon may soon be supplanted by the blood-red reflection of a neon "For Rent" sign from across the river.

The stillness of Mount Vernon that reduces visitors to whispered awe, unless we act, may well be violated by the shattering cacaphony of a battered calliope, forever disturbing the silence and reverence of those of us who are warmed by its purity.

The sweeping panorama of the Nation's historic front yard at Mount Vernon is a verdant testament that beauty is a rigid and eternal verity in our faith in our forefathers.

We will short-change every generation to follow us, Mr. Speaker, if we allow the periphery of this sanctuary to be marred by a water tower, an observation platform, the sights and sounds of a circus, the debris of neglect, the flaunting of history barely written for a growing nation. We are repelled by the destructiveness of radicalism yet what is more radical than the devastation of a national monument.

We propose in H.R. 4861 no more, no less than the final solution to the nagging preponderance of commercial interest and activity across the Potomac River from Mount Vernon.

We propose in H.R. 4861, no more, no less than previous Congresses sanctioned. The purchase of that land which will round it out in final settlement, in a manner adequate to totally discourage further exploitation, of sufficient acreage to close the door on it forever.

We propose no more, no less, Mr. Speaker, in H.R. 4861, than an act of esteem on the part of those of us chosen to be the law-givers of this land, that history, like faith, is in constant need of renewal if it is to survive.

I am talking about 625.7 acres of land, Mr. Speaker, a speck of soil on the face of the earth, a dot in the millineum of man and the use he makes of it.

In its wisdom, the Committee on Interior and Insular Affairs of this Congress has approved, as amended, H.R. 4861.

In the meaning of its approval, it said to each Member of this Congress, to each patriot in this Nation, to each child in our schoolrooms, this is truly your land and mine, to hold in trust and faith, to protect and secure, to honor and respect, not only the dreams of freedom under democracy, but its environments as well.

Here today, Mr. Speaker, as Members of this Congress, we can say to a nation beset by the threshings and anxieties of tomorrow, a nation concerned and dubious as we near the anniversary of our 200th year of existence as the greatest Government and land on Earth, that growth and progress is meaningless if we obliterate our heritage in seeking it.

Our big issues, Mr. Speaker, our energy shortages, our cost of living and our ecology, concern us all. There are, however, minor essentials woven into the skin of democracy, as well as major ones.

It is our business not to neglect any of the essentials.

It is our obligation to strengthen each strand of our past as we study the canvas of our future.

It is our right and our duty to lay the hand of restraint on any facet of our progress which, by design or accident, mars the memory of the places and events we hold sacred.

H.R. 4861 adds to our strength and unity, our determination that we shall maintain for mankind, in probity and excellence, the shrines, that patriotic Americans have selected for their pilgrimages.

Surely, Mr. Speaker, Mount Vernon is preeminent and I urge favorable consideration of H.R. 4861 because it is, in community, commonsense and storied justice.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Speaker, I associate myself with the remarks made by my distinguished colleage, the gentleman from Kansas (Mr. Skubitz). I personally feel it would be a national disgrace to have the view from Mount Vernon ruined for all of our future generations, and I certainly hope that this legislation receives most favorable consideration.

Mr. SKUBITZ. I thank the gentleman from Pennsylvania.

Mr. EVANS of Colorado. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman from Kansas for yielding.

Mr. Speaker, in reviewing some of the matters in relation to this bill it came to my attention that most of the land which would be acquired is currently subject to scenic easements. Is that correct? Can the gentleman tell me that?

Mr. SKUBITZ. Some of it is subject to scenic easements, but there are 14 acres across from Mount Vernon and 157 acres adjacent that, which are not, and all of these are zoned commercially, and on these properties one can build structures up to 70 feet in height. As the report I cited from the Department says, such development would work an instrusion over the view. The Department, in its report, has told us that the Marshall Hall area was not visible from Mount Vernon.

Let me tell my colleagues that the best proof is a visit to the area. If I can stand at Marshall Hall and see Mount Vernon, the folks at Mount Vernon can surely see me.

Mr. EVANS of Colorado. I have just one other question that I would like to address to the gentleman. We are told that people in the area involved would not look kindly upon the property being developed for increased use on the part of the public. Can the gentleman give me any indication about the extent to which this would be true?

Mr. SKUBITZ. I do not have any indication of that. I wonder if the chairman of the subcommittee knows anything about that.

Mr. EVANS of Colorado. My question is that we have been told the people in the area would be very much opposed to any increased use of this land if it was acquired by the Government. Can the gentleman tell me what is the attitude of the people in the area in this respect?

Mr. TAYLOR of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I know some of the people in the area are for this project because some of them have talked to us. No person has indicated that they are against that.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. I would like to say a commercial use that would permit structures 70 feet in height would certainly impose a much greater hardship on the residents presently living near this area. If my memory serves me correctly, we have some residential homes over there, single homes. We cannot compare them with 70-foot-high office buildings or high-rise apartments; so I think that by taking this step we are actually going to be protecting the residents of this area much more than if we do not take it.

Mr. EVANS of Colorado. Mr. Speaker, I have one final question——

Mr. SKUBITZ. May I say to my colleague, we have easement rights there on Marshall Hall. The Department paid $8,100 an acre for easement rights, over one-third of its fee value, and the owner still operates his amusement park. He can repair it. He can do nearly anything he wants.

Now, what we are trying to do is to pay the difference between that and taking it over and get this thing cleared away once and for all.

Mr. EVANS of Colorado. That was my last question. To what extent will the price we are required to pay for this land be different from the price we have to pay for esthetic easements?

Mr. SKUBITZ. We paid $8,100 an acre for easement rights on Marshall Hall, which is approximately 34 percent of its value, and we have nothing.

Mr. EVANS of Colorado. Does the gentleman have any assurance that the value we have already paid will be subtracted from what we are to pay?

Mr. SKUBITZ. Yes.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Johnson) a member of the committee.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 4861. This matter has been before our committee for the past 16 years. I think we have developed a very good bill here and it will preserve the area across from Mount Vernon, as the previous speakers have stated. I think it is a very much needed piece of property on the Potomac River.

I went to join my colleagues today in support of the enactment of H.R. 4861, as reported by the Committee on Interior and Insular Affairs. As everyone knows, this legislation adds certain lands to the fee acquisition area of Piscataway Park—the area immediately across the Potomac River from Mount Vernon.

BACKGROUND AND OBJECTIVE

At the present time, the Federal Government owns fee title to 837 acres of land in the park and it holds scenic easements on 2,580 acres within the "scenic protection area." Originally, when the Congress considered the creation of this area in 1961, we expected much of the land and all of the easements to be donated and we anticipated prompt acquisition of the remaining lands in the fee acquisition area. In the years that have followed, some public-spirited individuals and organizations have donated some very valuable lands to the Government for the park, and many property owners have voluntarily granted scenic easements to the Government.

To complete the project, the Congress authorized increased appropriations for land acquisition on two separate occasions; however, those increases did not contemplate any change in the existing park plan. H.R. 4861, if enacted, will alter the existing program by adding six tracts of land to the fee acquisition zone and by providing for the immediate transfer of fee simple title to the Government.

NEED FOR ADDITION OF LANDS

Presently, some of the lands—including the 111-acre Marshall Hall Amusement Park and the 330-acre Tricent Corp. tract—are within the "scenic protection zone." Scenic easements on these properties have been purchased by the Government, but the amusement park will continue to operate even though it constitutes a serious incompatible use under the terms of the scenic easement unless the fee title is acquired. In addition, the present scenic control gives no right of public access or use of this area, even though it could include a reasonable access route to the riverfront area.

The remaining lands to be added to the park are entirely outside the present boundaries. Two of the tracts—one a 14-acre waterfront parcel and the other a 9-acre marina property—have already been zoned for commercial development in spite of the fact that they are visible from the Mount Vernon estate. Another tract—totaling 157 acres—is located adjacent to the Marshall Hall-Tricent tract and could be commercially developed in future years. In short, Mr. Speaker, most of the members of the committee felt that all of these properties should be acquired in fee in order to assure the protection of the immediate view from Mount Vernon indefinitely.

While the acquisition of the properties will enable the Government to remove the incompatible facilities in the area will permit better access to the riverfront area, and will eliminate the possibility of future development, it will also provide a significant addition to the modest land base presently in Federal ownership. The addition of these six tracts will increase the present Federal holdings by nearly 75 percent.

Of course, everyone knows that no Federal funds can be invested in lands which are not owned in fee by the United States unless Congress grants a specific exemption. I am hopeful that after these lands are acquired by the Park Service that a more aggressive program will be undertaken to make it useful to the public. Modest facilities—trails, picnic areas, and parking places—will make the park a real asset to the people of the Nation who wish to view Mount Vernon from the Maryland side of the Potomac and should not interfere with the scene as it is viewed from George Washington's home.

NEED FOR LEGISLATIVE TAKING

Mr. Speaker, during our deliberations there was a considerable amount of discussion about the legislative taking provision. While I recognize it is an unusual provision in legislation of this kind, I believe that the Members of the House will want this matter finally and fully settled. This park, as I said earlier, was authorized in 1961. Due largely to departmental footdragging and inadequate funding, it has lingered far too long and, consequently, it has been more costly to the taxpayer than seemed to be necessary. By requiring the immediate transfer of title, the Congress will assure the prompt settlement of the issue.

Naturally, we are interested in completing this program as inexpensively as possible. Under the terms of the legislation, the owners will be entitled to just compensation as determined by the court—and the full faith and credit of the United States is pledged to satisfy any judgment. At the same time, Mr. Speaker, the United States will assume ownership so that this legislation will assure the completion of the essential ingredients of the park prior to the Nation's bicentennial celebration.

CONCLUSION

Mr. Speaker, our late colleague—Hon. John Saylor—was always the leader in the effort to preserve this area. He was the original sponsor of the legislation; he fathered it when it required further congressional action; and he sponsored the bill which is now before the House. No person had a greater interest in this area than the ranking minority member of the committee and I know he would be pleased to know that the gentleman from Kansas has assumed the responsibility for pursuing this matter.

I am pleased to join my colleagues on both sides of the aisle in urging the adoption of H.R. 4861, as amended.

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I thank the gentleman for yielding.

I asked for this time to express my support for H.R. 4861. Also, I think a compliment is in order for both the floor manager, the gentleman from North Carolina, and also for the ranking minority member of the subcommittee, the gentleman from Kansas (Mr. SKUBITZ).

It seemed to me that every time I ran into the gentleman from Kansas this past fall, he asked me again to sign a letter he carried around with him. It was a letter to the Secretary of the Interior urging preservation of Piscataway Park. We assured him that we had already signed his letter. But each time he looked at the list of Members to be sure our name was there. Each time I looked just as carefully to see if the letter pertained to Piscataway Park across from Mount Vernon.

All of us have been up and down the hill on the so-called Mount Vernon view. The gentlewoman from Ohio, Mrs. Bolton, worked hard on this project for several years.

Mr. Speaker, I was amazed to read the content of the dissenting views in the report submitted by four members of the committee. Surely they would not want to settle for a scenic easement when the purchase in fee would let this land be owned as a national park and part of our national heritage.

I note that this 625 acres to be purchased in fee may cost $4 million. That may seem high but if we wait much longer, it will cost a lot more than that.

The time to act is now. We want to preserve the view from Mount Vernon. We want to preserve both views, the view to Mount Vernon from across the river and the view from Mount Vernon to the other bank of the Potomac as it was in Washington's day.

Mr. Speaker, I congratulate the Members on both sides of the aisle for their work, and associate myself with the remarks made by both the ranking minority Member and by the floor manager.

Mr. Speaker, I strongly urge passage of the bill.

Mr. O'HARA. Mr. Speaker, it is a matter of regret to me that the backers of H.R. 4861 have seized upon the good name of the Honorable John P. Saylor from Pennsylvania, a good conservationist, now deceased, to gain support for this bill.

I agree with the principle objectives of the 1961 legislation which created Piscataway National Park—the preservation and protection of the historic, cultural, and recreational values of the lands situated along the Potomac River, which may be viewed from George Washington's Mount Vernon.

My major objection is that H.R. 4861 does not address itself to the issue of developing the park for general citizen use. In the 12 years since the creation of Piscataway Park, there has been no development of its recreational and cultural aspects for the general public. In fact, the Park Service has apparently retreated from its plan to develop the park and is now calling Piscataway an "ecologically fragile" area.

There have been repeated objections by the owners of adjacent private land to the development of the park. The local property owners have even objected to a proposed 5-car parking area within the park. The public is largely unaware of their right to gain access to Piscataway Park to view Mount Vernon because adequate guide signs are rare.

The general public should have easy access to Piscataway Park before we spend over $10.5 million on acquiring new land, much of which is out of the sight of Mount Vernon and is not contiguous to the original park. The purchase of new property in fee may be justified, if Piscataway Park is to be developed into a recreational area with trails, picnic sites, and camping facilities. But if the park will be merely a scenic background for Mount Vernon and a private domain of the local property owners, then scenic easements of the kind now imposed on some of the property proposed for acquisition in fee ought to be sufficient.

John Saylor should be recognized with some worthwhile and lasting project, not by an expenditure of funds that later, less-involved observers may consider a waste of the taxpayers' dollars.

Mr. VANIK. Mr. Speaker, I rise in support of this legislation to insure the protection of the scenic view from Mount Vernon and to provide for additional public lands along the Potomac. It is my hope that the Department will develop this area in a sound environmental manner to permit its recreational use by the public.

In considering this legislation today, we are all reminded of its sponsor, our late colleague, the very distinguished gentleman from Pennsylvania Mr. Saylor, and of all the fine conservation work which marked his career in the Congress.

But I would also like to mention today that there would be no Piscataway Park, there would be no view from Mount Vernon for us to protect if it had not been for our former colleague, my distinguished predecessor, the Honorable

Frances P. Bolton of Ohio. Mrs. Bolton, who served here for 28 years, did more to insure the preservation of the open areas around Mount Vernon than anyone else.

I would like to quote for a minute from a speech which Congresswoman Bolton made several years ago describing the work of the Mount Vernon Ladies' Association of the Union:

FROM A SPEECH BY CONGRESSWOMAN FRANCES P. BOLTON

Many years ago, we set out to protect the visual environment of Mount Vernon, America's number one historical shrine.

Up to that time, preservation was primarily in private hands. For example, a century ago, Mount Vernon itself was offered to both the Federal government and the State of Virginia.

Both refused.

A frail woman, Ann Pamela Cunningham undertook the task, and created the Mount Vernon Ladies' Association of the Union. This private group purchased and still preserves this national shrine.

Miss Cunningham's parting injunction was, "Let one spot in this grand country of ours be saved from change. Upon you rests this duty."

In 1955, an oil tank farm was projected for this spot where we stand in the center of the view that thrills millions of visitors each year.

As Vice Regent from Ohio of the Mount Vernon Ladies' Association, I used some funds which had come to me by inheritance, to acquire the property to preserve it.

This was just the beginning. During the next few years, additional land was acquired by the Accokeek Foundation.

Then an unthinking local agency determined to condemn the land we sought to preserve to use for a sewage treatment plant. The Moyaone Association and the Alice Ferguson Foundation joined with us to seek a solution to this catastrophe.

No private entity could withstand that threat.

No help was available from local or state governments. This forced the Congress to counter the local threat. In 1961, the area was delineated as a National Park, based on lands to be donated by the Foundations along the river front, and donations by private owners of scenic easements on a much greater area.

It is a modest statement—but it is a clear statement of our colleague's own personal work and expenditure to save this parkland.

What we do here today helps build on the work which she so competently began.

GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 4861.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. TAYLOR) that the House suspend the rules and pass the bill H.R. 4861, as amended.

The question was taken.

Mr. RANDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 4, not voting 91, as follows:

[Roll No. 13]

YEAS—334

Abdnor
Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Annunzio
Archer
Arends
Armstrong
Ashley
Aspin
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Downing
Drinan
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
King
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
Madigan
Mahon
Mailliard
Mallary
Martin, Nebr.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Neill
Owens
Patman
Patten
Perkins
Pettis
Peyser
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Spence
Stanton, J. William
Stanton, James V.
Steed
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ill.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—4

O'Hara
Steiger, Ariz.
Towell, Nev.
Treen

NOT VOTING—91

Addabbo
Andrews, N.C.
Andrews, N. Dak.
Ashbrook
Badillo
Bafalis
Bell
Brademas
Brasco
Breckinridge
Burke, Calif.
Carey, N.Y.
Chappell
Chisholm
Collins, Ill.
Conte
Conyers
Corman
Cotter
Cronin
Culver
Davis, Ga.
de la Garza
Dellums
Diggs
Donohue
Dorn
Dulski
Eckhardt
Eshleman
Fish
Fisher
Fraser
Froehlich
Fuqua
Gettys
Goldwater
Gray
Gubser
Haley
Hammerschmidt
Hansen, Wash.
Harrington
Heckler, Mass.
Hinshaw
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Ketchum
Kluczynski
Leggett
McEwen
McKinney
McSpadden
Macdonald
Madden
Mann
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Metcalfe
Mills
Mink
Minshall, Ohio
Mollohan
Parris
Passman
Pepper
Pickle
Reid
Rhodes
Rinaldo
Rodino
Rooney, N.Y.
Rose
Roy
Runnels
Smith, N.Y.
Snyder
Staggers
Stark
Steele
Stuckey
Van Deerlin
Veysey
Ware
Winn
Wydler
Young, Ga.
Young, S.C.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Andrews of North Carolina.

Mr. Kluczynski with Mr. Breckinridge.

Mr. Macdonald with Mrs. Burke of California.

Mrs. Hansen of Washington with Mr. Rhodes.

Mr. Chappell with Mr. Snyder.

Mr. Carey of New York with Mr. Steele.

Mrs. Chisholm with Mr. McSpadden.

Mr. Cotter with Mr. Smith of New York.

Mr. Dulski with Mr. Rinaldo.

Mr. Donohue with Mr. McEwen.

Mr. Staggers with Mr. Andrews of North Dakota.

Mr. Reid with Mr. McKinney.

Mr. Pickle with Mr. Ashbrook.

Mr. Fuqua with Mr. Hammerschmidt.

Mr. Brasco with Mrs. Heckler of Massachusetts.

Mr. Brademas with Mr. Bafalis.

Mr. Badillo with Mr. Conyers.

Mr. Addabbo with Mr. Bell.

Mr. Harrington with Mr. Diggs.

Mr. Dellums with Mr. de la Garza.

Mr. Davis of Georgia with Mr. Hinshaw.

Mr. Culver with Mr. Conte.

Mr. Metcalfe with Mr. Eckhardt.

Mr. Dorn with Mr. Eshleman.

Mr. Mathis of Georgia with Mr. Minshall of Ohio.

Mr. Leggett with Mr. Cronin.

Mr. Jones of Alabama with Mr. Parris.

Mr. Gray with Mr. Fish.

Mr. Mollohan with Mr. Martin of North Carolina.
Mr. Jones of Tennessee with Mr. Froehlich.
Mr. Roy with Mr. Maraziti.
Mr. Rodino with Mr. Goldwater.
Mr. Stark with Mr. Ware.
Mr. Van Deerlin with Mr. Young of Georgia.
Mr. Mann with Mr. Passman.
Mr. Pepper with Mr. Mathias of California.
Mr. Mills with Mr. Winn.
Mrs. Mink with Mr. Rose.
Mr. Runnels with Mr. Young of South Carolina.
Mr. Stuckey with Mr. Wydler.
Mrs. Collins of Illinois with Mr. Fraser.
Mr. Haley with Mr. Fisher.
Mr. Corman with Mr. Gettys.
Mr. Jones of Oklahoma with Mr. Madden.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BOB WILSON. Mr. Speaker, during the first quorum call today I was in the Chamber, but inadvertently failed to record my presence by placing my card in the electronic voting machine. I would like the RECORD to show that I was present.

DENT PROPOSES OIL SUBSIDY TO CONSUMER

(Mr. DENT asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. DENT. Mr. Speaker, all of us are floundering around while conditions get increasingly worse. I was advised this morning, coming down the turnpike, that they have enough gas for probably 48 hours in the whole length and breadth of the Pennsylvania Turnpike. Pennsylvania will be out of gasoline. There is hardly a car made that can go that length of road without refueling, and if we get off at any of the substations along the way to get gas, we do not get it simply because of the fact that we are strangers to everybody along that road. It is just a question of whether or not we are going to be able to go back and forth to attend to our duties or have to stay down here. Some of us have gone home practically every weekend since we have been Members of Congress.

At the same time, Mr. Speaker, I think it is important that we know that nothing has really been done to hit the serious problem that faces all, and that is the high price and inflationary spiral caused by the action of other countries, not of our own. Therefore, I ask—and tomorrow we have a press conference on the rollback of prices to the consumer—to have the U.S. Government set up an agency, a brokerage agency, that shall be run by the Government, and it will buy oil from wherever we have to buy it, domestically and foreign. At the same time that oil or the crude oil will be sent to the refineries, and all of the products therefrom will be rolled back to the price they were Day 1 of the embargo.

Mr. Speaker, in an effort to halt rapidly escalating costs of fuel, I have today proposed a three-point price rollback scheme. Included in my proposal is a subsidy for the consumer of oil products. The subsidy would be financed through a surcharge, levied by the Commerce Department, on imports determined to have an unfair competitive advantage in the American market because of the energy crisis. To implement my proposal, I suggest three actions.

First, authorize the U.S. Government to act as sole broker and buy short supply energy oils and derivatives at the current selling price; second, authorize the same agency to sell the oil to consumers at preembargo prices; third, authorize the Commerce Department to levy surcharges on all imports determined to have an unfair competitive advantage because of the fuel shortage. Any loss to the Treasury, incurred by the subsidy to the consumer, would be compensated by these surcharges.

Having little patience for the administration's energy policy, I pointed out that the Federal Energy Office, headed by William Simon, has totally decontrolled the prices of so-called new oil, together with an equivalent amount of old oil, or so-called released oil. This oil is now selling at an average of $10.35 a barrel—more than twice the level industry estimated a year ago to be necessary for maximum self-sufficiency and about 50 percent higher than the level Mr. Simon himself believes could be useful in eliciting new supply.

No one in the administration has offered any serious justification for either the jump in old oil prices or for decontrolling new oil. What seems to be at work is a continuing conviction that the way to eliminate the fuel shortage is to increase prices—by taxes or otherwise—high enough to limit demand by pricing gasoline and fuel oil beyond the reach of many Americans. These alternatives are unacceptable to me.

The spiraling rate of inflation must be brought under control at the source; if this is not done, the rapid acceleration in prices of raw materials will mean billions of dollars in inflated prices to the American consumer, who can ill afford it, and to the Government, whose source of money is the American taxpayer.

Nations still in good graces with the oil producing countries will gain another advantage in the way of a greater share of the American marketplace, both domestically and abroad.

What the rest of the world does not seem to understand is that this country has not lost its will to survive, and that we still have the ability to remain a free and independent nation.

I have advised Senator HENRY JACKSON, whom I consider one of the outstanding experts in this crisis, of my proposal, and pointed out to JACKSON that this kind of plan is not new. We have invoked emergency measures in international trade relations and have protected agricultural products with a subsidy for many years. It is highly appropriate, in the face of high profits by the oil companies and prices moving beyond the reach of many Americans, that the Federal Government do something to protect the consumer.

Related material follows:

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
February 1, 1974.

DEAR REPRESENTATIVE: We estimate that more than 100,000 members of the UAW are on indefinite lay-off right now, with many more to come. Hundreds of thousands more are on short work weeks or have suffered one- or two-week lay-offs. The situation will get worse and the effects of the increasing unemployment in the automobile industry are bound to radiate to other industries.

These hard facts make a mockery of President Nixon's promise that recession will be averted. For auto workers, the recession is already upon us.

Prompt Congressional action to provide public service jobs, improve unemployment compensation and place temporary curbs on automobile imports is essential to prevent severe hardship for workers and their families. I urge every Member of Congress to move vigorously on these problems in this critical moment.

For your information, I am enclosing a statement on unemployment unanimously adopted by our International Executive Board on January 30, 1974.

Sincerely yours,
LEONARD WOODCOCK,
President, International Union, UAW.

UAW STATEMENT ON UNEMPLOYMENT

The worker who loses a job is more than a statistic. The loss of the breadwinner's income is stark human tragedy. Nothing is of greater concern to UAW members and their families than jobs. No matter how wide the range of the interests of the UAW, our first priority is and always has been jobs and security for our members.

We are not doomsayers but we are realists. We must face the facts. The unemployment picture in some sections of the auto industry is worse now than it has been at any time since the great depression of the thirties.

On the basis of very early and incomplete reports from the different parts of our Union, we estimate conservatively that there already are more than a hundred thousand UAW members laid off indefinitely. In addition tens of thousands see their plants totally shut down for varying periods of time. The truth is that there is the potential of catastrophic unemployment for workers in general, and automobile workers in particular.

Unbelievably, while unemployment rates threaten to go through the ceiling, the rate of inflation continues to break all records, as our people lose income, prices for the necessities of living soar. There are even threats of a dollar for a loaf of bread and a dollar for a gallon of gas. Once again workers are the chief victims.

While the workers bear the brunt of both galloping inflation and mounting unemployment, the whole society is in jeopardy. Should unemployment nationally hit the 8 to 10 percent range, we face not recession but depression.

While the huge oil companies show profits as much as 60 percent higher than a year ago, the unemployment rate increased about 9 percent in December to 4.9 percent after reaching a Nixon "low" of 4.5 percent in October. The rapidly deteriorating economic situation has recently added about 400,000 people to the ranks of the jobless and these ranks of the unemployed are growing daily. UAW members are among the hardest hit. Company reports of additional layoffs keep pouring in almost hourly; the latest indications are that auto workers in the hundreds of thousands could be affected in the coming months—a substantial proportion of them indefinitely. We are already well into a cold economic winter.

All of this didn't happen by accident. Nor is the energy crunch the whole cause.

We are in this terrible shape not only because of the energy shortage, but also because under President Nixon we have lived with programs of economic nonsense, instead of economic sense. As the Administration doffed its hat to politically supportive industries, it actually planned unemployment for workers. Phases I through 4 were economic nightmares. Just imagine what Phase 5 will do to us. The Administration coupled inpet, contradictory and inequitable economic policies with a public relations program of infantile optimism. Every piece of bad news was alibied and the future was always seen through rose-colored glasses. Practically every economic prophecy by Nixon and his aides has proven wrong.

The energy shortage itself is, of course, the major determinant in the continually worsening unemployment picture. The Nixon Administration has been inept and almost criminally negligent in failing to prepare adequate programs to meet long anticipated problems, including petroleum shortages. It has been guilty of shifting positions. It has, as yet, refused to probe the secrets of the big oil companies. Prices for energy soar. Administration spokesmen promote scare headlines and panic buying. Misinformation is heaped on misinformation.

We cannot restrain our shock when we focus on the federal government's slashing of the administrative budgets of the state unemployment agencies at the very moment unemployment is mushrooming. In Indiana, where there are thousands upon thousands of unemployed workers, a million dollars was cut from the administrative budget of the agency. In Ohio, the government imposed a similar cut of $1.4 million. In Michigan it was a million, six hundred thousand dollars, announced when the number of new claims filed during one week in the state was up 45 percent over the same week a year ago. Instead of more dollars with which to meet astronomically multiplying claims, this Administration decided to cut budgets.

The UAW demands a national commitment to solve immediately the urgent problem of massive unemployment. There must be both short range and long range actions. They must be bold and innovative. If the Administration will not or cannot furnish leadership, the Congress must.

While we work out a total national program, there are immediate steps we must take.

ESTABLISH TEMPORARY QUOTAS ON VEHICLE IMPORTS

We are, after all, automobile workers. We know that in 1964 there were 484,100 imported automobiles sold in this country; a figure that grew in ten years to 1,773,779 units in 1973. With the dollar strengthening in the international currency market, it now seems likely that the old 360 Yen relationship to the dollar and a similar relationship to the Deutschmark will be re-established. As unemployment in automobile and related industries rises precipitously, there seems to be only one immediate answer to the problem of imports.

We must institute temporary quotas on automobile products imported from outside North America. We emphasize temporary, because these quotas must exist only long enough to prevent severe hardship in this country. We therefore will ask the Congress for federal legislation which will keep auto imports, during this crisis period, from growing beyond the percentage of imports to sales averaged over the past three years. Automobile workers and their families must have that minimal protection to survive.

The temporary quotas on imports must apply both to "captive" imported vehicles manufactured abroad by U.S. companies as well as those made by foreign manufacturers. U.S. companies must not be permitted to glut the market with their foreign produced cars while they lay off thousands of American workers at home.

The temporary quotas will help to preserve some auto workers' jobs and will, therefore, not only alleviate human suffering, but maintain purchasing power so sorely needed to keep the economy from sagging further.

As temporary quotas on imports are established, U.S. auto companies must not be permitted to relax their efforts to embark on a crash program converting increased proportions of their production to small car manufacture and implementing known techniques for greater fuel economy.

DEVELOP A FEDERAL PROGRAM OF PUBLIC SERVICE JOBS

On the broader level, we will seek also a massive federal program of public service jobs to give work to the growing numbers of unemployed. Here again, to emphasize the temporary nature of this short range, quick solution to the problem of massive unemployment, the number of these jobs should be tied directly to the rate of unemployment. This sliding scale concept—tying the number of public service jobs to the percentage of unemployed—would avoid building unnecessary numbers of federal job holders. Thus, when unemployment rose to eight percent there would be more public jobs to take up the slack, and each time the rate fell, the number of jobs would be cut.

We need a revitalized public employment program patterned after but stronger than the program approved and implemented in 1971. Those programs contained a triggering mechanism which set it off whenever the national unemployment rate went over 4.5 percent or unemployment in a local area exceeded 6 percent. This could be extended so that the degree of assistance would be graduated by the severity of unemployment in particular regions. There are innumerable tasks which could be undertaken by those publicly employed.

PROVIDE SPECIAL FEDERAL FUNDS TO HARD HIT AREAS

In particularly hard-hit areas, there is a strong justification for the federal government to spend money in the way of grants to communities which may have never experienced this sort of plight before and that are financially ill-equipped to deal with it. In 1972 the federal government, through salaries, contracts, welfare, and other expenditures, accounted for a smaller percentage of the total personal income of Michigan residents than it provided for the residents of all other states; Illinois, Indiana, and Ohio ranked only slightly higher. If the government is at all sensitive to the people's needs, these states should find themselves at the top rather than the bottom of federal expenditures in the period immediately ahead.

MICHIGAN—A SPECIAL CASE

Michigan is the heartland of the UAW. We cannot discuss unemployment and its cures only in national terms. Michigan is critical not only to auto workers; it is critical also to the national economy.

Unemployment is increasing dramatically in Michigan. Flint, Michigan at this moment, is nearing depression levels of unemployment. The prognosis in Michigan is, of course, much worse than the present actuality. In 1958 we had more than 409,000 unemployed workers in Michigan, but we believe 1974 could make 1958 look like a good year.

Michigan's Governor Milliken, however, has shown the same lack of regard for workers as Mr. Nixon. Despite the 380 million dollar tax cut last year, now, in an election year, Governor Milliken proposes to slash another 107 million dollars in tax funds by new amendments for tax credits.

The game Milliken is playing is easy enough to understand. He underestimates and miscalculates the budget—especially the social services budget, which according to him would increase in this time of dire need *less* for the coming year than it did for the last. Then if the legislators fill in the gaps he has left, like Mr. Nixon, he can label them "Big spenders," and the latest 107 million dollar tax gift to industry and others will have evaporated because the legislature exceeded his budget. But even if his budget were honest and reasonable, this is no time to reduce taxes. Any leader who would cut taxes when the state is on the brink of economic disaster is playing politics at the expense of the people.

We therefore urge the Michigan legislature to reject the Governor's grandstand play. Refuse his tax cut. Make his budget realistic. Institute a constructive state program to give work to people and a future to the state.

STATE PUBLIC SERVICE PROGRAMS

Michigan and other states threatened with a disastrous increase in unemployment must establish programs of public service employment. If the unemployed were offered work by the state in a crash program at prevailing wages, we could do wonders. We could help people retain their dignity. We could clean up our communities. We could make our cities livable. We could repair our streets, highways and sidewalks. We could fill the chuckholes. We could beautify our environment. We could renovate and improve recreational facilities, particularly those adjacent to and within major cities and towns. Deteriorating railroad beds could be renovated and repaired. We could construct and operate recycling depots. All of this could be done—programs socially constructive, labor intensive and which will contribute to the easing of the energy problem.

PROVIDE SUFFICIENT FUNDS TO ADMINISTER UNEMPLOYMENT ASSISTANCE PROGRAMS

There are priority items which can't wait for a total program. All of the money cut from the administrative budgets of the state unemployment agencies must be restored immediately. But that is only the beginning. Budgets of such agencies must be increased realistically to take care of the fast multiplying numbers of our out of work people. Benefit levels and duration periods for unemployment compensation must be federally strengthened, improved and extended. There should be 52 weeks of benefits in every state faced with major unemployment problems.

These things must be done forthwith. After we have accomplished those first steps we can go to work on a total set of instruments to avoid human suffering and economic disaster.

In time of urgency, workers like other Americans, look to their national leaders for answers. They want leadership. They want action.

In the Nixon administration they find more than confusion, lack of credibility, callousness toward their plight, and primary concern for big business which provided the money to wage Nixon's election campaign.

In the current void of national leadership, the UAW issues this urgent call for action by the President, Congress and state governments.

COUNTDOWN ON CONTROLS—WAGE EARNERS SUFFER MORE THAN SHARE

(Mr. STEELMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STEELMAN. Mr. Speaker, wage and price controls have not worked across the board, but wage earners have paid more than their share. Most labor organizations have voluntarily acted most responsibly only to see their gains erased by inflation.

The following article from the Washington Post is a classic example of the failure of wage and price controls to help wage earners:

PRICES ROSE FASTER THAN PAY, UNITED STATES SAYS

(By Peter Milius)

The government said yesterday that rising labor costs began putting added upward pressure on prices in the last quarter of last year—but that compensation per hour still did not keep up with rising prices.

The Labor Department said that output per man-hour declined in the last quarter of the year at an annual rate of 1.3 per cent.

But the department said compensation per man-hour continued to increase, at an annual rate of 8.0 per cent for the quarter.

That combination produced an even greater increase in so-called unit labor costs, the labor costs per unit of production, which are an important index of inflationary pressures in the economy.

These unit labor costs rose at an annual rate of 9.3 per cent for the quarter, as against only 6.9 per cent in the quarter before.

At the same time, however, real compensation per manhour—pay and benefits after allowing for inflation—declined at an annual rate of 1.7 per cent over the three months.

The statistics suggest that wage increases were not much of a factor in inflation last year; they did not keep up with prices. A number of experts have predicted that they could become a factor this year, though, as labor tries to make up the lost ground.

The decline in output per man-hour in the fourth quarter had been generally expected. Such a decline usually comes at the end of a boom, when factories are straining to increase production but are already running close to capacity.

The Commerce Department yesterday suggested, moreover, that no great further increase in production is in sight for now.

The department said its index of leading economic indicators, a supposed harbinger of the eocnomic future, rose only 0.1 per cent in December.

Of the eight leading indicators available for the month, the department said, five pointed downward, one was unchanged from the month before, and only two pointed upward.

Those two, moreover, were both reflections of inflation as much as growth in output—industrial-materials prices and the price-labor cost ratio.

The five indicators that pointed downward were initial claims for unemployment insurance new orders for durable goods, contracts and orders for new plant and equipment, stock prices and building permits. The average work week was unchanged.

The Labor Department said that output per man-hour—or productivity, as it is also called—has now failed to rise appreciably for three quarters in a row. It went up at an annual rate of 5.8 per cent in the first quarter of last year, but fell by 1.2 per cent in the second and rose at a rate of only 0.4 per cent in the third.

For the year as a whole, it rose 2.9 per cent, about average for the U.S. economy.

The department said that, for the year, compensation per hour rose 1.4 per cent. That includes fringe benefits as well as wages.

Unit labor costs rose 4.7 per cent for the year, the department said. What are known as "union non-labor payments," the part of the pie that includes profits, rose 6.4 per cent.

EISENHOWER CIVIC CENTER

(Mr. BROYHILL of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROYHILL of Virginia. Mr. Speaker, I wish to express my enthusiastic support for the endorsement of the construction of the Dwght D. Eisenhower Memorial Bicentennial Civic Center here in the Nation's Capital. This project is authorized by Public Law 92–520, approved on October 21, 1972. This law provides, however, that no purchase contracts for the construction of the Center shall be entered into until 30 legislative days following approval of the design, plans, and specifications of the project, including established cost estimates, by the District of Columbia Committees and the Appropriations Committees of the House and the Senate.

For the past 5 years, I have worked for the enactment of legislation which would authorize a suitable, living memorial to the late President Dwight D. Eisenhower in the District of Columbia, in whose civic welfare he took such a strong and active interest.

The plan is for a Convention and Civic Center on approximately 10 acres in an urban renewal area in the Mount Vernon Square area, adjacent to downtown Washington, a site bounded by Eighth Street, H Street, 10th Street, New York Avenue, and K Street. This site was selected as a result of a coordinated study by Federal and local agencies, which concluded that it would be the most advantageous location in the city from the standpoint of compatibility with the objectives of the local urban renewal and comprehensive plans. I am informed that at least 85 percent of the properties in the site can be purchased from willing sellers and that more than 25 percent of the site is vacant. Full relocation benefits will be provided for the households and businesses which will be displaced by the project, with the relocations to be managed by the Redevelopment Land Agency.

This site will be ideal from the standpoint of accessibility to both automobile and mass transit facilities. The center will be conveniently served by two stations of the Metro rail rapid transit system, both of which are to become operational by 1976. Also, the city's current and proposed highway system will provide excellent service to the center. And further, this downtown location will greatly facilitate transportation to the center for conventioneers arriving by rail, bus, or air.

The center is to include a main exhibit hall of some 300,000 square feet, as well as a number of meeting rooms to serve a large variety of uses. Thus, the facility will accommodate even the largest national conventions, and will also serve such purposes as flower shows, boat and automobile shows, and other types of exhibits and civic gatherings.

Since this authorizing legislation was enacted, an advisory committee, whose membership included many of the leading businessmen and community leaders in the District, was formed to review the plans for the center and to provide continuing advice as the plans were developed.

In addition, a non-profit corporation, known as the Eisenhower Center Corporation, has been formed to provide the financing for this project at the lowest possible cost to the District of Columbia taxpayers. This corporation has borrowed some $600,000 from several local banks as an unsecured loan to provide funds for the development of the plans. When final approval of the project is obtained, this corporation will issue nontaxable bonds in an amount sufficient for the construction and equipment of the center, and the District of Columbia government will assume responsibility for the payment of the interest and principal on the bonds. The center will be leased to the city by the corporation, and at the end of a period of 30 years, when the bonds have been retired, title to the center will be vested in the District of Columbia. The reason for this financing structure is that under present law the District of Columbia government is not authorized to issue bonds. The total cost of the project, for construction and equipment, is presently estimated at approximately $80 million. The annual costs of paying off the bonds is estimated at $5.5 million, and the annual operating cost at $1.7 million, for a total annual cost to the District of $7.2 million. It is estimated, however, that rental fees will total some $2.5 million, and the city estimates that the center will generate additional property, hotel use, and income taxes of at least $5.7 million annually. If these figures prove correct, the operation of the center will accrue a net annual profit to the city of approximately $1 millon. An indication that these estimates may indeed be realistic is the fact that since the enactment of the authorizing legislation for the center, one new hotel has been placed under construction in the area of the proposed site, another has been committed, and a third presently existing hotel has announced plans for a major expansion. This early interest in commercial development in the area, plus the fact that three local banks collaborated in advancing an unsecured loan of more than half a million dollars for the planning of the center, are strong indications of the financial viability of this project.

The Eisenhower Center will enable the District of Columbia for the first time to attract major national and international conventions. These conventions will generate new jobs and new tax revenues for the District, and will also place our Nation's capital in its proper image as host to these important gatherings. Further, in addition to encouraging thousands of citizens from all parts of the Nation to visit their capital city, the development of the Eisenhower Civic Center will spur the revitalizing of a rapidly deteriorating section of the District of Columbia. Many Federal and city officials, as well as numerous local business and community groups, have repeatedly stressed the importance of this project to create new economic and social vitality in the central core of this city.

When Public Law 92–520 was enacted more than a year ago, it was hoped that this center might be completed in time for the upcoming 1976 Bicentennial celebration. Unfortunately, it does not appear now that the facility can be completed in time for that occasion. However, this in no way diminishes the urgent need and justification for the prompt approval and construction of this

Dwight D. Eisenhower Memorial Civic Center.

The House Committee on the District of Columbia apparently will be the first of the four committees, whose approval for this project is needed, to take action on this matter. I urge my colleagues on this committee to lead the way for approval of this project by unanimous vote.

FOREIGN SERVICE ASSOCIATION COMMENTS ON CONSULAR ACTION FOLLOWING CHILEAN COUP

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, in the wake of the chaos which followed the Chilean coup of September 11, 1973, there have been a great number of allegations made concerning the responsiveness of our Embassy in Santiago to difficulties encountered by U.S. citizens. The inter-American Affairs Subcommittee which I have the honor to chair has received letters from a number of persons, some complaining about Embassy actions and others expressing thanks for help received. The subcommittee is looking into a number of complaints in order to determine whether there was any improper activity and whether there is any necessity for revising policy guidelines governing the conduct of Embassy personnel.

Earlier this week I received a letter from the American Foreign Service Association regarding complaints about the behavior of Embassy employees in Santiago. Because of the widespread interest in Congress about this issue, I want to take this opportunity to call the AFSA statement to the attention of the House.

American Foreign Service Association,
Washington, D. C., January 23, 1974.

Hon. Dante B. Fascell,
House of Representatives,
Washington, D.C.

Dear Mr. Fascell: As you know, there have been allegations in the press that the U. S. Embassy in Santiago, Chile, failed to give adequate protection to American citizens during the recent coup. As the professional association of the 11,000 men and women of the Foreign Service of the United States, we believe these allegations are both false and extremely unfair. As a result of these allegations, competent, highly dedicated Foreign Service personnel have had their reputations besmirched, in spite of the fact that the real circumstances were the opposite of the allegations—the individuals involved did far more than their duty required, and deserve approbation, not criticism for their actions.

I have enclosed for your information an open letter from our AFSA Chapter in Santiago which explains this point in greater detail.

Sincerely yours,
Thomas D. Boyatt,
President.

Copy of an Open Letter to the Media and the Congress From the AFSA Chapter in Santiago, Chile

December 13, 1973.

Dear Sir: There have been several press stories and letters to various members of Congress which have appeared recently in the U.S. media accusing Foreign Service Officer Frederick D. Purdy, the U.S. Consul in Santiago, and his staff of failure to fulfill their duties in protecting U.S. citizens in Chile in the days following the military coup d'etat which occurred here September 11, 1973. Most, but not all, of these accusations are related to the lamentable deaths of U.S. citizens Frank Teruggi and Charles Horman. Several items published in the U.S. press have asserted that officials of the U.S. Embassy, Santiago, were indifferent to the fate of Teruggi and Horman, and subsequently callous in their treatment of the families of the deceased.

During the period following the coup, consular officers were involved in protection efforts on behalf of the entire American citizen community in Chile, numbering somewhere between 2,200 and 2,800 persons. In the process, Embassy personnel checked on the welfare of over 600 American citizens and reported to relatives or friends in the United States. They were instrumental in securing the release of 17 American citizens detained by Chilean authorities, and obtained safe-conduct passes and helped arrange transportation for more than 40 American citizens who otherwise might have been unable to leave Chile. This was accomplished in the midst of street violence and Chilean administrative disorganization, and with efforts impeded by the lack of diplomatic relations with the new government, difficulties in communication, a strict curfew, and severe military restrictions on personal movement and activity.

AFSA Santiago has as members 39 of the 43 U.S. employees of the Department of State, the U.S. Information Agency, and the Agency for International Development serving in this Embassy. We are a professional organization devoted to maintaining the highest standards in the conduct of U.S. foreign policy. We were present during those confused and hectic days following September 11, and are fully aware of the untiring labor, often involving personal risk, gladly undertaken by Fred Purdy, members of the Consular Section, and other Embassy personnel to help American citizens experiencing difficulties. It is perhaps understandable that some bereaved relatives and friends of Frank Teruggi and Charles Horman might have an emotional need to blame someone for the deaths. It is most regrettable that in doing so they have presented numerous misstatements of fact and distortions of reality in trying to make their case.

AFSA Santiago therefore feels that it must speak out to defend the good names and integrity of public servants who behaved in an entirely professional manner. We reject the innuendos and the thrust of the charges which have been made and deplore the methods used—i.e., the individuals attacked had no way to defend themselves directly. Those who are fully informed of the performance in a wide range of activities of this Embassy at the time of the coup are aware of the outstanding job which was done. Many Americans have expressed their admiration and appreciation for assistance they received. Unfortunately, these generally go unnoticed while sensational (although in this case false) accusations of misconduct get public attention. With this letter, unanimously approved by the voting membership of AFSA Santiago, we hope to do something about setting the record straight.

Sincerely,
Samuel F. Hart,
President,
John B. Tipton,
President-Elect.

DISCRETIONARY FUNDS HELD BY OFFICE OF EDUCATION

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. GREEN of Oregon. Mr. Speaker, for some time I have been concerned about the hundreds of millions of dollars of discretionary funds that have gone into questionable contracts and grants with little or no monitoring or evaluation by the Office of Education. A few months ago the New York Times asked me to write an article on education for their end-of-the-year wrapup. In that article there was a typographical error so that the amount of discretionary funds appeared as $89 million instead of $890 million. This makes a significant difference in the way it is viewed. Not realizing that this typographical error was in the article, my friend and colleague from New York placed this article in the Congressional Record without the correction. It appears on page No. 239, line 6. I have called his attention to this while, at the same time, expressing my deep appreciation for his thoughtfulness and, also, his very gracious comments. I was both pleased and honored.

Mr. KEMP. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I am happy to yield to the distinguished gentleman from New York?

Mr. KEMP. Mr. Speaker, I appreciate very much the gentlewoman from Oregon yielding to me.

Mr. Speaker, on January 6 I had the honor of taking that article from the New York Times, and placing it in the Congressional Record of January 29.

Mr. Speaker, I find that the gentlewoman from Oregon (Mrs. Green) is certainly one of the most able and objective viewers of Federal aid to education in this Congress, if not in the country.

Mr. Speaker, at this time I would ask unanimous consent to correct the figure that was used in the New York Times article just referred to, from $89 million in discretionary funds for the Office of Education, to the correct figure as pointed out by the gentlewoman from Oregon (Mrs. Green) of $890 million.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. BRECKINRIDGE. Mr. Speaker, I was in the Chamber on the rollcall vote on H.R. 4861, the Piscataway Park in Maryland. I did not vote. Had I voted, I would have voted "yea."

PROFITS—YES—EXCESSIVE PROFITS—NO

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, just this week I received a letter and a petition signed by 415 of my constituents from the Fourth Congressional District of Indiana registering their concern about the "increase in excessive oil company profits" and the "rapidly rising costs of gasoline and fuel oil."

No wonder these and many others I have talked with personally are upset.

Sales of the 15 largest U.S. oil companies are not all in yet, but we have reason to believe that their full year profits will be in the neighborhood of $9 billion for 1973 as contrasted with $5.8 billion in 1972. The oil companies do not seem to think such profits extraordinary, excessive or exploitative. I disagree.

It is time we asked ourselves where these profits are coming from and why. Besides the heavy demand and scarce supply conditions of the present energy crisis, there are other conditions that contribute to such profits among these special tax breaks. The American taxpayer over the years has subsidized the foreign operations of oil companies with various tax allowances and benefits. U.S. oil companies deduct from their U.S. taxable income the same 22 percent depletion allowance for oil produced in Arab countries that they deduct for oil produced in the United States—even though the Arab oil is intended for sale abroad.

Then we have what is known as the "Golden Gimmick." An Internal Revenue Service ruling in the early 1950's has enabled the oil companies to convert royalty payments to Arab rulers into foreign taxes, allowing a foreign tax writeoff, dollar for dollar, against income taxes owed in this country. This gimmick has meant billions of dollars to these oil companies and a heavy loss to the U.S. Treasury.

Moreover, we have increasingly removed the price controls on oil products, controls supposedly imposed in the interest of stemming inflationary prices. Early last year the Cost of Living Council allowed crude prices to increase by 35 cents a barrel; exempted from price controls what oilmen call "new" crude oil—oil produced from wells found and drilled in the last few years. Later the Council let "old" crude oil prices rise another $1 a barrel. In late January the price of American crude oil was somewhere between $7 and $8 a barrel, roughly double the level of last spring.

The effect of last year's crude oil price increases was to raise the average price significantly, resulting in increased revenues to domestic oil producers by some $10 billion. Gasoline and heating oil prices were behind crude prices but they also began to climb and there are some economists who now predict that price increases will raise the industry gross this year by $20 billion. Given the tax benefits favoring oil producers, little of this will find its way back into the U.S. Treasury.

Meanwhile the American consumer finds the prices of heating oil up 11 percent last month alone; 47 percent for the year. Gasoline prices increased 4 percent last month; 20 percent over the year.

There are those who warn us, as they did when the House debated the windfall profits section of the emergency energy bill before the Christmas recess, that the oil companies must have plenty of profits so they can reinvest whatever is necessary to stimulate further exploration, new drilling, refinery expansion, and so forth.

I believe last year's record indicates they have more than enough. During 1973's third quarter, oil industry profits were up 63 percent from the previous year's third quarter, according to Business Week magazine's quarterly profit survey.

What about the American consumer who ultimately pays for the tax benefits and for the increased prices, and at the same time has less heat and an uncertain supply of gasoline?

The excessive oil company profits, the adverse effect of price increases on the economy, the hardships the price increases are inflicting on the American consumer, and the unwillingness of the administration to do anything about it all add up to the need for congressional action.

There are some steps we can take. I am cosponsoring legislation that will cut back the tax benefits these U.S. companies enjoy from their activities abroad. That will return some of our tax money where it belongs. I am also joining in a bill that proposes to alleviate the inflation burden on consumers in two steps: First, by freezing prices of crude oil and petroleum products at their mid-January 1974 levels; and second, by rolling back these prices within 30 days to the levels in effect during the week ended November 10, 1973.

The conferees on the emergency energy bill will be discussing that legislation today, and I understand they will consider the possibility of adding some kind of price rollback to the emergency energy bill. They have my enthusiastic support, and that of the majority of the American people who are tired of being taken.

CONGRESS MUST PREVENT SURRENDER OF U.S.-OWNED CANAL ZONE

The SPEAKER pro tempore (Mr. MAZZOLI). Under previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, I rise on behalf of the sponsors and cosponsors of the House resolution "In Support of Continued Undiluted United States Sovereignty and Jurisdiction over the United States Owned Canal Zone on the Isthmus of Panama." I urge all of my colleagues on both sides of the aisle who in sponsoring or cosponsoring have not already done so to join with us in sponsoring or cosponsoring this resolution so as once more to make crystal clear that the American people will not tolerate surrender of the essential sovereign right of the United States solely to control and operate the U.S.-owned Canal and to govern its protective frame, the U.S.-owned Canal Zone, situated on the Isthmus of Panama.

There is a clear and present danger now confronting the people of the United States that was created by the recently announced "principles of agreement," hastily negotiated during the latter part of December by Ambassador at Large Ellsworth Bunker with Foreign Minister Juan Tack of Panama's Revolutionary Government, to serve as guidelines for current treaty negotiations regarding the status of the U.S.-owned Canal and Canal Zone.

Although the precise terms of these "principles" have not been disclosed to the people of the United States or their Representatives in the Congress, enough has become known about them to make clear that, if adhered to in the current negotiations and approved by the Congress, the United States would lose its sovereign rights, power, and authority over the Canal Zone.

Secretary of State Kissinger's announced purpose, with even more haste, to sign this "statement of principles" was made public on February 1 through a United Press International release tilted "Kissinger Plans Panama Visit To Sign Accord," quoted as follows:

> Secretary of State Henry A. Kissinger will make a flying trip to Panama next Thursday to sign a declaration setting the stage for the United States to bow out of its 71-year-old domination of the Canal Zone.
>
> Kissinger will sign a declaration of principles, achieved at the end of last year by U. S. Ambassador Ellsworth Bunker, ending a 10-year deadlock on negotiations to give the Panama Government sovereignty over the Canal Zone.
>
> Kissinger will report on the canal negotiations to the upcoming Western Hemisphere foreign ministers meeting in Mexico City, Assistant Secretary of State for Inter-American Affairs Jack B. Kubisch said.

As the whereas clauses in the resolution make factually and succinctly clear, the sovereign rights of the United States, and its treaty responsibilities and obligations, were clearly stated and recognized in three solemn treaties, on each with Great Britian, the Republic of Panama, and Colombia. Under the treaties with Panama and Colombia, both nations were fully and adequately compensated, and Panama is now, and has continuously been, paid increasingly greater amounts in fulfillment of our treaty obligations and otherwise. The treaty with Panama grants to the United States sovereign rights "in perpetuity" to the "exclusion" of the exercise of any of such rights by any other nation, including Panama, to the canal and the Canal Zone. In addition to this grant, the United States purchased all individually owned land in the Canal Zone, thus making it the most costly of all of our territorial possessions. In fact, it was more costly to our taxpayers than the combined cost of all of our other territorial possessions.

During last October—that is not too long ago—Ambassador Bunker elaborately briefed, as to the history of the acquisition and government of the Canal Zone and the construction, maintenance, and operation of the canal both by the most knowledgeable Members of the Senate and by me. Some Members of Congress, as did I, addressed letters to President Nixon and Secretary Kissinger on this subject. I offered to lay before the President with Members of the Senate and Members of this body available pertinent information and sought an appointment to do so, but to no avail.

The mere introduction of this resolution by its clearly stated terms should present a serious note of caution to Secretary Kissinger to refrain from signing the so-called "Statement of Principles." It should convince him that any proposed treaty which might be negotiated on the basis of the terms of that statement would be doomed to rejection by the Congress. The people of the United States and the Congress should not be maneuvered into a position by our diplomatic representatives that should require their repudiation.

There is not doubt in my mind, Mr. Speaker, that if this matter were submitted to the people of the United States, it would be overwhelmingly rejected in every State of the Union—overwhelmingly by the people.

The introduction of this resolution, even before formal consideration of it by the House, will also raise serious questions as to the haste and secrecy in which the vital questions involved have been accomplished and whether dispositions of vast quantities of the peoples' rights and property are to be based, not upon the will of our people as expressed by their duly elected Representatives in the Congress but upon ex parte declarations arbitrarily made by a few bureaucrats not elected by the people.

Mr. Speaker, in order that the Congress and the Nation may be more fully informed as regards what is being attempted as regards the Panama Canal, I quote the indicated House resolution:

H. Res. 804

Resolution in support of continued undiluted United States Sovereignty and Jurisdiction over the United States-owned Canal Zone on the Isthmus of Panama

Whereas United States diplomatic representatives are presently engaged in negotiations with representatives of the *de facto* Revolutionary Government of Panama, under a declared purpose to surrender to Panama, now or on some future date, U.S. sovereign rights and treaty obligations, as defined below, to maintain, operate, protect and otherwise govern the United States-owned Canal and its protective frame of the Canal Zone, herein designated as the "Canal" and the "Zone", respectively, situated within the Isthmus of Panama; and

Whereas title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were vested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Columbia, to wit:

(1) The Hay-Pauncefote Treaty of 1901 between the United States and Great Britain, under which the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for operation, regulation. and management of the Canal; and

(2) The Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, by the terms of which the Republic of Panama granted full sovereign rights, power, and authority in perpetuity to the United States over the Zone for the construction, maintenance, operation, sanitation, and protection of the Canal to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

(3) The Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922 between the Republic of Colombia and the United States, under which the Republic of Colombia recognized that the title to the Canal and the Panama Railroad is vested "entirely and absolutely" in the United States which treaty granted important rights in the use of the Canal and Railroad to Colombia; and

Whereas the United States, in addition to having so acquired title to an ownership of the Canal Zone purchased all privately owned land and property in the Zone, from individual owners, making the Zone the most costly United States territorial possession; and

Whereas the United States since 1903 has continuously occupied and exercised sovereign control over the Zone, constructed the Canal, and, since 1914, for a period of 60 years, operated the Canal in a highly efficient manner without interruption, under the terms of the above mentioned treaties thereby honoring their obligations, at reasonable toll rates to the ships of all nations without discrimination; and

Whereas from 1904 through June 30, 1971, the United States made a total investment in the Canal, including defense, at a cost to the taxpayers of the United States of over $5,695,745,000; and

Whereas Panama has, under the terms of the 1903 treaty and the 1936 and 1955 rerevisions thereof, been adequately compensated for the rights it granted to the United States, in such significantly beneficial manner that said compensation and correlated benefits has constituted the major portion of the economy of Panama giving it the highest per capita income in all of Central America; and

Whereas the Canal is of vital and imperative importance to Hemispheric defense and to the security of the United States and Panama; and

Whereas approximately 70 percent of Canal traffic either originates or terminates in United States ports, making the continued operation of the Canal by the United States vital to its economy; and

Whereas the present negotiations, and a recently disclosed statement of "principles of agreement" by our treaty negotiator, Ambassador Ellsworth Bunker, and Panamanian Foreign Minister Juan Tack, Panama treaty negotiator constitute a clear and present danger to Hemispheric security and the successful operation of the Canal by the United States under its treaty obligations; and

Whereas the present treaty negotiations are being conducted by our diplomatic representatives under a cloak of unwarranted secrecy, thus withholding from our people and their representatives in Congress information vital to the security of the United States and its legitimate economic development; and

Whereas the United States House of Representatives, on February 2, 1960, adopted House Concurrent Resolution 459, 86th Congress, reaffirming the sovereignty of the United States over the Zone territory by the overwhelming vote of 382 to 12, thus demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty and jurisdiction over the Canal and the Zone; and

Whereas under Article IV, Section 3, Clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives. Now, therefore be it

Resolved, That it is the sense of the House of Representatives that:

(1) The government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal and Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

(2) That there be no relinquishment or surrender of any presently vested United States sovereign right, power or authority or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and

(3) That there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in Article IV, Section 3, Clause 2 of the United States Constitution.

Mr. Speaker, I will not read the resolution. It will be in the Record. I will have a copy of the resolution hand-delivered to Mr. Kissinger today and, as I say, it will be in the Record. I will have a statement to all Members of Congress, both bodies, dealing with the subject.

I would hope to get that out today.

One of my colleagues on the other side of the aisle, the Republican side of the aisle, will do this as part of this joint effort in which we are all engaged. As Members will recall, the House acted upon this some time ago with a vote of almost 3 or 4 to 1, reaffirming our position. I am sure the House would do so again at the earliest opportunity.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I thank the gentleman for yielding. I think the gentleman from Pennsylvania should be complimented by the Members of this body for calling our attention to this very important international matter, a matter of national concern.

I have not had an opportunity to see the gentleman's current resolution, but I did cosponsor former resolutions which the gentleman from Pennsylvania and the gentleman from Missouri (Mr. Hall) introduced in the past. I appeared before the Committee on Foreign Affairs on one occasion in support of one of those resolutions. Later, I appeared before Mr. Murphy's subcommittee with reference to the point that where the cession of American territory and property is involved, that it may well be not only the other body, but this body may have a constitutitonal duty and obligation——

Mr. FLOOD. Not "may." It constitutionally does.

Mr. Speaker, the gentleman has been a great help down through the years on this whole fight. He stood there just as I am standing here, year after year, and while this body here under the Constitution has nothing to do with ratification of treaties, nevertheless on disposition of property to which the U.S. Government has title, that can only be constitutionally done under the Constitution by the Congress, including this body.

Mr. DENNIS. Mr. Speaker, I think the gentleman is correct. At the time I appeared before Mr. Murphy's subcommittee, I did a reasonably extensive amount of legal research on that matter, and included it in my remarks, so that I think the gentleman again is to be complimented in bringing this matter before us. The Members of the House ought to give it very careful consideration.

Mr. FLOOD. Mr. Speaker, the gentleman is very kind.

Mr. SIKES. Mr. Speaker will the gentleman yield?

Mr. FLOOD. Mr. Speaker, I yield to the gentleman from Florida, a member of the Armed Services Committee for many,

many years with me. From the west coast of Florida, it would be hard to think of anyone who was more aware of what the problem is.

Mr. SIKES. Mr. Speaker, I too applaud the distinguished gentleman from Pennsylvania on the concern he has expressed about what may be in store in the Panama Canal.

I think that this is a matter which is much too serious to be handled on short notice or without a full consultation with the Congress. The American people certainly are concerned about what happens to the Panama Canal. Congress is very much concerned with what happens to the Panama Canal.

My State of Florida, it is the nearest to it, has a very gerat interest in the question. We know its significance from a defense standpoint. We know its importance to the trade channels of the world. It is something that Congress should have a voice in as the spokesman for the people of this country.

The gentleman has waged diligent effort to protect and preserve this valuable asset to the peace of the world, to the defense of the United States. He deserves great credit for it. I trust that the Congress will rally around his leadership and that we can be assured that there will be no quick and easy arrangements made that Congress has not been given a voice in.

It is extremely important that the canal be preserved for the interests which America always has had for the canal, and to me that means continued ownership of the canal and Canal Zone by the United States.

Mr. FLOOD. Mr. Speaker, the gentleman is very kind.

From the economic phase, I might add, and this is not—this is not just generally known, but over 70 percent of the traffic back and forth through the canal touches ports in the United States of America—over 70 percent. So that all Members of all the seaboard States, as is the gentleman from Florida, from the economic sector as distinct from the defense sector, are vitally, vitally engaged.

Mr. SIKES. Mr. Speaker, if the gentleman will yield further, it is equally important from our standpoint in that it is necessary that we have a two-ocean Navy.

It is getting more costly and more difficult for us to maintain a two-ocean Navy, and if the use of the canal would be denied to us by any reason, it would be much more difficult for us to preserve that two-ocean Navy as a necessary adjunct to our defense.

Mr. FLOOD. Mr. Speaker, indeed the gentleman is correct, and let me add this: We have the Soviets.

Now, the gentleman from Florida has served with me on the Committee on Defense Appropriations since it was created, quite some time ago, at the end of World War II, and we watched our Navy go down, down, and down until it has reached the point as of today.

We watched the Russian Navy since the days of the Romanovs. Surely it was a defense mechanism under the Romanovs, but over the years and succeeding years it has grown more and more until now today the biggest and strongest Navy in the world is the Soviet Navy, not ours. It is getting bigger than ours; it is getting bigger and stronger, and it is no longer just a defense mechanism; it is all over the lot. Any place in the world, in every ounce of water we find, they are there, and they are not fooling.

The Soviet Navy controls the Kiel Canal; the Soviet Navy controls the Dardanelles, the Straits of the Bosporus; the Soviet Navy controls Gibraltar; the Soviet Navy controls the Straits of Malacca; the Soviet Navy controls the Suez Canal.

The only interoceanic connection not controlled today by the Soviets is the Panama Canal, the connection between the Atlantic and the Pacific. This is the defense jugular vein of the Western Hemisphere.

Mr. Speaker, let me mention Cuba. We all know where Cuba is. Well, you can stand in Havana and toss a bottle of Bacardi on the canal, can you not?

Mr. SIKES. Almost, if you have a good arm.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Iowa.

First, Mr. Speaker, let me say this: I remember years ago the gentleman from Iowa stood here just before we adjourned one day and said:

> Before we are out of here in a few days, permission will be granted to the Department of State—that is these faceless wonders in striped pants down there at the State Department—so that they will arrange for Panama to be permitted to fly its flag alongside the U.S. Flag in the zone.

The gentleman introduced that resolution, and it passed this House by a vote of 382 to 12; am I not correct?

Mr. GROSS. Something like that. And to be permitted to fly it at an equal level with the flag of the United States in the canal zone.

Mr. FLOOD. That is right.

Mr. GROSS. They not only fly it in the canal zone, but they fly it at an equal level with ours.

Mr. Speaker, I would like to ask the gentleman this: I am not quite clear concerning the resolution. Is it a House Resolution, sent through as a House resolution?

Mr. FLOOD. Yes, it is.

Mr. GROSS. I may have a copy of it?

Mr. FLOOD. It will be in the other body as well.

Mr. GROSS. Does the gentleman wish other Members to introduce the resolution?

Mr. FLOOD. Yes. I have asked for that in my opening remarks today.

That is the purpose and the intent of my appearing here, almost overnight, one might say, to introduce this resolution and to invite the Members on both sides of the aisle, as they always have, to participate in the presentation of this resolution.

Mr. GROSS. Mr. Speaker, I have not seen the gentleman's resolution, but I think I can safely say that it will be a pleasure to introduce it and join with the gentleman in his never-failing opposition to the turning over of the Panama Canal.

This is a critical question for the people of this country, not only from the standpoint of national security, but from the standpoint of the Congress of the United States, as well, as the rest of the free nations of the world. This canal must be held and operated by the United States.

I again wish to commend the gentleman for his long and never-failing fight to keep the canal in the hands of the United States where it properly belongs.

Mr. FLOOD. Mr. Speaker, the gentleman is very kind. I would hasten to add this:

With our Latin American friends through Central and South America, as I am sure my friend knows, I was raised in St. Augustine, Fla. I have been close to the Latins all of my life. I traveled through all of Central and South America for years. Back through my grandfather and my father and down through the years, I traveled on various committees' business through this area. I have nothing but great love and affection and sentimentality for the Latin American peoples and their nations.

I can assure them, especially those in Panama, that under no circumstances would it be my intent or the intent of this House or the Congress or this Nation to do other than to have their best interests and welfare at heart. That can best be done, I believe, by preserving our position on the canal for their best interest.

Mr. SYMMS. Will the gentleman yield?

Mr. FLOOD. I am glad to yield to the gentleman.

Mr. SYMMS. I thank the gentleman for yielding.

I, too, would like to commend the gentleman from Pennsylvania for bringing this matter before the House.

I have two questions I would like to ask the gentleman's opinion on.

Question one is, if we give up our interest in the U.C. Canal Zone in Panama, do you think the Panamanians will be capable of handling the canal?

The second part of that question is, if they are not, what other power do you think will have control of the Panama Canal?

Mr. FLOOD. The answer to the first question is, no, under no circumstances; and nobody knows it better than they do. Probably the first thing they would do would be to ask somebody by contract to run it, but I do not know who that would be.

The answer to question two is the Soviet.

Mr. SYMMS. I thank the gentleman for yielding, and I appreciate his opinion.

THE CLOSURE OF FORT MacARTHUR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ANDERSON) is recognized for 20 minutes.

Mr. ANDERSON of California. Mr. Speaker, the Department of Defense, Under Secretary Laird, established "Human Goals" which state that "Our Nation was founded on the principle that the individual has infinite dignity and worth."

And to attain this goal, it requires that the Department of Defense "strive to help each serviceman at the end of his service in his adjustment to civilian life."

I recall when I was in the Army, the service took great pride in the fact that they took care of their own. In other words, whatever a serviceman needed, whenever a problem arose, the military was prepared to help.

This was reassuring to a young serviceman and it helped create the esprit de corps that forged a common bond between the Army and its personnel. And, in large measure, the esprit that was created accounted for the retention of capable, experienced military men. For military service is not just a job—it is a way of life. It begins with enlistment, but it does not end with retirement. Rather, the commitment to this way of life carries over through retirement.

Many, many men have made the military a career—certainly, not for the pay and not because they like war—but, because they enjoy the life and they enjoy the camaraderie and the esprit.

In effect, they are proud to serve our country in a unit that takes care of its own.

But, today, Mr. Speaker, this tradition which has made our armed services the best in the world is threatened.

Today, the Department of Defense has announced its intention to close Fort MacArthur, Calif.—a post established in 1888—and the only Army fort in all of southern California.

The rationale for closing this facility is because of the phasing out of the Army Air Defense Command—the Nike program—a segment of which is located at Fort MacArthur and encompasses 22 percent of the fort's budget and 4.5 percent of its personnel.

The remainder of the activities—78 percent of its budget and 95.5 percent of its personnel—will be serviced by Fort Ord, located 360 miles to the North.

The decision for closing Fort MacArthur, I contend, cannot be justified by any reason; certainly, not cost; certainly, not combat effectiveness; and certainly, not in human terms.

Mr. HANNA. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I am happy to yield to my colleague, the gentleman from California.

Mr. HANNA. Mr. Speaker, I would like to commend the gentleman from California (Mr. ANDERSON) for bringing to the attention of the House the circumstances involving Fort MacArthur, which is in the gentleman's district, and which is not too far removed from my own district. I want to commend the gentleman from California because in this instance the gentleman is demonstrating once again that characteristic which has been the hallmark of his service here in the House of Representatives, of having a warm and ever-present concern for the human factors involved in governmental actions.

I am likewise appalled, Mr. Speaker, as day after succeeding day we are seeing a Government which is operated by accountants, men who look at numbers, men who add up figures, and men who have no compassion for or who seem to be blind to the human element, and of not bringing them into the implementation of the responsibilities that vest in the executive department of the Government, and who do not seem to be concerned, as the gentleman in the well is concerned, about how the decisions of Government affect the human beings who are so governed.

So, Mr. Speaker, I too join with the gentleman from California in trying to bring attention of this to this House, and to emphasize to the administration that we are here involved with human lives, and that the effect upon those human lives must be part of a reconsideration of this accounting decision to which the gentleman alludes.

Again I think the gentleman for yielding.

Mr. ANDERSON of California. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. HANNA) for his kind remarks.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I am happy to yield to my colleague, the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I wish to join my colleague, the gentleman from California (Mr. HANNA) in complimenting the speaker in the well, the gentleman from California (Mr. ANDERSON) on having brought this matter to our attention, and I wish to associate myself with the remarks made by my colleague, the gentleman from California (Mr. ANDERSON).

With respect to the comments made by the gentleman from California (Mr. HANNA) I would like to point out one thing, and that is that I too agree that we seem to be evolving into a government of accountants, but in this case I think they do not account too well.

We have some 21 million people in the State of California, and greater than half of them live south of the Tehachapi Mountains. The servicing of the military personnel whose homes and families are in that vast body of some 11 million people, involves a great deal of work, and also requires the immediate availability of military records and the like, which presently and which formerly were maintained at Fort MacArthur. I do not believe that it is at all unrealistic to expect the Army to maintain this fine installation which has been there since, I believe, 1888.

I wonder if the gentleman from California has any information as to costs?

Mr. ANDERSON of California. Yes, and it is one of the points that I will attempt to bring out in a few moments when I go on with my special order.

Mr. DANIELSON. I am very glad that the gentleman has that information.

Mr. Speaker, I too want to associate myself with the remarks of the gentleman from California, and I will be listening with great interest to the other items on costs.

Mr. ANDERSON of California. Again I would repeat that the reasons for closing Fort MacArthur cannot be justified by any reason; certainly not costs, certainly not combat effectiveness, and certainly not in human terms.

Mr. Speaker, I thank the gentleman from California (Mr. DANIELSON), for his remarks, and I hope that the answers that I shall give the gentleman will help buttress his position.

COSTS

Mr. Speaker, one of Fort MacArthur's primary missions is to supply administrative and logistical support to the 252 units and activities in the 8 counties of southern California. That includes 105 National Guard units, 78 Reserve units, and 33 ROTC schools.

Certainly, to supply these activities and to provide the repair and maintenance necessary, a fort should be reasonably close to the units. This would, first, reduce travel time, second, encourage greater supervision and, third, encourage prompt repair to damaged equipment.

But, when the headquarters is located 300 to 400 miles away, the cost in travel will be greater; the supervision, naturally, would be less effective; and the maintenance and repair would be only when critically needed. Thus, the long-range cost of moving the administrative and logistical support for these important activities will be greatly increased.

COMBAT EFFECTIVENESS

Mr. Speaker, today's modern Army is a complex machine. It is controlled by experienced and talented personnel who are operating costly and technical equipment. For these people to rely on a facility hundreds of miles away for food, pay, medical care, equipment, parts, and repair, it seems to me, greatly reduces their ability to perform their mission.

HUMAN NEEDS

Mr. Speaker, Fort MacArthur has been in continuous operation since 1888, when President Grover Cleveland signed an Executive order creating this facility.

Today its annual payroll is $22.7 million, generating $59 million worth of business in the San Pedro area alone.

Not only does it perform an important part in our national defense, Fort MacArthur is an integral part of our community.

Because of the desire of retired military personnel to locate in an area close to a fort, the San Pedro area is the home of some 43,000 former career servicemen. They use the post exchange and the commissary to buy their necessities, and they use the clinic to meet their medical needs.

To break faith with these members of the Army family, it seems to me, can only result in a lessening of morale of the servicemen, a blow to the Volunteer Army, and a callous disregard of the needs of those who have served our country.

Over 5 percent of the Nation's Army retirees live in southern California and presently depend on the one Army post in the eight-county area.

I sincerely believe that an area as large and as populated as southern California, with over 5 percent of the Nation's population, surpassed by only two States, New York and Pennsylvania—and, of course, California itself, with over 5 percent of the Army retirees—should have an Army post.

In addition to the former servicemen in the San Pedro area, some 45,000 dependents of active duty soldiers, sailors, and airmen live in close proximity to Fort MacArthur and take advantage of the services offered there to supplement their paltry incomes.

But, Fort MacArthur is more than a convenience and a necessity for the retired servicemen and the military dependents; it is a significant member of the community. Last year the 72d Army Band, located at Fort MacArthur, performed in 123 parades, concerts, and ceremonies witnessed by over 1.5 million local residents.

The color guard displays the flag at an average of six patriotic ceremonies per month, including such events as the Torrance Armed Forces Day Parade—the largest in the Nation; the Long Beach Veterans' Day Parade, the Huntington Beach Independence Day Parade, and the San Pedro Christmas Parade, to name but a few.

In addition, some 4,500 young people, in such groups as the Boy Scouts, the YMCA, the Explorer Scouts, and the Girl Scouts, are welcomed by Fort MacArthur and use the post facilities.

CONCLUSION

The Department of Defense has a primary objective to preserve peace, and they can best accomplish this mission by maintaining a corps of dedicated, intelligent, and highly trained individuals who believe that loyalty is a two-way street, who believe that loyalty must flow from the service to the members, as well as from the members to the service.

But, today, with the announced intent to close Fort MacArthur, an important link in the chain of loyalty has been neglected; and the military units of the service—have been disregarded, the dependents, a major part of the service, have been ignored; the community, from which recruitments must come, has been broken. The retirees—the alumni which depended on Fort MacArthur, have been overlooked—all to the detriment of the service and to its mission to preserve the peace.

HOUSE DEMOCRATIC RESPONSE TO THE PRESIDENT'S MESSAGE AND ADMINISTRATIVE ACTIONS ON COMMUNITY DEVELOPMENT IN THE COUNTRYSIDE

The **SPEAKER** pro tempore. Under previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I am pleased to have the opportunity to represent the Democrats in the U.S. House of Representatives for the purpose of responding to the President's message and administrative actions on community development in the countryside. As chairman of the House Subcommittee on Family Farms and Rural Development the implementation of the national growth policy, previously established by the Congress, is a principal concern. That subcommittee is a part of the Committee on Agriculture which has broad jurisdiction over the economics and farm products that fill the breadbasket of our Nation.

Congress has made a modest beginning in achieving a national policy for community development in America. In 1969 we began shaping a statement of policy that emerged with a congressional commitment to the revitalization of the Nation's countryside made in the Agriculture Act of 1970, and to a balanced national growth policy made in the Housing and Urban Development Act of 1970.

In 1972 the Congress enacted the Rural Development Act.

The RDA is an act that is full of promise. If administered as intended by the Congress it can breathe new life into tens of thousands of small towns all across our land. It contains the authority for the administration to provide the kind of community development where people can live, work, and play without struggling with overcrowded conditions in the cities.

The act carries in it the promise of the possibility for community, cultural, and economic developments which avoid many of the mistakes we have made in building our great cities.

The congressional commitment to the heartland has been clearly communicated to the executive branch.

The President has responded with verbal support.

In his 1970 state of the Union address, Mr. Nixon stated:

> We will carry our concern for the quality of life in America to the farm as well as to the suburb, to the village as well as the city. What rural America needs most is a new kind of assistance. It needs to be dealt with not as a separate nation, but as a part of an overall growth policy for all America. We must create a new rural environment that will not only stem the migration to urban centers, but reverse it.

From the President's revenue sharing—rural community development message of March 10, 1971:

> As never before, the Nation is beginning to see that urban America has a vital stake in the well-being and progress of rural America. This is one Nation, and for the good of all Americans we need one national policy of balanced growth.
>
> For the sake of balanced growth, therefore, but even more for the sake of the farmer and all his neighbors in rural America—first-class citizens who deserve to live in first-class communities—I am proposing that the Federal Government re-think America's rural development needs and rededicate itself to providing the resources and the creative leadership those needs demand.
>
> It takes many different kinds of activities to create rural development—to create opportunity. One must start with the individual—his education, his skill training, and his health. Next the individual needs to be linked to resources and markets through transportation. Public sector infrastructure such as water and sewers is needed to encourage industry to locate in new areas. The environment is also becoming an increasingly important factor in industrial locations.

From the oral state of the Union message delivered January 20, 1972, in joint session by President Nixon:

> It is striking to realize that even if we had a population of one billion—nearly five times the current level—our area is so great that we would still not be as densely populated as many European nations are at present. Clearly our problems are not so much those of numbers as they are of distribution. We must work to revitalize the American countryside.

From the special message on rural development sent to the Congress by the President on February 1, 1972:

> All Americans have a high stake in rural development. For the problems which many rural areas are now experiencing are directly linked to those of our cities and suburbs. Changing patterns of life in rural America have changed the pattern of life in all America—many of our rural areas are being emptied of their people and their promise—In many cases, those who have left the countryside have simply taken their problems with them. Indeed, many have seen their problems intensify as they have settled in overcrowded urban areas.

We in the Congress could not have been in more agreement. We have established most of the necessary legislative framework. We have made our commitment to these goals, and appropriated substantial amounts of money to put the programs to work. We expected, in view of the President's rhetoric, that these programs would be enthusiastically endorsed by his administration. We expected in any case, in view of his constitutional mandate to "take care that the laws be faithfully executed" that they would be promptly and properly administered according to the will of Congress.

In passing the RDA Congress recognized that man does not live by farm programs alone. While farmers are the cornerstone of the economy, more than half of the citizens of the countryside are professionals, clerks, factoryworkers, businessmen, students, artists, or follow other nonagricultural pursuits.

The idea of "rural America" is more romantic than real. The people of the heartland living in the countryside make up a balanced society. This fact is known in the Congress but is not yet recognized by an impervious administration.

Local control of governmental decisions is as American as apple pie. I wholeheartedly endorse this philosophy. I fully support the right of citizens at the local level having the privilege and assistance which they need to make the decisions which design their destinies.

At the same time, a realistic appraisal of the organization of our Nation's needs means recognizing that there are some areas at which decisions must be made on the basis of national interests as a whole. Ones which readily come to mind are such things as national defense, Federal highway networks, flood control, and regional development.

These, and other concerns, cannot be solved regardless of the tax dollars that are collected by the IRS and turned over to local governments if the process takes place in a climate of national indecision.

For too long Washington has viewed the countryside and the city as separate nations with separate problems. What will it take for America to see that the urban crisis is no less than a transplanted rural problem compounded by size, congestion, cultural fusion, and crime? This is a mistake which the Congress has painstakingly begun to attempt to correct through the passage of major pieces of legislation—title IX of the Agriculture Act of 1970, title VII of the Housing and Urban Development Act of 1970, and the Rural Development Act of 1972.

The needs in the countryside for development—for improvements of the quality of life of the people who live there or who would like to live there are as great as those in the metropolitan areas. Attempting to say which of these needs should be first attended to is akin to trying to solve the age-old puzzle of which comes first—the chicken or the egg. So what I would do today is to limit this analysis of the deeds of the administration to seven important elements of life in the heartland of America: Education, jobs and economic development, community facilities, recreation, health, transportation, and housing.

Let us now take the bark off the tree and look behind the words, at the deeds of the administration.

EDUCATION

Countryside schools are allocated about $100 per pupil less than metropolitan schools—$562 per pupil to $672 per pupil. Teachers are paid less. There is less equipment and fewer training aides. The schoolchildren of the heartland are shortchanged by the administration in their educational needs.

In 1970, countryside counties, and particularly sparsely populated regions performed markedly lower than their metropolitan counterparts in terms of the school enrollment rates of youth, and the overall educational achievement of the adult population.

The percent of 16-to-17-year-olds enrolled in school in 1970 was 86.4 percent in nonmetropolitan counties, and 90.5 percent in metropolitan counties. This disparity of 4 percent is not overbearing, yet consideration of progress from 1960–70 reveals a 9.9 percent improvement in metropoliton counties, by contrast to only a 6.3-percent increase in enrollment in nonmetropolitan counties In totally rural counties of the South, approximately 20 percent of the 16-to-17-year-olds were no longer in school. Overall, nonmetropolitan counties fell about 3 percentage points below the national average.

For 1970, educational attainment, or the percent of the population 25 years or older completing at least 4 years of high school, in nonmetropolitan counties was 45 percent, a full 10 percent lower than the 55.1-percent rate for metropolitan counties, and approximately 7 percent lower than the national average. In sparsely settled populated counties only 39.2 percent of the adults had completed high school.

Recent administration initiatives in education will only further aggravate an already critical situation. The administration's better schools bill would radically redefine the Federal role in elementary and secondary education by consolidating 32 valuable categorical programs into 1 revenue-sharing package. Thus, threatening specifically targeted aid to educationally needy children in the countryside.

But for the Congress, the people's branch of Government, our country cousins would have a higher hill to climb.

JOBS AND ECONOMIC DEVELOPMENT

Mr. Speaker, the public pronouncements of this administration are full of praise for working Americans and the work ethic. But what has been accomplished for those who want to work but cannot find jobs?

On Friday, February 1, the Bureau of Labor Statistics reported that unemployment in January rose to 5.2 percent—an increase of four-tenths of 1 percent over December. In human terms, 4,732,000 men and women in the labor force were out of work. This was an increase of 368,000 that were added to the unemployed over the holiday season. In my home State of Arkansas, the number of persons seeking unemployment insurance rose from 2.8 percent of covered workers in early December to 4 percent in early January. In other words, in early January 6,226 Arkansans became new applicants for unemployment benefits, joining the 16,871 who were already receiving them.

Yet, in his state of the Union message, the President told us there would be no recession. Mr. Speaker, it is time to level with the American people and face the economic facts of life.

Unemployment rates for countryside counties are consistently higher than for urban counties—living with poverty in the countryside is much worse than in the city. For the long days of unemployment are not broken by the glare of the bright lights, but are accompanied only by the howl of the winter wind and the lonely cry of the timber wolf.

Taking a longer view, it is estimated that during the 1970's, there will be an increase of 2.7 million men in search of jobs in nonmetropolitan areas.

But if past trends continue—if the administration fails to cooperate with congressional initiatives, most of these men will have to join the rush to the city in search of work to support their families.

It is private businessmen who create job opportunities in the countryside. But Government can provide self-help programs that give rise to private industry and produce job opportunities.

What has this administration actually done to foster jobs and economic development in the heartland?

Mr. Nixon called for the elimination of the Economic Development Administration, which programs have largely helped small towns and communities. Congress continued the program for fiscal 1974, but its future is bleak if the President has his way.

Mr. Nixon asked for no funds for the regional commissions, which are trying to coordinate economic revitalization programs in depressed regions like the Ozarks and Appalachia. Regional planning exists today on the single hope of congressional support.

Mr. Nixon called for the abolishment of the emergency public employment program that expands public services at the grassroots. Shirley, Ark., a pretty little town nestled in the Ozarks, has a town marshal because Congress provides 75 percent of the salary. Thousands of public service positions will be abolished if this program is not continued by the Congress.

A major new economic incentive development program created by the Congress in the passage of the Rural Development Act of 1972 was the rural development insurance fund—meant to help create jobs in the countryside. You see, we believe strongly in the premise: "If you give a man a fish you feed him for a day—if you teach a man to fish, you feed him for a lifetime." This program has been law 16 months. Thus far, here is what has happened: As of December 30, 1973:

Program: Business and industrial loans; applications received: 907; applications worth: $501,038,696; appropriation, $200,000,444; impounded, $20,000,000; loans made, six; and their worth, $1,466,50.

The program also included $10,000,000 appropriated for grants for business and industrial development. The administration has "put in reserve" or impounded $1 million of this.

COMMUNITY FACILITIES

The phrase "community facilities" covers a lot of programs. I will limit my discussion to some of the most vital—energy distribution, communication, water and sewer systems, and programs for providing community public service facilities, such as community centers, municipal buildings, streets.

At the beginning of this 93d Congress we found ourselves facing the incredible development of an administration that had attempted without legal authority or consultation with the Congress to terminate or severely and adversely reorient a number of programs vital to rural America. The rural electrification and telephone system programs, and the water and sewer grant programs were among them.

The result would have been that rural Americans would have been required to bear a far greater share of the Federal spending control burden that was fair or just. Congress went into action and rewrote the rural electrification and telephone laws to help lift some of this expense so unfairly put upon their shoulders.

Now let us examine what has happened since the Rural Development Act of 1972 became law.

The Chief Executive's words: "An overall growth policy for all America" still echoed in the Halls of Congress, and, the ink was barely dry on the Presidential pen, when the directive was ordered by the White House that instead of a "national growth policy" for the heartland, the authority for determining policy would be delegated to the Governors of the several States.

We were to have 50 State policies—each one separately designed and unrelated—completely opposite from congressional intent or Presidential promise.

The President broke his promise to the people of the heartland.

We were forced to rewrite the law taking this reversal of Presidential support into account.

So we amended the RDA specifically prohibiting the attempted abandonment of a national growth approach.

Bear in mind that the RDA was signed into law in August 1972.

It was not until June 1973, after considerable pressure from Congress that the USDA published its proposed regulations implementing the most important parts of the act—community facility loans and business development loans.

Final versions of the regulations took the administration 13 months to complete.

Not only has the administration begun an endless stall as a means of delay, it has flatly told Congress that it will not administer certain provisions of the act—grants for water and sewer, and solid waste disposal systems.

This produced a fury in Congress. In the appropriations bill for this current year, Congress approved $150,000,000 for water and sewer grants—the kind of assistance that many small towns and communities must have to protect the health of their citizens as well as improve their chances for wider economic development.

The latest administration abdication of responsibility, bordering on contempt of Congress, is disclosed in a policy letter from Secretary Butz, November 1973, stating that the RDA program would be turned over to the State directors of the Farmers Home Administration.

First the Governors. Now, the State directors of the Farmers Home Administration.

With all due respect and in deference to the thousands of dedicated Americans serving this country in the Farmers Home Administration, this is not the way for the people of the countryside to sit even near the head table when national policy is determined.

Thus, the Presidential promise, followed by administrative performance is a classic example of a medicine show warranty where the large print giveth, but the small print taketh away.

When it was writing the Rural Development Act of 1972, Congress fully realized that community facilities are an essential element in community development. So a new program for providing Federal assistance to communities needing such facilities was developed. Then the Congress authorized the use of $50 million in community facilities loans for the program. The administration has put into "reserve" $5 million of that money, despite the fact that thus far it has received 174 loan applications totaling $67,689,321. And, as of December 30, 1973, only two loans, totaling $212,000 had been approved.

The health of our citizens and the protection of the natural environment call for modern water and waste disposal facilities. But thousands of country communities continue to be without public water and sewerage systems. More than 11 million homes in the countryside were not served by a public sewer system in 1970 and more than 7 million houses in these areas were not connected to a public water system.

Disposing of solid wastes is another mounting problem—over half of the 4 to 5 billion tons generated each year are dumped in the hills and dales of the countryside.

The Congress responded to these needs by authorizing grants and loans through the Environmental Protection Agency and under the Rural Development Act of 1972, Congress expanded the water and sewer system assistance programs for rural America. In the appropriations for this current year, Congress provided $470 million for water and waste disposal loans. When the administration made its State-by-State allocations of these funds, it impounded—or held "in reserve" $47 million.

The administration has, by unilateral action, chosen to cut back or withold entirely moneys authorized and appropriated by the Congress for water and waste disposal projects. Congress appropriated $5 billion for fiscal 1973 and $6 billion for fiscal 1974 to be allotted by EPA for water pollution control. The administration allotted only $2 billion and $3 billion, respectively, for these vital activities. The Congress appropriated $150 million for fiscal 1974 for rural water and waste disposal grants. The administration initially impounded all of this money. Only under great pressure from local officials and Members of the Congress did the administration recently agree to release $30 million of these funds.

These impoundment actions have had a shattering effect on the efforts of States and local governments to carry out long-term programs to control water pollution and to protect the environment.

RECREATION

Historically mankind has used leisure time for renewing physical and mental vitality and for gaining new perspectives for dealing with the day-to-day routine for shaping a brighter future. For countryside America establishing recreational areas also has another purpose. They help revitalize the economies of depressed areas while conserving and enhancing some of our most valuable natural resources.

One of the most important Federal programs assisting States like Arkansas has been the land and water conservation fund. The Congress established this fund as a mechanism for allowing persons using recreational facilities to help pay for improving and expanding them. The need in countryside areas is immense.

Yet, for this current fiscal year the administration proposed appropriations at such a low level that States which had embarked on vigorous recreation development programs would have been stymied. Congress recognized this and moved to increase the funds available through the program. This action was taken not only on behalf of the people of the countryside so that they might continue to move toward balanced regional development but on behalf of the millions of persons who stream outward from the congestion of the cities to enjoy the relaxation of the countryside.

Life, even in the countryside, is incomplete unless people have beauty as well as bread.

HEALTH

Good health is essential whether on a farm, in a small town or in a metropolis. Adequate access to doctors, dentists and hospitals and other medical personnel and facilities is necessary to maintaining good health. Yet we find hundreds of country towns and communities not only do not have a hospital or clinic—they do not even have their own doctor.

According to the 1970 census persons living outside metropolitan areas were being served by fewer than half the number of physicians who worked in our metropolitan areas. In metropolitan areas there were 145.7 physicians per 100,000 persons. In nonmetropolitan areas there were only 69.1 physicians per 100,000 persons. While the differences were not as great, there were also significantly fewer pharmacists, registered nurses, and dentists practicing in the countryside.

A study of medical care deficiencies in the heartland made by the Department of Rural Health of the American Medical Association was reported in "Health Care Delivery in Rural Areas." It further underscores the problem I have described by reporting that—

> We find that rural people in the more sparsely populated areas have only about one-half the access to physicians, nurses, dentists, hospital beds, and other health resources when compared with the rest of the nation.

For a physician to choose to practice in the countryside he must be assured of having available to him a minimum of basic facilities such as hospitals or clinics. And, they want, rightly so, to be fairly compensated for the services they perform.

Yet we have found that Federal policies established by this administration work against our people. For instance, many small hospitals have been forced to close during the past 2 years because of the manner in which Federal regulations governing their participation in federally assisted programs were drawn. And, despite a physician's professional competence he receives less compensation for participating in federally assisted medical programs such as medicare if he practices in a small town than if his office is in a metropolitan area. It is not difficult to understand why more physicians practice in the city.

In his 1973 budget request the President told the Congress that the Hill-Burton hospital construction program, which had made it possible for thousands of small towns and counties to afford the hospitals they must have, was being ended. Congress refused to abandon the people of the countryside and continued the program. I have found in the brief study which I have been able to give this new budget the President has presented to the Congress today that he is again trying to dump the Hill-Burton program. He is proposing that it be replaced with one which will make the already high cost of being sick even higher. One of every four persons in the country areas is poor. The cost of medical care has been moving ever further out of the reach of their budgets. And, the administration continues to propose programs which make the fight for health more and more a dream than a reality.

TRANSPORTATION

In recent years, and particularly during 1973, the importance of being able to move food from the countryside producing areas to the hungry millions of the cities has begun to receive national recognition. The prod for this has been rising costs. The reasons for the rises are complex and fall on many shoulders, least of all the farmers. But, that is not what I would discuss in this portion of my response.

The picture that I see, and millions like me who are familiar with the transportation systems of the countryside, is a chilling one. It is a picture of catastrophe in the food and fiber distribution system if the transportation policies proposed by the President and his administration come to reality.

First let us take a look at the comments of the 1972 National Transportation Report of the U.S. Department of Transportation regarding spending for highways in the countryside:

> The results of the economic analysis clearly indicate that user cost savings justify far less highway investment in rural areas than in urbanized areas.

The report further quoted an independent estimate that the cost "for reconstruction" over a 22-year period "on rural arterial—road—system was approximately $21 billion in 1969 dollars."

The Federal-aid highway system is composed of approximately 900,000 miles of roadways. There are strong indications that the administration will propose the dropping of up to 300,000 miles of that system. Since the establishment of the interstate highway program the States have concentrated most of their Federal aid funds on this superhighway network. The result has been the critical deterioration of the countryside roadway network.

The comments of the 1972 National Transportation Report makes it amply clear that at least someone in DOT is aware of some of the rural road problems. Yet the administration has just proposed that the railroads be allowed to abandon at least 78,000 miles of track. Historically abandonments have totalled approximately 46,000 miles—most of it in countryside areas. It is a good bet that this new proposal will see additional thousands of rail miles abandoned in the countryside. But, "don't worry," the administration says—the trucking and barge industries will provide freight service to those areas which the railroads are allowed to abandon.

I agree that there may be good cause for allowing the abandonment of some rail mileage. But, at this time, in view of the transportation network problems in countryside areas, such precipitous action as is proposed by the administration sounds like Ned in the first reader on transportation.

Why?

First, vast regions of the food and fiber producing areas of the Nation simply do not have access to navigable streams on which the waterways industry can operate.

Second, the roadways of countryside America were not built for taking the punishment which would be dealt out by the giant truck transports which would be required to move the agricultural products to railheads or riverports.

Studies of the status of roadways in countryside America which have been completed since 1970 show this:

There are 3,165,895 miles of rural roads, including those which are unpaved, paved but low loadbearing and those capable of carrying heavy loads. Of these roads only 14.2 percent have been judged capable of carrying the heavy transports which the administration says would take up the slack in freight service created by allowing the railroads to carry out the rail abandonments for which they clamor.

What does this mean to the heartland of America? Unless the Congress forces the administration to take another look at its shallow, short-sighted transportation proposals it means the commitment to countryside development which we have enacted into law will be a still-born dream. It means that the food and fiber industry of the Nation will be threatened with destruction because the machinery, the seeds, the fertilizer essential to production cannot get to the farms.

What does this mean to the millions in New York, Washington, Chicago, Atlanta, Dallas, Los Angeles, and our other metropolitan areas? They will go hungry—or, if they can get food, the prices of 1973 will seem like a pleasant dream.

The States, to which the administration would give the $21 billion rural road reconstruction bill simply do not have the money. The Congress must take up the standard and mandate the establishment of a transportation program which insures that we have a balanced food, fiber, and people moving system for the whole Nation—not just for the urban areas. We must act to end this threat as we did to end the threat of raiding the highway trust fund for metropolitan mass transit and abandoning nonmetropolitan America's transportation needs.

My analysis of the transportation report is one where the administration turns its back on the people of the heartland.

HOUSING

In 1968, the Congress, in the landmark Housing and Urban Development Act of that year, set a numerical goal of 26 million housing units to be built or rehabilitated over the following 10 years. Six million units were to be for moderate- and low-income families who cannot pay their own way. The President's Second Annual Report on National Housing Goals issued in 1970 reaffirmed these needs. Substandard housing is conspicuously more serious in the country than in the city. In 1970, 2.4 million families in the countryside lived in houses that lacked a flush toilet or a bathtub or shower and some had no piped water into their homes. Over half of these families are very poor—below $3,000 income a year—and have lost most hope for the American dream. One out of three of these 2.4 million badly housed families is elderly.

Yet, by the President's own figures, only 487,000 housing loans have been provided over the 5 years of this administration. In January 1973, the President suspended all subsidized housing programs and stopped the Farmers Home Administration and HUD from making any new commitments. It took a Federal court order to get the farmers programs reinstated, but the volume in 1973 was reduced to a trickle.

For fiscal 1974, this Congress appropriated $1.1 billion for low- and moderate-income single family housing. According to newspaper accounts, as our distinguished colleague, Congressman BOB BERGLAND of Minnesota, called to our attention on January 22, $350 million is being placed "in reserve" and $400 million is earmarked for rehabilitation of existing housing rather than new construction. Are these new devices of the Office of Management and Budget to thwart the will of the Congress and hold back funds we intended to be committed to country housing?

Due to a massive credit crunch that started in the middle of 1973, housing construction in the countryside, as well as urban areas, has fallen off sharply. Even with the actions recently announced by the administration housing starts in 1974 are likely to be only 1.4 to 1.5 million units—well below the industry's capacity and far below our needs.

GOVERNMENT OPERATIONS

You cannot fly a jet airplane with a washing machine motor and there are certain budgetary requirements to making any Government program worthwhile. However, Federal dollars are only a part of the ingredients of success. One of the most urgent needs of the people of the heartland is to get the Government to give a dollar's worth of dedication for every tax dollar spent.

The Congress appropriates the money, but our responsibility does not end there. We must see to it that the administration manages Federal programs efficiently, effectively, and with honesty. This administration is replete with waste, inefficiency, incompetence, lack of concern for the public interest, and some make a good case for corruption.

In House report 93–705, the Committee on Government Operations points out that untold hundreds of thousands of dollars have gone down the drain.

Due to malmanagement the unanimous report states:

> Because of deficiencies in the agency's system for reporting losses, it is doubtful that FHA knows the extent of its default losses, let alone the reasons for such losses. This report clearly shows that significant reasons for default losses include loans to borrowers obviously lacking resources for repayment, inadequate counseling and poor loan servicing. It seems likely, also, that unpleasant and unhealthy living conditions resulting from substandard construction have been a contributing factor in the abandonment by borrowers of FHA financed houses. (House Report No. 93–705. p. 11)
>
> ". . . *Responsible officials have failed to demonstrate an acceptable degree of administrative initiative and competence. Major problems or administrative deficiencies noted during the subcommittee investigation include the following:* "Serious and widespread deficiencies in sewer and water systems in rural subdivisions, creating health hazards for FHA borrowers. Substandard construction quality in many FHA-financed homes, both manufactured and of conventional construction."
>
> Many instances in which required FHA construction inspections have been inadequate or have not been made at all.
>
> Inadequate enforcement of builders' warranties.
>
> Approval of rural housing loans to borrowers who are ineligible or clearly lack resources to repay.

> Excessive appraisals of property securing rural housing loans.
>
> Failure to provide adequate counseling to borrowers securing loans through "packagers."
>
> Inadequate precautions against use of false and misleading information to obtain loans. (pp. 12–13)
>
> "Because of the unreliability of FHA reports on default losses, the subcommittee has not yet been able to determine how large these losses have been. It is clear, however, that they are much large than the amount FHA has been reporting." (p. 13)
>
> We find an Administration that issues reports that, in some cases, are ". . . confusing, and contradictory; . . ." while in ". . . other cases the reported figures are unbelievable." (p. 59)

At this point, I believe it to be important to make a distinction between the administration and the so-called bureaucracy.

The President has referred to "bureaucrats" with disdain. After President Franklin Roosevelt was elected a "bureaucrat" was thought to be a Democrat who had a job a Republican wanted. But that test no longer applies.

Today, there are many people in the Federal Civil Service—the vast majority—who want to do a good job and want to be respected for the work they do. These professional and technical people in Government have too often been handcuffed by political appointees who make up the administration who know little about the programs they are supposed to supervise or simply do not believe in the programs that this Congress has enacted.

The rural development programs are a good example. In 1972 the President called for a rural revenue-sharing scheme. We in the Congress considered his proposals but after careful deliberation we developed and passed the Rural Development Act of 1972, which the administration fought all the way to the Capitol steps.

The President signed the bill into law but refused to recommend funds for key sections of the law, such as rural water and sewer grants. When the Congress provided the money, the President and his Office of Management and Budget impounded.

The civil servants in the Farmers Home Administration were prepared, I am convinced, to do a good job. But they could not get approvals from the political administration.

When regulations were finally issued by the Department of Agriculture for a key element of the law—business and industrial loans to businessmen—the administration proposed to turn the responsibility over to the Governors and State officials, lock, stock, and barrel.

This was not what we in the Congress had intended. Congress acted to amend the RDA to make it clear that this approach was in conflict with the law. This was a bipartisan action in the Congress, led by Senator CURTIS of Nebraska.

Imagine what this administrative trickery did to the morale and spirit of Federal civil service people.

Dozens of Federal programs passed by the Congress have received similar treatment by this administration. And as a result, hundreds of seasoned civil servants have retired early or quit out of frustration and disgust. Those who stayed on have become more and more dispirited.

This shell game Government is replete with confusion, contradiction, and ineptitude which thwarts the goals of efficiency at the taxpayers expense. This administration is too compatible with waste, nonaccountability, and nonresponsiveness to the intent of the law.

There is a widening sense of suspicion and powerlessness among our people. They feel that the big moneyed interests are favored and permitted to beat the system while John Q. Citizen is stuck with paying taxes to support a Government that is performing poorly.

People are beginning to question the capacity of Government to solve national problems.

This administration is viewed as an expensive, inept structure, more interested in perpetuating an overstuffed political hierarchy than in providing an institution for dedicated and efficient service to the public interest. In short, the system has failed to deliver.

We in the Congress have but one choice if we are to keep our solemn oaths to uphold the Constitution and fulfill the commitments we have to made to our people.

This Congress has the double duty to see to it that the administration carries out the programs that Congress has enacted.

We must exercise extraordinary diligence in performing oversight of Government operations in order to carve out waste so that the heavy burden of this administration can be lifted off the backs of the American taxpayer.

And, finally, as stated by Thomas Jefferson, we must forever strive for "a wise and frugal government, which shall not take from the mouth of labor the bread it has earned."

Mr. BRECKINRIDGE. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Kentucky.

Mr. BRECKINRIDGE. Mr. Speaker, I would like to associate myself with the stated purposes and objectives of the gentleman in the well, the gentleman from Arkansas (Mr. ALEXANDER). I would like to thank him if I may for putting in the RECORD the contemporary perspective as far as the relationships that have been posed for the people of the United States and Members of this House as between the executive and legislative branches of the Government.

Mr. Speaker, during the latter part of 1973 the gentleman from Arkansas and I together with other members of the congressional rural caucus called upon the Director of the Office of Management and Budget Mr. Roy Ash to come forward to meet with us for the purpose of determining whether or not the exacerbating relationships existing between the executive and the legislative might in some way be ameliorated by an exploration of the reporting of that office as required by law in the Federal Register of those moneys impounded by the executive branch to which the gentleman in the well made reference today.

As reported in the September issue some $8 billion of moneys appropriated into law and signed into law by the executive and the legislative branch had been impounded and withheld in violation of the purposes appropriated therefor.

We stated, and I have in a subsequent letter requested of Mr. Ash, that an additional $8 billion in our opinion have been denied the people in the programs to which the gentleman in the well has referred. I listened to him today and I find that other devices and other avoidances and other techniques and methodologies are evidently being employed by the executive branch to frustrate the will of the people as the law of the land.

I wish to thank the gentleman for bringing these matters to our attention. I want to say to him that I associate myself not only with his remarks, but his efforts to correct these conditions that exist. I say that I appreciate the report.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. ALEXANDER. I yield to the distinguished majority leader.

Mr. O'NEILL. I want to congratulate the gentleman from Arkansas on the fine talk that he has given today. Some of us may not be aware of what was actually in the President's state of the Union message concerning the rural problems of America and the gentleman is educating us.

It is very interesting when we note the history of the past few short years. It was back at the start of 1920, approximately 31 million Americans lived on farms. Now there are between 8 million and 10 million on the farms.

At one time when we read the history of Congress, the farm block was the instrumental power in the Congress. Today there are but 25 Members of Congress who represent purely agricultural districts. There are about 115 Members who represent rural areas and suburban areas; and there are 295 Members from the metropolitan and urban areas of the United States.

It was William Jennings Bryan who once said:

> Burn down your cities and leave our farms and your cities will spring up again as if by magic; but destroy our farms and grass will grow in the streets of every city in the country.

That is just as true today, because as the economy of the farmer goes, so goes the economy of the rest of the Nation.

Thirty percent of the people of America are employed in food and the transportation of food. Ten million farmers supply the breadbasket of America; so we must be always aware of the problems that face the rural areas and that face the farmers of America. We cannot sacrifice one at the expense of the other.

I am truly grateful to the gentleman from Arkansas for bringing out these wise facts so the rural people of America will be aware of what was in the state of the Union message.

Mr. ALEXANDER. I thank the distinguished majority leader for his consistent dependable support for the legislative programs that are brought before this Congress, that are needed by the people of our countryside. But for the assistance of the majority leader and the people that he has helped to influence, our plight would be much more difficult.

Mr. MEZVINSKY. Mr. Speaker, I commend the gentleman from Arkansas for his fine remarks. I want to add that as far as the focus of this administration toward programs in rural America is concerned, I think the gentleman has exposed the inadequacies of the administration's proposals. He quite properly points out the need of this Congress to act more responsibly on behalf of people living in rural areas of our country. Again, I applaud the gentleman's very forthright articulate presentation.

Mr. ALEXANDER. I thank the gentleman from Iowa. I yield back the balance of my time.

LAND USE PLANNING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. STEIGER) is recognized for 10 minutes.

Mr. STEIGER of Arizona. Mr. Speaker, H.R. 10294, the Land Use Planning Act, has been ordered reported by the Interior and Insular Affairs Committee and will probably come to the floor the end of this month or early March. At that time, Mr. Speaker, I plan to offer my land use bill, H.R. 11325, as a substitute for H.R. 10294 which is a genuine disaster in the making.

The problems flourishing in this particular Pandora's box are exactly the same problems associated with all Federal programs, but particularly those in areas heretofore ignored. As in the case of OSHA, EPA, the Consumer Protection Agency, the original concept of Federal involvement is conceived in good faith. But, the original concept is totally distorted in its application.

The intent of H.R. 10294 is to encourage and assist the States to plan for the wise and balanced use of their land resources. A reading of what the bill actually says immediately reveals that H.R. 10294 goes much further than encouraging and assisting. Presently, there is a wide disparity between intent and effect.

The proponents of H.R. 10294 are constantly reassuring everyone that the States will have almost total control in developing their land-use plans and that the Federal Government's role will be limited to overseeing their activities, but I would encourage my colleagues to read that bill carefully. Study of the actual wording points out that a passive Federal role is unlikely.

H.R. 10294, as ordered reported, still contains line after line of requirements, criteria, instructions and suggestions that the States must consider or comply with before the Secretary will decide if a State is eligibile to receive a grant.

The Federal land-use planning concept was stimulated by exactly the same people who pushed for the Environmental Protection Act, and who delayed construction of the Alaskan pipeline for an unnecessary 4 years, and who have initiated most of the litigation that has delayed or canceled plans for the development of new sources of energy.

In this bill the golden opportunity for new litigation on behalf of causists can be found on every page. The Federal land planning bill calls for States to participate on a voluntary basis in a land-planning process funded by all taxpayers. If they choose to take the first Federal dollar they will be forced to comply with the Federal standards imposed. If past is prolog, all or nearly all States will be unable to resist the "free Federal dollar" and there the fun will begin.

The bill sets up two Federal administrative layers. The first involves every agency, bureau or department of the Federal Government that must be consulted on all State land plans. You can imagine the delay in implementation which that process will entail. Just dealing with a single agency, you know the months and years involved. The second layer of bureaucracy is the Interior Department where there will be established a land-use planning entity to advise the Secretary of the Interior as to whether or not to sign off on any State planning process. More months and probably years of delay.

The administration is said to be officially in favor of the bill. That is nonsense: they are in favor of land use planning but do not have the foggiest notion what is in the bill itself. The Department of the Interior is wildly enthusiastic about the bill for a simple, understandable and publicly unstated reason. The Department of the Interior is losing almost all of its energy responsibilities and in the nature of all bureaucracies is frantic to replace the loss with new and extensive job opportunities.

If we are to have land use planning legislation, it should do what it professes—and no more. Federal legislation in this area of State and local responsibility should be written with a minimum of Federal controls. State and local governments must be free to carry out their constitutional duties and to decide for themselves how their needs can best be met.

Mr. Speaker, H.R. 11325 restores the proper balance between the original intent and the effects of this legislation. It allows the States to decide for themselves the range and content of their plans. It will insure that private property rights will remain unchanged. H.R. 10294 requires the Secretary of the Interior to tell the States which lands within each State he considers to be areas of critical environmental concern of more than local significance, while H.R. 11325 allows the States to determine what areas they consider to be critical.

Mr. Speaker, I have chosen this particular time to announce my intention regarding H.R. 11325 because most of my colleagues will be returning to their districts during the upcoming Lincoln Day recess. I am making the announcement now so that my colleagues will better be able to discuss this issue with their constituents and obtain their views. I am confident, Mr. Speaker, that if the American people really understood H.R. 10294, the vast majority would oppose this infringement on their basic property rights.

AIDING THE VETERAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, last week President Nixon requested new initiatives to aid and honor the American veteran. In his message to Congress the President proposed that VA pensioners receive a cost-of-living adjustment in their pension payments. This increase would be automatic, similar to those now received by social security recipients. In addition, the President requested $200 million to provide for an increase of 8 percent in educational benefits for veterans. The message also requested that Veterans Day be changed from the present fourth Monday of October back to the traditional date of November 11.

These steps to honor America's veterans are long overdue. A year ago I sponsored legislation that would tie veterans increases to rises in the cost of living. I also introduced a bill that would change Veterans Day back to its proper observance on November 11.

The sacrifices of the Vietnam veteran as well as all of the other men and women who have served our country well must not be forgotten. Increased veterans benefits and the fitting observance of Veterans Day are two ways the Nation can help repay the enormous debt of gratitude owed to those who have served so well. The President has acted wisely in making these recommendations. The Congress should reward our veterans by acting on these proposals quickly.

WORLD NUCLEAR FUEL MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 10 minutes.

Mr. HOSMER. Mr. Speaker, 1 week ago today, at Sea Island, Ga., the World Nuclear Fuel Market was inaugurated. This was an event of considerable international significance. The nature and purpose of the market is set forth in the following article from the February 4 Christian Science Monitor:

BUYING NUCLEAR FUEL AT MARKET—INTERNATIONAL EXECUTIVES ESTABLISH TRADING RULES FOR ATLANTA-BASED FISSIONABLE MATERIALS EXCHANGE

(By Martin Skala)

SEA ISLAND, GA.—To meet burgeoning world demand for nuclear fuels to produce electric power, a commodities market with a novel twist is opening its doors in Atlanta.

Unlike the typical commodity futures exchange, the World Nuclear Fuel Market (WNFM) won't have a big tarding floor with arm-waving brokers shouting out bids and offering prices. Speculative activity by the general public will be banned, at least initially. And the buyers and sellers, mostly well-heeled investors, utilities, and nuclear-reactor manufacturers, can't take delivery of the actual product without a government license.

Despite these restraints, Robert Kettner, president of Nuclear Assurance Corporation, is bullish about the rosy prospects for the first privately organized effort to foster a competitive market in fissionable materials.

PRIVATELY OWNED FIRM

The WNFM marks the first time all aspects of nuclear fuel buying and selling will be accessible through a single, nongovernment entity with a centralized information service. The market will be operated by Atlanta-based Nuclear Assurance Corporation, a privately owned firm with a computerized data bank that keeps track of every known piece of nuclear fuel in the noncommunist world.

Mr. Kettner hopes the WNFM will serve as focal point for handling complex nuclear fuel transactions among various participants in the mining, processing, and using of uranium as an energy source. Aside from government controls over the possession of fissionable materials, the market will respond to normal forces of supply and demand, he says. Like other commodity markets, the WNFM enables businessmen to contract for future delivery of important raw materials, while helping them hedge against unforeseen price swings and other risks.

MONITORED TRANSACTIONS

Each transaction will be monitored by the Atomic Energy Commission to prevent anyone from taking delivery of fuel other than for peaceful purposes.

About 100 nuclear industry executives from the U.S., Japan, and Europe gathered here recently to inaugurate the fledging marketplace and to approve a set of trading rules.

Industry's solid support of the new venture, Mr. Kettner says, reflects the "increasing attention" being paid to nuclear power as an alternative to increasingly expensive fossil fuels. Today, there are some 40 nuclear power plants in operation in the U.S. and about 82 others throughout the world. By 1984, this worldwide total is expected to reach 450.

This boom in building of atomic power plants, experts say, has to be matched by enormous growth in available supplies of nuclear fuel, which generates the steam heat needed to turn electric turbines.

KEY ROLE

A large-scale nuclear plant with two reactors requires an initial loading of 200 tons of nuclear fuel, valued at $72 million. Each reloading of the fuel cores, which contain about 3 percent enriched uranium, costs another $22 million, and is repeated about 30 times over the reactor's lifetime.

By 1980, free world nuclear fuel expenditures, excluding plant and equipment costs, are projected to reach a whopping $4 billion, according to Mr. Kettner.

As the business opportunities open up, U.S. industry expects to play a key role in the mining, storage, and processing of nuclear fuels.

Although the government once kept a tight grip on the nuclear fuel business, private industry now mines uranium ore, fabricates reactor cores, and recycles the spent fuel for futher use.

Only the enrichment of UF-6 ore to upgrade it to U235 (commonly called uranium) is still government monopoly.

The Atomic Energy Commission hopes this will change in the next few years, if industry agrees to make the huge investments to build and operate uranium-enrichment facilities.

A further elaboration on the market and enriched uranium, one of the products, and enriching uranium, of the services, which will be articles of commerce in this market is contained in the following remarks I made to those assembed from at home and abroad for the inauguration:

ADDRESS ON THE OCCASION OF THE INAUGURATION OF THE WORLD NUCLEAR FUEL MARKET

(By Representative Craig Hosmer (R.-Calif)., ranking minority member, Joint Committee on Atomic Energy)

(Sea Island, Ga., 9 p.m. Jan. 28, 1974)

Inauguration of the World Nuclear Fuel Market appears to be a major and auspicious forward step in the development of a free market for nuclear fuel in which the normal forces of demand, supply, exchange and risk assumption can come to play.

In concept this idea is as simple as the old time farmers' market, but in execution it is as sophisticated as the next generation of computers.

That being the case, it is probably no less logical that Sea Island, Georgia, be the place for launching the World Nuclear Fuel Market than it was for Palos, Portugal, a site equally distant from the usual lanes of commerce, to be the origin of Christopher Columbus' voyage of discovery to the New World.

This new market is designed to handle five fungible products and, ultimately, three unique and essential services. The products involved are:

Natural uranium—yellowcake;

Uranium enriched in the isotope U_{235}—either from the enriching plants directly or as recovered from spent fuel elements;

Plutonium and, at a later date U_{233}, as nuclear fuels, and

Finished fuel assemblies ready and waiting to go into suitable reactors.

The three services involved are these:

The conversion of yellowcake to UF_6 for use as a feed in the enrichment plants;

The enrichment of uranium in the isotope U_{235} by the application of separative work; and

The reprocessing of spent fuel elements.

After these various steps in the nuclear fuel cycle there is the separate matter of permanently disposing of a residual of high level atomic waste. That is a different subject about which there is this single absolute certainty: Whatever the supply of these wastes turns out to be, it will consistently and considerably exceed the demand

In contrast, in the nuclear fuel business there is two absolute certainties:

(1) Shortages and overages will constantly and simultaneously occur at all links in the nuclear fuel chain; and

(2) Unless something is done about them, they are sure to take place at most highly separated and inconvenient locations, and under most trying and expensive circumstances.

The World Nuclear Fuel Market being brought about today by the Nuclear Assurance Corporation does something about them. It will function along almost the entire nuclear fuel chain, just as NUKEM in Europe and SWUCO here in the U.S., will be competing in smaller segments of the spectrum. There is plenty of work for all of these forward looking organizations and many more. Untold billions of dollars of billings for products and services will be involved for the indefinite future. Indeed, it is essential for the health of the nuclear and the utility industries and the economies of the Free World that supply and demand for nuclear fuel products and services be as carefully matched, competitively available and economically met as humanly possible.

Nuclear fuel cycle problems are world-wide in scope and impact. Their solutions require up-to-the-minute data, analysis and communication as a basis for commerce. They also demand a market place where requirements, sales, purchases, trades, loans and even options on the products and services involved can be negotiated. And, specialists must be on hand to make, operate and perpetuate the market. A strong feature of WNFM is that it recognizes both the necessarily world-wide scope and interdependence of commerce in nuclear fuels and the depths of the data base as well as the comprehensiveness of communications required to underpin the functioning of such a specialized market. At the same time WNFM will soon discover, if it already does not know, that competition of all kinds must—and will—flourish within that market.

In fact, the Joint Committee on Atomic Energy during many of its hearings, and particularly those in 1963 and 1964 on the Private Ownership of Special Nuclear Materials, has consistently been told the advantages of fostering the normal competitive development of a free market in nuclear materials and fuel. In response, and within the limits of then current security considerations, the Committee expressed that philosophy in the Atomic Energy Act of 1954. During the 20 subsequent years it has legislatively enlarged the application of free enterprise principles on repeated occasions.

On its part the Atomic Energy Commission has followed through with regulations and policies calculated to speed an orderly transition from government to private decision making and risk taking. Only last spring, after detailed hearings by the JCAE and extensive discussions with customers, the AEC issued its revised uranium enrichment criteria. The introduction of AEC long term fixed commitment enrichment service contracts as a successor to requirement type contracts has the effect of shifting a number of the risks in this link of the fuel chain from government to customers in order to more closely approximate the normal conditions of risk assumption by private businesses. These U.S. AEC actions in the enrichment area, of course, have a world-wide ripple effect due to the major fraction of the business it owns and controls, as well as the tendency of other countries to follow the American lead in these matters.

I must caution, however, that my remarks so far should not be interpreted as an optimistic prediction that a truly uninhibited free market in nuclear fuels and services is just around the corner. For good and sufficient reasons a long time will pass before that comes about. Let me recall to your mind just a few of them:

1—Concerning anything atomic there are stultifying clouds of security, classification and trade secret considerations lingering in people's minds, whether or not still relevant to today's circumstances.

2—For reasons of public health and safety, nuclear materials and facilities are subject to rigid licensing and regulation. They are also under major international controls and surveillance because the ghosts of proliferation still stalk the halls of diplomatic intercourse between nations.

3—The capital investments required to carry forward almost any nuclear activity—from opening a mine to disposal of atomic wastes—are staggering, the lead times required for payouts are exceedingly lengthy, and the assurance of profitability is by no means certain.

4—There are uniquely burdensome and costly aspects involved in the transportation, handling, storage and accountability for this industry's fuels. And,

5—As with any new industry, program delays, market uncertainties and the risks of technological obsolescence are all on the high side.

For the foregoing reasons there are at one and the same time barriers to and particularly compelling needs for a world market in nuclear fuels to provide the necessary arena for commerce and a needed flexibility of transactions for both the broad sharing and the substantial reduction of economic risks. I retain my cautious optimism that the development of that market will take place and that it will contribute to the growth and viability of nuclear power utilities, private and public, wherever in the world they are. And, in this dreary era of energy shortages that shines forth as a real bright hope.

All elements of the nuclear fuel chain are of interest, but at this point I will note that the enrichment of uranium is of the most interest to the most people. Thus I will turn now to a closer examination of its aspects.

The Peoples Republic of China has demonstrated a capability to enrich uranium for weapons purposes but has indicated no intention or ability to enter the Free World commercial enrichment market. That leaves the following six suppliers who are now in the market or who indicate serious interest in getting into it:

1—*South Africa*. Over three years ago, during an election campaign, South Africa's Prime Minister let out that his country would enter the enriching business utilizing a new secret process. PERIOD. Nothing was said as to when, or the share of the market sought or any other details. Such subjects as these are of considerable interest to me and I am sure to the rest of the nuclear world. So, two years ago I journeyed to South Africa to learn what I could. What I found was simply this: The South African electrical load growth will require installation of several power reactors before the year 2000. The country absolutely refuses to be dependent on outside sources for its uranium enriching needs. Therefore it will spend any amount necessary for its own enrichment facility. To be anywhere near economic, that facility has to be sized considerably larger than needed for purely domestic demands. South Africa desires to penetrate the world market to the extent of this excess, but until the economics of its enrichment scheme become known, its ambitions appear to go no further.

2—*Soviet Union*. For something over five years, the U.S.S.R. has been in a leisurely and somewhat ambiguous pursuit of Free World customers for its uranium enrichment overcapacity. I believe the deal for the Finnish reactor was their first success. Initially the Soviets' sales technique was to shave the American price slightly and to propose contracts which seemed to be translated from the forms used by the U.S. AEC. More lately, they have shown greater independence and imagination. In addition to spot sales they now emphasize a desire to enter long term commitments to supply separative work. France, Japan, West Germany and others have made some spot purchases. As to long term commitments, the Swedes are negotiating a contract and strong Kremlin sales pitches are aimed at the Japanese and Europeans. Although little is known in the West about the economics of the Soviet enriching complex—and probably the subject is just about as murky in the Kremlin—it is generally believed that capacity there approximates that of the United States. The difficulty Soviet enrichment salesmen run into is to convince anybody that Kremlin policies will remain stable over the life of a nuclear fuel supply contract lasting for a decade and more. Spot sales and short term deliveries are one thing. It is quite another to find the courage to rely for many years for fuel to be supplied from behind the unpierceable Iron Curtain.

3—*Canada*. The Brinco Corporation and others have looked longingly at Canada's ample potential for cheap hydropower with the idea of siting diffusion plants there. In the face of a world wide energy shortage, likely to persist for decades, it must be determined whether any longer it is moral to consider a technology for enriching uranium which consumes energy at such a prodigious rate. United States progress with centrifuge technology, which reduces power consumption by a factor of 10 or more, is classified. But recent JCAE testimony by AEC witnesses on the Future Structure of the Uranium Enrichment Industry indicates that sophisticated U.S. centrifuges are being developed which will minimize power consumption while operating for remarkably long periods of time. They are expected to surpass the present and projected economics of any competitor, diffusion or centrifuge. But, to get back to Canada, its hopes for diffusion plants were put in limbo three months ago by a decision of the Canadian Supreme Court. That body has ruled that construction of hydroelectric projects affecting rights of the Canadian Indians cannot continue until native claims are settled in Canada as they had to be in the United States to permit the Alaska Pipeline project to proceed legally.

4—*France*. Sometimes directly, but mostly under the cloak of ERODIF, a semi-public set up, France huffs and puffs about putting in a large European diffusion plant in which other nuclear fuel users such as Italy and Spain, et al, would be involved as investors or customers or both. My own view is that the deal is a mixture of French xenophobia and desperation to cover its bets on some rather large orders given by France to the Soviet Union for future deliveries of nuclear fuel. It is now having second thoughts about depending on this foreign source. Some people doubt that the French can get a big, new technology diffusion plant online on schedule. No one doubts that the economics of such a project are totally unpredictable in French hands.

5—*Urenco*. This is a multi-national company put together and financed by the British, Dutch and West German governments. It will install enrichment capacity utilizing centrifuges which are believed to be more simple, but less efficient than the American models. Again, I emphasize that all I say is my own responsibility and unofficial. And, with that qualification my assessment of Urenco is this: (a) With the resources of three major governments behind it, Urenco is unlikely to go broke; (b) Urenco's customers can be reasonably certain they will receive on-time delivery of their orders; (c) Urenco's customers also can be reasonably certain that they will be buying from a very high cost operation and should negotiate airtight ceiling prices unless they want eventually to pay through the nose; and, finally, (d) from my own experience I can tell you that Urenco may not operate the world's fastest centrifuges, but its propaganda department undoubtedly operates the world's fastest mimeograph machines.

6—*United States*. In the late 1940's and early 1950's the United States sized and built its massive three unit enrichment complex on the basis of requirements for atomic bombs. Even before the complex went online, the H-bomb was invented and the entire investment became obsolete. We took a $2.5 billion bath. Let that be an object lesson to latter day enthusiasts for spending huge chunks of money to install enrichment capacity. By 1983, almost a third of a century later, the improved and uprated 27½ million separative work units of capacity of the complex will at last be fully utilized. At that time AEC will have supplied upwards from 80% of the aggregate Free World requirements for enrichment services. It will be earning more than $1½ billion annually in overseas currency on foreign sales. Within 48 months thereafter, the world-wide growth of nuclear power will demand that somebody have on stream a total of 35 million additional new units of capacity. Thereafter 8½ million units will be needed at about 18 month intervals until sometime beyond the year 2000. The average lead-time for building a nuclear power plant is around 8 years. Utilities must be assured of nuclear fuel when a plant is finished so orders for enrichment services are placed when construction starts. For this reason the entire capacity of the AEC's enrichment complex will be contracted for not in 1983, but 8 years earlier, just about a year from now. The United States is now engaged in an inquiry as to what form the future structure of its uranium industry should take. It must decide the issue this year and be prepared by about January of 1975 to continue contracting to supply additional enrichment services. Otherwise, this field in which it is predominant will be abandoned to competitors.

In closing, since it has been my preoccupation for several years, I would like briefly to tell you how I, as an American, believe the United States enrichment business should be structured.

First of all, I believe we must move from government enterprise to private enterprise as fast as possible. It would be both unconscionable and unfeasible to expect the taxpayers to build an indefinite string of new $1 billion enrichment plants every 18 months. The problem is with the transition.

The Nixon Administration says that the very next new increments of capacity must be put in by private enterprise. That's OK, except for the fact that private industry at this point doesn't know whether it wants to get into the business at all, or if so, how deep. Yet, if the U.S. is going to continue to earn substantial foreign exchange from enriching uranium, there must be in being credible U.S. entities ready, willing and able to continue contracting to supply the service when the AEC's contracting capacity is used up at the end of this year. If there aren't, then foreign suppliers will grab off the business—just like they would our foreign aircraft sales if suddenly we could no longer sell U.S. commercial airplanes overseas.

All this is complicated by the big bulge of capacity—35 million swu's—needed during the 48 months starting in 1983. We don't have an existing manufacturing capability for enrichment plant components and will have to build one and the plants, too. The front end investment will be enormous. Money is tight. And there's a lot of other problems making it tough for industry to get into this business.

My idea is not to try to accomplish the transition from public to private enterprise in one sudden traumatic leap. It is to use the existing low cost enrichment complex to make an easier, but relatively quick transition. A government corporation—the U.S. Enrichment Corporation—would be formed and the AEC's enriching business transferred to USEC to be run and financed like any other business. USEC could uninterruptedly continue to offer contracts for enrichment services to domestic and foreign utilities. It would research, develop, design, finance and install the first increments of new enriching capacity. In the process, a healthy U.S. manufacturing capability for enrichment plant components would be created and the cost of doing so averaged back on the existing low cost complex. With those heavy front end costs out of the way, and doubts settled about the technology and economics of new enrichment plants, the path for private industry will be made smooth. A guillotine clause would bar USEC from adding any more capacity the moment private industry steps forward to pick up the next new increment of capacity. That ought to accomplish the transition, preserve the U.S. overseas market and guarantee against any nuclear fuel gap. And, if bureaucratic inertia can be swept away, we'll be doing exactly that.

You have been a splendid audience. I am delighted to share such a significant occasion with you. I am honored to do so. Despite my feeble efforts to make this an evening you will always forget, I believe that the future successes of the World Nuclear Fuel Market and its sister organization will truly make this a night you will always remember.

REPEAL OF DAYLIGHT SAVING TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I share in the concern of many of my colleagues in the House, over the recent legislation to establish year-round daylight saving time. I voted against this legislation and, today I am introducing a bill that would repeal it.

We have all had the opportunity to talk with our constituents at home during the recess, and I think that many of us have realized that the Daylight Saving Act has caused more daily family stress than it has saved energy. I, for one, have not talked with one person, nor received a letter from anyone from my own congressional district who favored this new year-round daylight savings.

I think it is important that we now recognize and face up to the problem and try to rectify it by changing the law. The innocent victims of accidents during these dark hours of the morning are children. The insignificant amount of energy we save cannot be equated with the death of these children.

And in actuality those who conserve energy in the afternoon upon arriving home from work, are using it up the next morning when they arise in the darkness.

So let us now reconsider the grave mistake that was made by subjecting the entire country to the Daylight Saving Act and let us return to the God-given daylight hours.

MR. AGNEW'S PRIVILEGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, early last November, I asked the General Accounting Office to ascertain what was being provided Spiro Agnew by the Federal Government in the way of facilities, personnel, and services, if any. In December, after much deliberate delay by the White House, Secret Service and General Services Administration, an interim report was forwarded to me by the Comptroller General indicating the former Vice President was indeed receiving benefits from the Federal Government, and that they were considerable.

Chauffeurs, Government cars, use of Federal office buildings and maintenance, a personal staff and Secret Service protection were and are all available to him. In effect, the interim report proved that aside from leaving office, Mr. Agnew's life style has changed little, if at all.

At my continued request, the GAO went back to its inquiry, seeking further definitive information. Today, a few more facts have been pried loose from the Secret Service. From October 10 to December 15, Secret Service protection of Mr. Agnew has cost America's taxpayers $89,222, and today still continues. The President requested it and George Shultz carried out the order, as enclosures to the GAO report indicate.

The Comptroller General does not find any legal basis for provision of such services to the former Vice President. No excuse is offered for this by the White House. No cooperation is volunteered to GAO by the White House. No date for ending such protection is forthcoming from the White House. No explanation of how the people of this country will be reimbursed is given by the White House.

Here again we encounter arrogance, high-handedness, and illegality by the Nation's highest elected authority. Constitutionality and congressional prerogatives are ignored as the people's money is handed out with abandon. Do we wonder that they are outraged and that some are blaming Congress for inaction in the face of such provocation?

I offer the latest GAO interim report at this point for the body of the Record for enlightenment of my colleagues:

Comptroller General
of the United States,
Washington, D.C., January 28, 1974.

Hon. John E. Moss,
House of Representatives,
Washington, D.C.

Dear Mr. Moss: This refers to your inquiry of November 5, 1973, concerning services and facilities provided by the Government for former Vice President Agnew, and to our preliminary report thereon, dated December 14, 1973. As stated in the preliminary report, we had then received a reply to our initial inquiry to the White House but that reply had in turn raised additional questions which needed some clarification. We had not received a response from the Secret Service. Since then, we have received a reply, from a Deputy Assistant Secretary of the Treasury, to our inquiry to the Secret Service and we have, in discussions with White House officials and members of Mr. Agnew's staff, been able to clarify some aspects of the White House reply.

However, we have found it necessary on certain points, as will be discussed below, to make further written inquiry to the White House. Accordingly, we wrote to the White House on December 19, asking for further information necessary to complete our report to you. A White Houe staff member has advised us that a reply to this letter is in process but has not been completed due, at least in part, to the absence of part of the White House staff from Washington during the last several weeks.

As agreed with your staff, this will therefore be an interim report, to advise you of the additional data we have received, and our conclusions based thereon and to be followed, upon receipt of the reply to our December 19 letter, by a final report.

With respect to your question concerning the truth of various allegations that services and facilities have been made available to Mr. Agnew by the Government, you are advised that the Secretary of the Treasury was requested in writing by President Nixon on October 10, 1973, to order the Secret Service to provide a detail for the protection of Mr. Agnew for a reasonable period of time, and on October 11, 1973, the Secretary requested the Director of the Secret Service to provide such a detail. Copies of the October 10 and 11 memoranda are enclosed. We have been advised by a Treasury Department official that, although no determination has been made as to how long protection will be provided for Mr. Agnew, the Department contemplates that it will be of short duration.

With respect to the allegation that Mr. Agnew has the use of government limousines and drivers, a Secret Service representative has advised us that, in connection with the protection being given Mr. Agnew, the Secret Service has provided vehicles and drivers to transport him.

It would appear, however, that certain of the other allegations concerning which you inquired are not accurate. There is no evidence of which we are aware that Mr. Agnew has been provided with military aircraft for personal transportation. Between October 10, 1973, and December 15, 1973, Mr. Agnew is reported by the Treasury Department to have taken two trips by air. According to a member of his staff, both were on commercial airlines.

Another reported allegation was that Major General (formerly Brigadier General) John M. Dunn headed Mr. Agnew's staff. Since our earlier report, we have received information which sheds further light on the question of what staff assistance has been provided to Mr. Agnew and specifically on the role of General Dunn. It now appears, as we had suggested might be the case, that those individuals identified on the schedule of personnel provided by the White House in response to our earlier inquiry (a copy of which was enclosed with our December 14 report to you) as being assigned or detailed to the "Office of the Vice President" and to the "Senate Office" have not, since Mr. Agnew's resignation, served as personal staff to Mr. Agnew. Rather, they reportedly performed what might be termed a caretaker function, assuring the continued operation of the respective offices maintained for an incumbent Vice President in his executive role and in his role as President of the Senate, in anticipation of the appointment and confirmation of a successor to Mr. Agnew. General Dunn, having been identified in the cited schedule as detailed to the Office of the Vice President, was therefore incorrectly alleged to have been heading Mr. Agnew's staff of eight. The other five military personnel listed in the White House schedule as detailed to the Office of the Vice President should likewise not be considered as members of Mr. Agnew's staff after his resignation. Rather, it now appears that the "staff of eight" reported to have been assigned to Mr. Agnew was made up of the eight individuals listed on the Schedule as assigned to the "Transition Office." We understand that at least one of the eight has since left the staff. (In view of this conclusion, it is not necessary to consider further the question whether there is any statutory basis for assigning military personnel to assist the former Vice President.)

Our earlier report to you discussed at your request, whether there is any statutory authority and fiscal authorization for, among other things, staff assistance to Mr. Agnew. We then identified the statutory authorities relied upon by the White House to justify the payment of the three staff components identified in the schedule provided by the White House as assigned to the "Senate Office," the "Office of the Vice President," and the "Transition Office," but we left open at that time the question whether the cited appropriations were properly used for such purposes, pending receipt of further information concerning what functions those staffs were performing.

The authority cited for expenditures associated with the Senate Office staff was the appropriation for legislative branch expenses, which provides for clerical assistance to the Vice President (Legislative Branch Appropriation Act, 1974, approved November 1, 1973, Pub. L. 93–145, 87 Stat. 527). As authority for expenditures related to the Office of the Vice President and the Transition Office the White House cited the appropriation for "Special Assistance to the President," in the Treasury, Postal Service, and General Government Appropriation Act, 1974, approved October 30, 1973, Pub. L. 93–143, 87 Stat. 510. That appropriation is for "expenses necessary to enable the Vice President to provide assistance to the President in connection with specially assigned functions * * *."

With regard to the staffs of the Senate Office and the Office of the Vice President, we conclude, based on the foregoing information concerning the functions performed by them, that the use of the cited appropriations for payment of those staffs after the resignation of the incumbent Vice President is proper since the services of these staffs are reportedly necessary either to wind up activities begun while the Vice President held office which were within the purposes of the respective appropriations, or to provide a "caretaker" staff which would take necessary actions to carry on those functions of the Vice President which were also within the purposes of such appropriations, in order that the successor Vice President might assume the same functions with minimum disruption.

We note further in this respect that the cost of Senate staff and the staff assigned to the Office of the Vice President, since they are reportedly not performing any functions for Mr. Agnew, should not be included in the cost to the Government of services and facilities being provided for Mr. Agnew on which you also asked us to report. Accordingly, the total for staff salaries attributable to personnel assigned to Mr. Agnew, which the White House reported to be $89,132.75 for the period October 10 through December 4, 1973, should be reduced by the salaries of those personnel designated as serving the Office of the Vice President and the Senate Office, leaving for that period a total of $15,225.24 which is attributable to the salaries of those eight employees assigned to the so-called Transition Office.

With regard to the latter eight employees, we asked the White House in our December 19 letter, to which we are, as noted, awaiting a reply, for the rationale relied upon for funding their salaries from the "Special Assistance to the President" appropriation in Public Law 93-143 in order to answer your question concerning statutory and fiscal authority with respect to that particular expenditure.

In connection with this matter of costs to the Government, we also have some additional information. The Deputy Assistant Secretary of the Treasury, in response to our inquiry to the Secret Service concerning its protection of Mr. Agnew since his resignation, has advised that the cost of Secret Service protection for Mr. Agnew from October 10, 1973, through December 15, 1973, was $89,222, including salaries and benefits, travel, and miscellaneous expenses. This total was broken down as follows:

October 10-November 10:
Salaries and benefits, $52,610.
Travel, $3,028.
Miscellaneous expenses, $300.
November 11-December 15:
Salaries and benefits, $32,224.
Travel, $760.
Miscellaneous expenses, $300.

In this connection, we discussed in our preliminary report to you the question whether Secret Service protection for Mr. Agnew after his resignation was authorized by law. We then concluded tentatively that we were not aware of any specific provision of law authorizing protection by the Secret Service of a Vice President after he leaves office, but we advised you that we would consider this matter further upon receipt of the legal basis relied upon by the Secret Service for providing such protection. Having been advised by the Treasury Department of its view that the protection is authorized by the above-mentioned directives by the President and the Secretary of the Treasury, we have given the matter further consideration. In the absence of statutory authority for the protection of the former Vice President, we conclude that the Presidential directive to the Secret Service requesting such protection does not constitute legal authority to provide it.

We hope the foregoing information will be helpful to you. There remain for consideration, as noted, the questions of how long Mr. Agnew will be provided with services and facilities by the Government and whether the functions of the eight staff members assigned to the Transition Office are such as to justify the use of the appropriation for Special Assistance to the President to pay their salaries. As soon as the additional information requested by us on these points is available, we will report further to you.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

THE WHITE HOUSE,
Washington, D.C., October 10, 1973.

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Subject: Protection of former Vice President.

You are hereby requested to direct the United States Secret Service to provide a detail for the protection of former Vice President Spiro T. Agnew for a reasonable period of time.

RICHARD NIXON.

THE SECRETARY OF THE TREASURY,
Washington, D.C., October 11, 1973.

MEMORANDUM FOR THE DIRECTOR, U.S. SECRET SERVICE

Subject: Protection of Former Vice President.

In accordance with a request from the President, a copy of which is attached, you are hereby requested to provide a detail for the protection of former Vice President Spiro T. Agnew for a reasonable period of time.

GEORGE P. SHULTZ.

CONGRESSMAN DRINAN SPEAKS OUT FOR A TVA FOR OIL AND AGAINST INCREASES IN NATURAL GAS PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 25 minutes.

Mr. DRINAN. Mr. Speaker, on Friday, February 1, 1974, the Federal Power Commission contributed the latest in a series of insults to the American public. In a time of rampant inflation and energy-cost increases which are out of control the Federal Power Commission, in a divided opinion, doubled the price of natural gas in one of our gas producing areas. This decision is likely to bring increases in consumer fuel bills measured in the many billions of dollars.

The Exxon Corp., in conjunction with six other natural gas producers, requested a rate increase to 55 cents per 1,000 cubic feet—a rate more than double the rate previously approved for the particular region in Alabama where the natural gas is located. Unfortunately, the increase is not the end of higher rates—it is the beginning.

Those who seek to justify the Commission's action in this and similar cases raising the price of natural gas, do so on the basis that the increased price will induce domestic exploration and development. Unfortunately, this argument is without merit. When President Eisenhower in March 1959, established mandatory quotas on crude oil and unfinished petroleum products, one of his objectives was to induce this same exploration and development. Yet the drilling record for oil and natural gas in the period of the sixties demonstrates that drilling was approximately cut in half in contrast to the period of the late fifties. The petroleum industry has failed to explore for and develop necessary supplies of crude oil and petroleum products, natural gas, and to increase the attendant refining capacity. The return on equities for the major petroleum companies in the first 9 months of 1973 increased approximately 50 percent over 1972. One can only conclude, in light of the shortages which we have been experiencing, that there are profit opportunities in shortages which are not being overlooked by the oil companies.

Whatever the other factors contributing to the reduction of drilling activity in the United States and the pursuit of opportunites abroad by the giant oil companies, I cannot ignore the fact that the result has been great shortages of natural gas and oil products. Even with enormous tax concessions and other protective laws benefiting the oil companies, designed and implemented to encourage drilling and development to insure adequate fuel supplies, the petroleum industry has resisted incentives to develop our resources at reasonable prices. The major integrated oil companies have been permitted to dominate supply decisions and to enforce monopolistic pricing.

Mr. Speaker, we desperately need a program such as the TVA which gave the Government control over important decisions affecting the price and availability of energy to the American people. I, with other Members of the House, have sponsored such legislation.

The benefit of the independence associated with Government ownership of oil and gas reserves would be great. The Government's access to cost information and to its own available supplies would provide the consumer with energy at the lowest possible price, and would provide the petroleum industry with significant competition. I believe the Congress should give serious consideration to legislation establishing a Federal corporation to operate on Federal lands and off-shore to assure adequate oil and gas supplies at reasonable prices. I believe that such a Federal corporation would be a viable competitive force against the giant petroleum companies. In addition, it would be motivated to develop new supplies in light of broad social objectives concerning environmental protection and consumer needs. It could provide the public, the Congress, and the regulatory bodies with valuable objective information on prices and supplies of petroleum.

When the TVA was established, the country wanted and needed low-cost energy to serve domestic needs. These motives exist today. The Federal Power Commission today relies upon the natural gas companies for information concerning supplies of natural gas. We have no independent method of determining the extent of these supplies. I believe that competition in the oil and gas producing industry is the necessary complement to legislation which will require greater information and data on that industry to the American people.

Mr. Speaker, I am preparing legislation which would require the full disclosure by major oil companies of all of their acquisitions and joint ventures in the energy field. The major oil companies dominate the production of oil in this country. Those same countries dominate natural gas production in this country. In addition, there have been significant acquisitions by petroleum companies of coal companies, coal reserves, oil shale, and extensions into ownership of uranium ore reserves and uranium milling capacity, both necessary for nuclear power production. I read with amazement a recent report that Texaco, Inc., which previously did not own coal reserves, is acquiring more than 2 billion tons of coal reserves in Wyoming. Similarly, Exxon, Atlantic Richfield, Shell, Sun, Kerr-McGee, and others have purchased vast coal reserve acreage. Recent reports indicating that the giant oil companies plan to move into the nuclear enrichment business and into the construction of nuclear generating equipment is similarly distressing. The giant oil companies are significantly involved in the ownership of uranimum ore reserves, and the largest share of milling capacity is controlled by Kerr-McGee.

Mr. Speaker, we must not permit the giant oil companies to take and retain this oligopolistic control of all of our energy resources. The extension of the giant oil companies into other fuel areas is not in the public interest. The acquisition by the giant oil companies of four of the biggest independent coal companies in the last 10 years is the handwriting on the wall.

Mr. Speaker, I have previously urged the Congress to enact measures to provide special assistance to workers and to communities adversely affected by the energy emergency; to impose an excess profit tax on the oil corporations; to fund research and development on sources of energy other than oil; to abolish the indirect subsidy of the oil depletion allowance; to abolish the foreign tax credit for oil companies; to abolish the mandatory oil import program; to roll back the prices of crude oil; and to pass legislation which would prohibit the giant oil companies from engaging in more than one phase of petroleum operation at the same time. In the long run, Mr. Speaker, the most significant action taken by this Congress will be the divestiture of the giant oil companies of their simultaneous interest in production, transportation, and marketing of energy products. I urge the promptest of action in this area.

TRANSPORTATION AND WASTE DISPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN), is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, today I am introducing two bills which are designed to remove the economic obstacles of discriminatory transportation rates and to determine and implement the waste disposal method best suited for the maximum conservation of materials and energy. Included in the transportation bill is a provision for the establishment of national transportation rates for recovered materials in order to place these materials on an equal footing with virgin natural resources. My second bill, entitled the "National Resource and Energy Conservation Act of 1974," in addition determining and demonstrating the most efficient method of recovering materials and energy from our waste disposal systems, would attack the problem of antiquated methods of waste disposal in several ways. First, it would establish product standards to minimize the harmful effects of their disposal and would also establish a system of identifying and controlling unsafe disposal practices, and would establish guidelines under which individual States would issue safe waste disposal regulations. Third, it would create a Council on Environmental Representation which would represent those people who are inadequately represented before government bodies addressing environmental questions. My bill would also establish a National Commission on Environmental Costs to study the feasibility of developing a system for internalizing the cost of disposal and the cost of pollution. Finally, my bill would require that the U.S. Government come to the fore in the purchasing of recovered materials by reforming procurement regulations to require the purchase of products which contain, to the greatest extent possible, recovered materials.

America has always nurtured the myth that her resources were virtually limitless—the land of plenty. The fact that during the 20th century the United States shifted from a net exporter of raw materials to a net importer escaped her attention as she clung steadfact to the ideal of an independent, self-sufficient America. In 1973, however, the oil shortage dealt a rude awakening to America and shattered her image of independence by revealing her most vulnerable weakness—dependence upon often unstable and uncontrollable foreign markets.

Americans were forced to admit to the world that we were dependent upon other countries for at least a portion of an essential resource, without which our Nation would be paralyzed. Our immediate reaction was one of self-preservation, declaring that our most important goal would now be the achievement of energy self-sufficiency by 1980. Pushed aside were other national goals as immense efforts were organized to concentrate on America's new national objective. President Nixon bolstered those efforts in his State of the Union message on January 30, 1974, when he said:

> As we move toward the celebration two years from now of the 200th anniversary of this Nation's independence, let us press vigorously on toward the goals that I announced last November for Project Independence. Let this be our goal. At the end of this decade in the year 1980, the United States will not be dependent on any other country for the energy we need to provide our jobs, to heat our homes and to keep our transportation moving.

How incredible it is that we should designate that worthwhile task as our primary goal when we know full well that we are more dependent upon foreign markets for vitally important raw materials than for energy resources. The United States produces over 60 percent of its crude oil needs, yet we are dependent upon other countries for nearly 50 percent of our mineral resources essential to industrial production. Energy without materials can be as disasterous as materials without energy. America need not abandon her goal of energy self-sufficiency, but she must recognize the need to cultivate international cooperation instead of international isolation. We will never be material self-sufficient and must, therefore, develop strong dependable international relationships which will not bend to the persuasive winds of economics or politics.

The very existence of these relationships in the past, however, has fostered the American myth of inexhaustible material resources. Recognizing this fallacy we must embark upon a course of maximum resource conservation by stressing efficiency in the use of materials, and by maximizing recovery and reuse of discarded materials. These along with energy self-sufficiency and international cooperation, should be our national goals. The importance of America developing an attitude of resource conservation is demonstrated by the fact that although we represent only 7 percent of the world's population, we consume 30 percent of the world's natural resource production. Because our needs are so large and so diverse, we must import phenomenal amounts of raw materials every year. In 1970, for example, we imported 1.4 million short tons of chromite—22 percent of the world's and 100 percent of America's 1970 chromite consumption; 7.1 million long tons of bauxite—23 percent of the world's and 85 percent of our 1970 bauxite consumption; and 4.1 million long tons of manganese—15 percent of the world's and 100 percent of our 1970 manganese consumption.

Yet for all our consumption, the United States has become more materials efficient during this century. Today $1 worth of income can be produced with an amount of raw materials which would have produced only 50 cents in 1900. As a matter of economic necessity, private industry is continuously refining their methods of production in order to achieve a more efficient use of materials. But we must become even more efficient if American prosperity is to continue.

Competition with the United States for raw materials by developing nations will tend to increase prices and limit supplies in the years to come. Industry will not, however, begin to develop the efficient recovery of discarded waste materials because the Government has fettered recovered materials with discriminatory regulations which make them unprofitable and, therefore, unacceptable to industry, and because we have biased ourselves with an attitude which views used materials as waste rather than as resource.

In the 20th century both of these factors have grown with America. In order to promote America's development we instituted a system of transportation rates which favored virgin natural resources over recovered materials. The end result was that as a nation we began to look upon discarded materials as waste—things to be burned, buried, or dumped. So in the process of promoting virgin materials, we not only wasted countless amounts of recoverable materials, we also increased the pollution of our air, water, and land by disposing of these materials in a careless and oftentimes harmful manner. In 1971, the Environmental Protection Agency estimated that the United States generated 4.5 billion tons of waste. Of the major materials, such as paper, iron and steel, aluminum, textiles, et cetera, which comprised this waste, we recovered 25.2 percent, or 48.1 million tons. As surprising as it may seem, this represents a lower rate of recovery than we had previously achieved. For example, from 1960 to 1969 the percentage of recovered paper declined from 23.1 to 17.8; the percentage of iron declined from 36.1 in 1951 to 30.2 in 1969; and the percentage of aluminum from 7.1 in 1951 to 4.2 in 1969.

If all of the paper, glass, ferrous and nonferrous metals available in our municipal waste systems in 1969 had been recovered, they would have had a monetary value of $955 million, and would have eliminated 2.5 million tons of air pollutants and 812 thousand tons of water pollutants. Instead of capitalizing on our waste, however, we are reverting back to a system which accepts landfills and incineration as the best methods of waste disposal. Their net yield in benefits to the public is zero. No materials, no energy, no money: only pollution from unsightly dumps to which approximately 40,000 acres of land must be allocated annually in the United States, and pollution from refuse burning which accounts for about 5 percent of our air pollution.

By not maximizing the recovery of those materials which enter the waste disposal system, we not only waste resources and cause pollution, but we also necessitate the generation of large quantities of energy to replace those unrecovered materials. Energy is needed to extract, transport, and process raw materials.

The production of 1 ton of aluminum from raw materials—bauxite—for example, requires 64,000 kilowatt hours of electric power. The same quantity of aluminum can be produced using recovered materials—scrap aluminum—with only 1,300–2,000 kilowatt hours—an energy savings of over 96 percent. By comparison, the average residential consumption of kilowatt hours in the United States is 700 kilowatt hours per month. In terms of total U.S. production and consumption of aluminum this could mean phenomenal energy conservation. In fact, in 1967 the United States consumed 4 million tons of aluminum, recovered 733,000 tons—18.3 percent—and thus saved 45.3 kilowatt hours.

This conservation of energy and materials holds true for all the other recoverable resources which enter the waste disposal system of the United States, and is the paramount reason to examine our waste disposal practices and put them in line with these goals of material and energy conservation.

All of these steps are directed toward the establishment of a national waste disposal policy which stresses the maximum conservation of materials and energy. The United States must not continue to waste these valuable resources by treating discarded materials as waste rather than as resource.

EMPLOYEE BENEFIT SECURITY ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

Mr. ULLMAN. Mr. Speaker, I am submitting for printing in the RECORD the following explanatory material on the Employee Benefit Security Act of 1974:

SUMMARY OF THE COMMITTEE ON WAYS AND MEANS DECISIONS RELATING TO THE TAX TITLE OF THE EMPLOYEE BENEFIT SECURITY ACT OF 1974

PARTICIPATION AND COVERAGE

Plans would not be permitted to set age and service requirements in excess of the later of age 25 and one year of service; except that a plan that provides full vesting immediately on participation would be permitted to require 3 years of service (instead of one year) before permitting participation in the plan).

Pension plans could exclude employees hired later than the age 5 years before normal retirement (e.g., if normal retirement for a plan is age 65, then the plan could exclude anyone past age 60), if antidiscrimination, etc., requirements are met.

The definition of a "year of service" would be primarily in regulations, but subject to guidelines set forth in the bill, including guidelines for seasonal employees. In addition, authority is to be given to prescribe by regulations the definition of a "year of service" taking into account the customary working period (such as hours, weeks, months, or years) in any industry where the normal work schedules are substantially different from the work schedules that are applicable in industry generally. Under these regulations guidelines are to be set for part-time employees. The definition of a "year of service" to apply in the case of participation and coverage and also in the case of vesting. These standards are to be developed jointly by the Departments of Treasury and Labor.

It is to be made clear that the definitions of "year of service" applicable to the participation and coverage rules and the vesting rules of the bill are not required to be applied for accrual of benefits by years of service. A plan which accrues benefits by years of service may apply any reasonable definition that is consistently applied, so long as it meets the other requirements of the law (e.g., the antidiscrimination rules).

It is to be made clear in the committee report that a person is not to be treated as a participant in a plan merely because the employer has made contributions to the plan which are affected by that person's work product, if the person would otherwise not be a participant under the rules of the plan. For example, if a plan provides that the employer is to make contributions based on product output (e.g., cents per ton of minerals processed), the fact that the employer has contributed with regard to the minerals processed by a person who has not yet attained the age of 25 does not mean that person is to be a participant if the plan otherwise excludes people who are under the age of 25.

For purposes of applying the antidiscrimination rules, a plan would be permitted to exclude collective bargaining groups where the matter of pension participation or level of pension benefits had been subject to bona fide negotiation. It is to be clear that this is not a further restriction of present law. Also, plans covering air pilots may exclude other groups in testing for nondiscrimination.

All government plans (including Federal Civil Service) are to be exempt from the new participation and coverage standards, but must meet the requirements of present law in order to obtain the tax benefits of "qualified" plans. The Committee on Ways and Means and the Committee on Education and Labor (with consultation of the Treasury and Labor Departments) are to conduct a study of the extent to which it would be desirable to bring government plans under the new Federal standard.

Plans of churches are to be exempt from the new participation and coverage standards, but must meet the requirements of present law in order to obtain the tax benefits of "qualified" plans. A church would be permitted to elect to come under the new standards. The definition of a church for this purpose is to include affiliated organizations already exempt from tax (as religious, charitable, educational, etc., organizations) under the Internal Revenue Code if the employees of such organizations are already covered by the church plan.

VESTING

Three alternative vesting schedules are to be available—each qualified plan must provide for at least as much vesting as the statutory schedule it chooses. The alternatives are:

(1) At least 25 percent vesting by the end of the fifth year of service; the minimum percentage to increase by 5 percentage points in each of the next 5 years (at least 50 percent vested by the end of the tenth year of service) and by 10 percentage points in each of the following 5 years (so that the employee must be fully vested not later than the completion of his 15th year of service).

(2) Fully vested by the end of the 10th year of service.

(3) Rule of 45—i.e., at least 50 percent vested when age plus service equal 45 years; the minimum percentage to increase by 10 percentage points in each of the following 5 years.

The new vesting provisions are to apply to service performed and plan participation before the effective date of the provisions as well as to service and participation on and after the effective date—both for purposes of determining where the employee is on the vesting schedule and to benefits accrued before the effective date. However, service for an employer prior to the effective date is required to be taken into account only if the employee has served at least 5 years with that employer (or under that multiemployer plan) after 1968.

All government plans (including Federal Civil Service) are to be exempt from the new vesting standards, as described above under participation and coverage.

Plans of churches are to be exempt from the new vesting standards, and described above under participation and coverage.

For purposes of applying the vesting provisions, a defined benefit plan must satisfy either of the following two rules as to accrued benefits. First, a plan will qualify if the benefit an individual would receive at normal retirement age is accrued at a rate of not less than 3 percent a year. Normal retirement age for this purpose is age 65 or the earlier normal retirement age (if any) specified for this purpose under the plan. Second, a plan will qualify as to its rate of accrual, if the rate of accrual with respect to any year is not more than 1⅓ times the rate of accrual for any other year (except that additional "front-loading is to be permitted for the first 10 years).

Benefits which are "nonforfeitable" may nevertheless be suspended during periods when the retiree returns to employment with that employer (or in that same industry, in the case of a multiemployer plan.) Any such suspension is to cease when this subsequent employment ceases.

Faster vesting than the minimum required under the vesting provisions of the bill is not to be required for purposes of meeting the discrimination rules unless (1) there is a pattern of abuse (such as firing of employees before they vest in their accrued benefits), (2) there are forfeitures or accruals which tend to benefit the highly paid, or (3) even though the forfeitures tend to benefit the employer (by reducing the cost of his contributions), the highly paid tend to have a substantially greater share of the remaining accrued benefits.

The Secretary of Labor may, as to individual multiemployer plans, provide different vesting schedules after notice and hearing.

Highly mobile employees would be permitted to have faster vesting in exchange for lower levels of benefits from pension plans, while still satisfying the antidiscrimination requirements.

The vesting provisions are to become effective over a 5-year transition period. In general, in 1976, 50 percent of what would otherwise be the employee's vested benefits must be vested; in 1977, 60 percent; in 1978, 70 percent; in 1979, 80 percent; in 1980, 90 percent; and in 1981, 100 percent.

The Secretary of Labor is to conduct a study, and, if feasible, develop regulations modifying Federal procurement practices to protect persons employed under Federal contracts against loss of their pensions resulting from job transfers or loss of employment resulting from modifications of Federal contracts. The results of the study are to be reported to the Congress within 2 years of the date of enactment and the regulations are to be developed within 1 year of the date of submission of the report. The regulations are to take effect unless either House of Congress within 90 days after submission of the regulations to the Congress adopts a resolution disapproving of the regulations.

FUNDING

The following minimum funding rules are to be applied to qualified defined benefit plans (present funding rules are to continue with regard to defined contribution plans such as profit-sharing plans):

Normal costs are to be funded currently.

Past service costs arising before the bill's effective date (including past service costs arising because of the bill's participation and vesting requirements) are to be amortized not less rapidly than in equal installments (including principal and interest), in the case of an existing plan, over 40 years; past service costs arising in the future are to be amortized not less rapidly than in equal installments (including principal and interest) over 30 years.

Experience deficiencies are to be amortized not less rapidly than in equal installments (principal and interest) over 15 years; experience gains are to be amortized not more rapidly than in equal installments (principal and interest) over 15 years or may be used to offset unamortized portions of experience losses.

Experience gains and losses generally are to be calculated every three years. However, the Secretary of the Treasury may provide by regulations for more frequent calculations, *e.g.*, where a plan is in poor financial condition.

Multiemployer plans are generally subject to the same requirements as other plans, except that: past service liabilities arising in the future may be amortized over 40 years (instead of 30 years); and experience deficiencies may be amortized over 20 years (instead of 15 years). Additional period of up to 10 years in each of the funding categories may be granted by the Secretary of Labor; also the Secretary of Labor may provide different funding schedules after notice and hearing.

If funding requirements are higher under a second general standard which is based on accrued "vested" liabilities, this standard is to apply in lieu of the rules set forth above. Under this standard, accrued vested liabilities are determined, as also are the value of the plan's assets. To the extent the former exceeds the latter, one-twentieth of this amount plus interest is to be paid in the current year. A new determination is made in each of the succeeding years.

The present rule with respect to deductions that past service costs may not be amortized more rapidly that at the rate of 10 percent of the amount of such costs, is changed to permit amortization not more rapidly than in equal installments (principal and interest) over 10 years. (Because of increasing interest costs, the present 10-percent rule generally takes at least 13 years for complete amortization; the committee decision in effect permits faster amortization.)

The funding requirements for any year may be waived by the Secretary of the Treasury on a showing of hardship and that the waiver would not be adverse to plan participants in the aggregate. Any such waived amount must be amortized not less rapidly than in equal installments (principal and interest) over 15 years; these amortization requirements are not to be waived; and no more than 5 such waivers may be granted in any 15-year period.

For purposes of applying the minimum funding standards, plan assets generally are to be valued on the basis of any reasonable actuarial method of valuation which take into account fair market value and is permitted under regulations. At the election of the plan, bonds generally may be valued on an amortized basis from initial cost to par value at maturity or call date.

Regulations are to be provided under which determinations are to be made as to which actuaries are qualified to provide actuarial certifications as to the reasonableness of the assumptions used in determining funding levels. An actuarial advisory board is to assist the Treasury in establishing such standards and in determining methods of reviewing the reasonableness of given sets of assumptions in particular cases.

An employer who fails to contribute the minimum amount required for the year (after consideration of any waivers) is subject to an excise tax of 5 percent of the additional amount he should have contributed. If he fails to contribute the required amount after having been notified by the Service of his initial failure, a 100-percent excise tax is imposed. These taxes are not to be deductible.

All government plans (including Federal Civil Service) are to be exempt from the new funding standards, as described above under participation and coverage.

Plans of churches are to be exempt from the new funding standards, as described above under Participation and Coverage.

PORTABILITY

The Social Security Administration is to maintain records of the retirement plans in which former employees who are not yet retired have vested benefits and is to provide this information to plan participants and beneficiaries on request and also upon their application for Social Security benefits. It is to be made clear that the Social Security Administration is not guaranteeing the accuracy of the figures prepared by the employer but is merely maintaining for the employee's benefit a copy of a record that the employer had previously submitted to the employee. In the case of a multiemployer plan, regulations are to provide for the circumstances under which the plan administrator is required to file the information necessary when a person has terminated employment under the plan.

Present law would not be changed with regard to transfers from one qualified plan to another and would not be changed to create a governmental portability fund.

INSURANCE

Termination insurance is to be dealt with only in the Education and Labor title of the Employee Benefit Security Act of 1974.

REPORTING AND DISCLOSURE

The Committee's title of the bill is not to provide for reporting and disclosure, other than those matters dealing with the Internal Revenue Code and the use of the Social Security Administration as a clearinghouse for information as to vested benefits.

FIDUCIARY

The Committee's title of the bill is not to provide for fiduciary provisions as such.

ENFORCEMENT

An office (headed by an Assistant Commissioner) is to be established in the Internal Revenue Service to supervise and direct the basic activities of the IRS in connection with employee retirement plans and tax-exempt organizations. Appropriations are authorized at the rate of $70 million per year for such administrative activities.

Employers and, under certain circumstances, employees are to be permitted to appeal to the Tax Court in the case of adverse decisions by the Internal Revenue Service regarding tax status of employee plans or trusts.

The Internal Revenue Service's determination letter regarding the tax status of a plan or trust, and the application papers (except to the extent they indicate the compensation of any participant are to be made available to the public).

LIMITS ON CONTRIBUTIONS

Annual benefits under tax-deferred qualified defined benefit plans are not to exceed the lesser of (1) $75,000 or (2) 100 percent of pay in the high three years of compensation. There is to be no adjustment in this 100-percent limit for the age at which the retirement benefits starts. The $75,000 annual limit is to be adjusted downward actuarially where the benefits begin at an earlier age than 55; however, in no case will the limit be adjusted to less than $10,000 a year. The annual limit is to be cut back on a pro rata basis where the recipient of the retirement benefit has had less than ten years of service with the employer. In appropriate circumstances the upper limits are to be adjusted upwards for increases in the cost of living.

No actuarial adjustment is required to be made in the maximum annual limit on benefits under defined benefit plans where ancillary benefits which are not related to retirement are provided. For example, no downward actuarial adjustment in the limit is to be required for disability benefits before normal retirement age, medical benefits, and death benefits before normal retirement age. In addition, no downward adjustment is to be made for a normal joint and survivor feature.

In the case of defined benefit plans, where a plan was in effect on October 2, 1973, the employee will be permitted to receive a pension from a qualified plan, based on his annual rate of compensation in effect on October 2, 1973, and the plan provisions in effect on that date, even though this would yield a pension benefit in excess of $75,000 per year. However, no cost of living adjustment would be permitted to a pension to which this elective "grandfather clause" applies.

In the case of defined contribution plans (profit-sharing, money-purchase, etc.), the contribution for any one person for any one year is not to exceed 25 percent of compensation (taking into account up to the first $100,000 of that person's compensation for that year). The contributions subject to this limit are the contributions by the employer, the forfeitures allocable to that employee's account, and the contributions by the employee.

In counting employee contributions for purposes of the $25,000 annual limit on contributions on behalf of any employee under a defined contribution plan, there is to be excluded the greater of (a) employee contributions amounting to 6 percent of compensation or (b) one-half of the employee's contributions.

Provision is made for coordinating the annual contribution limit under defined contribution plans and the limit on annual benefits under a defined benefit plans, where the same individual is covered by both a defined contribution plan and a defined benefit plan established by his employer. Under this coordination procedure the sum of (1) the percentage utilization of the maximum limit under the defined benefit plan and (2) the percentage utilization of the maximum limit under the defined contribution plan cannot exceed 140 percent.

In the case of an H.R. 10 plan, a self-employed individual would be permitted to make deductible contributions to the plan in amounts up to the lesser of 15 percent of earned income or $7,500 per year.

H.R. 10 plans are to be subject to the same $75,000 per year annuity limit as applies to corporate plans. This limit is to be applied after other limits on contributions, etc.

A contribution for a given year may be deducted for that year by a cash basis taxpayer if it has been made no later than the due date for the taxpayer's return for that year.

In the case of an H.R. 10 plan, no more than $100,000 of compensation may be taken into account for determining the minimum contribution that must be made on account of other participants in order to satisfy the antidiscrimination requirements of the Internal Revenue Code.

In the case of an H.R. 10 plan, a conversion table may be used to translate the maximum permitted contribution levels (in defined contribution plans) into corresponding levels of benefits applicable to defined benefit plans.

INDIVIDUAL RETIREMENT ACCOUNTS

An individual is permitted to establish—if he is not covered by qualified retirement plans, government plans, or section 403(b) "tax-sheltered annuities"—an individual retirement account, which is to be tax exempt. Deductible contributions for any one year may be made, up to the lesser of $1,500 or 20 percent of compensation. The retirement account may be provided by an individual for himself or through an employer or labor union.

SALARY REDUCTION PLANS, ETC.

The Treasury Department is not—before March 16, 1975—to adopt regulations or otherwise administer present law in such a way as to disallow income exclusions under salary reduction plans and cash-or-deferred-profit-sharing plans that have been allowed in the past. Similarly, so-called "cafeteria plans" (involving choices such as longer paid vacations, life insurance, etc.) are to be allowed where corresponding salary reduction plans and cash-or-deferred-profit-sharing plans would be allowed.

If a contribution to a governmental plan is designated by that government as an employee contribution, then it is not deductible or excludable by the employee, unless the employer government actually "picks up" the cost of the employee's share and does not withhold it or otherwise secure it from the employee.

LUMP-SUM DISTRIBUTIONS

Lump-sum distributions from qualified employee plans, to the extent attributable to post-1973 service, are to be taxed as ordinary income, subject to 10-year averaging. The tax on the ordinary income portion of the distribution is to be computed as though the distributee had no other income and no deductions. That part of the distribution that is attributable to pre-1974 service (apportioned on the basis of time of service, not on the basis of when a particular contribution to the plan was made), is to be taxed as capital gains. If part of the distribution is in the form of an annuity policy, the current value of the annuity policy would not be taxed, but it would be used in computing the tax on the remaining portion of the distribution. This rule is to apply to lump-sum distributions to owner-employees (from H.R. 10 plans), as well as to lump-sum distributions from other qualified plans.

GENERAL

In general, the limitations of the title are not to apply unless the plan is a qualified plan or receives tax benefits similar to those of qualified plans.

Each qualified plan that provides for annuities must offer the option of a joint and survivor annuity. The option is to be such that a joint and survivor annuity applies unless the participant elects not to receive it in this form after receiving a written explanation concerning the terms of the annuity. The survivor annuity must be at least half of the amount payable under this option to the participant during the joint lives of the participant and his spouse. A plan which provides supplementary benefits for a participant's spouse is to be treated as a joint and survivor benefit, for purposes of meeting the joint-and-survivor benefit options required to be offered by qualified plans.

Variances are to be permitted to be granted, in the case of multi-employer plans, where either the funding or the vesting rules otherwise required by the bill would cause serious economic hardship and would not be adverse to the interests of plan participants in the aggregate. Variances may be granted to the extent necessary to make continuance of the plan likely. Multiemployer plans are to be defined as plans, (1) to which contributions are made by more than one employer, (2) which are subject to collective bargaining agreements, (3) no more than 50 percent of the contributions to which are required to be made by any one employer (with special rules where this 50-percent limit is exceeded), and (4) which meet such other requirements as may be prescribed in regulations.

Department of Labor sanctions and preemption of State laws are to be dealt with only in the Education and Labor Committee title.

If an amount is withdrawn (other than by way of lump-sum distributions) before age 59½ (unless withdrawn on account of death or disability) from an individual retirement account plan or by an owner-employee from an H.R. 10 plan, then there is to be an additional nondeductible tax of 10 percent of the amount withdrawn.

A qualified plan is required to commence payment of benefits no later than 60 days after the end of the year during which the latest of the following events occurs: the participant reaches age 65, leaves his employment, or reaches the 10th anniversary of the start of his service, unless the participant agrees otherwise in writing.

A retirement plan maintained in Puerto Rico for individuals employed there would be treated as a tax-exempt plan meeting the requirements of section 401(a) of the Code, if the plan meets the requirements of being a qualified retirement plan unler Puerto Rican tax law.

A deduction would be allowed for the funding by a U.S.-owned corporation of severance or retirement benefits required to be paid under foreign law to nonresident aliens employed outside the United States, if the payments are based upon length of service, are funded, are not discriminatory and the foreign country involved allows deduction of the payments at the time of accrual.

Railroad retirement plans (funded under the Railroad Retirement Tax provisions of the Internal Revenue Code) generally are not subject to the provisions of this bill.

If a plan elects to have the rules of the bill apply earlier than the regular effective date, its election is to apply to the joint and survivor annuity requirements and similar rules, as well as those relating to participations, vesting, and funding.

In the case of an existing plan for a union's employees, the plan's provisions are to apply after the union's second convention after the bill's enactment, but not later than December 31, 1980.

If an existing multiemployer plan is subject to more than one collective agreement, the provisions of the bill are to apply at the expiration of the last current collective bargaining agreement, but not later than December 31, 1980.

The United Mine Workers is to be permitted to separate its welfare and pension plan trusts and the employers still qualify for the deduction under section 404(c) of present law. In addition, the provision is to continue to have application to amounts contributed to a trust after it becomes a qualified plan. In determining whether a pension plan is a qualified plan, individuals who were participants in the plan as of July 1, 1974, are to be treated as employees or former employees even though some of them technically were self-employed or formerly self-employed. These provisions are to apply with respect to years ending on and after June 30, 1972.

ALASKA PIPELINE CONSTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, several months ago I communicated to the Secretary of the Interior my concern over reports that a third-party contractor was to be appointed to oversee construction of the trans-Alaska pipeline. I was apprehensive that this contract might be used to eliminate Government employees from positions of effective supervision over pipeline construction activities, notwithstanding that these Federal employees might be better qualified than any others to handle these responsibilities.

Soon thereafter, I was visited by Mr. Jared Carter, Deputy Under Secretary of the Interior, and was told that my fears were without ground; that the third-party supervision was to be firmly under departmental control, and was to be concentrated in areas where the Department had no expertise and would find it unnecessarily expensive and burdensome to hire full-time help.

I then wrote to the Department to put my concerns formally on record, to be sure that there were no misunderstandings on the part of the Secretary or myself on these questions. I have recently received a response to my letter from the Under Secretary which appears to provide a complete response, and I think that this is of sufficient importance that it should be set forth in complete form in the RECORD.

I intend to maintain oversight over the progress of the construction of the pipeline, and to see that the Department's intentions, laudable as they appear to be, are followed out. I have no reason to suppose that they will not be, but we will maintain the watch in any case. The response follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, January 17, 1974.
Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: This is in further response to your letter of November 6 concerning our plan to contract with a third party the performance of certain functions associated with the trans-Alaska pipeline.

For ease in following, we will set out your letter's several questions below, together with our answers.

Q. 1. Under what authority do you claim the power to delegate the Federal Government's oversight responsibility to a third party contractor, to see that the pipeline company satisfies its contractual obligations during construction of the pipeline? If operation and maintenance of the pipeline also are to be supervised by outside contractors, please provide similar authority.

A. 1. There will be no delegation of our responsibility to anyone. The Department intends to perform fully all of its obligations and meet all of its responsibilities. That is why we are engaging a third party contractor.

One of the larger functions of the Department's Authorized Officer will be to review the Permittee's designs and to assure conformance to the technical and environmental stipulations. This will require a relatively large number of personnel of high expertise in a wide variety of disciplines to be available in the early stages of the project. Also, a number of individuals with a high order of competence will be required at construction sites along the length of the pipeline when unexpected or particularly difficult problems are encountered. Many of these people are simply not available as Federal employees. Thus, by employing a private company (the third party contractor) with its flexible employment practices, we avail ourselves of individual professional personnel at the several locations of design review and construction for the various intensive, often brief, efforts required. The engagement of the third party contractor obviates the need, and the difficult if not impossible task, of rapidly assembling and then disbanding such an organization of Federal employees.

So it is, that the third party contractor will be called upon to furnish individuals and groups of individuals at the direction and service of the Authorized Officer.

One other principle must be delineated. We will seek the highest order of competence available to us. Thus, in some areas, the highest competence is already present within the Department (U.S. Geological Survey and the Bureau of Sport Fisheries and Wildlife) and within other agencies of the Federal Government (U.S. Army's Cold Regions Engineering Laboratory). In such cases, these sources and their personnel will be at the service of the Authorized Officer.

We anticipate that most biological and botanical and some geotechnical disciplines will be obtained through Federal employees.

The immensity and urgency of the project will exhaust for a period all available manhours of effort in some disciplines. Thus, in order to perform our functions properly, it is not a question of employing or not employing outside people, but only a question of the optimum method.

Also, please be advised that at this time the Department of the Interior has no plans to employ a third party contractor to assist it during the operational phase of the trans-Alaska pipeline.

Q. 2. Cite applicable precedents for this delegation of responsibility to a third party contractor.

A. 2. We have investigated the matter thoroughly and discovered that indeed other Government agencies have very successfully utilized similar procedures. The National Aeronautics and Space Administration, for example, has contracted in the past with one of our prospective third party contractors to provide engineering design review, construction surveillance, and subcontractor management on a complex liquid oxygen pipeline project which was constructed at the Kennedy Space Flight Center. Representatives of this Department have discussed the project at length with NASA representatives and, in fact, NASA has reviewed and commented at length upon our third party contracting concept, policies, and procedures. In addition, other agencies such as the Atomic Energy Commission and the General Services Administration utilize contractors in a similar manner on their larger projects to assure adherence to the engineering and construction design criteria.

Q. 3. What qualifications do you propose to require of companies bidding for supervision contracts?

A. 3. The third party contractor must be a capable and experienced firm able to supply the needed disciplines and total manpower. We have instructed prospective contractors to tell us, among other things, what similar contracts they have performed in the recent past, their arctic experience, their relationships, if any, with the permittees and Alyeska, the estimated percentage of their total workload this contract would constitute, names and resumes of key personnel, etc. Using information supplied by the prospective contractors, and data collected by ourselves, we will evaluate each offer to ascertain whether that firm can adequately perform the tasks set out in the contract.

Q. 4. What authority do you propose to retain in order to see that the contractor is properly carrying out its responsibilities? What authority, if any, will be assigned to the pipeline company over the actions of the contractor?

A. 4. All the final decisionmaking authority will be retained in the Department's Authorized Officer. As indicated, the third party contractor will be a fact-gatherer. His function will be to deliver to the Department highly complex and diversified data and reports so that we may have available all of the facts touching upon a particular problem. The sole authority that the permittees and Alyeska will exercise over the third party contractor will be that of enforcement of camp rules while our contractor is in one of the Alyeska work camps. Neither the permittees, Alyeska, nor any of their contractors, subcontractors, etc., will have any authority at all over, or to direct the functions of, the third party contractor insofar as work under our contract is concerned.

Q. 5. Precisely what are to be the responsibilities of the contractor? To whom will the contractor report? What restrictions, if any, will be imposed upon its ability to look into any aspect of the construction program it chooses? To what extent will it be able to monitor the effects of any recommendations that it may make to the pipeline company, or to the United States Government?

A. 5. (Sumarized above.) Also, the restriction upon our contractor's investigation of any aspect of the pipeline construction will be that it must clear such activity with the Authorized Officer. The Authorized Officer may find the contractor's reasons for investigating a particular item or aspect of construction persuasive, but the Authorized Officer will also have available to him input from all other elements of the Federal Government. Our contractor will *not* make recommendations to the owners. All reports and data, including any recommendations made, under the terms of the contract will come to the Authorized Officer. He may then make recommendations to the owners and concomitantly, as to the third party contractor, to follow up or monitor actions or changes arising therefrom.

Q. 6. What consequences, if any, will follow in the event of any disagreement with the findings or recommendations of the contractor on the part of:

a. your Department,

b. any other agency of the Federal Government,

c. the pipeline company,

d. the public, or

e. by any Member of Congress?

A. 6. (a) Our decision on the findings and recommendations of the third party contractor is final and binding insofar as the contractor is concerned.

(b) Other Government agencies may use data and reports furnished by our contractor but, as with the Department of the Interior, the final decisions are theirs and are not appealable by the contractor. In (a) and (b) the concept is that the contractor furnish information to the Government and we will make the final decisions. We may ask the contractor for his opinion but he may in no way challenge our final decision.

(c) The permittees and Alyeska may appeal *our* decision, but the third party contractor is not a party to that dispute.

(d) and (e)—same. Congress and the public may appeal or challenge *our* decisions but the decisions are not those of the third party contractor.

Q. 7. Who is to pay the cost of this oversight by the third party contractor? If it is to be the pipeline company, what control over the contractor's activities will this entail? If not the pipeline company, why not?

A. 7. Among costs incurred by this Department incident to the proposed project, the cost of the third party contract will be totally reimbursable to the Treasury of the United States by the permittees. No control will be exercised over the third party contractor's activities by the pipeline company except as indicated in answer number four above.

Q. 8. What have you budgeted for oversight of the construction of the pipeline construction, both within your agency and with respect to the contractor, in terms of (a) dollars, (b) personnel, and (c) equipment?

A. 8. An amount of $7.1 million is available in the Bureau of Land Management's current appropriation and approved supplemental for oversight of pipeline activities. Of this amount, $5.6 million is the estimated cost of the third party contract; and $1.5 million would be for BLM personnel and related costs. A total of 44 BLM personnel is included. This may not prove to be a final figure since personnel needs will be affected by third party contract provisions and formation of the Authorized Officer's interdisciplinary field team. Equipment included in the third party contract estimate will cost $50,000; requirements to equip the Bureau of Land Management's employees total $20,000.

Additionally the Geological Survey has available $850,000 to provide for 29 personnel and an equipment budget of $28,000. The Bureau of Sport Fisheries and Wildlife has approved $450,000 to provide for 14 personnel and an equipment budget of $33,000.

Sincerely yours,

JOHN C. WHITAKER,
Under Secretary of the Interior.

BURKE PROPOSES LEGISLATION TO EASE BURDEN OF SOCIAL SECURITY PAYROLL TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, today with three of my colleagues from Ways and Means, I am proposing legislation to reduce the rate of social security payroll tax from its present 5.85 percent to 3.9 percent. My proposal would apply the tax to a much greater segment of earned income, raising the wage base, subject to the payroll tax, to $25,000. In addition, the bill would provide for a three-way split of the payroll tax burden among employers, employees, and the Federal Government's general revenue.

Social security is this Government's major spending program affecting more people directly than any other Government program. In short, it is this Nation's major expression of social concern for its citizens. It is high time the burdens of the program were spread more evenly throughout the population. The obligation of financing the social security system falls too heavily on the lower and middle income people of the working force. The regressive feature of the present social security tax actually penalizes their working and it is a long time before they reap the benefits of their labor.

This proposal would also have great appeal for the business community. An employer's share of social security tax would be decreased, giving them a tax break and releasing a considerable amount of money for reinvestment and expansion.

I fail to understand why this approach has not been adopted before. Since social security's inception, using general revenues has been recommended at regular intervals by various advisory groups beginning with the very first committee on economic security in 1935 to the advisory council on social security in later years.

The wage earner who is earning $13,200 in 1974 is now paying $772.20 a year, or $140.40 more than he did last year. How much longer can the wage earner accept the social security payroll tax that is heavier for 50 percent of the work force than personal income taxes?

This bill will also benefit domestic industry and prove to be helpful to small business as a result of the reduction from the present 50 percent social security tax assessed on business to 33 percent. Many of our trading partners operate under the three-way social security split proposed in my bill thereby affording them an advantage over our domestic industry relative to cost and production.

Any attempt at tax reform this year is meaningless without some easing of the regressive social security tax, and I hope to push this proposal through with other tax reform measures soon to be considered by the Ways and Means Committee.

Congressman CORMAN of California, Congressman GREEN of Pennsylvania, and Congressman VANIK of Ohio, all members of the House Ways and Means Committee, have joined me in introducing this legislation today. We welcome your support and will be asking for your cosponsorship in the week ahead.

THE FISCAL YEAR 1975 BUDGET: FABLE, FICTION, AND FANTASY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

Mr. VANIK. Mr. Speaker, last year's budget was a budget filled with deceit and manipulation; it was a controversial budget which sought to dismantle and destroy dozens of programs through executive fiat and the juggling of budget numbers.

This year's budget is a dull, plodding document—without direction, without fire, without purpose. It is a bureaucrat's budget—there are general increases in most programs and some attempts at reorganization. It is a budget out of touch with reality—seemingly unaware of the dangers confronting the Nation. Like the President's state of the Union message, the budget reads like a fairy tale. There is no recognition of the fact that unemployment is skyrocketing. There is no hard, real program for energy research and development. There is talk of the "New Federalism"—but for the first time statistics show that the "New Federalism" is a myth and a hoax—it stands revealed as a will-o-the-wisp.

The President's new energy program—as pictured in the new budget—is so low-voltage, it guarantees a dim light. The funding for new research and development is inadequate, and most of the energy budget is simply old money for old agencies. The budget's failure in the area of energy is so serious that I will be making a separate address to the House, analyzing the President's proposals and the budget's shortcomings

UNEMPLOYMENT

Unemployment and the fear of unemployment now faces millions upon millions of Americans. The President says that there will be no recession—but the economic report of the President describes a recession. There are echoes of the Hoover administration in recent comments from the White House. Our unemployment problems will not go away just because we pretend not to see them. We cannot define them away—we cannot just say that 2 plus 2 equals 5. Yet the administration is preparing the way for saying that it is unrealistic to have 4 percent unemployment as our "full employment" definition. The administration's economists would like to say that 4.6 percent is the "goal," thus washing out the work hopes of half a million people. This is unacceptable. We must face the fact that we face serious unemployment problems and we must begin to act to solve those problems.

From figures in the Budget, it is clear that the administration anticipates the expenditure of an additional $1.5 billion in unemployment compensation benefits. Yet it does nothing to head off unemployment. Available housing construction funds are down, reinforcing the depression in the homebuilding industry. The level of assistance to our major cities is scheduled to be less in fiscal year 1975 than in fiscal 1973. The Economic Development Administration, which makes loans and grants to areas of high unemployment, is cut by $70 million. While the American people continue to complain about the adequacy of Postal Service and long lines at local post offices, the Postal Service plans to reduce its employment by 3,200. But most shocking is the fact that this budget assumes the termination of the Emergency Employment Act at the very moment it seems most critically justified. This program, which provided over a billion dollars in fiscal year 1973 to local governments for hiring personnel, is being phased out by June. The act, as now written, is designed to provide funds to local governments where unemployment is more than 6.5 percent. Many of our major automotive manufacturing cities already have unemployment way above 6.5 percent. The failure of the administration to provide for the continuation of this program—and you may be sure that we in the Congress will fund it—is typical of the Alice-in-Wonderland quality of much of the budget.

NEW FEDERALISM

In the words of the President:

> The New Federalism calls for Federal support in meeting national problems, and holds that State and local authorities are best able to make decisions.

Yet the level of Federal support is declining, particularly to those communities which need it most. For example, it is estimated that total fiscal year 1974 grants-in-aid will be $44.1 billion while fiscal 1975 grants will amount to $46.6 billion. Even allowing for discrepancies, due to inflation, the real purchasing power of Federal aid will decline by about $1.5 billion. In other words, the level of Federal grants is not keeping pace with inflation or the costs of governmental services. This can be seen by one of the tables in the special analyses, which shows that in fiscal year 1973, Federal aid was 23.5 percent of all State and local expenditures. But in fiscal year 1975, the level of Federal aid will decline to 22.4 percent. While many communities can and should be able to handle all their local needs, all too many of our major cities have suffered under the so-called New Federalism.

THE BUDGET AND TAX REFORM

The budget is virtually mute on the subject of tax reform.

The President has proposed an "excess profits tax" on windfall profits in the oil industry. According to the budget, this tax will bring in $900 million in 1974 and $2.9 billion in 1975. Unfortunately, the administration's excess profits tax is really an excise tax—a tax that will be paid by the consuming public. This is not tax reform—it is a new blow at the individual taxpayer.

The President has also proposed a change in the minimum tax on wealth. This change touches the extremely wealthy with a featherduster—it is no substitute for real tax reform and reduces Federal revenues by $1 billion. In addition, the administration has asked for a program of liberalized deductions for individual contributions to private pension plans. This proposal will cost the Treasury nearly $1 billion—and half of the benefits will go to individuals with more than $50,000 in annual income. This is not tax reform—it is disguised welfare for the rich.

The need for new tax reform is desperate. The President's own tax returns have proven the need for tax reform. The belief that the tax code is unfair, the example of the President, and the case of the former Vice President are all contributing to a decline in respect for the American tax system. As a result, this budget contains an increase of nearly a quarter of a billion dollars for an additional 5,200 new IRS employees.

I believe that we must get to the root of declining compliance; we must provide for tax reform and tax simplification. A public interest tax group—composed of tax experts, economists, and accountants—has just estimated that in fiscal year 1975, tax subsidies will amount to $68.6 billion. While some of these subsidies are justifiable, many are not, and most favor those with the largest incomes.

For these reasons, my priority in the 93d Congress will be to work for thorough tax reform, designed to restore confidence in the tax system and to provide revenues needed to solve our national problems of unemployment, energy, and pollution.

The first major legislative battles for tax reform will come this spring, during consideration of the taxation of oil companies and the extension of the public debt ceiling bill.

THE BUDGET—AND ITEMS OUTSIDE THE BUDGET

The Office of Management and Budget has done an excellent job in describing the wide range of programs which exist outside of the budget—and which usually receive little or no congressional review.

It is my hope that the new budget control legislation being considered by the Congress will provide for limitations and controls on the fantastic growth of federally-guaranteed and insured loans. For example, between fiscal 1974 and 1975, guaranteed loans will increase by $14.5 billion, to a total of $257.5 billion. It is important to control these taxpayer-backed commitments, because they are volatile and unpredictable—yet they have an enormous impact on the state of the economy. As the special analyses of the budget states:

> Borrowing from the public—whether by the Treasury or by an agency—has a significant impact on financial markets and thereby on the economy, and it is consequently an important concern of Federal fiscal policy.

In addition to their impact on the economy, these loans and guarantees constitute subsidies—subsidies which should be reexamined from time to time.

For example, this year, the Export-Import Bank, which makes 6 percent loans to developed countries such as Japan, Sweden, and the Soviet Union, is seeking a $10 billion increase in its loan and guarantee authority. During fiscal 1975, the Bank expects to make $5.57 billion in new taxpayer-backed commitments. According to the special analyses this will amount to a present value public subsidy of $518 million, in order to sell about $13 billion in private export goods. In view of the already excessive export demand, I believe it is time that we ended this type of subsidy and permitted private banks to manage export credits.

THE QUALITY OF THE BUDGET—ESSENTIAL AND NONESSENTIAL EXPENDITURES

The budget is mildly expansionary in an effort to soften the blows of unemployment. Personally, I fear that it may not be "full employment" enough. Yet I understand the fear that too large a budget would continue the galloping inflation.

Therefore, at the present time, I would support the same general level of expenditures as proposed in the budget—but there are a number of programs which I would increase and a number of others which I would reduce or terminate. In short, I seriously question the priority of many of the items proposed in this new budget.

I do not understand the need for a continuing subsidy of over half a billion dollars for ship construction and operating support. The CAB continues to provide over $60 million for rural airline service—a service which a number of economists have said is inefficient, uneconomical, and energy wasteful. In fiscal 1975, the Department of the Interior's Bureau of Reclamation will spend $429 million—$53 million more than last year—on irrigation projects. The National Water Resources Commission has pointed out that these projects are a waste of money, have an unfavorable cost/benefit ratio, and cause serious environmental problems. For example, because of past Bureau projects on the Colorado River, we will be spending $100 million in fiscal 1975 to lower the salinity of the Colorado as it flows into Mexico. I question the need for the Selective Service System's continued existence—yet the Service will receive an appropriation of $47 million in the coming fiscal year. Further, despite record exports of agricultural goods, high farm prices, and a new farm program, the level of appropriations for the Department of Agriculture farm support programs is as high as ever, and appears to be above the $5 billion mark. It is incredible that the Budget should provide higher agriculture subsidies for an industry which claims to be self-sufficient and which is making unprecedented profits, exporting production to a point where pressures have driven up domestic prices and shortages have developed.

Finally, an examination of the administration's budget plans for military spending shows that fiscal year 1975 will be basically more of the past: A gradually declining number of total active manpower, coupled with significantly increasing amounts of money obligated to retirement pay; extremely large amounts of money devoted to research and development and military construction; and questionable instances of planned budget expenditures.

While it is difficult, if not impossible, to reduce personnel costs, especially with an all-volunteer force, the additional needs of the Defense Department and the cost of a voluntary military service can be balanced by savings in the withdrawal of some of the 310,000 men—and their dependents—assigned to NATO.

Despite failures, technical and managerial, in several of the high-powered weapons systems of the past, the administration's budget remains committed to spending large sums of money for similar, but even higher-powered weapons. But as adminstration experts would say of social and human welfare problems, you cannot solve problems by "throwing money at them." Despite that administration maxim, billions of dollars of Federal moneys will be thrown at national defense in fiscal year 1975.

The Secretary of Defense's office itself, with an estimated budget of $50 million in fiscal 1974, is budgeted for a 500 percent increase, to $266 million in fiscal 1975. We need more streamlined chains of command—not more headquarters staffs.

The total national defense budget for fiscal 1974 of over $80 billion stands to rise even higher this year—perhaps breaking the $100 billion mark, but surely reaching an increase of over 15 percent. At the same time, most other Federal agencies were fortunate if they got a full inflation allowance increase in their budgetary levels.

National defense seems to be committed to a "high risk" policy where literally billions of dollars are poured into research and development, construction, and procurement operations which promise a sort of all-or-nothing result. Either the finished product lives up fully to its advance billing, or it is highly unreliable, impracticably expensive—like the F-111 that this budget now proposes to partially resurrect. Logic would instead dictate a lower risk building program with more inexpensive weaponry. But this reasoning has escaped the Defense Establishment in what has come to be an unfortunate bidding war for Federal moneys.

An important aspect of the annual national defense budget is the growing proportion of supplemental requests. Of close to $10 billion in supplemental requests in this budget for the remaining 5 months of fiscal year 1974, well over 60 percent are from defense agencies. The Congress should take steps in this area to see that the plans presented in the annual budget are adhered to as closely as possible. If a consumer knows there are free second helpings, he is less likely to buy a full meal for the first course.

There are a number of areas, however, where I believe more priority should be given. Manpower and employment assistance, education, and health are areas I believe deserve greater emphasis. The health budget, in particular, is worth further comment.

Although the overall health budget is up about $2.5 billion over the 1974 estimates, that figure alone is not a true reflection of the situation. Most all categories of health spending are down, or remain similar to last year, except one: medicare which has higher spending levels because of a congressional mandate and rising costs—not administration commitments.

Many programs have been cut out completely, while others have suffered budget slashes of from 10 to 60 percent. For example, project grants for maternal and child health care, last year funded at over $104 million, have been dropped.

Reorganizations, like the reshuffling that was to accomplish more efficient administration last year, have also eliminated programs: Buildings and facilities of health services is so reorganized, its reappearance elsewhere is impossible to locate. Emergency health, last year budgeted at almost $6 million, is the victim of an "orderly phaseout" with its civil disaster health responsibilities assumed by "other agencies and programs."

The President's boast of more moneys for heart and lung and cancer research was correct. But what he neglected to tell the country in his state of the Union address was that the other eight National Institutes of Health research activities got not even an inflation allowance in the way of an increase.

In the Health Resource Administration, cuts to support health education, to improve geographic medical services distribution, and to encourage hospital construction—all so important as we seek to provide for a workable national health security system—will result in reductions of about $600 million from a 1974 budget of $1.1 billion.

The administration's commitment to the American people is perhaps nowhere better illustrated than in its health budget.

OHIO AND THE FEDERAL BUDGET

The budget contains little good news of special interest for Ohio. While the average national per capita distribution of Federal aid is now about $212.30, the Great Lakes region, including Ohio, receives only about $169.80 per person—the lowest rate in the Nation.

The Lake Erie wastewater management project of the Corps of Engineers is increased from $200,000 to $670,000. The Corps is also increasing its study of lake water levels from $60,000 to $370,000. Unfortunately, our area does not need any more studies. The lake is now at an unprecedented, historic high level. What we need is action—not paperwork. Not only is there no action on beginning lake level controls, but reserves for disaster assistance are way down. A single serious storm on Lake Erie today could wipe out the entire SBA disaster loan fund for fiscal year 1975.

Because of the administration's decision to impound $3 billion in fiscal year 1975 waste treatment construction funds, the efforts of the Great Lakes States to clean up the lakes will be severely crippled. This impoundment decision—made in the face of repeated court decisions that impoundments are illegal—will create uncertainty and confusion throughout our area. It will increase costs to local governments and delay the start of needed treatment plants. Further, the administration's failure to provide special emphasis on the problems of the Great Lakes constitutes a violation of our water quality agreement with Canada. If we do not meet our commitment with Canada to clean up the lakes, we cannot expect their cooperation on questions of Great Lakes water levels regulation and use.

The new budget provides for some new construction at the NASA Lewis Research Center; $2,580,000 will be used for modifications of the propulsion systems lab, while $660,000 will be required for the modification of the rocket engine test facility.

The energy crisis, however, opens up the possibility for a great new future for Lewis. As the NASA center which has specialized in many propulsion systems, Lewis could be—and should be—the headquarters of a national drive to create new forms of more efficient propulsion systems. As a center which has been heavily involved in energy research—and which is now engaged in major work in wind power—Lewis could be the center for the entire national energy independence project. This goal should be the goal of all Ohioans and all members of the Ohio congressional delegation.

There is no specific mention in the budget of the Cuyahoga Valley National Historic Park and Recreation Area. But again, the energy crisis lends a new argument for the creation of this recreation area. Long-distance vacation trips will no longer be attractive to most Americans. We must, therefore, establish new recreation areas near our urban centers. The beautiful, undeveloped Cuyahoga Valley between Akron and Cleveland should be No. 1 on the list of new parksites, of placing—as the President has said—"parks where the people are."

In fiscal year 1975, the Interior Department's land and water conservation fund will make $196 million available for parkland grants to State and local governments. We must insure that in Ohio, those grants are used for acquiring and protecting the open lands of the Cuyahoga Valley. In addition, $98 million will be for direct Federal purchase of parkland. Less than half that amount would insure the preservation of the valley and the creation of one of the finest parklands in the United States. All of us in the Lake Erie basin region must make this one of our priority goals in fiscal year 1975.

These observations on the budget are made within the timeframe of hours, since the budget was submitted only late Friday afternoon. During the next several weeks, I expect to make further detailed comments on the data contained in the 1,700 pages of the budget, a budget written in a manner which submerges truth and intention.

BILL TO ESTABLISH RULES OF EVIDENCE IN COURTS AND PROCEEDINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 30 minutes.

Mr. HOGAN. Mr. Speaker, on Wednesday of this week, the House is scheduled to consider the final passage of H.R. 5643, a bill to establish rules of evidence in courts and proceedings.

As a member of the Subcommittee on Criminal Justice of the House Judiciary Committee, I can attest to the many hours of deliberation that were spent on this bill. I am in strong disagreement with several sections of this bill and plan to offer the following two amendments when the bill comes to the floor.

Amendment offered by Mr. Hogan to H.R. 5463 to amend rule 609(a):

Strike out lines 1 through 4 on page 83 and insert in lieu thereof the following:

(a) General rule.—For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime, (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or, (2) involved dishonesty or false statement regardless of his punishment.

Amendment offered by Mr. Hogan to H.R. 5463 to amend rule 801(d)1.

Strike out lines 20 through 25 on page 90 and lines 1 through 5 on page 91 and insert in lieu thereof the following:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with his testimony, or (B) consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving him: or

I urge my colleagues to give these amendments their careful consideration and vote for their adoption when I offer them.

LAND USE DICTATORSHIP—IT'S COMING!

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, many Members of the House have been seriously disturbed with the land use bill which has passed the Senate and is awaiting action in the House. The dangers inherent in the language of this legislation are spelled out in an editorial in the December 1973 issue of Progressive Farmer. Since this editorial appeared, the House Committee on Interior and Insular Affairs has reported a land use bill. The report is not yet available on this bill. It is not possible at this time to understand fully what is proposed in the House bill. Hopefully it represents a decided improvement over the Senate language.

I submit the Progressive Farmer editorial for printing in the Record:

Land Use Dictatorship—It's Coming!

One of the basic rights given Americans by our founding fathers was the right of private property. It is as important as the rights of free speech and religion.

The right of property ownership in the United States is envied by the world. It's the vital difference between capitalism and communism. There is little argument that because of the special heritage of individual ownership of land American agriculture is the most efficient industry in the world today. Clear title to land is the base of the ability of each American producer to provide food and fiber for his family and approximately 50 others—at the least cost in history.

Land ownership is now more seriously threatened than at any time in our history. There is a piece of legislation—it has already passed the U.S. Senate and is ready for House action—that would severely limit a property owner's right to decide what use he will make of his land.

Flying under the misleading colors of "protection of the environment," the legislation is labeled "The Land Use Policy and Planning Assistance Act."

This legislation is designed to force each state to develop and implement a state land use planning program including strict use regulations. A "club" is provided in the bill that would allow the Federal Government to force the states and individuals to comply.

Some type of land use planning indeed may be in the best interests of agriculture and all of America. But such a policy should also protect the basic rights of landowners to determine for themselves the best use for their land, so long as such use doesn't constitute a public hazard or nuisance. Moreover, actual planning should be delegated to the local level—to people who are familiar with land use patterns, capabilities, and needs in the immediate area, and who are answerable to local citizens.

The land use bill currently being considered by Congress provides no such safeguards. Therefore, it should be opposed by every landowner.

TRIBUTE TO JACK MARSH

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is with mixed emotions that I deliver this tribute to our former colleague, Mr. Jack Marsh. Since the spring of 1973, Jack has been the Assistant Secretary of Defense for Legislative Affairs. He will soon assume a major new assignment with another of our former colleagues, the Vice President of the United States. Therefore, I am delighted that Vice President Ford is gaining the service of a truly able and great American. But I am saddened that the Department of Defense and, therefore, the House of Representatives, will be deprived of his able services and his personal and efficient attention to the cause of a strong and secure America.

Jack Marsh was the first Assistant Secretary of Defense for Legislative affairs, filling a newly created position with the Department. He brought to that important post a rare set of skills. Jack is first an American and as a patriot and because he was a former Member of this body he understood its processes and its needs as well as any one of us. He had been a distinguished member of the House Appropriations Committee and, therefore, was fully familiar with that vital legislative process. In his new assignment he worked hard to build new bridges of communication and understanding between the Department of Defense and the Congress. He was astute in his judgment as he participated in the process of building a dialog between senior members of the Department and Members of Congress. In looking back on 1973, no one would argue that the first session of the 93d Congress was a challenging one for the Defense Department. Jack Marsh did outstanding service in smoothing out the many difficulties and he contributed to the enactment of a defense program which will well serve the Nation. We who have served in the Congress and benefited from Jack Marsh's ability, dedication, and warm sense of humor will miss him as he leaves Defense and we say welcome as he assumes his new responsibilities with the Vice President of the United States.

I include at this point in the Record a copy of Jack Marsh's biography and also the press announcement of his new assignment with the Vice President:

Biographical Sketch: John O. Marsh, Jr., Assistant Secretary of Defense—Legislative Affairs

John O. Marsh, Jr., former Democratic member of the U.S. House of Representatives, became Assistant Secretary of Defense for Legislative Affairs April 17, 1973. He was nominated by President Nixon April 9 and confirmed by the U.S. Senate April 13.

Mr. Marsh was born in Winchester, Va., August 7, 1926. He attended public schools in Harrisonburg, Va., and was graduated from Washington and Lee University (LL.B.) in 1952. He began practicing law at Strasburg, Va., where he also served as Town Judge.

A veteran of World War II, Mr. Marsh was commissioned in the Army at the age of 19. He completed Parachute School at Ft. Benning, Ga., in 1964. He is now a lieutenant colonel in the Virginia National Guard.

In 1962 Mr. Marsh was elected to Congress from the Seventh Congressional District of Virginia where he served on the House Committee on Appropriations, Interior and Insular Affairs Committee, and the Veterans' Affairs Committee.

In 1963, Mr. Marsh introduced legislation to establish the American Revolution Bicentennial Commission. The Speaker of the House appointed him a member of the Commission and he assisted in drafting the national plan for the Bicentenial.

In Strasburg he originated and directed Jaycee projects on patriotism: "Liberty Tree," selected as outstanding Jaycee project in the United States in 1959 and awarded the George Washington Medal of the Freedom Foundation; "Silent Sentry" of 1960 won national honors and received the George Washington Medal of Freedom Foundation also.

The Virginia Jaycees named him "Outstanding Young Man in Virginia—1959."

Mr. Marsh married the former Glenn Ann Patterson of Kenbridge, Va., and Winston-Salem, N.C. They have three children: John O., III, 18, Rebecca Patterson, 15, and Scot Wayland, 14. He and his family are members of the Presbyterian church.

John O. Marsh, Jr.

Assistant Secretary of Defense John O. Marsh, Jr. is joining the staff of the Vice President as his Assistant for Defense Affairs.

Marsh, 47, was elected to four successive terms in the U.S. House of Representatives as a Virginia Democrat. He served as a member of the Appropriations, Veterans Affairs, and Interior and Insular Affairs Committees, and was the author of the original legislation to establish an American Revolution Bicentennial Commission.

In addition to liaison responsibilities, Marsh will be the principal military adviser on the Vice President's staff, taking over some of the duties which have been performed by Major General John M. Dunn, USA, the Vice President's Senior Military Assistant. General Dunn is retiring from the Army to accept a civilian position.

A graduate of Washington and Lee University Law School in his native Virginia, Marsh practiced law from 1952 until his election to Congress in 1962 and resumed the practice of law in Washington after retiring voluntarily from the House in 1970. He served as a town judge in Strasburg, Virginia, as executive secretary of the Strasburg Chamber of Commerce, and as a member of the Shenandoah County School Board. Marsh returned to government service a year ago when he was named by President Nixon to be Assistant Secretary of Defense for Legislative Affairs.

Marsh was named "Outstanding Young Man in Virginia" by the Virginia Junior Chamber of Commerce in 1959. He also received the Distinguished Service Medal of the American Legion's Department of Virginia. A graduate of the Infantry Officer Candidate School at age 19, Marsh is a veteran of World War II, a qualified Paratrooper, and a Lieutenant Colonel in the Virginia National Guard.

Marsh is married to the former Glenn Ann Patterson of Kenbridge, Virginia, and Winston-Salem, North Carolina. They make their home with their three children in Arlington, Virginia.

AMERICAN PEOPLE SUFFER DEPLETION WHILE OIL FIRMS GET ALLOWANCE

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, the major oil companies, with the help of the Nixon administration, are using the present energy crisis to enhance their own wealth and influence and to gouge the public.

A year ago, the price of heating oil in my district was about 17 cents a gallon. In May of this year, it was 20 cents. In November, it averaged 34 cents. Now the Cost of Living Council has announced that the oil companies may raise their January prices 2 cents a gallon over and above their normal price increases.

The rationale for this latest increase was that it would encourage the industry to produce more home heating oil and less gasoline from crude oil. What the administration neglected to tell the public was that the refineries are already producing heating oil at full capacity, and there is no possible way that they could increase their production by more than 1 or 2 percent.

Thus, at a time when fuel costs have doubled within a year, Mr. Nixon has granted new increases which have no justification other than the greed of the petroleum industry. Despite the record profits of these firms in 1973, we are asked to believe that they need more money. All of this proves that big oil has been made to feel comfortable in the oval office, while most American citizens will be shivering in their homes this winter.

In addition to price gouging, the major oil companies are attempting to gain control of all gas stations in the country and then divide the country into exclusive markets, in violation of the antitrust laws. Five percent of the service stations that were open a year ago are now closed.

But that is not the end. The greed of the oilmen, supported by an indifferent administration is spreading like oil on the waters and polluting everything it touches. The truckers, the independents particularly, are going the way of the independent gas station operators. In a word, they are going out of business. With diesel fuel prices doubling and "fuel-saving" speed limits arbitrarily imposed causing further increases in operating costs, the prosperity of the oil companies is being gouged from the hide of these small businessmen dollar by dollar.

The slowdowns, stoppages, strikes, and simple inability of independents to continue to operate are toppling the economy like so many dominoes. The transportation slowdown is tearing at an already strained economy. While most others suffer, corporate oil profits soar, small businessmen of all description are forced to the wall and beyond, and the public pays for the preferential treatment of the select few.

Another, and classic, example are the thousands of small plastics companies—manufacturers of everything from plastics bags and toys to tooth brushes and heart valves—who are being forced out of business, because they cannot get the raw material from the petrochemical industry. In my own congressional district the situation is critical. The same is true in Los Angeles, Chicago, Philadelphia, and elsewhere. Small factories, some employing up to a couple of hundred people, are locking their doors, because the raw materials—polyester resins—being produced are being sold by the oil giants only to their own subsidiaries.

There is no fair distribution of supplies by these fully integrated industrial giants when they are left to their own devices. They have shown no intention of sharing their good fortune with the little guys, with the neighborhood businessman, or the consumer. Gulf, and Exxon and the others of the oil giants are selling raw material only to their own companies while thousands of employees of the small independents go unemployed.

And so we have the independent gas station owner, the independent trucker, and the independent businessman and manufacturer squashed by the greed of big business and the indifference of the administration while the economy, unemployment, the cost of living, and even national security totter closer to the brink. So far the President of all of the people has been serving only some of the people. Platitudes, promises, and public relations are not enough. Someone in the administration had soon better understand that, and do something about it.

WOODROW WILSON—UPSTAIRS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, last Sunday, February 3, marked the 50th anniversary of the death of Woodrow Wilson the 28th President of the United States. In recent years, our Nation has lacked the moral leadership and statesmanship which characterized the life of Woodrow Wilson. His obsession with the achievement of world peace was matched by his concern for the less fortunate among his fellow citizens.

When Wilson died in 1924, less than 3 years after leaving the Presidency, many tributes were paid to him in the Congress. In my opinion, however, the most appropriate eulogy was a fictional one which appeared in the film "The Farmer's Daughter." The screenplay came from the pen of Allen Rivkin, who has kindly granted me permission to read this eulogy today:

Eulogy

Mr. Speaker, today I don't want to make a speech. I want to tell you a story about a doctor named Sorenson, who lived in a small town. He was a good doctor, but the rich people in this town didn't like him because he told them the truth a little too often about their imaginary sicknesses.

Things got bad for Dr. Sorenson, and he moved across the tracks to the poor section of town where people needed him, but didn't have the money to pay. He worked for them, anyhow. They would give him a bottle of milk when he cured a sore throat, or a loaf of bread when he set a broken leg.

Dr. Sorenson couldn't afford a regular office. He practiced in the room he lived in, unstairs over a livery stable. The shingle outside was a simple little sign that read: "Dr. Sorenson—Upstairs".

Well, even doctors get sick. And after working years with these poor people, Dr. Sorenson got sick and he died, and all those people who loved him, and whom he loved, buried him. They wanted to put up a big, marble, monument, but they just couldn't afford it. So they took the sign from the stable, and put it over the doctor's grave. There it stood and that was his monument.

Today a President has died. Only a short time ago his dream, the League of Nations was killed by people who couldn't stand the truth. But his dream shall not perish from this earth. It will live in the hearts of good, common people. For over the President's grave the people have placed their everlasting monument, which like the doctor's—read simply: "Woodrow Wilson—Upstairs."

THE W. TURNER WALLIS PUMPING STATION

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ROGERS. Mr. Speaker, today I am introducing a bill to rename pumping structure S-5A of the Central and Southern Florida Flood Control District to be designated as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, the first secretary-treasurer and chief engineer of the Central and Southern Florida Flood Control District.

Mr. Wallis was noted for his knowledge and expertise of the land-use and water problems of this beautiful area of Florida. He was most influential in getting the flood control project off to an early and progressive start. The project is vitally important to flood control and in the preservation of the ecological balance of the region, as well as assuring adequate water for agricultural, industrial, and domestic uses.

In memory of Turner Wallis and on behalf of the Governing Board of the Central and Southern Florida Flood Control District, supported by the U.S. Army Corps of Engineers, I submit this bill to the Congress and urge that it be given careful consideration by my colleagues on the Committee on Public Works.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Mathias of California (at the request of Mr. Rhodes), for the week of February 4, 1974, on account of official business.

Mr. Bafalis (at the request of Mr. Rhodes), for today, on account of official business.

Mr. Haley (at the request of Mr. Sikes), for 1 week, because of death in the family.

Mr. Ketchum (at the request of Mr. Rhodes), for today and tomorrow, on account of official business.

Mr. McSpadden (at the request of Mr. O'Neill), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Flood, for 60 minutes, today.

Mr. Alexander, for 60 minutes, today.

Mr. Anderson of California, for 20 minutes, today.

(The following Members (at the request of Mr. Mezvinsky), to revise and extend their remarks, and to include extraneous matter:)

Mr. Rose, for 60 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Moss, for 5 minutes, today.

Mr. Drinan, for 25 minutes, today.

Mr. Tiernan, for 5 minutes, today.

Mr. Ullman, for 5 minutes, today.

Mr. Dingell, for 5 minutes, today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Mr. Vanik, for 10 minutes, today.

Mr. Minish, for 60 minutes, on February 5.

Mr. Brademas, for 60 minutes, on February 6.

Mr. Gaydos, for 30 minutes, on February 5.

Mr. Dent, for 15 minutes, on February 5.

(The following Members (at the request of Mr. Bauman) to revise and extend their remarks and include extraneous material:)

Mr. Steiger of Arizona, for 10 minutes, today.

Mr. Kemp, for 5 minutes, today.

Mr. Miller, for 5 minutes, today.

Mr. Hosmer, for 10 minutes, today.

Mr. Hogan, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mahon, to proceed for 10 minutes following the President's budget message.

Mr. Cederberg, to proceed for 10 minutes following Mr. Mahon on the President's budget message.

Mr. Mahon, to revise and extend his remarks and include extraneous matter and tables.

Mr. Bennett in two instances.

Mr. Flood, to revise and extend his remarks, and to include a copy of the resolution he introduced.

The following Members (at the request of Mr. Bauman) and to include extraneous material:)

Mr. Snyder.

Mr. Whalen in two instances.

Mr. Kemp in two instances.

Mr. Heinz in three instances.

Mr. Hogan.

Mr. Baker in two instances.

Mr. Don H. Clausen.

Mr. Powell of Ohio in two instances.

Mr. Ashbrook in five instances.

Mr. Minshall of Ohio.

Mr. Wyman in two instances.

Mr. Robison of New York.

Mr. Huber in two instances.

Mr. Hudnut in two instances.

Mr. Carter in three instances.

Mrs. Holt.

Mr. Bauman in two instances.

Mr. Sebelius.

Mr. Widnall.

Mr. Derwinski in two instances.

Mr. Wiggins.

Mr. Sarasin.

Mr. Gilman in two instances.

Mr. Cochran.

Mr. Steiger of Arizona.

(The following Members (at the request of Mr. Mezvinsky) and to include extraneous matter:)

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Bolling.

Mr. Moss.

Mr. Won Pat in five instances.

Mr. Long of Maryland in 10 instances.

Ms. Holtzman in 10 instances.

Mr. Helstoski in 10 instances.

Mr. Corman.

Mrs. Grasso in 10 instances.

Mr. Evins of Tennessee.

Mr. Riegle.

Mr. Conyers in 10 instances.

Mr. Hungate.

Mr. Waldie in three instances.

Mr. Anderson of California in three instances.

Mr. Moakley in five instances.

Mr. Wolff in three instances.

Mr. Vanik in two instances.

Ms. Abzug in 10 instances.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 64. Concurrent resolution authorizing the printing of congressional eulogies and other tributes to the late J. Edgar Hoover as a Senate document; to the Committee on House Administration.

ADJOURNMENT

Mr. MEZVINSKY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 17 minutes p.m.) the House adjourned until tomorrow, Tuesday, February 5, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1803. A letter from the President of the United States, transmitting amendments to the request for appropriations transmitted in the budget for fiscal year 1975, for accelerated energy research and development (H. Doc. No. 93–209); to the Committee on Appropriations and ordered to be printed.

1804. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of the Interior's Bureau of Land Management for "Management of lands and resources" for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1805. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other Services.

1806. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize military training student loads and for other Services.

1807. A letter from the Secretary of the Air Force, transmitting a report on the number of officers assigned or detailed to the Headquarters of the Department of the Air Force as of December 31, 1973, pursuant to 10 U.S.C. 8031(c); to the Committee on Armed Services.

1808. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting a report of the facts and justification for the proposed closure of certain military installations in the United States, pursuant to section 613 of Public Law 89–568; to the Committee on Armed Services.

1809. A letter from the Acting Assistant Secretary of the Air Force (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to extend the time limit for the award of certain military decorations; to the Committee on Armed Services.

1810. A letter from the Chairman, District of Columbia Armory Board, transmitting the 26th annual report and financial statements of the Board's Operation of the District of Columbia National Guard Armory, and the 16th annual report and financial statements of the operation of the Robert F. Kennedy Memorial Stadium, covering fiscal year 1973, pursuant to section 10 of Public Law 80–605 and section 10 of Public Law 85–300, respectively; to the Committee on the District of Columbia.

1811. A letter from the vice president and general manager, Chesapeake & Potomac Telephone Co., transmitting a statement of receipts and expenditures of the company for 1973, and a comparative general balance sheet, pursuant to 33 Stat. 375 and 43 D.C. Code 313; to the Committee on the District of Columbia.

1812. A letter from the Secretary of Labor, transmitting a report on fair labor standards in employments in and affecting interstate commerce, pursuant to 29 U.S.C. 204(d); to the Committee on Education and Labor.

1813. A letter from the Secretary of Labor, transmitting a report on activities under the Age Discrimination in Employment Act of 1967, pursuant to section 13 of the act (29 U.S.C. 632); to the Committee on Education and Labor.

1814. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on assistance-related funds obligated for Cambodia during the second quarter of fiscal year 1974, pursuant to section 655(f) of the Foreign Assistance Act of 1961, as amended by Public Law 92–226; to the Committee on Foreign Affairs.

1815. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States pursuant to Public Law 92–403; to the Committee on Foreign Affairs.

1816. A letter from the Administrator of General Services, transmitting the 1973 annual report of the General Services Administration; to the Committee on Government Operations.

1817. A letter from the Federal and State Co-Chairman, Federal-State Land Use Planning Commission for Alaska, transmitting the Commission's annual report for calendar year 1973, pursuant to 85 Stat. 706; to the Committee on Interior and Insular Affairs.

1818. A letter from the Secretary of Transportation, transmitting a report on rail service in the Midwest and Northeast regions, pursuant to section 204 of Public Law 93–236; to the Committee on Interstate and Foreign Commerce.

1819. A letter from the director, National Development and Finance Services, Boys' Club of America, transmitting the financial statement of the organization for the year ended September 30, 1973, pursuant to section 14 of Public Law 84–988; to the Committee on the Judiciary.

1820. A letter from the National Adjutant, Veterans of World War I of the U.S.A., Inc., transmitting the proceedings of the organization's national convention, the annual report, and financial statement for the year ended September 30, 1973, pursuant to section 15 of Public Law 85–530 (H. Doc. No. 93–210); to the Committee on the Judiciary and ordered to be printed with illustrations.

1821. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on scientific and professional positions in NASA during calendar year 1973, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

1822. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report on positions in grades GS–16, 17, and 18 in the Federal Government during calendar year 1973, pursuant to 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

1823. A letter from the Director, Federal Bureau of Investigation, Department of Justice, transmitting a report on positions in the FBI during calendar year 1973 in grades GS–16, 17, and 18, pursuant to U.S.C. 5114; to the Committee on Post Office and Civil Service.

1825. A letter from the Secretary, Railroad Retirement Board, transmitting a report for calendar year 1973 on positions in grades GS–16, 17, and 18 pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

1825. A letter from the Secretary of Commerce and the Director, Office of Management and Budget, Executive Office of the President, transmitting a report on the proposal for an economic adjustment program, pursuant to section 8 of Public Law 93–46; to the Committee on Public Works.

1826. A letter from the Federal Cochairman, Coastal Plains Regional Commission, transmitting the sixth annual report of the Commission, covering fiscal year 1973, pursuant to 42 U.S.C. 3189; to the Committee on Public Works.

1827. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to the Committee on Veterans' Affairs.

1828. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to impose a tax on windfall profits by producers of crude oil; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on January 31, 1974, the following report was filed on February 1, 1974*]

Mr. RODINO. Committee on the Judiciary. House Resolution 803. Resolution providing appropriate power to the Committee on the Judiciary to conduct an investigation of whether sufficient grounds exist to impeach Richard M. Nixon, President of the United States, and for other purposes (Rept. No. 93–774). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted February 4, 1974*]

By Mr. ULLMAN (for himself and Mr. Schneebeli):

H.R. 12481. A bill to amend the Internal Revenue Code of 1954 to provide pension reform; to the Committee on Ways and Means.

By Mr. ALEXANDER:

H.R. 12482. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane; to the Committee on the Banking and Currency.

By Mr. BIAGGI:

H.R. 12483. A bill to return Veterans Day to its traditional date, November 11 of each year; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 12484. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BOWEN:

H.R. 12485. A bill to amend the Federal Energy Administration Act of 1973 to provide for equitable allocation of costs among different petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. BREAUX:

H.R. 12486. A bill to provide scholarships for the dependent children of public safety officers who are the victims of homicide while performing their official duties, and for other purposes; to the Committee on Education and Labor.

By Mr. BROWN of California (for himself, Mr. Abdnor, Mr. Adams, Mr. Bergland, Mrs. Burke of California, Mr. Conlan, Mr. Corman, Mr. Cronin, Mr. Danielson, Mr. Dent, Mr. Downing, Mr. Fuqua, Mr. Gunter, Mr. Kyros, Mr. Lehman, Mr. Melcher, Mr. Milford, Mr. Minshall of Ohio, Mr. Mosher, Mr. Preyer, Mr. Price of Illinois, Mr. Ryan, Mr. James V. Stanton, Mr. Steele, and Mr. Tiernan):

H.R. 12487. A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption; to the Committee on Education and Labor.

By Mr. BROWN of California (for himself and Ms. Abzug):

H.R. 12488. A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption; to the Committee on Science and Astronautics.

By Mr. BURKE of Massachusetts (for himself, Mr. Corman, Mr. Green of Pennsylvania, and Mr. Vanik):

H.R. 12489. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. BURTON (for himself and Mr. Waldie):

H.R. 12490. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

By Mr. CLARK:

H.R. 12491. A bill to temporarily suspend required emissions controls on automobiles in certain parts of United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12492. A bill to extend the Federal program of assistance for the developmentally disabled to include the physically disabled; to the Committee on Interstate and Foreign Commerce.

By Mr. DEVINE:

H.R. 12493. A bill to require the execution of an oath or affirmation or declaration of allegiance before a passport is granted or issued; to the Committee on Foreign Affairs.

By Mr. EDWARDS of Alabama:

H.R. 12494. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FLYNT:

H.R. 12495. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. FRASER (for himself, Mr. Anderson of California, Mr. Ashley, Mr. Badillo, Mr. Biester, Mrs. Boggs, Mr. Boland, Mr. Brademas, Mr. Brown of California, Mrs. Burke of California, Mr. Carney of Ohio, Ms. Chisholm, Mrs. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Cronin, Mr. Culver, Mr. Dent, Mr. Dorn, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Eilberg, and Mr. Ford):

H.R. 12496. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. FRASER (for himself, Mr. Forsythe, Mr. Froehlich, Mr. Gaydos, Mrs. Grasso, Mr. Gude, Mr. Gunter, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Ms. Holtzman, Mr. Ichord, Mr. Johnson of Pennsylvania, Mr. Kemp, Mr. Kyros, Mr. Leggett, Mr. Lehman, Mr. Lent, Mr. Mazzoli, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Morgan, Mr. Moss, Mr. Nedzi, and Mr. Nix):

H.R. 12497. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. FRASER (for himself, Mr. Owens, Mr. Pepper, Mr. Perkins, Mr. Podell, Mr. Rarick, Mr. Rees, Mr. Riegle, Mr. Rodino, Mr. Rosenthal, Mr. Roy, Mr. Roybal, Mr. Sarasin, Mr. Sarbanes, Mr. Stark, Mr. Studds, Mr. Thompson of New Jersey, Mr. Towell of Nevada, Mr. Whitehurst, Mr. Winn, Mr. Wolff, Mr. Won Pat, and Mr. Young of Georgia):

H.R. 12498. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. FROEHLICH:

H.R. 12499. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GOLDWATER (for himself, Mr. Sikes, and Mr. Spence):

H.R. 12500. A bill to amend the Hobby Protection Act to include reproductions of antique firearms; to the Committee on Interstate and Foreign Commerce.

By Mr. GONZALEZ:

H.R. 12501. A bill to repeal the Emergency Daylight Saving Time Energy Conservation

Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 12502. A bill to repeal the Emergency Daylight Saving Time Conservation Act of 1973; to amend the Uniform Time Act of 1966 to provide for the observance of daylight saving time from the last Sunday of February until the last Sunday of November of each year; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS (for himself, Mr. Rogers, Mr. Satterfield, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Heinz, and Mr. Hudnut):

H.R. 12503. A bill to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYS:

H.R. 12504. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.R. 12505. A bill to amend titles 10 and 14, United States Code, and certain other laws, to modernize the retirement structure relating to members of the uniformed services; to the Committee on Armed Services.

By Mr. HEINZ:

H.R. 12506. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation and educational assistance allowances paid to eligible veterans and other persons to otherwise improve the educational assistance programs; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HEINZ (for himself, Mr. Stokes, Mr. Mollohan, Mr. Boland, Mr. Green of Pennsylvania, Mr. Preyer, Mr. Roush, Mr. Pepper, Mr. Bevill, Mr. Coughlin, Mr. Matsunaga, Mr. de Lugo, Mr. Whitehurst, Mr. Roybal, Ms. Chisholm, Mr. Bell, Mr. Moakley, Mr. Stark, Mr. Cohen, Ms. Schroeder, Mr. Fascell, Mr. Frenzel, Ms. Holtzman, Mr. Yatron, and Mr. Riegle):

H.R. 12507. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 12508. A bill to require the Attorney General to investigate all vertical concentrations within the petroleum industry and to take such action as is necessary to prevent illegal concentrations, and for other purposes; to the Committee on the Judiciary.

H.R. 12509. A bill to regulate commerce prohibiting certain combinations among persons engaged in commerce relating to energy; to the Committee on the Judiciary.

H.R. 12510. A bill to amend the Internal Revenue Code of 1954 to eliminate the percentage oil and gas depletion allowance; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 12511. A bill to prohibit the exportation of any horse unless proof of ownership is shown by the consignee or ultimate consignor; to the Committee on Agriculture.

By Mr. HOSMER (for himself, Mr. Skubitz, Mr. Ruppe, Mr. Regula, and Mr. Cronin):

H.R. 12512. A bill to provide for the addition of certain lands in the State of Alaska to the National Park, National Wildlife Refuge, National Forest, and the Wild and Scenic Rivers Systems, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JOHNSON of Colorado (for himself, Mr. Armstrong, Mr. Brotzman, Mr. Evans of Colorado, and Ms. Schroeder):

H.R. 12513. A bill to include the Escalante Trail in the study category of the National Trails System Act; to the Committee on Interior and Insular Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 12514. A bill to amend the Export Administration Act of 1969, as amended, to control the export of iron and steel scrap during periods of shortage; to the Committee on Banking and Currency.

H.R. 12515. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LANDGREBE (for himself, Mr. Quie, Mr. Erlenborn, Mr. Hansen of Idaho, and Mr. Towell of Nevada):

H.R. 12516. A bill to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement; to the Committee on Education and Labor.

By Mr. LANDGREBE (for himself, Mr. Fisher, Mr. Collins of Texas, Mr. Steiger of Arizona, and Mr. Symms):

H.R. 12517. A bill to repeal the Consumer Product Safety Act of 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. MAILLIARD (for himself, Mr. Dingell, Mr. Grover, Mr. Goodling, Mr. Rhodes, Mr. Leggett, Mr. McCloskey, and Mr. Don H. Clausen):

H.R. 12518. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MAZZOLI (for himself and Mr. Perkins):

H.R. 12519. A bill to amend section 133 of title 28, United States Code, to increase by two the number of district judges for the eastern district of Kentucky; to the Committee on the Judiciary.

By Mr. MELCHER:

H.R. 12520. A bill to provide that following adoption of this act, Veterans Day be observed on the 11th of November of each year; to the Committee on the Judiciary.

H.R. 12521. A bill to amend the act which created the U.S. Olympic Committee to require such committee to hold public proceedings before it may alter its constitution, to require arbitration of certain amateur athletic disputes, and for other purposes; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.R. 12522. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods; to the Committee on Interstate and Foreign Commerce.

By Mr. O'HARA (for himself, Mr. Biaggi, Mr. Burton, Mr. Brademas, Mr. Gaydos, Mr. Andrews of North Carolina, Mr. Lehman, and Mr. Benitez):

H.R. 12523. A bill to amend section 428 (a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes; to the Committee on Education and Labor.

By Mr. O'HARA (for himself and Mr. Hechler of West Virginia):

H.R. 12524. A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes; to the Committee on Education and Labor.

By Mr. POAGE (for himself and Mr. Wampler):

H.R. 12525. A bill to extend the Sugar Act of 1948, as amended; to the Committee on Agriculture.

By Mr. POAGE:

H.R. 12526. A bill to amend sections 306 and 308 of the Rural Electrification Act of 1936, as amended; to the Committee on Agriculture.

By Mr. PRITCHARD:

H.R. 12527. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from income for so much of the gain from the sale or exchange of an individual's residence which reflects monetary inflation during the period of ownership; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 12528. A bill to permit the attorneys general of the several States to secure redress to the citizens and political subdivisions of their States for damages and injuries sustained by reason of unlawful restraints and monopolies; to the Committee on the Judiciary.

By Mr. ROGERS:

H.R. 12529. A bill to name structure S-5A of the southern Florida flood control district, located in Palm Beach County, Florida, as the "W. Turner Wallis Pumping Station" in memory of the late W. Turner Wallis, first secretary-treasurer and chief engineer for the central and southern Florida flood control district; to the Committee on Public Works.

By Mr. ROY:

H.R. 12530. A bill to amend the Economic Stabilization Act of 1970 to provide for equitable allocation of costs among petroleum products in the administration of any price control authority and to stabilize the price of liquefied petroleum gas; to the Committee on Banking and Currency.

By Mr. SARASIN:

H.R. 12531. A bill to amend the Emergency Petroleum Allocation Act of 1973 to authorize and require the President of the United States to allocate plastic feedstocks produced from petrochemical feedstocks, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SARASIN (for himself, Mr. Bauman, Mr. Bennett, Mr. Boland, Mr. Burgener, Mr. Cleveland, Mr. Cronin, Mr. Dellums, Mr. Derwinski, Mr. Gaydos, Mr. Hechler of West Virginia, Mr. Heinz, Mr. Hicks, Mr. Johnson of Pennsylvania, Mr. Minish, Mr. Mitchell of New York, Mr. Randall, Mr. Snyder, Mr. Whitehurst, and Mr. Winn):

H.R. 12532. A bill to impose an embargo on the export of petrochemicals until price controls on petrochemicals are removed; to the Committee on Banking and Currency.

By Mr. SCHERLE (for himself, Mr. Young of Illinois, and Mr. Cohen):

H.R. 12533. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. SHOUP (for himself, Mr. Nix, Mr. Bafalis, Mr. Davis of South Carolina, Mr. Abdnor, Mr. Parris, Mr.

Froehlich, Mr. Hastings, Mr. Won Pat, Mr. Harrington, Mr. Mazzoli, Mr. Whitehurst, Mr. Podell, Mrs. Collins of Illinois, and Mr. Cleveland):

H.R. 12534. A bill to provide for the collection and assimilation of information on the energy resources of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 12535. A bill to authorize the Secretary of Housing and Urban Development to encourage and assist in the development on a demonstration basis of several carefully planned projects to meet the special health cared and related needs of elderly persons in a campus-type setting; to the Committee on Banking and Currency.

By Mr. TIERNAN:

H.R. 12536. A bill to protect the environment and conserve natural resources by stimulating the use of recycled or recyclable materials by effecting rate changes in the movement of these materials by common carrier, and for other purposes: to the Committee on Interstate and Foreign Commerce.

H.R. 12537. A bill to protect the environment and conserve natural resources by stimulating the recovery, reuse, and recycling of waste materials and by decreasing the quantity of materials moved in commerce which must be disposed of ultimately as waste; to promote and regulate commerce by identifying and establishing standards and guidelines for the proper management of waste which poses a substantial hazard to human health or the environment, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12538. A bill to impose an excess profits tax for a temporary period on the income of major corporations engaged in the production or distribution of oil or natural gas; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Dominick V. Daniels, Mr. Dingell, Mr. Gaydos, Ms. Holtzman, Mr. Moakley, Mr. Vigorito, and Mr. Yatron):

H.R. 12539. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 12540. A bill to extend certain land use permits along the lower Colorado River, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.R. 12541. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. CHARLES WILSON of Texas:

H.R. 12542. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. CHARLES H. WILSON of California:

H.R. 12543. A bill to amend title 10 of the United States Code to require the presentation of full military honors at the burial of veterans; to the Committee on Armed Services.

By Mr. YATRON (for himself, Mr. Nichols, Mr. Bauman, Mr. Ichord, Mr. Zwach, Mr. Scherle, Mr. Parris, Mr. Montgomery, Mr. Goodling, Mr. Vander Jagt, Mr. Treen, Mr. Beard, Mr. Steelman, Mr. Young of Georgia, Mr. Hansen of Idaho, Mr. Ginn, Mr. Rose, Mr. Culver, Mr. McCormack, Mr. Waggonner, Mr. Sebelius, Mr. Sikes, and Mr. Sarasin):

H.R. 12544. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes, to the Committee on Government Operations.

By Mr. ZWACH (for himself, Mr. Nelsen, and Mr. Quie):

H.R. 12545. A bill to establish fair hearing procedures upon determination of exemption, inspection requirements, and certain other enforcement actions of USDA; amending Federal Meat Inspection Act; to the Committee on Agriculture.

By Mr. BINGHAM (for himself, Mrs. Chisholm, Mr. Rosenthal, Mr. de Lugo, Mr. Frenzel, Mr. Nix, and Mr. Won Pat):

H.J. Res. 890. Joint resolution proposing an amendment to the Constitution of the United States relating to the eligibility of a citizen to hold the Office of President; to the Committee on the Judiciary.

By Mr. DANIELSON (for himself, Ms. Abzug, Mr. Badillo, Mr. Bevill, Mr. Brown of California, Mrs. Burke of California, Mr. Carney of Ohio, Mrs. Chisholm, Mr. Clay, Mr. Dent, Mr. Edwards of California, Mr. Eilberg, Mr. Froehlich, Mr. Fulton, Mr. Gunter, Mr. Harrington, Mr. Helstoski, Ms. Holtzman, Mr. Ichord, Mr. Johnson of Pennsylvania, and Mr. Ketchum):

H. Con Res. 423. Concurrent resolution to express the sense of the Congress that the President should evaluate the commodity requirements of the domestic economy to determine which commodities should be designated as in short supply for purposes of taxation of domestic international sales corporations; to the Committee on Ways and Means.

By Mr. DANIELSON (for himself, Mr. Long of Maryland, Mr. McKay, Mr. Mann, Mr. Mazzoli, Mr. Metcalfe, Mr. Miller, Mr. Moakley, Mr. Riegle, Mr. Roe, Mr. Roybal, Mr. Sandman, Mr. Sarbanes, Mrs. Schroeder, Mr. Shoup, Mr. Seiberling, Mr. Stark, Mr. Taylor of North Carolina, Mr. Tiernan, Mr. Waldie, Mr. Charles H. Wilson of California, and Mr. Yates:

H. Con. Res. 424. Concurrent resolution to express the sense of the Congress that the President should evaluate the commodity requirements of the domestic economy to determine which commodities should be designated as in short supply for purposes of taxation of domestic international sales corporations; to the Committee on Ways and Means.

My Mr. FLOOD:

H. Res. 804. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. BREAUX:

H. Res. 805. Resolution expressing the sense of the House of Representatives concerning the expenditure of money appropriated by the Congress for the Bicentennial celebration; to the Committee on the Judiciary.

By Mr. FLYNT:

H. Res. 806. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. GROSS (for himself, Mr. Bauman, Mr. Montgomery, and Mr. Wylie):

H. Res. 807. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. HILLIS:

H. Res. 808. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. ICHORD (for himself, Mr. Dent, Mr. Aspin, Mr. Moorhead of California, Mr. Rangel, Mr. Sandman, Mr. Madden, Mr. Anderson of California, Mr. Tiernan, Mr. Latta, Mr. Hanley, Mr. Evins of Tennessee, Mr. Scherle, Mr. Rees, Mr. Robert W. Daniel, Jr., Mr. King, Mr. Peyser, Mr. Symington, Mr. Downing, Mr. Hungate, Mr. Hudnut, Mr. Brasco, Mr. Gunter, Mr. Nichols, and Mrs. Chisholm):

H. Res. 809. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. POAGE:

H. Res. 810. Resolution to provide funds for the expenses of the investigation and study authorized by House Resolution 72; to the Committee on House Administration.

By Mr. SCHERLE (for himself, Mr. Ichord, Mr. Snyder, Mr. Steiger of Arizona, Mr. McCollister, and Mr. Armstrong):

H. Res. 811. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. THONE:

H. Res. 812. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

343. By the SPEAKER: A memorial of the Legislature of the State of Montana, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

344. Also, memorial of the Senate of the State of West Virginia, requesting the Congress to propose an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged, or the incapacitated; to the Committee on the Judiciary.

345. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to excess profits during the energy crisis; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

FAITH OF OUR FATHERS

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, February 4, 1974

Mr. HELMS. Mr. President, this past Thanksgiving, Dr. John M. Lewis, pastor of the First Baptist Church, Raleigh, N.C., delivered a memorable sermon, which I would like to share with my distinguished colleagues.

With humble appreciation and thankfulness for the many blessings of America, Dr. Lewis recognized that our blessings come from God, and that the erosion of our liberties and the decay of our society represent our misunderstanding of freedom. Such a result "—comes when we drift away from the conviction of the religious foundation of the Nation's liberties and laws."

Dr. Lewis suggests the need for a rebirth of faith and a "Sense of divine relationship, devine commitment, and divine responsibility for the heritage that is ours in this great land."

This thought cannot be expressed too often, and the minister's sermon will surely inspire all of us.

Mr. President, I ask unanimous consent that Dr. Lewis' sermon be printed in the Extensions of Remarks.

There being no objection, the sermon was ordered to be printed in the RECORD, as follows:

FAITH OF OUR FATHERS

(By Dr. John M. Lewis)

Dr. William Brown, noted church historian, has said that "it is common to all who hold the Christian view of life, to have the conviction that God has a purpose for mankind which he is realizing in history and that in the accomplishment of this divine purpose he uses human institutions like the family, the state, the school, the church as his agents for the training of individuals for membership in his eternal kingdom." Now that is a rather long, stuffy and academic statement of what our founding fathers had burning in their hearts, for this was certainly their belief that the state was based upon divine law and that man-made governments and man-made laws were an out-working of the divine will.

One is still moved when one recalls the heated debates in the constitutional convention when the young nation was struggling to get itself together and to work out its ways of living together in forming this new government. The debate had gone on for weeks trying to balance out the powers of the central government and the rights of the individual states. After five weeks the aged Franklin stood in the midst of the convention and said, addressing himself to the Chairman, "I have lived, Sir, a long time and the longer I live the more convincing proofs I see of this truth—that God moves in the affairs of men and if a sparrow cannot fall to the ground without his notice, is it possible that an empire can rise without his aid? We have been assured, Sir, in the sacred writings that except the Lord build the house, they labor in vain that build it." Whereupon Mr. Franklin moved that henceforth the convention open each day's session with prayer.

I

As one goes back to read the Mayflower Compact, when, that intrepid band of pilgrims before they formed their colony on shore, drew up a covenant agreement, or if we follow Roger Williams for the sake of individual conscience fleeing the persecutions of the Massachusetts Bay Colony going to live with his Indian friends along Narragansett Bay, buying from them land out of which to form a new colony, Rhode Island, or if we look into the history that brought forth the statute of Virginia for religious liberty, or if we read the Declaration of Independence thoughtfully and carefully, if we see the genius of that constitution which the founding fathers put together and focus special attention upon that most precious portion—the Bill of Rights—one is overwhelmed with the awareness of the great thoughts, the great ideals, the great dreams and the great religious faith out of the Hebrew-Christian tradition that permeated all of these covenants, compacts, laws and documents.

The Supreme Court in a landmark decision in 1952 confirmed this insight into our heritage when they said "we are a religious people, speaking of America in general. We are a religious people whose institutions presuppose a supreme being." The founding fathers had the notion that we were a covenant nation; that somehow even though dimly seen by many, there was some kind of relationship between this new nation aborning and God's coming kingdom. It was clear in their minds that our liberties and our blessings come from God. And their great stroke of genius in government was to set forth the notion that governments are instituted among men not to pass out liberties and freedoms, but to protect those liberties that God has already given to men. Governments do not confer them; nor can governments take them away. This was their insight and their understanding, and behind it was this deep and simple religious faith that somehow our liberties and blessings all come from him.

The early leaders of our republic, while differing from one another in many of their religious notions, yet were men of very strong faith. As one follows the preachers and the plowmen who opened up the west, as one sees America burgeoning into one of the industrial giants of all history, I am not sure we have always had that sense of awe about mastering and releasing the powers in the universe in all of our great development that Samuel Morse had when completing the telegraph, he sent as his first message—"What hath God wrought?" It seems to me in this present season of Thanksgiving, perhaps more than anything else, perhaps more than a need to be grateful for our blessings that we can count, we need to recover something of the deep faith of these founding fathers—that our liberties and our blessing are the gift of God and that these liberties and blessings are not to be squandered, but somehow they are given to us in relationship to God's coming kingdom.

I think we need to capture something of the spirit of the great Lincoln, who as I read his biography I judge to be one of the most honestly and genuinely religious presidents we have ever had—though not a formal church man—yet a man of great faith. Those moving lines of his in the second inaugural when the nation had come through a dark hour which should give us hope in every dark hour, confirming the founding fathers' insight that God's providence somehow watches over us despite our sin and our forgetfulness of him. How we need to recover the spirit and insight of the great Lincoln!

And after all of the turmoil, agony, pain, hatred and incrimination of the war between the states, this man could say, "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nations' wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and among all nations." You remember the other phrase out of that immortal Gettysburg address when he said that "this nation under God shall have a new birth of freedom."

II

But I think more than a new birth of freedom which we have seen run rampant and riotous in our day, we need a re-birth of faith! We need a re-birth that takes us back to see ourselves as a covenant people. Now I am not unmindful of the danger of our coming to have a Messiah-complex as a nation. I think sometimes in world affairs our nation may have approached that and done more damage than good to think that we are the saviours of the whole world—we have to watch that. But that doesn't lessen the responsibility and the need for us to have a sense of divine relationship and of divine commitment and divine responsibility for the heritage that is ours in this great land for which we are so thankful in these days.

Peter Marshall said in one of his immortal sermons, "that we are the only surviving nation on earth that had its origins in the determination of the founding fathers to establish a settlement to the glory of God." We have not always lived up to that original dream and that original faith, and I think somehow we must recapture that pristine faith if we are to solve some of our other problems in our land and in our culture—whatever kind of problems they are and wherever they may exist in our midst. Oh, how powerful and wringing and strong are those words and when one remembers the Hebrew tradition that stands behind it, they take on even greater force—"all men are created equal and are endowed by their creator with certain unalienable rights and among these are life, liberty and the pursuit of happiness." Government is ordained among men to safeguard these rights. And then comes that Bill of Rights in the first ten amendments to protect our individual liberties and our individual conscience but none of it amounts to a "hill of beans" if we cut the connection between God and ourselves! And I think many, many problems that have arisen in our land have come about because very subtlely there has been an erosion of this concept, that our liberties and blessings come from God.

We fall into the trap of which Moses warned the children of Israel—"you are going to settle in a promised land flowing with milk and honey and build your houses and plant your vineyards and raise your family and your flock" and if you don't watch it you are going to begin to say, "Aha, my strength has gotten me all this wealth!"

III

We can see what abundance, affluence and materialism can do to a people, to dull our sensitivity to the need of others, our awareness of being stewards of the good earth. When we forget that it is righteousness that exalts a nation and that sin is a reproach to any people, we become filled more and more with a self-sufficient pride that begins to justify just about anything in order to get ahead. We are a covenant people and we are a covenant nation.

I used to believe Emerson's words a little stronger than I believe them now, and I am fighting hard in my own life to regain even this insight when he said, "This country appears to be the last effort of divine providence we have for the human race." But if we take into account how the founding fathers understood man and God in the place of government and what religious liberty is all about, the statement may well still be true. It is amazing to me that with all of our difficulties and faults and failures as a nation in recent years—and they go back a number of decades now—there are still vast numbers of mankind who look to this nation for inspiration in terms of what liberty can be and what it can do for a people and what is the best form of government under which men can live and develop their lives. Can we recapture the original dream? Can we have a new birth of faith? Can we change the present drift that has been going on so long in which we are forgetting our relationship to God? This drift that has been going on so rapidly in the last fifty years particularly—we have new values and new ideas and we are not so sure about God caring or our being able to answer to him—the heated debates and difficulties that have gone on in our time over our own liberties almost overwhelm us.

Someone prepared a questionnaire a few years ago that simply put in modern language all of the elements of the Bill of Rights and asked people, What do you think about this? Would you allow a certain person to say a certain thing? Is a person free to assemble here? Should a man be free in the protection of the privacy of his home against unlawful search and seizure, etc. etc. Someone even dared to pass that questionnaire out among a group of Baptist ministers within the last few years and the results were surprising. Seventy per cent of them were ready to scrap the Bill of Rights. Now that to me is alarming. But it confirms me, I think, in my insight that these rights and liberties can be safeguarded and kept alive and fresh only if we keep the connection between them and God, that ultimately our liberty, our very life is grounded in God's goodness and God's will. Adrift away from God, adrift away from a sense of stewardship in which materialism is about to eat our heart out, a misunderstanding of freedom—for freedom is such a difficult thing to handle. And I must share this humorous and somewhat alarming experience out of the Convention in Greensboro last week when we were discussing what to do with the authority of the convention, and one brother who was speaking against the proposed amendment said, "If this amendment passes the effect will be to turn a Baptist convention into a Presbyterian Synod or an Episcopal House of Bishops or into a Roman Vatican Council II. Indicating that we would have a hierarchy and be ruled from the top. And when he said this is what will happen, someone in the balcony shouted, "It's about time!"

Now this sort of rocked me to my heels that in a Baptist assembly any Baptist would shout from a Balcony, "It's about time!"—that Baptists became this rigid, this authoritarian, this hierarchial. For this and other reasons, I voted against the amendment, as you probably know. Freedom is a pretty heady dose to handle, but our freedoms are lost when we forget God.

Everyone likes to quote Edward Gibbon, *Fall of the Roman Empire*, and he had such tremendous insight; we learn by hindsight. We move forward by looking back—a strange paradox. Gibbons says, "The first warning of Rome's ruin was not in the hostile armies mobilizing against her, but in the feasting and boasting, and riotous living in her vicious capital." A moral and spiritual decay within—and this decay always comes when we drift away from the conviction of the religious foundation of the nations—liberties and laws.

CONCLUSION

It is along these lines that my mind has been traveling in this Thanksgiving season in which on the one hand one may find it difficult to find much in which to be thankful; but there is much for which to be thankful. The Lord God Omnipotent reigns. His love for us and for mankind and for this nation are unchanged, and all the possibilities of his salvation in Jesus Christ are still real and available to people. And as in other troublesome and darksome days we can regain a new birth of faith and cut through all of the confusion and maze and drift and forgetfulness of God, corruption in high places and low on every side—we can cut through all of that darkness and find again "freedom's holy light" that can lead us forward. Time and time again in the past God has shown that he can gather his people unto himself and give them new courage, new hope and new strength but only when we turn back to him.

Perhaps this year more than just a grateful heart, we need more of a humble and believing heart in God's purpose and the vision of his kingdom. So might it be for us. So might the witness of our lives be.

MEDIA PROGRAM FOR MINORITIES

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. CORMAN. Mr. Speaker, in 1968 the National Commission on Civil Disorders of which I was a member, recommended "expanded media coverage of the minority community and of race problems through permanent assignments of reporters familiar with urban and racial affairs, and through establishment of more and better links with the black community."

I am extremely pleased that KNBC, a television station close to my own congressional district, too this advice to heart and instituted a program of outstanding service to the minorites of the Los Angeles community. The program is called "What's Going On." It is hosted by Willie Davis, former Green Bay Packers star, who brings to the program a special insight into the lifestyle and the problems confronting minorities.

One program this past fall alerted the community to phony schools, talent agents and model agencies in Southern California. The facts indicated a continued gross exploitation of minority individuals, mainly blacks, in this fraud.

Another segment of "What's Going On" concerned LABEOL, the Los Angeles Basin Equal Opportunity League. This organization serves as a job bank for minorities. A variety of employment problems for minorities was discussed while information aimed at helping them effectively deal with these problems was also presented.

Willie Davis is particularly well suited to hosting "What's Going On" by virtue of his deep involvement in the community groups of Los Angeles. He is director of the Los Angeles Urban League, director of the West Adams Community Hospital, member of the Los Angeles Chamber of Commerce Advisory Board for SCLC. He also plays an active speaking role for high school and civic groups.

This constant communication with the people of minority groups is not wasted when Mr. Davis hosts "What's Going On." The program continually stays on top of current issues involving minorities while exploring solutions to longstanding problems.

Mr. Davis is assisted by two fine professionals on the program staff, the producer Cal Burton and associate producer, Bonita Jordan. Cal Burton developed "What's Going On" and has seen its popularity steadily rise.

"What's Going On" gives an understanding voice to the problems of Los Angeles minorities. It is the kind of voice that might have prevented riots during the sixties. Hopefully, many more television and radio stations will follow this excellent example being set by KNBC.

CHATTANOOGA MANUFACTURERS ASSOCIATION OBSERVES CHATTANOOGA AREA MANUFACTURERS WEEK, FEBRUARY 3–9

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BAKER. Mr. Speaker, the Chattanooga Manufacturers Association is spearheading an observance of the Chattanooga Area Manufacturers Week through February 9 and celebrating the fact that Chattanooga is "manufacturing city No. 9 in the entire United States."

According to Brunswick A. Bagdon, Regional Director, Bureau of Labor Statistics, U.S. Department of Labor, Atlanta, Ga.:

> Chattanooga ranks 78th among Metropolitan Areas in number of non-agricultural wage and salary workers in 1972, but is 9th among these 78 areas in number of manufacturing workers as a percent of non-agricultural employment.

For comparative purposes, the rank listing of major metropolitan areas, as furnished by BLS, U.S. Department of Labor, shows Jacksonville No. 72, New Orleans No. 70, Tampa No. 64, Atlanta No. 62, New York No. 57, Memphis No. 55, Birmingham No. 40, Nashville No. 37, Newark No. 29, Pittsburgh No. 26, Knoxville No. 25, Louisville No. 19, Detroit No. 13, and Akron No. 11. Chattanooga is No. 2 in the South, with only the Greensboro-Winston-Salem-High Point area in North Carolina a scant 1.9 percent ahead.

Late figures released by the Atlanta BLS office show the Chattanooga area having jumped from 54,400 manufacturing employment in October 1972 to 55,200 in October of 1973. The Chattanooga area manufacturing payroll is estimated at a million and a half dollars per day. Using a conservative $20,000 per industrial employee, multiplied by the 55,200, the investment comes to about a billion, one hundred million.

Chattanooga Manufacturers Association members maufacture everything from the smallest finger rings to the largest nuclear reactor. And, it will be a surprise to many of my colleagues to learn that more western saddles are manufactured in Chattanooga than anywhere else in the world. Also that more than 200 cities in the United States depend on boilers constructed in Chattanooga for most or all of their electrical power.

Another fact to note is that 9 out of every 10 automobile wreckers on U.S. highways from New York to Los Angeles were built in a single East Lake plant. These examples and many more, even more impressive, serve to substantiate the fact that Chattanooga truly is the industrial center of the South.

Mr. Speaker, I join in saluting the members of the Chattanooga Manufacturers Association and I commend them for setting aside this week to tell the world about the role they play in the Nation's economic well-being. All of us are proud of the high ranking Chattanooga has among the manufacturing cities of the United States.

FREDERICK C. ULBRICH, SR.

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. GIAIMO. Mr. Speaker, it is a pleasure indeed to call to the attention of my colleagues in this House the achievements of an old and dear friend on the occasion of the 50th anniversary of his business, Ulbrich Stainless Steels & Special Metals, Inc. Frederich C. Ulbrich, Sr., whom I have the privilege to know and admire for many years, is a model of success and personal growth in the best tradition of American business.

Born in Wallingford, Conn., Fred Ulbrich received his education in the local public school system. His career in metals began in Wallingford working for a local silversmith. Seeking greater opportunity, Mr. Ulbrich traveled to other parts of the country, including Detroit, Chicago, and Pittsburgh. During his travels, he worked for several of the largest steel companies and observed first-hand the importance and potential of this growing industry. On his return to Wallingford in 1924, he started a scrap and alloy steel yards, reclaiming materials to be reprocessed by the steel mills. Almost immediately, he recognized a need for a small quantity source for stainless and alloy steels, and he soon began installing the equipment to answer that need.

The business grew at a rapid rate, and Mr. Ulbrich studied metallurgy at nearby Yale University in order to keep up with the increasing sophistication demanded by his customers. Always interested in civic affairs, Mr. Ulbrich has contributed his time and leadership to numerous community groups; he served with distinction as mayor of the city of Wallingford, Conn., for 6 years.

The small company that Fred Ulbrich founded in 1924 is now known as Ulbrich Stainless Steels & Special Metals, Inc. It is a valued supplier to some of the largest companies in the country, providing them with specialized metals for their most exacting requirements. Metal from the Ulbrich plant is found inside nuclear reactors, is used in electronic components, and has flown to the Moon.

No matter how big his company became, however, Fred Ulbrich never lost the common touch. He always knew all his employees by their first name, and he was always willing to share their troubles. The enterprise he started has provided employment and security to hundreds of people with all levels of education and skills.

Fred C. Ulbrich, Sr., a man known and loved throughout my district, deserves the congratulations of all Americans who share his belief in the American system of free enterprise and individual initiative. I know that my colleagues in the Congress join me in expressing my heartiest good wishes to him on the 50th anniversary of his company.

BEREA SYSTEM TO BE MODEL FOR THE NATION

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. CARTER. Mr. Speaker, Berea College, Berea, Ky., has a long and outstanding history, and its interesting approach to education has received widespread attention from all parts of our Nation.

I am very pleased that Berea College has recently been awarded a grant from the Educational Foundation of America in order to turn the college's work-study program into a model for other educational institutions around the country. I recommend the following article to the attention of my colleagues:

Berea System To Be Model for the Nation

Berea, Ky.—Berea College, where students pay no tuition, has been commissioned to turn its century-old work-study program into a model for colleges and universities across the nation.

The Educational Foundation of America, a private organization, has granted $72,000 for the first year in a three-year project.

"Our main concern for the first year is to refine what we already have and to record it," William R. Ramsey, dean of the college labor program, said.

"We see the second year . . . as having an education emphasis when we seek to determine how students can most effectively use the experience gained in a work-study program and relate it to other parts of the educational process," he said.

"We hope to bring it all together in the third year and have material for a model program to offer those interested in work-study projects," Ramsey added.

Berea has had a student-labor program since 1859, just four years after the college was founded. All students are required to work at least 10 hours a week.

The students help operate college offices, work in several craft or other college industries, teach adult-education classes, serve as kitchen help, wait on tables in a college-operated restaurant, and so on.

In addition to educational benefits, students are paid 65 cents to $1.25 an hour, depending on job classification and lengths of service. The college pays about $750,000 a year for student labor.

Several workshops are scheduled in the next few months to examine various aspects of the program as it now operates.

MANDATORY ALLOCATION ACT OF 1973

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. SARASIN. Mr. Speaker, I had the pleasure this morning of announcing to the public the introduction of my legislation which would amend the Mandatory Allocation Act of 1973. I feel that this legislation provides a much-needed clarification of the intent of Congress to provide adequate protection for the petrochemical industry; protection which was omitted by the Federal Energy Office when they announced their rules for the allocation system. My remarks for my colleagues information, are as follows:

Mandatory Allocation Act of 1973

Today I will be introducing into the House of Representatives a bill calling for the mandatory allocation of petrochemical feedstocks all the way down to the processor level, a measure necessary to prevent the wholesale loss of jobs in a number of industries and the increased control of the plastics business by major producers of petrochemicals at the expense of the small independent processors who make up the backbone of the industry.

Petrochemicals make up a small fraction of the petroleum use in the nation, but they represent the segment of the economy most immediately and most disastrously effected by the present energy crisis. Specifically, this means jobs, and lots of them. Nationally, the Arthur D. Little Company of Cambridge, an independent consulting firm, estimates that a cutback as small as 15 percent in the petrochemical industry would mean the loss of 1.6 to 1.8 million jobs nationally.

The Petrochemical Advisory Council I established in my District back in November when I first became aware of the seriousness of this problem informs me that at least 10,600 jobs in the Fifth District are directly dependent upon an adequate supply of this raw material.

My Advisory Committee recommended three steps to assure at least equitable treatment for the industry and to minimize the effects on employment of the petrochemical shortage. These were export controls to assure the unreasonable quantities of these materials were not shipped overseas at the expense of American jobs, lifting of the price controls to allow domestic consumers to compete with foreign buyers and for the market to stabilize, and the extension of petroleum and natural gas allocation regulations to the processor level in the petrochemical industry.

In this regard, I have previously introduced a bill calling for the control of petrochemical exports so long as they remain under price control, a bill which has attracted over 50 co-sponsors, and a second bill which would remove the economic controls. In addition, Rep. Dan Kuykendall and Rep. James Broyhill have joined me in a series of moves seeking administrative action to remedy the problem.

We applaud the action taken Wednesday by the Cost of Living Council, removing the price controls. Dr. Edwin Hollander of the CLC had indicated in my office on Dec. 5 that the Council would take such action, but it is necessary to note that this is recognition of the need for action such as we propose and does not preclude the need to continue to press for legislative remedy to clear up the imbalance created by the uncertainties of application of these controls.

I was also pleased to note over the weekend that William Walker, General Counsel to the Federal Energy Office, has recognized the rights of purchasers to seek their allocation under the act. With the hoped-for adoption of this bill I am introducing today, I plan to urge Mr. Walker to conduct an investigation into the alleged abuses of the supplier-purchaser relationship which some of the men present here today attest to.

Specifically, this bill is an amendment to Public Law 93–159, The Emergency Petroleum Act of 1973. It would assure the inclusion of an additional rule to the regulations covering the third level allocation of petrochemical feedstocks.

The need for his legislation becomes clear when one looks at the present system of allocations within this segment of the petroleum industry.

In almost every other sector of the industry, petroleum is ready for marketable consumption following processing at the refinery level. It is also marketed as "energy," and therefore remains under the control of the Federal Energy Office right down to the market place.

In contrast, petrochemicals, once they become feedstocks, have deemed to no longer be "energy," and therefore pass out of the allocation system at a level above the plastics, pharmaceutical, textile or other processor level. This is the "wrinkle" in the allocation system which creates many of these problems and which we are trying to remedy.

There exists at present an allocation from the refinery level to the producer level of 100 percent (and in some cases 120 percent) of present needs. My investigation indicates, however, that at the processor level, shortages of up to 60 percent are occurring.

Why this should be, or where this material is going, is difficult to answer, but members of this group (The Organization of Plastics Processors), have suggested some possible answers. The related question is where the tremendous amounts of material available on the "grab market" are coming from and the answers to the two questions are also related.

I might note here that I have already cosponsored a bill to require all producers and processors of petroleum and natural gas to provide complete reporting on supplies from crude to refined, on refinery operation, and locations of materials, which would address itself to this problem not only in petrochemicals but all petroleum and natural gas supplies.

It also goes without saying that many of the problems we address here relate to energy supply difficulties across the board and some of the same questions we bring up must be asked of the petroleum and gas industry in general. The appearance of serious ethical or legal problems in one segment of the industry do not augur well for other segments.

I address myself today to this one segment of the problem because of the immediacy of the job threat and the availability of the information and steps to take to head it off. I shall be looking at the entire situation in the energy field with the same critical eye.

AID AND TRADE WITH THE COMMUNISTS—IV

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. LANDGREBE. Mr. Speaker, Lenin has often been quoted as saying that when the time came for the Communists to hang the capitalists, the capitalists would be eagerly competing to sell the Communists the rope. Today, our aid and trade to the Soviet Union and Red China grows larger and larger. Each month, we are seeing the fulfillment of Lenin's prophecy. The capitalists of the West, encouraged by the governments of the West, are begging the Communists to accept their goods, from computers to jet planes, to trucks. And when the proper time comes, the West—but perhaps not all its capitalists, some of whom have established very warm relationships with the Communists—will be hung by its own technology.

I include chapter 4, "The Itch for Profit," of Eugene Lyons' booklet, "Operation Suicide," to be inserted into the RECORD at this point:

IV.—THE ITCH FOR PROFIT

A special committee was set up in 1965, headed by J. Irwin Miller, board chairman of the Cummins Engine Co., to study trade relations with the U.S.S.R. and Eastern Europe. Its report to President Johnson approved trade in general terms but made concrete reservations. The committee warned in particular that trade with the communists *"should not be subsidized, nor should it receive artificial encouragement."*

It did not believe, the committee said, "that many U.S. firms would be interested in selling their most advanced technology in European communist countries"—yet this is precisely what those countries "are mainly interested in." Most significant, the Miller Committee flatly asserted that *"most U.S. firms would not extend credits to communist countries without government guarantees."*

This is understandable. The Red nations have neither acceptable currencies, gold, nor goods that America needs. The U.S.S.R. is the only recipient of U.S. lend-lease in the war which has refused to make even a token payment on its debt of some 11 billion dollars. Virtually all the West European and Japanese trade with the Soviet bloc are guaranteed by the respective governments. It is generally understood that the present fiscal crisis in Germany's Krupp empire is largely due to overextension of credits to the U.S.S.R. and its satellites.

On returning from a visit to Eastern Europe in December, 1966, G. Keith Funston, then head of the New York Stock Exchange, pointed out that we would have to give the communists not only American goods but the dollars to pay for them. The administration does not deny this. Under its proposed legislation, now before Congress, the major risks would be shouldered by the American taxpayer through the Export-Import Bank. The bank's lending authority would be raised by 4.5 billion dollars, and the annual limit on loans and guarantees, now two billion, would be boosted to 3.5 billion. This credit expansion is intended primarily to accommodate communist trade.

Thus we appear prepared not only to "encourage artificially" but to "subsidize" that one-way traffic, in contempt of the advice of the President's committee.

Back in the late 1920's, as Stalin was ascending the throne, Ivy Lee, spokesman for the Rockefeller interests, wrote articles and made speeches urging trade with the Soviet Union. In January, 1967, the Rockefeller brothers and Cyrus S. Eaton, through companies under their control, announced joint plans for promoting trade with the whole Red bloc. The itch to make profit from communism has thus gone full circle.

In explaining its construction prospects, the Rockefeller-Eaton combine cited plants for synthetic rubber and for aluminum—self-evident strategic products. Its statement simply ignored the military implications of the specific projects, or the larger issue of the close relation (so often stressed by Soviet leaders) between economic and military vitality.

Other American business groups plugging for trade and aid to communist Europe appear similarly indifferent to the effects on free-world and American security. While the U.S. Chamber of Commerce, for instance, is all for doing business with the communists, it has not yet urged its members to risk their own capital on it. The assumption, explicit or implicit, is that the government will take the necessary risks. The stance of businessmen panting for profit is not exactly heroic. Apparently in their thinking, it suffices that the trade will be officially protected—in case of default, the public would be left holding the bag.

Organized labor, it is worth noting, has been a lot more rational on this issue than organized business. George Meany, President of the AFL–CIO, for instance, declared recently:

"When they talk about giving Russia special credits to build nitrogen plants with our money, I say we should get something in return. . . . Let the Russians agree to the unification of Germany. Let them tear down the wall of shame keeping 22 million East Germans from their freedom. . . . Some people feel that you can appease communists—that you can be nice to them and make a profit. We don't buy this."

Symptoms of such "naivete" in other areas of national life suggest that more and more Americans are coming awake to the suicidal absurdity of putting profit above patriotism and security. John Davis Lodge, former governor of Connecticut and former ambassador to Spain, announced the formation of CEASE—the Committee to end Aid to the Soviet Enemy. It has set itself the task of gathering ten million signatures to a protest against the aid-and-trade plans. None of the newspapers pushing the bridge building nonsense bothered to report adequately the lanching of this committee.

The communist trade potential, in relation to aggregate U.S. exports and foreign investments, actually is very minor. Congressman Glenard P. Liscomb of California made the point recently in dramatic style: "The cost of replacing U.S. attack aircraft destroyed during the current fiscal year (1966) by weapons built by the Soviet Union and Communist Eastern Europe could be at least five times the dollar value of U.S. exports to the Eastern communist bloc in 1966." One of the activating hopes when President Roosevelt extended diplomatic recognition to the U.S.S.R. was that it would bring a lot of trade to help us in the depression. Actually, Soviet-American trade *declined* after recognition.

The Soviet bloc has little to offer that this country needs or cannot obtain elsewhere. "The communists seem more interested in buying Western know-how than Western goods," George Champion, chairman of the Chase Manhattan Bank said at Middlebury College on April 24, 1967. "To me, this is a strange concept of trade, and raises a question of what we could expect to get in return. . . . Our own natural resources, together with those of Canada and other free-world nations, have usually been sufficient to accommodate our needs."

Mr. Champion also emphasized the fact that the Soviet bloc is seeking long-term credits. "'Buy now' has become a communist slogan," he declared, "'pay later' a communist habit. In view of the risks involved, little long-term credit would be extended unless Western governments provided companies with firm guarantees—in other words, unless the taxpayers vouched for the credits. Now some may call this 'trade' but it looks to me suspiciously like economic aid, and enables the communists to divert resources to military production and international subversion."

POLITICAL SURRENDERS

It was in the light of such realities that the Miller Committee, as its number one recommendation, stated: "Political, not commercial or economic considerations, should determine the formulation of trade policies" with the communists. Whatever the presumptive "mellowing" within Russia since Stalin, more pertinent consequently is its conduct in the international arena. But there, the record is clear, his sucessors have out-Stalined Stalin. By comparison, the old despot was a cautious operator.

The 14 post-Stalin years have witnessed repeated Moscow-made crises in Berlin; the arming of Nasser's Egypt against her neighbors—a source of conflict in the Middle East ever since; collaboration in planting and maintaining communism in Cuba in our back yard; erection of the hideous Berlin Wall in 1961; the Cuban missile crisis of 1962; in 1966, the Soviet-managed Havana Conference which blueprinted communist assaults on Latin American countries and Puerto Rico and set up a Military Directorate to do the job.

At this writing, in the words of Edgar Ansel Mowrer, the veteran analyst of international affairs, "Moscow is arming and supporting Nasser in the Yemen, the Arab rebels in Aden and the Somali plans to seize French Jibuti, thus controlling the southern entrance to the Red Sea and the Suez Canal. Only Soviet support emboldens Syria to engage in continual and murderous provocation of Israel. In Cuba, Soviet military are completing their transformation of that island into one huge underground fortress, able to withstand an American nuclear attack better than almost any other part of the world." [1]

None of these things—and the inventory is only partial—is mentioned by the advocates of those strange "bridges". They demand a sort of national amnesia: we must forget all old and recent Soviet aggressions and crimes, even unto Hungary and Cuba and Korea and Vietnam; all the treaties violated, the debts unpaid, the countries seized and held without an iota of legal and moral right. As the late President Kennedy put it in an unfortunate speech on the subject, we must no longer point the "finger of judgment" at the Soviets. Why not?

One of the key facts blanketed by the amnesia in the anxiety for detente is the clear-cut commitment by all Presidents from Truman forward that the United States would never acquiesce to the *status quo* in captive East Europe accomplished by Soviet force and fraud. The absorption of the three Baltic republics by the U.S.S.R. has not been formally recognized by the U.S., Britain, and other democracies to this day. A primary objective of Kremlin policy since 1945, indeed, has been to "legitimize" its expanded empire by obtaining Western acknowledgment of the permanence of its European grabs.

The American bridges to communist government now give Moscow exactly what it has pressed and schemed to obtain: our acceptance of the finality and by implication the legality of communist rule in Eastern Europe. They certify that whatever we may still think of imposed communist regimes in the Dominican Republic or in South Vietnam—we regard their counterparts in Eastern Europe as perfectly acceptable partners in a "world of diversity."

East European exile leaders, understandably, speak of the "betrayal" of their countries by Washington and the free world. They no longer hear a word from American statesmen about the restoration of freedom and independence in their countries. Compassion for the victims of communism is no longer fashionable. "Anti-fascism" was a perfectly respectable attitude as against Hitlerism, but "anti-communism" is being successfully turned into a dirty word.

As our European allies see it, moreover, Washington today gives precedence to an accommodation with the Soviet bloc over solidarity with the West. Small wonder that they are trampling one another in a race to make deals with Moscow and its puppets first, before the American colossus pre-empts the field. Though that is certainly no part of the American intention, the top priority assigned to a Soviet-American *rapproachment* operates to weaken NATO, uphold the hand of de Gaulle and erode Western solidarity in general.

No less important, politically, is that in the drive for accommodation with communist regimes, U.S. propaganda appears eager to reconcile the peoples with their hated masters. By implication it tells the victims of communist oppression that they had better recognize the finality of their condition and live with it. "With all their faults," it says in effect, "we consider your regimes acceptable to democracies as partners in business and, indeed, as possible allies of the West."

Try to see this through the eyes of opponents of communism, within and outside the communist world, say in Cuba or India or Bolivia. The proof that communism is acknowledged by the United States to be an acceptable way of life is a devastating blow. it leaves these anti-communists morally stranded. Why risk their lives to resist a system certified as acceptable by the world's most powerful democratic society? It all amounts to a surrender of American moral leadership in the worldwide contest with communism.

AMENDMENTS TO THE RULES OF EVIDENCE

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WIGGINS. Mr. Speaker, pursuant to the rule regarding the offering of amendments to H.R. 5463, the proposed Federal Rules of Evidence, I am inserting in the RECORD those amendments which I may offer when the bill comes before the House:

On page 81, line 13, insert the following after the word "testify": "as to any matter or statement occurring during the course of the jury's deliberations or to".

On line 13, then strike the word "concerning".

On line 17, strike the period after the word "therewith" and insert the following: ", except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror."

On page 83, line 3, insert the following after the words "only if the crime": "(1) was punishable by death or imprisonment in excess of one year, unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2)".

On page 90, line 23, strike out all that follows "(A)" down through and including "a deposition" on page 91, line 1, and insert in lieu thereof the following: "inconsistent with his testimony and was given under oath, subject to the penalty of perjury at a trial or hearing or in a deposition or before a grand jury,".

On page 98, after line 9, and on page 100, after line 25, insert the following identical subdivisions numbered, respectively, (24) and (5): "Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial probability of trustworthiness: *Provided*, That the proponent's intention to offer the statement was made known to the adverse party sufficiently in advance of the trial or hearing to provide him with a fair opportunity to prepare to meet it."

TIME FOR LEGISLATION TO UPGRADE VETERANS' BENEFITS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HEINZ. Mr. Speaker, today I am introducing legislation to greatly upgrade and extend educational and rehabilitation benefits for veterans, especially for those of the Vietnam era.

While President Nixon's comprehensive veterans' benefit proposal is a step in the right direction, I believe we can and should do more to help our veterans improve themselves through educational or rehabilitation programs. My proposal increases the educational assistance allowances under all veterans' education programs by 13.6 percent. These rates have not been increased since September 1972. Yet since that time the cost of living has jumped by more than 10 percent. By the time this legislation is implemented, it is expected that the cost of living will have increased over 15 percent.

We must not simply stand and watch the constant inflationary erosion of the educational and rehabilitation benefits of those who have served their country so unselfishly. My bill proposes five simple but important steps to improve those benefits and to protect them from rising prices:

First. An increase of 13.6 percent in the educational subsistence allowance;

Second. An extension to 10 years from 8 for eligibility;

Third. A built-in cost-of-living adjustment mechanism for benefits;

Fourth. An extension of the entitlement period to 45 months from 36; and

Fifth. Expansion of the vocational rehabilitation program to include veterans with 10-percent disability.

This last item is extremely important to Vietnam veterans. Service-connected disabled veterans of Vietnam must now show 30-percent disability to qualify. My bill, reducing this requirement to 10 percent, will encourage and permit our Vietnam veterans to pursue and learn professions and trades that are now simply beyond their financial means.

Another provision to carefully note is the inclusion of an automatic cost-of-living adjustment mechanism. This is long overdue and only by adopting such a mechanism can we assure American veterans that their hard-earned benefits will not be constantly eroded by inflation.

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[1] The Middle East crisis in May-June, 1967, prompted the noblest bridge-builder of them all among newspapers. The *New York Times*, to second thoughts. In an editorial on June 6, it denounced "the adventurism of the Soviet Union" as "most reprehensible" and suggested the need to revise "all the illusions about the possibility of East-West *detente*."

The time has come for us to make wise investments in expanded benefits for veterans education and rehabilitation. Enactment of this benefit package will allow many more Americans to become self-supporting, tax-paying members of their communities. To my way of thinking, this is among the soundest investments this Congress could ever make. I urge quick congressional action assuring America's veterans the assistance they deserve.

Specific rates of proposed increases are outlined in the tables which follow:

CHAPTER 31—SEC. 1504(B)—VOCATIONAL REHABILITATION

	Present law				Proposal			
	No dependents	1 dependent	2 or more dependents	Additional for each dependent in excess of 2	No dependents	1 dependent	2 or more dependents	Additional for each dependent in excess of 2
Type of training:								
Institutional:								
Full-time	$170	$211	$248	$18	$193	$240	$282	$20
Three-quarter-time	128	159	187	14	145	180	212	15
Half-time	85	106	124	9	97	120	141	10
Institutional on-farm, apprentice or other on-job training: Full-time	148	179	207	14	168	203	235	16

CHAPTER 34—SEC. 1682(A)—INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING)

	Present law				Proposal			
Type of program:								
Institutional:								
Full-time	$220	$261	$298	$18	$250	$297	$339	$20
Three-quarter-time	165	196	224	14	188	223	254	15
Half-time	110	131	149	9	125	149	170	10
Cooperative	177	208	236	14	201	236	268	16

CHAPTER 34—SEC. 1682(c)—FARM COOPERATIVE TRAINING

	Present law				Proposal			
Full-time	$177	$208	$236	$14	$201	$236	$268	$16
¾-time	133	156	177	11	151	177	201	12
½-time	89	104	118	7	101	118	134	8

CHAPTER 36—SEC. 1877—APPRENTICESHIP OR OTHER ON-JOB TRAINING

	Present law				Proposal			
Periods of training:								
1st 6 mo	$160	$179	$196	$8	$182	$203	$223	$9
2nd 6 mo	120	139	156	8	136	158	177	9
3rd 6 mo	80	99	116	8	91	112	132	9
4th and any succeeding 6-month periods	40	59	76	8	45	67	86	9

CHAPTER 34—OTHER PROVISIONS

	Present Law	Proposal
Flight training	$220	[1]$250
Active duty and less than ½-time training	220	[1] 250
Correspondence courses	220	[2] 250

[1] 90 percent of established charges, with 1-month's charge to entitlement for each $250 cost.

[2] Established charge for tuition and fees, but not to exceed full-time rate of $250 per month.

CHAPTER 35—OTHER PROVISIONS—WAR ORPHANS, WIDOWS AND WIVES EDUCATIONAL ASSISTANCE

	Present Law	Proposal
Full-time	$220	$250
¾-time	165	188
½-time	110	125
Institutional-business courses	177	201
Special restorative training	220	250

BAN THE HANDGUN—XVIII

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BINGHAM. Mr. Speaker, according to FBI statistics two-thirds of all killing last year were with handguns, 75 percent of the time the victims knew their killers. Often the killing occurs simply because a handgun was available. It is time to accept the idea that handguns in the possession of private individuals are unnecessary and dangerous to public safety.

The following article appeared in the Washington Post on December 18, 1973:

TWO MEN HURT BY GUNSHOTS

Two men suffered serious gunshot wounds last night in a gun battle inside a Northwest house the men were visiting, metropolitan police reported.

Police said that Clifton Robinson, of Hillside, Md., was shot three times in the incident, which occurred about 5 p.m. at 450 I St. NW. Robinson was listed in critical condition last night with wounds in the chest, stomach and left leg.

Edward Shuler, who was charged with assault with intent to kill Robinson, was shot once in the genitals in the incident, and was listed in serious condition last night at Georgetown University Hospital. Shuler lives in the 500 block of Valley Avenue SE.

Police said the shooting was apparently touched off by an argument and that Robinson, after he was wounded three times, grabbed his attacker's weapon, a .45-caliber automatic, and fired one shot, striking Shuler. Police did not know the subject of the argument.

HUNGATE AMENDMENT TO H.R. 5463

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HUNGATE. Mr. Speaker, I ask that there be printed at this point in the RECORD, the following proposed amendment to H.R. 5463, a bill to establish rules of evidence for Federal court proceedings:

HUNGATE AMENDMENT TO H.R. 5463

At page 83, delete lines 1–4 and insert in lieu thereof the following: "(a) General rule. For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible but only if the crime (1) was punishable by death or imprisonment in excess of one year, unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2) involved dishonesty or false statement."

Mr. Speaker the foregoing was the subcommittee's version of this section. It was amended by the full Committee on the Judiciary. If—but only if—the full committee's version is amended I shall offer this amendment.

MINUTE CONCERNING THE MORAL CRISIS OF OUR COUNTRY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. ROSENTHAL. Mr. Speaker, on January 13, 1974, the Flushing Monthly Meeting of the Religious Society of Friends unanimously recorded a "Minute Concerning the Moral Crisis of our Country."

This minute is noteworthy for its many relevant thoughts regarding the President, the Constitution, and the country in these turbulent times. Therefore, I am inserting it in the RECORD at this point in the hopes that we can all take time out to reflect on the ideas that it presents:

MINUTE CONCERNING THE MORAL CRISIS OF OUR COUNTRY—FLUSHING MONTHLY MEETING

The Book of Discipline of our Yearly Meeting asks Friends: "Do we participate actively and intelligently in the political life of our country?" As a religious body we are deeply troubled by the disclosures of Watergate and subsequent events and the effect they are having on this nation. The President, on taking office, has sworn to uphold the Constitution. His high office lays upon him the obligation of conduct above all suspicion of possible wrong-doing, and of making sure that those whom he has appointed to represent him maintain similar standards of integrity. Yet his administration has pursued a ruthless course of materialistic expediency. As his aides have testified under oath, they have assumed that their ends justify any means, no matter how dubious both might be.

Several times during the past year Richard Nixon has pledged full disclosure of and satisfactory explanation for the events which at present divide and demoralize our country, only to demur when concrete evidence instead of rhetoric was demanded of him.

Watergate and its ramifications are by no means the only aspect of the Nixon Administration raising serious doubts as to their constitutionality. It is true that trends towards assuming greater power by the executive branch have been present in previous administrations. But never before has the move towards unsettling the balance of power between the three branches of government been so far reaching.

We do not assume the right to sit in judgement over Richard Nixon, to whom we attribute the same potential for good, and that Divine Light with which every human being is endowed. However, in order not to permit the further undermining of the moral and ethical basis on which this nation was founded, nor to continue the prevailing confusion as to what is right and wrong, we feel that the only course to follow is the impeachment of the President. This leads to the procedure provided by the Founding Fathers to determine whether the Constitution of the United States has been subverted by the acts of the President and or his subordinates. In the words of James Madison, who was chiefly responsible for the constitutional definition of impeachable offenses, impeachment is called for when the President "neglects to superintend his subordinates' conduct, in order to check their excesses."

We realize that impeachment will be upsetting for our country, but we are convinced that in this moral crisis of the first magnitude nothing but a full accounting can restore the faith in the justness of law, without which no democracy can survive.

UNETHICAL CRUSADE AGAINST PRESIDENT

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 31, 1974

Mr. HANRAHAN. Mr. Speaker, we have all been inundated recently by mail from constituents expressing their concern over the President's possible involvement in Watergate activities. Much of their anxiety has been fed by a press that has a no-holds-barred sensationalism attitude about the entire affair. To read an article with the logic of Bob Wiedrich's column is refreshing, and I would like to submit that column for inclusion in the Record for the benefit of my colleagues:

UNETHICAL CRUSADE AGAINST PRESIDENT

(By Bob Wiedrich)

Some of the intellectual adolescents engaged in the crusade to bring Richard M. Nixon to his knees are as guilty of unethical conduct as the boobs who created the Watergate scandal.

The most recent outstanding example, of course, is William A. Dobrovir, the 40-year-old activist lawyer for Ralph Nader, who played a subpenaed Presidential tape recording for the entertainment of salami munching pals at a Washington cocktail party.

But there are other examples of impropriety on the part of Nixon probers and detractors that come to mind—the repeated leaks of confidential information from the Senate Watergate committee and similar events involving the staff of the special Watergate prosecutor under both Archibald Cox and his successor, Leon Jaworski.

Even Cox, who achieved some measure of martyrdom after being fired by Nixon, had to display contriteness after it was revealed he shared secrets about the I.T.T. case with Democratic Senators Edward Kennedy and Philip Hart, both Nixon antagonists.

However, no one really seems to get upset at the double standard of ethical conduct prevailing in some quarters along the Potomac in these days of inquisition and the rack for the Presidency.

If anyone in the Nixon administration did anything comparable to the Dobrovir stunt, the hue and cry for his scalp would be something fierce.

But let Dobrovir attempt to make an ass of the President by playing for his friends a confidential tape placed in his hands as an officer of the court and the court rewards his betrayal of a trust with a benign pat on the behind.

It is almost as tho open season had been declared on the President with no holds barred for the compulsive Nixon haters. With some of these clowns it is now a matter of fun and games, an attitude suggesting the childish personalities involved.

No doubt about it, certain of these people are out to kill the President of the United States politically at any cost and with absolutely no moral consideration of the methods involved.

They have no respect for the man or his rights as an American and a human being, even tho he has not been personally touched with Watergate guilt. They probably never had any. And worse yet, they demonstrate no respect for the office of the Presidency itself, seeking instead to demean it with infantile pranks.

Sure, it must have been heady stuff to be an attorney with the hottest item in town in your pocket, as Dobrovir admitted describing the tape to his martini swacking pals. It must have made him feel like the big man on campus, standing there as the center of attraction, playing four or five minutes of a privileged conversation from the inner sanctums of the White House for his Nixon despising peers.

But in the end, all his frivolous conduct did was demean Dobrovir himself in the eyes of those who regard the ethics of an attorney's oath as sacred as that taken by the President himself. He was as big a goof as the guys who went to work for Nixon in Washington and violated the rules of ethical conduct in the highest circles of government.

And in behaving like an undisciplined fool, Dobrovir did harm to his own cause. For his conduct opened the door for the Nixon administration to hint it may have to change its mind about turning over further White House tapes and documents.

Dobrovir demonstrated an incredible lack of good judgment and discretion. But like so many of those anxious to impeach Nixon without the slightest shred of evidence of personal complicity in Watergate, they have cast aside the code of ethical conduct which is, after all, what Watergate has been all about.

Oddly enough, as smart alec Dobrovir basks in the glory of his fellow activists, a more discerning group of much younger people demonstrate a degree of fairness apparently foreign to the 40-year-old lawyer.

In a recent poll of 80 young caddies seeking Chick Evans Scholarships thru the Western Golf Association, 78 of them queried said they did not believe President Nixon should be impeached. The young men represented every facet of the social and political spectrum. But their judgment had not been clouded by a paranoiac hatred. Dobrovir could benefit from their restraint.

URUGUAY OUTLAWS COMMUNIST PARTY

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HUBER. Mr. Speaker, after years of being considered one of the most tolerant countries in the world toward communism, Uruguay has finally decided to outlaw the Communist Party of Uruguay and a dozen other Marxist political groups. Years of turmoil, guerrilla warfare, mass strikes, and other activities that came close to paralyzing the nation finally brought about this decision. So while we are not engaged in a shooting war with any Communist nation around the world at the moment, we should continue to note the actions of the Communist movement as it carries out "class struggle" around the world by other means short of war and learn from these events. An article follows as it appeared in the Time of the Americas on January 9, 1974:

URUGUAY OUTLAWS COMMUNIST PARTY

MONTEVIDEO.—Uruguay, probably the most ideologically tolerant of the Latin American republics, has dissolved the Communist Party and more than a dozen other Marxist political groups.

The action by President Juan Maria Bordaberry and the military men who make up his government came as something of a surprise.

The Communist Party of Uruguay, which traces its history back to 1920, has enjoyed legality for some 53 years now.

True, in 1932, President Gabriel Terra closed party headquarters and the party newspaper and jailed many Communists, but the Communist Party was not made illegal.

Except for that period, however, Communists in Uruguay have been allowed to work with impunity.

The result was that Uruguay became the nerve center of the international Marxist conspiracy in South America.

Through Uruguay moved Communist agents of all nationalities. Through Uruguay was shipped subversive literature, in Spanish and other languages, from Moscow and other Communist propaganda centers. For years, hundreds of tons of Communist reading matter were redispatched monthly from Montevideo to other South American countries that restricted incoming mail from points behind the Iron Curtain.

In the late 1960s the Communists found their leftist hegemony challenged by the violence-prone Tupamaro terrorist organization. The Tupamaros scorned the Uruguayan Communists' rather circumspect ways of challenging the government. Strikes and protest demonstrations were too tame for the youthful terrorists.

When the terrorism escalated to the point where, in April, 1972, presumed Tupamaros began attacking and killing members of the Uruguayan armed forces, authorities abandoned their policy of treating extremists with kid gloves and unleashed a full-fledged anti-subversive drive.

While that crackdown did stem the spread of terrorism, it also seemed to offend the sensibilities of a goodly number of Uruguayans, including Marxist and non-Marxist senators and deputies, and increasing criticism of President Bordaberry and the armed forces came to be heard in Congress.

Finally, last June 27, President Bordaberry, with support of the armed forces, dissolved parliament and assumed full powers. The Communist-dominated National Workers Confederation was closed down. Then, authorities moved in on the University of the Republic, a Marxist hotbed.

Incriminating documents and other evidence turned up in the intervention in the university reportedly implicated Communist Party leadership in such unconstitutional activities as insurgency and terrorism and provided the justification the Bordaberry government employed for action against the Marxists.

WIKTOR LABUNSKI, MUSICIAN

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BOLLING. Mr. Speaker, there fellows the Kansas City Times lead editorial on Wiktor Labunski, a fine musician, a great teacher, and a dear personal friend:

WIKTOR LABUNSKI, MUSICIAN

Over the years the home of Wiktor and Wanda Labunski was a warm place of music and musical talk—a gathering spot for distinguished visiting artists and the musicians and music-lovers of this region. As a teacher, concert pianist, composer and director of the Conservatory of Music, Wiktor was at the center of events.

Old-timers will remember his lecture-recitals with particular affection. His background and store of anecdotes made a lecture on Chopin or Schumann, with piano interpolations, a delight.

Mr. Labunski was a proud Pole, although born in St. Petersburg. He was educated at the Conservatory of Krakow and was a lieutenant in the Russian Army in World War I. After the revolution he returned to Poland and came to the United States in 1928.

To outsiders he sometimes seemed rather stiff and unbending. But his personality was quite the opposite among his intimates. His students were devoted to him, and his sense of humor was constant. He loved little piano tricks. One was to pretend that a certain key on the piano was missing. The note would be rendered by the thump of a knuckle against the piano front when it appeared in the score. This could be quite a feat in the midst of a rapid arpeggio, and the effect was startling, to say the least.

Wanda Labunski died in 1968, six years before the death of Wiktor this past weekend. Friends usually thought of them as a couple, for she was a skilled pianist in her own right. Her sister was married to Arthur Rubinstein, and when he visited Kansas City, the great pianist always stayed with the Labunskis, much to the appreciation of friends who would come to pay homage.

Wiktor Labunski was a kind man and influential teacher. He was one of that band of foreign-born musicians who, over the decades, contributed much to the musicianship of this region and undoubtedly advanced standards beyond the times.

THE UNITED NATIONS

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WHALEN. Mr. Speaker, as the new year began, Frank Getlein wrote a very informative commentary on the United Nations. In his column, which appeared in the January 2 issue of the Washington Star-News, Mr. Getlein discussed the value of the U.N. in the latest Middle East crisis and in the future as seen by a friend of his who was deputy representative to the U.N. from a small, nonalined country. This diplomat suggests that the United Nations can "serve as a safety net when the highwire performances of Kissinger and his Kremlin colleagues collapse." It also is his view that the United Nations provides the one place where nonalined countries "can deal with the great powers as equals."

I believe my colleagues will find of interest the entire column and, therefore, I insert it at this point in the RECORD:

A KIND WORD FOR THE U.N.

(By Frank Getlein)

Two days ago an old friend of mine, a foreign diplomat, ended two years of service at the United Nations, where he was deputy representative of his small, non-aligned country as a non-permanent member of the Security Council.

Over the years he has served in numerous world capitals, including both London and Washington, and, as is to be expected, has absorbed from this experience a certain cynicism about the hopes of humanity and the affairs of nations.

In spite of this sound attitude, in conversation about winding up his affairs at the Council, he manifested a curious idealism about the U.N., even a dedication to the organization that comes as a surprise to an American who largely shares his own country's long disillusionment with the world body as a force for order and justice among nations.

As the New Year begins with this country's position in the world profoundly altered for better and for worse by the Chinese and Russian overtures, by the loosening of the threads of the Atlantic alliance and most dramatically by the Arabian oil states' discovery that they do have one way to make themselves heard by more powerful nations, it is very much worthwhile sharing his thoughts.

The basic reason for his support of the U.N. is not any Tennysonian notion of the desirability of a Parliament of Man—or of Man and Woman, as we would doubtless say today. It is rather the principle, evoked more for practical purposes than for abstract justice, that the management of the world can only be conducted with the participation of the world and the U.N. is unparalleled as the apparatus and the place for that participation.

He also cites the intervention of the U.N. in the latest Middle East crisis as evidence of what the organization can do when given a chance. The Russian and American efforts had failed and two superpowers, according to the account of the American President, were on the verge of direct, military confrontation, when the non-aligned temporary members of the Security Council saved the situation with Resolution 340, which dispatched U.N. troops from nearby Cyprus and bolstered the tottering truce.

From this sequence of events, my friend, whose mission was active in formulating and obtaining passage of Res. 340, concludes that one minimal value of the U.N. is to serve as a safety net when the high-wire performances of Kissinger and his Kremlin colleagues collapse and the acrobats are in danger of a bad fall.

My friend's notion of the place of the new nations in the U.N. is also quite different from that of most Americans these days.

We tend to regard these proliferating nations as having drastically changed the nature of the U.N. for the worse. At San Francisco in 1945, the future of the U.N. certainly seemed to be predominantly European, using that term in the broadest sense, a more successful League of Nations.

Over the years, however, the U.N. has become dominantly African, Asiastic and Arab as nation after nation in those areas has severed its colonial bondage and free at last, has obtained equal membership.

To many Americans, the activities of these newer member states in the U.N. often seem short-sighted, fanatical, single-mindedly obsessional, even frivolous, making rational discussion or orderly action impossibly by constantly harping on the theme of surviving colonialism in a wide range of variations.

To these non-aligned countries, however, my friend asserts, the U.N. provides the one place where they can deal with the great powers as equals and it is precisely in what seems to us pure obstructionism that their equality is most evident.

On a less theoretical basis, my friend, like many U.N. diplomats, regards a major war in Africa as all but inevitable by the end of the century. Carried on on at least three fronts, comprising both conventional and guerrilla attacks and ranging the black nations against the three surviving white ones, that war will be neither prevented nor stopped by major-power agreements, but it might be put off or avoided entirely by full participatory negotiations in the U.N.

It is a convincing case, and an urgent one.

IMPEACHMENT OPINIONNAIRE

HON. WALTER E. POWELL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. POWELL of Ohio. Mr. Speaker, as I have done many times in the past, I recently distributed a questionnaire regarding matters of public interest to every home in Ohio's Eighth Congressional District. This particular opinionnaire dealt exclusively with the subject of impeachment and was intended to gage the support in the eighth congressional district for the President's removal from office.

I solicited the viewpoints of two of my colleagues in the House of Representatives to present opposing arguments on this question. Congressman JEROME J. WALDIE of California, who has introduced an impeachment resolution in the House, presented the argument in favor of the President's impeachment. Congressman JOHN J. RHODES of Arizona presented the viewpoint of those opposed to impeachment. I am grateful to both Congressman WALDIE and Congressman RHODES for their cooperation and interest in offering their respective positions so that eighth district residents could compare and analyze the opposing considerations of this vital public question.

Although a few of these opinionnaires still trickle into my office every day, my staff has tabulated the results of 10,330 responses. Of this number, 6,519, or 63.2 percent opposed impeachment by expressing support for the position taken by Congressman RHODES. The viewpoint of Congressman WALDIE, urging the President's removal, was supported by 3,724 individuals, or 36.1 percent. Only 87 responses were returned marked "undecided." I think that these results will prove of interest to other Members of the House of Representatives.

The entire Watergate controversy has certainly been an unfortunate and tragic event that has damaged the credibility of public officials everywhere, many of whom serve selflessly and at great personal sacrifice. While the confidence that citizens place in their elected officials has been damaged, no elected public official, to my knowledge, has been implicated in the Watergate matter.

It is my hope that the individuals responsible for the wrongdoing in the Watergate affair can and will be brought to justice for their misdeeds, and that the country can put this sordid matter behind it, and begin to focus its attention on the very grave and pressing problems that confront us as a nation.

With respect to the President's alleged involvement in illegal acts, the proper forum for inquiry into these allegations is the House Judiciary Committee. I am hopeful that the current investigation being conducted by the committee will be concluded early this year and that the full Judiciary Committee can make its recommendation to the House of Representatives at the earliest possible opportunity. The citizens of this Nation have every right to expect this to be done in a prompt and nonpartisan fashion. If the Judiciary Committee extends its inquiry beyond April, legitimate questions will surely arise as to whether the motivations of the committee's members are to continue the public harassment of the President and effect the greatest possible advantage as the 1974 congressional elections appear on the horizon.

I would hope that the committee members will insist on an early resolution of this impeachment inquiry, so that the Nation can begin to direct its considerable energies toward the solution of some of its crucial problems.

A COMPREHENSIVE APPROACH TO THE ENERGY CRISIS: THE CONSUMER ENERGY ACT OF 1974

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. ROSENTHAL. Mr. Speaker, the energy crisis which is deeply affecting the lives of all Americans today is proof positive that a total revamping of this country's energy producing system is desperately needed. A piecemeal legislative approach is no longer adequate.

Energy prices were 47 percent higher in 1973 than in 1972. For gasoline alone, the price rose more than 10 cents per gallon last year, and the industry proposes to raise it 10 to 15 cents more in 1974. The Consumer Price Index for December of 1973 revealed that home heating oil prices rose 11 percent that month alone. The price of other petroleum prices is increasing even more steeply.

It is obvious that comprehensive steps must be taken to resolve the current crisis. I am convinced that the Consumer Energy Act of 1974—which I am introducing along with a number of my House and Senate colleagues—will provide the fundamental changes necessary to insure a just resolution of the present crisis and prevent its repetition in the future.

In addition, I have introduced several amendments of my own to pending legislation. The first two have already been incorporated into H.R. 11793, the bill which would create a Federal Energy Administration. I believe all are essential to the successful restructuring of this country's energy system. The first directs the Federal Trade Commission to make a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf. The second prevents conflicts of interest within the proposed Federal Energy Administration by requireing congressional approval of the hiring of energy industry personnel. The third would roll back domestic petroleum and petroleum product prices to November 1, 1973, levels. The fourth would give the Comptroller General direct access to energy company data, while the fifth amendment would require consumer representation on all industry advisory groups to the Federal Energy Administration.

Mr. Speaker, I would like to insert into the RECORD the rationale behind the Consumer Energy Act of 1974, along with an explanation of its eight proposals:

THE CONSUMER OIL PROGRAM: AN ALTERNATIVE TO THE ADMINISTRATION'S APPROACH

We should not be surprised that the major oil companies are more concerned about their self-interest than the public interest; their motive and purpose is profit. But we are shocked by their unwillingness to level with the public.

Despite the concealment or plain nonexistence of information, a pattern is emerging:

Energy stocks are not as low as the public had been led to believe.

But prices are higher—far higher—than we were led to expect.

The cartel of oil producing nations and international corporations raises the price of foreign crude oil; the corporations then force up the price of domestic oil. Having shifted about $25 billion in 1973 from United States consumers to the producers of oil, they now seek to do the same: with natural gas, another principal source of energy.

The American people are, to put it bluntly, being ripped off.

The White House—which should be the guardian of the public interest and the consumer interest—leaves the American people to the whim of the giant oil companies. In fact, it proposes still more of the same—more tax breaks (an investment credit); more public lands to plunder; and, with deregulation of natural gas, more inflation. This Administration is threatening, Samson-like, to bring down the American economic temple upon our heads.

On Wednesday the President sent his legislative package on energy to the Congress.

Once again, the President has asked almost nothing from the giant oil companies—and almost everything from the American consumer.

He trumpets the cause of "tax reform"—including elimination of the foreign depletion allowance. But the major oil companies enjoy such large foreign tax credits that to eliminate the depletion allowance on foreign production is virtually meaningless.

The President proposes a so-called "excess profits tax" which is nothing more than an excise tax to be levied on the price of crude oil and passed on to the consumer.

When all is said and done, the President's message comes down to this: higher prices for the American consumer.

For every penny of increase in the price of a gallon of gasoline, one billion extra dollars flow into the coffers of the oil industry. The price of gasoline rose more than 10 cents per gallon in the past year; the industry proposes to raise it 10 to 15 cents in 1974. The price of other petroleum products is increasing even more sharply.

At this rate revenues reaped by the major oil companies would increase on an annual basis by far more than their $25 billion increase for 1973.

Why does the Administration tolerate such steeply rising energy prices?

One claim is that domestic oil prices must go up because world oil prices have gone up.

We are told that the price of Middle Eastern oil has tripled in the last three months to nearly twelve dollars a barrel—and that is true.

But that fact alone does not justify ever-increasing domestic pices. The foreign prices are set artificially; they bear no relation to production costs abroad—or in the United States. Actually, the price increases imposed by foreign government result in higher revenues and profits for the major oil companies which produce in those countries. And the Internal Revenue Code then permits them to receive a credit against United States taxes for the taxes and royalties they pay the government of the foreign producing nations. That credit works so well for them that few of them have any significant tax liability in the United States. The price increases they are passing through to the consumer are far in excess of their actual costs. And the American taxpayer winds up subsidizing the governments of Libya, Saudi Arabia and the other nations of the oil producers' cartel.

Another claim is that prices must go up because the oil companies need more money to spend on exploration.

Let us ask, however: How much is enough?

Certainly we should be spending more on exploration—by the best available estimates, about $2 billion more each year than the $5 billion annual average over the past five years.

But the current squeezing of the consumer has already funneled additional revenues at a $25 billion annual rate into the treasuries of these companies.

There is no way such huge amounts can be spent on new exploration and development. Perhaps this explains why Gulf announced last week that it will invest some of its profits in an important new source of energy—the Ringling Brothers Barnum and Bailey Circus.

In fact, about $13 billion of the oil giants' $25 billion in additional annual revenues will be windfall dollars for the oil giants.

To offer the people no better hope than high prices and more high prices—while the major oil companies grow fat—offends our sense of justice. It cannot be justified as the price for free enterprise because there is little free enterprise in this largest and most basic industry.

Most seriously, a policy of consumer-gouging is a prescription for economic disaster.

The year 1973 saw the consumer price index advance nearly nine percent—the worst inflation since the end of World War II.

For 1974, the median prediction of twenty different economic forecasting groups, including the Council of Economic Advisors, is for inflation of 5.9 percent. Estimates of unemployment range from six to nine percent.

And these gloomy forecasts, for the most part, do not allow for recent massive petroleum price increases—or those that will come if the Administration has its way.

The outlook is bleak indeed. For energy is not some isolated commodity like coffee or chocolate. It is as basic to our economic life as air and water are to our physical life. Its influence on our economy—on supplies, on prices, on our whole standard of living—is pervasive.

The price of steel, for example, includes a 17 percent energy component—and the price of fuels to the steel industry has nearly doubled.

The Agriculture Department tells us that fertilizer makers, farmers, food processors, transporters and others account for 30 percent of annual fuel consumption in the United States. If energy prices rise fast—food prices will rise by at least the amount needed to pay the extra cost.

Rising energy prices hit our economy at every stage of the manufacturing and marketing process. And so they have a reverberating impact—a multiplier effect—that could buffet our national economy unmercifully.

Our purpose in saying all this is not to play the dismal role of Cassandra; we have always been optimistic about America—and we are trying, notwithstanding Mr. Nixon, to remain optimistic.

Our purpose, rather, is to underscore the danger of imposing ever-higher prices as a device to regulate consumption.

Above all, our purpose is to suggest an immediate alternative to that disastrous policy: a consumer energy action program that is comprehensive, practical, fair to both the public and the oil industry—and urgently needed now.

The Administration has shown its unwillingness or inability to represent the consumer interest.

That leaves us—the Congress and the people.

Next week, we will introduce the Consumer Energy Act of 1974.

It will distribute more fairly the burdens of the energy crisis; infuse new vitality and competition into the oil industry; develop, for the future, increasing energy supplies at reasonable prices.

It offers a plan for action in the Congress and a focus for consumer action across the country.

First, we propose an immediate rollback of petroleum prices.

On December 19, the Cost of Living Council permitted the price of old flowing oil to rise from $4.25 to $5.25 a barrel—a three-billion-dollar-per-year Christmas present to the oil industry. Even before that, the Administration had removed all price controls on so-called new oil—allowing an increase in new oil prices from $3.40 to more than $10 per barrel in less than a year. Neither the Administration nor the petroleum industry have produced any cost figures to justify these increases. Surely the December wholesale price increase—reflecting an annual rate of 26 percent—is proof enough of what flagrant price increases for oil and gas will do to the consumer.

The massive transfers of dollars from consumers to oil companies has already gone too far—far beyond the oil companies' ability to invest these funds in expanded exploration. We propose, therefore, a rollback for all domestically produced crude oil prices to December 1 price levels. All price increases in petroleum products would also be rolled back except for actual non-petroleum cost increases, such as gasoline station overhead, that have occurred since then. Such a rollback would cancel approximately one-fourth of the petroleum price increases of the last year. It would be taken from the major oil companies' windfall profits—and it would slow down the runaway inflation brought on by skyrocketing energy prices.

The Administration already has the authority to impose such temporary controls immediately. If it does not act, it is essential that Congress act.

Second, we propose a Federal Oil and Gas Corporation—a TVA for energy—a supplier that could hold down prices and increase competition.

The multinational corporations of the oil industry have told us, in effect, that they are willing to abandon the American consumer; they would rather take their business abroad, where their profits are greater, than try to supply our national energy needs at reasonable prices. They have done so. Even with oil import quotas and all their tax incentives, they developed production and built refineries abroad at the expense of both here.

It is time to create a national enterprise whose first concern is not runaway profits, but the national interest. The Federal Oil and Gas Corporation would develop oil and gas resources on publicly-owned lands. Those lands contain 50 to 75 percent of all the nation's future oil and gas resources. The people own these resources.

This corporation would stimulate competition in the oil industry. It would offer the public a reliable yardstick on production costs. It would give us a way of checking, through actual experience, the efficiency and pricing performance of the private oil companies. It would help "keep the big boys honest."

Most importantly, it would provide additional fuel supplies at reasonable prices to independent refiners and independent marketers who, once again, could compete vigorously with the major oil companies. It would enable us to make a long overdue inventory of the nation's vast publicly-owned oil and gas resources—before they are all exploited by the major oil companies.

Third, we propose reforms which will revive competition in the energy marketplace—and, while reviving competition, will protect the consumer from price-gouging.

This means giving incentives to the smaller, independent sector of the oil and gas industry—incentives large enough to make them effective competitors of the major oil companies. We propose to create competition by helping the smaller operators enlarge their share of the market, from their current negligible share to one-third of the market.

Consider natural gas. Only one and one-half percent of the nation's 4,700 producers account for 85 percent of the nation's natural gas supply. We propose to remove FPC wellhead price controls from the small producers who compete and deserve a price incentive because they conduct most of the nation's exploratory drilling.

Meanwhile, we propose to retain price controls on the major oil company producers and to streamline the Federal Power Commission's regulatory procedures.

We also believe that wellhead price controls are needed to protect the consumer from these same giants in the oil sector of the industry. The FPC is therefore given authority, in our proposals, to establish wellhead oil prices which will assure the major oil companies their costs and a reasonable return. These controls would give the small exempt companies a chance to compete—and an incentive to explore. The controls would be confined to those large corporations which have used their economic power to drive competition from every link in the industry chain—from producing to marketing.

To avoid diversions of oil and gas from the interstate to the intrastate markets, the controls would apply in both—but only to the largest oil companies.

When established, these price controls would replace the rollback mentioned earlier. This approach guarantees the major corporations a reasonable rate of return; it protects the consumer against price extortion—and endeavors to create a free enterprise system in the oil and gas industry.

Any increased exports of U.S. oil and gas to higher priced world markets could be subject to export controls. Such controls are already in effect.

Fourth, we propose legislation guaranteeing fair access to petroleum pipelines by all members of the petroleum industry.

At present, petroleum pipelines are the private preserve of the major oil companies. They are, for the most part, owned by a few of the largest majors. Yet they are the lifeline upon which independent producers, refiners and marketers depend.

The independent oil company is at the mercy of the majors for storage facilities near major pipelines—and for access to their pipelines.

All too often, the independents have been excluded from the pipeline network; the major oil companies' control over oil pipelines has permitted them to divide markets and to raise prices—in short, to engage in anti-competitive practices.

We propose, for the short run, FPC rules that make the oil companies common carriers in fact as well as in name. Over the long run, we propose that the pipelines be divested from the giant companies—in an orderly fashion—and transferred to independent ownership. Only thus can all shippers obtain fair access to the pipeline network.

This is an essential step toward restoring true competition. As it is now, the major integrated oil companies transfer oil and gas to pipelines they control; next they move the product to their refiners—and then to their own company marketers, who in turn sell to a helpless consumer. There is no real competition in this train of transactions. Pipeline divestiture would establish competition in an essential link of the chain.

Fifth, we propose that Federal lands be leased to oil companies under a new system of royalty bidding.

In the past, valuable Federal oil, and now oil shale, leases have been won by a system called "bonus bidding." This system requires an enormous capital outlay by the bidder—so large that even the major oil companies band together in joint ventures. This old bidding system raises a price barrier that only the major oil companies have been able to cross successfully.

Under the royalty system bidders would offer to the Government a share of the oil recovered—or a combination of cash and oil. The royalty to the Government would be paid—in part at least—out of future production.

By moving toward such a system of royalty bidding, combined with a prohibition of joint ventures among the largest producers, we can open up the rich Federal domain to the independent oil man and over time increase the income of the Federal Government too.

Sixth, we propose, on behalf of the small gasoline dealer who must deal with the major oil companies, a major reform of the franchise system.

The nation's independent gasoline dealers have invested their time and money in efficient gasoline stations which sell products at a discount and give the major companies competition. Today, because major oil companies have cut off or curtailed their supplies of gasoline and other petroleum products, the independent dealers are an endangered species. About 3,000 independent dealers were forced to close their doors last year.

In time of scarcity, the major distributors should be required by law to allocate their products fairly to the smaller independent dealers. And all gasoline dealers should be protected by an explicit law forbidding arbitrary termination of their leases or franchises.

Seventh, we propose reform of the current energy-wasting rate structure for natural gas and other forms of energy.

In the past, when we imagined our supplies of energy to be limitless, the Federal Power Commission and other agencies adopted rate structures that encouraged waste. As consumption went up, utilities charged less for each unit of energy used.

We are paying a high price for that policy today. Residential consumers are paying far more for each unit of fuel they use than the larger industrial customers. Despite growing shortages and an urgent need for conservation, the incentive for natural gas users is to use more.

The time has come to reverse priorities. We propose graduated rate increases for increased consumption to encourage conservation rather than waste. This rate structure should also feature lower rates for residential consumers than for industrial consumers. The industrial consumers are far better equipped to convert to alternative sources of energy than the individual householder with a gas stove or water heater.

Eighth—and finally—we propose a full and honest accounting from the nation's petroleum companies.

If we are to restore the nation's faith in a workably competitive energy industry and make policy wisely, then we must have all the facts—facts about supplies and reserves; facts about oil finances; facts about the major oil companies' tax returns; facts about exports and imports. All these facts should be gathered in a timely fashion and made public. Our bill will call for complete public disclosure; it gives the Federal Trade Commission ample investigative duty and authority to obtain all such information and make it public.

The energy crisis is not a crisis of nature; there is abundant petroleum in the earth and under the sea. It is a crisis of our economic and political machinery. The crisis began with failures and misuses of that machinery—and we can find solutions only by changing and improving that machinery.

The legislation we have outlined is a start toward making those necessary changes.

If we fail, the entire cost of the energy crisis will fall upon the American people; and that cost could be written in lurid letters of economic collapse.

The energy crisis, and the public frustration and outrage it has produced, are a kind of handwriting on the wall. The message is this: If this country continues to suffer at the hands of one large, concentrated, interconnected and unaccountable industry, public patience will run out—and that industry will some day be totally regulated, broken up, even nationalized. We do not want to see the free enterprise system abandoned. We want to see it work. We believe the American people feel the same way.

Let us in the Congress take up the cause of the American people—the cause of two hundred million beleaguered consumers. The Administration by its indifference, and the oil industry by its greed, has proven that unless we advance the consumers' cause, no one else will.

DAYLIGHT SAVINGS: A PROBLEM TO BE SOLVED

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BAUMAN. Mr. Speaker, earlier this week I introduced a bill, H.R. 12390, which would repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973. I do so because I have become convinced that this legislation does not achieve its major objectives.

We were told during the time the House was considering the bill that it might produce considerable savings in energy. Statistics now available raise doubts on this point. What has happened, however, is the lives of a great many schoolchildren across the Nation have been endangered with actual deaths occurring in some States.

I hope that the bill I have introduced will receive speedy action by the House. I insert at this point in the RECORD an editorial from the Sunday Times of Salisbury, Md., concerning this matter.

The editorial follows:

A PROBLEM TO BE SOLVED

A petition movement requesting the Wicomico County Board of Education to consider school opening at a later hour in view of the early morning darkness due to daylight saving time has been presented to school officials.

The petition drew more than 1,700 names, some of them parents, some not. Their reason for signing it is that they feel that children's lives are endangered as they wait in the roadside darkness for a school bus. Their concern is genuine. Children by the side of the road in the darkness are difficult to see unless attired in light clothing. One may dart in front of your car.

On the other hand, the board of education in switching over to daylight saving time after Congress ordered that it be done had a number of complex problems to consider. These include the scheduling of bus runs to accommodate drivers and the various schools, consideration for working parents who leave home the same time school children do, and employed students who, if school hours are set ahead, would have trouble with their schedules.

There are 14,000 school pupils in this county. More than ten thousand of them go to school on a bus. Some of them have to change from one bus to another. There are 150 buses. Some operators have other forms of livelihood. Some parents have two jobs. Their work day and evening are built around the bus schedule. If they have more than one child it could be two or more bus schedules.

The list of major and minor problems involved in short-notice changes in schedules could go on. Daylight saving time became the law in the closing days of the last session of Congress. For school purposes, it became operative when school was resumed after the Christmas holidays. This is also the dead of winter—the days of least daylight.

The days are now lengthening. In a few weeks the problem will have vanished for this term, at least. Any changes the school system might make now (or might have made when school reopened) would require some further change as the days get longer. One way or another, some people are inconvenienced.

Other counties have made school hour changes to accommodate daylight saving time. But then, still other counties have not. Different circumstances could account for that. The long range solution is in further reasoned study of the various problems and announcing some months in advance those school hours which can accommodate daylight saving time without exposing children to the hazard of roadside darkness. Many people with that advance notice could adjust their personal schedules to that end.

Meanwhile, it will be wise for all of us—parents and drivers of all vehicles to do their best to help get children to school safely. It's a responsibility we must share; an inconvenience of the energy crisis. That's the reason for the problem in the first place.

FOOD SHORTAGES IN ASIA AND AFRICA

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WHALEN. Mr. Speaker, in view of the current fuel shortage and its effect on the food production capacities of Asian and African nations, I would like to bring to the attention of my colleagues an article from the February 2, 1973, issue of the New Republic.

The author discusses the need for worldwide efforts to help curtail tremendous food shortages in Asia and Africa, resulting from drastic decreases in fuel supplies needed to operate extensive irrigation facilities in these countries.

I feel that remarks made by the author merit consideration by my colleagues, and I submit this article for their information.

The article follows:

OIL AND STARVATION

Fulani is a little girl who lives in India, with small bones and lackluster eyes, who is only eight but looks 12, and she is probably one of the millions who will die this summer from the food shortage growing out of the oil shortage. About mid-August America is likely to discover that there is a crisis, not merely in India but possibly in Africa, much of the Mideast and parts of Latin America, and it will send emergency food supplies, by which time it will be too late. If a world food bank is begun it will have to be done now. There seems no sign of movement, however, by the government here. It is the greatest human drama in the world today.

We are so bemused by our gasoline shortage, that we can't see what's happening on Spaceship Earth. It's not hard to trace, however. Oil is a big component of nitrogen fertilizer; if oil leaps in prices so does fertilizer. Japan imports oil, uses it to produce fertilizer, exports it to India. Less fertilizer, less food. Lester Brown of the Overseas Development Council tells me that Japan has cut fertilizer production 25 percent and its exports will be reduced probably one-third. China will grab what it can. It means that the Indian subcontinent of 740 million (including India, Bangladesh and Pakistan) will suffer.

That's only part of it. Food also depends on irrigation. In Asia two million irrigation wells are often pumped by small motors, chugging along, burning oil. The price of oil rises, irrigation costs more; food costs more; people who can't pay die.

In few places are food and population more delicately balanced than in India. Bernard Weinraub cabled in *The New York Times* last week from New Delhi of a striking election upset by the Communist Party in the heart of Bombay that jolted Prime Minister Indira Gandhi's New Congress Party. Three years ago the Congress Party polled 216,000 votes; now it's 70,185. Among the reasons: the "unprecedented 20 percent rise in the price of food in the last 12 months." Of course democracy in India is a thousand times more worth saving for the US than the old government in South Vietnam for which we spent billions and 50,000 lives. But what will we do about it?

The sudden Arab oil boycott is something that has never, repeat never, occurred before in economics. It recalls Jay Gould's attempted "gold corner" in 1869. It affects the world and the United States in grotesque ways that we have yet to realize. The pedicab fare has doubled in Djakarta. And little Fulani may die of hunger in Bangalore.

"I want all African and Asian brothers here to know," Hubert Humphrey grimly told representatives of 45 nations in mid-November at an international food conference in Munich, West Germany, "that when the Arab nations boycott oil to the United States, all they are doing is signalling you that you will starve."

This is to strong; a lot of other factors are involved. But the fact remains that in any crunch the poor and helpless fare worse, and in the crisis now developing the earth may be pushed over into a famine forecast for years.

About a third of the world's 3.9 billion people go to bed hungry at night. World population increases two percent a year, about 80 million people. It will double at the present rate by the end of the century. That means double the food to feed them. And there are these ominous circumstances:

For the first time America's arable land, the world's greatest bread basket reserve, is all in use.

World grain reserves expressed in days' consumption stood at 95 days in 1961 and now is down to 37, smallest in history.

Fertilizer supply is very short and the price is zooming.

Something strange is happening to the world fish catch; some feel the very oceans are overfished; for the past 21 years the total world catch increased every year to 70 million metric tons in 1970; it has dropped in the past three years to 62 million.

Lester Brown comments, "With less fertilizer and two percent regular increase in population, this is the first year in which one can say positively, "There will be a reduction of food production in Asia, regardless of the weather. Never before in my memory has it been possible to say that."

Countries are divided into two tiers, the northern tier with relatively low birth rate and adequate food supply: North America, Western and Eastern Europe, the Soviet Union and Japan, recently joined by Korea, Taiwan and Mainland China. The other tier are the hungry lands with relatively high birth rate—most of Africa, much of the Mideast, the Indian subcontinent and parts of Latin America. This is the crisis of the four Fs: food, fuel, fertilizer and fertilty.

"This year there is no cushion any longer," Mr. Brown says, "things are very thin with a shortfall of fertilizer. With a drought somewhere, or unfavorable weather, there would be a scramble for food unlike anything we've ever seen. And in Washington a feeling that no one's in charge."

Most people can't believe that food supplies won't expand, just as they were sure cheap gas would continue. This may prove ultimately correct but in the meantime there could also be the greatest calamity in the history of mankind. The weather cycle is important. The US and Canada now control a larger share of the world's exportable grains than the Middle East does of oil, and the US provides 90 percent of the world soybean exports. Bad weather could reduce this. A cycle of droughts has hit North America roughly every 20 years since the Civil War when records were first made; the 1930s created the dust bowl and in the 1950s it appeared again. Even a mild return would be dangerous today.

"The issue that may well arise before this year is over," Lester Brown says, "is whether the more affluent nations will tighten their belts to fill what will be by far the largest food deficit in Asia that we've ever seen."

Tony Dechant, president of the Farmers Union, recently denounced the lassitude in Washington: "A world grain crop like that of 1972," he said, "would doom millions to starvation." Fortunately prospects are for a bumper crop, but with high fertilizer prices it is not certain that the hungry lands can buy it.

STATISTICS CONFIRM BLEAK ECONOMIC SITUATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BIAGGI. Mr. Speaker, for many Americans the passing of 1973 was more welcomed than regretted, and for good reason. As if Watergate and its related scandals were not enough to contend with, we had inflation to unite all Americans in misery. The effects of the worst inflation since the end of World War II were felt by each and every citizen.

Recent end-of-year statistics confirm the true extent of our present bleak economic situation. Many Americans, especially our senior citizens living on fixed incomes, found themselves at the end of 1973, hovering at the brink of poverty, after only ekeing out the most basic existence. The unquestioned culprit in this situation has been the drastic increases registered in the prices of food, clothing, and shelter, the items most working Americans spend the greatest portion of their income on.

The price of food for example in the United States rose by a whopping 22.1 percent in 1973, the sharpest 1-year increase in over 20 years. This increase was due primarily to higher farm prices, as wholesale food prices rose by an even greater 22.5 percent. Such essential food items as meat, cereal and baking products rose at an even higher rate than the overall increase.

In my home city of New York alone, the cost of feeding a family of four has risen from $50.68 recorded in May, to a present figure of $58.84 recorded 2 weeks ago, an increase of 16 percent in only 8 months. A pound of hamburger which cost $1.09 a pound 1 year ago now costs $1.79. A half gallon of milk has gone from 64 cents to its present figure of 80 cents.

These statistics take on even more tragic overtones when measured against the fact that real hourly earnings for working Americans declined by an average of 1.3 percent in 1973. The average senior citizen's income rose at a rate not even equal to the overall cost-of-living increase of 9 percent, registered in 1973.

Our economy during the 1960's went through a period of unparalleled growth, and with it came inflation, but when measured in a time of prosperity, most Americans were able to endure it. However, today we are in a period of great economic transition, characterized by an overall economic slowdown. Yet the problem of inflation continues to linger, and now when measured against present conditions, it becomes more conspicuous and troublesome for the average American to cope with.

This present administration's economic policies have contributed greatly to the present inflationary conditions. Its efforts to control inflation, remembered as the now infamous phase I through IV programs were anemic and feeble attempts at best, weakened further by a series of misguided and ill-conceived decisions, the most famous one being the Russian wheat deal.

This effort to subsidize the Russian people was done at the expense of the American taxpayer, who faced with an anticipated wheat shortage and continued higher prices for bread, is struggling to avoid becoming the ultimate sucker of this economic folly. A further indication of the failure of this decision is the administration's recent negotiations with Canada for possible purchases of wheat in the event that our wheat shortage becomes too acute.

Economic disasters like the Russian wheat deal must be avoided in the future. In the last session of Congress I introduced legislation which would limit any future exporting of wheat or other commodities until there were firm assurances that there was an adequate domestic supply available for each and every American. We in the Congress must begin to shift this administration's economic priorities away from exports and back to meeting all necessary domestic needs. Continuation of present policies can only result in continued higher prices and drastic shortages of vital food commodities.

Moreover, Government spending must be directed at helping people here at home survive this inflation. Therefore, I was recently compelled to vote against H.R. 11354, a bill to provide $1.5 billion more of the taxpayer's money for World Bank operations without any assurances that this money would be wisely spent.

We in the Congress must seize the opportunity and work to find solutions to the inflation which has put such a strain on the budgets of the American consumers. The economic projections for 1974 are not especially bright. More acute shortages in vital food commodities are expected, as well as continued increases in the costs of food, shelter and clothing. In addition, the unemployment rate has already jumped to 5.2 percent, and it may reach 6 percent. The time to act is now, we cannot allow Americans to linger in economic misery. Inflation hurts everyone.

ENVIRONMENTAL STANDARDS AND THE ENERGY CRISIS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WALDIE. Mr. Speaker, there are many in this country who would have us believe that the energy crisis has forced upon us an almost insoluble dilemma—on one hand we apparently face a critical shortage of energy, while on the other hand we supposedly confront environmental standards which are extreme in their intent and extravagant in their waste of fuel. While I do not believe that such a situation does, in fact, exist, I do fear that the hard-won and desperately needed environmental standards which were firmly established in the Clean Air Act of 1970 may be the first victims of what is a politically expedient solution to the energy crisis. Automobile manufacturers and oil company executives have seized upon the shortage of energy as a basis for demanding the loosening of environmental strictures. They claim that we will survive this crisis only if we roll back legislative guarantees of environmental quality. It seems to me that the facts in no way dictate the necessity of befouling our skies, rivers, and landscapes with industrial offal in order to mitigate the impact of diminishing energy supplies. We clearly have more reasonable alternatives.

The Environmental Protection Agency delineates two types of energy users and pollution producers: mobile sources and stationary sources. The primary mobile source is, of course, the automobile. Under existing standards the environmentally devastating effects of the internal combustion engine would be negligible by 1976. Automobile industry spokesmen have tried to make these laudable standards the whipping boys for the poor mileage of their cars. Yet as Environmental Protection Agency officials indicate:

> The two-three miles per gallon loss attributed to pollution control devices stems from the unperfected technology which the auto companies put in their early control devices. The 1975 models are expected to have control equipment which increases mileage from 7–13%.

Given such considerations it would seem more appropriate to limit the production of low mileage cars than to roll back environmental standards for auto pollution.

Stationary pollution sources include our power generating facilities. The President has recommended rapid conversion of oil consuming plants to coal—one of our most abundant resources. Concomitant with this proposed conversion would be a drastic reduction of environmental standards for coal burning facilities. Likewise he has proposed a rapid expansion of nuclear facilities whose safety factors are dubious and whose disposal problems reach catastrophic dimensions. Further, it has been suggested that we reopen the geologically fragile Santa Barbara Channel, and strip mine subsurface layers of coal.

I think these proposals are both ill-considered and rash. Considering the dearth of information we presently have about the energy crisis and its causes, it would seem inappropriate to implement remedies whose effects are known to be deleterious.

What I am asking for is a careful consideration of all the alternatives before us. We must not make our decisions in an atmosphere of desperation. The Chinese write the word crisis with two strokes of a brush pen. One stroke means "danger" and the other "opportunity." Once we understand the danger which has manifested itself, we must seize the opportunity for renewal and redirection along lines more harmonious with our total environment. To react in any other manner is to deny the potential for improvement which now confronts us.

THE ARAB OIL WEAPON

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WOLFF. Mr. Speaker, it is my honor today to insert for my colleagues and for the edification of the American people, an article on the serious legal issues arising out of the use of the "oil weapon" by the oil producing nations. The authors, Albert P. Blaustein a professor of law at Rutgers University, and Jordan J. Paust, a J.S.D. candidate at Yale who holds a law degree from UCLA, have succinctly focused on the violations of international law that the perpetrators of the embargo have committed. This article is an abridgment excerpted from a much more detailed treatise which will be published later this year.

The article follows:

THE ARAB OIL WEAPON—A THREAT TO INTERNATIONAL PEACE

(By Jordan J. Paust and Albert P. Blaustein)

THE ARAB COERCION: BACKGROUND

The month of October, 1973, brought with it Arab aggression in two forms: the first was the military attack against Israel, begun on October 6th; the other was the use of economic coercion again countries which, in Arab eyes, either supported Israel or did not support the Arabs in their present quests. (These include the return of claimed Arab lands, favorable settlement of the Palestinian peoples' claim for self-determination, and other political and military objectives.)

This Arab strategy constitutes the deliberate employment of an economic instrument of coercion (the oil "weapon") against other states and peoples in order to place intense pressures upon their free choice. Although this strategy is primarily dependent upon the use of an economic instrument, the full dimension of the coercive process has involved the interrelated use of diplomatic and ideological instruments as well as the coordinate use of military forces against the State of Israel. As such, the Arab oil embargo is a violation of international law, as formulated in the United Nations Charter and its key supporting documents.

AN APPROACH TO DECISION

At times we will merely refer to this overall process of coercion as the oil "weapon" or as the Arab economic coercion, but the full range of Arab effort should be kept in mind.

It is too simplistic to seek to categorize events as acts of "war" or "peace," since coercion between states and peoples is continuous through time and space in differing types and levels of intensity, and far more is proscribed under international law than coercive acts which amount to acts of "war." International law takes cognizance of the greater need for the regulation of varied types and intensities of coercion in this increasingly interdependent world, and the main concern is for a rational, policy-serving distinction between forms of permissible and impermissible coercion.

Does the conduct serve or impair legal policy? Where some international community goals are served and others impaired, what is the overall impact upon policy? It is clear that rigid categories such as "embargo" or economic "war" are insufficient references to the full range of legal policy which is relevant or the myriad of contextual factors which are useful in making a rational choice concerning the legality of the Arab coercive process.

Depending upon degrees of intent, intensities of impact and a number of other factors, the use of the Arab coercive strategy can be found to constitute such a substantial impairment of United Nations Charter goals as to result in authoritative denunciation of the oil "weapon" as a violation of the United Nations Charter. This would be a violation of those provisions dealing with the use of coercion, the promotion of friendly relations, the promotion of self-determination, the peaceful settlement of disputes, and the maintenance of international peace and security. In certain situations, the use of economic coercion constitutes a form of "economic aggresion." And where the impact upon the target group results in intense fear or anxiety, the use of economic coercion can constitute a form of impermissible terroristic strategy.

Particularly relevant factors include: (a) the objectives of the Arab initiators of the coercive strategy; (b) the number of participants affected; (c) the number and types of Charter goals affected, and (d) the extent to which Charter goals are affected. It is our hope that appropriate United Nations decisional entities will initiate an inquiry into the legality of the oil "weapon", and that this work will aid in that effort by providing a guide to rational and policy-serving decision.

TRADITIONAL RULES AND THE POLICIES AT STAKE

A. *The U.N. Charter*

Almost every state and peoples have pledged to each other and to all mankind their continued effort: to practice tolerance;

to develop friendly relations among nations based on respect for equal rights and self-determination; to cooperate in an effort to solve international economic and other problems; to live together in peace; and to settle disputes by peaceful means in such a manner that international peace, security and justice are not endangered. Most important is Article 2(4) of the Charter. This contains the pledge of all members to refrain from certain forms of impermissible coercion. It states:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Thus, if the threat or use of force is against the "territorial integrity" or "political independence" of other states, Article 2(4) of the Charter has been violated. Additionally, Article 2(4) is impaired if the threat or use of force is "in any other manner inconsistent with the Purposes of the United Nations"—many of which are outlined above and are expressed in Article 1 and the preamble of the Charter. Thus, the substantial impairment of goals of the international community (articulated in the Charter) through the deliberate use of coercion against other states (not counterbalanced by policies relating to legitimate self-defense of U.N. enforcement of decisions) constitutes a violation of Article 2(4) as well as other forms of pledge. This constitutes a violation of the Charter itself.

What is the meaning of the word "force" in Article 2(4)—does the Charter prohibit economic forms of coercion? True, it has been stated in the past that the type of "force" contemplated in Article 2(4) was "armed force." Some text-writers have indeed read into Article 2(4) the restrictive word "armed"—which does not appear and did not arise as a restriction during the formation of pre-Charter norms or the drafting debate. Some had rather loosely assumed that since the preamble of the Charter spoke (among other things) of restricting armed force to situations of common interest, that other forms of coercion (economic, diplomatic, ideological) were to go unregulated. This despite other articulated Charter objectives concerning world public order and human dignity.

It is also by no means clear that the Arab coercive process does not involve an "armed" attack—for it must be recognized that the oil "weapon" arose in the context of an armed attack upon the State of Israel.

In any event, it is clear today that Article 2(4) prohibits more than the threat or use of "armed" forces. This is borne out in a series of United Nations documents supplementary to the Charter—documents which spell out the goals of the international community.

The General Assembly, for example, has authoritatively declared that it is "the duty of states to refrain in their international relations from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any state . . ." Moreover, the General Assembly has declared, in connection with the principle of Article 2(4), that every state has a duty to refrain from "any forcible action" which deprives certain people of self-determination, equal rights, and freedom and independence. It has further stated, in connection with the principle of Article 2(7), that "armed intervention and all other forms of interference or attempted threats against the personality of the state or against its political, economic, and cultural elements, are in violation of international law." Additionally it has been declared:

> No state may use or encourage the use of economic, political or any other type of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.

By integrating the preamble, plus Article 1 and 2 of the Charter, with this recent authoritative expression of the General Assembly, we see the community expectation that a broad range of coercive conduct is impermissible.

Moreover, United Nations trends in decision—addressed to questions of threats to the peace, breaches of the peace or acts of aggression—are relevant as indicia of community expectations, likewise useful for the interpretation of the dynamic content of Article 2(4) of the Charter.

The 1965 Declaration on Inadmissibility of Intervention has articulated similar goals, including: (a) the free development of political status; (b) the free pursuit of economic, social and cultural development; (c) the principle of "non-intervention" of states in the internal and external affairs of other states (declared to be "essential to the fulfilment of the purposes and principles of the United Nations"); and (d) the interrelated ban on "economic, political or any other type of measures to coerce another State" for impermissible objectives of dominance or the extraction of "advantages." The latter goal or prohibition had also found approval in the 1954 Draft Code of Offenses Against the Peace and Security of Mankind where economic coercion was utilized by a state or group in order to force its will and thereby obtain advantages of any kind.

Although other U.N. documents do affirm the community goal of allowing all states the permanent control of their natural resources, a 1972 General Assembly resolution has reiterated the priority of other goals.

The 1972 resolution declared "that actions, measures or legislative regulations by States aimed at coercing, directly or indirectly, other States engaged in . . . the exercise of their sovereign righs over their natural resources . . . are in violation of the Charter and of the Declaration contained in resolution 2625 (XXV) and contradict the targets, objectives and policy measures of the International Strategy for Development for the Second United Nations Development Decade." That strategy had arisen with a U.N. proclamation that "(e) conomic and social progress is the common and shared responsibility of the entire international community," and that "(e) very country has the right and duty to develop its human and natural resources, but the full benefit of its efforts can be realized only with concomitant and effective international action."

Implicit here is the recognition that, by the "free" use or control of one's own resources, an impermissible interference with the "free" use or control of resources of others can result, and that a balance must be struck which best serves all relevant community goals in view of the actual context and policies at stake. In no other way can an individual or group maximize the enjoyment of freedom from fear and want, or "the full benefit of its efforts."

This explains the enunciated expectation in Article 2 of the 1966 International Covenant on Economic, Social and Cultural Rights that the "free" disposal of natural wealth and resources must not prejudice "any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law," and "(i) n no case may a people be deprived of its own means of subsistence." Undoubtedly, this is the thinking behind the U.N. Charter goal of achieving "international co-operation in solving problems of an economic, social, cultural, or humanitarian character." This is likewise the philosophy behind the statement in the preamble of the 1966 Covenant which recognizes that the Charter goal of equal rights for "all members of the human family is the foundation of freedom, justice and peace in the world."

B. *International Trade Law.*

One of the most important documents declaring international community goals is the General Agreement on Tariffs and Trade (GATT). Today there are more than 76 parties to this Treaty, including Egypt, Israel, Kuwait, Lebanon and Syria.

Article 1 of GATT provides for "most-favored-nation" treatment to assure the elimination of discriminatory measures (any "advantage, favour, priviledge, or immunity granted") among signators. Article 11 denies export prohibitions or restrictions; Article 13 prohibits discriminatory quantitative restrictions; and Article 20 lists certain general exceptions, but reiterates the basic denial of "arbitrary or unjustifiable discrimination" in the trade process.

Another source of relevant international trade law is the set of bilateral trade agreements between, for example, the United States and Saudi Arabia, Oman, and Iraq. Each of these bilateral agreements with the U.S. contains a most-favored nation treatment clause with respect to import, export and other duties and charges, affecting trade and similar goals with respect to any concession, regulation, advantage, prohibition or restriction on imports or exports, etc.

The agreement with Iraq, would seem to allow a claim relating to "the adoption or enforcement of measures relating to neutrality or to rights and obligations arising under the Covenant of the League of Nations." Nevertheless, it would seem that joint-Arab coercion to impose a pro-Arab stance is not properly meant to fit into the phrase "meassures relating to neutrality." Certainly, the use of force to coerce other states into a non-neutral stance or conduct relates to neutrality; but since it plays havoc with the policy by tending to destroy neutrality and also impair fundamental goals involving the regulation of the use of force, such a use of force should not go unnoticed by an interpreter of the trade agreement. Moreover, an opposite conclusion would permit a party to create the very condition (a "necessity" or "security interest") which is held to allow a derogation from the agreement. This would be in conflict with the import of the concomitant language relating to the effort to fulfill League of Nations (now U.N. Charter) obligations.

There is substantial authority to support our interpretative approach. The main question of legal policy remains the final decision as to whether the Arab oil "weapon" is permissible or impermissible under the United Nations Charter. These oil cuts are most assuredly discriminatory and contrary to the "most-favored-nation treatment" goals of GATT and the bilateral trade agreements. In addition, the primary exceptions to GATT and relevant bilateral trade agreements which deal with national "security interests" should be applied with reference to the full range of community policy developed to balance permissible national security interests with U.N. Charter goals found in the preamble and Articles 1 and 2. Moreover, Article 103 of the U.N. Charter clearly makes the Charter a peremptory set of norms which will prevail in case of any conflict between the obligations under the Charter and obligations under any other international agreement.

A CONSIDERATION OF THE ARAB STRATEGY

Again, we cannot consider Arab strategy in depth. For our purposes, it seems most useful merely to indicate some of the most important and disturbing aspects under category headings which are useful for systematic description of the coercive process: participants, objectives, situation, base values, strategies, outcomes, effects.

A. *Participants.* Nearly all of the Arab states are joint-initiators of this form of coercion, and nearly every state in the global arena is affected by the coercive process as instrumental target, primary target, or spill-over victim. Moreover, specific target states include Japan, Western Europe and the United States.

B. *Objectives*. The use of this oil strategy has been deliberate. Stated objectives of the initiators have been couched for the most part in terms of an overall effort to regain "occupied territory." But there have been other stated objectives:

(1) to force an overall settlement upon Israel "on terms satisfactory to the Arabs"—through coercion by other states against Israel or the use of force to make others pay more attention to Arab claims and demands;

(2) to seek a continued embargo on any country "supporting Israel"—with each country classified as either friendly to the Arabs, neutral or "supporting Israel";

(3) to force other states to sever diplomatic and trade relations with Israel;

(4) to compel other states to extend economic aid to the Arab nations;

(5) to compel other states to extend military aid to the Arab nations.

These are attempts to control the foreign policies and conduct (international and domestic) of other states and peoples. These are attempts to affect the free choice of such states and peoples. They constitute an interference (as some Arab spokesmen have stated) in order to "shape events."

Further, these objectives were (and are) being sought unilaterally, with no attempts to forewarn the international community of impending action. Likewise, there were no Arab efforts to use any other peaceful and cooperative means or machinery to settle the underlying disputes. There seems to have been no attempt to offer any formal argument in favor of the necessity or the legality of such action under the U.N. Charter or other international instruments (including trade agreements).

We conclude that the combination of the five types of Arab objectives outlined above (despite claims concerning the recapture of territory or desires to aid Palestinian peoples) indicates a substantial affront to Charter goals. More specifically, we find an impairment of both the "political independence" goal and the "Purposes" goal contained in Article 2(4) of the Charter, and we find no exculpating claims which balance against that impairment. The objectives outlined above (1 through 5) certainly affront the general goals of tolerance, friendly relations, cooperative effort to solve international economic problems, the peaceful settlement of disputes, etc. Certainly, the Arab economic coercion and those objectives affront the prohibition contained in the 1970 Declaration On Friendly Relations and Cooperation which denies coercive strategy in order to obtain the subordinaton of the exercise of the sovereign rights of other states (such as the right to determine foreign policy and actions) or "to secure from" them "advantages of any kind." Even in the case of stated objectives to regain territory, the other objectives do not seem related to the principles of necessity and proportionality. Moreover, the stated objectives pose a curious and conflicting Arab deference to other Charter goals of "self-determination," "equal rights," "freedom," and "independence."

C. *Situation*. The geographic area within which the Arab initiators have utilized this strategy is global. There has been no effort to minimize the destruction of values through a limitation of coercion to arenas of armed conflict between Arab and Israeli participants, or even to arenas of active military involvement. Nor have the Arabs made the traditional criterial distinctions between military and civilian institutions and activities in their delineations of targets. And, finally, the duration of coercion has already been substantial and seems likely to continue for an extended period.

D. *Bases of Power*. The Arab states obviously possess ample resources of power and wealth to instill intense coercion through time and space. Saudi Arabia alone is thought to possess one quarter of the world's known oil resources. Specific targets such as Japan, the Philippines, the Netherlands and numerous western European countries are extremely dependent upon the sharing of oil and the maintenance of stable trade relations not only for wealth and well-being but for overall power (including the power to maintain national defense and security).

E. *Strategies*. The primary strategy employed is economic, but there is also a manipulation of the diplomatic and ideological instruments of coercion. Diplomatic efforts have included use of the economic instrument to communicate a threat against "supporting Israel" and "joining the Americans" in any kind of counter-measures, "because your whole economy will definitely collapse all of a sudden." The choice of this particular strategy, the oil "weapon," seems a choice of the sort of weapon which is far less capable of discriminate application than, for example, the embargo of military arms to another country. It is the type of strategy which will necessarily involve great impact upon the civilian economy and civilian participants; thus, its use would seem to require an even greater showing of necessity in context if the claim of necessity is to be considered.

F. *Outcomes*. It is clear that present and probable outcomes involve intense coercion on target governments and peoples. The coercion has met with success. Many states have changed their official diplomatic posture toward Israel, and states have also begun to change their domestic and international policies with respect to trade, emigration of foreign nationals, the supply of arms to Arab states, economic programs for Arab development, and other matters.

G. *Effects. A* particularly important effect has been the sudden disruption of normal trade patterns which threatens the stability of economic and other expectations and patterns. The overall impact upon Charter and trade law goals has been substantial and many important goals are likely to be impaired if the oil "weapon" is allowed to continue. There is also a threatened destruction of all resource values throughout the globe which would be disproportionate to the claimed necessity for realizing stated Arab objectives.

CONCLUSION

Not only at stake here are the Charter goals of tolerance, friendly relations, the peaceful settlement of disputes, cooperative effort to solve international economic and other problems, and peace in general, but also the relative independence of states and their own political, economic and ideological self-determination (the full and free shaping and sharing of all values). It must be understood that the impact of the use of this form of economic coercion has been substantial in terms of persons affected and goals impaired. It is a coercion which threatens not only the general wealth, well-being and power of numerous nation-states (including efforts at regional integration), but also (more specifically) their national defense and security. Thus, the coercion is of such mounting intensity and efficacy that it can be authoritatively proscribed as a violation of those Charter goals, and also denounced as a violation of Article 2(4).

What we have outlined here are the violations of United Nations Charter provisions and trade agreement provisions. We see a substantial threat to community goals in the continued use of the oil "weapon," and call for a cooperative effort to obtain a more inclusive regulation of the economic instrument of coercion, plus a more inclusive and policy-serving use of the earth's resources—not for war and unilateral dominance, but for peace and for mankind.

WHO CAN AFFORD CAKE?

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BRASCO. Mr. Speaker, every American has some memory of the now infamous wheat sale to the Soviet Union engineered by the administration. We sold some 400 million bushels of American wheat to the Russians at prices overwhelmingly favorable to them, depriving hundreds of thousands of American grain growers of what would have amounted to excellent profits.

As the facts of the grain sale unfolded, it became obvious that the Department of Agriculture had acted more in the interests of the Russians and the major international grain companies than on behalf of U.S. farmers and consumers. A great outcry was raised across the Nation, including here in the Congress. The administration, on the defensive, denigrated all such criticism, claiming that all was totally above board, and that no one had been cheated, and no one had benefited illegally.

Among the accusations leveled at the Government as a result of the grain sale was one stating that we were shipping so much of our crops abroad that our own domestic reserves would be significantly depleted—to a point where we might not have enough for our own uses.

Here again administration spokesmen, led by the Secretary of Agriculture, dismissed such fears airily, indicating that critics, including and especially Congressmen from urban areas, knew little about agriculture and even less about grain markets.

Since all this transpired, we have had had much of the true story come out. The farmers were not told the truth by the Agriculture Department, most of them selling prematurely and cheap a grain crop that could have commanded far larger prices. The Government made a gift out of the grain deal with the Russians, allowing the Soviets to get off a sharp domestic hook with U.S. grain. With such domestic dislocations averted, the Kremlin was secure enough to devote its main energies and resources to weaponry and military adventurism in the Middle East.

Several Agriculture Department officials have gone on to bigger and better things, including cushy jobs with the grain companies with whom they had worked intimately on the Soviet grain exchange. Only one bird had not yet come back home to roost, and now he, too, is settling back on the limb of the tree in our backyard.

Remember when America had the cheapest food and the most plentiful supplies? Remember those wonderful days? I do. Most of you do, too. They are gone now, and the millers and bakers tell us we may have bread at $1 per loaf. Why? Because we sold too much to the Soviet Union. How do we know? Because now the Government is making arrangements for possible major purchases of Canadian wheat if we run short. Are we going to run short? There is that possibility, we are told, with the danger of much higher bread prices and imports from abroad.

We are told that if all the wheat we have sold through the Agriculture Department to foreign buyers gets shipped, we could virtually run out of wheat for as much as a month before the July harvest.

The Government is making arrangements for Canadian wheat buys, to lift a quota limiting imports and to have Russians postpone deliveries and further shipments. Meanwhile, it assures us that we will have no shortages even though the head of the Chicago Board of Trade, the world's largest commodities market, takes a diametrically opposed position. He predicts that we shall in fact run short of wheat. On the basis of track records, anyone who believes the Department of Agriculture deserves an award of optimism.

As if to underscore this state of affairs, the President has recently signed a proclamation making it legal to import as much wheat into the Nation as anyone wants to ship. In the face of this action, the boys at Agriculture chirp away, claiming that none of this will have any effect on the cost of bread.

Articles on the subject indicate that we are going to need large quantities of Canadian wheat, and that it is going to cost us a pretty price in the bargain. Further, the Canadians have told us in so many words that if we want the grain and will pay for it, we are going to have to come and take it away. This means sending the transportation, even though there is a shortage of rail freight vehicles. Then how is the Russian wheat going to be shipped? Does anyone want to speculate on who is going to come first? The American consumer seems always to rate last with the crowd running this administration.

I am not a farmer. My district is 100 percent urban. But all my people eat, and almost all of them eat bread and other products derived from wheat and other grains. Beef Wellington a la White House is a bit out of their reach these days.

Now they may not grow grain or do business in it. But they pay for it, and have already helped to underwrite the subsidy that sweetheart grain deal gave the Russians and the six large grain companies. And they do not like the way bread prices have been rising. Nor are they going to be too happy if those bread prices go even higher, reaching anywhere near the bakers' predicted $1 per loaf. If the Agriculture Department and the President's press secretary would care to visit my district and tell these people bread prices are not going to go skywards, they are more than welcome to do so. Regrettably, they might have a difficult time being believed.

But then, that's life in the big city. Perhaps Mr. Butz might have a happier effect upon the ladies at the markets and their husbands. Who knows? If his past performance is any indication, it might be worth seeing.

What it all comes down to is that we have sold too much to too many people on favorable terms. We have a waiting list of countries for our wheat harvest this year, including Egypt and several other countries which may be considered our enemies. The American consumer is going to have to pay very close to that $1 per loaf price if I do not miss my guess, and our people should be made to know well ahead of time who engineered this disgusting fiasco. As for myself, I am making sure that my nonfarming constituency is aware of who has brought this appalling situation into being.

The President of course, could do something. Perhaps he can come up with some novel suggestion, A new pep talk. Maybe he will ask us to eat cake instead. But, then, that's made with flour, too.

A NEEDED AMENDMENT TO THE PROPOSED FEDERAL RULES OF EVIDENCE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. RANGEL. Mr. Speaker, I will be offering an amendment to the proposed Federal Rules of Evidence, H.R. 5463, which would strike from article VIII, hearsay, the provision contained in rule 801(d)(2)(E).

The stricken provision embodies an extremely mischievious concept of law, one that continues to threaten every person's right to a fair trial. One example should suffice.

Suppose Jones conspires with Smith to destroy the Capitol Building. Smith rents an office from White. White is unaware of the criminal objectives of Smith and Jones. Smith solicits Roberts to join the conspiracy and to provide detonation caps. Roberts thereafter recruits Ames, whose job it is to steal needed electrical parts.

Some weeks later Smith is arrested after he is overheard while using a Washington pay telephone and talking too loudly, talking about planting a bomb in the basement of the Capitol Building. Thereafter, Jones, Roberts, Ames, and White are also arrested, and all five men are indicted, charged with a single count of conspiracy to blow up the Capitol Building.

A pretrial motion by White seeking a severance is denied, a result which is not at all unusual in conspiracy cases.

At the trial, Ames, who has turned Government witness, over White's objections, is allowed to testify that Roberts told him that, in turn, Smith told him that White was a member of their group and that White told Smith that he, White, wanted not only to destroy the Capitol, but in the process to kill as many officials as possible.

Under the bill as it now reads, such testimony would be admissible against White even though he had not been present when Roberts allegedly told Ames of White's supposed remarks, claimed to have been reported by Roberts, who had heard about them from Smith. The same multiple third generation hearsay would, under the bill as it now reads, be admissible through the lips of Ames against White, even if Smith, the person who allegedly heard the remarks, was dead, and therefore unavailable, at the time of trial.

See, for example, *United States* v. *Borelli*, 336 F. 2d 376 (2 Cir. 1964).

This pernicious rule of law, perpetuated in the bill as it now reads, makes a mockery of any meaningful right of cross-examination and confrontation by one's accusers, while it opens the courtroom to every conceivable scrap and morsel of rumor, gossip, surmise, and innuendo. The present rule, in short, is an engine for the conviction of the innocent.

The crime of conspiracy itself is an attenuated crime. It falls far short of an attempt to commit a crime, and it goes just a scintilla beyond making mere thoughts and words criminal. The conspiracy charge has long been abused and has been the subject of much thoughtful criticism. It was once used to stifle and prevent the growth of the labor movement, and later, in the 1950's, the conspiracy charge was used as part of the "red scare" hysteria which encompassed the Smith Act prosecutions.

But to continue to permit rank hearsay to establish the commission of this attenuated crime of conspiracy would be utterly unthinkable. Particularly is this so, when so frightful a provision as the one in question is preserved in an otherwise excellent body of proposed law reform in the field of evidence.

See "The Conspiracy Dilemma: Protection of Group Crime or Protection of Individual Defendants," 62 Harv. Law Rev. 276 (1948).

The text of the amendment follows:

In rule 801(d)(2)(E), on page 91, in line 14, delete the comma following the word "relationship" and insert in lieu thereof a period and delete lines 15 and 16.

DEFENSE SPENDING

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mrs. SCHROEDER. Mr. Speaker, in 1966 when the Johnson administration's total budget edged over $100 billion—an artificially low figure because trust funds were not included—there was a great deal of public clamor over excessive Government spending. The $100 billion mark was described as "politically sensitive," the administration emphasized "drastic economies," and President Johnson instructed the Budget Bureau to be "even tougher than usual" in pruning spending plans. Even though Federal outlays had actually gone over $100 billion in 1962, still, within 12 years the budget has grown to the extent that this year the Pentagon will be asking for about $99 billion in terms of total obligational authority plus supplemental requests for defense spending alone. Even at the height of the Vietnam war in 1969, the defense budget request was at least $20 billion less than it is today. The Pentagon has a voracious appetite for the taxpayer's money.

There are those who would like to blame the big boost in defense spending on politically safe scapegoats. For example, some administration officials would say that part of the enormous rise can be attributed to the high manpower costs brought on by the switch to all-volunteer forces. But as George Will points out in his January 25 column in the Washington Post, it is demonstrably untrue that the size of U.S. personnel costs can be blamed on the decision to achieve an all-volunteer force. In the interest of setting this whipping boy's record straight, Mr. Will's column follows:

TAKING AIM AT THE ALL-VOLUNTEER ARMY

(By George F. Will)

Some government officials are spreading misinformation designed to destroy support for the all-volunteer armed force.

A recent article in an important newspaper was headlined "Nixon Seeks Big Arms Boost" and said: "Of the $6 billion to $7 billion in new money that the President would have the military actually spend next year, nearly $5 billion is needed to cover inflation and the higher cost of military pay needed to maintain an all-volunteer Army, according to administration and Pentagon officials."

By lumping personnel costs in with inflation and implying that today's personnel costs are primarily the result of the decision to achieve an all-volunteer force, these officials are being mendacious.

Such government mendacity probably led columnists Rowland Evans and Robert Novak to declare: Thanks to the crushing burden of the all-volunteer armed services, military pay makes up an ever larger percentage of the budget."

The columnists also have declared: "Inexorable salary demands of the all-volunteer U.S. armed services mean that manpower alone costs the United States an outlandish 57 per cent of the defense budget, compared with 25 per cent for the Soviets."

But it is demonstrably untrue that the size of U.S. personnel costs can be blamed on the decision to achieve an all-volunteer force.

The crucial decision regarding military pay, the decision primarily responsible for today's pay costs, was made in 1967. Then Congress declared that henceforth pay—for everyone but first-term military men and women—would be comparable to civilian pay. Each military pay grade was equated to a civil service grade, and civil service raises were tied to the cost-of-living.

This was three years before the President recommended an all-volunteer force, four years before Congress passed the only pay raise that can be "blamed," even in part, on that idea, and six years before the draft ended.

In 1971 Congress reacted against the inequity of first termers earning just 60 per cent of what their civilian counterparts were earning. Congress passed a pay raise bringing them closer to comparability.

This was done not simply just, or even primarily, in order to achieve an all-volunteer force. The primary motive and achievement was simple equity.

But even if you blame the 1971 comparability raise on the desire to achieve an all-volunteer force, you are not blaming it for much. Of the total pay increase between 1968 and 1974, the portion blameable on the all-volunteer force is just 18 per cent of the total.

It is true that personnel costs today are $22 billion more than they would be for today's force at 1964 pay rates. But the 1971 raise, the one partially blameable on the decision to achieve an all-volunteer force, accounts for just $2.1 billion of the $22 billion. And of this $2.1 billion, only $1.6 billion is for the group that is crucial for the all-volunteer force—the first-termers.

True, personnel costs are 96 per cent higher today than they would be at 1964 rates. But they would be 89 per cent higher even without the 1971 raise. They would be 89 per cent higher because of the 1967 comparability decision, and because retirement and travel costs—which are included along with pay in "personnel costs"—have risen.

Moreover, the most that would be saved by returning now to conscription is a paltry $325 million from reduced recruiting, advertising, enlistment bonuses and the like.

We could save more by resorting to coercion (conscription) and slashing the pay of those who are coerced (the first-termers). But it is absurd to think Congress would cut pay back to where it was in 1971, when first-termers were earning less than the federal minimum wage, and some military families were living on welfare.

That might please Henry Kissinger. Columnist Joseph Alsop reports that at a recent meeting with Leonid Brezhnev, Kissinger complained about "the monstrous share of the U.S. defense budget consumed by swollen personnel costs."

There's a picture: the U.S. Secretary of State sitting around with one of the worst slave labor masters of all time, grousing because a U.S. Army private is paid $5,826 a year.

By the way, Kissinger is paid $60,000 a year. Evidently that is the market price of Secretaries of State.

THE FIRST ANNUAL INTERDISCIPLINARY CONFERENCE ON BIOMEDICAL RESEARCH PROBLEMS IN A CHANGING WORLD

HON. WILLIAM B. WIDNALL

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WIDNALL. Mr. Speaker, I am pleased to bring to the attention of my colleagues a pioneering concept in modern science—the first annual national conference on "Biomedical Research Problems in a Changing World." This will be held here in Washington February 5–7 at the Sheraton-Park Hotel.

This is an interdisciplinary approach, including engineering, marketing, business administration, government, and research and development, as well as allied medical fields. The latest work on heart, vascular and kidney diseases, cancer, prosthetics, and medical instrumention will be discussed in the 3-day conference.

I commend the University of Maryland's Institute for Molecular Physics and Medi-Science, Inc. for jointly sponsoring this conference, and include at this point a copy of background information supplied me on this meeting:

BIOMEDICAL RESEARCH PROBLEMS IN A CHANGING WORLD

This Conference, in many respects, is quite different from most other conferences. Although the accompanying brochure summarizes the purpose and guidelines of the Conference and presents abstracts of the talks and resumés of the speakers, the following short review of the highlights of the Conference should bring out the uniqueness and significance of this special event.

Definitive studies involving breakthroughs in concept or technology are often slow in coming to fruition. In order to facilitate the transition of new developments into practical usage, Medi-Science, Inc. has put together a program that presents the latest findings of a group of renowned medical scientists carefully selected from diverse disciplines. These researchers are either on the brink of a major breakthrough or have already accomplished that feat.

Dr. Ruth Hegyeli, Chief of Program Development & Evaluation at NH&LI(NIH), will present the initial overview of the Conference. During subsequent discussions of problems of the heart, Dr. John C. Norman of the Texas Heart Inst. will give conclusive evidence for the feasibility of new artificial heart-assist devices. In the allied fields of hypertension and arteriosclerosis, Dr. Harriet P. Dustan of the Cleveland Clinic Fdn. and Dr. Henry W. Blackburn of the U. of Minn. will show, through the results of their multiple risk-factor studies and direct clinical work, that cardiovascular diseases can generally be treated best by means of already-recognized preventive measures. Dr. Frederick H. Kasten, at the La. State U. Medical Ctr., has been able to grow heart cells *in vitro*—thus opening the way for heart-cell transplants which may grow and revitalize the organ. The associated fundamental studies of the biorhythms of muscle cells by Dr. Andrew DeRocco, of the Inst. for Molecular Studies at the U. of Md., appears to be developing into an important medical contribution.

Dr. David L. Gardner (Battelle Mem. Inst.) and Dr. Robert E. Sparks (Washington U.) have been pioneering in independent, non-dialytic approaches to artificial kidney functions; these approaches open entirely new areas for research. Recent progress in the interdisciplinary "molecular control program" of the National Cancer Institute will be reviewed by the program's coordinator, Dr. Timothy E. O'Connor. Dr. Arnold M. Seligman of The Johns Hopkins U. will describe his and others' techniques for developing and utilizing new chemotherapeutic agents for cancer patients. Dr. Roger E. Salisbury, a Marine Corps Major, Brooke Army Hosp., will discuss his outstanding work with artificial tendons—a milestone in prosthesis. The director of the Nat. Inst. for Rehabilitation Engineering, Mr. Donald Selwyn, will describe and demonstrate an imposing number of ingenious prosthetic devices that he has developed but which are not yet commercially available. With respect to other instrumentation areas, Dr. Frank M. Hardy, V–P of Enviresearch Corp., will talk about a true "breakthrough" device employing saliva for diabetes testing. Mr. Robert D. Rosenthal, Pres., Neotec Corp., will show some non-destructive testing techniques (originally developed for agricultural product nutrition standards) which have intriguing potential for the non-intrusive *in vivo* analysis of biochemical constituents in man. Dr. Cesar A. Caceres, Head of Clinical Systems Assoc., Inc., will interpret the significance of some important adavnces in computerized electrocardiography.

The last day of the Conference will be devoted to hearing eminent medical scientists, administrators and legislators present their ideas on health-care delivery and medical ethics. Some of their points of view may be presently considered unconventional or speculative, but they may turn out to be the most realistic solutions to several of the current problems of this society. Such prestigious names as Dr. L. Edgar Lee, of Case Western Reserve U. Dr. Andre E. Hellegers, of Georgetown U.; Dr. John Gillespie, Pres. of Georgetown Consultants; Dr. Leonard E. Gottesman, of the Phila. Geriatric Ctr., and Dr. Martin Kaplan, from the World Health Org'n in Switzerland, are included in the list of speakers. An important figure in the U.S. Congress will discuss the Federal health policies and health-insurance legislation as well.

The final analysis and summary of the proceedings during the Conference will be made in terms of possible implementations by business and industry by Mr. Charles W. Williams, Pres. of Charles W. Williams, Inc. The program may be thought of as conforming to the logical sequence of concerns:

Preventive medicne first, utilizing revised ideas of why and how things may go wrong with vital organs and body systems.

New measures for treating particular diseased states, and even for replacing certain unhealthy tissues.

Recent developments in cancer diagnosis and therapy.

Significant work involving prosthetic aids.

Important testing tools for the doctoring of modern afflictions.

Health insurance and the ethical delivery of health care to the sick, the aged, and the dying.

HUNTING THE OIL WITCHES

HON. ROBERT P. HANRAHAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HANRAHAN. Mr. Speaker, I think it is imperative that during this trying energy crisis, we all take advantage of whatever input is available to us from across the country. Accordingly, my colleagues may find the following three articles from Chicago newspapers of interest:

[From the Chicago Tribune, Jan. 6, 1974]

HUNTING THE OIL WITCHES

Almost every day brings new discrepancies in the petroleum picture and new evidence of public resentment against the oil industry, which is beginning to find itself—along with President Nixon—on the wrong side of the Credibility Gap.

How serious, really, is the oil shortage? How necessary are the sacrifices which we are being asked to make? What about reports that the supply of heating oil is actually better than it was last year, and that tankers are hovering off the east coast unable to unload because dock storage tanks are full? Is Arab oil leaking to us thru the embargo, or isn't it? What about the capped oil wells? What about the rising profits of the oil companies? These are some of the questions that are puzzling and disturbing many Americans.

This skepticism makes fertile soil for almost any charge against the oil industry. For Democratic Rep. Les Aspin's charge, for example, that the oil industry has bought the Nixon administration with $5 million in campaign funds, and Sen. Adlai Stevenson's glib statement that the energy crisis is the fault of President Nixon and the oil industry. It's easy to heap new charges on those who have already incurred the skepticism of the public, especially when the alternative, for many of the critics, is to blame themselves.

But given the receptiveness of the public to such charges as these, they could easily lead to actions far more damaging to the country than the errors and inadequacies that have prompted them. Whatever its mistakes—and we certainly don't consider it wholly innocent—the American oil industry is the only one we have. It would be disastrous to stifle it with punitive taxes or overregulation, or try to take it apart and reconstruct it as a government agency—yet these are precisely the sort of "remedies" that we now find being suggested.

If ill-informed public opinion enables political opportunists to put over schemes like these, our energy problems are going to make today's seem trivial.

What can be done? Certainly it is up to the oil industry to take the lead by being candid with the people and, perhaps more important, by persuading them that it is being candid. Traditionally, the industry has always played its card close to its vest. As long as there was a plentiful supply of fuel at acceptable prices, nobody including the government, worried too much about the adequacy and reliability of statistics on the industry as a whole.

For several years, there have been warnings—from Mr. Nixon, from several leading Democrats such as Sen. Jackson, and from the oil industry itself of an impending shortage.

Vermont Royster of the Wall Street Journal observed quite accurately the other day that if anybody had had the nerve a year or so ago to propose the steps we are now having to take, he would have been clobbered by an irate and unbelieving populace.

Editorial writers and economists are not going to be able to awaken the people to the present threat without the help of the oil industry. Despite its mistakes, it has a good case to make for itself. But like Mr. Nixon, it is going to have to give up some of its traditional privacy and give the people a more candid picture of its workings, warts and all. Mr. Nixon's "operation candor," fleeting as it seems to have been, showed that it can work. If the oil industry can regain enough public confidence to stop the witch-hunters—even if it means some confessions and concessions—it will serve its own interests and will help to spare the country from later and greater crises.

[From the Chicago Daily News]

HOLES IN THE ENERGY PLAN

The more one looks at the rash of pronouncements coming out of the Federal Energy Office, the more it becomes plain that a fair division of fuel by government edict is likely to fall short of normal definitions of fairness.

To some degree, the FEO is flying blind. Figures on the supply of oil seem to change daily, and since the only figures come from the oil companies themselves, there is some suspicion about their accuracy. Congress has not yet given the FEO either the authority or the guidance it needs to do its job, but it is plunging ahead anyway on the assumption that Congress will catch up.

Planning ahead is particularly hard for industry when fuel allocations may change without warning. A price example is the airline industry, whose fuel allocation was increased after the carriers had already planned schedules and layoffs for the smaller amount of fuel.

FEO Chief William E. Simon leaves no doubt that his prime concern is to keep industry and businesses going and avoid layoffs. To that end also, public transportation will get all the fuel it needs. Farther down the list comes home heating (with lowered thermostats) and at the end of the line is the individual motorist.

There can be no real quarrel with this general priority list. It will do the motorist no good to have a full tank and no job. But the management of an intricate supply system handled up to now by free-market forces will inevitably leave loopholes, not all of which can be foreseen. And they will likely show up most strongly at the end of the line where the motorist stands.

The stand-by gasoline rationing plan provides no distinction, for example, between the motorist who drives only for pleasure and the one who needs his car in his daily work or lives miles away from the nearest bus or train. A salesman totally dependent on his car for his livelihood could be rationed right out of his job, or forced to bid for extra coupons at exorbitant cost.

Perhaps there hasn't yet been time to think through all the details of the rationing plan. Clarification will come later, if or when the plan is put into effect. But the massive confusion evident so far, and the inequities already visible on the horizon, should strengthen the resolve to do all that is possible by way of voluntary conservation of gasoline, in the hope that rationing may be avoided.

ARABIAN FANTASY CONJURES A CRISIS

(By Christopher T. Rand)

The present calamity of the oil or energy crisis has become widely accepted as an article of the popular faith. Everybody talks about the crisis as if it were the implacable nemesis from which no man can escape, and if everybody says so [not only the major oil companies, but also the environmentalists. the U.S. government, and the citizen unable to heat his house], then it must be true.

What other misfortune could possibly explain the higher prices for gasoline and the sudden shortage of winter fuel?

Does not the United States possess vast natural resources and an incomparable genius for capital formation and technological invention? If so, how else could it have been ensnared in the present crisis unless thru the machinations of sly and resentful Arabs?

For the past few years, the major oil companies have spent considerable sums of money advertising a vision of the apocalypse. The October war between some Arabs and all Israelis seemed to testify to the truth of this vision.

The embargoes placed on Arab oil shipments to the United States and the Netherlands, together with unilateral price raises and threats of reduced production, provoked a further outpouring of oil industry bulletins announcing the approach of an energy crisis akin to the millennial scourge of Huns from the Asiatic steppes.

The bulletins have been confirmed by the proper authorities in Washington, and they have been amplified in the hollow echo chamber of the national press.

The official broadcasts resolve into variations of what might be called the Arabian fantasy. The editorial writers—unchallenged but not encouraged by company spokesmen—explain that the Arab states [principally Saudi Arabia, Kuwait, Libya, Iraq, and Iran], control the bulk of the world's proven oil reserves, and that they have become rich beyond all reason or understanding.

The demagogs among them entertain radical and dangerous political ideas about the sanctity of Western economic interests, and they refuse to recover their oil in ways convenient to the major international oil companies. In their more ominous moments they threaten to shut down the flow of oil unless the Western nations accede to their demands against Israel.

The Western nations must prepare for the worst, and the worst undoubtedly will be expensive.

Thus, the need for rationing and higher costs to the consumer.

Altho sufficient to its melodramatic purpose, the prevailing rhetoric fails to answer a number of awkward questions, especially now that the October war has come and gone.

Few people point out that in the past year the major oil companies have reported enormous profits, or that they have enjoyed a policy of generous forbearance on the part of the Nixon administration, or that they appear to get along quite successfully with even the most radical of Arab governments.

Worse, virtually nobody explains that the energy crisis is a crisis taking place in time future rather than time present.

Even October's war was not the vengeful uprising against the West that the American information media represented it to be. When the war broke out, the Arabs stopped virtually all criticism of American action or policy.

Arab officials did not claim that American troops or pilots participated in the war; Beirut newspapers, even while publishing photographs of bombed-out buildings in Damascus, quoted the Lebanese premier to the effect that America had informed him that it would make the necessary efforts to ensure Lebanese security against Israel.

King Faisal of Saudi Arabia had already upped Aramco's production by a million barrels a day during the hot months of July and August, thus allowing him to reduce production when the war began and still retain normal supply levels for the year.

The war has created a few problems with the logistics of oil supply, but these have aggravated the American public more than they have inconvenienced American oil companies.

For the time being, the world's supply of oil far exceeds the world's demand, and so the crisis must be discerned in a network of theoretical lines converging at imaginary points in time future. The oil companies therefore project a rate of increasing demand for oil, and then they project a rate of declining supply.

When these two lines intersect, presumably in the early 1980s, the actual crisis [as opposed to the abstract or hypothetical crisis] will be unloosed upon an innocent and law-abiding world.

This is what the oil companies tell the public, not what they themselves know to be the case. In the Middle East they play the part of middlemen rather than principals, and in their various dealings, both with the Arabs and with each other, they display the devious cunning that characterizes the dealings of middlemen in any trade.

The instability of Arab politics once frightened them [so much money invested in such unsafe places, etc.] but after the Arab-Israeli war of 1967 and the closing of the Suez Canal they began to understand this instability as a chronic condition much less harmful than it seemed.

They found that they could bear the cost of shipping oil around Africa instead of thru the Suez Canal; and the construction of supertankers, as well as the hurried discovery of new reserves in the North Sea and Prudhoe Bay, Alaska, obliged them to become more independent of the Arabs.

As a result of their efforts, the inventory of the world's available fuel has been increasing rather than diminishing, even when measured against the annual rise in the rate of the world's consumption. The inventory has become so extensive that it has become a luxury, or at best a waste of time, for most people to worry about it.

The oil companies obviously worry about it, but their worries have to do not so much with the supply of oil as with the cost at which they can trade it. It is the disparity between these two concerns that gives rise to the convenient misperception of the oil crisis.

Anybody who hopes to make sense of the present confusion must bear in mind three primary facts:

There is a tremendous volume of oil in the world. [The oil companies publish deceptively conservative figures on this subject; as an example, British Petroleum in 1971 estimated the proven world reserves at about 641 billion barrels; figuring on an annual consumption rate of 18 billion barrels, this leaves enough for at least 30 years.]

There is a tremendous difference between the cost of producing oil and the price at which it sells.

The inhibitions against vengeful political acts on the part of the suppliers depend not so much on fear of military reprisals as they do on the implications of facts 1 and 2.

The fact of volume is the easiest to establish. The largest reservoirs of oil in the world are those in Saudi Arabia [at least 160 billion barrels] and those in Iran [at least 100 billion barrels].

Between them these two nations possess the bulk of the oil in the Middle East, and dominate the entire subject of Middle Eastern oil. They lie opposite one another across about half the length of the Persian Gulf, but they have little in common except a mutual distrust.

The oil reserves in both countries have been developed and exploited by two combinations of Western oil companies, the combination in Iran being known as "the Consortium," and the one in Saudi Arabia as "Aramco."

The seven major oil companies [British Petroleum, Royal Dutch Shell, Texaco, Mobil, Exxon, Standard Oil of California, and Gulf] take part in both combinations, and it's because of these partnerships that they dominate the international oil trade.

Altho both Saudi Arabia and Iran contribute a huge volume of oil to the market, the oil companies choose to give much more publicity to the reserves in Saudi Arabia. They imply that if only they could be assured of access to the Saudi Arabian fields, then they would feel far more secure about the reserves elsewhere in the world.

As a measure of the quantity of Saudi Arabian oil, consider, for example, the Ghawar field; roughly 155 miles long and in some places 22 miles wide, this field still contains as much oil as has ever been consumed in the United States.

The Iranian fields contain comparable amounts of oil, but the oil companies prefer to underestimate their volume. The various spokesmen usually explain that Iranian production has been declining, that it has passed its maturity, that it never will exceed 8 million barrels a day.

This may be true of the smaller fields that have been onstream since the 1930s, but there are other fields yet to achieve full production and a number of enormous fields, discovered in the past decade or so, that have yet to be tapped.

The waters of the Persian Gulf conceal at least one immense accumulation of oil, in what is known as the Fereydoon-Marjan field. The Iranians and the Saudis share the field, but potential production in only the Iranian half of it, at Fereydoon, has been estimated at 1 million barrels a day. A number of people in the oil business assess the reserves of the entire field at about 30 billion barrels.

The oil companies do not like talk about increasing production in Iran because it is more expensive than increasing production in Saudi Arabia.

Before the Tehran and Tripoli price agreements in late 1970 and early 1971, the companies figured the per barrel profit on Saudi Arabian oil at between 50 and 53 cents a barrel; in Iran the comparable figure was between 43 and 45 cents a barrel for crude oil of the same specific gravity.

The oil pumped out of the ground in Saudi Arabia is the cheapest in the world for its volume. It costs 4.6 cents a barrel, or one-tenth of a cent a gallon, to load into a tanker. Altho Iranian wells individually produce twice as much oil a day, it costs roughly 12 cents a barrel to load into a tanker.

The Iranian wells are more distant from water than those in Saudi Arabia; the pipelines cross mountain ranges rather than flat sand, and the "drive" provided by the water latent under the oil reservoirs is generally not as great in Iran as it is in Saudi Arabia.

Which probably explains why the oil companies prefer to turn the conversation to the wonders of Saudi Arabia. They say that only in Saudi Arabia can production be raised to 20 million barrels a day, and then they go on to develop the terrible fantasy about King Faisal suddenly deciding to quit the business if he doesn't find his customers congenial.

But Faisal continues to raise production whenever he can do so, and the fantasy omits a simple calculation in arithmetic. If, for instance, the oil companies hold their offtake in Iran to 8 million barrels a day and at the same time increase their offtake in Saudi Arabia to 20 million barrels a day, they will save about 8 cents a barrel on every barrel produced in Saudi Arabia instead of in Iran.

Divided by two fortax purposes and multipled by 12 million barrels a day by 365 days in the year, the oil companies achieve an annual saving of $165 million. This is precisely what they are in business to do.

It is this kind of calculation that illuminates the difference between the oil-company definition of a crisis and the connotations ordinarily attributed to the same word by people who buy gas or heating fuel.

The companies define crisis not in terms of available resources but, rather, in terms of when those resources can be delivered, in what quantities, and at what cost.

The illusion of crisis helps them to exact further concessions from alarmed politicians in Washington. If the crisis can be presented as a national emergency, then how can the patriotic senator refuse to grant hurried permits for drilling off the Atlantic coast, for alleviating pollution controls, for whatever might hasten the delivery of energy to a suffering electorate?

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 68

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HARRINGTON. Mr. Speaker, most of my colleagues may remember with some nostalgia the high school dances that were a part of every student's social life.

But for George Evans, the annual fall dance of his senior year was a tragic one. After leaving the event, Mr. Evans was shot in the head with a handgun by another young person with whom he quarreled. He died 4 hours later.

Included below is the New York Times article describing George Evans' death, which might well have been avoided if handguns were not so easily available to young people in the United States.

The article follows:

STUDENT, 17, IS SHOT TO DEATH HERE BY UNKNOWN YOUTH AFTER DANCE

(By Wolfgang Saxon)

A high school senior on his way home from a school dance was fatally shot on an East Side street early yesterday morning, reportedly after another youth accosted him and pulled a gun in a quarrel.

The victim was identified as George Evans, 17 years old, of 114–22 146th Street, Jamaica, Queens. Detectives said other students told him that he had moved there recently from East 97th Street, but had continued to attend Julia Richmond High School in Manhattan in order to graduate at the end of the school year with his class.

Young Evans had gone to the annual fall dance Friday night at the school, which is at 317 East 67th Street, between First and Second Avenues. The dance ended at 1:30 A.M. yesterday and the shooting took place about half an hour later on 68th Street, between Second and Third Avenues, the police reported.

Detective Sgt. James F. Stewart said that students at the dance who observed the incident had told detectives that young Evans was walking by himself, presumably to the subway, when he was accosted and got into an argument with the other youth.

Sergeant Stewart said that other students in the street told of witnessing the altercation without coming close enough to hear what the quarrel was about. Nor, he added, did they recognize the other youth as one who had attended the dance.

The witnesses said the second youth drew a pistol, shot young Evans in the head and fled. They then called the police who took the victim to Lenox Hill Hospital, where he died four hours later.

The suspect was described as black, as was his victim, and was about 18 years old and 6 feet, 1 inch tall, weighing about 165 to 170 pounds. He was wearing a black hat, black shirt, a three-quarter length burgundy jacket and white sneakers.

School officials said there had been no trouble at Julia Richman High School to account for the incident. The police were still looking for more students who attended the dance and may have seen the shooting.

THE ENERGY CRISIS—WHY CAREFUL PLANNING IS URGENTLY NEEDED

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. DULSKI. Mr. Speaker, as we become more deeply involved in the energy crisis and our immediate need for remedial legislation, we must not lose sight of the long-range planning that is necessary.

I have just received a report from Dr. Robert Paaswell, associate professor of the Department of Civil Engineering at the State University of New York at Buffalo, pointing out very clearly some of the problems inherent in energy planning for the future.

As part of my remarks, I am inserting the text of this paper, and commend its contents to my colleagues:

THE ENERGY CRISIS—WHY CAREFUL PLANNING IS URGENTLY NEEDED

The immediate impact of the energy crisis, as we know, are the shortages of petroleum based products that we need to sustain the growth of our Gross National Product. In any industrialized country energy is symbolic of production and production is an indicator of economic health. The crisis is due to a shortage of petroleum, and there are some hidden aspects to this shortage that we should be aware of:

1. The U.S. cannot produce adequate petroleum to meet current demand for its product mix. The principal uses are for (1) transportation (48%), (2) household and commercial (19%), (3) industrial (16%), (4) electrical generation (7%). Note that these uses are for the energy base of petroleum. The remaining 8% goes into the production of necessary petro-chemical feedstocks and other vital goods.

2. The U.S. will not be able to produce all the petroleum it needs based upon the above mix in the next five to ten years, even with the Alaska pipeline and offshore drilling. The deficits must be made up from imports.

3. In striving towards energy self-sufficiency, other sources of energy supply *currently* available are: (1) natural gas, a small percentage of which can be used for petrochemicals; coal, nuclear power, hydropower (for electrical generation), and geothermal (for electrical generation and some small amount of heating). The latter two, by their very nature are tied to specific geographical locations. However, in terms of total energy supply, (i.e. British Thermal Units, BTU, a standard measurement of energy), petroleum again supplies the greatest demand (46%), with natural gas (32%), coal (17%), and hydro nuclear and the rest 5%. The importance of petroleum in our energy "budget" is clearly shown.

4. To meet energy self-sufficiency, we must examine (a) the ability to *substitute* one resource for another, and (b) the ability to *upgrade* little used resources or *bring on line* new resources.

In the following table (Table 1), we can see how current sources of supply are used (petroleum was noted above).

Table 1—Energy supplies

	Percent
Coal:	
Electric generation	61
Industrial	36
Household, commercial	3
Natural gas:	
Industrial	46
Household, commercial	32
Electrical generation	18
Transportation	3
Nuclear:	
Electrical generation	100
Hydro:	
Electrical generation	100

There are other international factors we should be aware of simultaneously:

(a) The other industrialized countries, i.e., European Common Market, Japan, Israel, Australia, etc. are increasing their demand for energy, and have, themselves, no native oil supplies.

(b) The developing nations must increase their energy consumption to reduce the gap between the standard of living of their countries and the rest of the world.

(c) The communist world possesses a large supply of petroleum, but still lacks adequate technology for efficient production, refining, and distribution.

Thus, as long as we sustain our high demand for petroleum outside of this country, we will be in ever increasing competition with the rest of the world. The economic repercussions of this competition have been seen already. Political repercussions are yet to be seen.

For the above reasons it is essential to have careful planning of the production and use of our existing resources. Planning must insure:

1. Adequate total supply
2. Adequate match of product to need
3. Develop capability of resource substitution
4. Develop research and development policies, based upon programs of resource use tied to economic development. That is, long-range national needs must be put ahead of short-range corporate needs, or the latter must be made to coincide with the former.
5. Research and development policies must lead into new production policies, *carefully managed*, to bring new technological developments (i.e., nuclear, shale etc.) into line on the total supply side picture.

By examining the following factors influencing supply, a schedule or plan towards realizing self sufficiency can be deveolped.

Full production lags discovery of applicability of a resource by about 10–12 years. This has been true in recent years or petroleum, natural gas, and nuclear fuels. As production of the resource builds up faster than use, reserves of that resource increase. The history of petroleum supply-demand in this country was such that reserves grew at a faster rate than domestic demand. This created the long-term potential through exports of raw materials and import barriers for long-run imbalances in ability to supply domestic demand. A study of the production-supply relations shows that in a depletable resource, reserves *must* decay after reaching a peak if the resource is produced at increasing rates of demand. Hence a study of problems of the production-reserve relation would enable predictions of—

1. Depletion rates of reserves.
2. Critical time factors for depletion, and
3. Time periods during which substitutes should be brought on line.

In the U.S. the time scale for the mid 80% of production of crude oil from known resources goes from 1935–2000. For natural gas a similar time scale goes from 1950–2015. Coal, our most abundant fossil fuel can have peak use until 2440. Uranium, if used only in conversion reactors will be depleted in the early 21st century.

To predict any energy supplies ability to meet demands that occur in a growing economy (a future demand based on current use is shown in Table 2), the resource supply mix must be optimized. This optimization includes the following steps:

1. Existing, utilizable resources have known production-time distributions, and reserve utilization distribution. Associated with each is a production cost *per usable unit of energy* that can be fairly well predicted at both current and future rates.

2. New technologies have a start-up time before they can be brought on line. Each has an estimated ultimate probability of production of a fixed equivalent to BTU's per year. These can replace existing depleted resources only at a certain rate. This is predicated on the basis that one source is *interchangeable* with the other. Each of the new sources requires a certain capital research and development investment which must be amortized over production costs.

3. The problem of substitution of one for the other is limited by

Supply life of the resource
Production Costs
Demand restrictions
Research and Development costs

The question of capital investment is: "What should the investment be, and where should it go to insure continuity of energy supply?"

TABLE 2.—*Supply-demand ties*

Current uses:	*Current fuels*
Household/commercial (HH/C)	Coal
Industrial (I)	nat gas
Transportation (T)	petroleum
Electrical gen. (elec)	hydro
	nuclear
	exotic

PROJECTED CONSUMPTION BY SOURCE

[These numbers are ratios of use based upon current HH/C use]

	Now	1980	2000
HH/C	1	1.22	1.53
I	1.42	1.73	2.75
T	1.18	1.60	2.98
Elec	1.22	2.10	5.62
Total consumption	1	1.39	2.78

Note: Current total=68,900 trillion Btu.

Thus it is necessary to study the potentials of available resources and look at factors that may help or hinder production. Such resources include: coal, shale oil, nuclear fuel, solar energy, hydrogen fuel, geothermal, etc. Factors influencing continued use of petroleum, and future use of shale oil nuclear fields (among the most promising), and coal are discussed below.

PETROLEUM

Large capital investment is needed to extend the lifetime of the production side of petroleum. An estimated $150 billion in the next decade must be put into:

1. Refinery expansion: 8 million barrels/day additional are needed with the major problems of growth related to environmental restrictions. Current refinery capacity is approximately 14,000,000 barrels/day.

2. Pipeline expansion: pipelines needed from Gulf to East Coasts and from Gulf to midwest. There are now approximately 225,000 miles of pipelines run by 99 companies.

3. Shipping and port facilities: 1980 tanker capability must include 325 supertankers capable of carrying 1.5 million barrels/day. There must be 25 new berths for docking on the continent or off-loading in Bahamas, Nova Scotia. The latter leads to double handling at increased cost and increased risk of environmental damage.

4. Because there is little substitute for petro-chemical feedstocks, and other product-related uses, the future mix use of petroleum must insure adequate supply for products, and, hence must shift petroleum used for energy to other sources of supply. This factor is *extremely critical* to insure adequate economic growth.

NUCLEAR

Problems related to use of nuclear energy supply are problems related to (1) the availability of fuel and whether it is used in fission convertor, fission breeder or fusion processes; (2) technology of energy transfer (heat to mechanical to electrical).

Fuel Supply—U-235 is fissionable material as found but represents only .71% of natural mined material. U-238 is fertile material which becomes plutonium 239 when put in a reactor. This indicates that a costly problem exists in the creation of nuclear fuel. There are finite reserves of uranium minerials which if not sustained by reaction will be depleted in the early 2000's.

In the fission process the fuel is used on converted or breeder reactors. In converter reactors, even at peak efficiency, more fuel is consumed than created (conservation ratio of 0.6 is now common) leading to the eventual depletion of resources. In addition the steam and hot water developed in this type nuclear plant are fed into turbines at temperatures too low for peak efficiency in conversion.

The hopes for nuclear fuel lie in breeder reactors. There is an estimated additional 10 years research and development and 10 years operational trial period for these reactors whose conversion ratio is greater than 1 (doubling time, however, the time to replace fuel used is 15–20 years). These plants can operate at much higher temperatures than conversion reactors, thus supply steam to turbines at greater energy efficiencies.

The ultimate hope of nuclear fuels is in the fusion process. However, extensive research and development must be done to develop *controlled* fusion reactions in which energy can be transferred from the enormous heats of fusion to electrical power. It is unlikely to be on line before the 21st century. The attractiveness of fusion is in the use of hydrogen isotopes readily available in the oceans. The total deuterons in the ocean can supply 3×10^{20} kw-yrs or at the current rate of consumption last $.6 \times 10^{11}$ years.

It can be seen then that an efficient nuclear production schedule must phase:

Fission (converter) → Fission (breeder) → Fusion.

While the U.S. supply of uranium is large, it represents only 29% of the available low cost world resources. We will need through 1986 47% of the world's demand. As in petroleum, we will require an ever increasing amount of nuclear fuel, from a dwindling, competitive stockpile. Based on capability, the lowest cost reserves could be depleted by 1990.

The nature of nuclear fuel makes its environmental considerations somewhat different from the nuclear fuels. Radiation problems exist during production, upgrading and use. Waste disposal is a major problem. While radioactive waste is now relatively small, future disposal can create major environmental problems against development of nuclear fuels.

OIL SHALES

Processes for extracting oil from oil shales are already underway. Large deposits exist in Colorado, Utah, and Wyoming (80 billion recoverable bbl, + 110 billion highly likely bbl, + 880 billion speculative bbl). With a projected inventory of .04 billion bbl/yr in 1980 growing to 1.10 billion bbl/yr in 2000, the supplies should last through the first third of the 21st century.

Production costs had previously been prohibitive, but with high prices for crude oil, production costs of $3 per barrel are now considered competitive. Recently, one oil company has indicated that it can produce shale oil for well under $3 per barrel.

Most of the shale oil can yield 10–25 gallons of oil per ton of shale. It is produced by fracturing the shale and then retorting.

The major production problems are the mining and handling of the rock. If in situ retorts can be developed, the costs of production, and impacts on the environment will be minimized. Shale oil produces the usual petroleum products plus by-products of ammonia, sulfur and aromatics. The drawback to shale oil production is the amount of water used. Production of one million bbl/day requires 60,000–95,000 acre-ft. of water per year, and large-scale production would mean creating vast new reservoirs and dams in the west.

COAL

As noted, bituminous coal is the most plentiful of our fossil fuels. Coal's greatest use now is in the power and steel industries. Problems with more widespread use of the coal relate to mining techniques and mine safety, environmental problems at the mine and at the place of use, and transportation. Transportation costs add about 60% or more to the current mine price, and have currently affected its role in the competitive market, especially with regard to oil and natural gas. To have better use of coal, the following problems must be addressed in the *short* run:[1]

(1) Health and Safety standards;

(2) Sulfur emissions in air pollution standards;

(3) Strip mining practice;

(4) Acid mine water drainage;

(5) Solid waste disposal.

Coal can supply the demand mix noted above almost without exception, except to power internal combustion engines. (It can supply electric power to run railways, tramways and the old-fashioned trolley car.)

An important future use is in development of synthetic gas and liquid fuels. By the year 2000 it is estimated these products can supplant 23% of the demand for natural gas and 20% of the demand for petroleum.

Because of mining, transportation and environmental restrictions careful planning is needed to phase production to meet the potential demand mix.

The complexities of our energy supply-demand mix make it essential to utilize all available information to achieve optimum planning for self-sufficiency.

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[1] Bituminous Coal and Lignite, U.S. Bur. of Mines Bull. 360, 1970.

AMENDMENT TO H.R. 10275

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. STEIGER of Arizona. Mr. Speaker, I understand that the House is scheduled to take up later this week H.R. 5463, Federal rules of evidence. At that time, I propose to offer as an amendment the provisions contained in H.R. 10275 which would amend title 18 of the United States Code to provide an alternative to the exclusionary rule in Federal criminal proceedings.

The text of this proposal follows:

H.R. 10275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 223 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 3505. Elimination of and alternative to exclusionary rule

"(a) Evidence, otherwise admissible in a Federal criminal proceeding shall not be excluded on the grounds such evidence was obtained in violation of the fourth article of amendment to the Constitution of the United States, if there is an adequate legal remedy for any person aggrieved by reason of such violation.

"(b) For the purposes of subsection (a), the legal remedy provided under subsection (c) shall be considered an adequate legal remedy.

"(c)(1) The United States shall be liable for any damages caused by a violation of the fourth article of amendment to the Constitution of the United States, (A) if such violation was by any officer or employee of the United States while in the course of the official duty of such officer or employee to investigate any alleged offense against the United States, or to apprehend or hold in custody any alleged offender against the United States, or (B) if such violation was by any person acting under or at the request of such officer or employee in the course of such duty.

"(2) The liability under subsection (c)(1) shall be to any person aggrieved by such violation of the fourth article of amendment to the Constitution of the United States and such person may recover such actual damages as the jury shall determine, if there is a jury, or as the court may determine, if there is not a jury, and such punitive damages as may be awarded under subsection (c)(3).

"(3) Punitive damages may be awarded by the jury, or if there is no jury, by the court, upon consideration of all of the circumstances of the case, including—

"(A) the extent of deviation from permissible conduct;

"(B) the extent to which the violation was willful;

"(C) the extent to which privacy was invaded;

"(D) the extent of personal injury, both physical and mental;

"(E) the extent of property damage; and

"(F) the extent to which the award of such damages will tend to prevent violations of the fourth article of amendment of the United States.

"(4) The remedy against the United States provided under this section shall be the exclusive civil remedy against any person for such violation of the fourth article of amendment to the Constitution of the United States.".

SEC. 2. The table of sections for chapter 223 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3505. Elimination of and alternative to exclusionary rule.".

BUSINESS AND PROFESSIONAL WOMEN

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. DON H. CLAUSEN. Mr. Speaker, during the past few years I have had several opportunities to meet and converse with members of the Business and Professional Women's—BPW—groups in my congressional district on the north coast of California.

As a result of their keen interest and growing involvement in local, State, and National legislative matters, I recently asked Mrs. Hazel Brubaker, of Healdsburg, Calif., president-elect of the Healdsburg BPW and legislative chairman for the Redwood Empire BPW, to furnish me information regarding BPW's activities in the legislative field.

With the thought in mind that other Members of Congress may be interested in knowing what the Business and Professional Women's groups are doing, I am taking the liberty of inserting in the RECORD at this point, Mrs. Brubaker's report to me:

BUSINESS AND PROFESSIONAL WOMEN

REDWOOD EMPIRE CHAPTER

A legislative committee was one of the first committees established when Business and Professional Women founded their National Federation in 1919. A continuing interest in legislatiive matters has been a most important part of the BPW program.

The Redwood Empire District has been very active in all facets of legislation. Many of our members have given of their time and talents to work with, and for, legislators for the betterment of all people.

Redwood Empire Business and Professional Women have developed and are continuing to develop a knowledge of, and support for, State laws and legislative matters through close coordination with the State Federation. Many of our members converge on the State Capitol when voting time nears to support or oppose legislative measures.

The following are ways and means by which the Redwood Empire BPWC assures results through positive action:

1. We work with and through joint legislative councils. Where none exist, we consider organizing them.

2. In addition, we urge every member of BPW to become involved and active in the political party of her choice.

3. We encourage qualified business and professional women to undertake elective or appointive policy making posts and responsibilities.

4. We open up and maintain active channels of communication with elected representatives at the local, State and National levels by way of personal contact and visits, telephone calls, telegrams, and letters.

5. In addition to being full-time working women, we hold three week-end conferences each year, attend one State convention, have a Government-In-Action program in March in Sacramento, and three section meetings.

We have always had good representation at our Annual National Convention and, this year, the Redwood Empire BPWC will be represented at the "Legislative Ladder Conference" to be held in Washington, D.C.

Mr. Speaker, the Redwood Empire BPWC can be and is justly proud of their 40-year history of service to the public and I am proud of them.

SECRECY IN GOVERNMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HAMILTON. Mr. Speaker, secrecy in the operation of Government is one of the principal reasons people have lost confidence in Government. People simply do not like a government that practices secrecy, and a government that prefers to do its business in secret will not have the confidence of the people.

Any reasonable person recognizes the necessity of secrecy in Government in certain situations, like sensitive diplomatic negotiations or development of some military weapons. But secrecy has become an accepted way of doing business in Washington in far too many instances.

In foreign affairs we have had secret agreements at Yalta, secret U-2 flights, a secret invasion of Cuba, secret moves in the Gulf of Tonkin and Vietnam, and secret bombing of Cambodia. In domestic affairs all kinds of important information have been denied to the American people: the safety of nursing homes, meat inspection reports, civil rights complaints, an IRS agent's manual, safety data on birth control pills, reports on aircraft and automotive equipment failures, the amount of fat in hot dogs, and the mass drowning of dolphins in tuna nets, to name a few. The Congress has had a long history of doing the public's business in secret, and though the Congress is beginning to open up the legislative process, many of its most important decisions, like action by conference committtees, are still made behind closed doors.

Former Attorney General Nicholas Katzenbach has noted that secrecy has increasingly become a way "to avoid the difficulties inherent in our political systems and hopefully to present the public with triumphant faits accomplis."

The distinctive marks of a democracy are its commitment to an open society and the assumption that policy can be improved by steady public examination and debate. Secrecy diminishes democracy, and it is time to move the affairs of the Nation into the open.

Legislation should be enacted to require all meetings of Federal Government agencies at which official action is taken, considered, or discussed to be open to the public, with few exceptions, and to require all meetings of congressional committees, including conference committees, to be open to the public. Many other steps are needed, but the common theme of all of them is greater openness to discussion and criticism and more candor in the conduct of the public business.

In the executive branch of the Government a comprehensive classification system for public documents keeps information from the people—one estimate is that the Defense Department alone has the equivalent of 18 stacks of classified documents 555 feet tall—each as high as the Washington Monument. This perverse system lessens the flow of information and inhibits the people's understanding of current events. It allows our policymakers to operate with blinders on. Basic alterations should be made in the system to require that secret papers should be made public more quickly, with only rare exceptions, and that classification itself be used with utmost restraint.

Our essential commitment to freedom of inquiry and publication, and the value of a free press as a disseminator of information on the public, need to be reaffirmed. With the growth of Government, the increasing complexity of public policy and the wider scope of American concerns, neither Government nor any Government official has a monopoly on information or wisdom. The news media must be allowed to inquire and to publish so that the people may know what they need to know to make the choices a democracy demands. Except in rare instances, Government should not be afforded the right to decide what and when the people are to know. Obviously, this approach places an enormous responsibility for objectivity on the news media, but the first amendment presupposes that right policy is more likely to emerge from a variety of sources, than from a single, authoritarian source.

The surest safeguard of the people's confidence in Government policy is to let them know what is happening. Although complete disclosure cannot be employed in every instance, disclosure should be the rule, not the exception, and a heavy burden of proof should rest on those who insist that secrecy in a given case will serve the national interest.

MEMORIES OF A FIERY MODERATE

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. ROBISON of New York. Mr. Speaker, the January 1974 issue of the Ripon Forum contains an article written by our former colleague from Iowa, Fred Schwengel.

As most of us know, Fred Schwengel is an expert on the life and record of Abraham Lincoln, so it is not surprising to find that he authored a perceptive piece reminding us of the quality of moderation that Lincoln exemplified. Fred Schwengel's comments on the philosophy which guided Mr. Lincoln are particularly appropriate in the context of the issues we face today. It is for that reason that I commend his work to the House. It is useful and instructive.

The article follows:

MEMORIES OF A FIERY MODERATE

(By Fred Schwengel)

It is doubtful that Abraham Lincoln ever read Pascal's quote, "To go beyond the bounds of moderation is to abandon humanity," but he did read the passage in the Bible which states (I Cor. 9:25) "Every man that strives for mastery is temperate in all things." In May 29, 1856 at Bloomington, Illinois he said, "In grave emergencies moderation is generally safer than radicalism."

There were emergencies evident in 1856 that never ceased in number or intensity during his life. Lincoln saw and understood more clearly than most that the moral question of slavery must be resolved without sacrificing the Union.

From his knowledge of history and literature—as well as his experience in law and politics—he learned early that "there are right and wrong ways, places, and times to do and say what is right." He concluded that forcing slavery's abolition on the South would ensure the secession of some states. It would grievously strain the nation and, more important, it would not solve the moral question of slavery. Taking his cue from St. Paul ("Let your moderation be known to all men" [Phil. 4:5]), Lincoln used his most effective weapon—the written and spoken word.

In his public speeches, especially his debates with Stephen Douglas, Lincoln spoke from a knowledge of history and law. In these addresses he expressed the fundamental principles that became the bedrock of his support in his quest for the presidency.

"The essential inequity of the Kansas-Nebraska Act was its betrayal of the spirit of free institutions. . . I object to it because it assumes that there can be moral right in the enslaving of one man by another . . . nearly 80 years ago we began by declaring that all men are created equal: but now from that beginning we have run down to that other declaration that for some men to enslave others is a sacred right of self-government."

Throughout his life Lincoln retained his moderation and echoed an eternal truth, "Let us have faith that right makes might." What he said came from deep moral convictions, but he believed that in both the abolitionist and secessionist camps there were extremists who were not pragmatic and who would lead the country to division and ruin. This moderate, pragmatic approach led to his nomination and election as President.

In the Civil War period Lincoln and the government had many enemies, who were critical not because they did not believe their leaders but because they disagreed with them. They disagreed on ways of saving the Union, freeing the slaves, and conducting the war. In that entire period, however, the people never accused Lincoln of dishonesty or unfairness.

Long before the war Lincoln had established his honesty, made clear his convictions, set priorities and goals that could be attained and, in the spirit of moderation, he never pressed his advantages too far. He said, "I shall do less whenever I shall believe what I am doing hurts the cause, and shall do more whenever I shall believe doing more will help the cause." It was the combination of his moderation with virtues of honesty and fairness that gave him his unique character and glowing stature. He knew how to set priorities and spoke of them with a rare kind of simplicity, sincerity, and eloquence. As Carl Sandburg said, "he could get to the nub of the thing." He spoke often not only for his time, but for all time:

"I wish at all times in no way to practice any fraud upon the house. . . . I do not propose to question the patriotism or assail the motives of any man or class of men. . . . I wish to avoid violations of law and bad faith. With malice toward none and charity for all let us finish the work we are in. . . . The dogmas of the quiet past are inadequate for the stormy present; we must think anew, act anew, we must disenthrall ourselves."

Lincoln's life was filled with many tragedies. But he had his successes as well. He was a good surveyor and country lawyer; he was elected to the legislature, then to Congress, and finally to the presidency. Because he understood the ordeal as well as the triumph of the human spirit of his age, he had the strength with which to overcome despair. This gives us reason for hope. Finding the roots of his strength, cultivating them and fortifying them with the wisdom gained from our own failures and successes, we too shall prevail.

It behooves us in our time, especially if we serve in public office, to reflect on the patience and candor of Lincoln, the moderate statesman. In this time of turmoil, as he advised, "let us harmonize . . . and appeal to the moderation and the patriotism of the people."

ENERGY SITUATION

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WOLFF. Mr. Speaker, I have received preliminary response to a General Accounting Office investigation I ordered on the domestic production and demand and on the imports and exports of petroleum products. While the results of this preliminary study are only a part of the investigation I have asked for, they are illustrative of the fact that the oil companies have not presented us with a complete picture of the energy situation.

What I am especially concerned about is the cutback in domestic production of crude oil and the increase in exports of a number of petroleum products. While the domestic production of crude increased between 1971 and 1972, domestic production—based on a production from January to October 1973, figures—declined in 1973 by some 100 million barrels. Some oil industry spokesmen have been quick to complain about what they feel are low prices for oil products, but these figures on domestic production certainly raise the question about whether or not some oil companies have played a role in creating shortages of petroleum products.

The exports of crude petroleum, gasoline, and motor fuel, and distillate fuel oil have increased in 1973. At a time of domestic shortage and decreased domestic production, increasing the exports of these vital fuels is clearly not the proper response. I am especially concerned about the exports of distillate fuel oils, some of which are used for home heating oil, have increased four times over the 1972 level and are significantly higher than the level of exports since 1969. The export of crude petroleum has increased three time in 1973 over 1972, and the export of gasoline and motor fuel has gone up 2½ times in the same period. Clearly, the Government must take stronger steps to insure that exports do not continue to increase as dramatically in 1974. I have introduced legislation to stop all exports of these vital fuels until a domestic shortage no longer exists, and I will continue to press for passage of this legislation here in Congress.

While total exports are small in comparison with the full consumption of fuel the United States uses, the 100 million barrels lost in production cutbacks is a significant figure when it is referred to the fact this loss is almost five times the No. 2 fuel oil used to heat all the homes of Nassau and Suffolk Counties for a period of 1 year. Certainly this belies the information circulated by the oil producers that they have increased production. What does this loss of production mean for Long Island drivers, who now must cue up at long lines for their gas? This production loss is almost 5 times the number of barrels of gasoline that Nassau and Suffolk Countries use in a year. It is inconceivable to me that, in times of shortages of gasoline and fuel oil, we are cutting our production of crude and that we are exporting any petroleum products at all.

The figures I have obtained seem to represent just a portion of the energy problems we now face, and I have asked that the General Accounting Office provide me with the following information:

Imports and exports of selected petroleum products by country.

Achievable refinery capacity and utilization by month for calendar year 1972 and January through October 1973.

Domestic production and demand as well as imports and exports for petroleum products used in making plastics.

Domestic stocks as of the end of calendar years 1969 through 1972 and the end of October 1973.

Domestic crude oil and natural gas resources as determined to be recoverable by the oil and gas industries.

NATIONAL SMALL BUSINESS ASSOCIATION URGES CONTINUANCE OF HOUSE SMALL BUSINESS COMMITTEE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. EVINS of Tennessee. Mr. Speaker, Mr. J. R. "Jimmie" Tubb III, president of the Sparta Spoke Factory of Sparta, Tenn., a small manufacturing concern in the Fourth Congressional District, which I am honored to represent in the Congress, has sent me a copy of a statement by Mr. John Lewis, executive vice president of the National Small Business Association, protesting the proposal that the House Permanent Select Committee on Small Business be abolished or merged with another committee.

The statement by Mr. Lewis points out that 98 percent of all U.S. business is classified as small business, and that this vital and important segment of our economy is represented by our Small Business Committee. The National Small Business Association and many other organizations are vigorously opposing the proposal by the Committee on Committees to abolish the Small Business Committee and are urging that the committee be retained and continued and not be merged or submerged into an inferior position with some other committee.

Because of the interest of my Colleagues and the American people in small business, I am placing in the RECORD herewith a copy of the statement by Mr. Lewis.

The statement follows:

It's Your Business

(By John Lewis)

This nobody can deny—at least 98% of all U.S. business is classified as small. The big puzzler in view of this is, "Why?". "Why" at a time like this—a time of shortages, crises, and a question of small business survival—when this country's small business community needs a strong federal spokesman, are efforts being made in Congress to subordinate small business needs to a committee whose primary interest is not centered upon small business?

Labor is represented in Congress by its own Committee. Agriculture has its own Committee. So has the Merchant Marine and Fisheries groups, and so on and so on. "Why?" "Why" then should the House Permanent Select Committee on Small Business be abolished? "Why should attention to the largest single economic force in America—small business—be relegated to a Committee—in fact, a Subcommittee of the House Committee on Banking and Currency—whose responsibility is to oversee, banking, currency, the Federal Reserve System, gold and silver, and valuation and revaluation of the dollar?

Again and again the lawmakers pay lip service to small business but when the chips are down, give it the last seat at the table—or, if you prefer, the fifth place on a four place cow. This must not happen again. The House Small Business Committee must not be scrapped.

Here are some facts on the House Small Business Committee—

It has seven sub-committees with well defined responsibilities on subjects affecting small business.

It is the only forum in the House responsive to the concerns of the small business community.

It has proven expertise, independence of action, and jurisdiction to initiate investigations and call hearings on matters having a major impact on any segment of the small business community.

A letter or wire to your U.S. Representative—not your Senator—at the House of Representatives, Washington, D.C. 20515, is the type of strong action that you—a voting constituent—must take if the House Permanent Select Committee on Small Business is to be kept and the interests of small business are to be protected.

AFTER THE PARACELS?

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HUBER. Mr. Speaker, recently Communist China forces overwhelmed the small South Vietnamese contingents on the Paracel Islands in brief, but bloody engagements. It demonstrated the power of its growing navy and perhaps the beginning of another aggressive period in its history. During the 25 years of its existence, the People's Republic of China has compiled quite a record in that regard. In 1949, the People's Liberation Army marched in to seize Tibet. Huge "volunteer" armies fought our men during the Korean war in the early 1950's. In 1958, the Red Chinese attempted to seize the islands of Quemoy and Matsu but relented in the face of strong U.S. support of Taiwan. In 1962, Red China provoked a border war with India. In 1969, the Red Chinese fought bitter border clashes with the Soviet Union. Therefore, I find the editorial on this subject from the Richmond Times-Dispatch of January 26, 1974, both timely and thought provoking. It asks the question: "What next?" I commend this editorial to the attention of my colleagues:

After the Paracels

Communist China has enforced its claim to the Paracel Islands in the South China Sea, and the outmanned, outgunned South Vietnamese never had a chance. Several Asian nations lay claim to the archipelago, which may hold oil treasures, but the South Vietnamese had possession. It is instructive that the Chinese made their case not before international tribunals but by practical application of the doctrine of "might makes right." So much for the peace-loving agrarian philosophies of kindly old Chairman Mao.

It is also quite instructive to compare the United States' reaction in the face of Peking's actual aggressive behavior in 1974 to American reaction in the late 1950s to the suggestion that mainland China might try to seize the islands of Quemoy and Matsu from Taiwan, another American ally. In 1960, presidential candidate Richard M. Nixon said that the two islands in the Formosa Strait are "in the area of freedom" and should not be surrendered to the Communists, for that would set off a "chain reaction" of annexation that ultimately would consume Formosa itself. But in response to the Chinese grab of the Paracels, a Washington spokesman unnamed in news dispatches said tamely that the U.S. "is keeping a strictly hands-off policy."

Quite probably the U.S. wouldn't have drawn the line at the Paracels even during the "containment" days of John Foster Dulles, because the historical claims to the islands are so tangled and the stakes for the U.S. do not appear to be notably high. Furthermore, the 12 or more years between the Quemoy-Matsu spat and the Paracels flareup saw America bogged down in a no-win war in Vietnam that disillusioned many Americans about fighting holding actions on the far side of the world. So the Nixon administration's ho-hum attitude toward the Chinese-Vietnamese clash will be marked down by most persons as "realistic."

But the question the Paracels episode raises is this: What next? After probing the anti-Communist defense in one area and encountering mush, what's to stop the Chinese from taking by force other disputed islands in the South China Sea? How about those islands in the Formosa Strait? And what about the big prize, the thriving island of capitalist Taiwan, for which the Chinese have a historic claim and an ideological lust?

VANIK ASKS GAO PROBE OF WHEAT SITUATION

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. VANIK. Mr. Speaker, in view of recent reports of possible wheat shortages, excessive exports, and rapidly rising prices of bread, I have asked the General Accounting Office for a complete report of the wheat supply and export situation.

Because of the wide spread interest in this subject, I would like to enter in the RECORD at this point a copy of my letter to the GAO:

JANUARY 29, 1974.

Hon. ELMER STAATS,
Comptroller General,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: The American people are deeply concerned about recent reports of a pending wheat shortage and the possibility of a dollar a loaf bread. The public's concern is increased by the various contradictory statements about the wheat supply situation and the reality of possible shortages. In addition, my mail reflects a great deal of anger that the Federal government has once again permitted this type of food shortages to develop. My constituents feel that this is a repeat of the "Soviet wheat deal" in which the interests of domestic consumers were ignored.

Therefore, I would like to request your assistance in obtaining true information on the present situation. In addition, I would appreciate your suggestion on ways and means to prevent periodic grain shortages from occurring in the future.

I am requesting the General Accounting Office's help in this matter, since I do not bebelieve that the American public places any more trust in the reports of the United States Department of Agriculture. The Department appears to "mouthpiece" certain specialized agriculture and export interests.

The USDA appears to have no interest whatsoever in helping the vast majority of consumer Americans. The spectacle of the Department claiming that there is no serious problem while preparing the way to buy high-priced Canadian wheat has destroyed the last grain of creditability.

1. What is the reported wheat supply-demand situation as of February 15, 1974?

2. What is your estimate of the true export demand situation. That is, how much wheat will realistically be exported?

3. Is the supply prediction realistic? On what weather predictions is it based? Are those weather predictions realistic? What would flooding on the Mississippi similar to last year do to wheat supply predictions.

4. Has any foreign wheat been booked for import? Are any import purchases under negotiation? What is the per bushel price of such purchases and how does that price compare with current domestic price.

According to the Department, the 1973 wheat harvest totaled 1.711 billion bushels. The carryover from the previous year was 430 million bushels, for a total of 2.141 billion bushels for the crop year beginning last July 1st. Domestic consumption is estimated at 755 million bushels. As of January 13th at least 1.314 billion bushels had been exported or were booked for export, leaving an insignificant carryover of about 72 million bushels.

5. What steps is the Department taking now to build up wheat production in the crop year which begins July 1st? How will our carryovers and reserves be rebuilt? What action is being taken under Sec. 815(d) of Public Law 93–86, the Agriculture Act of 1973, to "encourage American farmers to produce to their full capabilities during periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices."

6. Has any action been taken to implement Sec. 813 of Public Law 93–86, the Agriculture Act of 1973, to build up "Disaster Reserves" of 75 million bushels of wheat, feed grains, and soybeans? Your assistance in answering these questions at the earliest possible date—hopefully by mid-February—would be deeply appreciated. If the situation is as bad as a number of non-Department experts report, then immediate Congressional action will be required.

With respect to solutions of this supply export-demand problem, I would appreciate your comments during the next several months on the following questions:

1. Section 812 of Public Law 93-86, the Agriculture Act of 1973, provides for export sales reporting:

"All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof . . . shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. . . . Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year or both."

Are there any cases where export sales have not been reported and where investigations are underway?

It would seem to me that the false listing of an export sale should be subject to the same punishment as failure to list an export sale. Are there any obstacles to extending the concept of "truthful reporting" to what is now only a reporting requirement?

Why should individual reports remain confident?

2. Congressman Lester Wolff and others (including myself) have introduced legislation (H.R. 10844) to provide for the regulation of the export of agricultural commodities. In essence, the legislation would require that a "reasonable carryover" not be exported from the United States. Could the General Accounting Office provide an analysis of this legislation as to whether, if it were in force, the present questions of shortages could have been avoided.

3. Since 1935, the Canadians have controlled the production, distribution, and export of their wheat through the Canadian Wheat Board:

"The Board is incorporated with the object of marketing in an orderly manner, in interprovincial and export trade, grain grown in Canada.

"Subject to regulations, the Board shall sell and dispose of grain acquired by it pursuant to its operations under this Act for such prices as it considers reasonable with the object of promoting the sale of grain produced in Canada in world markets."

In addition to reporting requirements, investigative powers and the power to ensure necessary allocations of railroad grain cars and other transportation, the law provides:

"No person other than the Board shall—

"(a) export from or import into Canada wheat or wheat products owned by a person other than the Board."

I understand that in reality the prime function of the Canadian Wheat Board is to provide certain price supports, market stability, and guarantees to the wheat farmers of Canada. While I understand that the difference in farm programs between our two countries are significant, it appears to me that the export regulation features of the Canadian system could help us avoid some of the pitfalls of recent years. It may be time for the United States to consider a National Export licensing and control Board, similar to the Canadian Wheat Board, which will prevent private interests from exporting our Nation into high food prices and scarcity.

Can the General Accounting Office please provide me with information, including bibliographies, on the relative merits and demerits of the Canadian Wheat Board as it relates to the control of exports. What has been the price of wheat products to the Canadian consumer over the life of the Board? Is there a stable supply at stable price provided to Canadian consumers under the system? To what extent does the Canadian system constitute a subsidy and cost to the farmers, to the consumers, and to foreign purchasers—and are any subsidy comparisons possible between the Canadian system and the American system?

4. Finally, the Domestic International Sales Corporation Act of 1971 permits special and enormous tax benefits for the export of American products, including agricultural goods. The size of this tax subsidy can be seen by the fact that the tax loss from this provision is estimated to be $240 million in fiscal year 1975. Can the GAO provide me with any information on the proportion of DISC's which deal in agricultural products, and, if possible, those that are wheat exporters, the volume and dollar value of wheat they exported during 1973, and the increased wheat exports which are attributable to DISC's?

Thank you for your assistance in answering these questions of immediate and long-range importance to all Americans.

Sincerely yours,

Charles A. Vanik,
Member of Congress.

THE INDOCHINA PEACE PLEDGE LEGISLATION: AN ANALYSIS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. DELLUMS. Mr. Speaker, a year after the Paris Agreements, it is hypocrisy to talk of peace in Southeast Asia. Over the past year, over 60,000 persons have died in the continuing conflicts in Indochina; families still are uprooted, torn apart; hundreds of thousands are held and tortured as political prisoners; while an increasing flow of weapons and high-technology arms pours into the area.

Much of the responsibility for this ongoing horror rests upon our Nation—and ultimately upon the Congress. American arms and paramilitary personnel are evident throughout Indochina; U.S. funds prop up authoritarian regimes in South Vietnam, Laos, Cambodia, and Thailand; and our taxpayers support some of the most degrading and repressive police and prison systems in the world.

Last year, our Nation signed the Paris Treaty—and after a decade of insane, illegal, and immoral adventurism, American combat troops finally left Vietnam.

This year, let us set as our objective the goal of living up to the terms of the treaty. Let us end the tragedy of U.S. taxpayers paying for a treaty broken in their name. Let us stop backing a signatory government to that pact which repeatedly fails to live up to treaty provisions and which, at the same time, maintains the largest per capita yoke over political prisoners in the world.

That target can be met with congressional approval of the provisions of H.R. 12156, which I introduced January 21 of this year, a bill based upon the "Indochina peace pledge" developed by peace groups including the American Friends Service Committee, the Coalition To Stop Funding the War, and the Indochina Peace Campaign.

At this point, I would like to insert in the Record the precise language of H.R. 12156, section by section, followed by an analysis of the rationale for each section made by Mr. Ed Snyder of the Friends Committee on National Legislation:

H.R. 12156

A bill to prohibit the renewal of United States military involvement in Indochina, to encourage compliance with the peace agreement concluded for Indochina, and to prohibit the United States funding of police or prison systems in certain foreign countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no funds appropriated before, on, or after the date of enactment of this Act shall be expended in connection with the deployment of any United States Armed Forces or any other military or paramilitary personnel under the control of or financed by the United States to conduct any military or paramilitary operation in, over, or off the coast of the Republic of Vietnam, the Democratic Republic of Vietnam, Cambodia, Laos, or Thailand.

1. UNITED STATES DIRECT MILITARY INVOLVEMENT

Secretary of Defense James R. Schlesinger has suggested the possibility of using U.S. military power again in South Vietnam under certain circumstances. *Air Force Magazine* in a January 1974 editorial, "Vietnam: The Tinder Box Is Drying Out," canvassed alternatives and concluded that faced with a North Vietnamese offensive "a swift, large-scale bombing attack on the heartland of North Vietnam" by U.S. air power "is the only one that makes sense."

The Congress in enacting the FY 1974 foreign aid authorization bill specifically prohibited U.S. military action in Indochina without Congressional approval:

Sec. 30. No funds authorized or appropriated under this or any other law may be expended to finance military or paramilitary operations by the United States in or over Vietnam, Laos, or Cambodia.

With various Administration trial balloons apparently being floated, it is essential for Congress to reiterate its opposition to any U.S. military reinvolvement.

Proposals similar to the Church-Case amendment should be added to each appropriate bill, such as the supplemental authorization bill, foreign aid authorization, Department of Defense authorization, and relevant appropriations bills.

Indirect involvement of U.S. military related personnel continues at an uncertain level. But an occasional lightning flash discloses the depth of that involvement, as when a U.S. Department of Defense "observer" accompanying South Vietnamese military forces asserting their claim to the Paracel Islands was captured by Chinese forces in mid-January. The Paris Agreements (Art. 5) call for the total withdrawal of all U.S. "troops, military advisers, and military personnel." The Department of Defense informed the Senate Armed Services Committee that there were 5500 Department of Defense civilian contractors and 1,200 Department of Defense civilians financed by the

U.S. government in South Vietnam as of December 31, 1973. (Hearings, Pt. 1, pp. 159–160)

Sec. 2. No funds appropriated before, on, or after the date of enactment of this Act shall be expended for United States military assistance to the Republic of Vietnam during any period that the Republic, in the opinion of the Secretary of State, (1) fails to comply with the provisions of the Agreement on Ending the War and Restoring Peace in Vietnam, or (2) fails to provide to its citizens the freedom of speech or of the press, or the right of its citizens peaceably to assemble or to petition the Government for a redress of grievances.

2. AID CUTOFF UNTIL SOUTH VIETNAM COMPLIES WITH THE AGREEMENTS

The agreements contemplated a ceasefire and a political struggle by the various contending groups in South Vietnam and elections. Neutralists, pro-peace, pacifist, religious, and other persons opposed to the Thieu government were to be released from prison to participate in this process. A token few have been released. But many thousands remain in prison in violation of Section 11. It provides:

"Immediately after the ceasefire, the two South Vietnamese parties will: . . . Ensure the democratic liberties of the people: personal freedom, freedom of speech, freedom of the press, freedom of meeting, freedom of organization, freedom of political activities, freedom of belief, freedom of movement, freedom of residence, freedom of work, right to property ownership, and right to free enterprise."

Thieu has received massive United States aid since the agreement. In 1973 Congress voted $813 million in military aid and more than $450 million in related economic and other support. On December 30, soon after Congress had appropriated these Vietnam funds and adjourned, Thieu announced there would be no general elections in South Vietnam as called for in the Peace Agreements. The Administration has indicated it will ask an additional $600 million for South Vietnam in fiscal year 1974 to supplement funds already given Thieu.

The United States, which provides more than 80% of the funds for the South Vietnamese government, cannot say it has no responsibility in this matter. If the U.S. stands by the process of political accommodation outlined in the Paris Agreements reached after such laborious struggle, it should take every possible step to require Thieu to abide by the provisions of the agreement.

The Senate added a provision to the Foreign Aid Authorization bill, initiated by Sen. Pell (R.I.), which was designed to accomplish this purpose. It was dropped in conference. It provided:

"It is the sense of the Congress that the Agreements on Ending the War and Restoring Peace in Vietnam, and protocols thereto, signed in Paris, France, on January 27, 1973, will be effective only to the extent that the parties to such agreements and protocols carry out the letter as well as the spirit of those agreements and protocols. It is further the sense of Congress that the United States should not furnish economic or military assistance to any party, or make any sale, credit sale, or guaranty to or on behalf of any such party, unless that party agrees to comply, and does comply, with those agreements and protocols. This section shall not apply to the provision of food and other humanitarian assistance which is administered and distributed, under international auspices or by United States voluntary agencies, directly to persons and not through any government."

A similar provision changed from a "sense of Congress" resolution to an operative section should be added to the foreign aid or other authorization bill in 1974.

Sec. 3. No funds appropriated before, on, or after the date of enactment of this Act shall be expended by the United States to support, directly or indireclty, any public safety or internal security program or any police or prison system in the Republic of Vietnam, Cambodia, Laos, or Thailand. No such funds shall be expended to support any such program or system in any foreign country during any period that such country, in the opinion of the Secretary of State, imprisons or similarly interns any of its citizens for political purposes.

3. A. END UNITED STATES POLICE AID

Congress went far in 1974 to end U.S. funding of the police and prison system in South Vietnam. The Senate Appropriations Committee Report (93–620, p. 27) states:

"The existence of political prisoners in South Vietnam is beyond any reasonable dispute. Only the numbers are in question. Estimates range from 4,300 to 200,000. Reliable and objective sources suggest that there are between 40,000 and 60,000 political prisoners being held. Further, substantiated accounts of cases of mistreatment and torture of such prisoners have been authoritatively reported.

"It has been estimated that the police force of South Vietnam, at the authorized size of 122,000 personnel, has received at least $130 million in assistance from United States resources since 1967."

In the Foreign Aid Appropriations bill Congress added this language, which effectively prohibits foreign aid funds from being used for police and prison purposes:

"None of the funds appropriated or made available pursuant to this Act, and no local currencies generated as a result of assistance furnished under this Act, may be used for the support of police, or prison construction and administration within South Vietnam, for training, including computer training, of South Vietnamese with respect to police, criminal, or prison matters, or for computers, or computer parts for use for South Vietnam with respect to police, criminal, or prison matters."

Since sizeable funds are still available for these purposes through Department of Defense appropriations and other channels, it is now essential to adopt language in an authorization bill and/or specific appropriations bills to assure that the fund cut-off set forth in the foreign aid appropriations bill becomes truly effective.

B. POLITICAL PRISONERS

The Foreign Aid Authorization bill approved by Congress and signed by President Nixon December 17, 1973, provides:

Sec. 32. It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

Finally, Mr. Speaker, I would like to enter in the Record the powerful editorial from the February 4 Washington Post, "What Are We Underwriting in Vietnam?" This editorial is an excellent analysis of the current U.S. role in Vietnam and gives even more reason for quick consideration of H.R. 12156:

WHAT ARE WE UNDERWRITING IN VIETNAM?

In the first year after the signing of the celebrated Vietnam cease-fire agreement of January 1973, there was good reason for Congress and most of the rest of us to hail America's disengagement from combat, to cheer the return of the POWs, to accept routinely the high cost of continuing military and economic aid to the Thieu government, and more or less to turn a blind eye to the fact that there was in fact no cease-fire and no perceptible progress toward a permanent peace. Soothingly, we were told that you couldn't expect the shooting to stop overnight, but that the foundations of a "structure for peace" were in place, and that the business of building upon this structure to produce elections and a division of territory and a sharing of political power was only a matter of time. With a year's experience, however, it is now clear that it hasn't worked out that way. (Well over 50,000 Vietnamese have reportedly been killed in combat during this "cease-fire" so far.) Worse, there is precious little prospect that it will. So it is not only appropriate but urgent for the Congress and the public to force their attention back to Vietnam. And the new budget, with its provision for continuing heavy military and economic aid for the Saigon government, offers a powerful argument as well as an opportunity for doing so.

In his State of the Union address, the President spoke witheringly of those who would abandon the South Vietnamese by abruptly shutting off all our aid—as if the issue was as simple as that. Of course, it is not. Most people, we suspect, are fully aware of this country's obligation to continue helping Saigon defend itself against flagrant violations of the cease-fire by the North Vietnamese; larger American policy interests over at least a decade and a half, after all, had a lot to do with creating Saigon's heavy dependence on our continuing patronage. But the real issue is much more complex, for it has to do with who is really responsible for the breakdown of the cease-fire. It has also to do with whether our aid, in conjunction with our diplomacy, is working to improve the chances of real peace in Indochina, or whether it is in fact working toward perpetuation of a vicious, costly war by discouraging the kinds of concessions on both sides that might bring about a genuine settlement.

We do not profess to have the answers—and that is just the point. Nobody in Washington seems to have the answers—or even particularly to care. For the past year, the general tendency has been to blame both sides for the myriad violations if not to ignore them; to cancel off these violations against each other; and to conclude somewhat cynically that this is the natural or inevitable or *Vietnamese* way of resolving conflicts. There is, moreover, the formidable difficulty of finding the facts. With their supreme interests at stake, both Vietnamese sides have had powerful incentives to highlight their own observances of the agreement and to hide their own violations. Field conditions limit the capacity of objective observers, such as journalists, to judge for themselves.

All this gives no reason, however, to avoid trying to get at the facts. For it should be understood that avoiding the question of which side is chiefly responsible for the collapse of the agreement is answering the question to the benefit of President Thieu. Time and again, administration figures have drawn public attention to the alleged violations of Hanoi and the Provisional Revolutionary Government (Vietcong). The imminence of a big Communist offensive has been built up as a special bugaboo, while the open threats of some sort of pre-emptive strike by the South, as well as the plain evidence of provocations by the Saigon government, have been presented to us as no more that legitimate acts of self-defense. To this have been added regular and wholly unrealistic suggestions of American re-entry into the war, including the possibility of renewed bombing of the North.

We have been down this road before and we should know by now where it leads—to blind and unquestioning support of a Saigon government lulled into a false sense of security by our aid, with no real capability to defend itself, by itself, and with no incentive to yield up anything for the sake of a compromise settlement. From this, one can safely project an open-ended conflict between the two Vietnams. True, it is largely *their* war now, which is a lot better than it being largely our war, as it was for seven agonizing years. But we are nonetheless subsidizing a substantial part of it. Thus, it seems only reasonable for the two sets of armed services and foreign relations committees in both houses of Congress to conduct a searching inquiry into the administration's current Vietnam policy. For this country has a moral as well as a political commitment to the objective of a ceasefire and an ultimate Vietnamese settlement which the administration so proudly proclaimed to be very nearly accomplished facts a year ago. And the American public has a right to know whether, and how, this objective is being served by our continuing aid to South Vietnam. We would not argue that the answer turns entirely on what this country does or doesn't do for President Thieu. Part of the answer obviously must come from Hanoi. Part of it also depends on the efficacy and validity of that larger "structure for peace," reaching from Moscow and Peking to Washington, of which the President had made so much. But a big part of the answer, nonetheless, depends upon Saigon. So we think that before Congress approves more billions for President Thieu, it ought to try to find out whether the easy availability of this subsidy may not be prolonging an intensified Vietnam war by consolidating a militant, recalcitrant and repressive regime in Saigon. For there is at least some reason to believe that a more selective and judicious application—or denial—of this money could make it work to far better effect as an integral part of a wider diplomatic effort to bring about something more nearly resembling a Vietnam peace.

LOWER COLORADO LAND USE AREA

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WALDIE. Mr. Speaker, the land of California provides many recreational possibilities for its inhabitants and its visitors. One such area is the lower Colorado River. Many individuals have received permits to erect private cabins upon this Federal land, known officially as the Lower Colorado Land Use Area.

However, these permits are being terminated now by the Bureau of Land Management of the Department of the Interior.

There seems to be no evidence that the Bureau of Land Management has any immediate plans for this land, so I am asking that the land use permits be extended until at least December 31, 1976.

Mr. Speaker, a text of the bill follows:

H.R. 12540

A bill to extend certain land use permits along the lower Colorado River, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other law, those land use permits issued by the Secretary of the Interior for the use of Federally owned land for non-commercial private residences along the lower Colorado River in the area known as the Parker Strip shall be extended until December 31, 1976, and after such date such permits may be extended by the Secretary of the Interior for any number of years.

SEC. 2. In the event that the Secretary of the Interior determines not to extend any land use permit referred to in the first section of this Act beyond the expiration date stated therein, or beyond the expiration date stated in any extension thereof, the Secretary shall, notwithstanding any other law, give the holder of such permit notice, at least twelve months prior to such expiration date, of his intention not to extend such permit.

RILEY MEMORIAL CHILDREN'S HOSPITAL

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HUDNUT. Mr. Speaker, last March my legislative assistant, John Simpson, and I, took a tour of Riley Memorial Children's Hospital in Indianapolis, Ind. Although the severe illness of the children was heart rending, it was also very encouraging to see such impressive facilities and to observe their techniques for treatment of patients. In particular, we were impressed by the burn center, under the leadership of Dr. James Bennett, where adults as well as children were receiving magnificent quality care.

As a member of the Public Health and Environment Subcommittee, I am pleased that a subcommittee hearing is going to be held in Indianapolis under the leadership of our able chairman, the Honorable PAUL ROGERS. I believe that the Indianapolis hospitals will be able to express their needs to the subcommittee, as well as the effects that Federal regulations and laws have on their operations. It will also be mutually advantageous for the subcommittee, as it will help us to become informed on what is being done in the area of health care in Indianapolis.

I would like to take this opportunity to share with my colleagues an editorial by WLWI–TV, channel 13, in Indianapolis on Riley Memorial Children's Hospital. The editorial is as follows:

EDITORIAL

A short time ago a group of us went from TV–13 along with Bob Gregory to visit Riley Children's Hospital. We met first with Mr. James Rice, Administrator; Mr. Don Franklin, Hospital Relations; Dr. Morris Green, Chairman of Pediatrics; Mr. Robert C. Terrill, Director of University Hospitals; and Ms. Theresa Miller, Head of Nursing, and you can't meet with these dynamic hospital leaders without realizing what a privilege it is to have this facility here in Central Indiana.

The parent care pavillion is a great hospital innovation that allows mother or father to stay with the youngsters, help in their treatment, and in the process, help keep hospital costs down by as much as 40%.

The infant care center is one of the finest in the United States. Babies can be brought here in a special unit from as much as 75 miles away. When they arrive at the center with its fantastic life saving facilities, infants who previously would have died are given a new hope for life.

We put on these sterile gowns to enter the Burn Center at Riley Children's Hospital . . . again, this is one of the outstanding burn care institutions in the world.

We are very privileged here in Central Indiana to have one of America's greatest hospital facilities . . . Riley Memorial Children's Hospital.

LET US GET TO THE BOTTOM OF THE DST CONTROVERSY

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HEINZ. Mr. Speaker, I rise today to urge the House Interstate and Foreign Commerce Committee to hold immediate hearings on the repeal of daylight saving time.

Like so many other issues surrounding the energy crisis, we are being inundated by scores of conflicting reports. There have been stories of numerous accidents or near-misses in the early morning darkness in which children bound for school have been injured. In fact, newspapers have reported that since early January, eight children have been killed in such accidents in Florida alone.

At the same time, stories continue to be heard that the accident and fatality rate during evening rush traffic is down since the beginning of daylight saving time. In addition to these apparently conflicting reports, at least some of the utility companies tell us that they cannot measure any decrease in energy demand as a result of daylight saving time. They report that while many people are using less energy, they cannot determine how much of that reduction is related to daylight time and how much is attributable to other energy conservation practices or to this year's warm winter.

Before Congress adjourned for the Christmas holidays we complied with the administration's urgent request for year-round daylight saving time. They testified that adoption of "fast time" would "reduce nationwide demand for electricity by not more than 1 to 2 percent." As a result of this testimony Congress quickly approved the administration's daylight time proposal.

Now the time has come for congressional assessment of the effects of daylight time. That is why I am calling for immediate House Commerce Committee oversight hearings evaluating daylight time from the standpoints of both safety, especially of our schoolchildren, and actual energy savings.

These hearings must begin immediately, for if the evidence indicates that we should return the Nation's clocks to standard time, then we should do it now—not 2 or 3 weeks from now. Moreover, I believe the evidence from these hearings is also an immediate must for planning the length and duration of daylight saving time for next winter, insofar as the energy crisis is forecast to persist beyond this school year.

I urge my House colleagues to join me in calling for immediate hearings on daylight saving time.

MAYBE THE OIL COMPANIES SHOULD RUN THE GOVERNMENT

HON. WALTER E. POWELL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. POWELL of Ohio. Mr. Speaker, during the current energy shortage, there has been a great deal of talk about the Congress enacting a so-called windfall profits tax in order to recover some of the excessive profits made by American oil companies. But perhaps such legislation would represent yet another mindless and shortsighted intervention by the Federal Government into an area about which it knows nothing.

Before Congress begins one of its typical knee-jerk reactions, perhaps we should pause to read the amusing, and only slightly facetious comments of one of my constituents, Mr. Sterling R. Uhler of Fairfield, Ohio, who wrote the following "Letter to the Editor" of the Hamilton Journal-News:

OIL TAKEOVER?

FAIRFIELD, OHIO.

EDITOR: Following is a letter I've been tempted to write to the major oil companies.

I have been following the status of your business in the news lately and make the following proposal for your consideration:

I am currently represented by a large institution which purports to render many services to me. They are presently considering an added service; namely, regulating your company and I thought I would compare the two of you before I signed up for that service.

One of my agent's responsibilities is to handle wars for me. If I count the Bay of Pigs we are 0 and 3 over the last 21 years. Can I assume that you have either (a) not been involved in any wars, or (b) won some?

Another service of my present agent is to deliver mail. If I furnish the paper and envelope, addressed just right, they will deliver one first class mail an average of 10 miles for $1.28 per pound, some of the time.

I understand that your company goes all over the globe to find oil, pays for the right to drill, brings it up from several miles below the surface, refines it, delivers it to almost every street corner in this country in any form I wish from lighter fluid to cup grease and makes it available to me at any hour of the day or night. I understand that your charge for this service is seven cents a pound and that you even make money at that rate.

My question is, instead of the government regulating your company, what would you charge to operate the federal government for us?

P.S. If interested, please respond before April 15th.

STERLING R. UHLER.

JACK ANDERSON RECOGNIZES THAT MOST POLITICIANS ARE HONEST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. ANDERSON of California. Mr. Speaker, to many the name Jack Anderson is synonymous with excellence in probing behind the scenes of Washington. His scrupulous investigation combined with a keen insight has earned him the reputation as the public's watchdog over the Federal Government.

To some his biting journalistic investigations have proven to be a justly deserved "kiss of death."

It is, therefore, gratifying for me to know that while some may be disillusioned by recent scandals and losing confidence in the integrity of elected officials, that Jack Anderson has concluded his most recent article with the sentence, "Because most politicians are honest."

I believe that it is proper for those who abuse their responsibilities to be removed, but also for those deserving recognition of merit to receive it.

Mr. Speaker, I am certain that my colleagues share with me my appreciation for the continuing objective analysis and journalistic style which makes Jack Anderson a credit to his profession.

I insert his recent article in the February 3 edition of the Washington Post entitled "All Politicians Are Not Crooked" at this point in the RECORD.

ALL POLITICIANS ARE NOT CROOKED

(By Jack Anderson)

WASHINGTON, D.C.—Americans are reeling from a series of political news shocks. Burglary, bribery, perjury, forgery, extortion, obstruction of justice—all have been shown not as the isolated acts of one or two individuals, but as the deliberate modus operandi from the top down.

The embattled Watergate defendants have sought to excuse their conduct by whining that they did no more than practice politics, American style. This idea has been picked up by people everywhere who have been sickened by the revelations of corruption. There has been a turning away from public issues, a disgust with politics in general. Every morning, my mail brings more expressions of disillusionment from people suddenly turned cynical. Reduced to simplest terms, their theme is: "All politicians are crooked."

Yet this simply isn't true. I have spent a quarter century covering Washington, trying to unmask scoundrels. I have found that the standards of integrity in politics are probably higher than in most other fields.

Politicians are people, with human strengths and failings. Some are honest, some are not. The most base among them, on occasion, have served the public worthily. And the most noble haven't always risen above pettiness.

Politics is the art of compromise; it is essential to good government that political adversaries resolve their differences. Those who do so shouldn't be regarded as sellouts who have compromised their convictions.

There is also some truth to the political precept that the first duty of an officeholder is to get himself reelected. This would be quite impossible if he ignored the wishes of his constituents. Thus it is possible for legislators, without loss of integrity, to represent the legitimate special interests of their constituencies. Of course, there remains a subtle, difficult-to-define line beyond which a conscientious Congressman doesn't press a special cause.

The greatest evil in the American political system is the fund raising. Most political campaigns have become financed mainly by the special interests and pressure groups. The sad truth is that the American voter often can't be bothered to go to the polls, let alone give money. Democracy—it's wonderful, but who wants to pay for it?

INDISPENSIBLE FATCATS

Even the most honest candidates can't entirely escape doing business with the special interests. Those who have tried to finance campaigns from small contributions, with rare exceptions, have learned quickly that the fatcats are indispensible. Indeed, it is a miracle of politics and a tribute to officeholders that the pressure groups don't wield more influence than they do.

The decent men and women in public life are too numerous to single out. Honest, honorable, hard-working officeholders are the rule at every level of government. Many have made great personal sacrifices to serve the nation. Perhaps the best way to tell their story is to cite a few typical incidents, selected at random from the daily lives of the people who govern us.

SOME EXAMPLES

Rep. Elizabeth Holtzman (D., N.Y.) spends nearly three-quarters of her take-home pay on expenses related to her Congressional duties. She gave me a complete breakdown of her personal finances for 1973. She wound up with only $7263 from her $42,500 salary to spend on personal living expenses. This is considerably less than her operating budget when she was a New York City lawyer.

Walter Sauer, as acting president of the Export-Import Bank, has access to a government car and driver. Yet long before anyone ever heard of the energy crisis, he scorned this luxury and walked the five miles to work. At the office, he always puts in a more strenuous day than anyone else.

Space Administrator James Fletcher, scrupulously honest, worried for days about a gift presented to his wife. It was a scarf, worth about $20. He didn't want to offend the donor, but even more, he didn't want to be in a position where he could be accused of accepting favors.

Sen. Sam Ervin (D., N.C.) quickly made his income tax returns public when challenged by the White House.

Sen. Daniel Inouye (D., Hawaii) won't close the door to his inner office, contending that he never does anything that he would be ashamed to have others hear.

A food chain executive, upon learning that Sen. Gale McGee (D.Wyo.) was marked for political extinction by the John Birch Society, raised $30,000 for McGee's campaign. Long after McGee was reelected, he launched an investigation into food pricing policies. The food executive asked for an appointment, and McGee listened courteously to his explanations. Nevertheless, McGee went ahead with his investigation, and issued a report highly critical of the food chains.

Sen. Clifford Case (R.,N.J.) decided to donate the $18,000 surplus from his last campaign to the government, then had to wrestle with Treasury officials to get them to accept it.

Two of the biggest businesses in Democratic Sen. Phil Hart's home state of Michigan are automaking and hunting. When he sought reelection in 1964, some of Detroit's blue-collar neighborhoods were torn with racial strife. The political pros urged Hart to lay off the civil rights issue. Yet out of conviction, he led the fight for a crucial civil rights bill. When he ran again in 1970, the gun lobby threatened to defeat him if he supported gun controls. Again, he stuck to his convictions.

Sen. Barry Goldwater (R., Ariz), a monument of personal integrity, has remained outspoken, attacking Republican and Democratic chicanery with equal candor.

Sen. Harold Hughes (D. Iowa) is giving up his Senate seat to preach the gospel. His colleagues regard him as Presidential timber. Yet he is putting his religious convictions ahead of his personal ambitions.

A Pennsylvania state legislator, Donald Davis, has devoted long hours to seek water for a few impoverished families who live beyond the water mains. Yet he won't be running this year in their district, and, therefore, they can't vote for him.

Sen. Charles Mathias (R., Md.) won't accept campaign contributions larger than $100.

Sen. James Buckley (R., N.Y.) fought against the "pork barrel" public works bill in a closed-door Senate committee meeting; even though the cuts he demanded would have have hurt projects in his home state.

Sen. Mike Mansfield (D., Mont.) born of Irish immigrant parents in the Hell's Kitchen section of Manhattan, is known for his unwavering honesty. He is guided only by conscience and duty.

Vice President Gerald Ford's appointment was subjected to agonizing scrutiny by the Senate and House before he was finally approved to succeed Spiro Agnew. Ford's integrity turned out to be unassailable.

PUBLIC SERVICE, PUBLIC TRUST

These are just a few examples of what I consider to be the prevalent morality in Washington. I have lambasted the bureaucracy for its inefficiency, red tape, fumbling and—on occasion—corruption. Yet the preponderance of civil servants are diligent, trustworthy, intelligent people who really believe that public service is a public trust.

They are making the system work. Where else is the most powerful man in the land challenged daily, as is President Nixon, by the other branches of government, intent on finding the truth and insuring justice?

Where else can the No. 2 man, with the personal power of former Vice President Spiro Agnew, be publicly exposed, brought to justice and forced out of office in disgrace?

For all the dizzying reverses of 1973, there is no panic among our people and no collapse of our institutions. The press is exposing wrongdoing. The Congress is checkreining the Executive. The courts are enforcing the laws.

During my 25 years at the ringside in Washington, I have also seen a steady improvement in the standards of conduct. Election by election, many of the practitioners of easy virtue have been weeded out by the voters. Others have gotten religion since they first arrived in Washington.

Congressmen who used to squeeze kickbacks from their Congressional employees, fearing prosecution, have given up the practice. Disclosure has caused a decline in other financial abuses on Capitol Hill. Only a few of the lawyer-legislators still maintain an interest in their old law practices. Junketing now is largely for legitimate legislative purposes. And the majority of Congressmen have started taking a hard look at the identity of the major donors to their political campaigns.

The public, too, is developing a new maturity as more and more Americans realize there are no lasting heroes and no simple solutions. But the Watergate morality has also brought a new cynicism, and the good are sometimes damned along with the bad by the press and public.

"What it will all come down to," a Senator told me gloomily, "is that all politicians will be in serious trouble. People won't care what party the politicians belong to or whether they are honest or dishonest. Every officeholder in the country is going to have great difficulty from people who are disgusted by corruption and want to throw the rascals out."

Unquestionably, there are politicians whose shady dealings and financial finagling make them vulnerable to the public desire for retribution. But a wholesale purge, without regard for the character of the politicians involved, would be another tragedy for the American people.

Because most politicians are honest.

SCIENTISTS LOOK TO SUN FOR NEW ENERGY SOURCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. TEAGUE. Mr. Speaker, as the energy shortage becomes more and more a part of our daily lives, an intense search for alternate sources becomes increasingly important. The pioneer work done by the National Aeronautics and Space Administration and the research effort of the National Science Foundation is providing the groundwork for a significant development of the Sun as a source of energy for our daily use. Mr. Leslie Berkman, Los Angeles Times staff writer, in an article on December 26, 1973, outlines briefly the current circumstances with respect to solar energy and the opportunities that exist. I commend this article to the reading of my colleagues and the general public:

Scientists Look to Sun for New Energy Source: Those Who Shunned Solar Power as Impractical Are Having Second Thoughts

(By Leslie Berkman)

More than 25 years ago, a presidential commission predicted that by 1975 millions of American homes could be heated without gas or electricity—by the rays of the sun.

But that prediction never came true. Instead, development of solar energy was relegated to academia, and the nation leaned heavily on availability of cheap fossil fuels with an eye toward the promise of nuclear power.

Tody, faced with a worsening crisis, those who traditionally have shunned solar energy as costly and impractical are having second thoughts.

Scientists are predicting that, given the proper financing, solar energy could be developed into a cheap and abundant fuel supply.

Private industry is striving to make solar power commercially marketable within five years.

Even the Atomic Energy Commission, besieged with questions about the safety and environmental impacts of nuclear power, has urged President Nixon to spend $32 million next year alone on solar research.

The AEC recommendation is symptomatic of a current reshuffling of priorities in the federal energy program.

The National Science Foundation's $13.2 million solar energy budget for 1974, although called gravely inadequate by many, nonetheless shows a dramatic gain over previous years.

(The National Science Foundation was designated last April by the Nixon Administration as the "lead agency" in researching solar energy for domestic use.)

Some experts contend that if the country commits enough money and manpower to the effort, by the year 2000 solar energy could provide 35% of heating and cooling in buildings, 30% of the energy to produce the nation's hydrogen and other synthetic fuels and 20% of the nation's electrical needs.

They point out that solar energy reaching the earth in three days more than matches the combined energy in all the world's fossil fuels.

Targets of solar research, which is under way in a scattering of university and industrial laboratories throughout the country, range from development of a huge electricity-generating "solar farm" in the desert to commercialization of the solar cell, a small silicon wafer that converts sunlight to electricity.

The use of sunlight for warming and air-conditioning homes and offices appears closest on the horizon.

Increasingly the NSF is funneling money into this effort. This fall NSF awarded contracts to Westinghouse, General Electric and TRW to take the first step in a five-year program to bring solar heating and cooling into commercial use.

Several bills currently are before Congress that would start work on thousands of solar heating and cooling demonstrations in commercial and residential buildings within the next five years.

A Southern California Edison Co. researcher remarked that until 1½ years ago, only an occasional inventor or professor inquired about solar energy. Now companies as large and as profit-conscious as McDonnell Douglas and Minneapolis Honeywell are interested.

Dr. Jerome M. Weingart, a senior engineer working on solar energy projects at Cal Tech's Environmental Quality Laboratory in Pasadena, reports that in the last two months, as people have become conscious of the national energy crunch, he has been besieged with telephone calls, letters and invitations to appear on television.

"Suddenly everybody is interested in solar energy," Weingart said. Builders and contractors who once turned deaf ears to proposals for solar heating and cooling now are demanding "Where is it?"

But he added that virtually every businessman refuses to take the risk without assurance of government financing. And the question of which federal agency should foster commercial use of solar energy is still a matter of considerable dispute.

The technology for using sunlight to heat, cool and even electrify homes and commercial buildings already has been developed, but it remains to be put to commercial use.

In test projects, loops of aluminum tubing are fixed to the black (for heat absorption) surface of the roof with a slanted southern exposure. The roof section—or "solar panel"—is underlaid with foam insulation and enclosed in two or three layers of glass to block the wind and create a "greenhouse" effect.

The sun heats the tubing and a liquid running through it to about 250 degrees. A pump circulates the heated liquid (basically water and antifreeze) through pipes to warm the building and then flushes the liquid into a storage tank to provide heat overnight and on cloudy days.

The sun-heated liquid, when passed through an absorption-refrigeration unit, can also provide air conditioning. Work is being done on a system that would use the hot liquid coupled with a steam engine to generate electricity.

Some speculate that eventually the sun could directly supply at least a third of the country's heating and cooling requirements. With the addition of storage tanks—a larger version of hot water tanks—the percentage could be increased to 80%. The remainder of heating needs would still be met by oil, gas or electricity.

But the fact is that there are no solar heating packages—do-it-yourself or otherwise—on the market in America, although solar panels are manufactured in Japan, Australia and Israel.

The reason is mostly economic. It is estimated that 1,000 square feet of solar paneling, enough to heat an average home, would cost $2,000 to $4,000.

Solar advocates say that over the lifetime of the average home mortgage the fuel savings in a solar heating system would more than compensate for the larger capital outlay.

They also note that as conventional energy forms such as natural gas and electricity become more expensive, solar energy is bound to come into demand.

"In most parts of the Southern and Western United States, solar heating will be cheaper to operate than all-electric heating but will cost more to install," said Cal Tech's Weingart.

He added that the states' current effort to set energy performance standards for new buildings would also vastly improve the economic feasibility of solar heating.

California is considered particularly well-suited for solar heating and cooling because of its generous share of sunshine, the large number of low-rise buildings and a special concern for nonpolluting forms of power. In addition, Weingart said, "California is the trend setter in the construction industry, where innovation happens the fastest."

Weingart, who is conducting a study of institutional barriers to solar energy for the Ford Foundation, said that those who have to be convinced of its merits include architects, engineers, building owners and operators, lending and appraising institutions and local code and building officials.

The initial cost of a solar installation is a major drawback.

One plan being considered is for utility companies to lease and maintain rooftop solar panels for homeowners, much as the telephone company installs and maintains its telephones.

Southern California Edison Co. is contracting for a year-long study on the possible impact of solar heating and cooling on its operation and customers. And Southern California Gas Co. has entered into a program with Cal Tech's Environmental Quality and Jet Propulsion laboratories to develop and test gas-assisted solar water heating.

It is projected that a 60- to 70-square-foot solar panel, costing about $280, could supply 75% of the hot water needs of an apartment unit. While domestic water heating represents only 6% of energy consumption in the South Coast Air Basin, Weingart figures that solar water heating alone could save Southern California Gas Co. 250 million cubic feet of gas a day by 1985.

The secret to making solar systems economical, most scientists agree, is mass production.

Unitspan Architectural Systems in the San Fernando Valley reports that it will be the first in the nation to launch into full-time production of commercial solar panels.

The firm's board chairman, Abe Grossman, regards the 2- by 7-foot solar panels made of metal and tempered glass as "building blocks." At first, he said, a homeowner might install a small number of the panels for water heating and add more as interior heating and cooling systems are perfected.

A number of private industrial and university researchers are looking beyond development of solar heating toward solar-produced electricity.

One method under exploration would trap and concentrate sunlight in a vast expanse of reflectors and pipes—called "solar collectors"—laid in the desert.

Liquid channeled through the reflectors in pipes would be heated and converted to steam to run turbines to generate electricity.

Another collection technique known as the "tower method," is being developed by McDonnell Douglas of Huntington Beach in affiliation with the University of Houston.

By this method, mirrors would beam the sun's heat at a hemisphere atop a 1,500-foot tower. The hemisphere would be wrapped in tubes with liquid that would be heated by the reflected rays and converted to steam.

Among unanswered questions, according to Dr. Mason Watson, an associate energy program director for Aerospace Corp., is how large solar power plants should be and where they should be sited. To build a solar power plant today with generation capacity comparable to nuclear power plants now being built would require enough solar collectors to cover 36 square miles.

While Aerospace researchers found that only 3% to 10% of the land in Southern California is suitable for solar plant siting, estimates indicate these sites could supply 2 to 15 times the total amount of power required in the Southland by the year 2000, according to Watson.

An alternative to solar collectors are solar cells, which produce electricity without being linked to a generator.

A house with solar cells on the roof would be self-sufficient, no longer relying on outside power supplies.

Once again, however, the holdup is economic. An average house using 23 kilowatt hours of electricity a day would need 2,000 solar cells costing from $7,000 to $10,000 fixed to the roof.

"Solar cells worked in space because there price didn't matter," one aerospace engineer said.

But Bill Yerkes, president of Heliotek, one of only two major solar cell manufacturers in the country, said his company hopes to cut the cost of solar cells to as low as 10 to 25 cents apiece through mass production. His goal is to compete with nuclear power by 1985.

Heliotek already is making a strong effort to broaden its markets. As a result, solar cells are now lighting offshore oil platforms and amplifying signals at remote transmission towers.

A TRIBUTE TO COOPERATION

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. OWENS. Mr. Speaker, a recent incident on a road in southern Utah symbolized the benefits of cooperation among citizens. The 609th Tactical Control Squadron, stationed at Cannon Air Force Base in New Mexico, has been on special assignment in Iron County, Utah. They have used a county road in the western area of Iron County in connection with their military operations there. The past winter has badly damaged the road, breaking up the surface and creating not only a poor road but a dangerous one.

Iron County spreads over an area of 2 million acres but has a population of just under 12,000. As a result, many needed repairs on the county's roads have gone unchecked simply because there is not enough money or manpower to complete the necessary work.

On a recent Saturday, the 609th Tactical Control Squadron volunteered to help out. The county provided the oil mulch and road trucks, area livestockmen provided stock trucks, and the men of the 609th provided most of the muscle. Together, in a joint, voluntary effort, these men not only repaired a road; they proved a point. It is possible for the military, local government, and area citizens to band together and accomplish something worthwhile that otherwise would not have been done.

I would like to personally commend the 609th Tactical Control Squadron, the officials of Iron County, and the livestock growers of the area for their joint accomplishment. Unfortunately, alliances, of this sort are all too rare and are worthy of note when they arise.

PROTECTING FLORIDA'S RECREATION/TOURISM INDUSTRY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. YOUNG of Florida. Mr. Speaker, there are many legislative problems which must be resolved in the National Energy Emergency Act (S. 2589), now in House-Senate conference. However, I am pleased to note that the conference report does contain two items of special interest to those of us from Florida and other States with rapidly growing economies which are dependent on tourism and recreation for continued growth.

First, section 109 of the conference bill amends the Emergency Petroleum Allocation Act to specifically require adjustments for petroleum allocations "in order to reflect regional disparities in use, population growth, or unusual factors influencing use—including unusual changes in climatic conditions * * *."

As you may recall, I planned to offer an amendment to the Emergency Petroleum Allocation Act which contained very similar language, in order to protect the State of Florida from being given 1972-level allocations, which would be insufficient because of the State's rapid population and economic growth. However, my colleagues on the House Interstate and Foreign Commerce Committee assured me during the course of floor debate that the language of the bill did permit the necessary adjustments. My colloquy with them, reprinted in the Congressional Record, clearly established the intent of Congress in this instance.

The inclusion of section 109 in the National Emergency Act served as a clear signal to the FEO that the substance of my original amendment was indeed the intent of Congress. I am, therefore, especially pleased that the FEO today announced a 20-percent increase in Florida's fuel allocations to reflect the continuing demand in the State, because of growth and economic expansion.

Because of my strong concern over the impact of proposed energy conservation plans on Florida's important recreation/tourism industry, I worked closely with other Members of the Florida delegation to insure that the language of the act would not discriminate against our State; as a result, the language of the conference bill does require the Administrator of the FEO to analyze the economic impact of any energy conservation plan. Among the specific items which he must take into account are: The fiscal integrity of State and local government; employment; the economic vitality of regional, State, and local areas; and small business.

The conferees have elaborated on their intentions further in their joint explanatory statement to accompany the bill, and I believe that these words are of special significance for Florida:

> There must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas of this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas.

Florida has already felt the impact of the energy shortage as many Americans have decided to forego their annual vacations in Florida in order to conserve fuel, or out of fear that they will not be able to obtain it once they are in Florida. The corrective measures embodied in the Energy Emergency Act, as specified above, make it clear that recreation and tourism are vital social and economic aspects of American life and, therefore, entitled to equitable treatment with other sectors of the economy. Moreover, the FEO decision to allocate additional fuel to Florida is a meritorious first step in this direction.

TWELFTH GUAM LEGISLATURE SUPPORTS STATUS TALKS

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WON PAT. Mr. Speaker, the U.S. Government is preparing to enter into an agreement with the approximately 15,000 residents of the Northern Marianas Islands which would bring these people permanently into the fold of the American political system. The United States presently administers the Northern Marianas as part of the Trust Territory of the Pacific under a trusteeship agreement with the United Nations.

While many of the final details of the agreement remain to be worked out, it appears from statements made last December in a joint communique by the members of the Marianas Political Status Commission and the President's personal representative, Mr. Franklin Haydn Williams, that the final document will include promises by the United States to first, establish a Commonwealth of the Northern Marianas under the sovereignty of the United States; second, return all lands now held by the U.S. military which are not needed for defense to the people of the Northern Marianas; third, provide the new Commonwealth with a "maximum of self-government," including a constitution drafted by the residents of the Northern Marianas; fourth, provide extensive assurances of future Federal aid, including $14.5 million in guaranteed assistance from Washington for the first 5 years; fifth, agree to discuss with the Micronesians all U.S. land requirements in the islands; sixth, confer U.S. citizenship on the indigenous residents of the area; and seventh, provide other forms of economic and cultural assistance, such as declaring the new Commonwealth a duty-free port.

While such action would require the ratification of the United Nations and the U.S. Congress, it is apparent that the Northern Marianas are well on their way to achieving the degree of political and economic stability and autonomy for which they have strived since the end of World War II.

Guam is part of the Marianas Islands, of course. And as a people who are ethnically and culturally related to our brethren in the Northern Marianas, it is only natural that the people of Guam are following the ongoing status talks between the United States and Saipan with considerable interest. We wish them every success. And, we look forward to welcoming them in the American system.

As an indication of our good will, the entire membership of the 12th Guam Legislature recently enacted a resolution No. 129 which, on behalf of the electorate, "does hereby express the support of the people of Guam to the people of the Northern Marianas in their quest for a political status within and as a part of the United States."

Resolution 129 further expresses the hopes of the legislature—and I believe of the majority of the Guamanian people—that "the entry of the other Marianas Islands into the ranks of the political subdivisions of the United States would be a de facto step toward reunification of Guam with its sister islands to the north."

The latter point is extremely important, Mr. Speaker. For, while Guam is geographically a part of the Marianas Island chain, we have been forcefully divided by the world's major powers since 1898. To our considerable dismay, the United States has not encouraged the long overdue reunification of these two areas.

To the contrary, by the act of promising the residents of the Northern Marianas a degree of political autonomy far greater than that presently enjoyed by the American citizens of Guam, the United States may well have created an effective impediment to reunification for the foreseeable future.

Under the provisions of the Guam Organic Act, for example, residents of that territory are not governed by a constitution of their own choosing, but by one which was drafted for them by the U.S. Congress in 1950. Nor has the President of the United States deemed it necessary to send his personal emissary to Guam to discuss our many problems with the Federal Government. As a matter of fact, even though I specifically requested such action, as has the Guam Legislature, we were ignored by the White House and given a watered-down "status group" comprised of various Washington bureaucrats who are empowered to discuss matters only with the Guam Governor and others selected by him. Last, but equally important, the American citizens of Guam have additionally been denied the right to determine how much of our limited land areas shall be controlled by the Federal Government, the result being that one-third of Guam is controlled by the military, but not all is actively or beneficially used for any purpose.

In view of the aforementioned facts, one could hardly expect the people of the Northern Marianas to discuss reunification with Guam, especially when it is obvious that the Guamanians have been unable to obtain the same degree of political autonomy now being offered the Northern Marianas—even after Guam has been a part of the United States for 76 years.

Needless to say, the people of Guam are proud of their role in the American way of life. We have benefited economically from our association with this country. And we have proudly sent our boys to the battlefields in World War II, Korea, and Vietnam to defend the principles upon which this great Nation is founded and upon which we base our relationship with our fellow Americans.

But it comes as no small shock to our people to see the United States readily, even eagerly, offer our neighbors to the north a host of privileges which we on Guam do not enjoy.

To the residents of the Northern Marianas, I applaud their tenacity in achieving the goals they set for themselves.

To accord these individuals a political status higher than that now accorded Americans in the U.S. Virgin Islands or Guam, however, is a grave trespass on the boundaries of the union which exists between territorial Americans and their counterparts in the 50 States.

Territorial Americans have fought and died for this country. And, in return, we expect and demand no less than fair treatment and a full measure of justice.

I appreciate that the United States is desirous of utilizing the Northern Marianas for additional military bases. I support such action as I would far prefer the continuation of an American presence in the Pacific than that of any other major military power. And, the existence of U.S. military bases on Guam and in the Northern Marianas will certainly provide additional economic assistance to the residents of this area.

Whatever the needs—whether real or imagined—of the Pentagon in the Western Pacific, however, the willingness of Washington to deal to so generously with noncitizens while denying their fellow Americans equal treatment can only be viewed with suspicion and resentment by the people of Guam.

During the months to come, the members of the 12th Guam Legislature Status Committee will endeavor to review our present relationship with Washington and propose some badly needed changes. As these matters become public, I will bring them to the attention of my colleagues in the Congress.

For the present, however, I salute the members of the 12th Guam Legislature for their forthright support of the efforts of the Micronesians in the Northern Marianas, and I insert the contents of Resolution 129 at this time into the RECORD.

RESOLUTION NO. 129

Relative to expressing the support of the people of Guam for the people of the Northern Marianas in their quest to establish a political status within and as a part of the United States of America and pledging the whole-hearted cooperation of the people of Guam in this endeavor

Be it resolved by the Legislature of the Territory of Guam:

Whereas, it has been publicly announced that representatives of the Northern Marianas and the United States have entered into negotiations relative to the establishment of a political status for the Northern Mariana Islands within and as a part of the United States of America; and

Whereas, the people of Guam—despite concern about the benign neglect that has sometimes been exhibited by the United States toward this island territory—still believe that the governmental system of the United States represents man's best hope for the perpetuation of a society of free and equal people; and

Whereas, the people of Guam would be proud and pleased to see their brothers in the Northern Marianas become a part of the American community; and

Whereas, the entry of the other Mariana Islands into the ranks of the political subdivisions of the United States would be a *de facto* step towards reunification of Guam with its sister islands to the north; now therefore be it

Resolved, that the Legislature of Guam does hereby express the support of the people of Guam to the people of the Northern Marianas in their quest for a political status within and as a part of the United States of America; and be it further.

Resolved, that the Legislature of Guam does pledge the whole-hearted cooperation of the people of Guam to the people of the Northern Marianas in their political status negotiations; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Political Status Commission of the Northern Marianas, to the Marianas District Legislature, to the Administrator of the Marianas District, to the Honorable Franklin H. Williams, High Commissioner of the Trust Territory and to the Governor of Guam.

Duly and regularly adopted on the 13th day of November, 1973.

COST OF LIVING COUNCIL CHAIRMAN EYES BROADER CONTROLS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. ASHBROOK. Mr. Speaker, all citizens beware.

According to the January 12 issue of Business Week, Cost of Living Council Chairman John Dunlop is looking for some kind of mechanism to replace the present system of wage and price controls.

And what a mechanism Dunlop has in mind. The Federal Energy Administration would become a vehicle for allocating scarce building materials as well as fuel, with allocations based at least in part on how well wages and prices are kept in check in the construction industry.

As Business Week cautions, this proposal to piggyback wage and price controls on measures to relieve the energy crisis has implications far beyond the construction industry.

If the plan wins Nixon Administration acceptance, and Congress approves it, the tie-in could spread to other industries short of materials and fuels. It could become another step toward a planned economy.

The complete text of the article follows:

A STEP TOWARD TIGHTER CONTROLS

The Nixon Administration is seriously considering a plan to use the proposed new Federal Energy Administration to allocate scarce building materials as well as fuel—and to decide allocations at least in part on how well wages and prices are kept in check in the construction industry. In effect, it is a proposal to piggyback wage and price controls on measures to relieve the energy crisis. It has broad implications: The policy would not have to stop with the construction industry.

If the plan wins Nixon Administration acceptance, and Congress approves it, the tie-in could spread to other industries short of materials and fuels. It could become another step toward a planned economy.

Nobody talks of it openly in such terms yet. The idea is being circulated by Cost of Living Council Chairman John Dunlop as a possible solution for control problems in the construction industry. But Dunlop also has been searching for some kind of mechanism to replace the present system of wage and price controls, operating since 1971, which expires Apr. 30 unless Congress extends it. The CLC chairman, originally the head of the construction controls program only, has looked before at that program for ideas for broader controls policies.

"What we want out of the FEA is the authority to deal with materials problems and allocations," confirms an Administration official familiar with the construction plan. The authority would be used as a lever to enforce government wage and price standards by making compliance with the standards a condition for receiving critically short building materials. Contractors and unions that failed to cooperate would find their projects on the bottom of the government's priority lists. "When you allocate fuels and materials, you allocate jobs," says an AFL–CIO official.

THE NEW WEAPON

Administration officials turned to the energy crisis for a solution to the construction controls problem after becoming convinced that the tripartite Construction Industry Stabilization Committee was losing its effectiveness. With the Administration's decontrol of other major industries in recent months and inflation outrunning average settlements by more than three percentage points in 1973, construction union leaders have found continued participation in the CISC politically intolerable. The CISC, which will be three years old in March, is on the verge of becoming the oldest wage control agency in U.S. history.

The Dunlop proposal would replace the CISC with a special Office of Construction within the FEA. But while the shape and the name of the construction panel would change, key labor and management members of the CISC would be retained in policymaking roles basically independent of FEA Administrator William E. Simon. The relationship between the new Construction Office and the FEA would be much the same as the current independent status of the CISC under the Cost of Living Council.

The Administration will approach Congress for the broad allocation authority under the banner of the energy crisis. It will argue that the authority is needed to assure and speed the development of new energy sources and the expansion of current sources. With this mandate, the FEA could guarantee delivery of scarce materials to such construction projects as pipelines, refineries, and nuclear power plants. At the same time, the FEA would continue to induce suppliers of the scarce goods to produce priority materials through the mandatory fuel allocation program already in operation at Simon's Federal Energy Office.

MOVING FAST

The Administration's timetable for Congressional action is short. Government sources indicate that they want the authority approved and the new construction agency operating no later than the end of March to avoid political entanglement in the expected debate over the extension of wage and price controls.

Politically, Dunlop's strategy appears to be to use the Administration's campaign to develop an "energy ethic" to further his efforts to dampen inflation through supply and capacity changes in the economy. He is already trying to nail down production commitments as a quid pro quo for either price rises or outright decontrol.

Dunlop has quietly been lobbying on Capitol Hill for a stripped-down version of the CLC to monitor and possibly enforce the commitments he is negotiating now with labor and management. But he believes that in the current political climate, any Nixon Administration proposal is likely to face tough opposition in Congress. Consequently, he hopes to guide a debate that will evolve into an acceptable plan that Congress can call its own.

THE FEO'S ROLE

Since Dunlop began his campaign on the Hill, however, the FEO has moved to the forefront of political economic policymaking. Although Dunlop says he finds the idea of using oil as an enforcement tool for wage-price controls "repugnant," he obviously intends to take advantage of the sense of urgency and broad mandate the energy crisis has given Simon's agency to try to stabilize the economy.

No one at the FEO was openly talking this week about the specific Dunlop proposal for construction. But construction problems are clearly at the top of Simon's energy-related priority list. "Our role is to provide government leadership and to act as expediters—not just as allocators—to get this job done," says Simon. "With further Congressional authority, for example, we could cope with materials bottlenecks or even shortages of skilled labor, such as welders, for nuclear projects."

Simon is cautious about discussing any extension of FEO authority in materials allocation beyond what is required to build new refineries, spur Alaska pipeline development, and develop other energy sources. But he is concerned about "raw materials shortages in nine out of 13 basic industries," and he notes, "This program has ramifications for every part of the economy in such things as usage of raw materials and controls of shortages. It's all part and parcel of the effort to achieve energy independence." Simon's deputy, John C. Sawhill, also sees the broad economic potential for FEA. "We see this operation as an opportunity to use leadership to implement necessary changes in our fundamental economic patterns," Sawhill says.

Like Dunlop—and every other key economic official in the Administration—Simon is a free-market advocate who thinks that "there is little government can do that business can't do better." But he also happens to be in the controls business now. "We now have the mechanism in the FEO for dealing with microeconomic problems," says Simon.

Given the FEO's microeconomic management powers—and the additional clout it will seek from Congress this year—Simon's operation could well develop into an umbrella agency for economic planning by the government along the lines recently visualized by Council of Economic Advisers Chairman Herbert Stein. Stein said the U.S. "may need an economic planning agency like the Japanese or French have." One FEO insider agrees that his agency might fill this need.

THE MAYOR'S SCIENCE AND TECHNOLOGY ADVISORY COUNCIL OF PHILADELPHIA—A PROTOTYPE FOR THE NATION

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. EILBERG. Mr. Speaker, the city of Philadelphia, like other major cities in our country, is confronted with a set of increasingly difficult and complex problems. Currently, solutions to these problems are becoming more expensive in terms of manpower, resources, and the price of failure. Thus, there is considerable incentive for bringing the very best scientific and technological counsel to bear on the tasks of defining the city's problems, devising suitable solutions, and monitoring the effects of governmental programs.

A considerable range of technical manpower already exists in the city. However, the compartmentalization of governmental structure and of professional disciplines, and the necessity to monitor day-to-day operations, tend to work against development of innovative interdisciplinary approaches which appear to offer some of the most fruitful directions for governmental action.

A wealth of technological and scientific manpower is available in the Philadelphia academic, industrial, and research institutions. Many of the educational institutions are already on their way to channeling academic concerns toward multidisciplinary solutions of pressing urban problems. Equally important, business corporations and research institutions are also following this lead and they possess capable leaders whose survival depends on their ability to translate scientific theory into action.

An advisory group to the chief operating officer of the city can provide some of the technical approaches and the knowledge needed to permit the city to operate at maximum efficiency and also coordinate activities with the Governor's Science Advisory Committee and technological groups at the Federal level. It is for this reason that the science and technology advisory council was established to provide this type of counsel to Mayor Frank L. Rizzo. Through the Office of Intergovernmental Science Programs of the National Science Foundation and the Pennsylvania Science and Engineering Foundation, funds were made available for a 2-year period to "seed" this effort. With funding assured, the mayor selected Dr. I. M. Levitt, as executive director, to operate the council on a day-to-day basis. The city of Philadelphia has combed the scientific, technological, and business communities for various types of talent which could be directly applied to its problems.

Through the personal intervention of the executive director, approximately 175 candidates were solicited and invited to join the council. Originally, six divisions were set up dealing with energy, environment, esthetics, housing, transportation, and urban affairs. At the suggestion of one of the city operating departments, a seventh divison, communications, was added. Each division has a chairman and vice chairman who, together with the heads of the operating departments and the directors of the quasi-public organizations, comprise a group of 30 which represent the operating council. This council develops the operating strategy for M-STAC.

The initial problems with which the council dealt were culled from the operating department of the city. Approximately 50 problems surfaced as a consequence of a questionnaire issued from the managing director's office and consultations with the commissioners. Of the 50, approximately 15 were chosen to be tackled by the council on its first effort. These 15 were the problems the staff considered to have a scientific or technological solution.

The council, now after 18 months of operation, has dealt in great detail with some of these problems and some of the solutions have been achieved.

The council has found a way to eliminate approximately 1½ million cubic yards of sludge at the southwest sewage plant to convert it into an inert, ecologically acceptable fill material for Interstate 95. The council has dealt with the energy problems in the Philadelphia region and several studies have been made in the area of conservation of energy. They have tackled the problem of electronic enhancement of fading public documents so that the city may preserve permanent records of buildings and houses which have been demolished in the 1950's and 1960's. The council has pioneered an effort to convert trash-to-energy as a major cost-saving factor for the city. The council has acted as a clearinghouse for demonstrations on technology which can be applied to urban affairs, examples of which are ultrasonic tire testing to use retreads on city vehicles, the use of infrared detection equipment for locating the source of fires, the assessment of a communications system for the fire department to permit faster arrival at a fire and more efficient procedures during a fire, a study of traffic strategies for the city to help bring the carbon monoxide levels down to the EPA primary standards, development of criteria for the abandonment of houses, formulation of legislation for the partial elimination of graffiti, a study of the false alarm problems that plague all major cities, and so forth.

M-STAC was created as a pilot program to determine optimum methods for the interaction of science and technology with the political, economic, and societal forces in an urban community. The caliber of the M-STAC personnel, many of whom possess international stature and head up research activities with national overtones, insures that this pilot program will succeed and may be a point of departure for future and more sophisticated models.

EX-NIXON AIDE: ON JOINING THE REBELLION

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. RIEGLE. Mr. Speaker, a young speechwriter on President Nixon's staff recently resigned his post. He has offered the country some thoughtful observations on his White House experience. I insert, for the interest of my colleagues, an important article he has written which appeared in the New York Times of February 2, 1974:

[From the New York Times, Feb. 2, 1974]

EX-NIXON AIDE: ON JOINING THE REBELLION

(By John K. Andrews, Jr.)

BETHESDA, MD.—Regretably, after giving voice several years ago to America's "silent majority" on the issue of the Vietnam war, the Nixon White House has now undertaken to cow that majority back into silence by making them doubt their own decent instincts on an even more basic issue—executive responsibility and the rule of law in our democracy.

The line of attack was set by Vice President Ford when he suggested in mid-January in a speech that few Americans other than "extreme partisans" and "super welfare-staters" were prepared to see the President removed from office because of his handling of Watergate and related scandals.

That suggestion is patently untrue; one expects better from the admirable new No. 2 man. In point of fact, the demand for some sort of cure to the gangrenous condition at 1600 Pennsylvania Avenue cuts across the whole spectrum of American politics. The open rebellion of conservatives at their recent Washington conclave underscores this. So do the opinion surveys:

Whereas some 61 per cent of the electorate voted for Mr. Nixon's reelection in 1972, as against 39 per cent for George McGovern, the Gallup poll now shows only 42 per cent opposing his resignation, with 47 per cent in favor. Nearly one-third of the President's entire center-right landslide constituency, in other words, no longer has the stomach to say his resignation nay. And for every five votes won by the ultraliberal Mr. McGovern 15 months ago, six are now being cast for the accession of meat-and-potatoes Mr. Ford, even though that would require the unprecedented trauma of a chief executive quitting in midterm.

Beyond what the cold numbers reveal, I can attest more personally to the bipartisan breadth of disaffection with Mr. Nixon's defiant, fugitive leadership style.

As a conservative, upper middleclass, Midwestern WASP Republican, I was a textbook example of the natural Nixon supporter. As a press aide and speechwriter on the President's staff from the beginning of 1970 to the end of 1973, I was the beneficiary of his fatherly, if never intimate, interest in my work, and I tendered him in return an almost filial affection and loyalty over most of that period. I believed deeply, and still do, in most of what he wanted to do for America and the world. I yield to none in lauding his achievements for peace.

When Watergate began to engulf the White House in 1972, however, the President I so admired was replaced by an ethically numb figure unable or unwilling to vindicate the idealism so many of us on his young staff had cherished about American constitutional government. After months of bitter frustration trying to help set matters right from the inside, I finally quit on principle last December.

In rejoining the battle now from the outside, my prayer is still to see him somehow open up, own up, take command of the reformers, and serve out his term. But like a daily growing plurality of Americans, I am also resigned to the unpleasant imperative of measures to save the Presidency from this President in the event the President continues refusing to be saved from himself.

The man's technical innocence or guilt of crime has long since become sadly irrelevant. Even if not a lawbreaker himself, he has run a campaign and an Administration infested with them and has done shockingly little to clean up the mess since it squirmed into the daylight last year. The consequences for public confidence in our institutions have been cataclysmic. Mr. Nixon cannot therefore escape grave blame for, at the minimum gross negligence of duties to which his constitutional oath binds him.

Thus we face perhaps one of the most clear-cut moral issues that have tormented American domestic politics since slavery was abolished. While the country does, to be sure, still have a President in the literal sense—in Army parlance, a "warm body" still occupies the Oval Office—yet in moral terms the revered leadership position is quite vacant. One way or another that vacancy must be filled, and quickly.

If, as I still want to believe, the President's sins are those of omission only, he might well win redemption and honorable survival by admitting them and asking for a second chance. But if they are indeed crimes of commission, as his stubbornly guilty demeanor seems to argue, then—as his own steely-nerved daughter Julie has conceded—he must go.

So please, Mr. Ford, cool it. We need you untainted by demagoguery as you wait in the wings. You know in your heart that Mr. Nixon has covered the highest office with dishonor. That failing any new willingness on his part to atone, resignation is one perfectly legitimate remedy, explicitly contemplated by the Founding Fathers in Article II, Section 1 of the Constitution. That his dethroning by impeachment and conviction is another, a remedy surely broad enough to rid us of misgovernment not otherwise remediable.

On this last point, of course, the pundits warn us that Congress senses that most people wish Mr. Nixon gone yet recoil from the bloodletting of an impeachment. Sure they do. For once they want Capitol Hill to lead, not be led by, them—and any member of the House or Senate who thinks his duty to constituents consists in mere pupetry to a timid public mood is a discredit to the representative process.

To repeat, the moral vacancy atop the executive branch must be filled. For Congress not to apply the pressure that will fill it, either with qualities summoned up inside the present incumbent or else with the oaken character of their own club member, Gerald Ford, can only deepen public cynicism by betraying a similar vacuum on the legislative side. Then, God forbid, what a banana republic we would be.

THE 1975 FISCAL YEAR BUDGET

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. HUDNUT. Mr. Speaker, the Federal budget for fiscal 1975, which has been presented today by the Executive Office of the President of the United States, breaks all previous records for Government spending. It requests total spending of $304.4 billion, an increase of $29.8 billion over 1974. It anticipates revenue of $295 billion, which is $25 billion more than 1974 receipts. The budget deficit has also set a new alltime record. "The United States Budget in Brief," a condensation of the budget for fiscal year 1975, indicates on page 4 that the Federal Government spending for 1975 would exceed its income by some $9.4 billion if unemployment holds to 4 percent. The document also states that as a result of this deficit, "federal debt held by the public is estimated to rise from $346.5 billion at the end of 1974 to $359 billion at the end of 1975."

This latter statistic is a little bit misleading, and I regret that we have to go to the fine print in the document—table I, page 46—to discover that the estimated 1974 fiscal year debt will be $486.4 billion and in 1975, $508 billion. The difference between the $359 and the total is that Government agencies hold $148.9 billion of the Federal debt.

Mr. Speaker, what this means, if the projections are accurate—and we can have no reason to believe that they are anything but conservative projections at the best—is that in the 10 years, since 1965, the gross Federal debt has risen from $323.2 billion to $508 billion. This simply boggles the mind, and forces many Americans to ask the question "Where are we going in America?" What is happening to the value of our currency? What are we doing to future generations? How can we justify running our Federal Government on the basis of continuing deficit financing when our homes and businesses must be run otherwise, or the sheriff will be at the door?

I have always opposed deficit spending, and will continue to do so. I feel that we should pay our way as a Nation, just as we do in our homes and businesses. There is nothing wrong with borrowing—we all do it; but we also pay back at interest what we borrow. I do not think we should pass along to our children and our children's children an incredible and disastrous burden of public indebtedness that will break their backs, the back of our currency, and the back of our country—which seems to be just what we are in the process of doing. We simply must get a handle on Government expenditures, control them as best we can, and see to it that outgo matches income.

To this end, during the past session of the 93d Congress, I introduced H.R. 7154. This bill provides that Federal expenditures shall not exceed Federal revenues except in time of war or grave national emergency declared by Congress. It also provides for systematic reduction of the public debt. Right now, the budget includes a figure above $25 billion for interest on the public debt, and it is anticipated that in fiscal 1975, that figure will rise to $29 billion. That figures out something like a little more than $58,700 per minute that the American people are paying to service the national debt—much less retire it. My legislation—and other bills like it—is still pending before the Ways and Means Committee, and I wish that hearings could be held on this subject and the public be given the chance to express itself to the committee, because I feel quite certain that most Americans disapprove of the astronomical figure that the public debt has reached.

We did make some progress toward budget reform in the last session of the Congress by passing H.R. 7130 in December. I was glad to vote for this measure, which, when it becomes effective, will require Congress to set ceilings on outlays and revenues each year, prepare its own budget proposals, return to the Appropriations Committee control of forms of spending which are now not subject to such review, and extend the fiscal year to begin on October 1 rather than July 1 so that all spending can be compared at one time to the earlier Budget Committee targets. The ceiling set earlier in the year can be reviewed and revised all at one time in September, but every step of the process has to be related to every other step. The process is cumbersome and is not a panacea. However, it is intended to provide a discipline within which the congressional will to govern can be rediscovered. It is a step in the right direction, but I feel we must continue to work for better budget reform, a balanced budget, and efforts to reduce Federal spending and the public debt.

So far as the fiscal 1975 Federal budget is concerned, it is staggering. The document itself that has been sent to the Congress is 1,072 pages long—much bigger than the Indianapolis Telephone Directory. The budget does reflect the administration's change in spending priorities. The plan allocates almost 50 percent of the expenditures to human resources—that is, education and manpower, income security, and veterans benefits, where this category received only 34 percent of the budget in 1969. Defense spending, on the other hand, has dropped proportionately from 44 percent of the 1969 budget to 29 percent of the proposed 1975 budget, and so forth and so on.

It is now our job in Congress to study the entire request, review the component parts, make changes as we see fit, and hopefully improve the entire budget. It is a tall order indeed.

COMPLAINTS OF ANNE ARUNDEL, MD., COUNTY PUBLIC SCHOOL SYSTEM

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mrs. HOLT. Mr. Speaker, Federal harassment is a strong term, but it accurately reflects a situation which is occurring in many local school districts throughout the country.

The Anne Arundel County system in my district, is one in which I and the other residents of the county are justifiably proud. Our schools were integrated without incident in the late 1950's, and last year we successfully implemented a busing plan to comply with the legalized numbers racket known as racial balance. All of this has been accomplished in a calm, mature manner.

Despite our progress in this area, and our desire to comply peacefully with increasingly absurd bureaucratic and court decisions, we find ourselves being subjected to continuing intervention by the Philadelphia Regional Office of Health, Education, and Welfare. Their latest demand for data defies all logic; it is, in fact, the most blatant and arrogant example of Federal authoritarianism that has come to my attention.

I would like at this time to insert in the RECORD, copies of correspondence from Dr. Edward Anderson, superintendent of schools in Anne Arundel County, and Mr. Dewey E. Dodds, Director of the Philadelphia Regional Civil Rights Office which clearly documents this situation.

ANNE ARUNDEL COUNTY
PUBLIC SCHOOLS,
Annapolis, Md., January 28, 1974.

Hon. MARJORIE S. HOLT,
Member of Congress,
Longworth House Office Building,
Washington, D.C.

DEAR MRS. HOLT: I am enclosing a copy of a letter I received from the Director, Office of Civil Rights, Region III, and a copy of my reply.

As you may know, we in Anne Arundel County have done everything humanly possible to achieve a good working relationship between the races, and I firmly believe that our system can stand the most rigid examination by impartial authorities. On the other hand, I think the actions of the so-called "Civil Rights Office" should be brought to the attention of every member of Congress and to the entire American public. These people are systematically attempting, and in some cases succeeding, in turning the races against each other and in destroying the American Public School System.

It is the most assinine and cruel thing that has ever happened in this Nation, and I think it is indeed time for Congress to look into this monster which has been created. We in Anne Arundel County would be more than willing to stand up and be counted and to be investigated in every way by responsible authorities. This is such a serious matter that I do not think any of us can any longer stand still. I would urge some action on your part if it is possible.

I have written also to Senators J. Glenn Beall and Charles McC. Mathias, and to Secretary Caspar W. Weinberger expressing my very deep concern.

Sincerely,

EDWARD J. ANDERSON,
Superintendent of Schools.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, OFFICE OF CIVIL RIGHTS,
Philadelphia, Pa., January 22, 1974.

Dr. EDWARD J. ANDERSON,
Superintendent, Anne Arundel County Schools, Annapolis, Md.

DEAR DR. ANDERSON: We have received your school district's application for funding under the Emergency School Aid Act (ESAA). A review of the application has determined that additional information is required in order to certify your district's compliance with the ESAA assurances.

Mr. Edward Stofko of your staff was notified by telephone on January 14, 1974, as to the specific information which is needed. Following is confirmation of the basis for the information and the specific regulatory section regarding same.

DEMOTION OR DISMISSAL OF MINORITY GROUP PERSONNEL

Section 185.43(b) addresses the disproportionate demotion or dismissal of minority group staff.

A review of your district's application indicates that of 85 head coaches employed by your district in 1973–74, none are black. There were 31 white and 4 black head coaches of sports in the school district prior to desegregation; this constitutes a 100 percent reduction of black coaches. In addition, it raises questions concerning your recruitment and hiring practices of head coaches. It is necessary that our office receive the following material:

The name of each black coach employed by your district, including the years 1961 to the present; the sport he/she coached prior to and immediately following desegregation; the school in which he/she was employed; his/her salary/supplement before and after desegregation; his/her reason for leaving; and his/her last known address and telephone number.

DISCRIMINATION AGAINST CHILDREN

Section 185.43(d)(4) addresses the imposition of disciplinary sanctions in such a manner as to discriminate against minority group children.

A review of your district's DHEW fall enrollment reporting form indicates that disciplinary sanctions have had a disproportionate impact on minority students in a substantial number of your schools, many of which were not included in our original information request.

1. Annapolis Elementary.
2. Cape St. Claire Elementary.
3. Central Elementary.
4. Davidsonville Elementary.
5. Cromwell Elementary.
6. Germantown Primary.
7. Germantown Intermediate.
8. Harmon Elementary.
9. Hillsmere Elementary.
10. Manor View Elementary.
11. North Glenn.
12. Parole Elementary.
13. Shady Side.
14. Tyler Heights.
15. Van Bokkelen Elementary.
16. Andover High.
17. Annapolis Junior High.
18. Annapolis Senior High.
19. Anne Arundel Junior High.
20. Anne Arundel Senior High.
21. Bates Junior High.
22. Brooklyn Park Junior/Senior High.
23. Corkron Junior High.
24. George Fox Junior High.
25. Glen Burnie Senior High.
26. Lindale Junior High.
27. McArthur Junior High.
28. Marley Junior High.
29. North East Senior High.
30. Severna Park Junior High.
31. Severna Park Senior High.
32. South Junior High.
33. Southern Senior High.
34. Learning Center.

For each of the above schools, please provide information for each student similar to that provided in the attached worksheet for the school years 1971–72, 1972–73, and 1973–74. At your own discretion, you may or may not wish to use the attached worksheet for organization of the material. Each student should be listed separately and the actions against that student should appear under his/her name. Please list each student only once. In addition, please provide the information below for each school.

A. A narrative description of the district's disciplinary rules including:

(1) What are the rules of conduct?

(2) Who determines violations and what standards are used to make such determinations?

(3) What standards for application of rules are written?

(4) How are teachers informed of these standards?

(5) How are students informed?

(6) What is the suspension process?

(7) What is the expulsion process?

(8) Who metes out the punishment?

(9) What options of punishment are available?

B. The same as (A) above for each school which has different or additional standards.

It is our understanding that all students in the Learning Center are there largely because they have been disciplinary problems in other schools within the county. It is therefore requested that the above information be provided for each student now enrolled in the center and whose referral to that school was based upon disciplinary factors.

It is also our understanding that there is a procedure by which, on occasion, certain students with disciplinary problems may be referred to the local authorities such as juvenile court, police department and other such agencies. Please also provide the same kind of information as listed above for each student referred to such agencies.

RACIALLY ISOLATED AND/OR RACIALLY IDENTIFIABLE CLASSES

Section 185.43(c) and (d)(5) prohibits the assignment of students to classes in such a manner as to discriminate against minority group children by assigning them to classes which are racially identifiable or racially isolated.

A review of your application and your fall report forms revealed that racial isolation in certain classes exist at the following schools.

School	*Grade*
1. Brooklyn Park	1
2. Crofton	K
3. Folger	K
4. Four Seasons	5, 4, 1
5. Freetown	1
6. George Cromwell	6, 4, K
7. Hilltop	5/6
8. Millersville	2
9. North Glenn	K
10. Parole	6 & Special Ed.
11. Severn	1

The following schools according to your application and the fall report forms appear to have racially identifiable classes, some of which may be due to ability grouping procedures.

1. Georgetown East
2. Germantown Primary
3. Hillsmere
4. Manor View
5. Tyler Heights

Please verify and explain the existence of any racially identifiable or racially isolated classes in schools listed above and others which were not listed. Also, please indicate those schools which use ability grouping.

Other questions discussed with Mr. Stofko and appropriate actions requested included:

A. Improper formation of Adult Advisory Committee. Students were not included.

B. Transfer of public property or services to private schools. The nondiscriminatory status of the St. Jane Francis School was not addressed in the application.

It is necessary that you submit this information as soon as possible but not later than 15 days after receipt of this letter, in order that we may complete the processing of your application. If there are any questions or need for clarification regarding the requests, please do not hesitate to call at your earliest convenience.

Sincerely yours,
DEWEY E. DODDS,
Director, Office for Civil Rights, Region III.

JANUARY 25, 1974.

Mr. DEWEY E. DODDS,
Director, Office for Civil Rights, Region III, Department of Health, Education, and Welfare, Philadelphia, Pa.

DEAR MR. DODDS: Your letter of January 22, 1974, requesting information has been received. The following quote is from a staff member who I asked to review your request:

"How much money are we talking about? Is it enough to buy this school system?

"Rev. Dodds has created a masterful piece of fictional literature. I'd really be concerned if I thought he were serious."

As for me, Mr. Dodds, your unmitigated arrogance is surpassed only by your incompetence as demonstrated by your uncalled-for letter.

Sincerely,
EDWARD J. ANDERSON,
Superintendent of Schools.

Mr. Speaker, I find the content and the tone of Mr. Dodds letter to be both unnecessary and insulting. I am equally disturbed to find that we are so far down toward making the goal of a good education secondary to the whims of Federal bureaucrats who, apparently, have nothing better to do than devise outrageous demands for irrelevant data. I firmly believe that the will of Congress and the American people is being seriously subverted in this case.

In closing, I would like to reemphasize Dr. Anderson's request: "I think it is, indeed, time for Congress to look into this monster which has been created."

RAIL TRACK ABANDONMENT

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mrs. GRASSO. Mr. Speaker, the abandonment of 175 of Connecticut's 664 miles of rail trackage—as recommended in the Department of Transportation's report on Northeast and Midwest rail service—would have a disastrous effect on the economy of my State, add new cost factors to an already intolerable situation and new transportation problems to our other economic difficulties.

If the Transportation Department's suggestions are followed, a full 26 percent of Connecticut's tracks will be eliminated and numerous towns and cities—where businesses and industries have come to rely on rail freight—will cease to be stops along rail lines.

Under the DOT plan for reorganization, Connecticut rail shipments would be cut from 161,000 to 154,000 annually, yet the turmoil and dislocation that would result from the plan's implementation in Connecticut go deeper than this overall statistic.

If the Transportation Department recommendations are followed, many industries now depending on rails for the delivery of raw materials and the transport of their finished products would be cut off with no reasonable transportation alternative. Likewise, Connecticut's dairy and poultry industries would be without a viable means of obtaining badly needed foodstuffs—particularly livestock feed and fertilizer.

The Sixth Congressional District which I serve would be particularly hard hit. Service would be curtailed on 8 of the 14 rail lines now operating in my district, while 23 of the existing 37 freight stops would be eliminated.

For example, in the area of New Britain—the largest city in my district—three out of six stops will be eliminated and two of four lines affected. Freight service would be cut by a phenomenal 15 percent. Business and industry in towns such as Southington, Plantsville, and Milldale will no longer be able to rely on rail service for the delivery of badly needed goods. Elsewhere, retailers in growing population centers such as Simsbury and Avon will also lose their rail freight lines, and a rail spur servicing needed economic interests in Watertown will be eliminated.

Everywhere throughout Connecticut and the Sixth District business and industry will be forced to turn to motor transportation for the shipment of raw materials and delivery of finished products.

At a time when we must do everything in our power to provide alternatives to highway transportation, due to grave energy shortages, doing away with rail lines is simply incomprehensible.

Adoption of the Transportation Department plan in Connecticut would mean more crowded highways, greater air pollution, and severe economic hardship and dislocation. Moreover, if vital access routes for badly needed products are abolished in my state, prices for these products will rise dramatically.

Mr. Speaker, I voted for the Regional Rail Reorganization Act as a means of restoring, supporting, and maintaining modern, efficient rail service in the Northeast. Yet, the recommendations made by the Transportation Department as mandated by the act certainly failed to fulfill this goal.

It is my strong belief that the Transportation Department should be ordered back to the drawing board to formulate a more realistic plan for rail service in Connecticut. You may be assured that in hearings on this plan scheduled to be held in my State beginning March 11, I will proffer my suggestion quite firmly.

A VOLUNTEER ARMY

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. CARTER. Mr. Speaker, a recent letter from the Secretary of the Army, the Honorable Howard H. Callaway, who is a former Member of this body, indicates that the efforts the Secretary is making in securing a volunteer Army are effective. In my opinion, the Secretary is doing a superior job in his present position. I include his letter for the RECORD:

SECRETARY OF THE ARMY,
Washington D.C., January 31, 1974

Hon. TIM LEE CARTER,
House of Representatives,
Washington, D.C.

DEAR TIM LEE: As I am sure you are aware, there has been a considerable amount of interest regarding the status of the volunteer Army. I am now completing a full report on the first year of the volunteer Army and will be forwarding a copy of it to you in the near future. In the meantime, I thought you and your constituents would appreciate a brief status report. In summary, the news is good.

First, I would like to mention a recruiting technique heretofore unknown in the modern American Army. Last year the Army reactivated the 9th Infantry Division at Fort Lewis, Washington, but the manpower was not at hand. The Army directed the Commander, General Fulton, to take his cadre, the Division colors, and recruit a division. General Fulton and his recruiters did just that. They began a vigorous recruiting campaign and today that division stands at 102 percent strength, essentially filled with volunteer soldiers. Now this is a real success story, a living example illustrating that the volunteer Army program is not an impossible dream, but a workable idea which can be accomplished.

During the period January to December 1973, the Army recruited 163,800 men and women. Reenlistments for the year totalled 46,300. In addition, 2,530 men and women extended their enlistments for two years of more during the period from January to October. The Army has achieved 88 percent of its recruiting objectives since we abandoned the use of the draft on 29 December 1972, and recent recruiting trends are up. The high school graduate content of our non prior service enlisted accessions since the draft ended (calendar year 1972) has been about 60 percent. If we include prior service accessions, the high school figure rises to 63 percent; and if we take a snap shot of the whole Army, we find 71 percent enlisted men and women have at least a high school education. Although there were some shortfalls in meeting recruiting goals in the early months of this fiscal year, recently the monthly goals have been met and our enlisted strength permits us to maintain an effective and quality force.

Many new approaches to recruiting are being tried which stress quality together with quantity, such as bringing the recruiter force up to authorized strength on a priority basis, expanding the unit of choice and station of choice options (as in the example of the 9th Division), focusing on the junior college market, screening out poor soldiers in reenlistments, administering new entrance tests, and even screening out early in training the individuals who cannot become successful soldiers. These efforts will continue.

With respect to discipline in the volunteer Army, in comparing trends for Fiscal Years 1972 and 1973, a period which includes both draft and volunteer Army experience, we find that rates for AWOL, desertion, crimes of violence, crimes against property, and courts-martial, are down. Virtually every major indicator of discipline in the Army has, in fact, remained at the same level or improved. Whatever factors contribute to this picture, it is clear that today's volunteer soldier is not causing an increase in disciplinary problems.

As you know, there has been some interest in the racial composition of our enlistees. I want to stress that the Army has no quotas based on race. Our main concern is that the applicant is qualified to enlist and serve in the Army and that he is motivated to serve to the best of his ability. Operating under that policy, the percentage of black males enlisting in the Army increased from 18.7 percent in Calendar Year 1972 to 28.2 percent in Calendar Year 1973 and as a result, the black enlisted men increased from 17.5 percent of our enlisted strength in Calendar Year 1972 to about 20 percent in Calendar Year 1973. Black soldiers, like all other soldiers, are assigned throughout the Army in accordance with their enlistment commitments and their individual capabilities.

Finally, combat readiness, which is the heart of the Army's business, has shown significant improvement. Judged by the stringent standards reported to the Joint Chiefs of Staff, the divisions today much more nearly meet their goals than they did at the end of the draft—all 13 divisions are fully operational and nearly all are ready for combat.

These simple facts and figures point to one conclusion: The Army is better today than it was at the end of the draft. All of the important trends are in the right direction. I am proud to emphasize that your Army is good, combat-ready, and improving with the passage of time.

Sincerely,

HOWARD H. CALLAWAY.

GILMAN NOTES FORD REMARKS ON NIXON PEACE EFFORTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. GILMAN. Mr. Speaker, Vice President GERALD R. FORD spoke on January 26 before the Anti-Defamation League of B'nai B'rith, meeting in West Palm Beach, Fla. His remarks on the efforts of President Nixon to achieve a generation of peace are illuminating.

The Vice President's lucid remarks remind us that our President's efforts are responsible for the first true overtures toward peace in the Middle East, and a general lessening of hostility and tension in many of the world's most uneasy places.

Mr. Speaker, I include Vice President FORD's remarks in the CONGRESSIONAL RECORD for the benefit of my colleagues and all our citizens:

ADDRESS OF VICE PRESIDENT GERALD R. FORD

Today I want to talk about peace.

It was with a dream of peace that Albert Einstein came to America from Germany. Einstein brought more than the genius that introduced the nuclear age. He also brought the insight that we must evolve a new consciousness in which all mankind ascends to higher levels of human compassion, imagination, and cooperation.

Einstein said that peace cannot be kept by force. It can only be achieved by understanding.

Another visionary came to the United States from Germany. He is Henry Kissinger, whose diplomatic skills are helping to bring fulfillment to Albert Einstein's dream.

There were those whose eyebrows lifted in surprise—yes even skepticism—when President Nixon announced that Henry Kissinger as his choice for the Secretary of State's office. The doubters wondered whether the office might limit the marvelous persuasive powers which helped open the long-closed door to China and accomplished other major changes in the way we looked at the world and in the way the world looked at us.

But now I think it is obvious, even to those skeptics, that the President's action strengthened rather than weakened Henry Kissinger's influence on diplomacy.

Now, Henry Kissinger speaks as the Chief Foreign Policy officer for our government with the full weight of the Presidency behind him. This, I believe, was a positive factor in Henry Kissinger's successful effort to achieve a settlement in the Middle East.

But before going into more detail about the remarkable diplomacy of Henry Kissinger, I want to refer to the President who established the policies that the Secretary of State implements. So much attention has been focused on controversial events in Washington I fear we are losing sight of the Nixon Administration's creative relationship with the rest of the World.

The fact is that President Nixon's Middle East policy is a study in credibility, integrity, and consistency. The President's 1968 address before the B'nai B'rith organization clearly outlined his views of the Arab-Israeli impasse, his commitments, and his visionary concept of the dangers and hopeful possibilities for that vital region.

The Nixon doctrine emerged in 1969. It was a concept of the world that would lead America to listen more and lecture less, inclining us today partnership rather than paternalism. The State of Israel was concerned at that time lest unilateral concessions be demanded of her and an arbitrary settlement imposed. The President pledged that the United States would only use its good offices to assist the parties to the conflict to fashion their own settlement. He kept his word.

Mr. Nixon made a commitment to help Israel maintain an arms balance to provide the necessary defense capability. He was mindful of the massive flow of Soviet arms to Egypt and Syria. He kept his word.

There was no credibility gap when the U.S. Air Force rushed transport after transport loaded with arms to Israel during and after the October war. This was done to replace Israeli losses and maintain the balance in the face of the heavy shipments of Soviet arms to the area. To finance the airlift and other assistance, the Administration sponsored a $2.2 billion emergency aid bill. Mr. Nixon kept his word.

The President was forced to order a military alert in October to avert the possibility of unilateral direct intervention by an outside power in the Middle East conflict. Some in Washington saw a credibility gap. But there was no question that the alert was necessary and there was no credibility gap in the nations directly concerned. They knew what was happening. Again, the President was consistent with our stated policies.

In recent years there was great concern over the plight of Soviet Jewish citizens who wanted to emigrate to Israel. President Nixon said he would intercede. He did. There is no credibility gap among the many thousands of Soviet Jews who continue to find new homes in Israel.

Secretary Kissinger's recent mission profited from the new climate that exists in the world. This is the climate that ensued from the President's historic initiatives in visiting Moscow and Peking and from the understandings reached there and in subsequent exchanges. This is the climate that flows from the President's extricating our nation from the war in Vietnam, his terminating the draft, and other accomplishments.

I am convinced that prejudice and hatred between Arab and Israeli can be transcended just as we have moved forward in our own relations with the People's Republic of China. Accordingly, we look toward the continued momentum of Arab-Israeli settlement. Both sides now have much to gain by not permitting the situation to stagnate where it is, but to translate it into steady progress toward further agreements encompassing the remaining issues, resulting in a just and durable peace in the Middle East.

This is a test for the parties directly involved as well as for all powers with interests in the area and, in addition for the United Nations forces entrusted with peacekeeping on behalf of the parties and the world community.

Secretary Kissinger's handiwork has relieved a dangerous global pressure point. The Israeli and Egyptian forces are physically disengaging themselves, with the U.N. forces in between acting as a buffer. Each side now has the opportunity to carry out this agreement in such a manner as to instill confidence in the other side that agreements between them can succeed and can contribute to the building of peace.

All of the credit does not belong to American diplomacy. A large share accrues to the courage, goodwill, and vision of leaders in both Egypt and Israel. I salute the statesmanship of President Sadat of Egypt and Prime Minister Golda Meir of Israel.

Secretary Kissinger's genius was in narrowing the distance between the parties without imposing a formula from outside. He acted as a go-between for the two sides. This is far better than coercion. It enhances America's moral standing with both parties, increases our influence, and decreases the chances of American military embroilment.

I wish to reaffirm that Israel will not be expected to negotiate from a position of weakness. We are continuing our policy of appropriate arms supply to Israel. We are carefully observing developments to ascertain that redeployment of Israeli troops strengthens the mutual desire to pursue peace and lessens the chances for a renewal of hostilities.

We are continuing to work with the Soviet Union in efforts to minimize regional friction.

We have felt that the oil embargo imposed by some nations against the nations of the industrialized world and particularly against us was ill-advised. Its implications for the world's economic stability are far reaching. I share Secretary Kissinger's stated view that failure to end the embargo in a reasonable time would be highly inappropriate and would raise serious questions of confidence with respect to the nations with whom we have dealt on this issue.

Meanwhile, we must proceed with our own energy development. Exploitation of domestic petroleum and natural gas potentialities, along with nuclear, solar, geothermal, and non-fossil fuels is vital. We will never again permit any foreign nation to have Uncle Sam over a barrel of oil.

Cooperation by consumers has reduced energy demands to the point where we will get through the winter without serious hardship in American homes. We have been able to defer gasoline rationing and hope we will be able to avoid it entirely. But this depends on continued conservation by the public and industry.

While I am more optimistic now about a lifting of the Arab embargo, even this will not solve the basic shortage. Our American living standard continues to improve with an ever-expanding need for energy.

President Nixon has invited other oil-consuming nations to meet in Washington next month to discuss the energy shortage. Control of inflation is linked with the price of oil. The President has said that the energy shortage "threatens to unleash political and economic forces that could cause severe and irreparable damage to the prosperity and stability of the world."

Against this background, it is particularly encouraging that peace is becoming popular. A first step toward a permanent settlement has been taken in the agreement on military disengagement.

A logical next step would involve disengagement along the Syrian-Israel lines. Any such move, of course, would also have to address the issue of Israeli prisoners of war. I recall all too vividly the torment of Americans over the unknown fate of our P.O.W.'s in North Vietnam.

Secretary Kissinger judged very astutely the moment when Egypt and Israel were equally ready to go from a state of permanent hostility to a state of possible accommodation. He converted that readiness into a formula that both countries could accept. We pray that this can now likewise be done with regard to the confrontation on the Syrian-Israeli front.

A process of awakening has started in the region where fear and death have stalked frontiers for over a quarter of a century. It has come at a terrible cost. The United States will continue to work in every way to encourage a permanent settlement acceptable to both sides. It is my fervent hope that from such a peace will flow a spirit of greater cooperation not only between the Arabs and Israelis but among all peoples.

Our enemies are not other nations or groups of humanity different from ourselves. Our enemies are hunger, disease, poverty, ignorance, hopelessness, fear, and hatred. Our great challenge is not in military confrontation but in harnessing the natural resources and industrial genius of humanity to assure better lives for all Americans and the entire family of man.

A Jewish sage made the beautiful prophecy that Israel will be rebuilt only through peace. This applies to the Arab states and to our own country as well.

The great religions of the Western world, Christianity and Judaism, emerged in that holy land which is at long last on the threshold of peace. That land is also sacred to the believers in the Koran, the faith of Islam. All of us—Christian, Jew, and Moslem—share the same supreme Creator.

In that spirit, I pray that God will bless our country, that it may ever be a stronghold of peace, and its advocate in the council of nations. May He strengthen the bonds of friendship and fellowship among the inhabitants of all lands.

ROBERT S. ALLEN RECOGNIZES DAN FLOOD'S FIGHT TO KEEP PANAMA CANAL

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. SYNDER. Mr. Speaker, the eminent columnist, Robert S. Allen, has recently paid tribute to the latest efforts of the Honorable DANIEL J. FLOOD of Pennsylvania to maintain U.S. sovereignty over the Panama Canal and the Canal Zone. We are all in DAN FLOOD'S debt for his untiring efforts to keep intact this vital link in our Nation's security network.

Mr. Allen's columns of January 24 and February 2, as carried by Publishers-Hall Syndicate, follow:

PANAMA CANAL

WASHINGTON, JANUARY 24.—The State Department asked for it and it's getting it—right between the eyes.

Congressional reaction has been vehement and truculent to that suspiciously vague and ambiguous announcement that an "agreement in principle" has been reached with Panama terminating U.S. ownership of the Canal and sovereignty over the Canal Zone.

If the State Department's high-flown bureaucrats thought they were being smart in easing out this disclosure during Congress' absence, they were sorely mistaken.

The response was instantaneous and like waving a red flag before an enraged bull.

Illustrative is the furious blast of Representative Daniel Flood, D-Pa., Veteran Appropriations subcommittee chairman and leading congressional authority on the Panama Canal. He told this column:

"If the Administration is looking for another confrontation with Congress, I know of no better way to get it than by attempting to surrender the Canal and Zone to Panama."

Bitingly stressed by Flood is that Panama is ruled by an iron-fisted military dictator whose intimate henchman are notorious leftists with close ties with Cuba's communist dictator Fidel Castro.

Foremost among them are Foreign Minister Juan Tack, Finance Minister Jose Guillermo Aizpu and United Nations Ambassador Acquilino Boyd. It is know that they, as well as dictator Omar Torrijos, who fancies himself as the "Jefe Maximo" of Panama, have secretly visited Cuba as guests of Castro.

The so-called "agreement in principle", to end U.S. control over the Canal and Zone, was negotiated in tightly guarded deliberations between Tack and U.S. Ambassador Ellsworth Bunker.

Tack is noted for his long and virulent hostility towards the U.S.

Bunker, former Ambassador to South Vietnam, was especially designated to conduct the Panama parleying.

IN THE DARK

Particularly arousing grave doubts and concern are—

* * * The complete secrecy enveloping the Bunker-Tack negotiations; other than a few insiders, no one even was aware they were underway. The low-key announcement about the "agreement in principle" broke largely as a surprise.

* * * Similarly, there has been a total blackout on the nature and details of the professed agreement. Neither Bunker, Tack nor anyone else has given any hint on that. In an obvious effort to allay suspicion and defuse hostility, State Department "sources" have leaked reassuring intimations that a treaty is "not imminent" and that it will be a long time before one is concluded.

These placating premises are patent stalls to temper and mollify congressional and public doubts and opposition.

Representative Flood is irately making it clear that's a vain hope.

Flatly and unequivocally he brands the Bunker-Tack negotiations as illegal and unauthorized, and predicts Congress will never approve any accord tampering with U.S. ownership and control of the strategic Panama waterway.

"This matter is another incident in a long effort to surrender the Canal Zone that has not been authorized by Congress," Flood told this column. "This outrageous undertaking constitutes one of the most disgraceful episodes in the history of the United States.

"The illicit procedure of the State Department to surrender the Canal Zone and Canal has a long history of falsification and misrepresentations. Congress will never allow the vast work in the Canal Zone and the immense expenditures for the Canal in the past 70 years to be undermined by any form of trickery, chicanery or other skuldruggery."

It is Flood's forceful contention that the U.S. has treaty obligations with other countries that bar modifying the 1903 treaty with Panama.

"Apparently it is either unknown in the State Department or it is being flagrantly disregarded," says Flood, "but our country has solemn Canal treaty obligations with Great Britain and Colombia that cannot be casually ignored. Before we start rewriting the 1908 treaty with Panama, Great Britain and Colombia have to be considered."

WHAT THEY'RE UP TO

As so far ascertained by Representative Flood, the closely guarded "agreement in principle," covers four key issues:

(1) Sovereignty over the Canal and Canal Zone.

(2) U.S. payments to Panama.

(3) Defense of the Canal.

(4) Construction of a new sea-level waterway capable of accommodating the huge oil tankers now plying the oceans.

Representative Thomas Morgan, D-Pa., chairman of the House Foreign Affairs Committee, is plannning to summon Ambassador Bunker for a report on what was done and detailed interrogation. Flood, while not a member of this committee, expects to be on hand.

Under the 1903 treaty, the U.S. has jurisdiction over the 533-square-mile Canal Zone in "perpetuity".

The leftist Torrijos dictatorship is demanding this be abrogated and Panama get sovereignty over both the Zone and the waterway. At times, this agitation has become violent. Ten years ago riotous anti-U.S. demonstrations were incited by the Panama government.

U.S. military forces in the Zone had to be hastily reinforced to protect the 44,000 Americans living there.

One of the Panamanian propaganda demands was that the Panama flag be flown in the Zone with the U.S. flag. Congress flatly turned that down. A resolution authorizing that was overwhelmingly rejected by the House of Representatives 382 to 12.

Subsequently, after Congress adjourned, President Eisenhower authorized the flying of the Panama flag. He did that on the recommendation of then-Secretary of State Christian Herter who succeeded the late Secretary John Foster Dulles.

Flood indignantly recalled this backdown, and declared it is contrary to overwhelming sentiment in the U.S.

"The people of our country are overwhelmingly against any betrayal of U.S. interests in Panama, involving the Zone and the Canal," says Flood. "Any attempt by this Administration to relinquish U.S. sovereignty over these invaluable national properties will not only be overwhelmingly rejected by Congress but decisively repudiated by the American people."

PANAMA CANAL

WASHINGTON, FEBRUARY 2.—That fanfared "agreement in principle" with Panama is being flatly branded as a secret "surrender of U.S. sovereignty"—over the Canal and the Canal Zone.

That is the unsparing accusation made by Representative Daniel Flood, D-Pa., in a letter to Ambassador Ellsworth Bunker, who negotiated the mystery-cloaked understanding in a series of tightly-guarded meetings in Panama with Foreign Minister Juan Tack, virulently anti-U.S. leftist.

A copy of Flood's scathing denunciation has been to every member of Congress. Underscoring the significance of the blast is that Flood, veteran Appropriations subcommittee chairman, is the leading congressional authority on the Panama Canal.

While the terms and provisions of the Bunker-Tack agreement have yet to be spelled out, Flood charges they are obviously based on a "policy" that will drastically modify U.S. authority over the Canal and Canal Zone.

This grave contention is predicated on a letter Flood received from Bunker following the latter's "agreement in principle" with Tack.

"The principles set forth in your letter to govern detailed negotiations," Flood wrote Bunker, "define the serious surrender of U.S. interests and responsibilities that Congress so adamantly opposes. It is utterly idle to suppose that negotiations conducted under their terms can protect the interests of the United States."

Those basic U.S. interests, Flood pointed out,. are categorically affirmed in the 1973 annual report of the House Merchant Committee, as follows:

"Continued undiluted U.S. sovereignty over the Canal Zone and Canal, and the major modernization of the existing Canal. All other issues, including the highly propagandized idea of a sea-level canal, are irrelevant."

STANDING PAT

On these fundamental determinants there can be no concessions.

"The Canal Zone territory," Flood told Bunker, "was acquired by grant in perpetuity and the purchase of all privately owned land and property in it under treaty negotiated pursuant to an act of Congress, which has not authorized the disposal of any of the territory or property thereon. All the indications are Congress never will authorize their surrender."

Flood has irrefutable evidence to support that.

Some years ago when the State Department proposed permitting the Panama flag to be displayed in the Canal Zone, the House smashingly rejected it 382 to 12.

"On every test of public opinion," declared Flood, "sentiment is overwhelming against surrender of the Canal and Canal Zone to Panama. Correspondence from voters throughout the country overwhelmingly supports continued undiluted U.S. control.

"In view of all the facts, if the Administration wishes another blistering confrontation with Congress, there is no better way to get it than to attempt to surrender U.S. sovereignty over the Canal Zone and Canal. The people of the United States will not tolerate surrending the U.S.-owned Canal Zone and Canal."

TWO SWEETENERS

While the main terms and provisions of the Bunker-Tack agreement are still tightly guarded secrets, two apparently lesser items have been quietly unfurled.

They came to light in a little-publicized White House announcement that the President will shortly ask Congress to "authorize the transfer to Panama of two U.S. military bases (airfields) in the Canal Zone and the sale of Panamanian lottery tickets in the Zone."

Representative Flood brands these moves as "stupid", "unwarranted", and "ill-conceived".

"If there are to be further negotiations," he asserted, "why surrender points in advance. Could there be anything more stupid, or does this indicate a determination on the part of the Administration to adhere to its purblind course regardless of the cost or consequences. Who in our government is behind such supine weakness in protecting our just and indispensable treaty rights?"

Relinquishing the two airfields to Panama without getting anything in return, Flood acidly maintains, is the height of idiocy—especially when dealing with the leftist dictatorial clique ruling Panama.

And permitting Panama to operate its national lottery in the Canal Zone is outrightly illegal.

"That has been banned by U.S. law for more than 50 years," pointed out Flood. "Allowing Panama to conduct its lottery in the U.S. Canal Zone may seem innocuous but it definitely is not. Such action would be tantamount to granting Panama authority to exercise one attribute of sovereignty in U.S. territory. Under no circumstances should this be permitted, for it will inevitably lead to other demands for other attributes."

Vigorously seconding Flood's tough stand, Representative Gene Snyder, Ky., a ranking Republican member of the Merchant Marine Committee, cited Panama s historic "instability" as a crucial reason for retaining complete U.S. sovereignty over the Zone and Canal.

"Graphically illustrative of Panama's instability," said Snyder, "is the long list of presidents it has had. Since the first president took office in February 1904, there have been 59 changes of government. Only four presidents completed their term of office of four years. During that same period, the U.S. has had 12 presidents to Panama's 59."

DR. EARTHA M. M. WHITE, HUMANITARIAN AND PHILANTHROPIST

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. BENNETT. Mr. Speaker, I have the sad duty to report to Congress the passing of Dr. Eartha M. M. White, humanitarian and philanthropist and lifetime resident of Jacksonville, Fla. She was the recipient of many honors, including the Lane Bryant Volunteer Award in 1970 given to the one person in America considered to have made the most outstanding voluntary contribution to his or her community during the year immediately passed. Mr. Speaker, I put in the Record herewith articles from the Florida Times-Union, the Jacksonville Journal, the Florida Star, and the Chronicle, which speak more in detail of this magnificent person, who has passed now to her reward, and left all mankind her debtor:

[From the Florida Star]

Angel of Mercy Lived To Be 97

Jacksonville's nationally famed "Angel of Mercy", Miss Eartha Mary White who founded the Clara White Mission and the Eartha M. M. White Nursing Home was buried Thursday afternoon following her death on Friday, Jan. 11 in a local hospital.

The well-known humanitarian and philanthropist who lived to be 97 years old and resided at 4850 Moncrief Village celebrated her birthday last Nov. 9, 1973 in the Civic Auditorium. She was a native of Jacksonville.

Her service to humanity dates back to the Spanish-American War when she helped care for the wounded and sick and later set up soup kitchens to feed the poor during the Depression of the thirties. She was also a hero of the Jacksonville Great Fire of 1900 when she saved valuable records belonging to the Afro-American Insurance Company.

During World War I she was the only woman in a 60-member interracial War Camp Community Service Conference. For more than 40 years she had visited the inmates of Duval County and Raiford prison facilities, taking them cigarettes, toilet articles and other useful items.

Miss White established a maternity home, two nursing homes for the aged, buildings for child care centers a rest home for tubercular patients, a home for delinquent black girls and the Harriet Beecher Stowe Community Center.

The recipient of many awards and honors, was presented the Lane Bryant Volunteer Award in 1970 given to the persons in America considered to have made the most outstanding voluntary contribution to his or her community during the past year.

She received the Booker T. Washington Symbol of Service Award from the National Business League, the nation's oldest group of black businessmen, for her fortitude and dedication to the principles for which Booker T. Washington stood.

Miss White also received the Better Life Award of the American Nursing Home Association, the highest award given by that organization.

She was a member of numerous organizations, including the state and national Association of Colored Women's Clubs, Seminole Culture Club, Jacksonville Historical Society and Jacksonville Humane Society.

[From the Jacksonville Journal]

Eartha White Dies; Century Of Service

"Do all the good you can, In all the ways
you can, In all the places you can,
For all the people you can, While you
can."

That was the special prescription for life passed on to Eartha Mary Magdalene White, a frail 97-year-old humanitarian who died yesterday in a Jacksonville hospital.

The special prescription for life was that of Miss White's mother and was apparently adopted by Miss White, who founded the Clara White Mission and the Eartha M. M. White Nursing Home.

In 1970 Miss White was presented the Lane Bryant Volunteer Award, given to the one person in America considered to have made the most outstanding voluntary contributions of his community each year.

Among her numerous other awards were the Booker T. Washington Symbol of Service Award given by the National Business League and the Better Life Award of the American Nursing Home Association. She was twice honored at White House receptions.

When she received Florida's Senior Citizen of the Year in 1971, she told reporters at a press conference to tell the nation to "get out of yourselves and let God use you, for He has the solution to all our problems."

Miss White, who lived at 4550 Moncrief Village N., distributed food, clothing and other necessities free of charge at the Clara White Mission during the depression. Food is continuously distributed by the mission to the underprivileged and toys are given to needy children at Christmas.

During the Spanish-American War in 1898, she helped the sick and wounded, providing nursing care and food.

A Daughter of the Grand Army of the Republic and a member of the Women's Relief Corps, she was the only woman in a 60 man interracial "War Camp Community Service Conference" in World War II, organizing canteen services and managing various Red Cross Center activities.

In addition, she visited Duval County Jail and prison farm inmates for more than 40 years, taking an interest in their personal concerns and problems. And when the prisoners were released, it was Miss White's mission which provided them with food, clothing, job counseling and any other services needed for their readjustment to society.

Miss White made it her policy to turn over her birthday gifts to the nursing home. In an interview three years ago with Ray Knight, the late Journal columnist, Miss White said that she does not worry for the mission and nursing home when funds run short. "I am sponsoring nine projects without compensation and find that faith in God will accomplish all things," she said.

Mr. Knight who died Jan. 4, willed $100,000 to the deeply-indebted Eartha M. M. White Nursing Home. He was a member of the board for many years.

In the interview with Mr. Knight, Miss White said, "My name was given to me six months before my birth. One of my relatives wanted me to be named Eartha, so I would be a storehouse unto the people. Another relative wanted me to be named Mary Magdalene after a great woman of the Bible.

"Although I was my mother's 13th child and the only one who lived, I have truly carried out the prophecy of those aged men who named me."

Funeral arrangements are incomplete.

[From the Florida Times Union]

Eartha M. M. White Dies Here at Age 97

Eartha Mary Magdalene White, humanitarian and philanthropist and founder of the Clara White Mission and the Eartha M. M. White Nursing Home, died Friday in a Jacksonville Hospital.

Miss White, who lived at 4350 Moncrief Village N., was a native of Jacksonville. In November, 1973 she celebrated her 97th birthday at a party at the Civic Auditorium.

She was widely known for her service to others. During the Spanish-American War she helped the sick and wounded, and during the Depression she established soup kitchens.

During World War I she was the only woman in a 60-member interracial War Camp Community Service Conference. For more than 40 years she had visited the inmates in Duval County prison facilities.

Miss White established a maternity home, two nursing homes for the aged, buildings for child care centers, a rest home for tubercular patients, a home for delinquent black girls and the Harriet Beecher Stowe Community Center.

She was the recipient of many awards and honors. She was presented the Lane Bryant Volunteer Award in 1970 given to the one person in America considered to have made the most outstanding voluntary contribution to his or her community during the past year. She was selected from more than 500 nominees.

She received the Booker T. Washington Symbol of Service Award given by the National Business League, the nation's oldest group of black businessmen. She was given this award for her fortitude and dedication, the principles for which Booker T. Washington stood and the National Business League pursues.

Miss White also received the Better Life Award of the American Nursing Home Association, the highest award given by that organization. This award was in recognition of her service in contributing to the high quality of care at the Eartha M. M. White Nursing Home.

She was a member of numerous organizations, including the state and national Association of Colored Women's Clubs, Seminole Culture Club, Jacksonville Historical Society and Jacksonville Humane Society.

Holmes-Glover Funeral Home is in charge of arrangements.

[From the Florida Chronicle]

Eartha Mary Magdalene White

(By Mike Tolbert)

They laid down a lady to rest last Thursday. She was tired.

Her name was Eartha Mary Magdalene White, the thirteenth child born to an ex-slave in 1876. As a 3 o'clock sun split through a warm January Thursday afternoon, hundreds of Eartha White's friends came together to celebrate her life and to lay down her body.

When she died, she was drawn and wrinkled and withered. Her old body was stooped and it was not unusual to see her being helped about by friends in her later years. But, as a young Reverend Rudolph McKissick stood robed before a sea of black faces in his Bethel Baptist Institutional Church, he said, "Many times, I would wonder if she was really going to die. I would see her each year looking almost the same. Now she's at rest. She ought to be tired. She worked a long time."

I suppose there are a lot of ways to describe just who Eartha M. M. White was when she was alive. One way would be to tell of the Clara White Mission and the Eartha M. M. White Nursing Home. The number of awards she received for her good works would be, in themselves, a great testimonial. Not too long ago, the President cited her as the country's outstanding volunteer worker. And then, how many people have their birthday party each year in the Civic Auditorium?

But, maybe Miss White can best be described by some of the things she said like, "Do all the good you can, for all the people you can, while you can."

As her friends paraded two by two into the church sanctuary that afternoon, an old white face stood beside me. "I guess I should have signed the guest book as 'judge,'" he said. "I was one for over 15 years. And you know, Eartha White did more for me and the courts than anybody I know. If I needed something, I called her and she did it, whether it was groceries for a needy family or clothes or just taking care of somebody for a while." The old man hung his head the way you do when you are trying to remember a friend. Then, he too, walked inside.

Mayor Hans Tanzler was there to deliver some "reflections" of Miss White. "She was the greatest woman I have ever known," he said. "For over 15 years, I thought I really knew her until I had served you as mayor. She would come to see me, that little lady with the sparkle in her eyes. She would lay her hand on my arm and say to me. 'God has a purpose,' then she'd ask me to help her do something. Then she'd say, 'If you can't do it, it's still going to get done.'"

As the mayor talked, he would occasionally cast his eyes upward as if he knew she was there listening. "She would say to me, 'I don't know how we are going to pay the mortgage this month, but God will provide.'"

There will be a monument, Tranzler promised, somewhere in the city dedicated to the memory of Eartha White. "I don't believe there is anyone here who doesn't know something about Eartha M. M. White," he said.

When McKissick celebrated her life, he looked out over Miss White's casket, covered with red, white, yellow and blue flowers—the only ones in the old church—and said, "I would get a note that she was in the hospital and then the next thing I would see her at a banquet. She would always tell us we can do the same. Then she would quote her scripture: 'Ye abide in Me and My words abide in you, ye shall ask what ye will and it shall be done unto you.'"

Then McKissick waved his arms and said, "I know she must have asked God for a lot of things. If you were hungry and she knew about it she would feed you. If you were naked and she knew about it she'd clothe you. If you were sick and she knew about that she'd bring you something and if you were in jail—and some of you may know it—she'd visit you."

Sister White, the Reverend said "was a saint of God." Now, he said, God has taken "that perfect soul from that decrepit body."

Mr. Milton Hood stood in front of a green-robed choir and sang one song to Miss White. Except for his voice and the soft organ behind him, the church sat completely silent.

He sang: "And now goodbye. She's going too far to live with Jesus. She's going home to die no more. Her work on earth is now all over. She's done her works. She's done it well. No more. Then time can tell."

Yes, Lord. They laid down a lady to rest last Thursday. She was tired. Amen.

THE PRESIDENT'S NONEXISTENT ENERGY BUDGET

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. VANIK. Mr. Speaker, last year, the President's budget was a clever attempt to juggle figures, hide numbers, and confuse Congress. Last year there was a purpose behind the deception—the President was disguising, as well he could, the various unconstitutional impoundments of his administration. In many ways, I find this 1975 budget even more deceitful. There is no pretense to the budget manipulations. This time it appears the President's intent is only to deceive—there is talk of energy research but no real programs, no real drive for energy independence.

The energy crisis has created a major challenge for the Federal Government. A vigorous research and development program must be launched if we are to assure our future security and economic growth. We must learn how to use better our vast domestic resources. At the same time, we must vigorously pursue research into "renewable" resources—such as solar energy and hydrogen fuel—to guarantee the well-being of future generations.

The President says that he recognizes the depth of this challenge and he has created the goal of energy independence by 1980. On June 29, 1973, the President announced his 5-year, $10 billion research and development program which, he claimed, would be initiated in the 1975 budget. To lay the groundwork for this increased budget request the President requested Dr. Dixie Lee Ray, Chairman of the Atomic Energy Commission, to recommend, "an integrated research and development program for the Nation." He requested this report be filed by December 1, 1973, in order, presumably, for its recommendations to be included in the new budget.

There is no evidence of this new program in the President's 1975 budget. But the President does not admit the gap. Indeed, the budget in brief proudly states:

> The 1975 budget reflects a comprehensive national energy policy to deal with current shortages and provides funds to initiate Project Independence.

But when we get to the more detailed special analyses for the budget we find this revealing statement under special analysis O, Federal research and development programs:

> Only part of the budget increase for new energy R&D initiates is reflected in the budgets of the Federal departments and agencies in the analysis that follows. An additional $777 million in obligations and $461 in expenditures for acceleration of energy research and development and related activities . . . do not appear in any of the tables that follow. The additional funding

will be the subject of a later separate submission amending the 1975 budget.

In short, there is no new comprehensive program—there are no hard details—no plans—no Manhattan project—no Apollo project—only rhetoric and promises of a future energy message. Even in the promise of future energy messages, it is clear that the expenditures for 1975 will not equal the President's own stated goal of $2 billlion of research money each year. As the President says in his budget message:

> The budget provides for $1.5 billion for direct energy research and development programs in 1975, compared with $942 million in 1974.

This commitment is woefully inadequate in a year in which the price of oil has gone up by as much as $30 billion.

WHAT IS REALLY IN THE 1975 BUDGET FOR ENERGY

In order to find out exactly what is in the 1975 budget for energy research and development, we should focus on the budgets of those agencies to be included in the President's new Energy Research and Development Administration (ERDA). Legislation establishing ERDA passed the House on December 19, 1973, and is now awaiting action by the Senate. Basically, ERDA takes the Atomic Energy Commission, stripped of its regulatory functions, and adds to this other smaller agencies. The composition of ERDA and the 1974 and 1975 budget for its components follows:

[In thousands of dollars]

	Fiscal year—	
	1974	1975
Atomic Energy Commission (minus licensing and regulatory which is placed in the new Nuclear Energy Commission)	2,489,914	2,789,468
Department of Interior:		
Office of Coal Research	124,779	135,000
Bureau of Mines fossil fuel R. & D	68,115	70,658
Office of the Secretary underground electric power transmission research	2,838	3,000
National Science Foundation solar and geothermal programs	(1)	(1)
Environmental Protection Agency research and development	(2)	(2)

[1] The solar and geothermal research activities of the National Science Foundation are not broken out in the budget. Generally speaking, however, these activities are funded under NSF's research applied to national needs program. The RANN budget increased from $75,000,000 to $84,000,000. In 1974, the Federal Government spent $13,000,000 on solar research and $11,000,000 on geothermal research.

[2] EPA's R. & D. budget will not be completely transferred to ERDA, but the bulk of these activities will apparently be included in the transfer.

These figures do not reveal any remarkable increases in the President's budget for energy research—nothing to resemble a "crash" program we have been hearing so much about. The above calculations are only approximations. They cannot offer more than a vague gage of what the Federal Government will be doing in the coming year to meet the challenge of the energy crisis. For one thing, the budget of the Atomic Energy Commission includes such items as weapons—$857,530,000; naval reactor development—$161,500,000; and space nuclear systems—$27,000,000. In short, more than half of the AEC's budget is military-related, yet the President wants to include all of these activities in his new ERDA. This fact merely underlines the difficulty of defining the President's new energy program.

In addition to the research activities listed above, the President included $2,000,000 for an Office of Research and Development under the Secretary of the Interior. At first, this appears as a hopeful sign, until we read the explanatory note. The Office of Research and Development—

> Provides for the coordination, development, and implementation of Department resources toward an integrated nonnuclear research and development program to meet the nation's needs.

This appears to be only a recognition of the confusion and lack of hard direction that exists in the 1975 budget.

With respect to the energy crisis, and the need to stimulate solutions, the President's budget is a dry well.

WHY U.S. DEFENSE SPENDING IS NOW AT AN ALL-TIME HIGH

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. DELLUMS. Mr. Speaker, I would like to call to the attention of my colleagues an excellent article on U.S. defense spending that appeared in the most recent issue of U.S. News & World Report. This article is most valuable because it reports the views of the Pentagon planners themselves.

Among the points brought out by the article are the following:

That on current planning assumptions, we may expect nothing but larger and larger budgets;

That the presence of U.S. troops overseas is likely to get us into wars that do not directly affect U.S. security;

That the United States is the only country with a significant capacity to fight wars overseas;

That the Pentagon is looking forward to more wars like Korea and Vietnam;

That despite our self-image of being the only superpower genuinely interested in peace, we are also the only superpower with major "combat exposure";

That the Pentagon planners genuinely believe that a new qualitative leap in the arms race will lead the Soviets to give up, instead of trying desperately to catch up, as they have with every single qualitative leap that we have initiated in the past—A-bomb, H-bomb, ICBM, Polaris, ABM, MIRV—each time with the same futile hope that the Soviets would just give up, and become peaceful like us.

The article by Bonner Day follows:

WHY U.S. DEFENSE SPENDING IS NOW AT AN ALL-TIME HIGH

Nearly 30 cents of every dollar in taxes goes for defense—at a time when the U.S. isn't at war anywhere in the world. And the bill is going up. Bonner Day, who has covered military affairs for this magazine for six years, asked Pentagon officials to assess the reasons.

When the White House announced on February 4 plans to spend 86 billion dollars on defense this coming year, a cry of anguish was heard in many places in this country.

Why, people asked, does the Pentagon need the largest military budget in history at a time when the Vietnam War is over, relations with Russia and Communist China supposedly are better than ever, and the country's borders are more secure than at any time in history?

Inflation gets part of the blame. Just as with household budgets, prices of nearly everything the armed forces buys—from food to tanks—are soaring. Annual pay and benefits alone have increased 11.3 billions since 1964, even though 1.5 million servicemen and civilian employes have been trimmed from the active work force.

But the main answer lies in the conviction expressed by the nation's defense chiefs that while U.S. military strength may be adequate today, it soon will be overshadowed by the Soviet Union.

If this trend continues, warn the strategists, waning U.S. military power will undercut America's ability to influence events abroad. Other nations would drift more and more into Russia's orbit, with the U.S. left out in the cold.

PREVENTIVE MAINTENANCE?

In hopes of turning things around, therefore, the country's military leaders are asking for additional billions to buy new, expensive weapons as well as to pay the salaries and other costs necessary to maintain American military bases abroad.

Not only will these steps make the U.S. stronger, it is argued, they may also persuade the Kremlin to back off from its weapons build-up rather than send the superpowers' arms race on another lap.

For that reason, American spending plans for next year are designed to make clear the U.S stands poised for a new build-up of arms, if that's what's signaled. For example: 1.3 billion dollars to push work forward on the Trident nuclear missile submarine. The Navy wants to build the first of 10 of these billion-dollar vessels by 1980; 3.5 billion dollars for the construction of 30 ships and the conversion of 4 others, part of an eight-year program to modernize the fleet; 500 million dollars to develop the first test models of the B–1 strategic nuclear bomber, designed to elude Soviet border defenses to fly deep into the Russian homeland; 750 million dollars for improvements on land-based Minuteman missiles, giving them better protection from enemy attack, better accuracy and more explosive force; 1.8 billion dollars for F–15s and F–14s—two highly sophisticated aircraft the Pentagon says are necessary to modernize the Air Force and protect Navy carriers; 1.6 billion dollars to beef up stockpiles of ammunition, missiles and bombs depleted by the Vietnam and Middle East wars; 9.4 billion dollars for military scientists, to improve present weapons and design new ones and 3.5 billion dollars for increases in salaries and other personnel costs necessary to keep 2.1 million men and women trained and deployed around the world.

All in all, the Pentagon proposes to increase spending from 79.5 billion dollars in the 12-month period ending next June 30, to 85.8 billion dollars in the following 12 months, making it the largest military budget in the nation's 198 years, whether at war or peace. Close to 30 cents of every tax dollar would go for defense.

The fact that the White House asked Congress for authority to spend a total of 92.6 billions—though not all will be laid out next year—signals more large budgets.

SKEPTICAL CLIENTS

The job of selling this program to Congress and the public is going to be a big one, at a time when the prestige of the military is low and Americans are questioning the wisdom of costly defense plans in peacetime.

It won't be easy because many Americans think the country already has more defense than it needs. The task will be doubly difficult because even the highest military officials assert that U.S. borders today are more secure from enemy invasion than they have ever been in history.

What's more, civilian officials at the Defense Department say that, regardless of the future, the U.S. is the No. 1 superpower today, with Russia second. "We are not in difficulty in 1974," is the way Defense Secretary James R. Schlesinger put it recently.

The fact of U.S. strength is impressive by any measure:

The arsenal of nuclear missiles assembled in the 1960s can virtually destroy any enemy of the U.S. Since 1967, the U.S. has unilaterally limited itself to 1,054 land-based intercontinental missiles and 656 sea-based missiles, largely on the grounds that enough is enough. The nation's fleet of B–52 intercontinental bombers, armed with nuclear bombs in times of alerts, has declined in number—from more than 700 in 1961—to a present force of 400, mainly because the Government hasn't felt the need to build more.

LEAD IN QUALITY?

Although the Russians have matched and passed the U.S. in numbers of land and sea missiles in the last couple of years, these long-range weapons are authoritatively judged as lagging behind those of the U. S. in technical quality, as of 1974. Moscow has only a fraction of the number of intercontinental bombers the U.S. has.

While it is debatable, U.S. military men still generally agree that U. S. killer submarines, fighter planes and warships can outperform their Soviet counterparts.

When it comes to battlefield weapons, American-made M–60 tanks, television and laser-guided bombs and antitank weapons used by Israel in the latest Mideast war provided more than a match for Russian gear used by the Arabs.

Suggestions the U.S. planes are growing too complex for operation in combat conditions are scoffed at by professional soldiers familiar with their performance in the Mideast and in Southeast Asia.

Experience seems to favor American military men, too. Russian troops lack the combat exposure that U.S. officers and men gained in Korea and Vietnam.

One further indication of U.S. strength is this: Every other country stations the great majority of its military forces within its own borders, to repel foreign invaders. But U.S. military might is so great that its cutting edge is focused overseas—at foreign bases or cruising foreign waters. U.S. military forces alone are shaped primarily by a strategy of fighting America's wars far from domestic borders.

Today 561,000 troops are abroad—1 of every 4 Americans in uniform. Some 1,500 Air Force planes are based in foreign countries. More than half the Navy's 540 ships are in foreign or international waters, and most of the rest are taking breathers between foreign assignments. Five of the Army's 13 divisions—those best equipped and trained—are overseas.

LOOKING AHEAD

Despite the mammoth strength of the U.S. today, though, the Pentagon and the White House insist the future is not nearly as secure as others claim.

The most publicized concern centers on the speed with which the U.S.S.R. has been catching up in missiles.

Russia is building four new land-based missiles and a new missile submarine, and is testing nuclear warheads equipped with multiple, independently targeted re-entry vehicles (MIRV's). If the U.S.S.R. catches up in multiple-warhead technology, defense officials fear, it will be able to open a missile gap over the U.S. and gain a greater potential to cow its neighbors.

That view of the future was behind a recent announcement by Defense Secretary Schlesinger that the U.S. is prepared to increase its nuclear might if the Russians fail to agree to controls on strategic nuclear missiles.

Less dramatically, there is also widespread worry that conventional land, sea and air forces may slip.

As measured by manpower, the strength of U.S. forces has already declined from the Vietnam high of 3.6 million to a planned 2.1 million next year. At the same time, Russian military strength has increased from 3 milion to 3.8 million.

If cuts go much deeper, it is argued, the U.S. might have to pull back from more foreign bases—something Washington's policy makers don't want to do. As they see it, Korea and Vietnam proved the nation must be trained and equipped for foreign wars.

WORLD ROLE

There is little disagreement that without American forces, free-world defenses would lose much of their backbone. So, the Pentagon insists it must have funds to keep troops abroad in the interest of maintaining peace.

Furthermore, it is argued, the mere fact that U.S. troops and interests are involved nearly everywhere raises the danger that the U.S. could be dragged into a shooting war even though the country's own security might not be directly at stake. So American forces had better be ready, high military officers believe.

This was made clear in October, 1973, when President Nixon put the nation's conventional and nuclear forces on alert around the world in a confrontation with the Soviet Union over the Middle East. Such hazards seem likely to occur over and over again as new arms increase the Kremlin's capacity for mischief-making, particularly if lesser nations lose their respect for American strength.

Naval experts single out the growth of the Soviet Navy as an omen of what the U.S. faces. Moscow is building its third and fourth aircraft carriers, and its aggressive submarine-construction program has led such authorities as Adm. Marc de Joybert, French Navy Chief of Staff, to say that the U.S. has already fallen behind Russia in sea power.

The U.S. Navy's master plan calls for an increase in the number of American ships, starting in 1977. But this blueprint could founder, naval leaders say, if they don't get money to match the massive expansion of the Russian Navy.

Thus, not only in the Navy but in all other defense areas, the U.S. is finding it increasingly difficult and expensive to shore up its military standing. The latest request for new billions is expected to be only a forerunner of even bigger budgets ahead.

GILMAN CITES 301 LIVING RECIPIENTS OF U.S. MEDAL OF HONOR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. GILMAN. Mr. Speaker, the U.S. Medal of Honor is the highest decoration that our Nation bestows for outstanding bravery and valor in America's service.

Among the awardees is Edouard V. M. Izac, who represented the State of California in this House of Representatives. My own district in New York was once represented in Congress by Thomas W. Bradley, a native of Walden, N.Y. who earned his Medal of Honor at Chancellorsville, Va., as a member of the 124th New York Infantry during the Civil War.

Tragically, many of these high honors were bestowed upon their recipients posthumously.

The Medal of Honor History Roundtable, whose dedicated national director, Rudolf J. Friederich, resides in my district, has provided me with the findings of his extensive research—a list of 301 recipients of the Medal of Honor who are still living.

Mr. Speaker, in the belief that these men are deserving of our Nation's undying gratitude, recognition, and honor, I include this list in full in this portion of the CONGRESSIONAL RECORD:

A ROSTER OF THE 301 LIVING MEDAL OF HONOR RECIPIENTS, JANUARY 21, 1974

(Compiled by Rudolf J. Friederich)

Presented below is a roster of the 301 surviving recipients of the Medal of Honor, our nation's highest decoration for valor. It is the first known listing published since 1963.

CHINA RELIEF EXPEDITION (1)

Seach, William, Navy.

LATIN-AMERICAN CAMPAIGNS (7)

DeSomer, Abraham, Navy.
Frazer, Hugh C., Navy.
Hanneken, Herman H., Marine.
Lowry, George M., Navy.
Nickerson, Henry N., Navy.
Schilt, Christian F., Marine.
Zuiderveld, William, Navy.

WORLD WAR I (22)

Balch, John H., Navy.
Boone, Joel T., Navy.
Call, Donald M., Army.
Dozier, James C., Army.
Furlong, Harold A., Army.
Hayden, David E., Navy.
Hays, George P., Army.
Hill, Ralyn M., Army.
Izac, Edouard V. M., Navy.
Katz, Phil C., Army.
Kaufman, Benjamin, Army.
Latham, John C., Army.
O'Neil, Richard W., Army.
Parker, Samuel I., Army.
Peck, Archie A., Army.
Pope, Thomas A., Army.
Robinson, Robert C., Marine.
Sampler, Samuel M., Army.
Slack, Clayton K., Army.
Valente, Michael, Army.
Van Iersel, Ludovicus M., Army.
Waaler, Reidar, Army.

LINE OF PROFESSION (6)

Badders, William, Navy.
Eadie, Thomas, Navy.
Huber, William R., Navy.
Mihalowski, John, Navy.
Truesdell, Donald, Marine.
Willey, Charles H., Navy.

TRANS-ATLANTIC FLIGHT (1)

Lindbergh, Charles A., Air.

WORLD WAR II (149)

Adams, Lucian, Army.
Anderson, Beaufort T., Army.
Atkins, Thomas E., Army.
Barfoot, Van T., Army.
Barrett, Carlton W., Army.
Bell, Bernard P., Army.
Bender, Stanley, Army.
Bennett, Edward A., Army.
Biddle, Melvin E., Army.
Bjordlund, Arnold L., Army.
Bloch, Orville E., Army.
Bolden, Paul L., Army.
Boyington, Gregory P., Marine.
Briles, Hershel F., Army.
Britt, Maurice L., Army.
Bulkeley, John D., Navy.
Burke, Francis X., Army.
Burr, Herbert H., Army.

Burt, James M., Army.
Bush, Richard E., Marine.
Bush, Robert E., Navy.
Calugas, Jose, Army.
Chambers, Justice M., Marine.
Childers, Ernest, Army.
Choate, Clyde L., Army.
Clark, Francis J., Army.
Colalillo, Mike, Army.
Connor, James P., Army.
Coolidge, Charles H., Army.
Craft, Clarence B., Army
Crawford, William J., Army.
Crews, John R., Army.
Currey, Francis S., Army.
Dahlgren, Edward C., Army.
D'Alessandro, Peter J., Army.
Daly, Michael J., Army.
Davis, Charles W., Army.
DeBlanc, Jefferson J., Marine.
Dervishian, Ernest H., Army.
Doolittle, James H., Air.
Doss, Desmond T., Army.
Drowley, Jessie R., Army.
Dunham, Russell E., Army.
Dunlap, Robert H., Marine.
Ehlers, Walter D., Army.
Erwin, Henry E., Air.
Everhart, Forrest E., Army.
Finn, John W., Navy.
Fisher, Almond E., Army.
Fluckey, Eugene B., Navy.
Foss, Joseph J., Marine.
Funk, Leonard A., Jr., Army.
Fuqua, Samuel G., Navy.
Galer, Robert E., Marine.
Garman, Harold A., Army.
Gary, Donald A., Navy.
Gerstung, Robert E., Army.
Gordon, Nathan G., Navy.
Gregg, Stephen R., Army.
Hall, William E., Navy.
Hamilton, Pierpont M., Air.
Hawk, John D., Army.
Hendrix, James R., Army.
Herrera, Silvestre S., Army.
Herring, Rufus G., Navy.
Horner, Freeman V., Army.
Howard, James H., Air.
Huff, Paul B., Army.
Jackson, Arthur J., Marine
Jacobson, Douglas T., Marine.
Johnson, Leon W., Air
Johnson, Oscar G., Army.
Johnston, William J., Army.
Kane, John R., Air.
Kelly, Charles E., Army.
Kelly, Thomas J., Army.
Kisters, Gerry H., Army.
Knappenberger, Alton W., Army.
Lawley, William R., Jr., Air.
Laws, Robert E., Army.
Lee, Daniel W., Army.
Leims, John H., Marine.
Lindsey, Jake W., Army.
Logan, James E., Army.
Lopez, Jose M., Army.
Lucas, Jacklyn H., Marine.
Mabry, George L., Sr., Army.
MacGillivary, Charles A., Army.
Maxwell, Robert D., Army.
Mayfield, Melvin, Army.
McCampbell, David, Navy.
McCarthy, Joseph J., Marine.
McCool, Richard M., Jr., Navy.
McGaha, Charles L., Army.
McGarity, Vernon, Army.
McKinney, John R., Army.
Meagher, John W., Army.
Merli, Gino J., Army.
Michael, Edward S., Air.
Montgomery, Jack C., Army.
Morgan, John C., Air.
Murray, Charles P., Jr., Army.
Neppel, Ralph G., Army.
Nett, Robert P., Army.
Newman, Beryl R., Army.
Ogden, Carlos C., Army.
O'Kane, Richard H., Navy.
Oresko, Nicholas, Army.
Paige, Mitchell, Marine.
Pierce, Francis J., Navy.
Pope, Everett P., Marine.
Ramage, Lawson P., Navy.
Rodriquez, Cleto L., Army.
Ross, Donald K., Navy.
Ross, Wilbur K., Army.
Rouh, Carlton R., Marine.
Rudolph, Donald E., Army.
Ruiz, Alejandro R., Army.
Schaefer, Joseph E., Army.
Schauer, Henry, Army.
Schonland, Herbert E., Navy.
Scott, Robert S., Army.
Shea, Charles W., Army.
Shomo, William A., Air.
Shoup, David M., Marine.
Sigler, Franklin E., Marine.
Sjogren, Carl C., Army.
Skaggs, Luther, Jr., Marine.
Smith, Maynark H., Air.
Soderman, William A., Army.
Sorenson, Rickard K., Marine.
Spurrier, Junior J., Army.
Street, George L., III, Navy.
Swett, James E., Marine.
Thompson, Max, Army.
Tominac, John J., Army.
Treadwell, Jack L., Army.
Vlug, Dirk J., Army.
Vosler, Forrest L., Air.
Wahlen, George E., Navy.
Walsh, Kenneth A., Marine.
Watson, Wilson D., Marine.
Whiteley, Eli L., Army.
Wiedorfer, Paul J., Army.
Wilbur, William H., Army.
Williams, Hershel W., Marine.
Wilson, Louis H., Jr., Marine.
Wise, Homer L., Army.
Zeamer, Jay, Jr., Air.

KOREAN WAR (36)

Adams, Stanley T., Army.
Barber, William E., Marine.
Bleak, David B., Army.
Burke, Lloyd L., Army.
Cafferata, Hector A., Marine.
Charette, William R., Navy.
Crump, Jerry K., Army.
Davis, Raymond G., Marine.
Dean, William F., Army.
Dewey, Duane E., Marine.
Dodd, Carl H., Army.
Harvey, Raymond, Army.
Hernandez, Rudolpho P., Army.
Hudner, Thomas J., Navy.
Ingman, Einar H., Army.
Kennemore, Robert S., Marine.
Kouma, Ernest R., Army.
Lee, Hubert L., Army.
McLaughlin, Alford L., Marine.
Millett, Lewis L., Army.
Miyamura, Hiroshi H., Army.
Mize, Ola L., Army.
Murphy, Raymond G., Marine.
Myers, Reginald R., Marine.
O'Brien, George H., Jr., Marine.
Pittman, John [illegible]., Army.
Rodriquez, Joseph C., Army.
Rosser, Ronald E., Army.
Schowalter, Edward R., Army.
Simanek, Robert E., Marine.
Sitter, Carl L., Marine.
Stone, James L., Army.
Van Winkel, Archie, Marine.
West, Ernest E., Army.
Wilson, Benjamin F., Army.
Wilson, Harold E., Marine.

VIETNAM WAR (78)

Anderson, Webster, Army.
Baca, John P., Army.
Baca, Nicky D., Army.
Baker, John F., Army.
Ballard, Donald B., Navy.
Barnum, Harvey C., Jr., Marine.
Beikirch, Gary B., Army.
Bondsteel, James L., Army.
Brady, Patrick H., Army.
Bucha, Paul W., Army.
Clausen, Raymond M., Jr., Marine.
Davis, Sammy L., Army.
Dethlefsen, Merlyn H., Air.
Dix, Drew D., Army.
Dolby, David C., Army.
Donlon, Roger H., Army.
Dunagan, Kern W., Army.
Ferguson, Frederick E., Army.
Fisher, Bernard F., Air.
Fitzmaurice, Michael J., Army.
Fleming, James P., Air.
Foley, Robert F., Army.
Fox, Wesley L., Marine.
Fritz, Harold A., Army.
Hagemeister, Charles C., Army.
Herda, Frank A., Jr., Army.
Hooper, Joe R., Army.
Howard, Jimmie E., Marine.
Howard, Robert L., Army.
Jackson, Joe M., Air.
Jacobs, Jack H., Army.
Jenkins, Don J., Army.
Jennings, Delbert O., Army.
Joel, Lawrence, Army.
Kays, Kenneth M., Army.
Keller, Leonard B., Army.
Kelley, Thomas G., Navy.
Kellogg, Allan J., Jr., Marine.
Kerrey, Joseph R., Navy.
Kinsman, Thomas J., Army.
Lang, George C., Army.
Lassen, Clyde E., Navy.
Lee, Howard V., Marine.
Lemon, Peter C., Army.
Levitow, John L., Air.
Liteky, Angelo J., Army.
Littrell, Gary L., Army.
Livingston, James E., Marine.
Lynch, Allen J., Army.
Marm, Walter J., Jr., Army.
McCleery, Finnis D., Army.
McGinty, John J., III, Marine.
McNerney, David H., Army.
Miller, Franklin D., Army.
Modrzejewski, Robert J., Marine.
Morris, Charles B., Army.
Novosel, Michael J., Army.
O'Malley, Robert E., Marine.
Patterson, Robert M., Army.
Penry, Richard A., Army.
Pittman, Richard A., Marine.
Ray, Ronald E., Army.
Roberts, Gordon R., Army.
Rogers, Charles C., Army.
Sasser, Clarence E., Army.
Sprayberry, James M., Army.
Stumpf, Kenneth E., Army.
Taylor, James A., Army.
Thacker, Brian M., Army.
Thorton, Michael E., Navy.
Thorsness, Leo K., Air.
Vargas, M. Sando, Jr., Marine.
Wetzel, Gary G., Army.
Williams, Charles Q., Army.
Williams, James E., Navy.
Wright, Raymond R., Army.
Young, Gerald O., Air.
Zabitosky, Fred W., Army.

ISRAELI WAR—1967 (1)

McGonagle, William L., Navy.

NOTES

a. Oldest living member, William Seach, age 96, China Relief Exp. 1900.

b. Youngest living member, Gordon R. Roberts, age 23, Vietnam.

c. Negroes: All Vietnam: Anderson, Joel, Rogers, and Sasser.

d. Roman Catholic Priest, Angelo J. Litely, Vietnam.

e. Former Governor, Joseph J. Foss, WW II, South Dakota.

f. Former Arkansas Lieutenant Governors, Britt and Gordon, WW II.

g. Former House of Representative, Edouard V. M. Izac, WW I, California.

h. Conscientous Objector, Desmond T. Doss, WW II.

i. President of the Congressional Medal of Honor Society, Charles A. MacGillivary, WW II.

j. Line of Profession, awards authorized under previous legislation, pre-WW II, to Navy personnel for valor not involving actual combat.

k. Israeli Aerial Attack, June 8–9, 1967, first award under new legislation wherein hostile force need not necessarily be a belligerent nation to the United States.

SUMMARY BY BRANCH OF SERVICE AND AWARD PERIOD

	Army	Navy	Marine	Air Force	Total
China	0	1	0	0	1
Latin	0	5	2	0	7
Interim	0	5	1	0	6
WW I	17	4	1	0	22
WW II	94	18	24	[1] 13	149
Atlantic	0	0	0	[1] 1	1
Korea	21	2	13	0	36
Vietnam	53	6	12	7	78
Israel	0	1	0	0	1
Total	185	42	53	21	301

[1] AAC.

GAO EXAMINATION FINDS OIL SHALE WASTE DUMPING PLANS QUESTIONABLE IN SEVERAL ASPECTS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. VANIK. Mr. Speaker, in early January I asked the General Accounting Office to look into proposals of the Department of the Interior for the new prototype oil shale leasing program. Those proposals would allow the private oil company participants in the program to dump the thousands of tons of waste materials generated in the oil recovery process on the public's land—at no charge to the companies.

As things stand now, six tracts of land, each about 5,100 acres in size, will be used in the Federal prototype program. The first tract, in Colorado, has already been put up for leasing and brought a winning bid of over $210 million. Depending on the type of recovery method utilized and several other factors, commercial recovery of shale oil will result in huge amounts of crushed and unusable spent shale. The surface mining operation of the first C–a tract could result in almost 70,000 tons of waste each day if the 50,000 barrel/day operation Secretary Morton hopes for is realized.

The abuse of the public's interest is obvious, and the potential for further misuse and abuse of these public lands is important for us all to be aware of.

I asked several basic questions in my letter to the GAO:

First. Did the statutory authority for this waste disposal on public lands foresee that use?

Second. Is this utilization of the authority legal?

Third. Is it reasonable and proper to allow these public lands to be used by private industry with no remuneration to the public?

Fourth. If the waste disposals are within the law, should not environmental impact statements be required to assess the repercussions?

The GAO letter replied that though the Department of the Interior has not yet made complete or final land management plans, the proposals to this date were of questionable legal propriety. Additionally, the GAO said that there is some question whether the whole plan to use lands in addition to the leased 5,100 acre-tracts is not contrary to the spirit and intent of the Mineral Leasing Act. That act establishes 5,120-acre limits for each lessee of Government lands.

Mr. Speaker, in our efforts to achieve energy self-sufficiency, we cannot sell out the public's long-term interests in favor of relatively short-term petroleum gains. But the Federal prototype oil shale leasing program, from its inception, has seemed to take more than it gives. It is an area of concern that demands much congressional and citizen oversight to prevent private industry's gain at the public's expense.

Mr. Speaker, the texts of both my letter to the General Accounting Office and their reply follow:

Congress of the United States,
House of Representatives,
Washington, D.C., January 7, 1974.
Hon. Elmer Staats,
Comptroller General, General Accounting Office, Washington, D.C.

Dear Mr. Staats: The Federal Prototype Oil Shale Leasing Program recently announced by Secretary of the Interior Morton will soon begin with bidding on the first of six tracts of land in Colorado, Utah, and Wyoming. Each state contains two lease tracts of about 5100 acres apiece that Secretary Morton hopes will provide "enough industrial experience" to allow informed decisions to be made on the continuation and expansion of the oil shale program.

Each tract will support one of several mining techniques, among them a "strip mining" technique that will mine the oil shale rock before it is crushed and retorted to yield its kerogen contents. This surface mining technique appears to be the cheapest and most efficient oil recovery method, but also the most destructive to the Rocky Mountain Western Slope lands where all of the prospective tracts are located.

After the oil is recovered, the remaining crushed shale, the consistency of flour and effectively sterilized by the heat of the retorting process, is *discarded.* It has *no* practical use, at least not in the huge quantities that a commercial oil shale operation will produce. Most of the operations foresee mining of shale of an average quality of about 30 gallons of oil per ton of shale. A 500,000 barrel-a-day commercial plant like Secretary Morton hopes will be developed by the Prototype Program will have over 69,000 tons of waste shale each day.

Compounding the disposal problem is the fact that the crushed and processed rock will have a *greater* volume than its parent rock since it has been broken up—with a consequent increase in the inter-particle spaces. Authorities estimate that the processed shale will have a volume *at least* 12% more than the original, and perhaps up to 40% more. This spent shale cannot be immediately returned to its original site since access to other oil shales might then be blocked.

The Department of the Interior's "Environmental Impact Statement" attempted to anticipate the tremendous problems that the massive amounts of waste would bring. The Final Lease Form, published in the *Federal Register* of November 30, 1973, further anticipated disposal of spent shale in section 10 of its initial remarks:

10. Withdrawal of additional lands: The Department recognizes that in some situations lands outside the leased tracts may be required under other statutes than the Mineral Leasing Act for roads or other purposes in connection with the prototype oil shale leasing program. Moreover, since this is a prototype rather than a general leasing program, the Department may in the future find it desirable to conduct investigations, studies, and experiments under section 101 of the Public Land Administration Act (43 USC 1362), particularly in connection with the disposal of spent shale. In order to facilitate these possible future investigations, studies, and experiments, the Department is withdrawing from all forms of appropriation under public land laws, including the mining laws, certain lands in the vicinity of the tracts offered for lease.

An examination of the Public Land Administration Act cited, shows this:

43 USC 1362: The Secretary of the Interior may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction.

Using this authority as precedent, the Secretary of the Interior will allow millions of tons of shale waste to be dumped on adjacent Federal lands that are *not* leased by the oil companies under the Prototype Leasing Program. This seems to me a very severe stretching of the apparent intent of 43 USC 1362. It allows private, profit-making industry to use the public's lands as garbage pits for their spent shale wastes—and at no cost to the industry.

In view of the profit making potential of oil shale, a potential which increases almost daily as the price of available liquid oil skyrockets, it makes no sense to allow this government-sanctioned abuse of our public lands without compensation.

I would appreciate it if your office could review and examine all aspects of this waste shale dumping on no-leased public lands and report your findings to me. I would hope a preliminary assessment would be available several days before February 1, 1974, so that it can be submitted before that deadline for comments solicited in the January 3, 1974 *Federal Register* announcement of Colorado and Utah public land withdrawals (pages 832–34).

There are several areas that are worthy of attention in your considerations:

Did the enacting legislation for 43 USC 1362 foresee this use of its authority? Did it intend to authorize disposal of mining wastes? Did it foresee the dumping of wastes of this extent?

Is this utilization of the Code within the law? Can the Secretary indeed interpret the Code as he has?

Is it reasonable and proper to allow this proposed use, and probable abuse, of public lands without a single penny of compensation? Why shouldn't the oil companies be required to pay for the use of and damage to non-leased public lands? Why should the Federal government subsidize these private companies for their financial gain?

If non-leased land dumping *is* allowable, what are the environmental repercussions? Shouldn't a NEPA statement be required in *each* instance of waste shale disposal in addition to the already published very general EIS that covered the Prototype Leasing Program?

If there is any way that my office might aid you in your examination, please do not hesitate to contact us.

Sincerely yours,
Charles A. Vanik,
Member of Congress.

Comptroller General
of the United States,
Washington, D.C., January 30, 1974.
Hon. Charles A. Vanik,
House of Representatives.

Dear Mr. Vanik: Your letter of January 7, 1974, raises several questions concerning a proposal by the Department of the Interior (hereafter "the Department") to withdraw from all forms of appropriation and to reserve certain public lands in the vicinity of other public lands which are to be leased under the Department's "prototype oil shale leasing program."

Proposals to withdraw approximately 6,560.04 acres in Colorado and 840 acres in Utah appear at 39 F.R. 832 and 833 (January 3, 1974). Each notice of proposed withdrawal states that the subject lands are "* * * to be used in investigations, studies and experiments by the Department of the Interior, or with others in the improvement, management, use and protection of the lands and their natural resources under section 101 of the Public Land Administration Act (43 U.S.C., section 1362), and pursuant to paragraph 10 of the notice of shale leases published in the November 30, 1973 issue of the Federal Register, 38 FR 33187–33199."

Section 101 of the Public Land Administration Act is paraphrased in the portion of the proposed withdrawal notice quoted above. Section 10 of the Department's notice of sale of shale leases, 38 F.R. 33188, reads as follows:

"*Withdrawal of additional lands:* The Department recognizes that in some situations lands outside the leased tracts may be required under other statutes than the Mineral Leasing Act for roads or other purposes in connection with the prototype oil shale leasing program. Moreover, since this is a prototype rather than a general leasing program, the Department may in the future find it desirable to conduct investigations, studies, and experiments under section 101 of the Public Land Administration Act (43USC1362), particularly in connection with the disposal of spent sale. In order to facilitate these possible future investigations, studies, and experiments, the Department is withdrawing from all forms of appropriation under public land laws, including the mining laws, certain lands in the vicinity of the tracts offered for lease."

As you point out, the Department's prototype oil shale leasing program involves the leasing of certain public lands in Colorado, Utah, and Wyoming. While a specific mining technique is not mandated for a majority of the tracts under the Department's program, several probable techniques require a "retorting" process whereby oil is recovered from the oil shale rock, leaving huge residues of "retorted" or "spent" shale. Your figures indicate that over a ton of shale is required to produce one barrel of oil by retorting, and that the shale residue is greater in volume than the original shale by virtue of the retorting process.

Your specific questions concerning the use of withdrawn lands outside the leased tract for disposal of spent shale are as follows:

Did the enacting legislation for 43 U.S.C. 1362 foresee this use of its authority? Did it intend to authorize disposal of mining wastes? Did it foresee the dumping of wastes of this extent?

Is this utilization of the Code within the law? Can the Secretary indeed interpret the Code as he has?

Is it reasonable and proper to allow this proposed use, and probable abuse, of public lands without a single penny of compensation? Why shouldn't the oil companies be required to pay for the use of and damage to nonleased public lands? Why should the Federal Government subsidize these private companies for their financial gain?

If nonleased land dumping *is* allowable, what are the environmental repercussions? Shouldn't a NEPA statement be required in *each* instance of waste shale disposal in addition to the already published very general EIS that covered the Prototype Leasing Program?

We would offer several general observations before proceeding to these questions. First, section 10 of the notice of sale of shale leases as well as the Department's 1973 environmental impact statement clearly envision that some outside lands will be required for disposal of spent shale in some cases. However, the extent of this use cannot be determined at the present time since it is dependent upon such factors as the mining techniques which lessees employ, and the extent to which disposal can be accomplished on the leased tracts. For example, the Department's environmental impact statement indicates that *in situ* recovery is the only option to be afforded for the two Wyoming tracts (vol. III, pg. IV–6). Consequently, no outside lands would be required for disposal. On the other hand, use of some outside lands for disposal seems probable with respect to the Colorado and Utah tracts (vol. III, pgs. IV–10–30). The need for outside lands will generally be greatest in the early stages of mining and production, since initial disposal on the leased tracts would impede mining operations. Secondly, actual arrangements for the use of outside lands for spent shale disposal have yet to be made. The Department's proposed lease for the mining tracts does not of itself confer any access to outside lands. The Department's environmental impact statement (vol. III, pg. V–86) states:

"An oil shale lessee or any other party will have to make separate applications for rights-of-way for roads, power transmission lines, telephone and telegraph lines, and pipelines and for special land use permits and other rights to use land outside the tract subject to the oil shale lease for purposes connected directly or indirectly with oil shale development. * * *"

Thus, provision of outside lands for disposal purposes will be accomplished separate and apart from the lease or any other arrangements now existing. Thirdly, the Department has informally advised us that it has not at present determined what specific authorities and procedures would be employed in actual arrangements for the use of outside lands.

As a result of the foregoing, the questions which you raise cannot be fully answered at the present time. However, we hope that our responses will be of assistance in formulating comments on the proposed withdrawals.

With reference to your first question, section 101 of the Public Land Administration Act, 43 U.S.C. 1362, provides:

"The Secretary of the Interior may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction."

Closely related is section 102 of the same act, 43 U.S.C. 1363, which provides:

"The Secretary of the Interior may enter into cooperative agreements involving the improvement, management, use, and protection of the public lands and their resources under his jurisdiction. The provisions of this section shall apply only in those cases where the making of cooperative agreements for such purposes is neither expressly authorized nor expressly prohibited by other provisions of law."

The relatively brief legislative history of the act does not disclose any consideration of whether sections 101 or 102 might apply to disposal of mining wastes; nor, for that matter, does the legislative history indicate any effort to specifically detail projects or uses contemplated by these sections.

The Public Land Administration Act was based upon draft legislation proposed by the Department, and sections 101 and 102 were enacted in the same form as proposed. Compare H.R. 7004, 86th Cong., 1st sess. (May 7, 1959). The general purpose of these sections was to extend to all public lands under the jurisdiction of the Department the same authority for investigations, studies, and cooperative agreements which theretofore applied only under certain specific statutes. See H. Rept. No. 1249, 86th Cong., 2d sess., 1; S. Rept. No. 1755, 86th Cong., 2d sess., 1. The Department's letter transmitting the proposed legislation noted that then existing statutes not only limited authority for such activities to particular categories of public lands, but also to particular purposes. H. Rept. No. 1249, *supra,* 3, 4. Accordingly, it appears that both sections 101 and 102 were designed to provide general authority to undertake or support activities not specifically prohibited or authorized by other statutes.

Your second question is whether this authority may be applied to the use of outside lands for disposal of spent shale under the circumstances discussed herein. As noted previously, it is not clear at present exactly what authority and procedures the Department will employ in actually making outside lands available for shale disposal. Thus it is possible that other statutory authority might ultimately be invoked apart from, or in conjunction with, the Public Land Administration Act. However, considering the Public Land Administration Act alone, we would offer the following comments.

We doubt that the mere general provision of outside lands for use in disposal of shale could of itself be considered an investigation, study, or experiment within the purview of section 101. On the other hand, we understand that there are a number of factors and alternatives to be considered in terms of disposal techniques. For example, level filling a canyon or gorge from bottom to top might adversely affect wildlife which feed at the base of such locations. Therefore, a graded filling operation might be preferable if feasible from an engineering viewpoint. Questions also exist concerning the types of vegetation which can grow in a deposit of spent shale. In sum, it appears that legitimate investigative or experimental activities could possibly be undertaken in connection with shale disposal. Accordingly, we believe the broad authority conferred by the act could be utilized for shale disposal provided that such disposal is undertaken in conjunction with specific and meaningful investigative, study or experimental activities.

Your third question is whether compensation should be obtained for use of outside lands for shale disposal. For consideration here is the so-called "user charges" statute, section 501 of the Independent Offices Appropriation Act, 1952, 65 Stat. 290, 31 U.S.C. 483a, which provides:

"It is the sense of the Congress that any work, service publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: *Provided,* That nothing contained in this section shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge or price: *Provided further,* That nothing contained in this section shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge or price."

We have observed that the very broad language of this section contemplates that persons who receive special benefits from the Government should provide compensation therefor. 48 Comp. Gen. 24, 27–28 (1968). The matter of compensation for Federal benefits is also the subject of BOB Bulletin No. 58–3 (November 13, 1957) and BOB Circular No. A–25 (September 23, 1959). Circular No. A–25 states in part, pages 1–2:

"3. *General policy.* A reasonable charge, as described below, should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit.

* * * * *

"b. *Lease or sale.* Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government."

In our opinion, 31 U.S.C. 483a would apply to any arrangement for disposal of spent shale on outside lands absent specific statutory authority to the contrary. Again, the matter of compensation will depend upon the precise statutory authority and procedures utilized by the Department. If the Department invokes a statute or existing statutory regulations which contain provisions relating to compensation, such provisions would presumably be governing.

Your fourth question relates to the environmental repercussions of shale disposal on outside lands and whether environmental impact statements would be required in each instance of such disposal in addition to the Department's existing environmental impact statement. We believe that making outside lands available for shale disposal of the magnitude contemplated could be a major Federal action significantly affecting environmental quality, and thus subject to the environmental impact statement requirement under section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Accordingly, the real issue here is whether the Department's 1973 general environmental impact statement for the prototype oil shale leasing program is sufficient to cover the actual and ultimate provisions of outside lands.

The 1973 statement does address potential impacts of shale disposal both on and under the lease tracts and on outside lands, and discusses environmental impacts on specified outside lands which the Department considers likely areas for disposal. At the same time, the statement recognizes that such discussion is necessarily hypothetical and tentative at present since it is unknown precisely what outside lands will be involved, what disposal techniques will be employed, and what new technologies and alternatives may become relevant by the time disposal is actually required (presumably when detailed development plans are submitted several years from now). Department officials have informally advised us that while they have no current plans to file additional environmental impact statements, such action will be taken if warranted by circumstances existing at the time detailed development plans are submitted.

In addition to the specific questions which you have raised, our review indicates another legal issue concerning the use of outside lands for shale disposal. The basic statutory foundation for the prototype oil shale leasing program is section 21 of the Mineral Lands Leasing Act, as amended, 30 U.S.C. 241. This section authorizes the Secretary of the Interior to lease shale oil deposits on public lands "and the surface of so much of the public lands containing such deposits, *or land adjacent thereto,* as may be required for the extraction and reduction of the leased minerals * * *" (italic supplied). Section 21 further provides that no lease under that section may exceed 5,120 acres. Each of the six tracts to be leased under the prototype oil shale leasing program approaches 5,120 acres without consideration of any outside lands which may be required for shale disposal. As noted previously, the Department's proposals to withdraw outside lands in connection with the leasing operations include over 6,500 acres in Colorado and over 800 acres in Utah.

It could be argued that section 21 contemplates a 5,120-acre limitation upon all surface lands required for the extraction and reduction of minerals in a mining operation under any single lease, particularly since this section specifically authorizes inclusion of adjacent lands in the basic lease. In any case where mining of oil shale could not as a practical matter be accomplished without the existence of offsite disposal facilities, outside lands used for this purpose could be regarded as "required for the extraction and reduction of shale oil within the meaning of section 21. Somewhat analogous considerations involving maximum amounts of land provided for pipeline rights-of-way under section 28 of the Mineral Lands Leasing Act, 30 U.S.C. 185 proved fatal to the Departments original trans-Alaska pipeline program in *Wilderness Society* v. *Morton,* 479 F. 2d 842 (D.C. Cir. 1973). See particularly part I of the court's opinion, 479 F. 2d at 851–875.

While in our opinion legal issues regarding the effect of the 5,120-acre limitation upon provision of outside lands for shale disposal are potentially quite serious, they appear to be premature at the present time. Presumably, actual applications for outside lands will not be made for some time, and then will require consideration of the specific authorities relied upon. It should also be noted that use of outside lands for purposes specifically authorized by law—such as rights-of-way for tramroads (43 U.S.C. 956) and power and communications lines (43 U.S.C. 959)—would clearly not conflict with the 5,120-acre limitation. See *Wilderness Society, supra,* 479 F. 2d at 879–881.

Finally, it is noted that the Department has proposed legislation which, if enacted, would apparently overcome the problem of acreage limitations in relation to outside lands. See S. 1040 and H.R. 5442, 93d Congress. Section 112(a) of these identical bills provides in part as to mineral leases:

"The lessee shall have, under his lease, the right to use, free of charge, so much of the surface of the leased areas as may be reasonably required for the actual extraction and removal of the mineral subject to his lease. The lessee shall also, upon payment of fair market rental and upon such terms and conditions as the Secretary may prescribe, have the right to a lease for the amount of the surface reasonably necessary for other operations under the lease and access thereto of (1) the leased area, and (2) where the leased area is inadequate, nearby leasable lands.* * *"

Sincerely yours,

Elmer B. Staats,

Comptroller General of the United States.

COMMISSIONER BENJAMIN J. MALCOLM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. RANGEL. Mr. Speaker, Commissioner Benjamin Malcolm, who was appointed as head of the department of correction of New York City, in January of 1972, is the first black to hold such a position there. During his tenure as commissioner, Mr. Malcolm has made great strides in bringing about needed reform in the correctional system. His concern and dedication toward bettering the lives of the men and women who are presently incarcerated in New York City jails has won him the respect of his colleagues and fellow New Yorkers.

I take the liberty of placing an article, which recently appeared in the New York Voice, concerning Commissioner Malcolm, and his efforts to bring about reform in the Congressional Record, in order that my colleagues may become aware of the outstanding work that Commissioner Malcolm has been doing in the area of prison reform:

Humanization of Prisons Is Goal

(By Nanine Alexander)

"We were extremely happy. When we went out to sell vegetables, we would get a nickel a piece as reward. Then we'd have a little party." Commissioner Benjamin J. Malcolm, who heads the Department of Correction of the City of New York, reminisced about his boyhood in the south during an exclusive interview last week.

Commissioner Malcolm, 54, was appointed by Mayor John Lindsay January 24, 1972, after the city had conducted a nationwide search for the position. "I welcomed the search," said Comm. Malcolm, for it demonstrated that the best man for the job was already in the Correction Department as the first deputy to the man on his way out, Commissioner McGrath.

Mr. Malcolm had been appointed to the number two spot after the Tombs riots of 1970. "You'd be surprised what bare hands can do to steel and concrete," he said.

After the Tombs uprising, reforming the correctional system seemed like an impossible task, said Comm. Malcolm. "We're attempting to treat the ills of the nation." Correctional facilities must go beyond the "warehouse of human beings," he stressed.

FAMILY ROOTS

Born in Pennsylvania to parents who were poor, but rich in spirit, Mr. Malcolm moved to the south with his family when he was a child. He grew up in South and North Carolina and Georgia.

It was never easy, but Mr. Malcolm's parents managed to provide for him and his four brothers and sisters. "Mother worked as a domestic for about 3 to 4 dollars a week, but books came before food." His father worked as a waiter in a hotel, and there was some income from the small farm.

After finishing high school at 15, young Malcolm worked for a year selling Black papers (only White boys were allowed to sell White papers), for which he made 3 cents a paper. And he set pins at a bowling alley. At the end of a year he had saved fifty dollars and was on his way to Morehouse College in Atlanta, Georgia. "I was only five feet tall and weighed 98 pounds," he said, chuckling. "The other guys told me the high school was down the street."

Drafted into the army as a private in the summer of '42, Mr. Malcolm made Lieutenant in the short time of six months. Just the day before he entered the service, he took time out to get married. He and his wife, Carlotta, raised two daughters: Gail Loftus, 22, who is now married, a mother, and a student at Hunter College; and Carol, 19, a sophomore at Syracuse.

After the war, Malcolm decided to try the so-called land of freedom and opportunity, the north. "I met rank prejudice and rank discrimination."

In 1948, Mr. Malcolm took a job as a parole officer, "just above where I'm sitting now," he said, pointing to the ceiling. At that time parole officers made $2,460 a year. Now his salary is almost $40,000 in the same building.

INNOVATIONS

The first Black commissioner of the Department of Correction said the difference between his administration and that of his predecessors is very much a matter of style. "I've tried to establish a closer relationship with the inmates," he explained.

Commissioner Malcolm numbers several reforms among his contributions to the correctional system. They include:

The implementation of the 72-hour furlough program (suggested by the previous commissioner);

Inmate councils;

Inmate newspapers;

Greater emphasis on staff training in human relations;

Expanded educational, medical, mental health, recreational and community release programs.

Mr. Malcolm strongly believes in and has practiced integration in the staffing of the department.

In terms of physical improvements, Comm. Malcolm feels the constant pressure from his office has influenced the police to make more "quality" arrests (the arrest rate has gone down in the past few years), and has influenced the courts to speed up this processing of cases. This has resulted in a lowering of the inmate population. (During the Tombs riots, that institution held 2,000 inmates, when it was designed for only 900. It is now operating below the preferred maximum.)

For the future, Comm. Malcolm said, "If I am reappointed, I hope we begin to see the closing down of institutions." To boast about being able to lock up large numbers of human beings is, he said, "very sad." He sees the future goal as one of reversing the process of repetitious criminal behavior (for which he feels community release programs are very important) and the "continued humanization of our system."

PUBLIC DEVELOPMENT OF PUBLICLY OWNED OIL-GAS LANDS

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, February 4, 1974

Mr. WALDIE. Mr. Speaker, one of the principal responsibilities facing Congress this year will be an evaluation of domestic oil and gas resources, particularly as they relate to lands under public ownership.

Hearings have begun in the Senate on legislation which would establish a Federal oil and gas corporation for the management of these extensive and vital resources. I am privileged to have introduced similar legislation in this House.

I think it important to consider that passage of this legislation should not be construed as an act of quick judgment in light of the energy controversy. Rather, I consider such legislation to be extremely important if the Federal Government is to have meaningful management of these resources over the next several decades.

The importance of such legislation was recently outlined by Mr. Lee White, Chairman of the Energy Policy Task Force of the Consumer Federation of America. Mr. White, a ranking expert on energy, was Chairman of the Federal Power Commission from 1966 to 1969. At this time, Mr. Chairman, I would request that an article written by Mr. White and published in the Sacramento Bee on January 23, bc reprinted in the RECORD:

PUBLIC DEVELOPMENT OF PUBLICLY OWNED OIL-GAS LANDS

(By Lee C. White)

The Tennessee Valley Authority, launched 40 years ago, has demonstrated that the federal government can operate efficiently in the energy field without destroying or weakening private enterprise in that industry. This country need a counterpart of the TVA in finding, producing and managing oil and gas deposits on behalf of the people who own them. It is an idea whose time has come.

Geologists believe that 60 to 75 per cent of all oil and gas yet to be discovered in the United States is on publicly owned land. There is no reason why at least part of these valuable resources should not be discovered and developed by a government corporation for use by their owners—the citizens.

Until now, the government has permitted privately owned corporations to exploit these resources by bidding for the right to go on public lands and explore for petroleum. Less than 5 per cent of the petroleum of public lands has been thus leased.

BAD ADMINISTRATION

Unfortunately, the administration of this program has been wretched. Leases requiring prompt development have been so loosely enforced that in the Gulf of Mexico there are tracts for which bidders paid the government more than $750 million, but have not produced a drop of fuel even though oil and gas in commercial quantities have been found.

A federal oil and gas corportaion, while no panacea, would make a significant contribution to easing our basic and continuing energy problem. Nor is the idea as novel as it seems: We are the only major industrial nation that leaves all the handling of petroleum to privately owned corporations, whose management must be responsive to stockholders, as distinguished from national, priorities.

There was comparatively little need to consider major alternatives to our privately operated petroleum industry as long as the country's needs were being met. However, when things go wrong, as they obviously have recently, the system must be reexamined.

The advantages of a government oil corporation are many. Energy shortages may exist for decades. In this situation, there should be in the field an energy-producing organization motivated not by profits, but by national needs. There is nothing inherently wrong with the profit incentive, but where the product is as essential to national well-being and security as energy, at least part of the country's effort to provide it ought to be motivated by America's security, personal and business needs.

We have seen, for instance, that a voluntary fuels allocation program does not work, primarily because it conflicts with the profit motive. Private management understandably would decline to sell fuel for a higher public purpose—city bus systems, say—at a lower price than it could get from homeowners who need it for heating.

INDEPENDENTS' SHARE

Protecting independents in the oil business could be insured by requiring the federal corporation to allocate a fair share of its crude oil to them. Private companies naturally find it difficult to do this themselves. As one oil executive said: "There's no place in our corporate charter, the Constitution, the law or the Bible where it says we majors must protect and preserve our competitors." He's probably right, but Congress ought to change things so the independents can stay in business as competitors of the major companies.

There undoubtedly will be opposition from oil industry to the proposed government corporation. But the industry ought to welcome the competition and the chance to show it can do a better job than a government agency. This competitive spur to the oil industry may be the best feature of a government oil corporation.

NOT NATIONALIZE

Nor would such a public corporation be the first step toward nationalizing the oil industry, any more than TVA meant the end of the private electric utility industry as was predicted by some in the 1930s.

The present approach to the energy situation is not good enough, with consumers being asked to tighten their belts and pay more, while environmental goals are delayed. Congress has an obligation to act.

No one can claim that creation of a federal oil and gas corporation is the single, dramatic solution to this country's energy needs for the next 20 years. But I think it is a minimal step that should be taken without delay. We can no longer permit ourselves to be totally dependent for basic energy supplies on private industry that has failed to develop our resources in a way that meets national needs and protects consumers.

HOUSE OF REPRESENTATIVES—*Tuesday, February 5, 1974*

The House met at 12 o'clock noon.

Rev. A. Reid Jepson, vice president of Public Ministries, Far East Broadcasting Co., Whittier, Calif., offered the following prayer:

God of our fathers, Lord of the present and Saviour of all who believe. In these troubled times, help us. Teach us lessons we are slow to learn. Give us faith, not so much in ourselves but in God, concerning ourselves and our service on Earth and in Heaven. As in Old Testament times when the Prophet Nehemiah at Jerusalem's water gate (Nehemiah 8: 1–8) called his people to return to the Holy Book of God, may our Nation of leaders and citizens also seek the Lord.

In the words of Ezra the priest, may we bless the great God, bowing our heads and asking forgiveness, obey and worship the Lord. Then we shall have the smile of Your approval on our land again. Then we cna count on Your blessing, protection, and prosperity. Grant us this revival of saving faith, of love for the living God and for every person in the world community.

Through Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2368. An act to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices; and

S. 2777. An act to establish with the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar Day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ESTATE OF THE LATE RICHARD BURTON, SFC., U.S. ARMY (RETIRED)

The Clerk called the bill (H.R. 3533) for the relief of the estate of the late Richard Burton, Sfc., U.S. Army (retired).

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 2508) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 6411) for the relief of Murray Swartz.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RESOLUTION TO REFER BILL FOR RELIEF OF ESTELLE M. FASS TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS

The Clerk called the resolution (H. Res. 362) to refer the bill (H.R. 7209) entitled "A bill for the relief of Estelle M. Fass," to the Chief Commissioner of the Court of Claims.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RITA SWANN

The Clerk called the bill (H.R. 1342) for the relief of Rita Swann.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEONARD ALFRED BROWNRIGG

The Clerk called the bill (H.R. 2629) for the relief of Leonard Alfred Brownrigg.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BOULOS STEPHAN

The Clerk called the bill (H.R. 4438) for the relief of Boulos Stephan.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FAUSTINO MURGIA-MELENDREZ

The Clerk called the bill (H.R. 7535) for the relief of Faustino Murgia-Melendrez.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ROMEO LANCIN

The Clerk called the bill (H.R. 4172) for the relief of Romeo Lancin.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LUCILLE DE SAINT ANDRE

The Clerk called the bill (H.R. 6477) for the relief of Lucille de Saint Andre.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

PERMISSION FOR COMMITTEE ON WAYS AND MEANS TO FILE REPORT ON H.R. 12481, AMENDING INTERNAL REVENUE CODE TO PROVIDE PENSION REFORM

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Tuesday, February 5, 1974, to file a report on the bill, H.R. 12481, to amend the Internal Revenue Code of 1954 to provide pension reform, along with any separate and/or supplemental views.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

TOWARD EARLY CONCLUSION OF IMPEACHMENT PROCEEDINGS

(Mr. McCLORY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, tomorrow when the House considers a House resolution (H. Res. 803) to confirm the authority of the Committee on the Judiciary in connection with the impeachment inquiry, and requests broad subpena authority, I hope I will have an opportunity to offer an amendment calling for a final report to the House of the committee's findings and conclusions, on or before April 30, 1974.

Mr. Speaker, if there is one thing that the American people want more than anything else with regard to the subject of impeachment, it is to have the proceedings concluded at the earliest possible date, and that is what this amendment proposes to do.

The chairman of the committee has referred to April 30 as his target date, and I feel that that is the consensus of the committee. Accordingly, it seems to me that we should write this date into the resolution itself.

In the event that the chairman of the committee refuses to yield to me for the purpose of offering this amendment, then I shall call for a rollcall vote on the motion on the previous question. It is my expectation and the hope that the motion on the previous question will be voted down so that I will have an opportunity then to offer my amendment.

Mr. Speaker, the amendment I propose to offer is, as follows:

Strike the last sentence of section 1 of the resolution and insert in lieu thereof the following:

"The committee shall submit its final report to the House of Representatives on or before April 30, 1974, and such report shall set forth the committee's conclusions with respect to the investigation authorized and directed by this resolution, together with such resolutions, articles of impeachment, or other recommendations as it deems proper."

PROVIDING FOR A VETO VOTE ON PROPOSED CONGRESSIONAL PAY RAISES

(Mr. DENNIS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous material.)

Mr. DENNIS. Mr. Speaker, I have today filed, and there is now at the Clerk's desk, a discharge petition on H.R. 2154. This bill, originally introduced by the gentleman from Arizona (Mr. RHODES), and of which I am a cosponsor, provides that when any resolution vetoing a proposed congressional pay raise has been before the Committee on Post Office and Civil Service for 10 days without action, that any Member can rise and offer a privileged resolution to discharge the committee and force the resolution for vetoing the proposed pay raise to a vote.

The discharge petition represents the only opportunity to secure a vote on the matter of the proposed pay raise, and I urge my colleagues to affix their names.

PROVIDING FOR ADJOURNMENT FROM FEBRUARY 7, 1974, TO FEBRUARY 13, 1974

Mr. O'NEILL. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 425) and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 425

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, February 7, 1974, it stand adjourned until 12 o'clock meridian, Wednesday, February 13, 1974.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE SEVERAL PRIVILEGED REPORTS

Mr. MATSUNAGA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file several privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 11221, PROVIDING FULL DEPOSIT INSURANCE FOR PUBLIC UNITS AND TO INCREASE DEPOSIT INSURANCE FROM $20,000 TO $50,000

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 794 and ask for its immediate consideration.

The Clerk read the resolution,, as follows:

H. RES. 794

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking and Currency, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 794 provides for consideration of H.R. 11221, which, as reported by our Committee on Banking and Currency, would provide for full deposit insurance for public or governmental units, and increase deposit insurance on nonpublic individual accounts from the present $20,000 to $50,000. The resolution provides for an open rule with 1 hour of general debate, the time being equally divided and controlled by the chairman and the ranking minority member of the committee.

After general debate, the bill would be read for amendment under the 5-minute rule. At the conclusion of such consideration, the committee will rise and report the bill to the House with such amendments as may have been adopted. The previous question will then be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. Speaker, deposit insurance dates back to the dark days of the Great Depression when many Americans lost their life savings as the result of bank failures. With the creation in the early 1930's of the Federal Deposit Insurance Corporation, commonly referred to as the FDIC, and the Federal Savings and Loan Insurance Corporation, better known as the FSLIC, the insurance protection of bank deposits infused renewed confidence among depositors in the integrity and security of our banking system. This protection, however, was not unlimited. Certain ceilings were established, and depositors of member institutions were informed of the extent to which their accounts were insured by these Federal agencies.

The initial deposit insurance limit for individual accounts was set at $2,500 for FDIC member banks, and $5,000 for FSLIC member institutions. These limits were subsequently raised just about once every 16 years until 1966, when the insurance coverage ceilings were set at $15,000 for both Federal agencies. The present ceiling of $20,000 was established in December 1969—4 years ago.

As the result of regulatory agency action last year relating to interest rate differentials and permissible ceilings on consumer certificates of deposit, savings and loan associations, mutual savings banks, and credit unions experienced a massive outflow of savings. This in turn resulted in a severe depletion of money available for mortgage lending, a critical situation which still exists today.

Mr. Speaker, H.R. 11221 is not expected to be a panacea for all of today's ills relating to the shortage of available home mortgage funds at reasonable interest rates. But to the extent that it would provide wider selection, higher yield, and greater convenience for public officials, the proposed legislation is designed to help alleviate the present money crisis. And to the extent that it would encourage individual depositors to leave their savings in financial institutions which make home mortgage loans, H.R. 11221 is intended to help correct last year's so-called disintermediation period.

H.R. 11221 provides two separate roads leading to the same goal. First, there would be 100-percent insurance coverage for public funds in the custody of city, county, State, and Federal officials which are deposited in insured banks, savings banks, savings and loan association, and credit unions.

And second, the present deposit insurance ceiling of $20,000 on individual accounts would be raised to $50,000 for accounts in commercial banks, mutual savings banks, savings and loan associations and credit unions. From the individual depositor's standpoint, the $50,000 ceiling would be consistent with the forces of inflation which have been operative the last several years, and it would also eliminate the necessity of his having to spread his savings over a number of federally insured depository institutions in order to obtain full insurance coverage when his total deposits exceed $20,000.

The proposed legislation would not entail cost in the usual sense. Cost is referable to possible enlargement of the two Federal insuring agencies, but the Committee on Banking and Currency believes that the objectives of this legislation can be carried out without any increase of staff in either of those agencies.

Mr. Speaker, I urge the adoption of House Resolution 794 in order that H.R. 11221 may be considered and passed.

Mr. GROSS. Mr. Speaker, will the gentleman from Hawaii yield?

Mr. MATSUNAGA. I yield to the gentleman from Iowa (Mr. Gross).

Mr. GROSS. Mr. Speaker, I would like to take this opportunity to compliment the gentleman and the members of the Rules Committee for bringing out for the first time in a long time a completely open rule. I probably will regret what I am saying at this time because I will probably have to retract tomorrow or the next day.

I particularly want to commend the committee for not approving a rule that prohibits the offering of amendments from the House floor, not previously printed in the Congressional Record, as was done with the rules of evidence bill.

I hope the Rules Committee will not repeat that performance again, ever again.

Mr. MATSUNAGA. Since it is not too often that the gentleman from Iowa offers commendations to the Committee on Rules or any other committee, in behalf of the Committee on Rules I accept the commendation of the gentleman from Iowa with great pleasure.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as the gentleman from Iowa has explained in some detail, H.R. 794 provides for an open rule and 1 hour of debate on H.R. 11221, the bill to increase Federal deposit insurance. As the gentleman has explained, it increases the Federal deposit insurance from the present coverage of $20,000 per account to $50,000 per account.

In addition, in regard to deposits of State, county, and municipal governments, and other local governmental organizations, it increases the coverage to $100,000.

Now, there is a joker in this increase, Mr. Speaker. At the present time under present regulations the banks must maintain a 100 percent coverage of these deposits through the holding of municipal or State bonds. This provision would be eliminated in the legislation which we will shortly be considering, and would result in a lessening in demand for State, county, and municipal bonds.

Another point that I would like to emphasize, and this will be corrected in an amendment to be offered under the 5-minute rule by the distinguished gentleman from Pennsylvania (Mr. Johnson) would equalize the interest rates that the banks and savings and loan institutions must pay on Government deposits. At the present time savings and loan institutions may pay one-quarter of 1 percent more interest than commercial banks. A local governmental agency is required to get all of the interest, the maximum amount of interest on those deposits, that they possibly can.

Consequently, unless this unequal amount of interest which may be paid is corrected, the funds in the small communities of the country would be channeled into savings and loans and taken out of the commercial banks of the country. In thousands and thousands of communities through the United States, these governmental funds would not amount to over $100,000, the limit of this coverage. As a consequence, we would have a withdrawal of Government deposits from the banks into the savings and loans and mutual savings banks and the credit unions.

When this amendment is offered, Mr. Speaker, I urge its approval. I support the rule and urge its adoption.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken and the Speaker announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 397, nays 0, answered "present" 4, not voting 28, as follows:

[Roll No. 14]

YEAS—397

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landgrebe
Landrum
Latta
Leggett
Lehman
Lent
Long, La.
Long, Md.
Lott
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Owens
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—0

ANSWERED "PRESENT"—4

Camp
Litton
Moakley
Quillen

NOT VOTING—28

Arends
Brasco
Clausen, Don H.
Dellums
Dingell
Fish
Frelinghuysen
Gray
Haley
Jones, Ala.
Jones, Okla.
Lujan
McSpadden
Mathias, Calif.
Mills
Mollohan
Myers
Parris
Passman
Pepper
Poage
Reid
Rhodes
Rooney, N.Y.
Rose
Smith, N.Y.
Stanton, James V.
Stuckey

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Gray with Mr. Rhodes.

Mr. Rooney of New York with Mr. McSpadden.

Mr. Passman with Mr. Mills.

Mr. Brasco with Mr. Stuckey.

Mr. Mollohan with Mr. Arends.

Mr. Reid with Smith of New York.

Mr. James V. Stanton with Mr. Don H. Clausen.

Mr. Pepper with Mr. Lujan.

Mr. Dingell with Mr. Dellums.

Mr. Haley with Mr. Myers.

Mr. Jones of Alabama with Mr. Frelinghuysen.

Mr. Rose with Mr. Fish.

Mr. Jones of Oklahoma with Mr. Mathias of California.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OSHA HEARINGS

(Mr. DOMINICK V. DANIELS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, the Occupational Safety and Health Act of 1970 was the congressional response to a serious national concern. Hearings conducted prior to its enactment, revealed that more than 2 million workers were being disabled in America each year due to work related accidents. This represented a loss of about 250 million man-days of work. Following the first full year of surveillance by the Occupational Safety and Health Administration, a more accurate accounting has shown that over 5.6 million workers were involved in job related injuries or illnesses during 1972.

Realizing the inherent dangers that exist in American workplaces, Congress passed OSHA, to assure so far as possible, every working man and woman in the Nation safe and healthful working conditions. It is my belief that OSHA has gone far toward achieving its stated objective without overburdening employers. The act and its administration, has brought to the foreground however, a wealth of controversy. Although voluntary compliance would of course be ideal, the Occupational Safety and Health Administration has had to deal with the reality of the American business world.

As chairman of the Select Subcommittee on Labor, I have scheduled oversight and amendment hearings commencing March 19 in order to gather information relating to the act and its impact. Anyone interested in either testifying before the subcommittee or submitting a statement for the hearing record should contact my subcommittee office in B345A Rayburn House Office Building.

PROVIDING FULL DEPOSIT INSURANCE FOR PUBLIC UNITS AND TO INCREASE DEPOSIT INSURANCE FROM $20,000 TO $50,000

Mr. ST GERMAIN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000.

The SPEAKER. The question is on the motion offered by the gentleman from Rhode Island.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11221, with Mr. MATSUNAGA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. WIDNALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 11221. The legislation was reported from the Committee on Banking and Currency with an overwhelming vote after full and extensive hearings were held, and with an opportunity for all to be heard who desired to be heard.

The legislation represents another modest step to do something positive about our current home mortgage crisis. It is but a first step, but will signal to the beleaguered consumer that the Congress is not content to sit back while housing starts fall, while interest rates soar, and, in many jurisdictions, to the point where mortgage money for both new and existing houses is simply not available.

To the young couple just entering the housing market and to the elderly couple looking to the day when they can be relieved of home ownership seeking apartment accommodations with health facilities, by our passage of H.R. 11221, we clearly declare that Congress cares—that help is on the way, and that they indeed can hope again.

Since 1966, we have endeavored by flexible interest rate legislation known as regulation Q to provide for a stable flow of home mortgage money. We extended reg Q to December 31, 1974, by our adoption of H.R. 6370 (Public Law 93-100) last summer, and in October by voice vote we adopted Senate Joint Resolution 160 trying to amend the regulatory agencies' infamous "wild card" experiment. We said we would be back with a number of recommendations designed to ease the desperate plight of the homeowner who desires to sell, and the home purchaser.

H.R. 11221 grew out of last fall's "emergency credit crunch" hearings, and I am grateful to my colleagues on the subcommittee, nine of whom joined me in sponsoring H.R. 11221 and members of the full committee, also, who moved with dispatch in adopting the subcommittee's recommendations.

I urge the House in a continuation of the split which led to the adoption last October of Senate Joint Resolution 160 to approve the committee bill without crippling amendments.

Mr. Chairman, we have as section 1 the full deposit insurance for public unit deposits, and sections 2, 3, and 4 increasing from $20,000 to $50,000 insurance on individual deposit accounts.

In these days when the price of living keeps soaring; when the price of energy has reached unprecedented heights; when the working man and woman gets his paycheck and finds another increase in social security tax; I think it is fortuitous for us—and it is about time that the Congress did—to say to the American people: We are going to give you something for nothing for a change. We are going to increase the insurance on your deposits from $20,000 to $50,000, and it will not cost you one red penny.

The agencies involved testified to the effect that this legislation and this increase would in no way cripple the fund. The premiums paid will be continued to be paid by the financial institutions involved. We all know we have been hearing from the various segments of the financial community on this legislation. Some of us state, "Well, I have constituents who are bitterly opposed," or, "I have constituents who are certainly in favor," or "who are overwhelmingly in favor," but these constituents happen to be either savings and loans or mutual savings banks or credit unions or the mortgage bankers or the commercial bankers.

I say to you, Mr. Chairman, the constituents that the Members represent and that I represent are not the financial institutions. The constituents we represent are the borrowers and the depositors. We here have an opportunity to adopt legislation to help the prospective home purchaser and to help the home seller.

We say to the average man or woman putting money in their accounts: If you are single, you will not be discriminated against. You will not have to worry when your account reaches $20,000 requiring you to open a new account; you can leave it in up to $50,000.

Mr. Chairman, I repeat: Remember one thing—the constituents that voted for the Members and that sent them here want this legislation. They need this legislation, we are responsible to them and not to the financial institutions or the corporate bodies.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Just so the record is straight, we have all heard about a great number of people in the savings and loan business and commercial banks and the credit unions——

Mr. ST GERMAIN. And the mutual savings banks.

Mr. ROUSSELOT. Oh, absolutely, the mutual savings banks. To say however that an overwhelming number of our constituents have great interest in this bill I think would be leading our colleagues a little bit astray. It is primarily legislation that the industry people who are in charge of the commercial banks, savings and loan institutions and mutual banks want.

Mr. ST GERMAIN. I understand the gentleman's argument.

Mr. ROUSSELOT. Let me finish my comment, if I may.

Mr. ST GERMAIN. I do not yield any further.

The fact of the matter is that it is very clear that this legislation that is before the House today is primarily for the benefit of the consumer, borrower, and depositor rather than for the financial institutions involved.

Mr. WIDNALL. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 11221 is one of those bills which generates a lot of heat and some interesting illumination only after final committee action on it. Some of thep rovisions in the bill, such as full deposit insurance for public deposits, have been discussed for well over a year but it is only in the past few weeks that the affected institutions have realized the full impact of the bill and made their feelings known.

The record will show that I was one of the 27 members of the committee voting to report the bill favorably. I am still favorable to the objectives and support its enactment. However, information which was not generally available until after the hearing record was published and other information I have received since last December, convince me that some amendments are necessary.

The underlying reason for deposit insurance is to encourage thrift. It was initiated in the 1930's when public confidence in banking institutions was badly eroded as a result of experience during the Great Depression. Atlhough public confidence has been justifiably restored, the existence of deposit insurance remains a strong incentive for people to save with confidence.

For this reason, we have periodically increased deposit insurance limits and are again proposing an increase in this bill. The bill increases the limits from $20,000 to $50,000.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from California.

Mr. ROUSSELOTT. Mr. Chairman, I want to compliment my ranking minority Member for bringing out the point in his remarks that we really do not need Federal insurance up to $50,000. Maximum insurance of $35,000, according to the Administrators of the FDIC and SLIC, would be more than adequate. I appreciate my ranking Member making this point because I think our colleagues should understand that this rising demand, indicated by my good colleague and chairman of the subcommittee (Mr. ST GERMAIN), for an increase of the insurance from $35,000 to $50,000 has really not come from our general constituency but from the financial industry itself. I think we should realize that. We have not had thousands of letters from depositors telling us if we do not raise the deposit insurance we are all going to be in deep trouble, because that really is not the case. I appreciate the gentleman from New Jersey making that point.

Mr. WIDNALL. Mr. Chairman, this is a larger increase than would be needed merely to keep abreast of the declining purchasing power of the dollar but was adopted by the committee to encourage the savings of larger amounts without the inconvenience of maintaining multiple accounts. It is estimated that by increasing the limit to $50,000, about 75 percent of insured bank deposits and 97 percent of savings and loan association deposits would be covered.

Although some Members feel this increase is excessive, this section of the bill has not generated a great deal of dissent. In fact, officials of the FDIC and the FSLIC testified that such an increase, although in excess of their recommendations, would not jeopardize the solvency of their reserve accounts.

Section 1 of the bill is a different story. It authorizes full deposit insurance of public deposits regardless of amount. This would change the present situation from one in which the savings and loan industry has not found it practical to solicit public funds to one in which they would not only find them attractive but one in which they would enjoy a competitive advantage over commercial banks on accounts under $100,000.

As things now stand, accounts are only insured up to $20,000 and most States require a pledge of Government securities by the depository institutions in an amount equal to the uninsured portion of the deposit. Because of this pledging requirement, savings and loan associations have not found these Government funds atractive. Exact figures are not available but the Federal Home Loan Bank Board estimates that only about two-tenths of 1 percent of the deposits in savings and loans are Government funds, about $191 million out of total deposits exceeding $122 billion.

On the other hand, as of July 30, 1972, there were some 700,000 State and local government accounts in commercial and mutual savings banks aggregating over $51 billion. Of these, about 200,000 amounting to $49 billion were in accounts of more than $20,000.

Outstanding Federal regulations—regulation Q—limit the interest which may be paid on time deposits of less than $100,000 but permit savings and loans and savings banks to pay one-fourth of 1 percent more than commercial banks.

Bankers are understandably concerned that if we were to enact H.R. 11221 in its present form they would be at a competitive disadvantage as a result of Federal regulations and might quickly see $40 billion or more shifted out of their institutions to thrift institutions.

Despite the need for mortgage funds, I do not believe we should encourage such a large shift of deposits. Therefore, I intend to support an amendment to mandate a change in regulation Q to require that if ceilings are imposed, there must be a uniform ceiling interest rate on public deposits between all types of business institutions. This would result in an equitable situation and still provide an opportunity to attract more funds to the mortgage market.

Mr. Chairman, I believe that if this bill is amended as I have suggested, it would deserve our support and should be enacted.

Mr. ST GERMAIN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Mr. Chairman, I am personally concerned about the effect the proposed legislation will have on State and local bond markets. I made my reservations known during committee deliberations and felt then that we should direct more attention to this facet of this bill. Georgia requires full pledging of municipal securities to secure public time deposits in an amount exceeding the FDIC insured limit. The 100-percent insurance of public deposits as provided in title I of this bill, of course, means no pledging of municipal securities would be required thereby sharply curtailing the demand side of the market for their municipal bonds and forcing up the interest rates they will have to pay on the bonds they sell.

This same point of view was forcefully expressed in a letter found on pages 179 and 180 of the hearings, from the Washington director of the Municipal Finance Officers Association to the chairman of the subcommittee. He stated:

> The Municipal Finance Officers Association, representing 5000 State, local and Federal governmental fiscal officers in the United States, wishes to record its deep concern over the potential impact of Section 1 of H.R. 10993 (H.R. 11221), to provide full deposit insurance for public funds.

He goes on to point out that current pledging requirements not only provide excellent protection to State and local deposits, they also encourage substantial and widespread investments by banks in State and local obligations. An estimated $90 billion in municipal bonds are held by banks and perhaps 50 percent of this amount is used for pledging purposes.

Then he observes, a reduction in the demand for State and local bonds due to the circumvention of pledging requirements could have catastrophic effects on the demand for municipal securities and drive up the costs of borrowing for State and local governments. An increase of only one-tenth of 1 percent in the interest rates on bond and note sales—about 50 billion a year—would drive up borrowing costs by $5 million a year on new issues alone. Over time, the costs would accumulate to much more.

The Municipal Finance Officers Association at its annual conference on June 6, 1973, adopted a resolution formally opposing 100-percent deposit insurance for public funds.

The Independent Bankers Association of America with a membership of 7,200 National and State banks in 41 States with 90 percent of its membership located in communities having less than 30,000 population is opposed to full account insurance for public fund deposits. The association in a letter to the committee on November 21, 1973, cites six objections to the 100 percent insurance for public funds proposal—see page 186 of hearing. Of the six objections the one most fully developed is No. 2 which states that the proposal would injure the local municipal bond markets.

The Conference of State Bank Supervisors advises that—and I quote—

> 100% insurance of public fund deposits could have a substantial adverse effect on the market for state and local securities. This could be a particular hardship for small municipalities which are experiencing difficulty in getting adequate financing for essential services (see pages 177 and 178 of the hearings).

The Acting Comptroller of the Currency in a letter dated November 6, 1973—pages 170–71 of the hearings—expressed the opinion that elimination of the collateral security requirement could result in a material increase in the borrowing costs of the Treasury, other Federal agencies and State and local governments. Insured banks now hold about $170 billion, in Treasury, Federal agency, and municipal securities obligations, part of which are used as collateral security for public deposits which are not insured. The release of the collateralization requirement would almost surely reduce bank demand for such obligations.

The reason most banks pledge substantially more public securities than the amount of public funds they have on deposit is to secure the top figure of public deposits which typically does not remain with the institution very long. This is particularly true of Treasury tax and loan accounts which are regularly drawn down in a matter of a few days. Of late, some of these tax and loan accounts have been drawn down 100 percent.

The Securities Industry Association representing nearly 600 firms who underwrite and trade in State and local government securities opposes 100-percent insurance of public funds. The Association points out that commercial banks currently hold over $90 billion in State and local government bonds, approximately 54 percent of outstanding securities of this type. State and local government deposits total nearly $60 billion, $59 of which are currently backed by the pledging of governmental securities. The majority of securities used to fulfill these pledging requirements are State and local bonds. It is the association's opinion that an undercutting of public pledge requirements would certainly result in a corresponding decrease of bank holdings of municipal bonds. Such a decrease in holdings would, in turn, force up interest rates of municipal borrowings.

The Federal Reserve Board—page 141 of the hearings—is concerned over the prospective 100-percent insurance of public fund deposits. One reason for the Board's concern is that large amounts of Government obligations held by commercial banks are pledged as security against public deposits. Full insurance of these deposits would, in many cases, eliminate the necessity for banks to hold such obligations. Although many banks may continue to hold Government obligations without collateral requirements, it is the Board's opinion that authorizing full guarantee of the deposits of public bodies would result in at least some decrease in demands for Government securities and an increase in the borrowing costs of governmental units, both at the State and Federal level.

The Treasury Department—pages 175–176 of the hearings—opposes 100-percent insurance of public deposits. It points out that commercial banks hold about $180 billion of Treasury, agency and municipal obligations, part of which are used as collateral security for public deposits which are not insured. Full insurance of public deposits could result in higher interest rates on Treasury, agency and municipal obligations because of reduced bank demand for such obligations. Additionally the Treasury Department observes that exempting one class of depositors from the limitations of insurance could lead to pressures to extend the exemption to other classes. The Department reminds us the President's Commission on Financial Structure considered but rejected 100-percent deposit insurance coverage of public funds for much the same reasons as the position taken by the Treasury Department.

A contrary view that elimination of pledging requirements would not adversely affect markets for government and municipal bonds is expressed by the vice chairman of the Exchange National Bank of Chicago. The vice chairman is a former Assistant Secretary of the Treasury. However, his expressed opinion on this question was not the position of the Treasury Department then, nor is it the opinion of the Treasury Department now. Consistently, the Treasury Department has held to the view that eliminating the necessity of collateralizing public deposits is potentially disruptive to government and municipal security markets.

I am persuaded by the weight of informed opinion that it would be a mistake to enact the 100-percent deposit insurance for public funds as contained in title I of the bill before us. However, if a change is to be made I think we should approach it on a modified basis so that pledging requirements for public funds will not be done away with at one stroke of the pen. We should proscribe limits on the amount of elimination of pledging requirements that could take place at any one time giving us an opportunity to measure by experience how much impact the change has on government and municipal securities markets. Based on that experience, we might want to go ahead with gradual elimination of pledging requirements or we might find we had made a mistake and should reverse our initial action. This approach confines the margin of error we can make.

Title II of the bill would increase Federal deposit insurance from $20,000 to $50,000 per account. I support an increase in the insured limit but the 150-percent increase provided does appear excessive. I will support an amendment which will be offered to limit the increase to $30,000 or $35,000 per account.

Mr. ST GERMAIN. Mr. Chairman, I have no more speakers at this time.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 5 minutes to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I will not use the full 5 minutes. I just wish to respond additionally to my colleague from Rhode Island, who I know has worked hard to draft this legislation. I think the House should understand that there has not been a tremendous amount of mail to all of us from the "general constituency" or the general public to ask us to make sure that their deposits in banks and savings and loan institutions are protected by increased insurance. The prime interest has come from the various segments of the financial industry, which is very natural. I am not condemning that; but I thought it should be made clear that this legislation which relates to the amount of Federal insurance that an individual can expect in a savings and loan or commercial bank on the deposits that they possess there has primarily been advocated by the industry itself and to try to make it appear that thousands of people are suddenly rushing to us and saying, "Help protect us in the ways this legislation recommends" would, I think, be an overstatement. That is the only point I wish to make to my colleague from Rhode Island.

During the time of the amendment process, I intend to offer an amendment to reduce the amount of insurance being provided from $50,000 to $35,000. Briefly, the reason for that is that the various agencies that were involved that provide this insurance stated in their testimony during our hearings that the necessity to increase the amount of insurance protection to a depositor is more than adequate at $35,000.

We do not need to extend the exposure of the FDIC or the FSLIC beyond the $35,000, because for instance in the average savings and loan institution today, the average account of a depositor is roughly $4,000 or $5,000. The need for protection, if a person wants more than that, it is very easy to list the account in the wife's name or the children's name, and so forth, and get the full protection coverage; so except for the very huge depositors, which in many cases are very sophisticated investors, there really is no necessity for pressing the need to increase as high as $50,000. Thirty-five thousand dollars would more than adequately satisfy what is needed in the name of inflation.

Both Mr. Wille and Mr. Bomar, who have responsibilities in this field, clearly stated that $35,000 or $30,000 would be more than adequate insurance protection.

Therefore, I will offer that amendment at the appropriate time, and would encourage my colleagues to support that in the name of just commonsense.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, why does the gentleman say he is willing to raise the rate to $35,000 and not to $50,000?

Mr. ROUSSELOT. Mr. Chairman, I think I have just tried to state that there is no necessity to increase it to $50,000. I will be glad to discuss it, as I thought I just did, that any protection to the depositor, and the average depositor in most savings and loans institutions and banks is roughly only $4,000 or $5,000, he presently gets $20,000 protection, and if they require more than that right now and want to stay in the same bank, they can still get it by putting that same deposit in other savings and loan institutions. They do not have to keep it in just that one.

The individual can list himself as one depositor, his wife as another depositor, his children or any other relative as another, and receive far more protection than just the limitation of $20,000.

Therefore, my point is that there is no great pressing need to raise it to $50,000, because there is more than adequate protection right now.

Mr. SKUBITZ. Mr. Chairman, I understand—a person can go to one savings and loan association, invest $20,000 and then go to another savings and loan——

Mr. ROUSSELOT. Or, he can even keep it in the same institution in different names in the same family, and that more than adequately gives the protection.

Mr. SKUBITZ. But, is the insurance rate an excessive rate when it is raised from $35,000 to $50,000?

Mr. ST GERMAIN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Chairman, only because my colleague and associate on the committee, the gentleman from California, (Mr. ROUSSELOT) has indicated that the testimony of the regulatory agency members, Mr. Bomar and Mr. Wille in particular, indicated that $30,000 or $35,000 was all that they approved of——

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, they said that would be more than adequate and they felt that would do the job of providing the kind of insurance protection the average depositor needs. That was my only point. And, that would take into account the concept of inflationary impact.

Mr. ASHLEY. Mr. Chairman, with respect to the testimony of these men who do have the principal regulatory responsibility for depository institutions we are talking about, it was my impression that their testimony was very loose on this subject.

What they said was that it was a judgmental matter. They had no way of determining with any exactitude the amount that deposit insurance should be raised; that what they said was that if it was a matter for the judgment of the committee, and that if the amount should be raised to $50,000, they would have no objection to this.

Mr. ST GERMAIN. Mr. Chairman, if the gentleman will yield, they further stated in answer to the discussion that it would have no adverse effect on the fund. Mr. Wille stated in answer to a question put to him by Mr. ANNUNZIO with respect to the fund and its integrity that if the legislation in toto were adopted, the world would not come to an end. In other words, the funds are of sufficient size and integrity to support this legislation.

Mr. ASHLEY. Indeed so, and I think that the gentleman from Rhode Island makes a very good point with respect to the testimony of Mr. Wille and Mr. Bomar when they said that the fund itself was not in jeopardy whether it goes to $35,000 or to $50,000. The amount to be raised was a judgmental matter that was before the committee. As I understood their testimony, they would have no objection to $50,000. It is quite true that they said that in their judgment $35,000 might well be sufficient, but they certainly raised no real objection.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, that was my point, that it was sufficient; that there was no need; in the questioning, there was no need to go to $50,000 because there were not that many depositors in need of this kind of insurance.

Mr. ASHLEY. Mr. Chairman, I do not care to yield further, because the gentleman again misunderstands.

My characterization of their testimony would be that with respect to the $35,000 increase versus $50,000, this was simply a judgmental matter that was up to the committee.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I will say to the Members of the House that I would like to get this in following the discussion and the colloquy between the gentleman from Ohio (Mr. ASHLEY) and the gentleman from California, (Mr. ROUSSELOT).

I am reading from a release containing remarks made by Vice President GERALD R. FORD at the 1974 legislative conference, U.S. League of Savings Associations, held at the Statler-Hilton Hotel, 11 a.m., Tuesday, February 5, 1974. The quotation is as follows:

> Mindful of the housing crisis, the administration is moving to increase Federal Deposit insurance from $20,000 to $50,000 per account.

This is from the statement of our former colleague, the Vice President of the United States. He is now the Vice President, as a result of our vote, and Vice President GERALD R. FORD is supporting the increase from $20,000 to $50,000.

Mr. Chairman, I thank the gentleman from California for yielding.

Mr. STARK. Mr. Chairman, I would just like to add to this colloquy and say that concerning the question that I directed to Arthur Burns for his opinion as to what should be done on the general insurance of accounts, the only danger he saw in increasing insurance of accounts is that the banking and savings and loan industry might feel that if we headed toward the complete insurance of accounts, we might head toward irresponsibility in the matter of public deposits.

I then asked Mr. Burns what amount he might suggest as an adequate increase in the amount of deposit insurance, and he said in response to that question, "$35,000 per account."

Mr. Chairman, I would speak generally to several defects that I personally find in the bill, and I think several of those defects will be corrected by amendments to be offered on the floor today. I wish that the bill had been considered in the overall context of reform of the financial institutional structure in a manner similar to that proposed by the Hunt commission. If we do feel that we must go at this piecemeal, I would like to offer an amendment, as I shall later—that would limit the amount of insurance on public deposits to $100,000 per account.

We have no clearcut understanding of what will happen to the municipal bond market as a result of this. That issue could be raised later, but it would seem to me, rather than to toy capriciously with a market that has been established in this country for many years, one that provides low-cost financing to our municipalities and States throughout the country, it would be the better part of wisdom to start out slowly in this area of offering a complete new field to the savings and loan institutions.

Further, we have heard the Federal home loan bank cry before that they did not have the liquidity to meet withdrawal raids, with the result of increasing interest rates on public securities.

Mr. Chairman, I submit that all this is going to do, after we clear away the smoke, is to attempt to transfer some funds to the savings and loans with the hope of increasing the mortgage market.

I will assure the Members that it will definitely add to inflation. This is one of the most harmful things that could happen to the housing industry, and indeed to the entire country. If we do not know anything about what this would do to the municipal bond market, we do know that it will definitely increase the borrowing costs of our municipalities and States around the country.

Mr. Chairman, I propose to submit my amendment at a later time.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, H.R. 11221 is a bill that most members of the

Banking and Currency Committee supported, but is also a bill that many Members question.

The principal objections to the bill do not deal with its merits at all. Chief among these objectives to me is that financial system reform should be a comprehensive effort. Instead, bills like H.R. 11221 are dealing with a tiny aspect of total reform. They are being pushed through our committee in response to one or more interests which are suffering. Each time we pass one of these piecemeal solutions, we then later make some subsequent change to take care of other interests which might have been affected by the original passage.

If it is true that one can make a case for some urgency in the passing of this bill, one can make an equally good case that the committee has known of the need for total financial system reform for years. We could have been examining this matter ever since completion of the Hunt commission report, and, in my judgment, we have been derelict in our duty because we have not.

The second principal objection of mine to this bill is that it is typical of bills to come out of the Banking and Currency Committee in that it would not have the kind of thoughtful consideration that one would expect in a standing committee of this House. The rationale for the bill is that it will put more money into thrift institutions and therefore provide more mortgage money and more housing units starts. That is a laudable ambition, but at least in the full committee there was little showing as to how this would work, how much money would move and how many housing starts might be expected.

Significant questions such as that raised by the gentleman from California (Mr. STARK) were not dealt with in the committee. Amendments, as usual, were handled by moving the previous question, and in general the bill was hurried through as most banking and currency bills are.

I believe a good case can be made for increasing the deposit amount covered by Federal insurance in thrift institutions and commercial banks. I am not wholly persuaded that an increase of 150 percent is the right amount, nor was there any good excuse for this amount offered to the committee.

Likewise, 100 percent insurance of municipal deposits is an interesting suggestion that I believe has merit. Again, the committee would not give sufficient consideration to the questions of rate differential and competition between various depository institutions. It particularly would not give consideration to Mr. STARK's California problem.

I intend to support this bill but also intend to support a number of amendments. I regret that the bill comes to the Whole House without adequate committee consideration and as an independent element in the alteration of our financial system rather than part of a total reform package.

Mr. ST GERMAIN. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO of Wyoming. Mr. Chairman, it is with some degree of restraint that I speak on this legislation, because up until 3 years ago it would have been an obvious conflict of interest dealing with bank legislation.

However, I cannot help but agree with what the gentleman from Minnesota (Mr. FRENZEL) had to say regarding the piecemeal approach to what is going on today.

We think this will even up the rules between the savings and loans and banks. We will disturb what in my area at least has been a very well accepted procedure for decades whereby public funds are 100 percent insured with the posting of other obligations at par for public funds deposited in banks in time deposits or for which banks could become depositories. Now we will disrupt this system in this legislation. I do not think it would be well advised.

I am inclined to support any amendment that would be offered to correct this. I understand the gentleman from Georgia (Mr. STEPHENS) may have an amendment which will keep the ball game pretty much the same as it is regarding banks and savings and loans, because each has his own locked-in advantage which has served them quite well over the decades. I do not see where it will increase one bit the potential for getting better rates for money or for increasing the money available for public housing, as the report infers.

Therefore I believe I will support the amendment that will be offered by the gentleman from Georgia (Mr. STEPHENS) regarding a change in this legislation, if it is shown in debate that it will do what it purports to do.

Mr. MOAKLEY. Mr. Chairman, as we were considering adoption of the rule for H.R. 11221, which would provide full deposit insurance by the FDIC for public funds and increase deposit insurance from $20,000 for each account to $50,000 for each account, I mistakenly voted "present."

I should like to make it known that it was my firm intention to vote "yes" on consideration of this measure. I am pleased to be a cosponsor of this much-needed legislation and am, therefore, a strong supporter of this bill.

Mr. CLEVELAND. Mr. Chairman, I wish to state at the outset of my remarks that I intend to vote "present" on this bill and probably any amendments offered. This I have done on occasion in the past—most recently on May 9 when the matter of the so-called NOW accounts was before this body—in view of my position as an officer, director and stockholder in a small bank in my hometown of New London, N.H. This bank is a State-chartered trust company offering both commercial and savings services. My comments at the time appear on page 15007 of the RECORD for that date and need no repetition here.

In the same vein, I shall not comment directly on the merits of H.R. 11221, except to focus on the problems it reflects and the failure of the Congress to address them comprehensively. I have received a large number of communications from both supporters and opponents of this measure. Supporters argue that raising the level of insured deposits will stimulate saving, and thus improve their institutions' abiilty to meet the need for home mortgages. They also cite the provision for 100 percent funding of public deposits as a means of improving their ability to compete for reserves.

For their part opponents argue that higher insurance levels on individual accounts—from $20,000 to $50,000—will tend to downplay the competitive advantage of individual commercial banks' stability. The 100-percent insurance on public deposits, they allege, would place them at a competitive disadvantage in view of interest rate differentials prevailing under regulation Q. And they say that their ability to handle State and municipal bond issues would be diminished, a point which supporters of this legislation vigorously dispute.

In my view, the real answer lies in removal of competitive disparities and discriminatory regulations imposed in piecemeal fashion on our financial institutions. We seem to be trying to achieve balance by a thumb on one side of the scales or the other from time to time. The Hunt report represented a worthwhile effort to consider our financial structure as a whole and recommend reforms of comparable breadth. President Nixon has continued to recommend a restructuring and reform of our financial institutions in light of the economic realities of our times. This bill, whichever way the vote goes, will not do the job. We will still be nibbling around the edges of the entire complex problem.

Mrs. SULLIVAN. Mr. Chairman, as a member of the Committee on Banking and Currency, and as the author of the two previous amendments which raised deposit insurance limits from $10,000 to $15,000 and later from $15,000 to the present level of $20,000, I support H.R. 11221 to increase the insurance limits to $50,000 per private account and to provide 100 percent Federal insurance of deposits owned by governmental bodies.

Comparatively few of our individual constituents have cash on hand amounting to $50,000, but many small business firms do, and so do others in the community who, in order to fully protect their financial resources from possible failure of thrift institutions have to divide their funds into accounts of no more than $20,000. I would not characterize this as a hardship, but it is an unnecessary inconvenience which can be solved in great part by passage of H.R. 11221. Furthermore, the provisions of H.R. 11221 dealing with deposits of public funds will encourage greater competition among savings institutions in providing more attractive interest terms for the deposit of governmental funds.

The cost to the Federal Government in providing this additional insurance protection to depositors is negligible or nonexistent. The institutions involved pay the full cost of insurance, and the premiums over the years have far exceeded any actual losses.

CONSEQUENCES OF BANK FAILURES

But the losses to public agencies when banks fail are extremely serious to the taxpayers of the municipalities or governmental agencies which have placed sizeable amounts on deposit in such institutions.

The increased liability to the insurance funds resulting from passage of this bill will undoubtedly cause the bank regulatory agencies to be even more careful in screening the activities of savings institutions under their jurisdiction which are in potentially dangerous condition.

Shortly after the 1969 act went into effect, several banks failed and I checked with the Federal Deposit Insurance Corporation to see whether those banks had any significant number of accounts in the range of $15,000 to $20,000 each. The answer was yes. In at least one instance of a failing bank—and I do not remember now in which congressional district it was located—the Congressman for the district had voted against the bill which included the increase in deposit insurance from $15,000 to $20,000. Had his position prevailed, some of his constituents would have lost up to $5,000.

One point the Members should keep in mind, Mr. Chairman, is that despite close supervision by the FDIC, the Home Loan Bank Board, and other bank supervisory agencies, thrift institutions occasionally do go under.

When that has happened, a lot of people who deposited sizable amounts of money in the belief that the regulatory agencies can prevent all bank failures were sadly surprised to learn that their funds had not been completely safe. After liquidation of the bank's assets, they might eventually receive some, or even all of their money, but the wait could be a long one in receiving any funds over and above the amount actually insured. And in the meantime they generally lose the interest on any funds they have on deposit which they eventually do receive over and above the insured amount.

EVENTUALLY WE SHOULD INSURE ALL DEPOSITS

In view of the modest cost to federally regulated financial institutions of having their deposits insured, I do not see why we cannot eventually cover all deposits in such institutions, just as H.R. 11221 provides for full insurance deposits of governmental bodies.

The competition among thrift institutions for custody of public funds, which would be enhanced by passage of H.R. 11221, is all for the good, in my opinion. Some of the commercial banks have expressed the fear that the slightly higher interest rate which savings and loans can now pay depositors under regulation Q would lead to large transfers of public funds from banks to savings and loans. But it should be kept in mind that regulation Q does not apply to deposits over $100,000, and regulation Q might be discontinued in the future in any event. The only deposits of public funds which might be attracted from banks to savings and loans under this bill because of the small differential in interest rates savings and loans are allowed to pay under regulation Q would be in amounts between $50,000 and $100,000. Any municipality or public agency with an account of that size undoubtedly needs some of the services of commercial banks which savings and loans cannot presently provide.

I asked some of the bankers who wrote to me in opposition to section 1 of H.R. 11221 how many and what kind of public agency accounts they had between $50,000 and $100,000 they felt might be transferred to savings and loans because of the present one-fourth of 1 percent differential in interest rates, but so far have received no information on that point. I would say that if disintermediation should occur in any significant volume as a result of passage of H.R. 11221, we can take another look at this situation, or the regulatory agencies could amend their requirements under regulation Q to correct any serious competitive imbalance.

ENHANCING COMPETITION FOR PUBLIC FUNDS

On the other hand, if public agencies find—as I think they will—that section 1 of H.R. 11221 will lead to more competition by savings institutions for their cash accounts above $100,000, the ultimate beneficiary of that will be the State and local taxpayers.

Some municipalities express the fear that section 1 will reduce the market for their bonds, if the banks no longer have to post municipal bonds as collateral on public fund deposits. But as long as income taxes remain as high as they are now, the market for tax-exempt municipal bonds is not going to dry up.

In any event, Mr. Chairman, let us have the initiative to try this idea out and see how it works. Some of the bankers were worried in 1966 that raising deposit insurance from $10,000 to $15,000 would create a great competitive advantage for savings and loans, but this did not happen. Nor did it happen again in 1969 when we raised the deposit insurance limit to $20,000. Savings and loans are in business primarily to make home loans. If they cannot place their money expeditiously in mortgages because of other conditions in the economy, such as the present depression in housing, they are not going to be anxious to attract large deposits by offering high interest rates; whereas the banks have proved they can do very well in placing their deposits out on all kinds of commercial loans which the savings and loans cannot do.

This is not a pro-savings and loan or antibank bill; it is a consumer and taxpayer bill intended primarily to provide greater safety for people's life savings, merchants and other businessmen's receipts, and the taxpayers' public funds left on deposit by State and local agencies of government. I urge approval of H.R. 11221.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 11221

Be it enacted by the Senate and House of Representatievs of the United States of America in Congress assembled,

FULL DEPOSIT INSURANCE FOR PUBLIC UNITS

SECTION 1. (a) The Federal Deposit Insurance Act is amended—

(1) in subsection (m) of section 3 (12 U.S.C. 1813(m)), by inserting immediately after "depositor" in the first sentence the following: "(other than a depositor referred to in the third sentence of this subsection)";

(2) in subsection (i) of section 7(12 U.S.C. 1817(i)), by striking out "Trust" and inserting in lieu thereof the following: "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust"; and

(3) in subsection (a) of section 11 (12 U.S.C. 1821(a)), by inserting "(1)" immediately after "(a)", by striking out "The" in the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (2), the", and by inserting at the end of such subsection the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured for the full aggregate amount of such deposit.

"(B) The Corporation may limit the aggregate amount of funds that may be deposited in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets".

(b) Title IV of the National Housing Act is amended—

(1) in section 401(b) (12 U.S.C. 1724(b)), by striking out "Funds" in the third sentence and inserting in lieu thereof the following: "Except in the case of an insured member referred to in the preceding sentence, funds";

(2) in section 405(a) (12 U.S.C. 1728(a)), by inserting after "except that no member or investor" the following: "(other than a member or investor referred to in subsection (d))"; and

(3) by adding at the end of section 405 (12 U.S.C. 1728) the following new subsection:

"(d)(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is——

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;
the account of such insured member shall be insured for the full aggregate amount of such account.

"(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets."

(c) Subsection (c) of section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by—

(1) inserting "(1)" after "(c)",

(2) striking out "For the purposes of this subsection," and inserting in lieu thereof the following: "Subject to the provisions of paragraph (2), for the purposes of this subsection,", and

(3) adding at the end thereof the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;
his account shall be insured for the full aggregate amount of such account.

"(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this title by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets."

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "; and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits".

INCREASED CEILING ON DEPOSIT INSURANCE; FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 2. (a) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$50,000":

(1) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(2) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(3) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(4) The fifth sentence of section 11(i) (12 U.S.C. 1821 (i)).

(b) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 3. (a) The following provisions of title IV of the National Housing Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$50,000":

(1) Section 401(b) (12 U.S.C. 1724(b)).

(2) Section 405(a) (12 U.S.C. 1728(a)).

(b) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: INSURED CREDIT UNIONS

SEC. 4. (a) The first sentence of section 207(c) of title II of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$20,000" and inserting in lieu thereof "$50,000".

(b) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the date of enactment of this Act.

Mr. ST GERMAIN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. KUYKENDALL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 15]

Ashbrook
Ashley
Bingham
Brasco
Broyhill, Va.
Buchanan
Carey, N.Y.
Cederberg
Clark
Clausen, Don H.
Diggs
Dulski
Erlenborn
Esch
Fish
Fraser
Gibbons
Haley
Hansen, Wash.
Harsha
Hastings
Hébert
Jones, Ala.
Jones, Okla.
Koch
Leggett
McSpadden
Mailliard
Mathias, Calif.
Mills
Mitchell, Md.
Mollohan
Moorhead, Pa.
Mosher
Moss
Myers
Nelsen
Parris
Passman
Pepper
Pike
Poage
Reid
Rhodes
Rooney, N.Y.
Rose
Ruppe
Stanton, James V.
Steiger, Wis.
Stokes
Stuckey
Tiernan
Van Deerlin
Williams
Wilson, Charles H., Calif.
Zion

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MATSUNAGA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11221, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 373 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 7, immediately after line 2, insert the following new subsection:

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENTS OFFERED BY MR. JOHNSON OF PENNSYLVANIA

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. JOHNSON of Pennsylvania: On page 3, strike the quotation mark at the end of line 17, and insert the following after line 17:

"(C) In order to provide for the equality of interest or dividend rates, terms and conditions on deposits or investments in insured banks or insured institutions made by any depositor referred to in subparagraph (A) of this paragraph, the Corporation, the Board of Governors of the Federal Reserve System, and the Federal Home Loan Bank Board, shall, in the event that limitations on interest or dividend rates are imposed on such deposits or investments, issue uniform regulations specifying maximum interest or dividend rates which may be paid on such deposits or investments made under the same terms and conditions."

On page 5, strike the quotation mark at the end of line 9, and insert the following after line 9:

"(3) In order to provide for the equality of interest or dividend rates, terms and conditions on deposits or investments in insured banks or insured institutions made by any depositor referred to in paragraph (1) of this subsection, the Board, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, shall, in the event that limitations on interest or dividend rates are imposed on such deposits or investments, issue uniform regulations specifying maximum interest or dividend rates which may be paid on such deposits or investments made under the same terms and conditions."

On page 7, strike the quotation mark at the end of line 2, and insert the following after line 2:

"(C) In order to provide for the equality of interest or dividend rates, terms and conditions on deposits or investments in insured banks, insured institutions, or insured credit unions, made by any depositor referred to in subparagraph (A) of this paragraph, the Administrator shall, in the event that limitations on interest or dividend rates are imposed on such deposits or investments by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, issue conforming regulations specifying maximum interest or dividend rates which may be paid on such deposits or investments made under the same terms and conditions."

Mr. JOHNSON of Pennsylvania (during the reading). Mr. Chairman, since the other two portions of the amendment are practically identical, but apply to different codes and regulations, I ask unanimous consent that the amendments be considered en bloc and read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

POINT OF ORDER

There is no objection.

Mr. ST GERMAIN. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. ST GERMAIN. Mr. Chairman, I make a point of order against the amendment. I would, however, reserve my point of order to allow the gentleman from Pennsylvania to explain the amendment.

The CHAIRMAN. The gentleman reserves his point of order.

The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, this bill today if it is enacted will provide for the thrift institutions probably the greatest victory that I have seen them achieve in the Congress during my service in the Congress.

Why do I say that?

The first part of the bill gives the thrift institutions a shot, let us say, at municipal deposits really for the first time in a big way. That is to say, it provides that all thrift institutions, savings and loans, mutual savings banks, and credit unions, may receive municipal deposits and there will be unlimited FDIC or other forms of insurance to protect them. That, of course, would be a tremendous victory for the thrift institutions.

Also, the other section of the bill increases the amount of deposit insurance to $50,000. While that, of course, is an achievement for the commercial banks, it is also a tremendously great achievement, if it is enacted into law, with respect to the thrift institutions.

But there is one inequality, one real frightening thing that is written into the provision, into the section that has to do with unlimited insurance of public funds under present law, under present regulations. That is, under regulation Q, thrift institutions on deposits of up to $100,000 can pay one-quarter of 1 percent more interest on the money.

Why is that? It is so that money will be attracted to the thrift institutions for use for home mortgages, to help the housing market. What will be the effect if this bill is adopted? It means that on these public funds, these thrift institutions will be allowed to pay one-quarter of 1 percent more interest on them, than banks will be able to.

What will that mean? That will mean that the treasurer of the municipality, the treasurer of your hometown, in deciding where to put money on interest that he might get through revenue sharing or something, has no choice. He would have to put it in a thrift institution. Why? Because if he put it in a commercial bank and got one-quarter of 1 percent less, the auditors at the end of the year would surcharge him, so he would have to put his money in a savings and loan, a mutual savings bank or a credit union.

We do not want a situation like that to occur where the banks would practically be deprived of the opportunity of receiving a deposit of $100,000 from a municipality, because they could take it across the street to a thrift institution and receive one-fourth percent more interest.

How would it affect the counties of my 11-county district? We have some counties that do not have any thrift institutions. It might mean that the treasurer of my municipality at home would have to send the money 20 miles away to a thrift institution, and would not be allowed to keep it in a local bank. He might want to, but he would not dare do it because he would be surcharged.

Therefore, this amendment I have offered says that with respect to government municipal deposits only, the interest rates shall be uniform, shall be equal. What is wrong with that? That is fair.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I want to congratulate the gentleman in the well for his amendment. I think all of us are vitally interested in being fair and equitable. This interest equalization amendment he puts forward achieves this goal.

Mr. Chairman, I would hope the gentleman would agree with me that if the amendment is not adopted, then it certainly would be unfair to adopt section 1.

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I agree with the gentleman from Ohio.

Here is a very interesting point: While I said that this bill is a tremendous victory for the thrift institutions, the banks are not against the bill as such, but they say, "We want to be able to compete equally for the deposits. We do not want to have our arms tied behind our backs." What we are asking is that we write into this legislation this equality. It is an equality amendment, a fair amendment. I think I have fairly expressed it, and I therefore ask the membership to vote in favor of the amendment in the event it is ruled germane, and we will argue the germaneness of it at the proper time.

POINT OF ORDER

Mr. ST GERMAIN. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, I make a point of order against the so-called Johnson amendment to H.R. 11221.

This section merely provides full Federal insurance on such funds placed in financial institutions, and restricts itself to that.

The amendment before us speaks to the question of what interest rates may be offered to such funds and, therefore, is not germane since it is beyond the scope of the legislation contained in H.R. 11221, as well as this particular section.

I, therefore, ask for a ruling, Mr. Chairman, on the point of order at the appropriate time to the effect that the amendment is outlawed.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. JOHNSON) wish to be heard on the point of order?

Mr. JOHNSON of Pennsylvania. Yes, Mr. Chairman, I do.

Mr. Chairman, I rise to defend the amendment against the point of order raised by the gentleman from Rhode Island. The amendment is indeed germane to the fundamental purpose of the bill before us today. On its face, the bill provides full insurance of the deposits of public units in all insured banks and institutions. As such, it is designed and intended to make a basic change in the relationships between the financial institutions which are regulated by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board—the intention is to redistribute the deposits among these institutions.

In the bill, the primary method for achieving this redistribution is through the provision of insurance. Whereas, public deposits are presently limited for all practical purposes to commercial banks, which can supplement their account insurance with the protection afforded by the pledging of collateral to secure these public deposits—and this pledging is required in most instances by State law—the thrust of the pending legislation is to enable thrift institutions, savings and loan associations, and mutual savings banks in particular, to accept these public deposits.

My amendment would only serve to modify these terms and conditions under which the deposits of public funds would be accepted by the financial institutions involved. The same fundamental purpose would be sought by amendment as by the bill itself, that of regulating the flow of public funds between these institutions.

As this section is such a drastic new provision, it is necessary that we lay down conditions as to the insurance of public funds in order to prevent a manifest unconscionable wrong.

It is claimed that the difference in terms on its face makes my amendment nongermane, since the bill deals with insurance of deposits, and my amendment deals with the interest or dividends payable on those deposits. However, I must insist that the purpose and thrust be examined, rather than just the language.

The reason for extending full insurance of these deposits is to influence the custodians of these public funds in their decisions as to where they will be deposited—that is the stated purpose of this bill, as reported by the Banking and Currency Committee and as discussed here on the House floor today.

In no way does my amendment depart from this same fundamental purpose—it seeks to use the powers of the same regulatory agencies to influence the same deposits of the same public depositors in the same institutions.

I respectfully submit that this interpretation of the amendment is the correct one, and that it is indeed germane to the pending bill.

The CHAIRMAN. The Chair is prepared to rule unless the gentleman from Minnesota (Mr. FRENZEL) wishes to be heard on the point of order.

Mr. FRENZEL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL) may be heard on the point of order.

Mr. FRENZEL. Mr. Chairman, the point of order is made that the Johnson amendment goes beyond the scope of the bill. However, I would invite the chair's attention to page 3, line 13, subparagraph (B) where the Corporation—in this case, the Federal Deposit Insurance Corporation—is given specific authority to make a determination as to how much of the public funds in the case of banks, depending on their size, may be wholly insured, despite the fact that the bill earlier mandates full insurance.

Mr. Chairman, I will refer the Members also to page 5, line 5, where the same provision occurs for SLIC, and again on pages 6 and 7, beginning on line 21, where the Administrator of Credit Unions is given the same kind of discretion.

In my judgment, Mr. Chairman, the discretion which is to be added as another condition under the Johnson amendment is very little different than the discretion given in those three sections of the bill. So to say that the amendment is nongermane simply because it departs slightly from the bill is, in my judgment, erroneous.

Mr. Chairman, I believe the point of order should not be sustained.

The CHAIRMAN (Mr. MATSUNAGA). The Chair is prepared to rule.

The gentleman from Rhode Island (Mr. ST GERMAIN) makes the point of order that the amendment offered by the gentleman from Pennsylvania (Mr. JOHNSON) is not germane to the bill H.R. 11221.

The Chair has heard the arguments presented by the gentleman from Pennsylvania. Part of that argument dwelt on the merits of the proposed amendment but not on the point of order itself.

The Chair has heard the arguments presented by the gentleman from Minnesota (Mr. FRENZEL) as well.

The pending bill provides for full deposit insurance coverage for deposits of public funds in various types of savings institutions without regard to the existing $20,000 ceiling, and provides for an increase in the present $20,000 ceiling on deposit insurance for individual accounts to $50,000. The bill is thus limited in scope to the question of amount and extent of deposit insurance.

The proposed amendment provides that in order to assure equality of interest or dividend rates, terms and conditions in the savings institutions covered by the bill, the regulatory authorities of those institutions must issue uniform regulations, specifying maximum interest or dividend rates which may be paid on deposits or investments made under the same terms and conditions.

On September 8, 1966, Chairman BOLAND, the gentleman from Massachusetts, held that to a substitute amendment amending several banking acts relating to interest rates, and amending one subsection of the Federal Deposit Insurance Act, an amendment proposing further modifications to the latter act to increase the insurance coverage on deposits was not germane. In that case, the Chair, citing "Cannon's Precedents" (VIII, 2937), stated that where it is proposed to amend existing law in one particular, an amendment to amend the law in another respect not covered by the bill is not germane.

Accordingly, the Chair is constrained to sustain the point of order.

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: On page 2, section (2), lines 16 through 25 be eliminated and on page 3, lines 1 through 10 be eliminated and that the following language be inserted in lieu thereof:

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in time deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in time deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in time deposits in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in time deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;".

And that on page 3, section (B), lines 13 through 17 be eliminated and the following language be inserted:

"(B) The Corporation may limit the aggregate amount of funds that may be invested in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets. *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

Mr. STEPHENS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD, and I will try to explain what it does.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. STEPHENS. Mr. Chairman, the amendment that I asked not be read in full does this: It adds in four places in the bill these words: "in time deposits" and then adds a proviso at the end of paragraph B on page 3, these words:

Provided, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

One of the primary purposes that has been advanced in proposing 100 percent insurance of public funds on deposit is to attract to some financial institutions more funds for housing. To provide more funds for housing is essential.

However, the bill is wider in scope than necessary. It provides 100 percent insurance of public funds for time deposits which are stable enough to increase money supply for housing, but it also provides 100 percent insurance for demand deposits which are not stable enough to increase money supply for housing.

So I propose an amendment to make the 100 percent insurance apply to time deposits only.

My reason for offering such an amendment goes deeper than the fact that demand deposits are not stable enough to aid in housing. It is because of the effect 100 percent insurance on deposits will have on the sale of municipal bonds.

In almost all jurisdictions financial institutions are required to protect public deposits by the pledging of equal reserves. This latter is frequently in the nature of municipal bonds. In fact, in many States pledging by the financial institution of municipal bonds as the reserve is required by law.

By 100 percent insurance, as this bill provides, the Federal Government is substituted for the reserves pledged by the private institution. This will certainly reduce the incentive for purchase of municipal bonds to be used as pledges, if we pass the bill as it is now written. My amendment would offset, in part, this result, because demand deposits of public funds in financial institutions would still be subject to the requirement that reserves be pledged as offsetting security.

In further recognition of the principle of keeping an incentive for financial institutions to invest in municipal securities, I also offer in this amendment the following provisions:

H.R. 11221, in section B, says the Federal Government may limit the aggregate amount of public funds that may be deposited in any insured institution. That provision, like the prior provision discussed, is too wide in scope. It does not say that the Federal Government may limit insurance on public deposits. It says it may limit the deposits themselves. This is a high concentration of power in the Federal authorities. My amendment would considerably reduce that power by saying that the Federal Government may limit the insurance on public fund deposits, but not the deposits, provided any deposits of public funds in excess of the insurance limits be offset by the pledge of acceptable securities owned by the private institution. This leaves open the incentive for financial institutions to buy municipal bonds for pledge against excess deposits above the Federal insurance coverage.

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Chairman, I rise in support of the amendment offered by our distinguished colleague, the gentleman from Georgia (Mr. STEPHENS) who is a member of the Committee on Banking and Currency, and I wish to associate myself with the remarks of the gentleman and the arguments that he has made in support of his amendment.

Mr. Chairman, my concern about this bill and my objection to it without the inclusion of the language of the Stephens amendment is primarily that the bill without the Stephens amendment might dry up the market for State, county, and municipal bonds. This would be especially true in Georgia and some 17 other States.

Without attempting to speak for the situation in other States, in the State of Georgia, the principal inducement for banks to purchase such bonds is to attract deposits by pledging as collateral therefor bonds issued by the governmental unit which places such deposits.

It is true that the yield on State, county, and municipal bonds is free of Federal income tax, but because of the long-term maturity of such bonds, they would not be attractive investments to be carried in bank portfolios without the further attractive feature of obtaining substantial deposits of governmental units by pledging such bonds as collateral therefor.

This provision is supported by the National Association of Governmental Finance Officers and by independent bankers throughout the country as well as by many other national and State organizations which recognize the importance and necessity for the ready marketability of bonds of State and local governmental units.

The very nature of governmental operations is such that governmental funds must be both liquid and immediately available to meet governmental expenses. The provision of this bill without the Stephens amendment providing for 100 percent insurance for deposits of public funds in financial institutions is inequitable, misleading, and fraught with unanticipated side effects. It is inequitable since it does not require uniform interest rate ceilings on such public funds between different types of financial institutions. Obviously, the Treasurer or the Comptroller having authority over public funds must in execution of his public trust seek the highest interest rate. With Federal insurance available in each instance and with commercial banks prevented by regulation Q from offering equal interest rates on deposits in amounts under $100,000, passage of the bill without the Stephens amendment mandates the transfer of these funds from commercial banks to other types of financial institutions across the Nation. This would be the short-range effect. The long-range effect would be to cause commercial banks, presently the principal purchasers of State and local bonds, to abandon large purchases of such bonds and substantially diminish the marketability of such bonds.

The arguments in favor of the provisions of the bill without the Stephens amendment are that the moving of public funds to savings and loan associations will provide significant additional funds for the home and housing mortgage market. However, home and housing mortgage loans are long-term commitments of funds and the history and experience of public funds, even those held on time deposits, is such that they are volatile and are normally short-term deposits. It would seem therefore that they are totally inappropriate for investment in long-term home and housing mortgage loans.

There is an expressed fear among municipal and county officials that the 100 percent provision in this bill without the Stephens amendment would cause substantial injury to smaller cities and counties since there would no longer be any requirement for depositories to pledge acceptable securities against public deposits.

I strongly support the adoption of the amendment offered by my colleague from Georgia (Mr. STEPHENS) and if his amendment is adopted, I will have no reservations or objections to H.R. 11221. I urge adoption of the Stephens amendment, and, if adopted, I urge passage of the bill.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from Georgia for yielding to me.

Mr. Chairman, I received a letter from Mr. Edwin Gill, treasurer for the State of North Carolina, in which he says:

> To the casual reader of the bill, 100 percent insurance for public deposits might appear helpful to State and local Governments. But it should be pointed out that such insurance could serve to undermine the very beneficial aspects of the pledging requirements which in most States are used to secure State and local deposits.
>
> Current pledging requirements not only provide excellent protection to State and local deposits, but they also encourage substantial and widespread investment by banks in State and local obligations. An estimated $90 billion in municipal bonds are held by banks and perhaps 50 percent of this amount is used for pledging purposes.

Mr. Chairman, this situation concerns me, and I would ask the distinguished gentleman in the well in his opinion what effect would this legislation have on the sale of municipal bonds, and how would the gentleman's amendment aid this situation?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STEPHENS was allowed to proceed for 2 additional minutes.)

Mr. STEPHENS. Mr. Chairman, in reply to the statement and inquiry of the gentleman from North Carolina (Mr. TAYLOR), I would say that as the bill is now written that it would be a detrimental bill insofar as the incentive to have more investment in municipal securities.

I believe that if the amendment I have offered is adopted that it will help to encourage that incentive, and I will say to the gentleman from North Carolina that that is my intent in offering this amendment, so as to do just exactly what the gentleman from North Carolina has pointed out needs to be done.

That is my intent, and I hope that the language does that.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman from Georgia, and I intend to support the amendment the gentleman from Georgia has offered.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman for yielding. I notice in his letter explaining the bill he says his amendment would provide 100 percent insurance on time deposits.

Mr. STEPHENS. That is right.

Mr. WYLIE. I do not understand. Would that also apply to demand deposits in commercial banks?

Mr. STEPHENS. No.

Mr. WYLIE. So that there would only be 100 percent insurance on public time deposits?

Mr. STEPHENS. Not on demand deposits.

Mr. WYLIE. Yes, on demand deposits in commercial banks.

Mr. STEPHENS. It leaves an incentive for them to invest in municipal bonds.

Mr. WYLIE. But there are no demand deposits in savings and loans, so the gentleman is not talking about savings and loans when he offers this amendment and his amendment would provide 100 percent insurance on public deposits in savings and loans.

Mr. STEPHENS. That is correct.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. I thank the gentleman for yielding.

(By unanimous consent, at the request of Mr. WILLIAMS, Mr. STEPHENS was allowed to proceed for 4 additional minutes.)

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. I thank the gentleman for yielding.

As I understand his amendment, he will also insure through the FDIC the public funds deposited in thrift institutions?

Mr. STEPHENS. In time deposits.

Mr. WILLIAMS. And that he extends to a reasonable limit the time deposits usually referred to as CD's for the commercial banks? In other words, the gentlman here is talking about time deposits?

Mr. STEPHENS. That is right.

Mr. WILLIAMS. These usually are referred to as certificates of deposit or CD's. The gentleman is extending the coverage to a greater coverage on those time deposits in commercial banks and S. & L.'s or mutual banks?

Mr. STEPHENS. Yes, or what is recognized as insurance limited by the Federal Congress under my amendment.

Mr. WILLIAMS. Very fine. I should like to say, then, in answer to the gentleman who spoke previously, that the State, county, and municipal bondholders would not be appreciably affected because the interest on this type of bond, first of all, is tax exempt, and the interest on those bonds depends upon the credit rating of the State, county, or municipality who is issuing. The banks are not borrowing these bonds only to cover their public funding funds. They are also borrowing it for income. I can see no possible effect on the funds being deposited in commercial banks, so I certainly want to support the gentleman's amendment 100 percent.

Mr. STEPHENS. I thank the gentleman from Pennsylvania.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

Not having seen a copy of the gentleman's amendment, it appears to me from having listened to his explanation of it that the proposed amendment corrects an error in the drafting of the bill. I was inclined to believe, having read the bill, that the drafting of this particular section was in part at least drafted by the savings and loan people, because, as I read the language beginning at page 2, line 12, it says:

> "(2) (A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—
>
> "(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured bank;
>
> "(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured bank in such State;"

I interpret this to mean that the requirement to gain this insurance is that an official, an employee, for example, who has custody of public funds must become a stockholder in an insured bank by investing those public funds in his custody in order to receive full insurance coverage on the deposit he made in that bank. The key words are "lawfully investing" and deposits were not investments.

Mr. STEPHENS. My amendment does not go to that at all. I am not sure I would like to try to answer that, and I would defer to the chairman of our subcommittee who is handling this bill for the answer.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(On request of Mr. ST GERMAIN, and by unanimous consent, Mr. STEPHENS was allowed to proceed for 5 additional minutes.)

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, in response to the gentleman from Louisiana, there simply is no requirement in the language as I understand it that a depositor become a stockholder in any way, shape, or fashion. This is for the deposit. What they state is that he who deposits public funds must be an agent of the State or municipality or Federal Government with authority to deposit these funds.

Mr. WAGGONNER. Mr. Chairman, will the gentleman from Georgia yield?

Mr. STEPHENS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, a careful reading of this language will show this applies in the case of a depositor who is an officer, employee, or agent. That is the requirement. He has got to be a stockholder. Now, read the bill.

Mr. STEPHENS. I will be glad to yield to the gentleman from Rhode Island (Mr. ST GERMAIN) to reply to that, but while they are arguing as to what they think this means, I would like to conclude what I have to say because this does not have anything to do with my amendment.

I say in conclusion that I offer my amendment in what I think is a spirit of compromise between the position of the commercial banks on the one side and the savings and loan associations and credit unions on the other in order to provide more money for housing and to preserve incentives for continuing a market for sale of municipal bonds and to prohibit the grant of arbitrary power of the Federal agencies to allocate public fund deposits.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Starting at page 2 the bill says:

> "(2) (A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

There we distinctly indicate we are talking about depositors who are depositing public funds and they are described in (i), (ii), (iii) and (iv). It says their deposits shall be insured for the full amount of such deposit. There is nothing about their becoming stockholders or shareholders in any portion of this.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I want to pursue a point that I was attempting to make earlier. Your amendment would provide 100 percent insurance to public funds for time deposits. I made the point that this does not provide 100 percent insurance for demand deposits.

Mr. STEPHENS. That is my understanding.

Mr. WYLIE. At the present time public funds are treated the same as private funds and there is a $20,000 limit for FDIC and SLIC insurance.

Mr. STEPHENS. This would not change that. If I led the gentleman to that impression, this would not change that.

Mr. WYLIE. So there would the $50,000 insurance limit on public funds which are held for demand still apply.

Mr. STEPHENS. I believe that is in the amendment to be offered by the gentleman from California (Mr. ROUSSELOT).

Mr. WYLIE. So this amendment really does not change the effect of this bill on public deposits in savings and loans at all?

Mr. STEPHENS. It would not either way.

Mr. WYLIE. So as far as the language of the bill before us this amendment really does not have any effect on savings and loans because they have only time deposits. This amendment is not a compromise. That is the point I wanted to make.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Ohio.

Mr. ASHLEY. Do we have a grammar problem? I am curious as to whether the gentleman's amendment would change existing law with respect to insurance of demand deposits of Federal funds.

Mr. STEPHENS. It is not my intent that it be so interpreted.

Mr. ASHLEY. I take it that the law with respect to insurance of demand deposits would not change, but that the insurance of time deposits would be, pursuant to the gentleman's amendment, increased to $100,000; is that correct?

Mr. STEPHENS. I do not have that limitation in my amendment.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

If the gentleman from Georgia would be willing to continue the colloquy, I would like to address a question to the gentleman from Georgia.

Mr. STEPHENS. I yield to the gentleman from California for a question.

Mr. ROUSSELOT. If I were the treasurer of a city and decided to place my funds in a savings and loan and had a passbook account, would that be 100 percent insured?

Mr. STEPHENS. It would be 100 percent insured up to what the FSLIC said could go into that bank, into that savings and loan.

Mr. ROUSSELOT. That would be $50,000 under this new limitation?

Mr. STEPHENS. No, because in section (B) of this particular bill, it says that the corporation can determine how much will go into a savings and loan or a bank based upon the size, judged by its assets, and if its assets are judged that way, public funds would be treated differently than the other insured programs.

Mr. ROUSSELOT. Even if it is taken out?

Mr. STEPHENS. Even if it is taken out.

Mr. ROUSSELOT. If the treasurer withdrew it?

Mr. STEPHENS. He can take it out at any time, but he might lose the interest.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. The gentleman from Georgia would agree would he not that his amendment affects no one other than insured banks; am I correct?

Mr. STEPHENS. I think that is correct.

Mr. BROWN of Michigan. That is, the amendment of the gentleman relates only to institutions under the jurisdiction of the FDIC?

Mr. STEPHENS. No. It goes to both, as I understand; it goes to both. FSLIC and FDIC.

Mr. BROWN of Michigan. This is where I am confused, because I received a letter from the gentleman in the well——

Mr. STEPHENS. Correct, and my letter to that point was in error.

Mr. BROWN of Michigan. And the letter of the gentleman, covered, I thought, all institutions; but the language of the gentleman's amendment that I examined only relates to the action of the FDIC, since it refers to an insured bank in each paragraph of its language.

Mr. STEPHENS. If the gentleman will look at the definition in the basic law, he will find the definition of an insured bank there.

Mr. BROWN of Michigan. But the operative language of the second portion of his amendment relates to time deposits. Would not the gentleman agree there are no demand deposits except in commercial banks?

Mr. STEPHENS. Yes.

Mr. BROWN of Michigan. And his amendment relates to the pledging of collateral in excess of the amount insured.

Mr. STEPHENS. That is right.

Mr. BROWN of Michigan. All these things, I think the gentleman would agree, relate to banks.

Mr. STEPHENS. But the time deposits of all in the savings and loans and they would be covered by my amendment as I intend for it to be understood. If the savings and loans do have public funds, they will have 100 percent of the protection as the insurance would provide.

Mr. BROWN of Michigan. But the gentleman's amendment, if I may continue, only amends the portions of the bill applicable to institutions insured by the FDIC.

Mr. ROUSSELOT. That was the point I was trying to make and I think the gentleman from Ohio (Mr. WYLIE) was trying to make; is that not the fact?

Mr. Chairman, I will be glad to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, the point is that savings and loans cannot accept those. Savings and loans do not have demand deposits, so that question is moot.

Mr. ROUSSELOT. Mr. Chairman, the point the gentleman is making that savings and loans do not have demand deposits is a correct one, and he is now concerned that they are not covered under this amendment.

Mr. ST GERMAIN. They are.

Mr. ROUSSELOT. Not covered.

Mr. ST GERMAIN. It provides full insurance for time deposits, and they do have time deposits.

Mr. ROUSSELOT. Then the amendment of the gentleman in the well has no effect on savings and loans.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I now have a copy of the gentleman's amendment. In the second portion of his amendment it says that—

> On page 3, section (B), lines 13 to 17 be eliminated and the following language be inserted:

Then, it goes on:

> *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent Mr. ROUSSELOT was allowed to proceed for an additional 5 minutes.)

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman for yielding further to me. I think it is quite clear from the gentleman's amendment that this only applies to institutions insured by Federal Deposit Insurance Corporation, which are basically banks.

I would suggest that if his amendment is intended to apply to others, that it must be inserted in each of the sections dealing with those institutions insured by the FSLIC and by the Bureau of Federal Credit Unions.

Mr. STEPHENS. Mr. Chairman, if that is immediate and the gentleman thinks it does not do that, I will be glad to accede to an amendment. It is my understanding that the subject about the question of my amendment covers both FSLIC and FDIC. I cannot go any further than that, but that was my understanding. I checked that, and I have already sent out my letter.

Mr. ROUSSELOT. Mr. Chairman, then the gentleman would be willing to accept an amendment to clarify that point?

Mr. STEPHENS. Oh, yes.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I would like to have the attention again of the gentleman from Georgia. We are talking about a depositor in subparagraph 2, an officer, employee or agent of any State of the United States or any county, municipality or political subdivision thereof, having official custody of public funds and lawfully investing the same in an insured bank in such a State.

Listen to me for just a minute; the key words are "lawfully invest." Deposits in a savings and loan are also an investment, but deposits in banks are merely deposits and are not any form of an investment. There is a vast difference in a deposit in a savings and loan and a deposit in a bank.

We are requiring an investor in the instance of a deposit in a commercial bank, and a deposit is not an investment in that institution.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I am glad to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, it is merely a question of semantics. Certificates of deposit oftentimes are looked upon as investments. Certainly, we have a matter of interpretation, but it is felt by many that if money is put in a bank, it is being invested such as a CD that will bring back a return of 7.5 percent or an effective return of 7.90 percent for a period of 4 or 5 years.

Mr. WAGGONNER. Does a shareholder make an investment when he makes a deposit in a CD or a commercial bank?

Mr. ST GERMAIN. No, nor does he when he invests in such a company.

Mr. WAGGONNER. A deposit is not an investment.

Mr. Chairman, the only thing I say is that if we leave this language in, then we will find we have language which we do not intend to have. I am simply offering the Members an opportunity to correct it before it is too late.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman from Louisiana.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Chairman, I thank the gentleman for yielding.

If any of the Members will take the time to listen to the gentleman from Louisiana, they will find that he has made an excellent point. I think also when we stop and consider the fact that the equalization of interest amendment was declared nongermane to this section, we ought to move on, and personally I think we should just strike the entire section.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, in answer to the gentleman from Rhode Island, he refers to a certificate of deposit as an investment. The reason they are not known as "CI's," certificates of investment, stems strictly from the fact that they are not investments. They are deposits.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman from Louisiana.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I would like to ask the distinguished gentleman from Louisiana (Mr. WAGGONNER) if his objections would be met by simply changing the wording here as it appears, "lawfully investing," to "depositing."

Mr. WAGGONNER. Or depositing. The key words are "lawfully investing." A deposit is not an investment. If we change "lawfully investing" to "lawfully depositing," then we have workable language.

Of course, we could change our language to read: "Lawfully investing or depositing."

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I would like to ask the author of this amendment, the gentleman from Georgia (Mr. STEPHENS) if he would accept the amendment that in every place where "lawfully investing" appears, we add "or depositing"?

Mr. STEPHENS. Mr. Chairman, I have no objection to that.

Mr. ROUSSELOT. And to follow through on that point, Mr. Chairman, I think the gentleman should make the request.

Mr. STEPHENS. Mr. Chairman, I ask unanimous consent to modify my amendment in line with the suggestion made by the gentleman from Pennsylvania (Mr. WILLIAMS).

The CHAIRMAN. The Chair will state that the Clerk will have to report the amendment, which has not yet been offered.

The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

AMENDMENT OFFERED BY MR. BLACKBURN TO THE AMENDMENT OFFERED BY MR. STEPHENS

Mr. BLACKBURN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BLACKBURN to the amendment offered by Mr. STEPHENS: Strike out the last paragraph of the amendment and insert the following language:

(B) The Corporation shall limit the aggregate amount of funds that may be covered by deposit insurance to a limit of $100,000 in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets. *Provided, however*, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

Mr. BLACKBURN. Mr. Chairman, I will say to the members of the committee that I will make my preliminary statement and say that in general I support the Stephens approach.

I am personally very much concerned about the bond market for State and local governments in this country, and I feel that the bill as it is now drawn, in the absence of an amendment such as that offered by the gentleman from Georgia (Mr. STEPHENS) could seriously undermine or erode the market for bonds issued by our State, county, and municipal governments.

Now, the purpose of the Stephens amendment, of course, is to define "time deposits" as falling into one category and demand deposits, that is, checking account deposits, as falling in a different category.

The Stephens amendment, as I understand it, would provide that demand deposits will be insured fully by the Federal Deposit Insurance Corporation. Am I correct in that?

Mr. STEPHENS. The gentleman is not correct.

Mr. BLACKBURN. Demand deposits are not covered at all?

Mr. STEPHENS. Except under the general provisions of the bill.

Mr. BLACKBURN. Which is $50,000. That is the limitation that would exist there.

I feel, frankly, the Stephens amendment does not go far enough, because in the Stephens amendment the gentleman provides that the Commissioner of the Federal Deposit Insurance Corporation may limit the amount of insurance that he will cover on time deposits. He leaves it discretionary with the Federal Deposit Insurance Corporation as to the amount of insurance that the Federal Government will stand behind on public deposits in time accounts.

What I am doing in my statement is providing that there shall be a limitation of $100,000 that will be covered by the Federal Deposit Insurance Corporation of public funds deposited in time deposits.

Furthermore, and consistent with the Stephens amendment, if a depositing agency of the Government wishes to put more than $100,000 in time deposits in any institution, then the depositing or accepting institution must continue to pledge the same collateral as they have in the past.

I think that will allow sufficient flexibility to allow some of these deposits to go into institutions which today are not receiving such deposits, but on really huge deposits, in excess of $100,000, there would still be a requirement for the posting of collateral.

Mr. STEPHENS. Will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman.

Mr. STEPHENS. What the gentleman is saying is exactly what I said in my amendment with one exception. I say there ought to be a top amount put on that except what is the judgment of the size of the banking assets. You want to put in $100,000 regardless of the size of the assets of the bank.

Mr. BLACKBURN. That is right.

Mr. STEPHENS. I would say that that is going to hurt every small bank. All you are going to do is put $100,000 into the banks in my district in Atlanta and Decatur. It will not be put in everywhere. You are in favor of the big banks against the little banks.

Mr. BLACKBURN. I do not concur with the gentleman in that conclusion. Frankly, I think the small banks will still have the same ability to attract these deposits as they do today with the benefit of having $100,000 coverage at the very beginning.

The gentleman from California (Mr. STARK) is going to offer the same type of amendment which would apply to the savings and loan institutions and mutual banks as well as the commercial banks.

The reason why I am offering this amendment is because we might as well, I feel, establish the precedent now that we should have a limit on the amount of insurance that will be issued for public deposits in time deposit funds.

Mr. WYLIE. Will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman.

Mr. WYLIE. I thank the gentleman for yielding.

The gentleman just made the point that I alluded to earlier, the amendment only applies to commercial banks and has no application to savings and loans.

Mr. BLACKBURN. No. It cannot because it is the only part of the amendment we can deal with at this time, but it will be perfectly proper to deal with banks at this point and then deal with savings and loans when it becomes germane later on.

Mr. WYLIE. If the gentleman will yield further, public deposits in savings and loans are also provided for in section 1. All of the insurance provisions as far as public funds are concerned are dealt with in section 1. We are in section 1. On page 5, line 5, there is a section which deals with deposits in savings and loans. I do not think another amendment should be offered to this section right now. It would be an amendment in the third degree.

Mr. BLACKBURN. I agree. I do not believe we can, but I think we should establish the precedent right now.

PARLIAMENTARY INQUIRY

Mr. WILLIAMS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. Did the Chair accept the unanimous consent request offered by the gentleman from Georgia (Mr. STEPHENS) which would add "or deposit" after the words "lawfully invested" in his amendment?

The CHAIRMAN. The Chair cannot entertain any unanimous-consent request until such a request is made.

Mr. WILLIAMS. I understood the gentleman from Georgia made one.

Mr. STEPHENS. I do not know what the proper time would be, but I have a perfecting amendment, to answer the question that the gentleman from Pennsylvania (Mr. WILLIAMS) just brought up.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it may have been noted that during the discussion today on the first amendment offered to H.R. 11221, the statement was made that if this bill is adopted it will be a great victory for the thrift institutions.

I want to say to my colleagues that that is exactly what we need in this country—a great victory for the thrift institutions. They are the only source of home mortgage money.

You could go to a commercial bank and more easily borrow $5 million for a shopping center than you can go to the same commercial bank and get a $40,000 or $50,000 home mortgage, even though that mortgage were adequately covered by collateral. The loan for the shopping center would have a term of about 7 or 8 years, while the home mortgage loan would have a term of at least 20 years.

Today there is no more mortgage money available. If any of my colleagues, their children, or their relatives, have tried to get home mortgage money recently they know that it is just not there.

So, Mr. Chairman, it is about time that we took note of this fact, and relate that to the fact that new housing starts dropped to an all-time low in the latter quarter of 1973. And that same amount of new housing starts is also forecast for the first quarter of 1974.

We can talk all we want to about helping the thrift institutions, but we are regulating the thrift institutions. The Congress of the United States is controlling the thrift institutions like no other financial institutions.

We are saying to them: You must put a little less than 80 percent of your deposits into home mortgages—and you can have no checking accounts, except for three States—while at the same time commercial banks have checking accounts and countless other privileges the thrift institutions do not have.

You can talk about the fact that a thrift institution is permitted to pay their depositors one-quarter of 1 percent more, but I can tell you they will give that up and a lot more to get the same privileges the commercial banks have today.

Talk about being unfair, we are being unfair to our thrift institutions.

As far as the municipal bonds are concerned, which were mentioned by our esteemed colleague, the gentleman from Georgia (Mr. BLACKBURN), this bill will have no effect on the municipal bond market, and that includes bonds from States and counties.

I have participated in the floating of many local bond issues. Every municipality has a credit rating. You get bids on the interest that you are going to have to pay on those bonds.

If one has a low credit rating, one pays a higher interest, and the commercial banks will continue to buy these low-credit-rating bonds at the higher interest for income, not to cover any public money on deposit. That is another issue, and I hope at the proper time the gentleman from Georgia will offer the two words that I suggested, or that have been suggested to him by the gentleman from Louisiana.

I can tell the Members this: If they want to go through another year of having their constituents beat on them because they cannot get home mortgages, just vote against this bill. If they want to clear that up, vote for this bill.

Mr. ST GERMAIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Blackburn amendment. Certainly this amendment, as well as an amendment that will be offered later, among other things would be an administrative nightmare. With this legislation, we want to increase insurance on deposits from $20,000 to $50,000. Among the reasons for that is to make it more convenient for the depositor and to encourage people to participate in thrift institutions.

On the other hand, we have now before the House a request to limit the deposits to $100,000. The subcommittee had thorough hearings. We had requests by the administrative agencies involved that the administrators be given the authority to limit the amount of deposits based upon the size of the bank. We have incorporated that in this legislation, but for the Congress now to say that deposits in all institutions will be limited to $100,000 I think certainly goes way beyond the intent, and it would destroy the efficacy of this legislation. I conclude by stating beyond that that there was not one scintilla, not one iota, of testimony to this effect.

Mr. STARK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Georgia (Mr. BLACKBURN) to the amendment offered by the gentleman from Georgia (Mr. STEPHENS). It partially covers the intent of an amendment I intend to offer later which would extend the theory to savings and loans and credit unions. I want to point out that the Independent Bankers Association, which represents the small banks in this country, opposed the entire section of this bill which deals with insurance for public accounts. The efforts on the part of the gentlemen from Georgia, Mr. STEPHENS, Mr. BLACKBURN, and myself, are to allow some insurance on public accounts, but the effort is also to control that so that we do not risk ruining a municipal bond market and that we do not turn loose a new area of finance on small institutions who are unfamiliar with how to operate in this area.

Therefore, I would urge my colleagues to support the Blackburn amendment, and, indeed, to support the Stephens amendment which is necessary to correct some oversight in the drafting of the bill.

I would hope, of course, that they would later support my amendment which cover putting a $100,000 limitation on public deposits in savings and loans and credit unions.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Georgia.

Mr. BLACKBURN. I thank the gentleman for yielding. I think it is important to point out to the Members here that the gentleman from Rhode Island said that this would limit the deposits in the various institutions. The Blackburn amendment does not limit the deposits; it limits the amount of insurance, and that is a very important distinction. I want to make sure that everyone understands that they can still deposit $200,000 or $3 million or whatever amount they are accustomed to deposit in the bank. It is just that the Federal Deposit Insurance Corporation will only insure the first $100,000. I want to make sure that my friends understand that.

In the absence of adopting the Stephens amendment, we are allowing the Federal Deposit Insurance Corporation to limit the deposits that can go in any particular institution, and it is pretty broadly a matter of discretion with the Federal Deposit Insurance Corporation. I am, frankly, not all that confident that we should be granting these broad discretions to administrative agencies.

Mr. STARK. I yield back the remainder of my time.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

As I look at it there are five separate interests affected or concerned by this amendment: First, there are the savings and loan associations; second, there are the banks, whether small or large; third, there are those who issue or sell municipal bonds whether municipalities or brokers who must have a market for their municipal bonds; fourth, there are the homebuilders and others who need mortgage money for housing; and fifth and finally, there are depositors who want and need deposit insurance.

If I may have the attention of the gentleman from Georgia, let me inquire as to the effect on savings and loan associations. Pending that, let me say that I understand the Stephens amendment would not affect demand deposits, and since the savings and loan accounts are all time deposits, and there remains unchanged the requirement for full insurance as to time deposits, the savings and loans are at least not adversely affected. During the debate there was some indication that the savings and loan associations might prefer the Stephens amendment to the equal insurance amendment of the gentleman from Pennsylvania (Mr. JOHNSON). It is also my understanding that the savings and loans do not and cannot accept collateralization or the provision of depositing municipal bonds to cover security of public deposits beyond deposit insurance.

Coming now to the effect the Stephens amendment will have on the banks, the answer is that there should be no adverse effects of a serious or damaging nature, because it simply increases deposit insurance and still provides that deposits greater than the amount of insurance shall be collateralized. It seems reasonable to conclude that the small banks would be better off than without the Stephens amendment. Continuing on, the small banks seem to be in the same position as the municipal bonds interests. They would prefer no bill at all, but since they must now face the prospect of legislation they would prefer the Stephens amendment than not to have the amendment, in consideration of the fact that the Johnson of Pennsylvania amendment to equalize interest has been ruled out of order.

The question I pose to the gentleman from Georgia (Mr. STEPHENS) is that the banks remain pretty much as they were. His amendment will increase the amount of deposit insurance, but all over the amount of insurance must be secured by collateral. Is that correct?

Mr. STEPHENS. Yes, that is the present law.

Mr. RANDALL. Well then the small banks in that particular would not object. The Stephens amendment would improve the market for municipal bonds because collateralization is not disturbed. Maybe the municipalities who issue bonds and those who sell them are not as well off as if there was no bill at all, but they are better off with the Stephens amendment than without it.

Mr. STEPHENS. With my amendment they are not hurt, but without it I think it would be most difficult.

Mr. RANDALL. Your amendment will not have any adverse effect on housing money because there is only so much anyway you figure it. If we pass the bill the belief is that its passage will encourage savings for mortgage money for housing. Finally the fifth category of interested persons are the depositors. Under the Stephens amendment there will be more protection for depositors, the amendment offered by the gentleman from Georgia (Mr. STEPHENS) as I see it will not adversely affect any of the five categories I have mentioned. All have a legitimate interest in this legislation. While each of the categories may consider or weigh benefits versus burdens of H.R. 11221—it is my belief that the Stephens amendment is the best vehicle available to provide the most benefits to the five different groups with the fewest disadvantages. For that reason I urge the adoption of the Stephens amendment.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of the Stephens amendment. Our distinguished colleague from Georgia's expertise in housing matters is well known to us all and in my judgment he has, by his substitute, clearly contributed significantly to H.R. 11221 and had made totally unnecessary the adoption of a number of crippling amendments which I understand will be proposed.

By distinguishing between demand and time deposits the gentleman from Georgia has clearly calmed the fears of those bankers who believe that the passage of H.R. 11221 would do significant damage to their present deposit picture. While I personally feel that such claims were exaggerated beyond all reality, I nevertheless am pleased to support the distinguished gentleman from Georgia's substitute for we are all concerned that each of our financial intermediaries continue to grow and to serve each of their specialized clientele. Certainly there is a need for consumer short-term loans, and the Stephens substitute, by distinguishing between time and demand deposits, clearly enables certain commercial banks to continue serving these specialized needs.

I know no one is more concerned than the gentleman from Georgia as to the dire straits many homebuilders in this country now find themselves and I know that we can count on his continued leadership as a senior member of the Housing Subcommittee to cause the administration to face up to the housing facts of America.

The service which the gentleman from Georgia has rendered today by enabling H.R. 11221 to move forward as a modest step in support of our thrift institutions, the home mortgage industry generally and the home building industry is significant indeed and I commend him for it.

I am aware of the concern expressed by many of the effect of section 1 on the municipal bonds market and while not convinced of the validity of their arguments I nevertheless salute the gentleman from Georgia for his amendment permitting pledging to continue for demand deposits in excess of $100,000.

By permitting the existing one-quarter percent differential to apply up to $100,000 for time deposits, the spirit and thrust of section 1 is clearly advanced.

I urge adoption of the Stephens substitute, Mr. Chairman.

Mr. WIDNALL. Mr. Chairman, I move to strike the requisite number of words.

I take this time to read into the RECORD a letter from Mr. George Shultz, Secretary of the Treasury, written to the gentleman from Arizona (Mr. RHODES). The letter is as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., February 5, 1974.

Hon. JOHN J. RHODES,
House of Representatives,
Washington, D.C.

DEAR MR. RHODES: I am writing to express my concern with the provisions of H.R. 11221 as reported by the Committee on Banking and Currency on January 21, 1974, which would provide for 100 percent Federal insurance of deposits by public bodies in certain financial institutions. Under existing law such Federal insurance is limited to $20,000 for each deposit account.

Exempting state and local government deposits from the present limitation on the amount of Federal insurance for each account is, in my view, inconsistent with the traditional purpose of the Federal deposit insurance program to provide protection for the savings of individuals and families of moderate means who frequently lack the technical ability to appraise accurately the soundness of available outlets for their funds. I believe that the health of private financial institutions, as well as the financial interests of the Federal Government, would be better served by retaining the present incentive for large depositors to investigate institutions before placing deposits in them. Providing deposit insurance only for the smaller accounts helps to assure good management by depository institutions in order to attract the larger deposits. I am also concerned that exempting one class of depositors from the present limitations on insurance coverage would lead to pressures to extend the exemption to other classes of deposits. The President's Commission on Financial Structure considered but rejected 100 percent deposit insurance coverage for much the same reasons.

This legislation would also have an adverse effect on the market for Federal as well as state and local securities. Commercial banks now hold about $180 billion of such securities, which are used in part as collateral security for deposits of public monies which are not insured. Full insurance of public deposits could thus result in significantly higher interest rates on Government obligations because of reduced bank demand for such obligations. This increase in the cost of borrowing to the U.S. Treasury, other Federal agencies, and state and local governments would appear to have little if any offsetting benefits.

I understand that the principal objective of this legislation is to encourage state and local governments to deposit funds in thrift institutions which in turn is expected to increase the funds available to finance housing. This objective is highly questionable, because of the volatility of large Government deposits. Deposits of Government funds are understandably sensitive to changes in market rates of interest, and such deposits are clearly not a stable source of funds for long-term mortgage lending. Therefore, rather than offsetting effects of disintermediation, this would tend to aggravate them. Moreover, to the extent that it is considered desirable to encourage the flow of funds to housing by means of increased deposits of public funds in thrift institutions, this could be accomplished at the state level by permitting such institutions to secure such deposits with Government guaranteed or conventional mortgages at some reasonable percentage of value.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I would like to make a point in reply to the gentleman from New Jersey.

No. 1, we have testimony in the record that there are approximately $100 billion held in bonds and municipal securities, and so forth, by the commercial banks at this point, $40 billion of which is used as collateral. This indicates that there are other incentives to the commercial banks to purchase these securities.

No. 2, I do not know what the date of that letter was. What was the date of that letter?

Mr. WIDNALL. It was received February 5.

Mr. ST GERMAIN. It was received today?

Mr. WIDNALL. Yes.

Mr. ST GERMAIN. Evidently Mr. Shultz, the Secretary of the Treasury, had not consulted with the Vice President, who this morning stated that the administration is a proponent of the increase from $20,000 to $50,000 of insurance on deposits.

Mr. WIDNALL. He spoke to the insurance question, I believe.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. WIDNALL. I will yield to the gentleman from Ohio.

Mr. ASHLEY. The gentleman earlier said that he inaccurately supported the reporting of this bill. Does the letter from the Secretary, which certainly flies in the face of other administration spokesmen, now lead him to oppose the bill before us?

Mr. WIDNALL. I will answer my colleague by saying that some officials of the administration have been criticized for not going on record for their views on certain bills. This is the view of the Secretary of the Treasury. It is not the view I expressed earlier in my personal remarks.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman from New Jersey (Mr. Widnall) as to the letter. The letter that he has quoted does not apply to my amendment; is that right? It was written prior to my amendment?

Mr. WIDNALL. Yes.

Mr. STEPHENS. Mr. Chairman, I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. Mr. Chairman, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, as a further follow-up to the question of the gentleman from Ohio (Mr. Ashley) I think that all the ranking minority member of our committee was trying to point out was that Mr. Shultz, who has a tremendous responsibility in the management of public funds, felt that he should speak to this issue because it very much relates to the housekeeping functions of the U.S. Treasury.

That does not mean that because Mr. Widnall is raising these issues, he is trying to do damage to the debate or the consideration of the bill, but we should be aware of those important considerations. I think the gentleman from New Jersey (Mr. Widnall) did that very properly. By reading and inserting the letter from the Secretary of the Treasury into the Record.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. Mr. Chairman, I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I would like to state to the gentleman from Georgia and to my colleagues in the House that I am hopeful that we will be able to vote on the Stephens amendment without the Blackburn amendment. I am wholeheartedly in support of the Stephens amendment, because I feel it will satisfy those objections that have been raised concerning the legislation as to the effect on the market for municipal bonds. It certainly preserves the overall intent of the legislation to channel more funds into the thrift institutions of this Nation and thereby make more funds available to the mortgage market.

Mr. STEPHENS. Mr. Chairman, I agree with the gentleman. I disagree with the Blackburn amendment, and agree with my amendment.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, there are two aspects of the gentleman's amendment which need to be clarified.

No. 1, when he uses the term "time deposit," does he include nondemand passbook accounts in savings and loan associations and in banks?

Mr. STEPHENS. That was my intent.

Mr. BROWN of Michigan. Otherwise, the gentleman is saying that time deposits include all deposits other than demand deposits?

Mr. STEPHENS. That is right.

Mr. BROWN of Michigan. So the gentleman is permitting 100-percent insurance on passbook accounts in savings and loans and in banks?

Mr. STEPHENS. As to public funds.

Mr. BROWN of Michigan. Yes.

Mr. STEPHENS. Right.

Mr. BROWN of Michigan. Mr. Chairman, I would like to ask a second question. In the last section of the amendment referring to pledging collateral in excess of the amount set by FDIC insurance, it says:

> *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

I think the gentleman would agree that what is an acceptable collateral to me is determined by State law.

Mr. STEPHENS. That is the only thing that a depositor could accept. It would have to be acceptable under State law.

Mr. BROWN of Michigan. A depositor is a municipal body which deposits the funds, and the gentleman is saying that the collateral that will be pledged, that this collateral shall be acceptable to me as a depositor, irrespective of what State law may be?

Mr. STEPHENS. I do not say irrespective.

Mr. BROWN of Michigan. That is the legislative history I am trying to establish.

The gentleman says "acceptable to the depositor." He means acceptable to the depositor under the law of the State applicable to the depositor?

Mr. STEPHENS. Absolutely, that is what I mean.

Mr. BROWN of Michigan. Mr. Chairman, I thank the gentleman.

Mr. BLACKBURN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would not be doing my duty if I did not call to the attention of the Members the numbers of financial organizations and financial experts in our country who are opposed to 100 percent financing of public deposits.

Let me begin by referring to pages 179 and 180 of the hearings, quoting a letter from the Washington director of the Municipal Finance Officers Association. The director stated as follows:

> The Municipal Finance Officers Association, representing 5,000 State, local and Federal governmental fiscal officers in the United States, wishes to record its deep concern over the potential impact of section 1 of H.R. 10993.

The Independent Bankers Association of America, with a membership of 7,200 national and State banks in 41 States, with 90 percent of its membership located in communities having less than 40,000 population, is opposed to full account insurance for public fund deposits.

The association, in a letter to the committee on November 21, 1973, cites six objections to the 100 percent insurance for public funds proposal.

The Conference of State Bank Supervisors advises that 100-percent insurance of public fund deposits could have—and I quote—"could have a substantial adverse effect on the market for State and local securities."

The Acting Comptroller of the Currency, in a letter dated November 6, 1973, expressed the same opinion.

The Securities Industry Association, representing nearly 600 firms, who underwrite and trade in State and local government securities, opposes 100 percent insurance of public funds.

The Federal Reserve Board likewise opposes it, as well as the Treasury Department.

Mr. Chairman, I am calling to the attention of the Members the fact that we are flying in the face of some very weighty expert opinion if we do not adopt an amendment which will help to insure the preservation of the markets, and we would be doing a disservice to our country. I think that my amendment, as well as that amendment offered by the gentleman from Georgia (Mr. Stephens) will best serve the country.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I am happy to yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I do not wish to speak twice on the gentleman's amendment. It is true that I spoke once before.

I could go through the hearings and cite all the proponents who agree with my position.

Mr. Chairman, I will state this:

All of those people said what they did say prior to the offering of the Stephens amendment, which I support and which I endorse and shall vote for. However, I do not feel that the amendment offered by the gentleman would help the amendment offered by the gentleman from Georgia (Mr. Stephens).

Mr. BLACKBURN. Mr. Chairman, if the gentleman accepts the amendment offered by the gentleman from Georgia (Mr. Stephens) I think he should accept mine, too.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Georgia.

Mr. STEPHENS. Mr. Chairman, I agree with the fact that the bill should be amended. That is why I did not vote for the bill as it was when it came out of the committee.

That is why I offered my amendment, in order to provide that there will not be any 100-percent, across-the-board insurance. That is the reason I offered my amendment, in order to provide a compromise, because I voted against the whole bill in the committee, and because of the opinions of people who are respected and who have said that we should not have 100-percent insurance. That is why I offered my amendment.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, it is my understanding that if we would support the gentleman's amendment, he would further support, if his amendment passes and the Stephens amendment passes, an amendment which we would offer or which I would offer that would apply the same limits to savings and loans and credit unions so that it would, in effect, have the full force and effect of the amendment which I propose to offer?

Mr. BLACKBURN. Mr. Chairman, the gentleman is absolutely correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BLACKBURN) to the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The amendment to the amendment was rejected.

Mr. STEPHENS. Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

In the first paragraph of the amendment immediately after "lawfully investing" the four times it appears therein insert "or depositing", and in the second paragraph, immediately after "invested" insert "or deposited".

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. WYLIE. Mr. Chairman, reserving the right to object, I am not thoroughly sure I understand the thrust of the amendment, but this amendment does not get the heart of the point I raised earlier with reference to demand deposits. The amendment still does not apply to demand deposits even with this modifying amendment. Is that correct.

Mr. STEPHENS. That is correct.

Mr. WYLIE. I thank the gentleman and withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The Clerk will report the modification to the amendment.

The Clerk read as follows:

In the first paragraph of the amendment immediately after "lawfully investing" the four times it appears therein insert "or depositing", and in the second paragraph, immediately after "invested" insert "or deposited".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS) as modified.

The amendment as modified was agreed to.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: Strike out section 1 of the bill.

Mr. WYLIE. Mr. Chairman, I think the debate we have just heard indicates the complicated thicket we are getting into when we talk about 100 percent insurance of public deposits.

This bill—and I will not talk to you about economic impact as a financial expert, which I am not, but, rather, I would like to talk to you in elementary language as to what the bill does—this bill in section 1 provides, first of all, for 100 percent FDIC and FSLIC insurance on all deposits by municipalities, States, and local subdivisions.

The present law provides public deposits are treated the same as private deposits—that is a deposit which you and I would make, for example—is insured up to $20,000. This bill would provide for an increase in private deposit insurance from $20,000 to $50,000.

I have no serious objection to increasing the amount of insurance on all deposits held by banks and by savings and loans or any other financial institution, for that matter, to $50,000.

Generally, the banks oppose an increase to $50,000. The banks say that all we need is an increase to $25,000 or $30,000 to take care of the increase in the cost of living. The savings and loans want a $50,000 limitation. The savings and loans want the 100 percent insurance on public deposits, because up to now they have not been able to receive public deposits.

There is required under present law and State regulation a security pledge. There are some $100 billion now outstanding in public deposits in the United States. More than 50 percent of these public deposits are secured through the purchase of municipal bonds. If section 1 is passed into law, there will not be any secured interest required on public funds, and with the rate differential which is now in the bill because the amendment to equalize interest rates was held not germane. Savings and loans pay one-quarter percent higher interest rate than commercial banks on public deposits. It is my judgment there will be a considerable shift of funds in the money market.

We have no way of knowing what the impact of this shift might be. At the same time, this public money is what is known in the trade as "hot" money. It is not left on deposit for any extended period of time; it must be made available on a continuing basis to the public institutions which make the deposits.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I would ask the gentleman from Ohio whether the point the gentleman is trying to make is that public funds do not normally or necessarily go into the housing market, which is long-term money? Is that correct?

Mr. WYLIE. That is exactly the point I was about to make.

The alleged thrust of the section 1 provision is to put money into the housing market, into savings and loan institutions, which provide money for the housing mortgage market. If the money is going in and out on a constant basis, which it would be, in my judgment, then the Savings and Loans could not depend on using it as long-term money for housing mortgages. I thank the gentleman for making that point.

Coupled with the rate differential, as I mentioned before, it is expected that there might be a substantial shift of public funds, and we do not know what the effect of that might be on the economy generally.

I think it is fair to say that the savings and loan institutions would have a tremendous advantage being able to pay one-quarter percent more interest than the commercial banks, and it is argued, as I just stated before that this would increase the amount of money going into the housing market.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WILLIAMS, and by unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WILLIAMS. Mr. Chairman, if the gentleman will yield, my esteemed colleague, the gentleman in the well from Ohio, has just given an answer to my esteemed colleague, the gentleman from California (Mr. ROUSSELOT) that this would not put any additional money in the housing market.

Now, of course, the mutual savings banks, in the case of a municipality that is borrowing perhaps $4 or $5 million to build a sanitary sewage plant, that was going to take advantage of that, and that money was deposited in the mutual savings bank, which is a thrift institution, and is required to have 78 percent of their money in housing money, would not this mean more money in the home mortgage market?

Mr. WYLIE. I do not know how we could really anticipate that. I think the whole point I want to make here——

Mr. WILLIAMS. I would say to the gentleman from Ohio that if he cannot anticipate that then I take definite issue with the gentleman for making a definite conclusion on the subject.

Mr. WYLIE. The point I was making earlier, when I first started the argument in support of my amendment, is that we are entering into an uncertain thicket, and I believe section 1 should be removed from the bill. The section 1 provision ought to be sent back to the Banking and Currency Committee for further study to see exactly what the economic impact might be, whether there will be a substantial increase in the amount of money going into the housing market, or not.

Mr. WILLIAMS. If the gentleman will yield further, the only way you will develop a track record is to make it possible for a track record to be developed, and under your amendment you would never have any track record.

Mr. WYLIE. There is one other argument in favor of my amendment, and that is that we do not know what the effect will be on the municipal bond market. Now we have the situation where almost 50 percent of this $100 billion in time deposits is secured by municipal bonds. This means——

The CHAIRMAN. The time of the gentleman has again expired.

(By unanimous consent, Mr. WYLIE was allowed to proceed for 1 additional minute.)

Mr. WYLIE. Mr. Chairman, I think this means the sale of municipal securities would surely decline if my amendment is not adopted, so that many capital improvements now undertaken by local governments and local subdivisions of governments would have to be deferred or some other form of debt developed.

I want to vote for the position of the savings and loan which is to increase the insurance coverage to $50,000 across the board for all deposits. I think the coverage for public and private deposits should be equal. I think at the same time we can sustain the position of the commercial banks which have a great fear that there would be a considerable amount of shifting of public funds. If we include this provision with the interest differential. I think the provisions of this section should be the subject of separate legislation. It is to that end that I urge support of my amendment.

Mr. J. WILLIAM STANTON. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to my colleague, the gentleman from Ohio.

Mr. J. WILLIAM STANTON. I appreciate the gentleman's yielding. The gentleman made an excellent point at the end where he said that where this bill sits today, we are speaking about $100,000 under really an interest equalization difference of one-quarter percent for public funds. Other than that, regulation takes care of it.

As the gentleman has said earlier, when we are dealing with municipalities and cities which are bound to go to the highest price with the interest equalization tax amendment, we have got an inequitable situation here, and the gentleman's amendment should be approved.

Mr. WYLIE. I thank the gentleman for his support.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment.

I should like to repeat, there is $100 billion of securities now held, $40 billion of which are used as pledges for collateral. We talk about equalization. It is easy to give popular advertising agency nomenclature to an amendment, but let us look at the situation to date. To date there has been a monopoly. The only financial institutions that have had available to them the deposit of public funds have been the commercial banks. God bless them; they have done well over the years.

But now the need is for funds in the mortgage area. We have seen the effects of mass disintermediation on more than one occasion. It has happened every 3 years. If we talk about equality, I say the time has come to right the inequality that has existed over the years wherein the commercial banks have had a pretty good deal. They have had a monopoly on the deposit of public funds.

Mr. Chairman, I urge my colleagues to remember if we adopt the Stephens amendment, that will take care of the arguments against the fact that there will be no market for municipal securities, and with the Stephens amendment, I feel that this bill does accomplish its original intent and purpose. I ask my colleagues to vote against the Wylie amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I have heard no one provide any figures as to the additional cost of a $50,000 deposit guarantee.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

No additional cost will occur whatsoever. The insurance on these deposits is paid for by the financial institutions. As I stated earlier in the debate, here is an opportunity for us to at long last say to the American people: We are giving you something for nothing—an increase from $20,000 to $50,000 on your deposit insurance.

Mr. GROSS. Who will provide the funding for the additional risk?

Mr. ST GERMAIN. The increase from $20,000 to $50,000. All financial institutions, whether they be covered by FSLIC or FDIC, pay an insurance premium based on the total amount of their deposits. Whether they are in 50 accounts or 2 accounts, the same amount of insurance is paid. It is paid for by the financial institutions. It is a cost of doing business to the financial institutions.

Mr. GROSS. Who pays for the costs of doing business by these financial institutions?

Mr. ST GERMAIN. The financial institutions, as of this very date.

Mr. GROSS. How about the borrower and on down the line? Does he not pay the cost?

Mr. ST GERMAIN. I am certain that the gentleman from Iowa must have some money in some financial institution.

Mr. GROSS. Do the banks not charge at least some depositors for the costs of doing business?

Mr. ST GERMAIN. There is no charge. I think what the gentleman is getting to is would this affect the interest paid on deposits?

Mr. GROSS. Then why not take the deposit guarantee up to $100,000 or $200,000 and just take in everybody including the Rockefellers with $1 million guarantee or more?

Mr. ST GERMAIN. If the gentleman will yield, the testimony before the committee by the representatives of FDIC and SLIC is that an increase to $50,000 would not jeopardize the fund and it would maintain the integrity of the fund, that is the insurance fund. That is why we picked on the figure of $50,000.

I might state that in 1963 the FDIC 11 years ago, testified it should be $50,000, so at long last we are trying to catch up.

Mr. GROSS. No one is going to convince me that the banks and savings and loans, like every other business institution, do not pass their costs of providing service on down to those who do business with them. I do not quarrel with that procedure, but I think the public ought to know whether it will be faced with added costs as a result of this legislation.

Let me ask the gentleman one other question. How much money has the FDIC loaned directly to various banks?

Mr. ST GERMAIN. No. 1, I would say to the gentleman in answer to the statement he has made, that certainly neither he nor I are concerned about covering the $1 billion accounts for the Rockefellers or people like that.

Mr. GROSS. All right.

Mr. ST GERMAIN. Let me make one thing clear. The gentleman used the word "banks." The commercial banks are opposed to this increase. The thrift institutions, the credit unions are requesting this increase.

As to the FDIC, it does not lend money to banks. It is not like the Federal Reserve.

Mr. GROSS. The gentleman is not fully acquainted with what the FDIC is doing these days. The FDIC is making direct loans.

Mr. ST GERMAIN. To banks and financial institutions?

Mr. GROSS. To failing banks, for instance, banks that are in jeopardy and in danger of failure, the FDIC is making loans.

Mr. ST GERMAIN. I think the gentleman is using the word "loan" for another technique that is involved, wherein where there is a bank that is failing the FDIC will assist a bank that takes over the failing bank, to make that institution whole, and as a result thereby avoid the drain on the FDIC fund for payment out to the depositors of the $20,000.

Mr. GROSS. I am just trying to find out whether the FDIC is a deposit insurance organization or how far it is going to go in the matter of making loans, particularly to banks that are in danger of failing. They have been making those loans and they made one the other day to Westgate in California. I believe that is the name of the institution.

Mr. ST GERMAIN. I would say to the gentleman, with respect to the USNB, the U.S. National Bank in San Diego, their failure has been the subject of hearings before the Subcommittee on Bank Supervision and Insurance of the Committee on Banking and Currency. We have been having hearings in the field and we will be having further hearings with the FDIC on whether or not they acted correctly.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words. I would like to say to my distinguished colleague, the gentleman from Iowa (Mr. GROSS), that certainly the Federal Deposit Insurance money is insuring the deposits, and if anybody in this Chamber can find someone who is willing to write any type of insurance free I would certainly like to know about it.

However, during the life of the FDIC they have built up a surplus of billions of dollars. In the very small number of cases where they have had failures people have recovered their money, so that no longer is it possible for us to have a bank failure such as we had in 1929.

This is a very poor argument as to the cost of insurance. If we have an FHA insurance on our house, we are paying one-half of 1 percent to have that FHA mortgage guaranteed.

In addition, we are not talking about insuring Rockefellers or others who have a billion-dollar account, because they have their own assets, their own bank balances for their tens of millions. That particular point has no effect in the discussion, because we are not covering that.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Ohio.

Mr. WYLIE. What is wrong with continuing the insurance on governmental agencies on the same basis as private depositors, just as we have since this law was enacted in 1932? If we increase deposit insurance to $50,000, I do not see too much wrong with that.

Mr. WILLIAMS. I have already given answer to that. The statement was made here that this is a great victory for the thrift institutions, namely, the saving and loan and mutual savings banks, and they are the only source of mortgage money. If you want to rewrite the law to make it fair, then we must give to the thrift institutions the right to have checking accounts and all the other benefits of commercial banks. One can borrow $5 million or $10 million at a commercial bank for a shopping center, for an office building, but one cannot borrow $45,000 or $50,000 for a home mortgage.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. I would like to make this point, that while State and local obligations may serve as collateral, their significance as collateral is not as important as might be imagined. Banks purchase these obligations for their value as investments and not for use as collateral. This collateral goes from $100 million. State and municipal obligations are not subject to Federal purchase of these obligations by banks as a matter of economic attractiveness. In fact, more than 50 percent of the after-tax income of commercial banks comes from tax-free municipal bonds. Also, banks purchase municipal obligations as a form of civic participation, and this factor will also influence their purchase of municipal obligations, so that the bond market will remain whole.

Mr. WILLIAMS. I would like also to report just one personal case and this will apply to anyone in this Chamber. Somebody went to a mutual savings bank and got a mortgage commitment and on the basis of that mortgage commitment they went to a commercial bank to get the construction mortgage money. On the construction mortgage money they were charged 11½ percent, with the additional proviso that that money will be placed in a checking account of that bank and drew no interest and a voucher system had to be used where the builder would submit a voucher and the bank would pay the voucher directly.

Anyone building a home and paying 11½ percent for a construction mortgage with all the other requirements included in that, and that one deal would apply to any one of us, it would be enough to convince us.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Ohio.

Mr. WYLIE. Does not the language on page 3 and the language on page 5 bother the gentleman a little bit, where it says the corporation may limit the aggregate amount of funds that may be deposited in any insured bank? Does the gentleman not think that is a high-handed way of telling a public depositor what he can or cannot do with his money?

Mr. WILLIAMS. No. This body sets up a corporation and chooses to delegate to it certain responsibilities. It is like the gentleman saying, "Do I disagree with the Federal Reserve Board being established?" My answer to this would be "No."

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio (Mr. WYLIE).

I will not cite chapter and verse on the local bond market turmoil that would result from adoption of this bill as written. The gentleman sponsoring this amendment and others have thoroughly explained the direct tie-in between public deposits and bank support of the local municipal bond market. By adopting this bill even with the Stephen amendment, we would precipitously sever that relationship, significantly soften the market for local debt issues, and thereby legislate increased debt service costs for State and local taxpayers. Indeed, after having just ostentatiously thrust the hand of fiscal relief via revenue sharing through the front door, we now find ourselves reaching through the back door to pilfer some of the gain. Is there any wonder that public confidence in the Federal Government has plummeted to such an all-time low?

Aside from the immediate impact of the committee bill, I want to express strong dissatisfaction with the philosophy that underlies it. It has been obvious for a number of years now that merely piling more layers of regulatory redtape on financial institutions, and offering still further special advantages, subsidies, and other incentives is not going to improve the financial viability of thrift institutions nor significantly strengthen the mortgage market. As the Hunt Commission report has effectively demonstrated, the primary result of the jerry-built financial regulatory framework we have fashioned over the years, despite our good intentions, has been serious inefficiency, misallocation of resources, recurrent bouts of disintermediation, and gross inequities among different classes of savers and borrowers. Isn't it about time, then, that instead of turning to the ever handy brush-and-glue pot for still another "emergency" fix, we look for a more fundamental and lasting solution?

The ostensible aim of this public insurance provision is to increase the flow of deposits into thrift institutions in order to compensate for the massive outflow of funds suffered by them last summer. But was not that a classic case of disintermediation in which the spread between institutional rates and the open market rates became so great as to create an irresistible vacuum? And is it not also the case that we have so tied the hands of thrift institution managers with mortgage rate ceilings and restrictive terms, limits on deposit interest rates, curbs on asset and lending powers, detailed regulation of portfolio composition, and stringent limitations on services which may be offered that they are nearly helpless in the face of open market competition?

I fear that in our laudable efforts to preserve and bolster a specialized industry to support the mortgage market, we may have some close to creating an overprotected financial paraplegic; and one that is having an increasingly difficult time coping with the buffeting winds of the otherwise financial market of which it is a part.

Although the committee has promised again and again that just one more band-aid will reverse the attrition, I think it should be clear by now that major surgery not a tourniquet is called for. The Hunt Commission, the legislation proposed by the administration last fall, and the testimony of scores of economists who have studied the thrift institution problem all point to a more viable solution: Remove the hampering regulations on thrift institution financial activities as well as the special benefits, privileges and protections—of which the committee bill offers just one more—and allow them to compete in the open market as full-fledged consumer finance agencies.

If after doing this the mortgage market still needs support, then a tax credit or some other simple and direct subsidy might be fully justified. By adopting this amendment we can signal to those with jurisdictional responsibilities over these matters that basic reforms rather than more stop-gap expedients ought to be moved to the top of the agenda.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. BLACKBURN. Mr. Chairman, I thank the gentleman for yielding to me, and I congratulate him on his position.

There was a litany of experts I cited earlier in debate; the Independent Bankers Association, the National Securities Agents Association, the Federal Reserve Board, the Treasury Department, the National Association of Municipal Finance Officers; all these groups stated their very great fear as to what this is going to do to their bond markets, and the fact that we could bring the bill to the floor in this condition makes the bill questionable.

Certainly as to title I, if we are going to pass the bill, this title should be stricken. Therefore, I do support the amendment.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding to me. I think he is making an excellent statement and an outstanding contribution.

I have a letter from the Municipal Finance Officers Association of the United States and Canada which says in part:

> The most serious impact of full insurance falls on the municipal bond market. This comes from the widespread use of pledging requirements by State and Federal governments; the large volume of public deposits and, hence, large sums involved in pledging; and the fact that State and local obligations are used for pledging in massive proportion.

Mr. Chairman, I do think the gentleman, as I say, is making an argument which ought to be considered carefully.

Mr. ANDERSON of Illinois. Mr. Chairman, I point to the very excellent minority views of the gentleman from California (Mr. Hanna) where he pointed out that what the committee has done in this case is to act piecemeal on a very fundamental problem. This legislation unless amended, would merely compound a series of errors we have committed through the years. The fundamental philosophy of this is wrong.

Mr. Chairman, I support the amendment of the gentleman from Ohio.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Williams and by unanimous consent, Mr. Anderson of Illinois was allowed to proceed for an additional 2 minutes.)

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, my esteemed colleague from Illinois (Mr. Anderson) made the point in his earlier remarks that to permit the thrift institutions to keep one-quarter of 1 percent additional interest which they are allowed to pay to their distributors, would be inequitable.

If the gentleman is in favor of equity, is the gentleman also in favor of going even further in establishing equity and permitting the thrift institutions to have the checking accounts which the commercial banks have at the present time?

Mr. ANDERSON of Illinois. Mr. Chairman, I was going to say, if I had time, that rather than adopt this amendment which, I think, is just another one of those band-aids that we have been trying to put on the problem for many years, we ought to embrace more of the recommendations of the Hunt Commission. We ought to try to introduce some real equity as far as our financial institutions are concerned.

Mr. WILLIAMS. Mr. Chairman, the gentleman is familiar with the amendment which has already been accepted, the amendment offered by the gentleman from Georgia (Mr. Stephens); is he not?

Mr. ANDERSON of Illinois. Yes. I do not think the gentleman's amendment, however, is going to relieve my concern with the impact this bill could have on the municipal bond market.

In my little town, in northwestern Illinois, we do not go to Wall Street to market those bonds; we market them locally. I believe if we eliminate that tie between the local banks and the municipal bond market, we are going to, as I stated, increase the debt service charges of local governments.

Mr. WILLIAMS. Mr. Chairman, the gentleman is referring to the Hunt report. The conclusions of the Hunt report have been questioned by many, many experts in banking, and I do think that many of the inequities that may have existed in this bill have been removed by the amendment offered by the gentleman from Georgia, the amendment which has been adopted.

Mr. ANDERSON of Illinois. Mr. Chairman, let me say in conclusion that I could not agree more with the gentleman from Pennsylvania, that the thrift institutions ought to be permitted to compete in the open market as full-fledged consumer financing institutions. I do not have any reservations about that at all.

However, we are not achieving that goal or that objective by adopting this legislation in the form which it is in before us now.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Anderson) has expired.

(On request of Mr. St Germain and by unanimous consent, Mr. Anderson of Illinois was allowed to proceed for 1 additional minute.)

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I will point out a couple of things to the gentleman.

I am sure the gentleman is aware there are 14 States which do not have this requirement, which do not require collateral.

The other point is that the gentleman cited the figure from the Federal Reserve Board report of $40 billion in bonds.

Mr. ANDERSON of Illinois. Yes.

Mr. ST GERMAIN. Now, I stated this earlier, and I will ask the gentleman this: In the gentleman's opinion, why is it that commercial banks, although they are only required to hold $40 billion as collateral for public deposits, nonetheless hold $100 billion in these securities, $60 billion more than they are required to hold?

Does the gentleman not think that the bank in his little town would not continue to buy these municipal bonds as a social obligation if they are not marketable bonds which have been put on the market?

Mr. ANDERSON of Illinois. Mr. Chairman, I do not think we can make that generous assumption. Banks are in the business of making money, although I am sure they are as socially minded as anyone else.

However, to assume, once we remove the incentives that are now in the law and replace them with what we have in the bill coming out of the gentleman's committee, that is not going to have an impact on the local municipal bond market, I think, is to clearly ignore the facts.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief.

To answer the question which the gentleman from Rhode Island raised about the 14 States that do not require collateral. In many of the cases where the treasurer of a local unit of government or public funds wishes to deposit funds, he will request that collateral back up his deposit.

So just because there is not a State law requiring it in those 14 States does not mean that the treasurer or the financial officer of those public funds does not require that kind of collateral. In most cases such collateral is demanded by responsible financial officers of public funds.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Wylie).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ST GERMAIN. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Rousselot: Page 7, line 16, strike out "$50,000" and insert in lieu thereof "$35,000", and on page 8, line 9, strike out "$50,000" and insert in lieu thereof "$35,000", and on page 8, line 23, strike out "$50,000" and insert in lieu thereof "$35,000".

(By unanimous consent, Mr. Rousselot was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, the purpose of the Rousselot-Crane amendment is to reduce the deposit insurance on individual accounts from the $50,000 maximum recommended in the committee bill to a more reasonable figure of $35,000. As reported by the Banking and Currency Committee, H.R. 11221 would provide for an increase in the ceiling on deposit insurance from the present $20,000 to $50,000 for accounts in commercial banks, mutual savings banks, savings and loan associations, and credit unions.

I believe that the proposed increase in the deposit insurance on individual accounts from $20,000 to $50,000, a jump of 150 percent, is excessive for the following reasons:

First. It is expected that the Banking and Currency Committee will take up the whole issue of reform and restructuring of our Nation's financial institutions later this year. To increase the deposit insurance by 150 percent at this time exceeds reasonable needs and enters the realm of affecting the balances among the various types of financial institutions, a step which should only be taken with sufficient knowledge of what these effects will be.

Second. There is little evidence to support the theory that the major increase in savings accounts will be in thrift institutions, due to the attraction of the differential in interest rates, thereby boosting the home mortgage market. There is no way in which to predict with any accuracy the projected trends in the increases in types of accounts.

Third. The last two increases in the deposit insurance, from $10,000 to $15,000, and from $15,000 to the present $20,000, were enacted on October 16, 1966, and December 23, 1969, respectively. According to the consumer price index, which measures the rate of inflation, the cost of living rose 14.5 percent during the 3-year period between December 1966 and December 1969, and in December 1969 the deposit insurance was increased 33⅓ percent. During the 4-year period between December 1969 and December 1973, the cost of living has risen 22.7 percent, and to compensate for this, the committee bill proposes to increase the deposit insurance 150 percent. In reality, a raise to $25,000 would be adequate to compensate for the inflation that has taken place since 1969. Surely it cannot be claimed, even in the midst of an economic stabilization program and after two dollar devaluations, that the rise in the cost of living justifies a 150-percent increase in the deposit insurance from $20,000 to $35,000, a 75-percent increase, is far more realistic.

Fourth. Both Chairman Wille of the FDIC, which insures commercial banks and mutual savings banks, and Chairman Bomar of the FHLBB, which administers the insurance of savings and loan associations by the FSLIC, expressed their preference for an increase to a figure of $30,000 to $35,000. Both chairmen agreed that the issue of inflation was not sufficient to justify the proposed increase to $50,000.

Fifth. The increase in the exposure to the insurance funds would be approximately double under the committee's $50,000 maximum as compared to the $35,000 maximum we support.

Sixth. Such a tremendous increase in the deposit insurance, from $20,000 to $50,000, would change the emphasis from protection of the depositor to protection of the banker. Witnesses from the financial community presented with great forcefulness the position that the present system of deposit insurance provides an incentive to the management of these financial institutions to operate under sound practices in order to attract depositors with large accounts.

Seventh. Under the $20,000 maximum as provided by present law, a family of four through a combination of accounts can have insured coverage up to $280,000 in a single institution; and there is no limitation on the number of institutions where this can be duplicated. Using the same family of four as an example, under the $35,000 maximum that we support, the amount insurable in a single institution through this same combination of accounts would jump to $490,000 which would seem to be ample even for the most affluent.

I urge my colleagues to support the Rousselot-Crane amendment to provide an increase in the deposit insurance on individual accounts from $20,000 to $35,000, an amount which generously provides for the inflation which has taken place since 1969, the date of the last increase, as well as a margin of safety for the savers who place their money in these federally insured institutions.

Mr. ST GERMAIN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California (Mr. ROUSSELOT).

Mr. Chairman, I believe that the debate has been thorough on this particular amendment also, as we have gone through the day. The increase from $20,000 to $50,000 would cause no additional cost whatsoever to the depositor. It is an opportunity for the House of Representatives to say that this is an exception to the usual rule, and that here we are giving you something for nothing.

Further, in 1963 the Federal Home Loan Bank Board advocated the $25,000 insurance limitation, and we, 10 years later, are now trying to catch up with a bill bringing it up to $50,000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The amendment was rejected.

The CHAIRMAN. Are there further amendments?

PARLIAMENTARY INQUIRY

Mr. STEPHENS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. STEPHENS. Mr. Chairman, my parliamentary inquiry is this: If we have a vote on the Wylie amendment, on the floor of the House, will that not in effect be to strike, if not overridden, would that in effect knock out my amendment, and if we vote it down it would restore my amendment?

The CHAIRMAN. The Chair will state that that is an inquiry which should be addressed to the Speaker when we go back into the House.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MATSUNAGA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, pursuant to House Resolution 794, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

Mr. ST GERMAIN. Which amendment, Mr. Speaker—the committee amendment?

The SPEAKER. The question is on the amendment adopted in the Committee of the Whole.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ST GERMAIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. STEPHENS. Which amendment are we voting on, Mr. Speaker? The amendment adopted in the Committee of the Whole?

The SPEAKER. The amendment adopted in the Committee of the Whole.

Without objection, the Clerk will read the amendment.

The Clerk read as follows:

Amendment: Strike out section 1 of the bill.

PARLIAMENTARY INQUIRY

Mr. WYLIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WYLIE. If this amendment is not adopted now, then the bill will revert back to the bill as reported by the Committee on Banking and Currency; is that not correct?

The SPEAKER. The Chair's understanding is that it will revert back to the original bill without the committee amendment.

PARLIAMENTARY INQUIRY

Mr. STEPHENS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEPHENS. Would that also be without the amendment that was adopted as far as my amendment is concerned?

The SPEAKER. The answer is "yes."

PARLIAMENTARY INQUIRY

Mr. WILLIAMS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WILLIAMS. While the bill was under consideration, under section 1 an amendment was adopted which was offered by Mr. STEPHENS of Georgia. At a later time an amendment was offered by Mr. WYLIE to section 1 to strike section 1. If the amendment offered by Mr. WYLIE in the Committee of the Whole is now defeated in the Whole House, does not that continue Mr. STEPHENS' amendment in the bill.

The SPEAKER. The answer is "no." If the Wylie amendment is defeated, the House will have before it the bill as reported by the committee, without any amendment to section 1.

Mr. ST GERMAIN. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The Chair wishes to make clear the parliamentary situation. Several amendments were adopted to section 1. Subsequently an amendment offered by the gentleman from Ohio (Mr. WYLIE) striking section 1 was adopted. That is the only amendment reported to the House, the amendment striking section 1.

The vote now is, at the request of the gentleman from Rhode Island (Mr. ST GERMAIN), on the Wylie amendment striking section 1. If that amendment is adopted, then section 1 is eliminated. If that amendment is defeated, section 1 is back in the bill without any amendment.

PARLIAMENTARY INQUIRY

Mr. ST GERMAIN. A further parliamentary inquiry, Mr. Speaker. At the time when the amendment was offered by the gentleman from Ohio (Mr. WYLIE), the Stephens amendment to section 1 had been adopted. It was incorporated as part of section 1. If we should reverse that action on the Wylie amendment, do we not then reinstate the Stephens amendment to section 1 as it was at the time it was adopted?

The SPEAKER. As the Chair understands it, the Stephens amendment was not reported from the Committee of the Whole. The Stephens amendment was adopted, but then the entire section was stricken, and if the entire section remains stricken nothing on it will be in the bill. If the amendment is defeated striking the section, the text of the bill, as introduced, will be before the House, without the Stephens amendment.

The question is on the amendment.

Mr. ST GERMAIN. Mr. Speaker, I objected to the vote on the ground that a quorum was not present.

The SPEAKER. And a quorum was not present.

PARLIAMENTARY INQUIRY

Mr. STEPHENS. Mr. Speaker, a further parliamentary inquiry. If this is voted down, then should we not have an opportunity to consider my amendment?

The SPEAKER. The only way the amendment could be voted on would be a motion to recommit.

The question is on the amendment.

The gentleman from Rhode Island has objected to the vote on the ground that a quorum was not present and has made a point of order that a quorum was not present and the Chair announced that evidently a quorum was not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device; and there were—yeas 170, nays 202, answered "present" 34, not voting 23, as follows:

[Roll No. 16]

YEAS—170

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Baker
Bauman
Beard
Bell
Bergland
Blackburn
Bray
Breaux
Breckinridge
Broomfield
Brown, Ohio
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carter
Casey, Tex.
Cederberg
Clancy
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Culver
Daniel, Robert W., Jr.
Davis, Wis.
de la Garza
Denholm
Dennis
Derwinski

Devine
Dickinson
Downing
Duncan
du Pont
Erlenborn
Esch
Eshleman
Evins, Tenn.
Findley
Fisher
Flowers
Frenzel
Frey
Fulton
Goldwater
Gross
Gubser
Guyer
Hanrahan
Hansen, Idaho
Harsha
Hastings
Heckler, Mass.
Heinz
Hinshaw
Hogan
Holt
Horton
Hosmer
Hudnut
Hutchinson
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Tenn.
Ketchum
King
Kuykendall
Landgrebe
Latta
Lehman

Litton
Lujan
McClory
McCloskey
McCollister
McDade
McKinney
Macdonald
Madigan
Mahon
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Mezvinsky
Michel
Milford
Miller
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Mosher
Murphy, N.Y.
Natcher
Nelsen
Patten
Perkins
Peyser
Pickle
Poage
Powell, Ohio
Price, Tex.
Pritchard
Quie
Railsback
Rarick
Rhodes
Robinson, Va.
Roncalio, Wyo.
Rousselot

Roy
Runnels
Ruth
Sandman
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Spence

Staggers
Stanton, J. William
Stark
Steiger, Ariz.
Stubblefield
Symms
Taylor, Mo.
Teague
Thomson, Wis.
Thone
Towell, Nev.
Treen
Udall
Vander Jagt
Veysey

Waggonner
Wampler
Ware
White
Whitehurst
Widnall
Wiggins
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

NAYS—202

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Barrett
Bennett
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brinkley
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chamberlain
Chappell
Chisholm
Clark
Clay
Cochran
Collins, Ill.
Conyers
Corman
Cotter
Cronin
Daniels, Dominick V.
Danielson
Davis, Ga.
Delaney
Dellenback
Dellums
Dent
Diggs
Dingell
Donohue
Dorn
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Fascell
Flynt
Foley
Ford
Forsythe
Fountain
Fuqua
Gaydos
Gettys

Giaimo
Gilman
Ginn
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gude
Gunter
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hays
Hébert
Hechler, W. Va.
Helstoski
Henderson
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Kluczynski
Koch
Kyros
Landrum
Leggett
Lent
Long, Md.
Lott
McCormack
McFall
McKay
Madden
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Minish
Mitchell, Md.
Moakley
Montgomery
Moorhead, Pa.
Moss
Murphy, Ill.
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Patman

Pepper
Pettis
Podell
Preyer
Price, Ill.
Randall
Rangel
Reuss
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Smith, N.Y.
Snyder
Stanton, James V.
Steed
Steele
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson, N.J.
Thornton
Tiernan
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Whitten
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Yates
Yatron
Young, Ga.
Zablocki

ANSWERED "PRESENT"—34

Anderson, Calif.
Armstrong
Brooks
Camp
Clawson, Del
Cleveland
Collier
Edwards, Ala.
Daniel, Dan
Evans, Colo.
Flood

Frelinghuysen
Froehlich
Goodling
Gray
Grover
Hillis
Huber
Hunt
Jones, Okla.
Long, La.
McEwen
Minshall, Ohio

Morgan
O'Brien
Pike
Quillen
Rees
Regula
Rogers
Ruppe
Steiger, Wis.
Walsh
Winn

NOT VOTING—23

Ashbrook
Brasco
Broyhill, Va.
Clausen, Don H.
Davis, S.C.
Fish
Fraser

Gibbons
Haley
Jones, Ala.
McSpadden
Mailliard
Mathias, Calif.
Mills
Mink

Mollohan
Myers
Parris
Passman
Reid
Rooney, N.Y.
Steelman
Stuckey

So the amendment was rejected.

The Clerk announced the following pairs:

Mr. Passman with Mr. Stuckey.

Mr. Rooney of New York with Mr. McSpadden.

Mr. Brasco with Mr. Steelman.

Mr. Haley with Mr. Ashbrook.

Mr. Mollohan with Mr. Fish.

Mr. Reid with Mr. Mathias of California.

Mr. Fraser with Mr. Broyhill of Virginia.

Mr. Gibbons with Mr. Myers.

Mr. Jones of Alabama with Mr. Don H. Clausen.

Mrs. Mink with Mr. Parris.

Mr. Mills with Mr. Davis of South Carolina.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. BLACKBURN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BLACKBURN. Mr. Speaker, as I understand the procedure, with the defeat of the Wylie amendment in the Whole House, we have now before us the original bill, and the original bill did not contain the provision which would have permitted credit unions to share in such deposits.

Now, Mr. Speaker, am I correct in that? If the credit union provision was added by the committee, are we not now back to the original bill?

The SPEAKER. The Chair will state that the committee amendment on page 7 is no longer in the bill, as it was not reported from Committee of the Whole.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

MOTION TO RECOMMIT

Mr. BLACKBURN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BLACKBURN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BLACKBURN moves to recommit the bill H.R. 11221 to the Committee on Banking and Currency.

PARLIAMENTARY INQUIRY

Mr. STEPHENS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEPHENS. Mr. Speaker, is a straight motion to recommit amendable?

The SPEAKER. Not when the previous question is ordered. If the previous question is ordered, it is not amendable.

Mr. STEPHENS. In other words, in order to give me a chance, we will have to vote down the previous question.

The SPEAKER. Without objection, the previous question is ordered.

Mr. ASHLEY. Mr. Speaker, I object.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. BLACKBURN. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 259, answered "present" 24, not voting 24, as follows:

[Roll No. 17]

AYES—122

Abdnor
Alexander
Andrews, N. Dak.
Arends
Baker
Bauman
Beard
Bergland
Blackburn
Bray
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Carter
Casey, Tex.
Chamberlain
Clancy
Clawson, Del
Collins, Tex.
Conable
Conlan
Crane
Culver
Daniel, Robert W., Jr.
Davis, Wis.
Denholm
Dennis
Devine
Dickinson
Dingell
Duncan
Edwards, Ala.
Erlenborn
Esch
Evins, Tenn.
Findley
Fisher
Forsythe
Froehlich
Fulton
Goldwater
Goodling
Griffiths
Gross
Hanrahan
Hansen, Idaho
Harsha
Hastings
Hillis
Hinshaw
Holt
Horton
Hosmer
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Ketchum
King
Landgrebe
McClory
McCollister
Madigan
Mahon
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Mezvinsky
Michel
Milford
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Patten
Poage
Powell, Ohio
Price, Tex.
Pritchard
Railsback
Rarick
Rhodes
Robinson, Va.
Rousselot
Roy
Ruth
Satterfield
Scherle
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, Iowa
Snyder
Spence
Stark
Steiger, Ariz.
Stubblefield
Symms
Talcott
Taylor, Mo.
Teague
Towell, Nev.
Treen
Udall
Waggonner
Wampler
Wiggins
Wylie
Young, Fla.
Young, S.C.
Zion

NOES—259

Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Archer
Ashley
Aspin
Badillo
Bafalis
Barrett
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Breaux
Brinkley
Brotzman
Brown, Calif.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Mass.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Cederberg
Chappell
Chisholm
Clark
Clay
Cochran
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Daniels, Dominick V.
Danielson
Davis, Ga.
de la Garza
Delaney
Dellenback
Dellums
Dent
Derwinski
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Eshleman
Fascell
Flowers
Flynt
Foley
Ford
Fountain
Frey
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Pa.
Jordan
Karth
Kastenmeier
Kemp
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, Md.
Lott
Lujan
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Mallary
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Miller
Minish
Mink
Mitchell, Md.
Moakley
Montgomery
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Patman
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Podell
Preyer
Price, Ill.
Quie
Randall
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Shipley
Shoup
Sikes
Sisk
Slack
Smith, N.Y.
Staggers
Stanton, J. William
Steed
Steele
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zwach

ANSWERED "PRESENT"—24

Armstrong
Brooks
Camp
Cleveland
Collier
Daniel, Dan
Evans, Colo.
Flood
Frelinghuysen
Grover
Hays
Huber
Jones, Okla.
Long, La.
McEwen
Minshall, Ohio
Morgan
O'Brien
Quillen
Rogers
Ruppe
Steiger, Wis.
Walsh
Winn

NOT VOTING—24

Ashbrook
Brasco
Broyhill, Va.
Clausen, Don H.
Davis, S.C.
Fish
Fraser
Frenzel
Gibbons
Haley
Jones, Ala.
McSpadden
Mailliard
Mathias, Calif.
Mills
Mollohan
Myers
Parris
Passman
Reid
Rooney, N.Y.
Stanton, James V.
Steelman
Stuckey

So the previous question was not ordered.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Stuckey.

Mr. Passman with Mr. Gibbons.

Mr. Brasco with Mr. Fish.

Mr. Reid of New York with Mr. Don H. Clausen.

Mr. Haley with Mr. Frenzel.

Mr. Mollohan with Mr. Ashbrook.

Mr. Jones of Alabama with Mr. Mailliard.

Mr. Mills with Mr. Broyhill of Virginia.

Mr. McSpadden with Mr. Mathias of California.

Mr. James V. Stanton with Mr. Myers.

Mr. Davis of South Carolina with Mr. Parris.

Mr. Fraser with Mr. Steelman.

The result of the vote was announced as above recorded.

AMENDMENT TO THE MOTION TO RECOMMIT OFFERED BY MR. ASHLEY

Mr. ASHLEY. Mr. Speaker, I offer an amendment to the motion to recommit.

Mr. BROWN of Michigan. Mr. Speaker, at the appropriate time I wish to reserve a point of order to the amendment to the motion to recommit.

The SPEAKER. The Chair will protect the gentleman.

The Clerk will report the amendment to the motion to recommit.

The Clerk read as follows:

Amendment offered by Mr. ASHLEY to the motion to recommit offered by Mr. Blackburn: At the end of the motion, add the following instructions: With instructions to report back forthwith with the following amendment: On page 7, immediately after line 2, insert the following new subsection:

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "; and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits".

And on page 2, section (2) lines 16 through 25 be eliminated and on page 3, lines 1 through 10 be eliminated and that the following language be inserted in lieu thereof:

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in the District of Columbia; or

"(iv) an officers, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;"

And that on page 3, section (B), lines 13 through 17 be eliminated and the following language be inserted:

"(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets. Provided, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment to the motion to recommit be dispensed with.

Mr. ROUSSELOT. Mr. Speaker, I object. We have not seen this and we have no copy available and we have a right to see it. I object.

The SPEAKER. Objection is heard. The Clerk will continue to report the amendment.

The Clerk continued to read the amendment.

Mr. ASHLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. WYLIE. Mr. Speaker, I reserve the right to object. Will the gentleman take the opportunity to explain the amendment?

The SPEAKER. The gentleman from Ohio reserves the right to object.

Mr. ASHLEY. Mr. Speaker, let me say this by way of explanation.

Mr. BLACKBURN. Mr. Speaker, I reserve a point of order.

The SPEAKER. The gentleman from Georgia reserves a point of order.

Mr. ASHLEY. Mr. Speaker, my amendment to the motion to recommit would provide for the insertion of two amendments which were adopted under the 5-minute rule. The first was the committee amendment which simply makes it clear that the committee intended that credit unions be authorized to accept public funds.

The second amendment as adopted under the 5-minute rule was the Stephens amendment, which was overwhelmingly adopted, the provisions of which I am sure are known to the gentleman from Ohio; so that the purpose, I would say, of my motion to recommit is to provide for the two amendments that were adopted under the 5-minute rule I just alluded to.

Mr. WYLIE. Mr. Speaker, I have a further question. As I understand, this is the same Stephens amendment that was offered in the Committee of the Whole. The Stephens amendment, as I attempted to point out during the course of debate, really would have no effect on the 100 percent insurance of public funds provision which was included in the bill which came from the Committee on Banking and Currency, in that it would provide 100 percent insurance for time deposits and would not provide additional insurance for demand deposits; is that not correct?

Mr. ASHLEY. It is correct, of course, to the extent that the commercial lending institutions, the commercial banks, do offer both kinds of deposits. This cannot be said for savings and loan associations and other institutions. They simply do not have sufficient authority to offer it, as the gentleman knows, to offer demand deposits.

Mr. WYLIE. My amendment would have stricken out all of title I, which, simply stated, would have said that public funds would be insured to the same extent as private funds as they are now, to wit, $50,000.

This amendment would again say that deposits in savings and loan institutions, which are in effect time deposits, would all be insured to the extent of 100 percent.

It would also reinstate the differential in interest rates in favor of savings and loans. Would not there be a substantial shifting of public funds from the commercial banks to saving and loans? Is that not the purpose of the amendment?

Mr. ASHLEY. Mr. Speaker, I think the purpose of the amendment was explained by the gentleman from Georgia. I can only characterize it, as the gentleman has done, by saying that it does limit the guarantee of public funds to time deposits. That is the thrust of the amendment of the gentleman from Georgia.

Mr. WYLIE. Mr. Speaker, might not a public depositor or a finance officer of a municipality, say the city of Toledo, be under a legal obligation to transfer deposits, if any, from banks into savings and loans in order to get the one-quarter percent interest rate difference? Might not he be the subject of a lawsuit for violation of his public trust?

Mr. ASHLEY. Not to the best of my knowledge. I quite disagree with the gentleman on that, but I would say this, that the determination as to whether or not a differential is going to exist will be made by the regulatory agencies; not by this Congress, but by the judgments in some regulatory agency.

Mr. WYLIE. Mr. Speaker, I think this amendment makes the bill worse than the way it was reported from committee.

Mr. WILLIAMS. Mr. Speaker, I object, all this debate is out of order.

The SPEAKER. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment to the motion to recommit.

POINT OF ORDER

Mr. BLACKBURN. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. BLACKBURN. Mr. Speaker, as I understood the Clerk to read, the gentleman from Ohio is offering a new motion to recommit. A motion to recommit is now before the House which I offered.

As I understand the rules of the House, the gentleman can offer an amendment to the motion to recommit under the existing parliamentary situation, but he cannot offer his own motion to recommit.

Mr. Speaker, I object to his second motion being considered prior to my motion to recommit.

The SPEAKER. The parliamentary situation is that the gentleman from Ohio has offered an amendment to the motion to recommit.

Mr. BLACKBURN. Mr. Speaker, that is not what I thought the Clerk read. He did not say "amendment."

As I recall the language, it was "Committee of the Whole House."

The SPEAKER. The language before the House is an amendment to the motion to recommit offered by the gentleman from Georgia.

Mr. BLACKBURN. Mr. Speaker, I did not hear that. Nobody else heard it.

I would like to hear what the Clerk actually read.

The SPEAKER. Without objection, the Clerk will reread that portion of the amendment previously read.

The Clerk read as follows:

> An amendment to the motion to recommit, offered by Mr. ASHLEY of Ohio.

The SPEAKER. The gentleman from Michigan has reserved a point of order.

POINT OF ORDER

Mr. BROWN of Michigan. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. BROWN of Michigan. Mr. Speaker, I make the point of order on the amendment to the motion to recommit on the basis that the last part of the so-called Stephens amendment is not germane to the bill. The last part of the amendment to which I refer is entitled "B", beginning with, "The corporation may limit" and so forth. I say that the final language is not germane to the bill.

That language is as follows:

> *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

Mr. Speaker, since the bill deals basically with insuring of accounts and has nothing to do with pledging of collateral, it, therefore, is not germane to the bill.

PARLIAMENTARY INQUIRY

Mr. ASHLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. ASHLEY. Mr. Speaker, I wish to raise a parliamentary inquiry as to whether the point of order was raised by the gentleman from Michigan in a timely fashion.

The SPEAKER. The Chair will state that the gentleman from Michigan (Mr. BROWN) reserved a point of order earlier in the proceedings. The gentleman stated to the Chair that he intended to make a point of order.

Does the gentleman wish to be heard on the point of order? If not, the Chair is prepared to rule.

Does the gentleman from Georgia (Mr. STEPHENS) desire to be heard on the point of order?

Mr. STEPHENS. Yes, Mr. Speaker, I would like to be heard for a moment.

The SPEAKER. The gentleman from Georgia (Mr. STEPHENS) will be heard on the point of order.

Mr. STEPHENS. Mr. Speaker, I wish to state that the gentleman had not made a point of order on this matter in the committee when this first came up, and it is not timely now.

The SPEAKER. Does the gentleman from Michigan (Mr. BROWN) desire to be heard further on the point of order?

Mr. BROWN of Michigan. Mr. Speaker, in response to the gentleman from Georgia (Mr. STEPHENS) I will only say that the fact that the point of order was not raised against the amendment in the Committee of the Whole does not preclude me from offering one in connection with the motion to recommit.

The SPEAKER. The Chair will state that the point of order is timely and it appears clear to the Chair that the question of limitation of funds is in the first section of the bill; and the Chair, therefore, overrules the point of order.

Mr. ASHLEY. Mr. Speaker, I move the previous question on the amendment and on the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the amendment and on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the amendment to the motion to recommit.

The amendment to the motion to recommit was agreed to.

The SPEAKER. The question is on the motion to recommit, as amended.

The motion to recommit, as amended, was agreed to.

Mr. ST GERMAIN. Mr. Speaker, pursuant to the instructions of the House, I report the bill—H.R. 11221—back to the House with an amendment.

The Clerk read as follows:

On page 7, immediately after line 2, insert the following new subsection:

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "; and to receive from an officer, employee, or agent of those nonmember units of Federal State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits".

And on page 2, section (2), lines 16 through 25 be eliminated, and on page 3, lines 1 through 10 be eliminated and that the following language be inserted in lieu thereof:

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;"

And that on page 3, section (B), lines 13 through 17 be eliminated and the following language be inserted:

"(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets: *Provided, however,* That such limitations may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill

The question was taken; and the Speaker announced the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 282, nays 94, answered "present" 30, not voting 23, as follows:

[Roll No. 18]

YEAS—282

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Brinkley
Brotzman
Brown, Calif.
Broyhill, N.C.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton
Butler
Carey, N.Y.
Carney, Ohio
Chappell
Chisholm
Clancy
Clark
Clay
Cochran
Cohen
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, Wis.
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Eshleman
Fascell
Findley
Fisher
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gilman
Ginn
Grasso
Gray
Green, Oreg.
Green, Pa.
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Howard
Hudnut
Hungate
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jordan
Karth
Kastenmeier
Kemp
Ketchum
Kluczynski
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Long, Md.
Lott
Lujan
McClory
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Macdonald
Madden
Mallary
Mann
Maraziti
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Minish
Mink
Mitchell, Md.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Podell
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Schroeder
Seiberling
Sikes
Sisk
Slack
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Talcott
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wyman
Yates
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Young, Tex.
Zablocki
Zion

NAYS—94

Abdnor
Archer
Baker
Beard
Bergland
Blackburn
Breckinridge
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burleson, Tex.
Burlison, Mo.
Byron
Carter
Casey, Tex.
Cederberg
Chamberlain
Collins, Tex.
Crane
Culver
Daniel, Robert W., Jr.
de la Garza
Denholm
Devine
Dickinson
Dingell
Duncan
Erlenborn
Esch
Evins, Tenn.
Fulton
Goldwater
Gonzalez
Goodling
Griffiths
Gross
Hanrahan
Harsha
Hillis
Hosmer
Hutchinson
Jones, Tenn.
Kazen
King
Kuykendall
Landgrebe
Litton
McCollister
Madigan
Mahon
Martin, Nebr.
Martin, N.C.
Mezvinsky
Michel
Milford
Miller
Mitchell, N.Y.
Nelsen
Nichols
Pickle
Poage
Price, Tex.
Quie
Rarick
Robinson, Va.
Rousselot
Roy
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Skubitz
Smith, Iowa
Spence
Steiger, Ariz.
Stubblefield
Symms
Taylor, Mo.
Teague
Thone
Thornton
Towell, Nev.
Treen
Vander Jagt
Wampler
Wylie
Young, Fla.
Young, S.C.
Zwach

ANSWERED "PRESENT"—30

Armstrong
Brooks
Camp
Clawson, Del
Cleveland
Collier
Daniel, Dan
Edwards, Ala.
Evans, Colo.
Flood
Frelinghuysen
Grover
Huber
Hunt
Jones, Okla.
Long, La.
McEwen
Minshall, Ohio
Morgan
O'Brien
Pike
Quillen
Rees
Regula
Rogers
Smith, N.Y.
Steiger, Wis.
Walsh
Winn
Wydler

NOT VOTING—23

Brasco
Broyhill, Va.
Clausen, Don H.
Davis, S.C.
Fish
Fraser
Frenzel
Gibbons
Haley
Jones, Ala.
McSpadden
Mailliard
Mathias, Calif.
Mills
Mollohan
Myers
Parris
Passman
Reid
Rooney, N.Y.
Ruppe
Steelman
Stuckey

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Davis of South Carolina.

Mr. Passman with Mr. Gibbons.

Mr. Brasco with Mr. Don H. Clausen.

Mr. Reid with Mr. Frenzel.

Mr. Haley with Mr. Fish.

Mr. Mollohan with Mr. Fraser.

Mr. Jones of Alabama with Mr. Steelman.

Mr. Mills with Mr. Broyhill of Virginia.

Mr. McSpadden with Mr. Mathias of California.

Mr. Stuckey with Mr. Myers.

Mr. Ruppe with Mr. Parris.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 11221.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

LUCILLE DE SAINT ANDRE

Mr. WYLIE. Mr. Speaker, I ask unanimous consent for the immediate consideration of Private Calendar No. 90, the bill, H.R. 6477, for the relief of Lucille de Saint Andre.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lucille de Saint Andre shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon granting of permanent residence to such alien as provided in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding the provision of section 212(a)(12) of the Immigration and Nationality Act, Lucille de Saint Andre may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

THE UNINVASION OF THE RIGHT OF PRIVACY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, in January of 1973 President Nixon signed an executive order that authorized the deliverance of information from more than 3 million tax returns to an executive agency. Immediate action was taken by the House Subcommittee on Foreign Operations and Government Information to reverse this massive invasion of the rights of privacy of an entire class of Americans—the Nation's farmers. It was viewed as an extremely dangerous precedent to all other groups of citizens, of whatever occupation—teachers, doctors, businessmen, preachers, et cetera.

Today our subcommittee received a letter from the Commissioner of the Internal Revenue Service outlining his efforts to comply with the recommendations of the House report. I congratulate Donald C. Alexander, Commissioner of the Internal Revenue Service and submit a copy of his letter for the Record.

The letter is as follows:

Department of the Treasury,
Internal Revenue Service,
Washington, D.C., February 2, 1974.

Hon. William S. Moorhead,
Chairman, Foreign Operations and Government Information Subcommittee, Committee on Government Operations, Washington, D.C.

Dear Mr. Chairman: This is in further response to your letter dated November 30, 1973, asking what steps the Service intends to take, or has taken, to implement the recommendations on page 12 of the sixth report by the House Committee on Government Operations entitled "Information from Farmers' Income Tax Returns and Invasion of Privacy."

As you may recall, when I testified before the Foreign Operations and Government Information Subcommittee on August 3, 1973, I suggested that tax returns should be confidential and private except as otherwise clearly specified by Congress. My views have not changed in this regard and I have insisted that to the extent that sound reasons do not require the Service to open up tax returns to others, the Service should guard the taxpayer's right of privacy. The Service is consistently applying such a disclosure philosophy, and we are working toward the common goal of ensuring the confidentiality of Federal tax return data.

Following are the three recommendations of the Committee and our responses to them:

1. "For the purpose of statistical mail surveys, that the Internal Revenue Service provide to the Department of Agriculture only names, addresses, and taxpayer identification numbers. No personal financial data from farmers' income tax returns should be provided unless an individual citizen gives his voluntary informed consent in writing. Ideally, the farmer could provide this information directly to the Department of Agriculture."

This matter has been discussed with Department of Agriculture officials and we are hopeful that mutually acceptable arrangements can be made. In this regard, we are pursuing the recommendation to limit Agriculture's access to tax return information to a mailing list of names and addresses of farmers.

2. "That the Department of Agriculture, utilizing lists of persons having farm operations provided by the Internal Revenue Service, seek the voluntary informed consent of farmers in obtaining private financial information needed to design statistical mail surveys."

If we are successful in our efforts as mentioned in Recommendation 1, this would be a viable alternative for the Department of Agriculture to obtain tax data from the Service.

3. "That the appropriate Congressional Committees consider legislation amending Section 6103 of the Internal Revenue Code to make tax returns explicitly confidential, except as otherwise limited for tax administration, enforcement and other purposes approved by Congress."

Consistent with my testimony as indicated above, we support this recommendation by the Committee, and we will so advise the Treasury Department.

I am confident that we can arrive at a solution which will satisfy all parties having an interest in this matter, and at the same time provide such limited disclosures of tax data as may be absolutely necessary.

With kind regards,

Sincerely,

Donald C. Alexander.

VETERAN VALLEY JP PLANS TO STEP DOWN

(Mr. de la GARZA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. de la GARZA. Mr. Speaker, one of the grand citizens of the 15th Congressional District of Texas, has announced that after this year he will retire from the elective office of justice of the peace in precinct 5, Cameron County.

This was no ordinary announcement, neither to me personally nor to the people of the area he has served so well. Judge Joe E. Gerusa, a lifelong friend of mine and of my family, was first elected justice of the peace in 1916, taking office the following year. When he steps down he will have occupied this office for 57 years with only one brief absence to fill a position with Texas Old Age Commission.

The ties between the Gerusa's and my mother's family go back a long way. In the year that Joe Gerusa was first elected justice of the peace my grandfather, Leonard Villarreal, was urged by many citizens to seek the office. But he declined and gave his support to his friend, Joe Gerusa.

In announcing his coming retirement, Judge Gerusa said one outstanding advantage of his post was the opportunity it gave him to work with other people. And he has been magnificent in working with them, as many a citizen of south Texas can testify from personal experience.

In his statment that he will not file for reelection, Judge Gerusa said:

> Whether or not I am in public office, I will continue to work with the people—who are my friends—for whichever way I can serve for the betterment of the country.

The simple statement typifies Joe Gerusa's patriotism, spirit of public service, and feeling for human beings.

Many thousands of south Texans will join me in wishing for Judge Gerusa the best that life has to offer during his final year as justice of the peace and in the years to follow. He deserves no less than the best.

A story published in the Harlingen Star gives a brief account of the highlights of Judge Gerusa's career. I wish to insert it here.

Veteran Valley JP Plans To Step Down

(By C. M. Robinson)

Los Indios.—Joe E. Gerusa, Cameron County Pct. 5 justice of the peace since 1917, announced Friday he will not file for re-election in 1974.

"The reason is mostly my family," Gerusa said. "My wife is not in too good health, and she also feels I overwork myself. I have a lot of office work, mostly with arbitration," he added.

Gerusa said the arbitrations are mostly family arguments and problems with neighbors. He said if he kept record of them they would "go into the thousands and thousands. That's daily work," he pointed out.

The judge has kept records of other things, however, during his tenure he has performed 1,293 marriages, disposed of 161 felony cases and 4,125 misdemeanors, 33 civil cases, and held 179 inquests.

Other offices Gerusa holds include ex-officio notary public and registrar. In those capacities, he has registered 3,450 births, not including delayed certificates, and recorded 1,081 deaths from Oct. 1929 to the present.

Gerusa's precinct comprises the rural area around Los Indios. Rangerville and Santa Maria. He was first elected justice of the peace in 1916, taking office in 1917. He resigned in 1937 to accept a position as investigator for the Texas Old Age Commission for the Lower Valley and parts of Zapata County.

However, voters returned Gerusa to the JP's post the following year, so he resigned from the Old Age Commission. During the Second World War, he served two years as Selective Service investigator, in addition to his other duties.

Once out of office, Gerusa talked of visiting relatives out of the Valley. "You see, we have children in California and would like to see them" he said. "But I'm tied up here with court. So the last time I was elected, I promised my wife I wouldn't file again," he added.

Gerusa said one advantage of his post has been working with other people. "I enjoy working with people, and have had great cooperation from the people of this country," he said. "I do not have adequate words to express my appreciation to the people who have elected me all these years, and who have worked with me in Pct. 5, in Cameron County and throughout the U.S." he said.

Gerusa concluded, "I am in good health, capable still of doing my job." He also pointed out, "Whether or not I am in public office, I will continue to work with the people—who are my friends—for whichever way I can serve for the betterment of the country."

CALLING FOR A FULL AND COMPLETE INVESTIGATION AND STUDY OF SHORTAGES OF MATERIALS AND NATURAL RESOURCES

(Mr. HILLIS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HILLIS. Mr. Speaker, in the past year, all of us have been made aware of the fact that we are living in a shortage economy. The most apparent crisis at the moment is a shortage of energy. However, we all know of other shortages which have resulted in business failures, unemployment, and disatisfaction on the part of the consumer. A number of reliable reports predict crucial shortages in a large number of basic materials and services. We know the nature of a ripple effect when either energy or a basic material is unavailable and the inherent danger to the economy and the welfare of our citizens when such shortages occur.

The administration has expressed grave concern. Senator Mansfield in his recent state of the Union message expressed concern. However, to this date, the Congress has done nothing to prepare to deal with the disastrous force of shortages in any area other than energy. The Congress needs an instrument to keep track of changing situations and the interrelation of policies and programs. We have yet to recognize the fundamental planning we must undertake to meet our materials needs in the future.

I have introduced a resolution which calls for a select committee to conduct a full and complete investigation and study of shortages of materials and natural resources and reserves. Within the near future I plan to reintroduce this resolution. Yesterday I have sent a letter to each of you inviting you to join me in sponsoring this legislation. It is my hope that you will give this matter sincere and serious consideration.

The text of the resolution reads as follows:

H. Res. 750

Resolved, That there is hereby created a select committee to be composed of seven Members of the House of Representatives to be appointed by the Speaker, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the same manner in which the original appointment was made.

The committee is authorized and directed to conduct a full and complete investigation and study of shortages of materials and natural resources affecting the United States, including (1) causes, extent, and effects; (2) the adequacy of current machinery and procedures of the Congress and the executive branch pertaining to the solution of such problems; and (3) comprehensive measures to assure Federal support and assistance for the securement of materials and natural resources at home and abroad based on relative need in order to achieve an adequate supply, considering present and projected needs of the Nation.

For the purpose of carrying out this resolution the committee, or any subcommittee thereof authorized by the committee to hold hearings, is authorized to sit and act during the present Congress at such times and places as deemed advisable, whether the House is in session, has recessed, or has adjourned, to hold such hearings, and to request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary.

The committee shall report to the House as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable. Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

CALLING FOR A FULL AND COMPLETE INVESTIGATION AND STUDY OF SHORTAGES OF MATERIALS AND NATURAL RESOURCES

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the energy crisis has driven one point home above all—America needs a better mechanism to plan and administer scarcities as the world's thirst for resources expands.

In the November 19 issue of Newsweek magazine there was an article entitled "Running Out of Everything."

In the January 28 issue of Time, "Risky Race for Minerals" heads the economic and business section.

At a press conference on December 18, Secretary of Interior Morton warned of a pending shortage in material supplies.

Since 1900 our mineral consumption has increased by more than 400 percent. By comparison, our population has increased by 166 percent.

The National Committee on Materials Policy has reported that since 1909 the United States has imported more materials than it has exported. In fact, of 20 important minerals, the U.S. imports more than half of its consumption according to the mining and minerals policy report.

What is critical is that some of these minerals that we are importing have no ready substitute—such as chromium, manganese, platinum, strontium and tantalium.

While national stockpiling of strategic minerals reduces any immediate threat to the security of the Nation, by an embargo of cartels of producing nations, reduction of stockpiling to curb inflation pressures on the prices of domestic materials are, I am informed, being considered.

Undeniably, market forces will continue to play a major part in determining this mix of imports and domestic production. However, where costly and dangerous reliance on imported minerals appears, we must be prepared to reverse the trend.

What I and my distinguished colleague, Elwood Hillis, of Indiana, have proposed in House Resolution 750, which we will be reintroducing in the near future, is that a select committee be created to conduct a full and complete investigation and study of shortages of materials and natural resources affecting the United States.

In addition, I believe the committee should address itself to the determination of whether consumption patterns should continue to be determined principally by market forces; whether we should try to achieve domestic self-sufficiency in minerals or strive for new and cooperative efforts to reach international understandings to guarantee supplies; and whether a combination of these approaches would be possible.

The point is, we need to be more vigilant about the possibility of future shortages of materials and resources and we must try to minimize the impact of such shortages.

I urge my colleagues to join us in cosponsoring this legislation; and to my colleagues on the Rules Committee, I urge your prompt consideration of this bill.

LEGISLATION FOR SAN JUAN NATIONAL HISTORIC SITE AND VIRGIN ISLANDS NATIONAL PARK

(Mr. TAYLOR of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAYLOR of North Carolina. I take this time to advise the House that today I joined my colleagues from the Virgin Islands and Puerto Rico in cosponsoring legislation dealing with certain national park problems in their respective areas.

I should point out, Mr. Speaker, that the Delegate from the Virgin Islands (Mr. de Lugo) and the Resident Commissioner from Puerto Rico (Mr. Benitez), as well as representatives from the National Park Service, have been interested in having a delegation of the National

Parks Subcommittee visit these areas. At their request, two Members from each side of the aisle made the trip during the last recess.

As an outgrowth of our visit and review of the situation all of us returned to Washington impressed with the need for action to resolve some immediate problems at the San Juan National Historical Site and at the Virgin Islands National Park. We also looked at some potential areas which are being studied for possible future addition to the national park system.

During our visit, in addition to meeting with the Governors of Puerto Rico and the Virgin Islands, we visited the Bioluminescent Bay in Vieques, Puerto Rico; examined the serious erosion problems at the historic forts of the San Juan National Historic Site; visited the facilities and reviewed land acquisition needs at the Virgin Islands National Park and at other units of the National Park System in the Virgin Islands; and examined a potential park addition in the vicniity of Fountain Valley in St. Croix.

In short, Mr. Speaker, while this is a delightful place to visit, it was not unlike visiting other parts of the Nation. We spent a portion of our time meeting with government officials, reviewing existing programs, and visiting potential new areas. Some of these will have to wait for a final determination, but I expect to move forward on these two measures as expeditiously as possible.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I am pleased to join my colleague (Mr. Taylor), the chairman of the Subcommittee on National Parks and Recreation in cosponsoring these bills to provide for a study of the San Juan National Historic Site and to provide additional appropriation authority for the land acquisition needs at the Virgin Islands National Park.

During the recess period Mr. de Lugo—the Delegate from the Virgin Islands and a member of the Interior and Island Affairs Committee requested that the subcommittee make an on-the-spot review to ascertain firsthand the land acquisition needs at the Virgin Islands National Park. Later Dr. Benitez—the Resident Commissioner from Puerto Rico—requested that the subcommittee also stop in Puerto Rico and make an on-the-spot investigation of the serious erosion problems at the San Juan National Historic Site and the Bioluminescent Bay project.

These bills are a result of this field trip.

Mr. Speaker, our committee is called on to make field trips or hold hearings in practically every State in the Union. We try to accommodate our colleagues and their constituencies and I can assure you that an on spot investigation is worth more than committee hearings in Washington, but take it from the Member from the Plains of Kansas, do not make a field trip to the islands in January unless you plan to sleep on the beach or camp out, because the lodging rates are sky high and your per diem allowance provided by law is only a fraction of your actual costs.

INDEPENDENT TRUCKING SITUATION

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, techniques being used by some segments of the independent truckdrivers are deplorable and cannot be permitted to continue.

In my State of Alabama, I am informed by Col E. C. Dothard, director of the department of public safety that the situation there is getting progressively worse and that 12 trucks were fired on yesterday. We have a situation there where pickets are being thrown around the gasoline distributors' bulk tanks in Birmingham and threatening telephone calls are being made to gasoline distributors across the State to close down their operations.

Colonel Dothard tells me that Alabama State troopers are on a 24 hour, round the clock, patrol and the problem is growing more critical by the hour.

I am in sympathy with the independent truckers who have a tractor and trailer to pay for, and have families at home to care for, and who are being plagued by price gouging in the worst way as they travel the Nation's highways. It is their inherent right to protest and every level of elected government is working toward providing answers to the fuel crisis.

But, Mr. Speaker, I part company with any individual who by his own actions infringes on the rights of others to carry on their day-to-day operations and it is totally wrong that some of these truckers would block highways and would resort to rock throwing, shooting, and threatening the lives of those who transport this Nation's goods.

This morning I had a call from one of the major trucklines of my State who tell me that their drivers are fearful of further violence and that a real crisis is developing in the day-to-day operations of this truckline and similar trucking operations throughout Alabama and across this country. This company's drivers, under pressures from their families, who fear for their safety, are calling in sick and in other cases are resorting to driving in daylight hours only. Approximately 20 percent of this company's drivers are currently out and if this violence continues these figures are certain to increase.

Mr. Speaker, I call on the President to make it explicitly clear that this country will move with all speed to apprehend those who would intimidate, threaten, or impede the right of other drivers who elect to operate, and who must also earn a living for their families.

Our Government has moved before to quell demonstrations and riots where private property and where basic American freedoms are being violated. We cannot, we must not, allow such violence to continue, and I ask the President to move with all possible speed.

URBAN MASS TRANSPORTATION

The SPEAKER pro tempore (Mr. Mazzoli). Under a previous order of the House, the gentleman from New Jersey (Mr. Minish) is recognized for 60 minutes.

Mr. MINISH. Mr. Speaker, the first session of the 93d Congress took the lead in working for quality, economical urban mass transportation in the United States. In the second session, we have the opportunity to build upon the accomplishments of 1973.

On August 13, 1973, the Federal Aid Highway Act was signed into law, making available, for the first time, money for mass transportation from the highway trust fund. In addition, the bill authorized $3 billion in additional contract authority for the Urban Mass Transportation Administration for grants to finance 80 percent of the cost of mass transit capital projects. These latter provisions also contained legislation approved by the Subcommittee on Urban Mass Transportation.

For the first time ever, both Houses of Congress approved legislation in 1973 offering deficit-ridden urban mass transit companies Federal assistance for operating expenses to supplement revenues derived from fares and from existing State and local subsidy programs. The legislation, now in conference, authorizes $400 million in both fiscal 1974 and fiscal 1975 for operating aid to mass transit.

Mr. Speaker, it was encouraging to hear from the President in his state of the Union message that the administration has reversed itself completely and now supports a program of Federal operating aid, beginning in fiscal 1975, for mass transit. The Congress, I am sure, will give the administration's proposal expeditious consideration when all the details of it are received.

However, it cannot be left unsaid that, up to this point, the administration has opposed operating aid for mass transit every step of the way. If it were not for this steadfast opposition, we already would have a program of Federal subsidies for mass transit which could have done much to alleviate the present plight of our Nation.

As recently as 2 months ago, when the operating aid conference committee began its deliberations, both Secretary Brinegar of the Department of Transportation and Roy Ash of the Office of Management and Budget reiterated in strong terms the administration's unbending opposition to operating assistance for mass transportation systems.

Although it is gratifying that the administration finally has expressed its support for operating aid, nevertheless information available on the proposed program raises many questions as to the extent of the administration's commitment.

For one thing, the level of funding in the plan is totally inadequate in view of the needs of mass transit and in view of the country's present energy situation.

In fiscal 1975, for example, the administration proposes mass transit spending of $1.2 billion from general revenues and expects another $200 million will be made available from the highway trust fund at local option.

However, the American Transit Association estimates that the Nation will have to spend $2.5 billion annually on mass transit simply to cope with the present needs of major construction projects across the country. In addition, as a result of the energy crisis, there is a need for $1 billion in new money for operating aid and emergency equipment needs.

Furthermore, there is no new money involved in the administration's proposal for next year. As I stated, the Congress authorized an additional $3 billion last year for contract authority and little of that authorization has been obligated to date.

Moreover, it appears that the administration's formula for distributing funds that would be available for operations diverts the money away from those areas of the country with the largest investment in transit and the greatest pollution and energy problems.

The Wall Street Journal on January 21 reported that the administration-proposed bill would seek "to discourage attempts by cities to count on Federal funding for new rail systems." Any such provision is greatly disturbing to those of us who believe the development of all types of mass transit should be a high priority of the Federal Government.

All in all, Mr. Speaker, the administration's mass transit proposal is just too little and too late.

THE FOREIGN INVESTMENT IN AMERICAN CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 30 minutes.

Mr. GAYDOS. Mr. Speaker, Americans, who for many years have witnessed the flow of American capital to foreign countries to rebuild and develop foreign economies are now witnessing a dramatic event whereby foreign capital is now pouring into the American economy and transferring control of American businesses to non-American citizens. Since 1967, the number of American manufacturing establishments controlled by foreign interests has increased from 385 to in excess of 905.

I. INTRODUCTION

What is the reason for this recent development and what does it mean for the future of the American economy?

The cause appears to be a unique combination of circumstances where upwards of 80 billion American dollars held by foreign interests have combined with the recent dollar devaluations and the depressed state of our stock market to make foreign investment in domestic American corporations quite attractive.

If the problem involved only investment in American businesses then it could well be argued that the foreign investors were merely providing additional capital for the use of domestic American corporations to meet their future expansion needs. But this is not the picture as it appears to be developing. Instead, the foreign investors are attempting to obtain control of specific corporations, and are not just interested in creating diversified investment portfolios.

Because we are viewing a new development we do not at this time have sufficient experience to make a clear judgment as to whether this development will be to the best interests of Americans in the long run. Instead, it is necessary to evaluate the possible results of such substantial foreign control of American corporations based on the apparent motives of the foreign investors viewed against the background of current trends in the international economic picture.

At the outset, it is important to bear in mind that the recent development is substantially different from that where in the past American capital has been invested abroad. In those instances, American capital was greatly in demand by the developing and underdeveloped countries which lacked both capital as well as the expertise to create and develop an industrial economy. Absent such American capital these foreign countries could never have developed. Yes, I say never, because American foreign investment has been the necessary catalyst to help foreign countries revive their economies from the devastation of war, and additionally place those countries in a position where they can now aid other countries of the world.

But when we examine the present condition of foreign investors obtaining control of American corporations the question immediately arises as to what is the benefit of a mere change in the control of an existing domestic corporation? In passing, I should note that currently we are witnessing instances where foreign corporations are establishing American subsidiaries, such as Volvo in Virginia. At first blush it might be contended that such a condition means a plus for the American economy, in that plants will be constructed in America and operated by Americans. But while this type of situation should not be accepted without questioning, I am more concerned with the foreign takeover of existing American corporations.

II. TENDER-OFFER PROCEDURE

The tender-offer method of acquiring control of a corporation is a recent development in the securities industry. Basically, a tender-offer is where the stockholders are publicly solicited to offer their stock for sale to a person or corporation which intends to acquire sufficient stock to control the corporation. This is distinguished from a direct approach to the current officers and directors of the corporation. Accordingly, the tender-offer is usually a bolt out of the blue to the current management of the corporation. The hope of the group making the tender-offer is to convince the stockholders of the benefits of selling their stock, rather than trying to convince current management of the benefits of a sale of the company to the group. Of course, the current management has a very substantial interest in such a matter as it can well mean their replacement.

In 1968, the so-called Williams Act was passed requiring anyone making a tender-offer to make a full disclosure as to the identity of the parties involved, the source of the financing to consummate the transaction as well as the purpose of the acquisition. In 1970, the act was amended to provide that this information must be furnished to the SEC when more than 5 percent of the shares of a corporation was acquired, as compared to 10 percent under the 1968 law. The purpose of these laws is to make sure that the current stockholders of the corporation have complete information concerning the person or group seeking to purchase their shares.

The tender-offer procedure is used when the stock of a corporation is widely held by many individuals. On the other hand, where substantial blocks of stock are held by a few investors, then the takeover of a corporation is effectuated by the purchase of sufficient shares from a few investors. In any case, in the period since July 1, 1973, to date, there have been 27 instances where foreign investors have attempted to acquire control of domestic corporations through either a tender-offer or an acquisition.

There are four cases involving foreign tender-offers which clearly indicate the problems which can arise from foreign control of American industries.

First, the Roson Corp.

This is a domestic corporation which is engaged at various locations in the United States in the production of certain consumer products. Ronson also owns and operates a helicopter service, and is engaged in the production of aerospace products and rare earth products for industry. Additionally, Ronson conducts foreign operations.

On May 31, 1973, Liquifin, a company organized under the laws of Liechtenstein, made a tender-offer to purchase 52 percent of the shares of Ronson. The management of Ronson immediately undertook legal action to enjoin the consummation of the transaction, alleging that Liquifin did not make full disclosure as required by the SEC. Ronson was successful in obtaining a temportary injunction prohibiting the takeover, but on January 14, 1974 the court denied Ronson's request for a permanent injunction, thus presumably control of Ronson will now pass into the hands of foreign interests.

In reviewing the case, many disturbing facts come to light. It appears that Liquifin was a "front" for an Italian company called Liquigas, which presumably could not under Italian law, have made the acquisition directly. In following the labyrinthine path of the corporate relationship between Liquifin and Liquigas and many other paper corporations it was next to impossible to get a clear picture as to the true owners of Liquifin, other than the fact that it appeared that the Italian Government may end up holding a substantial interest in the Ronson Corp. The case points out the tremendous difference between the laws of Italy and the laws of the United

States on the regulation of securities. What does this mean to the residual American stockholders who will now own stock in an American corporation controlled by foreign interests?

During the proceedings it became quite apparent that the foreign organization was primarily interested in acquiring the Ronson trademark. What will this mean to American workers if the new foreign management should decide to close down the American operations and transfer their operations overseas?

Second, Texasgulf:

Texas Corp. engaged both in the United States and at other locations throughout the world, including Canada, in the extraction and processing of metals, potash, sulphur, fertilizers, oil and gas, Forest products, and various materials.

On July 24, 1973, CDC—Canadian Development Corp.—made a tender-offer to acquire approximately one-third of the outstanding shares of Texasgulf. The significant point here is that CDC is a Canadian corporation created pursuant to an act of Parliament of 1971 and all shares are owned by the Government of Canada. The object of CDC is to acquire the controlling interest in Texasgulf and then sell shares in CDC only to Canadian citizens. As such this is the first instance of implementation of the 1971 act. But it clearly indicates that the Canadian Government is pursuing a course of capturing control over foreign corporations which conduct operations in Canada.

What really complicates the matter in this case is the fact that for the last fiscal year more than 50 percent of the operating revenues of Texasgulf came from the company's Canadian operations.

In all candor, I must state that I can understand the position of the Canadian Government in wanting to obtain control of its economy. What does cause me concern here is the fact that in obtaining control of the Canadian operations CDC will also obtain control over the company's American operations.

As in the case of Ronson, Texasgulf also initiated legal action in an attempt to block the takeover, alleging among other things, that there was not full disclosure by CDC. The current management of Texasgulf was not successful, however, and it appears that control of Texasgulf will be in the hands of CDC initially and in the hands of only Canadian investors eventually.

The question immediately comes to mind as to what is the future of the American operations of Texasgulf. In view of the fact that the American operations of Texasgulf involve the extraction of raw materials which are or may become in short supply, we may see a situation develop where the national policy of the United States with regard to the use of raw materials and minerals is inconsistent with the corporate policy of Texasgulf as expressed through the Canadian management of CDC.

Third. Signal companies:

Signal is a Delaware corporation engaged in the extraction of oil and gas, the aircraft and aerospace industry, the manufacture and sale of trucks, the ownership of American President Lines, radio and television broadcasting, and real estate development.

On August 9, 1973, a consortium of Canadian, British, and French individuals and organizations made a tender-offer to purchase a substantial amount of Signal stock which added to the stock already held by members of the consortium would give it 9 to 11 percent of the voting stock of Signal, the remainder of whose shares were widely held by many individuals.

As in the case of the two previous cases, Signal initiated legal proceedings to block the consummation of the tender offer. It also was unsuccessful.

In the meanwhile, in an apparent attempt to short circuit the takeover, the current management of Signal, on January 28, 1974, sold its oil and gas business to a subsidiary of Burmah Oil Ltd., a British corporation engaged worldwide in the exploration, production, refining and marketing petroleum products.

At a time when the American consumer and American industry is enduring the pinch of the Arab oil boycott, I am very concerned to see the ownership of domestic oil sources bandied about in the international financial arena. If we are to become self-sufficient in energy as the President and others have suggested, it makes no sense to allow foreign interests to acquire the oil and gas business of Signal.

Fourth. Airco Inc.:

Airco, a New York corporation, is a leading domestic producer of oxygen, nitrogen, hydrogen, rare gases, ferroalloys, welding and cutting equipment, and is the largest domestic commercial distributor of helium.

In early November 1973, British Oxygen Co. made a tender offer to purchase approximately 26 percent of the outstanding shares of Airco. British Oxygen Co. is a British corporation which has extensive worldwide operations in manufacturing diversified products for industry including products comparable to many now produced for Airco.

During this same period Curtiss-Wright also made a tender offer for the stock of Airco. Legal action was brought against Curtiss-Wright which ended in Curtiss-Wright agreeing to withdraw and to sell the shares it has acquired to British Oxygen Co.

I am concerned as to the possible results of a takeover by British Oxygen Co. in view of the fact they are engaged in such extensive worldwide operations and in the same line of industrial products as is Airco. What if British Oxygen decides to close down its American operations, and produce at its other foreign locations? This could well mean unemployment for American workers. But in addition it could mean American industry would then be dependent on foreign production for the many products now produced by Airco domestically. Can we afford the risk of having industries engaged in production for national security become dependent on foreign sources for the indispensable products needed in their production?

III. EXISTING U.S. LAW RESTRICTING FOREIGN OWNERSHIP OF DOMESTIC U.S. BUSINESS

First, communications: All owners of radio stations must be American citizens.

Second, transportation: Only American corporations which have at least three-fourths stockownership by Americans can be licensed to operate domestic airlines.

Aliens are excluded from enterprises engaging in coastwise or fresh water shipping.

Third, atomic energy: Aliens may not obtain licenses to operation facilities for the utilization or production of atomic energy.

Fourth, restrictions of foreign countries on foreign investment:

Our neighbor to the north, Canada, has just enacted legislation, the impact of which is to provide for the review and assessment of acquisitions of control of Canadian business enterprises and of the establishment of new businesses in Canada by non-Canadians. Coupled with the 1971 act mentioned above which provides for government created corporations to capture control of foreign controlled Canadian corporations clearly indicates that the Canadian Government intends to become master of its economy.

Additionally, Australia which has currently laws seriously restricting foreign investment in its domestic economy has indicated it wants additional laws to "facilitate increased Australian ownership and control of our industries and national resources." These are the words of the Australian Prime Minister delivered in a speech at New York on August 1, 1973.

I could go on and enumerate the restrictive laws of many other countries on foreign investment, but it would merely be frosting on the cake. It is quite clear that there is a definite trend throughout the world for each nation to become master of its economy, preventing foreign control of its industries.

Can we stand by and say the rest of the world is wrong? I think the answer is clear, that we cannot afford to remain passive and allow other countries to become masters of their economies, and ours as well.

Not a week goes by but what we read about an American oil company which is faced with expropriation or relinquishment of control of its foreign operations.

The current energy crisis has, in my opinion, only intensified the need for restrictions on foreign investments to prevent foreign control of American corporations. If we do not take such steps we will be fair game for the countries which are deficient in natural resources. With the other nations of the world who possess these resources jealously guarding their domestic supplies, we would be an attractive target for the nations needing a source of raw materials.

Of even more concern, however, is the fact that tremendous amounts of capital will be flowing to the oil producing countries. On the one hand this will mean that many of our trading partners will have to curtail their purchases of American goods in order to accumulate sufficient capital to pay for the very costly oil needed for their domestic economy. But more significantly this, will lead to capital holdings by the oil producing countries greatly in excess of what is needed in their domestic economies. What is the logical outlet for this capital? The oil producing countries possess no superior technology which they can export along with their capital. It does not appear that these greedy nations are disposed to aid the underdeveloped nations.

Accordingly, the most attractive outlet for this capital is the American economy. This could lead to foreign takeovers of segments of the American economy. One shudders at the thought of the takeover of the domestic oil industry by nations which already have a stranglehold over the world's oil reserves. But with the tremendous amount of capital which will flow to the oil producing nations, such a takeover is indeed quite possible.

There are those individuals who have welcomed foreign investment in America as a solution to our balance-of-payments deficit. Now we see these same individuals enthusiastically extending their offer to the oil producing countries to invest in American economy. I wonder how our trading partners throughout the world who are forced to pay exhorbitant prices for oil will view our action in providing an outlet for capital which has been extorted from them by the oil producing countries?

Thus not only do we run the risk of having control of American corporations transferred to foreign interests, but at the same time, we may earn the reputation of assisting the oil producing countries in maintaining exhorbitant prices for oil sold to those countries which have no other source of supply.

The Foreign Investors Limitation Act which I have cosponsored with 13 of my colleagues has as its purpose the protection of: The national security of the United States; the protection of the national resources of the United States; the protection of the American worker from being displaced from his employment; and the protection of the American consumer from being exploited by exhorbitant prices for goods, prices which can be dictated by the national policy of foreign governments, such as we are currently experiencing with oil.

LETTERS ON LIMITING FOREIGN INVESTMENTS IN THIS COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Dent) is recognized for 15 minutes.

Mr. DENT. Mr. Speaker, since introducing my bill to limit foreign investments in this country, I have seen the interest in the subject of foreign investment in the United States become more pronounced. My mail relative to the bill is heavy, and I expect that the gentleman from Iowa (Mr. Culver), who has begun hearings on the matter, and the gentleman from California (Mr. Moss), who has assented to hearings in the near future, both find themselves in similar situations.

Some of my most informative mail comes from stockholders who have in one way or another participated in foreign takeovers of American firms. Their letters serve to illustrate one of the problems of foreign investment in this country. The letters are self explanatory and for the Record, I would like to submit two—one describes a situation involving the Brown and Williamson takeover of Gimbel Brothers, Inc.; the other details the Trust Houses Forte, Ltd. takeover of Travelodge International, Inc.

The letters follow:

Chicago, Ill., *January 23, 1974.*

Hon. John Dent,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Dent: I have read an account of your bill to regulate foreign ownership of our American corporations. Foreign governments have been regulating our investments abroad for years.

The English company of Trust Houses Forte, Limited, have taken over the "Travelodge International, Inc." Their campaign was engineered by offering $11.50 when the stock was $5.50 per share. Since the stock was $25.00 a year ago, I refused to sell, even though I purchased 300 shares for an average of $6.00. I did this as an investment, not for speculation. We were deluged with mail and phone calls from brokers. The broker admitted he would receive 40 cents per share commission or $120.00 if I agreed to sell. Of course I would have made a 40% profit as I had only held this stock for about 8 months.

They warned me I had better sell as the stock would plummet after the offer and carefully suggested there would be nothing in it if I refused to sell.

Obviously they control the whole bag now and I do have the short end of the stick. Their last report, which I enclose can indicate motels have come upon hard times or they are siphoning the profits out in some way to squeeze out the 28% remaining stockholders.

Your legislation should provide proper protection for the American stockholder so that they cannot be overcome by the Ugly Foreigner.

Very truly yours,

Florence B. Ackerman.

N. Huntington, Pa., *January 3, 1974.*

Congressman J. H. Dent,
Greensburg, Pa.

Dear Sir: I was pleased to receive your "Washington Report." I have been following your progress in the constructive legislation regarding, pensions, conservation, control of Amer. industry & business by foreign interests, etc.

I wish to call to your attention a personal experience I have had regarding the latter. I have been a stock holder in Gimbels Inc. for nearly 40 yrs., this past year a British co., Brown & Williamson, bought control of Gimbels and set themselves up as sole stock holders thus forcing all American interest out of the company, which will still remain in business as Gimbels Inc.

I wrote to Gimbels Inc. pointing out that the company would still seem to American owned to most of the public, and as it wasn't, American interests would not be served.

Then too, American stock holders under this arrangement have to liquidate their holdings and are forced to assume tax liabilities, which like myself they are not willing or ready to, until they decide to sell of their own free will.

I am enclosing the reply from Mr. S. E. Gilinsky representing Gimbels Inc. I was audacious enough to suggest they pay my taxes if they were going to force me out of the company.

Respectfully,

Horace L. Thompson.

P.S.—I even suggested that I would write to the Justice Dept. in protest, which I would still like to do—do you know who I should write to?

Gimbel Brothers, Inc.,
New York, N.Y., November 27, 1973.

Mr. Horace T. Thompson,
Irwin, Pa.

Dear Mr. Thompson: Your thoughtful letter dated November 11, 1973 has been brought to my attention. We can understand your disappointment at the turn of events. However, there is always the problem of balancing the equities at any time between those required to pay a capital gains tax and those who may incur a loss as is the case with several shareholders. In any event, it is not appropriate or proper for Gimbels to assume a tax liability which is your individual responsibility.

Your decision as to whether or not to write a letter of protest to the Justice Department is, of course, a personal matter. You may be interested to know that the New York Times in an editorial praised the Gimbel purchase as a welcome revenue of the trend of United States companies' investments abroad.

We can clarify one point in your letter. Gimbels is still doing business and is the surviving corporation upon the merger. There is, however, now only one shareholder of Gimbels and therefore your comment concerning the interest of major shareholders in the new company does not apply to the present situation.

Again, thank you for your letter and your interest in Gimbels.

Sincerely yours,

Stanley E. Gilinsky,
Secretary.

METRO AND IMPROVEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Crane) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, 1 year ago when the four privately owned transit systems in the Washington area were combined under the control of Metro, bus riders were treated to one page leaflets which told them of better things to come.

The buses, the riders were told, would soon be getting cleaner, maintenance would improve, telephone information services would get better and 620 buses would arrive by late summer.

During the past year, readers of the Washington Post were able to follow the progress of Metro, through the excellent reporting of Jack Eisen. The Post reported that some Metro employees expressed the view that maintenance in Virginia was better under private management. Eisen told us how it was impossible to buy a system map and many times next to impossible to get the necessary information about how to use the system through any means.

Most importantly, we were told, in an ever unfolding story, which matched the daytime television soap operas, how the bus system, which didn't cost the taxpayers a dime a year ago, is now running up a deficit projected at $35 million. It has taken some cities years to achieve what Washington has accomplished in a few short months. By the way, that $35 million will, I predict, go much higher when certain wage boosts and still higher fuel costs are calculated.

Now Mr. Eisen has covered a public hearing on the assignment of those new buses which were supposed to be in service by late summer, but which are still nowhere in sight.

The public, which was supposed to benefit by the "Metrobus era," it seems, is not pleased. The reactions of those who testified were highlighted by one lifelong resident of the area who said:

> If Metrobus operations were 25 percent as good as its public relations, we'd be in good shape. In one year's time all we have is a D.C. Transit type of operation without O. Roy Chalk. At least Mr. Chalk was colorful.

There you have it. One year and the only real point you can make about the glories of Government ownership is that the taxpayers are taking a real beating, and getting poor service in return.

In the leaflet I mentioned earlier, in an effort to be cute, Metrobus stated:

> As a baggy-pants comedian once noted, we promise to give you faster service no matter how long it takes.

Well, Mr. Speaker, the huge deficit, combined with no significant improvements in service, is no joke.

The fortunes of "Metro" are all the more disturbing because, in my view, they can be traced directly to a decision by the Metro board which directed its inexperienced staff to operate the system rather than to hire a private management consortium.

The two major private management firms in the Nation had attempted to get consideration for their plan to manage the system here. They never got a fair hearing. Private management was dismissed, as if it were somehow related to the private owners of the systems which had operated the system here for years.

Yet, in cities all across the Nation, such as nearby Baltimore, and Minneapolis/St. Paul and Denver and Miami and San Diego, government-owned systems are run efficiently by private management companies.

I want to make it clear that I am not suggesting that anyone could operate the system here at a profit. I understand that a deficit is going to occur unless the system were operated solely on a free market basis, in which case service would not be offered at times and to places where local politics says it must be offered. But where private management systems have taken over large systems, the wild escalation of deficits has not occurred as it has in Washington, but more importantly, service has improved almost immediately and ridership has increased steadily, and in some cases dramatically.

I hold no brief for any one management firm. It is time, however, to revive the issue of private management to operate the Washington system. As a member of the Mass Transit Subcommittee of the Banking Committee, I expect to introduce legislation toward that end.

Washington ought to be a model system for the rest of the Nation. Instead, Metro is a disgrace.

The time has come for some direct action to rectify this outrageous situation. Private management may not be the total answer, but it is working elsewhere and there is no reason it cannot work here.

I would like to insert into the RECORD the following article from the Washington Post, entitled "Overloaded Buses Scored in Fairfax."

OVERLOADED BUSES SCORED IN FAIRFAX

(By Jack Eisen)

Some residents of Fairfax County complained to area transit officials last night of severely overcrowded buses that often leave them standing in frustration on street corners while trying to get to and from work.

Their testimony before a standing-room crowd of nearly 200 in the Fairfax City Hall was an unintended rebuttal to testimony by witnesses at a similar hearing Wednesday night in Arlington.

Several citizens claimed at that hearing that Arlington is being short-changed in the assignment of new buses in favor of added service to Fairfax County, especially along Shirley Highway.

Metro transit officials are considering the assignment of the first 100 of 620 new buses this spring to routes in Washington and the suburbs. Virginia is slated to get 27.

"Buses are crowded beyond any standard of safety or comfort," declared Bernhard Larsen, a Fairfax resident.

"We're not just asking that people get a seat. We're just asking that people get on the bus," declared Alice Herrington, whose testimony drew applause.

At the Arlington hearing, attended by about 40 people, John F. O'Neill, a member of the county's transportation commission, declared: "As far as Arlington is concerned, it (the assignment of five buses in all of the area north of Columbia Pike) is nothing more than tokenism."

O'Neill, a lifelong resident of the Washington area who said he has ridden public transit since childhood, also claimed that Metro has done little in a year of bus operation to improve service for its Virginia riders.

"If Metrobus operations were 25 per cent as good as its public relations, we'd be in good shape," O'Neill declared. "In one year's time all we have is a D.C. Transit type of operation without O. Roy Chalk. At least Mr. Chalk was colorful."

Chalk was the president of the D.C. Transit System, which was taken over by Metro along with its Arlington-based subsidiary, the WV&M Coach Co., on Jan. 14, 1973. Two weeks later Metro acquired the Alexandria-based AB&W Transit Co. and the WMA Transit Co. in suburban Maryland.

Metrobus service drew few such broad criticisms last night in Fairfax. Most witnesses simply called for more buses, although some residents of Fairfax City said they would prefer to keep the Trailways service into Washington that is slated for abandonment and replacement by Metro.

The Fairfax hearing was the best attended of five sessions held in D.C., Maryland and Virginia during the past two weeks. The Metro staff and later the board will make their decisions within the next two months in cooperation with the Northern Virginia Transportation Commission.

Metro got criticism, some praise and suggestions from witnesses at the Wednesday hearing. It also heard a warning from Joseph S. Wholey, the new chairman of the Arlington County Board, that subsidies for rising Metrobus deficits depend upon greatly improved service.

Fred Hill, a resident of the Rosemont district of Alexandria, complained that a bus takes an hour or more to get six miles to downtown Washington. "The (routes) 13, 14 and 15 go through the whole world now—or at least the Pentagon," Hill said.

Barbara M. Sherrill, transportation chairman of the League of Women Voters of the National Capital Area, called on Metro to improve its public information services.

"Another incentive for bus ridership would be the reinstatement of the weekly pass," Mrs. Sherrill said, referring to a fixed-price ticket for unlimited D.C. bus and streetcar riding that was abolished in the early 1950s. "We urge you (also) . . . to reduce the fares for everyone," she said.

THE URBAN TRANSPORT DATA ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 30 minutes.

Mr. FRENZEL. Mr. Speaker, on January 30, I introduced a bill designed to correct a grave and persistent, pervasive, and costly defect underlying Federal and other governmental efforts to improve transportation and mobility for all citizens in our cities and rural communities.

Since 1965, the Federal Government has spent $2½ billion on assistance to urban mass transportation. Additional billions of Federal funds have gone to urban highways and freeways. State and local governments have contributed massive sums in recent years to urban transit capital and operating costs assistance, with funds generated from special State and local taxes as well as bond sales.

What has the taxpayer gained in return for these lavish outlays of public moneys? Certainly not much in terms of improved mobility and safety, in improved access to opportunities in cities and rural communities. Congestion and pollution still prevail, together with high accident rates and wasteful use of energy resources. Despite the good intentions of Federal, State, and local programs of assistance to urban transportation, and the increasing financial sums authorized by Congress and local governments, the efforts have in general floundered, and deficits of transit operations continue to increase. The results have been, to say the least, disappointing.

Part of the unsatisfactory record of accomplishment can be laid to fragmented administration and uncoordinated policy. A fundamental cause, however, of the lack of progress of Federal, State and local governmental efforts to improve urban and rural mobility is the lack of any generally accepted objective, consistent, and comparable data and measures which reveal the present status and performance of urban transport systems and services. Some aggregate data concerning urban transportation are presently reported, but the collection efforts are fragmented, uncoordinated and incomplete. The figures reported are not comparable across cities or transit companies, nor are they in a form useful to governmental policy formulation or appropriation decisions. Even the extensive series of metropolitan area transportation studies required by the 1962 Federal-aid Highway Act—

large-scale undertakings costing perhaps $30 million per year over a 10-year period—they too provide little consistent, comparable data for all modes of urban transport which are useful in government policymaking and appropriations decisions.

In a 1971 report, 10 years after Federal assistance to urban mass transportation first began, the Department of Transportation stated that no comprehensive and consistent financial and operating statistics for the urban transit industry presently exist. Almost all of the hundreds of research reports on urban transit problems purchased by the DOT and the UMTA qualify their conclusions and recommendations with complaints of inadequate, incomplete, and inconsistent data on urban transportation conditions and trends.

The extent of ignorance goes beyond lack of reliable information about transit systems and related services, however. Last fall, at a conference sponsored by the National Science Foundation and San Francisco Bay area governments, and attended by elected officials as well as representatives from transit operating agencies and researchers, it was noted that methods and data to identify and measure performance of urban transportation are lacking. The conference also noted the need for an objective and "honest" approach to information regarding public transit, to counter what they perceived to be of distrust of government claims and programs in urban transport.

Clearly, administration of government assistance programs for urban transportation has been hindered by a lack of precise information about the condition of mobility for all citizens in urban areas, and from inability to assess accurately the actual effects programs expenditures have in changing performance of urban transport systems and services. Without valid data to establish benchmark conditions, accurate assessments of changes in trends across cities and through time, and wise allocations of funds, are not possible.

Neither Congress nor any executive branch agency, nor State or local governments, now has reliable, complete and objective data to reveal what effects present and future expenditures have in improving urban mobility. Gross aggregates of total transit patronage and operating deficits, of perhaps dubious validity, are of course available annually, as are aggregate statistics on automobile usage.

Such aggregate numbers are too broad, however, to reveal in detail effects of specific programs and expenditures. Reliable and comparable figures for the taxicab industry, a most important component of urban transport services, are not consistently available in useful form. Operational and financial data are lacking for other forms of urban transport and for urban goods movement, as well.

Such figures as are published do not reveal essential information about relative costs and returns on investment in the different modes of urban transport systems and services, nor the varying impacts alternative investments might have in improving conditions of urban mobility. Lack of adequate data on performance of existing systems and services not only fails to reveal evidence of unsound or wasteful expenditure, but also tends to obfuscate promising opportunities for new technologies and operational concepts in urban transport, and to delay substantial and desirable departures from conventional, and often outmoded concepts.

When total appropriations for urban transport assistance were small, lack of data and information to inform decisions for effective expenditures was perhaps not so critical a problem. Now the President has recommended a program level of $2.5 billion in fiscal year 1975 for Federal urban transportation assistance, with total a 6-year program intimated to approach $16 billion. Moreover, choices on how the Federal funds made available will ultimately be allocated among highway or transit capital investments and operating costs are to rest largely with the State and cities. What criteria are they to use in selecting among transportation systems and services? What assurances exist that valid, consistent data will be available to inform such choices? The lack of basic data, and the absence of a governmental mechanism for identifying, collecting, analyzing and reporting statistics in a timely fashion on the performance of urban transport systems and services and the results of Government expenditures now becomes a crucial deficiency, if the most effective use of public funds is to be achieved.

My bill, the Urban Transport Data Act of 1974, addresses these problems directly. It will provide the necessary and now lacking data and information for realizing national policy objectives of urban transport improvement. The bill would establish a new agency, the Urban Transport Data Board. The Board would be located within the Department of Transportation to secure administrative efficiency and economy, and policy coordination, yet would have an independent status separate from the transport promotional responsibilities of the Department to insure absolute objectivity and credibility of its statistics and reports.

The Board would be responsible for formulating consistent, useful performance measures and systems of accounts to be used in reporting by all urban transportation agencies and properties, public and private, above a certain size. These continuing and comparable data reports would be collected, analyzed and reported by the Board, together with supporting and informative analyses, and would be available to inform policy and administrative decisions by Federal, State and local agencies, as well as assist oversight and appropriations activities in the Congress.

The Board would have no regulatory powers over local urban transport systems and services nor would its activities replace or duplicate research and policy studies now conducted by other units in the DOT or elsewhere, The Board would collect and report the facts; other users of those facts could then guide their activities accordingly.

The three-member Board would have one member representative of the mass transit industry, another representative of automotive transport and highways, and a third representative of the general public. All of its hearings, reports, and other activities would be public.

Federal efforts to assist urban mass transportation are continually plagued by a lack of information which accurately portrays the depth, scope and complexity of urban mobility problems. In recent years, appropriations have been more generous, and they should continue to increase. But until we get far better fix on the actual dimensions of the problem, both UMTA and the Congress will be crippled in our efforts to solve urban transportation problems.

Information of the type that this bill would provide will of course not insure quick and easy solutions to what is obviously a set of very difficult and complex problems. But at least we will begin to direct our multi-billion dollar urban transportation programs against real problems which now we only vaguely comprehend.

Mr. Speaker, the text of the bill follows:

H.R. 12398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Urban Transport Data Act of 1974".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds—

(1) that Federal policy and programs supporting urban transport systems and services must be factually informed and continuously reviewed in order to insure that they address the fundamental causes of urban transport problems and not merely their symptoms;

(2) that increasing commitments by Federal, State, and local governments for financial assistance to and capital investments in urban transportation systems and services require comprehensive, objective, comparable, and reliable operating and financial data and information about such systems and services, and their impact on urban areas, in order to insure the best use of public funds;

(3) that timely and continuing reports of such data and information would greatly aid efforts to monitor and assess the effects on urban mobility for all citizens of Federal, State, and local financial assistance programs for urban transportation systems and services;

(4) that no standard, reliable, continuing and comparable measures of performance and safety or urban transport systems and services currently exist in forms useful for informing policy and appropriation decisions; and

(5) that no uniform, comprehensive, and comparable operating, safety, and financial data reporting systems currently exist either for the urban mass transit industry or for taxicab and other urban transport services.

(b) The purposes of this Act are to provide for the identification, collection, analysis, and reporting of comprehensive, comparable, objective, and reliable data and information about the current status and changing trends of mobility in urban areas, and the operating and financial conditions of urban passenger and freight properties and carriers, in order to assist Federal, State, and local governments to—

(1) determine adequate quality, safety, and quantity of all urban transport systems and services in urban areas;

(2) support Federal, State, and local evaluations of the efficient performance of urban transport operations and services;

(3) provide information by which urban transport properties can comparatively analyze and evaluate their own operations and procedures; and

(4) provide factual information to assist governments in deciding allocations of public funds for assisting urban transport systems and services.

ESTABLISHMENT OF URBAN TRANSPORT DATA BOARD

SEC. 3. (a) There is hereby established within the Department of Transportation an Urban Transport Data Board (hereinafter referred to as the "Board"), consisting of three members appointed by the President, by and with the advice and consent of the Senate.

(b) (1) Members of the Board shall be appointed with due regard to their fitness for the efficient dispatch of the functions, powers, and duties vested in and imposed upon the Board, and to their qualifications to serve by virtue of their education or experience.

(2) One member shall have experience in and be representative of urban mass transportation operations; one member shall have had experience in and be representative of urban highway or automotive transport systems; and one member shall have had education or experience in urban transportation generally and be representative of the general public. No more than two members of the Board shall be of the same political party.

(3) No person who is in the employ of or holds any official relation to any State or local public body or public or private urban transport service, company, or property subject to the provisions of this Act, or who owns any stock or bonds of any such service, company, or property or of any urban transport equipment manufacturing or road or rail planning, engineering, or construction company, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold office as a Board member. At least one of the Board members at any time shall be an individual who (prior to his appointment) was not an employee of and did not derive a substantial portion of his income from any business, corporation, governmental agency, or other entity deriving a principal portion of its income or revenue from transportation planning, operations, or regulation. Board members shall not engage in any other business, vocation, or employment.

(c) (1) Members of the Board shall be appointed for terms of seven years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and (B) the three members first appointed shall serve for terms (designated by the President at the time of appointment) ending respectively on the last day of the third, fifth, and seventh calendar years beginning after the year in which this Act is enacted.

(2) Upon expiration of his term of office, a member shall continue to serve until his successor is appointed and has qualified. No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. If no vacancies exist, two of the members shall constitute a quorum of the Board. Members may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(d) (1) The President shall designate the Chairman at the time of his appointment to the Board. The Chairman shall be the chief executive and administrative officer of the Board and shall exercise the responsibility of the Board with respect to (A) the appointment, promotion, and supervision of personnel employed by the Board, (B) the distribution of business among such personnel and among administrative units under the Board, and (C) the use and expenditure of funds. In executing and administering the functions of the Board on its behalf, the Chairman shall be governed by the general policies and administrative procedures of the Board and by its decisions, findings, and determinations.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board. The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any of his functions under paragraph (1), subject to approval of the Board.

(3) In the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman, the Board member with the longest time in service on the Board shall serve as Acting Chairman, and shall exercise all of the powers and responsibilities of the Chairman until a new Chairman is appointed and has qualified.

AUTHORITY AND DUTIES OF THE BOARD

SEC. 4. (a) (1) The Board is authorized to establish such rules, regulations, and procedures as are necessary to the exercise of its functions and to carry out the purposes for which it is created.

(2) In the exercise of its functions, powers, and duties, the Board shall make special efforts to establish rules and procedures to insure factual accuracy, timeliness and objectivity in identifying, collecting, and reporting data and information, and shall be independent of the Secretary and other offices and officers of the department and other executive agencies in all such data identification, collection, and reporting.

(3) The Board may delegate to any officer or official of the Board or, with the approval of the Secretary, to any officer or official of the Department, such of its functions as it may deem appropriate.

(b) (1) The Board is authorized to require annual, periodic, or special reports (A) from properties (as defined in section 6(6)) which are engaged in the provision of intraurban area transport services, and (B) from local public bodies (as defined in section 6(2)) which are responsible for regulating or otherwise supervising such properties. The Board is authorized to prescribe the manner and form in which such reports shall be made, and to require from such properties and public bodies specific and full, true, and correct answers to all questions upon which the Board may deem information to be necessary, classifying such properties and bodies as it may deem proper for any of these purposes. Each such annual report shall give an account of the affairs of the property or body involved with respect to its urban transport services and operations, including the movement of passengers and freight and the receipt and expenditure of moneys, in such form and detail as may be prescribed by the Board.

(2) The Board may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this Act, prescribe a uniform system of accounts and records applicable to any class of property or body subject thereto, and a period of time within which such class shall have such uniform system of accounts and records and the manner in which such accounts and records shall be kept.

(3) The Board or any duly authorized special agent, accountant, or examiner thereof shall at all times have authority to inspect and copy any and all accounts, books, records, memorandums, correspondence, and other documents, of properties and public bodies described in paragraph (1), and such accounts, books, records, memorandums, correspondence, and other documents of any person or agency controlling or controlled by any such property or body as the Board deems relevant to such person's or agency's relation to a transaction with such property or body.

(4) In carrying out its functions, the Board (or, upon the authorization of the Board, any member thereof, or any hearing examiner assigned to or employed by the Board) shall have the same powers as are vested in the Secretary to hold hearings, assign and issue subpenas, administer oaths, examine witnesses, and receive testimony at any place in the United States it may designate.

(5) The Board is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department and of other civilian or military agencies and instrumentalities in the establishment and use of the services, equipment, and facilities of the Board. The Board is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

(6) Periodic or special reports or information duly required by the Board under the provisions of this Act shall be submitted under oath. In case of failure or refusal on the part of any property or local public body to keep accounts and records in the form and manner prescribed and to provide reports or information duly required by the Board, such property or public body shall forfeit to the United States not to exceed $5,000 for each such failure or refusal and for each day during which such failure or refusal continues. Any person who shall knowingly and willfully make, cause to be made, or participate in the making of any false entry in any account, report, or record required by the Board under this Act or shall knowingly or willfully file with the Board any false report or other document, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than $5,000 or imprisonment for not more than two years, or both such fine and imprisonment.

(c) (1) The Board shall report to the Congress annually on the conduct of its functions under this Act and the effectiveness of its data identification, collection, analysis, and reporting procedures, together with such recommendations for legislation as it may deem appropriate.

(2) Except as otherwise provided by law, the Board shall make public all reports, orders, decisions, rules, and regulations issued by it on the status and performance of urban transport systems and services. The Board shall also make public every recommendation made to the Secretary or any other officer of the Department and every special study conducted by or for the Board.

(3) The Board is authorized, upon the written request of any person, or any State, territory, possession, or political subdivision thereof, to make special statistical studies relating to foreign or domestc urban transportation, to prepare from its records special statistical compilations, and to furnish transcripts of its studies, tables, and other records upon the payment of the actual cost of such work by the person or body requesting it.

(d) None of the provisions of this Act shall be construed to authorize the Board to regulate in any manner the operation of any urban transport service or system, but nothing in this subsection shall prevent the Board from taking such actions as may be necessary to require compliance by the properties or local public bodies involved with duly authorized undertaking by the Board.

ADMINISTRATIVE PROVISIONS

SEC. 5 (a) Subject to the civil service and classification provisions of title 5, United States Code, the Board is authorized to establish administrative procedures to guide the Chairman in selecting, appointing, employing, and fixing the compensation of such officers and employees, including accountants, attorneys, and hearing examiners, as shall be necessary to carry out its powers and duties under this Act.

(b) The Board is authorized to appoint, without regard to the civil service provisions of title 5, United States Code, such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Board in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Board, may be paid compensation at rates not exceeding those authorized for individuals under section 9 of the Department of Transportation Act, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(c) The Board is authorized to enter into contracts with educational institutions, and with public or private agencies or organizations or persons, for the conduct of research and preparation of monographs or reports on any aspect of problems related to the functions of the Board.

(d) (1) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(60) Chairman, Urban Transport Data Board."

(2) Section 5315 of such title 5 is amended by adding at the end thereof the following new paragraph:

"(98) Members, Urban Transport Data Board (2)".

DEFINITIONS

SEC. 6. As used in this Act—

(1) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States;

(2) the term "local public body" includes municipalities and the political subdivisions of States, public agencies and instrumentalities of one or more States, municipalities, and political subdivisions of divisions of States, and public corporations, boards, and commissions established under the laws of any State, concerned with planning, financing, constructing, operating, or regulating the provision of urban transport systems and services;

(3) the term "Secretary" means the Secretary of Transportation;

(4) the term "urban area" means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth;

(5) the term "urban transport systems and services" means all modes of intraurban area transportation facilities, and passenger and freight carriage by bus, rail, truck, taxicab, or other conveyance, either publicly or privately owned, provided the public and freight shipper as a general or special service on a regular and continuing basis, whether for hire or by contract; and

(6) the term "property" includes taxicab, motor truck, bus, trolley coach, or rail transit firms or companies or combinations thereof, employing twelve or more persons, either publicly or privately owned.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated each year, without fiscal year limitation, an amount not to exceed the higher of (1) $8,000,000, or (2) one-quarter of 1 per centum of the total Federal funds committed during the preceding year for assistance to all forms of urban transportation.

A WAY TO HELP AVOID AN ECONOMIC CRISIS: STOP EXCESSIVE GOVERNMENT SPENDING AT THE TAXPAYERS' EXPENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, every single dollar spent by the Federal Government comes from one place—the taxpayer.

Government has no source of income but the people's pocketbooks.

Everything the Government takes to feed its insatiable appetite leaves the taxpayer with less. And over the past years, he has been left with less and less and less.

More Government spending means less "take home" pay. It means less with which to build savings. It means less for retirement. It means less for your children's education. It means less cushion for the future, for hard times.

The taxpayer pays for Government's spending through his income taxes, and through special or hidden taxes, and through higher costs of goods because businesses must pay higher taxes, and through reduced earnings power when Government just prints more paper money to pay its bills. In summary, it is the taxpayer who foots these bills. And, he is being told every year that he is going to pay more and more. It has got to come to a stop.

How many dollars is the taxpayer being asked to cough up to meet the costs of the proposed budget submitted to the Congress this week? Three hundred and four billion of them. That is a full $1 million, multiplied by $304,000. That is incomprehensible. It defies the imagination of anyone to envisage how much money that really is.

THERE MUST BE A LIMIT TO FEDERAL SPENDING

Government spending—and the raising of revenues to pay for that spending—must have a ceiling beyond which it invites either or both the collapse of the economic strength of the Nation and freedom itself. History says that is about one-fourth to one-third. We are at that point.

The statistics show the tendencies of Goevrnment to siphon off ever greater shares of the people's income for itself. Government must realize that it cannot indefinitely tax the people at constantly increasing levels without destroying the people's ability to support themselves and their families. In the end they will end up defenseless, at the mercy of a vast amorphous bureaucracy which perpetuates itself through the consumption of the people's money.

If we, as Americans, allow these trends to continue, it is only a matter of time before we will have almost nothing of our earnings to spend for ourselves. The spectre of such utter dependence on Government should be frightening to every citizen who values our traditional values of self-reliance and our productive free enterprise way of life.

THE PRESIDENT'S BUDGET MESSAGE: ACTIONS SPEAK LOUDER THAN WORDS

In my opinion, the President's budget message has to be the worst conceived of any on record—at least of any Republican President on record. It embodies the worst of Keynesian economic principles—planned deficits, the use of the Government's spending power to compensate for declines in other segments of the economy—all at the taxpayers' expense. It fosters inflation by spending a full $30 billion over this year's budget and by encouraging the Federal Reserve to print ever-increasing amounts of paper money—without increasing what stands behind it—to help pay the bills for which tax revenues are not enough.

It is hard, in all candor, to realize that a budget proposal resting on such misguided principles and proposing such outrageous levels of expenditures came from a President whose political party has, historically, been known for the advocacy of fiscal integrity, less taxes and less spending, reducing the size of government and the number of its employees, balanced budgets and paying our own way now—rather than passing on our national debt to our children.

A year ago, the President confidently mapped out the course he wanted the second term to take: Fewer bureaucrats, fewer programs, tighter control of spending. Even in his state of the Union message of last week, he said:

> The way to hold down inflation is to hold down Federal spending.

I suggest that the deeds do not match the rhetoric; and, actions always speak louder than words.

Instead of reduced Federal spending, it will be up to a $30-plus billion.

Instead of a balanced budget, the budget message actually forecasts a deficit of over $9 billion.

Instead of reducing the national debt—or even holding the line, the budget message predicts an increase of over $20-plus billion.

Instead of curbing inflation, the budget message proposes adding $30 billion with which to fuel it.

Instead of reducing inflation, the best the budget can forecast is trying to keep it down to 7 percent.

And, as we examine these projected deficits and increases in the debt, we should keep in mind that revenue projections for the budget were based on expectations of a steady economy. If we do slip into a recessionary period, revenues will be less, and deficits and debt will be more.

WHAT TO DO

Mr. Speaker, there are several important measures which can be pursued.

There is much in the budget which is good and which I will support. Those items, however, are not the subject of my concerns.

The task is now squarely before the Congress to exercise its responsibilities as to the excesses in the budget. The President is to blame for having proposed the excessive character of this budget. The Congress will be to blame if it approves its excessive features.

We in the Congress should take these measures:

First, we should examine thoroughly every proposal for continued spending. We should employ the notion of a zero budget base—that is, every program must be justified, on the basis of present needs and present funds available as to its continued claim upon the taxpayers' moneys—as a vehicle for determining which programs get what money.

Second, we should immediately enact the Budget Reform and Impoundment Act which has already passed the House. Congress should, using the principles embodied in that legislation, move immediately toward its own determinations of the peoples' priorities. This must operate from an all-important premise—that the total amount of appropriations made by us shall not exceed the projected revenue. In other words, we should plan on no deficit. By determining first how much money we have, secondly that we will spend no more than that, if we are forced to make the essential judgments as to priorities, something badly needed.

Third, any vast new Federal program requiring large public expenditures should be tested and tried on an experimental basis to see if it works before it becomes applicable to the whole Nation and all the people. Before we enact broad laws, promulgate extensive regulations, create or increase the size of bureaus, before we hire more people and spend more money, should not we see if the program works first?

A PERSONAL COMMITMENT

If the Congress does not bite the proverbial bullet and live up to our responsibilities, we will be held accountable by the people for such failures.

Reckless fiscal policies result in higher taxes, galloping inflation and a reduction in purchasing power, and even devaluations of the dollar. I am fully committed to oppose any such policies, and I think the people stand with me in this battle.

FEDERAL SUBSIDIZED HOUSING PROGRAM FOR THE ELDERLY AND THE HANDICAPPED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. WIDNALL) is recognized for 10 minutes.

Mr. WIDNALL. Mr. Speaker, over the past several months, many of my colleagues have shared serious concern for low income families in need of housing. I believe our concern has been given substantial recognition in both the administration's budget request for fiscal year 1975, and in assurances regarding the elderly and handicapped which I received from HUD Secretary, James T. Lynn. I would like to note these facts for the record.

It will be recalled that in September 1973 the administration's study of subsidized housing included a commitment for 200,000 additional subsidized units during fiscal year 1974. HUD emphasized that while approximately 80,000 units of section 236 interest subsidy on multifamily rental units would be included in order to fulfill prior commitments, the balance would utilize the section 23 leased housing program. This program serves low-income families through the auspices of State and local housing authorities and it offers the advantage of efficiently serving the basic needs of the lowest income families. This is done through the use of suitable existing housing as well as new construction. The fact that this program has been singled out as the best available for serving those in greatest need is most gratifying to me. I am quite proud to acknowledge my origination of the concept for this program.

Yesterday the administration requested an additional 300,000 units under section 23 in the fiscal year 1975 budget. I applaud this action and I know that my colleagues will join with me.

This action assures that subsidies for low-income families will continue at significant levels, even though the study of more desirable programs will be continuing.

The projected cumulative level of subsidized units to be authorized or completed during fiscal years 1974 and 1975, will be 624,700. This is indeed noteworthy.

In addition to these facts, I believe our colleagues will be pleased to learn of the consideration Secretary Lynn proposes to extend to our senior citizens and adults with enduring handicaps. Perhaps no segment of the low income population is more deserving of assistance. The Secretary agrees that specific actions are needed for such groups.

Generally, the proposed utilization of section 23 aims at avoiding concentrations of low income families in projects. Limiting the number of low income families in a project offers a distinct advantage, and the administration has proposed a limit of 20-percent low income families in any project. However, in recognition of the different needs of our elderly population, the administration has agreed to authorize leasing of 100 percent of the units in special projects for the elderly. To insure provision of the projects specifically designed for the elderly and the handicapped, 25 percent of the available contract authority will be reserved for such groups.

It is a fact that there are contrasting considerations between special groups such as the elderly and the general family in need. Secretary Lynn has now suggested that appropriate consideration will be offered to both categories.

I heartily commend these actions and I am sure they will be well received by all concerned.

Mr. Speaker, I submit copies of the 1974 and 1975 projections for HUD subsidized housing units and copies of my correspondence with Secretary Lynn for the RECORD:

NOVEMBER 27, 1973.

Hon. JAMES T. LYNN,
Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR JIM: In reviewing the HUD Section 23 Leased New Construction Handbook, I note that, without exception, priority will be given to those applications proposing to lease not more than twenty percent of the units in a single project.

While I can accept this policy as one which might best serve the interests of the general category of families, I find serious concern that the same advantages would not be served for the elderly and the handicapped. I refer, of course, to the widely demonstrated advantages in serving the special needs of the elderly and the handicapped through housing projects which are specifically designed and exclusively operated for such tenants. A policy of equal priority in the leasing of all units in such a project, or not more than twenty percent of the units in a family type project, seems to be both necessary and appropriate.

I am aware and pleased to acknowledge that you share my concern for assisting these special groups. Therefore, I will not attempt to expand upon the justifications for equal treatment.

It would be especially helpful to all concerned, however, if a statement of intent or clarification of priority to be given to special projects could be provided.

Your cooperation and assistance is, as always, greatly appreciated.

Sincerely,

WILLIAM B. WIDNALL,
Member of Congress.

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., February 4, 1974.

Hon. WILLIAM B. WIDNALL,
House of Representatives,
Washington, D.C.

DEAR BILL: I apologize for taking so long in answering your very helpful letter of November 27.

You may be assured that I share your deep concern for the special needs of the elderly and the handicapped, and I can understand your further concern with our proposed Section 23 regulations which provide a priority for projects in which fewer than 20% of the units are under subsidy.

The comment period on the regulations will soon expire, and we shall be carefully evaluating all of the comments we have received. But without prejudging decisions that will be made at that time, I think I can assure you now that we will be providing in the regulations which become effective for projects which will permit up to 100% of the units to be under subsidy in the case of elderly or handicapped tenants. Furthermore, I anticipate reserving something like 25% of the contract authority for units for use by the elderly and handicapped.

As you know, some of our most helpful sponsors of projects for the elderly and handicapped have been religious and other not-for-profit organizations who provide not only the managerial skill to develop and operate the project but also the special dedication so necessary to make these projects the kinds of homes our senior citizens deserve. In this regard, you should know that we now have under consideration a proposal whereby contract authority would be allocated to State housing agencies in accordance with Section 23 and the State agencies would then work directly with not-for-profit sponsors as developer-owner-operators of the projects. In addition, not-for-profit sponsors are permitted under Section 23 to lease projects to local housing authorities as well. We are hopeful that the State agencies will respond affirmatively to this proposal so that not-for-profit sponsors of projects for the elderly and the handicapped will continue to play, under improved programs, the role they have so ably played in the past.

Because I know of your deep concern and sensitivity to these groups, I would be pleased to have any comments you may have, Bill, on the proposals I have described. With best regards,

Sincerely,

JAMES T. LYNN.

SUBSIDIZED HOUSING UNITS, FISCAL YEARS AND 1974 1975

	1974	1975	2-yr. total
Old programs—Units in pipeline as of Jan. 5, 1973, suspension:			
New (including rent supplement piggyback)	115,520		115,520
Existing	9,180		9,180
Subtotal	124,700		124,700
Additional bona fide commitments under old programs	82,000		82,000
New leasing program:			
New construction	68,000	225,000	293,000
Existing	50,000	75,000	125,000
Subtotal	118,000	300,000	418,000
Total, all programs	324,700	300,000	624,700
New	(265,520)	(225,000)	(490,520)
Existing	(59,180)	(75,000)	(134,180)

DEGRADATION OF EDUCATION IN DOD WILL DESTROY OUR DEFENSE CAPABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 10 minutes.

Mr. TALCOTT. Mr. Speaker, I believe it is essential that we in the Congress, and every American citizen, understand some ominous trends that are adversely affecting our Defense Department, the military services and our national security.

One of the most serious developments is the degradation of education among defense personnel.

The most valuable ingredient of service personnel is education and training—not a fighting instinct, not superpatriotism, not physical fitness, not their sophisticated weapons. All of these are important, but all can go for naught without superior motivation, education, and training.

During mobilization for war and during periods of warfare, education and training are necessarily neglected. This was certainly true in our military services during the Vietnam period.

During peacetime is the time to get prepared for any contingency—education and training are the best preparations.

The Volunteer Army is congressional policy. The citizenry has demanded it. The Defense Department is committed to making it successful. The best inducement to a competent and dedicated volunteer is an assurance of professional growth and career advancement. Only continuing education and training can provide this inducement. Better wages, housing, and support facilities and less moving and less meaningless activity all help; but education and training are most important, from the newest recruit to the admiral and generals.

Naturally, a serviceman or woman has more leisure time during peacetime. This time could be utilized to benefit the services and to improve the competence and usefulness of the servicemen and women.

In order for military personnel to compete with their counterparts in civilian and other governmental pursuits, they must have equal education qualifications. Presently they are comparatively deficient. I say this without meaning to deprecate any particular service or any particular personnel. But the proof is available.

The reason the services get "snookered" in construction contracts and contracts for the development of new weapons, the reason for the regrettable overruns, the reason the military is often degraded is, in large measure, caused by an educational and professional deficiency.

This educational deficiency is caused, even nurtured, by various groups or schools of thought within the DOD, the Congress, and various committees of the Congress.

One group wants to gut the military—the easiest and surest way to cripple the military is to cut the education and training programs. An ill-trained, ill-educated military is certain to deteriorate and to perform badly in every aspect. An undereducated Army will not be prepared well, will not be equipped well, will not be commanded well, will not defend us well—or successfully.

Another group wants to cut the military budget to display frugality or to economize.

"Pennywise and pound foolish" economizers often pick out educational programs for cuts because they are easy to identify and their urgency is not as obvious as a new weapon.

Another group are the accountants who can only compute the arithmetic cost per person of education or training but do not appreciate the value of education to the serviceman, the services or our Nation. These narrowminded bookkeepers unknowingly degrade the services most of all.

We too often applaud these bookkeepers who suggest saving a few cents and show us how we can reduce an appropriation bill by a few dollars by cutting our education programs—and forget that they cost us millions in future incompetence by denying our personnel the education and training they need to perform their duties successfully.

In the service, all personnel need continuing training and education. Some could utilize graduate degrees and specialized training. Any upward-bound young officer is not "worth his salt" or worthy of promotion unless he acquires increased proficiency and capacity by education.

There are dozens of examples I can cite—others could cite many more—to show a degredation of education in the services.

Almost every prospective recruit inquires about the educational opportunities in the service. Many disdain enlistment because of the lack of opportunity for education or career advancement. This may be the predominant deterrent to enlistment of the type of recruit we desire.

Servicemen, like policemen, cannot expect to maintain active duty status for life. So every serviceman knows that he will be required to equip himself for a second career. He knows this will require training and education in something different from combat skills. The service must provide such training and education as a social requirement as well as an inducement to volunteers.

The services, like all businesses, should encourage their personnel to improve their education and skills for the betterment of the individual, his family, his employer, and society.

Any serviceman who is willing to obtain advance degrees or higher skills should be given the opportunity. Presently these opportunities are limited and the limitations are increasing.

The Congress has given the services our ultimatum not to send their upward-bound, exceptional officers to universities that disbanded ROTC during the frenetic campus aberrations of the 1960's. This denies to many young officers the best education they can assimilate. This cuts off our noses to spite our faces. This degrades the educational level of our service personnel without making a point or making any progress toward reestablishing normal relationships between the military and the academy.

In the 1974 defense budget, graduate education was cut 20 percent. This cut is almost mortal. Such a cut is demoralizing to the best personnel. Such a cut is devastating to those who want our military personnel to be the most competent, best trained and most highly skilled. Such a cut is a threat to the intellectual, the bright, the intelligent officer. Such a cut tells the young, ambitious, upward-bound officer that the Congress is always going to dampen the spirit and hamper the progress of those who want to excel.

Few men want to serve in a "dumb killer outfit" but this is what the Congress is making out of the defense forces by depriving them of opportunities to improve their educational levels and their professional skills.

Many of the troubles and problems we encountered in Vietnam were attributable to inadequate education, training, and skill. We are perpetuating the problems by degrading education and training in the services.

There are some very clear lessons we in the United States can learn from the 1967 and 1973 wars in the Middle East.

Intelligence, security, modern weapons, quick supply, the C-5 airlift, and surprise are very important of course. The ingredients that were most helpful and decisive to the Israelis were superior motivation—a life or death predicament—and excellence in the training, skill, education, and knowledge of their personnel—from recruit to field generals.

The record of the war indicated that the Arabs greatly improved the level of their personnel excellence. If they could have closed the "personnel excellence" gap of the 1967 war by the beginning of 1973 war the result may have been much different. The war would have been greatly extended and our involvement could have been greatly increased and immeasurably more expensive.

The fact that excellence of personnel was more determinative of the outcome than superiority of equipment, ordnance or weapons is not lost on the Israelis, the Arabs, the Soviets, or our Defense Department.

Excellence of personnel requires extraordinary intelligence, education, and training of all involved from the foot soldier to the field general but, of course, the officer and leadership corps is most important and critical.

We know that the Israelis have emphasized superior education, training, and skill in their military forces. Superior personnel permitted them to cope with a surprise attack; to turn quickly from defense to offense; to be flexible, innovative, and adaptive on the battlefield; to quickly utilize war materials supplied by the United States; to operate sophisticated equipment and weapons; to wage a war on two fronts, at sea, and in the air; to quickly and efficiently integrate their Reserve and Regular forces; to treat and care for their wounded.

The U.S. military personnel cannot presently duplicate this performance simply because we do not accord them the same opportunity to obtain or achieve comparable excellence by education or training.

In fact, the Congress has consistently, and now in the 1974 budget dramatically, degraded education and training for military personnel.

We need more hours in schools and training sessions, we need more degrees and diplomas, we should encourage every serviceman to build upon his present level of education, training, and skill.

I fear that we will quickly become a second-rate military power if the Congress does not quickly reverse the anti-intellectual, antieducation, antitraining attitude toward our military personnel.

CONVENTION ON CONDUCT OF FISHING OPERATIONS IN NORTH ATLANTIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, today I am introducing a revised bill to give effect to the Convention on Conduct of Fishing Operations in the North Atlantic. This bill is intended to supercede H.R. 6778 whose title is identical. I introduced H.R. 6778 on April 10, 1973 at the request of the administration and a public hearing was held on May 15, 1973 by the subcommittee I chair—the Subcommittee on International Organizations and Movements of the Committee on Foreign Affairs. Since several disagreements between witnesses from the administration and the fishing industry remained unresolved at the conclusion of the hearing, the subcommittee decided to postpone further action on H.R. 6778 until the concerned parties made additional efforts to reach agreement among themselves through consultations.

On December 20, 1973, I was informed by letter from Ambassador Donald L. McKernan, Coordinator of Ocean Affairs, Department of State that consultations had been held, that they yielded "substantial accommodation" on the differences between government and industry, and that the administration now hopes it will be possible to move toward enactment of a revised bill. The bill I am introducing today is a clean bill incorporating the amendments to H.R. 6778 which were suggested by the State Department as a result of consultations with industry.

In his letter to me, Ambassador McKernan said further:

> It is our understanding that the above-discussed amendments to H.R. 6778 and the aspects relating to the Annexes are generally satisfactory to both industry and the Executive agencies concerned. However, some segments of industry still would not favor enactment of the bill at this time because they feel that additional regulations should not be imposed on American fishermen until all the problems associated with foreign fishing off our coast are brought under control. The Executive is fully sympathetic to this attitude, but believes, nevertheless, that it is desirable to move ahead with this legislation to bring its safety and damage settlement provisions into effect at the same time that other actions are taken to cope with the fisheries problems which confront us.
>
> We expect the forthcoming U.N. Law of the Sea Conference to give the United States all necessary authority to manage and conserve our coastal fisheries in order to preserve the stocks and benefit our fishermen. While we oppose unilateral action to achieve this goal in the meanwhile, we are pledged to take every possible interim action within the bounds of international law to protect our fisheries, conserve these valuable natural resources, and resolve conflicts with foreign fishermen. We believe that enactment of the pending legislation will contribute to this objective.

I hope to hold a subcommittee hearing on this bill as early as possible in February.

A TRIBUTE TO CHARLES TEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of New York. Mr. Speaker, I was saddened to learn of the death of our distinguished colleague, Charles Teague. Charlie Teague's long and dedicated career can be capsulated in these words: "service to the people." This he did with excellence, with honor, and integrity. He will be remembered for his diligent work as the ranking minority member of the House Agriculture Committee. In this position he was always alert to protect the free market from unnecessary governmental intrusions. As a member of the Veterans' Affairs Committee, he consistently worked for increased benefits for our returning fighting men. Always a strong proponent of conservation and environmental programs, he was very influential in obtaining a ban on offshore oil drilling platforms in the Santa Barbara Channel. These are just a few examples of how he served his district and his country.

Charlie Teague died on the dawn of the New Year. Let us go forth to meet the challenge this year with the same determination and vigor that our dear friend would have. The 13th District of California will surely miss the leadership of this great representative, and we will miss his companionship here in the House.

USE OF DRUGS OVERSEAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, the problems created by American use of drugs overseas continues to be a distressing and serious matter. There are presently 1,000 Americans being held in foreign jails for narcotics violations. Brazen drug peddling on the streets of Europe and Asia entices many Americans to use drugs while traveling. The widespread availability of drugs abroad seems to contradict warnings given our youngsters before their departure. In many cases, penalties for the use of drugs can be much stricter overseas than in the United States, particularly for foreign offenders. Law enforcement authorities overseas tend to punish young Americans caught violating the drug laws much more severely than their own citizens, often because they believe this will demonstrate to the United States a strong commitment to wiping out drug traffic and drug abuse. Tragically, their commitment does not seem to extend beyond arresting American drug abusers.

I am afraid that many young Americans are unaware of these facts, or begin to doubt them when they arrive overseas. Therefore, today I am introducing legislation with cosponsors which will educate Americans about the problems associated with drug use overseas before their departure. This bill requires the distribution of a specifically designed pamphlet, outlining the laws and penalties relating to drug use in other nations. In addition, the pamphlet will emphasize the inability of the U.S. Government to free an American tourist once he is arrested. This list and warning must be issued with all tickets for passage across international borders. Finally, these warnings will be displayed in poster form at all ticket counters and travel agencies.

Up to now, no major effort has been initiated by this Government to educate our young Americans about their legal vulnerability when arrested for narcotics abuse in another country. We must meet our responsibility to these young men and women and warn them of the risks they take by becoming involved with drugs.

Many of the 1,000 Americans under detention for narcotics violations might be safe at home now if only they had been aware of the pitfalls of drug use in foreign countries before they left the United States.

I urge my colleagues' support for this measure, for it will remedy a serious situation which affects us all.

IMPROVED MEDICARE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 10 minutes.

Mr. FULTON. Mr. Speaker, I have today introduced a bill which has the potential of vastly improving the medicare and medicaid systems of paying for physcians' services. The bill has several important advantages for medicare patients, for their physicians, and for the Government.

My bill would provide an option, on a State-by-State basis, to the present system—a system which has been criticized strongly by both patients and physicians and which results in high administrative costs.

The optional system is quite simple. Here is how it would work.

First, the optional system would go into effect in a State only if the Governor of the State requested it. The Governor would submit a proposed fee schedule, worked out with the State medical society, and uniform throughout the State, to the Secretary of Health, Education, and Welfare. The Secretary would be required to approve the request and the fee schedule if he found that using the fee schedule would not increase program costs over the present system.

When the Secretary approved the request he would publish the fee schedule so that everyone, patient and physician, would know what the program would pay. All physicians in the State would have an individual choice of whether to "participate" in the medicaid and medicare programs. This is what "participation" means.

Participating physicians would submit regular billings to medicare and medicaid—on the same claims form—and receive reimbursement directly from the programs at full fee schedule amounts—no deductible or coinsurance amounts would be withheld. The physician could request that he be paid on a consolidated bill basis—that is, he could submit one bill at the end of each week or two listing all services to all medicaid and medicare patients and receive promptly one check covering all the services. In return, the participating physician would agree to accept the fee schedule amount as payment in full.

If a physican decided not to participate the system would work much as it does now. The programs would pay the fee schedule amount, less any deductibles and coinsurance amounts, directly to the patient and the patient would be responsible for paying the physician whatever the patient and physician had agreed on as the charge.

Provisions are included in the bill to permit physicians to change from participating status and back again upon adequate notice.

The amount the programs paid for deductible and coinsurance amounts to a physician on behalf of a medicare beneficiary in a fiscal year would be collected by deduction in equal installments from the cash benefits payable to the beneficiary in the following calendar year—or added to the premiums in the case of those who are not getting benefits.

That is really all there is to the option—it clearly greatly simplifies the present system.

Now let me go into more detail on what I see as the advantages of the proposed system.

ADVANTAGES FOR MEDICARE PATIENTS

The medicare patients in any State which adopts this system would be in a better position on several scores.

First, patients would know, as they do not know under the present system, exactly what the program would pay for the physicians' services they need.

Two, patients would know which physicians would accept the program payment as payment in full.

Third, patients whose physicians participated would not have to maintain records and submit claims themselves—a very great advantage for anyone, but especially older ill people.

Fourth, patients whose physicians participated would know that they would not have to pay more than the $60 deductible and the 20-percent coinsurance. As members know, in a great many cases today the patient pays much more than 20 percent of the actual charge.

Fifth, patients would, of course, continue to have completely free choice of physician, but, unlike the present system, would have more information on which to base that choice. In addition, of course, any patient who chose a nonparticipating physician would be in no worse position than he is today.

ADVANTAGES FOR PHYSICIANS

There are several advantages to the proposed system which most physicians should find very attractive and which would, I believe, result in most physicians deciding to participate.

First, physicians retain complete choice on whether to participate in the program and on what patients they want to accept. And he has the freedom to move from one status to another based on what he thinks best for his patients and his practice.

Second, the physician who chose to participate will know, just as his patients would, what the program will pay. Under the present system many physicians have no idea how the medicare carrier decides what is a reasonable charge and are understandably confused and irritated by its irrationalities.

Third, the participating physician would be able to reduce the paperwork burden his office now shoulders for medicare and medicaid patients. Instead of having to produce a separate claims form for each service for each patient, he can list on one form all services for all patients over a period of a week or two. He would then get a single check to cover that consolidated bill. In addition, all of his paperwork in billing and collecting from patients separately for deductible and coinsurance amounts would be completely eliminated. It is fair to conclude, I believe, that the medicare and medicaid paperwork burdens on physicians could be reduced to one-tenth or less of what it is now.

Fourth, since there would be a single fee schedule for a whole State, differentials between urban and rural areas would disappear, thus putting the rural practicing physician on a par with other physicians. I really believe that eliminating these differentials will make a substantial contribution to getting more physicians to practice in our doctor-short rural areas.

Fifth, since the fee schedule would be worked out with the medical society, it would be physicians themselves who would decide on the relative value of the various medical procedures.

ADVANTAGES FOR THE GOVERNMENT

There would also be significant advantages to the Government to be derived whenever this option was adopted in a State.

First, the Government could reduce its paperwork handling significantly since for participating physicians a single billed form could be processed in place of many individual claims.

Second, the medicare carriers and medicaid claims operation would no longer have to spend the funds and energy necessary to maintain reasonable charge profiles and related information in every physician in the State. The reduced costs resulting from these advantages would be much more than sufficient to meet the additional cost of collecting deductibles and coinsurance amounts from patients.

Third, the Government would not have any increased claims costs because the fee schedule could not be set so high as to yield higher costs than the present system. The mechanism for modifying the fee schedule would also follow the system used in present law—increasing the recognized fee in relation to a combination of increases in prices and wages.

CONCLUSION

I believe that the bill I have introduced today can solve many of the problems with medicare and medicaid reimbursement for physicians' services. I hope that all Members will study the bill and join me in sponsoring it if they see the same advantages I do.

I also invite everyone else interested in this problem to study this bill and make any comments or suggestions they may have.

HEARING ON NATIONAL TRANSPORTATION POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. McFALL) is recognized for 5 minutes.

Mr. McFALL. Mr. Speaker, we are faced with an ever-increasing transportation quandary: How are we going to get there from here? Studies indicate that by 1990, we will have to double the transportation capacity of this Nation; we will need twice the transportation facilities which we have developed and installed in this Nation since its founding in 1776. Not only that, we will have to accomplish all this without ruining our environment and without wasting our energy resources as we have done in the past. The only sane way to attempt this task is to begin with an articulation of goals and methods—a policy.

We are all familiar with the interstate highway program and have our own opinions about its impacts, negative and positive, on America's cities and its transportation resources. Clearly, one major reason for this program's dramatic momentum and achievement has been its focus on reaching a simply described and easily understood, agreed-upon goal. It is this sort of direction and commitment which is lacking with regard to the concept for all-mode transportation. Faced with ever-increasing demands for Federal expenditures on transportation, the Transportation Appropriations Subcommittee has become acutely aware of the need to know where these expenditures will lead us and how they will contribute toward a truly integrated national transportation system.

I think the Federal role in this area is well established, but clearly, what we have seen from the Department of Transportation so far cannot be considered a national transportation policy. The concept of a Department of Transportation was to pull together the fragmented transportation modes in order that they might function in a coordinated fashion. That sort of coordination will not come into being until an integrated transportation policy has been developed. Secretary of Transportation Claude Brinegar has been working on such a policy for the past year. Organizations representing major segments of the industry are eager to express their opinions as well.

TRANSPORTATION APPROPRIATIONS HEARING

In an effort to provide a forum for a discussion of the substance and the framework of the problem, the Transportation Appropriations Subcommittee will conduct a hearing on March 5, 1974, at 10 a.m., in room 2358, on national transportation policy. At that hearing, the subcommittee will offer some suggestions on the formulation of a policy and Secretary Brinegar will assess the progress DOT has made to date. We anticipate that the Secretary will provide a progress report at that time. Organizations who have already expressed an interest are expected to testify. Interested Members are invited to participate if they so desire.

THE TRIAL OF A CHRISTIAN LEADER IN SOUTH AFRICA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. **DIGGS**. Mr. Speaker, the persecution of Christians in South Africa who refuse to become a part of the official racist system continues. Dr. Beyers Naude, a celebrated Afrikaner theologian who was a former member of the innermost circles of the ruling Nationalist Party and of the secret "Brotherhood" society, or Broederbond, has denounced the apartheid system in South Africa in the name of his conscience. For this, he and the Christian Institute which he founded, have been subjected to increasing harassment. Recently, Dr. Naudé was charged with refusing to collaborate with the Commission for the Investigation of Certain Organizations—known as the Schlebusch Commission—which was set up to investigate certain liberal organizations such as the National Union of South African Students, the Institute of Race Relations, and the Christian Institute by a parliamentary commission meeting and interrogating witnesses in secret. It is a criminal offense for anyone to report what happens during an interrogation.

Prof. Antony Allot, professor of African law at the Institute of Oriental and African Studies, London University, attended the trial of the Reverend Naudé as an observer on behalf of the International Commission of Jurists. His report has been reproduced in the Review, the journal of the International Commission of Jurists, in December 1973. Since it was written it has been announced in South Africa that Dr. Naudé has now been charged under the notorious Suppression of Communism Act, on the grounds that he is one of the directors of the church press which published a statement by a student official, Mr. Paul Pretorious, who has been "banned" without trial—and whose writing is, therefore, censored. It is obvious that the South African minority regime is trying to stifle responsible theological discussion, and silence opponents who speak in the name of Christianity. The following article is the report of the trial:

STATE LAW AND THE CHRISTIAN CONSCIENCE IN SOUTH AFRICA

(By Anthony Allott)

The trial just concluded in Pretoria of the Rev. Beyers Naudé represents a new and sharp confrontation between the oppressive legalism of the South African government on the one hand, and the witness of those Christians who do not accept the *apartheid* society as being either Christian or unchallengeable on the other. It is clearly the Pretoria government's intention to extend the systematic silencing of the opponents of racial injustice to the Christian churches themselves. One recalls the recent actions against the Anglican Dean of Johannesburg and Father Cosmas Desmond. Now it is the turn of the nonconforming members of the Dutch Reformed churches, represented preeminently by Dr. Naudé, and of those associated with him—Methodists, Anglicans and others—in the work of the Christian Institute (CI).

Beyers Naudé is a remarkable, indeed unforgettable, man. He is an Afrikaner of Afrikaners; himself the son of a Dutch Reformed preacher, he too was a minister of the Dutch Reformed Church (DRC) and rose to become a moderator and leading spokesman, nationally and internationally, of his church. At the same time he was a member of the secret Afrikaner society, the Broederbond. His work, and that of the Transvaal synod of the DRC in which he played a leading role, greatly influenced the final text of the Cottesloe Declaration issued by all the Christian churches in South Africa in 1960, in the aftermath of Sharpeville. In that Declaration, the rights of all races to participate in government, to own land anywhere, and to intermarry, were spelt out.

When the DRC resiled from the commitment of their official representatives at Cottesloe to work for a juster society in South Africa, Dr. Naudé was one who stood his ground. An ecumenical Christian Institute was being established to explore and work for the application of the Christian ethic to South African society and particularly to the racial system; Naudé was asked to be its first Director. His DR co-religionists, however, made it clear to him that he must choose: to be forced to leave the ministry if he assumed the directorship, or to abandon his pursuit, through the CI, of his biblically inspired vision of the just social order. It was an agonizing decision; to carry on as Director but thereby to isolate himself from the religion and community from which he sprang, or to be untrue to his conscience and inner convictions. His conscience prevailed, and in a moving farewell sermon to his congregation in 1963 he explained the grounds of his decision. Since then Dr. Naudé has in effect been an outcast from the DRC, harried by his religious and political (the two terms are almost interchangeable) opponents. He won a prolonged libel action against a Professor Pont, obtaining the largest damages awarded up to that date in a South African defamation suit; but for the last year or two it has been the government which has been the principal aggressor.

In July 1972 the government established the mysteriously named Commission for the Investigation of Certain Organisations (popularly known, from the name of its chairman, as the Schlebusch Commission), specifically to report on the objects, organisation and financing of named organisations, including the CI, and their activities. Unlike normal commissions of inquiry, this one consisted entirely of practising parliamentarians, meeting and interrogating witnesses in secret. Under the regulations issued by the State President, it is a criminal offense for anyone, witness or otherwise, to report what happens upon his interrogation by the Commission, or to publish any statement that may have been submitted to the Commission. Of the organisations investigated, an interim report by the Commission on Nusas (the National Union of South African Students) has already been issued, in February 1973; the same day 8 Nusas leaders were served with banning orders under the Suppression of Communism Act.

It is against this background that officers and members of the CI and the Institute of Race Relations have refused to testify before the Schlebusch Commission. When summoned to Pretoria to give evidence, each refused to take the oath when put by the Chairman. Reasoned documents justifying this refusal on moral and religious grounds were handed to the Commission by some of those summoned, notably by Naudé himself. One of those summoned, Ilona Kleinschmidt, has already been convicted, but is now appealing. Trials of the others who refused to testify on September 24 or earlier were scheduled to be held at the Pretoria Regional Magistrates Court this last week. In the event, the trial of Dr. Naudé, which began on Tuesday 13 November, ran far longer than the prosecution foresaw, judgment only being delivered on Friday 17 November. The trials of the others involved—James Moulder, Dot Cleminshaw, Horst Kleinschmidt, Rev. Roelf Meyer, Danie van Zyl, Rev. Theo Kotze, Peter Randall, and the Rev. Brian Brown—have been postponed until January 7 to 17, 1974.

Beyers Naudé's trial has excited world attention and concern. The British Council of Churches sent its Vice-Chairman, the Archbishop of Wales (the Most Rev. Dr. Gwilym Williams) to observe the trials, while I was asked to observe on behalf of the International Commission of Jurists (a body devoted to upholding the Rule of Law) in Geneva. The trial was sensational in a number of respects, not least because of the eminence of the accused, but also because of its unusual atmosphere and the unconventional form that the trial in practice took. Courtroom E, one of the smallest courts in the building, was allocated for the trial, and was so full of sympathetic supporters, black and white, that they overflowed into the well of the court. On the third day the presiding magistrate, Mr L. M. Kotze, had arranged for a much larger courtroom to be available; it was full, so far as one could tell, of sympathisers with Dr. Naudé (except for a large number of security policemen failing to make themselves unconspicuous). A gaiety and calm confidence pervaded the courtroom, reminiscent of that which must have prevailed among the early Christians who had to face Caesar or the lions on the morrow.

The prosecution thought that this would be a simple open-and-shut case; Dr. Naudé had admittedly failed to take the oath when required, and under s. 6 of the Commissions Act conviction must inevitably follow. The first challenge came when Mr. Prinsloo, Secretary to the Commission, was called to give formal evidence of the refusal, which he did from the transcript of the Commission's proceedings. For the first time part of the proceedings of the Commission were exposed to public gaze. Defense counsel, Mr. J. C. Kreigler, S.C. (who handled the defense brilliantly) then asked Mr. Prinsloo to read out to the court in full the long statement submitted by Dr. Naudé to the Commission, which, to his great discomfiture, he was obliged to do. Then, when the defendant himself was called to give evidence, his counsel took him through the whole of his spiritual biography, from the day of his birth to his appearance before the Commission, bringing out in detail the various domestic and international church conferences and synods in which the racial situation in South Africa had been considered, and Dr. Naudé's justification, from scripture and from other authorities, of his stand on racial issues and his refusal to testify. Dr. Naudé stated his objections to the Commission and its procedures as being that it consisted solely of parliamentarians, who might be incapable of an impartial judgment, that it functioned in secret, that those summoned before the Commission had no knowledge of what case or charge they might have to meet, that they were denied the assistance of counsel in testing the evidence against them, and that witnesses were put in peril of banning orders as a result of the Commission's reports. Under s. 6 of the Commission's Act, argued Mr. Kriegler, a witness can refuse to testify or answer questions if there is "sufficient cause" for his so doing; in this case, he said, there was ample cause for Dr. Naudé's refusal, because the composition and mode of functioning of the Commission made it "humanly intolerable" for him to testify.

The highlight of the case came when defence counsel read into the record the entire text of the farewell sermon which Dr. Naudé had given to his parish in 1963. Dr. Naudé was asked by his counsel to read out the sermon for the record, which—to the background of a dramatic electrical storm outside—he did. It must surely have been upprecedented for a sermon to have been preached in a magistrate's court, though Joan before her accusers, the Catholic and Protestant martyrs at the time of the Tudors, and the Quakers of a later age, spring to mind in this connection.

It was to no avail. The magistrate, who, in his questioning of the accused, seemed at times to step out of his role and to debate with rather than question Dr. Naudé, in his judgment found him guilty, rejected the argument of sufficient cause, told Dr. Naudé that the law must prevail and that he, Naudé, was more guilty than most as being a leader and not a follower. He sentenced him to a fine of R50, with one month's imprisonment in lieu, together with a suspended sentence of 3 months' imprisonment, which would come into automatic operation if, within the next 3 years, he committed a similar offense. Dr. Naudé's counsel immediately notified an appeal, which will probably be determined in December or early January.

In the debate between a narrow legalism and the duty of obedience to God rather than men, the state had won, as it was bound to do. There is some hope, however, that in the appeal court the broader legal argument of justification will prevail. If not, Dr. Naudé, and those accused with him, will go to prison, as they have indicated that they will refuse to pay any fines imposed.

I also wish to recommend for the thoughtful consideration of my colleagues an article entitled "We Are Irresponsible Citizens" which appeared in the Pro Veritate magazine in December 1973, and which is written by Theo Kotze, who is head of the Cape Town branch of the Christian Institute, and who was on trial last month for refusing to cooperate with the Schlebusch commission by appearing for questioning:

WE ARE IRRESPONSIBLE CITIZENS

(By Theo Kotze)

"Responsibility is the ability to respond inwardly to a need outside yourself."

When Albert Camus challenged Christians "to get away from abstractions and confront the blood-stained face history has taken on today", he was challenging us to respond inwardly to a need outside ourselves.

Responsible citizenship therefore involves:

1. An in-depth response to the needs of others.

2. A positive response to the process of change. A deliberate and active involvement in bringing about an entirely new society.

3. An understanding of what is going on around one.

4. A seeking to interpret events objectively.

5. Testing that interpretation against the expertise of others and the precedents of history.

I want to suggest that we have been very irresponsible in the exercise of our citizenship and that we must share the blame for the crisis in which our country finds itself.

Our country is dangerously sick—with fear, suspicion, bitterness, frustration, and, like many who are sick with contagious diseases, experiences rejection and isolation.

I am convinced that the following are some of the root causes for all this:

1. The inability of nearly all whites in general, and the authorities in particular, to understand that black consciousness, which is the affirmation of essential humanity, dignity as persons and rights as individuals, has come alive in a very deep way. No amount of authoritarianism or force is going to stop this movement, which is the stirring of the human spirit out of the bondage of centuries. Any attempt to stop this will be as futile as Canute trying to stop the tide coming in.

2. The refusal to share power and privilege, so that all the decisionmaking and control remains in white hands. Consider this. All the areas of power—political, military, para-military, educational, economic, ecclesiastical, communication media—are under white control. Indeed most of these are in the control of an exclusive minority of whites.

3. The callous and cynical disregard of black opinion and feeling—which is majority opinion and feeling—even in regard to laws and other decisionmaking processes affecting blacks themselves. This seems, for instance, to be the case at the black universities where students have complained that their grievances are not given fair hearing and are often not heard at all.

4. The terrible fear that possesses so many whites that blacks will usurp all the power and privilege that whites have for so long regarded as exclusively their own.

As a result, state security is equated with white security.

5. Finally, we whites completely fail to understand the degree of bitterness, frustration and rejection that all our oppressive measures on the one hand, and our paternalism on the other, have created.

There are several alternatives open to us:

1. We preserve the status quo. This is impossible because the status quo cannot any longer be preserved in a world that sophisticated communication has turned into a neighbourhood and where the technological revolution is rapidly changing so many things.

2. Change is therefore inevitable. It is what the ultimate goals are that is important, and how we set about achieving them.

I have no time to go into details about this, I only want to say that I believe in a just society, which will allow freedom of choice, involve all citizens in decision making and provide equal opportunities for all men in every sphere of life.

3. However, I repeat, there are many people who fear change because they have the terrible fear blacks will usurp all the power and privilege that whites have for so long regarded as exclusively their own.

They say, "Change will bring chaos" and cite other African countries as examples.

4. But if you fear chaos while at the same time resisting change, the only option open to you is despotism and it is into a despotic condition of society that our country is rapidly heading.

Alexis de Tocqueville, an historian of the mid-19th century; showed how despotism rears its ugly head:

"I seek to trace the novel features under which despotism may appear in the world. The first thing that strikes the observation is an innumerable multitude of men, incessantly endeavouring to procure the petty pleasures with which they glut their lives. Each of them living apart, is a stranger to the fated all the rest; his children and his private friends constitute for him the whole of mankind. As for the rest of his fellow citizens he is closed to them.

"Above these men stands an immense and tutelary power. That power is absolute, provident and mild. It would be like the authority of a parent, if like that authority its object was to prepare men for manhood; but it seeks on the contrary to keep them in a perpetual state of childhood; it provides for their security and facilitates their pleasures.

"After having thus successively taken each member of the community in its powerful grasp and fashioned him at will, it covers the surface of society with a network of small complicated rules, through which the most original minds and the most energetic characters cannot penetrate. The will of man is not shattered, but softened, bent and guided. Men are seldom forced by it to act but they are constantly restrained from acting."

Recent events including speeches by the Prime Minister and the Minister of the Interior confirm that we have been, and increasingly shall be, "constantly restrained from acting."

If we allow ourselves to be restrained in this way, we are irresponsible citizens.

Take the whole matter of protest for example. If we are to act responsibly as citizens, we must continue to protest at all times against every form of injustice and every act that dehumanizes our fellow citizens. Yet it is obvious that there is less and less protest because Government legislation makes it so difficult and dangerous.

It is becoming more and more dangerous to protest and someone usually gets hurt. But remember this—someone *always* gets hurt if we *don't protest*.

It is fear that inhibits or prevents protest.

This is often understandable for fear is a natural human instinct. It is also one of the persistent hounds of hell that dogs the human spirit. Fear stifles conscience.

Fear destroys integrity. Well then, if we really want change it is obvious that in working for it we are going to have to take risks. We must ask:

Is it worth it?

Is it worth the trouble?

Is it worth the risk?

It all depends on how we react to the definition of responsibility with which I began this address "Responsibility is the ability to respond inwardly to a need outside yourself".

We must face the fact that there is considerable risk in working for change:

The danger of losing liberty in the years when it is most precious;

The danger of never being able to travel outside this country again;

The danger of imprisonment;

The danger of being banned, which is worse than imprisonment for it makes a man his own jailer.

What could be more dehumanizing than that?

The danger of living under house arrest, like a dog with a muzzle on;

The danger of facing the ostracism of family, friends and community.

Consider this—we may gain all these but lose our souls and certainly our self-respect.

Are you sure that this is not happening to us?

Let me illustrate:

We have a large and formidable dog at home. The other day she annoyed me and I bent down as if to pick up a stick—she cringed and, tucking her tail between her legs, slunk away. I thought, "My goodness, I've indoctrinated my dog."

I did not need to beat her.

I did not need to lift a stick.

The gesture was enough.

HERBICIDES AND TEAR GAS—CHEMICAL WEAPONS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 15 minutes.

Mr. OWENS. Mr. Speaker, during the recent Armed Services Committee hearings on the issue of the destruction of chemical munitions at Rocky Mountain Arsenal in Denver, the discussion centered for a brief time on the relationship between herbicides and riot control agents and the concern about the more deadly nerve gases. The legislation under examination had been proposed by me, and cosponsored by a number of other Members, and had as a part of its content a statement concerning a call for the President to make known to the Congress his position on the status of herbicides and tear gas under the Geneva protocol of 1925. As many of the Members know, it is the issue of herbicides and tear gas being excluded by the President from his understanding of the protocol that has stalled the protocol in the Senate Foreign Relations Committee. New legislation which a number of us have introduced in this House calls for a reevaluation of U.S. chemical warfare policies and includes this same issue as one warranting examination. For this reason I would like to offer some brief comments about the exclusion of these chemical compounds and their relationship to my concern about our total chemical warfare policies.

The comment was made during the Armed Services hearings in October that there appeared to be little reason to be troubled about herbicides and riot control agents as compared with nerve agents. The nerve agents are so obviously much more toxic and the other compounds are directed either against plants or are intended for use as riot control agents. The problem as I see it is that it is an extremely difficult technical task to clearly differentiate the total spectrum of toxicity of chemical agents which might or might not be excluded from the scope of a particular treaty. Therefore, to exclude a particular group on the basis of general terminology is to provide for the potential of serious misunderstanding.

Let me give you some brief illustrations of what I have in mind. First, the herbicide of principal concern in these discussions about the Geneva protocol has been the compound called Agent Orange, a 50–50 mixture of the weed killers known as 2,4D and 2,4,5T. When the United States started using these compounds in Vietnam, the primary purpose was for the destruction of vegetation being used by guerillas for cover. The compound also had some application for crop destruction and there were some instances of damage to commercial species in plantations. I cannot in this brief statement begin to analyze all aspects of these applications. The important point at this time is that after the compounds had been in use for a while, it was determined that a trace of one of the most toxic substances known to man was present in Agent Orange. Following the release of this information, the U.S. military forces stopped using the compound. In the meantime, Matthew Meseleson, of Harvard University, has determined that dioxin, the toxic substance found in Agent Orange, has been identified in biological samples collected in Vietnam. My reaction to this is that the herbicide was a toxic chemical agent to man when it was used in Vietnam and should be covered under the protocol. Technologists would argue that since the contaminant is no longer present in 2,4,5T, under new manufacturing processes, it is not toxic. But can we hedge on treaty understandings under conditions where we do not have absolute certainty regarding the effects or content of chemical agents used in such a way that human beings could be directly affected? I think not; and in fact, the U.S. delegation to Geneva has consumed hundreds of man-hours of discussions at the disarmament negotiations on chemical warfare in efforts to reach an acceptable understanding of the types of substances which are considered to be toxic.

In another illustration, the riot control agent CS was used in Vietnam. This agent, reportedly not lethal although decidedly unpleasant in its effects, is also the subject of disagreement regarding potential toxicity. Again, I cannot take the time to discuss all of the arguments; they have been made many times over the past few years and are discussed in more detail in the hearings of the House Subcommittee on National Security Policy and Scientific Developments—Chemical-Biological Warfare: U.S. Policies and International Effects—in 1969 and in the hearings of the Senate Foreign Relations Committee on the Geneva Protocol in 1971. My concern here is that news announcements now suggest that a new riot control agent called CR may be under consideration by the British, and possibly the United States, since it has been evaluated at our own Chemical Warfare Laboratories at Edgewood, Md. The riot control agent CR—the chemists call it dibenz (b,f,)-1:4 -oxazepine—has been under investigation for a number of years. Two effects of this agent are the fact that rises in blood pressure—increases as high as 100 mm. Hg.—occur in some persons exposed to the agent and there were some instances of short-term rises in intraocular pressures. These effects are usually couched in terms that since the target population is usually young and healthy there would be no untoward effects. If you will recall, CS was originally cited as being "safe" also; but the literature on this agent still refers to the potential for harm to asthmatics and suspicion about skin cancer and lung damage. The tests on CR are not nearly as extensive. Again, my point is not to arouse technical debate concerning the reliability of test data or relative harm to those with hypertension, asthma, respiratory disease, or glaucoma, but to note that again, we may be considering another chemical agent from the standpoint of "relative" toxicity. To me, it would be a very difficult task to exclude riot control agents from the Geneva Protocol and justify this in any terms that would adequately distinguish these agents from other agents on the basis of "relative" toxicity. They are chemical agents, and they are used in warfare; the fact that some of the warfare is internal against nonmilitary personnel is beside the point in discussions of the international treaty. The moment that we exclude an entire category of chemical agents from a treaty on chemical warfare agents we expose ourselves to the potential of treaty breaking when new agents become available as they will inevitably. How close to the toxicity of nerve agents must an herbicide or a riot control agent be in order to be transformed from an excluded agent to an included agent?

Mr. Speaker, the legislation I and many cosponsors have introduced, and which has been referred to the House Foreign Affairs Committee for consideration, directs attention to the need to reevaluate these kinds of problems in our overall discussion of U.S. CW policies. We cannot afford to be sidetracked by definitions. The data base on which these definitions are made is not adequate to give us the confidence we need to have in order to be that certain about our decisions. How could we justify the use of any agent as not being a chemical warfare agent simply because we say that our purpose in using it is to destroy plants, if we find later on that there is danger to human beings or because we use riot control agents on our own citizens we should be justified in using them on the battlefield? We must make up our minds that we are either for or against the use of chemical warfare agents and not confuse the issue with poor definitions based upon inadequate research in support of our understanding of physiological response. As we accumulate data, there are too many indications that we have underestimated the potential for dangerous effects of some of these so-called nonlethal compounds.

I have asked the Department of Defense to provide me with information on our intentions with regard to adoption of CR. As soon as I have more information, I will provide it to the Members to help them in their considerations of the proposed legislation on chemical warfare issues.

ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, the United States finds itself in a curious position. For the first time in its history, it is in the midst of a serious energy crisis. From a nation of self-sufficiency, it has become dependent on foreign petroleum sources. We now import more than 30 percent of our oil needs. That figure is expected to rise to more than 50 percent in the next dozen years.

The goal of having a sufficient domestic supply of petroleum to prevent being seriously dependent on foreign sources has not been realized. The United States has received no benefit in return for enormous tax advantages given to the petroleum industry. The petroleum companies have become richer as the American taxpayer-consumer has paid the price of the U.S. petroleum industry's overseas operations.

This past winter the United States struggled through a heating and diesel fuel shortage. It was followed, not by relief, but by a gasoline shortage. All indications point to a resumption of the cycle this winter.

In this period, some 1,200 independent gasoline stations have been forced to close. Many independent refineries throughout the Nation were operating at only 50 to 75 percent capacity due to a cutback in crude supply by the major companies. Consumers in all parts of the country were asked to cut back on their use of fuel and to pay more for what they used. In short, almost everyone was asked to make some sacrifice except the major American oil companies whose profits rose to levels even higher than the previous year's. As reported in the Oil and Gas Journal of August 13, 1973, the net profit of the 29 largest oil companies was up 39 percent in the first half of 1973 compared with the first half of 1972.

Exxon, the Nation's largest petroleum company, announced a 48-percent gain in net profit for the first half of 1973. Its earnings were estimated at $1,018 billion for the first half of the year.

Mobil Oil Corp., which sponsored the recent "open letter" advertisement, had its net profit soar more than 25 percent in the first half. Gulf Oil indicated its first-half net profit increased 46 percent over the same period in 1972. Texaco reported that its net profit rose 28 percent in the first half of 1973.

The list could go on and on: Atlantic Richfield—net profit 50 percent higher in the first half of 1973 than in 1972; Standard of Indiana—first-half profits up by 29 percent over last year; Standard of California, Continental Oil, Phillips Petroleum, Marathon Oil, Clark Oil & Refinery, Getty Oil, Murphy Oil, and Standard of Ohio—all show higher profits and revenues this year than last.

The major oil companies escape about one-half of the Federal income tax liability by means of the depletion allowance and the intangible drilling costs write-off. They escape about three-fourths of the rest of their Federal income tax liability by being allowed to treat foreign royalty payments as tax payments and, thus, as credits against U.S. income taxes.

These tax favors or loopholes in effect came out of the taxpayer's pocket. The working men and women of our country are forced to make up what these gigantic corporations have avoided paying to the U.S. Treasury. And, as pointed out previously, an increasingly larger amount of these savings is invested in their foreign operations to the detriment of the American people.

The performance of the large oil companies actually improved from a tax-avoidance point of view in 1972. Twelve of the 19 companies paid a smaller percentage of their net income as Federal tax last year. Exxon, Texaco, Mobil, Standard of Indiana, Gulf, Sun, Union of California, and Amerada-Hess paid smaller actual amounts in 1972, although all but Gulf, Sun, and Amerada-Hess registered net income gains in 1972 over 1971.

For the 19 companies last year, their combined net income before tax was $11.4 billion—up $0.5 billion over 1971; their Federal income tax was $684.9 million—down $31.8 million from 1971; and the Federal tax as a percent of net income was 5.99 percent—down from 6.5 percent in 1971. This rate is, as all working men and women know, far below that paid by an individual taxpayer earning much less.

Some companies pay additional sums in foreign and local taxes, but few pay proportionally in taxes as much as the average American worker or wholly domestic American business.

Yesterday I introduced a bill, which would prevent the major oil companies from taking advantage of the present fuel crisis by reaping unconscionable profits at the expense of the American consumer.

We have seen other excess profits bills introduced. For the most part these bills would have little effect on oil company receipts and would merely postpone the economic benefit which oil companies are deriving from excess prices and excess profits.

One central theme runs through these so called "excess profits tax" proposals. That is, if the oil companies invest these "excess profits" in refineries, and searching for more oil, the taxes would be forgiven.

Thus, the oil companies will invest heavily, in exploration, and the construction of pipelines and refineries—a fact which we have known they were going to do for some time—the consumer will continue to pay outrageous prices for his fuel oil and gasoline, and the oil companies will pay the same minimal taxes that they did last year. Then in the years to come the oil companies will benefit from their huge investments with large profits. Undoubtedly the oil companies will arrange it so that these future profits are taken at a time when the energy crisis has subsided, the population has all but forgotten about the excess profits which the oil companies invested, and the excess profits taxes have been repealed.

In the meantime prices for crude oil will have doubled or tripled—and the consumers will have been led to think that they are getting a bargain.

It is my feeling that the oil companies and the oil exporting nations have raised prices to what they know are unreasonable levels. Then after all the hoopla from the politicians about lowering prices and forcing a rollback, the oil companies will "give in" and reluctantly lower their prices to double what they were paid last year. Some victory for the consumer.

The bill I offered yesterday differs from all others including the President's proposal which does nothing to prevent high prices and huge profits. The President's proposal actually permits windfall profits and then applies, not an excess profits tax, but an excise tax which would be passed on to the consumer in even higher prices.

The President's so-called graduated windfall profits tax would permit the oil companies to make an estimated $16 billion each year in excess profits on crude oil alone—and then retain $13 billion, after surrendering only $3 billion to the U.S. Treasury, according to Arthur Okun, former Chairman of the Council of Economic Advisers.

I introduced the only real excess profits tax that has been proposed. My bill is very simple. The oil companies have been crying the blues lately about the proposed excess profits taxes. They say that one cannot tax them merely because last year's profits were up from the year before. The year before was a bad year for oil companies it seems. Now I agree that we should not take unfair advantage of the oil companies. So I had the Federal Trade Commission supply me with figures on return to equity for the largest eight oil companies for the years 1951 through 1971. The weighted average return on equity for these companies was 11.93 percent while the average return for all manufacturing was 10.84 percent. It seems that the oil companies have been doing better than they would lead us to believe.

My excess profits tax will allow oil companies with sales of over $1 billion to make a healthy 13-percent return on equity and tax all profits above that amount at 85 percent. It would let the small companies which are trying to get a greater share of the market grow and prosper.

That is a real excess profits tax.

MORE ON FATHER DANIEL BERRIGAN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, the controversy stirred by the speech of Father Daniel Berrigan before the Association of Arab University Graduates continues. This was the address in which some observers, including myself, believe that Father Berrigan expressed anti-Jewish sentiments.

I have received a number of letters recently in response to my letter to the editor of the New York Times—January 14, 1974—in which I drew a parallel between Father Berrigan's anti-Semitism and that of Father Charles Coughlin who, at the other end of the political spectrum, represented the views of the far right. What was interesting was that on the one hand I would receive a letter defending Father Berrigan saying:

> Your letter is bizarre. Dan Berrigan is no more anti-Semitic than you are.

On the other hand, in a letter on behalf of Father Coughlin, its author wrote:

> You accuse Father Coughlin of being anti-Semitic. This is a complete falsehood. He was in truth a friend of the Jew, not his enemy as you claim.

I received no single letter defending both against charges of anti-Semitism.

Perhaps the best analysis of Father Daniel Berrigan written to date on this subject is that authored by Paul Cowan appearing in the Village Voice of January 31, 1974. By reason of the fact that Paul Cowan is a long time friend of Father Berrigan and because Paul Cowan is not only a great writer but an honest one, the article is particularly perceptive. I recommend its reading to our colleagues and it follows:

THE MORAL IMPERIALISM OF DAN BERRIGAN

(By Paul Cowan)

It was a friendly, affectionate evening with Dan Berrigan until we focused on the issue that had brought us together—Dan's controversial speech in Washington, D.C., to an audience of Arabs. In it, he had emphasized his condemnation of Israel, though he was critical of the Arab states, too, and urged the Palestinians to adopt non-violent tactics.

In his attack he had equated Israel with South Africa, and made comments like "the wandering Jew had become the settler Jew; the settler ethos had become the imperial adventure . . . The slave master had created slaves . . . The coinage of Israel is stamped with the imperialist forces whose favor she had courted. And the price is being paid by the Oriental Jews, the poor, the excluded, prisoners." Though he asserted Israel's right to statehood, he claimed she "has not abolished poverty and misery; rather, she manufactures human waste, the by-products of her entrepreneurs, her military-industrial complex."

He turned his attention to American Jews, too, with statements like "The fate of the Vietnamese was as unimportant to the Zionist in our midst as was the state of the Palestinians." At the same time, because he sees himself as a fugitive, a marginal man, he defined himself as "a Jew, in resistance to Israel."

The speech had angered me. The political arguments it contained were familiar, and I agree with many of them: many Israelis are bigoted towards Arabs, and insensitive to the Palestinian's dislocation; the state was probably reckless in its refusal to return some of the conquered lands. But his words were joltingly arrogant and uninformed. By using provocative language, he'd helped make himself the central issue. If he hoped to inspire a more rational debate on the Middle East, he failed. Instead, he provoked a controversy about the character of Daniel Berrigan.

That particularly disturbed me since I'd felt a special respect for Berrigan ever since April 1970, when he was underground and a mutual friend called me to propose an interview. It sounded like a scoop and an adventure. It turned out to be a two-hour conversation that influenced me for years. I thought that Berrigan and his friends—practically alone on the American left—had found a way of merging militant pacifism with genuine modest humanism. I wanted to share what they had found.

Months later, when Berrigan was in jail for pouring blood on some draft files in Catonsville, Maryland, I received a tape recording he'd made while he was still underground. Ross Wetzsteon and I edited the raw document and published it as his "Letter to the Weathermen." Much of it was a plea to younger radicals to adopt the discipline of non-violence. But it also contained a paean to compassion, and that was the part of the speech I admired the most.

"How shall we speak to our people, to people everywhere?" he had asked. "We must never refuse, in spite of their refusal of us, to call them our brothers. And I must say to you, as clearly as I know how, that if people are not the main issue, then there is no main issue."

I felt Berrigan's speech to the Arabs had violated that precept. I wanted to know whether I'd react the same way to the man who was drinking scotch with me in my living room, as we taped an interview.

Berrigan made it clear that the speech was not delivered in haste: he'd harbored those feelings ever since 1967, when he wondered why Jews could be so adamantly against the war in Vietnam, so fervent in their support for Israel. He'd contemplated his text for months before the actual speech. He saw it as a jeremiad, a warning. The risk of delivering it, he thought, was part of his own painful effort to perform the duties of a prophet.

He was also uncomfortable in his post-Catonsville role as a sort of secular saint, though he wasn't altogether happy about renouncing it. "I do everything that I can do to keep raising new questions and to keep from fading into someone's image of me, or from accepting the '60s as a measure of my life. But I'm always angry about the next step—Catonsville, this speech—because I would like to stay with the last. I would like to be able to absorb things and stay with something for awhile instead of continually having to move on to something half-understood, half-absorbed, half-expressed to others."

Though he deliberately chose to give the speech in a literary form "which has to do with the abrupt opening of questions which are crudely put and put in deliberately provocative language," he has still been surprised and bruised by the response he's received. "Every time I appear in New York now someone shows up with leaflets about Berrigan the anti-Semite. And the mail has been rough. My gut has been in terrible shape. I've had to deal with a feeling in New York City, which is my city, that this guy is a parasite, a trouble maker—that, as the goys say, I've gone insane, and as the Jews say, I'm an anti-semite. I'm paying the price for opening some questions that people didn't want opened, and in a manner that was very offensive."

The point of his speech, he said, was to shock people into thinking. Yet he delivered it in front of an Arab audience which must have heard criticisms of Israel 100 times. So I decided to challenge him by referring to the passage I've quoted from the "Letter to the Weathermen" and saying that "What I believe is that if you're really trying to talk to people and you have something dangerous to say, then you chose a difficult place to say it. If you want to give a speech about Israel then you do it in front of Jews at the Educational Alliance. If I'm going to say something critical about you, then I say it to you before I print it in The Village Voice."

He became exasperated, though his tone was laced with irony. "That question about my audience has been raised often in my recent career. And if I may be very unkind, I say ———, because I have no sense of all that. I was not invited to speak to a Jewish audience. I was invited to speak to an Arab audience. I would give the same speech to a comparable Jewish audience. I don't pick audiences. I try to tell the truth as I see it."

Then he began to describe the Arabs he'd spoken to with far more contempt than he ever applied to Israelis. "Jews who have written me about that speech have said 'you must have had great applause as you made your points against Israel.' Nothing like that happened. That was one of the least interesting, most moribund, most middle-class audiences I have faced. Rich Arabs in America. I was appalled. It was like sitting in front of 4000 pounds of unrisen dough."

So he'd prepared his speech carefully, though his audience had been chosen because of a chance invitation from his friend Eqbal Ahmad, one of the defendants—along with Phil Berrigan—in the trial of the Harrisburg Seven The tone, and many of the moral arguments, came from a lifetime of reading scripture. But what did he know about the contemporary Middle East? What books or articles had influenced him the most?

"I'm not very systematic in my reading, but I did a lot of it up there in Manitoba. I was always reading New Left literature and left Catholic literature. I read Arthur Waskow's stuff. Everything he did he always sent me. Paul Jacobs sent me his long thing from Ramparts. I had access to a British publication called Peace News, which published a lot of stuff about trials in Israel and statements before the court. I had a couple of paperbacks about settler situations. I'd always read about the kibbutzim. I also read about the Palestinians in paperback and I think the Arab groups sent me some position papers."

I asked him if he'd read more since he became embroiled in the current controversy. "Oh, sure. Of course." "What?" "Well, my mail. And besides that . . . mostly Old Testament and scriptures."

Had he discussed Israel with any Israelis? He remembered a single two-hour conversation with Uri Davis, the pacifist whose views would reinforce his own.

His doubts about Israel had orginally been prompted by his perception, in 1967, that Jews on the left applied a different set of standards to the Middle East than to Vietnam. I asked him whether, in the intervening seven years, he'd ever challenged any Jew to sit down and explore that issue with him. He'd considered doing that with his good friend, the late Rabbi Abraham Heschel, a co-founder of the Clergy and Laymen Concerned About the War, but he was afraid the question would hurt Heschel too much. He couldn't recall opening that sort of discussion with anyone else. Had he tried to talk to any Jews while he was meditating about his speech to the Arabs? No. In his view that would have been "taking a Harris poll, beginning a great public survey about my next step. I don't think that's very helpful. If we had polled our friends we would never have gone to Catonsville."

To me, there's a vast difference between talking to people and polling them. The first is a human experience. The second is an advertising technique. I tried to emphasize that by referring to the "Letter to the Weathermen" again, and mentioning Jewish friends of mine who have been debating the propriety of Israel's policies since 1967, "but who heard dark hints of anti-Semitism in your speech. I think those were people you didn't speak to. They weren't part of your mental geography when you gave that speech."

"Yeah, but the speech to the Weatherpeople was two years later than Catonsville. Catonsville was the real shockeroo. The speech to the Weatherpeople was a speech of affirmation, interpreting, going further. It was a step along the way. At Catonsville I had the same sense of hatred and alienation directed at myself and my friends that I have here again with this speech to the Arabs. This is an attempt to open up something you can't be very gentle or nuanced about because you are trying to do something very new and different. You pose a very rugged threat before people. You can't be polite and civilized about it all. Then you do the talking. And that's why we're here tonight, as we were around the country for months and years after Catonsville. Explaining what we're doing and saying. Thrashing it out. You're saying this is different . . ."

"No, I'm not saying this is different. I'm saying you might have been wrong."

His voice rose a little, as if I had missed some crucial point, and he said, "I agree with you. Though I don't think it was wrong. And the same blind, loving sense that led me to Catonsville led me to this speech. And the same feelings are in my heart afterwards, which are not feelings of anger, hurt, or alienation, but a sense of once having done this, let's take the heat and try and cope with it."

It seemed like a rather melodramatic statement to me, where Berrigan the prophet was the center of his moral universe. And I realized that Dan's insistence that "if people are not the main issue, then there is no main issue" had not been a statement of principle so much as a refinement of rhetoric that would allow him to explain himself, not learn about others.

Later, when he began to categorize all his critics as people who were outraged by the fact that he'd dared criticize Israel, I said, "Dan, you talk about your critics. But you don't make any distinctions. You haven't talked about the people you've pained."

"I've pained my critics."

"But not in the way you're talking about. The pain you've given them doesn't come from their fear of the questions you've raised about Israel, but their fear of anti-Semitism. I don't know whether that matters to you now."

"Well, it does," he said. "But see I find it kind of hard to separate their kind of pain from my pain." He paused. "I look on my pain as being a little more authentic than theirs."

"Why?"

"I guess because of what I've been through?"

"Describe that. I don't see what you mean."

"The '60s. Prison."

"So you think you've been through more than them?"

"Than my critics? Oh yes. It's very rare to find one I can respect by way of his own historical and rational grasp of the situation."

"I'm not sure you really know who your critics are. I'm not sure you really know the people who have written you those letters. I'm thinking of a particular friend of mine who spent two of her first four years in a German concentration camp. She's had deep questions about Israel for years. I think she would agree with the political content of your speech. That's not what disturbed her. Her pain comes from your language. And I feel an arrogance in you when I hear you say your pain is more authentic than hers. I don't like this business of measuring pain or measuring grace anyway."

"I know what you mean. I was thinking of the people who had written me the letters I've been reading. They don't communicate a wholeness about who they are. They're coming on about non-essentials while I'm trying to deal with the lives and deaths of people."

But Berrigan's own grasp of the lives and deaths of people who live in the Middle East now is spotty. And he doesn't seem very interested in focusing on them.

In his speech he mentioned, in passing, that the price of Israeli imperialism was being paid by Oriental Jews, among others. That's a familiar part of the left's critique of Israel, one he would certainly have encountered in the publications he reads. In many ways it's accurate to say—as radicals rarely do—that the existence of Israel may have saved hundreds of thousands of North African Jews.

I tried to talk about that with Dan. In 1962, I quit college for a year to live in Israel and teach refugees from North Africa—Tunisian, Moroccan, and Algerian Jews. Although the country I knew then has transformed greatly, the experience showed me the historic and human paradises that provide some of the impulses for Israeli policy.

In the 1950s, when the Oriental Jews still lived in North Africa, they would have been on the left's enemies list, not part of its litany of oppressed peoples. Most were members of the petite bourgeoisie—landowners, shopkeepers. They feared Arab revolutionaries, hated nationalist groups like the FLN, sided with the pied noir, the French colonialist settlers. When the Arabs took power, most were expelled. Many were forced to flee by night, leaving their possessions behind. Most of those I knew originally wanted to settle in France or the United States, far from the rigors of Israeli life. But when the West rejected them, very few voices—either from the left or the world Jewish establishment—were raised in their behalf. Israel was the only thing that prevented them from becoming just so many more of history's unnoticed and unmourned corpses.

In those days, the time of their most intense migration, they received money from the government as soon as they arrived, even though the prejudice against them was distinct. (I was often urged to become an Israeli because the country needed Westerners so that it wouldn't be "Levantinized.") There was work for them and decent, modern housing, though I'm told things have gotten much worse since 1967. They became the most militantly anti-Arab group in the country—and still are. My students used to affect Moshe Dayan eyepatches as early as 1962. Their parents longed for a war of revenge.

When I asked Dan if he knew any of that complex history he said he didn't, that if I was right he'd stand corrected. But I don't think it mattered to him much. At least when I asked him to suggest some sort of policy that took the feelings of the North African Jews into account to speak to *them* as people—he demurred and said, with some irritation, that his mention of them had been a minor part of his speech.

He had, however, thought a great deal about the emotions of concentration camp victims, and concluded that their emotions were less important to him than the truths he perceived. "I have really tried to understand the holocaust and to deal with it. Rabbi Heschel was a very great help to me. So were Elie Wiesel's writings. But I disagree with the attitude that uses an historic experience to say we have nothing to say about life today. The Catholic Church tries to put that in terms of guilt. It says we have been the persecutors and the killers of Jews since the inquisition, so we have no spiritual right to comment on what's happening now. In the '60s whites said the same thing about blacks: 'we're the sons and daughters of slave-owners so we have nothing to say to the slaves.' This is what I reject. I believe we're responsible for our lifetime, for the facts before us, trying to take into account what we have done, how others have suffered, but not being stopped by it."

I wanted to know what he thought was a responsible attitude toward Israel. He insisted he believed in the existence of the state. "Well, what do you think they should do?" I asked. "There are Arabs who say that they want to destroy Israel. Should it lay down its arms? Should it keep up a relatively high level of armaments? What do you think?"

"That's an unfair question," he said. "It's like asking, in the middle '60s what do you propose to do about Vietnam? I mean, five-year plans are always very difficult to work through. I think the first thing I can offer—and it isn't much—is a corrective and a very strong no to what is going on. To Israel's militarization, and its aping of American policy in the world. And then it's up to a lot of people to pick up these things with alternatives.

"Okay," I said. "Pretend I'm a left-wing kibbutznik. I've just read your speech, and want to know more about what you think. You're talking to me. At least give me an approach to thinking about Israel."

He didn't answer me directly. "See, I think Israel has some very rough choices. I think that if it would admit that a military or a paramilitary state is no desirable thing—that the loss of civil liberties at home is a very real possibility—that might mean she'd have to return to a more biblical understanding of things. And by biblical I mean prophetic. Israel has to take the risk—and everything implied in the risk—of a small nation, with everybody trying to screw it. The risk which says we have to put our faith in a gesture on behalf of the Palestinians, withdrawal, progressive disarmament. It has to say we're going to talk deliberately to the world about the needs of our people and the Palestinians. We're no longer going to put our trust in a military solution."

"Should I stand guard duty tonight?" I asked.

"Well, I think those questions are unfair," Berrigan said.

"Why? I think you're talking on a plane of generalization that I can't see applying to my life."

"Well, I was trying to come closer, but I've never talked to kibbutzim in my speeches. I was trying to talk to power across the line—to the people who give the orders to send off the Phantom jets or release the missiles. I think it's very hard to suddenly get down to the fate of a certain person. I want to talk to their leadership, to the people in whose hands their lives lie."

"Yes, but Dan, it doesn't strike me that what you're saying is very different from what people say to each other in Israel every day."

"It's very, very different from what my adversaries here say. They're willing to hang me for it."

"But those ideas are discussed in kibbutz dormitories, in Tel Aviv and Jerusalem apartments even in political campaigns."

"Well, that's not very much comfort to me. It's very difficult to say them here. And I'm taking a lot of heat for saying those things."

It was a quick, reflexive remark from a man under a great deal of strain. And it's true that, on the whole, the American Jewish community seems to be far less open to a free-wheeling debate about Israel than is Israel itself. And the situation there isn't as open as I made it sound in the heat of argument. Uri Davis, who was my friend, too, used to read me tormented letters from radical Israelis whose lives had been threatened, who'd been jailed, because they refused to enter military service.

Nevertheless, my interview with Dan left me convinced that, for now at least, the reality of Israel isn't as important to him as the effects of his own remarks about Israel. It's as if he wants to move back to the marginal, fugitive role he played in the years when Catonsville really seemed like a dangerous action, before its meaning was muffled by liberal approval.

In a way, though, it's a shame that his speech to the Arabs was the vehicle by which he re-emerged into public consciousness. The frenzied debate it caused obscures the dozens of gentle acts of service he performs each month. While he was teaching in Manitoba, for example, some maintenance workers went on strike. He joined the picket line, got his class to serve them coffee, moved off campus in an area where he knew no one at all—to show his solidarity. He worked with migrant laborers in Canada. His presence in the Danbury prison was an inspiration to scores of inmates who did time with him, and he keeps in touch with many of them. As soon as he returned to the States from Canada he focused a great deal of his energy on the case of Martin Sostre, the virtually anonymous black prisoner who has been in solitary confinement for many years, giving speeches and practicing behind-the-scenes diplomacy to free the man.

The controversy over Israel has also made him vulnerable to attacks from people who didn't display a fraction of his courage during the '60s. Then, his willingness to fight the Catholic Church and the U.S. government was a constant psychological threat to people who felt deep revulsion at the war, but who were unwilling to risk their careers—or their freedom—to stop the killing. It's as if his arrogance about Israel has justified their cowardice about Vietnam.

I don't believe Berrigan is an anti-Semite, though I think he inflicted the charge on himself by his unbelievably careless use of language. For example, it was his accusation that Israel was responsible for "the manufacture of human waste" that evoked images of Dachau in Nat Hentoff's mind and provoked Nat to criticize Berrigan in The Voice. Dan was flabbergasted and apologetic when I described that entire episode. Several times during the interview he said he wished he'd used less abrasive language. Anyway, I'm convinced that if American Jews were being actively oppressed Berrigan would play the same bold role as his model Dietrich Bonhoeffer did in Nazi Germany. I think he'd risk his life to resist that oppression.

Besides, his criticisms extend beyond Israel and the Arab audience to whom he delivered his controversial speech. At a public meeting last Thursday, Berrigan was asked about his stand on Northern Ireland. He said he hadn't gotten involved in that cause because he hadn't felt much pressure from the Irish community in New York, which he called, "a bunch of deadheads." When someone in the audience reminded him that the IRA had organized a march down Fifth Avenue last year, he parried that remark with the flip rejoinder that "they were probably trying to work up a sweat before they got to the pubs."

As far as I'm concerned, such comments and his speech to the Arabs connects him to the arrogant America I thought he'd escaped when I met him in 1970. For me, the speech is an extension of the reckless thought masked by pious words that has always characterized our foreign relations.

My deepest disagreement is with its unspoken assumption that, because Berrigan is a moral man, he can make accurate criticisms of people and cultures he barely knows. (When I said that to him during the interview, he winced a little, but didn't try to explore the thought.) He is not speaking to the people. He is exhorting them from a frozen ethical-political stance.

So is the Nixon Administration, in its way, though it has the power to bully, not exhort. In the Middle East it gave qualified support to Israel because that position serves the myths of politics and patriotism. Much of the left does the same thing, in its much smaller world. Radicals mechanically support the Palestinians, and wage unremitting attacks on Israel, because that line is dictated by their reading of the underground press.

Berrigan's jeremiad comes from his reading of scripture. It has nothing to do with people, as they live and breathe on earth. From his point of view, he is taking increasingly dangerous risks because that is his calling as a Christian and a prophet. From my point of view, there are no prophets—only flawed, fallible people who must muster all the courage and intelligence they can to make a little temporary sense out of a murky world. And that is particularly true in the Middle East, where there are conflicting, legitimate claims to the same postage stamp of land, where peace can only come through patience and understanding, not bold, apocalyptic rhetoric.

I see Berrigan as a man who travels through history with answers, not questions. Even when I agree with his views and admire his courage—as I did during the war in Vietnam—I have come to question their source. It is not prophecy. It is moral imperialism.

INCREASE THE SALARIES OF THE JUDICIARY

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the Florida Bar, indeed the American Bar as well, is very proud of Chesterfield Smith, the distinguished president of the American Bar Association. Chesterfield Smith has been an illustrious member of the bar in Florida and in the Nation for many years. He was primarily the author of the amended Florida Constitution. He has made enormous contributions to the growth and the role of the bar in Florida and throughout the United States—indeed in the world. He has brought to the presidency of the American Bar Association outstanding integrity, great ability, and deep dedication to the law. He has led the American Bar in calling for unquestioned integrity in all who are the leaders of the American people

He has not hesitated to speak out when public officials so behaved that they brought into question, if not disrepute, their official conduct. He has in ringing words reminded America that the freedoom of our people depends upon the respected and effective authority of our courts—the accepted and the observed rule of law. Mr. Smith recognizes that if we are to have effective administration of the law in America the judiciary must be of outstanding competence and unquestionable integrity.

Yet President Smith knows that many of the judges of our country today—Federal, State, and local—possessing the qualifications so much needed on the bench are having to go back into private practice to support a growing family or children in college to meet economic demands which they feel it their duty to discharge. Hence, in the name of a better judiciary—the better enforcement of the law in our land, the highest possible quality in the administration of justice—President Smith has called for increase in judiciary salaries which will attract to the bench and keep on the bench once there those best qualified to serve in the solemn role of the judge. President Smith has written his views in a recent article in the American Bar Association Journal which I believe would be of interest to every Member of Congress. I hope the Congress will follow the recommendations of President Smith and provide fair increases in the salaries of judges all over the country so that the quality of the administration of justice will be at the highest possible level to protect the liberties, the lives, and the property of the people of this country and to preserve to the fullest degree the high heritage of the rule of law in this great land.

Mr. Speaker, I insert President Smith's article which appeared in the January 1974 issue of the American Bar Association Journal:

President's Page

(By Chesterfield Smith)

The central figure in the administration of justice in this country is the judge. Nothing is more important to the quality of justice than to attract and retain the best qualified men and women for our courts; in truth, the quality of justice is the quality of the judge.

Inasmuch as the legal profession has a duty to the public to do whatever it can to ensure justice for all citizens, the American Bar Association has worked for years to improve the manner of selecting judges at both state and federal levels as well as the conditions under which they work. For that same reason, it has continuously championed the cause of providing fair and reasonable compensation for judges. All that has been done in merit selection and in enhancing the professional environment of the judiciary will go for naught unless steps are taken to make a judgeship an economically viable possibility to a lawyer whose learning, skill, and experience place her or him in the front rank of the profession.

The salaries of federal juges have been frozen since March 1, 1969. During that same period and in spite of wage controls and postponements, the salary level of general federal employees has increased by 34 per cent. No one who has hired employees, paid tuition, or bought food in the past five years needs to be reminded of ever increasing costs and prices. Federal judges have been severely penalized by the fixed nature of their compensation, and for each day that goes by without a salary adjustment they will continue to be penalized.

Although basic fairness should characterize the relation of our society to its public servants, something even more important than fairness to specific individuals is here involved. In very general terms, what we pay our judges is a measure of our evaluation of the function they perform. We ask of judges that they provide solutions to problems that, on one hand, may involve complex economic interrelationships or, on the other, the most intense and basic human conflicts. We ask of judges that they serve as the ultimate guardians of our liberties. We ask them to provide remedies for those situations in which, by definition, we and our society have failed.

In very practical terms, what we pay our judges must be sufficient to attract the individuals who can perform these tasks competently, and who will do so in an honest and ethical way. At present, a United States district judge is paid $40,000 a year. There is always the danger of falsely equating financial success with professional success. It is also true that fine lawyers may be in a variety of circumstances by choice and otherwise. Still, mindful that there are and will continue to be exceptions, I believe that appointment to a federal judgeship at the present time would represent a substantial sacrifice of present and future earning capacity for very many of the lawyers whom I believe are well qualified for that position.

The subject of judicial salaries is timely. The Federal Commission on Executive, Legislative, and Judicial Salaries has submitted its report to President Nixon. The recommendations of the commission have not been made public, and while not bound by the commission's recommendations, President Nixon will make his own specific proposals for adjustments in federal judicial salaries as part of his budget message in early 1974.

At its October, 1973, meeting, the Board of Governors of the American Bar Association found specifically that, while adequate compensation is essential to attract the best qualified lawyers to the judiciary, the present rate of compensation is no longer comparable to the income of the best qualified lawyers. The board, therefore, resolved to urge President Nixon to recommend a substantial increase for members of the federal judiciary.

The board of governors did not recommend a specific figure, and in transmitting its resolution to President Nixon, I too mentioned no amount. Speaking personally, however, and not for the Association, I believe that as of today any salary for a federal judge of less than $60,000 is not adequate.

Compensation for state court judges poses a similar problem. Much of what I have written with respect to federal judges is equally applicable to state judges. The board of governors has urged that each state bar association conduct a continuing examination of the adequacy of the compensation of judges in its state.

Our concern with the adequacy of judicial salaries should not be interpreted as concern with the quality of those who now serve on our courts. Their acceptance of appointment and their continuing service in spite of financial sacrifice are to their credit. Ours is a profession with a long and continuing tradition of public service, and these judges honor that tradition. Nevertheless, we have no right to ask nor can we reasonably expect our judges to make a financial sacrifice that will last for the remainder of their professional lives. The judiciary must not be open only to those whose private means or willingness to earn at less than capacity permits them to serve at the present salary scale.

Of all government employees, judges are most peculiarly unable to lobby for their own interest. This is the natural result of the standards we have fixed as appropriate conduct. It means, however, that the organized bar and members of the legal profession individually and collectively have the obligation to support appropriate salary increases for judges and to do so with determination and vigor. The time to meet this obligation is now.

AMERICA: MECCA FOR BROTHERHOOD

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, in this day and age when so much of our literature reflects a growing alienation from and disenchantment with America it is refreshing to see that there are still some who consider it worth their while to write of their love of and faith in this country. Just this past week I received a poem in the mail from Ms. Deborah E. Katz expressing just how deeply she feels about our Nation. Her beautiful verse will serve as an inspiration to all of us and a reminder that ours is a great country and there is still much left to hope for in the future of America.

Mr. Speaker, I insert Ms. Katz' poem in the RECORD directly following my remarks:

AMERICA: MECCA FOR BROTHERHOOD

(By Deborah E. Katz)

America is multi-colored; prisms
Illuminate its variegated soil;
Rich red loam and hardiest black earth
Sprout the foliage of democracy.
Democracy! what means that hallowed phrase?
Communion of each man with each as brother—
That is the essence of our heritage.

From seed sown with the hands and hearts of men
Who through their freighted course of history
Emerged from fettered cells of tyranny,
Who broke the links forever in their stride
To liberated unrestricted life,
Spring roots imbedded deep in liberty,
That centuries have ripened for their good.

Through toil and patient striving grew our land,
This spacious breathing ground of our forebears;
Through careful planting of well-chosen grain
And thorough ridding of the weeds that stem
The growth and progress of our progeny;
Black and White, Yellow, Red and Brown,
Composite structure of humanity;
Kaleidoscope of our untrammeled lives.

America is richly domiciled;
Its speech is diverse-tongued, flashing forth
Truth and mellow wisdom from the past,
Faith and youthful vision toward the future;
Justice and strength personified in love;
Its theme is peace and man's equality.

Behold our Banner, frilled to the freest wind,
Star-studded, element-embraced, pure,
The Bill of Rights heralds from every fold,
From every pigment of Red, White and Blue,
That spirit, soul and body we belong
To Him who gave us breath and to ourselves,
But to no man to barter or enslave.
Bacteria of intolerance and hate
Spewd in dungeons of the fascist mills
At times lash furiously against our shores,
And some seep in to ravage weaker minds.
But noble-born in courage and morale,
We fortify this sacred arsenal;
Aggression shall not reign upon our strand;
No tyrants shall intrude on our domain—
Democracy and freedom must survive. . .
This truth has been proclaimed to all the world.

INTRODUCTION OF LEGISLATION PROTECTING RIGHT OF PRIVACY

(Mr. RODINO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RODINO. Mr. Speaker, I am greatly pleased this afternoon to be introducing two pieces of legislation which are designed to help strike that delicate balance between the legitimate needs of law enforcement for information which is protective of the public welfare and that most-prized but elusive civil liberty of the individual right to privacy.

The President stated in his state of the Union message, delivered on January 30, 1974, that—

> We will make an historic beginning on the task of defining and protecting the right of personal privacy for every American.

Actually, that task was begun by this Congress back in March of 1972. The Subcommittee on Civil Rights and Constitutional Rights—then known as subcommittee No. 4—of the House Committee on the Judiciary began its hearings, study, and dialog on the subject of providing for the dissemination and use of criminal arrest records in a manner that insures their security and privacy on March 16, 1972. I state with some pride that this was a project conceived and born here in the House of Representatives. Hearings continued through the 92d Congress and into the 93d. There is presently pending before that same subcommittee, H.R. 188, to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy, and H.R. 9783, to regulate the collection, storage, and dissemination of information by criminal data banks established or supported by the United States.

I now wish to add for their consideration two pieces of legislation:

First, a bill entitled the "Criminal Justice Information Control and Protection of Privacy Act of 1974." This is the same bill being introduced in the Senate today by Senators ERVIN and HRUSKA. I am also introducing a bill entitled "Criminal Justice Information Systems Act of 1974." This same bill is also being introduced in the Senate today and represents the work of the Department of Justice and is the legislation proposed by this administration pursuant to the President's message. There are similarities to all these bills, but there are also some great differences in application and scope of protections. It appears wisest to me, however, to have all of these proposals and ideas before the subcommittee for their consideration. It is my hope that this bipartisan spirit of initiative which we welcome and join in today will continue through the deliberations and ultimate passage of legislation in this area.

If we have learned anything from our travails of this past year, it is that we must be more assiduous in the guarding of individual privacy and more vigilant to the unlimited, unregulated, unfettered use of any governmental power to collect information concerning its citizens. I am positive that out of these legislative proposals we will be able to fashion a careful, cogent, and comprehensive uniform national policy; one which will correct the abuses of the past and prevent the abuses in our future; one which will enable us to utilize our technology to the advantage of all but not at the expense of any one individual.

INTRODUCTION OF LEGISLATION PROTECTING THE RIGHT OF PRIVACY

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, I am happy to join with the distinguished chairman of the House Committee on the Judiciary today in introducing two pieces of legislation directly related to a subject on which the Subcommittee on Civil Rights and Constitutional Rights, which I am privileged to chair, has studied and worked these past 2 years, that is, individual rights to privacy in the area of criminal justice information.

We welcome these contributions to our efforts which will now enable us to finalize and produce the much needed protections to individual liberty and privacy too long overlooked and ignored.

The FBI receives daily over 11,000 requests for arrest-record information from its manually operated fingerprint and "rap sheet" system. Many of these requests go to nonlaw enforcement agencies for employment checks. They also find their way into credit, insurance, and myriad other uses. Unfortunately, this information is not always complete or reflects an arrest but no conviction, however, for most purposes that individual is treated as a criminal solely because of the arrest whether or not he has been charged with a crime or found innocent.

Our technology is advancing by leaps and bounds as is our dollar investment in that technology. The U.S. Government and State agencies have invested $100 million in nationwide computer information systems. There has been developed a nationwide system of computerized criminal-justice information which can locate, retrieve, and send information and files anywhere to one of 40,000 local police departments in seconds. This can be a useful and desirable technological tool for law enforcement in their efforts to protect society, but those systems exist today virtually unregulated and unfettered. We must develop a national uniform system which will protect the indivdual citizen against an unconstitutional invasion of his or her personal privacy.

I am pleased, therefore, to join with Chairman Rodino in introducing both the "Criminal Justice Information Control and Protection of Privacy Act of 1974," sponsored by Senators Ervin and Hruska in the Senate and the "Criminal Justice Information Systems Act of 1974," proposed by the Department of Justice and this administration in response to the President's recent state of the Union message.

They will both aid our deliberations immeasurably. My subcommittee will continue our work in this area, begun over 2 years ago, and hopefully now be able to conclude and produce a piece of legislation tailored to the delicate balance necessary in this area.

We shall begin our hearings this month and shall ask first to hear from Attorney General Saxbe and the Director of the Federal Bureau of Investigation, Mr. Clarence Kelley.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Fish (at the request of Mr. Rhodes), for today, on account of illness.

Mr. McSpadden (at the request of Mr. O'Neill), for today, on account of critical illness of his mother.

Mr. Roncalio of Wyoming, for February 7 through 12, on account of official business.

Mr. Don H. Clausen (at the request of Mr. Rhodes), on account of illness in family.

Mr. Steelman (at the request of Mr. Rhodes), for today, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Bauman) and to revise and extend their remarks and include extraneous matter:)

Mr. Crane, for 5 minutes, today.
Mr. Frenzel, for 30 minutes, today.
Mr. Kemp, for 10 minutes, today.
Mr. Widnall, for 10 minutes, today.
Mr. Talcott, for 10 minutes, today.

(The following Members (at the request of Mr. Andrews of North Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. Fraser, for 5 minutes, today.
Mr. Murphy of New York, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Wolff, for 5 minutes, today.
Mr. Fulton, for 10 minutes, today.
Mr. McFall, for 5 minutes, today.
Mr. Diggs, for 5 minutes, today.
Mr. Owens, for 15 minutes, today.
Mr. Tiernan, for 5 minutes, today.
Mr. Perkins, for 10 minutes, on February 6.
Mr. O'Hara, for 10 minutes, on February 6.
Mr. Brademas, for 10 minutes, on February 6.
Mr. Thompson of New Jersey, for 10 minutes, on February 7.
Mr. Dominick V. Daniels, for 10 minutes, on February 7.
Mr. Ford, for 10 minutes, on February 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Koch, and to include extraneous matter notwithstanding the fact it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $575.

(The following Members (at the request of Mr. Bauman) and to include extraneous material:)

Mr. Crane in five instances.
Mr. Heinz.
Mr. Young of Florida in five instances.
Mr. Wyman in two instances.
Mr. Abdnor.
Mr. Sebelius.
Mr. Hinshaw in two instances.
Mr. Young of Illinois.
Mr. Shoup.
Mr. Winn.
Mr. Wyatt.
Mr. Ketchum.
Mr. Derwinski in two instances.
Mr. Steele.
Mr. Gilman.
Mr. Collins of Texas in three instances.
Mr. Regula in two instances.
Mr. Cohen.
Mr. Mayne in two instances.
Mr. Kemp in three instances.
Mr. Bauman in two instances.
Mr. Bray in two instances.
Mr. Minshall of Ohio.

(The following Members (at the request of Mr. Andrews of North Carolina) and to include extraneous material:)

Mr. Mills.
Mr. Charles H. Wilson of California.
Mr. Corman.
Mr. de la Garza in 10 instances.
Mr. Rosenthal in five instances.
Mr. Gonzalez in three instances.
Mr. Rarick in three instances.
Mr. Evins of Tennessee in six instances.
Mr. Brademas in six instances.
Mr. Badillo in three instances.
Mr. Bergland in three instances.
Mr. Dingell in two instances.
Mr. Harrington in three instances.
Mr. Clark.
Mr. Roncalio of Wyoming.
Mr. Fascell in three instances.
Mr. Moakley.
Mr. Conyers.
Mr. Benitez.
Mr. Vanik in three instances.
Mr. Pickle in three instances.
Mr. Riegle.
Mr. Ryan in two instances.
Mr. Hanna in five instances.
Mr. Aspin in 10 instances.
Mr. McCormack in two instances.
Mr. Jarman.
Mr. Eckhardt in two instances.
Mr. Ginn.
Mr. Bennett.
Mr. Holifield.
Mr. Danielson in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2368. An act to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices; to the Committee on Interstate and Foreign Commerce.

S. 2777. An act to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. ANDREWS of North Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Wednesday, February 6, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1829. A letter from the Acting Secretary of the Navy, transmitting the annual report on the number of Navy and Marine Corps officers above the grade of major or lieutenant commander, by grade and age group, who are entitled to flight incentive pay, and the average monthly incentive pay authorized for those officers during the 6 month period ended October 31, 1973, pursuant to 37 U.S.C. 301(g); to the Committee on Armed Services.

1830. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on Federal financial assistance to States for civil defense equipment and facilities during the quarter ended December 31, 1973, pursuant to 50 U.S.C. app. 2281(i); to the Committee on Armed Services.

1831. A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to provide for the chartering of Federal stock savings and loan associations, to regulate unitary savings and loan holding companies, and for other purposes; to the Committee on Banking and Currency.

1832. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 74–13, waiving the restriction on sales, credits, and guarantees to the Government of Ecuador, pursuant to section 3(b) of the Foreign Military Sales Act, as amended [22 U.S.C. 2753(b)]; to the Committee on Foreign Affairs.

1833. A letter from the Acting Assistant Secretary of State for Congressional Relations, transmitting the country allocations of grant military assistance for fiscal year 1974, pursuant to section 653 of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2413(a)]; to the Committee on Foreign Affairs.

1834. A letter from the Secretary, Smithsonian Institution, transmitting the annual report of the Smithsonian Institution for fiscal year 1973, pursuant to 20 U.S.C. 57; to the Committee on House Administration.

1835. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket no. MC 43 (Sub-No. 2); to the Committee on Interstate and Foreign Commerce.

1836. A letter from the Attorney General, transmitting a draft of proposed legislation to facilitate and regulate the exchange of criminal justice information; to the Committee on the Judiciary.

1837. A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Civil Rights Act of 1964 to preserve the authority of the Attorney General; to the Committee on Education and Labor.

1838. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act [8 U.S.C. 1182(d)(6)]; to the Committee on the Judiciary.

1839. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13 (b) of the act of September 11, 1957, pursuant to section 13(c) of the act [8 U.S.C. 12556 (c)]; to the Committee on the Judiciary.

1840. A letter from the Chairman, National Parks Centennial Commission, transmitting the financial statement of the Commission to accompany the previously submitted final report, pursuant to section 5(c) of Public Law 91–332; to the Committee on the Judiciary.

1841. A letter from the president and chairman, Little League Baseball, Inc., transmitting the annual report and audit of Little League Baseball, Inc., for fiscal year 1972–73, together with the financial statements of the Little League Foundation for the same period, pursuant to section 14(b) of Public Law 88–378; to the Committee on the Judiciary.

1842. A letter from the Assistant Secretary of Defense (Manpower and Reserve Affairs), transmitting a report on positions in the Department of Defense during calendar year 1973 in grades GS–16, 17, and 18, and a report on scientific and professional positions in the Department, pursuant to 5 U.S.C. 5114(a) and 3104(c); to the Committee on Post Office and Civil Service.

1843. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Astronautics.

RECEIVED FROM THE COMPTROLLER GENERAL

1844. A letter from the Comptroller General of the United States, transmitting a report that the design and administration of the adverse action and appeal systems of the Civil Service Commission need to be improved; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 822. Resolution providing for the consideration of H.R. 10265. A bill to provide for an audit by the General Accounting Office of the Federal Reserve Board, banks, and branches, to extend section 14(b) of the Federal Reserve Act, and to provide an additional $60,000,000 for the construction of Federal Reserve Bank Branch buildings (Rept. No. 93–775). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 823. Resolution providing for the consideration of H.R. 11864. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration and the Department of Housing and Urban Development, in cooperation with the National Bureau of Standards, the National Science Foundation, the General Services Administration, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling (Rept. No. 93–776). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 824. Resolution providing for the consideration of H.R. 11873. A bill to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research (Rept. No. 93–777). Referred to the House Calendar.

Mr. HAYS: Committee on House Administration. H.R. 8053. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; with amendment (Rept. No. 93–778). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12481. A bill to amend the Internal Revenue Code of 1954 to provide pension reform (Rept. No. 93–779). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself and Mr. Rinaldo):

H.R. 12546. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. ARCHER:

H.R. 12547. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. BENITEZ (for himself, Mr. Taylor of North Carolina, Mr. Skubitz, Mr. Stephens, Mr. Sebelius, and Mr. de Lugo):

H.R. 12548. A bill to authorize and direct the Secretary of the Interior to conduct certain studies at the San Juan National Historic Site, Puerto Rico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARTER:

H.R. 12549. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 12550. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the appointment of scientific advisory committees to make recommendations concerning scientific matters raised in the course of proceedings under sections 505 and 507 of that act relating to new drugs and certification of antibiotics; to the Committee on Interstate and Foreign Commerce.

By Mr. DE LUGO (for himself, Mr. Taylor of North Carolina, Mr. Skubitz, Mr. Stephens, and Mr. Sebelius):

H.R. 12551. A bill to amend the Act of October 5, 1962, relating to the Virgin Islands National Park; to the Committee on Interior and Insular Affairs.

By Mr. DICKINSON:

H.R. 12552. A bill to require oil producers, refiners, and distributors to provide certain information as requested by the Federal Energy Administration, to authorize auditing of such information by the General Accounting Office, and to provide for enforcement; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL (for himself, Mr. Casey of Texas, Mr. Brown of California, Mr. Young of Illinois, Mr. Boland, Mr. Young of Georgia, Mr. Mazzoli, Mr. Stark, Mr. de Lugo, Mr. Huber, Mr. Fraser, Mr. Forsythe, Mr. Dent, Mr. Karth, Mr. Thompson of New Jersey, Mr. Broyhill of Virginia, Mr. Dulski, Mr. Badillo, Mr. Derwinski, Mr. Ashley, Mr. Bingham, Mr. Roybal, Mr. Wolff, Mr. Moakley, and Ms. Holtzman):

H.R. 12553. A bill to prohibit the sale of "Saturday Night Special" handguns in the United States; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. Casey of Texas, Mr. Whitehurst, Mr. Foley, Mr. Ware, Mr. Thone, Mr. Vander Jagt, and Mr. Studds):

H.R. 12554. A bill to prohibit the sale of "Saturday Night Special" handguns in the United States; to the Committee on the Judiciary.

By Mr. EDWARDS of Alabama:

H.R. 12555. A bill to amend section 1871 of title 28 of the United States Code relating to the travel allowance of grand and petit jurors; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 12556. A bill to protect the political rights and privacy of individuals and organizations and to define the authority of the Armed Forces to collect, distribute, and store information about civilian political activity; to the Committee on Armed Services.

H.R. 12557. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of information to Govenment agencies; to the Committee on Banking and Currency.

H.R. 12558. A bill to limit the sale or distribution of mailing lists by Federal agencies; to the Committee on Government operations.

H.R. 12559. A bill to amend title 5, United States Code, to provide that individuals be apprised of records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

H.R. 12560. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

By Mr. FULTON:

H.R. 12561. A bill to amend titles XVIII and XIX of the Social Security Act to provide an optional, simplified method of reimbursement for physicians' services under the medicare and medicaid programs for each State on the basis of a fee schedule, uniform through such State, and to authorize reimbursement to participating physicians in the full fee schedule amounts (with collection of the applicable deductibles and coinsurance from patients becoming the responsibility of the Federal program; to the Committee on Ways and Means.

By Mr. GOLDWATER:

H.R. 12562. A bill to amend the Vocational Rehabilitation Act to provide a more equitable method of allotting funds for vocational rehabilitation services among the States; to the Committee on Education and Labor.

By Mr. HARRINGTON:

H.R. 12563. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mr. HÉBERT (for himself and Mr. Bray) (by request):

H.R. 12564. A bill to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes; to the Committee on Armed Services.

H.R. 12565. A bill to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes; to the Committee on Armed Services.

By Mrs. HOLT (for herself, Ms. Abzug, Mr. Bauman, Mr. Brasco, Mr. Brown of California, Mr. Buchanan, Mr. Burgener, Mr. Del Clawson, Mr. Cleveland, Mr. Helstoski, Ms. Holtzman, Mr. Mazzoli, Mr. Nix, Mr. Pepper, Mr. Podell, Mr. Tiernan, Mr. Towell of Nevada, Mr. Waldie, Mr. Widnall, Mr. Young of Alaska, and Mr. Ryan):

H.R. 12566. A bill to establish a national homestead program under which single-family dwellings owned by the Secretary of Housing and Urban Development may be conveyed at nominal cost to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. LUJAN:

H.R. 12567. A bill to encourage the movement in interstate and foreign commerce of recycled and recyclable materials and to reduce the quantities of solid waste materials in commerce which cannot be recycled or do not contain available recycled materials, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H.R. 12568. A bill to amend section 5584 of title 5, United States Code, to include claims for overpayments of pay and allowances to employees of the Government Printing Office, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12569. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12570. A bill to provide for access to all duly licensed providers of health services without prior referral in the Federal employee health benefits program; to the Committee on Post Office and Civil Service.

H.R. 12571. A bill to amend chapter 11 of title 5, United States Code, to prohibit a U.S. Civil Service Commissioner from engaging in any other business or employment; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H.R. 12572. A bill to amend the Manpower Development and Training Act (Public Law 87–415, as amended) to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes; to the Committee on Education and Labor.

H.R. 12573. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

By Mr. RODINO (for himself and Mr. Edwards of California):

H.R. 12574. A bill to facilitate and regulate the exchange of criminal justice information; to the Committee on the Judiciary.

H.R. 12575. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 12576. A bill to amend the Federal Trade Commission Act with respect to misleading brand names; to the Committee on Interstate and Foreign Commerce.

By Mr. SHIPLEY:

H.R. 12577. A bill to prohibit the exportation of raw steel and semiprocessed steel until the President determines that a shortage of such items no longer exists; to the Committee on Banking and Currency.

By Mr. STUBBLEFIELD:

H.R. 12578. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr TAYLOR of North Carolina:

H.R. 12579. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 12580. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. VEYSEY:

H.R. 12581. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. WOLFF (for himself, Ms. Abzug, Mr. Addabbo, Mr. Baddillo, Mr. Brasco, Mr. Brown of Michigan, Mr. Brown of California, Mr. Buchanan, Mr. Cederberg, Mrs. Collins of Illinois, Mr. Conyers, Mr. Dellums, Mr. de Lugo, Mr. Dent, Mr. Edwards of California, Mr. Eilberg, Mr. Fraser, Mr. Harrington, Mr. Helstoski, Mr. Koch, Mr. Metcalfe, Mr. McKinney, Mr. Mitchell of Maryland, Mr. Moss, and Mr. Stark):

H.R. 12582. A bill to direct the Attorney General to prepare a pamphlet explaining the drug abuse laws of certain foreign countries and to require the distribution of such pamphlet to passengers traveling on an air or water carrier to foreign countries; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mr. Thompson of New Jersey, and Mr. Charles H. Wilson of California):

H.R. 12583. A bill to direct the Attorney General to prepare a pamphlet explaining the drug abuse laws of certain foreign countries and to require the distribution of such pamphlet to passengers traveling on an air or water carrier to foreign countries; to the Committee on Interstate and Foreign Commerce.

By Mr. WOLFF (for himself, Mrs. Heckler of Massachusetts, Mr. Carney of Ohio, Mr. Helstoski, and Mr. Walsh):

H.R. 12584. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance allowances; to provide for the payment of tuition, the extension of educational assistance entitlement, acceleration of payment of educational assistance allowances, and expansion of the work-study program; to establish a Vietnam Era Veterans' Communication Center and a Vietnam Era Advisory Committee; and to otherwise improve the educational and training assistance program for veterans; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Georgia:

H.R. 12585. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to provide for daylight saving time for 8 months during each calendar year; to the Committee on Interstate and Foreign Commerce.

By Mr. BIAGGI:

H.R. 12586. A bill to provide for Daylight Saving Time from the first Sunday in March to the last Sunday in October; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 12587. A bill to amend the Economic Stabilization Act of 1970, to rollback the price of domestic crude oil, and petroleum products, and for other purposes; to the Committee on Banking and Currency.

By Mr. BLATNIK:

H.R. 12588. A bill to amend the Mineral Lands Leasing Act to provide for more efficient and equitable methods for the exploration for and development of oil shale resources on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 12589. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12590. A bill to amend the Internal Revenue Code of 1954 to provide for an energy conservation tax and increase in the tax on gasoline, to establish the Energy Development and Supply Trust Fund, and for other purposes; to the Committee on Ways and Means.

H.R. 12591. A bill to amend the Internal Revenue Code of 1954 to provide for income averaging in the event of downward fluctuations in income; to the Committee on Ways and Means.

H.R. 12592. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

H.R. 12593. A bill to impose an excess profits tax on the income of corporations engaged in the production or distribution of energy during the present energy crises; to the Committee on Ways and Means.

H.R. 12594. A bill to amend the Atomic Energy Act of 1954, as amended, to restructure the hearing process with respect to licenses to construct or operate utilization or production facilities; to the Joint Committee on Atomic Energy.

By Mr. DRINAN (for himself, Ms. Abzug, Mr. Badillo, Mr. Brown of California, Ms. Chisholm, Mr. Conyers, Mr. Dellums, Mr. Edwards of California, Mr. Eilberg, Mr. Gibbons, Mr. Harrington, Mr. Helstoski, Ms. Holtzman, Mr. Kastenmeier, Mr. Macdonald, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nix, Mr. Podell, Mr. Rangel, Mr. Rooney of Pennsylvania, Mr. St Germain, Mr. Sarasin, and Ms. Schroeder):

H.R. 12595. A bill to amend the Internal Revenue Code of 1954 to deny the deduction of any expenditure of any oil company for advertising not directly related to the sale of products or services; to the Committee on Ways and Means.

By Mr. DULSKI:

H.R. 12596. A bill to amend the Public Health Service Act to improve the national cancer program and to authorize appropriations for such program for the next 3 fiscal years; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.R. 12597. A bill to give effect to the International Convention on Conduct of Fishing Operations in the North Atlantic, signed at London under date of June 1, 1967, and for other purposes; to the Committee on Foreign Affairs.

By Mr. GILMAN:

H.R. 12598. A bill to amend the Federal Railroad Safety Act of 1970 (Public Law 91-458), to provide for the installation of safety glass on railroad passenger cars; to the Committee on Interstate and Foreign Commerce.

By Mr. ICHORD:

H.R. 12599. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. JARMAN:

H.R. 12600. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973 on the last Sunday of October 1974; to the Committee on Interstate and Foreign Commerce.

H.R. 12601. A bill to improve and implement procedures for fiscal controls in the U.S. Government, and for other purposes; to the Committee on Rules.

By Mr. KETCHUM:

H.R. 12602. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. McCORMACK:

H.R. 12603. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. McKINNEY:

H.R. 12604. A bill to amend the District of Columbia Police and Fireman's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. MARAZITI:

H.R. 12605. A bill; Emergency Export Control Act of 1974; to the Committee on Banking and Currency.

H.R. 12606. A bill to amend the Public Health Service Act to assure an adequate supply of chlorine and certain other chemicals and substances which are necessary for safe drinking water and for waste water treatment; to the Committee on Interstate and Foreign Commerce.

H.R. 12607. A bill; Petroleum Regulation Act; to the Committee on Interstate and Foreign Commerce.

By Mr. MELCHER:

H.R. 12608. A bill to amend the Emergency Highway Energy Conservation Act to provide for a maximum national speed limit of 60 miles per hour; to the Committee on Public Works.

By Mr. MOAKLEY:

H.R. 12609. A bill to amend title 5, United States Code, to provide special assistance and benefits to Federal employees involuntarily separated through reductions in force, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12610. A bill providing for direct access to social workers' services under the Federal employees' health benefits program; to the Committee on Post Office and Civil Service.

H.R. 12611. A bill to provide certain enrollees of Federal health benefit plans coverage supplementary to parts A and B of the medicare program with appropriate Government contribution thereto; to the Committee on Post Office and Civil Service.

H.R. 12612. A bill to provide for access to all duly licensed providers of health services without prior referral in the Federal employee health benefits program; to the Committee on Post Office and Civil Service.

H.R. 12613. A bill to amend title 39, United States Code, to authorize the transmission, without cost to the sender, of letter mail to the President or Vice President of the United States, to Federal executive departments and agencies, or to Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12614. A bill to amend title 5, United States Code, to provide for reemployment of former employees receiving civil service disability retirement annuities found to be recovered from their disabilities or substantially restored to their former earning capacities; to the Committee on Post Office and Civil Service.

H.R. 12615. A bill to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

H.R. 12616. A bill to amend title 5, United States Code, to provide for the payment by the Government of all costs of the Federal employees basic group life and accidental death and dismemberment insurance program; to the Committee on Post Office and Civil Service.

H.R. 12617. A bill to supplement retirement benefits for State and local law enforcement officers; to the Committee on Post Office and Civil Service.

By Mr. STEELE (for himself, Ms. Abzug, Mr. Addabbo, Mr. Badillo, Ms. Chisholm, Ms. Collins of Illinois, Mr. Davis of Georgia, Mr. Eilberg, Mr. Fauntroy, Mr. Hawkins, Mr. Hogan, Ms. Holtzman, Mr. Johnson of Pennsylvania, Mr. Leggett, and Mr. Mazzoli):

H.R. 12618. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children, and for other purposes; to the Committee on Education and Labor.

By Mr. STEELE (for himself, Mr. McDade, Mr. Mitchell of New York, Mr. Moakley, Mr. Murphy of Illinois, Mr. Owens, Mr. Rees, Mr. Rosenthal, Mr. Roybal, Mr. Sarasin, Mr. Sarbanes, Mr. Stokes, Mr. Tiernan, Mr. Waldie, Mr. Charles H. Wilson of California, Mr. Won Pat, and Mr. Yatron):

H.R. 12619. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children; and for other purposes; to the Committee on Education and Labor.

By Mr. STEELE (for himself, Mrs. Grasso, and Mr. Harrington):

H.R. 12620. A bill to provide financial assistance to the States for improved educational services for exceptional children; to establish a National Clearinghouse on Exceptional Children, and for other purposes; to the Committee on Education and Labor.

By Mr. VANIK (for himself, Mr. Conyers, Ms. Collins of Illinois, Mr. Edwards of California, Mr. Harrington, Mr. Moakley, Mr. Rodino, Ms. Schroeder, and Mr. Won Pat):

H.R. 12621. A bill to amend the Internal Revenue Code of 1954 to provide for an energy conservation tax and an increase in the tax on gasoline, to establish the Energy Development and Supply Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 12622. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States; to the Committee on the Judiciary.

By Mr. YOUNG of South Carolina:

H.R. 12623. A bill to repeal the Daylight Savings Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES (for himself, Mr. Addabbo, Mr. Bell, Mr. Biester, Mrs. Boggs, Mr. Brinkley, Mr. Carter, Mr. Dent, Mr. Dan Daniel, Mr. Dominick V. Daniels, Mr. Frenzel, Mr. Hinshaw, Mrs. Holt, Mr. Gaydos, Mr. Lott, Mr. Martin of North Carolina, Mr. Miller, Mr. Regula, Mr. Robinson of Virginia, Mr. Runnels, Mr. Stark, Mr. Symington, Mr. White, Mr. Whitehurst, and Mr. Winn):

H.J. Res. 891. Joint resolution to authorize and request the president to issue annually a proclamation designating the fourth Sunday of November each year as "National Grandparents' Day"; to the Committee on the Judiciary.

By Mr. RHODES (for himself, Mr. Young of Florida, and Mr. Zwach):

H.J. Res. 892. Joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of November each year as "National Grandparents' Day"; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. Devine):

H.J. Res. 893. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC–43 (Sub-No. 2); to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER:

H. Con. Res. 426. Concurrent resolution to extend the congratulations of the Congress on the 100th anniversary of Eastern Kentucky University's role in higher education; to the Committee on the Judiciary.

By Mr. DUNCAN:

H. Res. 813. Resolution providing for the disapproval of the recommendations of the President of the United States with respect to the rates of pay of offices and positions within the purview of the Federal Salary Act of 1967 (81 Stat. 643; Public Law 90–206) transmitted by the President to the Congress in the budget for fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. DULSKI:

H. Res. 814. Resolution providing for funds for the investigations and studies authorized by House Resolution 180; to the Committee on House Administration.

By Mr. ANDREWS of North Carolina:

H. Res. 815. Resolution to amend the Rules of the House of Representatives to establish as a standing committee of the House the Committee on Energy, and for other purposes; to the Committee on Rules.

By Mr. BRAY (for himself, Mr. Hudnut, Mr. Mayne, and Mr. Dennis):

H. Res. 816. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. BROTZMAN:

H. Res. 817. Resolution disapproving the recommendations of the President with respect to the rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GROSS (for himself, Mr. Dennis, Mr. Hillis, Mr. Zion, Mr. Devine, Mr. Clancy, Mr. Wylie, Mr. Montgomery, and Mrs. Holt):

H. Res. 818. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. HUNT:

H. Res. 819. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H. Res. 820. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. PETTIS:

H. Res. 821. A resolution disapproving the recommendations of the President with respect to the rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for the fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ICHORD (for himself, Mr. Dent, Mr. Aspin, Mr. Burgener, Mr. Giaimo, Mr. Mathias of California, Mr. Murphy of New York, Mr. Baker, Mr. Fauntroy, Mr. Dingell, Mr. Robinson of Virginia, Mr. Wolff, Mr. Metcalfe, Mr. Taylor of North Carolina, Mr. Flowers, Mr. Johnson of California, Mr. Slack, Mr. Broyhill of North Carolina, Mr. Carter, Mr. Gross, Mr. Stratton, Mr. Guyer, Mr. Price of Texas, Mr. Ryan, and Mr. Waldie):

H. Res. 825. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. MAYNE:

H. Res. 826. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H. Res. 827. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

346. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to consideration of the needs of the physically handicapped in the formulation of a gasoline rationing plan; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 12624. A bill for the relief of Branislav Maksimovich; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 12625. A bill for the relief of Gabor and Susan Domokos; to the Committee on the Judiciary.

By Mr. SCHERLE:

H.R. 12626. A bill for the relief of Lt. (junior grade) Charles W. Baker, Medical Service Corps, U.S. Navy; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 12627. A bill to authorize and direct the Secretary of the Department under which the U.S. Coast Guard is operating to cause the vessel *Miss Keku*, owned by Clarence Jackson of Juneau, Alaska, to be documented as a vessel of the United States so as to be entitled to engage in the American fisheries; to the Committee on Merchant Marine and Fisheries.

By Mr. WHALEN:

H. Con. Res. 427. Concurrent resolution in recognition of the 100th anniversary of Sigma Kappa Sorosity; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

389. The SPEAKER presented a petition of Anne C. Martindell, Princeton, N.J., relative to impeachment of the President; to the Committee on the Judiciary.

SENATE—*Tuesday, February 5, 1974*

The Senate met in executive session at 10 a.m. and was called to order by Hon. James B. Allen, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, we need Thee every hour of every day. We need Thee not alone in difficulties or in crises but in the solitary moment and in daily work. As we open our hearts to Thee, wilt Thou enter our hearts afresh to give new power for new tasks. Show us Thy will for our times. In this quiet moment we plead—"Speak, Lord; for Thy servant heareth" (I Samuel 3: 9), and hearing Thee, may we obey.

We pray in His name who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Eastland).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 5, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I understand that the Senate has convened in executive session. I therefore ask unanimous consent that the Senate return to legislative session and that at the hour of 11 o'clock a.m. today the Senate go back into executive session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 4, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader desire recognition at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Wisconsin (Mr. PROXMIRE) for not to exceed 15 minutes.

PROXMIRE SALT II PROPOSAL

Mr. PROXMIRE. Mr. President, it is apparent that the Secretary of Defense would welcome a public dialog on the strategic relationship between the United States and U.S.S.R. In the weeks to come I intend to speak several times on various aspects of this relationship. I invite my colleagues to join with me in sounding out new ideas and proposing bargaining strategies. I hope such a discussion can be joined without recourse to politics or inflexible ideology. It is a time for thoughtful inspection of the issues.

Today I will look at several stark questions facing the SALT II negotiations. Let me say at the beginning that the following concepts and conclusions are not intended to be taken as absolutes. They are only a starting point.

WHAT IS THE U.S.S.R. DOING TO INCREASE ITS LAND-BASED STRATEGIC POWERS?

Mr. President, I do not take recent Soviet advances in missile technology lightly. But neither do I jump to unwarranted assumptions. First let us look at the facts.

The present Soviet land-based force is composed of 1,010 SS–11's, 60 SS–13's, 288 SS–9's, 209 SS–7's and SS–8's for a total of 1,567. The SS–11's, 13's, and SS–9's could be called second generation missile systems following on the heels of the first Soviet ICBM's based on the SS–6, 7, and 8.

In addition there are 51 unfilled silos which eventually could contain some 20 SS–11, which are still being deployed and 31 other missiles. These 51 silos plus the 1,567 total already deployed yields the 1,610 numerical limitation imposed by the interim agreement.

In addition to these previous deployments and silos, the U.S.S.R. has an extensive research and development program underway in land-based missiles. In fact they have four distinct missile systems in flight testing stage simultaneously. This must be an extraordinarily expensive program. I estimate that if the United States had four missile programs in flight testing at the present time it would cost about $2 billion a year.

It appears that the U.S.S.R. is testing missiles to replace the SS–9, SS–11, and SS–13, their 3-second generation systems. To replace the SS–9, a SS–X–18 two-stage liquid missile has been tested. The SS–X–17, a two-stage liquid missile and the SS–X–19, also a two-stage liquid missile, are being examined as replacements for the SS–11. Most likely, only one of these will be deployed. The follow-on to the three-stage solid propellant SS–13 is the SS–X–16, also a solid propellent system that is speculated to have a mobile capability.

All of these new missiles but the SS–X–16 have been tested with the multiple independently targeted reentry systems—MIRV. The SS–X–18 has been tested with six MIRV warheads of about 1 megaton each. The SS–X–17 and SS–X–19 have smaller reentry vehicles; four for the former and an undetermined number for the latter. The SS–X–17 carried the first true Soviet MIRV system. The SS–X–16 probably is also MIRV capable but no tests have yet been confirmed.

Soviet MIRV technology has changed dramatically from the rudimentary tests first begun in August of 1968 which were actually unguided reentry vehicles. Even though high U.S. defense officials called these triplet tests a MIRV system, most U.S. experts knew better. Now, however, the U.S.S.R. is using onboard computers which give a true MIRV capability much like the first U.S. MIRV tested in August 1968 on the Poseidon and Minuteman III. Furthermore, the new MIRV missiles have a greater throw-weight than those they will replace.

SHOULD THE UNITED STATES BE SURPRISED AND ALARMED BY THESE PROGRAMS?

With these public facts as the backdrop, the primary question should be "Just how threatening are these programs—should we be in the panic suggested by recent columnists?" Concern? Yes. But panic—absolutely not.

Anyone who suggests that these developments are totally unexpected is a victim of his own lack of foresight. First, the Soviets told us bluntly during and after the SALT I negotiations that they would continue to pursue every program not explicitly limited by the interim agreement.

Second, to suggest that the new Soviet programs are alarming is to overlook the historical factors implicit in Soviet research and development programs. It is my opinion that the Soviet research and development effort is locked into certain conservative design and testing practices. They are patient to the point of absurdity. They will test a bad system time after time until they get it to work. They hang onto obsolete concepts. They have a bias toward upgrading in size instead of technological change. They are faced with terrible institutional and bureaucratic constraints.

These Soviet missile programs were not initiated overnight. They were conceived in some cases before SALT I negotiations began and now they are continuing in part for the reasons listed above—institutional and conservative design commitments above and beyond the normal military and political pressures.

Therefore, I reject the call to panic being sounded in certain quarters. It should be pointed out that the Secretary of Defense has clearly indicated that the Soviet MIRV program has not caught us by surprise, nor has their research and development on new missiles. Only the breadth of the programs has posed serious questioning of intent and capability.

SOVIET WEAKNESSES

Now I would like to point out the deficiencies in the Soviet missile program. Too often we only hear about Soviet successess and not the failures. There is a feeling that the U.S.S.R. is moving with amazing speed and outpacing the United States in every field. Such simply is not the case.

First, it should be kept in mind that the Soviet MIRV program is a number of years behind the United States both in basic MIRV technology and in missile accuracy. True Soviet MIRV testing only began in 1973, 5 years after comparable U.S. efforts. U.S. MIRV deployment began in 1970 with the Minuteman III while the U.S.S.R. has yet to deploy any. Current projections indicate a Soviet deployment beginning in 1975 with a number equal to the United States in the ground by 1979 or later. Therefore, Soviet initial deployment will follow United States by 5 years but this gap will likely close through the deployment years.

Second, we should not overlook the difficulties of MIRV technology. U.S. programs have not proceeded without problems, some of them quite severe. Warhead packaging, especially in small sizes, requires advanced atomic energy techniques. Guidance requires sophisticated computer technology—an area in which the Soviet Union badly lags behind the

United States. Furthermore, there are reliability problems at launch, inflight, and in terminal phases. The U.S. Mark III has experienced extreme difficulties in the latter. In short, the Soviets have a long road ahead of them and we should resist the temptation to assume that all their programs will move smoothly.

Third, the Pentagon has been claiming that the Soviets had a MIRV capability since 1969. Finally, fact has caught up with fiction.

It should also be pointed out that after a certain point, MIRV accuracy improvement becomes extremely difficult and expensive. Corrections have to be made for gravitational aberrations and wind shear. While it is possible to develop a highly accurate MIRV, it is very, very difficult and the U.S.S.R. is far from this state-of-the-art.

WHERE DOES THIS LEAVE SALT II?

Having taken a look at both sides of the question of current Soviet programs, it is now appropriate to ask where does this lead us in the short, medium, and long run? My answer is that over the short run, for the period of the interim agreement terminating in 1977, there is no danger. Over the medium period, through the early 1980's, there is no cause for panic but certain tendencies are of concern. Over the long run, we could be in trouble if corrections are not embodied in a new agreement.

Let us look first at the Soviet viewpoint:

> The Soviets see the United States with a significant lead in MIRV technology. A Soviet planner would say not only is the US MIRVing its 550 land based Minuteman IIIs but it could go on to MIRV the entire force of 1,000. Furthermore they (the US) have 31 Poseidon submarines with 10–14 MIRVs per missile while we (the USSR) have nothing similar and are not even testing a sea based MIRV. The US ABM is more sophisticated than the Moscow system and research is continuing on the Site Defense System which looks like the US intends to abrogate the Interim Agreement.
>
> The B–1 bomber will be more advanced than any Soviet aircraft and the SRAM missiles the US aircraft carry are most effective. We (the USSR) have nothing to compare with the B–1. And the US is not sitting still. They are pressing the state of the art with their enormous technical competence in the ABRES program where warhead accuracy is improved and maneuvering warheads already have been tested.
>
> The Trident program has been accelerated indicating that the Americans are conducting a crash program in sea based weapons. And, of course, they lead in anti-submarine warfare.
>
> This is all not to mention one of the most dangerous US capabilities of all, the thousands of land and sea based aircraft stationed around the periphery of the USSR that can carry nuclear payloads well into the country. Leningrad for example is only minutes away from US tactical strategic aircraft in Germany.
>
> US aircraft carriers roam the oceans and we know they carry nuclear weapons even if their mission allegedly is tactical. Everything the US is doing is provocative. It looks like they are preparing for a new arms race once the Interim Agreement is up in 1977.

Such might a conservative Soviet military planner say.

From the U.S. viewpoint, there is a danger that Soviet land-based programs will eventually combine numbers with MIRV technology to form a force of 6,000 to 7,000 high-yield, accurate warheads exceeding by an order of magnitude the 1,054 U.S. ICBM's. While the United States has intentionally deployed only low-yield warheads in order to avoid any appearance of a first strike capability, Soviet programs are not so constrained.

These not unexpected Soviet developments are important milestones and could constitute a major counterforce threat against U.S. land-based strategic missiles.

The United States entered into the interim agreement on strategic arms offensives, willing to accept certain quantitative discrepancies because of our qualitative advantages, but as the U.S.S.R. closes the technological gap, the waning nature of our advantage is demonstrated. This reduction of our relative qualitative advantage is such as to erode our relative qualitative advantage. Such is the honestly held and logical feeling of many U.S. military experts.

IS THERE ANY WAY OUT?

The problems facing the U.S. negotiators at SALT II are real. Undoubtedly the U.S. team has prepared a negotiating position that is sound. What, then, can a Member of Congress contribute?

The following proposal, which I will offer in a minute, is not designed to be a complete or entirely satisfactory solution. The problems are too complex for that. But this proposal does one important thing. It says clearly that it is time to have a reduction in land-based missiles—the most threatening element of the strategic relationship. Steps must be taken to bring a systematic and orderly cutback in land-based missiles. We must start now before the pressures on both sides grow so enormous that any cutback is unacceptable. To wait is to let the future be decided by fear rather than planning.

THE PROXMIRE PROPOSAL

The crucial element in any land-based arms control after SALT I is the balancing of Soviet quantity for U.S. quality. We must reach some point where the two are relatively equal. Senator JACKSON has proposed a reduction to 800 land-based missiles. While I support that position, I think it is extremely unlikely that the Soviet Union would agree to immediately cut its missile force by 818 while the United States only reduced by 254. On the face of it, this does not look reasonable.

Somehow, certain crossover points must be found where U.S. technology is matched by Soviet technology but Soviet numbers are lowered to U.S. levels. This cannot be done instantaneously, because it takes time for technology to develop and time for missile systems to be disbanded. The exact timing of such a balanced phase-down will be debated by the specialists, and there may be many crossover points.

However, I propose an arrangement involving a 7-year asymmetrical percentage reduction in land-based missile forces. Beginning with the 1,054 U.S. land-based missiles, 10 percent of the remaining U.S. force would be reduced yearly, leaving 505 after 7 complete cycles. Since the Soviet Union starts from a higher level permitted by SALT I of 1,618 land-based missiles, their reduction would be only 15 percent of remaining forces over 7 years, resulting in a total of 504 missiles. The following chart shows the year-by-year reductions.

Mr. President, I ask unanimous consent that the chart be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

7-YEAR ASYMMETRICAL PERCENTAGE REDUCTION IN LAND-BASED MISSILES[1]

Yearend	United States (10 percent)	Soviet Union (15 percent)	Gap
	1,054	1,618	564
1	949	1,375	426
2	854	1,169	315
3	769	994	225
4	692	845	153
5	623	698	75
6	561	593	32
7	505	504	1

[1] Computed on constant percentage reduction of remaining forces.

Note: Additional restraints: 1. MIRV limitation; 2. Large silo limitation.

Mr. PROXMIRE. It should be emphasized that a year-by-year approach provides certain advantages. First, it permits the deliberate and continual reinforcement of yearly action. Each side can check for compliance with the assurance that a violation would not entail any immediate danger to national security, since the numbers would be small.

Second, it provides the timing necessary for Soviet technology to catch up with us in terms of MIRV—a technology they are determined to acquire in any event—only now the United States would control the timing to some degree.

Third, the asymmetrical reduction would bring the numbers in line, thus permitting the numbers-quality trade off, to be reached in a calculated step by step procedure.

This arrangement cannot stand alone. It has to be reinforced by certain other agreements. There would have to be a large silo limitation similar to the SALT I number. And there would have to be some agreement on the potential MIRVing of the smaller forces on both sides. Neither of these problems is insurmountable.

It may be that after a number of years of mutual reinforcement, the two countries will decide to reduce land based missiles to an even lower level. That is one of the potential benefits from a graduated reduction schedule. In any event, it would reduce the pressure in both countries to rapidly procure and deploy new strategic systems in quantity. Undoubtedly, both sides would end up with a small modern land-based missile force, but the numbers would be far lower than today.

PITFALLS

No proposal is without pitfalls. Several important caveats should be examined. For example, it may be that the military pressures on both countries are too great for any reduction and that arms control can only be reached at successively higher levels of nuclear weaponry. While this is a strange thought to some, including myself, it has been considered as a necessary evil by others.

There is also the possibility that counterpart programs are forcing the arms competition—that U.S. research forces the Soviet Union to assume the worst and develop their own programs while the converse happens in this country.

We must also guard against the mirror imaging effect. We cannot always assume that our technology or doctrine is the perfect mirror of the other nation.

There is the fear that any proposal for dramatically reducing the number of land-based missiles will have undesirable side effects from the standpoint of making the remaining smaller missile forces more vulnerable. If the Triad is retained, as I believe it should be, this fear can be dispelled, for there is enough sea-based assured destruction capability or sufficiency, or essential equivalence—call it what you want—to predetermine any outcome.

This leads to another theoretical problem, that of forcing a sea-based arms race. If land-based missiles are reduced, the proposition goes, it will simply force both countries to complete all-out at sea and no real problems will be solved. While there is some truth to this, I believe the stability resulting from a land-based phasedown would be far more substantial than any anticipated fears regarding a new sea-based arms race.

It has also been mentioned that the U.S. Air Force and the Soviet SRF would object to any phase down for bureaucratic reasons. I find this quite likely. In such a case, national interest will have to prevail perhaps sweetend by providing the "hurt" service with certain other obligations to fulfill.

This is only a partial list of the many complex issues associated with a land-based phase down but it can be observed that there are no easy answers. In such cases it often is best to seize the initiative and move cautiously but firmly. That is the essence of my proposal.

Mr. President, at a later date I intend to discuss other matters of interest in the debate over nuclear sufficiency; namely, the newly reaffirmed interest in assigning military targets to U.S. missile forces. This, too, plays an important role at SALT. In the meantime, I urge the SALT negotiators to consider limited phase-down proposals, and I urge my fellow Members of Congress to recognize the extent of the Soviet land-based programs but not to react with alarm. Furthermore, I call upon the Soviet Union to show restraint in its SALT proposals and energetic testing programs.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Wisconsin for initiating a debate on questions which are of primary import at the present time.

Frankly, I am somewhat disturbed by the lack of progress being made in the SALT II talks. It is my understanding that the terms laid down by the Soviet Union are terms which we cannot even consider, nor can they be considered as a basis for further discussion. Perhaps that will change.

I am in accord with what the distinguished Senator says. I do not believe that the answer is in arms limitation so much as it is in arms reduction. That is the trend of the Senator's thinking, and that is one way, in my opinion, in which we could bring about a reduction in expenditures by both countries—reductions which could be used for constructive purposes rather than potentially destructive purposes, reductions which would benefit the people of both nations and the world, reductions which would take off our backs this onerous burden which afflicts us to such a great degree and seems to be spiraling up and up all the time.

So I commend the distinguised Senator. I am glad that this is only the first in a series, and I look forward to listening to what else he has to say in the days and weeks ahead.

Mr. PROXMIRE. I thank the distinguished majority leader. He has put his finger on exactly what can motivate this kind of program successfully. I did not put as much emphasis on it as I might have.

We are all aware of our $304 billion budget and the enormous burden it puts on the American people, with its inflationary impact. We should try to work with the Soviet Union to get a mutual reduction. They have an even stronger economic incentive than we have. Their country is only half as productive as ours, their population is bigger than ours, and so their arms burden in relation to their needs is much heavier than ours. I think this constitutes a clear community of interest which should help us achieve progress, if we pursue it with patience and determination.

I thank the distinguished majority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Iowa (Mr. Hughes) for not to exceed 15 minutes.

THE PENTAGON-NSC SPY MYSTERY: FULL INVESTIGATION IS ESSENTIAL

Mr. HUGHES. Mr. President, no objective is more important to the preservation of our democratic system than the vigilant maintenance of civilian control over our military establishment.

No force poses a greater threat to civilian control than the obsession for secrecy in government beyond the rational needs of national security.

When circumstances are brought to light wherein there is evidence to believe that the highest echelons of the military have been spying on the highest echelons of our civilian command and the civilian command has determined that it is necessary to retaliate with intraagency counterespionage against our top military brass, we have a situation that demands full public investigation and not casual coverup.

Such a situation confronts us at this time, and this is why I have taken the floor today to express my concern to my colleagues in the Senate and the people of this country.

In the past 2 years, as a member of the Armed Services Committee, I have pressed for, and received, detailed investigations of serious charges of military misconduct and the breakdown of our command and control system in the war in Southeast Asia. The distinguished chairman of that committee (Mr. Stennis) and last year's distinguished acting chairman (Mr. Symington) have cooperated fully and displayed strong leadership in getting at the truth about General Lavelle's secret war and the clandestine Cambodia bombing. I am deeply grateful to them and to the members of the committee.

Now we have another matter which I believe deserves their full attention and the attention of the Nation. As has been my custom in the past, I want once again to report to the full Senate on a matter that I consider to be of the utmost urgency to our national security and to the preservation of our freedoms.

As you know, over the past several months, there have been news reports alleging the attempted subversion of our decisionmaking processes through illegal spying and the theft of highly classified documents. At first, these were suppressed by the high officials of our Government as being too sensitive to our national security to delve into. More recently, they have been dismissed by these same officials as being inconsequential and simply the result of "overexuberance and some impropriety" on the part of "overzealous men" who held no positions of real authority.

Events that are as yet only partially revealed appear at times like Gilbert and Sullivan operetta and at times like high tragedy. But whether ludicrous or ominous, they bear upon the highest decision levels of our Government and cannot be casually explained away. We cannot afford to jeopardize our free system any more by accident than by evil design.

As a consequence, the time has come to get the core of the strange, covert struggle for information that appears to have taken place between the Pentagon and the White House over a period of years.

News reports in recent weeks have begun to peel off the leaves of the artichoke, but we still do not know how close we are to the heart.

These reports say that military men surreptitiously obtained and secretly forwarded to the Chairman of the Joint Chiefs of Staff highly classified documents on U.S. diplomatic strategy in 1970 and 1971. Admiral Moorer has admitted receiving such documents, but he says took no special notice of them.

Press accounts also say that the so-called plumbers group investigated news leaks of classified information and uncovered an organized network of military spying on civilian officials. Official explanations of these reports have been cut off behind a curtain of national security.

Last year the President admitted that news leaks prompted the wiretapping of the home phones of several U.S. officials, including some with no access whatsoever to national security information, as well as taps on the phones of several newsmen.

Now we know that the internal spying was far more widespread than originally admitted. There is at least one report of counterspying by civilian officials who tapped the phone of the Secretary of Defense's military assistant, Gen. Robert Pursley.

Months ago, the White House moved to forestall further investigation into this matter, stating that it was serious, highly sensitive, and would be damaging if revealed. News reports indicated that it was too sensitive to national security for the Watergate Committee to deal with.

Now the official version has changed. The Secretary of Defense says that the stories are "blown out of all context." Admiral Moorer reportedly dismisses that matter as the result of overzealousness by low-ranking personnel.

Since when have we been so cavalier about matters involving the highest, most sensitive affairs of the state? If the top agencies of our Government cannot trust one another, how can we expect the American people to trust their Government?

We need to get at the truth. If this incident was merely a minor indiscretion by one enlisted man, there should be no objection to prompt and full disclosure—before public suspicion is further inflamed by persisting attempts to cover up.

If, on the other hand, this was a serious subversion by the military of duly constituted civilian authority, then Congress and the public need to know that this spy network has been purged and reassured that civilian supremacy has been reestablished.

A thorough investigation will take valuable time and effort, Mr. President. I am mindful of the many other urgent matters that demand our attention, both in the Armed Services Committee and in the Senate.

But tell me if there is any greater priority than the insuring the civilian control of our Government? A few weeks in February may save us in some future time from "Seven Days in May."

When these news stories first appeared, I wrote to Chairman Stennis of the Armed Services Committee, as follows:

> I am sure that you and the other members of the committee are as upset as I am about recent news reports alleging that there has been military spying on civilian officials in high echelons of our Government. The Lavelle and Cambodia bombing investigations revealed serious problems in the command and control and reporting systems in the military. However, these new allegations raise the even more dangerous implication of an established system of military penetration of civilian command and policy structures in flagrant disobedience of civilian authority.
>
> "In order for the committee to exercise its oversight responsibilities on the Defense Department, as well as to obtain the information necessary to judge the need for correction legislation vis a vis the chain of command and the protection of classified information, I believe the committee has the responsibility to investigate these recent allegations fully."

As a first step, I suggested the calling of Admiral Moorer and Secretary Kissinger, which the committee has now done by scheduling a closed hearing tomorrow. In a subsequent letter, I pointed out that we have learned from past experience not to be satisfied with initial denials or superficial explanations from only two or three people, regardless of who they are. We need to hear from all of the witness who can provide the relevant facts to enable us to put the puzzle together.

It was in this way that we uncovered the whole truth about the secret war in Cambodia and about the unauthorized bombing and falsified reports ordered by General Lavelle.

It is my hope that the Armed Services Committee staff will be directed to develop information and potential witness lists to answer the following major questions:

Were the Joint Chiefs denied information essential to their role in protecting our national security?

Did military personnel use surreptitious means to provide highly sensitive information to unauthorized persons? If so, to what extent is this an established and ongoing practice of the military?

What procedural changes and disciplinary actions were taken when these practices were discovered?

Did the plumbers operation uncover facts about unauthorized disclosure of classified information which would be useful to the committee in formulating legislation to assure the security of legitimate secret information?

On the basis of news reports alone, I think it is clear that we need to question Mr. David Young and see his report on this investigation. We should also hear from Adm. Robert O. Welander and PO Charles F. Radford, who were said to have obtained the documents. Navy Capts. Harry D. Train II and Arthur K. Knoizen, alleged recipients of the purloined documents on behalf of Admiral Moorer, should also be called, as should W. Donald Stewart, Inspector General of the Defense Investigative Service. I think that General Pursley may also have information on the alleged counterspying by civilian officials.

While I recognize that some of the matters involved in this case may deserve classification, I believe that the bulk of the information can be and should be presented in open sessions of the committee. After all, Admiral Moorer and Secretary Kissinger have already provided brief statements for the committee which are not classified for security reasons. Moreover, we are investigating something which hopefully ended more than 2 years ago and thus involves no currently sensitive matters and I say "hopefully."

The experience last summer was highly constructive, in my view, when we had thorough, open hearings on the secret Cambodia bombing. Though these matters had been secret when they were taking place, administration officials found no reason at that time not to be frank and revealing in open sessions.

What is at stake here, once again, is the credibility and trustworthiness of our most trusted officials. If some of these men were involved in clandestine tactics which subverted our free system of civilian-controlled Government, we need to know it and prevent it from recurring.

We also need to know what, if any, disciplinary action has been or will be taken.

Mr. President, I do not question the integrity or patriotism of our military leaders. I know that they want and need explicit guidance from civilian authorities if they are to develop policies and programs which are consistent with our diplomacy.

But we all should know, from bitter experience, that there is a tendency toward tunnel vision in the bureaucracy, and that the national interest is sometimes confused with a department or agency's special interest.

Perhaps it is time once again to remind our people and our military leaders of what Maj. Hal Knight told the Armed Services Committee last July when he came forward to tell about the secret Cambodia bombing and the falsified reports used to conceal it. Major Knight said:

> I didn't take an oath to support the military; I took an oath to support the Constitution.

Mr. President, at a time when the major percentage of the peoples of the world live their lives in lock-step to the marching orders of dictators or juntas, it is well to remind ourselves that today, as in the early days of this beloved Republic, "eternal vigilance is the price of liberty."

Mr. President, I ask unanimous consent that the various news reports about alleged spying by military personnel on civilian officials of our Government be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Chicago Tribune, Jan. 12, 1974]

Security Leaks Confirmed: White House Blames Kissinger Staff Clerk

(By Jim Squires and Jon Margolis)

Washington, January 11.—The White House confirmed today that top-secret information was deliberately being leaked from the National Security Council in 1971, but blamed it on a low-level clerical employe.

The statement was issued at the Western White House in San Clemente, Cal., in response to a Tribune story which reported that a 1971 White House probe had uncovered a spying operation by top-ranking military officials against National Security Adviser Henry Kissinger.

The White House statement did not dispute The Tribune's account, saying only that it conveyed "an incorrect impression" about the "knowledge and actions" of Adm. Thomas Moorer, chairman of the Joint Chiefs of Staff. The Tribune story said a "spy" within Kissingers NSC staff was passing information to the Joint Chiefs including Moorer.

"Today's news accounts relating to the Joint Chiefs of Staff and National Security

Council touch on a matter peripheral to a national security issue which was found to involve deliberate leaks to the media of extremely sensitive information of interest to other nations," the statement said. ". . . For the present . . . the most that can be properly stated is that today's news accounts convey an incorrect impression of the knowledge and actions of the chairman of the Joint Chiefs of Staff; that the matter was investigated at the time, that the source of these leaks was a low level employe whose clerical tasks gave him access to highly-classified information and that today's news stories are based on fragmentary accounts of the incident."

Pentagon sources said the employe referred to was a Navy enlisted man who worked for Rear Adm. Robert O. Welander, then Moorer's national security assistant and liaison with the NSC.

Other sources familiar with the 1971 investigation said the enlisted man was accused of passing information which eventually was leaked to newsmen in early 1971.

These sources added, however, that the White House probe also resulted in informal allegations of "interoffice spying activities" against several higher-ranking officials, including Moorer.

While the White House statement said The Tribune's story was based on "fragmentary accounts," it neither confirmed nor denied the report that a military spy operation existed.

ABC News reported tonight that Gen. Alexander Haig Jr., Kissinger's deputy at NSC and now White House chief of staff, played a key role in transferring information to the JCS. It said Haig denied any complicity. But when asked if he had encouraged anyone else to pass information to the military, ABC quoted Haig as replying: "Not intentionally. But I cannot be responsible for others misreading my position."

The sources said that Welander was quietly transferred in early 1972 as a result of the probe and given a series of "minor" commands, including a cruiser-destroyer flotilla that was scheduled to be decommissioned in two months. Now an assistant deputy chief of naval operations for planning and policy, Welander could not be reached for comment today. A Navy information officer said Welander would make no statement.

An administration source said Welander, who came to the NSC staff in April, 1971, "left abruptly" after the leak of top secret information to columnist Jack Anderson in late 1971. The documents quoted by Anderson disclosed that President Nixon and Kissinger were pursuing a secret policy favoring Pakistan in the Pakistan-India conflict while the U.S. maintained a "neutral" position publicly.

The source added, however, that he knew of nothing to implicate Welander in the military spying operation and suggested he may have only been a "sacrifice" to quell the controversy.

The clerical employee mentioned by the White House, these sources said, was later specifically accused of passing the information to Anderson.

The White House probe, conducted by the plumbers investigative unit under White House aide John Ehrlichman, were assigned in July, 1971, to trace down a series of leaks of sensitive information to the news media.

Sources familiar with the investigation have told The Tribune that results of this probe included allegations that some military officials had been eavesdropping and spying within the National Security Council in an effort to keep up with the secret strategy being pursued by Nixon and Kissinger.

One former government official said the joint chiefs specifically were upset by a Kissinger decision to bypass the military with some sensitive intelligence information and, in some instances, the pursuit of foreign policy goals with which they disagreed.

The sources suggested, for example, that it was in the military's interest that the secret Pakistan position be disclosed because the military, specifically the Navy, preferred the U.S. to "tilt" toward India because it wanted to establish a base in the Indian Ocean.

Another insider pointed out that the July 23, 1971, leak of the U.S. fallback position in the Strategic Arms Limitation Talks was also in the interest of some military officials, who opposed the limitations being proposed.

Moorer, in a statement, termed "ridiculous" and "ludricrous" any suggestion that he ever received any information thru anything other than authorized channels. He said he had never been denied access to any information by Kissinger.

The White House has previously acknowledged the role of the plumbers in investigating the SALT leaks and disclosure of the Pentagon Papers by Daniel Ellsberg, including a burglary of Ellsberg's psychiatrist's office. However, it had refused publicly, until today, to disclose the nature of the Plumbers' investigation into the military leaks from the NSC.

Ranking members of the Watergate committee and the House and Senate Armed Services Committees have been briefed on the matter, as have former Special Prosecutor Archibald Cox and his successor, Leon Jaworski. Some officials who have been briefed have privately confided they see no national security implications and have urged Nixon to make the full story known.

The White House statement today said the administration "still considers it inappropriate for public disclosure," but that "it may be that at a later time the facts can be made public without detriment to the national interest."

[From the Chicago Tribune, Jan. 13. 1974]

SECRETS LEAKED TO MOORER

(By Jon Margolis and Jim Squires)

WASHINGTON, January 12.—An angry President Nixon wanted to fire Adm. Thomas Moorer, chairman of the joint chiefs of staff, in 1971 after White House spies told him that military spies were spying on Henry Kissinger.

Kissinger, now United States secretary of State, was Nixon's national security adviser in 1971.

This account, obtained independently from two separate sources, appears to substantiate reports from other sources that the White House Plumbers had produced evidence indicating unauthorized information was passed to Moorer and other military officials.

It is not known what changed President Nixon's mind, but the answer appears to lie in facts surrounding the investigation still being kept secret by the White House as a national security matter.

Altho it would not deny the reports of a military spying and eavesdropping operations within the National Security Council, the White House suggested Friday that a Navy enlisted man, identified as Yeoman IC Charles Radford, was solely responsible for deliberate leaks of classified information. Radford, now in an Oregon naval reserve unit, could not be reached for comment.

According to accounts of the military spying operation supplied The Tribune, some of the information obtained by military spies later leaked out to the press. It was to find the sources of these leaks that Nixon established the "Plumbers" unit in 1971.

The White House explanation about the enlisted man also does not explain why Moorer's representative to Kissinger's staff, Rear Adm. Robert O. Welander, abruptly left the National Security office early in 1972. Welander was reassigned to a series of flotilla commands in the Washington area.

Despite apparent inconsistencies, high-level White House aides were offering no explanations today. Senior White House officials contend that providing details would risk national security.

"It is impossible to explain this to you," said one top official, "because even the explanation is classified."

But attempts to push aside the cloak of national security are being made by both the Senate Watergate committee and the special prosecutor's office. The minority staff of the Watergate committee is known to be investigating whether Navy men other than one enlisted man were responsible for the National Security Council leaks.

Sen. Howard Baker [R., Tenn.], the committee's vice chairman, has twice asked the White House to relieve him of his pledge not to discuss the matter, White House sources said. Baker was described as doubting that genuine national security issues were at stake.

Since the administration refuses to present its own case, it is difficult to give its side of the story supporting the argument that real national security matters are involved. But from what has been said in the past, and from apparent hints in recent statements, it seems that the following matters have concerned the White House:

A leak to a New York Times reporter in 1971 which the Central Intelligence Agency claims endangered an Indian national who was feeding information about the Soviet Union to the U.S.

Leaks about the U.S. plans for the SALT disarmament talks in 1971, and about Nixon's orders to "tilt" toward Pakistan in its war with India late that year. It is that information which was available at Kissinger's office, and which White House officials say the Navy enlisted men gave or sold to newsmen.

Fear that it would become known that the U.S. learned a copy of the Pentagon Papers were delivered to the Soviet Embassy here through a Russian intelligence agent acting as a double agent for the U.S.

At the time, in 1971, administration officials apparently feared all the leaks might be coming from one source or related sources. Several persons have said that John Mitchell, then the attorney general, was convinced there was a centralized conspiracy going on, and so informed the President.

By the administration's own accounts, there was no such conspiracy. There is also some doubt as to how reliable that Russian agent was, and how secret the Indian agent is.

Top administration officials are also contending that any elaboration on the various spy plots would reveal to foreign powers the organizational setup of U.S. intelligence agencies. One government official, for example, also suggested that detailing interdepartmental splits between civilian and military officials puts the country at a disadvantage and is a legitimate national security danger.

But by conceding that there is such a basic rift, the officials are almost conceding that there was more to the joint chiefs spying effort than a lone enlisted man.

There are other inconsistencies which government investigators are looking into.

One factor is suspicion that two of the celebrated leaks—about the pro-Pakistan "tilt" and the SALT talks—served the interests of the military brass. The joint chiefs were reportedly unhappy about a SALT agreement and the coming U.S.-Soviet detente. And the Navy at least was worried about supporting landlocked Pakistan over India, with its long coastline along the Indian Ocean where so many Soviet warships sail.

Several sources who used to work at the National Security Council said they expected Moorer's liaison at their office to be keeping him informed of Kissinger's action. "That's what a liaison man is," one said, "a spy."

On the other hand, they agreed that Adm. Welander's abrupt departure early in 1972 was unusual, and may have indicated that someone was exceeding the boundaries of routine liaison intelligence-gathering. Those boundaries do not encompass copying documents or eavesdropping, the former officials said.

One former staff member said it would not have been difficult to spirit things out of the NSC office. He said that in the mailroom, where the copying was done, "security so far as copying documents was pretty lax because everyone was more or less trusted."

Welander, whose office was reportedly across the hall from the mailroom, had been suspected in the past by some officials of leaking the pro-Pakistan story to columnist Jack Anderson. Anderson denied it at the time. Two former members of the NSC staff said they also doubted that Welander had leaked the documents. They said they thought the leaks came from higher officials of the Defense Department, but they conceded they had no hard evidence. Now, the White House is suggesting it came from the lowest ranking Navy man on the NSC staff.

Most of the former NSC staff members said they always assumed that when Gen. Alexander Haig was Kissinger's top aide, he was filtering information back to the Joint Chiefs. Haig, now White House Chief of Staff, denied taking part in a spy operation.

But when he was asked whether he encouraged anyone else to convey information back to the military brass, he was quoted as saying: "Not intentionally. But I cannot be responsible for others misreading my position."

[From the New York Times, Jan. 12, 1974]

WHITE HOUSE STATEMENT

SAN CLEMENTE, CALIF., January 11.—Following is a statement issued by the President's office on the passing of information from the National Security Council to the Pentagon:

Today's news accounts relating to the Joint Chiefs of Staff and National Security Council touch on a matter peripheral to a national security issue which was found to involve deliberate leaks to the media of extremely sensitive information of interest to other nations.

This incident has been referred to on several occasions in recent months, and the Administration still considers it inappropriate for public disclosure. It may be that at a later time the facts can be made public without detriment to the national interest.

For the present, however, most that can properly be stated is that today's news accounts convey an incorrect impression of the knowledge and actions of the chairman of the Joint Chiefs of Staff; that the matter was investigated at the time; that the source of these leaks was a low-level employe whose clerical tasks gave him access to highly classified information, and that today's news stories are based on fragmentary accounts of the incident.

At the President's direction, the information regarding this case has been provided on a confidential basis to the chairmen of the Armed Services Committees of the House and Senate, the special prosecutors and the chairman and vice chairman of the Senate Select Committee.

[From the New York Times, Jan. 12, 1974]

A MILITARY RING LINKED TO SPYING ON WHITE HOUSE

(By Seymour M. Hersh)

WASHINGTON, January 11.—The White House investigative unit known as the plumbers uncovered evidence in late 1971 that a "ring" of military officers was attempting to relay highly classified information on the China talks and other matters to officials in the Pentagon, well-informed sources report.

Some of the officials were assigned to the National Security Council.

The secret inquiry, headed by David R. Young Jr., then a co-director of the plumbers, was said to have determined that at least two military officers had participated in apparently illegal activities—including the ransacking of classified files and the unauthorized photo-copying of documents—in an apparent attempt to keep high Pentagon officials up-to-date on White House negotiations.

Although no charges were filed formally, the sources added, as many as six military men were reassigned after the investigation.

NIXON CONCERN RECALLED

It was this investigation, reliable sources said, that has been repeatedly cited by President Nixon as the "national security" matter that justified his initial attempt last spring to limit the Justice Department's investigation of the plumbers.

The sources said that Mr. Young and Henry A. Kissinger, now the Secretary of State and then head of the National Security Council, suspected that reports on the White House's negotiations with China, North Vietnam and the Soviet Union were being leaked to Secretary of Defense Melvin R. Laird and Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

Details of the negotiations were officially limited to a few officials in the White House and the National Security Council's staff.

ADMIRAL REPORTED REASSIGNED

The highest ranking officer reassigned, sources said, was Rear Adm. Robert O. Welander, who was then serving as the liaison officer between the Joint Chiefs of Staff and the Security Council.

Neither Admiral Welander nor Mr. Laird, now a White House aide, could be reached today, but Admiral Moorer denounced the allegation that he had received classified information through indirect channels as "ludicrous."

During Mr. Young's investigation, sources said, he was ordered to report periodically to Gen. Alexander M. Haig Jr., then Mr. Kissinger's key deputy in the National Security Council and now the White House chief of staff. This was the first indication that Mr. Young, a former aide to Mr. Kissinger, maintained a professional relationship with the council while serving with the plumbers. Mr. Kissinger had repeatedly denied any knowledge of the plumbers' activities.

An account of the secret White House investigation was initially published today by The Chicago Tribune, which said that the case was the "mysterious" national security matter so often cited by President Nixon to justify his decision to set up the plumbers in mid-1971.

A New York Times investigation, however, had previously established that there was a wide diversity of opinion among high-level White House aides over the significance and accuracy of the plumbers' findings.

One group, while acknowledging that some military men assigned to the National Security Council had copied documents to which they did not formally have access, described the incident as "just plain in-house rinky-dink stuff" and said that no link had been made between the officers and any public dissemination of classified papers, including the India-Pakistan documents.

ANOTHER VIEWPOINT

Another group, which includes some of Mr. Young's former colleagues and personal acquaintances, said that the plumbers "really did uncover a ring of some sort inside the N.S.C." One source said that one of the military men working in the council was "actually going through other people's files."

The sources all agreed, however, that Mr. Young's inquiry into possible wrongdoing inside the Security Council did not begin until late 1971, after the publication of the Anderson papers, and could not have been involved, as reported, in Mr. Nixon's decision to set up the plumbers unit six months earlier.

The Times investigation also determined that those few officials who were apprised of the National Security Council inquiry were divided about the propriety of keeping it secret.

For example, details of the plumbers inquiry were provided at a secret briefing last summer to Senator Sam J. Ervin Jr., Democrat of North Carolina, and Howard H. Baker Jr., Republican of Tennessee. The two ranking members of the Senate Watergate committee reportedly agreed subsequently to keep the information secret, although Mr. Baker said publicly at the time that he was doing so only at the specific request of the White House.

Some White House advisers had reportedly urged that details of the N.S.C. inquiry be made public last year, apparently to buttress the White House's contention that significant national security issues were at stake in the plumbers activities. But the advocates of disclosure were overruled by a faction headed by J. Fred Buzhardt Jr., the White House counsel, who was then deeply involved in Watergate matters.

HAD OTHER ROLES, TOO

But it was Mr. Buzhardt, sources said, who was also responsible for coordinating the Pentagon's activities in connection with the plumbers investigation in late 1971. At that time, Mr. Buzhardt was the general counsel of the Department of Defense.

White House and Justice Department officials who have been fully appraised of the plumbers inquiry agreed in interviews, however, that the questions about the military's activities inside the National Security Council needed to be explored in public.

"Obviously," one senior official said, "this kind of information should be investigated. It isn't something that should be adjudicated inside the Washington rumor mill."

The official's point was that not much had been proved about the activities—and the intent—of the military men involved in some of the incidents in late 1971.

One clue to the incompleteness of the plumbers inquiry was provided by President Nixon at a news conference on Feb. 10, 1972, three months after publication of the India-Pakistan papers by Mr. Anderson.

"We have a lot of circumstantial evidence" on the identity of Mr. Anderson's source, the President said, adding, "As a lawyer, I can say that we do not have evidence that I consider adequate or the Attorney General considers adequate to take to court."

INQUIRY CONTINUING

"You can be sure that the investigation is continuing," Mr. Nixon said. "If the investigation gets a break which provides the kind of evidence which will stand up in court, we will present it. But we cannot go to court on circumstantial evidence."

Five days later, Mr. Anderson publicly declared that the White House, in effect had punished the wrong man by "banishing Admiral Welander from his Joint Chiefs of Staff position to sea duty. "I never talked to Welander," Mr. Anderson said. "He gave me nothing."

Admiral Welander was later reassigned to the Pentagon, and is now serving as assistant deputy chief of naval operations for plans and policy, considered to be a choice Navy assignment.

In a telephone interview today from Chicago, Mr. Anderson reiterated his belief that "they did not get my source." He also ridiculed the plumbers' apparent belief that he had been provided the India-Pakistan papers by a member of the military. "The idea that somebody came and dropped these papers on me is crazy," the columnist said.

Sources said that a complicating factor in assessing the plumbers inquiry was that—as one well-informed official put it—"There were power struggles and paranoia all over the White House."

Mr. Kissinger was known to be deeply upset at the possibility of premature disclosure—both to the public and tc the various involved agencies in the Government, such as the Pentagon and the State Department—of his diplomatic initiatives. The year 1971 was a banner year for the White House's secret initiatives involving the rapprochment with China and the secret strategic arms limitations talks with the Soviet Union.

"What we need to know," one source said, "are answers to the following: To what extent was it a Pentagon scheme? And who was behind it?"

If some of the allegations about military conduct eventually prove to be true, this official added, "then we had the rudiments of the kind of thing that leads to a military takeover."

[From the New York Times, Jan. 13, 1974]

BLACKMAIL LAID TO OFFICIAL NAMED AS PENTAGON SPY

(By Seymour M. Hersh)

WASHINGTON, January 12.—The White House told the Senate Watergate committee last summer that a young Government official accused of passing National Security Council documents to the Pentagon had. in effect, "blackmailed" his way out of trouble by threatening to make the secret material public, well-placed sources said today.

The sources cited an inquiry initiated in late 1971 by David R. Young Jr., a member of the White House "plumbers" group established to stop leaks of information. The inquiry began shortly after publication of the India-Pakistan papers by Jack Anderson, the columnist, indicated that what amounted to a "ring" of American military spying was going on inside the National Security Council, the sources said.

The spying operations, the sources said, involved the passing of highly classified material from the National Security Council to the Pentagon. It was centered in the office of Rear Adm. Robert O. Welander, who was then the military liaison officer attached to the council, the sources said.

One of Admiral Welander's aides, Yeoman 1st Cl. Charles E. Radford, was determined to be part of the military information network, the sources said, as were others whom the sources would only describe as "Government officials."

The New York Times reported today that as many as six officials inside the White House and Pentagon may have been involved in the military spy network. The sources refused to say whether the official who made the blackmail demand was working for the White House or for Pentagon at the time.

It was one of those other involved officials, the sources said the Watergate committee was told, who "actually demanded a very high post in Government in return for silence" after being confronted by the White House investigators. "There was an element of blackmail," one source said.

"He didn't get it," a source said of the Government official's demand for a top job. "But even after the threat, he was kept on in the Government."

Two informed sources expressed dismay at the White House's apparent bowing to the alleged blackmail threat. "Why didn't they just arrest him and get it over with?" One fully informed source asked.

It was this specific information, they said, that was regarded by President Nixon as too damaging to release publicly when the plumbers' activities became known. "The President always felt that this was dynamite," a source said.

CONFIRMED IN ESSENCE

A White House official, in confiriming today the broad outlines of the threat and blackmail account, suggested that Mr. Nixon believed its public disclosure would put the "whole military command structure on the line." He did not amplify on the remark.

Mr. Nixon has repeatedly cited a mysterious "national security" matter that, he argued, prevented full discolsure of all the activities of the White House plumbers group. That group, headed by Mr. Young, was also involved in the breakin at the office of the former psychiatrist of Dr. Daniel Ellsberg, who said he was responsible for giving to the press the secret Pentagon study of the Vietnam war.

That break-in, in Los Angeles, took place more than three months before the December, 1971, publication of the India-Pakistan papers and the subsequent inquiry into military spying inside the National Security Council, an arm of the Presidency. When the internal Nixon Administration documents on the India-Pakistan War were published by Mr. Anderson, this touched off an intensive investigation by Mr. Young that led to the spy ring, the sources said.

CHINA TRIP IN PLANNING

The New York Times and other newspapers reported today that the spy network itself was the basis of the "national security" concern. It was only after publication of that account that some sources chose to disclose the blackmail threat.

At the time of the threat by the unidentified Government official, the sources said, the White House was in the midst of secret, intensive planning for Mr. Nixon's subsequent trips in 1972 to China and the Soviet Union. Details of those visits were tightly controlled by Henry A. Kissinger, Mr. Nixon's national security adviser, and were not provided to high officials of the Pentagon and the State Department.

It was this communications gap, the sources said, that led to the military spy network.

BRIEFING FOR SENATORS

The sources said that the Senate Watergate committee was initially told of the alleged blackmail scheme at a secret briefing last summer for Senator Sam J. Ervin Jr., Democrat of North Carolina, chairman of the committee, and Senator Howard H. Baker Jr. of Tennessee, the ranking Republican member.

The briefing itself arose after John D. Ehrlichman, Mr. Nixon's former chief domestic adviser, told the Senate committee in public testimony last July that the White House plumbers group, which he supervised, had been involved in some highly classified matters that had nothing to do with the Watergate scandal.

The private meeting was arranged, and the White House sent two of its key attorneys, Leonard Garment and J. Fred Buzhardt Jr., to brief Mr. Ervin and Mr. Baker.

[From the New York Times, Jan. 14, 1974]

REPORT ON DATA LEAK SAID TO HAVE NAMED MOORER

(By Seymour M. Hersh)

WASHINGTON, January 13.—David R. Young Jr., a member of the White House "plumbers" group, concluded in a report submitted in early 1972 to President Nixon that Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, had received secret National Security Council documents taken from the office of Henry A. Kissinger, well placed sources said today.

Mr. Young's report, described by some sources as "book length," was said to have summarized his investigation into an alleged military intelligence operation inside the White House. The sources said that Mr. Young had concluded that classified materials were provided both to Admiral Moorer's office and to Jack Anderson, the columnist, whose publication in December, 1971, of White House papers on the India-Pakistan war initially prompted the inquiry.

The existence of Mr. Young's formal report became known as the mystery deepened and questions mounted over the military intelligence operation.

The New York Times reported today that one of the officials who participated in Mr. Young's inquiry had later sought to "blackmail" his way into a more important job by threatening to make the secret material public as well as to expose the existence of the military activities inside the White House.

No one in the White House would respond to telephone calls today.

On Friday, the White House said that the source of some "deliberate leaks to the media" had been traced to a "low-level employe whose clerical tasks gave him access to highly classified information." The statement made no mention of the allegation of military snooping inside the White House. Admiral Moorer has denied any knowledge of the alleged intelligence operation.

HANDLING OF YEOMAN

One basic question as a result of the accounts made public thus far arises over the handling of Yeoman 1st Cl. Charles E. Radford, a former member of the military liaison unit inside the National Security Council who was identified in Mr. Young's report, according to sources, as the main source for the leaks. Sources said he was also the "low-level employe" referred to by the White House.

Yeoman Radford was never formally charged with any offense and is still on active duty with the Navy at a Reserve center in Salem, Ore. He has refused to comment on the issue, telling one newsman today that he had been ordered by Navy officials not to talk. A Navy officer on duty in the Pentagon said, however, that he knew of no such order.

Another question revolves around the status of Admiral Moorer.

Sources said that Mr. Young had established that Yeoman Radford, said to be an excellent secretary, was formally assigned to Admiral Moorer's staff while working for the National Security Council and had at one time worked in offices across a Pentagon hall from the admiral's personal quarters.

A number of former and present Government officials interviewed by The Times in recent days wondered why, in the face of the reported evidence amassed by Mr. Young, Mr. Nixon reappointed the admiral to a second two-year term as chairman of the Joint Chiefs of Staff in mid-1972.

The Chicago Tribune reported today that President Nixon became so angered when he first learned of Admiral Moorer's alleged involvement in the security council intelligence operation that he wanted to oust him.

Asked about that report, a source close to the admiral described the Nixon-Moorer relationship as "very good" and said that the Admiral had been advised by the President in February, 1972, that he was going to be reappointed as J.C.S. chairman, the nation's highest military job.

This Navy source also said that Rear Adm. Robert C. Welander, the head of the military liaison office in the National Security Council, had been responsible for the abrupt transfer of Yeoman Radford after publication of the India-Pakistan papers. Mr. Young, however, was known to have reported that Admiral Welander had been involved in the passing of information from Mr. Kissinger's office to Admiral Moorer's office.

Sources interviewed today continued to be sharply divided on the significance of the military's alleged internecine spying operation.

A number of White House and Senate officials have said that it was this operation—investigated by Mr. Young—that President Nixon had in mind when he talked of important "national security" considerations that prompted him earlier last year to urge that ongoing Justice Department inquiries into the plumbers be stopped.

Last month The New York Times reported that some of Mr. Nixon's other "national security" considerations—including the possible exposure of a Soviet spy and a Central Intelligence Agency informant—had left many Government officials unconvinced of the validity of the President's belief. One well placed source said then that his concerns were not "national security but Nixon security."

Others echoed today those sentiments regarding the significance of the alleged military spying activities with one official categorizing the military activities as "nothing more than a bunch of paranoids running after each other."

Others closely connected to the yearlong Watergate investigation, however, cautioned that, as one put it, "there's a very critical area in there that hasn't come out yet," a reference to the alleged military spying activities.

Another official said that he had heard of "other things" regarding Mr. Young's inquiry that "strike me as better national security reasons."

Some former National Security Council aides, while acknowledging that all of the facts about Mr. Young's investigation have not been made known, insisted nonetheless in interviews that the alleged military spying activities were not necessarily sinister.

"Neither the State Department nor the Pentagon knew what was going on," one former Government aide said "And they both wanted to know what the state of play was."

He added that the State Department's equivalent to the alleged military activities would have been the relaying of any possible information about Mr. Kissinger's activities during overseas visits to then Secretary of State William P. Rogers.

"My intuitive feeling is that you'll find similar kind of stuff if you look at State," this source said.

[From the New York Times, Jan. 15, 1974]

Stennis To Examine "Spying" by Military

(By Seymour M. Hersh)

Washington, January 14.—Senator John C. Stennis, Democratic chairman of the Senate Armed Services Committee, said today that he planned to begin an informal inquiry this week into alleged military spying inside the White House.

In a telephone interview from his office in DeKalb, Miss., Mr. Stennis said, "I certainly want to take a look at this matter and I don't expect them [the White House] to hold anything back."

The New York Times reported today that David R. Young Jr., a member of the White House "plumbers" group, had submitted a long report to President Nixon early in 1972 in which he concluded that Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, had received secret National Security Council documents and information taken from the office of Henry A. Kissinger, Mr. Nixon's national security adviser.

In the interview, Mr. Stennis also said—in apparent contradiction of a White House statement issued in California late last week—that he was not officially briefed on the alleged military spying until after the first newspaper reports were published.

"Until that story broke I didn't know anything about it, not a thing," Mr. Stennis said. "I was not confided in anything at all."

The White House statement, issued Friday, noted that "information regarding this case has been provided on a confidential basis" to both Mr. Stennis and Representative F. Edward Hébert, chairman of the House Armed Services Committee. Mr. Hébert, in a telephone interview today from New Orleans, acknowledged that he also had not been told of the matter until it had appeared in the newspapers.

Mr. Stennis cautioned that he did not want to commit his committee publicly either to a full investigation or to hearings into the matter. But he did note that "as far as the published implications that Admiral Moorer was spying on Kissinger, it'd take hard substantial facts to prove it."

Mr. Stennis said he planned to return to Washington late this week to take up the question of alleged military spying and other matters.

The White House continued to maintain its policy of not commenting on the allegations of military spying. At the daily news briefing today, Gerald L. Warren, deputy press secretary, refused—despite more than a dozen queries—to go beyond the White House statement of last Friday.

Mr. Kissinger, who is now Secretary of State, has also refused to discuss, during his current Mideast trip, the alleged military spying. Mr. Young, who was indicted last fall in California for his role in the plumbers' break-in at the office of the former psychiatrist of Dr. Daniel Ellsberg. In September, 1971, reportedly first learned of the alleged military spy ring while investigating the publication of the India-Pakistan papers by Jack Anderson, the columnist.

One source who worked closely with the plumbers in late 1971 said today that "Jack Anderson was one of their major projects."

He added that Mr. Anderson's name was inscribed on a blackboard, or bulletin board, that the plumbers maintained inside Room 16, their secure office in the basement of the Executive Office Building next to the White House.

There were reliable indications today that the special Watergate prosecution office headed by Leon Jaworski was considering an expansion of its inquiry to include the allegations of military spying. Officially, however, a spokesman for Mr. Jaworski said "No comment," when asked about the matter.

Samuel Dash, chief counsel of the Senate Watergate committee, flatly ruled out today any inquiry into the alleged military spying, telling reporters that he and Senator Sam J. Ervin, Jr., Democrat of North Carolina the committee chairman believed that the issue "was not relevant to the business of the committee."

Still left unclear was the relationship of the alleged White House military spying to "national security." Sources again confirmed today that the reported spying was the mysterious national security matter repeatedly referred to by President Nixon in recent months to justify his initial request last spring that the Justice Department not investigate the plumbers.

[From the New York Times, Jan. 15, 1974]

Officials Doubt Pentagon Broke Federal Law in Alleged 'Spying'

(By John M. Crewdson)

Washington, January 14.—Government officials familiar with the espionage statutes said today that they doubted Federal laws had been violated by the principals in an alleged plot to divert secret National Security Council documents to military leaders at the Pentagon.

Moreover, most of the officials said, the details of the affair reported thus far do not assume the proportions of a critical "national security" matter, which President Nixon has cited as grounds for restricting an inquiry by Watergate prosecutors into the White House's special investigations unit.

One Justice Department lawyer, noting news accounts that highly classified papers had been taken from the office of Henry A. Kissinger, then Mr. Nixon's National Security adviser, by military liaison aides, said that any illegality would probably depend on who received such documents and whether they were ultimately used to "injure" the United States.

MOORER REPORTEDLY RECIPIENT

The New York Times reported today that the special investigations unit, also known as the "plumber," had concluded that some of the documents reached Adm. Thomas H. Moorer, the chairman of the Joint Chiefs of Staff.

Other accounts have described the Joint Chiefs as resentful because of their belief that they had been "cut off" from Mr. Kissinger's policy planning in several areas, including the 1972 diplomatic initiatives toward the Soviet Union and China and the strategic arms limitation talks.

Without certain knowledge of the nature of the documents purportedly removed from Mr. Kissinger's office, the Justice Department official explained, he could not say definitely that no illegality had occurred.

But he pointed out that Admiral Moorer, as the nation's highest-ranking military officer, would almost certainly be "cleared for everything" in the way of classified national security information.

SEPARATE "DISTRIBUTION SYSTEM"

That official and others familiar with operations of the National Security Council noted, however, that a separate "distribution system" was also used within the Government to keep officials regardless of their classification clearances, from having access to information they had no "need to know."

If reports are correct, distribution lists on papers allegedly gleaned from Mr. Kissinger's files by members of the Pentagon's National Security Council liaison office and passed to the Defense Department would not have included the names of high-ranking military officers who eventually received them.

One official conceded today that "the lack of a 'need to know' " with respect to a particular document "probably makes you a person not entitled to receive it, based on the statute."

"But the fact that you're giving it to someone who has an appropriate classification weighs heavily against any prosecution, if he didn't use it for some private purpose or to injure the county," he said.

A former National Security Council staff member, asked what sort of documents would normally have been kept from the military by civilian planners, replied that, although the council's formal policy papers would have been distributed to them, Presidential papers and those dealing with Mr. Kissinger's personal diplomatic activities would not.

He noted that members of the military liaison office are not paid by the council and are not included among its staff but he characterized reports of the unauthorized dissemination by them of such private papers as little more than a "bureaucratic no-no."

Another official with many years' experience in domestic intelligence investigations declare that the alleged scheme to divert information was "absolutely not a national security matter, absolutely not."

"Which foreign country were the generals working for?" he asked.

[From the New York Times, Jan. 16, 1974]

WHITE HOUSE OFFICIALS BELITTLE REPORTED MILITARY ESPIONAGE

(By Seymour M. Hersh)

WASHINGTON, January 15.—High White House officials sought today to minimize the significance of an alleged military spy ring inside the White House and characterized a confidential report on such activities filed by David R. Young Jr. as "ludicrous."

The officials, who would not be quoted by name, described the affair as simply the case of a young Navy yeoman who, as one put it, "was told to keep his eyes open and who went ape."

Well placed sources have previously told The New York Times that Mr. Young's report, one of his last actions as a member of the White House investigation unit known as the "plumbers," concluded that the Pentagon had been receiving National Security Council documents taken from the office of Henry A. Kissinger, then President Nixon's national security adviser.

Mr. Young's report was said to have indicated that a number of military men, including two on Mr. Kissinger's staff, were involved in an attempt in late 1971 to obtain information in the Administration's diplomatic initiatives with China, the Soviet Union and North Vietnam.

The Young inquiry began after the publication in December, 1971, of the White House India-Pakistan papers by Jack Anderson, the columnist, and quickly evolved into a full-scale inquiry into Pentagon spying, sources have said. The papers disclosed that the White House, while allegedly neutral in that dispute, was secretly "tilting" its policy in favor of Pakistan.

Mr. Young's conclusions, submitted in early 1972 in a report to President Nixon, were depicted today by the White House officials as being "terribly" out of proportion and far overdrawn.

As portrayed by these officials, the reported action of the yeoman, identified as Charles E. Radford of Salem, Ore., in passing documents to the Pentagon "didn't make any difference" because the military was being kept fully informed at the time of all National Security Council activities. One official depicted Yeoman Radford as an "eager beaver."

EARLIER LEAK REPORTED

These officials said that the national security problems posed by the sailor's activities revolved around the alleged leaking of classified documents, including the India-Pakistan papers, to Mr. Anderson. Other extremely sensitive materials had been leaked by Yeoman Radford, these officials indicated, prior to the December publication of the White House minutes of security council meetings on India-Pakistan.

The version of events presented today seemed to conflict with Mr. Nixon's assertion last fall that the national security considerations in the military spying matter—although he did not specifically identify it as such at the time—were of even greater consequence than some of the other issues.

The New York Times reported in December that the President sought earlier last year to prevent a Justice Department inquiry into the plumbers for fear of compromising a number of Government secrets, including a Soviet spy working for the United States, a Central Intelligence Agency informant in India, and some nuclear targeting information.

SENSITIVE POINTS

Last November, Mr. Nixon told the Associated Press Managing Editors Association that he had sought to limit the plumbers inquiry "because there were some very highly sensitive matters involved, not only in [Daniel] Ellsberg and also another so sensitive that even Senator Ervin and Senator Baker [the chairman and vice chairman of the Senate Watergate Committee] have decided that they should not delve further into them."

A number of Senate sources have acknowledged that the military spying was the other "so sensitive" matter mentioned by Mr. Nixon. Sources said it was privately discussed last summer by the White House with Senators Sam J. Ervin Jr., Democrat of North Carolina, and Howard H. Baker Jr., Republican of Tennessee, who subsequently agreed not to investigate it in connection with the then ongoing Watergate hearings.

In his November speech, the President also said, "I don't mean that we are going to throw the cloak of national security over something because we are guilty of something. I am simply saying that where the national security would be disserved by having an investigation, the President has the responsibility to protect it, and I am going to do so."

When news accounts of the military spying ring first appeared last week, one high White House official commented that public disclosure of the incident would put the "whole military command structure on the line."

The White House officials who discussed the matter today, however, cast the incident in a much lesser light. They described Adm. Thomas H. Moorer, the chairman of the Joint Chiefs of Staff who allegedly received the material, as having been kept fully informed by the White House.

Asked why yeoman Radford, who has denied the unauthorized passing of any material, was not discharged from the service or in other ways punished, an official remarked "This fellow had a lot of hot stuff and if you move against him, he could pass it around."

In view of that risk, the official added, it was decided to transfer yeoman Radford quietly out of the White House. He was then serving as an aide to the military liaison officer assigned to the National Security Council.

The White House officials also confirmed that a member of Mr. Young's investigating team had attempted to blackmail his way into a high-level Defense Department position by threatening last spring to reveal publicly details of the military spy operation.

OFFICIAL NOT DISMISSED

Although the demand was categorically rejected, the officials said, the investigator—who still works at the Pentagon—was not discharged because the White House felt that potential national security damage he could cause by talking precluded such action.

Senator John C. Stennis, Democrat of Mississippi who is chairman of the Senate Armed Services Committee, has said that he will begin an informal inquiry into the matter late this week. A similar investigation was reported today to be under way in the Pentagon.

A Pentagon spokesman announced that James R. Schlesinger, the Secretary of Defense, had begun asking some questions about the alleged spy ring. The spokesman said Mr. Schlesinger "at this point has seen nothing that would impair his confidence in the professional qualities of Admiral Moorer."

Sources have said that Mr. Young's investigation concluded that the misappropriated National Security Council documents had ended up in the admiral's office. He has denied any knowledge of or involvement in the "unauthorized gathering" of such information.

[From the Washington, Post, Jan. 16, 1974]

PENTAGON SPYING

(By Michael Getler)

Defense Secretary James R. Schlesinger has begun an informal investigation into allegations that White House documents on secret U.S. diplomacy were being passed to the Pentagon without authorization in 1971, the Defense Department said yesterday.

At the same time, the Pentagon also moved to take some of the heat off the chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer, who has been named in some accounts of the alleged spying as the recipient of such unauthorized documents.

Questioned again yesterday on the episode, Pentagon spokesman Jerry W. Fridheim repeatedly pointed out that Moorer in June, 1972—well after the alleged spying incidents took place and had been secretly investigated by the White House "plumbers" group—had been reappointed by President Nixon to a second two-year term as the nation's top military officer.

The implication of Friedheim's remarks was that the admiral would not have been reappointed if the President had any reason to be unhappy with Moorer or suspicious of his loyalty.

Friedheim and Schlesinger had already talked to Moorer about the allegations, that Moorer had repeated his public denials of any involvement, and that Schlesinger "at this point has seen nothing that would impair his confidence in the professional capabilities of Adm. Moorer," nor, Friedheim added, "his personal dedication and honesty."

At the same time, Friedheim indicated that Schlesinger's personal questioning of people with knowledge of the affair had only just begun, and that "I don't think he has drawn any conclusions."

Schlesinger also is expected to discuss the situation with former Defense Secretary Melvin R. Laird and White House counsel J. Fred Buzhardt, who was the Pentagon's chief legal officer during Laird's 1969–1973 tenure at the Defense Department.

Friedheim indicated that Laird had also ordered an investigation into leaks to the press in July, 1971, of the U.S.-Soviet nuclear arms talks and when White House documents on the India-Pakistan war appeared in Jack Anderson's column in December, 1971.

Friedheim claimed he did not know if a report was filed on the Laird investigation of the Anderson leak. It was that leak which was the focal point for the White House plumbers investigation and the key to allegations of a military spying ring in the White House bent either on better-informing their bosses in the Pentagon of secret shifts in U.S. policy or perhaps of embarrassing the architect of that policy, Dr. Henry A. Kissinger.

If there is a Laird report, that could provide a different assessment of the White House-Pentagon links than one allegedly included in a White House plumbers report by David Young which reportedly links Moorer to receipt of some unauthorized documentation.

Meanwhile, Sen. John C. Stennis (D-Miss.), chairman of the Senate Armed Services Committee, told reporters that he, too, plans to begin an informal inquiry into the allegations of unauthorized data-gathering, but that he would await the return of his committee and Congress next week before deciding on whether to hold hearings and a full investigation.

[From the New York Times, Jan. 17, 1974]

NATIONAL SECURITY: A NIXON RATIONALE FOR SECRECY FACES NEW CHALLENGES

(By Seymour M. Hersh)

WASHINGTON, January 16.—Nearly all the "national security" questions involved in the Watergate case have now been made public, and in the wake of this disclosure critics are still raising questions about President Nixon's intentions when he invoked national security last April to halt a Justice Department inquiry into the White House investigative unit called the "plumbers."

At that time, Mr. Nixon insisted that no details of the September, 1971, break-in at the office of Dr. Daniel Ellsberg's psychiatrist be forwarded to the Los Angeles court where Dr. Ellsberg was on trial for his role in the Pentagon papers case.

The break-in was directed by E. Howard Hunt Jr. and G. Gordon Liddy of the plumbers team, who were later convicted for their involvement in the burglary and bugging of the Watergate offices of the Democratic National Committee in June, 1972.

While the President was subsequently persuaded to change his mind about sending the Ellsberg material to Los Angeles, he did not change his mind, as his public statements showed, about the importance of national security in relation to the plumbers.

The plumbers were a four-man investigating unit, jointly headed by Egil Krogh Jr. and David R. Young Jr., the existence of which was known to only a handful inside the White House and elsewhere. Mr. Nixon has depicted the secrecy about the unit as a function of "national security," but other Government officials believe the secrecy was meant to hide the group's existence from the normal police agencies inside the Federal bureaucracy.

THREE MAJOR ISSUES

A similar ambiguity marks the known "national security" issues involved in the plumbers' operation.

Last month, The New York Times reported on three major security issues behind the President's concern.

One was a fear that Dr. Ellsberg—who said he provided the Pentagon papers to the press—may have been an informer capable of turning over nuclear targeting secrets and code-breaking information to the Soviet Union. But no evidence was gathered to link Dr. Ellsberg to the Russians—a fact most certainly known to the White House by April, 1973. (The Pentagon papers were first published in The New York Times in June, 1971).

A second cause for concern was the belief that an agent of the K.G.B., the Soviet intelligence agency, would be compromised by continued Justice Department inquiry into the plumbers. The agent, who had been a counterspy for the United States since the mid-nineteen-sixties, had informed the Federal Bureau of Investigation that a set of the Pentagon papers had been delivered to the Soviet Embassy in Washington in late June, 1971.

FEAR ABOUT INDIA

But the agent has long been a source of controversy inside the Government. Many reliable intelligence officials have said that the K.G.B. man was an agent provocateur, rather than an authentic informer.

The third concern revolved around possible jeopardy to a Central Intelligence Agency informer inside the Indian Government. But there was no outcry in India when existence of the agent was made known last month. And one well-informed intelligence official, asked then about the Indian agent, said, "The issue involved here isn't national security; it's Nixon security."

What White House and other sources consider to be the President's final major "national security" concern—the in-house snooping by the military on the White House itself—has been widely publicized in recent days. Once again, there have been contradictions over the significance of the alleged spying, which was investigated by Mr. Young—at President Nixon's specific direction—in late 1971.

When newspaper accounts of the Young investigation were initially printed last week, White House officials privately depicted it as an extremely serious security matter. One aide said the President chose not to disclose the situation in order to protect the "whole military command structure."

Beginning yesterday, however, high White House officials took a different tack, depicting the incident as the work of an "eager-beaver" Navy enlisted man. He was said to have funneled material in 1971 from the office of Henry A. Kissinger, then Mr. Nixon's national security adviser, to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

A POWERFUL APPEAL

Today a Pentagon spokesman, William Beecher, said that some defense officials believed the alleged spying was merely the result of "overexuberance and some impropriety" on the part of some military men assigned to liaison duty with Mr. Kissinger's staff.

Yet, President Nixon, in a speech last November, had described the incident as being "so sensitive" that the chairman of the Senate Watergate committee, Sam J. Ervin Jr., Democrat of North Carolina, and the vice chairman, Howard H. Baker Jr., Republican of Tennessee, "have decided that they should not delve further" into it.

The power of a "national security" appeal—especially when invoked by the President—can be measured by the Senate's subsequent decision, based only on the facts as presented by the White House, not to investigate the spying allegations.

If the matter were as important as the White House indicated, the committee might have asked why no one was punished for it. If no one was punished, was genuine national security involved?

A DELETED PARAGRAPH

The Senate committee also agreed with a White House request to delete a paragraph—for "national security" reasons—from a plumber document released to the press last August. The paragraph dealt only with a request to British intelligence to determine whether Dr. Ellsburg had been approached by Soviet espionage agents while a student in England in the early nineteen-fifties. There was much published and private speculation, never confirmed, that the paragraph concerned matters far more significant.

Many knowledgeable officials, including some who have been involved in Watergate matters for more than a year, are now convinced that the "national security" issue was raised by the White House as a means of forestalling a detailed scrutiny of the Ellsburg break-in, as well as of the White House plans for gaining political advantage out of the Ellsburg trial. If so, they say, this could amount to obstruction of justice, a charge that is also being mentioned in connection with the apparent alteration of Watergate tape recordings.

[From the New York Times, Jan. 23, 1974]

KISSINGER SAYS HE HEARD TAPE OF "PLUMBERS" INQUIRY

(By Seymour M. Hersh)

WASHINGTON, January 22.—In what seemed to be a direct contradiction of his sworn testimony, Secretary of State Kissinger acknowledged today that he had listened to a tape recording of an interrogation conducted by David R. Young Jr., a White House aide, shortly after publication of the secret India-Pakistan papers in December, 1971.

Mr. Kissinger said the tape recording had dealt with Mr. Young's questioning of Rear Adm. Robert O. Welander about the alleged funneling of National Security Council documents from the White House to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

"I was amazed by this allegation," Mr. Kissinger said at a State Department news briefing.

This marked the first time that the Secretary of State, who was President Nixon's national security adviser at the time of alleged military snooping, has acknowledged that he knew anything about Mr. Young's activities with the so-called "plumbers" unit.

This intelligence team had been secretly set up by President Nixon in July, 1971, in an effort to track down and prevent news leaks. In September, 1971, the group was responsible for the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist in Los Angeles.

Until today, Mr. Kissinger had repeatedly and emphatically denied any knowledge of Mr. Young's activities with the plumbers unit once Mr. Young, formerly a personal aide to Mr. Kissinger, left the National Security Council staff in mid-1971.

Last Sept. 7 he told the Senate Foreign Relations Committee during confirmation hearings on his nomination to be Secretary of State: "I have no knowledge of any such activities that David Young may have engaged in. I did not know of the existence of the plumbers group by that or any other name. Nor did I know that David Young was concerned with internal security matters."

Three days later, during further testimony, Mr. Kissinger pointedly noted, "and I must repeat what I said on Friday [Sept. 7], that I was not aware even of the location of his office or duties, nor did I have any contact with him."

Asked generally at his briefing today about the military snooping allegations, Mr. Kissinger said the investigation had initially been placed in the hands of John D. Ehrlichman, President Nixon's former domestic affairs adviser, who was in over-all charge of the four-man plumbers unit, jointly headed by Mr. Young and Egil Krogh, Jr.

"Several weeks later," the Secretary of

State recounted, "Mr. Ehrlichman let me see, or rather listen to, the interrogation of Admiral Welander with respect to the [leak of the India-Pakistan papers to Jack Anderson, the columnist]. And in the course of this interrogation there was developed an allegation not only with respect to the source of the leak but also about the unauthorized transfer of documents from my office to the office of the chairman of the Joint Chiefs of Staff."

Mr. Kissinger, upon further questioning, conceded that Mr. Young had conducted the interrogation of Admiral Welander on the tape, but insisted that "I did not know that David Young was conducting an investigation into the matter of the Anderson leaks."

EXPLAINS SEEMING CONTRADICTION

He explained this apparent contradiction by telling newspapermen that "one would not suppose that David Young was conducting an investigation" because Mr. Young had been the person questioning the admiral on the tape.

The Secretary of State explained further that he had "assumed" that Mr. Young had simply been designated by Mr. Ehrlichman to interrogate the admiral.

His implication clearly was that he did not necessarily connect Mr. Young's interrogation of the admiral with his broader role as a plumber in investigating news leaks.

"I reaffirm here," Mr. Kissinger said, "every word that I have said to the Senate Foreign Relations Committee and I assert that they were fully consistent with the allegations of the unnamed sources that have been made while I was on my trip last week."

(Most of the news accounts of Mr. Young's investigation into the alleged military snooping ring were published during the Secretary of State's 10-day Mideast trip that ended yesterday.)

"To be specific," Mr. Kissinger added, "I did not know that David Young was conducting an investigation into the matter of the Anderson leaks."

However, sources with access to the detailed workings of the plumbers unit have told The New York Times that Mr. Kissinger was involved in the initial Presidential decision in July, 1971, to set up the plumbers unit and learned then of the role Mr. Young was to play in it.

AGREES WITH MOORER

Mr. Kissinger also expressed agreement today with Admiral Moorer's statement—made on television last week—that there was no reason to set up a military spying operation because all national security information flowed freely between the National Security Council and the Pentagon.

Admiral Moorer's statement was coupled with an admission that he—previous denials to the contrary—had received unauthorized materials taken by "overzealous" military officials from Mr. Kissinger's White House office.

In agreeing about the easy flow of information, Mr. Kissinger said, "I have no reason to question the argument that has been made by Admiral Moorer that this incident of the unauthorized transfer of papers from my office to his office reflected overzealousness on the part of subordinates and in any case gave him no information that he did not already possess."

Many of Mr. Kissinger's former aides have told the Times, however, that the Pentagon and the State Department were both deliberately cut off throughout 1971 from sensitive information on Mr. Kissinger's direct orders. In that year, Mr. Kissinger successfully made his secret trip to China.

NO CHARGES FILED

Sources have told The Times that Mr. Young stumbled onto the alleged military snooping ring while investigating the publication of the India-Pakistan papers by Mr. Anderson. The papers dealt with Government policy on the India-Pakistan war.

Mr. Young concluded his inquiry, the sources said, by forwarding a long written report to President Nixon informing him that the military liaison office in the National Security Council, then headed by Admiral Welander, had been responsible for providing the unauthorized material to Admiral Moorer.

Both Admiral Welander and his aide, Yeoman 1st Cl. Charles E. Radford, had been banished from the White House by early 1972, the sources said. No charges were filed in the incident, although sources close to Mr. Young say that his final report also concluded that Yeoman Radford had provided the India-Pakistan documents to Mr. Anderson. Both Yeoman Radford and Mr. Anderson have denied that reported allegation.

LEARNS OF YOUNG REPORT

These sources, interviewed during the last week, have also characterized Mr. Kissinger's reaction to the reported military snoopings—which allegedly came during his highly secret negotiations with China, the Soviet Union and North Vietnam—as one of extreme outrage.

Mr. Kissinger also told newsmen today that he did not know until reading newspaper accounts last week that Mr. Young had filed a report on the alleged military snooping to the President, nor did he know that the then Secretary of Defense, Melvin R. Laird, had prepared a separate study.

"These reports must have come to conclusions similar to the one I have outlined here," the Secretary of State said, "because no disciplinary action was taken."

The lack of disciplinary action has prompted some officials in the White House and Senate to suggest privately that a full-scale investigation of the allegations—including Mr. Kissinger's role, if any—be conducted by the Senate.

In line with that, Mr. Kissinger said today that he had telephoned Senators John C. Stennis, Democrat of Mississippi, chairman of the Armed Services Committee, and J. W. Fulbright, Democrat of Arkansas, chairman of the Foreign Relations Committee, to tell them he would "be prepared to meet with their committees to answer any questions they might have on this subject."

SPYING IN THE WHITE HOUSE SAID TO HAVE BEGUN IN 1970

(By Seymour M. Hersh)

WASHINGTON February 2.—Military spying inside the White House began in the fall of 1970, a few months after Adm. Thomas H. Moorer became chairman of the Joint Chiefs of Staff and more than a year earlier than has been previously reported, closely involved sources said.

The spying involved as many as five high-ranking officers who regularly received and delivered over the next 15 months classified documents pilfered by a Navy yeoman, these sources said.

A New York Times investigation shows that the spying began within weeks after Yeoman 1st Cl. Charles F. Radford was assigned in September, 1970, to the military liaison unit set up by the Defense Department inside the National Security Council.

The sources said that Petty Officer Radford confessed to Pentagon investigators in December, 1971, shortly after he was suspected of leaking White House documents on the India-Pakistan war to Jack Anderson, the columnist, that he had begun pilfering documents more than a year earlier at the express directions of Rear Adm. Rembrandt C. Robinson.

Admiral Robinson, who was replaced in March of 1971 by Rear Adm. Robert O. Welander in the military liaison position, was killed in a helicopter crash in Southeast Asia in 1972.

Petty Officer Radford has repeatedly denied leaking any material to Mr. Anderson and he has also denied knowing of any security leaks to Admiral Moorer's office.

REFUSES TO COMMENT

Admiral Moorer's spokesman, Navy Capt. J. C. Mackercher issued the following statement today after being informed of The Time's account: "The chairman's office has no comment on these charges any more than it has had on the innumerable other charges that have been made by unidentified sources."

As chairman of the Joint Chiefs, Admiral Moorer is a statutory member of the National Security Council. The documents and materials in question, however, were explicitly denied to his office and to high officials in the State Department on the orders of Mr. Kissinger and President Nixon.

During the period of Yeoman Radford's activities, the White House was involved in intensely secret negotiations with China, the Soviet Union and North Vietnam. Former White House aides have acknowledged that details of those talks were restricted to a very few officials in the White House.

Since the allegations of military spying first became public more than two weeks ago, high-ranking officers in the White House and Pentagon have repeatedly referred to it as the work of two "overzealous" men—a reference Admiral Welander and Yeoman Radford—who were taking documents in an effort to please their superior, Admiral Moorer.

Admiral Moorer, after first denying any knowledge of the military spying, conceded on Jan. 18 that he had received "a file" of unauthorized material that he publicly depicted as "just a collection of, you know, roughs and carbon copies, and things of that kind."

The Times's informed sources said that Petty Officer Radford had been urged to pilfer documents during his daily workings as a stenographer-clerk inside the National Security Council and had also been encouraged to get what he could while serving as an aide on overseas missions undertaken by the head of the council, Henry A. Kissinger and his chief deputy, then Gen. Alexander M. Haig Jr. of the Army. Mr. Kissinger is now Secretary of State and General Haig is White House chief of staff.

Among the documents taken by Yeoman Radford and supplied to Admiral Moorer's office, the knowledgeable sources said, were copies of "eyes only" messages intended solely for President Nixon and Mr. Kissinger from such key diplomats as Ambassador Ellsworth Bunker in South Vietnam and Ambassador Emory C. Swank in Cambodia.

One high-ranking White House official acknowledged in an interview this week that the military spying inside the National Security Council had begun under Admiral Robinson—and not Admiral Welander. But this official noted that he had been informed by a Pentagon investigator that "very little of importance was taken—just one or two papers."

This official also disputed a reporter's contention that the White House and Pentagon had been misleading in their public statements on the spying allegation. "I don't think there's been any injustice to the facts," the official said.

In a news conference on Jan. 24, Secretary of Defense James R. Schlesinger declared that his review of the Pentagon investigation of the allegations had determined that "the material in question consisted of two collections of material." The Defense Secretary then added, "Admiral Moorer was not, in my judgment, at all familiar with the exuberant methods that had been used to collect this material."

The Times's sources said, however, that a special report on the military spying allegations prepared by David R. Young Jr., a former member of the so-called "plumbers" investigations unit, concluded in early 1972 that Admiral Moorer was directly involved in the operation.

The sources said that Mr. Young's report, which has been characterized as "ludicrous" by J. Fred Buzhardt Jr., former Pentagon General counsel who is now a White House aide, has not been personally reviewed by Secretary Schlesinger.

The Senate Armed Services Committee has summoned Admiral Moorer and Mr. Kissinger to a closed hearing Wednesday on the spying allegations but, committee sources said, Senator John C. Stennis, Democrat of Mississippi, the chairman, has not yet agreed to request Mr. Young or Yeoman Radford to testify.

Still unclear, the well-placed sources said, was the exact role played by Admiral Moorer in the military spy ring.

He became chairman of the joint chiefs, America's highest military job, in July, 1970, replacing Army General Earle G. Wheeler, who had served as chairman for six years. Admiral Moorer was reappointed by President Nixon to a second two-year term in mid-1972, after the spying incident.

In a telephone interview yesterday, General Wheeler declared "I certainly didn't do anything like this" when he was chairman.

The retired officer, who now lives in West Virginia, noted that Admiral Robinson was his liaison aide to the National Security Council in early 1970 and continued on that job with Admiral Moorer.

"I don't think that Robby [Admiral Robinson] would dream up anything like this," General Wheeler added.

The liaison office was set up, he said, early in the Kennedy Administration to facilitate the flow of high-level White House information to the Joint Chiefs of Staff. It was shut down literally "overnight," the informed sources said, after Mr. Kissinger learned of the military spying in December, 1971.

The closely involved sources said that Yeoman Radford had told investigators that the pilfered documents were hand-carried in sealed envelopes either by himself, Admiral Robinson or Admiral Welander from the White House military liaison office to Admiral Moorer's office, where they were given to his senior aide and executive assistant at that time, Capt. Harry D. Train 2d. Later deliveries, the sources said, were made to Navy Capt. Arthur K. Knoizen, Captain Train's replacement.

Some information was also separately delivered by Admiral Welander to an Air Force captain who was assigned to the Joint Chiefs of Staff, these sources said.

Yeoman Radford has further told investigators, the sources said, that on occasion, Admiral Robinson relayed personal compliments from Admiral Moorer to make the petty officers aware that—as a source put it—"Admiral Moorer was pleased with the information."

The pilfering of documents from the National Security Council was always treated as a highly clandestine operation by the military men involved, these sources said, with the materials kept in a special safe by Yeoman Radford's desk in the Pentagon.

The military liaison group divided their working days between the Security Council offices in the Executive Office Building near the White House and the Joint Chiefs' in the Pentagon.

Yeoman Radford, 30 years old, was considered an expert stenographer and clerk by Mr. Kissinger, General Haig, and many aides on the National Security Council, the sources said. He has described his double agent's role inside the White House to investigators, these sources said, as a "perfect thing" because he had "everybody's confidence."

The taking of documents was depicted by Yeoman Radford as nearly an everyday occurrence, but he has told investigators, The Time's sources said, that the various overseas meetings and trips undertaken by Mr. Kissinger and General Haig were considered "special items."

During his 15 months with the military liaison office, the petty officer traveled to Southeast Asia, Paris and to Pakistan with Mr. Kissinger during the highly secret China trip in July, 1971. After returning from these trips, the sources said, the petty officer would relay documents that he had pilfered either to Admiral Robinson or Admiral Welander or directly to Admiral Moorer's office.

Both Mr. Kissinger and General Haig were said to be furious upon learning of the pilfering.

A full statement by Yeoman Radford was given to a Pentagon investigator, W. Donald Stewart, in December, 1971, sources said. The sources added that Petty Officer Radford and Admiral Welander were repeatedly interrogated about their activities during tape recorded sessions in the Pentagon. Admiral Robinson was recalled from sea duty in Southeast Asia for interrogation, the sources said.

A number of sources have said that Mr. Young and other Government investigators had also accumulated evidence indicating that Yeoman Radford had been responsible for providing Mr. Anderson with the India-Pakistan papers and other top-secret material.

No charges were filed in connection with that aspect of the inquiry, however nor, apparently, did President Nixon take any action against Admiral Moorer for his role in receiving the documents.

Admiral Welander was immediately transferred out of the White House but given a much-sought-after sea command early in 1972. He is now serving in a key Pentagon post for the Navy. Yeoman Radford was transferred to a Navy Reserve center in Salem, Oreg., and recently announced his intention to leave the service.

President Nixon has not spoken out on the issue since it arose, although White House officials have confirmed that the spying was one of the "national security" secrets cited by the President last spring when he sought to curtail the Justice Department investigation into the four-man plumbers team.

The plumbers, headed by Mr. Young and Egil Krogh Jr., were also responsible for the burglary of Dr. Daniel Ellsberg's former psychiatrist in September of 1973.

The subject of military spying was first touched on during John D. Ehrlichman's testimony last July before the Senate Watergate committee, although it was not dealt with in specific terms. Mr. Ehrlichman, President Nixon's former domestic adviser who was in over-all charge of the plumbers team, refused to discuss the issue in public, but did arrange for a private White House briefing for some committee members.

It was at this briefing provided in part by Mr. Buzhardt, that the military spying was depicted as being of the utmost "national security" consideration.

[From the Washington (D.C.) Post, Jan. 13, 1974]

Nixon Claim of Security Is Disputed

(By Laurence Stern and Michael Getler)

A secret diplomacy that reversed the main currents of United States foreign policy led to extraordinary struggles for information between the Pentagon and the White House during 1971.

The diplomacy, which embraced a wide range of initiatives including rapprochement with the Soviet Union and China as well as a break-through on strategic arms negotiations, was limited to the President, his national security affairs adviser, Henry A. Kissinger, and a few staff aides.

One high-ranking former official said the extraordinary intra-governmental secrecy precautions applied by Kissinger constituted "a war against the bureaucracy to a remarkable degree."

Another former national security policymaker based in the White House said, "it was always the operating principle that important things were kept out of the National Security Council system completely." This excluded the military from virtually all access to the new diplomatic initiatives.

The atmosphere of privacy that enveloped the Nixon administration's foreign and national security policies extended to the State Department and the Arms Control and Disarmament Agency, which was responsible for developing strategic arms policy.

"There was a strong feeling that the whole NSC mechanism was a shell game managed by Henry," said a former official.

Kissinger's advocates, on the other hand, argue that in order to achieve the Nixon administration's new objectives it was vital to operate secretly in order to shut out those in the bureaucracy who were committed to traditional Cold War doctrine.

It was in this context, according to informed officials, that the unauthorized transfer of National Security Council minutes and documents was carried out by Pentagon military representatives in the White House.

The material specifically included transcripts of deliberations by the NSC's Washington Special Action Group (WASAG) on the Indo-Pakistani war in December, 1971. But it included other sensitive records from the various NSC subcommittees over which Kissinger presided as special assistant for national security affairs.

In a new development yesterday the White House branded as "inaccurate" a Chicago Sun-Times report that Kissinger ordered a phone tapped in 1971 in the office of then-Secretary of Defense Melvin R. Laird.

Authoritative sources insisted yesterday that the report alludes to the previously announced tapping of the telephone of Lt. Gen. Robert E. Pursley, former senior military assistant to Laird. The Pursley tap was one of 17 FBI wiretaps ordered by the President after consultation with then Attorney General John N. Mitchell and with Kissinger. The list included 13 government officials and four newspapermen.

The Sun-Times also reported a wireless microphone was placed in the White House office of Wayne Smith, former NSC staff assistant to Kissinger. There were suspicions, the newspaper said, that the bugging was carried out by military officials.

Smith said yesterday the first word he had on the bug was the Sun-Times report. He said the thought never occurred to him that he might be a target for eavesdropping while he was in the government. But after the surfacing of the Watergate affair he acknowledged that he thought he might have been the target of eavesdropping. His office was a focal point for both strategic arms and Vietnam policy.

Smith stressed however, that he had no evidence at all that his office had in fact been bugged.

The year 1971 was a critical one for all the major lines of innovation in Nixon administration foreign policy.

On May 20, 1971, President Nixon and Soviet Party leader Leonid I. Brezhnev made a dramatic joint announcement that was to break the deadlock on the first stage of the strategic arms limitation agreement. Knowledgeable officials contend that Laird, Secretary of State William P. Rogers and Gerard Smith, chief of the SALT negotiating delegation, were kept in the dark until the eve of the public announcement.

"A lot of noses got out of joint on that one," said an authoritative source.

Kissinger's dealings with the Soviet Union on SALT were of critical concern to the Pentagon. U.S. strategic military policy toward the Soviet Union is an important determinant of the size of the Pentagon's budget, its missile force and its targeting program.

The Army's main role is to contain the Soviet Union in Europe. The Navy's is to keep open the Atlantic sea lanes. And the primary role of the Air Force is to maintain parity if not dominance in air space against the Soviet Union, the only world power with missile and bomber delivery systems capable of destroying the United States.

Under the circumstances, according to one former official, the military "was surprisingly docile" in its dealings with the NSC. "I am not aware of what I would call a really bruising struggle . . . You could never have something like the Admiral's Revolt (of the post-World War II period) over the big bomber," he said.

Kissinger anticipated deep and organized opposition to his policies, a knowledgeable former official reported, but it never formed. "Much of the bitterness and bitchiness in the bureaucracy was based on the belief that it was a rigged game and that they would never know until the final moment what the game was," this former official said.

The President announced his China trip in July, 1971, and his visit to the Soviet Union the following October. Foreign affairs strategists in the White House and State Department questioned the wisdom of announcing the trip to Moscow eight months in advance. Their reasoning was that it would give the Soviet Union enough time to put Mr. Nixon in a diplomatic bind because of the heavy pressure on him to conclude a deal in Moscow. There is a consensus within government that the analysts were right.

In January, 1971, the President also stunned the bureaucracy with his disclosure of Kissinger's secret diplomacy in Vietnam. The revelation of Kissinger's solo negotiations with the North Vietnamese was news even to many officials working on the negotiations.

One of the continuing enigmas in the strained relations between the Pentagon and White House is the role of Alexander M. Haig Jr., then Kissinger's top aide, who maintained contact with his old colleagues across the Potomac River.

Haig, according to an American Broadcasting Co. report, played a key role in transferring NSC information to the Joint Chiefs of Staff. The network quoted Haig as denying the report with the observation that, "I cannot be responsible for others misreading my position."

In the view of informed officials, the so-called spying episode between the White House and Pentagon was in no way a "Seven Days in May" scenario with overtones of military challenge to civilian authority.

"The military was trying to maintain what had been legally accessible in the past and which was slowly being choked off," observed an official outside the Pentagon.

Several knowledgeable sources discounted recent press reports that the mutual surveillance incident was the one cited by President Nixon as the "national security" matter that figured in efforts last spring to limit investigation of the White House plumbers.

"I can think of a number of national security-related matters in the investigation of greater consequence than this one," said one source with full access to the Watergate prosecution.

[From the Washington Post, Jan. 1, 1974]

THE "PLUMBERS"

(By Bob Woodward and Carl Bernstein)

President Nixon has made unwarranted use of the term "national security" for 18 months to restrict the investigation into the White House "plumbers" unit and to prevent disclosure of secret White House operations, according to several senior officials in the White House, Justice Department and FBI.

In recent months White House officials had made it known that there were three specific national security matters that might be revealed in any thorough investigation of the plumbers, the special group of White House operatives responsible for investigating news leaks.

The last of those three national security matters was revealed last week when it was learned that military liaison aides in the White House had passed information from Dr. Henry A. Kissinger's files to the Pentagon, and perhaps to columnist Jack Anderson, in 1971, touching off a White House investigation partly conducted by the plumbers.

The other two national security matters, the sources said, were the existence of a "defector in place" (working for the U.S. government as a double agent) in the Soviet Embassy and the use of a CIA source in the Indian government who might have been compromised by a 1971 story in the New York Times. Both of these matters actually had been discussed in news accounts long ago.

Four high-level government sources, noting that all three matters have now been disclosed, said yesterday that they are not the kind of particularly sensitive national security issues that should have been used to block investigations of any wrongdoing by the plumbers.

"Now it's all public and you can see that national security was invoked because it would scare everyone and be the best justification . . . you can see that no government is going to fall," said one White House source who was previously unwilling to discuss this question.

Another well placed source said: "Someone may try to bring in some war plans and tangle them all up in this, but national security looks like part of the coverup to me."

However, one source said that this does not mean that other national security issues now unknown to these sources may not be raised in the future by the President in connection with the plumbers or the Watergate affair.

The plumbers conducted the burglary of Daniel Ellsberg's psychiatrist in 1971, and two of the plumbers, G. Gordon Liddy and E. Howard Hunt Jr., were involved in the Watergate bugging and burglaries. Following the June 17, 1972, Watergate arrests, the White House first cited national security reasons for restricting investigations of the plumbers and the Watergate affair.

In a November, 1973, press conference, President Nixon said the plumbers' investigations of news leaks had involved "leaks which were seriously damaging to the national security including one that I have pointed out that was so serious that even Sen. Ervin and Sen. Baker agreed it should not be disclosed."

Sen. Sam J. Ervin Jr. (D-N.C.) is chairman of the Senate Watergate committee and Sen. Howard Baker (R-Tenn.) is its vice chairman.

Numerous sources said that the national security matter referred to by Mr. Nixon, and which was disclosed to Ervin and Baker, is the unauthorized distribution in 1971 of Kissinger's documents to the Pentagon by military liaison aides in the White House.

While repeatedly declining to discuss the nature of this national security matter, Sen. Baker has said that its seriousness might help explain some of the Watergate-related activity of White House staff members who had thought that national security had somehow been threatened.

Sen. Ervin last week told a reporter that he also would not discuss the subject in detail, but he said he thought it "was totally unrelated to Watergate and would help explain nothing."

Sources inside the White House and federal investigative agencies said yesterday that the White House was helping give circulation to the story about the unauthorized distribution of Kissinger documents to the Pentagon.

One White House source said that "someone here is trying to make the Pentagon-Kissinger affair look like Seven Days in May", a popular novel in which the military tries to take over control of the U.S. Government. "It's nothing of the kind," this source said, adding that the central figure in the unauthorized copying and distribution of Kissinger's classified documents was a Navy Yeoman, Charles E. Radford, who was transferred from the White House to a Naval Reserve unit in Oregon and not prosecuted.

President Nixon said last year that he had ordered that the original FBI investigation of the Watergate affair be restricted in 1972 to avoid exposing "either an unrelated covert activity of the CIA or the activities of the White House investigations unit" (the official name for the plumbers).

In April, 1973, the President also attempted to prevent the Justice Department from disclosing the plumbers' burglary of Ellsberg's psychiatrist to the Los Angeles court where Ellsberg was on trial. The information was eventually forwarded to the court only after then-Attorney General Richard G. Kleindienst insisted on it.

Then, in the summer and fall of last year, J. Fred Buzhardt, the White House special counsel advising the President on Watergate, attempted to discourage criminal indictments of White House aides involved in the plumbers' activities.

Informed sources said that Buzhardt argued that indictments of former presidential aides John D. Ehrlichman, Charles W. Colson and Egil (Bud) Krogh Jr.—all with connections to the plumbers—could threaten the national security because the three men might disclose other national security matters as part of their defense.

Sources said this week that Buzhardt specifically mentioned three items that might compromise national security: the unauthorized distribution of Kissinger's papers; the Soviet defectors; and the CIA informer in the Indian government.

The White House has denied that Buzhardt was attempting to discourage indictments of any specific individuals. However, sources familiar with Buzhardt's discussions with government prosecutors said that Buzhardt made himself clear. "Fred is always indirect," one source said, "but he left his message with three names on it—Ehrlichman, Colson and Krogh."

Colson has written and sent a 41-page memo to Special Watergate Prosecutor Leon Jaworski arguing that if he is indicted in the Ellsberg case he will defend himself by requesting that highly sensitive national security matters be introduced in court, according to a CBS news report on Friday.

CBS reporter Lesley Stahl quoted the Colson memo as saying that, if indicted, Colson would also ask that President Nixon be called to testify at the trial.

A reliable government source confirmed this report for The Washington Post yesterday.

In addition, a White House source said this week that President Nixon's new special Watergate defense counsel, James D. St. Clair, represented Colson for several weeks last year. The source said that St. Clair was brought into Colson's defense when it appeared that Colson's chief defense counsel, his law partner David I. Shapiro, might be a witness in the case.

St. Clair no longer represents Colson. And Colson made no objection to the White House request that St. Clair take up the President's defense instead of his own, the source said.

[From the Washington Post, Jan. 12, 1974]

Pentagon Got Secret Data of Kissinger's

(By Bob Woodward and Carl Bernstein)

Military liaison aides in the White House passed information from Dr. Henry A. Kissinger's files and meetings to the Pentagon in 1971 without Kissinger's authorization, according to informed sources.

The information, which included copies of classified documents and verbatim notes or secret tape recordings of National Security Council meetings, was sought by high Pentagon officers who were uncertain about radically shifting U.S. foreign policy toward Russia, China, and other countries, the sources said.

At least two military aides to the National Security Council, the top foreign policy making body in the White House, were removed when Kissinger, then the President's chief national security adviser, learned of the distribution of unauthorized information to the Pentagon, the sources said.

The two ousted aides are Navy Rear Admiral Robert O. Welander, who was in charge of liaison between the Joint Chiefs of Staff and the White House, and Navy Yeoman, First Class Charles E. Radford, who was an aide to Welander.

Radford, apparently the central figure in the matter, was found to be making copies of National Security Council documents with some regularity, specifically when he traveled with Kissinger and General Alexander M. Haig, then Kissinger's deputy and now the White House chief of staff, the sources said.

Radford also was suspected by the White House of leaking National Security Council documents to syndicated columnist Jack Anderson. As part of the investigation of Radford, his telephone was tapped from about December, 1971, to June, 1972, under an order given to the FBI by former Attorney General John N. Mitchell.

The investigation that reportedly uncovered the information-gathering activities of both Radford and Welander was ordered by an angry Kissinger after documents on U.S. policy in the India-Pakistan war were leaked to columnist Anderson in late 1971.

White House and FBI sources said that information from the tap on Radford's telephone was regularly routed to David Young, a former Kissinger aide who helped run the White House "plumbers" operation which investigated government leaks to the news media.

Two sources said that the unauthorized distribution of this information is the mysterious national security matter that the President, Buzhardt and the Senate Watergate committee have mentioned in connection with investigations of the plumbers. Four other sources said, however, that news accounts characterizing this information distribution as spying on or surveillance of Kissinger are wrong.

The investigation of the leak to columnist Anderson, directed by J. Fred Buzhardt, then the Pentagon general counsel and now White House counsel, never established that Welander or Radford did anything wrong, the sources said. In addition, the sources said, it was never clear who in the Pentagon set up or benefited from the unauthorized pipeline of information from Kissinger's files and meetings.

Even though Admiral Thomas H. Moorer, the chairman of the Joint Chiefs of Staff, sat in on most National Security Council meetings, sources said that Welander, also present at the meetings, made copious notes or tape recorded the meetings and sent the information to other senior military officers.

Welander could not be reached for comment yesterday, but last week he denied any involvement in any unauthorized distribution of National Security Council material.

Radford told a reporter two weeks ago that he had been falsely accused of leaking information to columnist Anderson, who, Radford said, is a personal friend of his. "I went through a merry-go-round of interrogation," Radford said. "And I agreed to never talk about what happened and I never will."

A spokesman for Admiral Moorer said yesterday: "The chairman and the chiefs (of the military services) at no time have authorized, accepted or countenanced the unauthorized gathering of information or data from Dr. Kissinger's office."

In one of the leaked secret documents published by Anderson in late 1971, Kissinger was quoted as saying: "I am getting hell every half hour from the President that we are not being tough enough on India . . . He wants to tilt in favor of Pakistan" in the India-Pakistan war.

The sources said that Kissinger became angry when he learned that such detailed, verbatim notes were being taken of the meetings and ordered the practice stopped.

Some sources said yesterday that Welander's notes were not the documents leaked to Anderson. They said Welander was removed from his National Secutrity Council post only because Radford had worked for him. Welander's job was eliminated after his transfer in late 1971.

Other government sources said that Kissinger had for some time intended to eliminate the military liaison to the National Security Council and the Anderson leak merely gave him a reason. In addition to the chairman of the Joint Chiefs of Staff, the President, Vice President, and Secretaries of State and Defense, among others, sit on the National Security Council when it irregularly meets.

FBI and other sources said yesterday that the tap on Yeoman Radford's phone was conducted under the authority of the attorney general to order wiretaps in national security cases. However, the tap was removed several days after a U.S. Supreme Court decision on June 19, 1972, which narrowed the authority of the government to conduct such national security wiretaps.

Under the ruling, the court said that the government did not have a right to wiretap without court orders in so-called "domestic" intelligence cases that do not involve foreign espionage.

President Nixon and former White House aide John D. Ehrlichman discussed the Supreme Court decision for four minutes during a morning meeting on June 20, 1972, a day after the decision, according to White House papers filed in court late last year.

The President has claimed executive privilege on the conversation with Ehrlichman when it turned up on one of the White House tape recordings subpoenaed by the special Watergate prosecutor. After listening to the tape, U.S. District Court Chief Judge John J. Sirica granted the claim of executive privilege on December 19. Sirica said in his ruling that "nothing in the conversaton relates to Watergate."

Radford was transferred from the National Security Council position to a Naval reserve unit in Oregon. Welander is now assistant deputy chief of naval operations for plans and policy, an important job in the Navy hierarchy that Pentagon officials said would not have been given to anyone suspected of unauthorized distribution of classified material.

In a statement issued yesterday, the White House said that "the source of these leaks was a low-level employee whose clerical tasks gave him access to highly classified information."

[From the Washington Post, Jan. 18, 1974]

Chasing a Spy Ring—Its Secret Is Safely Locked Away in Confusion

(By Laurence Stern)

It has been a wondrous and confusing week in the annals of Watergate journalism.

The tale of the alleged Pentagon spy ring opened with dark overtones of "Seven Days in May." But as the story evolved it was veering toward "Catch-22" with accents of "M*A*S*H."

If there was a grave national security issue at the heart of the matter, as the President and his attorneys have indicated, the secret was still secure with the network of "well placed," or "informed," or "authoritative" anonymous sources who have been talking to reporters over the past few days.

Did Henry Kissinger order a wiretap on the office of former Defense Secretary Melvin R. Laird? (Chicago Sun-Times).

Did President Nixon want to fire Adm. Thomas Moorer, chairman of the Joint Chiefs of Staff, because of the alleged spy ring? (Chicago Tribune).

Was the file-snitching operation the handiwork of a full-fledged "military spy network" (New York Times), or of principally two officers? (Washington Post)

Was it a major breach of White House secrets, as some sources indicated, or was it "rinky-dink," as other informants insisted?

It all seemed to boil down to which paper you read and what informed sources they quoted.

When the spy story broke under bold banner headlines in the Chicago Tribune and on the Scripps-Howard wire last Friday, informed sources were claiming that Admiral Moorer was receiving documents stolen by military subordinates in the White House.

The next day, Saturday, the Chicago Sun-Times reported that an aroused Kissinger, the President's senior NSC staffer, ordered a wiretap in the office of then-Secretary of Defense Melvin R. Laird. The Sun-Times further reported that before the Laird tap was installed a "bug" was implanted in the White House office of Kissinger aide Wayne Smith, an NSC analyst privy to strategic arms and Vietnam strategy secrets.

And so there unfolded in the press the specter of a full-scale cloak-and-dagger struggle between White House and Pentagon with national security secrets spilling out as a byproduct of the hostilities.

Was the alleged military spying episode the much-advertised national security matter cited by the President and his lawyers in connection with the White House "plumbers" investigation by federal Watergate prosecutors?

Yes, some sources told The New York Times and The Washington Post. No, said other sources to both newspapers.

It was a crucial difference. The While House had invoked the danger of a national security breach when it sought last summer to discourage criminal indictments of key aides associated with the "plumbers'" activities—specifically John D. Ehrlichman, Charles Colson and Egil (Bud) Krogh. So The Washington Post was informed, at any rate, by informed sources.

The White House said last Friday that its national security concern in the military spying episode was that it involved "deliberate leaks to the media" of sensitive information of interest to foreign powers.

This was presumably an allusion to the leak of minutes of White House meetings, chaired by Kissinger, on the administration's strategy in the Indo-Pakistan war during December, 1971. It was this series of meetings during which Kissinger was quoted by columnist Jack Anderson as announcing that the President favored a policy of "tilting" toward Pakistan.

The main consequence of the leak to Anderson was to confirm what was already publicly evident from the pattern of the Nixon administration's diplomacy toward the crisis on the subcontinent—that official U.S. policy was tilted toward Pakistan. The Paks had been important brokers in arranging for President Nixon's trip to China.

Columnist Anderson wrote yesterday that the "plumbers'" investigation of the leak led to discovery of the alleged military spying episode.

But there has been no explanation by the White House what national security interest might be endangered by prosecution of the White House special investigation unit operating under Ehrlichman's direction.

Journalistic and public confusion over the details, the seriousness and significance of the so-called spy story seemed to stem from the varying source channels tapped by the reporters who covered the story.

Some White House officials registered the highest concern with one presidential aide contending (The New York Times) that Mr. Nixon wanted it kept secret to protect the "whole military command structure."

Last Sunday "senior officials in the White House, Justice Department and FBI" told The Washington Post that the White House had made unwarranted use of the national security issue to restrict investigation of the "plumbers."

On Wednesday the Times appeared to reach a similar conclusion. Its sources were now saying that the spying episode had been blown out of proportion.

Yesterday FBI sources told The Washington Post that the only information picked up on the tap of one of the prime military spying suspects, Yeoman Charles Radford, were a series of obscene phone calls made by an associate of the yeoman's.

And the Pentagon on Wednesday came up with its own preliminary finding on the document-snitching affair.

"There was some over-exuberance and some impropriety," said Defense Department spokesman William Beecher, "in the liaison activity between the Joint Chiefs of Staff and the National Security Council."

But, Beecher cautioned, Defense Secretary James R. Schlesinger still "'isn't satisfied that he's got the whole story."

Nor, it might be added, is any newspaperman who has covered the confusing series of events. And certainly not the reader—in Chicago or Washington or New York.

[From Time magazine, Jan. 28, 1974]

AN EXCESSIVE NEED TO KNOW

Was it an updating of *Seven Days in May*, Fletcher Knebel's 1962 novel in which the military tries to take over the U.S. Government? According to news accounts, the Pentagon had planned a spy ring in the White House to ransack Henry Kissinger's classified files and copy documents relating to the National Security Council's most sensitive deliberations. The stolen information was then relayed to Admiral Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, and other Pentagon brass.

The bizarre—but basically true—tale raised a host of disturbing questions. Why did the military have to resort to spying to get information that it claimed was essential to maintain the nation's defenses? Was the Pentagon prying into matters that were none of its business? Were some leaders of the armed forces contemplating a coup? As it turned out, the story of the Pentagon v. the White House was not quite *Seven Days in May* but several deeply disquieting days in January (when the story first surfaced). It was something less than apocalyptic, but troubling nonetheless to a nation already alarmed about Government duplicity and secrecy. By authorizing the secret surveillance in the first place, but initially denying and finally admitting complicity in the affair, America's military found itself caught in the same kind of unseemly episode that has besmirched the record of the Nixon Administration.

THE PLUMBERS

The Pentagon's snooping occurred in 1971, when the Administration was engaged in a series of delicate foreign policy initiatives—an open-door policy with Peking, arms talks with Moscow, parleys with Hanoi to end the war in Southeast Asia. Fearing that publicity might imperil these negotiations, Nixon and his national security adviser, Kissinger, resolved to keep them secret. Not even Secretary of Defense Melvin Laird and Secretary of State William Rogers were to be fully informed.

For all the precautions, there were still leaks. In June the New York *Times* began publishing the Pentagon papers. As Nixon later contended: "There was every reason to believe this was a security leak of unprecedented proportions." To find out who was responsible, Nixon created the plumbers, an investigative unit designed to locate and seal off leaks. Yet the unauthorized disclosures continued. In July a *Times* story outlined the U.S. negotiating positions at the Strategic Arms Limitation Talks (SALT) in Helsinki.

In December 1971, Columnist Jack Anderson obtained documents that quoted Kissinger as telling his staff that Nixon wanted the U.S. to "tilt" toward Pakistan during its war with India. Infuriated, Kissinger demanded a White House investigation of the leak.

The plumbers soon turned up a prime suspect: Yeoman First Class Charles E. Radford, now 30. He was serving as admiral's writer (military parlance for secretary-stenographer) to Rear Admiral Robert O. Welander, now 49, who was the Joint Chiefs' liaison to the National Security Council. Welander's job was to attend NSC meetings, take notes and brief the Chiefs on what happened, as well as to pass on other authorized data about foreign policy.

All this was strictly legitimate; swiping secret documents was not. Because somebody was getting such documents out of the NSC, however, Kissinger requested and then Attorney General John Mitchell ordered that the FBI tap the telephones of Radford and four associates for a six-month period. Radford, a convert to the Church of Jesus Christ of Latter-day Saints, admits knowing Anderson—they worshiped at the same Mormon church in Washington—but he denies that he was the source of the leak.

Despite such denials, the plumbers concluded that Radford and perhaps also Welander were clandestinely delivering national security information to the Joint Chiefs. But when the investigators followed the trail to the Pentagon and proposed giving lie detector tests to military personnel, Defense Secretary Laird threw them out. Laird also ordered J. Fred Buzhardt, then the Pentagon's general counsel, to find out what was going on. Buzhardt reported back that Radford and Welander had indeed provided high-ranking officers with copies of purloined classified information. Among these were documents obtained by Radford when he was Kissinger's secretary-stenographer on trips abroad; one of these trips may have been the secret visit to China in July 1971, five months before the snooping was discovered. Buzhardt did not implicate Moorer; that was done in a report to the White House in early 1972 by David Young, who had been transferred from Kissinger's staff to the plumbers' unit.

NO DISCIPLINE

Despite Young's findings the Administration decided for several reasons not to discipline anyone involved. Nixon did not want to broadcast the quarrel between Kissinger and the military while delicate negotiations were under way. Evidence of Moorer's involvement was not conclusive at that point, and the President feared that punishing Radford and Welander might somehow cause more diplomatic secrets to be revealed to the public. Radford was shifted to Salem, Ore., where he now works as a personnel administrator at the U.S. Naval and Marine Corps Reserve Training Center. Welander was sent to Charleston, S.C.; he commanded a flotilla of destroyers there until May 1973, when he became an Assistant Deputy Chief of Naval Operations in the Pentagon. In June 1972, Nixon reappointed Moorer Chairman of the Joint Chiefs. To prevent future military snooping, Kissinger abolished the Joint Chiefs' liaison with the Security Council.

When the story of the stolen documents finally broke this month, a Pentagon spokesman tried to dismiss it as the result of "overzealousness and overexuberance" on the part of low-ranking staff members. Some officers privately said, however, that far from being gungho, Radford and Delander did no more than what is expected of most liaison personnel. The military, loathing surprises, takes extraordinary steps to keep itself apprised of what is going on in Washington. At least 515 liaison officers are assigned to civilian agencies; there are even five in the U.S. Postal Service. Declared one retired admiral: "Military people are spying on every branch of Government. There are ten of them on Capitol Hill; [part of] their job is to report back not only normal information but also the eating and drinking habits of everybody up there. We had a hard time cracking the General Accounting Office, but now the Navy has a commander at the GAO to keep it informed." Said another naval officer: "We used to handle cable traffic for the State Department, and we weren't above picking off a few messages."

"BACK CHANNEL"

At first Moorer dismissed the whole snooping story as "ludicrous" and declared that he had never authorized anything like it. Last week, however, he admitted on NBC's *Today* show that he had received some illicitly obtained documents from Kissinger's office in the form of "roughs" and "carbon copies." He had not closed off this "back channel" of information, he said, because everything he got was "essentially useless." In any case, he later got the same information through regular contacts with the White House. Moorer's confession left many viewers incredulous. Was he saying that, if the information he was receiving on the "back channel" had proved to be essentially useful, he would have choked off the spies? That seemed so implausible as to be ludicrous indeed.

For their part, Administration officials initially depicted the snooping affair of newsmen as extremely serious and as justifying the work of the plumbers. (That work included the burglary of the office of Daniel Ellsburg's psychiatrist.) By last week White House officials were shifting gears and insisting that the snooping case was really unimportant after all. Just why they did so is unclear. Perhaps the Administration realized that few people would accept the Pentagon's spying as the real reason why Nixon did not want the plumbers to be fully investigated. In any case, both the White House and the Pentagon obviously hoped that the story of the snooping affair would quickly fade away.

[From the Washington Post, Jan. 19, 1974]

REROUTING SECRET DATA DISCLOSED

SACRAMENTO, CALIF., January 19.—Top secret messages intended for Ambassador

Ellsworth Bunker or other high civilian officials in Saigon were routinely passed on to the Joint Chiefs of Staff, says a man who worked as a document coordinator in South Vietnam.

Steven M. Davis, 23, said in an interview that it was common practice at the ITT communications center in Saigon for such messages to be retransmitted to Adm. Thomas Moorer, chairman of the joint chiefs. Davis said he worked as a civilian top secret document coordinator at the communications center from January to June in 1973.

Davis said he worked for Federal Electronic Corp., an ITT subsidiary.

Asked about Davis' charges, Frank Rauzi, security manager for the corporation, based in Paramus, N.J., said the "allegations are not entirely wrong, but they were investigated fully by ITT and the military . . . I wouldn't say it didn't happen. It could be. Possibly, yes."

Davis said that while he was on duty he handled all top secret messages coming into the center. "I would deliver the message, and as far as I was concerned that was it," he said.

"Then all of a sudden I would notice that all these other officers had the message and it was being retransmitted to Hawaii, to Thailand, to the JCS," he said.

"I have never in my life seen things so messed up. People with the Joint Chiefs of Staff weren't supposed to get messages, they got them. People in the embassy weren't supposed to get messages, they got them.

Davis, who lives in a Sacramento suburb, said messages sent to the joint chiefs included information on the strategic arms limitation talks, Vietnam negotiations. State Department business and CIA investigations.

"These messages were coming from the Secretary of State, they were coming from the White House, they were coming from the CIA," Davis said. "A lot of them specifically had to do with Bunker. None of this information was supposed to go anywhere else. It was supposed to be kept in these types of channels."

Davis said he protested the security violations to his superiors but was told to keep quiet. He said he was fired after telling the CIA about the practices.

Pentagon officials had no immediate comment on Davis' assertion.

[From the Washington (D.C.) Star-News, Jan. 29, 1974]

Pentagon Acted on Spying, Laird Claims

The Pentagon discovered and stopped military spying in Henry A. Kissinger's office before the White House "plumbers" first learned of it, former Defense Secretary Melvin R. Laird said today.

In a breakfast meeting with reporters, Laird, who on Friday leaves his post as a presidential counselor to become an executive of the Reader's Digest, also predicted that a move to impeach President Nixon would be defeated in the House by a margin of 75 to 125 votes.

Laird said that when he was secretary of defense in December 1971, the Pentagon realized that material from Kissinger's National Security Council was being passed surreptitiously to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

"Admiral Moorer directed the admiral involved (Rear Adm. Robert O. Welander) to go to Henry Kissinger," Laird related. "Henry Kissinger was out of town so he went to Al Haig. Haig reported it to Ehrlichman. Then the (plumbers) investigation started."

Kissinger, now secretary of state, was then director of the NSC. Alexander M. Haig, now White House chief of staff, was Kissinger's deputy. John D. Ehrlichman was Nixon's chief domestic adviser and the White House official in charge of the plumbers, a special investigative unit which later burglarized the office of Daniel Ellsberg's psychiatrist.

Welander headed the military liaison with the NSC. The liaison office was abolished and Welander was shifted to other activities immediately after the incident was discovered.

The investigation of charges of military spying on Kissinger was one of the "national security" activities relied upon by the White House in seeking to keep secret the details of the plumbers' operations.

Moorer has said that he received improperly obtained material from Kissinger's office but paid little attention to it because it was "essentially useless" to him.

Moorer said Welander delivered to his office copies of working papers and rough drafts from Kissinger's office. Moorer said the material was copied by a clerk in Welander's office, Navy Yeoman Charles E. Radford.

In addition to insisting that the plumbers did not uncover the Welander-Radford activity, Laird said there was "no evidence at all" that the military was trying to sabotage Kissinger or his diplomatic activities.

Laird was sharply critical of Kissinger on another matter: The secretary of State's complaint that America's NATO allies did not support the U.S. when American forces were put on alert in response to Soviet actions in the Mideast.

[From the New York Times, Jan. 22, 1974]

Military Watergate?

The strange case of the admirals, the yeoman and the Kissinger files is beginning to appear as silly as the Watergate "caper"—and perhaps as serious.

More questions were raised than answered by the Chairman of the Joint Chiefs of Staff, Admiral Moorer, when he acknowledged publicly that he was a receiver of purloined White House documents. The papers were removed from Henry Kissinger's National Security Council offices by Navy Yeoman Radford, an enlisted clerk, and brought by hand to Admiral Moorer's desk by Radford's superior, Rear Admiral Welander, the Pentagon's liaison officer at the N.S.C.

Admiral Moorer denies that he knew at the time that the papers were obtained improperly. He scoffs at the report that a military "spy ring" functioned with his knowledge to inform the Chiefs of Staff of Mr. Kissinger's secret negotiations in 1971 with North Vietnam, China and Russia and in regard to the Strategic Arms Limitations talks (SALT I). Yet, when a White House investigation revealed the illicit means through which the documents came into his hands, Admiral Moorer merely transferred Radford and Welander instead of disciplining or court-martialing them. The White House and Admiral Moorer are now minimizing the breach of security as simply a matter of "overzealousness" and "overexuberance."

Fundamental issues of national policy are raised by the allegations of military spying on the White House and the subsequent cover-up. It occurred at a time of major relaxation of civilian control of the military under former Defense Secretary Laird. Simultaneously there was a sharp increase in the influence of the Joint Chiefs of Staff on national security policy, as promised by President Nixon in his 1968 campaign attacks on the civilian "whiz kids" brought into the Pentagon by former Secretary McNamara.

During this period a trend was established that has resulted in the appointment of generals and admirals to eleven of the less than fifty key policy-making positions of Deputy Assistant Secretary of Defense—positions created over the past quarter-century as part of an effort to provide unified civilian control over the three armed services. The question now is not only whether civilian control has been relaxed too much, but whether the military are beginning to become "politicized" to a degree that has been seen in other countries but never before in the United States.

Has overinvolvement in high policy decisions led some military leaders to reach for even more influence? The documents misappropriated from Mr. Kissinger's files reportedly contained invaluable ammunition for the internecine policy wars that go on behind the scene in Washington, although Admiral Moorer states that those he saw dealt only with military matters concerning Vietnam.

Enough is now known to justify open Congressional hearings so that the country can judge for itself what the facts are.

[From the Washington Post, Jan. 15, 1974]

The Pentagon Spying Case

What follows is a summary of those intricate and intriguing news accounts that have appeared in the last few days and dealt with a strange internecine conflict within the administration.

In mid-1971, the military command in the Pentagon, apparently feeling closed out of the President's tightly held major diplomatic initiatives, arranged on its own to get certain documents and notes of meetings from the White House. Some of this material seems to have found its way to columnist Jack Anderson. When Anderson published an account of a National Security Council meeting on the Indo-Pakistani war in December, 1971, an angry Henry Kissinger—he was then Mr. Nixon's national security adviser in the White House—ordered an investigation of the leak. The "plumbers," established some months earlier, turned to the task and found a "ring" of military personnel taking unauthorized information from Dr. Kissinger's files and meetings.

What then happened to those somehow involved? One junior person reportedly attempted "blackmail" by threatening to expose the operation to public view if he were not given a "very high post"; he did not get such a post but was not disciplined and was kept on in the government. The Joint Chiefs of Staff liaison at the NSC, a rear admiral, was given a new and important Pentagon position; he denies involvement. A clerical aide, a yeoman, was transferred; he says he promised the Navy "to never talk about what happened." A supposed recipient of the information, Adm. Thomas H. Moorer, who is the country's top military officer, was reappointed to a second two-year term as chairman of the Joint Chiefs; he denies any link to unauthorized information "from Dr. Kissinger's office."

As for Mr. Nixon, for 18 months, ever since the existence of the "plumbers" came to light, he has resisted investigation of them on grounds that disclosure would harm the "national security." A number of officials now privately say that the Pentagon spying case is what he had particularly in mind. In its single public comment on the Pentagon spying case, made last Friday in response to the first limited press reports on it, the White House did not explicitly acknowledge even that a charge of Pentagon spying had been made. Rather, the statement singled out "deliberate leaks to the media of extremely sensitive information of interest to other nations" and said "the source of these leaks was a low-level employee [apparently the yeoman] whose clerical tasks gave him access to highly classified information." (Columnist Anderson denies the yeoman was his source.) Further disclosures would be "inappropriate," the White House said. "It may be that at a later time the facts can be made public without detriment to the national interest."

In brief: The Pentagon spied on Dr. Kissinger. When the operation came to light inside the government, it was covered up; the principals were given minimal or no reason for personal embarrassment, and preemptive disclosure of the matter was made to key legislators—complete with the usual "national security" argument for maintaining the strictest secrecy. Now that the operation has come to public attention, the White House is trying to breeze right by.

No doubt this is not the full story. It is enough to make plain, however, that the "villain" of this piece, as of so many others, is President Nixon's obsession with secrecy, rationalized without warrant or compelling justification as an imperative of "national security." In making his openings to Peking and Moscow and in searching for a way out of Vietnam, he had a broad choice between soliciting, on the one hand, the understanding and support of the Executive bureaucracy—and, in their respective times and ways, the Congress and the public—and, on the other hand, conducting a lone operation. Mr. Nixon chose the latter course. Did he think the Pentagon would sabotage his diplomacy? Even for a President with Mr. Nixon's savvy for the possibilities of political ambush from the right, this seems an exaggerated not to say offensive consideration. Whatever his reason, his choice led in this instance to a shabby espionage operation that induces one not so much to gasp as to cringe. Discovery of the operation led all too inevitably to a coverup—and perhaps not only between the President and the Pentagon. Dr. Kissinger offered the Senate seemingly categorical assurances that he had no knowledge of the intelligence activities of David Young, his former aide who—according to the new report—ran the investigation, which Kissinger ordered, that unearthed the Pentagon plot. These assurances look very strange now.

None of us needed at this time yet another demonstration of the dangers of running the presidency as though it were a game of solitaire. Quite enough damage to our institutions and our values has already been done. But we keep learning more and it is still not possible to tell when the lesson will be done.

[From the Los Angeles Times, Jan. 17, 1974]

MILITARY SPYING SIGNIFIES A REAL DANGER

(By Max Lerner)

NEW YORK.—The stories from Washington about military spying inside the federal government during 1971 don't mean that the military elite is about to take over the civilian government. But they do mean that no government today can be complacent about the role of its generals and admirals—not even the United States, which has prided itself on an unbroken tradition of civilian control of the military.

In their larger outline, the stories seem to be saying that the Joint Chiefs of Staff, along with the Defense Department, were pretty unhappy about what might be going on inside Henry A. Kissinger's office in the National Security Council. It was the time of the secret preparations for the détente with China and Russia, which couldn't have added to their felicity. So they took the course of using their liaison people as spies.

Some material seems to have reached Adm. Thomas H. Moorer, the head of the Joint Chiefs. When President Nixon heard this—so the story goes—he was in a rage and wanted to fire Moorer, but was dissuaded. No one was punished. It would have broken too many things wide open.

It is a tangled story, pieced together by New York, Washington and Chicago papers. Some details may be off, but the main thrust has the sound of truth.

It was not spying in the traditional sense, involving the tapping of one nation's secrets by another. It was high-stake infighting between agencies of the same government, using sneaky, covert means.

Call it interagency spying. Those who commanded it did it as part of a power struggle to influence high policy, doubtless out of patriotic motives. That may be what a Washington official meant when he said that the Pentagon people "simply wanted to know what the state of play was."

Yet far more was involved than idle curiosity. The whole story shows that government isn't a polite textbook operation. Any administration in Washington is a lethal jungle where officials appointed by the same President, waving the same party banners, playing golf and drinking cocktails together, use fang and claw on high-stake issues.

Whether in Paris, Bonn, Moscow, Peking or Washington, interagency spying is par for the course, as it is inside big corporations.

But when it involves military men, it gets more dangerous. They have the arms, and with nuclear powers the arms are nuclear and the stakes are accordingly sky-high.

I have talked with enough defense officers in every service to know that they take the tradition of civilian control seriously. But if you are one of the Joint Chiefs or high in the Defense Department (note the recent figures on the growing number of generals and admirals holding high posts in the presumably civilian Pentagon), you will worry about the state of American arms. And your worries may touch a sensitive nerve.

Call this the battle point—the point at which a military man gets aroused enough to do battle for his beliefs about American military strength. It is the point where he may feel that the Russians are achieving weapons primacy over the Americans.

Every man has a don't-touch-me point. This is the military man's don't-touch-me. Thus, the key to military-civilians politics is no longer what Madison or Hamilton thought it was. In the years ahead, it will have to do with the nuclear arsenals of the great powers—their competitive race, their efforts to reach agreements as in the SALT talks, their residual threats to each other.

Mostly, we have done our thinking about military takeovers in terms of the military regimes in Latin America, Asia and Africa, and in Greece and Spain in Europe. But none of these is a nuclear power. The United States and Russia and China are.

When Gen. Lin Piao plotted to join Chinese with Soviet power, and his plot failed, Mao Tse-tung and Chou En-lai hunted him down until his plane crashed. Gen. Grechko goes along with Leonid Brezhnev's American detente, but only because of Russia's economic need. If the detente threatened the demand of the Russian military elite for a two-front nuclear force that could overpower China's and face America's on at least an equal basis, Brezhnev would be done for.

The battle point of American military leaders will come if and when they are convinced that civilian leaders have turned America into a second-rate power and given the Russians primacy over the United States on land and sea, in the air, in nuclear weapons.

That was what the spying was really about. And if that point really comes, they won't stop at spying, and I fear that they will have a big segment of opinion behind them.

[From the New York Times, Jan 30, 1974]

CONGRESS ASLEEP

The Nixon Administration has conspicuously failed in its responsibility to tell the truth to the public about the military spying on civilian officials in 1971–72. Secretary of State Kissinger plays down his own role in this murky affair. Secretary of Defense Schlesinger deprecates its importance. The White House refuses to comment.

In these circumstances, Congress has a clear duty to conduct a thorough and searching public investigation. But in this matter Congress, too, is falling down in its responsibilities. The Senate Foreign Relations Committee is apathetic. Senator Stennis, chairman of the Senate Armed Services Committee, has done nothing beyond holding a private meeting with the chief offender Admiral Thomas L. Moorer, the chairman of the Joint Chiefs.

Admiral Moorer has admitted receiving confidential documents from Henry A. Kissinger's White House office that were surreptitiously obtained by two military officers assgned as liaison between Mr. Kissinger and the Joint Chiefs. When the White House "plumbers" investigated this high-level spying and discovered the source of the leakage, the two military men—a rear admiral and his clerk—were transferred but not otherwise disciplined.

Everyone involved is now eager to minimize this episode. But the very intensity of the denials suggests that there is a good deal more involved than has yet been revealed. Although Secretary Schlesinger insists "the thing has been blown out of all context," Egil Krogh, recently convicted former chief of the plumbers, asserted last weekend that if Mr. Schlesinger had read the "foot-thick" report prepared for the President about the extent of the Pentagon's spying effort, he would not dismiss the matter so casually.

In any bureaucracy, information is power. But what is at stake here is something more important than a bureaucratic power struggle between Mr. Kissinger and the Joint Chiefs of Staff for control of policy. What is involved are the critical principles of civilian supremacy over the military and of executive branch responsiveness to the public acting through its elected Congress. The power of the military can be contained only if the President and his chief civilian subordinates maintain effective control at all times.

It is up to Congress on behalf of the people to see that such control is real and is diligently exercised. But the relevant committees of Congress dealing with the military, the intelligence community and foreign affairs are too easily bemused by the civilian and military officials whose official conduct they are supposed to be monitoring. Instead of asking the necessary rude questions and transacting the public's business in public, the members of these committees are too easily satisfied by confidential briefings in which the policymakers may titillate them with secret information.

Even worse, members allow their chairmen to usurp authority that belongs to the committees as a whole. For example, why does Admiral Moorer think that a cozy private chat with Senator Stennis will suffice to hush any complaints on Capitol Hill? Presumably, it is because the members of the Armed Services Committee and of the rest of Congress have shown in practice that they are willing to abdicate their supervisory responsibilities to Senator Stennis. This practice of confiding in a few favored, reliable committee chairmen is what enabled the Administration to hoodwink Congress and the country about the bombing of Cambodia for four years.

When will Congress learn that this irresponsible secrecy is undercutting public confidence in government? When will Congress insist that civilian and military official explain their actions in public and demonstrate that basic trust in the people in which this Republic is founded?

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is to be recognized.

Mr. MANSFIELD. Mr. President, under his authority, I will accept that time and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provision of 16 United States Code 513, the Speaker had appointed Mr. LOTT as a member of the National Forest Reservation Commission, to fill the existing vacancy thereon.

The message announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 4861. An act to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes; and

H.R. 8977. An act to establish in the State of Florida the Egmont Key National Wildlife Refuge.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 4861. An act to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

H.R. 8977. An act to establish in the State of Florida the Egmont ey National Wildlife Refuge. Referred to the Committee on Commerce.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

QUORUM CALL

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers). Referred to the Committee on Aeronautics and Space Sciences.

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior's Bureau of Land Management "Management of Lands and Resources, for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations. Referred to the Committee on Appropriations.

REPORT OF DEFENSE CIVIL PREPAREDNESS AGENCY

A letter from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on its activities for the quarter ended December 31, 1973. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY DEPARTMENT OF DEFENSE

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE AIR FORCE

A letter from the Acting Assistant Secretary has Manpower and Reserve Affairs. Department of the Air Force, transmitting a draft of proposed legislation to extend the time limit for the award of certain military decorations (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON PROPOSED CLOSURE OF CERTAIN MILITARY INSTALLATIONS

A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, the justification for the proposed closure of certain military installations in the United States (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF OFFICE OF EMERGENCY PREPAREDNESS

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report of that office, for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY FEDERAL HOME LOAN BANK BOARD

A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to provide for the chartering of Federal stock savings and loan associations, to regulate unitary savings and loan holding companies and for other purposes (wtih accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF JOINT COMMITTEE ON DEFENSE PRODUCTION

A letter from the Chairman, Joint Committee on Defense Production, Congress of the United States, transmitting, pursuant to law, a report of that Joint Committee, for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON RAIL SERVICE IN THE MIDWEST AND NORTHEAST REGION

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on rail service in the Midwest and Northeast Region, dated February 1, 1974 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION BY DEPARTMENT OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC–43 (Sub. No. 2) (with an accompanying paper). Referred to the Committee on Commerce.

REPORT OF WASHINGTON GAS LIGHT CO.

A letter from the Comptroller, Washington Gas Light Co., transmitting, pursuant to law, a balance sheet of the company as of December 31, 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

REPORT OF DISTRICT OF COLUMBIA ARMORY BOARD

A letter from the Chairman, District of Columbia Armory Board, transmitting, pursuant to law, the annual report of the Board for 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to impose a tax on windfall profits by producers of crude oil (with accompanying papers). Referred to the Committee on Finance.

REPORT ON INTERNATIONAL AGREEMENTS

A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORT ON ASSISTANCE-RELATED FUNDS OBLIGATED FOR CAMBODIA

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on assistance-related funds obligated for Cambodia, for the second quarter of fiscal year 1974 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Design and Administration of the Adverse Action and Appeal Systems Need to be Improved," Civil Service Commission, dated February 5, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

Report on Applications for Conditional Entry Into the United States of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on applications for conditional entry into the United States of certain aliens. Referred to the Committee on the Judiciary.

Report on Permanent Residence Status for Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the granting of permanent residence status to certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Report on Temporary Admission Into the United States of Certain Aliens

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered relating to temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Report of the Federal Judicial Center

A letter from the Director, the Federal Judicial Center, transmitting, pursuant to law, a report of that Center, for the year 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

Final Accounting Report of National Parks Centennial Commission

A letter from the Chairman, National Parks Centennial Commission, transmitting, pursuant to law, a final accounting report of that Commission (with an accompanying report). Referred to the Committee on the Judiciary.

Report of Boys' Clubs of America

A letter from the Director, National Development and Finance Services, transmitting, pursuant to law, a report of the Boys' Clubs of America, for the year ended September 30, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

Report of National Parks Centennial Commission

A letter from the Chairman, National Parks Centennial Commission, transmitting, pursuant to law, a report of that Commission (with an accompanying report). Referred to the Committee on the Judiciary.

Report on Age Discrimination in Employment

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on Age Discrimination in Employment, for the year 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Report on Minimum Wage and Maximum Hours Standards

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on Minimum Wage and Maximum Hours Standards, dated January 1974 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

Report Entitled "Financing Postsecondary Education in the United States"

A letter from the Chairman, National Commission on the Financing of Postsecondary Education, transmitting, pursuant to law, its report entitled "Financing Postsecondary Education in the United States" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

Report of Railroad Retirement Board

A letter from the Secretary, Railroad Retirement Board, transmitting, pursuant to law, a report on positions in grades GS-16, 17 and 18, for calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

Report on Grades GS-16, 17, and 18

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on grades GS-16, 17, and 18 for the calendar year 1973 (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

Report on Certain Positions

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on certain civilian positions in that Administration, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

Report on Grades GS-16, 17, and 18

A letter from the Assistant Secretary of Defense, Manpower and Reserve Affairs, transmitting, pursuant to law, a report on grades GS-16, 17, and 18, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

Report of Federal Bureau of Investigation

A letter from the Director, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, a report on positions in grades GS-16, 17, and 18 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

Decision of Board of Veterans Appeals

A letter from the Chairman, Board of Veterans Appeals, transmitting, pursuant to law, a decision of the Board in the appeal of Robert L. Flint (with an accompanying paper). Referred to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Allen):

Petitions of sundry citizens praying for the use of DDT under certain emergency conditions. Referred to the Committee on Agriculture and Forestry.

A joint resolution of the Legislature of the State of Montana. Referred to the Committee on the Judiciary:

"H.J. Res. 4

"A joint resolution of the Senate and the House of Representatives of the State of Montana ratifying the proposed amendment to the Constitution of the United States relating to equal rights on account of sex

"Whereas, the ninety-second congress of the United States of America at its second session, in both houses, by a constitutional majority of two-thirds (2/3) thereof, adopted the following proposition to amend the constitution of the United States of America in the following words:

" 'Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women

" '*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled* (*two-thirds of each House concurring therein*), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'Article —

" 'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

" 'Sec. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

" 'Sec. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the proposed amendment to the Constitution of the United States of America be and the same is hereby ratified, and

"Be it further resolved, that certified copies of this resolution be forwarded by the secretary of state to the administrator of the general services administration, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

Resolutions of the Legislature of the Commonwealth of Massachusetts. Referred to the Committee on Appropriations:

"Resolutions

"Memorializing the Congress of the United States and the Members thereof from the Commonwealth of Massachusetts to take such immediate action as may be necessary to provide for the construction of the Lincoln-Dickey Dam in Maine for the purpose of supplying the New England area with an adequate supply of inexpensive electric power

"Whereas, New England has long suffered from the lack of an adequate supply of inexpensive energy power; and

"Whereas, The present energy crisis points up the absolute necessity for immediate action to provide an additional supply of such energy power to our area; and

"Whereas, The construction of the Lincoln-Dickey Dam in Maine for the purpose of supplying the New England area with a supply of such energy power has been advocated by many persons including former Presidents Kennedy and Johnson; therefore be it

"*Resolved,* That the Massachusetts House of Representatives respectfully requests the Congress of the United States to appropriate sufficient money for the construction of the Lincoln-Dickey Dam for the purpose of supplying electric energy to the New England area; and be it further

"*Resolved,* That the Massachusetts House of Representatives urgently requests each member of Congress to take immediate action, both collectively and individually, to assure the passage of legislation assuring the construction of the Lincoln-Dickey Dam and be it further

"*Resolved,* That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to the President of the United States, to the Federal Energy Director, William E. Simon, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, January 17, 1974."

A resolution of the Senate of the State of West Virginia. Referred to the Committee on the Judiciary:

"Senate Resolution No. 10

"Memorializing the Congress of the United States to approve House Joint Resolution No. 261, introduced on January 30, 1973, proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged or the incapacitated

"*Resolved by the Senate:*

"That the Congress of the United States be urged and requested to approve the amendment to the United States Constitution introduced in House Joint Resolution No. 261, which reads as follows:

" 'Proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged or the incapacitated. To be ratified by the states within seven years of Congressional approval.

" 'ARTICLE —

" 'SECTION 1. Neither the United States nor any state shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

" 'SEC. 2. Neither the United States nor any state shall deprive any human being of life on account of illness, age or incapacity.

" 'SEC. 3. Congress and the several states shall have the power to enforce this article by appropriate legislation,' and, be it

"*Resolved further,* That the Clerk of the Senate notify the Congress of the United States of this action by forwarding to the appropriate officers of each House of Congress a certified copy of this Resolution."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. Res. 173. A resolution that the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the United States securities markets (Rept. No. 93-677).

By Mr. STEVENS, for Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 184. A bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union (Rept. No. 93-678).

By Mr. STEVENS, for Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 194. A bill to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands (Rept. No. 93-679).

By Mr. MAGNUSON, from the Committee on Commerce, without amendment:

S.J. Res. 185. A joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. Mc 43 (Sub-No. 2). Considered and passed, without amendment.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS—REPORT OF A COMMITTEE (S. REPT. NO. 93-676)

Mr. CHURCH. Mr. President, I send to the desk for purposes of filing a report of the Committee on Foreign Relations on the Overseas Private Investment Corporation Amendments Act (S. 2957), and I ask unanimous consent that the report be printed, together with minority views and additional views.

The PRESIDING OFFICER. The report will be received and printed.

GENOCIDE CONVENTION—UNDERSTANDINGS (EXEC. NOS. 93-2 AND 93-3)

(Ordered to be printed, and to lie on the table.)

As in executive session, Mr. MCCLURE submitted two understandings, intended to be proposed by him, to Executive O (81st Cong., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and by unanimous consent, the second time, and referred or passed as indicated:

By Mr. CHURCH:

S. 2957. An original bill reported from the Committee on Foreign Relations, relating to the activities of the Overseas Private Investment Corporation. Placed on the calendar.

By Mr. CURTIS:

S. 2958. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs. Referred to the Committee on Finance.

By Mr. PERCY:

S. 2959. A bill to provide for equal educational opportunity for women, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HANSEN (for himself and Mr. HARTKE) (by request):

S. 2960. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons. Referred to the Committee on Veterans' Affairs.

By Mr. JOHNSTON:

S. 2961. A bill to amend the Economic Stabilization Act of 1970 in order to encourage prompt decontrol of wages and prices, to provide standards governing the imposition of controls after September 1, 1974, to provide for systematic gathering of relevant data, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. GURNEY:

S. 2962. A bill to authorize the Administrator of the Federal Energy Office to take certain action so as to assure the maintenance of operations involving the transporting, by truck or trucks, of perishable produce. Referred to the Committee on Commerce.

By Mr. ERVIN (for himself, Mr. HRUSKA, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, Mr. TUNNEY, Mr. YOUNG, Mr. BROOKE, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. FONG):

S. 2963. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

(The remarks by Senator ERVIN when he introduced the bill and the ensuing debate are printed later in today's proceedings under the appropriate heading.)

By Mr. HRUSKA (for himself, Mr. ERVIN, Mr. BROOKE, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. FONG, Mr. GURNEY, Mr. MATHIAS, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. YOUNG):

S. 2964. A bill to facilitate and regulate the exchange of criminal justice information. Referred to the Committee on the Judiciary.

(The remarks by Senator HRUSKA when he introduced the bill and the ensuing debate are printed later in today's proceedings under the appropriate heading.)

By Mr. MAGNUSON (for himself, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. COTTON, Mr. BEALL, Mr. DOLE, Mr. JAVITS, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. PASTORE, Mr. ALLEN, Mr. HARTKE, Mr. HART, Mr. CANNON, Mr. LONG, Mr. MOSS, Mr. HOLLINGS, Mr. INOUYE, Mr. TUNNEY, Mr. STEVENSON, Mr. PEARSON, Mr. GRIFFIN, Mr. COOK, Mr. STEVENS, Mr. DOMENICI, Mr. GURNEY, Mr. RANDOLPH, and Mr. METZENBAUM):

S.J. Res. 185. A joint resolution for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2):. Referred to the Committee on Commerce. Subsequently it was reported by the committee and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2959. A bill to provide for equal educational opportunity for women, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. PERCY. Mr. President, I am happy today to introduce the Women's Equal Educational Opportunity Act of 1974, but it is a sad commentary on the status of women in this country that such legislation is necessary.

There has always been a fundamental belief in this country in educational equality. Yet, according to the Carnegie Commission on Higher Education, women account for the largest untapped supply of superior intelligence in the Nation. Study after study has exposed sex discrimination at all levels of our educational system. Barriers that confront women on the educational ladder range from female stereotyping in grade school, to the exclusion of girls and women from classes and programs designed for men, to the relegation of women to low-paying, low-level positions in schools, colleges, and universities.

Administrative positions at every level of the educational system are dominated by men, and in recent years women have lost rather than gained ground: First, in 1970-71, 67 percent of all public school teachers were women, but only 15 percent of the principals and 0.06 percent of the superintendents were female; second, while 85 percent of all elementary teachers are women, only 19.6 percent of elementary principals are female, compared with 56 percent in 1950; third, of nearly 16,000 senior high school principals, only 1.4 percent are women, compared with 6 percent in 1950; fourth, in 1972 only two State departments of education were headed by women; fifth, the proportion of women faculty has dropped continuously during the past 100 years from a third of the positions in 1870 to less than a fourth today; and sixth, of 953 4-year college presidents, only 32 are women.

At each level of advancement within the American educational system, the percentage of women declines: Women comprise 50.4 percent of the country's high school graduates, 43.1 percent of those who receive bachelor's degrees, 40 percent of those with master's degrees, and only 13 percent of the doctorates.

Although women make up 24 percent of college and university faculties, only 8.6 percent are full professors.

Physical education is one of the most discriminatory areas in education. A report on the Ann Arbor schools revealed that the budget for boys' interscholastic sports was 10 times as high as the corresponding female budget. The five major collegiate athletic conferences award some 5,000 football scholarships worth about $10 million. As many as 50,000 men each year earn a college education on athletic scholarships, while fewer than 50 women have any kind of athletic scholarship.

Studies on elementary school text books have documented pervasive sex stereotyping. In a survey of 134 books used by the New Jersey school system and published by 18 major textbook companies, Women on Words and Images found that readers center around boys and men more than twice as much as they focus on girls and women; biographies concentrate on men six times as much as they do on women; and men appear in 147 career possibilities while women are seen in only 25. Moreover, content analyses of "active mastery" stories indicate that where the main character exhibits cleverness, problem-solving ability, bravery, acquisition of skills, and adventurousness, males are the protagonists four times as often as females. By contrast, girls are more often portrayed as passive and dependent, lacking in initiative or ambition, practicing domesticity, and being generally incompetent as well as being inferior to the opposite sex.

Tracking by sex in vocational and manpower training programs is commonplace. And separate does not mean equal. Vocational training programs reflect rigid notions of appropriate masculine and feminine occupations. Thus, women are directed to much too narrow a range of occupations, mainly homemaking, clerical, and health occupations which promise little pay and poor chances for advancement. The Department of Labor's individual referral service, for example, has assigned male trainees from the Manpower Development and Training Act program to prepare for 177 different occupations, while female trainees were assigned to only 12 occupations. Moreover, the average female trainee earns less after such training than the average male trainee does before undergoing training.

Every year over 200,000 young women under 18 give birth. About two-thirds of the Nation's school districts expel mothers-to-be at the first sign of pregnancy, while school-aged fathers are rarely even censured.

Sexism in our educational system runs deep. The standard in our schools, after decades of coeducation is still male. All aspects of the curriculum, school structure, classroom organization, teacher attitudes toward students and extracurricular activities tend to enhance the male self-image and to promote identification with masculine traits and accomplishments. Take sex stereotyping as an example. Although rigid designation of one set of interests and behavior to only one sex limits the potential of each and is detrimental to both sexes, it is particularly damaging to women because of the inequality of the roles presented and assigned.

Whitney Darrow's popular children's book "I'm Glad I'm a Boy. I'm Glad I'm a Girl" illustrates this inequality of role assignment clearly as society exists today—

> Boys have trucks. Girls have dolls.
> Boys are doctors. Girls are nurses.
> Boys are presidents. Girls are first ladies.
> Boys fix things. Girls need things fixed.
> Boys build houses. Girls keep houses.

The consequences of sexism in education are unfortunate. To subject women to 12 and more school years of persistent conditioning that only prepares them for subordinate roles in society is a classic example of the self-fulfilling prophecy at work. Although 40 percent of all American women work, and they hold nearly 40 percent of all the jobs, they earn less than 60 percent as much as men do. The average women with a bachelor's degree who works full time earns about the same median income as a man who is a high school dropout. A recent educational testing service study of 21,000 college students throughout the country confirms the fact that women are underachievers. The survey disclosed that 44.6 percent of the men but only 29.4 percent of the women planned to go to graduate and professional schools even though the women generally had better grades. Because the women had a lower level of self-confidence than the men and received less encouragement from their friends and relatives to pursue advanced work, differences in aspirations were pronounced. Almost as many men with C-plus or lower grade averages planned to pursue doctorates as women with B-plus or A averages. For too many women, education has produced a sense of inferiority and a deep-seated fear of success. Because few people have high expectations for feminine achievement, many women settle for far less than their abilities warrant.

I feel strongly that the underachievement of American women can be considered in some respects a national scandal. No nation can afford to waste more than half its human resources. The Women's Equal Educational Opportunity Act is an attempt, like the Women's Educational Equity Act introduced by Representative Patsy Mink and Senator Walter Mondale, to call a halt to the processes that have robbed women of their full potential and wasted the minds and spirits of more than half the population of this country.

In recent years the movement of women's rights has achieved an impressive array of legal tools to fight discriminatory programs and policies. Landmark measures such as the Equal Pay Act of 1963, title IX of the Education Amendments of 1972 and the Executive orders which require affirmative action programs by Government contractors have opened new avenues for action to remove sex discrimination from nearly every aspect and every level of the educational system. However, bills such as the Women's Equal Educational Opportunity Act and Women's Educational Equity Act are still needed, for laws prohibiting discrimination are never enough. While the Women's Educational Equity Act would create a new program to support a wide range of projects and activities designed to eliminate sex discrimination in education, the Women's Equal Educational Opportunity Act would amend existing law including provisions under the Elementary and Secondary Education Act, the Higher Education Act, and the Vocational Education Act, to insure that Federal support for education is used to remedy the effects of past discrimination, maximize the commitment from existing programs and resources to insure equal opportunities for women, and develop new strategies and mechanisms to help women gain their place as equal participants and beneficiaries of our society.

Sex discrimination has no place in education; it is an affront to the fundamental traditions and beliefs of this country. The issue of equal educational opportunity for women is beyond debate, and men have at least an equal obligation to work for the achievement of such a basic right. I have no doubt but that America will rise to the challenge just as other countries have. Take the Soviet Union for example. By the begining of 1970, the number of employed Soviet women professionals and paraprofessionals with higher and secondary specialized education was 62 times as high as in 1928. Moreover, Soviet women make up 39 percent of their country's scientific personnel; 72 percent of the physicians; 31 percent of the deputies to the U.S.S.R. Supreme Soviet; and 45 percent of the members of local Soviets. The status of American women, like that of Soviet women, will undoubtedly improve. The most fundamental way to bring about such improvements is through education and public understanding. This is the purpose of the bill I am introducing today. I ask that the bill and its section-by-section analysis be printed in the Record at this point.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of America in Congress assembled, That this Act may be cited as the "Women's Equal Educational Opportunity Act".

Sec. 2. The Congress finds that sex discrimination in education is detrimental to the welfare of the Nation since it limits the potential of all citizens and that women in particular are prevented by the existence of such practice from realizing their full potential. The Congress therefore finds that the welfare of the United States would be promoted by the elimination of sex discrimination from public education and by the use of Federally supported education programs to assist in the development of improved educational opportunities for women ensuring women equal educational opportunity.

Sec. 3. (a) Section 203(a)(4) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the word "used" a comma and the following: "including criteria designed to preclude sex bias,".

(b) Section 203(a) of such Act is amended—

(1) by striking out the word "and" at the end of clause (6);

(2) by redesignating clause (7), and all references thereto, as clause (8); and

(3) by inserting immediately after clause (6) the following new clause:

"(7) provides assurances that Federal funds made available under this title for any fiscal year shall be used, on a priority basis and where possible, in the acquisition of non-sex-biased library resources, textbooks, and other instructional materials; and".

(c) Section 303(b)(3) of such Act is amended—

(1) by striking out in subclause (J) the word "and";

(2) by redesignating subclause "(K)", and all references thereto, as subclause "(L)"; and

(3) by inserting after subclause (J) the following new subclause:

"(K) demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women; and".

(d) Section 306 of such Act is amended by inserting "(1)" immediately after the subsection designation "(b)" and by inserting after subsection (b) of such section the following new paragraph:

"(2) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of women.".

(e) Section 503 of such Act is amended—

(1) by striking out the word "and" at the end of clause (11);

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(13) programs and other activities to promote equal educational opportunities for women, including personnel and the public information activities to increase the awareness of educational personnel and the public concerning problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in education.".

(f) Section 505 of such Act is amended by adding at the end thereof the following new sentence: "In using the 5 per centum of the funds appropriated pursuant to section 501 for any fiscal year, for grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership, the Commissioner shall give priority consideration to projects designed to increase the proportion of women serving in leadership positions and to promote equal educational opportunities for women."'

(g) Section 521(a) of such Act is amended by inserting after the word "districts" the following: "(giving priority consideration to such agencies interested in increasing the proportion of women serving in leadership positions and in promoting equal educational opportunities for women)".

SEC. 4. (a) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: "including activities designed to improve the status of women in post-secondary education";

(b) Section 404(a) of such Act is amended—

(1) by striking out the semicolon at the end of clause (6); and

(2) by adding at the end thereof the following: "including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents;"

(c) Section 405(b)(2) of such Act is amended by inserting after the phrase "including career education" a comma and the following: "and programs designed to meet the needs of women,"

SEC. 5. (a) Section 105(a)(3)(A) of the Higher Education Act of 1965 is amended by inserting after the word "programs" a comma and the following "including programs designed to improve the status of women".

(b) Section 531(b) of such Act is amended—

(1) by inserting in clause (9) immediately before the semicolon a comma and the following: "including programs or projects designed to increase the proportion of women serving as school administrators".

(2) by redesignating clauses (10), (11), and (12), and all references thereto, as clauses (11), (12), and (13), respectively; and

(3) by inserting after clause (9) the following new clause:

"(10) programs or projects to train teachers and other personnel to avoid sex biases;".

(c) Section 541(c) of such Act is amended by inserting after the word "Nation" a comma and the following: "including equal educational opportunities for women,".

(d) Section 552(c) of such Act is amended—

(1) by striking out the word "and" at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(5) such program is designed to encourage the participation of women in vocational education leadership.".

(e) Section 553(b) of such Act is amended—

(1) by striking out the word "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(4) programs and projects which emphasize the preparation and participation of men and women in areas of vocational education teaching and administration traditionally dominated by the other sex.".

SEC. 6. (a) Section 121 of the Vocational Education Act of 1963 is amended—

(1) by striking out the period at the end of the clause and inserting in lieu thereof a comma; and

(2) by adding: "and which are designed to encourage the training of students of both sexes for occupations dominated by the other sex." (b) Section 123(a)(16) of such act is amended—

(1) by inserting immediately after subclause (D) the following new subclause:

"(E) due consideration will be given to the need to ensure the training of students of both sexes for occupations traditionally dominated by the other sex,";

(2) by redesignating subclauses (E), (F), and (G), as subclauses (F), (G), and (H), respectively; and

(3) by striking out "and (D)" in subclause (F) (as redesignated by paragraph (2)) and inserting in lieu thereof "(D), and (E)". (c) Section 132 of such Act is amended—

(1) by striking out the word "and" at the end of clause (5);

(2) by redesignating clause (6) as clause (7); and

(3) by inserting after clause (5) the following new clause:

"(6) experimental, developmental, and pilot programs designed to encourage the participation of students of both sexes in fields traditionally dominated by the other sex and to ensure the elimination of sex bias in vocational education; and".

(d) Section 143(a)(2) of such Act is amended by inserting after the word "broaden" a comma and the following: "including the elimination of barriers based on sex,".

(e) Section 161(b)(1) is amended—

(1) by striking out subclause (E); and

(2) by inserting in lieu thereof a new subclause:

"(E) are designed for all persons, male and female who may have use for skills relating to the establishment and the maintenance of the home, and".

(f)(1) Section 191(c)(1)(A) of such Act is amended by inserting after the word "fields" the following: "and for increasing awareness of the changing role of women in the world of work".

(2) Section 191(c)(2) of such Act is amended by inserting immediately before the word "designed" the following: "free of sex biases and".

Women's Equal Educational Opportunity Act Section by Section Analysis

Section 2. Declares that sex discrimination is detrimental to the Nation's welfare because it limits the potential of all citizens, and women in particular; that the elimination of sex discrimination from public education is in the National interest; and that Federally-supported education programs should be used to ensure women equal educational opportunity.

Section 3. Amends Sec. 203 of the Elementary and Secondary Education Act (ESEA) requiring that State plans for Title II school library and textbook grants setting forth criteria to be used in the selection of library resources, textbooks and other instructional materials provided under Title II include those designed to preclude sex bias. Redesignates existing subsections under Sec. 203(a) and adds a new subsection (7) requiring assurances that Title II funds be used on a priority basis and where possible in the acquisition of non-sexbiased library resources, textbooks and other instructional materials.

Amends Sec. 303 of ESEA to allow funds under Title III—Supplementary Educational Centers and Service, to be used for demonstration projects promoting new approaches to expand educational opportunities for women, including comprehensive physical education programs and sports activities for women. Amends Sec. 306 by adding a new subsection requiring that at least 15% of funds granted in any fiscal year under Sec. 306 for special programs and projects be used to meet the special educational needs of women.

Amends Sec. 503 of ESEA (grants to State Departments of Education under Title V—Strengthening State and Local Educational Agencies) by adding a new Sec. 13 allowing funds apportioned to the States to be used for programs promoting equal educational opportunities for women, the elimination, reduction or prevention of sex discrimination in education and public information activities to increase the awareness of educational personnel and the public concerning problems relating to sex discrimination. Amends Sec. 505 of ESEA (Special Project Grants to States under Title V) requiring that in using funds reserved for special projects to develop State leadership in education priority consideration be given to projects designed to increase the proportion of women in leadership positions and to promote equal educational opportunities for women. Amends Sec. 521 (Grants to Local Educational Agencies) to give priority in the awarding of grants to local education agencies interested in increasing the proportion of women serving in leadership positions, and promoting equal educational opportunities for women.

Section 4. Amends Sec. 404 of the General Education Provisions Act to include in the use of funds for the improvement of postsecondary education, activities designed to improve the status of women in post-secondary education. Amends Sec. 404(a)(6) to allow funds for the introduction of institutional reforms to be used for the creation of innovative administrative and educational practices which respond to the special needs of persons who have or have had responsibilities of caring for dependents. Amends Sec. 405(b)(2) to specify programs to meet the needs of women as one of the methods by which the National Institute of Education shall seek to improve education.

Section 5. Amends Sec. 105 of the Higher Education Act relating to State plans for community service and continuing education programs by requiring that consideration be given to the capability and willingness of institutions of higher education to provide effective community service programs designed to improve the status of women. Amends Sec. 531 (Education Professions Development) to expand the uses of Part D funds to include programs designed to increase the proportion of women serving as school administrators, and programs to train teachers and other personnel to avoid sex biases. Amends Sec. 541 by expanding criteria for grants for Training Programs for Higher Education Personnel to include those improving equal educational opportunities for women.

Amends Sec. 552 expanding the criteria for making leadership development awards to include encouraging the participation of women in vocational education leadership. Amends Sec. 553 to expand the uses of exchange programs grants, institutes an inservice education for vocational education personnel to include programs emphasizing the preparation and participation of men and women in areas of vocational education teaching and administration traditionally dominated by the other sex.

Section 6. Amends Sec. 121 of the Vocational Education Act of 1963 by expanding the eligible purposes of grants for State vocational education programs to include the training of students of both sexes for occupations dominated by the other sex. Redesignates existing subsections under Sec. 123 and adds a new subsection (E) requiring that State plans consider the need to ensure the training of students for occupations traditionally dominated by one sex. Amends Sec. 121 by expanding the uses of Part C—Research and Training in Vocational Education funds to include programs to encourage students of both sexes to participate in fields traditionally dominated by the other sex and to ensure the elimination of sex bias in vocational education.

Amends Sec. 143 to expand the uses of Part D—Exemplary Programs and Projects funds to include programs to broaden occupational aspirations and opportunities by eliminating barriers based on sex. Amends Sec. 161, relating to Consumer and Homemaking Education, by requiring that State plans include provisions for all persons who have use for skills relating to the establishment and maintenance of the home, rather than just those who are entering the work of the home. Amends Sec. 191 by expanding the uses of Part I—Curriculum Development in Vocational and Technical Education funds to include the development and dissemination of vocational education materials which increase awareness of the changing role of women in the world of work and also requires that curriculum materials developed or disseminated under Part I be free of sex biases.

By Mr. HANSEN (for himself and Mr. HARTKE) (by request):

S. 2960. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons. Referred to the Committee on Labor and Public Welfare.

Mr. HANSEN. Mr. President, at the request of the administration, I introduce for myself and the Senator from Indiana (Mr. HARTKE) a bill to amend title 38, United States Code to increase the rates of vocational rehabilitation, educational assistance and special training allowances paid to eligible veterans and their dependents.

This bill outlines in detail the provisions of the administration given in the President's state of the Union message.

The bill will provide an increase in the rates of subsistance, educational assistance and allowances by approximately 8.2 percent.

By Mr. JOHNSTON:

S. 2961. A bill to amend the Economic Stabilization Act of 1970 in order to encourage prompt decontrol of wages and prices, to provide standards governing the imposition of controls after September 1, 1974, to provide for systematic gathering of relevant data and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JOHNSTON. Mr. President, tomorrow the Subcommittee on Production and Stabilization of the Committee on Banking, Housing and Urban Affairs concludes 4 days of exploratory hearings on the future of wage and price controls.

The Secretary of the Treasury, Dr. Shultz, and the Director of the Cost of Living Council, Dr. Dunlop, will appear before the subcommittee at 10 o'clock to offer their view of the economic stabilization program and their prescription for our future course of action before the Economic Stabilization Act expires on April 30, 1974.

In the afternoon, we will hear from Dr. Arthur Burns, Chairman of the Federal Reserve Board.

Mr. President, as chairman of the subcommittee, I am very eager to hear what the administration will propose to us. Unquestionably, we in the Senate have much to learn from the experience of Dr. Dunlop and his staff over the past year.

I am convinced, however, that it is time for the Congress to reassert its responsibility in economic affairs—and to reassert that responsibility in deed as well as in word.

And so today I am introducing a bill to define more clearly the President's responsibilities in the area of wage and price controls.

I am seeking to provide a middle ground where those who fear the consequences of runaway inflation can meet with those who see in price and wage controls a nightmare of economic distortions and inequities.

I will comment further on my bill at the opening of my subcommittee's hearings tomorrow, but for now, Mr. President, I ask unanimous consent that the bill be printed in the RECORD as introduced.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Stabilization Amendments of 1974".

FINDINGS

SEC. 2. Section 202 of the Economic Stabilization Act of 1970 is amended by deleting the existing language and substituting the following language:

Whereas in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends and interest,

But whereas government programs to stabilize prices, wages, rents, salaries, dividends and interest have detrimental economic effects, including inequities, market disruptions and dislocations.

It is the sense of Congress that decontrol of wages and prices throughout the economy should be achieved as promptly as possible consistent with the need to avert serious hardship or deprivation.

STANDARDS GOVERNING IMPOSITION OF CONTROLS AFTER SEPTEMBER 1, 1974

SEC. 3. Section 203 of the Economic Stabilization Act of 1970 is amended by inserting after subsection (a) the following new subsection:

"(b)(1). After September 1, 1974, no sector of the economy may be controlled unless the President has made and published in the Federal Register the following findings:

(A) That the absence of wage or price controls would lead to serious inflation resulting in serious hardship or deprivation; and

(B) That the severity of the hardship or deprivation resulting from such inflation exceeds the need to stimulate additional supply through the wage or price mechanism.

(2) In making the determinations required under this subsection, the President shall consider, *inter alia,* the following:

(A) The extent to which such inflation in such sector can be moderated successfully in the absence of extensive controls over related sectors;

(B) The degree to which such control will inhibit the growth of supply in such sector—

(i) by causing curtailment of production or productivity or

(ii) by causing impairment of capital formation, of expansion of productive capacity, or of resource availability or

(iii) by so stimulating foreign demand as to create or exacerbate any domestic supply shortage; and

(C) The anticipated period of time that would be required for market correction of the inflation or shortage, measured in light of the seriousness of such hardship or deprivation

(3) For purposes of this Act, the term "sector" means any firm or industry or class of firms or industries that possess distinct economic characteristics.

DATA GATHERING AND MONITORING

SEC. 4. Section 216 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(c) Not later than August 1, 1974, the President shall submit to Congress a comprehensive proposal providing for the systematic gathering of all data necessary for detailed monitoring of price and wage inflation in specific sectors of the American economy. Such proposal shall take account of such relevant considerations as the need to minimize both public and private expense associated with data gathering and reporting; the relative abilities of firms of differing sizes to sustain such expense; any need to preserve the confidentiality of certain disclosures; and the need for consultation and coordination with other federal agencies so as to eliminate waste and duplication. Such proposal shall become effective upon the expiration of thirty days after its submission to Congress".

By Mr. GURNEY:

S. 2962. A bill to authorize the Administrator of the Federal Energy Office to take certain action so as to assure the maintenance of operations involving the transporting, by truck or trucks, of perishable produce. Referred to the Committee on Commerce.

Mr. GURNEY. Mr. President, today I am introducing a bill which will solve the present difficulties faced by the trucking industry in finding the fuel needed to continue hauling perishable produce.

Within the last few days the Nation has been thrown into yet another crisis as reports of trucking shutdowns spread across the country. This truckers strike appears to be the direct result of rising fuel prices and insufficient supplies of diesel and motor gasoline.

As these shutdowns continue, we are faced with the prospect of shipments sitting on the loading docks, perishables rotting in warehouses, and prices soaring in the supermarket.

In 1972, the United States produced some 21 million tons of vegetables and 753 million boxes of citrus fruits. These vegetable and citrus products were shipped to eight major markets in the United States and in each one of these markets, truck deliveries accounted for 85 to 95 percent of the movement. But, in Florida, the situation is even more acute. Not only is the State one of the higgest producers of vegetables and citrus. But these products plus other perishables account for 75 percent of the State's agricultural industry. For that industry to survive, fruits and vegetables must get to market and statistics indicate that 94.3 of them go to market by truck.

Going one step further, it has been brought to my attention that 60 percent of the fuel these trucks use has been coming from the truck stops we have heard so much about lately. Typical of the problem is a truck terminal in Hanes City, Fla., which has been serving truckers continuously since 1951. Now, instead of being able to get the fuel they need, truckers found this stop shut down completely over the Christmas holidays and closed sporadically ever since. A trucker, depending on that stop, may find himself either out of luck or with just enough gas to get to the next stop. That and the prices are what's bothering the truckers. And it should concern us, because unless the trucks are rolling, sales will be off and jobs will be on the line.

As a matter of fact, people are already being laid off as a result of the truck tieup. For instance, Sealsweet, one of the largest packing houses in Florida, has already shut down 40 packinghouses, 4,000 to 5,000 people have already been put out of work.

The egg industry, which falls into the perishable products category, is also hurting. In one instance, 70 to 75 loads of eggs—8,760 eggs per load—are simply sitting awaiting fuel and the truckers to get them to market. They will not be marketable by this weekend unless something is done.

Mr. President, the Congress must take immediate action to get the trucks back on the road. Under the present allocation program for diesel fuel and motor gasoline, "agricultural production is to receive 100 percent of their current requirements. But they will be the first to tell you that such a system, necessary as it is, will do little good unless enough fuel is available to get the fruits and vegetables of their labor to market.

If further proof of action is necessary, it can be found in reports to the effect that deliveries of fresh fruits and vegetables to the major supermarkets are off 10 to 20 percent already. By this time next week supermarket managers expect their produce racks to be practically empty and what is left to be very expensive. Already the food chains are paying $3 a crate more for tomatoes than they did a week ago.

Mr. President, on January 29, I wrote to Administrator Simon, advising him of the growing anger among both the truckers and producers of perishable products. I advised him of the need to find a solution to this problem under the present mandatory allocation program.

The following day I discussed this matter in greater detail with Deputy Administrator John Sawhill, at which time I was assured that all truckers would receive 110 percent of what they used in 1972. This action, I felt, was too little, too late, a reaction apparently more than shared by our Nation's truckers, who went on strike over the weekend.

What is needed now is for Congress to assure the truckers that haul perishable products they will receive 100 percent of their current fuel requirements. The legislation I introduce today will accomplish this by doing two things. First, it will entitle trucks transporting perishable produce to receive 100 percent of their current fuel requirements. And second, it will direct the Federal Energy Administrator to develop and implement an allocation program which will assure that these needed quantities of fuel will be on hand.

Mr. President, I hope my colleagues realize the urgency of this particular situation, and the need for immediate implementation of some type of allocation program that will assure the truckers of an adequate quantity of fuel. The Nation is in the grip of an energy crisis which has already demonstrated its impact upon our economy. I feel to overlook the trucking situation by Congress at this point will add to the devastation.

Mr. President, I ask that the bill be printed in the RECORD at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of assuring maintenance, under the Emergency Petroleum Allocation Act of 1973, of operations involving the transporting, by truck or trucks, of perishable produce by alleviating supply shortages of fuel necessary thereto, such operations, to the extent that they involve the transporting of perishable produce, shall be entitled to receive one hundred per centum of their current fuel requirements.

SEC. 2. The Administrator of the Federal Energy Office shall, immediately following the date of the enactment of this Act, take such action or actions as may be necessary to carry out the purposes of the first section of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 618

At the request of Mr. CURTIS, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 618, to designate November 11 of each year as Veterans' Day and to make such day a legal holiday.

S. 660

At the request of Mr. GURNEY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 660, designating February as "American History Month."

S. 2583

At the request of Mr. ABOUREZK, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor to S. 2583, the Emergency Rural Housing Act.

S. 2782

At the request of Mr. NELSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of United States energy resources on public lands and elsewhere, and for other purposes.

S. 2786

At the request of Mr. PERCY, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2786, to amend chapter 34 of title 38, United States Code, to increase from 36 to 48 months the maximum period of educational assistance to which an eligible veteran may become entitled under such chapter, and to extend from 8 to 15 years the period within which an eligible veteran must complete his program of education under such chapter after his discharge from military service.

S. 2854

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. MONDALE), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Utah (Mr. MOSS) were added as cosponsors of S. 2854, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2863

At the request of Mr. BUCKLEY, the Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. CHURCH), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Alaska (Mr. GRAVEL), and the Senator from North Carolina (Mr. HELMS) have been added as cosponsors of S. 2863, to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to provide that certain seatbelt standards shall not be required under such act.

S. 2867

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2867, to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States.

S. 2887

At the request of Mr. BARTLETT, the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Texas (Mr. BENTSEN), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2887, the experiment in year-round daylight saving time to 1 year.

S. 2896

At the request of Mr. CLARK, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2896, to repeal the Emergency Daylight Saving Time Act.

SENATE RESOLUTION 273—SUBMISSION OF A RESOLUTION RELATING TO THE DISAPPROVAL OF CERTAIN PAY RECOMMENDATIONS OF THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. TALMADGE. Mr. President, the President of the United States recently recommended substantial pay increases for Members of Congress and high-level administration officials. Under existing law, these pay raises will become effective automatically unless either the U.S. Senate or the House of Representatives passes legislation disapproving the President's recommendations within 30 days of their submission.

In my view, the President's pay raise recommendations should be disapproved. Salary increases for congressional and administration officials must be stopped dead in their tracks. That, Mr. President, is the purpose of the resolution I introduce today.

Giving serious consideration to pay raises for elected and appointed Federal officials at this time is, in my judgment, preposterous. Wages are frozen and prices are regulated according to the whims of Government clerks. Still, however, inflation runs rampant and our economy is in pandemonium. American taxpayers fork over a third of their income to the Government and live in constant fear of even more taxes. Still, however, our Federal budget has not been balanced in 40 of the last 46 years, our national debt is approaching $500 billion, and the President of the United States is urging that we go another $18 billion into the hole in the coming fiscal year.

Through legislative legerdemain which defies rational explanation, the Congress on the one hand gave the President the authority to freeze the pay of American workers and, on the other hand, gave the President the authority to raise the pay of high-ranking Federal officeholders. Since the President has chosen to exercise both options, this legislative sleight of hand has only succeeded in putting the Congress head on the chopping block.

Surely, no Member of Congress actually believes that he can pass the buck to the President and thereby escape the wrath of an indignant, taxpaying electorate. Surely, no Member of Congress actually believes that this subterfuge will disguise the pay raise effort and deceive the American people. Such treachery would not go unnoticed, and I for one want no part of any of this reception. The issue of congressional and executive pay raises is one on which every Member should stand up and be counted.

In my 25 years of public service I have never supported efforts to increase my compensation. In fact, the Treasury of the State of Georgia still holds thousands of dollars which I refused to take after the Georgia General Assembly raised my salary as Governor.

Our Government was intended to be one of checks and balances. We must not permit our Government to be perverted into one of big paychecks and unbalanced budgets.

With the economy in shambles, the taxpayers in rebellion, and the Government on the verge of bankruptcy, Members of Congress should be seeking ways to reduce Federal spending rather than seeking ways to increase our salaries. There is no better time and no better place to begin than right here and right now by aborting the pay raise proposed by the President.

For this purpose, Mr. President, I offer this resolution and urge prompt and favorable action on it by the Senate.

The resolution reads as follows:

S. RES. 273

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay, for the offices and positions referred to in section 225 (f) (A), (B), and (D) of the Federal Salary Act of 1967 (relating to Members of Congress, certain offices and positions in the legislative branch, and the Executive Schedule), transmitted to the Congress on February 4, 1974, pursuant to section 225 (h) of that Act.

SENATE RESOLUTION 274—SUBMISSION OF A RESOLUTION RELATING TO THE DISAPPROVAL OF THE PROPOSED PAY RAISE FOR MEMBERS OF CONGRESS AND OTHER HIGH LEVEL GOVERNMENT EMPLOYEES

(Referred to the Committee on Post Office and Civil Service.)

Mr. McCLURE submitted the following resolution:

S. RES. 274

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during fiscal years 1975 through 1977, pursuant to section 225(h) of the Federal Salary Act of 1967.

SENATE RESOLUTION 275—SUBMISSION OF A RESOLUTION PROVIDING FOR THE ACCELERATION OF THE REPORTING OF AUTHORIZATION BILLS AND OTHER MATTERS

(Referred to the Committee on Rules and Administration.)

Mr. TOWER. Mr. President, the Republican Policy Committee met in executive session on Monday, February 4, 1974, and agreed upon the following statement:

We wholeheartedly endorse the concept embodied in Senate bill S. 1541, and its counterpart of the House of Representatives, H.R. 7130, the two together being generally referred to as the "Budget Reform and Control Act." It has long been evident that Congress must develop a system for examining and establishing a national budget, and at the same time reform congressional procedures with respect to the manner of its enactment.

Therefore, in behalf of myself and the Senator from Pennsylvania (Mr. SCOTT), we propose a sense of the Senate resolution to initiate immediately, for the legislative year now just begun, an improvement in our procedures pending enactment of the budget reform bill so sorely needed.

The resolution is as follows:

S. RES. 275

Be it resolved,

It is the sense of the Senate that—

1. Any committee that periodically reports to the Senate any measure authorizing the appropriation of funds shall report such measure to the Senate not later than the last lay of the next to last month of the fiscal year (1) preceding the fiscal year for which such measure authorizes the appropriation of funds, in the case of a measure authorizing appropriations for one year, or (2) preceding the first fiscal year for which such measure authorizes the appropriation of funds in the case of a measure authorizing appropriations for more than one year.

2. In the event that any such committee finds itself unable to report an authorization measure by the day prescribed in paragraph 1, it may request an extension to a date certain from the Senate, which shall be granted if a maority of the Senators present and voting concur by rollcall vote. No request for an extension of time may be considered after the day prescribed in the foregoing paragraph.

3. After the day prescribed in paragraph 1, or after the expiration of an extension of time granted by the Senate as provided in paragraph 2, as the case may be, for a measure making appropriations for a fiscal year, it shall be in order for the Senate to act upon any general appropriation measure making appropriations for that fiscal year. The provisions of this paragraph do not preclude action by the Senate upon any measure making appropriations for a fiscal year if the authorization for such fiscal year is agreed to by the Senate.

4. The provisions of this rule shall not apply to a measure making continuing appropriations.

Mr. TOWER. Mr. President, we trust and expect the Budget Reform and Control Act, in its final form will reestablish a combination of fiscal responsibilities attuned both to our modern economy and to the deeply held principles which drove us, in the beginning, to create our form of government.

There are many troubles with our present system, as it has evolved, for making spending decisions. One of them is that some 75 percent of our annual expenditures are no longer under effective control. Another, partly for this very reason, is the chronic inability of Congress to complete appropriations actions until the fiscal year to which they apply is half over. Last December we completed an appropriation cycle which began 12 months before. Defense and HEW, together comprising more than half of our total Government costs, did not have their budgets enacted into law until the halfway point of the fiscal year to which they apply. For the first half of the fiscal year, from June until the next January—the month just past—those important departments of our government were forced to operate under two stopgap measures, continuing resolutions devised because of the need for salaries and maintaining programs until support became available in the regular way, according to law.

They were not the only appropriations long delayed. The Foreign Assistance Act also did not become law until January 2 of this year, just beyond the halfway mark of the period to which it applied.

No business, no institution, no ordinary family, could continue to operate for long in this backward, increasingly haphazard and irresponsible manner. Neither can the U.S. Government. Our disorder is great. It may soon be that such vitally important legislation will not be enacted until weeks and even months after the calendar year is over, perhaps even not until after the termination of the fiscal year to which it applies. Unthinkable though this suggestion may be, one has only to review the history of the past decade to envision the possibility, if action is not taken to arrest the onrushing trend.

With these considerations, and believing nearly all of our colleagues in the Senate to be of like mind, the Senate Republican policy committee has proposed a sense of the Senate resolution in order to initiate improvement immediately for the legislative year now just begun.

SENATE RESOLUTION 276—SUBMISSION OF A RESOLUTION TO DISAPPROVE PAY RECOMMENDATIONS OF THE PRESIDENT

(Ordered to lie over, under the rule.)

Mr. DOMINICK (for himself, Mr. McClure, Mr. Hansen, Mr. Gurney, Mr. Bartlett, Mr. Thurmond, Mr. Curtis, Mr. Roth, Mr. Taft, Mr. Tower, Mr. Helms, Mr. Ervin, and Mr. Allen) submitted a resolution (S. Res. 276) to disapprove pay recommendations of the President.

(The remarks by Senator Dominick when he submitted the resolution and the ensuing debate are printed later in the Record under the appropriate heading.)

SENATE RESOLUTION 277—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF A COMMITTEE PRINT ENTITLED "PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES"

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH. Mr. President, I submit a resolution which would authorize the printing of additional copies of "Protecting Older Americans Against Overpayment of Income Taxes," prepared by the staff of the Special Committee on Aging.

The resolution reads as follows:

S. Res. 277

Resolved, That there be printed for the use of the Special Committee on Aging fourteen thousand additional copies of its committee print entitled "Protecting Older Americans Against Overpayment of Income Taxes".

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 272

At the request of Mr. Hruska, the Senator from Oregon (Mr. Packwood) was added as a cosponsor of Senate Resolution 272, relating to the disapproval of congressional salary increases recommended by the President.

SENATE RESOLUTION 272

Mr. PACKWOOD. Mr. President, I am proud today to be able to cosponsor Senate Resolution 272, which would disapprove the congressional pay increase recommended by the President.

The President's proposed budget for fiscal year 1975 includes a three-step pay increase for Members of Congress. It would increase our salaries from the current level of $42,500 to $45,000 this year, $49,100 in 1975, and $52,800 in 1976.

Mr. President, that represents roughly a 22-percent pay increase for Members of Congress. It represents a substantial outlay of Federal dollars which this country can ill afford to spend.

During the past several years, many of us in this body have been forced to vote against worthwhile programs for the sake of fiscal responsibility. In light of that fact, I cannot in good conscience allow a pay increase to go into effect while others are forced to bear the burden of inflation.

I consider a congressional salary increase of—of any size—to be unconscionable.

To devote ourselves to a 22 percent pay increase at this time would represent a masterpiece of bad timing and the height of fiscal irresponsibility. It is sheer folly for us to ask our constituents to tighten their belts unless we are willing to take our own fair share of fiscal discipline. A pay increase now would only serve to fuel the fires of inflation and place the Nation's economy in an even more perilous position.

Fortunately, Congress has the power to overrule the President's recommendation. If either House of Congress can pass a resolution of disapproval, we can demonstrate to the American people that what we ask of them we can demand of ourselves.

Mr. President, I ask my colleagues to join me in supporting this resolution.

HEARINGS ANNOUNCED ON CRIMINAL JUSTICE DATA BANKS

Mr. ERVIN. Mr. President, I announce today that the Senate Judiciary Subcommittee on Constitutional Rights will hold hearings on bills to regulate criminal justice data banks. The hearings will be held on March 5, 6, and 7 in room 2228 of the Dirksen Senate Office Building, and on March 12, 13, and 14. All sessions will begin at 10 a.m.

Anyone wishing to testify or wishing to submit statements for the hearing record should contact the staff of the subcommittee immediately at (202) 225-8191.

ADDITIONAL STATEMENTS

"GIANT PATRIOT"—MINUTEMAN II OPERATIONAL BASE LAUNCH

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record a letter to Secretary of Defense James R. Schlesinger and signed by Senators Metcalf, Church, Hatfield, and Mansfield.

There being no objection, the letter was ordered to be printed in the Record, as follows:

January 31, 1974.

Hon. James R. Schlesinger,
Secretary,
Department of Defense,
Washington, D.C.

Dear Mr. Secretary: As United States Senators representing the Pacific Northwest, we share a great concern about the Department of the Air Force's plan to proceed with the testing of Minuteman II intercontinental ballistic missiles from operational silos in the Malmstrom Air Force Base complex and several other sites. We believe benefits from such a test will not be commensurate with potential dangers to lives, properties, and international implications.

The Minuteman II reportedly has performed very well during a series of tests at the Vandenberg Air Force Base in California. What more can be learned from the proposed launches in Montana? Publicity associated with these tests and the extensive safety precautions would not contribute to a realistic combat situation. We doubt that data provided by such tests would contribute anything that has not already been determined from the heavily instrumented test range in California. Based on information available, we find it difficult to justify an expenditure of $26.9 million for this purpose.

In addition, our constituents have expressed grave concern with regard to lives and property. We recognize that, as envisioned, the danger would be relatively small and it would be limited to sparsely populated and National Forest areas. Should something go wrong, however, the risk would be far more serious in one or more of our states. A disaster of this nature would have severe repercussions for domestic attitudes toward the military. Also, there is no guarantee that the chartered course of the missiles is firm. Newspaper accounts indicate that in several tests our U.S. missiles have gone off course and crashed in Mexico and as far away as Brazil.

Presentations made in behalf of these tests have indicated that they may be an important part in our international negotiations. The need for a show of strength is questionable and, should the inland test fail, it would erode United States confidence in, and reduce Soviet respect for, the United States nuclear deterrent. At the present time, the Minuteman Missile System is considered to be very reliable and we question the need for additional test sites.

The budget for Fiscal Year 1975 containing funds for the Minuteman II testing proposal will be scrutinized in great detail and we ask that your office review this matter in light of the concerns expressed above and withdraw your budget request for the Minuteman II Operational Base Launch.

Sincerely,

MIKE MANSFIELD,
LEE METCALF,
FRANK CHURCH,
MARK HATFIELD,
U.S. Senators.

THE FRANKLIN INSTITUTE

Mr. HUGH SCOTT. Mr. President, I invite my colleagues to join me and Senator SCHWEIKER in paying tribute today to one of the Nation's most honored institutions on its 150th birthday. Named in honor of Philadelphia's favorite adopted son and patron saint, Benjamin Franklin, the Franklin Institute exactly a century and a half ago launched an enterprise which would have gladdened the heart of Poor Richard.

During 1974 the U.S. Government will join the institute in dedicating the central rotunda of the building at 20th Street and Benjamin Franklin Parkway, Philadelphia, as the national memorial to Benjamin Franklin. This dedication is the result of a resolution you and I approved in these halls some months ago. The ceremonies are one part of the yearlong celebration with which the Franklin Institute will observe its sesquicentennial.

The institution we are honoring today came into being on February 5, 1824, in Congress Hall. The still-young Nation was during those days alive with the excitement of the new inventions and discoveries which were being made almost daily on both sides of the Atlantic. The men of Philadelphia felt a need to somehow organize the new information and, pragmatists that they were, turn it into useful channels for themselves and their fellow citizens.

The result was a "mechanic's institute" where leading figures in industry and ordinary workingmen could meet and catch up with the new technologies affecting their daily lives. Samuel Vaughan Merrick, a manufacturer, and Dr. William H. Keating, a chemistry professor at the University of Pennsylvania, shared the honor of being the founding fathers. Over the next century and a half, the Franklin Institute became as complex and as diverse as the technological age itself. Today the Franklin Institute harbors a number of differing components, all stemming from the same roots in the way that different colleges make up a single university.

Best known to the general public is the Science Museum and Fels Planetarium, located appropriately on the Benjamin Franklin Parkway. Philadelphia's third most popular tourist attraction. The museum welcomes nearly three quarters of a million visitors to its exhibits each year. Around 300,000 of these are schoolchildren, many of whom arrive as part of special tours sponsored by their school systems and chaperoned by their teachers.

During the past decade the museum has brought itself up to date by espousing the much-admired educational concept of the open classroom, student-participation idea. The result is something close to John Dewey's learning by doing process. The Fels Planetarium, housed in the same building, finds itself challenged to stay abreast of the new information we are getting from outer space, and at the same time alternating its straight teaching sessions with the newest in multimedia shows. One recent popular show combined the two in a special dramatization of an Issac Asimov science-fiction story.

Research and development began early at the Franklin Institute: In 1832 the very first Government funds ever allocated to a private organization for research were given to the institute for a study into the origins of steam boiler explosions, at that time plaguing the transportation industry. Today, in a modern building at 20th and Race Streets, the successors to these early investigators pursue both basic and applied research for Government and private contractors. The Franklin Institute Research Laboratories were established as a special research unit of the institute during World War II, and flourished to the point of needing new quarters, which they moved into in 1966. FIRL's research skills are utilized in behalf of the energy crisis, failure analysis development of apparatus to aid the handicapped, population control, environment priorities, urban mass transit, pollution problems, and the psychological needs of deprived preschool children—to list a few of many topics on which FIRL has worked.

In 1924 Henry W. Bartol, an industrialist and former member of the board of managers of the institute, left a sizable endowment for the purpose of studying fundamental problems in physical science and specific problems of a scientific nature which arise in industry. The Bartol Research Foundation moved from Philadelphia to a building on the campus of Swarthmore College and there pursues inquiry into cosmic ray physics, astrophysics, nuclear energy, and particle physics. In collaboration with the Thomas Jefferson University, Barton offers a Ph. D degree in physics.

The Franklin Institute Library is housed in the museum building on five floors of shelves which contain one of the Nation's outstanding specialized collections. More than 300,000 volumes on science and technology, along with 4,000 periodicals and 6 million patents, may be found in these stacks, and the library offers a special subscription service to businessmen and industries in the area.

The Journal of the Franklin Institute was founded in 1826, and is today one of the oldest scientific and technical journals in the United States. Long the journal of choice of this country's ablest scientists and engineers, it remains one of the most respected periodicals dealing with science and technology on the international scene.

Annual Medal Awards ceremonies bring to the Franklin Institute each year the world's outstanding scientists and engineers, many of them of Nobel laureate stature. Of the large variety of medals presented, perhaps the prestigious Franklin Medal is the most coveted. This was presented first to Thomas Alva Edison almost six decades ago.

The institute continues its 150-year-old practice of presenting lectures by well-known authorities on such current problems as food shortages, the energy crisis, the outlook for the private inventor, and other current subjects. These follow in the tradition of the lectures sponsored in the earliest days of the institute to which were attracted, according to a local historian, "the cream of Philadelphia's life," as well as the artisans and mechanics, budding students, and those curious to learn about the new inventions and manufactures appearing on their horizons.

All of these components are housed under the "umbrella" of the Franklin Institute. Since life itself is steadily growing more complex it seems unlikely that the institute we honor today will become less complex as the century moves along. To meet the challenge of this new age, Dr. Bowen C. Dees, president, says:

> We will respond . . . as we have responded in the past. This can only result in growth, in change, in renewed flexibility, in openness to all that is worthwhile in the innovations around us.
>
> About two years ago we adopted a new Statement of Purpose in which we resolved that The Franklin Institute be dedicated: to searching for full or partial solutions to facing us; to improving public understanding of science and technology, their limitations, their fundamentals, their vast capabilities; and to furthering man's understanding of nature's laws.
>
> That makes a full plate—and we move forward into tomorrow with every expectation that the days ahead will be as exciting, as challenging and as susceptible to solutions as they were in the old days when the Institute was founded.

I am sure you all join me as I wish this very distinguished organization a very happy birthday and the most productive and creative kind of growth over its next 150 years of service.

STATUS OF THE VOLUNTEER ARMY

Mr. McCLELLAN. Mr. President, in recent months there has been considerable discussion both in the Congress and in the media of the difficulties that the Army has experienced in recruiting manpower since the institution of the all-volunteer force a year ago.

On January 31, 1974, I received a report from Howard H. Callaway, Secretary of the Army, on the status of the volunteer Army, which I believe will be of interest to all Members of the Senate.

Mr. Callaway has reported:

> During the period January to December 1973, the Army recruited 163,800 men and women. Reenlistments for the year totalled 46,300. In addition, 2,530 men and women extended their enlistments for two years or more during the period from January to October. The Army has achieved 88 percent of its recruiting objectives since we abandoned the use of the draft on 29 December 1972, and recent recruiting trends are up. . . .
>
> Although there were some shortfalls in meeting recruiting goals in the early months of this fiscal year, recently the monthly goals have been met and our enlisted strength permits us to maintain an effective and quality force.

While the Secretary did not disclose cost figures for recruiting the all-volunteer Army, information available to the

Subcommittee on Defense Appropriations of the Senate Committee on Appropriations, of which I am chairman, estimates the cost of advertising, recruiting and examination operations in support of the all-volunteer Army at $105 million for fiscal 1974.

Although this is a considerable sum of money, it must be remembered that Congress mandated the all-volunteer force and the funds we have appropriated are designed to give this concept a fair trial at the lowest possible cost. Secretary Callaway, as indicated by his preliminary report, is convinced that the current status of this program is good.

Mr. President, I ask unanimous consent that the full text of Secretary Callaway's report be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Secretary of the Army,
Washington, D.C., January 31, 1974.
Hon. John L. McClellan,
U.S. Senate, Washington, D.C.

Dear Senator McClellan: As I am sure you are aware, there has been a considerable amount of interest regarding the status of the volunteer Army. I am now completing a full report on the first year of the volunteer Army and will be forwarding a copy of it to you in the near future. In the meantime, I thought you and your constituents would appreciate a brief status report. In summary, the news is good.

First, I would like to mention a recruiting technique heretofore unknown in the modern American Army. Last year the Army reactivated the 9th Infantry Division at Fort Lewis, Washington, but the manpower was not at hand. The Army directed the Commander, General Fulton, to take his cadre, the Division colors, and recruit a division. General Fulton and his recruiters did just that. They began a vigorous recruiting campaign and today that division stands at 102 percent strength, essentially filled with volunteer soldiers. Now this is a real success story, a living example illustrating that the volunteer Army program is not an impossible dream, but a workable idea which can be accomplished.

During the period January to December 1973, the Army recruited 163,800 men and women. Reenlistments for the year totaled 46,300. In addition, 2,530 men and women extended their enlistments for two years or more during the period from January to October. The Army has achieved 88 percent of its recruiting objectives since we abandoned the use of the draft on 29 December 1972, and recent recruiting trends are up. The high school graduate content of our non prior service enlisted accessions since the draft ended (calendar year 1972) has been about 60 percent. If we include prior service accessions, the high school figure rises to 63 percent; and if we take a snap shot of the whole Army, we find 71 percent enlisted men and women have at least a high school education. Although there were some shortfalls in meeting recruiting goals in the early months of this fiscal year, recently the monthly goals have been met and our enlisted strength permits us to maintain an effective and quality force.

Many new approaches to recruiting are being tried which stress quality together with quantity, such as bringing the recruiter force up to authorized strength on a priority basis, expanding the unit of choice and station of choice options (as in the example of the 9th Division), focusing on the junior college market, screening out poor soldiers in reenlistments, administering new entrance tests, and even screening out early in training the individuals who cannot become successful soldiers. These efforts will continue.

With respect to discipline in the volunteer Army, in comparing trends for Fiscal Years 1972 and 1973, a period which includes both draft and volunteer Army experience, we find that rates for AWOL, desertion, crimes of violence, crimes against property, and courts-martial, are down. Virtually every major indicator of discipline in the Army has, in fact, remained at the same level or improved. Whatever factors contribute to this picture, it is clear that today's volunteer soldier is not causing an increase in disciplinary problems.

As you know, there has been some interest in the racial composition of our enlistees. I want to stress that the Army has no quotas based on race. Our main concern is that the applicant is qualified to enlist and serve in the Army and that he is motivated to serve to the best of his ability. Operating under that policy, the percentage of black males enlisting in the Army increased from 18.7 percent in Calendar Year 1972 to 28.2 percent in Calendar Year 1973 and as a result, the black enlisted men increased from 17.5 percent of our enlisted strength in Calendar Year 1972 to about 20 percent in Calendar Year 1973. Black soldiers, like all other soldiers, are assigned throughout the Army in accordance with their enlistment commitments and their individual capabilities.

Finally, combat readiness, which is the heart of the Army's business, has shown significant improvement. Judged by the stringent standards reported to the Joint Chiefs of Staff, the divisions today much more nearly meet their goals than they did at the end of the draft—all 13 divisions are fully operational and nearly all are ready for combat.

These simple facts and figures point to one conclusion: The Army is better today than it was at the end of the draft. All of the important trends are in the right direction. I am proud to emphasize that your Army is good, combat-ready, and improving with the passage of time.

Sincerely,

Howard H. Callaway.

WAGE AND PRICE CONTROLS

Mr. HUGH SCOTT. Mr. President, Mr. Donald C. Burnham, chairman of Westinghouse Electric Corp., has made a strong argument for the discontinuance of price and wage controls when present statutory authority expires this April 30. In testimony before the Senate Subcommittee on Production and Stabilization, Mr. Burnham cited specific examples to illustrate how current controls have created shortages, dislocations, and unproductive resource uses which penalize the consumers. He said:

> History shows that competition and not price controls is what has given the American consumer and the American producer the most for his dollar in the past.

The price per cubic foot for refrigeration has gone down 65 percent since 1952, he said. The price per pound of wash in washing machines has gone down 56 percent since 1952. And so it has been with fluorescent lamps, room air-conditioners, and other products.

These developments were the result of the operation of a free market. Mr. Burnham points out that:

> In a controlled economy, managers tend to pay more attention to the price they can justify by pointing to high costs than they do the job of reducing costs . . . that kills the incentive for any productivity improvement.

I commend Mr. Burnham's testimony to Members of the Senate as we approach decisions on the future of controls and ask unanimous consent to have his testimony printed in the Record.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Donald C. Burnham

Mr. Chairman, my name is Donald C. Burnham. I am Chairman and chief executive officer of Westinghouse Electric Corporation and my office is in Pittsburgh, Pennsylvania.

Although I am testifying at these hearings as a corporate executive, I want to speak not only for the stockholders and management of my company, but also in the interest of some 200,000 employees of Westinghouse and for literally millions of housewives, small businessmen, purchasing agents and municipal officials who are Westinghouse customers. If I do not keep all of these people in mind when I talk about prices, my time spent here today will have been wasted.

My father ran a filling station in West Lafayette, Indiana, when I was a boy and I first learned about prices and the law of supply and demand from him. At Purdue University, they taught me a little more about the subject, and I have been adding to that knowledge during my years of experience first with General Motors and for the past 20 years with Westinghouse. I hope what I say here will reflect my appreciation for the value of a dollar and my lifelong efforts to get the most for the dollar by improving productivity on whatever job is at hand.

My last official visit here to the Capitol was to testify at the Joint Economic Committee Hearings on productivity in 1972, and the only book I have ever authored was published last year on the subject of Productivity Improvement. In it I declared my conviction that the most effective way—and perhaps the best way—to control inflation is by improving our productivity . . . that is to say by producing more goods or providing more services per unit of work. Obviously government fiscal policy is inflationary whenever it creates money faster than goods and services can be made available But inflation cannot be controlled in the long run through price regulation without creating even more serious problems and dislocations than existed to begin with. I would like to discuss the current situation in my company and industry to illustrate the point.

Like most business executives I know, I was in sympathy with the administration when it took steps to head off a runaway inflation back in 1971 by utilizing the authority Congress had provided, and I have supported the President's program. I am now convinced, however, that the time has come to remove price controls. My reasons are these:

Controls are not a long-range answer to inflation, only a short-range expedient. We can no longer rely on temporary expedients.

They have created conditions of serious shortage in critical materials and commodities in the electrical manufacturing industry.

They are discouraging needed investment and plant expansion which could eliminate the shortages, and are discouraging the investment needed to provide long-range answers to the energy crisis.

They tend to discourage productivity improvement rather than stimulating it, and they are diverting resources uneconomically.

Let me give you some examples of the shortages, dislocations and unproductive resource uses which the Phase IV controls have helped create.

No material is more important to the electrical industry than copper. Copper bar and wire of various sizes and shapes is vital to all kinds of electrical equipment from power generators and transformers to the motors that run our factories and our washing machines. Copper is in short supply throughout the world and the United States needs all it can get. Yet in recent months, the United States has become a net copper *exporter* for the first time since World War II. Why? Because the artifically low price here is 68 cents a pound compared with a world price of nearly $1. Our copper wire division at Abingdon, Virginia, which supplies copper wire to many other Westinghouse plants, reports that its copper situation is critical because copper is leaving the country to seek the higher price level abroad. This is happening with a lot of other materials. The gap between world prices and controlled U.S. prices is causing severe dislocations.

At Muncie, Indiana, we build large power transformers that are an essential link in the electrical chain that brings electricity from the power generating plants to the point of use. Each of these large units, which often weigh over 300 tons, is unique, designed for a specific installation and built in job shop style—no assembly line is possible. Thus a delay in one unit cannot be countered by supplying another unit from the plant floor or from inventory. And a delay in delivering a transformer may cause an entire electric generating plant to remain idle or deprive a city of electricity.

The most critical point in meeting our transformer production schedule is availability of materials. Because of shortages artificially created by price control our Muncie plant is having a difficult time. For example, cotton tape is used to wrap around electrical connections inside transformers for insulating purposes. Our Muncie plant manager tells me that when the price of raw cotton went from 27 cents to 99 cents a pound and controls prevented the manufacturers of cotton tape from passing along this added cost, those cotton tape suppliers simply advised us they could no longer fill our orders. So we were forced into the expensive alternative of having a firm that makes surgical tape provide our tape requirements at a very high price. I'm sure we are paying more now to get the tape we need than we would be paying if there were no price controls on cotton tape. And our source of supply is much more tenuous.

Any supplier tends to discontinue or reduce manufacture of his unprofitable items. This is being felt in other parts of our transformer business. Our plant at Jefferson City, Missouri, makes small transformers of the type that are now used to distribute electric power underground to over 60 percent of all new residential and commercial buildings. They are having great trouble getting commercial grade bar steel and aluminum redraw rod because the suppliers are producing more of the higher priced specialty steel and aluminum items. If the demand for commercial grade types we use were permitted to be reflected in the market price, such artificial shortages as this would not occur.

Prices are the traffic lights of our economic system. They automatically signal when one line of production should go and another product line should stop. They flash a yellow "caution" signal when the supply and demand traffic is changing. Only by allowing prices to move freely, in accordance with these changes, can they perform the necessary function of keeping supply and demand in reasonable balance.

Our power circuit breaker division near Pittsburgh needs a special type of 84-inch-wide sheet steel. It normally uses nearly a million pounds a year of this item. On January 1, the only known source of this product in the United States discontinued production of it to concentrate on more profitable items. As a result, we have had to go into a massive redesign program to substitute for that particular item in our power circuit breakers. We can do it, but it is expensive and unproductive. What's worse, it should not be necesary.

The availability of transport refrigeration equipment has an effect on the price of perishable food products because spoilage due to lack of refrigeration inevitably results in higher prices to the consumer. Our subsidiary in Minneapolis, Minnesota, which makes transport refrigeration tells me that they are having severe procurement problems trying to get the aluminum fins that are needed to make refrigeration coils. This is because two major suppliers have eliminated aluminum fin stock from their production because price control has made it unprofitable.

Because of materials shortages aggravated by price controls, our industrial plastics division at Hampton, South Carolina, had had difficulty obtaining polyethylene needed to make nuclear shielding for atomic submarines. And they have been unable to quote a firm price to the U.S. Government on military plastic helmet liners for the same reason.

The Westinghouse lamp divisions headquartered in Bloomfield, New Jersey, are in short supply on a number of materials necessary to produce light bulbs because price controls have caused the suppliers either to cut back production or sell the material abroad. These materials include aluminum sheet for lamp bases and ammonium paratungstate which we need to make tungsten filaments.

I could cite other examples showing what happens to the supply of essential materials when the market price "traffic light" has been turned off or has been artificially set in a pattern not responsive to the changes in supply and demand "traffic flow." Mr. Chairman, the American industrial economy is so complex that no small group of administrators—no matter how well-educated and well-intentioned—can effectively substitute their judgments for competitive pricing in the market place. It is an impossible task.

Now let me turn briefly to another serious effect of price controls. This is their effect on investment and plant expansion. With our nation and many other nations of the world short of materials, the obvious need is increased production of these materials. This will require great amounts of energy and vastly increased electrical capacity. It is now obvious that world supplies of oil and gas will run out in the decades ahead and we will have to convert to an electric economy. Therefore, we must expand our capacity to produce electricity generated by the clean application of coal and by nuclear fuel. All of this will require tremendous investment of capital in new plant and equipment and in research and development. Price controls discourage such investment.

In many industries other than electric utilities, it is obvious that today's controlled prices would not provide a high enough return on investment to justify essential capital expenditures. It has been calculated that in the steel industry, as just one example, the building of a fully integrated mill would require total capital outlays of some $550 for every ton of annual capacity. But under the prices allowed, the yearly profit would be around $15 a ton—equal to a return of only 3 percent on the capital invested. That is not enough to attract capital that can earn a much higher return elsewhere.

Much of the plant expansion going on today in such industries as steel, aluminum, rubber, paper and cement is of the "incremental" type—installing a new machine here, upgrading an old process there. Not enough major new plants are being started. I hope this will change. It must change. But it will take the removal of price controls to change it.

Gentlemen, we are all after the same thing here. We are trying to arrange our economy so everybody can get the most for his dollar; so that we can be most productive in producing goods and services; so that the consumer and the people living on pensions and fixed incomes don't suffer from the ravages of inflation. I am certainly for all of that.

But we should learn from history. And history shows that competition and not price controls is what has given the American consumer and the American producer the most for his dollar in the past. And this has brought supply and demand together to provide the highest standard of living in the world.

Without price controls, here is how the consumer has benefitted from the operations of my industry:

Refrigerators—The price per cubic foot has gone down 65 percent since 1952.

Washing machines—The price per pound of wash has gone down 56 percent since 1952.

Fluorescent lamps—The price per lumen of light has gone down 14 percent since 1947.

Room air conditioners—The price per BTU has gone down 25 percent since 1958.

Without price controls, here is how businessmen and also the ultimate consumer has benefitted from operations of this industry:

Medium-sized AC Motors—The price per horsepower has gone down 40 percent since 1963.

Steel Mill Drives and Controls—The price per ton of annual capacity has gone down 60 percent since 1958.

Of course, not every product we make has gone down in price.

Watthour meters, like the one on your house—The price there has increased but only 2 and one-half percent and for a better product that has a life of 30 years. This has been possible because of competition and productivity improvement, not because of regulated pricing.

I've found that during price control, managers tend to pay more attention to the price they can justify by pointing to high costs than they do to the job of reducing costs . . . that kills the incentive for any productivity improvement. Just administering this cost justification process adds greatly to our costs. We estimate that it has cost Westinghouse more than a million dollars to carry out this process thus far. And the cost of "opportunities lost" by the managerial talent tied up in this burdensome process is probably much more.

I am not urging the end of price controls because Westinghouse needs special relief to increase its prices—although if controls are continued we will have some serious problems in this regard. I am urging the end of price controls to free the market to move naturally in response to demand and supply pressures—a mechanism that not only assures production of things needed by the consumer, but also helps fight inflation over the long pull.

Gentlemen, I appreciate this opportunity to give you my views.

FUTURE OF CATV

Mr. WILLIAMS. Mr. President, for many years, I have been interested in the potential of cable television.

Dr. Jessie Hartline, director, open university program of Rutgers University recently analyzed the educational potential of cable television. His remarks offer a significant expression of the issues which national policy must face if this potential is to be realized. The Rutgers University program which draws its impetus from the British open university experiment provides a glimpse into the future of educational television.

Therefore, Mr. President, I ask unanimous consent that Dr. Hartline's statement before the Federal Communications Commission be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. JESSIE HARTLINE

Mr. Chairman, members of the Commission, my name is Jessie Hartline. I am an economist and the director of the open university program at Rutgers University. Our program is one of four in the United States which is experimenting with the use of television course material developed and used by the British open university. Now in its second year, our program offers creative courseware to adult students in strategically placed study centers. The courses encompass three areas—the humanities, the physical sciences, and mathematics—and are fully accredited by Rutgers.

The success of our program is based on the premise that to be used effectively as an educational tool, television must provide a creative visual supplement to the conventional educational process. Implementation of this type of programing is dependent upon the free access of its producers to all potential sources of programing—music, films, art, plays, and so on. Moreover, it is dependent upon a strong financial base and the ability to reach an identifiable audience. This brings me to why I requested time to testify in these proceedings.

CATV is potentially a valuable educational tool. I say potentially because an understanding of its uses for educating the public has barely scratched the surface. Telecommunications, we know, offers the educator the freedom to serve any number of people, the ability to bring more of the public into the educational process, and the ability to utilize expertise not normally available to a student. My practical experience with the Rutgers Project illustrates the multi-advantages inherent in cable television. Television of abundance, which in essence is what cable television is all about, allows flexible scheduling of programming, and hence permits greater individualization of materials. An interesting aside: The British Open University, as a result of its success, is expanding its courseware. However, since channel space is limited, BBC is being forced to schedule courses in Sunrise Semester hours. This kind of scheduling hardly helps the educational process.

The accountability system intrinsic to cable TV is a bonus to the educator. An illustration will perhaps serve as the best explanation. Continuing education in this country has traditionally operated on a pay-its-own-way charge per course basis. Such a financial system is as advantageous for educational telecommunications as it is for in-classroom programs. The most viable medium for a direct tuition system is, of course, pay cable. It makes possible, in addition to the financial advantages, two other determinations essential to an adult educational television program. It permits a teacher to specifically identify course participants and thereby to make possible two-way communications, be it by postcard or by technology, between the teacher and the student. It also provides the teacher with immediate feedback on the popularity of a particular course.

Through cable television, the educator is also capable of targeting his audience. Particularly for financial reasons, this has been important to the Rutgers Program, when WNET of New York offered us prime time for our programs, we didn't have the resources to risk the exposure to 7½ million people. The same holds true for commercial television. One other significant financial advantage of CATV is the cost of television time, which, in most cases, is considerably lower than that for broadcast television. Since programming for CATV may vary in sophistication, production costs are also frequently lower. Finding funding for educational telecommunications programs is a fundamental problem, as education has a rather frozen system of allocations. Frankly, cable TV makes it possible to get the most for the least.

Recognition of how well cable television could both implement and augment our open university program prompted me early this year to investigate the feasibility of putting our program on Morris Cablevision in Morristown, New Jersey, a system in a top-100 television market. Morris Cablevision at that time had 1600 subscribers. We chose that particular system because its demographic composition corresponded well with the objectives of our program. We surveyed the subscribers to discover (1) who was interested in the courses we had to offer and (2) who was interested enough to pay for them. The percentage of positive responses we received is consistent with the few other studies on the topic—between 2 percent and 5 percent, too few to warrant my expense for utilization of that system. However, should Morris Cablevision realize its full potential of 60,000 subscribers, a possible 1200 to 3000 subscribers who do not now have access to such courses would be likely to matriculate with the Rutgers Program. Or, based on the current number of CATV subscribers of 7.8 million, cable, through interconnection via satellite or whatever other means, could make such a program available to between 156,000 and 390,000 likely participants.

What I am saying is that simple economics dictate that before cable television can be fully developed as an educational medium, it must increase its subscriber penetration. It makes sense that the lure of attractive programming via pay cable will significantly increase its marketability—particularly in urban areas where educational TV is likely to have its most profound effect. If it takes feature films and sports to get pay cable moving then so be it. For if overly restrictive requirements on pay cable preclude the full development of that service, education will ultimately suffer.

I am not only speaking here about the future of educational pay cable. It goes without saying that a fundamental benefit of greater subscriber penetration will be greater community use of educational, public and political access channels. At this point in cable's development, nearly 300 cable television systems are producing educational programming. Not until substantially more homes have hooked up to cable will full advantage be taken of that programming.

I might add that once cable television can be fully exploited as an educational medium, its viability should not be restricted by limited access to quality programming.

Thank you.

J. MARK TRICE

Mr. HELMS. Mr. President, when J. Mark Trice retired at the end of the year, his departure seemed unreal. One could just as easily have imagined the cessation of the flow of Tennyson's Brook. Senators felt—certainly this Senator felt—that Mark's genial personality and his willing helpfulness possessed a permanence that would continue on and on.

But he has indeed retired, Mr. President, and I find myself wondering if he misses us as much as we miss him. His able successor shares that view, which speaks well of both of them.

I wonder also, Mr. President, if there will be another associate in the Senate who will match Mark Trice's record. At the age of 14, his service to the Senate began—and, save for 3 years, that service continued for a total of 53 years and 4 months. During that time he served as secretary to the Sergeant at Arms, briefly as secretary to the majority and for the remainder of the time secretary to the minority.

He was a part of the Senate, and the Senate was part of him. He was the constant source of reliable information and wise counsel. And because he has always been a gentleman, he enjoys the affectionate friendship of Senators on both sides of the aisle.

I join other Senators, Mr. President, in wishing Mark Trice every happiness in his years of retirement. May he always enjoy good health and happiness, and may he always remember his friends in the Senate, past and present, to whom his friendship and helping hand have meant so much.

CLOSER COOPERATION WITH EUROPEAN ALLIES IN MILITARY RESEARCH AND DEVELOPMENT

Mr. McINTYRE. Mr. President, a member of the staff of the Armed Services Committee, who specializes in research and development, recently returned from a trip to Europe which was made primarily for the purpose of exploring the possibility of increased cooperation between the United States and our NATO allies in military research and development.

The report goes beyond cooperative research and development. It sheds light on a broad range of subjects and raises questions and issues which I considered to be of such significance that I have formally transmitted it to the Secretary of Defense for information and comment. I request unanimous consent to have printed a copy of the report and the letter to the Secretary of Defense at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JANUARY 21, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense, Department of Defense,
The Pentagon, Washington, D.C

DEAR MR. SECRETARY: Mr. Hyman Fine, Professional Staff Member, has submitted a report on his recent trip to Europe relating primarily to cooperative research and development between the U.S. and NATO countries.

The report, a copy of which is attached, is very comprehensive and includes numerous items which should be of direct interest to the Department of Defense. Certain items require action to be taken by your office.

Request that the report be reviewed and cleared for security so that it may be released by the Armed Services Committee. I would also appreciate your early comments on the following specific paragraphs, including statements of actions planned to be taken:

Paragraphs 3c, d, e, f, i, k, m, n, o, p, q, r, s, t, u, v, w, x.

Paragraphs 4a, b, c, e, g.

Since the preparation of comments on the individual items listed may take various periods of time, request that those which are ready by February 15, 1974, be furnished first and the remaining information by March 15, 1974. This will enable members of the committee to consider these matters and ask appropriate questions during the forthcoming hearings on the fiscal year 1975 budget. The report was discussed formally with cognizant personnel in DDR&E on January 8, 1974 to permit initiation of action on the paragraphs noted above.

Sincerely,

THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development.

MEMORANDUM

JANUARY 2, 1974.

To: The Chairman.
From: Hyman Fine.
Subject: Visit to Selected European Countries and Contractors Involved In Research and Development, November 30–December 17, 1973.

1. PURPOSE

To obtain first-hand knowledge of foreign military research and development activities, including cooperative programs with NATO allies, and the interrelationship of research and development organizations, programs, and future plans.

2. ORGANIZATIONS VISITED

(a) Governments:
(1) British Ministry of Defense.
(2) French Ministry of Defense.
(3) Netherlands Defense Research Organization.
(4) NATO.
(5) Italian Technical and Scientific Council of Defense.
(6) German Ministry of Defense.
(b) Companies:
(1) Rolls Royce, England.
(2) British Aircraft Corporation, England.
(3) Hawker-Siddeley, England.
(4) Westland, England.
(5) British Hovercraft, England.
(6) Thomson-CSF, France.
(7) Aerospatiale, France.
(8) Marcel Dassault, France.
(9) MATRA, France.
(10) Messerschmidt-Boelkow-Blohm, Germany.
(11) Krauss-Maffei, Germany.
(12) Otomelara, Italy.
(c) Foreign Government Facilities:
(1) Royal Aircraft Establishment, England.
(2) Physics Laboratory, Netherlands.
(3) National Aerospace Laboratory, Netherlands.
(4) NATO ASW Research Center, Italy.

3. SUMMARY OF FINDINGS

(a) In general, the European governmental representatives, industry representatives, and NATO officials strongly support increased cooperation between the United States and our European allies in military research and development.

(b) The French Ministry of Defense as well as the French industry spokesmen, while strongly supporting such cooperation, emphasized that it must be on a *bilateral* basis between the U.S. and France. All other countries support the *multi-lateral* approach and thereby take a broader and more liberal view for the European community as a whole.

(c) The European countries having a direct interest, including Ministry of Defense and Industry spokesmen, and NATO officials, consider the Low Altitude Forward Area Air Defense System (LOFAADS) to be the major test of U.S. intentions to acquire a weapon system developed by European companies. This demonstration of U.S. intention by a decision to select one of the three candidate systems, Crotale, Rapier, or Roland, is in their minds more important than which of the three ultimately wins the competition. If we do not go through with this approach, we could lose a substantial measure of credibility in our future relationships with our European allies. ($2.5 million was authorized and appropriated in fiscal year 1974 to support Army in-house efforts and permit preparation of requests for proposal to be issued to industry this year.)

(d) The entire European community, including NATO representatives, stresses the importance of standardization of munitions and of equipment to minimize the complexity and high cost of logistics. The ability of NATO forces to fight as an integrated and coordinated team is difficult enough without the complications of a proliferation of different weapon systems and different sizes of ammunition which also require unique handling, maintenance and repair equipment. Cooperative research and development is a major step towards improving this situation.

(e) Licensing of U.S. companies to manufacture European developed equipment, as for LOFAADS, is viewed as an effective method for fostering greater cooperation while accommodating considerations of balance of payments and national industry-labor interests. Another approach to striking such a balance between the U.S. and a foreign country is for the U.S. to buy equipment developed and produced in that country, while at the same time other equipment of equal value which is developed and produced in the U.S. is purchased by that country. Such arrangements must comply with Section 813 Jackson-Nunn amendment), P.L. 93–155, as well as other "Buy America" provisions of law.

(f) The various European countries and companies were advised that in the case of LOFAADS, the Congress denied some $4 to $5 million which was requested for payment to the winning U.S. contractor to cover his cost of obtaining a data package (set of specifications and drawings) from the European company involved. This denial was based on the determination that such costs should be recovered from the U.S. government as part of the unit production cost, and, that represented a risk which the U.S. company should be willing to take or share with his European counterpart. Such costs also may be substantially recovered by a contractor as bid and proposal expense allowed by the U.S. Government under the IR&D (B&P) procedure.

The response to this explanation was one of general understanding and willingness to cooperate. This matter should be considered by the Department of Defense as a candidate for a policy statement to the services and to industry including incorporation into the Armed Services Procurement Regulations (ASPRs).

(g) I emphasized in meetings with European government officials and contractors that the Congress (as represented by the Senate Armed Services Committee) is in favor of increased cooperation with our European allies in the development of weapon systems, and that the "Not-invented-here" (NIH) attitude which has been attributed to the Congress is unwarranted. As a matter of information, the Congress (as represented by the Senate Armed Services Committee) and the Department of Defense are concerned about the statement of Dr. John Foster that there is about $1 billion wasted because of duplication in the research and development programs of the U.S. and our allies. The use of licensing agreements for Low Altitude Forward Area Air Defense Systems (LOFAADS), or cooperative programs (NATO Patrol Hydrofoil-Missile (PHM)) are recent examples of how cooperation can work. The reaction of the Europeans was one of pleasant surprise since some had the impression that the Congress was opposed to cooperative research and development. They also expressed a renewed interest in exploring possibilities for further cooperation.

(h) In England, France, and Germany there has been a marked evolution towards consolidation of major defense contractors. This was brought about largely by necessity. The declining market for European weapons and the increased cost have necessitated the elimination of marginal companies as separate independent corporations and has resulted in greater participation by governments in these industries both by direct financial subsidy and by indirect influence. This has also been reflected in cooperative ventures between companies located in different countries. While this has permitted greater effectiveness in the use of declining or limited financial resources, it has substantially eliminated competition with all of its technical and cost advantages within certain countries. Individual European spokesmen agree to these advantages of competition, as is still practiced in the U.S., but also described this practice as a luxury which they cannot afford.

(i) The high degree of consolidation and concentration of industry in Europe, both within and among the various countries, and with both direct and indirect government participation has been beneficial to those involved in several ways. They have been forced to a high level of prudence and conservation in establishing performance requirements for new weapons development. This is simply because they are unable to afford the high degree of technical risk to which the U.S. is led by the military services and defense contractors. The unchecked zeal of our government and industry engineers, and their attitude that the opportunity to pursue the most advanced technology arises only once in a period of years, when a new major weapon system development is initiated, has accounted largely for the major technical problems, schedule slippages, and cost overruns which continue to plague us. The B–1 is a case in point.

The U.S. would do well to study the European system for weapon system development (e.g., evolutionary rather than revolutionary approach) and consider applying this philosophy in the future. Otherwise, we could wind up doing this ultimately but with loss of time and waste of critical resources.

(j) The U.S. European Offices of Aerospace Research, colocated in London under the organizational (but not command) responsibility of the Defense Attache, are functioning satisfactorily in coordinating the efforts of the U.S. and our allies in cooperative research.

(k) In general, there is adequate coordination between the U.S. and our allies in the use of wind tunnels, test facilities, and ranges. There was agreement that where the declining number of major weapon system developments renders certain facilities marginal to operate, there should be a sensitivity to consolidation or closing in the interest of economy. However, the extent to which this can be done, consistent with protecting individual national interests, is difficult to determine. This problem should continue to be examined.

(l) Data Exchange Agreements (DEA's) provide exchanges between the U.S. and participating countries of technical and scientific information of mutual interest. These are useful in avoiding unnecessary duplication and in promoting closer cooperation at the working level for all countries. The consensus was that this practice is very constructive and should be continued.

(m) The availability of German offset payments to support research and development programs and projects in the U.S. was discussed with Brigadier General Wagstaff, MAAG, Bonn, FRG, and with the German Ministry of Defense (Mr. Eberhardt). General Wagstaff stated that he had discussed this with U.S. State Department officials. Mr. Eberhardt stated that Germany would be interested in this approach. OSD should be requested to look into this since it would be a constructive method of augmenting U.S. research and development without using U.S. dollars. One possibility would be to finance basic research of mutual interest with Germany, to be conducted by prominent U.S. scientists in our universities and colleges. This could even be expanded to support exploratory, advanced, engineering and operational developments. Informal discussions with OSD General Counsel established that there is no legal obstacle to this approach.

(n) There are established procedures for the periodic examination (next meeting is scheduled for January 15, 1974) by the four powers group (U.S., FRG, England, and France) of research and development projects and programs which are candidates for mutual support. However, the extent to which this is being done and the effectiveness of this procedure could not be determined. The NATO Conference of National Armaments Directors (CNAD) also contributes to this objective. If measured in terms of the number of cooperative developments which are being pursued, it appears that there is substantial room for additional programs. This should also be emphasized to OSD.

(o) SAM–D was a subject of specific discussion with Mr. Eberhardt (German Ministry of Defense). His opinion, in brief, was that SAM–D is the best suited system for Europe in the 1980's and beyond; and that German interest in this program is very high. He was impressed by my statement that German interest in buying this system, if successfully developed and tested and if procurement costs do not rise above present estimates, could have a significant effect upon the attitude of the Congress in continuing to support this program. It was recognized by both of us, however, that there is otherwise no compelling reason for the Germans to commit themselves to SAM–D in any formal way until development is satisfactorily completed and the system tested.

(p) The Italian Ministry of Defense representatives strongly and repeatedly emphasized the need for NATO to examine NATO operational requirements periodically and on a timely basis which would permit participating countries to program and budget in an orderly manner for new cooperative research and development projects and programs. He stressed that this must be done despite the obstacles of individual national interests, proprietary interests, and secrecy. Despite the difficulty resulting from different fiscal year periods, his views have merit and should be made known specifically to OSD.

(q) The Special Foreign Currency program administered by the Department of Defense provides for the use of foreign currencies in those countries where we have accumulated amounts excess to normal requirements of the U.S. to finance services or procure equipment for U.S. defense needs. At present, this authority which amounts to some $2.5 to $3.0 million annually, but which can be substantially greater, can be used only in so-called backward countries. For fiscal year 1974, $2.6 million was appropriated to support research in India, Pakistan, Egypt, and Tunisia. It is not clear as to whether there is any legal restriction on the use of this authority to finance research and development work of interest to the U.S. in modern European countries such as our NATO allies; or if there is a legal restriction, that the restriction can be modified by legislative action. This should be addressed as a specific question to OSD.

(r) The Royal Aircraft Establishment (RAE) has the responsibility for development and procurement of all air launched missiles for the British Army, Navy, and Air Force. They state that it has worked to everyone's satisfaction. Recommend the Department of Defense examine this approach closely as a possible first step towards consolidating and integrating DOD missile programs. The proliferation of air-to-air missiles, for example, in the U.S. could not have occurred, if the U.S. DOD had been organized in this manner. If this has worked for the British, it could for the U.S. and then could be expanded to other categories of weapons.

(s) In discussions with the British Ministry of Defense, there appeared to be an area of cooperative opportunity in advanced technology. DOD's Advanced Research Projects Agency (ARPA) would be involve for the U.S. The use of lasers in nuclear weapon simulation was mentioned as one possibility. This should be considered by OSD.

(t) The Director of the Netherlands Defense Research Organization (TNO) expressed satisfaction with the Data Exchange Agreements (DEA's) in effect with the United States. He stated that while there had been individual project officer exchange visits and direct contacts, there had not been a comprehensive review and updating of existing and possible new agreements for about 5 years. He said that his organization was willing to send a team to the U.S. for this purpose, and at their own expense. Recommend OSD follow up on this offer. All other countries visited were satisfied with the manner in which their DEA's were being kept current.

(u) Marcel Dassault, France, expressed disappointment with earlier efforts to interest the U.S. in the Mystere fighter. He agreed that cooperative programs are desirable but was skeptical of our intentions. At my suggestion, he agreed to ask the U.S. Navy about the possibility of a VTOL application of the Dassault Mach 2 airframe with a U.S. engine. (This could be a competitor or a follow-on to Harrier.) He also agreed to pursue the possibility of cooperative technology developments. This is one of the leading European companies in advanced aircraft, and, if feasible, DOD should follow up on this conversation and restore an atmosphere of greater future cooperation with Dassault.

(v) Mr. Gardiner Tucker, Assistant Secretary General of Defense Support, NATO International Staff, was highly constructive in his views concerning the importance of the need and urgency for industrial planning to reduce the impact on industry of declining defense business. Since it is uneconomical and impractical to keep all major defense contractors perpetually in operation, an orderly and comprehensive plan is needed now to insure that critical industrial plants and equipment are closed down but maintained in readiness if required for mobilization needs. This requires DOD as well as Congressional attention.

(w) Brigadier General Miller, Deputy to General Goodpastor, SACEUR, described the system used to cover research and development needs of NATO. There are 29 R&D objectives which were established and distributed to member nations in 1971, indicating the 10 having highest priority. These are considered at the Ministry of Defense level of each country and were the basis for discussion for the first time in 1973.

The 29 objectives, which are being updated now, identify deficiencies in equipment. This will be reviewed by the Armament directors of the NATO countries during the spring of 1974 and should be the basis for cooperative efforts. Recommend that DOD follow this very closely and support the principle of cooperative research and development.

(x) OSD is proceeding with the formulation of a directive which will establish policy and promulgate procedures to encourage cooperation with our allies in research and development. A proposed new Army regulation AR 70–41, covering this policy, is being circulated within DOD. Recommend that this be expedited.

4. COMMENTS ON SPECIFIC WEAPON SYSTEMS AND PROGRAMS

(a) The following list of specific weapon systems and programs was identified by the various contractors involved, some of which are potential candidates for U.S. interest. Some of these have been discussed with U.S. representatives in the past. However, it is recommended that OSD be asked to comment on each and explain why there is or is not an interest in pursuing a cooperative program.

(1) Rolls Royce:

(a) ESM—500 lb. turbo-fan engine being developed jointly with MTU (Germany) and Alpha Romeo (Italy).

(b) RB–199—14,000 lb. engine for the MRCA aircraft. Being developed jointly by Turbo-Union, comprised of Rolls Royce, MTU, and Fiat (Italy). Pratt and Whitney competed for this and lost, and General Electric withdrew from the competition.

(c) Pegasus 15—Under development for the Advanced Harrier.

(2) British Aircraft Corporation:

(a) Rapier—Low altitude air defense system.

(b) Seawolf—Quick reaction, fully automatic, short range, ship-based anti-aircraft and anti-missile system suitable for small escort vessels down to 2,000 tons. Being developed for Royal Navy use in the mid-1970's.

(c) Skua—Lightweight, helicopter borne anti-ship missile, planned to be installed on the Lynx helicopter.

(d) Remotely Piloted Vehicles (RPV's).

(3) Hawker-Siddeley:

(a) Advanced Harrier with Pegasus 15 engine.

(4) Westland:

(a) Lynx—Candidate for the U.S. Navy LAMPS ASW helicopter requirement.

(5) Thompson-CSF:

(a) Crotale—Low altitude air defense system.

(b) Javelot—Close-in air defense gun system which is being jointly funded by France and the U.S. through phase one, feasibility test.

(6) Aerospatiale:

(a) Exocet—Surface-to-surface anti-ship missile. An improved version is under development.

(b) Roland—Low altitude air defense system developed jointly with MBB (Germany) under a new corporate entity, Euromissile.

(c) Milan—Lightweight infantry anti-tank weapon.

(d) Hot—Heavy anti-tank weapon.

(7) Matra:

(a) Otomat—Anti-ship missile being jointly developed with Oto Melara (Italy) and will be operational in 1974.

(b) Super 530—All weather, air-to-air missile. Growth version of 530 missile for very high altitude and high Mach number targets.

(c) 550 "MAGIC"—Close combat air-to-air missile.

(d) Supersonic rocket launcher Type 155.

(e) Drag-chute retarded bombs, such as for use by U.S. Navy on Snakeye.

(8) Messerschmidt - Boelkow - Blohm (MBB):

(a) Armbrust—Lightweight, anti-tank weapon.

(b) Kormoran—Long range air-to-ship weapon system.

(c) MAR/RS 80.

(d) Strebo—Airborne rocket dispenser.

(e) VTOL technology.

(9) Krauss-Maffei:

(a) Leopard II tank.

(b) 105 MM smooth bore gun (Rheinmetal).

(c) 120 MM smooth bore gun (Rheinmetal).

(10) Oto-Melara:

(a) FH-70 155 MM field howitzer.

(b) SP-70 self propelled FH-70 howitzer.

(c) RS-80 rocket separation system.

(d) 5 inch 127 MM gun.

(e) 35 MM Oerlikon gun in Oto twin mount.

(f) Vanessa—A new project, not yet discussed with U.S. Department of Defense, to provide small ship based anti-missile system as improvement over Ajax-Phalanx. Would employ an existing missile, such as Milan. Specific performance details are considered to be sensitive. Has been discussed with Italian and German Navies. Estimate $12 million to develop and test over a 30-month period. Opportunity at this early stage for a joint cooperative research and development program.

(b) Rolls Royce representatives, in discussing Advanced Harrier, with Pegasus 15 engine, stated that U.S. should provide increased funding because Rolls Royce financing is inadequate if program is to be pursued in a timely manner.

(c) Aircraft Research Association, which represents the British aircraft industry, has been operating a 9 foot by 8 foot, Mach 1.2 transonic research tunnel which they consider to be unique. Determine if DOD is aware and makes use of this facility, if the U.S. has a need.

(d) Royal Aircraft Establishment (RAE) of England has built and is operating a unique facility for fatigue testing of the Concorde supersonic transport. It accommodates the complete airplane, less engines and other non-airframe components. This facility, which can test under extreme temperatures both inside and outside the airplane, cost about $25 million and will be used exclusively for Concorde during the next seven years. Some U.S. companies have shown an interest in it.

(e) Hawker-Siddeley management, commenting on the U.S. Advanced Medium STOL Transport prototype (which the Congress cut from $67.2 million to $25 million), stated that they see a need for such a system by 1985–1990; and that the airframe study effort could be supported at a low dollar level for 3 to 5 years before start of full scale development. They also stated that the advanced turbofan engine (ATE) deveopment should be continued as a low level effort. These are interesting observations from an experienced European airplane (Harrier) manufacturer.

On the general subject of developing new military aircraft, Hawker-Siddeley stated that European countries cannot afford to develop and build aircraft solely for military use except when they are exotic, unique types such as Harrier and multi-purpose aircraft such as the new multi-role combat aircraft (MRCA).

Javelot (Close-in 40 MM air defense gun system)—Thompson—CSF stated that the Phase I feasibility test of this U.S./France jointly funded development has been completed. Each country provided $1.5 million. The next phase, following a firing demonstration in January 1974, will take 2 to 2½ years for development and demonstration of the gun (can use an existing radar and tracking system). Estimate $6 million for this phase. Phase II will provide one complete set of equipment and one spare weapon. This weapon is competitive with the Army Vulcan and an advanced anti-aircraft gun. Thompson says, if necessary, they probably would finance the next three months pending initiation of Phase II, if the U.S. and French did not move earlier.

5. CONCLUSION

In summary, the major conclusion reached as a result of this trip is that it is in the interest of the United States, as well as our allies, to recognize the urgency and necessity for closer cooperation in research and development and to infuse the existing organizations responsible for this task with a greater awareness of this situation at all levels of organization up to the national leadership. In a world of growing technical competition where our very national survival could be involved, and with the growing pressures of non-defense programs in all countries for increased support, expanded cooperative research and development represents a positive method for retaining our lead in technology where it already exists, and for recovering the lead in those critical technologies where we may be losing ground. This message must be emphasized to a larger segment of the Congress. The basic findings contained in this report should be examined closely by the Members of Congress and the Administration and translated into appropriate positive actions. To ignore this matter is to risk erosion of the U.S. and NATO lead in future weapons and possibly jeopardize the future security of all the countries involved.

In the Department of Defense, the office under the organization of the Director of Defense Research and Engineering responsible for international cooperative research and development, consists of only two people not counting secretarial support. In 1963 there were seven. This simple comparison points up an anomaly which is not understood. On the one hand, the Department of Defense has been arguing greater emphasis in cooperative research and development while at the same time reducing the staff available to support an expanded effort. The Department of Defense should examine manpower requirements for this function and, if warranted, augment their present staff so that the Department may be more effective in fostering expanded cooperation with our European allies.

Mr. McINTYRE. Mr. President, the possibility of closer cooperation with our allies in the development of military equipment promises substantial economies to all the countries involved. The potential for such savings may be measured against the $1 billion which the former Director of Defense Research and Engineering, Dr. John Foster, has stated before the Armed Services Committee represents the estimated amount of overlap between the programs of ourselves and our allies.

There are other significant comments in the report which I will not dwell upon now, but which are self-explanatory. Some of them may have application to industry, to other agencies of the Government, and to other committees of the Congress.

I intend to follow up on the findings and recommendations contained in the report during the forthcoming review of the fiscal year 1975 Department of Defense military procurement authorization request. I will keep the Senate advised of any significant developments on this matter.

RESOLUTION BY AMERICAN FARM BUREAU

Mr. HUGH SCOTT. Mr. President, I am pleased to call to the attention of the Senate events which took place on January 17, 1974, at the annual meeting of the American Farm Bureau Federation.

Farm Bureau is an organization of farmers—from all over the Nation. They met in Atlantic City to set forth the policy positions which will guide that organization's work in the year ahead.

Their deliberations reflected the grassroots nature of Farm Bureau, an organization with 2,293,680 member families.

The goals Farm Bureau has sought over the years, and the policies Farm Bureau has supported, have undergirded a sound America—regardless of political party viewpoint. They stand for a sense of fair play and support firmly the orderly processes of constitutional government.

With this background, I think it most appropriate to call to the attention of my colleagues in the Senate—the following resolution brought forth on the floor of the Farm Bureau Convention, and enacted into official Farm Bureau policy:

RESOLUTION BY AMERICAN FARM BUREAU, JANUARY 17, 1974

The Office of the President of the United States is under attack by groups and individuals whose philosophy and objectives are contrary to those of the Farm Bureau members. Continued use of the "Watergate" issue by this group as a delaying tactic ultimately could destroy the effectiveness of the Presidency.

In the interest of individual freedom, we believe that our present representative form of Government, as provided in our Constitution, must be preserved by the proper division of authority among the Legislative, Executive and Judicial branches of Government.

We urge Congress through its properly constituted committees to make a decision on whether or not there is basis for continuing the impeachment process. Such a decision is long overdue. Any further delay creates a cloud as to the integrity of Congress itself. This is no time for "politics as usual." The citizens of this country expect their Government to act promptly and responsibly on major issues confronting the Nation."

COLLEGE BY NEWSPAPER

Mr. PELL. Mr. President, I am pleased to call to the attention of my colleagues two excellent articles which appeared recently in Time and the Saturday Review and described a unique educational program sponsored by the National Endowment for the Humanities.

This program involves college-level education by newspaper article. Approximately 20 million Americans are participating in this program presented in newspapers across the country. Each week a special article, representing a college lecture by an eminent scholar, is published as part of a series of 20. The reader may enroll for college credit under the program in one of 182 cooperating colleges and universities. Or the reader may simply choose to enrich his or her own knowledge through study of the course, entitled "America and the Future of Man."

The program is supported by a $96,000 grant from the Humanities Endowment, representing a per-capita investment of less than one-half of 1 cent per person. This would seem a remarkably small Federal investment in terms of the enthusiastic reception of the program and of the knowledge to be gained by those participating.

As chairman of the Senate Special Subcommittee on Arts and Humanities since its inception 9 years ago, I would like to commend Dr. Ronald S. Berman, Chairman of the Humanities Endowment and the National Council on the Humanities for originating this most interesting educational program.

I believe it serves to exemplify the most constructive endowment approach to the humanities in general. We applaud the endowment's goals of bringing the humanities and the essential areas of knowledge they contain into the mainstream of our national life.

Mr. President, in order to give my colleagues added information on the program I have outlined, I ask unanimous consent that the texts of both articles to which I have referred be printed in full in the Record at the conclusion of these remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time magazine, Jan. 21, 1974]

COLLEGE BY NEWSPAPER

Settling into a soft chair in her San Diego apartment after dinner last Thursday, Susan Owara, 25, began leafing through the San Diego *Evening Tribune*. In the second section she found what she was looking for: a long article on "America and the Future of Man." She read it carefully, then clipped it out and stuck it in a manila folder. Across town, Schoolteacher Jim Fallon, 34, ripped out the piece and added it to a growing stack on a table in his bedroom. And across the U.S., from Decatur, Ala., to Saint Cloud, Minn., others read and saved the same article, which is part of a novel college course on the American experience offered to millions of readers through the columns of their local newspaper.

The course consists of 20 "lectures," which are printed every Thursday in 258 newspapers, having a combined circulation of 19.5 million. They are written by such prominent "faculty" members as Harvard Historian Oscar Handlin, Yale Economist Henry C. Wallich and M.I.T. Physicist Philip Morrison. The articles are all entitled "America and the Future of Man" (the formal name of the course) and cover history, psychology, sociology, social ethics and political science. In last week's installment, for example, Garrett J. Hardin, professor of human ecology at the University of California at Santa Barbara, reviewed the ethical and social problems of over-population and firmly advanced population control.

COLLEGE CREDIT

While any reader can simply monitor the newspaper course, some 4,000 persons have elected to receive college credit of it. They have registered with one of the 182 colleges and universities affiliated with the program and paid fees ranging from $35 to $45. That entitles them to participate in two discussion classes supervised by a college instructor and to take two tests, one at mid-term and the other at the conclusion of the 20-week course. For an additional $10, credit students receive a kit that includes a record, 50 additional lectures and articles, a study guide and self-tests.

They also get a Monopoly-like board game called Future, in which players advance toward the World of Tomorrow by wisely investing in arts and letters, ecology, social problems and other worthy endeavors. So far, most of the students seem to like the idea that they can take a course at home and at their own speed. Says Susan Owara: "I clip it out and talk it over with my husband. Then later on, I'll go back to the clipping and read it along with the study guide. The articles make me think. They make me ask why things are the way they are."

The influence of the newspaper course has begun to spread beyond the living room. In New Canaan, Conn.—where the course runs in the *Advertiser* and 29 reader-students are enrolled for credit at the University of Connecticut—a community group has sponsored lectures based on the series, drawing as many as 75 listeners. A book club in San Diego uses the articles for regularly scheduled group discussions. Even prisoners—at least 46 from four states—have signed up.

College by newspaper, which began on Oct. 4 is the concept of Caleb A. Lewis, project director at the University of California Extension at San Diego. It is financed by a $96,000 grant from the National Endowment for the Humanities and $42,500 from the Exxon Foundation. NEH is considering underwriting additional courses on aspects of American life after the current one ends next month. Lewis would welcome the opportunity to continue and expand the program. "The person I want to reach most," he says, "is the guy who was turned off by school. I'll be happy if he reads one lecture and enjoys it. Then, if some months or years down the road he decides that learning is not so bad after all and wants to go back to school, we've done our job."

[From the Saturday Review, Dec. 18, 1973]

BLACK AND WHITE SCHOOLHOUSE

Some 40 million readers of 220 newspapers in North America and Western Europe are classmates this fall in a novel educational experiment. Along with the comics, horoscopes, advice columns, and assorted news, their newspapers will be running a weekly series of twenty introductory "lectures" in a college-level humanities course entitled America and the Future of Man.

The eminent faculty of journalist-professors includes such stellar academics as sociologist Daniel Bell and historian Oscar Handlin of Harvard, economists E. J. Mishan of the London School of Economics and Henry Wallich of Yale, and ecologist Garrett Hardin of the University of California, Santa Barbara. Each is writing one installment of the newspaper series, which is intended to tempt students to undertake additional study and research on their own.

In addition, 155 colleges and universities have agreed to backstop the course with two classroom sessions and final exams for those who want to earn undergraduate credit for the work. The students use a kit of prescribed materials, including fifty additional lectures and articles, study guides, and self-administered quizzes. Also in the package, for those who like to play around in class, is a board game called Future, in which students can test the implications of social and scientific change. The study kit costs $10, while the colleges add an extension-course fee of $35 or $45.

The project is designed and directed by the University of California, San Diego, under a $96,000 grant from the National Endowment for the Humanities, which is funded in turn by Congress. If this first experiment in creating a classroom in newsprint succeeds, the National Endowment plans to follow up with at least two more courses in the field of American studies.

ROLLBACK FOR PROPANE

Mr. CURTIS. Mr. President, like many of my colleagues, I have received countless communications from constituents who are extremely distressed about the increase in propane prices in recent months.

Also, like my colleagues, I realize that this is due primarily to the tremendous increases in the price of crude oil. What I did not know is that phase IV price control regulations called for special treatment of gasoline, fuel oil, and diesel, limiting the proportion of costs that can be applied to these products.

On the other hand, these regulations did not impose limitations on the proportion of passthrough costs that may be applied to other products—including propane—and as a result, many companies have had to recover a large share of their overhead costs through the sale of these products on which there has been no limitation on passthrough costs.

I do not want to leave the impression, however, that the price of propane has been entirely uncontrolled by the Government. Passthrough costs have increased tremendously since early 1973 and in the opinion of many, propane prices historically, have been "subnormal" or "depressed" when related to the cost of fuel oil and diesel, which are interchangeable substitutes for propane.

In 1973, domestic sales of propane exceeded domestic production by 4 billion gallons. With demand, therefore, obviously exceeding supply, and with Federal regulations permitting the passthrough of costs, this tremendous price increase has resulted.

Mr. President, this price increase has hit hardest at the pocketbooks of thousands of rural Americans who rely upon propane as a home heating fuel and farmers who rely upon it to fuel irrigation pumps. In his remarks upon introduction of S. 2895, the Senator from Kansas (Mr. Dole) has set forth in great detail the effects of these increased propane prices. I would refer all interested parties to Senator Dole's remarks in the Record of January 28.

I am of the opinion that in general, any rollback of prices is usually unworkable but because of a freak situation which has developed with reference to propane, I believe that all parties concerned will be best served by a readjustment of propane prices. For this reason I have asked Senator Dole to add my name as a cosponsor of S. 2895. This legislation provides that effective on the date of enactment no refiner could charge more for propane than his January 1, 1973, price, plus a percentage of the increased costs of refining which have occurred since that time. These additional costs which could be passed through would only be those which are directly related to the production of propane.

Also, Mr. President, I am happy to join with our colleague from Texas (Mr. Bentsen) in a letter to the Honorable William Simon, Director of the Federal Energy Office, on this subject.

In this letter we propose that January 1, 1973, be established as the readjusted base price period, allowing each oil company to select its most favorable price charged during the period beginning 30 days before and ending 30 days after January 1, 1973. We ask that increases from that point forward be based on a dollar for dollar passthrough of increased costs of crude petroleum, raw natural gas, and processing costs as they proportionately relate to propane at the wholesale level. Careful research has revealed that this formula will accurately reflect the product's fair share of a barrel of crude and include a fair margin of profit for the refiner.

As I stated earlier, Mr. President, thousands of rural residents depend upon propane as their source of fuel for home heating. Many of these rural residents live on a fixed income and, therefore, any increase of the magnitude that has been experienced in propane necessarily cuts deeply into their budget for food, clothing, and shelter. Therefore, I hope that this solution which we have suggested, or some other action, can be taken which will give refiners a fair return on their investment, while at the same time bringing relief to the people I have just mentioned.

ENERGY IN THE OCEANS

Mr. HOLLINGS. Mr. President, there recently appeared in the magazine, Sea Technology, an outstanding editorial by Larry L. Booda, editor, with an extremely perceptive account of the importance of the oceans to our Nation's present and future energy needs. As Mr. Booda so accurately points out, "there is a finite limit to the earth's hydrocarbon supplies," and man eventually must turn to new sources of energy. The oceans can serve this important need, but only if our Nation has the foresight to commit the leadership and funds to such an undertaking.

I ask unanimous consent that Mr. Booda's editorial be printed in its entirety in the Record, and I commend it to the attention of my colleagues.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From Sea Technology, December 1973]

Energy in the Oceans

(By Larry L. Booda)

In making its recommendations early this month with the objective to free the United States from dependence on foreign energy sources, the Atomic Energy Commission (AEC) notably neglected the enormous potentials of the seas. AEC, as lead agency for the program of research and development in energy, called Project Independence, asked for spending of $11 billion over a five year period. Its chairman, Dr. Dixie Lee Ray—herself a marine biologist—dwelled on substitution of coal for oil and gas; development of a nuclear powered fleet of tankers and ice-breakers; stepped up research in nuclear fusion; research in storing and using solar heat and the earth's geothermal heat.

It pains us that some close-at-hand, in-existence technologies and power generation possibilities that would take less than an all-out R&D effort apparently are being ignored. What the new Federal Energy Administration and AEC need on their staffs are some experts on marine science and technology matters.

Some 40 years ago during the great economic depression President Franklin D. Roosevelt initiated the Passamaquoddy Bay tide harnessing project at the mouth of the St. Croix River, allied with Canada. It was a technically feasible project that would have made use of existing dam and hydroelectric technologies. Trouble was that it was not then economically feasible. It would have placed too great a strain on the capital resources of the nation, so it fell by the wayside. But in terms of present day capabilities of the United States it is a relatively modest project. Other areas with high tides are also candidates for similar efforts.

The AEC, rightfully so, proposes advanced research in nuclear fusion that is the fallout of the nation's biggest project ever—the Manhattan Project that harnessed the atom's energy. But there is fallout from the country's second biggest project—the man-on-the-moon massive effort. Strange as it seems. that fallout is the cryogenic technology that was developed to produce liquid hydrogen in great quantities. That technology has already had an impact on sea transportation. Abuilding in the next three years will be 13 Liquid Natural Gas (LNG) tankers which will carry LNG at −256°F.

Another proposal using cryogenics involves offshore installations that will gain their power from harnessing the winds. Sophisticated wind-mills would generate direct current to separate sea water into hydrogen and oxygen by electrolysis. The hydrogen would be reduced to liquid for transmission and storage ashore. It would then be burned in gas turbines with air to generate conventional alternating current, and the resultant gas would be condensed to form fresh water. Although the proposal sounds complex, it really isn't because the technology exists and the power source is free and limitless. Another power source could be waves.

Admittedly, there is a finite limit to the earth's hydrocarbon supplies—100 years being a good round figure at our present accelerating uses. Eventually man will be faced with using the waves and tides, nuclear power, winds, solar energy and geothermal heat. Meanwhile, the continental shelves and even the deeper continental margins and deep sea domes have hardly been explored. They can help in the 100 year grace period.

William E. Simon, deputy secretary of the Treasury, will be head of the new Federal Energy Administration (FEA). His deputy will be John Sawhill of the Office of Management and Budget. This FEA will have a heavy economic flavor. How fast it will take over its responsibilities rests to a certain extent on Congress, for some 72 agencies in the federal government deal with energy. One major takeover will be the Interior's Office of Oil and Gas.

A major concern *Sea Technology* feels about FEA is that it will be overwhelmed with problems of the moment and will concentrate most of its energies on the short term solutions. Secretary of the Treasury George P. Shultz has shown little interest in the oceans (see Capital Report), and FEA is his creation. It will take over the powers of former White House energy chief John A. Love, who has returned to civilian life.

With longer term energy sources available in the oceans, it behooves the friends of marine science and technology in and out of Congress, and especially the National Advisory Committee on Oceans and Atmosphere (NACOA), to call attention to these ocean energy possibilities in sufficient chorus that FEA will sit up and take note.

VIETNAM VETERANS' NEEDS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the Record a statement submitted by me at public hearings in New York, N.Y., by the Mayor's Office for Veterans' Affairs.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Vietnam Veterans' Needs

It is apparent today nearly a year after the end of our involvement in the Vietnam conflict that many of our close to 7 million veterans from that war are beset with problems that demand our urgent attention.

I am concerned about the fact that the educational benefits given to the Vietnam veteran under the GI bill are not only low, but that under the present system of distribution many veterans are precluded from going to college.

A World War II veteran received tuition plus a stipend of $75 a month, whereas a Vietnam veteran only receives a flat sum of $220 a month from which he must pay tuition. Thus, while every veteran of World War II could command a four year public education, today's veteran can only do so and still have enough money to live on if he attends a college with a tuition charge of $419 or less. Approximately 50% of the veterans using today's GI bill thus have less than World War II veterans.

I am, therefore, acutely aware of the underutilization of their educational opportunities by our nation's Vietnam veterans, particularly as it concerns New York State. I have recently cosponsored a bill, the Comprehensive Vietnam Veterans Education Benefits Act of 1973 (S. 2789) which I feel will, if enacted, go a long way towards aiding the veteran in his pursuit of higher education.

Of particular importance is the fact that this bill would enable veterans in states with high cost public education, such as New York, to use effectively the GI benefits. At the present time, the GI bill participation rate in New York is about 36%, whereas the national use rate is 46%.

The inability of the veteran to make the initial tuition payment of $600 to $800 is the most formidable obstacle preventing participation in an education or training program. Under the bill that I am cosponsoring, the Veterans Administration would reimburse the veteran for tuition costs over $400 up to a total of $1,000. With such a provision, more New York veterans will be able to take advantage of the GI bill and thus New York will increase the competitive ability of its work force.

The bill further provides for a 13.6% increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs. There is a provision for an increase from 8 to 10 years in the eligibility period for educational benefits, along with another section of the bill which would allow a veteran to draw his full 36 month entitlement in larger amounts over a shorter period of time.

I have further been active in the effort to secure the release of veterans cost of instruction funds by HEW and cosponsored an amendment to the Education of the Handicapped Act, S. 896, which would permit colleges with a 10% veteran enrollment to participate in the veterans' cost of instruction allowance program. This amendment passed the Senate and is pending in the House.

In the employment field we still have a lot to do to aid the Vietnam veteran in obtaining jobs. Overall figures for Vietnam era veterans 20 to 34 years of age show an unemployment rate of 3.6% in November, a marked improvement over the 5.6% figure posted a year ago. Vietnam era veterans with disabilities of 10% or more have a somewhat easier time of finding future employment as the result of a recently-instituted program by the National Alliance of Businessmen, the Veterans Administration, and the U.S. Department of Labor. However, the totality of these efforts still fall considerably short of the mark, particularly among younger veterans aged 20–24.

The plight of the unemployed Vietnam veteran requires special attention in view of economic dislocations resulting from the energy crisis. Under the Comprehensive Employment and Training Act of 1973, which the President signed into law on December 28, 1973 and which I co-authored, there is a provision in the bill which assures that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina on or after August 5, 1964. Special efforts will be made to acquaint the Vietnam era veteran with the program and the public service jobs available to him under this act.

The Senate recently passed The Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, S. 284, with my full support which is a fully funded program designed to combat the drug related problems of veterans. The program applies to all Vietnam veterans regardless of their discharge status. It offers a community treatment program, along with vocational rehabilitation, job placement, and educational counseling. It is a much needed program which I hope will be enacted into law very soon.

The President recently signed into law Public Law 93–177, which I supported in the Senate, which provides a 10% increase to nearly 2.7 million disabled veterans and survivors of deceased veterans. The new legislation adds $239.6 million to the present pension budget of approximately $2.6 billion. I strongly favor adding to the veterans pension programs an automatic cost of living increase provision as was recently accomplished in social security.

Last March the President said that "Words of thanks" are not enough for the men who have returned home from the Vietnam conflict. Indeed, those "words of thanks" need to be continually supplemented by Congressional action, for I feel that although we have made progress in alleviating the plight of the Vietnam veteran, there is much that yet remains to be done.

In New York City alone there are 350,000 Vietnam veterans who, like other veterans, need the benefits of housing, job placement, increased education benefits, medical services and drug rehabilitation. In addition to needed tangible benefits, these same veterans face the lonely and difficult task of readjusting to civilian life after having participated in a tragic war. When the country called upon these men, they answered the call and performed admirably. We must not let them down when they need our aid.

PROJECT FUEL IN MAINE

Mr. HATHAWAY. Mr. President, I would like to call the attention of my colleagues to a remarkable project currently being undertaken in Maine under the auspices of the Office of Economic Opportunity. Called Project Fuel, the program is an attempt to assist low-income people in meeting emergency heating needs during this energy-short winter. I would like to commend OEO Director Alvin Arnett and his staff as well as the project staff in Maine for responding quickly and with imagination to a real need.

It is projects like this, where the efforts and resources of individuals at all levels of government are coordinated and brought to bear on the problems of the poor, that convince me that there is a place in the Federal structure for the Office of Economic Opportunity. By simply providing a focus and forum for the interests of the poor, the OEO renders a valuable service to those who are least able to fend for themselves in times of crisis. I hope that when this matter is before us for review, some type of extension of the agency will be enacted; this is an ill time for the poor to lose their advocate.

Mr. President, I request unanimous consent that several articles on this subject from the OEO Communicator of December 1973 be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Project Fuel in Maine

Maine, the coldest state in the union (on the average), is also the first state to launch a program to help the poor survive the winter with funding from the Office of Economic Opportunity.

OEO Director Alvin Arnett announced a grant of $478,715 to the Maine State Office of Economic Opportunity on December 7. The grant was based on a comprehensive and detailed plan of action called Project Fuel.

Herb Sperry, the Maine SEOO director and his staff, were as prompt in activating the proposal as they were in planning it.

In the two days following approval, the SEOO entered into contracts with 13 Community Action Agencies around the state to implement the plan, and ordered materials to begin winterizing homes.

Project Fuel has three major parts:

Winterizing of 3,000 substandard homes of the poor at a cost of $300,000.

Stockpiling of emergency fuel depots with fuel oil, kerosene, and firewood.

Operation of Crisis Centers in each of the 13 CAA headquarters. These will be linked by telephone with civil defense and other major emergency agencies of the state. They will receive emergency calls for help and activate responses to them.

Funds will be dispensed according to the number of poor and their needs, by the SEOO to the CAAs under the individual contracts, with the state office maintaining oversight.

Volunteer labor will be recruited by the CAAs from Operation Mainstream, neighborhood youth programs and from college students who will have a six-week winter vacation from school.

The fuel depots will each have 250 cords of wood and 1,000 gallons of fuel oil or kerosene—if possible.

However, prices of both the fuels and firewood are soaring already, promoting the CAAs to set up plans to gather fallen wood in national forests and to seek permission for such wood-gathering in national parks and other public lands.

Also, since more than half Maine's rural poor depend on firewood as their sole fuel, some wood stoves will be purchased by each of the CAAs with part of the funds.

Revolving credit funds to help low-income people buy fuel beyond what they might get from the CAA fuel depots are also being organized.

All house winterizing supplies are being mass purchased through the South Kennebec Valley Cooperative.

Besides buying winterizing supplies and helping CAAs recruit volunteer labor, the SEOO has already organized an Advisory Council.

Council members include representatives from key state agencies, including civil defense, as well as the CAAs, volunteer, labor and consumer organizations.

Already, the State Civil Defense director has appointed a member of his staff to act as the state contact with all the CAA crisis coordinators. In turn, the CAA crisis coordinators are alerting key county officials in their area on the CAA's capability to assist.

They are also seeking representation on allocation panels and local energy task forces to make certain that the problems of the poor in Maine are taken into account and dealt with.

OEO Mobilizes for Energy Crisis

At the direction of the President, the Office of Economic Opportunity has mobilized to assist the poor during the present energy crisis.

OEO will act as an advocate of the poor with key federal and state agencies and also mount programs of its own to provide fuel, food, transportation and other necessities to the poor during the winter.

Director Alvin Arnett has named a nine-man national Headquarters Agency Task Force and similar task forces have been activated in the ten regional offices around the country.

In turn, these task forces have directed State Economic Opportunity Offices and local Community Action Agencies to assess promptly the critical needs of their poor populations and to forward such findings and suggested solutions.

Arnett has also authorized a $478,000 Project Fuel to be operated by the State Economic Opportunity Office in Maine.

That pilot project is already being expedited, and is expected to be able to begin winterizing homes of the poor, dispensing fuel and handling other emergencies shortly.

So far, programs in New England seem to be moving fastest toward activation. This may be due in part to the fact that this area is among the coldest in the nation and has had fuel oil shortages in previous years even before the present crisis.

Based on reports from the regions and CAAs, the basic outline of the "antifreeze" program in the coldest sections falls into the following categories:

Outreach: Many CAAs, including those in Maine and Vermont, have surveyed needs and are moving to meet them.

Hot lines and Crisis Centers are being established at Community Action Agencies.

Emergency Fuel Depots stocked with oil, kerosene and firewood are being organized. Negotiations to obtain oil allocations for the poor and related institutions are going on.

Winterizing homes of the poor is underway in Maine and is being surveyed elsewhere. This will include insulation, caulking, weatherstripping and installing plastic storm windows. Purchase of wood stoves to use firewood as an alternative to oil or kerosene is part of the Maine project and could be used in some other states.

Emergency shelter and transportation plans, tied in with other key agencies such as fire and police and civil defense, are being activated.

Consumer Boards to assure representation of the poor in the allocation of fuel and other major necessities by public boards and agencies are being formed.

In a statement sent to the CAAs and other OEO agencies around the country, Arnett emphasized that they should take two basic actions promptly.

These were, first, to set up coalitions with other key local groups to assure broad community participation, including the poor, in all basic emergency decisions; and second, to make certain that crisis centers were established to receive emergency requests from the low-income and disadvantaged and to route assistance to them.

The Director also reminded all CAA directors that they can shift up to ten per cent of community action funds to different uses without headquarters approval.

He also said they could request approval from the regional offices for even larger fund shifts should that appear necessary.

Meanwhile, at this writing, the Headquaters Task Force and the Director were seeking to determine how much of overall OEO funds can be applied to regional and local efforts in the present crisis.

The Task Force is also forming an agency position on such proposals as adding to the gas tax or otherwise allowing the price of such fuel to rise much higher to discourage consumption.

TOWARD QUALITY EDUCATION FOR MEXICAN-AMERICANS

Mr. CRANSTON. Mr. President, a significant event took place yesterday in Los Angeles when the U.S. Commission on Civil Rights issued its final report at the conclusion of a 5-year study of Mexican-American education.

In this report the Commission finds that the public schools of the Southwestern States are not providing equal educational opportunity for Chicano children, and makes 51 specific recommendations to remedy the situation.

As the sponsor of major legislation designed to provide increased Federal support for bilingual and bicultural education, I am pleased that the Commission on Civil Rights has conducted this important study.

The conclusions released by the Commission today are unmistakably clear. Action must be taken now to end the discrimination that pervades the system of education for Mexican-American children. I invite my colleagues to take note of the study released today, titled "Toward Quality Education for Mexican Americans." It will prove valuable and instructive as we move toward consideration of the pending legislation.

In that connection, Mr. President, I ask unanimous consent to print in the Record as part of my remarks the press statement issued by the Commission on release of the report, and the text of an address by Dr. Stephen Horn, Vice Chairman of the Commission on Civil Rights and president of California State University at Long Beach, on this subject.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Dr. Stephen Horn

Schools of the Southwest are systematically denying equal educational opportunity to Mexican American students. The educational needs of these students are not being met, their culture is being suppressed, and their hopes and ambitions are being stifled.

These are some of the findings of the United States Commission on Civil Rights in our sixth and final report on Mexican American education, which is being released today.

The report, entitled "Toward Quality Education for Mexican Americans," also contains the Commission's recommendations for remedying the shortcomings discussed in this and the five previous reports. In all, we make 51 specific recommendations based on information collected in five Southwestern states.

But before I get to the recommendations, let me give you some of the background of our five-year study of Mexican American education.

The study's prelude was a Commission hearing regarding the conditions of Mexican Americans. That hearing was held in December 1968 in San Antonio, Texas.

Our formal study of Mexican American education began the following year. The amount of data collected is among the largest assembled regarding a minority group in the United States.

In this final report being released today, we discuss four aspects of education—curriculum, student assignment, teacher education, and counseling—as they affect Mexican American students. We also examine the application of Title VI of the Civil Rights Act of 1964 in school districts with significant numbers of Mexican American pupils.

Three basic principles underlie our recommendations for improving educational opportunities for Mexican American students:

First, the language, history, and culture of Mexican Americans should be integral parts of the educational process.

Second, Mexican Americans should be fully represented in decisionmaking positions that influence educational policies.

Third, all levels of government—local, State and Federal—should provide the funds needed to implement these recommendations.

Ideally, curriculum uses and builds on the language and culture a child brings with him to school. Many Mexican American children find that the knowledge and skills they have gained in their early years are regarded as valueless by their schools. Their language—Spanish—is not the language of the schools and is either actively suppressed or ignored.

Courses and textbooks seldom include items relevant to Chicano children. The result is damage to the children's perception of their culture and heritage. The curriculum is developed by agencies and institutions from which the Mexican Americans are, for the most part, excluded.

Assignment practices too often do little more than provide official notice that Chicano children are failing. Chicano children are retained in grade at more than twice the rate for Anglos. They are overrepresented in low ability classes and underrepresented in classes for children of high ability. They are two-and-one-half times as likely as Anglos to be assigned to a class for the educable mentally retarded.

Chicano children are taught primarily by teachers who are Anglo and who are uninformed regarding the culture of Chicano pupils and unfamiliar with their language. Only rarely are Chicano students able to find a Mexican-American counselor or one with some understanding of their background. In recent years, the Federal Government has taken steps to assure equal education opportunities for Chicanos. These efforts remain, however, far from adequate. Among the more important recommendations are these:

First, Departments of Education in each of the five States should require that all instructional materials incorporate the language, history, and culture of Mexican-Americans.

Second, formal and informal rules prohibiting the speaking of Spanish in the classroom or on school grounds must be eliminated.

Third, State legislatures should require school districts to establish bilingual education or other similar programs in order to impart English language skills to Chicanos.

Fourth, State Departments of Education should prohibit grade retention, unless specific requirements relating to academic failure and emotional immaturity are met; prohibit long-term ability grouping; and restrict placement in EMR classes to children who are deficient in both intellectual and adaptive behavior.

Fifth, school districts should select more Mexican-Americans as teachers and counselors, and institutions training teachers and counselors should increase the number of Chicanos among both faculty and student body.

Sixth, teacher education institutions should incorporate information about Chicanos in their basic courses and assure that trainees do part of their teaching in schools with Chicano students.

Seventh, State Departments of Education should require school districts to provide counselors who speak the students' language and understand their culture.

Eighth, HEW should take the steps necessary to increase substantially the number of districts reviewed annually regarding the denial of equal educational services and cut off Federal funds to districts which fail to negotiate within specified time limits.

Action on these recommendations must begin now. In many instances documented by the Commission, individual school officials have exhibited an attitude which blames educational failure on Chicano students rather than on the inadequacies of the schools. Southwestern schools must face up to their failure to Chicano children. They must institute corrective actions immediately if equal educational opportunity is to become a reality for Mexican-American children.

Address by Dr. Stephen Horn

The U.S. Commission on Civil Rights charged today that Mexican American students are victimized by widespread discriminatory practices in the public schools of the Southwest, and urged prompt adoption of 51 recommendations to ensure equal education for Chicanos.

Calling for a sharp increase in Mexican American staffing of schools and bilingual education or similar approaches, the Commission climaxed a five-year study by issuing a final report, "Toward Quality Education for Mexican Americans."

The Spanish language and Chicano culture are often excluded from the curricula of schools in the Southwest, the 269-page report said.

The Commission also found that Chicano students far too often find themselves retained in grade, placed in low-ability groupings, or designated for Educable Mentally Retarded (EMR) classes, as a result of language and cultural bias in the schools.

The report placed part of the blame for school discrimination against Mexican Americans on a severe scarcity of Chicanos as school board members, superintendents, teachers, and other professional staff.

The Commission report was released today at simultaneous news conferences, conducted in Los Angeles by Acting Chairman Stephen Horn and in San Antonio by Commissioners Manuel Ruiz and Frankie Freeman.

The report is the sixth and final in the Commission's Mexican American Education Study, which was launched in 1969. Most of the recommendations are aimed at State governments, particularly departments of education, of the five states studied in the report: Arizona, California, Colorado, New Mexico, and Texas.

The findings and recommendations will be discussed in detail March 7–9 in San Antonio at a national conference sponsored by the Commission. Educators, legislators, and school board members are among those invited.

The report's recommendations are based on three principles:

The language and culture of Mexican Americans should be an integral part of the education process.

Mexican Americans should be fully represented in educational decision-making.

Federal, State, and local governments should provide sufficient funds to implement these recommendations.

"The . . . recommendations supply specific suggestions for implementing these principles. Educators, political leaders, and community members will have to provide the leadership necessary to make the actual changes," the report said.

Among the more important recommendations are:

1. State departments of education should ensure that the interests, language, and culture of Mexican Americans are represented in school curricula.

2. In schools where non-English speaking students are 5 percent of the enrollment or number more than 20, state legislatures should require districts to establish bilingual-bicultural education or other approaches that teach English skills, while utilizing the students' culture.

3. More Chicanos should be recruited as

teachers, teacher trainees, counselors, and as faculty at teacher training institutions.

4. More Chicanos should be appointed to State textbook committees and to curriculum planning units.

5. State legislatures should prohibit at-large elections of school board members. Instead, board members should be elected to represent specific areas within the school district.

6. State legislatures should prohibit grade retention unless certain specifications are met; should prohibit long-term ability grouping; and should restrict placement in EMR classes to those who are deficient in both intellect and ability to adapt to school and home environment.

7. Teacher education institutions should incorporate information about Chicanos in their basic courses and require that trainees do part of their practice teaching in schools with Mexican American students.

8. State departments of education should require districts to provide counselors who speak the students' language and understand their culture.

9. In schools serving Chicano students the Department of Health, Education, and Welfare should step up enforcement of Title VI of the 1964 Civil Rights Act, which prohibits discrimination in Federal programs.

The Commission noted today that strong impetus for its recommendations was provided by a unanimous Supreme Court decision on January 21 which held that a school system receiving Federal aid violates Title VI when it fails to meet the needs of non-English speaking children.

The Supreme Court ruling came in a case involving Chinese American students, but will have its greatest impact in terms of the 2.5 million Spanish-speaking children who are largely concentrated in the five Southwest states.

The U.S. Commission on Civil Rights is an independent, bipartisan, fact-finding agency established in 1957 and concerned with the rights of minorities and women.

Acting Chairman Horn is president of California State University, Long Beach; Mrs. Freeman is an attorney specializing in estate and corporation law in St. Louis; and Mr. Ruiz is an attorney specializing in international law with offices in Los Angeles. Other Commission members are Maurice B. Mitchell, chancellor of the University of Denver, and Robert S. Rankin, Professor Emeritus of Political Science at Duke University, Durham, North Carolina.

John A. Buggs is staff director.

REPORT ON ACTIVITIES OF THE MINORITY IN THE COMMITTEE ON LABOR AND PUBLIC WELFARE IN 1973

Mr. JAVITS. Mr. President, during the 1st session of the 93d Congress, 1973, the Republican minority of the Committee on Labor and Public Welfare, of which I am the ranking minority member, made again a distinctive record of constructive contributions and effective legislative achievement. It is gratifying to note that in a number of instances, the central concepts around which major legislation was built originated on the minority side. These contributions cover all areas of activity of the committee.

I ask unanimous consent that a report I have prepared on these contributions be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND PUBLIC WELFARE—MINORITY REPORT

HEALTH

Health Maintenance Organization Act of 1973 (Public Law 93-222):

A bill (S. 837) introduced by Senator Javits in the 92nd Congress, the Administration bill (S. 972) introduced by Senator Javits and cosponsored by Senator Schweiker, the Subcommittee Chairman's bill (S. 14) cosponsored by Senators Javits and Brooke, Amendment Number 123 by Senator Javits to S. 915, and Amendment Number 122 by Senator Javits and Senator Schweiker to S. 14, provided the basis for this Act.

Minority amendments written into law include:

First. Preemption of State laws and practices which restrict the development of Health Maintenance Organizations—Senator Javits.

Second. Provide eligibility for Health Maintenance Organization assistance to medical care foundations—Senator Dominick.

Third. The inclusion of mental health care benefits as Health Maintenance Organization health service—Senator Javits.

Fourth. Health Maintenance Organization policy-making bodies composed of one-third of its members—Senator Javits.

Lead Based Paint Poisoning Prevention Act (Public Law 93-151):

Minority amendments written into law include:

The prohibition of the use of lead based paint in the manufacture of toys and other utensils—Senator Schweiker.

Emergency Medical Service Systems Act of 1973 (Public Law 93-154):

A bill introduced by Senator Beall (S. 654) and bills (S. 504 and S. 2410) introduced by Senator Cranston and cosponsored by Senators Javits, Schweiker, Dominick, Beall, Taft, Stafford and Dole to assist and encourage the development of comprehensive area emergency medical service systems provided the basis for this Act.

Minority amendments written into law include:

First. Assurance that EMS communication systems will utilize emergency medical telephonic screening—Senator Javits.

Second. Provide continuing evaluation and review by Secretary of EMS systems—Senator Javits.

Third. Earmark 20% of appropriation for EMS funding to rural areas—Senator Dole.

Fourth. Provide special consideration to grant applications for EMS initial operation assistance to rural areas—Senator Dole.

Fifth. Provide special consideration to EMS research grant applications in rural areas—Senator Dole.

Health Programs Extension Act of 1973 (Public Law 93-45):

Minority amendments written into law include:

Prohibition against reverse discrimination for religious beliefs or moral convictions in regard to abortions—Senator Javits.

EMPLOYMENT, POVERTY, AND MIGRATORY LABOR

The Comprehensive Employment and Training Act of 1973 (Public Law 93-203):

S. 1559, the basis for this measure, was developed jointly by the Chairman of the Subcommittee and Senator Javits, who introduced the bill on April 12, 1973.

The Act includes also a number of special provisions included by minority members:

First, provisions to ensure that Opportunities Industrialization Centers and other community-based organizations are involved in activities under the Act—Senator Schweiker.

Second, provisions for the involvement of vocational education activities—Senator Taft.

Third, special programs for offenders and for youth jobs—Senator Javits.

HUMAN RESOURCES

The Domestic Volunteer Services Act of 1973 (Public Law 93-113):

This measure resulted from S. 1148 developed jointly by Senator Beall and the Chairman of the Subcommittee on Human Resources.

CHILDREN AND YOUTH

A bill to postpone the implementation of the Headstart fee schedule (Public Law 93-202):

This measure resulted from Senate adoption of a House-passed bill, identical to S. 2700, developed jointly by Senator Javits and the Chairman of the Subcommittee and co-sponsored by Senator Stafford and Senator Schweiker.

VOCATIONAL REHABILITATION

Rehabilitation Act of 1973 (Public Law 93-112):

First, requirement for an individualized written rehabilitation program to serve as blueprint for rehabilitation of handicapped client and as a means of assessing progress and allowing client participation—Senator Stafford.

Second, provision for nondiscrimination in hiring of handicapped under Federal grants—Senator Javits.

Third, in order to encourage hiring of handicapped, provision that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations—Senator Taft.

Fourth, requirement that in filling positions of the newly-created Office for the Handicapped, special emphasis is to be given to handicapped individuals—Senator Stafford.

Fifth, inclusion of the homebound in research and training—Senator Javits.

Sixth, requirement that the Secretary of Health, Education, and Welfare shall include in his annual report a report on research and training activities under the Act—Senator Stafford.

Seventh, requirement of a study by the HEW Secretary of the allotment of funds among the States for basic vocational rehabilitation services—Senator Javits.

Eighth, require the Secretary to conduct a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals. Senator Stafford.

Ninth, provision defining eligibility for participation in services of rehabilitation center for deaf individuals—Senator Javits.

Tenth, provide a statutory basis for the Rehabilitation Services Administration to administer Act—Senator Stafford.

Eleventh, provision for consultation with State rehabilitation agencies in establishment and support of Rehabilitation Engineering Research Centers, in evaluation of programs and projects, and in study on sheltered workshops—Senator Javits.

Twelfth, provision for special consideration to qualified handicapped individuals in filling positions on the President's Committee on Employment of the Handicapped—Senator Stafford.

Thirteenth, inclusion of "acquisition" in the definition of "construction"—Senator Javits.

Extension of Javits-Wagner-O'Day Act (Public Law 93-76):

This measure was introduced as S-1413 by Senator Javits and subsequently enacted into law.

OLDER AMERICANS COMPREHENSIVE SERVICES AMENDMENTS OF 1973—PUBLIC LAW 93-29

S. 50, a bill to strengthen and improve the Older Americans Act of 1965, introduced by the Chairman of the Aging Subcommittee and co-sponsored by Senators Javits, Schweiker and Taft, provided the basis for this Act. S. 50 was in turn derived from S. 3391, the Administration's proposed revisions to the Older Americans Act which was introduced by Senator Beall on behalf of the Administration.

Minority amendments written into the law include:

First, requiring employment of senior citizens in development and administration of older Americans programs—Senator Beall.

Second, requiring comprehensive study with respect to formula for allocating federal funds to States—Senator Javits.

Third, authorize federal funding of model projects for delivering more effective transportation services to the elderly—Senator Stafford (together with Senator Williams).

In addition, many technical amendments and recommendations made by the minority were incorporated into the final Act. These included recommendations concerning the moving of the Administration on Aging to the office of the Secretary of HEW, the establishment of a National Information & Resource Clearinghouse for the Aging, the encouragement of tuition waiver programs for senior citizens, the coordination of senior citizen centers and day care centers for children and provision for adequate technical assistance to state and local officials involved in the aging programs.

ARTS AND HUMANITIES

National Foundation on the Arts and the Humanities Amendments of 1973 (Public Law 93–133):

The Administration bill, S–916, introduced by Senator Javits and cosponsored by Senator Taft, the Chairman of the Subcommittee and others, together with the bill sponsored by the chairman of the subcommittee and cosponsored by Senators Javits and Taft, formed the basis for this Act.

SCIENCE

National Science Foundation Authorization Act, 1974 (Public Law 93–96):

The Administration bill, S–1078, introduced by Senator Dominick, together with the bill introduced by the Chairman of the Subcommittee, formed the basis for this Act.

A SOLILOQUY

Mr. GOLDWATER. Mr. President, on Friday, January 11, the New York Times ran an exceedingly well-written and brilliant piece by the Honorable Clare Booth Luce entitled "A Soliloquy."

Since that time my mail has been heavy with comments on it and it has been reproduced across the country. In order that my colleagues who have not seen it may have an opportunity to read it, I ask unanimous consent that it be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Soliloquy

(By Clare Boothe Luce)

To impeach, or not to impeach: that is the question.
Whether 'tis better for the Party to suffer
The slings and arrows of outrageous Nixon,
Or now to drown him in his sea of troubles,
And by voting, end him. Impeach; convict;
No more; and by convicting say we ended
Watergate, restored the public trust,
Upheld the Constitution, purified
Our politics, and got Sam Ervin off
Of Television. 'Tis a consummation
Devoutly to be wished. Impeach. Convict.
Convict: perchance acquit! Ay, there's the rub:
For in that long and bitter process
Of impeachment, what evils may befall us
While we are suffling off his White House coil
Must give us pause: To deepen those divisions
Now dividing us the more, to down
Dow Jones to Davy's locker deeper, drive
Bankrupted brokers to despairful leaps
From Wall Street's darkened windows, stoke the fires
Of wild inflation, court depression,
And be left ourselves to ration gasoline!
Impeach: Whilst wav'ring allies, heeding not
Th' unmastered Henry, yield to Cairo's will
And Moscow slyly strokes the Arab hand
That holds the bung of Sheikdom's oily drums,
And whispers in the vengeful Moslem ear,
The plotted Diaspora of the Jews.
Impeach: To strike the sword from his command—
That U.S. sword he only holds to guard
Our skies and shores from Russian infestation—
And in this hour of the sheathed sword
And unhailed Chief, to court atomic doom!
For who would bear the whips and scorns of Nixon's
Insolence in office, his oppressive vetoes,
His scrambled tapes, his plumbers, his Bebe,
His vaunted innocence, the law's delay,
The exile of the Court of Camelot
And noble Galbraith, Reston, Schlesinger,
The pangs of unrequitted Liberalism,
The long-drawn martyrdom of Alger Hiss,
When we ourselves might Dick's quietus make
With bold impeachment? Ay, what Party
With e'en a tarnished Kennedy in hand
Would grunt and sweat out three more years of Dick
But that the dread of pitfalls on the road
To his conviction puzzles still the will,
And makes us rather bear the ills we have
Than fly to others that we know not of?
Thus conscience doth make cowards of us all,
And thus our native hue of partisanship,
Is sicklied o'er by the pale cast of patriotism.
And politics of great pitch and moment,
With these regards their currents turn awry,
And lose the name of action. Soft you now!
The fair Kay Graham! Nymph, in thy columns, please
Be all our fears remembered.

THE DOLLAR CHECKOFF IS BEGINNING TO WORK

Mr. KENNEDY. Mr. President, on the basis of preliminary IRS results published so far this year, it appears that the dollar checkoff is beginning to work and will be a success as an effective method for the public financing of Federal election campaigns.

In a joint statement today, Senator Hugh Scott and I see the increased use of the checkoff on the early returns as a dramatic demonstration that the checkoff is working, and we commend the Internal Revenue Service for its success so far in encouraging the increased use of the checkoff by taxpayers on the 1973 tax returns now being filed.

Under the dollar checkoff, first proposed by Senator Russell Long in 1966 and finally passed by Congress in 1971, each taxpayer is entitled to designate that $1 of his Federal tax—or $2 on a joint return—shall be used for financing Presidential elections. As the tax forms make clear, the use of the checkoff involves no additional taxes for individuals who use it.

Recent IRS data show that, for the week ended January 25, 14 percent of the taxpayers are now using the checkoff, with an average designation of about $1.50 on each return, compared to only 3 percent who used the checkoff last year.

If the current rate of utilization of the checkoff continues, a total of $50 million will be available for public financing by the time of the 1976 Presidential election. This means that the fund will be enough to finance the full cost of the 1976 election through public dollars, thereby relieving the candidates of both political parties from the need to resort to large private contributions to finance their campaigns.

I hope that the use of the checkoff will continue to accelerate between now and April 15, so that all future election campaigns for Federal office—Senate and House as well as President—can be fully financed from public funds.

Mr. President, I ask unanimous consent that the text of the joint statement by Senator Hugh Scott and myself may be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Joint Statement of Senator Edward M. Kennedy and Senator Hugh Scott on the Increasing Use of the Dollar Checkoff

We are pleased to learn of the increased use of the dollar checkoff on the Federal income tax returns now being filed for the 1973 tax year. We see the results as a dramatic demonstration that the checkoff is working, and we are optimistic that it will be a success as an effective method for the public financing of Federal election campaigns.

According to the weekly tabulations being released by the Internal Revenue Service on returns currently filed, the increased use of the checkoff is accelerating, with 11% of the returns using the checkoff in the first report period, and 14% using it in the second period. And the results are even more impressive when compared to the dismal record of the previous year, when the checkoff was used on only 3.1% of the returns and brought in only $3.9 million to the public campaign financing fund in the Treasury.

For the two periods on which data are available so far, the figures on use of the checkoff for the 1973 tax year are as follows:

1973 returns filed in 1974	Returns using checkoff for 1973		
	Number	Percent	Amount
Through Jan. 18	43,198	10.7	$60,066
Jan. 19–Jan. 25	120,202	14.0	171,984
Cumulative total	163,400	13.0	232,050

Thus, on the average, each return using the checkoff designates about $1.50 for the public financing fund.

In addition, the 1973 tax form also contains a space for taxpayers who failed to use the checkoff on their 1972 returns to do so retroactively on their 1973 returns. Many taxpayers failed to use the checkoff last year because it was contained on a separate form buried in the package of tax materials they received. The data now available indicate that a substantial number of taxpayers are taking advantage of the opportunity on the current form to make a designation for 1972:

1973 returns filed in 1974	Returns using checkoff for 1972		
	Number	Percent	Amount
Through Jan 18	21,580	5.3	$30,461
Jan 19–Jan. 25	59,360	6.9	85,998
Cumulative total	80,940	6.4	116,459

We believe that the Internal Revenue Service deserves great credit for the action it has taken in encouraging the use of the dollar checkoff this year, principally the conspicuous placing of the checkoff on page one of the tax form and the extensive IRS efforts to publicize it, thereby making it readily accessible to anyone filling out his tax return.

If the present rate of use continues for the rest of the current filings and for future tax years, the Treasury fund will contain about $50 million by April 15, 1976—enough to make the 1976 Presidential election a historic first—paid for entirely out of public dollars, thereby relieving the candidates of both political parties from the need to resort to large private contributions to finance their campaigns.

But we cannot rest on our laurels. Congress is now considering legislation to extend public financing beyond Presidential general elections, to include Presidential primaries and all Senate and House elections as well. Public financing for these elections ought to be paid for out of the dollar checkoff too, because the checkoff is by far the most suitable method for public financing of election campaigns—it uses tax dollars only with the consent of each individual taxpayer, thereby avoiding the need for Congressional appropriations from the general funds in the Treasury.

In the weeks between now and April 15, when the vast majority of persons will be filing their returns, our hope is that more and more taxpayers will take the chance to "vote" on their tax forms for clean and honest elections. It's the wisest investment the hard-pressed American taxpayer can make in the future of his country.

IN SUPPORT OF S. 1017, TO ACHIEVE INDIAN SELF-DETERMINATION AND EDUCATIONAL REFORM

Mr. DOMENICI. Mr. President, I wish to express today my wholehearted support of S. 1017, a bill designed to achieve a greater measure of Indian self-determination and to accomplish Indian education reform. I am a cosponsor of this legislation.

The language of S. 1017 notes Congress has found that prolonged domination of Indian service programs by the Federal Government has tended to retard rather than enhance the progress of the Indian people by depriving them of the full opportunity to develop effective participation in programs responsive to their true needs. I know the Indian people are desirous of acquiring for themselves the means of implementing Federal programs designed for their benefit.

It is the purpose of S. 1017 to enable Indians to do just that—to control and to manage for themselves those Federal programs initiated to assist them. To this end, S. 1017 would authorize the Secretary of the Interior and the Secretary of Health, Education, and Welfare to contract with Indian tribes for the planning and administration of programs provided for by various Federal statutes and administered through various Federal agencies. This measure expresses the commitment of Congress to a unique and continuing relationship with the Indian people through the establishment of a policy which would permit their effective and meaningful participation in their own programs.

Additionally, title II of S. 1017 is of equal importance, for as expressed in the language of the bill:

> Congress . . . finds that . . . true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles.

Further:

> The Federal responsibility for and assistance to education of Indian children, Indian adult education, and Indian skills training has not affected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide.

To improve the quality of Indian education, title II addresses itself to the education of Indians in public school, allowing for the contracting by the Secretary of the Interior with individual Indian tribes or tribal organizations under provisions of the Johnson-O'Malley Act—as well as with States or political subdivisions of States. Furthermore, the terms of the bill would involve the Indian people in school construction needs, to a youth intern program, to meaningful and career-related work opportunities for Indian youth who are not enrolled in educational programs during the summer months, and finally, to education research and development by authorizing the Secretary to make grants to universities and colleges in the field of Indian education.

S. 1017 is of vital importance to the Indian self-determination goal. As the President stated in 1970:

> The steadfast policy of this administration is to advance the opportunities of American Indians for self-determination without bringing an end to the special Federal relationship with recognized Indian tribes.

By providing for the promotion of maximum Indian participation in the education of Indian people, by providing for the full participation of Indian tribes in programs conducted by the government for Indians, and by establishing a national Indian education program, I believe S. 1017 goes a long way toward achieving the goal of Indian self-determination within the framework of Federal recognition.

AMERICAN POLICY TOWARD CHILE

Mr. KENNEDY. Mr. President, last October 18 I wrote to Secretary of State Henry A. Kissinger to inquire as to our Government's policy toward Chile, and our view of the continuing problems of political refugees and human rights violations. Last week I received a reply, which I would like to share with my Senate colleagues, because I believe it raises troubling questions about American policy toward Chile.

More than 4 months after the violent overthrow of the Allende government, the military junta in Chile apparently continues its gross violations of human rights. Reports in many quarters, including our Government as well as the most respected international humanitarian organizations, suggest continued repression, the denial of safe conduct passes for many political refugees, new waves of arrests, the torture of prisoners, and executions at an alarming rate.

Just a few weeks ago, Mr. President, the Congress expressed the view of most Americans when it resolved, in the foreign assistance authorization bill, that the President should make every effort to encourage the junta to respect human rights. The President signed this bill into law. But there is precious little evidence on the record to indicate that much has really been done.

In fact, the administration, in its growing support of the junta, has conveniently dismissed the continuing violations of human rights by labeling them as an "internal matter" of Chile. This despite the international presence of the United Nations High Commissioner for Refugees and the International Red Cross, and the appeals of many humanitarian organizations for American support in securing the junta's full cooperation in the humane treatment and relief of political prisoners, in the stay of executions among those convicted, in the granting of safe conduct to all refugees, and in the general lifting of repression and press censorship throughout the country.

Given Chile's long history of freedom and constitutional government—and our own claim to world leadership in this cause—the least our country should do is to support the appeals of these international organizations and expeditiously grant asylum to bonafide refugees. To do otherwise, will be a serious default of international responsibility.

Mr. President, in line with the language of the foreign assistance authorization, I would hope we would see a sharp reversal in American policy toward the Chilean junta. The President should condition any U.S. military or general economic assistance on the junta's respect for human rights and progress in the resortation of constitutional government. We should respond to legitimate appeals for humanitarian aid, including a pending request from the Red Cross for emergency relief and medical supplies, but all general aid should be made conditional to the junta's response to the appeals of the Red Cross and the U.N. High Commissioner for Refugees.

Mr. President, I ask unanimous consent that the full text of my questions and the Department of State's reply be printed in the Record.

There being no objection, the text was ordered to be printed in the Record, as follows:

State Department's Response of January 28, 1974, to Questions on Chile Submitted by Senator Kennedy on October 18, 1973

1. Q. What is the Department's current assessment of allegations regarding: Widespread killing, executions, torture, etc.? What is the Department's current understanding of the cumulative total of persons killed, executed, arrested, detained, etc.? What is the

Department's overall assessment of the impact of the overthrow of the Allende Government on political activities, civil liberties, and human rights in Chile?

1. *A.* "Some of the facts at issue in this question are as difficult to provide today as they were several months ago. Very few hard facts are available and unofficial estimates vary widely in range. [deletion] [1] A substantial percentage of these persons undoubtedly died during the skirmishing that took place the first day or two of the change of government. Approximately one hundred executions, usually of persons charged with engaging in armed resistance, have been acknowledged by Chilean authorities, almost all of them taking place in the month or so following the events of September 11. Some forty persons reportedly were killed attempting to escape military custody; again, most of these took place in the September-October period. Although various interpretations could be given to the term "wide-spread killing," aside from the initial day or two of combat, some instances of curfew violations, the acknowledged executions mentioned above, a few skirmishes involving armed resistors and those announced as killed while attempting to escape, there are confirmed reports of only a few additional deaths. I would add, by way of illustration of the complexities, that the widely reported destruction of the Sumar textile mill by tank fire never took place.

We are unable to judge the validity of the charges of torture. We do note, however, that the Chilean Government has repeatedly denied that it is engaging in inhumane practices.

On the number of arrests, estimates are that some 7–8,000 persons were arrested and originally held in Santiago's National Stadium, the principal detention center following September 11. Of these, some 6,500 persons were released unconditionally, about 555 at last reports were being held in various jails and the rest are in some pending status or other. Figures for current detentions in Santiago and elsewhere are virtually impossible to verify but our impression is that the majority of those originally detained have since been released. The fact that some new detentions occur as others are released complicates any compilation.

In terms of the impact of the change of government on Chilean institutions, the new government has declared the legislature dissolved and, as provided in existing state of siege legislation, has suspended constitutional guarantees; Marxist political parties have been banned and the activities of other parties suspended; those newspapers allowed to publish are censored; and trade union activity has been circumscribed. While military courts have jurisdiction over all internal security cases, the civil court system continues to function. The authorities have promised eventual normalization, but have anticipated in public announcements that the extraordinary measures will persist at least until mid-1974."

2. *Q.* Generally describe the mandates, activities and objectives in Chile of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC).

2. *A.* "The Office of the United Nations High Commissioner for Refugees (UNHCR) seeks to provide international protection to refugees within its mandate, and to seek permanent solutions to the problems of refugees by facilitating their voluntary repatriation and assimilation in new communities either through local integration or resettlement in another country. The UNHCR mandate does not cover persons displaced within their own countries nor refugees who are treated as nationals in their country of residence. Therefore, that organization has been unable to formally assist Chilean nationals. The UNHCR has been arranging resettlement opportunities for refugees it considers within its mandate. A number of countries have agreed to assist in the resettlement. The International Committee of the Red Cross (ICRC) has primarily concerned itself with the problems faced by Chilean citizens. Its activities have included visits to political detainees, distribution of relief supplies, issuance of travel documents and tracing services. Both the ICRC and the UNHCR have been assisted by voluntary agencies, the Intergovernmental Committee for European Migration (ICEM), and church groups as well as private citizens."

3. *Q.* Describe the number, location, administration, and conditions of the "safe havens," which are operated under the auspices of the UNHCR for political refugees. Are the centers open to both foreign residents and civilian nationals? How many persons are in these centers? What are their nationalities? Are the locations of these centers publicly known and easily accessible? Are Chilean military or police personnel in the centers or around them, and has there been any evidence of interference by the military government in the effective operation of these centers or in the movement of persons into the centers? Have any persons been removed from the centers by Chilean authorities, and, if so, for what reasons? An October 17 UNHCR press statement declares: "Chilean authorities have said that refugees who have committed offences would be prosecuted, but the high commissioner said it was not as yet clear what was meant by the term 'offences'. He was trying to obtain clarification on this point." Comment on this statement, and what is the department's understanding in this area of concern?

3. *A.* "The National Committee for Aid to Refugees, in conjunction with the UNHCR, has established six safe havens for foreign refugees in Chile. These are not open to nationals of Chile. The existence and location of the safe havens are publicly known, since the National Committee has publicized its operations in the Chilean press. According to the UNHCR, there are no Chilean military police personnel in the safe havens, nor has there been any removal of refugees from the centers by Chilean authorities.

As of December 12, counting the 605 refugees already granted safe conducts, the total number cared for in the safe havens had reached 995. We do not yet have a detailed breakdown of nationalities from the UNHCR.

The Chilean Government announced in September that refugees who had committed offenses under existing Chilean law would be prosecuted. [deletion] In this regard it may be relevant to note that the Chilean Government has implied that it will eventually grant safe conducts to all asylees in foreign embassies. In any event, we are not aware of any refugees having been removed from safe havens for prosecution."

4. *Q.* What is the status of the UNHCR's efforts to provide safe conduct out of the country for persons able to reach a refugee center? Have any persons in the refugee centers been given safe conduct out of the country? Why has there been so little progress on the conclusion of safe conduct agreements, and what is the United States doing about it?

4. *A.* "According to statistics released by the Chilean Ministry of Foreign Relations a total of 6,776 safe conducts had been granted as of January 11, 1974, to persons leaving Chile. This included 3,602 persons who had sought 'guest' status or asylum in foreign embassies. Approximately another 3,000 safe conducts had been issued to others (including refugees), 47 safe conducts were being processed and action on 239 safe conducts had been deferred.

The UNHCR and ICRC have urged the Chilean Government to continue granting safe conducts to refugees and others seeking to leave the country. The U.S. has supported these representations."

5. *Q.* What is the number of persons who sought asylum in foreign embassies? What are the nationalities of these refugees, and in which embassies did they find asylum? How many refugees in these embassies have been given safe conduct out of Chile? What are their nationalities, from which embassies did they leave, and where did they go? How many refugees remain in embassies? What are the nationalities of these refugees, and in which embassies are they still found? Why haven't they been given safe conduct out of Chile, and what is the United States doing to help resolve this problem?

5. *A.* "We do not yet have precise information or the breakdown by nationality of those who sought asylum in foreign embassies. However, of the 2,263 persons given transportation assistance by ICEM during the period October 6 to December 31, 1973, the major nationalities were: Chilean, 1,230; Bolivian, 412; Uruguayan, 226; Brazilian, 163; Argentine, 41; Ecuadorian, 34; Venezuelan, 14; Dominican, 13 (these figures do not differentiate between asylees and persons residing in refugee safe havens). Information released by the Chilean Government shows that a total of 3,881 persons had been granted asylum as of January 11 by foreign embassies, mostly Latin American, and some Western European including Sweden, Finland, France and Switzerland. As previously indicated, most have been granted safe conducts and the Chilean Government has indicated that the rest will also receive safe conducts."

6. *Q.* Were any persons given asylum in the American Embassy? Were any persons refused asylum in the American Embassy, and, if so, on what grounds? Generally elaborate on United States policy towards granting asylum in an American Embassy or United States government office overseas.

6. *A.* "There have been no requests nor grants of asylum by the American Embassy in Santiago. In contrast to the Latin American Governments which practice diplomatic asylum, the U.S. does not recognize that such a right is sanctioned by general international law or by a regional rule of law. As a result, we are not a party to the following: Convention on Asylum signed at Havana, Feb. 20, 1928; Convention on Political Asylum signed at Montevideo, Dec. 26, 1973; Convention on Diplomatic Asylum signed at Caracas, March 28, 1954. Until 1972, U.S. policy on asylum—including diplomatic asylum—was carried out on the basis of long accepted general understandings and traditional U.S. conceptions and was not spelled out in any single place. The Kudirka Incident in 1970 resulted in a full, interagency review of asylum policy. This policy closely follows that which has been historically followed by the U.S., though with some exceptions in execution.

The principal change in the 1972 policy was to provide granting of temporary refuge for humanitarian reasons wherein the life or safety of a person is put in danger, such as pursuit by a mob. The previous policy covered only imminent danger to the life of the individual. Both past and current U.S. policy on asylum strongly emphasize the temporary nature of the refuge provided. Enclosed is a copy of the U.S. General Policy for Asylum Requests. Part Three contains instructions for our overseas posts."

7. *Q.* Generally describe our Embassy's activities in behalf of the Americans present in Chile during and following the military coup? What specific activities were carried out in behalf of Americans detained, missing, etc.? Has the Department been satisfied by the response of Chilean authorities to official Amer-

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[1] Portions of the Department of State's reply were classified "confidential" and have been deleted at the Department's request.

ican inquiries and activities in this area of concern?

7. *A.* "The Embassy was involved in working to protect some 2,800 American citizens in Chile. As of mid-October, our Embassy had investigated the status of or directly assisted over 600 American citizens, ascertaining their whereabouts, informing relatives or friends in the U.S. about their welfare, obtaining the release of 17 American citizens under detention and obtaining safe conduct passes and arranging international transportation for more than 40 individuals. This was done in the midst of street violence, administrative disorganization in the Chilean Government, the absence of diplomatic relations with the new government until September 24 which occasioned difficulties in communicating, a rigid all-night curfew and severe restrictions on movement and activity of all civilians.

"Unfortunately, two American citizens died during this period. An initial report has been received from the Chilean authorities related to the circumstances of these two deaths; we are pressing for more information."

8. *Q.* Describe any supportive role the United States Embassy has played vis a vis UNHCR, ICRC, and similar international activities or presence in Chile?

8. *A.* "We have from the beginning strongly backed the activities and presence of the UNHCR and the ICRC in Chile. As noted in our letter of November 14, we have also encouraged the Inter-American Commission on Human Rights. This backing has taken several forms, e.g., communications support, strong public identification with goals of these organizations in Chile, direct bilateral support vis-a-vis the Chilean authorities, and material support. In the last category, at the request of the ICRC, we donated through the American Red Cross several thousand blankets for use by detainees." (Deleted.)

9. *Q.* Why hasn't the United States responded positively to the UNHCR appeal for resettlement opportunities for refugees from Chile?

9. *A.* "As already noted in our letter of November 14, we have in fact responded positively to the UNHCR appeal for resettlement opportunities for refugees from Chile. We are considering on a case-by-case basis requests for resettlement in the U.S. that are referred to us by the UNHCR. We have agreed to waive documentation requirements and parole individuals into the U.S. if they are refugees and if they are otherwise eligible for admission under the Immigration and Nationality Act. We have made arrangements with the Church World Service and other voluntary agencies to provide the necessary documents to enable the refugees to meet the public charge provisions of the Act.

We are considering a number of cases referred to us by the UNHCR through our Embassy in Santiago. The Embassy establishes a case file on each applicant which includes in addition to usual biographic data, information provided by the UNHCR and our Embassy in the alien's country of nationality, and the results of an interview with the applicant. Bona fide cases are referred to the Immigration Service with a recommendation for parole. Additional cases are being processed by our Embassy in Santiago and will be referred to us soon. The Immigration Subcommittee of the House has been very interested in the parole program and has asked to be informed of the details of approved cases.

10. *Q.* What is the department's understanding as to the number and nationalities of political prisoners in Chile, the number and location and condition of detention facilities, the treatment of detainees, the allegations of torture and summary executions, and the prosecution and sentencing of of those charged with "offences"?

10. *A.* "We do not have precise information on the number of persons under detention. However, a general magnitude estimate may be gleaned from ICRC activities. Up until November 30, 1973 the ICRC had visited 7,500 detainees in 46 separate places of detention. The vast majority of these detainees have been nationals of Chile. A very large percentage of those once detained have been released. [Deletion] As indicated above, trials are proceeding in military and civil courts but we have no estimate of the numbers involved."

11. *Q.* Has our Embassy in Chile and the Department of State been satisfied with the Chilean military government's response to UNHCR, ICRC, and other international activities in behalf of refugees and human rights in Chile? Is it the Department's judgment that the military government is living up to its publicly stated commitments to the UNHCR and the ICRC, and that the military government is fulfilling Chile's humanitarian obligations under international conventions and law? If not, what can, or should, the United States do?

11. *A.* "[Deletion] neither the ICRC nor the UNHCR has been restricted in its activities, and the safe haven and safe-conduct agreements have been honored. Our Embassy has on several occasions conveyed to the Chilean authorities our long-standing views on human rights."

12. *Q.* Define the considerations which led to United States recognition of the Chilean military government on September 24. Did any bi-lateral understandings, commitments, etc. accompany American recognition of the junta?

12. *A.* "Our Embassy received a circular note from the Chilean authorities on Septemper 12, 1973, announcing the formation of a new government and requesting continuance of diplomatic relations. On September 24, after more than twenty countries, including Great Britain and West Germany, had resumed relations with the new government, our Embassy responded to the circular note indicating our desire to maintain relations between the two countries. By that time the new government was in clear control of Chilean territory and had pledged to respect international undertakings of previous Chilean administrations. As of this date, more than sixty countries including the People's Republic of China) have either resumed or renewed diplomatic relations with the new Government of Chile, the main exceptions being some of the nations of Eastern Europe.

The continuation of relations *per se* implies neither our approval nor disapproval of a government's genesis or policies. This is in accordance not only with State Department practices in recent years but also with Senate Resolution 205 of 1969 which states:

"That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not imply that the United States approves of the form, ideology or policy of that foreign government."

No new bilateral understandings or commitments accompanied the normalization of relations with the new government."

13. *Q.* Describe any new United States aid or other commitments to Chile since the Allende government's overthrow by the junta. Describe any pending Chilean requests to and/or negotiations with the U.S. Describe any United States aid or other commitments to Chile as of early September 1973. Describe any pending Chilean requests to and/or negotiations with the United States, again, as of early September 1973. What effect did the Allende government's over throw have on these commitments, requests and/or negotiations?

13. *A.* "As of early September 1973 the United States Government was conducting assistance and cooperative efforts with the Government of Chile. These included such activities as the Food for Peace and Peace Corps programs, technical training, community development, narcotics control and various forms of scientific research and collaboration. In addition, Foreign Military Sales (FMS) credits were provided to Chile in response to requests by the Allende Government. These credits, which are at near commercial rates, were within the range of similar credits provided to other Latin American countries and to Chile in previous years.

On several occasions in 1972 and early 1973, U.S. and Chilean representatives met to consider ways of achieving a mutually satisfactory resolution of the major issues between us, particularly the problem of compensating U.S. investors for expropriated properties and the Chilean Government's default of its foreign debts. The last such meeting was held August 16–17 in Washington. These continuing conversations were overtaken by the events of September 11.

In response to an urgent request from the new Chilean authorities following the skirmishing which accompanied the Allende Government's ouster, we provided emergency medical supplies to Chile under the disaster relief program of the Agency for International Development. To meet emergency food requirements in Chile, partially caused by the diversion away from Chile of grain shipments then en route from Eastern Europe, we provided commercial financing from the Commodity Credit Corporation (CCC) of the Department of Agriculture for export shipments of U.S. wheat and feed grains to Chile. Immediately after the change in government wheat and flour stocks in Chile were down to a few weeks supply and the shipment financed by the CCC credit—equivalent to about one month's consumption—helped avert a serious bread shortage for the Chilean people.

The Chilean Government also has requested long-term financing for the purchase of U.S. foodstuffs under Title I of P.L. 480. This request is still pending.

Military assistance commitments made to the Allende Government continue to be met. New requests will considered on their merits.

In recent weeks negotiations have taken place for the rescheduling of unpaid Chilean debts to agencies of the United States Government which fell due in late 1971 and 1972. Agreement was reached between the two governments and an initial repayment installment of $16 million has been made by the Chileans. The Paris Club of creditors is to meet with Chilean representatives this February to consider the rescheduling of 1973 and 1974 debt repayments. The new government has also entered into direct talks with certain U.S. investors concerning expropriated properties.

14. *Q.* Was the overthrow of the Allende government in Chile in the best interests of the United States? Elaborate.

14. *A.* "In his testimony on September 20 before the House Subcommittee on Inter-American Affairs, Assistant Secretary Jack B. Kubisch stated:

"We were not responsible for the difficulties in which Chile found itself, and it is not for us to judge what would have been best or will be best for the Chilean people."

I would add that observations made by President Nixon in his 1972 Foreign Policy Report to the Congress have continuing relevance:

"In our view the hemisphere community is big enough, mature enough and tolerant enough to accept a diversity of national approaches to human goals. We therefore deal realistically with governments as they are—right and left. We have strong preferences and hope to see democratic processes prevail, but we cannot impose our political structure on other nations. We respect the hemispheric principle of non-intervention. We shape our relations with governments according to their policies and actions as they affect our interests and the interests of the Inter-American system, not according to their domestic structures."

15. *Q.* Regarding contacts between United States personnel attached to the Embassy and Chilean military personnel, list the names of the personnel involved, the dates of contact, and the subjects of conversation during the 10 days immediately preceding the coup.

15. *A.* "There has not been any reason to keep comprehensive records of U.S. Embassy contacts with Chilean military personnel, and none were maintained during the period in question. Normal social and professional contacts prevailed in the ten days preceding the coup, as they had at other times. These contacts took place in the normal course of the routine duties of our defense attaché office, our military advisory group, and other Embassy personnel."

16. *Q.* The Senate Foreign Relations Subcommittee on Multinational Corporations concluded in its report: "ITT sought to engage the CIA in a plan covertly to manipulate the outcome of the Chilean presidential election," and that "the pressures which the company sought to bring to bear on the U.S. for CIA intervention . . . are also incompatible with the formulation of U.S. foreign policy in accordance with the U.S. national, rather than private interests." On the issue of whether American foreign policy should be highly influenced by the interests of private U.S. firms, have U.S. officials or Department of State personnel met with officials of U.S. firms which had been nationalized by the former Chilean Government since the coup? If so, when and who and which companies were represented? Elaborate on the purposes of the meetings and at who's initiative they were called.

16. *A.* "State Department officials have continued to meet periodically, including in recent months, with officials of the expropriated copper companies. Such meetings, as those with representatives of other U.S. private interests in Chile, are usually held at the request of the firms in question and are considered to be useful in keeping the U.S. Government abreast of private sector views and attitudes toward developments in Chile as they affect the individual company's interests. The U.S. Government has a particular interest in the treatment accorded to American investors as well as in specific cases where financial assistance has been extended by the U.S. Government."

17. *Q.* From the ITT hearings of the Foreign Relations Committee, the Senate is familiar with a series of Forty Committee meetings in 1970 which dealt with Chile. The first meeting of which there is public knowledge took place in June 1970. At that meeting, the CIA was authorized to carry out a covert propaganda campaign against Allende. $400,000, was, in fact, spent for this purpose. Additionally. the testimony states that there was a further meeting of the Forty Committee which dealt with Chile soon after Allende was elected on September 4, 1970. The subcommittee was unable to get a clear answer as to precisely what transpired at this meeting. But it was subsequent to this meeting that Mr. Broe of the CIA made his proposal of September 29, 1970, to Mr. Gerrity of the ITT Corporation to create economic chaos in Chile. The testimony showed that this proposal was made with Mr. Helms' knowledge and approval.

How many times since has the Forty Committee considered the Chilean political situation and U.S. policy with respect to the Allende regime? When was the last Forty Committee meeting prior to the coup in which the subject of Chile was discussed? What were the conclusions regarding Chile? Did the Forty Committee at any of these meetings authorize CIA assistance, directly or indirectly, in any form whatever, to any of the groups or individuals opposed to Allende?

From Mr. Hennessey's testimony before the Multilateral Corporations Subcommittee it is clear that the U.S. Government used its influence in the multilateral lending institutions to prevail upon these institutions to cut off economic development credits to Chile, even before there was any expropriation of any properties by the Chilean government. Yet Mr. Hennessey also testified that the United States Government made available millions of dollars of credits for military purchases. Why were new military credits offered and new economic loans denied?

17. *A.* (a) These proceedings are classified and there has been no authorized disclosure of any of them by the U.S. Government. You will recall that Assistant Secretary Kubisch responded to your questions along these lines in executive session insofar as he was authorized to do so. I would not like our response to pass, however, without reiterating once again that the U.S. Government did not participate in any way in the overthrow of Allende.

(b) Regarding the implication that the U.S. Government pressured multilateral lending institutions to cut off credits to Chile, we would point out that these institutions are independent bodies with their own lending criteria and sufficient experience to formulate their own judgments about a country's creditworthiness. It may be recalled that no Chilean loan applications came before the IBRD Board during the Allende period, and that the only two loans which were voted on in the IDB were supported by the United States. The IDB loans came up early in the Allende period when economic conditions in Chile were much better. It should likewise be recalled that the IMF lent Chile over $80 million in 1971 and 1972 to offset declining copper prices, and that disbursements by the multilateral institutions on existing loans continued throughout the Allende period.

The decision of the Allende Government to request the extension of U.S. credits under the FMS program was one which only it could make. Our decision was whether or not to continue extending credits under the FMS program to military institutions which had, over the years, developed and maintained an inventory of items produced in the U.S. The fact is that the Allende Government undertook to meet its FMS repayment obligations due to other U.S. Government creditor agencies."

18. *Q.* In an article in the *New York Times* of September 27, 1973, a *Times* correspondent reports that the plotting of the coup which toppled Allende began as early as November 1972. In October 1972 there were a series of demonstrations by Chileans, primarily from the middle class who were opposed to Mr. Allende, the so-called "pots and pans" demonstration. This demonstration bore a striking resemblance to similar demonstrations which took place in Brazil in 1963 and early 1964 against the Goulart regime. Did the CIA play any role whatsoever, directly or indirectly, in the demonstrations which took place in Chile in October of 1972?

18. *A.* "The CIA played no role in the October 1972 demonstrations.

HENRY KISSINGER: SEEKER OF PEACE

Mr. PERCY. Mr. President, for many years it was said that the United States had no foreign policy, that the United States reacted to crises abroad without an overall policy framework.

That is no longer said, largely due to the efforts of Dr. Henry Kissinger who has worked diligently to seek peace by removing the causes of war and by opening and broadening communications with other nations. The United States now has a foreign policy clearly geared to reducing international tensions, to stimulating negotiation among adversaries, and to resolving problems previously considered chronic.

Dr. Kissinger, enjoying the confidence of the President, has been both the architect and spokesman of American foreign policy. In order to promote peace and to spread an understanding for U.S. objectives, he has traveled widely across the world, working to create new trust among nations.

His role as a peacemaker was recognized by the awarding of the Nobel Peace Prize to him. Some dispute the award, pointing out that the Indochina peace was too long in the making and that it is incomplete. The objections are not without merit, but the fact remains that Dr. Kissinger negotiated the withdrawal of American forces from Indochina without the collapse of the incumbent governments, a feat not earlier believed possible by either his friends or critics.

Through his persistent efforts, a start has been made toward normalization of relations with mainland China, in order to diminish the chances of miscalculation or war in the Far East.

Through his persistent efforts, a continuing dialog with the leaders and diplomats of the Soviet Union now makes it possible to "talk out" differences of policy which can threaten world peace.

Through his persistent efforts, negotiations now seek to limit further the dangers of nuclear arms deployment, to achieve mutual and balanced force reductions in central Europe, and to enhance European security.

Through his persistent efforts, steps are now being taken to infuse new understanding in the Atlantic Alliance and to restore the mutual confidence of the United States and the nations of Western Europe.

Through his persistent efforts, Arabs and Israelis now meet across a conference table at Geneva, the first face-to-face negotiations ever between the parties to the Mideast conflict.

These important moves in international relations are the products of the prodigious intellectual capabilities of our Secretary of State, the first doctor of philosophy to hold that position. His academic achievements, his professorial background, and the nature of the weighty problems with which he deals every day would suggest that he might be a rather stuffy fellow speaking always in the formal language of official pronouncements. Of course, he is anything but stuffy, and his sense of humor is well known.

I recall his appearance at a dinner in January 1972 when the Cooper-Church end-the-war amendment was being debated in Congress. Sharing the speaking chores with Senator CHURCH, he remarked of CHURCH:

> We have long been on a first-name basis. He calls me Henry and I call him Cooper.

In Amman, when King Hussein invited Dr. Kissinger to fly him from the royal palace grounds to the airport in a helicopter piloted by the King himself, Kissinger reportedly replied:

> If it were not for the honor, I'd just as soon walk.

While posing for photographers in front of the Sphinx, he remarked:

> I hope you'll say which one is the Sphinx.

Another time, in response to a question about an impending world problem, he said:

> There cannot be a crisis next week. My schedule is already full.

This is not far from the truth, for Secretary Kissinger is a leading player on the world stage. I, for one, greatly appreciate the dedication, the reasonableness, and the leavening wit which he brings to this role. I share this feeling with millions of my fellow Americans and my colleagues in the Congress.

RULES OF THE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, I submit the Rules of the Committee on Public Works, and ask unanimous consent that these rules be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

U.S. SENATE COMMITTEE ON PUBLIC WORKS RULES OF PROCEDURE

RULE 1.—REGULAR MEETING DAYS

The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 a.m., except that if there be no business before the Committee, the regular meeting shall be omitted.

RULE 2.—COMMITTEE MEETINGS

Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman. Subcommittee meetings shall be called by the chairman of the respective subcommittee. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

RULE 3.—OPEN COMMITTEE MEETINGS AND EXECUTIVE SESSIONS

Meetings of the Committee, including hearings shall be open to the public except during Executive Sessions for marking up bills or for voting, or when the Committee, by majority vote, orders an Executive Session, or as required by section 133A(b) of the Legislative Reorganization Act of 1946, as amended.

RULE 4.—PRESIDING OFFICER

(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

RULE 5.—QUORUMS

(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsection (a) and (b) has been established for the conduct of business in Executive Session, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

RULE 6.—PROXY VOTING; POLLING

(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy, may later have their position recorded on any vote.

RULE 7.—PUBLIC ANNOUNCEMENT OF VOTE

Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

RULE 8.—ANNOUNCEMENT OF HEARING

The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearing to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

RULE 9.—STATEMENTS OF WITNESSES AT HEARINGS

(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

RULE 10.—REGULARLY ESTABLISHED SUBCOMMITTEES

The Committee shall have six regularly established Subcommittees as follows:

Subcommittee on Water Resources.
Subcommittee on Environmental Pollution.
Subcommittee on Economic Development.
Subcommittee on Transportation.
Subcommittee on Buildings and Grounds.
Subcommittee on Disaster Relief.

RULE 11.—SPECIAL SUBCOMMITTEES

With the concurrence of the ranking Minority Member, the Chairman shall, from time to time, establish such special Subcommittees as he deems necessary to expedite Committee business.

RULE 12.—SUBCOMMITTEE MEMBERSHIP

Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rules 10 and 11.

RULE 13.—ENVIRONMENTAL IMPACT STATEMENTS

No project or legislation proposed by the Administration shall be approved or other action taken unless the Committee has received an environmental impact statement relative to it, in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with Sec. 309 of the Clean Air Act.

RULE 14.—NAMING OF PUBLIC FACILITIES

No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents of the United States, or former Members of Congress over 70 years of age.

RULE 15.—COMMITTEE RESOLUTIONS

(a) The Chairman is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

RULE 16.—BROADCASTING OF HEARINGS

Public hearings of the Committee, or any Subcommittee thereof, shall be televised or broadcast, or recorded for television or broadcast, only when authorized by the Chairman, acting through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

RULE 17.—AMENDMENT OF RULES

The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.

NATURAL GAS RATES

Mr. TOWER. Mr. President, I would like to take a brief moment to comment on a decision issued by the Federal Power Commission on January 1, 1974. This is Opinion No. 686, Southern Natural Gas Co., et al., docket No. CP73-154, et al. The case involved an application by seven producers for certificates to sell gas in interstate commerce, and the certificates were issued permitting the sale at 55 cents per MCF. The case was the subject of vitriolic criticism in the Washington Post and has, I understand, brought a hail of disapprobation to the most recently appointed Commissioner, Mr. Don Smith.

My comments are these: Commissioners Moody, Smith, and Brooke are to be commended for a carefully reasoned decision. The applicants sought a rate of 55 cents per MCF, and the opinion indicates that rate is clearly justified. Furthermore, an even higher rate than 55 cents would have been justified, if sought, as the record does not take account of the capital nature of investments in dry holes or the recovery of Federal income taxes due on this production.

As to the criticism, it has been charged that increasing price trends encourage producers to suppress production in anticipation of higher prices. Well, that is sheer buffoonery. Has anyone here ever heard of a New England shoe manufacturer holding back production because of an increasing trend of prices.

To the contrary, production is increased to increase revenues. The oil and gas industry is no different, and in fact is a better example, because producers depend on their cash flow to stay alive. They simply cannot pay shut-in royalties, interest charges, and the like and stay in business without commensurate revenues.

Now, finally, I would like to say a brief word about the "monopolists" involved in these sales. The first one is Exxon, the largest oil and gas operator in the world. Exxon owns 37 percent of the production from the big Escambia Field, in Alabama, which is the subject of the applications. The second "monopolist" is Mallard Exploration, Inc., which owns 50 percent of the production. Mallard owns such an enormous share of the market that it is not even listed among the 301 largest gas producers in the most recent FPC statistics. The remaining "monopolist producers" in Big Escambia are almost that large.

The short of this statement is that I express my gratitude to Mr. Smith, in particular. He merits his nomination to the Commission because he, as well as the other four Commissioners, recognize that producers will continue to explore for and produce gas only if permitted a reasonable price for their efforts. In my opinion, at this time of super hostility to oil and gas producers, his courage in following his convictions is most praiseworthy.

Mr. President, at this point I ask unanimous consent to have printed in the Record an article by Mr. Morton Mintz from the Washington Post of Sunday, February 3, 1974.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Feb. 3, 1974]

Record Gas Rate Approved

(By Morton Mintz)

A bitterly divided Federal Power Commission has approved the highest price in its history for natural gas destined to be sold in interstate commerce—a decision likely to bring multibillion-dollar increases in consumer fuel bills.

The price is 55 cents per 1,000 cubic feet, 22 per cent more than the previous record price of 45 cents set last May, and more than double the rate previously approved for the region affected.

The 55-cent price has been sought by a joint venture of seven producers—mainly the independent Mallard Exploration Co. and giant Exxon Corp.—that developed gas in the new Big Escambia Creek field in Alabama. Their customer, under a 20-year contract, will be Southern Natural Gas, a pipeline serving Southern states.

Other contracts will not be affected immediately. But, an FPC aide told a reporter, the commission has signaled the industry that 55 cents is not the top—that the commission may approve still higher rates.

Consequently, said the aide, who asked not to be identified, producers have been given an incentive—an expectation of higher prices, to hold back commitments of new supplies to interstate commerce.

Nationally, the annual consumption of natural gas is about 23 trillion cubic feet. If the price were to increase one penny, the cost to pipelines would be $230 million per year.

The industry and the Nixon administration, along with the FPC, urge legislation be enacted to lift FPC price controls at the wellhead. The industry says prices of around 75 cents per 1,000 cubic feet of gas might result and are necessary to stimulate exploration and development.

Critics reject the contention, saying that even with price increases of 200 per cent from 1954 to 1972, the problem wasn't solved because talk of de-regulation led producers to hold back in expectation of still-higher prices.

The 55-cent decision by the FPC was made Friday on a 3-to-2 vote. The FPC's newest member. Don Smith, who had been looked to as an ally by consumer forces on Capitol Hill, provided the swing vote.

In his first major test, Smith, a former utility regulator from Arkansas whose chief sponsor for his present post was the state's senior senator, Democrat John L. McClellan, sided with the oil and gas industry's most steadfast supporters on the FPC, Commissioners Rush Moody Jr. and Albert B. Brooke Jr.

The dissenters, Chairman John N. Nassikas and Commissioner William L. Springer, a former Senior Republican congressman from Illinois, denounced the decision as a "travesty of regulatory justice."

In a rare joint statement, the two said the courts would reverse the decision if given a chance to do so But, they lamented, there can be no appeal, because no outsiders had intervened while the case was before the FPC.

The majority "capitulated to the prescription of an industry-established price of 55 cents . . . rather than prescribing a just and reasonable rate by regulatory review," the minority charged.

"To support the industry's demand for the 55-cent price, the majority uses so-called cost evidence to justify the pre-ordained price set by the applicant and not by the evidentiary record," the dissenters said.

They had recommended 41 cents, although the commission staff had recommended the area "ceiling" price of 35. Administrative Law Judge Michael Levant, who presided in the case, recommended 50 cents, which Springer and Nassikas termed "too high."

Moreover, they complained, the majority acted hurriedly—a few hours after getting a telegram from the producers requesting action.

The FPC staff aide said, "The consumers have been sold down the river."

Area ceiling prices were all but nullified in 1972, when a unanimous commission—led by Nassikas—approved "optional pricing." This procedure lets producers and pipelines negotiate any price they care to, subject to commission approval.

The first case under optional pricing, which is under challenge in the U.S. Court of Appeals, led to approval of a 45-cent price for three producers in offshore Louisiana last May 30.

That was a 73 per cent increase over the 26 cents approved in 1971—a price that, the producers had assured the FPC, would be adequate to stimulate exploration and development.

In the Washington-Baltimore area, the 73 per cent increase translates into an increase of about 15 per cent, or $35 a year, in the price of heating a typical single-family home.

Moody and Brooke voted for the 45-cent price, which the FPC staff estimated would yield one of the three producers involved a 48 per cent annual return on its share of total invested capital.

Nassikas dissented. Later, after Springer's appointment, the pair were able to fight off further increases. Now, with the appointment of Smith, there is a new majority.

No matter how rates are computed, the theoretical maximum "just and reasonable return," after taxes, is 15 per cent. In the Big Escambia case, the staff figured that rate would be earned at the 35-cent price it recommended on the basis of estimated productivity average over several years.

In order to assume that a 55-cent price also would yield 15 per cent, hearing examiner Levant and commissioners Moody and Brooke necessarily assumed a lower productivity. They did so by using a one-year rather than a multi-year test period.

This approach was "faulty and not truly representative of industry costs," dissenters Nassikas and Springer charged.

If the extra 20 cents per 1,000 cubic feet of gas proves to be all profit, the producers' rate of return will be about 42 per cent.

Commissioner Smith had won a reputation in Arkansas for being pro-consumers despite a reported close relationship with W. R. Stephens, chairman and president of Arkansas Louisiana Gas Co., a pipeline and gas producer.

President Nixon nominated Smith after his first choice for a vacant seat was rejected by the Senate. Leaders of the fight, pro-consumer members of the Senate Commerce Committee and Senate Antitrust and Monopoly Subcommittee, supported the Smith nomination.

The amount of gas involved in the case is a relatively modest 9.2 million cubic feet a year. The annual cost differential between the 35 cents recommended by the staff and the 55 cents approved by the commission majority is $1.8 million a year to the pipeline, which will pass it on through local distributors to consumers.

Gas was discovered in the Big Escambia field in January, 1972. Its potential reserves are believed to be 255 billion cubic feet—the largest ever found in Alabama.

CLEARCUTTING

Mr. MOSS. Mr. President, on January 25, the Color Country Chapter of the Society of American Foresters adopted a resolutiton expressing its view on the issue of clearcutting in the Nation's forests.

It is vitally important that the Senate have the benefit of the views of America's professional foresters before acting on clearcutting legislation. I commend the Color Country Chapter for making its voice heard.

Mr. President, I ask unanimous consent that the text of the Color Country Chapter's resolution be printed in the Record.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SOCIETY OF AMERICAN FORESTERS COLOR COUNTRY CHAPTER RESOLUTION

Be it hereby resolved by the Color Country Chapter, Intermountain Section, Society of American Foresters that we are unalterably opposed to any Congressional action (specifically Senate Bill 2620 McGee) that would ban clearcutting in the Nation's forests as a management practice. Clearcutting is needed and often necessary as a management prescription for specific tree species and conditions.

Be it further resolved that we strongly recommend that any future Congressional action which may affect the management of the Nation's forest resources first secure the prior involvement and advice of America's professional foresters—the Society of American Foresters.

Adopted this twenty-fifth day of January 1974 at Richfield, Utah.

THE PRESIDENT'S FISCAL YEAR 1975 BUDGET REQUEST FOR THE VETERANS' ADMINISTRATION: A MIXED BAG

Mr. CRANSTON. Mr. President, I have now had a brief opportunity to study the President's fiscal year 1975 budget request for the Veterans' Administration transmitted to the Congress yesterday. I can make some preliminary observations although I must study the budget justification material, which I have just received today, and get answers to some questions from the VA before reaching any final conclusions.

The President's apparent desire to give recognition to the special needs of veterans, as manifested by the rhetoric of his message to the Congress of January 28, is welcomed by those of us who have been laboring in this field for the past 5 years. The test is whether the President's verbalized concerns are translated into meaningful benefit and services improvements for eligible veterans and their dependents. In the main, I believe they are not. In the area of medical care, I believe they are.

Mr. President, as chairman of the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs, I will focus mainly on the VA medical program. But I must express grave disappointment that the President's actual proposals or lack thereof show he is not aware of the harsh realities of life in today's overheated economy for returning veterans seeking education or training under the GI bill and for disabled veterans suffering from service-connected disabilities. He has failed to comprehend what every congressional observer, veterans group, and editorial writer I have read, seems to understand fully, and that is that today's GI bill payment rate and structure are just not equitable given today's accelerating cost of education and living.

The President's 8-percent so-called cost-of-living proposal makes no sense on top of a rate structure which in 1972—when we last amended it, over staunch administration opposition to increase rates by 2 percent—was fully 12 percent—$30 per month for the full-time veteran-student without dependents—lower than the Senate had found necessary to restore comparability to Korean conflict GI bill rates.

It is an insult to those veterans—many with heavy dependency obligations, struggling to stretch GI bill checks, when they finally get them—in schools throughout the Nation—and an insult to the intelligence of the Congress to try to palm off so meager a proposal—a proposal which already is out of date since it does not take into account the enormous CPI increase over the last 3 months.

That is why, Mr. President, we have GI bill rates—to try to upgrade the program as well as allow for education and proposed a 23-percent rate increase for living cost inflation. I predict Congress will this year categorically reject the President's totally inadequate proposal and enact a rate increase in order of the 23-percent proposal we have made, or a combination of a lesser allowance increase coupled with a modest tuition support subsidy to help equalize the education cost differential from State to State, and provide comparability with the World War II GI bill benefit structure.

Service-connected disabled veterans have fared even worse. Their needs—now over 19 months old—for a cost-of-living increase, though enormous, were totally ignored in last week's Presidental message and budget request. Congress will quickly rectify this by enacting a generous disability compensation and DIC increase—of from 10 to 15 percent, I would estimate.

This bleak picture, however, is not my reaction to the budget request insofar as the VA medical program is concerned. Insuring high quality VA health care for disabled veterans has been a No. 1 priority throughout my service in the Senate. It now seems that the administration has at long last gotten the message that caring for the war casualty must be counted as a fundamental part of the cost of war. Although I have one rather serious reservation, and, as I noted, have only just today received the detailed budget justifications, the VA medical budget looks very encouraging. It is clearly the best budget proposal I have seen for VA health care since I came to the Senate, and I heartily congratulate for it the President, his advisers, OMB, and, most particularly, Dr. Marc J. Musser, dedicated and able VA Chief Medical Director.

Mr. President, the magnitude and quality of the VA medical budget request is a tribute to and clear vote of confidence in Dr. Musser's quiet, yet effective leadership over the last 4 years. We in Congress have added over a half billion dollars for the VA medical program over budget requests since 1970. Unlike others who were so busy proclaiming that the VA could not usefully spend the sums we appropriated, he has fought the necessary internal battles, and been able to spend these "unneeded" moneys in a way which added 26,140 new medical workers and brought about an unparalleled upgrading in the whole VA medical program during his first 4-year term.

After extensive dialog which I and leaders on the House side had with the administration at the highest levels, it was decided that Dr. Musser would be rewarded, not ousted, for his faithful, selfless, effective service, and not left to twist "slowly, slowly in the wind" as had first been the scheme at the VA.

So I heartily welcome this budget proposal, Mr. President. It shows one area where the administration has gotten the message—sent by 4 years of congressional insistence on adequate medical budget and employment levels—and where prior consultation with Congress has borne fruit. In most respects, this VA medical budget parallels my detailed total recommendations for last year's budget, with some improvements.

Mr. President, I welcome the additional 8,745 positions in medical employment and the $232 million increase in medical care outlays. I am also delighted that Sacramento has been chosen for a new Veterans' Administration outpatient clinic—the first VA medical facility north of the San Francisco Bay Area—to open July 1, 1974. Approximately $900,000 will be allocated to provide outpatient care for veterans, many now newly eligible under the Veterans Health Care Expansion Act of 1973—Public Law 93–82—which I authored in the Senate last year.

The new outpatient facility will make VA medical care accessible to more than 200,000 eligible veterans and their families in northern California. The new clinic will be affiliated with the University of California Medical School at Davis, and located in the Sacramento Medical Center.

Last January 18, I brought the Health and Hospitals Subcommittee to Sacramento for hearings into the quality and accessibility of health care available to northern California veterans and specifically the need for a new VA outpatient clinic there. At that hearing, I heard much specific testimony from all veterans organizations and from local officials pointing to the great need for a new Sacramento VA outpatient clinic. This hearing and the establishment of the clinic is a culmination of more than 2 years of negotiations I have had with the VA, supported by county supervisors, officials at UC/Davis, and California veterans organizations.

Mr. President, I believe Public Law 93–82 probably provided the last push necessary to get the VA to recognize the need for a facility in the Sacramento area. This new law directs the VA to provide outpatient care to eligible veterans for any disabilities—whether service-connected or not—where such care would prevent hospitalization.

Presently, the northern most VA hospital is in Martinez, 70 miles south of Sacramento and accessible only by private auto. The outpatient clinic in Sacramento will allow many veterans to remain at home while receiving health care. The clinic staff will also provide counseling and supportive services to the veteran's family to speed treatment and rehabilitation of the veteran.

Mr. President, I am also heartened by the plans to activate four new regional medical education centers to provide refresher and continuing education for VA and community health care personnel, pursuant to Public Law 92–541, which I authored in the Senate.

Mr. President, I welcome the plan to obligate $284.7 million for construction of medical facilities—up $170.2 million from this fiscal year—and especially the allocation of $46.5 million to complete the much delayed Los Angeles Wadsworth replacement hospital; $39.4 million to complete the new VA hospital at Loma Linda; $72.6 million for the much needed Bronx, New York, replacement hospital; and $9 million to plan or carry out air conditioning at at least 11 hospitals in some of the most sweltering regions of the Nation.

Mr. President, I welcome the $89 million to be expended for medical and prosthetic research in fiscal year 1975—up $7.3 million from the record high amount to be expended this fiscal year—especially the emphasis on research on aging, sickle cell disease, hypertension, and alcohol dependence.

Mr. President, I welcome the request for a supplemental appropriation of $29 million for this fiscal year to carry out new authorities in the Veterans Health Care Expansion Act of 1973, Public Law 93–82, which I authored in the Senate, and inclusion of $41.4 million in fiscal year 1975 under the new CHAMPVA program to pay for care in community facilities for the dependents of 100 percent service-connected disabled veterans and the survivors of veterans who died from service-connected disabilities, pursuant to Public Law 93–82.

So, Mr. President, this is a very positive, reassuring picture for the disabled and ill veterans of California and the Nation and their dependents. I am very disappointed, however, that no new funds were requested to implement the basic provisions of the VA Medical School Assistance and Health Manpower Training Act of 1972, Public Law 92–541, which I authored in the Senate, and that the $45 million total we appropriated for that purpose last and this fiscal year is being held back to be spread over 3 fiscal years—$10 million in fiscal year 1974, $20 million in fiscal year 1975, and presumably, $15 million in fiscal year 1976. I strongly believe that the full $45 million available for expenditure now under this new law should be obligated now to meet the $150 million worth of applications from medical schools and other health care manpower training institutions to utilize VA facilities to start new medical schools or to expand the training capacities of existing schools and other institutions operating in affiliation with VA facilities.

Mr. President, I will be scrutinizing this matter very closely in the months ahead to insure that moneys are not being arbitrarily withheld, and to find out the demand for additional funds for appropriations during fiscal year 1975 for Public Law 92–541.

THE MODERN CONGRESS ACT OF 1974

Mr. HUMPHREY. Mr. President, in the near future I am going to introduce the Modern Congress Act of 1974, legislation that will help to transform Congress into an effective, up-to-date institution.

A 20th century Congress cannot be content with employing 18th and 19th century techniques. Yet in many areas of substance and procedure the Congress of the United States has done just that. This is unfortunate even when we are able to work cooperatively with an administration which respects the rights and responsibilities of the legislative branch, but it can lead to a critical situation when an administration ignores or contravenes congressional mandates under statutory laws.

Part of the solution to this dilemma involves getting our own house in order.

There are many internal problems which we must overcome to strengthen ourselves.

Some problems to which this legislation is addressed include our failure to examine the national budget in a comprehensive, logical manner, our refusal to eliminate overlapping committee jurisdictions, and our reluctance to employ modern technology to assist us in our deliberations.

Mr. President, one failure which I consider to be of overriding significance, and which is also dealt with in this legislation, is the feeble lipservice we pay to the congressional function commonly known as oversight. While there have been occasional exceptions, in general the most we have done about oversight has been to overlook it as a major duty.

We devote endless hours to the tasks of considering and debating and passing new laws and programs. But the amount of time we spend seeing that those laws and programs are carried out in a way that meets the intention of the Congress is pathetically little. The Congress must keep fully informed of the administration's handling of the laws and programs passed by Congress. We must know whether those laws and programs are performing as we intended.

Our duty has not ended when we have passed a law or launched a new program. Our duty is to evaluate, recommend and terminate: To evaluate the laws and programs we pass to make sure they are performing as we intended; to recommend means of filling deficiencies in their administration and of correcting shortcomings in their operation, and to terminate those which we find have outlived their usefulness.

The only way we can fulfill this duty and obligation is to establish a systematic means of overseeing the administration of laws and the operation of programs. For this purpose, Mr. President, the legislation I introduce today proposes the establishment of legislative review subcommittees within each of the standing committees of the Senate, to conduct oversight functions on a continuing, daily basis.

The Modern Congress Act establishes other tools and mechanisms needed to meet the challenges that face the Congress in carrying out its constitutionally delegated responsibilities.

To assist the Congress in an analysis of itself as an institution, this legislation creates a Citizens' Committee to Study Congress. I believe that the Congress will have serious difficulty reforming itself without outside impetus. The Citizens' Committee will make an immediate and comprehensive assessment of the steps necessary to make Congress more open, responsive, and assertive. Composed of individuals removed from the internal pressures of Congress, this body will provide the perspective necessary to pursue the reforms which those of us within this body sometimes overlook or neglect.

The frequent incidence of overlap among committee jurisdictions creates problems for the smooth operation of Congress. My bill contains a proposal to reorganize the current distribution of jurisdictions.

One area in which Congress has drawn particular criticism concerns the degree of candor with which it conducts itself. With the lessons of excessive secrecy all too clear, it is necessary that Congress open its processes to the public eye; and the need for this is nowhere more obvious than in the area of committee hearings and sessions. The Congress is an arm of the people, and the public has every right to be completely informed of the deeds of its representatives. Accountability is something which the public demands and which the Congress must preserve if it is to retain the trust of the people. My legislation provides for open sessions which will prevent the secrecy that has been so alarming.

The importance of having quick and precise information on the wide range of topics that come before Congress in this complex, technological, high speed age must not be underestimated. The quality of the congressional information and communications system has major and direct bearing on the decisions that we make in this chamber. The Congress must have these modern systems and devices if it is to gain the benefits that can be derived from the new information and communications sciences.

I propose the establishment of the Office of Congressional Communications to maintain a video-tape library of important public interest broadcasts, provide closed circuit telecasts of committee proceedings, arrange for each Member of Congress to be able to view such documents in his own office, and other measures to modernize the communications-information services available to the Congress. Not only would this Office supervise existing activities, but it would monitor the latest innovations in the field of communications to enable Congress to adopt a more modern approach in the coming years.

Congress has continually suffered from the absence of legal counsel to represent it in court proceedings involving other agents of government. This situation would be rectified through the Office of Congressional Counsel which I have included in my bill.

The Congress has received unfavorable comment for its failure to assert its equality with the executive branch of Government, and one major area in which this inadequacy is pronounced is in the respective uses of the television media. My bill would partially address this problem with the institution of a congressional annual report, or a "state of the Congress" message presented by the congressional leadership. By establishing a tradition of significance through this event, the Congress would have a valuable opportunity to increase its prestige in the eye of the public. And it would take this legislative body a large step in the direction of earning renewed public attention and respect.

The "power of the purse," the appropriations authority, was specifically provided to Congress in the Constitution. Yet, in recent years, as spending by the Federal Government has grown and its programs have become more complex, and as the Executive has exerted increased control over the budget, Congress has seen its "power over the purse" seriously weakened. The "policy impoundments" of the present administration are only the most blatant example of Executive disregard for the Constitutional power of Congress over national spending priorities.

Title VI of this legislation is intended to reform our budget process and restore the appropriations power in Congress, where it belongs. It creates an Office of Budget Analysis and Program Evaluation subject to the supervision and control of the Joint Economic Committee. This Office would provide Congress with a much needed expansion of skilled staff to concentrate on budget analysis and the evaluation of Federal agency programs.

This section would also provide a congressionally established budget ceiling each year and a process to provide Congress with the accurate information needed to make its budget and tax decisions wisely. Title VI would also greatly expand official State and local government involvement, and that of the general public, in the budget formulation process of Federal agencies.

Other provisions in my bill would serve such diverse purposes as to grant additional powers to the General Accounting Office, create a joint committee to integrate and oversee the entire national security policy area, and initiate a study of the use of computer programs to improve scheduling of the work of the Senate.

Mr. President, we all recognize that Congress demands change within itself. There are many reasons. Primarily, it is imperative that the Congress regain much of the influence which it seemingly has abdicated to the executive branch. This can be accomplished in many ways, not the least of which is by streamlining its own processes to gain greater efficiency. If the Congress can free some of its existing resources for more substantive efforts, or if the Congress can increase the resources at its disposal, we will be better prepared to discharge our constitutional responsibilities.

This bill will not be a panacea for all the ills of Congress, but it represents a concerted effort to attack some of the problems at the most basic level of operation which influences the entire organization and output of Congress. If we can do this, we will have more ability to hurdle the obstacles that the 21st century will surely bring.

SECTION-BY-SECTION COMMENT

Title I of the bill would establish a Citizens' Committee to Study Congress. This committee would be composed of the leading experts on congressional reform in the country, and it would also be broadly representative of all walks of American life. It would make an immediate and comprehensive evaluation of the changes needed to make the Congress a viable, responsive, open, effective, and coequal branch of the Government. The basic point behind the proposal is that the Congress will have difficulty if it depends solely on its own Members to suggest reforms. We need to have this detailed study and a program for action come from outside of Congress to obtain the fresh and independent perspective that is required.

The members of the committee shall be chosen by a selection committee composed of three members, one of whom shall be appointed by the President pro tempore of the Senate, one of whom shall be appointed by the Speaker of the House, and one of whom shall be appointed by the President. This committee will then choose 15 members to serve on the committee, not more than two of whom shall be Members of the Senate, the House of Representatives, and the executive branch, respectively. In the course of their study, they will perform the following functions: Consider the policymaking role of the Congress, determine the best method of congressional review and evaluation, examine the operation of the Congress itself and the factors that affect it, and other matters that the committee deems appropriate.

But their impact will not stem from a simple listing of recommendations but rather from a detached and hopefully objective examination of Congress. And through the committee's widespread hearings, a beginning can be made toward restoring public confidence in the Congress.

Title II calls for a realinement of the various jurisdictions of congressional committees. The confused structure of the committee system has long been a major obstacle in the road to constructive reform. What we need, and what this bill calls for, is a genuine overhaul and evaluation of the numerous jurisdictions of issues within congressional committees. Currently, the incidence of overlap that occurs in the assignment of a particular issue area to a committee creates a great deal of confusion and effectively stalls the legislative process.

There has been no substantial change in the jurisdictions of Senate committees since 1946. But when one stops to realize the extent of change and new programs that have taken place since then, it is alarming to consider the stagnation within the committee structure. The result is that jurisdictions over important policy areas are now split among a host of congressional committees.

The budget, for example, is currently examined by over 31 committees and subcommittees. Public Welfare assistance programs are now scrutinized by three full committees and five subcommittees within the two Houses. The examples of similarly fragmented jurisdictions elsewhere in the committee structure are too numerous to recount, but it is clear that any clarity of purpose amidst this lack of coherence is at best difficult to achieve, and frequently impossible. Congressional activities on trade reform and the energy crisis are the best current examples of simultaneous consideration of a national issue by a number of committees.

I, therefore, propose that the Joint Committee on Congressional Operations immediately begin an examination of the fragmentation and overlap which hampers congressional action, and that proposals to overcome this shortcoming be given careful consideration.

Title III would create an office of congressional counsel. As we all know, the Congress has frequently suffered in its attempts to contest other agents of the Government who fail to comply with the laws of Congress. Without counsel to represent Congress in court appearances, it has been difficult to assert those laws which the Congress has passed. Recent disputes over administrative actions of the executive branch, such as the dismantlement of the Office of Economic Opportunity and the unconstitutional impoundment of funds, have resulted in a situation where Members of both bodies of Congress have found it necessary to pursue court fights themselves, without the aid of a congressional counsel. The Office of Congressional Counsel, however, would provide both bodies with legal counsel in efforts to bring suit against other agents of Government.

This counsel would be an independent legal adviser and advocate, and both the Senate and House would be able to employ his services in circumstances in which it is necessary to do so in order to assert the intent of Congress. Especially when an administration obstructs or intentionally ignores the legislation of Congress, the Congress must have access to counsel who can defend and prosecute when necessary.

Title IV would grant new powers to the General Accounting Office. One of the main factfinding arms of the legislative branch is, of course, the GAO. But the limitations that now constrain the GAO make it difficult to obtain information which is vital to the operation of Congress.

My bill provides new powers to the GAO, such as the ability to subpena information and the power to bring individuals to court. We must beef up the auditing arm of the Congress in order to acquire the information which the Congress demands to conduct its business.

Title V institutes a formalized "state of the Congress" report consisting of messages on the activities of the Congress just adjourned, currently done on an informal basis by the congressional leadership. I propose that the leadership be responsible to address the Nation concerning the initiatives, priorities, and shortcomings of the session just concluded. This address would take the form of speeches by both the majority and minority parties, which would designate speakers from each House. And they would be responsible for preparing these messages following the end of each session.

The message by the congressional leadership would make the public more aware of the operation of Congress, and it might have the desirable side-effect of generating more interest in the legislative process. Hopefully, this address will be accorded the network television time that is currently granted to the President for his state of the Union message. This feature would produce a status for the congressional annual report which it is now denied. Moreover, the aspect of tradition which will eventually surround this address represents another important feature, because Congress might then receive more of the recognition it deserves for its various accomplishments.

The numerous provisions of title VI establish fiscal and budgetary reforms long needed by the Senate. It calls for an Office of Budget Analysis and Program Evaluation, subject to supervision and control by the Joint Economic Committee, which will clarify the many problems now posed by the ever-growing budget.

One of the primary functions of the Congress involves the budgetary process and oversight of the myriad agencies. We must be better prepared to handle the complex chores of organizing a sensible budget. This budget must be in accord with the clear needs of the great majority of Americans. And Federal programs funded in accordance with this budget mandate must not become the victims of bureaucratic neglect or mismanagement.

The Congress sorely needs the appropriate staff facilities to handle the enormous task of evaluating ongoing and newly proposed programs. We must have the capacity to examine the budget as a whole, and this requires a special office to perform such a task. My bill contains the measures necessary to accomplish this goal, and we will be far more able to make a reasonable evaluation of the budget if they are implemented.

Title VII amends the Standing Rules of the Senate for the purpose of instituting Senate Legislative Review Subcommittees for each standing committee of the Senate.

This provision is intended to substantially improve the ability of Congress to monitor the implementation and the actual effects of legislation that has been enacted.

With the pressure on Congress to cope with new problems by enacting new legislation, the time devoted by Congress to analyzing the effects of legislation already on the statute books and the way it is being carried out by the Federal agencies involved, has been inadequate.

With the creation and staffing of the proposed subcommittees, responsible solely for follow-up on existing legislation, this critical legislative oversight will receive more of the attention that it desperately needs.

Perhaps the most glaring deficiency of congressional operation has been in its failure to keep abreast of the innovations in the field of communications, a field which is so basic to the duties of Congressmen. Large organizations in other fields have benefited from modernized technical facilities for years, and such changes in the Congress are long overdue. It is with this in mind that title VIII creates the Office of Congressional Communications (OCC) which will provide Congressmen with access to those important facilities by introducing various communication innovations into congressional operations.

For instance, the advances that have been made in the field of video recording have been generally overlooked by Congress, although they offer a potentially great source of assistance to congressional offices. The OCC would include a video library which would be a storehouse for various tapes and recordings which a Congressman wishes to view. News programs, documentaries, and similarly informative broadcasts would be at the disposal of those for whom it is important to know what the public is seeing and thinking. Such knowledge would undoubtedly assist the Congress in the performance of its duties.

The OCC would also establish a network of television facilities within the confines of the Capitol itself. This would include television terminals within the office of each Member who, through a computerized method, would request a viewing of any material within the video library. Moreover, this network would include facilities to monitor congressional hearings, floor proceedings, and other congressional business which a Congressman may wish to observe. These, too, would be available through the terminals within each office. Each Member would also have access to news wire service facilities, either with such wires spaced around the various office buildings or else with each Member having a terminal in his own office. This information would also be available on the Member's television terminal. Such innovative measures would hopefully make the Congress a better-informed body, better able to make the important decisions which we must continually make.

The Office itself would fall under the jurisdiction of the Architect of the Capitol, who would coordinate all of the above facilities. Not only would the Office oversee the various functions outlined above, but it would also supervise the communications activities in which we engage, such as radio and television presentations and recordings. By adopting the latest innovations in the communication field, the Congress will be better prepared to keep abreast of the ever-widening range of issues which concern a modern Congress.

Title IX addresses itself to the need for an increased visibility of the committee hearing process. The trauma which has affected the Government in these past few months makes one thing painfully evident—that the public will not stand for behind-closed-door decisions that influence the entire country. Secrecy, in cases where it is unwarranted, has never been condoned by the public. But now more than ever the public demands to know, and has every right to know about the deliberations that establish the legislation that affects their lives.

In response to this need, my bill calls for open committee sessions in all but the most unusual circumstances. It shall be the rule that all meetings of all standing, joint, special, and select committees and their subcommittees shall be open to the public, except in such cases where the subject matter involves national security or when testimony may tend to defame or incriminate any person, and then only when the committee decides by a majority of those present to meet in executive session.

The benefits flowing from this policy are readily apparent. First, legislators will be more accountable to their constituents at the crucial stage of the legislative process. Second, an open-sessions procedure will increase public respect and support for Congress as a whole. Third, open sessions will provide insurance against legislation of questionable quality or merit hastily approved during a closed session. And finally, the news media will have greater access to legislation at crucial stages, bringing to the attention of the public the key items under consideration.

Title X authorizes the Citizens' Committee to commission a study of the possible benefits and costs of applying computer programs to the scheduling problems of the Senate. This study would focus, among other things, on the use of computers to schedule committee and subcommittee meetings with minimum conflict.

Title XI creates a Joint Committee on National Security. It is intended to improve the effective participation by Congress in the formulation of foreign, domestic, and military policies related to our Nation's security. Such a committee would provide a focus for the integration of policies developed within the several committees of Congress that deal with aspects of the security of the United States.

Among its responsibilities, the joint committee would continually study the degree of integration of the many policy pieces that we call "national security" and act as a focal point for congressional review of the National Security Council and the goals, strategies, and plans it espouses.

Mr. President, I feel that the provisions of my bill will greatly increase the ability of Congress to function effectively in an ever more complex world. The innovations contained in the bill are simply designed to bring the Congress up to the level of modernization which large organizations in other fields have enjoyed for years. And the internal changes are no more than an effort to maximize the resources which the Congress already controls.

It is time that the Congress take a long, hard look at its own operation in order to prepare itself to deal effectively with the increasingly critical, complex, and urgent problems which it surely must face. Through effective legislation and constant concern about the efficiency with which it conducts its business, the Congress can succeed in establishing itself at the forefront of American society's institutions.

I ask unanimous consent that the text of the proposed bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. —

A bill to provide for Congressional reforms and to strengthen the role of Congress as a co-equal branch of Government, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Modern Congress Act of 1974".

TITLE I—CITIZENS' COMMITTEE TO STUDY CONGRESS

SEC. 101. (a) There is established a committee to be known as the Citizens' Committee To Study Congress (hereafter referred to in this title as the "Committee") to make a complete study relating to the functions, powers, duties, and operation of the Congress.

(b) The members of the Committee shall be chosen by a selection committee composed of three members, one of whom shall be appointed by the President, one of whom shall be appointed by the President pro tempore of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives. Any member of the selection committee not otherwise employed by the United States Government shall receive $100 for each day (including traveltime) that he is performing duties as a member of the selection committee. Each member of the selection committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the selection committee.

(c) The selection committee shall choose, not later than thirty days after the last member of the selection committee has been appointed, fifteen members to serve on the Committee. Not more than two of the members shall be Members of the House of Representatives; not more than two of the members shall be Members of the Senate; and not more than one of the members shall be an officer or employee of the executive branch of the United States Government. The selection committee shall designate one of the members as Chairman of the Committee.

(d) Eight members of the Committee shall constitute a quorum. Any vacancy shall be filled by the selection committee within thirty days after the vacancy occurs.

(c) Any member of the Committee not otherwise employed by the United States Government shall receive $100 for each day (including traveltime) that he is performing duties as a member of the Committee. Each member of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Committee.

SEC. 102. (a) In conducting its study, the Committee shall—

(1) consider the role of the Congress in establishing policy for the operation of the United States Government;

(2) determine how the Congress may best exercise its function of reviewing and evaluating programs and activities of the United States Government;

(3) examine the operation of the Congress itself (including but not limited to its powers, priorities, privileges, traditions, the means by which the Congress makes decisions, its committee system, and its staffs);

(4) examine the social, economic, and political factors which affect the operation of the Congress and which may hereafter affect such operation; and

(5) examine and consider such other matters as the Committee may deem appropriate to provide an understanding of how the Congress has operated and how the Congress should operate in the future.

(b)(1) Not later than two years after the date of enactment of this Act, the Committee shall submit a final, comprehensive report to the Senate and the House of Representatives with respect to its study. The Committee shall also make such reports, from time to time, to the Senate and House of Representatives as the Committee deems necessary. Any report of the Committee shall contain such findings, statements, and recommendations as the Committee considers appropriate.

(2) Any report of the Committee shall be printed as a public document and made available for sale to the public.

(c) Thirty days after the Committee submits its final, comprehensive report, the Committee shall cease to exist.

SEC. 103. (a) The Committee or, on the authorization of the Committee, any subcommittee thereof, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other writings. Any member authorized by the Committee may administer oaths or affirmations to witnesses appearing before the Committee, or any subcommittee thereof.

(b) In order to carry out the provisions of this title, the Committee is authorized—

(1) to appoint and fix the compensation of an Executive Director and such additional personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) to appoint such advisory committees as it deems necessary;

(4) to promulgate rules and regulations governing the operation of the Committee and its organization and personnel;

(5) to procure supplies and services;

(6) to enter into contracts; and

(7) to take such other action as may be necessary to carry out this title.

(c) Each department, agency, and independent agency of the executive branch of the United States Government is authorized and requested to furnish to the Committee, upon request made by the Chairman, such data, reports, and other information as the Committee deems necessary to carry out its functions under this title.

SEC. 104. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

TITLE II—SENATE COMMITTEE JURISDICTION

SEC. 201. (a) It is the sense of the Congress that—

(1) there is a demonstrated need for the United States Senate, as one House of the United States Congress, to assert its policy-making and oversight functions;

(2) the committee structure of the United States Senate is so organized as to frustrate the examination, the analysis, and the oversight of governmental policy; and

(3) because of the fragmentation of committee jurisdiction and responsibility in the United States Senate, there has been a decrease in clarity of policy purpose and of congressional control over governmental program operations and expenditures.

(b) It is further the sense of Congress that the Joint Committee on Congressional Operations immediately begin or commission an in-depth analysis of the committee jurisdictions of the United States Senate, taking into account the need to reduce fragmentation of policy and program oversight, the necessity for alining committee jurisdiction on the functional purposes of governmental programs, the potential application of new technologies for committees of the United States Senate, and the requirement that staff personnel and resources be effectively and efficiently allocated among committees of Congress of the United States. The Joint Committee on Congressional Operations shall make periodic reports to the United States Senate and present final recommendations to the Senate by September 1, 1974.

SEC. 202. The expenses of the Joint Committee on Congressional Operations under this title shall be paid from the contingency fund of the Senate upon vouchers approved by the chairman of the Joint Committee on Congressional Operations.

TITLE III—OFFICE OF CONGRESSIONAL COUNSEL GENERAL

SEC. 301. (a) There is established in the legislative branch of the Government the Office of Congressional Counsel General, which shall be under the direction and control of the Congressional Counsel General. The Congressional Counsel General shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate, with the approval of the House of Representatives and the Senate, without reference to political affiliations and solely on the basis of his fitness to perform the duties of his office, and shall be subject to removal by those officers for inefficiency, misconduct, or physical or mental incapacity. The Congressional Counsel General shall be appointed for a term which shall expire at the end of the Congress during which he is appointed. The Congressional Counsel General shall receive the same salary as Members of Congress.

(b) Subject to the availability of appropriations, the Congressional Counsel General may appoint and fix the compensation of such Assistant Counsels General and other personnel as may be necessary to carry on the work of his office. All personnel of the office shall be appointed without reference to political affiliations and solely on the basis of fitness to perform the duties of their offices.

(c) The Congresional Counsel General shall promulgate for his office such rules and regulations as may be necessary to carry out the duties imposed upon him by this title. He may delegate authority for the performance of any such duty to any officer or employee of the Office of the Congressional Counsel General. No person serving as an officer or employee of such office may engage in any other business, vocation, or employment while so serving.

(d) The Congressional Counsel General shall cause a seal of office to be made for his office, of such design as the Speaker of the House of Representatives and the President pro tempore of the Senate shall approve, and judicial notice shall be taken thereof.

SEC. 302. (a) It shall be the duty of the Congressional Counsel General, under such rules as the Committees on the Judiciary of the Senate and the House of Representatives may prescribe jointly from time to time, to—

(1) render to committees, Members, and disbursing officers of the Congress, and to the Comptroller General, legal opinions upon questions arising under the Constitution and laws of the United States;

(2) render to committees and Members of the Congress advice with respect to the purpose and effect of provisions contained in laws, or to be inserted in proposed legislative measures;

"(3) perform such duties with respect to legislative review of executive actions as shall be prescribed by such rules;

"(4) intervene or appear as amicus curiae, upon the request, or with the approval, of the Committee on the Judiciary of the Senate or House of Representatives, in any action pending in any court of the United

States in which there is placed in issue the constitutional validity or interpretation of any law, or the validity of any official proceeding of or action taken by either House of Congress or by any committee, Member, officer, office, or agency of the Congress; and

(5) represent, upon the request, or with the approval of the Committee on the Judiciary of the Senate or House of Representatives, either House of Congress or any committee, Member, officer, office, or agency of the Congress in any legal action pending in any court of the United States to which such House committee, Member, officer, office, or agency is a party and in which there is placed in issue the validity of any official proceeding of or action taken by such House, committee, Member, officer, office, or agency.

(b) Upon receipt of written notice from the Congressional Counsel General to the effect that he has undertaken pursuant to subsection (a) (5) of this section to perform any such specified representational service with respect to any designated action or proceeding pending or to be instituted in a court of the United States, the Attorney General shall be relieved of responsibility and shall have no authority to perform such service in such action or proceeding except at the request or with the approval of the Congressional Counsel General.

SEC. 303. (a) Subject to applicable rules of practice and procedure, the Congressional Counsel General shall be entitled as of right to intervene as a party or appear as amicus curiae in any action described in subsection (a) (4) of section 302.

(b) For the purposes of all proceedings incident to the trial and review of any action described by subsection (a) (5) of section 302 with respect to which the Congressional Counsel General has undertaken to provide representational service, and has so notified the Attorney General, the Congressional Counsel General shall have all powers conferred by law upon the Attorney General, any subordinate of the Attorney General, or any United States attorney.

(c) The Congressional Counsel General, or any attorney of his office designated by him for that purpose, shall be entitled for the purpose of performing duties imposed upon him pursuant to this title to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

SEC. 304. The Office of the Congressional Counsel General shall have the same privilege of free transmission of official mail matter as other officers of the Congress.

SEC. 305. There are hereby authorized to be appropriated to the Office of the Congressional Counsel General such sums as may be required for the performance of the duties of the Congressional Counsel General under this title. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Congressional Counsel General.

TITLE IV—GENERAL ACCOUNTING OFFICE

SEC. 401. The Budget and Accounting Act, 1921, as amended (31 U.S.C. 42), is further amended by adding at the end thereof the following new sections:

"SEC. 320. (a) Whenever the Comptroller General, in the performance of any of his functions authorized by law, has reasonable cause to believe that any officer or employee of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner or amount, he may institute a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief. If the Attorney General is in disagreement with the Comptroller General he is authorized to represent the defendant official in such action. Other parties, including the prospective payee or obligee who shall be served with notice or process, may intervene or be impleaded as otherwise provided by law, and process in such an action may be served by certified mail beyond the territorial limits of the District of Columbia.

"(b) Upon application of the Comptroller General or the Attorney General an action brought pursuant to this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code. An action brought under this section shall be expedited in every way.

"(c) In actions brought under this section, the Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(d) In the event the institution of suit under this section serves to delay a payment beyond the date it was due and owing in payment for goods or services actually delivered to and accepted by the United States, then such payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum for the time it has been withheld. Otherwise, no court shall have jurisdiction to award damages against the United States, its officers, or agents as a result of any delay occasioned by reason of the institution of suit under this section.

"(e) This section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and not as otherwise affecting such authority.

"SEC. 321. No action may be instituted by the Comptroller General under section 320 until the expiration of a period of thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Committees on Government Operations of the Senate and the House of Representatives and during such thirty-day period the Congress has not enacted a concurrent resolution stating in substance that it does not favor the institution of the civil action proposed by the Comptroller General."

SEC. 402. To assist in carrying out his functions, the Comptroller General may sign and issue subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

SEC. 403. In case of disobedience to a subpena issued under section 402 the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

TITLE V—CONGRESSIONAL ANNUAL REPORTS

SEC. 501. Not later than 60 days after the end of each regular session of Congress, the Majority Leaders and Minority Leaders of the Senate and the House of Representatives shall, either jointly or individually, submit to Congress and the President a "State of the Congress" message with respect to such session. Each such message shall include statements, with respect to such session, concerning (1) those matters about which the Congress has taken the initiative, (2) priorities established by the Congress, and (3) matters not acted upon by Congress but upon which Congress should act or have acted.

TITLE VI— FISCAL AND BUDGETARY REFORM

PART A—CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

CHAPTER 1—ESTABLISHMENT OF OFFICE AND ESTABLISHMENT OF BUDGET CEILING

SEC. 601. (a) There is hereby established for the Congress an Office of Budget Analysis and Program Evaluation (hereafter referred to in this title as the "Office") which shall be subject to supervision and control by the Joint Economic Committee (hereafter in this title referred to as the "Joint Committee"). The Office shall have four sections as follows: (1) Informational Section, (2) Analytic Section, (3) Program Evaluation Section, and (4) Special Studies Section.

(b) The Joint Committee is authorized to appoint a Technical Director of the Office who shall serve as the head of the staff of the Office, subject to the general supervision of the Executive Director, in accordance with the purposes of the Employment Act of 1946. The Technical Director shall supervise the staff of the Office and shall perform such duties as the Joint Committee or the Executive Director may prescribe. The Technical Director shall be appointed without regard to political affiliation and solely on the basis of his fitness to perform his duties. He shall receive compensation as may be prescribed from time to time by the Joint Committee, but not in excess of the highest rate of basic pay, as in effect from time to time, of grade 18 of the General Schedule of section 5332(a) of title 5, United States Code.

(c) The Technical Director is authorized, with the approval of the Joint Committee and the Executive Director, to appoint such other personnel as may be necessary to carry out the duties and functions of the Office and to fix their compensation at rates not in excess of the highest rate of basic pay, as in effect from time to time, of grade 16 of the General Schedule of section 5332(a) of title 5, United States Code. All such personnel shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties.

SEC. 602. (a) Prior to the submission of the Budget of the United States Government for each fiscal year, the Joint Committee staff, including the Office, shall make a thorough study of the Nation's economic conditions, and the factors having a bearing thereon, including business investment, consumer spending, international trade, the availability of credit, and the state of Federal expenditures and revenues. Based upon such study, and developing conclusions about the prudent growth of Federal budget outlays, obligations and revenues, taking into consideration the objectives of the Employment Act of 1946, the Executive Director of the Joint Committee shall, two days prior to receipt of the United States budget and the President's Economic Report, make a report to the Joint Committee with—

(1) an estimate of the revenues that will be received by the Federal Government during the forthcoming fiscal year;

(2) a recommendation of the amount, if any, by which Federal outlays should exceed revenues, or revenues should exceed outlays, in order to promote the general welfare and to provide maximum employment, production, and purchasing power.

(b) Upon receipt of the report submitted under subsection (a), and receipt of the Budget of the United States Government, the Joint Committee will within ten days hold hearings to determine the appropriate Federal fiscal policy as expressed in section (a) (2), and then shall make a committee report of this determination to all committees of the Senate and House of Representatives and all joint committees of the Congress. Such report shall include, but not be limited to—

(1) a proposed limit on the total amount of new obligational authority, and a proposed limit on the amount of new obligational authority (for each functional category), which should be enacted for the fiscal year; and

(2) a proposed limit on the total amount of outlays, and a proposed limit on the amount of outlays for each functional category, which should be made during the fiscal year.

(c) Upon request of any committee of the Senate or House of Representatives, or any joint committee of the Congress, the Office shall furnish additional information with respect to the report transmitted pursuant to subsection (b) relating to matters within the jurisdiction of that committee or joint committee.

(d) After receiving and giving consideration to the report of the Joint Economic Committee, the Committees on Appropriations of each House of Congress shall, not later than fifteen days after receiving such recommendations, report to its House a bill establishing the total amount of outlays to be made during the fiscal year by the United States Government.

(e) (1) A bill reported under subsection (d) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a bill is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on such bill, and all amendments thereto, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the bill. A motion to recommit the bill shall not be in order, and it shall not be in order to move to reconsider the vote by which the bill is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of such a bill and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a bill or joint resolution shall be decided without debate.

(f) If, prior to the passage by a first House of Congress of any such bill of that House, such House receives from the second House such a bill, then the following procedure applies:

(1) Such bill received from the second House shall be reported to the first House not later than three days after being received.

(2) On any vote on final passage of such a bill of the first House, such a bill of the second House shall be automatically substituted for the bill of the first House.

(g) If the amount specified in such a bill with respect to a fiscal year agreed to by the Senate and House of Representatives is not the same, conferees on the part of the Senate and the House of Representatives shall be appointed not later than two days after the House of Congress passing the bill last passes such bill unless within those two days both Houses of Congress agree upon the same total amount of outlays of the United States Government with respect to such fiscal year without the convening of a committee of conference. Upon appointment of conferees, the committee of conference shall meet immediately to resolve their differences. The provisions of subsection (b) shall be applicable with respect to the consideration of any report of a committee of conference on any such bill.

SEC. 603. It shall be the duty and function of the Informational Section of the Office, under supervision of the Executive Director, to provide information to committees and Members of the Senate and House of Representatives and joint committees of the Congress, on request, with respect to the budget, appropriation bills, revenue receipts and estimates, and changing revenue conditions. The information to be provided shall include, but not be limited to—

(1) budget requested by Federal departments and agencies;

(2) budget requests as set forth in the budget submitted by the President;

(3) amounts authorized to be appropriated for programs and activities, together with the legislative history of the laws authorizing such appropriations;

(4) estimates of projected costs of programs and activities, not extending beyond a five-year period;

(5) amounts appropriated for programs and activities, amounts of other types of budget authority, including contract authority, authority to spend debt receipts, loan authority, and supplemental budget authority;

(6) amounts apportioned by the Office of Management and Budget;

(7) amounts appropriated which have been obligated by Federal departments and agencies and balances of unobligated appropriations;

(8) summaries of all past evaluation or other program studies, including relevant reports of the Comptroller General, the Office of Management and Budget, and the several agencies; and

(9) reports on impoundments of funds as submitted by the Office of Management and Budget.

SEC. 604. It shall be the duty and function of the Analytic Section of the Office of undertake—

(1) an analysis of current and projected economic conditions and estimates of the effect of such on Government revenues and expenditures;

(2) an analysis of the fiscal policy embodied in the United States budget proposed for the forthcoming fiscal year and estimates of the probable effect on general economic conditions;

(3) an analysis of major reductions, terminations, or increases in Federal programs or taxes as outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects;

(4) an analysis of alternative reductions, terminations, or increases in Federal programs or taxes than those outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects;

(5) an analysis of the effect of budget changes as outlined in paragraph (3) or (4) upon outlays, obligational authority, and revenues, not only in the current year, but also projected for three to five years ahead; and

(6) to issue reports, from time to time, on the matters set forth in the preceding paragraphs.

SEC. 605. It shall be the duty and function of the Program Evaluation Section of the Office—

(1) upon request of any committee of the Senate or House of Representatives or any joint committee of the Congress, to evaluate programs and activities of the Government and to analyze regulations and proposed regulations of departments and agencies with respect to their impact on outlays;

(2) upon request of the Committee on Appropriations of the Senate or House of Representatives, to provide information on, and analyses of, limits on new obligational authority and outlays recommended under section 602, and to provide liaison between such committees and committees of the Senate and House of Representatives and joint committees of the Congress having legislative jurisdiction; and

(3) in the performance of this duty, the Office shall be empowered to coordinate and utilize both the General Accounting Office and the Library of Congress resources as provided under the Legislative Reorganization Act of 1970.

SEC. 606. It shall be the duty and function of the Special Studies Section of the Office to provide special analyses of specific matters included within the functions and duties set forth in sections 604 and 605. Any such special study shall be made only upon the request of a committee or Member of the Senate or House of Representatives or a joint committee of the Congress, and only with the approval of the Director of the Office.

SEC. 607. (a) In the performance of its functions under this part, the office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated for by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code;

(4) to equip itself with up-to-date computer capability, and to obtain the services of experts and consultants of computer technology; and

(5) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Technical Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Technical Director copies of special analytic studies, program and financial plans, and other information, data, and reports that may be required to fully analyze the United States budget.

Sec. 608. There are authorized to be appropriated such sums as may be necessary to enable this Office to carry out its duties and functions. Expenses of the Office shall be paid on vouchers approved by the Chairman of the Joint Committee.

Chapter 2—Supplemental Provisions

Sec. 611. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by striking out the semicolon at the end of paragraph (11), by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(13) a detailed evaluation of functions, activities, and authorities for which appropriations are proposed in the budget (other than new functions, activities, and authorities proposed in the budget);

"(14) a detailed explanation of increases or decreases in amounts proposed for appropriation or expenditure for functions, activities, or authorities in comparison with amounts appropriated for or expended during the last completed fiscal year and amounts appropriated for and expected to be expended during the fiscal year in progress; and

"(15) with respect to each function, activity, or authority, a detailed explanation of the reasons for proposing appropriations in amounts less than the amounts authorized to be appropriated."

Sec. 612. Whenever any executive agency undertakes an evaluation of any program or activity administered or carried on by it, the head of such agency, shall, upon conclusion of such evaluation, transmit a copy thereof to the Office of Budget Analysis and Program Evaluation established by section 601 of this Act.

Part B—Departmental Budget Process

Sec. 621. Title II of the Budget and Accounting Procedures Act of 1950 is amended by adding at the end thereof the following new sections:

"PARTICIPATION BY STATE AND LOCAL OFFICIALS

"Sec. 204. (a) The head of each executive agency shall at least six months prior to submission of the budget requests for such agency to the Office of Management and Budget for a fiscal year, give notice to the Governors of the various States and to the chief executive officers of their political subdivisions that such agency is formulating its budget requests for such fiscal year. Such notice may be given by publication or by such other means as the head of the agency considers appropriate.

"(b) After notice has been given under subsection (a) and upon request of the Governor of a State or the chief executive officer of a political subdivision, the head of an executive agency shall—

"(1) inform the Governor or chief executive of the proposed budget requests (as then formulated and they may be revised from time to time) which would affect such State or such political subdivision, as the case may be; and

"(2) provide an opportunity for such Governor or chief executive officer to submit comments and suggestions, written or oral, or both, with respect to such budget requests (as then formulated or as they may be revised from time to time).

Insofar as possible, meetings held between Governors or chief executive officers and budget officers of an executive agency shall be held at locations convenient to the Governors and chief executive officers.

"PUBLIC HEARINGS ON BUDGET REQUESTS

"Sec. 205. The head of each executive agency shall, at least two months prior to the submission of the budget requests of such agency to the Office of Management and Budget for a fiscal year, give public notice of the budget requests which such agency intends to submit and conduct hearings thereon. At such hearings, all interested parties, including representatives of the general public, shall be given an opportunity to submit comments and suggestions, either written or oral, or both. Insofar as possible such hearings shall be held at locations throughout the United States so as to provide an opportunity for the citizens of the United States to participate therein.

"TRANSCRIPTS OF BUDGET MEETINGS

"Sec. 206. After an executive agency has submitted its budget requests to the Office of Management and Budget for a fiscal year, a transcript shall be kept of all meeting between officers or employees of such agency and officers or employees of the Office of Management and Budget at which matters relating to such budget requests are discussed. Copies of such transcripts shall be made available for public inspection, during normal office hours, at the office of such agency and at the Office of the Office of Management and Budget.

"SUBMISSION OF COPIES TO CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

"Sec. 207. The head of each executive agency shall promptly submit to the Office of Budget Analysis and Program Evaluation, established by section 601 of the Congressional Reform Act, a copy of—

"(1) each request for legislation which, if enacted, would authorize subsequent appropriations transmitted by his agency to the Office of Management and Budget;

"(2) each budget request submitted by his agency to the Office of Management and Budget; and

"(3) each transcript made under section 206 involving any officer or employee of his agency.

"MATTERS RELATING TO NATIONAL SECURITY

"Sec. 208. Pursuant to regulations approved by the President, the provisions of sections 204, 205, 206, and 207 shall not apply with respect to budget requests or requests for legislation which the national security requires to be kept confidential.

"DEFINITIONS

"Sec. 209. For purposes of sections 204 through 208—

"(1) the term 'executive agency' means any department, agency, or establishment (including an independent establishment) in the executive branch of the Government; and

"(2) the term 'budget request' includes both requests for new obligational authority (including loan authority) and for authority to make outlays."

Part C—Information to Taxpayers on Spending of Income Taxes Paid by Them

Sec. 631. (a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"Sec. 7517. Tax Expenditure Accounting.

"(a) Statements by Secretary.—Upon the receipt of each individual's income tax return, the Secretary or his delegate shall furnish to that individual a statement setting forth in dollar amounts the proportionate amounts of that individual's income taxes which were spent by the Federal Government, based upon the most recent information furnished by the Director of the Office of Management and Budget, for each of the following:

"(1) national defense;
"(2) space research and technology;
"(3) agriculture and rural development;
"(4) natural resources;
"(5) transportation;
"(6) community development;
"(7) housing;
"(8) education;
"(9) manpower;
"(10) health;
"(11) social services;
"(12) welfare payments;
"(13) veterans' pensions;
"(14) veterans' benefits and services;
"(15) law enforcement;
"(16) general administrative expenses of government;
"(17) interest payments;
"(18) foreign aid consisting of military assistance; and
"(19) foreign aid consisting of economic and technical assistance.

"(b) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 7517. Tax expenditure accounting."

(c) The amendments made by this section shall apply with respect to income tax returns filed for taxable years ending after the date of enactment of this Act.

Sec. 632. The Director of the Office of Management and Budget shall furnish to the Secretary of the Treasury in December of each year a report, based upon data from the most recent fiscal year for which such data is available, setting forth that part of the total Federal outlays for such fiscal year which was expended for each of the items listed in section 7517(a) of the Internal Revenue Code of 1954.

TITLE VII—SENATE LEGISLATIVE REVIEW SUBCOMMITTEES

Sec. 701. The Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"Rule XLV

"LEGISLATIVE REVIEW SUBCOMMITTEES

"1. Each standing committee shall establish a subcommittee on legislative review. Each such subcommittee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee of the subcommittee. In particular, each such subcommittee shall review and study, on a continuing basis, any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated in the administration and execution of such laws or parts of laws.

"2. Each subcommittee shall make reports, not less than once each year, on its studies and reviews, including such comments and recommendations as it considers appropriate. Copies of each such reports shall be transmitted to the committee of the subcommittee and to the head of each department, agency, or independent establishment concerned, and to the Library of Congress. Copies of each report shall be available for public inspection at the offices of the committee of the subcommittee."

Sec. 702. This title is enacted as an exercise of the rulemaking power of the Senate, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE VIII—OFFICE OF CONGRESSIONAL COMMUNICATIONS

Sec. 801. (a) There is established for the Congress, under the Architect of the Capitol, an Office of Congressional Communications, which shall be subject to the supervision and control of the Architect.

(b) The Office shall—

(1) maintain a library of video tapes of all television network news programs and television programs of significant public interest;

(2) provide for closed circuit telecasts of,

and tape, committee proceedings and proceedings of the Senate and House of Representatives;

(3) provide equipment in the office of each Member of Congress to receive telecasts of any such proceedings and for the viewing of any tapes referred to in clauses (1) and (2) of this subsection;

(4) have installed, at appropriate places throughout the Capitol Building and the office buildings of the two Houses of Congress (including, if appropriate, in the office of each Member), equipment to receive information transmitted by any of the major news wire services; and

(5) upon request, assist Members with respect to press, photographic, recording, taping, radio, and television matters.

(c) The House Recording Studio and the Senate Recording Studio, and all their records, property, assets, and personnel are transferred to the Office and are made a part thereof.

SEC. 802. The Architect is authorized—

(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fit-news to perform his duties, a Director of the Office to serve as the head of the staff of the Office and such personnel as he deems necessary;

(2) to prescribe the duties and responsibilities of such personnel;

(3) to fix the pay of such personnel in accordance with the schedule of rates of pay for other personnel in the Office of the Architect, except that any person transferred from the House or Senate Recording Studio to the Office of Congressional Communications shall not be paid at a rate less than the rate he was last paid while employed by such studio; and

(4) to terminate the employment of such personnel.

SEC. 803. Nothing in this title shall be held or considered to require the use of the facilities of the Office by any Member, committee, or officer of the Senate or House of Representatives, if, in the opinion of such Member, committee, or officer, the use of such facilities is inappropriate.

SEC. 804. For purposes of this title, "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner.

TITLE IX—OPEN COMMITTEE MEETINGS

SEC. 901. Subsection (b) of paragraph 7 of Rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee, by rule or by majority vote, determines otherwise.".

SEC. 902. This title is enacted as an exercise of the rulemaking power of the Senate, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE X—STUDY OF COMPUTER SCHEDULING OF SENATE WORK

SEC. 1001. (a) The Citizen's Committee established in section 101(a) of this Act shall arrange for a detailed study, including specific recommendations, of the applicability of computer programs to the scheduling problems of the Senate. This study would focus, among other things on the possible use of computers to improve scheduling of committee and subcommittee meetings and the cost of such a system to minimize committee meeting conflicts.

(b) These are authorized to be appropriated such sums as are necessary to carry out the provisions of this title, but, in no case shall this sum exceed $100,000.

TITLE XI—JOINT COMMITTEE ON NATIONAL SECURITY

SEC. 1101. The Congress declares that—

(1) it has been vested with responsibility under the Constitution to assist in the formulation of the foreign, domestic, and military policies of the United States;

(2) such policies are directly related to the security of the United States;

(3) the integration of such policies promotes our national security; and

(4) the National Security Council was established by the National Security Act of 1947 as a means of integrating such policies and furthering the national security.

SEC. 1102. (a) In order to enable the Congress to more effectively carry out its constitutional responsibility in the formulation of foreign, domestic, and military policies of the United Staates and in order to provide the Congress with an improved means for formulating legislation and providing for the integration of such policies which will further promote the security of the United States, there is established a joint committee of the Congress which shall be known as the Joint Committee on National Security, hereafter referred to as the "joint committee". The joint committee shall be composed of twenty-five Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the majority and minority leaders of the Senate and the House of Representatives;

(3) the chairmen and ranking minority members of the Senate Committee on Appropriations, the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, and the Joint Committee on Atomic Energy;

(4) the chairmen and ranking minority members of the House Appropriations Committee, the House Armed Services Committee, and the House Foreign Affairs Committee;

(5) three Members of the Senate appointed by the President of the Senate, two of whom shall be members of the majority party and one of whom shall be a member of the minority party;

(6) three Members of the House of Representatives appointed by the Speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 103. (a) The joint committee shall have the following functions:

(1) to make a continuing study of the foreign, domestic, and military policies of the United States with a view to determining whether and the extent to which such policies are being appropriately integrated in furtherance of the national security;

(2) to make a continuing study of the recommendations and activities of the National Security Council relating to such policies, with particular emphasis upon reviewing the goals, strategies, and alternatives of such foreign policy considered by the Council; and

(3) to make a continuing study of Government practices and recommendations with respect to the classification and declassification of documents, and to recommend certain procedures to be implemented for the classification and declassification of such material.

(b) The joint committee shall make reports from time to time (but not less than once each year) to the Senate and House of Representatives with respect to its studies. The reports shall contain such findings, statements, and recommendations as the joint committee considers appropriate.

SEC. 1104. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (1) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon voucher's signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

POLICE CADET CORPS

Mr. HOLLINGS. Mr. President, one of the greatest challenges facing any police department is the recruitment of personnel. Often in the past, this problem has been complicated by unrealistic age requirements and lack of innovative training techniques.

The Columbia, S.C., Police Department, under the dynamic leadership of Chief William R. Cauthen, decided to tackle this problem head on a few years ago, and the results to date are highly impressive.

In 1971, Columbia instituted a Police Cadet Corps for young men between the ages of 18 and 21. This cadet program opened up a new and vibrant source of manpower. Heretofore, the age requirement had been 21, with the result that many aspiring police officers never got to achieve their ambition, simply because they could not afford to wait. Now all that has changed. Young people are joining the program, undergoing the most modern kind of training, and in the process are providing an invaluable help to the Columbia Police Department. The program is good for the young people in that it gets the cream of the crop into the service. It is good for the regular officers, because as cadets the young people help to lighten the load, and as regular officers they provide Columbia with the finest kind of officer. And it is good for the city in that all the statistics point to increased police efficiency ever since this program was inaugurated.

Mr. President, in the February 1974 issue of the "FBI Law Enforcement Bulletin," Chief Cauthen has an article detailing the origins, development, and effectiveness of the cadet program. It is interesting reading, and I believe police departments in other cities will have a tremendous interest in what Columbia, S.C., has done. For that reason, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Police Cadet Corps

(By William R. Cauthen)

In the late summer of 1971, the Columbia, S.C., Police Department began a new program which met with almost instant success, and became one of the most workable in the history of the department.

It was at that time that the Columbia Police Cadet Corps was initiated. Prior to that time, young men and women between the ages of 18 and 21 interested in a career in law enforcement had to wait until their 21st birthday before applying to the department. Because of this age barrier, the city of Columbia Police Department was losing a number of promising young applicants either to other law enforcement agencies or to other occupations. So many times, high school graduates would come to the department, only to be told they would have to come back in 2 or 3 years. Few ever returned.

As a result, the average age of officers in the department in 1971 was quite high, since one of the prime sources of manpower was the Armed Forces. Many of these men were retired noncomissioned officers, and the department continued to take applicants up to the age of 44.

MANPOWER SOURCE

The cadet program instantly opened up a new source of manpower for the department, as well as freeing regular officers from duties which had previously kept them out of direct law enforcement activities. There certainly is little need for experienced personnel being tied down at police headquarters. The cadets have allowed regular officers to get out of headquarters and out on the street where the crime is.

The cadet applicants are given an examination by the city's civil service board as well as a personality test which gives the department a look at the psychological makeup of each applicant. While negative results of the personality examination are never used solely to disqualify a candidate, the results often strengthen other information gained through a thorough background investigation of each prospective cadet.

The cadets dress in light blue uniforms and with white caps to distinguish them from members of the regular force who wear dark blue uniforms. The cadets do not carry firearms or night sticks, but do carry walkie-talkies outside headquarters to call for assistance from a regular officer when the occasion presents itself.

When the Cadet Corps was first established, some of the young men tried to take on the responsibilities of regular officers. There were one or two instances when cadets attempted to make arrests of suspected shoplifters. They had to be reminded that they did not have the authority to make arrests as police officers. Through the better communications established between the cadets and headquarters in the use of walkie-talkies, the problems associated with arrest situations have been solved. When cadets encounter circumstances requiring a regular officer, they can call for one conveniently and quickly.

TRAINING

During their tenure as cadets, these young men and women—the first female was hired July 10, 1973—are given experience in each of the seven divisions which make up the Columbia Police Department: traffic, patrol security (jail); juvenile, vice and narcotics; detective; records and identification; and the training and community relations division.

Originally, the cadets were placed under the supervision of the traffic division, since at that time their main duty was to enforce parking regulations. As the number of cadets increased, the duties to which they were assigned also increased in number. There still remained a problem, however, in that most of their time was spent in the traffic division.

As a result, a new division, training and community relations, was established. The division consists of one lieutenant, one sergeant, and the cadets. A rotating shift has been established, taking into account the age of the cadets, which will allow each new cadet to spend as much time in each division as possible.

In addition, the cadets take part in the regular in-house training at the department. They are also eligible for Law Enforcement Assistance Program (LEAP) funds for training at local colleges where curricula in various aspects of criminal justice are available.

Shortly before they reach 21, the cadets are sent to the J. P. Storm Criminal Justice Academy, where they undergo 6 weeks of intensive police training.

Seven cadets have completed training at the academy and joined the regular force since the program began. That number should continue to increase on an annual basis. As a group, the cadets have done much better at the academy than others who had no experience and even better than some officers who had been with the force some time.

The average grade for the seven cadets who completed the training at the academy was 714.5, compared to average grade of all their classes of 681.1, or 33.4 points higher than the class average.

Only one cadet fell below the average of his class, and he was in the program only a short time before entering the academy.

ACHIEVEMENT

Not only are the cadets scoring higher academically, but they are also proving themselves on the force.

For example, one cadet was placed in the patrol division, walking a beat. Later his superiors found he had a good background in riding motorcycles and scooters. So he was placed on one of the city's new motor scooters.

In early June of this year, a vice detective was beaten by a suspected shoplifter in an alleyway. The suspect ran into a parking lot several blocks away where he hid in a truck which had just been unloaded.

A police cadet had seen the man running down the street and called the headquarters' radio dispatcher on his walkie-talkie. The call went out and was received by the cadet on the scooter who was patrolling an area about 10 blocks away. Patrolmen on scooters have permission to leave their assigned beats in such instances, and he reached the parking lot shortly after the suspect boarded the truck.

"I noticed a puzzled look on the face of the truck driver and rode over to investigate," the cadet said. "When the man saw me coming, he jumped out of the truck and started to run. I kept up with him easily on the scooter, and he ran into two other officers who came as backups."

This cadet has also been used as an undercover man primarily on vice cases. He now teams with another cadet in some cases. Other cadets also have been used in this capacity, usually on a two-man team with regular officers.

I believe retention of cadets in the department will be higher than the average of all recruits for the department. When these young men and women are ready for transfer to duties of a sworn officer, they know whether or not they want to become police officers. In addition to that, after watching them perform as cadets over an extended period of time, we know whether or not we want them as regular members of the department.

FUNDING AND RECRUITMENT

The cadet program was originally funded through use of Emergency Employment Act (EEA) moneys, which though still in effect, are temporary funds. Now, however, a number of permanent positions are funded by the city.

In the early spring, there was a problem in recruiting cadets, but the training and community relations division, together with the Public Information Office at city hall, put together a multimedia public service campaign, which had the effect of quadrupling the number of applicants in only 5 weeks.

The television, newspaper, and radio campaign centered on the theme of service to the community. Salary and fringe benefits were also highlighted as was post-high school education available through LEAP.

The majority of the cadets are enrolled in 2-year university career programs, either in criminology or police administration. A 4-year program recently opened at the University of South Carolina, and I am certain that many cadets, as well as regular officers, will take advantage of that program.

Another advantage of the Cadet Corps has been the enormous dollar savings afforded the department. When we train a regular officer, the cost is, by comparison with the cadet, phenomenal. If we lose a regular recruit after 6 or 8 months because he realizes he doesn't want to be a police officer, the cost is a nearly total loss since the officer had insufficient time to become productive in his work.

But with the cadets it's a different story. Their salaries are lower. They perform their duties well. We get a day's work for a day's pay. From their grades at the academy and their performance after that as regular officers, I'd have to say the cadet program is one of the best and most inexpensive training methods we have.

If we didn't have a cadet serving as a clerk in the detective division, for example, we'd have to have a civilian clerk or a detective taking care of the work. So whether or not the cadet becomes a regular officer, and it is our intention that he should, he has nonetheless been serving in a needed capacity while a cadet.

That's a lot cheaper than hiring a man, sending him to the academy, and having him leave after 4 or 5 months on the force.

We're using cadets now in all our divisions. Some cadets are serving as bailiffs in the court, as clerks in other divisions, enforcing parking regulations, and at times serving as radio operators and directing traffic at peak volume hours. One handles photographing and fingerprinting.

While enforcing parking regulations, the cadets have their best opportunity to meet members of the general public. The experience itself is invaluable, and it also gives merchants and shoppers in the downtown area a chance to meet young men and women working toward a career in law enforcement. This image is good for the cadets and the department.

The good community relations gained here is an added plus for the department. A fine example was the cadet who changed a tire for an elderly lady in a driving rain storm. A regular officer would probably have called a service station of the lady's choice, but the cadet did something which had a great deal more impact . . . not only to the lady but to passersby as well.

Cadets also give tours through the department and for other public relations and educational programs.

We've been well satisfied with our cadets. In fact, the program is outliving our expectations by far. It has turned into one of the best programs we've ever had in the department.

THE PROBLEM OF THE WEEKEND WARRIOR

Mr. GOLDWATER. Mr. President, recently the Brookings Institution presented a paper entitled "The U.S. Reserve Forces: The Problem of the Week-End Warrior." In this the author, a former Air Force colonel, Martin Binkin, states among other things that the manpower savings under the plan would be 60,000 active military and 310,000 Reserve and guardsmen.

Having spent 37 years of my life in the Army Reserve, Air Force Reserve, and Air National Guard and the Regular force, I am inclined to agree that the colonel's thesis is a valid one, but I must find fault with some of the bases on which he constructs his argument.

The Association of the U.S. Army has prepared a response to the Brookings study and it brings out the weaknesses of the Brookings paper and makes some well-established points in doing so.

Because this matter will unquestionably become of great concern to Members of the Congress, not only because of the Brookings report, but also because of recent decisions to actually cut Guard and Reserve units, I ask unanimous consent that the AUSA position paper be printed in the Record at this point in my remarks.

There being no objection, the paper was ordered to be printed in the Record, as follows:

A Response to the Brookings Institution Study on U.S. Reserve Forces

February 1, 1974.

The Brookings Institution has recently issued the fifth in a group of studies on defense policy. This one is entitled "The U.S. Reserve Forces: The Problem of the Week-End Warrior." The study has been prepared by Martin Binkin, a retired Air Force colonel and a senior fellow in the Brookings Foreign Policy Studies Group. He also served formerly in the office of the Assistant Secretary of Defense for Systems Analysis. The study was funded by money made available by the Ford Foundation.

Basically the study calls for a re-examination and restudy of our whole Reserve forces program. Binkin maintains that, if this were done, at least some of the following of his recommendations could be adopted:

I. Reduce size of Reserve Components:

A. Eliminate non-essential and marginally effective Army units;

B. Merge the headquarters, training and recruiting facilities of the Army's Guard and Reserve;

C. Reduce to cadre status the equivalent of four Army National Guard divisions (including associated support elements) and augment then with Reservists from IRR or standby Reserves on mobilization;

D. Integrate selective elements of Army Reserve Components into five active Army divisions, thus reducing requirement for active manpower;

E. Reduce number of individual Reservists in Naval Reserve and use some on assignment to Naval vessels undergoing overhaul to reduce active forces;

F. Merge Air National Guard and Reserve headquarters, training and recruiting facilities. Limited integration of Reserve crews into strategic bomber and tanker forces.

II. Eliminate the need for Reserve forces recruiting bonuses by reducing Reserve manpower requirements.

III. Revise Reserve retirement compensation to eliminate the "recomp" feature which bases amount of pay on pay scales in effect at retirees age 60 rather than the date he retires.

Binkin estimates these steps would reduce active military manpower by 60,000, Reserve manpower by 310,000 and, when fully effective, would yield average annual savings of about $1.4 billion in constant FY74 prices.

The study contains sufficient errors in fact, and an apparent lack of knowledge of some of the key features of our Reserve Component program, as well as on-going actions in the study area, to warrant a reply at least in sufficient depth to clarify the record. Additionally, a great many serious students of national defense would disagree with some of the basic philosophy on which Binkin bases his views and recommendations.

While the study purportedly covers all the services, by far the greatest weight of his comments and suggestions are directed solely at the Army. It is these to which we will respond.

Binkin does not appear to be aware of the great amount of time, energy and manpower that has been consistently devoted for the past twenty-five years to the examination, re-examination and restructuring of the Reserve forces, as well as their role in our total force structure. It is quite possible that these components have been more studied, reorganized, realigned and otherwise harassed than any segment or system that has been part of our defense structure. He obviously either was not aware of or chose to overlook the current arbitrary 48,000 man cut in the Army's Reserve Components force structure which DOD directed earlier this year.

He also failed to mention the latest of many major studies of the Guard and Reserve which was directed by the Secretary of Defense on 23 August 1973. Included in this study's objectives are considerations of the availability, force mix, limitations and potential of these components in a national emergency. This study is underway now, to be completed by fall of 1974.

Early in his paper, he states that "a detailed rationale for Reserve forces has remained outside the range of debate." An examination of the Congressional Record or a casual inquiry to the service force planners, the Section 5 Committee, any Army Readiness Region Commander or, for that matter, senior Reserve Component commander would have clarified that error of assumption.

At the outset, he makes a sweeping premise that starts the whole study on the wrong path when he says that the "precise role of the Reserve Components in current national security planning remains unclear." It is now and always has been. This is what the Total Force Concept is all about. It has been clearly stated on numerous occasions that our national defense posture is based on a one and one-half war strategy in which "NATO First" is a key element. The Army's contribution to this strategy is the 21 division force structure with the supporting elements.

In the Army, the Reserve Component portion is usually referred to as the 711,000 TO&E structure and includes all those elements which are considered essential to make the 21 division force viable and supportable. So there is a very clear cut rationale and understanding, not only of what units are needed, but why they are. As with any worthwhile plan, changes are required from time to time, but the basic plan remains intact. This fluctuation, particularly among smaller units, takes place with frequency.

Several times in this study, Binkin refers in a derogatory manner to the fact that the Reserve Components played no major role in Vietnam. On page 1, for example, he says, ". . . their failure to be used in Vietnam—the longest and most difficult war in U.S. history—cast strong doubts *on their value* and raises serious questions about their future role in national security." Again on page 40, "Vietnam experience cast a stigma on Reserve forces that will be difficult to erase." Nowhere in this study does he indicate that the decision not to mobilize more Reserve forces for Vietnam was a purely political decision made by President Johnson over the strongest objections of the Joint Chiefs of Staff and the Service Secretaries. History has shown it to be a bad decision and one that had a devastating effect on the active establishment. It was not a decision made by the Reserve Components and there is no evidence of any reluctance on their part to serve playing any part in the decision.

Later in the paper, the author cites a GAO report to point up that those Army units which were called up were disappointing. All three of the points he cites have to do with individual training and equipment and personnel shortages. He does admit these units were undergoing reorganization at the time they were called up. He fails to point out that during the six months or so before callup, they were flooded with untrained people that even a trained cadre couldn't digest. Surely he would not hold these units responsible for equipment shortages over which they had no control. These allegations make an invalid basis for judging "value" or "future role in national security."

One other basic point that obviously colors Binkin's thinking needs to be clarified before going on to address some of his specifics. On page 19, he states the view that "The basic rationale for maintaining Reserve forces rests on economic grounds." This reflects a fundamental misunderstanding of our historic aversion to overly large standing forces and our traditional reliance on the citizen-soldier concept that is part of our constitutional heritage.

One would gather from the tenor of this study that Binkin sides with the adherents of the short war policy who believe, a) that Europe is probably the only place we would fight again, and b) that it would be all over so swiftly that the Reserve Components would not get involved in time to make a significant contribution.

The record of the past twenty-five years would seem to refute adequately the idea that the United States would not respond anywhere in the world where our basic interests were seriously challenged.

The concept of short wars has long been the Lorelei of military philosophers and, more significantly, political leaders. Geoffrey Blainey, in his excellent new book, *The Causes of War*, points out that one of the most recurrent clues illuminating the causes of war and so of peace is the optimism with which most wars were commenced. He goes on to document the point in great detail, using, among others as prime examples, World Wars I & II, the Soviets in Finland, North Korea's attack on the South, Anglo-French Campaign in the Suez and the fantastic case of India and China in 1962.

Moving on now to an examination of specific points in the Binkin study, let us examine these in more or less chronological order for ease of checking.

On the credit side, the author is quick to acknowledge that in the absence of the draft, "the Reserves have become the primary option available to the President for quickly expanding military forces in a national emergency." He could have been more precise by saying the *only* option available.

He suggests that hard choices await national security planners, who are faced with fitting maximum defense capabilities "within more limited defense resources." Successive Secretaries of Defense, as well as the President of the United States, have been at considerable pains to point out that our national priorities *have already been reordered* through the massive cuts which have already been made in our defense establishment and that what we are working at now is increased efficiency and effectiveness on what may be a *modestly rising* scale of defense expenditures. We have had occasion in the past to quote from the President's Foreign Policy Report to Congress three years ago. Perhaps it is pertinent to repeat: "It needs to be understood with total clarity . . . that defense programs are not indefinitely adjustable . . . there is an absolute point below which our security forces must not be allowed to go. That is the level of sufficiency. Above or at that level, our defense forces protect national security adequately. Below that level is one vast undifferentiated area of no security at all. For it serves no useful purpose in conflicts between nations to have been almost strong enough."

Binkin goes on to discuss some of the problems incident to mobilization. He rightly points out that it does take a longer time to deploy Reserve Component units than those in the active establishment. He doesn't acknowledge the very active efforts to reduce the administrative work loads involved in mobilization and to get the maximum amount done prior to call-up. Nor is it clear, as it should be, in his remarks that deployment schedules take into account that our equipment pipeline and transportation system limitations make it evident that all units cannot be digested at once. In the order of priority, Reserve Component units are worked into the schedule at realistic intervals which take into account these problems. The fact remains, however, that readiness and deployment goals are being shortened as rapidly as conditions permit and should soon be substantially better than his estimate indicates. Certainly the active Army views this is a manageable problem.

This would have been the appropriate place for Binkin to describe and assess the really massive effort which the Army has put in motion to assist with these very problems. In a major reorganization effected by the Army early last year, training and readiness support of the Reserve Components was made the sole responsibility of the commanders of each of the three CONUS Armies which operate directly under the Army's new Forces Command. Under the CONUS Armies are nine Readiness Regions, each organized into subordinate groups and teams of experts who work shoulder to shoulder with Reservists to improve their readiness. These active Army people are doers and specialists in hands-on training, not staff supervisors. Since their mission is aimed exclusively at improving Reserve Component training and readiness, it is unfortunate that Binkin chose to ignore this effort. It should do much to change his views on this basic problem.

Binkin states that at the beginning of FY 73, about 60% of the Reserve maneuver units were without weekend training areas. This is incorrect. Only 18% are without necessary areas today. There is an on-going program to which he refers for armories and training areas that will improve this even more.

Again discussing readiness, he says that "Army National Guard units are designed to attain readiness at the company level" and "the post-mobilization training would delay division-sized deployments for perhaps four months." The company level training is a *minimum*. There is considerable training above that level that has been going on for some time. In the January 1974 issue of *Soldiers* magazine, there is a good description of the seven maneuver training commands which have been established from Army Reserve Training Division Brigades to write and organize field exercises for the active Army as well as the Reserve Components and to conduct tests from battalion to corps level.

But it would be wrong to infer that large units will ever get to the point where post-mobilization training is not required. The goal is to reduce the time. If the Reserve could be left alone for a while and the active Army's current support effort be given a chance to work, these goals can be met.

His chapter four suggests that sinister political forces are constantly plotting to maintain over-large Reserve forces to the detriment of our country's welfare.

There are political forces exercised in all segments of our society and many far more effectively than those on behalf of the Reserve Components. This will be borne out, if proof is needed, by data which those two "prosperous, united, articulate and highly active" Reserve Component lobby organizations would be willing to supply.

In the latter half of his paper, Binkin gives us his rationale which he believes could result in substantial cuts in the size and costs of our Reserve forces. He first addresses what he describes as "relatively small, obscure support units and activities." His first target is the 53 civil affairs units which he says have about 7,000 plus men. There may very well be too many of these units. But for an Army that has spent 25 years helping govern one of the world's major cities in Berlin and governed our second largest trading partner for a number of years before drafting her constitution, the civil affairs function needs a nucleus of units which are able to perform their specialty when we need them. So, while there may be more units than we need, it would be foolhardy to wipe them out as Binkin suggests.

Binkin is also of the opinion that medics, lawyers, construction workers and administrative people whose civilian skills are required need not be in units. One could apply the same logic to licensed pilots. In the first place, the President has no authority to call individuals to duty without Congressional action, so we would have to have complete mobilization before these people could be called up as individuals. But, even beyond this, to suggest that an amalgam of civilians, however talented, could be welded quickly into a functioning military unit flies in the face of all our past experience.

A minor point, Binkin raises the question as to why we still need 4,500 Army Guardsmen in Nike/Hercules units. The answer is we don't, and the slots assigned to these organizations have already been eliminated—another example of the continual up-dating of our Reserve organization.

Binkin also questions the need for the 21 separate brigades, including the special mission brigades. The answer is that all of these are specifically targeted for early deployment in our total force mobilization plan.

He assumes that of the roughly 300,000 people in the non-divisional units he's been discussing, 200,000 are of marginal use and could be eliminated. This suggestion reveals a lack of knowledge of the functioning of land forces and the diverse elements whose teamwork is required for success in combat.

Binkin next makes a pitch for another try at some sort of merger of the Guard and Reserve. He takes cognizance of past attempts in this direction and is fairly pragmatic in his assessments of the meager chances for a success of another effort. He offers a variation with his suggestion that the Army Guard and Reserve be combined into the Guard while the air components of each be combined under the Reserve. Although he rightly says that the elimination of headquarters saves very little, he nevertheless arbitrarily assigns annual savings of $30–$50 million to his merger plan on the assumption that combined base operations, training and recruiting would provide such savings. This is pure crystal ball.

As a further means of saving money, Binkin next suggests that four Reserve Component divisions and their supporting elements could be reduced to cadre status, since there would be time after mobilization to assign the additional personnel required, issue equipment, etc. As we have pointed out, there is a place in our Total Force Plan for these divisions, and it calls for them to be ready far sooner than they could be under any cadre system. In-being units can obviously be whipped into top shape far faster than those requiring so much filling and training after mobilization. Units that can be deployed in the first 60 days after mobilization are more valuable than those that come along later. Finally, anyone who has ever had any exposure to a cadre operation is aware of its severe limitations. Cadre units cannot adequately maintain the unit's equipment. They are not susceptible to effective training over any extended period of time. They do not provide the basis for either leadership or team training, both of which are essential, particularly for units of the combat arms. There is no teamwork, esprit or the other essentials to a successful military unit. In short, it's a bad idea.

He goes on to make a gratuitous comment that deserves refutation. He says: "Motivated in part by the past performance of Reserve units, and possibly by the conviction that current active forces will need but limited assistance to meet the range of likely contingencies, many defense planners appear to be counting on no more than four—and perhaps as few as two—National Guard divisions in the first six months following mobilization." He doesn't identify the planners, but that statement contradicts the testimony of the Secretary of Defense, the Secretary of the Army and the Army's Chief of Staff. On the record, this statement is completely opposite from the DOD positions.

He moves on next to suggest the possible replacement of some active Army units with Reserve Component units in what he terms "hybrid" divisions. Basically, what he is suggesting is that possibly a battalion of each brigade, and a battery of each of the artillery support units could be a Reserve Component unit. The same would apply to the division base units. He would only do this in CONUS land divisions "*not likely*" to be needed immediately in an emergency.

There may be occasions when our active divisions will be employed *without* mobilization. Obviously the "hybrid" divisions would be at only ⅔ of their strength if this took place.

There would always be a disparity in readiness between active and Reserve units which, in a "hybrid" situation, would slow the combat development of the total unit.

In all of his suggestions, the basic thought keeps coming through that we will face only one contingency at a time (if, in fact, we face any at all) or, if we do get committed, it will be all over in less than 90 days. Fortunately, our defense planners have a more prudent view.

The concept of leaving Reserve Component units satellited on active units for training does have merit. The Army has been experimenting with that idea for the last two years at Fort Hood in its so-called "Round Out" concept. Emerging from this experience is an "affiliation" program now being worked up which would provide for separate battalions and brigades to be attached to active Army units for training, supervision, et al. It is even contemplated that they woud fight with these units as an *augmentation*.

His final suggestion for cutting costs is in chapter seven, dealing with what he calls "Compensation Efficiencies."

First, he makes a pitch for not making available recruiting bonuses for the Reserve Components. As is the case elsewhere, not all his facts are straight.

He takes the Reserve Components to task when he says, "If greater reliance were placed on attracting people with previous service, possible shortages could be alleviated." The problem is *exactly* the opposite. The Reserve Components have not been meeting their quotas of *non-prior service personnel*. They have already been relying too heavily on prior-service people and with that source drying up when the remaining draftees leave the Army this fall, they will have to rely on getting non-prior service people. This was pointed up again in an article in the January 1974 *Soldiers* magazine: "Latest figures reveal the Guard is at 95% strength, the Reserves at 90% strength. But the figures are deceiving. Both the Guard and the Reserve are hitting lows when it comes to getting non-prior service people. The Guard, for example, is getting 1,700 monthly against a 4,000 requirement. The Reserve is not faring much better."

Actually, as the foregoing quote also points up, recruiting for the Reserve Components has improved considerably, and, were the recruiting aids requested made available by the Congress, many working on the problem believe the Reserve Components could maintain their strength goals.

Binkin would reduce the recruiting problem further by the massive cuts in authorized strength he has suggested.

The author's final point is his concern that the Reserve Component retirees may be overcompensated. He advocates that Reserve retirees be paid their retirement based on the pay scales in force on the date of their retirement rather than those prevailing at their age 60, when they actually begin to draw the pay. This suggestion will undoubtedly be considered with other facets of the retirement program now being examined.

In any consideration of retirement, it is useful to have a feel for the numbers under discussion. He did not include them. In response to query, we were advised by the Department of the Army that, as of 3 November 1973, the following were considered careerists and apt to go on to retirement:

Army National Guard

	Percent
Officer	69.8
Enlisted	21.7

Army Reserve

	Percent
Officer	64.8
Enlisted	16.5

In one of his last chapter, Binkin presents the case for the short war which would, of course, make all mobilization plans obsolete. In his scenario, he gives no weight at all to what an adequate in-being total force defense establishment can do to prevent even a short war from starting.

Frankly, this study is a disappointment. It is shallow, negative and counter-productive. Criticism is undoubtedly warranted in many areas of our Reserve program. Hopefully, the on-going DOD study will identify those areas, so that our full effort can turn again to improving the strength, readiness and training of our Reserve Components.

TIME TO NORMALIZE RELATIONS WITH CUBA

Mr. KENNEDY. Mr. President, Soviet Foreign Minister Andrei Gromyko's arrival from Havana, Cuba, 2 days ago is the latest signal that an opportunity is at hand to normalize our relations with Cuba.

For 13 years, United States-Cuban relations have been based on hostility, antagonism, the sterile rhetoric of the cold war. The policy implementing this attitude called for political and economic isolation. It began with a partial embargo on exports to Cuba in October 1960. It continued with the breaking of diplomatic relations on January 3, 1961, and the total embargo on exports on February 3, 1962. And it was spread through the hemisphere on a 15 to 4 vote of the OAS in 1964.

While we have reexamined virtually every other policy with origins in a past era, the quarantine policy toward Cuba has lingered despite increasing evidence that it is no longer appropriate either to U.S. interests or to the future of the hemisphere.

We have closed our eyes to the growing trade between Cuba and our Western European allies. We have closed our eyes to the growing trade and contacts between Cuba and other nations of the Western Hemisphere. We have closed our eyes to the growing indication that only our opposition has prevented the OAS from vacating the economic boycott adopted in 1964.

Now nine Latin American countries have reinstated economic relations with Cuba. Six Latin America countries have formal diplomatic relations with the government of Castro.

At the same time, the major effect of the policy, while not closing off relations between Cuba and non-Communist nations, has been to press the Cuban nation further into reliance and dependence upon the Soviet Union and the nations of Eastern Europe. Some may argue that we benefit when the Soviet Union is forced to subsidize the Cuban regime at a costly rate of $1.5 million per day; but the consequences of that dependence clearly have been to entwine Cuba even more closely into the Communist bloc, to encourage the Soviet Union's hemispheric involvement, and to discourage a more natural development of relations between Cuba and other nations in the Caribbean.

I would contend today, as I have for the past 4 years, that however valid the reasons for establishing the policy of isolation, those reasons no longer exist.

First, the Soviet threat to the United States and the hemisphere—threat in the form of intermediate range ballistic missiles implanted on the island—was blocked at its inception by the strong actions of President Kennedy. The accord with the Soviet Union which concluded the Cuban missile crisis was reaffirmed in 1970 when some observers feared that the port of Cienfuegos would become a permanent Soviet nuclear submarine base.

The latest testimony from defense witnesses still reflects the view of the Defense Intelligence Agency Deputy Director for Intelligence in September 1972, the view that—

> The Cuban threat to the United States, which was not very great several years ago, has not increased. So, there is not a serious Cuban military threat to the United States.

It seems more than obvious that any Soviet military threat to the United States rests on its strategic nuclear capabilities rather than its presence in Cuba.

Second, the rationale that Cuba is engaged in the export of revolution died in the mountains of Bolivia with Che Guevara. If ever an adequate justification for the policy of isolation, the testimony to its virtual nonexistence today seems difficult to contradict. A Defense Intelligence Agency consultant testified in 1972 that Castro support to "subversive groups" was "at a low level." In a more vehement tone, guerrilla leaders themselves have charged Castro with abandoning the Latin America revolutionary groups. And Soviet leader Leonid Brezhnev made what a few years ago would have been an extraordinary statement when he said on Saturday:

> The Soviet Union has always considered to be criminal any attempt to export counterrevolution. But neither are Communists supporters of the export of revolution.

The final prop to the isolation rationale was the use presence in Cuba of an avowedly Communist regime and the desire to discourage the Cuban model for other nations in the hemisphere. Yet, those nations see the warts on the Cuban model for development not because of our isolation policy, but because of widespread economic difficulties, heavy reliance on the Soviet Union and the maintenance of a closed political system.

The underpinning to our policy of isolation toward Cuba has been eaten away by the passage of time and it stands perilously close to toppling under its own weight.

The policy which began as an attempt to isolate Cuba may well conclude as a policy in which we are ourselves isolated. For the trend is clear. A majority is building within OAS to jettison the policy of isolation. Our support for it has been the glue that has perpetuated that policy.

Rather than appearing to resist the trend toward improvement of hemispheric relations with Cuba, we should play a leadership role by using the current opportunity to reorder and normalize our relations with Cuba.

The visit of the Soviet Foreign Minister to Washington follows by only a few days the statement of Cuban Premier Castro expressing approval of improved relations between East and West. That statement follows by 3 weeks the positive comments of Fernando Lopez Muino, Cuba's Ambassador to Mexico on the possibility on ending the estrangement between our two nations. Less than a year ago, our two nations reached a final agreement on hijacking, indicating our common concern to end air piracy.

All of these events indicate that now is the time for the United States to begin the process of normalizing relations with Cuba.

First, at the foreign ministers meeting in Mexico City, the Secretary of State should endorse a resolution giving all OAS members freedom to make their own decisions about their relations with Cuba. In effect, such a statement would lift the formal hemispheric economic boycott which already has been shattered by 10 nations.

Second, we should restore commercial air service between our two countries, ending the barrier that has been a major obstacle to the speedy reunification of refugee families. In that process, we should call upon the Cuban Government to issue conduct exit visas to its political prisoners.

Third, we should encourage the free exchange of people and ideas between Cuba and the United States, a policy that we have preached to the Soviet Union and to others at the European Security Conference and which we should champion in our own hemisphere. This would include the exchange of scientific and cultural programs and the exchange of leaders in such fields as health, education, and the arts. The recent denial of a visa to the award-winning Cuban filmmaker Tomas Gutierraz Aled tarnishes our name and our political traditions.

Finally, we should build on the reduced antagonism that would follow the success of the previous steps by beginning the process of formal diplomatic normalization, including the opening of consular offices.

These suggestions are not the only path to rapprochement and their accomplishment will require patient negotiations and efforts on the part of both countries. Nor is there any assurance that the Cuban response to our initiatives would be immediate and positive. But to take place at all, a beginning must be made, a beginning that requires diplomatic leadership on our part. Hopefully, the Secretary of State and the White House will seize the opportunity now at hand. Working toward normal relations with Cuba would be in our own interests; and it would be in the interests of peace and stability within the hemisphere as well.

No policy decision by the administration would reflect a greater commitment to ending its neglect of our Latin American relations over the past 5 years than a decision to end the outdated policy of isolating Cuba. Surely an administration that is willing to travel 9,000 miles to improve relations with the People's Republic of China should be willing to span the 90 miles to the Republic of Cuba for the same purpose.

Mr. President, I ask unanimous consent to print in the RECORD recent editorials and articles on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 29, 1974]

HAVANA: NEW RELATIONSHIPS?

The Brezhnev-Castro talks in Havana this week are unlikely to signal any major change in the Soviet-Cuban relationship. But they emphasize the continuing Cuban dependence upon the Soviet Union.

Moreover, the talks are expected to show new evidence of Havana's staunch support of Moscow's line in the Sino-Soviet dispute. Such support from so small an island as Cuba may seem of little value to Moscow, but the Soviet hierarchy appears happy for any assist against Peking.

From Fidel Castro's point of view, the Brezhnev visit can yield high dividends. It may be galling to the Cuban leader to have to accept a million or a million and a half dollars a day in Soviet aid when 15 years ago he was talking of making Cuba "wholly independent," but Dr. Castro is a realist. He knows Cuba cannot stay afloat without the vast quantities of Soviet aid and credit that regularly pour into the island. The Brezhnev visit will likely firm up the Soviet assistance, especially since Dr. Castro has adopted Soviet-style economic planning measures for his flagging farms and industry.

That is only part of the Soviet price, however. Dr. Castro also knows that detente with the United States is now a key element in Soviet strategy. Cuba is being encouraged to go the same route rather than follow its former policy of promoting revolution.

The conciliatory statements by the Cuban Ambassador to Mexico earlier this month, indicating that there were few obstacles to a renewal of U.S.-Cuban ties, are seen as part of this new pattern. Havana has done nothing to deny or scuttle the Ambassador's overture. Indeed, the time seems imminent when Havana and Washington will again talk face to-face. This represents an important change from Cuba's onetime intransigent attitude toward Washington—and appears to be the direct result of Soviet prodding.

Thus, the Brezhnev-Castro talks are expected to further cement Soviet-Cuban ties, and they could also propel Cuba in the direction of some sort of new relationship with the United States.

All this suggests that Washington would be well advised to watch developments in Havana carefully. At a time when detente is in the air, continuance by Washington of its policy of isolating Cuba is an anachronism. The talks this week in Havana may provide a key to ending the anachronism.

[From the New York Times, Jan. 30, 1974]

BREZHNEV IN HAVANA

The cordial greeting cabled to President Nixon by Leonid Brezhnev, "flying close to the shores of the United States" on his way to Cuba, symbolizes—if taken at face value—the improvement in Soviet-American relations of recent years.

What the world will be watching for from Mr. Brezhnev's visit is an indication that he is urging Premier Castro to seek better relations with the United States. A more normal Washington-Havana relationship could not fail to advance the Soviet-American détente. If it brought an end to the economic embargo against Cuba by the Organization of American States, it might also enable Moscow to cut back its subsidy of Cuba's economy, currently estimated at $1.5 million a day.

However florid the oratory during the visit, Mr. Brezhnev is likely in private at least to counsel Mr. Castro against actions in the Americas that could jeopardize détente and Moscow's prospects for large credits from the United States. He is believed to have delayed the visit, originally scheduled to begin in late December, so as to miss the fifteenth anniversary of the Castro revolution, with its attendant risk of offending Washington.

After positive remarks earlier this month by Cuba's Ambassador to Mexico about increasing contacts with the United States, the State Departrment promised to "weigh everything" on that subject emanating from Havana. That attitude certainly should apply to Mr. Brezhnev's visit—a venture that could conceivably have constructive significance for the hemisphere.

[From the Baltimore Sun, Jan. 30, 1974]

THEIR MAN IN HAVANA

As Leonid Brezhnev's IL-62 jet flew from Newfoundland to Cuba on a course roughly parallel to the United States East Coast this week, the Soviet leader meticulously sent greetings to his old summit partner, Richard Nixon. "Best wishes to you, Mr. President, to the government and to the people of the United States." Then he went on to Havana to extol the "heroic Cuban people" and expose himself to the overwhelming hospitality of Fidel Castro in "the island of freedom." It is a measure of new currents in diplomacy that Brezhnev's visit is not being viewed as a provocation to Washington but as a mission that may even provide a nudge for better U.S.-Cuban relations. Nikita Khrushchev's reckless effort to sneak offensive missiles into Cuba a dozen years ago seems like something out of pre-history.

Brezhnev's benign intentions, if benign they are, come from no excess of altruism. That is not one of his characteristics. Rather they seem to reflect a desire to reduce friction between Havana and Washington so the Soviet Union can be in a better position to improve its relations with the nations of Latin America. Moscow has long been hampered in Latin America by its close association with Castroism and the subversive activities that Cuba promoted during the Che Guevara era. Although some of Fidel's boys may have felt that the toppling of Chile's President Allende, an elected Marxist, supported the wisdom of a more rambunctious approach to revolution, Castro abstained from pushing such logic. Instead, at a conference of non-aligned nations in Algiers last month he lavished praise on Brezhnev's Russia as a defender of small nations (of all things).

Castro's prudence can hardly be faulted. The Soviet Union is subsidizing his country to the tune of about $1.5 million a day. It is supplying Cuba with grain, crude oil, pig iron, timber and free military hardware. It buys 80 per cent of the Cuban sugar crop. It has financed the construction of a fishing port to service the Soviet fleet and has drawn Cuba into the Council for Mutual Economic Assistance, otherwise known as Comecon, an organization disciplining the Cuban economy along the norms of a five-year plan.

While it is conventional wisdom to suggest that a U.S.-Cuban rapprochement would end the anti-Castro trade embargo and thus ease the financial burden on Moscow, one should not give too much weight to that factor. After all, the cost of Cuba is small in the overall context of the Soviet economy. It makes more sense to regard the Brezhnev visit as political. And it would make even more sense if the Nixon administration would respond favorably to any overtures from the Castro government that Mr. Brezhnev might encourage. If the United States is big enough to improve its relations with the big Communist powers, surely it should stop being small enough to persist in hostility toward a small Communist power.

[From the Washington Post, Feb. 5, 1974]

Kissinger's Latin Vista

Secretary of State Kissinger heads for Panama shortly to sign the recently negotiated statement of principles for a new canal treaty. In a few weeks he is due to confer with the foreign minister of Latin America. in Mexico City. This evidence of his specific concern for a long-festering Latin issue, the canal and of his general concern for inter-American relations, has elicited a certain amount of expectation that the "mature partnership" envisioned by President Nixon in 1969 (in his first and last major statement on Latin America) may be starting to take on real life. Latins have properly become wary over the years of periodic American affirmations of devotion to the hemispheric welfare. But certainly the need for such a thrust is undiminished.

The economic ties between the United States and Latin America continually grow thicker and more diverse. To cite one "new" example, Venezuela and Ecuador are full-fledged members of the oil cartel which has quadrupled energy costs around the world. The politics of the hemisphere increasingly center on easing the strains created by these economic ties. For just this reason, Latin America requires from Washington not occasional spurts of headline diplomacy, however symbolically satisfying these may be, but steadfast application to day-to-day affairs. Latins deserve to be assured that their voices are regularly heard. Sen. Robert Byrd (D-W. Va.) noted candidly the other day that many congressmen have stinted Latin America "because Latin fields are not regarded as politically fertile." But the Executive Branch has no similar excuse for such a casual approach.

Responding to an earlier Kissinger suggestion for a "new style of dialogue," Latin foreign ministers met at Bogota last November to draw up "Bases for a New Dialogue" with the United States. This offers encouraging evidence that Latin Americans have used the recent years of Washington's relative inattentiveness profitably—not to draw away from the United States but to prepare for more fruitful and mature relations. In particular, the Latins have moved toward a position where they are less disabled by lack of confidence than they previously were in dealing with the non-Latin world. For instance, the Inter-American Development Bank is right now at the make-or-break stage of drawing into its membership and its work some 18 countries from outside the region; on the outcome largely hinges the question of whether the Latin economy grows in a regional or world context. The United States remains, and will remain, the dominant power of the hemisphere, but perhaps we are learning some of the advantages of self-effacement too. Dr. Kissinger's upcoming Latin visits should be especially instructive in this regard.

If economic relations are central in the hemisphere, however, at least one major political issue remains. Though Havana itself stays in a negative stance, it becomes progressively more anomalous that the United States should exert its influence to keep Cuba formally outside the inter-American system. Why should we treat Havana any less pragmatically than we treat Moscow or Peking? Latin governments with problems on their own left remain cool to lifting the sanctions which the Organization of American States voted against Cuba 13 years ago. But many other Latin governments are more than ready to move on. Now that the Latin subsidiaries of some American corporations see a chance to sell their products in the Cuban market, the United States is likely to come under heightened pressure from that quarter too. Mexico City would be an appropriate place for Dr. Kissinger to start bringing our Cuban policy into step with the times.

[From the Washington Star-News, Feb. 3, 1974]

Intense U.S.-Mexico Talks Linked to Cuba Recognition

(By Jeremiah O'Leary)

Mexican Foreign Minister Emilio Rabasa met yesterday for the third time in three days with Secretary of State Henry A. Kissinger amid growing speculation that the United States and Cuba are responding to heavy pressures that could lead to resumption of relations soon.

This speculation was given added impetus by a White House announcement that Soviet Foreign Minister Andrei Gromyko, fresh from talks with Cuban Prime Minister Fidel Castro, will visit President Nixon tomorrow.

Although there are a number of other important issues for Gromyko to discuss with the President and Secretary of State Henry A. Kissinger, it appears certain that the Cuban situation will not be ignored.

Rabasa's main business in Washington last week has been to prepare for an important meeting of Organization of American States foreign ministers in Mexico City later this month and to discuss problems between the United States and Mexico. But Rabasa is an articulate proponent of ending the long OAS isolation of Cuba, and has a good relationship with both the Cubans and the Americans.

He pointedly told reporters yesterday there were two subjects of conversation between himself and Kissinger that he would not discuss. Rabasa would neither confirm nor deny that those subjects included Cuba, but observers got the distinct impression he was referring to Cuba and was pleased with the prospects.

In addition to the Kissinger-Rabasa meetings there were these other developments;

Soviet leader Leonid I. Brezhnev, in Havana, delivered a long speech in which he said Communists do not believe in exporting revolution.

Castro, in one of his rare speeches from a written text, indicated the way to confront capitalism is through the framework of that system.

Kissinger appeared in a closed session before the Senate Foreign Relations Committee and reportedly was urged by members to take another look at the U.S. policy of continuing to isolate Cuba while seeking better relations with the Marxist giants, Russia and China.

Rabasa said he came to Washington at Kissinger's request to explain the mechanics of the foreign ministers' meeting which Kissinger will attend Feb. 21, 22, and 23. He said he explained that the Latin Americans intend to speak with him and not against him.

"We will have frank discussions," Rabasa said he told Kissinger "but there will be no criticism of the United States. We will forget past history and try to construct a new framework for relations in the hemisphere."

There will be eight subjects on the agenda at the conference: Cooperation for development, coercive economic measures, restructuring of the inter-American system, solution of the Panama Canal question, the international trade and monetary system, transnational enterprises, exchanges of technology and general relations.

Kissinger will address the conference on developments in international relations and the energy crisis. He also will have an opportunity to give the U.S. position on the eight agenda items, including the Panama question. Kissinger will make a quick trip to Panama on Thursday to sign a declaration of principles with that country as a basis for negotiations on a new treaty.

Uppermost of the questions between the United States and Mexico is Mexico's anxiety to reach an accord with the United States on the problem of migratory workers. Mexico wants a quota of migratory workers for farm labor in the U.S. according to the supply and demand, more humane treatment of the workers, wages comparable to U.S. scales and improved consular representation.

Brezhnev Says Cuba Is Not a Vital Base for Soviet

MIAMI, January 30.—Leonid I. Brezhnev declared last night in Havana that the Soviet Union did not consider Cuba "a strategic base" for influence.

The leader of the Soviet Communist party, who spoke at a rally at the start of his first visit to Cuba, said that Soviet military aid to Havana was aimed at "peace and tranquility," not toward any aggressive end.

Excerpts from his speech and from that of Premier Fidel Castro were rebroadcast through the day today by the Havana radio, which reiterated that Mr. Brezhnev's visit was a sign of "unbreakable ties" between the two nations.

"To the Soviet Union," Mr. Brezhnev declared, "Cuba is not an object of exploitation or of capitalist investments. It is not a strategic base out of which influence is expected."

Mentioning Soviet aid to Cuba, he said:

"We well know, as others probably also know, that Soviet arms in Cuban hands are not weapons to attack anyone nor a means of straining the international situation. They serve the just cause of the defense of revolutionary conquests of the country, the cause of peace and tranquility."

Havana broadcasts suggested that Mr. Brezhnev spent the day making courtesy calls and in discussions with ambassadors from some Soviet-bloc nations.

U.S. Notes Statements

(By David Binder)

WASHINGTON, January 30.—Washington officials concerned with Cuban affairs focused attention today primarily on two statements made in Havana last night.

One was by Premier Castro expressing approval of improved relations between East and West. The other was a condemnation by Mr. Brezhnev of a past Communist policy of trying to export revolution.

In his welcoming speech, Mr. Castro said the "idea of peaceful coexistence between states with different social systems is gradually making headway in international relations." Later he told Mr. Brezhnev that Cuba "resolutely supports you" in "your efforts to overcome world tension and to achieve an end to the arms race."

A United States official commented, "This is the first time Castro has expressed any degree of warmth favorable to détente."

The official added that the Cuban leadership and his press has long been skeptical of efforts at easing East-West tension, "I suppose with 1962" in mind, alluding to the crisis in which the Soviet Union pulled back missiles it had set up in Cuba.

Mr. Brezhnev, in his response, said to Mr. Castro's welcoming speech "Soviet weapons in the hands of Cubans are not weapons for attacking anybody" and then added: "Revolution feeds not on somebody's propaganda or subversion. Nor are the Communists supporters of the export of revolution. A revolution matures on the domestic soil of this or that country."

Mr. Brezhnev, it was noted here with interest, also declared: "In your Cuba today an excavator or a combine harvester is as good a weapon in the struggle for revolution as a rifle or a machine gun was yesterday."

A United States official termed Premier Castro's criticism of the Chinese his "strongest ever." Without mentioning China, Mr. Castro spoke of "pseudo-left wingers and renegades of the revolutionary movement who, from allegedly Marxist stances, revile the Soviet Union, wretchedly betraying proletarian internationalism and serving the interests of imperial."

Administration officials say that the Castro Government has been de-emphasizing subversive activities in other Latin American countries since the death of Ernesto Che Guevara in Bolivia in 1967. But the United States officials believe Cuba is still training foreign guerrillas and still maintains underground networks in Chile, Bolivia and Uruguay.

A high Administration official said today that United States policy toward Cuba had not changed. But he acknowledged that the State Department was considering applications by three United States-owned concerns in Argentina to sell vehicles to Cuba.

[From the Chicago Tribune, Jan. 9, 1974]

Cuba Hints Readiness for U.S. Talks

Mexico City, January 8.—A Cuban diplomat says "Guantanamo isn't important to us now," and Fidel Castro's government will be ready to talk about resuming diplomatic relations with the United States as soon as Washington, lifts its 12-year-old economic blockade of Cuba.

Fernando Lopez Muino, Cuba's ambassador to Mexico, said Monday night the Castro regime has shelved its long-time demand for the U.S. to give up its naval base at Guantanamo Bay, on the south coast of Cuba.

The United States controls the base under a 1903 treaty which carries no expiration date. A community of more than 9,000 persons, both military and civilian, resides at the 45-square mile base.

Lopez met with a small group of newsmen here one month before Secretary of State Henry Kissinger is scheduled to visit the Mexican capital. A Cuban source said: "I guess you could speculate that the ambassador's meeting has something to do with the Kissinger visit."

Lopez said the U.S. blockade has been made "ridiculous" by Cuba's trade with Japan, Western Europe, and other parts of the world.

"We are not in a holy war with the United States, but we will never undertake negotiations while the blockade is in effect," he said.

In Washington, the State Department expressed cautious interest over the reports that Cuba is interested in ending diplomatic estrangement between the two countries.

"We are not dismissing them. We will weigh everything," department spokesman George Vest said following Lopez statements. Vest said, however, that he would not want to "jump to the conclusion" that Lopez' statements constituted a significant change in Cuban policy.

Cuba today observed its 15th year under Fidel Castro and Lopez Muino said that after 15 years of "just surviving" Cuba now feels ready to "institutionalize the revolution."

"Cuba is ready to discuss, not establish, relations, Lopez said, but as long as the blockade is in effect, you won't see us at a round table or a square table."

[From the New York Times, Jan. 9, 1974]
Jan. 9, 1974]

Cuba Indicates Interest in Talks If U.S. Ends Economic Blockade

Mexico City, January 8.—A Cuban diplomat says that Havana would be willing to hold political talks with Washington if the United States lifted her economic blockade of the island.

In a news conference called to discuss the 15th anniversary of the Cuban revolution, Fernando L. Lopez Muino, Cuba's Ambassador to Mexico, said that Havana's "single and irrevocable" condition for resuming contacts with the United States Government was the "unconditional and unilateral" ending of the 12-year-old economic blockade.

He also said the United State's continued use of its naval base on the Cuban mainland at Guantanamo "is not important to us" and would not be an obstacle to talks between Washington and Havana.

SPECULATION IS PUT DOWN

Cuban Embassy sources in Mexico City stressed that, despite press speculation that Havana was putting out feelers to Washington, the Ambassador merely reiterated Cuba's oft-stated policy toward the United States.

Two weeks ago Secretary of State Kissinger told reporters that "the major obstacle to a rapprochement has been the hostility of the Government of Cuba and its commitment to a revolutionary policy throughout the Western Hemisphere."

Most of last night's news conference was devoted to discussing Cuban progress over the last 15 years. Only Mexican journalists were formally invited, although a small number of foreign correspondents heard of the meeting and also attended.

"We are not in holy war with the United States," Mr. Lopez Muino said, "We would be willing to talk to the United States with the single and irrevocable condition that is the end of the economic blockade."

BLOCKADE CALLED "FARCE"

He said that the economic blockade was not "a farce" because many countries outside the Communist bloc, including Japan and much of Western Europe, were trading with Cuba.

The Ambassador pointed out that several Latin-American countries now maintained diplomatic relations with Cuba. "In some cases, the political blockade has been an honor," he went on. "For us, it is an honor that Brazil, Paraguay, Bolivia and now Uruguay do not want to have relations with us."

Mr. Lopez Muino, holding his first news conference since becoming Ambassador to Mexico six months ago, also depreciated next month's scheduled meeting here between Mr. Kissinger and the foreign ministers of all Latin-American countries except Cuba.

"Nothing will come of it for lack of political will," he said. "The United States has a new magic Secretary of State, so everyone is optimistic, but he does not know Latin-America and the problems to be discussed are all the old ones."

United States Considers Talks on Renewing Ties After Conciliatory Statement by Cuba

Washington.—The State Department was studying yesterday the possibility of United States-Cuba talks on renewing diplomatic relations following reports of Cuba's willingness to consider the subject under certain circumstances.

Cuba's ambassador to Mexico, Fernando Lopez Muino, said his government is "ready to discuss, not establish" relations with the U.S. if Washington is prepared to end its support of the nine-year-old hemispheric embargo of Cuba.

The conciliatory statement appeared to at least partially satisfy one of the two conditions for improving relations with Cuba, outlined by Henry A. Kissinger, the Secretary of State, 12 days ago. Dr. Kissinger said then that "the hostility of the government of Cuba" has been one of two major obstacles to rapprochement.

The second barrier, Dr. Kissinger said, is Cuba's "commitment to revolutionary policy throughout the Western Hemisphere."

State Department officials noted that Cuban Premier Fidel Castro reaffirmed his support for this policy just 10 days ago when he declared that Cuba is willing to dispatch troops to any Latin American country which, "in the face of imperialist aggression needs Cubans to fight alongside them."

The first public State Department response to Mr. Lopez's remarks was one of cautious interest.

A department spokesman, George Vest, said, "We are not dismissing them. We will weigh everything."

He said, however, that he would not want to jump to the conclusion that Mr. Lopez's statements constituted a major departure in Cuban policy toward the U.S. Mr. Vest indicated that further evidence would be needed of Cuba's interest in improving relations.

At his news conference in Mexico City Monday night, Mr. Lopez said that the U.S.-controlled naval base at Guantanamo Bay, Cuba, was not an obstacle to negotiations, but State Department officials pointed out that this policy had been expressed earlier on two occasions by Premier Castro himself.

Some diplomats said they believe Mr. Lopez may be attempting to pave the way for a face-to-face meeting with Dr. Kissinger when the secretary goes to Mexico for a meeting of hemispheric foreign ministers next month.

[From the (Colo.) Rocky Mountain News, Jan. 2, 1974]

Castro Promotes New Cuban Image

(By James Foster)

Washington.—Premier Fidel Castro is promoting a new foreign relations program designed to rebuild Cuba's image abroad and enhance his own image at home.

Observers see three possible motives:

Castro wants to undercut Cuba's diplomatic and economic isolation by widening its circle of friends and trading partners.

He wants to ease dependence on the Soviet Union, to which Cuba owes nearly $5 billion with the debt growing by more than $2 million daily.

With right-wing militarists firmly in command in Chile, Brazil, Bolivia and Uruguay, Castro needs to refurbish his tarnished reputation as a feared leftist revolutionary leader in Latin America. He's not the center of attention any more, and he misses it.

A sampling of his activities over the past year indicates the scope and direction of Castro's efforts.

One of the more interesting moves being watched here is Havana radio's recent announcement that Cuba will send workers to help with reconstruction in North Vietnam. The report said 50,000 workers had "volunteered." Twenty-four are to leave for North Vietnam within the next few weeks with 500 to follow later this spring.

This past summer, Cuba signed a cattle and agricultural products agreement with France. And Cuba's Carlos Rafael Rodriguez, vice premier and a highly regarded economist, visited Hungary to inspect industrial and agricultural projects and to confer with Hungarian leader Janos Kadar.

In response to the September military takeover in Chile, Castro formed the "Chilean Committee of Solidarity with the Anti-Fascist Resistance." Many observers expect this group to act as the conduit for clandestine Cuban assistance to the outlawed Communist underground in Chile. Presiding at the organizational meeting was Maj. Manuel Pineiro, chief of Cuba's international spy network.

And to promote Cuba's pro-Arab, anti-Yankee stance, the official newspaper, Granma, attacked Israel's Defense Minister Moshe Dayan as "the new messiah of the Pentagon in the Middle East," "an executioner," and "a blossoming Fascist."

Castro continues to promote friendly ties with leftist-minded military leaders in Peru and with the government of Mexico, which never did sever relations with Cuba in spite of strong pressure within the Organization of American States.

Want Embargo to Cuba Eased: U.S. Boycott of Cuba Tested

(By Lewis H. Diuguid)

The 12-year-old U.S. effort to isolate Cuba has come into conflict with the interests of American auto companies, which seek to export vehicles to the island from subsidiaries in Argentina.

Secretary of State Henry Kissinger faces an imminent decision on whether to modify the trade embargo against the Communist country. Failure to do so would strain relations with Argentina and lend credence to the contention—widely held in Latin America—that multinational corporations put the interests of their country of origin ahead of those where a branch plant is operating.

Kissinger is to meet next month with foreign ministers of Latin America to hear their complaints about U.S. policy. Multinational firms and the Cuban embargo are expected to be major topics.

Ford, General Motors and Chrysler have come into conflict with the trade embargo as a result of Argentina's signing of a trade pact with Cuba last August.

The government now headed by President Juan Peron defied U.S.-inspired policy by resuming diplomatic relations with Cuba. It then extended a credit of $200 million for purchase of Argentine products, including vehicles from the highly developed auto industry. Another $1 billion in credits can be extended over the next five years. The big three of Detroit all manufacture cars in Argentina, and the Peronist government ordered them to offer sales to the Cubans.

But under U.S. regulations that authorize the embargo, American citizens must obtain a license from the Treasury Department to engage in trade with Cuba. The State Department must recommend any exceptions, which until now have been few and limited to compassionate cases.

Now, State Department officials acknowledge, the embargo faces a major test. "The multinationals are caught between trying to comply with the policy of their host government as well as that of the United States," one specialist said yesterday.

Fred Thompson, Ford Motor Co. director of corporate relations, said in Detroit that the decision to seek the sales was made by Ford of Argentina, which is a wholly-owned subsidiary. He said the Argentine firm received a Cuban delegation and quoted prices. The parent company has sought guidance from the State Department on the question of licensing, he said.

A report from Buenos Aires indicated Ford expects to sell Cuba 1,500 cars and 1,000 heavy trucks, a deal that could run well over $10 million, if it gets U.S. government approval.

Fiat of Italy has signed a contract for $120 million in exports to Cuba from its Argentine subsidiary. Chrysler and General Motors are also seeking licenses here for their Argentine plants.

Cuba is new to the auto import business. With the exception of a few Alfa-Romeos brought in several years ago, virtually the entire car fleet is American-made—and dating from before Prime Minister Fidel Castro came to power in 1959.

The Cubans are also understood to seek a wide range of other industrial goods, many of which are produced by American-owned plants in Argentina.

Just how Cuba intends to repay the credits is not clear, though the few non-Communist countries that have traded extensively with it report that bills are paid on time, in hard currency. The island is still largely dependent on sugar exports. Prices for the commodity have improved in recent years.

Ironically, Ford is seeking to deal with Cuba just as the firm's operations in Argentina have been threatened by the People's Revolutionary Army, a Marxist guerrilla group that has often proclaimed the goal of an Argentine society akin to that in Cuba.

The guerrillas extorted $1 million in goods from Ford for disbursement to Argentina's poor. Then they killed one Ford executive and threatened others, causing the company to pull out its two dozen Americans based in Buenos Aires and Cordoba.

Peron has placed military guards around the plants and offered bodyguards for Ford executives. The latest victim of the anti-American guerrilla activities is the manager of a refinery owned by Exxon, who reportedly is being held for a $10 million ransom.

While Peron has tried to crack down on the terrorists, and has sought generally to downplay his own frequently strident anti-Americanism, he has stressed that his government will control industries operating in Argentina.

Legislation recently approved calls for nationalization of the auto industry, which now includes seven manufacturers. Those failing to meet export quotas can be restricted in their assigned share of the internal market as well.

The ultimate objective is an industry with fewer, but larger companies, more competitive internationally. The U.S. firms, if restricted from the Cuban market, are thus especially vulnerable.

Washington's Cuban embargo was established after the 1962 missile crisis. U.S. administrations since then, working through the Organization of American States, have said that normalization of ties could only come after the Cubans cut their military dependency on the Soviet Union and stop interventions in other Western Hemisphere countries.

Castro has declared no interest in rejoining the OAS and has said that resumption of diplomatic relations with the United States could come only after the end of what he calls "the blockade" and the return of the U.S. base at Guantanamo to Cuba.

WENDELL PHILLIPS DODGE—90 YEARS YOUNG AND STILL GOING STRONG

Mr. McINTYRE. Mr. President, the year 1883 in Manchester, N.H., was a long time ago—90 years plus—and a much different Nation and a much different way of life. But in Manchester on August 12, 1883, Wendell Phillips Dodge was born.

He has spanned all the years since as a world traveller, explorer, ethnologist, journalist, newspaper editor, press agent for Broadway's David Belasco, impresario on Broadway and in Paris, and today working on his second book.

Wendell Phillips, the world renowned "silver tongued" orator from Boston was visiting the still-unnamed baby son of his friends Arthur Pillsbury Dodge when he heard the crying baby and said in effect, "Why don't you name him after me"? Wendell Phillips Dodge has carried the name honorably for nine decades.

Jessie S. Cole has written a charming article about the amazing life of this unusual man for the winter 1974, issue of the New England Galaxy. I ask unanimous consent that this article may be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Named for and by Wendell Phillips

(By Jessie S. Cole)

Among the New Hampshire characters who have carved for themselves a special niche out of time and circumstance, must be counted the extraordinary, unconventional person named for and by the great "silver-tongued" orator from Boston, Wendell Phillips, whose statue stands at the entrance to the Boston Public Gardens off Boylston Street—notably, his namesake, Commander Wendell Phillips Dodge.

Being a friend of the Dodge family and knowing the background of the squawling, red-faced infant to whom he graciously gave his famous name, Phillips no doubt expected great things of young Dodge. Had he lived to see the child mature, he would not have been disappointed, for three amazing lives have been robustly and productively lived by the still-young-at-ninety Commander Wendell Phillips Dodge—explorer, ethnologist, journalist, former press agent for the great David Belasco, and later impresario and "man of parts" in the Broadway and Paris Theatres.

Born in Manchester, New Hampshire, on August 12, 1883, high on Merrimac Hill, he was taken by his parents to live on Beacon Hill in Boston—still unnamed at the age of five weeks. His father wanted an ancient biblical name for him, but his mother had other ideas.

While having Sunday dinner with Arthur Pillsbury Dodge and his wife, Elizabeth Ann, Wendell Phillips out of courtesy asked to see the baby, and chucking the infant under the chin inquired as to his name. They had to confess that they had been unable to agree on one. Patting the infant's cheek, the great one took his leave. Two days later, a letter arrived in Wendell Phillips' handwriting addressed "Master Wendell Phillips Dodge"—and so the baby was named.

The child's father was a lawyer and publisher of *The Bay State Monthly, The New England Magazine* and the *Granite State Monthly*. The celebrated author of "The Man Without a Country," Dr. Edward Everett Hale, was editor-in-chief of the three periodicals and Dr. Hamilton Wright Mabie was associate editor.

Elizabeth Ann Day Dodge, the child's mother, was a descendant of Robert Day, born in England in 1634, who settled in Newtown, now Cambridge, Massachusetts, in 1640. Her father was Nehemiah Day and her mother, Julia Pope, and descended from Thomas Pope of Oxford, England, who was knighted and received a grant of arms and was "keeper" of Princess Elizabeth I and resided with her at Hatfield House before Mary's death.

Wendell Phillips Dodge, of the ninth generation of the Dodge family of Essex County, Massachusetts, is a direct lineal descendent of the first Richard Dodge in America from whom he no doubt inherited a feel for the sea. Richard Dodge was navigator of the ship *Lyon's Whelp,* called sometimes the *George Bonaventure,* under command of Captain Thomas Cox, that sailed from Gravesend, England, April 25, 1629 and arrived at the place which they joyfully named Salem on June 27, 1629.

Events of Dodge's early life seemed to set a pattern for his bizarre, fantastic future. One of his early memories was of the great P. T. Barnum, a frequent visitor at the Dodge home. Barnum presented the seven-year-old Wendell with a superb Circassian goat, grandly harnessed with solid silver bit and buckles and attached to a miniature buckboard.

The high-spirited goat managed to pull the reins from his young driver's hands and dashed madly off down Beacon Hill, past the old Parker House and Boston's City Hall, around the corner of Washington Street, through Scollay Square, across the Mystic River Bridge into Chelsea and around a corner, heading straight for Emery's Wharf. Workmen on the pier coundn't stop the frightened animal and over he dashed, buckboard, Wendell, and all into the river. Some longshoremen rescued the boy, the goat, and the buckboard. This may be said to have been young Wendell's baptism in the sea, and a forerunner to his later circumnavigation of the earth aboard the "square-rigger," *Alexander Gibson*.

The family decided that the goat and buckboard had better be returned to Mr. Barnum, who understood and presented young Dodge with another, less dangerous gift. He also told Wendell that any time he wanted to join the circus, to let him know!

The thought of this opportunity led young Wendell to become proficient on the flying trapeze, the horizontal bars, and in doing hand and air springs and other circus tricks—just in case.

His chance to study with the great artist clown of the Ringling Brothers-Barnum Bailey "Greatest Show on Earth" came years later, when he undertook to write an article on "How it Feels to Understudy a Clown."

After a week's practice, Dodge, now drama critic of the *New York Press*, was made up by Harry LaPearl himself, the great clown of that day. Dressed in a clown suit and given a whopping slap, Wendell went sprawling on to the great semicircular stage of the Hippodrome. This sensational entrance brought loud applause and laughter, and Harry LaPearl kept it in his act.

At the conclusion of the act, LaPearl again gave Dodge another slap on the back as he rode off stage on a greased pig which he had managed to mount, and, what's more, stay on. Away went the pig swirling down the winding ramp to the animal quarters beneath the vast auditorium, throwing himself and Wendell against the rough brick wall all the way down. The "new" clown's skin on his entire right side was literally peeled off! A painful but triumphant ending to his circus career.

The precocious Wendell Phillips Dodge was studying art at the Art Institute of Chicago and music in the Chicago Musical College at the ripe age of 10. He continued his studies in Chicago until 1898 when he moved to New York to complete his art studies in the National Academy of Design and the William M. Chase School of Art, and later at the Art Students' League of New York. During this time, he was an inveterate theater-goer and saw all the world's greatest actors and actresses in Shakespearean and other dramas.

When thirteen years old and a graduate of the Brown School in Chicago's West Side, the Spanish-American War broke out. Fired by the exploits of the U.S. Navy, Wendell decided he wanted to go into the Naval Academy at Annapolis. This he did in the autumn of 1899 at the age of fourteen. The age limits for entrance were fifteen to nineteen years. Wendell's father was assured by his attorney, the great agnostic Robert Ingersoll of the necessary Congressional appointment, so Wendell prepared for the entrance exams to take place in 1900. Just prior to that date, the Congressman died and the Governor named a temporary successor who appointed another boy. So Wendell did not get into the Naval Academy, but he later joined the U.S. Naval Reserve, attained the rank of Lieutenant Commander, and retired as Commander.

His disappointment at not getting into the Naval Academy was greatly lessened by the wonderful opportunity to sail around the world in the "Down-Maine" built ship, *Alexander Gibson*. His memorable voyage lasted two years, an experience that intensified his desire to make a lifetime study of the natural sciences.

Upon reaching the age of eighteen, his father considered him man enough to go on a serious mission to study the religions of the world at their fountainheads. His active explorations began in the Holy Land in 1901. Here he had the great good fortune to become the honored guest of the noted Persian religious leader and scholar, Abdul Baha Abbas, the leader of the Baha'i faith. Abdul Baha was still technically a political prisoner of the Turkish government and confined within the ancient walled city of Acre, Syria.

The soul of this impressionable young man was fired by the "table talks" with Abdul Baha in these ancient walls of thirty-six feet of brick and masonry that no cannon ball ever had been able to pierce. The windows of Wendell's room originally had cannon holes in the fortress extending the full thirty-six feet, with the Mediterranean dashing endlessly below.

From this place, young Dodge started his exploration and studies of religions, ethnology, sexology, geology—the whole gamut of scientific and naturalistic research. During his travels in the Near East, he was appalled by the lack of sanitation and drainage systems and decided to try to do something about it by studying civil engineering when he returned home. While a student at New York University's Civil Engineering School, he had the rare opportunity of preceding a goldmining company's group to Nome, Alaska, as civil engineer and geologist, making surveys. He became stranded in winter while awaiting the arrival of two steam shovels, so he made the most of his stay by undertaking an intimate study of the Eskimos.

Returning from Alaska too late to begin his senior year at New York University, he accepted an engineering job with Pennsylvania Railroad, then just starting to build the Pennsylvania Station in New York City. He worked subsequently with the civil engineering corps of the Rapid Transit Subway Company on the first subway tunnels under the East River. There he was assistant to the engineer in charge of reconstructing the tunnel tube which had been built so out of alignment that the two ends did not meet in midstream as planned. On one occasion he barely escaped death in a "blow-out" in the tunnel, being next to the last to leave before the water rushed in.

Following his engineering experience, he became an editorial writer for the New York *Engineering News*. From this he gradually "oozed" into the general newspaper field, working for the New York City News Association, local bureau of the Associated Press, the *Evening World*, and *New York Press*.

One of the most famous newspaper feats was solving the case of the disappearance of the famous belly dancer, "Little Egypt," which brought him considerable fame. He covered many famous murder trials, including that of Harry K. Thaw, indicted for killing the noted architect, Stanford White.

Dodge's marriage in New York City, June 23, 1908 to Clothilde Beatrice Masson, an art student, was followed by magazine writing and eventually to becoming contributing editor to the *Strand Magazine* of London, editor of the American *Strand Magazine* and the *Wide World Magazine*, and sole American representative of George Newnes, Ltd., of London, the second largest publishing house in the world.

All these occupations failed to give Dodge the kind of money he needed to live in the manner to which he wanted to become accustomed, so he accepted the position of general press representative for the great David Belasco. For several fabulous years he kept Belasco and his productions right out in front.

His next step was to become a Broadway theatrical producer and an impresario himself, and what an impresario! Besides producing and directing many fine, successful plays on Broadway, he brought to America, for the first time, the famed Comédie Française headed by the then greatest actor in France, Maurice de Feraudy; also, for the first time, Yushny's Russian "Blue Bird" Theatre of Moscow; and he became general manager of the only tour in this country of players from the famous Grand Guignol Theatre of Paris. He directed the phenomenal publicity of the Max Reinhardt-Morris Gest super spectacle, "The Miracle," as well as first American appearances and coast-to-coast tour of the noted Spanish Duse of song, Senorita Raquel Mellor. Dodge was founder-director of the First American Theatre in Paris and elsewhere on the European continent.

After a long and successful career in the theatre, Wendell Phillips Dodge turned to writing again, becoming editor of the *Marine News* and writing articles on his many-faceted career. He also wrote a book, *A Short History of the Arctic*, and presently is compiling another book on Arctic explorations from the beginning of time down to this day.

At the age of ninety, he puts in more hours a day, with his writing and correspondence, than most young people.

Retired? He doesn't even acknowledge the word.

That red-faced infant from New Hampshire had everything going for him, an excellent ancestry and the name of a man noted for his individuality and strength of purpose. Commander Wendell Phillips Dodge has made the most of these things and added new qualities of his own.

Daniel Webster once replied to the question of the senior Senator from Illinois, who kept stubbing his toe on rocks while visiting Webster on his New Hampshire farm and finally sarcastically asked, "What can you possibly grow in these rocks?"

To which Webster replied, "Men."

Says Commander Dodge, "Every time I am in Boston, I pass by the noble bronze statue of the great Wendell Phillips and wonder if he is turning over in his grave, regretting his rash act."

"Yet," says Phillips' namesake, "as I look up at the handsome, strong face, I seem to see a wink in his left eye—and I am cheered by it. The next time I am in Boston I must not forget to have a photograph taken of me standing before this statue—in contemplation!"

A REALISTIC, NEAR-TERM ENERGY ALTERNATIVE

Mr. MOSS. Mr. President, as we increasingly turn to science and technology to help overcome our energy problems, we are beginning to discover the possibility of utilizing many unique energy sources. One of these is solar energy. The most promising near-term use of this resource, according to an article by Mr. W. A. Shumann in Aviation Week and Space Technology, January 14, lies in the heating and cooling of buildings. I have introduced legislation, which was cosponsored by Senator WEICKER, to accelerate this application of solar energy.

As Mr. Shumann notes, heating, and cooling of buildings account for approximately 25 percent of the energy consumed in the United States. Thus, the utilization of solar energy in this area offers an excellent opportunity to make an early and major impact on energy requirements.

I ask unanimous consent that Mr. Shumann's article be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAN TURNS TO SUN AS ENERGY ALTERNATIVE

(By William A. Shuman)

WASHINGTON.—Present demands for electricity and petroleum have generated renewed interest in using the suns energy as a partial alternative. Companies with aerospace systems experience, rather than electric utilities and oil producers and refiners, are now virtually alone in solar energy research.

Widespread use of the sun's light for heating and cooling and for generating electricity, however, is at least a decade away and may not occur before the end of the century. Still needed is development of systems that are competitive in and acceptable to the marketplace.

Rep. Olin E. Teague (D.-Tex.), chairman of the House Committee on Science and Astronautics, put the benefits of solar energy succinctly:

"It's free, clean, and no one can tax it. No one can cut off our imports of sunshine."

The other side came from Roger N. Schmidt of Honeywell, Inc., at a recent National Science Foundation symposium. "Solar power is not free," he said.

"One can take a bucket and catch free photons. But it is the cost of the bucket that is the cost of solar energy. Today that bucket is expensive."

Schmidt said that a plant to use solar energy for the generation of electricity on a large scale would cost anywhere from $500-$1,500/kw. or more, while nuclear and fossil-fuel plants now being designed for the late 1970s are expected to cost about $500/kw. and $400/kw., respectively.

The most promising near-term application of solar energy, proponents agree, lies in the heating and cooling of buildings. This is so, Dr. Lloyd O. Herwig, director of advanced solar energy research and technology for the National Science Foundation, said, "not only because it is the solar energy area in the most advanced state of research and development leading to economically viable applications, but because it also offers an excellent opportunity to make an early and major impact on national energy requirements."

These uses account for approximately 25% of the energy consumed in the U.S., at an annual cost of $18 billion. These factors have led the science agency to allocate more than 40% of the estimated Fiscal 1974 solar energy research budget to this area.

About $13.2 million is being spent by NSF on solar energy research in the current fiscal year. This total is up from $3.96 million in Fiscal 1973, $1.66 million in Fiscal 1972 and $1,20 million in Fiscal 1971. In the 20 years before that, Herwig estimates that the federal government spent an average of $100,000 annually on solar energy research.

Last fall, the agency awarded eight-month contracts totaling $1.54 million to three teams of aerospace companies and universities for the initial phase of proof-of-concept experiments in the heating and cooling of buildings (AW&ST Oct. 15, 1973, p. 24). In Phase O, the three teams—headed by General Electric, TRW Systems and Westinghouse Electric—will study the heating, cooling and hot water requirements of different types of buildings in various regions of the U.S. in an effort to determine which solar energy systems could meet more than half of these needs. The teams will examine the economic feasibility of different applications and recommend which should be carried ever into Phase 1.

In most instances, a system using a conventional fuel will be needed to supplement the solar energy one, the science agency recognizes. It then will select any or all of the teams to do Phase I studies—preliminary system and critical subsystem design—and Phase 2—detailed system design, construction, test and evaluation.

The science foundation then expects to turn management of the last two phases—design, construction and operation of a demonstration system and then a commercial one—over to a more mission-oriented agency such as the Dept. of Housing and Urban Development.

While these studies are under way, the National Aeronautics and Space Administration is examining different types of solar collectors that might be used. Most of this work is being carried out at the Lewis and Langley research centers. The space agency will spend about $1 million in its funds on solar energy research this fiscal year.

The collectors are the key components in solar heating and cooling systems and also are the pacing item in development, according to William H. Woodward, director of NASA's space propulsion and power division and co-chairman of the 1972 NSF/NASA Solar Energy Panel.

The goal, he said, is to develop collectors that will cost $1-$2/sq. ft., operate at 50% efficiency at 220F and last for 15 years. Current commercially available collectors cost $5-$20/sq. ft. and are only 20-30% efficient.

Work at Lewis includes initial standardized tests of the most promising solar collectors. A 4 × 4-ft. chamber produces simulated sunlight at varying intensities and angles and will be able to provide comparable test and performance data on different collectors. Such data currently are not available, Woodward said. The Lewis facility is available to industry, he added.

Lewis also is building a small 3-kw. facility that will test the several heating and cooling components as a system in order to obtain data on interactions and overall performance.

The Marshall Space Flight Center plans to have in operation by June a 1,500-sq.-ft. solar collector installed as a "roof" over three surplus trailers to simulate a small house. The collector will have a cover of Tedlar plastic instead of glass because Marshall engineers have found that Tedlar provides the same transparency at less cost. The thermal coating to be used was developed in the Skylab program and features a high 15:1 absorption-emissivity ratio.

NASA's biggest solar energy test project will get under way at the Langley Research Center in mid-1975. A 53,000-sq. ft. systems engineering building now being built will have a 15,000-sq.-ft. solar collector next to it. While NASA expects that commercial solar heating and cooling systems will be mounted on the roof, it is putting this one on the ground adjacent to the building to permit easy modifications to the collector and to keep the capital investment down.

This size collector will provide most of the building's heat and some of the cool air and will test the overall system and its storage capacity. The building also will be able to use Langley's conventional steam system for all of its heating and cooling. As a rule of thumb for current technology, a collector must have about the same area as a one-story building to fulfill all the structure's heating and cooling needs.

As Ian R. Jones, manager of the thermal energy systems department at TRW Systems, pointed out, "sizing the system to meet peak demands will result in underutilization of the capital investment for much of the time." Similarly, the most expensive electricity that power utilities produce is that generated at peak demand times.

The most cost-efficient heating and cooling system, therefore, is one that uses 40-70% solar energy depending on location and conventional fuel or electricity for the remainder.

The Langley test facility will be used to evaluate different collectors at the same time and to study such transitory effects as what happens when a cloud obscures part of the collector.

The tests will not get under way until mid-1975, a slippage of about six months due to delays in construction and material shortages for the building itself. Cost of the collector is estimated at $300,000-500,000, or an average of $13/sq. ft.

Emphasizing that the Langley facility is a test and not a demonstration project, NASA's Woodward said, "all we've demonstrated is how to make a damned expensive heating and cooling system."

While NASA is pondering the technical problems, some private companies are looking at other difficulties. TRW's Jones recently discussed these with the House Committee on Science and Astronautics. They include:

Compliance with national standards and local building codes, so that collectors could legally be installed on dwellings.

Approval of the Federal Housing Administration so that the agency will issue government-backed mortgages to houses with solar heating and cooling.

Agreements with construction unions. Unresolved is whether the collectors will be delivered to the site already complete or assembled there. If the latter, which union will do the work.

Customer acceptance. The many subtle factors involved in the esthetics that appeal to home owners may act against solar heating and cooling systems, at least initially. Also, owners must be convinced that a higher initial cost coupled with lower operating expenses over a long period is indeed worthwhile. Recent marketing experience indicates a buyer reluctance to such economics, Jones said.

Strong marketing will be needed to convince architects, builders and potential home buyers that solar energy is an economical alternative.

The need for solar energy heating and cooling systems to be cost-competitive at the outset suggests to Prof. George O. G. Lof of Colorado State University that there is a need for government subsidies to manufacturers.

The university has a $238,000 NSF contract to build a residential solar heating and cooling system, the first one to use state-of-the-art components.

The next step beyond using solar energy to heat and cool individual buildings is to use it to generate electricity for the structure. Such a house, called Solar One, has been built at the University of Delaware under the Direction of Dr. Karl W. Boer. In place of a solar collector, it uses cadmium sulfide solar cells to produce electricity. Behind the cells are air ducts that conduct heated air to the basement for storage and later use in heating and cooling.

The success of such a system obviously depends on the cost and efficiency of the solar cells. The cadmium sulfide cells are not quite as efficient (about 5%) as the silicon cells used in most spacecraft (11-13%), but they are far less costly. Boer hopes to get the price per peak kilowatt output below $200. No technological breakthrough is needed, he says. The NSF/NASA Solar Energy Panel found, however, that increases in efficiency and useful life probably will be necessary if such cells are to be widely used commercially.

Other researchers are concentrating on reducing the cost of silicon solar cells. NSF has a five-year objective of reducing the cost of a single cell by a factor of 10, to about $5 per watt. NASA's Woodward thinks the cost eventually will have to be under 50 cents per watt for commercial acceptance. In one promising recent development, Tyco Laboratories scientists, working under NSF sponsorship, have succeeded in growing continuous ribbons of silicon. This process is a definite improvement over the tedious and expensive one of growing individual silicon crystals.

Most current efforts to employ solar energy for large-scale production of electricity or heating clusters of buildings are concentrating on thermal conversion rather than large solar cell arrays.

Two concepts that have received study are:

FLAT-PLATE COLLECTOR

Aden B. Meinel and Marjorie Meinel of the University of Arizona have proposed a system whereby collectors would gather heat that would be used to melt mineral salts. The molten salts could be stored in insulated tanks before being sent through a water system to produce steam. The steam then would drive turbine generators to make electricity.

The Meinels estimate that a square mile of collectors could produce enough heat to drive a 100-megawatt plant. A byproduct is that cattle could graze on the plants that would be able to grow in the shade of the collectors in the desert.

SOLAR TOWER

Reflectors are used to concentrate sunlight and focus it at the top of a tower in the center of the area. The concentrated sunlight would produce temperatures of 1,000F that would make steam for a generating plant. One disadvantage is the computer-controlled system that would be needed to keep the mirrors focused on the tower.

G. T. Schjeldahl Co. has a 12-month, $260,000 contract from NSF to explore such a system. Dr. Donald E. Anderson, the company's director of research, estimates that a square-mile array of heliostats, or sun-following mirrors, around a central tower could completely power a 400-megawatt generating plant.

Both systems need further research in the coatings of the flat-plate collectors and the mirrors to obtain the optimal material. In addition, they are expensive to build compared with conventional powerplants. NSF estimates the Meinels' system would cost two-five times as much as a fossil-fueled plant.

Regardless of the solar energy system or its size, the biggest barrier to widespread use is the cost of the unique materials needed. "Materials across-the-board are the major challenge to cheaper solar energy," NSF's Herwig said.

Further away and even more costly are two concepts for using geosynchronous satellites either to transmit or produce electricity.

Rockwell International's Dr. Krafft A. Ehricke has proposed a power-relay satellite that would provide cheap transmission of ground-produced electricity over distances of 4,000 mi. or more. The generating plants could use solar energy, nuclear power or fossil fuels and be located in deserts or other remote areas where they would have little impact on the environment.

The electricity would be transmitted by microwave to a satellite in synchronous orbit and then reflected down to a site close to a large center of consumption. Such a satellite could add to solar energy systems by enabling transmission from sunlit to dark areas of the earth, thus eliminating or reducing one of the principal drawbacks to solar energy—the need for a storage system. The relay satellite also would enable the transmission of solar energy-produced electricity from such places as the Sahara Desert to cloudy northern Europe.

Size of the satellite depends on the size of the ground transmitter. Cost of the transmitter antenna increases rapidly with size, and the smallest possible antenna is when it and satellite are the same size—about 3.4 km. (2.1 mi.) on a side. A transmitter antenna 10×10 km. (6.2 mi.) would permit a 1×1-km. satellite. Such a spacecraft would weigh 154,000–660,000 lb. depending on design and the power reflected. Ehricke assumes a cost of $500/lb. to get such a satellite to synchronous orbit. A power relay satellite, he says, would be lighter by a factor of 25 than an orbital power station.

Such a station, which would use large solar cell arrays to produce electricity for transmission to earth, has been proposed by Dr. Peter E. Glaser, vice president, engineering sciences of Arthur D. Little, Inc.

His firm, working with Grumman, Raytheon and Textron, has reported that a satellite solar power station should be considered as an alternate source of energy.

Such a satellite would be 11.73 × 4.33 km. (7.3×2.7 mi.). Two solar panels would flank a microwave transmitting antenna that would be 1 km. in diameter. Glaser estimates that electricity produced in the spacecraft could be transmitted to the existing power grid on earth with 68% efficiency.

After a 10-year technical verification program, a prototype satellite could be flying in 1990 and a commercial version by the end of the century, he said. The verification program is estimated to cost several hundred million dollars and a prototype 100-megawatt output satellite as much as $2 billion.

Both the power-generating satellite and the power relay satellite would require extensive use of the space shuttle. Glaser estimates that 10 orbiters would have to be dedicated to the program of building a commercial orbital power station. Ehricke said his concept would require a space tug with an ion propulsion engine to move satellite parts from low-earth orbit to synchronous orbit.

Both concepts currently are getting a low priority from both NSF and NASA because of a scarcity of funds and a desire for advances in current technology.

Neither concept would be available until the end of the century, while proponents say direct solar energy could be supplying as much as 10% of the heating and cooling required in the U.S. by the mid-1980s.

Congressional leaders and top NSF officials believe this country will be depending on coal, gas and oil and on nuclear fission for almost all its energy until 2000. Research and development programs in these areas are more important than solar energy, which nevertheless deserves continued and increased support, they believe.

AUSA REPLY TO THE BROOKINGS INSTITUTION RESERVE STUDY

Mr. THURMOND. Mr. President, the Association of the U.S. Army has prepared a non-nonsense rebuttal to the Brookings study which recommended Reserve and Guard force reductions of over 300,000 personnel.

The Brookings study is based on a number of misconceptions which, in my view, make the entire effort of limited value.

In any event, it is important that there be a response to these proposals and AUSA has provided such a response.

Mr. President, I ask unanimous consent that the AUSA position paper on the Brookings study be printed in the RECORD at the conclusion of my remarks.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

AUSA POSITION PAPER

(A response to the Brookings Institution study on the U.S. Reserve Forces)

The Brookings Institution has recently issued the fifth in a group of studies on defense policy. This one is entitled "The U.S. Reserve Force: The Problem of the Week-End Warrior." The study has been prepared by Martin Binkin, a retired Air Force colonel and a senior fellow in the Brookings Foreign Policy Studies Group. He also served formerly in the office of the Assistant Secretary of Defense for Systems Analysis. The study was funded by money made available by the Ford Foundation.

Basically the study calls for a re-examination and restudy of our whole Reserve forces program. Binkin maintains that, if this were done, at least some of the following of his recommendations could be adopted:

I. Reduce size of Reserve Components.

A. Eliminate non-essential and marginally effective Army units

B. Merge the headquarters, training and recruiting facilities of the Army's Guard and Reserve

C. Reduce to cadre status the equivalent of four Army National Guard divisions (including associated support elements) and augment them with Reservists from IRR or standby Reserves on mobilization

D. Integrate selective elements of Army Reserve Components into five active Army divisions, thus reducing requirement for active manpower

E. Reduce number of individual Reservists in Naval Reserve and use some on assignment to Naval vessels undergoing overhaul to reduce active forces

F. Merge Air National Guard and Reserve headquarters, training and recruiting facilities. Limited integration of Reserve crews into strategic bomber and tanker forces

II. Eliminate the need for Reserve forces recruiting bonuses by reducing Reserve manpower requirements.

III. Revise Reserve retirement compensation to eliminate the "recomp" feature which bases amount of pay on pay scales in effect at retirees age 60 rather than the date he retires.

Binkin estimates these steps would reduce active military manpower by 60,000, Reserve manpower by 310,000 and, when fully effective, would yield average annual savings of about $1.4 billion in constant FY74 prices.

The study contains sufficient errors in fact, and an apparent lack of knowledge of some of the key features of our Reserve Component program, as well as on-going actions in the study area, to warrant a reply at least in sufficient depth to clarify the record. Additionally, a great many serious students of national defense would disagree with some of the basic philosophy on which Binkin bases his views and his recommendations.

While the study purportedly covers all the services, by far the greatest weight of his comments and suggestions are directed solely at the Army. It is these to which we will respond.

Binkin does not appear to be aware of the great amount of time, energy and manpower that has been consistently devoted for the past twenty-five years to the examination, re-examination and restructuring of the Reserve forces, as well as their role in our total force structure. It is quite possible that these components have been more studied, reorganized, realigned and otherwise harassed than any segment or system that has been part of our defense structure. He obviously either was not aware of or chose to overlook the current arbitrary 48,000 man cut in the Army's Reserve Components force structure which DOD directed earlier this year.

He also failed to mention the latest of many major studies of the Guard and Reserve which was directed by the Secretary of Defense on 23 August 1973. Included in this study's objectives are considerations of the availability, force mix, limitations and potential of these components in a national emergency. This study is underway now, to be completed by fall of 1974.

Early in his paper, he states that "a detailed rationale for Reserve forces has remained outside the range of debate." An examination of the Congressional Record or a casual inquiry to the service force planners, the Section 5 Committee, any Army Readiness Commander or, for that matter, senior Reserve Component commander would have clarified that error of assumption.

At the outset, he makes a sweeping premise that starts the whole study on the wrong path when he says that the "precise role of the Reserve Components in current national security planning remains unclear." It is now and always has been. This is what the Total Force Concept is all about. It has been clearly stated on numerous occasions that our national defense posture is based on a one and one-half war strategy in which "NATO First" is a key element. The Army's contribution to this strategy is the 21 division force structure with the supporting elements.

In the Army, the Reserve Component portion is usually referred to as the 711,000 TO&E structure and includes all those elements which are considered essential to make the 21 division force viable and supportable. So there is a very clear cut rationale and understanding, not only of what units are needed, but why they are. As with any worthwhile plan, changes are required from time to time, but the basic plan remains intact. This fluctuation, particularly among smaller units, takes place with frequency.

Several times in this study, Binkin refers in a derogatory manner to the fact that the Reserve Components played no major role in Vietnam. On page 1, for example, he says, ". . . their failure to be used in Vietnam—the longest and most difficult war in U.S. history—cast strong doubts on their value and raises serious questions about their future role in national security." Again on page 40, "Vietnam experience cast a stigma on Reserve forces that will be difficult to erase." Nowhere in this study does he indicate that the decision not to mobilize more Reserve forces for Vietnam was a purely political decision made by President Johnson over the strongest objections of the Joint Chiefs of Staff and the Service Secretaries. History has shown it to be a bad decision and one that had a devastating effect on the active establishment. It was not a decision made by the Reserve Components and there is no evidence of any reluctance on their part to serve playing any part in the decision.

Later in the paper, the author cites a GAO report to point up that those Army units which were called up were disappointing. All three of the points he cites have to do with individual training and equipment and personnel shortages. He does admit these units were undergoing reorganization at the time they were called up. He fails to point out that during the six months or so before callup, they were flooded with untrained people that even a trained cadre couldn't digest. Surely he would not hold these units responsible for equipment shortages over which they had no control. These allegations make an invalid basis for judging "value" or "future role in national security."

One other basic point that obviously colors Binkins thinking needs to be clarified before going on to address some of his specifics. On page 19, he states the view that "The basic rationale for maintaining Reserve forces rests on economic grounds." This reflects a fundamental misunderstanding of our historic aversion to overly large standing forces and our traditional reliance on the citizen-soldier concept that is part of our constitutional heritage.

One would gather from the tenor of this study that Binkin sides with the adherents of the short war policy who believe, a) that Europe is probably the only place we would fight again, and b) that it would be all over so swiftly that the Reserve Components would not get involved in time to make a significant contribution.

The record of the past twenty-five years would seem to refute adequately the idea that the United States would not respond anywhere in the world where our basic interests were seriously challenged.

The concept of short wars has long been the Lorelei of military philosophers and, more significantly, political leaders. Geoffrey Blainey, in his excellent new book, *The Causes of War*, points out that one of the most recurrent clues illuminating the causes of war and so of peace is the optimism with which most wars were commenced. He goes on to document the point in great detail, using, among others as prime examples, World Wars I & II, the Soviets in Finland, North Korea's attack on the South, Anglo-French Campaign in the Suez and the fantastic case of India and China in 1962.

Moving on now to an examination of specific points in the Binkin study, let us examine these in more or less chronological order for ease of checking.

On the credit side, the author is quick to acknowledge that in the absence of the draft, "the Reserves have become the primary option available to the President for quickly expanding military forces in a national emergency." He could have been more precise by saying the *only* option available.

He suggests that hard choices await national security planners, who are faced with fitting maximum defense capabilities "within more limited defense resources." Successive Secretaries of Defense, as well as the President of the United States, have been at considerable pains to point out that our national priorities *have already been reordered* through the massive cuts which have already been made in our defense establishment and that what we are working at now is increased efficiency and effectiveness on what may be a *modestly rising* scale of defense expenditures. We have had occasion in the past to quote from the President's Foreign Policy Report to Congress three years ago. Perhaps it is pertinent to repeat: "It needs to be understood with total clarity . . . that defense programs are not infinitely adjustable . . . there is an absolute point below which our security forces must not be allowed to go. That is the level of sufficiency. Above or at that level, our defense forces protect national security adequately. Below that level is one vast undifferentiated area of no security at all. For it serves no useful purpose in conflicts between nations to have been almost strong enough."

Binkin goes on to discuss some of the problems incident to mobilization. He rightly points out that it does take a longer time to deploy Reserve Component units than those in the active establishment. He doesn't acknowledge the very active efforts to reduce the administrative work loads involved in mobilization and to get the maximum amount done prior to call-up. Nor is it clear, as it should be, in his remarks that deployment schedules take into account that our equipment pipeline and transportation system limitations make it evident that all units cannot be digested at once. In the order of priority, Reserve Component units are worked into the schedule at realistic intervals which take into account these problems. The fact remains, however, that readiness and deployment goals are being shortened as rapidly as conditions permit and should soon be substantially better than his estimate indicates. Certainly the active Army views this as a manageable problem.

This would have been the appropriate place for Binkin to describe and assess the really massive effort which the Army has put in motion to assist with these very problems. In a major reorganization effected by the Army early last year, training and readiness support of the Reserve Components was made the sole responsibility of the commanders of each of the three CONUS Armies which operate directly under the Army's new Forces Command. Under the CONUS Armies are nine Readiness Regions, each organized into subordinate groups and teams of experts who work shoulder to shoulder with Reservists to improve their readiness. These active Army people are doers and specialists in hands-on training, not staff supervisors. Since their mission is aimed exclusively at improving Reserve Component training and readiness, it is unfortunate that Binkin chose to ignore this effort. It should do much to change his views on this basic problem.

Binkin states that at the beginning of FY 73, about 60% of the Reserve maneuver units were without weekend training areas. This is incorrect. Only 18% are without necessary areas today. There is an on-going program to which he refers for armories and training areas that will improve this even more.

Again discussing readiness, he says that "Army National Guard units are designed to attain readiness at the company level" and "the post-mobilization training would delay division-sized deployments for perhaps four months." The company level training is a *minimum*. There is considerable training above that level that has been going on for some time. In the January 1974 issue of *Soldiers* magazine, there is a good description of the seven maneuver training commands which have been established from Army Reserve Training Division Brigades to write and organize field exercises for the active Army as well as the Reserve Components and to conduct tests from battalion to corps level.

But it would be wrong to infer that large units will ever get to the point where post-mobilization training is not required. The goal is to reduce the time. If the Reserve could be left alone for a while and the active Army's current support effort be given a chance to work, these goals can be met.

His chapter four suggests that sinister political forces are constantly plotting to maintain over-large Reserve forces to the detriment of our country's welfare.

There are political forces exercised in all segments of our society and many far more effectively than those on behalf of the Reserve Components. This will be borne out, if proof is needed, by data which those two "prosperous, united, articulate and highly active" Reserve Component lobby organizations would be willing to supply.

In the latter half of his paper, Binkin gives us his rationale which he believes could result in substantial cuts in the size and costs of our Reserve forces. He first addresses what he describes as "relatively small, obscure support units and activities." His first target is the 53 civil affairs units which he says have about 7,000 plus men. There may very well be too many of these units. But for an Army that has spent 25 years helping govern one of the world's major cities in Berlin and governed our second largest trading partner for a number of years before drafting her constitution, the civil affairs function needs a nucleus of units which are able to perform their specialty when we need them. So, while there may be more units than we need, it would be foolhardy to wipe them out as Binkin suggests.

Binkin is also of the opinion that medics, lawyers, construction workers and administrative people whose civilian skills are required need not be in units. One could apply the same logic to licensed pilots. In the first place, the President has no authority to call individuals to duty without Congressional action, so we would have to have complete mobilization before these people could be called up as individuals. But, even beyond this, to suggest that an amalgam of civilians, however talented, could be welded quickly into a functioning military unit flies in the face of all our past experience.

A minor point, Binkin raises the question as to why we still need 4,500 Army Guardsmen in Nike/Hercules units. The answer is we don't, and the slots assigned to these organizations have already been eliminated—another example of the continual up-dating of our Reserve organization.

Binkin also questions the need for the 21 separate brigades, including the special mission brigades. The answer is that all of these are specifically targeted for early deployment in our total force mobilization plan.

He assumes that of the roughly 300,000 people in the non-divisional units he's been discussing, 200,000 are of marginal use and could be eliminated. This suggestion reveals a lack of knowledge of the functioning of land forces and the diverse elements whose teamwork is required for success in combat.

Binkin next makes a pitch for another try at some sort of a merger of the Guard and Reserve. He takes cognizance of past attempts in this direction and is fairly pragmatic in his assessments of the meager chances for a success of another effort. He offers a variation with his suggestion that the Army Guard and Reserve be combined into the Guard while the air components of each be combined under the Reserve. Although he rightly says that the elimination of headquarters saves very little, he nevertheless arbitrarily assigns annual savings of $30–$50 million to his merger plan on the assumption that combined base operations, training and recruiting would provide such savings. This is pure crystal ball.

As a further means of saving money, Binkin next suggests that four Reserve Component divisions and their supporting elements could be reduced to cadre status, since there would be time after mobilization to assign the additional personnel required, issue equipment, etc. As we have pointed out, there is a place in our Total Force Plan for these divisions, and it calls for them to be ready far sooner than they could be under any cadre system. In-being units can obviously be whipped into top shape far faster than those requiring so much filling and training after mobilization. Units that can be deployed in the first 60 days after mobilization are more valuable than those that come along later. Finally, anyone who has ever had any exposure to a cadre operation is aware of its severe limitations. Cadre units cannot adequately maintain the unit's equipment. They are not susceptible to effective training over any extended period of time. They do not provide the basis for either leadership or team training, both of which are essential, particularly for units of the combat arms. There is no teamwork, esprit or the other essentials to a successful military unit. In short, it's a bad idea.

He goes on to make a gratuitous comment that deserves refutation. He says: "Motivated in part by the past performance of Reserve units, and possibly by the conviction that current active forces will need but limited assistance to meet the range of likely contingencies, many defense planners appear to be counting on no more than four—and perhaps as few as two—National Guard divisions in the first six months following mobilization." He doesn't identify the planners, but that statement contradicts the testimony of the Secretary of Defense, the Secretary of the Army and the Army's Chief of Staff. On the record, this statement is completely opposite from the DOD positions.

He moves on next to suggest the possible replacement of some active Army units with Reserve Component units in what he terms "hybrid" divisions. Basically, what he is suggesting is that possibly a battalion of each brigade, and a battery of each of the artillery support units could be a Reserve Component unit. The same would apply to the division base units. He would only do this in CONUS land divisions *"not likely"* to be needed immediately in an emergency.

There may be occasions when our active divisions will be employed *without* mobilization. Obviously the "hybrid" divisions would be at only two-thirds of their strength if this took place.

There would always be a disparity in readiness between active and Reserve units which, in a "hybrid" situation, would slow the combat deployment of the total unit.

In all of his suggestions, the basic thought keeps coming through that we will face only one contingency at a time (if, in fact, we face any at all) or, if we do get committed, it will be all over in less than 90 days. Fortunately, our defense planners have a more prudent view.

The concept of leaving Reserve Component units satellited on active units for training does have merit. The Army has been experimenting with that idea for the last two years at Fort Hood in its so-called "Round Out" concept. Emerging from this experience is an "affiliation" program now being worked up which would provide for separate battalions and brigades to be attached to achive Army units for training, supervision, et al. It is even contemplated that they would fight with these units as an *augmentation*.

His final suggestion for cutting costs is in chapter seven, dealing with what he calls "Compensation Efficiencies."

First, he makes a pitch for not making available recruiting bonuses for the Reserve Components. As is the case elsewhere, not all his facts are straight.

He takes the Reserve Components to task when he says, "If greater reliance were placed on attracting people with previous service, possible shortages could be alleviated." The problem is *exactly* the opposite. The Reserve Components have not been meeting their quotas of *non-prior service personnel*. They have already been relying too heavily on prior-service people and with that source drying up when the remaining draftees leave the Army this fall, they will have to rely on getting non-prior service people. This was pointed up again in an article in the January 1974 *Soldiers* magazine: "Latest figures reveal the Guard is at 95% strength, the Reserves at 90% strength. But the figures are deceiving. Both the Guard and the Reserve are hitting lows when it comes to getting non-prior service people. The Guard, for example, is getting 1,700 monthly against a 4,000 requirement. The Reserve is not faring much better."

Actually, as the foregoing quote also points up, recruiting for the Reserve Components has improved considerably, and, were the recruiting aids requested made available by the Congress, many working on the problem believe the Reserve Components could maintain their strength goals.

Binkin would reduce the recruiting problem further by the massive cuts in authorized strength he has suggested.

The author's final point is his concern that the Reserve Component retirees may be overcompensated. He advocates that Reserve retirees be paid their retirement based on the pay scales in force on the date of their retirement rather than those prevailing at their age 60, when they actually begin to draw the pay. This suggestion will undoubtedly be considered with other facets of the retirement program now being examined.

In any consideration of retirement, it is useful to have a feel for the numbers under discussion. He did not include them. In response to query, we were advised by the Department of the Army that, as of 3 November 1973, the following were considered careerists and apt to go on to retirement:

	Army National Guard Percent	*Army Reserve Percent*
Officer	69.8	64.8
Enlisted	21.7	16.5

In one of his last chapters, Binkin presents the case for the short war which would, of course, make all mobilization plans obsolete. In his scenario, he gives no weight at all to what an adequate in-being total force defense establishment can do to prevent even a short war from starting.

Frankly, this study is a disappointment. It is shallow, negative and counterproductive. Criticism is undoubtedly warranted in many areas of our Reserve program. Hopefully, the on-going DOD study will identify those areas, so that our full effort can turn again to improving the strength, readiness and training of our Reserve Components.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive O, 81st Congress, 1st session, which the clerk will state by title.

The assistant legislative clerk read as follows:

A resolution of ratification with understandings and declaration to the International Convention on the Prevention and Punishment of the Crime of Genocide, Executive O, 81st Congress, 1st session.

The text of the resolution of notification and the understandings and declaration read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O. Eighty-first Congress, first session), subject to the following understandings and declaration:

1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

2. That the United States Government understands and construes the words "mental harm" appearing in Article III(b) of this Convention to mean permanent impairment of mental faculties.

3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The PRESIDING OFFICER. Time for debate between 11 a.m. and 12 noon will be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from North Carolina (Mr. HELMS).

Who yields time?

Mr. PROXMIRE. Mr. President, the Senator from Idaho is off the floor at the moment so I suggest the absence of a quorum and ask unanimous consent that the time for the quorum call be taken from both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, is it so ordered.

Who yields time?

Mr. PROXMIRE. Will the Senator from Idaho yield me 3 minutes?

Mr. CHURCH. I yield the Senator 3 minutes.

Mr. PROXMIRE. Mr. President, as we vote on this crucial cloture motion, we should all be aware that this is it. This vote will determine whether or not the Genocide Convention will be adopted. Here is an occasion—a rare one—where, because the treaty must pass by a 2 to 1 vote, the cloture vote will be the tough one. A vote against cloture will doom the treaty. There will be no way Senators can vote for the treaty if the cloture motion is not agreed to.

Mr. President, once again, I ask Senators to recall what is behind this treaty. Let us face it: We are voting on whether we should join the fight, along with every other major nation in the world except mainland China, against the most vicious crime mankind can commit. Genocide is the planned, premeditated murder, extinction of an entire group of people. What we are voting on is the crime committed by the Nazi in Hitler's Germany in World War II. None of us can envision the monstrosity of 6 million Jews put to death in concentration camps—most of them gassed and then incinerated.

Mr. President, if we are to act against this monstrous crime of genocide there is no way for us to act except by international treaty. This is not a crime committed within this country. It never has been. I am confident it never will be.

What kind of a crime is genocide? It is a crime typically committed by governments that have authority and power in a country against persons within that country. How can you reach that kind of crime except by treaty? How?

We all know there is no way except by bringing the world community together in concert. Americans can be proud that after World War II, this country led the way by persuading the United Nations to adopt the Genocide Convention and start it on its way. The determination of mankind throughout the world to prevent this monstrous crime has gone a long way since then. As I said, every other major nation on Earth except this country and mainland China have agreed by ratifying the treaty. It is now up to us. President Nixon and every President since the United States persuaded the U.N. to adopt the treaty has supported it, and every Attorney General has found it to be constitutional and proper. The House of Representatives has no role to play in this treaty. It is entirely, completely, up to us—up to this body. And now it is up to this vote we are about to take.

Now, after 24 years in the Senate, after 26 years since the convention was adopted by the United Nations in 1948, it is up to the vote we are about to take, which we will take within the next 45 minutes.

I hope that when Senators vote on this treaty, they will recognize that they will admit that genocide is a crime, that we should act on it; that we should prevent it; that this Nation should not be the only free nation in the world, the only major free nation in the world, that has not acted; that this Nation should not be the only major nation other than mainland China that has not acted on this treaty; that the only way we can act is through adopting this treaty. There is no other way we can get at genocide.

It is easy for us to get a law passed in this country against the murder of one person, even murder that might be provoked in some way. What we are seeking is to agree on a treaty with other nations of the world to outlaw the crime of genocide committed against hundreds of thousands or millions of people, not because they have committed any crime, but because they have been born into an ethnic group or because they want to worship God in their own way.

I hope that the Senate will recognize its responsibility and its duty.

I thank the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

First of all, I commend the able Senator from Wisconsin for his fine statement this morning. It is true, as he has pointed out, that the principal purpose of the Genocide Convention is to affirm that genocide is an international crime, so recognized and defined by all the parties to the treaty.

We should all remember that following the Second World War there were those who criticized the trial of the Nazi leaders for such heinous acts as the calculated, systematic extermination of Jews, not because of any sympathy for the savage things they had done, but because there was no crime of genocide that had been formally recognized by the world community. The crime had not been given the status of an international offense by a convention of the kind we are now considering.

Therefore, some eminent lawyers pointed out that the trial of the Nazi leaders violated the principle of Anglo-Saxon law that protects against ex post facto, or crimes created after the fact. There is no doubt that these critics had legal grounds for their protestation.

I think this is the reason why, shortly following the war, the United States itself proposed a Genocide Convention to which all civilized nations might subscribe, one which would clearly establish genocide as a recognized crime in international law. That, of course, is what this treaty does. In doing so, it is not unique. Other offenses are recognized as crimes in international law. Piracy, for example, has long been accepted as an international crime. This treaty would add the crime of genocide.

The principal undertaking of the parties to the treaty is to affirm that genocide is an international crime. The treaty then defines the offense as other crimes are typically defined, requiring not only the act but the intent, in this case, to destroy all or a substantial part of a religious or national or ethnic minority.

Next, the parties to the convention pledge that they will make genocide a crime under their own domestic law and undertake to punish genocide in their own courts. Now, one would think that such an undertaking by the United States would not provoke such heated opposition. I have found it difficult to understand why the United States, of all nations, would be so reluctant to join in a treaty of this kind. Every American State has on its statute books the crime of murder. Nearly all of our States prescribe punishment for murder that goes beyond the punishment contemplated in the legislation that would implement this treaty for the crime of genocide, yet murder is the deliberate taking of a single life. Why, then, should there be such reluctance to do as much when it comes to mass murder, the deliberate taking of many lives with the intent to destroy some particular group owing to its racial composition or its religious beliefs, the most offensive and heinous crime known to man?

Oh, it is said we must reject the treaty because somehow, in the fine print of the treaty, and if not there, then sometime in the future if this treaty is ratified, in some unspecified way, some American citizen might be extradited and tried in a foreign court on charges of having committed genocide. To set that argument completely to rest, we have offered a reservation to this treaty which constitutes an express condition to the articles of ratification, that would fully protect any American citizen against any such future jeopardy, however tenuous it might be. This reservation specifically preserves for the United States the right to try its own citizens in its own tribunals on the charge of genocide, even though the alleged act occurred outside the United States. Furthermore, the reservation imposes upon the Secretary of State the obligation to insert in any future treaty on the subject of extradition the following provisions:

> (b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and
>
> (1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or
>
> (2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or
>
> (3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution

Now, how could language more plainly protect the constitutional rights of our citizens?

Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is this reservation now the pending business?

The PRESIDING OFFICER. The reservation has been reported. The reservation is the pending business.

Mr. CHURCH. That being the case, Mr. President, I see no reason why the Senate should not proceed to a vote on this reservation, so that this fearmongering can be set to rest. Nothing would be more appropriate than for the Senate to vote on this issue now, before we proceed to the question of cutting off debate on the treaty, itself, which vote is scheduled for 12 o'clock.

I direct this proposition to the Senator from Alabama because I would want him to be on notice. I do think that this is the way we should proceed so that when the vote on cloture comes everyone will know whether or not this reservation has been adopted. I make that suggestion to the Senator from Alabama in the hope that he might agree.

Mr. ALLEN. Mr. President, reserving the right to object, it is the understanding of the Senator from Alabama that the distinguished Senator from Idaho initiated a cloture petition which was filed on Friday and which obligates the Senate at approximately 12:15 p.m. to vote on the question of whether or not debate shall come to an end on the convention and all of its parts. So it would be presumptuous on the part of the Senator from Alabama to agree to a vote on a portion of the matter that is under debate, and that the entire Senate is already scheduled to pass on at 12:15.

So the Senator from Alabama would have to interpose an objection to the request of the distinguished Senator from Idaho to preserve the rights of all Members of the Senate who were on notice that a vote will come at 12:15 p.m. on the question of whether debate on the whole matter shall be brought to a close, including the reservation or understanding of the Senator from Idaho, which I might say, the Senator from Alabama favors and would like to see appended to the Convention that is before the Senate.

Mr. CHURCH. Mr. President, I had not anticipated that the Senator from Alabama would concur with the suggestion; and I know he is able to hold the floor, if necessary, until the time comes for the cloture vote. However, I do think it would be more logical for the Senate to vote on the reservation before passing on to whether or not debate should be shut off on the treaty itself.

How much time remains to the proponents?

The PRESIDING OFFICER. Nine minutes.

Mr. CHURCH. I yield as much of that time as the Senator from New York may require.

Mr. JAVITS. Mr. President, I would like to be notified when I have consumed 4 minutes.

The issue is very clearly drawn and I think it has been even more clearly drawn by the proposal which the Senator from Idaho (Mr. CHURCH) has made. The fact is that we face a filibuster on this treaty and although the treaty itself requires a two-thirds vote in order to be ratified the filibuster nonetheless continues, seeking, perhaps, to profit from the fact that some Members are reluctant to vote cloture who would be very anxious to vote to ratify the treaty. But this is all within the parliamentary domain, except I mention it and speak of it because I think it only fair that Members who are reluctant to vote cloture but wish to vote for the treaty realize this is the key that unlocks the door and that they can be completely frustrated in their desire if this filibuster is not broken.

Mr. President, another reason for voting cloture today is precisely because this treaty has been pending for a very long time—25 years—certainly more than ample time to examine every conceivable facet concerning the treaty, including the legal implications for individuals in the United States who may be charged with the crime of genocide. In all of that time, no persuasive arguments have been made so as to convince either the Foreign Relations Committee of the Senate or the President of the United States, or what I am sure will be a majority of the Senate, that this treaty should not be ratified.

Second, why ratify it with the convention and with the understandings and the declaration and all of the reservations which lock in, not once, but two and three times the fact that no American will be exposed to trial by a foreign court or by an international court if the United States wishes to try the indivdual, or really, without the consent of the United States for whatever reason it may seek to withhold it?

Mr. President, the reason is the conscience of this country and the conscience of mankind. This is a declaration of conscience, in essence, and it is critically important for that purpose because genocide can and still does happen, whether it happens in the extinction of a tribe in Africa, or in a civil war in another African country, or whether it may happen tomorrow in the extinction of some other group in the Soviet Union or some other place, or whether an effort to do so is made. The denunciation of the world is long overdue against this most despicable and, as the Senator from Idaho (Mr. CHURCH) has so properly said, heinous of all crimes.

So, regardless of the legal niceties—and we are more than taking care of them—every Member here must answer to his conscience as to whether he does or does not wish this declaration to be made now. And the key to the door, Mr. President, without ornaments or kidding about it, is this cloture vote. This is the vote which will decide whether or not the Senate will be permitted to express itself on the question.

In that regard, Mr. President, it has always been asserted by those who utilize this particular weapon more often than most others of us that, somehow or other, if it wants to, the Senate can work its will; but in this particular case we have a very clear, transparent use of the filibuster as a weapon, because the Senate cannot work its will, even though it sincerely wants to ratify the treaty, unless it votes for cloture.

So I say to Senators who are for the treaty, since it takes a two-thirds vote for the treaty, we, as proponents, may as well forget it if we do not have a two-thirds vote for cloture, but we are entitled to a fair shot at determining whether or not there are two-thirds of us who want to so vote.

The PRESIDING OFFICER. The 4 minutes of the Senator have expired.

Mr. JAVITS. May I have an additional minute or two?

Mr. CHURCH. Mr. President, I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. President, that is the issue which my colleagues face who are reluctant to vote for cloture. They will be frustrated and denied their opportunity to do what is required also by the same two-thirds vote in this case because of their own reluctance. It is up to us, not the other side. We will decide this issue. The opponents cannot really do anything about it. We either have two-thirds or we do not. The only question is, will those Senators vote their convictions on cloture? We hope, in this time of crisis for the morality of this country and the morality of mankind, that they will vote affirmatively.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, acting for the distinguished junior Senator from North Carolina, who has control of the time, I yield myself 10 minutes.

Mr. President, this Genocide Convention was adopted by the General Assembly of the United Nations on December 9, 1948, and then was submitted by President Harry S Truman to the Senate for consideration on June 16, 1949. It has been before the Senate Foreign Relations Committee, I assume one could say, off and on since that time. Under the method of treatment of treaties, when a treaty is not approved during a session of Congress, I believe it goes back to the Foreign Relations Committee and remains within the breast of that committee until further action is taken.

So in recent years, starting, I believe, in 1970, the Senate Foreign Relations Committee apparently has been reactivating consideration of the treaty and has recommended to the Senate the ratification of this convention under certain conditions or certain understandings. In other words, the Foreign Relations Committee itself does not agree to the terms of the convention itself, and the committee attached to the convention as conditions for ratification by the Senate three understandings stating what the understanding the committee, and hence the Senate, and then the Nation as a whole, is as to the meaning of the terms.

The only trouble with that, Mr. President, is that the convention itself, under article IX, gives to the Court of International Justice the right to interpret the convention and the rights and duties and obligation of the signing parties.

Article IX reads as follows:

> Disputes between the Contracting Parties relating to interpretation, application of fulfillment of the present Convention, including those relating to the responsibility of a State

> for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

So, no matter what interpretation we place on it, the final determining factor would be on the Court of International Justice that would be interpreting the same.

I might state that there are some 30 or more countries that have set up reservations and declarations and understandings as to their adoption or their ratification of this treaty, and some of the iron curtain countries say that a submission of one of these disputes to the Court of International Justice must have the agreement of all parties. In other words, that gives them the right to veto the submission of any matter to the Court of International Justice having to do with the interpretation of the convention. They reserve veto power.

Page after page of reservations made by other nations are included. We are seeking to add four, counting the declaration of reservation. And the Senator from Idaho (Mr. Church) seeks to add still another one this morning. So, when we get through, we have 30 or more nations saying, "We understand it this way. We reserve this right. We make this declaration with respect to it."

Where in the world would we be and who would understand what our rights, duties, and obligations are under the convention? If we do not know, the Court of International Justice would tell us what they are.

Mr. President, obviously during the last 25 years this idea concerning the adoption of this convention is not an idea whose time has come up to now. It certainly has not for the last 25 years.

Mr. President, I want to point out one interesting item in President Truman's message to the Congress or, in the message of the President of the United States by the Secretary of State, I guess, acting for him and speaking of the action by the U.N. This whole thing is trumped-up by the U.N. That is where it came from, Mr. President.

In the letter from the Secretary of State it states:

> The first resolution of the General Assembly on this subject, 96 (I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—
>
> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.

Mr. President, if that were the definition of genocide under this convention, the Senator from Alabama would support the convention. However, it defines genocide as "a denial of the right of existence of entire human groups, . . ."

That would cover the situation that has been referred to on the floor of the Senate concerning the mass extermination of the Jews by Hitler. We all decry that monstrous conduct, that monstrous crime of which Hitler and the Nazis were guilty.

Mr. President, let us see what the convention says on that subject. It says:

> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: . . .

Then they set up some of the offenses against this group in whole or in part. And one of the items is "causing serious bodily or mental harm to members of the group."

That would carry with it the words ahead of it which say "in whole or in part."

Mr. President, what is a part of a group? One individual would be part of a group. The distinguished Senator from Wisconsin, now on the floor, is one person. He is part of the group of Senators. If so, any individual would be part of a group.

This is not a racial matter because it applies, as it properly should, to national ethnical, racial, or religious groups.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself an additional 5 minutes.

Mr. President, if we hark back to the definition of genocide as contained in the original resolution passed by the General Assembly, genocide is a denial of the right of existence of entire human groups. The Senator from Alabama would support this convention if that were contained in it.

Mr. President, if the Senate should ratify the genocide convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide, for reasons that I have just outlined.

One of the most drastic impacts the ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings, covered by categories (a), (b), and (e) of article II of the Convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of jurisdiction workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country would experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

Mr. President, that is a quotation from a speech which the Senator from North Carolina (Mr. Ervin) delivered in the Senate in 1970.

Senator Ervin went on to say:

> If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

He further points out:

> If the Senate should ratify the Genocide Convention, article I would impose upon the President, as the Chief Executive of the United States, the duty to enforce both the provisions of the convention and any acts of Congress implementing them as the supreme law of the land.

Mr. President, some 78 nations have ratified this convention. It does not amount to a row of beans. If it would punish a single act of genocide, the Senator from Alabama has not been made aware of it. Why are they waiting on the United States to ratify this treaty before they implement it? Are they waiting for the United States to furnish the money to support this court? Are they waiting for the United States to furnish the accused who are to be tried by this court?

There is no occasion whatsoever for the adoption of this convention insofar as it being necessary based on the last 25 years or any constructive activity resulting therefrom.

Mr. President, the list of the nations adopting this Genocide Convention is very interesting. Let us look at some of them. Some of these nations are where genocide takes place. We do not have genocide over here in the United States as that term is defined in the original resolution, talking about the planned mass extermination of an entire race.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. ALLEN. I yield myself 1 additional minute.

I see we have here the various Socialist Soviet Republics. They are listed here. Tunisia is listed. Romania is listed. Poland is listed. Czechoslovakia is listed. Hungary is listed. Haiti—they know something about genocides in Haiti. Ghana. The Federal Republic of Germany. Ethiopia. China. They know something about genocide in China. Here they are, ratifying the treaty. Chile. Cambodia. Bulgaria. Argentina. Algeria. Albania and Afghanistan.

Mr. President, why insist on the United States coming into this convention, subjecting ourselves to the whims and caprices of an international court of justice, and endangering the rights of our citizens?

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. ALLEN. Mr. President I hope that debate will not be cut off. If debate is cut off, I hope that the Senate will reject the convention.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I propose to yield the remainder of my time to the distinguished Senator from Wisconsin. Before doing so, I simply want to remark that all of the argument about an international penal tribunal is entirely without basis. There is no such international penal court. There is no expectation that any such court will be established in the future. And even if it were to happen, the United States would not become a party to the court, or subject to its jurisdiction, unless or until another treaty were entered into and brought before the Senate for ratification.

Mr. ALLEN. Mr. President, will the Senator yield on my time?

Mr. CHURCH. Yes.

Mr ALLEN. The Senator states that

there is no such thing as an international court of justice.

Mr. CHURCH. No; I said an international penal court. An international penal tribunal is what the treaty mentions, and no such tribunal has been set up in the 25 years since the treaty went into effect.

Mr. ALLEN. I refer the Senator to page 35 of the hearings on the Genocide Convention. The Government of China was objecting to all of the reservations made by these Iron Curtain nations, and ends up saying:

> Therefore, by virtue of the Advisory Opinion of the International Court of Justice on May 28, 1951, we would not regard the abovementioned States as being Parties to the Convention.

Mr. CHURCH. The Senator refers, of course, to the International Court of Justice. It has civil jurisdiction. It has no criminal jurisdiction; and it is not the penal court referred to in this convention.

Mr. President, I think we should be aware that the international penal tribunal, alluded to in the treaty, does not exist today, has never existed, and no one expects that it will come into existence.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. JAVITS. This is a very important point, and it is important to avoid confusion. We have given exactly similar jurisdiction under the Japanese peace treaty, the Antarctic treaty, and the statute of the International Atomic Energy Agency, which I am sure are regarded as no threat whatever, and I believe that should be made very clear in this debate.

Mr. CHURCH. Mr. President, I yield the remainder of my time to the distinguished Senator from Wisconsin, who day after day, week after week, month after month, and year after year, has prodded at the conscience of this Senate to finally face up to a vote on the Genocide Convention.

Mr. PROXMIRE. Mr. President, I thank the Senator from Idaho.

I remind the Senator from Alabama, who said he would vote for this treaty if it did not provide for genocide being defined as acting in such a way as to cause mental harm to a part of a group. Of course, that makes it ridiculous. It sounds as if the Senator should give me a headache, he would be guilty of genocide. I think that we should be aware of what that mental harm constitutes. It is defined in the treaty as that which "causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs," and so forth.

This is what is meant by member harm. We should also be aware that "substantial part" does not refer to one person. It means, quoting from the treaty itself:

> A part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

Mr. JAVITS. Mr. President, will the Senator yield very briefly?

Mr. PROXMIRE. I yield.

Mr. JAVITS. This is not a national thing. Hitler actually did practice the crippling of the minds of his victims. That is what this is in response to. That is a demonstrated historic way in which genocide is perpetrated.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from New York.

I conclude by asking Senators not only to recall the debate of other Senators and to read the treaty, but to consider what is behind it.

Consider the fact that 6 million people in Germany were destroyed, that tens of millions of people throughout the years have been killed, and that others are more likely to be victims of genocide if we do not act.

Since it is so hard to envision 6 million, think of one, think of Ann Frank, that lovely young Jewish girl who, after hiding for years from the Nazis, was finally imprisoned and died a genocide victim in the Nazi concentration camp at Belsen. Think of what she said in her diary at the close of her life. She said:

> In spite of everything, I still believe that people are really good at heart.

Mr. President, I would hope that we will recall this sentiment, and vote positively in the memory of Ann Frank, and with the determination that this terrible crime will not occur again, and that we will be able to dismiss the uninformed and in some cases spiteful letters. We have argued so negatively on an issue supported by the President of the United States, by the Attorney General, by every President since Harry Truman, and which is in the interests of a better world.

Mr. DOMINICK. Mr. President, no one denies that the acts defined in this proposed United Nation's Convention on the Prevention and Punishment of the Crime of Genocide are abhorrent. To undertake to prevent them from occurring and to punish those who participate in such acts is commendable.

Yet this convention, as it stands, furthers neither the prevention nor punishment of these acts, nor does it deter commitment of other equally abhorrent crimes of genocide.

There is no evidence to suggest that the convention has or would have any deterrent effect on those countries and individuals who believe it necessary to resort to genocide. Adherrence to the convention by the Soviet Union has not prevented the Soviets from continuing to harass their Jewish minority. The convention did not deter the Tutsis in Burundi from massacring between 100,000 and 200,000 Hutus. Unfortunately, the occurrence of numerous other similar deplorable examples, which have taken place with or without worldwide condemnation, further document the ineffectiveness of the convention.

I would note that in many cases this convention would not even apply.

I believe everyone here would agree that the crimes which gave rise to this Genocide Convention in the first place—mass murder of Jews in Germany—was done with the encouragement and at the direction of Nazi Germany. Indeed, in order for genocide to be an international crime, and therefore a matter of international concern which could appropriately be the subject of an international convention, it would appear that it must be committed with the complicity of the government concerned, not merely by individuals. How can genocide be an international crime unless a government participates in its perpetration? Yet, in the negotiations for the convention, the United States was unable to persuade other nations, specifically the Soviet Union, to include the idea of "complicity of government" in the definition of genocide. Under the convention as it now stands, only individuals are liable—not governments.

Furthermore, Mr. President, the original United Nations Declaration on Genocide of 1946, to which the United States subscribed, denounced genocide whether "committed on religious, racial, political, or any other grounds." This convention we have before us now, however, is designed only to protect a "national, ethnical, racial, or religious group." The Soviet Union successfully insisted on the exclusion of "political groups" from the convention.

Thus the very event which sparked the Genocide Convention in the first place—Nazi Germany's genocide against the Jews—and the events which trouble us today—Soviet political persecution of minority groups—are not dealt with in the version of convention which we are considering here today.

As far as the United States is concerned, the State Department has pointed out that "the physical acts of violence denounced by the Genocide Convention are punishable under existing laws of the United States and of its several States."

Thus the convention has not—and will not—restrain other countries. The United States actions and laws testify to its respect for the principles upon which the convention is based.

Even those who support ratification of this convention argue only that "this treaty seeks to set a higher standard of international morality" and that "respect for the feelings of mankind should lead us" to ratification.

These are fine uplifting arguments. They would have considerable merit if the provisions of the convention were limited to the same plane. What we have here, however, is not just a question of saluting fine ideals. The idealistic purposes behind ratification are fatally undercut by the potential dangers in the convention to our legal system and to our citizens. As was pointed out by the highly respected international lawyers, Orie L. Phillips and Eberhard P. Deutsch in the Journal of the American Bar Association in July 1970:

> Concurrence in the lofty ideals that engender the promotion of moral issues should not substitute the ephemeral tissue of these ideals for the enduring fiber of constitutional limitations.

For these reasons the American Bar Association in both 1949 and 1970 urged the Senate to reject this convention.

The constitutional and legal pitfalls of this convention have been addressed by many over the years. Here I would like to focus on several issues which seem particularly crucial to me.

Mr. President, one of the basic principles of a just legal system is that a criminal statute must be unambiguous and precise. Any statute punishing genocide as this convention attempts to define it would be so vague and indefinite as to violate the due-process-of-law requirement under the Supreme Court's void-for-vagueness criterion.

All attempts to define and explain such key concepts in the convention as "complicity in genocide," "intent to destroy in whole or in part," "mental harm," and a "national, ethnical, racial, or religious group, as such," fail. Efforts to coordinate such a vague concept as "public incitement to commit genocide" with our first amendment guaranteeing free speech fail equally. What constitutes "complicity"? What is "a group as such"? What is "mental harm"? The convention rarely attempts to tell us and, where it does try, it is inadequate.

The three understandings and one declaration proposed by the Foreign Relations Committee hint at only the tip of the iceberg of confusion in this convention.

I would point out that of the 70-some countries which have ratified the convention, approximately 20 have done so with declarations, understandings, reservations, disagreements, et cetera, of all kinds relative to various sections of the convention. On top of this, over 10 other countries have ratified the convention with "objections," by which these nations refuse to accept reservations made by other countries.

The confusion surrounding ratification of this type led to the United Nations General Assembly in 1950 to request the World Court to answer a series of questions regarding the validity of such reservations and objections. In 1951, the World Court delivered its advisory opinion by a vote of 7 to 5, hardly a convincing or reassuring guideline to those of us who seek clarity about the purposes and scope of this convention. In any case, the advisory opinion, dealing with five different issues, was sufficiently vague and tortuous as to shed only minimal light on the points at issue.

Mr. President, I cite this background in order to illustrate the problems and issues that the vagueness and ambiguities in the convention have already surfaced during what should be a fairly straightforward ratification process. Those pitfalls that lurk in the implementation process loom even larger.

For example, in 1950 the Black Panthers, even in the absence of ratification of the Genocide Treaty by the United States, demanded that the United Nations investigate the slaying of Black Panthers by police officers on the ground that their slaying constituted genocide under the convention section which says:

> Genocide means killing members of a group.

Another example, Mr. President: If ratified, this convention could make American soldiers fighting under the flag of this country in foreign lands liable to trial and punishment for killing and wounding members of the enemy military forces. Americans who fought in Vietnam could be charged with genocide and possibly even brought to trial before an international court, as was urged by some of our Vietnam war critics at home and abroad during our involvement.

Questions have already been raised as to whether birth control clinics could constitute genocide under a section which includes within the meaning of genocide: "imposing measures intended to prevent births within the group." School busing has come under question as possible genocide under another section which defines it as "forcibly transferring children of the group to another group." I understand that in another case those who are demanding increased welfare benefits have asked that the U.N. investigate the actions of State legislatures in regard to social programs on the grounds that some welfare legislation constitutes genocide under the clause defining it as "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

Mr. President, these examples illustrate what a Pandora's box of problems this convention represents. Efforts to define genocide in this convention have distorted and perverted the entire concept embodied in the word "genocide." In defining these acts as crimes, the convention would obligate the United States to prosecute and punish public officials and private citizens for acts alien to our concept of genocide and at odds with our law.

Ambiguity and confusion in defining a crime deprives an individual of his right to be informed of the full nature of what he is accused and delegates to judges and juries power to determine what is a crime. In addition, the convention envisages the establishment of an "international penal tribunal" which "may have jurisdiction with respect to those contracting parties which have accepted its jurisdiction." By ratifying the convention we are committing the United States to support such a court, thus raising the specter of American citizens being brought to trial before an international tribunal without the protections afforded them by our Constitution and laws.

Furthermore, Mr. President, the traditional jurisdiction of international law, that of relations between nations, is being changed by this convention to that of relations between nations and individuals, thereby establishing individual liability under international law. Because treaties are established by the Constitution as the supreme law of the land, ratification of the convention would require a fundamental alteration in our concept of criminal justice. Ratification will confer full and implicit power upon the Federal Government and a potential international court, making an unwarranted transfer of criminal prosecution from State to Federal jurisdiction and invalidating and superseding State constitutions, laws, and court decisions inconsistent with the vague ambiguities of the convention.

Furthermore, the convention provides that—

> Disputes . . . relating to the interpretation, application or fulfillment of the Convention . . . shall be submitted to the International Court of Justice.

Thus the International Court of Justice assumes jurisdiction over a domestic affair of the United States. The convention in effect not only converts domestic matters into international crimes, it then gives ultimate authority to define these crimes to the World Court.

This convention, negotiated in 1949, has lain dormant for 25 years. In its original conception, it contained many fatal flaws, which was why the Foreign Relations Committee never reported it in 1950. Experience since then has further demonstrated its limitations and dangers.

Mr. President, in both 1946 and 1947 the United States joined in a resolution of the General Assembly denouncing genocide as "contrary to moral law" and a "crime under international law." In that declaration we invited other nations to enact the necessary legislation for the prevention and punishment of this crime and recommended that international cooperation be organized so as to facilitate the speedy prevention and punishment of the crime of genocide.

The United States was at that time and has continued to be in the forefront of those who have sought to implement these principles at home and in the international arena. Our record, our acts, our laws, indeed our whole society, exemplifies our battle against the realities of all aspects of this crime.

Unfortunately, other nations have not pursued this battle in the same spirit. As a result, the convention we are considering now does not deal with the grim realities of genocide. In attempting to present the pretense as the reality, it creates real dangers for American citizens and our system of justice.

Mr. HUDDLESTON. Mr. President, I shall not support the Genocide Treaty at this time.

I should say at the outset that I do not find the proposed treaty as good as its proponents claim, nor as bad as its opponents suggest. But, I do not believe it will serve any particular purpose to approve it at the present.

Without question, I am opposed to the crime of genocide. The Nazi atrocities which gave birth to this convention can never be condoned, nor even understood. They are a blight upon 20th century civilization, for which we will, throughout history, all share some blame. It is incumbent upon all of us to exercise every effort to see that they are not repeated—in any country in any form.

But, I find little in the pending convention to contribute to those efforts. With the 78 nations which have approved the convention, no cases of genocide have been brought to trial. Furthermore, a number of those nations have continued to pursue policies, in some cases against their own people, which can be said to hint of genocide. Thus, to suggest that this convention will indicate an American commitment to fight genocide or serve as a deterrent to it is, I believe, to mislead.

At the same time, the proposed convention raises questions relating to definition of crimes, the rights of American citizens to due process of law, extradition and to the traditional State prosecutions of criminal actions, which I do not believe have satisfactorily been answered. The reservation proposed by Senators CHURCH and JAVITS is certainly an improvement in the resolution of ratification, but there have been so many interpretations, clarifications, understandings, and reservations offered to the convention by various persons at various times that I question whether or not we really know what the convention means and what its impact upon the constitutional rights of Americans really is.

The language of the convention has been viewed as precise and as vague. The interpretation which the committee has placed upon it in the most recent report is a liberal construction, and, in doing so, the committee felt it necessary to list certain activities which it considered not to be covered by the convention, although there have been past suggestions that those very activities did indeed constitute genocide.

My predecessor, Senator John Sherman Cooper, a member of the Senate Foreign Relations Committee, during previous hearings on the convention, noted that much of the testimony related not to the convention, but to how to avoid it, a situation which must raise further question concerning the treaty.

Furthermore, the current signatories themselves have imposed so many reservations on the convention that there must be serious question about its applicability and exercise.

I believe the American people and the U.S. Government can and should act in accordance with the highest principles of human right and human dignity. But, I believe there are far better ways to do so than to pass the pending convention, which I do not believe will accomplish the aims of its supporters and could lead to a limitation on the constitutional rights of U.S. citizens, as its detractors have indicated.

Mr. HOLLINGS. Mr. President, the Genocide Convention proposed 25 years ago has some important signatories and deserves serious consideration. And serious consideration still requires that I vote against ratification. I believe the definition of genocide is faulty. What is intended is that extermination be committed not by an individual, but by a government. Individual crimes are well cared for under the domestic law in the United States and our ratifying this treaty will not help much in other countries. Since complicity of government is not required, but only the act of a single individual, what occurs is that domestic crimes become international offenses and immediately politics and racism enter the picture. The Black Panthers and other extremists will be wanting to bring charges in international courts against the President, against a Governor, against an Attorney General. This will stir up unnecessary misunderstandings and not work in the best interests of the Nation. We really need no proof that the United States opposes genocide. I served 3 years overseas in World War II against genocide and many an American has given the supreme sacrifice. This is the best proof of America's commitment, much better than a treaty. We could welcome a treaty if it were clear and convincing but to ratify a document that is confusing, that is looked upon by reasonable men as meaning different things but clearly appears to me to make international offenses out of domestic crimes and opens the door for racial, ethnic, religious, and nationalistic embroilments would create an atmosphere for genocide rather than clear the world of this scourge.

Mr. PACKWOOD. Mr. President, we meet today to vote on whether to close debate on the question of Senate ratification of the Genocide Convention. In my estimation, this vote is long overdue.

For almost 25 years we have had this treaty before us. President Truman first presented it to the Senate for its advice and consent on June 16, 1949. In 1950, hearings were held on it by a special subcommittee of the Senate Foreign Relations Committee and, although it was favorably reported to the full committee, along with suggested understandings, no further action was taken on it at the time. During the 20 years that followed, while 74 other nations ratified it, the convention remained in a Senate-imposed limbo. Then, on February 19, 1970, President Nixon sent a message to the State urging ratification of "this important convention." In the President's words:

> I believe we should delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever.

I most heartily agree.

Since 1970, hearings have again been held by the Foreign Relations Committee and, in December of 1970, the committee reported its findings and recommended that the Senate give its advice and consent to the convention. It is now February of 1974, and nearly 25 years after its negotiation, we are to vote for the first time on whether the Senate will indeed ratify the Genocide Convention.

Mr. President, this treaty has raised innumerable questions in the minds of thoughtful men. I have studied the articles of the convention, however, and the testimony of the witnesses, both pro and con, and I am convinced that it is in the interest of the United States to ratify it.

The purpose of the Genocide Convention is to make any act "committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" an international crime. In 1946, when "the prevention and punishment of the crime of genocide" was added to the agenda of the first session of the United Nations General Assembly, World War II had just recently ended and the shock of the brutal systematic killing of 6 million Jews in Nazi Germany was still very close to the surface. Prof. Raphael Lemkin, who coined the word, "genocide," and who was largely responsible for the adoption of the convention by the United Nations, knew that horror first hand. Even though he was able to escape Poland when the Nazis invaded in 1939, he lost most of his family in German concentration camps. On December 9, 1948, the convention was approved by the United Nations General Assembly. It was signed by the U.S. Representative 2 days later.

There are 19 articles to the convention—the first nine outline the provisions of the convention, while the last 10 deal with the procedural aspects of ratification, entry into force, duration, et cetera. Since the Foreign Relations Committee report more than adequately discusses each of the nine substantive articles, as well as answers many of the questions regarding the potential ramifications of U.S. ratification of the convention, I will only comment briefly on several points which are repeatedly raised.

The seeming vagueness of terms in article II has been a point of considerable discussion from the first. In an effort to clarify the U.S. interpretation of these terms, two understandings have been filed in the resolution of ratification:

> 1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.
>
> 2. That the United States Government understands and construes the words "mental harm" appearing in article II(b) of this Convention to mean permanent impairment of mental faculties.

In the first of these understandings, the major emphasis is placed on intent. Without proof of intent to destroy a group as a group, there can be no charge of genocide. In 1950, Senator McMahon queried Deputy Under Secretary of State Dean Rusk on this point:

> Senator MCMAHON. They must have the intent to destroy the entire group.
>
> Mr. RUSK. That is correct.
>
> Senator MCMAHON. In other words, an action leveled against one or two of a race or religion would not be, as I understand it, the crime of genocide. They must have the intent to go through and kill them all.
>
> Mr. RUSK. That is correct. This convention does not aim at the violent expression of prejudice which is directed against individual members of groups.
>
> Senator LODGE. Is that the difference between genocide and homicide?
>
> Mr. RUSK. That is the principal difference, yes.

The second understanding is, I believe, self-explanatory. In this case, for a charge of genocide to be sustained, permanent impairment of mental faculties must be proven, along with the proof of intent to commit genocide on the whole group of which the injured party is a member.

The relationship of the Genocide Convention to the Constitution seems, in my experience, to be one of the major sources of opposition to ratification. This is manifested in the argument that "direct and public incitement to commit genocide," one of the enumerated punishable acts in article III of the convention, threatens the constitutional guarantee of free speech. However, the Supreme Court, in 1969 in Brandenburg against Ohio, ruled that the protection of the Constitution does not extend to "advocacy * * * directed to inciting or producing imminent lawless action * * *" or to that which is "likely to incite or produce such action." Further, in his testimony before the subcommittee in 1970, Supreme Court Justice William H. Rehnquist, then Assistant Attorney General, stated that he was satisfied that the constitutional right to free speech would not, and could not, be adversely affected in any way by the ratification of the Genocide Convention.

Article VI of the convention, which deals with the trial of those persons charged with genocide, is one of the most controversial for those concerned with the preservation of their constitutional rights. It states:

> Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. President, this is an eminently legitimate concern and one which should receive our most serious attention. In its report, the Senate Foreign Relations Committee exhibited its sensitivity in this regard by stating:

> The U.S. Government should make it clear to the other contracting parties that it intends to construe article VI so as to permit it to try its own nationals for punishable genocidal acts whether committed at home or abroad.

To further emphasize this stance, they recommended that the Senate include the following understanding in its declaration of ratification:

> 3. That the U.S. Government understands and construes article VI of the Convention in accordance with the agreed language of the report of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

As of this date, no international penal tribunal, as projected by article VI, has been established and the International Court of Justice has no penal or criminal jurisdiction. In the event that such a tribunal is established, separate action would be required—either through enactment of legislation or Senate ratification of the related treaty—to bring the United States under its jurisdiction.

Those doubts raised by article VI of the convention extend as well to article VII, which is concerned with extradition of those persons accused of genocide. However, article VII does not in itself constitute an extradition treaty. Under the terms of the article, the contracting parties are obligated to grant extradition "in accordance with their laws and treaties in force." At this time, the crime of genocide is not covered by U.S. law nor by any of our extradition treaties. This portion of the convention would become effective only upon implementation of the convention and S. 1758, the implementing legislation introduced by Senators SCOTT and JAVITS, specifically provides that—

> It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18 of the United States Code [Genocide], when the offense has been committed outside the United States, and (a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Before I close, I would like to draw attention to the fourth understanding which will accompany the resolution of ratification of the Genocide Convention. It closely relates to article V which provides that—

> The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

Under the terms of the fourth understanding:

> The United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted.

In other words, this treaty will have no effect on the United States or her citizens until the implementing legislation, S. 1758, has been acted upon by both Houses of Congress and signed into law by the President. This is a most important point, Mr. President, and one which I have the feeling is not abundantly clear to most people. As the Senate Foreign Relations Committee put it, this is a two-step procedure—ratification of the convention and enactment of implementing legislation. Both are of equal importance. I ask unanimous consent, Mr. President, that the text of the implementing legislation introduced by Senators SCOTT and JAVITS, S. 1758, be printed in the RECORD at the end of my remarks. I think it is useful, when discussing action to be taken on the convention, that the language of the bill which will translate the words of this international agreement into the laws of this country be before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PACKWOOD. Mr. President, the American commitment to the preservation and propagation of human rights is well known. It is the cornerstone of our democracy and an integral part of our everyday life. And, yet, we belie that credo by holding back our approval of a treaty which deals intimately with those rights and, most particularly, with the denial of them.

Some tell us that this treaty threatens our own rights; that our citizens will be denied—if accused of genocide—trial by their peers as guaranteed by the Constitution, that they will be hauled off to an international court on a trumped up charge of genocide. If I entertained even the vaguest doubts about this, I would not be standing here today.

I urge my colleagues to ratify the Genocide Convention. We are nearly 25 years late in doing so.

EXHIBIT 1

S. 1758

A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

"Chapter 50A.—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.

"§ 1091. Definitions

"As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural traditions or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

"§ 1092. Genocide

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial, or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this section, wherever committed, shall be deemed to be offenses against the United States.

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide ---------------------- 1091".

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

WE MUST RATIFY THE GENOCIDE CONVENTION

Mr. HUMPHREY. Mr. President, it has been 27 years since the General Assembly of the United Nations unanimously passed a resolution declaring "that genocide is a crime under international law." The memory of Hitler's attempt to exterminate the Jewish people was still fresh—and this was the international community's response. It was our pledge not to allow this terrible tragedy to recur, our assertion that national sovereignty did not go so far as to allow any government to try to eliminate a racial, ethnic, religious, or national group from the face of the Earth.

Twenty-four years go, the treaty which gave force to this resolution, the Convention on the Prevention and Punishment of the Crime of Genocide, was submitted to the Senate for advice and consent by President Truman. No other piece of legislation has been before this body for so long. It is time the United States finally ratifies the convention we were instrumental in formulating and getting approved after World War II. Presidents Truman, Kennedy, Johnson, and Nixon have all urged the Senate to approve the convention. The Foreign Relations Committee has held three sets of hearings and has several times ordered the convention favorably reported to the Senate. The constitutional arguments against the convention have been proven unfounded; the fears that it would be used unjustly against Americans have been shown to be groundless.

The Senate must now act to give its advice and consent to ratification of the Genocide Convention. We must do so because we are committed to defending the basic human rights of all men, the first of which is the right to life. Only through international cooperation and international law can these rights be assured. Only if we are willing to take the important first step of making genocide a crime under international law can we proceed toward the goal of a world in which all men are guaranteed all their fundamental human rights.

President Kennedy, arguing in favor of the United States becoming a signatory to human rights treaties, said:

> The day-to-day unfolding of events makes it clearer that our own welfare is interrelated with the rights and freedoms assured the peoples of other nations. . . . There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

The Honorable Arthur J. Goldberg, testifying before a Foreign Relations Committee subcommittee on the Genocide Convention in 1971, stated:

> At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose. A continuing dedication and reaffirmation of the humane principles of our Bill of Rights is very much in order.

DEDICATION TO HUMAN RIGHTS

Mr. President, it is time we reaffirm our dedication to human rights in the eyes of the world by ratifying the Genocide Convention. We cannot afford to have our commitment to these principles appear shallow. These expressions in our Declaration of Independence and our Constitution have long influenced men and nations throughout the world.

Our belief that the guarantee of fundamental human rights is essential to world peace, a belief shared by many of the charter members of the U.N., provides the foundation for the international order that has been built since World War II. Human rights are mentioned in the preamble and six different articles of the charter. Chapter I, article 1 states that the United Nations was created to "promote respect for human rights and fundamental freedoms of all." The Economic and Social Council is empowered in the charter to recommend ways and means to assure the observance of human rights and is directed to set up commissions for the promotion of human rights.

Though in many ways our Constitution provided the model for the U.N. Charter, and though we took the lead in this basic international commitment to human rights, the United States has often since had a difficult time persuading other nations in the U.N. to follow our lead in adopting practical measures for the promotion of human rights. Often, when we have sought to make the U.N. more effective in this area, our refusal to ratify the Genocide Convention is brought up as evidence of the shallowness of our own commitment to human rights.

Mr. William Korey cited two examples of this in an article in the September 26, 1972, issue of World magazine:

> The United States found it difficult, if not impossible, to champion any human-rights project at the U.N. The Soviet Union, usually on the defensive when the issue of more effective implementation machinery concerning human rights was proposed at the U.N. could and would charge the U.S. with hypocrisy. In January, 1964, for example, when the U.S. member of the Subcommision on Prevention of Discrimination, Morris Abram, advocated "forceful measures of implementation" in dealing with racial and ethnic discrimination, his Soviet colleague had but to remind the body that the U.S. was not even a contracting party to the Genocide Convention. The embarrassed American responded, with an obvious air of discomfort, that he could only "regret, of course, that my country has not ratified the convention on genocide."
>
> Two years later, Abram, while serving on the U.N. Commission on Human Rights, vigorously endorsed a Costa Rican proposal that would have marked a significant breakthrough in the area of international human-rights enforcement. The proposal involved the creation of an independent office, the high commissioner for human rights, who would function as a kind of international ombudsman. The Soviet Union's response was devastating. Its representative pointed out that in view of the fact that Americans "resolutely refused to accept legal obligations" through ratification of human-rights treaties, it was "almost indecent" and certainly "hypocritical" for the U.S. to advocate the establishment of special human-rights institutions in the international field.

Today, Americans are expressing concern about the violation of human rights in many parts of the world and are attempting to use this country's power and influence to guarantee the rights of those living in other countries.

We are concerned about the Soviet Union's denial of basic rights to its citizens. We seek to make the restoration of a small part of the Russian people's rights—the right to freely migrate—part of the price for Soviet trade with the United States.

We are concerned about the rights of the citizens of Greece. We recently voted in the Senate to stop all military assistance to the Greek regime until the rights of the citizens of that country were restored.

There have been numerous statements on the floor of the Senate expressing concern for the rights of the people of Chile. We have urged the Chilean Government to respect the freedom of Chilean citizens to express their political views.

These are only a few current examples of the U.S. belief that the fundamental human rights of all people must be guaranteed. Our attempts to further this goal would be more successful if we ratified the convention which guarantees the most fundamental of rights—the right to life—to millions of people.

GENOCIDE A THREAT TO INTERNATIONAL PEACE

In addition to this basic moral reason for ratifying the Genocide agreement, there are many practical reasons.

First, genocide is a threat to international peace and stability. If any country attempts to destroy a group within its boundaries, members of that group in other countries will surely urge their governments to take some action against the nation committing genocide. The Genocide Convention is an attempt to assure that the response of the international community, to any nation's attempt to eliminate a population group, will be an orderly and united one. It is also hoped that a strong affirmation by the whole international community that genocide is a crime will be a disincentive to committing genocide in the first place.

The U.S. refusal to ratify the convention severely limits its effectiveness in this regard. If a nation so strong and so central to an international order based on the consent of all states refuses to accede to the convention, the possibility of an effective, united, peaceful international response to genocide becomes remote.

A second practical reason for U.S. accession to the Genocide Convention is to undo the damage that has been done to our prestige and credibility as a nation by our refusal to sign. Any nation that wants to call into question the sincerity of our commitment to universal human rights need only point to our failure after 25 years to ratify this convention. Any nation accusing us of practicing genocide against our own people or those of other nations can point to this failure to ratify the convention and say that we must have something to hide and that we must not want to outlaw this crime. Even the many nations which realize our failure to ratify the convention does not reflect in any way a reduced commitment to human rights must wonder why we have not signed this important international assertion of the right to life.

GENOCIDE A CRIME

Another important reason for our ratifying the Genocide Convention is expressed in the 1946 General Assembly resolution, which declared genocide a crime:

> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence . . . results in great losses to humanity in the form of cultural and other contributions represented by these human groups. . . . Many instances of such crimes of genocide have occurred where racial, religious, political and other groups have been destroyed, entirely or in part.

Some have argued that genocide, like homicide, is an entirely domestic concern, that it is, therefore, not an appropriate subject for an international treaty. This is to say that the attempt to extinguish a group of people is a purely national concern—that the loss of the cultural and other contributions these people make to mankind is a loss only to one nation, not to the entire world.

However, if it is considered appropriate for the United States to sign an international agreement to protect seals from extinction, why is it not appropriate to sign an agreement to protect groups of the human population from destruction?

Those who argue that genocide is a purely domestic matter also overlook the fact that an attempt to destroy a major group of people could rarely be made without the consent or participation of the government in power. If any action is to be taken to prevent this crime, it must be taken by the international community as a whole. The loss of any group of people is a loss to all mankind; and all men must join together to prevent it.

A final reason for ratifying the Genocide Convention is that it is an important step in the direction of the system of international law this Nation is committed to building. As Arthur Goldberg has pointed out, our signing this convention will not guarantee that all nations will respect the right to life of major groups within their boundaries—any more than our ratifying the Constitution guaranteed that all men in this country would respect the human rights of all others. But, like the Bill of Rights, this will establish a foundation on which to build a just and stable order. It will help create the atmosphere in which respect for the right to life can gradually grow throughout the world.

Mr. President, in spite of the strong moral and practical arguments for ratifying the Genocide Convention, some still believe that the United States should not become a party to it.

The word "genocide" has been used by some to refer to other, far lesser crimes, to acts committed by American citizens in which there was certainly no "attempt to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such." Those who argue against ratifying this convention are fearful that our ratification will lead to American citizens being extradited and tried abroad on charges of "genocide" by people who have created their own meaning of the word to suit their own purposes.

In the extensive debate we have had on this subject over the past 25 years and in the numerous hearings that have been held on this convention, these fears have been proven to be groundless.

The Genocide Convention calls for extradition for genocide charges only "in accordance with laws and treaties in force." As the Foreign Relations Committee report pointed out—

> Neither U.S. law, nor any extradition treaty to which the United States is a party, covers genocide at this time.

Section 3 of the legislation implementing our accession to the convention reserves for the United States the right to refuse extradition for the crime of genocide in negotiating future extradition treaties or conventions. In short, there is no provision now for extradition of Americans for the crime of genocide; and if such treaties are made in the future, we will reserve the right to try our own citizens rather than have them extradited.

The third understanding which the Foreign Relations Committee has included in the Resolution of Ratification makes it clear to the other contracting parties that the United States intends to try its own nationals for punishable genocidal acts, whether these acts were committed at home or abroad.

A second fear expressed by those who oppose this convention is that Americans abroad will be tried on trumped-up charges of genocide. The example given is that the North Vietnamese might have charged American POW's with genocide. The fact is that our ratifying the convention will not affect in any way the right of a foreign country to try American nationals within its jurisdiction. Foreign countries can now try and sentence Americans on charges of anything ranging from possession of narcotics to murder to genocide.

Another fear that has been expressed is that Americans will be tried for genocide before the "international penal tribunal" mentioned in article VI rather than in the United States. No such international penal tribunal now exists. If one were to be established the United States would have to recognize its jurisdiction through ratification of a treaty or enactment of a law. We are, therefore, not now deciding that Americans can be tried before an international tribunal for the crime of genocide. We are simply deciding whether the United States will agree with other nations that genocide is a crime under international law, and that it will be illegal in this country and punishable under our system of justice.

Those who argue against ratifying the convention are fearful that what they regard as "ambiguities" in its language will resut in genocide being defined so broadly as to infringe on basic rights of Americans. They believe that because genocide is defined in article II as acts committed "with intent to destroy in whole or in part" a group of people, Americans will be charged with genocide for isolated acts of violence or harassment based on prejudice. It is also believed that under this definition of genocide, it will be extended to cover acts of war, deplorable incidents such as My Lai, and police action during riots.

I believe that the first understanding submitted by the Foreign Relations Committee clarifies this "ambiguity" by making it clear that the genocidal acts must "affect a substantial part of the group concerned." This understanding, coupled with the requirement that "intent to destroy" the entire group must be proven, limits the definition of genocide to situations similar to the attempt by Hitler to destroy the European Jews. The intent to destroy clause also eliminates the possibility that the clause "imposing measures intended to prevent births," would be interpreted to mean voluntary birth control, or that the clause "conditions of life calculated to bring about its physical destruction," would be interpreted to refer to people living in conditions of extreme poverty.

The second reservation makes it clear that "mental harm" means permanent impairment of mental facilities—not just any form of mental stress.

Finally, it must be pointed out that making "direct and public incitement to commit genocide" a punishable act in no way denies the freedom of speech. Incitement to commit a crime is not legal in this country now; and a legal distinction is made between advocacy of a crime and "incitement" to commit that crime.

Mr. President, our ratification of the Genocide Convention will not result in Americans being tried in foreign courts or before an international tribunal on trumped-up charges of genocide. Nor will it result in Americans being convicted of genocide here for acts which do not entail an intent to destroy a group and which do not affect a substantial part of that group.

Our ratification of this convention will greatly enhance the credibility of our commitment to human rights and international law. It will help assure that the international community will respond to threats to destroy groups of people, and will respond in an orderly and unified way. It will contribute to the development of a body of international law guaranteeing the basic human rights of all men. For these reasons, we must finally act to ratify the Genocide Convention.

IN SUPPORT OF GENOCIDE TREATY

Mr. KENNEDY. Mr. President, I rise today to urge that the Senate reaffirm our Nation's traditional support for the cause of international justice and humanitarian responsibility by voting to ratify the Genocide Treaty.

Our Nation's longstanding commitment to help alleviate the tragic dimensions of conflict is under test today. So, too, is our dedication to the principles of international law and equality—principles which are so integral to the fabric of our national heritage. Few nations can match America's incomparable record of persistance in the cause of justice and morality in the conduct of interstate relations. This continuing dedication to the humane principles of international law pays tribute to America's long recognized role as a world leader in the fight for international humanitarianism. And it is a tribute to our Nation's constant vigilance in upholding the rights of, and in deterring the mistreatment of, minority populations, wherever they may be.

All of this is on trial today. For, if we are to remain true to this heritage, it is imperative that the Senate go on record, once and for all, against the tragic excesses of war and civilian destruction, and finally vote to uphold the Genocide Treaty.

Mr. President, as chairman of the Judiciary Subcommittee on Refugees, I have seen firsthand the waste of violence and the human toll involved in genocidal conflict. The Refugee Subcommittee's hearings are replete with examples of massive destruction and misery, as well as unprecedented human suffering, created by modern conflict. This burden of strife which, in a very real way, is shared by all of the world, is due, in large part, to the senseless consequences of minority oppression. The purposeful ideals of the Genocide Convention seek to deter such tyranny.

Over the last decade the world has all too often learned of the systematic massacre of civilian populations. Too often the simple protests of the international community have failed to stop such violence. This is because many nations have just as often found legal refuge in certain narrow principles of sovereignty which should no longer be applicable today, and which will not be applicable under the Genocide Convention. Many nations have long ago voiced their abhorrence for such acts of mass violence, by ratifying this declaration of international decency. All in all, 76 nations have supported the intent of this convention. Such widespread concurrence has made the Genocide Convention the most inclusively supported international treaty second only to the United Nations Charter.

During the United Nations debate on the Genocide Convention in 1949, then U.S. Assistant Secretary of State Ernest Gross stated:

> We should proceed with this Convention before the memory of recent horrifying acts have faded from the minds and conscience of man.

To date, we have seen other nations act to prevent a recurrence of past atrocities, and it is long over due for them to hear from us as well. For even as the Senate debates the Genocide Treaty the shadow of massive human suffering in distant lands is as real today as it was when Assistant Secretary Gross spoke before the United Nations in 1949.

Turmoil and violence remain a constant companion to millions of civilians around the globe. In South Asia, the young nation of Bangladesh has yet to adequately recover from the disastrous losses inflicted upon its population by Pakistan in 1971. Reports over the last year from Burundi speak of continuing civil strife and slaughter. Thousands have perished in tribal massacres, and many more will likely die during the days ahead. But the ruthless course of war spreads elsewhere as well. The ceaseless war of Indochina continues to inflict nothing less than virtual disaster upon peoples who have not known of peace nor security for two decades.

This seemingly never-ending succession of human violence and continuing conflict—and the toll of innocent civilians which it leaves in its wake—must be a very real source of concern in our deliberations on this treaty. For although its provisions will not fully end such violence, nor will our ratification of it stop all future injustices, yet I believe our Nation can no longer remain silent about them. With war-ravaged populations suffering wherever we turn, why has the Senate remained so reluctant to add America's voice in support of the principles of the Genocide Convention?

Mr. President, as we all know, it was almost 25 years ago that the United Nations General Assembly—acting in response to the atrocities of World War II—called upon its member states to ratify a convention for the prevention and punishment of genocide. The history of the drafting of the Genocide Convention should be a source of pride for all Americans, since the major impetus for this treaty came from our own diplomats. When President Truman submitted the convention to the Senate with his enthusiastic endorsement, he requested that the Senate consent to its adoption. Since then, the Genocide Convention has undergone nearly a quarter century of intense congressional scrutiny. Our failure to act decisively during these years has created a burden of neglect—neglect of principles for which we pride ourselves in setting an example for other nations to follow. It is time, Mr. President, for us to follow our own example and for the Senate to act in favor of those principles.

Many of my colleagues have had ample opportunity to express their reservations over some of the convention's provisions. However, most of these objections have now been remedied with the proposed reservations to be added to our signing the treaty. As we know, legislation providing for this must be enacted before our instrument of ratification is complete. Contrary to the concerns voiced by several of my colleagues, the convention does not, nor will it, impose any fearful obligations upon the United States. And, we know that personal freedoms guaranteed by our Constitution cannot be abridged by international treaty obligations.

The extensive record of the Foreign Relations Committee's hearings justifies the conviction that this treaty has received careful consideration and scrutiny. Each article to the treaty was studied for possible conflict with the laws of our States as well as with the laws of the Federal Government. I am confident that we can render our support to the convention knowing that our Nation can in no way suffer harm.

A similar process of review and reservations occurred a few years ago, during the Senate's consideration of the Protocol Relating to the Status of Refugees, which was ratified after debate by the Senate in 1968. This Senate action has in no way abridged our Constitution nor the legislative prerogatives of the Congress. But it has served to help the homeless, and to clarify our Nation's policy toward asylum and refugees.

And so in considering the Genocide Treaty, we stand to lose a great deal if we reject the thoughtful recommendations of past administrations, and the votes of our own colleagues on the Foreign Relations Committtee, and fail to ratify this treaty. How do we answer to the international community if we reject this needed instrument of international law? Do we tell them that the United States will no longer serve as a leader in the battle for common respect of international morality? Do we tell friend and foe alike that our failure to accede to the treaty expresses our lack of concern over the international problem of genocide? And will it not be a sad day for our Nation if our failure to agree to the Genocide Convention should seriously impair those countries wishing to take affirmative action against some future, mindless act of genocide?

Mr. President, our decisions and debate today will have far greater significance upon world events than our mere approval of a long forsaken document. For if history is to serve as our guide, we must remember that genocidal acts are not simply sorry episodes out of the past, but are very real problems today which demand far greater concern and more defined obligations on our part.

I urge the Senate to vote in favor of the resolution of ratification.

Mr. ALLEN. Mr. President, the statement has been made that there is no penal court of international justice. That is what the whole thing is looking toward, punishment of the crime of genocide.

This is an opening and entering wedge for the setting up of such a court. The point that the Senator from Alabama has made and makes again is that if 78 nations of the world have ratified this convention, and have not gone forward to implement the provisions of the convention by setting up a penal court, it must not be such a good idea after all. It takes only 20 nations adopting the convention for the convention to be operative, and they have 78. So if it is such a good idea, why have they not gone forward with it?

I challenge them to show one single constructive act done under this convention—one single instance of the crime of genocide being punished in any of these nations that have adopted the convention and that have defined genocide.

Apparently it is serving no useful purpose in the other nations of the world, and I see no occasion for the United States putting the necks of our citizens in a noose to subject them to possible penalties under such a court, when, as, and if it is set up. I predict that if this convention is adopted during this very session of Congress, we will see the International Court of Justice penal section move forward.

The VICE PRESIDENT. The time of the Senator from Alabama has expired. All time has expired.

CLOTURE MOTION

The VICE PRESIDENT. Under the previous order the Senate will now proceed to vote on the cloture motion which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide (Executive O. 81-1).

Mike Mansfield, Frank Church, Jacob K. Javits, Alan Cranston, Edward W. Brooke, Abraham Ribicoff, John V. Tunney, William Proxmire, Charles H. Percy, James B. Pearson, Richard S. Schweiker, Hugh Scott, Lowell P. Weicker, Jr., Gale W. McGee, Bob Packwood, Robert P. Griffin.

CALL OF THE ROLL

The VICE PRESIDENT. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 31 Ex.]

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. NUNN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) and the Senator from Kansas (Mr. DOLE) are necessarily absent.

The PRESIDING OFFICER (Mr. HASKELL). A quorum is present.

The question is, Is it the sense of the Senate that debate on the pending resolution of ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) and the Senator from Louisiana (Mr. LONG) are absent on official business.

On this vote, the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. GRAVEL) are paired with the Senator from Louisiana (Mr. LONG).

If present and voting, the Senators from Indiana and Alaska would vote "yea" and the Senator from Louisiana would vote "nay."

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Kansas (Mr. PEARSON and Mr. DOLE) are necessarily absent.

The yeas and nays resulted—yeas 55, nays 36, as follows:

[No. 32 Ex.]

YEAS—55

Abourezk
Aiken
Beall
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Eagleton
Fong
Griffin
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Moss
Muskie
Nelson
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—36

Allen
Baker
Bartlett
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Cook
Cotton
Curtis
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Johnston
McClellan
McClure
Roth
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Bayh
Dole
Gravel
Hartke
Inouye
Long
Montoya
Nunn
Pearson

The PRESIDING OFFICER. On this vote there are 55 yeas and 36 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION—ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session and that there be a resumption of the period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

Mr. JAVITS. Mr. President, I reserve the right to object, and I would like to ask the Senator this question: Where does that leave the executive session on the Genocide Treaty, unless that is wrapped up in the unanimous consent?

Mr. ROBERT C. BYRD. It would be set aside for not more than 30 minutes.

Mr. JAVITS. Is that part of the unanimous consent?

Mr. ROBERT C. BYRD. Yes; it would be.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. TOWER. Mr. President, I am delighted that the Senator from Arizona is on the floor, because I intend to make some rather uncomplimentary remarks about him.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does that request include that 30 minutes he set aside and then the genocide treaty comes back to us? Is that correct?

The PRESIDING OFFICER. The Senator from West Virginia asked unanimous consent that the Senate go out of executive session, proceed to 30 minutes of morning business, but at the end of that 30 minutes it would be up to the Senate to decide whether or not it would go back into executive session.

Mr. JAVITS. Then I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session, that there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes, and that at the conclusion of the period for the transaction of routine morning business the Senate go back into executive session and resume its consideration of the genocide convention.

The PRESIDING OFFICER. Is there objection? The Chair hears none——

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Does the Senator from Arkansas object?

Mr. McCLELLAN. I reserve the right to object so I can ask a question.

I would like to have about 10 minutes to make some remarks on the budget sometime now or pretty soon. I wonder how that can be arranged.

Mr. ROBERT C. BYRD. That was the purpose of putting the Senate back into routine morning business. I understood the Senator desired to speak.

Mr. McCLELLAN. It may take more than 5 minutes. I thought about 10.

Mr. ROBERT C. BYRD. Another Senator would yield 5 minutes to the able Senator from Arkansas. There will be no problem.

Mr. McCLELLAN. Very well. I have no objection.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request, and it is agreed to.

The Senate resumed consideration of legislative business.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Texas is recognized.

CHALLENGE TO CHILI COOK-OFF

Mr. TOWER obtained the floor.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Will the Senator from Texas use his microphone? If he is going to insult me, I want to hear it.

Mr. TOWER. Mr. President, I note from an article in the Houston Chronicle of this past weekend that the junior Senator from Arizona, the Honorable BARRY GOLDWATER, apparently made some comment on Texas chili at a function this past week at the National Press Club.

The Chronicle quoted the Arizona Senator as saying: "I have heard that the club serves only Texas chili. Tell me this is not true. A Texan does not know chili from leavings in a corral."

Now, Mr. President, if this is an accurate quote of the distinguished junior Senator from Arizona, I submit that this raises very grave questions about that Senator's taste.

The whole world knows, Mr. President, that the best chili anywhere is brewed in Texas. Ask any Texan over the age of 3 months if there are any doubts lingering in the mind of anyone. Is not Texas the site for the annual world's champion chili cookoff at Terlingua? Is Texas not the home of the late great chili king, Wick Fowler, whose family still packages the world-famous Two Alarm Chili at Austin? Is the Chili Appreciation Society International not headquartered at Dallas, where some of the world's foremost chili experts reside?

Comparing Arizona chili to Texas chili is like comparing Phyllis Diller to Sophia Loren.

Mr. President, every Texan who has ever cooked chili knows he could make better chili than anyone from Arizona with one hand tied behind his back.

The junior Senator from Arizona has gone too far. A Texan just cannot take this lying down. I therefore, Mr. President, challenge the junior Senator from Arizona to a chili cookoff. The junior Senator from Arizona, if he chooses to accept this challenge, can choose the time and place for this chili cookoff with three impartial judges mutually agreed on. This will prove once again that nobody can cook chili like a Texan—not even Arizona's most distinguished citizen, who is grievously in error on this point.

Mr. GOLDWATER. Mr. President, the Senator from Texas still did not clear up the remark I made about not knowing chili from leavings in a corral.

Mr. TOWER. We know that an Arizonan cannot tell the difference.

Mr. GOLDWATER. But the Senator from Texas will not name that substance with which to make chili which they use a lot in Texas because they do not know the difference. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GOLDWATER. Mr. President, I will be very glad to accept the challenge. It will be a real experience for me to teach a Texan how to do something that he does not know how to.

Mr. TOWER. Mr. President, that remains to be seen.

THE FACTS ABOUT DEFENSE SPENDING

Mr. McCLELLAN. Mr. President, the Department of Defense budget request for fiscal 1975—a record $84.6 billion—has, as expected, already touched off the usual uninformed charges about military overspending and the wasteful arms race spiral.

Once again, our citizens are being told that defense spending is the prime cause of the rapidly increasing cost of the Federal Government and that our national wealth is being squandered on unnecessary military expenditures while human needs go begging.

No myth is more long lived—or more pernicious. The fact is that since 1964, defense spending has been steadily decreasing as a percentage of the total budget while spending on human resources has constantly increased—and fiscal 1975 is no exception.

Since fiscal 1965, the cost of the Federal Government has gone up $186 billion—from $118.4 billion to $304.4 billion estimated for fiscal 1975. Of that total increase, only 21 percent or $38.6 billion is attributable to military spending. The remaining 79 percent, or $147.4 billion is attributable to nonmilitary functions and services, such as human resources and general government.

Since 1965, Federal outlays for human resource items—education and manpower; health, including medicare and medicaid; income security, including benefits—have increased from 30 percent to 50 percent of the Federal budget—$35.4 billion to $151.5 billion.

This means that over the last decade, the Federal Government has spent $123.8 billion more for human resources programs than it has on the military functions of the Department of Defense—$909.8 billion for human resources as compared to $786 billion for defense, and this includes the major costs of the longest war in our Nation's history.

The defense share of the total Federal budget continues to decline. In fiscal 1975, for example, proposed defense outlays constitute only 28 percent of the total Federal budget—down 11 percent from the fiscal 1965 level. The costs of defense programs, as proposed for fiscal 1975, will require a smaller percentage of the gross national product and of the Federal budget than in any year since 1950.

Moreover, defense spending has been rising far less rapidly than any other major item in the budget. While total Federal outlays have increased by about 157 percent in the past decade—from $118.4 billion to $304.4 billion estimated for 1975—defense spending increased by only 84 percent during this same period—from $45.9 billion to $84.6 billion.

At the same time:

Federal aid to education jumped 462 percent, from $1.3 billion to $7.6 billion.

Public assistance increased 365 percent, from $3.1 billion to $14.5 billion.

Social security and other retirement and disability programs increased by 283 percent, from $19.6 billion to $75.1 billion.

Health services, including medicare and medicaid increased by 4,418 percent, from $496 million to $22.4 billion.

So, Mr. President, it is clearly evident that contrary to the misconceptions of many persons—including some Members of the Senate—the truth is that we are spending far less today to maintain our national security than we are spending for human needs and nondefense programs.

Many persons assumed with some logic that once the Vietnam war was over, defense appropriations would show a marked reduction that would approach the pre-war level. Regretfully, the so-called peace dividend has been swallowed up by continuing inflation; by the ever-increasing sophistication of our weapon systems and the cost of the all-volunteer force.

Inflation is the No. 1 enemy in our efforts to establish lower defense costs and to reduce defense spending. For example, one need look no further than a check of some of the major food items served in the mess halls of the Armed Forces to see the effects of inflation on defense costs:

Cost of food items	Cost in 1964	Cost today[1]	Percent change
White bread, 1 lb	0.21	0.32	53.3
Round steak, 1 lb	1.04	1.75	68.3
Rib roast, 1 lb	.83	1.55	86.7
Chuck roast, 1 lb	.57	1.02	78.9
Pork chops, 1 lb	.88	1.58	79.5
Bacon, 1 lb	0.67	1.43	113.4
Hamburger, 1 lb	.49	1.02	108.2
Pork loin, 1 lb	.61	1.20	96.7
Milk, ½ gal	.48	.82	70.8
Butter, 1 lb	.74	1.00	35.1
Eggs, 1 doz	.54	.83	53.7
Coffee, 1 lb	.82	1.08	31.7

[1] November 1973.

In little more than a year, the Department of Defense reports that the average daily rate for feeding enlisted personnel has increased from $1.65 to $2.28 as of January 1, 1974.

Weapons and equipment have experienced similar increases in cost. Much of this is due to inflation, but in addition, the sophistication demanded of modern weaponry has also taken its toll.

In World War II, a B–29 bomber cost $680,000. Today's FB–111 costs $9.5 million—almost 14 times as much.

A P–51 fighter aircraft of 30 years ago cost $54,000. An A–7A of today costs $2.8 million—more than 50 times as much.

Or consider more recent comparisons:

In 1964 the cost of a 2½-ton Army truck was $8,700. Today it costs $15,500.

A jeep has gone from $3,300 in 1964 to $4,160 in 1973.

An M–60 tank produced in 1964 cost $170,000. Today the M–60A1 is priced at $295,400.

A nuclear submarine of 1964 cost about $81 million; today an SSN costs $181 million.

Military personnel costs, have in recent years, increased even more markedly as a result of inflation and the all-volunteer concept. During fiscal 1975, personnel and related costs will account for 56.1 percent of Department of Defense outlays, or $47.5 billion. This represents an increase of $3.6 billion in spending on personnel in 1 year alone, over the $43.9 billion earmarked for this purpose during fiscal 1974.

Although the number of military personnel will have been reduced from 3.5 million men in 1968 to 2.2 million in 1975, average per capita cost is expected to double—from $5,500 to $11,000 in 1975. As a result, total active duty pay costs for our military personnel will rise from $19 billion in 1968 to $24 billion in 1975.

Military spending is up $6.2 billion over last year but more than half of this, $3.6 billion, will go for military and civilian pay and related personnel costs. Of the remaining $2.6 billion, over $1 billion will go for procurement; $1 billion for operation and maintenance; $0.4 billion for research and development and $0.2 billion for military construction. In view of the high cost and dollar drain of the Vietnam war which diverted funds normally devoted to these activities, it is remarkable indeed that these requests were held at such a modest level.

Proposed defense spending is up 8 percent over last year, but pollution control is up 54 percent; medicare and other health programs are up 13 percent; social security benefits are up 16 percent; public aid, food stamps, and similar programs are up 25 percent; and unemployment pay is up 27 percent.

Make no mistake, Mr. President, protecting the welfare and security of our people has been and will continue to be high on our priority list. But just as we cannot afford the luxury of unnecessary defense expenditures neither can we afford the risk of becoming a second rate military power.

Despite increased spending on defense, Mr. President, the unresolved and vital question is whether the United States is falling behind the Soviet Union militarily—whether we are meeting and whether we can meet the challenge of expanding Russian military might?

While the United States was fighting an expensive and inconclusive war in Southeast Asia, the Russians were spending lavishly to improve and enlarge their arsenal of nuclear and conventional weaponry. The Soviet Union continued to pursue an aggressive program of development of new weaponry and to expand their sphere of influence into new areas of the globe.

As American defense forces, measured in terms of constant purchasing power and percentage of the budget have been reduced, Soviet forces and spending have been increased. For example, while the spending programs of the Department of Defense now account for only 5.9 percent of our gross national product, defense spending absorbs 12 percent of the gross national product of the Soviet Union.

In order to prevent a serious imbalance of military strength from resulting—an imbalance which could be fatal to our system of government and our way of life—the United States must continue to modernize and to improve the readiness of its combat forces.

It is my profound hope that the negotiations for a strategic arms limitation and mutual balanced force reductions will be successful in preserving the present balance of power and will insure a generation of peace.

Nevertheless, while negotiations continue, the United States must maintain adequate force levels and a technological lead over any potential enemy. Freedom cannot be guaranteed or maintained without resolution and the essential military strength to defend it.

I ask unanimous consent that two charts prepared by the Senate Committee on Appropriations be printed in the RECORD. One shows the relationship of defense spending to the cost of human resources programs, while the other compares fiscal 1974 and fiscal 1975 Department of Defense outlays by function. And I ask unanimous consent that a perceptive article on the relationship between the United States and Soviet defense postures from Time magazine of February 11, 1974, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BUDGET OUTLAYS BY FUNCTION

[In millions of dollars]

	Fiscal year 1965			Fiscal year 1975 (proposed)			
	Amount	Percent of total budget	Percent of GNP	Amount	Percent of total budget	Percent of GNP	Budget dollars and percentage increase from fiscal year 1965 to fiscal year 1975
Department of Defense	$45,973	0.388	0.070	$84,600	0.277	0.058	Up $38,627 or 84 percent.
Federal aid to education	1,349	.011	.002	7,577	.025	.005	Up $6,228 or 462 percent.
Public assistance	3,119	.026	.005	14,505	.048	.010	Up $11,386 or 365 percent.
Retirement and disability (including Social Security)	19,603	.167	.030	75,114	.247	.052	Up $55,511 or 283 percent.
Health services, Medicare, Medicaid and others	496	.004	.001	22,412	.074	.015	Up $21,916 or 4,418 percent.
Interest (net)	10,358	.088	.016	29,122	.095	.020	Up $18,764 or 181 percent.
Other	37,532	.316	.057	71,115	.234	.049	Up $33,583 or 89 percent.
Total	118,430	100	.181	304,445	100	.209	Up $186,015 or 157 percent.

10-YEAR COMPARISON OF DEPARTMENT OF DEFENSE OUTLAYS TO TOTAL OUTLAYS

	Fiscal year 1965			Fiscal year 1975			Increase	
	Amount	Percent of total budget	Percent of GNP	Amount	Percent of total budget	Percent of GNP	Amount	Percentage
Defense	45,973	0.39	0.070	84,600	0.28	0.058	+38,627	0.21
Federal Government other than Defense	72,457	.61	.111	219,845	.72	.151	+147,388	.79
Total	118,430	100	.181	304,445	100	.209	+186,015	100

Note: Columns may not add due to rounding.

DEPARTMENT OF DEFENSE OUTLAYS

[Dollar amounts in billions]

	Fiscal year 1974		Fiscal year 1975	
	Amount	Percentage	Amount	Percentage
Personnel and related costs	$43.9	56.0	$47.5	56.1
Military pay	(17.9)	(22.8)	(19.0)	(22.4)
Civilian pay	(13.8)	(17.6)	(14.9)	(17.6)
Other military personnel	(6.9)	(8.8)	(6.7)	(7.9)
Retired pay	(5.2)	(6.6)	(6.0)	(7.0)
Family housing (excluding pay)	(.8)	(1.0)	(.9)	(.1)
Operation and maintenance, (excluding pay)	12.1	15.3	13.3	15.7
Procurement (excluding pay)	$14.3	18.2	$15.5	18.3
Research and development (excluding pay)	7.0	8.9	7.4	8.7
Military construction	1.2	1.5	1.4	1.7
Adjustments	—.2	—.3	—.6	—.7
Total	78.4	100.0	84.6	100.0

Note: Columns do not add because of rounding.

[From Time, Feb. 11, 1974]

ARMING TO DISARM IN THE AGE OF DÉTENTE

From a launch site deep in Kazakhstan near the Aral Sea, two giant Soviet rockets streaked 4,500 miles to a target area some 850 miles northwest of Midway in the Pacific late last month. It was Russia's first full-range test of its SS–19 intercontinental ballistic missile. Like the U.S. Minuteman III, it carries multiple nuclear warheads aimed at separate targets. To U.S. military strategists in the Pentagon, the successful Soviet firings were fresh confirmation that for all the genuine gains of détente, the arms race between the world's premier superpowers is still very much alive.

The Russian missile advances had been expected since the latest shots followed a series of shorter-range tests of two other new missiles on a range ending on the Kamchatka peninsula in eastern Siberia last spring and summer. Nonetheless, one of their chief consequences will be to focus this year's debate in Congress over the defense budget on the question: Is the U.S. falling behind the Soviet Union militarily? Arsenals of experts are likely to be rolled out to argue both sides of the highly complex question. But there is no dispute about the fact that while the U.S. was fighting the expensive and inconclusive Viet Nam War, the Russians were spending lavishly to improve their stores of nuclear and conventional weapons. Their armed forces are now larger than those of the U.S. and, particularly in the case of the Soviet navy, often equipped with newer hardware. More important, the continuing Russian effort, together with the ceilings imposed on U.S. arms levels in the 1972 Strategic Arms Limitations Talks (SALT I) with Moscow, leads analysts to fear that in the mid-1980s the Soviets might finally overtake the U.S.

To Americans, such a prospect can only be profoundly unsettling. It was reflected in the applause for President Nixon's declaration in his State of the Union message: "We must never allow America to become the second strongest nation in the world." But how that pledge can be guaranteed is yet to be determined, and it depends as much on the Soviet Union as on the U.S. Congress and President. Both Moscow and Washington now seem poised at the beginning of another round in the nuclear arms race that could cost billions of rubles and dollars. The new round seems likely to be prevented only if the two countries decide to accept a measure of military parity, negotiate permanent limits to their nuclear armaments, and learn to accept a nuclear balance in which there is no first among equals.

TWO GOALS

The man in charge of the U.S. military response to the new Russian challenge is James Rodney Schlesinger, 45, who was sworn in as Secretary of Defense last July 2. By profession an economist and military strategist, the tall, pipe-smoking Schlesinger demonstrated deft and tough skills in administration and problem solving in his previous jobs as chairman of the Atomic Energy Commission and director of the Central Intelligence Agency (*see box page 16*). At the Pentagon, he has set two goals for himself: 1) to overcome the legacy of the Viet Nam War, which has left the services top-heavy with brass, depressed in morale and saddled with a so far faltering volunteer system as a replacement for the draft; and 2) to enable the American armed forces to meet the new Soviet weapons threat.

The second goal has an odd, atavistic ring to many Americans, educated by the achievements and rhetoric of the President and Secretary of State Henry Kissinger to believe that the U.S. and the Soviet Union are well into a new era of trade and détente. Indeed, the two countries are on a new and significantly improved footing with each other. But because Nixon and Kissinger are rightly convinced that détente can only be constructed on a realistic equality of U.S. and Soviet armed might, Schlesinger and his Pentagon have a vital role to play in the Administration's grand design. Kissinger and Schlesinger work closely together, coordinating their moves, breakfasting at least once a week when the Secretary of State is in Washington. After two summits and SALT I, the nuclear balance is still, looking to the future, weighted to the Soviets' advantage. Schlesinger's task is to provide the muscle and tools to help Kissinger bring the balance back to center in further negotiations.

Schlesinger believes that to do his job will require spending more money on the military. Since 1968 defense has accounted for a steadily decreasing portion of total federal spending. The outlays for fiscal 1974 will total $79.5 billion; when adjusted for inflation, this is the lowest Pentagon spending since the Korean War began. Even before Schlesinger became Secretary of Defense, he was warning that cutting more out of military spending was a "self-defeating game" that might eventually give the Soviets the appearance—if not the reality—of being stronger than the U.S. Once in office, he was even more emphatic: "It is an enchanting illusion that you can simply take large amounts of money out of the defense budget and cut only fat and not muscle. It was an illusion in 1949, and it is an illusion that we can ill afford today."

Accordingly, Nixon will ask Congress this week for Pentagon spending of $85.8 billion next year. In addition, the President will ask Congress to vote $6.8 billion for long-term Pentagon contracts and to supplement this year's defense spending by $6.2 billion. The extra money for 1974 is needed to cover inflation and military-pay increases, as well as to buy $2.2 billion worth of ammunition and weapons to replace those shipped to Israel during the Middle East war.

Inflation and pay boosts are also responsible for $5 billion of the increase in the amount proposed for next year. But the heart of the budget argument and the portion that is aimed as a warning message at Moscow is the Pentagon request for $9.4 billion for research and development of new weapons in fiscal 1975, an amount on top of the $8.1 billion being spent for that purpose this year. Schlesinger has long believed that "the appropriate means for hedging against surprise is through an enhanced R. and D. program." The budget, the first to be drawn up under his supervision, calls for money to begin research into new missiles, a new submarine and new technology that will enable the nation to fight a limited nuclear war—something less than the all-out holocaust of reciprocal annihilation on which U.S. nuclear strategy has been based for 25 years.

Is Russia about to surpass the U.S. in atomic arms? There is, unfortunately, no objective way to quantify nuclear capability. The debate usually centers on three measurements: the number of launchers, their throw weight (payload) and the number of warheads deliverable. Russia has not only more launchers than the U.S. (*see chart page 18*), but bigger missiles—with up to 120% more throw weight. The U.S., however, has almost twice as many warheads on its missiles. Thus, as Harvard Professor Paul Doty puts it, "If you are a [U.S.] hawk, you argue throw weight, and if you are a dove, you argue warheads."

U.S. ADVANTAGE

Even if the numbers game was not contradictory, it would not give an accurate picture of both countries' relative nuclear strength. On one level, each superpower has more than enough warheads to destroy civilization; the surplus, as Winston Churchill once said, serves only to "make the rubble bounce." In anything other than an all-out nuclear war, however, accuracy of missiles becomes the critical factor. Here the U.S. has a substantial technological advantage. It requires three of Russia's burly SS–9 missiles—each with a 25-megaton yield—to hit the same targets as one U.S. Minuteman III with its three warheads and total yield of 600 kilotons.

The better American guidance systems enable the U.S. warheads to strike within a quarter of a mile of the target. The Pentagon believes that Soviet missiles can do no better than hit one-half mile from the target. The Soviets depend on size to compensate for their missiles' inferior electronic brainpower.

Because of that technological advantage—and the U.S. lead in long-range bombers—Nixon agreed to grant the Russians numerical superiority in launchers in the SALT I agreements. At the time, the U.S. wrongly believed that the agreement might break the Soviet momentum in missile advances by setting a five-year ceiling on the number of offensive missiles each side can have. The U.S. was limited to 1,054 land-based intercontinental ballistic missiles (ICBMs), 44 missile-launching submarines and 710 submarine-launched ballistic missiles (SLBMs). The Soviet were permitted 1,618 ICBMs—91 more than they have—62 missile-launching submarines and 950 SLBMs. The agreement set no restrictions on the number of warheads that could be placed on each rocket. Nor did it limit bombers, short- and medium-range missiles and tactical nuclear weapons that can be used on the battlefield.

Thus when the SALT I agreement was signed May 26, 1972, Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff, felt that there was "relative strategic [nuclear] parity" between the two countries. By 1975 half of the U.S. land-based missiles would be MIRVs (multiple independent re-entry vehicles): each launcher tipped with a package of three independently targeted warheads that can hit widely separated, preplotted targets. Some Soviet missiles in operation then also had multiple warheads, but they were not independently targeted. When fired, they sprayed from the missile launcher along a straight line like pellets from a shotgun. In addition, though the Soviets had more missile-firing submarines, U.S. subs were quieter, making them harder to detect, and many of the American SLBMs carried from ten to 14 warheads each. As a further deterrent, the U.S. maintained three times as many longrange bombers as Russia.

The rough balance of nuclear forces—and the equanimity of Pentagon planners—was unexpectedly upset last summer when the Russians conducted those earlier tests of their own MIRVed missiles. The U.S. had thought the Russians were five years away from developing MIRV. Despite the tests, Schlesinger does not expect Russia to finish development of MIRV technology before 1976—and, more important, does not expect the Soviets to match U.S. inventory before the mid-1980s. Still, the tests were a disquieting sign that the relentless Soviet momentum in weapons research is closing the technology gap.

RESEARCH GAP

To high-ranking officers like Moorer, U.S. military power "has clearly peaked and is now declining." Arms Control Expert Donald G. Brennan of the Hudson Institute fears that if the purse strings are not loosened, the Soviet Union "will pull ahead both in terms of strategic and conventional forces." Both to maintain the strength necessary to make détente work and to protect itself, the U.S. cannot wait for that to happen before acting. New weapons take five to ten years to reach production. General George S. Brown, head of the Air Force Systems Command, points out that in research, "momentum is the key."

The Soviet Union keeps secret how much it spends on military research and development, and Western estimates of the figures vary widely. The Stockholm International Peace Research Institute believes that it averages up to $10 billion a year, while U.S. intelligence analysts say that the current expenditure is more like $16 billion–$20 billion. In comparison, the U.S. in recent years has been spending about $8 billion annually. Pentagon Research Chief Malcolm R. Currie says that the Russians have greatly enlarged the pool of engineers and scientists available to its military effort, though it is not known how many are actually engaged in such research. In 1960 Russia had 225,000 research scientists and engineers, while the U.S. had 400,000. Today Russia has 625,000, and the U.S. 550,000. Schlesinger and other Pentagon planners complain that the Soviets have deployed one new submarine-launched missile and are testing four new land-based missiles. The U.S. is planning a new missile for the Trident submarine but has no new ICBM in the works.

Outside the Pentagon, there is widespread agreement that Russia is indeed striving to surpass the American nuclear arsenal. Declares Foreign Affairs Specialist Zbigniew Brzezinski: "SALT I on the American side was a plateauing in weapons development. Given the secrecy and level of Soviet development, the situation is increasingly less and less stable." And in the Kissinger-Schlesinger world view, stability is the key not only to security but diplomacy. But there is disagreement over whether the nuclear statistics have any real meaning. According to M.I.T. Political Scientist George Rathjens, "More hardware at this point is irrelevant [because] modest numbers of thermonuclear weapons will suffice to inflict levels of damage on nations that would be unacceptable under all circumstances."

Numbers of nuclear weapons, however, do have psychological importance to the people and politicians of both countries. Harvard's Doty explains: "To the extent that numbers influence worldwide opinion, then numbers become a realistic basis for argument, even though they do not have much to do with the worldwide arms situation. It is important to distinguish between military reality on the one plane and political perception on the other." In this sense, the real danger lies in giving an impression that there is an imbalance in nuclear power in favor of the Russians that would breed insecurity. Adds the Hudson Institute's Brennan: "Either we persuade the Soviets to accept reasonable limitations on strategic forces or we are obliged to maintain our forces at a level that will prevent the Soviet Union from having superiority or believing that they have superiority."

Just that was supposed to take place at the SALT II talks, which began in Geneva last March to seek a permanent agreement on limiting offensve nuclear arms. However, those talks appear to have bogged down. Under pressure from Democratic Senator Henry ("Scoop") Jackson of Washington, who believes that the U.S. conceded too much at SALT I, President Nixon has insisted that the permanent agreement gives both countries roughly equal numbers of nuclear weapons. Last October the Russians reportedly offered to halt technological improvements at the level attained by the U.S. but insisted on keeping the numerical advantage granted them by SALT I. The Soviet obduracy has led Jackson to conclude that Russia does not "view the SALT deliberations as a path to mutual security through nuclear stability based on strategic equality." As one Pentagon strategist puts it, "It is clear to all that the Russians want superiority and then they will be ready to talk to us about deals."

NEW WEAPONS

To get the talks moving, the Administration wants "bargaining chips" in the form of new weapons and argues that they may prove even more necessary if the talks fail. Nixon's budget request includes $1.3 billion to continue accelerating the development of the Trident missile-firing submarine, which eventually will cost $1.3 billion each to produce. The Navy wants Trident to start replacing Polaris submarines in 1978. The budget also contains $500 million for development of the B–1 bomber. The Air Force hopes to buy 244 of them for $11 billion by 1980 as a successor to aging B–52s. In addition, the Air Force wants $20.6 million to test-fire eight Minuteman missiles from their silos in Montana 5,000 miles into the Pacifiic to demonstrate the system's reliability. The budget also would permit researchers to begin work on several new weapons systems. Among the items:

$125 million for cruise missiles that could be fired from either submarines or airplanes. Powered throughout its flight by a jet engine, the 15-ft.-long missile would fly up to 1,500 miles, hugging the surface to elude Soviet radar, and deliver its warhead squarely on target.

$248 million for advanced ICBM technology. Included in it is money for a new nuclear warhead called MARV (for maneuverable re-entry vehicle) that could change direction in flight—something no country's ICBMs do now—to evade defensive missiles. It also would be more accurate than any existing Minuteman warhead.

$16 million for the propulsion system of the Narwhal, a new small submarine that would carry an undetermined number of nuclear-tipped missiles and be so fast and maneuverable that it could presumably evade Soviet antisubmarine forces for years to come, though the Soviets have a surprise abuilding in that area themselves.

As further pressure on the Soviets to moderate their position at SALT II, Schlesinger recently disclosed that U.S. nuclear doctrine has been undergoing "major change" since last spring. For 20 years American and Soviet strategy has been based on a concept of deterrence that came to be known as mutual assured destruction. Called MAD, an acronym coined by the Hudson Institute's Brennan, the doctrine holds that peace is best maintained by threatening to obliterate an entire enemy society in retaliation for a nuclear attack. Thus, the policymakers argue, nuclear war becomes unthinkable.

Over the past three years, however, Nixon has from time to time expressed ethical and practical reservations about MAD. In his foreign policy message to Congress last May, for example, the President declared that deterrence based on the ability to kill tens of millions of Soviet citizens was "inconsistent with American values." He also said that he wanted a nuclear strategy that would have "greater flexibility," a phrase that went unexplained—and virtually unnoticed by the public—until last summer. At that time, Schlesinger disclosed that the U.S. missile force was being retriggered to give the U.S. a "counterforce" capability, *i.e.*, the means to strike—if desired—only at Soviet military forces and installations rather than let loose a wholesale volley that would also destroy population centers.

To justify the change in strategy, the Secretary of Defense argued that MIRV advances might tempt the Soviet Union to launch a limited nuclear strike against the U.S. Under MAD, the only possible U.S. nuclear response would be an all-out attack on Soviet cities. That would not only be inhumane but suicidal, because Russia would retain enough missiles—particularly those aboard submarines, which are virtually invulnerable to attack—to obliterate U.S. population centers. Consequently, the President might decide to save American lives by not retaliating, in effect acquiescing to the aggression.

MORE BUTTONS

To avoid that, Schlesinger said, the President had to be allowed to respond in kind—for example, to destroy the submarine base at Murmansk in exchange for a hypothetical initial Russian obliteration of the U.S. base at Groton, Conn. Says Schlesinger: "We cannot allow the Soviets unilaterally to obtain a counterforce option that we ourselves lack. We must have a symmetrical balancing of the strategic forces on both sides."

The new strategy constitutes multiplying the number of buttons available to be pushed in a crisis, to provide more varieties of retaliation. As Schlesinger noted, "Most of the military objectives are already targeted." What Pentagon strategists are trying to do is war-game every limited attack the Soviets could make and program an appropriate, specific, equivalent American response to it. Declares Schlesinger: "We must maintain a military balance that offers no temptation to anybody." And, he might have added, that encourages Moscow to continue along the détente road with the U.S.

To critics, the counterforce strategy constitutes a dangerous escalation, since it changes the rules of the nuclear game: by making nuclear war more flexible, it becomes more thinkable, perhaps more tolerable, and therefore more possible. They also think it an expensive escalation, believing that it will inevitably require more accurate missiles and perhaps even bigger ones. Declares Columbia Professor Emile Benoit, an expert on the economics of defense: "We don't know how much we will spend, and we may be even less secure in the end." Indeed, the 1975 budget request includes about $10 million for a Command Data Buffer System that would allow the U.S. to switch a missile to a new target in 20 minutes. The process, which requires programming each missile's computers, now takes up to 36 hours.

Further, Benoit believes that counterforce could lead to irresistible pressure for the U.S. and U.S.S.R. to build more missile defense systems. Under SALT I, both nations are restricted to token defensive systems of two antiballistic missile sites each. Some critics warn that the Russians may look on counterforce not as a defensive measure but as an offensive one, enabling the U.S. to launch a limited first strike.

But Schlesinger argues convincingly that a first strike by either country is impossible until it finds a way to destroy the other's missile-firing submarines. Both fleets are expected to be virtually invulnerable for the foreseeable future, despite vast amounts of money being spent on research into antisubmarine warfare (a total of $2.5 billion a year by the U.S. Navy alone). Indeed, counterforce looks less like a fundamental change in American nuclear strategy than a forceful way of telling the Soviets that the U.S. is willing to continue the arms race if agreement on limiting nuclear weapons is not reached at SALT II. In the blunt words of a Schlesinger adviser on nuclear strategy, M.I.T. Professor William W. Kaufman: "We will match them."

VULNERABLE FORCES

Nonetheless, Christoph Bertram, assistant director of the highly respected Institute for Strategic Studies in London, predicts that if the current Soviet technical development continues and no defense is found, "all U.S. land-based missile forces would be highly vulnerable by the end of the decade." One alternative would be to abandon land-based missile systems altogether—a step that has been suggested by both the Federal of American Scientists and analysts at the Brookings Institution. The idea is also supported by Fred C. Iklé, the chief of the U.S. Arms Control and Disarmament Agency. Such a change would save billions of dollars and still leave the U.S. its missile-firing submarines and nuclear bombers. But Pentagon strategists point out that bombers can be shot down and that eventually submarines may also become vulnerable. They prefer to complicate the Russians' offensive problems by relying on the present triad nuclear force.

Pentagon planners' concerns about the changing nuclear balance of power are equaled by their worries about what is happening to the balance of nonnuclear military power. There too Russia has been dramatically expanding its forces and modernizing its equipment in recent years.

Until the mid-1950s, Russia maintained only a coastal-defense fleet. Since then, it has rapidly expanded its fleet, outbuilding the U.S. in naval vessels by a ratio of 8 to 1, and the Russian fleet of 221 major surface combat ships today sails all oceans of the world. For the most part, Russian vessels are younger than American ships (an average of about eight years *v.* about 18 years), and the Soviet guided-missile cruisers of the *Kresta II*–class pack more punch than anything comparable in size in the U.S. fleet. Norman Polmar, U.S. editor of *Jane's Fighting Ships*, estimates that the Soviets lead the world in antiship missiles, introduction of new technologies to warships and numbers of attack submarines. Last year the Russians launched their first aircraft carrier. At 45,000 tons, it is about half as large as the big U.S. carriers like the nuclear-propelled *Nimitz*. It will be able to bring helicopters and vertical-takeoff and landing aircraft to the scene of a battle but lacks the catapult needed to launch fixed-wing fighters or bombers.

STEADY IMPROVEMENTS

Meanwhile, the U.S. has trimmed its active fleet to 174 major surface combat ships. Nonetheless, Polmar believes that the U.S. Navy still leads the Soviets in a number of critical areas. Among them: carrier aviation (1,120 fighters and bombers aboard 14 attack carriers), nuclear-propelled surface ships and the ability to refuel and resupply ships at sea. This last capability permits the U.S. to keep a ship at sea for a longer period of time than the Russians, though Polmar expects the Soviets to catch up within a year or two.

In tactical aircraft, the U.S. still outclasses the Russians in performance, though not in numbers; however, the Soviets have made steady improvements. According to Admiral Moorer, they produced about eight new fighters in the 1960s, a decade in which the U.S. turned out only one—the problem-ridden F–111. Now the U.S. is developing two new fighters, the F–15 for the Air Force and the F–14 Tomcat for the Navy. The Tomcat is equipped to carry the Phoenix missile, which is capable of knocking out the Soviets' newest interceptor, the MIG–25, but costs $23.3 million—more than twice the original estimated price. The Soviet Union has the edge in antiaircraft missiles. Its air defenses boast some 10,000 launchers, including the deadly SA–6, which knocked down U.S.-built jets with devastating accuracy during the Middle East war.

On the ground, the balance of forces can be seen most graphically in Europe, which Pentagon planners still regard as the most likely place for a conventional war between the U.S. and Russia. When Nixon took office in 1969. U.S. forces were geared to what defense planners termed the "2½-war concept." It meant that in theory the U.S. was prepared to fight three wars at the same time—one in Europe, another in Asia and a "brushfire" war somewhere else. Since the U.S. withdrew its forces from Viet Nam, however, the strategic premise has been changed to 1½ wars, with the main event envisaged in Europe.

From the Baltic to the Bohemian Forest, some 750,000 NATO troops (190,000 of them supplied by the U.S. forces in West Germany) face approximately 850,000 troops from the Warsaw Pact nations, though not all are of top quality. The Communists hold an even greater superiority in tactical aircraft (4,300 *v.* 1,890) and in tanks (about 19,000 *v.* 6,500). Despite the antitank missiles the Arabs and Israelis used so effectively against each other last year, military planners still consider the tank the key weapon in ground combat. The Soviets have both a new medium tank (the T–62) and a new light tank in production and are testing still another new medium tank. Nonetheless, as Schlesinger points out, the U.S. and its 13 NATO allies have "other compensating advantages." The most potent is a 7,000-to-3,500 edge in small, tactical nuclear warheads, which can be lofted at the enemy forces by artillery or short-range rockets in case of attack.

MUTUAL REDUCTIONS

Many people would like to withdraw U.S. forces from Europe, but Schlesinger agrees with the Administration position that such a move would be disastrous without equivalent pullbacks by Russia. He views NATO as "the spine and adhesive" that holds off Soviet political pressure and the threat of "Finlandization" of Europe. For three months, the NATO and Warsaw Pact countries have been conducting mutual force reductions talks in Vienna, and the Administration regards keeping American soldiers in Europe as a bargaining chip that will force Soviet concessions. Says Schlesinger: "It would be foolhardy indeed not to give this process a chance to work itself out." So far, however, there has been no visible progress at the talks. The chief difficulty seems to be finding a way to compensate for the fact that the U.S. would have to withdraw troops across the Atlantic, the Russians only to their borders near by.

Apart from meeting the Soviet challenge in Europe and elsewhere. Schlesinger must contend with the morale problems left over from Viet Nam, the nation's longest and most unpopular war. Some top-ranking officers are still bitter that the politicians interfered with their conduct of the war. Their resentment contributes to a crisis of the military spirit that infects all ranks and may well be more difficult to handle than the manifold problems of race, drugs and discipline.

There has been no decline in applications to the military academies, but officers like Lieut. General Albert P. Clark, superintendent of the Air Force Academy, finds "that Viet Nam has made things more difficult. The military image has been tarnished to the point where it is more difficult to make a man proud of the uniform." Explains one instructor at the academy: "When we signed up to go to military school, they gave us parties. When these guys go home on leave, their girl friends won't let them wear their uniforms."

Some officers think that the situation is improving, and that pride in the military is growing again, among enlisted men as well as officers. Brigadier General Charles C. Rogers, commander of the VII Corps Artillery in Stuttgart, finds that "soldiers are beginning to wear their uniforms off duty again. Only a few do it, but that's a step forward." Moreover, he detects "an improvement in morale, military courtesy and readiness to accept traditions. Soldiers still ask 'Why?' and need explanations, but they offer much less resistance."

A more pressing problem to Schlesinger is the efficient use of personnel. Since 1968 U.S. forces have been cut from 3.5 million men and women to 2.2 million (during the same period, Russian forces grew from 3.2 million to 3.4 million). But because of what the military calls "grade creep," the U.S. Army today has one four-star general for every 20,000 men, compared with one for every 145,000 men during the Korean War. The other branches have similarly exaggerated ratios of officers to men. Moreover, only about 15% of servicemen have combat jobs, a larger portion of personnel in noncombat jobs than ever before. Schlesinger calls it the "teeth-to-tail" problem.

Last year Congress ordered the Pentagon to trim 43,000 men from the military. Schlesinger intends to cut 58,000 by July. His budget for 1975 does add one new brigade to the Army but requires the 4,000-5,000 men to be drawn from existing noncombat ranks.

Schlesinger also is considering more base cutbacks. Last spring then-Secretary of Defense Elliot Richardson announced that 274 military installations in the U.S. would be closed, reduced or consolidated to save $350 million a year. Schlesinger has ordered the services to recommend this spring enough other bases that could possibly be closed to save an additional $500 million a year.

Schlesinger must also devise a way to keep up the quality of the military's enlistees. In June 1973 the military draft ended, and the services began depending entirely on volunteers. Thanks to their more dramatic missions and weaponry, the Air Force and Navy have been able to meet their recruiting quotas. But the volunteer Army has not, and so far the quality of the volunteers leaves something to be desired. High school graduates now make up only 54% of the Army's ranks (and only 41% of the volunteers during the last three months of 1973), compared with 67% ten years ago. Blacks accounted for 27% of the new recruits in the last eleven months of 1973; in 1970 only 13% of all Army men were black.

Schlesinger says that the Pentagon "cannot guarantee the success of a volunteer Army" but will make every effort to make it work. As an inducement to volunteers. Congress has approved bonuses—$2,500 for a high school graduate enlisting for four years in a combat arm, $15,000 to a doctor who signs up—and has dramatically raised military pay. It now costs taxpayers $12,448 a year to maintain each person in uniform, compared with $3,443 in 1950. In all, the volunteer force has added $3.1 billion a year to the Pentagon budget. Manpower now accounts for 56% of defense costs, compared with 43% ten years ago. Still even skeptics like Chairman John Stennis of the Senate Armed Services Committee agree that the volunteer Army should have three years to prove itself before a decision is made about whether to resume the draft.

DWINDLING RESERVES

Pentagon costs have also sharply escalated because of the energy crisis. In 1973 the military spent $1.6 billion for fuel, next year it estimates the cost at $3.1 billion, despite a drop of about 17% in usage. The savings were accomplished by such measures as cutting the time spent by ships at sea by as much as 20% and military flying time by 18%. Schlesinger says that there has been "some degradation of readiness," even though in the event of a war the military could commandeer fuel from civilians. Still, the cutoff of Middle East oil caused reserve stocks to dwindle to 15% of capacity (the actual figures are classified). The Pentagon expects the Arab oil embargo to end soon and military reserves to be back to normal by the end of June.

Schlesinger argues that big as the proposed $85.8 billion budget for 1975 sounds, it is really rather modest. Allowing for inflation, it is about $8.7 billion less than was spent in 1964, before the big Viet Nam buildup began. The proposed 1975 outlays would consume 5.9% of the U.S. gross national product—the same portion as last year but far less than the 8.3% of the G.N.P. spent on defense in 1964. Pentagon spending for 1975 also would amount to only 27.2% of the planned federal budget for the year, down almost one percentage point from this year. In 1964 42¢ of every federal dollar went for defense.

SHARP ATTACKS

Similar arguments, as well as an intense lobbying campaign that involved buttonholing about 70 Senators, enabled Schlesinger to get the Pentagon's 1974 procurement budget through Congress virtually unscathed. This year though, congressional critics will make a sharp attack on the counterforce nuclear strategy. Democratic Senator Harold Hughes of Iowa complains: "Either the doctrine is nothing new or it is the opening gun in a new arms race leading to a first-strike capability for the U.S. Schlesinger ruled out our seeking a first-strike force in his confirmation hearings. Is he now trying to reverse himself?" Warns Democratic Senator Thomas J. McIntyre of New Hampshire, chairman of the Senate Armed Services Subcommittee on Research and Development: "If Schlesinger is trying to pick a fight on first-strike capabilities, he's going to get one."

Other than that debate. Schlesinger will probably encounter little opposition to his budget from Congress. Its members are too preoccupied by Watergate, too worried about an economic slowdown and too apprehensive about the Russian advances in rocketry to make much of a fight. Even Democratic Representative Patricia Schroeder of Colorado, who has been a consistent critic of Pentagon spending, predicts: "The budget will come barreling through."

Schlesinger sees no contradiction in the U.S.'s arming itself with new weapons at the same time that it seeks to disarm through agreement with Moscow. Russia, he says, "is still a totalitarian state" and must be dealt with "in a cautious process." He further explains: "It is necessary for the U.S. to participate in the maintenance of a worldwide equilibrium of forces, and this requires the American people to do what to some seems to be inconsistent: to pursue détente—an alleviation of political tensions—and to maintain an adequate defense capability. We want to have a relaxation of political relations with the Soviet Union, and at the same time our military posture must be sufficiently strong so that we maintain worldwide equilibrium of military forces."

Mr. HUMPHREY. Mr. President, I would like to make a comment on the remarks of the able and distinguished chairman of the Appropriations Committee. It is a little premature for most of us in Congress to make too much comment on the President's budget, which we have just received, just as we received the other day the report of the Council of Economic Advisers of the President.

The President in his state of the Union message told us, of course, there will be no recession.

We are given, in this present budget that comes from the White House on defense spending in fiscal 1975, an increase of $6.9 billion, or 7.8 percent. But that is not all. That is deceptive, because there is another $6.2 billion which is supplemental, that the President is submitting as a supplemental defense spending measure for fiscal 1974. So really what it amounts to is an increase of $13.1 billion.

Mr. President, I do not think the numbers are as important as to know what we are getting for what we are spending. I am going to put some time into this matter, and I am asking my colleagues to do the same.

What are we getting in our defense structure? Is it related to the present thrust of our diplomacy? Our military forces must be related to the diplomatic and political objectives of this Nation, and I believe it is time for a total, comprehensive review of the national security forces and apparatus of the Government of the United States.

We have been picking at it piecemeal, item by item, weapons system by weapons system. I think that is the wrong way to do it. It makes headlines, but it does not make sense.

I am urging the Committee on Armed Services and other committees of Congress to take the time now, if need be even by some form of select committee, to examine into the whole structure of the Armed Forces of the United States.

I happen to believe we have too many civilians in the Department of Defense. I happen to believe we have too many support troops for each combat soldier. I happen to personally believe we have too many overseas bases, especially in the Asian area, and I happen to believe we have a propensity for adding every kind of gimmick to a weapons system we can possibly conceive.

I think it is time, Mr. President, for Congress not to argue about the figures alone, but to find out what we are getting for the money we spend, and what kind of a defense system we have to back up the political and diplomatic objectives of this Nation.

A REMINDER OF OUR HERITAGE

Mr. HUMPHREY. Mr. President, the Congress has an excellent opportunity during the coming months to focus the Nation's attention on some of the most glorious moments in its history. In view of the magnitude of our present crises, the country needs a boost in morale.

The opportunity I refer to is embodied in the Meeting House Preservation Act, a bill which would give a permanent legacy to citizens of every State and territory of this great Nation.

The act, which calls for restoration of 55 historical sites, 1 for each State and territory, would focus attention on the Nation's Bicentennial in 1976. The act calls for each historical site to be restored and ready for use by citizens' organizations when Bicentennial activities get underway in 1976.

I am delighted to join in the cosponsorship of this legislation, S. 2877, introduced by my distinguished colleague, the Senator from Texas (Mr. TOWER).

AVAILABILITY OF APPROPRIATIONS, 1974: GUARANTEED STUDENT LOANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 650, H.R. 12253.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year, and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975.

The PRESIDING OFFICER (Mr. HASKELL). Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That, (a) as used in this section, the term "applicable program" means any program to which the General Education Provisions Act applies.

(b) (1) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section—

(A) any funds appropriated to carry out any applicable program for the fiscal year 1973; and

(B) any funds appropriated to carry out any applicable program for fiscal year 1974; shall remain available for obligation and expenditure until June 30, 1975.

(2) Nothing in this section shall be construed to approve of the withholding from expenditure or the delay in expenditure of any funds appropriated to carry out any applicable program for fiscal year 1973 beyond the period allowed for apportionment under subsection (d) of section 3679 of the Revised Statutes (31 U.S.C. 665).

SEC. 2. (a) Clause (I) of the first sentence of paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(I) less than $15,000 and has been accepted for enrollment at an eligible institution or, in the case of a student who is attending such an institution, is in good standing at such institution as determined by such institution; or".

(b) The amendment made by this section shall be effective thirty days after the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, in order that Senators may not be inhibited with respect to the 5-minute limitation that was previously entered during routine morning business, I ask unanimous consent that time on this measure be limited to not more than 30 minutes, to be equally divided between the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS), and that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. And that upon the disposition of the bill, or at the conclusion of the 30 minutes, whichever is the earlier, the Senate return to executive session for debate on the Genocide Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, the bill pending before the Senate, H.R. 12253, reported unanimously by the Senate Committee on Labor and Public Welfare, is a measure which seeks to deal simply and swiftly with two emergency situations which have arisen concerning Federal education programs.

EXTENSION OF THE TYDINGS AMENDMENT

Section 1 deals with the Tydings amendment, which is contained in section 414(b) of the General Education Provisions Act. This section in layman's language allows funds appropriated but not spent by local educational agencies in 1 fiscal year to be carried over to the next fiscal year. The presence of a July 1, 1973, expiration date for the amendment caused the emergency facing school officials across the country and generated this pending bill.

The language was initially enacted in 1970, in response to widespread reports that lateness of appropriations for educational programs had all too often led to unwise expenditure of funds to avoid their reversion to the Treasury. Experience since then has shown that providing for the carryover of funds has allowed State and local school authorities to engage in orderly planning for expenditure of education funds, even when they are appropriated late in the fiscal year.

The Appropriations Act for the Department of Labor and Health, Education, and Welfare for fiscal year 1974 was not signed by the President until December 18, 1973, halfway through the fiscal year. In the absence of carryover authority, which expires on June 30 of this year, school officials will be obligated to spend a year's appropriation in a 6-month period. This does not make fiscal sense.

The problem is further compounded by the administration's action with respect to fiscal year 1973 funds. Nearly $500 million in appropriated education funds was illegally impounded by the President and only released for expenditure, after a number of lawsuits had been filed, in December of 1973. This creates an additional burden for local and State educators, since, although the "Tydings amendment" does apply to these funds, its effect is only to allow the carryover of these fiscal year 1973 funds through fiscal year 1974. This means these funds must also be spent by July 1, 1974.

The committee is fully aware of the problems that the June 30 expiration date of the Tydings amendment has generated. S. 1539, the Education Amendments of 1974, reported by the Subcommittee on Education to the Senate Committee on Labor and Public Welfare, contains a 5-year extension of the carryover provision. In addition, to meet the situation created by the illegal impoundment of fiscal year 1973 funds, S. 1539 authorizes an additional year of carryover authority in situations where moneys are released as a result of a judicial proceeding.

The administration has also recognized the problem implicit with the expiration of the Tydings amendment. It attempted through correspondence with both Houses of the Congress to create a climate which would assure the school administrators that the "Tydings amendment" would not lapse. However, local and State education agency superintendents and administrators were understandably leery of making plans and obligating funds on the possibility of congressional enactments and assurances from the Department of Health, Education, and Welfare, for they have relied on such assurances in the past only to be faced with a recommitted or vetoed appropriation bill. Therefore, we cannot blame them for desiring a more concrete solution to this situation. This concern has been transmitted to Members of both the Senate and the House. Therefore, H.R. 12253 passed by the House authorizes a 1-year extension of the existing provision, to allow fiscal year 1974 appropriations to be spent in fiscal year 1975. And in a new paragraph it specifically authorizes expenditure of fiscal year 1973 funds not made available until fiscal year 1974 through such year and through fiscal year 1975.

The committee's modification of the House-passed language is designed to achieve the same ends. Since the amendment is intended to solve a one-time emergency problem, it is not drafted as an amendment to the General Education Provisions Act, which is designed to provide continuing guidelines for the conduct of all Office of Education programs. In addition, the committee language makes it clear that authorization of carry-over into fiscal year 1975 of illegally-impounded fiscal year 1973 funds shall in no way be construed as an endorsement of such impoundment. The extra year is intended to assist the local and State educational community out of a difficulty not of its own making; it is not in any way meant to serve as a condonation of the President's action in withholding congressionally appropriated funds, or to create new authority under which the Department of Health, Education, and Welfare can withhold appropriated funds.

The Senate Committee on Labor and Public Welfare took action on this measure last Wednesday, the 30th of January. Since then two questions have been raised which require discussion and clarification.

The first relates to just what funds are covered by the "Tydings amendment." Generally, we are speaking of all those programs lumped under the rubric of elementary and secondary education. However, there are a few State-administered higher education programs, such as title I of the Higher Education Act.

The question has been raised as to carryover authority with regard to funds which have been appropriated for the basic educational opportunity grant program. The language of the statute is quite clear. Those funds are to be fully obligated. There is no carryover authority. If, for example, the applications for basic grants only cover 70 percent of the appropriated funds, the remaining 30 percent should be reallocated to those students already participating. Whatever mechanism is chosen with regard to the basic educational opportunity grant funds, it should be understood by all, that the Department of Health, Education, and Welfare cannot use this extension of the "Tydings amendment" as a peg on which to base a withholding of those funds. Indeed, I understand the General Counsel of the Department of Health, Education, and Welfare has advised that the "Tydings amendment" does not cover student assistance funds and in that I concur.

GUARANTEED STUDENT LOAN PROGRAM

The committee amendment also amends language adopted in the Education Amendments of 1972 which has been interpreted by the Department of Health, Education, and Welfare at variance with congressional intent. Specifically, the provision clarified by the committee amendment is contained in section 428(a)(1) of the Higher Education Act of 1965, as amended. This provision has been administered by the Department as if it required a needs test of all applicants for a subsidy on interest on their guaranteed or federally insured student loan. This was certainly never the position of the Senate nor, the committee believes, of the Conference Committee on the Education Amendments of 1974.

As originally enacted, the guaranteed loan program was intended to be a program designed to provide a loan of convenience to students from middle-income families, as well as to those in greater need. For the extremely needy, grants were available under the educational opportunity grant program. For those from slightly higher income backgrounds, work-study opportunities and national defense student loans were available.

Guaranteed loans were available through private lending sources, with repayment of principal guaranteed by the Federal Government. For those students with adjusted family incomes of less than $15,000, the Federal Government paid an interest subsidy during the in-school and repayment periods. For those from families with adjusted family incomes of more than $15,000, no subsidy was paid.

In their work on the Education Amendments of 1972, Members were concerned that $15,000 was no longer a realistic measure of ability to pay for higher education. Although costs had spiraled, the law had not been changed to reflect that fact. All discussions concerning the possibility of including some sort of needs assessment into the program, centered on raising the ceiling for receipt of an interest subsidy for those students from families with incomes above $15,000 who had a need for such loan assistance.

The implementation of the change has led to exactly the opposite result. Imposition of a needs test by the Department of Health, Education, and Welfare on all applicants for a subsidized loan has, in many instances, resulted in a determination of zero need for students from families with incomes of less than $15,000. The effect on participation in the guaranteed loan program has been catastrophic.

A status report from Commissioner of Education John R. Ottina, dated December 20, 1973, notes that since March 1, the number of loans is down about 35 percent, as compared with experience under the old legislation, despite the fact that, because of increasing enrollments and rising costs, the need for such loans has increased. Office of Education projections for fiscal year 1974 estimate a decline in number of loans of 366,000 or 29 percent over the experience of fiscal year 1972, when the prior law was in effect. Students who had received subsidized loans under the program have been denied further loans. Obviously, a legislated change designed to open up the program has been interpreted in a manner that severely limits its coverage.

The Subcommittee on Education has repeatedly advised the Office of Education of its concern about the interpretation of the amended language. Indeed, I personally in June and October of last year raised this issue in open hearing and warned that if the Agency did not take appropriate remedial action, the Congress could well take some type of emergency action. The Senate committee's amendment to the House bill is that promised emergency action.

The committee amendment would clarify congressional intent concerning the guaranteed loan program by eliminating any reference to need for those students with family incomes of less than $15,000. The language assures that the needs test now required by the Department of Health, Education, and Welfare will only be applied to those students with adjusted family incomes of more than $15,000, potentially making those students also eligible for interest subsidies in instances where they can demonstrate a need for the loan.

While there are many other problems regarding the guaranteed student loan program—indeed, there are some who would raise the interest subsidy level to a family income of $20,000—the amendment is purposely limited in scope. We are only making clear what we believe the legislation already states. However, a certain ambiguity in the technical language was seized upon to limit the scope of the program. The amendment before the Senate is to my mind not new legislation but a clarification of earlier law, the ambiguity—if there is one—will have been swept away.

In adopting this amendment, the Congress also makes it clear that the Education Amendments of 1972 attempted to create a system of student assistance which was not only aimed at the student from a low-income family. It was our intent to legislate a vertical structure under which a student from the middle-income family could receive some type of assistance, as well as one covering the lower-income student. Any attempt by the Department of Health, Education, and Welfare to skew the student assistance program to the most needy is in contravention of congressional intent.

As I stated earlier, there are other problems concerning the guaranteed student loan program. Unfortunately, the Subcommittee on Education is presently working upon a major elementary and secondary education bill. Our ability to deal with a major guaranteed student loan program revision is restricted. Therefore, while I welcome and indeed praise these efforts now being undertaken with regard to study of the program, I would be remiss if I did not state that meaningful final action could well be delayed until the late fall, if at all. The rising costs faced by college students needing loans today dictate that we now adopt the pending language to meet the emergency. It may be the one opportunity we have for some time to come.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, I support H.R. 12253 which was reported unanimously from the Committee on Labor and Public Welfare, of which I am the ranking minority member.

As has been pointed out, this bill has two sections. The first of these sections extends the authority of the carryover provision in the General Education Provisions Act—the so-called Tydings amendment provision—so that education funds appropriated for fiscal year 1974 will remain available during fiscal year 1975 and that fiscal year 1973 funds which were impounded and released during the current fiscal year will also remain available for expenditure during next year. This carryover language, first enacted in 1968 and expiring on June 30, 1974, is much needed by State and local educational agencies and should be extended so that they may plan and enter into contracts at this time and not be under undue pressures to spend all their Federal funds by the June 30 deadline. Both New York State and local educational agencies in New York strongly support this provision.

Section 2 of the bill would clarify congressional intent concerning the guaranteed loan program contained in title IV of the Higher Education Act by eliminating the reference to need for students with adjusted family incomes of $15,000 or less, thus restoring the law, insofar as these students are concerned, to the situation which obtained prior to the 1972 amendments.

This is a much needed amendment, especially for middle-income students. Last summer, at my behest, the Subcommittee on Education held hearings on the guaranteed student loan program. Substantial testimony was received from witnesses supporting the need for the language now contained in section 2 of this bill.

On July 31, in discussing the hearings in colloquy with the distinguished chairman of the Education Subcommittee (Mr. PELL) I inserted in the RECORD the excellent staff report of the House Committee on Education and Labor following visits to seven regional offices of the Office of Education from July 16 to 23. The report indicated that students in the middle-income brackets are particularly adversely affected by the decline in guaranteed student loans, the very students to whom the program is primarily directed and pointed out that—

> The most frequently and urgently stated reason for the decline, was the needs analysis requirement. "You have changed the program", one could paraphrase much of what was said, "from loans of convenience to loans of necessity. It is no longer a program for middle-income people. It is now for those who can demonstrate need."

The report went on to point out that "a frequently voiced complaint was that the needs test multiplied the paperwork involved and tripled application processing time."

In concluding, I should like to recall a passage from the supplemental views submitted by all the minority Senators of the Committee on Labor and Public Welfare as part of the report on S. 659, the bill which eventually became Public Law 92-318, the Education Amendments of 1972:

> In considering the availability of a higher education, we refer not only to those in the poverty category but also the large number of young people from middle-income families whose resources are insufficient to meet the mounting costs of a college education. We must be careful lest our campuses be occupied principally by those at the poverty level, who qualify for special aid, and those from the upper income brackets, who can afford to pay—a campus peopled only by the very rich and the very poor, pricing out the middle income, is also violative of the American system.

Mr. BEALL. Mr. President, I yield myself as much time as I may consume.

Mr. President, I rise in support of H.R. 12253. Along with Senators DOMINICK, DOMENICI, and JAVITS, we introduced Senate bill 2890, which is identical to the House-passed measure.

As was pointed out, in 1968 Congress enacted this provision which was originally sponsored by my predecessor, Senator Tydings. The provision, of course, allows education agencies to carry over funds appropriated in one year to the succeeding year. This provision has been invaluable to the school districts and has done much to prevent unwise and wasteful spending. Without this provision, the school districts would be forced to spend their funds in the fiscal year appropriated, or lose those funds. Given this alternative, they rush to spend the funds. We remember the old adage "Haste makes waste." It is not conducive to good planning. Funds are needed to continue their operations, even more so now, since the administration recently released $466 million in impounded education funds. Without continuation of this amendment, all funds would have to be spent by June 30, 1974, or they will revert to the Treasury.

It has been pointed out that the Senate committee also included an amendment to eliminate the so-called means test for students in families with incomes less than $15,000 a year.

I wish to make it clear that I am not opposed to the amendment. Indeed, I share the concerns of the chairman with respect to the growing difficulties that middle-income families have experienced as a result of rising college costs.

However, I am concerned that adding on this amendment dealing with the student loan program might delay and even jeopardize the enactment of the main purpose of this bill, which is to permit the school districts to carry over funds from 1 year to the next.

I am well aware of the great concern on the part of the educational community as to the committee's action in adding in this additional provision. I understand that some Members in the House are adamantly opposed to the student loan amendment. I also understand that Representative QUIE, the ranking Republican member, is adamant in his position.

I think it should be pointed out that the House Special Committee, chaired by Representative O'HARA, is going to begin hearings on the legislation today.

So, I am going to support the legislation, but I hope it is clearly understood by all concerned that the local school districts must have some final action by the first of March, which is the time they are supposed to make their commitments and prepare their budget for the next fiscal year.

I hope we all understand that there is a possibility we could be jeopardizing the enactment of the original bill; that is, the bill that would allow the carryover of funds, by adding in this amendment. I hope that, should that become a possibility, the Senate, in conference, would recede from its position, if necessary, so that the amendment can proceed in a more orderly fashion, so that the school districts will know that this bill will become law prior to the first of March, when they must make a final decision.

Mr. PELL. Mr. President, I appreciate the concern of the Senator from Maryland (Mr. BEALL). I differ with him a bit, in that I think there is an emergency from the viewpoint of the middle-income kids who are finding it difficult to get loans due to the needs test.

There are two points I would like to touch upon. While many viewed prompt action on the Tydings amendment as an answer to an emergency situation, we on the Education Subcommittee and I as chairman, also view the situation in the guaranteed student loan program to be of an emergency nature. When a program decreases by about 35 percent, that means that many youngsters who were getting loans are no longer receiving them. From correspondence we receive, it appears that many youngsters could well be dropping out of college. This was and still is an emergency situation. That is why we took the unusual action of acting on the House-passed bill as we did.

I can assure those who are concerned that the Senate does not intend to allow the authority under the Tydings amendment to lapse. Indeed, I said this on the first day of this session in a record statement. However, it is my hope that, just as the Senate acted swiftly on a House-passed emergency measure, the House will act with just as much alacrity on the amended bill correcting what we perceive to be an emergency situation in the guaranteed student loan programs as well as the Tydings amendment.

I would hope that we would stand firm on this amendment. If the will of the Senate as a whole is to adopt the guaranteed loan amendment, this may entail a little delay, before final action; but I would not want to give a signal to the other body that we did not think the guaranteed student loan amendment was of vital interest and that we would not stand firm in the conference.

Mr. BEALL. Mr. President, I want to add that I share the concern of the chairman of the committee about the means test. I agree with his position. But the overriding issue in this case is making the local school districts aware of the fact—making it a fact that they will have the ability to carry over the funds from 1 school year to the next.

I will stand firm with the Senator up to a point, and that point will be when it becomes clear that we might be jeopardizing the ability of the local school districts to carry over these funds.

Mr. BENTSEN. Mr. President, I want to commend the Senator from Rhode Island (Mr. PELL) and the other members of the Labor and Public Welfare Committee for bringing this education measure to the floor today.

It is of particular importance to me, because it includes the substance of two education bills which I introduced in the 93d Congress.

The first of these measures was S. 2478, which I introduced on September 24, 1973. It would remove the so-called "means test" in the guaranteed student loan program for students from families earning less than $15,000 per year.

At the time I introduced that measure, I noted that students from families with moderate incomes were having great difficulty in securing loans to attend college. Most of our federally supported programs of student financial aid are geared, as they should be, to children from poor families, to give them accessibility to a higher education they would otherwise be unable to obtain.

Over the years, Congress has established a number of student aid programs directly to the poor—national defense student loans, educational opportunity grants, the college work-study program, and more recently, the innovative basic opportunity grant program. These programs are estimated to benefit nearly 2 million students.

However, Mr. President, the problem of accessibility to a college education is not limited to the very poor, even though they must receive our priority. In recent years, and particularly this last year, children from parents in the supposedly moderate-income group, earning $10,000 to $15,000 a year, have experienced extraordinary difficulties in acquiring the necessary financial support to enter college.

The committee report notes a projected 29-percent drop in guaranteed student loans this year. In August of last year, U.S. News & World Report noted that loans were off 52 percent in the 26 States where the State agencies run the program. In Pennsylvania, they were off 78 percent, in Georgia, 64 percent.

The principal problem has been the so-called means test, written into the education amendments of 1972, and, in my view, misinterpreted by the administration.

Prior to that legislation, if a student's family had an adjusted income of less than $15,000 a year, the student was eligible for an interest-subsidized loan of $1,500 a year until graduation, with Federal or State agencies guaranteeing the loan.

But the 1972 amendments stipulated that loans must be made according to actual family need rather than income. This year, families applying for guaranteed loans must make a complete disclosure of their assets and pass a means test to establish their need for education aid.

Mr. President, a means test can be very deceptive. The system may well be blind concerning whether the family holds liquid or nonliquid assets. An equity in a home built up carefully over 20 years does not automatically signal a family's ability to contribute to a college education; in my State, as in others, people cannot borrow against their homestead.

Even where such borrowing is not prohibited, a strong public policy argument can be made that a family should not be forced to place their homes in jeopardy for any reason, even one so noble as a college education.

Under the new procedures now in force, the colleges' financial aid officer, after reviewing the application with the "needs test," recommends to the bank the amount a student requires. The bank, while free to loan a higher amount, very rarely does so; in the District of Columbia, for example, over 60 percent of the banks will not loan above the college's recommendation, which is often arbitrarily low.

H.R. 12253, which contains the thrust of my bill introduced last year, would remove the "means test" for children of moderate income families earning up to $15,000 a year. I believe this is a necessary step; college, no less than other services in our society, has suffered from the ravages of inflation. The U.S. Office of Education reported, for example, that the cost of tuition, housing, and food at a private 4-year college now averages $3,281 a year, up from $2,712 in 1970. Costs at public institutions have also soared.

We want to direct student aid programs primarily to the poor, but we do not want to freeze out those of moderate income. Moderate-income people have largely supported our State and Federal Government; they have felt the pressure of a staggering increase in food costs in recent months; and they have experienced the credit crunch during the period of the highest interest rates in our history.

The bill is a small step toward providing these families some relief from the high costs of a college education for their children.

The second part of this bill is directed to a problem which primarily affects elementary and secondary education. It was the subject of my bill, S. 2907, which was introduced on January 28 of this year.

Under the so-called "Tydings amendment," which lapsed on June 30, 1973, local school districts were able to engage in a degree of orderly planning, since the Tydings amendment allowed them to carry over unexpended funds from 1 fiscal year into the next fiscal year. That amendment has not been renewed, and it will not be possible for the districts to wait for final passage of the Elementary and Secondary Education Act to have it renewed. Many of these districts will have to fire staff and cancel programs as early as March or April if they are not assured their fiscal 1974 funds will be available in fiscal 1975.

H.R. 12253 renews the Tydings amendment.

In addition, the bill addresses the problem of the approximately $500 million in fiscal 1973 education funds, impounded by the administration and only recently released. Without a specific provision in law, those funds would have to be spent by June 30 of this year, and the school districts in my State tell me that this would cause them to expend funds in a hasty and careless manner. The fiscal 1973 funds may also be spent in fiscal 1975 once this measure is signed into law.

In my own State, Mr. President, millions of dollars of these fiscal 1973 funds have only recently become available. They included some $10 million in ESEA title I funds, more than $550,000 in ESEA title II funds, well over $4 million in vocational education funds, and substantial amounts of funding under NDEA title III, ESEA title V and programs for the education of the handicapped. If local officials were to attempt to spend these funds before June 30, there would be widespread confusion and inefficiency.

For some time, Mr. President, I have been concerned about allowing our school districts to engage in effective, long-range planning. Too often the Congress passes appropriations bills well into the year, giving the districts little time to react. Moreover, the Office of Education is frequently tardy in moving guidelines out to the States so that programs can be carefully implemented.

These policies and delays have created budgetary problems for our school administrators. The President's proposal for forward funding of education programs is a sound one, which I will support; however, it will do little to alleviate our present problems, which must be addressed at once.

I strongly support this bill. Once again, let me congratulate and thank the chairman of the Senate Education Subcommittee for bringing these measures to the floor. They have both been of great concern to me, and I am pleased to see the committee take positive action on them.

Mr. PELL. I thank the Senator from Texas for his comments.

It has been said that imitation is one of the greatest compliments one can give another individual. In this regard, the Senator's ideas were indeed ahead of the introduction of this pending bill. I am glad that he approves of the way his ideas have been reflected in the committee amendment. I thank the Senator for his support very much.

Mr. BENTSEN. I thank the Senator.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. CHILES. Mr. President, I, too, want to compliment the Senator from Rhode Island and the committee for this bill.

The thrust of the original bill, as it comes from the House, is certainly noteworthy, allowing the carryover of funds. Certainly, this has been occasioned with the impoundment that has come to the fore.

The junior Senator from Florida has had occasion, with a couple of continuing resolutions in the appropriations bill, to try to pick out some language that would allow funds to be carried over, at least so that many of the State bodies and others could determine what their legal position was and the whole question of impoundment. I believe this measure goes considerably further than that in trying to peg down the funds so that they will not lapse.

The junior Senator from Florida also was interested in the student loan amendments that we were talking about in 1972, and he had occasion to put some information before the committee, which the committee picked up, much of it with regard to providing for the warehousing of student loans. I think the complete thrust of the legislation in the student loan amendments was to try to liberalize the loaning process, to try to allow the banks to make more loans, in setting a way in which they could discount their loans and warehouse their loans.

Lo and behold, after we had taken those steps, trying to broaden the loan program and make more loans available, we found that the interpretation of the act and the administration of the act was to try to use the provisions dealing with the needs test to actually narrow the scope of the loan. I think that brought much consternation to many Members of Congress who were interested in seeing this program broadened. This is a loan program which would allow middle-income families to send their children to college. We have said many times that the rich can afford to go to college, and the very poor can do so because programs are made available for them, but this group in the middle is continually pinched by the rising cost.

This is a program in which the student borrows the money and pays it back after he graduates, so that the money can revolve into the program. I think it is one of the best ways of trying to promote education, and now we find that in the needs test the program is handicapped and greatly reduced.

I think this legislation will go through, and the Senator from Rhode Island and the other Senate conferees should stand firm on the amendment in regard to the needs test, because I believe it is one of the most important features of the bill.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the New York Times of February 4, 1974, entitled "Congress Seeking To Help Students."

There being no objection, the article was ordered to be printed in the Record, as follows:

Congress Seeking To Help Students—Easing of Requirements for No-Interest Loan Sought

(By Evan Jenkins)

Washington, February 2.—Efforts are under way in Congress to make it easier for middle-class college students to get loans under a Federal program whose use has declined sharply despite rising enrollments and educational costs.

The Senate Committee on Labor and Public Welfare adopted this week an amendment by the chairman of its Education Subcommittee, Claiborne Pell, Democrat of Rhode Island, to exempt students with family income under $15,000 from any needs-test to qualify for Government payment of loan interest during the students' school years. Approval of the measure by the full Senate is expected next week.

Until last year, the Government automatically paid the interest subsidies for such students on federally guaranteed loans under the Higher Education Act of 1965. Those from wealthier families got no subsidy.

At a time of greatly increased college costs, Congress in 1972 amended the law to make the assistance available to students who could demonstrate need, regardless of family income. The change went into effect last March.

The purpose, supporters of the latest change say, was only to broaden the eligibility for the subsidies, not to apply the needs-test to the under-$15,000 group.

But the Department of Health, Education and Welfare interpreted the amendment to mean that all applicants must pass a needs-test. Some from families with incomes under $15,000 were determined to have "zero need."

The new amendment would eliminate the need requirement for those students and retain it for those with higher family incomes.

The subsidy question is important because the loans carry lower interest than other consumer loans, and banks are reluctant to make them if they must also go through the expense and paper work involved in collecting interest from individual borrowers.

ARRANGEMENT DESCRIBED

Under the subsidy arrangement, the Government pays the interest—repayment of principal is put off until after the students finish school—in relatively simple transactions covering all eligible borrowers from a particular bank.

From March 1 through Dec. 20, 1973, the number of loans under the program was off by 32 per cent compared to the experience under the old legislation, according to the Office of Education.

Supporters of the Pell amendment attribute the drop to the application of the needs-test, though other observers point out that it coincided with higher interest charges generally and a tightening of credit markets.

Despite its expected easy passage in the Senate, the fate of the measure in the House is uncertain. Some members of both parties there feel that a more sweeping change in student assistance programs should take precedence over this one amendment.

Mr. PELL. I thank the Senator from Florida very much for his remarks and his support.

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the Record a letter from the Under Secretary of Health, Education, and Welfare, giving the Department's views on this measure.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Under Secretary of Health,
Education, and Welfare,
Washington, D.C.

Senator Glenn J. Beall, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Beall: This letter is to express the Administration's views on H.R. 12253 as it was reported by the Senate Committee on Labor and Public Welfare on January 30. We are pleased with the extension of Section 414(b) of the General Education Provisions Act the House passed version of H.R. 12253. We consider that prompt extension of the Tydings Amendment is vitally necessary to our nation's State and local school agencies so that they can program their Federal educational funds rationally and effectively.

However, we strongly oppose the provision added to H.R. 12253 by the Senate Committee which changes the rules for interest subsidies on Federally guaranted student loans. The change would make loans of up to $2,500 a year eligible for a 7% interest subsidy while a student was in school and for certain subsequent periods if he came from a family with "adjusted family income" of less than $15,000 which often means over $20,000 in actual income.

We fully share the concern that loan funds be readily available to all students, including those who have had difficulty obtaining loans this last year. As you know, the President has instructed the Secretaries of the Treasury and of Health, Education, and Welfare to contact lenders under the program to get them to reaffirm their commitment to the Nation's educational needs by making adequate funds available for student loans. Over the last few months we have been actively engaged in efforts to find out from lenders just what changes in the way the program works would lead them to increase their student loans. Where management changes are called for, necessary action will be taken immediately. Where legislative action appears to be needed, it will be requested.

What is crucial here is to make sure that adequate loan funds are available, and not to expand the universe of those eligible for the 7% subsidy. At times during the past year these two issues seemed to be linked, because many lenders used the criteria for subsidy eligibility as a basis for rationing the funds they were willing to invest in the program.

We believe that a move to a near-total subsidy of this program may not be effective and is certainly premature.

We are convinced that the leveling off in loan volume is not primarily the result of the institution of a needs test but rather is largely due to such complex, inter-related factors as:

"Tight" money;

Lender concerns over the illiquidity of student loans; and

Initial problems in setting up loan servicing practices to accommodate more unsubsidized loans.

Additional steps are being taken to assure adequate program growth:

Operations of the Student Loan Marketing Association will both increase the supply of lendable funds and increase liquidity of the student loan paper in lender portfolios;

Paperwork can and will be simplified to reduce lender administrative costs.

It concerns me that precipitate actions now to expand interest subsidies on the scale proposed would impose a major constraint on actions which can be taken in revising this program to increase benefits to both low and middle income students.

We believe that upcoming hearings this spring on the expiring GLSP legislation would be the proper place to consider thoroughly the proposed changes in Guaranteed Student Loan subsidies. The bulk of the loans for this school year have already been made; the lending season for next fall begins in July. Changes made this spring can be put in place in time for this summer's lending cycle. When there is sufficient time for full consideration of the atlernatives, as there is in this case, it seems logical and rational to proceed deliberately rather than hastily.

We therefore strongly urge that this rider be deleted from H.R. 12253.

We have been advised by the Office of Management and Budget that enactment of this bill with the changes in the rules for interest subsidies would not be consistent with the Administration's objectives.

Sincerely,

Frank C. Carlucci,
Under Secretary.

Mr. HOLLINGS. Mr. President, there have been some questions raised over the intent of H.R. 12253. In particular, the question comes up as to whether the education moneys discussed here would remain available for an additional year at the educational agency level, rather than at the Federal level. This is an important issue to clear up for two reasons:

First, I believe it is the understanding of the Appropriation Committees, both in the House and Senate, that the money will be available at the educational agency level—not in the Office of Education.

Second, there was some confusion when this law was first enacted, a few years ago, as to just where the extended availability applied. I ask unanimous consent to insert at this point a portion of HEW's interpretation of the intent of that earlier provision.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Department of Health,
Education, and Welfare,
Washington, D.C., January 28, 1974.

Memorandum

To: Dr. John Ottina, Commissioner of Education
From: Education Division, Office of the General Counsel
Subject: Secondary Obligation and Expenditure of Fiscal Year 1973 Funds Released in Fiscal Year 1974: Your memo of December 25, 1973

In your note to us concerning availability of Fiscal Year 1973 funds (received here January 2), you state that it is your understanding from a previous memorandum of this Office that the Tydings Amendment (section 414(b) of the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b)) permits a recipient to obligate Federal funds in the fiscal year succeeding the fiscal year in which the funds were actually made available by the Federal Government. In this connection, you pose three questions:

(a) In the case of fiscal year 1973 funds which are made available now as a result of Presidential order, what is the latest date by which these funds must be obligated?

(b) Who must make the obligation, *i.e.*, the State or the local educational agency?

(c) During what period must services be rendered in order that recipients comply with the conditions of the Tydings Amendment?

I. BACKGROUND

1. The Tydings Amendment reads as follows:

Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year, ending prior to July 1, 1973, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

2. A discussion of the history, applicability and interpretation of the Amendment was set forth in our memo to Joe Keen of April 21, 1970, a copy of which is attached as Tab A.[1]

3. As stated in that memo, it is our view that the Tydings Amendment applies only to continuing State-administered programs. The Amendment was enacted to overcome the traditional rule that for these programs, recipients must use the funds made available to them during the fiscal year for which the funds were appropriated.[2] Project grants are not subject to the same limitation. As long as a project grant "meets the needs" of the fiscal year for which the appropriation was made, it does not matter that the project itself may extend into subsequent fiscal years.[3]

4. In addition to this background, it should be noted that the literal language of the statute provides for local obligations within two fiscal years—the fiscal year for which the appropriation was made, and the succeeding fiscal year. No special provision is made for a situation where (as in our case) the funds do not become available to the recipient until the fiscal year succeeding the fiscal year for which the appropriation was made. Thus, under a literal reading of the statute, funds appropriated for fiscal year 1973 would have to be obligated and expended at the local level no later than June 30, 1974. However, as set forth below, we believe that several options may be open to the Office of Education if it desires to provide some relief to recipients with respect to the fiscal year funds not allocated until this fiscal year.

II. OPTIONS

The most satisfactory solution, from a legal standpoint and from the standpoint of affording recipients "certainty" with respect to the use of the federal funds in question, would be to obtain legislative relief from Congress, if this is feasible as a practical matter. No other approach that we have been able to conceive would be as inclusive in coverage or as free from legal doubt as a statute which explicitly permits these funds to be obligated at the local level during a specified period (for example, between the date of allocation and June 30, 1975). In the absence of legislation, we offer the following not necessarily mutually exclusive options as possible approaches to the problem.

1. Extended period for project type programs

As noted above, the traditional rule that obligations must be made at the local level during the year of appropriation, applies only to "continuing" programs. As stated in our memo of April 2, 1970, it is our view that this rule would not have to be applied to "research and demonstration projects and other types of special projects which are not expected to continue indefinitely into the future, but rather terminate upon the completion of a specific objective," including projects of this nature properly carried out under a State-administered program.[4]

To impelment this concept, a *Federal Register* document would have to be published to override, with respect to these funds, the general provisions regulations, which now provide only for obligations in the appropriation year plus an additional year under the Tydings Amendment (45 CFR § 100b.55(a), (b)). Details regarding the regulations would have to be worked out, of course. States would be informed that this is an option which is open to them if they would otherwise have difficulty expending the funds by June 30 of this year. Project-type grants could be made by States (subject to the program's statutory limitations) with the FY 1973 funds, for projects which meet current needs and which would be completed within a definite period.

FOOTNOTES

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[1] Memo, Chernock to Keen, "Availability of funds beyond the end of the fiscal year—§ 405(b) of Title IV, P.L. 90–247" (4/21/10).

[2] Memo, Mardian to Kelly, "BOB 'advance funding proposal for certain OE State-grant programs" (12/23/69); Memo, Education Division, OGC, to McMillen, "Vocational Education—Questions regarding use of fiscal year 1970 funds in subsequent fiscal years" (4/2/70). Underlying this entire area has been a long continuing and yet unresolved dialogue as to whether, absent an extension provision like 414(b) of the GEPA, funds appropriated for a fiscal year made available to a State under a State-administered, continuing, formula grant program (such as titles I, II, or III of the ESEA) are available for obligation and expenditure by State and local recipients only during such fiscal year or may remain available during a succeeding period. As indicated in the memos cited above, the "traditional" view has been that availability is limited to the fiscal year of appropriation at least in the case of "continuing" activities. To a large degree this conclusion is based on inferences drawn from the nature of State administered programs and expectations involved in the appropriations process with respect to such programs. Moreover, there is the suggestion, discussed in the December 23, 1969, memo of Mr. Mardian that the need for special legislation to permit forward funding (§ 412 of the GEPA, 20 U.S.C. 1223) indicates that legislation is needed to authorize such funding and that a proposal to permit States to obligate FY 1970 funds by approving teacher contracts for services to be performed in the succeeding fiscal year would be unauthorized as in effect "back door" forward financing. More relevant, however, may be provisions for reallotment of funds not needed for a fiscal year contained in various eduction program statutes. See, *e.g.*, § 202(b) of ESEA.

An alternative view is that nothing in the law requires a restriction on recipient "secondary" obligations and such restrictions as crept into the regulations for State administered programs were the product of policy determinations rather than legal mandates.

We reach no ultimate conclusion in this memorandum as to which approach is more legally tenable.

[3] Memo, Hiller and Yourman to Duffy, "Grants and Contracts—Rules Governing Obligation and Availability of Appropriations" (6/15/66).

[4] The distinction, for purposes of establishing the period of availability of funds under a State-administered program, between (1) continuing programs and (2) discrete special projects was applied in the memorandum of our Division, dated April 2, 1970, cited in note 2 above. We had been asked whether fiscal year 1970 funds made available under Part B of the Vocational Education Act could be used by the recipient States in fiscal year 1971. We advised that with respect to continuing programs under the Act the funds could not be so used. The underlying assumption of this advice was that such funds were appropriated to support, on a continuing basis, activities (such as regular vocational education programs) expected to continue indefinitely in the future and that, accordingly Congress appropriated funds for a fiscal year on the expectation that they would be used for activities conducted in that fiscal year; continuing activities in future fiscal years would be funded out of future fiscal years' appropriations. On the other hand, activities like construction contracts and special non-continuing "one shot" projects could be placed in a different footing. The traditional notions of fund availability would not be violated if the States used the fiscal year 1970 funds to approve in fiscal year 1970 research, demonstration, or other special projects to be carried out during a period extending beyond that fiscal year.* * *

Mr. HOLLINGS. Would the Senator from Rhode Island set the record straight on this question?

Mr. PELL. Mr. President, the question posed is one which I believe we should clearly speak to. I attempted to make very apparent in my opening statement that the funds I am speaking of are funds that are already at the State or local educational agency level, when I said:

> The extra year is intended to assist the local and State educational community out of a difficulty not of its own making; it is not in any way meant to serve as a condonation of the President's action in withholding congressionally-appropriated funds, or to create new authority under which the Department of Health, Education, and Welfare can withhold appropriated funds.

In closing, I can assure the Senator that it is our view that the Tydings amendment refers to local and State educational agencies. As floor manager when this was first enacted, I know the legislative history to so reflect this.

Mr. WILLIAMS. Mr. President, the Senate is considering today H.R. 12253, a bill recently reported by the Committee on Labor and Public Welfare, to allow fiscal year 1974 appropriations to be spent in fiscal year 1975, and to authorize the expenditure of fiscal year 1973 funds which were impounded and have only recently been made available by the President to be expended through fiscal year 1974 and fiscal year 1975. This bill, as passed by the House of Representatives and reported with amendments by the Labor Committee, is intended to provide assurances to the education community that they may enter into contracts with these funds for the next school year and avoid the unnecessary and sudden expenditure of all funds by the end of the current fiscal year. Further problems have resulted from the recent release of impounded fiscal year 1973 funds, adding additional moneys which would only be available through June 30, 1974, under current provisions of law—Tydings amendment, section 414(a) of the General Education Provisions Act. H.R. 12253, while not condoning the action of the President in impounding the fiscal year 1973 funds, does extend the time that these moneys shall be available through fiscal year 1975, and provides that fiscal year 1974 funds will be available through fiscal year 1975.

Continued concern has been voiced to the committee over the extension of the Elementary and Secondary Education Act in order to assure that the provision of current law which allows authorized funds to be carried over into the next fiscal year will also be extended.

This legislation should alleviate those fears.

GUARANTEED STUDENT LOAN PROGRAMS

Furthermore, Mr. President, H.R. 12253 as reported from the committee, contains an amendment to the Guaranteed Student Loan program which will clarify the intent of the Congress with respect to the purpose of the loan program, and individual's eligibility for these loans. Prior to the Education Amendments of 1972—Public Law 92-318—this loan program had been conceived as a program of loans to assist middle-income students with higher education costs. Students from families with incomes under $15,000, were eligible for unsubsidized loans. In response to the changing economic situation in the United States, the Senate and conferees broadened eligibility in Public Law 92-318 for the subsidized loan program: Students from families over $15,000 could be approved for a federally-subsidized loan if they had "need." However, this provision has been construed by the Office of Education to the point where today all students are required to demonstrate financial need, whether or not they are above the $15,000 income level.

The impact of this change has been substantial: The U.S. Office of Education reports that loan volume in the Guaranteed Student Loan program is down 32 percent from the experience under the previous legislation. This has meant that in a time of unsurpassed increases in inflation and rising costs of higher education, large numbers of middle-income college students have been unable to obtain a federally-subsidized loan. Letters and reports I have received from my own State of New Jersey indicate that severe hardship has occurred because of this situation. Where, in the past, students have relied on these student loans to defray their college expense, they and their families now find they are no longer eligible. In a State with a very high cost of living, decreases in this loan program have meant that one of the only sources of assistance from the Federal Government for college education for middle-income students is no longer available to them. Actual figures from the Department of Higher Education in New Jersey reinforce this point. Actual guaranteed loan volume dropped from 37,242 in 1971 to 28,155 in 1973, a 24.4 percent decrease. The State Department of Higher Education believes that these figures are actually low, and that a more accurate measure of unfulfilled need must take into account the increasing inflationary situation. With high increases in the cost of living, many more middle-income students have applied for such a loan and have been turned down, but would not be recorded in the decreased loan volume.

The committee amendment to H.R. 12253 will provide an answer to those students who have been unsuccessful in obtaining subsidized loans for their college education. It will clarify congressional intent that students under $15,000 are automatically eligible for a subsidized student loan, by eliminating all reference to "need" for these students. Under the program, these students are, by definition, construed to be needy. Students with incomes over $15,000 will then continue to be eligible for the guaranteed student loan program by proving financial need. I believe, Mr. President, this amendment is a very important one, and wish to indicate my strong support to my colleagues.

Mr. PELL. Mr. President, although the amendments affecting the guaranteed student loan program was only adopted by the Committee on Labor and Public Welfare last Wednesday, it is already starting to generate much support.

I ask unanimous consent to insert in the RECORD at this time a copy of a letter from Mr. Rex J. Morthland, president of the American Bankers Association, which endorses the action taken by the Senate, as well as a letter from Ralph K. Huitt, executive director of the National Association of State Universities and Land-Grant Colleges.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES,
Washington, D.C., February 5, 1974.
The Honorable CLAIBORNE PELL,
Chairman, Subcommittee on Education, Senate Committee on Labor and Public Welfare, Old Senate Office Building, Washington, D.C.

DEAR SENATOR PELL: I am writing at the direction of this Association's Executive Committee, which is meeting this morning, to commend your effort to remove the requirement of a needs analysis as a qualification for a Guaranteed Student Loan for students from families with incomes under $15,000.

As you know, we believe that the current needs analysis requirement is one of the principal causes of the marked reduction in the number of loans executed during the current academic year. The correction of the standards for loan eligibility will be very useful to large numbers of middle-class families who depend on borrowing to meet rising costs of education.

As you and other members of Congress in both Houses have suggested, the entire Guaranteed Student Loan program deserves review. More liberal amendments may be required to assure the availability of funds from banks, to cut down on defaults and to determine better who should participate in the program's benefits. Nevertheless, as an interim measure that is all that is feasible now, your amendment will go far to alleviate an immediate problem in the program.

We are grateful for your continued concern for the welfare of students in the post-secondary education community.

Sincerely,

RALPH K. HUITT,
Executive Director.

THE AMERICAN BANKERS ASSOCIATION,
Washington, D.C., February 4, 1974.
The Honorable CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: The American Bankers Association was pleased that the Committee on Labor and Public Welfare unanimously adopted an amendment to H.R. 12253 related to the guaranteed student loan program.

As you know, in previous testimony before your Subcommittee, the Association recommended that the restrictive needs test that was being applied to the guaranteed student loan program be either drastically revised or eliminated for those students whose adjusted family income is below $15,000.

The recent action taken by the Committee on this matter will be of great assistance to students and lenders in obtaining and dispensing the subsidized student loans.

If this legislation passes the Congress, we hope that the Office of Education will issue, with the utmost speed, the necessary rules and regulations to carry out the intention of Congress.

Your continuing interest in this program is greatly appreciated.

Sincerely,

REX J. MORTHLAND.

Mr. MATHIAS. Mr. President, I rise in support of H.R. 12253. I am pleased to note that the Labor and Public Welfare Committee voted unanimously to report this bill to the Senate floor.

As the committee report states, this measure addresses two emergency situations which must be corrected without any further delay. I am referring to the so-called Tydings amendment, which authorizes States to carry over appropriated funds into the fiscal year succeeding that for which they were appropriated, and the Department of Health, Education, and Welfare's interpretation of the provisions in the guaranteed student loan program by the Education Amendments of 1972.

The problems posed by the expiration of the Tydings amendment were succinctly stated in a letter I received from Dr. James A. Sensenbaugh, Maryland State Superintendent for Schools, on February 1, 1974, urging my support for H.R. 12253. I am sure that Dr. Sensenbaugh was speaking for all of Maryland's local school boards and superintendents when he said:

> In the normal budgeting practice of local and state school systems, a balanced budget is required by July 1, the beginning of the fiscal year. This allows proper planning, design of programs, hiring of staff, and the delivery of services to children by September when school begins.
>
> Unfortunately, the federal budget practice is not as neat as state and local practice. The FY 74 federal aid to education appropriation was approved on December 18, 1973. In order to spend these funds wisely, we need additional time until June 30, 1975 which H.R. 12253 would give us.
>
> As you know, impounded FY 73 education funds were available on December 19, 1973. The critics of these programs could very well ask how wisely we spent these monies that were not planned for. In some cases, the amounts involved were 50% of the annual program amounts. To solve this problem, again we turn to the relief offered by the extension of the Tydings amendment.

In this connection, I am pleased to note that the President's fiscal year 1975 budget will address one of the most persistent concerns of education officials in my State as well as educators throughout the Nation. To allow for better planning and budgeting by State and local officials, the President will seek from the Congress advanced funding for all of the education programs in his legislative proposals starting with a 1974 supplemental request for use in the upcoming school year, 1974–75. The supplemental requests, according to the HEW budget, will total $2,852 million; an increase of $179 million over the regular 1974 appropriation for the current school year. Moreover, in fiscal year 1975, the President is requestion $2,875 million in the regular budget for advance funding of the 1975–76 budget year.

While I am sure we shall debate the level of funding in the supplemental and regular budget requests, I hope we can all agree that advanced funding for Federal support in elementary and secondary education is an idea whose time has come.

Mr. President, if there is one subject in which practically all school officials actively support, it is advanced funding. Just recently, I received an excellent letter from the Baltimore County Schools Budget Officer, Ted J. Smith, which presented the need for congressional attention to this matter. Mr. President, I ask unanimous consent that Mr. Smith's letter to me be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Board of Education
of Baltimore County,
Towson, Md., January 30, 1974.

Hon. Charles McC. Mathias, Jr.,
U.S. Senate,
Washington, D.C.

Dear Senator Mathias: My experience currently as Budget Officer for the Board of Education of Baltimore County and as Supervisor of State Aid for the State of Maryland prior to my current position, causes me to offer the suggestion which follows:

While the Board of Education of Baltimore County receives a very small fraction of its revenue from the federal government, the funds allocated, with the exception of impact aid, are intended for specific objectives which it is hoped will zero in on important areas of concern and promote measurable improvement in those areas.

Imperative to improvement objectives is the need for comprehensive program planning. The point of this correspondence is that the current federal allocation process impedes that imperative.

I am just now receiving various newsletters, flashes from the Maryland State Department, memos from our local federal program office—the list is endless it seems—regarding potential allocation of fiscal 1974 funds. The fiscal year is 58% complete! By the time final allocations are made the fiscal year will be 83% complete! While this annual mystery has served to establish a proliferation of agencies and bureaucrats to interpret the latest reading from Washington, it plays hell with the local budget process, and more importantly prevents the completion of a meaningful program planning process which includes knowledge of monies available.

It would seem to me that a feasible alternative to the current state of affairs would be to have Congress allocate funds to be used in the second preceding fiscal year. I.e., the allocations proposed by the President, as amended by Congress in the 1974–75 budget proposal should be intended for expenditure by the local subdivision in the year 1976–77.

I am currently preparing our 1974–75 budget, which by law must be approved by the County government by June 1, 1974. I am not able to include in that budget presentation any federal involvement with any degree of accuracy. Not only are 1974–75 federal figures not available, 1973–74 allocations have not yet been determined!

Since 1973–74 federal allocations will not become firm until the Board's 1974–75 budget process is complete, it would seem appropriate that those allocations should become a part of the 1975–76 budget appropriation. This approach would permit a six-month period for program planning with a known allocation of funds. That plan could then be included in the next budget cycle.

In conclusion, I guess what I am advocating is the Tydings amendment multiplied by two. It is an approach that should be seriously considered so that project directors can tend to the educational affairs for which they were employed and spend less time worrying about the latest information regarding allocations.

Your attention to my concern is appreciated.

Sincerely,

Ted J. Smith,
Budget Officer.

Mr. MATHIAS. I am confident that the Senate will deal with this issue in due course. The issue before us today is the emergency facing our public schools across the country because of the expiration of the Tydings amendments. Our schools need this carryover authority. It is fiscally responsible for us to give them this authority. I urge my colleagues to support this measure.

Mr. DOMINICK. Mr. President, I rise in support of H.R. 12253, as amended. As the ranking Republican on the Education Subcommittee, I had previously joined with Senator Beall in introducing legislation identical to H.R. 12253.

The bill does two things. First, it provides that funds appropriated for fiscal years 1973 and 1974 shall remain available for obligation and expenditure until June 30, 1975. This type of carryover of funds has been available to State and local school authorities since 1968 under the so-called Tydings amendment, but the authority for such carryovers is to expire on June 30 of this year, thus necessitating the passage of the legislation now before us.

Experience has shown that allowing State and local school authorities to carry over funds from 1 fiscal year to the next has permitted them to engage in more orderly planning for expenditure of education funds, even when the funds are appropriated late in the fiscal year. Without such a provision, there would often be unwise expenditure of education funds to prevent their reversion to the Treasury.

An additional burden was placed on educators recently with the release of some $500 million in appropriated fiscal year 1973 education funds which had been impounded by the President and released in December 1973, the middle of the fiscal year. These funds will have to be spent by July 1 of this year unless we enact carryover legislation.

The second thing this bill will do is to eliminate the so-called needs test for students applying for subsidies on interest on guaranteed student loans whose families have incomes of less than $15,000.

The imposition of a needs test by the Department of Health, Education, and Welfare has, in many instances, resulted in a determination of "zero need" for students from families with incomes of less than $15,000. The effect of this needs test cannot be precisely measured, but it is a known fact that the number of guaranteed student loans is down 32 percent despite the fact that due to rising costs the need for such loans has actually increased. This legislation, H.R. 12253, if enacted, should open up the program once again to our Nation's students.

Mr. President, I urge my colleagues to support this measure, which, if enacted, will be of invaluable assistance both to our Nation's schools and to our Nation's students.

Mr. BEALL. Mr. President, I yield back the remainder of my time.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act to make certain appropriations available for obligation and expenditure until June 30, 1975, and for other purposes."

ACCESS TO THE NEWS MEDIA

Mr. CRANSTON. Mr. President, I would oppose any move in Congress as was suggested yesterday in this chamber to enact a law that would compel newspapers to print the replies of political candidates whom they have criticized.

I oppose Government editorship of a free press as strongly as I oppose Government censorship.

Once the Government is given the power to tell newspapers what they must print in the name of "fairness," it is only a matter of time before the Government will be telling newspapers what they must not print—also in the name of "fairness."

This dangerous situation and deplorable situation already exists in radio and television. I cite the recent order by the Federal Communications Commission that the National Broadcasting Co. has to "balance" with additional programing a recent documentary, "Pensions: The Broken Promise," because in the Government's opinion it did not present other and different views of the American pension system.

The U.S. Supreme Court on January 14 agreed to review the case of Miami Herald Publishing Co. against Tornillo, on appeal from the Florida Supreme Court.

Pat L. Tornillo, Jr., a candidate for the Florida Legislature in 1972, sued the Miami Herald when it refused to print two verbatim replies to two editorials attacking him. A Florida law, passed in 1913, requires a newspaper to give equal space for a reply from a political candidate if it "assails" his personal character or charges him with "malfeasance or misfeasance in office or otherwise attacks his official record."

The circuit court for Dade County dismissed the complaint, holding that the statute violated the 1st and 14th amendments of the U.S. Constitution. The Florida Supreme Court reversed that decision and held the law to be constitutional.

I do not intend to argue the constitutionality of the Florida law inasmuch as the matter is now pending before the high court, but I believe the Senate must resist the temptation to set up big brother as the arbiter of fairness in the press.

I believe that the American press by and large is eminently honest, objective and fair. A newspaper's sense of professionalism and its readers' demands for fair play are far superior safeguards for fairness and freedom of the press than the heavy hands of self-serving Government agents.

Radio and television are already struggling under this heavy hand through the Government's imposition of the so-called fairness doctrine. This requires broadcasters "to afford reasonable opportunity for the discussion of conflicting viewpoints on controversial issues of public importance."

There is reason to believe that more freedom for the broadcaster would actually increase the airing of controversial opinions.

The fairness doctrine often actually inhibits the broadcasting of controversial programs or opinions because some broadcasters fear "trouble" with the FCC when it comes time for them to seek a renewal of their licenses.

It has been suggested on the floor of the Senate and by the Florida Supreme Court that the FCC's fairness doctrine for electronic media should also be applied to print media. I strongly disagree. Instead of giving the government power to interfere with newspaper editorials, we should be seeking ways to do away with Government interference in radio and television.

Last month the White House Office of Telecommunications Policy raised the question of Government control over cable television. It is my view that governmental control over cable television programs should be the absolute minimum.

For the past year I have had my staff researching how this same freedom can also be granted commercial and public television.

I disagree withe the assertion made on this floor that a national right to reply law is now even more urgent in light of court decisions in libel cases which virtually deprive public officials of the opportunity to recover damages unless they can prove malice.

That is a chance a person has to take when he runs for public office.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of the two leaders or their designees under the standing order tomorrow there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR LEGISLATIVE SESSION AT CONCLUSION OF BUSINESS TODAY AND EXECUTIVE SESSION AT THE CONCLUSION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it go back into legislative session, and that at the conclusion of routine morning business tomorrow, the Senate return to executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR DIVISION AND CONTROL OF 1 HOUR OF DEBATE PRIOR TO VOTE ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, when the Senate returns to executive session following the transaction of routine morning business, the 1 hour debate under Senate rule XXII begin to run on the motion to invoke cloture and that the time be equally divided and controlled by Mr. HELMS and Mr. CHURCH, as was the case today.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—GENOCIDE CONVENTION

The Senate resumed the consideration of Executive order (81st Cong., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has the Senate returned to executive session?

The PRESIDING OFFICER. The Senate has returned to executive session.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I wish to ask the distinguished Senator from North Carolina if he desires that the Senate remain in executive session at this time or does he prefer to go into legislative session?

Mr. ERVIN. I think we might remain in executive session for a while.

Mr. ROBERT C. BYRD. Very well.

Mr. ERVIN. Mr. President, I have read the Genocide Treaty many times and every time I read it it reminds me of the man who went to a lawyer and told the lawyer he wanted to bring a suit to get a divorce from his wife. The lawyer asked the client, "Why do you want to divorce your wife?"

He said, "Because she talks and talks and talks and talks all the time."

The lawyer said, "Well, what does she talk about?"

The husband said, "She don't say."

Mr. President, that is a perfect description of the Genocide Treaty. Nobody knows what it means. The people who wrote it apparently were incapable as far as the English version is concerned of saying in simple English words what they intended the treaty to mean. So I am going to submit some amendments. The first is an amendment in the nature of an understanding.

This treaty provides, among other mysterious things, that a person is guilty of genocide if he inflicts a mental harm on a person of another race or nationality. It does not say what "mental harm" is, but, Mr. President, I have offered in the Senate some very wise bills and the Senate has rejected them; and every time they rejected one of the wise proposals that I offered, it gave me mental harm.

Mr. President, I submit and ask to have printed so it may be called up tomorrow an amendment in the nature of an understanding. It states:

> Strike out paragraph 2 and insert in lieu thereof the following:
>
> (2) That the U.S. Government understands and construes the words "mental harm" appearing in Article II(b) of this convention as unintelligible and imposes no obligation upon the United States.

Mr. President, I ask unanimous consent that the amendment be considered as read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I also offer an amendment to the same effect as the understanding I have just introduced. This amendment would strike paragraph 2 of the resolution and insert the following:

> 2. That the United States Government declares that the words "mental harm" appearing in Article II(b) of this Convention are unintelligible and impose no obligation upon the United States.

Mr. President, I ask unanimous consent that this amendment be deemed to have been read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I also submit an amendment to amend Article V by inserting at the end thereof the following new paragraph:

> The present Convention is not a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States.

Mr. President, I ask unanimous consent that the amendment be printed and considered as read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I also submit an amendment to amend article V by adding at the end thereof the following new paragraph:

> The laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the present Convention; and the present Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement the present Convention.

Mr. President, I ask unanimous consent that the amendment be considered as having been read for the purpose of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I also submit an amendment to article V of the Resolution of Ratification. This amendment would add at the end of article V the following new paragraph:

> The present Convention does not obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the present Convention.

I ask unanimous consent that the amendment be considered as having been read for the purpose of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I submit an amendment to article II of the Resolution of Ratification to add at the end thereof the following paragraph:

> The killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of the present Convention; and the present Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States.

I ask unanimous consent that this amendment to the Resolution of Ratification be deemed to have been read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I would like to show what a peculiar treaty this is. It provides that any killing under certain circumstances will constitute genocide. It makes no difference, as far as the treaty is concerned, whether that killing occur in war or in peace. It makes no exception whatsoever for a killing by an American soldier of an enemy in war.

Under the words of this treaty, a soldier would be guilty of genocide and would have to be extradited and could be extradited, and we would have to honor a request for extradition to have him taken to the foreign country with which we are at war to have him tried in its courts, under the provisions of this treaty, for killing an enemy soldier of the foreign country, in war, as a member of the military forces of the United States.

It provides that the United States shall honor a request for extradition of Americans, to be tried in foreign courts, under the terms of this treaty. Many of these foreign courts do not have a presumption of innocence. Many of them do not have a clause against self-incrimination as is set forth in the fifth amendment. Many of them do not have a provision, as the sixth amendment does, to have counsel for the defense.

So, to meet the situation, I am going to submit an amendment, which I shall send forward to the desk in just a moment, to amend article VI of the resolution of ratification to add at the end thereof the following paragraph:

> Neither the United States nor any state or political subdivision of the United States shall be obligated by the present Convention to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by the present Convention or any legislation implementing it unless it affirmatively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States.

I send forth this amendment and ask unanimous consent that it be deemed to have been read for the purpose of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. Mr. President, as I construe this very vaguely worded convention, it undertakes to empower the International Court of Justice to overrule the decisions of the Supreme Court of the United States, and even hand down a judgment to the effect that acts of Congress intended to implement provisions of this treaty do not constitute a sufficient implementation.

I have never been able to understand why some people think the United States would be better governed if it were governed by foreigners instead of by American citizens; or why we would have sounder judicial decisions if we empowered the International Court of Justice to overrule the Supreme Court of the United States, or to make an adjudication that Congress had not complied with the terms of the treaty.

This treaty undertakes to say that every nation which becomes bound by it shall pass legislation to implement it. So it obligates the United States to implement with legislation and, at the same time, gives the International Court of Justice the authority to see to it that the U.S. legislation is sufficient to enable the United States to perform its duties under the treaty.

To take care of this peculiar situation, I propose an amendment to article 8 by adding, at the end thereof, the following new paragraph:

> The present convention shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its jurisdiction.

Mr. President, I ask unanimous consent that this amendment be considered to have been read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment ordered to be printed in the Record, is as follows:

> Amend article VIII by adding at the end thereof the following new paragraph:
>
> The present Convention shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction.

Mr. ERVIN. Mr. President, I submit several understandings which embody provisions similar to those set forth in the seven amendments which I have submitted. I ask unanimous consent that these understandings be printed and offered, and I ask unanimous consent that they be deemed to have been read for the purposes specified in rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

The understandings ordered to be printed in the Record are, as follows:

Understanding (No. 12 Exec.)

> At the end of the resolution of ratification add the following:
>
> 5. That the United States Government understands and construes this Convention as not authorizing the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empowering the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction.

Understanding (No. 13 Exec.)

> At the end of the resolution of ratification add the following:
>
> 5. That the United States Government understands that neither the United States nor any state or other political subdivision of the United States shall be obligated by this Convention to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by this Convention or any legislation implementing it unless it affirm-

atively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States.

(IN THE NATURE OF A RESERVATION)—(No. 14 EXEC.)

Amend the language preceding paragraph 1 by inserting immediately after "understandings" a comma and the following: "reservation,".

Strike out paragraph 2 and insert in lieu thereof the following:

2. The reservation that the United States Government construes the words "mental harm" appearing in article II(b) of this Convention as being unintelligible and imposing no obligation upon the United States.

UNDERSTANDING (No. 15 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands and construes this Convention not to be a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States.

UNDERSTANDING (No. 16 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands that the laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement this Convention.

UNDERSTANDING (No. 17 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands and construes this Convention not to obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the Convention.

UNDERSTANDING (No. 18 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands that the killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of this Convention; and this Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States.

Mr. ERVIN. Mr. President, I also send forward six reservations which embody provisions similar to the provisions of the amendments and the understandings which I have submitted. I ask unanimous consent that these reservations be printed, and that they lie upon the table until they are taken up. I also ask unanimous consent that these reservations to the resolution and the treaty be deemed to have been read for the purposes of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reservations ordered to be printed in the RECORD are as follows:

RESERVATION (No. 19 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement the Convention".

RESERVATION (No. 20 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide is not a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States".

RESERVATION (No. 21 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide does not obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the Convention".

RESERVATION (No. 22 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court, to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States".

RESERVATION (No. 23 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that neither the United States nor any state or other political subdivision of the United States shall be obligated by the Convention on the Prevention and Punishment of the Crime of Genocide to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by the Convention or any legislation implementing it unless it affirmatively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States".

RESERVATION (No. 24 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction".

Mr. ERVIN. Mr. President, it would be extremely unwise for the Senate of the United States to ratify the Genocide Convention which was reported by the Committee on Foreign Relations on March 6, 1973.

HISTORY OF THE GENOCIDE CONVENTION

During the 1940's activists connected with the United Nations engaged in a strenuous effort to establish by treaties laws to supersede domestic laws of nations throughout the Earth. The Genocide Convention represents one of these efforts. It originated in a resolution of the United Nations condemning genocide as a crime whether "committed on religious, racial, political, or any other grounds." When reduced to its final form it excluded genocide committed on "political" grounds because some of the parties to it did not wish to surrender even nominally their right to exterminate political groups hostile to their rulers. Under its provisions, individuals as well as persons exercising governmental power would be subject to trial and punishment for offenses which have always been regarded as matters falling within the domestic jurisdiction of the various nations.

The Genocide Convention was adopted by the General Assembly of the United Nations on December 10, 1948, and was submitted by President Harry S. Truman to the Senate for its consideration on June 16, 1949. The Senate Foreign Relations Committee appointed a subcommittee composed of very able Senators, who conducted hearings in January and February 1950, and reported to the full committee that the United States should not ratify the convention in any event unless the Senate adopted four substantial understandings and one substantial declaration. Since this report was made, the Senate Foreign Relations Committee and the Senate itself by inaction have refused to ratify this convention.

In contrast to the attitude represented by this inaction during the preceding 20 years, the Senate Foreign Relations Committee has tried to resurrect the convention and revive the question of ratification during the past few months notwithstanding the fact that there has been no change of circumstances which would make what was unwise in 1950 and 1971 wise in 1974.

The only argument now advanced for ratification of this convention is that it would improve the image of the United States in the eyes of Russia and other totalitarian parties to the convention, which strange to say have repudiated by understanding and reservations many of the provisions of the convention.

For example, these nations refuse to

be bound by article IX which subjects their actions under it to the jurisdiction of the International Court of Justice. Some of the proponents of ratification by the Senate advance the rather strange argument that the United States can safely ratify the Convention because there is no effective way to enforce its provisions against the United States if the United States refuses to abide by them. I cannot buy this argument because I think that any nation which makes a contract in the form of a treaty should accept its obligations even in the event such obligations prove to be contrary to its own interest. Otherwise, why make treaties.

Before discussing the obligations which the United States would assume as the result of Senate ratification of the Genocide Convention, I wish to call attention to its salient provisions.

PROVISIONS OF THE GENOCIDE CONVENTION

By the Genocide Convention or treaty the contracting parties affirm in article I "that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish."

Articles II and III of the Convention read:

> ARTICLE II
>
> In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measures intended to prevent births within the group;
>
> (e) Forcibly transferring children of the group to another group.
>
> ARTICLE III
>
> The following acts shall be punishable;
>
> (a) Genocide;
>
> (b) Conspiracy to commit genocide;
>
> (c) Direct and public incitement to commit genocide;
>
> (d) Attempt to commit genocide;
>
> (e) Complicity in genocide.

Article IV specifies that "persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals."

Under that provision if the President of the United States were to order the American Army into action to repel an enemy invading the United States and any American soldiers killed any of the enemy—and the enemy, of course, would be of a different national group—then the President of the United States could be tried for genocide under this treaty. That shows how ridiculous the treaty is.

Article V obligates the contracting parties to enact the necessary legislation to give effect to the provisions of the convention and to provide effective penalties "for persons guilty of genocide or of any of the other acts enumerated in article III."

Article VI provides that "persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the nation in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

Article VII provides that the parties to the treaty pledge themselves in genocide cases to grant extradition in accordance with their laws and treaties. Article VIII provides that "any contracting party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III."

Article IX provides that "disputes between the Contracting Parties relating to the interpretation, application, or fulfillment of the present Convention—shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

This brings me to the considerations which ought to deter the Senate from ratifying the Genocide Convention. Time and space compel me to limit my statement to only the most substantial of them.

CONVENTION DISTORTS CONCEPT OF GENOCIDE

First, if the Senate should ratify the Genocide Convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide.

The definition of genocide appears in article II which states that the term genocide embraces five specified acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The convention definition of genocide is inconsistent with the real meaning of the term, which is "the systematic, planned annihilation of a racial, political, or cultural group." The word annihilation clearly contemplates the complete destruction or the complete wiping out of the designated group.

Yet, the convention definition covers the destruction either in whole or in part of members of a group embraced by it. This means that a public official or a private individual is to be subject to prosecution and punishment for genocide if he intentionally destroys a single member of one of the specified groups.

When it considered this convention in 1950, the subcommittee of the Committee on Foreign Relations took note of the fact that the convention distorts and perverts the entire concept embraced in the word "genocide," and for that reason stated that the Senate ought not to consider ratification of the convention unless it announced this understanding of its meaning:

> That the United States Government understands and construes the crime of genocide which it undertakes to punish in accordance with this convention, to mean the commission of any of the acts enumerated in article II of the convention, with the intent to destroy an entire national, ethnical, racial, or religious group within the territory of the United States, in such manner as to affect a substantial portion of the group concerned.

This distortion and perversion of the plain concept embraced in the word "genocide" represents an effort on the part of the drafters of the convention to make punishable either in the courts of an adherent to the treaty or in an international tribunal to be established under the terms of the treaty, all of the acts enumerated in articles II and III of the convention.

Since an intent to destroy a single person belonging to one of the four designated groups would subject an official or individual to punishment, the treaty would make virtually every person in any nation adhering to it a potential victim of genocide as the meaning of that term is distorted and perverted by the convention. This is true simply because virtually every person on earth belongs to one or more of the four groups designated.

This observation is made exceedingly plain by the fact that an ethnical group is a "social group within a cultural and social system that claims or is accorded special status on the basis of complex, often variable traits including religious, linguistic, ancestral, or physical characteristics."

In its March 6, 1973, report (Executive report 93-5) the Foreign Relations Committee proposes an understanding which, in effect, acknowledges this problem with the convention's language, but which certainly does not resolve it. Indeed, the understanding proposed by the committee in this connection increases the confusion as to the meaning of the convention.

DRASTIC IMPACT OF CONVENTION ON OUR SYSTEM OF GOVERNMENT

Second, article II, section 2 of the Constitution provides that "the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Article VI of the Constitution provides that "the Constitution and the laws of the United States, which shall be made in pursuance hereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

If the Senate should ratify the Genocide Convention, these constitutional provisions would automatically make the Convention the law of the land, put all of its self-executing provisions into immediate effect as such, and impose upon the United States the obligation to take whatever steps are necessary to make its nonself-executing provisions effective. This means that the provisions of the Genocide Convention would immediately supersede all State laws and practices inconsistent with them, and would nullify all provisions of all acts of Congress and prior treaties of the United States inconsistent with them.

While Congress could repeal provisions of the Genocide Convention by future legislation, the States would be bound by them as long as the Convention remained in effect. Moreover, the Genocide Convention would immediately require and authorize Congress to enact legislation implementing its provisions even though such legislation were beyond the power of Congress in the absence of the Convention, and even though such legislation would deprive the States of the power to prosecute and punish in their courts acts condemned by articles II and III of the Convention.

Surely, the Senate should pause and ponder what impact the ratification of the Genocide Convention would have on our system of government.

It is noted that virtually all the other nations of the earth have no constitutional or legal principle similar to article VI of the Constitution of the United States making treaties "the supreme law of the land," and that for this reason treaties do not take effect as internal law in other nations unless their legislative branches of government adopt laws subsequent to their ratification giving them such effect.

Third, one of the most drastic impacts the ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings, covered by categories (a), (b), and (e) of article II of the convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of jurisdiction workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country would experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

Proponents of ratification may argue that many homicides, assaults and batteries, and kidnapings would not fall within the definition of genocide. This contention accentuates rather than minimizes the folly of ratifying the Genocide Convention.

As has been pointed out, virtually every person in America falls within one or more of the four groups designated in the Genocide Convention, and any offense denounced by the Genocide Convention against any one of them would ostensibly fall within the scope of the Convention. The jurisdiction of the Federal courts under the Genocide Convention would not depend upon what the jury found in particular cases. It would depend upon the allegations made in the indictments or informations charging the offenses.

Consequently, we can reasonably expect that demands will be made that every homicide, every assault and battery inflicting serious injury, and every kidnaping shall be tried in a Federal court, or in an international court to be established pursuant to the convention. What this will do to increase the congestion in the already overburdened Federal courts of our land beggars description.

In the absence of ratification of the convention, demands were made in 1970 that the United Nations investigate the slaying of Black Panthers by police officers on the ground that their slaying constituted genocide under article II(a), and that the United Nations investigate the action of the legislature of one State in respect to welfare benefits on the grounds that the legislative action constituted genocide under article II(c).

I respectfully suggest that the Senate should pause and ponder whether it is desirable to ratify a convention which would necessitate a fundamental alteration in the way in which criminal justice has been administered in the United States ever since our country came into existence as a free republic.

When the subcommittee on the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it clearly recognized that ratification of the convention would play havoc with our system of administering criminal justice in respect to domestic crimes made Federal and international crimes by articles II and III, and for this reason decided that the Senate should not ratify the convention in any event without making this declaration:

> In giving its advice and consent to the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, the Senate of the United States of America does so considering this to be an exercise of the authority of the Federal Government to define and punish offenses against the law of nations, expressly conferred by article I, section 8, clause 10 of the United States Constitution, and consequently, the traditional jurisdiction of the several States of the Union with regard to crime is in no way abridged.

Confusion in the administration of criminal justice in respect to domestic crimes made Federal or international crimes by the Genocide Convention would not disappear with the enactment of legislation by Congress implementing the convention. The validity of this observation may be illustrated by taking a single crime, that of unlawful homicide. Under the Constitution of the United States, Congress does not have the power to make unlawful homicides generally Federal or international crimes. If ratified by the Senate, the Genocide Convention would give Congress this power in respect to homicides constituting genocide under the definition contained in the convention. Jurisdiction to prosecute and punish other unlawful homicides would remain in the State.

The only distinction between unlawful homicides transferred by the Genocide Convention and Acts of Congress implementing it to the Federal Government would depend upon whether the homicide is committed with genocidal intent. As a consequence, every unlawful homicide would apparently be within the jurisdiction of both the Federal and the State government insofar as the external circumstances of the slaying are concerned.

Hence, either State or Federal courts could assert jurisdiction in respect to virtually all homicides, and an acquittal of the charge in one court would not bar a second prosecution based on the same facts in the other court. This being true, a person could be twice placed in jeopardy for the same offense.

The power of a Federal court to try a person for a homicide on the ground that it constitutes genocide depends upon the allegations of the indictment and not upon the ultimate finding of the jury. On a trial in the Federal court, the jury would be compelled to acquit the accused of genocide unless it found that he acted with the requisite genocidal intent, no matter how atrocious the circumstances attending the homicide otherwise might be. In such a case, the accused would go unwhipped of justice unless he was placed upon trial a second time in a State court.

The Senate should be slow to ratify any convention which would make such confusion in the administration of criminal justice in cases of this kind.

MEANING OF CONVENTION SHROUDED IN UNCERTAINTY

Fourth. If the Senate should ratify the Genocide Convention, it would place obligations upon the United States to prosecute and punish as genocides acts whose nature the convention fails to disclose and to take steps whose nature the convention fails to reveal.

If the convention is ratified, article II(b) would impose upon the United States the duty to prevent and to prosecute and punish public officials and individuals who cause mental harm to members of any one of the four groups named in the convention. One of these is religious groups. I submit that religious groups are concerned about the behavior of other people as well as their own behavior and it would certainly do mental harm to a religious group to see other people committing sins even though those sins were not crimes. Yet this convention, if ratified by the Senate, would obligate the United States to prosecute persons who caused mental harm to members of a religious group by committing sins which are not crimes. What mental harm means in this context is totally incomprehensible, and what psychological acts or omissions are made punishable in this context are left in obscurity. When the Subcommittee of the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it reached the conclusion that the Senate ought not to ratify the Genocide Convention in any event unless it expressed this understanding:

> That the United States Government understands and construes the words "mental harm" appearing in article II of this Convention to mean permanent physical injury to mental faculties.

In its report of March 6, 1973, the Foreign Relations Committee proposed an understanding to the convention in language almost exactly like and with the same apparent meaning as the subcommittee's language of 1950. Even this language does not reduce to reasonable certainty the meaning of mental harm to members.

If the convention is ratified, article II(c) would impose upon the United States the duty to prevent and to prosecute and punish anyone who deliberately inflicts "on the group conditions of life calculated to bring about its physical destruction in whole or in part." What this means, no mind can fathom. Does it mean that a State or county official who refuses to give to a member of one of the four groups designated in the convention the amount of welfare benefits deemed desirable is to be punished or prosecuted for genocide? Does it mean that the Court of International Justice shall have power under article IX to adjudge that Congress or a State legislature which does not make available to members of one of the four groups what the Court deems to be adequate welfare benefits has violated the convention?

If the convention is ratified, article III(c) makes any official or individual in our land punishable for "direct and public incitement to commit genocide." What does this mean? Does it mean that the convention undertakes to make a Senator or a Congressman punishable for genocide if he makes a speech outside of the Chamber of his respective House in which he justifies the action of Arabs in killing Jews, or the action of Jews killing Arabs? Does it undertake to deprive public officials and citizens of America of the right to freedom of speech with respect to matters falling within the terms of the Genocide Convention?

If anyone believes that the first amendment invalidates my apprehension on this score, let him read and ponder *Fox* v. *Washington*, 236 U.S. 273, and *Feiner* v. *New York*, 340 U.S. 315, as well as the majority and dissenting opinions in *Terminiello* v. *Chicago*, 337 U.S. 1.

If the convention is ratified, public officials and private citizens of our land will be subject to punishment in Federal courts or possibly in international penal tribunals to be established under article VI if they are guilty of the undefined offense designated as "complicity in genocide." What is "complicity in genocide?" The convention does not say.

When the subcommittee of the Senate Foreign Relations Committee considered the Convention in 1950, it recognized the vagueness and uncertainty of this proposed Federal and international crime, and recommended that the Senate should not ratify this Convention in any event without stating the following reservation:

> That the U.S. Government understands and construes the words "complicity in genocide" appearing in article II of this Convention to mean participation before and after the fact and aiding and abetting in the commission of the crime of genocide.

If the Convention is ratified, article II would impose upon the United States the obligation to prevent and to punish as a crime under international law any act of genocide "whether committed in time of peace or in time of war," and article VIII would authorize any party to the Convention to call on the United Nations to take such action against the United States under the charter of the United Nations it considers "appropriate for the prevention and suppression of acts of genocide, or any of the other acts enumerated in article III" occurring or likely to occur anywhere in the United States.

What actual obligation does article I impose upon the United States with respect to events occurring either in peace or in war in lands beyond the seas? Does it require the United States to go to war to prevent one nation from killing the nationals of another nation? The Convention does not say, but article IX places the power to determine this question in the International Court of Justice.

Does article VIII imply that the United States agrees that the United Nations is to investigate or take action concerning the acts of public officials and individuals occurring within the borders of the United States? The Convention does not say, but article IX leaves this determination to the International Court of Justice.

Able lawyers have expressed the fear that article VI imposes upon the Congress an implied commitment to support the creation of an international court for trials of American citizens for genocide. I find myself in complete harmony with their opposition to subjecting our citizens and other persons within our territorial jurisdiction to trial, conviction, and sentence for acts of genocide committed in the United States by an international penal tribunal where they would not be surrounded by the constitutional safeguards and legal rights accorded persons charged with a domestic crime.

Fifth. If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

This is made indisputable by article I which provides that genocide is punishable under the convention whether it is committed in time of peace or in time of war, and by the fact that it contains no provision exempting soldiers engaged in combat from the coverage of the provisions of the convention. When soldiers kill or seriously wound members of a detachment of the military forces of a hostile nation, they certainly do so with intent to destroy, in whole or in part, a national group as such. Hence, their acts in combat fall clearly within the purview of the convention. In such cases, they are triable and punishable under article VI in the courts of the nation in whose territory their acts are committed, or in such an international penal tribunal "as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

These things being true, American soldiers who killed or seriously wounded North Vietnamese soldiers or members of the Vietcong, or South Vietnamese civilians in South Vietnam, might have been triable and punishable in court sitting in South Vietnam; and American aviators who killed North Vietnamese soldiers or civilians in bombing raids upon targets in North Vietnam and who were taken prisoner by the North Vietnamese, might have been triable and punishable in the courts of North Vietnam.

No sophistry can erase this obvious interpretation of the Genocide Convention.

I add at this point that there is no provision in the convention which would prevent a foreign nation from dealing with this matter in an ex post facto fashion, because there is no provision outlawing ex post facto trials.

CONVENTION SUBORDINATES THE AMERICAN GOVERNMENT TO THE WORLD COURT

Sixth. If the Senate should ratify the Genocide Convention, article I would impose upon the President, as the Chief Executive of the United States, the duty to enforce both the provisions of the convention and any acts of Congress implementing them as the supreme law of the land.

Article V would obligate the Congress to enact legislation to give effect to all the provisions of the convention, and to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III, and article VI would obligate the Supreme Court of the United States and all inferior Federal courts created by Congress to interpret and apply all of the provisions of the convention and of the acts of Congress implementing it to cases coming before them under the terms of the convention and the acts of Congress implementing such terms.

Seventh. If the Senate should ratify the Genocide Convention, it would bring into play article IX which provides that disputes between the parties to the convention relating to the "interpretation, application, or fulfillment" of the convention "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

Under this article the International Court of Justice would be empowered to decree that the President of the United States, as Chief Executive Officer of the United States, had interpreted and applied the provisions of the convention incorrectly and by so doing impose upon the President of the United States its notions as to how the convention should be interpreted and enforced; the power to adjudge that legislation enacted by Congress to give effect to the provisions of the convention was insufficient to fulfill the obligations imposed upon it by the convention; and the power to adjudge that the Supreme Court of the United States and Federal courts inferior to it had interpreted and applied the provisions of the convention incorrectly and by so doing require these tribunals to apply its notions as to how such provisions should be interpreted and applied to future cases coming before them.

When their attention is called to the drastic powers which the ratification of the Genocide Convention would bestow upon the International Court of Justice in respect to the President, the Congress, and the Supreme Court and other inferior Federal courts, the proponents of ratification assert that these agencies of the Government of the United States do not have to obey the rulings of the International Court of Justice if they deem that such rulings infringe upon the fundamental sovereignty of the United States. In so doing they ignore the solemn obligation assumed by the United States under article 94 of the charter of the United Nations which reads as follows:

> Each member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

The Charter of the United Nations clearly contemplates that the United Nations will not interfere in the domestic affairs of any nation. The Genocide Convention goes a bow shot beyond the charter of the United Nations. It undertakes to regulate certain domestic affairs of the parties to it by converting what have always been domestic crimes into international crimes, and confers upon the International Court of Justice the vast powers set forth in article IX.

Consequently, if the Senate should ratify it, the Genocide Convention would render the Connally reservation, which was designed to prevent the International Court of Justice from exercising jurisdiction over any domestic affair of the United States, inapplicable to any of the matters covered by the convention, and would nullify the Vandenberg reservation to the jurisdiction of the International Court of Justice which stipulates that American acceptance of compulsory jurisdiction of the Court shall not apply to "disputes arising under a multilateral treaty, unless all parties to the treaty affected by the decision are also parties to the case before the Court, or the United States specially agrees to jurisdiction."

What I have said does not militate against the good intentions of those who drafted the Genocide Convention, or those who favor its ratification. All of us are opposed to the systematic, planned annihilation of any national, ethnical, racial, or religious group. The existing laws of the United States and its several States are adequate to punish all of the physical acts of violence denounced by the Genocide Convention. Hence the Senate does not need to ratify the Genocide Convention in order to make these acts punishable as crimes if committed within the borders of our land.

But the Senate should not permit itself to be persuaded by the good intentions of the proponents of ratification to ratify a convention which would have such a tragic impact upon the system of government which has always existed in our land, and which for the first time in our history undertakes to make undefined psychological harms inflicted in some manner Federal and international crimes.

The American Bar Association has twice urged the Senate to reject the Genocide Convention—once in 1949 and again in 1970.

Mr. President, I urge that the Senate reject the convention. There already is protection by Federal and State laws and it would be a great tragedy if in a moment of good intentions we were to ratify a convention which would play havoc with our system of government and havoc with the manner in which our criminal laws always have been enforced and which would impose on us obligations, the nature of which the treaty fails to reveal.

I appeal to the Senate to reject this very unwise, vague, and very indefinite convention.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, we have all been waiting to hear the Senator from North Carolina who has been considered for a long time to be the principle opponent of the ratification of this treaty. In the course of the debate up to now we have had the testimony of the distinguished Senator before our committee but we have not had this argument on the floor. It is an exteremly important development in respect of the treaty because when one espouses the point of view in this way it is the only time when those who do not entertain that point of view can reject it.

I intend, perhaps with others, to deal with every point made by the Senator from North Carolina. At this particular moment, having heard some part of what he said but not all of it I am only able to cope with some parts of it, but I believe it is so critically important that these parts be coped with at once and that the whole of the argument be analyzed and refuted in due course, and that will be very brief, I assure the Senate. I take the floor for that purpose now.

First and foremost, Mr. President, the debate today and the debate tomorrow is concerned not with the issue of the detailed merits of the treaty which the Senator from North Carolina is at perfect liberty to analyze and disagree with, as he has for a long time. The debate today and tomorrow is concerned with whether or not we should get to a vote on the treaty and the reservations and amendments thereto. The Senator has introduced, as he said, a number of amendments and a number of reservations. They will be voted up or down.

We have just had exactly that situation in respect to the Legal Services bill where the Senate voted cloture. That is all that we, the opponents, ask for in respect of this matter now. The Senate can reject the treaty. It takes a two-thirds vote of those present and voting; one-third of the Senate, if everyone is present, can veto this ratification.

The question now is: Shall we ever get to the point where the Senate shall vote on the reservations—it has not even been able to vote on our reservation which everyone agrees is eloquent and locks in everything they say they are worried about—and be able to vote on the treaty itself if this posture persists. That is what we make our play for now. The Senate should not be denied the right to vote.

These declarations and reservations are submitted and amendments are submitted, and I am sure the Senate will by rollcall vote them up or down. There is plenty of time for that. I do not remember the exact figures—they are easily checked—but I do not believe that any Member, even any opponent in respect to cloture on the Legal Services bill, used up his hour. It was possible, even with quorum calls and time taken for rollcalls, to fully debate anything any Member wished to vote upon and as many things as any Member within reason wished to impose. So cloture is by no means throttling debate on amendments or the will of the Senate on the treaty; it is only the capacity of the Senate to get to the merits.

I respectfully submit that everything that has been said by our distinguished colleague implies that we should get to the merits. This is a highly controversial question. It is argued it has persisted for many years, it is time to lay it to rest. Fine, I agree. Let us lay it to rest. Let us lay it to rest by voting on the merits, on every reservation and amendment, and every aspect of the matter, up and down. That is the central point.

There is no point in taking our eye off the ball. The central point in this whole discussion is not what are the merits of the treaty or the merits of any reservation, but are we going to get to it at all? I respectfully submit in a matter of this kind, with this moral quality, that Senators of good will and honest feelings about humanity and the feelings of humanity should join, whether they vote to ratify or not.

Strangely enough, our check has shown that there are Members willing to vote to ratify the treaty who will not vote cloture and some who will vote cloture and not vote to ratify the treaty. I am all with the latter group. Every Senator must use his own judgment and conscience in terms of whether he will or will not vote for the ratification of the treaty after considering all the arguments, but to stymie and frustrate us in even getting to a vote on the merits is another matter. I do not think that is what the vote is all about or what the Senate is all about.

I feel that Senators should be willing to see any one of these reservations and amendments come to issue. Otherwise why are they being presented if we are going to be cut off at the pass, and nothing is going to happen because there is no opportunity to get at the merits.

Second, about the position of the American Bar Association. Our committee took note of that. The house of delegates, by 4 votes, by a vote of 130 to 126, rejected a motion to reverse its opposition to the ratification of the convention and upheld its resolution of 1949 to oppose it. It is very, very significant that a whole galaxy of other distinguished organizations, including some of the most prominent committees of the American Bar Association itself, have come out in favor of the convention.

I do not know what vestigial fears remain in the house of delegates compositely as such, although even that is by very close margin, but I point out the sections in favor of the ratification: Section of Individual Rights and Responsibilities, World Order Under Law Committee, Criminal Law Section, Section of International and Comparative Law, Section of Family Law, and the Section of Judicial Administration.

Opposed, on the other side, was the young lawyers section.

These other sections, all of which I have named, have come out for the treaty, as have other distinguished bar associations, including the very distinguished and very prominent Association of the Bar of the City of New York, of which I have the honor to be a member, and which is the most extensive bar association in the country.

So I do not believe, under all those circumstances, that the American Bar Association resolution—as I say, adopted by so narrow a margin—in the face of so contrary an opinion, should outweigh the arguments on the substantive aspects of this particular treaty.

There are two points in respect of the treaty which stand out to me of what I was able to hear of our distinguished colleague's argument. I have it now before me, and I am very grateful for making available to us a copy of his remarks so that overnight we may prepare our argument on the other side. But two points that struck me as I listened to them were, first, the argument about the International Court of Justice, not the penal court, which is not in existence, but the International Court of Justice, and what this treaty says about that and the criminal laws of the United States as allegedly covering this situation.

First as to the International Court of Justice, we have a provision in this treaty which is article IX, to which the Senator from North Carolina (Mr. ERVIN) has referred.

First let me read the paragraph relative to the jurisdiction from the court's statute:

> 1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or *in treaties and conventions in force*. [Emphsis added.]

The article itself of the treaty reads as follows:

> Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

The answers to the arguments which have been made are as follows:

One, a number of the countries in the Communist bloc have ratified the Genocide Treaty subject to the reservation that they do not consider themselves bound by article 9; therefore, that reservation may be invoked by any other member similarly—that is Hornbook law—just as the reservation which the Senator from Idaho (Mr. CHURCH), the Senator from Wisconsin (Mr. PROXMIRE), and I proposed may be invoked by any other signatory of the treaty against us.

Point No. 1: If we do not like it, we can reject it.

Point No. 2: It has always been true of the International Court of Justice, and it is well known, that the court has no enforcement powers; therefore its opinions are, in essence, advisory. That has been true of a number of cases. Of the very few cases it has decided, that has been true in a number of them.

Point No. 3: We have shown no fear in respect of the matter of jurisdiction of the International Court of Justice in other treaties, because we have included exactly such provisions in the Japanese peace treaty, the Antarctic treaty, to which the Soviet Union was a party, by the way, and the Statute of the International Atomic Energy Agency—mighty important international combines.

Finally, if there is any desire on the part of the Senate, any worry on the part of the Senate, to make that doubly or triply so, it can be accomplished by a reservation—I have little doubt that the Senator from North Carolina (Mr. ERVIN) has already presented one—with respect to article IX which is comparable to reservations adopted by the countries in the Communist bloc. I would be unhappy about that, because I think it is unnecessary and adds further weights to the reservations and to the ratification of the treaty. Nevertheless, if we are ever permitted to come to the issue, it can be done and perhaps a majority of the Senate would support it. In any case, it certainly can be done at this stage of the ratification process.

The last point which I do want to comment on very seriously, because it is a mixture of law and politics, relates to the crime of genocide. If I heard our distinguished colleague correctly, he said, "If committed within the borders of our Nation."

Mr. President, I am for this treaty because it deals with the crime of genocide wherever committed, and I hope very much Members of the Senate will be honest with themselves in that regard. If this country is not frightened by the crime of genocide no matter where committed, and does not—cutting away all the legal technicalities—wish to brand that as a heinous, infamous, detestable, punishable international crime, then I do not know what we have come to. We have succored the ill and the starving in many parts of the world with our substance. We have gone to war and have suffered hundreds of thousands of casualties expressly in the name of elementary justice and in the name of our own high self interest because we knew that the fate which might await us was the fate which we were seeking to redress or prevent for others. Once this kind of unreasoning crime is loose in the world, it can strike anybody, including ourselves. We Americans have learned many things, including the current oil crisis, and that it can happen here.

So, upon that fundamental issue, I simply have to ask the Senate and individual Members of this body to take their stand as a question of conscience or to take it with the Senator from North Carolina (Mr. ERVIN). If all we have said today means that we will deal with genocide in the United States, then this treaty should not be ratified; but if two-thirds of the Senate feel that genocide ought to be branded as an international crime for what it is, in view of the history, the recent history, of mankind, and the security of mankind in the future, then we will ratify the treaty. It is just that straight, and there is no use in fudging that question.

As to the rest of the argument, Mr. President, I believe, because I respect the Senator from North Carolina (Mr. ERVIN) so much, I should read his presentation with the care with which he himself deals with matters. He and I have had the inestimable privilege as Senators of debating high matters of policy and high matters of law for well over a decade, and I wish to show that same respect to the arguments which the Senator has prepared and which I would like to study and reply to.

Mr. President, unless the Senator from North Carolina (Mr. ERVIN) or some other Senator wishes the floor, I am about to suggest the absence of a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senate return temporarily to legislative action, and that upon the conclusion of the legislative action, the Senate return to executive action, to take up anew the Genocide Convention.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, reserving the right to object, I hope the Senator will limit the discussion which he wishes to hold in legislative session to 1 hour, and that the unanimous consent agreement will be complete in that the unanimous consent request will call for a return to executive session, and that the Genocide Treaty will thereupon be again before the Senate as the pending business.

Mr. HRUSKA. Mr. President, reserving the right to object, I have a contribution to make on this same subject after the Senator from North Carolina concludes his remarks. On the understanding that he will not go too far into that 60 minutes which he seeks to have allotted, I shall not object.

Mr. JAVITS. I would be happy, if the Senator wishes, to make it an hour and a half, which would suit me.

Mr. HRUSKA. Not to exceed an hour, and if we need more we may ask for it?

Mr. JAVITS. That is all right, so long as we come back this afternoon to executive session, with the Genocide Treaty before us.

Mr. ERVIN. Mr. President, I modify my unanimous-consent request to embody the suggestions of the Senator from Nebraska and the Senator from New York.

Mr. HRUSKA. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. There is a unanimous-consent request before the Senate. Is there objection to the request of the Senator from North Carolina?

Mr. ROBERT C. BYRD. Mr. President, what is the pending question?

The PRESIDING OFFICER. That the pending business be temporarily laid aside.

Mr. HRUSKA. Mr. President, I ask unanimous consent that J. C. Argetsinger, Ken Lazarus, and Doug Marvin of my staff be accorded the privilege of the floor during the consideration of this measure.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the Senator's request, but what is the pending business?

The PRESIDING OFFICER. The pending question before the Senate is a unanimous-consent request that the pending business be put aside for 1 hour——

Mr. ERVIN. And that the Senate go into legislative session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask unanimous consent that Quincy Rogers of Senator MATHIAS' staff and Larry Baskir and Mark Gitsenstein of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Nebraska wish to renew his unanimous-consent request?

Mr. HRUSKA. I renew my request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF S. 2963 THE CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

Mr. ERVIN. Mr. President, with Mr. HRUSKA, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, Mr. TUNNEY, Mr. YOUNG, Mr. BROOKE, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. FONG, I introduce for appropriate reference the "Criminal Justice Information Control and Protection of Privacy Act of 1974." The purposes of this legislation are to impose certain restrictions upon the type of information which can be collected and disseminated by law enforcement agencies on the Federal, State, and local levels; to place limitations upon the interchange of such information both among such agencies and outside the criminal justice community and otherwise to protect the privacy and reputations of persons about whom the agencies have collected information.

This legislation deals with the most prized but also the most perishable of our civil liberties—the right to privacy. Although the bill is limited to the activities of criminal justice agencies, its enactment would represent an important first step in reestablishing a workable balance between the information needs of Government on the one hand and the sanctity, individuality, and privacy of American citizens on the other. To understand the impact on personal privacy and the urgent need for this legislation, let me first review the significance of recordkeeping by law enforcement and other Government agencies.

I. GOVERNMENT RECORDKEEPING AND THE RIGHT TO PRIVACY

During the past few decades the demands by Government for personal and sensitive information about its citizens have escalated. This insatiable appetite for information among Government policymakers and administrators is closely related to the increasing responsibility which we have placed upon government, especially the Federal Government, for our health, safety, and well-being. The Government is expected to manage the most complex economy in history; to collect and expend billions of tax dollars in a productive manner each year; as well as to study and attempt to ameliorate the various crises which seem to plague our country with depressing regularity, involving our environment, energy resources, crime, and so on. Most Americans are willing to cooperate by divulging information about virtually every aspect of their lives if they believe it will help the Government fulfill these responsibilities.

Yet if we have learned anything in this last year of Watergate, it is that there must be limits upon what the Government can know about each of its citizens. Each time we give up a bit of information about ourselves to the Government, we give up some of our freedom. For the more the Government or any institution knows about us, the more power it has over us. When the Government knows all of our secrets, we stand naked before official power. Stripped of our privacy, we lose our rights and privileges. The Bill of Rights then becomes just so many words.

Alexander Solzyhenitsyn, the Russian Nobel Prize winner, suggests how an all-knowing government dominates its citizens in his book "Cancer Ward:"

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber, banks, buses, trams and even people would all lose the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

Perhaps it should come as no surprise that a Russian can master the words to describe the elusive concept we in America call personal privacy. He understands, in a way which we cannot, the importance of being a free individual with certain inalienable rights, an individual secure in the knowledge that his thoughts and judgments are beyond the reach to the state or any man. He understands those concepts because he has no such security or rights but lives in a country where rights written into law are empty platitudes.

Privacy, like many of the other attributes of freedom, can be easiest appreciated when it no longer exists. A complacent citizenry only becomes outraged about its loss of integrity and individuality when the aggrandizement of power in the Government becomes excessive. By then, it may be too late. We should not have to conjure up 1984 or a Russian-style totalitarianism to justify protecting our liberties against Government encroachment. Nor should we wait until there is such a threat before we address this problem. Protecting against the loss of a little liberty is the best means of safeguarding ourselves against the loss of all our freedom.

The protection of personal privacy is no easy task. It will require foresight and the ability to forecast the possible trends in information technology and the information policies of our Government before they actually take their toll in widespread invasions of the personal privacy of large numbers of indivdual citizens. Congress must act before those new systems are developed, and before they produce widespread abuses. The peculiarity of those new complex technologies is that once they go into operation, it is too late to correct our mistakes or supply our oversight.

Our Founding Fathers had that foresight when they wrote the Bill of Rights. The first, fourth, and fifth amendments are among the most effective bulwarks to personal freedom conceived by the mind of man. Justice Brandeis in his classic dissent in the wiretapping case, *Olmstead* v. *United States*, 277 U.S. 438, 478 (1927), described with unsurpassed eloquence the importance of the right to privacy set out in the Constitution. These words do not go stale from repetition:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognize the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

Government data collection on individuals is not a brand new phenomenon. The Federal Government has been collecting immense amounts of very sensitive information on individuals for decades. Income tax, social security, and census come to mind immediately. Various surveys by experts, private organizations such as the National Academy of Sciences, and a number of congressional committees have established the fact that the Federal Government stores massive amounts of information about all of us.

Several individual dossier files have received considerable publicity in recent years. For example, the Defense Department has several extensive files of very sensitive information, including dossiers on 1.6 million persons in its industrial security files. In the Justice Department alone, there is at least one civil disturbance file with 22,000 names; a file of approximately 250,000 names in the organized crime section; rap sheets or fingerprint cards on over 20 million individuals in the FBI's identification division files, and records on well over 450,000 persons in the FBI's National Crime Information Center—NCIC; and over 40 million names in the master index of the Immigration and Naturalization Service. The National Driver Register of the National Highway Safety Bureau contains 3,300,000 names. There are 69,000 names in the Secret Service files of persons considered potentially dangerous to the

President, and the Secret Service computer contains hundreds of thousands of others.

Many of these records are in manual files as opposed to storage in computerized data banks. However, the trend is toward automation of the files so that information on an individual can be made instantly available to users. The FBI's 20 million fingerprint rap sheets are being automated. A survey which the Subcommittee on Constitutional Rights is conducting reveals that there are over 800 data banks in the Federal Government, many of which are automated, containing personal information on American citizens.

These figures and other information which the subcommittee's survey has revealed suggest that a revolution is about to take place within the huge information warehouses of the Federal Government. The revolution is going to be caused by two major developments within the Federal bureaucracy—both resulting from the application of highly sophisticated information technology to the Government's files.

First, with the advent of computers the Government is able to increase by geometric proportions the amount of information it can collect on individuals. Prof. Arthur Miller of the Harvard Law School, in his book "The Assault on Privacy," suggests that it will soon be technically feasible to store a 20-page dossier on every single American on a piece of tape less than 5,000 feet long. At the same time, the new technology permits the Government to reduce to microseconds the amount of time necessary to get access to the information. For example, the NCIC computer is able to locate one of its 450,000 criminal histories on an individual, reproduce it and transmit the file to a remote terminal in California or Florida in less than 5 seconds.

Second, and perhaps even more ominous than the computerization of the information, is the development of nationwide information networks by the Federal and State governments, utilizing telephone and other telecommunications lines. These information networks are designed to increase dramatically the number of people and agencies which can access the computerized data banks operated by the Federal, State, and local governments. When the NCIC computerized criminal history is fully operational, it will be one of the largest data bank-information networks of personal dossiers ever attempted. Eventually, roughly 40,000 State and local police departments will have instantaneous access to computerized files on an estimated 21 million individuals who at some time in their lives have been arrested by State, local, or Federal police. The General Accounting Office estimates that this ambitious project may cost over $100,000,000 in Federal, State, and local revenues. Already LEAA's allocations over the past 4 years is estimated at $50 million, not counting State and local expenditures.

The NCIC system is not the first of these systems nor will it necessarily be the largest. As Eugene Levin, an expert on data bank-information networks has pointed out, the Department of Defense has done the pioneering work in this area. The Advanced Research Projects Agency of the Department of Defense has implemented a network which ties together many huge and dissimilar scientific computers. However, the difference between NCIC and the types of systems pioneered by Defense is that the former has sensitive personal information on individuals while the latter is designed to facilitate the transfer of innocuous scientific information.

Mr. Levin suggests the dangers that this new computer-communications technology will have upon our lives once Government begins to use it to collect and disseminate information on individuals:

> The greatest deterrent to extensive government surveillance of individuals has not been the lack of technology of "bugging," nor do considerations of legality, morality, or ethics seem to carry much weight. The deterrent has been "data pollution," which buries an investigator under bits and bytes. It has not been possible to handle (gather, filter, store, process, retrieve, format, disseminate) the huge volume of information on all individuals in anything approaching a useful time frame. *Now it can be done.*

If traditional Government recordkeeping practices and records policies have not yet posed an intolerable threat to personal privacy or reputations, it is only because of the benign inefficiency of these file-drawer record systems. Until very recently, significant amounts of information were not collected about individuals and therefore were not available to others. Use of information collected and kept on a decentralized basis is slow, inefficient, and frustrating. It requires an immense effort to collect information on a specific individual from a variety of different agencies, and then to have it sent out to the agency requesting it. It is ironic but true that what has thus far saved much of our privacy and our liberty has been the complacency, inefficiency, and intraagency jealousies of the Government and its personnel.

This decentralization, of course, is being radically changed by computerization and remote access through data networks. The information in Government files is often rather superficial and general and, in large part, dated and useless. The new technology allows for the collection of much more information on individuals as well as for systematic updating. With computerization and automatic remote access, the Government's ability to collect information increases astronomically and its capacity to broadcast what it ingests to every part of the Nation increases at the same rate. Once an individual gives up information about himself to the Government, he, and in most cases the Government, loses control over it. The citizen cannot, and the Government usually does not, control who can see the information. Nor can he or the Government insure the accuracy of what is broadcast. Increasingly, these systems will influence, if not determine, whether an individual will get Government benefits, be extended credit, get a job, or be considered a criminal and be harassed by police.

II. CRIMINAL JUSTICE DATA BANKS: A MICROCOSM

Over the past few years the Subcommittee on Constitutional Rights, which I chair, has been studying the impact of Government computerized networks and recordkeeping of personal information in the hope of developing legislation to reverse these trends. In the course of this effort, I have come to the conclusion that the need for legislative action respecting criminal justice data banks cannot wait for the development of a comprehensive legislative solution which applies generally to all Government data collection. Therefore, I have drafted legislation which deals with this area in the hope that the experience of developing and enacting this legislation will provide guidance in formulating a more complete Government policy on privacy.

The question of Government collection and dissemination of criminal records and other routine law enforcement information must be the first target for data bank privacy legislation. If Congress can successfully develop privacy safeguards for law enforcement information, collection and dissemination, then our experience may make easier the establishment of a more comprehensive policy. Some of the most advanced technology is being used in local, State, and Federal criminal justice data banks. The type of information being collected in such systems is as sensitive as any collected by Federal or State governments. The complexity of the questions of granting or denying access to subjects and other individuals are as difficult as those involved in any other area of government recordkeeping. I hope that Congress consideration of the "Criminal Justice Information Control and Protection of Privacy Act of 1974" will be the first step in its effort to come to grips on a national level with the assault on privacy by governments and private enterprise wherever it may exist.

Criminal recordkeeping has a long history. Since the 1920's the FBI has been providing a nationwide manual exchange of arrest records for State and local police departments. The purpose of this system is to supplement the files of State and local police departments by making available the arrest record of any person ever arrested for a crime by any police agency. The police utilize these records, called rap sheets, for investigative purposes, even though many of the records never indicate whether the subject has ever been prosecuted, much less convicted, of the crime for which he was arrested.

To my mind, a record of an arrest without any indication of a disposition of the charges arising out of that arrest is virtually useless for law enforcement purposes, and is highly prejudicial if used for non-law enforcement purposes. Yet I understand that in several States as many as 70 percent of the records do not contain dispositions. I would not be surprised to find that the percentage of incomplete records is ever higher in FBI files since those files are based on State files and the FBI depends upon States and localities for record updating.

A record which shows a disposition of no prosecution, dropped charges, or acquittal may have more value, but it is also highly prejudicial if controls on its dissemination do not exist. The number of such records in Federal, State, and local files is significant. In 1972 there were 8.7 million arrests in the United States. Of those 8.7 million arrests, about 1.7 million were for what the FBI terms serious offenses—homicide, rape, robbery, assault, and so forth. According to the FBI, almost 20 percent of the adults arrested for these serious offenses are never even prosecuted and, of those prosecuted, approximately 30 percent are not convicted. For juvenile arrests and arrests for the 7 million less serious crimes, the percentage of no prosecutions and no convictions is much higher. This suggests that there are probably several million so-called criminal records on persons who were never prosecuted or convicted of the charge for which they were arrested, but which are added to the FBI files each year and available for distribution to any local police department, State civil service commissions, and certain private concerns.

The rap sheet distribution system by the Identification Division of the FBI operates without formal rules. Custom and several letters from the Director of the FBI to local police departments seem to be the only limitation on access to the information. The rap sheets are made available to government licensing agencies, government personnel departments, and, in all too many cases, either directly or indirectly to private employers. By 1973 the magnitude of the dissemination was immense. Each day the Identification Division receives over 11,000 requests for record searches, a large portion of which are from non-law-enforcement agencies.

Unfortunately, when an employer obtains this so-called criminal record information, he is not so concerned with whether the arrest contains disposition of charges or whether the subject was convicted. As far as most employers are concerned, the subject of such a record is a "criminal" and his application is automatically rejected. One survey of New York City employment agencies found that 75 percent would not accept for referral an applicant with an arrest record, whether or not he was convicted. Although the Bureau discourages dissemination of rap sheets to private enterprise for employment purposes. once the information is in the hands of local police, it is effectively out of the control of the Bureau. For example, a few months ago a grand jury in Massachusetts began hearing evidence that State police officers were selling police records to department stores and other private businesses and credit agencies. This unfortunate abuse continues in case after case.

The FBI sends rap sheets to State and municipal civil service commissions as a matter of course. One study found that most State, local and municipal employers consider an arrest record, even one short of a conviction, in determining employment eligibility. As many as 20 percent of these Government employees automatically disqualify someone with an arrest record regardless of the disposition on the record. When you consider these employment policies in light of the fact that the FBI may have rap sheets on almost 10 percent of the population and the fact that Federal, State, and local government employment totals 18 percent of the work force, the impact of this dissemination should be obvious. The FBI does not now have the necessary authority and tools to deal with these and other problems. One purpose of this legislation is to supply the legislative authority that so far is absent.

In 1970, the Law Enforcement Assistance Administration funded a prototype computerized network for sharing criminal offender records. The experiment, called Project SEARCH—system for the electronic analysis and retrieval of criminal histories—took place in the summer of 1970 and demonstrated to the satisfaction of the Justice Department the feasibility of a nationwide computerized network for the exchange of such information. In December of 1970 Attorney General Mitchell authorized the FBI to assume operation of the project SEARCH computerized criminal history—CH—project. The Bureau transferred the CH file to its National Crime Information Center—NCIC—where it already had operational computerized files on stolen securities and persons with outstanding arrest warrants interfaced with a nationwide telecommunications network. The Bureau's ultimate plan is to convert rap sheets received after January 1970 to the CCH file and to also enter into the NCIC/CH file arrests made by any State, local or Federal police office. By 1984 there will be some 8 million records on American citizens contained in NCIC and instantly available to approximately 40,000 local police departments.

The law enforcement community is aware of the dangers inherent in collection and dissemination of criminal history information. According to a recent Justice Department report:

> The potential for misusing a criminal record has been amply demonstrated in court cases involving nonautomated records, particularly affecting employment eligibility. Thoughtful law enforcement officials recognize the danger which comes with automation and the interstate exchange of records. The potential problems arising from disclosure, whether authorized or not, are increased many times over those existing in the manual systems.
>
> Most modern law enforcement officials seriously desire to protect the individual's reasonable right to privacy, particularly in those cases where inclusion in the file may have been a mistake or an unjustified result of the formality of criminal justice processes.

Both Project SEARCH and NCIC have made good faith efforts to develop privacy and security guidelines for the operation of their computerized criminal history files. Project SEARCH created a special committee on privacy and security. Their original Privacy and Security Report, Technical report No. 2—popularly called "Tech 2"—was the first comprehensive proposal for adopting privacy rules to the operation of computerized record systems. This bill, and indeed, most other legislation, can trace its antecedents to this original work. NCIC also established a policy advisory committee for its CCH file soon after it took over operation of the SEARCH/CCH file. That group has drafted informal privacy and security guidelines which are revised periodically and do deal with some of the more difficult issues. However, the regulations are largely hortatory. They place most of the security responsibilities on the local data banks which plug into NCIC and do not provide effective enforcement mechanisms. In all fairness, the Bureau cannot be blamed for these inadequacies. It no doubt feels that without special Federal legislation, it lacks the authority to require State and local users to comply with Federal standards on use and collection of criminal justice information. In any case, the most effective remedies, both civil and criminal, must be firmly based in Federal statutory law. Director Kelley recognizes that and has called for Federal legislation which would replace and supplement the informal guidelines pursuant to which NCIC is presently operated. Both Attorney General Saxbe and his predecessor Attorney General Richardson have recognized the need for legislative action, and have taken the lead in developing administration policy in this area.

III. PRIVACY LEGISLATION ON CRIMINAL JUSTICE DATA BANKS

In preparing legislation on this topic I have been influenced greatly by the writings of Prof. Alan Westin of Columbia Law School and Arthur Miller of Harvard Law School, two of the Nation's experts on data banks and privacy. Also, much credit must be given to the HEW Advisory Committee on Automated Personal Data Systems. I have attempted to draft legislation which comports with the recent report of the National Advisory Committee on Criminal Justice Standards and Goals. This Justice Department Commission sets out four basic "potential hazards to the right of privacy" which any privacy legislation relating to criminal justice data banks must address:

> Certainly, privacy can become seriously damaged when the information contained in the national system is (a) inaccurate, (b) incomplete, (c) unjustified, or (d) improperly disseminated.

All of the privacy standards proposed by the Commission, and all of the provisions of the legislation which I am introducing today are addressed to these potential hazards.

The Advisory Commission placed a high priority in reducing, if not eliminating, the amount of inaccurate information in criminal justice information systems. In the Commission's words:

> Joseph A. Burns, 28, of Magnolia Street could have his entire life seriously harmed because of an unwitting confusion between him and Joseph A. Burns of Cass Avenue or Joseph A. Burns, 19, of no known address.

It proposes several standards to govern the quality of information allowed into criminal justice information systems, and access by data subjects for the purpose of review and challenge of their own records. The Commission also takes a strong position against the distribution of incomplete data, such as a record of an arrest with no indication of the disposition of the charges arising out of that arrest. The recommendations oppose the inclusion of any intelligence information in such systems. According to the Commission:

> The criminal justice information system should not supply any information such as the fact that Mr. A was refused entry across the Canadian border in 1970 for lack of sufficient funds, that Mr. A was identified twice in 1969 by police photo-intelligence personnel in the company of leaders of a peace demonstration, or that Mr. A. was a passenger in a car that was stopped and searched—and was permitted to proceed—by New Jersey authorities in 1969. Even though such information might exist in police intelligence files—and the Commission takes no position here on whether it should—it has no plaec in the criminal justice information system.

In my judgment, this is one of the most important issues, and my legislation fully endorses this position.

The report proposes a number of enforcement mechanism to insure that its standards are obeyed. It recommends civil and criminal sanctions, the creation of state regulatory commissions and mandatory system audits to insure compliance. My legislation contains similar provisions.

The most difficult question with which the Commission deals and which is also addressed in my legislation, is the question of who shall have access to information contained in criminal justice data banks. In particular, should criminal justice information be made available to noncriminal justice agencies? The Commission answers that question as follows:

> Easy availability of criminal justice information files for credit checks, pre-employment investigations, and other noncriminal justice activities is highly prejudicial to the operation of a secure information system designed only for law enforcement agencies.

I heartily agree and my legislation reflects that position.

IV. THE CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

The Criminal Justice Information Control and Protection of Privacy Act of 1974 is intended to provide a basis for discussion and hearings. It does not pretend to be a final statement on the subject. However, the bill is quite detailed and attempts a resolution of all the major privacy and security issues which have arisen in the development of law enforcement data banks. It endeavors to balance the legitimate needs of law enforcement with the requirements of individual liberty and privacy. It would for the first time give firm statutory authority for criminal justice data banks, a major obstacle in the development of such systems. It would impose upon the data banks strict but manageable privacy limitations. Not the least important, the bill also attempts to solve fundamentally important questions of Federal-State relationships in these comprehensive national information systems.

The bill is divided into three titles. The first title sets out the definitions of 19 terms used in the act. The second title sets out general statutory rules for the collection and dissemination of routine information as well as the more sensitive intelligence information. In the most controversial areas this title sets out specific legislative solutions. For example, there is a complete ban on non-criminal justice use of incomplete information such as raw arrest records. In certain areas, such as right of access, this title sets out general rules but leaves discretion to the States and localities. The third title of the act establishes a joint Federal-State administrative structure for enforcement of the act and for actual operation of interstate criminal justice data banks such as NCIC. This title also requires the States to establish a similar administrative structure for intrastate computer systems.

The highlights of the bill are as follows:

Scope.—The bill would reach criminal justice data banks operated by Federal, State, or local governments. Comprehensive legislation must reach every possible component of the complex interstate data bank network which has grown up in the past decade. Congress cannot depend solely upon internal State legislative action because no one State can effectively regulate what happens to arrest records, and other criminal justice information or intelligence information which finds its way into a data bank in another State. The fact that these systems use interstate communications facilities, are connected with other State systems, or joined with interstate and Federal networks provides, together with the widespread Federal financial support, the necessary constitutional nexus for the legislation.

Focus.—The bill is directed primarily and in the greatest detail at those types of records which have been abused the most—arrest records and so-called "criminal history" records. With regard to records where there are few reported cases of abuse, such as identification records, wanted records or outstanding warrant records, the legislation is much more flexible. In the case of intelligence records, where the potential for abuse is great, the legislation bars computerized information systems. I expect that in the course of hearings on this legislation technical problems will be raised with the specific language used for arrest and criminal history records; that abuses of identification records will be identified; and that law enforcement agencies may make a case for specific exceptions to the ban on computerization of intelligence information or propose concrete suggestions for the regulation of these systems in lieu of an outright prohibition on computerization. One purpose of this bill is to serve as a basis for hearings and discussion on the privacy and data banks controversy.

General dissemination rules: The bill adopts the position of the Senate in its twice unanimously adopted Bible-Ervin rider to recent Justice Department appropriation bills and permits only complete conviction records to be distributed to private employers and other non-law-enforcement users. Here again the bill opts in favor of limited dissemination in the case of records which have an established history of abuse—incomplete arrest and criminal history records. On the question of exchange between law enforcement agencies, the bill adopts a position similar to that of the National Advisory Commission. Generally, only conviction records could be exchanged between police departments. A criminal history record or even a raw arrest record could be given to another department only after the requesting agency had rearrested thes ubject. It may be the hearings will suggest other limited instances in which raw arrest records can be used.

Updating.—Operators of criminal justice data banks would have to keep all of their records as up to date as in technically feasible and records would have to be accurate. Each data bank must also keep logs reflecting those to whom raw arrest records and certain other sensitive information is sent so that incomplete, inaccurate, or challenged records can be tracked down and corrected or destroyed. The purpose of these provisions is to create an accounting system for information which is permitted to enter and circulate in the data bank network. Strict rules on collection and dissemination are unenforceable if there is no method for keeping track of information flow and meaningless without a requirement that information be as accurate and up to date as possible.

Right of access.—The bill provides every citizen with a right to access any data bank, whether computerized or not, for the purpose of challenge and correction. The challenge procedure includes a hearing before the supervisory personnel of the data bank and if necessary, an appeal to a U.S. District Court. Every significant piece of privacy legislation, including the two administration arrest records bills introduced in the last Congress, contain a citizen access provision similar to the one proposed in this bill.

Civil and criminal penalties.—Operators of data banks will be held criminally and civilly liable for violations of the act. Liability will arise where there is negligence as well as willfullness. Liquidated damages of $100 for each violation would be available, plus complete recovery for all actual and general damages, and where appropriate, exemplary damages, litigation costs and attorneys' fees. This legislation will only command respect if operating personnel and their agencies are held civilly liable for their negligent failure to comply with the letter of each provision.

Administrative provisions.—The bill would create a new independent Federal-State cooperative agency to oversee enforcement of the act. The agency will issue regulations, go to court to enjoin violations and actually take over policy control of the Federal interstate criminal history data bank (NCIC). The purpose of these provisions is to create an agency, which is outside the present law enforcement community and without vested interests in present law enforcement data banks, to administer the act. These provisions of the bill also would give the States their proper role in the development of policy. Representatives of each State will share in the formulation of regulations issued pursuant to the act.

These administrative provisions reflect the concern expressed by many representatives of State and local law enforcement agencies that legislation not delegate great powers to the Federal Government and thereby subordinate the States in the operation of a law-enforcement responsibility that is properly theirs. While none of us in Congress or in the Federal Government desire to see a Federal police force, we must recognize that Federal involvement inevitably leads to Federal control. We must be alert to this trend in law enforcement even if we have been a little lax in other areas over the years. Total Federal control over the information systems of State and local police forces is one sure path to a federalized police system in fact if not in name. It might be best to return to the original LEAA plan for project SEARCH. That was a State-controlled, State-operated interstate system, with the Federal Government playing a limited role in providing financing and research. If that is not possible, then the next best approach is a true Federal-State arrangement such as I have proposed in this bill. This is one area where the President's ideal of a New Federalism ought to take concrete form. Since I expect that the States will welcome a return to greater State responsibility and the idea does conform to the New Federalism idea, I have great hopes of a general agreement on this important aspect of the bill.

System audits.—The bill provides for audits of practices and procedures of criminal justice data banks on a random basis by the new independent Federal-State agency and by the States themselves. Most privacy experts agree that systematic audits by outside agencies is a necessary adjunct to civil remedies and citizen rights of access and challenge for enforcement of effective legislation. As long as data bank operators realize that they are subject to random audit by independent computer experts, they are unlikely to ignore the restrictions set out in the act.

V. CONCLUSION

In conclusion, I would like to reaffirm my earlier statement that this legislation is introduced to provoke discussion and to serve as the basis of hearings. Neither I, nor any of the cosponsors feel wedded to all of the provisions of the bill. The Justice Department has been working on similar legislation for the past several months. The President described this legislation in his state of the Union address. I understand that the administration's bill is quite similar in approach to my own, though there are significant technical differences of the two bills. I welcome the administration's effort in this regard and I firmly believe that this issue is both of sufficient national importance and is of such technical complexity that a bipartisan approach is absolutely necessary. In this spirit, I am announcing today hearings before the Subcommittee on Constitutional Rights, which has jurisdiction over this subject, for the purpose of a complete and objective review of both proposals. I consider both my proposal and the Justice Department's forthcoming proposal of equal interest to the subcommittee. I hope that through the hearings which will begin in the near future, we can work out a consensus both within the subcommittee and with the administration so that privacy legislation relating to criminal justice data banks can be enacted before the end of the Congress.

I ask unanimous consent that the bill, a section-by-section analysis of the bill, two columns written by William Safire and Tom Wicker from the New York Times, an editorial in the Washington Post, calling for Federal legislation on this question, be reprinted at this point in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and without objection, the bill and the material will be printed in the RECORD, as requested.

S. 2963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Information Control and Protection of Privacy Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS

CONGRESSIONAL FINDINGS AND DECLARATION POLICY

SEC. 101. The Congress finds and declares that the several States and the United States have established criminal justice information systems which have the capability of transmitting and exchanging criminal justice information between or among each of the several States and the United States; that the exchange of this information by Federal agencies is not clearly authorized by existing law; that the exchange of this information has great potential for increasing the capability of criminal justice agencies to prevent and control crime; that the exchange of inaccurate or incomplete records of such information can do irreparable injury to the American citizens who are the subjects of the records; that the increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from misuse of these systems; that citizens' opportunities to secure employment and credit and their right to due process, privacy, and other legal protections are endangered by misuse of these systems; that in order to secure the constitutional rights guaranteed by the first amendment, fourth amendment, fifth amendment, sixth amendment, ninth amendment, and fourteenth amendment, uniform Federal legislation is necessary to govern these systems; that these systems are federally funded, that they contain information obtained from Federal sources or by means of Federal funds, or are otherwise supported by the Federal Government; that they utilize interstate facilities of communication and otherwise affect commerce between the States; that the great diversity of statutes, rules, and regulations among the State and Federal systems require uniform Federal legislation; and that in order to insure the security of criminal justice information systems, and to protect the privacy of individuals named in such systems, it is necessary and proper for the Congress to regulate the exchange of such information.

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) "Information system" means a system, whether automated or manual, operated or leased by Federal, regional, State, or local government or governments, including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of information.

(2) "Criminal justice information system" means an information system for the collection, processing, preservation, or dissemination of criminal justice information.

(3) "Criminal justice intelligence information system" means an information system for the collection, processing, preservation, or dissemination of criminal justice intelligence information.

(4) "Automated system" means an information system that utilizes electronic computers, central information storage facilities, telecommunications lines, or other automatic data processing equipment used wholly or in part for data collection, analysis, or display as distinguished from a system in which such activities are performed manually.

(5) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pendng due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, deceased, deferred disposition, dismissed civil action, extradited, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, or executive clemency.

(6) "Dissemination" means the transmission of information, whether orally or in writing.

(7) "Criminal justice information" means information on individuals collected or disseminated, as a result of arrest, detention, or the initiation of criminal proceeding, by criminal justice agencies, including arrest record information, correctional and release information, criminal history record information, conviction record information, identification record information, and wanted persons record information. The term shall not include statistical or analytical records or reports, in which individuals are not identified and from which their identities are not ascertainable. The term shall not include criminal justice intelligence information.

(8) "Arrest record information" means information concerning the arrest, detention, or commencement of criminal proceedings on an individual which does not include the disposition of the charge arising out of that arrest, detention, or proceeding.

(9) "Correctional and release information" means information on an individual compiled by a criminal justice or noncriminal justice agency in connection with bail, pretrial or posttrial release proceedings, reports on the mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports.

(10) "Criminal history record information" means information disclosing both that an individual has been arrested or detained or that criminal proceedings have been commenced against an individual and that there has been a disposition of the criminal charge arising from that arrest, detention, or commencement of proceedings. Criminal history record information shall disclose whether such disposition has been disturbed, amended, supplemented, reduced, or repealed by further proceedings, appeal, collateral attack, or otherwise.

(11) "Conviction record information" means information disclosing that a person

has pleaded guilty or nolo contendere to or was convicted on any criminal offense in a court of justice, sentencing information, and whether such plea or judgment has been modified.

(12) "Identification record information" means fingerprint classifications, voice prints, photographs, and other physical descriptive data concerning an individual which does not include any indication or suggestion that the individual has at any time been suspected of or charged with criminal activity.

(13) "Wanted persons record information" means identification record information on an individual against whom there is an outstanding arrest warrant including the charge for which the warrant was issued and information relevant to the individual's danger to the community and such other information that would facilitate the regaining of the custody of the individual.

(14) "Criminal justice intelligence information" means information on an individual on matters pertaining to the administration of criminal justice, other than criminal justice information, which is indexed under an individual's name or which is retrievable by reference to identifiable individuals by name or otherwise. This term shall not include information on criminal justice agency personnel, or information on lawyers, victims, witnesses, or jurors collected in connection with a case in which they were involved.

(15) "The administration of criminal justice" means any activity by a governmental agency directly involving the apprehension, detention, pretrial release, posttrial release, prosecution, defense adjudication, or rehabilitation of accused persons or criminal offenders or the collection, storage, dissemination, or usage of criminal justice information.

(16) "Criminal justice agency" means a court sitting in criminal session or a governmental agency created by statute or any subunit thereof created by statute, which performs as its principal function, as expressly authorized by statute, the administration of criminal justice. Any provision of this Act which relates to the activities of a criminal justice agency also relates to any information system under its management control or any such system which disseminates information to or collects information from that agency.

(17) "Purge" means to remove information from the records of a criminal justice agency or a criminal justice information system so that there is no trace of information removed and no indication that such information was removed.

(18) "Seal" means to close a record possessed by a criminal justice agency or a criminal justice information system so that the information contained in the record is available only (a) in connection with research pursuant to section 201(d), (b) in connection with review pursuant to section 207 by the individual or his attorney, (c) in connection with an audit pursuant to section 206, or (d) on the basis of a court order pursuant to section 205.

(19) "Judge of competent jurisdiction" means (a) a judge of a United States district court or a United States court of appeals; (b) a Justice of the Supreme Court of the United States; and (c) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing access to criminal justice information.

(20) "Attorney General" means the Attorney General of the United States.

(21) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

TITLE II—COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

DISSEMINATION, ACCESS, AND USE—GENERALLY

SEC. 201. (a) Criminal justice information may be maintained or disseminated, by compulsory process or otherwise, outside the criminal justice agency which collected such information, only as provided in this Act.

(b) Criminal justice information may be collected only by or disseminated only to officers and employees of criminal justice agencies: *Provided, however*, That beginning two years after enactment of this Act such information may be collected only by or disseminated only to officers and employees of criminal justice agencies which are expressly authorized to receive such information by Federal or State statute. Criminal justice information shall be used only for the purpose of the administration of criminal justice.

(c) Except as otherwise provided by this Act, conviction record information may be made available for purposes other than the administration of criminal justice only if expressly authorized by applicable State or Federal statute.

(d) Criminal justice information may be made available to qualified persons for research related to the administration of criminal justice under regulations issued by the Federal Information Systems Board, created pursuant to title III. Such regulations shall require preservation of the anonymity of the individuals to whom such information relates, shall require the completion of nondisclosure agreements by all participants in such programs and shall impose such additional requirements and conditions as the Federal Information Systems Board finds to be necessary to assure the protection of privacy and security interests. In formulating regulations pursuant to this section the Board shall develop procedures designed to prevent this section from being used by criminal justice agencies to arbitrarily deny access to criminal justice information to qualified persons for research purposes where they have otherwise expressed a willingness to comply with regulations issued pursuant to this section.

DISSEMINATION OF CERTAIN CRIMINAL JUSTICE INFORMATION TO CRIMINAL JUSTICE AGENCIES

SEC. 202. (a) Except as otherwise provided in this section and in section 203, a criminal justice agency may disseminate to another criminal justice agency only conviction record information.

(b) A criminal justice agency may disseminate arrest record information on an individual to another criminal justice agency—

(1) if that individual has applied for employment at the latter agency and such information is to be used for the sole purpose of screening that application,

(2) if the matter about which the arrest record information pertains has been referred to the latter agency for the purpose of commencing or adjudicating criminal proceedings and that agency may use the information only for a purpose related to that proceeding, or

(3) if the latter agency has arrested, detained, or commenced criminal proceedings against that individual for a subsequent offense, and the arrest record information in the possession of the former agency indicates (A) that there was a prior arrest, detention, or criminal proceeding commenced occurring less than one year prior to the date of the request, and (B) that active prosecution is still pending on the prior charge. In computing the one-year period, time during which the individual was a fugitive shall not be counted. The indication of all revelant facts concerning the status of the prosecution on the prior arrest, detention, or proceeding must be sent to the latter agency and that agency may use the information only for a purpose related to the subsequent arrest, detention, or proceeding.

(c) A criminal justice agency may disseminate criminal history record information on an individual to another criminal justice agency—

(1) if that individual has applied for employment at the latter agency and such information is to be used for the sole purpose of screening that application,

(2) if the matter about which the criminal history information pertains has been referred to the latter agency for the purpose of commencing or adjudicating criminal proceedings or for the purpose of preparing a pretrial release, posttrial release, or presentence report and that the agency may use the information only for a purpose related to that proceeding or report, or

(3) if the requesting agency has arrested, detained, or commenced criminal proceedings against that individual for a subsequent offense or if the agency is preparing a pretrial release, posttrial release, or presentence report on a subsequent offense and such information is to be used only for a purpose related to that arrest, detention, or proceeding.

(d) A criminal justice agency may disseminate correctional and release information to another criminal justice agency or to the individual to whom the information pertains, or his attorney, where authorized by Federal or State statute.

(e) This section shall not bar any criminal justice agency which lawfully possesses arrest record information from obtaining or disseminating dispositions in order to convert that arrest record information to criminal history information. Nor shall this section bar any criminal justice information system to act as a central repository of such information so long as a State statute expressly so authorizes and so long as that statute would in no way permit that system to violate or to facilitate violation of any provision of this Act. Nor shall this section bar any criminal justice agency from supplying criminal history information to any criminal justice information system established in the Federal Government pursuant to section 307 of this Act.

DISSEMINATION OF IDENTIFICATION RECORD INFORMATION AND WANTED PERSONS RECORD INFORMATION

SEC. 203. Identification record information may be disseminated to criminal justice and to noncriminal justice agencies for any purpose related to the administration of criminal justice. Wanted persons information may be disseminated to criminal justice and noncriminal justice agencies only for the purpose of apprehending the subject of the information.

SECONDARY USE OF CRIMINAL JUSTICE INFORMATION

SEC. 204. Agencies and individuals having access to criminal justice information shall not, directly or through any intermediary, disseminate, orally or in writing, such information to any individual or agency not authorized to have such information nor use such information for a purpose not authorized by this Act; Provided, however, That rehabilitation officials of criminal justice agencies with the consent of the person under their supervision to whom it refers may orally represent the substance of such individual's criminal history record information to prospective employers if such representation is in the judgment of such officials and the individual's attorney, if represented by counsel, helpful to obtaining employment for such individual. In no event shall such correctional officials disseminate records or copies of records of criminal history record information to any unauthorized individual or agency. A court may disclose criminal justice information on an individual in a published opinion or in a public criminal proceeding.

METHOD OF ACCESS AND ACCESS WARRANTS

SEC. 205. (a) Except as provided in subsection 201(d) or in subsection (b) of this section, an automated criminal justice information system may disseminate arrest record information, criminal history record information, or conviction record information on an individual only if the inquiry is based upon positive identification of the individual by means of identification record information. The Federal Information Systems Board shall issue regulations to prevent dissemination of such information except in the above situations, where inquiries are based upon categories of offenses or data elements other than identification record information. For the purposes of this section "positive identification" means identification by means of fingerprints or other reliable identification record information.

(b) Notwithstanding the provisions of subsection (a), access to arrest record information, criminal history record information, or conviction record information contained in automated criminal justice information systems on the basis of data elements other than identification record information shall be permissible if the criminal justice agency seeking such access has first obtained a class warrant from a State judge of competent jurisdiction, if the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the information sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the criminal justice agency's responsibilities in the administration of criminal justice and the information sought to be obtained is not reasonably available from any other source or through any other method. A summary of each request for such a warrant, together with a statement of its disposition, shall within ninety days of disposition be furnished the Federal Information Systems Board by the judge.

(c) Access to criminal justice information which has been sealed pursuant to section 206 shall be permissible if the criminal justice agency seeking such access has obtained an access warrant from a State judge of competent jurisdiction of the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the informtion sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the crimilan justice agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method.

SECURITY, ACCURACY, UPDATING, AND PURGING

SEC. 206. Each criminal justice information system shall adopt procedures reasonably designed—

(a) To insure the physical security of the system, to prevent the unauthorized disclosure of the information contained in the system, and to insure that the criminal justice information in the system is currently and accurately revised to include subsequently received information. The procedures shall also insure that all agencies to which such records are disseminated or from which they are collected are currently and accurately informed of any correction, deletion, or revision of the records. Such regulations shall require that automated systems shall as soon as technically feasible inform any other information system or agency which has direct access to criminal justice information contained in the automated system of any disposition relating to arrest record information on an individual or any other change in criminal justice information in the automated system's possession.

(b) To insure that criminal justice information is purged or sealed when required by State or Federal statute, State or Federal regulations, or court order, or when, based on considerations of age, nature of the record, or the interval following the last entry of information indicating that the individual is under the jurisdiction of a criminal justice agency, the information is unlikely to provide a reliable guide to the behavior of the individual. Such procedures shall, as a minimum, provide—

(1) for the prompt sealing or purging of criminal justice information relating to an individual who has been free from the jurisdiction or supervision of any law enforcement agency for (A) a period of seven years if such individual has previously been convicted of an offense classified as a felony under the laws of the jurisdiction which such conviction occurred, or (B) a period of five years, if such individual has previously been convicted of a nonfelonious offense as classified under the laws of the jurisdiction where such conviction occurred, or (C) a period of five years if no conviction of the individual occurred during that period, no prosecution is pending at the end of the period, and the individual is not a fugitive; and

(2) for the prompt sealing or purging of criminal history record information in any case in which the police have elected not to refer the case to the prosecutor or in which the prosecutor has elected not to commence criminal proceedings.

(c) To insure that criminal justice agency personnel may use or disseminate criminal justice information only after determining it to be the most accurate and complete information available to the criminal justice agency. Such regulations shall require that, if technically feasible, prior to the dissemination of arrest record information by automated criminal justice information systems, an inquiry is automatically made of and a response received from the agency which contributed that information to the system to determine whether a disposition is available.

(d) To insure that information may not be submitted, modified, updated, disseminated, or removed from any criminal justice information system without verification of the identity of the individual to whom the information refers and an indication of the person or agency submitting, modifying, updating, or removing the information.

ACCESS BY INDIVIDUALS FOR PURPOSES OF CHALLENGE

SEC. 207. (a) Any individual who believes that a criminal justice information system or criminal justice agency maintains criminal justice information concerning him, shall upon satisfactory verification of his identity, be entitled to review such information in person or through counsel and to obtain a certified copy of it for the purpose of challenge, correction, or the addition of explanatory material, and in accordance with rules adopted pursuant to this section, to challenge, purge, seal, delete, correct, and append explanatory material.

(b) Each criminal justice agency and crimial justice information system shall adopt and publish regulations to implement this section which shall, as a minimum, provide—

(1) the time, place, fees to the extent authorized by statute, and procedure to be followed by an individual or his attorney in gaining access to criminal justice information;

(2) that any individual whose record is not purged, sealed, modified, or supplemented after he has so requested in writing shall be entitled to a hearing within thirty days of such request before an official of the agency or information system authorized to purge, seal, modify, or supplement the criminal justice information at which time the individual may appear with counsel, present evidence, and examine and cross-examine witnesses;

(3) any record found after such a hearing to be inaccurate, incomplete, or improperly maintained shall, within thirty days of the date of such finding, be appropriately modified, supplemented, purged, or sealed;

(4) each criminal justice information system shall keep and, upon request, disclose to such person the name of all persons, organizations, criminal justice agencies, noncriminal justice agencies, or criminal justice information systems to which the date upon which such criminal justice information was disseminated;

(5) (A) beginning on the date that a challenge has been made to criminal justice information pursuant to this section, and until such time as that challenge is finally resolved, any criminal justice agency or information system which possesses the information shall disseminate the fact of such challenge each time it disseminates the challenged criminal justice information. In the case of a challenge to criminal justice information maintained by an automated criminal justice information system, such system shall automatically inform any other information system or criminal justice agency to which such automated system has disseminated the challenged information in the past, of the fact of the challenge and its status;

(B) if any corrective action is taken as a result of a review or challenge filed pursuant to this section, any agency or system which maintains or has ever received the uncorrected criminal justice information shall be notified as soon as practicable of such correction and immediately correct its records of such information. In the case of the correction of criminal justice information maintained by an automated criminal justice information system, any agency or system which maintains or has ever received the uncorrected criminal justice information shall if technically feasible be notified immediately of such correction and shall immediately correct its records of such information; and

(6) the action or inaction of a criminal justice information system or criminal justice agency on a request to review and challenge criminal justice information in its possession as provided by this section shall be reviewable by the appropriate United States district court pursuant to a civil action under section 308.

(c) No individual who, in accord with this section, obtains criminal justice information regarding himself may be required or requested to show or transfer records of that information to any other person or any other public or private agency or organization: *Provided, however,* That if a Federal or State statute expressly so authorizes, conviction record information may be disseminated to noncriminal justice agencies and an individual might be requested or required to show or transfer copies of records of such conviction record information to such noncriminal justice agencies.

INTELLIGENCE SYSTEMS

SEC. 208. (a) Criminal justice intelligence information shall not be maintained in criminal justice information systems.

(b) Criminal justice intelligence information shall not be maintained in automated systems.

TITLE III—ADMINISTRATIVE PROVISIONS; REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

FEDERAL INFORMATION SYSTEMS BOARD

SEC. 301. (a) CREATION AND MEMBERSHIP.—There is hereby created a Federal Information Systems Board (hereinafter the "Board") which shall have overall responsibility for the administration and enforcement of this

Act. The Board shall be composed of nine members. One of the members shall be the Attorney General and two of the members shall be designated by the President as representatives of other agencies outside of the Department of Justice. The six remaining members shall be appointed by the President with the advice and consent of the Senate. Of the six members appointed by the President, three shall be either directors of statewide criminal justice information systems or members of the Federal Information Systems Advisory Committee at the time of their appointment. The three remaining Presidential appointees shall be private citizens well versed in the law of privacy, constitutional law, and information systems technology. The President shall designate one of the six Presidential appointees as Chairman and such designation shall also be confirmed by the advice and consent of the Senate.

(b) COMPENSATION OF MEMBERS AND QUORUM.—Members of the Board appointed by the President shall be compensated at the rate of $100 per day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code. Five members shall constitute a quorum for the transaction of business.

(c) AUTHORITY.—For the purpose of carrying out its responsibilities under the Act the Board shall have authority to—

(1) issue regulations as required by section 303;

(2) review and disapprove of regulations issued by a State agency pursuant to section 304 or by any criminal justice agency which the Board finds to be inconsistent with this Act;

(3) exercise the powers set out in subsection 307(d);

(4) bring actions under section 308 for declaratory and injunctive relief;

(5) operate an information system for the exchange of criminal justice information among the States and with the Federal Government pursuant to section 307;

(6) supervise the installation and operation of any criminal justice information system or criminal justice intelligence information system operated by the Federal Government;

(7) conduct an ongoing study of the policies of various agencies of the Federal Government in the operation of information systems;

(8) require any department or agency of the Federal Government or any criminal justice agency to submit to the Board such information and reports with respect to its policy and operation of information systems or with respect to its collection and dissemination of criminal justice information or criminal justice intelligence information and such department or agency shall submit to the Board such information and reports as the Board may reasonably require; and

(9) conduct audits as required by section 306.

(d) OFFICERS AND EMPLOYEES.—The Board may appoint and fix the compensation of a staff director, legal counsel, and such other staff personnel as it deems appropriate.

(e) REPORT TO CONGRESS AND TO THE PRESIDENT.—The Board shall issue an annual report to the Congress and to the President. Such report shall at a minimum contain—

(1) the results of audits conducted pursuant to section 306;

(2) a summary of public notices filed by criminal justice information systems, criminal justice intelligence information systems, and criminal justice agencies pursuant to section 305; and

(3) any recommendations the Board might have for new legislation on the operation or control of information systems or on the collection and control of criminal justice information or criminal justice intelligence information.

FEDERAL INFORMATION SYSTEMS ADVISORY COMMITTEE

SEC. 302. (a) CREATION AND MEMBERSHIP.—There is hereby created a Federal Information Systems Advisory Committee (hereinafter called the Committee) which shall advise the Board on its activities. The Committee shall be composed of one representative from each State appointed by the Governor, who shall serve at the pleasure of the Governor. However, once the State has created an agency pursuant to subsection 304 (b), the State's representative on the Committee shall be designated by that agency and shall serve at the pleasure of that agency.

(b) CHAIRMAN AND SUBCOMMITTEE.—The Committee shall be convened by the Board and at its first meeting shall elect a chairman from its membership. The Committee may create an executive committee and such other subcommittees as it deems necessary.

(c) AUTHORITY.—The Committee shall make any recommendations it deems appropriate to the Board concerning the Board's responsibilities under this Act, including its recommendations concerning regulations to be issued by the Board pursuant to section 303, concerning the Board's operation of interstate information systems pursuant to section 307, and concerning any recommendations which the Board might make in its annual report to Congress and the President.

(d) OFFICERS AND EMPLOYEES.—The Committee shall have access to the services and facilities of the Board and if the Board deems necessary the Committee shall have its own staff.

FEDERAL REGULATIONS

SEC. 303. The Board shall, after appropriate consultation with the Committee and other representatives of State and local criminal justice agencies participating in information systems covered by this Act and other interested parties, promulgate such rules, regulations, and procedures as it may deem necessary to effectuate the provisions of this Act. The Board shall follow the provisions of the Administrative Procedures Act with respect to the issuance of such rules. All regulations issued by the Board or any criminal justice agency pursuant to this Act shall be published and easily accessible to the public.

STATE REGULATIONS AND CREATION OF STATE INFORMATION SYSTEMS BOARD

SEC. 304. Beginning two years after enactment of this Act, no criminal justice agency shall collect criminal justice information from, nor disseminate criminal justice information to, a criminal justice agency—

(a) which has not adopted all of the operating procedures required by sections 206 and 207 and necessitated by other provisions of the Act; or

(b) which is located in a State which has failed to create a State information systems board. The State information systems board shall be an administrative body which is separate and apart from existing criminal justice agencies and which will have statewide authority and responsibility for:

(1) the enforcement of the provisions of this Act and any State statute which serves the same goals;

(2) the issuance of regulations, not inconsistent with this Act, regulating the exchange of criminal justice information and criminal justice intelligence information systems and the operation of criminal justice information systems and the operation of criminal justice intelligence information systems; and

(3) the supervision of the installation of criminal justice information systems, and criminal justice intelligence information systems, the exchange of information by such systems within that State and with similar systems and criminal justice agencies in other States and in the Federal Government.

PUBLIC NOTICE REQUIREMENT

SEC. 305. (a) Any criminal justice agency maintaining an automated criminal justice information system or a criminal justice intelligence information system shall give public notice of the existence and character of its system once each year. Any agency maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any agency proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall be transmitted to the Board and shall specify—

(1) the name of the system;

(2) the nature and purposes of the system;

(3) the categories and number of persons on whom data are maintained;

(4) the categories of data maintained, indicating which categories are stored in computer-accessible files;

(5) the agency's operating rules and regulations issued pursuant to section 206 and 207, the agency's policies and practices regarding data information storage, duration of retention of information, and disposal thereof;

(6) the categories of information sources;

(7) a description of all types of use made of information, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them; and

(8) the title, name, and address of the person immediately responsible for the system.

(b) Any criminal justice agency, criminal justice information system, or criminal justice intelligence information system operated by the Federal Government shall satisfy the public notice requirement set out in subsection (a) of this section by publishing the information required by that subsection in the Federal Register.

ANNUAL AUDIT

SEC. 306. (a) At least once annually the Board shall conduct a random audit of the practices and procedures of the Federal agencies which collect and disseminate information pursuant to this Act to insure compliance with its requirements and restrictions. The Board shall also conduct such an audit of at least ten statewide criminal justice information systems each year and of every statewide and multistate system at least once every five years.

(b) Each criminal justice information system shall conduct a similar audit of its own practices and procedures once annually. Each State agency created pursuant to subsection 304(b) shall conduct an audit on each criminal justice information system and each criminal justice intelligence information system operating in that State on a random basis, at least once every five years.

(c) The results of such audits shall be made available to the Board which shall report the results of such audits once annually to the Congress by May 1 of each year beginning on May 1 following the first full calendar year after the effective date of the Act.

PARTICIPATION BY THE BOARD

SEC. 307. (a) Subject to the limitations of subsections (b) and (c) of this section, the Board may participate in interstate criminal justice information systems, including the provision of central information storage facilities and telecommunications lines for interstate transmission of information.

(b) Facilities operated by the Board may include criminal history record information on an individual relating to a violation of the criminal laws of the United States, violations of the criminal laws of two or more States, or a violation of the laws of another nation. As to all other individuals, criminal justice information included in Board facilities shall consist only of information sufficient to establish the identity of the individuals, and the identities and locations of criminal justice agencies possessing other types of criminal justice information concerning such individuals.

(c) Notwithstanding the provisions of subsection (b), the Board may maintain criminal history record information submitted by a State which otherwise would be unable to participate fully in a criminal history record information system because of the lack of facilities or procedures but only until such time as such State is able to provide the facilities and procedures to maintain the records in the State, and in no case for more than five years. Criminal history record information maintained in Federal facilities pursuant to this subsecsection shall be limited to information on offenses classified as felonies under the jurisdiction where such offense occurred.

(d) If the Board finds that any criminal justice information system or criminal justice agency has violated any provision of this Act, it may (1) interrupt or terminate the exchange of information as authorized by this section, or (2) interrupt or terminate the use of Federal funds for the operation of such a system or agency, or (3) require the system or agency to return Federal funds distributed in the past, or it may take any combination of such actions or (4) require the system or agency to discipline any employee responsible for such violation.

CIVIL REMEDIES

SEC. 308. (a) Any person aggrieved by a violation of this Act shall have a civil action for damages or any other appropriate remedy against any person, system, or agency responsible for such violation after he has exhausted the administrative remedies provided by section 207.

(b) The Board or any State agency created pursuant to subsection 304(b) shall have a civil action for declaratory judgments, cease and desist orders, and such other injunctive relief against any criminal justice agency, criminal justice information system, or criminal justice intelligence information system within its regulatory jurisdiction.

(c) Such person, agency, or the Board may bring a civil action under this Act in any district court of the United States for the district in which the violation occurs, or in any district court of the United States in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia.

(d) The United States district court in which an action is brought under this Act shall have exclusive jurisdiction without regard to the amount in controversy. In any action brought pursuant to this Act, the court may in its discretion issue an order enjoining maintenance or dissemination of information in violation of this Act, or correcting records of such information or any other appropriate remedy except that in an action brought pursuant to subsection (b) the court may order only declaratory or injuctive relief. In any action brought pursuant to this Act the court may also order the Board to conduct an audit of the practices and procedures of the agency in question to determine whether information is being collected and disseminated in a manner inconsistent with the provisions of this Act.

(e) In an action brought pursuant to subsection (a), any person aggrieved by a violation of this Act shall be entitled to a $100 recovery for each violation plus actual and general damages and reasonable attorneys' fees and other litigation costs reasonably incurred. Exemplary and punitive damages may be granted by the court in appropriate cases brought pursuant to subsection (a). Any person, system, or agency responsible for violations of this Act shall be jointly and severally liable to the person aggrieved for damages granted pursuant to this subsection. Any criminal justice information system or any criminal justice intelligence information system which facilitates the transfer of information in violation of this Act shall be jointly and severally liable along with any criminal justice agency or person responsible for a violation of this Act.

(g) For the purposes of this Act the United States shall be deemed to have consented to suit and any agency or system operated by the United States, found responsible for a violation shall be liable for damages, reasonable attorneys' fees, and litigation cost as provided in subsection (f) notwithstanding any provisions of the Federal Tort Claims Act.

CRIMINAL PENALTIES

SEC. 309. Whoever willfully disseminates, maintains, or uses information knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $5,000 or imprisoned for not more than five years, or both.

PRECEDENCE OF STATE LAWS

SEC. 310. (a) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information or criminal justice intelligence information or the operation of criminal justice information systems or criminal justice intelligence information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in this Act shall take precedence over this Act or regulations issued pursuant to this Act.

(b) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information or criminal justice intelligence information or the operation of criminal justice information systems or criminal justice intelligence information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in the State law or regulations of another State shall take precedence over the law or regulations of the latter State where such information is disseminated from an agency or information system in the former State to an agency, information system, or individual in the latter State. Subject to court review pursuant to section 308, the Board shall be the final authority to determine whether a State statute or regulation shall take precedence under this section and shall as a general matter have final authority to determine whether any regulations issued by a State agency, a criminal justice agency, or information system violate this Act and are therefore null and void.

APPROPRIATIONS AUTHORIZED

SEC. 311. For the purpose of carrying out the provisions of this Act there are authorized to be appropriated such sums as the Congress deems necessary.

SEVERABILITY

SEC. 312. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPEALERS

SEC. 313. The second paragraph under the headings entitled "Federal Bureau of Investigation; Salaries and Expenses" contained in the "Department of Justice Appropriations Act, 1973" is hereby repealed.

EFFECTIVE DATE

SEC. 314. The provisions of this Act shall take effect upon the date of expiration of the one-hundred-and-eighty-day period following the date of the enactment of this Act: *Provided, however,* That section 311 of this Act shall take effect upon the date of enactment of this Act.

CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

SECTION-BY-SECTION DISCUSSION

Title I—Findings and declaration of policy; definitions

Section 101 summarizes the constitutional, legal and practical reasons Congress is taking action to regulate the exchange of criminal justice information. It also states the constitutional authority to legislate: the Commerce clause and the Federal participation in state and interstate information systems.

Section 102 lists definitions of terms used in the proposed legislation. The definitions are important because they establish the scope of coverage of the legislation. For example "criminal justice agency" is defined so that the restrictions on data collection and dissemination contained in the bill cover any state, local or Federal governmental agency maintaining such data.

"Criminal justice information" is defined so that limited exchange of routine information reflecting the status of a criminal case and its history, or reports compiled for bail or probation can be exchanged between governmental agencies. All other information referenced under an individual's name and related to criminal activity is called "criminal justice intelligence" and is placed under stricter limitations.

Title II—Collection and dissemination of criminal justice information and criminal justice intelligence information

Section 201 sets the general policy on the collection and dissemination of criminal justice information. Criminal justice information can only be used for criminal justice purposes unless a state or Federal statute specifically authorizes dissemination of conviction records to non-criminal justice agencies. The section permits researchers access to the information only if the privacy of the subjects of the information is protected.

Sections 202 and 203 deal with the exchange of criminal justice information among criminal justice agencies. The general rule is that only conviction records may be exchanged. However, there are limited exceptions to that general rule. For example, corrections and release information can be disseminated outside of the agency which collected it only where expressly authorized by state or Federal statute. Fingerprint information may be freely disseminated as long as no stigma is attached. Wanted persons information, that is identifying information on a fugitive, may be disseminated liberally for the purpose of apprehending the fugitive. Raw arrest records and records of criminal proceedings which did not result in conviction could be exchanged in certain carefully defined situations.

Section 204 prohibits agencies or persons who lawfully gain access to information from using the information for a purpose or from disseminating the information in a manner not permitted by the legislation.

Section 205 is based on a provision contained in Project SEARCH's model state statute and the Massachusetts arrest records statute. It places limitations on access to criminal justice information via categories other than name. For example, it would require investigators to get a court order before accessing a criminal justice data bank by offense—i.e., a printout on all persons charged with Burglary I with certain physical descriptions and from a certain geographical area. According to the commentary on the SEARCH model statute: "(the provision) is modeled on the provisions which now govern wiretapping and electronic eavesdropping. It is intended to interpose the judgment of an impartial magistrate to control the usage of an investigative method that may, if misused, create important hazards for individual privacy". Section 205 creates a similar procedure for the opening of sealed records.

Section 206 requires every agency or information system covered by the act to promulgate regulations on security, accuracy, updating and purging and sets out in general terms what those regulations must provide. The regulations must provide a method for informing users of changes in disseminated information and for the purging of old, outdated and irrelevant information.

Section 207 requires every agency or information system covered by the act to establish a process for access and challenge of incorrect or inaccurate information. The section sets out in considerable detail what those regulations must provide. This section should be read along with section 308 which provides court review procedures where the agency fails to comply with section 207 or any other provision of the Act.

Section 208 places simple but very strict limitations on the collection and dissemination of intelligence information. Such information may not be maintained in automated systems and must be kept separate and apart from all other criminal justice files.

Title III—Administrative provisions; regulations; civil remedies; criminal penalties

Title III creates a novel Federal-state administrative structure for enforcement of the Act. Section 301 establishes a Federal Information Systems Board, an independent agency with general responsibility for administration and enforcement of the Act. The Board would be composed of representatives of the Department of Justice and two other Federal agencies, plus six other members nominated by the President, with the advice and consent of the Senate. Of the latter six members, three must be representatives of state governments and three private citizens well versed in civil liberties and computer technology. The President would also designate a chairman from the latter six members.

The Board would have the authority to issue general regulations applying the Act's policies. It could operate the interstate information system authorized by section 307. It would conduct audits pursuant to section 306, and would have other necessary enumerated powers as well as authority to conduct general studies of information systems and make recommendations to the Congress for additional legislation.

Section 302 creates an Information Systems Advisory Committee composed of one representative from each state. The Committee shall advise the Board on all of the Board's responsibilities under the Act and in particular provide advice on the Board's operation of the interstate information system established pursuant to Section 307 and the Board's promulgation of regulations pursuant to Section 303.

Section 303 requires the Federal Information Systems Board to issue regulations which implement this Act.

Section 304 requires each state to establish a central administrative agency, separate and apart from existing criminal justice agencies, with broad authority to oversee and regulate the operation of criminal justice information systems in that state. This section is based upon the concept embodied in the Project SEARCH model statute and the Massachusetts statute. Beginning two years after enactment no information system or agency could exchange information with a system or agency in a state which has not created such an agency or with a system or agency which has not adopted all of the regulations required by sections 206 and 207 or elsewhere in the Act.

Section 305 is based upon a suggestion contained in the Report of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare. It requires every information system or agency to give public notice, once annually, of the type of information it collects and disseminates, its sources, purpose, function, administrative director or other pertinent information. It also requires every system or agency to give public notice of an expansion and any new system to give public notice before it becomes operational so that interested parties will have an opportunity to comment.

Section 306 requires audits of systems and agencies which collect and disseminate information. The audits are to be conducted by the Federal Information Systems Board, by an independent state agency created pursuant to Section 304 and by each criminal justice agency.

Section 307 is a general grant of authority permitting the Federal Government to operate an interstate criminal justice information system under the policy control of the Federal-State board. However, the Federal role is carefully circumscribed. Information contained in such a Federal system is limited to a simple index containing the subject's name and the name of the state or local agency which possesses a more complete file. The Federal Information Systems Board could maintain more complete files on violations of a criminal law of the United States, violations of the criminal law of two or more states, or violations of the laws of another nation. Only persons charged with felonies could be listed in the data banks. If a given state lacks the facilities to operate an automated information system the Information Systems Board could provide the facilities for a period of five years.

The section also lists certain administrative actions that may be taken by the Federal Information Systems Board in the event that a criminal justice information system is found to have violated any provision of the Act.

Section 308 provides the judicial machinery for the exercise of the right granted in Section 207 and elsewhere in the Act. The aggrieved individual may obtain both injunctive relief and damages, $100 recovery for each violation, actual and general damages, attorney's fees, and other litigation costs whether violations were willful or negligent.

Section 309 provides criminal penalties for violations of the Act.

Section 310 provides that any state statute, state regulation or Federal regulation which imposes stricter privacy requirements on the operation of criminal justice information systems or upon the exchange of criminal justice information takes precedence over this Act or any regulations issued pursuant to this Act or any other state law when a conflict arises. Subject to court review pursuant to section 308, the Federal Information Systems Board would make the administrative decision as to which statute or regulation governs, and whether a regulation comports with this Act.

Section 311 authorizes the appropriation of such funds as the Congress deems necessary for the purposes of the Act.

Section 312 is a standard severability provision.

Section 313 repeals a temporary authority for the Federal Bureau of Investigation to disseminate Rap sheets to non-criminal justice agencies.

Section 314 makes this Act effective six months after its enactment.

[From the New York Times, Jan. 10, 1974]

THREE BROTHERS

(By William Safire)

WASHINGTON, January 9.—"Little Brother" is watching you.

The poking and prying into an individual's private life by "Big Brother"—the Federal Government—is a matter of great concern, but the less-publicized snooping of "little" and "middle" brothers is more pervasive and no less a danger to personal freedom.

"Little Brother" is the hard-to-reach private organization that determines whether or not you are a good retail credit risk. Deadbeats do not deserve credit, but a great many honest livebeats have found themselves denied the right to live life on the installment plan because of computer foul-ups or the indelibly recorded judgments of vindictive neighbors.

The Fair Credit Reporting Act of 1970 helps the determined credit rejectee to find out who is rattling his rating, but "Little Brother" is still hard to find and nearly impossible to budge.

Right now, at State of the Union time, President Nixon is considering a proposal that would come to the aid of the individual's battered right to privacy in these ways:

1. Making it possible for an individual to see what is in his credit record and how it is being used;

2. Enabling that credit-seeker to correct and amend information that is inaccurate or incomplete;

3. Placing a legal "burden of reliability" on credit agencies so that they must take precautions against abuse of their files;

4. Preventing the use of information that people give about themselves for one purpose from being used for another purpose—which happens when you send in your address to receive an item and wind up on some mailing lists you don't want to be on.

5. Requiring agencies that ask individuals for information to inform them whether they are legally required to provide it. Sometimes you have to answer the Census Bureau, for example, and sometimes you can tell their doorbell-ringers to get lost.

Such proposals to shore up privacy are creditable, so to speak; so is an idea now being discussed in the White House to put restraints on "Middle Brother," the computerized cooperation between local police departments and state and Federal law enforcement agencies.

Police officials should have a quick way of identifying suspects or examining far-off records of previous convictions, and the F.B.I.'s National Crime Information Center has long been available to state agencies—but once placed in computers, how secure will F.B.I. files be? When does sensible record-keeping become a dreaded "dossierization"?

One of the hottest controversies raging within the law-enforcement community is whether computers used by lawmen should be "dedicated" or "shared." Computer salesmen say it is cheaper and more efficient to "share" giant computers with banks and insurance companies, rather than to dedicate a computer to police work alone—but there is the danger of a smart programmer breaking the police code and having access to information that should be confidential.

Sounds esoteric—but a mistake here could put a crimp in privacy for decades to come. The legislative proposal the President is mulling over would make the Federal Law Enforcement Assistance Administration, which would put up the money for computerization, aware of the need for the most stringent safeguards.

This White House interest in curbing both little and middle brother is vital and welcome but it does not deal with the privacy question now on the front burner: warrantless wiretaps, the encroachment on Fourth Amendment protections by "Big Brother."

Such tapping was declared illegal by the Supreme Court in 1971; since then, no taps can be placed directly on American citizens even in national security cases without a court warrant—at least, that's how a nervous White House interprets the Supreme Court decision.

President Nixon is not one to cheerfully give away any of the powers of office, but the man who opened Pandora's Box of eavesdropping would be well advised to help nail down the lid.

One solution would be to do away with warrantless wiretaps entirely, forcing future Attorneys General to go to Federal judges for permission to do any tapping. This would drive the intelligence community up the wall; but isn't warrantless wiretapping a danger to liberty that outweighs the advantage of listening in to foreign embassies—especially when they know we're listening?

Since the state of this Union has been so deeply afflicted by matters related to eavesdropping, the President does well to think about civil liberties in dealing with the "little brother" of credit ratings and the "middle brother" of computerized police records. But that still leaves Big Brother. If the President were to take the lead in doing away with warrantless wiretaps, he would astound his friends, confound his critics and show history he was able to profit from his most costly lesson.

[From the New York Times, Feb. 5, 1974]

Mr. Nixon Discovers Privacy

(By Tom Wicker)

Skeptical chuckles may have seemed in order when Richard Nixon promised in his 1974 State of the Union Message a "major initiative" and a "cabinet-level review" on the matter of privacy—particularly on safeguarding information stored in computers by interlinked Federal and state criminal justice agencies. Mr. Nixon, after all, had wiretapped his own staff and his Administration had failed since 1970 to take such a "major initiative," despite the repeated requests of Congress that it do so.

But never mind the chuckles. The Justice Department immediately followed the State of the Union Message with the detailed legislative proposal so long awaited. Beyond that, Senator Sam J. Ervin Jr., chairman of the constitutional rights subcommittee, is ready with his own more restrictive bill, and the prospects seem brighter than they ever have been for action at last.

"At last" is not too strong a phrase. Sweden, for example, passed in April 1973, a comprehensive law governing the collection and dissemination of criminal justice information. But little has been done here, although in recent years Federal funding through the Law Enforcement Assistance Administration has achieved a phenomenal growth of criminal justice data banks throughout most of the states; all fifty soon will be involved in the system.

Interlinked among themselves and with the massive Federal system operated by the F.B.I., these data banks are collecting an enormous amount of information about millions of American citizens, by no means all of them criminal offenders. The nature, use and distribution of that information is virtually unregulated by anyone; as noted here before, Massachusetts alone found last year that more than 75 public and private agencies having nothing to do with criminal justice had achieved regular access to its criminal offender files.

The Department of Justice bill would go far to fill this void, by providing as a matter of law that individuals could review their own records, correct inaccuracies and sue anyone disclosing the information improperly. The measure also would sharply limit those to whom any of the records could be disclosed, and require the sealing of individual records after a specified time.

Senator Ervin's proposal would improve on the Justice Department bill in important respects. For example, it would provide that an arrest record showing no subsequent disposition of the case, or one showing an acquittal or that the case had been dropped, would be "programmed" out of the reach of criminal justice agencies as well as any other public or private inquirers one year after the original arrest. Even during that first year, such a record would be available to police only if the person involved was re-arrested on some other charge.

More importantly, the Ervin bill would place the entire Federal, state and interstate criminal justice data system under the regulation of a nine-man board—one representative each from the Department of Justice and two other interested Federal agencies, three representatives from involved state agencies, and three representatives of the public at large, all appointed by the President and confirmed by the Senate.

This board would remove the system from the exclusive control of police and criminal justice agencies, provide some amelioration of Federal domination, and—so Mr. Ervin hopes—establish an effective instrument for efficient and equitable regulation of unforeseen problems as they arise, with the necessity for new legislation.

All this is strong medicine for some criminal justice organizations to swallow; predictably enough, Clarence M. Kelley, the director of the F.B.I., has declined full endorsement of even the Justice Department bill. He is reported to be reflecting the views of numerous police departments, particularly on the matter of sealing—that is, closing to any inquirer—criminal records seven years following the subject's release from custody on a felony conviction (five years in misdemeanor cases). Some other Federal agencies with an interest in criminal justice records also have reservations about the Justice Department bill, raising the question whether it really is an "Administration proposal."

Nevertheless, Mr. Nixon himself is on the record at least pro forma; Mr. Ervin plans to be a cosponsor of the Justice Department measure, and such Nixon stalwarts as Roman Hruska of Nebraska and Milton Young of North Dakota have been induced to cosponsor the Ervin bill. This cross-sponsorship bodes well for some kind of regulatory legislation, and almost any would be an improvement on the present vacuum.

At the least, the need for control has been stated at the highest level; both the Justice and Ervin bills recognize the principle that those who compile and operate the data banks should not have discretion to determine their use; and even while declining endorsement of a specific bill, Director Kelley said he welcomed legislation to "insure the maximum protection of individual rights."

[From the Washington Post, Feb. 4, 1974]

Controlling the Data Banks

President Nixon was absolutely right in his State of the Union address when he included protection of individual privacy among those issues which should get legislative attention this year. Since Mr. Nixon is a very recent convert to this view, many uncertainties remain about how quickly and fully the commitment will be translated into specific policies. Thus it is doubly encouraging that the Department of Justice is proceeding at once to send Congress its long-waited bill to control federal, state and interstate criminal justice data banks.

The unveiling of any comprehensive administration measure on criminal records would be reason for some celebration. The Congress first requested recommendations from the Justice Department back in 1970, but the response was half-hearted at best until former Attorney General Elliot Richardson made the subject a personal priority last year. Attorney General William Saxbe has followed through, and the result is a rather impressive bill which sets out broad, general policies intended to insure that all criminal records in automated or interstate files will be accurate, timely and complete, that individuals will be able to review and correct files on themselves, and that there will be far less trafficking in criminal records among public and private agencies outside the law enforcement field.

Some points of contention remain. Within the administration, the FBI is said to be less than enthusiastic about the new bill, and several other federal agencies will probably be going to Congress on their own to seek authorization to continue current practices such as checking the criminal records of job and credit applicants. On Capitol Hill, Sen. Sam J. Ervin (D-N.C.) is ready to introduce his own regulatory bill. The Ervin proposal is more stringent and detailed than the Justice Department measure in several important respects, and it would also transfer regulatory authority over federal criminal history files from the Justice Department to an independent federal-state board. But it appears that this year such substantive issues can finally be seriously addressed—and even resolved with some harmony and dispatch—because a good working alliance is developing among Senator Ervin, the Justice Department and Sen. Roman Hruska (R-Neb.), ranking Republican on the Senate Judiciary Committee and a potential pivotal figure in the discussion to come.

Thus on the top-priority privacy issue of criminal records, the debate has advanced from whether Congress should legislate anything to what kind of bill should be passed. The outlook is not so promising, however, on related fronts. While endorsing the protection of privacy as a general principle the other night, Mr Nixon did not propose any specifics. Instead, he simply announced another study—"an extensive Cabinet-level review" of government and industry practices impinging on privacy. Thus the President seems to have shelved, among other things, the report of the HEW advisory panel which called for a code of "fair information practices" for all federal data banks. He also seems to have postponed any positive administration involvement in the congressional efforts to deal with such specific problems as credit reporting, the secrecy of bank records and the rights of participants in federal programs.

The most striking flaw in Mr. Nixon's approach was his definition of the "privacy problem" primarily as a function of advancing technology. Computers have indeed eroded man's ability to control who knows how much about a person's private life and how such knowledge is used. But the basic problem is less the capability of machines than the curiosity of man, particularly the curiosity of those in positions of power over the lives of their fellow citizens. We need no further studies of the potential dangers of official nosiness—wiretapping, bugging, illegal searches, political surveillance, harassment of dissident groups, and the other abuses and excesses which have aroused such public concern. Mr. Nixon did not address himself to this subject at all. Until he does so, his commitment to protecting privacy will remain vague and incomplete.

Mr. HRUSKA. Mr. President, I should like to congratulate and commend the distinguished Senator from North Carolina (Mr. Ervin) for the very well prepared, well organized, documented, and competently assembled statement he has just presented concerning criminal justice information systems.

It is a splendid opening statement on a very vital subject. I believe that its tenor testifies well to the vast scope and the complexity of the area of law with which it is concerned.

It will be considered a classic, I am sure, and will be often cited because of its fine discussion of the law and the techniques regarding criminal data systems, as well as the general philosophy which the Senator from North Carolina spells out in his excellent manner.

Much work and many studies have been devoted to this subject.

The Senator from North Carolina has alluded to many of those facets, and all of us can be impressed by the far-reaching consequences of the failure to act, with deliberation, to be sure, and yet, as expeditiously as wisely and practicable to deal with the bills introduced today.

Again I commend the Senator from North Carolina and congratulate him for his very fine contribution.

INTRODUCTION OF S. 2964—CRIMINAL SYSTEMS ACT OF 1974

Mr. HRUSKA. Mr. President, I am pleased to introduce on behalf of the Department of Justice a bill entitled "Criminal Justice Information Systems Act of 1974," S. 2964. I send it to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. HELMS). The bill will be received and appropriately referred.

Mr. HRUSKA. Mr. President, this bill will provide for and facilitate the collection, classification, maintenance, and use of criminal justice information; and also make provision for and regulate access thereto, as well as uses and dissemination thereof. It is intended to provide strong safeguards against unwarranted violation of privacy of the individuals to whom such information pertains, and to insure physical security and integrity of criminal justice information systems, and for other related purposes.

At the same time, I am further pleased to cosponsor with my valued friend, the distinguished senior Senator from North Carolina (Mr. ERVIN), the Criminal Justice Information Control and Protection of Privacy Act of 1974, S. 2963, which he introduced earlier this afternoon, and of which he is the author. Senator ERVIN'S bill takes a somewhat different approach to several aspects of the subject than are contained in the bill which I have introduced, but generally their respective fundamental objectives, thrust, and other provisions parallel each other.

Mr. President, in introducing the one bill and in cosponsoring the other, it should be made clear that I am not indorsing or approving either in its entirety. The thrust, the fundamental objectives, and in many provisions, yes, there is indorsement and approval. Some of the cosponsors to the bill I am introducing have also expressed this thought. But in each there are a number of provisions which must be subjected to close scrutiny, searching analysis, and full study before they are accepted, modified, or rejected. Certain of the provisions in each bill will be controversial and even mutually exclusive so that a choice will be mandatory. Indeed there is much room for debate and sincere difference of opinion.

As to some of such instances as they are now drafted I find that I myself have not reached a firm judgment.

But, Mr. President, both of these bills have much merit. Both will be excellent vehicles to serve as bases for processing legislation on the pertinent subject matter. It is with this thought in mind that I have expressed favor for each, namely, that we will hear from various witnesses the opposing views and elicit more complete information and implications. Also there will be later discussions among our colleagues on the Judiciary Committee and in the Senate, so that a composite judgment may be formulated.

It may be unrealistic to assume that both bills will be viewed with equal favor by all, but it should not be too much to hope that the task of seeking a common, acceptable ground upon which to enact a law will be performed with good faith and fairness. It is in that spirit that I join with the Senator from North Carolina, and in that spirit also that I accept his joining with me in my offering of the bill of the Department of Justice.

Mr. President, I have long been concerned with the need to protect the rights of privacy of the citizens of this country and to guarantee that such rights are provided for in the operation of criminal justice information systems. I have been particularly concerned with insuring that criminal justice records are complete and accurate and that the exchange of such records is accomplished in a manner which safeguards the rights of citizens while, at the same time, providing for the legitimate needs of the criminal justice system and of the society which it serves.

In 1970 I supported an amendment offered by Senator MATHIAS to the Omnibus Crime Control and Safe Streets Act of 1968 to require the Law Enforcement Assistance Administration to submit recommendations for legislative action which would assist in promoting the integrity and accuracy of criminal justice data and would insure that the collection, dissemination, and processing of such information in criminal justice systems would be designed to provide maximum protection for the constitutional rights of all persons covered by such systems. In the 92d Congress I introduced the Criminal Justice Information System Security and Privacy Act of 1971, S. 2546, which was the LEAA response to Senator MATHIAS' amendment.

In the first session of this Congress, Senator MCCLELLAN and I supported and supplemented the amendment by the distinguished Senator from Massachusetts (Mr. KENNEDY) to the Crime Control Act of 1973 which required LEAA to issue regulations to insure as far as practicable the completeness and accuracy of information contained in LEAA-funded criminal justice systems. The amendment, section 524(b) of the Crime Control Act, limited the dissemination of criminal justice information in LEAA-funded systems to legally authorized needs and required that individuals have access to their records in order to insure that information contained about them in the system is accurate and complete. I stated at that time that additional legislation would be forthcoming which would supplement and complement that amendment to the Safe Streets Act.

The Criminal Justice Information Systems Act of 1974 is that legislation. It applies to all criminal justice information systems funded in whole or in part by the Federal Government. It also applies to all interstate criminal justice information systems, and to the extent that a State or local system exchanges information with a federally funded or interstate system such system would also be subject to the provisions of this legislation.

The Criminal Justice Act applies to both manual and automated information systems. It deals comprehensively with the dissemination of arrest records and the access and use of all criminal justice information. Strong provisions are provided for an individual to review information contained in the system for the purpose of challenge or correction. Criminal justice agencies contributing criminal offender record information to a criminal justice information system are required to supply accurate and complete data and must regularly and accurately revise such data to include dispositional information.

The bill provides that criminal intelligence data must be kept separately from criminal offender record information and may only be used for a criminal justice purpose.

Provision is also made in this act for the sealing of criminal offender record information under specified circumstances. Dissemination and use of criminal justice information for noncriminal justice purposes is severely limited. The bill sets forth administrative sanctions and civil and criminal penalties for the violation of the provisions.

There are many similarities between the Criminal Justice Information Systems Act of 1974 and Senator ERVIN'S bill, the Criminal Justice Information Control and Protection of Privacy Act of 1974 which I am cosponsoring today.

Both bills reflect much of the work of the LEAA-funded programs, Project SEARCH—System for Electronic Access and Retrieval of Criminal Histories—which in 1970 developed strong regulations for protecting the security and privacy of criminal justice systems. They also reflect many of the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals as set forth in its commendable task force report on criminal justice systems. The security and privacy controls of the Federal Bureau of Investigation and its National Crime Information Center are also reflected in the bills.

Both bills recognize the harm which can occur through the exchange of inaccurate or incomplete records and provide methods to insure that data collected will be both accurate and complete. Each allows an individual to review a criminal offender record concerning himself for the purpose of correction.

Both bills contain requirements for sealing of records where an individual has been free from the jurisdiction of a criminal justice agency for a set period of time and the information is unlikely to provide a reliable guide to the behavior of the individual. Each requires annual public notice by a criminal justice agency of the existence and character of its automated systems.

Both bills set forth dissemination limitations and provide for administrative sanctions, civil and criminal remedies for violation of the acts.

It is because of these similarities and because of our traditional interest in achieving bipartisan support for legislation that I am cosponsoring Senator ERVIN's bill and Senator ERVIN is cosponsoring my bill.

Senator ERVIN has done a great service in providing us with this bill, as has the Department of Justice, through its Attorney General and his very dedicated staff, in compiling and formulating the bill which I have introduced. This is a complicated area, and the more ideas we have to consider the better able we will be to provide the best possible legislation. In keeping with this spirit of cooperation and bipartisanship, I look forward to the development and progress which the hearings which have been announced will produce, and which later developments will also follow.

The steadily increasing capability of the criminal justice system for gathering, processing and transmitting information requires prompt attention to the issues of system security and individual privacy. Criminal justice has a valid need for more and better information but there is an equally valid need to insure that this information is kept in a secure manner where it cannot be destroyed and to guarantee that the constitutional rights of citizens who have their records entered in this system are fully protected. There must be a balancing between all of these interests. The legislation introduced today seeks to strike that balance.

Hearings on these bills and on any other pertinent bills will be forthcoming soon, and I hope that as a result thereof we can put together a mutually acceptable bill in a reasonable time.

It is my further hope that in setting these hearings for a specific day and specific hour, some accommodation will be made for other committees, subcommittees, of the Committee on the Judiciary as well as others, because, while all of us must sacrifice the opportunity, in some instances, to follow through on some hearings on this particular subject, I am sure that we would all like to be present at as many of those hearings as possible.

Mr. President, I ask unanimous consent that the text of my bill, along with the letter of transmittal from the Attorney General and his section-by-section analysis, be printed in the RECORD immediately following my remarks.

There being no objection, the bill, the section-by-section analysis and letter of transmittal were ordered to be printed in the RECORD, as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Information Systems Act of 1974."

FINDINGS AND PURPOSE

SEC. 2. (a) The exchange of criminal justice information including criminal offender record information or summaries of the criminal records of individuals, between Federal and State criminal justice agencies or between criminal justice agencies located in different States is a useful and proper aid to law enforcement. However, such exchange and the handling of the information must be accomplished in a manner which safeguards the interests of the individuals to whom the information refers.

(b) Particular risks, from the standpoint of the individual, may be presented when criminal justice information is used for a purpose not related to criminal justice. No such use should be permitted unless it is clearly necessary and is justified on the basis of weighing the interests of the individual (including the right of privacy, procedural rights, and access to employment) against the needs of government or of society.

(c) Enforcement of criminal laws is primarily the responsibility of State and local governments. However, Federal regulation of the criminal justice information systems which are covered by this Act is appropriate because of the Federally connected or interstate nature of those systems. This Act is based upon the powers of Congress—

(1) to place reasonable conditions upon the receipt of Federal grants or other Federal services or benefits,

(2) to regulate use of the means of interstate communication, and

(3) to enforce the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) "Criminal justice information system" means a system, including the equipment, facilities, procedures, agreements, and organizations, utilized for the collection, processing, preservation or dissemination of criminal justice information.

(b) "Automated system" means a criminal justice information system that utilizes electronic computers or other automatic data processing equipment, as distinguished from a system in which all operations are performed manually.

(c) "Criminal offender record information" means information contained in a criminal justice information system, compiled by a criminal justice agency for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.

(d) "Criminal intelligence information" means information compiled by a criminal justice agency for the purpose of criminal investigation, including reports of informants and investigators, contained in a criminal justice information system and associated with an identifiable individual. The term does not include criminal offender record information.

(e) "Criminal offender processing information" includes all reports identifiable to an individual compiled at any stage of the criminal justice process from arrest or indictment through release from supervision. This term does not include criminal intelligence information.

(f) "Criminal justice information" means criminal offender record information, criminal intelligence information and criminal offender processing information.

(g) "Criminal justice" means any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon or parole authorities.

(h) "Criminal justice agency" means a public agency or component thereof which performs as its principal function a criminal justice activity.

(i) "Interstate system" means a criminal justice information system which is used for the transfer of criminal justice information between criminal justice agencies located in two or more States.

(j) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k) "Attorney General" means the Attorney General of the United States or his designee.

(l) "Sealing" means the closing of a record so that the information contained in the record is available only (1) in connection with review pursuant to section 6 by the individual or (2) on the basis of a court order or a specific determination of the Attorney General.

COVERAGE

SEC. 4. (a) This Act applies to any criminal justice information system which is—

(1) operated by the Federal Government,

(2) operated by a State or local government and funded in whole or in part by the Federal Government,

(3) an interstate system, or

(4) operated by a State or local government and engaged in the exchange of criminal justice information with a system covered by paragraphs (1), (2), or (3): Provided that a system described only by paragraph (4) shall be subject to this Act only to the extent of its participation with a system described by paragraphs (1), (2), or (3).

(b) This Act applies to criminal justice information obtained from a foreign government or an international agency to the extent that such information is contained in a criminal justice information system subject to this Act. Whenever any criminal justice information contained in a criminal justice information system subject to this Act is provided to a foreign government or an international agency, appropriate steps should be taken to assure that such information is used in a manner consistent with the provisions of this Act.

(c) The provisions of this Act do not apply to lists or systems utilized by criminal justice agencies for the sole purpose of identifying or apprehending fugitives or wanted persons.

ACCESS AND USE

SEC. 5. (a) The provisions of this section apply to any criminal justice information system subject to this Act and to any agency or person who, directly or indirectly, obtains criminal justice information from such a system.

(b) Direct access to information contained in a criminal justice information system subject to this Act shall be available only to authorized officers or employees of a criminal justice agency.

(c) (1) Except as provided in paragraphs (2) and (3), criminal intelligence information may be used only for a criminal justice purpose, and only where need for the use has been established in accord with regulations issued by the Attorney General.

(2) Criminal intelligence information may be used for a purpose not related to criminal justice if the Attorney General determines, with regard to the particular case or class of cases, that such use is necessary because of reasons of national defense or foreign policy.

(3) Criminal intelligence information compiled by a criminal justice agency which is a component of a Federal, State or local agency may be made available to a non-criminal-justice component of the same agency if the information is necessary for performance of a statutory function of the non-criminal-justice component. Such information may be used by the non-criminal-justice component only in connection with performance of a statutory function.

(d) (1) Except as provided in paragraphs (2)–(4), criminal offender processing information may be used only for a criminal justice purpose, and only where need for the use has been established in accord with regulations issued by the Attorney General.

(2) Particular criminal offender processing information may be made available to the individual to whom the information refers, pursuant to a court order or a Federal or State statute or regulation.

(3) Criminal offender processing information may be made available to qualified persons for research related to criminal justice under procedures designed to assure the security of the information released and the privacy of individuals to whom the information refers.

(4) Criminal offender processing information may be used for a purpose not related to criminal justice if such use is expressly authorized by a court order or Federal or State statute. The Attorney General shall determine, with regard to the particular case or class of cases, whether such use is expressly authorized by statute, and his determination shall be conclusive.

(e) (1) Criminal offender record information may be used for criminal justice purposes or for other purposes which are expressly provided for by Federal statute or Executive order or State statute. The Attorney General shall determine, with regard to the particular case or class of cases, whether such use is expressly provided for by statute or by Executive order, and his determination shall be conclusive.

(2) Criminal offender record information may be made available, pursuant to section 6, to the individual.

(3) Criminal offender record information may be made available to qualified persons for research related to criminal justice under procedures designed to assure the security of the information released and the privacy of individuals to whom the information refers.

(f) Any agency operating a criminal justice information system subject to this Act shall maintain records with regard to—

(1) requests from any other agency or person for criminal justice information. Such records shall include:

(A) regarding any request for use for a criminal justice purpose, the identity of the requester, the nature of the information provided and pertinent dates; and

(B) regarding any request for use for a non-criminal-justice purpose, the identity of the requester, the nature, purpose and disposition of the request, and pertinent dates.

(2) the source of criminal offender record information: *Provided*, That regulations of the Attorney General may provide for exceptions with regard to the source of identifying data.

REVIEW OF CRIMINAL OFFENDER RECORD INFORMATION BY THE INDIVIDUAL

Sec. 6. (a) Any individual who complies with applicable regulations shall be entitled to review criminal offender record information regarding himself contained in any criminal justice information system subject to this Act, and to obtain a copy of the information for the purpose of challenge or correction.

(b) Each Federal agency which operates a criminal justice information system and each State shall adopt regulations to implement this section. Such regulations shall (1) require that an individual making such a request verify his identity by fingerprints or other specified means, (2) explain the procedures for making such requests and performing such review, including such matters as time, place and fees, and (3) provide for the waiver, in appropriate cases, of any applicable fees.

(c) Except with regard to national defense or foreign policy cases, or with regard to the appointment of a judge or a civil officer, which appointment is subject to the advice and consent of the Senate, when criminal offender record information is requested, in accord with paragraph (5) (e) (1), for a purpose not related to criminal justice, the criminal justice agency to which the request is made shall require the requester to notify the individual that criminal offender record information concerning him is being requested, and that he has a right to review his record for the purpose of challenge or correction.

(d) No individual who, in accord with subsection (a) or (c), obtains a copy of criminal offender record information regarding himself may be required or requested to show or transfer that copy to any person or agency.

(e) If, after review of information obtained pursuant to subsection (a) or (c), the individual disputes its accuracy or completeness, he may apply for correction or revision to the agency responsible for original entry of the allegedly incomplete or inaccurate information. When correction or revision is warranted, the responsible agency shall immediately make the necessary correction or revision and take appropriate steps to have the correction or revision made with respect to all criminal justice information systems containing the information.

(f) In the event that an individual is dissatisfied with the decision of a criminal justice agency with respect to his request for correction or revision of information, the individual shall be afforded administrative review in accord with applicable regulations.

(g) If an individual is dissatisfied with the final administrative decision, he may obtain judicial review of that decision by bringing an action pursuant to subsection 14(a).

ACCURACY AND COMPLETENESS OF CRIMINAL OFFENDER RECORD INFORMATION

Sec. 7. (a) Any criminal justice agency which contributes criminal offender record information to a criminal justice information system subject to this Act shall assure that the information it contributes is accurate and complete and that it is regularly and accurately revised to include dispositional and other subsequent information.

(b) All Federal, State or local criminal justice agencies, including courts and correctional authorities, shall take the steps necessary to achieve compliance with subsection (a).

DISSEMINATION OF ARREST RECORDS

Sec. 8. (a) This section applies to any criminal justice information system subject to this Act and to any agency or person who, directly or indirectly, obtains criminal offender record information from any such system.

(b) No information relating to an arrest may be disseminated without the inclusion of the final disposition of the charges if a disposition has been reported. Any agency or person requesting or receiving information relating to an arrest from a system subject to this Act shall use such information only for the purpose of the request. Subsequent use of the same information shall require a new inquiry of the system to assure that it is up-to-date.

(c) Except as provided in subsection (d), criminal offender record information concerning the arrest of an individual may not be disseminated or used for a non-criminal-justice purpose if—

(1) the individual is acquitted of the charge for which he was arrested,

(2) the charge is dismissed,

(3) a determination to abandon prosecution of the charge is made by the prosecuting attorney, or

(4) an interval of one year has elapsed from the date of the arrest and no final disposition of the charge has resulted and no active prosecution of the charge is pending: *Provided*, that the one-year period does not include any period during which the individual is a fugitive.

(d) The prohibition set forth in subsection (c) shall not apply—

(1) when the Attorney General determines, with regard to the particular case or class of cases, for reasons of national defense or foreign policy it should not apply,

(2) with regard to the appointment by the President of a judge or a civil officer whose appointment is subject to the advice and consent of the Senate,

(3) with regard to use, pursuant to paragraph (5) (e) (3), for research purposes,

(4) with regard to use, pursuant to subsection (6) (a) or (c), by the individual for adjudication of a claim that the information is inaccurate or incomplete.

(5) where a court order specifically provides otherwise, or

(6) where a Federal statute expressly provides that the prohibition shall not apply.

SEALING OF CRIMINAL OFFENDER RECORD INFORMATION

Sec. 9. (a) Criminal offender record information shall be sealed in accord with the requirements of a court order, a Federal or State statute, or regulations issued by the Attorney General, when appropriate notification is provided by the agency directly responsible for compliance with the order, statute, or regulation.

(b) The regulations shall, as a minimum, provide for the sealing of criminal offender record information regarding an individual who has been free from the jurisdiction or supervision of any criminal justice agency for—

(1) a period of seven years if the individual has previously been convicted of an offense for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the conviction occurred,

(2) for a period of five years if the individual has previously been convicted of an offense for which the maximum penalty is not greater than imprisonment for one year under the laws of the jurisdiction where the conviction occurred, or

(3) for a period of five years following an arrest if no conviction of the individual occurred during that period, no prosecution is pending at the end of that period, and the individual is not a fugitive.

(c) (1) The regulations may exempt from full compliance with the requirements of this section criminal justice information systems for which full compliance is not feasible because of the manual nature of the systems.

(2) The regulations shall set forth procedures regarding access to a sealed record (A) in connection with review pursuant to section 6 by the individual or (B) on the basis of a court order or (C) a specific determination of the Attorney General.

PRECEDENCE OF STATE LAWS

Sec. 10. Nothing in this Act is to be construed to diminish greater rights of privacy or protection provided by a State law or regulation governing use, updating, or sealing of records in that State's criminal justice information system. Use of information in interstate systems or the use of information obtained through interstate transfer shall be governed solely by this Act and implementing regulations.

SECURITY OF CRIMINAL JUSTICE INFORMATION SYSTEMS

SEC. 11. (a) The security of information in a criminal justice information system subject to this Act shall be assured by management control by a criminal justice agency.

(b) All criminal justice information systems subject to this Act shall meet security standards promulgated by the Attorney General to guard against unauthorized access to data contained in the systems. These standards will include, but not be limited to—

(1) Implementation, operation and management control of criminal justice information systems.

(2) System design standards which take maximum advantage of security provided by existing technology.

(3) Physical security standards for the system facility and associated telecommunications networks.

(4) Administrative procedures for gaining access to data, safeguarding data and removing of data.

(c) The Attorney General shall provide for a continuous review and periodic audits of the operations of criminal justice information systems to assure that there is full compliance with the standards issued pursuant to this section and that appropriate corrective actions and sanctions are promptly invoked when required.

OPERATING PROCEDURES

SEC. 12. (a) All criminal justice information systems subject to this Act shall include operating procedures which are consistent with the regulations established and promulgated by the Attorney General and at a minimum shall—

(1) include a program of verification and audit to insure that criminal offender record information is regularly and accurately updated,

(2) limit access and dissemination of criminal justice information in accordance with the provisions of this Act,

(3) provide an administrative review mechanism for challenges by individuals to the accuracy or completeness of their records,

(4) Undertake an affirmative action program for the training of system personnel,

(5) require a complete and accurate record of access and use made of any information in the system including the identity of all persons and agencies to which access has been given, consistent with section 5(f).

(b) Each agency which operates an automated criminal justice information system subject to this Act shall publish notice at least once a year of

(1) its existence,

(2) the nature of the system,

(3) policies regarding storage, duration of retention and dissemination,

(4) procedures whereby an individual can review criminal offender record information regarding himself,

(5) the title, name and business address of the person immediately responsible for the system.

With regard to a system operated by the Federal Government, such notice shall be published in the Federal Register.

(c) Any agency operating or participating in a criminal justice information system subjct to this Act may be required to provide periodic reports to the Attorney General.

ADMINISTRATIVE SANCTIONS

SEC. 13. (a) In the event that a criminal justice agency (1) obtains information from a criminal justice information system subject to this Act and uses or disseminates that information in a manner which violates this Act or regulations issued by the Attorney General, or (2) fails to provide dispositional information required by subsection 7(a), the agency may be denied access to criminal justice information systems subject to this Act.

(b) An agency or person, other than a criminal justice agency, who obtains criminal offender record information and uses that information in violation of this Act or regulations issued by the Attorney General may be denied the use of criminal offender record information subject to this Act.

(c) Procedures for implementing this section shall be set forth in regulations issued by the Attorney General. The regulations shall provide that no sanction may be imposed pursuant to subsection (a) until the Attorney General or, where appropriate, a State official has (1) provided notice of the alleged violation to the criminal justice agency in question, (2) determined that compliance cannot be secured by voluntary means, and (3) determined, after opportunity for hearing, that substantial or repeated violation of this Act or regulations issued by the Attorney General has occurred.

CIVIL AND CRIMINAL REMEDIES

SEC. 14. (a)(1) To obtain judicial review, pursuant to subsection 6(g), of a final administrative decision, an individual may bring a civil action against the responsible agency.

(2) An individual with respect to whom criminal justice information has been maintained, disseminated or used in violation of this Act or implementing regulations may bring a civil action against the individual or agency responsible for the alleged violation. If relief is sought against both the individual and the agency responsible for the alleged violation, such relief shall be sought in a single action.

(b)(1) If a defendant in an action brought under subsection (a) is an officer or employee or agency of the United States, the action shall be brought in an appropriate United States district court.

(2) If the defendant or defendants in an action brought under subsection (a) are private persons or officers or employees or agencies of a State or local government, the action may be brought in an appropriate United States district court or in any other court of competent jurisdiction.

(c) The district courts of the United States shall have jurisdiction over actions described in subsection (b), without regard to the amount in controversy.

(d) A prevailing plaintiff in an action brought under subsection (a) may be granted equitable relief, including injunctive relief, and actual damages, and may be awarded costs and reasonable attorney fees. In appropriate cases, a prevailing plaintiff may also be awarded exemplary damages.

(e) Any person who disseminates or uses criminal justice information knowing such dissemination or use to be in violation of this Act or any applicable regulations shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(f) Good faith reliance upon the provisions of this Act or of applicable law governing maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed or approved by the Attorney General shall constitute a complete defense to a criminal action brought under this Act. With respect to damages, such reliance shall constitute a complete defense for an individual or an agency in a civil action brought under this Act. Such reliance shall not constitute a defense with respect to equitable relief.

COMPLIANCE WITH ACT

SEC. 15. Any State or local agency which operates or participates in a criminal justice information system subject to this Act shall comply with this Act and with regulations issued by the Attorney General and shall be deemed to have consented to the bringing of actions pursuant to subsection 14(a).

REGULATIONS OF THE ATTORNEY GENERAL

SEC. 16. After appropriate consultation with Federal and State agencies which operate or use criminal justice information systems, the Attorney General shall issue regulations implementing this Act.

AUTHORIZATION

SEC. 17. There are hereby authorized to be appropriated such funds as may be necessary for the Attorney General to implement this Act.

EFFECTIVE DATE

SEC. 18. This Act shall become effective one year after the date of enactment, except that section 17 shall become effective upon the date of enactment.

CRIMINAL JUSTICE INFORMATION SYSTEMS ACT OF 1974—SECTION-BY-SECTION ANALYSIS

Sec. 1 is the enactment and title clause.

Sec. 2. Findings and Purpose—

Subsection (a) refers to the usefulness of exchanging criminal justice information between Federal and State criminal justice agencies and between States, but points out the need to safeguard the rights of affected individuals.

Subsection (b) states that criminal justice information is to be used for a non-criminal-justice purpose only when such use is justified on the basis of weighing the interests of the individual against the needs of government or society.

Subsection (c) sets forth the constitutional basis for the Act.

Sec. 3. Definitions—

Subsection (a). "Criminal justice information system". This definition sets forth the basis for the coverage of the Act. The term refers to systems, automated or manual, for the collection, processing, preservation or dissemination of criminal justice information.

Subsection (b). "Automated system" is defined as a criminal justice information system which utilizes electronic computers or other automatic data processing equipment. This term applies where part of the system is automated and part manual, for example, a system which stores criminal offender record information in a computer file.

Subsection (c). "Criminal offender record information" includes (1) the factual summary of events of each formal stage of the criminal justice process: notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, parole and probation status, formal termination of the criminal justice process as to a charge or conviction and (2) physical and other identifying data.

Subsection (d). "Criminal intelligence information" is defined as information which is compiled by criminal justice agencies for purposes of criminal investigation and which is indexed under an individual's name or otherwise associated with an individual. Such information may include reports of informants or investigators. This term does not include criminal offender record information, and any agency which maintains both criminal intelligence information and criminal offender record information must keep the two types of information separate. However, accounts of arrests or convictions may be expected in investigative reports, and there is no intention to exclude such non-systematic references to offender record information from criminal intelligence files.

Subsection (e). "Criminal offender processing information" is defined as detailed reports (as opposed to notations), identifiable to an individual, and compiled by any criminal justice agency for the purpose of processing the individual from the time of arrest to the time of release from supervision. This would include background reports on individual offenders such as arrest reports, presentence reports, etc.

Subsection (f). "Criminal justice information" is defined to include criminal offender record information, criminal intelligence information, and criminal offender processing information. Files that are not maintained in an individually identifiable manner, such as chronologically ordered police blotters and court dockets, are not considered within the scope of the Act.

Subsection (g). "Criminal justice" is defined to mean any activity pertaining to the enforcement of criminal laws. This term includes police efforts to prevent, control or reduce crime or to apprehend criminals. Also included are activities of prosecutors, courts and corrections, probation, pardon or parole authorities.

Subsection (h). "Criminal justice agency" means a public agency, Federal, state or local, whose principal function is the performance of activities pertaining to criminal justice. The definition includes a "component" of a public agency if the principal function of the component is performing activities relating to criminal justice. For example, a unit of the Internal Revenue Service which has as its principal function investigation of criminal violations of the tax laws would be a "criminal justice agency" even though the Internal Revenue Service as a whole would not come within that definition.

Subsection (i). "Interstate system" is defined as a system for the transfer of criminal justice information between criminal justice agencies located in two or more states.

Subsection (j). "State" is defined to include the District of Columbia, Puerto Rico and the territories or possessions of the United States.

Subsection (k). "Attorney General" is defined as the Attorney General of the United States or his designee.

Subsection (l). "Sealing" is defined as the closing of a record so that information will no longer be available except for review by an individual to whom the record pertains or by court order, or a specific determination of the Attorney General.

Sec. 4. Coverage—

Subsection (a) specifies the type of systems which are covered by this Act. Such systems include those operated by the Federal Government, funded in whole or in part by the Federal Government, an interstate system and any system which is engaged in the exchange of criminal justice information with the above systems to the extent of such participation.

Subsection (b) provides that the Act applies to criminal justice information obtained from a foreign government or an international agency to the extent that such information is contained in a system subject to this Act. When such information is provided to a foreign government or an international agency, use of the information by the foreign government or international agency should be consistent with this Act.

Subsection (c) exempts lists or systems used by criminal justice agencies for the purpose of identifying or apprehending fugitives or wanted persons.

Sec. 5. Access and Use—

Subsection (a) sets forth that the provisions of this section apply to any criminal justice information system subject to this Act and to any agency or person who obtains information from such a system either directly or indirectly.

Nothing in the Act is intended to prevent the public release of general information concerning an offense, a specific arrest, indictment, or disposition, within a reasonable time after the event has occurred.

Subsection (b) limits direct access to criminal justice information systems to authorized officers and employees of criminal justice agencies. Standards and procedures for determining what officers and employees are "authorized" are to be prescribed by regulations. All information permitted for non-criminal justice purposes must be obtained through a criminal justice agency.

Subsection (c) provides that criminal intelligence information may only be used for a criminal justice purpose (except as stated below) and that need for such use must have been established in accord with regulations issued under the Act. Thus, an agency seeking such information has the burden of establishing its entitlement and systems are to be designed so that such information is not routinely obtainable by the requesting agency. The provision allows criminal intelligence information to be used for non-criminal justice purposes if the Attorney General determines in a particular case or class of cases that use is necessary for reasons of national defense or foreign policy.

Subsection (d) provides that criminal offender processing information may be used only for a criminal justice purpose (except as stated below) and only where need has been established in accord with regulations to be issued under this Act. Pursuant to a court order, Federal or state statute or regulation particular criminal offender processing information concerning an individual may be made available to him. Under procedures which shall assure security and privacy of such information, information may also be made available to qualified persons for research related to criminal justice. Criminal offender processing information may be made available for a non-criminal justice purpose if such use is expressly provided for in a Federal or State statute.

Subsection (e) relates to use of criminal offender record information and provides that such information may be used for criminal justice purposes. That is, one criminal justice agency may obtain criminal offender record information from another agency for use with regard to the former's criminal justice responsibilities.

Criminal offender record information may be used for a purpose not related to criminal justice if such use is expressly provided for in a Federal statute or executive order or in a state statute. A municipal ordinance is not a sufficient basis unless the ordinance implements or is a type expressly authorized by a state statute dealing with use of criminal offender record information.

The determination whether a statute or executive order "expressly provides for" such use shall be made by the Attorney General. His determinations shall be conclusive.

The provisions of Subsection (e) allowing for non-criminal justice uses of offender record information are subject to the further limits on arrest records contained in Section 8.

One reason for the delayed effective date of this statute is the hope that it will provide an opportunity for states and the Federal Government to carefully review the statutory authorizations that now exist.

Criminal offender record information may also be made available to qualified persons for research pertaining to criminal justice. Such use is to be governed by regulations which shall establish procedures to assure the security of the information which is released and to protect the privacy of the individuals to whom the information relates.

Subsection (f) requires that records must be maintained for each criminal justice information system with regard to (1) requests for use of criminal justice information and (2) the source of criminal offender record information.

Sec. 6. Review of Criminal Offender Record Information by the Individual—

Subsection (a) requires that an individual, after complying with applicable regulations, be entitled to review criminal offender record information regarding himself and obtain a copy for the purpose of challenge or correction. This requirement does not apply to either criminal intelligence information or criminal offender processing information. It is intended that the regulations will contain procedures to allow an attorney to act on behalf of an individual, and to facilitate individual review of records maintained at geographically distant points.

Subsection (b) provides that each Federal and State agency adopt regulations to implement this section.

Subsection (c) requires that whenever criminal offender record information is requested for a non-criminal justice purpose, the requester must notify the individual to whom the information refers that information is being requested concerning him, and that he has a right to review the record for purposes of challenge or correction. The regulations will contain procedures designed to assure that such notice is given prior to release of the information in order to minimize the chances for release of inaccurate information.

Subsecion (d) prohibits any agency or person from requiring or requesting an individual to show or transfer a copy of this information regarding himself.

Subsection (e) states that an individual who exercises his right of review and who disputes the accuracy or completeness of the information may apply to have the information corrected or supplemented. The application is to be made to the agency (or agencies) responsible for the allegedly inaccurate or incomplete information. Normally the individual applying for corrective action must apply to the arresting agency or to the prosecutive agency, court or correctional institution, where appropriate. The responsible agency will normally not be the agency maintaining a statewide or national file.

Any necessary corrections or revisions are to be made by the responsible agency as soon as possible and are to be disseminated to all past recipients of the erroneous or incomplete information.

Subsection (f) requires that any individual who is not satisfied with the disposition of his request for correction or revision be afforded administrative review.

Subsection (g) gives a right of judicial review to any individual who is not satisfied with the decision resulting from final administrative review.

Sec. 7. Accuracy and Completeness of Criminal Offender Record Information—

Subsection (a) requires a criminal justice agency contributing criminal offender record information to a system subject to this Act to assure that the information which it contributes is accurate, complete and regularly revised to include dispositional and other subsequent information.

Subsection (b) states that all criminal justice agencies, covered by this Act, must take steps necessary to achieve compliance with subsection (a). Criminal justice agencies include courts and correctional authorities.

Sec. 8. Dissemination of Arrest Records—

Subsection (a) states the coverage of this section. The section applies to any criminal justice information system subject to this Act and to any agency or person who directly or indirectly obtains criminal offender record information from such a system.

Subsection (b) restricts dissemination of an arrest record that does not include final disposition if a final disposition has been reported by the contributing criminal justice agency. Each use of a record shall require an inquiry of the system to assure that the information is up-to-date and accurate.

Subsection (c) prohibits dissemination of an arrest record for non-criminal justice purposes if there is an acquittal, dismissal, abandonment of prosecution or an interval of one year has elapsed from date of arrest and no active prosecution is pending. However, if within this one-year period the individual is a fugitive, the time period during which he is a fugitive is excluded. Or, if a person is tried on only one of several charges, and when sentenced, the other charges are held open until the completion of the sentence given, this would be interpreted as "active prosecution still pending".

Subsection (d) exempts from the above prohibition (1) cases where the Attorney General determines that for national defense or foreign policy reasons it should not apply, (2) with regard to the appointment of certain officers by the President, (3) use for research purposes under section 5(e)(3), (4) use pursuant to review of a record by an individual, or adjudication of a claim that the information is inaccurate or incomplete, (5) where a court order specifically provides otherwise, or (6) where a Federal statute expressly provides otherwise.

Sec. 9. Sealing of Criminal Offender Record Information—

Subsection (a) requires that criminal offender record information be sealed under specified circumstances.

Subsection (b) requires that regulations provide at a minimum the sealing of criminal offender record information when specified periods of time have elapsed and an individual has been free from the jurisdiction or supervision of any criminal justice agency. The regulations will establish standard procedures whereby the State will provide information as to the maximum penalty for the particular offense when notation of the sentence is entered into the system.

Subsection (c) allows the regulations to exempt particular systems from full compliance with the sealing requirements where because of the manual nature of such systems, such full compliance would not be feasible. In particular, it is anticipated that records predating the effective date of this Act will be considered for sealing on a one-by-one basis as they are requested for use or as they are coded for conversion to automated systems.

The regulations must also set forth procedures for access. Where access to a sealed record is allowed in connection with review by the individual, on the basis of a court order, or a specific determination of the Attorney General, regulations must set forth procedures to be followed.

Sec. 10. Precedence of State Laws—

This section specifies that where a particular State has a law or regulation which affords an individual rights of privacy which are designed to protect the interests of individuals who are the subject of information in the State's criminal justice information system, that such a law or regulation would not be in conflict with this Act. A State may provide rights of privacy or protection for information in its system greater than those set forth in this Act and such provisions would govern in that State's criminal justice information systems.

Sec. 11. Security of Criminal Justice Information Systems—

This section is designed to minimize the possibility of unauthorized disclosure by setting forth the means by which such systems shall be operated. The security of information in a system subject to this Act must be assured by management control by a criminal justice agency. Also, such systems must meet security standards promulgated by the Attorney General to guard against unauthorized access to data within them.

In addition, the Attorney General is directed to provide for a continuous review and periodic audits of the operations of these systems to assure full compliance with the standards issued pursuant to this section.

Sec. 12. Operating Procedures—

Subsection (a) requires that all criminal justice information systems subject to this legislation must include specified minimum operating procedures which are consistent with the regulations established and promulgated by the Attorney General.

Subsection (b) requires an agency which operates an automated criminal justice information system subject to this Act to publish once a year notice of the existence, nature, and procedures governing the system. If such a system is operated by the Federal Government this notice shall be published in the Federal Register.

Subsection (c) allows the Attorney General to require any agency participating in a criminal justice information system subject to this legislation to provide periodic reports.

Sec. 13. Administrative Sanctions—

Subsection (a) provides that a criminal justice agency may be denied access to criminal justice information systems which are subject to this Act if such an agency (1) obtains information from such a system, and uses or disseminates that information in violation of this Act or the regulations issued pursuant to it, or (2) such agency fails to provide dispositional information required by the Act.

Subsection (b) provides that any person or agency, other than a criminal justice agency, may be denied the use of criminal offender record information if such person or agency uses such information in violation of this Act or regulations issued pursuant to it by the Attorney General.

Subsection (c) states that procedures regarding use of administrative sanctions are to be set forth in regulations of the Attorney General.

Sec. 14. Civil and Criminal Remedies—

Subsection (a)(1) permits an individual who is dissatisfied with the final administrative decision regarding his request for correction and revision of criminal offender record information which pertains to him, to bring a civil action against the responsible agency.

Subsection (a)(2) permits an individual with respect to whom criminal justice information has been maintained disseminated or used in violation of the Act or regulations issued pursuant to it, to bring a civil action against the responsible person or agency.

Subsection (b)(1) requires that such civil actions must be brought in the appropriate United States District Court if a defendant is an officer, employee, or agency of the United States.

Subsection (b)(2) provides that if the defendants in such civil actions are private persons, or officers, employees or agencies of a state or local government, such actions may be brought in an appropriate United States District Court or any other court of competent jurisdiction.

Subsection (c) provides that the district courts of the United States have jurisdiction over such civil suits without regard to the amount in controversy.

Subsection (d) provides that a prevailing plaintiff in such civil actions may be granted equitable relief, damages, costs, and reasonable attorney fees. Exemplary damages may also be awarded when appropriate.

Subsection (e) provides criminal penalties for dissemination and use of criminal justice information which is in violation of the Act and any applicable regulations issued pursuant to it. It is assumed that forgeries or other unauthorized alterations of records subject to this Act are punishable under 18 U.S.C. § 1001 et. seq., and similar provisions of law.

Subsection (f) provides an individual or agency with a complete defense against any civil or criminal action (except an action for equitable relief) when such an individual or agency acts in good faith relying upon the provisions of the Act or on applicable law governing the maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed or approved by the Attorney General.

The defense of "good faith" is intended to apply only where one innocently followed the rules without notice that there was a claim of error or invalidity. The test is an objective one and not the actual state of mind of the individual. Good faith requires the exercise of reasonable diligence to learn the truth when one is put on inquiry.

It is anticipated that the remedies contained in this section will be applied consistent with the provisions of the First Amendment to the Constitution.

Sec. 15. Compliance with Act—

This section would require any state or local agency which operates or participates in a criminal justice information system which is subject to the Act to comply with the Act and with the regulations issued pursuant to it by the Attorney General. Also, any such agency would be deemed to have consented to the bringing of such civil actions as authorized by the Act.

Sec. 16. Regulations of the Attorney General—

The Attorney General is required to issue regulations implementing this Act after appropriate consultation with Federal and state agencies operating or using criminal justice information systems.

Sec. 17. Authorization—

Authorizes funds for the Attorney General to implement the Act.

Sec. 18. Effective Date—

Sets the effective date of the Act to be one year after the date of enactment, except for the authorization of funds section, which would become effective the date of enactment.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 5, 1974.
The VICE PRESIDENT
U.S. Senate
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal entitled the "Criminal Justice Information Systems Act of 1974."

This is a legislative proposal to facilitate and regulate the exchange of criminal justice information.

The proposal, I believe, has achieved an appropriate balance between the information needs of governments and the constitutional rights of persons affected by the collection and dissemination of criminal justice information. This bill is more comprehensive than the proposal originally submitted during the 92nd Congress, 1st Session, and introduced as S. 2546. This bill is applicable to any criminal justice information system which is operated by the Federal Government or is funded in whole or in part by the Federal Government. Also covered is any interstate system and any system which is engaged in the exchange of information with a Federally operated, Federally funded, or interstate system. Both automated and manual systems are covered.

Direct access to criminal justice information systems is limited to criminal justice agencies. Criminal offender record information in a system may only be used for criminal justice purposes unless there is a Federal statute, Executive order or State statute which expressly provides for a non-criminal justice use. This would mean that criminal offender record information would be unavailable for employment or credit checks unless a statute specifically required such use.

The draft bill provides the individual with the right of review of his record for the purposes of correction. Stringent restrictions on dissemination are provided. Criminal offender record information is required to be accurate and complete and provision is made for the sealing of criminal offender record information after the passage of a stated period of years during which the individual is free from the supervision of a criminal justice system. Provision is made for administrative, civil and criminal sanctions against those who use or disseminate information in violation of the Act.

Several provisions of the bill would require changes in the current practices of some government agencies, particularly non-criminal justice agencies that have traditionally made use of criminal justice data for various purposes. The debate and action taken on this proposal should serve to clarify national policy in this area and to provide a framework for subsequent efforts which will, hopefully, bring some order and consistency to the array of statutes and regulations that are relied on for access and use to criminal justice information.

The proposed legislation reflects a strong concern for the security and privacy of data in criminal justice information systems and deals effectively with the fundamental issues involved. Its early and favorable consideration is urged.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

————,
Attorney General.

COMPUTERIZED CRIMINAL HISTORY DATA BANKS

Mr. ROBERT C. BYRD. Mr. President, I applaud the President's statement in the state of the Union address that individual liberties must be protected from the unwarranted invasion of computerized criminal history data banks. The Justice Department is supporting legislation that, for the first time, would place legal restrictions on local, State, and Federal crime data banks. This is a significant recognition on the part of the administration of the growing concern of the possible abuses inherent in a large computerized criminal data bank, such as the FBI's National Crime Information Center—NCIC.

According to statistics I received yesterday from the FBI, the NCIC telecommunications network had 89 control terminals at criminal justice agencies, 56 of which are computerized. In addition, all 59 FBI field offices are linked to the central computer at FBI headquarters. Through this system, information from more than 4.8 million records stored in the FBI's computer is almost immediately available to more than 6,000 police agencies. The NCIC handles more than 121,000 transactions daily.

There are over 440,000 computerized criminal histories—CCH—in the NCIC.

These statistics are increasing at an accelerated rate—during the hearings on the confirmation of L. Patrick Gray to be FBI Director, the Bureau estimated the following growth for the NCIC in the coming years: The number of records that will be contained in NCIC in 5 years will be 10.1 million and 10 years hence will be 21.7 million; the number of computerized criminal histories contained in the NCIC computer in 5 years will be 3 million and 10 years hence will be 8 million.

The anticipated growth of the NCIC adds greater urgency to the necessity for congressional action to assure strict and yet workable procedural safeguards for the system.

Both the bill introduced by Senator Ervin and the bill introduced by Senator Hruska are intended to be starting points for intensive hearings to determine what safeguards are necessary to protect individual liberties and, at the same time, to allow the most effective use of the system in aiding the criminal justice system. For this reason, I have joined as a cosponsor of both bills.

I appreciate the courtesy of the Senator from North Carolina (Mr. Ervin) and the courtesy of the Senator from Nebraska (Mr. Hruska) in allowing me to join as a cosponsor of both bills.

As a member of the Constitutional Rights Subcommittee of the Judiciary Committee, this has been an area of concern to me for some time. This is a difficult field in which to legislate, but it is one in which we must legislate to carefully delineate the lines beyond which such computer systems may not go. Everyone recognizes the blessings such a system may bring for our law enforcement agencies, but at the same time, we must be alert to the dangers that are inherent to such a system.

I think we in the Congress must carefully weigh the interests involved in this legislation and come forward with guidelines to be followed in the future.

Mr. MATHIAS. Mr. President, it is with a rare sense of satisfaction that we come together for introduction today of the "Criminal Justice Information Control and Protection of Privacy Act of 1974." I am pleased to join Senators Ervin and Hruska and other Members of the Senate, in introducing this bill, and to also cosponsor the administration's bill on the same subject.

My satisfaction stems from finally seeing progress and sensing victory on an issue of vital importance to the survival of constitutional government in the United States. About 4 years ago, on my motion, the Senate directed the Department of Justice to prepare guidelines on the use of personal information held in data banks. This is the action just described by the distinguished Senator from Nebraska (Mr. Hruska.) Unhappily, the Department ignored this request and the Senate condoned the lapse. Thus, both the legislative and executive branches demonstrated shocking insensitivity to a highly sensitive subject.

Today, that unfortunate chapter is being excised from our record and we are returning to the spirit in which the Senate adopted my original proposal.

The administration merits support for its stated policy and for the attention it is drawing to the problems of privacy in our society. The President's state of the Union message, and the legislation which is being introduced today, have great significance, not only for their symbolic value but because these bills represent a genuine first step in one important facet of the privacy problem. Not to be forgotten are two Attorneys General, Elliot Richardson and William Saxbe, who are men sensitive to this issue and who deserve credit for helping to bring the Department of Justice to its present posture.

Ours has indeed become "an information-rich world" and the availability of the computer is both cause and effect of this characteristic of modern society. But the increasing sophistication of the computer means that information concerning individuals can, for the first time, be collected and stored, shared, analyzed, and brought to bear for good or ill. Alexander Solzhenitsyn saw it when he said in "Cancer Ward":

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber bands, buses, trams, then even people would loose all the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man constantly aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

The legislation introduced today recognizes the reality of these "threads" and attempts to reconcile the uses to which our new technology can be put with the rights of individuals. It attempts to draw the line which says how and when the individual can be fettered and how and when he shall be free. These bills do not, it should be added, deal with all problems of privacy. Many other privacy issues remain, such as the protection of fourth amendment freedoms and the problem of vast amounts of information concerning individuals presently collected and held by private entities. They do address one important facet of the problem, criminal records information shared between law enforcement agencies.

This is an issue with which I have long been concerned. I began work on this issue when I was in the House of Representatives. In the 92d Congress, I sponsored an Omnibus Criminal Justice Reform Act which, in its concern for the successful rehabilitation of the individual, acquainted me with the problems of such information. When Patrick Gray came before the Senate Judiciary Committee for confirmation, I prepared an extensive list of questions concerning the FBI's

NCIC system and its relationship to State agencies. The information elicited in those questions and in similar questions propounded to FBI Director Clarence Kelley, during the course of his confirmation hearings will, I am sure, be useful to the work of the Senate.

In November, I joined Senator ERVIN in introducing legislation which would have clarified what is, in my view the currently ambiguous authority of the FBI to disseminate information in its files.

The NCIC and participating State systems constitute a vast network for the exchange of information between the law enforcement agencies of the States and the Federal Government and among the States. This system has enormous potential for increasing the capability of law enforcement. When the system is fully operational, each individual police officer could instantaneously have information from all over the Nation concerning suspects at his finger-tips simply by contacting his local computer terminal. Such contact might even be made from a patrol car. This tool can be extremely valuable to police and other law enforcement officials faced with problems which do not respect jurisdictional lines or, in our modern society, distance.

But as with so many technological wonders of our age, this miracle for communicating information raises new problems which must be addressed. In this case, the problems concerning using this system in a way that protects constitutional liberties and civil rights, including the right of privacy.

With the introduction of this legislation today, the Senate is undertaking to resolve a number of issues with respect to criminal history information. These important issues are the classification of types of information which can be collected, the uses to which it can be put, the persons to whom it can be disseminated, the right of inspection and expungement by citizens who might be affected by such information, and penalties for those who misuse such information. This legislation will be the subject of hearings and much study within the Judiciary Committee and I am confident that differences between the two bills which are today being introduced will be reconciled. I look forward to continuing my participation in this process.

SUBMISSION OF SENATE RESOLUTION 276—DISAPPROVAL OF PRESIDENT'S PAY RECOMMENDATIONS

Mr. DOMINICK. Mr. President, last April, I joined with Senators COTTON, YOUNG, McCLURE, HANSEN, HRUSKA, GURNEY, PERCY, BARTLETT, THURMOND, TAFT, CURTIS, BELLMON, BENNETT, FANNIN, AIKEN, ROTH, and TOWER in petitioning the President to hold in abeyance any salary increases recommended by the Commission on Executive, Legislative and Judicial Salaries through the remainder of calendar year 1973, and until the inflationary spiral was sufficiently under control to justify increases throughout the economy.

I was gratified that salary increases were not proposed last year. The budget submitted to the Congress yesterday by the President, however, included a pay raise for some 2,800 top officials in the executive, legislative, and judicial branches presently earning $36,000 to $60,000. This would also increase the salaries of nearly 10,000 career Federal employees who are now at the $36,000-a-year level. This raise will automatically go into effect within 30 days unless Congress votes it down.

Since I am still of the opinion that it would be counterproductive to seek any increases in salaries while the Nation is seeking to stabilize its economic position both domestically and in the international community, I am today submitting a Senate resolution on behalf of myself and Senators McCLURE, HANSEN, GURNEY, BARTLETT, THURMOND, CURTIS, ROTH, TAFT, TOWER, and HELMS, to disapprove the recommendations of the President for a pay raise.

Mr. President, with the prevailing energy crisis, rising unemployment, inflation, and the threat of a recession combining to force our Nation's citizens to tighten their belts, it seems inconsistent to grant raises of $9,000 or $10,000 over the next 3 years to top officials of the Federal Government whose present salaries individually are from three to five times what the average American family earns per year.

I am confident that my colleagues will take these facts into consideration and am hopeful that they disapprove these salary increases before expiration of the 30-day deadline.

After all, one of the inflationary pushes we have in this country is deficit spending which has been OK by Congress. To have us, as Members of Congress, go ahead from there, and then we take care of ourselves while we continue deficit spending, seems to me to be totally out of line.

Mr. ERVIN. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I would like to ask the Senator if he would add my name as a cosponsor of his resolution.

Mr. DOMINICK. I would be delighted to do so. Mr. President, I ask unanimous consent that the name of the Senator from North Carolina (Mr. ERVIN) be added as a cosponsor of the resolution.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, because of the urgency of this matter, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 276

Resolution to disapprove pay recommendations of the President

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during February, 1974, pursuant to section 225(h) of the Federal Salary Act of 1967.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. HUGH SCOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The resolution will go over under the rule.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TRUCKERS' STRIKE

Mr. McCLELLAN. Mr. President, I want to make a few comments about an intolerable situation that is developing across this Nation. As all will remember, during the second week in December 1973, independent truck drivers by the thousands engaged in a general strike to bring the commercial life of the country to a halt. Shots were fired. Windshields smashed. Commercial terminals and truck stops were systematically obstructed. Wholesale blocking of highways inconvenienced thousands of travelers. By all appearances, the strike was coordinated and organized.

At that time I was stunned that my own State of Arkansas had acquired the dubious distinction of hosting the most violent incident in the strike—the explosive destruction of a tractor-trailer in Widener, Ark. That incident was vividly reported in the Washington Star-News on Friday, December 14, 1973. I ask unanimous consent that this article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, it is now February and the whole pattern is starting again, including the gunfire, malicious violence and wholesale obstruction. I ask unanimous consent that two articles from the Washington Post of February 2, 1974, describing these events to date be printed in the RECORD, following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Mr. McCLELLAN. This obstruction and violence, which has adready resulted in the death of at least one person, cannot be permitted to continue any longer or tolerated in the future.

Mr. President, is the Federal Government without the tools to deal with this situation? The answer is "No." The civil rights provisions in title 18 of the United States Code give more than ample power to the Department of Justice to act. Citizens of the United States have a constitutional right to travel safely from one

State to another in pursuit of their pleasure and private or commercial interests. This right has been affirmed and reaffirmed time and again by the courts of this land. The Supreme Court has held that the right to travel freely upon the highways of the Nation is fundamental. *United States* v. *Guest*, 383 U.S. 745. It may not be abridged by governments or by private individuals. To conspire to do so, the Court held, is punishable under section 241 of title 18 of the United States Code. I ask unanimous consent that the relevant parts of the Guest decision be printed in the Record.

There being no objection, the extract was ordered to be printed in the Record, as follows:

[383 U.S. 745]

United States *v.* Guest et al., Appeal From the United States District Court for the Middle District of Georgia

(No. 65. Argued November 9, 1965.—
Decided March 28, 1966)

* * * * *

III

The fourth numbered paragraph of the indictment alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

"The right to travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia." [13]

The District Court was in error in dismissing the indictment as to this paragraph. The constitutional right to travel from one State to another and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized. In *Crandall* v. *Nevada*, 6 Wall. 35, invalidating a Nevada tax on every person leaving the State by common carrier, the Court took as its guide the statement of Chief Justice Taney in the *Passenger Cases*, 7 How. 283, 492:

"For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States."

See 6 Wall., at 48–49.

Although the Articles of Confederation provided that "the people of each State shall have free ingress and regress to and from any other State," [14] that right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created.[15] In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution. See *Williams* v. *Fears*, 179 U.S. 270, 274; *Twining* v. *New Jersey*, 211 U. S. 78, 97; *Edwards* v. *California*, 314 U. S. 160, 177 (concurring opinion), 181 (concurring opinion); *New York* v. *O'Neill*, 359 U. S. 1, 6–8; 12–16 (dissenting opinion).

In *Edwards* v. *California*, 314 U. S. 160, invalidating a California law which impeded the free interstate passage of the indigent, the Court based its reaffirmation of the federal right of interstate travel upon the Commerce Clause. This ground of decision was consistent with precedents firmly establishing that the federal commerce power surely encompasses the movement in interstate commerce of persons as well as commodities. *Gloucester Ferry Co.* v. *Pennsylvania*, 114 U.S. 196, 203; *Covington & Cincinnati Bridge Co.* v. *Kentucky*, 154 U. S. 204, 218–219; *Hoke* v. *United States*, 227 U. S. 308, 320; *United States* v. *Hill*, 248 U. S. 420, 423. It is also well settled in our decisions that the federal commerce power authorizes Congress to legislate for the protection of individuals from violations of civil rights that impinge on their free movement in interstate commerce. *Mitchell* v. *United States*, 313 U. S. 80; *Henderson* v. *United States*, 339 U. S. 816; *Boynton* v. *Virginia*, 364 U. S. 454; *Atlanta Motel* v. *United States*, 379 U. S. 241; *Katzenbach* v. *McClung*, 379 U. S. 294.

Although there have been recurring differences in emphasis within the Court as to the source of the constitutional right of interstate travel, there is no need here to canvass those differences further.[16] All have agreed that the right exists. Its explicit recognition as one of the federal rights protected by what is now 18 U. S. C. § 241 goes back at least as far as 1904. *United States* v. *Moore*, 129 F. 630, 633. We reaffirm it now.[17]

This does not mean, of course, that every criminal conspiracy affecting an individual's right of free interstate passage is within the sanction of 18 U.S.C. § 241. A specific intent to interfere with the federal right must be proved, and at a trial the defendants are entitled to a jury instruction phrased in those terms. *Screws* v. *United States*, 325 U.S. 91, 106–107. Thus, for example, a conspiracy to rob an interstate traveler would not, of itself, violate § 241. But if the predominant purpose of the conspiracy is to impede or prevent the exercise of the right of interstate travel, or to oppress a person because of his exercise of that right, then, whether or not motivated by racial discrimination, the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought. Accordingly, it was error to grant the motion to dismiss on this branch of the indictment.

For these reasons, the judgment of the District Court is reversed and the case is remanded to that court for further proceedings consistent with this opinion.

It is so ordered.

FOOTNOTES

[13] The third numbered paragraph alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

"The right to the full and equal use on the same terms as white citizens of the public streets and highways in the vicinity of Athens, Georgia."

Insofar as the third paragraph refers to the use of local public facilities, it is covered by the discussion of the second numbered paragraph of the indictment in Part II of this opinion. Insofar as the third paragraph refers to the use of streets or highways in interstate commerce, it is covered by the present discussion of the fourth numbered paragraph of the indictment.

[14] Art. IV, Articles of Confederation.

[15] See Chafee, Three Human Rights in the Constitution of 1787, at 185 (1956).

[16] The District Court relied heavily on *United States* v. *Wheeler*, 254 U.S. 281, in dismissing this branch of the indictment. That case involved an alleged conspiracy to compel residents of Arizona to move out of that State. The right of interstate travel was, therefore, not directly involved. Whatever continuing validity *Wheeler* may have as restricted to its own facts, the dicta in the *Wheeler* opinion relied on by the District Court in the present case have been discredited in subsequent decisions. Cf. *Edwards* v. *California*, 314 U.S. 160, 177, 180 (Douglas, J., concurring); *United States* v. *Williams*, 341 U.S. 70, 80.

[17] As emphasized in Mr. Justice Harlan's separate opinion, § 241 protects only against interference with rights secured by other federal laws or by the Constitution itself. The right to interstate travel is a right that the Constitution itself guarantees, as the cases cited in the text make clear. Although these cases in fact involved governmental interference with the right of free interstate travel, their reasoning fully supports the conclusion that the constitutional right of interstate travel is a right secured against interference from any source whatever, whether governmental or private. In this connection, it is important to reiterate that the right to travel freely from State to State finds constitutional protection that is quite independent of the Fourteenth Amendment.

We are not concerned here with the extent to which interstate travel may be regulated or controlled by the exercise of a State's police power acting within the confines of the Fourteenth Amendment. See *Edwards* v. *California*, 314 U.S. 160, 184 (concurring opinion); *New York* v. *O'Neill*, 359 U.S. 1, 6–8. Nor is there any issue here as to the permissible extent of federal interference with the right within the confines of the Due Process Clause of the Fifth Amendment. Cf. *Zemel* v. *Rusk*, 391 U.S. 1; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles*, 357 U.S. 116.

Mr. McCLELLAN. Mr. President, in addition to section 241, section 245 of title 18 provides a basis for punishing those who use force and fear to prevent citizens from enjoying the benefits of projects financed in whole or in part by the Federal Government. Surely this includes the Interstate Highway System and other federally financed transportation systems.

It is clear that Congress has provided the executive branch with the tools needed to protect all our citizens' civil rights. The Department of Justice should use these tools to enforce these rights. Is our Government—is this administration—impotent to use and enforce the laws equitably and effectively for the protection of all citizens? Race issues and pseudo-revolution should not be the only reason or motivation for vigorous enforcement of the civil rights statutes and other protective laws. There are also other times when the Federal power should be brought to bear.

Mr. President, I submit that a relatively small minority of truck drivers cannot be permitted to cause widespread disruption of the right of citizens to travel in peaceful pursuit of pleasure or to further their private and commercial affairs. This is certainly one of those times to enforce the civil rights statutes that Congress has seen fit to enact.

I welcomed the statement of Attorney General Saxbe this past weekend calling upon the Nation's Governors to "use every resource at their command to see that we do not descend into anarchy." But I would also suggest to the Attorney General that it is time for the Department of Justice to act as well—to vigorously use the tools that Congress has provided to protect and make secure the constitutional rights of all the citizens of the United States.

Mr. President, I do not intend my remarks to suggest a lack of sympathy for legitimate grievances of the independent truck driver. I recognize that the vast majority of truck drivers have not engaged in violence or unlawful obstruction. Everything possible must be done to insure that hardships incident to the fuel shortage do not fall disproportionately upon the truck driver's shoulders.

I fully support these efforts to the extent that they eschew force, violence, obstruction, and intimidation to rob us of our fundamental right to travel freely in pursuit of lawful interests. I cannot condone in any degree the violence—the unlawful tactics—now being engaged in by a few to the detriment and injury of the many—yes, to the injury of the whole Nation. I condemn without reservation the outlawry now being pursued and imposed by these truck drivers, and I call upon the law enforcement agencies of government to take swift and decisive action to end this malady.

EXHIBIT 1

[From the Washington Star-News, Dec. 14, 1973]

TRUCK BLOWN UP AS VIOLENCE MOUNTS

A tractor-trailer was blown up at a truck stop in Arkansas today, scattering wreckage for 50 yards in the most violent incident reported since independent truckers mounted their two-day protest against rising fuel costs and lower speed limits.

No one was injured in the blast, state police said.

More than 30 incidents of gunfire late yesterday and early today in at least seven states marked a so-called "park-in." John Sassi, 29, one of the leaders of the demonstration also was arrested on charges of carrying a concealed pistol.

The incident involving the blown-up rig occurred at Widener, Ark. It was parked at Andy's truck stop on an access road between Interstate 40 and U.S. 70 when the explosion occured. The blast tore the cab from the trailer and shattered glass in a second truck parked nearby, according to truck stop operator Andy Jones Jr.

Sassi and three companions were taken into custody near Glasgow, Del., this morning following a search of their station wagon. Police said a pistol was in the car.

Sassi, an independent driver who helped organize the two-day "park-in" protest, testified before a Senate committee hearing on the truckers' plight earlier this week. Sassi accused the Senate of not acting quickly enough to redress truckers' grievances.

Sassi was arrested while parked at a gas station six miles south of Wilmington after several truckers told police four men driving a station wagon matching the description of Sassi's vehicle warned them not to go out on the road, police said.

The two-day shutdown by some independent truckers has had little apparent effect on the nation's trucking industry, the Department of Transportation said today.

The department released the report as Transportation Secretary Claude Brinegar met with a newly formed advisory council composed of truck operators and truck stop owners.

It said that checks showed lighter-than-usual truck traffic in only five states: Pennsylvania, South Carolina, Florida, New York and Ohio.

After the meeting, Brinegar predicted dissident truckers would end a work stoppage and be back on the road this weekend. "They have got our attention and we are working on their problems," he said.

"The governors must enforce the law and we cannot put up with violence and lawbreaking."

Brinegar indicated, however, that the government is not going to relax its plan to put a speed limit of 55 miles an hour on the big cross-country rigs. The truckers are demanding a 65 m.p.h. limit, claiming that a lower speed consumes more fuel and delays their deliveries.

Brinegar predicted that a shortage of truck fuel would be eased shortly by the government's new fuel allocation program. He said it will allow truckers 110 percent of the fuel they used last year, but conceded that that allocation still would leave them much as 10 percent of what they want.

An Ohio police spokesman said shootings in that state "are obviously connected with the complement who don't want truckers on the road. Whoever they are, they know the right spots. They know where the truckers are and just the right height to hang those bricks." Some truckers have reported their windshields being smashed by bricks suspended from overpasses.

In Bear, Del., a trucker had his windshield shot out last night. Similar incidents were reported on two other Delaware highways as the angry independents attempted to get other truckers to join their protest shutdown.

There also were reports of violence in Maryland at a Whitemarsh truck stop when two trucks were fired on while waiting to be fueled.

One blast hit a truck radiator while shotgun pellets shattered the windshields of other rigs. No injuries were reported.

At least 25 trucks rolling in Ohio highways were hit by bullets last night and early today, the Associated Press said. And more than 30 rigs were chased off Interstate 70 near Dayton and corralled into a truckstop.

The damaged trucks were being operated by drivers who chose not to abide by a nationwide shutdown called to protest high fuel costs and low speed limits.

The independents had encouraged all truckers to honor a two-day shutdown which began yesterday to dramatize their plight, but the Teamsters union refused to sanction the move.

In some areas a significant number of truckers were honoring the stoppage. However, there were also a large number of trucks still rolling, and some were traveling in groups of three and four to avoid trouble.

One driver in Colorado was wounded in the hand yesterday by a shot fired into his truck as he traveled on Interstate 70. Authorities said there was no immediate indication that the wounding was related to the truckers' protest.

Arkansas and Tennessee officials had reported bomb threats at a truck stop and a bridge between their states at Memphis last night.

Pennsylvania state police said a bullet passed through the cab of one truck, and a bullet hit the body of another truck in incidents near the Ohio border. One driver received minor cuts when a rock broke his windshield near Bedford.

A Pennsylvania trucking firm had 66 tires slashed.

The biggest effect of the protest, however, was a reduction of truck traffic in some areas. Some truck stops were shut down as parked trucks blocked fuel pumps.

Arch Booth of the U.S. Chamber of Commerce said he believed the complaints of the truckers were justified, but he called on them to reject shutdowns and similar tactics.

However, J. W. (River Rat) Edwards, who made a second trip to Washington yesterday to voice truckers' concerns, threatened a two-month shutdown if help isn't forthcoming from the government.

Edwards, a self-proclaimed spokesman for the protesters, said truckers want a 65 mile per hour speed limit, an increase in gross weight limits and a ceiling on rapidly rising diesel fuel prices.

EXHIBIT 2

[From the Washington Post, Feb. 2, 1974]

TRUCK STRIKE SPREADS ACROSS 20 STATES—GASOLINE, STEEL, MEAT AFFECTED

Independent truckers spread their strike against high diesel fuel prices across at least 20 states yesterday. Gasoline supplies in four states were cut off or restricted, and thousands of workers faced layoffs in the automobile and livestock industry.

Pennsylvania Gov. Milton J. Shapp called out the National Guard "for the duration of the emergency."

The strike forced the closure of a steel plant in Ohio and two slaughterhouses in Philadelphia. Gasoline deliveries were cut off in New Jersey and parts of New York, Florida and West Virginia.

General Motors said as many as 75,000 workers could be without jobs in its 21 Ohio auto plants if drivers don't start trucking in essential supplies to keep assembly lines running.

The effect on industry will not be fully felt until factories and warehouses open after the weekend, spokesmen said.

Shapp called out the National Guard in Pennsylvania to patrol highways and guard overpasses. The Governor did not say how many troops were called out, but the state adjutant general's office said more than 20,000 guardsmen could be committed if necessary.

Violence that has already caused one death was reported widespread, but there were few injuries. A truck carrying mail for the U.S. Postal Service was fired on in West Virginia.

Drivers in Texas, North Carolina, Mississippi, Alabama, California, Connecticut, Florida and Illinois reported incidents including gunfire, beatings, stonings, roofing tacks spread on highways, air hoses cut, tires slashed and boulders dropped from overpasses.

Some trucks were traveling in convoys for safety, occasionally with police escorts. Some trucking firms warned drivers to stay off Pennsylvania and Ohio roads, where violence was reported the worst.

Motorists in some gas-parched regions felt the effect of the strike as they searched for service stations to fill up. Many stations ran out of gas several days ago and have been waiting for February allocations.

Spokesmen for Shell, Chevron, American and Hess said they were unable to make deliveries to gas stations in many parts of New Jersey and New York because drivers feared threats from strikers.

"We don't know what we're going to do as far as delivering our product is concerned," a Shell spokesman said.

Some West Virginia service stations reported they were out of gas because tanker truck drivers refused to deliver fuel.

The gasoline shortage was severe in South Florida, where unofficial estimates showed that fewer than 20 per cent of service stations had any gasoline left and no respite in sight because of the strike.

In Florida, Gov. Reubin Askew ordered the National Guard to deliver emergency fuel supplies to fire and police departments which might run out of gasoline because of the strike. The guard was not activated, simply told to do the job.

Livestock shipments and produce dealers in Chicago complained that commitments could not be met because drivers were afraid to go to work. Livestock shipments in major markets, confined normally on Fridays to hogs, were down about 30 percent from normal

In Arizona, Armour Food Co., one of America's biggest food packers, said it was laying off 1,000 workers because the strike meant it could not transport all its products.

Steel movement at the southern tip of Lake Michigan, where there is a heavy concentration of mills, ground slowly toward a halt.

Exhibit 3

[From the Washington Post, Feb. 2, 1974]

Trucker Violence Hits Area

(By Bill Richards)

Trucker violence broke out across Maryland early yesterday with a wave of stonings and four reports of gunfire directed against truck drivers defying the call for a nationwide shutdown.

Police reported 15 incidents of stoning and shooting directed against truckers during yesterday's early-morning hours. The majority of them were in the northeast portion of the state.

"There is no question about it," said William Clark, a state police spokesman, "the violence has moved east from Ohio and Pennsylvania into Maryland."

State police were placed on alert throughout the weekend and special air and ground patrols were designated for potential trouble spots along major trucking arteries.

Four men, who gave their occupations as truck drivers, were arrested in Elkton early yesterday after police said they halted and harassed a trucker and then cut the air hose leading from the truck cab to the rear brakes.

The four were listed by Elkton police as Cecil D. Kirk Jr., 25, of Rising Sun, Md.; Daniel L. Pugh, 26, of Conowingo, Md. William R. Hilton, 36, of Street, Md. and Berlin O. Wright Jr., 34, also of Street. All four were charged with tampering with a motor vehicle.

Virginia state police said they had received no reports of violence directed against truckers in their state and planned no special surveillance of trucking routes.

In Maryland all four shooting incidents were reported to have taken place during the early-morning hours in the northeast part of the state. No injuries were reported in any of the shootings.

An unidentified truck driver told police in Elkton that he was fired upon shortly after midnight by a group of men in a pickup truck along Route 40 near the Delaware border. Police declined to release the driver's name.

Police said five shots were fired into the cab of a driver for Herr's Potato Chip Company of Oxford, Pa., while the trucker was driving south at 7:40 a.m. on Route 272 in Calvert. Those shots were also reported to have come from a pickup truck.

A single shotgun blast was fired into the front of a truck driven by Edward Arthur Clark, 49, of Uxbridge, Mass., as Clark was heading north on Route 301 in Bowie at 1:30 a.m. State police said the shot apparently came from a wooded area near the road.

The driver of a tractor trailer told police that he was shot at several times while driving north on Interstate 95 shortly after 1 a.m. Police reported no damage to the truck.

Most of the stonings in Maryland were reported by drivers in the Cecil County area near the Delaware and Pennsylvania borders on either Interstate 95 or Route 40, both heavily traveled truck routes. Police said the driver of a truck stopped for a traffic light in Centreville on the Eastern Shore said he had been pelted by rocks from the occupants of a station wagon parked by the side of the road.

Police said several of the stonings and shootings were committed by the occupants of cars bearing Pennsylvania license plates.

Throughout the early-morning hours police played a cat-and-mouse game with dissident truckers they said they believed to be responsible for most of the violence.

Unmarked patrol cars from the state police automotive safety enforcement and truck weight units patrolled the most heavily used truck routes while three state police helicopters played lights on dark roadside areas and overpasses searching for rock throwers.

Shortly after 2 a.m. a trucker reported ramming a construction barrier that had been placed in the middle of Route 40 near Elkton. State police removed the barrier and 40 minutes later another trucker said he narrowly missed the barrier, which had been hauled out into the roadway again. Police blamed truckers for the incident.

Citizens band radio channels—which have become a primary communications medium for truckers in recent months—crackled throughout the night with reports of police sightings and warnings to stay off the road.

"We've got a well-organized shutdown now. The last one was just a dress rehearsal," said a female broadcaster who identified herself over the air only as "Pattycake."

While police have been seeking information on trucker movements by monitoring the broadcasts closely, truckers have in turn been monitoring police radio transmissions and patrol car movements. Troopers are referred to as "Smokey" on the trucker radio broadcasts because of their broad-brimmed "Smokey the Bear" type hats.

"Everyone is spying on everyone else to find out what the opposition is up to," said a trooper as he climbed out of his unmarked patrol car at 5 a.m. yesterday morning near Interstate 95.

A citizens' band radio nearby came to life only moments later. "Smokey's off the road and out of action," came an unidentified trucker voice. "Anyone who wants to can come on through."

SENATE JOINT RESOLUTION 185, TO ADVANCE THE EFFECTIVE DATE OF THE FINAL ORDER OF THE ICC IN DOCKET NO. MC 43 (SUB. NO. 2)

Mr. MAGNUSON. Mr. President, I introduce a joint resolution on behalf of myself and Senators Mansfield, Hugh Scott, Cotton, Beall, Dole, Javits, Robert C. Byrd, Baker, and Pastore, and I must report that the entire membership of the Commerce Committee unanimously approved it. Their names could be included but because this is an emergency matter, I have not put them down there. But I ask unanimous consent that the names of the members of the Committee on Commerce be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, this joint resolution, reported by the Commerce Committee this morning, would permit the Interstate Commerce Commission to expedite action to relieve the impact of fuel price increases upon independent truck owner-operators.

In recent months, independent owner-operators who lease their equipment and services to regulated motor carriers have been plagued by enormous fuel price increases. These owner-operators currently have no standing before the Interstate Commerce Commission to petition for a rate increase. As the cost of diesel and gasoline has risen, the profits for many independent owner-operators have all but disappeared. As a result of this financial plight, slower speeds, truck stop tie-ups, and nonavailability of fuel, independent owner-operators have significantly curtailed truck service in at least 20 States. I understand that it is spreading to many other States. Such curtailment now threatens to cripple the economy of the Nation.

The ICC is the only Government agency that has taken any action to try to relieve the plight of the independent owner-operator. The Commission has established procedures for quick rate increases by common carriers to pass on fuel costs. However, few carriers took advantage of this surcharge procedure and the owner-operator received little benefit. As a result, the ICC recently announced a proposed rule which would require the common carrier to pay the owner-operator for the increase in fuel costs over the May 15, 1973, price.

I want to repeat that: The ICC recently announced a proposed rule which would require the common carrier to pay the owner-operator for the increase in fuel costs over the May 15, 1973, price. Comments on this proposed rule are due by February 20.

Under the Interstate Commerce Act the Commission cannot make the proposed rule effective until 30 days after final publication—that is, until March, 1974. This delay is unacceptable.

There are serious problems resulting from the independent trucker shutdown. Food shortages are occurring, schools are closing, and unemployment is skyrocketing.

The PRESIDING OFFICER. The time for legislative business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended in legislative session for 5 minutes.

Mr. JAVITS. The Senator may have 15 minutes.

Mr. MAGNUSON. All right.

Mr. JAVITS. And under the same conditions which have previously obtained.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. This resolution would help end the shortage. The joint resolution directs the ICC to issue a final order as soon as possible in a pending proceeding; such order would be effective on or before February 15. It could be before February 15. The resolution does not go to the merits of the order, only to the procedural timetable. Upon issuance of the order, independent truckers would be entitled to be paid for their increased fuel costs by the common carrier. The common carrier would, in turn, be able to pass these cost increases on to the shipping public.

This resolution is supported by the administration. It is supported by several Members of this body, including my colleague, Senator Jackson, the chairman of the Committee on Interior and Insular Affairs, and the chairman of the Committee on Public Works, the Senator from West Virginia (Mr. Randolph). The Senate should act now to help end the present trucker shutdown, and I urge my colleagues to act favorably upon it.

All members of the Committee on Commerce who were polled, including the distinguished Senator from New Hampshire (Mr. Cotton), who was at the executive session this morning, have agreed unanimously on this procedure.

I ask unanimous consent that the requirement that this resolution be accompanied by a written report be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Immediate action on this resolution is necessary to alleviate one of the major causes of the truckers' strike and to indicate the ability and the willingness of Congress to act quickly and effectively in a time of crisis.

I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I endorse most heartily everything that the chairman has stated. Action is necessary.

This resolution requires the ICC, which is an arm of Congress, to act upon a pending rulemaking proceeding to increase payments to truckers for added fuel costs. Second, in this instance, because it is a crisis, the resolution dispenses with the 30-day waiting period that would have to elapse before any final order could take effect.

It does not set a precedent. But this is an extraordinary situation, with very serious complications.

We do not pass on the merits of the ICC proceeding. Also, we are neither criticizing nor upholding some of the practices that have taken place. But the situation is desperate. I know that the Senator from Maryland and other Senators who were present when we discussed this matter—and the rest of the committee—are unanimous in asking not only that this resolution be passed but also that it be passed now.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BEALL. I thank the distinguished chairman for yielding.

I thank and congratulate both the chairman and the ranking minority member of the Committee on Commerce for taking expeditious action on this resolution.

I have had some very interesting phone calls in the last day. Some have been pathetic calls from the western part of our State, where the effects of this crisis have been more immediately felt than perhaps elsewhere in the State. We now have a couple of counties in Maryland where the schools were closed because of lack of fuel, where people have not been able to get food at the food stores because the markets cannot get shipments from their warehouses in order to supply the stores.

As has been pointed out, this is the one instance, this is the one way, in which Congress can be of some assistance in this crisis; because by passing this bill today, we are helping the negotiators reach a solution in this matter that is equitable to all concerned. One of the bones of contention has been the fact that the truckers have not been able to pass on the increased fuel cost to their customers—that is, the common carrier who hires them to haul his goods. Certainly, this is not an equitable situation. They should be allowed to pass these costs on.

In passing this resolution, we will convince the truckers and the public that we are acting in a timely fashion, and the truckers will be able to get the kind of relief that is necessary, in a timely fashion, because the waiting period will be waived in this instance, and in this instance only. Therefore, the negotiators can proceed with their negotiations, knowing that this impediment has been removed by the passage of this resolution.

Mr. MAGNUSON. I would like to emphasize the point made by the Senator from New Hampshire: this is not a precedent. It is necessary only because we have this very serious situation.

Mr. BEALL. Yes, and because the situation is serious and the solution can be reached through implementation of this particular legislation.

Mr. GURNEY. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. GURNEY. Mr. President, I commend the distinguished Senator from Washington, chairman of the Committee on Commerce, and the ranking Republican member, the Senator from New Hampshire (Mr. COTTON) for taking this action.

Obviously, all States are seriously affected by this truckers' strike, but the State of Florida is affected more at this time than any other State. This is the time when we are moving our perishables to market, all of our citrus crops and our fresh fruits and vegetables. The State of Florida and its agricultural community are in a state of chaos at this moment. They do not know what to do: The growers, the producers, and the truckers cannot move their products to market.

I commend the Senator from Washington. I request that my name be added as a cosponsor of the measure.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the name of the Senator from Florida be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GURNEY. Mr. President, there has been one other point I wish to make. I realize this cannot be a part of the joint resolution.

There is another part of this strike that should be considered by Congress. I shall introduce a bill today. I wish it could be acted on as quickly as this measure was.

Under the independent fuel allocations, truckers carrying these perishables are not able to get a full 100 percent of their requirements. There is no way they can move these perishables to market unless they do. When I say a full 100 percent, I mean 100 percent now, and not last year or 110 percent of last year, but right at this moment.

I am going to introduce a bill. I hope it can be expedited. Either the Energy Office or Congress will have to take action to permit the independent truckers to have all the fuel requirements they need. If they do not, the perishables are going to rot and not reach the markets in places where they should.

I hope the Committee on Commerce through its chairman and the ranking Republican member will be able to help us out in this very trying situation, too.

Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, this matter came up rather unexpectedly. I commend the majority leader because I am sure he spent, as I did, a weekend during which we heard from nearly everyone about this matter. The result is before the Senate now.

Mr. President, I ask unanimous consent to have added as cosponsors the names of my colleagues from Washington (Mr. JACKSON), the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee, the Senator from Ohio (Mr. METZENBAUM), and the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I am sure that other Senators if they were present in the Chamber would want to be added as cosponsors so that the measure would be practically unanimous.

Mr. President, I believe that action on this joint resolution will be one of the things that we are able to do here today that will show to the people that Congress is aware of the problem, that we can act quickly, and that we have done so here.

Mr. President, I move the adoption of the joint resolution.

The PRESIDING OFFICER. The joint resolution with its preamble will be stated for the information of the Senate.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 185

Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2)

Whereas the Interstate Commerce Commission, through its proposed order issued January 30, 1974, in Docket No. MC 43 (Sub-No. 2), seeks to alleviate a serious and pressing transportation problem by requiring carriers to reimburse their owner-operators for all increases in the price of fuel over the base period May 15, 1973; and

Whereas section 221(b) of the Interstate Commerce Act, 49 U.S.C. 321(b) appears to preclude the Commission from making its final order in MC 43 (Sub-No. 2) effective in less than 30 days; and

Whereas the inability to effectuate the final order in MC 43 (Sub-No. 2) more promptly will cause substantial hardship to a significant portion of the motor carrier industry and the shipping public; and

Whereas there exists a National transportation crisis which presents a grave risk to the commerce and well-being of the nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commission shall issue a final order in MC 43 (Sub-No. 2) as soon as possible which shall become effective not later than February 15, 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 185), was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the purpose of considering Executive O, 81st Congress, 1st session, which will be stated.

The legislative clerk read as follows:

Ex. O (81st Con., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of the period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes.

At the hour of 11 a.m., the Senate will go into executive session and will resume consideration of the Genocide Convention. At 11 a.m. the debate on the motion to invoke cloture will begin to run and an automatic quorum call will occur at the hour of 12 noon. Upon the establishment of a quorum, a mandatory yea-and-nay vote will occur at about 12:15 p.m. on the motion to invoke cloture.

What happens thereafter tomorrow afternoon will depend to some extent at least on the outcome of that cloture vote.

I should also say that it may be possible that the conference report on the National Emergency Energy Act could be called up if, in the meantime, the conferees have completed action thereon.

ADJOURNMENT TO 10:30 A.M.

Mr. GRIFFIN. Mr. President, if there be no further business to come before the Senate, with the authority of the distinguished majority whip, I move that the Senate stand in adjournment in accordance with the previous order until 10:30 a.m. tomorrow.

The motion was agreed to; and at 4:48 p.m. the Senate adjourned until tomorrow, Wednesday, February 6, 1974, at 10:30 a.m.

EXTENSIONS OF REMARKS

MOTHER JONES—BEFORE WL—WOMEN'S LIBERATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, no list of outstanding labor leaders is complete without the name of Mary "Mother" Jones, or, as she was called by the antiunion forces of the late 19th century, the "Chicago agitator."

"Mother" Jones entered the coalfields around Pittsburgh in the late 1890's and urged miners to protest their long hours and low pay.

Once the miners struck, she helped garner foodstuffs for their families and stiffen the resistance of the newly organized miners.

A recent article in the Pittsburgh Press Sunday magazine section tells the story of "Mother" Jones.

I would like to share that article with my colleagues:

MOTHER JONES—THE MINERS' STRIKING SPIRIT

(By Lois C. McLean)

Mary Jones stood on a speakers' platform at Turtle Creek and exhorted a crowd of 10,000 to fight for their rights.

Of medium height, hair tinged with gray and robust appearance, she spoke in a clear, distinct voice, calling the strikers "fellow slaves" and warning them against politicians who "hugged them closer than their wives" before election and then ignored them until the next time for voting. She derided the miners, telling them if they possessed true manhood, their wives and children would not be wearing rags.

The time was not 1974, but 1897, and Mrs. Mary Jones—"the Chicago agitator"—was taking on the Pittsburgh district coal miners' cause as her own. In the process, she became nationally known as "Mother Jones, the friend of the miners."

PROBLEM OF FOOD

When 20,000 Pittsburgh area miners went on strike against a 10-12-hour day in which they dug coal at the rate of about 50 cents a ton, the immediate problem was how to provide food and supplies for them and their families.

Mother Jones approached farmers in the region and asked them to share their produce. She escorted them and their loaded-down wagons in a parade to "Camp Determination," strikers' headquarters near Turtle Creek, where the food was distributed.

Neighborhood women were invited to a "pound party" and asked to bring a pound of food or other supplies. Factory workers were invited by Mother Jones to come to camp meetings and donate to the cause.

DAILY SPEECHES

Working with strike leaders, she made almost daily speeches, encouraging the miners to keep up the fight. She visited their wives, and invited them to special meetings where she convinced them of their responsibility to back their husbands. She even enlisted their children to gain sympathy for the strike. One parade was led by a group of 50 little girls carrying homemade banners—one read, "Our Papas Aren't Scared."

The dramatic highlight of another rally came when Mother Jones crowned a young crippled girl with a wreath of daisies and proclaimed her the "Joan of Arc of the strikers."

Through marches, meetings and personal contacts, Mother Jones was able to arouse and maintain in the miners an enthusiasm and determination to win. To their dull, harsh lives, she brought excitement, action and purpose.

Finally, in January, 1898, agreement was reached by coal operators and union representatives, establishing uniform wages and price scales, an eight-hour workday and the Central Competitive Field covering Western Pennsylvania, Ohio, Indiana and Illinois.

Mother Jones went on to further identify herself with miners by appearing in camps throughout the nation and some in Canada and Mexico. She was known as "the angel of the miners" until her death in 1930.

At her request she was buried with "her boys" in the Union Miners' Cemetery at Mount Olive, Ill. In 1972, the cemetery was declared a national historic site.

From the National Labor Tribune, Aug. 26, 1897: "Of the subjects that have been discussed, the 'new woman' has received more severe raps than any that have been discussed in newspapers for many a day. While we do not approve of the 'new woman' that makes a show of herself cycling up and down the principal thoroughfares of a city in bloomers, we do approve of the 'new women' in affairs in which they, more than anyone else, are directly interested. The latest in this line are women as labor agitators . . . but the woman that we wish to speak of in this article is Mrs. Mary Jones of Chicago. She has done more missionary work for miners of the Pittsburgh district than any two of the officials and done it better. She seems to have the gift of talking in that forcible manner that interests you the moment she enters into a conversation with you. To her, more than any one else, the miners owe much of their success in this unpleasantness. She has 'roughed' it in this district for the last four weeks, and in all kinds of weather she is ready to take the field and use her persuasive powers on the men. Too much credit cannot be given to this 'new woman,' and her name will go down in history as one of the martyrs to the cause of humanity."

LEAD POISONING

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RONCALIO of Wyoming. Mr. Speaker, each year ducks and geese by the millions migrate southward across the Nation to their wintering grounds, and each year countless thousands, perhaps millions, needlessly die. The cause is lead poisoning—a fatal result of their scooping up lead shotgun pellets from marsh bottoms as they forage for food. Other thousands suffer from sublethal doses of lead pellets and experience anemia, muscular disorders, a high susceptibility to other diseases, and disoriented migratory behavior.

The seriousness of this problem has led the Department of the Interior's Bureau of Sports Fisheries and Wildlife to consider phasing out the use of lead shot for shooting waterfowl by 1975. I have expressed my own concern by introducing legislation that would prohibit waterfowl hunters from using the poisonous lead shot. We can no more continue to degrade the environment of our waterfowl than we can afford to further pollute any other part of the environment.

Many questions have been raised over the extent of the lead poisoning problem, the reliability of various studies, the proposed banning of lead shot, and the suitability of nontoxic iron shot as a substitute. One of the best discussions of the entire subject appeared in Bob Brister's shooting column in the February 1974 issue of Field & Stream magazine. Mr. Brister is to be commended for the thoroughness of his investigations, and Field & Stream is to be commended for keeping its readers fully informed of all aspects of this intolerable threat to an invaluable wildlife resource. The article follows:

ANSWERS TO YOUR STEEL-SHOT QUESTIONS

(By Bob Brister)

By the time this issue reaches you, the U.S. Department of the Interior probably will have filed an environmental impact statement, the last legal step necessary before toxic lead shot can be banned from waterfowl hunting.

In anticipation of this step I have for months now been testing nontoxic shot for penetration, patterning, and actual killing efficiency in the field. I've researched behind the scenes, sometimes dealing with confidential data of firms working on nontoxic shot, trying to determine answers to hundreds of questions which have come in from readers since our October issue delved into the probelm.

Some of the things I found may surprise you just as they did me. One ammunition company already has steel-shot loads which it says can be guaranteed (by replacement of the gun) against damage to barrels, not only single-barrels but doubles and over/unders as well. As for killing power, I have found that steel shot, in the identical charge weight as lead, can be made to perform quite comparably with ordinary lead loads, and for some shooters at normal ranges may even be better due to higher velocities.

I've fired some of the newest steel-shot loads for an entire waterfowl season in my area of South Texas where a daily bag limit of five ducks and five geese is not only possible, but was repeatedly accomplished. I've shot flighted shooting-preserve mallards at measured ranges with three different guns: a Perazzi over/under, a Winchester 101 over/under, and a Remington 1100 autoloader, none of which has shown damage of any sort.

These findings, I realize, do not seem to concur with reports of studies conducted by the Winchester Arms Company at Nilo Farms, Illinois. But much of the difference has been in interpretation. The Nilo Study has perhaps done more than anything else to provide basic data on duck killing for all companies and has created much of the interest in a national problem which first came to public notice more than two decades ago largely through the concern of "Mr. Winchester," John Olin.

New developments in nontoxic materials, loads, woods, and cases are moving faster than any individual or company can keep track of, and my attempt now is to try and put into perspective some of those developments and perhaps prevent some "panic" among hunters, many of whom (judging by my mail) are convinced they would quit waterfowl hunting rather than use "crippling" loads of nontoxic shot.

One of the most commonly asked questions has been, why the sudden rush toward nontoxic shot when biologists of many states say they observe no waterfowl lead-poisoning problem at all?

Dr. John Rogers, Chief of Migratory Bird Management for the U.S. Bureau of Sport Fisheries and Wildlife, says the main reason for the rush is the Bureau's just-completed nationwide tests of duck wings, a scientific procedure which is claimed to determine from wingbones almost precisely the lead levels the duck was carrying in its body. These tests, he said, have shown "frighteningly higher levels than were feared, even in areas where there seems little possibility for the birds to have picked up such lead levels from air or water pollution."

Ducks tested from the very lightly populated states of Idaho and Utah, for instance, showed alarmingly high lead levels. About one-third of the mallard wingbones tested from Utah showed near-lethal lead levels up to 20 parts per million and wingbones from Idaho showed 16.7 percent of mallards carrying similarly high lead levels. Interpretations of the tests, he added, indicate that some birds in these states are carrying practically no lead traces at all, which indicates through "median level" interpretations that the birds using heavily hunted areas are picking up extremely high lead content from spent pellets while others are getting almost none. He says this would seem to rule out the possibility that they are merely picking up lead from the environment.

Heaviest lead pollution in ducks was in the Northeast, notably in the general area between Washington and Boston where, Dr. Rogers said, lead emissions from auto exhausts have superimposed one form of lead pollution upon another, adding up to a critical situation.

As to why biologists in some states say they have observed little or no lead-poisoning deaths in ducks or geese, he said:

"This is not something you just walk out in a marsh and see. The well-publicized instances of many ducks dead or dying in one spot or area are not the real problem. The real problem is that a few ducks here and there in a marsh, day after day, are gradually dying from lead poisoning. Most of them are consumed overnight by predators or die in cover where they may never be seen—even by someone keeping a regular check on the area."

As for damage from steel shot, it has been widely publicized that the "peening" effect of steel pellets will bulge barrels, and could result in barrel and/or rib separation in thin-tubed doubles and over/unders. However, these ideas were based upon facts made (for the most part) some time ago, and in the meanwhile one ammunition manufacturer, Canadian Industries Limited (CIL), has been running tests with more than 50 guns, including several double barrels and one over/under—which has had more than 30,000 rounds through it—with what was described as no damage to any of the guns.

Jacques Marquis of CIL's ammunition division in Brownsburg, Quebec, said the loads his company is working on cannot be discussed in detail as yet, but that they contain a specially designed "shot cushion."

"We are not really concerned about barrel damage after what we have seen," Marquis said. "We feel sure enough that as our steel shot loads go on the market we will be in position to back them up with a positive guarantee of replacing the gun if it is damaged by firing them. That goes for a Parker or Purdey or any other gun sufficiently good to be safe with lead loads. We have been field testing these shells under actual hunting conditions from one end of Canada to the other, and all I can say is that we are finding the bagging of ducks to be about the same with them as with our lead loads. We have had some top skeet shooters such as Barney Hartman (All-American Professional Team captain) and Paul LaPorte (last year's world skeet-shooting champion) testing these loads on targets and on ducks. Mr. Hartman has been hunting with them a lot and I think he likes them very much. They are high-velocity shells but with very light recoil."

If CIL's tests are an indication, steel-shot barrel damage may turn out to be another problem which will ultimately be solved by technology.

Tests by Remington Arms Company seem to indicate considerably less of a problem exists than is ordinarily believed. E. S. (Ted) McCawley, Remington director of public relations, said that after thousands of rounds of testing it has been determined that Remington 870 pumpguns and 1100 auto-loaders can be used with steel shot "without concern."

"We have observed minor changes in dimension at the forcing cone and choke of our Model 3200 over/under, but these did not apparently affect pattern to any degree," he said.

Federal Cartridge Company has been running tests with a number of over/unders, doubles, and single-barrels, according to Vice President Wililam B. Horn.

"After 500 rounds each we observe no more change in barrel dimension than from the same number of lead loads fired through these guns," Horn said. "However, we are asking individual manufacturers to test our shells to see for themselves since we cannot possibly test every make and model on the market. Many of them are doing so now."

Despite my own tests and the increasing evidence that it may be much safer than believed previously to shoot steel shot, I am *not* advising anyone at this time to fire steel loads presently on the market through expensive, thin-walled doubles or over/unders. For that matter I could not advise anyone to fire modern shotcup wads in just any expensive, thin-walled double or over/under because I've also seen barrels bulged by lead shot. There are just too many variables of thickness and hardness of barrel steels, reactions to them at various temperatures, etc., to make positive statements about all guns.

This brings up the question of why can't the gun companies come up with barrels tough enough to withstand steel shot without any question of barrel damage?

I believe they certainly could do so, provided ammunition developments don't make such changes unnecessary. This area of research is almost virgin territory. One solution could be barrels either overbored or "prebulged" to a tiny degree behind the choke, thus reducing the sudden impact of the shot load being forced into the steep constriction of present chokes. The so-called Russian choke principle I used in skeet guns which won the World Shooting Games and the Olympics, utilizes barrels "belled" behind the choke. This improves performance by shortening the shot string and also has the effect of reducing peening pressures at the choke. Another solution, which one manufacturer is now studying, is the use of extra-hard screw-in choke devices (similar in principle to the Win-Choke) which could withstand the peening effect of hard shot. Still another concept is the overboring of barrels from the forcing cone forward. Simply increasing the hardness of the steel used in barrel-making possibly would do the job. But the most important thing at the moment seems to be coming up with steel-shot loads which would work in existing guns without fear of damage, and CIL believes it has that. My personal belief is that with the larger, heavier shot charges of steel almost certain to be evolved for extra long range shooting, some sort of special barrels may be required for permanent protection against bulging behind the choke. But at the same time I beileve that bulging and/or dangers of barrel separation may have been worried about much more than history will prove was indicated.

In the instance of single-barreled guns I thing it would require more shooting than most hunters do in years to produce visible change in a barrel, and that even then—judging from tests made by Winchester and others—the change would *not* be in opening the choke or its patterns. According to the Winchester tests, neither safety nor pattern were compromised after thousands of test rounds with steel loads in single-barreled guns.

When it comes to killing power, hold on to your hat and keep an open mind. There is increasing evidence that steel shot can be made to perform as effectively as lead shot provided the right pellet size is used for the job.

Perhaps one of the most significant analyses of the modern shotgun was the $1-million Nilo Report on Shotshell Efficiency. In this study, 2,400 live mallards were fired upon under scientifically controlled conditions at various shot sizes of lead, copper, and steel. Penetration, pattern cripples, kills—every factor was put onto computer tape. This data has now been assembled in the form of a "mathematical model" into which any load and range and velocity can be fed, and out comes the computer's answer to how many ducks would be killed or crippled at any yardage by any load or type of shot.

Recently I had the opportunity, under the supervision of Winchester ballistician Ed Lowry and the director of the Nilo Report, Dr. Ed Kozicky, to feed into the Winchester computer what I considered to be a direct comparison of steel and lead-shot killing efficiency.

I picked one of the most popular U.S. duck loads, 12-guage high velocity 4s, 1¼ ounces of shot with a muzzle velocity of 1330 feet per second. Since earlier tests have shown that a full size larger in steel is required to approximate lead's retained energy, I asked the computer for a comparison with 1¼ ounces of No. 2 steel shot moving the identical muzzle velocity of 1330 feet per second.

What came out, among other things, is that that the steel-shot load killed *more* ducks than the lead-shot load at every range all the way out to 80 yards. At 80 yards, where very little clean killing was done with either load, the steel and lead came out even, 11.4 birds bagged per 100 shot at.

How could steel shot do this, when everybody knows lead is heavier, and thus a better projectile than steel?

As best I can read the computer, the difference lay with the better patterning of the harder pellets. At 40 yards, from a full-choked barrel, the lead 4s (standard High Velocity without "Grex" cushioning) showed a 72 percent pattern from the Winchester test gun. The steel 2s showed a fantastic 84.8 percentage, possibly due to the big shot and the fact that the hard shot flies straighter and there are fewer deformed "flyers" in the load.

On the other side of the coin is the relationship of kills to cripples. According to Dr. Ed Kozicky of Winchester, this is the most important index to the efficiency of the shotshell, and in rough approximation steel shot not only killed a few more birds cleanly than lead, it crippled more, too, at all ranges except 40 and 80 yards. But in each case the difference was very small.

At 40 yards, lead shot killed 93.8 and crippled 5.5; steel shot killed 94.7 and crippled 5. Interestingly enough, at the most common of yardages used by duck hunters (40), steel shot outperformed lead in both categories, killing more and crippling less.

Certainly it is realized that the press releases from Winchester following the Nilo study did not indicate such a parity of lead and steel shot. But these tests were based upon 1⅛ ounces of steel shot compared with 1½ ounces of lead. Such a seemingly lopsided comparison of lead and steel shot material was done, as Dr. Kozicky explained, for two reasons. One was because 1⅛ ounces of steel and 1½ ounces of lead happened to be the highest amounts (and most efficient killers) of the two types of ammunition available in standard 2¾-inch 12-gauge cases. The other reason was because in most lead loads, 1⅛-ounces of steel has approximately the same number of pellets in a given shot size as 1½ ounces of lead, this due to the difference in weight of the material. Having the same number of pellets was an important factor in producing the mathematical data upon which the computer can now function.

But the significant thing to me, all-along, was what would happen if it were possible to put the identical total energy payload into lead shells and steel shells and then compare their "killing power." When the computer did that it came up with a very evenly matched killing efficiency of lead and steel.

The Arcanum Corporation of Ann Arbor, Michigan, has been producing limited amounts of "sintered" shot, made by a process which chemically attracts a 50 percent content of fine, powdered iron to 50 percent of powdered lead to form round shot pellets (much softer than steel shot), which would have no damaging effect upon gun barrels. Helmut Stern, president of that company, said details have not been worked out as to definite cost nor exactly how soon sintered shot could be produced in large volume, and that it would be about nine months to a year before the company could get into real production.

"We believe sintered shot has advantages of higher density, will dissipate rapidly as the iron portion of the pellets oxidizes, and more of it can be loaded into a shell than steel shot because less wad cushioning will be required," Stern said. "We are licensed by the Canadian government as sole proprietors of its patent on the process, and are prepared to license anyone else to build the shot once we complete tests on the process."

I asked Stern about questions on the shot I've heard raised; that as its 50 percent content of iron rusts away, fine lead powder could be released into the environment, possibly to pose problems to wildlife as bad or worse than those now being created by lead pellets.

"We do not claim to have the answer" he said. "The sintered shot is not that much heavier than steel shot, a density of about 8.5 as compared with 7.8 for steel, and thus is still not close to the 11.3 for lead. I cannot say what would be the effect on the ecosystem from the lead residue remaining from this shot when the iron portion oxidizes. We are not trying to rush anyone into accepting the new shot. We do think it will kill better than steel and will not harm guns."

Then he went on to add:

There is another kind of shot which could possibly be better than any of the nontoxics, and that would be lead blended with trace amounts of selenium. It has been shown that selenium in some way seems to make lead less toxic to ducks, and that only tiny amounts of it are necessary. But I cannot say yet that selenium lead shot would be practical."

For the present, the ban on toxic lead shot would apply only to waterfowl hunting. Last fall, when I wrote the article "The Decision Is for Steel," that was indeed the thinking at the Interior Department, and the "time frame," as they say in Washington, was for a lead ban on the Atlantic Flyway in '74 and the nation in '75. Then came developments in sintered shot by the Canadians which apparently convinced Assistant Secretary of Interior Nathaniel P. Reed to hold off and see more about the new shot. If it were indeed the best choice, more time would be required for manufacturers to test and develop it for the huge volume of shotshells needed by the nation's hunters. Interior Department thinking now, I believe, is in terms of '75 or even '76 for a ban on toxic shot, but any decision would have to be announced right away to give manufacturers time to get into production of an alternative shot.

Some wonder if the people in Washington have considered what might happen to the sale of duck stamps and excise-tax money for wildlife refuges if $7-a-box nontoxic ammunition discourages Americans from waterfowl hunting?

Surveys show the average hunter would be spending only a tiny percentage more in his overall outlay to go hunting; ammunition is one of the least expensive aspects of the sport. What *has* proved to discourage hunters is shortage of game and curtailed bag limits. If nontoxic shot can reduce losses of game due to lead poisoning, future hunters should be encouraged, not discouraged. Right now I believe one of the most discouraging things in hunting is out-of-range skyblasting, and it could be that higher ammunition costs might cut down some of that wild shooting.

Perhaps the most dangerous aspects of the whole situation is the possibility that unless toxic shot is banned, conservation societies and groups would go through with previous threats to sue the Interior Department against "pollution" of the environment from toxic shot. Should that happen, the resultant discord and widespread publicity against hunting could do more damage that anything mentioned in this discussion.

The National Wildlife Federation has already publicly threatened to file suit unless the Interior Department "gets the lead out." I believe that is now exactly what Interior is going to do.

REPRESENTATIVE KEMP OPPOSES CONGRESSIONAL PAY INCREASES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. KEMP. Mr. Speaker, today I introduced a House resolution calling for the disapproval of the salary increase proposal for certain officials in the executive, legislative, and judicial branches as transmitted by the President to this

Congress in the budget for fiscal year 1975.

In accordance with provisions of the Federal Salary Act of 1967, these salary increases will take effect in less than 30 days from today, unless we express our disapproval of all or part of the increases.

Mr. Speaker, at a time when we are urging fiscal restraint upon every sector of the economy, I find such an upward adjustment of our own salaries to be totally lacking in thrift and proportion. I have warned for the past 13 months that fiscal responsibility begins here in this Chamber. If we do not have the self-discipline necessary to block a pay raise that will take effect through our own inaction, then I believe we will lose the initiative in restoring fiscal sanity to our economy. I, for one, would find it impossible to reconcile any budget cut made because of inflation, with our own personal role in institutionalizing this inflation.

If Congress is in need of a pay raise, let those advocates of such a raise bring their proposals before this House, and let each Member vote, on the record, for or against this raise. Until such time as congressional pay raises are handled in this manner, we must vigorously resist taking the easy way out of fiscal responsibility. What easy way out can we offer the consuming public, reeling from 8.8 percent increases in the cost of living last year?

Mr. Speaker, several Members have offered resolutions similar to my own. We must adopt this resolution immediately if our deeds are going to be consonant with our words.

THE PREJUDICED JURORS

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BAUMAN. Mr. Speaker I think all of us have a constitutional obligation to keep an open mind before making our final decision on the issue of impeachment.

I think it would be well for my colleagues to consider the thoughts expressed in an editorial from the Baltimore News American entitled, "The Prejudiced Jurors." We will each have to examine our understanding of our responsibilities in the light of the serious qustions this editorial raises:

> THE PREJUDICED JURORS
>
> Suppose a man was called for possible service as member of a grand jury whose function is to consider evidence in a high crime and then decide whether a suspect should be indicted or not.
>
> And suppose the same man, in advance of his prospective grand jury service, should go around telling newspapermen and television interviewers that he is convinced of the suspect's guilt.
>
> Would such a man, with his opinion already formed and a matter of wide public record, ever be permitted to participate in a normal legal process which presumes innocence until evidence of guilt is presented?
>
> He most assuredly would not.
>
> All members of the House of Representatives, in effect, are prospective grand jurors. If their judiciary committee decides to press impeachment proceedings against President Nixon, it will be up to the congressmen to weigh the evidence and vote or reject an indictment in the form of specific charges.
>
> Will those congressmen who have been going around telling newspapermen and television interviewers they believe the President should be removed from office, or resign—which amounts to the same thing—will they be allowed to vote on the indictment in spite of their recorded advance bias?
>
> They most assuredly will.
>
> And so will all the U.S. senators, who will be sitting as a trial jury if the house votes an indictment. Including, of course, those you have seen repeatedly on television solemnly insinuating guilt to a President being prosecuted on the unsubstantiated word of one discredited man, John Dean.
>
> There is something dreadfully wrong in the prospect, something quite alien to the traditional spirit of American justice. Those members of Congress who have been going around prejudging the President are reminiscent of the outlaw kangaroo court posses which vowed a fair trial before the hanging.
>
> At the very least, out of respect for the judicial process and its presumption of innocence until guilt is proven, at the very least they should keep their opinions to themselves or disqualify themselves as jurors.

OPPOSITION TO CONGRESSIONAL PAY INCREASES

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. YOUNG of Florida. Mr. Speaker, for the second time in the 93d Congress I rise to express my strong opposition to proposals for an increase in congressional salaries.

Under the Federal Salary Act of 1967, the Commission on Executive, Legislative, and Judicial Salaries is directed to transmit its recommendations for salary increases to the President every 4 years. Under the clever wording of the 1967 statute, once the President submits the Commission's recommendations to the Congress, they automatically take effect after 30 days unless either House enacts a resolution of disapproval. But there is no procedure in the House rules to force a vote on such a resolution, and it can therefore die quietly in committee.

Today I introduced such a resolution of disapproval, directed against the congressional salary recommendations transmitted by the President to the Congress in the budget for the fiscal year ending June 30, 1975. These recommendations are contained on page 1030 of the Budget Appendix.

I do not believe that Members of Congress should enjoy a pay raise by such a back-door method. Therefore, on the first day of the 93d Congress I sponsored H.R. 971, amending the Federal Salary Act to provide an expeditious means of considering resolutions of disapproval against salary recommendations. My bill contains a parliamentary procedure to force Congress to a recorded vote on pay increases for itself, the Federal judiciary, and Government executives.

Not surprisingly, H.R. 971 has been languishing in the House Post Office and Civil Service Committee for more than a year now. Yet that same committee acted with astounding speed last July to approve a Senate bill which would move up the date for submission of salary recommendations to August 1973, instead of January 1974 as specified by law. If this bill had passed the House, Congress could have had its increase in a nonelection year, without a record vote, and thereby avoided the consequences of such action in an election year.

I rose on the House floor last July to blast this move as a sneaky, self-serving, and inflationary attempt to increase congressional and Federal salaries without being responsible to the American people for doing so, and I intrdouced a resolution which directed the Commission not to recommend any salary increases for Members of Congress. I noted that such an omission will relieve the Congress of the ethical burden of approving its own increases without a vote, and might also enable us to take a clear-eyed look at the need and expense of other recommendations made by the Commission.

Happily for the American taxpayer, a majority of Members of the House agreed with me on this matter and on July 30, 1973 voted down the rule allowing consideration of the Senate bill.

Now that we are faced with the statutory submission of the salary recommendations, my feelings on increases for Members of Congress remain the same. I stand on my words of last July about congressional salary increases:

> Any such increase would be an insult to the American wage earner, to the senior citizen on a fixed income trying to make ends meet, to the disabled veteran or World War I and World War II soldiers who has his pension reduced by every increase in social security benefits. Surely this Chamber has more important questions to consider.

To this statement, I would further add that approval of the increase by sheer inaction is an abdication of legislative responsibility. A vote on my resolution of disapproval within a month would give every Member a chance to demonstrate his sense of fiscal justice and his willingness to stand the clear light of public scrutiny on this issue.

My own position in opposition to the increases is clear, and following is the resolution which I have introduced to back it up:

> *Resolved,* That the House of Representatives hereby disapproves all of the recommendations of the President of the United States, with respect to the rates of pay of offices and positions within the purview of subparagraphs (A), (B), (C), (D), and (E) of Section 225 of the Federal Salary Act of 1967 (81 Stat. 643; Public Law 90–206), transmitted by the President to the Congress in the budget for the fiscal year ending June 30, 1975.

GOODBY, MR. GROSS

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. GINN. Mr. Speaker, the most unhappy item of news I have heard in recent days was the announcement by my colleague from Iowa (Mr. Gross) that he would retire at the end of his present term in the Congress.

Though I understand my colleague's desire to ease up on his taxing schedule and return to his beautiful home district in Iowa, his decision remains a sad one for the House. Mr. Gross is more than a Congressman, he is a one-man investigating force dedicated to protecting the taxpayer's pocketbook. He is scrupulous, untiring, uncompromising, and dedicated to the public good.

Perhaps no better commentary on Mr. Gross' record of public service can be found than in a recent editorial in the Savannah Morning News, one of the leading newspapers in Georgia and the South. I would like a copy of this editorial, which appeared in the January 23 edition, printed in the Record at this point:

Goodby, Mr. Gross

It is with regret we note the announcement of Rep. H. R. Gross (R-Iowa) that he will retire at the end of his present term. The 74-year-old Gross cites his age as the reason for his decision.

The Washington Post described Gross as the "self-appointed miser for every taxpayer's dollar." Throughout his 25 years in the House, Gross has challenged the big spenders of government on every turn. His efforts have saved the taxpayer millions of dollars that would have otherwise been poured down a wide assortment of rat holes. He accomplished this saving by carefully scrutinizing almost every congressional appropriation. When necessary Gross does not hesitate to call any high spending House member to task in questioning the sponsors of legislation that he thinks unnecessary. Gross often begins the examination by asking, "How much will this boondoggle cost?"

The Iowa senator opposes all sorts of waste without distinction, but his favorite target is junketing by government officials, a practice that often amounts to little more than tax-paid vacations for the officials. Gross, who is noted for his sarcastic wit, once described the junket of one administrator as a "lush travel orgy."

In Congress today many express support of fiscal responsibility, but few who actually practice. H. R. Gross is one who does and we will certainly miss his influence.

HADDOCK WILL GROW EVEN MORE SCARCE

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. COHEN. Mr. Speaker, since my election to this body in 1972, I have emphasized the need for the U.S. Government to extend its fisheries jurisdiction to 200 miles. With each passing day this need becomes more acute. An article from the January 31, 1974, edition of the Lewiston Daily Sun, of my district, describes the serious fisheries problems we are facing as a nation. I urge my colleagues to take this unfortunate and economically disastrous history into consideration and to join with me in support of legislation which will prevent our other important fish stocks from experiencing similar fates.

The article follows:

Haddock Will Grow Even More Scarce

Boston.—Haddock, which one Boston fish dealer says is "one of our best sellers" even when it is in short supply, is going to grow even more scarce in coming months, the federal government says.

Russell T. Norris, regional director of the National Marine Fisheries Service in Gloucester, Mass., said Monday that the United States—as well as 15 other nations including the Soviet Union—have virtually banned further fishing for haddock this year in the Georges Bank area off Cape Cod.

But the ban won't have too drastic an effect, Norris said. "Haddock are almost commercially extinct."

The international agreement to ban haddock fishing came out of last year's meeting of the International Commission for the Northwest Atlantic Fisheries (ICNAF).

Norris explained what has happened to the haddock—"the mainstay of the Boston fish industry"—over the years.

Between 1930 and 1960, he said, about 50,000 tons of the fish were caught each year in the egg-shaped Georges Bank area, a "very fertile" fishing ground some 200 miles long.

In 1961, foreign fishing fleets entered the area, and in 1965 and 1966 alone, Norris said, the Soviets caught 180,000 tons of the fish.

"Since then," he said, "There never has been a successful catch of haddock."

He said haddock fishing—for the few fish that remain—still is allowed primarily in waters off Newfoundland.

Future prospects are glum, Norris said. Haddock production will not increase "in the foreseeable future."

The situation will be "not much—and high-priced," he said.

METRIC MARCHES ON

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. PICKLE. Mr. Speaker, in the tide and crunch of great crises and changes our country is currently enduring, it is easy to forget more subtle—yet still crucial changes going on.

One of those is the change to the metric system. Contrary to popular belief, this is not something we will decide whether to do or not. The change is already taking place—in industry, in Government, and even creeping into our private lives. The only choice we still face is whether to let this change go on in a haphazard and costly way—and perhaps have it, too, on the crisis list down the road—or whether to make up our minds, and go ahead and orchestrate the change over a reasonable period and at minimal cost.

I think the latter approach would be the best approach for our Nation and I, therefore, urge a passage of the metric conversion bill which has been under consideration by this body for some months, and years.

The New York Times of this past Sunday had an excellent article which details some of what the change is all about. I would like to reprint it in the Record at this time:

Think Metric, or You Will Be Kilometers Behind Shortly

(By Linda Charlton)

Slowly, slowly, 2.54 centimeters by 2.54 centimeters, the United States is inching toward formal adoption of the metric system of weights and measures. Conversion to metrics would replace the random charm of our present "customary" system, which is based on such folklore as a Saxon king's girth, with decimal rationality.

The notion that metrics was an idea whose time had come has occurred, reoccurred and faded for more than a century. Now the United States alone among the industrialized nations clings to what is called a customary system, and is one of only a handful in the world to use a customary system at all.

The system we use now is based on no single concept, but on a rich mixture of inherited standards whose origins are sometimes uncertain and often fanciful.

Measuring and weighing things has been a human preoccupation at least since the Ancient Egyptians discovered that property lines were wiped out by the annual Nile flooding and came up with a system of measurements to make identification possible. Early units of measurement and weight were based on the familiar—on seashells, on kernels of grain, on the capacity of baskets or goatskins and and on parts of the human body.

Thus the cubit, the biblical measure, was originally the distance from the point of the average elbow to the tip of the middle finger, or about 18 inches. The foot was just that, the length of a foot, probably that of the king. The inch was a thumb's length. And the yard, or double cubit, we are told, derived from the length of the sash around an Anglo-Saxon ruler's girth. The mile was originally 1,000 five-foot paces. This Roman measurement, like many others, was brought to Britain, whence we inherited it. It was the Romans, too, who later defined the inch as 1/12th of a foot.

The trouble with all of this was that each country had its own system of weights and measures, a hindrance to communication and an even greater hindrance to trade. By the mid-17th century, there were scattered proposals for a world-wide uniform system. But it was not until 1790 that the French National Assembly, wonderfully undistracted by the turbulence of revolution, decided that the Academy of Sciences should "deduce an invariable standard for all the measures and all the weights."

What the Academy created was a system in which measures of volume, weight and length were derived from the same singe unit of measurement, a portion of the earth's circumference. The bsaic unit was called a "meter," from the Greek word for a measure, "metron." This meant that the three basic forms of measurement were related to each other in a coherent fashion, unlike a customary system such as ours, in which feet are divided by 12 to arrive at inches and ounces multiplied by 16 to convert to pounds. Beyond that, the French system was a decimal one: 10 was its basic number, so complicated calculations could be made simply by moving a decimal point.

The metric system is based on internationally accepted standards: the meter, for example, is now defined by science as 1,650,763.73 times the wave-length of the orange-red line of Krypton-86 under specified conditions (Krypton-86 is an isotope of Krypton, an inert gaseous element). And since 1893, the United States has used metric measurements to define and describe its own lunatic system. But it has resisted effort after effort to make the conversion official, even as more and more countries have deserted tradition for decimality.

RESISTANCE TO THE NEW

Some opponents have said, and continue to say, that conversion would be too expensive and that it is not provably useful. Others contend that it would be a burden on industrial workers trained in the old ways. But much of the resistance seems to be simple apathy or a distaste for the new, as exemplified by the folksy comment of Howard W. Smith, then an 82-year-old Democratic Representative from Virginia and chairman of the House Rules Committee. In thumbing-down a proposal for a study of conversion to the metric system some years ago, he said: "I got my education in a one-room red schoolhouse. We took our degrees in the three R's. Just to make an honest confession, I don't know what the metric system is."

Just so have metrication proposals been rejected time and time again since the Secretary of State John Quincy Adams urged the Congress in 1821 to "adopt, in all its essential parts, the new French system of weight and measure." Finally, in August, 1968, Congress authorized what turned out to be a 12-volume, three year, $2.5 million survey of metrication that concluded, once again, "that a metric America [is] a decision whose time has come."

The Administration recommended the change and now there are two very similar bills, one in each House, that are expected to be acted on this session. They would set up a Metric Conversion Board to plan a 10-year voluntary changeover to a system that would be "predominantly, although not exclusively metric."

We are already, almost without noticing it, occasionally metric. We describe camera lenses in metric terms; electricity is measured in kilowatts. Physicians write prescriptions, and pharmacies fill them, in milligrams, not ounces. Our Olympic swimmers compete at metric lengths and we buy metrically-sized skis. Most important, any number of large companies already design their export products in metric tons.

And it is in industry that the present impetus for metrication started. A number of the country's largest organizations, including General Motors, International Business Machines, International Harvester and Minnesota Mining and Manufacturing, have committed themselves to metrication, and many of them are already turning out both metric and customarily designed products. Part of the reason, according to Louis E. Barbrow, the metrication men at the Bureau of Standards, is that all our major trading partners now are metric, particularly with the recent conversion of Japan and Great Britain.

Another factor is the growth of foreign competition. The country once eager to buy an American product, despite the fact that it was designed on an inch-foot-yard basis, now can buy metric products from other technologically sophisticated countries, and avoid costly parts and repair problems.

The giant companies, Mr. Barbrow pointed out, are supplied by thousands of smaller companies, so that the pressure to have "metric capability" will spread in a ripple effect. "This change is going on," Mr. Barbrow said, "and it is going to accelerate regardless of legislation."

"THE RULE OF REASON"

Still, legislation would certainly speed things up by making conversion a matter of national policy. This would mean that American school children would learn metrics. They already do in Maryland and California (currently, along with the customary system), and a number of other states are theoretically committed to teaching metrics.

But how about that mythic figure, the average citizen? Because the change is planned according "the rule of reason," which Mr. Barbrow translates as "change where it's advantageous but for God's sake don't change for change's sake," there will be no overnight rule-making.

Within the 10-year changeover period, however, Mr. Barbrow foresees that we will be buying our milk and our gasoline in liters, our bread in kilograms, figuring distances and speed limits in kilometers and determining how hot or cold we feel on the celsius (formerly centigrade) scale.

This will inevitably mean a degree of retraining for everyone. And this requirement is one reason why the American Federation of Labor and Congress of Industrial Organizations adopted a "cautionary" resolution at its latest national convention. Another reason, according to an AFL–CIO staff economist, is the expected replacement cost for tools for workers such as carpenters and machinists.

Dr. John L. Feirer, director of the federally-funded Center for Metric Education at Western Michigan University, disagrees with the labor organization's contention that the required retraining will be extensive and a possible barrier to promotion of some older workers. "If he [the worker] can make change for a dollar, that's metric," Dr. Feirer said. He estimated that, for example, a machine-tool operator would need no more than three or four two-hour training sessions to be at ease with the metric system.

Dr. Feirer, pressed for an example of the difficulties our nonmetric system creates, pointed to the joint American-Soviet space link-up project. The Russians designed their half in metrics, he said, and we designed ours by our system. The result was a whole tnat matches, but there was a lot of complex computation in "highly decimalized inches." Dr. Feirer added: "If we'd all been metric, it would be much more simple."

For some time, obviously, it will be difficult for most of us to conceptualize a meter or a liter or a kilo. We will have to translate the meter into a little more than a yard, the liter into just about a quart and the kilogram into 2.2 pounds.

But the structure of the metric system will make all sorts of calculations simpler. That is because it is based on the single unit of the meter (39.37 inches). To get centimeters, simply divide by 100; for millimeters, by 1,000. For kilometers, multiply by 1,000. And it is a coherent system: all forms of measurement, linear, weight and volume, have a similar decimal relationship.

Familiarity with the metric system will also make life easier for American travelers overseas—whether it is the couple wanting to know if a metrically-sized carpet will fit their 9 by 12 living room or a feverish tourist trying to figure out what her temperature is in celsius so that a local doctor can prescribe by telephone.

As for clothing size, Mr. Barbrow and Dr. Feirer agree that women's sizes, at any rate, are arbitrary and variable, differing between country and country. An international standard is likely to be adopted at the next meeting of the International Organization for Standardization. Sizes will come in centimeters, based on particular areas of the body such as waist and hips. This may not meet with universal approval: A 22-inch waist doesn't sound so lissom at 55 centimeters; and one man with fairly standard size shoes allowed as how it made him feel "a little bit like Emmett Kelly," the flap-footed clown, to learn that his metric shoe size would be 27½.

And then there are all those pleasant proverbs: "A miss is as good as six kilometers" or "all wool and a meter wide" don't have the same ring. Nor can one imagine poets hymning the "kilometers to go before I sleep." But Dr. Feirer is reassuring about what may be assumed to be a basic American worry: "You don't have to convert a football field. . . ."

BAN THE HANDGUN—XIX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BINGHAM. Mr. Speaker, yesterday two high-school students were wounded by pistol fire during an argument between two rival groups. One boy, a star basketball player, was left paralyzed and unable to speak. How many more boys must be killed or maimed, because of widespread availability of handguns?

The attached article appeared in the Washington Post, February 5, 1974:

ONE TEENAGER LEFT PARALYZED—TWO ALICE DEAL STUDENTS ARE SHOT IN FIGHT

(By Adam Shaw and Alfred E. Lewis)

Two 16-year-old students at Alice Deal Junior High School were shot yesterday, one of them critically, when an argument involving them and several other young people erupted in gunfire at 39th and Yuma Streets NW, metropolitan police said.

Police and hospital authorities said that James Everett Atkinson Jr., of 1819 Kilbourne Pl. NW, lay partially paralyzed and in critical condition last night at Sibley Hospital following the 1:30 p.m. affray during a school lunch break.

The second Alice Deal student, Arthur Byrd, suffered only a flesh wound in the chest and was released from Sibley a few hours after the shooting.

Police said their investigation indicated that the incident involved about five or six teenagers, and that some of them were students at Wilson High School. They emphasized, however, that the incident was an isolated one and did not indicate tension between the two student bodies.

Doctors said young Atkinson had been shot once in the forehead and the bullet lodged in the back of his head. In addition to paralysis, the incident apparently cost him his speech. Surgeons decided yesterday against an immediate attempt to remove the bullet.

Police said the shots were fired by an unknown member of the group. The weapon was not recovered, but is believed to be a small caliber pistol. No arrests had been made last night.

The fight began, young Byrd told a reporter, when a friend of his and Atkinson who attends Wilson came to Alice Deal during the lunch break and said he had been "beaten up" by a group of young men, and asked his friends to help find them to settle accounts.

Byrd said he, Atkinson, two other Alice Deal students and the Wilson student spotted a group of three young men standing on 39th Street a few blocks from the school. When they were approached, Byrd told the reporter, the youths retreated down Yuma Street and then shots rang out.

"When I heard the first shot, I thought they were kidding. No one thought it was a real gun or anything," Byrd said last evening. He was sitting in his home with a hand-sized bandage on his right chest where he had been shot.

"Then another two shots were fired," he said, "and that was when I and James were hit."

Paul Cassagnol, whose house is at the corner of 39th and Yuma Streets, said he heard shouts, but no gunfire.

"Then a very excited young man banged

on the door saying 'someone has been shot, someone has been shot,' " he said.

Cassagnol said he called police, then looked outside to see young Atkinson lying on the sidewalk under a stop sign.

Atkinson, a 9th grade star center for the Alice Deal basketball team, was paralyzed along his right side and unable to speak, hospital officials said. Dr. Charles Carroll, a neurosurgeon who operated on the youth for 1½ hours yesterday, said the bullet had lodged deep in the left rear of the brain.

"We didn't take the bullet out because it might kill him," Carroll said. "We'll just have to see how he does during the next 12 hours. His chances are slim."

Five hours after the shooting, Atkinson's parents and a score of relatives gathered in the hospital waiting room, and awaited the results of the surgery.

The father, James Atkinson, a research technician at the Bethesda National Naval Medical Center, said his son "loved to play the guitar very loud in the basement with his friends," and that he was "really no trouble to anyone, ever."

His wife, Mary, a practical nurse at Georgetown University Hospital, still in her white-and-blue uniform while talking to a reporter, said of her son that "he was an ideal fellow."

The parents sat quietly on a couch until Dr. Carroll came to tell them about the operation.

He knelt by a low wooden table and told them their son was half paralyzed, couldn't speak and was in "very serious condition."

When he stopped speaking there was a silence, Mrs. Atkinson started to cry, softly at first, then, standing up, she choked, "Why to him? Why to him?"

She was taken to the emergency room and was given a sedative as her husband sat by his son's bedside in the intensive care unit.

Atkinson's sister, Valencia, 14, also a student at Alice Deal, said she was called out of a home economics class to be told the news. "I don't know why it happened," she said, "he wasn't a fighter or anything."

Lyman Warner, principal of the junior high school, said Atkinson was "having his best year in school," and was in "fine academic standing."

RESOLUTION SUPPORTING LEGAL SERVICES CORPORATION BILL

HON. JOHN JARMAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. JARMAN. Mr. Speaker, I submit for the RECORD, a resolution adopted by the Oklahoma County Bar Association on December 13, 1973, in support of the Legal Services Corporation bill, which passed the House on June 21 of last year:

RESOLUTION

Whereas, the Oklahoma County Bar Association has always supported the Oklahoma County Legal Aid Society and continues to give its support to the work of the Oklahoma County Legal Aid Society with annual financial support as well as contributions of volunteer time,

And, whereas, the Oklahoma County Bar Association believes that there is a continuing need for legal services for the poor in this community as well as nationally,

And, whereas, the Oklahoma County Bar Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

Now, therefore, it is resolved:

1. The United States government should continue funding of legal services programs to enable them to provide adequate legal services to eligible clients and to prevent deterioration of the quality and quantity of service.

2. Government at all levels and lawyers from both public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should enact a legal services corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor, and providing that local bar associations maintain substantial representation on the local boards establishing the policies of individual legal services programs.

EL CERRITO CONSTITUENT SUGGESTS WAYS TO COMBAT ENERGY SHORTAGE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. DELLUMS. Mr. Speaker, in an effort to combat increasing energy shortages, numerous measures have been implemented—often hastily and without adequate consideration. In order to find ways that most economically and efficiently utilize existing sources, we must constantly be open to suggestions for improving or substituting shortage measures.

In light of these considerations, I wish to include in the RECORD, for the benefit of my colleagues, a copy of a letter from Mr. Thomas J. Smithberger, of El Cerrito, Calif. Mr. Smithberger offers some valid criticisms of present efforts to combat the energy shortages, and suggests a number of steps that he feels ought to be taken to prevent the waste of natural resources. His letter follows:

JANUARY 28, 1974.

WILLIAM SIMON,
Administrator, Federal Energy Administration, New Executive Building, Washington, D.C.

DEAR MR. SIMON: Despite all the chicanery and deception practiced by the Administration and the oil industry, the energy shortage is apparently a very real one and seems certain to be with us for some time. Our fragile, highly artificial economy, which has depended all along on extreme over-exploitation and waste of natural resources, especially energy resources, is finally being shown for what it is. But I am not convinced the Administration, the Congress, and the Senate believe there is really a shortage and intend to deal with it rationally. And I will not begin to be convinced—

Until measures are taken to discourage human population expansion, which is at once both a result and a cause of over-use of natural resources;

Until the huge, habitual, and continuing waste of heat energy by manufacturing industries is stopped (plants routinely waste amounts of heat that could heat the homes of entire communities);

Until our entrenched disease of forced obsolescence—the intentional manufacture of absolute junk instead of lasting, durable products—is discouraged by legislation. (Remember, it requires *energy*, lots of it, to produce all this junk. Think for a moment of the enormous energy required, from raw material to finished product, to produce just one automobile. There is a rapidly increasing desire to pay more for something that is good and which will last rather than pay a cheap price for cheap junk that "sells". We are awfully tired of the whole phoney, wasteful game. There was a time when the U.S. was known for the high quality of its manufactured products.);

Until trucking of goods stops being encouraged and favored over rail transport;

Until prices of fuels are allowed to move at least somewhere toward their real value and thereby encourage more rational use;

Until there is a steeply rising tax, above a certain level, on horsepower or engine displacement in private autos and trucks (trucks, as well as most cars, are overpowered);

Until over-use of electricity and gas by large users is discouraged instead of encouraged, as it is now, by our mad rate structures!! (In more rational countries, this has been done for a long time. Even in Norway, with the most abundant supply of electricity per capita in the world, even the small, individual consumer pays a basic rate up to a certain amount of use per month and then, beyond that, pays a much higher rate.);

Until buses are no longer required to pay bridge tolls and commuting private autos stop getting a break in the form of reduced "commute" rates. (Private autos should pay *more*, not less during commute hours!);

Until metropolitan transit systems provide adequate and safe service at night and on weekends so that it is *possible* to not use one's car;

Until a large proportion of bus drivers are forced to drive in a sane and economical manner (The pedal pumpers and the ones who drive only with full throttle or full brake not only cause enormous wear and tear on the passengers and the equipment, but are using at least twice as much fuel as is needed for the run!);

Until we stop exporting fiber, petroleum, and other critical commodities;

Until we stop being the world's weapon supplier;

Until ALL advertising involving electricity is stopped, and I don't mean voluntarily, either (Lighted and moving signs are not the only offenders. The enormous and obscene consumption in and around and on all the plastic diners and pizza parlors is certainly several hundred percent more than needed to "identify" a business. They are better lighted than my office);

Until recycling of items such as bottles is legislatively "encouraged" and the "no-deposit-no-return" syndrome is *ended* legislatively (It takes energy to make new bottles and cans. Oregon has pointed the way and shown what can be done.)

These are just some of the more obvious steps that will have to be taken before I or any rational citizen is going to believe in the reality of a shortage or have any confidence that the legislators really believe there is a shortage.

The only things that have actually happened so far are (1) none of the things I suggest above; (2) reduction of *office* lighting to *half* of established adequate standards for Government employees only, since they are such easy targets, being direct pawns of the Executive Branch; (3) lowering thermostats in public buildings; (4) daylight saving time, which has to be the ultimate in irrational action, since moving the work day back into a darker and certainly colder portion of the daily cycle can only guarantee increased energy consumption; (5) a lot of misleading, often ludicrous or impractical press leaks about possible rationing and allocation plans.

One of the most stupid and most unfair of these is the idea of preventing everyone from driving on a certain day of the week. If we must ration gasoline, let us ration it, but let us not impose unnecessary hardship or inconvenience just to make life harder for no good reason.

I want the lights restored over my desk where my eyes are now being abused eight hours daily. I want to see a lot more reason and logic used and a lot less political maneuvering in setting priorities and actions. This is not a matter for political maneuvering, it is first a matter of adequate lighting for working human eyes and enough heat for health and secondly a matter of setting priorities for stabilizing the economy in the most rational manner possible for the long term good of everyone.

Regarding the gasoline rationing plan, I must say the recently announced plan for gasoline rationing shows some good thought and basically is probably the best system that could be devised. It does have two flaws though, both unreasonable and unnecessary, but both easily corrected: This first is the 60-day limit on life of the certificates. Perhaps some limit is needed but I see no reason why it could not be longer, say, six months, so that people who wish or need to curtail local driving as much as possible so as to be able to use their car for one or two longer trips a year could do so without having to worry about getting more than their established allotment during a 60-day period. A longer useful life for the certificate would not only make everyone's life much simpler, it would encourage saving and thereby reduce the overall consumption of gasoline. The incentive would be very real. After all, we should not be trying to encourage a brisk sale of certificates. The objective should be to reduce consumption as painlessly as possible.

The second and more serious flaw is the size of the "unit" of gasoline one certificate would be good for. According to the newspapers the unit would be five or six gallons. For those of us with smaller cars with ten-gallon tanks this represents a real and surely unnecessary discrimination. Since we could only get gas when our tank was well over half empty we would be in a very difficult situation when driving any distance, especially in remote areas, since stations that are open and have gas are highly unlikely to be spaced so ideally, even in the best of circumstances. When travelling into remote areas or at any time when the weather is cold it is essential to have the tank close to full. (When cars are parked out in cold weather the tanks should be more than half full to minimize condensation of moisture in the tank.) How can one do this with such large units? This serious problem is important not only to recreationists but to people who live in remote and/or cold areas.

There is a public safety factor involved here too. People caught in this dilemma of large units and small tanks would be much more strongly tempted to haul gasoline in cans in their cars.

Please do everything you can to get the unit reduced at least down to three gallons. Two gallons would be better. Perhaps certificates should be printed for more than one size unit. It will not take that much extra paper and it is certainly important enough to be worth it. Don't discriminate against those of us who are caught in the situation of having small gas tanks. After all, we have been doing more than our share for a long time in reducing fuel consumption and air pollution.

Sincerely,

THOMAS J. SMITHBERGER.

LEGISLATION PROVIDES BUSINESS INCENTIVES

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HARRINGTON. Mr. Speaker, an advertisement recently appeared in the New York Times which calls attention to legislation providing incentives to Massachusetts business and industrial communities. This trend in legislation is critical if we are to establish a secure economic foundation upon which new industries may build, and a healthy economic environment in which existing businesses may grow and flourish. Advertisements of this type are encouraging, particularly at a time when our economy faces one of its most serious challenges. I refer my colleagues' attention to the article reprinted below:

MASS INCENTIVES—HOW MASSACHUSETTS' PROGRESSIVE LEGISLATION MAKES BUSINESS PROFITABLE

If your company is considering relocation, or a new facility, Massachusetts now has enough profit-making incentives to be at the top of your list. In the past three years Massachusetts has become the most progressive state in passing legislation beneficial to both new and existing businesses and industries. We're taking positive steps to help keep business profitable and make Massachusetts a state with a healthy tax climate. This, plus the special quality of life Massachusetts is famed for, gives you new incentive to locate here.

Property measure incentive: The tax rate on the corporation excise for 1973 was reduced from $7.98 per M to $5.76 per M. Further reduction can be expected for 1974. It is anticipated this tax will be completely eliminated within three or four years.

Three-percent investment tax incentive: The 3% investment tax credit on tangible property has been extended through November 1978 for manufacturing and R&D corporations. It covers investments in tangible personal property including buildings.

Payroll factor incentive: The payroll factor remains at 1972 levels plus a 5% annual growth. This eliminates future increases in tax liability of expanded payrolls.

$500 employment credit incentive: A $500 tax credit is allowed for employment of each individual taken from public assistance rolls to the extent that payrolls exceed 3% of prior year's payroll.

Sales tax incentive: No sales tax on machinery, replacement parts, tools and fuel.

Loss carry-forward incentive: Losses incurred in other taxable years may be applied to current year income for a period up to five years.

Local property tax incentive: Local exemption of tangible property tax exists on inventory, machinery and equipment of manufacturing corporation.

Corporation excise liability incentive: Credit is allowed for corporate real estate representing new construction in an eligible community certified to have substantial poverty. This could represent up to 52% reduction of local property taxes.

Urban job incentive: A 25% payroll deduction of eligible payroll is available for new and expanded manufacturing, R&D and warehouse facilities in certified areas within the state for up to ten years.

Corporate property leasing incentive: Property leased from an Industrial Development Corporation will be allowed a 3% investment credit to real and tangible personal property.

Industrial development financing incentive: Financing for Industrial Development up to $5 million is tax exempt.

Leasehold improvement incentive: Leasehold improvements outside Massachusetts may be included in the denominator of the property factor in determination of the apportionment formula.

Waste treatment incentive: A 100% deduction for industrial waste treatment facilities and air pollution control. The value of such investment shall not be included in the tangible property base of excise tax.

One can only conclude that the Massachusetts government has gone far in seeking to eliminate any attitude which can by the most remote analysis be considered as anti-business. This is a long record of consistency in addressing problems which adversely affect the economy of this state and, if there is any case to be made for improving the investment by business within a state by providing economic incentives in the tax laws, then the actions of our state govenment should be looked upon as the most progressive of any state.

For more information on Massachusetts' tax climate and areas of site location write: Massachusetts Department of Commerce and Development, 100 Cambridge Street, Boston, Massachusetts 02202.

TRIBUTE TO THE LATE WILLIS B. BOYER

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MINSHALL of Ohio. Mr. Speaker, Saturday as I left the beautiful and impressive memorial services for my friend, Willis B. Boyer, the lines written two centuries ago by the poet, Robert Burns, came to my mind:

> The social, friendly, honest man,
> What'er he be,
> 'Tis he fulfills great Nature's plan,
> And none but he.

When Bill Boyer passed away January 31, we lost just such an ideal man as Burns described. He was one of the friendliest, most genuine human beings I have known, a man whose warmth reached out to all who passed his way. His rise to board chairman and chief executive officer of Republic Steel never tarnished the gold of his kindliness, his sense of humor, his compassion for others. He was a man of fine intellect, driving ability, and splendid accomplishments, but he never lost his humility nor his desire to work for the good of his community and his fellowmen.

It was a privilege to have known Bill Boyer. The tragic news of his all too untimely death brought sorrow to literally thousands of Clevelanders, in all walks of life, who knew the worth of this truly outstanding man. To his lovely wife Esther, his three fine sons, and his mother, Mrs. Pearce F. Boyer, Mrs. Minshall and I extend our deepest sympathy.

JOURNAL SALUTES HERB PEARCE

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. GIAIMO. Mr. Speaker, the New England Real Estate Journal has recently named a very respected friend of mine, Mr. Herb Pearce, president of the H. Pearce Co., Realtor, to its list of "who's who" in the real estate business.

The article I am enclosing below, from the New Haven Register, describes Herb Pearce's accomplishments which have led to this distinction. As this article notes, Herb Pearce has the distinction of being a leader both in his chosen area of business and in the community of Greater New Haven and the larger community of Connecticut and the Nation. An experienced executive, a talented realtor, a member of the Connecticut State Development Commission, an innovator in commercial, inindustrial, and residential real estate transactions, Herb Pearce is the kind of man who makes solid contributions to his community and State, and I am proud to insert these remarks from the profile of Herb Pearce done by the New England Real Estate Journal, as reprinted in the New Haven Register.

The remarks follow:

JOURNAL SALUTES HERB PEARCE

Herb Pearce, president of the H. Pearce Co., Realtors, has been named to Who's Who by the New England Real Estate Journal.

In a span of just 15 years, Pearce has seen his firm develop from a one-man operation into one of the largest real estate firms in Connecticut whose staff of 22 sales associates recently set a company record of $9 million in sales during the first six months of 1973, said the journal in an article devoted to Pearce.

"Although the H. Pearce Co. is recognized throughout south central Connecticut as a leader in residential, commercial and industrial sales and for the development of investment programs involving real estate, Herb Pearce is equally well known as a civic leader."

When Pearce opened his first real estate office in 1958, he had no real estate experience, but the executive experience he gained with the former A. C. Gilbert Co. of New Haven enabled him to develop a well-rounded professional team which now includes attorneys, engineers, accountants and business executives who, along with the all-woman residential sales staff, are able to meet the demands of any client.

"Pearce also is an innovator who has set the pace throughout Connecticut for other real estate firms to follow," the journal said.

"For instance, in conjunction with the New Haven Savings Bank the H. Pearce Co. sponsored the first public real estate investment seminar which attracted more than 1,000 persons from Connecticut and Massachusetts to hear nationally known experts discuss the advantages of investing in real estate.

"Likewise, Pearce was the first real estate firm in the state to sponsor a bus tour to promote industrial and commercial properties to bankers, out-of-state brokers and local and state development officials and real estate investors."

The Journal further cited Pearce as being the first Realtor to arrange helicopter tours to provide busy executives with a birds-eye view of industrial and commercial properties and for distributing booklets on industrial and commercial properties to assist potential clients.

The H. Pearce Co. has initiated many other programs, including trade-in plans which take the risk out of home buying by splitting the profit and not the loss with the homeowner. The firm was also one of the first in Connecticut to offer computerized real estate investment analysis.

"Similarly, the H. Pearce Co. has been an innovator in the use of automated equipment such as telecopier services through the national Homes for Living Network through which any document or picture may be transmitted across the country in four to six minutes.

"The H. Pearce Co. also added the international flavor through its affiliation with Panorama Ltd. for the sale of properties on Spain's historic Costa del Sol."

Referring to other accomplishments by Herb Pearce, the New England Real Estate Journal referred to his appointment in 1971 to the State Development Commission, a post he still holds. The appointment was made by Gov. Thomas Meskill. That year Pearce led a task force of commission experts to California to bring back sub-contract business from aero-space program prime contractors.

ARCHIBALD COX AND IMPEACHMENT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. PICKLE. Mr. Speaker, the sad events of Watergate have produced a few people who have grown in public esteem.

Judge John Sirica and Leon Jaworski are two examples.

Another is the Harvard law professor, Archibald Cox.

Here is a man who was on the front lines of the Watergate investigations. Here is a man who understands the judicial impact of Watergate.

Recently, an article by Richard Wilson appeared in the January 31 edition of the Houston Post outlining Mr. Cox's thoughts on impeachment. Mr. Wilson adds, of course, to Professor Cox's thoughts, but this article is laced with direct quotes from the famous professor.

Impeachment is a question to be settled by the legislative branch, but our decisionmaking process can be aided by considering the viewpoint of one who has participated in the judicial process.

I thus commend to my colleagues a review of the thoughts of Mr. Cox on impeachment:

[From the Houston Post, Jan. 31, 1974]

ARCHIBALD COX AND IMPEACHMENT

(By Richard Wilson)

The chief victim of the Saturday night massacre which reacted so badly against President Nixon has introduced some sense into the impeachment question.

It is to the credit of Prof. Archibald Cox that his summary dismissal has not deranged his powers and reasoning. In a speech at Amherst College, the former special Watergate prosecutor puts the matter simply: "What are the wrongs against the people, the body politic, for which a president may properly be impeached?"

Cox rejects two opposite views, that a president may be impeached for any reason Congress deems sufficient; and, that he must only be impeached upon proof of violations of the criminal law. His thesis is that the cause for impeachment must be found in a broader, defined area that would apply not to one president but to all.

Cox notes the ambivalence of the polls—Nixon was wrong, maybe he ought to resign but don't impeach him—and finds therein an intuitive public understanding:

"Impeachment is extraordinary, radical surgery, legitimate only upon some equally fundamental wrong, doing such grave injury to the nation as to make any incumbent's further continuance in office unacceptable even though his previous entitlement was based upon popular election."

"The need," Cox adds, "is to quiet the fear that impeachment may be or become a partisan substitute for a premature election. Political opposition, emotion, dislike, distrust and lack of public confidence (which may be temporary even when mixed with suspicion of some kind of wrong doing) are not enough."

What, then, is enough? Cox deals with three main points.

Surprisingly enough, he virtually rejects the alleged offense which bothers most people, the resort to every loophole and cutting every corner to avoid income taxes.

He judges this to be in bad taste, avaricious, and morally shabby, but doubts it is ground for impeachment. The same goes for the improvements for the President's safety and comfort at Key Biscayne and San Clemente.

Cox then states his second point in language as harsh and sweeping as that used by the President's critics. This is the President's approval in principle of bugging, mail covers and burglaries to gather domestic intelligence and effectuate administration policy and political objectives, hampering at the same time inquiry into such activities. Cox makes nothing but an implied judgment and does not even claim the foregoing to be the actual facts.

His third premise embraces the President's duty to see that the laws are faithfully executed. Cox asks if Nixon's elusive conduct with respect to Watergate is an impeachable violation of his responsibility to see that the laws are faithfully executed.

For this question, Cox also offers no answer, but he gives weight, by his tone, to a conclusion that the President's actions created an atmosphere favorable to aides seeking to avoid indictment and conviction, and at least indirectly prevented or delayed the faithful execution of the laws.

The usefulness of Cox's analysis is in defining the areas of impeachability and the difficulty in judicially weighing the degree of the President's culpability in each case.

A case in point is the recent statement of Egil Krogh, upon his sentencing for illegal acts as head of the "Plumbers Unit," that he was not ordered directly or indirectly by President Nixon to conduct the break-in operation at the office of Daniel Ellsberg's psychiatrist.

If Nixon did not do that, if his purpose was, as stated, to find out as much as legally possible about Ellsberg's motives and actions in passing out the Pentagon papers, then one of Cox's premises of impeachment is severely shaken. It had been widely published that Krogh would directly implicate the President, but he did not.

Now, it is additionally stated by those claiming to have read transcripts of the White House tapes that they show former White House Counsel John Dean was wrong in his circumstantial evidence that the President knew of the Watergate cover-up prior to March 21, 1973. This affects Cox's third premise, that the President may have violated his duty to see that the laws are faithfully executed.

So, one returns to Cox's larger generality, honoring the intuitive public judgment that, to be impeached, a President must have done "such grave injury to the nation as to make any incumbent's continuance in office unacceptable."

When such lines of reasoning are followed through, it can be seen how hard the decisions in Congress on impeachment will be, especially if congressmen follow Cox's injunction to set aside "opposition, emotion, dislike, distrust and lack of confidence" as not enough for impeachment.

ENERGY CONSERVATION

HON. ANDREW J. HINSHAW

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HINSHAW. Mr. Speaker, in recent months we in Congress in general have been bombarded with statements, statistics, and proposals for dealing with the energy crisis. Congressional committees have held hearings, State and local governments are grappling with conflicting information, business entities are trying to formulate long-range plans, and automobile drivers are wondering if they will have enough gasoline for their basic needs.

Throughout this period the American public has responded to the energy crisis in admirable fashion. As an example of the kinds of cooperative efforts being undertaken let me quote from a letter recently received from one of my constituents in California:

> DEAR CONGRESSMAN: I know how interested you are in solutions to the energy crisis. While we certainly haven't solved it in Anaheim, we have taken a positive attitude that has already shown definite results. I want to take the privilege of passing the story along to you as an example of what your constituents are doing to help themselves.
>
> Operating on the theory that the best and quickest help you can get is from yourself, the Anaheim Chamber of Commerce two months ago initiated a vigorous program to conserve energy in the Anaheim industrial community.
>
> The program began with the formation of an Anaheim Energy Conservation Committee. This committee, chaired by Merrill E. Skilling, energy conservation authority from Northrop Corporation, brought together the 125 largest users of energy in the Anaheim industrial community.
>
> Northrop's Anaheim operations has been conducting a vigorous energy conservation program for the past eight years. This experience was made available to the 125 company representatives attending the formation meeting of the Anaheim Energy Conservation Committee. These companies represent some of the best known names in the country, ranging from Disneyland to Rockwell, International.
>
> The companies were asked to review their energy needs and to find ways to make voluntary reduction, with the aim of eliminating the need for mandatory allocations in this area.
>
> As of this date, 15 of the companies, have given us their pledge to reduce electrical energy requirements. Their combined pledges now total more than 1,800,000 kilowatt hours per month.
>
> The savings this alone will entail are sufficient to light more than 4,000 residential homes, and more pledges are coming as soon as our other members are able to assess their essential needs.
>
> Of course there is always a discrepancy between pledges and final accomplishment, as I am sure you are aware. This happened in our figures as well. In the first report submitted of actual savings in relation to pledged savings, Northrop Corporation reported a pledge of 387,000 kwh. reduction a month, and the actual reduction for the month of November exceeded one-half million. We fully expect our other participating companies to make an equally excellent showing. Disneyland, for example, has pledged cuts in excess of 600,000 a month.
>
> If this program is successful, as we are confident it will be, Anaheim will be able to achieve with voluntary action what other areas are attempting to accomplish with what appears to be very burdensome laws affecting private residential use of energy.
>
> The response to the industrial program has been so successful that the Chamber of Commerce is expanding its activities for a vigorous drive for voluntary energy conservation in homes and small businesses.
>
> Our goal is a strictly do-it-yourself program. I am sure that you share my pride in a group of people who believe that they can fight their own battle. In this age when it appears that everybody has his hand out for help from Washington, it is refreshing to me to find people still around with this attitude.

STANDARDIZATION OF NUCLEAR REACTORS

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HOLIFIELD. Mr. Speaker, for the benefit of my colleagues and those who read this RECORD, I would like to bring to their attention the present state of the Atomic Energy Commission and nuclear industry programs toward standardization of nuclear powerplant designs.

As background, I would like to point out that the first privately owned nuclear powerplant began commercial operation in 1959, at a power level of about 200 megawatts electric. During the interim our technological base for civilian power reactors has continued to grow and the capability of our manufacturers and constructors has also grown. Plants now in the licensing process are projected to operate at power levels sixfold higher than the initial plants—at a level approaching 1,300 megawatts electric. With increasing numbers of nuclear powerplants being committed by the utilities throughout our country it becomes increasingly important to improve the efficiency of the handling of licensing reviews.

The merits of standardization of reactor design have been recognized for some time. As a matter of fact, the Joint Committee on Atomic Energy over recent years has urged the manufacturers to develop standardized reactor designs and has urged the AEC to give consideration to defining the technical information required of the licensee for the safety review of such designs.

It has been the committee's belief, and I believe the Commission's belief as well, that if standardization of nuclear plant design and power level could be achieved, then reactor licensing time could be appreciably reduced. The attention of the reviewers would focus principally on the site considerations, including, of course, all of the environmental impact considerations now required by the National Environmental Policy Act.

During the past year the Nation's light water reactor vendors have taken the lead in developing standardized nuclear steam supply systems and I commend them for it. Recently, however, it has become clear that if significant gains in licensing review time are to be achieved, a standardization of design of what is referred to as the "balance of plant" is also required. The balance of plant refers to all of the normal auxiliary station equipment, generally found in fossil fueled stations. In other words, components that are not peculiar to the nuclear fuel cycle—secondary systems, switchgear, and the like. Further, it is important that the so-called "interface" between the nuclear portion of the system and the nonnuclear portion of the system is carefully studied.

In effect what I am doing here today, is pointing out that there is an area which if vigorously pursued would result in further decreases in the amount of time required for licensing of nuclear powerplants. This is an important gain to be made. Due to the energy crunch, the people of this Nation appear now to recognize the importance of constructing and operating nuclear powerplants in order to help replace present requirements for oil. In round numbers, each large nuclear plant brought on line will reduce our requirements for foreign oil imports by 12 million barrels per year. This works out to one-half a billion barrels of oil during the lifetime of each nuclear plant.

When a utility makes a decision to build a nuclear plant, a reactor vendor is selected and, in general, an architect-engineering firm is retained to design and sometimes supervise the construction of the balance-of-plant. The trend toward standardization, I regret to say, has not been pursued as vigorously by the architect-engineering firms as I would have hoped. To date, only one such firm has made a firm commitment to the AEC to prepare and submit a standard design for a balance-of-plant. Others are giving consideration to such a commitment, but as of the present date have not done so.

The Joint Committee on Atomic Energy today and tomorrow is holding hearings under section 202 of the Atomic Energy Act of 1954, as amended, on the development, growth, and state of the atomic energy industry. During those hearings, I plan to call attention to the need for architect-engineers to join with the reactor vendors and utilities in this country in developing coordinated standardized nuclear powerplants which can be reviewed with a minimum of processing time. In this manner licenses can be granted more quickly than has been possible in the past under the situation where successive plants have experienced differences in design which were reflected in the safety review and thereby, quite properly, required additional study time by the AEC.

There are, of course, other areas which have caused delays in bringing nuclear plants on line. These include labor problems, materials problems, litigation, et cetera. The Commission and the industry should continue to assess all such areas and make improvements wherever possible so that our country may progress as rapidly as possible toward the goal of energy self-sufficiency.

GOVERNMENT STUDY DOCUMENTS NEED FOR CONCERTED EFFORT TO IMPROVE THE QUALITY OF EDUCATION FOR MEXICAN-AMERICAN CHILDREN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ANDERSON of California. Mr. Speaker, 1.6 million Mexican-American children who attend public schools in the Southwest are being shortchanged by an educational system that virtually ignores their language and culture and fosters a vicious cycle of underachievement.

These findings—which have long been known to many of us from areas having large chicano populations—were well documented in a report issued Monday by the U.S. Commission on Civil Rights, entitled "Toward Quality Education for Mexican Americans."

One of the most blatant examples of how miserably we are failing our Mexican-American children is the fact that only 70,000—or 4 percent—are presently taking part in some type of bilingual education program. Without such bilingual opportunities, how can we expect children who come from homes where English may not be spoken at all to achieve an adequate education in our Anglo schools? I have spoken with many chicano parents in my district who want so much for their children to get a good education, but are confronted instead with a system which fosters in chicano children feelings of inadequacy and inferiority.

I strongly endorse the recommendations of the Commission, especially for a sharp increase in Mexican-American staffing of schools and increased use of bilingual education. We must take immediate and effective action to provide our Mexican-American children with the quality education to which they are entitled.

Mr. Speaker, I insert articles from today's Los Angeles Times and Washington Post outlining the findings and recommendations of the report at this point in the RECORD:

[From the Los Angeles Times, Feb. 5, 1974]

SOUTHWEST SCHOOLS ACCUSED OF DISCRIMINATION AGAINST LATINS

(By Frank Del Olmo)

The U.S. Commission on Civil Rights charged Monday that Mexican-American children are victimized by discriminatory practices in the public schools of the Southwest.

In a 269-page report issued simultaneously in Los Angeles and San Antonio, the commission said its five-year study found "a systematic failure of the educational process" with regard to Mexican-Americans.

Although 16 to 20% of the public school students in the Southwest are Mexican-American, the report states, the public school system often "not only ignores the educational needs of Chicano students but also suppresses their culture and stifles their hopes and ambitions."

The report, entitled "Toward Quality Education for Mexican-Americans," is the sixth and final one in a series of studies which focused on the public schools of California, Arizona, New Mexico, Colorado and Texas.

The report was made public at a Greater Los Angeles Press Club news conference held by the commission's acting chairman, Dr. Stephen Horn, president of California State University, Long Beach and Los Angeles attorney Herman Sillas, chairman of the commission's California Advisory Committee.

The commission's study said Mexican-American children are held back a grade at more than twice the rate for Anglo students; they are overrepresented in low-ability class groupings and underrepresented in classes for high-ability students; and they are twice as likely as Anglo students to be assigned to classes for the mentally retarded.

Part of the blame for this discrimination was laid to a severe scarcity of Mexican-Americans as school teachers, counselors and administrators.

The commission called for a sharp increase in Mexican-American staffing of schools and the increased use of bilingual education or similar innovative approaches toward teaching Mexican-American children.

Noting that the report estimates the annual cost of grade repetition in elementary schools in the Southwest as $90 million, Horn said "this money could be better used in bilingual education" or other innovative programs.

He said only 70,000 of the 1.6 million Mexican-American students in the Southwest are presently taking part in some type of bilingual education program.

The study also said that in 1972 only 4.8% of the 350,000 public school teachers in the Southwest were Mexican-American, and that "this percentage has barely increased in the last four years."

The commission study also charged that in Southwestern school districts with 10% or more Mexican-American population, only 5.4% of the counselors are Mexican-American while the overall student enrollment is 28.5% Mexican-American.

The report offers 51 specific recommendations for the education offices of the five southwestern states and the federal government.

Horn said the recommendations are based on "three basic principles."

"First, the language, history and culture of Mexican-Americans should be an integral part of the educational process.

"Second, Mexican-Americans should be fully represented in decisionmaking positions that influence educational policies.

"Third, all levels of government—local, state and federal—should provide the funds needed to implement the recommendations."

Among the report's recommendations:

State legislatures should require all school districts where non-English speaking students are 5% or more of the enrollment to establish bilingual-bicultural education programs.

State legislatures should prohibit at-large elections of school board members.

State legislatures should establish more stringent specifications that would have to be met before a child could be retained at a grade level or placed in a class for the mentally retarded.

State legislatures should prohibit the long-term grouping of students according to ability.

Teacher education institutions should incorporate Mexican-American studies into their basic courses and require trainees to do part of their practice teaching with Mexican-American students.

The federal government should step up its enforcement of civil rights legislation to prevent local school districts from continuing policies that discriminate against Mexican-American students.

Sillas said the five-year study cost $2 million and expressed the hope that it would be "used as a guideline for the education of all bilingual, bicultural children.

"Five years from now there should not be a need to conduct similar studies for Chinese-Americans," he said. "It depends on how the educational system responds."

Horn said that since the commission began issuing its education reports three years ago, there has been some improvement in the situation "primarily because of the actions of concerned community groups and the courts."

[From the Washington Post, Feb. 5, 1974]

CHICANOS SHORTCHANGED BY SCHOOLS, STUDY FINDS

(By Leroy F. Aarons)

LOS ANGELES.—The nation's 1.6 million Mexican-American public school students are being shortchanged by an educational system that virtually ignores their language and culture and fosters a vicious cycle of underachievement, according to a $2 million, five-year study by the U.S. Civil Rights Commission.

The findings tend to document a condition well known to observers of the educational system in the Southwest, where the bulk of the Chicano students are concentrated, and especially to Mexican-American activist groups who have fought for better school conditions over the decades.

Harman Sillas, a Los Angeles lawyer who served as an adviser to the commission's study, said the 269-page final report had "few things we haven't known for years," but he added, "it's a good tool for community persons, and educators alike to use in improving opportunities for bilingual, bicultural children."

The most striking impression derived from the final report, the last of six studies released in the past three years, is the minimal advances achieved during the recent period of heightened Chicano activism.

* * * * *

Bilingual classes for Chicano students has been a keystone of community demand over the last several years. Yet, of the 1.6 million children in schools, only 70,000, or about 4 per cent, are being reached by such projects. Of these, fewer than 2 per cent are involved in state-funded programs.

Courses in Mexican history are offered in fewer than 10 per cent of the Southwest schools, fewer than 3 per cent offer chicano studies programs. Chicano children, by and large, says the report, "are confronted with a school which either ignores their culture or regards it as an undesirable obstacle to success. This exclusion very often fosters in chicano children feelings of inadequacy and inferiority."

The study goes a long way in pinpointing the source of the problem: school boards and districts and state boards of education where chicano representation is minimal, where teacher education fails to include adequate training for Mexican-American education and where little or no leadership has been exercised to establish guidelines or standards to stimulate improvements in the system.

Of 350,000 teachers in the Southwest, fewer than 5 per cent are chicano; fewer than 4 per cent are curriculum directors; only 7 per cent of total district administrative staffs are chicano.

The Civil Rights Commission, which has no enforcement power, came up with 51 recommendations, most of them aimed at the state level. They include:

Action by state departments of education to ensure that Mexican-American language and culture are represented in school programs.

Establishment by law of bicultural bilingual programs wherever non-English speaking students are 5 per cent of enrollment.

Recruitment of more chicano teachers, counselors, and teachers in teacher-training institutions.

Establishment of numerical goals and timetables to increase chicano staff representation in school districts, and at the state level.

TOO MANY ROLES

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. SEBELIUS. Mr. Speaker, changing times have brought much controversy to the President and to the Presidency. The role of the President, drafted by the framers of the Constitution in much simpler times, has been seen and interpreted in many ways by many different people.

I think we need to reflect and put things into perspective as did Bob Fairbanks, the editor of the Great Bend, Kans., Daily Tribune, in his recent editorial which I would like to share with my colleagues:

TOO MANY ROLES

Amid the torrents of talk and writing about the presidency last year, a great contradiction stands out. A president today is expected to act in ways which make him at once a national unifier and a divisive force.

On the one hand, he is counted upon to be the great healer, the compromiser of differences, the one man who can use his voice for all America and not just some carved-out piece of it, the nation's moral leader, and the man designated to represent us abroad—both as ceremonial head of state and as chief soldier and diplomat in our dealings with foreign lands.

But at the same time, the president through history has become accepted as his own party's supreme political leader, which commits him to partisanship which is inherently divisive. One cannot be a vigorous Republican or Democrat and expect to carry the whole country continuously with him.

Moreover, his role as divider does not end there. He is the chief policy maker for the nation in all fields, foreign and domestic. Not always, but much of the time he can act on foreign matters with wide support. (The Vietnam war was a monumental exception to the rule.) The domestic arena, however, is a policy maker's jungle. A president's ideas, proposals and overt acts seem guaranteed to create enemies as well as friends. To act is, for the most part, to separate rather than unify.

The irony in all this is that the framers of the Constitution clearly never intended to build this critical contradiction into the office of the presidency.

They saw the president preeminently as unifier. They took little note of parties, and thus didn't foresee that any president would emerge inevitably and necessarily as a partisan leader.

And, probably, they had no way to foretell that, in acting as commander and diplomat in foreign crises, the president would create in the public's eyes a concept of overriding leadership they would find useful in domestic dilemmas.

Both president and public found it natural and also desirable for him to act in what used to be called economic "panics" and, later, depressions and recessions (not to mention occasional crippling nationwide strikes).

After Franklin D. Roosevelt's massive moves in the Great Depression, it was perhaps a predictable evolution from acting chief domestic policy maker in emergency situations to playing the role all the time.

Everyone knows Congress greatly assisted the process by ceding great chunks of authority to the White House, too seldom showing the will to exercise what power it retained. Despite all the complaints against the swollen, "imperial" presidency, President Nixon still is winning battles for more discretionary authority.

Furthermore, the American people themselves have magnified the divisive consequences. Frozen in separate postures, they call upon the President to act in more and more kinds of trouble situations, only to denounce him bitterly if he acts in ways which do not suit their individual or group demands.

A president's contradictory roles pose a crushing dilemma for him and for the country.

FORGOTTEN VETS

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. KETCHUM. Mr. Speaker, I understand that the Committee on Veterans' Affairs today continues its consideration of the new veterans' educational bill. Certainly it is high time that we in Congress recognized our obligation to the Vietnam era veteran, whose present benefits fall far short of those enjoyed by his predecessors of World War II and Korea.

Last August, I introduced a package of bills which would provide realistic benefits for veterans during a period when educational costs are soaring. My bills, H.R. 9890, H.R. 9891, H.R. 9892, and H.R. 9893, would provide tuition payments up to $2,100, increase the entitlement period from 36 to 48 months, abolish the present 8-year time limitation, and provide a 10-percent across-the-board increase in payments.

While many of us are agreed that a new financial settlement must be obtained, I should like to remind my colleagues that the time limitation and the entitlement period are of paramount concern to many veterans.

Recently, I received a petition signed by nearly 4,000 veterans and friends from Kern County, Calif, urging that the time limitation be extended. As the leader of this petition drive, Mr. Donald Johnson of the Veterans' Affairs Office at Bakersfield College, wrote:

Those veterans separated from the service before 1966, left the military without expectations of educational assistance. These veterans went to work, and only later did they begin to receive word that they qualified for educational benefits. Some of these veterans found out only as recently as last year. They have come to school to seek opportunity, only to face an ending date of May 31, 1974. At present approximately 35% of our veteran enrollment, 990 veterans, will run out of time in May 1974. Many of them have many months of entitlement remaining.

This is true of thousands of other veterans across the country.

Of equal importance is the extension of the entitlement period from 36 to 48 months. Many students today find it impossible to graduate college in the 4 years provided, especially married students who have to have outside employment to continue their education. Most of our veterans are married, and have great difficulty in working and going to school as it is, and therefore may take 5 or 6 years to graduate. The extra year of entitlement would be a great help to these young men and women.

Yesterday's Washington Star-News carried an excellent lead editorial on veterans' benefits, which I place in the RECORD and urge my colleagues to read:

FORGOTTEN VETS

There is a widespread public belief that educational benefits for Vietnam veterans have been roughly comparable to those available to their dads after World War II. And if that were the case, President Nixon's proposal the other day to boost payments to vets under the GI education program by 8 percent would be a reasonable inflationary adjustment.

But the basic premise, which the administration has tried hard to advance, simply isn't true. In thousands of cases, as a couple of independent studies have demonstrated over the last year, the inadequacy of current benefits virtually wipes out the educational opportunities which Vietnam veterans had assumed was their right under the asserted policies of a grateful nation.

The disparities arise in part from a sharp difference in approach. Under the post-World War II pattern, the government paid tuition and other educational costs directly to colleges, and gave single veterans $75 a month for living expenses. Access to government-subsidized housing also was often available. At the outset of educational benefits for Vietnam veterans in 1966, however, all these forms of assistance were lumped in a single, absurdly inadequate monthly payment of $100. With the passage of time the monthly sum has increased—to $130 in 1967, to $175 three years later and to the present level of $220 in October 1972. But in too many instances that amount has not nearly kept pace with leap-frogging increases in college costs.

This is not universally true—and that is one of the chief problems in this complex dispute. In California, for example, where public colleges and low tuitions abound, relatively high percentages of veterans are participating in the GI program. But that is not at all the case in other states, chiefly in the East and Midwest, where the present formula takes no account of higher costs.

In the House, as opposed to the President's 8-percent benefit boost, a Veterans Affairs subcommittee last fall backed a somewhat more generous increase of 13.5 percent. It is high time that the full House committee got around to considering that proposition. In the Senate, fortunately, hearings are expected to begin soon on a much more realistic approach, backed by 32 senators, to authorize special supplements where tuition costs exceed the national average.

One may honestly argue, we suppose, about the validity of the concept of continuing the GI education program, but the debate never seems to get phrased in those terms. What we have wound up with, in point of fact, is a national commitment which often provides lip-service promises instead of results, which heaps yet another outrageous frustration on thousands of young veterans who have had the misfortune to serve in a vastly unpopular war. Education takes on added importance in this period of uncertain employment. And it is ironic, as Senator Daniel Inouye observed the other day, that the GI-bill benefits of an earlier postwar period seem to have been so quickly forgotten by those in positions of political responsibility today.

THE ANATOMY OF WATERGATE

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. WYATT. Mr. Speaker, on January 22 of this year, Mr. Robert C. Notson, publisher of the Oregonian newspaper, delivered the following address on the ramifications of the Watergate affair. I believe that his statement reflects valued perspective on a complex and confusing subject that is of great import to us all. As such, I am pleased to take the opportunity to share, in two installments, Mr. Notson's comments with my colleagues:

THE ANATOMY OF WATERGATE

We have started on a new year with growing apprehensions that we may experience worse national turmoil and uncertainty in 1974 than that we experienced in 1973 when the scandal of Watergate popped wide open. We have seen in recent years the destruction of presidents by various means and we now see forces girding for a continuation of that brutal business.

President John F. Kennedy was destroyed by gunfire.

President Lyndon B. Johnson was destroyed by a ceaseless, relentless propaganda, based largely on his conduct of the war in Vietnam—a conflict of progressive unpopularity.

Now President Richard M. Nixon teeters on the brink. If it should be determined that he has deceived the American people, that he did have a guilty hand in the Watergate mess or coverup, he could be impeached by the congress. He could be disgraced and forced to resign. Or he could be isolated, undermined, discredited to the point that his administrative effectiveness would be imperiled and the prestige of his high office drained.

It was only a year ago that Richard M. Nixon was sworn into office after a sweeping victory at the polls. How tragic that an administration with such a mandate, and such promise, should be flawed and brought to the threat of collapse by the consummate indiscretions of trusted political lieutenants!

The incredible Watergate fiasco has produced many shocking surprises and embarrassments to the administration, and there are surely more to come as two ex-cabinet members go to trial and other high officials are indicted for complicity in various ramifications of the affair. But Richard Nixon himself has proved highly durable. The hard, convincing evidence against the president has not been forthcoming.

The sordid chapters of the Watergate mess have been unfolding over the months, and many persons are heartsick at the things they have seen and heard. The media has heaped mountains of suspicion on the President, and he has kept digging himself out. But he has been given little respite.

During this period, it has become routine to take a poke at Nixon. Any who have spoken in his behalf, or been close to him, have been likely to find themselves under attack or, worse, under investigation. And so the voices have been stilled in his defense.

During the year gone by men of supposedly highest integrity and substance in the Republican party leadership and in government have been involved in, or tainted by, the scandal.

But the sensational stories have left the public somewhat dazed and uncomprehending as to why these men could have become involved either in the burglarizing of the Democratic headquarters or the subsequent attempted cover-up. The whole affair seems incredible.

From our present vantage, it appears overwhelmingly stupid that anyone of substance could have sanctioned such activity because of possibilities of damage to the party, to personal reputations and to the Nixon administration.

The degree of involvement of various persons remains to be demonstrated by the judicial and legislative inquiries now under way. Despite this, every night on the air and every day in the press men and organizations are quoted as passing judgments and reciting allegations almost as if they were proven facts.

INVESTIGATIVE STAFFS LEAK LIKE SIEVES

Some members of the senate committee have let their prejudices hang out, so that at times it appeared that the inquiry had become an inquisition. Former prosecutor Cox asked that the senate committee desist, lest its efforts destroy the cases being developed by the prosecution.

The same might very well have been directed at some of the columnists, cartoonists and comic strip artists. Even Doonesbury wound up a castigation of former Attorney General Mitchell by holding his head and crying "Guilty, guilty, guilty."

Meanwhile, the staff of the special prosecutor and of the Watergate Committee have been like sieves, "leaking" information and advance testimony in a prejudicial manner. Witness after witness had the thrust of his testimony blunted or its public reception shaped long before the hearing. Some of these men have been convicted in the public mind without trial.

Such conduct is highly unethical. The canons of the American Bar Association are most explicit in forbidding dissemination of information designed to create a "climate" before trial. The attorneys responsible for such conduct could be, and in my opinion should be disciplined by the bar.

In any event, it appears very much a question whether the poisonous atmosphere of Washington could possibly yield an unbiased jury—or the country at large for that matter.

Some seven years ago the Supreme Court overturned the conviction of Dr. Sam Sheppard in Cleveland for the murder of his wife. The court held that it had been impossible to obtain a fair trial in the face of the "Roman circus" created by pervasive press coverage.

More recently, Bobby Seale was turned loose in New Haven. He was accused of murder also. The jury at the trial disagreed. The prosecutors finally moved for dismissal, rather than attempt a re-trial, on the theory that an unprejudiced jury could not be found.

In both of these cases the courts did not address themselves to the question of actual guilt. Under our system of criminal procedure the streams of justice must not be tainted.

Let me say in passing, and with no conclusions as to guilt or innocence of the men involved, that the Romans never in all their history engineered such a "circus" as that which has been going on now for a year in Washington.

TARGET, PLAINLY, IS PRESIDENT NIXON

Senator Sam Ervin has told his committee that more important than the conviction of any man or men is to "get at the facts." Being re-interpreted, that means simply that the committee's objective is to punish with public exposure, whatever ultimately happens in the courts. And this is further evident from the hearsay, conjecture and innuendo that has been both admitted to the record and encouraged by the committee.

Very plainly, the real target is President Nixon. And you may think that is as it should be—or not—as you may personally view the scene.

The overriding question has been, "Why did these men bug and burglarize the Democratic headquarters?" A secondary one has been, "What did they learn?"

Answering the second question first, there is no evidence that the Watergate burglars and wiretappers learned anything of value, politically or otherwise. It was an empty exercise, and a grim one.

Then why Watergate: Even in the spring of 1972 it must have been amply evident that Nixon had the campaign won. Only some incomprehensible mistake could lose it for him. Laying aside all moral questions, why would reasonable men have thought illegal espionage was required or advantageous?

The explanations have appeared from time to time but they have been submerged by the immensity of the scandal itself. Some of the men were lawyers They should have known better. But others were former agents of the CIA and the FBI. They saw themselves as investigators. Although they were serving a campaign committee, they somehow regarded themselves as endowed with a certain authority of government and the privileges that sometimes attend government investigators.

And there was a larger rationale. These men had watched while surging mobs undertook, in bloody violence, to disrupt the Democratic National Convention in Chicago in 1968. They had seen some 100,000 demonstrators storm through Washington and seek to shut down the government.

In the early summer of 1972 the Peace Now movement sent out a call for recruits to move on San Diego and shut down the Republican Convention. Leaders of the Nixon Committee thought the Democrats were encouraging this activity. And at least some appeared to believe that Communist money, filtered through Cuba's Castro, might be behind it all.

The assassination of John Kennedy and Robert Kennedy, and the shooting of George Wallace, aroused fear for the safety of the President. At the very least, it was considered probable that an attempt would be made to shut off his speaking campaign by a bedlam of protest.

This, then, was the context in which the Committee to Re-elect the President decided to finance an intelligence setup. The rationale did have a legitimate basis. But it got entirely out of hand. Certain over-zealous men carried affairs to the point of wiretapping and burglarly. They were searching, they told themselves, for evidence—"in the national interest." And the rest were sucked into the Watergate maelstrom to prevent a political disaster, as they thought, and emerged to find themselves charged with coverup and obstruction of justice.

Fear patterns, bad judgment and panic. This is the anatomy of Watergate.

Let me say that the recitation of this set of circumstances should by no means be taken to indicate that I approve or condone such activities. The explanation probably does not offer a legal defense; it may suggest some mitigation in the courts and in the court of public opinion. It may help to explain the motivations of these men to a thoroughly baffled public.

When I previously voiced this explanation, I was roundly castigated by certain persons who accused me of dreaming up an "apocalyptic excuse" for the burglars and their backers. They want to believe only the worst, they want to believe that the President and all of his associates are essentially evil men. Their memories are most convenient.

It was this attitude—and atmosphere—that led the London Times to observe that what "Mr. Nixon is now receiving is a Washington variant of lynch law."

Clare Boothe Luce, in a talk at a luncheon of the American Society of Newspaper Editors in Washington asserted that Watergate was one of the fruits of the excesses that grew out of opposition to the Vietnam war. For some years the idea had been fostered that individuals or groups had a right to decide what laws were "right" for them to obey and which were not. She called attention to the fact that some of these who were shouting the loudest against the morals and ethics of the Nixon administration were among those who coddled and excused many of the previous excesses of anti-war activists, including the theft of the Pentagon papers.

Parenthetically, it is now charged in testimony that these papers were delivered not only to certain newspapers but also the Soviet embassy.

Mrs. Luce condemned both the burglary of the Pentagon papers and the burglary at Watergate. And I agree with her.

Methods of Watergate overstepped the bounds of ethics and decency. There may have been many other fundamentally more serious breaches in the last campaign, but burglary is something the average man can understand and deplore.

Watergate was fostered by men who wanted to demonstrate the prowess they had learned in the CIA and FBI. In addition, E. Howard Hunt was the author of a series of "Who Done It" books. The probability is that these men also had been watching too many episodes of "Mission Impossible."

And what about these White House "Plumbers?"

They have been painted as a gang of political espionage agents bent on bugging and burglary. Well, they did engage in some activities that were both stupid and reprehensible, that's for certain. Evidence points to their tampering with State Department records, burglary of the office of Dr. Lewis I. Fielding, Ellsberg's psychiatrist, and, of course, the Watergate break-in.

Were they the evil men that many now believe?

The facts, when fully known, may very well show that the "Plumbers" had a legitimate and even necessary purpose, a purpose that became smothered by the unwise and improper activity that has come to light. Let's take a look.

For some time the intimate and sensitive affairs of the National Security Council apparently had been leaking to foreign governments and to the press.

The most celebrated case involved a publication in a nationally syndicated column. The report said that Henry Kissinger, then White House foreign policy adviser, had told the council the President wanted to "tilt" toward Pakistan in the Pakistan-Indian war over East Pakistan.

There are many important considerations that we cannot explore. Much that we do not know. Suffice it to say that Pakistan appears to have been the "diplomatic broker" assisting arrangements for the Nixon visit to China. Pakistan had been a good friend. On the other side, Russia had been supplying India with heavy arms at the very time we had shut off arms shipments to Pakistan.

These were the arms that India was using to destroy the small, beleaguered Pakistan army in the East. There was also evidence of some hanky-panky between India and the Soviets. The latter were seeking naval bases on the Indian sub-continent, it was believed.

But, revelation of this country's sympathy at a time when we were endeavoring to maintain a correct neutral public attitude was most embarrassing. If India had been a stronger nation, it could have provoked an incident. At the very least, it created hard feelings and tended also to dampen relations with Russia at the time we were seeking to improve them.

A REASSESSMENT OF OUR LATIN AMERICAN "POLICY"

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BADILLO. Mr. Speaker, 29 years ago this month diplomats from the United States and most of the other Western Hemisphere republics met at historic Chapultepec Castle in Mexico City to develop strategies to cope with postwar political and economic problems. The final act of the Inter-American Conference on Problems of War and Peace—the Act of Chapultepec—represented a new relationship between this country and our sister republics of the Americas and laid the foundation for United States-Latin American policy for over a decade.

It is appropriate, therefore, that Secretary Kissinger is scheduled to confer with his Latin American counterparts in the Mexican capital later this month, particularly as our Latin friends have yet to see any concrete or meaningful manifestations of the mature partnership which the President mentioned some 5 years ago. At this meeting Dr. Kissinger will be expected to respond to the Consensus of Bogotá, a document drafted by a number of Latin American foreign ministers last November. Specifically, this document—which is to be the basis of the conversations in Mexico City—calls for increased cooperation in Latin American development, promotion of "cohesive measures of an economic nature", a restructuring of the OAS, a solution of the Panama Canal dispute, a restructuring of the international commerce and monetary system, a limitation of the economic control of multinational corporations, greater participation by Latins in technology transfer and a general improvement in U.S.-Latin American relations.

A timely editorial on Dr. Kissinger's forthcoming trip to Latin America—and the issues with which he will be confronted—appeared in Sunday's Washington Post. I believe this editorial has considerable merit and I commend it to our colleagues' attention:

KISSINGER'S LATIN VISTA

Secretary of State Kissinger heads for Panama shortly to sign the recently negotiated statement of principles for a new canal treaty. In a few weeks he is due to confer with the foreign minister of Latin America in Mexico City This evidence of his specific concern for a long-festering Latin issue, the canal, and of his general concern for inter-American relations, has elicited a certain amount of expectation that the "mature partnership" envisioned by President Nixon in 1969 (in his first and last major statement on Latin America) may be starting to take on real life. Latins have properly become wary over the years of periodic American reaffirmations of devotion to the hemispheric welfare. But certainly the need for such a thrust is undiminished.

The economic ties between the United States and Latin America continually grow thicker and more diverse. To cite one "new" example, Venezuela and Ecuador are full-fledged members of the oil cartel which has quadrupled energy costs around the world. The politics of the hemisphere increasingly center on easing the strains created by these economic ties. For just this reason, Latin America requires from Washington not occasional spurts of headline diplomacy, however symbolically satisfying these may be, but steadfast application to day-to-day affairs. Latins deserve to be assured that their voices are regularly heard. Sen. Robert Byrd (D-W. Va.) noted candidly the other day that many congressmen have stinted Latin America "because Latin fields are not regarded as politically fertile." But the Executive Branch has no similar excuse for such a casual approach.

Responding to an earlier Kissinger suggestion for a "new style of dialogue," Latin foreign ministers met at Bogota last November to draw up "Bases for a New Dialogue" with the United States. This offers encouraging evidence that Latin Americans have used the recent years of Washington's relative inattentiveness profitably—not to draw away from the United States but to prepare for more fruitful and mature relations. In particular, the Latins have moved toward a position where they are less disabled by lack of confidence than they previously were in dealing with the non-Latin world. For instance, the Inter-American Development Bank is right now at the make-or-break stage of drawing into its membership and its work some 18 countries from outside the region; on the outcome largely hinges the question of whether the Latin economy grows in a regional or world context. The United States remains, and will remain, the dominant power of the hemisphere, but perhaps we are learning some of the advantages of self-effacement too. Dr. Kissinger's upcoming Latin visits should be especially instructive in this regard.

If economic relations are central in the hemisphere, however, at least one major political issue remains. Though Havana itself stays in a negative stance, it becomes progressively more anomalous that the United States should exert its influence to keep Cuba formally outside the inter-American system. Why should we treat Havana any less pragmatically than we treat Moscow or Peking? Latin governments with problems on their own left remain cool to lifting the sanctions which the Organization of American States voted against Cuba 13 years ago. But many other Latin governments are more than ready to move on. Now that the Latin subsidiaries of some American corporations see a chance to sell their products in the Cuban market, the United States is likely to come under heightened pressure from that quarter too. Mexico City would be an appropriate place for Dr. Kissinger to start bringing our Cuban policy into step with the times.

A TRIBUTE TO MARK S. REEVE

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RYAN. Mr. Speaker, in this area when politics seems to be slipping into disrepute there are many elected officials that work quietly and diligently for ther communities who do not always receive the favorable publicity they deserve. One of these men is Mark S. Reeve who has served as vice mayor and vice president of the Foster City City Council.

During his 10 years as member of the Foster City Council Mark has been most active in pursuing the interest of the Foster City community. Mark is one man who is probably most responsible for seeing that Foster City was incorporated as its own entity.

While serving on the community association as treasurer, he not only quadrupled the membership but built the treasury to the point where it became a viable power in the community.

Mark served on the city's first planning commission while also serving as a councilman and board member. As a planning commissioner, he was instrumental in the community development. As vice mayor, he spearheaded the drive to encourage builders and developers into the city, through his tireless effort and leadership.

Mark Reeve currently serves as chairman of the educational facilities committee, chairman of the government review charter commission committee, chairman of the personnel committee, vice mayor, and president of Estero Municipal Improvement District.

Mark's presence on the city council will surely be missed. His continued presence in the community, however, will somewhat offset the community's loss of Mark's vitality and energy on the city council.

SUBCOMMITTEE ON CRIME TO HEAR TESTIMONY FROM HON. CLAUDE PEPPER ON THE COMMUNITY ANTICRIME ASSISTANCE ACT, H.R. 9175

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. CONYERS. Mr. Speaker, I am pleased to announce that the Subcommittee on Crime of the House Judiciary Committee will hear testimony during its fourth hearing on the Community Anticrime Assistance Act, H.R. 9175, from the distinguished former chairman of the Select Committee on Crime, CLAUDE PEPPER. The hearing will be held on Thursday, February 21, 1974, at 10 a.m., in 2141 Rayburn House Office Building.

The purpose of the community anticrime bill is to involve citizens in constructive programs in the criminal justice system. Mr. PEPPER who has joined me as a sponsor of this legislation, has had a long-time interest in involving the community in the criminal justice system as a means of reducing crime and improving community relations.

The subcommittee will also hear testimony from Herbert S. Miller, the director of the Institute of Criminal Law at Georgetown University. Mr. Miller is a well-known authority on criminal law and has written articles in the area of community involvement in the criminal justice system.

Those wishing to testify or submit a statement for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515.

DOMESTIC POLITICS AND RECENT EVENTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. LONG of Maryland. Mr. Speaker, I think we all can learn much from a poll taken of Dulaney Senior High School by the politics and political behavior class. I should like to share with you the letter I received from these interested and informed students:

DEAR CONGRESSMAN LONG. The Politics and Political Behavior class of Dulaney Senior High in Timonium, Maryland recently conducted a poll to determine the attitudes and opinions of the tenth, eleventh, and twelfth graders concerning domestic politics and recent events. We would like to apprise you of some of the results of that poll.

Of those students polled, almost 45% considered themselves supporters of President Nixon in the 1972 election, and 26% considered themselves supporters of Senator McGovern. Some of the key questions and results are as follows:

Which of the following statements best describes your attitudes toward politics and unethical behavior?

(a) all politicians are corrupt, 13%.

(b) most are corrupt but a few are honest, 45%.

(c) a few are corrupt but the majority are honest, 26%.

(d) all are honest, 0%.

(e) no opinion, 15%.

Does the American and electoral system lend itself to corrupt practices?

	Percent
Yes	52
No	13.6
No opinion	34

Has Watergate and related events affected your faith in government?

Yes	57.8
No	32.7
No opinion	9.5

Do you think Watergate and related events have affected the President's ability to govern the nation?

Yes	64.6
No	24.5
No opinion	10.9

In your opinion should President Nixon resign?

Yes	48.3
No	39.5
No opinion	12.0

In your opinion should President Nixon be impeached?

Yes	45.6
No	44.9
No opinion	0

Do you think the Office of the President is becoming too powerful?

Yes	42.2
No	42.2
No opinion	15.6

Do you think the news media's treatment of Watergate and related events has been fair?

Yes	40.8
No	42.9
No opinion	16.3

Sincerely,

DAVID B. CUNEO and Class.

PATRIOTISM AND OIL DO NOT MIX

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BRASCO. Mr. Speaker, at recent congressional hearings, the accusation was leveled at our major oil companies that they shut off all oil supplies to American military units during the Middle East war alert in October at Saudi Arabia's request.

Four companies are involved, the same four major oil companies who own Aramco, the Saudi Arabian oil exploitation consortium. They are Exxon, Mobil, Texaco, and Standard Oil of California.

A Business Week magazine article, later brought in to Senator JACKSON's hearing, indicated that the Saudi foreign ministry had told the Aramco companies that because of King Faisal's decision, they were to cut off all supply of products derived from Saudi oil to American forces stationed around the world.

We know American naval units on station around the world were suddenly cut off from oil and oil products, a move that could be enforced only by oil companies obeying the Saudi diktat. The proof, therefore, is in the result, which, in this case, was the sudden turn by our Navy toward alternate supplies of oil.

Today, confirmation of this event has been made, proving that the corporate conduct of these energy conglomerates placed national security last and profit first, far ahead of the lives of American boys in potential combat zones.

I have heard the debate over legitimacy over the Mideast worldwide U.S. military alert. Having no inside knowledge of what actually took place, I cannot accurately judge whether or not it was essential or not. Nevertheless, it is a fact that on a worldwide basis, American military units were placed on a stand-to basis, in preparation for possible military activity of an undetermined kind. In other words, the risk of war may have been very real and close.

This means our military personnel around the world had to be prepared on an instant's notice to perform their previously assigned military functions. Most such activities depend in large measure on access to petroleum. Ships do not sail without oil. Planes do not fly without jet fuel. Grounds units do not function without petroleum.

A shutoff of these supplies would mean total inability to function. That in turn would lead inevitably to helplessness in the face of a potential foe. Finally, it could lead to destruction in any kind of a combat situation because of lack of oil. The equation here is inexorable and inevitable. For American oil companies to deliberately withhold fuel from American military units in an emergency because of an Arab despot's threat of economic loss is nothing less than treason and a willingness to sentence American boys to death in an emergency situation because of the mighty dollar.

Most of us have had some close experience with active duty military service. Many hundreds of thousands of Americans know what it is to have a loved one on active duty abroad in a situation where they might come into real danger. I wonder how the parents of those young men feel as they learn how our major oil companies owning Aramco behaved. I wonder how they will judge oil companies in light of facts we now know.

Who will come forward now to defend the poor barefoot billionaires of the energy industry? Who will weep copious tears for their maligned reputations? What it boils down to is that the presidents of the four companies, when confronted with King Faisal's ultimatum, chose to turn their backs on the U.S. servicemen in a potential combat zone and protect their investments. There are no words to describe these people. Their actions speak for themselves.

One certain conclusion, however, may be safely drawn. These companies have forfeited any and all consideration from America's citizens. If any of us had any doubts, by now they should be resolved.

I believe that a complete investigation is called for by the Secretary of Defense and that a full report should be made to the Congress once that inquiry is completed. Such a request has already been made by me, and it is my hope that other Members of the House will do the same.

AUDIE MURPHY'S RIDE WITH OLD SANTA CLAUS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. TEAGUE. Mr. Speaker, recently an article appeared in the Victoria Advocate, Victoria, Tex., about a close friend of mine by the name of Audie Murphy. Even though Christmas has passed, I believe a little of that spirit would do well to linger with us. More than that, I want to pay tribute to the late Audie Murphy, who was truly one of the greatest Americans I have known. Audie Murphy was our Nation's most decorated soldier in World War II.

The article follows:

AUDIE MURPHY'S RIDE WITH OLD SANTA CLAUS

SAN ANTONIO.—A new patriotic Christmas song which tells about America's most decorated soldier, the late Audie Murphy, riding with Santa Claus on Christmas eve night, is getting a big play on radio stations in Texas this holiday season. The folk-ballad is called "The Red, White and Blue Christmas," and has been released on phonograph records, both as a poem and song, by "Red River Dave" McEnery, long time ASCAP songwriter of American folk music.

Texas-born Audie Murphy, so the story goes, rides with Santa Claus, passing out mementos of American history such as miniature replicas of "The Liberty Bell," "The Alamo," "The Battleship Maine," copies of the "Constitution," "The Declaration of Independence," and other treasures of America's heritage. The words go like this:

"THE RED, WHITE AND BLUE CHRISTMAS"

T'was the night before Christmas at Santa's abode,
The cold wind was whistling on the Old Arctic Road;
The reindeer were prancing out there in the snow,
And Santa's big sleigh was all ready to go.
When out from the snowstorm there marched a young man,
He stepped up to Santa, extended his hand
And said, "I'm Audie Murphy, I hope it's all right,
But, Saint Peter asked me to join you tonight.
"I'm bringing some presents, some items of 'truth,'
That I want to give to America's youth."
"Ho! Ho! chuckled Santa, "Of course, I know you,
I gave you toy soldiers in the year thirty two.
Why, you're Audie Murphy, of course it's all right,
I'm happy to have you on my journey tonight;
And, from 'Soldiers Heaven,' I'm glad you came back,
Now, what's in your duffle bag? What's in your pack?
"Why, you've got mementos of America, there!
There's Washington 'Crossing the Old Delaware,'
And miniature replicas of the 'Liberty Bell,'
And prints of the 'Star-Spangled Banner,' as well;
And pictures of patriots, long in the graves,
And 'Abe's Proclamation' that freed all the slaves;
And framed 'Constitutions,' to hang on the wall,
And 'Statues of Liberty', nine inches tall.
"And flags called 'Old Glory,' God bless her name!
And little toy 'Alamos,' and the battleship 'Maine';
And copies of music! Why, there's 'Over There,'
And 'God Bless America,' and manuscripts rare.
Son, you've brought dear keepsakes more precious than gold,
For, they tell the story of our country of old;
'The American's Creed,' and the 'Great Declaration'
Of the 'Fourth of July,' that made us a Nation!
"Why, your pack's a treasure! I'm so glad you came
To help me deliver such gifts in the name
Of 'Honor,' and 'Liberty,' and 'Freedom,' so sweet!
Audie Murphy, this Christmas will never be beat!
Quick, Dasher! Quick, Dancer! Quick, Vixen of old!
Yes, we've got a story that's worth being told!
Get moving there, Rudolph! Start leading the way!
This Christmas, we're boosting the Great U.S.A.!
With a "dash on the wind," they flew into the night,
Both, Audie and Santa Claus, holding on tight!
The sleigh bells were playing "Yankee Doodle," in time,
And here's what I heard Santa shout down the line:
"Merry Christmas," America! It's time to renew
Your 'Pledge of Allegiance,' to the 'Red, White and Blue!' "
And, we found a "new Spirit" in America, because,
One night Audie Murphy rode with "Old Santa Claus."!

THE FALSE SECURITY BLANKET

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ASPIN. Mr. Speaker, excessive secrecy in government and especially the free use of "national security" as a cover for foul-ups and illegal acts is a cause for concern by all Americans.

The January 28, 1974, issue of the publication Aviation Week contains an editorial by Robert Holz on the subject of the administration's excessive secrecy. It calls for candor on the grounds that the American people are fully capable of acting in the Nation's best interests providing they are not deluded by their leaders.

The editorial follows:

THE FALSE SECURITY BLANKET

(By Robert Holz)

Virtually every criminal and malodorous act that was committed during the sordid period now loosely known as Watergate was justified by President Richard M. Nixon and his aides on the grounds of protecting "national security." The use of the false security blanket as an alibi for acts otherwise unacceptable to humanity was certainly not invented by the Watergate conspirators. It was used to justify every atrocity in the Third Reich of Adolf Hitler down to genocide. It is still a standard justification for the police terror and labor prison camps in Soviet Russia. It is also one of the deadly viruses that have been sapping the traditional values of the American system of government for the past 20 years.

There are of course many legitimate areas of national security that require maximum secrecy, but these are seldom the areas involved in the most flagrant exercise of extralegal power by political leaders. The unfolding of the details of the Watergate affair has revealed exactly what aims these applications of executive force really had, in contrast to the label of national security publicly used for their justification.

We had been dealing with these false security blankets long before Watergate, and our experience invariably showed there was seldom any genuine national security involved. The false security blanket was generally used to conceal policies that were either illegal, corrupt or so patently wrong they could not stand the pressure of public debate. The evidence laid on the public record by the Watergate investigations now confirms the phoniness of the national security issue as routinely peddled by the executive branch of the government.

Was there in any of the Watergate "national security" cases anything that really involved the security of this nation? The record reveals nothing.

The U.S. bombing of Cambodia was one of the worst-kept Administration secrets and the subject of the most elaborate official deception and most vigorous pursuit of "leaks" to the public prints. The Viet Cong and Hanoi troops knew they were being bombed. U.S. insignia on the attack aircraft clearly identified the source. Hanoi, China and the USSR knew we were bombing the Viet Cong supply bases in Cambodia. Only the U.S. Congress and the American people were kept in the dark.

The U.S. position and proposal in the Strategic Arms Limitation Talks (SALT) with the Soviet Union was another major area where the Nixon Administration's "plumbers" unit battled desperately and illegally to hound newsmen who were reporting the story. The inept performance of U.S. diplomats is a sad tale that still has not been fully told to the American people. Disdainful of any technical knowledge of military hardware, these diplomats bargained away a major strategic U.S. technical superiority in missile defense technology and allowed enough loopholes in terminology for the Soviets to exploit their offensive missile technology .from inferiority to superiority. It would be far better for the security of this nation if both the U.S. negotiators and the American people understood more about "pop up" cold-launch missile techniques, MIRV warheads and the real status of missile defense technology instead of the secret police technology being developed by the White House staff.

The most ludicrous effort of all was the Pentagon Papers leak by Daniel Ellsberg which, except for its context in the rest of Watergate, would be a fit subject for an old-time Keystone Cops two-reel slapstick. The Pentagon Papers were pretty stale bread for any espionage agent—more grist for a post-graduate thesis than a Soviet planner. They gave the American public only a peep-show version of how it had been dragged into a bloody, costly and senseless war without even the vaguest idea of its purpose.

The latest case of the Pentagon spying on the National Security Council to find out the real national policy is pure opera bouffe. It speaks volumes of how super secrecy has clogged the functions of this government when the two organizations most concerned with national security have to spy on each other to find out what is really going on.

This problem of the sleazy use of "national security" to justify any action or policy that cannot stand the light of public scrutiny is far more serious than the current political plight of Richard Nixon's presidency. It is a cancerous rot that will erode the very foundations of democratic government if not given a strong antidote of frank public discussion of the major issues and policies on which the real security of this nation rests.

The events set in motion by Watergate have certainly proved the adage that secrecy breeds corruption. That is bad enough for the American system of government. But it is equally true and even worse that secrecy breeds poor policy and national disaster when carried to the extremes of the Nixon Administration and its two Democrat predecessors. The Bay of Pigs and the Southeast Asia fiasco could only hatch in the darkness of government secrecy. Neither could have survived even the preliminaries of public scrutiny.

If it is to survive the next century, the American government and its elected officials must operate with considerably more candor and intelligence with the American people than they have displayed during the past decade. The American people will respond to any genuine challenge with the full measure of their energy and devotion. But they are weary of being conned by self-seeking politicians and are now equally skeptical of phony crises and patent medicine doses of political soothing syrup.

A COMING CRISIS IN RAW MATERIALS

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MILLER. Mr. Speaker, as the Nation continues to work on its energy problem it is becoming increasingly apparent that we are approaching a crisis of even greater dimensions with regard to raw materials. I take the liberty of placing an article which recently appeared in U.S. News & World Report into the CONGRESSIONAL RECORD:

SUPPOSE OTHER COUNTRIES CUT OFF UNITED STATES FROM RAW MATERIALS

For Americans already worried over the cutback of oil supplies to the United States by Arab nations comes this new concern:

A threat that other countries may follow the Arabs' lead and shut off supplies of a broad list of basic raw materials—or demand inflated prices for them.

It's a danger that is focusing fresh attention on just how heavily the U.S. depends on imports of commodities vital to its status as the world's most prosperous nation.

The fact is that this country is counting more and more on other nations to supply a major portion of metals, minerals and other substances without which American industry cannot continue to function.

The U.S. relies on imports for all of its natural rubber, and for most of a wide range of other items including manganese, cobalt, chromium, platinum, aluminum, tin and nickel.

The U.S. can still meet most of its needs for copper, uranium, coal, iron ore, lead, potash and a number of other materials from domestic sources.

LOOKING AHEAD

But demand is growing so rapidly, Government officials say, that by 1985 the U.S. could depend on imports for half of all its supplies of raw materials—including even iron ore and lead.

Anxiety over a cutback in raw materials from abroad is no idle concern.

Scheduled in February is a meeting in Guinea of major producers of bauxite, an ore from which aluminum is produced. The avowed goal: a common front to control production and fight for the highest possible prices for bauxite.

Zaïre and Zambia, two major producers of copper, recently announced plans to coordinate production of that metal to keep prices high.

What worries U.S. officials is the spread of such tactics to an increasing number of commodities—helped by the concentration of production of key materials in just a handful of nations.

C. Fred Bergsten of the Brookings Institution says that two countries, Malaysia and Bolivia, account for 70 per cent of all tin exports. Four nations control more than 80 per cent of the world's copper exports. A similar number of countries hold more than half the world's reserves of bauxite, and half the supply of natural rubber.

As officials see it, the danger is a sharp increase in prices rather than a total shutoff of raw materials. A major reason: Most developing countries could not afford to go without revenues for any length of time.

Even without concerted action by raw-material suppliers, intense competition among consuming nations will drive prices further up in years ahead.

The United States, with less than 6 per cent of the world's population, consumes one third of the world's mineral output each year—including 56 per cent of all natural gas, 35 per cent of the free world's silver and aluminum, 32 per cent of all lead.

Rate of growth in demand among other industrial nations is expected to be even greater than in the U.S. And as developing nations industrialize their economies, they are likely to hang on to more raw materials themselves.

PUSH TO SUBSTITUTE

Higher prices, officials note, may encourage production of minerals in the U.S.—now too expensive to extract—from low-grade iron, aluminum, titanium and other ores.

A search for substitute products and synthetics for some of the rarer and costlier minerals is likely to be speeded up, too. Stockpiles of key commodities that the U. S. has built up can help to meet immediate needs for a while.

Still, America—blessed with a wealth of natural resources—may have to worry about becoming a "have not" nation in some basic raw materials.

FORESTRY VITAL TO ECONOMIC WELL-BEING OF NATION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. FUQUA. Mr. Speaker, few people realize just how important forestry is to the economic well-being of this Nation. In my State, for example, it is the second largest income-producing industry, a fact which generally surprises those outside the industry.

For this reason, I have taken particular interest in those programs that encourage forestry among young people. One of the best is that of recognizing State and National forestry program excellence within the Future Farmers of America.

The winner in Florida last year was a young man from my congressional district. His name is Billy Williams, of Macclenny, Fla.

We are proud of Billy and his adviser, Mr. Jack L. Williams. Three of the top winners in my State last year were members of the Baker County High Chapter. Three out of the last four State winners have come from Baker County.

It is a record in which I take great pride and commend those responsible.

In this regard, I would like to have reprinted the speech which Billy made after his selection as State winner to the Cincinnati Club in Cincinnati, Ohio.

This young man has a great deal to say about forestry and his remarks are well worth reading. They are as follows:

MY FORESTRY PROGRAM IN FLORIDA

(By Billy Williams)

Mr. Rice, Friends of the FFA, and Fellow Forestry Winners:

Forestry is the second largest income-producing industry in Florida—more than a billion dollars a year. My contribution to the industry is small, but I am proud to be a part of it.

I am a native Floridian being born and reared in rural Baker County some 40 miles west of Jacksonville on 40 acres of the original 120 acre farmstead.

Our farm management system includes production of cattle and hogs, general crops of tobacco, vegetables, corn, and of course forest products.

Our 30 acre farm woodlands has quite a history. The fine virgin timber was first initiated to gum farming by the old wood hack method in the late 1940's. My father applied the traditional once-a-week wounding which was most rewarding in those days. In the early 1940's, my oldest brother assumed the duty for his FFA work, but with the newer scientific method using a bark hack and acid solution. In the late 1950's, a second brother assumed these duties and was named State Naval Stores Winner in 1960.

Early in life I became interested in agriculture and began doing as much work as I was allowed to do on the farm. Of course, my brothers were my idols, and for a small fee—sometimes free—I would work for them. Later, this paid good dividends.

I enrolled in VoAg and the FFA upon entering Baker County High School. As the fourth link in the family forestry chain, I too selected gum farming as a part of my Supervised Occupational Experience Program. My brothers and I, each in our time, have been the sole managers of the woodlands. But unlike my brothers, I have been able to develop a more diversified forestry program.

When I realized quality and quantity were related, I began making additional acreages available for my Management program. Through cooperative efforts and a most willing attitude on the part of friends I was able to expand my work in forestry.

Yes, it has been my pleasure, honor and joy to harvest some 105 bushels of pine cones, 15 cords of pulpwood and 125 fence posts. I have planted 26,000 slash pine seedlings on land that I prepared. To encourage the growth of pines I have controlled hardwoods on 75 acres. Other activities include the construction of 2 miles of firebreaks and control of insects on 30 acres of land. I gained much experience and knowledge in the control burning of some 340 acres. My gum farming program has netted me 42 barrels of crude gum which, fortunately, is bringing record prices this year.

I have consistently kept abreast of research in the field of forestry by attending forestry meetings, visiting naval stores, research laboratories and a model site where the latest in timber harvesting technology was being used. A guided tour of one of the Rayonier mills producing chemical cellulose was a part of my experience.

Besides my work in agriculture, I have been active in the FFA for four years. I have attended area and state leadership schools and earned recognition at area and state levels on both land and meats judging. I was a member of the state Livestock Judging Team and have participated in forestry field day activities. I attended state and national FFA conventions and the State FFA Forestry Training camp.

I was elected the Star Greenhand as a Freshman, have presented several TV programs, was a member of the Parliamentary Procedure Team, and have served as Sentinel, Vice President and President of the Baker County FFA Chapter.

Other honors have been recognition in the Beta Club, Freshman and National Honor Society, and I received the Star Student Library Assistant award.

Two of the main highlights of my life—one of which will be history in a few minutes—have been the honor of presenting my program to you as a forestry winner and being elected State FFA Vice President at our last state convention.

The forestry program and the FFA have given me the opportunity to reap a most valuable permanent possession—the physical and mental stamina to be an American.

Presently I am a part-time student in a local junior college, serving as a state FFA officer and continuing to manage my Supervised Occupational Experience Program. My plans are to continue my education and my experience program and finally end my FFA participation by receiving the American Farmer Degree.

In closing, I would like to express my gratitude to you, Seabord Coast Line, for this wondrous occasion and you Leaders of Business and Industry for making this event possible. I think my feelings for the most part can be summed up in a short poem entitled:

When Life Is Done

I'd like to think when life is done
  That I had filled a needed post
That here and there I'd paid my fare
  With more than idle talk and boast.
That I had taken gifts divine
  The breath of life and manhood fine
And tried to use them now and then
  In service for my fellow man.

It has been my pleasure to represent the Sunshine State of Florida, the Florida Association of FFA and my home community in such an inspiring program.

WORTHWHILE PROGRAMS OVERLOOKED

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. WINN. Mr. Speaker, many people point to the inequities of government programs, citing misuse of funds and abuses of power as characteristics of all such programs. At the same time, many worthwhile programs are overlooked.

I recently received a communication from the director of a community action agency in the Third District of Kansas which notes the response that agency has made to the energy shortages as they affect the elderly and the poor.

In December, when the cold winter season began, ECKAN, Inc., moved in to meet the urgent needs of the disadvantaged in the rural communities. Recognizing that many families would sacrifice necessities in order to have money for fuel, ECKAN has attempted to establish a clearinghouse for emergency relief.

The following article, taken from the Ottawa, Kans., Herald further illustrates the efforts this agency has made in this regard:

PLIGHT OF THE POOR FALLS UPON EVEN HARDER TIMES

(By Don Lambert)

Recent price increases of food and fuel have affected everyone, but no one as much as the poor, according to staff members of ECKAN and the Franklin County Department of Social and Rehabilitative Services.

They explained that many of the more than 900 households classified as "poor" in Franklin County, are on fixed incomes, which may be from social security, public assistance, meager savings or low-paying jobs.

And when the prices began increasing—gasoline up to 50 cents a gallon, propane at 35 cents a gallon, food costs rising each month—these people faced additional problems.

As a result, both agencies are more fully utilizing their present programs and are seeking outside help.

Terri MacNevin, director of ECKAN, explained that some of the people she talked to ran into many additional problems during the recent cold wave. Houses which were poorly constructed with little insulation, required additional heat just to keep the family warm. But with the increased prices of home heating fuel, this was sometimes difficult.

She also said it seems the poor are finding it more difficult to establish credit during the winter and are often told they must pay in advance.

More people in this area are looking for jobs, she said. With the possibility of fuel cutbacks and further price increases, the idea of working in this area for lower wages rather than in Kansas City for higher wages, sounds better. And when construction workers in the area couldn't work during the cold weather, they were also looking for jobs and were faced with little money.

Mrs. MacNevin explained that the need for emergency food in her agency has gone up and she is attempting to establish a central clearing house where the emergency relief could be distributed.

Mrs. Virginia Loyd, service supervisor of the Franklin County Department of Social and Rehabilitative Services, said the number of requests for food stamps has gone up considerably over the winter. People are realizing the cost of living increases and fearing them more.

"There are no more courageous people than those on a low-fixed income with children. When prices increase, they just sacrifice, do without more, and get deeper in debt," she said.

Another problem, according to Mike Clarkin, income maintenance supervisor of the agency, is that the amount of money allowed for utility expenses in the public assistance program is based on a 1964 cost study. In other words, it can allow people the same amount of money for utilities it did in 1964, though the prices have risen greatly.

And individual allotments in the public assistance programs have not been increased for several years, though prices of nearly everything have increased. This has been one of the reasons for the increase in the number of requests for food stamps. As people have had to use more of their public assistance money for other expenses, they have relied more heavily on the food stamps.

He also explained that additional frustrations caused by rising prices and cold weather would affect people, including those on public assistance.

Joe Wakefield, a service supervisor of the agency, said that as the fuel gets more scarce and more expensive, people will be burning wood more often, which requires additional care. He explained that in poorly constructed houses, this may be a more serious problem.

And these problems are compounded for the elderly people who are on a fixed income, according to Isabelle Robinson, coordinator of ECKAN's Meals on Wheels program. She explained that many of the elderly people to whom she delivers meals can not provide for themselves and are on a fixed income, yet must pay rising prices.

The two agencies are working together and separately to try to ease some of the problems. The staff members have called upon churches for additional assistance. Many of the local churches have special funds and programs to help people in need. One local minister said his church paid at least $600 in 1973 to people who needed it. He explained that in distributing the funds, the church usually works with the Department of Social and Rehabilitative Services.

Richard Jackson, Manpower director of ECKAN, said that although his agency has no special funds for the emergency programs, he is working with the Franklin County Action Group to sponsor a dance with profits going into the emergency fund. The fund, he explained, would be to help people pay rising food and utility costs during the winter. He said he is trying to organize a benefit basketball game with profits also going to the fund.

Mrs. Robinson said Bendix Home Systems, Inc., has donated more than 20 pieces of carpet, many of them quite large, to be used in homes of the needy. She explained that some of them will be given to the meals on wheels recipients, many of whom have bare floors and little heat.

Mrs. Loyd pointed out that food stamps can greatly aid the low-income family. She said some people are hesitant about applying for food stamps because they consider them a type of "welfare." However, she explained that the stamps, sponsored by the U.S. Department of Agriculture, can result in significant savings to those who qualify to receive the stamps.

Jackson and Mrs. MacNevin said they are establishing a clearing house where donated money and materials could be distributed to those in the greatest need. With the cooperation of all the agencies and organizations, they explained the problems of the poor and elderly faced with rising costs could more easily be taken care of.

REPRESENTATIVE WILLIAM CLAY DISCUSSES THE PRESIDENT'S TAX SITUATION

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MOAKLEY. Mr. Speaker, regrettably our great Nation is undergoing a crisis in moral leadership as exemplified by the Watergate incident and other subsequent disheartening revelations. These revelations serve not only to destroy the faith of our great people in their chosen leaders, but hurt the noble institutions we serve as well.

My distinguished colleague, WILLIAM L. CLAY of Missouri, a member of the House Committee on Education and Labor and a highly respected member of the Congressional Black Caucus—whose outstanding achievements in social and economic legislation are well-known—recently wrote an article which appeared in the Boston Globe on January 28, 1974.

In this article, entitled "All Agree Nixon Defrauded Government of Income Taxes," Congressman CLAY forcefully spoke of another instance of the callous and morally bankrupt behavior of the Nixon administration and the President himself.

I commend Mr. CLAY for these thought-provoking remarks and hope that my colleagues will read this article by my distinguished colleague. The text follows:

ALL AGREE NIXON DEFRAUDED GOVERNMENT OF INCOME TAXES

(By WILLIAM CLAY)

Our nation finds itself engulfed in strenuous debate concerning President Nixon's involvement or lack of involvement in Watergate. There is room for honest disagreement on this question. But on the question of Mr. Nixon's financial situation there seems to be unanimity. All agree that the President has defrauded the U.S. government of legitimate taxes.

The colloquy in the Capitol concerning this matter has reached the level of hilarious proportion. But to top IRS administrators the President's deceit and lawlessness is not a laughing matter.

In view of the anticipated consequences of it becoming public knowledge that the President has cheated on his income taxes, the IRS has taken steps to offset wholesale cheating by the general populace. In a bold move, the IRS requested that the President include in his budget money for 1200 additional agents. This request was prompted by estimates that the government stands to lose several billion dollars as a result of Mr. Nixon's shenanigans with his income taxes. Millions of Americans will attempt to find the loopholes and follow the illustrious lead Mr. Nixon has set.

In answering accusations of tax evasion and improper use of Government funds, Mr. Nixon's strategy in part is to proclaim his innocence by displaying his generosity. But my advice is to beware of the Greeks who bear gifts. In the case of Mr. Nixon there is certainly a motive lurking underneath. His defense of having taken $576,000 tax deduction for his Vice Presidential papers is that he would gladly pay the taxes and take the papers back. However, the real inference is that by generously giving the papers to the National Archives, Nixon passed up an opportunity to realize a much greater profit. All who believe that a man petty enough to deduct a $1.53 interest payment to a department store will voluntarily recede on a $482,019 deduction should stand on their heads. Mr. Nixon's belated claim of virtue does not in anyway coincide with his reputation and most certainly does not dispel the serious charge that the requirements of law were not followed in making the gift.

In fact there is now reason to believe that the IRS never checked or approved the deduction for the gift as two of Mr. Nixon's lawyers claimed. Two key figures who would have been consulted in such an audit—Arthur Sampson, Director of the General Services Administration parent agency of the National Archives, and Ralph Newman, the appraiser who evaluated the Nixon papers—both say they were not approached by the IRS.

In addition, allegations of improper Government expenditure on the President's San Clemente estate and a failure to pay capital gains taxes on the sale of his New York apartment and part of the California estate have been raised. In an attempt to stifle the criticism surrounding his western White House the President has now offered to donate it to the Government after he and his wife die. One good reason for doing this would be that he could further claim a tax write-off by donating it. This writeoff could be substantial since the property value has been enhanced by more than $6 million in Federal outlays. If Mr. Nixon believes that such a generosity would allay questions of his improper expenditures and tax evasion then he is naive beyond belief. This is too serious a matter to be cloaked in generosity and then just forgotten. Anyway, what makes Mr. Nixon think the people want a gift that might stand as a monument to its most corrupt, most callous President.

Incredible, is it not, that the President paid only $792.81 in 1970 taxes, $878.72 in 1971, and $4,298 last year on a total income of millions.

My advice to the President is—no more gimmicks, no more gifts, just pay your taxes as all other citizens do.

LAURELS FOR 1973 IN AEROSPACE

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. CLARK. Mr. Speaker, I would like to insert the following editorial from Aviation Week & Space Technology, December 17, 1973, issue, listing persons who have made contributions to the world of aerospace during 1973:

LAURELS FOR 1973

(By Robert Hotz)

Here are the people we think made meritorious contributions to the world of aerospace during 1973:

William P. Clements, Jr., deputy secretary of defense, for his hard-nosed realism in demanding practical operational requirements from the military services and accurate cost performance from contractors and forcefully and candidly projecting defense procurement needs to Congress.

Maj. Gen. Benjamin Peled, commander of the Israeli air force, for the magnificent performance of the command he directed in the October War facing tougher opposition, more complex problems and more critical responsibility than the air force faced during the 1967 war and achieving even more decisive results.

Lucien Servanty, technical director of Aerospatiale, for a lifetime of advancement of the aeronautical state of the art, which ended in October.

Arthur Kelly, president of Western Airlines, for leading his airline into a highly efficient and profitable operation after taking over the helm shortly after the CAB's disappproval of Western's merger with American.

William Podolny, manager of Pratt & Whitney Aircraft's fuel cell program, for bringing a new technology developed for the Apollo program to a state of the art where it is practical for widespread public utility power applications in the energy crisis.

Charles A. Sewell, Grumman chief test pilot, for his highly skilled test flying of the F–14 fighter in the low-speed, high-angle-of-attack envelope and testing of spin-prevention avionics hardware that has made a significant contribution in enabling a pilot to obtain maximum combat performance from the aircraft without risking loss of control.

Jean Franchi and Gilbert Defer, pilots of the Anglo-French Concorde pre-production prototype, for their demonstration of the supersonic transport in a practical airline routine during their epochal operation across the Atlantic to North and South America.

Kenneth Richardson, Phoenix missile division manager for Hughes Aircraft Co., and Cdr. John C. Weaver, Navy deputy F–14 program manager for Phoenix, for their combined efforts to develop the long range AIM–54 air-to-air missile and bring it to operational effectiveness as a major improvement in air defense capability.

Sergei K. Tumansky, leading gas turbine engine designer in the USSR, for a lifetime of contribution to advanced jet engine development, which ended this year.

Richard O'Melia of the Civil Aeronautics Board and Patrick J. Brennan of the International Air Transport Assn. for their leadership in vigorous and realistic enforcement campaigns against illegal fares and charters, slapping heavy fines on flagrant airline violators and making them stick.

Sen. Henry M. Jackson (D.-Wash.), for his persistently perceptive and realistic appraisal of the pitfalls developing in the whole fabric of U.S.-USSR detente, from the trading away of U.S. strategic superiority at SALT to the one-sided technological trade deals proposed by the Soviets, and for standing firm in his position despite intense Administration pressure.

Kenneth S. Kleinknecht, Skylab project manager, Eugene Kranz, chief flight controller, and his five operational controllers, Philip Shaffer, Donald Puddy, Milton Windler, Charles Lewis and Neil Hutchinson, for their work in operating around Skylab systems damage and malfunctions, which kept Skylab functioning through three historic and scientifically productive missions that would otherwise have been aborted.

Jack Kinzler and his technical services division at NASA's Johnson Space Center for their six-day emergency design and development of the solar parasol that kept Skylab operational.

Richard Geiselhart, experimental psychologist, crew station design facility at USAF Aeronautical Systems Div., for his continuing contributions to crew safety and effectiveness through research on control systems and instrumentation.

Nikolai Kamov, who headed his own design bureau in the USSR from 1948 until his death last month, for a lifetime of contributions to helicopter development.

Rowland E. Brown, head of Boeing's 747 product development program, who revitalized the giant jet production future with such innovations as the special performance (747SP) version and new cargo applications.

Donald Button and Frank C. Black of the Canadian Air Transportation Administration, for their work in developing a practical STOL traffic control and navigation system in highly congested metropolitan areas, making possible the first true city-center STOL airline operation between Ottawa and Montreal.

Bernard J. O'Brien, program manager, and Herb Lassen, spacecraft designer, both of TRW, Inc., Systems Group, for their contributions to the Pioneer 10 spacecraft that voyaged 525 million mi. to Jupiter and transmitted basic new data on this planet, including the picture on the cover of this issue.

Robert D. Hofstetter of NASA Ames Research Center and Walter L. Natzic of Bendix Field Engineering Corp. for directing the Pioneer mission control center that successfully guided Pioneer 10 on its flight to Jupiter. Louis A. Watts and Samuel Pellicori of Santa Barbara Research Center for designing Pioneer 10's imaging system and Ralph Baker, University of Arizona, who designed the realtime viewing system.

Beverly Jean Raposa, Eastern Airlines Lockheed L-1011 stewardess, for her heroic conduct in directing the rescue of survivors after the crash of her aircraft in the Everglades swamps last Dec. 29. Although suffering serious internal injuries, she led survivors out of the waist-deep water to higher ground, shouted warnings against lighting matches in the dark swamp to prevent igniting aircraft fuel spillage and calmed the injured by leading them in Christmas carols that also helped ground searchers locate the site where 99 others died.

FOOD AND GOOD COMPANY FOR SENIOR CITIZENS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BRADEMAS. Mr. Speaker, I want to bring to the attention of my colleagues a significant story, which appeared in the Washington Post on January 30, 1974, on a nutrition program supported by the Nutrition for the Elderly Act.

The program described in the article provides to senior citizens meals prepared and catered by the Hebrew Home in Rockville, Md., 5 days a week.

Mr. Speaker, Mrs. Minnie Michaelson, a widow suffering from arthritis and failing eyesight, said to Judy Luce Mann of the Post:

> It's wonderful to have programs like this. You're home alone, you have to wait for people to shop for you. Volunteers pick you up and you have a marvelous meal. You get together to meet people. When you get home you feel you've had a marvelous day.

Mr. Speaker, let me also advise my colleagues that on February 13 and 14, the Select Subcommittee on Education, which I have the honor to chair, will begin hearings on H.R. 10551, a bill—introduced by the gentleman from Florida, the Honorable Claude Pepper, and me, along with over 140 cosponsors—to extend for 3 years the Nutrition for the Elderly Act.

Mr. Speaker, the article to which I have earlier referred follows:

Magic of a Hot Meal—Elderly Find Warmth, Friendship at Luncheon

(By Judy Luce Mann)

Minnie Michaelson, a widow who is troubled with arthritis and failing eye-sight, was having a wonderful time yesterday. So were Adolphe Pocidalo, despite loneliness and three operations in the past year, and Gertrude Dobkin, who has been through one throat and five eye operations and can barely see.

They were among about 30 senior citizens who arrived at Adas Israel Congregation, 2850 Quebec St. NW, about 11 a.m. and stayed until 2 p.m. to talk, eat, play cards and be entertained by 10 children from the congregation's nursery school.

The scene is repeated four days a week at Adas Israel. Similar programs for people over 60 are starting all over the country, most of them in churches, senior citizens centers and high rises that cater to the elderly. They are financed by $99.6 million in federal money, and the major effort is to give hot meals and warm companionship to the elderly.

"It's wonderful to have programs like this," said Mrs. Michaelson. "You're home alone, you have to wait for people to shop for you. They (congregation volunteers) pick me up. You have a marvelous meal. You get together to meet people. When you get home you feel you've had a marvelous day."

Mrs. Michaelson, reluctant to give her age—"my children don't even know it"—finally admitted to being 81. "I waited on my family all my life. Now we're waited on here. I wish in my mother's day when she needed it. . . ."

The lunch was prepared and catered by the Hebrew Home in Rockville and included tomato juice, roast chicken, mashed potatoes, peas, carrot salad, prunes, coffee or tea. "And it's all kosher," said Mrs. Michaelson. "This lady isn't Jewish and she's enjoying it," she said, nodding toward a woman sitting across the table.

The woman, who said she was Mrs. Evans, did not want to give her full name, saying "it's my first time." She was the only gentile among the six people at her table, and when she said, "What's the difference between kosher and Jewish," she heard five people answering her simultaneously.

"Jewish people are not allowed to eat veins," began Mrs. Michaelson, and she went on to explain how meats are prepared. "No vein. No vein," she emphasized. "It takes years of study" to prepare and inspect the food, she said.

Most of the senior citizens said they heard about the program through other members of the congregation. Pocidalo, a retired technical librarian and information specialist, said: "Some ladies I know told me about it. In the last year I've been very unhappy because I've had surgery three times. They told me about the food service here and I came. For the price it's impossible to get anywhere."

The people are asked to donate 75 cents to the over-all program—which includes movies, lectures and any health and social counseling they need—although no fee is charged for the lunch.

The Adas Israel project is one of six that will ultimately be sponsored with federal money given to the Episcopal Diocese of Washington. Vanette Graham, project director for the diocese, said Southeast House, Friendship House, the Urban League, and Change, Inc., are in the process of setting up similar projects and that ultimately more than 1,000 senior citizens will receive hot meals each day.

The District received $498,000 from the Health, Education and Welfare Department for the program for a 12-month period. Maryland received $1,471,149 and Virginia, $1,787,289. Both states are now in the process of setting up similar projects, according to HEW and state officials.

Adas Israel's project was the first to serve kosher food in the area, according to Ruth W. Breslow, one of its organizers. "We are the only kosher program, I think, south of New York and north of Miami. One of the provisions of the act is that you honor ethnic preferences of the older people. That's why kosher seemed like it would fit in nicely."

It did yesterday. After lunch, the children from the nursery school got up from their table and, joining hands in a circle began singing, "Good day, everybody." There was polite applause and murmurs of "very good," from the audience.

Then, led by Alice Haber, their teacher, they launched into a number of Hebrew songs and dances, and within minutes the tables were being moved back to make space.

It was too much for Mrs. Dobkin. She got up from her chair, joined the children and led them in several chants, all the while dancing with them around in a circle, to the delight of the other older people.

After the last chant, she gathered the children around her and blessed them.

KROGH'S SENTENCE NO OUTRAGE

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RIEGLE. Mr. Speaker, the January 31, 1974, issue of the Detroit News carried an important column by Carl Rowan. I include it in the Record for the interest of my colleagues.

Compare It to Spiro Agnew's, for Example—Krogh's Sentence No Outrage

(By Carl T. Rowan)

Washington.—Watergate is a bitterly divisive issue under any circumstances but it splits families and friends when something pops up like that six-month prison sentence for Egil Krogh Jr.

No. 2 Son is outraged that the man who directed the White House plumbers in the burglary of the office of Daniel Ellsberg's psychiatrist didn't get something closer to the 10 years Judge Gerhard Gesell could have given him. This college-age son angrily compares Krogh's sentence with the lengthy terms in jail young people have been given for smoking a marijuana cigarette.

It's not just a generation thing. Some of my 40-ish journalistic colleagues say they feel nausea over the "leniency" shown Krogh.

It soon becomes obvious my journalistic conferees are angry because Krogh not only failed to "spill his guts" and throw the impeachment process into high gear; he made a statement that helped to bail some water out of President Nixon's sinking ship.

When I weigh all the factors I part company with both son and colleagues. I find six months in prison a stiff enough penalty for Krogh. After all, his crime was not nearly so venal as that of the former vice-president, Spiro Agnew, who got no prison term at all.

And Krogh has expressed remorse. He has warned the American people the plumbers set forth in the name of preserving freedom and wound up destroying personal liberty themselves. This sort of thing, he says, society must protect itself against.

Agnew hasn't expressed any sorrow to the nation. Watergate principals who are guiltier of much more than Krogh have not expressed one iota of penitence. And they don't have Krogh's legitimate argument that—foolish, illegal and stupid though the burglary may have been—he had an approved memorandum from presidential aide John Ehrlichman that Krogh at least interpreted to mean that the burglary was an official governmental action. Judge Gesell noted "a wholly improper illegal task was assigned to (Krogh) by higher authorities."

Finally, I think about what six months in prison means to a lawyer who once held power and had dreams of glory. With disbarment a distinct likelihood, that prison term and all the stigma that will go with it can be a pretty devastating blow to a man who apparently walked the straight line of honesty until he got "used" by the power-seekers.

The critics of Judge Gesell's sentence bounce back with the argument that Krogh "conned" the special prosecutor and the judge and got his "light" sentence on everyone's expectation he would "sing" and implicate Mr. Nixon in a politically fatal way. They don't believe he is remotely penitent.

Maybe I'm a sucker to believe anything from anyone connected with Watergate. But I want to believe Krogh when he says Mr. Nixon gave him no specific order to burglarize Dr. Lewis Fielding's office.

Wasn't it enough Mr. Nixon gave general approval to the T. C. Huston plan, which included illegal burglaries? Isn't it enough Mr. Nixon himself said he "did impress upon Mr. Krogh the vital importance for the national security of his assignment?" Why should Krogh have gotten orders from Mr. Nixon's lips when orders almost always went through either H. R. Haldeman or Ehrlichman?

I don't bear ill will against Krogh because he refused to jazz up his statement so as to try to drag the President into disgrace with him. There is plenty of damning evidence around without pressuring Krogh or anyone else to lie. I just feel sorry for Krogh, who will suffer so much for one foolish crime which he thought was cleansed by patriotism, even as those guilty of uglier Watergate offenses may never spend a day in prison stripes.

THE SOVIET WHEAT DISASTER LIVES ON

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ASHBROOK. Mr. Speaker, the January 26 edition of the Washington Star-News reported the following item:

> For the first time since World War II, there are no U.S. import quotas on wheat. As of today and through June 30, wheat and flour will be allowed to come into the country to prevent a possible shortage and rising bread prices.

This situation can only be described as absurd. In 1972, the United States sold about 400 million bushels of wheat to the Soviet Union on the most incredibly generous—or should I say stupid?—terms. President Nixon's agreement with the Kremlin made available to the Soviet Union $750 million in credit. In addition, the Department of Agriculture paid over $300 million in subsidies to U.S. exporters who sold the wheat.

Aided by these massive Government credits and subsidies, the Soviet Union cornered about one-fourth of the entire U.S. crop. According to a study by the General Accounting Office, this large sale "caused a dramatic rise in the price of U.S. wheat." Domestic wheat prices shot up from $1.68 a bushel in July of 1972 to $3 a bushel in May of 1973. Today, the average price of wheat in the Chicago area stands at about $5.75 a bushel.

The Soviet wheat disaster does not stop here, however. Now the United States is forced to lift its wheat import quotas in order to meet the needs of American consumers. The Agriculture Department has predicted that our wheat reserves may be down to 178 million bushels by July 1, the lowest since 1947. After the hundreds of millons of bushels of wheat shipped to the Soviet Union and subsidized by the American taxpayer, the United States now will be importing wheat to meet the requirements of its own citizens.

Is it not time that the present administration paid more attention to the needs of American citzens rather than pursuing the illusory dream of détente with the Soviet Union?

MISLEADING BRAND NAMES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ROSENTHAL. Mr. Speaker, today's shopper is confronted with many products on supermarket shelves and in food establishments whose brand names are inherently misleading.

I am referring to products—such as McDonald's Quarter Pounder, Hi-C fruit juices, and Wonder Bread—which can and do mislead the public as to a product's performance capabilities, value or quantity and quality of contents.

In addition, the names of a number of other products—such as Ultra Brite toothpaste, Compoz, 5-Day Deodorant Pads, Sleep-Eze, and No-Doz—could potentially mislead the consumer, in my opinion. Ultra Brite, for instance, has never substantiated the impression conveyed by its name that it gives the brightest teeth possible. The performance capabilities of these and other grandiosely named products should be subject to strict requirements of proof—something that has not been done.

To help rectify this situation, I have introduced legislation that would effectively ban the use of misleading product brand names. The bill would make the advertising of such names a violation of the Federal Trade Commission Act unless the manufacturer can demonstrate that the product lives up to its name.

This legislation is necessary, because the Federal Trade Commission has refused to crack down on these practices and instead is showing increasing tolerance of advertising abuses. The bill is also needed, because no amount of corrective advertising can overcome an impression about a product created by a well-advertised brand name.

The FTC recently rejected my complaint that McDonald's was guilty of false advertising. Despite the fact that U.S. Department of Agriculture tests revealed that the average weight of the Quarter Pounders was far below the required 4 ounces—the average weight was only 2½ to 2¾ ounces—the FTC ruled that no false advertising was involved. Their reasoning, which I found faulty, was that "cooked beef products such as this are traditionally and uniformly sold on the basis of their precooked weight * * *."

McDonald's is now advertising that they "start out with a quarter pound of beef," but the impression that remains with the consumer is that a quarter pound of beef is actually served.

Manufacturers should not be allowed to grossly mislead the public with their brand names. Since the FTC refused to act, Congress must act, instead.

I hope my colleagues will join me in support of this bill.

FAIRNESS FOR POSTAL SUPERVISORS

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. CHARLES H. WILSON of California. Mr. Speaker, as we all well know, there have been many, many disappointments since the creation of the U.S. Postal Service as a result of the Postal Reorganization Act of 1970 and, as chairman of the Subcommittee on Postal Facilities, Mail, and Labor Management of the House Post Office and Civil Service Committee, I have taken a great interest in these problems and have, when necessary, introduced remedial legislation.

One troubling matter is the status of the postal supervisors who, under the U.S. Postal Service, were to have consultative rights in matters affecting them.

In practice, the postal supervisors have charged, with considerable justification in my opinion, that the Postal Service's idea of consultative rights is to make a decision and then inform the supervisors.

To correct this problem, I have introduced a bill, H.R. 7202, which would provide for an arbitration board to settle disputes between supervisors organizations and the U.S. Postal Service.

In the current edition of the Federal Times, February 6, 1974, Dan Jaspan—the very able administrative vice president of the National Association of Postal Supervisors—discusses in some detail the need for such legislation.

The article follows:

POSTAL SUPERVISORS' CASE FOR ARBITRATION

(By Daniel Jaspan)

Many readers of *Federal Times* may be as surprised to see the name—National Association of Postal Supervisors—as were the industry-oriented officials of the U.S. Postal Service when they took over the reins and found in USPS an association composed of management employees. Such an organization is unheard of in the private sector.

It is not a new association. It was founded in 1908 when a courageous group of postal supervisors jeopardized their livelihoods by meeting in Louisville, Ky., to organize. In those days, it was difficult to form any association of postal employees since postal employees were not permitted to organize, but the idea of a management association seemed as preposterous to most people in those days as it apparently seemed to Postmaster General Blount and his official family shortly after the election of President Nixon.

Although classified as "management," supervisors had generally been treated as glorified craft employees before and years after founding of our association. It took many years of dedicated work to achieve proper recognition by the Post Office Department and Congress. However, that recognition had come about long before establishment of the quasipublic corporation in 1971.

The first real recognition of the various postal organizations was President Kennedy's Executive Order 10988, which granted three forms of recognition: exclusive, formal and informal.

The National Association of Postal Supervisors believed—as a long-standing organization of postal supervisors, representing all supervisors in the U.S. postal field service—it should have been entitled to exclusive recognition. But this request was turned down because only management employees were represented and the association was granted "formal recognition," the same as an organization representing as little as 10 percent of its potential membership.

Even though NAPS did not achieve exclusive recognition, it was granted regularly scheduled consultative sessions on the national, regional and local post office levels. Although we did not always achieve our objectives during these sessions, our problems were fully explored and decisions were made.

Under the Nixon administration, the EO 11491 superseded the Kennedy order. Postal supervisors were continued under formal recognition. However, consultative sessions were reduced unilaterally by the Post Office Department and few problems were resolved at the top level. Then came the Postal Reorganization Act.

The National Association of Postal Supervisors was and still is in favor of postal reform. We supported fully the Dulski bill, H.R. 4, which would have achieved postal reform without the radical surgery of the other legislation. We testified in favor of H.R. 4 and in opposition to H.R. 17070, which was enacted. We based our testimony on our strong belief that this legislation would mean decreased service and increased rates, among other reasons.

When it became evident that, in spite of our opposition, the Postal Reorganization Act would become law, we appealed to our friends on Capitol Hill to protect associations such as NAPS.

A section was placed in the bill to provide "a program for consultation with recognized organizations of supervisory and other managerial personnel who are not subject to collective bargaining agreements" under the proposed new law. The bill further provided that an organization such as ours "shall be entitled to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial employees."

The original bill provided for arbitration in case of impasses. However, this part was stricken from the bill when most of our congressional friends were not on the floor of the House. There were fewer than 100 out of the 435 members of Congress present at that time. This important provision was never reinstated.

The top officials in charge when the Post Office Department became the U.S. Postal Service discontinued consultative sessions and never complied with the provisions of the law to establish "a program of consultation." Their idea of consultation was to act and then notify NAPS of their actions.

The most notorious example was the establishment of the job evaluation program, based on a very expensive ($3.5 million) contract awarded to Westinghouse Electric which had never done any position evaluating. We did not participate directly in the planning and development of the job evaluation program—which downgraded about 50 percent of the supervisory positions—as provided by law and the result was a lawsuit against USPS initiated by NAPS.

The request made by NAPS for an injunction against initiating the Westinghouse job evaluation was denied at the U.S. District Court level on the grounds that irreparable damage would not be caused by the USPS action. The written decision stated that "to participate directly in the planning and development" does not mean that our association must be present at the inception of the program.

It has always been difficult for my untrained mind to understand how anyone can "participate directly in the planning and development" without participating from the very beginning.

The decision of the judge has been appealed to the U.S. Court of Appeals. The attorneys for the USPS and NAPS have submitted their further arguments to the court and are awaiting a call to appear before the Court of Appeals for oral presentations.

The first we really learned about the Westinghouse contract was when hearings were scheduled by the House Post Office and Civil Service Committee to investigate why the contract was awarded to the highest bidder with little or no position evaluation experience. At least a half-dozen experienced position evaluation companies were bypassed even though they submitted lower bids. At the conclusion of the hearings the committee made several recommendations including the following:

The postal service should declare the contract with Westinghouse null and void and seek legal redress for moneys already paid to Westinghouse.

The postal service should solicit new bids to complete the job evaluation project.

The postal service should immediately take appropriate personnel action against those employees of the postal service who, at the very least, demonstrated poor judgment in awarding the contract to Westinghouse.

The committee also decided to send the record to the Justice Department with the recommendation that it take such action as is appropriate under the circumstances and requested that the Justice Department report its decision to the committee.

As of this writing, none of the recommended action has been taken by USPS nor has the Department of Justice made a report to Congress.

Since the postal service completely ignored the provisions of the Postal Reorganization Act relating to consultation, the association necessarily turned to Congress for relief.

Congressman Charles H. Wilson, chairman of the House subcommittee on postal facilities, mail and labor management, introduced HR 7202, a bill to provide that, in case of impasses on major items, an arbitration board would settle such disputes. The board would be composed of three members: one chosen by NAPS, one chosen by USPS and a third selected by the other two.

This bill was co-sponsored by about 80 members of Congress and an identical bill was introduced on the Senate side by Sen. Quentin Burdick and was co-sponsored by Humphrey, Hart and Hartke. When hearings were held by the Wilson subcommittee in June, there was the largest turnout of members of the House committee in the memory of most people present.

Further action by the subcommittee and the full committee is expected shortly on this very important bill. During a legislative conference held by NAPS last year, practically all members of Congress were contacted and most of them pledged support of the legislation.

Two of the most difficult decisions in the history of our organizations were to bring suit against the postal service and to have the arbitration bill introduced. However, both actions were necessitated by the fact that USPS officials apparently feel that postal supervisors should be seen and not heard.

"WE TOLD YOU SO, MR. BIAGGINI"

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. DERWINSKI. Mr. Speaker, one of the Federal innovations which we hope will succeed is that of Amtrak and its efforts to renovate long-distance passenger service. Columnist Mike O'Neal of the Harvey Star Tribune, in a column of January 31, dramatically reports his experiences aboard an Amtrak passenger train. I believe his constructive criticism and comments on the subject are worthy of review, therefore, I insert the article into the RECORD at this time.

"WE TOLD YOU SO, MR. BIAGGINI"

(By Mike O'Neal)

If you've been around a railroad passenger station lately, you may have seen some people standing around with expensive cameras around their necks and incredibly smug looks on their faces.

These people are railfans and most of them are still in a stupor over the renaissance of inter-city rail passenger service. It wasn't so long ago that the railfan seemed to be the only friend of the passenger train.

The federal government's transportation policies seemed to deal with building more and more and wider and wider expressways, and with handing out money to airlines to subsidize feeder routes.

The railroads themselves certainly weren't interested in reviving the passenger train. Most, in fact, took delight in thinking up ways of discouraging passenger traffic. The Southern Pacific railroad, under the direction of its president, B. F. Biaggini, conducted the most vocal anti-passenger campaign, declaring at every possible opportunity that the "passenger train was dead in the west." The SP sold airline tickets at its passenger stations and was before the Interstate Commerce Commission almost daily with petitions to discontinue passenger trains.

The SP, in fact devised perhaps the sneakiest trick of all in trying to get rid of its passenger trains. The SP persuaded the ICC to allow it to drop daily service in many routes and substitute trains that ran only three times a week. The SP's three-times-a-week trains operated on schedules that even a railfan couldn't remember, much less an ordinary traveler seeking to get from point A to point B.

In May, 1971, however, things began to change. A new quasi-governmental corporation known as Amtrak was created. Its job was to take over inter-city passenger trains. Railfans saw a bright new day, a new beginning Biaggini thought Amtrak should preside over the dismemberment of the rail passenger network in an orderly manner. Many thought the passenger train had a future only in the "northeast corridor" between Boston and Washington.

Then the energy crisis came along. Gasoline suddenly became in short supply. Airlines started cutting back on their flights. People again turned to the trains.

During the past few months, Amtrak has shown astounding gains in passenger traffic. Passenger loadings in November, 1973, were 50 per cent higher than November, 1972. Amtrak, though, has begun to show signs of strain, especially during holiday rush periods when just about every passenger car that can roll, and a few that can't, are pressed into service.

I've been a railfan since I was old enough to realize what trains were. I've even managed to convert my wife, Pat, to a railfan. When we got married a little over two years ago, Pat couldn't tell the difference between a handcar and an E-8. Now one of her favorite pastimes is to curl up with a copy of Amtrak's national timetable and figure out different trips we could take. She knows that Southern 4501 is a steam locomotive operated by the Southern railway in excursion service, and not a phone number.

Pat's actually responsible for my latest experience with Amtrak. Pat, my mother-in-law, Mrs. Margaret Leinen, and I had planned a trip to Bloomington, Ill., for a weekend visit with Pat's sister and her husband.

It was Pat's idea to take the train instead of fighting the traffic and searching for open gasoline stations along U.S. 66. I didn't need much convincing and so on a recent Saturday morning we found ourselves in Joliet Union station awaiting the arrival of Amtrak Train 307, the Weekender, which operates between Chicago and St. Louis on Saturdays and Sundays in place of the new French turboliner, which runs on weekdays.

I started to have some doubts about the venture when I overheard two college-age persons talking about how one of them tried to get on a southbound train the night before, but gave up because the train was packed with people standing in the aisles and vestibules. A fairly large crowd had gathered at Joliet that morning and since none of them had cameras around their necks or employee timetables in their back pockets, I knew they had to be paying passengers and not railfans out for a day of picture-taking.

The Weekender was late in arriving at Joliet and for a while I pictured a huge riot at Chicago's Union station as people fought each other to get a seat on the train. When the train did arrive, however, the coach behind the locomotive was empty and ready to receive the Joliet passengers.

We climbed aboard and took two sets of seats next to each other. Actually, Pat and her mom got on the train first and found a pair of seats for themselves. They then got a seat for me by throwing a pork roast we were bringing to Bloomington for Sunday dinner on the seat in front of them, thus discouraging another couple from taking it.

I deposited our suitcases in a special luggage area at the end of the car and made my way to the seats. The car itself was a delight. It had apparently been recently refurbished with carpeting extending half-way up the walls and reclining seats with legrests. Pat and her mom liked it so much they made some comments about going all the way to St. Louis.

We pulled out of Joliet about 15 minutes late and were on our way for a pleasant ride to Bloomington. The roadbed was relatively smooth and we travelled at close to the maximum speed of 79 miles-per-hour, passing cars and trucks on the adjoining U.S. 66 as if they were standing still. The roadbed was the biggest surprise of the trip, since it belongs to the Illinois Central Gulf railroad. Travel along the ICG's Chicago-New Orleans route had been an ordeal recently with numerous slow orders because of a crumbling roadbed. If the IGC let that happen to its main line, what would be mostly-passenger Chicago-St. Louis line be like?, I thought. Actually it wasn't bad at all.

A quick tour of the train revealed that all of the five cars had been refurbished. The heat in one of the cars was acting up, making it too hot for a comfortable ride, but other than that, everything seemed to be working fine. A disappointment was that the crew of the combination dome-snack-bar-coach was still trying to get their supplies in order and weren't open for business.

We would have arrived in Bloomington ahead of schedule, but the train got delayed just north of the Bloomington station by a northbound train that was loading passengers. As it was we stepped off the train at 10:30 a.m., about six minutes late.

I gave Amtrak a B-plus for the trip (the slight tardiness, the one overheated coach and the closed snack bar being my objections), got off the train and met my brother-in-law.

The trip back to Joliet, however, was a lot more hectic. To return, we chose to take Amtrak Train Number 306, also called the Weekender, on Sunday evening. The train was about a half-hour late arriving in Bloomington and we waited in the station with a large crowd. My brother-in-law remarked that he had picked up his wife at the station once and was the only person in the waiting room.

Now sitting around the Bloomington station isn't exactly a pleasant experience, even for a railfan. The interior of the building is painted a blah washed-out brown and features what has to be the steepest stairway in central Illinois. Actually, there's nothing wrong with the building that a wrecking ball couldn't cure.

The Weekender arrived at 8:17 p.m. (28 minutes late) and a surge of humanity left the station to get on. The conductor apparently knew he'd never be able to get through the train to collect the tickets, so he asked for them as we boarded.

We again entered the train through the first coach behind the locomotive. This time the car was filled to the brim. As was every other coach. We pushed our way through five coaches looking in vain for a seat. Each coach had its own personality. In one car, a group of people, obviously traveling together, were drinking and yelling things like, "Where are we now? Is this Springfield?" In another a guy made a pass at my wife.

Luck was with us, however, as we entered the sixth car on the train, the same dome-snack-bar-coach that had been in Saturday's consist. In the section of the car under the dome were a small galley that the crew used to sell food and drinks and a glassed-in compartment with two facing sofa-type seats that was used to store supplies for the galley. Well, the supplies were almost exhausted and the room was almost empty. A young man (obviously a railfan, since he wrote down our departure time in a small book he was carrying and had an Amtrak identification card on his suitcase) was already seated there, so we decided to join him.

Pat cleared away some of the boxes and we all sat down for the trip back to Joliet. Some college-age women who got on at Bloomington joined us and we were on our way. The railfan left us, muttering something about trying to find a seat in the locomotive, and the five of us shared the European-type compartment all the way to Joliet.

It was a good thing we found that compartment since the only car on the train behind the dome car was filled with a kids hockey team.

We arrived in Joliet about 35 minutes late and managed to get off ahead of the young hockey players. For the northbound trip I gave Amtrak a C-minus citing the very tardy arrivals and the overcrowded conditions.

Yes, "Tracks Are Back" and its about time. I knew all along that Biaggini was wrong.

AN INDEPENDENT OIL MAN'S PLEA

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. REGULA. Mr. Speaker, I have received a letter from a constituent which eloquently sets forth the plight of the independent oil man—a situation which has not been the focus of the spotlight wielded so handily by the Permament Subcommittee on Investigations in the other body. I believe that the writer's story should be told; that their point of view should be heard. Too often the independent ethic is overlooked in an attempt to solve a national problem. Too often, when the rules are written and the Federal Government interjects itself into the breach, the very people who underwrite the franchise of this great Government are inconvenienced; indeed, it is they who bear the brunt of change no matter how well intended the panacea may be.

Mr. Speaker, I include the letter in the RECORD at this point:

C & S OIL CO.,
Louisville, Ohio, January 23, 1974.

Hon. RALPH REGULA,
House of Representatives,
Washington, D.C.

DEAR SIR: We are small independent operators in the oil and gas industry. We are concerned now because of all the accusations being leveled against our industry and the unprecedented legislation now being proposed. All we hear about when you all speak of the industry is the "majors", as if the majors made up the whole industry. We are writing to remind you that they do not. Every oil man is not a Getty, Hunt or Rockefeller as every oil company is not a Standard Oil or a Texaco. There are literally millions of us "little guys" out here. We're not saying there are no "fat cats" in oil; we all know there are, just as there are in other industries. We're just saying they are the exception rather than the rule as everyone seems to believe.

We feel that a lot of politicians and the media are doing a disservice to the public by portraying the oil industry as a group of "fat cats" sitting around together plotting against the American public. Between two-thirds and three-fourths of all domestic wells drilled and nearly all domestic wildcatting (which is tremendously important) is done by independent operators and we deeply resent the picture being painted of us.

We work hard for what we get—no forty hour work weeks in our business—and we certainly pay our share of taxes. In our opinion it is the most financially hazardous occupation there is. Every time you drill a well you gamble with the odds unbelievably against that well paying out. Talk to any small independent you find and chances are he'll tell you he's lost everything at least once in his life. An oil man is a peculiar type of person. Oil to us is not a job—it's a way of life and we love it. If we didn't we wouldn't stay in it. That is why it is so upsetting to see our work—our life—attacked. When you talk about oil depletion allowances, etc., you are talking about our life blood. We, as do other small operators, depend almost entirely on investment from outside individuals. Drilling, as we said before, is a risky business at best. Any problem in getting a well into production can wipe out any profit you could hope to make—not even mentioning the number of dry holes drilled trying to get a commercial well. Eight out of every ten wildcats drilled is a dry hole. Those are not good odds in anyone's language. The Bureau of Mines, Oil and Gas Division, at the individual state capitols keep records of all wells drilled and the production data on them. Look it up for your self. It should be no problem for you to find out how much a well costs. The Securities and Exchange Commission in either the state or Washington, D.C., depending upon where the independent raises his financing, controls how much the drilling and completion of a well can be sold for. You are probably saying to yourself that these are still figures provided by oilmen, but it has been our experience that the personnel at the Securities and Exchange are very well informed and up to date on current oilfield expenses. Then the Federal Power Commission controls the price we receive for our product.

There have to be good reasons for a speculator to invest with us. He has to feel he has a chance of making a profit that won't be eaten up with taxes. If he doesn't, he will use his money to buy bonds or something else safer. We need "outside investors" because oil men who can afford to invest, invest in their own wells. This brings me to the most important point—excess profits tax.

We deeply resent any excess profits tax as Americans in the free market tradition. Our industry is being singled out for punitive legislation. It implies we are making exorbitant profits and this is not true. Even by lumping the majors in with us independents the oil industry has a return on net worth no greater than that of similar industries. We wish we knew where the independent stood in that list; you can bet it would be way down the line. We think it is a very dangerous path to embark on when the government can tell us how much profit we are allowed to make. It is repulsive that supposedly patriotic Americans would even consider rearranging the free enterprise system. Even if the windfall tax measure is doctored up with the plowback option, it is still odious to be told how to invest my capital. Oil people, on the whole, have always "plowed back" their earnings. It is degrading for us and un-American for the government for us to be told "do it or lose it". It seems to us the industry has to make greater profits if we are to anywhere near keep up with the rising demand for petroleum products and if the independent is to remain in business at all. How can an industry expand without greater profits? The oil industry needs a staggering investment over the next few years. We should be encouraged to grow, people should be encouraged to invest, instead of throwing cold water on us. My husband has been an oil man for over fifty years. Never has such run down equipment been used as is being used now. Personally, I have never seen a new rig.

If the independent oil man is squeezed out, which he surely will be if all this punitive legislation passes, this country will really be dependent upon foreign imports. The majors may control a lot of domestic production, but it is the independent who does the actual producing. It may be processed and marketed by the majors but it wouldn't be possible without us. If the independent elects to take a farm out, which includes the risks, from the major, the major retains an overriding royalty and control of all production. This does not take into account the tremendous amount of wildcatting and producing an independent does completely apart from the majors. The oil industry is a very complicated industry—different from all others. We deserve more than just a fleeting glance before irrepairable damage is done by short sighted, uninformed persons. Kicking the oil and gas industry is now the "in" thing to do. It looks good to the "folks back home" when you can tell them how the rich oil companies are taking advantage of the hard working, long suffering little man, and how you are going to change all that by bringing the oil man down a peg or two. This is deception of the rankest kind.

The next time you look into those cameras and speak into those microphones, give a little thought to all us small oil companies out here. You can't afford to write us off.

Sincerely,

SUSAN ELESON.

FEDERAL ENERGY ADMINISTRATION BILL

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ECKHARDT. Mr. Speaker, in the near future, the House of Representatives will be called to act upon the bill establishing the Federal Energy Administration. Although the Government Operations Committee which reported the bill maintains that the bill is designed to merely reorganize and consolidate certain energy functions of the Federal Government, I feel that the bill does much more than this, and for this reason I have considerable doubts about it. An editorial by Congressman JOHN MOSS in the January 28, 1974 Los Angeles Times reflects many of the concerns I have about the Energy Administration legislation. I urge my colleagues to give Congressman Moss' comments the careful consideration they justly deserve.

The editorial follows:

REPRESENTATIVE MOSS URGES HOUSE TO LOOK CLOSER AT ITS VERSION OF THE ENERGY AGENCY

(By JOHN E. MOSS)

Under mounting pressure to adjourn for the holidays and in an emotional atmosphere created by the energy "crisis," the House Government Operations Committee, in the closing hours of the first session of the 93rd Congress, reported out a measure setting up a Federal Energy Administration.

The measure would create a superagency in the executive branch, with dictatorial powers over all policies and programs relating to energy, and, important though the bill is, the committee heard testimony from only two public witnesses and held hearings for fewer than nine hours.

The result was House Resolution 11793, a perfect example of the way government can suddenly create chaos out of confusion.

The measure is scheduled to go before the full House for a vote tomorrow. I only hope that my colleagues are more cautious and deliberative this time.

As it is now, the bill provides sweeping grants of power to the Federal Energy Administration with little regard to other laws enacted by Congress. For example, the provisions and powers provided in the National Energy Emergency Act, also currently under consideration would be totally ignored. Coordination with other governmental agencies in solving energy problems would not be encouraged, and there would be inadequate administrative procedures to insure accountability and due process.

The administrator of the energy agency would be given potentially unlimited powers over a myriad of energy-related problems. Such blank checks would include, as the committee report states, his power to be "a presidential adviser, a policy-maker, a planner, a coordinator, a manager, an expediter, a monitor, a data collector, an analyst and a spokesman to the public on energy affairs."

Under such an arrangement, for example, the administrator could order stripmining of coal as well as mandatory development of oil and gas in the Navy's Elk Hills oil reserves, the Santa Barbara Channel and the continental shelf off the East Coast. All of this could be accomplished without regard for public opinion and state or federal laws pertaining to safety or the environment.

Under the resolution, the President, without congressional approval, would have the authority to reorganize existing governmental agencies. "Any functions" of four major departments—Treasury, Interior, Agriculture and Commerce—"which relate primarily to energy functions" could be transferred to the Federal Energy Administration. Rural electrification and mine safety programs and certain functions of the Internal Revenue Service and the Cost of Living Council, to name a few, could be transferred virtually overnight to the energy chief.

This act would also give the administrator sweeping powers to "collect" (by subpoena, if necessary) "energy information" from all persons "owning or operating facilities or business premises who are engaged in any phase of energy consumption."

Obviously, in order to facilitate wise energy policies, Congress and the American public need adequate data from federal and private sources, and particularly from major oil companies, but to require such information from every service station in the land is an indiscriminate approach that will harass mom-and-pop retail operations with bureaucratic overkill and red tape while yielding little substantive information.

A more salient problem is the blanket confidentiality given the energy administration by this bill. Although the agency would have the power to collect such data, it would not be allowed to make it available to Congress, the executive branch or the public. It is difficult to understand why the same Government Operations Committee that gave birth to the Freedom of Information Act could approve of such a repressive and antidemocratic provision.

Arguments can be made in support of the idea of a Federal Energy Administration. The legislation discussed here, however, would create more problems than it would solve—while establishing dangerous precedents for executive power.

We do not need a benign energy dictator to light our homes and heat our schools. For, just as war is too important to be left to the generals, America's energy policies are too vital to be left in the hands of one federal bureaucrats.

AID AND TRADE WITH THE COMMUNISTS—V

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. LANDGREBE. Mr. Speaker, one of the perennial delusions of our foreign policymakers is that "peaceful coexistence" can be achieved with the Communists. Today "peaceful coexistence" is called "détente" or "rapprochement," apparently in the belief that giving something a French name increases its desirability. Or perhaps the terms were changed in the belief that the American people would not recognize the Communist slogan "peaceful coexistence" if the words were translated into a foreign language. Whatever the reason for the change, it is becoming increasingly clear that our foreign policymakers are determined to impose peaceful coexistence upon us, even at the risk of war with a military superior Communist bloc. In order to understand the meaning of the phrases "peaceful coexistence," "détente," "rapprochement," I ask that chapter 5 of Eugene Lyons' booklet "Operation Suicide" be entered into the RECORD at this point:

PEACEFUL COEXISTENCE

V

The confusions in American policy in large part derive from the 40-year-old slogan of "peaceful coexistence" revived and given a new polish by Khrushchev and his successors. All of them, to be fair, have tried hard to tell us that the phrase does not mean to them what it means to us, but the obsessed bridge-builders have steadfastly preferred to accept it at face value.

Pravda explained again in December, 1966 that the slogan "increases the opportunities for development of the class struggle through liberation wars." Brezhnev declared at a Moscow congress two months later: "We regard ourselves as part and parcel of the world system of socialism, a detachment of the world army of fighters for freedom . . . for the victory of socialism and communism all over the world." The Viet Cong delegate at the Havana Conference told reporters: "Within a short time there will not be just one but many Vietnams."

Secretary Rusk himself, before the American Political Science Association in Washington on September 8, 1965, said of the communists. "The strategy of trying to win control over Asia, Africa, and Latin America—thus encircling and strangling the Atlantic world—is common to all." A year later, he underscored this thought:

"The communist world has returned to the demand for what it calls a 'world revolution,' and to its support through what they call 'wars of liberation'."

It is hard to believe that the Secretary who recognizes these facts can be in earnest about bridge-building illusions related to the Fulbright-Lippmann implication that communism has ceased to be a menace. As understood and described in Moscow and other communist capitals, "peaceful co-existence" is frankly a cover for intensified revolutionary work by all means short of general nuclear confrontation with the United States.

A few years ago, in a speech welcoming President Nkrumah of Ghana to Moscow, Khrushchev made a statement that deserves more emphasis than it received. "Even if all the countries of the world adopted a decision which did not accord with the interests of the Soviet Union and threatened its security," he declared, "the Soviet Union would not recognize such a decision and would uphold its rights, *relying on force*."

Let the Rostows and Lippmanns square that with their versions of peaceful coexistence, or their belief that Soviet Russia can be fitted into their vision of a world of diversity. Even the Washington *Post*, a branch office of the bridge-building business, wrote editorially on August 23, 1966: "What is plain, however, is that the communist leaders, far from renouncing the cold war which they invented, are continuing to use it as a strategic tool."

The blind faith that the cold war is over, or about to be wound up amicably, is in the old pattern of euphoric behavior. In every previous time of self-induced optimism, too, its victims have argued to the same effect. No world dilemma has been so often "ended," only to reassert itself more strongly. Again it is assumed, in the words of Lippmann, that Soviet Russia has become "simply another world power." The implication is that we can now afford to ignore its revolutionary threats, its commitment to expanded subversion and its actual involvement in revolutionary violence from Southeast Asia and the Middle East to Latin America.

Yet the Kremlin has not retreated one inch from its global ambitions. When Marshal Lin Piao, Mao Tse-tung's war minister, outlined Chinese strategy for defeating the West through the "countryside"—the Afro-Asian and Latin American countries—American opinion was alarmed. In truth, however, there is no real difference between the Chinese and Soviet plans for isolating and strangling the Atlantic world through its soft underbelly of backward continents.

Anti-Western and anti-American propaganda from the Soviet bloc is greater and more vicious than ever before, despite our efforts to buy them off with trade. The huge network of Soviet schools training foreign leaders and guerrillas is as big and as busy as ever. How can these things be made to jibe with the bland assertion that the U.S.S.R. has become just another conventional power? How can the Soviet deployment of military force in Cuba be explained in terms of purely Russian national interests?

A *New York Times* article on February 26, 1967, sketching progress toward an detente, declared at one point that due to the turbulence in China, "Moscow has won its battle for authority in the communist world." It appears, therefore, that there *is* a communist world—most of it located within our world—over which Moscow seeks and has won "authority." There is no precedent in history for a garden-variety world power that sought dominance over political parties, undergrounds, and paramilitary forces in more than 80 other nations.

As long as communists instigate civil wars, train agents and guerrilla experts, maintain fifth columns in all non-communist countries, simple prudence should forbid us to ignore the persistence of the cold war. The President, in his 1967 State of the Union message, said that we should take steps "not to continue the cold war but to end it." Unfortunately no war, hot or cold, can be called off unilaterally except by surrender, as he has learned from his Vietnam experience.

True, the communists have suffered some staggering defeats—in Indonesia, Ghana, Guinea, Brazil, the Dominican Republic. However, they did not withdraw anywhere because of change of policy—they were kicked out. Nor have they renounced their objectives in those areas and in the rest of the world. Their failures surely do not justify American action to equip them, militarily and economically, for bigger and better operations.

George Kennan, testifying before Senator Fulbright, prolaimed that "the unity of the communist bloc is a matter of the past. . . . This Humpty Dumpty will not and cannot be reassembled." That is debatable and in the final analysis irrelevant, since the communists act as a unit when confronting our world.

Communism has always been wracked by factions and schisms, but has prospered to embrace a third of the human race notwithstanding. There have been a few exceptions (notably in India) but overwhelming, in the clinches, the Red oligarchs show remarkable cohesion as against their common enemy. They are absolutely unified on Vietnam. Curiously, Kennan also testified that the Soviet Union dared not "lay itself open to charges within the communist world of 'collaboration' with the United States." So again, there apparently *is* a communist world to which the Kremlin must cater—this despite the sad condition of his Humpty Dumpty.

We have tended to muddle our thinking by dividing the enemy into "good" and "bad" communists. There are even those who see a possible American alliance with the "good" species against the "bad." But given the current conclusions in China, we may have held the funeral over the "monolith" too soon.

One of the possible, and even likely, outcomes is a return of the "good" communists to power in China either through the defeat of Mao or after he passes from the scene—and with it the restoration of the "monolith" from the Elbe to the Pacific. The acknowledged leader of the anti-Mao factions, Liu Shao-chi, has always been looked upon, especially in Moscow, as pro-Soviet. A victory of those factions would unquestionably bring a Sino-Soviet *rapprochement* in its wake.

But should the quarrel lead to war, declared or undeclared, the Kremlin's obvious goal would be to impose a "friendly communist regime on China and with it, a return to "fraternal unity." The idea of an American alliance in support of that objective is on the face of it, preposterous.

DISTINGUISHED PROFESSIONAL

HON. ANDREW J. HINSHAW

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HINSHAW. Mr. Speaker, it is with a feeling of pride that I note the accomplishment of Miss Linda D. Woodard in becoming a certified property manager.

In the real estate profession, which has historically been dominated by men, Miss Woodard at the young age of 29 has surpassed many of her male counterparts. In addition to her previous achievement of becoming a real estate broker, she is now one of only 70 women in the entire Nation who to date have earned acceptance through intensive examination as certified property manager in the 40-year-old elite Institute of Real Estate Management of the National Association of Realtors.

Miss Woodard is presently assistant to the general manager of the Charles Dunn Co., a major management and leasing organization in Los Angeles, Calif.

The official awarding of the certified property manager designation to Linda Woodward took place on Wednesday evening, January 23, 1974, at the Chancellor Hotel in Los Angeles, Calif.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 68

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HARRINGTON. Mr. Speaker, one of the principle reasons for advocating strong handgun controls for all citizens is that handgun murders are not the products of criminal elements. More people are killed by friends, relatives, and neighbors than by unknown assailants.

A case in point is the tragic shooting of two students outside a local Washington junior high school.

During the argument that took place outside Alice Deal Junior High, James Atkinson, Jr., was shot; and although he was not killed, was partially paralysed with a bullet lodged in his head. His chances for survival are slight.

These boys were not shot by hardened criminals who intended to rob them. They were assaulted because of an argument with some acquaintances.

The preponderance of guns in our country cannot help but result in countless tragic and needless deaths and injuries. The only satisfactory answer to this predicament is strong handgun legislation.

Included below is the article from the Washington Post, dated February 5, 1974:

ONE TEENAGER LEFT PARALYZED: TWO ALICE DEAL STUDENTS ARE SHOT IN FIGHT

(By Adam Shaw and Alfred E. Lewis)

Two 16-year-old students at Alice Deal Junior High School were shot yesterday, one of them critically, when an argument involving them and several other young people erupted in gunfire at 39th and Yuma Streets NW, metropolitan police said.

Police and hospital authorities said that James Everett Atkinson Jr., of 1819 Kilbourne Pl. NW, lay partially paralyzed and in critical condition last night at Sibley Hospital following the 1:30 p.m. affray during a school lunch break.

The second Alice Deal student, Arthur Byrd, suffered only a flesh wound in the chest and was released from Sibley a few hours after the shooting.

Police said their investigation indicated that the incident involved five or six teenagers, and that some of them were students at Wilson High School. They emphasized, however, that the incident was an isolated one and did not indicate tension between the two student bodies.

Doctors said young Atkinson had been shot once in the forehead and the bullet lodged in the back of his head. In addition to paralysis, the incident apparently cost him his speech. Surgeons decided yesterday against an immediate attempt to remove the bullet.

Police said the shots were fired by an unknown member of the group. The weapon was not recovered, but is believed to be a small caliber pistol. No arrests had been made last night.

The fight began, young Byrd told a reporter, when a friend of his and Atkinson who attends Wilson came to Alice Deal during the lunch break and said he had been "beaten up" by a group of young men, and asked his friends to help find them to settle accounts.

Byrd said he, Atkinson, two other Alice Deal students and the Wilson student spotted a group of three young men standing on 39th Street a few blocks from the school. When they were approached, Byrd told the reporter, the youths retreated down Yuma Street and then shots rang out.

The father, James Atkinson, a research technician at the Bethesda National Naval Medical Center, said his son "loved to play the guitar very loud in the basement with his friends," and that he was "really no trouble to anyone, ever."

His wife, Mary, a practical nurse at Georgetown University Hospital still in her white-and-blue uniform while talking to a reporter, said of her son that "he was an ideal fellow."

The parents sat quietly on a couch until Dr. Carroll came to tell them about the operation.

He knelt by a low wooden table and told them their son was half paralyzed, couldn't speak and was in "very serious condition."

When he stopped speaking there was a silence. Mrs. Atkinson started to cry, softly at first, then, standing up, she choked, "Why to him? Why to him?"

She was taken to the emergency room and was given a sedative as her husband sat by his son's bedside in the intensive care unit.

Atkinson's sister, Valencia, 14, also a student at Alice Deal, said she was called out of a home economics class to be told the news. "I don't know why it happened," she said, "he wasn't a fighter or anything."

Lyman Warner, principal of the junior high school, said Atkinson was "having his best year in school," and was in "fine academic standing."

"When I heard the first shot, I thought they were kidding. No one thought it was a real gun or anything," Byrd said last evening. He was sitting in his home with a hand-sized bandage on his right chest where he had been shot.

"Then another two shots were fired," he said, "and that was when I and James were hit."

Paul Cassagnol, whose house is at the corner of 39th and Yuma Streets, said he heard shouts, but no gunfire.

"Then a very excited young man banged on the door saying 'someone has been shot, someone has been shot,' " he said.

Cassagnol said he called police, then looked outside to see young Atkinson lying on the sidewalk under a stop sign.

Atkinson, a 9th grade star center for the Alice Deal basketball team, was paralyzed along his right side and unable to speak, hospital officials said. Dr. Charles Carroll, a neurosurgeon who operated on the youth for 1½ hours yesterday, said the bullet had lodged deep in the left rear of the brain.

"We didn't take the bullet out because it might kill him," Carroll said. "We'll just have to see how he does during the next 12 hours. His chances are slim."

Five hours after the shooting, Atkinson's parents and a score of relatives gathered in the hospital waiting room, and awaited the results of the surgery.

A TRIBUTE TO WILLIAM E. WALKER

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RYAN. Mr. Speaker, there are few times in this day and age when one has the opportunity to be a pioneer. One of those times came in 1963 when a city in San Mateo County, Foster City grew out of a portion of the bay. Starting a city in this day and age with all of the attendant problems of a large metropolitan area is quite an undertaking. One of the first five families to move into the Foster City in 1963 was the family of William E. Walker. Today this city has a population of 18,650, and one of the men most responsible for the rapid, orderly and successful growth of Foster City was William Walker.

Elected to the city council in 1971, Bill was unanimously appointed mayor by that council in June of 1972 and served as mayor until August 28, 1973. His service as mayor was the capstone of a long and successful career of public service on behalf of Foster City. Shortly after moving to the city, he helped organize the first homeowners group to study elementary and high school needs in Foster City and negotiated with the school district to resolve the construction of the first Foster City school and the purchase of the high school district property. Education is probably the foremost concern of Mayor Walker's, but he did not stop there. He was deeply involved in the construction of shopping centers and construction activities around the city designed to make Foster City more independent and one of the most progressive cities in the bay area.

Mayor Walker's activities do not stop there, however. He was instrumental in a feat that all elected officials would like to accomplish when he supported reduction of the general city taxes by 26 percent in August of 1971.

The occasion of Mayor Walker's retirement will be a loss to Foster City. I am sure, however, he will continue to lend his many talents to Foster City and to the county.

NEED FOR ENVIRONMENTAL EDUCATION LEGISLATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BRADEMAS. Mr. Speaker, as the Members of the 93d Congress consider the best methods of addressing the energy crunch in which we today find ourselves, I want to remind my colleagues of existing legislation designed to educate the public about our environment and our limited natural resources.

I refer, of course, to the Environmental Education Act, a measure, overwhelmingly approved in 1970 by the 91st Congress, which provides assistance for developing teaching materials about the environment, training teachers, and providing community conferences to educate the public about the ecological dimensions of our existence.

Mr. Speaker, on October 24, the House approved H.R. 3927, a bill to extend the Environmental Education Act for 3 years, and Senate action on this bill is now pending.

But I think, Mr. Speaker, as we ask our fellow citizens to make sacrifices as a consequence of energy shortages, that it is of fundamental importance that we continue to provide education about the short- and long-term effects of our continued abuse of our scarce natural resources.

Mr. Speaker, the view I have expressed is shared by others.

For, on August 13, 1973, the California State legislature approved Senate Joint Resolution, No. 6, urging Congress to extend the Environmental Education Act, and expressing the "distress" of the Senate and Assembly of the State of California "over the prospect of further reduction in funds for the Environmental Education Act."

Mr. Speaker, the resolution to which I have referred, follows:

STATE OF CALIFORNIA, SENATE JOINT RESOLUTION NO. 26

Whereas, The Congress and the President of the United States enacted the Environmental Education Act of 1970 as Public Law 91–516; and

Whereas, Said act authorized federal expenditure of fifty million dollars ($50,000,000) for grants to agencies engaged in the crucial task of environmental education; and

Whereas, The ultimate solution to reversing the decline in the environmental health of this nation must include effective public education programs directed at understanding and dealing intelligently with environmental problems; and

Whereas, The development of such programs was the precise purpose of the aforementioned act and expenditure so authorized pursuant to such act; and

Whereas, The President of the United States, in his message to the Congress, stressed the importance of improving, in his words, "the nation's environmental literacy"; and

Whereas, Despite the action of the Congress, the statements of the President, and the eager utilization of the Environmental Education Act program by the states and the schools of this nation, the federal administration has provided barely one-tenth the funds authorized by the program during its three-year life; and

Whereas, Despite the crippling denial of funds to this critical program heretofore, the federal administration now proposes to further deny its responsibility to the environmental education needs of the nation by reducing program funds to an all-time low of one million dollars ($1,000,000); now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature communicate its distress over the prospect of further reduction in funds for the Environmental Education Act program and respectfully memorializes the President of the United States to restore the program to its authorized funding level and to the Congress to enact legislation to extend the life of the act in order that its promise and purpose may be achieved; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

DELMARVA RAIL SERVICE—NOT THE END BUT THE BEGINNING

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BAUMAN. Mr. Speaker, last Friday the U.S. Department of Transportation released a preliminary report which was in essence an economic examination of existing railroad service in the Northeastern United States. The report was required under the provisions of the recently passed Public Law 92–236 and in no way does it set out a final rail system for the area.

The contents of the report are in no way an attack on existing rail service but only an assessment of its current economic status. Another 18 months to 2 years must pass before a final plan for rail service is achieved. Prior to that final plan the affected areas and their local citizens will have several opportunities to argue their case. At the end of that time the option still remains for individual States or local entities to subsidize existing rail spurs that otherwise would cease to operate.

I include as part of my remarks: First, an editorial from the Baltimore Sun of February 4, 1974, together with two memorandums; second, one from the Department of Transportation summarizing the preliminary rail plan; and third, the second of which I have sent to various persons within my own congressional district:

DOT RAIL PLAN

It is too early to attempt detailed comments on the U.S. Department of Transportation's proposal for abandonment of 25 per cent of the railroad track in the portions of the Northeast to be affected by the new Rail Reorganization Act. Although we have opposed wholesale closing of rural rail lines, at the same time we recognize that some duplicating lines, and perhaps some rural spur lines, need to be abandoned in the interests of economy.

But it seems safe to say that as far as Maryland, particularly the Eastern Shore, is concerned, the DOT recommendations go beyond these prudent abandonments. Twenty per cent of Maryland's 1,110 miles of track would be closed, and trackage that now carries 65 per cent of the Eastern Shore's freight would be abandoned; apparently the only Eastern Shore line to remain would be the main Penn Central line to Salisbury. This main line, incidentally, would be closed south of Fruitland, thus eliminating service to the Virginia portion of the Delmarva peninsula. Although Transportation Secretary Claude S. Brinegar says only 4 per cent of the freight in the region is hauled over the lines proposed for abandonment, obviously this supposedly minor impact becomes a major impact indeed for particular regions such as the Eastern Shore.

Fortunately, the DOT recommendations are only recommendations, and we trust shippers who would be damaged if they were implemented will make a good case in opposition to many of the abandonments at public hearings to be held by the Interstate Commerce Commission in Baltimore and other cities in March. After the hearings, the new United States Rail Association will make final recommendations to Congress, a procedure which will allow yet another review before final action is taken in 20 months or so. This multi-stage review process is far superior to earlier proposals which would have removed Congress from final decisions altogether. We trust there will now be full opportunity for presentation of arguments that will show the rather clear economic, environmental and reduced energy consumption advantages of rail hauling over the truck hauling that would replace it if there were wholesale abandonment of rail lines in rural areas.

REPORT BY THE U.S. DEPARTMENT OF TRANSPORTATION ON RAIL SERVICE IN THE MIDWEST AND NORTHEAST REGION

SUMMARY OF KEY POINTS OF EMPHASIS

A. Perspective of the report

1. This report is the first of seven basic planning steps required by the Regional Rail Reorganization Act of 1973 (P.L. 93–236).

2. The Act required, within 30 days, a comprehensive report by the Secretary of Transportation containing his conclusions and recommendations for rail service within the region—17 States, plus D.C., plus 4 contiguous zones (Louisville, St. Louis, and 2 areas in Wisconsin).

3. The remainder of the planning process covers approximately 20 months, and includes two sets of public hearings held by the ICC Rail Services Planning Office, Preliminary and Final System Plans by the U.S. Railway Association, and ultimately approval or rejection by the Congress.

4. This report does not present final, concrete recommendations for a "Core" rail system in the region; it does present recommendations for points in the region which should receive direct rail service, for levels of rail service between major traffic generating centers in the region, and various goals for modernizing and restructuring the region's rail system for the consideration of the ICC Planning Office and USRA.

B. Purpose of the report

1. Describe the existing rail system and rail service in the region.

2. Analyze the railroad capital and operating problems that exist in the region and possible improvements that might be realized.

3. Launch the planning process by presenting recommendations as to where rail service should be provided in the region—both within and between zones.

4. Present recommendations and goals for improving, restructuring and consolidating the region's rail system so that it will:

(a) Provide service of adequate quality;

(b) Have sufficient capacity for present and future traffic;

(c) Be more efficient in the use of resources; and

(d) Be financially self-sustaining.

C. Basic conclusions

1. If the region's railroads are to remain as private sector companies, they must have a sufficient traffic volume to sustain a financially viable operation.

2. There is no need for duplicate track and facilities; two or three or four mainlines or branchlines are not required where a single line can carry the traffic.

3. A given traffic generating point does not require service from three or four individual railroads; one or two can provide quality service, probably better than a multitude of rail carriers.

4. If the duplication of facilities and service is eliminated, capital investment in upgrading and modernizing the consolidated system can then result in a much more efficient operation providing better rail service to all users in the region.

D. Analytical approach

1. The region's rail system was divided into two groups—the interstate network (high volume traffic between zones) and local network (pick-up and delivery within zones and feeder connections to the interstate network).

2. Analysis of the interstate level included:

(a) Identification of the 40 major traffic generating centers in the region;

(b) Identification of the existing high volume interstate mainline network and the traffic flows over this network;

(c) Analysis of the current density of traffic on these lines and their excess capacity;

(d) Analysis of the level of service which can be economically provided between these major traffic generating centers.

3. Analysis of the local service level included:

(a) Development of criteria for determining the financial viability of a given rail line (traffic volume and revenue versus operating costs);

(b) Collection of 1972 traffic data for every rail traffic generating point in the region (divided into 184 zones);

(c) Identification of each of these points which have sufficient rail traffic to support a financially viable rail operation;

(d) Identification of rail lines which are not required to service these points (on a zone-by-zone basis).

E. Recommendations

1. Each of the interstate and local rail service levels must be restructured in order to improve the economic efficiency and financial viability of rail operations in the region.

2. Local Service Level:

(a) Continued direct rail service should be provided for nearly all of the region's normal rail freight traffic (less than 4% of such traffic is originated or terminated on lines which are identified as potentially excess and 182 of the 184 zones in the region are recommended for direct rail service);

(b) Rail pick-up and delivery service should be coordinated so that it is provided by a single railroad in a given geographic area.

3. Interstate Service Level:

(a) Duplicative lines and facilities should be downgraded or eliminated and service coordinated with the goal of substantially increasing utilization of the consolidated and restructured system (up to a minimum of 30 million gross ton miles per track mile per year on any segment of interstate track);

(b) Existing interstate routes should be consolidated to establish a high volume interstate network which warrants a major upgrading and modernization program.

4. Rail competition should be maintained only over the high volume interstate network between major traffic generating centers identified by various criteria in the report. In our judgment, other points do not require mainline service by more than one railroad.

5. The solvent carriers in the region are urged to become full participants in the planning and restructuring of the region's rail system. This is an unprecedented opportunity to improve the entire region's rail system, not just the bankrupt railroads' systems.

6. The result of these recommendations and the specific identification of points to receive direct rail service are:

(a) 96 percent of total rail traffic in the region will be retained for direct rail service; of the remaining 4 percent, a part may be covered by additions to USRA's Final System Plan, other elements may be subsidized, and the remainder can be served by motor carrier or combined truck/rail service.

(b) Approximately 25 percent of the region's railroad route mileage appears to be potentially excess, either because it is uneconomic or clearly redundant.

(c) It is emphasized that neither of these figures represents the final result of USRA's planning.

(d) The overall impact on rail service of the recommended cutback in rail route mileage is quite small.

F. What can the affected parties do next?

1. Within the next 60 days, the ICC Planning Office will hold public hearings in several different parts of the region; this will provide an opportunity for comment on and critique of this report.

2. During the 14 months before the USRA Final System Plan is submitted to Congress, there will be plenty of opportunity to provide inputs, including another set of public hearings conducted by the ICC Planning Office to critique the USRA preliminary system plan.

3. The ICC Office is also available to assist small communities and shippers in presenting their case to USRA.

4. And finally, the Congress will have the last word on whether to accept or reject USRA's final recommendations.

MEMORANDUM

Re Public Law—93-236, Regional Rail Reorganization Act of 1973.

From ROBERT E. BAUMAN, Member of Congress.

On January 2, 1974 the President signed into law the above captioned Act, a copy of which is attached. As informed public officials, I am sure you realize this emergency legislation was aimed at preventing the immediate financial collapse of the Penn Central and other Northeastern railroads. In the long range, it seeks to provide a means by which existing railroads can be reorganized, rebuilt and operated with Federal financial support.

Because of the complexities of this law and the fact that it definitely requires the intimate participation of state and local interests, as well as partial state or private funding of rail service, it is vital that state officials and legislators quickly grasp the provisions and procedures which the law includes. This is especially true since some state funding to be used in conjunction with this law probably should be included in the state budget at the current session of the General Assembly, a point I made to Governor Mandel at a Washington meeting last December.

It is consistent with this need to understand the new law and its impact that state and local interests should, and indeed, must organize to present a united front in dealing with the two entities the law creates, the U.S. Railway Association (USRA) and the Consolidated Railway Corporation (CRC). Thus, it is an important and vital development that, under the aegis of the Delmarva Advisory Council, the Delmarva Railroad Committee has been formed under the chairmanship of Ed Hobbs of Delmarva Power. The Committee membership is in fact a roster of those leaders in the Delmarva area who have labored hard and long to preserve rail service in our area.

(1) The law creates a timetable under which USRA will reorganize existing rail service. The first step comes on February 1, 1974 with the release of a "preliminary report" which has been prepared by Federal authorities.

Undoubtedly this preliminary report will not suit Delmarva's interest in every respect. So far as it varies from our best interests, however, the law allows us (if we have the will to do it) to present our case and ultimately to decide, by providing funding, what specific lines will remain in service. Thus, this first step can be viewed pessimistically as the "beginning of the end" for some lines, or, as I prefer to view it, the starting point in a process to rescue our rail lines. Prior to this law, we had no means at all.

(2) At the end of the 18 month period a new northeast railway system will exist under the management of the CRC. Profit, past and potential, is undoubtedly one factor which will determine which lines will be included in this core system. But it is by no means the only consideration, and I invite you to read the numerous factors set out in the law (See Section 206) which must be considered as well.

It is hardly accurate to say that unprofitable rail spurs will be "dumped" on the state and local subdivisions to operate. In fact, any funding needed to acquire or operate such lines must be advanced by the state or local entities but is refundable up to 70% by the Federal Government. Surely, a 30% state contribution is not too great a burden if the lines are in fact needed and local commitment really does exist.

(3) As to the issue of funding, the law authorizes and Congress has already appropriated for rail service continuation subsidies in the amount of $90 million per year for two consecutive years for a total of $180 million. This will be matched by state and local funding of approximately $39 million for the two-year period.

While it is true that the funds will be distributed to the states based on the lines or track retained in the core system (and not on track eliminated from the system), the law specifically says that no state will be given less than 3% of the funding available directly to the states nor may any state receive more than 10% of this funding. This effectively insures that no state will dominate the use of the funds appropriated.

While each state is given the responsibility for establishing a rail plan within its borders which includes the requirements that they equitably distribute the subsidies among state, local and regional transportation units, the act does specifically provide local entities the option to apply directly to the CRC for subsidies as well. Indeed this dual availability of funds preserves state power and discretion and also allows the Federal authorities to act directly. Obviously, these two methods of funding must be coordinated in each case.

While it is easy to criticize the law as being inadequate in amount of funds appropriated, it is hardly likely that the Congress would make what is in effect a multi-billion dollar appropriation-guarantee (including authorize stock issues) without having made in fact a long term commitment to support the Northeastern railroads. In future fiscal years, therefore, funding should be available.

(4) One of the problems that should be addressed by state officials is whether there is any legal or constitutional impediment on the part of Maryland which would prevent entering into a regional interstate agreement which could plan and submit requests to the CRC on a multi-state basis. A simple examination of the laws should answer this and again, state legislation may be needed.

(5) The question has been raised about the situation which occurs after a given spur line is declared outside the core network of rails. At that point Section 304 sets up the possibility that the state government or a local entity, or even a private entity, could do one of two things to maintain the spur's operation. The line could be purchased in fee together with its existing fixtures or it could be leased from the CRC. In either case, the law provides that an operating agreement must be entered into by the CRC and the local entity to provide service on the spur so long as the state or local entity provides the funding necessary to continue the operation. (Again, recall that such funding is to be reimbursed up to 70% by the Federal Government.) This is the very heart of this law, i.e. the requirement that CRC must provide service on any spur where the subsidy is paid by whatever entity is formed for that purpose.

These are only a few direct answers to points that have been raised in the brief month since this law has been in effect. Undoubtedly, there will be many more questions. Again, I reemphasize the need for coordinated efforts on the part of all of us in the Delmarva area. I have assigned Mr. Mike Wilkinson of my Easton staff (301-822-4300) as a permanent liaison with the Delmarva Railroad Committee. I personally intend to take as much part as my time will permit in attempting to insure the success of this new law as it relates to our area.

I welcome any inquiries which you may have.

FORDHAM STUDENT REPORTS ON TRIP TO SOVIET UNION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BIAGGI. Mr. Speaker, a former intern in my office, Frank Costello, recently visited the Soviet Union with some of his classmates from Fordham University. He wanted to see, firsthand, this country that has been an off-and-on ally and enemy of the United States. He wanted to see if the stories about the Soviet Union—both pro and con—were true or not.

It is heartening to read that he still believes America is the best place in which to live. Perhaps we should send to the Soviet Union some of those who claim that the Communists have a better way of doing everything, so that they can see firsthand what it is like to live in an oppressive society.

Mr. Speaker, for the benefit of my colleagues, I am including in the RECORD following my remarks, Frank Costello's essay on his trip which appeared in his college newspaper, the Ram, January 25, 1974:

ONE STUDENT'S VIEW OF RUSSIA: "MY FIRST ENCOUNTER WITH A CLOSED SOCIETY"

(By Frank Costello)

On Friday, January 18, I returned from a three week visit to the Soviet Union with the Fordham tour sponsored by Rev. Walter Jaskievicz. I decided to write this essay on my short stay there while certain recollections are still fresh in my mind.

I went to the Soviet Union entertaining the hope that I could be objective evaluating my first encounter with a closed society. I was certain that it must have some good aspects. Perhaps the picture we were getting was distorted. That good points existed, I found undeniable. For example, the Moscow subway runs precisely on time, with a train entering the station every 58 seconds. The cars are immaculate and each subway station resembles a mini art museum. But certain of my prejudices remained intact. In short, I despised the Soviet system from the outset. As a result of the admittedly superficial vantage point I had of that system, I despise it more today.

We spent a brief five days in the Baltic states of Latvia and Lithuania, which had been liberated by the Russians in the early 1940's. That these small nations are captive and are the satellites of a wretched empire is self evident. The Latvian capital of Riga is as scarred as if it were sacked by its Russian liberators only yesterday. In the main square of the city, unplugged bullet holes adorn the cold grey structures. These are the features of one workers paradise.

In the Lithuanian capital of Vilnius on the evening of Friday, January 4, a small group from our party, myself included, met with a few students from the University of Vilnius in a secluded apartment. They told us that if word of their meeting with us got around, they would all be expelled from the University. But that would be the least of their worries. A 20 year-old student of Literature and would-be playwright explained how the state inhibits the creativity of the writer. Each work he produces must make some reference to the glorious people's struggle. Yet one thing he told me I found especially startling, and that was in reference to the difficulty of leaving the U.S.S.R. if only for a short visit outside. A young Lithuanian like himself would have no hope of leaving unless he were married, so that his wife would have to remain behind. Yet he had known of cases where young men in good standing in the Communist Party, were able to "buy" their wives' freedom to travel with them from the government. It should be noted at this point that the Communist Party has a total membership of 15 million. There are 250 million citizens of the Soviet Union.

In Moscow, our group and about 200 other students from eight different colleges scattered throughout the U.S. were given a lecture by three professors from the University of Moscow. They told us that as a result of the success of successive five year plans, and the ownership of the means of production by the workers, Marxist-Leninist theory had now been formulated. If this was true, I queried, when would the withering away of the state take place? The answer was only when the ruthless capitalist system had been destroyed. I thought meaningful detente would have to work both ways.

One morning we lined up in below zero temperatures on a special tourist line to view the body of Vladimir I. Lenin in his tomb outside the Kremlin wall. As we passed this bearded figure enshrined in a glass case, old women cried at the site of this "saint" in men's clothing. It was all quite morbid. Lenin in this godless society, is still a god substitute.

The hardship of World War II still has a significant impact. Nowhere is this more obvious than in Leningrad, where the 900 day siege occurred. In a graveyard outside the city, almost one million people are buried in mass graves. The reaction to seeing a spectacle such as this for the first time is indescribable. We have never known the destruction and the death that these people have. Leningrad alone lost two million people during the war. The Soviet Union as a whole lost 20 million. The U.S. lost 400,000.

Generalizations are never accurate, but it is not unfair to say that the Soviets are a singleminded and toughminded people. Their patriotism is practically boundless, their sources of information are meager, and their appetite for revenge and retribution is substantial. Many still hate the Germans. The Judeo-Christian notion of tolerance has little credence in this society. Said one young professor to our group, in reference to Alexander Solzhenitsyn, "He who is not with us is against us." The author of this quote he told us was Lenin. We informed him that the original variation came from Jesus Christ. We interpreted this as another example of the deification of Lenin.

In last Thursday's edition of Pravda, the official newspaper, the entire editorial page was concentrated on an attack on "that traitor" Solzhenitsyn for his new book, *The Gulag Archipelago*. The previously mentioned professor viewed this as a sign of the strength of the Soviet System. He's fooling himself. The simple fact is that a society that is afraid to look back on the sensitive points of its past can have no real hope for the future. It's almost comical the way Soviet officials fear one man.

Maybe I'm all wrong. Maybe ours is the system without hope, a system whereby vested interests control the votes of Congress. But we had better remember one thing: we have never had to build walls around ourselves to keep our people in. As that student told me that night in Vilnius, the corruption within even the lowest ranks of the Communist party would make Watergate look like a three-ring circus. While we were in Moscow, two men were executed near Odessa. They had been involved in a fruit juice scandal whereby they produced juice without the fruit, thus making a profit close on 60,000 rubles each. Needless to say there is a low crime rate in the Soviet Union.

MEETING THE NEEDS OF SPACESHIP EARTH

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. TEAGUE. Mr. Speaker, last week Senator FRANK E. MOSS of Utah addressed an AIAA banquet and made some stirring remarks. I present them to you and my fellow Members of Congress and the general public because I believe Senator Moss said something we should all be aware of.

The speech follows:

MEETING THE NEEDS OF SPACESHIP EARTH

(Speech of Senator FRANK E. MOSS)

It is certainly a great honor and a real pleasure for me to be asked to speak tonight. As you know, just this month I completed my "rookie year" of official connection with aeronautics and space, and here I am speaking to an illustrious assembly of all stars.

Like any rookie, I spent a great deal of time last year just studying the playbook and learning the names of the plays and the players. I must say that you pros don't make it easy with the terminology you use. I think I have it down pretty well now, but if you catch me missing a signal now and then, remember that I'd need 5 or 6 more seasons before Coach George Allen would even let me on the taxi squad.

The other day, a friend asked me to list the major accomplishments of my first year as Chairman of the Senate Committee on Aeronautical and Space Sciences. I was eager to reply.

"First," I said, "with Skylab, the United States logged more man hours in space than in all the preceding years, and reaped a bonanza of solar and earth observations data."

"But," my friend replied, "those plans were made, and most of the money provided, in the years before."

"Second," I said, "the space shuttle program really got moving, with all the basic contracts being awarded, including a big one in my home State."

"Ted," my friend rebutted, "those are steps taken by NASA, and besides, the Utah contract has been challenged as illegal, immoral and perhaps even fattening."

"Third," I said, undaunted, "the first really large multinational space project was started, when ESRO agreed to build the Spacelab for shuttle flights in the 1980's."

"Now, come on," he said, "you supported that, but you know it resulted from Executive Branch initiatives."

"Well, fourth," I said, and here I knew I really had him, "there was *Kohoutek*!"

"But Senator," he said, "to paraphrase the words of the Bard, 'that is a tale told by an astronomer signifying nothing'."

More seriously, let me say that I firmly believe we can all take great pride, and even a modestly optimistic stance, in view of the accomplishments of the past year and the hopes for the months immediately ahead.

I'll list just a few—

Skylab was, and is, a fantastic success.

ERTS-1 is proving even more valuable than its strongest boosters predicted, and the launch of ERTS-B will now be nearly 2 years earlier than announced a year ago.

We've looked at Jupiter up close for the first time, and can now have high hopes for the second Pioneer visit late this year.

In a few days we'll fly by Venus again, and then proceed on toward our first visit to Mercury a few weeks later.

The NASA launch rate will double this year, and the long-heralded age of space applications will become a reality with ATS–F, with the first domestic communications satellites, and with synchronous environmental satellites very much in the forefront.

The shuttle program *is* gaining real momentum, despite repeated delays, and though we may not match the record-breaking support in the Senate last year, I believe we're firmly underway.

And finally, and most important, when the NASA budget is unveiled next Monday, it will show a reversal in the dismal downward plunge of recent years. It will not be as high as the level we all worked so hard to attain, but it will represent a modest step back up the ladder toward realistic, stable levels.

Each of you here tonight could add to this list, I have not mentioned progress in aeronautics, or NASA energy efforts, or Apollo-Soyuz, or many other important signs of vitality in aeronautics and astronautics.

The hour is late, and without keeping you overlong, I want to spend a few minutes on a specific subject dear to my heart and important to all of you.

An author always gets in a plug for his latest book. As a Senator, I cannot resist this opportunity to promote a bill I believe you should support.

Let me start by summarizing three main points:

1. Our current drift toward becoming a "status quo" nation is not merely a threat to the employment security of scientists and engineers, it is a very real threat to the livelihood of every American.

2. As a nation, we must do a far better job of predicting the occurrence of critical domestic problems and providing the resources—often scientific and technological—to solve them.

3. Those who view NASA as an agency in search of a mission not only have the shoe on the wrong foot, they are dead wrong.

To take these three points one at a time, "I'll begin with the dangers of what I will call "creeping status-quoism." In recent years, we have seen a flurry of rebellions against rapid societal and technological change, and repeated calls for return to the "good old days," even though a wag tells us "nostalgia ain't what it used to be."

Perhaps in part because of these forces, and certainly in large measure because of well-warranted revulsion at some of our mistakes, there is I believe an increasing trend toward wanting to hold on to what we've got, to stay about where we are, in every important aspect of American life.

Increasingly one sees our foreign policy referred to in the press as that of a "status quo" power. And perhaps that is what "balance of power" diplomacy is all about.

Other nations, which once marveled at "American ingenuity", seem increasingly more ready, willing and able than we to seize technological opportunity in every field from heavy machine tools to hand calculators, from internal combustion engines to high performance aircraft.

And in less tangible areas, opinion polls show that many of us feel our societal reforms are moving "too far, too fast."

Without getting too deeply immersed in national psychoanalysis, let me say that we need to remind ourselves of some basic truisms.

We cannot turn back the clock, or even stop its hands. No person, no society, and no nation has ever succeeded in standing pat for very long. Every person in this room knows of the great, perhaps almost fatal, mistake we made in the 1950's of assuming we would always far exceed the Russians in technological prowess. And we have learned in recent months how wrong those of us were who assumed, against all available evidence, an inexhaustible supply of cheap fossil fuel.

As Wernher von Braun testified before my Committee last Fall, and I quote, "World leadership and technological leadership are inseparable. A third-rate technological nation is a third-rate power, politically, economically and socially . . . Whether we like it or not, ours is a technological civilization. If we lose our national resolve to keep our position on the pinnacle of technology the historical role of the United States can only go downhill."

I fully agree. Change is, after all, inevitable. And only those who move ahead of the bow wave of change will avoid being submerged in history.

Now to my second point. We must get to work to improve our ways and means of anticipating problems that science and technology can solve.

Here comes the plug I warned you about, so listen closely. In case I forget to mention it later, the number of the bill is S. 2405. It was introduced by Senator Magnuson, with Senator Tunney and me as cosponsors. My good friend Tiger Teague has introduced it in the House as H.R. 10807.

As I said, the Federal Government does an inadequate job of identifying in advance to meeting critical domestic problems.

However severe you may feel the energy crisis is today or will be in the years ahead, I believe you will agree with me that we should not be in our current status of considering hastily a plethora of emergency measures to cope with it.

It's not that no one saw what was coming. Even a casual review of the literature will surface numerous examples of warnings five, ten, even thirty years ago. In a peak of frustration in 1969, one industry association asked, "Is anybody listening?"

Yes, the warning signals were clear, but there was no single Federal organization—no centralized early warning system—to galvanize us into timely action.

As David Rose suggests in this month's Scientific American, our present energy difficulties "were largely caused not by ignorance but by irresponsibility." I suggest that it is our responsibility now to better prepare for the next crisis. For the energy crisis will not be our last crisis. In reality, the term "energy crisis" is a catchall phrase for many shortages and problems we face. Already we are being warned of a materials crisis looming on the horizon. And water, always short in my home state, threatens soon to become in short supply in other areas.

Just as we must work harder to sort out and predict these problems, we need to do a better job of planning the utilization of our vast national scientific and technological resources.

The ups and downs, the stops and starts, that have plagued Federal research and development efforts ever since we embarked on Federal support for R. & D. have created a continuing state of chaos and uncertainty. Facilities are built and closed, scientists and engineers are trained, employed and laid off, all with little apparent foresight.

I needn't remind you that a few short years ago we were simultaneously rushing headlong toward an energy crisis and laying off engineers and scientists by the thousands.

It is time for us to bring these two shortcomings—poor planning and poor use of resources—into focus *together*, to examine them, and to do something about them.

That's what S. 2495 is all about. The two versions of the bill we have sent to numerous organizations, including AIAA, for comment, have this primary thrust.

We want to establish within the Executive Branch of the Government an improved mechanism, an improved climate, and improved funding for making projections of critical domestic problems which may be susceptible to scientific and technological solutions in whole or in part. And we want to bring into that process careful consideration of the projected availability of the necessary scientific and technological resources to apply to those problems before they become of crisis proportion.

And that brings us to my final point.

We seem, so far as NASA is concerned, to be developing a national blind spot. There she sits, like the proverbial girl next door, while we roam around town looking for someone to work on technological problems.

No one here or abroad has developed a greater capability than NASA and its partners in industry and universities for defining problems, devising solutions, and demonstrating those solutions.

But we have a curious penchant to ignore this proven resource. This is not to say that NASA should be thrown into the fray every time a problem emerges. There are many problems ahead that NASA is ill-equipped to solve. But where we need a systematic approach to a complex problem with high technological content, why should we studiously avoid our strongest asset?

Let me emphasize one point. We are not in any way suggesting that NASA lacks a mission in aeronautics and space. Support for that mission, as I have said, should not be diminished—it should be enlarged. What we are suggesting in S. 2495 is that NASA and its partners should also be authorized to tackle other missions upon assignments by the President and approval by the Congress.

NASA is not, as some gossips suggest, an agency in search of a mission. There are missions in search of a NASA.

To summarize, we should devise an institutional arrangement, with adequate funding, to contemplate our collective futures and identify the likely problems that science and technology can alleviate. At the same time, this organization should be projecting, over the coming ten years, what our scientific and technological resource shortages and overcapabilities will be, and how we should be moving to strengthen and apply them.

Over idealistic? Perhaps. But worth the try? That it surely is.

Ladies and gentleman, distinguished friends all, you have been great in hearing me. I thank you for inviting me here tonight, and I look forward with you to the challenging times ahead.

A LETTER FROM A GOOD FRIEND AND CONSTITUENT

HON. WILBUR D. MILLS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MILLS. Mr. Speaker, a good friend and constituent of mine has asked that his letter of January 25 be placed in the CONGRESSIONAL RECORD and it is as follows:

LITTLE ROCK, ARK.,
January 25, 1974.

Hon. WILBUR D. MILLS,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR WILBUR: When I get into this conglomerate of trouble with our President and with our great country (I religiously keep up with every phase of it) my fundamental fairness, love of justice, honesty, integrity crop up uncontrollably. These characteristics were inherited by blood and training from a truly down-to-earth American father. My father could throw his hat higher than anybody at an old fashioned fourth of July picnic wherein the fundamental Americanism of our forefathers were extolled.

The news media in all of its outlets has unmistakably and purposely sold the headline-reading public of this nation a bill of goods. Herein lies the major trouble. The average busy, reading public sees only the headlines from which they think their opinions are factually based. Fundamentally, the politician, if he wishes to continue in office, must listen to his constituents and act accordingly.

For example, in the *Arkansas Gazette,* January 16, 1974, in bold type: "Nixon personally asked for $50,000 sources report," and, down in the fine print, Richard Danner whom they were quoting stated: "That is not my testimony. Nothing approaching that was ever true. I was very firm and vehement in my testimony that I never had any contacts with Nixon on that." And, the *Arkansas Gazette* on January 24, 1974 in bold type: "Krough to confess! 'Do in Nixon,' former aide says," Elgin Krogh after his trial told reporters he knew nothing that would implicate the President in criminal activity. However, the damage had already been done. These threadbare, unsavory practices are the common rule. These kind of quotes of various individuals, with rumors of every description and most of them without a factual base or even downright false, are put forward prominently by the news media throughout the nation. It is impossible to exaggerate the enormity of these nefarious practices. The underlying purpose is to destroy Richard Nixon. As you know, most of the busy, reading public see only the punchline, then pass the information on as fact.

The *Arkansas Gazette* day in and day out, month in and month out, searches, and I mean diligently searches every nook and corner for items with which to downgrade President Nixon. Its publication and editorials are biased, far from factual to the nth degree. Richard Nixon is President of these United States. The *Gazette* with its biased reporting and slanted editorials is downright disrespectful to the Presidency and to a major extent smacks of disloyalty to our great country and its institutions.

Other news media such as the New York Times, Washington Post, Chicago Daily News, Los Angeles Times and many other newspapers, magazines as well as the radio and tv networks are extremely vehement with their biased and unfair distribution of the news. With painstaking bias, misquotes, statements arranged out of context, etc. the news media has so schooled the minds of the people as to be able to successfully criticize even profound privileges and rights duly practiced by Mr. Nixon as a citizen. For instance, the critically intended publicity about Mr. Nixon's church donations. The biblical injunctions in this field on which the average person is not informed make this strictly a matter between Richard Nixon and his God. Certainly by no stretch of the imagination can the news media rightly or correctly criticize his actions in this field. Obviously, Mr. Nixon's church donation records were publicized as an added morsel to the daily persecution complex so ably gathered and rammed down the throats of the gullible, unthinking public. Another item very widely publicized is Mr. Nixon's income tax payments. You and I know that every taxpayer searchingly takes every deduction the law allows. On questionable items we do the best we can and leave the final decision to the IRS. On the face of it that is exactly what the President has done, or so it would seem to the clear thinking individual. Should Mr. Nixon be criticized for following timeworn procedure? I am reminded of what Jesus said to the Scribes and Pharisees: "He that is without sin among you let him first cast a stone." John 8:7.

Yesterday a retired friend said to me, "I have just paid my income tax. Why should I pay income tax when Mr. Nixon does not?" Thousands of good Americans all over this country have been falsely and unjustly led into criticizing the President on this income tax fiasco. Is there any wonder the polls show him low on the totem pole?

For more than a year now we have witnessed by some form of the news item after item similar, or in the same vein and for the same purpose, to the church donation and income tax cases cited above. These apparently well planned and nefarious practices have profoundly and unjustly downgraded the President. I have been around quite a spell. All my life it has been my practice to keep abreast of what is going on in the nation. Never in my lifetime have I witnessed such an obviously planned and successfully carried out nefarious persecution of an individual citizen of this country. Without a defense, whether it be the President of the USA or an ordinary citizen, conviction of the most innocent is very largely a foregone conclusion. Under the circumstances, with the public mind molded, and I mean molded, by the news media in all its forms and forums, Mr. Nixon cannot possibly defend himself. However, or whatever he publishes or states vocally, the Leftists prominent or mediocre along with political minded leaders will be prominently displayed on the screen or in bold type in newspapers and magazines with excerpts taken out of context, so cleverly twisted and rearranged as to offer a logical-appearing critical conclusion.

Time after time prominent leaders come forward with: "Why doesn't the President lay it all out in the open?" I have just stated the reasons why this is impossible. These "Destroy Richard Nixon plans" have determined that he shall not successfully justify his actions. In these, Watergate in the background is nearly always used as a useful crutch. It is a vicious circle in any man's language.

These leaders, some of them well intentioned, are in reality unwittingly destroying the very thing they seek to preserve—this country and its supporting institutions. The results here are frightening. This thing primarily purposed to destroy Nixon, has to a very large extent destroyed the confidence and trust in our government, its leaders and institutions. If you approach the average citizen today on matters, any matters concerning our government the discussion will almost inevitably lead to ridicule, distrust, lack of confidence in everything attached to government. This will include almost without reservation all leaders, not just Mr. Nixon. The fundamental security of our great country is based upon confidence and trust in it and its institutions. History substantiates the fact that no nation has ever been able to stand without the trust and good will of its subjects.

Now a word about some things about which we hear so little . . . apparently President Nixon's great accomplishments in foreign service do not fit into these grandiose plans of doom and destruction. When Richard Nixon came into the Presidency we were seemingly engulfed hopelessly in the most destructive, costly, most ill-advised and unpopular war in the nation's history. In spite of massive road blocks by powerful men like Fulbright, Ramsey Clark, Father Berrigan, Dr. Spock and many other prominent leaders, he was able to end that war and get our soldiers and prisoners home. This in itself under adverse circumstances was one of the greatest accomplishments ever made by any president. Successful efforts toward normalization of relations with China and Russia are very great indeed. Now the accomplishments pointing toward settlement of the Near East troubles are amazing and deserve commendation beyond measure. All in all President Nixon's foreign policy accomplishments have shown ability, dedication, finesse that must be accepted as great leadership.

Domestically the President and the Congress each must accept some successes and some failures. Mr. Nixon's choice of assistants shows his human frailties. Every man worth his salt is imbued with human shortcomings. Show me a man that does not make mistakes and I will show you a man who pines his life away doing nothing. I am sure that Mr. Nixon, battling some of the best minds of the country, whose obvious purpose is to destroy him, has made some grave mistakes. Under the varied circumstances there appears justification for him to change his approach or even his mind occasionally.

Finally, why am I writing "Mr. Democrat" extolling the virtues of "Mr. Republican?" The answer is simple—love of country and the fact that *I know Wilbur Mills.* You and I have been close friends for a long time. You will remember inquiring about many veterans' cases at the V.A. Regional office. When you would come in, the manager would always call me to collect the cases and go over them with the necessary assistance for you to offer desired help to the veterans. It was in these contacts that I acquired a very fundamental insight into Wilbur Mills' unimpeachable character. Among other things, when we would come to a case with no merit I would state, "This has no merit." Your immediate answer: "Lay it aside, forget it." This assured me that you had complete confidence in my ability to learn and present the facts. Further, your integrity and honesty of purpose made an abiding and permanent impression upon me.

Would you permit me to make an unusual request? Unless it would embarass you, I would be greatly pleased if you would cause this letter to be placed in the Congressional Record. I think the message is greatly needed and that your colleagues in the United States Congress would be led to think. If I can lead them to think I will have rendered a service.

Your friend,

L. L. THORNHILL,
"The Senator."

IMPRESSIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. HAMILTON. Mr. Speaker, the American people are deeply troubled about their government, and strongly dissatisfied with its performance on the crucial issues.

They are uncertain and uneasy about several questions confronting the country: Should the President resign, continue, or be impeached? Is there really an energy shortage? If there is, how severe is it? Why this continuing inflation and all these shortages and what can be done about them?

This discontentment and uncertainty are the strongest impressions I have after talking with many constituents in the Ninth District during the congressional Christmas recess and after visiting with Members of the Congress and the news media, who are returning to Washington for the 1974 session. Three topics have dominated the conversations of the people as they have spoken with Congressmen and newsmen across the country: The energy shortage, the possible impeachment of the President, and inflation.

From their deep doubts and uncertainties, the people are telling those of us in Government that we simply must do a better job of managing the pressing affairs of the Nation. They are not just sure what to do, but they are certain they want something done. From the President and the Congress they want clear and decisive leadership, not procrastination, wavering or buckpassing.

By and large people are unhappy with the leadership of the President and the Congress, but they are not sure what to do about it.

Some want the President to resign; others want to impeach him; and others fear what the process of impeachment would do to the country more than they fear the President's continuing in office. Almost all of them are skeptical of the President's explanation of his role in Watergate, but many just feel that impeachment is too extreme an action. If there must be an impeachment inquiry, they agree that it should be settled one way or the other without delay.

In the Ninth District I did not perceive any clear-cut signal from the people as to what should happen to the President. It is clear that he stands in a precarious position, and several more revelations about White House misconduct would certainly jeopardize the continuation of his Presidency. There is surprising resentment against the President for the way he handled his income taxes and for permitting large Government expenditures on his homes in San Clemente and Key Biscayne.

The Congress may not be in as much trouble with the people as the President is, but the Congress does not earn high praise from the people for its work in 1973, and they continue to think that politics, not a desire to do what is best for the country, dominate the Congress. They want to see much more cooperation between the Congress and the President in meeting the Nation's problems. The frequent clashes between the President and Congress have given them the impression of the two branches contending against each other for political gain to the country's detriment.

With the credibility of public officials at an all-time low, the single most important quality the people now seek in their officials is integrity. Far more decisive than party labels or ideological position on issues in the next election will be the simple virtues of honesty and truthfulness. Although there has been much discussion in the media about people "dropping out" of politics because of their cynicism and despair with government and politicians, I do not find that reaction among the people of the Ninth District. Indeed, I find the opposite reaction, a feeling that the vote and participation in the electoral process may be more important than ever before. I also find another encouraging reaction. Although they certainly have their doubts and disappointments, people nonetheless think that government can be made to work effectively, and that even our most intractable problems will yield to energetic leadership.

These are some of the impressions other Congressmen and I are trying to assimilate as we return for an anticipated long and tough session with a heavy schedule of legislation to be completed.

As we assemble, the contrast in the mood of Congress today from 1973 is especially apparent. In 1973, the Congress convened in the aftermath of the President's astounding reelection victory, determined to curb expanding Presidential power. This year the President, seriously weakened by the Watergate scandals, is facing an impeachment inquiry in the House Judiciary Committee.

But the Congress, as well as the President, will be severely tested in 1974, not alone because of the President's weakened position, but also because of the people's insistence that the overriding issues—impeachment, inflation, and energy—be addressed effectively.

HANFORD, WASH.—THE WORLD'S FIRST NUCLEAR POWER CENTER

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. McCORMACK. Mr. Speaker, during recent weeks several eminent scientists, in testimony before the Joint Committee on Atomic Energy, have observed that an attractive method of siting nuclear power reactors may be to develop nuclear power centers containing several nuclear reactors with closed system for handling nuclear fuels and wastes within the boundaries of the park. Dr. Ralph Lapp agreed with me that the Atomic Energy Commission's Hanford Reservation is a "very good prospect" for a nuclear power center. In Washington State I think the time has come for those of us who are concerned with planning to meet the problems of the energy crisis, and all other individuals in and out of government with similar concerns, take the cognizance of this potential at Hanford; not only of the direct benefits that it can bring to the American people, but also of the example it can set for the development of similar facilities and sites in other regions in our country. Clearly Hanford, Wash. is destined to become the world's first nuclear power center.

There can be no denying that this Nation—its people and its Government—are finally aware of the fact that there is an energy crisis and that it is very real. Gasoline and fuel oil shortages, cold homes, immobile automobiles, and reduced airline flights are confirming what many of us have been saying for some time—that action is needed to head off an energy disaster—and it is needed now.

But I am hopeful that our very valid concern with the problems of the present and the immediate future will not lead us into overlooking the fact that the most severe aspects of the energy crisis are long term rather than immediate. Even if we somehow solve—or learn to live with—our immediate problems, we will still be energy-short for literally decades in the future unless we do now what we have not done in the past—plan ahead and act on those plans. The fact is, of course, that we have had no energy policy. Indeed, we do not have one today.

One particularly acute aspect of this problem lies in the area of electrical energy, which has been rapidly becoming everyone's preferred energy form for ultimate use. Here, literally hundreds of plants—fossil and nuclear—must be built to meet our Nation's ever-growing need for electricity.

Nuclear plants, in particular, are expected to play a vital role in meeting both our short-term and our long-term needs for electricity. Already there are 42 nuclear plants licensed to operate. Their aggregate generating capacity of 25,000 megawatts is about 5 percent of the Nation's total. Fifty-six nuclear plants, with an electrical generating capacity totaling 53,000 megawatts, are under construction. An additional 101 plants, totaling 109,000 megawatts have been ordered by utilities. The total of 199 plants will have a cumulative generating capacity of 187,000 megawatts.

It is forecast that about 150 of these nuclear plants, with a total electrical generating capacity of 132,000 megawatts, will be operating in 1980. They will provide an estimated 21 percent of the national electrical generating capacity at that time. By the year 2000, it is estimated that over 1,000 nuclear plants will be on line, producing more than half the Nation's electricity.

But whether or not these projections for nuclear power are fulfilled will depend on our ability to locate the plants on acceptable sites, and without undue delay. Currently, this is not happening. Although a substantial part of the delay has been caused by factors common to the planning, engineering, and construction of any complex facility, I am particularly concerned with those delays related to the siting of nuclear plants resulting from the opposition of a relatively small number of people who are waging a campaign of fear against nuclear power. It is almost tragic to note that these few who describe the risks of nuclear power in the most frightening of terms are also rather casually suggesting that the energy shortages are either without basis in fact or that, if the shortages do exist, their risks are readily acceptable.

But whatever the reasons for the current delays, such delays in the future are certain to have an adverse effect. Until the American people rise up and put into proper perspective the exaggerated influence of this relatively small band, we must find ways to avert the delays and problems they can cause. And, in the State of Washington, steps are underway to do just exactly that—at least for the Pacific Northwest.

At Hanford, with the support and encouragement of the U.S. Atomic Energy Commission, a nuclear power center is being developed. As I use the term, a nuclear power center has as its ultimate objective the integrated siting of multiple nuclear related operations, including such activities as uranium enrichment and fuel preparation, chemical processing, and nuclear waste management and storage—and, of course, a number of nuclear powerplants. To pursue such an end is a visionary undertaking, one worthy of the technical expertise and the vast physical resources available at Hanford, including a large land area, suitable cooling water supply—although cooling water may not be essential to future nuclear power centers—low population density, and close proximity to the region's electrical grid. And it is an idea which I wholeheartedly support.

The nuclear power center concept at Hanford started over 4 years ago motivated, in part, by difficulties being experienced in siting nuclear powerplants close to load centers and populated areas of the Pacific Northwest. The concept offered an opportunity for local people, used to living and working with the atom, to support its peaceful application in electrical power generation on a grand scale—and they quickly welcomed that opportunity.

The nuclear power concept today—4 years later—is an idea well on its way to becoming reality. On the Hanford site, and coexisting with AEC's programmatic activities, the Washington Public Power Supply System has under construction a 1,135-megawatt powerplant, other 1,300-megawatt-nuclear-steam supply system to replace AEC's "N" reactor.

Adjacent to the Hanford site, Exxon Nuclear, Inc., has established a nuclear fuel preparation facility, Sandvik Special Metals, Inc., is producing zirconium tubing for commercial nuclear power reactors; Battelle Northwest Laboratories are providing expertise in both nuclear and life science areas; and local people are working and living in harmony with the peaceful atom. In addition, local leaders, together with the Washington congressional delegation, have for some time been actively encouraging the location of other nuclear related activities at Hanford.

In the long term, such a concept may set a precedent for other such centers in other areas of the United States and, thus, become a major ingredient in future land use planning for new urban and industrial development.

Contemporary historians already pay tribute to the Hanford project for its vital role in beginning this nuclear age in which we live. Future historians will, in my view, also commend Hanford and the citizens of the nearby communities for their farsightedness and courage in working to develop a nuclear power center. The growing pains associated with ushering in a new scientific era, if they are remembered at all, will be only remembered as challenges encountered enroute to using the atom to better serve mankind.

I firmly believe the nuclear power center concept is one of the keys to the ultimate solution of this Nation's long-term electrical energy problem. Hanford is rapidly becoming the world's first nuclear power center. I would hope that we—the Congress and the public—will not only be quick to recognize the value of such a concept—but also to have the courage to use it.

NEW FEDERAL BUDGET SHIFTS GEARS, AUSTERITY PLANS ARE DROPPED—HUGE SPENDING PROPOSED TO FIGHT RECESSION

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. EVINS of Tennessee. Mr. Speaker, the Wall Street Journal in an article today points out that the administration is again reversing its field in its approach to budgetary and fiscal policy.

Stringency has again yielded to deliberate deficit spending as the administration continues the erratic pattern of its budgetary management and philosophy.

In the budget message of February 2, 1970, the President said he was submitting a budget that fulfilled his plan for a balanced budget—a large deficit resulted.

In the budget message of February 1, 1971, the President switched economic policies and called for an expansionary full employment budget.

The year 1972—an election year—was also a year for expansion, growth, and generous allocations of Federal funds.

In 1973, however, the administration's watchwords were: Slow down, cut back, terminate, stretch out, restructure—all indicators of a stringent policy marked by massive impoundments of funds.

Now in 1974 the administration has produced another expansionary budget—and an increase of almost $30 billion over fiscal 1974 is requested.

The Wall Street Journal puts it this way:

> Stern fiscal discipline, last year's sacred cow, is this year's dead horse.

Because of the interest of my colleagues and the American people in these interesting developments, I place in the RECORD the article from the Wall Street Journal.

The article follows:

NIXON'S BUDGET SHOWS EFFECTS OF WATERGATE AND ECONOMIC WOES

(By James P. Gannon)

WASHINGTON.—President Nixon's new budget, unveiled yesterday, shows that his double woes of Watergate and economic distress are forcing him to reverse course drastically.

Gone is the ax-wielding President of austerity, who challenged his critics and Congress last year with cuts in social programs, veto threats and rigid spending ceilings. Now Mr. Nixon appears as a conciliatory, political weakened compromiser—dusting off some once-discarded liberal initiatives to try to appease his would-be impeachers and ready to bust his own budget with a federal spending splurge to stop a recession.

The contrast between the budget that Mr. Nixon sent to Congress yesterday and the one that he presented a year ago could hardly be starker—in rhetoric, content and economic thrust. Thus, the new budget measures the precipitous plunge in the presidency of Richard M. Nixon.

Flexing his massive 1972 electoral mandate, Mr. Nixon a year ago confidently mapped out the course he wanted his second term to take: a "change in direction" for the federal government calling for fewer bureaucrats, fewer programs and tight control of spending. All this would be achieved in an uncompromising battle with Congress.

Now, with his poll ratings plunging, impeachment machinery grinding and a recession looming, a different President emerges. In muted tones, he seeks accommodation with Congress. The bureaucracy is growing again; programs on last year's chopping block are given new life; veto threats and spending lids are gone. The President who derided the government's tendency to try to solve problems by "throwing money at them" is preparing to solve emerging economic troubles by throwing money at them.

Standing on its own, the $304.4 billion budget for fiscal 1975, which starts July 1, is unremarkable. Its new initiatives are few. Its language is bland. Its economic posture is moderation, neither highly stimulative nor sternly restraining. It is a budget unlikely to either excite or offend Congress, the press or the public.

MEASURING THE SPECIFICS

The new budget becomes remarkable, however, when contrasted with its immediate predecessor, the original road map of the second Nixon term. The distance between where Mr. Nixon thought he was going a year ago and where he finds himself today is measured in these specifics:

—Stern fiscal discipline, last year's Sacred Cow, is this year's dead horse. Whereas last year's budget vowed that "the administration firmly intends to hold spending in (fiscal) 1975" to $288 billion, the total projected now is $16.4 billion higher. More important, last year's demands for a "rigid spending ceiling" are replaced by Mr. Nixon's new promise of "flexibility" in using federal spending as a weapon against any economic downturn.

Says Frederic V. Malek, deputy director of the Office of Management and Budget: "We are prepared to do whatever is necessary to avoid a recession. The President is very firm on that. If it means busting the budget, then he will bust the budget rather than keep people out of jobs."

—Many of the 113 programs listed in last year's budget for termination or scaleback are alive and well. The new budget includes funds for public-service jobs, library aid, research training grants, area economic-development assistance and other programs that last year were branded a waste of federal tax money.

—The "leaner federal bureaucracy" that was promised in last year's budget is bloating again. The new budget projects a 22,200 increase in full-time permanent civilian employment, to 2.5 million during fiscal 1975. The extra bureaucrats will handle growing work loads in Social Security, health, welfare and energy offices.

—The era of confrontation with Congress, signaled last year, is giving way to an era of negotiation and accommodation. Tough talk and veto threats can't be found in yesterday's budget message. Mr. Nixon instead promises to "work with Congress" in shaping legislation on welfare, health, education and other domestic programs. "We have reached a conciliatory position with the Congress," Mr. Malek of the OMB says.

A "TOTAL" CHANGE

All this isn't lost on Capitol Hill. "This is a total shift in policy," Democratic Rep. Al Ullman of Oregon says. "It appears the President has given up attempting to hold the line on spending."

Another Democrat, Rep. Thomas Rees of California, finds some irony in the budget's proposals for more subsidized housing and a welfare overhaul built around the concept of a minimum guaranteed income. "When I advocated these programs two years ago," he recalls, "they called me a reckless liberal spender." He figures that the change occurred because "The White House is so freaked out over Watergate" that it is allowing Cabinet members to push their pet projects.

Republicans tend to cite the darkening economic outlook rather than Watergate's impact as the reason for the changed budget stance. "This is more related to economic conditions," Rep. William Steiger of Wisconsin says. With November's elections in mind, "I think many Republicans will welcome a budget designed to strengthen the economy," he says.

But some others say the Watergate influence can't be ignored. "If it hadn't have been for what has happened in the past year, you would have seen a considerably different budget," a former high official of the Nixon administration contends. "Part of the reason is political and part is economic. They intertwine and reinforce each other."

President Nixon knows that he isn't going to solve his massive political problems by loosening up on federal spending or proposing a few programs his Democratic critics like. Such moves will hardly lessen the chances of impeachment. But they do show that Mr. Nixon feels he no longer has any spare political capital to spend in fights with Congress.

On the economic front, the President clearly is willing to see his projected $9.4 billion deficit for the coming fiscal year swell if a recession compels him to turn on the standby spending valves. The economic slowdown "shouldn't be permitted to go too far," he told Congress in noting that the White House has a broad range of contingency plans for spurring the economy.

Mr. Malek of the OMB says the standby anti-recession measures include acceleration of planned federal purchases or construction, a speedup in some cash grants or income benefits, and "tax relief." The main criteria for choosing among such steps, he says, are that they should have "a quick impact on unemployment" and be able to be focused on particular localities or regions in economic distress.

Treasury Secretary George P. Shultz, a starchy fiscal disciplinarian, warns that the administration must have "the patience and the cool not to be stampeded into action" by temporary economic setbacks. But he doesn't sound confident that there won't be a stampede.

"IF WE MUST . . ."

Mr. Shultz is especially concerned that the economic slump will raise demands for a tax cut to stimulate consumer spending. That idea, always popular in election years, has considerable appeal in Congress right now. "I think that should be at the end of the line" of contingency plans, Mr. Shultz says. Then he adds: "But if we must, we must."

In other ways, the White House is clearly signaling that it doesn't want to pick any more fights with liberal Democrats in Congress. Aides stress that spending will grow in all major domestic program areas in fiscal 1975. Nearly the entire $6.3 billion rise in fiscal 1975 military outlays, to $85.8 billion, is due to pay raises, costlier fuel and general inflation, they say. Military spending has dropped to 29% of the budget from 44% during Mr. Nixon's term in office, while nondefense outlays have risen to 71% from 56%, they add.

Furthermore, Mr. Nixon's two big domestic proposals, national health insurance and welfare overhaul, are the types of initiatives most liberals want to see. (Neither would begin in the coming fiscal year, however.)

The health-insurance plan, which would involve a net added outlay of $6 billion annually when it went into effect in 1976, won't satisfy liberals, who envision a grander, costlier program—but it is a move in their direction. The same is true of the vaguer welfare plan, which would replace several current relief programs that neither liberals nor conservatives like.

STAYS OF EXECUTION

Mr. Nixon's retreat from his austere stance of last year is most obvious in the new life that he has given to programs he had planned to kill or scale back. Congressional objections to his plan to terminate the depressed-areas aid program of the Economic Development Administration persuaded the White House not only to keep it going to fiscal 1975 but also to propose a similar and permanent new program, routing aid through the states.

The new budget seeks $250 million for the current fiscal year and $350 million for fiscal 1975 to be used for public-service employment, which was on the chopping block a year ago. "I've given up fighting that because everyone seems to want it," Secretary Shultz says.

The budget includes other such retreats, some forced by Congress: $109 million to run eight Public Health Service hospitals that had been on the closedown list; $15 million for a new program of grants to public libraries, another no-no in the hard-nosed days; and $55 million to help train biology and medical-science Ph.D.'s, who weren't on the White House favorites' list a year ago.

But Mr. Nixon hasn't given up on all cutbacks he planned a year ago. He still wants to close the Office of Economic Opportunity, headquarters of President Johnson's war on poverty. But that idea isn't very controversial any more, mainly because most antipoverty operations have been spun off to other agencies and will continue even if the poverty office closes.

The President still wants also to end federal grants for construction of hospitals under the Hill-Burton program and to phase out federal aid to school districts educating many children of government employes, such as those around Washington and other big centers of federal employment.

THE THIEU REGIME AND THE AMERICAN PRESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RANGEL. Mr. Speaker, over 50,000 American lives and countless billions of American dollars have been wasted over the past decade, supposedly in defense of the "democratic" Government of South Vietnam. Despite the rhetoric of American aid for "freedom" in South Vietnam, the brutal truth is that American manpower and money was washed down the drain by the blood of over 1 million human beings simply to perpetuate a series of petty, vicious dictators.

The Thieu regime should be an embarrassment to our Government which is subsidizing its survival. From the barbaric tiger cages for political prisoners to the suppression of civil liberties, General Thieu has made his mark in history as but one more tyrant masquerading as an elected leader.

Most recently, James Markham, chief of the Saigon bureau of the New York Times, was interrogated by South Vietnamese police because of articles he was researching. After spending a week in Vietcong territory, Markham returned to Saigon to find himself detained by the Thieu regime's police. Notes and film were confiscated.

Of course, General Thieu has never made anything more than a pretense of a free press under his dictatorship. Even so, the attempt to interrogate Jim Markham and censor whatever news reports he might prepare from his research is an inexcusable suppression of the press.

Is this the type of government that the American people want to continue supporting?

A RURAL TRANSPORTATION PROGRAM

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BERGLAND. Mr. Speaker, under leave to revise and extend I invite the attention of my colleagues and the Nation to a very imaginative, helpful, and economic program. It is a rural transportation facility which emerged from the energy and ingenuity of James McHale, secretary of agriculture of the Commonwealth of Pennsylvania and which received the encouragement and support of Governor Milton Shapp.

The system embraces small fleets of centrally dispatched minibuses operating in rural areas to transport rural residents. It has been particularly helpful in transporting the elderly or handicapped to doctors, hospitals, shopping or just visiting.

When this program was initiated it served a necessary and helpful purpose. Viewed now in the light of our crisis in fuel it is a rural necessity and it does not cost much. I plan to advise my district about this helpful innovative program and I urge those of my colleagues who serve rural districts to do likewise. The following is a brief outline of the program, its success and its service:

A RURAL TRANSPORTATION PROGRAM

Rural transportation in Pennsylvania took a giant step forward with the recent signing of contracts between state and local agencies that will install rural transportation services in 23 counties, it was announced today by Agriculture Secretary Jim McHale.

The transportation program will be operated by the Agriculture Department's Bureau of Rural Affairs.

McHale said the transportation networks are considered projects, modeled after an earlier project in four southwestern counties, aimed at eventually developing transportation systems in Pennsylvania's rural communities. "This is the way I like to study a problem," said McHale. "Get out there and provide a service while collecting information, rather than compile expensive volumes of reports in the exclusion of an office."

One contract signed was between the Agriculture Department and the Crawford County Community Action Association for $67,000. The Crawford County association represents community action agencies in 21 western counties, and the $67,000 is the local share of the 21-county project which will have a total one-year cost of $387,000.

Of the total cost of $387,000, about $290,000 is federal money that will be routed to the project through a contract between the Agriculture Department and the state Welfare Department.

The remaining $30,000 will be supplied by the state Agriculture Department through inkind and administrative services.

Besides the rural transportation project in the 21 western counties, the Agriculture Department will also administer a similar transportation project in Wyoming and Luzerne Counties. The department will receive about $69,000 to run the project for six months through a contract signed with the United Services Agency which is funded by the state Welfare Department.

"This is the kind of packaging of monies on the federal, state and local levels that is needed to get the ball rolling for rural development," said McHale. "When the Agriculture Department got interested in building health, transportation and other services for rural areas, some detractors of this administration accused us of redirecting so-called farm money for projects they said other agencies should handle.

"Now it should be apparent to those detractors," said McHale, "that the Agriculture Department is the right agency to lead in rural development because of our outreach ability into rural areas. Everyone can see that we have been able to cooperate with other agencies in building nearly a $½ million rural transportation program with only a fraction of seed money from the Agriculture Department."

For the past two years, the Agriculture Department operated a pilot rural transportation project in Westmoreland, Washington, Greene and Fayette Counties. With three quarters of the funding coming from the Welfare Department, the project operated ten minibuses in a four-county area, controlled by a central dispatcher.

The minibuses were ridden chiefly by the rural elderly, who had no access to cars or public transportation. They rode to stores to do their shopping, to their doctors, or simply to visit relatives and friends.

This network will now be expanded into another 11 counties: Beaver, Lawrence, Mercer, Crawford, Warren, Venango, Forest, Clarion, Butler, Armstrong, and Indiana. An average of two vehicles will operate in each of the 15 western counties, comprising a network controlled by one dispatching office.

Another six northwestern and northcentral counties will constitute a second network. These are, McKean, Potter, Cameron, Elk, Clearfield and Jefferson Counties. These counties already had rural transportation projects operated by various social services agencies, which now will merge into the Agriculture Department project.

The third network will operate in the two counties of Wyoming and Luzerne.

McHale said the three networks will offer a comparison for the transportation study, a principal aim of which is to determine the costs of placing transportation in rural areas.

McHale, who is chairman of the Governor's Task Force on Rural Transportation, said results of the study will enable the administration to proceed with its ultimate goal of establishing a statewide rural transportation program.

BEATRICE O'BRIEN: EDUCATIONAL PACESETTER

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. CORMAN. Mr. Speaker, on February 16, 1974, the friends and colleagues of Beatrice O'Brien will honor her retirement from the Los Angeles school system after 37 years of distinguished service.

As a teacher, principal, and administrator Ms. O'Brien has been an educational pacesetter. She was an early promoter of establishing a community voice in the educational system. By bringing teacher, parent, and student together she facilitated better education. This exemplary service was rewarded with the numerous honors Ms. O'Brien received from the Los Angeles School District.

Ms. O'Brien has also lent her expertise to several organizations dedicated to educational excellence. She served as State president for elementary school administrators and for Delta Kappa Gamma, an honorary society of women in all levels of education. Her writings have wide professional recognition as well.

Perhaps most important in Ms. O'Brien's devotion to education is the legacy left to the many teachers she personally counseled during her long career. The fruits of this legacy will endure in the education of many boys and girls for years to come.

YOU CAN NEVER MERELY DO ONE THING

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. REGULA. Mr. Speaker, I ask unanimous consent to insert at this point in the CONGRESSIONAL RECORD an editorial that appeared in the February 1974 issue of Fortune magazine. As we struggle to legislate responsibly and effectively, the editors comment on "Why Government Often Makes Matters Worse" or "Hardin's law" might well be kept at the back of our minds—particularly as we deal with such legislation as the Emergency Energy Act—for the side effects of what we do may be worse than that which we sought to remedy.

The editorial follows:

WHY GOVERNMENT OFTEN MAKES MATTERS WORSE

If a prize were to be awarded for the most illuminating single sentence authored in the past ten years, one of the candidates would surely be Hardin's Law, formulated by the California biologist Garrett Hardin. It says, with deceptive simplicity, "You can never do merely one thing." This is something like a very clean glass door—you're not sure at first glance whether anything is there. But those seven seemingly casual words express a profound truth about human affairs.

Hardin's Law applies to any action that changes something in a complex system, such as a natural environment or a human society. Even when the action has the intended effect, it also has other effects that are not intended. Sometimes these turn out to offset or outweigh the intended effect.

THE NEW HORSEPLAYERS

Two instructive examples have recently come to light. One of them has to do with the consequences of legalized off-track betting in New York City. As its proponents promised, OTB has succeeded in drawing a lot of horseplayers away from illegal bookies. But according to a report prepared within the New York City police department, OTB has also created a large clientele of *new* horseplayers. The city government, indeed, now has an interest in attracting new bettors, and OTB has become a major local advertiser. Many of the new bettors are housewives; some of them, it appears, have turned to prostitution to make up their losses.

OTB, moreover, has helped create a climate favorable to other forms of gambling. In the words of a police-department spokesman, "Thousands of people who never in the world would have thought of betting on football or basketball or baseball are now betting with the bookies." As a result, illegal bookies are enjoying a bigger total handle than they did before OTB.

The other example of Hardin's Law has to do with federal disaster relief, the subject of a recently published study by Howard Kunreuther, associate professor of management at the Wharton School of Finance and Commerce. Disaster relief, it appears, is something of a disaster itself.

Congress responded to the Alaska earthquake of 1964 with emergency aid so openhanded that some supposed victims ended up better off than they were before. This set the pattern for legislation that assures generous help for victims of earthquakes, hurricanes, and floods. They can get long-term loans, sometimes for much more than the claimed loss, at 5 percent interest—a handsome subsidy in these times. (Until Congress tightened up last year, the rate was 1 percent.) Efforts to ascertain whether the claimant in fact suffered as much damage as he says have sometimes been minimal.

INVITING IMPRUDENCE

What is mainly wrong here is not the generosity—government *should* be generous toward people who suffer grievously in disasters. Nor is it the cheating—though any government program that invites cheating is contributing to social breakdown. Nor is it the cost to taxpayers—after all, the burden is spread over millions of backs.

The serious evil is that by virtually removing economic penalties for imprudence, federal disaster relief invites imprudent behavior. In effect, government generosity is encouraging people to build and live and conduct business in earthquake zones and flood plains, and to do so without using special construction methods to reduce damage. Accordingly, the government is ensuring costlier disasters in the future.

That's Hardin's Law at work. It should not be used as an excuse for inertia or hardness of heart, but it does call upon us to show more toughness of mind. The advocates and architects of government efforts to make things better are often upper-middle-class people with Pollyannaish notions about human nature. They write legislation or set up institutions that encourage bad behavior, and then they are disappointed (though still hopeful) when the predictable occurs. An ounce of insight, Hardin's Law suggests, is worth a pound of good intentions.

THE CASE FOR RAILROAD FIRST AID

HON. SAMUEL H. YOUNG

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. YOUNG of Illinois. Mr. Speaker, there is little argument that it would be desirable to have an efficient, speedy, modern railroad and mass transportation system. Environment, energy and the inadequacy of much of the present railroad and mass transit systems have turned the Nation's attention to the need and cost and desirability of improving railroad and mass transit facilities.

I would like to call the attention of my colleagues to an article appearing in the December 15, 1973, issue of Business Week, expressing expert views on this subject. William B. Johnson, chairman and chief executive of IC Industries, which operates the Illinois Central Railroad, has briefly, but eloquently, stated "the case for railroad first aid." I recommend to my colleagues a study of his views as expressed below:

THE CASE FOR RAILROAD FIRST AID

Our booming economy has been substantially created upon assumptions calling for cheap and limitless energy. An energy shortage is thus bound to cause a period of deep social, commercial, and financial concern.

Less than 50 years ago, our economy was the marvel of the world—and it had achieved that status without abusing the air, land, and energy resources that we now recognize as having limits. We had trains, transit systems, autos, trucks and, within cyclical variations, an economy that functioned well.

We have since seen great and rapid change, including the wonders of air and automotive transportation in great abundance. But demand and supply trends for petroleum energy are not now reassuring, and our transportation systems, like many of our industrial systems, are geared to plentiful petroleum. At the same time, the U.S. economy depends upon transportation to a degree almost unheard of elsewhere. A White House study shows that transportation of people and freight consumed 25% of the energy used in the U.S. in 1970.

It seems obvious to many in government, academe, business, and the media that dramatic help in energy conservation can come from shifting transportation somewhat toward the less energy-intensive modes, such as railroads and mass transit.

Can we make this shift?

Yes, but to a limited degree at the moment. Unfortunately, the railroad industry, for all practical purposes, is in such condition that present unprecedented business volume approaches the physical limit of its fixed plant, power units, and rolling stock. Public policy on transportation financing, regulation, and taxation, has remained slanted toward accelerating further development of the energy-intensive transport modes despite 30 years of government studies and reports indicating the necessity of a more balanced approach. The result has been a decided imbalance in allocation of public and private resources for transport capability. Now the nation may, for some indeterminate period, have to pay the price of neglecting to encourage, compensate, or make investments in railroad modernization and productive capacity.

A REALLOCATION

It is beginning, however, to consider the great response that a financially strong and modern rail system could make to the nation's present need. Railroads move more than three times as much freight per gallon of fuel as large trucks and 125 times as much freight per gallon as a cargo airplane. The environmental impact is similarly beguiling: Rail emissions are 1.03 grams per ton-mile, while trucks create 3.76 grams per ton-mile. Railroads also occupy much less land space than do street and highway rights-of-way for comparable movements of freight. Clearly, a super railroad system would be a very valuable asset for the U.S. when the Arabs play petroleum politics.

Yet, our government's expenditures continue to promote greater dependence upon other transport modes. As a nation we are spending some $28.2-billion of public monies in 1973 for support of transportation in one form or another. More than 86% will have been spent for highways, 10% for air, 3.7% for waterways, but less than one-tenth of 1% for rail.

This policy needs revision to reflect a more equitable and efficient use of resources and, more particularly, a recognition of our national energy, pollution, and land-use goals.

One quick approach would be to start allocating 5% to 10%—rather than 1/10th of 1%—of our $28-billion of annual public investment in transportation to railroad systems and public transit.

For a long while, public service needs have called for investment of about $3.5-billion a year in railroad fixed plant and rolling stock. Since World War II, rail companies have earned only about 3% on their invested funds (while borrowing at much higher interest rates) and paid $17.2-billion in income, *ad valorem*, and miscellaneous taxes. Consequently, they have rarely been able to invest more than $1.5-billion a year in modernization and capacity even while borrowing heavily. Meanwhile, the nation's legislatures lavished more than $350-billion on other transport modes during the same period, practically all of it for more energy-intensive and air-polluting operations.

NEW TASKS

If, for first aid in this energy crunch, the level of public investment in rails could be, say, 7½% of the annual public outlay, and if their own private investment level can be maintained, the improvement in railroad capacity could become substantial in just months. Even after 30 years of restricted, inadequate earnings and asset cannibalism, the rails still handle 38% of the nation's intercity ton-miles of cargo. The combined public and private investment of $3.5-billion could enable the railroad industry to shoulder important new tasks for the nation in a relatively short period. In five years, the U.S. could start enjoying the many benefits of a modern super-railroad national system.

We will not solve our energy and environmental problems and at the same time cope with demand unless we get more in terms of transport performance per gallon of fuel.

When well-led and mobilized, our nation demonstrably can work wonders in solving major problems, and in time we will surely achieve both our energy and environmental goals. Of the available courses of action, few are more promising of short- and long-term advantage than to begin immediately some modest reallocation to railroads of present annual government expenditures for transportation facilities and equipment.

SHORTAGES OF PIPING AND CASING INCREASE ALTHOUGH WE HAVE EMBARGO BILLS IN COMMITTEE TO CORRECT EXPORTING TO MIDDLE EAST NATIONS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. SHOUP. Mr. Speaker, one of the important issues of our energy crisis is the shortages of piping and casing necessary to drill for oil in this country. Our embargo bills would specifically stop the shipping of these items to the Middle East as long as our country is having embargoes enforced on us. It would certainly help to keep piping and casing for independent oil companies in order that they might explore and drill for more oil here in the United States.

Because of the interest of my colleagues and the American people in this subject, I place into the RECORD a letter from Croft Petroleum Co. of Montana telling of the shortages of piping and casing and the unfortunate image created because of these shortages:

I'm getting damn sick and tired of having the industry in which I make my living, and the industry that has contributed so much to the greatness of America, kicked around, castigated, and abused by every two-bit political hack with some self serving axe to grind. It's enough to try a man's soul to see elected representatives from our great State of Montana stand tongue tied and mute in defense of their constituency in those hallowed Halls of Congress while his way of life is put to the rack of Congressional inquisition. I've spent 28 years in all phases of this business, raising and educating a family, trying to act like a good citizen, and I don't feel that I owe an apology to any man for being an oil and gas producer. In all the years in this business I've met darn few of these so called 'oil millionaires', and these political vocalists who scream about excess profits in this business should join forces with me when I've had a run of tough luck and drilled 7 or 8 heart breaking and expenive dry holes in a row . . . excess profits my backsides.

These people who scream about the industry's favored tax treatment do not know of what they speak, let me give you some facts about the taxes just in the State of Montana—we pay the following and its one hell of a bunch of money:

1. Montana Oil and Gas Conservation Commission Tax.
2. Montana gross production tax.
3. Montana net proceeds of mines tax.
4. Montana Resources Indemnity tax.
5. Montana corporation license tax.
6. Montana unemployment compensation tax.
7. Montana Industrial Accident tax.
8. Montana property tax.

This is a tough competitive business, we're exposed to all kinds and types of handicaps that are not shared in by other industries, and we in the industry take some pride in the fact we can take these things on the chin and keep coming back for more; but we consider it a low blow when one of our congressional leaders is quoted as endorsing a government supported oil and gas company who would be using our tax dollars to compete against us.

Our biggest problem right now is the shortage of well casing in which to carry forward an exploration program, this problem is not unique to northern Montana but covers the whole Rocky Mountain scene. If Congress will help put pipe in the hands of the supply houses you'll see the greatest burst of drilling activity this country has seen in many years, you'll see what the industry does with excess profits.

Sincerely,

W. S. CROFT,
President.

SOVIET OIL AND U.S. TECHNOLOGY: PART III

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ASHBROOK. Mr. Speaker, on previous occasions I have been discussing the Soviet need for U.S. technology to develop their energy resources particularly their petroleum resources. With the lesson of the Arab oil embargo, which has been supported by countries considered friendly to the United States, it seems completely foolhardy to become engaged in the development of Soviet oil resources. The Soviets would have less hesitancy in using oil as a weapon than the Arabs have. This being the case, American development of Soviet energy resources makes no sense. At this point I include in the RECORD two articles from the Oil Daily of Tuesday, January 8, entitled "U.S. Eyes Soviet Tyumen Field" and "Oil Engineering Mag Undertaken By U.S., Russia.":

U.S. EYES SOVIET TYUMEN FIELD—GULF HASN'T DECIDED WHETHER TO PARTICIPATE

WASHINGTON.—American oil firms have expressed a continuing interest in development of the Tyumen oil field in the Ural mountains of the Soviet Union, despite Japanese reports to the contrary.

A spokesman for Gulf Oil said his company has "not slackened our interest," explaining "we have asked the Japanese to be kept informed of preliminary negotiations" which are looking initially to whether the reserves potential in the Siberian field are as great as the Russians contend. He added, however, that his firm has "not come to a decision" to participate in development of the field.

In a February, 1972, visit to Tokyo Soviet Foreign Minister Andrei Gromyko began discussions of the feasibility of building a 4,850-mile oil pipeline from Tyumen to the port of Nakhodka on the Siberian Pacific Coast. The Soviet proposal reportedly sought a Japanese investment of $1 billion in construction funds, with added American participation of an unspecified amount.

At year's end, Japanese financial and industry sources asserted the American oil firms had shelved, if not given up, their decision to take part in the proposed project, in view of the fourth Middle East war.

A spokesman for the State Department said he would be "rather surprised" if the report were true. He said the administration had not become "disillusioned" with the proposed joint venture, but indeed thought initial talks had been "going rather well."

The spokesman, on the department's Soviet Affairs desk, noted an American delegation of oil experts were in the Soviet Union last month for exploratory work survey discussions.

Tokyo had hoped to receive 40 million tons of oil from the Soviet field, but Moscow reportedly had scaled that figure down to 25 million tons. The State Department source said he understood the Japanese were "disenchanted" by that reduction, but that they were "still going ahead, at least through the exploratory stage."

An official of the department's oil and gas section said the U.S. is not contemplating investment of federal funds in the pipeline, at this time. Nevertheless, he said the American oil companies "are proceeding on schedule as far as I know."

The administration has taken no position on the project as a matter of foreign policy. "We've told the (U.S.) companies we have no objection to their preliminary investigations, but we have withheld any commitment of funds until other economic data are available."

He was reluctant to discuss the Tokyo assertion that the Nixon administration was behind the reported disruption of the talks, especially in light of the current shaky U.S.-Soviet detente.

This delicate treatment of the Soviet Union occurs as the U.S. is also reported interested, with mainland China, in exploitation of supposedly massive undersea oil reserves off the east and southeast coasts of the People's Republic of China.

The two American companies reported interested in the joint Soviet venture were Gulf and Occidental, though it was clear other corporations would be needed to help finance the huge costs of such a long transmission line.

OIL ENGINEERING MAG UNDERTAKEN BY UNITED STATES, RUSSIA

HOUSTON.—Petroleum Engineer Publishing Co., Dallas, will cooperate with the Soviet trade organization, Mezhniga, to produce a trade journal which will be distributed through Russia and in seven other East European countries, the President of the Dallas firm announced.

Abbott Sparks called the arrangement "a significant breakthrough in technical communication" and said it evidently is the first of its kind since the USSR signed the so-called universal copyright convention.

He said editorial material will be translated in Moscow. The new publication will be entitled "Inzhenerneftiannik," the Russian equivalent of "petroleum engineer." It will be circulated to petroleum engineering and operating officials and to Soviet petroleum ministers.

The Dallas company, which published the magazines Petroleum Engineer and Pipeline & Gas Journal, will sell advertising in the joint venture publication from its offices in the U.S., Western Europe and Japan.

STEEL WIRE ROPE FROM JAPAN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ASPIN. Mr. Speaker, the House of Representatives recently passed the Trade Reform Act of 1973. I supported this legislation and believe its eventual enactment into law will result in fruitful negotiations which will allow the United States to expand trade. New tariff reductions and nontariff barrier removal as well as amendments to the Anti-Dumping Act will, in the long run, benefit both this nation and our trading partners.

However, the U.S. Tariff Commission made the determination of injury pursuant to the Anti-Dumping Act on a commodity from Japan—steel wire rope. The Tariff Commission found that the Japanese were selling this commodity far below its market value and as a result both American industry and workers were being injured.

The bulk of international trade must be both fair and equitable to all nations. In the case of importation of Japanese steel wire rope, unfair practices were being used by the Japanese in the American market.

Since in future years and particularly after the upcoming negotiations are completed, more of these antidumping issues may arise. I think it would be of interest to my colleagues to insert at this point in the RECORD the U.S. Tariff Commission's recent decision on steel wire rope from Japan.

The report follows:

[U.S. Tariff Commission, Washington, Sept. 7, 1973, AA1921-124]

STEEL WIRE ROPE FROM JAPAN

DETERMINATION OF INJURY

On June 7, 1973, the Tariff Commission received advice from the Treasury Department that steel wire rope from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-124 to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 2 and 3, 1973. Notice of the investigation and hearing was published in the *Federal Register* of June 20, 1973 (38 F.R. 16118).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 2 to 1[1] that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION BY CHAIRMAN BEDELL AND COMMISSIONER MOORE

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made.

First, there must be injury or likelihood of injury to an industry in the United States.[2] Second, such injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

In our judgment, both of the aforementioned conditions are satisfied. Accordingly, for the reasons set forth below, we have determined that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan sold at LTFV.[3]

In making this determination under section 201(a) of the Antidumping Act, we have considered the injured industry to consist of the operations of the U.S. facilities producing steel wire rope.

The U.S. steel wire rope industry in the United States, presently consisting of 17 U.S. firms with 23 plants located in 13 States, has traditionally recognized six "zones" or "regions" as areas to be serviced either by a regional manufacturing plant or warehouse facility. In addition to significant freight-cost differentials between these six regions, there also exist separate and distinct regional pricing and discounting levels that reflect specific market characteristics and competition.

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[1] Chairman Bedell and Commissioner Moore determined in the affirmative; Commissioner Ablondi determined in the negative. Commissioner Young did not participate in the determination, and Vice Chairman Parker and Commissioner Leonard were absent.

[2] Prevention of establishment of an industry is not an issue in the instant case.

[3] At the hearing, certain importers of a Japanese product, described as copper-coated steel-wire cord of stranded construction of a type used to reinforce automobile and truck tires, raised a question as to the applicability of the Treasury Department's determination of LTFV sales to this product. The complainants agreed that the U.S. steel wire rope industry did not make a product of this description.

Of these six regions, the Pacific Northwest and the Pacific Southwest and the South Central Regions were of the greatest concern to interested parties in this case. Data supplied to the Commission during its investigation indicated that during the period 1970–72 over half of U.S. shipments were sold in the Pacific Southwest, Pacific Northwest, and South Central Regional markets. It is apparent that these three regions are vitally important to the U.S. industry in its marketing of wire rope in the United States. We are of the opinion that there has been substantial injury to the U.S. industry in these three market areas. We believe that LTFV imports of steel wire rope from Japan into these three regions have been of sufficient magnitude to cause injury to the U.S. industry.

Market penetration

Imports of steel wire rope from Japan, the principal foreign supplier, have nearly doubled over a 5-year period, from 9,912 net tons in 1968 to 18,996 net tons in 1972. During the 6-month period January–June 1973, such imports amounted to 11,413 net tons, or about one-fifth more than during the corresponding period in 1972. It is clear that the tide of imports determined by the Treasury Department to have been sold at less than fair value has entered the United States and the regional market areas identified above in substantial volume.

The penetration of LTFV imports has occurred in the regional markets identified above in sufficient volume as to be injurious to the entire U.S. industry. For example, in 1970 the bulk of Japanese imports of steel wire rope sold in the Pacific Southwest, Pacific Northwest, and the South Central Regions were equal to about 8 percent of U.S. producers' shipments for these areas. In 1972, such imports from Japan increased to about 11 percent of U.S. producers' shipments. Such regional market penetration by LTFV imports has caused plant closures, market withdrawals, and a general suppression of wire rope prices in these geographic areas to the point where such prices are lower than prices paid elsewhere for wire rope in the United States.

Price suppression

Information developed during the investigation showed that prices received by Japanese importers were consistently well below those received by domestic producers. For example, between the first quarter of 1970 and the second quarter of 1973, the prices of five particular items of Japanese wire rope—which Treasury found to have been sold at LTFV—averaged 22 to 38 percent below the prices received by domestic producers for the same items. Such price differentials were even more pronounced in the Pacific Southwest, Pacific Northwest, and South Central Regions. As a result, in order to remain competitive, U.S. producers have been prevented from increasing their prices to offset fully increased costs of domestic production.

Loss of sales

Data supplied to the Commission documents specific examples of sales lost to LTFV imports. Although demonstration of every lost sale was not possible, it is clear from the evidence of price suppression that loss of sales has taken place, particularly in the Pacific Southwest, Pacific Northwest, and South Central Regions, where the price disparities between LTFV imports of wire rope and domestic wire rope are especially pronounced.

Plant closures

Since January 1, 1968, six plants producing steel wire rope in the United States have closed, and an estimated 1,300 workers have lost their jobs. Among the plants closing were two operated by Colorado Fuel and Iron Corp., one of the largest U.S. steel wire rope producers, where over 900 workers were employed. We believe these plant closures and resultant unemployment have been due in part to LTFV imports of steel wire rope from Japan.

Conclusion

On the basis of the foregoing we conclude that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan that is being, or is likely to be, sold at less than fair value.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF COMMISSIONER ABLONDI

Although there have been LTFV imports of steel wire rope from Japan in recent years, and these imports may have caused some slight market disruption, I am unable to find injury, or likelihood of injury, to an industry within the meaning of the Antidumping Act, 1921, as amended.

There is an industry in the United States presently producing steel wire rope and it consists of 17 firms which are geographically located nationwide. The complainant, for example, with production facilities in Kenosha, Wis., sells and services the west coast area. Other firms in the industry located on the east coast do the same. Evidence, in part, indicates that most of the 17 firms are now producing at capacity (three shifts a day, 5½ day a week); that many of these plants are weeks behind in filling current orders with existing productional capacity; and that the industry is operating at a generally increasing profit level. I do not believe that the industry above described is being injured by reason of the LTFV imports.

The complainant in this proceeding contends that the west coast area and the south central region are the areas most affected by LTFV imports from Japan. Application of this regional concept of injury would not, in my opinion, lead to a finding of injury to an industry of steel wire rope producers located in the regions complained of.

The four plants currently operating in the west coast area and south central region have increased their shipments by about 19 percent during the period 1970–72—the period when the injury alleged by the domestic producers is claimed to have occurred. Secondly, available data on net operating profits of wire rope operations for the plants most likely affected, i.e., those in the west coast and south central areas, indicate that profits were larger in 1972 (the year when Treasury found LTFV sales), both in absolute terms and as a percent of net sales, than in any year since 1968. Imports of steel wire rope from another Asian country were at a unit price level lower than that of the Japanese and compete in the same region.

The regional industry that would most likely be injured by reason of the importation of LTFV imports from Japan does not appear to be injured in light of available data. It has been reported that one large firm currently manufacturing on the east coast intends to begin manufacture of steel wire rope on a limited basis at one of its west coast steelmaking facilities.

In conclusion, since there appears to be sufficient reason to believe that no injury has occurred to domestic producers of steel wire rope by reason of LTFV imports of steel wire rope from Japan, I find no injury, or likelihood of injury, to an industry in the instant investigation.

CONGRESSIONAL ACTION REQUESTED

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. YOUNG of Florida. Mr. Speaker, Mr. Christian A. Addison of St. Petersburg has requested that I draw the following communication to the attention of my colleagues in the House:

St. Petersburg, Fla., *January 26, 1974*

Congressman C. W. Bill Young,
Longworth House Office Building,
Washington, D.C.

Dear Congressman Young: Will you be so kind as to read this on the floor to your fellow Congressmen, so that they might understand the feeling of non-political taxpayers:

"Congress: A Lot of Talking but a Minimum of Action

"Editor: In the belated and frantic search for the causes of all our current misfortunes, it is strange that the real culprit has succeeded in escaping responsibility. It requires only a minimum of mental effort to place the blame where it belongs . . . on our lawmakers.

"Congress, which callously took a one month (yes, a full month) vacation amid the raging storm of the energy crisis, is back in Washington and supposedly ready to get down to business of enacting legislation designed to get the nation again on an even keel. But what do we hear? Nothing but word of re-opened investigations, continued hearings, more schemes for shifting the blame for our troubles to the President, to the oil companies, to industry, to businessmen . . . anywhere to divert attention from their own shortcomings.

"So instead of serious action we face another six months of do nothing.

"It is the responsibility of Congress to give us laws that will keep the nation operating smoothly. But note their action in the current crisis. With the oil shortage threatening catastrophe our august statesmen labored . . . and brought forth highway speed reduction. They went home for a month to flutter over the countryside backslapping voters, patching political fences and incidentally, burning up enough gasoline to offset substantially, if not altogether eliminate the gas savings by lower auto speeds.

"Hell of a way to run a country!—Hal Fisher, Holiday."

The above letter to the St. Petersburg Times expresses the feelings of thousands of us taxpayers. You cannot avoid your responsibilities by "passing the buck". What is your answer?

Most sincerely yours,

C.A. Addison.

RIVALRIES IMPERIL ZUMWALT'S CAREER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. DERWINSKI. Mr. Speaker, my attention has just been drawn to a column in the January 3 Chicago Tribune by that publication's Washington correspondent and columnist, Bill Anderson.

Although after a month some commentaries acquire obsolescent, but in this particular case, the questions raised and subject that is analyzed by columnist Anderson remain very pertinent. Therefore, I submit this article for the Record assuming it will raise some interesting questions:

Rivalries Imperil Zumwalt's Career

(By Bill Anderson)

Washington.—The American military is coming dangerously close to losing one of its most brilliant and innovative senior officers—Adm. Elmo R. [Bud] Zumwalt—because of a rivalry that has reached into the White House.

Our reports from the Pentagon disclose that back-stabbing tactics are being used against the modern-minded reformer to undermine him as chief of naval operations in an attempt to end his military career on June 1. Success in this effort would head off the possibility that he could remain in uniform for another term or become chairman of the Joint Chiefs of Staff.

Zumwalt has been the subject of the whispering campaign by mossbacked admirals since he made a command decision nearly four years ago to give women and blacks more opportunity [and rank] in the Navy and drop other rigid, traditional regulations. The 52-year-old working boss of the Navy created the most public upheaval, however, when he allowed sailors to grow beards and longer hair.

Closer to the heart of his problem, tho, is the fact that Zumwalt departed from the Navy's losing budget concepts, demanded cost accounting and efficiency, and went directly to Capitol Hill to fight for flexibility rather than a single defense concept. Ironically, his views on mobility are known to be exceptionally close to those of the new defense secretary, James R. Schlesinger.

Insiders in the military maze see both Schlesinger and Zumwalt as intellectuals, thinkers in an organization more noted for looking to precedents than to the reality of given strategic situations. Both men gave early-warning signals about today's energy crisis.

Zumwalt's unique stance, which began to take form in the early days of the Kennedy administration, has made him a highly visible target for the hide-bound factions of the military. One principal opponent has been Adm. George Anderson, ret. [No relation to this columnist], former chief of naval operations who was fired during the Kennedy administration.

Anderson became a bitter foe of Robert F. McNamara, Kennedy's secretary of defense, partly because the admiral was a big-ship advocate at a time when McNamara was questioning their high costs. At the same time, the then Capt. Zumwalt was helping Navy Secretary Paul Nitze make the service more adaptable to the requirements of the period.

Zumwalt's success was spectacular, while Anderson was demoted to becoming an ambassador to get him out of the country [to keep peace in the official family]. Anderson has since led a submerged attack on Zumwalt.

Anderson was aided in his battle because the Navy was saddled with two dilettantes as civilian secretaries—John H. Chafee, who spent much of his time preparing to run for the Senate in Rhode Island [he lost], and Incumbent Secretary John W. Warner, a rich playboy [and heavy campaign contributor] who likes the pomp and ceremony that the military can present.

Both of these secretaries have been highly unimpressive to senior lawmakers who pass on budgets and strategy—especially during the period when the military slipped in public support because of the Viet Nam War. The result has been to shift more of the legislative load to people like Zumwalt and his principal assistants.

Until March, Zumwalt's position was also being underminded at the White House by Charles W. [Chuck] Colson, a former special assistant to the President—and a former noncombat Marine junior officer. Some senior marines, who disliked Zumwalt's liberalism regarding personnel, used Colson as their conduit to attempt to discredit the admiral.

And now taking advantage of the Warner-Anderson-Marine Corps situation is Adm. Isaac [Ike] C. Kidd, an ambitious former destroyer officer who is actively campaigning for Zumwalt's job. Kidd is promising a return to the "old Navy."

Altho Kidd may be in the lead at the moment, there are six other candidates, some younger than he is [54] and more inclined to follow in Zumwalt's footsteps. The conventional wisdom of the Pentagon is that Zumwalt will be forced out. But the fact is that Zumwalt's leadership has made numerous, powerful, and bipartisan friends for him on Capitol Hill. They are likely to call on the President to keep this bold, talented admiral in the military.

NO PAY INCREASE FOR CONGRESS

HON. WILEY MAYNE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MAYNE. Mr. Speaker, yesterday the President very unwisely recommended that salaries of Congressmen and Senators be increased by approximately 7½ percent. I am unalterably opposed to such a pay hike and have already filed a bill to prevent it. I invite all Members of the House to join with me in doing whatever is necessary to bring my resolution of disapproval to a recorded vote.

Our chances of defeating this ill-advised and untimely increase in salary will be greatly improved if every Member is required to stand up and vote in accordance with his clear constitutional responsibility. Otherwise many Members may find it easier and more profitable to look the other way while the salary increase recommended by the Commission on Legislative Salaries and endorsed in part by the President automatically goes into effect.

Mr. Speaker, we have been down this road before and it is not one of which the Members of the House or Senate can be proud. I well recall joining my good friend the senior Congressman from Iowa (Mr. GROSS) in an unsuccessful battle to head off an even more outrageous raid on the Treasury in 1969. Congressman GROSS and I pleaded with both of the two committees having jurisdiction and with the Democratic leadership of the House to permit a recorded vote on the 41-percent increased then ordered by President Lyndon Johnson. I took the floor of the House daily to urge my colleagues to block this blatant invitation to the forces of inflation.

I said then, and I repeat now, that Congressmen should be setting an example to the rest of the country in the battle against inflation. What kind of an example are we setting if by our inaction we permit our own salaries to be raised by 7½ percent? Unless the House or Senate passes a resolution of disapproval within 30 days, the recommended increase automatically becomes law under the terms of the Federal Salary Act.

I have introduced and urged the passage of bills which would eliminate this nefarious automatic provision and require a record affirmative vote on any pay increase in each of the last three Congresses, and Mr. Speaker, I feel even more strongly on the subject today. I cannot think of a worse time to raise the salaries of Senators and Congressmen. Hardly a day passes without some Government official in or out of Congress lecturing farmers, businessmen, workers, and consumers on the sacrifices they should continue to make to bring inflation under control. The Congress is still insisting on wage and price controls which impose guidelines of 5.5 percent annual wage increases upon the laboring men and women of this country. How in heaven's name can the Congress justify a 7½-percent salary increase for itself? The answer is that it cannot.

Mr. Speaker, I have no pride of authorship in the resolution which I have introduced to block the pay increase. I will support any Member in any bill and join in any parliamentary strategy to forestall its going into effect. I have today signed a discharge petition and urge other Members to do likewise to force a record vote.

All the arguments which I voiced in the Chamber in 1969 against that pay increase have been vindicated by subsequent events. The horrible example set by Congress at that time triggered demands from Federal employees and every other branch of our society, setting off a new round of inflation. It will do so again if we now repeat the mistake of making an exception for ourselves and permitting this automatic salary increase. At the very least, we should stand up and be counted in a record vote which will show the position of each Member on this important issue. Our constituents are entitled to know where individual Congressmen and Senators really stand on inflation when our own pocketbooks are involved.

EDUCATION FOR EXCEPTIONAL CHILDREN

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. STEELE. Mr. Speaker, on December 7, I introduced legislation (H.R. 11846) to greatly expand and improve special education programs for handicapped and gifted children. Support for this legislation has been extremely encouraging, and today I am reintroducing this legislation on behalf of myself and 32 of my colleagues.

There are some 7 million handicapped children in the United States. Close to 60 percent of these children are being denied the educational programs they need, to have full equality of opportunity. One million of them have been excluded from public schools entirely.

For most of these children, educational services are something they will receive only through the perseverance and sacrifice—often at prohibitive cost—of their parents. Tragically, the education they are likely to receive will in no way prepare them for full, useful, and rewarding lives.

During the 1971–72 school year, there were seven States in which less than 20 percent of the population of handicapped children were provided educational services. In 19 States, 31 percent or less of the handicapped population was served.

Only 17 States served more than 50 percent of all handicapped children.

It is impossible to justify our nationwide situation. The blunt truth is that for far too long Government has been willing to condemn generation after generatio of handicapped youngsters to lives without hope and without help.

That is not to say that we have not made any progress. In 1971, some 799 bills were introduced in State legislatures which sought to provide educational services for handicapped children; 237 of these bills were passed. We have increased Federal assistance to the States for this purpose from a mere $45 million 5 years ago to $215 million in the 1972 fiscal year. But this has been a token expenditure.

The progress we have made is simply not enough.

It is time for us to recognize that handicapped children are, above all, children. They have the same rights as any other child to live, to learn, to be free. Last August, this view was affirmed by a U.S. district court which declared that all handicapped children have a constitutional right to full, free, public education. It is up to us to assure that that right is a reality.

Nor are the handicapped the only children who are not receiving the kind of educational experience which they need and deserve. Ironically, those who have been termed our most precious resource, have likewise been overlooked—our gifted youngsters.

In the past, the existence of gifted children has scarcely been acknowledged by our formal institutions of education. And even when their presence has been recognized, their needs have been neglected.

There are at least 2 million children who should be considered as gifted—yet even the most generous estimates claim that only 80,000 of these youngsters are now receiving appropriate education. Only 10 States—including Connecticut—have a full-time person responsible for gifted and talented children. Only 22 States have laws to provide funds for their education. And many of these States have never appropriated funds.

This situation is best summed up in a 1971 Office of Education report that concluded that education of the gifted was of so little concern to Federal, State, and most local governments that it best could be described as "nonexistent on the national agenda."

Much of the reason for this is that we have been inhibited by the feeling that any special attention to the gifted is somehow alien to the true purposes of education in a democratic society—that gifted youngsters can do it on their own. But a bright mind will not always make its own way. Intellectual and creative talent cannot survive educational neglect and apathy.

Education must meet the needs of students. All students.

The Education for Exceptional Children Act would provide a quantum jump in the number and quality of special education programs available to exceptional children.

This legislation provides a basic entitlement to each State to aid them in expanding their efforts in educating these children; it provides grants for the training of teachers and supervisors to help guide these youngsters. It establishes a national clearinghouse to facilitate the interchange of information and ideas relating to this area of education. It sets stringent guidelines to assure that exceptional children—children with unusual learning needs, the gifted, the handicaped. They must not be neglected any longer.

Our challenge is to provide each and every one of them with a quality education.

I believe that we can meet that challenge.

The following list of Members of Congress have joined me in sponsoring the Education for Exceptional Children Act:

Robert H. Steele (Conn.).
Bella Abzug (N.Y.).
Joseph Addabbo (N.Y.).
Herman Badillo (N.Y.).
Shirley Chisholm (N.Y.).
Cardiss Collins (Ill.).
John Davis (Ga.).
Joshua Eilberg (Pa.).
Walter Fauntroy (D.C.).
Ella Grasso (Conn.).
Michael Harrington (Mass.).
Augustus Hawkins (Calif.).
Lawrence Hogan (Md.).
Elizabeth Holtzman (N.Y.).
Albert Johnson (Pa.).
Robert Leggett (Calif.).
Romano Mazzoli (Ky.).
Joseph McDade (Pa.).
Donald Mitchell (N.Y.).
Joe Moakley (Mass.).
Morgan Murphy (Ill.).
Wayne Owens (Utah).
Thomas Rees (Calif.).
Benjamin Rosenthal (N.Y.).
Edward Roybal (Calif.).
Ronald Sarasin (Conn.).
Paul Sarbanes (Md.).
Louis Stokes (Ohio).
Robert Tiernan (R.I.).
Jerome Waldie (Calif.).
Charles Wilson (Calif.).
Antonio Borja Won Pat (Guam).
Gus Yatron (Pa.).

CANAL ROULETTE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RARICK. Mr. Speaker, while the U.S. military announces plans to counter Soviet gains in reopening the Suez Canal, the U.S. State Department announces its continued goal of losing U.S. control of the Panama Canal.

I include related news clippings:

UNITED STATES MOVES TO COUNTER SOVIET GAINS IN SUEZ OPENING

(By George Sherman)

The United States is quietly moving to counter the strategic advantage that the Russians will gain from the opening of the Suez Canal.

The over-all aim, senior U.S. officials say, is to convince Moscow that the U.S.-Soviet detente cannot survive any new Soviet drive into the oil-rich Persian Gulf and Indian Ocean.

American intelligence is convinced that both Egyptian President Anwar Sadat and the Soviet leadership are determined to have the canal opened in six months.

According to a senior Egyptian diplomat, Kuwait has guaranteed $30 million from its oil revenues for rehabilitation of the canal.

That includes removing 15 ships trapped in the Great Bitter Lake on the canal and some 90 concrete block and other objects still submerged from the 1967 war.

Rehabilitation also includes clearing away the causeway built across the canal by the Israelis in last October's war and repairing 11 signal houses along the canal—perhaps adding closed-circuit television for better navigation.

The U.S. officials agree that all present signs show the canal will be open within six months for the first time since June 1967 to tankers, warships and merchant men. Both the United States and the Soviet Union will have access to the canal.

The rewards for Sadat are obvious, say U.S. officials. Not only can Egypt demonstrate the fruits of its first agreement with Israel to evacuate Arab territory, but the $250 million in revenue from the canal can give Egypt more economic independence from Soviet aid.

The rewards for the Russians are equally obvious, say these officials. The Soviet Union now keeps up to 30 warships from its Pacific fleet in the Indian Ocean; the fleet is based in Vladivostok—11,000 miles away. With the canal open, Soviet ships can come from the Black Sea—only 2,200 miles away.

U.S. officials also acknowledge that the Russians can make maximum use of this new opportunity to "show the flag!" in the area. Besides carrying on an accelerated naval shipbuilding program, far ahead of that of the United States, the Soviets have cultivated free use of ports in Somalia on the African coast just south of the Red Sea. They also appear to have facilities on the Somalian island of Socotra off the Arabian peninsula.

Furthermore, Soviet military aid has gone to the radical regime of South Yemen, with its capital of Aden on the tip of the Arabian pensinsula.

But American officials doubt that the Soviet Union will move immediately to reinforce this foothold through dramatic use of the Suez Canal.

For one thing, its standing is already precarious. Any greatly enlarged Soviet military presence, say experts, will increase the determination of the conservative governments of Saudi Arabia and Kuwait and their Arab allies—plus non-Arab but Moslem Iran—to resist Soviet encroachment.

At the same time, the reopening of the canal according to calculations in Washington, will bring added Western commerce, and perhaps, influence, to areas such as South Yemen and Somalia, now cut off from their traditional ties with Western Europe.

The United States, these officials say, is also going out of its way to warn the Soviet Union that oil and the survival of the industrialized West are at stake. For instance, on Nov. 30, Defense Secretary James R. Schlesinger announced the United States would keep a continuous "naval presence" in the Indian Ocean. Since the October war, two separate American carrier forces have been on the move there.

The American naval "facility" at Bahrain, an Arab principality at the end of the Persian Gulf, continues in full operation—despite the announcement during the October war from Bahrain that the agreement would be ended within the year. The United States keeps its Middle East force there—two destroyers and a converted amphibious transport dock as flagship.

The United States and Britain, meanwhile, are putting final touches to an agreement for changing a small naval communications station on the British-held island of Diego-Garcia in the Indian Ocean into a land-based facility for American task forces in the area.

According to informed sources, the plan is to enlarge the airstrip and build fuel storage facilities. The island will then be able to take carrier aircraft and large jet transport planes in case of crisis. The new airfields will enormously increase the range of U.S. carriers patrolling the Indian Ocean.

But officials in the Pentagon and State Department acknowledge these military moves are largely gestures. "If the Soviet Union has the will for a confrontation south of Suez," said one Pentagon official, "we will obviously have to do much much more."

Present calculations suggest, however, that the gestures will be enough to convince Moscow that worldwide detente with the United States is at stake in the Indian Ocean.

And oil producers such as Saudi Arabia, Kuwait and Iran—which already have strong economic and military ties to the United States—will also be bolstered in their efforts to neutralize any Soviet flanking moves via the canal.

Panama Chief Awaits Visits

(By Jeremiah O'Leary)

Secretary of State Henry A. Kissinger is in for a novel experience this week when he journeys to Panama to meet the tough little strong man, Brig. Gen. Omar Torrijos, for the first time.

Kissinger and Torrijos get together Thursday in Panama City to agree on a set of principles for negotiation of a new treaty on the Canal Zone and the isthmian waterway. It will be the shortest international trip ever taken by Kissinger—five hours to get there, four hours on the ground and five hours back.

Neither man speaks the language of the other but both Kissinger and Torrijos fully understand the uses of power in the context of the nations they represent. Torrijos, who commands a military-police force of no more than 8,000 men, and Kissinger are equally strong personalities. But Kissinger is the consummate academician while Torrijos has no intellectual pretensions at all.

Torrijos normally wears the U.S.-patterned Ranger uniform of green combat fatigues, complete with widebrimmed cowboy hat, pistol and canteen belt. Kissinger's civilian suits run to somber blues and grays. Both men are stocky and clearly overweight. And both are uncommonly direct. Neither is the president of his country.

The difference in operating style is that Torrijos has a puppet president, Demetrio Lakas, and the last word on any decision taken in Panama. Kissinger, although he has wide powers, remains a subordinate of President Nixon and obviously of the U.S. Congress in any matter affecting treaty relations with Panama.

Kissinger has met many dictators in his career but never one with the life-style of the 45-year-old Torrijos or with his direct capacity to make trouble for a U.S. lifeline such as the Panama Canal.

Torrijos depends not on guile but on muscle. He came to power through force and has defeated at least one major effort to overthrow him. He, like Kissinger, is a man who needs little sleep and can stay up all night with the best of them.

Like Kissinger, Torrijos can be lighthearted and casual but his sense of humor is no match for Kissinger's brand of wit and banter. The Panamanian strong man, in a way limited by Panama's geography, is an inveterate traveler and likes to take off on sudden trips that end when he gets tired of them.

Torrijos, never having met Kissinger before, is likely to engage him in long, intense conversation over the Canal Zone issue. Foreign Minister Juan Tack will be primarily a spectator.

The impulsive Torrijos may try to dragoon Kissinger into a journey uncountry to Chiriqui Province or to the fascinating San Blas Islands, as has happened before to American visitors.

Both men have their nervous habits. Kissinger bites his nails. Torrijos sucks his teeth loudly. Both come from small towns, Kissinger from Fuerth, Germany, and Torrijos from Santiago de Veraguas. Both are sons of teachers, both are self-made men and both have more than their share of self-confidence.

On the surface, Kissinger and Torrijos seem worlds apart but the many similarities in their natures may very well cause them to get along quite well. Torrijos talks a flamboyantly tough line to his Panamanians but understands very well he the inexorable links he has with the United States and is much more moderate talking with Americans. He and Kissinger will no doubt duel a bit with words but neither can be bluffed.

If they get along well and are not too far apart on the main issue, the meeting may lead to solution of the nagging canal issue.

RESOLUTIONS OF THE NATIONAL REHABILITATION ASSOCIATION

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BRADEMAS. Mr. Speaker, in October of last year, the National Rehabilition Association, an organization made up of 30 national groups involved with helping handicapped Americans, held its annual Delegate Assembly, in Atlantic City, N.J.

And as one of those who had an opportunity to address the 3,000 delegates to the assembly, Mr. Speaker, I want to bring to the attention of my colleagues a number of significant resolutions adopted by the assembly concerning rehabilitation programs for the handicapped.

For the assembly, Mr. Speaker, adopted resolutions concerning the oversight hearings now being conducted by the Select Subcommittee on Education, which I have the honor to chair, as well as resolutions on Federal Appropriations for rehabilitation services and training, on State and local administration of rehabilitation programs, and on the needs of the severely handicapped.

Mr. Speaker, the resolutions to which I have referred follow:

Resolutions Adopted by the 1973 National Rehabilitation Association Delegate Assembly, October 29, 1973, Atlantic City, N.J.

RESOLUTION I—APPRECIATION TO CONGRESS

Whereas, the Rehabilitation Act of 1973 is now law, and

Whereas, the signing of the bill (PL 93–112) following lengthy and difficult hearings and the veto by the President of two excellent and progressive rehabilitation acts, and

Whereas, in the face of these difficulties, the leaders of the House Committee on Education and Labor and the Senate Committee on Labor and Public Welfare never waiver in their determination to secure enactment into law of legislation that would permit an expansion and improvement of rehabilitation services to handicapped individuals, and

Whereas, these efforts finally succeeded,

Be it resolved, that the National Rehabilitation Association express its profound appreciation and admiration for the efforts of Members of Congress of both parties that produced the final legislation, and that the sense of this resolution be conveyed to these individuals.

RESOLUTION II—OVERSIGHT HEARINGS

Whereas, the Select Education Subcommittee of the House Committee on Education and Labor, chaired by Rep. John Brademas, has begun oversight hearings on vocational rehabilitation in an effort to determine the policies and plans of the Administration relative to programs financed under the Rehabilitation Act, and

Whereas, the testimony of high Administration witnesses reveals a lamentable lack of understanding of the purpose of rehabilitation and the practices employed in the rehabilitation of handicapped individuals, and

Whereas, some Administration officials appear to be giving serious consideration to administrative alternatives which would result in the dismemberment of rehabilitation programs,

Be it resolved (1) that the National Rehabilitation Association expresses its appreciation to the House Committee on Education and Labor for conducting these oversight hearings and urges their continuation until the plans of the Administration for the future of vocational rehabilitation are made clear, and (2) that the National Rehabilitation Association offers its assistance to the Committee in every possible way in this important undertaking.

RESOLUTION III—APPROPRIATIONS FOR REHABILITATION SERVICES

Whereas, the need for rehabilitation services is great and financial resources to provide such services inadequate, and

Whereas, this Administration, while affirming its faith in the effectiveness of the rehabilitation programs and its intention to strengthen them has, nevertheless, (1) vetoed two versions of the Vocational Rehabilitation Act of 1973, principally because of high appropriation authority, (2) withdrawn support of construction and staffing of rehabilitation facilities, (3) recommend a reduction of funds for rehabilitation research, (4) announced its intention to phase out federal support for training of rehabilitation personnel, (5) recommended appropriations for the state-federal vocational rehabilitation program scarcely sufficient to maintain its service level, (6) weakened the Rehabilitation Services Administration by transferring of personnel and authority to other levels of HEW, and

Whereas, these trends, if not reversed, will surely result in a less comprehensive and effective rehabilitation service program for handicapped individuals, and

Whereas, the end of United States involvement in East Asia should free financial resources for human service programs,

Be it resolved, that the National Rehabilitation Association urge the Administration to review promptly its current policies with respect to the support of rehabilitation programs authorized by the Vocational Rehabilitation Act, particularly as these are related to preventing and overcoming dependency and the restoration of independence to severely disabled individuals, and

Be it further resolved, that the National Rehabilitation Association will urge the Administration to recommend and Congress to appropriate such sums as are needed to assure continued growth and increased effectiveness of rehabilitation programs, and

Be it further resolved, that the National Rehabilitation Association will enlist its own members at all levels of the Association and the support of other organizations to implement this resolution.

RESOLUTION IV—FEDERAL SUPPORT OF TRAINING FOR THE REHABILITATION PROFESSIONS

Whereas, federally supported training programs for rehabilitation personnel have been a source of strength to rehabilitation agencies and of great benefit to handicapped people, and

Whereas, long term training programs administered through colleges and universities have supplied a steady stream of trained personnel for both public and voluntary rehabilitation agencies, and

Whereas, short term training programs have been invaluable in the training of rehabilitation personnel for specialized activities. and

Whereas, it is recognized that the complexity involved in the delivery of rehabilitation services requires specialized, in-depth training, and

Whereas, there is a distinct possibility that the benefits of various training programs at colleges and universities will be lost if the Administration's proposal to phase out federal support of training is permitted to take effect, and

Whereas, there is an undiminished need for training of the professions to insure the effective and efficient delivery of rehabilitation services to the handicapped,

Be it resolved, that the National Rehabilitation Association (1) urges Congress to continue to support such training programs with federal appropriations not less than the 1973 fiscal year levels; (2) urges the President to reconsider his proposal to phase out SRS training programs in 1974 and to amend his budget proposal accordingly; (3) urges all organizations and individuals concerned with the rehabilitation of handicapped individuals to join the National Rehabilitation Association in its efforts to assure the continuation of federally supported training programs in the human services fields.

Be it further resolved, that the National Rehabilitation Association go on record as proposing the establishment and implementation of a well rounded program of rehabilitation training with a minimum of the following components: (1) A network of strategically located college and university training programs offering training at the graduate level to individuals preparing to work with handicapped people; (2) A system of university-based interstate training centers (at least one in each region); (3) Intrastate in-service training programs for employees at all levels; (4) Under-graduate human service training programs, the purpose of which programs will be to recruit suitable individuals into the human services field and provide them with training sufficient for the entry positions in any one of several agencies administering human service programs and for preparation for graduate education; (5) Short-term training on an interstate level in areas of special concern, concentrating upon specialized training problems which have high national rehabilitation priorities.

RESOLUTION V—STATE AND LOCAL ADMINISTRATION OF REHABILITATION SERVICES

Whereas, it appears to be the intention of this Administration to encourage in any way possible state and local administration of direct service programs with minimum federal restraints, and

Whereas, it is attempting to implement this policy through proposals to Congress for special revenue sharing and through special projects in the absence of specific legislative authority, and

Whereas, states are establishing umbrella agencies to administer human service programs and in some instances attempting to establish patterns for delivery of services which appear not to be in the best interests of handicapped individuals, and

Whereas, the distinct probability exists that the identity of rehabilitation programs and rehabilitation funding will be lost under such proposals,

Be it resolved, that the National Rehabilitation Association will use its full resources to maintain at local, state and federal levels strong and visible vocational rehabilitation programs encompassing a unified system of services at administrative levels sufficiently high to assure exposure of the programs to the highest executive and legislative levels of government and in which the fiscal and administrative integrity of the agencies are maintained, and

Be it further resolved, that the National Rehabilitation Association will continue to encourage and support cooperative programming on a voluntary basis of rehabilitation agencies and other agencies providing services that are required by handicapped individuals.

RESOLUTION XIV—SEVERELY HANDICAPPED INDIVIDUALS

Whereas, in P.L. 93–112, Congress mandated R.S.A. and the state vocational rehabilitation agencies to give priority to serving individuals with most severe handicaps, and

Whereas, the National Rehabilitation Association long has advocated legislation that will assure that every handicapped individual, without regard to severity, has the opportunity to make the most of his potential, and feels that this legislation is a step in this direction,

Be it resolved, that (1) the National Rehabilitation Association commend Congress for including emphasis on services to the severely disabled in the new legislation, and the Administration for moving promptly to develop regulations and operating policies to put their concept into action; (2) that the National Rehabilitation Association offer its assistance to RSA in the development and implementation of policies that will result in the measurement of severe disability based upon functional limitations; (3) that the National Rehabilitation Association urge Congress and the Administration to cooperate in making resources available to make the promise of the legislation a reality, which will include resources for research, training of personnel, development and improvement of rehabilitation facilities, which will be required to serve additional severely disabled individuals, and funds to pay the very high cost of services.

INTRODUCTION OF STRENGTHENED "SATURDAY NIGHT SPECIAL" HANDGUN PROHIBITION LEGISLATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. DINGELL. Mr. Speaker, last session along with my friend and colleague, Bob Casey, I introduced H.R. 3611, a bill to halt the sale in the United States of certain handguns known as "Saturday Night Specials." Today, again with the gentleman from Texas (Mr. Casey), and joined by several of our distinguished colleagues, I am introducing a new and stronger version of that bill.

I believe this legislation is a workable, moderate, and politically realistic approach. It does not impinge on the rights of law-abiding citizens to buy and use handguns for sporting and defensive purposes, and I believe it will enjoy their support.

Essentially, the bill would prohibit handgun manufacturers and importers—who all are federally licensed under existing law—from manufacturing, importing, or assembling from parts a "Saturday Night Special" for sale in the United States.

As many Members are aware, one of the principal problems in drafting any such bill is to accurately define "Saturday Night Special." People familiar with firearms know generally what is meant: crudely made, pot-metal handguns selling for as little as $10 or $15. Of poor quality and scant durability, the "Saturday Night Special" is unsuitable for sporting, target, or defensive use, but it is uniquely attractive to the criminal as a cheap, disposable weapon.

Yet the formulation of a precise definition has been difficult. One bill passed by the Senate in the 92d Congress was so loosely worded that it also would have banned many high-quality handguns purchased by honest citizens for legitimate purposes. Many people suspected—rightly—that the bill was a Trojan Horse for an attack on private handgun ownership generally, and the measure died in the House.

Another problem is to be specific enough to avoid leaving administrative officials wide discretion to decide what the law means. The way in which some city governments have stretched and twisted loose language in gun control laws to harass and discourage responsible citizens from owning firearms provides ample reason to distrust any bill that affords broad opportunities for arbitrary "reinterpretation."

The bill that I am introducing today, like my earlier bill, clearly identifies, and is confined to, "Saturday Night Specials." And it eliminates any need for unfettered discretionary powers in the hands of administering bureaucrats.

It would supersede a present hodgepodge of administrative regulations which pertain only to imported handguns, and which cannot effectively remove "Saturday Night Specials" from the market.

The bill establishes an objective standard of quality which all new handguns—no matter whether manufactured domestically or imported—must meet, or be banned from sale.

"Saturday Night Specials" would be prohibited by rating the metal from which they are made by three scientific criteria: a minimum liquidus melting temperature of 1,000 degrees Fahrenheit; a minimum ultimate tensile strength of 55,000 pounds per square inch; and—where powdered metal is used—a minimum density of 7.5 grams per cubic centimeter.

Only those handguns which meet all three criteria could be manufactured, imported, or assembled for sale in the United States.

By their very nature, "Saturday Night Specials" cannot meet these criteria. Virtually all of them are made primarily of low-strength materials—such as zinc alloy—that permit the use of die-casting and other cheap manufacturing techniques costing as little as one-twentieth as much as conventional methods using strong steel or aluminum alloys. This prime characteristic of "Saturday Night Specials" accounts for both their poor quality and their low price.

Manufacturers of high-grade handguns avoid these cheap methods and materials in the construction of major parts critical to strength and durability. In "Saturday Night Specials," however, such parts are flimsy and perilously close to the margin of safety. For this reason, a quality standard is an effective means of distinguishing "Saturday Night Specials" from handguns suitable for legitimate defensive and sporting use.

This legislative approach was received very favorably when it was first embodied in H.R. 3611. The Illinois Legislature adopted the bill as a State law, as have several local jurisdictions. Citizens across the country, including a number of engineers and other technical people, have responded by volunteering their expertise to further improve the bill, suggesting ways to broaden its coverage and make it stronger.

The new bill which I am introducing today includes many of their suggestions, and goes far beyond the original measure, which imposed a single minimum 800-degree Fahrenheit melting point criterion on handgun frames. It will apply the three minimum requirements mentioned above to each of the following major structural parts of handguns: the frame—sometimes also called the receiver, the barrel, the cylinder of a revolver, the slide of an automatic pistol, and the breechblock of any other pistol. These parts are the ones critical to strength and safety. It should be noted that smaller parts that may be assembled to these larger components are not included, since their mechanical properties often are of necessity quite different.

In this new bill, the liquidus melting temperature—that is, the point at which an alloy turns completely from a solid to a liquid—has been raised considerably above the 727-degree Fahrenheit melting point of the zinc commonly employed in "Saturday Night Specials," to provide a safe margin against metallurgical variations.

The ultimate tensile strength—the load required to actually break a bar of metal by pulling it apart—requirement was added because there are a few metals suitable for cheap diecasting which melt at temperatures higher than 1,000 degrees F. However, none of these can meet the ultimate tensile strength requirement. Alloy A–380, for example, a common aluminum diecasting alloy which could be utilized in "Saturday Night Specials," has an ultimate tensile strength of 48,000 pounds per square inch. By comparison, high-strength aluminum parts produced by costly forging and machining have an ultimate tensile strength as high as 83,000 pounds per square inch.

The third criterion—density—pertains only to the use of powdered, or sintered metal. It has come to my attention that a few "junk" handguns now are being made by this process, in which steel granules molded in the shape of a part are fused solid by high heat. A melting point criterion is inappropriate here, and superficially high tensile figures can be achieved.

However, this is deceptive, for the strength of sintered metal parts is determined by their density. For example, the auto industry uses powdered metal to fabricate automatic transmission gears; but to obtain the high density required, large presses and expensive dies must be utilized to compress the sintered part afterward under enormous pressure. "Saturday Night Special" manufacturers skip this costly operation, and produce cheap sintered parts lacking elasticity and impact resistance. Good enough for a "junk" handgun, but too brittle and unsafe for the major structural components of a quality arm.

Hence, a density level has been added to this bill to weed out "Saturday Night Specials" made of poor quality sintered parts.

Together these three requirements not only would eliminate every "Saturday Night Special" now being produced but would make circumvention extremely difficult.

I should emphasize that the provisions of this bill are easy to enforce and would take full effect 90 days after enactment without the need for further administrative approvals, promulgation of regulations, advisory committees, laboratory testing, or other redtape that has festooned many other proposals that have been circulated in the past.

And, unlike the Senate bill I mentioned earlier, this bill places the burden of compliance on those most knowledgeable and best able to obey its requirements: the manufacturers and importers. This point is extremely important, since virtually all Federal firearms law violations are classed as felonies, no matter how minor.

By cutting off "Saturday Night Specials" at their source, my bill would not subject ordinary citizens who might buy or sell a handgun in good faith to the risk of criminal prosecution for unwittingly running afoul of technical provisions—the Senate bill contained 37 technical criteria, and would have held ordinary citizens criminally responsible for failure to understand all of them.

A few words of explanation might be helpful on another point. After H.R. 3611 was introduced, I was contacted by several technical writers who had received the impression that each individual handgun produced would have to be subjected to a melting test—which of course would be ruinous to the finish and heat treatment even of high-grade firearms. That is not the case at all. This bill is best understood by comparing it to a ban on soft drinks containing cyclamates. No authority is provided—or needed—for the Secretary of the Treasury, who administers the Federal firearms laws, to require melt testing, or prior approval of each handgun. This simply is not necessary, any more than it is necessary to open each bottle of soft drink to look for cyclamates.

Rather, this bill would be enforced in very conventional fashion: if a firm is discovered to be manufacturing or importing for sale a handgun made of materials known not to meet the prescribed specifications, that firm is in trouble.

It should be understood that the liquidus melting point and the ultimate tensile strength of materials used in the construction of handguns are well known in the trade. A glance at any metallurgical manual reveals, for example, that 7071–T6 high tensile strength aluminum—which is not a die-casting alloy—would meet the requirements of this bill, while AG40A zinc alloy—which is Zamak, commonly used in "Saturday Night Specials"—would not.

Obviously, each manufacturer knows what materials he is using, and if he desires to avoid the risk of a felony conviction, he will make sure that he complies with the law's requirements, much the same as he presently complies voluntarily with the law that each handgun must be serialed, marked with his firm name, and duly entered on his records.

It has been suggested that this bill might be circumvented by the use of plastics. All available evidence indicates that to be an imaginary problem. The criteria in this bill refer to materials generally, not just metals. Both the melting point, and the tensile strength of polycarbonates and fiberglass—which are the two plastics sometimes used for nonstressed parts of certain firearms—are far too low and too weak to be used for structural components. These plastics turn to liquid well below 400 degrees Fahrenheit, and most have tensile strengths no higher than 10,000 pounds per square inch, not even close to the requirements of this bill.

In summary, manufacturers of handguns would be forced by this bill to produce only those handguns meeting a quality standard of durability and safety that make them suitable for legitimate use, or go out of business. Either way, the "Saturday Night Special" will be driven off the market.

Let me say at this point that I have no objection to low-priced handguns as such. I do not believe that firearms ownership ought to be reserved for the affluent. A citizen of ordinary means, if he is responsible and law abiding, has just as much right to buy and own a handgun for lawful purposes at a price he can afford as a rich man does. Manufacturers ought to be able to meet such legitimate demand through a full spectrum of price.

The reason that I am proposing to treat "Saturday Night Specials" differently from other handguns is not the price, but the fact that the very nature of "junk" handguns precludes much legitimate use.

The appeal of the "Saturday Night Special" to the criminal element is that it is cheap and expendable. It is a "throwaway" gun. It can be bought for a pittance—which is a prime consideration to somebody who needs a gun for a stickup—and it can be discarded without hesitation if the need arises. Quality is not important—what the criminal really needs is an instrument of coercion—a threat.

The "junk" handgun fills that bill, and has little other usefulness.

As the H. P. White Laboratory tests commissioned several years ago by the U.S. Treasury Department demonstrated, some of these guns are defective when new, and many break within the first few dozen rounds. Significantly, many of these "Saturday Night Specials" suffered failures from fracture of one of the major structural parts.

It is a plain fact of economic life that quality costs money. It is no accident that a good quality handgun—not a "Saturday Night Special"—today costs between $50 and $100, and many of the most popular models are priced in the $100 to $200 range.

A prohibition on the manufacture, importation, or assembly of "junk" handguns would mean that many casual buyers—particularly those with criminal intentions who want a "throwaway" gun—will be unwilling or unable to make the substantially greater investment necessary for a quality arm.

In introducing this bill, I do not mean to suggest that criminals are able to walk into a gun shop and buy a firearm legally the way an honest citizen can. That is just not true.

The Gun Control Act of 1968 already prohibits the sale of handguns to a person under 21, or to a person outside the State of his residence. It also prohibits the sale of any kind of firearm to a person convicted of—or even under indictment for—a felony; as well as to any person who is a fugitive from justice; an unlawful user of narcotics or of any depressant or stimulant drug—including, I might add, marihuana; or to any person who has been committed to any mental institution.

These are very stringent restrictions, backed up by penalties of 5 years in prison or $5,000 fine or both, and they apply to "Saturday Night Specials" the same as any other firearm. To the extent, however, that "junk" handguns change hands in illegal channels—often to youthful purchasers at giveaway prices—they would be cut off at their source by this legislation.

The cosponsors of the new "Saturday Night Special" bill are as follows:

Mr. Dingell, Mr. Casey, Mr. Brown of California, Mr. Young of Illinois, Mr. Boland, Mr. Young of Georgia, Mr. Mazzoli, Mr. Stark, Mr. de Lugo, Mr. Huber.

Mr. Fraser, Mr. Forsythe, Mr. Dent, Mr. Karth, Mr. Thompson of New Jersey, Mr. Broyhill of Virginia, Mr. Dulski, Mr. Badillo, Mr. Derwinski. Mr. Ashley, Mr. Bingham.

Mr. Roybal, Mr. Wolff, Mr. Moakley, Ms. Holtzman, Mr. Whitehurst, Mr. Foley, Mr. Ware, Mr. Thone, Mr. Vander Jagt, Mr. Studds.

The text of the bill is as follows:

H.R. 12554

A bill to prohibit the sale of "Saturday Night Special" handguns in the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 921(a) of title 18 of the United States Code is amended by inserting after paragraph (20) the following:

"(21) The term 'handgun' means a firearm designed to be held and fired by the use of a single hand. The term also includes a combination of parts in the possession or under the control of a person from which a handgun can be assembled. The term does not include antique firearms, or any firearm which comes within the definition set forth in section 5845(a) of the Internal Revenue Code of 1954.

"(22) The term 'basic structural component' means any or all of the following single parts (including a permanent assembly forming such single part) of a handgun; frame, barrel, cylinder, slide, and breechblock."

SEC. 2. Section 922 of title 18 of the United States Code is amended by adding at the end thereof the following:

"(n) It shall be unlawful for a licensed manufacturer or licensed importer to manufacture, assemble, or import, for the purpose of sale in the United States, any handgun, knowing or having reasonable cause to believe the basic structural components thereof are made (1) of any material having a melting point (liquidus) of less than 1000 degrees Fahrenheit, or (2) of any material having an ultimate tensile strength of less than 55,000 pounds per square inch, or (3) of any powdered metal having a density of less than 7.5 grams per cubic centimeter."

SEC. 3. Section 925(d) of title 18 of the United States Code is amended

(1) by striking out "or" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4), and inserting "; or" in lieu thereof; and

(3) by inserting immediately after paragraph (4) but before the final sentence the following new paragraph:

"(5) is a handgun which is not prohibited from being manufactured, imported, or assembled for sale in the United States by Section 922(n) of this chapter."

SEC. 4. The amendments made by this act shall take effect on and after the ninetieth day after the date of its enactment.

REPRESENTATIVE BINGHAM INTRODUCES OIL PRICE ROLLBACK BILL

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BINGHAM. Mr. Speaker, energy costs are rising at such a rapid rate that Americans will be paying an extra $20 billion into the corporate coffers of the oil and gas industry this year. Americans can expect to receive fuel bills 25 percent higher in 1974 than in 1973, unless the Congress acts.

The administration's handling of the fuel price crisis is a total failure. The energy market is in chaos. Prices demanded by fuel suppliers have lost all touch with reality.

Residual fuel oil, needed by electric generating stations, now costs 34 cents a gallon—a fourfold increase in less than a year. In places where unfulfilled demand has created a black market, prices have reached 60 cents a gallon. Heating oil, which cost 12 cents a gallon last October, now costs more than 50 cents a gallon—a fourfold increase in less than 3 months. A year ago a ton of coal cost $25, today that same ton sells for $35. Thanks to an industry dominated Federal Power Commission, the cost of natural gas has gone up from 20 cents for a thousand cubic feet, to 55 cents. When the administration supports requests for increased fuel prices, as it did in the controversial natural gas case and resulting in the unprecedented 55 cent price, it is totally demagogic for the President to promise the American people an end to inflation and guarantee that he will avert a recession.

The administration's "the public be damned" attitude countenancing higher fuel prices is having staggering effects on the Nation's economy. For example, the U.S. chemical industry spends over $1 billion a year for energy and the steel industry $1.3 billion. Doubling the prices these essential industries must pay for fuel will most certainly show up in the cost of the goods sold to the consuming public. The cement industry, as vital to the economy as any, reports that 43 percent of the cost of making cement is fuel-cost related. Projected increases in the price of cement, just from higher fuel costs, are pegged at some $400 million in 1974, costs which the consumer will bear—in higher prices for homes, or in increased taxes to fund public works projects.

The outrageous price increases imposed by the energy industry will have a rippling effect through the entire U.S. economy that truly staggers the imagination. Even the Nixon administration's energy czar realizes the need to get hold of runaway prices for imported crude, yet for unexplained reasons refuses to accept the fact that domestic crude oil prices are climbing as rapidly.

The Cost of Living Council's Energy Division is charged with the responsibility of holding the line on energy costs in the United States. Unfortunately, it has failed in its responsibility, refusing to use the power given it by the Congress under the provisions of the 1970 Economic Stabilization Act to fight inflation. In fact, since the beginning of November, while the CLC stood idly by, the wholesale price index for refined petroleum products has jumped an astounding 60.9 percent. For all of 1973, crude oil prices on the wholesale level rose by 27.5 percent, while refined petroleum prices jumped an unbelievable 125 percent.

Since the beginning of 1973 the price of so-called "old" or price-controlled crude oil has risen $1.75 per barrel from $3.50 to $5.25, thereby guaranteeing the oil industry an extra $3 billion in revenues without any assurance of increased domestic production. Likewise, the price of so-called "new" or decontrolled domestic crude oil has more than tripled during the same period, to the current astronomical level of $10 per barrel. This would result in an additional $6.5 billion in revenues for the oil industry, again without the slightest assurance that the consuming public would receive a deserved quid pro quo in the form of increased energy inventories.

Despite the fact that the real cost of producing domestic petroleum has increased only slightly since the oil embargo began, the cost of new petroleum has risen $5.75 per barrel and old crude has risen $1 per barrel.

I see no justification for these extravagant "gifts" for the benefit of the oil industry. These unjustified price increases are exacting billions of otherwise needed dollars from the public, resulting in unconscionable windfall profits for the oil industry, and bestowing no benefit upon the consumer in the form of expanded petroleum supplies.

The American people have a right to demand a responsible energy policy which includes economic safeguards. Therefore, I am introducing legislation to freeze and then roll back the price of domestic crude oil to pre-November 1973 levels. This bill draws heavily on legislation proposed in the Senate by Senator **MONDALE**.

Upon enactment, my bill would immediately place in effect a 30-day freeze on the price of domestic crude oil. At the expiration of this period the price of all—old and new—crude oil extracted from U.S. wells would be rolled back to the level in effect on November 1, 1973. In addition, the legislation would require that all petroleum sales at the refinery level, or petroleum product sales at the wholesale level, be made at a price based on the average of domestic and foreign crude oil prices.

This would directly benefit New York City because the required price averaging of foreign and domestic crude oil would substantially reduce the price New Yorkers pay for fuel. Our city relies heavily on imported crude oil, so the mandatory price averaging of foreign and domestic crude would force the oil industry to spread the cost of foreign crude equitably throughout the United States, and not just on the east and west coasts. Coop-City, for example, which now faces a 30-percent increase in their electric bills, would receive substantial relief under my proposal. So too, would the motorist seeking a fill-up at his neighborhood gas station.

This legislation would also aid in the preservation of a competitive oil industry because it would eliminate a discriminatory sales practice adhered to by the major oil companies. At present, the integrated oil companies—those with both domestic and foreign crude oil sources—only sell higher priced foreign crude oil or products made from foreign crude to independent refiners or marketers. This results in a competitive disadvantage for the "independents", since they must pay top dollar for supplies while they in turn must price their products competitively as compared to lower cost domestic crude sold by the major oil companies to the consumer. My bill would preserve the competitive position of the independents by requiring the major oil companies to take the average cost of domestic and foreign crude to determine the price they may charge the independents.

I estimate that this legislation would result in a savings for the American consumer of some $7 billion.

The time has come for Congress to take the lead in promoting responsible, practical and necessary measures designed to alleviate the inconvenience and suffering caused by the energy crunch. We must fill the void left by the executive branch which has abdicated its responsibility to the people in favor of high profits for big business in this country.

My proposal is not a punitive measure designed to render the oil industry impotent. There would still be sufficient profits reaped from sales to encourage the amount of exploration necessary to satisfy America's growing energy demands. What this legislation accomplishes, however, is a simple reduction of the outrageous windfall profits reaped by the industry, by returning this money to the consumer in the form of lower prices. At the same time this bill would provide interim relief from overburdensome fuel costs engendered by the world energy situation and force the big oil companies to follow a responsible pricing policy, until permanent reforms in the industry are effected. I urge that this legislation receive top priority consideration in the weeks ahead.

JACK KEMP CALLS FOR INCREASED FEDERAL-STATE-LOCAL COOPERATION IN MAINTAINING OUR COMMITMENT TO RESTORE THE GREAT LAKES AND OUR ENVIRONMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. KEMP. Mr. Speaker, I had the pleasure and honor this morning to address the opening session of the prestigious Association of Towns of the State of New York on the important subject of maintaining our Nation's commitment to restoring the quality of our environment.

To those who fear that our Nation may be relaxing our commitment to control pollution, I can assure you from the opinions which I received this morning from the 3,000 plus town officers and concerned citizens attending that session that nothing could be further from the truth. The resolve of our people on all levels—Federal, State and local—to meet the objectives embodied in recently enacted statutes could never be stronger.

What we are seeing, instead, is a shift in the visible aspects of that national commitment, away from the Congress and bill-related activity to the actual implementation of the far-reaching statutes which have been enacted over the past several years. We have moved from enactment to implementation, and just because that receives less press attention, we should never think that we have lessened our commitment. This fact must also be coupled with an understanding that other national priorities, such as alleviating the energy shortages, have moved to the center of the stage. And, even though there has not been full funding for the States, we are still spending funds for treatment work construction at a rate four times greater than the period before 1971.

Mr. Speaker, there are a few problem areas, and I addressed those in my remarks.

We must strengthen our resolve to clean up the Great Lakes, and this can be done without infringing in any way on the priorities among States not bordering the Great Lakes and without infringing on towns—which are not located along the lakes—in border States. This will require a separate funding source and I am committed to the authorization and appropriation of same, as well as full funding of the fiscal year 1973 authorization for fiscal 1975 and I am joined by many other Members in feeling this way.

We must also insure that the legitimate complaints at the State and local level, public and private sector, in their capacities to reach the goals and objectives of our far-reaching statutes are given full weight. The hearings now underway before the House Committee on Public Works provide such a vehicle for those expressions, and I have called upon those at the New York meeting to use that forum to express their concerns to Congress.

Mr. Speaker, at this point, I wish to include the full text of my remarks. They follow:

REMARKS OF REPRESENTATIVE JACK KEMP

The year, 1973, will be known for what did *not* happen in the Congress on major pollution control legislation. Compared to prior Sessions, bill-related activity in this subject area was minimal. For the first time in years, end-of-Session wrap-ups did not even *mention* pollution control measures—water, air, or solid wastes.

The year *will* be known, however, for what happened among the States and local governments in making strides toward *implementing* the important measures passed during the prior Congress. The Nation's commitment to restoring the environment has shifted, in the activist sense, from the enactment of legislation to its implementation. This is important to apprehend, for some have already begun to assert that there has been an abandonment of the Federal Government's commitment—minimally, a relaxation of that commitment. I think this is wrong. We should all, at every level of government, seek to disspell such a notion. Why?

First, it is not only natural but important, after the enactment of far-reaching statutes, to get down to ironing out the problem areas and working out any inconsistencies, to the extent possible through regulations instead of amendments; to seeing whether we have imposed unrealistic requirements on State and local governments and the private sector; and, to see if we have the technical and administrative abilities to realize the substantive objectives and goals embodied in enacted legislation.

Secondly, because of the immediacy of beginning to solve other national priorities, such as overcoming the energy shortages, pollution control has moved somewhat from the center of the stage. If we are to deal adequately with all our national concerns, this is both understandable and necessary, but it must remain our high priority.

Let me discuss with you what I think are three critically important matters facing us: a balancing of consideration given to environmental and economic impacts, the recent refusals to allocate fully the treatment work construction funds, and a potential waffling of our commitment to clean up the Great Lakes.

ENVIRONMENTAL-ECONOMIC BALANCING

There is a growing public pressure, manifesting itself more strongly every day in the mail received by Members of Congress, to balance wholly environmental criteria with other considerations, principally potential economic impacts, both as to general policy and as to specific projects. This question has yet to be fully debated, and I can forecast no final resolution here today. But, I *do* believe you will see rising support for a statutory requirement for Economic Impact Statements to be prepared in addition to the Environmental Impact Statements required by section 102(2) (C) of the National Environmental Policy Act.

REFUSALS TO ALLOCATE FUNDS

Despite the refusals to permit the full allocations of allotments of grant funds for treatment facility construction to the States, including the most recent refusal to allow full allocation of FY 75 funds, the Federal dollar commitment to such works since 1971 remains at a rate four times the appropriations of the previous 15 years.

But, while we are spending more, much more, than ever before, I see no reason to aquiesce in these continued holdbacks of allocations.

As you may be aware, the U.S. Court of Appeals for the District of Columbia Circuit held on January 24th that the refusals to allocate treatment facility funds were illegal. The government has not yet announced its decision on whether it will appeal this decision to the U.S. Supreme Court. In light of the dollars involved, I would not be surprised if they did appeal it. At this point, it looks like good odds to bet on an appeal. And, inasmuch as the Court decision related specifically and only to the allocation of funds, it is conceivable that even if the Administration allowed the decision to stand, unappealed, they would then impound the actual outlay of dollars. This idiosyncrasy of the Federal Water Pollution Control Act—of allocation and outlay at separate stages—lends itself to such a maneuver.

This is of no small matter for the towns of New York State. If the full allocation were made in fiscal year 1975, the State of New York would receive an allocation of $873,200,000. As a result of the announced allocation of $4 billion instead of $7 billion nationally, the State of New York would receive an allocation of $490,654,200. Cautious planning as to projections on allocations had, as we all know, permitted forecasting of available funds for priority projects in our State, based on an expectation of only $490,654,200 for New York, thereby not creating any expectations which could not be fulfilled, i.e., we expected only the $490+ million.

If the full allocation for FY75 is allowed, many towns not on the FY75 funding list will be encompassed by the expanded allocation amount.

COMMITMENT ON CLEAN UP OF THE GREAT LAKES

Because it is of great importance to the State of New York, particularly as to Lake Erie and Lake Ontario, I wish to speak a minute about the clean up of the Great Lakes.

Two significant events, both on the negative side, have recently occurred, both of which raise concern among many that the U.S. may be reneging on its commitment to help clean up the Great Lakes. First, the new allocation formula law, Public Law 93-243, provides that hereafter the EPA Administrator shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works any water pollution control agreement which may have been entered into between the United States and any other Nation and shall not consider any such agreement in the approval of any such priority ranking. Second, the refusal to allocate all funds for fiscal year 1975 does impact upon planned treatment facilities along the Great Lakes. These actions have occasioned the Canadian Government to informally protest, charging that the U.S. is abandoning its treaty obligations with Canada. A State can still take these agreements into consideration, but it is not required to so do. New York is, in my opinion, to be commended for its leadership in cleaning up the Great Lakes.

I can understand why the States ought not to be required to include criteria in formula, which criteria were completely out of their hands, often producing hardships for other parts of the State. But, that does not mean that we have to abandon our commitment at the same time; rather, we should find another way of honoring these treaty obligations.

I call upon the President to consider immediately submitting to the Congress a proposal for new legislation which would provide a second source of funds to meet our treaty obligations. It is only fair that these treaty obligations of the Federal Government be met with funds other than those provided to the States under the basic Act. To do otherwise is to place an undue burden on border States. If the President does not come forth with such new legislation, I think it is incumbent upon the Congressional Delegations from the border States, and all others who share our concerns, to move forward without waiting further for the Administration to move. We need to clean up the Great Lakes now.

Let me discuss with you in more detail, first, what *is* being done this year in the Congress on pollution control, and secondly, the nature of the impact which I sense the Congress needs from you on the magnitude and type of problems you are experiencing in the administration of pollution control programs.

POLLUTION CONTROL AND THE 93D CONGRESS

There have been four developments within the 93d Congress to date in this subject area which are, I believe, worthy of mention:

The enactment of the allocation formula for fiscal year 1975 funds;

The pending enactment of the Safe Drinking Water Act;

The proposed reorganization of the House Committees having jurisdiction over various pollution control programs; and,

The oversight hearings presently underway before the House Committee on Public Works.

PUBLIC LAW 93-243: ALLOCATION FORMULA

On January 2, 1974, the President signed into law Public Law 93-243, an act providing for the allocation formula for fiscal year 1975 funds for grants for the construction of treatment works under the Federal Water Pollution Control Act, as amended. In no instance is a State to receive an allotment less than that which it received for fiscal year 1972.

The preliminary detailed estimate of needs for funds for treatment works must be submitted by the Administrator to the Congress no later than September 3, 1974. Inasmuch as this needs study is based upon information obtained through the States, it is of great importance that the State of New York proceed at full speed. I realize this is a difficult task, one about which there has been much complaining at the State and local levels, but the State should never jeopardize its allocation by not meeting the deadlines required for this September 3 study. What you have been asked to do is to deal with the hard questions of competing types of needs for pollution control facilities, variations on available technologies for varying situations, competing geographical needs, land use planning, and, let us be candid, the political ramifications emanating from all other considerations. And, all of this is complicated by the disciplines which comprise this search: economics, engineering, ecology, biology, and law. The planning requirements of the basic Act, principally sections 201, 208, 209, and 303, have established the primary responsibility in planning by placing the burdens on the State and local governments. (I commend to your attention an article, "Legislative Goals and Constraints for Water Quality Planning," by Lester Edelman, Counsel of the House Committee on Public Works, and in the Potomac: Water Quality Planning, published by the Interstate Commerce Commission on the Potomac River Basin.)

It should be noted that this new law, P.L. 93-243, amends the basic Act to insure that grants may be given for other than operable units by the Administrator and to clarify the requirements for the development of priorities. With the new glosses placed upon the basic Act by these amendments, nothing in the act shall now be construed to require, or to authorize the EPA Administrator to require, the grants thereunder for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction. And, as I have already stated, the Act also requires that the EPA Administrator shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works any water pollution control agreement which may have been entered into between the United States and any other nation and shall not consider any such agreement in the approval of any such priority ranking.

SAFE DRINKING WATER ACT

One of the Administration's environmental proposals for 1973 was the establishment of standards—national standards—for safe drinking water. The Senate passed this measure, S. 433, on June 22 of last year; the House passed its version, H.R. 9726, on January 21, 1974; the matter now awaits resolution by the Committee on Conference.

Briefly, the bill, as reflected through its House version, establishes a program to regulate public drinking water, supervised by EPA and enforced primarily by the States. The bill also provides that EPA establish Federal and State programs to protect underground sources of water and for grants to assist with surveillance and enforcement of quality protection programs.

It requires the EPA Administrator to publish proposed primary public drinking water regulations within 90 days after enactment. These regulations will specify contaminants which may have an adverse effect on health, their maximum allowable levels in drinking water to insure public health, and measures which should be observed by States to assure compliance with these levels. Although States will regain primary enforcement responsibility, the EPA Administrator is given enforcement authority in cases where States fail to insure compliance with *primary* drinking water regulations. He can undertake enforcement through orders; violators can be fined up to $5,000 and made subject to court action.

The bill requires a study within two years by the National Academy of Sciences to determine how free of contaminants drinking water must be to protect public health and requires the Administrator to revise regulations on the basis of the NAS report when it appears. He is also directed to promulgate secondary drinking water standards dealing basically with esthetics, i.e., taste, color, appearance. Secondary standards will not be enforceable by the Federal Government; however, State compliance will be requested.

Authorization levels contained in the House-passed version are $5 million in FY 75 and $7.5 million in FY76 for grants to States for water quality supervision programs; $5.0 million in FY75 and $7.5 billion in FY76 for grants to States for underground water source protection programs; $15 million in FY74, $25 million in FY75, and $35 million in FY76 for research grants; $7.5 million in FY74, $7.5 million in FY75, and $10 million in FY76 for special studies and demonstration projects; and, $1 million in FY74, $2 million in FY75, and $1 million in FY76 for rural water survey.

This legislation, once ironed out by the Committee on Conference should become law this month.

PROPOSED REORGANIZATION

The House Select Committee on Committees has completed its preliminary draft of a major restructuring of the legislative jurisdictions of the House standing committees. Needless to say, when one proposes moving one category of legislation from one committee to another, thereby affecting positions of strength, expertise, and seniority—as well as the constituencies which have had normalized relations with the committees as they now stand—such a proposed reorganization is highly controversial. That notwithstanding, the Select Committee's recommendations are moving forward.

As a part of the proposed reorganization, a new Committee on Energy and Environment would be established, with full legislative authority. Into this new Committee would be placed *all* legislative authority, other than appropriations, on air, water, and solid waste pollution control. The new Committee would consist of all the jurisdiction from the current Committee on Interior and Insular Affairs, and would add to it some authorities of the Committees on Interstate and Foreign Commerce and Public Works.

The Select Committee is considering the final draft of the proposal in open mark-up sessions this very week. The Committee chairman has indicated that he hopes to report the proposal, obtain a Rule, and have it to the Floor for consideration by the Easter Recess.

I think it is important to note that unheralded action, such as this, does reflect the capacity of an enlightened Congress to act constructively in meeting the Nation's changing priorities.

OVERSIGHT HEARINGS

The House Committee on Public Works has commenced oversight hearings on the Federal Water Pollution Control Act, as amended. These hearings are beginning to focus on the specific problem areas associated with the 1972 amendments embodied in Public Law 92-500.

I would be less than frank, if I did not state that there is growing concern that there may be too much to be done and too little time within which to do it—on all levels: Federal, interstate, State, and local.

The Congress has seldom voiced a determination to solve a national problem as strongly as it did in the enactment of the 1972 Amendments to the Federal Water Pollution Control Act. Teeth were put into enforcement provisions; authorizations for appropriations were set at the highest levels attainable; restatements of priorities and policies were etched into the legislative intent. Only a relatively brief period of time has passed since the enactment of those Amendments, but it has been enough time to see in better perspective the contrast between the ideals set forth through the objectives and goals embodied in those Amendments and the very blunt realities of being able to attain them. It is a common technique in law to set goals at a level which, though not attainable, is at least attainable in greater measure because the community strove harder to reach a higher goal. But, we must be ever mindful that nothing is more frustrating, giving rise to lack of credibility in government, to set goals so high that a failure to reach them ushers in either apathy or frustration. This may very well be a problem as the States and local governments strive towards holding up their responsibilities. And, we must make sure—very sure—that a failure to meet adequately all the goals cannot be interpreted as a failure of State or local government by those who really do want a total replacement of State and local responsibilities by Federal machinery.

One of the most important tasks you can assign to yourself this year, whether it is through testimony before the Committee on Public Works or other expressions to both elected and appointed officials at all levels, is to communicate rapidly and fully all of your complaints about the new Amendments and the burdens they place upon you on a State and local level, what remedial action you think is prudent, and what role the enactment of new amendments, if any, might play in obtaining a more proper balance between the ideal and the real, between involving State and local governments fully but not on schedules which are impossible to meet. Do not do what has oft been done in the past—hold your frustrations to yourselves. Congress is not going to know what ought to be done, unless it has full knowledge of the problems you are experiencing. Pollution control has been a hallmark of intergovernmental cooperation; that will survive only if every level of government feels it has meaningful input and impact as to what is being done and ought to be done. For the States and local governments to be relegated to little more than an administrative, functionary role, under the guise of being a full partner, is to accomplish nothing.

Take the opportunity of these oversight hearings and the entire aura of reexamination now pervading this subject area to make the voice of the people at your levels of government felt most strongly.

CASTRO STILL EXPORTS REVOLUTION DESPITE NEW DÉTENTE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. RARICK. Mr. Speaker, the arrogance of those who control the Nation's press never ceases to be amazing. The dust had barely settled on the great Middle East crisis before the local Washington news media began beating its drums for normalization of diplomatic relations between our Government and Castro's Cuba.

Even the Washington Star-News, which apologetically calls itself the more conservative of the papers in our Nation's Capital, has editorialized—

> The updating of American policy does not require fondness toward a still-hostile Castro and his totalitarian regime—a test we do not apply in dealing with many other unpleasant governments. A recognition of realities, 15 years after the fall of Batista and 11 years after the missile crisis, calls for an end of the economic boycott and talks leading to diplomatic relations.

And true to the new timetable for change, Soviet party leader Brezhnev is now being pictured as the Soviet version of Henry Kissinger on his latest peace move. Chairman Brezhnev is expected here in Washington to confer with Dr. Kissinger, reportedly in the interests of gaining U.S. favor for Castro. Castro's activities in exporting communism and revolution are now being given low profile in expectation of the latest détente.

Interestingly enough, this rising feeling of détente with Cuba coincides with hearings to be held by the House Committee on Agriculture to extend the Sugar Act. An effort by the State Department's détente crowd to reinstate the sugar quota for Cuba may be expected. Howard Flieger in the February 11 issue of U.S. News & World Report pointed out the seriousness of this action to our other Latin American neighbors:

> What about the "Cuban sugar quota"? This was Cuba's share of the U.S. sugar market, and would amount to more than 200 million dollars a year at today's prices. Since Castro, the quota has been spread among 30 other sugar-producing nations. The U.S. is inviting trouble with friends if it takes those sugar allotments away from present suppliers and gives them back to Cuba.

Seemingly unnewsworthy is last month's Communist uprising in Mexico. Also given little attention was the state of siege declared by the President of Bolivia to counter an offensive organized by a Bolivian later exiled in Cuba.

Also overlooked in the present fury to discredit the new Government of Chile has been the factual background of what precipitated Allende's police state, which provoked the Chileans into action. Seldom mentioned was the Cuban role in the Chilean socialist experiment including the fact that Salvador Allende's son-in-law, Luis Fernández Oña, was Chief of Secret Police of Cuba, who was sent to Chile by Fidel Castro, after Allende's election in 1970.

If there has been any mellowing, it has not been by Castro or his exportation of violence to overthrow his neighboring countries in central and South America.

Or can this latest public opinion molding exercise be another of the American prices for Dr. Kissinger's successful détente in the Middle East?

I ask that related news clippings follow:

[From the Washington Star-News, Jan. 29, 1974]

"Siege" in Bolivia

La Paz.—President Hugo Banzer has imposed a state of siege in Bolivia to combat what he calls an attempt by foreign guerrillas to set up bases in his country for attacks against other South American nations.

Political sources said authorities made numerous roundups of suspected subversives throughout yesterday. Banzer's announcement that constitutional Rights would be suspended was made in a broadcast last night.

At the time of the broadcast, an estimated 10,000 peasants were blocking the three roads between agricultural areas in southern and eastern Bolivia and towns in the highlands. They were protesting Banzer's recent order increasing basic food prices which he said was to halt smuggling of food to nearby countries, where prices were higher.

Interior Minister Walter Castro, who followed Banzer to the microphone, claimed that three subversive movements, including two directed from outside the country, were gravely threatening the political and social stability of Bolivia.

He said extremists plotted during a recent meeting in France to set up headquarters in Bolivia for both urban and rural subversion across the continent.

Officials government sources claimed that former Bolivian cabinet minister Antonio Arguedas, who has been in exile in Cuba, is organizing the guerrilla offensive.

[From the Washington Star-News, Jan. 24, 1974]

Mexican Violence

Culiacan, Mexico.—A policeman was abducted, tortured and slain yesterday in the aftermath of student violence near this rural town in northwest Mexico.

Police announced the arrests of nine Communist youths charged with participating in farmland invasions a week ago that resulted in four shooting deaths and widespread damage.

The body of officer Jesus Zavala Rocha, 45, was found in a school building here. Authorities said he had been burned, slashed, beaten and riddled with bullets.

Police said they received threats of further violence.

The arrested youths were identified as members of the 23rd of September Communist League that authorities say led a student invasion of farms to form a "people's army" of peasants.

The raids coincided with the kidnaping of a wealthy rancher in Mazatlan, just south of here. Authorities have not pinned that abduction on the Communist League but blame the group for previous kidnapings, robberies and bombings throughout the country.

Three Years of Destruction

(Published by the Chilean Printer's Association)

(Note.—Illustrations, mentioned in the following article, are not shown in the Congressional Record reprint.)

The three illustrations on these two pages speak for themselves. In the upper one Salvador Allende appears as he practices with a heavy machine gun under the supervision of his son-in-law, Luis Fernández Oña, who was sent to Chile from Cuba by Fidel Castro as soon as it became known that Allende had obtained the first majority at the polls in 1970. Previously, Fernández Oña was Chief of Secret Police of Cuba.

The lower illustration is another of Allende watching Eduardo Paredes—a doctor of medicina, ex-Director of the local Bureau of Investigation and a Socialist-Mirist militant (MIR being an extreme-left movement) practising with a Soviet-made automatic weapon. Fernández Oña also appears on this page as he watches his wife Isabel Allende—the President's daughter performing on the shooting range. In the background—Salvador Allende himself.

Whilst all this was going on at Cañaveral—the abode of the President's "private secretary"—Allende was accusing the Right Wing Opposition and the Fascists (sic) of accumulating weapons and of having clandestine military training camps all over the country. Thus, supposedly, he thought he could deceive those who know only too well that if any were preparing to unleash civil war, which would have meant an incalculable number of deaths, it was the Marxists themselves.

[From the Washington Post, Jan. 27, 1974]

Brezhnev To Begin Cuba Visit

(By Robert G. Kaiser)

Moscow, January 26.—Soviet Communist Party leader Leonid Brezhnev is to arrive in Havana Monday on a visit expected to mark the official conclusion to a rocky period in Soviet-Cuban relations.

As usual before Brezhnev's trips abroad, the press here has blossomed with reports on Cuba and Soviet-Cuban relations. Prime Minister Fidel Castro's government has been applauded as a full member of the socialist community since it joined Comecon, the East European economic bloc, last year. That was the de facto end of the latest period of troubled relations.

The press contains no hint of ideological discord between Moscow and Cuba, although sources here indicate that the two still disagree about how best to bring socialism to Latin America. For several years, the Soviets have tried—with some success—to moderate Castro's line, insisting that he should not export armed revolution.

But the military coup in Chile is thought to have bolstered the argument that there is no peaceful road to socialism in South America.

Rumors in Moscow suggest that Brezhnev and Castro may convene a meeting of Latin American Communists during the Soviet leader's visit, which is expected to last about a week.

Brezhnev's visit, his first to Cuba, was originally scheduled to coincide with the 15th anniversary of the Cuban revolution, celebrated earlier this month.

Some Western diplomats here speculated that Brezhnev did not want to be in the audience when Castro lambasted the United States in his anniversary address. Soviet sources, however, suggest that Brezhnev simply did not want to diminish the impact of his visit by sharing the spotlight with the anniversary celebration.

Premier Alexei Kosygin was the last major Soviet leader to visit Cuba, in 1971. Since then, Castro has implemented numerous Soviet demands for rationalization of the economy.

Cuba remains an enormous financial drain on the Soviet Union. Western diplomats estimate that the Soviets provide Cuba with 30 to 35 million barrels of oil a year, the tankers making the long return trip to Soviet ports empty.

The Cubans provide sugar in return for the massive aid. In recent years, Castro has been unable to meet promised levels of sugar deliveries, forcing the Soviets to make big purchases on the world market. However, this situation seems to have improved in 1973.

There are hundreds of Soviet technical experts in Cuba, many providing advice in the fishing and sugar industries, and aid will undoubtedly be an important topic on the agenda of Brezhnev's talks with Castro.

This is the first round of intensive summit diplomacy Brezhnev plans for the months ahead. French President Georges Pompidou is to visit the Soviet Union in late February, and West German Chancellor Willy Brandt is expected soon afterward. The Soviets apparently still hope for a visit from President Nixon—or "the president of the United States," as Soviet leaders are now saying in public statements—before the autumn.

[From U.S. News & World Report, Feb. 11, 1974]

Castro—Who Needs Him?

(By Howard Flieger)

As happens periodically, hints are surfacing in roundabout fashion that Cuba's Fidel Castro wants to get in the good graces of the U.S. Government and business.

There is talk of his willingness to resume "normal relations"—if the United States will lift its embargo of Cuba and generally warm up the atmosphere between this country and the Communist dictatorship that is starting its 16th year of power in Havana.

The recent arrival in Cuba of the Soviet leader, Leonid Brezhnev—who sent a friendly message to President Nixon en route to visit Castro—heightened suggestions that the U.S. should thaw out its Cuba policy.

One argument made is that, since the U.S. is now on better terms with the Soviet Union and with Communist China, it is a political non sequitur to be so hard-nosed about Castro.

Another is that some hemisphere nations want increased trade with Cuba and that American-owned subsidiaries in those countries should be permitted to get in on the business. They can't under the embargo.

But, let's not be too hasty. More is involved than the fact that Communism is entrenched within 100 miles of the U.S. coast.

There are important things that must be weighed before Castro is welcomed into the embrace of the United States—very practical things. For example:

What does Castro intend to do about the 2 or 3 billion dollars' worth of American-owned property he stole—yes, stole—when he and his little band of conspirators seized power in Cuba? Not one cent of compensation has ever been paid. None of the property has been returned to its rightful owners.

Most of it has gone to ruin under his mismangement. It now is worth only a fraction of what it once was—but that doesn't mean American owners haven't suffered tremendous losses at the hands of Castro without any sign he's ever given them the slightest thought.

What about the "Cuban sugar quota"? This was Cuba's share of the U.S. sugar market, and it would amount to more than 200 million dollars a year at today's prices. Since Castro, the quota has been spread among 30 other sugar-producing nations. The U.S. will invite trouble with friends if it takes those sugar allotments away from present suppliers and gives them back to Cuba.

What about the thousands of refugees who have found safety in the United States? Among them are some of the finest citizens of Cuba—people who gave up everything to flee from Castro. They still are Cubans. Most cling to a hope of returning someday to their native land. But they will abandon that hope in despair if Castro's dictatorship gets Washington's seal of approval.

What about anti-American subversion? Castro hasn't had much luck spreading it among his neighbors, true, but he's dedicated to that goal. He wants to get "Yankee go home" foment boiling all through this hemisphere, by fair means or foul.

Added up, Fidel Castro still doesn't strike one as the sort of person the U.S. ought to forgive and offer a helping hand.

In practical terms there is also this: Soviet Russia is keeping Castro afloat—and it is costing the Kremlin 1.5 million dollars every day of the year.

That's a lot of money. The Russians would like nothing better than for the U.S. to pick up part—or all—of that tab for maintaining a Communist Cuba.

Castro is the longest-lived failure in today's world. If ever there was a vivid display of how his brand of Communism ruins a good thing, it is on exhibition right there in Cuba.

To be realistic: Castro needs the U.S. a lot more than the U.S. needs Castro.

Let him wait 'til Havana freezes over.

EXPORT-IMPORT BANK AID TO THE SOVIET UNION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. CRANE. Mr. Speaker, the pursuit of "détente" policies which involve one-sided concessions by the United States and no similar concessions by the Soviet Union appears to be continuing.

On January 28, about 400 parents, wives and children of Americans still missing in Vietnam crowded into the Senate Foreign Relations Committee hearing room and complained about a lack of response from our own Government concerning their tragic plight.

B. C. Mills, a director of the League of Families, proposed a three-point plan: A worldwide campaign to focus attention on the issue; a refusal to grant any reconstruction aid to Hanoi until the information is provided, and a ban on better tariff treatment for the Soviet Union unless Moscow puts pressure on the North Vietnamese.

Frank A. Sieverts, the State Department prisoner specialist, said that he had reservations about denying the Soviet

Union trade concessions, even if it did nothing to help in the matter.

Trade concessions are bad enough. Lending money to the Soviet Union through the Import-Export Bank at 6 percent interest with no forecloseable collateral is even worse.

The Chicago Tribune notes that—

> . . . the government backed Ex-Im Bank used to balk at lending even to non-Communist countries on collateral which was considered iffy. Congress was firm when setting up the bank in insisting that Ex-Im protect its loans with good collateral. But that's been forgotten.

The Soviet Union's record of paying back debts is not good. The Tribune pointed out that:

> We haggled about that for years and Mr. Brezhnev finally allowed in 1972 that he'd pay $722 million (of $10.6 billion). By 2001. And provided Mr. Nixon got him most favored nation status in a trade deal.

There are few Americans who can borrow money at 6 percent interest, either from the U.S. Government or from anyone else. The Tribune poses a question which those who advocate such improper use of the Export-Import Bank are obligated to answer to the satisfaction of the American people:

> What does Mr. Brezhnev have that the rest of us don't and that makes him such a splendid credit risk? Does detente mean financial imprudence?

I wish to share with my colleagues the editorial, "Brezhnev, the Magic Borrower," from the Chicago Tribune of January 30, 1974, and insert it into the Record at this time:

Brezhnev, the Magic Borrower

If any of us could borrow from the Export-Import Bank at 6 per cent interest with no foreclosеable collateral, we'd count ourselves lucky. But Leonid Brezhnev does it with ease.

Eliot Janeway, our economic columnist, has called attention to this topsy-turvy absurdity in an interview wtih Prof. Marshall I. Goldman, consultant to the Russian Research Center at Harvard University.

Mr. Janeway notes that the government backed Ex-Im Bank used to balk at lending even to non-Communist countries on collateral which was considered iffy. Congress was firm when setting up the bank in insisting that Ex-Im protect its loans with good collateral. But that's been forgotten.

Mr. Goldman observed that the Soviet loan—to be used for developing natural gas fields—will help build a plant that will not be workable for 20 or 25 years and will be on Soviet territory. "It's not Ex-Im collateral," he said.

Mr. Goldman is right. Anybody who tried to foreclose on a plant on Soviet soil would quickly discover what an immovable object really is.

This sort of unforecloseable collateral would make sense only if the borrower's previous record of repayment was good—and even then not at the cushy 6 per cent which Mr. Brezhnev has wangled.

How good is Mr. Brezhnev's record of payment?

Well, there's the Soviet lend-lease debt of $10.6 billion owed to the United States since World War II days. We haggled about that for years and Mr. Brezhnev finally allowed in 1972 that he'd pay $722 million. By 2001. And provided Mr. Nixon got him most favored nation status in a trade deal.

Too, there are scattered other unpaid Soviet debts here and there.

What does Mr. Brezhnev have that the rest of us don't and that makes him such a splendid credit risk? Does détente mean financial imprudence?

BIG THICKET NATIONAL PRESERVE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. ECKHARDT. Mr. Speaker, today the Senate Interior and Insular Affairs Committee began 2 days of hearings on legislation to establish a national preserve in the Big Thicket area of Texas. I have recently received reports of timber cutting in the Turkey Creek Unit of the Big Thicket, and there is reason to believe that cutting may start soon in other areas. This causes me great alarm. I hope that the Senate will realize the consequences of this practice and act expeditiously on the Big Thicket legislation before irreplaceable areas are destroyed forever.

I would like to submit the following article by Dr. Pete Gunter, which appeared in the December 22 issue of Environmental Action. Dr. Gunter's expertise goes far in explaining the Big Thicket's history and the urgent need to preserve this rare and threatened land.

The article follows:

Big Thicket: Park or Tree Farm?

(By Pete Gunter)

Texas conjures up an image of desert, dry creeks and sagebrush. But the Big Thicket of southeastern Texas is far removed from this image: it is a place of bayou bald cypress and semi-jungle.

The Thicket's proximity to the Gulf of Mexico provides both a stable semi-tropical climate and over 50 inches of rainfall a year. Its soils are ideally suited to the storage of water and the growing of trees, at least 15 of which are the largest of their species in the United States.

But while the region has the climate and the ecosystems of the deep South, it also has a northern and a western exposure. Beech, sugar maple and witch hazel are found there, sometimes in plant growth patterns almost identical with those found in the southern Appalachians, many miles to the east. Other areas, the "arid sandyland" communities, contain the wild flowers, mesquite trees, post oak, yucca and cactus of the American Southwest. Other areas resemble jungles in the Mexican states of Tamaulipas and Vera Cruz.

The Big Thicket is also a place of legend and folklore. Long cut off from the nearby cities of Beaumont and Houston, it has a reputation as a sanctuary for "outsiders" of every strioe. During the Civil War, conscientious objectors hid there to avoid conscription, in spite of the persistent efforts of Confederate troops to root them out. Escaped convicts used to flee from a nearby state prison in Huntsville, Texas, to the Thicket a step ahead of the baying hounds. East Texas' lone Indian reservation is on the northwest border of the Thicket which has traditionally afforded the Indian a refuge. The region provides one of the last havens for the alligator, the golden eagle and the Texas red wolf, and some people insist that a few last bear and panther still exist there too.

But the Big Thicket is in danger. The unique area's abundant natural resources are coveted by lumber companies and developers.

Efforts to preserve the Big Thicket date back as far as 1927, when the first Big Thicket Association was formed. At that time the ecological importance of the sprawling wilderness was barely beginning to be realized, although conservationists asked for a contiguous block of 440,000 acres as a minimum wilderness preserve. Unfortunately, the drive to create a Big Thicket National Park in the 1930s was destroyed by the Second World War. Today, as the remarkable ecological diversity of the Thicket becomes more apparent, conservationists are pleading for 100,000 acres of wilderness—before the region is lost forever.

Recent controversy over the Thicket began in the mid-1960s and has consisted largely of a struggle between conservationists and lumber interests. The lumber companies and their supporters originally argued that the Big Thicket deserved no environmental protection. But as public interest grew they opted for a 35,000 acre park, the "String of Pearls," made up of widely separated tracts.

In the meantime, conservationists had gradually united behind a park configuration of 100,000 acres, or at a high point of optimism, 191,000 acres. Conservationists found little to complain about in the individual tract concept proposed by lumber interests, but they did object to the fact that these isolated areas would be cut off from their natural water supply and would soon die, as they were surrounded by sprawling subdivisions. In contrast to the lumber companies' "postage stamp" proposals, conservationists opted to run corridors between the pearls based on existing streams, and add acreage to the pearls wherever possible.

The original lumber-interest proposal included several ecosystems: a longleaf pine savannah, a virgin loblolly pine forest, two beech groves, a virgin river-bottom forest, a river-bottom swamp area noted for its heron and egret rookeries, a virtually untouched swamp-bottomland forest and a corridor ranging from the hills at the Thicket's northern limits to the poorly drained cypress-palmetto-hardwood ecosystems on its southern edge.

However, soon after the industry proposal was made, two of the areas were cut by private lumber operators and a third was bulldozed to created a vacation subdivision. Subsequently the lumber companies imposed a cutting moratorium on 35,000 acres, but since they owned or controlled only 18,000 acres of the total, as much as one-third has been cut by smaller lumber operators and local land owners.

Meanwhile the movement to create a park continue to grow. While lumber company lobbyists toured the state insisting that their 35,000 acre plan was an environmentalist proposal, conservationists protested loudly, insisting that new areas had to be added or the park could not survive. To preserve the Thicket, they argued, it would be necessary to protect its major watercourses: the Neches River Valley, the Big Sandy-Village Creek corridor and the Big Pine and Little Pine Island Bayou. Besides saving three completely different types of streams, such a system of corridors would ensure the water supply of the isolated "pearls" and would provide uninterrupted hiking and canoeing opportunities. Along with the proposed stream corridors, three biological units were envisioned: Jack Gore Baygall (semi-swamp), the Saratoga Triangle (lowlands laced with streams and sloughs) and the Turkey Creek Minibiome (an area which includes all of the Thicket's ecosystems).

But while the conservationists made the rounds of television and radio talk shows and argued their case before service clubs and newspaper bigwigs, they felt the pressure of time. The Thicket cannot last forever because the lumber companies that were once willing to cut selectively in the area now propose to convert the great majority of the area into monoculture: row after row of nothing but pines. In such "pine plantations" only one species of tree, the pulp or slash pine, would be allowed to exist, and the ferns, vines, wading birds, owls, mushrooms, orchids and small game of the original Thicket could not survive.

Some of the giants of American industry are heading the assault on the Thicket: Santa Fe Industries (Chicago) which owns Kirby Lumber Company; International Paper (New York); Owens-Illinois (Toledo); Champion International (New York); Southland Paper Mills (Lufkin, Texas, but 40 percent owned by St. Regis of New York); and Time Inc., now the third largest land owner in Texas (1,060,000 acres) after a merger of its Eastex subsidiary with locally-owned Temple Industries. In the past, Temple avoided bulldozer and monoculture timber technology while Eastex planned to turn at least 80 percent of its 600,000 acre Texas holdings into slash pine. It is unclear whether the two contradictory policies will be maintained in the two divisions or whether one of the two will prevail.

Student boycotts of Time Inc. Magazines (*Time, Sports Illustrated* and *Fortune*) have made that corporation more sensitive to public opinion and the addition of Texas' most rational and far-sighted lumberman, Temple Industries' Arthur Temple Jr., to Time's ranks may foster a more balanced land-use policy in the region. Temple, for example, has offered to protect all rare or endangered species on Time's Texas lands.

Whatever the future may hold, conservationists concede ruefully that the Thicket's remaining 300,000 acres are being irretrievably lost at the rate of 35,000 acres per year to sterile pine monoculture. The problem with sterile pine monoculture—a term which is liable to send lumbermen into fits of frustrated rage—is that it does not permit multiple use. During the first few years a pine plantation constitutes essentially a prairie ecosystem and in such an ecosystem quail, rabbits and deer manage to survive. And, assuming a rotational system of cutting and replanting, a certain amount of the original pine-hardwood forest would be kept in prairie, and thus be available to hunters. But besides this minimal multiple use, pine plantations are as mono-usage as they are monoculture. They are not attractive for hiking, photographing or picknicking. After they are bulldozed right up to the stream-banks and the resulting brush, refuse and debris are pushed into the stream (as used to happen in the Thicket with regularity), the stream is no longer a good place to canoe, fish, swim or camp.

Most of the scientific value is also lost in a monoculture. Virtually every major university in the United States has at one time or another sent scientists to the Big Thicket looking for biological specimens. More recently biologists have used the Thicket to study those intricately interrelated groups of species known as ecosystems, such as a series of ponds in different stages of ecological succession, or a swamp containing several species of aquatic fauna not known to co-exist elsewhere, or a hill whose slope contains four different ecosystems in 100 feet. But in a pine plantation there is little to interest the scientist except the pine bark beetle and pine "root rot."

Former Texas Senator Ralph Yarborough, one of the Thicket's staunchest defenders, scored a big victory in 1970 with the Senate passage of a bill to establish a 100,000 acre Big Thicket National Park. Tragically, the House did not act in time to pass a similar bill because Wayne Aspinall, then the Chairman of the House Interior Committee, got married and went on a vacation which lasted until the Congressional session ended. This made it necessary to start all over again with new legislation. Equally tragic for the Thicket's prospects was Senator Yarborough's defeat at the polls and subsequent retirement from Congress. Though he continued to fight from the political sidelines, it became necessary for Rep. Bob Eckhardt (D-Tex.) to take up the crusade.

On December 3, 1973, the House passed a new compromise bill (H.R. 11547) to establish a 84,500 acre park. The compromise, worked out last summer between Rep. Eckhardt and newly-elected Rep. Charles Wilson (D-Tex.) whose district contains the Big Thicket, drops the magnificent Big Sandy-Village Creek corridor from the park while picking up a corridor along heretofore neglected Menard Creek, which flows west into the Trinity River. The compromise was necessary to pass the bill, but valuable acreage was lost in the process and an entire ecosystem, the arid-sandyland community, was left out of the national area. Since the point of the Big Thicket National Preserve is to safeguard specimens of each ecosystem in the area, this is a serious omission.

A Senate Interior Committee staff member told *Environmental Action* the Committee may reinstate the Big Sandy-Village Creek corridor in the Senate bill, scheduled for hearings in late January or early February. If the Senate passes a bill which includes the corridor, the dispute would be settled in a House-Senate conference.

Texas' two senators, Lloyd Bentsen (D) and John Tower (R) have both committed themselves to passage of Big Thicket legislation. But failure to pass a bill early in 1974 could cause the Big Thicket to be swept aside as congressmen rush home to begin Senate and House election campaigns. If no bill has been enacted by the time the 93rd Congress adjourns, all current efforts will be erased from the lawmaking process, and by the time new bills have cleared all the nooks and crannies of Congress again, there may be little left of the Big Thicket.

For its diversity, richness and sheer abundance of life, the Thicket may not be equalled on the surface of the planet. It must be preserved.

YING LEE KELLEY DESCRIBES VIETNAMESE PRISON HORRORS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. DELLUMS. Mr. Speaker, recently Berkeley City Councilwoman Ying Lee Kelley spent 2 weeks in a privately funded investigation of the South Vietnamese police and prison system.

In an interview with Indochina Focal Point newspaper, published by the Indochina Peace Campaign in Santa Monica, Calif. Ms. Kelley describes the conditions she found, as well as her impressions of current conditions in Vietnam.

As we read Ms. Kelley's words, let us remember that it is U.S. taxpayer funds who are paying for the South Vietnamese prison system—a system which holds the largest per capita percent of political prisoners in the world.

The interview follows:

YING KELLEY: U.S. AMBASSADOR CLAIMS NO POLITICAL PRISONERS

When you interviewed Ambassador Graham Martin, what did he say about political prisoners?

He and his staff members had prepared for our visit and had a stack of materials several feet high when we arrived. When we started talking about political prisoners, he literally threw a folder of pictures at us, including photos of a dead Vietnamese and his alleged assassin. Martin said, "Are these the people you're concerned about, assassins and murderers?" He denied that there was even one political prisoner and said that the stories about the prisoners were the result of an incredibly powerful and deceptive wave of Communist propaganda.

Ambassador Martin said that more than anything else in the world he wanted also to look into the prisons. I said, "Why can't you?" and he said, "You as an Asian should appreciate that Vietnam is a sovereign country."

I said, "Well, I appreciate your respect of an Asian government, but we pay 80–90% of the budget for Saigon. Surely this implies some responsibility. I as a taxpayer am concerned about how my money is being spent."

Did you speak with any ex-prisoners?

I spoke with one ex-prisoner who gave a very detailed account of his life since he was arrested.

Police camped in his living room and all visitors were detained until he arrived the next morning. Then six police stayed in the house for two weeks to entrap any other visitors to the house.

He was charged with "writing." He had translated an important book about the Indochina war from English to Vietnamese.

He was taken to National Police Headquarters where he spent seven months. During that time he could not contact a lawyer or his family. Then he was transferred to Chi Hoa prison for three months before he was given a trial by a Military Field Court, where the judge is an Army officer. There was no evidence, no witnesses. Thirty people were tried at the same time.

A police file is presented and the defendant is told the main points of the accusation by the judge. The defendant is asked if the material submitted is true. If the defendant submits that he was beaten and a confession forced from him, the judge would say, "But you would not have been beaten so badly to have given all these details." This would end the defense.

Then, the prosecutor went with the judge and the jury of military officers into private session to determine the sentence.

What were your impressions about Thieu's strength?

Thieu's government maintains its leadership by sheer oppression and repression. We talked to people who were thrown into prison and tortured. The torture is not done by a group of sadists. It is not done by people who enjoy torture, although I think you have to be able to tolerate it. It is government policy. If you speak up against Americans, if you speak up against Thieu, you are thrown into prison.

Anyone who is arrested, the first thing that happens is that he is beaten. Sometimes, he is tortured for information. But just as a matter of habit, of policy, he is beaten. This, really I think, paralyzes political activity.

Did you discover any public opposition to Thieu?

Yes, some opposition leaders are tolerated because Nixon likes to have a picture of democracy. So a few opposition leaders have immunity from imprisonment, torture and beating, but they're very few.

What is the attitude of these opposition leaders towards Thieu and the Peace Agreement?

Time and time again people told us they felt it was the Saigon government fighting very aggressively for land militarily (not politically, as allowed in the Paris Agreements) that has brought them new territory. They feel that there is a total absence of the spirit of reconciliation and accord. which is one of the conditions of the ceasefire agreement.

When I asked one opposition deputy about whether he could live with the NLF, he said, "Yes, I am interested in the reconciliation policy of the Agreement. We believe that North Vietnam wants peace. The North recognizes that South Vietnam doesn't want communism. The communists are Vietnamese."

The same Deputy said of Thieu, "Vietnam is extremely rich with its potential for rice, coal, oil, minerals, sand, fishing and also its strategic location in terms of Southeast Asia. Thieu is not an economist, but a militarist. He sells Vietnam's resources to line his own pockets. Militarists in Asia have not been interested in economics and culture. Therefore, we ask for two things: one, an end to the war; and two, an end to militarists administering our country."

Did most of the people you interviewed share the openness towards the PRG suggested by that Deputy?

Most people would rather not be in politics, they want to lead their own lives. They want the Paris Peace Agreement to be respected. Through the Agreement, they could move around freely, but now they can't do that.

They want more than anything else to return to their land. Time after time they told us: Vietnam is an agrarian country. We were the rice bowl of Asia. We used to be able to ship rice to every country in Asia, and now we are importing rice from America. Let us go back to our farms, to live in our villages.

Right now, American money is responsible for keeping people out of their villages away from their farms because Thieu is so afraid that in the countryside he has no control.

Did you visit any of the refugee or concentration camps which Thieu maintains?

Yes. These camps are placed very close to future industrial parks and along the major national roads to stabilize them. The reason for them being near the future sites of industrial parks is obvious. For example, Ninh Thuan camp near Cam Ranh Bay is designed to provide cheap labor for the Japanese-planned industrial park. And Long Khanh and Binh Thuy camps are for the protection of National Road 1 from PRG attack.

There are approximately one million refugees, with about 600,000 in refugee camps. I feel that America went on record with the Nuremburg Trials that we don't believe in putting people in concentration camps and that we don't support the maltreatment of civilians. Yet we find ourselves giving $5 billion a year to do exactly what we condemned the Germans for doing.

What do you think Americans should do?

I would like to see Americans sit down for no more than 3 or 4 minutes a day and write a letter getting their Congressman and Senators to promise to cut off the aid from America that is allowing the war to continue.

I work the way that I do, as a part-time school teacher and also a Councilwoman, because I have tremendous faith in the goodness of the American people ultimately. I don't think Americans want their tax money going into torturing people. I grew up during World War II and was educated by reading about Dachau and Auschwitz, and I remember the horror with which Americans reacted to what the Germans did. And I think we Americans have to know now that this is what we're doing to Vietnam. I don't think Americans want this. I think if we knew, we would pressure our Congressman and we would say "Please stop this."

We can't say like the Germans could say during World War II that we didn't know what was going on. What we have created in Vietnam is horrible. It is something I would be ashamed to tell my children about. If they ask me "did you know about this? why didn't you do something about it?", I want to be able to say, "Yes, I knew about it, and I did something to stop it."

ADMIRAL BULKELEY, A SUPERB INDIVIDUAL

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. BENNETT. Mr. Speaker, last year when the Seapower Subcommittee of the House Armed Services Committee wanted to learn from an unimpeachable and impartial source about the condition of the ships in our Navy, we called in as a witness Rear Adm. John D. Bulkeley, president of the Navy Board of Inspection and Survey.

Admiral Bulkeley was retired from the Navy but has been recalled to active duty to continue his leadership on the Board of Inspection and Survey. In recognition of Admiral Bulkeley's fine accomplishments, Secretary Warner sent him a letter which Warner shared with me and I include it at this point in the RECORD, because it is a well-deserved tribute:

DEPARTMENT OF THE NAVY,
Washington, D.C., December 17, 1973.

Rear Adm. JOHN D. BULKELEY, U.S. Navy,
President, Navy Board of Inspection and Survey, Navy Department, Washington, D.C.

DEAR ADMIRAL BULKELEY: As the time draws near for your retirement from active duty, it is my pleasure to salute you for the special excellence of your most distinguished career.

During four decades of naval service, you contributed invaluable service in a wide variety of important assignments. Your distinguished leadership and courage during World War II earned you the esteem of a grateful nation for which you were awarded the Medal of Honor, the Navy Cross, the Army Distinguished Service Cross with Oak Leaf Cluster, both the Navy and the Army Silver Star Medal, the Purple Heart, the Army Distinguished Unit Badge and the Republic of Philippines Distinguished Conduct Star and the French Croix de Guerre with Star.

Your peacetime duty at the Naval Academy and subsequent commands in the destroyer force enabled hundreds of young officers to profit from their association with you.

Most recently, as President, Navy Board of Inspection and Survey, your personal determination, initiative and superb leadership have been directed to the improved readiness of the fleet. Your outstanding achievements in this effort were marked by the award of the Distinguished Service Medal. I know of no flag officer who has won such a widespread reputation as a practical, shirt-sleeve engineer and seaman, a man devoted to professional excellence.

It should be a source of great pride for you to recall in future years that you contributed so unstintingly to our Navy and Nation. Please accept my best wishes for continued success and happiness. I am especially pleased that you will be at the helm of the Board of Inspection and Survey while serving on active duty in a retired status.

You are a superb individual.

Respectfully,

JOHN W. WARNER,
Secretary of the Navy.

GILMAN BILL TO PROMOTE RAIL SAFETY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. GILMAN. Mr. Speaker, I am introducing legislation today amending the Federal Railroad Safety Act of 1970 (Public Law 91-458) to require the installation of safety glass on all new railroad passenger cars.

In the past, the glass used in the windows of railroad passenger cars has generally consisted of ordinary pane glass which has been highly susceptible to breakage and shattering when struck by a thrown projectile. There have been numerous serious accidents recently resulting in injuries from rocks thrown by vandals through passenger train windows.

Recently, there have been significant technical advances by several domestic corporations that have produced low-cost shatterproof glass and glass substitutes. While this glass is being installed on some rail passenger cars, it is not being done in every instance; there being no current requirement that new cars include such specifications.

Because of recent accidents and the dramatic increase in rail passenger traffic, it is imperative that minimum safety standards be established. By requiring shatterproof safety glass on all replacement panes and new cars, we will go a long way toward improving safety for railroad passengers.

Mr. Speaker, I invite my colleagues to join me in supporting this important measure and I include the full text of the bill in the RECORD, as follows:

H.R.—

A bill to amend the Federal Railroad Safety Act of 1970 (Public Law 91-458), to provide for the installation of safety glass on railroad passenger cars

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Federal Railroad Safety Act of 1970 (Public Law 91-458), is hereby amended as follows:

SECTION 1. Safety glass or glass substitute on passenger cars. Notwithstanding any other provision of this act, it shall be unlawful for any railroad company or a transportation company or authority operating a railroad to use on its line or lines any new passenger car purchased after the effective date of this act not equipped with shatterproof or splinterproof safety glass or glass substitute of a type approved by the Secretary of Transportation and to use such safety glass or glass substitute in all replacements on used passenger cars. The Secretary of Transportation shall promulgate such rules and regulations necessary to effectuate the intent of this section.

SEC. 2. Any violation of the provisions of Section 1 of this act shall be punishable by a fine of not less than one hundred dollars, and each day or part of a day a car is operated and not so equipped, as provided herein, shall constitute a separate offense.

SEC. 3. This act shall take effect one hundred and twenty days after it becomes law.

RELIEF FOR TRUCKERS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. SEIBERLING. Mr. Speaker, for more than 2 months, truckers across the country have been trying to obtain effective action to meet their increasingly desperate financial predicament. So far they have received only "promises, promises."

While I am not in a position to evaluate all their demands, it is obvious that they cannot continue in business with their costs rising and their freight rates frozen. It is also obvious that efforts to hold down the cost of fuel have not been successful.

I am pleased to read in this morning's paper that the conferees on the emergency energy bill have approved a rollback of crude oil price which would, in turn lower diesel fuel and gasoline prices. As a cosponsor of a separate bill to roll back fuel prices, I approve such action in principle and hope that both Houses can quickly approve some practical measure to roll back fuel prices.

Realistically speaking, however, this step is no panacea for the problems of the truckers. Their financial squeeze results primarily from the fact that while their costs have been skyrocketing in recent months, their freight rates have remained frozen at the direction of the ICC. The truckers have been forced to absorb the cost of increased fuel to the point where many are facing bankruptcy.

The only other recourse is to allow the truckers—as other businesses do—to pass through these increased costs to the consumer. Yesterday I sent a telegram to the White House urging the President to issue an Executive order immediately transferring authority over freight rates from the ICC to the Cost of Living Council for the duration of the energy crisis. It is my opinion, and that of experts. I spoke with, that the President currently has that authority under the Economic Stabilization Act as amended last spring. The telegram also urged the President to direct the Cost of Living Council to allow truckers to pass their increased costs through to the consumer.

Such a step, as the Washington Post points out in an editorial this morning is "a bitterly unattractive one, but in this instance and many others inescapable."

I am painfully aware that the energy crisis has added to the financial woes of most consumers. But the fact is that the trucker is being singled out among all consumers to bear a disproportionate share of the burden of the present crisis.

It is not the trucker, but the bankrupt policies of the Federal Government and the private sector which are responsible for the present troubles. These policies must be changed, and their change must be the first priority of this Congress. In my opinion, both Houses should attach greater urgency to this issue than is presently being exhibited.

But in the meantime, the burden of higher prices and shortages must be distributed equally to all segments in the economy. And that means providing immediate, meaningful relief to the truckers.

The editorial from today's Washington Post entitled "The Truckers' Revolt" follows:

THE TRUCKERS' REVOLT

The increasingly violent revolt of the truckers may very well be unfortunately, only one of the first reactions to the drastic rise in fuel costs. It is necessary to assume that there will be others. It would be utterly unrealistic to assume that the economy can smoothly and swiftly accommodate jumps of this size in basic fuel prices. The truckers' complaints about fuel prices and shortages are largely justified. Both Congress and the administration, in trying to meet them, need to keep it clearly in mind that they are not dealing with a special and isolated case. There are going to be other justified complaints. The rules worked out for the truckers are going to have to be applied in many other cases yet to come. Any solution for the truckers ought to follow several general principles that are already clear.

The first of these principles is to allow all businesses—not just the big ones with lobbyists and lawyers—to pass on the full increases in fuel costs. The federal government has decided to let the price of oil products rise, and indeed it has very little choice. But who is to pay for the increase? Last fall the administration tried for a time to make the service station operators swallow part of the rise in wholesale gasoline prices. Most service station operators, including most of those selling the familiar brands, are in fact independent retailers who make their living out of the profit margin on each gallon of gasoline. The Cost of Living Council squeezed that margin for a time, in an attempt to shield the consumer. But that tactic was totally unfair to the retailer, who was already being hurt by the cuts in the volumes of gasoline that he could sell. Now the truckers are being squeezed between fuel prices and the freight rates administered by the Interstate Commerce Commission. There is only one way to distribute the increased cost in the cases, and that is to make everyone help carry it. That means passing it on to the consumer.

The second general principle for lawmakers and administrators is to avoid the temptation to try to carve out special low prices for the loud screamers. The truckers are entitled to a remedy, but they are not entitled to last year's price for diesel oil, maintained by special government rules below the price that others must pay. Differential prices for a single commodity always generate their own inequities and distortions as people with access to cheap sources begin, one way or another, to compete with those who must pay higher prices. The differential would be particularly harmful in the case of diesel oil, since it is the same thing as home heating oil. Many truckers would face a great temptation to resell their fuel at the higher price for home heating.

Since heating oil is now under mandatory rationing, the Federal Energy Office cannot offer the truck stops unlimited supplies. One possible solution, in theory, might be to peg the price of roadside diesel fuel higher than home heating oil and then give the truckers a prompt rebate of the difference, based on mileage. But as a practical matter, in the present climate, it would be very difficult to sell anything involving a higher price to the truckers even as a means of assuring them adequate supplies along the road.

The process of adjusting to expensive oil is going to be difficult everywhere. But it will be the least difficult for large organizations with economic research staffs and sophisticated purchasing offices. It will be very hard for small businessmen who keep their own books, and live on the difference between monthly receipts and current bills. It will be harder still in those industries, like trucking, where the independent operator competes directly with large corporations.

The homicidal violence in the truckers' revolt is terrible, but it is also predictable. Violence always seems to arise most quickly in those industries characterized by isolated working conditions, uncertain returns and a degree of personal danger. Trucking is not the only example.

It is fair to ask: Why did the government not foresee this reaction on the part of the truck drivers? The answer is that the increasing cost of oil products will have a hundred such effects throughout the economy and no one will be able to foresee them all. For every case resolved without disruption and breakdown, there will be another that was permitted to go too far simply because no one was watching. Knowing this much, it is necessary for both the administration and Congress to develop a capacity for smooth and quick response to legitimate grievances.

The idea of passing all of these costs through directly to the consumer is a bitterly unattractive one, but in this instance and many others it will be inescapable. No consumer wants to pay more for the delivery of the goods that he must buy every day. But no one can fairly ask the trucker to absorb the soaring costs of fuel oil. The trucker, too, is a consumer, after all, and will pay his part of the freight when he goes into the store to buy the goods that he brought there.

No one can forecast with any accuracy the effects of a sudden leap upward in basic fuel prices. They are going to come home to all of us in many ways, first in the prices of the fuel that we all buy directly, later in the prices of everything made from oil, made in factories powered by oil, made in factories powered by electricity generated with oil, sold in stores heated by oil, and transported there by oil. It's a long list, and no one can afford to delude himself that the truckers have brought us anywhere near the end of it.

HON. JACK VALENTI ON THE MERITS OF A 6-YEAR PRESIDENCY

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. PICKLE. Mr. Speaker, there is growing debate among Members of Congress, the press, and academicians concerning the advisability of one 6-year term for the President.

Many feel that one 6-year term for our Chief Executive would solve many problems that have grown around the modern Presidency.

At the same time, critics of the one 6-year term proposal say it would free the President to ignore the people's wishes once in office.

The arguments pro and con are strong. I personally am weighing the issue in my own mind.

I do think we should give a close reading to a recent article on the question by the Honorable Jack Valenti, former Presidential Assistant to President Lyndon B. Johnson.

Jack Valenti is well qualified to speak on this subject. He knows the burdens of the office at 1600 Pennsylvania Avenue where he served with great distinction and understanding.

This article recently appeared in the February 4 issue of Newsweek.

I place it in the RECORD:

A 6-YEAR PRESIDENCY?

(By Jack Valenti)

If the Watergate mess tells us anything, it is that the re-election of a President is the most nagging concern in the White House and that, given the limits of human nature, it is altogether possible that the first item on the agenda of an incoming Administration is its re-election. There is really nothing sinister in this objective—it's the most normal thing in our politics.

But, at the risk of stepping on the droppings of shrewder and wiser philosophers, I think the time has come for changing the rules by which Presidential politics are played. My proposal is a single six-year term for the President with no re-election eligibility.

Two of the most respected of all United States senators, Majority Leader Mike Mansfield of Montana and senior Republican George Aiken of Vermont, have both sponsored such an idea. They believe that while we ought not to tinker too much with the constitutional machinery, we can rearrange a bit of the constitutional furniture.

THE JUDGMENT OF HISTORY

Consider for a moment the election of a new President under a six-year term. He takes office knowing that he cannot seek reelection, that he will make his place in history, for better or worse, on the deeds and achievements of the next 72 months of his stewardship. He has only to do what he thinks is right, with the sure understanding that he must heed the people, for they are co-authors of the record he will leave to the historians. It is this judgment that most Presidents are keen to certify; they value it far above the Great Gallup Poll in the Sky that measures their popularity rather than their legacy.

Should taxes be raised? Should rationing be instituted? Should troops be withdrawn? Should wrongs be righted even though some voters are offended? If the election is a year or two away, you can mark it down as a Major Truth that a first-term President will carefully weigh the effects of whatever he does on his second-term prospects. Kenneth O'Donnell, JFK's closest political aide, wrote some years ago of a conversation President Kennedy had with Senator Mansfield in 1963 during which the senator urged JFK to get the hell out of Vietnam. To which, according to O'Donnell, the President wryly confessed he wanted to do just that, but he had to wait until after the election lest he be swamped at the polling booths.

Watergate would never have occurred if Presidential aides were not obsessed with re-election. If they had been comfortable in their tenure, knowing that in six years they would lose their lease—and in that short time they must write their record as bravely and wisely as possible—is it not possible that their arrogance might have softened and their reach for power might have shortened?

The counter-arguments to the six-year term are (1) the President must not be freed from considering the political implications of his acts or he becomes isolated from the people, and (2) he is a lame duck the day of his election.

Let's consider those two arguments.

POWER AND POLITICS

Don't we make the President a lame duck now the day he is elected to his second term? Does that hamper him? Of course not. The President has such power that he can wield it sufficiently and with precision to the last weeks of his tenure. President Johnson signed into law two of the most controversial pieces of legislation of his Administration in the last seven months of his office, the equal-housing and tax reform acts. The powers of appointment, of veto, of budget making, of initiation of programs, of moral suasion—these are all intact, fully armed and borne by him until his successor is sworn in. Lame-duckism is a myth in the Presidency.

A six-year-term President is not isolated and divorced from the daily political marketplace. Any President who wants to pass a bill, build a budget, construct a program, implement a plan, make a treaty, negotiate at a conference must be sensitive to the people and the Congress. He must act within the framework of the separation of powers, he is powerful, but he is not all-powerful. Common sense dictates his actions, and his own sensitivity to his place in history freights his every move. Therefore it follows, quite reasonably, that the President who would write a durable and measurably valuable record must persuade the Congress and the people.

The Congress and the Supreme Court (the one answerable often to the voters, and the other secure behind lifetime tenure) have only to exercise their power under the Constitution and the insensitive President, opaque to the nation's needs, can be pressured to straighten up and fly right.

We must always remember that a President's noblest stirring is toward his place in history as a Good, perhaps Great, President. If we abort his other objective, his re-election, we reduce the potential for mischief and leave the better angels undisturbed.

We should also factor into our decision the time consumed in the re-election campaign. Some two and a half years after a President is inaugurated, the elephantine apparatus of the Federal establishment moves to provision the re-election caravan. Energy, money and time are thrown into the job of precinct winning.

Why waste this effort and treasure? We no longer have the luxury of slow communications, of ships taking a month to cross the ocean, and the slow seepage of political impact. Today we deal in eight minutes to catastrophe, or the time it takes a MIRVed missile to hurl itself across borders. The stakes in the game have become too high to indulge ourselves in what seemed all right a century, or even three decades, ago.

The Founding Fathers understood the possibility of change; they built the amendment mechanism into the Constitution. We have used this mechanism 26 times, mostly to our great benefit—and we should use it again to bring about the six-year Presidency.

A HOSTAGE TO EMERGENCY

Churchill once observed: "The amount of energy wasted by men and women of first-class quality in arriving at their true degree before they begin to play on the world stage can never be measured. One may say that 60, perhaps 70 per cent of all they have to give is expended on fights which have no other object but to get to their battlefield."

That dusty, wasteful system is no longer acceptable in a world living on the nerve edge of disaster. The Presidency today is hostage to emergency. Every moment devoted to getting re-elected squanders the most precious resources of the Presidency—and the nation.

SENATE—*Wednesday, February 6, 1974*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God who art above us yet ever near us, we thank Thee for citizens steeped in that righteousness which exalts a nation and who hold fast to truth and justice amid all change. We thank Thee for all who serve without blemish or stain in the Government of the Nation. Be to them "a cloud by day and a pillar of fire by night" that they may be guided by Thy precepts, obey Thy commandments, and advance Thy kingdom. Be with us in this place in all that is said and done and when the day is ended send us to our rest with peace and joy in our hearts. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 5, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PLACING ON CALENDAR OF SENATE RESOLUTION 276, TO DISAPPROVE PAY RECOMMENDATIONS OF THE PRESIDENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Senate Resolution 276, submitted by the distinguished Senator from Colorado on yesterday and now at the desk, be placed on the calendar.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMTRAK

Mr. MANSFIELD. Mr. President, since the inception of Amtrak. I have continued to press for innovated and constructive improvement in our Nation's passenger train service. On occasion, I have questioned the intentions of the managers of our Nation's trains and have made repeated requests for improvements and expansion of service. The current energy crisis makes an expanded and updated passenger train system all the more important. I have received a lengthy letter from Roger Lewis, President of the National Railroad Passenger Corporation, and I must say that I am impressed with the content. The President of Amtrak gives evidence of a sincere dedication toward restoring the Nation's passenger trains to a position where they will offer modern efficient service throughout the Nation. I ask unanimous consent to have this letter of February 5 printed at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

February 5, 1974.

Hon. Mike Mansfield,
U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: Several recent developments, of which you have been informed, have served to provide answers to some of the questions you have recently asked.

I can understand and fully share the concern you express with the problems facing public transportation and the role Amtrak can play in helping to meet the needs for energy-efficient travel alternatives. We are working steadily to overcome the problems of improving or expanding Amtrak's services and capacity with all the resources at our command—and among these are resources provided by Congress in the very constructive improvement amendments just recently signed into law.

I fully agree that Amtrak can and must become an important element in the nation's strategy for dealing with a fundamentally changed energy situation.

As new locomotives we have on order are delivered and as new and refurbished passenger equipment becomes available, I am confident we will move forward steadily meeting more and more of the increase in demand for intercity passenger travel. From 1971 to the summer of 1974 we will have doubled the operable passenger carrying capacity of the Amtrak system.

Your first specific question had to do with our failure to establish daily passenger service on the southern route through Montana, our North Coast Hiawatha service. As you know, since your letter was written we have announced plans to begin daily service on May 19 for the heavy-demand summer periods. We are hopeful that increasing ridership will make it feasible to continue daily service throughout the year, but, as we have done with other routes that have progressed from tri-weekly to daily service, we will want to analyze the ridership figures.

Amtrak does maintain an inventory of unused equipment. However, it is "unused" almost entirely because of the need to have cars in the overhaul shops for mechanical repairs and general refurbishment. The maximum amount of usable equipment, including much that was leased, was rolling during the Christmas-New Year's holiday period.

When Congress increased the loan guarantee authority available to Amtrak to a total of $500 million in Public Law 93–146, we were given the necessary financial support to enable us to plan for long-term acquisition of new equipment.

Prior to enactment of that law, however, we had sufficient loan authority to order 150 new diesel locomotives. Forty of these were delivered last year and the additional 110 will be delivered by July of this year. We are also completely rebuilding 57 diesels. Amtrak should be in excellent shape as far as motive power is concerned by the end of this year.

We have ordered 57 new Metroliner-type cars for use in the Washington-New York corridor, and are in the final stages of approving design for a new, bi-level passenger car for use on long-haul routes. We anticipate ordering 150 as soon as final design work is completed.

We are working with the U.S. Postal Service, also, to obtain additional contracts for hauling the mail in order to supplement our revenue from ticket sales.

There is no truth to the accusations you have heard that Amtrak officials favor passenger service on some routes more than others, or that we "discourage" use of any service. On the contrary, in spite of the need to operate the entire nationwide railroad passenger system economically and efficiently in order to aim realistically at the stated goal of Congress and the Administration that Amtrak should pay its own way, we have continued to operate trains with relatively high losses in order to meet service demands. Once the decision has been made to operate a service, it would make no sense not to try to achieve success.

I am, of course, an employee of Amtrak's Board of Directors as well as a member of the Board. You have raised a question as to the commitment of all Board members to a renewed and vigorous national system of passenger trains. As a member of the Board, I believe that the Board has given strong, continuous support to our major thrust as a corporation, which is to make the trains worth traveling again. Although I remain unsatisfied with Amtrak's progress in many areas, I can lay none of the blame for the problems we face as an organization on the Board members, either individually or collectively. Our problems have in the main been due to newness and corporate inexperience. I do feel we are now gathering speed and strength in effectively pursuing our mission, and I feel that the Board has been my ally in this endeavor from the beginning. It is a diverse Board, with sometimes diverse views, and I regard this as a source of strength.

Amtrak's goal of renewing and revitalizing rail travel has not changed. Problems are also opportunities, which is how we regard the present energy crisis. Your steadfast support of our goals has been most appreciated, and I have every hope for a good showing for the daily service this summer on the southern route through the state of Montana. I think that when a longer perspective becomes possible we will all be able to see that Amtrak is, in fact, making remarkable progress toward restoring a transportation service that in many areas was at the point of extinction only two and one-half years ago.

Best regards,
Sincerely,

Roger Lewis,
President.

COMMITTEE ASSIGNMENT

Mr. HUGH SCOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution.

The assistant legislative clerk read the resolution (S. Res. 278) as follows:

Resolved, That Mr. William V. Roth of Delaware be, and he is hereby assigned to service on the Select Committee on Small Business to fill a vacancy on that Committee.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

Mr. HUGH SCOTT. Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes.

The Chair recognizes the Senator from New York.

WASHINGTON ENERGY CONFERENCE

Mr. JAVITS. Mr. President, I submit a resolution on behalf of myself, the Senator from Montana (Mr. Mansfield), and the Senator from Pennsylvania (Mr. Hugh Scott), and I ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S. Res. 279

Resolution expressing the sense of the Senate regarding the Washington Energy Conference

Whereas the oil embargo by certain states in the Middle East and the enormous increase in the posted price of crude oil threaten irreparable harm to the economies of all consuming countries of the world and ultimately to the producing countries themselves, and will result in balance of payments deficits of great magnitude for virtually every oil consuming country, and;

Whereas these enormous transfers threaten to destabilize the international monetary system, could lead to competitive devaluations, trade warfare harmful to all nations and a dangerous renewal of the arms race in the Middle East, and;

Whereas the increased cost of imported oil for the developing countries in 1974 is estimated at almost $10 billion, more than the total amount of aid made available to these countries from all public sources in 1973, and;

Whereas the Washington Energy Conference, called by the President, is designed to provide a legitimate and essential forum for the discussion of the common problems faced by the oil consuming nations; Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that the Washington Energy Conference should consider:

(1) Conservation measures in major oil consuming countries which are necessary to reduce demand, and should be a major part of the policy adopted in concert by the oil consuming nations;

(2) An effective plan for the emergency sharing of oil resources which could be acted on subject to the constitutional processes of each country;

(3) Guidelines for bilateral agreements between individual oil consuming and oil pro-

ducing countries, which in the present situation of embargo and skyrocketing prices could prove very harmful to the interests of the major oil consuming nations, and could incur the danger of introducing excessive and sophisticated arms into the oil producing nations beyond their legitimate needs for their own security;

(4) Coordination of research efforts in developing conservation practices and alternative sources of energy; and

(5) The responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and

(6) Closer coordination of fiscal and monetary policies to prevent excessive strain on the international monetary systems and the currencies of oil importing countries.

Mr. JAVITS. Mr. President, the resolution, which I have submitted to the leadership and to the State Department, endeavors to show the attitude of the Senate respecting the impending conference. It has no operative force. It is a sense of the Senate resolution, and its recital sets forth the obvious difficulties which prevail before us at this time respecting the oil crisis and the problems which arise for the whole world in connection with it.

The resolution then suggests the matters which ought to be considered by the Washington Energy Conference, those matters being:

First, conservation measures in the major oil-consuming countries which are necessary to reduce demand, and which should be a major part of the policy adopted by the oil-consuming nations.

Second, effective plans for the emergency sharing of oil resources, which could be acted on subject to the constitutional processes of each country—in our own country, Congress.

Third, the conferees ought to consider guidelines for bilateral agreements, which, if not agreed upon in terms of some guidelines, could prove very harmful to the interests of oil-consuming nations and would extend to all producing nations, and might endanger us in terms of an arms race in the Middle East.

Fourth, the consideration of the coordination of research efforts.

Fifth, the coordination of the problems on how to deal with developing countries which have to spend an extra $10 billion this year which they do not have, and as a result, this will cancel out the aid that has been given to them if they have to spend this extra money.

Sixth, some effort to deal with fiscal and monetary problems and the strain on the monetary systems of the developing countries.

We shall take every precaution in the course of the day to distribute copies of this resolution to all parties who might be interested. And I shall not, if the Senate acts affirmatively on this resolution, move to reconsider the vote or anything like that. So, if any Member of the Senate has any feeling about this resolution he can communicate it to me or to the leadership and we can deal with that situation later in the day.

However, the urgency of acting reasonably in advance of the conference is such that, with the leadership on both sides, I have offered the resolution and have asked for its immediate consideration, taking the precautions which I have just described in order to preserve the right of any Member of the Senate who has some different feelings about the resolution.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 279) was agreed to.

The preamble was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from New York for offering the resolution at this time on the eve of the Nixon-proposed conference of the oil-consuming countries of Western Europe and Japan in Washington on Monday next.

I think that a resolution of this sort will prove to be of great strength to the administration in meeting with the other petroleum-consuming nations.

I am delighted to note that France has indicated at last that it will be in attendance on Monday next. I would assume as the distinguished Senator has said, that the purpose of this conference is to see if some sort of coordinated or cooperative effort on the part of the consuming countries could not be established. I think that the time for that effort, in view of what has developed in the past several months, is long overdue.

As far as this country is concerned, relative to the countries of Western Europe and Japan which will be attending the conference next Monday, we are overall in comparatively good shape. However, some of the other countries overall, unless they bend the knee, are in very bad shape.

I would hope that there would be an understanding among the nations of Western Europe, Japan, and this country at the meeting to begin Monday next that all of us must hang together, or if not, some of us will hang separately.

Mr. JAVITS. Mr. President, I thank the distinguished majority leader. I join in everything that he has had to say.

The resolution only touches the bases which we believe should be touched in such a coordinated effort as represents the fulfillment of the purposes of this energy conference.

We do not in any way indicate, and certainly do not intend to indicate, what our attitude in the Congress would be. However, we simply express our concurrence in the items that have to be dealt with if this conference is to fulfill its mission and if the Secretary of State feels that this action will strengthen his hand in addressing himself to these various items.

I am delighted very much that the Senate has agreed to the resolution. Also, I again emphasize that we have tried in every way not to commit the Senate or any Member of the Senate or of the Congress to what will be our ultimate wishes in this matter. Nonetheless, the Secretary will speak to many major subjects with the knowledge of the participants that these are the subjects which the Senate wants discussed. That would be very helpful.

Mr. MANSFIELD. Mr. President, may I say that it is my strong belief that the Senate, and I believe the Congress, would unanimously back this resolution in support of the policies laid down and in support of Secretary Kissinger in the dealings which he will have with his colleagues from Asia and Europe.

Mr. JAVITS subsequently said: Mr. President, this morning in the absence of any objection, Senate Resolution 279, which I sponsored with both of the majority and minority leaders, was agreed to as a sense of the Senate resolution respecting the Washington Energy Conference. The Secretary of State felt that it would be helpful as he goes into these very critical negotiations. I did not move to reconsider the vote by which the resolution was agreed to. The resolution is at the desk. I invite Members of the Senate to read it carefully and, if possible, to join in it or, if they feel that they have any objection, to please let me or the leadership know. Copies are available to Members.

The PRESIDENT pro tempore. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HASKELL, from the Committee on Interior and Insular Affairs, with amendments:

S. 1863: A bill to designate the Weminuche Wilderness, Rio Grande and San Juan National Forests, in the State of Colorado (Rept. No. 93–680).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLURE:

S. 2965. A bill for the relief of Tiec Thi Hanh. Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself and Mr. MAGNUSON):

S. 2966. A bill to establish identification and reporting procedures to determine the existence and causes of shortages of products in interstate commerce. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2967. A bill to amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes; and

S. 2968. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

By Mr. EAGLETON:

S. 2969. A bill to require a reduction in motor vehicle insurance premiums in the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. PACKWOOD:

S. 2970. A bill to amend the Social Security Act to provide adequate financing of health care benefits for all Americans. Referred to the Committee on Finance.

By Mr. McINTYRE:

S.J. Res. 186. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself and Mr. MAGNUSON):

S. 2966. A bill to establish identification and reporting procedures to determine the existence and causes of shortages of products in interstate commerce. Referred to the Committee on Commerce.

DOMESTIC SUPPLY INFORMATION ACT

Mr. TUNNEY. Mr. President, each morning's newspapers brings news of new shortages and potential shortages. While today's headlines hammer away at the consequences of the current energy shortage, the back pages are replete with warnings of drastic food shortages, insufficiencies of steel, paper, and many other materials and products. No mechanism now exists to anticipate and avert short supply situations before they reach critical stages. There are no means to provide for systematic evaluation of the causes of existing shortages or for development of legislative remedies. No where in Government does there exist the capacity to provide long-term study of trends in the supply and demand for the critical raw materials essential to our economy in the decades ahead.

The bill I am introducing today, the "Domestic Supply Information Act," would require the executive branch to systematically monitor, evaluate, and report to the Congress on existing and developing shortage problems in the domestic economy. It would require the Secretary of Commerce to determine the causes of such problems and provide legislative recommendations to the Congress on a regular, recurring basis. It arms the Secretary with the full investigative powers of Government to assure his or her access to whatever information is needed to determine the dimensions, causes, and solutions to shortage problems. Finally, this legislation provides for independent review of the Secretary's report and recommendations by the General Accounting Office.

Mr. President, the American people rightly expect their representatives in Government to give highest priority to protecting the smooth functioning of the economy. Their jobs, their incomes, their hard-won standard of living are at stake in these matters. The Committee on Commerce will soon hold hearings on shortage problems and I am most hopeful that legislative action will swiftly follow.

At this point, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Domestic Supply Information Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to require the Secretary of Commerce to furnish to the Congress periodic reports relating to the existence, causes, and future or potential existence and causes of shortages of products in interstate commerce, and to provide for the evaluation and analysis of such reports.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(1) "Secretary" means the Secretary of Commerce; and

(2) "Office" means the Office of Domestic Supply established by section 4 of this Act.

ESTABLISHMENT OF OFFICE OF DOMESTIC SUPPLY

SEC. 4. (a) There is established within the Department of Commerce an Office of Domestic Supply. The Office shall be under the direction of a Director who shall be appointed by the Secretary. All functions of the Secretary under this Act shall be carried out by the Director.

(b) There shall be in the Office an Assistant Director for Investigations and an Assistant Director for Analysis and Reports, each of whom shall be appointed by the Secretary. Each Assistant Director shall perform such functions as the Director may prescribe.

FUNCTIONS

SEC. 5. The Secretary shall—

(1) establish, by regulation, criteria for determining whether an actual or potential shortage condition of any product in interstate commerce exists;

(2) establish procedures for accepting and acting upon complaints of actual or potential product shortages from members of the public;

(3) conduct all investigations necessary to determine the cause and existence or potential existence of any such product shortage;

(4) continuously monitor and evaluate the state of the economy to the extent necessary to achieve the purposes of this Act; and

(5) determine, in accordance with the rule making procedures of section 553 of title 5, United States Code, and the criteria established under paragraph (1) of this section, whether an actual or potential shortage condition of any product in interstate commerce exists.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) (1) The Secretary is authorized, in carrying out his functions under this Act, to hold such hearings, take such testimony, require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, and administer such oaths as he deems advisable.

(2) Subpenas shall be issued under the signature of the Secretary and shall be served by any individual designated by him. Any individual designated by the Secretary may administer oaths or affirmations to witnesses appearing before an investigation conducted by the Office.

(3) In the case of contumacy or refusal to obey a subpena issued under this subsection the Secretary may invoke the aid of any United States district court in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

(b) Information obtained under the authority of this Act shall be public except that the Secretary shall treat information as confidential in any case where he determines that public disclosure of such information would result in a competitive advantage or disadvantage to one or more persons. Any information obtained under the authority of this Act shall be made available to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce of the Senate, upon the request of either such committee.

(c) The Secretary is further authorized—

(1) to appoint and fix the compensation of personnel in the Office;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) to promulgate such rules, regulations, and procedures as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under his direction and supervision.

COOPERATION OF OTHER DEPARTMENTS

SEC. 7. (a) The head of each department, agency, and independent instrumentality of the Government shall cooperate, to the fullest extent permissible under the law, with the Secretary in carrying out his functions under this Act.

(b) The Attorney General shall, upon request made by the Secretary, make available to the Secretary the investigation resources of the Department of Justice to obtain information deemed necessary by the Secretary to carry out his responsibilities under this Act.

REPORTS BY THE SECRETARY OF COMMERCE

SEC. 8. Not later than sixty days after the date of enactment of this Act, and each ninety days thereafter, the Secretary shall transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives, to the Committee on Commerce of the Senate, and to the Comptroller General of the United States a report setting forth, with respect to the twelve-month period following the date of such report—

(1) the Secretary's estimates of (A) the domestic and foreign supply, (B) the domestic and foreign demand, and (C) the domestic and foreign wholesale and retail prices, for each product for which a shortage exists;

(2) an analysis of the causes of the shortage for each product which the Secretary has designated as being in that condition;

(3) an analysis of the impact of any such shortage on all affected measures of output, prices and employment for each product which the Secretary has designated as being in a shortage condition;

(4) an analysis of the future or potential for shortages of products in interstate commerce, the causes of such future or potential shortages and the impact of existing law and public policies on the development or avoidance of such shortages; and

(5) the Secretary's recommendations with respect to possible legislation to eliminate existing or future or potential shortages.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 9. (a) Not later than sixty days after the transmittal of a report in accordance with section 8, the Comptroller General of the United States shall prepare and transmit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate a report containing—

(1) the Comptroller General's analysis and evaluation of the report of the Secretary; and

(2) the Comptroller General's recommendations with respect to possible legislation to eliminate existing, future or potential shortages of products determined to be in that condition by the Secretary.

(b) For the purpose of carrying out his functions under subsection (a), the Comptroller General of the United States—

(1) shall have access to all information collected by the Secretary under the authority of this Act; and

(2) is authorized to procure the temporary or intermittent services of experts and consultants at rates not to exceed the maximum rate payable under section 3109 of title 5, United States Code.

ACCESS TO REPORTS

SEC. 10. The Committee on Interstate and Foreign Commerce of the House of Representatives or the Committee on Commerce of the Senate shall, upon written request, make available to any Member of the House of Representatives or the Senate, respectively, a copy of any report received by such Committee under this Act.

COMPENSATION OF DIRECTOR AND ASSISTANT DIRECTORS

SEC. 11. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(91) Director, Office of Domestic Supply, Department of Commerce."

(b) Section 5316 of such title is amended by adding at the end thereof the following:

"(134) Assistant Director for Investigations, Office of Domestic Supply, Department of Commerce.

"(135) Assistant Director of Analysis and Reports, Office of Domestic Supply, Department of Commerce."

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There is authorized to be appropriated to the Department of Commerce for the purposes of carrying out the provisions of this Act, $500,000 for the fiscal year ending June 30, 1974, $500,000 for the fiscal year ending June 30, 1975, and $500,000 for each fiscal year thereafter.

(b) There is authorized to be appropriated to the General Accounting Office for the purposes of carrying out the provisions of this Act, $500,000 for the fiscal year ending June 30, 1974, $500,000 for the fiscal year ending June 30, 1975, and $500,000 for each fiscal year thereafter.

SECTION-BY-SECTION ANALYSIS OF THE DOMESTIC SUPPLY INFORMATION ACT

Sec. 1 identifies the Act as the "Domestic Supply Information Act."

Sec. 2 defines the purposes of the Act as ensuring Congress is periodically furnished reports on the existence, causes and future existence and causes of shortages. It also provides that Congress will be given legislative recommendations on means to deal with shortages.

Sec. 3 defines the terms "Secretary" to mean the Secretary of Commerce and "Office" to mean the Office of Domestic Supply.

Sec. 4 establishes within the Department of Commerce an Office of Domestic Supply under the direction of a Director appointed by the Secretary and creates Assistant Directors for Investigations and for Analysis and Reports.

Sec. 5 requires the Secretary to establish criteria for determining the existence of actual or potential shortages, to establish procedures for acting upon public complaints of actual or potential shortages, to conduct necessary investigations, to monitor and evaluate the economy and to determine the existence of actual or potential shortages.

Sec. 6 authorizes the Secretary to hold hearings and compel the production of information necessary to the fulfillment of his or her responsibilities under the Act.

Sec. 7 directs the heads of all agencies of government to cooperate with the Secretary in the exercise of his or her functions under the Act.

Sec. 8 directs the Secretary to report every ninety days to the Senate and House Commerce Committees on foreign and domestic supply, demand and prices of goods in short supply. The Secretary is also required to provide analyses of the causes of shortages, of the impact of shortages on output, prices and employment of shortages and to provide his or her recommendations with respect to legislation to eliminate shortages.

Sec. 9 directs the Comptroller General to prepare and send to the Senate and House Commerce Committees a report containing his or her analysis and evaluation of the Secretary's report and his or her recommendations with respect to remedial shortage legislation.

Sec. 10 provides all members of Congress with access, on request, to the reports of the Secretary and the Comptroller General.

Sec. 11 establishes the offices of Director, Office of Domestic Supply, Assistant Director for Investigations, Office of Domestic Supply and Assistant Director of Analysis and Reports, Office of Domestic Supply.

Sec. 12 authorizes $500,000 to the Department of Commerce for the purpose of carrying out this Act, and $500,000 to the General Accounting Office for the same purpose for the fiscal year ending June 30, 1974 and for each fiscal year thereafter.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2967. A bill to amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. Section 2 of the Northwest Atlantic Fisheries Act of 1950, as amended (16 USC 981 et seq.) (hereinafter referred to as the "Act"), is amended by striking out subsection (d) and by redesignating subsections (e) through (j) as subsections (d) through (i).

SEC. 102. Section 4(a) of the Act is amended by striking out the phrase "of the convention area" in both places it occurs and substituting in lieu thereof the phrase "under regulation by the Commission" in both places.

SEC. 103. Section 7 of the Act is amended—

(a) by striking out the phrase "that portion of the convention area" and substituting in lieu thereof "areas inhabited by species under regulation by the Commission" in subsection (d).

(b) by striking out the phrase "any portion of the convention area" and substituting in lieu thereof "areas inhabited by species under regulation by the Commission" in subsection (e).

SEC. 104. Section 9(c) of the Act is amended by striking out the phrase "the convention area" and substituting in lieu thereof "areas inhabited by species under regulation by the Commission".

DEPARTMENT OF STATE,
Washington, D.C., December 27, 1973.

Hon. GERALD R. FORD,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft of a proposed bill "To amend the Northwest Atlantic Fisheries Act of 1950, as amended, and for other purposes".

It is requested that this bill be referred to the appropriate committee for consideration; its enactment is recommended.

The purpose of the Northwest Atlantic Fisheries Act is the implementation of the International Convention for the Northwest Atlantic Fisheries 1949 (ICNAF) and the conservation regulations of the International Commission for the Northwest Atlantic Fisheries (ICNAF) established thereunder. The ICNAF Act was amended in 1971 by Public Law 92-87 to permit U.S. participation in a scheme of international enforcement of the ICNAF conservation regulations which became effective in 1971. The purpose of the proposed legislation is to further amend the ICNAF Act to permit U.S. participation in an extension of the ICNAF scheme of international enforcement as proposed by the Commission at its Annual Meeting in June 1973.

The Convention Area specified in the Convention and Act runs north and east from Rhode Island to Greenland. At the time of the 1971 amendment to the Act, all conservation measures applied only to this Area, and it was not foreseen when the amendment was drafted that any other action would be taken. The Convention specifies that the Commission's regulatory measures shall be "designed to achieve the optimum utilization of the stocks of those species of fish which support international fisheries in the Convention Area." At a Special Meeting in 1972 the Commission concluded that its conservation goals could be fulfilled only if certain of the conservation measures were applied to stocks which support international fisheries in the Convention Area but which range both within and outside the Convention Area as part of their migratory patterns. This proposal was approved by the Members Governments, and certain conservation regulations now apply to stocks fished both in ICNAF Subarea 5 (SA5) off New England and in ICNAF Statistical Area 6 (SA6) which extends southward to about Cape Hatteras. Although some stocks are fished both in the ICNAF Area and in territorial waters, regulations may not be extended to U.S. territorial waters in this fashion because territorial waters are specifically excluded in the Convention. Nor would the Convention allow ICNAF to adopt conservation measures with regard to species which support fisheries entirely outside the Convention Area.

The ICNAF scheme of international enforcement does not apply now to SA6. The 1973 ICNAF proposal mentioned above would extend its application to SA6 with regard to those stocks which migrate between the two regions and which are subject to ICNAF conservation measures. The United States is not in a position to accept this proposal and participate in international enforcement in this important area off the U.S. coast until the

ICNAF Act is amended. The reason is that the 1971 amendments to the Act limit our participation in such international enforcement to the Convention Area as defined in the Convention. The proposed legislation would amend the Act to permit such participation. This would be accomplished by deleting the references to the Convention Area and instead relating the provisions of the Act to the areas inhabited by species under regulation by the Commission. Such areas would be almost entirely in SA6, but some species such as the herring now under ICNAF regulation range a little further south than the presently defined southern boundary of SA6. The Commission may in the future, of course, find is necessary to apply conservation measures to species crossing other boundaries of the Convention Area in order to ensure a meaningful conservation program.

The bilateral fisheries agreement between the U.S. and Poland applies a voluntary inspection program based on the ICNAF scheme of international enforcement in SA6. The U.S. had sought a similar provision in the bilateral fisheries agreement with the Soviet Union for SA6 but had met with Soviet resistance to a separate inspection scheme for the bilateral. The Soviets, however, proposed to the 1973 ICNAF Annual Meeting that the ICNAF enforcement scheme be extended to cover those species under ICNAF regulation in SA6. The Commission agreed to this proposal, although a number of Members like the United States noted that changes in domestic law would have to be sought before they could formally accept the proposal. In view of the pressing nature of fisheries conservation problems off the coast of the United States, the Commission also urged Members to accept and apply the scheme in SA6 at an earlier date than the six months minimum in which the proposal might ordinarily become effective under the ICNAF Convention. The early application of the scheme to SA6 has already been accepted by the Soviet Union and Canada. It would seem to be very much in the interest of the United States to move quickly to apply the scheme to this area off our coast.

In the bilateral fisheries agreement signed with the Soviets immediately after ICNAF adopted this proposal, it was agreed to apply the ICNAF scheme on a voluntary basis to the enforcement of the provisions of the agreement. It was also agreed to apply the scheme on a voluntary basis to enforcement of ICNAF regulations in SA6 until the both sides are in a position to do so on a mandatory basis.

The Office of Management and Budget advises that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2968. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorized the Secretary to phase in motor vehicle safety standards by specified percentages over a period of time, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end thereof a new subsection (1) to read as follows:

"(1) (1) Notwithstanding any other provisions of this section the Secretary may, if by doing so he will be requiring the earlier availability of motor vehicle with improved safety features, by order specify a series of effective dates for a Federal motor vehicle safety standard, on or after which a specified percentage of motor vehicles, to which the standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to that standard. Each order specifying a series of effective dates should include a statement of the reasons for which the series of effective dates is found to be in the public interest.

"(2) The effective dates within any series specified by the Secretary shall be at one-year intervals. During each six-month period after an effective date, the specified percentage of motor vehicles, to which a standard applies, manufactured by each manufacturer for purposes of sale in the United States shall conform to the standard. The final effective date in a series shall in all cases be not more than two years after the initial effective date, and all motor vehicles, to which the standard applies, manufactured on or after the final effective date for purposes of sale in the United States shall conform to the standard.

"(3) In the case where one or more manufacturers are wholly owned by another person or corporation, those manufacturers together with the owning person or corporation shall be considered as one manufacturer for purposes of this subsection. In all other cases each person or corporation that is a manufacturer shall be considered a separate manufacturer for purposes of this subsection."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., December 28, 1973.
Hon. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation has prepared as part of the legislative program for the 93rd Congress, 2d Session, the enclosed proposed bill:

"To authorize the Secretary to phase-in motor vehicle safety standards by specified percentages over a period of time, and for other purposes."

The relevant provisions of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.) by which the Secretary of Transportation or his delegate is authorized to set effective dates for motor vehicle safety standards are as follows:

Sec. 103(c): ***"Each order establishing a Federal motor vehicle safety standard shall specify the date such standard is to take effect*** which shall not be sooner than one-hundred and eighty days or later than one year from the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding." (Italics supplied.)

Sec. 103(f)(3): "In prescribing standards under this session, the Secretary shall . . . consider whether any such proposed standard is reasonable, practicable and *appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed* . . . (Italics supplied.)

Sec. 108(a)(1): *"No person shall manufacture* for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States, *any motor vehicle or item of motor vehicle equipment manufactured on or after the date any applicable Federal motor vehicle safety standard takes effect* under this title unless it is in conformity with such standard . . ." (Italics supplied.)

These provisions thus establish that motor vehicle safety standards shall set minimum performance standards for "particular types" of vehicles, that each standard shall specify an effective date, and that no nonconforming vehicles shall be produced after the effective date. There appears to be no reasonable construction of the language of the statute, and nothing in its legislative history, that would provide authority to require manufacturers to "phase-in" a percentage of their production of a particular type of vehicle to conformity with a standard. We therefore conclude that an amendment of the statute would be necessary to provide authority for such a regulatory action.

Therefore, under its present authority the Department has no choice, when imposing a new safety requirement on manufacturers of motor vehicles, but to order that requirement into effect for all of a particular type of car made on or after a specified date. Frequently, this creates an undesirable situation since many manufacturers change the body designs of various different car lines in successive years over a cycle of three or more years. Thus, the single effective date often either does not achieve the degree of safety improvement that is possible with part of the industry's production, or imposes severe burdens with respect to a portion of production that has special problems.

The proposed bill would amend the National Traffic and Motor Vehicle Safety Act, so as to grant the Department phase-in authority whereby more realistic effective dates for safety standards could be established. Such authority would allow the Secretary, in his discretion, to specify a series of dates by which all motor vehicle manufacturers would have to bring into compliance with a standard specified percentages of their production manufactured for purposes of sale in the United States. For example, he could require a standard to be phased-in over a two-year period, so that after September 1, 1974, 25 percent of the manufacturer's production would meet the standard, after September 1, 1975, 50 percent, and after September 1, 1976, all of its production would conform to the standard.

We do not envision phasing-in every safety standard. However, the phase-in approach could be used with respect to those standards which were determined to entail substantial start-up problems for the industry.

The desirability of this authority can be demonstrated by viewing it in connection with our rulemaking on direct fields of view. A notice of proposed rulemaking was issued last year for a standard that would require all passenger cars, multipurpose passenger vehicles, trucks, and buses to provide drivers with specified amounts of unobstructed view of the driving environment. The standard would accomplish this by limiting the size of vehicle structures, such as roof pillars, that obscure the driver's view of other vehicles and the road. It appears likely that many of the manufacturers will experience difficulty in achieving compliance with the standard since they will need to do substantial redesigning and retooling. It may be practicable, therefore, for some of these manufacturers to achieve compliance only in accordance with their normal model changeover cycle. Under present authority, we would have to set the single effective date at a time when it was practicable for all manufacturers to achieve full compliance. Phase-in authority, however, would permit the Department to phase-in the standard over a several-year period. This approach would assure some improvement in motor vehicle safety at the earliest possible moment. Of course, the percentage of production selected would be applicable to all manufacturers.

In conclusion, we believe, as a general matter, that the gradual phase-in of an increasing percentage of a manufacturer's production to the requirements of a standard requiring major design changes would be beneficial to both manufacturers and the public. It would minimize a manufacturer's cost by permitting him to make the necessary changes in accordance with his normal model changeover, and the public would be afforded added vehicle safety earlier than otherwise possible.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

CLAUDE S. BRINEGAR.

By Mr. EAGLETON:

S. 2969. A bill to require a reduction in motor vehicle insurance premiums in the District of Columbia, and for other purposes. Referred to the Committee on the District of Columbia.

Mr. EAGLETON. Mr. President, over the years, as the accident rate increased for residents of the District of Columbia so did the cost of auto insurance. To do so was only fair. By the same token, as accident rates decrease for residents of the District, so also should the cost of auto insurance. That, too, is only fair.

Today I am introducing the "fair auto insurance rates bill" for the District of Columbia. This legislation would call for an across-the-board reduction in automobile insurance rates of 10 percent. The effective date of this reduction would be retroactive to January 1, 1974, with a refund of any money paid in excess of this amount.

After the initial reduction, the Mayor of the District of Columbia is directed to conduct a detailed study of the rates of motor vehicle accidents, fatalities, injuries, property damage, and claim payments made by motor vehicle insurers. This study would be carried out at least every 60 days until no appreciable change occurs for 120 days.

The Mayor will also possess the authority to adjust premium rates for motor vehicle insurance in order to keep them abreast of changes that might occur in automobile accident rates in the District.

Mr. President, since November 1973, I have supported the reduction of auto insurance rates to stay abreast of drops in accident rates that might occur due to gas conservation efforts. During that time the auto insurance industry, on the whole, has not moved expeditiously toward establishing fair premium rates.

When gas conservation first began, I wrote letters to the three major auto insurance associations asking them to agree to lower the cost of auto insurance if accident rates dropped. The one association that responded said—

> We all hope that reduced speeds will result in the saving of lives, but evidently you are ill informed or ill advised if you conclude that this results in substantial reductions of the damages that go into the development of auto insurance rates.

The next auto insurance industry response to the issue came in the form of a detailed study by the insurance institute for highway safety. Some of the arguments presented in this study were a disappointment to those of us who hoped that the insurance industry would react reasonably.

For example, the study said:

> (1) "It should be noted that decreased travel speeds result in increased travel times and increased 'time exposure' to fixed environmental hazards along the way. This increased time exposure will increase traffic density."
>
> (2) On car pooling: "Increased occupancy rates would mean that the chances of injury in a given crash are increased."
>
> (3) On the drop in fatality rates: "People often change their behavior or claimed behavior in the desired direction as a result of being studied rather than as a result of the changed conditions. Therefore, caution is necessary before interpreting any early changes in losses."

The statements do not respond to the facts of decreases in accident and injury rates; they reflect only the industry's bias against reduced premium rates, whatever the facts may show.

The auto accident data compiled since gas conservation efforts began indicates that the few concessions some companies have begun to make—such things as reduced rates to car poolers or promised future distributions of windfall profits—simply do not meet the goal of equitably apportioning the savings resulting from the gasoline shortage.

Across the country State insurance commissioners are holding factfinding hearings about gas conservation and auto insurance rates. They are calling on insurance companies to pass along any windfall profits to the insured and some are requiring companies to reduce their rates. I hope that consideration of my bill by Congress will help to spark discussion of this issue on a national level—though it directly affects only the District of Columbia.

On February 22 and 25, the Senate District of Columbia Committee will hold hearings on the bill I am introducing today. These hearings will include testimony of experts from all across the country. We hope to obtain a clear understanding of how the American public is altering its driving habits due to the energy crisis. We also hope to learn how these alterations have affected automobile insurance rates.

The American people have taken the brunt of the negatives resulting from the energy crisis. They have had to pay more for their gasoline, when they can get it. They have had to live in cooler homes. They have had to limit or eliminate their weekend driving trips.

The people should reap the benefits occurring from these sacrifices in the form of reduced automobile insurance rates. It is incumbent on us in the U.S. Congress to be sure that they receive this benefit as soon as possible and to the maximum extent practicable.

By Mr. PACKWOOD:

S. 2970. A bill to amend the Social Security Act to provide adequate financing of health care benefits for all Americans. Referred to the Committee on Finance.

COMPREHENSIVE HEALTH INSURANCE ACT

Mr. PACKWOOD. Mr. President, today I have the honor of introducing the Comprehensive Health Insurance Act, a far-reaching proposal developed by the administration to insure that all Americans have access to health insurance coverage at affordable prices.

All Americans consider good health care at reasonable prices to be among the basic necessities of life, but for too many of our citizens, this has been an unrealized necessity. Many have no access to the health care delivery system. Many more, especially the low-income and those considered "high risk," have no access to health insurance coverage. And in this time of rising costs, I dare say no American has not at some time or another shuddered at the possibility of an unexpected serious illness or accident, and the financial disaster which too often results.

Mr. President, as we approach our Bicentennial anniversary, I believe it particularly appropriate that we begin active consideration of this landmark legislation, which if enacted, will guarantee access to health care financing for all Americans. As the President pointed out in his health message, barriers to good health care are barriers to equal opportunity, and in my judgment, this Nation cannot afford to allow either to continue.

From time to time, as we take up this vital legislation, I will be discussing various aspects of the Comprehensive Health Insurance Act, and would also welcome any and all questions and comments on the details of the bill, which of course are not fixed in stone.

At this point, I ask unanimous consent that the Comprehensive Health Insurance Act, the President's landmark health message, and a fact sheet on the bill be printed in the RECORD following my remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Health Insurance Act of 1974."

TITLE I—NATIONAL HEALTH CARE BENEFITS PROGRAM

SEC. 101. The Social Security Act is amended by striking out title XVIII and inserting in lieu thereof the following new title XVIII:

"TITLE XVIII—HEALTH CARE BENEFITS

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1800. (a) The Congress hereby finds that—

"(1) many Americans are not now receiving adequate health care because of inability to pay the cost of such care;

"(2) the lack of adequate protection against the cost of health care prevents or seriously interferes with the ability of many Americans to secure necessary health care for themselves and their families or requires them to deplete their resources substantially or completely in order to secure such care;

"(3) as a result, the national health is seriously and adversely affected and this in turn seriously affects the general welfare;

"(4) to protect the national health and, consequently, the general welfare, it is necessary to assure that adequate protection against the cost of necessary health care is provided by requiring employers to provide health care plans for their employees and assisting the States to provide health care plans for persons to whom employee health care plans are not available; and

"(5) to require this only of employers engaged in interstate commerce would impose an unreasonable burden on such commerce.

"(b) It is therefore the purpose of this title to provide adequate protection against these costs by requiring all employers to offer health care plans to their employees; and to assist the States in making similar plans available to individuals in need of such protection.

"Part A—Employee Health Care Benefits

"HEALTH CARE PLANS REQUIRED

"Sec. 1801. (a) Every employer shall provide to each of his employees under the age of 65 whose place of employment is in a State certified by the Secretary under section 1861, and who was employed by him for not less than—

"(A) 25 hours per week for ten weeks, or

"(B) 350 hours,

in the preceding thirteen consecutive calendar weeks, a reasonable opportunity, as determined under regulations prescribed by the Secretary, to obtain coverage for himself and the members of his family under the age 65 under, at the option of the employee—

"(1) an employee health care insurance plan approved under this title or an assisted health care insurance plan obtained by the employer pursuant to part B,

"(2) a group practice prepaid health care plan approved under this title, or

"(3) an individual practice prepaid health care plan approved under this title,

except that the Secretary may by regulation specify circumstances in which an employer need not offer an employee an opportunity to obtain coverage under a group practice or individual practice prepaid health care plan because such a plan is not available. The employer must offer the same health care plans to all employees in the same locality, as determined under regulations prescribed by the Secretary, except for such exceptions as the Secretary may, by regulation, provide. For purposes of the first sentence of this subsection, there shall be counted only those hours of service performed within the United States or service performed outside the United States by an American citizen for an American employer.

"(b) An employer who has an employee to whom he is required to provide the opportunity to obtain coverage under a health care plan under subsection (a) shall provide the same opportunity to each of his employees employed at the same place of employment who is not otherwise entitled to that opportunity because of the hours of work requirement imposed under subsection (a) and was employed by him for not less than 25 hours in the preceding calendar week.

"(c) Any bargaining agent recognized as an exclusive bargaining agent under the laws of the United States or any State, may exercise, on behalf of the employees for whom it is recognized as the exclusive bargaining agent, the options which must be offered to employees under this section, including the option to decline coverage under any health care plan approved under this title or provided pursuant to part B.

"EMPLOYER CONTRIBUTIONS

"Sec. 1802. (a) An employer required by section 1801(a) to provide an employee the opportunity to obtain coverage for himself and the members of his family under the age of 65 under a health care insurance plan shall, if the employee obtains such coverage, contribute to the cost of that coverage, during the period that the employer is required by section 1801(a) to provide the opportunity to obtain coverage under the plan, and for 90 days after the employer is no longer required by section 1801(a) to provide that opportunity, an amount equal to at least 75 percent of the cost of that coverage, as determined under regulations prescribed by the Secretary. An employer must pay the contributions required by this section, in the case of a plan provided by a carrier, directly to the carrier or an employee health and welfare fund.

"(b) An employer required by section 1801 (a) to provide an employee the opportunity to obtain coverage for himself and the members of his family under the age of 65 under a prepaid health care plan shall, if the employee obtains that coverage, contribute to the cost of that coverage, during the period that the employer is required by section 1801(a) to provide the opportunity to obtain coverage under the plan and for 90 days after the employer is no longer required by section 1801(a) to provide that opportunity, an amount equal to the amount he would be required to contribute under subsection (a) to coverage under a health care insurance plan.

"INFORMATION FOR EMPLOYEES

"Sec. 1803. An employer required by section 1801 to provide an employee with an opportunity to obtain coverage under a health care plan shall advise the employee of the plans and arrangements for the financing or provision of health care offered by the employer, the benefits they provide, their cost, and the means by which coverage under any of them can be secured. The employer shall also provide the employee with information concerning the availability of health care benefits pursuant to part B.

"UNAPPROVED PLANS PROHIBITED

"Sec. 1804. An employer required by section 1801 to provide an employee with an opportunity to obtain coverage under a health care plan shall neither provide that employee with an opportunity to secure, nor contribute toward the cost of, coverage under any plan or arrangement for the financing or provision of health care other than a health care insurance plan approved under this title or obtained pursuant to part B or a prepaid health care plan approved under this title, except that—

"(1) the employer may offer the employee the opportunity to obtain coverage under a special employee health care program approved under this title, and

"(2) the employer may offer the employee the opportunity to obtain coverage under a plan or arrangement for the financing or provision of health care not approved under this title or obtained under part B if acceptance of coverage under the plan or arrangement is not a condition of obtaining coverage under any health care plan offered by the employer pursuant to section 1801 and the employee has obtained coverage under such a health care plan.

"DISCRIMINATION ON THE BASIS OF HEALTH STATUS PROHIBITED

"Sec. 1805. (a) No employer may discriminate against an individual with respect to the opportunity for employment, or the compensation, terms, condition, or privileges of employment, because of the individual's health status or the health status of his dependents, except when directly related to the capacity of the individual to perform his duties as an employee.

"(b) An employer required by section 1801 to provide an employee with an opportunity to obtain coverage under a health care plan shall not offer the employee a financial inducement to, or condition the employee's employment on, rejection of coverage under the plan.

"EXCLUDED EMPLOYERS

"Sec. 1806. The provisions of this section shall not apply to the United States Government, the government of the District of Columbia, a foreign government, or an international organization described in section 210(a)(15), or any agency or instrumentality of such a government organization.

"Part B—Grants to States for Health Care Benefits Programs

"APPROPRIATION

"Sec. 1821. For the purpose of assisting each State to provide adequate health care benefits to individuals who are otherwise unable to obtain such benefits, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for provision of health care benefits.

"STATE PLANS FOR PROVISION OF HEALTH CARE BENEFITS

"Sec. 1822. (a) A State plan for the provision of health care benefits must—

"(1) provide that—

"(A) the members of any family residing in the State who are not entitled to federal health care benefits under part C of this title, are not covered under a health care plan pursuant to part A of this title, and have an aggregate annual income of less than—

"(I) 52.5% of the income class base, as determined under section 1825(b)(5), in the case of a one member family group, or

"(II) 75% of that income class base, in the case of a more than one member family group; and

"(B) the members of any family residing in the State who are not entitled to health care benefits under part C of this title and are not eligible for coverage under a health care plan pursuant to part A;

shall be eligible for health care benefits under the plan;

"(2) provide that any employer subject to the requirements of part A of this title shall be eligible to obtain health care benefits under the plan for the purpose of providing such benefits, pursuant to the requirements of part A, to his employees whose place of employment is within the State;

"(3) provide that the benefits under the plan for any family group described in clause (1) shall be the opportunity for the family group—

"(A) to obtain coverage under an assisted health care insurance plan, or

"(B) at the option of the family group, to have the State pay to any prepaid health care plan approved under this title under which the family group has obtained coverage at a rate which the State determines is reasonable, on behalf of the family group, an amount equal to the cost to the State of providing coverage under an assisted health care insurance plan, as determined under regulations prescribed by the Secretary;

"(4) provide that the benefits provided

to an employer described in clause (2) shall be—

"(A) the opportunity for each employee of the employer whose place of employment is within the State, and to whom the employer is required by part A to offer the opportunity to obtain coverage under a health care insurance plan, to obtain coverage for himself and the members of his family under the age of 65 under an assisted health care insurance plan, and

"(B) in the case of any such employee who elects instead to obtain coverage under a prepaid health care plan made available by the employer pursuant to part A of this title at a rate which the State determines is reasonable, to have the State pay to such plan, on behalf of the employer and employee, an amount equal to the cost to the State of providing coverage under an assisted health care insurance plan, as determined under regulations prescribed by the Secretary;

"(5) provide that the eligibility of family groups for benefits under the plan, the premium, deductible, coinsurance, and related requirements applicable to eligible family groups, and the eligibility of employers to obtain benefits under the plan shall be determined by the public agency designated by the Secretary;

"(6) provide that the opportunity to obtain coverage under an assisted health care insurance plan shall be provided (A) through arrangements with one or more carriers pursuant to which—

"(I) the carrier will offer coverage under the plan to all eligible family groups and offer to provide the plan to all eligible employers, and

"(II) the State will pay the carrier an amount equal to payments made by the carrier under the plan and the cost of necessary and proper administration, less any premium, deductible and coinsurance payments and other amounts received by the carrier in connection with administration of the plan, as determined under regulations prescribed by the Secretary, or, (B) directly by the State if the Secretary so authorizes;

"(7) provide that any premium, deductible or coinsurance payment or other amounts owed to the State or paid by the State pursuant to an arrangement with a carrier shall be a debt owed to the State, and that the State shall make reasonable efforts to collect such debts;

"(8) provide that if any member of a family group described in clause (1) (A) which is receiving health care benefits under the plan is an employee to whom an employer is required by section 1801 to offer the opportunity to obtain coverage under a health care insurance plan, the employer shall be required to pay the State the amount the employer would be required to contribute if the employee obtained coverage under the health care insurance plan offered by the employer;

"(9) provide that the State will, in the third quarter of each calendar year, determine, in accordance with regulations prescribed by the Secretary, the estimated average premium for coverage for the succeeding calendar year, in the State, under an employee health care insurance plan approved under this title, of an employee with one or more family members under the age of 65;

"(10) provide that the State will comply with such requirements as the Secretary may, by regulation, impose for the purpose of assuring cooperation among the States in the administration of State plans approved under this part;

"(11) provide that the State will not impose any premium tax on any premiums for health care plan coverage obtained under the State plan;

"(12) provide that the State will comply, and will require any carrier participating in the administration of the State plan to comply, with such requirements as the Secretary may, by regulation, prescribe for the purpose of controlling access to information of the State plan;

"(13) provide that the State will make such reports, in such form and containing such information, as the Secretary may require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports; and

"(14) contain such other provisions as the Secretary may determine are necessary to carry out the purposes of this part.

"(b) The Secretary shall approve any plan submitted by a State certified by the Secretary under section 1861 which fulfills the requirements specified in subsection (a).

"(c) The Secretary shall, by regulation, prescribe the criteria and standards for determining the State of residence of family groups for purposes of this part, which regulations shall provide that each family group residing in the United States shall have a State of residence.

"PAYMENT TO STATES

"SEC. 1823. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this part, for each quarter, beginning with the quarter commencing January 1, 1976, an amount equal to the net expenditures under the State plan during that quarter, less

"(A) the State contribution for that quarter, and

"(B) an amount which bears the same ratio to the payments made during that quarter under part C with respect to individuals described in section 1831(a) in income classes I, II, and III who reside in the State which would not have been made if those individuals were in income class IV, as the State contribution for that quarter bears to the net expenditures under the State plan during that quarter.

"(b) (1) For purposes of subsection (a), the net expenditures under a State plan during any quarter shall be the total amount expended during that quarter under the State plan, including amounts found necessary by the Secretary for proper and efficient administration of the plan, less the total of the debt payments, employer payments, and other amounts received by the State during that quarter in connection with administration of the plan.

"(2) For purposes of subsection (a), the State contribution for any quarter in the first calendar year in which there is in effect in the State a plan approved under this part shall be—

"(A) one-fourth of the total non-federal expenditures, other than expenditures related to the provisions of skilled nursing home facility services, home health services, intermediate care facility services, inpatient hospital services in institutions for mental diseases and psychiatric hospitals, and dental services, under the plan of the State approved under title XIX for fiscal year 1975; plus

"(B) ten percent of the product of—

"(I) the per capita income of the State divided by the per capita income of the United States; and

"(II) the net expenditures under the State plan during that quarter (as determined under paragraph (1)), less one-fourth of the total federal and nonfederal expenditures, other than expenditures related to the provision of skilled nursing home facility services, home health services, intermediate care facility services, inpatient hospital services in institutions for mental diseases and psychiatric hospitals, and dental services, under the plan of the State approved under title XIX for fiscal year 1975.

"(3) For purposes of subsection (a), the State contribution for any quarter in a calendar year beginning after the first calendar year in which there is in effect in the State a plan approved under this part shall be—

"(A) one-fourth of the State contribution under the plan of the State approved under this part for the first calendar year in which there is in effect in the State a plan approved under this part; plus

"(B) twenty-five percent of the product of—

"(I) the per capita income of the State divided by the per capita income of the United States; and

"(II) the net expenditures under the State plan during that quarter (as determined under paragraph (1)), less one-fourth of the net expenditures under the State plan during the first calendar year in which there is in effect in the State a plan approved under this part.

"OPERATION OF STATE PLANS

"SEC. 1824. If the Secretary, after reasonable notice and an opportunity for hearing to a State which has a plan approved under this part, finds—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 1822; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"REQUIREMENTS FOR ASSISTED HEALTH CARE INSURANCE PLANS

"SEC. 1825. (a) An assisted health care insurance plan must meet all of the requirements for approval of an employee health care insurance plan contained in section 1841, other than the requirements contained in subsections (c), (d), (e), (f), (g) (6), (g) (7), (g) (8), and (h) thereof.

"(b) (1) An assisted health care insurance plan must charge as a premium for each calendar year an amount equal to the following percentages of the estimated average premium for coverage for such year, in the State, under an employee health care insurance plan approved under this title, of an employee and the members of his family under the age of 65—

"(A) in the case of family groups described in section 1822(a) (1) in income class III, 20% for one member groups, and 50% for more than one member groups;

"(B) in the case of family groups described in section 1822(a) (1) in income class IV, 40% for one member groups, and 100% for more than one member groups;

"(C) in the case of family groups described in section 1822(a) (1) in income class V, 60% for one member groups, and 150% for more than one member groups; and

"(D) in the case of employees of employers described in section 1822(a) (2), 60% for employees without any family members under the age of 65, and 150% for employees with one or more family members under the age of 65.

No premium shall be charged in the case of family groups described in section 1822(a) (1) in income classes I and II.

"(2) (A) An assisted health care insurance plan must, subject to paragraph (4), impose, with respect to all items and services other than outpatient drugs and biologicals, and other blood and blood products, a per individual per calendar year deductible equal to the following percentages of the deductable base—

"(I) in the case of family groups described in section 1822(a)(1) in income class II, 33⅓%;

"(II) in the case of family groups described in section 1822(a)(1) in income class III, 66⅔%; and

"(III) in the case of family groups described in section 1822(a)(1) in income classes IV and V, and employees of employers described in section 1822(a)(2), 100%;

except that no further deductible shall be imposed under this paragraph in any calendar year after three members of a covered family group or employee and his family satisfy the deductible requirement for that year. No such deductible shall be imposed in the case of family groups described in section 1822(a)(1) in income class I.

"(B) The plan must, subject to paragraph (4), impose, with respect to outpatient drugs and biologicals, other than blood and blood products, a per individual per calendar year deductible equal to the following percentages of the deductible base—

"(I) in the case of family groups described in section 1822(a)(1) in income class II, 16⅔%; and

"(II) in the case of family groups described in section 1822(a)(1) in income classes III, IV, and V, and employees of the employers described in section 1822(a)(2), 33⅓%.

No such deductible shall be imposed in the case of family groups described in section 1822(a)(1) in income class I.

"(C) The plan must impose, with respect to blood and blood products, such deductible as the Secretary may, by regulation, prescribe.

"(D) The deductible base shall be $150 for calendar year 1976 and 1977, and the amount determined under subparagraph (E) for years after 1977.

"(E) The Secretary shall, during November of 1977 and of each year thereafter, determine and promulgate the per individual deductible to be applied under this paragraph for the following calendar year. The deductible shall be computed by increasing or decreasing $150 by the same percentage (rounded to the nearest one-tenth of one percent) by which the actuarial value of an employee health care insurance plan approved under this title for the year in which the determination is made exceeds or is less than such actuarial value for calendar year 1976. If the deductible derived from such computation is not a multiple of $6, it shall be reduced to the next lower multiple of $6.

"(3) An assisted health care insurance plan must impose, subject to paragraph (4), a coinsurance requirement equal to—

"(A) in the case of family groups described in section 1822(a)(1) in income class I, 10 per centum;

"(B) in the case of family groups described in section 1822(a)(1) in income class II, 15 per centum;

"(C) in the case of family groups described in section 1822(a)(1) in income class III, 20 per centum; and

"(D) in the case of family groups described in section 1822(a)(1) in income classes IV and V, and employees of employers described in section 1822(a)(2), 25 per centum;

of expenses in excess of any applicable deductible.

"(4) An assisted health care insurance plan must provide that no further deductible or coinsurance requirement will be imposed in any calendar year after the total of the deductible and coinsurance amounts imposed under the plan equals the following percentages of annual income—

"(A) in the case of family groups described in section 1822(a)(1) in income class I, 6 per centum;

"(B) in the case of family groups described in section 1822(a)(1) in income class II, 9 per centum;

"(C) in the case of family groups described in section 1822(a)(1) in income class III, 12 per centum; and

"(D) in the case of family groups described in section 1822(a)(1) in income class IV, 15 per centum.

In the case of family groups described in section 1822(a)(1) in income class V, and employees of employers described in section 1822(a)(2), the plan must provide that no further deductible or coinsurance requirement will be imposed in any calendar year after the total of the deductible and coinsurance amounts imposed under the plan equals 10.5 per centum, in the case of one member family groups and employees without any family members under the age of 65, or 15 per centum, in the case of more than one member family groups and employees with one or more family members under the age of 65, of the income class base for that calendar year, as determined under paragraph (5). The plan must provide that any deductible or coinsurance amount charged against a covered individual under any other health care insurance plan approved under this title or provided pursuant to this part or part C will be taken into account in determining if the deductible and coinsurance requirements imposed under the plan have been met.

"(5)(A) The income class of a family group described in section 1822(a)(1) for any calendar year must be determined on the basis of the family group's income for that year.

"(B) In the case of one member family groups, the income limits of the classes must be—

"(I) for income class I, less than 17.5 per centum of the income class base;

"(II) for income class II, at least 17.5 per centum of the income class base, but less than 35 per centum of that base;

"(III) for income class III, at least 35 per centum of the income class base, but less than 52.5 per centum of that base;

"(IV) for income class IV, at least 52.5 per centum of the income class base, but less than 70 per centum of that base; and

"(V) for income class V, at least 70 per centum of the income class base.

"(C) In the case of more than one member family groups, the income limits of the classes must be—

"(I) for income class I, less than 25 per centum of the income class base;

"(II) for income class II, at least 25 per centum of the income class base, but less than 50 per centum of that base;

"(III) for income class III, at least 50 per centum of the income class base, but less than 75 per centum of that base;

"(IV) for income class IV, at least 75 per centum of the income class base but less than 100 per centum of that base; and

"(V) for income class V, at least 100 per centum of the income class base.

"(D) The income class base shall be $10,000 for calendar years 1976 and 1977, and the amount determined under subparagraph (E) for years after 1977.

"(E) The Secretary shall, during November of 1977 and of each year thereafter, determine and promulgate the income class base to be applied under this paragraph for the following calendar year. The base shall be computed by increasing or decreasing $10,000 by the same per centum (rounded to the nearest one-tenth of one per centum) by which the average of the taxable wages of all employees as reported to the Secretary under title II for the first qurter of the calendar year in which the determination is made exceeds or is less than such average for the first quarter of calendar year 1976. If the base derived from such computation is not a multiple of $100, it shall be reduced to the next lower multiple of $100.

"(c) An assisted health care insurance plan must provide that coverage under the plan will continue to be available to a covered employee of an employer described in section 1822(a)(2), and the members of his family under the age of 65, to whom the plan is offered pursuant to section 1801(a) for 180 days after the employer is no longer required by section 1801(a) to offer the plan to the employee, at the same premium rate at which coverage under the plan is available to employees of the employer.

"(d) An assisted health care insurance plan must provide—

"(1) that an account will be established against which a covered individual may charge the cost of obtaining items and services covered under the plan, without regard to the deductible and coinsurance requirements applicable under the plan;

"(2) that payment for items and services covered under the plan, other than emergency services, will be made only on the basis of charges against that account;

"(3) that payment will be made on the basis of charges against the account for items and services covered under the plan at the applicable reimbursement rates; and that, unless the account is in default, payment will be made to full and associate participating providers for all items and services without reduction on account of the deductible and coinsurance requirements applicable under the plan and the covered individual will be billed the portion of any payment properly chargeable to him on account of those limitations and deductible and coinsurance requirements; and

"(4) that credit will be available with respect to any bill submitted to a covered individual pursuant to clause (3) and that interest will accrue on amounts owed on any bill, in accordance with regulations prescribed by the Secretary; that no recovery will be made from any individual or entity to whom the plan has made payment because of the failure of a covered individual to pay any such bill; and that an account will not be regarded as in default unless payment of amounts due under the account, or any other such account established with respect to the covered individual pursuant to the requirements of this title, is 90 days in arrears.

"PART C—FEDERAL HEALTH CARE BENEFITS

"ELIGIBILITY FOR AND NATURE OF BENEFITS

"SEC. 1831. (a)(1) The Secretary shall establish a Federal health care benefits program under which an individual residing in a State certified by the Secretary under section 1861 who—

"(A) has attained the age of 65, and

"(B) is entitled to monthly insurance benefits under section 202, or would be entitled, upon application, to such benefits if all employment subject to the taxes imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 were covered employment for the purpose of determining entitlement to such benefits, or is a qualified railroad retirement beneficiary,

shall be entitled to Federal health care benefits under part C of title XVIII.

"(2) For purposes of paragraph (1)—

"(A) an individual shall be deemed entitled to monthly insurance benefits under section 202, or to be a qualified railroad retirement beneficiary, for the month in which he died if he would have been enttiled to such benefits, or would have been a qualified railroad retirement beneficiary, for such month had he died in the next month, and

"(B) the term 'qualified railroad retirement beneficiary' means an individual whose name has been certified to the Secretary by the Railroad Retirement Board under section 21 of the Railroad Retirement Act of 1937. An individual shall cease to be a qualified railroad retirement beneficiary at the close of the month preceding the month which is certified by the Railroad Retirement Board on the month in which he ceased to meet the requirements of section 21 of the Railroad Retirement Act of 1937.

"(b) The benefits provided under the program shall be the opportunity, at the option of the individual—

"(1) to obtain coverage under the Federal health care insurance plan, or

"(2) to have the Secretary pay to any prepaid health care plan approved under this title under which the individual has obtained coverage at a rate which the Secretary determines is reasonable, on behalf of the individual, an amount equal to the cost to the Government of providing coverage under a Federal health care insurance plan, as determined under regulations prescribed by the Secretary.

"FEDERAL HEALTH CARE INSURANCE PLAN

"SEC. 1832. (a) The Federal health care insurance plan shall be an insurance plan which meets all the requirements for approval of an employee health care insurance plan contained in section 1841, other than the requirements contained in subsections (c), (d), (e), (f), (g) (6), (g) (7), (g) (8), (g) (9), and (h) thereof.

"(b) (1) The Federal health care insurance plan shall charge as a premium for each calendar year an amount equal to 15% of the amount which the Secretary determines is the estimated average cost of coverage for that year under the plan of an individual in income class IV, except that no premium shall be charged in the case of individuals in income classes I and II. Premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulation provide. All premium payments shall be deposited in the Treasury to the credit of the Federal Health Care Benefits Trust Fund.

"(2) (A) The Federal health care insurance plan shall, subject to paragraph (4), impose with respect to all items and services other than outpatient drugs and biologicals, and other blood and blood products, a per individual per calendar year deductible equal to the following percentages of the deductible base, as determined under section 1825 (b) (2)—

"(I) in the case of individuals in income class II, 33⅓ per centum; and

"(II) in the case of individuals in income classes III, IV, and V, 66⅔ per centum.

No such deductible shall be imposed in the case of individuals in income class I.

"(B) The plan shall, subject to paragraph (4), impose, with respect to outpatient drugs and biologicals, other than blood and blood products, a per individual per calendar year deductible equal to the following percentages of the deductible base, as determined under section 1825(b) (2)—

"(I) in the case of individuals in income class II, 16⅔ per centum; and

"(II) in the case of individuals in income classes III, IV, and V, 33⅓ per centum.

No such deductible shall be imposed in the case of individuals in income class I.

"(C) The plan shall impose, with respect to blood and blood products, such deductible as the Secretary may, by regulation, prescribe.

"(3) The federal health care plan must impose, subject to paragraph (4), a coinsurance requirement equal to—

"(A) in the case of individuals in income class I, 10 per centum;

"(B) in the case of individuals in income class II, 15 per centum;

"(C) in the case of individuals in income classes III, IV, and V, 20 per centum;

of expenses in excess of any applicable deductible.

"(4) The federal health care insurance plan shall provide that no further deductible or coinsurance requirement will be imposed in any calendar year after the total of the deductible and coinsurance amounts imposed under the plan equals the following percentages of annual income—

"(A) in the case of individuals in income class I, 6 per centum;

"(B) in the case of individuals in income class II, 9 per centum;

"(C) in the case of individuals in income class III, 12 per centum.

In the case of individuals in income classes IV and V, the plan shall provide that no further deductible or coinsurance requirement will be imposed in any calendar year after the total of the deductible and coinsurance amounts imposed under the plan equals 7.5 per centum of the income class base for that calendar year, as determined under section 1825(b) (5). The plan shall provide that any deductible for coinsurance amount charged against a covered individual under any other health care insurance plan approved under this title or provided pursuant to part B will be taken into account in determining if the deductible and coinsurance requirements imposed under the plan have been met.

"(5) The income class of an individual shall be determined on the basis of the same standards as those prescribed in section 1825 (b) (5) for the determination of the income class of a family group described in section 1822(a) (1), with an individual being considered, for that purpose, a one member family group.

"(c) The federal health care insurance plan shall provide—

"(1) that an account will be established against which a covered individual may charge the cost of obtaining items and services covered under the plan, without regard to the deductible and coinsurance requirements applicable under the plan;

"(2) that payment for items and services covered under the plan, other than emergency services, will be made only on the basis of charges against that account;

"(3) that payment will be made on the basis of charges against the account for items and services covered under the plan at the applicable reimbursement rates; and that, unless the account is in default, payment will be made to full and associate participating providers for all items and services without reduction on account of the deductible and coinsurance requirements applicable under the plan and the covered individual will be billed the portion of any payment properly chargeable to him on account of those limitations and deductible and coinsurance requirements; and

"(4) that credit will be available with respect to any bill submitted to a covered individual pursuant to clause (3) and that interest will accrue on amounts owed on any bill, in accordance with regulations prescribed by the Secretary; that no recovery will be made from any individual or entity to whom the plan has made payment because of the failure of a covered individual to pay any such bill; and that an account will not be regarded as in default unless payment of amounts due under the account, or any other such account established with respect to the covered individual pursuant to the requirements of this title, is 90 days in arrears.

"USE OF CARRIERS IN ADMINISTRATION OF FEDERAL HEALTH CARE INSURANCE PLAN BENEFITS

"SEC. 1833. (a) The Secretary is authorized to enter into contracts with carriers for the administration of benefits under the Federal health care insurance plan. Each such contract shall contain such terms and conditions not inconsistent with this part as the Secretary may find necessary or appropriate.

"(b) (1) Contracts with carriers under this section may be entered into without regard to section 3709 of the Revised Statutes or any other provision of law requiring competitive bidding.

"(2) No such contract shall be entered into with any carrier unless the Secretary finds that such carrier will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(3) Each contract under this section shall be for a term of at least one year, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the carrier involved as he may provide in regulations) if he finds that the carrier has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with efficient and effective administration of the program established by this part.

"(c) Any contract entered into with a carrier under this section shall provide for advances of funds to the carrier for the making of payments by it under the federal health care insurance plan, and shall provide for payment of the cost of administration of the carrier, as determined by the Secretary to be necessary and proper for carrying out the functions covered by the contract.

"(d) Any contract with a carrier under this section may require such carrier or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

"(e) (1) No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payments certified by him under this section.

"(2) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this section if it was based upon a voucher signed by a certifying officer described in paragraph (1) of this subsection.

"SOURCE OF PAYMENTS TO PROVIDERS OF SERVICES AND PREPAID HEALTH CARE PLANS

"SEC. 1834. The Secretary shall pay the amounts which he determines should be paid under this part to providers of items and services and prepaid health care plans, prior to audit or settlement by the General Accounting Office, from the Federal Health Care Benefits Trust Fund.

"FEDERAL HEALTH CARE BENEFITS TRUST FUND

"SEC. 1835. (a) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Health Care Benefits Trust Fund' (hereinafter in this section referred to as the 'trust fund'). The trust fund shall consist of such gifts and bequests as may be made as provided in section 201(i) (1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part. There are hereby appropriated to the trust fund for the fiscal year ending June 30, 1976, and for each fiscal year thereafter, out of any moneys in the Treasury not otherwise appropriated, amounts equivalent to 100 per centum of—

"(1) the taxes imposed by section 3101(b) and 3111(b) of the Internal Revenue Code of 1954 with respect to wages from employment in States certified by the Secretary under section 1861 reported to the Secretary of the Treasury or his delegate pursuant to Subtitle F of such code after December 31, 1975, as determined by the Secretary of the Treasury by applying the applicable rates of tax under such sections to wages, which wages shall be certified by the Secretary of

Health, Education, and Welfare on the basis of records of wages established and maintained by the Secretary of Health, Education, and Welfare in accordance with such reports; and

"(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income earned in States certified by the Secretary under section 1861 reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code after December 31, 1975, as determined by the Secretary of the Treasury by applying the applicable rate of tax under such section to such self-employment income, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of records of self-employment established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.

The amounts appropriated by the preceding sentence shall be transferred from time to time from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such sentence.

"(b) With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund (hereinafter in this section referred to as the 'Board of Trustees') composed of the Secretary of the Treasury, the Secretary of Labor and the Secretary of Health, Education, and Welfare, all ex officio. The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees (hereinafter in this section referred to as the 'Managing Trustee'). The Commissioner of Social Security shall serve as the Secretary of the Board of Trustees. The Board of Trustees shall meet not less frequently than once each calendar year. It shall be the duty of the Board of Trustees to—

"(1) hold the Trust Fund;

"(2) report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years;

"(3) report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small; and

"(4) review the general policies followed in managing the Trust Fund, and recommend changes in such policies, including necessary changes in the provisions of law which govern the way in which the Trust Fund is to be managed.

The report provided for in paragraph (2) shall include a statement of the assets of, and the disbursements made from, the Trust Fund during the preceding fiscal year, an estimate of the expected income to, and disbursements to be made from, the Trust Fund during the current fiscal year and each of the next 2 fiscal years, and a statement of the actuarial status of the Trust Fund. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(c) It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of public-debt obligations for purchase by the Trust Fund. Such obligations issued for purchase by the Trust Fund shall have maturities fixed with due regard for the needs of the Trust Fund and shall bear interest at a rate equal to the average market yield (computed by the Managing Trustee on the basis of market quotations as of the end of the calendar month next preceding the date of such issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest on such obligations shall be the multiple of one-eighth of 1 per centum nearest such market yield. The Managing Trustee may purchase other interest-bearing obligations of the United States or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price, only where he determines that the purchase of such other obligations is in the public interest.

"(d) Any obligations acquired by the Trust Fund (except public debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest.

"(e) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(f) The Managing Trustee shall pay from time to time from the Trust Fund such amounts as the Secretary of Health, Education, and Welfare certifies are necessary to make the payments provided for by this part, and the payments with respect to administrative expenses in accordance with section 201(g)(1).

"AUTHORIZATION OF APPROPRIATIONS TO THE TRUST FUND

"SEC. 1836. There is authorized to be appropriated to the Federal Health Care Benefits Trust Fund from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

"(1) payments made or to be made during the fiscal year from the Trust Fund with respect to individuals described in section 1831(a) in income classes I, II, and III which would not have been made or would not be made if those individuals were in income class IV,

"(2) the additional administrative expenses resulting or expected to result from the making of those payments, and

"(3) any loss in interest to the Trust Fund resulting from the making of those payments, in order to place the Trust Fund, at the end of the fiscal year, in the same position in which it would have been if those payments had not been made.

"PART D—REQUIREMENTS FOR APPROVAL OF HEALTH CARE PLANS AND SPECIAL EMPLOYEE HEALTH CARE PROGRAMS AND FOR CERTIFICATION OF PROVIDERS

"REQUIREMENTS FOR APPROVAL OF EMPLOYEE HEALTH CARE INSURANCE PLANS

"Covered Services

"SEC. 1841. (a)(1) To be approved under this title, an employee health care insurance plan must provide, subject to the succeeding provisions of this section, for payment for the following items and services, for each covered individual—

"(A) inpatient hospital services;

"(B) physicians' services;

"(C) medical and other health services;

"(D) home health services;

"(E) post-hospital extended care services;

"(F) outpatient drugs and biologicals;

"(G) routine dental services for individuals under the age of 13;

"(H) developmental vision care services, as defined in regulations prescribed by the Secretary, routine eye and vision examinations, and eyeglasses, for individuals under the age of 13; and

"(I) hearing aids and examinations therefor, for individuals under the age of 13.

The items and services described in the preceding sentence include, but are not limited to, items and services related to mental health care, including alcoholism and drug abuse.

"(2) Notwithstanding the provisions of paragraph (1), the plan must provide that payment will not be made for items and services—

"(A) which are not reasonable and necessary for the diagnosis or treatment of congenital defect, illness, or injury or to improve the functioning of a malformed body member; except for family planning and maternity items and services, routine dental services for individuals under the age of 13, routine eye and vision examinations and eyeglasses for individuals under the age of 13, hearing aids and examinations therefor for individuals under the age of 13, and well child care for individuals under the age of 6;

"(B) which are eyeglasses or eye examinations therefor, or hearing aids or examinations therefor, except for children under the age of 13;

"(C) for which the individual furnished such items or services has no legal obligation to pay and which no other person (by reason of such individual's membership in a prepayment plan or otherwise) has a legal obligation to provide or pay for;

"(D) which are not provided within the United States, except for emergency inpatient hospital and physicians' services;

"(E) which constitute personal comfort items;

"(F) which are orthopedic shoes or other supportive devices for the feet, except for individuals under the age of 6;

"(G) which are custodial care;

"(H) which are cosmetic surgery or provided in connection therewith, except as required for the prompt repair of accidental injury or for the improvement of the functioning of a malformed body member;

"(I) which are provided by immediate relatives of the individual or members of his household;

"(J) which are—

"(I) the treatment of weak, strained, or flat foot conditions and the prescription of supporting or corrective devices therefor, except when provided to individuals under the age of 6,

"(II) routine foot care; and

"(K) kidney dialysis or transplantation items and services, unless provided by a kidney dialysis or transplantation center or facility which meets such requirements as the Secretary may by regulation provide; or

"(L) to the extent that payment has been made, or can reasonably be expected to be made, with respect to those items and services, under a workmen's compensation law or plan of the United States or a State.

"Coverage Limits

"(b) To be approved under this title, an employee health care insurance plan may not impose any limits with respect to the items and services for which payment must be provided under subsection (a), except that payment for—

"(1) post-hospital extended care services shall be limited to 100 days per calendar year;

"(2) home health services must be limited to 100 visits per calendar year;

"(3) inpatient hospital services for the treatment of mental illness shall be limited to 30 days per calendar year, with each day of partial hospitalization, as defined in regulations prescribed by the Secretary, counting as one-half day of inpatient services;

"(4) services provided on an outpatient basis for the treatment of mental illness shall be limited to the amount determined under this subsection per calendar year, and payment for such services other than services provided on an outpatient basis in a comprehensive community care center, as defined in regulations prescribed by the Secretary, shall be limited to one-half of that amount; and

"(5) routine eye and vision examinations, eyeglasses, hearing aids and examinations therefor, family planning and prenatal and postnatal items and services, and well child care shall be subject to such limitations as the Secretary may by regulation provide.

In November of each year, the Secretary shall determine the limit to be imposed under clause (4), for the following calendar year, which limit shall be the estimated cost of 30 outpatient visits to a private practitioner for the treatment of mental illness.

"Deductibles and Coinsurance

"(c)(1) To be approved under this title an employee health care insurance plan must, subject to paragraph (3), impose, with respect to all items and services other than outpatient drugs and biologicals, and blood and blood products, a per individual, per calendar year, deductible equal to the deductible base for that calendar year, as determined under section 1825(b)(2), except that no further deductible shall be imposed under this sentence in any calendar year after three members of a covered family satisfy the deductible requirement for that year. The plan must, subject to paragraph (3), impose, with respect to outpatient drugs and biologicals, other than blood and blood products, a per individual, per calendar year deductible equal to one-third of the deductible base for that calendar year, as determined under section 1825(b)(2). The plan must impose, with respect to blood and blood products, such deductible as the Secretary may by regulation provide.

'(2) The plan must impose, subject to paragraph (3), a coinsurance requirement of 25 per centum of expenses in excess of any applicable deductible.

"(3) The plan must provide that no further deductible or coinsurance requirement will be imposed in any calendar year after the total of the deductibles and coinsurance imposed under the plan equals 10.5 per centum, in the case of employees without any family members under the age of 65, or 15 per centum, in the case of employees with one or more family members under the age of 65, of the income class base, as determined under section 1825(b)(5). The plan must provide that any deductible or coinsurance amount charged against a covered individual under any other health care insurance plan approved uder this title or provided pursuant to part B or C will be taken into account in determining if the deductible and coinsurance requirements imposed under the plan have been met.

"Extended Coverage

"(d) To be approved under this title, an employee health care insurance plan must provide that coverage under the plan will continue to be available to a covered employee to whom the plan is offered by an employer pursuant to section 1801(a), and the members of his family under the age of 65, for 180 days after the employer is no longer required by section 1801(a) to offer the plan to the employee, at the same premium rate at which coverage under the plan is available to employees of the employer.

"Coverage in the Event of Failure to Pay Premium

"(e) To be approved under this title, an employee health care insurance plan must provide that coverage under the plan will not be terminated because of the failure to pay for such coverage until such payment is 90 days in arrears and notice has been given to the individuals whose coverage is to be terminated.

"Health Card

"(f) To be approved under this title, an employee health care insurance plan must provide—

"(1) that an account will be established against which a covered individual may charge the cost of obtaining items and services covered under the plan, without regard to the deductible and coinsurance requirements applicable under the plan;

"(2) that payment for items and services covered under the plan, other than emergency services, will be made only on the basis of charges against that account;

"(3) that payment will be made on the basis of charges against the account for items and services covered under the plan at the applicable reimbursement rates; and that, unless the account is in default, payment will be made to full participating providers for all items and services, and to associate participating providers for outpatient drugs and biologicals, without reduction on account of the deductible and coinsurance requirements applicable under the plan and the covered individual will be billed the portion of any payment properly chargeable to him on account of those deductible and coinsurance requirements; and

"(4) that credit will be available with respect to any bill submitted to a covered individual pursuant to clause (3) and that interest will accrue on amounts owed on any bill, in accordance with regulations prescribed by the Secretary; that no recovery will be made from any individual or entity to whom the plan has made payment because of the failure of a covered individual to pay any such bill; and that an account will not be regarded as in default unless payment of amounts due under the account, or any other such account established with respect to the covered individual pursuant to the requirements of this title, is 90 days in arrears.

"Other Requirements

"(g) To be approved under this title, an employee health care insurance plan must provide—

"(1) that payment will be made for items and services in accordance with the applicable reimbursement rates and standards, as determined pursuant to section 1861;

"(2) that, except for emergency services, payment will be made for items and services only to individuals and entities certified as participating providers;

"(3) that the provisions of part B of title XI shall apply to payments for items and services under the plan;

"(4) that payment will not be made for items and services in violation of any order of the Secretary pursuant to section 1122;

"(5) that no individual may be covered under more than one health care plan approved under this title or obtained pursuant to part B or C, and that in the event of coverage under more than one plan, payment will be made, or items and services provided, under only one such plan, as determined under regulations prescribed by the Secretary;

"(6) that the portion of the premium for coverage under the plan which represents the cost of providing coverage in excess of $10,000 per individual per calendar year will be the same for all coverage under the plan and any other employee health care insurance plan of the carrier or self-insured employer approved under this title;

"(7) that the rates applicable to coverage under the plan will be the same for all employees of any employer to whom the plan is provided, except that the rate for coverage of employees without any family members under the age of 65 will be 40 per centum of the rate for coverage of employees with one or more family members under the age of 65;

"(8) that the access to information obtained in connection with administration of the plan will be controlled in accordance with such requirements as the Secretary may, by regulation, prescribe;

"(9) that any contract or arrangement with an employer under which the plan is offered to employees of the employer pursuant to section 1801 will have a term of not more than one year, and will expire on December 31; and

"(10) that such uniform reporting methods and statistical procedures as the Secretary may require will be utilized in administration of the plan, and the Secretary will be furnished such information derived from the use of such methods and procedures as he may require to carry out the purposes of this title.

"Modification of Requirements

"(h) The Secretary may, by regulation, make such modifications in the requirements imposed by this section as he determines are appropriate with respect to employee health care insurance plans offered to employees whose place of employment is outside the United States.

"REQUIREMENTS FOR APPROVAL OF GROUP PRACTICE PREPAID HEALTH CARE PLANS

"Benefits

"SEC. 1842. (a) To be approved under this title, a group practice prepaid health care plan must provide—

"(1) for the provision, within the geographic area served by the plan, to covered individuals, of at least those items and services described in subsection (a) of section 1841, without regard to the provisions of subsections (c) through (h) of that section (other than any deductible imposed with respect to blood and blood products) and with no lower limitations than those described in subsection (b) of that section, and for payment for the provision of at least those items and services, within that area, when the provision of the items and services is beyond the control of the covered individual;

"(2) for the provision of, or payment for the provision of, at least those items and services, outside the geographic area served by the plan, when it is medically necessary that an item or service be provided to a covered individual before he can return to the geographic area served by the plan, and

"(3) that the plan will be compensated for the provision of, and payment for, those items and services, solely on a predetermined periodic rate basis, except for such copayments by covered individuals as the Secretary may, by regulation, authorize.

"Organizational Requirements

"(b) For a group practice prepaid health care plan to be approved under this title, the organization through which items and services are provided to covered individuals within the geographic area served by the plan must—

"(1) provide physicians' services (other than infrequently used services, as determined under regulations prescribed by the

Secretary) through physicians who are employees or partners of the organization, or through arrangements with one or more groups of physicians engaged in the coordinated practice of their profession for the organization; and

"(2) meet such requirements concerning its organizational structure and financial arrangements as the Secretary may, by regulation, prescribe for the purpose of assuring that—

"(A) the organization bears the responsibility for the efficient and effective utilization of health care resources to meet the health care needs of covered individuals,

"(B) the individuals, groups, and institutions within the organization or cooperating with it in the provision of health care services to covered individuals share in that responsibility, and

"(C) the organization provides clearly identifiable focal points of responsibility for the performance of all managerial, administrative, and service functions.

"Other Requirements

"(c) To be approved under this title, a group practice prepaid health care plan must provide that—

"(1) coverage under the plan will continue to be available to a covered employee to whom the plan is offered by an employer pursuant to section 1801(a) and the members of his family under the age of 65 for 180 days after the employer is no longer required by section 1801(a) to offer the plan to the employee, at the same rate at which coverage under the plan is available to employees of the employer;

"(2) coverage under the plan of employees to whom the plan is offered by an employee pursuant to section 1801 will not be terminated because of the failure to pay for such coverage until payment is 90 days in arrears and notice has been given to the individuals whose coverage is to be terminated;

"(3) the provisions of part B of title XI shall apply to items and services provided under the plan;

"(4) items and services will not be provided in violation of any order of the Secretary pursuant to section 1122;

"(5) no individual may be covered under more than one health care plan approved under this title or obtained pursuant to part B or C, and that in the event of coverage under more than one plan, payment will be made, or items and services provided, under only one such plan, as determined under regulations prescribed by the Secretary;

"(6) the rate applicable to coverage under the plan will be the same for all employees of any employer to whom the plan is provided, except that the rate for coverage of an employee without any family members under the age of 65 will be 40 per centum of the rate for coverage of an employee with one or more family members under the age of 65;

"(7) any contract or arrangement with an employer under which the plan is offered to employees of the employer pursuant to section 1801 will have a term of not more than one year, and will expire on December 31; and

"(8) such uniform reporting methods and statistical procedures as the Secretary may require will be utilized in administration of the plan, and the Secretary will be furnished such information derived from the use of such methods and procedures as he may require to carry out the purposes of this title.

"Modification of Requirements

"(d) The Secretary may, by regulation, make such modifications in the requirements imposed by this section as he determines are appropriate with respect to group practice prepaid health care plans offered to employees whose place of employment is outside the United States.

"REQUIREMENTS FOR APPROVAL OF INDIVIDUAL PRACTICE PREPAID HEALTH CARE PLANS

"Requirements for Approval

"SEC. 1843. (a) For an individual practice prepaid health care plan to be approved under this title—

"(1) the plan must meet the requirements imposed by section 1842(a) through (c) with respect to group practice prepaid health care plans, other than the requirements imposed by section 1842(b) (1); and

"(2) the organization through which items and services are provided to covered individuals within the geographic area served by the plan must provide physicians' services (other than infrequently used services, as determined under regulations prescribed by the Secretary) through arrangements with physicians engaged in the practice of their profession on an individual practice basis.

"Modification of Requirements

"(b) The Secretary may, by regulation, make such modifications in the requirements imposed by this section as he determines are appropriate with respect to individual practice prepaid health care plans offered to employees whose place of employment is outside the United States.

"REQUIREMENTS FOR APPROVAL OF SPECIAL EMPLOYEE HEALTH CARE PROGRAMS

"SEC. 1844. For a special employee health care program to be approved under this title—

"(1) the program must provide for the provision, or payment for the provision, to covered individuals, of at least those items and services described in subsection (a) of section 1841;

"(2) so much of the program as provides for payment for the provision of items and services must meet all of the requirements imposed by and pursuant to section 1841(b) through (h) with respect to employee health care insurance plans approved under this title, except that the program may have lower limitations and deductible and coinsurance requirements than those required by section 1841(b) and (c);

"(3) so much of the program as provides for the provision of items and services must meet all of the requirements imposed by and pursuant to either section 1843 with respect to group practice prepaid health care plans approved under this title, or section 1844 with respect to individual practice prepaid health care plans approved under this title; and

"(4) the employer must contribute toward the cost of providing coverage under the program to an employee at least as much as he would be required to contribute under section 1802 if the employee elected coverage under a health care insurance plan approved under this title.

"REQUIREMENTS FOR CERTIFICATION OF PROVIDERS

"Full Participating Providers

"SEC. 1845. (a) To be certified as a full participating provider, an individual or entity must—

"(1) agree to accept the payments made by health care insurance plans and special health care programs approved under this title or provided pursuant to part B or C, on the basis of charges against accounts established pursuant to the requirements of section 1841(f), as the sole means of obtaining payment for so much of the charges for the provision of items and services to individuals covered under those plans and programs as are payable under the plans;

"(2) agree to accept the payments made by health care insurance plans and special health care programs approved under this title or provided pursuant to part B or C, on the basis of valid charges against accounts established pursuant to the requirements of section 1841(f), as payment in full for the provision of items and services covered, without regard to the deductible and coinsurance requirements described in section 1841(c), under the plans and programs to individuals covered under the plans and programs, except for any reduction in the amount of any such payment because an account is in default;

"(3) agree not to accept payment for the provision of any item or service from more than one health care insurance plan or special health care program approved under this title or provided pursuant to part B or C; and

"(4) be otherwise eligible, under the provisions of this title, to provide one or more items or services covered under health care insurance plans approved under this title or provided pursuant to part B or C, as determined under regulations prescribed by the Secretary.

"Associate Participating Providers

"(b) (1) To be certified as an associate participating provider, an individual or entity must—

"(A) meet the requirements imposed by clauses (1), (3), and (4) of subsection (a) with respect to full participating providers; and

"(B) agree to accept the payments made by health care insurance plans provided pursuant to part B or C, on the basis of valid charges against accounts established pursuant to the requirements of section 1841(f), as payment in full for the provision of items and services, other than outpatient drugs and biologicals, covered, without regard to the deductible and coinsurance requirements described in section 1841(c), under the plans to individuals covered under the plans, except for any reduction in the amount of any such payment because an account is in default.

"(2) No hospital, skilled nursing facility, or home health agency may be certified as an associate participating provider.

"PART E—ADMINISTRATION AND REGULATION

"APPROVAL OF HEALTH CARE PLANS, CERTIFICATION OF PROVIDERS, ADMINISTRATION OF PLAN REQUIREMENTS, AND REGULATION OF CARRIERS, SELF-INSURED EMPLOYERS AND PROVIDERS

"Sec. 1861. (a) The Secretary shall certify under this section each State which, by statute or regulation pursuant to statute—

"(1) (A) requires each carrier or self-insured employer which provides an employee health care insurance or prepaid health care plan, and each employer which provides a special health care program, under which coverage is made available pursuant to section 1801 to an employee whose place of employment is within the State, to—

"(I) file the plan or program, or any amendment thereto, with the State not later than thirty days before the plan, program, or amendment becomes effective (or such later date as the Secretary may permit), and

"(II) keep the State currently advised of the employers to whom the plan or program is provided and the employees of such employers to whom coverage under the plan or program is made available;

"(B) provides for prompt review of each such plan, program, or amendment and determination of whether the plan, program, or amendment meets the requirements for approval under this title with respect to employees whose place of employment is within the State, and for prompt notification to the carrier and employers to whom it is known to have provided the plan or amendment, the self-insured employer, or the employer providing the special health care program, of such determination; and

"(C) provides for withdrawal, with respect to employees whose place of employment is within the State, of the approval of any plan, program, or amendment which it determines no longer meets, or is administered in such a manner that it no longer meets, the requirements for approval under this part, and for prompt notification of the carrier and employers to whom it is known to have provided the plan or amendment, the self-insured employer, or the employer providing the special health program, of such determination;

"(2) provides for establishment of the reimbursement rates and standards applicable to payments by health care insurance plans and special health care programs approved under this title or provided pursuant to part B or C for items and services provided within the State, in accordance with such procedures and criteria as the Secretary may by regulation provide; and for dissemination of the rates and standards to affected carriers, self-insured employers, employers providing special health care programs, certified providers, and covered individuals, in accordance with such procedures as the Secretary may, by regulation, provide;

"(3) (A) provides that any individual, other than an individual who provides health care as an employee of the United States, or any of its agencies or instrumentalities, or entity, other than an entity which is controlled by the United States, or any of its agencies or instrumentalities, wishing to be certified as a full or associate participating provider with respect to items and services provided within the State may file an application for such certification;

"(B) provides for prompt review of each such application and determination of whether the applicant meets the requirements for certification under this title as a full or associate participating provider with respect to items or services provided within the State, and for prompt notification to the applicant of its determination;

"(C) provides for withdrawal of the certification of any individual or entity which it determines no longer meets the requirements for certification under this title with respect to items and services provided within the State, and for prompt notification to the individual or entity of such determination; and

"(D) provides for the dissemination of information concerning the certification of full and associate participating providers to affected carriers, self-insured employers, employers providing special health care plans, and covered individuals, in accordance with such procedures as the Secretary may, by regulation, provide;

"(4) provides for the establishment of arrangements, meeting such requirements as the Secretary may by regulation provide, under which any participating provider may determine the validity of a charge against an account established, pursuant to the requirements of sections 1825(d) and 1841(f), under an employee health care insurance plan or special health care program approved under this title for an employee whose place of employment is within the State, or under an assisted health insurance plan provided within the State pursuant to part B;

"(5) requires each carrier which provides an employee health care insurance plan to an employer with less than 50 employees whose place of employment is within the State under which coverage is made available pursuant to section 1801 to an employee whose place of employment is within the State, to offer the plan to all employers with less than 50 employees whose place of employment is within the State for the purpose of making coverage under the plan available to those employees pursuant to section 1801, and requires that the plan be offered to all such employers under the same rating structure and at the same rates;

"(6) has in effect an agreement with the Secretary under section 1122;

"(7) (A) requires each carrier or self-insured employer which offers or provides, within the State, an employee health care insurance or prepaid health care plan approved under this title, and each employer which offers or provides, within the State, a special employee health care program, to have on file with the State a current statement of the rates, or rating plans and formulas, applicable to the plan or arrangement, containing sufficient specificity to permit determination by the State of whether such rates, or rates based on such plans and formulas, are reasonable in relation to the benefits provided;

"(B) provides for the review of all such rates and rating plans and formulas, and for subsequent disapproval and suspension of any rate determined by the State to be unreasonable in relation to the benefits provided, or any plan or formula as to which it is determined that rates based on such plan or formula are unreasonable in relation to the benefits provided;

"(8) requires that there be an annual fiscal audit of each such carrier and employer by an independent certified public accountant and that the reports of such audits be available to the public;

"(9) requires each carrier which offers or provides, within the State, any plan or arrangement for financing or provision of health care to make available to each individual to whom the plan or arrangement is offered or provided, upon request, written information concerning—

"(A) the benefits and exclusions from coverage under such plan or arrangement,

"(B) the premium rate or rates for such plan or arrangement applicable to such individual, and

"(C) the percentage of the premium rate or rates for such plan or arrangement applicable to such individual which is expected to be paid out as benefits, as determined on the basis of actuarial standards prescribed by the Secretary;

"(10) requires that, except in case of emergency or other exceptional circumstances, each certified provider of health care within the State make available, in accordance with regulations of the Secretary, to individuals covered under a health care insurance plan approved under this title or provided pursuant to part B or C who seek such care directly from the provider, information concerning the provider's charges for commonly provided services, the provider's hours of operation and other matters affecting access to his services, and the extent to which the provider is licensed, accredited, or certified by recognized licensing, accrediting, or certifying agencies or bodies;

"(11) provides for determination of when carriers of employee health care insurance plans are insolvent or impaired and when carriers of prepaid health care plans, and self-insured employers providing employee health care insurance or prepaid health care plans, domiciled in the State, are unable, because of their financial condition, to meet their obligations to covered individuals under such plans; and assures that, in the event a carrier of an employee health care insurance plan is found to be insolvent or impaired, or a carrier of a prepaid health care plan or a self-insured employer providing an employee health care insurance or prepaid health care plan is found to be unable, because of its financial condition, to meet obligations to covered individuals under the plan, under the applicable laws of the State in which the carrier or self-insured employer is domiciled, any valid claim or obligation arising under—

"(A) employee health care insurance or prepaid health care plan coverage provided by the carrier or self-insured employer and made available pursuant to section 1801, to an employee whose place of employment is within the State, or

"(B) in the case of a carrier, a contractual obligation of the carrier to an employer under which employee health care insurance or prepaid health care plan coverage is made available pursuant to section 1801 to such an employee, will be fully paid, guaranteed, assumed, or reinsured under an insolvency or guarantee fund or other means established or regulated by the State;

"(12) provides for the coordination of benefits under health care insurance plans approved under this title or provided pursuant to part B and other insurance which provides for the financing of health care;

"(13) provides for furnishing the Secretary with such information as he may, by regulation, require concerning the activities carried out by the State under the statutes and regulations required by clauses (1) through (12); and

"(14) provides an opportunity for any aggrieved person to bring a suit in the courts of the State to——

"(A) compel the proper performance of any duty under State law related to the requirements of paragraphs (1) through (12), or to review any decision made pursuant to such a duty, and

"(B) compel any carrier, employer, or certified provider to comply with any requirement related to the requirements of paragraphs (1) through (12).

"(b) Upon his determination, in a calendar year, that a State is entitled to certification under this section, the Secretary shall so notify the State and shall certify it with respect to calendar years beginning after such calendar year.

"INFORMATION FROM EMPLOYERS

"SEC. 1862. The Secretary may require any employer to furnish such information, at such time and in such form, as he finds necessary to determine if part A applies to such employer and, if so, whether such employer is complying with the requirements of that part.

"AGREEMENTS WITH OTHER AGENCIES

"SEC. 1863. The Secretary, pursuant to agreement with the head of any Federal agency, may utilize the services and facilities of such agency in carrying out his functions under this title and may provide for payment therefor in advance or by way of reimbursement, and in such installments, as may be agreed upon.

"JUDICIAL REVIEW OF CERTAIN DETERMINATIONS OF THE SECRETARY

"SEC. 1864. (a) Any State dissatisfied with a determination of the Secretary under section 1861 with respect to whether the State is meeting the requirements of section 1861 may, within 60 days after it has been notified of such determination, file a petition for review of such determination with the United States court of appeals for the circuit in which such State is located. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"JUDICIAL REMEDIES FOR NONCOMPLIANCE; CRIMINAL SANCTIONS

"SEC. 1868. (a) The Attorney General may bring suit to compel an employer to comply with the provisions of part A. Such a suit shall be brought in the United States district court, including any court enumerated in section 460 of title 28, United States Code, for the district in which the employer's principal place of business is located.

"(b) Any employee may bring suit to compel his employer to comply with the provisions of part A with respect to him and to recover any expenditures necessitated by his employer's failure to do so. Such suit may be brought, without regard to jurisdictional amount, in the United States district court, including any court enumerated in section 460 of title 28, United States Code, for the district in which the plaintiff's place of employment is located or such other district as may be permitted by law.

"(c) (1) Any employer who fails to comply with the requirements imposed upon employers by part A shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 for each employee with respect to whom he failed to so comply.

"(2) Any person who fails to comply with any regulation or order issued by the Secretary pursuant to section 1862, or who submits false information to the Secretary in connection with any such order or regulation, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000.

"PART F—MISCELLANEOUS PROVISIONS

"DEFINITIONS

"SEC. 1881. For purposes of this title—

"Inpatient Hospital Services

"(a) The term 'inpatient hospital services' means the following items and services furnished to an inpatient of a hospital and (except as provided in paragraph (3)) by the hospital—

"(1) bed and board;

"(2) such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, biologicals, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by such hospital for the care and treatment of inpatients; and

"(3) such other diagnostic or therapeutic items or services, furnished by the hospital or by others under arrangements with them made by the hospital, as are ordinarily furnished to inpatients either by such hospital or by other under such arrangements;

excluding, however—

"(4) medical or surgical services provided by a physician who is not an employee of the hospital; and

"(5) the services of a private-duty nurse or other private-duty attendant.

"Hospital

"(b) The term 'hospital' means, except with respect to emergency services provided outside the United States, an institution which—

"(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(2) maintains clinical records on all patients;

"(3) has bylaws in effect with respect to its staff of physicians;

"(4) has a requirement that every patient must be under the care of a physician;

"(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

"(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k);

"(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

"(8) meets such other requirements as the Secretary finds necessary in the interest of the health safety of the individuals who are furnished services in the institution.

"Notwithstanding the preceding provisions of this subsection, such term shall not include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a psychiatric hospital (as defined in subsection (c)) or unless it is a tuberculosis hospital (as defined in subsection (d)). The term 'hospital' also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such institution to inpatients, and payments may be made with respect to services provided by or in such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations.

"Psychiatric Hospital

"(c) The term 'psychiatric hospital' means an institution which—

"(1) is primarily engaged in providing, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

"(2) satisfies the requirements of paragraphs (3) through (8) of subsection (b);

"(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals;

"(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

"(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a 'psychiatric hospital' if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

"Tuberculosis Hospital

"(d) The term 'tuberculosis hospital' means an institution which—

"(1) is primarily engaged in providing, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis;

"(2) satisfies the requirements of paragraphs (3) through (8) of subsection (b);

"(3) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals;

"(4) meets such staffing requirements as the Secretary finds necessary for the institution to carry out an active program of treatment for individuals who are furnished services in the institution; and

"(5) is accredited by the Joint Commission on Accreditation of Hospitals.

In the case of an institution which satisfies paragraphs (1) and (2) of the preceding sentence and which contains a distinct part which also satisfies paragraphs (3) and (4) of such sentence, such distinct part shall be considered to be a "tuberculosis hospital" if the institution is accredited by the Joint Commission on Accreditation of Hospitals or if such distinct part meets requirements equivalent to such accreditation requirements as determined by the Secretary.

"Physicians' Services

"(e) The term 'physicians' services' means professional services performed by physicians, including surgery, consultation, and home, office and institutional calls.

"Physician

"(f) The term 'physician' when used in connection with the performance of any function or action, means, except with respect to emergency services provided outside the United States, (1) a doctor of medicine or osteopathy, other than an intern, resident, or fellow, legally authorized to practice medicine and surgery by the State in which he performs such function or action (including a physician within the meaning of section 1101(a)(7)), (2) a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function but only with respect to (A) surgery related to the jaw or any structure contiguous to the jaw or (B) the reduction of any fracture of the jaw or any facial bone, (3) a doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to establishing the necessity for prosthetic lenses, or (4) except for the purposes of subsections (j), (k), (m) and (n), a doctor of podiatry or surgical chiropody, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform in the State in which he performs them.

"Medical and Other Health Services

"(g) The term 'medical and other health services' means any of the following items or services—

"(1) physicias' services;

"(2) (A) services, other than physician extender services, and supplies (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) furnished as an incident to a physician's professional service, of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills;

"(B) hospital services (including drugs and biologicals which cannot, as determined in accordance with regulations, be self-administered) other than physician extender services, incident to physicians' services rendered to outpatients;

"(C) diagnostic services which are—

"(i) furnished to an individual as an outpatient by a hospital or by other under arrangements with them made by a hospital, and

"(ii) ordinarily furnished by such hospital (or by others under such arrangements) to its outpatients for the purpose of diagnostic study;

"(D) outpatient physical therapy services; and

"(E) physician extender services;

"(3) diagnostic X-ray tests (including tests under the supervision of a physician, furnished in a place of residence used as the patient's home, if the performance of such tests meets such conditions relating to health and safety as the Secretary may find necessary), diagnostic laboratory tests, and other diagnostic tests;

"(4) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians;

"(5) surgical dressings, and splints, casts, and other devices used for a reduction of fractures and dislocations;

"(6) durable medical equipment, including dialysis equipment and supplies, iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home (including an institution used as his home other than an institution that meets the requirements of subsection (b)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased;

"(7) ambulance service where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations;

"(8) prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care) including replacement of such devices; and

"(9) leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition.

No diagnostic tests performed in any laboratory which is independent of a physician's office or a hospital shall be included within paragraph (3) unless such laboratory—

"(10) if situated in any State in which State or applicable local law provides for licensing of establishments of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality, responsible for licensing establishments of this nature, as meeting the standards established for such licensing; and

"(11) meets such other conditions relating to the health and safety of individuals with respect to whom such tests are performed as the Secretary may find necessary.

There shall be excluded from the diagnostic services specified in paragraph (2)(C) any item or service (except services referred to in paragraph (1)) which—

"(12) would not be included under subsection (a) if it were furnished to an inpatient of a hospital; or

"(13) is furnished under arrangements referred to in such paragraph (2)(C) unless furnished in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff.

"Extended Care Services

"(h) The term 'extended care services' means the following items and services furnished to an inpatient of a skilled nursing facility and (except as provided in paragraphs (3) and (6)) by such skilled nursing facility—

"(1) nursing care provided by or under the supervision of a registered professional nurse;

"(2) bed and board in connection with the furnishing of such nursing care;

"(3) physical, occupational, or speech therapy furnished by the skilled nursing facility or by others under arrangements with them made by the facility;

"(4) medical social services;

"(5) such drugs, biologicals, supplies, appliances, and equipment, furnished for use in the skilled nursing facility as are ordinarily furnished by such facility for the care and treatment of inpatients;

"(6) medical services provided by an intern, resident-in-training, or fellow of a hospital with which the facility has in effect a transfer agreement (meeting the requirements of subsection (l)), under a teaching program of such hospital, and other diagnostic or therapeutic services provided by a hospital with which the facility has such an agreement in effect; and

"(7) such other services necessary to the health of the patients as are generally provided by skilled nursing facilities;

excluding however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

"Post-Hospital Extended Care Services

"(i) The term 'post-hospital extended care services' means extended care services furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days before his discharge from the hospital in connection with such transfer, and for so long as he remains in the skilled nursing facility providing the services and is not discharged from it. For purposes of the preceding sentence, items and services shall be deemed to have been furnished to an individual after transfer from a hospital, and he shall be deemed to have been an inpatient in the hospital immediately before transfer therefrom, if he is admitted to the skilled nursing facility—

"(A) within 14 days after discharge from such hospital, or

"(B) within 28 days after such discharge, in the case of an individual who was unable to be admitted to a skilled nursing facility within such 14 days because of a shortage of appropriate bed space in the geographic area in which he resides, or (C) within such time as it would be medically appropriate to begin an active course of treatment, in the case of an individual whose condition is such that skilled nursing facility care would not be medically appropriate within 14 days after discharge from a hospital.

An individual shall be deemed not to have been discharged from a skilled nursing facility if, within 14 days after discharge therefrom, he is admitted to such facility or any other skilled nursing facility.

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' means an institution (or a distinct part of an institution) which has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more certified hospitals and which—

"(1) is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(2) has policies, which are developed with the advice of (and with provision of review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or mre registered professional nurses, to govern the skilled nursing care and related medical or other services it provides;

"(3) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

"(4)(A) has a requirement that the health care of every patient must be under the supervision of a physician, and (B) provides for having a physician available to furnish necessary medical care in case of emergency;

"(5) maintains clinical records on all patients;

"(6) provides 24-hour nursing service which is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time;

"(7) provides appropriate methods and procedures for the dispensing and administering of drugs and biologicals;

"(8) has in effect a utilization review plan which meets the requirements of subsection (k);

"(9) in the case of an institution in any State in which State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing;

"(10) cooperates in an effective program which provides for a regular program of independent medical evaluation and audit of the patients in the facility to the extent required by the programs in which the facility participates (including medical evaluation of each patient's need for skilled nursing facility care);

"(11) meets such provisions of the Life Safety Code of the National Fire Protection Association (21st edition, 1967) as are applicable to nursing homes; except that, for such periods as are appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a nursing home may be waived, but only if such waiver will not adversely affect the health and safety of the patients; except that the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects patients in nursing facilities; and

"(12) meets such other conditions relating to the health and safety of individuals who are furnished services in such institution or relating to the physical facilities thereof as the Secretary may find necessary, except that the Secretary shall not require as a condition of participation that medical social services be furnished in any such institution.

The term 'skilled nursing facility' also includes a Christian Science Sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to items and services ordinarily furnished by such an institution to inpatients.

"To the extent that paragraph (6) of this subsection may be deemed to require that any skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if he finds that—

"(A) such facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein,

"(B) such facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

"(C) such facility (i) has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or (ii) has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

"Utilization Review

"(k) A utilization review plan of a hospital or skilled nursing facility shall be considered sufficient if it is applicable to services furnished by the institution to individuals entitled to insurance benefits under this title and if it provides—

"(1) for the review of admissions to the institution, the duration of stays therein, and the professional services (including drugs and biologicals) furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of available health facilities and services;

"(2) for such review to be made by either (A) a staff committee of the institution composed of two or more physicians, with or without participation of other professional personnel, or (B) a group outside the institution which is similarly composed and (i) which is established by the local medical society and some or all of the hospitals and skilled nursing facilities in the locality, or (ii) if (and for as long as) there has not been established such a group which serves such institution, which is established in such other manner as may be approved by the Secretary;

"(3) for such review, in each case of inpatient hospital services or extended care services furnished to such an individual during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible, after each day so specified, and in no event later than one week following such day; and

"(4) for prompt notification to the institution, the individual, and his attending physician of any finding (made after opportunity for consultation to such attending physician) by the physician members of such committee or group that any further stay in the institution is not medically necessary.

The review committee must be composed as provided in clause (B) of paragraph (2) rather than as provided in clause (A) of such paragraph in the case of any hospital or skilled nursing facility where, because of the small size of the institution, or (in the case of a skilled nursing facility) because of lack of an organized medical staff, or for such other reason or reasons as may be included in regulations, it is impracticable for the institution to have a properly functioning staff committee for the purposes of this subsection.

"Agreements for Transfer Between Skilled Nursing Facilities and Hospitals

"(l) A hospital and a skilled nursing facility shall be considered to have a transfer agreement in effect, if, by reason of a written agreement between them or (in case the two institutions are under common control) by reason of a written undertaking by the person or body which controls them, there is reasonable assurance that—

"(1) transfer of patients will be effected between the hospital and the skilled nursing facility whenever such transfer is medically appropriate as determined by the attending physician; and

"(2) there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such individuals can be adequately cared for otherwise than in either of such institutions.

Any skilled nursing facility which does not have such an agreement in effect, but which has attempted in good faith to enter into such an agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and the information referred to in paragraph (2), shall be considered to have such an agreement in effect if and for so long as to do so is in the public interest and essential to assuring extended care services for persons in the community who are eligible for payments with respect to such services under this title.

"Home Health Services

"(m) The term 'home health services' means the following items and services furnished to an individual, confined to his home (except when receiving items and services referred to in clause (7)) and in need of skilled nursing care on an intermittent basis, or physical or speech therapy, who is under the care of a physician, by a home health agency or by others under arrangements with them made by such agency, under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician, which items and services are, except as provided in paragraph (7), provided on a visiting basis in a place of residence used as such individual's home—

"(1) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

"(2) physical, occupational, or speech therapy;

"(3) medical social services under the direction of a physician;

"(4) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

"(5) medical supplies (other than drugs and biologicals), and the use of medical appliances, while under such a plan;

"(6) in the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital under a teaching program of such hospital; and

"(7) any of the foregoing items and services which are provided on an outpatient basis, under arrangements made by the home health agency, at a hospital or skilled nursing facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

"(A) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

"(B) which are furnished at such facility while he is there to receive any such item or service described in clause (A), but not including transportation of the individual in connection with any such item or service;

excluding, however, any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital.

"Home Health Agency

"(n) The term 'home health agency' means a public agency or private organization, or a subdivision of such an agency or organization, which—

"(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

"(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

"(3) maintains clinical records on all patients;

"(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

"(5) meets such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization;

"(6) meets such other standards and requirements as the Secretary may by regulation provide.

"Outpatient Physical Therapy Services

"(o) The term 'outpatient physical therapy services' means physical therapy services furnished by a hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or public health agency to an individual as an outpatient—

"(1) who is under the care of a physician, and

"(2) with respect to whom a plan prescribing the type, amount, and duration of physical therapy services that are to be furnished such individual has been established, and is periodically reviewed, by a physician (as so defined);

excluding, however—

"(3) any item or service if it would not be included under subsection (a) if furnished to an inpatient of a hospital; and

"(4) any such service—

"(A) if furnished by a clinic or rehabilitation agency, or by others under arrangements with such clinic or agency, unless such clinic or rehabilitation agency—

"(i) provides an adequate program of physical therapy services for outpatients and has the facilities and personnel required for such program or required for the supervision of such a program, in accordance with such requirements as the Secretary may specify,

"(ii) has policies, established by a group of professional personnel, including one or more physicians (associated with the clinic or rehabilitation agency) and one or more qualified physical therapists, to govern the services (referred to in clause (i)) it provides,

"(iii) maintains clinical records on all patients,

"(iv) if such clinic or agency is situated in a State in which State or applicable local law provides for the licensing of institutions of this nature, (I) is licensed pursuant to such law, or (II) is approved by the agency of such State or locality responsible for licensing institutions of this nature, as meeting the standards established for such licensing; and

"(v) meets such other conditions relating to the health and safety of individuals who are furnished services by such clinic or agency on an outpatient basis, as the Secretary may find necessary, or

"(B) if furnished by a public health agency unless such agency meets such other conditions relating to health and safety of individuals who are furnished services by such agency on an outpatient basis, as the Secretary may find necessary. In addition, such term includes physical therapy services which meet the requirements of the first sentence of this subsection except that they are furnished to an individual as an inpatient of a hospital or skilled nursing facility. The term 'outpatient physical therapy services' also includes speech pathology services furnished by a hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or by a public health agency, or by others under an arrangement with, and under the supervision of, such hospital, skilled nursing facility, home health agency, clinic, rehabilitation agency, or public health agency to an individual as an outpatient, subject to the conditions prescribed in this subsection.

"Drugs and Biologicals

"(p) The term 'drugs' and the term 'biologicals', except for purposes of subsection (m)(5) of this section, include only such drugs and biologicals, respectively, as are required by section 503(b) of the Federal Food, Drug, and Cosmetic Act to be dispensed only upon prescription, and such other drugs and biologicals as the Secretary may by regulation provide.

"Outpatient Drugs and Biologicals

"(q) The term 'outpatient drugs and biologicals' means drugs and biologicals required by section 503(b) of the Federal Food, Drug, and Cosmetic Act to be dispensed only upon prescription and such other life saving and sustaining drugs and biologicals as the Secretary may by regulation provide, provided for an individual who is not an inpatient in a hospital or skilled nursing facility.

"Routine Dental Services

"(r) The term 'routine dental services' means services in connection with the examination, care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth provided by a dentist or an assistant to a dentist working under his supervision, except that it does not include orthodontic services.

"Dentist

"(s) The term 'dentist', when used in connection with the performance of any function, means a doctor of dentistry or of dental or oral surgery who is legally authorized to practice dentistry by the State in which he performs such function.

"Eyeglasses

"(t) The term 'eyeglasses' means lenses for the correction of a vision defect, other than contact lenses, provided on the basis of an eye examination.

"Eye and Vision Examination

"(u) The term 'eye and vision examination' means an examination for the purpose of determining the need for eyeglasses or vision care, or prescribing, fitting, or changing eyeglasses, performed by an individual who may legally perform such examination in the State in which it is performed.

"Hearing Aids and Examinations

"(v) The term 'hearing aids and examinations' means devices for the correction of hearing defects and examinations for the purpose of determining the need for such a device, subject to such limitations and restrictions as the Secretary may by regulation provide.

"Physician Extender Services

"(w) The term 'physician extender services' means services performed under the supervision and control of a physician by a physician's assistant, nurse practitioner, or other individual, whether or not performed in the office of such physician or at a place at which he is present, if—

"(1) the services are, related to the practice by the supervising physician of general medicine, family medicine, internal medicine, geriatrics, or such other medical specialties as the Secretary may by regulation prescribe,

"(2) the individual has—

"(A) successfully completed an appropriate training program approved by the Secretary or by an accrediting organization approved by the Secretary, or

"(B) passed a physician extender certification examination conducted by a certifying organization approved by the Secretary which does not have as a prerequisite graduation from an accredited training program, or;

"(C) met such other proficiency requirements as the Secretary may by regulation prescribe,

"(3) the individual may legally perform the services in the State in which the services are performed,

"(4) under the law of the State in which the services are performed, the individual acts, in performing the services, as the agent or otherwise on behalf of the supervising physician or organization which employs the individual, and

"(5) the charges for such services are included in the bills of the supervising physician or the employing organization.

"Carrier

"(x) The term 'carrier' means a voluntary association, corporation, partnership, or other nongovernmental organization which is engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, other than a self-insured employer.

"Self-Insured Employer

"(y) The term 'self-insured employer' means an employer who (either through outside administrators or otherwise) engages, without arrangements with a carrier, in providing, paying for, or reimbursing the cost of, health services for his employees.

"Family

"(z)(1) The term 'employee and the members of his family' means the employee and

"(A) his spouse, and

"(B) each parent, step-parent, unmarried child, and unmarried stepchild of the employee or the employee's spouse receiving more than one-half of his support from the employee and his spouse,

who is residing at the place of residence maintained by the employee as his home.

"(2) The term 'members of a family' means an individual and

"(A) his spouse, and

"(B) each parent, step-parent, unmarried child, and unmarried stepchild of the individual or the employee's spouse receiving more than one-half of his support from the individual and his spouse,

who is residing at the place of residence maintained by the individual as his home. For purposes of the preceding sentence, the term 'individual' does not include any individual who is receiving more than one-half of his support from a child and his spouse or a stepchild and his spouse, and is residing at the place of residence maintained by that child or stepchild as his home, or any unmarried individual who is receiving more than one-half of his support from a parent and his spouse, or a step-parent and his spouse, and is residing at the place of residence maintained by that parent or step-parent as his home.

"(3) An individual who is determined, under regulations prescribed by the Secretary, to be temporarily absent from a place of residence for the purpose of engaging in or seeking employment or self-employment (including military service), or attending a school, college, or university, or a course of vocational or technical training, or receiving institutional care, shall be considered to be residing at that place of residence.

"Income

"(aa) The term 'income' means all income, from whatever source derived, as determined under regulations prescribed by the Secretary, and subject to such restrictions and limitations as he may, by regulation, provide.

"Arrangements for certain services

"(bb) The term 'arrangements' is limited to arrangements under which receipt of payment by the hospital, a skilled nursing facility, or home health agency (whether in its own right or as agency), with respect to services for which an individual is entitled to have payment made under this title, discharges the liability of such individual or any other person to pay for the services.

"State and United States

"(cc) The terms 'State' and 'United States' have the meaning given to them by subsections (h) and (i), respectively, of section 210.

"Employee

"(dd) Whether an individual is an employee of another shall be determined at common law. The term includes employees of State and local governments, and their agencies and instrumentalities.

"American employer

"(ee) The term 'American employer' means an employer which is (1) a State or local government or an agency or instrumentality of one of the foregoing, (2) an individual who is a resident of the United States, (3) a partnership, if two-thirds or more of the partners are residents of the United States, (4) a trust, if all of the trustees are residents of the United States, or (5) a corporation organized under the laws of the United States or of any State.

"REPORT

"SEC. 1882. On or before January 15 of the year following the fiscal year in which this section is enacted, and annually thereafter, the Secretary shall prepare a report, and submit it to the President for transmission to the Congress, summarizing the activities conducted in the preceding fiscal year in compliance with the amendments to this Act made by the Comprehensive Health Insurance Act of 1974. The report shall include an appraisal of the adequacy of the program under this title to meet the health care needs of the American people, and shall make such legislative recommendations as the Secretary deems appropriate."

EFFECTIVE DATE

SEC. 102. (a) Except as provided in subsection (b), section 101 of this Act shall be effective on January 1, 1976, or, if later, the first day of the first calendar year commencing at least 18 months after the enactment of this Act.

(b) Notwithstanding subsection (a), the provisions of title XVIII of the Social Security Act, as in effect prior to the enactment of this Act, shall remain in effect on and after January 1, 1976, with respect to individuals entitled to hospital insurance benefits under section 226 of the Social Security Act, as amended by this Act, and wages and self-employment income earned in States not certified by the Secretary under section 1861 of the Social Security Act, as amended by this Act.

TRANSITIONAL PROVISIONS CONCERNING PAYMENTS TO CERTAIN EMPLOYERS

SEC. 103. (a) If the total cash wages paid by an employer to his employees whose place of employment is within a single State, in the first year in which the amendments made by section 101 of this Act are effective with respect to those employees, or in any of the succeeding four years, when multiplied by the difference between—

(A) the ratio of (I) the cost to the employer of meeting the employer contribution requirement imposed by part A of title

XVIII of the Social Security Act, as amended by this Act with respect to those employees in that year to, (II) the total cash wages paid to those employees; and

(B) the ratio of (I) the cost to the employer of providing health benefits to his employees whose place of employment is in that State in the year preceding the year in which the amendments made by section 101 of this Act are effective with respect to those employees to, (II) the total cash wages paid to those employees in that year,

exceeds 3 percent of the total cash wages paid to those employees in that year, the Secretary shall pay to the employer the following percentages of that excess—

(1) for the first year in which the amendments made by section 101 of this Act are effective with respect to those employees, 75 per centum.

(2) for the first succeeding year, 60 percent.

(3) for the second succeeding year, 45 percent;

(4) for the third succeeding year, 30 percent; and

(5) for the fourth succeeding year, 15 percent.

(b) There are authorized to be appropriated such sums as may be necessary for the Secretary to make the payments required by subsection (a).

TRADITIONAL PROVISIONS CONCERNING EMPLOYER CONTRIBUTIONS

SEC. 104. Notwithstanding the provisions of section 1802 of the Social Security Act, as amended by this Act, the employer contribution requirement imposed under section 1802 with respect to employment in a State shall be 65 percent for 3 years beginning with the date that section 1802 is applicable to employment in that State.

TRADITIONAL PROVISIONS CONCERNING ELIGIBILITY FOR FEDERAL HEALTH CARE BENEFITS

SEC. 105. (a) Anyone who resides in a State certified by the Secretary under section 1861 of the Social Security Act, as amended by this Act—

(1) has attained the age of 65,

(2) (A) attained that age before or during the calendar year in which section 101 of this Act becomes effective under section 102(a) of this Act, or (B) has not less than 3 quarters of coverage (as defined in title II of the Social Security Act or section 5(*l*) of the Railroad Retirement Act of 1937), whenever acquired, for each calendar year elapsing after the calendar year before the calendar year in which section 101 of this Act becomes effective under section 102(a) of this Act and before the year in which he attained that age,

(3) is not, and upon filing the appropriate application would not be, entitled to federal health care benefits under section 1831 of that Act, and is not certifiable as a qualified railroad retirement beneficiary under section 21 of the Railroad Retirement Act of 1937,

(4) is a resident of the United States (as defined in section 210(i) of the Social Security Act), and is (A) a citizen of the United States or (B) an alien lawfully admitted for permanent residence, and

(5) has filed an application under this section in such manner and in accordance with such other requirements as may be prescribed in regulations of the Secretary, shall (subject to the limitations of this section) be deemed, solely for purposes of section 1831 of the Social Security Act, to be entitled to monthly insurance benefits under section 202 for each month, beginning with the first month in which he meets the requirements of this subsection and ending with the month in which he dies, or, if earlier, the month before the month in which he becomes, or upon filing the appropriate application under title II of that Act would become, entitled to Federal health care benefits under section 1831 or become certifiable as a qualified railroad retirement beneficiary. An individual who would have met the preceding requirements of this subsection in any month had he filed application under paragraph (5) hereof before the end of that month shall be deemed to have met those requirements in that month if he files the application before the end of the twelfth month following that month. No application under this section which is filed by an individual more than 3 months before the first month in which he meets the requirements of paragraphs (1), (2), (3), and (4) shall be accepted as an application for purposes of this section.

(b) The provisions of subsection (a) shall not apply to any individual who—

(1) is, at the beginning of the first month in which he meets the requirements of subsection (a), a member of any organization referred to in section 210(a)(17) of the Social Security Act, or

(2) has, prior to the beginning of that first month, been convicted of any offense listed in section 202(u) of the Social Security Act.

(c) There is authorized to be appropriated to the Federal Health Care Benefits Trust Fund (established by section 1835 of the Social Security Act) from time to time such sums as the Secretary deems necessary for any fiscal year, on account of—

(1) payments, other than payments described in section 1836(1) of the Social Security Act, as amended by this Act, made or to be made during such fiscal year from that Trust Fund with respect to individuals who are entitled to Federal health care benefits under section 1831 solely by reason of this section,

(2) the additional administrative expenses resulting or expected to result from the making of those payments,

(3) any loss in interest to the Trust Fund resulting from the making of those payments,

in order to place that Trust Fund, at the end of the fiscal year, in the same position in which it would have been if the preceding subsections of this section had not been enacted.

TITLE II—REDUCTION IN SERVICES PROVIDED UNDER MEDICAL ASSISTANCE PROGRAMS

AMENDMENTS TO MEDICAID PROGRAM

SEC. 201. (a) Section 1902(a) of that Act is amended by—

(1) striking out the parenthetical phrase in paragraph (9);

(2) striking out "paragraph (4), (14), or (16)" in paragraph (10) and inserting "paragraph (1), (4) or (5)" in lieu thereof;

(3) striking out clause (II) in paragraph (10), inserting "and" at the end of clause (I), and redesignating clause (III) as clause (II);

(4) striking out paragraph (13) and inserting the following new paragraph in lieu thereof:

"(13) provide—

"(A) for inclusion of at least the services listed in clauses (1) and (2) of section 1905 (a), and

"(B) for payment for the items and services provided under the plan on the basis of such standards as the Secretary may by regulation prescribe;";

(5) striking out "through (5) and (7)" in paragraph (14)(A) and inserting "and (2)" in lieu thereof;

(6) striking out paragraph (15);

(7) striking out "(including drugs)" and "community pharmacy," in paragraph (23);

(8) inserting "psychiatric" before "hospitals" in paragraph (24);

(9) striking out "1861(j)" in paragraph (28) and inserting "1881(j)" in lieu thereof; and

(10) striking out "the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864 (a), or, if such agency is not" and ", the State agency responsible for such licensing," in paragraph (33)(B).

(b) Section 1903(a) of such Act is amended by—

(1) striking out everything after "under the State plan" in clause (1) and inserting "; plus" in lieu thereof; and

(2) striking out clause (5).

(c) Section 1903(b) of such Act is amended by striking out paragraph (1).

(d) Section 1903(g)(1) of such Act is amended by—

(1) striking out "hospital (including an institution for tuberculosis)," and "inpatient hospital services (including tuberculosis hospitals)," in the matter before clause (A); and striking out "section 1812" and inserting "title XVIII" in lieu thereof.

(e) Section 1903(i) of such Act is amended by striking out clause (1) through (3).

(f) Section 1903(i) of such Act is further amended by—

(1) striking out "hospital or" each time that it appears in clause (4); and

(2) striking out "1861(k)" each time that it appears in clause (4) and inserting "1881 (k)" in lieu thereof.

(g) Section 1903 is further amended by striking out subsections (j) and (k).

(h) The first sentence of section 1905(a) of such Act is amended by striking out everything after "all of such cost—" and inserting in lieu thereof the following:

"(1) skilled nursing facility services (other than services in an institution for tuberculosis or mental diseases) for individuals 21 years of age or older;

"(2) home health care services;

"(3) intermediate care facility services (other than such services in an institution for tuberculosis or mental diseases) for individuals who are determined, in accordance with section 1902(a)(31)(A), to be in need of such care;

"(4) for individuals 65 years of age or older, inpatient hospital services in an institution for mental diseases, and skilled nursing services and intermediate care facility services in an institution for tuberculosis or mental diseases;

"(5) inpatient psychiatric hospital services for individuals under 21, as defined in subsection (h); and

"(6) any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary which is provided to an individual in an institution or is intended to reduce the need for institutionalization;

except that such term does not include—

"(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution);

"(B) except as otherwise provided in paragraph (5), any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases; or

"(C) any such payments with respect to care or services which must be covered under a health care insurance plan provided under part B or C of title XVIII or for any premium, deductible, or coinsurance which must be imposed under such plan."

(i) Section 1905 of such Act is further amended by—

(1) striking out subsections (e) and (g); and

(2) striking out everything after "Indian reservation" in subsection (i) and inserting "and is certified under title XVIII." in lieu thereof.

(j) Section 1910 of such Act is amended to read as follows:

"SEC. 1910. An institution certified as a skilled nursing facility under title XVIII shall be deemed to meet the standards for certification as a skilled nursing facility for purposes of section 1902(a)(28)."

(k) Section 1902(b) is amended by inserting "submitted by a State certified under section 1861" after "approve any plan".

EFFECTIVE DATE

SEC. 202. The amendments made by section 201 shall be effective with respect to payments under section 1903 of the Social Security Act for quarters beginning on or after the effective date of section 101 of this Act under section 102(a) of this Act.

AMENDMENTS TO PROFESSIONAL STANDARDS REVIEW PROGRAM

SEC. 301. (a)(1) Section 1151 of the Social Security Act is amended by—

(A) inserting ", or which are provided," immediately after "(in whole or in part)",

(B) inserting ", or which are provided," immediately before "under the Social Security Act", and

(C) inserting ", and such services will be provided" immediately after "payment for such services will be made".

(2) Section 1155(a)(1) of that Act is amended by—

(A) striking out "(subject to the provisions of subsection (g))", and

(B) striking out "under this Act" and inserting "under title V or XIX, for which payment may be made by a health care insurance plan or special employee health care program approved under title XVIII or provided pursuant to part B or C of that title, or which are provided by a prepaid health care plan or special employee health care program approved under title XVIII," in lieu thereof.

(3) Section 1155 of that Act is further amended by striking out subsection (g).

(4) Section 1157 of that Act is amended by striking out the last sentence therein.

(5) Section 1158(a) of that Act is amended by striking out everything before clause (1) and inserting "Except as provided for in section 1159, no Federal funds appropriated under title XIX for the provision of health care items and services shall be used (directly or indirectly) for the payment for, and no health care insurance plan or special employee health care program approved under title XVIII or provided under part B or C of that title shall make payment on, any claim for the provision of any item or service, unless the Secretary pursuant to regulation determines that the claimant is without fault if—" in lieu thereof.

(6) Section 1159(a) of that Act is amended by striking out everything before "or a provider or practitioner" and inserting "Any individual entitled to benefits under title XIX or covered under a health care insurance plan or special employee health care program approved under title XVIII or provided under part B or C of that title" in lieu thereof.

(7) Section 1160(a) of that Act is amended by striking out "to beneficiaries and recipients under this Act" and inserting "to individuals eligible for benefits under title V or XIX or covered under a health care insurance plan, prepaid health care plan, or special employee health care program approved under title XVIII or provided under part B or C of that title" in lieu thereof.

(8) Section 1160(b) of that Act is amended by striking out "under this Act" and inserting "under title V or XIX, or by a health care insurance plan or special employee health care program approved under title XVIII or provided pursuant to part B or C of that title" in lieu thereof.

(9) Section 1160 of that Act is further amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) If after reasonable notice and opportunity, for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendation to the Secretary pursuant to section 1157 (which report and recommendation shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such practitioner or provider, in providing health care services over which such organization has review responsibility on behalf of a prepaid health care plan or special employer health care program approved under title XVIII has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction provided under law) may require the prepaid health care plan or special employee health care program to take such remedial action as he determines is appropriate, including, but not limited to, professional education, or suspension or termination of personnel."

(b) The amendments made by this section shall be effective with respect to items and services provided in States certified by the Secretary under section 1861 of the Social Security Act, as amended by this Act.

AMENDMENTS TO CAPITAL EXPENDITURES REVIEW PROGRAM

SEC. 302. (a) Section 1122(a) of the Social Security Act is amended by striking out so much of such section as precedes "are not used" and inserting "The purpose of this section is to assure that Federal funds paid pursuant to titles V and XIX, payments made under health care insurance plans and special employee health care programs approved under title XVIII or provided pursuant to part B or C of that title, and payments made to prepaid health care plans and special employee health care programs approved under title XVIII" in lieu thereof.

(b) Section 1122 is further amended by striking out subsection (c).

(c) Section 1122 is further amended by striking out so much of subsection (d) as follows clause (B) of paragraph (1), and subsection (e), and inserting in lieu thereof the following:

"then he shall, in determining the Federal payments to be made under title V or XIX, exclude amounts with respect to services furnished, during such period as the Secretary finds necessary in any case to effectuate the purpose of this section, in the health care facility for which such capital expenditure is made; shall notify carriers, self-insured employers, and employers which provide coverage under health care insurance plans and special employee health care programs approved under title XVIII or provided pursuant to part B or C of that title to individuals who in the judgment of the Secretary could reasonably be expected to seek services in the facility, that payments are not to be made with respect to services furnished in the facility to such individuals during such period, and direct such carriers, self-insured employers, and employers to notify such individuals of such exclusion; and shall notify carriers, self-insured employers, and employers which provide coverage under prepaid health care plans and special employee health care programs approved under title XVIII which in the judgment of the Secretary could reasonably be expected to provide services in the facility, that items and services are not to be provided under the plan in the facility during such period.

"(2) With respect to any organization which is reimbursed primarily on a per capita basis, the Secretary shall determine, for purposes of Federal payments under titles V and XIX, the amount which in his judgment is a reasonable equivalent of the amount which would be excluded under this subsection if payment were made on some other basis.

"(3) The period referred to in paragraph (1) for which the exclusion of payment for, and provision of, services applies shall begin with respect to services provided after—

"(A) in the case of title V or XIX, the Secretary notifies the State or other recipient of Federal funds thereunder of his determination;

"(B) in the case of payments under health care insurance plans and special employee health care programs approved under title XVIII or provided pursuant to part B or C of that title, notice to those individuals covered under such plans who, in the judgment of the Secretary, could reasonably be expected to seek services in the facility involved; and

"(C) in the case of services provided under prepaid health care plans and special employee health care insurance programs approved under title XVIII, notice to the carriers, self-insured employers, and employers which provide coverage under those plans which, in the judgment of the Secretary, could reasonably be expected to provide services in the facility.

"(4) If the Secretary, after submitting the matters involved to the advisory council established or designated under subsection (i), determines that an exclusion under paragraph (1) of payments for, and provision of, services furnished in any health care facility would discourage the operation or expansion of such facility (or in the case of a facility of a health maintenance organization, the operation or expansion of such organization) and such facility or organizations has demonstrated to his satisfaction that it is capable of providing comprehensive health care services (including institutional services) efficiently, effectively, and economically, or would otherwise be inconsistent with the effective administration of title V, XVIII, or XIX, he shall not exclude such payments pursuant to paragraph (1) or notify carriers, self-insured employers, or employers not to make such payments or provide such services.

"(e) Where a person obtains under lease or comparable arrangement any facility or part thereof, or equipment for a facility, which would have been subject to an exclusion under subsection (c) if the person had acquired it by purchase, the Secretary shall provide for such an exclusion with respect to services furnished in such facility by such person."

(d) The amendments made by this section shall be effective with respect to capital expenditures in States certified by the Secretary under section 1861 of the Social Security Act, as amended by this Act.

MISCELLANEOUS SOCIAL SECURITY AMENDMENTS

SEC. 303. (a)(1) Section 201(g)(1) of the Social Security Act is amended by—

(A) inserting ", the Federal Health Care Benefits Trust Fund," immediately after "Federal Hospital Insurance Trust Fund",

(B) striking out "with respect to title XVI" and inserting "with respect to titles XVI and XVIII" in lieu thereof, and

(C) striking out "section 1601" and inserting "sections 1601 and 1836" in lieu thereof.

(2) Section 201(i) of that Act is amended by inserting "the Federal Health Care Benefits Trust Fund," immediately after "Federal Hospital Insurance Trust Fund,".

(b)(1) Section 218(e) of that Act is amended by—

(A) striking out "3101 and 3111" in paragraph (1)(A) and inserting "3101(a) and 3111(a), and in the case of a State not certified under section 1861, 3101(b) and 3111(b), respectively, in lieu thereof, and

(B) striking out "3111" in paragraph (2)(B) and inserting "3111(a), and in the case of a State not certified under section 1861, 3111(b)," in lieu thereof.

(2) Section 218(f)(3) of that Act is amended by striking out "3101 and 3111" and inserting "3101(a) and 3111(a), and in the case of a State not certified under section 1861, 3101(b) and 3111(b),", respectively, in lieu thereof.

(3) Agreements under section 218 of the Social Security Act in effect on the effective date of the amendments made by this subsection shall be deemed to be modified to the extent necessary to meet the requirements of section 218, as amended by this subsection.

(c) Subsections (a) and (b) of section 226 of the Social Security Act are each amended by inserting "residing in a State which is not certified under section 1861" immediately after "Every individual".

(d) Section 505(a)(6) of such Act is amended by striking out "which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII" and inserting "determined in accordance with methods and standards as the Secretary may, by regulation, provide" in lieu thereof.

(e) Section 1116 of such Act is amended by—

(1) inserting "or part B of title XVIII," after "part A of title IV," each time that it appears therein; and

(2) inserting "1824," after "1604,".

(f)(1) Section 202(u) of that Act is amended by striking out "insurance benefits under part A of" and inserting "federal benefits under" in lieu thereof

(2) Section 202(v) of that Act is amended by striking out "part A" each time that it appears therein and inserting "the federal programs" in lieu thereof.

(g) The amendments made by this section shall be effective on the effective date of section 101 of this Act under section 102(a) of this Act.

AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 304. (a) The matter before clause (1) in section 322(a) of the Public Health Service Act is amended by—

(1) striking out "without charge", and

(2) inserting ", subject to such charges as the Secretary may by regulation impose" immediately after "stations of the Service".

(b) Section 1310(a) of the Public Health Service Act is amended by inserting "whose place of employment is not within a State certified under section 1861 of the Social Security Act" immediately after "offered to its employees".

(c) The amendments made by this section shall be effective on the effective date of section 101 of this Act under section 102(a) of this Act.

AMENDMENTS TO THE RAILROAD RETIREMENT PROGRAM

SEC. 305. (a) Section 5(k) of the Railroad Retirement Act of 1937 is amended by inserting "or Federal Health Care Benefits Trust Fund, as applicable" immediately after "Federal Hospital Insurance Trust Fund".

(b)(1) Section 21(a) of that Act is amended by striking out everything after "individuals described in subsection (b) of this section to" and inserting "federal health care benefits under section 1831 of the Social Security Act as the Secretary of Health, Education, and Welfare has under such section with respect to individuals to whom such section applies. For purposes of section 11, a determination with respect to the rights of an individual under this section shall be considered to be a decision with respect to an annuity."

(2) Section 21(c) of that Act is amended by striking out "part A" and inserting "part C" in lieu thereof.

(3) Section 21(d) of that Act and section 105 of the Social Security Amendments of 1965 are each amended by striking out the parenthetical phrase therein.

(4) Section 21(e) of the Railroad Retirement Act of 1937 is amended to read as follows:

"(e) Individuals described in subsection (b) of this section shall have the same rights to federal health care benefits with respect to health care provided in Canada as individuals to whom section 1831 of the Social Security Act applies have with respect to health care provided in the United States, and this subsection shall be administered by the Board as if the provisions of part C of title XVIII of the Social Security Act were applicable, as if references to the Secretary of Health, Education, and Welfare were to the Board, as if references to the Federal Health Care Benefits Trust Fund were to the Railroad Retirement Account, as if references to the United States or a State included Canada or a subdivision thereof, and as if title XVIII of the Social Security Act contained such modifications in its requirements and provisions as the Board determines are appropriate with respect to health care provided for shall be made from the Railroad Retirement Account in accordance with, and subject to, the conditions applicable under section 10(b) in making payment of other benefits, but only to the extent that the amount of payments hereunder provided for exceeds the amount payable pursuant to the law in effect in Canada."

(c) Section 22 of that Act is repealed.

(d)(1) The amendments made by subsection (a) shall be effective on the effective date of section 101 of this Act under section 102(a) of this Act.

(2) The amendments made by subsections (b) and (c) shall be effective with respect to individuals residing in States certified under section 1861 of the Social Security Act, as amended by this Act.

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 306. Effective with respect to wages in States certified under section 1861 of the Social Security Act, as amended by this Act, paragraphs (5), (6)(A), (6)(B), (6)(C), and (7) of section 3121(b) of that Code are each amended by inserting "with respect to the taxes imposed by sections 3101(a) and 3111(a)," immediately before "service" the first time that it appears in each of those paragraphs.

TITLE IV—GENERAL PROVISIONS

GENERAL SEVERABILITY

SEC. 401. If a provision enacted by this Act is held invalid, all other provisions so enacted shall remain in effect. If a provision enacted by this Act is held invalid in one or more of its applications, the provision shall remain in effect with respect to all other applications.

DEFINITION

SEC. 402. As used in this Act and in the amendments made by this Act, the term "Secretary" means, unless the context otherwise requires, the Secretary of Health, Education, and Welfare.

THE WHITE HOUSE,
February 6, 1974.

To the Congress of the United States:

One of the most cherished goals of our democracy is to assure every American an equal opportunity to lead a full and productive life.

In the last quarter century, we have made remarkable progress toward that goal, opening the doors to millions of our fellow countrymen who were seeking equal opportunities in education, jobs and voting.

Now it is time that we move forward again in still another critical area: health care.

Without adequate health care, no one can make full use of his or her talents and opportunities. It is thus just as important that economic, racial and social barriers not stand in the way of good health care as it is to eliminate those barriers to a good education and a good job.

Three years ago, I proposed a major health insurance program to the Congress, seeking to guarantee adequate financing of health care on a nationwide basis. That proposal generated widespread discussion and useful debate. But no legislation reached my desk.

Today the need is even more pressing because of the higher costs of medical care. Efforts to control medical costs under the New Economic Policy have been met with encouraging success, sharply reducing the rate of inflation for health care. Nevertheless, the overall cost of health care has still risen by more than 20 percent in the last two and one-half years, so that more and more Americans face staggering bills when they receive medical help today:

Across the Nation, the average cost of a day of hospital care now exceeds $110.

The average cost of delivering a baby and providing postnatal care approaches $1,000.

The average cost of health care for terminal cancer now exceeds $20,000.

For the average family, it is clear that without adequate insurance, even normal care can be a financial burden while a catastrophic illness can mean catastrophic debt.

Beyond the question of the prices of health care, our present system of health care insurance suffers from two major flaws:

First, even though more Americans carry health insurance than ever before, the 25 million Americans who remain uninsured often need it the most and are most unlikely to obtain it. They include many who work in seasonal or transient occupations, high-risk cases, and those who are ineligible for Medicaid despite low incomes.

Second, those Americans who do carry health insurance often lack coverage which is balanced, comprehensive and fully protective:

Forty percent of those who are insured are not covered for visits to physicians on an out-patient basis, a gap that creates powerful incentives toward high-cost care in hospitals;

Few people have the option of selecting care through prepaid arrangements offered by Health Maintenance Organizations so the system at large does not benefit from the free choice and creative competition this would offer;

Very few private policies cover preventive services;

Most health plans do not contain built-in incentives to reduce waste and inefficiency. The extra costs of wasteful practices are passed on, of course, to consumers; and

Fewer than half of our citizens under 65—and almost none over 65—have major medical coverage which pays for the cost of catastrophic illness.

These gaps in health protection can have tragic consequences. They can cause people to delay seeking medical attention until it is too late. Then a medical crisis ensues, followed by huge medical bills—or worse. Delays in treatment can end in death or lifelong disability.

COMPREHENSIVE HEALTH INSURANCE PLAN (CHIP)

Early last year, I directed the Secretary of Health, Education, and Welfare to prepare a new and improved plan for comprehensive health insurance. That plan, as I indicated in my State of the Union message, has been developed and I am presenting it to the Congress today. I urge its enactment as soon as possible.

The plan is organized around seven principles:

First, it offers every American an opportunity to obtain a balanced, comprehensive range of health insurance benefits;

Second, it will cost no American more than he can afford to pay;

Third, it builds on the strength and diversity of our existing public and private systems of health financing and harmonizes them into an overall system;

Fourth, it uses public funds only where needed and requires no new Federal taxes;

Fifth, it would maintain freedom of choice by patients and ensure that doctors work for their patient, not for the Federal Government.

Sixth, it encourages more effective use of our health care resources;

And finally, it is organized so that all parties would have a direct stake in making the system work—consumer, provider, insurer, State governments and the Federal Government.

BROAD AND BALANCED PROTECTION FOR ALL AMERICANS

Upon adoption of appropriate Federal and State legislation, the Comprehensive Health Insurance Plan would offer to every American the same broad and balanced health protection through one of three major programs:

Employee Health Insurance, covering most Americans and offered at their place of employment, with the cost to be shared by the employer and employee on a basis which would prevent excessive burdens on either;

Assisted Health Insurance, covering low-income persons, and persons who would be ineligible for the other two programs, with Federal and State government paying those costs beyond the means of the individual who is insured; and,

An improved Medicare Plan, covering those 65 and over and offered through a Medicare system that is modified to include additional, needed benefits.

One of these three plans would be available to every American, but for everyone, participation in the program would be voluntary.

The benefits offered by the three plans would be identical for all Americans, regardless of age or income. Benefits would be provided for:

Hospital care;

Physicians' care in and out of the hospital;

Prescription and life-saving drugs;

Laboratory tests and X-rays;

Medical devices;

Ambulance services; and,

Other ancillary health care.

There would be no exclusions of coverage based on the nature of the illness. For example, a person with heart disease would qualify for benefits as would a person with kidney disease.

In addition, CHIP would cover treatment for mental illness, alcoholism and drug addiction, whether that treatment were provided in hospitals and physicians' offices or in community-based settings.

Certain nursing home services and other convalescent services would also be covered. For example, home health services would be covered so that long and costly stays in nursing homes could be averted where possible.

The health needs of children would come in for special attention, since many conditions, if detected in childhood, can be prevented from causing lifelong disability and learning handicaps. Included in these services for children would be:

Preventive care up to age six;

Eye examinations;

Hearing examinations; and,

Regular dental care up to age 13.

Under the Comprehensive Health Insurance Plan, a doctor's decisions could be based on the health care needs of his patients, not on health insurance coverage. This difference is essential for quality care.

Every American participating in the program would be insured for catastrophic illnesses that can eat away savings and plunge individuals and families into hopeless debt for years. No family would ever have annual out-of-pocket expenses for covered health services in excess of $1,500, and low-income families would face substantially smaller expenses.

As part of this program, every American who participates in the program would receive a Healthcard when the plan goes into effect in his State. This card, similar to a credit card, would be honored by hospitals, nursing homes, emergency rooms, doctors, and clinics across the country. This card could also be used to identify information on blood type and sensitivity to particular drugs—information which might be important in an emergency.

Bills for the services paid for with the Healthcard would be sent to the insurance carrier who would reimburse the provider of the care for covered services, then bill the patient for his share, if any.

The entire program would become effective in 1976, assuming that the plan is promptly enacted by the Congress.

HOW EMPLOYEE HEALTH INSURANCE WOULD WORK

Every employer would be required to offer all full-time employees the Comprehensive Health Insurance Plan. Additional benefits could then be added by mutual agreement. The insurance plan would be jointly financed, with employers paying 65 percent of the first three years of the plan, and 75 percent thereafter. Employees would pay the balance of the premiums. Temporary Federal subsidies would be used to ease the initial burden on employers who face significant cost increases.

Individuals covered by the plan would pay the first $150 in annual medical expenses. A separate $50 deductible provision would apply for out-patient drugs. There would be a maximum of three medical deductibles per family.

After satisfying this deductible limit, an enrollee would then pay for 25 percent of additional bills. However, $1,500 per year would be the absolute dollar limit on any family's medical expenses for covered services in any one year.

HOW ASSISTED HEALTH INSURANCE WOULD WORK

The program of Assisted Health Insurance is designed to cover everyone not offered coverage under Employee Health Insurance or Medicare, including the unemployed, the disabled, the self-employed, and those with low incomes. In addition, persons with higher incomes would also obtain Assisted Health Insurance if they cannot otherwise get coverage at reasonable rates. Included in this latter group might be persons whose health status or type of work puts them in high-risk insurance categories.

Assisted Health Insurance would thus fill many of the gaps in our present health insurance system and would ensure that for the first time in our Nation's history, all Americans would have financial access to health protection regardless of income or circumstances.

A principal feature of Assisted Health Insurance is that it relates premiums and out-of-pocket expenses to the income of the person or family enrolled. Working families with incomes of up to $5,000, for instance, would pay no premiums at all. Deductibles, co-insurance, and maximum liability would all be pegged to income levels.

Assisted Health Insurance would replace State-run Medicaid for most services. Unlike Medicaid, where benefits vary in each State, this plan would establish uniform benefit and eligibility standards for all low-income persons. It would also eliminate artificial barriers to enrollment or access to health care.

As an interim measure, the Medicaid program would be continued to meet certain needs, primarily long-term institutional care. I do not consider our current approach to long-term care desirable because it can lead to over-emphasis on institutional as opposed to home care. The Secretary of Health, Education, and Welfare has undertaken a thorough study of the appropriate institutional services which should be included in health insurance and other programs and will report his findings to me.

IMPROVING MEDICARE

The Medicare program now provides medical protection for over 23 million older Americans. Medicare, however, does not cover outpatient drugs, nor does it limit total out-of-pocket costs. It is still possible for an elderly person to be financially devastated by a lengthy illness even with Medicare coverage. I therefore propose that Medicare's benefits be improved so that Medicare would provide the same benefits offered to other Americans under Employee Health Insurance and Assisted Health Insurance.

Any person 65 or over, eligible to receive Medicare payments, would ordinarily, under my modified Medicare plan, pay the first $100 for care received during a year, and the first $50 toward out-patient drugs. He or she would also pay 20 percent of any bills above the deductible limit. But in no case would any Medicare beneficiary have to pay more than $750 in out-of-pocket costs. The premiums and cost sharing for those with low incomes would be reduced, with public funds making up the difference.

The current program of Medicare for the disabled would be replaced. Those now in the Medicare for the disabled plan would be eligible for Assisted Health Insurance, which would provide better coverage for those with high medical costs and low incomes.

Premiums for most people under the new Medicare program would be roughly equal to that which is now payable under Part B of Medicare—the Supplementary Medical Insurance program.

COSTS OF COMPREHENSIVE HEALTH INSURANCE

When fully effective, the total new costs of CHIP to the Federal and State governments would be about $6.9 billion with an additional small amount for transitional assistance for small and low wage employers:

The Federal Government would add about $5.9 billion over the cost of continuing existing programs to finance health care for low-income or high risk persons.

State governments would add about $1.0 billion over existing Medicaid spending for the same purpose, though these added costs would be largely, if not wholly offset by reduced State and local budgets for direct provision of services.

The Federal Government would provide assistance to small and low wage employers which would initially cost about $450 million but be phased out over five years.

For the average American family, what all of these figures reduce to is simply this:

The national average family cost for health insurance premiums each year under Employee Health Insurance would be about $150; the employer would pay approximately $450 for each employee who participates in the plan.

Additional family costs for medical care would vary according to need and use, but in no case would a family have to pay more than $1,500 in any one year for covered services.

No additional taxes would be needed to pay for the cost of CHIP. The Federal funds needed to pay for this plan could all be drawn from revenues that would be generated by the present tax structure. I am opposed to any comprehensive health plan which requires new taxes.

MAKING THE HEALTH CARE SYSTEM WORK BETTER

Any program to finance health care for the Nation must take close account of two critical and related problems—cost and quality.

When Medicare and Medicaid went into effect, medical prices jumped almost twice as fast as living costs in general in the next five years. These programs increased demand without increasing supply proportionately and higher costs resulted.

This escalation of medical prices must not recur when the Comprehensive Health Insurance Plan goes into effect. One way to prevent an escalation is to increase the supply of physicians, which is now taking place at a rapid rate. Since 1965, the number of first-year enrollments in medical schools has increased 55 percent. By 1980, the Nation should have over 440,000 physicians, or roughly one-third more than today. We are also taking steps to train persons in allied health occupations, who can extend the services of the physician.

With these and other efforts already underway, the Nation's health manpower supply will be able to meet the additional demands that will be placed on it.

Other measures have also been taken to contain medical prices. Under the New Economic Policy, hospital cost increases have been cut almost in half from their post-Medicare highs, and the rate of increase in physician fees has slowed substantially. It is extremely important that these successes be continued as we move toward our goal of comprehensive health insurance protection for all Americans. I will, therefore, recommend to the Congress that the Cost of Living Council's authority to control medical care costs be extended.

To contain medical costs effectively over the long haul, however, basic reforms in the financing and delivery of care are also needed. We need a system with built-in incentives that operates more efficiently and reduces the losses from waste and duplication of effort. Everyone pays for this inefficiency through their health premiums and medical bills.

The measure I am recommending today therefore contains a number of proposals designed to contain costs, improve the efficiency of the system and assure quality health care. These proposals include:

1. HEALTH MAINTENANCE ORGANIZATIONS (HMO'S)

On December 29, 1973, I signed into law legislation designed to stimulate, through Federal aid, the establishment of prepaid comprehensive care organizations. HMO's have proved an effective means for delivering health care and the CHIP plan requires that they be offered as an option for the individual and the family as soon as they become available. This would encourage more freedom of choice for both patients and providers, while fostering diversity in our medical care delivery system.

2. PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSRO'S)

I also contemplate in my proposal a provision that would place health services provided under CHIP under the review of Professional Standards Review Organizations. These PSRO's would be charged with maintaining high standards of care and reducing needless hospitalization. Operated by groups of private physicians, professional review organizations can do much to ensure quality care while helping to bring about significant savings in health costs.

3. MORE BALANCED GROWTH IN HEALTH FACILITIES

Another provision of this legislation would call on the States to review building plans for hospitals, nursing homes and other health facilities. Existing health insurance has overemphasized the placement of patients in hospitals and nursing homes. Under this artificial stimulus, institutions have felt impelled to keep adding bed space. This has produced a growth of almost 75 percent in the number of hospital beds in the last twenty years, so that now we have a surplus of beds in many places and a poor mix of facilities in others. Under the legislation I am submitting, States can begin remedying this costly imbalance.

4. STATE ROLE

Another important provision of this legislation calls on the States to review the operation of health insurance carriers within their jurisdiction. The States would approve specific plans, oversee rates, ensure adequate disclosure, require an annual audit and take other appropriate measures. For health care providers, the States would assure fair reimbursement for physician services, drugs and institutional services, including a prospective reimbursement system for hospitals.

A number of States have shown that an effective job can be done in containing costs. Under my proposal all States would have an incentive to do the same. Only with effective cost control measures can States ensure that the citizens receive the increased health care they need and at rates they can afford. Failure on the part of States to enact the necessary authorities would prevent them from receiving any Federal support of their State-administered health assistance plan.

MAINTAINING A PRIVATE ENTERPRISE APPROACH

My proposed plan differs sharply with several of the other health insurance plans which have been prominently discussed. The primary difference is that my proposal would rely extensively on private insurers.

Any insurance company which could offer those benefits would be a potential supplier. Because private employers would have to provide certain basic benefits to their employees, they would have an incentive to seek out the best insurance company proposals and insurance companies would have an incentive to offer their plans at the lowest possible prices. If, on the other hand, the Government were to act as the insurer, there would be no competition and little incentive to hold down costs.

There is a huge reservoir of talent and skill in administering and designing health plans within the private sector. That pool of talent should be put to work.

It is also important to understand that the CHIP plan preserves basic freedoms for both the patient and doctor. The patient would continue to have a freedom of choice between doctors. The doctors would continue to work for their patients, not the Federal Government. By contrast, some of the national health plans that have been proposed in the Congress would place the entire health system under the heavy hand of the Federal Government, would add considerably to our tax burdens, and would threaten to destroy the entire system of medical care that has been so carefully built in America.

I firmly believe we should capitalize on the skills and facilities already in place, not replace them and start from scratch with a huge Federal bureaucracy to add to the ones we already have.

COMPREHENSIVE HEALTH INSURANCE PLAN—A PARTNERSHIP EFFORT

No program will work unless people want it to work. Everyone must have a stake in the process.

This Comprehensive Health Insurance Plan has been designed so that everyone involved would have both a stake in making it work and a role to play in the process—consumer, provider, health insurance carrier, the States and the Federal Government. It is a partnership program in every sense.

By sharing costs, consumers would have a direct economic stake in choosing and using their community's health resources wisely and prudently. They would be assisted by requirements that physicians and other providers of care make available to patients full information on fees, hours of operation and other matters affecting the qualifications of providers. But they would not have to go it alone either: doctors, hospitals and other providers of care would also have a direct stake in making the Comprehensive Health Insurance Plan work. This program has been designed to relieve them of much of the red tape, confusion and delays in reimbursement that plague them under the bewildering assortment of public and private financing systems that now exist. Healthcards would relieve them of troublesome bookkeeping. Hospitals could be hospitals, not bill collecting agencies.

CONCLUSION

Comprehensive health insurance is an idea whose time has come in America.

There has long been a need to assure every American financial access to high quality health care. As medical costs go up, that need grows more pressing.

Now, for the first time, we have not just the need but the will to get this job done. There is widespread support in the Congress and in the Nation for some form of comprehensive health insurance.

Surely if we have the will, 1974 should also be the year that we find the way.

The plan that I am proposing today is, I believe, the very best way. Improvements can be made in it, of course, and the Administration stands ready to work with the Congress, the medical profession, and others in making those changes.

But let us not be led to an extreme program that would place the entire health care system under the dominion of social planners in Washington.

Let us continue to have doctors who work for their patients, not for the Federal Government. Let us build upon the strengths of the medical system we have now, not destroy it.

Indeed, let us act sensibly. And let us act now—in 1974—to assure all Americans financial access to high quality medical care.

RICHARD NIXON.

THE WHITE HOUSE, *February 6, 1974.*

MAJOR FEATURES OF THE COMPREHENSIVE HEALTH INSURANCE PLAN

I. STRUCTURE

A. Employee Health Insurance Plan (EHIP)

All employers would be required to offer the basic insurance plan and Health Maintenance Organization (HMO) coverage to each employee under age 65 who has met the full-time hours of work test. Coverage extends to family members under 65. Employers may self-insure.

Election of coverage would be voluntary at the option of the employee.

The basic plan would also be available to self-employed and non-working families, individuals, and non-employer groups (e.g., unions or professional associations), through private carriers.

Employers would be required to offer coverage meeting the basic plan, and could offer optional plans supplementing the basic plan. Employers could not offer non-approved plans.

Employers would contribute 65 percent of premium expenses for covered employees. (75% after three years.) However, if an employer's payroll rises by more than 3 percent due to required contributions to coverage, then the Federal Government would pay a subsidy to the employer for employer premiums in excess of the 3 percent increase in payroll expenses. The subsidy would be 75 percent of such excess in the first year reduced by 15 percentage points each year thereafter.

The employer contribution toward coverage would begin 90 days after onset of employment and continue for 90 days after termination of full-time employment.

An individual or family which has been enrolled in an Employee Health Insurance Plan would be allowed to continue coverage under the plan, at the employer's group rate, for 90 days following the period of a required employer contribution (a total of 180 days after termination), by paying the premium in full themselves.

B. Assisted Health Insurance Plan (AHIP)

States would contract with intermediaries to offer the basic plan to all residents of the State, except those with family incomes of $7,500 or more who are offered the Employee Health Insurance Plan.

Employers who desire to do so could offer AHIP (at 150% of the average group rate in the State) in fulfillment of the requirement to offer a mandated plan. Members of such employee groups could enroll in AHIP irrespective of income level.

Persons who would, in fact, enroll in AHIP:

a. families below $5,000 income ($3,500 for individuals) regardless of work status

b. non-working families between $5,000 and $7,500 income ($3,500–$5,250 for individuals)

c. very high risk working families between $5,000 and $7,500 income ($3,500–$5,250 for individuals)

d. non-working families with unusually high medical risks (disabled and early retirees) regardless of income

e. unusually high risk employer groups.

All persons eligible for AHIP would have the option of obtaining coverage through an approved prepaid health care plan.

The premiums, deductibles, coinsurance, and maximum liability would be related to income.

Carriers administering AHIP coverage would be reimbursed by the State on the basis of actual benefits paid for covered services, less income derived from this plan, plus a negotiated rate for administration.

Employers would be required to make a contribution to AHIP for low-income employees who elect that coverage, in the amount they would have contributed for other employees under an Employee Health Insurance Plan.

For AHIP eligibles who elect coverage through a prepaid health care plan, the State would contribute an amount equal to the cost of providing AHIP coverage.

II BENEFIT PACKAGE

A. Reimbursable services

Hospital services, not subject to a dollar limitation.

Physician services, not subject to a dollar limitation.

Prescription drugs, out-of-hospital.

Mental Health services:

Inpatient—30 full days or 60 partial days.

Outpatient—30 visits to a comprehensive community care center or private practitioner (the latter not to exceed 15 visits).

Special and preventive services for children:

Well child care up to age 6.

Eye examinations, developmental vision care, and eyeglasses up to age 13.

Ear examinations and hearing aids up to age 13.

Routine dental services up to age 13.

Other preventive services:

Prenatal and maternity services.

Family planning.

Home Health Services—100 visits per year.

Post-hospital extended care—100 days per year.

Blood and blood products.

Other medical services, as in Medicare (prosthetic devices, dialysis equipment and supplies, x-rays, laboratory, ambulance, etc.).

B. Premiums and cost-sharing (EHIP and AHIP)

EMPLOYER PLAN

Premiums for employer groups of 51 or more employees and other families and groups being offered EHIP would be negotiated between employer and other groups and the insurance carrier.

Expenses for an insured individual which exceed $10,000 in a year cannot be attributed to the experience rating of the employee group through which the individual has obtained coverage.

Each insurance company would be required to offer the same rate to all employees in firms with 1 to 50 employees (subject to the single/family rate differential).

Rates for coverage under the plan cannot differ on the basis of family size and composition, except that there must be separate rate determinations for singles and families with the single rate being 40 percent of the family rate.

The benefit package as presently constituted would result in an approximate average group family premium of about $600. (A single person's premium could be expected to be $240.) The average premium required by this coverage per full-time employee is $415.

The employer would eventually pay 75% of premium costs and employees the remaining 25%.

EHIP would not reimburse for services until the insured unit has met a deductible of $150 per person (maximum of three deductibles per family), with a separate $50 per person deductible on reimbursement for outpatient drugs.

After satisfying the deductible, the enrollee pays a coinsurance of 25 percent, with a maximum liability for cost-sharing (deductible plus coinsurance) of $1,500 in a year.

There would be no per year or lifetime limitation on benefits paid by the Plan.

ASSISTED HEALTH INSURANCE PLAN (AHIP)

Premiums, deductibles, coinsurance, and maximum liability would be all income-related under the AHIP. The following schedule has been used in making cost estimates for the Comprehensive Health Insurance Act or 1974.

Annual income	Contribution	Per person deductible		Coinsurance (percent)	Maximum liability
		Drugs	Other		
SINGLE					
I. 0 to $1,749	0	0	0	10	6 percent of income.
II. $1,750 to $3,499	0	$25	$50	15	9 percent of income.
III. $3,500 to $5,249	[1] $120	50	100	20	12 percent of income.
IV. $5,250 to $6,999	[1] 240	50	150	25	15 percent of income.
V. $7,000 plus	[1] 360	50	150	25	$1,050.
FAMILY					
I. 0 to $2,499	0	0	0	10	6 percent of income.
II. $2,500 to $4,999	0	$25	$50	15	9 percent of income.
III. $5,000 to $7,499	[2] $ 300	50	100	20	12 percent of income.
IV. $7,500 to $9,999	[2] 600	50	150	25	15 percent of income.
V. $10,000 plus	[2] 900	50	150	25	$1,500.

[1] Based on 50 percent of average group single rate in group III, 100 percent in group IV, and 150 percent in group V. Expected average group single premium rate equals $240.

[2] Contributions based on 50 percent of average group family premium rate in the State for group III, 100 percent for group IV, and 150 percent for group V. Expected average group family premium rate equals $600.

III. FEDERAL PRORGAMS

A. Medicare

Medicare for the Aged would be retained, with the benefits changed to conform with the mandated health plan.

Medicare would continue to be administered directly by the Social Security Administration through its own system of fiscal intermediaries.

The benefit package would include the full range of services as in EHIP and AHIP. As a result, outpatient drugs and mental health services would be covered, and the aged would have far superior protection against catastrophic expenses—complete hospitalization and maximum financial liability. (Medicare now covers 90 days of hospitalization per episode plus a lifetime reserve of 60 days.)

A Medicare beneficiary would face an annual per person deductible of $100 on all services except outpatient drugs. The deductible for outpatient drugs would be $50. Beneficiaries would pay 20 percent coinsurance on expenses above the deductible up to a maximum annual liability of $750.

Medicare for the Aged would be financed from the current 1.8 percent payroll tax plus a small premium contribution by the enrollee (about $90 per person annually, roughly equal to the current Part B premium).

Federal, State, and local government employers and employees would participate in the Medicare system and be subject to the Medicare payroll tax.

Medicare beneficiaries who are low-income would be eligible for reduced premium payments and cost-sharing. The income testing and income definitions would be tied to SSI.

Dependents of Medicare beneficiaries below age 65 would be eligible to enroll in AHIP.

Medicare for the Disabled (including the kidney disease provisions) would cease as a separate program. The disabled would be eligible for AHIP coverage. Most current Medicare disabled beneficiaries would have better protection because of the catastrophic provisions and because a high proportion would qualify for reduced cost sharing because they are low-income but have Social Security cash payments which place them beyond Medicaid eligibility.

Reimbursement for Medicare services in a State would be based on the same system as used in that State for EHIP/AHIP services.

B. Medicaid

Medicaid would be terminated except for certain services not covered by the Comprehensive Health Insurance Act. These include (1) services in a skilled nursing facility or intermediate care facility; (2) care in mental institutions for persons under age 21 or over 65; and (3) home health services.

C. Indian Health

The Indian Health Service would continue to provide health care to eligible Indians.

Indians may also participate in State AHIP programs.

D. Veterans Administration

The VA would continue to operate a separate health care system for those eligible for VA benefits.

The VA system would be reimbursed for services not related to a disability incurred while in the military.

IV. REIMBURSEMENT POLICY

A. Healthcard

All persons (including Medicare enrollees) would receive an identification card which would be evidence of financial protection for all covered services.

Participating providers of service would be required to accept the card as evidence of coverage and would bill the indicated carrier for covered services.

The carrier would reimburse the provider and would bill the enrollee for the applicable cost-sharing.

B. Classification of providers

Full-Participating Providers—would agree to accept reimbursement through the Healthcard as payment in full for all patients (EHIP, AHIP, and Medicare). To these providers the Healthcard would reimburse the full amount of the applicable reimbursement rates (the insured amount as well as the patient's cost-sharing). All institutions would be required to be full-participating providers.

Associate-Participating Providers—would agree to accept reimbursement through the Healthcard as payment in full for all AHIP and Medicare patients, and as payment of the insured amount of an Employee Health Insurance Plan enrollee's bills. To collect the remainder of his fee for the patient, the physician would bill the patient directly.

Non-Participating Providers—would not be reimbursed from any approved plan for services provided.

V. REGULATION AND ADMINISTRATION

A. State Regulation and Administration—States must enact appropriate legislation fulfilling each of the following responsibilities to be eligible for Federal financial participation in the plan. This regulation must extend to prepaid health care plans as well as to all private carriers and self-insured employers.

Carriers and self-insured employers providing the basic plan would file their plans with the States, keeping the State advised of the employers and employees to whom the plan is provided. States would be required to provide for prompt review of the plan and determination as to whether it meets the requirements of the law.

Premium rates and rating structures would be reviewed for reasonableness (file and use procedure) for all private health insurance.

Enrollees would be guaranteed against noncoverage or nonpayment of claims related to the basic plan resulting from carrier insolvency.

An annual CPA audit would be required for all insurance carriers offering coverage under the plan.

Carriers would be required to disclose information with regard to services covered, rates, and the relation between premiums and benefits paid. This requirement must extend to all private health insurance sold.

All capital investment over $100,000 would be approved by a State-designated planning agency to receive reimbursement through the plan.

Medical services would be subject to Professional Standards Review Organization.

Physician reimbursement for covered services under the insurance plans would be based on amounts determined after consultation with providers and other interested parties. Physicians would be free to bill additional charges to those covered under the Employee Health Insurance Plan provided the patient is notified beforehand of such additional charges.

States would establish prospective reimbursement systems for hospitals.

Providers would make available to patients information regarding charges for most commonly given services, hours of operation and other matters affecting access to services, and extent of certification, accreditation, and licensure.

In addition to administration and participation in financing of the AHIP, States would be responsible for certifying health care providers as eligible for participation in the Comprehensive Health Insurance Plan.

B. Federal Regulations and Administration—The Federal Government would:

Establish standards for eligibility.

Define the services to be reimbursed by the plan.

Operate an expanded program of benefits for the aged.

VI. COSTS

Added Federal/State expenditures to finance the Assisted Health Insurance Plan would approximate $6.9 billion.

Added State spending under the Government Plan would equal aobut $1.0 billion. Much of this would be offset by reductions in other State health programs.

Added Federal spending would equal about $5.9 billion.

The Federal subsidy to assist low-income employees and their employers would equal about $0.45 billion.

The additional cost of increased benefits for the aged would be $1.8 billion.

VII. FINANCING

A. Employee Health Insurance Plan (EHIP):

Would be financed jointly by employers and employees.

Employers would be required to make a contribution to the EHIP for those employees who qualify and enroll.

B. Assisted Health Insurance Plan (AHIP):

Costs of AHIP above the income derived from enrollees would be shared by State and Federal governments. The States share would be related to current levels of State expenditures, ability to pay, and anticipated future expenditures under The Comprehensive Health Insurance Plan in that State. The total State share would be about 25%.

C. Medicare:

The Medicare Trust Fund (plus a small premium contribution (about $90 per year)) would pay for all services provided under the basic Medicare plan. The cost above the basic income aged would be borne by General Revenues and State contributions.

D. Medicaid:

A residual Medicaid program for long term care services would continue with the current Federal/State Medicaid matching formula.

VIII. SPECIAL PROVISIONS TO ASSIST SMALL EMPLOYERS

The following provisions have been incorporated, which would particularly assist small employers, since they have a higher proportion of low wage workers and pay higher premiums than large employers.

Where two members of the same family are eligible for Employee Health Insurance Plan coverage, only one could accept. This provision would benefit small business, which hire a disproportionate number of secondary workers.

Each insurance company would be required to offer coverage at the same premium rate to all employees in firms with up to 50 employees. This provision would reduce the costs associated with carriers individually rating small groups. It also would minimize the adverse labor market effects against hiring high medical risk individuals.

The Federal government will subsidize the employer whose payroll costs increase by more than three percent as a result of The Health Insurance Plan. The excess over three percent will be subsidized by 75% the first year and reduced 15 percentage points each year thereafter.

By Mr. McINTYRE:

S.J. Res. 186. A joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day." Referred to the Committee on the Judiciary.

NATIONAL HUNTING AND FISHING DAY

Mr. McINTYRE. Mr. President, I am privileged once again this year to introduce a resolution to give much deserved public recognition to America's outdoor sportsmen.

I am proposing legislation for the third consecutive year to set aside the fourth Saturday of September as National Hunting and Fishing Day, a day to honor the country's outdoor sportsmen for their many contributions in the areas of environmental protection, fish and wildlife preservation, and boat and hunting safety promotion.

Mr. President, to give my colleagues an idea of how quickly the celebration of Hunting and Fishing Day has grown, let me list a few statistics about last year's day alone:

More than 3,000 separate programs, representing the efforts of more than 9,000 clubs and organizations, were held on the fourth Saturday in September last year.

An estimated 12 million people either took part in or observed some Hunting and Fishing Day related program in 1973. Observances ranged from the 212,000 people who stopped by a Hunting and Fishing Day display in Wichita, Kans., to small parades and displays in such disparate areas as the suburbs of New York City and my own home State capital of Concord, N.H.

More than 500 of the Nation's mayors proclaimed National Hunting anf Fishing Day.

All of the 50 State Governors issued official National Hunting and Fishing Day proclamations.

More than 1,500 of the Nation's radio stations gave $1 million of free air time to promote the day.

Thanks to efforts by U.S. military bases abroad, more than 80 programs reached more than 30,000 people in Europe last year.

Mr. President, the major purpose of National Hunting and Fishing Day is to give the Nation's 55 million outdoor sportsmen their greatest opportunity in modern times to present themselves to the public as practicing conservationists.

In small towns and major cities throughout this country, they have shown their interest in this celebration, contributing immeasurably to the broadening of understanding between the Nation's sportsmen and the public at large. All of us have a common interest in preserving, protecting and enhancing natural resources, natural beauty, wildlife and the total environment. National Hunting and Fishing Day can and should be a reaffirmation of our determination to work in harmony to achieve those goals.

Mr. President, because the first two National Hunting and Fishing Days proved so successful, and because the broad goals of conservation and the environment are so important, I am today reintroducing the resolution designating the fourth Saturday of September as National Hunting and Fishing Day and making this event an annual observance.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 650

At the request of Mr. PACKWOOD, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 650, a bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns.

S. 1017

At the request of Mr. JACKSON, the Senator from Wyoming (Mr. HANSEN) and the Senator from Wisconsin (Mr. NELSON) were added as cosponsors of S. 1017, the Indian Self-Determination and Educational Reform Act of 1973.

S. 1414

At the request of Mr. CHILES, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 1414, a bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps.

S. 1862

At the request of Mr. TAFT, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1862, a bill to provide for the establishment of the Cuyahoga Valley National Historical Park and Recreation Area.

S. 2589

At the request of Mr. JACKSON, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 2589, the National Energy Emergency Act of 1973.

S. 2676

At the request of Mr. BIDEN, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 2676, the National Homestead Assistance Act.

S. 2832

At the request of Mr. TAFT, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2832, the Earned Immunity Act of 1974.

S. 2893

At the request of Mr. KENNEDY, the Senator from Ohio (Mr. TAFT), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2893, the National Cancer Act of 1974.

S. 2908

At the request of Mr. BIDEN, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2908, a bill to establish a mass transportation trust fund and to amend the Urban Mass Transportation Act of 1964 in order to assure adequate local transportation service.

S. 2938

At the request of Mr. JACKSON, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2938, the Indian Health Care Improvement Act.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 279

At the request of Mr. JAVITS, the Senator from Illinois (Mr. PERCY), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Alabama (Mr. ALLEN), the Senator from Georgia (Mr. TALMADGE), the Senator from Nevada (Mr. BIBLE) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of Senate Resolution 279, expressing the sense of the Senate regarding the Washington Energy Conference.

OPPOSITION TO INCREASE IN PRICE OF NATURAL GAS—AMENDMENT

AMENDMENT NO. 961

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. MOSS submitted an amendment intended to be proposed by him to the concurrent resolution (S. Con. Res. 31) expressing the sense of Congress against increases in the price of natural gas.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 79

Mr. JACKSON. Mr. President, I am pleased to announce that the junior Senator from Ohio (Mr. METZENBAUM) has joined in cosponsorship of the East-West Trade and Freedom of Emigration Amendment (No. 79) to the Trade Reform Act of 1973, bringing the total number of cosponsors to 78.

NOTICE OF HEARING ON NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, February 19, 1974, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

Laurence H. Silberman, of Maryland, to be Deputy Attorney General vice William D. Ruckelshaus, resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

ADDITIONAL STATEMENTS

NATURAL GAS PRICING

Mr. HANSEN. Mr. President, in the continuing debate over the regulation of natural gas in interstate commerce by the FPC, that Commission has been soundly criticized from all sides for delays in decisions as well as for substantive reasons—like whether only cost evidence should be considered in setting the wellhead rate. It is well, then, to note that the Commission has just determined that 55 cents an mcf is the just and reasonable rate based on cost evidence in Southern Natural, Opinion 686. The newest Commissioner, Don Smith, should be commended for breaking the logjam at the Commission and for his fair evaluation of cost evidence. That a new Commissioner so widely accepted by the Senate should, after consideration of an evidentiary record, recognize that 55 cents an mcf is cost justified should be instructive to those who claim windfall without evidence. After all, 55 cents an mcf is the Btu equivalent of a barrel of crude oil at about $3.20 a barrel, which is significantly less than the "old" oil price even before the recent increase. Natural gas, after all, is a premium fuel.

THE VIETNAM VETERANS GI BILL

Mr. McGOVERN. Mr. President, the Washington Star-News carried a lead editorial on Monday, February 4, concerning the inadequacy of GI bill benefits available to Vietnam-era veterans. I am pleased to see that an effort I began last May with the introduction of five bills designed to aid young veterans is finally beginning to come to the forefront.

The article notes that a bill does exist in the Senate that would bring present benefits up to the level they were for those of us who fought in World War II. That bill is 2789, introduced by myself and Senators MATHIAS, INOUYE, and DOLE on December 7, 1973. Since that time, support has snowballed and we now have a total of 35 Senate sponsors. I ask unanimous conesent that the names of Senators PASTORE, BEALL, and NELSON be added to S. 2789 as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. I am also pleased to announce that the bill was introduced in the House of Representatives yesterday by Messrs. Helstoski, Walsh, Wolff, Carney, and Mrs. Heckler. It is particularly pleasing to know that all five House sponsors are members of the Veterans Affairs Subcommittee on Education and Training.

I think it is important that the young veterans in America understand that there are those of us in the Congress who have not forgotten them. The paltry 8-percent subsistence increase offered in the President's message is not indicative of the true concern held by most of the elected representatives.

I ask unanimous consent that the Star-News editorial of February 4 be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Forgotten Vets

There is a widespread public belief that educational benefits for Vietnam veterans have been roughly comparable to those available to their dads after World War II. And if that were the case, President Nixon's proposal the other day to boost payments to vets under the GI education program by 8 percent would be a reasonable inflationary adjustment.

But the basic premise, which the administration has tried hard to advance, simply isn't true. In thousands of cases, as a couple of independent studies have demonstrated over the last year, the inadequacy of current benefits virtually wipes out the educational opportunities which Vietnam veterans had assumed was their right under the asserted policies of a grateful nation.

The disparities arise in part from a sharp difference in approach. Under the post-World War II pattern, the government paid tuition and other educational costs directly to colleges, and gave single veterans $75 a month for living expenses. Access to government-subsidized housing also was often available. At the outset of educational benefits for Vietnam veterans in 1966, however, all these forms of assistance were lumped in a single, absurdly inadequate monthly payment of $100. With the passage of time the monthly sum has increased—to $130 in 1967, to $175 three years later and to the present level of $220 in October 1972. But in too many instances that amount has not nearly kept pace with the leap-frogging increases in college costs.

This is not universally true—and that is one of the chief problems in this complex dispute. In California, for example, where public colleges and low tuitions abound, relatively high percentages of veterans are participating in the GI program. But that is not at all the case in other states, chiefly in the East and Midwest, where the present formula takes no account of higher costs.

In the House, as opposed to the President's 8-percent benefit boost, a Veterans Affairs subcommittee last fall backed a somewhat more generous increase of 13.5 percent. It is high time that the full House committee got around to considering that proposition. In the Senate, fortunately, hearings are expected to begin soon on a much more realistic approach, backed by 32 senators, to authorize special supplements where tuition costs exceed the national average.

One may honestly argue, we suppose, about the validity of the concept of continuing the GI education program, but the debate never seems to get phrased in those terms. What we have wound up with, in point of fact, is a national commitment which often provides lip-service promises instead of results, which heaps yet another outrageous frustration on thousands of young veterans who have had the misfortune to serve in a vastly unpopular war. Education takes on added importance in this period of uncertain employment. And it is ironic, as Senator Daniel Inouye observed the other day, that the GI-bill benefits of an earlier postwar period seem to have been so quickly forgotten by those in positions of political responsibility today.

CONCERN FOR THE SHEEPHERDER

Mr. McCLURE. Mr. President, on January 14, the New York Times ran an editorial titled "Back to Poison?" which lashed out at the sheep rancher for his "fantastic and unprovable estimate of 800,000 lambs and sheep lost to predators." The raising of domestic livestock is very important to Idaho and other Western States for the production of food and fiber for the Nation.

The National Wool Growers Association has prepared a well-reasoned answer to the New York Times editorial and I ask unanimous consent that the editorial and the wool growers' answer be printed in the Record.

There being no objection, the editorial and answer were ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 14, 1974]

Back to Poison?

Just two years ago, President Nixon signed—to the warm praise of conservationists—an Executive order that was intended to put an end to the horrid practice of poisoning prairie dogs and predatory birds and animals on the public lands. Of all man's intrusions on nature's order, the wholesale use of poison in the United States has been among the most reckless and indefensible.

Like most Executive orders, this one requested aggressive leadership if it was actually to produce a change in long-established Government practice. In this instance, the Interior Department managed to find language in the order that enabled it to continue the use of poisons against prairie dogs. Meanwhile, the pressure from Western sheep and cattle ranchers for resumption of large-scale use of poison has been unremitting.

Twenty-one Western Senators led by Senator Henry M. Jackson, who used to be known as a conservationist, have now intensified this pressure by sending Secretary of the Interior Morton a joint letter complaining that his department has failed to protect ranchers against "substantial losses of domestic livestock to coyotes."

The sheep ranchers have come up with the fantastic and unprovable estimate of 800,000 lambs and sheep lost to predators. Whatever the figure, the ranchers make no secret of their preferred solution to the predator problem: back to poisons.

It is impossible to zero in on particular predators and poison only them even if that were desirable, which it is not. The slaughter of millions of prairie dogs, amounting now almost to extermination, has resulted in the virtual disappearance of the unique animal—the black-footed ferret—that preys on prairie dogs. Numerous other predators and scavengers have incidentally been decimated by the use of poison, including falcons, hawks, owls, condors and even the nation's symbol, the eagle. Moreover, the coyote—instead of being the dread menace depicted in sheepmen's propaganda—is, like the wolf, a useful species whose very existence is threatened.

Ranchers and their political patrons must come to understand that the indiscriminate use of poison on the public domain is morally offensive and ecologically inexcusable. If the White House and the Interior Department stand their ground, the ranchers may come to realize that for once they cannot prevail by political bullying.

When that is clearly established, they will drop their exaggerated claims of damage and begin to cope with the modest problem of predators, where it exists, in more humane and more effective ways. Instead of relying upon chemicals to police the natural enemies of their lambs and sheep, they might even consider hiring shepherds to tend their flocks. That was how man raised sheep over ages past—before he became greedy enough to resort to the cruel practice of mass poisoning.

National Wool Growers Association,
Washington, D.C., January 28, 1974.

Mr. Arthur Ochs Sulzberger,
Chairman and President,
New York Times Corp.,
New York, N.Y.

Dear Mr. Sulzberger: The New York Times, a fountainhead of contemporary American knowledge has been had—or else your editorial staff knows better, but chooses to expound as it would have the public believe. I refer specifically to an editorial entitled "Back to Poison?" which appeared in the edition of Monday, January 14, 1974. This expression of opinion is so biased and misleading and so replete with falsehoods and inaccuracies that it seems impossible it could have been written by persons with any sense of objectivity—especially considering your newspaper has recently printed several excellent news accounts of coyote predation upon livestock in the Western United States.

I know the persons who communicated with your editorialists in this instance, and they deceived and misled them just as they have other segments of the news media, the American people, and even committees of the Congress of the United States. Hopefully the principal informants won't be around much longer. Had your staff wanted to write a sensible editorial they could have done so because factual information is available which, if studied, would produce a balanced judgment on this very critical subject.

To begin with, the twenty-one Western Senators who signed the letter of complaint to Secretary Morton, referred to in the editorial, have not, as an impartial reader might infer, advocated a resumption of the use of poisons as a method of controlling coyotes. Such an inference does them a great disservice. It took considerable courage and conviction to compose and sign the letter because they knew full well that by so doing they would be subjected to editorial abuse and a spate of hysterical, form letter, hate mail. They are not the "political patrons" of ranchers, but concerned legislators troubled by the west-wide peril of coyote predation who are seeking some straight answers. It is a grave problem and if you were to ask your own Western reporters they would attest to this fact. The editorial skillfully clouds the issue by irrelevant references to the poisoning of prairie dogs and other supposedly endangered species. The editorial should have focused on the coyote issue, as the Senators did.

Now let's get a few things straight. Regarding the use of the chemical toxicants in question for predator control, there is absolutely no evidence that these ecologically sound tools were harmful to the environment. No evidence! The shrill cries of irresponsible environmentalists that millions of innocent animals were slaughtered by the "wholesale" use of toxicants has no factual basis. There is only the much heralded study of 1971, known as the "Cain Report." At least one member of the Cain Committee has publically recanted on his critical contribution.

The report was intended to be only a preliminary study, and it cautioned against an immediate elimination of toxicants. Yet it was used as the basis for the Presidential Executive Order prohibiting toxicant use on Federal Lands.

The Cain Committee overlooked a vast collection of material compiled by the Department of Interior to defend a 1971 lawsuit brought by two environmental groups to force an end to predator control. These reports are a thorough and factual defense of the program. They have been long suppressed, but recently pried loose by the Committee on Agriculture of the House of Representatives. They deal with each of the wildlife species mentioned in the editorial and conclude that the breeding populations of none of these animals, nor any others for that matter, were reduced by toxicants being used for predator control. This is substantial data, which was and is available to your reporters and editorial writers—if they were inclined to look for it.

As a matter of interest it would be well to note that the same chemicals which were banned for use in predator control are still being used in rural and urban areas to combat rodents. The Environmental Protection Agency recently dropped a legal inquiry into the rodent aspect for lack of evidence that such use was harmful to the environment. Yet the evidence is the same for the predator program and no hearing was held, despite governmental promises to do so, before the substances were removed for that purpose.

The use of chemical toxicants to control wild animal predators was not indiscriminant and although it may have offended some uninformed segments of society, it was ecologically sound.

Let's talk about fact and fiction. Does it not seem strange to you that regarding this subject the assertions of some radical environmentalists—most of whom have never bothered to observe conditions in the West—are unquestioned for accuracy, whereas the claims of those of us who live with this problem are dismissed as exaggerations. Is the word of someone blindly accepted just because he speaks in the name of a better environment? The losses of sheepmen are substantiated. This is being done every day by government officials, veterinarians, trappers, professors, researchers, etc. The loss figure of 800,000 sheep, which ranchers were supposed to "have come up with", and which the editorial labeled as a "fantastic and unprovable estimate", is modest in relation to that just reported by a Department of Agriculture expert on January 25, in San Diego, California. Dr. Clair Terrill estimates 2,000,000 sheep were killed by coyotes in 1972 alone with a loss valued at $50,000,000. That represents 100,000,000 pounds of meat.

The President's Executive Order which banned toxicants was another example of environmental overkill, politically perpetrated on the American public, by a handful of arrogant administrative appointees, who have dealt irreparable harm to the nation's food supply in the name of ecology. What is so discouraging is that it has taken so long for the truth to emerge. But it is. Pseudo-environmentalists have cried wolf (or black footed ferret) once too often. Their credibility is shattered. I refer to pseudo-environmentalists because the more professional environmental groups have either taken no position on this subject or have endorsed the carefully controlled use of some toxicants—as has the International Association of Fish, Game and Conservation Commissioners and the National Wildlife Federation.

The New York Times carried a letter last Sunday from the President of the Audubon Society in which he stated wool growers are only interested in toxicants, where we should be supporting research for improved methods. Where was the Society during all those years—before the environment became a popular cause which filled the coffers of the New York Office—when wool growers were pleading alone for interest in predator research? We welcome other means of control.

Wool growers are sometimes *too* eager to find new answers. A report was made last fall at a sheep management symposium in Denver by a rancher who felt he had found an effective repellent for coyotes. As a result, a great many sheep throughout the West were sprayed with the substance until the Environment Protection Agency and the Food and Drug Administration advised the product had no clearance and ranchers were risking condemnation of their lambs at the slaughter plant.

Mr. Sulzberger, we sheepmen don't like toxicants any more than their critics do. A panel of scientists presented to the National Wool Growers Convention in San Diego last week, the full range of predator research endeavors. It's impressive research and an impressive effort. But, to a man, they emphasized that results are, at best, several years away; and that we should expect no panaceas. Several projects show promise of helping under some circumstances, just as the currently developed tools are effective under some conditions. For now toxicants are the only effective weapons in some areas under some circumstances. They are no panacea either. Unless we have a variety of tools available to us which can be selectively employed by trained professionals, until toxicant substitutes are perfected, the senseless waste of food and fiber, which is so desperately needed today, will continue.

Sheep raising is one of the most ecologically sound of agricultural enterprises. These helpless animals are generally raised in natural environments on a renewable resource—natural forage. They produce red meat and natural fiber, with simple efficiency, using little more than solar energy. Such efficiency is vital in today's world.

Another absurdity contained in the editorial is the statement that the coyote is a species whose "very existence is threatened". Perhaps you might be interested in knowing a fact your writers have not cared to develop. Today there are more coyotes in more states than there have ever been. They are seen where never observed before. They are more dense in sections of states which border the Western banks of the Mississippi River than in many regions of the Far West. Nebraska, for example, experienced an increase of over 140% between 1972–1973 according to Department of Interior trend data.

The coyote is an extraordinary species, prolific and adaptable, with a remarkable ability to respond rapidly to any relaxtion of control. Sheepmen hve been forced to absorb enormous losses since the ban on toxicants because there are sometimes no adequate alternative control methods. All we ask is the supervised use of toxicants which are known to be environmentally safe until substitutes are available. Researchers, in at least two independent economic studies, have declared predators to be the single most important factor in the rapid decline in sheep raising. We must be able to control this menace or there won't be any of us left.

I found the editorial reference to sheepherders particularly offensive. We are told to hire herders to tend our flocks "as man raised sheep over ages past." What do they think we do, turn the sheep loose in the mountains and let them fend for themselves. Most Western sheepmen use all the herders they can find, and most of them are from Spain and South America because we can't get United States citizens to do the work. Herders are not a sufficient answer to predation—and any observer who has ever bothered to visit the West and observe the problem knows this. Scarce herders, in fact, are quitting in disgust at the suffering of their sheep which they feel is caused by a stupid and callous government.

We are accused of "political bullying". Is that really fair? We are a small industry fighting for our livelihood and being destroyed by a handful of biased bureaucrats and a few well-organized special interest groups. These groups use their plentiful tax exempt dollars to mount political pressure campaigns that make our efforts look paltry in comparison. One of these organizations gives a free subscription of its very slick, full color, magazine to the wives of every member of Congress. They place dishonest articles in the magazines of airlines which carry Congressmen to and from Washington, D.C. when critical votes on predator legislation are imminent. They distribute flatly dishonest TV films to stations all over the nation under the guise of public service commentary. They are the ones who are really "bullying" the American public.

Whatever we are accused of, please remember this. The propriety of using chemical toxicants to control predatory animals will ultimately be decided in court, and neither we, the press, nor the environmentalist pressure groups can "bully" a Federal judge. We will abide by a judicial outcome. Let's hope others can accept it.

I have written the New York Times in the past, oddly enough, to commend the paper on news coverage of the sheepman's plight. But my communciations haven't been published. I ask you to print this one. But in the event you choose not to, I have sent copies of both the editorial and my response to members of the Senate and House of Representatives in the hope that one or more will see fit to publish them in the Congressional Record.

You are invited, Mr. Sulzberger, to come West any time, at wool growers expense, to stay with me or my fellow ranchers and view, firsthand, the facts of the predator issue.

Yours sincerely,

R. K. "BILL" SIDDOWAY,
President, National Wool Growers Association.

REVIEW OF U.S. POLICY TOWARD CUBA

Mr. ROBERT C. BYRD. Mr. President, in March 1973 I called for a review of U.S. policy toward Cuba, and again last week I stated that the time has come for a reexamination of that policy.

Times and situations change. We must not be inflexible in our foreign policies. We are seeking détente with the Soviet Union. We are moving toward a full restoration of normal relations with the People's Republic of China. President Nixon and Secretary Kissinger have done a commendable job in improving U.S. relations with both of these countries.

It is time now, in my judgment, for the United States to make a start toward a resumption of normal diplomatic relations with Cuba. In the context of our efforts to improve relations with other nations—even those whose internal policies we may not approve—there is little logic in perpetuating the breach between the United States and the government of Havana.

Resuming relations with Cuba does not mean that we have to endorse Fidel Castro's policies, any more than our diplomatic relations with the Soviet Union mean that we have to endorse its ideology. Our increasing diplomatic exchanges with the People's Republic of China do not mean that we endorse the ideology there.

I do not know the reasons for the Nixon administration's apparent reluctance to move toward a rapprochement with Havana, but I feel that this failure to act is not consistent with the administration's other efforts to establish improved world relationships. I am constrained to say that I know of no logical reason not to move now toward a normal relationship with a nation 90 miles off our shores in our own hemisphere.

It is important, in my judgment, that the United States move as rapidly as possible toward strengthening its relationship with all of the nations of this hemisphere. Failing to move toward normalizing relations with Cuba can impede and inhibit the efforts we make toward improving relations throughout South and Central America and the rest of the world.

And so today, Mr. President, I reiterate my appeal for a pragmatic new look at the continuing impasse in our relations with the Government of Cuba; and I suggest once again that the rigidity of our attitude toward this close neighbor, that for so many years was our close friend as well, is inimical to the enlightened self-interest of the United States.

ENDING ECONOMIC CONTROLS

Mr. COOK. Mr. President, the following editorial appeared in this morning's Wall Street Journal. It is a very persuasive argument by C. Jackson Grayson, former Chairman of the Price Commission during phase II, for not extending the Economic Stabilization Act which expires April 30 of this year. Last year I was one of two Senators who voted against extension of controls at that time, and I feel even more strongly now that they must be ended. Inflation has not subsided, unemployment is back up, and we face a very difficult year economically. We must return to a free market.

Mr. Grayson's argument is excellent and I urge my colleagues to read his remarks. I ask unanimous consent that his editorial be printed in the RECORD at the conclusion of my comments.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Feb. 6, 1974]

LET'S END CONTROLS—COMPLETELY

(By C. Jackson Grayson, Jr.)

The wage-price control or decontrol debate has shifted from whether we are going to decontrol to (A) how far, (B) when, and (C) how?

A consensus prediction seems to be that (1) gradual decontrol will continue, (2) that some sectors, probably energy, construction, and health will continue under long term controls, (3) that the Stabilization Act will be extended, and (4) that a wage-price control "stand-by" mechanism will be created.

I find a growing attitude of almost "inevitability" that this is the course that we will (or should) follow among Congressmen, businessmen, labor leaders, the press and members of the administration.

I challenge the necessity, wisdom, or inevitability of any or all of these. Before it is too late, I urge instead: (1) end all controls totally by April 30, (2) let the Stabilization Act expire, and (3) do not establish the proposed "stand-by" control mechanism.

Total decontrol sounds frightening to some, particularly politicians fearing voter reaction. "How can I vote for decontrol?" complained one decontrol-minded Congressman. "A vote for decontrol sounds like a vote for inflation."

It is true that if all sectors were decontrolled, there would be some wage and price increases. Some might be large and rapid as the market moved to adjustment levels necessary to ration resources and attract capital and labor.

But the economy-wide increases on total release will not be nearly as large as some fear. Much of the economy has already been released, and forecasts are for a slackening economy.

Who will be sending prices and wages upward? The market. Purchasers (industrial and consumers) will be signalling "more" or "less" of a wage, good, or service. The market, not the controllers, will be allocating resources to society's most efficient uses.

NOT PERFECT, BUT

Those who argue that this market mechanism is imperfect because of market power by business or labor or structural defects, should work to correct such faults rather than continue reliance on a mechanism that is far more dangerous to the market mechanism than such alleged imperfections. This line of argument will tend to keep us in controls forever as a countervailing power to alleged blocks to competition.

Arguments will surely be made, in rebuttal, that price increases will hurt the poor more than the rich. By definition, this is true. The poor have less money. Any price increases hurt them more, controls or not.

But if society wishes to increase economic opportunity for those with lower income (as I think we should), this is best done by means other than controls. In fact, continued controls, in many ways, hurt the poor. They tend to drive low markup items from the shelves, provide those with higher incomes and better education opportunities to get around the system. And they increase unemployment for marginal workers whose productivity is not as great.

Other arguments against total decontrol will be raised. "Now is not the time. Wait a little longer."

In late 1972 it was the fear of large wage settlements in 1973 that postponed decontrol. These did not materialize despite a more flexible Phase 3, and rapidly escalating prices. Shortages (fuel, steel, fiber, paper, etc.) are now being advanced as a reason for continued controls: "Price increases will not increase capacity in the short run and will merely result in higher profits."

Continued controls are not going to help the shortage problem. If anything, they will prolong shortages because of the lack of increased incentive (profits) to invest and expand quickly. Management, labor, and capital will delay action or even flow elsewhere. The result could then reach a point where arguments would be made that the federal government must invest to expand capacity through direct investment (to wit, the proposed federal oil and gas corporation).

While some people would agree with the philosophy of total decontrol, they would stop short of energy decontrol. For the same reasons as given above, I would not.

Yes, prices will increase. (They are going to increase anyway, with controls.) Yes, prices would increase more rapidly with decontrol. But the solution to the shortages would also be faster as price served its function of rationing and as incentives were increased for supply of more energy sources. Again, help for people with lower incomes should be done with mechanisms other than continued wage/price controls.

Similar arguments can be made for also removing controls from other sectors popularly nominated for long term controls—construction, health, food.

Finally, continued selective decontrol, while appealing to those who believe they know how to manipulate the allocation system, is dangerous. It increases the distortions among industries and services of different sizes; but more importantly, it increases the distortion of the flow of capital and labor due to unforeseen effects of substitution, interdependencies, false price signals, and administrative lags among controlled and non-controlled sectors. It was for these reasons that we shied away from industry-by-industry controls altogether in the Price Commission.

Our economic understanding and models are simply not powerful enough to handle such a large and complex economic system better than the marketplace. Partial decontrol (or its converse, partial control), tends to build a false belief in the minds of the public that controllers really "can" manipulate the system more efficiently, and will increase the cry for selective "recontrol" later on. After all, they knew how to selectively decontrol, didn't they?

I also don't believe that the Stabilization Act should be continued past April 30, even if decontrol were complete prior to that date.

If the act sat on the books, there would be tremendous pressure and temptation to reimpose controls in the near future. Even in a stable economy, some prices rise dramatically, some stay stable, some decline. But the headlines go to the increases, and political pressure will be heavy to reimpose controls over this or that sector.

If Congressmen think they will have immediate political problems now from decontrol they should think what they are letting themselves in for over the next year or two as prices fluctuate and successive delegations descend on them. They and the Executive Branch will be continually besieged to put controls back on across the entire economy, or selectively on visible wage settlements and price increases.

I recommend that the act expire now. Then, if the nation wishes to re-embark on the controls road again, the decision would be subject to full public debate, and not decided by administrative decision in the Executive Branch.

PRESSURES AND POLITICS

Finally, I recommend strongly against establishment of the proposed stand-by wage/price agency. If such an agency were created, whether responsible to the Executive or Legislative Branch, it would be subject to continual pressure to reimpose controls, totally or selectively. The monitors would find it almost impossible not to take "action" (direct controls or jawboning) even when price increases represented pure demand shifts. Prices would be determined as much by politics as economics.

Secondly, the "responsibility" for control of inflation would be thought to rest in the hands of this agency instead of at the more fundamental levels of fiscal and monetary policy, increased productivity, structural reform to increase competition, and widespread acceptances of individual responsibility to help control inflation.

Third, such an agency would undoubtedly be staffed by able people, anxious to do a job. The temptation of such a combat-ready group to "fine-tune" the wage/price mechanism would well nigh be irresistible. Parkinson's Law would surely operate. Many bright economists would like nothing better than to get their hands on the throttle of the economy to install their honest beliefs about "necessary" government intervention in the market.

Fourth, its proposed main activity of "jawboning" is not innocuous. To most people, that term means public spirited appeals for restraint and cooperation on wages and prices. But, if past history is any judge, jawboning will also include threats to pass punitive legislation, to unleash a Justice or FTC investigation, to sell stockpiles to depress markets, to issue or leak derogatory stories to the press, and to issue or deny government contracts. At the personal level, jawboning can include subtle offers or denials of government appointments, or even threats to audit personal tax returns. All have been used. In my opinion, these are all abuses of power and contrary to the American sense of fair play and civil liberties.

Finally, the mere existence of such an agency would encourage price increases and discourage price decreases.

An unfortunate lesson learned from the various phases is that you'd better get wage/price increases while you can. Time and again, the "good guys" got hurt by exercising restraint. Many businessmen have told me that they will not reduce prices for fear that a new freeze, a new rule, or a new recontrol will catch them with their prices down. If such an agency were sitting there, symbolically hovering over the marketplace with a sniper's rifle, I think we would not see many price decreases, and would see instantaneous price increases. We would be institutionalizing inflation.

NEW SCENARIO IS POSSIBLE

Many of these points have been made before. Yet I am alarmed at the feeling of inevitability of the events of the next few months—partial decontrol, extension of the act, and creation of a standby mechanism. Businessmen seem resigned to this fact as a way of getting at least partially out. Administration officials apparently believe that this is the course to be followed to get congressional agreement. Many Congressmen believe that they can't completely decontrol because of public backlash.

The scenario does not have to come out that way. We can decontrol, with better longrange consequences for everyone, including the poor.

Why do I, who ran a price control program, argue as strongly as I do? I know price controls intimately and how people work in them. I know the distorting effects and political pressures. Controls do have some value, but for a limited time period and under special circumstances. After that, they should be abandoned.

More importantly, I know from first hand experience that allocations by the marketplace are far superior to any centrally directed system, and are most consistent with personal freedom.

It's easy to get into controls, but as we are now witnessing, hard to get out. It is time to act with courage. Let's get out, and let's get out completely.

"SURGICAL" NUCLEAR WAR—AN EXPENSIVE ILLUSION

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a statement I made yesterday at the time the Senate Armed Services Committee received the testimony of the Secretary of Defense be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SYMINGTON QUESTIONS LOGIC OF NUCLEAR COUNTERFORCE STRATEGY

(During the hearings this morning before the Senate Armed Services Committee on the Department of Defense presentation on the Defense Program and the Military Procurement Authorization request, Senator STUART SYMINGTON (D-Mo.) addressed the following statement to Secretary of Defense Schlesinger)

Mr. Secretary: An article by the new head of the Arms Control Agency in the Foreign Affairs quarterly of January 1973 advanced the targeting proposal you now propose.

I thought an article in that same publication the following October nullified the logic of this proposal; but in any case the new strategic doctrine you now advance is a counterforce strategy of directing our strategic missiles against military targets in the Soviet Union, particularly missile silos, through retargeting, and improved accuracy and yield of warheads.

Of particular concern to those who question this doctrine is that it assumes limited, or "surgical," nuclear war is both acceptable and possible.

There would appear nothing new about United States missiles being aimed at military targets in the Soviet Union. All tactical or theater nuclear weapons in NATO are targeted on military targets. General Goodpaster confirmed this in his testimony before my Subcommittee of the Joint Committee on Atomic Energy.

A portion of our Minuteman force has always been aimed at military targets.

Let us note that during the debate on the ABM, the Defense Department argued that the Minuteman force was vulnerable, hence had to be protected with defensive missiles. Now the rationale has switched 180 degrees. Defense officials are saying that neither the United States nor the Soviet Union land based missiles are vulnerable to a first strike, hence the possibility of limited strikes at military targets is more likely; therefore the need now for a counterforce capability.

The accuracy of United States warheads is already excellent, considered better than that of the Soviet Union. At some point, however, they could achieve comparable accuracy. Nevertheless, why should the United States encourage the Soviets to spend billions on better accuracy by announcing that this country now plans to develop a counterforce capability. In my opinion, this plan, which will cost many many more billions, coordinated with the changes made in the original Kissinger SALT I agreement in Moscow, makes it difficult if not impossible to have any success in the SALT II talks.

Your proposed "changes" in doctrine may be real, or just so much jargon for the purpose of another bargaining chip at the SALT II talks. (Shades of the multibillion dollar waste on that recent other bargaining chip, now abandoned, the ABM.)

There has been some talk of eliminating Minutemen on both sides. In the first place, one doubts whether it could be negotiable. Secondly, any such elimination would make our strategic bombers more vulnerable by eliminating the warning time gained by the Soviets firing their land based missiles at our Minutemen sites.

Another source of serious concern, as we review this gigantic increase request in the defense budget is the rapidly shrinking circle of outside scientists and experts who serve as consultants to the Administration on various technical matters. As a result, fewer and fewer outside experts have access to the essential classified material, because it is determined they do not have a need to know.

This development in turn limits the number of people who can intelligently advise Members of Congress, particularly on technical Defense issues. I consider this a very serious development, one that could, as military technology becomes more complex, lead us farther down the road our Constitution was created to block.

PANAMA TREATY OVERDUE

Mr. KENNEDY. Mr. President, I am hopeful that the recent news of progress in negotiations with the Republic of Panama on the future of the Panama Canal will prove a major step toward a mutually acceptable resolution of that matter.

For far too long it not only has embittered our relations with the people of that nation but it also has been a symbolic affront to every nation of Latin America and to every developing nation around the world.

I am hopeful that the visit this week of Secretary of State Kissinger to Panama to sign the statement of principles negotiated previously will mark a firm step forward on a path toward a new treaty.

At the same time, I am conscious of the controversy surrounding every aspect of the status of the canal, of the emotions this issue generates, and of the difficulty in translating principles into treaty provisions.

For if one examines the current statement of principles, they do not appear substantially different from the principles expressed by President Johnson when he sought to move the status of negotiations forward.

However, in the past 6 years the process of moving from the general framework to specific provisions and agreements has been sidetracked more than once.

I share the view of many observers that this matter is long overdue for settlement. There is little doubt in my mind that the era which produced the original treaty has long since passed.

A world in which nations relate to each other on a basis of equality, a world in which the vote of the Republic of Panama in the General Assembly counts the same as a vote of the United States, a world in which great white fleets no longer sail—in that world, the present treaty is an embarrassing anachronism.

Therefore, I am hopeful that the visit of the Secretary of State will be followed by a concerted effort to speed the conclusion of a treaty that respects Panamanian sovereignty, that recognizes the U.S. interest in the effective operation of the canal and that provides all nations continued assurance of freedom of passage—goals I might add which do not dictate the continued presence of the U.S. southern command headquarters in that country.

Mr. President, because of the continuing interest in the status of the Panama Canal, I ask unanimous consent to have printed in the RECORD recent articles and editorials on that subject.

There being no objection, the articles and editorials ordered to be printed in the RECORD, as follows:

[From the Washington Post]

WANTED IN PANAMA: A NEW TREATY

The State Department, properly alert to Latin desires that the United States hand over the American-owned Panama Canal to Panama, responded recently by dispatching Ambassador Ellsworth Bunker to negotiate a new canal treaty. It would replace the grossly unfair arrangement which President Theodore Roosevelt imposed on helpless Panama in 1903—described then by his Secretary of State as "very satisfactory to the U.S. and, we must confess, not so advantageous to Panama." Mr. Bunker and Panama's Foreign Minister now seem to have come up with a preliminary agreement to guide further negotiations on the specific issues of eventual Panamanian sovereignty, defense, construction of a new and larger canal, and so on. It's fuzzy but it sounds quite good.

Whether it means anything remains to be seen. The State Department's writ has never run far within the U.S. government on the matter of Panama. That State has made a gesture of concern—a gesture which serves the current administration effort to show it hasn't entirely forgotten Latin America—is noteworthy but not conclusive. There is a school of diplomatic thought holding that the best way to assure continued old-style American tenure in Panama is by exactly such gestures: sending senior white-haired envoys, giving the Panamanian government the chance to show its constituents that it's hard at work regaining the national patrimony, staying in negotiations with the expectation or wish to see them succeed. This is a patronizing approach, based on the twin judgment that Panamanians are weak and unstable and that Latin disfavor is an acceptable price to pay for continued control of the canal.

But the real power in this matter is in the Pentagon. It prizes the Zone as a base with which to defend the canal—though no threat to the waterway is now perceived apart from the resentment bred by the American presence. The military further treasures the Zone as a playground for an inordinate number of high-ranking officers who, with little visible work to do, can devote themselves to the Zone's "seven golf courses, six riding clubs, four beaches, fourteen clubs, five bowling alleys, nine craft shops, two roller-skating rinks, six gymnasiums and countless tennis courts," by The Wall Street Journal's recent tally. If the United States retreats "one inch" on its right to control the Zone, a private citizen named Richard Nixon said at the time of anti-American riots in Panama a decade ago, "we will have raised serious doubts about our bases throughout the world." This seems to be the Pentagon's basic view.

Then there is Rep. Daniel J. Flood (D-Pa.), hero of the 40,000-odd American "Zonians" who wish to retain their favored colonial way of life there. An early childhood visit produced an interest that, through his years in Congress, ripened into the passionate conviction that the canal is "the jugular vein of hemispheric defense." He has long been the leading voice holding tight on the Zone. Before Ambassador Bunker went down to Panama, he—wisely—paid a call on Mr. Flood.

Panamanians may believe, as the Archbishop of Panama recently put it, that since his country's location and configuration are its principal natural resources, the 1903 treaty insupportably grants "a monopoly in perpetuity, in favor of another government," over those resources. Mr. Flood, believing that the Caribbean is "mare nostrum" (our sea), regards the treaty as essentially untouchable. The archbishop is right, Mr. Flood is wrong. The quest for a new and fair treaty lies in the play between their views and the forces they represent—Latin nationalism on the one hand, American jingoism on the other.

[From the New York Times, January 6, 1974]

A Gathering Storm Over That Other Canal

(By Richard Hudson)

The Panama Canal is part of the coastline of the United States. Its protection is just as important in the defense of the Western Hemisphere as is that of the Chesapeake or San Francisco Bays.—Representative Daniel Flood, Pennsylvania Democrat, on the floor of the House of Representatives.

Let the ambassadors of the friendly republics and the members of the foreign press here present answer: What nation of the world can withstand the humiliation of a foreign flag piercing its own heart?—Brig. Gen. Omar Torrijos, Panama's strong man, in a statement in the five official U.N. languages on a huge signboard across the street from the meeting place of the Security Council sessions in Panama City in March, 1973.

These two quotations illustrate the poles of opinion in a conflict that is simmering slowly but which could boil into violence if new negotiations on the Panama Canal now under way do not succeed. To complicate the problem further, the Nixon Administration finds itself becalmed in the middle, with a position that will satisfy neither the alliance represented by Congressman Flood.

Into the imbroglio has stepped—who else? —Ellsworth Bunker. The Panama Canal situation seems made to order for him, since he has long specialized in problems apparently without solutions. At 79, Mr. Bunker has perhaps been directly involved with more intractable international issues than any man alive, having been concerned with strained U.S.-Peron relations as Ambassador to Argentina in 1951, with the Trieste dispute as Ambassador to Italy in 1952–53, with the West New Guinea conflict between the Netherlands and Indonesia as U.N. mediator in 1962, with the U.N. effort to get Nasser to withdraw Egyptian troops from the Yemen in 1963, with the Panamanian riots and rupture of U.S.-Panama relations in 1964 (when he was Ambassador to the Organization of American States), with the messy aftermath of the U.S. invasion of the Dominican Republic in 1965-66, and, of course, with the Vietnam war, having served as Ambassador to South Vietnam from 1967 until last year. The rule seems to be: If it's hopeless, give it to Bunker. The outcome of his involvement usually seems to be a partial success, with the eventual emergence of a solution, or semisolution, that is far from perfect. Now it's Panama's turn—or at least half-turn. For no sooner had Mr. Bunker immersed himself in the Panama Canal question and made a trip to Panama for talks with high officials there than President Nixon named him to head the U.S. team at the current Middle East talks in Geneva. No doubt Mr. Bunker will have to give priority to the Middle East, but since he feels that the Canal negotiations are at a sensitive point, he will press ahead with them at the same time.

The impetus for the current negotiations came 10 years ago this month, when students sought to raise the Panamanian flag over the Canal Zone, American forces killed about two dozens of them and wounded more than 200 others. Panama broke relations with the U.S., and after the patching-up process, in which Mr. Bunker took part, President Johnson named Robert Anderson, an international banker who had been Secretary of the Treasury and Navy under Eisenhower, to head a team of negotiators to draft a replacement for the 1903 treaty under which the U.S. runs the Canal. Mr. Anderson tried until last year, when he resigned to be succeeded by Mr. Bunker.

To understand the present situation it is necessary to go back to that treaty of seven decades ago and see how it came about, for that is still the heart of the argument. The Americans entered the Panamanian picture after the French effort to build the Canal had collapsed. Having started construction in 1881, the French ran into insuperable medical, engineering and financial problems. More than 20,000 workers died, mostly from yellow fever. In one stretch of the Canal, the walls kept caving in as fast as they were dug. Besides the tremendous actual costs of construction, the company building the Canal was rocked by charges of high-level corruption.

Then in 1898 during the Spanish-American War, the battleship Oregon had to sail almost 13,000 miles around Cape Horn to get from the Pacific to the Atlantic; had there been a canal, the ship would have had to travel only 4,600 miles. This prompted Congress to set up a commission to study various canal routes. At first, the commission seemed to favor Nicaragua, where a route would have required less digging than in Panama. But Panama became more attractive when the successor to the original French company put up for sale its Panama rights and property and the trans-isthmus Panama Railroad, which had been operating since 1855, at a bargain-basement price of $40-million.

In 1903, when Panama was still part of Colombia, Secretary of State John Hay signed a treaty with Colombia under which the U.S. would pay Colombia $10-million plus $250,000 a year for use of the canal zone. But the Colombian Legislature turned down the treaty: not enough money.

Some curious events followed shortly. On Nov. 3, 1903, Panama revolted and proclaimed its independence. Colombian troops set out to put down the revolt but found their way blocked by U.S. Marines dispatched to the scene by Teddy Roosevelt. Three days later, Washington recognized the Republic of Panama, and less than two weeks after that, the U.S. and the new nation of Panama had signed the Hay-Bunau-Varilla Treaty authorizing the U.S. to construct the canal. Later, Roosevelt bragged that he "took" Panama.

Philippe J. Bunau-Varilla, who negotiated the treaty on behalf of Panama, was a wordly Frenchman with a waxed mustache, who by 1903 owned most of the shares of the company holding the Panama Canal rights. Like Teddy Roosevelt, Bunau-Varilla as well as many Panamanians had a special interest in wanting Panama to secede from Colombia. To the Panamanians, secession was an opportunity to develop their own resource, their strategic geographic location; Banau-Varilla wanted to get his $40-million sale price.

It seems odd that, once independent, Panama chose not one of its own people but Bunau-Varilla to be its negotiator with Washington on the canal treaty. But presumably they were impressed by his smooth manner and good connections in Washington as well as his own preference to have the canal built in Panama instead of Nicaragua. They also believed he would produce a treaty along the lines of the earlier one Hay had signed with Colombia.

That's not what happened, and 70 years afterward Panamanians still call Bunau-Varilla a traitor, the prime cause of their present problem. On Nov. 15, 1903 Hay transmitted to Bunau-Varilla a draft treaty that indeed was similar to the earlier one with Colombia but in some ways it was tougher on Panama Two days later Bunau-Varilla sent a counterdraft to Hay that was even more disadvantageous to Panama. The reason, apparently, was that he wanted the treaty to be appealing enough to win U.S. Senate ratification without difficulty. Hay, happily surprised, invited Bunau-Varilla to his home the next day and the two men signed the French promoter's counterdraft. When a few hours later a three-man Panamanian advisory committee arrived on the scene, Bunau-Varilla presented the treaty to them as a *fait accompli*.

In Panama, there was talk of turning down the treaty. However, a letter arrived from Bunau-Varilla, stating: "If the Government is thinking about not adopting this little resolution, I do not want to be responsible for the calamities that could follow." Meanwhile Colombia suggested that if it could get back its lost territory of Panama, it would be content with the old treaty after all. Then Bunau-Varilla intimated that if Panama refused to ratify the treaty he had negotiated, the U.S. Marines would not be there if Colombia marched to regain its loss. Subsequently the Panamanians learned that two Colombian gunboats were headed their way. Weighing their unhappy options, they decided to approve the treaty, and it was officially ratified in February, 1904. Thus the Panamanians maintain that the treaty was imposed on them, and they have been compaining about it ever since.

There were two basic changes made by Bunau-Varilla from the earlier treaty with Colombia and both are central to the U.S.-Panama confrontation today. First, the Panama treaty provides that "Panama grants to the United States in perpetuity" rights in a 10-mile-wide, ocean-to-ocean strip of land through which the Canal was dug. The Colombia treaty had provided for an American departure in a century—by 2003. Although the Panamanians are asking for a U.S. departure by 1994, it is clear that they would now cheerfully accept 2003—so that problem would not exist today if Bunau-Varilla hadn't changed the date.

The other seriously disputed point in Bunau-Varilla's treaty is a provision by which Panama gives to the U.S. powers in the Canal Zone "which the United States would possess if it were the sovereign of the territory." And the U.S. does indeed exercise full, effective sovereignty over the 500-square-mile zone.

Thus, although there are many other points at issue, the primary questions are who is sovereign and for how long?

In building the Canal, the Americans profited from the mistakes of the French in three ways: first, they decided against a sea-level route and constructed a lock system instead, with an elevated lake in the middle; then they found ways to wipe out the mosquitoes that transmit malaria and yellow fever; and last, they used Government instead of private financing.

What they produced remains a romantic marvel, essentially unchanged from the day the first official transit was made on Aug. 14, 1914. It works this way: a ship comes in at one end—Atlantic or Pacific—is hoisted through three locks, travels across the man-made lake 85 feet above sea level and then is lowered through three locks to the level of the other ocean. The locks are fed by water from the lake, which in turn is replenished by the heavy tropical rainfall. An oddity of the canal is that, because of the S shape of the isthmus, a ship going from the Atlantic to the Pacific actually moves east instead of west while in the Canal.

Should the United States relinguish control of the Canal as Panama demands?

Economically, the Canal is still important even though the big new supertankers can't go through it. The number of transits runs more than 14,000 a year and the income from tolls is over $100-million. Seventy per cent of the Canal's traffic either originates or terminates at a U.S. port, yet this represents only 14 per cent of total U.S. foreign trade—and foreign trade in turn makes up less than 10 per cent of the American G.N.P. Only 2 per cent of our coast-to-coast trade moves through the Canal; the rest goes by truck, rail or air.

As for Panama, the question of whether American operation of the Canal is in its interest has been vehemently debated. New York's Representative John M. Murphy, one of the small but dedicated band of Congressmen against any negotiations at all with Panama, puts in this way:

"One hundred sixty million dollars goes into Panama's economy annually as a result of U.S. Canal operations. One-third of Panama's gross national product, 45 per cent of its foreign exchange earnings and one-third of its national employment are a result of the U.S. presence."

The Panamanians see the matter altogether differently. One reason, although they are reluctant to talk about it, is that if they had full control over the Canal, they would probably jack up the tolls. A descriptive pamphlet put out by the Panama Canal Company states: "A ship which would otherwise have to sail around the Horn can easily save 10 times the amount of her toll by using the Canal." With toll income running $100-million a year, one can imagine the effect on the small Panamanian economy were it to have the revenue resulting from a doubling or tripling of the tolls.

Amazingly, the tolls have never been raised since the Canal opened 70 years ago, although just last month the Panama Canal Company asked President Nixon for permission to raise the basic transit rate by 20 per cent. Income has steadily risen over the years, however, because more and bigger ships have been using the Canal. (Tolls are based on tonnage.) This revenue has paid not only for the Canal's operation but has financed the Canal Zone government and provided savings for U.S. military installations there—one of the better deals for the American taxpayer.

The Panamanians argue that the net effect of all this is that one of the weakest countries of the world is giving a large subsidy to the strongest. The United Nations Economic Commission for Latin America, in a 200-page study, "The Economy of Panama and the Canal Zone," gave its estimate that if the tolls had been slightly more than tripled, this "would provide additional income calculated at $1,845,000,000 during the nineteen-sixties and would result in a hypothetical reduction in traffic of barely 14 per cent." It concluded: "To sum up, the Canal Company's rate policy amounts to an implied and substantial subsidy of international traffic, a sizable proportion of which accrues to the United States economy, since it is the major user of its services."

Another question that is basically economic is whether, in order to accommodate more and bigger ships, a third set of locks or a completely new sea-level canal should be built. A study made under Robert Anderson's supervision and presented to President Nixon in 1970 reported that a sea-level canal would be feasible and suggested a site 10 miles west of the existing Canal. It advised against the use of nuclear explosions in the excavation and said the job would require about 15 years and $3-billion. The transit capacity of the present Canal, it estimated, would be reached about the end of this century.

The Panama Canal buffs in Congress led by Pennsylvania's Representative Flood oppose the sea-level canal on the grounds that it would be too expensive and would require negotiations with Panama. They also argue that it would be ecologically dangerous because differing forms of marine life exist on opposite sides of the isthmus; these could easily swim through a sea-level canal from one ocean to another, and in such an intermingling, some species might attack and wipe out others. Particularly exotic is the fear of a deadly poisonous sea snake which is native to the Pacific and which could cause havoc in the tourist industry if it migrated to the Caribbean and Atlantic resort areas.

Congressman Flood and his colleagues advocate what is called the Terminal Lake-Third Locks plan. This would move the site of one of the locks at the Pacific end of the present canal and create a third and wider channel.

Militarily, the Panama Canal and the Canal Zone have a variety of uses for the United States, all of which, the Panamanians say, are quite dispensable. To get the military viewpoint on Panama, this writer asked for and received briefings both in the Canal Zone and in the Pentagon. In both places a feeling of defensiveness seemed evident in the response to the questions: "Is the Panama Canal vital to the security of the United States? Or is it only a convenience?" No one would say flat out that it is vital. One major general put it this way: "Vital. Of tremendous importance. These are subjective terms."

The primary mission of the U.S. Southern Command headquartered in Panama is the defense of the Panama Canal, according to U.S. military spokesmen. (Panamanians joke that the U.S. military is there only to defend the Canal against the Panamanians.) Other responsibilities are to oversee U.S. military-assistance groups currently stationed in Latin American countries, carry out combined military exercises with Latin American forces, represent the U.S. military in Latin America, and engage in disaster relief. All told there are now 13 major U.S. military installations in the Canal Zone, at which are based some 10,000 members of the U.S. Army, Navy, Air Force and Marines and about 6,000 Department of Defense civilians.

The most controversial military installation in the Canal Zone is the School of the Americas, where Latin Americans get training in counterinsurgency warfare. Although most of the courses are on mundane subjects like office procedures and vehicle maintenance, two are devoted to operations against urban guerrillas and one to tactics for use against rural guerrillas. There are also Special Forces ("Green Berets") in the Canal Zone, although a military spokesman there insisted that they are employed only in training programs. At the request of Latin American Governments, he said, the Special Forces are sent to various countries, but they do not act as advisers to, or participate in, specific operations. "The Special Forces did not take part in zapping Che," he said, referring to the manhunt in Bolivia that led to the death of guerrilla leader Che Guevara. The inference seemed clear that those who had zapped Che had profited from Green Beret training.

The Pentagon makes no secret of its preoccupation with counterinsurgency warfare. A paper provided to this writer and dealing with the mission of the United States Southern Command states: "While not discounting the possibility of general war, inter-American defense planners consider the most urgent military need of Latin American countries to be internal security. The armed forces of each Latin American country should be able to cope with Communist-supported insurgency and guerrilla infiltration with our assistance but without our direct participation. In recent years most of the military efforts have been toward this end. Successes in meeting the threat of guerrilla bands in such countries as Bolivia, Colombia, Guatemala, Peru and Venezuela illustrate that these efforts are bearing fruit."

The results of the policy of giving U.S. support to Latin American military establishments are sometimes bizarre. The Peruvian military used American tanks to oust a Government friendly to the U.S. and replace it with the present regime, which has nationalized American companies. On the other hand, in Chile the U.S. cut off economic aid to the recently deposed Allende Government while continuing aid uninterrupted to the military—so presumably the generals have some good friends now at the highest levels there. In fact, some high officers in the Panama Canal Zone were recently quoted in The New York Times to the effect that the military, because of its common background with those who are now running so many Latin American Governments, may be able to exert more influence on these Governments than civilian diplomats. The ultimate irony may come if Panama's boss, Brig. Gen. Omar Torrijos, who himself is a graduate of the School of the Americas, achieves his aim of eliminating the headquarters for the entire U.S. military operation in Latin America.

On the strategic level, the military spokesmen did not dispute that the Panama Canal would be irrelevant in a nuclear war, since one well-placed warhead would put the waterway out of commission for the duration. One colonel, however, did raise this novel theory: that the real winner in a nuclear war would the nation that could recover fastest, and that the Panama Canal, if not knocked out, could be of importance in the reconstruction phase.

On the conventional side, the military is caught in a dilemma of logic. Having argued that a two-ocean navy is necessary because the Canal is so vulnerable in time of war, it is now difficult to sustain the case that the Canal is vital to U.S. security. Aircraft carriers can't, and don't need to, pass through the Canal, since the U.S. has a two-ocean fleet with carriers in both the Atlantic and Pacific.

The Panamanian position is that the U.S. Southern Command should be folded down completely, with the Canal area neutralized and "not to be used for military activities unrelated to the strict protection of the Canal." The Panamanian armed forces would assume responsibility for security of the Canal, and "in case of international conflagration or a real threat of aggression to the permanent neutrality of the Canal . . . both countries shall agree, without delay, to take the necessary measures. . . ."

Politically, the Panama Canal issue centers around national pride—for both parties. The U.S., as a great power, can look out from its heartland at a kind of protective arc for its soft underbelly, an arc running from Panama to Guantanamo in Cuba and Puerto Rico—even though this vision seems based on pre-World War II geopolitics. The national honor of Panama, on the other hand, is offended by a 10-mile-wide belt across the country over which a foreign power is sovereign.

Time, it would seem, is on Panama's side. The way the wind is blowing was evident at the U.N. Security Council meeting in Panama City last March. Taking advantage of its term of membership on the Council and its turn at the presidency, Panama invited the Council to an on-the-spot discussion of the Canal issue. The meeting was long and bitter, with many delegates developing the theme that U.S. control of the Canal was an anachronism. Finally came the vote on a resolution that called on the parties to "conclude a new, just treaty concerning the present Panama Canal which would fulfill Panama's legitimate aspirations and guarantee respect for Panama's effective sovereignty over all its territory." Australia, Austria, China, France, Guinea, India, Indonesia, Kenya, Peru, Sudan, the U.S.S.R. and Yugoslavia all joined Panama voting in favor, while Britain abstained and the U.S. cast its third veto in U.N. history.

Panama could have put a similar resolution on the agenda of the U.N. General Assembly last fall and undoubtedly would have seen it pass by a heavy majority. But having turned the propaganda screws on the U.S. early in 1973, it has now changed its tactics in the hope that the new negotiations with Mr. Bunker will produce an acceptable result. When Henry Kissinger came to the United Nations immediately after assuming his new post as Secretary of State, he, Mr. Bunker and other U.S. concerned officials met with a Panamanian group headed by Foreign Minister Juan Antonio Tack, and by all accounts it was very cordial. Noting that negotiations has already been under way for nearly a decade, Mr. Kissinger quipped that "Ambassador Bunker is interested in job security" and got a good laugh. On the serious side, he praised Mr. Bunker lavishly and called for early progress toward an agreement. He seemed to give Mr. Bunker wide leeway with the problem, yet he also told Mr. Tack to feel free to approach him personally at any time.

Mr. Bunker, now sworn in as Ambassador at large and settled into a handsome wood-paneled office on the seventh floor of the State Department, says of his new assignment. "It's difficult and complicated, but I am hopeful." So far he has formed no definite opinions and says he is "learning, getting the views of the Pentagon, the State Department, Congress and also views of interests other than the Government, such as labor." He plans to spend some time in Panama (he has made two trips there since late November)—but not too much. "My wife and I have lived apart for six years, and we are not about to do it again," he said in a recent interview with this writer.

He was referring to the time he was in Saigon and his career-diplomat wife, Carol C. Laise, was Ambassador to Nepal. Recently she assumed the post of Assistant Secretary of State for Public Affairs, so both are in Washington. Mr. Bunker has made a deal with Mr. Tack that negotiations on the Canal will alternate between Washington and Panama, thus keeping the disruption of the Bunker home life to a minimum. But now, wearing his Middle East hat as well as his Panama hat, he may find it difficult to keep his resolve.

Mr. Bunker is conducting the Panama negotiations "quietly and secretly," as he always has done. "Once the parties take public positions, they can't recede," he says. "There must be private give and take." In the present case, he is going to need plenty of give and take, for he is in the middle and there is a lot of distance around him on all sides. The Panama Canalists in Congress and probably the Pentagon don't think he should be negotiating at all; to them the 1903 treaty is fine and the hell with the Panamanians. The Administration, so embattled at this point that it may not even remember where Panama is, has up to now taken a position that the U.S. is willing to give Panama the Canal in 50 years, although the period would be 85 years if the U.S. were to build a third lock and 90 years if a new sea-level canal were constructed. The Panamanians want the U.S. out in 20 years.

So the tall, patrician, white-haired gentleman has his work cut out for him. If he fails, Panama's strongman Omar Torrijos and the 1½ million Panamanians, virtually all of whom share his passion to take title to the Canal, may cause trouble. As it stands today, his well-trained, 8,000-man National Guard might well be able to storm the 2,400 U.S. ground troops there and capture the Canal, although they probably couldn't hang on to it when the U.S. Marines started landing. And the Panamanians understand this. Nevertheless, Torrijos is talking tough. As Mr. Bunker was en route by jet to Panama on Nov. 26, the Government-controlled evening newspaper in Panama ran a long headline: "If the negotiation fails, we will be left with no other recourse but the battle." The Panamanians are determined to reclaim the Canal, and there will surely be some kind of explosion—big or small, sooner or later—if they don't.

RIGHTS OF PASSAGE

The Law of the Sea Conference, which was formally opened at the recently concluded session of the U.N. General Assembly, and which will begin a 10-week session in Caracas, Venezuela, in June, is charged with the task of creating an international regime to govern ocean space beyond the limits of national jurisdiction. Among the many complex problems it faces is the question of transit rights through international waterways. The big maritime nations are advocating "free transit" to allow them to move shipping through waterways without restriction; the nations which front on the waterways are calling for "innocent passage," under which they themselves would judge which passages are innocent. But so far there has been no discussion of transit rights through man-made international waterways, the two most important of which are the Panama and Suez Canals.

Why shouldn't an ocean regime guarantee free transit through all international waterways, natural and man-made? In our shrinking globe, certainly the enlightened course is to guarantee the openness of transportation routes, not to clog them with layers of separate national restrictons. Legitimate concerns of coastal states, such as the danger of oil spills or nuclear accidents, could surely be dealt with better at the global level than piecemeal by more than 100 nations. In the case of the Panama and Suez Canals, the internationalization of transit rights could be helpful in solving stubborn diplomatic problems.

In Panama, internationalization of transit rights through the Canal could provide a face-saving, mutually beneficial solution for both sides. Panama would regain effective sovereignty over the Canal, perhaps sooner than it expects, paying only the price of having an ocean-regime presence in the Canal area. The U.S. would gain new assurance that the Canal would not be closed to its shipping.

On the Suez Canal, the situation is perhaps too indefinite to be specific. Nevertheless, it is not difficult to imagine that the involvement of the international ocean regime in guaranteeing free passage through the canal could be a stabilizing element in the over-all Middle East situation.—R.H.

[From the New York Times, Jan. 8, 1974]

PROCEDURAL ACCORD SEEN NEAR IN PANAMA

WASHINGTON, January 7.—The United States is fairly close to agreement with the Government of Panama on procedures for negotiating a new treaty regulating the Panama Canal, an Administration official said today.

Agreement on procedures was discussed yesterday and today in Panama by Foreign Minister Juan Antonio Tack and the United States Ambassador at Large, Ellsworth Bunker. When agreement on the ground rules is reached, negotiations will begin on a new pact to replace the 1903 treaty under which the United States holds sovereignty over the Panama Canal Zone, the official said.

The official, responding to Panamanian reports that agreement was near, said the procedural steps could be completed in the next six weeks.

Secretary of State Kissinger may visit Panama next month, the official said. But he added that negotiations on the actual treaty would still take a long time after that.

[From the Washington Star-News, Dec. 26, 1973]

PANAMA CANAL SEEKS 20 PERCENT RATE INCREASE

The Panama Canal Co.'s board of directors proposed an increase of about 20% in canal tolls.

If approved by President Nixon, the higher rates would go into effect not earlier than six months from now and would be the first increase since the canal opened in 1914.

The company, which is a corporate agency of the U.S. government, said the toll increase is necessary to cover "rising operating costs."

In fiscal 1973, which ended June 30, the canal had a deficit of $1.3 million. Federal law requires that the canal be self-supporting.

Under the proposal, the toll for a ship carrying cargo or passengers would increase to $1.08 a "Panama Canal ton" from the current 90 cents a ton. A Panama Canal ton is equivalent to 100 cubic feet of revenue-producing cargo space below deck.

Tolls for empty cargo ships would increase to 86 cents a Panama ton from the present 72 cents.

[From the New York Times, Dec. 22, 1973]

Panama Canal Seeking First Rise in Tolls

(By H. J. Maidenberg)

The Panama Canal Company is seeking the first increase in tolls since the waterway was opened in 1914, it was announced yesterday.

Directors of the company, an autonomous Federal agency, have asked President Nixon to raise the basic transit charge to $1.08 a ton from 90 cents, or 20 per cent.

As defined by the canal company, a ton of freight is equivalent to 100 cubic feet of revenue-producing cargo space below deck. The company is also requesting that the toll for empty freighters and tankers be increased to 86 cents a ton from the present 72 cents.

Transit charges for naval and other vessels would also be increased, unless the existing tolls are governed by intergovernmental agreements.

If approved by the President, who has the sole right to change the toll schedules, the new rates would become effective in six months.

According to officials of the Panama Canal, interviewed recently in the company's headquarters, the toll increases are being sought for three major reasons.

First, Federal law requires the operating company to be self-supporting, and the agency had a deficit of $1.3-million in the last fiscal year ended June 30.

Secondly, increasing operating costs and expenses during the present modernization program are expected to exceed appropriations from revenues.

Finally, the officials noted that the canal which links the Atlantic and Pacific Oceans across the Isthmus of Panama, is not receiving its share of expanding marine freight.

The huge modern supertankers and ore carriers do not use the canal because they are too wide to transit the 110-foot-wide locks of the north-south waterway. And many of the newer smaller ships employing fewer crewmen find it profitable to round Cape Horn rather than pay the tolls.

In recent years the volume of cargo passing through the canal has held at about 125 million tons a year, and revenues have been put at roughtly $105-million.

Nevertheless, shipping men expect that the toll increase, which they consider certain, will add to the cost of commodities imported from the west coast of South America, ranging from metals to bananas.

Equally important, the first increase in Panama Canal tolls is also expected to put pressure on marine freight rates generally, as well as encourage Panama to press her demands for sovereignty over the 50-mile long and 10-mile wide Canal Zone, which bisects that country of 1.5 million.

Indeed, some shipping men here believe the requested increase in tolls reflects the higher rents paid and proposed by Washington to Panama recently as part of the Government's efforts to reach an agreement with that nation over the future of the world's major functioning canal.

New Hope on Panama

The United States and Panama have reached preliminary agreement on basic principles for a treaty to replace the outdated pact of 1903, which gave Washington control over the Panama Canal Zone "in perpetuity." But the early demise of three related treaty drafts, agreed to by the two Governments in 1967 after three years of negotiation, ought to restrain any excessive optimism about a new pact.

Preliminary points of agreement provide for eventual transfer of sovereignty over the Canal Zone to Panama at a date to be negotiated. The United States would continue to provide the Canal's defense, and the two Governments would jointly consider building a new sea-level canal or expanding the present waterway to accommodate the huge new oil tankers.

Similar provisions were included in the 1967 treaty drafts, negotiated under guidelines agreed to by Presidents Lyndon Johnson and Marco A. Robles. Under attack by Panamanian nationalists, Mr. Robles backed away from the treaties, which became casualties of Panama's 1968 Presidential election and the Army coup that followed it. In any case Mr. Johnson would have encountered strong opposition to ratification from Senators unwilling to contemplate even gradual transfer of the Canal Zone.

The forces that sidetracked the 1967 treaties in Panama and threatened them in the United States are still active. Some even doubt that Panama's strongman, General Omar Torrijos, really wants a new Canal treaty because it would deprive him of an issue he has exploited constantly by way of retaining his popularity.

Reasonable Americans will agree that control "in perpetuity" of an area that bisects another country is a relic of an era long gone. They will welcome a treaty that redresses this injustice while protecting American interests and insuring the continued freedom of passage through a vital communications link.

HOUSING NEEDS

Mr. TAFT. Mr. President, I recently came across an editorial by Peter Fosco, editor of the monthly magazine of the Laborers' International Union of North America, which expresses eloquently the need for Congress to take definitive action in the housing field. As a member of the committee which has spent months of markups on new housing legislation already, I agree wholeheartedly with this sentiment. Particularly in view of the mortgage money crunch and the paucity of subsidized housing assistance programs in the past year, it is essential that Congress continue to make progress on this legislation rather than allowing it to become bogged down in committee or on the floor.

I also note with interest the comments in the editorial concerning the efforts of the AFL–CIO in the housing field. I hope that many private groups will realize that they as well as the Government can play a useful and important role in our efforts to provide decent housing for all Americans.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Our Nation's Housing Needs

One of our International Union's major goals in Congress this year will be legislation to step up the production and availability of housing for low and moderate income families.

As the cover story in this issue points out, our country is not only far from its stated objective of "a decent home . . . for every American family," it is slipping even further behind on the timetable needed to achieve it.

Any American worker who has shopped around recently for better housing has suffered a shock. He has discovered that he is priced right out of the market.

Soaring interest rates, land and material costs have sent the price of housing up to the point where four out of five families cannot afford a decent home, according to the Department of Housing and Urban Development. The median price of a new home nationally today is over $32,000 and rising.

There are still about 11 million Americans living in substandard housing. Our nation not only needs to build and rehabilitate this number of housing units immediately, and make them available to the poor, we need to provide an estimated 120,000 additional units each year for the elderly alone.

Making matters worse is the fact that HUD's two subsidized housing programs for the poor were frozen a year ago. Money already appropriated by Congress for these programs was impounded, and remains so even though a U.S. District Court judge ruled that this action was illegal.

HUD's stated reason was that the programs were "inequitable and wasteful," despite the fact that approximately 2 million poor families have obtained decent housing under these programs during the past five years. Moreover, HUD offered no alternative to the programs, but proposed to study the problem, and after months of "study" has proposed still another study. At this point it plans to bring forth a new program sometime in 1975.

We believe that while there may indeed be more efficient ways to meet the housing needs of the low and moderate income families, it is vital that we proceed without letup with the programs at hand until better programs are developed and fully funded.

Our International Union has long been committed to pushing for the development of housing that the average American worker can afford. We have encouraged the investment of millions of dollars in union-negotiated pension monies in the AFL–CIO Mortgage Investment Trust, where funds are used effectively toward that end. We have helped promote the development of prefabricated homebuilding, which has a potential to manufacture needed housing units more cheaply and quickly.

This year we will press our efforts in Congress to achieve a comprehensive housing strategy, capable of reaching the target of "a decent home . . . for every American family."

CONVERSATION WITH A SOVIET JEW

Mr. TUNNEY. Mr. President, 2 weeks ago, while I was in Los Angeles, I had the opportunity to make a telephone call to Dr. Alexander Luntz in Moscow. Dr. Luntz is one of thousands of Soviet Jews who are, in his own words, imprisoned in their own country because they desire to emigrate to Israel. America must not overlook or forget this tragic situation. It is clear that continued publicity in the United States has an effect on the Soviet Government, and has been influential in prodding the government to allowing as many Jews to emigrate as it has over the past 2 years. However, thousands more are still not allowed to leave, in violation of simple human rights embodied in

United Nations resolutions and espoused by the Soviet Government itself.

Dr. Alexander Luntz is a Soviet scientist, holding a Ph. D. He was the director of a scientific institute in Moscow, where he worked on medical cybernetics problems. Fourteen months ago, he applied for a visa to emigrate to Israel with his wife and 16-year-old son. On the very day he applied for the visa, he was fired from the directorship which he held. His wife, a geologist, also lost her job. Dr. Luntz has been working since that time as a teacher of arithmetic—imagine that for a Ph. D. former director of a major research institute.

My conversation with Dr. Luntz was greatly uplifting, and should serve to remind us all of the courage of men and women who refuse to be broken by a tyrannical regime, who will endure great suffering in order to achieve what they believe is just and right. I will continue to use all my efforts to see that Dr. Luntz and all others in Russia who wish to emigrate to Israel may do so freely. Mr. President, I ask unanimous consent to print in the RECORD a transcript of my conversation with Dr. Alexander Luntz.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TELEPHONE CONVERSATION BETWEEN HON. SENATOR JOHN V. TUNNEY AND DR. LUNTZ

Senator TUNNEY. Hello, this is John Tunney.

Dr. LUNTZ. Hi, how are you? It's a privilege to speak with you.

Senator TUNNEY. Well, I am delighted to have the opportunity to speak to you and I understand that you are having great difficulties getting a visa to emigrate to Israel. Hello . . .

Dr. LUNTZ. Yes, yes I am here.

Senator TUNNEY. Well, I want you to know you have all kinds of moral support in this country. I certainly am very much in support of the Jackson Amendment which makes it impossible to give any special treatment to the Soviet Union, most-favored-nation clause treatment if they will not allow their citizens to emigrate to countries that they want too and live up to the Declaration to Human Rights under the U.N. Charter. I think that the majority of the United States Congress feels the same way that I do and we will not give any special trade or economic consideration to the Soviet Union, unless they eliminate what we consider to be an inhuman wall that prevents people from going to the country of their choice and emigrating freely. I am certainly going to speak to people in the Senate and I'll mention the fact on the floor of the Senate that I had the opportunity to speak to you in Moscow and I just wish you the very, very best of luck and I am so sorry that your having the kind of problems that you are, it's inhuman.

Dr. LUNTZ. Thank you. You see Senator, myself and all my friends are all very grateful to you and your colleagues for your support. It's very important for us. That is our only hope to be free and to be able to go to Israel.

Senator TUNNEY. Yes.

Dr. LUNTZ. I want to tell you that all of us are being held hostage here.

Senator TUNNEY. Right.

Dr. LUNTZ. There are many Jews in the USSR that want to leave for Israel, but they are afraid to make visa application because they know they will lose their jobs. So they closely watch what the authorities will do with us, and if they will let us go to Israel.

Senator TUNNEY. Yes.

Dr. LUNTZ. We will not cease our struggle for our basic human rights, and to emigrate to Israel. It will be our position and also the position of the prisoners. To be prisoners in the USSR means not prisoners in the usual sense. They are prisoners only because they want to leave for Israel.

Senator TUNNEY. Yes.

Dr. LUNTZ. Everyone who has the courage to request an exit visa immediately loses his position (job). He ceases to be a human being. We need the help of all good people. Your support is very important.

Senator TUNNEY. Well, it is something which is felt from the heart and I don't know if you know it but Solzhenitsyn's book is receiving great acclaim in the Western world. We are very deeply concerned about it. When I was in Israel last, I had the opportunity to meet with many of the Jews who came from the Soviet Union and had a chance to talk with them about the conditions in the Soviet Union. So I am very familiar with the situation that you are facing and the only thing that I can say, is that I pray to God that you are going to find within the next few months that the Soviet Union authorities will change their position and allow you to emigrate. It's in God's hands and I just say a prayer for you.

Dr. LUNTZ. Once more thank you for your support and for your good work. I am grateful to your colleagues in the Congress for their support. We ask for nothing more than for human freedom. What you are doing in the United States is very important and will help bring about the freedom of many people.

Senator TUNNEY. Well, I appreciate your saying that and I hope that the fact that we are continuing to make a point of the importance of the Soviet Union eliminating this inhuman emigration policy will have positive effects in your case, and we will do what we can on the Senate floor to publicize your case and I hope that the Soviet Union will relent and will let you leave and go to Israel.

Dr. LUNTZ. Thank you, thank you for all.

Senator TUNNEY. Wonderful, okay and Dr. Luntz, I hope that I will have the opportunity to see you someday in the United States or in Israel.

Dr. LUNTZ. Thank you, good-bye, very nice to talk to you.

DEFENSE SPENDING

Mr. GOLDWATER. Mr. President, every year, after the defense budget has been released by the President and discussed by the Pentagon, the enemies of the military in the Congress and the media begin their determined assault on defense spending. They depend invariably on a series of myths which have no resemblance to the true facts. These myths have been brilliantly exposed by Michael Yarymovych who is the Air Force's chief scientist. I ask unanimous consent that this article which appeared first in the New York Times and later in Air Force magazine be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MYTHS OF DEFENSE SPENDING

(By Michael I. Yarymovych)

Many people believe that the military spends a disproportionate share of our national wealth. In addition, they believe that the military continually raises the specter of the threats to our national security just to obtain more money and to perpetuate themselves. This simply is not true.

On the other hand, we do recognize the very pressing needs that we have at home. National priorities have been reordered, and this reordering has had a tremendous effect on spending for national defense. But somehow, none of this has altered the public feeling about military spending.

No matter what yardstick one uses, be it percent of the federal budget or percent of the Gross National Product, defense spending is at its lowest point in real terms—people and hardware—since the Korean War. Let us not forget that this defense spending has prevented a nuclear war for twenty-eight years and has enabled the United States and the Soviet Union to agree on some strategic arms limitations without fear of catastrophic surprise.

In the past ten years, total federal spending has doubled, and, within that spending, aid to education has increased five times, public assistance has tripled, Social Security has tripled, and health care has increased from less than one-half billion dollars to over $18 billion—a more than fortyfold increase. In the same period, defense spending increased by only fifty-eight percent in current-year dollars.

Myth: The peace dividend has been stolen.

Reality: The Defense Department spent $51 billion in pre-Vietnam 1964 and is forecasting $79 billion for Fiscal 1974. This represents a $28 billion increase during a time manpower was reduced by eleven percent. Although the Vietnam War was phased down from its 1968 peak, major pay increases plus general price inflation have occurred. The all-volunteer force was one of the stimuli for the pay raises. Of the $28 billion increase since 1964, pay raises have been about $22 billion and price increases about $6 billion. These two items, pay and inflation, account for the entire increase in the defense budget during the past decade.

Myth: The national defense budget continues to grow.

Reality: In 1973, spending was the lowest, in real terms, since Fiscal 1951. None of the real growth in the economy over the past twenty-two years is currently allocated to national defense.

Since the Southeast Asia wartime peak, defense manpower (military, civil service, and defense-related industry) fell by thirty-five percent or 2,800,000. Purchases from industry fell by forty percent or $22 billion in constant prices.

Myth: In recent years, many additional billions of dollars have been poured into weapons systems and facilities.

Reality: Over the past nine years, funds for procurement, research and development, and military construction have increased by only four percent or $900 million in terms of real buying power, these funds have decreased by twenty-four percent in the same period.

Myth: The defense budget dominates public spending.

Reality: In 1973, defense accounted for about twenty percent of all public spending, about twenty-one percent of all public employment, and just over six percent of the Gross National Product; the lowest shares in more than twenty years during which time about one-half of all taxes went for defense.

Myth: Defense squanders billions in weapons system "cost overruns."

Reality: Alleged "cost overruns" of tens of billions are arrived at by comparing current estimates of all-time (concept to completion of production) costs to very early "planning estimates." Only about half the money referred to in "cost overrun" figures has ever been requested of Congress, much less appropriated or spent.

Myth: Defense is placing an inordinate drain on the nation's research and development resources.

Reality: Defense-related research and development is smaller in real terms in 1973 than in 1958 or any year since.

Unfortunately, there are those who do not view our national security needs as having the same urgency in light of the current East-West relationship. Under these circumstances, we have a genuine problem in ensuring that today's military research and development accomplishes its primary objective, superior deterrent defenses for the long haul.

IN HONOR OF SENATOR GRUENING

Mr. McGOVERN. Mr. President, I would like to note for the Record that a very distinguished former colleague, Senator Ernest Gruening, is my guest at the Senate today.

There are two reasons why this is a timely visit.

One is that today is Senator Gruening's birthday—his 87th. And whether we have agreed or disagreed with the views he has expressed so forcefully, I think we all applaud the service he has performed so brilliantly in those years, both in the Senate and in a remarkable life before that. I am sure we all envy the vigor and the insight he still brings to bear on public questions. I, for one, treasure both his friendship and his advice.

The other reason I am pleased Senator Gruening is here today is that several of us are today posting a letter to the Nobel Committee, recommending that he be awarded the Nobel Peace Prize.

As we state in our letter, Senator Gruening has been an "indefatigable champion of peace" for decades. His leadership spans many issues and several generations, back as far as when he was a journalist writing against the gunboat diplomacy of the 1920's. His courage and foresight on two questions in particular, on Vietnam and on population control, make him uniquely qualified for consideration by the Nobel Committee.

I ask unanimous consent that there be printed in the Record a copy of the letter we are sending to the Nobel Committee, a review of Senator Gruening's book, "Many Battles," which recently appeared in the Washington Post and a biographical sketch which appears in the most recent issue of Current Biography.

There being no objection, the material was ordered to be printed in the Record, as follows:

Nobel Peace Prize Committee,
Nobel Institute,
Olso, Norway.

Dear Members of the Committee: This letter supports a cable you have already received, placing the name of our former colleague, United States Senator Ernest Gruening, in nomination for the Nobel Peace Prize.

Senator Gruening's leadership in the quest for peace spans many issues and several generations. It goes back as far as the magazine and newspaper editorials he wrote as a journalist against the "gunboat diplomacy" of the 1920s, and against the interventions in Haiti, the Dominican Republic, and Nicaragua. It is as current as the efforts he continues now, in his eighty-seventh year, against steps which would heighten the danger of more serious confrontations in Indochina. For all of those years he has truly been an indefatigable champion of peace.

But his most remarkable and farsighted contributions have been addressed to two issues which still remain at the forefront of the international agenda. One is the continuing war in Indochina. The other is the ominous growth in world population.

On the first, it may be appropriate to recognize those who participated in negotiations to end direct American involvement in Indochina. But the conflict has not ended, and the risk of a wider war remains.

Yet there is another and still graver risk. It is that in our relief over the end of American involvement, we may see obscured not only for Americans but for much of humankind the urgent lessons to be learned from this sad experience—that small lands as well as large have a right to settle their own affairs; that a policy of unilateral intervention can only degrade the international agencies created to resolve disputes; that even powerful nations confront the tides of nationalism at their peril. And for that reason alone, we contend that to advance the purposes of the Nobel Peace Prize, it is prudent to honor not only those who continued but then finally ended a grave mistake, but also one American who was the most consistent, the most tireless, and among the earliest voices urging against that mistake before it was made.

Senator Gruening's courage and foresight are demonstrated on the public record. He argued against American intervention in the Vietnamese civil war in October of 1963, when the question was still whether U.S. advisers should be assigned to assist the government then in power in Saigon. He followed in March of 1964 with a more comprehensive address in the United States Senate entitled "The United States Should Get Out of Vietnam." When the war took a sharp turn toward escalation in August of 1964, he was one of only two members of the Senate who voted against the Gulf of Tonkin resolution.

But there is an even more significant contribution which cannot be as readily traced. Senator Gruening coupled his words of warning with ceaseless efforts both in the Congress and around the country to win a reevaluation and a reversal of U.S. policy. He authored a book, *Vietnam Folly,* which still stands as an outstanding documentation of the case against the American involvement and escalation in Indochina. He pleaded that case tirelessly with his colleagues in the Congress, not only in formal debates on the floor but in conversations in the cloakrooms and offices.

Finally he took that case to the nation, speaking everywhere an audience could be found. In 1963, at the age of seventy-six, he launched a personal crusade against the war. And years later his indomitable spirit still persists, and his crusade still goes on.

Anyone who has observed America over the past decade must be convinced that this is how and why we finally came to end our involvement in Indochina. Those who presided over the process of negotiation and withdrawal had earlier been among the most aggressive supporters of escalation. Withdrawal finally came not so much because they decided to reverse their policy; it came because Senator Gruening and ultimately millions of others worked to reverse American politics. At last a new course became a political necessity.

We may admire those who had the patience, the energy, and the wisdom to finally negotiate the settlement, when settlement was the demand of the American people. But in good conscience, the name "peacemaker" fits Senator Gruening best. How much harder was his task. For he embraced the cause of peace when it was a lonely cause. He challenged his own party. He challenged the authority which made the war. In 1968 public divisions over the war in Vietnam cost him his seat in the Senate. But it did not cost the country his vision and leadership. And if any one person is responsible more than any other for ending the tragic role of the United States in Vietnam, it is this wise and valiant public citizen.

For that alone, we submit that this nomination should have the most careful consideration of the Committee. But Senator Gruening has taken an early, leading role in another area of overriding worldwide concern.

The United Nations has proclaimed 1974 World Population Year, demonstrating what has now become a pervasive recognition of the importance of this issue to peace and stability in the world. Few knowledgeable discussions of the prospects for peace now fail to account for the need to limit population growth to husband our planet's scarce resources and to assure that their use will ultimately serve to close the perilous gap between rich and poor nations.

Senator Gruening saw this in the first decade of the century. He contended then that population control was an essential step toward higher health standards and the elimination of poverty, and eventually toward a more civilized and peaceful world. As a journalist, he wrote his controversial views on the subject into his newspaper editorials. He participated in a conference on birth control sponsored by crusader Margaret Sanger in 1921, at a time when advocacy of such a cause was not only unpopular but dangerous. As Director of the United States Division of Territories and Island Possessions under President Roosevelt in the 1930s, he helped establish material health clinics in Puerto Rico, a step credited with significant social and economic progress in that land.

When he came to the Congress, Senator Gruening at first found attitudes on population control issues which did not differ greatly from the hostility of the 1920s. Again he became the patient but persistent educator. In 1963 he cosponsored legislation calling for the creation of a Presidential Committee on Population to research and expose the problem. He sponsored his own, more ambitious bill to support the publication and distribution, both in the United States and abroad, of information on population control. Then, as chairman of the Subcommittee on Foreign Aid Expenditures, he held no less than thirty-two hearings over the course of three years.

The effort was productive. The Family Planning Service and Population Research Act was passed. An Office of Population Affairs was created in the Department of Health, Education and Welfare. A sum of $175 million was appropriated to foster birth control programs abroad. In contrast to the cautious climate of just ten years ago, such programs have become widely accepted and supported as indispensable national and international programs.

The challenge remains. But again, what progress has been made and what international leadership the United States has supplied stands largely as a monument to the foresight and good works of one man, Senator Ernest Gruening.

This, then, is the statesman we recommend to the Committee. He is a man of energy, of integrity, and of absolute dedication to justice and to the cause of peace. He fights tirelessly for what he believes—and we have learned that what he believes is usually right.

Senator Gruening's example is an inspiration to the best in all of us. The Committee's decision to honor him would be an inspiration to the best ideals advanced since 1901 by the Nobel Prize—for "peace congresses," for the "abolishment or reduction of standing armies," and, above all, for "the fraternity of nations."

Sincerely yours,

George McGovern,
U.S. Senator.
Mark Hatfield,
U.S. Senator.
Frank Church,
U.S. Senator.

[From the Washington Post, Jan. 29, 1974]

The Uplifting Story of an Authentic Hero

(Reviewed by Richard J. Barnet)

("Many Battles": The Autobiography of Ernest Gruening. By Ernest Gruening. (Liveright. 564 pp. $12.95).)

Heroes are in short supply in America. Richard Nixon continues to make the "most admired Americans" list. The public, despairing of finding men of character for their leaders, settles for a pantheon of famous names. (Last year Spiro Agnew was a prominent member.) So far as I am aware, Ernest Gruening never made the list. Yet his extraordinary career, which he has chronicled in Many Battles," reveals him to be one of the authentic men of character in public life.

Trained as a physician, Gruening became editor of The Nation, a New Deal administrator for Puerto Rico, territorial governor of Alaska and finally senator. He (and Wayne Morse) will be remembered by students of American history long after most of his colleagues of the Senate establishment are forgotten for one simple act of courage, prescience, and decency; his refusal to give President Johnson a blank check to make war at the time of the Gulf of Tonkin resolution of 1965. His struggle to forestall the American involvement in Indochina and then to extricate us from it, is but one of the many battles around which his autobiography is woven. As the book ends, the 86-year-old ex-senator is still fighting, this time for the impeachment of Richard Nixon for "subversion of our free society."

In a superficial sense this is a depressing book. So many of the battles are far from won. The campaign of the 1920s to end gunboat diplomacy in the Dominican Republic culminated in the massive military occupation of 1965 and the "low-profile" intervention of today. The war in Indochina is not ended. The United States appears to support Thieu's efforts to escape the elections prescribed by the Paris Accords. Thus the dreary history of the late 1950s seems about to be repeated and with it the risk of renewed American military involvement. Gruening's campaign against military-aid programs as instruments to dominate and distort the society of small countries appears to have led nowhere.

Yet this is an uplifting book. An old-fashioned patriotism permeates its pages. Gruening obviously draws his extraordinary energy from a deep love of country and a faith in "the great experiment begun so daringly and so hopefully two centuries ago." His is the rhetoric of restoration, not revolution. The country must take bold steps, whether it be disengaging from a destructive war or impeaching a destructive President, to become again what it once was.

"Many Battles" offers a glimpse of a rare spirit in recent American politics, a man who cares deeply about justice and is reckless in committing his energies to promote it. To President Kennedy's maxim, "There is no sense in raising hell and not being successful," he answers, "The greatest battles are often fought by men who are defeated time and again, and keep on fighting." You come away from this book with a clearer appreciation of the tradition in which the current political battles against militarism, racism and subversion in high places are being fought, and a realization that these battles are but part of a continuing struggle to create a decent society.

Gruening's account of his own life is written in a direct, no-nonsense style. It is a political autobiography with little emphasis on personal feelings. (In this sense it is less revealing than Richard Nixon's "Six Crises".) But a pungent personality emerges from its pages. In an age when politicians shed parties and inconvenient commitments along with yesterday's socks, Gruening's steadfastness and consistency infighting for his beliefs makes refreshing reading. His dedication to a few basic principles—self-government, non-interference in the affairs of other nations and peoples for example—have remained operative for more than 60 years.

This is a book about a man who has sought and exercised political power all his life and, like his hero, Estes Kefauver, has been able to compromise on policies without compromising himself. He appears as a man who relishes using power but is not obsessed by it as an end in itself. (Here again a comparison of "Many Battles" with "Six Crises" is instructive.) If we knew some of the complex reasons why Ernest Gruening never became a "most admired American" and Richard Nixon did, we might understand more about our present predicament as a nation.

[From Current Biography, 1966]

Gruening, Ernest Henry

(Feb. 6, 1887– United States Senator from Alaska *Address:* b. Senate Office Building, Washington, D.C. 20510; h. P.O. Box 1001, Juneau, Alaska 99801; 7926 W. Beach Dr., Washington, D.C. 20012)

(Note.—The biography supersedes the article that appeared in *Current Biography* in 1946.)

The junior United States Senator from Alaska is Ernest Gruening, a liberal Democrat who took his Senate seat in 1959, when the northernmost State was admitted to the Union, and who won re-election in 1962. Originally a physician, Gruening came to politics through journalism. From 1911 to 1934 he edited various publications, including the *Nation* and the New York *Evening Post*. He was director of the Division of Territories and Island Possessions in the United States Department of the Interior from 1934 to 1939 and Governor of Alaska from 1939 to 1953. As Governor, Gruening succeeded in establishing, despite an initially hostile legislature, a state measure protecting native Indians from discrimination, a tax system that enabled Alaska to retain some of the wealth taken from the state by absentee business interests, and other progressive programs. As a Senator, he has been able to enlist federal help in the building of roads and other public projects necessary to Alaska's economic development. Beyond the immediate concerns of his constituency, his Senate record has generally coincided with that of the liberal Democratic establishment, with some notable exceptions. On the issue of Vietnam, for example, he has been one of the most vociferous of the Senate "doves" critical of Johnson administration policy.

Ernest Henry Gruening was born in New York City on February 6, 1887 to Emil Gruening, a German-born eye and ear surgeon, and Phebe (Fridenberg) Gruening. After attending local schools in New York and Hotchkiss School in Lakeville, Connecticut, Gruening entered Harvard University with the intention of becoming a physician. He took his B.A. degree in 1907 and went on, as planned to Harvard Medical School. During his last year in medical school, however, he worked as a reporter for the Boston *American*, and by the time he received his M.D. degree in 1912 he had decided to remain in journalism. He joined the Boston *Evening Herald* in 1913 as a reporter and later worked on rewrite and copy desk editing for that publication. From 1914 to 1916 he was managing editor of the Boston *Traveler*, which had been consolidated with the Boston *Evening Herald*.

When the United States entered World War I in 1917, Gruening went to Washington, D.C. to help organize the War Trade Board's bureau of imports. Later in the war he became a candidate for a commission in the field artillery at Camp Zachary Taylor in Louisville, Kentucky. After the war he returned to journalism, serving successively as managing editor of the New York *Tribune* (1918–19), and general manager of *La Prensa* (1919–20), the Spanish-language daily published in New York City.

The chief reason for Gruening's transience in newspaper jobs before and after World War I was his unwillingness to conform to dictated editorial policies that offended him. In 1920 he left the field of large daily newspapers to become managing editor (1920–23) of the *Nation*, the weekly journal of opinion, and to write for *Forum, Century, Current History*, and other periodicals. In 1924 he directed publicity for the Presidential campaign of Robert La Follette, the Progressive party candidate.

A major subject of Gruening's magazine articles in the 1920's was Latin America, where he traveled extensively. Although he dissociated himself from the position of extreme radicals on the subject, he crusaded against United States military intervention and financial exploitation in Central and South America. He called for withdrawal of American Marines from Nicaragua, and in 1922 he visited Haiti and Santo Domingo with Senator Medill McCormick, who headed a Senate investigation of United States military occupation of these two countries—an investigation that Gruening had helped to instigate. The Latin American country he knew best, by study and travel, was Mexico, and he expressed his views on that country's history and condition in *Mexico and Its Heritage* (Century, 1928). Arthur Ruhl in the New York *Herald Tribune's Books* (September 23, 1928) called the work "the most vigorous, useful, and comprehensive picture yet made of the complex present-day conditions below the Rio Grande."

Gruening founded the Portland (Maine) *Evening News* in 1927 and served as its editor until 1932, when he became a contributing editor. As editor, Gruening campaigned against the efforts of the power companies owned by Samuel Insull to reverse a long-established Maine policy to export Maine's power, which succesive Republican and Democratic administrations had retained in Maine in the hope of attracting industries. He carried his campaign to the national level in *The Public Pays* (Vanguard Press, 1931), a study of American public utilities in general. When the book was updated as a paperback by Vanguard thirty-three years later, Senator Lee Metcalf of Montana reviewed the book for the August 1964 issue of the *Progressive*. He called it "an able, well-documented demonstration of the way private power . . . seeks to discredit public power projects . . . Senator Gruening recaptures the spirit and purpose of private power propaganda in the twenties . . . and warns that little has changed."

In 1933, after resuming editorship of the

Nation, Gruening was sent by President Franklin D. Roosevelt as the adviser to the United States delegation at the seventh Pan American Conference at Montevideo, Uruguay, where the "Good Neighbor" policy long sought by Gruening was officialy formulated. In 1934 he served briefly as editor of the New York *Evening Post* before accepting direction of the Division of Territories and Island Possessions in the United States Department of the Interior. In that position he had jurisdiction over Alaska, Puerto Rico, Hawaii, the Virgin Islands, the Philippines, and the Pacific islands of Howland, Baker, Enderbury, and Jarvis, as well as the United States Antarctic Service, for which he organized the first government expedition to Antarctica. Concurrently he was the Federal emergency relief administrator (1935–36) and reconstruction administrator (1935–37) for Puerto Rico.

In the course of his Federal duties Gruening visited Alaska for the first time in 1936, and the beauty of that American territory gave him what he has called a "profound thrill." In 1939 he was appointed territorial Governor of Alaska. Although his New Deal attitudes, and particularly his attempt to impose personal and net income taxes at first abraded the rugged individuals who dominated the Alaskan legislature, he soon won the general respect of Alaskans for his executive ability.

When Gruening became Governor, Alaska's natural resources, outside of fishing and some mining, were relatively undeveloped. During World War II the territory became an important source of timber and various other raw materials. Because of Alaska's strategic location in the war, the Alaska ("Alcan") highway connecting the territory with the United States, long under consideration, was finally built in 1942. Gruening had proposed the study that led to the building of the highway, and was one of five members of the Alaska International Highway Commission who recommended its construction, though not over the route where it was finally built. After the war thousands of military veterans and wartime civilian workers remained to swell Alaska's population. Some military installations in the territory were kept in operation, and, as the Cold War between the United States and the Soviet Union intensified, new air bases were built. In the early 1950's pulp mills and plywood factories were established and petroleum and gas resources began to be tapped.

From the beginning of his term as Governor, Gruening strove for Alaskan statehood. The intensity of his striving was evident in the anticipatory nature of the title of his book *The State of Alaska* (Random House, 1954). The book, a history of Alaska from the time of its discovery in 1741, was well received by reviewers, who generally praised it both for its scholarship and its readability. In 1956, three years after he left the governorship, the voters of Alaska, in a gambit calculated to prod the United States Congress into action on the statehood issue, elected Gruening "Senator." With that nominal title, Gruening went to Washington as a lobbyist. The effectiveness of his lobbying became manifest in 1958, when Congress voted to admit Alaska into the Union as the forthy-ninth state.

In a primary election held August 26, 1958, Gruening received fewer votes than his colleagues on the Democratic ticket but overcame this in the general election. His tally had been 6,000 less than that of the highest scoring Republican, Mike Stepovich, and political observers gave him little chance of winning the Senatorial election. In the voting three months later, however, Alaskan voters chose Gruening over Stepovich, 26,045 to 23,464.

On January 7, 1959 Gruening took his seat in the United States Senate, where he was assigned to the committees on Government Operations, Interior and Insular Affairs, and Public Works and quickly established a liberal voting record. In 1959 and 1960 he opposed the Eisenhower Administration's legislative program in 57 percent of his relevant votes. In choices between larger or smaller federal roles in social and economic affairs, he opted for a larger role in 97 percent of his votes. He lined up with other Northern Democrats against the conservative coalition (a majority of Southern Democrats siding with a majority of all voting Republicans) in 78 percent of the instances where such a coalition was decipherable. His party unity score—that is, his voting as a Democrat against Republicans—was 82 percent. In 1961, his vote supporting Kennedy administration legislation was 65 percent; favoring a larger federal role, 80 percent; opposing the conservative coalition, 51 percent; and following party lines, 72 percent. In September 1961 he introduced legislation proposing the establishment of a $2,500,000 international arrivals center in Anchorage, Alaska. The center, as proposed by Gruening, would include exhibits reflecting all the varied regions of the United States and stores offering merchandise duty-free. He argued that such a center would give a comprehensive picture of the United States to the 150,000 international air travelers who touch down at Anchorage each year while their planes are refueled.

On November 7, 1962 Gruening won election to a second term as Senator, defeating Ted Stevens. In the first session of the Eighty-first Congress he co-sponsored with Senator Joseph S. Clark of Pennsylvania a resolution calling for an expanded federal program of research into methods of birth control (August 1963), and he persuaded the Senate leadership to accept a foreign aid amendment that in effect compels the President to notify Congress in advance of any future military aid commitments to Latin American countries.

On March 10, 1964 Gruening, who is known for his gentleness and tact, surprised his Senate colleagues with a major speech denouncing United States military intervention in the Vietnamese war. He deplored the waste of American lives and resources "in seeking vainly in this remote jungle to shore up self-serving corrupt dynasts or their self-imposed successors, and a people that has conclusively demonstrated that it has no will to save itself" (New York Times, March 21, 1964). "I consider the life of one American worth more than this putrid mess," he continued. "I consider every additional life that is sacrificed in this forlorn venture a tragedy. Some day—not distant—if this sacrificing continues, it will be denounced as a crime."

With Senator Wayne Morse of Oregon, Gruening continued to agitate for withdrawal of United States forces from Vietnam during the Eighty-ninth Congress. In a debate in New York City with William P. Bundy, Assistant Secretary of State for Far Eastern Affairs, in April 1965 he contended that the American presence in Vietnam violated both the 1954 Geneva agreement on Indochina and the United Nations Charter. "We've never quite leveled with the American people," he said on that occasion, as quoted in the New York Times (April 23, 1965). In an address eight months later in New York he challenged President Johnson's assertion that his administration was keeping a solemn pledge made by the Eisenhower administration and recognized by the Kennedy administration. He quoted from correspondence between Eisenhower and the late Premier Ngo Dinh Diem of South Vietnam to show that Eisenhower had offered only limited economic assistance and that this offer was contingent upon "assurances as to standards of performance" and "needed reforms." "One of the partial myths on which we base our actions is that the whole trouble stems from aggression from Hanoi," Gruening said, and against that argument he quoted President Kennedy as describing the conflict in Vietnam as a "civil war." "We asked ourselves in," Gruening asserted, and he called for a "return to the rule of law" (New York Times, December 11, 1965). In Senate voting on March 10 and March 22, 1965, Morse and Gruening were the only two Senators who voted against Vietnam appropriations bills. Later in 1966 he tempered somewhat his position on Vietnam.

Gruening has sponsored a major power project, Rampart Canyon Dam and Reservoir Project, to be built on the Yukon River in the Yukon Flats of northeastern Alaska at a cost of more than $1.3 billion. With an installed capacity of 5,000,000 kilowatts supplying power at the low cost of two mills/kw. hour, it would flood 11,000 square miles, a land mass greater than that covered by the entire state of New Jersey, to create the world's largest man-made reservoir. Proponents of the project, who include Alaskan real estate operators and other businessmen, argue that it would attract new industry to Alaska by providing cheap hydroelectric power. Opponents, who include conservationists, sportsmen, and many settlers, contend that the dam is unnecessary and point out that it would wipe out enormous fish and wildlife resources and dispossess 2,000 Athabascan Indians living on the proposed site. The Corps of Engineers completed its engineering studies in 1965, and in mid-1966 were awaiting the needed supplementary reports from the Interior Department.

At the beginning of the second session of the Eighty-ninth Congress in 1966, Gruening sponsored legislation to create two new sub-Cabinet posts concerned with population problems. One, in the Department of Health, Education, and Welfare, would deal with birth control in the United States. The other, in the Department of State, would be concerned with world population problems. In May 1966 Gruening, speaking as chairman of the Senate Government Operations subcommittee on foreign aid expenditures, charged that the United States military services, and especially the Army, were wasting millions of dollars annually by prematurely disposing of equipment overseas as surplus instead of repairing it.

Ernest Gruening and Dorothy E. Smith were married on November 19, 1914. They have a son, Huntington Sanders Gruening. Two other sons, Ernest, Jr., and Peter Brown, are deceased. Gruening is a member of the Council on Foreign Relations, the American Academy of Political and Social Science, and Phi Beta Kappa. His clubs are the Harvard in New York and the Cosmos in Washington. He is a Rotarian. Honorary degrees have been bestowed on Gruening by the University of Alberta (1950), the University of Alaska (1955), and Brandeis University (1958).

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SENATE MINORITY LEADER HONORED

Mr. BROOKE. Mr. President, on Saturday, January 26, 1974, here in Washington, our minority leader, Senator Hugh Scott, was honored in a Night of Honors Salute to the Honorable Hugh Scott. I was pleased to serve as honorary chairman of this event in which tributes were paid to Hugh Scott for his unstinting efforts to insure the rights of all Americans. In a speech at the salute, Clarence Mitchell, director of the Washington Bureau of the National Association for the Advancement of Colored People, summed up Senator Scott's record of devotion to the 14th amendment's grand promise of "equal treatment under the law." I would like to share Mr. Mitchell's tribute with my colleagues and I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

If a country is to avoid apathy and moral decay its people must cherish their assets as well as condemn their wrongs and liabilities. One of the valuable assets in a democracy is the faithful and effective public servant who seeks to improve the lot of all of his fellow citizens. Tonight we meet to pay our respect to that kind of public servant who has risen to one of the most powerful positions in our nation. Yet, he has retained the concern for the well being and progress of the people in all walks of life that many of us saw in him as a member of the House more than thirty years ago.

Senator Hugh Scott, the distinguished minority leader, was from the beginning of his service in Congress, and remains to this day, a defender of human rights that rest on foundations built by the founders of the country and strengthened by Abraham Lincoln. In the many years that I have been privileged to know him and to seek his help on some of the great issues of our times, I have never been denied an audience with him. I have never left a meeting with him without getting accurate information on his position and the reassurance of his continuing commitment to equal rights for all.

Our honoree need not ever recite his record among those who are students of the long and increasingly successful struggle that black Americans have waged to achieve their full citizenship rights and to be in a position to accept their full responsibilities.

Many believe that the right to vote is the cornerstone of freedom. In the twentieth century there are few men or women who can rival Senator Scott for devotion and effectiveness in safeguarding this right for black Americans under Federal law.

On February 21, 1956, the then Representative Scott joined with the late Adam Clayton Powell, Jr., Democrat of New York, in making an announcement that a bi-partisan group of congressmen had decided to do "everything possible" to bring voting rights legislation to the House floor. Voting rights legislation did get to the floor and passed the House that year. However, it did not pass the Senate that year, but Senator Scott took the lead in making certain that the platform adopted by the Republican Party in 1956 contained a commitment to support this civil rights objective. As we know, the bill was bottled up in the House Rules Committee in 1957. Mr. Scott was one of the majority of 8 to 4 that pried the bill loose.

That measure, which was piloted through Congress by a superb team of Democrats and Republicans not only took a step forward on voting rights, but also created what is now the civil rights division of the Department of Justice and the Civil Rights Commission. If anyone needs an illustration of his fidelity to the right to vote, that person need only look at the record of the passage of the great Voting Rights Acts of 1965, and the extension of key provisions of that act in 1970. Working across party lines with another great humanitarian, Senator Philip Hart (D–Mich.), Mr. Scott helped to rally his colleagues to pass the extension and also to have included provisions permitting eighteen year olds to vote.

When the Monumental Civil Rights Bill of 1964 was passed he was one of the captains of Senate teams working to protect this legislation against crippling amendments. Again, as with voting rights, he has a proud record of support for two provisions of the 1964 act that faced the greatest danger of being dropped and have later been proved to be of great value in our society. Title VI of the Act forbids discrimination in activities or programs supported by Federal funds and Title VII established the Equal Employment Opportunity Commission.

The record shows that as far back as 1955 Senator Scott voted for Federal aid to education, including a provision forbidding expenditures for segregated schools. He previously voted against segregation in the armed forces, against segregation in the national guard and against segregation in veterans hospitals.

On the issue of fair employment, on June 2, 1944, he appeared before the House Labor Committee to testify in support of fair employment legislation with enforcement powers. World War II had emphasized the great inequalities in Employment that afflicted blacks and other minorities. Addressing himself to this, Mr. Scott said:

"I am in favor of setting up the fair employment practice commission as a permanent agency. . . . So that ultimately the Negro citizens of this country will be as well represented up and down the various economic strata as any other group of Americans."

Not only did he work to keep title VII in the 1964 act, but he has remained a true, effective and successful advocate of fair housing. On July 29, 1955, Mr. Scott voted to support an anti-segregation amendment to a pending housing bill. Two decades later, when President Lyndon B. Johnson challenged the Congress to rally to his standard and support a national fair housing law there were many who thought this was an impossible task. But in spite of the odds against them, some were determined to accept the challenge. They weighed all of the possibilities, they were fully conscious of the risks of failure. Senator Scott was among the first to announce his intention to make the effort. He and his colleagues, took their stand against tremendous odds, they fought the fight and when victory came first in the Senate on March 11, 1968, in the form of a 71 to 20 vote for passage of the bill, one could sense that this effort had aroused the noblest sentiments throughout our land. It was a proud moment that placed our honoree in the select circle of men and women who keep the torch of freedom ever bright.

In addition to these landmark contributions of the senior Senator from the State of Pennsylvania, the record is studded with his votes for such things as minimum wage and anti-poverty bills. He has worked for decent housing for the poor as well as for the middle class, he has sought to end restrictive and discriminatory immigration policies. It is safe to say that we can find his mark and support for most of the great laws passed from the 77th Congress when he was a new addition to the 93rd where he is an admired and constructive leader.

In these times we faced many tests. One that we have faced and must continue to meet is the question of pupil transportation to public schools. This is a matter that tests whether we are a nation that respects law as interpreted by our highest court. This is a matter that tests whether those who were in favor of giving blacks their rights in Alabama and Mississippi also favor giving them their rights in Ohio and Pennsylvania. Senator Scott has met that test by supporting Supreme Court decisions and opposing unconstitutional proposals to prevent black children from riding on buses bound for the places of learning.

Some have favored statehood for Alaska and Hawaii, but not home rule in the District of Columbia. Senator Scott was for statehood of these distant parts of our country and he was for the rights of the people of the District of Columbia to have home rule, too.

Some would sweep away all of the social and economic reforms that have been won during the last half century in our nation. They would turn the United States into a country of fearful, narrow minded penny pinching naysayers sneaking back into the shadows of callous indifference. But Senator Scott has remained as he has always been in his years in Washington. He continues to support the principle that in a bountiful America sensible ways can be found for all of our people to share in that bounty.

Those of us who cherish his friendship, who value his contributions as a public servant and who know that he will be ever true to the trust imposed in him have gathered here tonight. I am sure I express your sentiments when I say Hugh Scott, may you be blessed with long life, may you have good health and may you ever be mindful that we thank you for your good deeds.

DEFENSE SPENDING

Mr. GOLDWATER. Mr. President, we can expect beginning immediately a barrage against defense spending, so to prepare my colleagues in order that they can separate the truth from the untruth, I ask unanimous consent to print in the Record some "Facts to Paste in Your Hat." This compilation did not come from any wildeyed foundation or outside study group, it came from the Senate Appropriations Committee whose chairman is recognized as one of the most brilliant men in this body. The summation which was prepared by the committee was published in Air Force magazine.

There being no objection, the summation was ordered to be printed in the Record, as follows:

Facts to Paste in Your Hat

The Senate Appropriations Committee has summarized some truths about defense spending and its relation to other government costs. Main points are:

In Fiscal 1964, defense absorbed 42.8 percent of federal outlays. The figure for Fiscal 1974 is 29.4 percent.

Over the past decade, government costs have gone up 127 percent. Defense costs have gone up fifty-seven percent. As a percentage of total outlays, they have gone down thirteen percent.

If we separate the costs of defense from the costs of the rest of government, the fifty-seven percent increase in defense compares with a 176 percent increase in costs for all other activity.

Twenty years ago, defense spending was double that of all other federal agencies. Today, the other agencies spend more than twice what the Pentagon spends.

Twenty years ago, defense spending was double that of all state and local governments combined. Today, the situation is reversed.

Twenty years ago, about forty-nine cents out of every tax dollar—federal, state, and local—went for defense. Today, the figure is nineteen cents.

Twenty years ago, total defense manpower was nearly equal to all other public employment—federal, state, and local—combined. Today, such other public employment exceeds defense manpower by nearly four to one.

Defense spending, for the first time in American history, is today below prewar levels in terms of what the dollar will buy. That is true either after or during a war.

The committee conclusion:

1. The defense budget does not dominate public spending.

2. The defense budget is not the primary cause of the high cost of government.

3. The defense budget has not deprived human resources programs of needed funds.

NEWS COVERAGE OF CORPORATION EARNINGS

Mr. COOK. Mr. President, I have not been one of those who has continually attacked the media of this country for its coverage of the news. However, two items appearing in yesterday's Washington Post amused me so much that I cannot resist bringing them to the attention of my colleagues.

On the first page of the business section was an article reporting the 1973 earnings of the American Telephone & Telegraph Co. In large headlines were the words "A.T. & T. profits up 16 percent, 'not enough.'" The phrase "not enough" was from a statement by Mr. John D. deButts, chairman of the board, who explained that those higher earnings would not be sufficient to meet 1974 capital requirements of $10 billion for new plants and equipment.

On the following page was a similar report for the New York Times. The headline which was at least five times smaller than the one for the A.T. & T. story, read "Dividend Up at the Times." The headline did not mention that the Times' 1973 earnings were 29.4 percent higher than 1972. In 1973, net earnings were $17,610,000, up from $13,602,000 in 1972.

I find it highly ironic that the Post would give so much space and emphasis to a 16 percent increase in earnings for tightly regulated A.T. & T. and such little emphasis to the unregulated New York Times, the country's best known newspaper.

Since the Washington Post is the Nation's most profitable newspaper, I await with great eagerness its coverage of its 1973 earnings.

I ask unanimous consent that the texts of the two articles be included in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Earnings Reports: A.T. & T. Profits Up 16 Percent, "Not Enough"

American Telephone & Telegraph Co. yesterday reported 1973 earnings of $2.046 billion ($4.98 per share of common stock), up a healthy 16.4 per cent from the $2.532 ($4.34) earned in 1972.

Taking into account a one-time profit of $47 million realized from the sale of AT&T's Communications Satellite Corp. stock, final net income for the giant utility came to $2.993 billion ($5.06) for 1973.

The earnings jump was attributed to a 9 per cent increase in telephone use, control of costs and telephone rate increases handed down by regulatory agencies.

"While 1973's results are good, they're not good enough in the context of inflation and the amount of capital required to provide . . . service," AT&T chairman John D. deButts said.

"Our aim is to improve on the 8.30 per cent return on total investment we achieved last year," he added.

DeButts said AT&T would have to spend $10 billion in new plant and equipment in 1974, requiring $4 billion external capital which will be raised primarily through debt issues. He said the company will probably not make any new common stock offerings this year.

Total Bell System revenues were $23.527 billion in 1973, up 12.5 per cent over the 1972 figure of $20.904 billion. Operating costs were up 11.0 per cent to $15.000 billion from $13.518 billion a year earlier.

Dividend Up at the Times

The New York Times has declared a dividend of $1.56 a share for 1973 compared to $1.17 for the previous year. The net profits were $17,610,000, up from 1972's $13,602,000.

The fourth quarter net was $3,674,000 or 33 cents a share against 1972's $5,141,000 or 44 cents a share in the same period.

The 1973 figures reflect a provision for a Canadian non-resident withholding tax of $1,386,000, equivalent to 12 cents a share, on a dividend of $9,240,000 payable by Spruce Falls Power & Paper Co. Ltd., a company in which the Times owns a 49.5 per cent equity interest.

MULTILATERAL DISARMAMENT

Mr. GOLDWATER. Mr. President, already some of my distinguished colleagues are calling for multilateral disarmament aimed, not just at the Soviets, but with all of the armed nations in the world. I will say, at the outset, no one in this body would be more inclined to welcome such an approach than I. But I must say I see no indication at all that the Soviets or Red Chinese are easing up in their race for strategic superiority over the United States—a position the Soviets have already achieved in almost every phase of military preparedness. Unilateral disarmament is an impossibility in this dangerous world and I hope my colleagues understand that when we discuss disarmament, we should talk only about multilateral. Let us hope and pray that some day our potential enemies will join us in such an endeavor.

In order for the Members of the Senate to understand what we are doing and what the rest of the world is doing in aircraft, I ask unanimous consent to print in the Record a continuation of the breakdown I offered earlier in the session from Jane's "All The World's Aircraft." This particular piece is a supplement.

There being no objection, the article was ordered to be printed in the Record, as follows:

Jane's All the World's Aircraft Supplement

Note. Illustrations are omitted in Record.

Antonov: Oleg Konst Antinovich Antonov; Design Bureau Headquarters: Kiev, Ukraine, USSR.

ANTONOV AN-30

Described as the first specialised aerial survey aeroplane produced in the Soviet Union, the An-30 is evolved from the An-24 twin-turboprop transport, to which it is generally similar. The major modifications are made to the nose, which is now extensively glazed to give the navigator a wide field of vision, and to the flight deck, which is raised to improve the pilots' view and increase the size of the navigator's compartment. There are fewer windows in the main cabin, the central part of which houses specialised survey equipment.

For the primary task of air photography for map-making, the An-30 is equipped with four large survey cameras. These are mounted in the cabin above apertures which are each covered by a door. The crew photographer uncovers the apertures, as required, by remote control from his desk in the aircraft. A fifth window is provided for an exposure meter.

Details of the An-30 published in the Far East suggest that one of the survey cameras can be stabilised, in gimbal mountings, to ensure precise photographic coverage of the desired area in turbulent conditions.

The pre-programmed flight path of the aircraft over the area to be photographed is fed into an'on-board computer which controls the speed, altitude, and direction of flight throughout the mission. If required the cameras can be replaced by other kinds of survey equipment, such as those used for mineral prospecting or for microwave radiometer survey, which measures the heat emission of land and ocean to obtain data on ocean surface characteristics, sea and lake ice, snow cover, flooding, seasonal vegetation changes, and soil types.

Speed, range, and field performance of the An-30 are identical with those of the An-24, as detailed in the current edition of *Jane's*.

Mikoyan: Artem I. Mikoyan Design Bureau; USSR

MIKOYAN MIG-25 (E-266)

NATO Code Name: "Foxbat"

Details of new speed and height records established by test pilot Alexander Fedotov in a standard production MiG-25 (described as an E-266 in official Soviet statements) were given in the annual "Aerospace Survey" article in the January 1974 issue of Air Force Magazine. Three further records, in the time-to-height category, have been claimed by Pyotr Ostapenko and Boris Orlov, flying similar aircraft.

The only record so far confirmed is Fedotov's speed of 1,405.72 knots (1,618.73 mph; 2,605.1 km/h), set up in April 1973 during a tightly banked turn which began at a height of 52,500 ft (16,000 m) and ended at 65,600 ft (20,000 m). Fedotov has since claimed a world absolute height record of 118,897 ft (36,240 m), and a climb to 115,486 ft (35,200 m) carrying a 2,000 kg payload and qualifying also for the record with 1,000 kg.

In the time-to-height record attempts, Ostapenko claims to have reached 30,000 m (98,425 ft) in 4 min 3.5 sec, and 25,000 m (82,021 ft) in 3 min 12.4 sec. Orlov's claim is for a climb to 20,000 m (65,617 ft) in 2 min 49.8 sec. Rate of climb of the aircraft is said to have reached 320 m/sec (627 knots; 722 mph; 1,162 km/h; or 63,000 ft/min) during periods of Orlov's flight.

Boeing: Boeing Aerospace Company; Head Office: P.O. Box 3999, Seattle, Washington 98124, USA.

BOEING AWACS

USAF designations: EC-137D and E-3A

The E-3A AWACS (Airborne Warning and Control System) aircraft being developed for USAF service in the late 1970s will be equipped with extensive sensing, communications, display, and navigational devices.

In concept, an AWACS offers the potential of long-range high- or low-level surveillance of all air vehicles, manned or unmanned, in all weathers and above all kinds of terrain. Its data shortage and processing capability would provide real-time assessment of enemy action, and also of the status and position of friendly resources. By centralising the co-ordination of complex, diverse, and simultaneous air operations, such an aircraft would be able to command and control the total air effort: strike, air superiority, support, airlift, reconnaissance, and interdiction.

The primary use of such an aircraft, as deployed by Aerospace Defense Command, will be as a survivable early-warning airborne command and control centre for identification, surveillance, and tracking of airborne enemy forces and for the command and control of NORAD (North American Air Defense) forces. Similar aircraft, operated by Tactical Air Command, will be used as airborne command and control centres for quick-reaction deployment and tactical operations.

Boeing's Aerospace Group was one of two competitors for the AWACS system (the other being McDonnell Douglas), and was awarded an initial contract as prime contractor and systems integrator for the programme on 23 July 1970. Boeing's submission was based on the airframe of the Model 707-320B commercial jet transport. In Phase 1 of the development programme, two of these aircraft, with the prototype designation EC-137D, were modified initially for comparative trials with prototype downward-looking radars designed, respectively, by Hughes Aircraft Company and Westinghouse Electric Corporation.

The first flight by one of these aircraft was made on 9 February 1972. After more than five months of radar test flights, during which each radar accumulated over 290 hours of airborne operating time, Boeing completed its evaluation, and the Westinghouse radar was selected on 5 October 1972. Following successful completion of the radar competition, additional data processing equipment and two tracking displays were installed in the Westinghouse-equipment test aircraft, and a new series of flight tests was conducted to demonstrate the ability of the radar and data processor to detect and maintain continuous tracking of airborne targets. In addition, the capability of the system to maintain several simultaneous tracks was evaluated. These tests also proved successful, and were completed by 6 November 1972.

On 26 January 1973, the USAF announced that, following satisfactory completion of Phase 1, approval had been given for full-scale development of the AWACS aircraft under Phase 2 of the programme. To reduce costs, two major changes were made from the original Phase 2 proposal. The previously planned power plant of eight General Electric TF34-GE-2 turbofan engines were superseded by four Pratt & Whitney TF33-P-7 turbofans, each of 21,000 lb (9,525 kg) st; and only four test aircraft were ordered instead of the six originally envisaged.

Phase 2 of the development programme involves systems integration demonstration, and initial operational test and evaluation. Additional subsystems are being installed in one of the two existing EC-137-D test aircraft, so that it can demonstrate full AWACS capability. At a later date the USAF plans to use three of the fully-configured E-3A AWACS prototypes, together with the other one of the original EC-137D test prototypes, for a development/operational test and evaluation programme. Following successful demonstration of the full AWACS system, a production (Phase 3) decision is scheduled for December 1974. If production is approved, it is intended that the four development/operational test aircraft shall be refurbished and will enter the operational inventory. Phase 3, if approved, will also cover the manufacture of production aircraft, of which 42 were due to be built under plans announced in 1970.

In addition to meeting military requirements, AWACS aircraft could be used in many civil applications. A large-scale emergency, such as posed by earthquake or flood, needs rapid air delivery of relief materials and produces immediately an air traffic control problem. The highly mobile AWACS would be able to cope with such a situation quickly. They could be used also for air traffic control operations over the busy North Atlantic traffic lanes that lack mid-ocean control, improving route efficiency and safety margins. Such aircraft might prove invaluable for tracking tornadoes and marshaling relief forces in their wake.

The existing Boeing 707-320 requires relatively minor adaptation to accommodate the AWAC system. External changes include the rotodome assembly, which is mounted on two large struts rooted into the fuselage structure aft of the wing, new engine pylon fairings, specially located windows, doors, and hatches, and provisions for in-flight refueling. Essential antennae will be installed within the wings, fin, tailplane, and fuselage, and internal changes require floor reinforcement, provision of crew compartments, and revised cooling and wiring systems.

Type: Airborne early-warning and command post aircraft.

Wing, Fuselage, Tail Unit, and Landing Gear: Basically as Boeing 707-320B, with strengthened fuselage structure and installation of rotodome.

Power Plant: Prototypes retained their existing power plants during Phase 1. Pre-production and production aircraft will be powered by four Pratt & Whitney TF33-P-7 turbofan engines, redesignated TF33-PW-100/100A in their AWACS-modified configuration. Each rated at 21,000 lb (9,525 kg) st, they are mounted in pods beneath the wings.

Accommodation: Basic operational crew of 17 includes a flight crew complement of four plus thirteen AWACS specialists, though this latter number can vary for tactical and defense missions. Aft of flight deck on the System Integration Demonstration aircraft are the crew's rest area; test analyst/communications console; computer operator's console; communications equipment; data processing functional group; multi-purpose consoles; test director and test conductor stations; radar control consoles; radar receiver and signal processor with radar transmitter, radar specialist's station, display engineer's station and seating for observers in the same area; communications equipment; navigation and identification equipment flight test instrumentation; instrumentation engineer's seating and observers' seating.

Electronics and Equipment: Prominent above the fuselage is the elliptical cross-section rotodome which is 30 ft (9.14 m) in diameter and 6 ft (1.83 m) in depth. It comprises four essential elements: a strut-mounted turntable, supporting the rotary joint assembly to which are attached slip-rings for electrical and waveguide continuity between rotodome and fuselage; a structural centre section of aluminium skin and stiffener construction, which supports the surveillance radar and IFF/TADIL C antennae, radomes, auxiliary equipment for radar operation and environmental control of the rotodome interior; liquid cooling of the radar antenna; and two radomes constructed of multi-layer glassfibre sandwich material, one for the surveillance radar and one for the IFF/TADIL C array. For surveillance operations the rotodome is hydraulically driven at 6 rpm, but during non-operational flights it is rotated at only ¼ rpm, to keep the bearings lubricated. The Westinghouse radar operates in the S band; by use of pulse Doppler technology, with a high pulse repetition frequency, this radar features long range and accuracy in addition to a normal downlook capability. Its antenna, spanning about 24 ft (7.32 m), and 5 ft (1.52 m) deep, scans mechanically in azimuth, and electronically from ground level up into the stratosphere. Heart of the data processing is an IBM 4 Pi CC-1 high-speed computer, the entire group consisting of arithmetic control units, input/output units, main storage units, peripheral control units, mass memory drums, magnetic tape transports, punched tape reader, line printer, and an operator's control panel. Processing speed is in the order of 740,000 operations/sec; input/output data rate has a maximum of 710,000 words/sec; main memory size is 114,688 words (expandable to 180,224), and mass memory size 802,816 words (expandable to 1,204,224). An interface adapter unit developed by Boeing is the key integrating element interconnecting functional data between AWACS avionics subsystems, data processing group, radar, communications, navigation/guidance, display, azimuth, and identification. Data display and control is provided by Hazeltine Corporation multi-purpose consoles (MPC) and auxiliary display units (ADU); in present configuration each AWACS aircraft carries nine MPC's and two ADUs. Navigation/guidance relies upon three principal sources of information: dual Delco Carousel IV inertial navigation sets; Northrop ARN-99 Omega navigation; and a Ryan APM-200 Doppler velocity sensor. Communications equipment, supplied by Collins Radio, Electronic Communications Inc, and Hughes Aircraft, provides HF, VHF, and UHF communication channels by means of which information can be transmitted or received in clear or secure mode, in voice or digital form. Identification is based on an AN/APX-103 interrogator set being developed by Cutler-Hammer's AIL Division. It is the first airborne IFF interrogator set to offer complete AIMS Mk X SIF air traffic control and Mk XII military identification friend or foe (IFF) in a single integrated system. Simultaneous Mk X and Mk II multi-target and multi-mode operations will allow the operator to obtain instantaneously the range, azimuth and elevation, code identification, and IFF status of all targets within radar range.

Systems: A liquid cooling system provides protection for the radar transmitter. An air-cycle pack system and a closed-loop ram-cooled environmental control system ensure a suitable environment for crew and avionics equipment. Electrical power generation has a 600kVA capability. External sockets allow intake of power when the aircraft is on the ground; but the AiResearch auxiliary power unit has adequate capacity to allow operation from bases without suitable power generation facilities. Two separate and independent hydraulic systems power flight-essential and mission-essential equipment, but either system has the capability of satisfying the requirements of both equipment groups in an emergency.

Bell: Bell Helicopter Company; Head Office: PO Box 482, Fort Worth, Texas 76101, USA

BELL MODEL 206L LONG RANGER

First announced on 25 September 1973, Bell's Long Ranger is intended to satisfy a requirement for a turbine-powered general-purpose light helicopter in a size and performance range between the five-seat Jet-Ranger II and 15-seat Model 205A-1.

Developed from the JetRanger II, it has a fuselage which is 2 ft 1 in (0.64 m) longer, an Allison 250-C20B engine with a take-off rating of 420 shp and continuous rating of 370 shp, new rotor, and uprated transmission system. It is the first production helicopter to incorporate Bell's new Noda-Matic cabin suspension system. An increase of 22 US gallons (83.3 litres) in fuel capacity will extend range by over 39 nm (45 miles; 72 km) at maximum take-off weight. To be certificated at a maximum T-O weight of 3,000 lb (1,769 kg), and with a useful load of 2,039 lb (925 kg), this represents increases of 700 lb (318 kg) and 367 lb (166 kg), respectively, by comparison with the JetRanger II.

The company's latest developments in transmission technology provide a power rating increase of more than one-third over the present light-turbine transmission, while adding only 8 lb (3.6 kg) to component weight.

The Noda-Matic transmission suspension system not only gives a substanial reduction in rotor-induced vibration particularly noticeable in high-speed cruise and maneuvering conditions, but also, through the use of elastometrics, isolates structure-borne noise from the cabin environment. This results in a standard of comfort comparable with that of turboprop-powered fixed-wing aircraft.

With a cabin volume of 83 cu ft (2.35 m^3), compared with the 49 cu ft (1.39 m^3) of the JetRanger II, utility is enhanced by innovations that will allow maximum use of this area. For example, the port forward passenger seat has a folding back to allow loading of a container measuring 8 x 3 ft x 1 ft (2.44 m x 0.91 m x 0.30 m), making possible the carriage of such items as survey equipment, skis, and long components that cannot be accommodated in any other light helicopter. Double doors on the port side of the cabin provide an opening 5 ft O in (1.52 m) in width, for easy straight-in loading of litter patients or utility cargo; in an ambulance or rescue role two litter patients plus two ambulatory patients/attendants may be carried. With a crew of two, the standard cabin layout accommodates five passengers in two canted aft-facing seats and three forward-facing seats. An optional executive cabin layout has four individual pasenger seats.

Detail improvements include a re-desigend instrument panel, pedestal and glare shield, to give the pilot improved visibility over the nose and through the lower forward windows.

A prototype of the Model 206L is flying, and initial deliveries of production aircraft are scheduled to be made in early 1975. Optional kits to be made available will include emergency flotation gear, a 2,000 lb (907 kg) cargo hook, and an engine bleed air environmental control unit.

Preliminary specifications for the Model 206L Long Ranger is as follows:

DIMENSION, EXTERNAL:

Diameter of main rotor, 37 ft 0 in (11.28m)

WEIGHTS:

Weight empty, standard configuration 1,861 lb (834 kg)

Max T–O weight, 3,900 lb (1,769 kg)

PERFORMANCE (ISA at max T–O weight):

Max level speed at S/L, 125 knots (144 mph; 232 km/h)

Cruising speed at S/L, 118 knots (136 mph; 219 km/h)

Service ceiling at max cruise power, 12,700 ft (3,870 m)

Hovering ceiling in ground effect, 8,200 ft (2,500 m)

Hovering ceiling out of ground effect, 2,000 ft (610 m)

Max range at S/L, 339 nm (390 miles; 628 km)

Max range at 5,000 ft (1,525 m), 373 nm (430 miles; 692 km)

McDonnell Douglas: McDonnell Douglas Corporation, Douglas Aircraft Company; Head Office: 3855 Lakewood Boulevard, Long Beach, California 90801, U.S.A.

M'DONNELL DOUGLAS C–9B: SKYTRAIN II

The U.S. Navy's C–9Z Skytrain II is a special convertible passenger-cargo version of the DC–9 Series 30 commercial transport, named after the long-enduring Navy R4D Skytrain, a DC–3 variant of which 624 were procured by that service.

The contract for five (increased subsequently to eight) C–9Bs, was signed by Naval Air Systems Command on 24 April 1972, and the first of these aircraft made its initial flight on 7 February 1973, two months ahead of schedule. The first two aircraft were delivered on 8 May 1973, to Fleet Tactical Support Squadron 1 (VR–1) at NAS Norfolk, Virginia, and 30 (VR–30) at NAS Alameda, California. All eight were delivered during 1973.

A compromise between the DC–9 Series 30 and 40, the C-9B has the overall dimensions of the former, and the 14,500 lb. (6,575 kg) st Pratt & Whitney JT8D–9 turbofan engines of the latter, as well as the optional 11 ft 4 in (3.45 m) by 6 ft 9 in (2.06 m) cargo door, which is situated at the port forward end of the cabin. This allows loading of standard military pallets measuring 7 ft 4 in (2.24 m) by 9 ft 0 in (2.74 m), and in an all-cargo configuration eight of these can be accommodated, representing a total cargo load of 32,444 lb (14,716 kg). When loading, each pallet is first elevated to door sill height, and then rolled forward on to a ball transfer system before being positioned finally by means of roller tracks.

Normal flight crew consists of pilot, copilot, crew chief, and two cabin attendants, and standard accommodation is for 90 passengers on five-abreast seating at 38 in (97 cm) pitch, or up to 107 passengers at 34 in (86 cm) pitch. In a typical passenger-cargo configuration, three pallets are carried in the forward area, with 45 passengers in the rear section. A galley and toilet are located at each end of the cabin. In all-cargo or mixed passenger-cargo configuration, a cargo barrier net can be erected at the forward end of the cabin; in the latter configuration a smoke barrier curtain is placed between the cargo section and the passengers.

Normal passenger access is by means of forward port and aft ventral doors, each with hydraulically-operated airstairs to make the C–9B independent of ground facilities. The ventral door allows passengers to board while cargo is being loaded in the forward area. Two Type III emergency exits, each 3 ft 0 in (0.91 m) by 1 ft 8 in (0.51 m), are positioned on each side of the fuselage to permit over-wing escape, and four 25-man life rafts are carried in stowage racks. To complete the C–9B's independence of ground facilities, an auxiliary power unit provides both electrical and hydraulic services when the aircraft is on the ground. An environmental control system maintains a sea level cabin altitude to a height of 18,500 ft (5,640 m) and an 8,000 ft (2,440 m) cabin altitude to 35,000 ft (10,670 m).

A maximum fuel capacity of 5,929 US gallons (22,443 litres) provides a ferry range of 2,953 nm (3,400 miles; 5,472 km), the standard wing fuel tanks being supplemented by a 1,250 US gallon (4,372 litre) tank in the forward underfloor freight hold, and a 1,000 US gallon (3,785 litre) tank in the aft hold.

Advanced nav/com equipment is installed, including Omega and inertial navigation systems, and FAA certification has been received for both manual and automatic approaches under Category II weather conditions.

DIMENSIONS, EXTERNAL: As for DC–9 Series 30

DIMENSIONS, INTERNAL: Cabin: Length, 68 ft 0 in (20.73 m); Width, 10 ft 0 in (3.05); Volume (cargo) 4,200 cu ft (118.9 m^3).

Baggage holds (underfloor):

Forward, 298 cu ft (8.44 m^3); Aft, 135 cu ft (3.82 m^3).

WEIGHTS:

Operating weight, empty: passenger configuration, 65,283 lb (29,612 kg); cargo configuration 59,706 lb (27,082 kg).

Max ramp weight, 111,000 lb (50,350 kg). Max T–O weight, 110,000 lb. (49,900 kg).

Max landing weight, 99,000 lb (44,906 kg).

PERFORMANCE (at max T–O weight unless otherwise specified:

MAX cruising speed, 500 knots (576 mph; 927 km/h).

Long-range cruising speed, 438 knots (504 mph; 811 km/h).

Military critical field length, 6,400 ft (1,951 m).

Landing distance, at max landing weight, 2,500 ft (762b).

Range, long-range cruising speed at 30,000 ft. (9,145 m) with 10,000 lb, (4,535 kg) payload, 2538 nm (2,923 miles; 4,704 km).

GRUMMAN AMERICAN

Grumman American Aviation Corporation; Head Office: 318 Bishop Road, Cleveland, Ohio 44143, USA.

Following upon Grumman Corporation's acquisition of the assets of the former American Aviation Corporation, a new subsidiary of the parent company, known as Grumman American Aviation Corporation, is continuing to build and market the AA–1 Trainer, Tr2, and AA–5 Traveler. Details of the 1974 models of these aircraft follow:

GRUMMAN AMERICAN AA–1B TRAINER

Designed originally as a specialized trainer version of the American Aviation AA–1 American Yankee, the prototype AA–1A Trainer first flew on 25 March 1970; FAA certification in the Normal and Utility categories was granted on 14 January 1971. The 1974 model, which has the designation AA–1B, introduces new bucket seats. Flight instruments and other accessories are repositioned, and cabin noise is reduced by using new front and rear canopy seals and bonded windscreen/canopy bars. A durable polyurethane two-tone exterior finish and white vinyl interior trim are standard.

Three versions of the Trainer are available, differing in installed equipment, any item of which may be added as optional to the Standard Trainer.

Standard Trainer. As described below.

Basic Trainer. As Standard Trainer, plus sensitive altimeter, electric clock, dual controls, Narco Escort 110 nav/com radio with M–700 microphone, headset, and antenna, de-luxe propeller spinner, tinted windows, turn co-ordinator and rate of climb indicators.

Advanced Trainer. As Basic Trainer, plus vacuum system, de-luxe interior, landing light, omni-flash beacon, outside air temperature gauge, heated pitot, true airspeed indicator, turn and bank indicator, and towbar.

Type: Two-seat trainer/utility monoplane.

Wings: Cantilever low-wing monoplane. Wing section NACA 64_2415 (modified). Dihedral 5°. Incidence 1° 25′. No sweep. Alclad aluminium skin and ribs, attached to main spar by adhesive bonding. Tube-type circular-section main spar serves as integral fuel tank. Plain ailerons of bonded construction, with honeycomb ribs and Alclad aluminium skin. Electrically-actuated plain trailing-edge flaps of bonded construction, with honeycomb ribs and aluminium skin. Ground-adjustable trim tab on each aileron.

Fuselage: Aluminum honeycomb cabin section and aluminium semi-monocoque rear fuselage structure, utilising adhesive bonding. The use of honeycomb eliminates false floors, resulting in greater usable space relative to cross-sectional area.

Tail Unit: Cantilever adhesive-bonded aluminium structure. Movable surfaces built up of honeycomb ribs bonded to sheet aluminium. All three fixed surfaces interchangeable. Combined trim and anti-servo tab in starboard elevator. Ground-adjustable trim tab on rudder.

Landing Gear: Non-retractable tricycle type. Nose gear of E6150 tubular steel, with large free-swivelling fork. Main legs are cantilever leaf springs of laminated glass-fibre.

Main-wheel tyres size 17 x 6.00-6 standard. Wheel fairings optional. Single-disc hydraulic brakes. Parking brake.

Power Plant: One 108 hp Lycoming O-235-C2C four-cylinder horizontally-opposed air-cooled engine, driving a McCauley two-blade fixed-pitch metal propeller with spinner. Optional cruise propeller, for improved cruise performance, and de-luxe spinner available. Two integral fuel tanks in wing spar, with total capacity of 24 US gallons (91 litres), of which 22 US gallons (83 litres) are usable. Refueling points at wingtips. Oil capacity 1.5 US gallons (5.7 litres).

Accommodation: Two individual seats side by side in enclosed cabin, under large transparent sliding canopy. Aircraft certificated for open-canopy flight. Optional seat for child. Cabin heated and ventilated, with windscreen defroster for pilot's side. Centre console, between seats, accommodates trim wheel and electric flap operating switch. Space for 100 lb (45 kg) baggage aft of seats.

Systems: Hydraulic system for brakes only. Electrical system includes 60A engine-driven alternator and 12V 25Ah battery. Vacuum system optional.

Electronics and Equipment: Standard equipment of Standard Trainer includes baggage straps, cabin air ventilators, canopy lock, chart holders, coat hook, glove compartment, dual seat belts and shoulder harness, aileron and elevator lock, flap position indicator, cabin dome, instrument and navigation lights, audible stall warning indicator, wing and tail tie-down rings. Optional equipment, additional to that shown in model listings, includes flight hour recorder, external power socket, canopy cover, canopy sun curtain, child's seat, cabin fire extinguisher, landing light, oil filler access door, cruise propeller, strobe lights, whitewall tyres, wheel fairings, wing-levelling system, winterisation kit, and an extensive range of avionics to customers' requirements.

Dimensions, external:

Wing span, 24 ft 6 in (7.47 m)

Wing chord (constant), 4 ft 1¼ in (1.25 m)

Wing aspect ratio, 5.975

Length overall, 19 ft 3 in (5.86 m)

Height overall, 7 ft 7¼ in (2.32 m)

Tailplane span, 7 ft 8¼ in (2.34 m)

Wheel track, 8 ft 3 in (2.45 m)

Wheelbase, 4 ft 4½ in (1.33 m)

Propeller diameter, 5 ft 11 in (1.80 m)

Dimensions, internal:

Cabin: Length, 4 ft 6 in (1.37 m)

Max width, 3 ft 5 in (1.04 m)

Max height 3 ft 9¼ in (1.15 m)

Floor area, 16.7 sq ft (1.55 m²)

Areas:

Wings, gross, 100.92 sq ft (9.38 m²)

Ailerons (total), 5.20 sq ft (0.48 m²)

Trailing-edge flaps (total), 5.44 sq ft (0.50 m²)

Fin, 4.76 sq ft (0.44 m²)

Rudder, including tab, 3.61 sq ft (0.34 m²)

Tailplane 9.52 sq ft (0.88 m²)

Elevators, including tab 7.22 sq ft (0.67 m²)

Weights and Loadings:

Weight empty, 980 lb (445 kg)

Max T-O and landing weight 1,560 lb (708 kg)

Max wing loading, 15.4 lb/sq ft (75.1 kg/m²)

Max power loading 14.4 lb/hp (6.5 kg/hp)

Performance (at max T-O weight, with 53 in pitch propeller):

Max level speed at S/L, 120 knots (138 mph; 222 km/h)

Max cruising speed, 75% power at 3,000 ft (915 m), 108 knots (124 mph; 200 km/h)

Stalling speed, flaps down, 52 knots (60 mph; 96.5 km/h)

Stalling speed, flaps up, 54 knots (62 mph; 100 km/h)

Max rate of climb at S/L, 705 ft (215 m)/min

Service ceiling, 12,750 ft (3,886 m)

T-O run, 890 ft (271 m)

T-O to 50 ft (15 m), 1,590 ft (485 m)

Landing from 50 ft (15 m), 1,100 ft (335 m)

Landing run, 410 ft (125 m)

Range, 75% power at 3,000 ft (915 m), with 45 min reserve, 298 nm (343 miles; 552 km)

Range, 75% power at 3,000 ft (915 m), with no reserve, 378 nm (435 miles; 700 km)

GRUMMAN AMERICAN TR2

Generally similar to the Grumman American Trainer, the Tr2 is intended to satisfy a dual requirement: as an advanced trainer or as a sports aircraft with de-luxe equipment.

It is generally similar to the Advanced Trainer version of the AA-1B, but has in addition the following equipment as standard: carpeted floor to cabin and baggage area, deluxe vinyl/fabric interior, and polyurethane external trim in five combinations; Narco Com 10A/Nav 10 radio in lieu of Escort 110, with M-700 microphone, headset, loudspeaker, and antenna. The 57 in pitch McCauley cruise propeller is standard on the Tr2, the climb propeller as fitted to the AA-1B being available optionally. A three-tone exterior finish is also standard on this model.

Weights:

Weight empty, 1,035 lb (469 kg)

Max T-O and landing weight, 1,560 lb (708 kg)

Performance (at max T-O weight, with 57 in pitch propeller):

Max level speed at S/L, 125 knots (144 mph; 232 km/h)

Max cruising speed, 75% power at 8,000 ft (2,440 m), 115.5 knots (133 mph; 214 km/h)

Stalling speed, flaps down, 52 knots (60 mph; 96.5 km/h)

Stalling speed, flaps up, 54 knots (62 mph; 100 km/h)

Max rate of climb at S/L, 660 ft (201 m)/min

Service ceiling, 11,550 ft (3,520 m)

T-O run, 890 ft (271 m)

T-O to 50 ft (15 m), 1,590 ft (485 m)

Landing from 50 ft (15 m), 1,100 ft (335 m)

Landing run, 410 ft (125 m)

Range, 75% power at 8,000 ft (2,550 m), with 45 min reserve, 315 nm (363 miles; 584 km)

Range, 75% power at 8,000 ft (2,440 m), with no reserve, 402 nm (463 miles; 745 km)

GRUMMAN AMERICAN AA-5 TRAVELER

This is an enlarged version of the AA-1B, with increased wing span, a more powerful engine, and an extended fuselage to provide accommodation for a pilot and three passengers. The first flight of the original AA-5 was made on 21 August 1970, and FAA certification was awarded on 12 November 1971.

The 1974 model of the AA-5 introduces the improvements detailed for the AA-1B. In addition, the occupants' visibility is improved as the result of a 1 ft 0 in (0.30 m) extension in the aft side windows; there is an enlarged baggage compartment with hat rack, an external access door to the baggage compartment on the port side of the fuselage, and a newly styled dorsal fin.

Two versions of the AA-5 are available as follows:

AA-5 Traveler. Standard version, as described below.

AA-5 Traveler Deluxe. As standard version, plus the following additional equipment: sensitive altimeter, omni-flash beacon, dual controls, vacuum system, landing light, outside air temperature gauge, heated pitot, tinted windows, turn co-ordinator and rate of climb indicators, and two-bar

The general description of the AA-1B applies also to the AA-5, except as detailed below:

Type: Four-seat cabin monoplane.

Wings: Generally as for AA-1B, except that wing span and chord are increased.

Fuselage: As for AA-1B, except length increased.

Tail Unit: As for AA-1B, except general dimensions increased, and the addition of dorsal and ventral fins, and spin fillets on inboard leading-edges of tailplane. Combined trim and anti-servo tab in port and starboard elevators.

Landing Gear: As for AA-1B.

Power Plant: One 150 hp Lycoming O-320-E2G four-cylinder horizontally-opposed air-cooled engine, driving a McCauley fixed-pitch two-blade metal propeller with spinner. Two integral fuel tanks in wing spars, with a total capacity of 38 US gallons (144 litres) dorsal and ventral fins, and spin fillets on of which 37 US gallons (140 litres) are usable. Refueling point in upper surface of each wing. Oil capacity 2 US gallons (7.5 litres).

Accommodation: Pilot and three passengers in enclosed cabin, on four individual bucket seats, in pairs, with baggage area aft of rear seats. Maximum baggage load 120 lb (54.4 kg).

Systems: As for AA-1B.

Electronics and Equipment: AA-5 Traveler as for Tr2, plus armrests and two headrests. Optional equipment for both versions includes emergency locator transmitter, flight hour recorder, true airspeed indicator, turn and bank indicator, external power socket, canopy cover, dual defrosters, cabin fire extinguisher, rear seat ventilation, access steps, strobe lights, whitewall tyres, quick oil drain valve, wheel fairings, wing levelling system, and winterisation kit. The additional items of equipment detailed for the AA-5 Traveler Deluxe are also available optionally for the AA-5 Traveler.

Dimensions, external:

Wing span, 31 ft 6 in (9.60 m)

Wing chord (constant), 4 ft 5¼ in (1.35 m)

Wing aspect ratio, 7.10

Length overall, 22 ft 0 in (6.71 m)

Height overall, 8 ft 0 in (2.44 m)

Tailplane span, 8 ft 8½ in (2.65 m)

Wheel track, 8 ft 3 in (2.51 m)

Wheelbase, 5 ft 4½ in (1.64 m)

Propeller diameter, 6 ft 1 in (1.85 m)

Dimensions, internal:

Cabin: Length, 6 ft 6 in (1.98 m)

Max width, 3 ft 5 in (1.04 m)

Max height, 4 ft 0¼ in (1.23 m)

Floor area, 23.5 sq ft (2.18m²)

Areas:

Wings, gross, 140.12 sq ft (13.02m²)

Ailerons (total), 7.74 sq ft (0.72 m²)

Trailing-edge flaps (total), 16.26 sq ft (1.51 m²)

Rudder, 3.61 sq ft (0.34 m²)

Tailplane, 9.50 sq ft (0.88 m²)

Elevators, including tabs, 10.68 sq ft (0.99 m²)

Weights and Loadings:

Weight empty, 1,200 lb (544 kg)

Max T-O weight, 2,200 lb (998 kg)

Max wing loading, 15.7 lb/sq ft (76.6 kg/m²)

Max power loading, 14.7 lb/hp (6.67 kg/hp)

Performance (at max T-O weight):

Max level speed at S/L, 130 knots (150 mph; 241 km/h)

Max cruising speed, 75% power at 9,000 ft (2,745 m), 122 knots (140 mph; 225 km/h)

Stalling speed, flaps down, 50.5 knots (58 mph; 9.35 km/h)

Stalling speed, flaps up, 54 knots (62 mph; 100 km/h)

Max rate of climb at S/L, 660 ft (201 m)/min

Service ceiling, 12,650 ft (3,855 m)

T-O run, 880 ft (268 m)

T-O to 50 ft (15 m), 1,600 ft (488 m)

Landing from 50 ft (15 m), 1,100 ft (335 m)

Landing run, 380 ft (116 m)

Range, 75% power at 9,000 ft (2,745 m), with 45 min reserve, 430 nm (495 miles; 797 km)

Range, 75% power at 9,000 ft (2,745 m), with no reserve, 521 nm (600 miles; 966 km)

INDOCHINA AID FOR WAR

Mr. McGOVERN. Mr. President, much as we may find the task distasteful, I am convinced that the Congress must this year undertake a painstaking reexamination of the administration's policy in Indochina.

Most Americans probably believe that we decided last year to end our involvement and to let the people of Vietnam, Laos, and Cambodia settle their own affairs. That may be what we wanted to do. But it is not what we did.

Our troops are out, and, as of August 15, 1973, the U.S. bombardment of Cambodia was ended, under the explicit direction of the Congress. An amendment to the foreign aid bill, which was adopted after the war powers bill and thus takes precedence, specifically prohibits any further military activity by American forces in, over, or from off the shores of Indochina, regardless of the source of the funds.

But the war continues, and so does our involvement. Despite the Paris agreement, and despite the President's repeated claims that there is peace in Vietnam, more than 50,000 people were killed last year in that country. That is almost as many as the total number of Americans killed throughout all the years of our direct involvement in the fighting. If this is peace, then it is a bloody peace indeed. And while the pace of battle has ebbed and flowed, the same is true of Cambodia.

Further, the fighting is still fueled by American policy. Although Vietnamese and Cambodian surrogates are doing the fighting and the dying, American weapons are still doing the killing. Even our economic aid, far from rebuilding those ravaged countries, is instead serving to prevent a settlement and to continue the conflict.

The Paris agreement, which was resisted to the end by General Thieu's government, contemplated real accommodation between the warring factions of Vietnamese, on issues ranging from political prisoner release to national elections. I do not pretend to know how the North Vietnamese and the provisional revolutionary government respond in specific practice to that spirit. Publicly, at least, they embrace it. But we do know how the Thieu government reacts. There have been no accommodations. Instead, Saigon still pursues a total military victory, still outlaws and suppresses middle-ground elements that seek to honor the Paris agreement, and still demands—and receives—billions of dollars in American aid to underwrite that enterprise. Under the circumstances, I think it is clear that both our military aid and our economic aid are working contrary to what most of us perceive American policy to be.

What this suggests to me is that our policy yet contains a fundamental and very dangerous flaw. We still fail to recognize that there is no identity of interests and objectives between the people of the United States and the regime of General Thieu.

Our objective is to end the fighting, yet Mr. Thieu needs the fighting in order to maintain his power and in order to keep money and material flowing through the pipeline from Washington. We want to end this drain on our resources. Mr. Thieu wants to keep it going as long as he can. And in the face of those differences, it is incredible to think that the content of our policy is being dictated not by our own needs, but by demands from the presidential palace in Saigon, even to the point of periodic suggestions that we may send our bombers back over North Vietnam once again.

We are not breaking free from the grip of General Thieu. On the contrary, we are broadening and tightening the ties. We remain securely fastened in Vietnam. And in the past few days President Nixon has offered his fealty to yet another wobbly regime in Indochina, declaring his determination to "stand side by side" with Lon Nol's government in Cambodia.

But we have no commitment to either government. In the case of Cambodia, a commitment is explicitly ruled out. Section 7(b) of the Foreign Assistance Act of 1971 states flatly that any aid to Cambodia "shall not be construed as a commitment by the United States to Cambodia for its defense."

That is the law. The President has no authority to announce unilaterally that we are bound to underwrite Lon Nol's defense against a Cambodian insurgency.

So I believe the Congress has an obligation to face up to these issues. There are two very urgent reasons why we must do so this year.

One reason is the enormous economic cost—some $2.3 billion in Vietnam and Cambodia in fiscal 1974, and a probable sharp increase to at least $2.7 billion in fiscal 1975.

Contrast that generosity with the vote in the House of Representatives a few weeks ago against a $1.5 billion 4-year program for multilateral aid to the rest of the world. That vote killed a program that would have applied on an annual basis, for all countries that need aid, about one-sixth as much as we are squandering in Vietnam and Cambodia this year.

At a time when we are pleading poverty to so many people in desperate need, how can we possibly justify pouring all of this money into futile and destructive wars in Southeast Asia? When our food reserves have fallen so low that Food for Peace commitments are being curtailed in South Asia, Africa, and elsewhere in the face of famine, how can we possibly justify bigger food programs in Vietnam and Cambodia, especially when they are administered in ways that not only consume precious commodities but also serve as a back-door method of paying the troops and financing the war?

Over the next year or two we can project even more serious food emergencies around the world. The fertilizer shortage raises doubts about the projected growth in our own food output. It has the same effect elsewhere, and the problem is worsened by that fact that we have been urging the use of higher yield food grain seeds. With fertilizer those seeds produce much larger yields than ordinary varieties. But without it they produce much less. So what was a crisis this year in a few countries could be a calamity for millions of people one or two years hence.

And when our people are lined up waiting to buy high-priced gasoline, why do we continue to foot the bill for oil to power the needless war maneuvers now ravaging Southeast Asia?

If we cannot find enough fuel for our own needs, then I do not think we should be promoting steps to squander it on wars in Indochina. And if we do not have the food and funds to save lives in Bangladesh, in India, or in the Sahel, then I do not think we have the billions of dollars or the thousands of tons of wheat and rice that are demanded to underwrite the war plans of Asian dictators.

We must also examine these issues from the standpoint of the men who are still listed as missing in action in Indochina.

Within a few months after the Paris agreement was signed, some 580 American prisoners of war had come home. But although the Paris agreement spoke specifically to this point, there has still been no accounting for at least three times that many men listed as missing in action. Their fate remains unknown.

Last week the Foreign Relations Committee held hearings on this issue. I do not necessarily fault the administration witnesses who appeared, but I have to say that I was left after those hearings with more doubts than I had before. Mr. Frank Sieverts of the State Department and Dr. Roger Shields of the Defense Department told us as much as they knew, and they identified fully with the impatience reflected by members of the committee. But the question which remains unanswered is whether the conduct of our own government has made it less likely that the North Vietnamese will carry out their end of the bargain.

Obviously the North Vietnamese have not cooperated. Search teams from the Joint Casualty Resolution Center have not been permitted to examine areas under Communist control.

On the other hand, the North Vietnamese claim that there was linkage between their obligations to assist in accounting for our missing, and the Thieu government's obligation to release military prisoners and to move, in good faith, to resolve the issue of political prisoners. On that score Saigon has made little progress. It appears to me that the most decisive step on political prisoners has been a wholesale effort to reclassify them so that the provisions of the agreement would not apply.

The other side has also claimed that the search teams have included intelligence personnel, with the mission not so much of accounting for the missing as of gaining military information.

I would like to discount that claim as simple propaganda. But it is not all that easy to do. I have received independent allegations on this score from a source I have reason to trust, and they tend to confirm the charge. The relevant documents have been made available to the administration. It is my urgent hope that they can demonstrate that these allegations are without foundation. It would be outrageous behavior to subvert the fate of these men in order to carry out clandestine intelligence operations for General Thieu.

We must also be concerned about the situation on reconnaissance flights.

Press reports last April quoted administration officials as acknowledging that such flights are barred under the Paris agreement. That certainly seems logical. Article 2 of the agreement says we will end all military activity "by ground, air and naval forces, wherever they may be based." In the context of a continuing war, it seems clear to me that it would be a violation of the agreement for us to conduct any reconnaissance operations, especially if the information were to be fed to the South Vietnamese.

But the New York Times reported in April, at the time when minesweeping operations were suspended, that reconnaissance flights were also being made. The article quoted State and Defense Department officials that their purpose was—

> Chiefly psychological—to tell Hanoi that the United States was taking preparatory steps for renewed bombing in case it felt Hanoi's violations of the ceasefire had reached an unacceptable level.

At the same time, State Department spokesman Charles Bray was justifying the suspension of the minesweeping by citing what he called a "well known principle of international law," to the effect that—

> A material breach of an international agreement by one party entitles the other party to suspend operation of the agreement in whole or in part.

But if that is a valid principle of international law, what is to stop the North Vietnamese from turning it against us, to justify their refusal to comply with the provisions of the agreement on accounting for the missing?

As recently as November 26 of last year, United Press International was quoting embassy spokesmen in Saigon as admitting that American SR–71 planes with American pilots were still flying reconnaissance missions. By then, however, the earlier position seemed to have been reversed. The spokesmen denied that this constituted a violation of the Paris agreement.

But whichever of the two administration positions is right, I wonder if these flights are worth the cost of handing the North Vietnamese an excuse for failing to comply with the agreement. Is this reconnaissance information so vital that in order to get it, we are willing to imperil the hopes of the American families who still await word on their missing men? I think not.

On the basis of these and other developments, I think the Congress must review the administration policy with unremitting care before we approve, in either the aid budget or the military budget, any further funds for Indochina.

I believe we will find justification for several decisions.

First, the Vietnamese and Cambodians both have large arsenals. I think we could now terminate any further military aid.

Second, it should be possible to calculate the difference between the amount of economic aid that will prevent the collapse and begin the reconstruction of the South Vietnamese economy, and the amount of aid that will serve to underwrite an aggressive war effort by the Thieu government. Economic aid should be sharply limited and specifically earmarked, to assure that we will stop financing General Thieu's ambitions for war or his plans for political repression, in violation of the Paris agreement.

Third, and finally, I believe we must write into law some concrete guarantees against any U.S. action, including intelligence gathering operations, which could lend even the slightest legitimacy to claims that the North Vietnamese obligation to account for the missing is voided. Obviously we must continue the diplomatic pressure for fulfillment of that obligation. But we must be able to press those efforts with hands that are absolutely clean. There is no reason why we cannot amend existing restrictions on U.S. involvement to accomplish that purpose.

I intend to press these questions when the Foreign Relations Committee begins consideration of legislation that is relevant to our policy in Indochina. Considering the scope and the urgency of the issue, it may even be useful to hold oversight hearings in advance of the time that we examine the aid requests.

But in any case, these are questions we simply cannot avoid.

The goal of peace in Indochina may always remain beyond our grasp, for it is probably beyond our power to create.

But we should certainly be able to accomplish the remainder of the minimal goal which has always been within our power and our right, to assure that all prisoners are returned and the fate of all missing is fully disclosed.

Above all, we should certainly be able to stop being the bankroller of and the cause for a war which has nothing to do with our national interest. And that, I believe, must be taken as a primary responsibility of the Congress in 1974.

Mr. President, I have referred to a number of press reports in the course of my remarks. There have also been a number of useful articles in recent weeks commenting on current conditions in Indochina, on the American role there, and on the congressional responsibility to scrutinize the entire matter. I ask unanimous consent that these materials be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 3, 1974]

NIXON PROMISES MAXIMUM POSSIBLE IN AID TO CAMBODIA

(By Bernard Gwertzman)

WASHINGTON, Feb. 2—President Nixon has personally assured President Lon Nol of Cambodia that the United States will continue to provide "maximum possible assistance" to his Government.

In a letter to Lon Nol sent on Monday and made available today, Mr. Nixon said that because the Communist-led insurgent forces had rejected all offers by the Cambodian Government to negotiate, Cambodia "has but one choice in the critical period which lies ahead, to persevere in strengthening its defense efforts and to buttress the solidarity of all Khmer nationalists."

[After a lull of four days, insurgent troops resumed their shelling of Phnom Penh and its environs, killing 15 civilians and wounding 71. Page 19.]

VOICES CONFIDENCE

Mr. Nixon wrote: "I am confident that under your vigorous leadership and that of your Government, the republic will succeed in these endeavors and will convince its enemies to seek a peaceful solution to the conflict."

"The United States remains fully determined to provide maximum possible assistance to your heroic self-defense and will continue to stand side by side with the republic in the future as in the past," he said.

State Department officials said that about half of the Cambodian insurgents were now around Phnom Penh in a force of between 15,000 and 20,000 men. This concentration has thinned out insurgent forces in other parts of Cambodia, the officials said, and has led to some victories by Government forces in those areas.

CAPITAL WELL SUPPLIED

The latest intelligence estimate in Washington is that barring an internal collapse of Lon Nol's administration, the Government forces should be able to withstand the insurgent encirclement and the frequent shelling and rocketing of the capital.

The officials said that Government forces had been able to keep the Mekong River open for traffic to Phnom Penh and that the city was receiving regular supplies of oil, food and other commodities.

Moreover, with the end of American combat assistance last August, the Cambodian forces were reported to have shown some improvement, although the United States still does not believe the army is performing as well as it should.

Mr. Nixon was reported to be taking a personal interest in Cambodia—the only country in Indochina officially without a cease-fire agreement. He has conducted a regular correspondence with Lon Nol and has continued to pledge his personal support to him despite some sharply negative evaluations of Lon Nol's leadership in the intelligence community.

The President said in his latest letter that "the continuing warfare in Cambodia results solely, I believe, from the unreasoning intransigence of the North Vietnamese and Khmer Communist supporters."

YOUR MAGNANIMOUS EFFORTS

Mr. Nixon said that if the insurgents and Hanoi had accepted Phnom Penh's repeated offers to negotiate, "peace would now prevail in your country."

"Regrettably they have chosen to reject your magnanimous efforts for peace and to pursue the illusion of total victory," he said.

The insurgents are believed by American intelligence experts to have leadership problems.

Prince Norodom Sihanouk, the former Cambodian chief of state who lives in exile in China, is the titular leader of the insurgents, but actual control is believed to be in the hands of Çambodian Communists, the so-called Khmer Rouges, and of Hanoi, which supplies the military support and some logistic personnel to the insurgents.

Prince Sihanouk, in a cablegram sent to a Swedish newsman yesterday, said that he continued to reject any compromise settlement, and he predicted that the Lon Nol Government "will crumple this year, or next year, or at the least, 1976."

UNCERTAIN COMBAT PROSPECTS

State department officials said that by extending the predicted date of his "victory" to 1976, Prince Sihanouk was in effect underscoring the uncertain prospects of the fighting.

The hope in Washington is that if the Phnom Penh Government can survive the current insurgent drive, the rebels will accept negotiations rather than continue in a military stalemate.

Current American military aid to Cambodia will rise to $325-million for the fiscal year ending June 30, State department officials said. This includes a special $200-million appropriation recently approved by Congress. Food grants amount to $170-million, and other economic aid totals $75-million.

Under Congressional limitations, there are no more than 200 Americans in Cambodia, about 100 civilians and 100 militarymen, but no combat advisers.

[From the Washington Post, Feb. 4, 1974]

Nixon Sent Firm Pledge to Cambodia

The White House confirmed yesterday that President Nixon has sent a personal letter to Cambodia President Lon Nol pledging that the United States would stand side by side with his government which is now facing a renewed insurgent effort to capture Phnom Penh.

Deputy press secretary Gerald L. Warren, asked about a New York Times article reporting the contents of the letter, said, "There is such a letter, but we are following the custom of not releasing it here."

According to The Times, Mr. Nixon said in the Jan. 28 letter, "The United States remains fully determined to provide maximum possible assistance to your heroic self defense and will continue to stand side by side with the republic in the future as in the past."

[From the Washington Post, Feb. 4, 1974]

What Are We Underwriting in Vietnam?

In the first year after the signing of the celebrated Vietnam cease-fire agreement of January 1973, there was good reason for Congress and most of the rest of us to hail America's disengagement from combat, to cheer the return of the POWs, to accept routinely the high cost of continuing military and economic aid to the Thieu government, and more or less to turn a blind eye to the fact that there was in fact no cease-fire and no perceptible progress toward a permanent peace. Soothingly, we were told that you couldn't expect the shooting to stop overnight, but that the foundations of a "structure for peace" were in place, and that the business of building upon this structure to produce elections and a division of territory and a sharing of political power was only a matter of time. With a year's experience, however, it is now clear that it hasn't worked out that way. (Well over 50,000 Vietnamese have reportedly been killed in combat during this "cease-fire" so far.) Worse, there is precious little prospect that it will. So it is not only appropriate but urgent for the Congress and the public to force their attention back to Vietnam. And the new budget, with its provision for continuing heavy military and economic aid for the Saigon government, offers a powerful argument as well as an opportunity for doing so.

In his State of the Union address, the President spoke witheringly of those who would abandon the South Vietnamese by abruptly shutting off all our aid—as if the issue was as simple as that. Of course, it is not. Most people, we suspect, are fully aware of this country's obligation to continue helping Saigon defend itself against flagrant violations of the cease-fire by the North Vietnamese; larger American policy interests over at least a decade and a half, after all, had a lot to do with creating Saigon's heavy dependence on our continuing patronage. But the real issue is much more complex, for it has to do with who is really responsible for the breakdown of the cease-fire. It has also to do with whether our aid, in conjunction with our diplomacy, is working to improve the chances of real peace in Indochina, or whether it is in fact working toward perpetuation of a vicious, costly war by discouraging the kinds of concessions on both sides that might bring about a genuine settlement.

We do not profess to have the answers—and that is just the point. Nobody in Washington seems to have the answers—or even particularly to care. For the past year, the general tendency has been to blame both sides for the myriad violations if not to ignore them; to cancel off these violations against each other; and to conclude somewhat cynically that this is the natural or inevitable or *Vietnamese* way of resolving conflicts. There is, moreover, the formidable difficulty of finding the facts. With their supreme interests at stake, both Vietnamese sides have had powerful incentives to highlight their own observances of the agreement and to hide their own violations. Field conditions limit the capacity of objective observers, such as journalists, to judge for themselves.

All this gives no reason, however, to avoid trying to get at the facts. For it should be understood that avoiding the question of which side is chiefly responsible for the collapse of the agreement is answering the question to the benefit of President Thieu. Time and again, administration figures have drawn public attention to the alleged violations of Hanoi and the Provisional Revolutionary Government (Vietcong). The imminence of a big Communist offensive has been built up as a special bugaboo, while the open threats of some sort of pre-emptive strike by the South, as well as the plain evidence of provocations by the Saigon government, have been presented to us as no more than legitimate acts of self-defense. To this have been added regular and wholly unrealistic suggestions of American re-entry into the war, including the possibility of renewed bombing of the North.

We have been down this road before and we should know by now where it leads—to blind and unquestioning support of a Saigon government lulled into a false sense of security by our aid, with no real capability to defend itself, by itself, and with no incentive to yield up anything for the sake of a compromise settlement. From this, one can safely project an open-ended conflict between the two Vietnams. True, it is largely *their* war now, which is a lot better than it being largely our war, as it was for seven agonizing years. But we are nonetheless subsidizing a substantial part of it. Thus, it seems only reasonable for the two sets of armed services and foreign relations committees in both houses of Congress to conduct a searching inquiry into the administration's current Vietnam policy. For this country has a moral as well as a political commitment to the objective of a cease-fire and an ultimate Vietnamese settlement which the administration so proudly proclaimed to be very nearly accomplished facts a year ago. And the American public has a right to know whether, and how, this objective is being served by our continuing aid to South Vietnam. We would not argue that the answer turns entirely on what this country does or doesn't do for President Thieu. Part of the answer obviously must come from Hanoi. Part of it also depends on the efficacy and validity of that larger "structure for peace," reaching from Moscow and Peking to Washington, of which the President had made so much. But a big part of the answer, nonetheless, depends upon Saigon. So we think that before Congress approves more billions for President Thieu, it ought to try to find out whether the easy availability of this subsidy may not be prolonging an intensified Vietnam war by consolidating a militant, recalcitrant and repressive regime in Saigon. For there is at least some reason to believe that a more selective and judicious application—or denial—of this money could make it work to far better effect as an integral part of a wider diplomatic effort to bring about something more nearly resembling a Vietnam peace.

[From the New York Times, Jan. 28, 1974]

One Year After the Paris Accord

(By Frances FitzGerald)

CAMBRIDGE, MASS.—A year ago yesterday the United States signed the Paris Agreement on Ending the War and Restoring Peace in Vietnam. Since then the number of combat deaths in Vietnam has reached far above 50,000, or to about the level it reached in 1966, an "average" year in the war. Only the circumstances of these deaths has changed.

Whereas a year ago Vietnamese were dying in military operations, they are dying today in cease-fire violations. According to Richard M. Nixon they are dying not to win the war but to win the peace in South Vietnam. From these facts many might draw the conclusion that the peace agreement accomplished nothing, that it changed nothing in the history of the Vietnam war. They would be wrong.

Last Christmas was the first in twelve years that the United States was not bombing Indochina or maintaining American ground troops in Vietnam. Furthermore, the other events in Vietnam this last year did not duplicate those of the year before. They were repetitions of events much further back in history.

Take any recent news reports—President Nguyen Van Thieu declares he will not hold a national election as the peace accord specifies, tracts given to South Vietnamese peasants revert to former landlords, military-intelligence analysts fear foe will cut country in half. You will not find a similar report since 1956 or 1964. It is just that there is a certain symmetry to the war, a symmetry that extends beyond the period of American troop engagement to the beginning of the American intervention in Vietnam.

The United States has been actively engaged in a war against Communism in Indochina since 1950. As the history books for American children unborn at the time now show, the policy has been perfectly consistent; only the means have changed. In 1950–54 the Eisenhower Administration paid up to 80 per cent of the French colonial war. After the French defeat, the Administration created and financed a regime in South Vietnam that would contravene the Geneva Accords by refusing to hold national elections and by building an army to compete with that in the North.

When the southern guerrillas came near to defeating this regime on their own, the United States introduced counterinsurgency teams and helicopter squadrons; in 1964, just after Congressional passage of the Tonkin Gulf resolution, the United States began to bomb North Vietnam and a few months later to send regular American forces in to the South. Four years later, in the wake of the Tet offensive, Lyndon B. Johnson ended the troop build-up; he did not, however, change the policy of pursuing the war in Vietnam.

For Mr. Johnson, and later Mr. Nixon, the means became known as Vietnamization—the slow withdrawal of American troops combined with a further build-up of the Saigon Government's Army and the increased use of American firepower. The period of American withdrawal ended with the peace agreement; it toook four and a half years to accomplish, or slightly longer than the build-up, and in the first three years of the Nixon Administration it cost the lives of 20,000 Americans and some half a million Vietnamese.

Since then the Nixon Administration has been carrying on the war in the traditional way, by proxy. Last year it spent $3 billion in support of a military regime that resists any form of political settlement as specified in the peace accords.

The history books for children recount most of this story, but they do not answer the question of why the United States pursued this policy for so long. As the intelligence documents in the Pentagon Papers show, neither Dwight D. Eisenhower, John F. Kennedy nor Mr. Johnson could have had any confidence of winning the war with the measures they were using.

In 1967, for example, Robert S. McNamara, then Secretary of Defense, questioned the value of sending a token American force to Vietnam, warning, "We would be almost certain to get increasingly mired down in an inconclusive struggle." A few months later the Kennedy Administration sent just such a token force and publicly predicted success for it, suggesting that no further measures would be necessary.

In his analysis of the Pentagon Papers, in an essay called "The Quagmire Myth and the Stalemate Machine," Daniel Ellsberg addresses the question of why three Administrations concealed their most realistic estimates and continued to step up the war on that basis. His answer, to put it briefly, is that even though all three Presidents strongly suspected that the war could not be won, they also strongly suspected they could not politically survive the "loss" of Saigon or a land war in Asia during their Administrations. Their solution, therefore, was to maintain the stalemate as cheaply as possible while hoping for a miracle. And if the miracle did not occur, they could pass the problem on to their successors. Mr. Johnson's misfortune was that he occupied the White House at a time when the guerrilla war had reached such a peak that he could not maintain the Government in Saigon without committing American troops. Mr. Nixon, by contrast, came to the Presidency after the crisis had passed.

The Ellsberg theory is, I think, sound. But today we have no need of theory in order to predict the future course of the war under a Nixon Presidency. Mr. Nixon has already made that course perfectly clear by his actions in Indochina over the last six years. Elected at the height of the peace movement and over Vice President Hubert H. Humphrey whose administration had been discredited by the war, Mr. Nixon had the option of disavowing the Johnson war policy and making peace in Vietnam. He did not do so. Instead, he chose to maintain the stalemate at a price far higher than any other President had paid.

Militarily the cost included the invasion of Cambodia and the beginning of a destructive, long-term war in that country, the invasion of Laos, the secret bombing of North Vietnam and Cambodia, the mining of North Vietnamese harbors and inland waterways and the terror bombing of Hanoi in Christmas, 1972. But these actions were only the most spectacular of his military measures. Equally important was the sustained bombing of three countries, the destruction of two or three national economies, the uprooting of several million Indochinese and the building of an army that, statistically speaking, drafts all able-bodied South Vietnamese men for the duration of the war.

These measures, taken before the cease-fire, have had an important impact on the military situation in Vietnam, but they have not meant victory for the United States. In the Paris agreement the United States had to accept what it refused to acknowledge in the Geneva Accords of 1954: the principle of unity and territorial integrity of all of Vietnam and the presence of North Vietnamese troops in the South.

Mr. Nixon's measures have not insured a stable situation—a permanent stalemate, as it were—because the Saigon Government, while larger than before, remains what it always was: a parasite that lives on what one Frenchman called la densité de la pourriture (the density of corruption). President Thieu's control over South Vietnamese (even in the absence of the Northern troops) rests on his ability to maintain American aid at a level at which he can keep the majority of the population in the army, the jails, the cities and the refugee camps. While American military and Central Intelligence Agency analysts predict a North Vietnamese offensive and propose more military aid for Saigon, President Thieu is actively trying to realize that prediction and that aid by calling for an invasion of North Vietnamese and Provisional Revolutionary Government base areas in the South.

What Mr. Nixon has done is to create a stalemate that may last until the end of his term and whose preservation may well require the renewal of American bombing in the South. What he has done is to bring the United States full circle to the same moment of decision in which the Tonkin Gulf resolution was passed in 1964.

One difference is that now the war is a decade older, and three countries have been partly destroyed. The other difference is that because the American public will not permit the reintroduction of American ground troops, Mr. Nixon and his advisers know precisely what the final outcome will be. They support the war in perfect cynicism. After the visit to Peking they have no ideological pretext, much less a justification for that support. Over the last six years about a million Indochinese have died for the prestige of two men. A lot more will die if the American public continues to pay the war no more attention than it did in 1964.

[From the Washington Post, Feb. 4, 1974]

FOOD FOR PEACE, OR FOOD FOR WAR?

(By Jack Anderson)

The Food for Peace program, established to feed the hungry of the world, has been perverted into a Food for War program in Southeast Asia.

This sinister change has been manipulated quietly by the National Security Council. Of the $1 billion worth of food that is shipped abroad for the needy, the council has insisted that almost half should go to bolster the military strength of Cambodia and South Vietnam, according to classified documents.

Elsewhere, the food is sold through regular commercial channels to alleviate shortages and prevent hunger. The United States foots the bill, treating it as a low-interest loan to be repaid over a long period.

But in Cambodia, President Nixon gave the Lon Nol regime special permission to use up to 80 per cent of the proceeds from the sale of American food for "common defense" and "internal security." In South Vietnam, the Thieu regime is permitted to spend a full 100 per cent of the food proceeds on military buildups.

Classified documents show that the President started off this fiscal year with a reasonable request for $30 million to finance Food for Peace shipments to Cambodia. But bit by bit, the White House requests ballooned to $173 million and are likely to go higher.

Even more food aid has been earmarked for South Vietnam, although the jump in the request has been less drastic.

While most food aid to the two embattled countries has been in rice, the documents show that 175,000 metric tons of wheat will be supplied by next July. Yet the wheat shortage at home has pushed up the price of bread to 50 cents a loaf and has forced the United States to import wheat at exorbitant prices.

For years, the Food for Peace program, along with the Peace Corps, has won friends for the United States among the world's poor. We have seen burlap bags of grain and boxes of cereal, with big "USA" markings, going into impoverished villages.

But in the besieged Cambodian capital of Phnom Penh, one of our informants witnessed a different scene, not far from a camp where hundreds of refugees complained of food shortages. He counted 50 trucks filled with bags of U.S. rice lined up outside a military warehouse. Instead of feeding the starving refugees, it was going for army rations.

[From the New York Times, Apr. 21, 1973]

U.S. PLANES RENEW RECONNAISSANCE OF NORTH VIETNAM

(By Bernard Gwertzman)

WASHINGTON, April 20—The United States has resumed military reconnaissance flights over North Vietnam, despite the ban on such activity in the Vietnam cease-fire agreement, officials of the State and Defense Departments said today.

This development, following the decision yesterday to suspend American minesweeping of North Vietnamese waters, was described by senior officials as a policy decision to violate portions of the Paris agreement, if necessary, to put pressure on the North Vietnamese to halt what Washington regards as the more serious violations of the accord.

Charles W. Bray 3d, the State Department spokesman, virtually acknowledged that policy when he justified American actions on the basis of "a well-known principle of international law," as reflected in a 1969 convention on the law of treaties. The convention provided that "a material breach of an international agreement by one party entitles the other party to suspend operation of the agreement in whole or in part."

"MESSAGE," SECRETARY SAYS

Previously, the Administration contended that although North Vietnam was violating the agreement, the United States was scrupulously abiding by it. But President Nixon warned on several occasions that the United States would make appropriate responses if Hanoi's alleged violations did not cease.

Secretary of Defense Elliot L. Richardson said in an interview that the Administration was seeking by its latest actions, "to send a message" to Hanoi through means other than diplomatic protests.

He said that Hanoi should interpret the moves as "signals of possible retaliatory action." He also said that Administration officials had in the past not foreclosed the possibility that the United States might "invoke more extreme measures."

The Secretary added that he could not foresee "what fork in the road" might be taken by either side. He said the latest actions followed weeks of fruitless efforts through diplomatic means to get Hanoi to stop its alleged violations.

Mr. Bray, in his regular news conference, specifically called on North Vietnam to show "strict compliance" with article 20 of the cease-fire agreement. This calls on the signatories "to refrain from using the territory of Cambodia and the territory of Laos to encroach on the sovereignty and security of one another and of other countries." It also calls for foreign countries to end "all military activities in Cambodia and Laos," but without setting a deadline.

Mr. Bray said, in effect, that if Hanoi used its influence to halt the fighting in Cambodia and stopped using infiltration routes through Laos into South Vietnam, it "would find a prompt and quite positive response on our part."

"It is simply not possible," he said, "and it is certainly not in the spirit of the agreement, much less the letter, for the North Vietnamese to decide that they wish to observe some paragraphs of the agreement and protocols and not others."

The first word of American reconnaissance flights over North Vietnam came in a Hanoi radio broadcast.

When the Defense Department spokesman, Jerry W. Friedheim, was asked if the report was true, he said, "No comment." Previously, he had consistently denied that American aircraft were flying over North Vietnam.

Privately, however, officials of the Defense and State Departments said the flights were taking place. It was understood that these included both pilotless aircraft equipped with automatic cameras and regular piloted craft.

The officials stressed that the purpose of the flights at this point was chiefly psychological—to tell Hanoi that the United States was taking preparatory steps for renewed bombing in case it felt that Hanoi's violations of the case-fire had reached an unacceptable level.

A State Department official noted that the steps taken so far were easily "turn-offable."

COULD REVERSE TREND

He said that the mine sweepers could quickly return to North Vietnamese waters, and the reconnaissance flights could be stopped immediately, if Hanoi began to meet some of Washington's demands.

Article 2 of the cease-fire agreement calls on the United States to "stop all its military activities against the territory of the Democratic Republic of Vietnam by ground, air and naval forces, wherever they may be based." It also obliges the United States to remove, deactivate or destroy all the mines in North Vietnamese waters.

The agreement does not specifically refer to reconnaissance flights, but administration officials have acknowledged that such flights are barred.

Mr. Bray was asked why the United States did not take its complaint back to the international conference on Vietnam, which endorsed the agreement on March 2.

FAVOR DIRECT COMMUNICATION

"We still consider that the more effective way of dealing with North Vietnamese violations of the agreement is by way of direct communication with them," he said. But a State Department official said the United States would send a detailed note of complaints about Hanoi's alleged violations to the other parties of the international conference.

Mr. Richardson, expressing frustration with what he said was the failure of Hanoi to respond so far to repeated diplomatic protests, said that on the basis of experience it seemed that the North Vietnamese sometimes understood the situation better if the message came by means other than words.

He acknowledged that efforts had been made to communicate with Hanoi directly and through Peking and Moscow. The Russians and Chinese, he said have expressed the view that it is time to stop hostilities in Indochina, but it is not known whether they are exerting any pressure on Hanoi.

The Administration has not denied that South Vietnam has committed violations of the cease-fire accord. But both State and Defense department officials have asserted that Saigon's transgressions are not of a level with Hanoi's.

Mr. Bray, in a lengthy exposition of American policy, said that "the Paris agreement was negotiated and signed as a whole."

"It was intended to provide the framework within which tranquility and, hopefully, political stability would be restored to Indochina," he added. "That was the spirit in which the United States entered into this interrelated series of undertakings."

"Now," he said, "I should like to repeat again that it is simply not possible, and it is certainly not in the spirit of the agreement, much less the letter, for the North Vietnamese to decide that it wishes to observe some paragraphs of the agreement and protocol, but not the others."

Mr. Bray said that "strict compliance with Article 20 of the agreement, which, as you will recall, has reference to Laos, Cambodia and South Vietnam, would have a dramatic effect on the American view of Hanoi's intentions to carry out the obligations it willingly entered into in Paris."

[From the New York Times, Aug. 15, 1973]

SUPPORT PLEDGED: AMERICAN PLANES WILL REMAIN ON STATION IN GUAM AND THAILAND

(By Bernard Gwertzman)

WASHINGTON, Wednesday, Aug. 15.—American bombing in Cambodia officially ended last midnight with the Nixon Administration still pledging to do everything possible within the law to support the Government of President Lon Nol.

The cessation of all bombing activities, voted by Congress on June 30, and accepted by President Nixon with "grave personal reservations," marks the official end to America's dozen years of combat activity in Southeast Asia. Some 46,000 American lives have been lost—most of them in South Vietnam — since the first American casualties in 1961.

The Vietnam cease-fire agreement, signed on Jan. 27 in Paris, ended the American combat role in North and South Vietnam, and the Laotian agreement a month later ended the American role there.

FIGHTING GOES ON

The Cambodian fighting, however, has not stopped, and it is unclear what the effect the end of American bombing will have on the Cambodian belligerents.

But even as B–52 strategic bombers and F–4 fighter-bombers carried out their last missions, the Pentagon stressed that American planes would remain on station in Thailand and in Guam, prepared to resume their raids if Congress authorized them—something viewed as unlikely unless North Vietnam launched a vast invasion of South Vietnam.

Although the end to American bombing was a historic landmark in the long, controversial Indochina war, the Administration chose virtually to ignore it. Neither the White House, nor the Pentagon nor the State Department volunteered any statement on the occasion.

BERRIGANS ARRESTED

On the final day of United States bombing, 60 persons, including the antiwar activists Daniel J. Berrigan and his brother Jerome were arrested as they knelt and prayed at the White House in a protest against the raids.

At the Defense Department, officials said the end of the bombing was being treated routinely.

The Pentagon, in answer to questions, supplied statistics on the latest Cambodian phase of the bombing, between Jan. 28, the day following the Vietnam cease-fire agreement, and Aug. 11, the last day for which figures were available. During that period, 35,410 sorties, or flights, were carried out, costing a total of $422.8-million.

There were no firm answers to a question being widely posed: What will happen to the Lon Nol Government without American air support?

Several officials at the Defense Department and the State Department said that they were hesitant to make any predictions.

They said that there were conflicting reports from the field about the military situation around Phnom Penh, the Cambodian capital, and there were different assessments about the possibility that some kind of cease-fire would be worked out by the Lon Nol Government and the insurgents opposing it.

FEAR OF COLLAPSE

The prevailing sentiment, however, was that the Phnom Penh Government would do well if it could avoid a complete military collapse.

An Administration official said that it was impossible to talk about negotiations until the new military situation in Cambodia became clear.

He said that the bombing had been an important lever in the Administration's effort to persuade China and North Vietnam to prod the Cambodia insurgents into accepting a cease-fire. By forcing the end to the bombing, he said. Congress took away any incentive to negotiate.

A senior State Department official said recently that it "probably doesn't matter" what happens in Phnom Penh from a strategic point of view. But, he said, South Vietnam and Thailand may become gravely concerned about a Communist Government in Cambodia, and this could lead to a further disintegration of the Vietnam cease-fire agreement if Saigon feels so threatened that it sends forces into Cambodia.

INTERVENTION HELD UNLIKELY

For the moment, State Department officials said, it was unlikely that Saigon would intervene in Cambodia. South Vietnam was aware, they said, that Congress might respond by cutting off its economic aid.

Gerald L. Warren, the deputy White House press secretary, in answer to questions, repeated the standard Administration pledge that it "will do everything within the law to support the Government of Cambodia." He also said again that no combat activity would be undertaken without "proper authority" from Congress.

The law permits the United States to keep sending military and economic aid to Cambodia, but for this aid to be used, the Cambodian Government must keep its transportation arteries open. In coming weeks, some officials said, the insurgents will probably make a determined effort to cut off the major population areas from supplies.

COMBAT ACTIVITY BARRED

The Congress on June 30, in attaching a rider to a crucial appropriations measure to keep the Government going, ruled out all combat activity in Indochina after Aug. 15.

Mr. Nixon, in a letter to Congressional leaders on Aug. 3, said the Administration would obey the law, but added:

"I cannot do so, however, without stating my grave personal reservations concerning the dangerous potential consequences of this measure. I would be remiss in my Constitutional responsibilities if I did not warn of the hazards that lie in the path chosen by Congress."

He said that the Aug. 15 cutoff had undermined negotiating efforts to get a settlement in Cambodia, and he warned that "this abandonment of a friend" could have a profound impact in other countries such as Thailand, "which have relied on the constancy and determination of the United States."

SOME FLIGHTS ALLOWED

The bombing ban will not bar unarmed reconnaissance flights over Cambodia and Laos, the Pentagon said, but the planes involved will be prohibited from calling for armed support if fired upon.

Pentagon officials said that up to 400 fighter-bombers and 175 B–52s would remain on call in Thailand, Guam and aboard carriers. These will probably be withdrawn gradually to the United States, officials said.

Since Jan. 28, the Pentagon said, 27,626 fighter-bomber sorties were carried out in Cambodia, at a cost of $182.3-million. A total of 7,784 B–52 sorties were flown, it said, costing $240.5-million. Nine aircraft were lost, with six men killed and four missing.

[From the Washington Star-News, Nov. 26, 1973]

VIET CONG ACCUSE

SAIGON.—The Viet Cong yesterday accused the U.S.-Air Force of conducting reconnaissance flights over its territory in northernmost Quant Tri province and in the Central Highlands. They demanded an end to what they called a "brazen violation" of the Paris cease-fire agreement on Vietnam.

At the same time, the Viet Cong accused the government of President Nguyen Van Thieu of killing "dozens" of civilians in Katum in the biggest illegal bombing raids on Communist-held territory since January.

A U.S. Embassy spokesman here admitted the reconnaissance flights over South Vietnam by SR71 planes, but he denied they were a violation of the cease-fire agreement. He said the planes weren't armed.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from New York will state it.

Mr. JAVITS. What is the pending business?

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDENT pro tempore. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now go into executive session to resume consideration of Executive O, 81st Congress, 1st session, which the clerk will state.

The legislative clerk read as follows:

Executive O, 81st Congress, First Session, the International Convention on the Prevention and Punishment of the Crime of Genocide.

The PRESIDENT pro tempore. Time for debate between 11 and 12 noon will be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from North Carolina (Mr. HELMS).

Who yields time?

Mr. JAVITS. Mr. President, by delegation of Senator CHURCH, I yield myself 30 seconds. As apparently Members are not available for debate except for myself, I shall seek another quorum call and ask unanimous consent that the time taken for the quorum call be divided equally between both sides.

The PRESIDENT pro tempore. Is there objection? The Chair hears none and it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. METZENBAUM). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. How much time remains, and how is it divided?

The PRESIDING OFFICER. Each side has 21 minutes remaining.

Mr. JAVITS. I yield myself 5 minutes out of the time reserved for Senator CHURCH.

Mr. President, yesterday, the distinguished Senator from North Carolina (Mr. ERVIN) introduced a very large number of amendments to the treaty—though we are not at the stage yet where those amendments are in order—reservations, and other documents which he could call up in respect of Senate action, and made a very extensive argument respecting the opposition to the treaty.

I have examined these arguments overnight, and I find that they are in essence the same arguments which were made last March 13 in Senator ERVIN's presentation to the Senate, to which I responded on March 29, in the RECORD of that day, at page 10251 and from there on.

The main objections which were made by the Senator from North Carolina (Mr. ERVIN)—and incidentally, these were also contained in his testimony before the Committee on Foreign Relations on March 10, 1971—are as follows:

First, he argues that the treaty is deficient in that it does not embody the real meaning of the term "genocide." He believes that the term contemplates the complete wiping out of a designated group.

We point to the fact that the understanding we have submitted with the treaty makes clear the difference between genocide and the ordinary crimes, homicides, and so forth, and that it requires the intent to destroy a national, ethnic, racial, or religious group by one of the homicidal acts specified in the convention in such manner to affect a substatial part of that group. All of those elements of the definition are very important in the presentation which we make.

Second, the Senator from North Carolina argues that whether or not the provisions of the convention are self-executing, they would immediately supersede all State laws and practices inconsistent with them and thereby deprive the States of the power to prosecute and punish in their courts acts condemned by articles II and III of the convention.

We say the convention is clearly non-self-executing in view of the requirement in article V that the contracting parties enact the necessary implementing legislation.

Furthermore, we require the executive branch to await enactment of the implementing legislation before depositing an instrument of ratification and that, therefore, Congress can in any way it chooses deal with domestic law in respect to the implementing statute to which I refer.

Third, the Senator from North Carolina argues that ratification of the genocide convention would have a drastic effect on our system of our criminal justice because many crimes which are now crimes under State law could, with the addition of an allegation with respect to intent, be made Federal crimes.

To that we reply that the intent requirements for the crime of genocide are set forth in article II of the treaty, and require a definition which makes it a unique crime and, therefore, in no way will supersede the penalty under State law, including homicide.

As a fourth argument the Senator from North Carolina raises a series of objections based on the one hand on the alleged ambiguity of certain terms in the convention, and, on the other hand, on the procedures in the convention for insuring its application. For example, he refers to the meaning of "mental harm."

We have pointed out constantly that "mental harm" is the permanent impairment of mental faculties, and that is dealt with in the understandings we have submitted.

The Senator from North Carolina suggests that under article II(b) of the convention, State or county officials who refuse to give one of the four designated groups a desirable amount of welfare benefits may be prosecuted for genocide.

We claim that is not so under the terms of the treaty and that is expressly included by the words "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

We cannot see any such connotation as deprivation of what we might consider an adequate level of welfare benefits.

The Senator from North Carolina argues that the provision of article III(c), which makes direct and public incitement to commit genocide punishable, might deprive public officials and citizens of the United States of the right of free speech.

We point out that the Supreme Court makes a clear distinction between advocacy and incitement, and that covers this particular situation.

Incitement crosses the bounds between protected and unprotected speech. The provisions of the Genocide Convention, therefore, do not violate the Constitution. Moreover, were there any conflict, the first amendment clearly would control. *Reid* v. *Covert*, 354 U.S. 1 (1957); *Geofroy* v. *Riggs*, 133 U.S. 258 (1890).

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the Senator from North Carolina raises the question of what is meant by the word "complicity" in article III(e) of the treaty.

We take the position that the term "complicity" is a well-understood word. It is clearly aimed at being an accessory in the crime of genocide as described in the treaty, and not the other genocidal acts listed in article III. When Congress enacts implementing legislation for the Genocide Convention, it will not be necessary to enact a special provision implementing article III(e) because accessoryship in Federal crimes is already outlawed by the United States Code.

The Senator from North Carolina argues that article VI imposes upon Congress an implied commitment to support the creation of an international penal tribunal. We reject that and state that Congress is given complete freedom of action in that regard.

The Senator from North Carolina expresses the fear that article I of the convention would require the United States to go to war to prevent the crime of genocide.

This is contrary to our view. Article I confirms the principle that genocide is a crime under international law in time of peace or in time of war.

The Senator from North Carolina argues that the genocide convention would make American soldiers fighting abroad triable in the courts of our enemies for killing or seriously wounding members of the enemies' military forces.

We reject that completely and point out that it does not qualify in the definition of the treaty with regard to the intent to destroy in whole or in part a national, racial, or religious group, as such. We point out there is nothing to stop charges, and so forth, or prosecutions, which are really persecutions, of prisoners of war today. We have had enormous trouble with regard to that in respect to North Vietnam.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 additional minute.

The Senator also argues that if we ratify the treaty and legislation is passed implementing it, the executive branch would be under the duty of enforcing both the provisions of the convention and the implementing legislation.

That is correct, but that is an argument for rather than against ratifying the treaty because of our commitment that there be no instrument of ratification deposited unless we have passed the implementing legislation. That can take whatever form we give it.

Finally, it is argued that we are going to override, by ratifying this treaty, the Connally reservation, with regard to the reservation of jurisdiction over domestic matters in respect of the international court of justice.

Of course, we have had that out very completely and we pointed out that the basis of the court's jurisdiction would not be such to have any compulsion on the United States, as the court has no means of enforcement, and furthermore we reserve in the reservation which the Senator from Idaho, the Senator from Wisconsin, and I submitted, every element of domestic protection for the American individual with regard to extradition and constitutional rights, and so forth, which he would have by invocation of the Connally amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 1 additional minute.

Mr. President, for all those reasons we believe that the objections made by the Senator from North Carolina do not stand up in the face of the treaty, the understandings and the reservations which we have submitted—sort of a triple lock on the situation we have described; and that the Senate should, notwithstanding these objections, which we do not feel are well founded, for the reasons stated, should ratify the treaty.

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, first, on behalf of the Senator from North Carolina, I ask unanimous consent that Mr. William Pursley, Jr., of the staff of the Committee on the Judiciary, be granted the privilege of the floor while the cloture motion is under discussion and during the ensuing quorum call and vote on the cloture motion.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, on yesterday the Senate refused to stop debate on the matter of ratification of the Genocide Convention, and at about 12:15 another vote will take place on the same issue. Mr. President, I hope that the Senate will vote again not to bring debate on this issue to a close.

This question has been before the U.S. Senate since 1949, when the convention was sent to the Senate by President Truman. The convention had been adopted by the General Assembly of the United Nations on December 9, 1948, and I believe had been signed on behalf of the United States on December 11, 1948. Of course, that signature would not have any effect or authority or create any binding obligation until the convention or treaty had been ratified by a two-thirds vote of the Senate.

Mr. President, I suppose it was a historic occasion when a vote was actually taken here by the Senate with respect to any aspect of this convention, because it had never proceeded that far before. The matter was rereferred by President Nixon to the Senate in 1970, but it had lain dormant from 1950 to 1970, and there have been no intervening acts, it would seem to the Senator from Alabama, that would make desirable now what the U.S. Senate did not regard as being desirable in 1950—that is, the ratification of this convention.

Mr. President, in 1946 the United Nations had passed a resolution which was the start of the thought of a genocide convention. The 1946 resolution succinctly pointed out that genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; a denial of the right of existence of entire human groups. Yet the convention submitted by the United Nations changes all that. And how does it define a genocide? I read from the convention itself:

> Genocide means any of the following acts committed with intent to destroy—

Here are the significant words—

> in whole or in part, a national, ethnical, racial or religious group . . .

An intent to destroy in whole or in part. Well, one person is a part of a group. One person could be a part of a national, ethnical, racial, or religious group.

We all decry the wiping out of entire groups of people. Certainly, we all favor the humanitarian impulses that initiated the Genocide Convention. We all oppose programs that would wipe out large numbers of individuals of a special ethnical, racial, national, or religious group. We all would decry the actions of Hitler and the Nazis. We would all decry the wiping out of the Biafran people in Africa just a short time ago, or the wiping out of tens of thousands of the Bangladesh more recently.

But, Mr. President, has anything been done under the Genocide Convention about those offenses? What about China? It is estimated that they wiped out some 20 million Chinese of a group in opposition to the leadership of that nation during the cultural revolution.

Some 78 nations have ratified the convention. What have they done under the convention? I asked that question on the floor yesterday. Has a single act of genocide been punished, or has there been a trial with respect to a single act of genocide? They said they did not know. They did not know of any instance. Perhaps there had been, but they did not know of any. What good has the convention done to the 78 nations that have adopted the convention? Not a bit.

Well, they say that though the convention obviously contemplates the creation of a criminal court, a penal division, somewhat, of the International Court of Justice, these 78 nations have not done that.

By the way, the convention went into effect as soon as 20 nations signed it and deposited it in accordance with the terms of the treaty. So it is in effect. No action has been taken under it. No court has been created.

I tell you, Mr. President, that just as soon as the United States adopts the convention we will see very quickly, in my judgment, an effort made to set up such an international court.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself an additional 3 minutes.

What are they waiting on? Why do they not set up the court? They would find it is not the great panacea that they say it would be.

I ask the question: How would you extradite a national of the nation of Russia over to this country to answer to a charge of genocide?

They said that we would just have to trust them. Well, I am not willing to trust them. I believe that they are waiting for the United States to act on this convention before setting up a court so that we can pay for the court and can furnish the defendants in the criminal trials.

They say that we do not have to become bound by the court if we do not want to. Well, what is the use of our bothering if we are not going to be bound by the court?

Mr. President, this is just an opening wedge. This has to be done before they go ahead with the court. As soon as this convention is ratified, we can expect this international court that would be set up to try citizens of the United States.

Mr. President, we have a bunch of reservations that we have added to this convention. So have a lot of other nations. As listed in the hearings, some 30 nations have said that they do not want to be bound by this section, that section, or the other section.

Mr. President, there are reservations and understandings coming out of the Foreign Relations Committee. The committee has sent up three understandings and one declaration. And there is pending now an understanding by the distinguished Senator from Idaho (Mr. CHURCH). Why is it necessary for all of these reservations if we are not to be bound by this section, that section, or the other section, if it is such a good treaty or such a good plan.

This would cover not a single attack on a single person. It would cover those, reading from the convention, "causing serious bodily or mental harm."

What is that? Is that going to be the subject of a trial in a foreign nation before a foreign court?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ALLEN. Mr. President, I yield myself another 3 minutes.

Mr. President, this is more, this one world concept originated by the United Nations and recommended to the member nations and adopted by 78 nations already. Of course, they have not moved forward in 25 years. There must be a serious flaw in this convention if U.S. Senate after U.S. Senate in one Congress after another Congress has failed to act favorably on this convention.

Why should it be brought up this time? It serves no useful purpose. Not one single constructive act has taken place under this convention in 25 years, even though it has been a valid, ratified convention for some 23 years, because it took a couple of years for 20 nations to ratify it.

Why should we put the necks of our citizens in the noose of an international court? And in the absence of an international court, this would set up an extraditable offense which would allow the extradition of our citizens, even if an international court is not set up, to be tried by courts in a foreign land.

In addition, Mr. President, it sets up the crime of genocide so indefinitely, as a separate Federal offense, until the international court can be set up. We do not need any more international courts. We do not need any more offenses under Federal law, as to our citizens, where the matter is already covered by State law.

The crime of genocide is defined. What is the punishment?

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. ALLEN. How much time have I remaining, Mr. President?

The PRESIDING OFFICER. Five minutes remain to the Senator.

Mr. ALLEN. What is the penalty for genocide? The convention does not say. Is it a fine? Or imprisonment for a year? Or imprisonment for 10 years? Is it the death penalty?

The convention would set up an International Court—one already created, not one yet to come—ahead of our Supreme Court—and I read from the convention—in the matter of "the interpretation, application, or fulfillment of the present convention, including those relating to the responsibility of a State for genocide."

I thought this convention was directed against individuals. But here is a State coming in for responsibility.

> Relating to a state for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Russia and the other Iron Curtain nations put a little reservation on that. They say that this dispute cannot be submitted to the International Court without the consent of all the parties to the dispute. It gives them veto power. We do not have any such reservation as that.

The ratification of this convention is not in the interest of the people of the United States of America. Seventy-eight nations have adopted it. How many of them are friends of the United States? Maybe one or two. The United Kingdom is mentioned. We would be putting ourselves in the hands of unfriendly nations, as the Senator from Alabama has already stated.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum. I ask unanimous consent that the time for the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Under the precedents of the Senate, not enough time remains to the Senator for a quorum call.

Mr. ALLEN. I beg the Chair's pardon; I did not quite understand the Chair.

The PRESIDING OFFICER. Under the precedents of the Senate, not enough time remains for a quorum call.

Mr. ALLEN. How much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 2 minutes remaining, and the Senator from New York (Mr. JAVITS) has 10.

Mr. ALLEN. Mr. President, I ask unanimous consent that the time I shall consume between now and 12 o'clock be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I had planned to end my remarks on that note. Inasmuch as the Chair has ruled that the Senator from Alabama cannot suggest a quorum call, he will continue with his discussion.

Mr. President, some of the nations which have ratified this convention are the very nations where the crime of genocide occurs. Looking in the dictionary for the definition of "pogrom," it refers to the mass destruction of people of a certain race, and it says "originally as in Russia." So Russia is one of the granddaddies of the offense of genocide. But have you ever heard of a Russian being tried for the crime of genocide, even though it is one of the signatory nations to the convention?

Haiti, China, the Federal Republic of Germany, Mongolia—some of these nations are nations in which acts of genocide have historically taken place through the years. I do not know of that having occurred in the United States of America. So why should the United States of America, here 25 years after this treaty was submitted to the Senate, find it so urgent that we have got to use the time of the U.S. Senate, that could better be devoted to solving some of the critical problems facing this Nation—the energy crisis, for example, or the truckers' strike—and not standing here talking about this document that has been before the Senate for 25 years, dragging it out here at this time and using up the time of the U.S. Senate?

Where are the advocates of the measure? For that matter, where are the opponents of the measure? That is how much interest in this convention. Look about the Senate Chamber and see.

I yield back the remainder of my time, and ask unanimous consent that the Senator from New York, inasmuch as I have used some of his time, may have the remainder of the time.

Mr. JAVITS. I thank my colleague. If he wishes me to yield before the quorum call, I shall.

Mr. President, I think the Senator from Alabama asks a very legitimate question. Where are the proponents? Where are the opponents?

Well, the proponents are here. He represents the opponents; I represent the proponents. It is quite usual in this Chamber that in advance of a cloture vote Members know pretty well how they are going to vote, and they are not interested in listening to the debate, having heard what they consider to be adequate for the purpose.

But the other important point I would like to answer is, Why take the time of the Senate with the Genocide Treaty now, when the Senate has so many critically important things to do?

The reason, Mr. President, is that the world goes on, notwithstanding our problems domestically. Indeed, as we can see, our domestic problems are very heavily caused by the fact that the world goes on, as witness the energy crisis, which is caused by the embargo and even more by the fantastic price increases by certain Arab States, and second, our own inflation, which is heavily attributable to very large Government expenditure, a great part of which is caused by the need for national security. The President is asking for a great increase over last year in the defense budget, and the fact is that paying for present security and past wars requires an enormous part of the expenditures of the United States.

So we are inevitably affected by what happens in the world, and therefore we have to look after it, and a great part of our attention is given to it.

Mr. President, in an interesting way, I believe, this Genocide Convention has a lot to do with what is going to happen in the world in terms of our security in a physical sense and the cost of that security, because if there is a moral climate in the world—and of all the matters and treaties that we consider, I know of none that deals with the moral climate as much as the genocide which Hitler practiced and which we have seen practiced since in Africa, among African tribes, and which, as we know, could easily happen anywhere else, in an attempt to eliminate a whole ethnic group.

It has been said, for example, that that kind of thing was carried on in the Soviet Union at a given stage of its revolution, with the suppression of a certain aspect of the population there which could qualify under "ethnic or religious or racial group."

So, Mr. President, if what we are trying to establish is to make the United States, after a quarter of a century, a party to a universal declaration that one of the rights of man is not to be eliminated simply because he is a member of some group which some dictator or some other group does not like and seeks to completely eliminate, it seems to me that this is so inherent in the institutions of justice, if we are to have any hope in this world, as to deserve in very high measure the attention of the Senate.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ALLEN. I ask, for information, what would be the punishment for the crime of genocide? Would it be a punishment equally applied throughout the world, or among the signatory nations? What would be the punishment for the crime of genocide?

Mr. JAVITS. Well, the punishment for the crime of genocide——

Mr. ALLEN. Inasmuch as the convention does not say?

Mr. JAVITS. Yes. The punishment for the crime of genocide would be determined by individual countries until there was some international tribunal, which we would have an absolute right to have or not to have, if the Senate ratifies such a convention.

In the implementing statute, which Senator SCOTT and I have introduced and which is a condition precedent to this ratification, we provide for a fine of not more than $20,000 and imprisonment of not more than 20 years; and, if death results, subjection to life imprisonment. For inciting to commit genocide, we propose not more than $10,000 fine, or 5 years in prison, or both.

Of course, the Senate will be able to work its will before this is ratified, and I assume implementing legislation in other countries will go to the same point.

Bear in mind, as I wish to reiterate and still leave a minute for the Senator, that there is no crime established in this country unless Congress legislates one, but the framework within which it would legislate one is the framework of this convention, which stamps genocide as an international and a national crime.

Mr. ALLEN. But these acts that would constitute genocide, certainly, such as the mass extermination of a large segment of the population, that would be the crime of murder, would it not?

Mr. JAVITS. That depends on whether it is performed abroad or not, and one of the examples here, the national alienation of children from their parents or the change of the mental processes of a whole group may not qualify—indeed, may not qualify even as a crime unless defined in this way by our implementing statutes which would fall within the framework.

Mr. ALLEN. Then there is no uniform punishment provided?

Mr. JAVITS. I specified what it would be under the implementing statutes.

Mr. TOWER. Mr. President, I vigorously oppose the passage of the so-called Genocide Treaty. This treaty, though obviously fathered by well-intentioned men, is so fraught with dangerous precedents and ambiguities that we have no alternative but to reject it. Such a rejection cannot be interpreted by rational men as support of genocide. Rather it results simply from the recognition that the form of the treaty is unwise. We are not alone in that feeling for even the Soviet Union has in a sense rejected many portions of the treaty through the adoption of reservations and understandings. Yet some argue that it is precisely because the Soviet Union has adopted the treaty we must do so as well. Somehow the logic of that argument fails me.

The United Nations adopted the Genocide Convention on December 10, 1948. It was submitted to the United States for consideration and ratification on June 16, 1949. The Foreign Relations Committee gave an unfavorable report in 1950 and until 1971 serious consideration of the treaty was not given. The reasons why the committee rejected the convention 23 years ago are still applicable today.

First, the definition of genocide used within the convention significantly differs with the traditional meaning of the word. Article II of the treaty states:

> In the present convention genocide means any of the following acts committed with intent to destroy, in whole, or in part, a national, ethnical, racial or religious group. . . .

I might note that the original text of the treaty included political groups as well but due to the objections of certain nations desiring to suppress political minorities, political groups were dropped from the list.

As currently written, therefore, the treaty itself states genocide to mean the destruction of even a part, perhaps even a single member of a group. The treaty, therefore, theoretically abridges the Constitution by transferring from the States to the Federal Government the responsibility for the prosecution and punishment of homicide, assault and battery, and kidnappings covered under the convention. Because the Congress would be obliged to enact such legislation as is necessary to implement the provisions of the treaty, it would be required to pass legislation to govern the trial and punishment by the Federal Government of these crimes. Such a process would undoubtedly be a lengthy one creating considerable confusion in the interim.

Because of this apparent confusion over jurisdiction of State or Federal courts over these crimes, an acquittal of the charge in one court would not necessarily prevent prosecution based upon the same evidence in the other court. This clearly contradicts the American concept of double jeopardy. Because the convention requires genocidal intent for conviction, a criminal could easily be acquitted of a heinous crime in Federal court and be unpunished unless brought to trial in State court.

The reasons, therefore, for opposing this treaty center around the uncertainty of what the effects of ratification would bring.

This tremendous ambiguity over the effect of the treaty has moved the American Bar Association on a number of occasions to oppose ratification. In his 1971 testimony, Eberhard P. Deutch, of New Orleans, speaking on behalf of the ABA made the following statment:

> It is submitted that treaties with other nations are not the proper constitutional means for the government of the people of the United States in their internal affairs, which should continue to be regulated by our own federal and state and local legislative bodies through enactments which have their foundation in our own constitutional processes.

The Convention requires that those who cause mental harm to members of national, ethnic, religious, or racial groups be prosecuted. But it fails to define what this mental harm is. An Understanding to the Convention defines mental harm as the "permanent impairment of mental faculties" but even this leaves open many questions. Medical science has established the importance of good nutrition to the development of a child's mental abilities. Is poverty, then, a crime of genocide and if so, who is to be prosecuted?

Some have argued that the failure to implement Brown versus Board of Education in a particular manner would violate the Convention. Whether there would be a violation would be determined by international courts of justice and the United Nations. I am committed to see the Brown decision fully implemented and I believe that we have made great progress, despite the excesses of certain Federal courts. Nevertheless, as in the case of malnutrition and poverty, these are internal problems facing the United States—problems which we are now solving by positive programs. Only the United States can and should work to solve these problems—the intervention of foreign governments and international courts would retard our progress and cause continuing chaos.

What I am saying, Mr. President, is that while we all are firmly committed to a position of moral condemnation of genocide, with our government taking appropriate action whenever it is possible, an International Treaty on the subject will only benefit those in the world whose policies may now or at some time in the future encourage genocide on a mass scale. This documented by the hundreds of reservations already entered into by the signatories of the Convention. Even if the objectionable items that I have alluded to were not factors in our debate, these reservations make the treaty as a whole meaningless. International law cannot function under any circumstances when the signatories have to such a great extent limited the effect of the thrust of what are admittedly admirable aims of the proponents.

With all due respect to the distinguished Senator from Idaho (Mr. CHURCH) I believe his reservations represents an example of the dangers of this proposed treaty. The reservation states:

> We will not allow the extradition of American citizens to answer to a crime in a foreign country unless they are guaranteed the same safeguards that defendants in our courts are guaranteed.

I submit that this reservation is meaningless. Can we really expect for instance that a foreign nation will abide by our constitutional safeguards of, for example, fifth and 14 amendment due process. Are we to expect that the international courts of justice as well as other foreign governments will abide by our evolving principles of Constitutional law.

Mr. President, I have purposely not attacked the Treaty on a section by section basis. An exhaustive rebuttal has already been given by a number of Senators who share my feeling on this matter.

In summary I would like to note that this so-called Genocide Convention through article IX, vesting judicial review in the International Court of Justice, clearly violates the Constitution which vests full authority for interpreting treaties in the Supreme Court. Furthermore, on many occasions the Court has stated unequivocally that the treaty making authority extends only to matters strictly relating to foreign and diplomatic affairs.

As former Chief Justice Hughes once stated:

> The power (i.e., the treaty power) is to deal with foreign nations with regard to matters of international concern. It is not a power intended to be exercised . . . with respect to matters that have no relation to international concerns . . .

With our long tradition of individual liberty and tolerance for all viewpoints and ideas, the United States has more than any other nation-state resisted the genocidal tendencies and policies of other nation-states. The Treaty we are now asked to ratify would allow the rest of the world to interfere with our unique system of Republican government as embodied in our Constitution, undoubtedly the most sacred political document in the World.

We must continue to affirmatively resist political repression such as what now emanates from the Soviet Union in their treatment of Jews and political dissidents opposing the Kremlin's totalitarian rule. The so-called Genocide Treaty, however, with all of its understandings and reservations would not affect this totalitarian rule, but instead, would strongly hinder those nations who truly believe in freedom and individual liberty.

I urge the defeat of Executive O, the so-called Genocide Treaty.

Mr. WILLIAMS. Mr. President, some three decades ago, when a madman named Adolf Hitler attempted to seize world power by advocating a policy of genocide in the name of national honor and ambition, a shocked community of nations arose to thwart both the man and his ideology.

However, it was not soon enough for the millions of Jews, Catholics, and ethnic nationals, who perished at the hands of their Nazi tormentors. For these people, their birthright was their death warrant.

To the ideological zealots who carried out their orders with patriotic precision, it was not necessary to further justify the slaughter of whole families, or sometimes even entire town populations. A person's religious persuasion or ethnic background would be, and tragically was, in fact, cause enough.

The holocaust, the terrible toll, and the atrocities are all too well known. They need not be detailed again. However, for the survivors of the concentration camps, and for the families and friends of those who did not survive, the names Auschwitz, Buchenwald, Belsen, and Dachau continue to be painful legacies. This inhumanity must never again be allowed to reoccur.

Shortly after the end of the Second World War, men of good will from countries all over the world met under the auspices of the United Nations to draft a statement of principles abhoring the policy and practice of such mass brutality. Two years later, the International Convention for the Prevention and Punishment of the Crime of Genocide became a reality.

On December 11, 1948, President Harry S. Truman signed the Convention and transmitted it to the Senate 7 months later—June 16, 1949—for ratification. Today, nearly 25 years afterward, the document still awaits this body's advice and consent.

It is my belief that the Senate should delay no longer. The time is overdue for us to approve this treaty, which seeks only to assure the international rights of human dignity and ideological freedom. From its very beginnings, the United States has always stood for these basic principles.

There are those who oppose ratification on the grounds that it would be using the treaty power of the Senate to enact substantive legislation; a power, of course, reserved for the joint action of both Houses of Congress. I appreciate that concern. However, this convention will not be a self-executing treaty in that sense. After ratification, it must be given effect by subsequent implementing legislation. Thus, genocide would not be technically a crime per se in the United States until both Houses amend the Criminal Code to that effect. Therefore, prosecution of any American citizen for alleged genocide would still be subject to all of the procedural and substantive safeguards provided for in the Constitution and applicable judicial codes. Similar protection under existing extradition treaties will likewise be unaffected.

Mr. President, genocide is among the most heinous of all crimes. It must never be condoned, never be mitigated, or never be tolerated.

With the profound hope that past will not, in this case, be prolog, I shall vote in favor of ratification.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. METZENBAUM). Under the previous order, the hour of 12 o'clock having arrived, the Senate will now proceed to the vote on cloture. The clerk will state the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide (Executive O. 81-1).

1. Mike Mansfield.
2. Frank Church.
3. Jacob K. Javits.
4. Robert P. Griffin.
5. Charles McC. Mathias, Jr.
6. William D. Hathaway.
7. Gale W. McGee.
8. William Proxmire.
9. Birch Bayh.
10. Hugh Scott.
11. Richard S. Schweiker.
12. Adlai E. Stevenson III.
13. Jennings Randolph.
14. Hubert H. Humphrey.
15. Edmund S. Muskie.
16. James B. Pearson.
17. Charles H. Percy.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 33 Ex.]

Abourezk
Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Indiana (Mr. HARTKE), are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN), is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the pending resolution of ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) is absent on official business.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) and the Senator from California (Mr. CRANSTON) would each vote "yea."

On this vote, the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. GRAVEL) are paired with the Senator from Georgia (Mr. NUNN).

If present and voting, the Senators from Indiana and Alaska would vote "yea" and the Senator from Georgia would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The yeas and nays resulted—yeas 55, nays 38, as follows:

[No. 34 Ex.]

YEAS—55

Abourezk
Aiken
Beall
Bellmon
Bentsen
Biden
Brooke
Burdick
Byrd, Robert C.
Case
Chiles
Church
Clark
Eagleton
Fong
Griffin
Hart
Haskell
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Metzenbaum
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Hugh
Stafford
Stevens
Stevenson
Symington
Taft
Tunney
Weicker
Williams

NAYS—38

Allen
Baker
Bartlett
Bennett
Bible
Brock
Buckley
Byrd, Harry F., Jr.
Cannon
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Hollings
Hruska
Huddleston
Johnston
Long
McClellan
McClure
Roth
Scott, William L.
Sparkman
Stennis
Talmadge
Thurmond
Tower
Young

NOT VOTING—7

Bayh
Cranston
Gravel
Hartke
Hatfield
Inouye
Nunn

The ACTING PRESIDENT pro tempore. On this vote there are 55 yeas and 38 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on January 31, 1974, the President had approved and signed the act (S. 1191) to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

COMPREHENSIVE HEALTH INSURANCE PLAN—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States, which was referred to the Committee on Finance. The message is as follows:

To the Congress of the United States:

One of the most cherished goals of our democracy is to assure every American an equal opportunity to lead a full and productive life.

In the last quarter century, we have made remarkable progress toward that goal, opening the doors to millions of our fellow countrymen who were seeking equal opportunities in education, jobs and voting.

Now it is time that we move forward again in still another critical area: health care.

Without adequate health care, no one can make full use of his or her talents and opportunities. It is thus just as important that economic, racial and social barriers not stand in the way of good health care as it is to eliminate those barriers to a good education and a good job.

Three years ago, I proposed a major health insurance program to the Congress, seeking to guarantee adequate financing of health care on a nationwide basis. That proposal generated widespread discussion and useful debate. But no legislation reached my desk.

Today the need is even more pressing because of the higher costs of medical care. Efforts to control medical costs under the New Economic Policy have been met with encouraging success, sharply reducing the rate of inflation for health care. Nevertheless, the overall cost of health care has still risen by more than 20 percent in the last two and one-half years, so that more and more Americans face staggering bills when they receive medical help today:

—Across the Nation, the average cost of a day of hospital care now exceeds $110.

—The average cost of delivering a baby and providing postnatal care approaches $1,000.

—The average cost of health care for terminal cancer now exceeds $20,000.

For the average family, it is clear that without adequate insurance, even normal care can be a financial burden while a catastrophic illness can mean catastrophic debt.

Beyond the question of the prices of health care, our present system of health care insurance suffers from two major flaws:

First, even though more Americans carry health insurance than ever before, the 25 million Americans who remain uninsured often need it the most and are most unlikely to obtain it. They include many who work in seasonal or transient occupations, high-risk cases, and those who are ineligible for Medicaid despite low incomes.

Second, those Americans who do carry health insurance often lack coverage which is balanced, comprehensive and fully protective:

—Forty percent of those who are insured are not covered for visits to physicians on an out-patient basis, a gap that creates powerful incentives toward high-cost care in hospitals;

—Few people have the option of selecting care through prepaid arrangements offered by Health Maintenance Organizations so the system at large does not benefit from the free choice and creative competition this would offer;

—Very few private policies cover preventive services;

—Most health plans do not contain built-in incentives to reduce waste and inefficiency. The extra costs of wasteful practices are passed on, of course, to consumers; and

—Fewer than half of our citizens under 65—and almost none over 65—have major medical coverage which pays for the cost of catastrophic illness.

These gaps in health protection can have tragic consequences. They can cause people to delay seeking medical attention until it is too late. Then a medical crisis ensues, followed by huge medical bills—or worse. Delays in treatment can end in death or lifelong disability.

COMPREHENSIVE HEALTH INSURANCE PLAN (CHIP)

Early last year, I directed the Secretary of Health, Education, and Welfare to prepare a new and improved plan for comprehensive health insurance. That plan, as I indicated in my State of the Union message, has been developed and I am presenting it to the Congress today. I urge its enactment as soon as possible.

The plan is organized around seven principles:

First, it offers every American an opportunity to obtain a balanced, comprehensive range of health insurance benefits;

Second, it will cost no American more than he can afford to pay;

Third, it builds on the strength and diversity of our existing public and private systems of health financing and harmonizes them into an overall system;

Fourth, it uses public funds only where needed and requires no new Federal taxes;

Fifth, it would maintain freedom of choice by patients and ensure that doctors work for their patient, not for the Federal Government.

Sixth, it encourages more effective use of our health care resources;

And finally, it is organized so that all parties would have a direct stake in making the system work—consumer, provider, insurer, State governments and the Federal Government.

BROAD AND BALANCED PROTECTION FOR ALL AMERICANS

Upon adoption of appropriate Federal and State legislation, the Comprehensive Health Insurance Plan would offer to every American the same broad and balanced health protection through one of three major programs:

—Employee Health Insurance, covering most Americans and offered at their place of employment, with the cost to be shared by the employer and employee on a basis which would prevent excessive burdens on either;

—Assisted Health Insurance, covering low-income persons, and persons who would be ineligible for the other two programs, with Federal and State government paying those costs beyond the means of the individual who is insured; and

—An improved Medicare Plan, covering those 65 and over and offered through a Medicare system that is modified to include additional, needed benefits.

One of these three plans would be available to every American, but for everyone, participation in the program would be voluntary.

The benefits offered by the three plans would be identical for all Americans, regardless of age or income. Benefits would be provided for:

—hospital care;
—physicians' care in and out of the hospital;
—prescription and life-saving drugs;
—laboratory tests and X-rays;
—medical devices;
—ambulance services; and,
—other ancillary health care.

There would be no exclusions of coverage based on the nature of the illness. For example, a person with heart disease would qualify for benefits as would a person with kidney disease.

In addition, CHIP would cover treatment for mental illness, alcoholism and drug addiction, whether that treatment were provided in hospitals and physicians' offices or in community based settings.

Certain nursing home services and other convalescent services would also be covered. For example, home health services would be covered so that long and costly stays in nursing homes could be averted where possible.

The health needs of children would come in for special attention, since many conditions, if detected in childhood, can be prevented from causing lifelong disability and learning handicaps. Included in these services for children would be:

—preventive care up to age six;
—eye examinations;
—hearing examinations; and,
—regular dental care up to age 13.

Under the Comprehensive Health Insurance Plan, a doctor's decisions could be based on the health care needs of his patients, not on health insurance coverage. This difference is essential for quality care.

Every American participating in the program would be insured for catastrophic illnesses that can eat away savings and plunge individuals and families into hopeless debt for years. No family would ever have annual out-of-pocket expenses for covered health services in excess of $1,500, and low-income families would face substantially smaller expenses.

As part of this program, every American who participates in the program would receive a Healthcard when the plan goes into effect in his State. This card, similar to a credit card, would be honored by hospitals, nursing homes, emergency rooms, doctors, and clinics across the country. This card could also be used to identify information on blood type and sensitivity to particular drugs—information which might be important in an emergency.

Bills for the services paid for with the Healthcard would be sent to the insurance carrier who would reimburse the provider of the care for covered services, then bill the patient for his share, if any.

The entire program would become effective in 1976, assuming that the plan is promptly enacted by the Congress.

HOW EMPLOYEE HEALTH INSURANCE WOULD WORK

Every employer would be required to offer all full-time employees the Comprehensive Health Insurance Plan. Additional benefits could then be added by mutual agreement. The insurance plan would be jointly financed, with employers paying 65 percent of the premium for the first three years of the plan, and 75 percent thereafter. Employees would pay the balance of the premiums. Temporary Federal subsidies would be used to ease the initial burden on employers who face significant cost increases.

Individuals covered by the plan would pay the first $150 in annual medical expenses. A separate $50 deductible provision would apply for out-patient drugs. There would be a maximum of three medical deductibles per family.

After satisfying this deductible limit, an enrollee would then pay for 25 percent of additional bills. However, $1,500 per year would be the absolute dollar limit on any family's medical expenses for the covered services in any one year.

HOW ASSISTED HEALTH INSURANCE WOULD WORK

The program of Assisted Health Insurance is designed to cover everyone not offered coverage under Employee Health Insurance or Medicare, including the unemployed, the disabled, the self-employed, and those with low incomes. In addition, persons with higher incomes could also obtain Assisted Health Insurance if they cannot otherwise get coverage at reasonable rates. Included in this latter group might be persons whose health status or type of work puts them in high-risk insurance categories.

Assisted Health Insurance would thus fill many of the gaps in our present health insurance system and would ensure that for the first time in our Nation's history, all Americans would have financial access to health protection regardless of income or circumstances.

A principal feature of Assisted Health Insurance is that it relates premiums and out-of-pocket expenses to the income of the person or family enrolled. Working families with incomes of up to $5,000, for instance, would pay no premiums at all. Deductibles, co-insurance, and maximum liability would all be pegged to income levels.

Assisted Health Insurance would replace State-run Medicaid for most services. Unlike Medicaid, where benefits vary in each State, this plan would establish uniform benefit and eligibility standards for all low-income persons. It would also eliminate artificial barriers to enrollment or access to health care.

As an interim measure, the Medicaid program would be continued to meet certain needs, primarily long-term institutional care. I do not consider our current approach to long-term care desirable because it can lead to overemphasis on institutional as opposed to home care. The Secretary of Health, Education, and Welfare has undertaken a thorough study of the appropriate institutional services which should be included in health insurance and other programs and will report his findings to me.

IMPROVING MEDICARE

The Medicare program now provides medical protection for over 23 million older Americans. Medicare, however, does not cover outpatient drugs, nor does it limit total out-of-pocket costs. It is still possible for an elderly person to be financially devastated by a lengthy illness even with Medicare coverage.

I therefore propose that Medicare's benefits be improved so that Medicare would provide the same benefits offered to other Americans under Employee Health Insurance and Assisted Health Insurance.

Any person 65 or over, eligible to receive Medicare payments, would ordinarily, under my modified Medicare plan, pay the first $100 for care received during a year, and the first $50 toward out-patient drugs. He or she would also pay 20 percent of any bills above the deductible limit. But in no case would any Medicare beneficiary have to pay more than $750 in out-of-pocket costs. The premiums and cost sharing for those with low incomes would be reduced, with public funds making up the difference.

The current program of Medicare for the disabled would be replaced. Those now in the Medicare for the disabled plan would be eligible for Assisted Health Insurance, which would provide better coverage for those with high medical costs and low incomes.

Premiums for most people under the new Medicare program would be roughly equal to that which is now payable under Part B of Medicare—the Supplementary Medical Insurance program.

COSTS OF COMPREHENSIVE HEALTH INSURANCE

When fully effective, the total new costs of CHIP to the Federal and State governments would be about $6.9 billion with an additional small amount for transitional assistance for small and low wage employers:

—The Federal Government would add about $5.9 billion over the cost of continuing existing programs to finance health care for low-income or high risk persons.

—State governments would add about $1.0 billion over existing Medicaid spending for the same purpose, though these added costs would be largely, if not wholly offset by reduced State and local budgets for direct provision of services.

—The Federal Government would provide assistance to small and low wage employers which would initially cost about $450 million but be phased out over five years.

For the average American family, what all of these figures reduce to is simply this:

—The national average family cost for health insurance premiums each year under Employee Health Insurance would be about $150; the employer would pay approximately $450 for each employee who participates in the plan.

—Additional family costs for medical care would vary according to need and use, but in no case would a family have to pay more than $1,500 in any one year for covered services.

—No additional taxes would be needed to pay for the cost of CHIP. The Federal funds needed to pay for this plan could all be drawn from revenues that would be generated by the present tax structure. I am opposed to any comprehensive health plan which requires new taxes.

MAKING THE HEALTH CARE SYSTEM WORK BETTER

Any program to finance health care for the Nation must take close account of two critical and related problems—cost and quality.

When Medicare and Medicaid went into effect, medical prices jumped almost twice as fast as living costs in general in the next five years. These programs increased demand without increasing supply proportionately and higher costs resulted.

This escalation of medical prices must not recur when the Comprehensive Health Insurance Plan goes into effect. One way to prevent an escalation is to increase the supply of physicians, which is now taking place at a rapid rate. Since 1965, the number of first-year enrollments in medical schools has increased 55 percent. By 1980, the Nation should have over 440,000 physicians, or roughly one-third more than today. We are also taking steps to train persons in allied health occupations, who can extend the services of the physician.

With these and other efforts already underway, the Nation's health manpower supply will be able to meet the additional demands that will be placed on it.

Other measures have also been taken to contain medical prices. Under the New Economic Policy, hospital cost increases have been cut almost in half from their post-Medicare highs, and the rate of increase in physician fees has slowed substantially. It is extremely important that these successes be continued as we move toward our goal of comprehensive health insurance protection for all Americans. I will, therefore, recommend to the Congress that the Cost of Living Council's authority to control medical costs be extended.

To contain medical costs effectively over the long haul, however, basic reforms in the financing and delivery of care are also needed. We need a system with built-in incentives that operates more efficiently and reduces the losses from waste and duplication of effort. Everyone pays for this inefficiency through their health premiums and medical bills.

The measure I am recommending today therefore contains a number of proposals designed to contain costs, improve the efficiency of the system and assure quality health care. These proposals include:

1. HEALTH MAINTENANCE ORGANIZATIONS (HMO'S)

On December 29, 1973, I signed into law legislation designed to stimulate, through Federal aid, the establishment of prepaid comprehensive care organizations. HMO's have proved an effective means for delivering health care and the CHIP plan requires that they be offered as an option for the individual and the family as soon as they become available. This would encourage more freedom of choice for both patients and providers, while fostering diversity in our medical care delivery system.

2. PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSRO'S)

I also contemplate in my proposal a provision that would place health services provided under CHIP under the review of Professional Standards Review Organizations. These PSRO's would be charged with maintaining high standards of care and reducing needless hospitalization. Operated by groups of private physicians, professional review organizations can do much to ensure quality care while helping to bring about significant savings in health costs.

3. MORE BALANCED GROWTH IN HEALTH FACILITIES

Another provision of this legislation would call on the States to review building plans for hospitals, nursing homes and other health facilities. Existing health insurance has overemphasized the placement of patients in hospitals and nursing homes. Under this artificial stimulus, institutions have felt impelled to keep adding bed space. This has produced a growth of almost 75 percent in the number of hospital beds in the last twenty years, so that now we have a surplus of beds in many places and a poor mix of facilities in others. Under the legislation I am submitting, States can begin remedying this costly imbalance.

4. STATE ROLE

Another important provision of this legislation calls on the States to review the operation of health insurance carriers within their jurisdiction. The States would approve specific plans, oversee rates, ensure adequate disclosure, require an annual audit and take other appropriate measures. For health care providers, the States would assure fair reimbursement for physician services, drugs, and institutional services, including a prospective reimbursement system for hospitals.

A number of States have shown that an effective job can be done in containing costs. Under my proposal all States would have an incentive to do the same. Only with effective cost control measures can States ensure that the citizens receive the increased health care they need and at rates they can afford. Failure on the part of States to enact the necessary authorities would prevent them from receiving any Federal support of their State-administered health assistance plan.

MAINTAINING A PRIVATE ENTERPRISE APPROACH

My proposed plan differs sharply with several of the other health insurance plans which have been prominently discussed. The primary difference is that my proposal would rely extensively on private insurers.

Any insurance company which could offer those benefits would be a potential supplier. Because private employers would have to provide certain basic benefits to their employees, they would have an incentive to seek out the best insurance company proposals and insurance companies would have an incentive to offer their plans at the lowest possible prices. If, on the other hand, the Government were to act as the insurer, there would be no competition and little incentive to hold down costs.

There is a huge reservoir of talent and skill in administering and designing health plans within the private sector. That pool of talent should be put to work.

It is also important to understand that the CHIP plan preserves basic freedoms for both the patient and doctor. The patient would continue to have a freedom of choice between doctors. The doctors would continue to work for their patients, not the Federal Government. By contrast, some of the national health plans that have been proposed in the Congress would place the entire health system under the heavy hand of the Federal Government, would add considerably to our tax burdens, and would threaten to destroy the entire system of medical care that has been so carefully built in America.

I firmly believe we should capitalize on the skills and facilities already in place, not replace them and start from scratch with a huge Federal bureaucracy to add to the ones we already have.

COMPREHENSIVE HEALTH INSURANCE PLAN—A PARTNERSHIP EFFORT

No program will work unless people want it to work. Everyone must have a stake in the process.

This Comprehensive Health Insurance Plan has been designed so that everyone involved would have both a stake in making it work and a role to play in the process—consumer, provider, health insurance carrier, the States and the Federal Government. It is a partnership program in every sense.

By sharing costs, consumers would have a direct economic stake in choosing and using their community's health resources wisely and prudently. They would be assisted by requirements that physicians and other providers of care make available to patients full information on fees, hours of operation and other matters affecting the qualifications of providers. But they would not have to go it alone either: doctors, hospitals and other providers of care would also have a direct stake in making the Comprehensive Health Insurance Plan work. This program has been designed to relieve them of much of the red tape, confusion and delays in reimbursement that plague them under the bewildering assortment of public and private financing systems that now exist. Health cards would relieve them of troublesome bookkeeping. Hospitals could be hospitals, not bill collecting agencies.

CONCLUSION

Comprehensive health insurance is an idea whose time has come in America.

There has long been a need to assure every American financial access to high quality health care. As medical costs go up, that need grows more pressing.

Now, for the first time, we have not just the need but the will to get this job done. There is widespread support in the Congress and in the Nation for some form of comprehensive health insurance.

Surely if we have the will, 1974 should also be the year that we find the way.

The plan that I am proposing today is, I believe, the very best way. Improvements can be made in it, of course, and the Administration stands ready to work with the Congress, the medical profession, and others in making those changes.

But let us not be led to an extreme program that would place the entire health care system under the dominion of social planners in Washington.

Let us continue to have doctors who work for their patients, not for the Federal Government. Let us build upon the strengths of the medical system we have now, not destroy it.

Indeed, let us act sensibly. And let us act now—in 1974—to assure all Americans financial access to high quality medical care.

RICHARD NIXON.

THE WHITE HOUSE, *February 6, 1974.*

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

In accordance with section 201(9) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the annual report of the Corporation for Public Broadcasting covering fiscal year 1973.

RICHARD NIXON.

THE WHITE HOUSE, *February 6, 1974.*

EXECUTIVE MESSAGE REFERRED

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXTENSION OF TIME FOR CONFERENCE COMMITTEE ON S. 2589 TO FILE ITS REPORT

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the conference committee on S. 2589, the Energy Emergency Bill, have until midnight tonight to file its report and have it printed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION—RESUMPTION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session and that there now be a resumption of the period for routine morning business not to exceed 15 minutes, with no limitation on statements made therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 6477. An act for the relief of Lucille de Saint Andre; and

H.R. 11221. An act to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 425) providing for adjournment of the House from Thursday, February 7, 1974, to Wednesday, February 13, 1974, in which it requested the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were read severally, twice by their titles and referred as indicated:

H.R. 6477. An act for the relief of Lucille de Saint Andre; to the Committee on the Judiciary.

H.R. 11221. An act to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000; to the Committee on Banking, Housing and Urban Affairs.

MAJOR BUDGET REFORM

Mr. PERCY. Mr. President, I am very pleased indeed that the acting majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), and the chairman of the Government Operations Committee, the Senator from North Carolina (Mr. ERVIN), are on the floor.

During the course of a meeting of the full Government Operations Committee this morning, the subject of a Washington Post article authored by the respected reporter, David S. Border, was raised. The headline of that article reads: "BYRD Not Very Optimistic on Major Budget Reform."

In our discussion particular attention was paid to the part of the article which reads as follows:

> Byrd said he thought it best to "move gradually step-by-step in the direction of budget reform, so that over the next two or three or four years Congress may achieve the kind of system" reformers are seeking.

I think it might be helpful for the advice of the Senate, and for a number of the Members and staff of many committees who are now working so mightily on this reform legislation, which is actually an effort to implement recommendations of the Joint House Senate Study Committee on Budget Control, were the chairman of the Government Operations Committee and I as the ranking minority member, to have an indication from the acting majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), about the implications and intent of the quotations which we assume is accurate.

I interpret these comments somewhat differently from some of my colleagues.

Having discussed this matter in some detail with the distinguished Senator from West Virginia and the distinguished Senator from North Carolina and having discussed it with other members of our committee, it is said that in reporting out the bill and having it referred to the

Committee on Rules and Adminstration, there are technicalities, but that there are aspects of that bill that could be improved.

We were very much pleased indeed that as a result of the hearings that were held by that committee during the recess period, improvements were pointed out. We recognize that the staff, working now in a tremendous effort together with staff members of many of the committees in the Senate, have further refined and found ways to improve this legislation.

But it is our conviction that we could come together with a bill that would be the first major step toward reform, and that that bill could be presented for debate on the floor and could be passed this year, that we could have a conference on the bill, which the House has already passed, and that we could send to the President's desk for signature a budget reform bill that would embrace the concepts on which we seem to have such widespread agreement, such as the need to set an overall ceiling on spending, the need to comprehensively weigh competing national priorities against each other, the need to bring uncontrollable spending under congressional control, and the need to improve the Congress' ability to deal with fiscal policy matter.

We would recognize that over the next 3 or 4 years there would be further improvements that could be offered, and certainly that is the judgment of the chairman of the subcommittee, the Senator from Montana (Mr. METCALF), who has worked mightily month after month on this legislation.

We should have ready for the Senate by the end of this month, a bill embodying the best thinking we can now put into it, subject of course to projection in the light of later experience. Instead of being pessimistic, I am optimistic about the opportunity that the Senate now has, and I am optimistic that the Senate will seize the chance to make this first major step in the area of budgetary reform, which is so desperately needed. I believe that the country recognizes this need, and will applaud meaningful reform.

I yield to the Senator from West Virginia, because we so very greatly appreciate the cooperation extended to us, not only by Senator BYRD, but by the chairman of the Rules Committee (Mr. CANNON), and, of course, by Senator COOK and the staff.

Mr. ROBERT C. BYRD. Mr. President, the column by Mr. David Broder, to which the distinguished Senator from Illinois has referred, does accurately reflect my viewpoint in respect to this matter. The headline, "Byrd Not Very Optimistic on Major Budget Reform," is accurate. I am not presently very optimistic about major budget reform this year. The paragraph which reads:

> Byrd said he thought it best to "move gradually, step-by-step, in the direction of budget reform, so that over the next 2 or 3 or 4 years, Congress may achieve the kind of system" reformers are seeking—

Is accurate.

However, I think that I should say this in further clarification, for the benefit of the Senator from North Carolina (Mr. ERVIN) and the Senator from Illinois (Mr. PERCY). While I am not very optimistic, that does not mean that I am not going to do everything I possibly can to assist in bringing about whatever budget reform is possible.

The column points out—and the distinguished Senator from Illinois has referred to it—that:

> Nonetheless, a group of 20 to 30 staff members, representing virtually all the major Senate committees, labored through their tenth full day of closed-door efforts to rewrite the legislation in a form acceptable to most, if not all, of the rival power blocs in the Senate.

That paragraph, I think, should reassure every Senator that the work of budget reform is going forward. That work, to which the paragraph refers, is going forward at my request as the chairman of the Subcommittee on Rules. Several days ago, I asked Mr. William Cochrane, who is staff director for the Rules Committee, to assemble all the various staff members from Senators' offices and from other committees who have been working on this legislation, to concentrate in work sessions on those areas of the bill that needed revision in light of the hearings conducted by the Rules Subcommittee which I chair.

Those staff people have been working, and I have been getting reports from Mr. Cochrane right along. I spent all of last Saturday with the Parliamentarian going over the bill. He and I agreed to spend one evening this week on the bill and also this coming Saturday if necessary.

I have indicated to Mr. Cochrane that next week, when the Senate is in recess, I shall spend most of that week, if necessary, working on the bill with the staff people and with Senators. If the Senator from Illinois, the Senator from North Carolina, and any other Senators who have had some input with the bill, from the Committee on Government Operations, and the distinguished assistant Republican leader—I discussed this with him yesterday—are able to do so, we shall also be glad to have them join us next week. We shall try to bring out a bill on time. With the cooperation and the continued input of other Senators, the staffs of Senators, and the staffs of committees, we are trying to report to the Senate a bill which we hope will be an improved bill in some respects; a bill which will carry out the objective of all who have had an input to that legislation.

So while I say the news article is correct, and I still am not optimistic about major budget reform this year that will work, I do believe that the Senate will pass a bill. I think this is the most complex bill I have ever had anything to do with. Considering the fact that there are 535 Members of Congress, and considering the fact that appropriation bills have to be initiated by the House of Representatives, by custom, I am concerned that we may put too much detail into the bill and by so doing make it cumbersome and unworkable, and, in the end, defeat the very objectives that we and the American people want to achieve.

The Constitution of the United States, if it had been filled with such great detail, would never have provided the flexibility of the instrument that has so well served our Nation for 200 years. I am hoping that we can come up with a piece of legislation that is flexible enough, but which still will contain enough detail to make budget reform work.

I am sure I speak the sentiments of the distinguished Senator from Illinois when I say that it would be a tragedy if we do not pass legislation dealing with budget reform. But it would be an even greater tragedy if we enacted legislation that makes the present situation worse rather than better.

Mr. PERCY. Mr. President, in that respect, I should like to hear very much from my distinguished colleague, the chairman of the Government Operations Committee. We are in complete accord that we want a workable bill. We do not want just a bill or just a piece of paper. This is to be the instrument of all instruments that must work. It will fall by its own weight if it is so cumbersome and complex that no one understands it. That is why we have tried to keep it simple. But we have tried to seek goals and objectives. We feel that it is like the Constitution, and it could be subject to interpretation that no one really knows what course it will take. We want to establish it so that its targets, deadlines, dates, will be met. There is something very specific about saying that we want to start a fiscal year with our authorization and appropriation bills finished. That is the way almost any institution I know of operates except the Federal Government of the United States.

What we are trying to overcome are those deficiencies. I know the hours and days of work and study that the acting majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), has poured into this matter. Senator ERVIN and I are deeply grateful to him for his expertise, assistance, and help, which will meet our objectives to have a more workable and practical bill. Thus, I am very much pleased to have confirmed that we are going to have a bill. I know, as I said in the David Broder article, that where there is a will there is a way. We also know that when the acting majority leader says we are going to have legislation, we can have it; and we know that we can have a bill on the President's desk because the House overwhelmingly passed a bill.

Mr. ERVIN. Mr. President, I think this colloquy has been helpful in clarifying the apprehension which some of us have had as a result of the article published in the Washington Post. Of course, all of us have the experience of sometimes making statements, emphasizing some points and not emphasizing others, and even omitting other statements, because it is impossible for the press to print everything that is said on a given occasion.

No one knows more than the distinguished Senator from Illinois (Mr. PERCY), who has had so much to do with the preparation and study, the phraseology and the variations which we had to go through in preparing this bill. He has rendered yeoman service to us all. We realize that, in this field, Congress has been without an effective method of procedure to make certain that Congress always takes into consideration the two things essential in the preparation of funds.

First, the resources which are available to be appropriated and, second, the objects for which the appropriations are to be made.

As a result, having no machinery by which each Member of Congress can be made aware at all times of the impact of proposals to add appropriations, we have incurred in part the deficits and the national debt which we now have.

It has been a very unfortunate thing that we have had no machinery. We all agree that the most pressing need is to get the machinery which will enable us to set our Federal financial house in order insofar as Congress is concerned. Congress has been dependent throughout the years on the executive branch for information relating to matters of appropriation and, of course, it depends on those who are asking for the appropriations to be made for their particular projects, to give us the information. So we have had no independent sources of information of any magnitude. I think that one of the institutions the bill makes, is it sets up a congressional Office of the Budget, to give us an independent——

The PRESIDING OFFICER (Mr. HATHAWAY). Under the previous order, time for morning business has now expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the morning business be extended for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I have never gone to a committee that has worked harder and more diligently to accomplish the objectives than the Government Operations Committee on this bill. But, it was plowing new ground and had no precedents to go by. Everything had to be devised from the very beginning.

I think it is well that the Rules Committee look at this bill. My information concerning the activities of the members of the Rules Committee and the activities of the staff of the Government Operations Committee, and the staff of the Rules Committee, leads me to believe that as a result of this, we have a fine opportunity to make improvements in the bill and get legislation which will solve the most crucial problem that confronts us these days, when the Federal Government is so active in so many fields and, necessarily, has to make such large appropriations.

So I want to thank the Senator from Illinois for engaging in this colloquy with the Senator from West Virginia, and the Senator from West Virginia for what he has said. I hope that all of us having this same common objective, will be able to bring out something which will give us a procedure by which Congress can always have before it the realization of what the resources we have for appropriating are, and also how they should be appropriated, because those are the two essential things we have got to bear in mind if we are going to act with wisdom in this field.

Mr. ROBERT C. BYRD. Let me say again that the article correctly reflects—I find nothing wrong with the headline or any word in the article—correctly reflects what I said yesterday in meeting with news people at a breakfast to which I had been invited.

In one very small particular, which is not important, I think Mr. Broder may have misunderstood me, where I am quoted as saying: "I'm not sure it will be anything as detailed or cumbersome" as the bill the House has passed.

What I meant to say was that I did not want whatever legislation is finally enacted to be unworkable or cumbersome and that I thought that the bill which will be reported out of the Rules Committee will be an improvement over the original Senate bill. Mr. Broder probably misunderstood me slightly in the reference to the House bill. I have not yet had an opportunity to read the House bill. That brings up another aspect of the matter. I regret that the time is apparently not going to be sufficient to allow those of us on the Rules Committee to give as much consideration and study to the House bill as we have given to the Senate bill. It would be well if we could give adequate time to consideration of the House bill in the Rules Committee—as a matter of fact, I think it desirable that we give as much time to the House bill as we have been able or will have been able to give to the Senate bill. I have the feeling that, to properly recommend changes in the Senate bill, we should know fully what is in the House bill. There may be some features in the House bill that would be an improvement over the Senate bill. We ought to be able to properly judge the features in the House bill, because, as I say, this is certainly the most complex bill I have ever had occasion to study in committee, and it is the most far-reaching and most important legislation concerning which I will ever have had any personal input—whatever that little bit may be. I do want it to be a workable procedure, because in regard to the subject matter I can see so many problems that cause me to stay awake at night. I do not wish to have a hand in legislation that a year or so from now will bring criticism on us.

Now, the other day, in the meeting of the chairmen of committees, which the distinguished majority leader called, I brought up this subject. I asked that every chairman delegate a member of his staff to work with the staff people on Rules in an effort to bring out a good bill. So, we are making every effort and I am sorry if there is any misunderstanding on the part of the Senators or the general public.

I do not know how many letters and telegrams I got yesterday from people, urging me to report the bill—and the day before, also.

I do not know what organizations are behind this, but I am not going to move until I think we have done our best. We are all for budget reform. Who is not? But not everyone understands the complexity of this subject. I would hope that anyone who may be generating any pressure on Senator Byrd of West Virginia to get that bill out of the Rules Committee would call off the effort because it is not going to make me move one bit faster than I am moving. I am doing the best I can, and I cannot do more than that.

The Senator from Illinois need not lose 1 minute of sleep. Sentor BYRD of West Virginia is going to do his utmost. As I say, I have already given time, and I am going to give time next week, when many Senators may be able to go back home to see their constituents. I am going to give my time to this bill, and I am going to continue to give it my best.

Whatever I recommend to the full committee may not meet with the judgment of other Senators. I am not sure of my own ground that I am walking on, but I am going to do everything I possibly can to cooperate in reporting the bill for action by the Senate in time to meet the deadline.

No Senator need be under any misapprehension as to my sincerity and my conscientious purpose. I do not mean to be throwing bouquets at myself, but if this assurance needs to be in the Record, I am going to put it there. I am going to do my best. I know that Senator GRIFFIN and Senator CANNON—the other two subcommittee members—join me.

May I say to the Senator from Illinois that the Senator from Montana (Mr. METCALF) and the Senator from North Carolina and other Senators have been most understanding. They have allowed us to extend the date for reporting upon several occasions, but it has been absolutely necessary in each instance, I assure the Senator.

I reassure the Senator that, even though I do not believe in my heart that we can in one fell swoop bring in a bill that will be 100 percent perfect for all time—I think it is so complex and so far-reaching that we may have to take some steps forward and then, based on the experience therefrom take further steps a year or two from now that feeling on my part is not going to inhibit me in the slightest in my desire and in my effort to assist in reporting out a bill that will accomplish everything we can accomplish at one time. I think the climate and the atmosphere of public opinion are such now that if we are ever going to get budget reform, now is the time.

Mr. PERCY. I thank the distinguished assistant majority leader.

In the confidence of this Chamber and in this quiet colloquy, I should like simply to say that I know exactly what the distinguished Senator means when he talks about pressure groups. We have all been subjected to pressure. But no more recently than 2 hours ago, the minority counsel for the Government Operations Committee indicated that he had been approached by one or more of the committees that had been formed—and one of them was formed by David Packard. I do not know who heads some of these committees, but there are interest groups in this process who do not wish to let it go ahead, because they feel it is going to interfere with their lobbying process, and they think it is going to be good for the country, also.

I was asked whether I felt it would help if they took out public ads to expedite this, and my answer was absolutely negative.

Mr. ROBERT C. BYRD. Not in the slightest.

I would hope that some day the American people would become aware of the fact that there is at least one Senator in this body, if no other, who resents to the utmost any kind of such pressure.

Mr. PERCY. I reflected that despite this article. David Broder is an absolutely accurate and careful reporter. I did not dispute the fact that these comments were made, but it was the interpretation of those comments that I felt was wrong. I think the interpretation that has been given on the floor fully and adequately covers it and reiterates the Senator from Illinois' feeling that there is irresistible movement in the direction now of taking this first step; that the words used—"This is not a perfect bill"—are the very words that have been used by the distinguished Senator from North Carolina and the Senator from Illinois. We know that. We know that it can be improved; it will be improved.

With respect to the work relationship, there has never been a bill that was more bipartisan, and I have paid public tribute to Senator Muskie, who really made possible some of the compromises we arrived at. He is devoted and dedicated to this priniciple and kept in what we felt was so important—the overall ceiling, but with flexibility. There never has been a piece of legislation I know of that has come to us with greater cooperation between the House and the Senate. We started in the same origin—a commission of both Houses, the Senate and the House, with the distinguished senior Members of both bodies, who worked on a report showing the necessity for such legislation.

The House bill, though not exact in every detail, is very closely parallel in principle. Many of the guiding principles that the distinguished Senator from West Virginia has said he agrees with—the Budget Committee, the October 1 fiscal year—the obvious reforms that are needed, are in the House bill.

So I feel that we have made tremendous progress. I am most encouraged with this interpretation.

During my service in the Senate, this is probably the most important measure for the good of the Republic, for fiscal responsibility, for the soundness of the dollar, for the procedures to restore the confidence of the public in the congressional process. It is the most important piece of legislation on which I will be privileged to work. The distinguished Senator from North Carolina has said a number of times that it is the most important piece of legislation facing Congress today; and this Senator has a personal desire to see the distinguished Senator from North Carolina have a cap on his career by seeing embodied in law something in which he believes so deeply.

That is why I feel that action this year will take that first giant step. It will not be perfect. I think it will be one of the great tributes to a Senate that has worked long and hard in an atmosphere that has not always been the best for the Nation. But, despite Watergate or other diversions, we have kept our minds and hearts and eyes on our goal and objective, as embodied in the proposed legislation.

Mr. ROBERT C. BYRD. Mr. President, the able Senator from Illinois and the able Senator from North Carolina are entitled to great credit for the work and effort they have put forth on behalf of this measure. The same can be said about the distinguished Senator from Montana (Mr. Metcalf) and others on the Government Operations Committee.

Mr. PERCY. Mr. President, I ask unanimous consent that the article by David Broder be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

BYRD NOT VERY OPTIMISTIC ON MAJOR BUDGET REFORM

(By David S. Broder)

In the face of increasing Republican pressure for congressional budget reform, Senate Majority Whip Robert C. Byrd (D-W. Va.) argued yesterday that it is "going to be very difficult, if not impossible" to overhaul the way spending decisions are made on Capitol Hill.

"It requires a will and determination on the part of Congress collectively that I doubt we will ever see," Byrd told a group of newsmen.

The comments put a damper on prospects for Senate action on a companion measure to the budget reform bill which the House passed last year. Byrd, in addition to his role as assistant Democratic leader of the Senate, heads the subcommittee of the Senate Rules Committee which is supposed to report a budget reform bill by Feb. 25.

Nonetheless, a group of 20 to 30 staff members, representing virtually all the major Senate committees, labored through their 10th full day of closed-door efforts to rewrite the legislation in a form acceptable to most, if not all, of the rival power blocs in the Senate. Herbert N. Jasper, the Labor and Public Welfare Committee staffer who is the chairman of the ad hoc group, said it hoped to finish by the end of the week—sufficient time for Byrd and the Rules Committee to meet the Feb. 25 deadline.

Veteran legislative aides said they could recall no precedent for this effort by staff members from 15 committees and an equal number of senators' offices to draft a major piece of legislation.

The effort was undertaken when a one-day hearing by the Byrd subcommittee on Jan. 15 turned up strong objections from powerful senators to jurisdictional and procedural changes contained in a budget reform bill reported in November by the Senate Government Operations Committee after a year's work.

A bill similar to it was passed Dec. 5 by the House, where a sponsor hailed it as a measure that "will allow us for the first time to consider all of the basic elements in our economy and to put them together under sound procedures."

A basic provision of the reform bills would create a budget committee in each house to set overall spending and revenue targets for the year, as a guide to appropriations subcommittees for their work.

At present, Congress acts separately on each of the 13 major appropriations bills, often along after the fiscal year has begun, and with no effort to reconcile their totals to a budget target.

The proposed measures shift the start of the fiscal year from July 1 to Oct. 1 and set a strict timetable for specific stages of the congressional authorization and appropriation process.

Byrd said he thought "something will come out" of the Rules Committee by the deadline, but added, "I'm not sure it will be anything as detailed or cumbersome" as the bill the House has passed.

Byrd said he thought it best to "move gradually, step-by-step, in the direction of budget reform, so that over the next two or three or four years, Congress may achieve the kind of system" reformers are seeking.

But Republicans indicated yesterday they want fuller action faster. Sen. John G. Tower (R-Tex.), chairman of the Senate Republican Policy Committee, said GOP senators would introduce a resolution calling for "improvement immediately for the legislative year now just begun," in order to halt the "backward, increasingly haphazard and irresponsible" delay in passage of appropriations bills.

Sen. Charles H. Percy (R-Ill.), a principal sponsor of the bill now being reworked, said Byrd had assured him the revised measure "will be on the floor by the first week of March, and I think where there's a will, there's a way."

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to executive session.

The motion was agreed to, and the Senate resumed the consideration of executive business.

GENOCIDE CONVENTION

The Senate continued with the consideration of Executive order (81st Cong., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, as in legislative session, in view of the fact that the Senate may be adjourning shortly, I wish to make an unusual request, after discussing it with the Parliamentarian.

I ask unanimous consent that the health bill, representing the views of the President, if not proposed while the Senate is in session, be introduced during the adjournment of the Senate by the distinguished Senator from Oregon (Mr. Packwood).

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT OF BOTH HOUSES OF CONGRESS

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 425.

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate House Concurrent Resolution 425, which was read as follows:

> *Resolved by the House of Representatives (the Senate concurring)*. That when the House adjourns on Thursday, February 7, 1974, it stand adjourned until 12 o'clock meridian, Wednesday, February 13, 1974.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 1, line 4, strike out "1974." and insert "1974, and that when the Senate adjourns on Friday, February 8, 1974, it stand adjourned until 12 o'clock meridian, Monday, February 18, 1974."

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 425), as amended, was agreed to.

ORDER OF BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, the Senator from West Virginia will make the request later, that Senate meet at 10 a.m. tomorrow. The purpose behind coming in at 10 a.m. tomorrow—and the assistant majority leader requested that the conference committee on the Energy Emergency Act have until midnight to file the report—is on the basis that we have been assured that the conference will get together this afternoon and they will need a little time to file a report; and the distinguished Senator from Washington (Mr. JACKSON) and other members of the conference have indicated quite strongly they would be prepared to move at 10 o'clock tomorrow morning. Hopefully, we will be able to vote before the Senate recesses.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUEST TO CONSIDER CONFERENCE REPORT ON THE ENERGY EMERGENCY ACT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow under the standing order the Senate proceed to the consideration of the conference report on the Energy Emergency Act.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, there was a request by the Senator from Illinois for 15 minutes, for one thing. Second, is there any necessity to have unanimous consent? Would not the conference report, if it were ready, be a privileged matter which could be called up without debate?

Mr. ROBERT C. BYRD. Yes. I thank the distinguished assistant Republican leader for calling my attention to the request of the Senator from Illinois. I thought all Senators should be on notice that immediately after the two leaders have been recognized, the Senate would take up the conference report.

The able Senator from Washington (Mr. JACKSON), the manager of the conference report, indicated to the leadership earlier today that he wanted to proceed with the conference report tomorrow first thing at 10 o'clock. That was my purpose in asking for consent that the Senate proceed to its consideration immediately.

Mr. GRIFFIN. I have no personal objection, I say to the distinguished assistant majority leader. I am aware that there is a great deal of controversy about this matter on both sides of the aisle. I hesitate to have some action taken with respect to it by unanimous consent without the opportunity to consult. Some may feel their rights are somehow affected. As I said, I do not see that it would make much difference, because it is a privileged matter.

Mr. ROBERT C. BYRD. I withdraw that request.

The PRESIDING OFFICER. The request is withdrawn.

ORDER FOR RECOGNITION OF SENATOR PERCY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM THURSDAY UNTIL 10 A.M. FRIDAY, FEBRUARY 8, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business it stand in adjournment until the hour of 10 a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1739 PLACED ON CALENDAR UNDER SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill S. 1739, Calendar Order No. 365, be placed on the calendar titled "Subjects on the Table."

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Illinois (Mr. PERCY) will be recognized for not to exceed 15 minutes. After the order for the recognition of Mr. PERCY has been completed, it is expected that the distinguished junior Senator from Washington (Mr. JACKSON) will call up the conference report on the National Emergency Energy Act. If he does so it is a privileged matter, as the distinguished assistant Republican leader correctly stated. Yea-and-nay votes can be expected to occur throughout the day in relation thereto.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, we are in legislative session; are we not?

The PRESIDING OFFICER. Yes.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 1:30 p.m. the Senate adjourned until tomorrow, **Thursday, February 7, 1974, at 10 a.m.**

NOMINATIONS

Executive nominations received by the Senate February 6, 1974:

DEPARTMENT OF STATE

John Gunther Dean, of New York, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Khmer Republic.

Philip W. Manhard, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mauritius.

Robert E. Fritts, of Maryland, a Foreign Service officer of class 3, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

Marshall Green, of the District of Columbia, a Foreign Service officer of the class of Career Minister, now Ambassador Extraordinary and Plenipotentiary of the United States of America to Australia, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nauru.

THE JUDICIARY

Robert Firth, of California, to be a U.S. district judge for the central district of California vice Charles H. Carr, retired.

DEPARTMENT OF JUSTICE

Emmett E. Shelby, of Florida, to be U.S. marshal for the northern district of Florida for the term of 4 years, reappointment.

U.S. AIR FORCE

The following-named officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. John J. Pesch, [redacted] FG, Air National Guard.

Brig. Gen. Warner E. Newby, [redacted] FR, Regular Air Force.

Brig. Gen. Paul F. Patch, [redacted] FR, Regular Air Force.

Brig. Gen. Louis O. Adler, [redacted] FR, Regular Air Force.

Brig. Gen. John R. Hinton, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Robert T. Marsh, [redacted] FR, Regular Air Force.

Brig. Gen. Abner B. Martin, [redacted] FR, Regular Air Force.

Brig. Gen. George E. Schafer, [redacted] FR, Regular Air Force, Medical.

Brig. Gen. John P. Flynn, [redacted] FR, Regular Air Force.

Brig. Gen. Edgar S. Harris, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Robert L. Edge, [redacted] FR, Regular Air Force.

Brig. Gen. Ralph S. Saunders, [redacted] FR, Regular Air Force.

Brig. Gen. Thomas A. Aldrich, [redacted] FR, Regular Air Force.

Brig. Gen. Howard M. Lane, [redacted] FR, Regular Air Force.

Brig. Gen. Edwin W. Robertson II, [redacted] FR, Regular Air Force

Brig. Gen Abbott C. Greenleaf, [redacted] FR, Regular Air Force.

Brig. Gen. Larry M. Killpack, [redacted] FR, Regular Air Force.

Brig. Gen. Henry L. Warren, [redacted] FR, Regular Air Force.

Brig. Gen. Donald L. Werbeck, [redacted] FR, Regular Air Force.

Brig. Gen. Robert C. Mathis, [redacted] FR, Regular Air Force.

Brig. Gen. Charles E. Buckingham, [redacted] FR, Regular Air Force.

Brig. Gen. Jesse M. Allen, [redacted] FR, Regular Air Force.

Brig. Gen. Earl J. Archer, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Lincoln D. Faurer, [redacted] FR, Regular Air Force.

Brig. General James G. Randolph, [redacted] FR, Regular Air Force.

Brig. Gen. Howard E. McCormick, [redacted] FR, Regular Air Force.

Brig. Gen. Hilding L. Jacobson, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. John R. Kelly, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. William B. Yancey, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Timothy I. Ahern, [redacted] FR, Regular Air Force.

Brig. Gen. William A. Temple, [redacted] FR, Regular Air Force.

Brig. Gen. David D. Bradburn, [redacted] FR, Regular Air Force.

Brig. Gen. Ranald T. Adams, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. John W. Burkhart, [redacted] FR, Regular Air Force.

Brig. Gen. Richard C. Henry, [redacted] FR, Regular Air Force.

Brig. Gen. Guy E. Hairston, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Lloyd R. Leavitt, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Ralph P. Maglione, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Eugene B. Sterling, [redacted] FR, Regular Air Force.

Brig. Gen. James S. Murphy, [redacted] FR, Regular Air Force.

Brig. Gen. William H. Ginn, Jr., [redacted] FR, Regular Air Force.

Brig. Gen. Bennie L. Davis, [redacted] FR, Regular Air Force.

Brig. Gen. James A. Young, [redacted] FR, Regular Air Force.

Brig. Gen. Charles G. Cleveland, [redacted] FR, Regular Air Force.

Brig. Gen. Charles A. Gabriel, [redacted] FR, Regular Air Force.

Brig. Gen. Freddie L. Poston, [redacted] FR, Regular Air Force.

Brig. Gen. Richard L. Lawson, [redacted] FR, Regular Air Force.

Brig. Gen. Henry J. Meade, [redacted] FR, Regular Air Force, chaplain.

The following named officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Robert N. Ginsburgh, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Alton D. Slay, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Billie J. McGarvey, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Walter T. Galligan, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Harold E. Collins, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Marion L. Boswell, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Benjamin N. Bellis, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Kenneth L. Tallman, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Martin G. Colladay, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Kenneth R. Chapman, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. John F. Gonge, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard M. Fish, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. George G. Loving, Jr., [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Brig. Gen. Ralph S. Saunders, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Ray B. Sitton, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William A. Dietrich, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. James A. Knight, Jr., [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Jack B. Robbins, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Harry M. Darmstandler, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles C. Pattillo, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Cuthbert A. Pattillo, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. Lee M. Paschall, [redacted] FR, (brigadier general, Regular Air Force), U.S. Air Force.

Lt. Gen. Robert A. Patterson, [redacted] FR, (brigadier general, Regular Air Force, Medical), U.S. Air Force.

Maj. Gen. Walter R. Tkach, [redacted] FR, (brigadier general, Regular Air Force, Medical), U.S. Air Force.

To be brigadier general

Brig. Gen. John P. Flynn, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Thomas A. Aldrich, [redacted] (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John R. Kelly Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert C. Thompson, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Howard E. McCormick, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Donald W. Werbeck, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William A. Temple, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. David D. Bradburn, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Ranald T. Adams, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Lawrence N. Gordon, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William B. Yancey, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Edgar S. Harris, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert E. Sadler, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert L. Edge, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Daniel L. Burkett, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James S. Murphy, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Gerald J. Post, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Don D. Pittman, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Erskine Wigley, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James A. Young, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William C. Burrows, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Evan W. Rosencrans, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Michael J. Tashjian, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John J. Murphy, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John C. Toomay, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Walter F. Daniel, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. William M. Schonin, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Abbott C. Greenleaf, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard C. Henry, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. George H. Sylvester, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. James V. Hartinger, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Robert T. Marsh, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Abner B. Martin, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Charles G. Cleveland, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Larry M. Killpack, [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Earl J. Archer, Jr., [redacted] FR, (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Raymond B. Furlong, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Maj. Gen. Wilbur L. Creech, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William H. Ginn, Jr., [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Walter P. Paluch, Jr., [redacted]FR, (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Thomas M. Sadler, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Charles L. Wilson, [redacted]FR, (colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Paul W. Myers, [redacted]FR, (colonel, Regular Air Force, Medical), U.S. Air Force.

IN THE MARINE CORPS

The following-named temporary disability retired officer for reappointment to the grade of chief warrant officer in the Marine Corps, subject to the qualifications therefor as provided by law:

Cates, Ernest H., [redacted], USMC.

HOUSE OF REPRESENTATIVES—*Wednesday, February 6, 1974*

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust in the Lord and do good; so shalt thou dwell in the land and verily thou shalt be fed.—Psalms 37: 3.

Eternal Father, whose ways are mercy and truth, in the morning of this day our hearts ascend unto Thee in prayer. In these times which stir our spirits and try our souls, lead us, we pray Thee, in the paths of truth, for without Thy guiding hand we go astray, and guide us in the ways of right, for blindly we stumble when we walk alone. Only with Thee do we journey safely on. May Thy Spirit dwell within us as we work for the greater good of our beloved land.

Bless the citizens of our country. Underneath all differences of color, creed, and culture may we feel our common life together and our common duty to seek freedom and justice and peace for all, to the glory of Thy holy name and the good of all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr Marks, one of his secretaries, who also informed the House that on January 31, 1974, the President approved and signed a bill of the House of the following title:

H.R. 9256. An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12253. An act to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 185. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub-No. 2).

MURDER ON THE ROADS

(Mr. DAVIS of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of South Carolina. Mr. Speaker, it is a sad day in America when a young man from St. Stephen, S.C., picks up a truck from a leasing company to try to earn a living for his family, then travels the highways of the State of Delaware and is murdered in cold blood.

Mr. Speaker, I think it is time we in the Congress start calling on this administration to look into this problem being caused by the striking independent truckers, to get them back on track, to meet the energy needs of this country, but also to stop tolerating the breakdown of our economy and the breakdown of law and order by this ruthless minority.

Mr. Speaker, we can no longer stand this in America today. What will happen to Mr. Nix's family is unknown at this time, but we are quite sure events such as this can only serve to destroy America.

Mr. Speaker, I ask that our so-called energy czar start looking into this lawless element. I call on the Justice Department to act to see that this ruthlessness is stopped. It is high time that the executive branch of this Government take the necessary steps to assure the rights to life and property of those who participate in interstate commerce over the highways of this great land.

REPEAL DAYLIGHT SAVING TIME

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, today I am introducing the bill to repeal year-round daylight saving time. When the daylight saving bill passed the House last November by vote of 311 to 88 I voted against it. South Carolina educators and parents had warned me that the morning darkness would jeopardize the safety of our schoolchildren. The energy savings were doubtful.

Mr. Speaker, our fears have been realized. Throughout the Nation several schoolchildren have been killed on the way to school in the morning darkness. Parents are extremely concerned. Seldom have we experienced such strong demand for repeal so soon after enactment of a bill.

Just yesterday we received a wire from the president of the South Carolina Congress of Parents and Teachers urging repeal. This South Carolina congress represents 88,000 extremely concerned parents and teachers, I urge repeal of this unwise legislation passed in haste and hysteria.

Before the daylight saving went into effect we could rely on the sunlight to partially heat schools and public buildings. Now we must rely solely on scarce energy supplies. More and more parents now drive their children to school, rather than have them walk in the dark, thereby increasing gasoline consumption.

The year-round daylight saving time experiment has not succeeded, Mr. Speaker, and the public dissatisfaction threatens to destroy confidence in other energy savings plans. The time has come to repeal year-round daylight saving.

THE TRUCKING CRISIS

(Mr. FLOWERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLOWERS. Mr. Speaker, it seems that every morning when the American people wake up they are faced with a new crisis that could affect their everyday life in a most serious manner. Today it appears that the trucking crisis has now reached its peak and is being felt by all Americans, in every walk of life. My district offices and my Washington office have received over 100 calls the last 2 days, from God-fearing American taxpayers who are faced with serious financial problems, and even bankruptcy, unless something is done immediately to halt the strident and disruptive activity by some independent truckers.

While I can certainly sympathize with the problems of the truckers when it comes to having to pay their bills and provide for their families, I have no sympathy whatsoever with the use of violence and terror to stop another man trying to pay his bills and provide for his family. It would seem, on the surface at least, that the large majority of truck drivers, both independent and company, are attempting to work and deliver the goods that people are so dependent upon. Of course they are not satisfied with the current rate structure and the exhorbitant gasoline prices they are being forced to pay, but at least they are trying to solve their problems in the democratic way, through negotiations and bargaining, rather than fear and terror on the Nation's highways. The American people, particularly those in our part of the country, have seen enough demonstrations of this type and will not stand for it in the future.

I have today contacted President Nixon urging that he use whatever means at his disposal to bring to an immediate halt the lawlessness that is taking place on the roads of America. In this same regard, I have called upon the leadership of the Congress, both Democratic and Republican, to postpone the Lincoln Day recess, scheduled to begin Thursday, February 8, and remain in session until some solution to this most vital problem is found.

ELECTION RESULTS IN PENNSYLVANIA

(Mr. BURTON asked and was given pemission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. BURTON. Mr. Speaker, I want to express my delight with the election results of yesterday in the Pennsylvania special election to fill the vacancy created by the untimely death of our former colleague, John Saylor.

This district, as we all know, was represented for over two decades by that distinguished Member of the Republican Party, the gentleman from Pennsylvania, Mr. Saylor.

May I read from the following release:

> Tuesday's special election in the 12th Congressional District of Pennsylvania indicates that Republicans will suffer heavy losses in the 1974 elections, according to Rep. Phillip Burton, Chairman of the Democratic Study Group Campaign Committee.
>
> Tuesday's balloting showed a fall off of over 10 percent in the average Republican vote in that district, Burton said, and a drop of 18 percent from 1972. The Republican vote in Congressional elections in the 12th District during the past 20 years has averaged about 60 percent. It was 68 percent in 1972 and has not gone below 57 percent in any election since 1954.
>
> If there were a 10 percent drop in the Republican vote across the country, Burton said, it would result in a loss of 70 GOP seats in the House. A 5 percent drop in the GOP vote would result in a loss of 34 GOP seats while a drop of 15 percent would result in a loss of more than 100 Republican seats in the House.
>
> Burton added that GOP efforts to portray the 12th District as Democratic territory do not square with how the district has voted in federal elections during the past two decades. It has voted Republican in four of the last six Presidential elections (1952, 1956, 1968 and 1972) and just missed going Republican by less than 1 percent of the vote in 1960; it voted Republican in four of the last six elections for the U.S. Senate (1958, 1964, 1968 and 1970); and it has voted Republican for the House of Representatives in every election but one (1948) since World War II.

CONGRESSIONAL SEMINAR FOR NAVY WIVES

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, Members of the 93d Congressional Club were honored today to host a congressional seminar for 20 wives of Navy officers and enlisted men living in the Washington area, including Mrs. Elmo Zumwalt.

We are pleased to have this opportunity to meet and to confer with the ladies of our Navy personnel and to provide them with an insight to the procedures and operations of the Congress.

It is important for all of our citizens to be fully familiar with and actively concerned in our system of government, and it is even more important that our service personnel, who act as ambassadors throughout the world, be familiar and conversant with the workings of the Congress.

The newer Republican Members of Congress in the 93d Club are pleased to undertake this project and look forward to their dialog with the Navy wives during the course of these congressional seminars.

THE MAJORITY LEADER COMMENTS ON PENNSYLVANIA'S ELECTION RESULTS

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, at this time I would like to make a few comments on the election that took place yesterday in Pennsylvania.

Jack Murtha, a businessman from Johnstown, Pa., took full advantage of his personable, sound, and hardhitting campaign to win Pennsylvania's 12th District, which, as we know, was represented by our colleague, John Saylor, for a period of 26 years.

Jack Murtha's history of supporting the workingman's interests in the Pennsylvania Statehouse won for him the support of the people in that district.

But it was his convincing consolidation of labor and farm support, along with industrial support, that added the formidable plus to his campaign. His firm, eminently reasonable campaign struck at the loss of confidence in government on the issues of inflation and the energy crisis.

His slogan, "One honest man can make a difference," was his only broadside at Watergate, and it was an understandable and inadvertent undercurrent of the campaign.

It is my belief that this is the first in a long string of colossal victories that are going to come the way of the Democratic Party because the people of the country are voting their resentment as to the things that are happening in this administration, principally concerning the economy and the crises we have been working and living under for the past 5 years.

ELECTION IN PENNSYLVANIA

(Mr. CEDERBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CEDERBERG. Mr. Speaker, I have listened with interest to the majority leader regarding the election in Pennsylvania. If I were on the other side of the aisle, I would not be too heartened by the results. I understand they have won now in the unofficial results by 32 votes out of 120,000 in a district that has over 9,000 more registered Democrats than Republicans. That hardly looks like a landslide to me, and I would caution them that probably the election is not even over as of now.

INVESTIGATORY POWERS OF COMMITTEE ON THE JUDICIARY WITH RESPECT TO ITS IMPEACHMENT INQUIRY

Mr. RODINO. Mr. Speaker, I call up House Resolution 803 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 803

> *Resolved*, That the Committee on the Judiciary, acting as a whole or by any subcommittee thereof appointed by the chairman for the purposes hereof and in accordance with the rules of the committee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The committee shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

SEC. 2. (a) For the purpose of making such investigation, the committee is authorized to require—

(1) by subpena or otherwise—

(A) the attendance and testimony of any person (including at a taking of a deposition by counsel for the committee); and

(B) the production of such things; and

(2) by interrogatory, the furnishing of such information;

as it deems necessary to such investigation.

(b) Such authority of the committee may be exercised—

(1) by the chairman and the ranking minority member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the committee shall be convened promptly to render that decision; or

(2) by the committee acting as a whole or by subcommittee.

Subpenas and interrogatories so authorized may be issued over the signature of the chairman, or ranking minority member, or any member designated by either of them, and may be served by any person designated by the chairman, or ranking minority member, or any member designated by either of them. The chairman, or ranking minority member, or any member designated by either of them (or, with respect to any deposition, answer to interrogatory, or affidavit, any person authorized by law to administer oaths) may administer oaths to any witness. For the purposes of this section, "things" includes, without limitation, books, records, correspondence, logs, journals, memorandums, papers, documents, writings, drawings, graphs, charts, photographs, reproductions, recordings, tapes, transcripts, printouts, data compilations from which information can be obtained (translated if necessary, through detection devices into reasonably usable form), tangible objects, and other things of any kind.

SEC. 3. For the purpose of making such investigation, the committee, and any subcommittee thereof, are authorized to sit and act, without regard to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings, as it deems necessary.

SEC. 4. Any funds made available to the Committee on the Judiciary under House Resolution 702 of the Ninety-third Congress, adopted November 15, 1973, or made available for the purpose hereafter, may be expended for the purpose of carrying out the investigation authorized and directed by this resolution.

CALL OF THE HOUSE

Mr. FROEHLICH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 19]

Abzug
Broyhill, Va.
Chisholm
Clark
Clausen,
  Don H.
Dingell
Dulski
Eckhardt
Edwards, Ala.
Edwards, Calif.
Esch
Fish
Ford
Fraser
Gibbons
Gilman
Gray
Gubser
Haley
Hanna
Jones, Ala.
Lott
McSpadden
Mathias, Calif.
Mills
Murphy, N.Y.
Passman
Pepper
Peyser
Powell, Ohio
Railsback
Reid
Roncalio, Wyo.
Rooney, N.Y.
Rosenthal
Roy
Sikes
Skubitz
Slack

The SPEAKER. On this rollcall 390 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERSONAL EXPLANATION

Mr. RONCALIO of Wyoming. Mr. Speaker, may I be included in the quorum call? I was here before the gavel fell. Has the vote been announced, Mr. Speaker?

The SPEAKER. The gentleman's remarks will appear in the record.

Mr. RONCALIO of Wyoming. Mr. Speaker, I appeared before the announcement. May I be heard?

The SPEAKER. The Chair looked all over the Chamber after the Chair had announced that all time had expired and the Chair always requests that Members will cooperate in making their presence known. The Chair never announces the result, even after he has said that all time has expired, without looking all over the Chamber.

Mr. RONCALIO of Wyoming. I thank the Chair, Mr. Speaker.

INVESTIGATORY POWERS OF COMMITTEE ON THE JUDICIARY WITH RESPECT TO ITS IMPEACHMENT INQUIRY

The SPEAKER. The gentleman from New Jersey is recognized.

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the English statesman Edmund Burke said, in addressing an important constitutional question, more than 200 years ago:

> We stand in a situation very honorable to ourselves and very useful to our country, if we do not abuse or abandon the trust that is placed in us.

We stand in such a position now, and—whatever the result—we are going to be just, and honorable, and worthy of the public trust.

Our responsibility in this is clear. The Constitution says, in article 1; section 2, clause 5:

> The House of Representatives, shall have the sole power of impeachment.

A number of impeachment resolutions were introduced by Members of the House in the last session of the Congress. They were referred to the Judiciary Committee by the Speaker.

We have reached the point when it is important that the House explicitly confirm our responsibility under the Constitution.

We are asking the House of Representatives, by this resolution, to authorize and direct the Committee on the Judiciary to investigate the conduct of the President of the United States, to determine whether or not evidence exists that the President is responsible for any acts that in the contemplation of the Constitution are grounds for impeachment, and if such evidence exists, whether or not it is sufficient to require the House to exercise its constitutional powers.

As part of that resolution, we are asking the House to give the Judiciary Committee the power of subpena in its investigations.

Such a resolution has always been passed by the House. The committee has voted unanimously to recommend that the House of Representatives adopt this resolution. It is a necessary step if we are to meet our obligations.

Beyond that, at this preliminary point, we are going to say little. The committee is seeking to understand just what is contemplated in the constitutional definition of impeachment.

For this, we have the papers of the Founding Fathers, some historical precedents, and the words of the Constitution itself. We are studying these.

The committee is seeking to understand the events within the scope of our investigation. We will consider, on the basis of impeachment resolutions already referred to us, of evidence already on the public record and of other evidence, whether or not serious abuses of power or violations of the public trust have occurred, and if they have, whether, under the Constitution, they are grounds for impeachment.

We will consider whether, in fact and under the Constitution, the President is responsible for any such offenses.

These are extremely grave questions, which seriously preoccupy the country. We cannot turn away, out of partisanship or convenience, from problems that are now our responsibility, our inescapable responsibility to consider. It would be a violation of our own public trust if we, as the people's representatives, chose not to inquire, not to consult, not even to deliberate, and then to pretend that we had not by default, made choices.

Whatever we learn, whatever we conclude, the manner in which we proceed is of historic importance—to the country, to the Presidency, to the House, to the people, to our constitutional system, and unquestionably, to future generations. This Nation was founded in response to one abuse of power: our Constitution was written to guard against others, whether by the Government against its citizens, or by any branch of Government against another.

We, as representatives of the people, were elected under that Constitution, which specifically defines our powers and obligations. Our whole system, since the Founding Fathers, rests on the principle that power itself has constitutional limits and embodies a trust. Those who govern are regularly accountable to the people, in elections, but always most highly accountable to the law and the Constitution itself. We ourselves are accountable. We will be worthy of our trust.

We know that the real security of this Nation lies in the integrity of its institutions, and the informed confidence of its people. We will conduct our deliberations in that spirit.

It has been said that our country, troubled by too many crises in recent years, is too tired to consider this one.

In the first year of the Republic, Thomas Paine wrote:

> Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it.

For almost 200 years, Americans have undergone the stress of preserving their freedom and the Constitution that protects it. It is our turn now.

We are going to work expeditiously and fairly. When we have completed our inquiry, whatever the result, we will make our recommendations to the House. We will do so as soon as we can, consistent with principles of fairness and completeness.

Whatever the result, whatever we learn or conclude, let us now proceed, with such care and decency and thoroughness and honor that the vast majority of the American people, and their children after them, will say: That was the right course. There was no other way.

Mr. Speaker, I shall now seek to explain the resolution.

House Resolution 803 authorizes and directs the Committee on the Judiciary, acting as a whole or by subcommittee established or designated for this purpose, to investigate fully and completely whether sufficient grounds exist for the House to exercise its constitutional power to impeace Richard M. Nixon, President of the United States of America. It directs the committee to report to the House any resolutions, articles of impeachment, or other recommendations it deems proper.

If, after a full and complete investigation, the committee determines not to recommend impeachment to the House, it may report this conclusion, together with any resolution that it deems appropriate in these circumstances. If, on the other hand, the committee determines after its investigation to recommend impeachment, it may report a resolution of impeachment that may include or be accompanied by specific articles of impeachment, as well as any other appropriate resolutions or recommendations.

The scope of the investigation authorized by House Resolution 803 is stated broadly to avoid foreclosing inquiry into any matter that may bear upon, or ultimately lead to evidence bearing upon, the existence or nonexistence of sufficient grounds for impeachment.

The powers of the House in an impeachment investigation stem from the express grant to the House by the Constitution of the sole power of impeachment; they do not depend upon any statutory provisions or require judicial enforcement. The sole power of impeachment carries with it the power to conduct a full and complete investigation of whether sufficient grounds for impeachment exist or do not exist, and by this resolution these investigative powers are conferred to their full extent upon the Committee on the Judiciary. It is intended that the committee and its subcommittee be empowered to exercise in any and every case the full, original, and unqualified investigative power conferred upon the House by the Constitution.

House Resolution 803 empowers the committee to require the attendance and testimony of such witnesses as it deems necessary, by subpena or otherwise. It authorizes the committee to take such testimony at hearings, by affidavit, or by deposition. Depositions may be taken before counsel to the committee, without a member of the committee being present, thus expediting the committee's investigation. House Resolution 803 furthere authorizes the committee to require the furnishing of information in response to interrogatories propounded by the committee. Like the deposition authority, the authority to compel answers to written interrogatories is intended to permit the committee to conduct a thorough investigation under as expeditious a schedule as possible.

The committee's investigative authority is intended to be fully coextensive with the power of the House in an impeachment investigation—with respect to the persons who may be required to respond, the methods by which response may be required, and the types of information and materials required to be furnished and produced. It includes the right, to the extent the committee deems necessary for purposes of its investigation, to obtain full and complete access to any persons, information, or things in the custody or under the control of any agency, officer, or employee of the Government of the United States, including the President.

The authority of the chairman and ranking minority member under section 2 is intended to include both the power to authorize the issuance of a subpena or other process and the power to determine the necessity of the information sought to the investigation as contemplated by subsection (a) of section 2.

Of course, the committee may, in the first instance, exercise this same authority acting as the Whole Committee or by a subcommittee.

Mr. McCLORY. Will the gentleman yield for an inquiry?

I would like to inquire of the gentleman his intention with respect to the conclusion of this inquiry and when the gentleman intends to report the findings and conclusions of this inquiry to the House of Representatives.

Mr. RODINO. The gentleman knows that the chairman has stated time and again that it is his intention and the intention of the committee to impose upon itself a target date of April 30. But the chairman recognizes, as the committee does, that to be locked in to such a date would be totally irresponsible and unwise; the committee would be in no position to state at this time whether our inquiry would be completed, would be thorough, so that we can make a fair and responsible judgment.

Mr. McCLORY. Will the gentleman yield further?

Mr. RODINO. I cannot yield further, because I have little time and I would like to yield now to the gentleman from Michigan (Mr. HUTCHINSON) 5 minutes for the purposes of debate only.

Mr. HUTCHINSON. Mr. Speaker, the first section of this resolution authorizes and directs your Judiciary Committee to investigate fully whether sufficient grounds exist to impeach the President of the United States. This constitutes the first explicit and formal action in the whole House to authorize such an inquiry.

The last section of the resolution validates the use by the committee of that million dollars alloted to it last November for purposes of the impeachment inquiry. Members will recall that the million dollar resolution made no reference to the impeachment inquiry but merely alloted that sum of money to the committee to be expended on matters within its jurisdiction. All Members of the House understood its intended purpose.

But the rule of the House defining the jurisdiction of committees does not place jurisdiction over impeachment matters in the Judiciary Committee. In fact, it does not place such jurisdiction anywhere. So this resolution vests jurisdiction in the committee over this particular impeachment matter, and it ratifies the authority of the committee to expend for the purpose those funds allocated to it last November, as well as whatever additional funds may be hereafter authorized.

The principal purpose of this resolution is to vest subpena power in the committee for purposes of its investigation. As the chairman (Mr. RODINO) has explained, the power is vested in the committee, and the committee acting as a whole or by subcommittee may direct the issuance of a subpena.

While the committee is vested with the power, it is contemplated that the authority of the committee will be exercised in accordance with section 2(b) (1). There it is provided that the chairman and ranking minority member act jointly, or, if either declines to act, then by the other acting alone. In that case, however, either he who declines or he who assents may take the issue to the whole committee, where the question will be whether the subpena shall issue.

Now it is obvious that if such differences as are taken to the committee be decided along party lines, the ranking minority member will be the loser every time. But the majority have committed themselves to a fair, impartial and complete inquiry, and being so committed, I would not expect them to deny to the minority the right to adduce relevant factual material which would contribute to the completeness of the inquiry. Should they do so, we would of course call attention to their refusal.

The chairman and I are agreed that if a subpena is to be issued to the President of the United States, only the full committee shall authorize it. I inform the House here and now that I will decline to join in the authorization for such a subpena, thus assuring that the question will reach the full committee. I do not contemplate that the necessity for such a subpena will arise. I believe the House should avoid constitutional confrontation, and that every effort be made to request only that information which is relevant. I expect the committee to ask for specific documentation and to be able to justify its relevancy.

I will join with the chairman in authorizing subpenas only after understanding exactly what is sought and the reason for it, and then only after every reasonable effort to obtain the information through voluntary request and discussion has been exhausted. I believe resort to the subpena power should be the last resort, not the first.

The resolution before you carries no cutoff date. The committee has set for itself a target date of April 30, 1974. The tragedy called Watergate has now been the subject of inquiry for approximately a year, the Senate Watergate Committee, by the Special Prosecutor's Office, now by the House Judiciary Committee. Although charges have raged in the media there has yet to be demonstrated any evidence of impeachable conduct. Therefore, if by the end of April no such evidence has been produced, the committee should so report to the House and end its labors.

Mr. RODINO. Mr. Speaker, I yield 5 minutes for the purpose of debate only to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, it should be pointed out that the action of the Judiciary Committee and its chairman in sharing the authority to issue subpenas with the ranking minority member is against all precedents. I add that it is also over my objections. However, it is the will of the chairman and the will of the committee.

This action is intended to underline the nonpartisan nature of our responsibility. I trust my colleagues of the minority will recognize this and I urge them to respond in kind.

The chairman and the majority members of the Judiciary Committee have every intention of proceeding expeditiously, fairly and thoroughly. However, we can only do so if we have the cooperation of the minority. Chairman RODINO is clearly going out of his way to prevent any actions that could be interpreted as partisan. He cannot, nor can the committee as a whole, proscribe any acts or statements of individual members. However, I am hopeful that this willingness to share a power traditionally and jealously held by the chairman will inspire our colleagues of the minority to also put aside purely partisan activity.

I am not charging partisanship on the part of my Republican colleagues, nor have any of my colleagues on this side of the aisle. However, such charges have been heard from some of the minority and from one who only recently was a Member of this body. I urge those individuals to refrain from such divisive activities and let the committee proceed with its work unhampered by regularly having to respond to baseless charges of conspiring or worse.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Indiana.

Mr. DENNIS. I thank my distinguished friend for yielding.

I am not suggesting, of course, any such think as partisanship, but since the gentleman has brought up the matter of how generous and fair the chairman of the majority has been on this subpena power, I would like to remind the gentleman from Texas that he had an opportunity in the committee to vote for an amendment on that very point which would have given the minority exactly even and equal subpena power, instead of subjecting the alleged joint power to a veto by a majority of the committee, as was done, in the resolution actually presented.

Mr. BROOKS. In reply to my distinguished friend, I would make crystal clear that the authority given to the minority member and to the chairman, the right to exercise authority, is essentially the same. It is the same. Both are subject to a veto by a majority of the membership of that committee.

This House has operated for many years by a majority rule, and in every committee in this Congress that has the authority to issue subpenas the issuance is normally by the chairman. He issues them, but the authority rests in the committee. In this instance if there were some controversy, certainly we could not enforce a subpena if the majority of the committee were opposed to it.

Mr. DENNIS. Mr. Speaker, will the gentleman yield again?

Mr. BROOKS. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding. I will point out, of course, as the gentleman well knows, that in effect the majority in the committee, belongs to his party, and that this is not a normal situation or I would not even argue about giving the subpena power to the chairman alone. This is unique. This is a question of the impeachment of the President, and there ought to be the very greatest and most complete equality.

Mr. BROOKS. We would have considerable differences if I were the chairman and the gentleman from Indiana the minority leader of the Republicans. But Mr. HUTCHINSON agreed to it and feels that it is a fair and reasonable proposal. My chairman, the gentleman from New Jersey (Mr. RODINO) agreed to it and thought it was a fair and reasonable proposal. I was not really in favor of doing anything about it, but they insisted they wanted it, and this is a fair and quite reasonable extension of authority for the minority.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

I would agree with the gentleman that the majority on the committee is doing everything within its power to avoid any partisanship on this entire matter. I regret that my friend, the gentleman from Indiana—whom I respect and admire a great deal—injected it at this point. Although the majority, of course, are Democrats on the House Committee on the Judiciary, I do not think the proceedings thus far reflect any partisanship by the majority side.

Mr. BROOKS. I fully concur in the gentleman's views.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield for the purpose of debate only 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, this is a very solemn occasion. It has happened but once in the history of the Republic that a resolution such as this has been on the floor of the House. I think we all should regard it as being a very solemn occasion, as I do.

The country wants Watergate to be ended as rapidly as possible. I am satisfied that the Members of this House want Watergate to be ended as rapidly as possible. Therefore, I regard the resolution which has been brought to the floor here as being a completely appropriate exercise of the authority and the duty of the Committee on the Judiciary to conduct such investigations as are necessary in order to determine this very important question which is facing the House today.

I have had occasion to talk with the distinguished gentleman from New Jersey, the chairman of this committee, at length concerning his ideas about the investigation and the length of time involved. He has told me, as he has told the House, that he believes that the investigation of the committee can be conducted and that a report can be made by April 30. The gentleman's word is good with me, and I certainly intend to accord him the credibility which he has earned—and he has earned it.

As far as I am personally concerned, if the question arises, I will vote for the previous question on the matter of agreeing to the resolution, and it will be my purpose to do whatever is necessary to make sure that the resolution is agreed to.

Of course, if it should happen that partisanship should come into this very solemn inquiry, then the minority will have to look at its options and decide what it will do from then on, but I think the statements which have been made as to the fact that this is an inquiry which is a fact-finding expedition of the very highest order are in accord with the ideas of the framers of the Constitution when they decided that this was the procedure to be followed. As long as the inquiry proceeds in this line and it is highly professional—and I think thus far it has been—then it will be my purpose to cooperate fully with the members of the Judiciary Committee and the staff and do everything I can to make sure that everybody else will do everything they are called upon to do so.

I think in this way we can best serve the interests of our country and have this inquiry go ahead and be ended as rapidly as possible.

Mr. RODINO. I yield 5 minutes to the gentleman from Illinois (Mr. MCCLORY) for the purpose of debate only.

Mr. McCLORY. Mr. Speaker, I thank the gentleman from New Jersey (Mr. RODINO) for yielding.

Mr. Speaker, I do not like to disagree with my minority leader but I do think this resolution is deficient in one respect, and that is there is no cutoff date. I think what the American people want more than anything else is not only a complete and thorough investigation but also an early conclusion to this matter of the pending impeachment inquiry.

I asked the question of my chairman a few moments ago as to what the cutoff date would be. I am sure that by pressing for an amendment to establish a final date for the committee's report we have encouraged him to decide on this cutoff date of April 30. He of course hopes to get through by that time.

But at the same time I want to point out that we are delegating authority—and we are delegating broad and unprecedented authority here—to a committee for a unique and extensive investigation. So we should have some kind of date when the committee is going to report its conclusions back to the House.

There is no cutoff date, no termination date in this resolution which is before us today. It can go on and on forever.

Sure, I have confidence in the word of my chairman and confidence in his hopes and expectations, and he would like to get this inquiry over with earlier, I suppose. But certainly we should have some final cutoff, some termination date. Whatever that should be, I think the House should decide today. I would like to have the chairman yield so that I could offer my amendment, and he has been very nice to yield to me for purposes of debate, but I do not think he will yield to me for purposes of offering my amendment.

It seems almost beyond belief that a resolution of this importance and of such great historic significance is being presented without opportunity for amendment and under a rule which limits the debate to 1 hour. It seems to me that we should have an opportunity to offer an amendment to this resolution, and I will, when the chairman makes the motion on the previous question, ask that the motion be voted down. If it is voted down, then, and only then will I have an opportunity to offer an amendment.

I will offer an amendment which will call for a report of the conclusions and the recommendations, whatever they are, to this House on or before April 30, or if there is some better date then let us have the better date and put it in.

It was suggested that perhaps we should have 15 more days as an outside time limit on this, but there should be a time limit.

I know we have all gone back to our constituents and said: "How do you feel about impeachment?" And some have said: "I am for impeachment" and some have said, "No, I am against impeachment," but what do 80 percent of the people say? They say: "Get this business of impeachment behind us as rapidly as we can."

The chairman asks for an early conclusion and our leaders say it must be concluded expeditiously, but the people ought to know when, and it is up to us to embody in this resolution a response to their question—when.

If for some reason there is a hampering of our investigation, if the White House impedes our investigation, if other people impede our investigation, it is a very simple matter to come back here and get an extension of time of 15 days or 30 days, and I will support such an extension and so will all the Members because we do not want our prerogatives to be impinged upon in any way by anybody. We do have complete authority in this area and we should exercise it. I support the resolution insofar as the broad grant of subpena authority is concerned. But I also support a final date when we can conclude our inquiry and report to the House and to the American people and get this issue behind us.

We have many other important issues before us such as the energy crisis, the problems of inflation and the budget and education and health and many others. All those legislative problems are going to be held up and impaired as long as this matter is hanging over our heads.

So I implore Members on both sides of the aisle. This is certainly not a partisan subject in any way at all. It is a plea for the House of Representatives to act responsibly and expeditiously and tell the American people where we stand and how we stand and when we are going to wind up this impeachment inquiry. We get criticized by the public, and we criticize ourselves because of the slow manner in which we operate. We get criticized because of our laborious systems and dilatory practices which characterize the way we do our work; but here we have an opportunity to demonstrate—and declare that we can get the job done expeditiously. We have set target dates for a legal and constitutional report on impeachment to be available on February 20, and to have all of the available factual material before our committee on March 1. If we cannot in the following 2 months wind up our inquiry it seems to me there is footdragging, there is prejudice, and there is partisanship. I hope that when the motion on the previous question is made we will vote it down so that we may have an opportunity to vote on my amendment to require the Judiciary Committee to report its findings and conclusions on or before April 30, 1974.

As I said earlier, Mr. Speaker, it had been my hope that the chairman would yield to me for purposes of offering an amendment to the pending resolution. Let me say first of all that I support the resolution confirming the authority of the House Judiciary Committee to conduct the comprehensive impeachment inquiry contemplated by the language of this resolution. The resolution appropriately directs our committee to investigate fully and completely whether sufficient grounds exist for the House of Representatives to impeach the President. In other words, we are to determine whether such grounds exist—or do not exist.

Furthermore, I support the broad subpena authority provided in this resolution, including the manner in which the authority is to be exercised jointly by the chairman and ranking minority member, or by either acting alone except that either has the right to refer the decision to the full committee in order for such authority to be exercised. However, Mr. Speaker, the resolution is open ended. There is no date referred to in the resolution when the authority of the committee would expire. There is no requirement for the committee to prepare and report its findings and conclusions to the House, and there is no expiration date for the sweeping and unprecedented subpena authority which is embodied in this resolution.

Now, Mr. Speaker, the only way in which I can amend this resolution and to establish some date upon which the committee shall report to the House of Representatives is first, to have this House vote down the previous question when such a motion is made by the Gentleman from New Jersey (Mr. RODINO). If the previous question is voted down, as I hope and expect it will be, then I will simply offer an amendment to require the committee to report its findings and conclusions on or before May 15, 1974. This date does not mean that the committee will, or will not recommend Articles of Impeachment. It simply means that the committee is required to complete its investigation and offer its recommendation on or before that date.

Mr. Speaker, I have been favorably impressed by the manner in which the chairman and the committee staff have proceeded expeditiously with the investigation of the various resolutions pending before the committee. However, I would point out that a number of my colleagues and I raised substantial complaints regarding delays and inaction in a broad-range discussion of the subject of impeachment on the floor of this House on Tuesday, December 18, and it was not until the following day that the chairman in a spirit of true bipartisanship: First, consulted with senior Members of the minority, second, announced appointment of a special counsel for the committee, and third, first stated that the committee hoped to complete its work and report to the House by the end of April 1974.

Mr. Speaker, the April 30, 1974, date has been reiterated at various times. It is a date which I have come to regard as the time when this inquiry will be completed, and the Judiciary Committee and the House itself can get on with the other great questions facing us without the specter of impeachment facing us. Mr. Speaker, the people of the Nation are concerned and confused on the issue of impeachment. The subject is not well understood. I suspect that even some Members of the Congress may view the present inquiry in a light far beyond that which is justified. We are all receiving mail from those who favor, as well as those who oppose impeachment. The action groups which in no sense represent a broad cross section of the people of the Nation will, nevertheless, appear more determined and more vocal as the work of our committee progresses. But any of us who endeavor to secure a cross section of opinion in our congressional districts will attest to the fact that our constituents and the people of the Nation want this issue of impeachment resolved expeditiously. That, indeed, is the main impact of the amendment which I shall offer. It will provide an additional 2 weeks beyond that which the chairman has expressed as a final date for the completion of our work. Indeed, it should enable the House to approve or disapprove of the committee's recommendations before June 1.

Mr. Speaker, I am not aware of any special investigations undertaken by ad hoc or special committees of this Chamber which are open ended. That is not the way to secure results or encourage expeditious action.

In pressing for an April 30 cutoff date, I do not want for one instant to relinquish my right to support an extension of time if there is any deliberate action on the part of the White House or elsewhere which would hamper or delay our committee in completing its work. Indeed, I pledge right here and now that I would support an extension of time in such a case. On the other hand, I am aware of the delays which have occurred thus far, and I have taken note of the long drawn-out proceedings which accompanied the impeachment action initiated against President Andrew Johnson. I can recall, also, in the literature that the impeachment of Warren Hastings in Great Britain went on for 7 years—and was pending when the constitutional provisions which we are applying were adopted in 1787.

Mr. Speaker, we have established a substantial timetable in connection with the work of our committee. This timetable contemplates an historic report on the constitutional and legal aspects of impeachment on February 20. In addition, a summary on the factual investigation of the various categories involved in the committee's work is set for March 1. At that time, the staff will set forth the uncompleted factual work which must be undertaken. In all candor, Mr. Speaker, it seems to me that the following 2-month period from March 1, to May 1, should be adequate for completion of the factual investigation which our committee must undertake in order to perform the kind of thorough and complete job with which we are charged.

Mr. Speaker, we have an opportunity today to reject charges of deliberate delays, of footdragging or other partisan or prejudicial actions which would interfere with an expeditious resolution of the impeachement charges. When the motion is made on the previous question, I shall request a rollcall vote and urge you to vote down the previous question in order that I may offer an amendment to bring the report and recommendations of the Judiciary Committee on the impeachment investigation to the House membership on or before April 30.

Mr. RODINO. Mr. Speaker, I yield for purposes of debate only 3 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I find myself in the position of disagreeing with my learned colleague from Illinois (Mr. McCLORY) who states his point of view as usual very well, as well as it could be stated.

I support the previous question. I support the target date of late April, but I do oppose curtailing the inquiry at any arbitrary date.

I think our inquiry must be fair and expeditious as can be without any arbitrary cutoff date. We must not find ourselves in the position of the sky diver whose chute failed to open and he found he had jumped to a conclusion. We must take the time necessary to do a responsible job.

As we debate this very important matter, let us throw some history at it. In the previous impeachment in 1867 of Andrew Johnson, it was referred to the Committee on the Judiciary on January 7 that year. The report came out November 25, nearly 11 months later.

I am sure that this committee will not take anything like that amount of time. I simply give this to show what a reasonable time based on our only previous impeachment might be.

Since the adoption of our Constitution in 1787, there have only been 12 impeachment proceedings, 9 of which have involved Federal judges. There have been only four convictions, all Federal judges. The time devoted by the House and the Senate to the impeachments that resulted in the trials of the nine Federal judges varied substantially. The impeachment of Robert Archbald in 1912 consumed the shortest time. The Archbald case required 3 months to be processed in the House, and 6 months in the Senate.

The impeachment of James H. Peck required the most time for trial of a Federal judge. The House took 3 years and 5 months to complete its action, and the Senate was occupied for 9 months with the trial.

We do not want any delay of that kind, but I am trying to point out that it takes a reasonable amount of time to do a responsible job.

I yield back the balance of my time.

Mr. RODINO. Mr. Speaker, I yield 5 minutes to the gentleman from California, (Mr. WIGGINS) for the purpose of debate only.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding to me for the purpose of debate only.

I would like initially to place in focus what is involved here today. The issue is not whether this House should conduct an investigation of Richard Nixon. There is no controversy on that point. Nor is the issue today whether the House committee in the conduct of that investigation should possess subpena power. Of course, it should.

The narrow issue, however, is what shall be the circumstances under which the subpena power is exercised? With respect to that question, I suggest that we all should unite behind several preconditions. We all should agree that the power be exercised fairly, that the power should be exercised expeditiously, and that the power should be exercised reasonably. There should be no debate on those minimum preconditions on either side of the aisle. But I regretfully report to the Members that the resolution in its present form does not meet these conditions.

First, on the issue of fairness, let me report to the Members the circumstances under which the power can be exercised under the resolution. The majority may do so and the minority may do so, but the right of the minority to subpena witnesses may only be exercised at the sufferance and with the consent of the majority. I just ask the Members: is that fair? Is that a fair procedure? Well, in my opinion it is not. It is obviously and patently unfair.

The deck is stacked at the outset. I would not expect the majority to tolerate procedures which are basically and inherently unfair. In order to correct the inequity, the resolution must be changed. And the only way it can be changed is to amend the pending resolution. In order to make the resolution amendable, the previous question must be voted down.

Mr. Speaker, the argument has been made and was made that the majority should prevail on these questions, and that subpena power should not be vested in the minority independent of the will of the majority. That is a tenet, it is said, of parliamentary law. I agree with that as a general proposition, but it does not address the question before us right now. It is also a tenet of parliamentary law that the minority has a right to make its case. It has a right to make its case, not at the sufferance of the majority, but an independent right vested in the minority. Let me tell the Members that this resolution denies to the minority the right to make its case.

You, the majority, ought not to accept that. It is inherently unfair.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I am very happy to associate myself with the remarks of the gentleman from California.

Mr. Speaker, I and two other Democrats voted for an amendment which would have deleted the last clause of section 2(b)(1) of the subpena resolution. In that section it is stipulated that the authority of the committee may be exercised:

> (1) by the chairman and ranking minority member acting jointly, or, if either declines to act, by the other acting alone, except that in the event either so declines, either shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the committee shall be convened promptly to render that decision * * *.

The proposal to omit all of the language after the word "except" in the foregoing was intended to prevent the majority of the Judiciary Committee having the implicit power to prevent the ranking minority member from acting alone in extending a subpoena to individuals or documents desired by him. Obviously the committee could come together if they so desired and, exercising those rights spelled out in the rules of the House of Representatives, vote against the issuance of the subpena in question.

The proposal to omit these words was defeated in a vote with 16 ayes and 21 nays, almost all on a party basis.

It is my conviction that the majority and the minority should be permitted to seek evidence wherever they desire it and to subpena it in any way consistent with the orderly progress of the impeachment proceeding.

Mr. WIGGINS. Mr. Speaker, there is one further issue I must raise within the very limited time available, and I ask the indulgence of the chairman of the committee.

Mr. Speaker, the resolution proposed says that the power may be exercised when it is deemed necessary for the purposes of the investigation. Surely, it is not the intention of the chairman to pursue evidence which is not relevant to the issue before us. May I have the assurance of the chairman that implicit in the concept of necessity is the concept of relevancy?

Mr. RODINO. Mr. Speaker, the concept of relevancy is, of course, always basic, but in order to insure that the scope of the inquiry is such that we may be able to get to that evidence, then it becomes essential that we employ the language of "necessary", which permits the broadest scope of inquiry.

Mr. WIGGINS. Mr. Speaker, I cannot yield further to the chairman because he has not yielded me sufficient time.

Mr. Speaker, I will ask the ranking minority Member if he agrees that the concept of relevancy is implicit in the concept of necessity.

Mr. HUTCHINSON. Mr. Speaker, I do. In my statement previously in debate, I tried to make that very clear.

Mr. WIGGINS. Mr. Speaker, I am somewhat comforted that the legislative history, at least, is clear. Implicit in the grant of subpena authority is the requirement that it must seek evidence which is relevant to the charges which caused this committee to be convened at all.

Mr. Speaker, I would like to make that explicit, not implicit, and to do so the resolution must be amended. I appeal to the Members, in a sense of fairness and in the responsible exercise of power, that they vote down the previous question to permit perfecting amendment which have been discussed.

Mr. RODINO. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. FLOWERS) for the purpose of debate only.

Mr. FLOWERS. Mr. Speaker, I support the resolution and intend to vote for it as reported by the committee. I also support this inquiry only so long as we proceed fairly and with no undue delay.

The issue of impeachment is a first priority in this new year. The inquiry must go forward—everyone agrees—and it must be thorough and complete—but it must also be expeditious and the earliest possible conclusion is imperative for the good of the country.

But both Special Counsel John Doar and Minority Special Counsel Albert Jenner have advised the Judiciary Committee that it is not now feasible to make a responsible prediction of the date upon which it will report its conclusions. The committee has concluded that it is impossible to forecast the course of the investigation and its potential difficulties at such an early stage. The committee wishes to complete its work as rapidly as it can, consistent with doing it properly. The chairman has expressed the hope that we can be finished this spring, and I personally am committed to handling this matter expeditiously. I am also committed to doing nothing rash—whether respecting the substance of the inquiry or respecting predictions of the time of its conclusion.

As counsel have advised, a deadline would be misleading. The committee carefully considered amendments to establish various types of rigid time requirements and rejected all of them. And in doing so, it avoided an arbitrary deadline that actually might ultimately operate as an unnecessary hindrance to an early and just conclusion to this inquiry.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I will state to the gentleman that I did talk with Special Counsel for the minority. He said that he had no objection to an April 30 or May 15 deadline. He did not say that the imposition of a deadline would impede or hamper the work of our committee, and furthermore he supports all of these target dates.

Mr. FLOWERS. Mr. Speaker, I will say to the gentleman from Illinois that I was present in the committee meeting when the question was put to both Mr. Doar and Mr. Jenner as to whether they supported a deadline or not, and as I recall it, they both said, "We do not want a deadline."

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I do not think this is an important matter—that is, setting a deadline.

My point here is that it is arbitrary to make a fight over this.

Mr. McCLORY. Mr. Speaker, Mr. Jenner stated that he would oppose a deadline if it applied to subpena power only. But he would not object to reporting the resolution on a fixed date of April 30 or May 15.

Mr. FLOWERS. Mr. Speaker, I will not yield further to the gentleman.

Mr. FREY. Mr. Speaker, will the gentleman yield?

Mr. FLOWERS. I will yield to the gentleman from Florida.

Mr. FREY. Mr. Speaker, I just wish to commend the gentleman from Alabama (Mr. FLOWERS) for his forthright statement. It makes a great deal of sense to me, and because of it I am going to support the committee.

I believe it will be apparent to the American people, if we do not move expeditiously with these, proceedings there may be another time when we might disagree, but that time is not now. I hope for the good of the country that time never comes. What we do will speak louder than any promises or pledges of good will.

Mr. RODINO. Mr. Speaker, I yield 3 minutes for the purpose of debate only, to the gentleman from New Jersey (Mr. SANDMAN).

Mr. SANDMAN. Mr. Speaker, I propose to vote for the previous question.

I am saddened by the argument that has taken place on this side. I had hoped that my friend, the gentleman from Illinois, would not raise the question, but he has. I firmly believe that if we are going to accomplish this very serious task, we must do it with dispatch. It must be done in an orderly way, and we must have a broad subpena power so that we can get all of the information that we should consider.

I have voted against every one of the amendments which proposed to limit or restrict the subpena power when this was before the committee, because I think that those items only give us more room in which to disagree, and this, I think, slows up our process. This, of course, is not what we want to do.

Second, Mr. Speaker, I think it is important, too, to believe that there is a way by which we can do this job quickly, and I believe, as the ranking Republican Member said, that the subpena power should be used only as a last resort, and we should try first to get all of the information voluntarily. I hope that we can do that.

As a Member on this side, I will urge both the White House and Mr. Jaworski's staff to turn over everything that they have so that this committee will have a right, with dispatch, to look over everything that it should. I think this is the right way to do it.

In support of what my minority leader said as well as the ranking Republican on this side, I urge everybody to support the previous question with a unanimous vote.

Mr. RODINO. Mr. Speaker, I yield 1 minute for the purpose of debate only to the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, the power of subpena sought by the Committee on the Judiciary rightfully will authorize the appearance of the President before the committee, under compulsion if necessary. During his tenure in office there is no other forum in existence that can compel his attendance. It is hoped that the President will voluntarily submit himsef to an appearance under oath and be subject to cross examination. It is only through such an appearance that the President can be required to disclose that which he has so far refused to disclose. It is only through such an appearance that the American people can learn the full extent of the involvement of the President in the web of criminal activity, deceit, and abuse of our Constitution that has surrounded his conduct of the Presidency. However his appearance is obtained, voluntarily or by compulsion, it is essential that it occur.

Mr. RODINO. Mr. Speaker, I yield 3 minutes, for the purpose of debate only to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I want to thank the chairman of the committee for yielding to me.

I rise in support of an aye vote on the previous question.

I want to associate my remarks with those of my minority leader.

Mr. Speaker, we fought a procedural battle in the committee, and we lost it. The amendments that were offered and which I supported I really think are not particularly essential. Time after time the chairman of the committee has made the point that we are going to try to finish by April 30. I think he began by saying April 1, but now he has indicated we can finish by April 30. I think the American people are going to be watching us, and I would say that if we exceed the April 30 deadline the American people are then going to be in a position to decide whether there has been political footdragging or political stalling. So I am not too worried about that.

Mr. Speaker, I appreciate what the chairman has said about trying to finish by April 30, and I hope we can finish by that time. As far as Congressman WIGGINS' amendment is concerned, which would have to do with giving the ranking minority member an absolute subpena power, I just want to recount for you the history of that.

Chairman RODINO at the first meeting came before the House Committee on the Judiciary and asked for one-man subpena power. He did it on a temporary basis. We resented that on the minority side of the committee. We split by a 21 to 17 vote in the committee. We were opposed to giving him one-man subpena power. Now when he is requesting permanent subpena power for the House Committee on the Judiciary, in my opinion, he has been reasonable; he has accommodated us. What he has done is to say that this power will go to the House Committee on the Judiciary, which is where it would normally vest. It can be exercised by action of the chairman and the ranking Republican Member jointly. If one or the other should not agree, then it could go back to the full committee and they could override or decide exactly how that particular subpena will be exercised.

I know of no case in the history of any legislative body myself where one man, one legislator, has been given uncontrolled and unrestricted subpena power.

I would not perhaps in this case mind giving it to the ranking Republican member. Frankly, I am reluctant to give anybody that power. We would not just be giving it to one or the other here but, rather, to both. I am not sure it would be a good idea for us to give up that kind of responsibility. I might not want to give it to Chairman RODINO and maybe some of the Democrats do not want to give it to the ranking Republican.

Mr. Speaker, today the House of Representatives can take a step forward, or a step backward. It can approve House Resolution 803, or it can become encumbered in partisan polemics. As a member of the Judiciary Committee, I encourage my colleagues to take that step forward by supporting passage of this resolution; a resolution granting the specific authorities necessary for our committee to conduct a thorough impeachment inquiry. I urge this support for the following reasons:

First, with the adoption of House Resolution 803 we move closer to achieving a responsible answer to the numerous allegations, questions, and doubts which encompass the Presidency. Our staff has diligently proceeded in this effort, but it is unlikely that they can continue further without the authorities outlined in this resolution. It is our constitutional responsibility to inquire into the existence or nonexistence of impeachable offenses and delaying of the passage of this transfer of authority would delay the inquiry. By delaying the inquiry, we prolong the crisis in public confidence which prevails in this country and we further irritate an already serious situation.

Second, while encouraged by President Nixon's expressed intentions to cooperate with the Judiciary Committee, I feel it is essential that subpena authority is available for our use if needed. I am hopeful that the President and our committee can arrange informally for the transfer of needed evidence and information, but if this is not possible we must proceed with the issuance of appropriate subpenas at once. Article I, section 2 of the Constitution vests sole power for impeachment in the House of Representatives and our committee should be prepared to exercise this power, as an extension of the House, if unexpected conflicts arise.

Finally, and most importantly, House Resolution 803, although not a flawless document, represents a legitimate compromise designed to insure a bipartisan approach to the Judiciary Committee's inquiry. With or without amendments, this resolution is worthy of my colleagues' approval. It does not grant, as some might suggest, excessive authorities to the Judiciary Committee, and that authority granted is shared, at least to some extent, with the minority.

In conclusion, therefore, I again urge adoption of House Resolution 803 in an effort to take that step forward. For those who fear misuse of the authorities granted by this resolution, I suggest that in the final analysis, the best safeguard for a bipartisan impeachment inquiry conducted fairly and expeditiously will not be the wording of this resolution, or any resolution, but public interest in, and the demand for responsible, nonpartisan action.

Mr. RODINO. Mr. Speaker, I yield, for the purpose of debate only, 2 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Speaker, I thank the chairman of the House Committee on the Judiciary for yielding these 2 minutes to me.

The words "fairly," "reasonably," "expeditiously," "quickly," "now," and "immediately"—how many times have we heard them during this debate? Those words are important in terms of how quickly we proceed to our business, but let us understand that the work product of the House Committee on the Judiciary and this House of Representatives must not suffer in favor of "quickly," "expeditiously," "reasonably," and "fairly." We want to do all of those things. We also are defining impeachable offenses and whether impeachable offenses have been committed with regard to this President. And what we are doing will have to stand as a precedent for impeachment proceedings 100 or more years from now.

Let us understand that the House Committee on the Judiciary needs the authority to proceed to get the documents which are necessary for its inquiry.

One of the amendments which one Member would like to offer if the previous question is voted down deals with the words "necessary" and "relevant"; the amendment would add the word "relevant" to the word "necessary."

Understand that this committee will not proceed to procure any data or information by subpena or otherwise which is not necessary to the impeachment inquiry. If it is irrelevant we throw it out. Our concern is that our course of action proceed in a proper manner, and produce that evidence which is necessary to a final determination of whether a resolution of impeachment shall lie. It should not be impeded or inhibited by the simple word "relevant."

Have faith in the chairman of this committee. Have faith in the members of this committee. It is not impossible for us to proceed with the business of this country and also proceed with our congressional responsibility under the Constitution as to the impeachment inquiry—we can do both.

Mr. RODINO. Mr. Speaker, I yield, for the purpose of debate only, 5 minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Speaker, I wish to thank the chairman of the committee for yielding to me.

Mr. Speaker, I am supporting this resolution regardless of how our vote goes on the previous question, because I support the inquiry, and in order to have an inquiry the subpena power is obviously essential.

Nevertheless, I would support it much more happily if we could have a resolution where the exercise of the subpena power, by the terms of the resolution, was required, by the resolution, to be fair. And because in my judgment we do not have that kind of a resolution I shall reluctantly vote against the previous question as, under the parliamentary situation, it gives us the only opportunity to amend this resolution.

The chairman has said, quoting Edmund Burke, that we are in a position to be exceedingly useful to our country and to do honor to ourselves, and I agree, but in order to do this we have to proceed under rules which will assure the fairness of the inquiry.

My colleague, the gentleman from California (Mr. WIGGINS) has suggested two amendments which may never see the light of day here, because they will probably require two rejections of the previous question, in the situation in which we find ourselves, but I consider his amendments exceedingly important.

One of them is simply to insert that we can subpena for such materials as the committee deems necessary and relevant to our investigation, or which we think could lead to relevant material.

That is the general rule of law. That is the rule in the U.S. courts. What is wrong with being relevant, particularly if the committee decides it, which it would do even under the proposed amendment? If we do not want to be relevant, it means we want to go fishing. It is just that plain.

The other amendment is simply to

give equal subpena power to the majority and the minority. It says in this resolution—

> Such authority . . . may be exercised . . . by the chairman and the ranking minority member acting jointly, or, if either declines to act, by the other acting alone. . . .

That is where we want to stop—and we should go on—

> . . . or by the committee acting as a whole. . . .

But the resolution says that if either refuses to act jointly, the other can take it to the committee and have them decide the question.

The committee is controlled by the majority. They are going to uphold the chairman, not the ranking member. Remember, Mr. Speaker, this will not arise except in delicate, unusual situations. The chairman and the ranking member will agree 90 percent of the time. But suppose, for example, as a possibility, that we get into the question of whether this administration has done anything different from past administrations, and we want to call—I am not saying whom we would want to call; I am just picking names out of the clouds—HUBERT HUMPHREY or Bobby Baker, or somebody else, what is the majority of this committee going to do? In practice we will not have that opportunity.

All we are saying is that gentlemen ought to be relevant; they ought to be even-handed; they ought to be fair. If they do not want to be, if they want to vote against relevance, if they want to vote against equality, they ought to give us a better reason than simply majority rule.

All we want to do is to amend this resolution, in order to put in the two amendments of my friend, the gentleman from California. I would like to hear anybody give us one good reason why that should not be done. Even my liberal friend, the gentleman from Massachusetts agrees it ought to be done. Let us be fair. Let us pass a decent resolution. Let us remember we are drawing the ground rules from here on, and those ground rules ought to be just.

The SPEAKER. The time of the gentleman has expired.

Mr. RODINO. Mr. Speaker, I yield for the purpose of debate only, 1 minute to the gentleman from Iowa (Mr. MEZVINSKY).

Mr. MEZVINSKY. Mr. Speaker, I rise today in support of the resolution before the House and call on my colleagues to give it overwhelming approval.

A week ago today, the President met with us in this Chamber and wrapped up the state of the Union address by declaring that "1 year of Watergate is enough."

I think we all share that feeling and for that reason desire that the Judiciary Committee's inquiry be conducted with all deliberate speed.

The resolution before us, providing specific subpena power for the impeachment inquiry, is designed to expedite our investigation. We are all hopeful that use of the subpena authority will not be necessary. The President has pledged cooperation with the committee, and we will most certainly seek to avail ourselves of that cooperation and use the subpena only as a last resort to obtain needed evidence.

Unfortunately, the past performance of White House cooperation in this area has failed to inspire confidence. I believe it would be hazardous and would risk further delay in resolving the impeachment question if the Judiciary Committee were to proceed with the inquiry without a vote today reaffirming the House's dedication to a thorough investigation.

We are not asking for a fishing license, only for the authority necessary to search out all the facts, those that can exonerate as well as those that may implicate.

This resolution is most significant. By approving it, we will assure that the House can exercise its constitutional authority and prerogative without unnecessary delay.

Mr. RODINO. Mr. Speaker, I yield, for the purpose of debate only, 1 minute to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, as the gentleman from Iowa said, the President suggested that 1 year of Watergate is enough. If I read my mail accurately, the people across America would like to have us get on with this business one way or another—put up or shut up: I have enough faith in the chairman of the Committee on the Judiciary, Mr. RODINO, to take his word for it. He suggested that he would like to conclude this by April 30.

And he has told members of the mass media—and there are more than 70 of them here today, and I suppose they will find 70 ways to relate this vote to a drive on impeachment one way or the other; but it is not. I have faith in the gentleman's word when he says he wants to bring this to a conclusion April 30, so I will vote for the previous question favorably. We have all of February and all of March and all of April and that is time enough to bring it to a conclusion.

Mr. RODINO. I yield 1 minute, for the purpose of debate only, to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I thank the chairman, the gentleman from New Jersey, for yielding to me.

I would like to echo my support for the Judiciary Committee's resolution and state that I will support the previous question.

What we do on the House Judiciary Committee will stand for all time and I think every member of this committee understands the seriousness of what we are doing. We will act judiciously but quickly. We will bring to the country and to the House recommendations which will stand up not only now but also for all time.

If we accept the amendments some of my Republican friends will wish to offer, they will not only hamstring this investigation but will also infringe on the precedents established previously with respect to subpena powers in an impeachment inquiry. So, I urge that we follow the historical precedents, accept our solemn responsibilities and support the resolution of the Judiciary Committee.

Mr. MAYNE. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Iowa 1 minute for the purpose of debate only.

Mr. MAYNE. Mr. Speaker, I thank the gentleman from New Jersey for yielding.

Mr. Speaker, the people of this country want this matter expedited and it certainly has not been sufficiently expedited up to the present time. This has been a matter of great concern to some of us in the minority that the Judiciary Committee has proceeded at such a leisurely pace since the impeachment inquiry was first referred to us October 25, 1973. There has been only one full meeting of the committee to discuss this matter and to take any action, although it was referred to us 3½ months ago, and the chairman called that one meeting only last week.

We the minority members of the committee have tried to encourage the chairman to move more promptly. The chairman has told us he will do everything possible to expedite the conclusion of this by April 30, and has again given that assurance to the Nation on the floor of this chamber today. I would personally believe that our committee should be able to complete its work and make a final report to the House earlier than April 30. But in the interests of avoiding partisanship, I will support him in that endeavor rather than get into a partisan squabble. That is the last thing we on the Republican side would want or the American people would want. It seems to me the American people are entitled to much better than that. They are entitled to have all relevant evidence made available to the committee promptly and to prompt consideration and action by the committee. I am willing to go along with the chairman's assurances of prompt action and to vote for the previous question to facilitate such action.

But I will say to the chairman that if he does not proceed as expeditiously as he has assured us he will and if it should become apparent there is an unwillingness on his part or that of the committee's to proceed expeditiously, then it is going to be our duty as members of the minority to bring this matter very forcibly to attention of the Members of this House and to the American people who are clearly demanding that this be handled as expeditiously as possible.

Mr. WYMAN. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield for the purpose of debate only to the gentleman from New Hampshire (Mr. WYMAN).

Mr. WYMAN. Mr. Speaker, does the gentleman intend to call the President of the United States?

Mr. RODINO. At this time the chairman would not answer that question except to say that if it becomes necessary to complete this inquiry and to assure a fair and responsible judgment in the matter, only then would that become necessary.

Mr. WYMAN. The gentleman from

New Hampshire hopes it will not become necessary.

Mr. RODINO. And so does the gentleman from New Jersey.

Mr. BIESTER. Mr. Speaker, I rise in support of House Resolution 803, Judiciary Committee subpena power.

This resolution is essential if the Judiciary Committee is to accomplish its mandate fully to investigate whether grounds exist for impeachment.

Under its provisions, the committee can call witnesses and gain access to information and material relevant to the impeachment inquiry. The chairman and ranking minority member acting together would be able to exercise this power or, if one declines to act, the other could take the question to the full committee for a decision.

The American people want the question of Watergate and impeachment resolved quickly and fairly. Public attention is focused on the House, and the Nation is looking to the Judiciary Committee and the entire House for leadership in making a decision on this most crucial issue.

The resolution as reported out of committee came on a unanimous vote which underscores, I believe, a confidence and hope that the majority and minority can effectively work together on this matter. It is essential for the validity and viability of the decisionmaking process of the Judiciary Committee and the decisions which emerge from it that the committee approaches its responsibility with objectivity, thoroughness and fairness.

The resolution before us today will help enable the committee to discharge its obligations in a spirit of bipartisanship that seeks only to discover the truth for the good of the country—not partisan advantage for the benefit of either political party. This bipartisan spirit must exist and must be apparent in the recommendations of the Judiciary Committee. If not, a critical ingredient for public acceptability of its decisions will be lost.

Full subpena authority is indispensable if we expect the Judiciary Committee to do its job, and I urge my colleagues to support this resolution.

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of House Resolution 803 as reported from the Judiciary Committee. This resolution officially authorizes the Judiciary Committee to fully investigate whether sufficient grounds exist to impeach the President, and it further grants to that committee the power to require by subpena or otherwise the appearance of witnesses and the production of things deemed necessary to that investigation.

Mr. Speaker, there can be no question that the House of Representatives plays a very unique and preeminent role in the impeachment process and that it must have absolute access to all information which is necessary to its investigation. It was President James K. Polk who once said, and I quote:

> If the House of Representatives is the grand inquest of the Nation and should at any time have reason to believe that there has been malversation in office and should think proper to institute an investigation into the matter, all the archives, public or private, would be subject to the inspection and control of a committee of their body and every facility in the power of the Executive afforded them to prosecute the investigation.

Mr. Speaker, I wish to associate myself with President Polk's remarks, and with similar statements made by the members of our Judiciary Committee, on both sides of the aisle. I have long held that the so-called doctrine of executive privilege cannot be invoked with respect to a congressional investigation into alleged wrongdoing—a position which Deputy Assistant Attorney General Mary Lawton testified last April "has been the traditional view of the doctrine of executive privilege." There is no doubt in my mind that this concept takes on extra weight and validity in the face of an impeachment proceeding, given our undeniable constitutional role.

In the brief time remaining, Mr. Speaker, I would like to address myself to what must be our overriding concern, and that is the need to approach these proceedings in a responsible and nonpartisan manner. Alexander Hamilton, writing in Federalist No. 65, warned that an impeachment proceeding will seldom fail to agitate and divide the community, often along the lines of pre-existing factions, and will, in his words, "enlist all their animosities, partialities, influence and interest on one side or the other." He went on to say, and I quote:

> In such cases there will always be the greatest danger that the decision will be regulated more by the comparative strength of the parties than by the real demonstrations of innocence or guilt.

Mr. Speaker, while it is the Senate, and not the House, which must ultimately decide the question of innocence or guilt in an impeachment proceeding, the dangers of a partisan breakdown are just as real in our own deliberations and the consequences just as ominous. I think the members of our Judiciary Committee are aware of the special responsibility which has been placed upon them, and the special need to avoid a partisan breakdown.

The resolution which is before us today has been carefully designed with this in mind. I appreciate the fact that there are some members of that committee from this side of the aisle who think this resolution can and should be amended to insure that the inquiry is expedited, that the subpena authority is carefully prescribed, and that the rights of the minority are protected. Let me say at the outset that I am in agreement with all of these goals. But after giving this matter very careful study, I have decided not to vote for any amendments to this resolution, as well-conceived and intentioned as they may be.

First, with respect to the amendment to impose an April 30 deadline for the final report and recommendations, let me say that it is my hope that the committee will be able to meet this generally agreed upon target date. We have been promised a full, fair, and expeditious inquiry, and if this matter is intentionally prolonged, we will run the very real risk of a partisan breakdown. At the same time, we cannot now predict what factors may intervene to prevent the completion of a thorough investigation by a date certain. I would hope that the committee will receive the full cooperation pledged by the President and that we will not be delayed by protracted litigation in the courts over the committee's right to subpena evidence. Our primary obligation must be to a fair and thorough investigation, and not to some arbitrary cutoff date which may jeopardize either fairness or thoroughness.

Second, an amendment is proposed to eliminate the provision for appeal to the full committee in the event that the chairman and ranking minority member do not agree on the issuance of a particular subpena. Instead, in the case of such a disagreement, either the chairman or ranking minority member, acting alone, could issue the subpena. I appreciate the fact that this amendment is being offered to protect the rights of the minority. But I would also warn that this same amendment would enable the chairman, without the consent of the ranking minority member or the full committee, to issue whatever subpena he deems necessary to the committee investigation. Here, Mr. Speaker, is where I think we run the real risk of a partisan breakdown, the risk of abuse of the subpena power, and the risk of delays in the courts.

I think the present provision in the committee resolution is an ingenious compromise which will insure both that the subpena power is not abused and that nonpartisanship is maintained. I know that some will argue that, given the political makeup of the committee, the chairman will always have the votes to get the subpena he wants when he and the ranking minority member are in disagreement; and conversely, that the ranking minority member will not have the votes for a subpena he wants in the event of disagreement. I do not subscribe to this theory for one very simple reason: if the chairman is making a very unreasonable request and the ranking minority member does not agree to it, when this is appealed to the full committee it is more likely to judge the issue on its merits than along partisan lines. The public focus will be on this distinguished group of 37 lawyers, and the expectation will be that they will make a judicious and not a partisan decision. In my opinion, the committee will not risk a partisan breakdown over an excessively unreasonable and blatantly abusive subpena request. In short, under the committee resolution, the committee appeal provision serves as an effective check and restraining influence on both the chairman and ranking minority member from abusing the subpena power. Under the proposed amendment, on the other hand, there is no such check or restraint and the potential for abuse and partisanship is only enhanced.

By the same token, I do not think a reasonable subpena request by the ranking minority member would be refused by the full committee, for again it would be in the best interest of the committee to maintain a framework of fairness and nonpartisanship. A denial of a reasonable request would only accelerate a partisan breakdown and doom the deliberation of the committee.

Finally, a third amendment is being proposed to more carefully define what types of materials may be subpenaed. As the resolution now stands, the committee may subpena whatever materials "it deems necessary to its investigation." The proposed amendment would read, "as it deems necessary and relevant to its investigation or which it deems reasonably calculated to lead to the discovery of necessary and relevant evidence." It is argued that this amendment is needed to insure against fishing expeditions and other abuses of the subpena power, and that this language is in conformity with the Federal Rules of Civil Procedure.

I certainly am in agreement with the need for the committee to confine its subpenas to matters which are relevant and necessary to its investigation. Yet, while it is claimed that it is not intended that the question of "relevancy" be submitted to a court for final resolution, I wonder if that's just not what we are inviting by adopting the language of the Federal Rules of Civil Procedure. For under those rules, showing must be made to the court that the materials sought are either relevant to the case or are likely to lead to something relevant. I would submit that if we lock ourselves in to the strict language of court rules, we may well find ourselves locked up in protracted court battles over the issues of relevancy.

Again, I would maintain that the best check against an abuse of the subpena power is the provision for appeal to the full committee if a question arises as to whether the material sought by a particular subpena is really necessary to the investigation. And I would further submit that there is less likelihood that a subpena will be challenged if it has been supported by a broad bipartisan vote in the committee.

On a final note, Mr. Speaker, I would like to direct a question to the chairman of the Judiciary Committee. On page 3 of the committee report it is noted that not only may the chairman and ranking minority member jointly issue subpenas, but that, and I quote:

> In the alternative, the committee possesses the independent authority to authorize subpenas and other process, should it be felt that action of the whole committee is preferable under the circumstances.

While the report is quite explicit that the committee, acting as a whole, may issue a subpena, section 2(b)(2) of the bill reads, and I quote: "by the committee acting as a whole or by subcommittee." I would ask the chairman why the words, "or by subcommittee" have been included. Do I read this correctly that any subcommittee of the Judiciary Committee is authorized by this resolution to vote a subpena so long as it is deemed necessary to the impeachment investigation? As I look at your committee roster, I note that you have some seven subcommittees with an average membership of nine. Are you saying here that any five members of a subcommittee have the authority to vote a subpena?

Mr. BADILLO. Mr. Speaker, passage of the resolution before us is essential to enable the Judiciary Committee to get on with its job as rapidly as possible.

Issues of paramount importance to the Nation are awaiting our action—education, energy, health insurance, welfare reform, minimum wage, and a host of urban problems—and I believe that we must expedite the impeachment investigation in order to deal with the issues of moment before us.

The economy is deteriorating fast, with the highest rate of inflation in a quarter of a century, unemployment increasing, and food and fuel prices continuing to rise in the midst of shortages. The housing industry is in a depression with inadequate new starts at a time when more than 13 million families are living in households that are unsound, overcrowded, or too expensive. The energy crisis is slowing the wheels of industry, disrupting the transport of goods, and creating hardships in the form of job losses and rising prices for scarce commodities.

In the face of all these problems, an erosion of public confidence in Government has struck a kind of paralysis in the normal functioning of the executive branch and to some degree in the Congress. When the people cease to credit the statements of those they have elected to represent and lead them, Mr. Speaker, not only are our energies diverted from the tasks before us but the very fabric of our society is threatened. Without the bond of trust and belief that cement both our interpersonal dealings and the relations between citizens and institutions, we will suffer fundamental—and undesirable—changes in the political system that has served us so well for nearly 200 years.

The impeachment investigation must proceed, Mr. Speaker, in order that we may get on with the proper business of government, with public understanding and support. The cooperation of the American people in implementing voluntary energy-saving actions is evidence of the reservoir of good faith from which we may draw. But at the same time, signs of erosion of this faith surface in expressions of suspicion that the energy crisis is at least in part contrived, or in publicly stated doubts over the need for a worldwide alert of U.S. forces during the recent Mideast war.

These are portents, Mr. Speaker, that we in public office must heed and do something about. And since the truth about the Watergate affair and its many ramifications has not been forthcoming from the White House, it becomes our duty to uncover and present the facts to the American people.

The subpena power called for in the resolution before us is necessary for that purpose. The President has already announced, in effect, that he will cooperate with the House in this inquiry insofar as he determines appropriate. He makes no mention of the constitutional underpinning for the investigation, the statutory obligation laid on him as well as on the Congress.

This is not the first time that the President has signaled his bent for observing the laws of this land selectively according to his own lights. We need only refer to the conduct of an illegal war in Cambodia, the more than 30 court decisions overruling White House impoundment of funds appropriated by Congress, the dismantling of duly constituted Government programs and agencies without statutory authority, the use of tainted Government evidence to bring conspiracy indictments against lawful dissenters, invocation of executive privilege as an excuse to withhold evidence of criminal behavior, and on and on.

Mr. Speaker, the record makes it clear that not one scintilla of evidence has been surrendered voluntarily by the White House to the Special Prosecutor, the Senate Watergate Committee, or the courts. We have witnessed an undeviating pattern of White House intransigence, delaying tactics, evasive rhetoric, blurring of the facts, and now at last the destruction of evidence within the precincts of the Oval Office itself, an event whose implications were not lost on the American people.

The Presidency, Mr. Speaker, is not the fount of all authority and power in this country. Nor is it an office whose holder is entitled to flout existing law or create new law by fiat or executive order.

Rather, at its best the Presidency can embody the hopes and ideals of the people. Its keystones are integrity, responsibility, and accountability. The Presidency must epitomize the rule of law that gives continuity and vitality to our constitutional guarantees of liberty, justice, and equality. The President is not a privileged citizen; he must be the model citizen.

Mr. Speaker, the Presidency is not under attack as some would have us believe. It is rather the conduct of that office within a specific time frame that we are undertaking to examine on behalf of the American people. That the Presidency is held in low repute today is not the fault of the Congress, the press, or the public. The simple truth is that what loss of public trust there has been in the Presidency is the result of activities engaged in on behalf of, in the name of, and through the authority delegated by the incumbent of that high office.

If America is to survive this political crisis with self-confidence and pride and faith restored, our duty is clear. It is up to us to accept the responsibility that history has thrust upon us. Impeachment is the constitutional remedy and the morally imperative one. Impeachment is the poultice by which the body politic will be cleansed.

Time is critical, Mr. Speaker. The current of change in the world and events at home do not augur well for the indecisive. The American people are rightly poised to pass judgment on us at this juncture of such critical importance to the Nation. Let us get on with it.

Mr. WYMAN. Mr. Speaker, charged as we are by the Constitution with original jurisdiction in matters of impeachment, there is no alternative to the need and even the necessity for subpena authority. That this is sought by the standing committee of appropriate in-house jurisdiction strengthens the foundation of the resolution before us.

I shall vote to give the Judiciary Committee the requested authority.

I profoundly hope and trust that its report of facts found in the investigation to be discharged in the solemn responsibility entrusted to it, will be based on testimony taken under oath and subject to the penalties of perjury. A vote up or down on whether or not to impeach a President of the United States surely requires such safeguards.

The requested authority at this hour brings to mind the unfortunate precedent of the same standing committee in an earlier day in action upon a resolution of impeachment relating to Associate Justice William O. Douglas. In that matter this same committee under a different Chairman, produced a 900-page report that contained not a single word of sworn testimony, nor, to my knowledge, were any witnesses called or hearings held.

More importantly, the Justice himself was never asked to come before the committee and respond to questions. If the principal thrust of an investigation is a determination of involvement or noninvolvement of a particular individual in certain events it seems to me that person should be given the opportunity to appear.

How on earth can there be a better way than asking the person himself? Why should the House of Representatives play guessing games with tapes or memoranda or anything else as to what the President himself knew or did or instructed when the President himself is available to respond to direct and relevant and courteous questions on these points?

Surely Executive privilege has no proper place in denying relevant information to the House of Representatives in an impeachment investigation. This is not the situation of the Watergate Committee. This is a constitutional obligation of the highest magnitude of importance. I believe this will eventually be confirmed by judicial decision should these unhappy events reach such a stage of judicial review.

Admittedly the constitutional privilege against self-incrimination is as available to a President as to an ordinary citizen, but I cannot and do not believe that President Richard Nixon has engaged in any criminal conduct as President of the United States—or at any other time for that matter.

It is to be fervently hoped that ultimate confrontation between the legislative and executive branches of this Government of ours will be avoided in the public interest. The best possible way I know of for this to be accomplished and to get this unhappy business over with once and for all, is for our President to ask to appear voluntarily before the Judiciary Committee and respond to those relevant questions that would settle the matter of his knowledge and connection with the activity of others who may have broken the law out of an excess of zeal or for whatever reason.

This is neither demeaning of the office of President nor inconsequential in the public mind. It is plain commonsense.

Mr. DONOHUE. Mr. Speaker, I rise in support of House Resolution 803 and intend to vote for it as reported by the Committee on the Judiciary.

Appropriately, this resolution places the full weight of the House's constitutional authority behind the judicious inquiry the committee will be making. As the report of the committee indicates, the scope of the investigation authorized is stated broadly to permit consideration of any matter necessary to the momentous investigation into the existence or nonexistence of sufficient grounds for impeachment.

By adopting the resolution, the House will be taking a giant step toward enabling the ultimate judgment of grave matters that have been before the American public for many long and troubled months.

The House and the people are entitled to the most thorough inquiry permissible under the Constitution. Indeed, the exercise of this constitutional responsibility is as privileged an undertaking as any that may be initiated by the people's representatives. By providing the committee with these appropriate powers of subpena, deposition, and interrogatory, House Resolution 803 gives the House the tools it needs to fairly implement that undertaking.

The committee has pledged an expeditious consideration; I, too, am committed to expedition. This resolution will fully permit that and I urge its adoption by the full House.

Mr. FRENZEL. Mr. Speaker, unless I did not understand the remarks of the distinguished chairman of the Judiciary Committee, I thought I heard him say that he would not yield for an amendment to this most significant resolution. I think the country will be surprised when it hears that momentous issues like this are being decided by "gag rule," without amendment, under a limited debate.

I think it is unreal that the leadership of this House would deny full debate of germane amendments. It is unreal that debate on what the American people believe is the major task now before the Congress is being confined to a single hour allocated to members of a single committee.

I thought this was the "people's House," scene of great debate on great issues. Today it is the "Judiciary Committee's House." All the rest of us are merely spectators. Of course, we are all going to support the resolution. We all support the investigation, and want the soonest determination of this matter.

But I want this House to discuss it fully. I do not always object to closed rules. We need them sometimes, but not on an issue of this magnitude.

I support the gentleman from Illinois (Mr. MCCLORY) in his efforts to overturn the previous question. I shall vote against the previous question.

I would, however, vote against the gentleman's amendment to cut off the inquiry. I believe the proceeding of the committee should be expeditious and geared to a target date, but that a deadline is not consistent with the legislative process or with a thorough inquiry.

I would also vote against the amendment of the gentleman from California (Mr. WIGGINS) to require relevancy of information. In this inquiry we should not miss a thing.

I would support the Wiggins amendment to grant equality to the minority in subpena authority.

More important than any amendment, however, is the need to allow the amendment process, and the need for full discussion. I believe the "gag rule" procedure is an outrage.

The Judiciary Committee got off to a bad start when it denied the minority a fair share of its million dollar staff. It continued the bad start with secret operations, and only one full committee meeting on the issue. Today the committee, by denying the opportunity for amendments and full debate, continues badly. I still have confidence in the committee's ability to do its job, but it is about time it showed us something good besides the employment of competent counsel.

Mr. BAUMAN. Mr. Speaker, House Resolution 803 provides the Judiciary Committee of the House with the powers it needs to conduct a full, thorough inquiry into the question of whether the President has committed impeachable offenses. The subpena powers granted under the resolution are an essential part of getting to the bottom of the so-called Watergate affair and other matters relating to conduct of the President and his staff, and I support fully the granting of such powers. The questions which have been raised must be answered, for the good of the country and the President himself.

I have consistently supported full and complete disclosure of all of the facts pertaining to alleged corruption in government, no matter who is involved. If the controversy surrounding the President is to be laid to rest, it must be explored fully, and the power of subpena will assure that all relevant data will be taken into consideration.

Several amendments would greatly improve the scope and effect of this resolution, however. As it is presently drawn, majority party members of the committee would be granted what in effect is exclusive power over the issuance of subpenas. If the chairman wishes to issue a subpena, under this resolution he may do so by either obtaining the concurrence of the ranking minority member, or, if the ranking minority member declines, the chairman may simply ask for approval by a majority of the committee. A straight party line vote is all he would need. It is not hard to see that this provision could easily result in more sharply drawn partisan behavior during the committee's deliberations, and would do so, I believe, unnecessarily. Adoption of the amendment offered by the gentleman from California (Mr. WIGGINS) in committee, allowing either the chairman or the ranking minority member to issue a subpena without the need for any further approval, would provide the necessary investigative tool without concurrently inspiring a partisanship which this investigation can ill afford if it is to be conducted in a fair and impartial manner.

The gentleman from California also intends to offer an amendment insuring that the committee will concern itself only with matters that it considers necessary and relevant, a provision which will prevent "fishing expeditions" of the type we have sometimes observed in the deliberations of the special investigating committee in the other Body.

Mr. BLACKBURN. Mr. Speaker, today, I voted against granting unlimited authority to the House Judiciary Committee to subpena any person with regard to the inquiry into the impeachment of President Nixon. Earlier in the consideration of this matter in the House, a motion was made to vote down the previous question on the resolution in order to allow amendments to be offered. By a straight party line vote, this motion was defeated.

The effect was that the measure, as passed, granted to the Democratic majority of the Judiciary Committee the right to subpena any person they desire, regardless of the minority position.

I believe that a matter of such vital national concern, such as impeachment, must be handled with fairness to both political parties. Therefore, the inescapable political nature of the proceedings which will ensue during this investigation will find the minority with no right to issue a subpena to thoroughly investigate the issues that come before the committee.

Under the bill, as now drawn, the subpena does not even have to be relevant to the matter under consideration. The Congress has, thus, authorized a general fishing expedition which can easily develop into a political witch hunt unrelated to the matter of prime concern to millions of Americans.

Another major flaw in the resolution is that it does not set a time limit within which the committee must report its findings to the House. It is not in the national interest, both domestically and internationally, that this matter continue to be prolonged and not laid to rest as soon as possible. I believe that these investigations should be drawn to a close within a reasonable time.

My vote would be different if the committee had taken a more reasonable attitude instead of granting this open-end authority.

Mr. ROSTENKOWSKI. Mr. Speaker, the resolution brought to the floor of the House today by the Judiciary Committee will provide the committee with the tools necessary to resolve the present Constitutional crisis to the satisfaction of all Members of the House.

For those who believe that the President was some way wrongfully involved in any of the activities presently under scrutiny by the Judiciary Committee, this resolution will provide the committee with the access it needs to confirm the serious allegations that have been made.

For those Members of this body that are presently convinced that the President is innocent of all charges and allegations and that it is time to return to the many other serious problems presently confronting all Americans, the language of this resolution will provide the Judiciary Committee with the means to expedite the remaining facets of its investigation and makes its report to the full House of Representatives.

But most important of all, for the vast majority of us who are presently unsure as to whether sufficient grounds exist to vote a bill of impeachment, today's resolution provides the House of Representatives with an efficient and effective way to carry out its responsibilities mandated under article I, section II of the Constitution that—

> The House of Representatives . . . shall have the sole Power of Impeachment.

By delegating to the Judiciary Committee the powers contained in this resolution, we will be providing that committee with the resources it needs to inform the whole House of the facts of this case. For, only then can each of us make an informed decision as to whether or not we should vote to send this case to trial before the U.S. Senate. If we are called upon to be grand jurors in this case, we should have all the information necessary to clear or to convict the President. For only in this way can we be fair to ourselves and more important, fair to the Nation we represent.

Mr. TREEN. Mr. Speaker, I know that my vote against House Resolution 803 runs the risk of misinterpretation, but I have never felt that to be a valid reason for determining how my vote should be cast. I have the duty and obligation always to vote in accordance with my conscience after careful consideration of all relevant factors.

First, I want it clearly understood that I did not vote against the resolution because I wish to impede the investigation of the impeachment question by the House Judiciary Committee. I do not wish to hamper the committee in any way in making a full investigation of the impeachment question.

I voted against House Resolution 803 because, in my judgment, the resolution is defective and faulty in three primary respects. Since the House absolutely refused to permit the offering of any amendments to the resolution, I wanted to register my disapproval of the form of the resolution. I could do this only by voting against the resolution on final passage.

The three deficiencies, which could have been taken care of by amendment, are:

First. The subpena power granted to the committee does not require that the evidence sought by the subpena be relevant to the impeachment inquiry. Elementary justice requires that the investigation be limited to relevant evidence, whether in the form of tapes, documents or other writings, or in the form of verbal testimony by witnesses.

Second. There is no certain date set forth in the resolution by which the committee must conclude its investigation. If there is anything that the American public wants it is for this entire controversy to be concluded at the earliest possible time. It is exceedingly damaging to this country to have the President of the United States under continual investigation. The House refused to consider an amendment which would have instructed the committee to conclude this investigation by a certain date. A time limit would not have hampered the investigation because the House Judiciary Committee could have come back to the House and explained its reasons for not being able to conclude the investigation by that certain date, and, if those reasons had any validity whatsoever, there is no question but that the House would have extended the investigative and subpena power for an additional period of time. The importance of having a date certain is the disciplinary effect that it would have, that is, it would minimize the chances of the committee going off in multiple directions. A certain time limit would provide the incentive for getting on with the basic and central issues of the impeachment inquiry.

Third. The minority on the committee, meaning the Republican side, does not have unfettered authority to issue subpenas. I believe that in these extraordinary proceedings the right should be given to the minority side to issue subpenas. If only the majority side has the right to issue subpenas, the entire inquiry is open to attack as being unfair. It is vital that the American public have confidence in the integrity and impartiality of this investigation. It is just as important for those who support President Nixon to believe that the inquiry is fair as it is for those who oppose him. If the minority does not have the right to compel witnesses to come before the committee, as does the majority, the entre proceedings are open to attack by the supporters of President Nixon as being unjust and unfair.

I made my decision on this vote in an impartial and objective manner. I asked myself how I would feel if the person involved were Lyndon Johnson, John F. Kennedy, or GEORGE McGOVERN. When I concluded in my heart that I would accord the same rights to any of these men were he President of the United States today, I decided I could certainly do no less for President Nixon.

I was asked following my vote what would have happened if my side had prevailed, that is, if the resolution had been voted down. The answer is quite simple: The House Judiciary Committee would have come back with a resolution which would have been fairer and which would have insured a greater degree of impartiality in the proceedings. Then, under those circumstances, I would have voted for the resolution.

Mr. BOLAND. Mr. Speaker, I rise in support of House Resolution 803, a resolution providing appropriate power to the Committee on the Judiciary to conduct an investigation of whether sufficient grounds exist to impeach Richard M. Nixon, President of the United States.

I would like to note in passing that

the Committee on the Judiciary, which has the all-important task of deciding if grounds exist to present a bill of impeachment to the whole House, has voted without objection, to report this resolution to their fellow Members of the House.

I find this an extremely significant circumstance, since it indicates to the American people that the Judiciary Committee has reached a unanimous, nonpartisan agreement among themselves as to how this so crucial investigation is to proceed.

This vote ought to dispel any further speculation that the committee's efforts have been or will be either in the nature of a witch hunt or a rearguard coverup. I urge the House to endorse this resolution as resoundingly as did the members of the Committee on the Judiciary so as to provide proof positive that all Members are committed to a thorough, even handed and unquestionably honest approach to this momentous issue.

I feel that such an expression of support is necessary because House Resolution 803 is intended to delegate to the Committee on the Judiciary the full extent of the powers of this House in an impeachment proceedings—both as to the persons and types of things that may be subpenaed and the methods for doing so.

The power of subpena is lodged in the chairman and ranking minority member of the committee acting jointly, or in either of them if the other declines, or in the entire committee.

Under any of these possible groupings, the machinery is present to insure a fair and impartial use of the powers granted by this resolution. That actions taken pursuant to these powers would be bipartisan as well, goes without saying.

Mr. Speaker, I feel very strongly that the historic inquiry upon this Congress—through the agency of the Committee on the Judiciary—as embarked will be an ultimate testing of our constitutional processes. Too much is at stake in this matter to allow considerations extraneous to the question at hand to intervene or distort the committee's progress.

I applaud the decision of the committee, contained in the report that accompanies House Resolution 803, wherein the committee has voted not to place an arbitrary deadline for final action on its activities or recommendation concerning impeachment.

It seems to me that the committee's investigation has to be completely unfettered and unimpaired by restraints other than justice and due process of law.

If it were otherwise, I greatly fear that this subject, which has already produced so much divisiveness and vituperation in its wake, cannot even be laid to rest, one way or the other, by the vote of the House upon the final recommendation of the Committee on the Judiciary.

Like the ghost in Hamlet, it will come back to haunt us—and in the end—whatever that be—may be the undoing of something this country desperately needs—trust in its political process and in those that are engaged in the operation of Government.

Mr. Speaker, this resolution touches the keystone of any political system, the degree of faith that its citizens have in it. I believe that our system of law will never be the same as a result of our actions here today. I sincerely trust, however, that it will only be strengthened by what we decide, for a rejection of this resolution carries with it the seeds of an unhappy destiny for an America that we all know has such a great future.

I urge the passage of House Resolution 803 because its fate at our hands will greatly determine not only the future of this impeachment investigation, but as important, the future of our constitutional Government.

That framework, with its three coequal and counter-balanced branches, is supported by a broad base, the people of this country. But, internal disease such as a crisis of confidence in Government might produce—can reduce any great and strong oak to a shell whose core has rotted through.

It simply is not melodrama to say that we are being watched carefully by the American people as we conduct this impeachment investigation.

A vote for House Resolution 803, can, I am confident, help reassure them that this Congress is committed to an honest and unequivocal stand on this issue.

We in Congress need it as badly as does our country.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks during consideration of this resolution.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RODINO. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCLORY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 70, not voting 17, as follows:

[Roll No. 20]

YEAS—342

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashley
Aspin
Badillo
Barrett
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Dulski
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hastings
Hawkins
Hays
Hébert
Heckler, Mass.
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Holifield
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
King
Kluczynski
Koch
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lujan
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Walsh
Ware
Whalen
White
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wyman
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zwach

NAYS—70

Archer
Ashbrook
Bafalis
Baker
Bauman
Beard
Blackburn
Brinkley
Brown, Mich.
Butler
Carter
Cochran
Collins, Tex.
Crane

Daniel, Robert W., Jr.
Dennis
Derwinski
Drinan
Duncan
Esch
Frenzel
Froehlich
Gross
Hammerschmidt
Hanrahan
Hogan
Holt
Huber
Ichord
Ketchum
Kuykendall
Lott
McClory
McCloskey
Martin, N.C.
Miller
Mizell
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Powell, Ohio
Price, Tex.
Quie
Quillen
Robinson, Va.
Robison, N.Y.
Rousselot
Ruth
Sebelius
Shuster
Snyder
Spence
Steelman
Steiger, Ariz.
Symms
Treen
Vander Jagt
Veysey
Wampler
Whitehurst
Wiggins
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion

NOT VOTING—17

Broyhill, Va.
Clausen, Don H.
Coughlin
Gubser
Haley
Harsha
Jones, Ala.
Landgrebe
McSpadden
Mathias, Calif.
Mills
Passman
Rooney, N.Y.
Roy
Shoup
Skubitz
Staggers

So the previous question was ordered.

The Clerk announced the following pairs:

Mr. Staggers with Mr. Gubser.

Mr. Rooney of New York with Mathias of California.

Mr. Passman with Mr. Don H. Clausen.

Mr. Roy with Mr. Landgrebe.

Mr. Haley with Mr. Shoup.

Mr. Jones of Alabama with Mr. Broyhill of Virginia.

Mr. McSpadden with Mr. Skubitz.

Mr. Mills with Mr. Harsha.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

Mr. RODINO. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

RECORDED VOTE

The vote was taken by electronic device, and there were—ayes 410, noes 4, not voting 15, as follows:

[Roll No. 21]

AYES—410

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman

Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
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Long, La.
Long, Md.
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McCormack
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Martin, Nebr.
Martin, N.C.
Mathis, Ga.
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Mezvinsky
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Mitchell, Md.
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Murphy, Ill.
Murphy, N.Y.
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Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
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Robinson, Va.
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Rooney, Pa.
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Sarasin
Sarbanes
Satterfield
Scherle
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Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
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Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
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Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—4

Blackburn
Landgrebe
Moorhead, Calif.
Treen

NOT VOTING—15

Broyhill, Va.
Clausen, Don H.
Gettys
Gubser
Haley
Jones, Ala.
McSpadden
Mathias, Calif.
Mills
Passman
Rooney, N.Y.
Roy
Ruppe
Skubitz
Spence

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Gettys.

Mr. Haley with Mr. Gubser.

Mr. Passman with Mr. Ruppe.

Mr. Roy and Mr. Skubitz.

Mr. Jones of Alabama with Mr. Spence.

Mr. McSpadden with Mr. Don. H. Clausen.

Mr. Mills with Mr. Broyhill of Virginia.

The vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RUPPE. Mr. Speaker, after voting on the previous question, it was necessary for me to return to my office to keep an appointment on a matter of importance to my district. The vote on the passage of House Resolution 803 followed immediately, and I was unable to return from my office in time to be recorded on that rollcall—rollcall No. 20. Had I been here I would have voted "aye."

Mr. Speaker, I ask unanimous consent that my remarks appear following the vote on House Resolution 803.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. COAST GUARD ACADEMY

The SPEAKER. Pursuant to the provisions of 14 United States Code 194(a), the Chair appoints as members of the Board of Visitors to the U.S. Coast Guard Academy the following Members on the part of the House: Mr. TIERNAN, of Rhode Island; and Mr. STEELE, of Connecticut.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. MERCHANT MARINE ACADEMY

The SPEAKER. Pursuant to the provisions of 46 United States Code 1126c, the Chair appoints as members of the Board of Visitors to the U.S. Merchant Marine Academy the following Members on the part of the House: Mr. WOLFF, of New York, and Mr. WYDLER, of New York.

HEALTH CARE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 93-211)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

One of the most cherished goals of our democracy is to assure every American an equal opportunity to lead a full and productive life.

In the last quarter century, we have made remarkable progress toward that goal, opening the doors to millions of our fellow countrymen who were seeking equal opportunities in education, jobs and voting.

Now it is time that we move forward again in still another critical area: health care.

Without adequate health care, no one can make full use of his or her talents and opportunities. It is thus just as important that economic, racial and social barriers not stand in the way of good health care as it is to eliminate those barriers to a good education and a good job.

Three years ago, I proposed a major health insurance program to the Congress, seeking to guarantee adequate financing of health care on a nationwide basis. That proposal generated widespread discussion and useful debate. But no legislation reached my desk.

Today the need is even more pressing because of the higher costs of medical care. Efforts to control medical costs under the New Economic Policy have been met with encouraging success, sharply reducing the rate of inflation for health care. Nevertheless, the overall cost of health care has still risen by more than 20 percent in the last two and one-half years, so that more and more Americans face staggering bills when they receive medical help today:

—Across the Nation, the average cost of a day of hospital care now exceeds $110.

—The average cost of delivering a baby and providing postnatal care approaches $1,000.

—The average cost of health care for terminal cancer now exceeds $20,000.

For the average family, it is clear that without adequate insurance, even normal care can be a financial burden while a catastrophic illness can mean catastrophic debt.

Beyond the question of the prices of health care, our present system of health care insurance suffers from two major flaws:

First, even though more Americans carry health insurance than ever before, the 25 million Americans who remain uninsured often need it the most and are most unlikely to obtain it. They include many who work in seasonal or transient occupations, high-risk cases, and those who are ineligible for Medicaid despite low incomes.

Second, those Americans who do carry health insurance often lack coverage which is balanced, comprehensive and fully protective:

—Forty percent of those who are insured are not covered for visits to physicians on an out-patient basis, a gap that creates powerful incentives toward high-cost care in hospitals;

—Few people have the option of selecting care through prepaid arrangements offered by Health Maintenance Organizations so the system at large does not benefit from the free choice and creative competition this would offer.

—Very few private policies cover preventive services;

—Most health plans do not contain built-in incentives to reduce waste and inefficiency. The extra costs of wasteful practices are passed on, of course, to consumers; and

—Fewer than half of our citizens under 65—and almost none over 65—have major medical coverage which pays for the cost of catastrophic illness.

These gaps in health protection can have tragic consequences. They can cause people to delay seeking medical attention until it is too late. Then a medical crisis ensues, followed by huge medical bills—or worse. Delays in treatment can end in death or lifelong disability.

COMPREHENSIVE HEALTH INSURANCE PLAN (CHIP)

Early last year, I directed the Secretary of Health, Education, and Welfare to prepare a new and improved plan for comprehensive health insurance. That plan, as I indicated in my state of the Union message, has been developed and I am presenting it to the Congress today. I urge its enactment as soon as possible.

The plan is organized around seven principles:

First, it offers every American an opportunity to obtain a balanced, comprehensive range of health insurance benefits;

Second, it will cost no American more than he can afford to pay;

Third, it builds on the strength and diversity of our existing public and private systems of health financing and harmonizes them into an overall system;

Fourth, it uses public funds only where needed and requires no new Federal taxes;

Fifth, it would maintain freedom of choice by patients and ensure that doctors work for their patient, not for the Federal Government;

Sixth, it encourages more effective use of our health care resources;

And finally, it is organized so that all parties would have a direct stake in making the system work—consumer, provider, insurer, State governments and the Federal Government.

BROAD AND BALANCED PROTECTION FOR ALL AMERICANS

Upon adoption of appropriate Federal and State legislation, the Comprehensive Health Insurance Plan would offer to every American the same broad and balanced health protection through one of three major programs:

—Employee Health Insurance, covering most Americans and offered at their place of employment, with the cost to be shared by the employer and employee on a basis which would prevent excessive burdens on either;

—Assisted Health Insurance, covering low-income persons, and persons who would be ineligible for the other two programs, with Federal and State governments paying those costs beyond the means of the individual who is insured; and,

—An improved Medicare Plan, covering those 65 and over and offered through a Medicare system that is modified to include additional, needed benefits.

One of these three plans would be available to every American, but for everyone, participation in the program would be voluntary.

The benefits offered by the three plans would be identical for all Americans, regardless of age or income. Benefits would be provided for:

—hospital care;

—physicians' care in and out of the hospitals;

—prescription and life-saving drugs;

—laboratory tests and X-rays;

—medical devices;

—ambulance services; and,

—other ancillary health care.

There would be no exclusions of coverage based on the nature of the illness. For example, a person with heart disease would qualify for benefits as would a person with kidney disease.

In addition, CHIP would cover treatment for mental illness, alcoholism, and drug addiction, whether that treatment were provided in hospitals and physicians' offices or in community based settings.

Certain nursing home services and other convalescent services would also be covered. For example, home health services would be covered so that long and costly stays in nursing homes could be averted where possible.

The health needs of children would come in for special attention, since many conditions, if detected in childhood, can be prevented from causing lifelong disability and learning handicaps. Included in these services for children would be:

—preventive care up to age six;

—eye examinations;

—hearing examinations; and,

—regular dental care up to age 13.

Under the Comprehensive Health Insurance Plan, a doctor's decisions could be based on the health care needs of his patients, not on health insurance coverage. This difference is essential for quality care.

Every American participating in the program would be insured for catastrophic illnesses that can eat away savings and plunge individuals and families into hopeless debt for years. No family would ever have annual out-of-pocket expenses for covered health services in excess of $1,500, and low-income families would face substantially smaller expenses.

As part of this program, every American who participates in the program would receive a Healthcard when the plan goes into effect in his State. This card, similar to a credit card, would be honored by hospitals, nursing homes, emergency rooms, doctors, and clinics across the country. This card could also be used to identify information on blood type and sensitivity to particular drugs—information which might be important in an emergency.

Bills for the services paid for with the Healthcard would be sent to the insurance carrier who would reimburse the provider of the care for covered services, then bill the patient for his share, if any.

The entire program would become effective in 1976, assuming that the plan is promptly enacted by the Congress.

HOW EMPLOYEE HEALTH INSURANCE WOULD WORK

Every employer would be required to offer all full-time employees the Comprehensive Health Insurance Plan. Additional benefits could then be added by mutual agreement. The insurance plan would be jointly financed, with employers paying 65 percent of the premium for the first 3 years of the plan, and 75 percent thereafter. Employees would pay the balance of the premiums. Temporary Federal subsidies would be used to ease the initial burden on employers who face significant cost increases.

Individuals covered by the plan would pay the first $150 in annual medical expenses. A separate $50 deductible provision would apply for out-patient drugs. There would be a maximum of three medical deductibles per family.

After satisfying this deductible limit, an enrollee would then pay for 25 percent of additional bills. However, $1,500 per year would be the absolute dollar limit on any family's medical expenses for covered services in any one year.

HOW ASSISTED HEALTH INSURANCE WOULD WORK

The program of Assisted Health Insurance is designed to cover everyone not offered coverage under Employee Health Insurance or Medicare, including the unemployed, the disabled, the self-employed, and those with low incomes. In addition, persons with higher incomes could also obtain Assisted Health Insurance if they cannot otherwise get coverage at reasonable rates. Included in this latter group might be persons whose health status or type of work puts them in high-risk insurance categories.

Assisted Health Insurance would thus fill many of the gaps in our present health insurance system and would ensure that for the first time in our Nation's history, all Americans would have financial access to health protection regardless of income or circumstances.

A principal feature of Assisted Health Insurance is that it relates premiums and out-of-pocket expenses to the income of the person or family enrolled. Working families with incomes of up to $5,000, for instance, would pay no premiums at all. Deductibles, co-insurance, and maximum liability would all be pegged to income levels.

Assisted Health Insurance would replace State-run Medicaid for most services. Unlike Medicaid, where benefits vary in each State, this plan would establish uniform benefit and eligibility standards for all low-income persons. It would also eliminate artificial barriers to enrollment or access to health care.

As an interim measure, the Medicaid program would be continued to meet certain needs, primarily long-term institutional care. I do not consider our current approach to long-term care desirable because it can lead to overemphasis on institutional as opposed to home care. The Secretary of Health, Education, and Welfare has undertaken a thorough study of the appropriate institutional services which should be included in health insurance and other programs and will report his findings to me.

IMPROVING MEDICARE

The Medicare program now provides medical protection for over 23 million older Americans. Medicare, however, does not cover outpatient drugs, nor does it limit total out-of-pocket costs. It is still possible for an elderly person to be financially devastated by a lengthy illness even with Medicare coverage.

I therefore propose that Medicare's benefits be improved so that Medicare would provide the same benefits offered to other Americans under Employee Health Insurance and Assisted Health Insurance.

Any person 65 or over, eligible to receive Medicare payments, would ordinarily, under my modified Medicare plan, pay the first $100 for care received during a year, and the first $50 toward outpatient drugs. He or she would also pay 20 percent of any bills above the deductible limit. But in no case would any Medicare beneficiary have to pay more than $750 in out-of-pocket costs. The premiums and cost sharing for those with low incomes would be reduced, with public funds making up the difference.

The current program of Medicare for the disabled would be replaced. Those now in the Medicare for the disabled plan would be eligible for Assisted Health Insurance, which would provide better coverage for those with high medical costs and low incomes.

Premiums for most people under the new Medicare program would be roughly equal to that which is now payable under Part B of Medicare—the Supplementary Medical Insurance program.

COSTS OF COMPREHENSIVE HEALTH INSURANCE

When fully effective, the total new costs of CHIP to the Federal and State governments would be about $6.9 billion with an additional small amount for transitional assistance for small and low wage employers:

—The Federal Government would add about $5.9 billion over the cost of continuing existing programs to finance health care for low-income or high risk persons.

—State governments would add about $1.0 billion over existing Medicaid spending for the same purpose, though these added costs would be largely, if not wholly offset by reduced State and local budgets for direct provision of services.

—The Federal Government would provide assistance to small and low wage employers which would initially cost about $450 million but be phased out over five years.

For the average American family, what all of these figures reduce to is simply this:

—The national average family cost for health insurance premiums each year under Employee Health Insurance would be about $150; the employer would pay approximately $450 for each employee who participates in the plan.

—Additional family costs for medical care would vary according to need and use, but in no case would a family have to pay more than $1,500 in any one year for covered services.

—No additional taxes would be needed to pay for the cost of CHIP. The Federal funds needed to pay for this plan could all be drawn from revenues that would be generated by the present tax structure. I am opposed to any comprehensive health plan which requires new taxes.

MAKING THE HEALTH CARE SYSTEM WORK BETTER

Any program to finance health care for the Nation must take close account of two critical and related problems—cost and quality.

When Medicare and Medicaid went into effect, medical prices jumped almost twice as fast as living costs in general in the next 5 years. These programs increased demand without increasing supply proportionately and higher costs resulted.

This escalation of medical prices must not recur when the Comprehensive Health Insurance Plan goes into effect. One way to prevent an escalation is to increase the supply of physicans, which is now taking place at a rapid rate. Since 1965, the number of first-year enrollments in medical schools has increased 55 percent. By 1980, the Nation should have over 440,000 physicians, or roughly one-third more than today. We are also taking steps to train persons in allied health occupations, who can extend the services of the physician.

With these and other efforts already underway, the Nation's health manpower supply will be able to meet the additional demands that will be placed on it.

Other measures have also been taken to contain medical prices. Under the New Economic Policy, hospital cost increases have been cut almost in half from their post-Medicare highs, and the rate of increase in physician fees has slowed substantially. It is extremely important that these successes be continued as we move toward our goal of comprehensive health insurance protection for all Americans. I will, therefore, recommend to the Congress that the Cost of Living Council's authority to control medical care costs be extended.

To contain medical costs effectively over the long haul, however, basic reforms in the financing and delivery of care are also needed. We need a system with built-in incentives that operates more efficiently and reduces the losses from waste and duplication of effort. Everyone pays for this inefficiency through their health premiums and medical bills.

The measure I am recommending today therefore contains a number of proposals designed to contain costs, improve the efficiency of the system and assure quality health care. These proposals include:

1. HEALTH MAINTENANCE ORGANIZATIONS (HMO'S)

On December 29, 1973, I signed into law legislation designed to stimulate, through Federal aid, the establishment of prepaid comprehensive care organizations. HMO's have proved an effective means for delivering health care and the CHIP plan requires that they be offered as an option for the individual and the family as soon as they become available. This would encourage more freedom of choice for both patients and providers, while fostering diversity in our medical care delivery system.

2. PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSRO'S)

I also contemplate in my proposal a provision that would place health services provided under CHIP under the review of Professional Standards Review Organizations. These PSRO's would be charged with maintaining high standards of care and reducing needless hospitalization. Operated by groups of private physicians, professional review organizations can do much to ensure quality care while helping to bring about significant savings in health costs.

3. MORE BALANCED GROWTH IN HEALTH FACILITIES

Another provision of this legislation would call on the States to review building plans for hospitals, nursing homes and other health facilities. Existing health insurance has overemphasized the placement of patients in hospitals and nursing homes. Under this artificial stimulus, institutions have felt impelled to keep adding bed space. This has produced a growth of almost 75 percent in the number of hospital beds in the last 20 years, so that now we have a surplus of beds in many places and a poor mix of facilities in others. Under the legislation I am submitting, States can begin remedying this costly imbalance.

4. STATE ROLE

Another important provision of this legislation calls on the States to review the operation of health insurance carriers within their jurisdiction. The States would approve specific plans, oversee rates, ensure adequate disclosure, require an annual audit and take other appropriate measures. For health care providers, the States would assure fair reimbursement for physician services, drugs and institutional services, including a prospective reimbursement system for hospitals.

A number of States have shown that an effective job can be done in containing costs. Under my proposal all States would have an incentive to do the same. Only with effective cost control measures can States ensure that the citizens receive the increased health care they need and at rates they can afford. Failure on the part of States to enact the necessary authorities would prevent them from receiving any Federal support of their State-administered health assistance plan.

MAINTAINING A PRIVATE ENTERPRISE APPROACH

My proposed plan differs sharply with several of the other health insurance plans which have been prominently discussed. The primary difference is that my proposal would rely extensively on private insurers.

Any insurance company which could offer those benefits would be a potential supplier. Because private employers would have to provide certain basic benefits to their employees, they would have an incentive to seek out the best insurance company proposals and insurance companies would have an incentive to offer their plans at the lowest possible prices. If, on the other hand, the Government were to act as the insurer, there would be no competition and little incentive to hold down costs.

There is a huge reservoir of talent and skill in administering and designing health plans within the private sector. That pool of talent should be put to work.

It is also important to understand that the CHIP plan preserves basic freedoms for both the patient and doctor. The patient would continue to have a freedom of choice between doctors. The doctors would continue to work for their patients, not the Federal Government. By contrast, some of the national health plans that have been proposed in the Congress would place the entire health system under the heavy hand of the Federal Government, would add considerably to our tax burdens, and would threaten to destroy the entire system of medical care that has been so carefully built in America.

I firmly believe we should capitalize on the skills and facilities already in place, not replace them and start from scratch with a huge Federal bureaucracy to add to the ones we already have.

COMPREHENSIVE HEALTH INSURANCE PLAN—A PARTNERSHIP EFFORT

No program will work unless people want it to work. Everyone must have a stake in the process.

This comprehensive health insurance plan has been designed so that everyone involved would have both a stake in making it work and a role to play in the process—consumer, provider, health insurance carrier, the States and the Federal Government. It is a partnership program in every sense.

By sharing costs, consumers would have a direct economic stake in choosing and using their community's health resources wisely and prudently. They would be assisted by requirements that physicians and other providers of care make available to patients full information on fees, hours of operation and other matters affecting the qualifications of providers. But they would not have to go it alone either: doctors, hospitals and other providers of care would also have a direct stake in making the Comprehensive Health Insurance Plan work. This program has been designed to relieve them of much of the red tape, confusion and delays in reimbursement that plague them under the bewildering assortment of public and private financing systems that now exist. Health cards would relieve them of troublesome bookkeeping. Hospitals could be hospitals, not bill collecting agencies.

CONCLUSION

Comprehensive health insurance is an idea whose time has come in America.

There has long been a need to assure every American financial access to high quality health care. As medical costs go up, that need grows more pressing.

Now, for the first time, we have not just the need but the will to get this job done. There is widespread support in the Congress and in the Nation for some form of comprehensive health insurance.

Surely if we have the will, 1974 should also be the year that we find the way.

The plan that I am proposing today is, I believe, the very best way. Improvements can be made in it, of course, and the Administration stands ready to work with the Congress, the medical profession, and others in making those changes.

But let us not be led to an extreme program that would place the entire health care system under the dominion of social planners in Washington.

Let us continue to have doctors who work for their patients, not for the Federal Government. Let us build upon the strengths of the medical system we have now, not destroy it.

Indeed, let us act sensibly. And let us act now—in 1974—to assure all Americans financial access to high quality medical care.

RICHARD NIXON.

THE WHITE HOUSE, *February 6, 1974.*

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with section 201(9) of the Public Broadcasting Act of 1967, as amended, I hereby transmit the annual report of the Corporation for Public Broadcasting covering fiscal year 1973.

RICHARD NIXON.

THE WHITE HOUSE, *February 6, 1974*

FEDERAL RULES OF EVIDENCE

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5463), with Mr. STEED of Oklahoma in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, January 30, 1974, the Clerk had read through article I of the committee amendment in the nature of a substitute ending on page 73, line 2. Are there any committee amendments to article I?

Mr. HUNGATE. Mr. Chairman, there are none.

The CHAIRMAN. Are there any other amendments to article I?

Mr. MANN. Mr. Chairman, I move to strike the last word.

The House today resumes consideration of H.R. 5463, the Federal Rules of Evidence, reading for amendments under a rule which insures that any changes proposed to the recommendations of your Judiciary Committee be given the same careful examination that has characterized each step of the codification process so far. I am confident that the action taken by the House this afternoon on H.R. 5463 will be of a judicious and responsible nature and in keeping with the careful consideration demanded by such important legislation.

Almost a year ago to the day, on February 7, 1973, the Criminal Justice Subcommittee—then known as the Special Subcommittee on Reform of Federal Criminal Laws—opened hearings on the proposed rules of evidence for use in the Federal courts and before U.S. magistrates, transmitted to the Congress by the Chief Justice of the Supreme Court.

The codification of Federal evidence rules was originated by the Judicial Conference in March 1961, when it established a special committee to determine whether the development of uniform rules of evidence would be desirable and feasible. The special committee made affirmative recommendations in this regard and on March 8, 1965, the Chief Justice, as Chairman of the Judicial Conference, appointed an Advisory Committee on Rules of Evidence and designated as its chairman, Albert Jenner, a very able trial lawyer whose name I am sure is known to all of my colleagues in this body. In March 1969, the advisory committee circulated a preliminary draft of proposed rules to the bench, bar, and law teaching community for comments and suggestions. The proposed rules were subsequently revised to reflect some of the solicited recommendations and then transmitted to the Supreme Court. After recirculation for further comment and a resulting third draft, the Supreme Court prescribed the proposed rules pursuant to titles 18 and 28 of the United States Code and on February 5, 1973, Chief Justice Burger, sent the proposed rules to Congress. The rules were to be placed in operation on July 1, 1973, unless disapproved by the Congress before that date.

Recognizing congressional responsibility in regard to the proposed uniform rules of evidence, the Criminal Justice Subcommittee, on which I am pleased to serve under the able chairmanship of BILL HUNGATE, immediately sought to examine the rules in as much depth and in as great detail as time would permit. We very soon realized, however, that it would be impossible for us to complete our task in the manner we desired and secure congressional disposition of the matter before the July 1 deadline. For that reason we proposed legislation, which was adopted by both Houses of Congress, to delay the effective date of the rules of evidence until they be "expressly approved by act of Congress"—Public Law 93–12.

H.R. 5463, which I joined with Chairman HUNGATE and other members of the subcommittee in introducing, incorporated the rules of evidence as sent to Congress by the Supreme Court, and provided our subcommittee with the vehicle on which to work the will of Congress. During the course of our subcommittee hearings, which were concluded on March 15, we received testimony from more than 50 witnesses representing practically every segment of our society whose activities might be affected by the implementation of these rules. After concluding the hearings, we held approximately 20 markup sessions, which were open to the public, and considered each rule separately while reviewing testimony given by interested witnesses during the hearings. It was not infrequent that we solicited additional views and comments from competent sources to assist us in our examination of a proposed rule.

On June 28, 1973, the subcommittee published and circulated for comment throughout the country a draft of the proposed rules of evidence which reflected the changes recommended by the subcommittee as a result of our examination. Copies of the subcommittee draft were provided the Bar Association of each State, the Justice Department, the Supreme Court, and the Judicial Conference, and all individuals and organizations of whose interest the subcommittee was aware and their views and comments were requested. In addition, the subcommittee draft was published in the CONGRESSIONAL RECORD for the benefit of our colleagues in the Congress and others who might not otherwise have access to the subcommittee recommendations.

Five additional subcommittees markup sessions were scheduled to consider the recommendations we received as a result of the circulation of the June 28 committee print. The committee print of October 10, 1973, represents the subcommittee's final work product on the rules of evidence and contains several modifications suggested in response to the circulation of the June 28 draft.

Approval by the full judiciary Committee came on November 15 when H.R. 5463 was ordered reported.

The Criminal Justice Subcommittee approached these rules in a deliberative and conscientious manner while allowing for the expeditious consideration of the matter by the Congress as a whole. I think the final product reflects admirably upon the ability of the Congress to approach a technical and controversial subject of limited interest to the average layman and develop a sound and substantive piece of legislation. The rule requested and received for the consideration of H.R. 5463 on the floor of the House provided for further responsible modifications in the proposed rules of evidence by Members of the House who had not had the opportunity to participate in committee proceedings, as well as by committee members who are interested in having the full House membership consider the merits of additional proposed changes.

I feel this legislation will be one of the great achievements of the 93d Congress, not only because of the substance of the act but also because of the manner in which it was considered. I am pleased to have been associated with House consideration of the Federal rules of evidence.

Ms. HOLTZMAN. Mr. Chairman, I would like to explain my objections to the bill on Federal Rules of Evidence (H.R. 5463). Before listing my reasons I would like to commend the work of my colleagues on the Judiciary Committee in improving various sections of the bill as originally presented. In large measure the improvements are attributable to the leadership of Representative HUNGATE, chairman of the Subcommittee on Criminal Justice.

Nevertheless, I still have substantial reservations concerning the bill even as amended in the Committee of the Whole House.

At the present time, the rules of evidence in the Federal courts are not codified. Evidentiary matters are governed essentially by the common law, with a few exceptions, and rules have been developed on a case-by-case basis.

Eminent jurists and lawyers have objected to any codification of rules of evidence—or freezing them into black letter law—primarily because evidentiary principles are extremely difficult to codify. In addition, as a whole, the testimony before the subcommittee showed no real need to codify the rules. Instead, the dangers of codification became apparent.

Black letter rules will make evidentiary points high profile. Presently, evidentiary rulings are generally not considered critical at a trial. Once we adopt a "black letter" code, lawyers will have a field day determining how many evidentiary angels can dance on the top of a pin. A number of witnesses testified that the rules will generate appeals and increase reversals on evidentiary rulings.

Another thorny problem this codification will produce is forum shopping. Because this code substantially liberalizes the hearsay rules, Federal courts may become a more attractive forum for litigation. This is not, however, a time to increase the workload of the already congested Federal courts. Nor is there any substantial justification on a hearsay issue for a different outcome in a Federal court when State law is involved.

The revisions of most of the controversial rules—privileges, impeachment by prior convictions, and the like—have in my opinion been eminently correct. Part of the reason for this was the fact that most of the comments received on the bill were directed to these rules.

Unfortunately, however, many of the other "minor" rules did not receive very much attention from the commentators or witnesses. But, these minor rules can have a sweeping and potentially harmful effect.

I will cite a few examples of rules which are troublesome.

There are problems with rules concerning the admission of unfairly prejudicial evidence—rule 403, best evidence rule—article 10, use of accused's testimony on preliminary matters—rule 104 (d), statements in documents affecting an interest in property—rule 803 (15), authenticity of commercial paper—rule 902 (9), authenticity of handwriting—rule 901, hearsay use of telephone directories and similar publications—rule 803 (17), and use of court appointed expert witnesses—rule 706.

Although the Committee of the Whole has improved the rules involving admissibility of hearsay evidence, specifically I am troubled by the consequences of the general liberalization of use of hearsay evidence in criminal trials. All of us agree that live testimony subject to cross-examination is the best guarantee of a fair trial. Yet, in this code there are several rules which would impinge upon this crucial right significantly. The adoption in the Committee of the Whole of an amendment which would allow opinion evidence to be admitted, is extremely unwise and may adversely affect elemental fairness and due process in criminal trials.

Unquestionably, if we enact these rules of evidence, we will be enacting a code substantially better than the one promulgated by the Supreme Court last year. In this regard I was, of course, gratified by the adoption by the Committee of the Whole House of my amendments removing the Supreme Court's power to legislate rules in the area of privileges and narrowing the public reports exception to the hearsay rule—rule 803(b). Yet, we must balance the several improvements on the bill and the purported—but unproved—benefits of a uniform Federal code of evidence, against the dangers of codification and the problems I have enumerated.

In summary, I have concluded that I must vote against the bill before the House.

AMENDMENT OFFERED BY MR. STEIGER OF ARIZONA

Mr. STEIGER of Arizona. Mr. Chairman, I offer an amendment.

Mr. HUNGATE. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Missouri reserves a point of order.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Arizona: Page 73, immediately after line 2, insert the following:

Rule 107. Elimination of and Alternative to Exclusionary Rule

(a) Exclusion.—Evidence, otherwise admissible in a Federal criminal proceeding shall not be excluded on the grounds such evidence was obtained in violation of the fourth article of amendment to the Constitution of the United States, if there is an adequate legal remedy for any person aggrieved by reason of such violation.

(b) Adequate legal remedy.—For the purposes of subdivision (a), the legal remedy provided under subdivision (c) shall be considered an adequate legal remedy.

(c) Liability of United States.—

(1) The United States shall be liable for any damages caused by a violation of the fourth article of amendment to the Constitution of the United States, (A) if such violation was by any officer or employee of the United States while in the course of the official duty of such officer or employee to investigate any alleged offense against the United States, or to apprehend or hold in custody any alleged offender against the United States, or (B) if such violation was by any person acting under or at the request of such officer or employee in the course of such duty.

(2) The liability under subdivision (c) (1) shall be to any person aggrieved by such violation of the fourth article of amendment to the Constitution of the United States and such person may recover such actual damages as the jury shall determine, if there is a jury, or as the court may determine, if there is not a jury, and such punitive damages as may be awarded under subdivision (c) (3).

(3) Punitive damages may be awarded by the jury, or if there is no jury, by the court, upon consideration of all of the circumstances of the case, including—

(A) the extent of deviation from permissible conduct;

(B) the extent to which the violation was willful;

(C) the extent to which privacy was invaded;

(D) the extent of personal injury, both physical and mental;

(E) the extent of property damage; and

(F) the extent to which the award of such damages will tend to prevent violations of the fourth article of amendment to the Constitution of the United States.

(4) The remedy against the United States provided under this section shall be the exclusive civil remedy against any person for such violation of the fourth article of amendment to the Constitution of the United States.

Page 65, in the table of contents appearing after line 15, insert immediately after the item relating to Rule 106, the following new item:

Rule 106. Remainder of or related writings on recorded statements.

POINT OF ORDER

Mr. EDWARDS of California. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. EDWARDS of California. Mr. Chairman, I make a point of order on two grounds; the first ground being that the gentleman from Arizona, in accordance with the rule, printed the amendment on page E400 of the CONGRESSIONAL RECORD of February 4, 1974, but it is in a different form as he offers it today.

Second, I make a point of order on the ground that the amendment is not germane. It raises completely extraneous and new matters never considered by either the subcommittee or the full committee during its long deliberations on this subject.

This amendment offered by the gentleman from Arizona is actually the full text of H.R. 10725, which is a bill introduced by the gentleman from Arizona last September and which has been referred to the subcommittee of the Committee on the Judiciary which I chair. The bill, according to the way the gentleman put it in the record, purports to amend title 18 of the United States Code in a most substantive way. The rules of evidence which we are considering today do not amend title 18 in any way.

The bill the gentleman from Arizona is offering as an amendment subjects the U.S. Government to liability, and the rules of evidence do not address themselves to this issue in any respect. While this bill, which the gentleman offers in all sincerity, wears the cloak of an amendment, it simply does not fit. It is a bill that should be considered by the subcommittee of the Committee on the Judiciary that I chair, and will receive appropriate attention, but it really does not have any business in the particular legislation that we are considering here today.

The CHAIRMAN. Does the gentleman from Arizona desire to be heard on the point of order?

Mr. STEIGER of Arizona. I do, Mr. Chairman.

Mr. Chairman, I would be very, very concerned if the Chair were to rule on the first of the grounds offered by the gentleman from California. I will tell the Chairman and the House that the amendment as offered in the record is not changed at all in the form in which it is before the committee. The only change is at what point in the bill it appears. I will tell the Chair that both the spirit and the letter of the rule were conformed to as far as I am concerned, and I would hope that no Member in the future would be denied a hearing on an amendment based on what has to be at best a capricious judgment.

Mr. Chairman, I would address myself primarily to the second objection raised by my good friend from California. My good friend is correct that this was introduced as a separate measure, and it was assigned to his subcommittee. Because of the pressure of the other assignments of the subcommittee, it was unable to receive a hearing. Therefore, the gentleman is absolutely correct as regards its lack of hearing in the subcommittee or the full committee.

Mr. Chairman, I will tell the Chair that it is germane, because clearly it addresses itself only to the rules of evidence and nothing more.

But the liability mentioned by the gentleman as being a new subject, if the Chair will, is a subject that is frankly addressed on every page of the committee bill, because every page of the committee bill is altering in some ways the rules of evidence. As such, the potential for testing in the courts is clear. Every test will result in a liability on the part of the Federal Government, and it seems to me the Chair is being placed in the position of determining how much liability is new liability and how much liability is excessive and, therefore, not germane.

Mr. Chairman, I would submit very reluctantly that it is not to the rules of evidence, the germaneness or the lack of conformity to the rules of the House that these objections are raised, but, rather, the concern that this matter be brought to the full House without benefit of the filtration of the committee.

Mr. Chairman, that I can understand, but that in the past has not been sufficient grounds to deny at least a hearing before the full House.

The CHAIRMAN (Mr. STEED). The Chair is prepared to rule.

The text of the proposed amendment, as printed in the RECORD, and the text as offered by the gentleman from Arizona (Mr. STEIGER) are at variance. The objection raised by the gentleman from California concerning the imposition of new liability on the United States points out that the amendment goes beyond the subject matter dealt with in the bill.

Since there is a clear indication of the nongermaneness of the amendment and of failure to strictly comply with the rule, the Chair sustains the point of order.

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks at this point in the Record.)

Mr. ROUSSELOT. Mr. Chairman, I rise to address the issue raised in the amendment offered by my distinguished colleague from Arizona. In order to properly consider this proposal, we must keep in mind two basic precepts which have guided American justice from its earliest days. Even though the amendment has been ruled out of order I think we should discuss the concepts of the amendment.

The first precept is the purpose of government itself. The principal purpose of government is the maintenance of law and order, and that is nothing more than public sanction to protect the rights of each citizen.

The second precept is the innocence of the accused until guilt is established through due process of law, and that is public sanction to protect the rights of the guilty in order to protect the rights of the innocent.

As a part of that protection, the law presently excludes from a criminal trial evidence which has been illegally obtained—not on the theory that it is any less factual, not on the theory that it is subject to any less close inspection, to any less challenging cross examination, or to any less contradiction. It is excluded solely on the theory that its development contravenes certain fourth amendment rights.

All of us share, in our hearts, the willingness to see 100 guilty men go free rather than to permit the rights of just innocent men to be invaded.

But I think we all share, also, a concern for the breakdown of law and order, for the increase in lawlessness which is overtaking our land. The issue is the balance between individual rights and the rights of society. In that context, however, it is important to remember that society is made up of individuals and its principal function, expressed through organized government, is to protect those individual rights.

The question is this: Are people better served by allowing marauders to prey on their families, homes, and businesses in violation of the rights of these innocents or to permit the violation of fourth amendment rights in order to bring more miscreants to the bar and there to convict them of their foul crimes?

That is an issue with which fair-minded people have wrestled for generations.

Fortunately, Mr. Steiger's proposal does not force us to answer that question. On close inspection, what I find is an innovative amplification of fourth amendment rights through the provision of a cause of action for illegal search and seizure. As the law stands today, the exclusionary rule does not provide any protection to the innocent because it merely bars evidence at a trial: Those whose fourth amendment rights have been violated and are not brought to trial derive no benefit from the exclusionary rule. Mr. Steiger would have us correct this defect.

No champion of the rights of individuals, no champion of the fourth amendment can fail to respond favorably to this formalization of redress.

On the other hand, it seems to me that no one who respects the rights of people to be protected from those who do not respect those rights can well object to the use of all relevant evidence in determining the guilt or innocence of the accused.

This amendment would permit introduction of all evidence and subject it to the full force of our adversary system of justice.

It would also provide redress for search and seizure violations. This amendment is fair to all.

It has another virtue not shared by many of the measures we consider and enact; it is simple to understand.

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks at this point in the Record.)

Mr. EDWARDS of California. Mr. Chairman, I strongly oppose Mr. Steiger of Arizona's purported amendment.

This amendment is the complete text of H.R. 10275, introduced by Mr. Steiger on September 13, 1973. This bill was referred to the House Committee on the Judiciary and then to the Subcommittee on Civil Rights and Constitutional Rights of which I am chairman.

This purported amendment covers a most complex, controversial, and much discussed constitutional issue. The subject of much debate, volumes of learned books and more volumes of law review articles. It also covers a subject never discussed, if even mentioned, in the 9 months of careful and thorough deliberation by the Subcommittee on Criminal Justice nor by the full Committee on the Judiciary.

We are being asked in a few minutes of debate here on the floor to consider and pass on a matter which has occupied the best legal minds of this country for years.

These rules of evidence are the culmination of almost 13 years of study by distinguished judges, Members of Congress, and lawyers throughout the country who did not consider nor comment upon the exclusionary rule.

The Subcommittee on Criminal Justice considered these rules for over 9 months. There are 600 pages of the hearing record, 400 pages of supplemental comments, and there were 17 markup sessions. Committee prints were circulated nationwide, printed in the Congressional Record, yet not one mention of the exclusionary rule was made.

The consideration of Mr. Steiger's proposal is simply not appropriate as an amendment to the rules before us. It is a matter of sufficient consequence as to require careful deliberation on its own merits as it emerges from committee consideration. It is a subject of some concern to my colleagues on the subcommittee, I am sure, and we will hopefully at some point in the future be able to properly address ourselves to it and accord it the more thorough treatment necessary as a condition precedent to its further consideration by this body.

Hasty decisions in this area, considered in a Supreme Court decision as late as January 8 of this year, would appear unwise. The Supreme Court in United States against Calandra once again turned its learned attention to the subject of Mr. Steiger's purported amendment, the exclusionary rule. In the 6-to-3 decision, the majority of the Court held that a witness summoned to appear and testify before a grand jury may not refuse to answer questions on the grounds that they are based on evidence obtained from an unlawful search and seizure. In other words, did not extend, or restricted, depending on your point of view, the use of the exclusionary rule in grand jury proceedings. Both the majority and dissenting opinions, however, make it clear that we are dealing not with just any old rule or even a substantive statute, but a series of Supreme Court decisions bottomed on constitutional rights arising from the Bill of Rights.

I suggest to you that no statutory treatment of this area would necessarily be effective against this long line of decisions, but more to the point, it cannot be decided here as cavalierly as it of necessity must be treated coming up as it does in this fashion. We could and should properly engage in a colloquy of some substance and great length on the issue itself of the exclusionary rule. I, for one, am not prepared to act so rashly nor do I believe this body should parade its irresponsibility to consider this amendment upon which we simply have had no information provided to us; no consideration by the committee proposing these rules; no mention in hearings or the committee report or the additional or separate views. I ask you to oppose this amendment.

Mr. STEIGER of Arizona. Mr. Chairman, I appreciate the chair's recognizing me, and I ask unanimous consent to proceed for 1 additional minute to engage in dialog with my friend, the gentleman from California (Mr. Edwards).

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STEIGER of Arizona. Mr. Chairman, I will say to my distinguished friend, the chairman of the subcommittee, that I do hope that there will be opportunity for this matter to be heard, because I know the gentleman shares my conviction that this is a significant matter.

Whether we agree on the form of this particular amendment or not, I hope that at some time he could agree to schedule it before his subcommittee.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield at this point?

Mr. STEIGER of Arizona. Certainly.

Mr. EDWARDS of California. Mr. Chairman, I certainly appreciate what the gentleman said. I read with great interest the speech that the gentleman made on this subject in the House of

Representatives here on September 13, 1973.

It is in great depth, and it makes points that certainly should be considered by the subcommittee. I cannot commit the subcommittee to anything. As the gentleman knows, we operate by majority rule there, but I will certainly bring the matter to the attention of all the Members at the next meeting.

Mr. Chairman, I do hope that we can move ahead on this important matter.

Mr. STEIGER of Arizona. Mr. Chairman, I thank the gentleman very much.

The gentleman might be interested to know that *I am* considering changing the title of the bill to "The Compensation for Police Brutality bill." Maybe the gentleman would prefer to hear it under that title.

Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Clerk will read article II of the bill.

The Clerk read as follows:

ARTICLE II. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) Scope of rule.—This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts.—A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary.—A court may take judicial notice, whether requested or not.

(d) When mandatory.—A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard.—A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice.—Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury.—In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

Mr. HUNGATE. Mr. Chairman, the committee has no amendments to article II.

The CHAIRMAN. If there are no amendments to article II, the Clerk will read.

The Clerk read as follows:

ARTICLE III. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301. Presumptions in General in Civil Actions and Proceedings

In all civil actions and proceedings not otherwise provided for by Act of Congress or by these rules, a presumption imposed on the party against whom it is directed the burden of going forward with the evidence, and, even though met with contradicting evidence, a presumption is sufficient evidence of the fact presumed, to be considered by the trier of the facts.

Rule 302. Applicability of State Law in Civil Actions and Proceedings

In civil actions and proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which State law supplies the rule of decision is determined in accordance with State law.

The CHAIRMAN. Are there any amendments to article III? If not, the Clerk will read.

The Clerk read as follows:

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority. Evidence which is not relevant is not admissible.

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Althought relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

Rule 404. Character Evidence Not Admissible To Prove Conduct; Exceptions; Other Crimes

(a) Character evidence generally.—Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of accused.—Evidence of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same;

(2) Character of victim.—Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of witness.—Evidence of the character of a witness, as provided in rules 607, 608, and 609.

(b) Other crimes, wrongs, or acts.—Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

(a) Reputation.—In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct.—In cases in which character or a trait of character of a person is an essential element of charge, claim, or defense, proof may also be made of specific instances of his conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 408. Compromise and Offers to Compromise

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of admissions of liability or opinions given during compromise negotiations is likewise not admissible. Evidence of facts disclosed during compromise negotiations, however, is not inadmissible by virtue of having been first disclosed in those negotiations. This rule does not require exclusion when evidence of conduct or statements made in compromise negotiations is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Rule 409. Payment of Medical and Similar Expenses

Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

Rule 410. Offer To Plead Guilty; Nolo Contendere; Withdrawn Plea of Guilty

Except as otherwise provided by Act of Congress, evidence of a plea of guilty, later withdrawn, or a plea of nolo contendere, or of an offer to plead guilty or nolo contendere to the crime charged or any other crime, or of statements made in connection with any of the foregoing pleas or offers, is not admissible in any civil or criminal action, case, or proceeding against the person who made the plea or offer.

Rule 411. Liability Insurance

Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

(Mr. HUNGATE during the reading). Mr. Chairman, I ask unanimous consent that this article be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to article IV?

AMENDMENTS OFFERED BY MR. MAYNE

Mr. MAYNE. Mr. Chairman, I offer an amendment to article IV which has been properly filed and printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. MAYNE: On page 76, line 20 of the bill, after the word "reputation", insert the words "or by testimony in the form of an opinion".

Mr. MAYNE. Mr. Chairman, I also offer an amendment to article VI of the bill. I ask unanimous consent that they may be considered en bloc, since they are on the same subject relative to opinion testimony, and this amendment has been filed with reference to rule 608(a) and has been printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk read as follows:

> Amendment offered by Mr. MAYNE: On page 82, line 3 of the bill, strike the word "Reputation" and insert in lieu thereof the words "Opinion and reputation".
>
> On page 82, line 9 of the bill, after the term "attacked by", insert the words "opinion or".

Mr. MAYNE. Mr. Chairman, these amendments would restore rule 405(a) and to rule 608(a) the language recommended by the Advisory Committee of the Judicial Conference of the United States. It is the language of H.R. 5463 as originally introduced with my cosponsorship on March 12, 1973, and as approved by the House Judiciary Committee, Subcommittee on Criminal Justice in its June 28, 1973 committee print.

The advisory committee, in recommending this language, adopted the modern rule accepted by modern legal authorities and courts, that opinion testimony as to the character of a witness should be fully as admissible as is testimony regarding the witness' reputation in the community.

Rule 405(a) as proposed by the advisory committee provides:

> In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct. The Judiciary Committee reported H.R. 5463 with amendments deleting the words "or by testimony in the form of an opinion".

My amendment would restore these words.

In its note to rule 405, the advisory committee provided the following explanation for this rule:

> The rule deals only with allowable methods of proving character, not with the admissibility of character evidence, which is covered in Rule 404.
>
> Of the three methods of proving character provided by the rule, evidence of specific instances of conduct is the most convincing. At the same time it possesses the greatest capacity to arouse prejudice, to confuse, to surprise, and to consume time. Consequently the rule confines the use of evidence of this kid to cases in which character is, in the strict sense, in issue and hence deserving of a searching inquiry. When character is used circumstantially and hence occupies a lesser status in the case, proof may be only by reputation and opinion. These latter methods are also available when character is in issue. This treatment is, with respect to specific instances of conduct and reputation, conventional contemporary common law doctrine, McCormick § 153.
>
> In recognizing opinion as a means of proving character, the rule departs from usual contemporary practice in favor of that of an earlier day. See 7 Wigmore § 1986, pointing out that the earlier practice permitted opinion and arguing strongly for evidence based on personal knowledge and belief as contrasted with "the secondhand, irresponsible product of multiplied guesses and gossip which we term 'reputation'." It seems likely that the persistence of reputation evidence is due to its largely being opinion in disguise. Traditionally character has been regarded primarily in moral overtones of good and bad: chaste, peaceable, truthful, honest. Nevertheless, on occasion nonmoral considerations crop up, as in the case of the incompetent driver, and this seems bound to happen increasingly. If character is defined as the kind of person one is, then account must be taken of varying ways of arriving at the estimate. These may range from the opinion of the employer who has found the man honest to the opinion of the psychiatrist based upon examination and testing. No effective dividing line exists between character and mental capacity, and the latter traditionally has been provable by opinion.
>
> According to the great majority of cases, on cross-examination inquiry is allowable as to whether the reputation witness has heard of particular instances of conduct pertinent to the trait in question. Michelson v. United States, 335 U.S. 469, 69 S.Ct. 213, 93 L.Ed. 168 (1948); Annot., 47 A.L.R2d 1258. The theory is that, since the reputation witness relates what he has heard, the inquiry tends to shed light on the accuracy of his hearing and reporting. Accordingly, the opinion witness would be asked whether he knew, as well as whether he had heard. The fact is, of course, that these distinctions are of slight if any practical significance, and the second sentence of subdivision (a) eliminates them as a factor in formulating questions. This recognition of the propriety of inquiring into specific instances of conduct does not circumscribe inquiry otherwise into the bases of opinion and reputation testimony.
>
> The express allowance of inquiry into specific instances of conduct on cross-examination in subdivision (a) and the express allowance of it as part of a case in chief when character is actually in issue in subdivision (b) contemplate that testimony of specific instances is not generally permissible on the direct examination of an ordinary opinion witness to character. Similarly as to witnesses to the character of witnesses under Rule 608(b). Opinion testimony on direct in these situations ought in general to correspond to reputation testimony as now given, *i. e.*, be confined to the nature and extent of observation and acquaintance upon which the opinion is based. See Rule 701.

Similarly, my amendments would restore to rule 608(a) the language recommended by the Advisory Committee, permitting opinion testimony as to character for truthfulness or untruthfulness in order to attack or support the credibility of a witness. The bill before the House was amended by the full Judiciary Committee to delete language in rule 608(a) which permitted such opinion evidence of character, and thus would allow attacking or supporting the credibility of a witness only by evidence in the form of reputation.

As proposed by the Advisory Committee and as it would be restored by my amendments, this rule reads:

> Ruel 608. Evidence of character and conduct of witness
>
> (a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of reputation or opinion, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

The Advisory Committee's note explains the reasoning behind rule 608(a), as follows:

> ADVISORY COMMITTEE'S NOTE
>
> Subdivision (a). In Rule 404(a) the general position is taken that character evidence is not admissible for the purpose of proving that the person acted in conformity therewith, subject, however, to several exceptions, one of which is character evidence of a witness as bearing upon his credibility. The present rule develops that exception.
>
> In accordance with the bulk of judicial authority, the inquiry is strictly limited to character for veracity, rather than allowing evidence as to character generally. The result is to sharpen relevancy, to reduce surprise, waste of time, and confusion, and to make the lot of the witness somewhat less unattractive. McCormick § 44.
>
> The use of opinion and reputation evidence as means of proving the character of witnesses is consistent with Rule 405(a). While the modern practice has purported to exclude opinion, witnesses who testify to reputation seem in fact often to be giving their opinions, disguised somewhat misleadingly as reputation. See McCormick § 44. And even under the modern practice, a common relaxation has allowed inquiry as to whether the witnesses would believe the principal witness under oath. United States v. Walker, 313 F.2d 236 (6th Cir. 1963), and cases cited therein; McCormick § 44, pp. 94–95, n. 3.
>
> Character evidence in support of credibility is admissible under the rule only after the witness' character has first been attacked, as has been the case at common law. Maguire, Weinstein, et al., Cases on Evidence 295 (5th ed. 1965); McCormick § 49, p. 105; 4 Wigmore § 1104. The enormous needless consumption of time which a contrary practice would entail justifies the limitation. Opinion or reputation that the witness is untruthful specifically qualifies as an attack under the rule, and evidence of misconduct, including conviction of crime, and of corruption also fall within this category. Evidence of bias or interest does not. McCormick § 49; 4 Wigmore §§ 1106, 1107. Whether evidence in the form of contradiction is an attack upon the character of the witness must depend upon the circumstances. McCormick § 49. Cf. 4 Wigmore §§ 1108, 1109.

The leading treatises on evidence by such noted legal scholars as Wigmore, McCormick, Ladd, and Carlson have contended for more than 30 years that the method of establishing proof of character should permit witnesses who know a person who has testified to be able to give their personal opinion as to his character.

S. Mason Ladd, dean emeritus of the University of Iowa College of Law, is among the foremost authorities on the law of evidence. He is recognized for his outstanding achievements and leadership in this field of law throughout the United States and abroad. He was an early advocate of the reforms now proposed in rule 405(a) and rule 608(a), permitting opinion testimony as to character. Many treatises and cases on the subject of character testimony cite his articles, including Ladd, Techniques and Theory of Character Testimony, 24 Iowa Law Review 498 (1939); Ladd, Credibility Tests—Current Trends, 89 University of Pennsylvania Law Review 166 (1940) and Ladd, Witnesses, 10 Rutgers Law Review 523 (1956).

Dean Ladd and his writings have had considerable influence in shaping the modern law of evidence, including the Model Code of Evidence, the Uniform Rules of Evidence, and most recently the proposed Federal Rules of Evidence. In his article "Credibility Tests—Current Trends," Legal Essays, University of Pennsylvania Law Review, volume 89, 1940–41, page 437–8, Ladd commented:

> New developments in the law have not tended to exclude reputation as a means of proof where character is involved but have tended to supplement it by personal opinion of a character witness. This represents the orthodox view in the opinion of Professor Wigmore, and is consistent with the modern notion that the best evidence of a fact should supplant the use of indirect fictions. If a witness testifies that another's general reputation for honesty and veracity is bad, it undoubtedly expresses his personal opinion as well. Most courts are willing to admit in evidence a statement by the character witness that from his knowledge of that reputation he would not believe the person in question on oath. It is going but little further to permit the character witness to express his personal opinion directly based upon his perception of that person's behavior. In reshaping the rules of evidence for the future, personal opinion as well as reputation ought to be available as a means of proving character. Cross-examination of the character witness would provide an equal safeguard against personal prejudice under both methods of proof.

In "Some Observations on Credibility: Impeachment of Witnesses"—Cornell Law Quarterly, volume 52, No. 2, 1967, page 242—Dean Ladd referred to Uniform Rules of Evidence 21 and 22(c) and said:

> The current trend of improvements in the law permitting opinion as well as reputation testimony as a means of proof of character but confining this testimony to traits indicating honesty and veracity or their opposites, provides a realistic method for permitting character evidence to perform its truth-testing function more effectively.

Ladd's third edition of Cases and Materials on Evidence—Callaghan & Co., 1972—written jointly with Ronald L. Carlson—associate dean and professor of law, University of Iowa College of Law, currently visiting professor at Washington University College of Law, St. Louis, Mo.—frequently refers with approval to the proposed Federal rules. On page 234, Ladd and Carlson on evidence states:

> Under the early law of England and now under modern legal thought in this country, not yet accepted by many courts, personal opinion of the character witness as well as general reputation known by him, is admissible to prove a trait of character. See, Proposed Federal Rules 405, 608; Uniform Rule 46, Model Code Rule 305; Cal. Evid. Code § 1102, on issue of probability in criminal cases, and § 1103 on evidence of character of victim of crime to prove conduct. A person with firsthand knowledge of one whose character is in issue is in a position to express an opinion more reliable than through proof by reputation. Qualification examination of the character witness provides a means to check idiosyncracies and limitations if they exist and to show the reliability of the opinion expressed. See, Wigmore, Evidence § 1986 (3rd ed 1940)."

Dean Ladd, now also dean emeritus of the College of Law of Florida State University and continuing his writing at Case Western Reserve University School of Law, authored the article "Some Highlights of the New Federal Rules of Evidence," Florida State University Law Review, volume 1, No. 1, 1973. In this article—page 27, footnote 71—Dean Ladd reminds his readers:

> In the early common law, personal opinion was regularly used to show a witness; own belief about the trait of an accused's character, but in 1865 in the case of Regina v. Rowton, 10 Cox Crim. Cas. 25 (Eng. 1865), the English court excluded opinion based upon personal knowledge and limited proof of character to reputation. The distinction was not made when character evidence was used to test credibility. In the early years of the United States, the distinction between opinion and reputation was not made; later the use of reputation alone became the uniform rule.

He states that rule 405 "represents a material change in the law," but points out that "Wigmore and other writers have long advocated the admissibility of opinion evidence whenever character is an issue."

On page 28 of the same article, Dean Ladd says:

> The committee drafting the new Federal Rules regarded the use of opinion to be so much the preferable means of proving character that it provided in the March 1967 draft for the use of opinion evidence and excluded the use of reputation evidence. It was the exact reversal of the then-existing federal law. As there are many situations in which evidence of reputation serves a useful purpose, a change was made in the March 1971 draft providing that a character witness can give testimony expressing his own opinion, or he may testify as to the reputation of a person. There is no reason why the same character witness cannot do both if he has sufficient knowledge to give the required preliminary foundation testimony. What a responsible person thinks about the character of one with whom he is well acquainted should be more meaningful than the conglomerate hearsay gossip of the community. Also, in urban living most people may have no reputation because of the lack of general comment, but it would be possible to find individual persons who had sufficient associations with another to have an opinion with respect to him.

The antiquated rule has been that the witness could testify as to the actual reputation in the general community, but could not state his personal opinion as to the character of the witness. This concept is obsolescent today, and must be discarded. In our modern increasingly urbanized and highly mobile society today, especially in urban communities, we no longer have the same kind of community knowledge that used to be typical of all America. People who live in large apartment house complexes and in the large cities of our country frequently are not acquainted with the person next door in an apartment or on the floor below. It is a very different society than what we had 100 years ago when everybody in a community knew everyone else.

It is very obstructive to the proper administration of justice to continue to require that there must be first a general reputation established by a witness in his community before a person may testify about the reputation of the witness' character. Many who work with witnesses at their places of employment or who know them at other places away from the place where they reside have valid opinions about their character. Their testimony as to their opinion of a witness' character would often have more true probative value to a judge or jury in evaluating the truth of a witness' statement than would testimony as to the general reputation of the witness in his community.

It will clearly modernize the rule in keeping with present conditions to permit testimony stating the opinion of the witness as to the character of a person whom he knows, even though he does not happen to live in the same apartment house, or the same geographical area and so is not acquainted with his general reputation.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, it seems to me that if the gentleman from Iowa were addressing the matter from the viewpoint of including reputation, where one worked, for instance, as well as reputation in the community, that the argument of the gentleman would gain strength that it now lacks. It troubles me a little to just let somebody's opinion come in. I wonder if the opinion of somebody in the apartment house is really worth anything in the way of evidence. Reputation, although it ought to extend beyond residence to other areas where the man is known, such as his job, would seem to me to be perhaps more valid than mere opinion.

Mr. MAYNE. Under the rules as I propose amending them, such opinion testimony would be admissible only if they through personal knowledge have formed an opinion as to the character of the witness. A foundation must first be laid that they have had sufficient acquaintance with the witness to have formed an opinion. This acquaintanceship could be by virtue of living in the same community, so that they know the person's reputation in their geographical area, but it could also be based on an actual knowledge of the person wherever he worked.

I really feel that the Advisory Committee did consider this very carefully, and took a proper step in modernizing the law in this respect.

The reasoning of the Advisory Committee has been cited with approval by the Eighth Circuit Court of Appeals just last November 14, in the case of the *United States* v. *Joseph Armand Oliver*, No. 73–1283.

The circuit court reversed the trial judge because he had not permitted defense witnesses to testify regarding their opinion as to the prosecuting witness' character for truth and veracity.

In his decision on behalf of the circuit court, Circuit Judge Lay said the court found the reasoning of the lower court—

> No longer viable in the law of evidence. Under certain circumstances in an early decision this circuit permitted a character witness to give his personal opinion. In *Swafford* v. *United States*, 25 F.2d 581, 584 (8th Cir. 1928), the court ruled that it was within the trial judge's discretion to allow the character witness to testify whether or not he would believe the person under oath. The answer to such a question clearly calls for the personal opinion of the character witness.

Accord, United States v. *Walker,* 313 F.2d 236, 239–241 (6th Cir.), *cert. denied,* 374 U.S. 807 (1963).

Although not yet adopted, the Proposed Federal Rules of Evidence recognize the admission of opinion evidence as a means of proving character. See Rules 405(a) and 608(a), 51 F.R.D. 315, 348, 388 (1971). As the Advisory Committee's note to Rule 608 indicates:

"While the modern practice has purported to exclude opinion, witnesses who testify to reputation seem in fact often to be giving their opinions, disguised somewhat misleadingly as reputation. See McCormick § 44. And even under the modern practice, a common relaxation has allowed inquiry as to whether the witnesses would believe the principal witness under oath."

Proposed Federal Rules of Evidence, Rule 608(a), Advisory Committee's Note, 51 F.R.D. 315, 389 (1971).

While the Proposed Federal Rules have no binding force as yet, we think they accurately reflect current policy favoring the admissibility of all relevant evidence. The rule limiting proof to "reputation" alone has long received criticism. As Dean Ladd observed over 30 years ago, "it would greatly facilitate the means of proof and eliminate much of the legalistic formalism involved in reputation testimony if proof of character by opinion were universally adopted." Ladd, *Techniques and Theory of Character Testimony,* 24 Iowa L. Rev. 498, 513 (1939).

At this point, circuit Judge Lay stated in a footnote—

Dean Ladd also observed: The personal judgment of a qualified and reliable witness ought to be better than reputation of character based upon the hearsay interchange of gossip of scandal in the community. Furthermore, cross-examination could readily expose the personal hostility of a character witness and if his opinion was based upon an isolated transaction it could be excluded. It could be required that it be conditioned upon long acquaintance, association or knowledge. It would not need to be the exclusive method of proof but could be used concurrently with the present use of reputation as proof. The roundabout way which the law uses to prove character cannot avoid in a large measure the effect of personal opinion, and it loses many of the benefits which could be derived from its free use by qualified witnesses.

Ladd, *Techniques and Theory of Character Testimony,* 24 Iowa L. Rev. 498, 511 (1939).

Continuing his opinion, Lay said:

Professor Wigmore has long been an advocate for the admissibility of opinion evidence as it relates to character witnesses. See 7 Wigmore, Evidence § 1986 at 166 (3d ed. 1940).

We find the policy advocated by the Proposed Federal Rules to be the more sound and logical rule. To paraphrase the commentators, the older rule has grown simply because it existed. To disguise opinion evidence behind general euphemisms of "community reputation" requires the litigants to deal in formalisms when the truth is so important and nearby. Under the circumstances here existing we hold the personal opinions of the three witnesses as to the truth and veracity of the prosecutrix in the community in which she lived should have been admitted.

I also cite the Model Code of Evidence, Rule 526, and the Uniform Rule of Evidence, Rule 63, as authority for this concept. Although the old school excluded opinion of the character of a witness, I think that approval of my amendments restoring Rule 405(a) and Rule 608(a) to the form recommended by the Advisory Committee and proposed in H.R. 5463 at its introduction is a progressive step forward in the best interests of modern jurisprudence and reform. I respectfully urge their adoption.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the proposed amendment offered by the gentleman from Iowa (Mr. MAYNE).

Mr. Chairman, I recognize that the rule as proposed by the gentleman from Iowa (Mr. MAYNE) is followed commonly in at least one district, the Eighth Circuit Court of Appeals, the one in which the gentleman from Iowa (Mr. MAYNE) and I both happen to practice, but it is my understanding that it is not followed in the others, or in many of the other States.

I might say that we discussed the problem in the subcommittee at some length and, as I recall, the conclusion was that opinion evidence might be more easily developed and harder to contradict or to refute than would the customary use of reputation as to character in this sort of a case, but support of the committee's position was received from the Connecticut Bar Association, the Washington State Bar Association, and others.

As I say, I recognize that there are merits in this position taken by the gentleman from Iowa (Mr. MAYNE) but on balance the subcommittee and, in turn, the full committee thought that we might be opening the door too wide to let in opinion evidence.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. MAYNE).

The question was taken; and on a division (demanded by Mr. MAYNE), there were—ayes 13, noes 11.

Mr. HUNGATE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ARTICLE V. PRIVILEGES

Rule 501. General Rule

Except as otherwise required by the Constitution of the United States or provided by Act of Congress or in rules prescribed by the Supreme Court pursuant to statutory authority, the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the privilege of a witness, person, government, State, or political subdivision thereof shall be determined in accordance with State law.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that the article be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Clerk will read.

Mr. HUNGATE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 22]

Archer
Blatnik
Bolling
Broomfield
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Camp
Carey, N.Y.
Carney, Ohio
Cederberg
Clark
Clausen, Don H.
Culver
Danielson
Dickinson
Diggs
Dorn
Drinan
Esch
Gettys
Gibbons
Haley
Hastings
Hébert
Holifield
Hosmer
Howard
Ichord
Jones, Ala.
McSpadden
Macdonald
Martin, Nebr.
Mathias, Calif.
Mills
Moss
Nichols
Passman
Patman
Podell
Reid
Rhodes
Riegle
Rogers
Roncalio, Wyo.
Roncalio, N.Y.
Rooney, N.Y.
Rooney, Pa.
Roy
Skubitz
Staggers
Stephens
Tiernan
Wilson, Charles H., Calif.
Young, Ill.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. STEED, Chairman of the Committee the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 5463, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 374 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ARTICLE VI. WITNESSES

Rule 601. General Rule of Competency

Every person is competent to be a witness except as otherwise provided in these rules. However, in civil actions and proceedings, with respect to an element of a claim or defense as to which State law supplies the rule of decision, the competency of a witness shall be determined in accordance with State law.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This rule is subject to the provisions of rule 703, relating to opinion testimony by expert witnesses.

Rule 603. Oath or Affirmation

Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affimation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.

Rule 604. Interpreters

An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.

Rule 605. Competency of Judge as Witness

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

Rule 606. Competency of Juror as Witness

(a) At the trial.—A member of the jury may not testify as a witness before that jury in the trial of the case in which he is sitting as a juror. If he is called so to testify, the opposing party shall be afforded an opportunity to object out of the presence of the jury.

(b) Inquiry into validity of verdict or indictment.—Upon an inquiry into the validity of a verdict or indictment, a juror may not testify concerning the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith. Nor may his affidavit or evidence of any statement by him indicating an effect of this kind be received for these purposes.

Rule 607. Who May Impeach

The credibility of a witness may be attacked by any party, including the party calling him.

Rule 608. Evidence of Character and Conduct of Witness

(a) Reputation evidence of character.—The credibility of a witness may be attacked or supported by evidence in the form of reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissable only after the character of the witness for truthfulness has been attacked by reputation evidence or otherwise.

(b) Specific instances of conduct.—Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime as provided in rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning his character for truthfulness or untruthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his privilege against self-incrimination when examined with respect to matters which relate only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime

(a) General rule.—For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime involved dishonesty or false statement.

(b) Time limit.—Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date.

(c) Effect of pardon, annulment, or certificate of rehabilitation.—Evidence of a conviction is not admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, and that person has not been convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(d) Juvenile adjudications.—Evidence of juvenile adjudications is generally not admissible under this rule. The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission in evidence is necessary for a fair determination of the issue of guilt or innocence.

(e) Pendency of appeal.—The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by court.—The court shall exercise reasonable control over the mode and order of interrogating witness and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination.—Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(c) Leading questions.—Leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony. Ordinarily leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

Rule 612. Writing Used To Refresh Memory

Except as otherwise provided in criminal proceedings by section 3500 of title 18, United States Code, if a witness uses a writing to refresh his memory for the purpose of testifying, either—

(1) while testifying, or

(2) before testifying, if the court in its discretion determines it is necessary in the interests of justice, an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

Rule 613. Prior Statements of Witnesses

(a) Examining witness concerning prior statement.—In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown nor its contents disclosed to him at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness.—Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate him thereon, or the interests of justice otherwise require. This provision does not apply to admissions of a party-opponent as defined in rule 801(d)(2).

Rule 614. Calling and Interrogation of Witnesses by Court

(a) Calling by court.—The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court.—The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections.—Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

Rule 615. Exclusion of Witnesses

At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article VI of the bill be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wiggins: On page 81, line 13 of the bill, after the word "testify", insert the words "as to any matter or statement occurring during the course of the jury's deliberations or to".

On the same line, strike the word "concerning".

On page 81, line 17 of the bill, strike the period after the word "therewith" and insert a comma and the following: "except that a juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror."

Mr. WIGGINS. Mr. Chairman, this amendment would retain the current limits on the permissible grounds for impeaching jury verdicts, permitting such impeachment only in situations in which outside attempts to influence a jury's deliberations are alleged to have taken place.

Rule 606(b), as it is now drafted provides that a juror may be permitted to testify, in an attack upon a verdict or indictment, on matters involving the internal deliberations of the jury as opposed to the current practice of allowing testimony only as to the existence of outside influences. This presents a disturbing invitation to regularized attempts to obstruct justice after trial through the importuning of jurors to criticize the deliberations of their fellow jurors. The change would open the door to persistent post-trial harassment and intimidation of jury members by losing parties seeking to reverse verdicts that heretofore would have been considered final. As such, the current draft of the rule constitutes a most ill-advised policy.

The traditional stance adopted by the courts in this regard has been to permit impeachment of a jury verdict only in instances of extraneous influence or pressure. For example, reversals have been based upon a showing that a bailiff expressed opinions to jurors as to the guilt of a defendant (*Parker* v. *Gladden*, 385 U.S. 363) and that police witnesses against a defendant were also in charge of and conversed with jurors while supervising their sequestration. (*Turner* v. *Louisiana*, 379 U.S. 466) Similarly, reversal of a conviction has been deemed appropriate when sequestered jurors, while still undecided, were shown to have perused a newspaper article unfavorable to the defendant. (*Mattox* v. *United States*, 146 U.S. 140) The understandable rationale for permitting jurors to give evidence as to such outside influences lies in a fundamental concern that the jury deliberation should be wholly independent and based only upon evidence developed at the trial. See *Turner* v. *Louisiana*, *supra* at 471–72.

However, contrary to the Judicary Committee's proposed expanded rule, jurors have not generally been permitted to testify as to the substance or the process of their deliberations or to their method of reaching a verdict. See *McDonald* v. *Pless*, 238 U.S. 264 (1914) (concerning an allegation of an improper quotient verdict); *Hyde* v. *United States*, 225 U.S. 347 (concerning an allegation of a compromise verdict arranged among the jurors); *Bryson* v. *United States*, 238 F. 2d 657 (9th Cir. 1956), cert. den., 355 U.S. 817 (concerning an allegation that the jury had not understood the meaning of the term "affiliated," which played a part in the case).

In delineating between extraneous influences and incorrect deliberation procedures, the courts do not, and neither do I in opposing the current proposal, suggest that the latter are inconsequential. However, to expand the permissiblity of impeaching jurors beyond the particularly gross instances of extraneous influence—which certainly must be condemned—would create a Pandora's box of ill effects more than offsetting any benefit derived from mitigating the results of occasional incorrect jury deliberations.

First, if the internal jury deliberative process were subject to impeachment, it cannot but be expected that a myriad of convicted defendants and losing civil parties would immediately seek to delay and defer imposition of sentence or judgment based upon allegation of errors within the jury's deliberative process. Given the length and relative complexity of most jury instructions, the facile attorney would have no difficulty, after a post trial examination of jurors, in establishing allegations that particular instructions were misunderstood or misapplied by the jury. Thus, the essential goal of finality of decision would be further endangered, even in the realm of civil law. Such an increase in petitions would also serve to overburden even more heavily an already floundering court system.

Second, these investigations generated by an increased prospect of reversal through jury impeachment would inevitably serve to harass jurors, through the device of insistent investigators. See, for instance, *Miller* v. *United States*, 403 F.2d 77 (2nd Cir. 1968), where the court deemed it necessary to enjoin further attempts by a defendant's investigators to contact jurors after it was shown that various jurors had been repeatedly questioned, often after protesting. Such potential for post verdict interference is hardly calculated to encourage the public to accept jury service.

Finally, if it were to become common practice that the details of jury deliberations be opened to post mortem examination, replete with particular jurors testifying as to what other jurors said or did, this, in the words of the Supreme Court in the McDonald case (*supra*, at 267–268), "would be to make what was intended to be a private deliberation the constant subject of public investigation—to the destruction of all frankness and freedom of discussion and conference."

In short, the Supreme Court's cogent observations in the McDonald case in 1914, in rejecting the permissibility of impeachment of most jury deliberations, are just as applicable today:

> But let it once be established that verdicts solemnly made and publicly returned into court can be attacked and set aside on the testimony of those who took part in their publication and all verdicts could be, and many would be, followed by an inquiry in the hope of discovering something which might invalidate the finding. Jurors would be harassed and beset by the defeated party in an effort to secure from them evidence and facts which might establish misconduct sufficient to set aside a verdict. [238 U.S. at 267.]

While the adverse effects of such occurrences as quotient and compromise verdicts are not to be ignored or accepted as inevitable, their eradication is better sought through the formulation and development of more precise and lucid predeliberation jury instructions than through the nullification of the jury's final decision.

Therefore, I suggest that the House of Representatives would be better advised to adopt this amendment which would maintain the current well reasoned practice of drawing the line, as to permissible verdict impeachment, between allegations of extraneous influences and allegations of incorrect internal deliberation procedures.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. Dennis, Mr. Wiggins was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

Under the amendment which the gentleman proposed, if one of the jurors was alleged to have stated in the jury room to the others that he had made up his mind and it did not make any difference how long he stayed there, he was going to vote a certain way, would it be possible for the other jurors to give affidavits to that effect after the vote was brought in?

Mr. WIGGINS. Under the proposed rule or under my rule?

Mr. DENNIS. Under your amendment.

Mr. WIGGINS. In my opinion, it would not.

Let me say I am not insensitive to the problem. If you have a juror who will not discuss the issues as he should, I think it is wholly appropriate for the foreman of that jury to take that fact back to the judge and see the juror is properly instructed. If in fact he fails to comply with those instructions, the foreman can then take that fact back to the judge and the matter can be corrected by the new trial at that time.

Mr. DENNIS. Will the gentleman yield further?

Mr. WIGGINS. I yield to the gentleman.

Mr. DENNIS. Under your proposed amendment, would it be possible to take the affidavit or testimony of the jurors that they had added up their several votes and divided by 12 and arrived at a quotient decision?

Mr. WIGGINS. In my opinion, that would not be the appropriate subject of inquiry under my amendment. In saying that, I say to my friend from Indiana I am not insensitive to the problem of the quotient verdict, but the further problem is whether we should open up the jury negotiations for an inquiry into that subject or whether the problem of the quotient verdict should be addressed by the court in giving instructions to the jury at the outset.

Mr. DENNIS. A I correct that under the committee version as it appears in the bill the matter of a quotient verdict, or the juror who had made up his mind, could be attacked through the testimony of other jurors as the bill now stands?

Mr. WIGGINS. I believe that is within the intent of the language of 606(b) to make such an inquiry proper.

Mr. DENNIS. I thank the gentleman.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, recognizing there is effective authority on both sides of the issue and the Judicial Conference supported the committee version in which we would seek to prohibit the quotient verdict. I do not think the amendment would facilitate justice, although there is a certain amount of argument on both sides.

The committee view is supported by various associations, such as Association of the Bar of New York, the Chicago Bar Association, and the Judicial Conference made no objection.

Thirteen States favor the committee's version: California, Florida, Iowa, Kansas, Nebraska, New Jersey, North Dakota, Ohio, Oregon, Tennessee, Texas, Washington, and Wisconsin.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California, (Mr. Wiggins).

The question was taken; and on a division (demanded by Mr. Wiggins) there were ayes 25, noes 33.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to article VI ?

AMENDMENT OFFERED BY MR. HOGAN

Mr. HOGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Hogan: Strike out lines 1 through 4 on page 83 of the bill and insert in lieu thereof the following:
>
> (a) General rule.—For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is ad-

> missible but only if the crime (1) was punishable by death or imprisonment in excess of one year under the law under which he was convicted, or (2) involved dishonesty or false statement regardless of the punishment.

Mr. HOGAN. Mr. Chairman, the effect of my amendment would be to reinstate the language of rule 609(a) as sent to the Congress by the U.S. Supreme Court.

This amendment is also supported by the Department of Justice.

The rule as drafted by the Judiciary Committee not only rejects the version of the rule recommended by the Advisory Committee on Rules of Evidence of the Judicial Conference of the United States, but it abrogates the prevailing view in the overwhelming number of Federal and State courts. It also is a clear disavowal of the version of the rule the Congress adopted in 1970 in the District of Columbia Court Reorganization Act.

As written in the bill, rule 609(a) would permit the impeachment of witnesses by proof of prior conviction only if the crimes involved dishonesty or false statements. Besides the difficulty inherent in determining precisely which crimes involve dishonesty and which do not, it seems to me that this provision would cut the jury off from information that justice requires the jury to have in assessing the credibility of witnesses. My amendment to this rule would allow for impeachment by proof of any conviction for a felony.

The courts would certainly have difficulty with the term "dishonesty" in the present proposal of rule 609(a). Although ordinarily one would think of car theft as involving dishonesty, it might be contended that the "joyriding" type of case did not involve dishonesty. Then, too, one might think of housebreaking as usually involving dishonesty, but there could be cases where the trespass was obviously not accompanied by any intention to steal or commit any other crime, so that argument could be made that some kinds of offenses normally thought to involve dishonesty did not involve dishonesty on the facts. The standard employed in the committee's rule is simply not a very satisfactory one.

Beyond all that, however, it is plainly unwise to limit the information that can go to a jury about the criminal record of witnesses. The rule should be amended to allow proof of any felony to be used, but one should not equate the admissibility of such evidence with a destruction of the witness' credibility. The Government must often prosecute cases with key witnesses who had previously been convicted of felonies—this frequently happens in narcotics conspiracy cases—but the juries do not necessarily reject the witnesses' testimony because of the prior conviction. I would emphasize, therefore, that this amendment concerns simply admissibility—allowing evidence to go before the jury. The amendment does not operate necessarily to destroy the credibility of a witness with a criminal record. Obviously, the character of a witness is material circumstantial evidence on the question of the veracity of the witness. Prior criminal conduct, including all prior felony convictions, is relevant evidence of such character.

The proponents of the committee's version of the rule argue that allowing proof of prior convictions unfairly prejudices the jury against the accused who takes the stand. First of all, the fifth amendment gives him the right to refuse to take the stand at all and thereby prevent all prior convictions from coming to the jury's attention. But the committee's version of the rule applies to all witnesses, not only defendant witnesses, and it applies to civil as well as criminal cases.

My amendment would benefit parties on all sides of litigation—the civil plaintiffs and civil defendants, the Government in prosecutions and the criminal defendant.

Suppose some governmental body instituted a civil action for damages, and the defendant called a witness who had been previously convicted of malicious destruction of public property. Under the committee's formulation, the convictions could not be used to impeach the witness' credibility since the crimes did not involve dishonesty or false statement. Yet, in the hypothetical case, as in any case in which the government was a party, justice would seem to me to require that the jury know that the witness had been carrying on some private war against society. Should a witness with an antisocial background be allowed to stand on the same basis of believability before juries as law-abiding citizens with unblemished records? I think not.

Let me cite an example where the committee's rule unfairly prejudices the criminal defendant. In prosecuting criminal laws, prosecutors must often use the testimony of accomplices or people with such backgrounds who mingle with the criminal element and thereby learn about criminal activities. The Government might, for example, need to use a man with convictions for drug trafficking to testify against some bigger drug peddler, that is, someone higher up in the criminal enterprise. Yet, since such crimes do not involve dishonesty, the drug convictions of Government witnesses would not be admissible under rule 609(a), as it now stands, for the defendant to cast doubt on the veracity of the prosecution's witnesses. It would simply be unjust that people could be prosecuted for serious crimes on the testimony of witnesses who are convicted felons without that fact being known to the jury. The jury should have this information to assess the witness' believability. It is a necessary fact of life that, especially in conspiracy cases, the prosecution has to use the testimony of witnesses of bad character and frequently convicted felons. It is simply unjust to prevent the jury from learning about the criminal record of such witnesses.

By the same token, the rules of evidence should not permit a witness to testify on behalf of a criminal defendant with the appearance of an unblemished citizen, whereas in fact that witness has been convicted of felonies. This is not to say that people with criminal records necessarily lie, but it is to say that juries should weigh the criminal record in determining credibility.

Mr. Chairman, no one can object to permitting a witness to be held up to a jury as unworthy of belief because he or she had been convicted for cheating or stealing, but that surely does not exhaust the subject matter. How credible is a witness who has been convicted, let us say, for kidnapping, or for espionage, or for inciting civil disorders, or for aircraft piracy, or for assassination, or for any of a number of other crimes set out in title 18 of the United States Code? Does it make sense to allow a conviction for theft to be proved against a witness and not allow other felony convictions to be proved? Are we really that suspect of acts of dishonesty while willing to keep from juries the information, for example, that a witness had been convicted for making explosive or incendiary devices with the intent to detonate them in public buildings. Personally I am more concerned about the moral worth of individuals capable of engaging in such outrageous acts as adversely reflecting on a witness' character than I am of thieves, and that comparison justifies my amendment.

When the draftsmen of the Advisory Committee on the Rules of Evidence originally rejected the crimen falsi alternative for rule 609, they did so because most of the crimes regarded as having a substantial impeaching effect would be excluded, resulting in virtually the same effect as if the alternative allowing no prior convictions for impeachment purposes were adopted.

In the commentaries to the first draft, the Advisory Committee on the Rules of Evidence noted:

> While it may be argued that considerations of relevancy should limit provable convictions to those of crimes of untruthfulness, acts are constituted major crimes because they entail substantial injury to and disregard of the rights of other persons or the public. A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

A further argument against adoption of the crimen falsi alternative, as noted above, is that of its unpredictability and its uneven application to criminal defendants across the board.

What, really, is dishonesty or false statement in judicial or legal terms? Unless one practices in a jurisdiction which has statutorily defined crimen falsi, the common law definition of "any crime which may injuriously affect the administration of justice, by the introduction of falsehood and fraud" is applicable. This definition has been held to include forgery, perjury, subornation of perjury, suppression of testimony by bribery, conspiracy to procure the absence of a witness or to accuse of crime, obtaining money under false pretenses, stealing, moral turpitude, shoplifting, intoxication, petit larceny, jury tampering, embezzlement and filing a false estate tax return. In other jurisdictions, some of these same offenses have been found not to fit the crimen falsi definition.

From the foregoing analyses undertaken by the eminent professors, jurists and lawyers of the Advisory Committee, as well as by my colleagues on the Committee on the Judiciary, I am convinced that the only viable alternative is that which has stood the test of time. If for no other reason than that the other considered alternatives are no improvement over the shortcomings of the traditional, I urge that my amendment be adopted.

Mr. DENNIS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Eighty-one Members are present, not a quorum.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 23]

Adams
Alexander
Archer
Blackburn
Bolling
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Camp
Carey, N.Y.
Carney, Ohio
Clark
Clausen, Don H.
Culver
Diggs
Dingell
Esch
Fraser
Gibbons
Haley
Hanna
Hansen, Wash.
Hébert
Holifield
Horton
Jarman
Jones, Ala.
Karth
Kuykendall
Landrum
Leggett
McSpadden
Madden
Mailliard
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Mayne
Meeds
Mills
Mitchell, Md.
Moakley
Moorhead, Pa.
Nix
Passman
Powell, Ohio
Reid
Rhodes
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Roush
Roy
Ryan
Skubitz
Stanton, James V.
Steele
Steiger, Wis.
Tiernan
Vander Jagt
Wilson, Charles H., Calif.
Young, Alaska
Zion

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. McFall) having assumed the chair, Mr. Steed, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill H.R. 5463, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, when 365 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. DENNIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will state to the Members of the Committee that this particular amendment deals with the subject matter of when, whether, and to what extent, during the trial of a lawsuit, one can cross-examine a witness, whether he be the defendant in a criminal case or any other witness, on the subject of previous criminal convictions he may have had.

The general rule, as those of us who practice law know, in most places, is that we allow unrestricted cross-examination of any and all previous convictions which any witness may have had. The theory of that is that we permit it on the ground that it goes to his credibility as a witness.

Now, it is a great anomaly that we do that, because unless the man takes the witness stand, if he is a criminal defendant, it is absolutely impossible, ordinarily, to put in any evidence concerning his previous convictions, which have nothing to do with the case on trial at all, but if he has the temerity to take the witness stand, we open all that up, on the theory that it goes to his credibility as a witness.

Now, Mr. Chairman, that is one of the most unfair rules of law that we have. And when I say so, I am not speaking from theory; I am speaking from experience. Once in a while I get a chance to talk about something that I know something about, and concerning something about which I really think I am right. As far as I am concerned, this is one of those occasions.

I spent 4 years as a prosecuting attorney in the State of Indiana, prosecuting on behalf of the State. I spent another year in the Army as a judge advocate officer, prosecuting for the Government, and I have defended a lot of defendants in criminal cases since. My experience is that, from either side of the table, this is utterly unfair. We put the fellow, whoever had any record, in this box. Either he can refuse to take the stand, as he is entitled to under the fifth amendment, and let the case go, or else he takes the stand and they crucify him with these previous irrelevant crimes which have nothing to do with what he is now on trial for.

Studies have shown that the one single reason, the one greatest reason, for miscarriages of justice is faulty eyewitness testimony.

However, about the next highest is this very rule, because people are either frightened off the stand, and do not tell their story, or else they take the stand and are crucified by being asked about entirely irrelevant offenses.

What we have done in the committee is the logical thing. If you really do want to try people just because you think they are bad actors, and you ought to throw them in jail just on general principles—and if you do not think that is a good principle, and I do not think most of us do think so—then you want to do what the committee has done, because we have said this: We have said that, for the purpose of attacking credibility of a witness, evidence that he has been convicted of a crime is admissible only if the crime involved dishonesty or false statement. In other words, if it in fact did bear on his credibility. Certainly, if he has been convicted of perjury or false pretense or fraud or something of that kind, it does reflect on his credibility, but if he stole an automobile when he was 18 years old or if he slugged somebody in a bar 10 years ago or something like that, then it has no connection to his credibility at all and it should not be inquired about on that basis.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Dennis was allowed to proceed for 2 additional minutes.)

Mr. DENNIS. So all we have done in the committee is to write a rule of reason and fairness.

I would like to point out to you that it does not apply only to a man who is a defendant in a criminal case, but it applies to any witness. Under the rule that the gentleman has in his amendment, if 20 years ago you were guilty of some misdemeanor and were called in as a witness in a civil case, then they could ask you about it, although that case had nothing to do with the case on trial before you.

Now, at one time I was prosecuting a labor riot and there was a labor leader on the stand, a perfectly decent guy except that he had been leading the riot, with no record except for the fact that once, 18 years ago, he stole a car when he was a young man. He needed to take the stand in order to tell his version of that case. He claimed he was not guilty of anything. His attorney came to me and asked me if I would skip asking him about his previous conviction, and I am glad to say I did, because I thought it was unfair and irrelevant.

All we are doing here is holding those questions down to crimes which do in fact bear on credibility, which is the theory of asking him anything at all, and we are preventing prosecution just because the man has a bad character.

Mr. HOGAN. Will the gentleman yield?

Mr. DENNIS. I yield to the gentleman.

Mr. HOGAN. I am sure the gentleman from Indiana would not want to mislead the Committee of the Whole that a conviction which took place 20 years ago could be used under my version of the rule. There is a cutoff at 10 years.

Mr. DENNIS. I beg the gentleman's pardon. It is quite true. Further down in another section of the bill we limit it to 10 years, but it does not change the principle at all. Suppose he stole the car 10 years ago instead of 20 years ago. My argument is equally good. It is irrelevant; it has nothing to do with the case and is unfair.

AMENDMENT OFFERED BY MR. SMITH OF NEW YORK, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HOGAN

Mr. SMITH of New York. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Maryland (Mr. Hogan). This amendment was printed in the Record and is known as the Wiggins amendment to rule 609(a).

The Clerk read as follows:

Amendment offered by Mr. Smith of New York as a substitute for the amendment offered by Mr. Hogan: On page 83, line 3 of the bill, after the words "only if the crime", insert the words "(1) was punishable by death or imprisonment in excess of one year, unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2)".

Mr. SMITH of New York. Mr. Chairman, this amendment in the nature of a substitute to the Hogan amendment, puts before the committee the language adopted by the subcommittee in our consideration of this matter.

What it is, is a compromise between the version adopted by the full Committee on the Judiciary and the Hogan amendment.

The Hogan amendment, which I understand represents the present law, would allow, for the purpose of attacking the credibility of a witness, the introduction of evidence of conviction of crimes punishable by death or imprisonment in excess of 1 year; that is, felonies. In other words, to attack the credibility of a witness, it would allow the introduction of evidence of conviction of felonies which have occurred within a 10-year period.

The committee itself has limited the introduction of such convictions only to crimes involving dishonesty or false statements.

The original version of the subcommittee was a compromise between these two extremes, and it said this—and this is my substitute:

> For the purpose of attacking the credibility of a witness, evidence that he had been convicted of a crime is admissable only if the crime was punishable by death or imprisonment in excess of one year (that is a felony), unless the court determines that the danger of unfair prejudice outweighs the probative value of the evidence of the conviction, or (2) the crime involved dishonesty or false statement.

So, as I say, the wording adopted by the subcommittee is a compromise between the committee bill and the Hogan amendment.

And my substitute allows the introduction of evidence of convictions of previous felonies, within a 10-year period, but reserves to the court the opportunity and the responsibility of determining that the probative value of that evidence outweighs the danger of unfair prejudice.

We on the subcommittee thought this was a ligitimate compromise between these two points of view, because there is no doubt that there is probative value in the evidence of previous felonies, but once received, there is no doubt that testimony of previous felonies could unduly prejudice the jurors.

So I would urge upon the Members to adopt the substitute which I have offered for the amendment offered by the gentleman from Maryland (Mr. HOGAN). It restores the original wording as adopted by the subcommittee, and it is a compromise between these two versions of the committee bill and the Hogan amendment.

Mr. HUNGATE. Mr. Chairman, I move to strike the last word, and I rise in support of the substitute amendment offered by the gentleman from New York (Mr. SMITH) for the amendment offered by the gentleman from Maryland (Mr. HOGAN).

First, Mr. Chairman, I would commend those of us in this corporal's guard who are here in the Chamber, because I think this is one of the most important matters to come before us, or one of the two most important amendments relative to this bill which we are presently dealing with, and this was one that raised the most discussion among the members of the committee.

I am not qualified to say who is right or who is wrong, but this is where the real discussion should be done.

Mr. Chairman, I would like to outline what I believe the situation is on this section.

Mr. Chairman, without the amendment offered by the gentleman from Maryland (Mr. HOGAN) with the bill just as it now is, and if there is no further amendment, and if the separate amendment offered by the gentleman from New York (Mr. SMITH) is defeated, then the committee amendment provides that when you are going to attack the credibility of a witness you can do it only through the introduction of evidence of a crime—there must be a crime involving dishonesty or false statement. That is the position that is in the bill now which was adopted by the full committee.

Now, if you are going to go to extremes—and that is not a good way to put it—but if you take the context of the argument then you take pretty much what is existing law, and that is the case of the Hogan amendment, and this would mean that you could use evidence of conviction of a crime in order to impeach the credibility of a witness, or of course, if it involved dishonesty or false statement, or if it involved conviction of what we would commonly call felonies, which means 1 year.

I think I have stated that correctly, and if I have not then I would ask to be corrected.

The substitute Mr. SMITH now offers is in effect a middle ground between the two. That is what we see it as. One could impeach a witness' credibility by conviction of a crime if the crime involved dishonesty or falsity, the same as in the other. One can do that. Then one could also impeach him by evidence of what we call a felony, in other words, imprisonment of 1 year or more, but with a proviso on that, the proviso being, as Mr. SMITH explained, that the judge finds that the unfair prejudice from showing that he has been convicted of a crime does not outweigh the value of the evidence otherwise. We give discretion to the judge as to whether one is being impeached by evidence he has created by reason of a felony. Those are the three grounds.

I would support the substitute. I would probably, if it is defeated, oppose the Hogan amendment and go back to support the version adopted by the full committee.

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from New York.

Mr. BRASCO. I thank the gentleman for yielding.

I want to ask the gentleman from Indiana (Mr. DENNIS) a question, if I might, with respect to his amendment. I heard him in the well of the House discuss the strong intention—and I have no reason to doubt the intention of his amendment—to allow a defendant to take the stand and not be severely prejudiced as indicated, a young man who was convicted when he was 18 or 19 years old, and was now to be cross-examined as he took the stand in his own defense about that crime so long ago. I am inclined to agree with the gentleman, but I am troubled by what I consider to be a dilemma, so I should like to pose this question.

Suppose I am a defense attorney in the courtroom, and the witness is a witness for the prosecution, and he has been convicted of several crimes, say, within the last month before this trial, convicted by taking a plea before the court. I want to show that the only reason he is in the courtroom today testifying against my client is because he made a sweetheart deal with the prosecution when he had 100 years hanging over his head.

One of the crimes which has nothing to do with dishonesty or credibility, I believe, would be murder. He is a convicted murderer. He took a plea and made a real deal. Now I cross-examine him to try to show this deal. As I remember the rules of evidence, I am bound on cross-examination with respect to impeachment by the witness' answers. He says,

> No, I never made any deal.

The only way I could get to the jury the fact that this prosecution witness had the motivation—and that is for the jury to decide—to make a deal is to ask him:

> Is it not a fact that one month prior to your taking the stand against my client, you, on an admission of guilt on your own in an open courtroom, pleaded guilty to murder in the first degree? To assault and battery?

It seems to me—and this is the dilemma, because I agree with what the gentleman is saying——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BRASCO, Mr. HUNGATE was allowed to proceed for 2 additional minutes.)

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from New York.

Mr. BRASCO. I thank the gentleman for yielding.

I am in sympathy with what the gentleman is trying to do, but this troubles me no end because what we are doing on the one hand is supposedly giving something to a defendant, and with the way the prosecutions are going today, taking a whole lot away from him by not being able to discredit a government witness except within a very limited scope.

Mr. DENNIS. Mr. Chairman, will the gentleman from Missouri yield?

Mr. HUNGATE. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

The gentleman poses, of course, a special case, and I suppose that all rules or any rules may have some objection or some difficulty on the facts of some special case. I would say, first, in reply, that overall the rule that I am suggesting, which is in the committee bill, is still far and away the fairest rule. Second, to address myself to the gentleman's question more specifically, I think in the kind of situation he suggests, the cross-examiner could go into all of the facts and circumstances, and offers, and the entire situation, and the whole background, without really having to rely strictly on the conviction.

Mr. BRASCO. I will say to my friend, the conviction would be the strongest motivation for this man to make the deal. Again I suggest to the best of my recollection when I was in the courtroom one was preempted on the impeachment of a witness to go beyond his answer because one could go on ad infinitum. If I asked him and he said no, I did not make a deal, I was stuck with that.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Maryland.

Mr. HOGAN. The gentleman brought out a strong argument which I mentioned. This applies in civil cases as well as criminal cases to all witnesses, and in most prosecutions the prosecution of necessity is using in many instances convicted felons, and the defendant in those cases in no way can impeach the credibility of those witnesses who are testifying against him, so it works to the detriment of the defendant.

Mr. BRASCO. I am inclined at this point to agree with the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SMITH of New York, and by unanimous consent, Mr. HUNGATE was allowed to proceed for 2 additional minutes.)

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I would say to the gentleman that the case he propounds would be an exact case under which the compromise I offer would apply; that is, they could prove the previous convictions unless the court should determine there was danger of unfair prejudice which outweighed the probative value of the evidence, and I am sure that in your example the judge would allow the evidence in to prove the point the gentleman is making, so I would urge the gentleman to vote for the substitute which was the original subcommittee language.

Mr. BRASCO. I thank the gentleman.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am clear in my opposition to the Hogan amendment and I tend to disapprove also of the substitute which I offered. I caused the substitute to be printed in the RECORD only for the purpose of protecting the right of certain of my colleagues who believed in the substitute and to make that amendment in order, under the requirement of the rule, that it be published in the RECORD. It does not represent my personal view.

The difficulty here is we are dealing with a complex problem and are trying to fashion a single rule adequate to take care of the problem. It suggests to me further draftsmanship is necessary to spin off criminal cases from civil cases, to separate the nonparty witness problem from the party witness problem. As we deal with the total problem under a single rule, we create all this uncertainty and the possibility of inequity which has been discussed. But let us not underestimate for one moment the prejudicial impact of permitting an inquiry into unrelated prior crimes by a man who is a party defendant in a criminal trial.

There is serious doubt in my mind, and I speak from considerable professional experience, that it is possible for a man to receive a fair trial if the jury knows he has committed, for example, the crime of child molesting. I think it is almost impossible for that man to receive a fair trial under those circumstances. It is so bad in my estimation, Mr. Chairman, that the admission of evidence of unrelated crimes when the defendant himself is on the stand, borders upon a denial of due process, and I would expect sometime down the road for the Supreme Court to recognize that it is a denial of due process and preclude such evidence as a matter of constitutional law.

Mr. BRASCO. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. BRASCO. Mr. Chairman, I am not unsympathetic to what the gentleman is saying, but to be clear, my only point is, and obviously it did not come across or come to the attention of the committee, the only problem I am concerned with is the dilemma the gentleman describes because I would hate to give a man an opportunity to have a bad trial and on the other hand to take away another opportunity to show the motivation of witnesses who may come to the court to testify against him. The gentleman knows and I know all we have to do sometimes is to show the guy which way the jail house is and he will tell one anything one wants to know, whether it is true or not.

Mr. WIGGINS. I appreciate the gentleman's raising the problem and it is a real problem which ought to be considered, but I am coming to the conclusion that we are trying to do too much in one sentence.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I think I must point out to my distinguished colleague from New York with respect to his question about Government witnesses that the answer can be found in the rules; namely, in rule 404(b).

This rule says that evidence of other crimes can be used as evidence, to prove motive or bias of a witness. Therefore in the case Mr. BRASCO posed, a witness could be attacked by proof of prior convictions for his motive, or for bias. The point the gentleman from California raises is a very serious one with respect to defendants and ensuring their fair trial by allowing defendants their constitutional right, namely, to take the stand on their own behalf.

Mr. WIGGINS. The best thing for this committee to do given the dilemma confronting it is to support the committee version of the bill. It is inevitable that some different language is going to be written into this vast bill in the Senate. I would urge those on the conference to consider separating out the criminal problem from the civil problem and the nonparty witness situation from the case where the party is a witness.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. Under the committee version of the bill, we have provision for crimes involving dishonesty. I want to ask what do we mean by dishonesty.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BRASCO was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. The gentleman's question is: What is "dishonesty?"

Mr. BRASCO. Would murder involve dishonesty? It would not in my opinion.

Mr. WIGGINS. I want to disabuse the gentleman of that belief, as a definition of "dishonesty" as it is in this bill. The thrust of "dishonesty" as used in this bill goes to his veracity and his ability to relate the truth. "Dishonesty" is tested, for example, by perjury convictions and convictions dealing with false statements, but not generally criminality. Evidence for a conviction of murder goes to criminality, not to dishonesty.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. The section in the committee draft uses the expression, "false statement" specifically and it is coupled with dishonesty. I submit that it is a broader term than just "false statement."

Mr. WIGGINS. I am glad the record is clear that dishonesty does not mean criminality.

Mr. BRASCO. Mr. Chairman, will the the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. BRASCO. With regard to the statement made by my distinguished colleague from New York (Ms. HOLTZMAN), I am looking at this rule 404, in which she quoted that notwithstanding the change in the rules of evidence, one still could cross-examine the prosecution's witness.

The only thing that disturbs me is that she did not read the whole thing. It states—

> Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith.

It seems to me that might preclude the entire necessity of the Dennis language in the committee. I am trying to reconcile the two, because there was a change made. I am wondering now what the change was made for, in view of the fact that in my opinion it takes away a right of the defendant.

Mr. WIGGINS. The gentleman is looking at one aspect of the problem. There are other aspects of the problem. The committee, unfortunately, tried to deal with all aspects of the situation in one statement.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

With respect, Mr. Chairman, to the distinction, if any, between the terms "dishonesty" and "false statement," I would like to point out that unless there has been a remarkable change in the meaning of words in recent years, "dishonesty" and "false statement" are not necessarily the same.

I respectfully submit, there is no point in using both terms in section 609(a), unless they mean two different things, or at

least that the term "dishonesty" is much broader than "false statement."

Who can state that murder does not involve dishonesty? Who can, for instance, say stealing does not involve dishonesty? If stealing does not involve dishonesty, then what does it involve?

The terms "dishonest" and "false statement" are not synonymous as used in this code section, and to the extent that we are establishing legislative history here, I want today to make it clear that when I voted for this bill out of committee, and when I vote for it today, it was and is my intention that the term "dishonesty" is broader than "false statement," and any offense involving moral turpitude such as stealing, robbery, burglary, or what have you, in my opinion is an offense involving dishonesty.

I want to make the record eminently clear that I do not equate "dishonesty" precisely with "false statement."

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, if the gentleman believes what he said, which I am sure he does, he should support the Hogan amendment rather than the committee version or the substitute. I agree with him precisely.

Mr. DANIELSON. Mr. Chairman, I am glad we are in agreement. I just feel it is unnecessary to go that far, because I think the form the committee has brought out covers the field adequately. Unless we so stultify the meaning of "dishonesty" that it is limited to false statements, we have covered everything we need to do in this particular case.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would agree with my friend that dishonesty is a bit broader than false statement, but I would not agree that it covers such things as crimes of violence. What we are getting at here is crimen falsi, in the technical language, perjury, false pretense, fraud, and perhaps some other things.

Mr. DANIELSON. Moral turpitude.

Mr. DENNIS. It goes to one's honesty and one's credibility, and it does not cover the waterfront on all crimes for which a person can be sent to jail in excess of a year such as my friend from Maryland (Mr. HOGAN) wants to do.

Mr. DANIELSON. Mr. Chairman, I am pleased to agree with the gentleman from Indiana that it involves that which shall be generally regarded as a dishonest act.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, the courts have not borne out the gentleman's interpretation of what is dishonesty. The courts have sometimes rejected under this same guideline robbery, theft, and many other crimes that under the gentleman's definition would be considered "dishonesty."

Mr. DANIELSON. Mr. Chairman, I submit that, if the gentleman please, with the courts aided by this colloquy on the floor as to what the Congress means when it says "dishonesty," they will be able to apply the rule correctly.

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. Mr. Chairman, I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, I would say to the gentleman that if the gentleman will vote to accept my substitute, it will get rid of this kind of argument because it leaves the court to judge whether there is undue prejudice toward the witness by allowing in evidence of felony convictions.

Mr. DENNIS. Mr. Chairman, will the gentleman yield further?

Mr. DANIELSON. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to say in response to the remarks of my good friend from New York (Mr. SMITH) that the trouble with his amendment, his substitute, is exactly that. It leaves it all up to the discretion of the judge without any rule. It is not logical to say that any type of crime, regardless of whether it reflects on his credibility or not, for which a person may be sent to prison for more than a year, is relevant as to credibility.

Even the amendment of the gentleman from New York (Mr. SMITH) permits such evidence unless the judge thinks that in the particular case its prejudice outweighs its relevance; but it has no relevance, so why let the court judge?

Mr. DANIELSON. Mr. Chairman, I fully agree, and may I ask the gentleman from Indiana, would not that provision compel the court to make a finding on this evidentiary issue alone in the course of a trial, probably in many instances?

Mr. DENNIS. I would think so. It gets back to the problem we had here in the District, the Luck case, which I am not defending.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York (Mr. SMITH).

Mr. Chairman, while the substitute offered by the gentleman from New York is preferable to the committee's version, it does not really solve the problem. All of this arose with a decision by the Court of Appeals for the District of Columbia, the so-called Luck case, which has been alluded to earlier today. Following that decision, there was a great deal of controversy in the District of Columbia over using criminal convictions for impeachment purposes.

Courts tried to weigh the significance of the conviction against the risk of prejudice, and there was a period of great uncertainty for the prosecutors about using convictions to impeach. The more the courts tried to develop standards to guide the individual judges in exercising discretion, the worse things seemed to get until finally the Congress acted. This complicated approach of assessing conflicting considerations before letting a jury know about the criminal record of witnesses received no encouragement from the Congress. Instead, in the District of Columbia Court Reform and Criminal Procedure Act of 1970 (14 D C. Code 305), the Congress adopted the standard that is now represented in my amendment and the standard that was used in the rules when submitted by the Supreme Court to the Congress, and the standard used in the overwhelming majority of Federal and State courts—that any felony conviction should be admissible to impeach a witness.

I cannot say it better than the committee did in reporting on the District of Columbia Court Reform and Criminal Procedure Act some 3 years ago. The rationale for allowing use of any felony conviction was given in House Report 91–907, 91st Congress, 2d session, in these terms:

> A demonstrated instance of willingness to engage in conduct in disregard of accepted patterns is translatable into willingness to give false testimony.

That is as true now as it was then. Let me simply suggest to my colleagues that they go down the list of Federal crimes found in the index to title 18 and see how many there are that do not directly involve dishonesty or false statement, and I believe they will be persuaded to support my amendment. You simply cannot get away from the fact that, if a thief or perjurer is unworthy of belief, one might be even less inclined to believe a murderer, or assassin, or drug trafficker, or white slaver, or saboteur, or what have you. Of course, even the worst people sometimes tell the truth. All I am saying is let us not keep from the jurors the information they need to make just decisions about the credibility of witnesses.

The raging debate over this rule illustrates the continual attempt of all involved with the judicial system to balance the scales of justice between the rights of the accused and the rights of society.

The Advisory Committee on the Rules of Evidence of the Judicial Conference, after thoroughly studying all possible proposals, chose to promulgate the version in my amendment which retains the rule in the overwhelming majority of Federal and State courts as well as the views espoused by Dean Wigmore, the renowned expert on evidence. My formulation adopts the prevailing prosecutorial view that it would be misleading to permit the witness, whether he be the accused or not, to appear as one who has led a blameless life.

In spite of the fact that the eminent members of the bench and bar who made up the Advisory Committee on the Rules of Evidence made their position clear, the majority of the House Committee on the Judiciary rejected the majority rule in the State and Federal courts and have changed the rule once again.

My version is the existing law. It is the version recommended by the Supreme Court and the Attorney General of the United States. It is the prevailing view in the overwhelming majority of State and Federal courts. It is also precisely the version we adopted in 1970 in the District of Columbia crime bill.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I appreciate the gentleman's yielding.

I just wish to point out to the gentleman from Maryland (Mr. Hogan) that in the prior version of the rules—the March 1971 version—that the Advisory Committee agreed on, they did not adopt the version that the gentleman seeks to propose here. What they did adopt was a version similar to that proposed by the gentleman from New York (Mr. Smith).

So I would say that the version which the gentleman from Maryland has offered was not the version which was accepted by the bar to the extent the gentleman appeared to suggest.

Mr. HOGAN. Mr. Chairman, with all due respect to the gentlewoman from New York, I must say that the gentlewoman is in error.

The 1969 version offered by the Advisory Committee had precisely the language of my amendment. The 1971 version changed it. The 1973 version again was precisely the language of my amendment, and the Advisory Committee considered all of the alternatives which we have been debating today.

All of these eminent lawyers and scholars and judges assessed the merits and the demerits of all these proposals, and they came to the conclusion that the one in my amendment is the preferable one to choose.

Mr. Chairman, I urge my colleagues to vote down the Smith substitute and vote for my amendment.

Mr. LOTT. My Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, I support the proposed Hogan amendment to rule 609(a) of H.R. 5463.

Like this amendment, both the subcommittee draft of rule 609(a) and the Supreme Court proposal transmitted to the Congress permit impeachment of a witness by evidence of a prior conviction of a crime punishable by death or imprisonment in excess of 1 year. This provision should be reinserted into rule 609(a), especially in light of the fact that the prevailing doctrine in the Federal courts and in most States allows a witness to be impeached by evidence of a prior felony conviction without restriction as to type of felony.

The rationale for this majority approach is basic. Obviously, the character of a witness is material circumstantial evidence on the question of the veracity of testimony of the witness. Prior criminal conduct, including all prior felony convictions, is relevant evidence of such character.

A concern expressed by those endorsing the committee version of the rule is that permitting evidence of all prior felony convictions would have a deterrent effect upon defendants with criminal records who wish to testify in their own behalf. In the interest of justice, however, a jury is entitled to any evidence bering on a testifying defendant's tendency to tell the truth. In a case where there is an unusual danger that the admission of the evidence of the prior convictions would unfairly prejudice the defendant on the merits of the case, a remedy is provided by the general provision of rule 401, which states:

> Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

I think it is essential to recognize that this is a rule that would have application in both civil and criminal cases, and which would apply not only to witnesses for the defense, but witnesses for the plaintiff or the prosecution as well. As regards criminal trials, it must be kept in mind that in many criminal prosecutions, especially in prosecutions involving narcotics and organized crime offenses, the Government must rely in part upon testimony of witnesses who have criminal records. In these cases as well as in others, a jury is entitled to all the evidence bearing on the witness's tendency to tell the truth.

I, therefore, urge adoption of the proposed amendment.

(By unanimous consent, Mr. Heinz was permitted to speak out of order.)

THE LINCOLN BIRTHDAY RECESS

Mr. HEINZ. Mr. Chairman, I take this time to acquaint the House with a problem that I feel other Members in the Chamber may shortly be facing. That is the problem that was stimulated yesterday by the fact that this House, by a voice vote, passed House Concurrent Resolution 425, the Lincoln birthday recess.

I do not know how it is in the districts of other Members, but at this time, in my 18th Congressional District in Pennsylvania, exactly one out of every five filling stations is open. By the end of the week, if the present condition persists, all of the steel mills in my district—and I am fortunate enough to have a great number of them—will be forced to close, not just because they cannot get transportation to ship their product, but because no one is going to be able, for lack of gasoline, to get to work at those mills. This is true of the many other industries in my district as well.

Furthermore, my hospital council met this morning and concluded that by Thursday, if there was no change in the situation—and the situation we are referring to is terrorization on the highways—they will be turning people away because they are running out of food and important medical supplies.

I find it hardly compatible with the traditions of this House that tomorrow we should, at the close of business, go on adjournment for 5 or 6 days or more. I would suggest when this resolution comes back from the Senate, where I understand it will be subject to amendment—and I understand also it will come back for approval either later today or tomorrow—I would suggest that at that time that the resolution should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Smith) as a substitute for the amendment offered by the gentleman from Maryland (Mr. Hogan).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. Hogan), as amended.

PARLIAMENTARY INQUIRY

Mr. SMITH of New York. Mr. Chairman, a parliamentary inquiry. Are we now voting on the Hogan amendment, as amended?

The CHAIRMAN. The gentleman is correct.

The question was taken; and on a division (demanded by Mr. Dennis) there were—ayes 10, noes 48.

So the amendment, as amended, was rejected.

The CHAIRMAN. Are there any further amendments to article VI?

Mr. WHITE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to ask some questions of the subcommittee chairman relating to this particular section.

First I refer the chairman to page 85 in the section referring to "Writing Used To Refresh Memory," it states:

> Rule 612. Writing Used To Refresh Memory
>
> Except as otherwise provided in criminal proceedings by section 3500 of title 18, United States Code, if a witness uses a writing to refresh his memory for the purpose of testifying, either—
>
> (1) while testifying, or
>
> (2) before testifying, if the court in its discretion determines it is necessary in the interests of justice,
>
> an adverse party is entitled to have the writing produced at the hearings, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness.

There are other portions which refer back to that particular part.

My first question is does this relate to civil actions as well as to criminal actions?

Mr. HUNGATE. If the gentleman will yield, the answer to that would be "Yes."

Mr. WHITE. If there is, for instance, hypothetically, a personal injury action, that is, if a party to the personal injury action asks for the work of an attorney fresh his memory before he came to the on matters on which the party has retrial, then would the adverse attorney and adverse party have the opportunity to inspect that work?

Mr. HUNGATE. If the gentleman will yield, I understand—and if I am in error, some other members of the committee can correct me—the attorney's work product would not be subject to that inspection.

If it was used to refresh the memory of a witness would it then not be subject to inspection?

If it were used while testifying. If it were used before testifying there are different limitations on it.

Mr. WHITE. You see, the way it reads, it says "before testifying." In other words, if you use it before testifying then it is a memory refreshener.

Mr. HUNGATE. It can become a discretionary matter with the court in that case. The rule was originally broader than this, as I recall it. We have tried to narrow the past rule, the rule that one point could have meant bringing in everything you used to refresh your memory, and the committee has sought to restrict that. You could use the classic examples, for instance, of patent cases or antitrust cases where you might have several large railroad boxcars full of documents, and to force them to be brought in could prove to be harassment.

Mr. WHITE. Does not the chairman's own interpretation mean that at the court's discretion the court could insist that the adverse party bring to the opponent the material on which the witness refreshed his memory, is that correct?

Mr. HUNGATE. The gentleman is raising a good point, because I think the gentleman is putting two legal concepts at each other's throats, one would be perhaps the original work product of the attorney, and I am not qualified to say that this is paramount, but it was not meant to repeal the attorney-client relationship, and, let me add, this does not write that out of its present existence. It does not do away with it. What we concentrated upon was in these extremely long cases where there would be lots and lots of documents, and where it would be a harassment to have them all brought in.

And it says, again, as the gentleman I am sure realizes:

> If the court in its discretion determines it is necessary in the interest of justice, . . .

Mr. WHITE. Is not this then a change in the rule, a change from the general evidentiary rules in the Federal courts?

Mr. HUNGATE. That is not the case, as I understand it.

Mr. WHITE. Presently in civil actions or personal injury actions, using the same hypothetical question, can an opponent obtain the material on which a witness refreshed his memory before he comes to testify, before the case?

Mr. HUNGATE. He could not do so.

Mr. WHITE. So this is a radical change.

The point I am trying to make is that this is an inconsistency, that a man would have to produce the writings that he had used prior to coming to testify, whatever he refreshed his memory on, but he probably could not use the same writing in that regard, if these were self-serving to him. The lawyer's own work product would then be subject to inspection if it was used to refresh the memory of a witness, and thus you have intruded into a very established rule of law.

Mr. HUNGATE. However, we come back to the fact that this does not wipe out the other sections of the law, or the law as it exists regarding the privilege of attorney-client relationships, or their work products.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 3 additional minutes.)

Mr. WHITE. Mr. Chairman, I do not want to pursue this any longer, but I suggest that this certainly should be looked into.

Getting back to a provision before that, to page 83, I think the language was properly intended, but that it is not properly worded. On line 12, we speak in terms of:

> The conviction has been the subject of a pardon, annulment, certificate of rehabilitation of the person convicted, . . .

And then it says, further down:

> Or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure . . .

I take it that this is not intending to mean the application for a pardon; this really means the pardon itself?

Mr. HUNGATE. I would like to call the attention of the other members of the subcommittee to the very good question that the gentleman from Texas (Mr. WHITE) has raised, and for the purpose of establishing legislative history, I would like to ask the other members of the committee to correct me if I should be wrong.

When we say, starting at line 12:

> (1) the conviction has been the subject of a pardon, . . .

Et cetera.

We did not mean and would not understand the wording to mean the subject of an "application" for a pardon, but we would mean a "pardon" that had been fully granted.

The gentleman from Texas has spoken to me earlier and I beileve I pointed out that the same words appear, and if the gentleman will look at line 18 he will see where we again cite the same words with reference to pardon, with the same meaning and intent.

Mr. WHITE. If the gentleman will please refer to lines 22 and 23 where he states:

> The court may, however, in a criminal case allow evidence of a juvenile adjudication of a witness.

I am sure this is splitting hairs, but the gentleman means "against" the witness; does he not? In other words, if the juvenile is not found responsible in a particular juvenile case, then that evidence could not come before the court?

Mr. HUNGATE. The committee's understanding of that language is, again for the purpose of legislative history, a juvenile adjudication would be akin to what would be a conviction of a crime if a juvenile were of age, and that is the meaning that is meant.

Mr. WHITE. A finding against the juvenile.

Mr. HUNGATE. That is true; yes, sir.

Mr. WHITE. I thank the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I would yield at this point to the gentleman from New York to see if he generally concurs, for the purpose of legislative history, in the interpretation.

Mr. SMITH of New York. I thank the gentleman.

I would say that the gentleman from New York generally concurs in the gentleman's interpretation.

Mr. HUNGATE. I thank the gentleman from New York.

The CHAIRMAN. The time of the gentleman from New York has expired.

If there are no further amendments to article VI, the Clerk will read.

The Clerk read as follows:

Page 87, line 16:

ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

Rule 701. Opinion Testimony by Lay Witnesses

If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissable in evidence.

Rule 704. Opinion on Ultimate Issue

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give his reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

Rule 706. Court Appointed Experts

(a) Appointment.—The court may on its own motion or on the motion of any party enter an order to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection. An expert witness shall not be appointed by the court unless he consents to act. A witness so appointed shall be informed of his duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his findings, if any; his deposition may be taken by any party; and he may be called to testify by the court or any party. He shall be subject to cross-examination by each party, including a party calling him as a witness.

(b) Compensation.—Expert witnesses so appointed are entitled to reasonable compensation in whatever sum the court may allow. The compensation thus fixed is payable from funds which may be provided by law in criminal cases and civil actions and proceedings involving just compensation under the fifth amendment. In other civil actions and proceedings the compensation shall be paid by the parties in such proportion and at such time as the court directs, and thereafter charged in like manner as other costs.

(c) Disclosure of appointment.—In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that the court appointed the expert witness.

(d) Parties' experts of own selection.—Nothing in this rule limits the parties in calling expert witnesses of their own selection.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection

to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to article VII? If not the Clerk will read.

The Clerk read as follows: Page 90, line 6:

ARTICLE VIII. HEARSAY

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement.—A "statement" is (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by him as an assertion.

(b) Declarant.—A "declarant" is a person who makes a statement.

(c) Hearsay.—"Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay.—A statement is not hearsay if—

(1) Prior statement by witness.—The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with his testimony and was given under oath subject to cross-examination, and subject to the penalty of perjury at a trial or hearing or in a deposition, or (B) consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving him; or

(2) Admission by party-opponent.—The statement is offered against a party and is (A) his own statement, in either his individual or a representative capacity or (B) a statement of which he has manifested his adoption or belief in its truth, or (C) a statement by a person authorized by him to make a statement concerning the subject, or (D) a statement by his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship, or (E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

Rule 802. Hearsay Rule

Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court pursuant to statutory authority or by Act of Congress.

Rule 803. Hearsay Exceptions; Availability of Declarant Immaterial

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression.—A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance.—A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical condition.—A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purposes of medical diagnosis or treatment.—Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) Recorded recollection.—A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) Records of regularly conducted activity.—A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, profession, occupation, and calling of every kind.

(7) Absence of entry in records kept in accordance with the provisions of paragraph (6).—Evidence that a matter is not included in the memoranda reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Public records and reports.—Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law, or (C) in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records of vital statistics.—Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.

(10) Absence of public record or entry.—To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.

(11) Records of religious organizations.—Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.

(12) Marriage, baptismal, and similar certificates.—Statements of fact contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.

(13) Family records.—Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

(14) Records of documents affecting an interest in property.—The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.

(15) Statements in documents affecting an interest in property.—A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.

(16) Statements in ancient documents.—Statements in a document in existence twenty years or more the authenticity of which is established.

(17) Market reports, commercial publications.—Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.

(18) Learned treaties.—To the extent called to the attention of an export witness upon cross-examination or relied upon by him in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other export testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.

(19) Reputation concerning personal or family history.—Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.

(20) Reputation concerning boundaries or general history.—Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or State or nation in which located.

(21) Reputation as to character.—Reputation of a person's character among his associates or in the community.

(22) Judgment of previous conviction.—Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

(23) Judgment as to personal, family or general history, or boundaries.—Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.

Rule 804. Hearsay Exceptions: Declarant Unavailable

(a) Definition of unavailability.—"Unavailability as a witness" includes situations in which the declarant—

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) testifies to a lack of memory of the subject matter of his statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), or (4), his attendance or testimony) by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions.—The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony.—Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death.—In a prosecution for homicide or in a civil action or proceeding, a statement made by a declarant while believing that his death was imminent, concerning the cause or circumstances of what he believed to be his impending death.

(3) Statement against interest.—A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to criminal liability, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement. A statement or confession offered against the accused in a criminal case, made by a codefendant or other person implicating both himself and the accused, is not within this exception.

(4) Statement of personal or family history.—(A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

Rule 805. Hearsay Within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

Rule 806. Attacking and Supporting Credibility of Declarant

When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the declarant as a witness, the party is entitled to examine him on the statement as if under cross-examination.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. MAYNE

Mr. MAYNE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAYNE: On page 90, line 24 of the bill, after the word "oath", strike the words "subject to cross-examination".

On page 91, line 1, of the bill, after the word "deposition", insert the words "or before a grand jury".

Mr. MAYNE. Mr. Chairman, the purpose of my amendment is to restore this rule to the form in which it was reported by the subcommittee which considered this amendment and others for about a year's time before making its recommendation to the full committee. Essentially my amendment would permit the use in evidence of a prior inconsistent statement which had been given under oath, even though it had not been subject to cross-examination at the time it was given under oath. This is accomplished by striking the words "subject to cross-examination" following the word "oath." The reason I respectfully submit to the committee that it is not necessary that the original statement should have been given under oath is that the person making that statement is present in court and subject to cross-examination at the time the evidence is offered. My evidence also includes a prior statement by a witness given before a grand jury by inserting the words "as before a grand jury" after the word "deposition." In other words, my amendment would remove from the definition of hearsay the prior inconsistent grand jury testimony of a witness. It would be admissible as an exception to the hearsay rule. This is clearly constitutional under the U.S. Supreme Court case of *California* v. *Green*, 399 U.S. 149, a 1970 case, and in accordance with the ruling of the U.S. Court of Appeals for the Second Circuit, the decisions of which were relied on as support for the provision in its present form. It did not require that the testimony must have been subject to cross-examination.

The rule of evidence which is involved here concerns this kind of a trial situation. A witness is testifying at a trial or hearing. He is sworn and subject to cross-examination.

But he has made a prior inconsistent statement which under well-established law would be admissible to impeach the witness. The issue in framing this rule now is whether to continue to permit admission of the prior inconsistent statement, not simply to destroy the witness' credibility but as substantive evidence, that is, as evidence that a jury may accept for the truth of the matter asserted. H.R. 5463 allows for a substantive use of the prior inconsistent statement if it was sworn trial or deposition testimony, subject to the penalty for perjury, provided the witness, when giving such prior testimony, was subject to cross-examination. The rule is basically sound as proposed, but the authorities that want the adoption of a rule of evidence of this kind hold the matter of previous cross-examination not to be essential because the witness can be fully cross-examined at the trial. So I think we should return to the version adopted by the subcommittee after careful consideration and that this rule needs to be amended back to the form in which they recommended it, to cover this situation and also prior grand jury testimony.

To begin with, the general rule that courts adhered to for a long time permitted prior inconsistent statements to be used to impeach but not as substantive evidence. But as pointed out by the Supreme Court in *California* v. *Green*, the case I referred to (399 U.S. 154–155) too many jurisdictions have now broken away from the traditional rule and, beginning with Dean Wigmore, most legal commentators have come around to the view that prior inconsistent statements may be properly accepted affirmatively by a jury if the one who makes such statements is a witness and can be cross-examined about the former statements. The Supreme Court has held that the confrontation clause of the sixth amendment is not violated by a substantive use of prior statements of a witness provided the defendant can fully cross-examine the witness about the prior statement.

The U.S. Court of Appeals for the Second Circuit has led the way in recognizing the affirmative value of prior inconsistent statements. The provision in the bill is patterned after the second circuit rule in limiting the matter to prior sworn statements, but I would like to point out however that the second circuit rule allows for an affirmative use of prior testimony given not just in a trial forum, but also when given before a grand jury. *United States* v. *Mingoia*, 424 F.2d 710, 713 (1970); *United States* v. *Insana*, 423 F.2d 1165, 1170, cert. denied, 400 U.S. 841 (1970). Those are both 1970 cases.

It is extremely important that this item of legislation be expanded, et cetera.

To begin with, the general rule that courts adhered to for a long time permitted prior inconsistent statements to be used to impeach but not as substantive evidence. However, as pointed out by the Supreme Court in *California* v. *Green*, at 399 U.S. 154–155, some jurisdictions broke away from the traditional rule and, beginning with Dean Wigmore, most legal commentators have come around to the view that prior inconsistent statements may properly be excepted affirmatively by a jury if the person who makes such statements is a witness and can be cross-examined about the former statements. The Supreme Court has held that the confrontation clause of the sixth amendment is not violated by a substantive use of prior statements of a witness provided the defendant can fully cross-examine the witness about the prior statements.

The U.S. Court of Appeals for the Second Circuit has led the way in recognizing the affirmative value of prior inconsistent statements. The provision in the bill is patterned after the second circuit rule in limiting the matter to prior sworn statements. I would point out, however, that the second circuit rule allows for an affirmative use of prior testimony given not just in a trial forum, but also when given before a grand jury. *United States* v. *Mingoia*, 424 F. 2d 710, 713 (1970); *United States* v. *Insana*, 423 F. 2d 1165, 1170, cert. denied, 400 U.S. 841 (1970).

It is extremely important that this item of legislation be expanded to allow for an appropriate use of prior grand jury testimony. One problem that is being attacked by allowing for an affirmative use of prior testimony is the problem of the witness who swears to one thing before trial and then, having been intimidated or otherwise improperly influenced, or having developed some animus or grudge toward a party in the case, changes his testimony at the trial. Under the old approach the inconsistency could be shown only to cancel out the witness' trial testimony, so that the witness would win—he would accomplish his unjust or malevolent purpose. This kind of thing is certainly like to happen, if not more likely to happen, at a first trial as upon a retrial; that is to say, there is as great, if not a greater chance, that witnesses will try to confound the criminal justice process after their grand jury appearance as there is that witnesses may change their testimony due to an influence or cause intervening between two trials. And there is no reason for providing only half a remedy in this legislation. Again, it is beside the point that a grand jury witness is not subject to cross-examination in the grand jury. Let his prior grand jury testimony be used at trial, and let the witness be cross-examined on the matter there. That is the lesson of the authorities I have mentioned.

Let me point out that this amendment concerns merely the admissibility of evidence; it will not give any artificial credibility to a worthless witness. This amendment allows a jury to make an affirmative use of the prior grand jury testimony but does not compel, or even promote the acceptance of the former testimony. As explained in *California* v. *Green*, at 399 U.S. 160:

> The witness who now relates a different story about the events in question must necessarily assume a position as to the truth value of his prior statement, thus giving the jury a chance to observe and evaluate his demeanor as he either disavows or qualifies his earlier statement. The jury is alerted by the inconsistency in the stories, and its attention is sharply focused on determining either that one of the stories reflects the truth or that the witness is simply too lacking in credibility to warrant its believing either story.

I might point out further that the complex of other evidence presented in a case may also help the jury in determining which, if either, of the conflicting accounts is the truthful one.

Legal commentators have cited cases in which the old rule against affirmative use of prior inconsistent statements has caused miscarriages of justice. Let me mention two Federal cases that are described in McCormick's Handbook of the Law of Evidence (1954), in footnotes at pages 76, 80. In one of these, *Young* v. *United States*, 97 F.2d 200 (C.A. 5, 1938), the defendant was tried for the murder of a Federal investigator. A 16-year-old boy who had lived in the defendant's house implicated the defendant shortly after the killing and gave the grand jury ample testimony to establish the defendant's guilt. At the trial, however, the witness repudiated the previous testimony and the resulting conviction was set aside. The prosecutor in that case even had an exchange of notes between the witness and his sister, the sister urging him to change his story and the witness promising to do so. This was a case where, as Professor McCormick said, the probability of truthfulness of the prior statement was overwhelming. My amendment would make such a prior statement admissible so that a jury could accept it as true.

Another illustrative case is *Ellis* v. *United States*, 138 F.2d 612 (C.A. 8, 1943). The defendants were charged with transporting two high school girls in interstate commerce for immoral purposes, the indictment resting on the detailed testimony of one of the victims before the grand jury, but she repudiated the testimony at trial. Again, in Professor McCormick's opinion, the case offers a "striking illustration of the actual probative value of previous statements," and the court seemed to have had no doubt of guilt, but the conviction had to be reversed. This case is a good example, too, of how a mass of evidence supports belief in the prior statement, because conduct of an intrastate nature had been introduced on the element of the defendants' intentions, showing a course of conduct. The jury should have been able to accept the prior statement as true, but the case foundered on a technicality.

Concluding, then, we have a basically sound proposal here that responds to the needs of law enforcement and reacts to recent developments in the law. Yet the measure is not complete. It respects the matter of cross-examination in the old way and not in the more enlightened way of the Supreme Court, the second circuit, and numerous commentators on the law. Though a witness could not have been cross-examined before the grand jury, it is not amiss to permit the jury to make an affirmative use of the prior grand jury testimony under this amendment, because the trial subjects the witness to full cross-examination about that earlier testimony. This amendment has a solid legal foundation and makes very good sense. I respectfully urge my colleagues to support my amendment.

Mr. WIGGINS. Mr. Chairman, I rise to support the amendment offered by the gentleman from Iowa.

Mr. Chairman, this is an extremely meritorious amendment which deals with a very practical problem in criminal cases. Let me set the stage by relating some facts which give rise to the problem. Let us suppose we are talking about a narcotics case and let us suppose further that an important witness in that investigation is examined before a grand jury. His testimony is taken before that grand jury under oath. It is not subject however to cross-examination because the witness' counsel is not there to cross-examine the witness. Thereafter, an indictment is returned and now we go to trial in this important narcotics case. Pending trial, the witness is exposed to the realities of the street and he is told if he testifies as he testified before the grand jury that he and his family are in serious jeopardy. During the trial, prosecutor calls the witness expecting that he will testify in accordance with his testimony before the grand jury, but he is disappointed. The witness does not testify that way at all. He changes his story and says: "I do not know anything about anything." Now under the rule it is clear that the witness can be impeached as to his credibility by the showing of the prior inconsistent statement, but the jury cannot consider as affirmative evidence the evidence which was deduced at the grand jury.

The amendment of the gentleman from Iowa (Mr. MAYNE) would permit the consideration of the evidence deduced before the grand jury as affirmative evidence in the criminal case. This is consistent with the practice in the second circuit. It has been approved as against constitutional attack by the U.S. Supreme Court in California against Green.

It provides an answer to an important practical problem confronting prosecutors in narcotics cases and in organized crime cases. It would be unwise in my opinion to deny them this important tool by the adoption of the committee language without the amendment.

If there is a fear of unfairness implicit in the amendment of the gentleman from Iowa (Mr. MAYNE), bear in mind that the witness is then before the trial jury.

He can be examined. He can be cross-examined with respect to all of the circumstances which prompted his change of testimony. He is represented by counsel, if we are talking about a party witness. There is every opportunity for fairness preserved in the amendment by the gentleman from Iowa. It is one that ought to be supported by this committee as an aid to proper law enforcement. I hope it will be accepted.

Mr. DENNIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it has long been the rule and it is still the rule in most of the States of the Union and, as far as I know, in all the Federal circuits, except the second circuit, that the prior inconsistent statements of a witness are not competent to prove any of the facts asserted in the statement and can only be used in cross-examination to reflect upon his credibility as a witness.

The reason for that is that, of course, such a statement is pure hearsay. If we change the rules, we get to the point where we prove the case, not by testimony on the witness stand in that case, but by bringing somebody in and having him testify that this man said thus and so at some other time. That is classic hearsay and it has never been done.

Now, in the second circuit, they adopted a new rule for the reasons suggested by my friend from Iowa (Mr. MAYNE), I assume, and said that if the prior inconsistent statement was made under oath, one could use it to prove the case, and that is what he is trying to do here.

In the committee we went part of the way. We abandoned the traditional rule. We said one could use the prior inconsistent statement to prove the case if it was made under oath and also subject to cross-examination at the time it was made.

We felt that might give it sufficient credibility, because it had been sifted once by the powerful engine of cross-examination; but under the second circuit rule which is proposed by my friend from Iowa, prior cross-examination is not required.

This again, like many of these things, is a question of judgment. I recognize the problem which has given rise to this suggestion. I do not know to what extent we should have our rules of law, however, laid down or changed by criminals who threaten witnesses and things like that, if we think the traditional rule is sound to begin with.

Even under the proposal in the committee bill here, we have gone quite a step and under the proposal of the gentleman from Iowa (Mr. MAYNE), one can still have this situation. One could have the situation where there is not one single witness who takes the stand in that case and testifies to anything in behalf of the Government or anything against the man on trial. In fact, he testifies to the contrary, and the Government has to prove its case by proving that at some other time he said something else, which he now says is not the truth.

Now, that is a radical departure in the law. Maybe he changed his story, not because the defense threatened him, but because the cops beat him up the first time. That has happened, too; so I think the committee went far enough when we said that a prior statement which had been made subject to cross-examination could be used for that purpose, and although one can debate the matter both ways, and there is an argument both ways, as I concede, I say that, on balance, we ought to go along with most of the jurisdictions and with the traditional rule and stick with the committee bill and defeat the amendment.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the last words.

Mr. Chairman, I would like to associate myself with the comments made by my very learned colleague from Indiana (Mr. DENNIS).

While I appreciate the intention behind the amendment, and although it is the practice in the circuit in the area from which I come, I think the amendment is basically not a good one. If we are trying to use statements given outside of the courtroom for the purposes of convicting somebody, I think we must make sure that these statements are given under circumstances that are similar to those at trial and subject to the safeguards of cross examination.

Therefore, I would urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. MAYNE).

The question was taken; and on a division (demanded by Mr. MAYNE) there were—ayes 7; noes 27.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HOGAN

Mr. HOGAN. Mr. Chairman, I offer an amendment, which has been filed in accordance with the rules.

The Clerk read as follows:

Amendment offered by Mr. HOGAN: Strike out lines 20 through 25 on page 90 of the bill and lines 1 through 5 on page 91 of the bill and insert in lieu thereof the following:

(1) Prior statement by witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (A) inconsistent with his testimony, or (B) consistent with his testimony and is offered to rebut an express or implied charge against him of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving him; or

POINT OF ORDER

Mr. DENNIS. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. DENNIS. Mr. Chairman, I make the point of order against the amendment that this is the same amendment we have just voted on.

The CHAIRMAN. Does the gentleman from Maryland desire to be heard?

Mr. HOGAN. I do, Mr. Chairman.

Mr. Chairman, if the gentleman from Indiana would read the amendment we just voted on and the amendment as proposed, while they do go to the same section, they are substantially different in their language and in their intent.

The CHAIRMAN. The Chair agrees with the statement of the gentleman from Maryland and overrules the point of order.

Mr. HOGAN. Mr. Chairman, my amendment would reinstate the language of rule 801(d)(1) as it was sent to us by the Supreme Court after the Advisory Committee of the Judicial Conference labored over the rules for many years. My amendment would allow into evidence, as an exception to the hearsay rule, any prior statements made by a witness who is in court and subject to cross-examination about the prior statements. The Attorney General favors this amendment.

I find no fault with rule 801(d)(1) as far as it goes. I assume that most everyone agrees to having an exception to the hearsay rule for prior statements that were made under oath and subject to cross-examination. Where such statements are inconsistent with the witness' trial testimony, there is ample reason for allowing the jury to know about the prior statements and to consider accepting those prior statements as true. But the rule does not go far enough. The authorities (including *California* v. *Green*, 399 U.S. 149 (1970)) allow the rule to be broadened so that any prior inconsistent statement can be used for affirmative purposes. The main justification for supporting an exception to the hearsay rule for prior inconsistent statements is that the adverse party, with the witness now in court, has the opportunity to cross-examine the witness fully about his previous statement.

Let me cite some examples to illustrate the importance of my amendment.

Take, for example, a suit for damages growing out of an automobile accident in which a witness gives an account at trial different from the one he gave police officers right after the accident. Suppose the witness now has a recollection that clashes with his former statement. Considering the length of time it takes for cases to get to trial, it is not at all peculiar that honest witnesses will give testimony inconsistent with former statements. Under the traditional rule, a former statement is admissible only to impeach the witness—to destroy the witness's credibility entirely. But, that may work an unjust result. The earlier statements must be allowed into evidence for the truth of the matter stated. I do not think it is enough to let such statements in as affirmative proof only when they were taken under oath under the full formalities of a trial or deposition. These statements should be allowed into evidence without such formalities. Let the jury decide, upon the whole of the evidence, whether the prior statement is worthy of belief or not.

For another example, take a case, whether it may be a civil or criminal case, where the witness for one of the parties has developed an animosity toward the party who wishes to call him, or where the witness is just sympathetic toward the other side. If that witness changes his testimony at the trial, he can defeat justice under the committee's version of the rule. A prior inconsistent statement made by such a witness would be admissible only to cancel out his evidence—to leave an utter void in the case. The witness would have such a power, no matter how evident it was that he had acted irresponsibly. Rule 801(d)(1) would not remedy such a situation because the prior statements had not been given under trial formalities. Rule 801(d)(1) would not, as now written, remedy a situation such as that found in *Young* v. *United States*, 97 F.2d 200 (C.A. 5, 1938), where the witness caused a prosecution to fail by repudiating former statements, even though the Government had a note which the witness had written in which he promised to repudiate his former story out of gratitude toward the defendant. This is not in the best interests of justice.

Another good example is supplied by *United States* v. *Coppola*, 479 F. 2d 1153 (C.A. 10, 1973). That case involved a prison murder growing out of a narcotics ring operating within Leavenworth prison. Soon after the offense the FBI took a statement from an inmate implicating the defendant in the murder and narcotics operation. It was a written statement of the type the FBI normally obtains from witnesses, but, of course, the defendant was not there to cross-examine the witness. Before trial, and apparently after receiving threats from his fellow inmates, this witness repudiated his statements to the FBI. In prosecuting the case, the Government attempted to use this witness to establish what he had initially said, but in doing so, the prosecution got into problems about impeaching one's own witness, et cetera. A conviction was won, but the court of appeals set the conviction aside and allowed for a new trial. Because this witness repudiated his former statement, a conviction of a prisoner for murder and narcotics peddling was thwarted. Had the evidence of the prior statement been admissible and the witness subjected to cross-examination about it, it is quite probable that the jury would have recognized the willfulness that actuated the witness to deny what he had previously said, and the case might have ended up differently.

I hope these examples help demonstrate the need for this amendment. The amendment is not really in conflict with any established principle of law. It seems good on the surface that 801(d)(1) is written to require that there have formerly been an oath and opportunity for cross-examination when the statement was made. But those basic considerations are satisfied under the amendment. The former statements would be admissible because the witness is now under oath and subject to questioning about the former statements. I urge my colleagues to support this amendment.

Mr. Chairman, inasmuch as we have just defeated a version that does not go as far as mine, the likelihood of it prevailing is very slim at this point, so I now yield back the balance of my time.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think nothing could be as persuasive as the gentleman's argument at this time of day except cold silence, so I yield back the balance of my time.

Mr. DENNIS. Mr. Chairman, I rise against the amendment and simply point out that this is the same thing as the last amendment that was defeated except that, as the gentleman from Maryland says, it goes much further, because the prior inconsistent statement he would admit would not be under oath, subject to cross examination or anything else. Anything anybody said any time, anywhere, under any circumstances, comes in. It is as wide as that, so it ought to be defeated.

Mr. DEVINE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the author of this amendment is a former FBI agent, as I am, and as is the gentleman from Iowa.

We have had a great deal of experience years and years ago in taking statements involving violations of Federal criminal statutes. There is a great deal of concern across the Nation about what they blame on judges, that judges primarily have become preoccupied with the rights of the wrongdoers to the exclusion of the rights of those persons who are honest, hardworking, law-abiding citizens.

When we are dealing with evidence and dealing with court proceedings, we seem to be bending over backward to protect the rights of wrongdoers. I think there are many protections that are built into our criminal statutes which give them every advantage.

It seems to me that we should look at a little bit of evidence obtained from some of the statements taken by qualified law enforcement agents, such as FBI agents, and we should let into evidence those statements taken by them under the circumstances set forth in this amendment.

Mr. Chairman, I urge the Members to vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. HOGAN).

The amendment was rejected.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: On page 94, line 11, after the word "law" and before the comma, insert the following: "as to which matters there was a duty to report".

Ms. HOLTZMAN. Mr. Chairman, I will try to be very brief, because it is late in the day.

My amendment is offered to clarify and narrow a provision on the hearsay rule (Rule 803(8)(B)). This rule now provides that if any Government employee in the course of his duty observes something—in fact, anything—and makes a report of that observation, that report can be entered into evidence at a trial whether criminal or civil, without the opportunity to cross-examine the author of the report.

While I respect Government employees, I think we would all concede that they are fallible, exactly like every other human. We do not provide such broad exceptions to the hearsay rule for ordinary mortals.

My amendment makes it crystal clear that random observations by a Government employee cannot be introduced as an exception to the hearsay rule and be insulated from cross-examination. My amendment would allow reports of "matters observed" by a public official only if he had a duty to report about such matters. One operating under such a duty is far more likely to observe and report accurately.

I urge adoption of this amendment in order to narrow and restrict the broad exception to the hearsay rule in the bill.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment.

This is a matter that was considered in the subcommittee, and we decided to stay with the language as presented to the House here, which states as follows:

> Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law. . . .

Mr. Chairman, this is where the point of disagreement occurred. We stayed with that version of the bill, and I would recommend that version to the Committee of the Whole House.

Mr. DANIELSON. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

I think if we leave this language in the proposed bill, we are opening the door to a host of problems, the like of which we have probably never seen in a trial court.

I think the proper approach, in order to eliminate this, is simply to adopt the gentlewoman's amendment, and eliminate this provision, simply because there is absolutely no restriction on the sort of material which could come in under the language as proposed.

I urge the adoption of the gentlewoman's amendment.

Mr. DENNIS. Mr. Chairman, I rise in support of the gentlewoman's amendment.

So that the committee will know what we are talking about here, this permits the introduction in evidence as an exception to the hearsay rule of public records and reports, statements, or data compilations in any form of matters observed pursuant to duty imposed by law. The gentlewoman would add "as to which matters there was a duty to report."

Again it is a matter of judgment, but the difference would be this: Supposing you had a divorce case and you tried to put in a report of a social worker, rather than putting the social worker on the stand; under the committee's language anything she said in the report which would be observed by her pursuant to her general duties would be admissible. Under the amendment, only those things as to which she had some duty to make a report would be admissible.

If the law required her to observe and report certain things about a condition in the home, that could come in, but if she put in a lot of other stuff there, she could not put that in without calling her as a witness and giving the opposition a chance to cross examine her.

On the whole I think the amendment improves the bill, and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DENNIS

Mr. DENNIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DENNIS: On page 94, line 11 of the bill, after the word "law", insert the words "excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel".

Mr. DENNIS. Mr. Chairman, this goes to the same subject matter as the last amendment. It deals with official statements and reports.

What I am saying here is that in a criminal case, only, we should not be able to put in the police report to prove your case without calling the policeman. I think in a criminal case you ought to have to call the policeman on the beat and give the defendant the chance to cross examine him, rather than just reading the report into evidence. That is the purpose of this amendment.

Ms. HOLTZMAN. Mr. Chairman, I rise in support of the amendment.

I will be very brief again.

I commend my colleague for raising this point. Again his purpose is to restrict the possible abuse of hearsay evidence.

I think the gentleman's amendment is very valuable and reaffirms the right of cross examination to the accused. It also permits those engaged in civil trials the right of cross examination. Cross-examination guarantees due process of law and a fair trial.

Mr. SMITH of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in reading this amendment it seems to me that the effect of the gentleman's amendment is to treat police officers and other law enforcement officers as second-class citizens, because we have already agreed that we are going to allow in as exceptions to the hearsay rule matters observed pursuant to duty imposed by law. The gentleman from Indiana would exclude from that as follows: "Excluding however, in criminal cases, matters observed by police officers and other law enforcement personnel." This would be so even though they were matters observed pursuant to a duty imposed by law.

I just think we are treading in an area the impact of which will be very unfortunate and the effect of which is to make police officers and law enforcement officers second-class citizens and persons less trustworthy than social workers or garbage collectors.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I will be glad to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to say on that point that of course that is not my idea. I think the point is that we are dealing here with criminal cases, and in a criminal case the defendant should be confronted with the accuser to give him the chance to cross examine. This is not any reflection on the police officer, but in a criminal case that is the type of report with which, in fact, one is going to be concerned.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, as an ex-prosecutor I cannot imagine that the gentleman would be advocating that a policeman's report could come in to help convict a man, and not have the policeman himself subject to cross-examination.

Is that what the gentleman is advocating?

Mr. SMITH of New York. That is what I am advocating in that the policeman's report, if he is not available, should be admissible when it is made pursuant to a duty imposed on that law enforcement officer by law. This is the amendment we have just adopted, and for other public officers these police reports ought to be admissible, whatever their probative value might be.

Mr. JOHNSON of Colorado. Mr. Chairman, if the gentleman will yield further, as I said, I was a prosecutor in a State court, and there were so many cases where good cross-examination indicated a lack of investigative ability on the part of the man who made the report that I became more and more convinced that good cross-examination was one of the principal elements in any criminal trial. If the officer who made the investigation is not available for cross-examination, then you cannot have a fair trial.

I cannot believe the gentleman would be saying that we should be able to convict people where the police officer's statement is not subject to cross-examination.

Mr. SMITH of New York. All I am saying to the gentleman from Colorado is that—and I will concede that the gentleman has probably had greater experience in this field than I have had—all I am saying is that it seems to me that it should be allowed for the jury to consider such a report, together with all of the other aspects of the case, if this report was made by a police officer pursuant to a duty imposed upon that police officer by law.

I will have to admit to the gentleman from Colorado that it is not the best evidence.

Mr. JOHNSON of Colorado. If the gentleman will yield still further, I will have to say that in my opinion the Supreme Court would have to ultimately declare that kind of a rule unconstitutional if we did pass it, and that the present amendment is one that would have to be passed if we are going to preserve the rights and traditions of individuals that have been in existence since 1066—I think that is when it started.

Mr. BRASCO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the author of the amendment, the gentleman from Indiana (Mr. DENNIS) a question. I am deeply disturbed and troubled about these rules that have been brought out today.

It seems to me that many critical areas have been overlooked.

One of the basic tenets of our law is that one should be confronted by one's accuser and be able to cross-examine the accuser.

There are many, many exceptions to the hearsay rule here.

As I understand it the gentleman from New York (Mr. SMITH) is advocating, in opposition to the amendment offered by the gentleman from Indiana (Mr. DENNIS) that if a police officer made a report that he saw Mr. X with a gun on such and such an occasion, and then thereafter that police officer is unavailable that that statement could be used in a criminal trial against Mr. X without the defense attorney having the opportunity to cross examine the officer with respect to his position with relation to Mr. X, the time of the day, whether he was under a light, or whether there was no light, how much time did he have in which to see the gun, and all other observations relevant to the case.

Mr. DENNIS. Mr. Chairman, I would say in answer to the question raised by the gentleman from New York (Mr. BRASCO) that if the statements of the police officer in his report would, in the language of this bill, be "matters observed pursuant to a duty imposed by law, and as to which he was under a duty to make a report," and I rather think they might be, that then what the gentleman says is true, and would be true.

I am trying to remove that possibility, by saying that the rule will not apply in the case the gentleman is talking about.

Mr. BRASCO. I support the gentleman. I am just standing up talking, because I cannot believe that we would for one moment entertain any other rule. I would hope we would do it with all cases of hearsay.

Mr. HUNT. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I will be glad to yield to the gentleman from New Jersey if the gentleman wishes me to yield to him.

Mr. HUNT. I had no intention of getting into this argument, but when the gentleman brings in the word "investigator," then I have to get in.

Mr. BRASCO. I did not say it.

Mr. HUNT. I know the gentleman from New York did not, but it was discussed. The only time I can recall in my 34 years of law enforcement that a report of an investigator was admissible in court was to test the credibility of an officer. We would never permit a report to come in unchallenged. We would never even think about bringing in a report in lieu of the officer being there to have that officer cross-examined; but reports were admitted as evidentiary fact for the purpose of testing the officer's credibility and perhaps to refresh his memory. That has always been the rule of law in the State of New Jersey, and I hope it will always remain that way—and even the Federal canons.

Mr. BRASCO. I do not think that the gentleman's amendment interferes with that at all. I think what he is talking about is that the prosecution could use this to prove its case in chief with the possibility of no other evidence being presented.

Mr. HUNT. He is talking about bringing the report in in lieu of an officer, and that certainly is not the case.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding. I certainly agree this amendment has nothing to do with what my friend, the gentleman from New Jersey, is talking about. This applies only to a hearsay exception, where it would be attempted to bring this report in instead of the officer to prove one's case in chief, which one could do if we do not pass this amendment; but we could still use the report to contradict him and cross-examine him.

Mr. HUNT. Certainly, but the gentleman is speaking of the best evidence available then in lieu of the direct evidence.

Mr. DENNIS. I say we should bring in the man who saw it and put him on the stand.

Mr. HUNT. Certainly, the gentleman is right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. DENNIS).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to Article VIII?

If not, the Clerk will read.

The Clerk read as follows:

Page 101, line 18:

ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Requirement of Authentication or Identification

(a) General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations.—By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

(1) Testimony of witness with knowledge.—Testimony that a matter is what it is claimed to be.

(2) Nonexpert opinion on handwriting.—Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for puropses of the litigation.

(3) Comparison by trier or expert witness.—Comparison by the trier of fact or by expert witness with specimens which have been authenticated.

(4) Distinctive characteristics and the like.—Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.

(5) Voice identification.—Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

(6) Telephone conversations.—Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.

(7) Public records or reports.—Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office; or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.

(8) Ancient documents or data compilations.—Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence 20 years or more at the time it is offered.

(9) Process or system.—Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.

(10) Methods provided by statute or rule.—Any method of authentication or identification provided by Act of Congress or by other rules prescribed by the Supreme Court pursuant to statutory authority.

Rule 902. Self-authentication

Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(1) Domestic public documents under seal.—A document bearing a seal purporting to be that of the United States, or of any State, district, Commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.

(2) Domestic public documents not under seal.—A document purporting to bear the signature in his official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.

(3) Foreign public documents.—A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.

(4) Certified copies of public records.—A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any Act of Congress or rule prescribed by the Supreme Court pursuant to statutory authority.

(5) Official publications.—Books, pamphlets, or other publications purporting to be issued by public authority.

(6) Newspapers and periodicals.—Printed materials purporting to be newspapers or periodicals.

(7) Trade inscriptions and the like.—Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.

(8) Acknowledged documents.—Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial paper and related documents.—Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions under Acts of Congress.—Any signature, document, or other matter declared by Act of Congress to be authentic.

Rule 903. Subscribing Witness' Testimony Unnecessary

The testimony of a subscribing witness is not necessary to authenticate a writing unless required by the laws of the jurisdiction whose laws govern the validity of the writing.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article IX be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to Article IX?

Mr. SMITH of New York. Mr. Chairman, I ask unanimous consent to consider an amendment to article VIII that is at the desk that I missed because I was writing here.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. SMITH OF NEW YORK

Mr. SMITH of New York. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. Smith of New York: On page 98 of the bill after line 9, and on page 100 of the bill after line 25, insert the following identical subdivisions numbered, respectively, (24) and (5):

Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial probability of trustworthiness; provided that the proponent's intention to offer the statement was made known to the adverse party sufficiently in advance of the trial or hearing to provide him with a fair opportunity to prepare to meet it.

Mr. SMITH of New York. Mr. Chairman, I ask unanimous consent that these two amendments be considered en bloc. They are identically the same words.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SMITH of New York. Mr. Chairman, as these rules were originally sent to us by the Supreme Court, there was a section that appeared at the end of both rule 803, covering exceptions to the hearsay rule, and rule 804 which also covers exceptions to the hearsay rule, and these sections provided some flexibility for future decisions of the court in regard to making further exceptions to the hearsay rule as technology improved and changed from its present state. The subcommittee deleted these provisions because they felt that it was open-ended and not certain enough.

But the result of this has been that there will be no flexibility in allowing courts to determine further exceptions to the hearsay rule that might be permissible because of practical guarantees of trustworthiness and arising from further advances in technology that we do not know about at the present time.

When the subcommittee's draft of the rule containing the omission of these proposed flexible rules was circulated, we had a great deal of comment, and most of it was adverse to the elimination of these provisions. Many of the constructive comments which the committee received were those of the committee of the American Bar Association and the District of Columbia Bar Committee recommending reinsertion of the provisions but in a modified form to cure the objections that had motivated the previous deletion by the subcommittee, and the specific recommendation of the American Bar Association's special committee is what I am offering here.

What it would do would be to say at the end of rule 803 and at the end of rule 804 that other exceptions not specifically covered by any of the foregoing exceptions to the hearsay rule would be allowed if they have equivalent circumstantial probability of trustworthiness, provided that the proponent's intention to offer the statement was made known to the adverse party sufficiently in advance of the trial or hearing to provide him with a fair opportunity to prepare to meet it. This reinstates the open-ended hearsay provision which was deleted by the committee from the rules submitted by the Supreme Court, but it adopts the necessity of notice that is designed so that the opponent will not be taken by surprise when this exception to the hearsay rule is requested of the Court.

I would urge that the committee vote in favor of this amendment which will allow some flexibility to the further progress of the exceptions to the hearsay rule occasioned by future technology that we do not now understand or know about. This amendment is guarded because the exception would have to have the equivalent circumstantial probability of trustworthiness, and it also would require the proponent to give notice before such an exception were sought.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment. The amendment as presented by the gentleman from New York would restore the bill to the shape I think in which the subcommittee received it from the Supreme Court, and there is as I indicated respect and authority for that position.

I believe I state fairly that the subcommittee's view was there were some 23 exceptions written into the hearsay whether witnesses were available or not and another 4 written in if they were unavailable, so we have written out some 27 exceptions to the hearsay, so that in effect the catch-all found at the end of each section was perhaps not desirable, and the effect of it would be to supplant the code by case law here and to make it less clear as to what was acceptable as set forth in the code.

The further thought was that as Rule 102 states they would perhaps provide the flexibility that might be required to meet these problems. Rule 102 reads:

> These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

The bill as the committee presents it without the two amendments is supported and the amendment is opposed by the Bar Association of the City of New York, the Connecticut Bar Association, and the chief judge of the Second Circuit Court of Appeals.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York (Mr. Smith).

The question was taken; and on a division (demanded by Mr. Smith of New York) there were—ayes 7, noes 26.

So the amendments were rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Article X. Contents of Writings, Recordings, and Photographs

Rule 1001. Definitions

For purposes of this article the following definitions are applicable:

(1) Writings and recordings.—"Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other forms of data compilation.

(2) Photographs.—"Photographs" include still photographs, X-ray films, video tapes, and motion pictures.

(3) Original.—An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original".

(4) Duplicate.—A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.

Rule 1002. Requirement of Original

To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by Act of Congress.

Rule 1003. Admissibility of Duplicates

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

Rule 1004. Admissibility of Other Evidence of Contents

The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if—

(1) Originals lost or destroyed.—All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or

(2) Original not obtainable.—No original can be obtained by any available judicial process or procedure; or

(3) Original in possession of opponent.—At a time when an original was under the control of the party against whom offered, he was put on notice, by the pleadings or otherwise, that the contents would be a subject of proof at the hearing, and he does not produce the original at the hearing; or

(4) Collateral matters.—The writing, recording, or photograph is not closely related to a controlling issue.

Rule 1005. Public Records

The contents of an official record, or of a document authorized to be recorded or filed and actually recorded or filed, including data compilations in any form, if otherwise admissible, may be proved by copy, certified as correct in accordance with rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

Rule 1006. Summaries

The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examintion or copying, or both, by other parties at a reasonable time and place. The court may order that they be produced in court.

Rule 1007. Testimony or Written Admission of Party

Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.

Rule 1008. Functions of Court and Jury

When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of rule 104. However, when an issue is raised (a) whether the asserted writing ever existed, or (b) whether another writing, recording, or photograph produced at the trial is the original, or (c) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article X be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to article X? There being no amendments to article X, the Clerk will read.

The Clerk read as follows:

Page 110, line 17:

Article XI. Miscellaneous Rules

Rule 1101. Applicability of Rules

(a) Courts and magistrates.—These rules apply to the United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the District Court for the District of the Canal Zone, the United States courts of appeals, the Court of Claims, and to United States magistrates, in the actions, cases, and proceedings and to the extent hereinafter set forth. The terms "judge" and "court" in these rules include United States magistrates, referees in bankruptcy, and commissioners of the Court of Claims.

(b) Proceedings generally.—These rules apply generally to civil actions and proceedings, including admiralty and maritime cases, to criminal cases and proceedings, to contempt proceedings except those in which the court may act summarily, and to proceedings and cases under the Bankruptcy Act.

(c) Rule of privilege.—The rule with respect to privileges applies at all stages of all actions, cases, and proceedings.

(d) Rules inapplicable.—The rules (other than with respect to privileges) do not apply in the following situations:

(1) Preliminary questions of fact.—The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104.

(2) Grand jury.—Proceedings before grand juries.

(3) Miscellaneous proceedings.—Proceedings for extradition or rendition; preliminary examinations in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

(e) Rules applicable in part.—In the following proceedings these rules apply to the extent that matters of evidence are not provided for in the statutes which govern procedure therein or in other rules prescribed by the Supreme Court pursuant to statutory authority: the trial of minor and petty offenses by United States magistrates; review of agency actions when the facts are subject to trial de novo under section 706(2)(F) of title 5, United States Code; review of orders of the Secretary of Agriculture under section 2 of the Act entitled "An Act to authorize association of producers of agricultural products" approved February 18, 1922 (7 U.S.C. 292), and under sections 6 and 7(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f, 499g(c)); naturalization and revocation of naturalization under sections 310–318 of the Immigration and Nationality Act (8 U.S.C. 1421–1429); prize proceedings in admiralty under sections 7651–7681 of title 10, United States Code; review of orders of the Secretary of the Interior under section 2 of the Act entitled "An Act authorizing associations of producers of aquatic products" approved June 25, 1934 (15 U.S.C. 522); review of orders of petroleum control boards under section 5 of the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes", approved February 22, 1935 (15 U.S.C. 715d); actions for fines, penalties, or forfeitures under part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581–1624, or under the Anti-Smuggling Act (19 U.S.C. 1701–1711); criminal libel for condemnation, exclusion of imports, or other proceedings under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301–392); disputes between seamen under sections 4079, 4080, and 4081 of the Revised Statutes (22 U.S.C. 256–258); habeas corpus under sections 2241–2254 of title 28, United States Code; motions to vacate, set aside, or correct sentence under section 2255 of title 28, United States Code; actions for penalties for refusal to transport destitute seamen under section 4578 of the Revised Statutes (46 U.S.C. 679); actions against the United States under the Act entitled "An Act authorizing suits against the United States in admiralty for damage caused by and salvage service rendered to public vessels belonging to the United States, and for other purposes", approved March 3, 1925 (46 U.S.C. 781–790), as implemented by section 7730 of title 10, United States Code.

Rule 1102. Amendments

Amendments to the Federal Rules of Evidence may be made as provided in section 2076 of title 28 of the United States Code.

Rule 1103. Title

These rules may be known and cited as the Federal Rules of Evidence.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that article XI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to article XI? There being no amendment to article XI, the Clerk will read.

• The Clerk read as follows:

Page 114:

SEC. 2. (a) Title 28 of the United States Code is amended—

(1) by inserting immediately after section 2075 the following new section:

"§ 2076. RULES OF EVIDENCE

"The Supreme Court of the United States shall have the power to prescribe amendments to the Federal Rules of Evidence. Such amendments shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session of Congress but not later than the first day of May, and until the expiration of one hundred and eighty days after they have been so reported; but if either House of Congress within that time shall by resolution disapprove any amendment so reported it shall not take effect. Any provision of law in force at the expiration of such time and in conflict with any such amendment not disapproved shall be of no further force or effect after such amendment has taken effect."; and

(2) by adding at the end of the table of sections of chapter 131 the following new item:

"2076. Rules of evidence."

(b) Section 1732 of title 28 of the United States Code is amended by striking out subsection (a), and by striking out "(b)".

(c) Section 1733 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) This section does not apply to cases, actions, and proceedings to which the Federal rules of evidence apply."

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: On page 114, line 22, strike out the material starting with the quotation marks and insert in lieu thereof the following:

"Any such amendment creating, abolishing, or modifying a privilege shall have no force or effect unless it shall be approved by act of Congress; and".

Ms. HOLTZMAN. Mr. Chairman, the purpose of my amendment is to strengthen congressional prerogatives over an area that is of crucial concern to the Congress; namely, evidentiary privileges. Evidentiary privileges cover the areas of attorney-client, husband-wife, newspapermen, accountant-client, doctor-patient, and so forth. Evidentiary privileges are not simple legal technicalities, they involve extraordinarily important social objectives. They are truly legislative in nature. Nonetheless, under the enabling act of this bill, the Supreme Court is given the power to legislate with respect to evidentiary privileges and the only role that Congress can play is that of exercising a veto.

I think that the importance of privileges requires Congress to act affirmatively and not to delegate power to the Supreme Court to legislate in this area. To give you one example, I think it would be incredible if that after months and months of controversy and argument, we in the Congress enacted a newspaperman's privilege and then the Supreme Court passed a rule modifying that law—which it could do under this enabling act; or modifying the husband-wife privileges as they stand now.

I think it is very important that we do not let the Supreme Court legislate in such areas. Instead, I think it is important for Congress to legislate in such areas, and it is wholly appropriate that we do so.

The tradition in this country has been for evidentiary privileges to grow on a case by case basis upon the experience of centuries. What we are permitting the Supreme Court to do in the enabling act is to depart from tradition and enact rules on privileges instead of deciding questions of privileges in the crucible of the adversary process. That is a radical step and contrary to our traditions. It is also inconsistent with congressional prerogatives.

Therefore, I would very much urge that we make sure that we in Congress do not act simply on the basis of veto, but act in accordance with our own prerogatives. For that reason I urge that we adopt my amendment.

Mr. HUNGATE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I understand the way the law has proceeded in this field of enabling acts, there was a 90-day period in which the court could submit rules, and after 90 days they could become effective. This authority was granted in 1934 and exercised in about 1938 in the Federal Rules of Civil Procedure. And, if you will, Congress sort of by default did nothing and they became effective, and are still effective today.

In this present case, it was submitted to the Congress, as the Members may remember, I believe last February, and we first passed an act so that it would not become effective in 90 days, not become effective without action by Congress. That bill passed by a vote, I believe, of 399 to 1.

In addition to acting on these rules, I would like to say we have had 13 years of study and review of them by distinguished panels of attorneys, judges, and others. I would reiterate again that the subcommittee had some 6 days of hearings and 600 pages of testimony; 22 days of markup, and the full committee spent 3 days on this. I would point out to the Members as to how much time the subcommittee spent—I guess something always gets by the membership of a subcommittee, but not much; Mr. SMITH of New York, Mr. DENNIS of Indiana, Ms. HOLTZMAN of New York, Mr. MAYNE of Iowa, Mr. HOGAN of Maryland, Mr. KASTENMEIER of Wisconscin, Mr. EDWARDS of California, and Mr. MANN of South Carolina; all the paperwork you can get by that crowd I will eat without salt and pepper, because the Members know these people I am talking about. They are not careless in their work.

Therefore, I would like to say that on the basis of the study that has been done as to the enabling act, which we have made a change of 90 days to a 180-day period, which gives us 6 months, the new rules, whatever they be that they propose, would not become effective if vetoed by either House. Not both Houses as the present enactment is, but either House will have the right to veto.

I want the Members to know that, to see that we have reemphasized the importance of the role of Congress and some of the separations of powers which we have to reclaim in the body of Congress. Our subcommittee and full committee worked diligently on this: If I had to pick a leader, I would say Mr. HOGAN was the leader in asserting the importance of the House of Representatives under the Constitution.

As I understand the proposed amendment of the gentlewoman from New York, it would not change the 180 days we have in which either House could veto it. It would simply apply to the limited field of privilege, a very important field. It would not simply be a veto matter in that area, but require permanent action of the Congress.

May I ask the gentlewoman from New York, is that correct?

Ms. HOLTZMAN. Mr. Chairman, that is correct. My amendment provides for the veto power with respect to all the other rules, but it would say that in the area of privileges, before a Supreme Court legislative rule would go into effect, it would have to be approved by act of Congress.

My amendment is consistent with my feeling of what congressional prerogatives are and also consistent with my feeling that there will be an article III constitutional problem with respect to allowing the Supreme Court to legislate in the area of privilege.

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I would like to say that this amendment again is a matter of judgment. It is true, I think, that perhaps the subject of privilege comes more in the field of substantive law than some of these other matters. That is one of the reasons, I believe, among others, why we did not go into it in section 5 of the bill.

The gentlewoman's amendment is consistent with that theory, that this is really a substantive matter, a policy matter, that should require an Act of Congress in a positive way before we would adopt it.

Mr. Chairman, I can see arguments both ways, but I do think it is a little bit different than perhaps the rest of the subject matter, and there is a point in the gentlewoman's proposal.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I rise in support of the gentlewoman's amendment.

As a matter of fact, I would prefer that we strike the entire section 2076, although that is not what this amendment seeks to do.

I believe the very least we can do in order to preserve the jurisdiction of the Congress in this regard is to adopt the gentlewoman's amendment.

I, therefore, urge, Mr. Chairman, that we vote "aye" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

Page 115:

SEC. 3. The Congress expressly approves the amendments to the Federal Rules of Civil Procedure, and the amendments to the Federal Rules of Criminal Procedure, which are embraced by the orders entered by the Supreme Court of the United States on November 20, 1972, and December 18, 1972, and such amendments shall take effect on the one hundred and eightieth day beginning after the date of the enactment of this Act.

Mr. HUNGATE (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Are there any amendments to section 3?

The Chair hears none.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent that I may be permitted to offer an amendment to article VI, on page 80.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MAYNE. I object.

Mr. HOGAN. I object.

The CHAIRMAN. Objection is heard.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I asked for unanimous consent, not withstanding a couple of the rules, to go back and offer an amendment to article VI, on page 80, which amendment would have read this way:

At the end of that article VI, I would have offered this one sentence: It would have said——

Mr. SMITH of New York. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from New York.

Mr. SMITH of New York. Mr. Chairman, will the gentleman clarify it for us? Is the gentleman speaking of article VI, page 80?

Mr. GONZALEZ. Yes, article VI, page 80.

Mr. Chairman, after the words, "State law" in that first paragraph, I was going to insert the following sentence:

No accomplice who has been granted immunity from prosecution shall be competent to testify in a criminal case unless his testimony is corroborated by the testimony of another person.

Mr. Chairman, the reason that I think it is necessary to discuss this is that it is inconceivable to me to be talking about this very serious effort, which, from one point of view, is commendable, to codify and recodify these rules of procedure and evidence without going into the real, basic area of reform that the most dramatic case of the 20th century and in the history of the Republic, the case of Spiro Agnew, has so poignantly and dramatically brought to our attention.

Some of us in a State such as mine have been exposed to some of these things I refer to as a result of reforms that vitiated certain rights which have been traditional in Anglo-American jurisprudence. We have had political grand juries because of the special section we provided in the law for such grand juries.

We saw the very sad spectacle of the former Vice President pleading with the Nation that we reform this law so that no man could be convicted on the basis of uncorroborated and unsupported testimony of one person who was himself an admitted accomplice to a crime.

I think it is inconceivable we would consider this reform without thinking of a very important one along this line as to what should be admissible evidence and what should not be.

Mr. HUNGATE. Will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman.

Mr. HUNGATE. I can only say to the gentleman that during the time of the deliberations, as I previously mentioned, the 1 year or more in which the committee had this matter under consideration and the 13 years in which various distinguished legal bodies worked on it, this matter did not come up at all.

Let me say I realize that there are important problems existing in this area. The Committee on the Judiciary does have assigned to it a study and a reform of the criminal law. I think many of the matters the gentleman mentioned might be considered quite substantive, and when that study proceeds we would be delighted to hear from him with regard to these subjects.

Mr. GONZALEZ. Will the gentleman answer as to whether or not he knows his committee is really serious about it? I ask that question because it has been more than 2 years since I did make such a request of the previous chairman of this very distinguished committee, the gentleman from New York, Mr. Celler, because of the pathetic and tragic situation which arose concerning the Frank Sharp case in Texas.

There we saw the first signs of the prostitution of the judicial processes as exemplified by the Justice Department. I never saw anything come out of that case that addressed itself to this real area of needed reform.

Mr. HUNGATE. If the gentleman will yield further, I know the gentleman well knows, of course, that the former chairman, Mr. CELLER, is no longer chairman and the present chairman, Mr. RODINO, was not chairman at that time nor was I the chairman of the subcommittee. I would not want to discuss our predecessor chairman without affording him the right to be present.

Mr. GONZALEZ. But it still has to do with the need of this committee and the Congress to go into this matter. We have had 14 political grand juries. We had the Irish five in my State of Texas, and we are witnessing a reinstitution, I believe of the old star chamber proceedings that characterized the efforts of English kings to control and destroy any kind of dissent. We seem to be reverting to that, obliterating the progress—dearly bought—of hundreds of years, in our efforts to balance the rights of the accused against the endless powers of the state.

Mr. BRASCO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while I understand and appreciate the very diligent efforts of this committee to reform the rules of evidence, just as the gentleman who stood in the well a moment ago, I am rather amazed that there are some basic reforms that could have been discussed and acted upon which were not touched at all, not one iota. We all stood here this afternoon and agonized over something known as hearsay testimony, which is the worst kind of testimony which could be received in a court of law. It is the worst kind because the defendant is denied the constitutional right of being confronted by those who accuse him and to be able to cross-examine him.

One area in which that testimony is admissible is in obtaining an indictment before a grand jury. The grand jury under our system is supposed to protect the rights of the innocent as well as bring forth indictments against those whom they have probable cause to believe have committed a crime. They are supposed to stand as a buffer between the prosecution and the defendant.

Yet we allow hearsay statements to be introduced without giving the grand jury the opportunity to see the witnesses, to size them up, to ask any questions, which they have the right to do—and this committee has not done anything regarding that. I hope that when it goes to the Senate that they will, at least discuss it.

The other area that the previous speaker talked about was immunity and he was correct but there is another area equally important. In the State courts of the State of New York you cannot convict a man on uncorroborated testimony of an accomplice. And that makes good sense. That makes good sense because that accomplice does not want to go to jail, and so his motives at the very least are tainted, but under Federal law we have something which says you can convict a man on the uncorroborated testimony of an accomplice. This committee did not discuss that at all.

Let me tell the Members about a crime which has been called the dung heap of the prosecutory effort, and that is the crime of conspiracy.

On page 9 of the bill—and I had hoped that an amendment would be introduced this afternoon, to strike E of rule 801, subdivision 2, but there was not, and I would hope, too, that when this goes over to the Senate, this too will be at least discussed. But very simply, the fact is that hearsay testimony is admissible in the trial of a conspiracy case, as an exception under the rule cited above. You have to understand that conspiracy is used because the prosecution cannot prove that the substantive crime was committed or even an attempt to commit the crime, was committed, so we have made illegal the use of words—and no one denies it, that we have relaxed the rules of evidence because the prosecution time and time again says that they cannot prove a case if we have to apply constitutional standards.

Let me show you, my friends, how this works.

I work for Congressman X and a good friend of mine works for Congressman Y. We are very bright administrative assistants. My friends calls me, and he says, "Come over to Mr. Y's office. Let us have a little understanding; we have to change this country. What is going on is something we cannot accept. I know the way to change it. Why do we not get a couple of guns up here on Capitol Hill? We would not hurt anybody, but we will shoot up the place, so that we can dramatize to the country what is going on. We want everybody to hear us so that we can correct this."

Well, Congressman Y during this time is minding his own business in his office. And after our little meeting in the little room that the AA has, I leave my friend. And, on the way out, I say, to myself "You know something? We have got to get these guns up onto Capitol Hill. How are we going to get them up here? Ha! What we need is a car that is not marked, and cannot be traced, so as to transfer the guns to the Capitol."

And on my way out I think of another friend of mine, Harry the Crook. You know, Harry is pretty good at stealing cars.

So I begin to talk to Harry the Crook. I say, "You know, this friend of mine and I had a little conversation in the congressional office of Congressman Y, and we are going to change this world, and turn it around. All we have to do is get a few guns up here on Capitol Hill. So, Harry, we would like you to go out and steal a car that cannot be traced."

And Harry says, "Wait a minute, my friend. Stealing cars may be all right, but I don't know if I go for bringing guns up onto Capitol Hill."

So I think, well, wait a minute. I have to impress this guy, Harry. So I say, "Harry, didn't you hear me? I told you that this conversation took place in the office of Congressman Y, didn't you understand that, Harry? And I want to tell you something else, Harry, 'the Congressman is in on it.' "

Harry says, "Oh, wait a minute, now. If this operation is good enough for Congressman Y, certainly it ought to be good enough for Harry the Crook."

So, in a little bit Harry finds out that this is not his lucky day, because he goes out and tries to steal an automobile, and he is caught. And, you know something else, that Harry is really unlucky that day because he is a multiple offender and he knows that he can go to the can for life.

So, the investigating agent says, "Harry, what is going on? What is this all about?" And the other agent says, "You see, we have got some special information that this whole thing was hatched up in Congressman Y's office."

"What do you know about that?"

Poor old Harry is sweating.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BRASCO was allowed to proceed for 1 additional minute.)

Mr. BRASCO. Harry says, "Listen, let me tell you. I got involved in this whole thing because these guys concocted a plot in Congressman Y's office. And you know something? A fellow who works for Congressman X told me that a fellow who works for Congressman Y told him that Congressman Y is part of the operation to bring guns to the Capitol."

That is is, Mr. Chairman. Those statements are introduced in evidence against Congressman Y, when he did not speak to Harry the Crook, or to me, or to anyone else. Now, this is so even if the witnesses are not available to testify at a subsequent trial of Congressman Y and his attorney has no opportunity to cross-examine the parties who made the alleged statements.

Let me tell the Members about the other part of the rule that I said was horrible, and that is the noncorroboration of an accomplice's testimony. In a conspiracy everybody is an accomplice. So we have two of the worst rules with respect to evidence that converge in the proof of a conspiracy case. I know the committee tried very hard in the area's they discussed but they did not discuss these. I tried my story on Congressman HUNGATE, the distinguished subcommittee chairman, I am sure he was impressed. He indicated that he would take these matters up with the Senate. I hope that he does, because we, in fact, are responsible for the rights of Americans as guaranteed by the constitution and ought to resist any rules of evidence which erode them. It is up to us.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings, pursuant to House Resolution 787, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HOGAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 377, noes 13, not voting 39, as follows:

[Roll No. 24]

AYES—377

Abdnor
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Diggs
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOES—13

Abzug
Armstrong
Brasco
Dingell
Gonzalez
Hicks
Holtzman
Johnson, Colo.
Jones, Okla.
Landgrebe
Moss
Podell
White

NOT VOTING—39

Baker
Bell
Blackburn
Brown, Calif.
Broyhill, Va.
Camp
Clausen, Don H.
Clawson, Del
Collins, Tex.
Crane
Derwinski
Dickinson
Goldwater
Haley
Hanna
Hawkins
Hébert
Huber
Jones, Ala.
Karth
McCloskey
McSpadden
Mathias, Calif.
Mills
Moorhead, Pa.
O'Brien
Passman
Reid
Roncalio, Wyo.
Rooney, N.Y.
Rousselot
Roy
Skubitz
Slack
Spence
Steiger, Ariz.
Symington
Symms
Treen

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Rousselot.
Mr. Rooney of New York with Mr. Huber.
Mr. Hawkins with Mr. Hanna.
Mr. Haley with Mr. Dickinson.
Mr. Jones of Alabama with Mr. Camp.
Mr. Moorhead of Pennsylvania with Mr. Don H. Clausen.
Mr. Karth with Mr. Baker.
Mr. Passman with Mr. Del Clawson.
Mr. Roncalio of Wyoming with Mr. Bell.
Mr. Roy with Mr. Collins of Texas.
Mr. Reid with Mr. Goldwater.
Mr. Slack with Mr. Blackburn.
Mr. Symington with Mr. Crane.
Mr. McSpadden with Mr. Derwinski.
Mr. Brown of California with Mr. O'Brien.
Mr. Mills with Mr. Broyhill of Virginia.
Mr. Mathias of California with Mr. Skubitz.
Mr. Spence with Mr. Treen.
Mr. Symms with Mr. Steiger of Arizona.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF H.R. 5463, FEDERAL RULES OF EVIDENCE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the clerk be authorized to make technical corrections in spelling and punctuation in the engrossment of the bill H.R. 5463, to establish rules of evidence for certain courts and proceedings.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, will the gentleman from Missouri tell us what the subject matter of the privileged reports is?

Mr. BOLLING. Mr. Speaker, my understanding is that there may be two different items: One, a conference report on the so-called energy bill, and the other, a resolution on another matter.

Mr. WAGGONNER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST TO MEET AT 11 O'CLOCK A.M. ON THURSDAY, FEBRUARY 7, 1974

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the purpose for coming in at 11 o'clock in the morning?

Mr. O'NEILL. Well, Mr. Speaker, it is my intent to ask unanimous consent that the Committee on Rules may have until midnight to file certain reports. The other matter is House Joint Resolution 893.

That is a resolution from the Committee on Interstate and Foreign Commerce concerning the national transportation crisis, as follows:

> Whereas there exists a National Transportation crisis which presents a grave risk to the commerce and the wellbeing of the Nation * * *

This is an emergency matter that was sent to us in a message from the White House. It has already passed the Senate. That is one item.

Mr. Speaker, the other item is S. 2589, and this is in order that the Committee on Interstate and Foreign Commerce may report the conference report on the nationwide energy emergency.

Mr. GROSS. Of course, we do not need to come in at 11 o'clock in the morning to get a report from the conference committee on the so-called energy bill. We need to know whether we are going to consider that bill tomorrow or not. That is what we must know.

Mr. O'NEILL. We will consider the bill.

I will have to say that the bill will be considered. It is a question of whether it is reported this evening and as to whether it needs a majority vote tomorrow or whether it is reported tomorrow and it needs a two-thirds vote for consideration tomorrow.

Mr. GROSS. Mr. Speaker, with respect to House Joint Resolution 893, there would be no reason for coming in at 11 o'clock tomorrow morning to consider that, with practically no other business, so far as I know, on the program tomorrow.

It is my understanding the energy conference report has not even been signed; is that correct?

Mr. O'NEILL. Well, Mr. Speaker, I was speaking to the gentleman from West Virginia (Mr. STAGGERS) approximately 10 minutes ago, and he said conferees are going over to sign it forthwith.

It is my understanding that the Committee on Rules is standing by to have a meeting of the committee with respect to these two matters.

These matters are considered as emergencies by the administration, and it is felt that we should act on them before the Senate goes on its week's vacation.

Mr. GROSS. What other business is there besides the conference report on the energy bill and House Joint Resolution 893? What other business would there be to consider tomorrow?

Mr. O'NEILL. We had scheduled the animal health research bill.

Mr. GROSS. Well, the wild animals is a real good title for a bill that would bring us in early on the day the House is supposed to go out on a recess.

Mr. O'NEILL. We have the Animal Health Research Act, which would be the first matter to be put on tomorrow. Then we had scheduled the Solar Heating and Cooling Demonstration Act, on which a rule has been granted. It was requested by the chairman that this matter be put off until next week. So I would say at this particular time we would have the Animal Health Research Act, the Emergency Energy Act conference report, and a resolution concerning the transportation situation. I would have to say that those are items of serious concern to the Nation and to this Congress. In view of the fact that the Senate is meeting tomorrow to go off on a recess for a week, we would like to complete that legislation tomorrow.

Mr. GROSS. First of all, let me say I am not clear as to what bills will be put over until next week. Does the wild animals go over until next week?

Mr. O'NEILL. I thought I had agreed with the gentleman that he was not going to object.

Mr. GROSS. On the condition that we were going to have an energy conference report. The Senate must act first on the conference report and that could be on Friday.

Mr. O'NEILL. They come in at 10 o'clock and that is the only matter on their agenda. I am sure they will act as expeditiously as they can and send it over here, and we will be able to complete that action.

Mr. GROSS. I want to clarify the situation. The gentleman said that he approached me on that subject of coming in at 11. I wanted to know first what would happen to the energy bill. I am not interested in coming in at 11 o'clock if all we are going to do is consider some of this other legislation, because we can handle that tomorrow in the normal procedure. We do not have to get out of here at 2 o'clock in the afternoon tomorrow in order to take care of the junketeers.

Mr. O'NEILL. The gentleman makes a very interesting observation.

Mr. GROSS. The gentleman is very well aware of what is proposed to be done in certain areas.

Mr. O'NEILL. I am aware of the fact there is a delegation that is going as United Nations observers, for 3 days.

Mr. GROSS. Yes. And I am willing to go along with the time that we come in, but I do not know about these wild animal bills. I do not want to sit here tomorrow afternoon and cool my heels. If we are going to take up the energy report tomorrow, all right, but that is subject to a vote in the Senate first. Nobody knows whether they will filibuster this or what they will do. I am perfectly willing to come in at 11 if we can get to that conference report, but I do not see any reason for it otherwise.

Mr. HAYS. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. HAYS. I will say to the gentleman I want to go along with the majority leader, but I would observe that if the Senate acts according to their norm, we will not get the bill until 10 or 11 o'clock tomorrow night, anyway.

Mr. GROSS. That is what I am afraid of.

Mr. BOLLING. Will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. BOLLING. Could I ask the majority leader what would be the plan in the event it was not possible to bring up the energy bill tomorrow, with regard to the schedule for next week.

Mr. O'NEILL. With regard to the schedule for next week, the energy conference report would have to be put on the calendar for Wednesday of next week, because we have already passed a resolution that with our conclusion of business tomorrow the House is in recess until Wednesday next.

Mr. BOLLING. I thank the gentleman.

Mr. GROSS. Mr. Speaker, with the assurance of the gentleman from Massachusetts that we are going to consider the energy conference report tomorrow, I will withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. WAGGONNER. Mr. Speaker, further reserving the right to object, the majority leader through the chairman of the Committee on Rules or a representative of that committee asked unanimous consent to have until midnight tonight to file certain privileged reports and identified those as being twofold; one having to do with the conference report on the energy bill.

Mr. Speaker, I entered an objection. We went through this charade just before the Christmas holidays. Nobody in this House, including the chairman of the House Committee on Interstate and Foreign Commerce, had a copy even of that conference report. They wrote it here at the table while this House was in session, and nobody knew what was going on. This Congress made fools of itself with that spectacle. This is of importance to this Nation. This affects the economic life of this country of ours.

Mr. Speaker, it is not asking too much that this Congress simply be allowed to have a printed copy of that conference report, at least, so that we might make an intelligent decision. That is the only thing that I am asking for.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, I will be happy to give the gentleman a copy right here. Here it is.

Mr. WAGGONNER. That is not the conference report.

Mr. O'NEILL. That is what the chairman of the committee handed me.

Mr. WAGGONNER. That is the Senate bill that was waved before us, and all of which was stricken by the House committee back last year; that particular bill.

Mr. O'NEILL. If the gentleman will yield further; in fairness to the gentleman, it is my understanding that the Committee on Rules is going to meet forthwith, and I am sure that the gentleman could go up to the Committee on Rules and hear the colloquy between the chairman of the committee and the members of the Committee on Rules as to what is in the conference report. I would say that the gentleman from West Virginia (Mr. STAGGERS) at that time would have copies of the amendments, or of any changes that were in the legislation.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WAGGONNER. Mr. Speaker, having entered an objection to the unanimous-consent request, am I correct in assuming that, under the rules of the House, the only device available by which, or the procedure by which this conference report could be considered tomorrow would be under a rule by the Committee on Rules?

The SPEAKER. The Chair will state that the conference report would have to lay over for 3 days without a special rule.

Mr. WAGGONNER. Then if a special rule is granted, Mr. Speaker, will that rule require a two-thirds vote to get the conference report up for consideration?

The SPEAKER. The Chair will state that if it is called up the same day it is reported. In other words, if a rule were granted tomorrow, or if the report were not filed until tomorrow, it could not be brought up tomorrow, and adopted, without a two-thirds vote.

Mr. WAGGONNER. So that if the Committee on Rules meets this afternoon and grants a rule, that it can be considered, at 6 o'clock, could we have a vote tomorrow?

The SPEAKER. The Chair will state if it were filed before the House adjourns tonight, or if it were filed by unanimous consent.

Mr. WAGGONNER. Mr. Speaker, I move the House do now adjourn——

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I withdraw my motion, and I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to urge the gentleman from Louisiana not to continue his objection. It seems to me it is going to be a very grave move if this House further delays action on this very vital emergency energy bill. I do not know about the situation in Louisiana, but I have received over 50 telephone calls in my district offices in Schenectady, Albany, and Amsterdam today, from people all over the capital district of New York State who just cannot get any gasoline at all. I have been in touch with Mr. Simon's office to try to help them, and they do not know what to do. They just tell me to call the regional administrator in New York. Well, you cannot get in touch with the regional administrator in New York very easily. The Governor of New York is supposed to have a 3 percent reserve of gasoline to use in emergencies, but his office says he has not received that reserve because of the truckers' strike.

I think this House made a great mistake when we left this Chamber before Christmas without enacting an energy bill. I think it would be an even graver mistake for us to get ourselves into a bind where we cannot pass such a bill now before next Wednesday, or Thursday.

I think that the gentleman from Louisiana, who I always felt was interested in the future of this House, ought to withdraw his objection.

Mr. WAGGONNER. I am just as interested in the future of this House as I am interested in the future of this country. We have played politics with this energy issue long enough, and until we quit talking about the politics of the issue and we consider matters of substance and do something about the emergency issue, we will not solve the problem.

Everything the gentleman said was said before this House adjourned just before Christmas.

Let me ask the gentleman from New York a question: Does the gentleman know what is in this conference report?

Mr. STRATTON. I have got a pretty darned good idea what is in the conference report.

I think I have got a better idea of what is in it than I had of what was in the bill we just passed a moment ago on legal rules of evidence. One thing that is in that is a provision for gas rationing, and I think it is about time we began to ration. Now all we have is mile-long lines and people waiting for hours to buy $2 worth.

I sent out a questionnaire in my district last month and 80 percent said they preferred rationing to sharply increased gas prices. I do not think the people of this country are going to stand for these long lines and trying to drive around to buy $2 worth of gasoline much longer. I think Congress should bite the bullet and insist on rationing.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. HAYS. Let me just say that we cannot ration something we do not have. The reason there is no gasoline in the gentleman's district and the reason there is none in my district is because of the truckers' strike, and the truckdrivers who want to work are afraid to haul a tank of gasoline down the highway for fear somebody will shoot a hole in it and make a torch out of it.

The President of the United States can end this intolerable situation this afternoon with a stroke of the pen. He has got the power to roll back prices. He has got the power to put these trucks back on the road. I do not know whether anybody has told him what is going on in the country or not. He has lots of gas, lots of steaks, and everything else. But passing this bill is not going to do this.

Mr. STRATTON. The bill coming up tomorrow is designed to try to end the strike by permitting cost passthroughs, as I understand it.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding. The argument that the President does not have authority without the energy bill to ration is absolutely fallacious. The President has the authority to ration if he decides to ration under the allocation bill.

Three and a half weeks ago I wrote Mr. Simon, pointing out the section in that bill that clearly gives the authority to ration. I have not yet received an answer. Every day during the last week we have called Mr. Simon's office, asking about the answer, and we have been told that the letter is either in the hands of their lawyers or in the mail. Every day we have failed to get it. The reason we are not getting it is because the administration does not want to admit that it has the power to do whatever it wants with respect to whether to ration or not ration. I, myself, am entirely disgusted with the proposition that we have to have more legislation giving more power to the President when we have passed legislation that gives him that option.

Mr. O'NEILL. Mr. Speaker, have we acted on my unanimous-consent request that when the House adjourns, it adjourn to meet at 11 o'clock tomorrow?

The SPEAKER. The request was made and a reservation of objection was made.

Mr. WAGGONNER. Under my reservation, I now object, Mr. Speaker.

The SPEAKER. The request was that when the House adjourns it adjourn until 11 o'clock tomorrow, and that request is pending.

Mr. WAGGONNER. Under my reservation, I object, Mr. Speaker.

The SPEAKER. The Chair did not understand the gentleman from Louisiana.

Mr. WAGGONNER. I made a reservation on the unanimous-consent request, and I now object.

The SPEAKER. On the request to adjourn?

Mr. WAGGONNER. On both requests, Mr. Speaker, I objected to it initially. Now I exercise my reservation and object again to the unanimous-consent request.

The SPEAKER. Objection is heard to the request to adjourn until 11 o'clock tomorrow.

REQUEST FOR PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE CERTAIN REPORTS

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file reports on S. 2589, the Emergency Energy Act, and House Joint Resolution 893 relative to the trucking crisis.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, I would like to be sure that this request applies to the rail issue. Is that correct?

Mr. O'NEILL. I will put the requests separately.

The first one on which I request unanimous consent is House Joint Resolution 893, the resolution with respect to transportation.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. O'NEILL. Mr. Speaker, I made the same request on S. 2589, the Emergency Energy Act.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. WAGGONNER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 5463.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISCLOSURE OF FINANCIAL WORTH

(Mr. PIKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PIKE. Mr. Speaker, today's Washington Post carries a story indicating that the New York Times requested me to provide them with a copy of my latest income tax return and a statement of my net financial worth—which is true—and that I refused to do so—which is not true. In order to set the record straight, I append hereto verbatim copies of precisely what the New York Times said to me and what I said to the New York Times:

THE NEW YORK TIMES,
WASHINGTON BUREAU,
Washington, D.C., January 24, 1974.
Hon. OTIS G. PIKE,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE PIKE: The question of the financial affairs of public officials has become a matter of growing concern to those in and out of Congress. No systematic method now exists enabling the public to obtain such information.

The New York Times is therefore undertaking a study of the fiscal condition of the six senators and 60 members of the House of Representatives from New York, New Jersey and Connecticut.

Would you therefore kindly send us a statement of your net worth, and a copy of your latest income tax return? If you would like to add any explanatory material, we would like that, too. Of course, we would get back to you if we have any questions.

With all good wishes,
Sincerely,
MARTIN TOLCHIN.

JANUARY 28, 1974.
Mr. MARTIN TOLCHIN,
The New York Times Washington Bureau,
Washington, D.C.

DEAR MR. TOLCHIN: I acknowledge receipt of your letter of January 24, 1974, in which you ask if I would "kindly send us a statement of your net worth, and a copy of your latest income tax return?"

I have a public life which is everybody's business, and a private life, which is nobody's business. My income tax return lies halfway in between, so I am torn. In moments of doubt, however, I tend to reveal rather than conceal, so essentially the answer to your question is "Yes."

The "Yes" in the preceding paragraph is, you will note, without qualification. While there is no qualification, there is a complication. There is no way on earth I can tell you what my net worth is because I don't know. I will tell you what I own, however, and you can tell me what my net worth is if you want to. All of the stocks which I own are in closely held corporations as to which there is no traded price. Most of the rest of my assets consist of real estate, including the house in which I was born, and which has not been appraised since about that time.

I own six different parcels of real estate, five of which I owned before I came to Congress fourteen years ago. You can probably arrive at a pretty fair approximation of what they are worth by looking at the taxes I paid on them, which you will find as a deduction on my income tax return.

Now that I have answered your question as best I can, the only thing remaining is to determine when I will provide this information. I will provide it when I receive a letter from either Mr. John B. Oakes, the editorial page editor of the New York Times, or Mr. A. M. Rosenthal, the managing editor of the New York Times, either providing me with a statement of his net worth and a copy of his latest income tax return, or a letter explaining the philosophy behind the idea that my statistics published in the New York Times are in the national interest, and their statistics are not. Obviously the editorial page of the New York Times exerts at least as great an influence on the shaping of legislation as does any one lowly Congressman, or even most highly Congressman. If the philosophy is based on the concept that I am elected and they are not, where do we draw the line? The justices of the peace in my home town are elected, whereas the Republican County Chairman is not. Nor is the chairman of the board of Exxon. Who do you suppose most greatly influences the nation? The New York Times is curious to see my income tax return, to see whether I have unjustly enriched myself, perhaps, or whether my votes on legislation are influenced by thoughts of personal profit and advantage. I have an equally healthy curiosity about what influences the editorial pages of the New York Times. I assume, of course, that the Times editorials are influenced by nothing but the best interests of our nation. But, then, my mind and heart are terribly pure.

Please note that my offer to provide my statistics is not contingent upon their providing theirs. I just want an explanation of the rationale as to why they won't.

Cordially,
OTIS G. PIKE.

P.S.—Of course, if they do, you can print mine in the Times and I'll print theirs in the Record. OGP

UNITED STATES MUST RETAIN CONTROL, SOVEREIGNTY OVER PANAMA CANAL

(Mr. EVINS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EVINS of Tennessee. Mr. Speaker, indications that the United States may be on the threshold of surrendering ownership, control, and sovereignty of the Panama Canal, I want to join my colleague, Congressman DAN FLOOD, and others in protesting this proposed action by our Government and particularly by the State Department.

Press reports that Secretary of State Henry Kissinger plans to sign an agreement within the near future surrendering and giving up U.S. sovereignty over the Canal Zone and the Panama Canal are alarming, disturbing, and distressing.

News reports say that Doctor Kissinger's actions will "set the stage for the United States to bow out of its 71-year-old domination of the Canal Zone."

Mr. Speaker, it is in the national interest to retain our ownership, control, and sovereignty over the Canal Zone and the Panama Canal.

We must not surrender U.S. sovereignty.

Our presence in Panama is based on treaties legally signed and executed.

The United States bought and paid for the Canal Zone and we have received sovereign rights "in perpetuity" in a treaty with the Panamanians. The fact that they now assert that our control over the canal is an example of "Yankee imperialism" is no ground, reason, or basis for any State Department surrender of sovereignty.

The hard truth is that the United States has been giving away too much in recent years—the practice of a little Yankee thrift and commonsense is recommended.

The United States literally bought each parcel of land that comprises the Panama Canal Zone which makes this acquisition more expensive than the combined cost of all other U.S. territorial possessions.

The U.S. investment in the canal since 1904 totals more than $5 billion, 695 million, including defense expenditures.

Retention of the canal is vital to the continuation of our two-ocean navy and our security and defense.

Certainly I endorse the resolution proposed by my colleague, the gentleman from Pennsylvania (Mr. FLOOD), which declares the sense of the Congress to be that "there be no relinquishment or surrender of any presently owned vested U.S. sovereign right, power, or authority—except by treaty authorized by the Congress."

U.S. sovereignty over the Panama Canal should be maintained in the national interest.

ELECTION IN PENNSYLVANIA'S 12TH DISTRICT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MICHEL. Mr. Speaker, earlier in the day I heard the comments of the distinguished majority leader and the gentleman from California (Mr. BURTON) with respect to yesterday's election in the 12th District of Pennsylvania. I certainly take no comfort in losing any election and I would not concede this one at least until after the Friday canvass inasmuch as the margin is so thin that a recount is certainly in prospect.

Making no apologies to anyone for losing if that is the ultimate result, I would remind my friends here in the House on both sides of the aisle that Democratic registration exceeds Republican registration by better than 8,000 and there is no question but that it had become over the past 25 years a "Saylor" district in the sense that the late John Saylor had a tremendous personal following. I happen to remember his first race which was also a special election in September of 1949 following the death of Congressman Coffey, a Democrat.

It would seem to me that the really big significance of this race is the power and influence that organized labor can turn on in a concentrated effort if it wants to. I would suspect that in the ensuing days we will have ample evidence and documentation to back up this statement.

Mr. George Meany has said he wants a "veto-proof Congress" and it would appear that if we lose he has bought his first seat in 1974 and the American people should take note of it.

THE TRUCKER CRISIS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, I listened with great dismay to the colloquy that took place in connection with the objection of the gentleman from Louisiana to the request of the majority leader.

It just happens that Akron, Ohio, which is the major city in my district, is te focal point of this National Independent Truckers Association and that is where all the trouble has begun. I have been meeting all day long with representatives of a group within that group who object to the violence, who object to the tactics that have been used, and who have been down here with their lawyer, who is a responsible member of the bar in Akron, making some points that they think will end this crisis if we will only act.

They made three basic points. One is there must be a rollback in the gasoline and diesel fuel prices to some extent. The second is there must be an immediate pass through that is effective, not just a pass through which the customers do not have to accept, but one which they do. Fortunately the conference report takes care to some extent of the rollback, and the bill now pending before the Interstate and Foreign Commerce Subcommittee, the Senate bill, takes care, as I understand it, of the question of a pass through, requiring the ICC to give practically immediate relief so that these truckers can pass through some of their costs.

These men are small businessmen and they contract to major carriers and they can only go on operating at a loss for another week or two before going out of business. When they go out of business, that is going to be the end of the food deliveries and the fuel deliveries and deliveries of a great many other things in this country, and a great many people are going to be out of work.

We cannot afford to sit by and let this country collapse. That is exactly what is going to happen the way things are going. We had better stay here all weekend if necessary until we take action that makes some sense. It does no good to point out that the White House is passing the buck. We have a job to do right here.

The third thing these truckers pleaded about is that we must do something tangible so that truckers get some kind of immediate relief. The best way to do that is to temporarily suspend the weight limits on the interstate highways so they can add another 10,000 pounds to their maximum loads. That will be permitting them to make some money again. As it is now, they are losing $50 every day they go out for a day's travel. Obviously they cannot continue that way. Yet they cannot shut down, for they have interest to pay on their rigs.

So, all I can say is we have got to take action and we have got to take action now and we do not dare to go into recess unless we have action on the bills before the Committee on Interstate and Foreign Commerce.

TRUCKING EMERGENCY

(Mr. ADAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ADAMS. Mr. Speaker, in reply to the gentleman, we have been holding hearings all afternoon on a bill we received yesterday. There is a meeting scheduled again at 6 o'clock on the idea of the pass-through of the rate to various consumers.

I want to state to the gentleman that it may handle the particular problem of the brokerage and heavy steel operators, but it will not help the problem of the so-called gypsies, the people that do not have a contract with a regulated carrier. It will not handle the problem of those dealing with foodstuffs that are exempt commodities, as they are not regulated by the ICC. These people are in a position where they are the ones out blocking the highways.

We just finished with the Department of Justice. We asked if there had been an arrest on the interstate highways under the Hobbs Act or any other act. They reported that as of 2 o'clock this afternoon they had not arrested anybody, any place, in interstate commerce.

We are saying we will pass the bill if the gentleman allows it to be filed. It will not solve the problem. The only thing that will solve the problem is a rollback in price and to make available fuel at the truckstops and those powers are available under existing law. If we pass the bill tomorrow, it is not going to solve it. If we pass the conference report that comes over here, as the gentleman from Louisiana says, it is not going to solve the problem.

As for rationing, it is not in the conference report. It was rejected on the floor here. It was rejected in conference; but if Mr. Simon wants to put it into effect, he can use end use allocation and allocate it to the customers at the end in the existing Emergency Allocation Act.

What we are saying is, that we bought 55-miles-per-hour speed limits. We bought daylight savings time and we are now going to buy this one. As these things have been brought up by the administration.

It is time to stop and tell them to use the power they have, because they have the power to stop the blockade and we should stop being monkeys on a string.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I have drafted a letter to Mr. Simon about the weight limit, for example, and they think further research is necessary.

I find a statutory roadblock that Mr. Simon cannot change the weight limits on the highways. What do we do about that?

Mr. ADAMS. Mr. Speaker, if the gentleman wants to do something about the weight limit, he will find there are an enormous amount of problems. There are two sections of the country, one with one set of weight limits and one with another and all the operations are geared to weight limits.

Just as happened with the 55-mile-per-hour limit, these things look good. They make a nice press release and they can say they have done these things; but they have not examined the side effects. We should never have put daylight saving into effect in the morning hours when it is dark in December, January, and February. We should not have put a 55-mile-an-hour limit on the country. These cannot complete their routes.

I am saying, if the Department of Transportation does not set up the truckstops and say that these are the places they can fill up and the allocation will be there when they get there, we can pass all these bills and they will not help, because the truckers cannot pay for the fuel and not get it when he arrives. It is that simple. It is an administration problem, not a legislative problem, and we are being foolish to treat it as such. If we want to pass the bill, we will get it up here tomorrow and we will vote for it, but this is not the way to handle the problem.

I will give you a real alternative—an effective fuel price rollback and full disclosures by the oil industry is what is being proposed by myself and Congressman BOB ECKHARDT.

The Adams-Eckhardt bill, the Emergency Energy Control Act, is the first of a series of legislative proposals to complement the Consumer Energy Act of 1974, the plan which a number of us offered earlier this week. This first bill is geared to solve some of the most urgent problems and inequities caused by energy shortages and these short-sighted administration policies which are not effective.

Under the new Emergency Energy Control Act, the rollback provision calls for a return to prices as they were on November 1, 1973 of crude oil and all petroleum products. This would eliminate the unjustified and unnecessary $1 a barrel increase allowed by the Cost of Living Council on December 19. That $1 increase resulted in higher revenues to the oil companies of $3 billion a year, without any promise of increased domestic production—but with full assurance that gasoline prices would skyrocket. In addition, our rollback provision would require the oil companies to sell fuel at an averaged price, regardless of whether the fuel originated from domestic or imported sources.

Despite congressional hearings, administration and oil industry pronouncements, and growing public concern about the energy crisis, all we have really found out over the last several months is that we have a severe shortage of information about actual energy supplies. Therefore, this bill requires that the oil companies disclose information on supplies, production rates, costs and profits.

The other two major provisions of the Adams-Eckhardt Emergency Energy Control Act are: authority to restrict oil exports on the basis of the domestic supply situation and gives authority to ration the limited gasoline supplies, as a solution to the long serpentine lines now forming behind gas pumps all across the country.

This new bill is a timely alternative to the energy legislation now tied up in a House-Senate Conference Committee. I believe this bill embodies the best ideas from the previous energy bill, eliminates all the special interest provisions, and meets directly the needs of the American consumers.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. These truckers, whom I have every reason to believe are sincere, say that the small independent truckers that the gentleman is talking about are looking for an excuse to call this thing off; but they want something tangible that they can hang their hats on and not just promises.

I think if the administration will not give it to them, we have an obligation to the country to do what is necessary to end this situation, which is getting more desperate.

Mr. ADAMS. Mr. Speaker, I will yield over here in a minute; but I want to say that in the situation with steel haulers and such, they deal with brokers and a pass-through for the agricultural truckers, the so-called gypsies, the moving van haulers, those blocking the highways are not helped by this legislation.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from Missouri.

Mr. RANDALL. I thought I heard the gentleman say there is not rationing in the conference report.

Mr. ADAMS There is not.

Mr. RANDALL. And from the records, it had been rejected on the floor.

Mr. ADAMS. It was and it was rejected in the committee.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, I would just like to say that as far as I personally am concerned——

The SPEAKER. The time of the gentleman from Washington has expired.

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a report on the joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2).

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, this unanimous consent request has to do only with the Rules Committee, not the Interstate and Foreign Commerce Committee filing their report?

Mr. PEPPER. Mr. Speaker, I answer the able gentleman by saying that I understood he did not object a while ago to the unanimous consent request that the Interstate and Foreign Commerce Committee file a resolution.

Mr. WAGGONNER. Mr. Speaker, the gentleman is exactly right, but I am now reserving the right to object.

Mr. PEPPER. This is not the energy bill, it is just on transportation.

Mr. WAGGONNER. Mr. Speaker, further reserving the right to object, is the Rules Committee—and the gentleman is a member of that distinguished committee—going to consider this afternoon granting a rule on the conference report on the energy bill?

Mr. PEPPER. Mr. Speaker, the Chairman had called the Members into session to hear the Interstate and Foreign Commerce Committee on the energy bill, and I understand we were going to consider the transportation also, but that request was intended before the events on the floor when the gentleman interposed his objection.

MOTION TO ADJOURN

Mr. WAGGONNER. Mr. Speaker, I withdraw my reservation and I move the house do now adjourn.

Mr. PEPPER. Mr. Speaker, I wish the able gentleman would allow just this matter that affects the strike.

Mr. WAGGONNER. Mr. Speaker, I withdrew my reservation, but I am not going to sit here while the Rules Committee is in session and allow them to come back down to this House and file any rule this afternoon so that we can consider that conference report tomorrow with a majority vote. If we adjourn this House this afternoon before that rule is filed, it will require a two-thirds vote to consider it tomorrow.

Mr. PEPPER. Mr. Speaker, if my friend will allow me, I am not asking him to defer any request or motion or objection he wishes to make. I am only relating my request to the trucking strike, and this is the only way we can solve this question.

Mr. WAGGONNER. Mr. Speaker, I move the House do now adjourn.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. WAGGONNER. Mr. Speaker, I move the House do now adjourn.

Mr. SPEAKER. The question is on the motion of the gentleman from Louisiana (Mr. WAGGONNER).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WAGGONNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 125, nays 155, not voting 149, as follows:

[Roll No. 25]

YEAS—125

Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Archer
Arends
Baker
Bauman
Boggs
Bowen
Bray
Brown, Ohio
Buchanan
Burgener
Burleson, Tex.
Butler
Casey, Tex.
Clancy
Clawson, Del
Cochran
Collier
Collins, Tex.
Conable
Conte
Crane
Daniel, Dan
Dennis
Dent
Devine
Dickinson
Dorn
Duncan
Eckhardt
Edwards, Ala.
Flowers
Fountain
Frelinghuysen
Froehlich
Gettys
Ginn
Gonzalez
Goodling
Gross
Gubser
Hammerschmidt
Hansen, Idaho
Harsha
Hays
Henderson
Holt
Holtzman
Horton
Hosmer
Huber
Hunt
Hutchinson
Ichord
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Ketchum
Koch
Landgrebe
Latta
Long, La.
Long, Md.
McEwen
Mahon
Mallary
Martin, Nebr.
Mathis, Ga.
Mayne
Mezvinsky
Michel
Montgomery
Murphy, Ill.
Myers
Nichols
Obey
Pettis
Pickle
Poage
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Rhodes
Robinson, Va.
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Ruth
Satterfield
Schneebeli
Sebelius
Shuster
Sikes
Smith, Iowa
Snyder
Spence
Steed
Steelman
Symms
Taylor, Mo.
Thornton
Ullman
Vander Jagt
Waggonner
Walsh
Ware
Whitehurst
Whitten
Williams
Wyatt
Young, Ill.
Young, Tex.
Zion

NAYS—155

Abdnor
Adams
Addabbo
Alexander
Andrews, N. Dak.
Armstrong
Ashley
Aspin
Bafalis
Barrett
Bergland
Biaggi
Biester
Bolling
Brademas
Brasco
Breckinridge
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Carter
Chappell
Clark
Clay
Cleveland
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Derwinski
Dingell
Donohue
Dulski
du Pont
Edwards, Calif.
Eilberg
Esch
Eshleman
Evins, Tenn.
Fascell
Flood
Frey
Gaydos
Gibbons
Grasso
Green, Oreg.
Green, Pa.
Grover
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hogan
Howard
Hungate
Jones, Tenn.
Kemp
Kluczynski
Kyros
Litton
McClory
McCollister
McCormack
McDade
McKinney
Macdonald
Madden
Mann
Maraziti
Matsunaga
Mazzoli
Melcher
Metcalfe
Miller
Minish
Mink
Mitchell, N.Y.
Moakley
Mollohan
Morgan
Mosher
Moss
Murphy, N.Y.
Natcher
Nedzi
O'Hara
O'Neill
Owens
Pepper
Perkins
Peyser
Pike
Podell
Preyer
Price, Ill.
Randall
Riegle
Rinaldo
Robison, N.Y.
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rose
Roush
Ryan
Sarasin
Seiberling
Shoup
Sisk
Smith, N.Y.
Staggers
Stanton, J. William
Stark
Steele
Stokes
Stratton
Stuckey
Studds
Thone
Tiernan
Van Deerlin
Vanik
Vigorito
Waldie
Wampler
Whalen
White
Wilson, Bob
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Zablocki

NOT VOTING—149

Annunzio
Ashbrook
Badillo
Beard
Bell
Bennett
Bevill
Bingham
Blackburn
Blatnik
Boland
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Burke, Calif.
Burke, Fla.
Byron
Camp
Carey, N.Y.
Carney, Ohio
Cederberg
Chamberlain
Chisholm
Clausen, Don H.
Cohen
Collins, Ill.
Conlan

Conyers
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellenback
Diggs
Downing
Drinan
Erlenborn
Evans, Colo.
Findley
Fish
Fisher
Flynt
Foley
Ford
Forsythe
Fraser
Frenzel
Fulton
Fuqua
Giaimo
Gilman
Goldwater
Gray
Griffiths
Haley
Hansen, Wash.
Harrington
Hawkins
Hébert
Helstoski
Hillis
Hinshaw
Holifield
Hudnut
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Karth
King
Kuykendall
Landrum
Leggett
Lehman
Lent
Lott
Lujan
McCloskey
McFall
McKay
McSpadden
Madigan
Mailliard
Martin, N.C.
Mathias, Calif.
Meeds
Milford
Mills
Minshall, Ohio
Mitchell, Md.
Mizell
Moorhead, Calif.
Moorhead, Pa.
Nelsen
Nix
O'Brien
Parris
Passman
Patman
Patten
Powell, Ohio
Rangel
Rees
Reid
Reuss
Roberts
Rodino
Roncalio, Wyo.
Rooney, N.Y.
Roy
Roybal
St Germain
Sandman
Sarbanes
Scherle
Schroeder
Shipley
Shriver
Skubitz
Slack
Stanton, James V.
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Treen
Udall
Veysey
Widnall
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Young, S.C.
Zwach

So the motion was rejected.

The result of the vote was announced as above recorded.

EMERGENCY TAX CREDIT FOR MOTOR VEHICLE TRANSPORT CARRIER

(Mr. DENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DENHOLM. Mr. Speaker, I have authored and I have proposed legislation today that will provide emergency assistance for all persons engaged, directly or indirectly, in the motor vehicle freight transportation essential to the health, safety, and welfare of the American people.

The legislation that I have introduced will not result in an increased adjustment of established and prescribed tariff rates to offset the increased costs of fuel, gas and petroleum imposed upon common carriers and the Independent Truckers of America. It will provide acceptable and immediate relief in a manner that need not and should not increase freight rates to producers and increased consumer costs to all. It has the character of a price rollback without adversely affecting the essential incentive for an increased supply of the total required fuel, gas, or petroleum for the motor vehicle transportation industry.

Mr. Speaker, an emergency exists. This is the time for action. The legislation that I have proposed provides for an emergency tax credit relief for the recovery of excessive fuel costs by those engaged in the motor vehicle transportation industry. I respectfully request that the proposed legislation that I have introduced today be printed as follows, to wit:

H.R. 12676

A bill to amend the Internal Revenue Code of 1954 to provide tax relief for motor transport carriers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that an emergency exists in the national motor vehicle transportation system as the result of unprecedented increases in the acquisition cost of diesel fuel, gasoline and other motor fuels, and that such shortages exist in the supply of fuel, gas, and petroleum combined with inequities in the allocation to retail market outlets, and that all such circumstances seriously impair the free flow of intrastate and interstate motor transportation cargo shipments and transportation of essential food and fiber to the extent of irreparable economic hardship endangering the health, safety and welfare of the people.

Sec. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"Sec. 42. Credit for motor transport carriers' increased fuel expenditures.

(a) General Rule.—In the case of any person regularly engaged in the commercial transportation of property by the use of highway motor vehicles, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the total expenditures made by such person during the taxable year for price increases, as determined under subsection (b), accruing after July 1, 1973, for gasoline, diesel fuel, and other fuel used for such transportation.

"(b) Price Increase Defined.—For the purposes of subsection (a), the term 'price increases' means—

"(1) so much of the price of the fuel purchased at each sale as exceeds the price for such type of fuel, determined by the Secretary or his delegate by regulation, which prevailed on July 1, 1973;

"(2) multiplied by the quantity of fuel so purchased at such sale.

"(c) Reduction of Credit.—The credit for any taxable year under subsection (a) shall be reduced, under regulation prescribed by the Secretary or his delegate, to the extent any adjusted 'pass through' tariff scheduled freight payment increase was received by such person.

"(d) Credit in Lieu of Deduction.—No deduction under any provision of this chapter shall be allowed with respect to any expenditure to the extent credit is taken under this section.

"(e) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this Act.".

(b) Section 6401(b) of such Code (relating to the treatment of excessive credits as overpayments of tax) is amended—

(1) by striking out "and 667(b)" and inserting in lieu thereof ", 42 (relating to credit for motor transport carriers increased fuel expenditures), and 667(b)"; and

(2) by striking out "other than the credits allowable under sections 31 and 39" and inserting in lieu thereof "other than the credits allowable under section 31, 39, and 42".

(c) Section 6402 of such Code (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsection:

"(c) Refunds of Section 42 Credits.—Notwithstanding any other provision of law, the Secretary or his delegate, under such regulations as he may prescribe, is authorized and directed to refund amounts allowed as credits under section 42 on a quarterly basis, upon claim for such refund by the taxpayer, without regard to the liability for tax for the taxable year during which such claim is made."

Sec. 3. The amendments made by the first section shall apply to expenditures made during taxable years ending on and after December 31, 1973.

PROPOSED ENERGY LEGISLATION

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, while we are talking about the Emergency Energy Act I would like to point out that among some of the other incidentals that might confront us I looked over the bill as it appeared a few days ago and it seemed to me we might be overburdening our courts. I have been in touch with the Administrative Office of the U.S. Courts and today I received a response which indicates this bill might create some 300,000 new cases per year for our U.S. courts, which would, of course, put them out of business.

The response starts off and reads as follows:

The bill which was reported by the Committee of Conference contained three sections which would directly affect the jurisdiction of the courts and their caseloads. Section 104 amends the Emergency Petroleum Allocation Act of 1973 to authorize a program of end-use rationing. In accordance with the provisions of the Energy Petroleum Allocation Act of 1973 and the Economic Stabilization Act, as amended, which that Act amends, cases arising on this topic could be brought in the United States District Courts and appealed to the Temporary Emergency Court of Appeals. We are unable at this time to estimate the number of cases which might be brought under this section. However, it can be anticipated that the number would be substantial since end-use rationing would effect nearly every citizen of the country.

Under § 118, administrative rulemaking would be subject to the provisions of the Administrative Procedure Act, with certain exceptions. Judicial review of rulemaking of general and national applicability would be obtained in the United States Court of Appeals for the District of Columbia. Judicial review of administrative rulemaking of general but not national applicability would be obtained in the United States court of appeals for the appropriate circuit.

Section 118(b)(2) provides that the district courts will have exclusive original jurisdiction over cases and controversies arising under the Act or regulations issued thereunder, also with certain exceptions. Cases or controversies arising under rules or orders of states or their subdivisions or state or local boards would be heard in either the appropriate state court or, without regard to the amount in controversy, in the district courts of the United States.

Sections 119 and 120 prohibit violations of rules, regulations, and orders, issued pursuant to this Act and provides for civil and criminal penalties. The criminal penalties range from fines of $5,000 for willful violations to $50,000 for second offenses. The penalties specified are in excess of those as to which United States magistrates are authorized to exercise jurisdiction. We do not, of course, have any information relative to the type of regulations which would be promulgated beyond the information contained in the Congressional Record. During the

Senate debate on December 21, there was inserted in the Record a list of possible conservation actions, which list appeared also in the Record of January 29 at page 1145. The list included the following:

"1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.

"2. An additional day on which retail gasoline sales may be banned.

"3. Maximum speed limit of 55 MPH for intercity buses and trucks and 50 MPH for automobiles.

"7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments.

"9. Require that retail sales of gasoline be limited to a specified amount per sale or per day.

"14. Restrict weekend and evening lighting in commercial and industrial facilities.

"17. Limit hours of operation for commercial, industrial and governmental establishments."

Of course we are unable to state with any degree of specificity the number of violations which might occur or be prosecuted. However, United States magistrates who have jurisdiction only over traffic offenses in Federal enclaves last year tried 55,888 traffic cases of all types. While recognizing that most speeding offenses would continue to be handled in the State and local courts, we do not consider it unrealistic to expect a five-fold increase in the number of such offenses being brought before Federal court. These cases would not be tried by the magistrate but would be tried by the United States district judges.

We regret that we are unable to provide any further statistical information with respect to these aspects of the bill.

Sincerely,

ROWLAND F. KIRKS,
Director.

BILL TO PASSTHROUGH FUEL COSTS

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I am told that the Interstate and Foreign Commerce Committee just reported out a bill for a passthrough in increased fuel costs with 10 members present, which is not a quorum, and I want to serve notice that if they bring that bill up I will make a point of order that it was reported out of the committee in violation of the rules.

A passthrough will not solve the problem because these independent truckers are working for people with an ICC certificate and the passthrough will apply only to the ICC people and it will not pass it back to the independent truckers, and this is not going to settle the strike.

The only thing that is going to settle the strike is an order by the President to roll the price of fuel back to a reasonable level. It has gone up more than 100 percent with the price of crude going up only 21 percent. These people also must be given a sufficient amount of fuel so they can operate.

The President can, if he wants to, sit down in the White House and bring this country to its knees, but I do not think the majority of the people are going to forget about that. I think the President should act, I know he has the power to act, and I think it is an outrage that he does not act.

Mr. HOSMER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. HAYS. I yield to the gentleman from California.

Mr. HOSMER. Mr. Speaker, many years ago I inquired of the Parliamentarian whether or not it was possible to make an objection on the basis that the committee had passed out a measure without a quorum present. I asked if I could make that objection here on the floor and I was told that it would not be possible.

Mr. HAYS. I think I can answer the gentleman's question. Let me say I made this objection to a bill that the gentleman from Texas (Mr. BURLESON) brought out when he was chairman of my committee, and the Speaker sustained it, and I will have that precedent and that ruling tomorrow when I make the point of order.

Mr. HOSMER. Will the gentleman yield further?

Mr. HAYS. I will yield all night if I have the time.

Mr. HOSMER. I would ask the gentleman, was there an inquiry as to the parliamentary rule at that time or was it given as a matter of course?

Mr. HAYS. I made an objection, the Speaker asked the chairman, the gentleman from Texas (Mr. BURLESON), if a quorum was present, and the gentleman from Texas (Mr. BURLESON) honestly answered a quorum was not present, and the Speaker, therefore, ruled that the bill could not be brought up. The Speaker, if I remember, was Mr. Rayburn, but I will have the date and the precedent tomorrow.

Mr. HOSMER. That is why I wanted to clarify the matter for some of the other Members here.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Will the gentleman repeat again the subject matter of the report from the Committee on Interstate and Foreign Commerce; what was reported on?

Mr. HAYS. I am addressing the House under the rules of evidence which just passed this afternoon, which permits hearsay and what I heard was hearsay, that the Committee on Interstate and Foreign Commerce reported out a bill for a passthrough with 10 Members present. My informant was a member of the committee and I have some confidence in his reliability; although, I must say I have hearsay evidence at this point, but if it is good enough for evidence in a conspiracy trial, it is good enough for me.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Yes; it is only hearsay, but I understand that the bill that passed the Senate, which is the same that the House committee is considering, authorizes the Committee on Interstate and Foreign Commerce to expedite its rulings on carriers having higher rates, which would, in effect, require them to pass this to allow for passthrough from the contract truckers that they are contracting with.

Mr. HAYS. I will say to the gentleman, if the bill authorizes the ICC, I will still object, because they will not do anything in God's world unless somebody orders them to.

Mr. SEIBERLING. I agree.

Mr. HAYS. If the bill orders them to, that is a horse of a different color; I agree to that.

Mr. SEIBERLING. I agree with that, also, and I hope our little colloquy might spur that kind of result.

The SPEAKER. The time of the gentleman has expired.

PRESIDENT'S EDUCATION MESSAGE AND BUDGET

The SPEAKER. Under a previous order of the House, the gentleman from Kentucky (Mr. PERKINS) is recognized for 10 minutes.

Mr. PERKINS. Mr. Speaker, the President's education message submitted to us last week and his budget submitted this week propose a very modest overall increase in Federal aid to education and limited "advanced funding" for elementary and secondary education if the Congress consolidates programs in six areas.

The whole tone of the administration's approach as exemplified by these messages has changed significantly over the past year. Last year, the administration told us to enact its special revenue sharing proposal or there would be no aid for elementary and secondary education. This year, there is no such threat. And the administration's recommendations are set out in conciliatory terms.

We should be thankful for that at least. The administration, it seems, has learned something over the past year.

I must, however, still express concern about the budget request for elementary and secondary education. Although there are recommendations for some modest increases in certain programs, the total request for elementary and secondary education calls for a cutback of over $300 million over this year's appropriation.

The President recommends a cutback of $254 million in the impact aid program. He would achieve this by eliminating payments over 2 years for "b" children. I must again state my opposition to this course of action. Impact "b" children constitute a Federal responsibility, and we must continue our support for them.

The second major cutback in Federal aid would be for the Emergency School Aid Act. That act, which the President cites in his education message as one of the major accomplishments of his 5 years, would be allowed to expire and would be replaced by a minor assistance program. I am somewhat puzzled by this request for cutback of approximately $160 million in emergency school assistance.

But I am even more confused about the administration's position on library and equipment programs. The budget requests no funds for the college equipment program or for library construction or for college libraries or training. These recommendations are fully consistent with the administration's approach toward library programs for the past several years in that there have been no requests for any Federal programs aiding libraries.

Yet, the President states in his message that he believes "the Federal Government has a responsible role to play" in maintaining public libraries. In fact, the administration this year is proposing a new program to encourage coordination of library resources. This seems to be somewhat of an about-face by the administration, and I look forward to learning more of the details of this proposed legislation.

I am also concerned about the form of the administration's proposal for "advanced funding" for elementary and secondary education. I have long been a proponent of "forward funding" and congratulate the administration on its recent conversion to the concept. But I must view with anxiety the limited extent to which the administration proposes advanced funding. It seems from the President's message and from the budget that only those programs which are to be consolidated will be "advanced funded" and in no case is impact aid to be advanced funded. This shows not only a recent conversion but also a partial conversion.

I cannot see any reasonable basis for making a distinction in this manner among these programs. All of elementary and secondary education and vocational and adult education programs must be forward funded if we are truly—in the President's words—to let school administrators "know how much Federal money they would have before the school year begins, not several months after the school year has begun."

I also wish to express my concern about the proposed cutback in the Follow-through program and in the bilingual education program. The cutback in bilingual education particularly does not make any sense in light of the Supreme Court's recent decision in Lau against Nichols, requiring school districts to provide bilingual education for all children with limited English-speaking ability. I am also concerned about the administration's continued failure to request funds for the Occupational Education Act, especially in light of its rhetoric concerning the need for career education.

Let me conclude by congratulating the administration on its change of tone concerning education legislation and on its more conciliatory approach to the issue of consolidation of categorical aid programs. But, let me reiterate my concern that the budget cuts requested by the administration are unacceptable in a time when inflation is eating away at Federal dollars for education. And, let me repeat my insistence that advanced funding must be for all elementary and secondary education programs and for all vocational and adult education programs if we are to bring true stability to Federal aid to education.

PRESIDENT NIXON'S DISAPPOINTING BUDGET FOR EDUCATION AND SOCIAL SERVICES

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 1 hour.

Mr. BRADEMAS. Mr. Speaker, may I say that it had not really been my intention to inflict upon my colleagues the full text of my remarks in respect to the subject before me; but considering the hour and the circumstances in which we find ourselves, I rise to express several concerns about the budget recently proposed by President Nixon for the U.S. Government for the fiscal year 1975.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield briefly to my friend from Iowa with great pleasure.

Mr. GROSS. If the gentleman is feeling so bad and says that is what he wants to do, why does he not do it and insert his remarks?

Mr. BRADEMAS. As the gentleman remarked, it is because of the circumstances in which we find ourselves.

For although the President, in his state of the Union address, acclaimed his budget as "an agenda for truly significant progress for this Nation," the truth is that it represents an enormous disappointment to anyone concerned about social services and education programs in our land.

So I want, Mr. Speaker, to discuss those areas of the budget related to legislation under the jurisdiction of the Select Subcommittee on Education, which I have the honor to chair, of the Committee on Education and Labor.

For the education and human services programs with which members of that subcommittee work illustrate only too well the inadequate nature of the President's proposals.

SIGNIFICANT MERIT

But I should first, Mr. Speaker, applaud several positive features of the President's state of the Union message as well as his budget proposals.

For I want my colleagues to understand that my criticisms of the President's suggestions are motivated not by partisanship but rather by a deep concern that we not forget the important human services programs which have helped to make America the "great and good land" to which the President so eloquently referred in his state of the Union message.

So, first, let me say that I was pleased to sense in the President's message a new and welcome spirit of cooperation with, and respect for, Congress.

For the spirit of comity between the executive and legislative branches of Government is essential to a fruitful dialog on the important issues which will be faced by the 93d Congress in the 2d session.

Second. I am glad to see the President endorse advance funding for programs designed to assist elementary and secondary education.

For this is a provision that some of us in Congress, both Democrats and Republicans, have long advocated. So I am delighted that President Nixon has joined us.

Third. I want to express my support for the $1.3 billion request the President has submitted for the funding of the basic educational opportunity grants program, authorized by the Higher Education Act, as amended.

However, Mr. Speaker. I must point out to the President that in suggesting that, we in order to provide the $1.3 billion terminate the supplemental educational opportunity grants program, for BOG's he is proposing to breaking the law.

So surely, if President Nixon is, indeed, a man who does not break the law—as his former counsel, Prof. Charles Wright, assured Judge John J. Sirica in October—will want to amend his budget so as to provide at least $130 million for the SEOG program, the amount required by law before the BOG program can go into the effect.

Finally, Mr. Speaker, I want to congratulate the President for his request for $195,200,000 for the Endowments for the Arts and Humanities.

For this increase of almost $50 million from fiscal year 1974 for programs authorized under the National Foundation on the Arts and the Humanities Act indicates that the President understands the importance of cultural and human development in a great land such as ours.

EDUCATIONAL PROGRAMS

But I want also, Mr. Speaker, to express my deep distress at several other requests in the President's budget.

I note, first, that the President has requested no funds under the Drug Abuse Education Act of 1970.

Surely this is an astonishing development when we consider what the President told us in his state of the Union message.

Listen to his words:

> The drug battle is far from over.
>
> For the sake of the next generation, I am determined to keep the pressure on—to ensure that the heartening progress made to date is translated into a lasting victory over heroin and other drugs.

And part of the battle, as the President told the participants at the White House Conference on Treatment Alternatives to Street Crime on September 10, 1973, is to provide effective educational programs about drugs.

And that is why, in March, 1970, the President said:

> There is no priority higher in this administration than to see that children—and the public—learn the facts about drugs in the right way and for the right purpose through education.

And yet I regret to report, Mr. Speaker, that the President has, apparently, settled for rhetoric, and not substance—for his budget requests no money in order to provide funds so that, to use the President's words "children and the public" may "learn the facts about drugs in the right way and for the right purpose through education."

Or let us turn to environmental education.

For here, again, the President is on

record as strongly supporting efforts to educate our citizenry about the environmental, not to mention economic, hazards of our continued abuse of scarce natural resources.

Just last March, for example, President Nixon twice called for "special attention to educational efforts directed toward protecting and enhancing our lifegiving environment" and for "educational efforts directed toward recognizing the need for clean water and protecting the supply."

Indeed, since coming to office in 1969, the President has six times spoken of the need to develop "environmental literacy" in our citizenry—literacy which will require, in the President's words "the development and teaching of environmental concepts at every point in the education process."

And what, Mr. Speaker, has the President requested for fiscal year 1975 so that we can provide programs to achieve this "environmental literacy"?

The answer, I regret to tell my colleagues is: Nothing.

To paraphrase former Attorney General John Mitchell, it is perhaps best that we watch what this administration does, and not what it says.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BENNETT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 26]

Annunzio
Ashbrook
Badillo
Beard
Bell
Bevill
Bingham
Blackburn
Blatnik
Boland
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Broyhill, Va.
Burke, Calif.
Burke, Fla.
Byron
Camp
Carey, N.Y.
Carney, Ohio
Cederberg
Chamberlain
Chisholm
Clark
Clausen, Don H.
Clay
Cohen
Collins, Ill.
Conlan
Conyers
Daniel, Robert W., Jr.
Davis, Ga.
Davis, Wis.
Dellenback
Dickinson
Diggs
Dorn
Downing
Drinan
Edwards, Calif.
Erlenborn
Evans, Colo.
Findley
Fish
Fisher
Flynt
Foley
Ford
Fraser
Frenzel
Fulton
Fuqua
Giaimo
Gibbons
Goldwater
Gray
Green, Oreg.
Griffiths
Haley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Hébert
Hillis
Hinshaw
Holifield
Hudnut
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Karth
King
Kuykendall
Landrum
Leggett
Lehman
Lent
McCloskey
McKay
McSpadden
Madigan
Mailliard
Martin, N.C.
Mathias, Calif.
Meeds
Milford
Mills
Minshall, Ohio
Mitchell, Md.
Mizell
Moakley
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Nelsen
Nichols
Nix
O'Brien
Parris
Passman
Patman
Patten
Peyser
Powell, Ohio
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Roberts
Roncalio, Wyo.
Roncalio, N.Y.
Rooney, N.Y.
Roy
Roybal
Ruth
Sandman
Sarbanes
Scherle
Schneebeli
Schroeder
Sebelius
Shipley
Shriver
Sikes
Skubitz
Slack
Stanton, James V.
Stark
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stubblefield
Sullivan
Symington
Talcott
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Udall
Veysey
White
Wiggins
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Young, S.C.
Zwach

The SPEAKER. On this rollcall 266 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PRESIDENT NIXON'S DISAPPOINTING BUDGET FOR EDUCATION AND SOCIAL SERVICES

The SPEAKER. The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Massachusetts.

TRIBUTE TO HON. CHARLES E. BENNETT

Mr. CONTE. Mr. Speaker, on the previous rollcall the gentleman from Florida (Mr. BENNETT) missed his first rollcall in 20 years. He left here when he thought the House was all through with its work. He called and found out the House was on special orders, and he assumed, like all of us, that the House was through, so he took off for his home to have dinner with his family and his children. I know the Speaker prolonged the rollcall as long as he could. I know of no more conscientious man in the House of Representatives nor a more dedicated and hardworking public servant in the U.S. Congress than CHARLES BENNETT.

Mr. BENNETT. Mr. Speaker, if the gentleman will yield, I thank the gentleman from Massachusetts very much and I thank all the Members for their thoughtful kindness throughout the years. It has been a real pleasure for me to be here all this time. I really have been lucky to be here all this time. I have been lucky in my life, so I am not really dejected about this. It is like a lot of things that come and go.

I do have some problems with the scheduling and I do happen to try to be at home with my teenage and younger children in high school and junior high school so I can have supper with them. It is difficult when the Congress gets through with its legislative work and then gets back into legislative work, to be sure. I did eventually miss this rollcall.

But I do want to say, since I have this opportunity, that the concern of the Members is really something very beautiful and I am very much touched by it.

I thank the gentleman.

Mr. BRADEMAS. Mr. Speaker, may I say that having quite by chance the floor at this stage of the evening I want simply to echo the sentiments so eloquently expressed by the gentleman from Massachusetts in terms of the high regard that every Member of this House has for our dear friend, the gentleman from Florida (Mr. BENNETT).

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, I share this regard for the gentleman. Since in a sense of the word I share some responsibility for his difficulty by being here to do what I thought was best, I am going to utilize the rules of the House, as I understand them, and I am going to ask unanimous consent that the quorum call be reopened and that the gentleman from Florida be allowed to record his presence.

The SPEAKER. The Chair, of course, would like to entertain that unanimous-consent request because on one other occasion the Chair did keep the House in session, when a quorum was not present, for at least 45 minutes. The Chair long after a quorum had been established this evening did attempt to give Members extra time to respond, but as the demand had been made for regular order the Chair felt the rules of the House required him to act.

I do not believe the gentleman from Florida would want the Chair to entertain that kind of request because there might come a time when a Member will miss a vote and it will cause his defeat. It always is a question of degree as to how serious it is to a Member to miss a vote. That holds true for many of the major votes of this session, so the Chair does not feel in conscience that he can entertain that request and be fair to the rules of the House.

Mr. WAGGONNER. Mr. Speaker, I will not insist on the unanimous-consent request, based on the statement of the Chair, and I withdraw my unanimous-consent request.

The SPEAKER. The Chair appreciates the action of the gentleman.

Mr. BRADEMAS. Mr. Speaker, to conclude my remarks under my special order, let me finally, with respect to another program vital to the Nation's well-being, note the President's distressing recommendations for libraries.

For to replace the $175 million which the Federal Government in 1974 will spend on our Nation's school, college, and community libraries, the President requests that Congress appropriate for fiscal 1975 a paltry $25 million.

Surely, Mr. Speaker, $25 million cannot be expected to fulfill the responsible role of the Federal Government in assisting libraries to which President Nixon referred in his education message to Congress on January 24, 1974.

HUMAN SERVICES

Let me turn my attention now, Mr. Speaker, to comment on certain social services programs under the jurisdiction of the subcommittee which I have the honor to chair.

For although, at first glance, the budget indicates that the President has not proposed the savage slashes in these areas that he suggested last year, his proposals are not cause for optimism.

Because the Select Education Subcommittee handles the Older Americans Act, I would first, Mr. Speaker, comment on the President's suggestions with respect to the 20 million Americans aged 65 and over in our society.

I regret that he has not seen fit to request increased appropriations for either the nutrition or community services programs for the elderly financed under the Older Americans Act. Many progressive and necessary programs for the elderly enacted into law last year by Congress under the Comprehensive Older Americans Services amendments will receive absolutely no funds at all.

Indeed, Mr. Speaker, it appears to me that the most glaring anomaly in the President's budget is that money for military hardware—under the guise of a search for "lasting world peace"—is scheduled to jump a staggering $6.3 billion while funds for services for the elderly under the Older Americans Act will remain at the fiscal 1974 level of less than $200 million.

And while we can be thankful that the President has not proposed deep slashes in these funds, we all know, Mr. Speaker, that the "funny money" policies of this administration make standing still a step to the rear.

For in the real world of galloping inflation, to maintain the status quo is, in reality, to retreat.

In brief, Mr. Speaker, if we accept the President's inadequate budget requests for programs under the Older Americans Act, services to our senior citizens will decrease, and the number of older Americans served will decline.

Even more disturbing, Mr. Speaker, is that the President has taken an ax to the funds provided to sponsor demonstration programs designed to expand and improve upon community service programs for the elderly.

In place of the $17 million available for demonstration programs in this fiscal year, the President suggests that we cut $10 million for fiscal 1975, to a level of $7 million.

CHILDREN

Mr. Speaker, let me now turn my attention to a variety of programs concerned with the welfare of children—for the Select Education Subcommittee has jurisdiction, also, over child development programs.

Let me first tell my colleagues, Mr. Speaker, that last year when the subcommittee was considering legislation to deal with the tragic problems of the abuse and maltreatment of young children, the Department of Health, Education, and Welfare, initially told us that the measure was unnecessary because the Department would be spending at least $4 million on this problem in the coming year.

But bipartisan cooperation on the part of the subcommittee members enabled us to resolve most of our differences with the administration on this measure so that a bill was passed and the President last week signed it into law.

But when, Mr. Speaker, I looked at the budget for the funding of child abuse activities within the Department of Health, Education, and Welfare, I found to my astonishment that no money seemed to be available.

For although the budget states that research and development moneys, in the Child Development Division of the Assistant Secretary of Human Development, will be available for programs to combat child abuse, only $15.7 million—or an increase of $500,000 over the fiscal 1974 figures—is available for all research and development on child development.

Mr. Speaker, if the administration indeed intends to honor its commitment to Congress for child abuse programs, where is the money?

Or is the Nixon administration playing a budgetary shell-game with the lives of thousands of young children?

Let me now, Mr. Speaker, turn to the Head Start program—which has proved to be of significant value in helping disadvantaged youngsters prepare for entry into school.

Although the President is requesting an additional $37.9 million for the Head Start program—an increase over the Fiscal 1974 budget of almost 10 percent—it is a cause of dismay to realize that this 10 percent increase is intended according to the budget, only to keep up with inflation.

For the budget notes that the increase is required to continue to serve the 379,000 children served in 1974 and to maintain the quality of services offered.

So here again, Mr. Speaker, we see not an advance in the number of children served, but merely the maintenance of the status quo.

And if this observation is true with respect to Head Start, for which a 10-percent increase is proposed, is it not also true with respect to the programs funded under the Older Americans Act—which, we have already seen, will receive no increase—and the vocational rehabilitation program?

REHABILITATION

For with respect to the programs supported under the Rehabilitation Act of 1973, Mr. Speaker, I must again point out to my colleagues that the President's budget proposes that we stand still.

And if we are to accept the logic of the budget document with respect to Head Start, we know that standing still will mean either a reduction in the number of handicapped people served or a dilution of the quality of the services offered.

Mr. Speaker, the President would, no doubt, respond that he is not proposing to reduce appropriations for rehabilitation services, but is, indeed, increasing his request for the basic State program from the $630 million appropriated in fiscal 1974 to $670 million for fiscal 1975, close to the fully authorized amount of $680 million.

Although that is true, Mr. Speaker, I must point out that what the President gives with one hand, he is taking away with the other.

For to balance the $40 million increase in the basic State program, the President suggests that Congress slash $38 million from research and special projects—two areas of critical importance to the development of new and improved programs to assist the handicapped.

Mr. Speaker, the budget message of the President quotes with approval the following remark from a great President, Abraham Lincoln:

> The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do at all, or cannot do well, for themselves, in their separate and individual capacities. In all that the people can individually do as well for themselves, government ought not to interfere.

And, notes President Nixon: "I share this belief."

I, too, Mr. Speaker, share this belief. I believe most Members of Congress, of both parties, do.

But, Mr. Speaker, with respect to those persons in our society whom we may call "vulnerable"—young children, the elderly, the handicapped—Mr. Nixon's proposed budget for 1975 does not reflect the convictions of Abraham Lincoln.

For President Nixon cannot seriously ask us to believe that abused young children are better able to defend themselves on their own.

Nor can he ask us to accept the notion that our 7 million handicapped fellow Americans require no further increases in assistance.

And I reject, Mr. Speaker, the contention that 20 million Americans aged 65 and over deserve no increase in funds for the programs authorized by the Older Americans Act and the Nutrition Program for the Elderly Act.

To reiterate, Mr. Speaker, President Nixon's budget for fiscal 1975 does not, in fact, reflect the words he would have us think he believes, namely, that Government should help those who cannot help themselves.

Let me conclude, Mr. Speaker, by reminding my colleagues of some words spoken by another great American President.

I refer to the second inaugural address of Franklin D. Roosevelt.

Said President Roosevelt:

> The test of progress is not whether we add more to the abundance of those who have too much, it is whether we provide enough for those who have too little.

Mr. Speaker, for too long the vulnerable groups in our society—children, the disabled, and the elderly—have had too little.

Let us not continue this tradition of neglect by accepting the budget just submitted to Congress by President Nixon.

MR. NIXON'S EDUCATION MESSAGE

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Michigan (Mr. O'HARA) is recognized for 10 minutes.

Mr. O'HARA. Mr. Speaker, President Nixon has frequently criticized his predecessors for proposing programs which in performance failed to live up to their promise. But Mr. Nixon's own education message generated hopes which his education budget utterly failed to redeem. The fiscal year 1975 education budget is a classic example of disappointed expectations.

The budget for HEW's education division in a year of increasing needs and costs is about the same as fiscal year 1974, and less than fiscal year 1973. There are, also, changes within the overall education total, with sharp reductions in aid to impacted areas, in other elementary and secondary education programs, and in library resources. These reductions are accompanied by a net increase of $272 million for higher education which is achieved by an increase in the recommended appropriation for basic education opportunity grants by $825 million, offset by reductions of $553 million in other student assistance and institutional aid programs.

The President's budget cuts assistance for construction of college and university facilities; cuts the funding for foreign language training and area studies; eliminates aid to land-grant colleges; reduces Federal support of the training and development of university teachers; and provides zero funding for university community services, State Postsecondary Education Commissions and veterans' cost of instruction programs.

And most regrettably, Mr. Speaker, the Nixon budget continues to completely ignore the enactment of title X of the Higher Education Act of 1972. That title authorized substantial new programs of assistance to technical and occupational education and to our Nation's community colleges. Not only has the administration once again refused to request funds to carry out this part of the law it has, ever since the enactment of title X, been dragging its feet on preliminary steps leading to the creation of State Postsecondary Education Commissions which must be brought into existence before the Congress can fund title X. This flouting of congressional intent and of the decisions made by the Congress and enacted into law is unfortunately a dereliction of duty typical of this administration's dealings with education programs—representing the belief, no doubt sincerely held by the White House, that the law is only a pious suggestion that the executive branch is free to ignore, suspend, disobey, or declare "inoperative" pursuant to the higher wisdom residing in the executive branch and in the Office of Management and Budget.

Nowhere is this disregard for the law more apparent than in the President's budget request dealing with higher education student assistance programs. The 1972 law establishing the basic educational opportunity grant program provided that funds could be appropriated for this new program only after the existing institutional programs, college work study, national direct student loan and supplemental educational opportunity grants had been funded at certain minimum levels established by the law. This year for the third year in a row the Nixon budget asks, not that this part of the law be changed but that the administration be excused from following it. On the previous occasions the Congress has refused to grant the executive branch a dispensation from following the law. I know of no one in or out of the executive branch who thinks that the Congress will give such a dispensation in this third year of the BEOG program. To do so and place our entire reliance for student assistance on the basic educational opportunity grant program, the guaranteed student loan program, and a cutback work study program would be highly irresponsible. This year, only first year students are eligible for basic educational opportunity grants. But even so, the eligibility standards under the program have been drawn so restrictively by the Office of Education, in an effort to reduce the number of successful applicants, that not all of the statutorily eligible students badly in need of financial assistance will obtain help. What then does the budget suggest as a replacement for the assistance students have been eligible to receive under the institutionally based supplemental educational opportunity grant and direct student loan programs? Presumably students would be forced to resort to the guaranteed student loan program. But the volume of loans under the guaranteed student loan program is down very sharply since the adoption of the 1972 amendment requiring each applicant for a guaranteed bank loan to obtain and present to the lender a "needs analysis" from the student aid officer at the institution he proposes to attend. For this and other reasons guaranteed student loans are now harder to obtain than before, not easier. And to blithely suggest that the recipients of SEOG and NDSL assistance could make up for the loss of that financial help through recourse to the guaranteed student loan program is unrealistic to say the least. The administration has not even chosen to support changes in the law to make guaranteed student loans more accessible for families of moderate income, but has instead proposed writing letters to the presidents of lending institutions.

Mr. Speaker, the President's student aid objectives as set forth in his message deserve the support of us all. They are objectives to which few of us would take exception. "No qualified student should be denied a college education, because of a lack of funds." That is a standard to which the wise and honest can repair. But Mr. Speaker, the man who wrote that message and the man who wrote the budget apparently are not on speaking terms, because the budget falls sadly short of even making a reasonable beginning toward the goal's so eloquently enunciated message.

Mr. Speaker, I think education is a sound investment. I think educating our young people, giving them new skills, new ideas, training their hands, and sharpening their minds, is a wise and prudent way to invest public funds.

I think this Nation has operated on that belief virtually since the days of our Founding Fathers, and I think it is unfortunate that we are not operating on that belief in this administration. But more important than the question of specific education programs, more important even than the question of priorities, is the question of the rule of law. And it is in precisely this area that I must most sharply disassociate myself from the President's 1975 education budget. It is regretful that the budget is an inadequate one—a budget that devotes too small a part of our national resources to the education of our children. But it is even a greater cause for regret that the budget continues to be a lawless one—a budget that ignores the law and seeks to justify its lawlessness in terms of what the country can in the opinion of Mr. Nixon and his assistants afford to do. Mr. Speaker, the one thing this democratic republic cannot afford is to let the budget replace the rule of law.

HOW TO INCREASE GASOLINE SUPPLIES IMMEDIATELY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. WYMAN) is recognized for 15 minutes.

Mr. WYMAN. Mr. Speaker, I have today reintroduced legislation, with 88 cosponsors, to temporarily suspend automobile emissions standards in those parts of the country without a significant auto-related air pollution problem. This proposal would also give dealers the right to improve gasoline economy on cars brought in to them and sold by them, including modification or removal of emissions controls as appropriate.

The suspension would not apply to those areas heavily impacted by auto emissions. The bill specifically authorizes the Administrator of the Environmental Protection Agency to require emissions controls in 13 air quality control regions, comprising the greater part of California, the megalopolis from Boston to Washington D.C., and Metropolitan Chicago, Phoenix, and Tucson. In over 90 percent of the geographical area of the United States, however, there is no need for automobiles to be equipped with pollution control devices in order to protect public health or the environment.

The bill would take the automobile industry to a two-car policy, with about one-half to two-thirds of the cars being produced without emissions controls and the remainder with. The industry can live with this. In fact, a two-car policy has been in effect since the mid-sixties, because of the more stringent antipollution standards set by California.

Removing emissions devices where they are not needed will save billions of gallons of gasoline annually. The Department of Transportation reports that in 1973 passenger cars and taxis used 69.2 billion gallons. An increase in fuel economy of only 10 percent in half the cars in the Nation would result in a 3.5 billion gallon saving in 1 year.

The fuel penalty due to emissions controls in 1973 and 1974 cars is estimated to be approximately 17 percent by the Du Pont Co. I include their results at the end of my remarks. All but about 2 percent of this should be recoverable immediately, with the remainder due to the switch from high to low compression engines.

With the price of gasoline approaching 70 cents per gallon, and with shortages even interrupting schoolbus operation, it is imperative that the Congress act now to eliminate unnecessary wasting of gasoline. I am including a list of those courageous Members who, despite unfounded claims that a partial suspension of emissions standards would destroy the environment, have cosponsored this legislation in the public interest.

LIST OF SPONSORS

Mr. Bray, Mr. Whitehurst, Mr. Rose, Mr. Cleveland, Mr. Myers, Mr. Montgomery, Mr. Ketchum, Mr. Goodling, Mr. Hudnut, Mr. Cochran, Mr. Waggonner, Mr. Towell, Mr. Beard, Mr. Casey of Texas, Mr. Collier, Mr. Ginn, Mr. Roberts, Mr. Scherle, Mr. Randall, Mr. Sebelius, Mr. Shipley, Mr. Guyer, Mr. Steeds, and Mr. Camp.

Mr. Hanrahan, Mr. Hicks, Mr. Henderson, Mr. Arends, Mr. Shuster, Mr. Jones of North Carolina, Mr. Wampler, Mr. Stratton, Mr. Bowen, Mr. Alexander, Mr. Dennis, Mr. Charles Wilson of Texas, Mr. Price of Texas, Mr. O'Hara, Mr. Ruth, Mr. Gross, Mr. Omar Burleson of Texas, Mr. Kuykendall, Mr. Latta, Mr. Milford, Mr. Johnson, Mr. McCollister, Mr. Landgrebe, and Mr. White.

Mr. Clark, Mr. Symms, Mr. Zion, Mr. Spence, Mr. Froehlich, Mr. Devine, Mr. Dickinson, Mr. Steiger of Arizona, Mr. Flynt, Mr. Dan Daniel, Mr. Rarick, Mr. Hammerschmidt, Mr. Collins of Texas, Mr. Archer, Mr. Abdnor, Mr. Minshall, Mr. Bevill, Mr. Robinson of Virginia, Mr. Young of South Carolina, Mr. Eshleman, Mr. Miller, Mr. Robert W. Daniel, Jr., Mr. Ichord, and Mr. O'Brien.

Mr. Andrews of North Dakota, Mr. Sandman, Mr. Ashbrook, Mr. McSpadden, Mr. Young of Alaska, Mr. Cederberg, Mr. Passman, Mr. Crane, Mr. Madden, Mr. Quillen, Mr. Hunt, Mr. McCormack, Mr. Michel, Mrs. Holt, and Mr. Lott.

[Excerpt from E. I. duPont de Nemours & Co. paper, "A Total Vehicle Emission Control System," May 15, 1973]

EFFECT OF EMISSION CONTROLS ON FUEL CONSUMPTION

In the absence of any other considerations it would be desirable to attain the lowest emission levels from automobiles that are technologically achievable. However, available information indicates that fuel consumption increases with increasing stringency of emission control. Preservation of our natural resources such as crude oil is very important so it is imperative to achieve a balance between gasoline utilization and the degree of air quality achieved. Therefore, the goal should be to set automobile emission standards at those levels which will just achieve the ambient air quality standards in the worst urban areas since this approach will minimize gasoline consumption.

To assess the fuel consumption penalty of achieving low, and perhaps unnecessarily stringent, emission levels in the future it is necessary to quantify the effect of emission control systems already installed on vehicles and predict what the penalties will be when more stringent emission control systems are used. Two studies on the effect of emission control systems on vehicle fuel consumption have been used. First, trends in fuel consumption and performance of car models produced since the 1970 model year have been determined at Du Pont. Second, a report detailing the fuel economy of more than 2,000 vehicles spanning the model years from 1957 to 1973 has recently been released by EPA (8). Data from these two studies are examined in this section and are used as a basis to assess the penalties which have occurred and to project anticipated fuel consumption penalties through the year 1976.

TEST FLEET AND PROCEDURES

The Du Pont Petroleum Laboratory has purchased a fleet of representative, current model cars each year for the past 20 years to determine the road octane quality of fuels and the octane requirements of cars. Since 1970, we have purchased each year a group of six cars of the same make and model, and equipped with the same accessories. We have determined fuel consumption and acceleration performance for these cars each year after they have been operated at least 5,000 miles. Information on the individual cars is summarized in Table 7.

From 1970 to 1971 the compression ratio of most engines decreased significantly with some additional reduction in the average for all cars for 1972 and 1973 models. As shown in Table 8, the average compression ratio declined 0.9 unit from 1970 to 1971 and 0.1 additional unit in both 1972 and 1973. Averages for the six cars were within 0.1 ratio of weighted U.S. average car based on studies of Coordinating Research Council Octane Number Requirement Surveys for 1970, 1971, and 1972 (9, 10, 11).

TABLE 7.—CARS USED IN FUEL ECONOMY PROGRAM

[V-8 automatic transmissions, 1970 to 1973 models]

Car make	Air conditioning	Displacement CID	Carburetor barrels
A	Yes	350	2
C	do	455	4
D	do	400	2
E	do	351	2
F	No	302	2
G	do	318	2

TABLE 8.—COMPRESSION RATIO OF CARS USED IN PROGRAM

[Manufacturer's published ratios]

Car make	Model year—			
	1970	1971	1972	1973
A	9.0	8.5	8.5	8.5
C	10.0	8.5	8.5	8.5
D	10.0	8.2	8.2	8.0
E	9.5	9.0	8.5	8.6
F	9.5	9.0	8.5	8.0
G	8.8	8.6	8.6	8.6
Average	9.5	8.6	8.5	8.4
Weighted CRC average [1]	9.4	8.7	8.6	-------

[1] Based on analysis of data in CRC octane number requirement surveys for 1970–72.

The weight of the vehicles increased each model year with the average increasing 291 pounds from 1970 to 1973 as shown in Table 9. About half of this increase (148 pounds) occurred between the 1972 and 1973 models and is associated primarily with safety standards involving bumpers. A change in construction of Make F from unit body to frame and body coincided with an increase of 510 pounds for that car from 1971 to 1972. There were no significant changes in real axle ratios, tire sizes, or automatic transmission characteristics. Changes affecting carburetion, ignition timing, valve timing, and exhaust gas recirculation were made to the vehicles throughout the period to meet the successively more stringent U.S. vehicle emission standards.

Performance was measured in terms of time, in seconds, to acceelrate from 25 to 60 miles per hour and 0 to 60 miles per hour. Speed and time were plotted automatically from a speed sensor on a fifth wheel. Six repeat accelerations were run, three in each direction, on a straight and level section of a public highway. Results are based on the average of the times in seconds for the six accelerations.

Fuel consumption was measured by driving over a 26 mile urban-suburban course which included approximately nine miles of city traffic and 17 miles of suburban and interstate highways. A summary of the test course is outlined in Table 10. More time was spent in city traffic than on the highway. The test vehicles were fueled from auxiliary tanks located in the trunk and the fuel consumed was determined by weight difference.

The vehicles were tested in matched pairs so that they drove the course in identical time to insure that variations in traffic and thus variations in average speed on the course did not unduly influence the results. The drivers and the position of the cars were rotated and replicate tests of at least four determinations on each matched pair were made. Due to changes in traffic lights in the city portion of the test course the average speed has decreased from a value of 28.6 mph in 1970 to a current average value of 24.4 mph. Thus, it was not possible to compare data obtained several years ago with current data because the fuel consumption was affected by speed. A minor change has been made recently in the city portion of the driving to avoid some of the more congested streets and the average speed over the course is now about 30 mph or much closer to the value obtained when the course was originally set up in 1970. To compensate for these variations in speed in recent tests, the relationship between speed and fuel usage was determined by linear regression analysis and all fuel consumption data were normalized to an average speed of 24.4 mph.

PERFORMANCE AND FUEL CONSUMPTION OF 1970 TO 1973 CARS

Performance in terms of acceleration times for the six car fleet has deteriorated in the past four model years as shown in Table 11. An increase of 13 percent in acceleration time occurred between the 1970 and 1971 models. This increase probably is associated with the reductions in compression ratio and other changes made to meet the emission standards. Small increases were seen also between 1971 and 1972 models and 1972 and 1973 models. When the cumulative increase from 1970 to 1973 was calculated based on the individual changes in each year, the acceleration times apparently increased 23 percent. In view of this rather large change in vehicle performance, the 1970 vehicles which had been retained at Du Pont were run in direct match against the 1973 vehicles in early 1973. These evaluations showed that the differences between the 1970 and 1973 fleets were only 10 and 11 percent rather than 22 and 23 percent. Although the vehicles were checked thoroughly and adjusted to meet manufacturer's specifications, no explanation was found for the fact that the 1970 vehicles were not capable of repeating the acceleration times that they had displayed when they were relatively new. Perhaps the accumulation of approximately 30,000 miles had caused some deterioration in engine performance which was not detectable by conventional diagnostic techniques. However, it is clear that there has been a significant decrease in vehicle performance between the years 1970 and 1973 and the acceleration times of vehicles have increased by at least 10 percent. Approximately 5 percent of this increase is due to the increase in weight of the cars from 1970 to 1973 and the remainder is due to decreased power.

TABLE 9.—MEASURED WEIGHT OF CARS USED IN PROGRAM

Weight determined with full fuel tank and a constant allowance for driver]

Car make	Model year—			
	1970	1971	1972	1973
A	4,350	4,470	4,520	4,610
C	4,840	5,050	5,070	5,280
D	4,640	4,690	4,660	4,820
E	4,360	4,400	4,450	4,680
F	3,760	3,600	4,110	4,230
G	4,220	4,210	4,220	4,300
Average	4,362	4,403	4,505	4,653

TABLE 10.—URBAN-SUBURBAN FUEL CONSUMPTION ROAD COURSE

	City	Suburbs	Overall
Miles	9.0	17	26.0
Time, minutes	44.0	20	64.0
Speed, miles per hour	12.3	51	24.4

TABLE 11.—ACCELERATION TIME CHANGES, 1970–73

Year of test	Models tested	Acceleration time 0–60	Acceleration time 25–60
1970	1970	10.7	7.8
	1971	12.2	8.8
Increase, percent		13.0	13.0
1971	1971	12.0	8.5
	1972	12.2	8.8
Increase, percent		2.0	3.0
1972	1972	12.8	9.6
	1973	13.6	10.1
Increase, percent		7.0	5.0
Cumulative increase 1970 to 1973, percent		23.0	22.0
1973	1970	11.4	8.6
	1973	13.0	9.5
Increase, percent		10.0	11.0

In this report we have chosen to express fuel usage in terms of fuel consumption. The expression fuel economy or miles per gallon has been commonly used in the past but fuel consumption or the amount of fuel used per mile is a more meaningful measure of the effect of various vehicle changes on the demand for gasoline and relates directly to the utilization of natural resources. Fuel consumption is expressed as grams per mile because of the familiarity of this term in reference to exhaust emission measurements.

Fuel consumption of the 1973 cars is greater than for the corresponding 1970 cars as shown in Table 12. Fuel consumption increased each year, ranging from 6 to more than 9 percent more. The cumulative fuel consumption increase between 1970 and 1973 calculated based on the individual changes for each year was 24 percent. Because of the implications of changes of this magnitude it was decided to make a direct check between the 1970 and 1973 model cars.

The fuel consumption of 1973 cars was 14 percent greater than 1970 cars on a direct match basis. All of the fuel consumptions were regressed against average test speed and all data normalized to an average vehicle speed of 24.4 mph. The fleet average fuel consumption data are given in the lower part of Table 12. To further check these measurements, triplicate emission tests were made on each of the vehicles and the fuel consumption calculated based on exhaust emission analysis while conducting the 1975 CVS Federal emission test procedure. These data are shown in Table 12. Again, the fuel consumption increase was 14 percent for the 1973 models when compared with the 1970 model vehicles.

TABLE 12.—FUEL CONSUMPTION BY MODEL YEAR

Year of test	Speed (miles per hour)	Models tested	Fuel usage: Economy (miles per gallon)	Fuel usage: Percent loss	Fuel usage: Consumption (grams per mile)	Fuel usage: Percent increase
1970	28.6	1970	14.1		199	
		1971	13.1	7	214	8.0
1971	24.9	1971	13.1		214	
		1972	12.4	5	226	6.0
1972	24.4	1972	12.7		221	
		1973	11.6	9	242	9.5
Cumulative 1970 to 1973				19		24.0
1973	24.4	1970	13.0		215	
		1973	11.5	12	245	14.0
1973[1]		1970	13.3		211	
		1973	11.7	12	239	14.0

[1] Calculated from exhaust analysis during CVS 1975 test procedure

The discrepancy between the direct determinations of the fuel consumption of the 1970 and 1973 vehicles and the calculated cumulative effect based on individual model year comparisons has not been explained at this time. However, it is believed that the most recent data, because of the greater number of tests and the fact that direct match tests were made, are more accurate.

About one-third of the increase in fuel consumption of the six cars between 1970 and 1973 was determined to be due to increased weight. The other two-thirds of the increase was due to other changes which had been made to control emissions. The effect of increased weight on fuel consumption was determined directly. The weight of the 1970 vehicles was increased approximately 500 pounds by placing weights, equally distributed, in the front and rear passenger compartments. Replicate, direct match fuel consumption measurements were made with the 1970 vehicles with and without the additional weights. The average fuel consumption data for the individual 1970 and 1973 vehicles were normalized to an average speed of 24.4 mph and are shown in Table 13 and Figure 4. The fuel consumption for the 1970 vehicles plus a sufficient amount of weight so that they equaled the weight of the 1973 vehicles is given also. The increase in fuel consumption of the individual 1973 cars ranged from -2 percent to 15 percent greater than for the 1970 cars at equal vehicle weights. The six-car fleet average increase in fuel consumption at equal weight was 9.4 percent for the 1973 cars compared with the 1970 cars.

The 9 percent increase in fuel consumption and the 10 percent increase in acceleration time can be attributed to the reduction in compression ratio and other engine changes to meet emission standards. If vehicle performance had been held constant, the increase in fuel consumption would have been greater

TABLE 13.—EFFECT OF EMISSION CONTROLS ON FUEL CONSUMPTION, 1970–73

[Average speed, 24.4 mi/h]

	Economy (miles per gallon)	Percent loss[1]	Consumption (grams per mile)	Percent increase
1970 A	11.7		240	
1970 A+260 lb	11.4		246	
1973 A	10.5	7.9	267	8.5
1970 C	11.6		242	
1970 C+440 lb	11.0		255	
1973 C	11.2	−1.8	250	−2.0
1970 D	12.0		234	
1970 D+180 lb	11.8		238	
1973 D	10.6	10.2	265	11.3
1970 E	13.6		206	
1970 E+320 lb	13.1		214	
1973 E	11.4	13.0	246	15.0
1970 F	13.9		202	
1970 F+470 lb	13.7		205	
1973 F	11.3	17.5	248	21.0
1970 G	15.4		182	
1970 G+80 lb	15.3		184	
1973 G	13.8	9.8	203	10.3
Average:				
1970	13.0		215	
1970+291 lb	12.5		224	
1973	11.5	8.6	245	9.4

[1] At equal vehicle weight.

COMPARISON OF DU PONT AND EPA DATA

Another source of data showing the effect of emission control systems on fuel consumption is the previously mentioned EPA report (8). These fuel economy data were calculated, we understand, by the EPA from carbon monoxide and carbon dioxide measurements made during the 1972 CVS Federal emission test procedure. More accurate results would have been obtained if allowance were made for the hydrocarbons emitted—this is particularly true for the pre-emission control cars which emitted substantially higher hydrocarbon levels than the 1970 and 1973 cars. The data from Table I of Reference 8 are illustrated graphically in the upper part of Figure 5 and the data corrected for hydrocarbon emissions are shown in the lower part of Figure 5. The fuel economies for the model years 1964 through 1967 were averaged to give representative fuel economies for the model years immediately prior to the institution of Federal exhaust emission controls in 1968. Also shown are the fuel economy data for the years 1970 and 1973. In their report, the EPA averaged the data for all vehicle weights and concluded there were no significant differences between 1970 and 1973 vehicles other than a weight effect. However, there are significant differences in the fuel economies of the 1970 and 1973 vehicles when compared with the pre-controlled vehicles at all vehicle weights above 3,500 pounds. In our opinion, the scatter in the data for vehicle weights below 3,500 pounds precludes any conclusion as to the effect of model year on fuel economy for these lighter cars. This scatter may be due to the lack of a sufficient number of data points for these lighter weight vehicles and the wide differences in the types of vehicles represented. Above 3,500 pounds, most of the vehicles are the conventional U.S. standard size sedans equipped with a relatively large displacement engine and an automatic transmission. Figure 5 not reproduced in the RECORD.

The Du Pont data showing a fuel consumption increase of 9.4 percent from 1970 to 1973 for a nominal 4,500 pound vehicle appears to be in reasonably good agreement with the EPA data. The fuel consumption data from the EPA study obtained from the faired curve corrected for hydrocarbon emissions shown in Figure 5 are given in Table 14. Also shown are the data from the Du Pont road test at a vehicle weight of 4,653 pounds which was the average weight of the 1973 test fleet. The fuel consumption of the 1973 vehicles compared with the 1970 vehicles increased from just under 4 percent for the 3,500 pound vehicles to more than 9 percent for the 5,500 pound vehicles. The EPA data corrected for hydrocarbon emissions comparing the 1973 vehicles with the pre-emission control 1964 to 1967 vehicles are shown in Table 15. Fuel consumption increased from 7 to 20 percent dependent on vehicle weight. These data illustrate the effect of reduced compression ratios and emission control systems on fuel consumption because the comparisons are made at equal weight.

TABLE 14.—EFFECT OF EMISSION CONTROLS ON FUEL CONSUMPTION, 1970–73

[Analysis of EPA report (8), corrected for unburned hydrocarbons]

	Fuel usage					
	Economy, miles/gal.		Percent loss	Consumption, grams/mile		Percent increase
Weight, lbs.	1970	1973		1970	1973	
3,500	13.2	12.7	3.7	213	221	3.8
4,000	11.7	11.0	6.0	240	255	6.2
4,500	10.6	9.9	6.6	265	283	6.8
[1] 4,653	12.5	11.5	8.6	224	245	9.4
5,000	9.9	9.1	8.1	283	308	8.8
5,500	9.4	8.6	8.5	298	326	9.4

[1] Du Pont road tests, average weight of 1973 fleet.

TABLE 15.—EFFECT OF EMISSION CONTROLS ON FUEL CONSUMPTION, 1964–67 TO 1973

[Analysis of EPA report (8) corrected for unburned hydrocarbons]

	Fuel usage					
	Economy, miles/gal.		Percent loss	Consumption, grams/mile		Percent increase
Weight, lbs.	1964–67	1973		1964–67	1973	
3,500	13.6	12.7	6.6	206	221	7.3
4,000	12.4	11.0	11.3	226	255	12.8
4,500	11.6	9.9	14.7	242	283	16.9
5,000	10.9	9.1	16.5	257	308	19.8
5,500	10.3	8.6	16.5	272	326	19.9

ESTIMATED FUEL CONSUMPTION LOSSES FROM PRE-1968 THROUGH 1976 MODELS

The information from the previous section can be used to quantify the effect of compression ratio reductions and emission control systems on fuel consumption for systems already in use. Information provided by the automotive companies and various study groups commissioned by the EPA to study future control systems can be used to project the effect on fuel consumption of future emission control systems which meet the U.S. 1976 emission standards.

The fuel consumption increases from the previous section have been plotted for Figure 6 for an average 4,500 pound vehicle. The penalties would be greater for a heavier vehicle and would be less for a lighter vehicle. The cumulative increase in fuel consumption through 1973 model year as compared with pre-emission control cars is 17 percent. This increase is due to many factors such as changes in carburetion, spark timing, compression ratio, valve timing, and the introduction of exhaust gas recirculation in the 1973 model cars. The increase however does not contain any component related to vehicle weight. Projections of increases in fuel consumption beyond the 1973 model years are difficult in that prototype 1975 and 1976 vehicles are not available for test at this time. However, during testimony at the recent remand hearings before the EPA, the automobile manufacturers discussed the fuel economy losses that would be encountered in their best effort 1975 prototype vehicles (12, 13, 14). Their estimates for the fuel economy loss for the 1975 models when compared with the 1973 models ranged from 0 to 10 percent. We have assumed an average value for the loss between 1973 and 1975 of 5 percent in terms of fuel economy. This loss, coupled with previous penalties, results in a cumulative increase in fuel consumption from pre-1968 models to the 1975 models of 24 percent. The imposition of stringent nitrogen oxide emission controls in 1976 will bring about a further increase in fuel consumption. It has been estimated that the decrease in fuel economy would range from 5 to 20 percent comparing the 1976 models with the 1975 models (15, 16, 17). Again, we have assumed a median value of 10 percent economy loss between the 1975 and 1976 vehicles. This penalty results in an overall increase in fuel consumption of 42 percent for the 1976 vehicles compared with pre-emission controls.

The foregoing discussion illustrates the extent of the increased fuel consumption penalties that reduced compression ratios and emission controls have caused and are anticipated to cause in the future. Current model full size American built cars use approximately 17 percent more fuel than pre-emission control models and it is anticipated that by the time hydrocarbons and carbon monoxide have been decreased to the 1975 interim California levels the total penalty in terms of increased fuel consumption will rise to approximately 24 percent. Imposition of the very stringent NOx standard in 1976 as mandated by the Clean Air Act Amendments will cause the increase in fuel consumption to total 42 percent when compared with pre-emission control vehicles. The amount of the increase probably will be somewhat different with different kinds of emission control systems but the major change will take place with the scheduled imposition of the more stringent standards in 1976 as shown in Figure 6.

Increases up to 42 percent in the gasoline consumed by vehicles require that the need for such stringent automotive exhaust emission standards as mandated by the Clean Air Act Amendments of 1970 be examined critically. If the ambient air quality standards can be met with less stringent emission control, great savings in domestic crude oil and decreased demand for imported crude oil will be realized.

BILINGUAL EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, I am encouraged by the progress made in bilingual education.

Just last month, the Supreme Court held that Federal civil rights law requires San Francisco public schools to take steps to insure that the nearly 3,000 non-English-speaking children are equipped with language skills to profit from their required attendance at school. Justice Douglas, in writing for the majority stated:

> Imposition of a requirement that, before a child can effectively participate in the educational program, he must already have acquired those basic (English) skills is to make a mockery of public education.

In our country, we must remember that we wear an ethnic coat of many colors, and American pluralism is healthy.

Fortunately, there is also a commitment on the part of the Congress to implement bilingual education programs in the Nation's schools. The Bilingual Education Act of 1968, title VII of the Elementary and Secondary Education Act—ESEA—remains the major source of bilingual education funds. As my colleagues are undoubtedly aware, title VII is designed to meet the needs of children 3 to 18 years of age who have limited English-speaking ability and who come from homes where English is not the dominant language. Title VII provides money in the form of grants to local education agencies for the implementation and development of bilingual programs, and its guidelines encourage the instruction of the history and cultural heritage which reflects the value systems of speakers of both languages. The bilingual programs include early childhood programs, adult education, and instruction for dropouts.

According to the Office of Education, under title VII ESEA, 111,000 children throughout the Nation were served in fiscal year 1973, and an estimated 143,000 in fiscal year 1974. Although these numbers are still minimal in comparison to the 5 million students in need of bilingual instruction, we are attempting to expand the availability of services to more pupils when the bilingual education act is renewed this year.

Other bills the Congress will consider include the Emergency School Aid Act, Education Profession and Development Act—bilingual teacher training—the Indian Education Act, Head Start, and Follow Through. We must enact the best legislation to expand services, narrow the education gap between students, and change favorably the attitudes of parents, students, and administrators toward bilingual education.

We are clearly a long way from the time when several States had policies whereby a teacher could lose his license if he taught bilingually. According to the Office of Education, over $14 million in State funds were committed to bilingual education for fiscal year 1974.

In addition to the Court decision and efforts at both the State and Federal level, efforts are underway by private individuals. In May of this year, an Annual International Bilingual Bicultural Education Conference will be held in New York City to promote peace and harmony among the peoples of the world. Because I am committed to bilingual education in this country, and because I also believe knowledge and appreciation of other languages is important to our relations abroad as well, I have sponsored House Joint Resolution 883. Briefly stated, that legislation will proclaim the week of May 13, 1974—during which time the conference will be held—as "Bilingual Education Week."

I take this opportunity to urge the immediate and favorable consideration of this resolution, and also any other legislation that would be of assistance in providing for the educational needs of culturally differentiated groups in our country.

MURRAY M. CHOTINER LEAVES THE SCENE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER) is recognized for 30 minutes.

Mr. HOSMER. Mr. Speaker, early in the morning of January 30, death came to Murray M. Chotiner in Washington, D.C. He was the victim of the dangerously careless driver of a Government truck.

In Murray's passing thousands of people throughout the land, including the President of the United States, lost a beloved and respected friend. The President issued this statement from the White House immediately on learning of Murray's death:

THE WHITE HOUSE—STATEMENT BY THE PRESIDENT

I am profoundly saddened by the death of Murray Chotiner. For more than a quarter of a century he was an ally in political battles; a valued counsellor; and a trusted colleague. But above all, Murray Chotiner was my friend. His friendship never wavered; in periods of adversity it grew stronger.

While some recoil from the label, "politician," Murray was rightly proud of it because he was a professional who had the respect and admiration of those who worked with him. In life he had my respect and deep friendship; he will forever have my gratitude. I shall miss him.

Mrs. Nixon joins me in extending to his wife, Nancy, and their family, our heartfelt sympathy.

Hundreds of telegrams and letters of condolence from everywhere have been received by Murray's wife, Nancy. They are signed by people whose names are known the world around. The burden of sorrow which falls now so heavily on her and upon Murray's children and grandchildren is lightened only by their knowledge that it is shared by so very many others, including Mrs. Hosmer and myself.

Murray M. Chotiner was a complicated, charismatic and brilliant man. To his friends he was a delight and to his enemies a very able and very effective opponent. To both he was at once a many-sided intellectual and a decisive man of action.

I first met Murray Chotiner more than a quarter of a century ago when I entered congressional politics in California. Then and thereafter I was never able to afford his services as a campaign manager, but just as decisively, I could never afford to lose the companionship he so abundantly offered as a true and loyal friend.

The variety of attitudes concerning the man himself, but ceaseless admiration for his abilities were caught by two veteran Washington reporters in their writings after learning of the senseless tragedy which caused his death. The first is by Lou Cannon. It appeared in the news section of the January 31 Washington Post. The second is by Vic Gold. It was part of the editorial page of the Washington Star-News of February 5.

[From the Washington Post, Jan. 31, 1974]

MURRAY CHOTINER, CLOSE FRIEND OF NIXON

(By Lou Cannon)

He was called the creator of Richard Nixon by Mr. Nixon's enemies and the discoverer of him by Mr. Nixon's friends. The President counted him as one of his most abiding supporters. Historians agree that he rescued Mr. Nixon from the most severe crisis of his vice presidency and preserved his place in public life.

Murray Chotiner died yesterday, on the eve of his President's fifth State of the Union message. His death closed a chapter of an era of bare-knuckles California politics that once divided the country but which came to seem strangely tame and even reassuring in the year of Watergate.

"Just stand there in your Navy uniform, keep your mouth shut and I'll get you elected to Congress," is the way Mimi Nemeth, one of Mr. Chotiner's three ex-wives, recalled his initial advice to Mr. Nixon.

Mr. Chotiner engineered Mr. Nixon's headline-grabbing campaign against Rep. Jerry Voorhis in 1946, which depicted Voorhis as an ally of Communists without ever calling him one. He used the same format in 1950 when Mr. Nixon, fresh from his victory over Alger Hiss, ran for the Senate against Democrat Helen Gahagan Douglas.

Mr. Chotiner devised "a pink sheet," on pink paper, that compared Mrs. Douglas' voting record with that of Rep. Vito Marcantonio, of the Communist-line American Labor Party. Mr. Nixon won.

"I say to you in all sincerity that if you do not deflate the opposition candidate before your own campaign gets started, the odds are that you are doomed to defeat," Mr. Chotiner said in explaining his philosophy to a Republican campaign school in 1955.

Mr. Chotiner's career was intertwined with Mr. Nixon's, but he was well known in California politics before Mr. Nixon came on the scene. He managed the campaigns of various GOP congressional candidates and of Sen. William Knowland and Gov. Earl Warren.

Mr. Nixon's biographer Earl Mazo recalls that Mr. Chotiner used to chuckle over stories saying that he "created" Mr. Nixon.

"Damn it, why do they always say I was the creator of Nixon," Mazo remembers Mr. Chotiner as saying. "I started out by creating Earl Warren."

But it was Mr. Nixon, more than any Chotiner pupil, who appreciated his advice about taking the offensive. This advice, by Mr. Nixon's own account, probably salvaged Mr. Nixon when President Eisenhower attempted to jump him from the ticket in 1952 after accounts about a "Nixon slush fund."

In his autobiography, "Six Crises," Mr. Nixon recalls that he was just starting to write a letter to the Republican National Committee protesting what was happening when Mr. Chotiner "bluntly" barged into his office.

"Dick," he said, "a good campaign manager must never be seen or heard. But if you're kicked off this ticket, I'm going to break that rule. I'm going to call the biggest damn press conference that's ever been held . . . And I'm going to tell everybody who called who, what was said—names and everything."

"Would you really do that?" Mr. Nixon asked.

"Sure I'd do it," Mr. Chotiner answered. "Hell, we'd be through with politics anyway. It wouldn't make any difference then."

Mr. Nixon said that Mr. Chotiner left without waiting for a reply.

"I was glad that he had come in," Mr. Nixon wrote. "His devil-may-care attitude, so uncharacteristic of him, had broken the tension and given me a needed lift."

Mazo gives Mr. Chotiner credit for the famous "Checkers speech"—"The kids, like all kids, loved the dog and I just want to say this, right now, that regardless of what they say about it, we are going to keep it"—which turned the tide of Republican sympathy to Mr. Nixon and preserved his place on the ticket.

"Murray was the only one in the entourage who wasn't destroyed by events," says Mazo. "He knew that Nixon would wind up doing what he wanted him to and that everything would turn out all right—and it did."

Mr. Chotiner's family moved from his birthplace in Pittsburgh, Pa., to southern California in 1922 when he was 13. He obtained a law degree from Southwestern University in Los Angeles after completing a year of prelegal studies at UCLA. Only 19 at the time, he had to wait two years to be admitted to the bar.

In his law practice Mr. Chotiner gained a reputation as a shrewd, effective attorney. Some of his clients, including several with gangland connections, were once described by Mr. Chotiner as "unsavory, to say the least."

Mr. Chotiner first became significantly active in politics in 1942 when he headed the southern California organization for Warren's first gubernatorial campaign. He performed a similar service for incumbent Sen. Knowland in 1946, the same year he served as public director for Mr. Nixon's first campaign.

Despite a frequently troubled private life, the jowly Chotiner was popular with a myriad of lawyers, politician and reporters for a quick and sometimes sardonic sense of humor. "He always made the campaign workers feel they were somebody important," recalled one veteran of the California campaigns.

Mr. Chotiner was preparing to assume an important role in the 1965 Eisenhower-Nixon re-election campaign when a Senate subcommittee asked him to explain his dealings with two clothing manufacturers accused of kickbacks to government procurement officers. He denied the charges and the investigation was dropped.

However, the investigation apparently cost Mr. Chotiner a role in the campaign, and he subsequently played only a minor part in Mr. Nixon's unsuccessful races for the presidency in 1960 and the California governorship in 1962.

Nonetheless, he remained loyal to Mr. Nixon and convinced him that he could some day be elected President.

His ex-wife, Mimi Nemeth, said in a recent interview that she regarded Mr. Nixon and Chotiner as essentially the same: "The two men are so similar that it's eerie. . . . They look more alike than brothers do. They both have the receding hairline, the crinkly hair, the five o'clock shadow, the jowls. When (John) Mitchell became attorney general, I began calling it the jowl administration."

When Mr. Nixon became President in 1969 he attempted to install Mr. Chotiner as the No. 2 man at the Republican National Committee, an action that precipitated the resignation of Chairman Ray Bliss. Subsequently, Rogers Morton took the job after winning a pledge that Mr. Chotiner would not be appointed to the job.

Mr. Chotiner played a role in the largely unsuccessful 1970 attempt by the Nixon administration to win Senate elections against "radiclib" candidates. Some of Mr. Chotiner's friends say Mr. Nixon had hired him for the Senate campaign after a newspaper article appeared declaring that Mr. Nixon had abandoned his former campaign manager.

Essentially, Mr. Chotiner never got along with the crew-cut, confident young businessman types that came to typify both the Nixon administration and the Committee to Re-elect the President. He also was not on close terms with Nixon aides H. R. Haldeman and John D. Ehrlichman and, during the 1972 campaign, was given the largely token job of "ballot security."

In private conversations Mr. Chotiner became throughout 1972 increasingly critical of the "stupid" conduct that had led to Watergate.

"Murray would have run a tough campaign but it wouldn't have been stupid," Mazo said yesterday. "I also doubt that it would have been crooked."

This view is shared by former Rep. Patrick J. Hillings of California, who succeeded Mr. Nixon in his congressional district and was a longtime law associate of Chotiner.

"I don't think Watergate would have happened if he had been in there," Hillings said. "I don't think he would have put up with that Watergate business. And he was one of the few people who spoke up to the President. He fought hard and he fought aggressively, but he fought clean, and he took a bad rap."

Speaking of Watergate to a group of Young Republicans on March 31, 1973, Mr. Chotiner said: ". . . I think it was a stupid, useless inane experiment by people who have seen too many TV shows and especially too many productions of Mission Impossible."

Last August, Mr. Chotiner described the President as "unhappy" about Watergate and ready to go on the offensive.

"By now, I would say he is probably finding himself and is ready and willing to fight back," Mr. Chotiner said. "He's that kind of fellow you can't push into a corner; he comes out fighting. He would rather have peace, but he won't take things lying down."

Mr. Chotiner was named a special counsel to the President in 1970, the job he held while advising the White House on the ill-starred election campaigns. Since March, 1971, he has been associated with the law firm of Harrison, Lucey, Sagle and Solter, with offices across the street from the White House.

He was scheduled later this week to announce a new partnership with attorney George Webster with offices a half block away at 1747 Pennsylvania Ave. NW.

Mr. Chotiner died believing that President Nixon will weather the storms of Watergate. Mazo recalls that in a post-Christmas conversation Mr. Chotiner predicted that the President would be able to put Watergate behind him "by the spring."

In the same conversation, Mazo says, Mr. Chotiner expressed his view that "Dick wouldn't have had anything to do with it."

It was the last tribute to Richard Nixon from the man who more than any other person in politics launched and kept alive the career that put him in the White House.

[From the Washington Star-News, Feb. 5, 1974]

The Passing of Murray the Candid

Murray Chotiner, the campaign manager who guided Richard Nixon through his early political years, died on the afternoon preceding his onetime political protege's fifth State of the Union address. It was a speech that will be best remembered in history for its Watergate addendum.

In years to come, to be sure, Chotiner will also be remembered, whenever Republican campaign experts gather to tell tall tales, as a professional's professional. But the truth is that "the man who created Nixon" was throughout his career a political amateur, in the pure and best meaning of the word: one who participates for love of the game itself.

Chotiner loved the human interplay of politics, the way all competitors relish the challenge of a game they play naturally and well.

An observer once described Chotiner as the Republicans' non-Irish answer to the Democrats' Jim Farleys and Larry O'Briens. Indeed, had he worked for FDR or JFK, Chotiner's political gifts and exploits would have been exalted by his worst critics—those on the knee-jerk left who never forgave him for having helped win the early Nixon campaigns against liberal folk heroes.

But for the vagaries of liberal semantics, the Chotiner described as Nixon's "hatchet man" might have been FDR's "point man." And Nixon's "ruthless" campaign manager could have been JFK's "hard-nosed" political adviser. By such distinctions are reputations and legends made.

When I first met Chotiner he was already a legend—and had been for two decades—in the political campaign field. His image from afar, as projected by what I had read and heard of him, was that of a somber, even sinister, gray eminence of the political right (although before Nixon, he had handled Earl Warren's campaigns in California).

It took all of a minute for Chotiner to puncture that preconception. At Murray's conversational pace that 60 seconds produced two outrageous puns and three irreverent verbal darts cast in the direction of the nearest stuffed shirt. So this was Nixon's Dr. Frankenstein?

Murray Chotiner was a man, I learned firsthand in the years following, of wit, warmth, perspective—and that rarest of all political attributes, candor. Yet, ironically, in a town full of journalists who deplore the absence of candid political talk, Murray's very forthrightness came to be used against him.

There was, for one memorable example, that speech he delivered to a group of party campaign workers in the mid-1950s—the one in which he spelled out his rough-and-tumble philosophy of political campaigning. It was nothing, really, that anybody who knows anything about politics—this side of the League of Women Voters—would find shocking. But the crocodile roars from the liberal cirtics could be heard for miles around and years to come.

Watergate was beyond the comprehension of a man who loved the game, understood the system, and knew where the line was drawn between rough politics and dirty tricks. By 1972, however, Murray the Candid was no longer within the closed circle of a protege who had come to rely on men who told him what he wanted, rather than what he ought, to hear.

So it was, listening to the President deliver his State of the Union message the night his mentor died, I couldn't help but think that, had he continued taking counsel from the flesh-and-blood Chotiners instead of the mechanist Haldemans, that addendum wouldn't have been necessary.

We are all going to miss Murray. Richard Nixon already has.

To take part in his funeral 20 of Murray Chotiner's longtime friends from various walks of life were named as his honorary pallbearers at ceremonies at the Washington Hebrew Congregation on Monday last. They were: Ray Arbuthnot, Jim Bishop, Jack Drown, Robert Finch, Syndey Floersheim, Marion E. Harrison, Robert Hartmann, Robert Hill, Pat Hillings, Joe Holt, and Craig Hosmer. Oakley Hunter, Donald Jackson, Charles E. Lucey, Fred Mcalpin, John E. Nidecker, William Price, Eugene Reeves, Robert F. Sagle, and Myron Solter.

The funeral was attended by hundreds of mourning friends, including the President and Mrs. Nixon.

At this ceremony Prof. Irving Ferman, a law professor at Howard University, described Murray Chotiner's personal life and professional accomplishments as a lawyer, not his political life. Professor Ferman spoke of Murray's "utterly refreshing wit," his "thoughtfulness and courtesy toward everyone," his "concern for civil liberties" and many other facets of his life.

Julie Chotiner wrote an essay concerning her father which was read after Professor Ferman's tribute.

Julie's essay is a personal thing. For that reason I have not asked that it be reproduced here. But I can say that she wrote of her father as a hero. She said he was "fun, fair, honest" and knew most about politics. "The only bad thing I can think of is his bad memory," said Julie, and then added, "I respect my Dad greatly."

After the services, the President escorted Murray's widow, Nancy, and her daughters, Julie and Renee, to their car. He embraced the daughters and told Mrs. Chotiner, "He was a great guy."

And to me and to thousands that is exactly what he was.

GENERAL LEAVE

Mr. HOSMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of the late Murray M. Chotiner.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMPREHENSIVE HEALTH INSURANCE ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Schneebeli) is recognized for 10 minutes.

Mr. SCHNEEBELI. Mr. Speaker, I am today introducing on behalf of the administration the Comprehensive Health Insurance Act of 1974.

The need to provide adequate health insurance to all Americans should be a primary national goal. The bill I have introduced today represents a comprehensive effort over a considerable period of time by the administration to respond to this need in a thoughtful and responsible way.

I am appending to my remarks an explanation of the bill prepared by the administration. I believe the bill deserves the careful attention of the Ways and Means Committee and the Congress, and I am hopeful that we will be able to consider this legislation at the earliest possible opportunity.

The explanation follows:

Major Features of the Comprehensive Health Insurance Plan

I. STRUCTURE

A. Employee Health Insurance Plan (EHIP):

All employers would be required to offer the basic insurance plan and Health Maintenance Organization (HMO) coverage to each employee under age 65 who has met the full-time hours of work test. Coverage extends to family members under 65. Employers may self-insure;

Election of coverage would be voluntary at the option of the employee;

The basic plan would also be available to self-employed and non-working families, individuals, and non-employer groups (e.g., unions or professional associations), through private carriers;

Employers would be required to offer coverage meeting the basic plan, and could offer optional plans supplementing the basic plan. Employers could not offer non-approved plans;

Employers would contribute 65 percent of premium expenses for covered employee (75% after three years). However, if an employer's payroll rises by more than 3 percent due to required contributions to coverage, then the Federal Government would pay a subsidy to the employer for employer premiums in excess of the 3 percent increase in payroll expenses. The subsidy would be 75 percent of such excess in the first year reduced by 15 percentage points each year thereafter;

The employer contribution toward coverage would begin 90 days after onset of employment and continue for 90 days after termination of full-time employment; and

An individual or family which has been enrolled in an Employee Health Insurance Plan would be allowed to continue coverage under the plan, at the employer's group rate, for 90 days following the period of a required employer contribution (a total of 180 days after termination), by paying the premium in full themselves.

B. Assisted Health Insurance Plan (AHIP):

States would contract with intermediaries to offer the basic plan to all residents of the State, except those with family incomes of $7,500 or more who are offered the Employee Health Insurance Plan;

Employers who desire to do so could offer AHIP (at 150% of the average group rate in the State) in fulfillment of the requirement to offer a mandated plan. Members of such employee groups could enroll in AHIP irrespective of income level;

Persons who would, in fact, enroll in AHIP:

a. families below $5,000 income ($3,500 for individuals) regardless of work status;

b. non-working families between $5,000 and $7,500 income ($3,500–$5,250 for individuals);

c. very high risk working families between $5,000 and $7,500 income ($3,500–$5,250 for individuals);

d. non-working families with unusually high medical risks (disabled and early retirees) regardless of income; and

e. unusually high risk employer groups.

All persons eligible for AHIP would have the option of obtaining coverage through an approved prepaid health care plan;

The premiums, deductibles, coinsurance, and maximum liability would be related to income;

Carriers administering AHIP coverage would be reimbursed by the State on the basis of actual benefits paid for coverage services, less income derived from the plan, plus a negotiated rate for administration;

Employers would be required to make a contribution to AHIP for low-income employees who elect that coverage, in the amount they would have contributed for other employees under an Employee Health Insurance Plan; and

For AHIP eligibles who elect coverage through a prepaid health care plan, the State would contribute an amount equal to the cost of providing AHIP coverage.

II. BENEFIT PACKAGE

A. Reimbursable Services:

Hospital services, not subject to a dollar limitation;

Physician services, not subject to a dollar limitation; and

Prescription drugs, out-of-hospital.

Mental Health services:

Inpatient—30 full days or 60 partial days; and

Outpatient—30 visits to a comprehensive community care center or private practitioner (the latter not to exceed 15 visits).

Special and preventive services for children:

Well child care up to age 6;

Eye examinations, developmental vision care, and eyeglasses up to age 13;

Ear examinations and hearing aids up to age 13;

Routine dental services up to age 13.

Other preventive services:

Prenatal and maternity services; and

Family planning.

Home Health Services—100 visits per year.

Post-hospital extended care—100 days per year.

Blood and blood products.

Other medical services, as in Medicare (prosthetic devices, dialysis equipment and supplies, x-rays, laboratory, ambulance, etc.).

B. Premiums and Cost-Sharing (EHIP and AHIP):

Employer Plan:

Premiums for employer groups of 51 or more employees and other families and groups being offered EHIP would be negotiated between employer and other groups and the insurance carrier;

Expenses for an insured individual which exceed $10,000 in a year cannot be attributed to the experience rating of the employee group through which the individual has obtained coverage;

Each insurance company would be required to offer the same rate to all employees in firms with 1 to 50 employees (subject to the single/family rate differential);

Rates for coverage under the plan cannot differ on the basis of family size and composition, except that there must be separate rate determinations for singles and families with the single rate being 40 percent of the family rate;

The benefit package as presently constituted would result in an approximate average group family premium of about $600. (A single person's premium could be expected to be $240.) The average premium required by this coverage per full-time employee is $415;

The employer would eventually pay 75% of premium costs and employees the remaining 25%;

EHIP would not reimburse for services until the insured unit has met a deductible of $150 per person (maximum of three deductibles per family), with a separate $50 per person deductible on reimbursement for outpatient drugs;

After satisfying the deductible, the enrollee pays a coinsurance of 25 percent, with a maximum liability for cost-sharing (deductible plus coinsurance) of $1,500 in a year; and

There would be no per year or lifetime limitation on benefits paid by the Plan.

Assisted Health Insurance Plan (AHIP):

Premiums, deductibles, coinsurance, and maximum liability would be all income-related under the AHIP. The following schedule has been used in making cost estimates for the Comprehensive Health Insurance Act of 1974.

SINGLE

Annual income	Contribution[1]	Per person deductible		Coinsurance (percent)	Maximum liability
		Drugs	Other		
I. 0 to $1,749	0	0	0	10	[2] 6
II. $1,750 to $3,499	0	$25	$50	15	[2] 9
III. $3,500 to $5,249	$120	50	100	20	[2] 12
IV. $5,250 to $6,999	240	50	150	25	[2] 15
V. $7,000 plus	360	50	150	25	$1,050

[1] Based on 50 percent of average group single rate in group III, 100 percent in group IV, and 150 percent in group V. Expected average group single premium rate equals $240.

[2] Percent of income.

FAMILY

Annual income	Contribution[1]	Per person deductible		Coinsurance (percent)	Maximum liability
		Drugs	Other		
I. 0 to $2,499	0	0	0	10	[2] 6
II. $2,500 to $4,999	0	$25	$50	15	[2] 9
III. $5,000 to $7,499	$300	50	100	20	[2] 12
IV. $7,500 to $9,999	600	50	150	25	[2] 15
V. $10,000 plus	900	50	150	25	$1,500

[1] Contributions based on 50 percent of average group family premium rate in the State for group III, 100 percent for group IV, and 150 percent for group V. Expected average group family premium rate equals $600.

[2] Percent of income.

III. FEDERAL PROGRAMS

A. Medicare:

Medicare for the Aged would be retained, with the benefits changed to conform with the mandated health plan;

Medicare would continue to be administered directly by the Social Security Administration through its own system of fiscal intermediaries;

The benefit package would include the full range of services as in EHIP and AHIP. As a result, outpatient drugs and mental health services would be covered, and the aged would have far superior protection against catastrophic expenses—complete hospitalization and maximum financial liability. (Medicare now covers 90 days of hospitalization per episode plus a lifetime reserve of 60 days.);

A Medicare beneficiary would face an annual per person deductible of $100 on all services except outpatient drugs. The deductible for outpatient drugs would be $50. Beneficiaries would pay 20 percent coinsurance on expenses above the deductible up to a maximum annual liability of $750;

Medicare for the Aged would be financed from the current 1.8 percent payroll tax plus a small premium contribution by the enrollee (about $90 per person annually, roughly equal to the current Part B premium);

Federal, State, and local government employers and employees would participate in the Medicare system and be subject to the Medicare payroll tax;

Medicare beneficiaries who are low-income would be eligible for reduced premium payments and cost-sharing. The income testing and income definitions would be tied to SSI;

Dependents of Medicare beneficiaries below age 65 would be eligible to enroll in AHIP;

Medicare for the Disabled (including the kidney disease provisions) would cease as a separate program. The disabled would be eligible for AHIP coverage. Most current Medicare disabled beneficiaries would have better protection because of the catastrophic provisions and because a high proportion would qualify for reduced cost sharing because they are low-income but have Social Security cash payments which place them beyond Medicaid eligibility; and

Reimbursement for Medicare services in a State would be based on the same system as used in that State for EHIP/AHIP services.

B. Medicaid:

Medicaid would be terminated except for certain services not covered by the Comprehensive Health Insurance Act. These include (1) services in a skilled nursing facility or intermediate care facility; (2) care in mental institutions for persons under age 21 or over 65; and (3) home health services.

C. Indian Health:

The Indian Health Service would continue to provide health care to eligible Indians.

Indians may also participate in State AHIP programs.

D. Veterans Administration:

The VA would continue to operate a separate health care system for those eligible for VA benefits.

The VA system would be reimbursed for services not related to a disability incurred while in the military.

IV. REIMBURSEMENT POLICY

A. Healthcard:

All persons (including Medicare enrollees) would receive an identification card which would be evidence of financial protection for all covered services.

Participating providers of service would be required to accept the card as evidence of coverage and would bill the indicated carrier for covered services.

The carrier would reimburse the provider and would bill the enrollee for the applicable cost-sharing.

B. Classification of Providers:

Full-Participating Providers—would agree to accept reimbursement through the Healthcard as payment in full for all patients (EHIP, AHIP, and Medicare). To these providers the Healthcard would reimburse the full amount of the applicable reimbursement rates (the insured amount as well as the patient's cost-sharing). All institutions would be required to be full-participating providers;

Associate-Participating Providers—would agree to accept reimbursement through the Healthcard as payment in full for all AHIP and Medicare patients, and as payment of the insured amount of an Employee Health Insurance Plan enrollee's bills. To collect the remainder of his fee for the patient, the physician would bill the patient directly; and

Non-Participating Providers—would not be reimbursed from any approved plan for services provided.

V. REGULATION AND ADMINISTRATION

A. State Regulation and Administration—States must enact appropriate legislation fulfilling each of the following responsibilities to be eligible for Federal financial participation in the plan. This regulation must extend to prepaid health care plans as well as to all private carriers and self-insured employers;

Carriers and self-insured employers providing the basic plan would file their plans with the States, keeping the State advised of the employers and employees to whom the plan is provided. States would be required to provide for prompt review of the plan and determination as to whether it meets the requirements of the law;

Premium rates and rating structures would be reviewed for reasonableness (file and use procedure) for all private health insurance;

Enrollees would be guaranteed against noncoverage or nonpayment of claims related to the basic plan resulting from carrier insolvency;

An annual CPA audit would be required for all insurance carriers offering coverage under the plan;

Carriers would be required to disclose information with regard to services covered, rates, and the relations between premiums and benefits paid. This requirement must extend to all private health insurance sold;

All capital investment over $100,000 would be approved by a State-designated planning agency to receive reimbursement through the plan;

Medical services would be subject to Professional Standards Review Organization;

Physician reimbursement for covered services under the insurance plans would be based on amounts determined after consultation with providers and other interested parties. Physicians would be free to bill additional charges to those covered under the Employee Health Insurance Plan provided the patient is notified beforehand of such additional charges;

States would establish prospective reimbursement systems for hospitals;

Providers would make available to patients information regarding charges for most commonly given services, hours of operation and other matters affecting access to services, and extent of certification, accreditation, and licensure; and

In addition to administration and participation in financing of the AHIP, States would be responsible for certifying health care providers as eligible for participation in the Comprehensive Health Insurance Plan.

B. Federal Regulation and Administration—The Federal Government would:

Establish standards for eligibility;

Define the services to be reimbursed by the plan; and

Operate an expanded program of benefits for the aged.

VI. COSTS

Added Federal/State expenditures to finance the Assisted Health Insurance Plan would approximate $6.9 billion;

Added State spending under the Government Plan would equal about $1.0 billion. Much of this would be offset by reductions in other State health programs;

Added Federal spending would equal about $5.9 billion;

The Federal subsidy to assist low-income employees and their employers would equal about $0.45 billion; and

The additional cost of increased benefits for the aged would be $1.8 billion.

VII. FINANCING

A. Employee Health Insurance Plan (EHIP):

Would be financed jointly by employers and employees; and

Employers would be required to make a contribution to the EHIP for those employees who qualify and enroll.

B. Assisted Health Insurance Plan (AHIP):

Costs of AHIP above the income derived from enrollees would be shared by State and Federal governments. The States share would be related to current levels of State expenditures, ability to pay, and anticipated future expenditures under The Comprehensive Health Insurance Plan in that State. The total State share would be about 25%.

C. Medicare:

The Medicare Trust Fund (plus a small premium contribution (about $90 per year)) would pay for all services provided under the basic Medicare plan. The cost above the basic income aged would be borne by General Revenues and State contributions.

D. Medicaid:

A residual Medicaid program for long term care services would continue with the current Federal/State Medicaid matching formula.

VIII. SPECIAL PROVISIONS TO ASSIST SMALL EMPLOYERS

The following provisions have been incorporated, which would particularly assist small employers, since they have a higher proportion of low wage workers and pay higher premiums than large employers:

Where two members of the same family are eligible for Employee Health Insurance Plan coverage, only one could accept. This program would benefit small business, which hire a disproportionate number of secondary workers;

Each insurance company would be required to offer coverage at the same premium rate to all employees in firms with up to 50 employees. This provision would reduce the costs associated with carriers individually rating small groups. It also would minimize the adverse labor market effects against hiring medical risk individuals; and

The Federal government will subsidize the employer whose payroll costs increase by more than three percent as a result of The Health Insurance Plan. The excess over three percent will be subsidized by 75% the first year and reduced 15 percentage points each year thereafter.

FEDERAL PAPERWORK BURDEN RELIEF ACT—NECESSARY LEGISLATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. YATRON) is recognized for 5 minutes.

Mr. YATRON. Mr. Speaker, the Federal paperwork burden is a problem of vast proportions, for the entire Federal structure is replete with countless instances of necessary reporting requirements. In no way should the desirability or necessity for these requirements be diminished. However, it would be desirable and is necessary that they be coordinated, revised, and lessened. This can and must be accomplished. My bill seeks to do so.

The problem is compounded by the fact that there are actually three separate categories of paperwork, which are outlined below:

Line agencies: This segment of paperwork encompasses the various Federal Departments, such as Commerce, Labor, and so on.

Regulatory agencies: This category is self-explanatory. Numerous reporting requirements exist, relating to such agencies as ICC, FTC, FPC, FCC, and so forth.

IRS: This is yet another separate segment of the paperwork burden and relates to none of the above.

The need for specific legislative action, such as the Federal Paperwork Burden Relief Act, is very real, in order to effectively coordinate, unify, and encompass these various paperwork fragmentations. The General Accounting Office is the proper channel through which we should seek the guidelines and recommendations to be followed and carried out by the Congress.

For that reason, the paperwork bill very simply directs the GAO to undergo a study, throughout the Federal structure, as to the nature and extent of the paperwork burden and the reporting requirements. This approach is both feasible and desirable, in light of the fragmentation outlined above.

Apparently, the need for the measure is supported by the fact that some 140 of my House colleagues have thus far cosponsored the legislation thus far.

The "line agencies" paperwork segment would primarily entail the Office of Management and Budget—OMB. Unfortunately, however, as has been emphasized by the National Federation of Independent Business and others familiar with the paperwork problem, no action has been forthcoming to relieve the situation from the OMB in the last 30 years.

The direct and feasible approach of

the Federal Paperwork Burden Relief Act takes on an even greater meaning and special legislation of this kind is, in fact, necessary.

So vast is the paperwork problem that strong interest in the measure has been indicated by such varying segments as the National Archives, the District of Columbia government, the public utilities industry, the Federal Statistics Users Conference, and many other varying and different segments of the Nation.

Let us begin the task of determining the exact nature and extent of the Federal paperwork burden. Ample testimony has been received from a number of knowledgeable sources. Let us act soon to provide the necessary legislative impetus so that GAO can carry out its responsibility and arm the Congress with its findings and recommendations.

Enactment of the Federal Paperwork Burden Relief Act, H.R. 12181 and subsequent numbers, is crucial.

The following list represents the cosponsors thus far, as of this writing, as well as those organizations and interests who have voiced support and interest in the legislation:

Roe, Harrington, Collins, Miller (Ohio), Huber, Burke (Fla), Heckler, Ware, Rogers, Cronin, Shuster, Bevill.

Duncan, Lehman, Roncallo, Riegle, Daniel (Bob/Dan), Davis, Mathis, Green, Froehlich, Abdnor, Derwinski, Wright.

Brown (Cal), Whitehurst, Rooney, Grasso, Eilberg, Cleveland, Kemp, Winn, Murphy (Ill), White, Young (SC), Ashley.

Litton, Baker, Gunter, Mollohan, Powell, Stokes, Hungate, Hudnut, Denholm, Young (Ill), Edwards (Ala), McEwen.

Buchanan, Michel, Long (Md), Dickinson, Young (Alaska), Thone, Rodino, Mazzoli, Holt, Owens, Bowen, Shoup.

Jones (Ok), Hillis, Towell, Stark, Pike, Preyer, Gude, Frenzel, Collier, McKay, Lott, Nichols.

Conlan, Morgan, Fascell, Martin (NC), Anderson (Ill), Mann, Studds, Wilson (Tex), Helstoski, Hamilton, Gaydos, Dent.

Ford, Butler, Henderson, Thompson, Sarbanes, Bell, Foley, Wolff, Boland, Bafalis, Eshleman, Jones (NC).

Roush, Cederberg, Ullman, Bingham, Esch, Brinkley, Mallary, Roy, Clausen, Melcher, Steiger, Bauman, Ichord, Scherle, Zwach, Parris, Montgomery, Goodling, Vander Jagt, Treen, Beard, Steelman, Young (Ga), Hansen.

Ginn, Rose, Culver, McCormack, Waggonner, Sebelius, Sikes, Sarasin, Obey, Flynt, Gettys, Stratton, Jarman, Bray, Walsh, Veysey, Rarick.

Endorsements received and forthcoming:

National Federation of Independent Business.
American Medical Association.
American Newspaper Publishers Association.
National Canners Association.
American Farm Bureau Federation.
American Association of Small Research Companies.
American Society of Travel Agents.
American Pharmaceutical Association.
Independent Meat Packers Association.
National Small Business Association.
National Archives representatives.
D.C. government representatives.
Independent businessmen.
Local chambers of commerce.
Local medical societies.
Legal associations.
American Bakers Association.
Manufacturers associations.

FOOD STAMPS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

Ms. HOLTZMAN. Mr. Speaker, today I introduced a bill which would guarantee that impoverished aged, blind and disabled persons, formerly on public assistance, will not lose food stamp benefits by virtue of their transfer to the supplemental security income—SSI—program.

Forty thousand elderly and disabled New Yorkers, who were transferred from public assistance to SSI, have lost their eligibility for food stamps without receiving an increase in SSI payments to compensate for this loss. As a result, many of these people, who are already living at bare subsistence levels, have seen their incomes reduced even further.

I understand that residents of four other States are also affected: California, Massachusetts, Wisconsin, and Nevada.

I do not believe that Congress intended this cruel result. The "hold harmless" provision of Public Law 93-66 directed that persons formerly receiving public assistance be maintained at their former benefit levels when they entered the SSI program. This took place in States which have chosen to continue to issue food stamps to SSI recipients. New York, however, and the other States which have "cashed out" by giving recipients the cash bonus value of food stamps, instead of the stamps themselves, are not required to include this bonus value in their "hold harmless" payments. Thus, people of these States, whom the law was intended to protect, have lost benefits.

My bill would correct this inequity by requiring cash-out States to include the bonus value of food stamps in payments to all people transferred to the SSI program. It will not affect non cash-out States, nor will it cost the Federal Government any money. It will simply correct an omission in the original SSI act.

Speedy action on this bill will insure that the most helpless people in New York and the other affected States—the impoverished elderly, crippled, and blind—do not suffer because of a legislative oversight.

The text of the bill follows:

H.R. 12680

A bill to make it clear that the bonus value of food stamps is to be included in the "hold harmless" amount guaranteed to recipients of supplemental security income benefits under the Social Security Amendments of 1972, so as to assure that recipients in cash-out States do not suffer reductions in the benefits they actually receive

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 212(a)(3)(B)(i) of Public Law 93-66 is amended by striking out "and" after "June 1973," and inserting in lieu thereof the following: "together with the bonus value of food stamps in such State for January 1972, as defined in section 401(b)(3) of Public Law 92-603, for which such individual was eligible, or would have been eligible had he applied, in December 1973, if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act, and (II) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps, and".

SEC. 2. (a) The amendment made by the first section of this Act shall take effect on January 1, 1974.

(b) The Secretary of Health, Education, and Welfare is authorized to prescribe regulations for the adjustment of an individual's monthly supplemental security income payment in accordance with any increase to which such individual may be entitled under the amendment made by the first section of this Act, provided that such adjustment in monthly payment, together with the remittance of any prior unpaid increments to which such individual may be entitled under such amendment, shall be made no later than the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

IMPROVES GI BILL FOR VIETNAM VETS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, the House Veterans' Affairs Committee, of which I am a member, has adopted a bill which marks a significant breakthrough in our treatment of Vietnam-era veterans. The full committee adopted the recommendations which we on the Education and Training Subcommittee made for substantially improving the GI education bill for Vietnam vets. These recommendations, drawn from a variety of proposals offered by myself, other members of the subcommittee and veterans groups across the country, include a 13.6-percent increase in the education subsistence allowance, under all veterans' education programs, an extension in the eligibility time period from 8 to 10 years, a directive to the Administrator of Veterans Affairs to make annual adjustments in educational assistance rates in accordance with the cost of living and a 6-month period of assistance for refresher training. The bill makes several other minor improvements in the current program and establishes a Vietnam Era Veterans Communication Center within the VA, to be composed of employes who are Vietnam vets, who will make periodic evaluations of the effectiveness of the veterans outreach services program. These are greatly needed and vital changes in the current GI bill, and I feel that both the Veterans Affairs Committee and the Education and Training Subcommittee should be commended for their diligent work on this legislation. It is my hope that the House will act quickly and favorably to adopt the committee's proposal.

While there is no question that the above changes are critically needed to help Vietnam vets now in school, I am also concerned over the thousands of veterans who are unable to take advantage of the GI bill.

There are hundreds of thousands of vets across the country particularly those who reside in States with high public education costs, who simply cannot meet initial tuition costs and thus cannot take advantage of the GI bill. At present, a veteran attending school receives only a monthly subsistence allowance. The recent ETS study, prepared for the Veterans' Administration, concluded that this allowance falls short of the financial needs of veterans attending a 4-year public institution by a considerable amount. Needless to say, the discrepancy is even greater in those States, like New York, New Jersey, Indiana, Pennsylvania and Ohio, with high public education costs. In New York State, for example, public education costs average over $750, which is more than twice what a vet needs in States with low-cost public education, such as Texas and California. The veteran's inability to meet an initial tuition payment of $600 or $800 is the most formidable obstacle preventing his participation in an education or training program, and there are countless numbers of vets who face this problem.

I have introduced the Comprehensive Vietnam Era Veterans Educational Benefits Act, which is designed to complement the proposal adopted by the House Veterans Affairs Committee, and to help remove the obstacles facing those vets not now taking advantage of the GI bill. In essence, this legislation combines the significant achievements of the committee bill with two other vital provisions: The first of these would provide a tuition payment to the veteran for tuition costs above $400 per school year, with a ceiling of $1,000. In other words, the veteran would pay the first $400 himself and the VA would reimburse him for tuition costs up to a total of $1,000. This would enable veterans in States with high public education costs to use the GI benefits, and it would serve to provide equal educational opportunities for all our vets, regardless of the State in which they reside.

The second provision would allow a veteran to draw his full 36-month entitlement in larger amounts over a shorter period of time. If the present subsistence allowance were $220 a month, he could draw $440 a month for only 18 months. This system would be of tremendous help to veterans with prior education or to those who wish to attend a 2-year vocational school. It is, in my mind, a reasonable and equitable approach to allowing the veteran to use his education benefits as they best suit his individual needs.

These are the two critical additions which this new legislation makes to the Veterans' Affairs Committee bill. I have added at the end of my remarks a summary of all of the provisions, as well as an estimated cost analysis.

I might also add that identical legislation has been introduced in the other body as well by a broad coalition of over 30 Senators from both sides of the aisle, including Majority Leader Mansfield and Minority Leader Hugh Scott.

In sum, this legislation seeks to bring the Vietnam era GI bill up to a par with its World War II predecessor. Most of us have read the recent study completed by the Educational Testing Service for the VA which outlines the grave inadequacies of the present GI bill, particularly in comparison to its predecessor. Unlike the World War II bill, the present program discourages many veterans from beginning their education when they are not assured of the financial support needed for completing degree requirements. I feel we must remove the obstacles now standing in the way of the Vietnam vet getting a justly deserved education and chance for a better life. I feel confident that this Congress will not shirk the responsibility which we owe to those who served so well during the course of our involvement in Vietnam.

For the record, a summary of the major provisions of the Comprehensive Vietnam Era Veterans and Educational Benefits Act follows:

The Comprehensive Vietnam Era Veterans Educational Benefits Act of 1974

Inadequacies in the present GI bill deny the Vietnam veteran the assistance and opportunities that Congress intended they have. This is the conclusion of the Congressionally commissioned report published by the Educational Testing Service on educational assistance programs for veterans. Their findings are confirmed by independent hearings conducted by the National League of Cities, U.S. Conference of Mayors, and the American Association of Junior Colleges.

This bill is designed to overcome the specific inadequacies of the present GI bill and provide assistance and opportunities to veterans who are currently unable to use their benefits. It is also designed to meet the mandates of major veterans organizations in the most comprehensive, flexible, and effective manner possible.

MAJOR PROVISIONS

1. A tuition payment made to the veteran for tuition costs above $400 per school year. The ETS study showed $400 to be the average tuition cost at a 4 year public institution. The veteran would pay the first $400 himself and the V.A. would reimburse him for tuition costs up to a total of $1,000. Out of a total tuition cost of $1,000, the veteran would pay $400 and the V.A. $600. Any cost above $1,000 would have to be paid by the veteran.

This would enable veterans in states with high cost public education to use the GI benefits. The GI bill participation rates in Ohio, Pennsylvania, Indiana, New Jersey, and New York (states with public education costs averaging over $750) are half those of states with low cost public education (California, Texas, and Massachusetts). The inability of the veteran to make an initial tuition payment of $600 or $800 is the most formidable obstacle preventing participation in an education or training program.

2. An increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs of 13.6%. This is consistent with action already taken in the House of Representatives and covers the 8% inflation rate since the present rates were enacted.

3. An extension of the present 36 month entitlement period for up to 9 additional months subject to case by case approval by the V.A. This will allow veterans who are subject to special circumstances to complete the course of education they set out on. Specifically, it is intended for those who have lost credits because they have transferred from one school to another or because they lacked sufficient preparatory background and need additional courses to complete their program of instruction.

4. An increase from 8 to 10 years in the eligibility period. Presently veterans have eight years from date of discharge to complete their education with the help of GI assistance. Many veterans discharged in 1964, 1965 and 1966 were unable to use the benefits until 1970 when the subsistence rate was raised above $130. Others have attended on a part time basis and also face the prospect of losing part of their 36 month allotment when the eight years is up.

5. A provision allowing a veteran to draw his full 36 month entitlement in larger amounts over a shorter period of time. Present subsistence allowance for a single veteran is $220 per month. This provision would allow the veteran to draw up to $440 per month for only 18 months. This would enable veterans with prior education to complete their programs with a minimum of money worries. It would also enhance the prospects for those who may wish to attend medical or law school or a two year vocational objective.

6. The bill removes the restrictions of the work study program. This will enable the V.A. to utilize veterans to fulfill vitally needed outreach work while allowing them to earn money that will help defray their college costs.

7. Establishment of a Vietnam Era Veterans Communication center and a veterans advisory committee. The center would insure that the input, advise, experience, and knowledge of young veterans would be used in programs effecting Vietnam era Veterans. The advisory task force would combine government and private efforts to make veterans programs more effective and more widely utilized.

COST (A consensus reached after consulting the V.A., OMB and various private concerns)

1. Tuition payment—200 million.
2. Subsistence Increase—370 million.
3. Extension of entitlement—15 million.
4. Extension of eligibility period—20 million.
5. Accelerated subsistence—No new cost.
6. Expansion of work-study—25 million (to be determined by VA and Cong. authority).
7. Communication Center—Funded out of existing V.A. funds.

CPA AT USDA—IV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, because there has been much confusion surrounding the proposals to create a Consumer Protection Agency, I have asked selected agencies to supply me with information concerning their activities and proceedings during 1972 which would have been subject to CPA advocacy if any of the pending bills were enacted at that time. I have been inserting these agency replies in the Record as received. Today I wish to complete the reply of the Department of Agriculture, which was too voluminous for a single insertion.

There are three proposals to create a CPA now being considered by a subcommittee on which I serve. The major difference in the bills is that two of them, H.R. 14 by Congressman Rosenthal and H.R. 21 by Congressmen Holifield and Horton would empower the CPA to obtain judicial review of agency actions. The remaining bill, H.R. 564, introduced by Congressman Brown of Ohio and myself would not grant the CPA this extraordinary power.

This final portion in the USDA reply is particularly pertinent in this regard, for it includes a listing of the 1972 actions of this agency which would have been subject to review by the Federal courts at the instigation of a CPA, if a CPA had been in existence at that time.

Mr. Speaker, for these very important reasons I now insert in the Record the remainder of the reply of the Department of Agriculture:

REPLY OF THE DEPARTMENT OF AGRICULTURE

Question 7: Excluding actions designed primarily to impose a fine, penalty or forfeiture, what final actions taken by your agency in calendar year 1972 could have been appealed to the courts for review by anyone under a statutory provision or judicial interpretation?

Answer: Many final agency actions taken by this Department can be appealed to a court or subjected to judicial review by one means or another. Because of the scope of the activities of a Department this size, such actions would run into the thousands and it would be impracticable to attempt to list all of those individually. For example, the Forest Service, which is just one of many agencies of the Department, relies heavily on professionals in the field to administer the National Forest System. The Rangers and Forest Supervisors make thousands of land use decisions and rulings each year, ranging from granting permits to occupy and use National Forest lands to awards of timber sales and road construction contracts. Any of these actions can be considered final agency actions and can lead to court cases. Our experience in the past has shown that a wide range of agency decisions has been subjected to judicial review. In view of the foregoing, we are listing only those final agency actions which are taken in formalized proceedings or which are subject to court review by specific statutory provision or both. Most final rulemaking, many of which would correspond closely to those listed under Question 1, would also generally be subject to court review.

1. Sixty-five (65) marketing quota review determinations under the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1361–1368), as follows: 1 with regard to rice, 10 peanuts, and 54 tobacco.

2. Fourteen (14) decisions by the Judicial Officer on petitions of handlers alleging illegality of provisions or obligations of Federal milk marketing orders pursuant to section 8c(15) (A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608c(15) (A)).

3. Cease and desist orders under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), as follows:

Packers	25
Market agencies	29
Dealers	21
Total	75

4. Thirty (30) reparation orders under the Packers and Stockyards Act.

5. 313 reparation orders under the Perishable Agricultural Commodities Act, as amended (7 U.S.C. 499a *et seq.*).

6. Three (3) cease and desist orders under the Commodity Exchange Act, as amended (7 U.S.C. 1 *et seq.*).

7. Fifteen (15) decisions of the USDA Board of Contract Appeals with regard to disputes under contracts relating to boiler, road, fire tower and dam construction, tree planting, purchase of equipment, river drainage, and Commodity Credit Corporation price support purchases.

8. Twenty (20) decisions of the USDA Board of Forest Appeals and the Secretary of Agriculture pursuant to Appeal Regulations concerning Forest Service contracts or activities.

9. 267 denials of claims for indemnity under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*).

10. Five (5) denials of requests for information under the Freedom of Information Act.

CONGRESSMAN DRINAN OUTLINES PLANS TO PROTECT AND EXTEND THE RIGHT OF PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 20 minutes.

Mr. DRINAN. Mr. Speaker, the events of the recent past have focused an increasing amount of public attention on the individual right of privacy. A great deal of that interest has been generated by ill-conceived, immoral, and in some instances, illegal acts and programs of the Nixon administration. The investigation work of numerous congressional committees, the press, and the special prosecutor have all brought to light the outrageous activities of this administration which have undermined the personal security and freedom of American citizens. Thus it was with a touch of irony that we heard, in this Chamber a few days ago, a Presidential pledge to take steps to protect the right of privacy. While we can rant about the demagoguery of it all, perhaps the wisest course is to note that we may have gained another ally in the battle against governmental excesses. But time will demonstrate whether Mr. Nixon is merely a sunshine patriot and summer soldier.

The calls for securing personal privacy against governmental intrusions were heard in this House before the state of the Union message, 1974. The first Congress debated and passed 10 amendments to the Constitution to protect citizens from their government. Some of those guarantees were at the heart of individual privacy: The freedom from unreasonable searches and seizures and the right not to have soldiers quartered in one's home. These measures were enacted to curb the excesses of the English monarch. The hated writs of assistance, for example, which in effect permitted general searches of private homes, were outlawed.

Since those guarantees were embodied in the supreme law of the land, it was understood that the courts, both State and Federal, would be the principal protector of those rights. Having experienced the intrusions by the king, the Congress knew better than to entrust the liberties of the people to the self-restraint of the Executive. William Rehnquist's statement a few years back that the Justice Department could regulate itself raised anew the ancient fears of an unbridled and tyrannical Executive.

The fundamental notion that the judiciary would check governmental excesses was given new impetus in the privacy field in 1890. In that year, Samuel Warren and Louis Brandeis published their seminal article on "The Right to Privacy" in the Harvard Law Review. They identified the concern for insulating the "sacred precincts of private and domestic life," exalting the "right to be let alone." The authors predicted that the "question whether our law will recognize and protect the right to privacy must soon come before our courts for consideration."

THE COURTS AND PRIVACY

To be sure, the courts have ventured into the area to some degree. They have expanded the protection under the fourth amendment against unreasonable searches and seizures. That guarantee has been applied against State intrusions as well as Federal invasions. The traditional requirement that a trespass occur before violating its proscription has been removed. Its sweep now covers a person's temporary residences, such as a motel room, as well as one's home. And its command against warrantless incursions has been extended to persons engaged in activities allegedly threatening the internal security of the Nation.

Furthermore other areas of privacy have received judicial recognition. Freedom of association, while not expressly protected by the Constitution, has been elevated to a preferred position. State legislative committees have been prohibited from subpenaing membership lists from civil rights organization where exposure would inhibit the advancement of equal rights. The right to use and to advocate the use of contraceptive devices has been deemed a part of one's right of privacy. And it has been held that food stamps cannot be denied to persons who live together merely because they are not related by blood or marriage.

But the judicial excursions into the area of privacy have, indeed, been slow and deliberate. They have not been adequate to meet the needs of the people, partly because technology has outdistanced the common law and partly because the Government has outdistanced the common man. The need for legislation is obvious. Samuel Warren, the coauthor of "The Right to Privacy," perceived that need 15 years after its publication. On April 10, 1905, he wrote to Louis Brandeis asking him—

> To draw a statute that would meet the chief invasions of privacy, without covering more ground than considered public opinion would sustain. No greater service could be rendered the community than the adoption of a well-considered law on this subject.

Now, in 1974, a decade before that fateful Orwellian year, we have neither a "well-considered law" nor definitive legal parameters of the right to privacy.

In recent times there have been stirrings in the House of Representatives with respect to privacy. Members have regularly sought to abolish our Internal Security Committee—HISC, formerly the House Un-American Activities Committee—which tramples upon the "right to be let alone" of thousands of Americans who have done nothing more than disagree with the policies of the Government of the day. One of my first speeches to this distinguished body related to the work of HISC. In April 1971 I noted that the names of 754,000 Americans, including House Members, were contained in the files of the committee. Staff personnel extracted such names "from unspecified magazines and newspapers which alleged that these individuals for unstated reasons were somehow a threat to the internal security of this country."

A similar effort was made by Members of this House with respect to Mr. Nixon's attempt to expand the jurisdiction of the Subversive Activities Control Board, an agency that had been moribund for many years. In July 1971, the President sought to enervate the SACB which, in compiling a poor track record during its existence, spent millions of the taxpayers' dollars to inquire into their lawful activities.

PENDING LEGISLATION

Legislative proposals have also been initiated from this place to deal affirmatively with the problem of citizen solitude. The Federal Privacy Act of the 91st and 92d Congresses sought to require Government agencies to notify individuals about whom files were kept, to provide citizen access to those files, and to forbid disclosure without consent. Similar legislation is pending in this Congress—H.R. 667, 8845, and 12207.

Other bills are also pending in the 93d Congress which deal with limited aspects of the privacy problem. H.R. 9781, which I introduced, would ban all methods of intercepting or recording oral or wire communication without the consent of all parties. H.R. 10181 would severely restrict the furnishing by private lending institutions to governmental agencies of financial information supplied by private citizens. Further, H.R. 9786 would regulate the collection of information respecting private conduct stored in automatic data banks owned or operated by nongovernmental organizations. H.R. 11629 would prohibit military surveillance of "the beliefs, associations, or political activities" of civilians.

Finally, there are several bills seeking to regulate the collection and dissemination of information obtained through the criminal justice system—H.R. 188 and 9783. Hearings have already been held before the Subcommittee on Civil Rights and Constitutional Rights of the House Judiciary Committee with respect to these bills. In addition, the bills, introduced by Chairman Rodino and Congressman Edwards on February 5, 1974, also deal with this subject—H.R. 12574 and H.R. 12575.

The difficulty with each of these proposals is that none deals comprehensively with the problem of privacy. Each bill seeks to resolve only one facet of the problem. While each measure appears to be independent of the other, they are in fact interrelated. Furthermore the bills have been assigned for hearings to three different committees of the House: Judiciary, Banking and Currency, and Government Operations.

Some important aspects of the privacy question are left untouched by this legislation. None deals with the ordinary manual file kept by private and public agencies for employment, licensing, health, payroll, solicitation, direct mailing, or other purposes. Nothing is said in these bills of the use by the Government of census information, tax returns, informers, or mail covers. And none would restrict or abolish Government loyalty-security programs.

With all this isolated activity going on, it is difficult to understand and appreciate the major themes which course through these seemingly disparate pieces of legislation. I think it is both possible and fruitful to identify the common problems presented by the various intrusions into our privacy and to structure legislation to remedy the most egregious of them. It is helpful, in my judgment, to begin with some notion of what we mean by the "right to privacy."

A DEFINITION OF PRIVACY

In his work on "Privacy and Freedom," Alan F. Westin defined privacy as "the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others." Professor Westin's study presents a good deal of rather horrifying information about the methods by which Government and industry can utilize listening and watching devices, polygraphs, "truth serums," computerized data, and other techniques to break down the walls and doors of personal privacy.

A second aspect to the right of privacy involves conduct, as distinguished from information-gathering. Since most intrusions on private conduct are perpetrated by government through the use of criminal sanctions, it is sound to allow the courts to continue to define the scope of protected activities. The applicable precedents appear to be moving in the direction of giving greater latitude to citizens in their private lives. At the same time, legislatures can accelerate that movement by repealing criminal laws which bear little or no relation to protecting the general public from harm. The nexus between many private acts which are presently proscribed and a valid public purpose seems tenuous at best.

The more important of the two aspects of personal privacy is the one underscored by Professor Westin: That which is related to the collection, storage, and dissemination of information about individuals and organizations. In the hope of our coming to some understanding of the dimensions of this problem, let me share with you my thoughts on the matter.

It seems to me that the information-gathering aspect of the privacy problem has three elements: Collection, storage, and dissemination. Legislation should seek to impose regulations or restrictions with respect to each of these three stages.

First, the collection stage. Every attempt to legislate in the privacy area should begin with a hard-nosed analysis of the need of the Government or private agency for the information contained in its file. Most of the bills pending before us now ignore this fundamental question. We should ask, for example, whether law enforcement agencies really need all the information they gather on persons.

Does the House need the files of the Internal Security Committee? Must employment applications ask all the questions they do? Is the information gathered, say, by credit bureaus, so unreliable, outdated, and incomplete, that collection should be totally prohibited? Is it really necessary that employers—present or future—know our home telephone numbers, our marital or family status, or even our criminal history? When private or public institutions seek to collect data from citizens, they must demonstrate that the information sought is necessary to the decisionmaking at hand—that is, hiring, granting a loan, arresting or prosecuting a person, and so forth. It should not be sufficient that the data sought is only of the nice-to-know but not essential variety.

Second, the storage stage has two aspects to it: temporal and physical. In legislating controls, we must ask ourselves whether the information gathering agency needs to have temporary or permanent possession of such data. It may be, for example, that once an applicant for employment is rejected, the person's entire file can be destroyed. Or if law enforcement officials gather information on a person which does not lead to an arrest, it may be that such material should be expunged.

With respect to the physical aspect of the storage stage, data is ordinarily maintained in two forms: manual files or automated systems. Some of the pending bills deal only with computerized storage operations. While these data banks may pose more serious problems, we cannot ignore the manual system.

Indeed, it could be argued that automated systems are more easily controlled since access can be severely limited because of the technical problems involved in retrieval. On the other hand, anyone can have access to manual files. Further we should inquire whether certain kinds of data are better left in manual files while other types better stored in automated banks. The answer to this question will depend upon the ease of access of each kind of storage facility and the nature of the information sought to be stored. It might be, for example, that manual files are easier to destroy than computer tapes are to erase. Thus data which is intended to remain only temporarily in the files of an agency (public or private) should be stored in manual files.

Finally we should always inquire into the question of which employees have access to the data, manual or automated. Again the test should be on an absolute need-to-know basis. We must develop the norm that even the most innocuous information relating to an individual may, in her judgment, be very personal. Thus information should not be casually dispensed around an agency. A final problem in storage relates to whether individual data needs to be identifiable with the person from whom it came. For example, if we could eliminate the connection of names with census data, we would have less fear that they would be misused. Whenever information can be "depersonalized," we decrease the opportunity for an unwarranted invasion of privacy.

Third, the dissemination stage. A great deal of the attention of the pending bills is on the distribution stage of information systems. While this is an important feature, we must recall my earlier observation that there is no need to worry about improper dissemination if the data is not allowed into the system in the first instance. However, assuming that information is properly in an automated or manual file, and assuming it is stored in proper form, the problem of distribution then arises.

Again we must caution ourselves against assuming traditional notions of who is entitled to see data. Why, for example, must the district attorney have a defendant's "rap" sheet—the criminal history? In most places, a rap sheet lists only arrests since recordkeeping in the criminal justice system is at best poor. Thus the district attorney determines the scope of plea bargaining in large measure by the rap sheet, which may be extremely unfair—particularly if the person had no convictions. Or again should we not require the prospective employer to demonstrate that school grades are highly probative of a candidate's qualifications before we permit the institution to disseminate the information? Why should we allow Congressmen and Federal agencies access to HISC files?

A second aspect of the dissemination problem concerns the permanent or temporary nature of the data in storage. If the information is soon to be destroyed, it should almost never be distributed outside a small group of people who must see it. Clearly a person who subscribes to a magazine for 6 months on a trial basis should not thereafter receive solicitations from every cause or publication known to man. When the subscription expires, the subscriber's name and address should be destroyed. Again an arrested person should not have that fact distributed among 50 States prior to a conviction.

Third, we must overcome the idea that once a person demonstrates an entitlement to a file—application, data, and so forth—he is then entitled to everything in it. Access for one purpose does not invariably mean access for every purpose. A prospective employer might very well be able to show a need for securing school grades, but this should not allow him to see a disciplinary record, or a list of club memberships—which might indicate a political or religious affiliation.

Individual consent is relevant to the dissemination problem. The data bank owner should have to demonstrate the business or governmental necessity for distributing information about an individual without her consent. Prior agreement should be the basic rule, and nonconsensual disclosure the exception. The problem really arises in the circumstances surrounding the giving of consent. An applicant should never be required to give her consent for certain distribution as a condition for the applicant being considered for the job. Nor should a welfare recipient or former drug addict be denied benefits for failing to agree to dissemination of their files—even to research groups.

Of course, the keeper of the data should be required to keep careful records of the people to whom information is given without a person's consent. Since that circumstance is the exception, the administrative burden should be light. In the same vein, the individual about whom the file is maintained should be given notice that the file exists and access to it. Only upon a showing of necessity—the ever-present standard—should access to certain facts be denied. Again we must always be extremely critical of claims for nondisclosure. If the District Attorney must eventually give up the names of witnesses, why withhold them at the outset of the criminal proceeding?

PRIVACY AND THE 93D CONGRESS

Several of the privacy bills now in Congress are before the Subcommittee on Civil Rights and Constitutional Rights, of which I am a member. Hearings were held last fall on the problem of criminal justice data banks. Additional hearings will be held later this month, particularly in light of the new bills introduced on February 5. I think it is crucial that these proposals be measured against the principles set forth here.

Furthermore, I believe there are a number of additional steps which should be taken in the course of the legislative proceedings. First, all proposals relating to privacy should be referred to one committee. Since most of the bills are already before the Judiciary Committee, since it has already had some hearings on the subject, and since the matter primarily involves civil liberties and constitutional rights, it seems to me that the Committee on the Judiciary is the most logical forum.

Second, one of the most promising ideas in the privacy area is to establish a Federal Commission on Privacy. Present proposals which call for the establishment of privacy boards do not go far enough with respect to the concept. I envision an agency which, at first, would devote its time to understanding and evaluating governmental and private actions which impinge upon individual freedom and privacy. After additional legislation is passed, it would eventually have the authority to hold hearings, promulgate rules and regulations, and act as ombudsman for individual complaints. I am preparing legislation on this subject and invite the comments and suggestions of other Members of the House.

There is, I would hope, common agreement that the 93d Congress enact some measure to advance the cause of individual privacy. It may be that any proposal really comes down to a choice between efficiency and citizens solitude. It may be that police, public officials, private companies, school administrators, and others who collect, store, and disseminate information about each of us will have to make adjustments in the way they have carried on their activities in the past. It may be that they will have to curtail practices previously thought to be unassailable. But that is the cost of securing every constitutional right. I for one am prepared to pay that price. After all, 1984 is only 10 years away.

EFFICIENT USE OF ENERGY RESOURCES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, an imbalance currently exists between the supply and demand for fuel and energy, and it is likely to persist for some time. In the long run, beyond the year 2000, developments such as cheap nuclear energy may change the energy supply picture. For the coming 25 years, however, ways must be found to use scarce energy resources in the most efficient manner and with minimum adverse impact on the environment.

Solar energy has been proposed as a possible alternative energy source to reduce demand on the present fuel and energy supplies. The task force on energy for the Committee on Science and Aeronautics concluded that the technology exists for the successful implementation of solar energy for heating and cooling on the residential level. With minor engineering and relatively simple architectural modifications, solar energy could now be used for space heating of residential and commercial buildings and the heating of water.

This would represent no minor savings; one-third of the energy consumed in the United States is used by the residential market and associated commercial facilities. And the number of community developments will likely double before the turn of the century. Conservative preliminary estimates suggest that solar energy utilization could reduce residential fuel requirements by 72 percent in the Baltimore-Washington area. Also, solar energy does not have the environmental problems associated with fossil or nuclear energy.

The task force delineated three major classes of problems associated with residential solar implementation: economic, a substantial initial higher investment, average $2,000 per house; technological, no solar equipment industry exists today; and institutionally, the present lack of a coordinated effort among the diverse institutions which interact to effect construction, builders, codes, et cetera.

H.R. 11864 recognizes that an effective demonstration program is necessary to overcome these obstacles. The technology is there, but a new industry and a new market must be generated whose products are generally affordable before solar energy becomes a practical energy source. The bill proposes a two step commercial demonstration involving the National Aeronautics and Space Administration in research, development, and manufacturing of residential solar equipment and the Department of Housing and Urban Development in the installation and monitoring of said equipment in 1,000 residential units along with the dissemination of the resulting information. There is also a provision allowing for an increase in the maximum dollar amount of any federally assisted mortgage loan equal to the difference in the initial investment required by solar heating or heating and cooling.

H.R. 11864 acknowledges that there is an energy problem and it is likely to be with us for a long period of time. Solar energy has the potential to alleviate at least partially this problem through heating and cooling utilization on the residential level. But whereas the necessary technology exists, its implementation presents a few problems of its own. A successful commercial demonstration, which is the purpose of this bill, would result in the creation of standards for residential solar operation, in cooperation with the Bureau of Standards, and the demonstration of economic viability through creation of a solar industry and market. Such a demonstration is a necessary step in attaining the goal of widespread commercial production and marketing of solar heating and cooling systems for millions of American homes.

In conclusion, Mr. Speaker, I strongly urge the passage of H.R. 11864. It is a necessary measure in a time of crisis and a resourceful action in a neglected area. The eventual harnessing of the virtually limitless power of the sun, toward which this bill is a first step is an endeavor certainly beneficial to this country's needs, both environmentally and with regard to our energy resources.

THE STATE OF THE COMMONWEALTH OF PUERTO RICO—1974

(Mr. BENITEZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BENITEZ. Mr. Speaker, the Governor of Puerto Rico, the Honorable Rafael Hernández Colón, delivered an extensive state of the commonwealth message to Puerto Rico's Legislative Assembly on the evening of January 28, 1974. His address presents a thorough and encompassing analysis of Puerto Rico's current problems, programs, and prospects. The Governor's speech reflects the concerns of a forward-looking community enmeshed in all the crises operating in the United States, in Latin America and in the Near East.

The Puerto Rican press as well as critics from all sides expressed appreciation for the realism of the Governor's analysis, as well as for the resolute determination of our Government to forge ahead in spite of the multiplicity of constraints and uncertainties on all sides. The Government's tenacity in behalf of social and humane objectives in the face of enveloping difficulties is heartening.

Neither Cassandra nor Pollyanna preside over our thinking. Rather, we are sensible of the exacting requirements of public office. During my first session in Congress, it was a special privilege to acquaint my colleagues and many of the leaders of the executive branch with the basic objectives of the Commonwealth of Puerto Rico. A special advisory group of 14 members, 7 appointed by the President of the United States and 7 appointed by the Governor of Puerto Rico, are engaged now in the task of identifying and formulating recommendations concerning how best to advance self-government and participation within the framework of Commonwealth. Three members of this House and three from the Senate of the United States participate in this work.

Recommendations for legislative action will come to the Congress hopefully during this session. Moreover I have felt it not only proper but highly desirable—as a general policy—that Members of both Houses be kept advised of major developments in Puerto Rico. The full text of the speech by Gov. Hernández Colón provides ample information and background to these ends.

The speech follows:

STATE OF THE COMMONWEALTH MESSAGE TO THE LEGISLATIVE ASSEMBLY OF PUERTO RICO BY HON. RAFAEL HERNANDEZ COLON, GOVERNOR OF PUERTO RICO, JANUARY 28, 1974

INTRODUCTION

I come before you to fulfill the duty given me by the Constitution of the Commonwealth, of reporting the State of the Commonwealth at the beginning of each Ordinary Session of the Legislature. On this particular occasion my appearance takes place at a moment in which grave problems shake the entire world.

1973 has been the year in which it has been made apparent, more dramatically than ever, that the resources of our planet are not so vast and boundless that we can continue on the trajectory of selfishness, nationalism and waste that has characterized the history of society so far. We have been awakened to the fact that the problems are grave for everybody: the oil crisis, the population explosion, limitation of resources, pollution, the disruption of the world monetary system, violence, senseless terrorism, and an uncertain peace are only some of them.

In addition to the world situation, the United States is also facing a grave internal crisis of a political nature which takes a large part of the time and attention of officials who must provide leadership for the solution of the worldwide problems.

The fact of interdependence between peoples, of how each one is dependent upon the others, and of the dispersion of power in the world, has emerged dramatically and with effects felt by all in every country.

The world of today is one of movement—we live amidst currents impelled by pressures from diverse and distant areas of the earth. Our struggle for progress is a day-to-day effort, and it is the same for other peoples as well. There are no permanent solutions to most of these worldwide problems. What is solved one day is again complicated on the next; what seems settled on one end becomes disrupted on the other; and the only realistic attitude consists of applying ourselves constantly to the task with the best of our talent, the maximum of our capabilities and a total dedication to the unceasing struggle.

The greatest difficulty is not in taking a philosophical stand before the phenomena that confronts us. In the abstract or in theory all conflicts of values can be brought into harmony—we are talking about economic growth without pollution, of maintaining order while protecting civil rights, of industrializing the economy without weakening agriculture, or urban development without negative impact on the natural environment.

The real test, however, comes day-to-day in the determination of criteria over the various actual cases and situations in which we must apply our principles and values. That is the moment of truth that must be faced continuously in a never ending stream of problems.

The overall government program presented each year is a new individual and collective challenge in the application of our values to our realities. The present time is burdened with possibilities and risks, with possible satisfactions and sacrifices, with challenges and anxieties.

Within the difficulties of present circumstances, I am presenting to you an elaborate program of concrete goals. Our commitment is to continue the economic development of Puerto Rico and to achieve, in a gradual manner, the significant social reforms that are necessary to realize a society of greater justice and equality. The immediate problems, as serious as they may be, should not divert us from this objective. I have the conviction that we will conquer them, with the aid of all men and women of good will, with clear thinking and sincere patriotism.

We are an Island, but we are not isolated. All of the currents, international pressures and circumstances, as well as the internal ones of the United States, are also felt in our community, with varied impact. At the same time these forces limit our sphere of action to deal with the problems of our country, and they shape the frame within which we must pursue our objectives. It is within that constellation of forces and dramatic events that shook the world in 1973, that we most examine the State of the Commonwealth.

THE STATE OF THE COMMONWEALTH

Fiscal and economic policy

Net income for fiscal year 1972–73, which ended last June 30, rose by 10.8% in current prices.

Not counting the rise in prices, the real growth was 6.6%.

The gross national product increased to $6,430 million, an increase of 11% over the previous year.

Net per capita income rose to $1,834.00.

A large part of the growth occurred during the first part of the calendar year. In the following months the rate of economic growth has decreased progressively. This was partly because the manufacturing industry in Puerto Rico began to feel the impact of a slower rate of growth in the economy of the United States; partly because the net income originating from public spending maintained a somewhat slower rate of growth, and partly because the construction industry had already achieved all of its growth as compared with the previous year. Agriculture offered a more positive picture, suggesting the beginning of an upward trend.

The analysis of these and other sectors of the economy leads the Planning Board to conclude that so far in the present fiscal year the economy of Puerto Rico, measured in terms of net income in current price, has decreased its pace of growth, although not abruptly. What has gone down abruptly is the buying power of that income—or, in other words, the real growth of the economy. The reason for this is the rapid increase in prices that has taken place in the world since the beginning of last year, from which, of course, Puerto Rico could not escape.

I am deeply concerned that this rise in the cost of living is more than counteracting the increase experienced in income in terms of current prices. I am concerned that as a consequence, the purchasing power for a large number of our families is diminishing. I will later set forth the elements of the economic policy that we will implement to stimulate our economy within the present circumstances.

The effects of the oil crisis

The oil crisis that has hit all industrialized nations by the embargo of the Arab countries casts a shadow of uncertainty over all of our economic calculations. The embargo cut petroleum shipments to the United States by 10 to 15%, and it came at a time when the entire world was already feeling an oil shortage because growth and demand were much higher than production.

Although Puerto Rico has always imported most of its petroleum from Venezuela, the embargo affects us too. Part of the petroleum we imported during 1973 came from Algeria, which also cut off shipments to Western nations last October. At this moment our local refineries, as well as refineries in the continental United States, are having great difficulty in obtaining sufficient petroleum to run to capacity. Another consequence of the shortage is the high increases in prices. Crude oil from foreign countries sold at $1 to $2 per barrel for many years. It is now at $10 to $15 per barrel, and we have no indication as to the level it may reach. Naturally, these high prices for petroleum have caused prices to rise even greater for all oil-derived products.

Puerto Rice, as well as Japan and other countries, depends almost totally on imported oil for its energy, and this situation will not change in forthcoming years, not even when our first atomic plant starts working early in the next decade.

In the case of Venezuela, the government has increased the nominal value of petroleum for revenue collection purposes from a little over $3 per barrel to almost $14 per barrel, an increase of 350%.

These increases in taxes in Venezuela and other countries, which started early last year, will add another $850 million to the cost of our oil imports for 1974, if we import the same amount of oil. Naturally, a large part of the additional cost will be reflected in the price of exports, but even then our economy will have to absorb approximately $300 million, and I want to point out that these figures do not take into consideration possible additional price boosts.

Gasoline, for example, which at this time sells for more than $1 per gallon in European countries, is expected to reach a cost of $2 per gallon at the end of this year. Puerto Rico must expect that the local price of gasoline will probably reach $1 per gallon within a year. The prices of our kerosene, diesel and residual fuel will also increase proportionately. These costs will be reflected in higher rates for electricity, public transportation, manufacturing, and finally, in almost all consumer prices. As a result of these increases in the price of petroleum, we are caught within the world inflationary spiral.

In addition to the shortage of petroleum, there exists a serious shortage of refining capacity and petrochemical production in the United States. This shortage will continue for some time. The oil and petrolchemical industry in Puerto Rico—its plants and personnel—are still in good shape despite the problems of shortage of crude oil and other materials, and of the price of those materials.

Our government will do everything in its power to maintain our oil and petrochemical industries in sound economic condition in the years to come.

This crisis proves our need to have a deep water port in Puerto Rico as soon as possible. Only by this means will we be able to import petroleum from any other part of the world.

We have lately observed encouraging signs from oil-producing countries interested in participating in our superport project. We are competing with other countries to obtain the crude oil, the superport and the multiple satellite industries that will come as a result. I believe that we have more to offer than other areas, and that we will win this competition.

It does not mean that the price of crude oil will decrease in the forthcoming years, but it does mean that the prices we pay will be the lowest possible competitive price—and that our economy will survive and grow.

In the meantime we are continuing our efforts with Venezuela towards obtaining additional petroleum for the immediate needs of Puerto Rico; we are also continuing to seek fair treatment within the Oil Allocation Program of the United States. The details of this program are not completely clear yet, but apparently we will have sufficient fuel to maintain all our industries. It is possible that we may have a shortage of gasoline on the Island, as there is in the United States at present. We must therefore make our gasoline consumption as low as possible, by using smaller cars that adequately serve to cover the relatively small distances that we have by: increased use of collective means of transportation. Sharing automobiles with friends and co-workers is a means not only to alleviate family expenses, but to help the country in this adverse situation of insufficient oil resources.

Another consumer item in which our families can help reduce energy demands is electricity. Residential consumption of electricity was 3,400 million kwh, that is, 29% of total production. Since the Water Resources Authority consumption of oil products is 18% of imports, we may attribute 5.2% of all imported crude and derivatives to residential consumption of electricity. This implies that families will experience an increase in electricity costs because of the oil crisis that may reach $40 million, even if consumption in 1974 stays at the level of last year.

The Water Resources Authority, meanwhile, is developing an educational campaign to orient consumers in ways to economize in the use of electricity.

I have asked the Director of the Authority to study the means of reducing voltage without affecting the functioning of electrical home appliances. As a longer range measure, the Planning Board must revise home and building design and construction regulations. Finally, I have ordered an acceleration of steps toward the establishment of the nuclear plant, and a study of the use of combustible waste for the generation of electric energy.

The dramatic way in which the interdependence between peoples has been made apparent, as can be seen in the case of the petroleum crisis, makes it imperative for Puerto Rico to establish and strengthen relations with other countries, particularly those of the Western Hemisphere, and that within the Hemisphere we give special attention to those with whom our country has historical, cultural, economic and geographic links. In the same manner, it is necessary to revitalize the relations that we have maintained in the past with international organizations and with organizations of multilateral action that have arisen in the Caribbean area.

Certain plans have been initiated and measures have been taken toward the achievement of those objectives. The Department of State has been reorganized to create an assistant secretary of external relations. The North-South Center is being coordinated in a functional way with this new entity, with the purpose of giving our external relations the importance and professionalism that they deserve, and enabling the Department to fulfill more effectively its function of planning, guiding and coordinating such relations.

Estimated income

At the start of our efforts in January of last year, we found that the revenues for the year had been overestimated by the previous Administration. Since the collection of the overestimated amounts did not materialize, and all of those funds had already been committed, a serious budget situation ensued which made necessary the adoption of drastic measures with the purpose of lowering expenses for that fiscal year.

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The sharp increase in the price of food that * * * of the year causes a substantial part of our income to leave Puerto Rico, and the drastic rise in the price of petroleum and other raw materials also takes a substantial measure of wealth away from Puerto Rico. Both facts, acting simultaneously, force Puerto Rico to lower its living standards.

Our government has, however, the mechanisms to make the necessary adjustments to the budget without having to put too big a burden on public spending, which in situations such as these give a healthy push to the economy.

At this moment, the Secretary of the Treasury estimates the revenues for next fiscal year at approximately $1,000 million. Therefore, we are facing not only a great dilemma in trying to reduce once more the level of services and outlays in the present fiscal year—so as to bring about savings of $100 million in the second half of the fiscal year—but we will also have to observe equally austere measures beginning with the fiscal year that starts next July 1st.

I will, therefore, propose a *temporary* and *flexible* duty on oil products. This duty should be flexible, so that the government can respond constructively to any sharp changes in the market, to avoid damage to this promising sector of our industrialization program. This duty will have a maximum duration of two years.

The public debt of the Commonwealth, not including its public corporations, is at present $865,245,000.00.

This debt requires for its redemption the payment of principal and interest on bonds in circulation and authorized issuance, an annual outlay of $92,008,290.00.

Our Constitution permits a debt limit entailing an annual redemption of not more than 15% of the average revenue for the two preceding years. That 15% amounts to $27.6 million.

The annual revenues from internal sources for 1972–73 were $834,796,361.00.

The bond issue that I propose for this year amounts to $225 million. This will require a payment of principal and interest amounting to an additional $18.8 million, and will leave a remainder of $16.7 million. We will then be utilizing 13% of the average revenue, which will leave a remaining 2%.

The financing of this investment, because of its importance to development, has maximum priority in our Fiscal policy.

It is necessary to structure in Puerto Rico a policy of financing and credit, and to develop the necessary instruments to put it into action; to encourage local savings and reduce the high rate of spending or excessive spending; to increase local funds for internal investments, and to achieve a more effective participation of private banking in development undertakings.

At this moment we have already taken the following steps: There has been a reorientation of the Government Development Bank into a more significant development agency; public funds are being centralized in the Bank; funds under the custody of the Secretary of the Treasury, both those of the Commonwealth as well as the Pension Fund, are being channeled and invested in Puerto Rico.

I have organized a Financial Council which is functioning effectively in its capacity as adviser to the Governor and various public agencies in matters of finance. This Council is undertaking financial studies in depth and long range for the financing of the economic development of Puerto Rico.

I have also ordered the Planning Board to broaden and improve its systems of information, models and statistical indicators, so that we may have the necessary data to carry out financial and economic analysis, both short and long range, which are essential in a rapidly and constantly changing society.

THE TAX REFORM

Tax reform is one of the principal measures that the present Administration is putting into effect to direct growth toward the betterment of all Puerto Ricans. It is not enough to have increased our gross income. It is necessary that that income be better distributed. It is necessary for progress to reach the neediest, the ones that have as yet not shared in that progress. It is also necessary for the tax burden to be shared more equitably and in proportion to the income of all citizens. We must put an end to the theft that goes by the name of tax evasion, and we must develop consciousness that paying fair taxes is a very important duty of every citizen.

The work entrusted to the Committee on Tax Reform for the financing of development is fundamental. This committee, appointed by virtue of a law approved by the Legislative Assembly, started working last year, and will soon render a partial report about the various areas of the tax structure, namely, the administration of the tax system; municipal finances, and certain duties.

PUBLIC ADMINISTRATION

Upon assuming its responsibilities, this new Administration realized the deterioration in the different systems of public administration.

We found a large measure of dissatisfaction and frustration among public employees, a situation which has led them into demanding a larger participation in those matters that affect them. Resulting in their claims for better working conditions, salaries and other benefits.

Four months ago I named a commission of five distinguished citizens to make a study of associations, unions, collective bargaining and labor relations problems in our public service. The Commission has worked intensely and deeply, with great competence and promptness. The quality of its work has merited recognition from international experts in these matters.

During the present session of the Legislature I expect from the Committee not only a broad report about the situation in that field, but also their recommendations with regard to vital matters such as: how to insure an equitable distribution of available funds among *all* public servants; how to bring into harmony the merit system with the principle of collective bargaining; what norms and procedures are needed to deal effectively and fairly with disputes and strikes in the public sector: what kind of legislation and government instrumentalities will we have to create to efficiently implement the new public policies to be recommended.

At this moment we cannot indicate with precision all the changes that will be needed, but it does seem clear that the changes in our public service are urgent, and will be fundamental.

Any reform, however, must be consistent with the principle of merit.

I propose, therefore, that the principle of merit be consolidated in our Constitution, so that it will govern in all matters of public administration.

In order to put an end to the interminable delays and paper work in the selection of government personnel, I propose a decentralization of the Office of Personnel. This should not result in an escape hatch in the application of the merit system. The objective is precisely to strengthen it and to achieve more efficiency and dispatch.

The functions of the Office of Personnel should be limited to serving as an organism of guidance, advice and technical aid with relation to the administration of personnel, the principle of merit, and the training and development of personnel.

I propose, furthermore, a revision of the Law of Personnel to make a clear distinction between service that includes positions of trust and career service, and to ensure that career employees not be exposed to political changes; to develop mechanisms for the preservation or order and discipline in the performance of services, and to regulate the participation of public officials and employees in partisan political activities.

The bureaucracy

These changes should improve the quality of the services rendered by the government to its citizens. But we must go much farther in order to inspire public administration with the dynamism, agility, creativeness and effectiveness demanded by our times.

The citizen often feels frustrated and impotent before the passivity and indifference of some government agencies.

I say then to our government executives that the hour has arrived to awaken a sense of urgency toward the solution of our citizens needs in those public employees who still do not have it. The people are impatient, and they want action, now.

The workshops of the new Puerto Rico

When our government assumed its duties I became aware of the need for an instrument that would break through the artificial barriers of bureaucratic jurisdiction, to permit a better integrated and coordinated formulation of public policy, and of its implementation. With the purpose of filling that need, eight task forces composed of Cabinet members and agency heads have been working now for some time.

These task forces, which we have called the Workshops of the New Puerto Rico, have been organized on the basis of eight problem areas affecting Puerto Rico. They are the same areas in which this report is divided, namely, Fiscal and Economic Policy, which I have already touched upon: Employment, Training and Education; Land Utilization; Infrastructure and Public Works; Urbanism and Housing; Cost of Living; Social Planning; Betterment of the Disadvantaged, and Recreation and Use of Leisure.

MUNICIPALITIES

For the purpose of expediting government action, I regard municipalities as the primary line of service to citizens.

This Legislative Assembly has already taken initial steps for broadening municipal autonomy with the approval of the Fund for the Program of Municipal Participation and the transfer of permanent improvement measures from agencies to municipalities.

This legislation facilitates the development of local public works. Municipal governments have had the responsibility of determining what work, and of what magnitude, will be financed by the Fund. The program of municipal public works has had a remarkable success, and is creating thousands of jobs at the municipal level, with a Commonwealth appropriation of $10 million to be matched by the municipalities. For next year I propose that the appropriation be increased to $15 million.

In the Federal area a development of great interest for the Commonwealth is now materializing under the policy of "new federalism". It provides for Federal funds to be made available directly to municipalities with 50,000 inhabitants or over.

To these municipalities we will lend technical assistance to ensure the use of these resources in creative programs which will attend to the most pressing needs of citizens in general.

With the purpose of institutionalizing counselling services to municipalities in general, to prepare them for their new responsibilities, I now propose the creation of an Administration of Municipal Services.

This new agency will centralize technical services now being offered by several public agencies in matters such as management, planning, programming and development of works and services; preparation, presentation and administration of budgets; evaluation of programs; organization and methods; purchasing and supplies; drafting of model ordinances; drafting of regulations; filing systems; fiscal matters; revision of municipal legislation; personnel administration; accounting systems, and advice for the procurement of Federal funds.

In order to make growing municipal autonomy more effective, municipalities need additional resources for operating expenses. I believe that those resources must be provided and that they should be the municipalities' own resources and not dependent upon Commonwealth appropriations.

The Committee on Tax Reform has recommended, and I will submit the pertinent legislation for, the creation of two sources of additional revenue for municipalities, namely, the revision of the Law of Municipal Patents, and the establishment of a Municipal Lottery whose benefits would be distributed among all municipalities.

In this manner, with concrete plans, we approach the goal of real municipal autonomy to improve government services for our people.

EMPLOYMENT

The Puerto Rican economy has grown solidly during the past two decades, creating numerous employment opportunities. Unemployment, however, has for a long time been the most painful symptom of the shortcomings of our economy.

During 1973, some 27,000 new jobs were created. Yet the unemployment rate during the past fiscal year was 12%.

This unemployment does not show equally in all families. It affects totally unemployed families more adversely. According to Planning Board data as of April 1972, of the 96,000 unemployed 53,000 were in families where some members were working. Some 43,000 were in wholly unemployed families. This latter situation obviously represents more human suffering than the other.

Evidently we have a chronic unemployment problem that cannot be solved through economic development to create new jobs alone.

While it is true that we must seize every opportunity to create new jobs we cannot ignore the factors at work in the continuous growth of the number of unemployed Puerto Ricans.

As a result of the birth rate in 1957—35.0 per thousand people—28,000 persons entered the island's labor force this year. The birth rate last fiscal year was 24.6 for every thousand inhabitants, representing a notable decrease as compared to 1957. This rate, however, is still too high if compared to that of other industrialized countries such as the U.S. (17.3 in 1972), France and England, whose rates were 16.7 and 16.2 respectively.

We must add to this inordinate population growth a tendency that is showing in the area of migration. During 1972 and 1973 we had a net reverse migration of 41,000 and 28,000 respectively, mostly Puerto Ricans coming back after having established themselves in the states. This represents an increase in our labor force too.

Should this tendency prevail, our population will continue to grow out of proportion with our resources to support it. Thus the urgent need for a firm and vigorous population planning policy.

Family planning

Family planning is the indispensable base or a real solution to unemployment and many other fundamental problems of our country.

The family planning programs have been grouped under one agency—the Health Department—and a post of assistant secretary has been created to deal exclusively with this area. This office will have as its only responsibility to develop and carry out a vigorous family planning policy on a voluntary basis, dealing directly with the problem and coordinating the efforts of the Family Planning Association which will continue to receive economic support both from the Commonwealth and the Federal government.

The goal of the Health Department in this respect is to raise this program to the needed level so that all Puerto Ricans have access to the information and services offered on the basis of voluntary participation. The Bureau of the Budget, acting on my instructions, has allocated the necessary resources so that this program may reach optimum development and expansion.

Migratory movements

The Puerto Rican government will under no circumstances stimulate the migration of Puerto Ricans to the mainland. It is a fact, however, that this migration occurs spontaneously, as does immigration of Puerto Ricans from the states to the island. The Commonwealth government will help Puerto Ricans living in the states to integrate into the communities where they are located and it will strive toward the maximum possible development of the potential of every Puerto Rican. Thus if the Puerto Rican chooses to stay in the states he will be better adjusted to the community he lives in, while if he prefers to return to Puerto Rico he will be better trained and developed to assume positions to greater productivity in our economy.

It is with this purpose that I have created a Governor's advisory council made up of Puerto Ricans who are representative of the areas of greatest Puerto Rican concentration in the states. The Council will deal solely with matters pertaining to the Puerto Ricans living in the states. I have also appointed a special Governor's representative to visit Puerto Ricans in thse communities to establish a direct line of communication with them.

I have also instructed the Secretary of Labor to reorganize and strengthen the New York Office of Migration and the services offered to the migrants in Puerto Rico in order to: 1) provide better orientation for these migrants; 2) guide Puerto Ricans in the states toward communities of greater job opportunities; 3) develop a program of job contracts for non-agricultural workers following the pattern of the successful agricultural job contracts; 4) improve the skills of Puerto Ricans living in the states and help them adapt more easily to their new environment; 5) improve the agricultural migrant workers program so as to cover all such migrants and get the best possible contracts for them; 6) supervise more closely the agricultural contracts to protect the rights of the workers.

This does not mean, however, that we are to render Puerto Ricans on the mainland the services that are due them by the states and cities where they reside and work. What it means is that we are going to help Puerto Ricans obtain those rightful services, and/or organize themselves to solve their own problems.

School dropout reduction

The government's policy to reduce unemployment and improve the Puerto Rican worker's efficiency should include major efforts to keep young people in school and to give them a better education and training. To give you an idea of the magnitude of this problem, let us look at some of the data. Only one third of the 77,041 children who started school in 1961 graduated from high school. During fiscal 1973 there were in Puerto Rico some 18,000 unemployed and 20,000 unemployable youths between the ages 14 to 19.

To meet this situation, we hope to increase student retention and upgrade the achievement per student. This should result from the current revision and reorientation of the programs and structures of the school system. These changes consist of the following:

We are working toward a year-round school calendar and a total curriculum revision aimed at greater student achievement and better use of school facilities.

Vocational education is being strengthened and reorganized.

Job demand is being re-examined so as to adjust school programs to the prevailing reality.

A plan is being worked out with the industrial, commercial and agricultural sectors to pinpoint the specialized skills needed in the occupations of greatest demand in Puerto Rico.

The utilization of industry as a laboratory for student training is being intensified, along with the consideration of using industry also for the training of teachers in certain fields.

A stronger role is being assigned to area vocational schools as job training centers with a view toward achieving greater efficiency and a more effective use of available resources.

We have looked at the measures we propose to take concerning factors not directly related to the economic development as such, but that have a definite bearing on our serious unemployment problem, to wit: a high birth rate, immigration and school dropouts. Now we will examine what is being done to create jobs through economic development.

Job generating growth

Our goal is to create 28,000 jobs next fiscal year starting July 1. This means an increase of 6,000 annually above the average job creation over the last four years.

This objective calls for a sustained and rapid pace of economic growth. Our strategy will be to promote the sectors of primary growth in our economy so that the growth fans out to stimulate all other branches of the economy. These primary sectors, which we call the propelling group, consist of the manufacturing industry assisted by tourism and agricultural development. Manufacturing is and will continue for many years to be the main economic propelling factor in Puerto Rico and as such must receive all our stimulus and support.

To advance as much as we plan in this sector, the gross industrial product must maintain a rate of growth similar to that of the last ten years. But to maintain such a pace the effort today must be doubled.

Our policy as to manufacturing should optimize our industrial opportunities and promote and conserve jobs in labor intensive light industries. Also we should stimulate the integration of industrial processes.

Industrialization

The effort required by Fomento (the Economic Development Administration) to reach its goals will be so great that it will almost exceed that agency's promotional capacity. This is due to the major problems now faced by the manufacturing community, such as rapid increases in the cost of raw materials, especially crude oil and derivatives, transportation costs, and strong competition from countries where wages are lower.

Our goal through Fomento is based on the assumption that new incentives are needed to attract more light industry, including additional assistance for equipment, buildings, transportation and other items, and that we must systematically promote special support projects such as the superport, shipbuilding and copper mining ventures, in order to build a base for labor intensive industries.

Another one of these special projects is the creation of a Regional Development Center at Ramey Field in Aguadilla.

Plans for converting the Ramey airport complex into a productive element of the Puerto Rican economy are being worked out jointly by the government and a group of private investors. The proposal calls for an aeronautical center, tourism attractions, an industrial park with a free foreign trade zone and a research and technological park.

The benefits for Puerto Rico from the successful conversion of Ramey, a former Air Force base, for such civilian uses would be substantial. Tourism development alone would create from 600 to 1,200 jobs. The industrial park and the aeronautical center would bring another 5,000 to 10,000 jobs. But, what is more important, Puerto Rico would have a nucleus for the research, development and production of highly technological manufacture. This will open new avenues for the economy and for the improvement of skills in the labor force.

The following additional steps will be taken next fiscal year in our industrial development effort:

Strengthening, expansion and reorientation of the industrial incentives program.

Reorientation of the promotional effort in the U.S. toward areas with a greater potential for attraction of high technology industries.

Further development of the petrochemical industry. We already have received information of immediate significant expansion in the existing petrochemical complexes.

Establishment of a new promotional organization.

Substantial strengthening of our industrial advertising campaign in the U.S.

And last, but not least, I propose to submit in the next few days a bill to amend the law creating the Puerto Rico Development Bank to allow this institution to create subsidiaries that would invest funds in any enterprises that could or that may now be making a substantial contribution to our economic development and the creation of jobs. This new source of capital will be of special importance for the development of local industries.

AGRICULTURE

There are great problems and limitations in agriculture and our rural areas in general. But there is also a great potential, a challenge and hope. The efforts made during 1973 have resulted in a public policy for agriculture and the rural areas that seeks four basic objectives:

First: To stabilize production in the most important traditional items—sugar cane, coffee and tobacco—at levels compatible with present conditions here.

Second: To increase to the utmost the production of foodstuffs for local consumption, especially dairy and poultry, fruits and vegetables.

Third: To diversify our agriculture, emphasizing those existing enterprises with possibility of further development in today's Puerto Rico.

Fourth: To improve the quality of life in rural areas.

To reach these goals we must provide farmers with financial help for their crops and guarantee fair markets to compensate for the toil, the investment and the risks involved in agricultural production. We must also see to it that farm workers obtain the highest possible wages compatible with a healthy agricultural economy.

Regarding sugar cane, coffee and tobacco, the markets of which are assured, we have placed emphasis on financing and adequate return. The program of price subsidies for these three items, along with guaranteed minimum prices for sugar cane, have shown notable impact. Also of importance in the sugar cane industry has been the consolidation of all government-managed sugar cane operations—which are of great magnitude under one single entity—the Sugar Corporation, created in 1973.

The integration of all field and mill operations has already resulted in an improvement of production efficiency, with the consequent reduction in costs and in economic losses. These had reached alarming proportions in the last several years.

Agricultural production data for the first five months of this fiscal year and estimated production for the rest of the year indicate a significant increase for the whole period, even without taking into account higher prices, meaning that there will be an upward trend in agricultural production. This will reflect not only in the traditional crops of sugar cane, coffee and tobacco but also in dairy and poultry, fruits and vegetables. If this increase occurs it will be the first in many years and will indicate that our agricultural approaches are moving in the right direction to obtain a greater contribution from agriculture to the general welfare of the country.

These objectives make it essential that we preserve productive land for agricultural purposes. Toward that end we are taking the necessary steps through the Planning Board and will submit legislation to you soon.

The corporations for agricultural development and rural development created through legislation last year, within the Department of Agriculture, have already been organized and are at work. These entities have the necessary resources and flexibility to fulfill their mission.

Tourism

Tourism is another impelling sector I intend to strengthen within the development strategy for Puerto Rico. The success of our employment policy depends very much on whether tourism is able to make its maximum contribution toward the creation of jobs.

Tourism showed a 15% economic growth during the past fiscal year. Our hotels lodged a total of 544,000 visitors. Tourism represented 2.8% of our gross national product.

The hotel industry naturally, is the main source of employment—providing stable and well-paid jobs—in the tourism industry. To aid in the support and financing of luxury hotels that are the major providers of jobs in the industry is a matter of public policy of our government. We intend to submit legislation aimed at creating a firmer economic base for hotel operations. However, it will not be a policy of my Administration to acquire and run on a permanent basis high-priced hotels operating with losses.

Tourism should benefit all regions of Puerto Rico and that makes it necessary to decentralize the industry and promote inland tourism based on the country's natural and cultural attractions. We will also promote the development of new tourism concepts combining recreation and residential facilities through the use of the condohotel idea. We seek to create diverse lodging facilities such as guest houses, stopovers (inns), cottages and touristic villas oriented both toward outside and internal tourism.

Construction

Construction experienced a slump during fiscal 1972–73. In January, 1973, the Federal Housing and Urban Development Department discontinued its subsidies of mortgage interest for low income housing. This unexpected action caused serious problems in the financing of housing for low and moderate income families. Housing projects that were ready to start were stopped, and others in the planning stage had to be abandoned. The situation worsened throughout 1973 as interest rates went up, curtailing the availability of financing for many residential projects. These unexpected developments forced us to take extraordinary measures to give new life to housing construction.

As we sought to give renewed impetus to the industry, we revised procedures and regulations at the Planning Board to accelerate construction projects. The Law of Certifications, that will speed up processing of construction permits, will become effective at the beginning of March of this year.

We will definitely speed up government public works and construction aided by the government, as well as development of certain types of housing to give the construction industry the greatest possible boost within our administrative limitations and resources. The Commonwealth and its public corporations will carry out a massive permanent public works program amounting to $964 million during next fiscal year as a means of stimulating the economy.

The Government: A last resort employer

The Right to Employment Administration has a dual purpose as temporary provider of employment and as a promoter of job opportunities both in private and public organizations. All of the programs of the Right to Employment Administration are geared toward those who cannot find jobs in the normal activities of the economy.

During this past year it became obvious to me that the funds given to the Right to Employment Administration were not sufficient to take care of the islandwide demand. To prevent many families from going hungry because of lack of employment for at least one member of the household, I authorized the agency to launch a job creation program based on a doubling of its budget. For this reason I am asking this Legislative Assembly to immediately allocate $10 million to the Administration and to raise to $20 million its budget for the next fiscal year.

I am also bringing under the Right to Employment Administration all of the Federal and Commonwealth programs dealing with human resources that are now spread out among several agencies. Because of recent developments at the Federal level, the Administration will receive about $19 million in additional funds to create new jobs in Puerto Rico starting next March.

RELATIONSHIP BETWEEN JOB SUPPLY AND DEMAND

There is a big gap between the capacity, skills and preferences of those available for employment and the jobs available. Evidently, if present trends continue, the sources of employment will have trouble in getting the needed personnel. The structure of job demand shows that the training and education of the Puerto Rican must be reoriented and fitted more closely to the specialized tasks required. Otherwise there will be an excess of professionals and office personnel vying for the few jobs that may be created in the development of governmental work.

I have already explained the measures we propose to take on vocation orientation and the reform of the present vocational education system in the public schools. But that is not enough.

Board of technical instructions and high skills

I am now proposing the creation of a Board of Technical Instruction and High Skills to integrate the responsibility for post secondary technical education and high skills. This organism will be in charge of supplying the demand for highly skilled and technical personnel, both for existing industries and newly attracted industries.

Employment bank

I further propose the creation of an employment bank to coordinate all job opportunities in every municipality with the type of manpower available.

This would be a centralized and computerized operation of the Employment Service. This service will facilitate the recruitment of personnel for all employers throughout Puerto Rico and will reduce to a minimum the unemployment of able persons since there would be better facilities to orient them in their search for employment. In addition the new Employment Service offices will be established in 27 municipalities now lacking that service and at the principal campuses of private universities and the University of Puerto Rico.

The educational system

The Department of Education, with the participation of teachers, has begun a complete re-examination of the objectives to be pursued in all of its programs so that they may respond to the needs, interests and realities of the Puerto Rican student.

Among the objectives of the program are the following:

Development of action to achieve a greater equality of educational opportunities.

Restructured of the system administration.

Improvement of the process of education and of its output.

In order to widen the road toward the attainment of these objectives, I will submit legislation to the Legislature to authorize the Secretary of Education to create Experimental School Districts in which the Secretary will have maximum flexibility to make changes in the curriculum, calendar, acquisition of teaching materials, hiring of personnel, and other matters.

To improve the quality of instruction it is necessary to adequately compensate the teacher so that we may attract the best talent to carry out the fundamental task of teaching, which our country depends on so largely. To be able to do this within our budget limitations it is necessary to spread salary increases over three years. Later in this message, and together with other salary increases, I will indicate what I propose for the first year.

The University system should become more closely linked to the public school system; it should be in closer contact with the efforts being made in planning toward the best possible utilization of our natural and human resources. It should tie itself more to the industrialization effort and contribute more effectively to the development of a new and modern agriculture.

As the University System introduces our young people to the marvelous world of science and technology it also should intensify the study of the world of cultural and artistic creation and emphasize and enrich our historic heritage. And along with the training of professionals and technicians in its main campuses, the system should devote a greater effort, through the regional colleges, to train intermediate and lesser technicians to fill the growing demand for services.

To insure that we do not stray from these purposes I will always be mindful of the pressures that may disrupt the institutional organization and the atmosphere of work and respect that should prevail at the University.

EDUCATION REFORM

Our system of instruction needs short and long range reform at all levels, from grammar school to the University system. I have mentioned some of the short range modifications, that is, those we can tackle immediately. I want you to be aware of the kind of reform that our education system needs and that demands careful analysis and planning.

Education must be modernized. The educational structures are being questioned, there is talk about free and open schools at the elementary level and beyond; a high dropout rate at all levels; there is a mounting degree of dissatisfatcion among students and among the community in general about the kind of education the system provides.

It is true that the state has been devoting the largest portion of its budget to education, but the product of this effort is unsatisfactory. The question is not of resources, but whether we should continue to plunge whatever resources we may have into a system of education that no longer responds to Puerto Rico's needs and aspirations and to the hopes that Puerto Ricans have placed on education.

Countless studies of the public schools and the University system during the past three decades have pointed out the need for a reform not only of the structure, but of the content of our institutional programs. However, whatever changes have been made are hardly perceptible and the dissatisfaction with the product of our educational system keeps growing. We probably do not need additional studies of any great depth. Plenty of information has already been collected and a Commission for Educational Reform can begin right away to analyze the studies that have been made and make other studies that may be deemed necessary to rapidly carry out the changes in educational approaches that our present society demands. I am aware that the Department of Education has launched short range reforms that could be the starting point for more encompassing modifications of the public educational system in general.

Therefore, I propose the creation of a Commission for the Reform of Education in Puerto Rico, the task of which will be what the name implies. This Commission will examine the system of public instruction from the elementary school up to the university level and then propose legislation and approaches, draft a public policy and design means for the total reform of the system. This commission should have an adequate annual budget so that it may contract the services of such authorities in the field of education, within and outside Puerto Rico, as the project may call for, and must work at full speed to submit its report during the current four-year term of the present Administration.

Our examination of the State of the Commonwealth cannot omit mature consideration of the basis for our development. These include: the land, other natural resources and our economic infrastructure.

THE LAND

The geographical area available for continued development is being reduced dramatically. Of Puerto Rico's total land area of some 2.3 million acres, more than half, 1.2 million acres, consists of relatively inaccessible mountainous terrain. In addition, 200,000 acres have already been utilized for nonagricultural purposes and another 300,000 acres are flooded or are subject to flooding. That leaves us with some 600,000 acres for all uses. Of these 600,000 acres, moreover, 350,000 have slopes ranging from 16% to 35%. Given the prevailing methods of construction, these steep lands would make development extremely costly. *This places us in the serious situation of having only some 250,000 developable acres for urban, industrial and commercial expansion and other purposes.*

As a result of the scarcity of land, land values have increased disproportionately, especially in the San Juan Metropolitan Area. Currently, developable rural lands are being sold by the square meter instead of by the acre as had been the practice in the not so distant past.

To grapple with the complex problem of utilization of this scarce resource, we should consider Puerto Rico as a highly integrated system, so that, in case of conflicting demands among the various sectors of the economy, decision-making will favor that usage which will better serve the public interest of the system as a whole and not that of a particular sector.

For that reason, the Planning Board will press for a rigorous policy to insure optimum land use with the aim of assuring availability of this resource for the future options of the island. To these ends, it is our intention to place emphasis on vertical urban development to gradually supplant the horizontal development patterns we have been pursuing up to the present time.

The comprehensive land-use plan, to be established by the Planning Board, will take into consideration the needs of various sectional policies. It will provide for harmonious land-use in order to meet, simultaneously, the needs of industrial, agricultural, tourism and urban development, for conservation of natural resources and for the needs of housing and of infrastructure creation.

To implement this, the Planning Board will have to have clear, express legal authority to determine the best uses of land for all of Puerto Rico. This includes the power to extend zoning throughout the island. To these ends, I will submit appropriate legislation.

Legislation dealing with planning in Puerto Rico and in particular with the structure of the Planning Board must be revised to meet the requirements of today's Puerto Rico. The Planning Board must be reorganized so that it can effectively fulfill its essential planning and public policy-making functions and so that it can adequately carry out the afore-mentioned policies. I am proposing legislation already being processed to achieve these goals and to reorganize the existing structure of the Planning Board.

Given the scarcity of this valuable resource, I have already established as a public policy of my Administration that Commonwealth lands should be rented and not sold, except in those special cases where it is clear that the sale would serve the public interest.

NATURAL RESOURCES

Copper

Among the known resources of Puerto Rico are the copper deposits in the Utuado-Lares-Adjuntas area. I am aware that the potential yield of these deposits is estimated at 1.5 million tons. For more than a decade, the Commonwealth has been studying the best way to utilize this important resource for the benefit of its sole owner—the people of Puerto Rico. These studies have made it possible for us to view clearly the possibilities and the risks involved in exploitation of copper.

It is the goal of my Administration to make 1974 the year of final decision for the exploitation of copper under conditions most favorable to the Commonwealth.

In order to stimulate a greater number of jobs, my Administration will only permit extraction of copper providing that copper smelting be developed in Puerto Rico. In this way, extraction of copper in the Utuado-Lares-Adjuntas area will give valuable thrust to the strengthening of the economy of the Commonwealth.

Current world conditions favor maximum economic benefits for Puerto Rico from exploitation of this mineral. Consequently, we propose to obtain the largest possible share in the benefits and earnings which would derive from the exploitation of copper.

To achieve these goals, the Department of Natural Resources will have the responsibility of determining the conditions under which Puerto Rico could reap the optimum benefits from mineral extraction. Moreover, the Department will explore various alternatives, including the holding of a public auction, to which would be invited the major global corporations interested in copper mining, processing and refining.

To this end, the Department is now completing a series of new studies intended to bring up to date and to complete previous surveys. The Secretary of Natural Resources has assured me, nevertheless, that we will be able to proceed with this project, with all the safeguards required by the public interest, during the current year.

All development has to be paid for, and, of course, the establishment of a copper industry is no exception. Therefore, we will have to face up to the inevitable social and environmental effects of copper mining, and, most of all, to the effects of creating the infrastructure required to serve the industry and the additional numbers of people who will be drawn to these areas.

Water

Projections for the next 30 years indicate that our growth—in both the demographic and the industrial sense—will increase the demand for water about six times. For that reason, we are establishing a public policy aimed at conserving, managing and developing this scarce resource in an effective and efficient manner.

Underground water supplies are a limited public resource. Moreover, in certain areas such as the Southwest sector of the island, they represent an important reserve for the future. The Department of the Natural Resources will formulate norms and regulations for water supply usage and protection. The Department will establish a system of permits and licenses to regulate water extraction. The Environmental Quality Board will implement a series of regulations aimed at minimizing the possibility of pollution.

At the same time, we will initiate a program to develop new sources of serviceable water supply in order to meet future demands of our society in an economically feasible manner. We will establish:

A program of flood control. Along with the land-use plan, this will permit optimum use of excess groundwater during heavy rainstorms and floods. And it will also permit maximum utilization of lands which are not subject to flooding and those that are reclaimed in floodable areas.

A multiple use plan for water supplies. For example, treated or recovered water supplies may be utilized for agricultural, industrial and recreation purposes.

A plan to provide for better distribution of available water supplies. Sectors with an abundance of usable water supplies must provide some of these supplies to other sectors where periodic water scarcity seriously impedes potential development.

Reforestation

I have organized an inter-agency effort to carry out a massive reforestation plan for all of Puerto Rico. This plan is aimed not only at providing protection for our watersheds and for the development of our forests and fauna but also at the beautification of our highways, avenues, streets and parks. The agencies participating in this program are the Right to Employment Administration, Natural Resources, Agriculture, Public Works and The Parks and Recreation Administration.

Coastal zone

The coastal zone is a factor of great importance among those resources which contribute to the general welfare of our people and to the development of tourism, industry, recreation and maritime activities. Yet, this sharply limited resource whose utilization is increasing rapidly year after year, is consequently faced with a mounting threat.

To preserve this zone, these measures will be taken:

Protection, where it is possible, of the natural character of the shoreline. This includes the preservation of outstanding natural features such as beaches, reefs, bioluminescent bays and mangroves; prevention of the needless destruction of the shore, and, sensible development which incorporates natural features.

Buttressing, with effective Executive action, those laws which assure public access to the coastal zone and which prevent invasion of the public lands of this zone.

Creating, by regulation, sectors in the coastal zone which are most appropriate for contemplated uses of these lands, such as tourism, industry, electric power plants, port, urban and recreation areas.

INFRASTRUCTURE

To continue our economic progress, it is absolutely necessary to maximize acceleration of our infrastructure development; that is, the creation of basic facilities required for growth.

Highways

Our highway system is outdated. To improve it in a substantive way, we will have to expend some $237 million during the next year in order to terminate projects already started and to construct new ones. New projects are selected by taking into consideration the economic importance of the roads to the area involved and the condition of disrepair of the existing roads.

Among the many projects which we will complete next year, the most important is the termination of the Cayey-to-Salinas span of the super-highway connecting San Juan and Ponce.

The most important projects which we will begin work on next year are the following:

Construction of new stages of various San Juan Metropolitan Area arterials in order to ease traffic congestion. This includes another bridge over Martin Pena Canal and conversion to an expressway of four kilometers of Baldorioty de Castro Avenue.

Construction of road sections between Sabana Grande and Yauco and widening of the Mayaguez-Anasco stretch, including a new bridge over Rio Grande de Anasco on Highway 2.

Widening of Highway 3 up to Luqillo.

Improvements to the Aguadilla-San Sebastian Highway, the Arecibo-Lares Highway and Ponce's Malecon Avenue, from Highway 2 to Arenas Avenue.

And work on the intersection of Hostos and Llorens Torres Avenues in Mayaguez (at the entrance to the University) and the Ponce East-West Expressway, from Arenas Avenue to the Las Americas Tollroad.

Upon updating the 1970 highway needs study for Puerto Rico, it was estimated that current and future requirements over the next 20 years would amount to $2.6 billion. Financing these needs presents two major difficulties: on the one hand, the limitation in the Highway Authority's borrowing margin, based upon resources which have been assigned to the Authority in order to finance its work; on the other hand, the constantly rising cost of construction. Current sources of funds available to the Authority will permit highway investment of only $104 million during the next fiscal year and $322.5 million during the next four years. These amounts do not include debt servicing, reserves and administrative costs. The resources available are considerably below our necessities.

To provide the resources needed for highway investments, I will submit legislation to increase the gasoline tax by 5 cents at the refinery level. This will also serve to finance the mass transit system.

Parking

One of the urgent needs in the San Juan Metropolitan Area and in the larger cities of Puerto Rico is parking. Absence of parking facilities creates inconvenience for drivers. It also leads to parking on both sides of thoroughfares, thus reducing the capacity of streets to carry vehicular traffic. In order to find a solution to this problem, I have approved a program involving the planning and rapid construction of public parking facilities in the San Juan Metropolitan Area and in the principal cities of the island. These facilities will be financed with funds of the Highway Authority.

Nevertheless, the solution to our transportation problem, I must point out, is not merely a matter of building more roads and providing more parking areas. Nor is it to be found in buying more cars. I consider continuation of our Highway Authority program to be essential for completion of our road system. At the same time, we must develop a mass transit system, both in our urban centers and inter-city. Eventually, highways and mass transit would serve as complimentary systems in moving cargo and passengers throughout the island.

Mass transit

In the first year of my Administration, I have given the highest priority to the development of a mass transit system—or "metro"—in the San Juan Metropolitan Area.

We have already held public hearings dealing with specific routing which the system will have. I am satisfied that results of the hearings indicate whole-hearted endorsement of the project by our citizens. Consequently, we are going ahead with the environmental impact analysis of this project as required by the Environmental Control Board and the U.S. Department of Transportation.

To construct the system, we estimate that we can obtain substantial Federal funds up to 80% of the cost of the project. Still, considering the urgency of the project, we have simultaneously initiated a search for other financial sources. It may well be possible that the project can be advanced more rapidly through private investments. We will make the final decision on the basis of the cost and time factors involved.

While giving the greatest possible thrust to this project, we are aware that the situation in the Metropolitan Area requires more immediate action. Therefore, in order to improve the existing system, we are proposing restructuring the Metropolitan Bus Authority's services so as to include trunk and local routes. These routes will roughly parallel the mass transit system for San Juan.

The Department of Transportation and Public Works is preparing a plan aimed at establishing a mini-bus system. Together with AMA's buses, it will provide efficient public service to the urbanizations and neighborhoods of the San Juan Metropolitan Area. Participation of "publico" driver cooperatives in the system also is contemplated. The system should begin to function at the beginning of next year.

I am convinced this project will provide improved services and will stimulate cooperativism by integrating "publico" drivers in an efficient "mass" transportation system.

Port facilities: Deep water port

Location of the deep water port on Mona Island depends on the decision involving transfer of Navy operations in Culebra to the Islets of Monito and Desecheo. Desecheo is Federal property. Before taking the decision to locate the deep water port on Mona, of course, we had agreed to provide Monito to the Navy for training purposes. Now, it is necessary to resolve the needs of the Navy and those of the Commonwealth in order to finally determine location of this project.

International airport

Urban and economic growth indices for Puerto Rico, the movement of passengers and cargo at our International Airport, current investments and projections for future development point to the fact that we must make maximum use of this resource. Already, $28 million have been invested in this Airport. To expand facilities and to make passenger flows more efficient, we have launched a program of capital improvements calling for investment of an additional $30 million over the next five years.

Ramey and Lajas

We have obtained Federal funds to produce an Island-wide airport facilities study which will take into account current and future needs of our people. Among factors under consideration are the facilities of the proposed Southwest International Airport and Ramey Field.

Prior to the decision of the Air Force to cede Ramey Field to the Commonwealth, previous Administrations had invested some $2.5 million in the acquisition of 1,200 acres of land in the Lajas Valley and in studies involving development of a second international airport for Puerto Rico.

Findings of the on-going Island-wide airport needs study will provide us with the basic guidelines required for efficient and coordinated development of Puerto Rico's airport facilities. Regarding the second international airport, the study will determine where the airport should be located, and, in addition to considering the Ramey facilities, whether or not the airport should be constructed at Lajas.

Our fellow citizens of Vieques and Culebra deserve the best possible ferry boat transportation with the main island of Puerto Rico. Therefore, to improve service between Vieques and Culebra and Puerto Rico and to match Federal funds available for the purchase of new ferry boats, I am recommending the allocation of $1 million to the Ports Authority.

Flood control

In Puerto Rico there are approximately 70 bodies of water which have an impact on population centers and other areas. These sectors require flood control protection in order to enable future tourism, industry and residential development.

Currently, flood control works involving more than $12 million are being constructed. Among these are the second-stage channeling of the Bayamón and Yaguez rivers and the drainage project within the urban limits of Cataño. There are 10 other projects almost ready for construction, involving total costs of about $150 million. Among these projects are the first-stage channeling of the Puerto Nuevo River (from Martin Peña to Roosevelt Avenue), at an estimated cost of $12 million; first-stage channeling of the Humacao River, $6 million; construction of the Hondo River diversionary canal in Bayamón (from Betances Street to the sea, $6 million.

Channeling of the Portugués and Bucaná rivers is of special importance for urban development of the Ponce area. Eventually, the projects will also lead to creation of a much-needed reservoir there. This year, we are starting construction of the Portugués River canal which will permit diversion of the flow of this river into the bed of the Bucaná River. First stage work includes not only construction of the Portugués diversionary canal but also a bridge over the Ponce bypass and the widening of the bed of the Bucaná River to its junction with the sea. This project will provide protection to the lives and property of families residing in the Bélgica sector and the entire area lying between the bypass and the Playa de Ponce sector. Moreover, it facilitates the development of important residential, commercial, educational and industrial projects which will strengthen the economic and social life of Ponce. Financial assistance from the Federal government and from the Army Corps of Engineers is anticipated for this project. Total costs are estimated at approximately $126.3 million.

Aqueducts and sewers

As of June 30th, 1973, the Aqueduct and Sewer Authority was supplying water to about 568,000 families. Also, some 3,678 public faucets gave service to more than 37,000 additional families. Total number of families receiving potable water service, consequently, was 605,000, which represents 85% of our total population as of the aforementioned date.

Sewer services were being supplied to some 334,442 families as of June 30th. This represents service to 74% of all urban housing units and 47% of all rural housing units.

One of the most serious problems facing approximately 15% of our people is the lack of water services, despite our high level of development.

The problem is particularly widespread in many of our rural regions. Heeding the cry of the residents of these sectors for some improvement in this matter, I am proposing that $27 million be earmarked for construction of new rural aqueducts and for the improvement of existing ones during next fiscal year. This sum is substantially greater than the average $5 million which have been allocated annually for this purpose over the past several years.

To meet the water and sewer needs of our growing population—and to serve commercial, tourism and industrial requirements—the Aqueducts and Sewer Authority has prepared a vast program of capital improvements involving water and sewer facilities for the five-year period, 1974–78.

Electric power system

Lack of reserve generation capacity in our power system last year created difficulties and dislocations for consumers of electrical energy. This was caused by delays in the construction of new generating units.

Eight additional units having a total capacity of 400,000 kW were added to the power system during the past year, increasing reserve generation capability considerably.

Unit No. 6 went into operation on the South Coast last year. Consequently, the system's reserve generating capability will reach full "fail-safe" capability when Units 1 and 2 at Aguirre go into operation. These units will provide an additional 920,000 kW to the power grid. Emergency measures have enabled us to complete work on Unit No. 1 during this month; the second unit should be completed by the end of summer this year. The Puerto Rico Water Resources Authority is programming additional capital investments totaling $534,207,000 over the next four years.

With these steps, it is anticipated that industry, commerce and home-users of electrical energy will be able to count on ample reserve and operational generation capacity adequate to meet the demands of Puerto Rico's development.

Physical facilities for industrial development

The Puerto Rico Industrial Development Company is preparing an industrial location plan for the purposes of identifying and acquiring necessary lands for the creation of special districts for heavy industry. The idea is to identify and acquire lands in advance of their utilization for these districts and for regional industrial districts catering to light- and medium-industry.

In planning these industrial districts, consideration will also be given to reservation of space for the infrastructure required by these industries. Thus, land will be set aside for parking, recreation areas for workers, banking facilities, commercial and medical service areas.

Substantial resources will be provided to the Industrial Development Company in next year's budget in order to intensify developments of industrial parks and construction of standard factory buildings for the location of new manufacturing enterprises.

Communications

To improve telephone service at the lowest possible cost, we have launched negotiations with the Puerto Rico Telephone Company aimed at exploring Government acquisition of the company through outright purchase. A Statement of Purpose was agreed to and the Commonwealth was granted a period of time which expired on December 15 in order to carry out certain audits of accounts, physical plant and equipment of the company. The intent of this was to determine if the Government would proceed with acquisition through establishment of a public corporation with the power to raise capital by issuing revenue bonds.

Owing to the time which has been required to complete examination of physical plant and accounts of the company, this deadline has been extended to January 31. The committee named by me to deal with the business of purchase of the telephone company has recommended that I proceed with the acquisition. I expect to sign a document this week which will spell out in detail the terms and conditions of the transaction as agreed upon. The document will take into consideration the aforementioned audit and evaluation by the Committee.

In considering legislation to create a new governmental instrumentality to carry out acquisition of the telephone company, this Legislature will have every opportunity to conduct an in-depth examination of the data and information compiled during preliminary investigative phases.

MARITIME TRANSPORTATION

Puerto Rico's Ocean Shipping external trade during fiscal year 1973 rose to $5.7 billion, that is, 88.5% of its Gross Product which amounted to $6.4 billion. Statistics for the United States indicate foreign trade reached $121 billion, or 11% of Gross National Product of $1.1 trillion. In percentage terms, external trade is eight times more important to Puerto Rico than to the U.S. Per capita income in the States is $4,693, that is, more than two-and-a-half times greater than Puerto Rico's $1,834. As a consequence, any increase in shipping rates has an impact that is 21 times greater in Puerto Rico than in the U.S.

During the last two years, shipping lines have increased ocean cargo rates by almost 40%. This increase not only is raising the cost of just about everything we consume in Puerto Rico but is also making the competitive position of our industries more difficult. Almost all our raw materials and machinery has to be imported. The bulk of our manufacturing production has to be exported. Thus, ocean shipping rate increases add to our costs and affect the profit margins of our products.

The best way to offset these high costs is to increase productivity. Most of the freighters serving Puerto Rico are old and slow ships of World War II vintage. Our total volume of external trade (exports plus imports) is close to $6 billion. It is of a magnitude which requires and which can indeed support a fleet of large ships. Moreover, these super-carriers could provide rapid and economic transportation. What is required, of course, is investment in new carriers to service Puerto Rico.

There are a number of alternatives facing the Commonwealth. Among these alternatives, not all of which are mutually exclusive, are the following:

(1) To seek exclusion from the U.S. Congress from the terms of the Jones Act (Coastwise Shipping Act).

(2) To seek exclusion from the Congress from the regulations of the Federal Maritime Commission, and, at the same time, to establish ways and means to control or to bring influence to bear upon the nature of maritime service and upon the merchant ships.

(3) To seek Federal subsidies for the construction and operation of ships which would provide service between Puerto Rico and the U.S.

(4) To acquire a maritime operation which would compete with others serving Puerto Rico's needs.

(5) Have the government of Puerto Rico provide all maritime transport services between Puerto Rico and the U.S.

We are studying and exploring the legal, economic, labor and other aspects of each of these alternatives to determine the course we should take. However, in view of what we already know, it is necessary to point out that Puerto Rico must move rapidly in this area if it wants to give adequate protection to its economy and to the needs of Puerto Rican consumers. As soon as we are ready to propose concrete action, I will submit the corresponding recommendations to this Legislative Assembly.

With this, we conclude our examination of land-use, natural resources and infrastructure—creation of basic facilities—necessary for the development of our economy. Now we will proceed to examine housing and urban growth.

HOUSING

Adequate housing is a fundamental necessity of every family and a basic right of each Puerto Rican. Our programs are geared to the rapid implementation of this concept. We utilize different means to help the 193,000 families who have not yet been able to turn this right into a reality.

During the current fiscal year the Housing Department will distribute a total of 16,177 plots of land and 9,522 housing units. This represents an increase of 15,727 plots and 60 percent of the housing units built in the previous fiscal year.

My Administration has designed an integral housing program and is implementing a massive plan to meet the needs of 130,000 families over a period of four years at a cost of $1.6 billion.

Bond issues of the Commonwealth of Puerto Rico, public subsidies financed by the Housing Bank or private banks and federal funds will cover the cost of this integral housing plan.

As we shall see later, this massive program will be made possible by a better use of available land, new construction technology and new means of financing, such as that provided by Law No. 10 of 1973.

Housing for low-income families in urban areas

During the next four fiscal years we will build 20,000 housing units for low-income families, 7,500 of which will be built during the next fiscal year at a cost of $64 million. The program as a whole will cost $192.2 million. It will be financed through bond issues.

In order to continue meeting the needs of other families, 10,500 lots of land will be developed during the coming years, beginning with 1,500 during the next fiscal year. They will be provided with essential services and will be located primarily in towns near the center of the Island. Where feasible, the option of a new type of low-cost prefabricated housing will also be offered. The cost of this program for the next fiscal year will be $3 million.

As an urgent resettlement measure, the Housing Department will continue its program of semi-finished structures and modest dwellings. During the next four years we have set the goal at 8,000 such units. During the next fiscal year, $6.5 million are being assigned for the implementation of this program.

Housing for middle- and moderate-income families in the urban areas

The sector is composed of some 40,200 families with an annual income of $3,000 to $8,000. Their income level is not sufficiently high to attract the private home building and financing industries. It is, thus, necessary to help them by subsidizing the interest payments on their home loans. Housing for these families is subsidized through the ways and means established by Law No. 10 of July 5, 1973. By amendments to this law we intend to make possible the construction of 12,000 additional units during the next four years, at a rate of 3,000 per year.

Rural housing

There are still 61,000 families in the rural areas that lack adequate housing. In order to satisfy the totality of their needs, we will develop a six-year program.

Our experience in the field of rural housing tells us that half of these families need only a ground-plot as government help, since they already have access to means of financing such as the Housing Bank, the Federal Farmers Home Administration, and the private banking sector. Therefore, our program will seek to provide land to this 50%; that is, to 30,500 families.

The other 50%, in addition to the plot of land, will be assisted through the mutual aid and self-help program. Furthermore, in order to accelerate construction and stimulate employment, we will introduce the concept of payment for the labor provided through the Right to a Job Administration.

The estimated total cost of this program is $195 million, of which $150 million will be used on housing construction and the remaining $45 million on land acquisition.

Many of the streets of the existing rural communities are in very poor condition. About 450 kilometers of these streets are in need of repair. I have walked through many of these, and I have personally felt the need of the residents for their streets to be repaired.

To meet the needs of these communities I am proposing that $3.5 million be assigned this year and an additional $3 million for each of the next three years, so as to integrate our efforts with those of the island's municipalities and pave, repair and improve the streets of our rural communities, as their residents rightly deserve.

The housing bank

To develop our policy of massive home building the Housing Bank will have to become the most important factor in financing homes throughout the whole island.

We have already increased the Bank's activities during the first semester of the past fiscal year. Within that six-month period the Bank granted mortgage loans for a total of $9.2 million. This is an increase of 47% compared with the first half of the preceding year.

To continue the increase of services rendered by the Bank we intend to adopt the following measures:

Expand the Bank's activities as a source of mortgage loans using its own resources.

Utilize the full capacity of the Bank as a mortgage guarantor to the private banking sector.

Develop a secondary market for mortgages of the private and public sectors.

As I said before, this massive four year program will have a total cost of one billion 673 million dollars. The Secretary of Housing has informed me that the needed resources will be obtained as follows: allocations from the General funds ($309 million); federal funds (an average of $75 million per year, for a total of $300 million); resources from the private banking sector ($362 million); resources from the private sector to finance projects under Law No. 10 ($200 million); bond issues by the Housing and Urban Renewal Corporation ($497 million); and certain income of CRUV and Social Programs ($5 million).

URBAN DEVELOPMENT

The physical growth being experienced by Puerto Rico is changing the country's surface and the people's way of life. This growth has brought with it the urban sprawl, which covers at an increasing pace, huge quantities of the available land. It has also brought congestion, pollution and a lack of harmony with the Puerto Rican landscape. To a large extent our urban life has lost its quality.

In response to these problems the Planning Board has revised its policies and land-use regulations, and intends to adopt the following norms:

Delimiting the urban areas, encouraging a balanced and integrated development, and limiting the available areas for further expansion. To implement this policy higher residential density will be allowed in predetermined areas.

Prior construction of infrastructure will be used as an incentive to increase development in those areas where these services would be available and to discourage growth in the areas where they would be lacking.

We will improve the quality of urban design by a combination of better land use and by providing incentive to developers.

Integrated developments that will offer a variety of housing styles and other services will be promoted for families of all income levels.

Adequate uses will be found for air space over public thoroughfares, the remnants of rights of way alongside roads and highways, the pedestrian walks and other esthetic and environmental matters will be taken into account to promote a more pleasant life in our urban centers.

RURAL-URBAN BALANCE

Urban development provides the scope within which all of society's activities must be integrated in a harmonious and functional manner, while at the same time maintaining a balance with those in the rural areas. The allocations for the massive construction of rural aqueducts, for the rural housing program, for the Rural Development Corporation's programs and for strengthening our agriculture, are all significant elements for the betterment of rural life embodied in the programs contained herein. To the extent that we achieve the integration of the rural and urban areas and a balance between them, we shall be creating a better environment for Puerto Rican society. The programs I am presenting to you aim to promote that balance.

No single problem is of greater concern to our people than the rising cost of living. The continous increase has been reflected, most of all, in food prices, in the prices of petroleum derivatives and in medical assistance.

The increases in food prices over recent months have been such that they are undermining the increases in workers' salaries and are having a direct adverse effect on the Puerto Rican standard of living. Our study of the State of the Commonweath requires, therefore, that we analyze in detail this problem in two manifestations: prices and salaries.

PRICES

During the first six months of the current year, prices in Puerto Rico had a sizable increase of 10.9 per cent.

During the next few months inflation will continue unabated. In Puerto Rico its repercussions will be stronger because of two basic reasons. The United States is discontinuing its price freeze, and this will increase the prices of the products we import from the mainland. Secondly, with the Arab oil embargo, oil prices are soaring to levels up to more than 400 per cent. This of course, will affect the costs of electricity and gasoline.

The principal causes of the increases in food prices in Puerto Rico are the following: A high dependency on imports—59.7 per cent of our foodstuffs are imported and their prices have increased outside Puerto Rico. A high degree of economic concentration in the process of importation and distribution. A considerable increase in the importation of agricultural products. The high costs of maritime transportation. And, merchandising and distribution problems.

Facing this reality the first thing we must accept is the fact that we must bear the major portion of inflation—the imported one—because there is nothing we can do to control it as long as we have to bring in from the outside such a high percentage of all the products we consume.

We can, nevertheless, deal with the local factors which contribute to the increase in prices and attain some relief. The Department of Consumers Affairs is implementing a price control program for staples in order to protect the consumer from unwarranted inceases in the local market. Applications for price increases of the products under control have been approved only after the market needs and the reasonable costs and profit margins have been clearly ascertained by pertinent studies.

The implementation of this policy has caused some friction with various commercial sectors. And since, despite this measure, the rising cost of the products in their countries or origin has caused their prices to increase locally, the consumer is not satisfied either.

However, it is important to point out that by July 1973 and due to the implementation of this policy, the prices of products controlled or frozen by the Department of Consumer Affairs were consistently lower in San Juan than in the principal cities of the United States. On the other hand, prices of products neither controlled nor frozen have maintained higher levels in Puerto Rico than in the United States.

Of great significance is the fact that this policy we have implemented has allowed the consumer to benefit from the lower prices in the market of origin. If it is true that the price policy has not prevented the increase in prices when the costs have gone up, it is also a fact that, when the costs have decreased, the consumer has been able to receive the benefit of these lower prices.

We must regret that the implementation of this policy has resulted in a scarcity of some products during certain periods of time. This has come about because we have faced certain price increases with determination and decision. These experiences have not been pleasant for the consumer, whom we are trying to protect, or for the merchants or for us.

We have learned much from these experiences. At the same time we have demonstrated our firm determination to protect the Puerto Rican consumer. As a result, the policy implementation is being improved to make it more effective and to reduce frictions to a minimum.

A mechanism of long range price contracts has been established, as in the case of rice and wheat flour. Products experiencing adequate competition in the market have been identified and are no longer controlled. In these cases government supervision is limited to a follow-up. Finally, a new system to modify prices will be put into effect, under which frozen prices can be raised after notifying the Department of Consumer Affairs. However, such increases are subject to a study of reasonableness by the Department of Consumer Affairs within 21 days after petition is filed. If it is determined that the rise is not reasonable, the merchant will have to lower the price back to the frozen level or a level determined by the Department, effective on the date of notification.

For the protection of retailers who are not importers, the profit margin on controlled products will be automatically revised every six months on a percentage and cost-factor basis.

With these changes we are granting maximum flexibility to the price policy and, at the same time, we are protecting the Puerto Rican consumer more effectively.

Monopolies and poor distribution

Our strategy for consumer protection is not limited to price controls. In order to deal with monopolistic and poor distribution factors influential in the internal inflationary situation—that is, the inflation generated within Puerto Rico and the one with which we can deal—we intend to take the following measures:

The Office of Monopolistic Affairs in coordination with the Federal Department of Justice will carry out a vigorous antimonopolistic campaign in those areas where price increases are the result of excessive concentration and poor distribution of foodstuffs.

The Cooperative Development Administration will stimulate the cooperative movement toward the integration and promotion of new distribution and consumer cooperatives. This is an area of great possibilities for the movement.

The Department of Commerce will develop a product distribution program to close the gap between the importer and the retailer and give the latter the opportunity to compete with the large supermarkets in the sale of basic products.

A higher degree of self-sufficiency in food production

Lastly, through the Department of Agriculture we shall develop a vast program to reach a higher degree of self-sufficiency through the production of foodstuffs. We propose to:

Satisfy the total demand for milk, increasing the production by 55 million quarts in a three-year period. This is attainable by granting credit for the establishment of new dairy farms, the expansion of existing ones, and the development of a program to improve production.

Increase local meat production to supply 60 per cent of the local demand, building new abattoirs and establishing an adequate marketing system.

Supply the entire local consumption of tomatoes, peppers, and cabbages by granting credit and other facilities for the establishment of large commercial enterprises with a high degree of specialization and by the application of the latest technology.

Significantly increase the production of poultry, pork, eggs, fruits, vegetables, and seafoods, through incentives and other means.

When this program is fully developed—which will take some time—we shall have considerable protection in the food sector against imported inflation. Moreover, our agriculture will receive a tremendous boost.

The cost of medical services

Health, in its widest sense, is man's supreme material blessing. Good health is an essential ingredient for the enjoyment of a rich, full life, both for the individual and the people, as a collective entity. It is inconceivable and extremely painful that a large portion of our people should lack the necessary means to adequately satisfy such a basic need. Granted that life is a gift of our Creator. But the means to preserve it are a basic right of Man.

Following closely behind the prices of foods and oil derivatives, the third item in the cost of living which has registered considerable increase is that of medical services. We are all aware of the high cost of an illness in terms of hospital costs and related services.

The increase in the prices of these services affects not only the citizens who have to pay them directly or through medical insurance premiums, but also the Government which pays for the services offered to 60 per cent of the total population classified as indigent.

Medical insurance to protect every Puerto Rican is the solution to this difficult problem which affects not only the price, but also the availability and the quality of medical services. Only through such a program shall we achieve equality in terms of the quality of medical services given to every citizen.

A commission has been working intensely during the past year on this program, which is as complicated as it is needed. The problem and its ramifications are so complex that the Commission has not been able to complete its task on time. Since any step we take in this direction must be firm and sure, I submit to this Legislative Assembly that the original term granted the Commission to fulfill its task be extended and additional resources be granted.

WAGES

Private industry employees

During the past special session I proposed, and the Legislative Assembly approved, a budget increase for the Minimum Wage Board to allow it the desirable conditions for a more effective and quick examination and determination of the increase in wages to be paid by private companies in Puerto Rico.

According to my instructions in this respect, the Minimum Wage Board has already examined seven industries in the course of the present fiscal year and has issued decrees benefiting 8,674 workers. This new work pace represents an increase of almost double the number of industries considered during the same period the previous year. In the coming months the Board proposes to examine eleven additional industries or businesses.

Through this mechanism which permits the study of the productivity of each industry and the setting of the highest possible wages according to its economic and competitive position, we are taking care of the wage needs of the industrial employees, especially those who are not protected by collective bargaining.

To deal with the needs of those agricultural workers whose wages are subsidized by the Commonwealth, I shall submit to you legislation allocating the necessary funds to raise the minimum guaranteed wage to $1.35 an hour for the sugar cane laborers and to $1.18 per hour for other agricultural workers.

Public employees

A scientific study has been made of the pay scales of public employees in order to make the necessary changes in the uniform pay plan which are feasible in respect to the economic resources of the Commonwealth. The study includes investigations of pay scales in private industry, in public corporations and in the Federal government. During the next fiscal year the Commonwealth's resources will be seriously curtailed by the negative effect of the worldwide economic situation on the island's economic development.

The increase in the cost of living makes it imperative, however, to seek new resources to provide a pay increase to public employees as a first priority.

To secure the necessary resources for that increase, the total cost of which is estimated at $71 million, I propose the adoption of the following measures:

An increase in the non-exempt property tax. $50 million.

A tax on air and sea fares originating in Puerto Rico. $7 million.

An increase of 5 per cent in taxes on premiums received by foreign companies on insurance granted or covering risks in Puerto Rico. $5 million.

An increase in the motor vehicle license fees which will tax principally those vehicles that consume the most fuel. $5 million.

An excise tax on airplane fuel. $4 million.

Altogether these measures can produce, according to estimates made by the Treasury Department, some $71.0 million.

Based on these new resources, I propose that the amount of $71.0 million be assigned to increase the pay of the Commonwealth's public employees. With those monies new increases will be made at all levels and categories of public employees, including teachers, which in no case shall be less than $50.00 per employee and up to $75.00 for teachers. These resources will also provide for the increase in pay of the judges and agency heads who are also public servants and who also feel, in equal measure, the increase in the cost of living.

Relief in food purchases for low-income families

The problem the increase in the cost of food represents for low income families will be greatly relieved by the extension to Puerto Rico of the Federal Food Stamp Program. A group of executives from various Commonweath agencies is working on the planning and organization of this program which should be in effect in every Puerto Rican town by next July first. Because of the magnitude of this program, it shall be implemented in stages. During the first stage, the program will operate in the towns of Aguada, Aguadilla, Añasco, Moca, and Rincon. After the initial period of two months, the program will go into this second stage covering eighteen more municipalities in the central and northern areas. From then on the program could be extended to the rest of the island before the end of this calendar year.

The program is directed at improving the diet of low-income families in Puerto Rico. The Federal Department of Agricultural has given us all the necessary cooperation to implement the program and ensure its success on the island.

I have been assured that during the next few days we shall receive the final results of the study fixing the food stamp quotas for families of two or more members. The study will also determine the maximum income of the families eligible to participate in the program. As soon as we have the results, we will be in a position to give concrete facts about the number of families which will benefit from the program and the amount of funds Puerto Rico will receive. For the time being we are working on the assumption that nearly 50 per cent of all families in Puerto Rice will benefit from the program as it extends to every municipality.

By increasing the purchasing power of low income families we will also be increasing the food sales of importers, wholesalers and retailers. Hence, commerce must be prepared to stock the foodstuffs which will have greater demand on the island.

I also anticipate that this program will be an incentive for commerce, urging it to continue and, in many cases, to initiate the use of new distribution techniques to reduce, wherever possible, the cost of the products consumed by low income families.

The consumer protection measures or those relating to better wages or to bringing relief to low income families in Puerto Rico I have mentioned, will never be so effective as to satisfy the aspirations of every Puerto Rican. Neither will we achieve the low prices nor the high pay we all wish for. The worldwide economic realities which I mentioned earlier are being felt by all people, diminishing the possibilities of industral societies to maintain their traditional pace of progress.

Hence, it is imperative that we readjust our consumer spending and our patterns of living. It is imperative that we make changes that can be seen either as sacrifices or as possibilities. If we take this opportunity to cast away that which is superfluous and to learn to appreciate profoundly those experiences of life that satisfy the spirit, we will successfully meet the challenge that these times of transition present to the whole world. And by doing that we will have improved the quality of the Puerto Rican civilization.

This requires that Puerto Ricans be, more than ever, conscious of their collective responsibilities and committed to such responsibilities. And informed well enough to make free determinations.

More than ever before, there will be a need to promote good fellowship and the participation of all the people in the decision-making process.

A special effort will be made toward strengthening neighborliness. This means to promote a special concern for the quality of interpersonal relations, possible ways and means to resolve conflicts and a deeper appreciation of the individual and collective meaning of the experiences life has to offer.

The promotion of good fellowship and the strengthening of family ties will be a fundamental task of this Administration in the area of social planning.

PARTICIPATION

Considering the conflicts and tensions inherent to the many problems that have come to be a part of our everyday life and thinking in terms of the participation of all groups in the governmental process, I have developed a totally new approach to participation that is in itself a forward looking social experiment. Should it be successful, as I expect it will, this concept could very well serve as a model of participation in multiple and varied circumstances.

As I pointed out at the beginning, this Administration has been operating on the basis of eight workshops composed of Cabinet secretaries and agency heads and which we have called the Workshops for a New Puerto Rico.

These workshops are in effect an instrument for structuring public policy and for the implementation of this policy in an integrated and cohesive manner. I propose to create similar workshops to establish and maintain a continuous dialogue with the community. These will be called community workshops and will call for the participation of the different sectors of our society in analyzing and discussing the public policy that the government workshops are formulating in each of the eight areas mentioned. The ultimate purpose will be to obtain and incorporate wherever and whenever feasible, the observations and proposals of the community concerning public policy. The community workshops might very well serve as liaison in securing and utilizing the aid of the community in carrying out public policy.

Let us examine an example of how these community workshops would function in the specific case of Employment, Training and Education. The workshop would include labor and management representatives, students and educators. They would discuss, among other things, government policies on such vital questions as labor-management relations, problems of productivity and economic growth, the relationship between training and education and job opportunities in Puerto Rico.

We also expect these workshops to give the various groups the opportunity to fully understand the problems and the needs of each group so as to promote good fellowship and diminish tension and conflicts.

SOCIAL SECURITY

Puerto Rico lacks a social security system comprehensive enough to fill the most important needs of our people. These needs arise from illness, unemployment, accidents, old age, death and such economic fluctuations as affect the individual and familial welfare and the collective stability.

There are various Commonwealth and Federal social programs that compete, without coordination, in insuring the welfare of the Puerto Rican worker. We mention the State Insurance Fund, the ACAA, the Public Welfare Law of Puerto Rico, the Chauffeurs Insurance, the Non-Occupational Disability Insurance, the Employment Insurance Law, as a few examples. But there are many others.

The latest statistics show that the number of persons under the Public Welfare program has increased from 75,000 in 1968 to 91,756 as of June, 1973. This indicates that while our economy has experienced continued periods of growth and prosperity the number of families in need of public assistance keeps going up. Another relevant detail is that, according to the 1970 census 59.6% of the 336,622 Puerto Rican families with four members each earned less than the established poverty level of $4,000 annual income.

A study of the social security laws and systems now in operation in Puerto Rico with a view toward integrating them with some additional mechanisms for a better distribution of the general wealth might give us an integrated, advanced and more equitable social security system. This could also represent a significant step in the island's overall social progress.

To carry out this study, I propose a Commission for the Integral Social Security System, with all the necessary powers and resources to examine the problems of social and economic insecurity and make recommendations to the Legislature as to feasibility and methods of establishing in Puerto Rico such a system.

This Administration's policy on social planning will also be applied through direct action for the improvement of those groups that we call non-participating.

The improvement of those who do not participate adequately in the benefits of progress must be built upon healthy relationships that allow for the security, the independence and the regard that the individual, the family and the group have for their own self respect, their productivity and their dignity.

Prominent among these groups are those who live in extreme poverty, the drug addicts, the alcoholics, the delinquents, those with physical or mental handicaps, the aging, and others.

We call them non-participating groups because they do not benefit in due proportion from the economic development, do not take a reasonable part in their country's decisions and have inadequate access to the basic services of health, education, recreation and social welfare.

As a means to tear down the barriers that stand between these groups, their full integration to their society and their full participation in the general benefits, this Administration has set for itself the following goals:

Render public services to non-participating groups at places accessible to them, preferably in the areas where they are concentrated.

Create inter-agency work groups to render such services.

Decentralize the decision-making process, especially at the local level where direct attention is given the non-participants.

Stimulate a greater participation of parents in the school system.

Reorganize the social services rendered to include a greater participation of the recipients of such services and the utilization of private resources.

Create special occupations for the non-participating according to their aptitudes and skills.

Establish pilot prevention projects in areas of high incidence of alcoholism or addiction.

Channel all aid to the non-participating through and within the context of the family group to which they belong. We have been working on a global revision of the problems of mental health in Puerto Rico to give highest priority to prevention, aid and rehabilitation.

For greater efficiency in this respect we have asked for a plan for integral coordination of the services offered by the government for the development of a healthy human being, physically and mentally, as well as socially.

This plan will be directed at pinpointing priorities, integrating and strengthening joint programs for the development of human resources and setting the groundwork for a new and vigorous public policy in the area of mental health. Special emphasis will be placed on the promotion and protection of health, the development of community Mental Health Centers and the strengthening of rehabilitation programs.

Now let us go on to the steps we propose to take regarding some of the non-participating groups.

Drug addicts

The new Department of Services Against Drug Addiction functions on the basis of the family nucleus and employs a dual approach: the expansion of preventive services and the strengthening and development of new treatment techniques.

The following immediate steps are being taken:

Development of an intensive prevention campaign through individual and mass communication media. This campaign will be aimed at the roots of the problem: family, neighborhood, community, good fellowship and social cohesion.

Establishment of prevention centers at the community level in areas of high incidence.

Strengthening and reorientation of prevention centers at the school level.

Restructuring of the services and relocation of the Methadone treatment centers so that they may respond to the changes observed in the addiction problems.

Development of a new program for the treatment of addicts within our prisons.

Development of alternatives of treatment of an experimental type such as acupuncture.

A night outpatient treatment clinic for youths who work and need treatment during non-working hours.

Residential centers for the treatment of minors using the technique of a resident married couple as directors.

New day treatment centers for minors who are experimenting with pills.

Regional admission units and new induction centers in areas of high incidence.

The alcoholics

There is a serious problem of alcoholism in Puerto Rico which affects 100,000 Puerto Ricans and which is also the responsibility of the recently created Department of Services Against Addiction.

In that respect we propose to;

Develop a continuous island-wide community educational campaign aimed at modifying the cultural patterns regarding beverages associated with the incidence of alcoholism.

Provide services of psycho-social and rehabilitation treatment for persons affected by drinking problems and social orientation services for the families of alcoholics.

Develop special research projects in the field of alcoholism.

The Department will offer services to persons with drug or alcohol problems as well as to other persons to rehabilitate them and develop their aptitudes and capacities so that they achieve a happier and more fruitful life. This covers medical, psychological, social and such other services as may be required by individual needs.

The delinquents

Among all non-participating groups the delinquents are the ones to cause the greatest concern to society because they pose a continuous threat to security. There are diverse underlying causes in the make up of a delinquent. A study of any particular delinquent will show that he fits into one or more of the non-participating groups that are the object of our social planning policy. That is, in studying any delinquent we often find that he suffers extreme poverty, is an addict, is an alcoholic or has either psychological or other kinds of problems.

Therefore, the measures we are taking regarding the problem of delinquency will not be limited to those that I will list here and that are aimed at the phenomenon of the delinquent as such. There are others that identify the delinquent more closely as belonging to one or more of the non-participating groups.

The corrective measures we are taking may be classified as preventive measures, law enforcement measures and rehabilitation measures.

In my message to the International Conference organized by the Commission Against Crime and held in San Juan on the 15th of last November I explained extensively the measures that we propose to take to combat crime in the above three aspects.

Following the comprehensive program that I outlined then, the Police have begun the recruitment and training of 2,000 new policemen to offer better surveillance and protection service in all island municipalities. In the budget I am submitting to you I propose the appropriation of $13 million to defray the cost of these 2,000 additional policemen who should be in service by next fiscal year. I will also submit legislation to reorganize the Police force to modernize it and turn it into a more efficient crime fighting apparatus.

We have already inaugurated stretches of sodium mercury vapor street lamps that soon will be installed in areas of high crime to prevent through intense illumination, crimes that are committed under the cover of darkness.

I am equally pleased to tell you that the New Penal Code, which established new crimes and penalties as well as sentencing procedures according to the degree of danger the criminal represents to society, is already finished and will be submitted to the Legislature within the next few days.

The Legislature will also receive a bill for a new organic act for the Puerto Rico Correction System and a bill reorganizing the Parole Board. These two bills will complement the modern correction institutions now under construction and both—the laws and the new facilities—will represent an advanced step toward the rehabilitation of inmates and their return to society as useful citizens.

On various occasions, I have referred to the administration of criminal justice in Puerto Rico. However, I believe it convenient to touch on it again in this message. We should all be concerned about the slow pace of criminal procedures here.

The Council for the Reform of the Administration of Justice has submitted a comprehensive report identifying the causes that delay criminal cases and recommending legislative and administrative measures to accelerate them. I intend to coordinate the legislative measures with the Judicial branch. But the responsibility for the administrative measures lies with the Judiciary.

I again respectfully call on the Judicial branch to apply all of its energy and will in expediting criminal cases so that the innocent can be promptly discharged and the guilty may be as promptly sentenced and be taken off the streets where they represent a threat to society.

I trust that the Judicial branch will respond to this plea that I make in the name of all the people of Puerto Rico who are clamoring for safety and respect for the law.

Technological advances and the reduction in the working day have given modern man more leisure time to devote to physical or spiritual gratification. Constructive use of leisure time depends not only upon its availability, but upon resources and the ability to use them wisely.

The satisfaction of these needs imposes upon the government the obligation of providing not only physical facilities for active or passive recreation, but also of giving our citizens the necessary education to expand their options in their use of leisure time.

The better society that we seek for Puerto Rico will take measures that will lead to a creative use of leisure time, instead of using it in the excessive consumption of material means of recreation.

We must begin now to stimulate in our children those attitudes that will encourage a creative use of leisure, emphasizing in their education the development of perception and creativity; improving fine arts programs: liberalizing the schools of music, increasing the level of reading, and expanding library facilities.

We will also develop special programs for the young, for adults and the elderly and for those incapacitated, with the purpose of promoting the use of leisure in activities appropriate for each group.

Development of family activities

We intend to initiate the development of activities for the recreation and solace of the Puerto Rican family as a whole. We will develop a new concept of weekend camps for family participation, utilizing the physical facilities of the Department of Social Services in Vieques, the Boy Scouts Camping Facilities, the Grolier Camping Facilities in Arecibo, and the extensive forest and beach areas of the Department of Natural Recources. These camps will implement recreational projects as well as others involving arts and crafts for active or passive participation for the entire family.

The Youth Action Administration will be primarily responsible for this program, but for its implementation I have designated a Committee composed of representatives of the Departments of Education, Social Services, Natural Resources, Housing, and Parks and Recreation.

We hope that this type of activity can be held on a weekly basis for a minimum of 500 families. The program would cover 26,000 families per year with an approximate total of 130,000 people participating.

I intend to stimulate to a maximum the participation of our citizenry in the conception, construction, administration and maintenance of facilities and programs for the use of leisure time.

We shall utilize sports federations in the realization of projects dealing with needs in each field of sports. Through this joint operation the Commonwealth will provide facilities in exchange for free instruction to the public on the part of the federations.

We will develop a program for providing basic recreational facilities to urbanizations and communities. The communities would complete the development of the facilities and the resources of the Commonwealth would then benefit a larger number of areas.

We will make school recreational facilities available to the public during non-school hours.

We will make access easier to beach and park areas, by eliminating, wherever possible the fences and other barriers that now prevent the use of those facilities.

Television

Television is a factor of tremendous impact in the social, cultural and political development of Puerto Rican society. In June of 1973, 96.1% of all occupied dwellings with electricity had television sets. The programs transmitted through this means of communication constitute a principal element of recreation for Puerto Rican families, who devote to it a large part of the leisure time.

Studies carried out indicate that, on the other hand, children make up the largest percentage of television viewers.

It is, therefore, inevitable that television exert a decisive influence on the behavior and attitudes of all Puerto Ricans, particularly of those who, because of age, are most sensitive to the impressions received.

Taking all of this into consideration, plus the fact that violence is the prevailing theme in televised films, it becomes essential for our children to escape the greatly harmful influence of such programming. It must be taken into consideration that almost all of the studies conducted in this field point out that violence in television tends more to incite open violence than to serve as an escape valve for repressed feelings of hostility.

On the other hand, the station with the lowest audience in Puerto Rico is precisely the government station, which because of its official nature has an added responsibility to provide suitable programming, conducive to the strengthening of character in our youth, the development of civic virtues and the enrichment of our cultural assets.

It is necessary to correct this situation, and to convert our official station into a model of what a television station should be. With that in mind, a number of measures are under consideration, and will be implemented in the coming months.

Motion pictures, another important means of audiovisual communication and one closely related to television, should also be properly utilized for the educational and social benefit of our citizens.

The resources available to the government of Puerto Rico in the field of cinematography have been limited and dispersed, and have not been used to full advantage. We propose, therefore, to utilize some of the facilities that have been used by the Department of Education; WIPR; the Division of Community Education and other agencies of the government, and other means to be provided, in order to organize the beginnings of a future Puerto Rican Institute of Cinematic Arts and Television. This entity will have as its principal objective the re-creation, through movies and television, of all aspects of the Puerto Rican reality, within a broad range of subjects and styles. Other important functions of the Institute will be training directors and technicians in those fields, and creating an appropriate climate for commercial movies and television productions at a level of excellence and productivity fitting our people and their cultural wealth.

CULTURE

Cultural creativity or enjoyment is one of the highest forms of using leisure time.

On various occasions I have expressed this Administration's special interest in everything pertaining to the conservation, enrichment and promulgation of Puerto Rican culture.

During the course of last year continuous efforts were taken toward the achievement of those objectives. In the next fiscal year we intend to restructure and reorient the cultural programs to be promoted throughout Puerto Rico by the Institute of Puerto Rican Culture, the Department of Education, the University of Puerto Rico and the Casals Festival, and other agencies and departments of our government. With that purpose I have recently created the Office of Cultural Affairs, which will be in charge of coordinating the efforts of those entities on behalf of Puerto Rico's culture. In that manner we hope to enlarge and spread the knowledge of our history and intellectual and artistic values among our people, particularly among students. Our cultural facilities will be expanded this year with the addition of new museums and libraries. The scope of the program will be broadened to include the development of more parks for passive recreation. This will achieve a better integration of our cultural and natural assets.

We also propose to strengthen the common bonds of friendship, history and culture with the nations of Latin America through exchange of artists, professors, students and intellectuals, as well as technical exchange. Cultural missions to carry our art, music and literature to those countries will also help toward the achievement of this objective.

It is also necessary for all of our cultural institutions to assume a position of guidance and orientation with respect to Puerto Rican communities in the continental United States. Our compatriots, born and raised there, are seeking their cultural roots, and anxious to know more about their island. They are in need of a better understanding of themselves in the difficult task of living amidst the various ethnic groupings that form the intricate pattern of North American society.

We shall offer all possible assistance to our fellow Puerto Ricans, so that they may have adequate knowledge of the true values of our history and culture.

COMPREHENSIVE DEVELOPMENT AND THE NEW PUERTO RICO

As you see, our plans, goals and aspirations seek to create balanced growth for Puerto Rico. This is what I have called comprehensive development, and it means that the course that Government sets for Puerto Rico encompasses all the problems and hopes of all Puerto Ricans. The New Puerto Rico must attain fulfillment in comprehensive development. The New Puerto Rico will be demonstrated not only in the improvement of our economic opportunities, environment, cities and countryside, but also, and this is what is truly significant, in happier Puerto Ricans as they experience personal, social, cultural and spiritual growth.

The onslaught of urgent problems and crises that Puerto Rico faces in its daily life—strikes, temporary scarcity of certain products, the fuel shortage—must not make us lose sight of our higher aspirations, and of the government efforts and direction that these demand.

Our daily life goes on with its petty problems, limitations, afflictions and lighter moments. The impact of radio, television and the press, traffic jams, social changes and urban unrest shape our environment. We are drowning in a sea of trivialities, anxieties, hostilities and petty satisfactions. We are prisoners of our social environment and of ourselves.

And yet, if we are to reach our Great Goal, if we are to open new paths of civilization, we must lift our eyes from the tasks of daily life and look towards the horizons we wish to attain. We must look forward to the future not back to the past. We must completely revise our traditional modes of thought; the dynamics, rhythm and pulse of modern life demand it. For we cannot construct the future with the patterns of the past.

To analyze the dynamics of the present with the slowly evolving concepts and patterns of yesterday will not permit us to understand the present. It will not enable us to understand the available options for our future growth nor how to channel these options.

There are those, following the patterns of the past, who believe that all important problems can be solved by merely assigning enough technical talent and financial resources. As United States Secretary of State, Henry Kissinger said: "We had supposed that every problem must have a solution and that good intentions should guarantee good results. It was enough to walk down the right path. Our generation is the first to discover that the path has no end, and that when we finish our march, we will not find the Promised Land but only ourselves."

To understand this truth makes us realize that to govern is to search for the common good in a never-ending process of trial and error, and, that one of the principal failures of modern society has been its neglect of the inner life.

There is a gap in the development of the philosophical, artistic, moral and spiritual parameters of man. Spiritual development and transcendental appreciation have lagged behind our material progress. And the vacuum created by this loss of meaning in our lives is filled with drugs, alcoholism, sex, and alienation.

Yet this vacuum can only be filled with human spiritual growth. And this inner development is achieved when we ask—and try to answer—the fundamental questions of life: "Who are we?" "Where do we come from?" "Where are we heading?"

As we seek to lead the people on the road to all-encompassing progress, we hope that each will be able to find answers to these questions.

The coming months are going to put our spiritual reserves to the tests. As a result of the international situation, solutions to the problems confronting us will demand modification of many of our attitudes, habits and customs of the affluent life.

Not only will our capacity for sacrifice be put to a test but our understanding and generosity as well. Tensions and conflicts inherent in coming events will threaten Puerto Rican solidarity and fellowship as never before.

I say this to you, members of the Legislature and fellow Puerto Ricans: If during the coming months we put the interest of individuals, parties, groups, unions or associations ahead of the welfare of all Puerto Ricans, then we will all suffer serious consequences.

Never before has it been so important for Puerto Rico to unite in order to face the problems that lie before us.

I have faith, my fellow citizens, in your capacity to face that test.

I have faith in our capacity to grow and excel.

I have faith in the fortitude, generosity and understanding that spring from the spiritual reserves of this people.

It is because of this faith that I have presented this program to you in order to continue the battle for the New Puerto Rico. The immediate problems, difficult as they may be, might make us slow our pace but cannot force us off our course.

With the help of God and the faith which rests in our people, we are prepared to meet that challenge.

ECONOMIC STABILIZATION COUNTDOWN

(Mr. HAMMERSCHMIDT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, since the initial enactment of the Economic Stabilization Act of 1970, I have received frequent communications from the Third Congressional District conveying the inequities and hardships which have resulted for numerous segments of our private economy sector. In my judgment, the most superior method of price regulations remains with the supply and demand forces of our Nation's free enterprise system. Rather than reverse the trend of inflation, the advent of controls have seen the creation of critical shortages, and widespread market dislocations.

I am, therefore, pleased to join my distinguished colleague, Alan Steelman, in this "congressional countdown" and to share with the membership of the House my constituent comments. Although I would like to include it all, I will briefly summarize some of the district input I have received in the past month:

A paper plant manager in Fort Smith, Ark., cited:

> Many shortages now prevalent in the economy are directly related to the controls program. Export prices are substantially in excess of domestic prices which is further increasing the domestic supply problem as products seek more profitable levels . . . present price levels are not adequate to support investment in new paper production facilities.

A general manager of a steel company stated:

> Steel shortage due to price controls has forced us to cancel building expansion and could cause considerable layoff of workers in the near future.

The administrator of our, largest Arkansas hospital wrote:

> We need to be released from artificial controls which limit our judgment and ability to respond to fiscal problems. The regulations have gotten us into a position whereby we have to pay more but are unable to pass the increase along. No hospital or business can long endure under such conditions.

The president of a drilling firm in my district conveyed:

> I urge your office to take whatever steps are necessary to see that equipment such as wire line and tubular goods are released from controls in order that we in the drilling industry are able to continue our efforts to develop our badly needed resources of oil and natural gas.

A physician in Russellville conveyed:

> I would like to protest the unjust discrimination against physicians by the Cost of Living Council . . . fees have been held at 2½% increase since December, 1971.

The head of a baby food processing company, after his exemption request had been denied by the Cost of Living Council observed:

> According to their (CoLC) letter, we are being refused on the basis of what we might do rather than our past documented performance which definitely established we had not contributed to inflation.

A bank president in Hot Springs conveyed:

> I feel that many of our economic problems in the country today, including the energy crisis, are aggravated by a continuation of wage and price control policies.

And, lastly, a furniture manufacturer cited:

> Continued control of furniture manufacturers' selling prices in the face of unregulated suppliers and shortages of many raw materials threatens the health of our industry.

These few constituent statements well describe the adverse effect to our national economy from continued controls.

RICHARD L. ROUDEBUSH

(Mr. HAMMERSCHMIDT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAMMERSCHMIDT. Mr. Speaker, a few days ago, it was my good fortune to attend the swearing-in ceremony for one of our former colleagues, Richard L. Roudebush, following his appointment to the position of Deputy Administrator of Veterans' Affairs. The high esteem in which this distinguished and likable gentleman is held was evidenced by the cross section of official and unofficial Washington who attended. Members of the House and Senate, members of President Nixon's staff and other agencies of the executive branch, officials of veterans organizations, large and small, and his colleagues in the agency turned out to wish him well as he embarked upon his term of office.

To those of us who are familiar with our former colleague's background, his appointment to this highly responsible office comes as no surprise. Rowdy, as he is affectionately known, was himself a World War II combat veteran. Following his military service, he embarked upon a career dedicated to serving his fellow veterans. He was a Veterans of Foreign Wars service officer for 7 years. He was the first World War II veteran to serve as commander of his VFW post. He became commander of VFW Department of Indiana and was subsequently elected commander in chief of the entire organization. Sometime in between, he managed to find time to serve 6 years as chairman of the Indiana Veterans Commission.

After 10 years' service as a Member

of Congress representing Indiana's Fifth Congressional District he transferred his energies to the executive branch of Government. It is especially fitting that Dick Roudebush, who has devoted his postwar career to helping his fellow veterans, be named to this high office in which he is second in command of the largest independent agency in the Federal Government administering to the needs of our 19.1 million veterans and their dependents. I know my colleagues will join me in congratulating the new Deputy Administrator of Veterans' Affairs, and wishing him every success in his new position.

PERSONAL EXPLANATION

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, because of congressional business in my district, I was forced to miss several rollcall votes in the House on December 22, 1973. Had I been present, I would have cast my vote as follows: No. 720 "nay"; No. 721 "yea"; No. 722 "nay"; No. 723 "nay"; No. 724 "nay"; and No. 725 "nay." Also, on January 21, 1974, I missed rollcall No. 2. Had I been present and voting, I would have cast my vote "nay."

REBUILDING THE HOUSE

(Mr. MEEDS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MEEDS. Mr. Speaker, the Select Committee on Committees, on which I serve, this week began markup of a proposed program of committee reorganization to make the House more effective.

Under the direction of our colleague and chairman, the gentleman from Missouri (Mr. Bolling), the committee has listened to extensive testimony from concerned Members, political scientists and interested citizens. A preliminary discussion draft of committee reorganization was presented for comment late last year.

I am today offering for my colleagues' information an editorial from the February 4, 1974, edition of the New York Times that discusses the committee's work:

Rebuilding the House

Resentment over the gradual erosion of Congress' role as originator of policy and initiator of legislation has at last led to a hard bipartisan look at the workings of the committee system in the House of Representatives and a plan for its rearrangement and reform.

It is a platitude by now that the work of Congress is done in its committees and that what happens on the floor is mostly for show. What has been less appreciated is the growing paralysis of the House because jurisdiction, workload and power are distributed among its baronies with little regard for balance, coherence or capacity, but with excessive regard for the ambitions of the barons who head them.

A classic case of imbalance is the Ways and Means Committee, which has jurisdiction over taxation, social security and medicare, foreign trade, revenue sharing, pension legislation, the debt ceiling, welfare reform and unemployment insurance, besides making appointments to all the other committees. Without a single subcommittee, it handles an esimated 20 percent of all legislation introduced in the House—every item of which comes under the scrutiny of its too-potent chairman, Representative Wilbur D. Mills of Arkansas.

At the opposite extreme, jurisdiction over a matter as vital as transportation is dissipated among five separate committees: Banking and Currency handles mass transit, Interstate and Foreign Commerce has Amtrak, shipping goes to Merchant Marine and Fisheries, and Ways and Means has a look-in by way of the trust funds that help finance highways and airports. On other fronts, it is preposterous that one committee should have been burdened with 542 bills in the 92nd Congress while another lumbered along with eight.

A select committee under the chairmanship of Representative Richard Bolling of Missouri, a man of ability, experience and determination, has come up with a blueprint for imposing a sensible and efficient pattern on this chaotic product of power-seeking and haphazard growth. A Public Works and Transportation Committee would gather together the bits and pieces of transportation, but it would lose to a new Energy and Environment committee such jurisdictions as water quality, water power and flood control. The Education and Labor Committee would be split along obvious lines; and foreign trade—meaning tariffs—would be treated not as a revenue matter, which it has long ceased to be, but as a logical item for the Foreign Affairs Committee.

It may be taken for granted that present committee and subcommittee chairmen will fight the Bolling plan with all their considerable power. It will have exceedingly rough going unless there is public pressure, not necessarily for the plan in all its details—inevitably there will be disagreement on particulars—but certainly for imposing rationality on an institution that has lost too much of its effectiveness for lack of it.

TRUCKS AND THE ECONOMY

(Mr. de la Garza asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. de la GARZA. Mr. Speaker, the economy of the south Texas district I represent rests largely on the production of agricultural commodities, especially including perishable products.

Most of these products—which obviously must go to market when ready—are transported out of the area by truck. As all of us know, the trucking industry is currently experiencing great difficulty in obtaining necessary fuel and when truckers can obtain adequate supplies of fuel, they are faced with rapidly rising prices.

Normal transportation by trucks must be restored and maintained. That is essential in the Nation as a whole. The necessity is so imperative in my region as to constitute a real emergency.

I have, therefore, introduced legislation authorizing the Federal Energy Office to act to assure the maintenance of operations involving the transportation by truck of food products including fruits, vegetables, meats, and all seafood products.

I now propose this action to insure that truckers hauling such perishable products will receive 100 percent of their fuel requirements. The bill directs the Federal Energy Administrator to develop and put into effect an allocation program designed to make certain that the necessary quantities of fuel will be made available.

Earlier this week I asked the Interstate Commerce Commission to expedite the movement of empty freight cars into south Texas to meet the needs of the area's farm producers. This is important and necessary but the fact remains that most of the area's outward shipments go by truck. Action to keep the trucks running must be taken without delay and that is the purpose of my bill.

STATE HOMES FOR VETERANS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, every State in the Nation should give serious consideration to establishing a State home for veterans under the Veterans Administration proposal recently made public.

Certainly I shall encourage my own State of Florida to closely investigate this most worthwhile program and hopefully to participate. The State home concept provides the type of environment and care for veterans disabled by age or disease who are incapable of earning a living. Very often, these homes provide hospital and nursing home care in addition to the real home like atmosphere so necessary for a life of dignity and comfort.

While the States themselves are looked to for the domiciliary aspect of the home, the VA can and will assist in the establishment of the nursing home and hospital functions and will provide per diem payments for each veteran in the facility, be he under medical care or otherwise.

As a matter of fact, the VA will provide up to 65 percent of the cost of constructing facilities in State homes to furnish nursing home and hospital care, provided VA standards are met.

Existing State facilities can be used to establish the State home, and in some cases, the VA can provide financial assistance for remodeling and alteration costs.

There is no doubt that this program, if fully implemented by the States, can provide the kind of facilities and surroundings for war veterans so badly needed at this time. This can be cited as one of those rare Government programs which is low in cost and high in value.

It is a program which has long been needed. It is a program which should be fully supported by veteran's organizations, State and local governments, and this Congress.

SAR ENDORSES THE BLACK POWDER BILL

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Senate has passed S. 1083, the so-called black powder bill, which eases the restrictions on purchase of black powder. It is well known that black powder is used primarily in antique firearms. The Organized Crime Control Act of 1970 provides severe restrictions on purchase, possession, transportation and storage of black powder in quantities over 5 pounds. The sponsors of the legislation were seeking the deterrence and punishment of terrorist bombers, not excessive restrictions on those who use antique firearms for legitimate purposes. The present restrictions on ammunition components for antique firearms impose excessive restrictions on honest citizens without placing restrictions on potential bombers.

S. 1083 corrects this problem, and it received overwhelming approval in the Senate. Action in the House of Representatives has been delayed. It is sincerely to be hoped that speedy action will be taken by the House to complete the enactment of this sensible legislation. The National Society of the Sons of the American Revolution has shown its interest in this matter by approving a resolution on the laws regulating the use of black powder. In this resolution they endorsed S. 1083 and urged action on it by the House.

I am glad to provide for printing in the Congressional Record a copy of the Resolution approved by this outstanding American patriotic organization.

Resolution on Laws Regulating the Use of Blackpowder Propellant

Whereas, our forefathers fought for and gained the independence of this nation through the use of muzzle-loading firearms; and

Whereas, our nation was carved out, settled, and developed by men and women who relied on muzzle-loading firearms for both food and protection; and

Whereas, the muzzle-loading shooting activities of the National Rifle Association, the North-South Skirmish Association, the National Muzzle-Loading Rifle Association, and the numerous other organized and unorganized users of blackpowder propellant form a wholesome sport steeped in American heritage; and

Whereas, the problems faced by the legitimate users of blackpowder shooting propellant will have a serious impact on historical reenactments, pageants, and shooting matches to be held in conjunction with the forthcoming celebration of the Bicentennial of the American Revolution; and

Whereas, commercially manufactured blackpowder is the only propellant (gunpowder) which can be used safely in muzzle-loading and other firearms specifically designed for it; and

Whereas, the future use of firearms similar to those used by our forefathers is gravely threatened because blackpowder propellant has been classified as an explosive and severely restricted as such under Title XI of the Crime Control Act of 1970; and

Whereas, the present restrictions on ammunition components for antique firearms impose excessive restrictions on honest citizens without placing any real coresponding burdens on potential bombers; and

Whereas, terrorist bombers face no shortage of explosive materials, with the wide range of commercially made explosives and the vast numbers of potential bomb ingredients available in drug, grocery, and hardware stores or chemistry laboratories, blackpowder shooters are limited to using commercially manufactured grades of blackpowder; and

Whereas, the United States Senate has already acted to provide an exemption for commercially manufactured blackpowder propellant through the overwhelming passage (78–8) of S. 1083;

Therefore, be it hereby resolved that the Trustees of the National Society of the Sons of the American Revolution assembled in Washington, D.C. the second day of February, 1974, do approve and endorse Senate Bill No. 1083 as being essential to one of the objects of said Society, namely "to celebrate the anniversaries of the prominent events of the war and of the Revolutionary period".

STRANGE JUSTICE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is very difficult to understand the workings of justice in our country. Three cases come to mind which simply defy explanation.

There is the case of the bank robbers who stole $547,000 in Maryland. All five were identified, but they turned in $400,000 of the money so all is forgiven. They committed a crime, got away scot-free with $147,000, and are in a position to laugh at the processes of justice because the Government decided not to prosecute.

I shudder to think at the reaction of people—particularly relatives—who know of cases where men have spent years in prison for very minor infractions of the law.

In the Daniel Ellsberg case, it was clearly evident that he stole Government secrets and sold them to the press. There was no question of his guilt, but he was able to get a hung jury and a mistrial. This flaunting of laws which deal with the Nation's security made him the hero of the far left. The newspapers which published the stolen secrets received the Pulitzer Prize for doing so. This, also, is difficult to comprehend.

The third case is that of Egil Krogh, who received a 6-month sentence for attempting to burglarize the office of Ellsberg's psychiatrist. He was searching for information on Ellsberg's guilt. Had he been legally commissioned or deputized to do this, no questions could have been raised. He was not authorized by law to commit the act, so he received a sentence. Under the circumstances, the sentence is understandable, but it could well have been suspended.

For years the American people have been increasingly disturbed about the workings of justice in this country. The rulings of the U.S. Supreme Court under Chief Justice Warren made it exceedingly difficult to obtain convictions, and this has complicated the problem. This situation is largely beyond the reach of Congress, but the administration can insist on stricter policies toward criminals. However, it is in the courts that the real work of punishing criminals must be accomplished. Too many of them do not seem to have the stomach for this.

VOTING RECORD

(Mr. PARRIS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PARRIS. Mr. Speaker, I believe the most important function any Congressman performs in the House of Representatives is the representation of his constituents with his voice and his vote.

During my first year in Congress, I have tried to keep my constituents informed through newsletters and news releases of the statements I have made as their representative in Washington.

Now, so that they can accurately judge the quality of my representation, I would like to insert into the Record the votes I cast in the 1st session of the 93d Congress.

I realize that all of my constituents will not agree with all of the votes I have cast since I have been in Congress, but I sincerely hope the majority of my constituents will agree with the majority of the votes I have cast. One of the things that I am proud of is that the voting record indicates that I was present for almost 95 percent of the recorded votes cast last year.

It is my intention to reprint this insert and make it available to the news media of my district as well as to any constituent who might request it. With that in mind, let me point out that in the compilation which I am inserting (d) means defeated and (p) means passed, as follows:

For Gerald Ford to be Speaker of the House of Representatives (D).

Against a previous question to prevent presentation of amendments to H. Res. 6, a resolution to adopt the rules of the House for the 93rd Congress (P).

Against a previous question on H. Res. 176, the rule for consideration of a House Committee study (H. Res. 132) (P).

Against a rule to consider H. Res. 132, a House committee study (P).

Against resolution to create a select committee to study jurisdiction of standing committees of the House (H. Res. 132) (P).

For extension of the life of Highway Beautification Commission, and increased authorization to $450,000 (H.J. Res. 123 (P).

Against previous question which was to force the President to spend $210,000,000 on rural environmental assistance programs (H. Res. 188) (P).

For amendment providing $140 million for REAP programs (H.R. 2107) (D).

For restricting REAP payments to provide only those farmers with annual net income over $10,000 with benefits (H.R. 2107) (D).

Against bill to require the President to spend $210 million previously appropriated for REAP (H.R. 2107) (P).

For the establishment of the American Revolution Bicentennial Commission (H.R. 3694) (P).

For providing funds for the balance of Fiscal 1973 for the Labor-HEW Departments and for foreign aid (H.J. Res. 345) (P).

Against amendment to provide a short period in which farmers could apply for emergency disaster loans at 1 percent interest (H.R. 1975) (P).

Against legislation authorizing emergency farm loan programs (H.R. 1975) (P).

For extension until June 30, 1974, the interest equalization tax (H.R. 3577) (P).

For temporary reconstitution until June 30, 1973, of the Select Committee on Crime with a future transfer of functions to the House Judiciary Committee (H. Res. 256) (P).

Against resolution authorizing Committee on Banking and Currency to conduct studies and investigations (H. Res. 18) (P).

Against authorizing funds for the House D.C. Committee to conduct studies and investigations abroad (H. Res. 257) (D).

For amending the School Lunch Act to assure that federal financial assistance to child nutrition programs is maintained at the level budgeted for Fiscal 1973 (H.R. 4278) (P).

For extending authorization of National Commission on the Financing of Postsecondary Education and the period within which it must make its final report (H.J. Res. 393) (P).

Against previous question on rule considering H. Res. 259 for further opening of House Committee meetings (H. Res. 272) (P).

For authorization of presence of departmental representatives at closed House committee meetings (H. Res. 259) (P).

For opening of committee meetings to public, unless otherwise voted when national security or personal privacy is involved (H. Res. 259) (P).

For amendment substitute bill providing for a three-year extension of existing vocational rehabilitation programs with authorization of $600 million (H.R. 17) (D).

Against extending and revising the authorization of grants to states for vocational rehabilitation programs (H.R. 17) (P).

For amendment to Older Americans Act to provide a 3 year limitation on certain programs and change authorization levels to those recommended in the budget (H.R. 71) (D).

Against the Older Americans Act with a three-year price tag of $1.4 billion (H.R. 71) (P).

For provision for additional time for congressional consideration of proposed new rules of evidence for the federal courts (S. 583) (P).

Against one-year extension of the Public Works and Economic Development Act with authorization of $1.2 billion for Fiscal 1974 (H.R. 2246) (P).

For resolution providing funds for studies and investigations by the Committee on Public Works (H. Res. 285) (P).

For one-year extension of Solid Waste Disposal Act with $233.5 million authorization for Fiscal 1974 (H.R. 5446) (P).

For Clean Air Act extension of one year with Fiscal 1974 authorization of $475 million (H.R. 5445) (P).

Against recommittal motion to Peace Corps continuing authorization proposing that authorizations be limited to one-year and reduced by $17 million (H.R. 5923) (D).

For authorizations of $157 million for Peace Corps for Fiscal 1974 and 1975 (H.R. 5923) (P).

For endorsing the President's ocean policy which would guide the U.S. delegation to an International Law of the Sea conference (H. Res. 330) (P).

For conference report on H.R. 3577 which extended the interest equalization tax until June 30, 1974 (P).

Against previous question for consideration of H.R. 5683 (H. Res. 337) (P).

Against amendment substituting the text of H.R. 5536 in place of H.R. 5683 (D).

For establishment of Rural Electrification and Telephone Revolving Fund allowing low-interest insured and guaranteed loans (H.R. 5683) (P).

For resolution authorizing additional investigative authority to the Committee on Interior and Insular Affairs (H. Res. 340) (P).

For sustaining veto of H.R. 3298, requiring Agriculture Secretary to spend all of the funds appropriated by Congress for the rural water and sewer grant program under the Consolidated Farm and Rural Development Act (Sustained).

Against vote on rule to consider H.J. Res. 205, which proposed creation of Atlantic Union Delegation for a convention of delegates from NATO treaty nations. (H. Res. 348) (D).

For rule to consider H.R. 3180, to clarify the proper use of the franking privilege by Members of Congress (H. Res. 349) (P).

For clarifying the proper use of the franking privilege by Members of Congress (H.R. 3180) (P).

For appropriating $1,369 million for college student aid programs, the Veterans' Administration, the CAB and GSA (H.J. Res. 496) (P).

Against previous question to consider H.R. 6168 to extend the Economic Stabilization Act (H. Res. 357) (D).

Against amendment to impose a ceiling on prices at levels no higher than those on April 16, 1973, except for agriculture prices (H.R. 6168) (D).

Against amendment providing opportunity for hearings in cases of proposed wage reduction orders, plus written explanations to involved parties (H.R. 6168) (P).

Against amendment to extend the Economic Stabilization Act for 60 days and to direct the President to develop stabilizing program of interest rates, rents, prices, and wages (H.R. 6168) (D).

For amendment authorizing the directing of the President to stabilize rents at levels prevailing on January 10. 1973 (H.R. 6168) (D).

For amendment authorizing the President to stabilize rents, but allowing for a 2½ percent annual increase (H.R. 6188) (D).

Against amendment proposing a ceiling on food prices at levels no higher than those prevailing on March 16, 1973, plus a stabilization of rents at January 10, 1973 levels (H.R. 6168) (D).

For motion to recommit H.R. 6168 to the House Banking and Currency Committee (H.R. 6168) (D).

For providing a one-year extension of Presidential authority to control wages and prices (H.R. 6168) (P).

For amendment to strike $58 million proposed for extension of the west front of the Capitol (H.R. 6169) (D).

For motion to recommit bill with instructions striking the $58 million appropriation for extension of the West Front of the Capitol (H.R. 6691) (D).

Against previous question on rule to consider H.R. 4204 to extend funding for the Emergency Employment Act of 1971 (H. Res. 360) (D).

Against previous question on amendment to the rule providing for the substitution of a substitute bill (H. Res. 360) (D).

For motion to table reconsideration motion on H. Res. 360, the rule for the consideration of the Emergency Employment Act extension bill (H. Res. 360) (P).

For agreement to Senate amendment extending and expanding the Older Americans Act of 1965, clearing legislation for the White House (S. 50) (P).

Against amendment to allow urban areas to use federal aid highway program trust funds for mass transit projects (S. 502) (D).

For amendment deleting a provision in the bill earmarking federal aid highway funds to urban areas with population of 400,000 or more rather than have state allocation of funds (S. 502) (P).

For conference report on S. 398 which provided for one-year extension of Presidential power to impose wage and price controls (S. 398) (P).

For rule to consider H.R. 3932, requiring Senate confirmation of present and future OMB Directors and Deputy Directors (H. Res. 351) (P).

For amendment proposing Senate confirmation of OMB directors and deputy directors appointed after enactment of the bill, with previous incumbents being excluded (H.R. 3932) (D).

Against abolition and reestablishment of Office of Management and Budget, with its director and deputy director subject to Senate confirmation (H.R. 3932) (P).

For vote on rule to consider H.R. 6388, to amend the Airport and Airway Development Act (H. Res. 370) (P).

For amending Airport and Airway Development Act to continue authorizations for airport development grants for Fiscal 1974 and 1975 at the present $280 million per year level (H.R. 6388) (P).

Against amendment attempting to cut a proposed three-step civil and criminal penalty procedure imposing sanctions against employers who knowingly employ illegal aliens in the U.S. (H.R. 982) (D).

For amending the Immigration and Nationality Act to make it unlawful for American employers to employ illegal aliens and to make such employers subject to criminal and civil penalties (H.R. 982) (P).

For authorization of $1.2 million for Indian Claims Commission for fiscal 1974 (H.R. 4967) (P).

For encouraging persons to join and remain in the Reserves and National Guard by providing full time coverage under Servicemen's Group Life Insurance (H.R. 6574) (P).

For establishment of a National Cemetery System within the Veterans Administration (H.R. 2828) (P).

For providing payments by the Postal Service to the Civil Service Retirement fund for increases in the unfunded liability of that fund (H.R. 29) (P).

For providing a three-year authorization of $120 million for and extending the National Sea Grant College and Program Act (H.R. 5452) (P).

For amending the Oil Pollution Control Act to implement amendments to an international convention on oil pollution control (H.R. 5451) (P).

For providing a two-year extension of the Renegotiation Act which enables the government to recapture excessive profits on certain government controls (H.R. 7445) (P).

Against amendment allowing negotiable orders of withdrawal to be written against certain interest-bearing savings accounts (H.R. 6370) (D).

For extension of certain laws relating to the payment of interest on time and savings deposits (H.R. 6370) (P).

For revising the Rural Electrification System lending program so that the bulk of loans will be financed at 5% interest, and a smaller part financed at 2% interest (S. 394) (P).

Against previous question on rule to order the consideration of H.R. 7447, a supplemental appropriations bill (H. Res. 389) (D).

Against amendment to strike language authorizing the transfer of $430 million to the Defense Department's general operational fund form specific fund accounts (H.R. 7447) (P).

For amendment postponing the effective date of a proposed amendment prohibiting funds appropriated in this bill from being expended to support U.S. combat activities in Cambodia (H.R. 7447) (D).

Against amendment prohibiting funds to be expended to support combat activities in, over or off the shores of Cambodia by U.S. forces (H.R. 7447) (P).

For amendment increasing funds for category B federally impacted area school assistance aid from 54% to 68% (H.R. 7447) (P).

Against amendment to strike language authorizing the transfer of $430 million to the Defense Department operational fund (H.R. 7447) (P).

For $2.86 billion supplemental appropriation for Fiscal 1973 (H.R. 7447) (P).

Against amendment to reduce a proposed multi-year authorization of $40 million for U.S. contributions to the U.N. Environmental Program to a one-year, $2.5 million authorization (H.R. 6768) (D).

For amendment to reduce the proposed $40 million authorization to a one-year $5 million authorization (H.R. 6768) (P).

For amendment demanding reversal of $40 million authorization to a one-year authorization of $5 million (H.R. 6768) (D).

For authorizing $40 million in U.S. contributions to the U.N. Environmental Program (H.R. 6768) (P).

For requiring the word "copy" to be marked on any imitation numismatic material manufactured in, or imported into the U.S. (H.R. 5777) (P).

For extending various housing and urban development programs, including FHA insurance, urban renewal, model cities (H. Res. 512) (P).

For permitting the D.C. Armory Board to borrow up to $1.5 million to enlarge the seating capacity of the R. F. Kennedy Stadium in Washington, D.C. (H.R. 6330) (P).

For prohibiting charging user fees at certain public recreation areas under U.S. Engineers' jurisdiction (H.R. 6717) (P).

Against recommittal motion on H.R. 7200 (D) and for the bill on final passage to extend previously granted temporary increases in retirement benefits and providing for the liberalization of the requirements for railroad retirement benefits (H.R. 7200) (P).

For final passage on H.R. 7200, amending the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act (H.R. 7200) (P).

For sustaining veto on S. 518, providing for Senate confirmation of present and future directors and deputy directors of the Office of Management and Budget (sustained).

Against amendment prohibiting funds authorized by H.R. 7528 from being used for a space tracking station in South Africa (H.R. 7528) (D).

For authorizing $3.1 billion for NASA space programs, etc., for Fiscal 1974 (H.R. 7528) (P).

For vote on rule to consider H.R. 6912, to provide for devaluation of the dollar (H.Res. 408) (P).

For amendment to permit private ownership of gold after December 31, 1973 (H.R. 6912) (D).

For amendment to end restrictions on the private ownership of gold, immediately upon enactment of the bill (H.R. 6912) (D).

For devaluation of the dollar by 10%, by reducing its par value, and by raising the official price of gold in terms of dollars from $38 to $42.22 per ounce (H.R. 6912) (P).

For providing an additional authorization of $8.68 million for converting Washington Union Station into a National Visitor Center (H.R. 5857) (P).

For authorizing an additional $7.5 million for the John F. Kennedy Center for the Performing Arts in Washington, D.C. (H.R. 5858) (P).

For extending numerous health programs and a fiscal 1974 authorization of $1.27 billion for the same (H.R. 7806) (P).

For providing promotions on the U.S. Capitol Police Force (H.Res. 398) (P).

For authorizing grants for vocational rehabilitation services (H.R. 8070) (P).

Against amendment to bring minimum wage for farm workers up to the base level of that of industrial workers (H.R. 7935) (D).

For amendment increasing minimum wage to $2.10 by 1975 for workers covered prior to 1966, and providing for a youth differential (H.R. 7935) (D).

For amendment setting the minimum wage for employees covered prior to 1966 at $1.90 per hour the first year, $2.10 the second, and $2.20 thereafter (H.R. 7935) (D).

For amendment setting the minimum wage for employees covered prior to 1966 in two steps to $2.10 and then $2.20 per hour. (H.R. 7935) (D).

For amendment to set the minimum wage for agricultural workers at $1.60 per hour for 1974, $1.70 for 1975, and $1.85 for 1976 and thereafter (H.R. 7935) (D).

Against amendment raising agricultural workers' minimum wage to $2.20 by 1975 (H.R. 7935) (D).

Against amendment to strike extended coverage for federal employees (H.R. 7935) (D).

For amendment to strike extended coverage for local and state government employees (H.R. 7935) (D).

For amendment to delete the section on seasonal industry employees (H.R. 7935) (P).

For amendment proposing a minimum wage for workers under 18 or full-time students at 80% of the applicable minimum wage or $1.60 per hour (H.R. 7935) (D).

For amendment which would freeze the Canal Zone minimum wage rate at its present level (H.R. 7935) (P).

Against increasing minimum wage, eventually to $2.20 per hour, extended coverage of the minimum wage laws, etc. (H.R. 7935) (P).

Against disapproval of the President's Reorganization Plan No. 2 which proposed combining the drug control activities into a single Drug Enforcement Administration (H. Res. 382) (D).

For authorization of $687.4 million for the State Department, with prohibition against authorized funds to be used for reconstruction aid to North Vietnam (H.R. 7645) (P).

For motion to dispense with calendar Wednesday business (D).

For amending the District of Columbia Election Act by regulating the primary election for the D.C. Delegate.

For authorization for a wide variety of D.C. programs (H.R. 8250) (P).

Against giving the D.C. City Council the power to impose rent controls (H.R. 4771) (P).

For conference report on H.R. 5293 authorizing $77 million for the Peace Corps for Fiscal 1974 (H.R. 5293) (P).

Against vote on rule to consider H.R. 77 to permit employee contributions to jointly administered trust funds established by labor organizations to defray the costs of legal services (H. Res. 423) (P).

For amendment to allow employees benefiting from the legal services fund to select any attorney of their choice rather than an attorney selected from the union (H.R. 77) (P).

For amendment striking out language specifying as an unfair labor practice the unilateral modification or termination of a legal services fund agreement (H.R. 77) (D).

For amendment proposing that the establishment of legal services trust funds be a "permissive" subject for collective bargaining (H.R. 77) (D).

Against permitting employee contributions to jointly administered trust funds established by labor organizations to defray the costs of legal services for employees and their families (H.R. 77) (P).

Against previous question on rule to order consideration of H.R. 8410, to extend the temporary $465 billion ceiling on the national debt (H. Res. 437) (D).

For previous question on amendment to rule on the substitute amendment on (H. Res. 437) (P).

For amendment to rule to strike language to make it in order to consider an amendment to the bill making the director and deputy director of the Office of Management and Budget subject to Senate confirmation (H. Res. 437) (P).

For vote on rule for the consideration of the debt limit extension bill (H. Res. 437) (P).

Against continuing the existing temporary increase in the national debt limit at $465 billion through November 30, 1973 (H.R. 8410) (P).

For amendment to delete the authorization for funding in fiscal 1975 and 1976 to provide for a one-year authorization instead of a three-year for the arts and humanities Act (H.R. 3926) (D).

For amendment providing a three-year authorization for the arts and humanities (H.R. 3926) (P).

For extending National Foundation on the Arts and Humanities Act (H.R. 3926) (P).

For amendment prohibiting payment of salaries for personnel of "Cotton, Inc.," which receives government funds for cotton promotion and research (H.R. 8619) (P).

For amendment prohibiting payment of salaries to personnel who formulate or carry out programs on which the total price support payments on wheat, feed grains and cotton exceed $20,000 per person (H.R. 8619) (P).

For providing $964.2 million Appropriation to the District of Columbia government for Fiscal 1974 (H.R. 8658) (P).

For amendment making it optional rather than mandatory that state planning agencies and regional planning units include representatives of citizen, professional and community organizations (H.R. 8152) (P).

For amendment adding language that nothing in the bill shall be construed to require the adoption by a grantee of a quota type system to achieve racial balance or to deny or end a grant because of refusal to adopt such a quota system (H.R. 8152) (P).

For authorizing $1 billion for each of fiscal 1974 and 1975 for the Law Enforcement Assistance Administration (H.R. 8152) (P).

For prohibiting private persons attempting to collect their own debts from misusing names to convey the false impression that any government agency is involved in such collections (H.R. 689) (P).

For authorizing $60 million per year for Fiscal 1974, 1975, and 1976 for the Trust Territories (H.R. 6129) (P).

For authorizing $60.3 million over a three-year period for national Historical Preservation Act programs (H.R. 7127) (P).

For vote on rule to consider H.R. 5464, the Saline Water Conversion Authorization (H. Res. 434) (P).

Against amendment providing a $6.6 million increase in the proposed authorization (H.R. 5464) (P).

For providing $15.8 million authorization for the saline water conversion program for Fiscal 1974 (H.R. 5464) (P).

For providing pay raises for Deputy U.S. Marshals (H.R. 5094) (P).

For amendment cutting out $1.6 million for new moorings for the Coast Guard Cutter Mackinaw at Cheboygan, Michigan (D). (H.R. 8760).

Against amendment seeking to add $3 million for research and development for alleviating the transportation problems of handicapped persons (H.R. 8760) (D).

Against an amendment seeking to add $9.7 million for research and demonstration for a personal rapid transit system (H.R. 8760) (D).

Against an amendment cutting $29.6 million for research, development and demonstration for the urban mass transportation program (H.R. 8760) (D).

For a bill appropriating $2.753 billion for the Transportation Department and related agencies for Fiscal 1974 (H.R. 8760) (P).

For a rule for consideration of H.R. 7824, to establish a Legal Services Corporation (P). (H. Res. 435).

For amendment to prohibit the Legal Services Corporation from financing backup legal research centers by grants or contracts (H.R. 7824) (P).

For amendment proposing that persons be allowed to bring suit against the corporation and reimbursing costs and fees to plaintiffs who win such court cases (H.R. 7824) (D).

For amendment prohibiting most lobbying by Legal Services Corporation lawyers (H.R. 7824) (P).

For amendment prohibiting full time attorneys of the Legal Services Corporation from engaging in partisan and nonpartisan political activities (H.R. 7824) (P).

For amendment prohibiting the Legal Services Corporation from providing legal assistance with respect to any proceeding or litigation relating to the desegregation of any school or school system (H.R. 7824) (P).

For amendment prohibiting the corporation from making contracts with or granting funds to legal backup centers (H.R. 7824) (P).

For a motion to strike the enacting clause of the bill (H.R. 7824) (D).

For a substitute amendment to an amendment prohibiting the Corporation from providing legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion contrary to their religious beliefs (H.R. 7824) (P).

For amendment containing the substitute amendment adopted on the previous vote (H.R. 7824) (P).

Against a bill proposing the establishment of a Legal Services Corporation to replace the legal services program of the Office of Economic Opportunity (H.R. 7824) (P).

Against amendment reestablishing the budget transfer authority under which the National Science Foundation had operated in previous years (H.R. 8510) (D).

For amendment prohibiting the use of funds authorized to the National Science Foundation from being used for research on human living fetuses (H.R. 8510) (P).

For authorizing appropriations for the fiscal 1974 activities of the National Science Foundation (H.R. 8510) (P).

Against amendment seeking a $75 million increase in the appropriation for community comprehensive planning (H.R. 8825) (D).

Against an amendment seeking a $400 million increase in the appropriation for urban renewal programs (H.R. 8825) (D).

For bill appropriating $19.1 billion for HUD, space, science, veterans and various independent agencies (H.R. 8825) (P).

For a Senate amendment blocking funds from any source for combat action in the Cambodia-Laos area (H.R. 7447) (D).

For postponing until September 1, 1973 the proposed ban against using funds for combat activity in the Cambodia-Laos area (H.R. 7447) (D).

Against a resolution authorizing the Speaker to entertain motions to suspend the rules during the week of June 25, 1973 (H. Res. 454) (P).

Against amendment permitting states to set standards for radiation emissions stricter than those set by the AEC (H.R. 8662) (D).

For a bill authorizing $2.4 billion for Fiscal 1974 for the Atomic Energy Commission (H.R. 8662) (P).

For a motion limiting debate on a pending amendment to the resolution (H.J. Res. 636) (P).

Against amendment extending limitations on expenditure of funds in Southeast Asia to previously appropriated but unexpended funds (H.J. Res. 636) (P).

For amendment prohibiting any funds under this resolution from being expended to support combat activities in the Cambodia-Laos area after September 1, 1973 (H.J. Res. 636) (P).

For amendment prohibiting any funds under this resolution from being expended to support combat activities in Indochina without the express consent of Congress (H.J. Res. 636) (P).

For a resolution providing for continuing appropriations for Fiscal 1974 (H.J. Res. 636) (P).

For the rule for consideration of H.R. 8877, the Labor-HEW Appropriations bill (H. Res. 455) (P).

For amendment seeking to reduce funds for OEO by $100 million (H.R. 8877) (D).

For amendment seeking to cut $632 million from the appropriations for HEW and OEO (H.R. 8877) (D).

Against amendment proposing an increase in the appropriations for bilingual education by $15 million, in addition to the $10 million increase over the budget already in the bill (H.R. 8877) (D).

Against amendment proposing that grants for state use to aid to educationally disadvantaged students be not less than 90% of the amounts made available in Fiscal 1972 (H.R. 8877) (D).

For a recommittal motion to instruct that the bill be reported back with an amendment cutting the appropriation by $600 million (H.R. 8877) (D).

For appropriation of $32.8 billion for Labor-HEW, OEO, and related agencies for Fiscal 1974 (H.R. 8877) (P).

For a bill providing appropriations of $2.3 billion for the Interior Department and related agencies for Fiscal 1974, plus contract liquidation authority (H.R. 8917) (P).

Against motion to instruct the conferees to insist on House position prohibiting flight pay for senior officers (H.R. 8537) (P).

Against amendment cutting out $3.8 million for Project Plowshare, a proposal for underground nuclear explosions to generate natural gas (H.R. 8947) (D).

For amendment proposing an additional $4.7 million for geothermal energy research (H.R. 8947) (P).

For bill appropriating $4,767 million for public works, the Atomic Energy Commission, flood control power projects, etc., for Fiscal 1974 (H.R. 8947) (P).

Against a bill changing the membership of the Council on International Economic Policy (H.R. 8548) (P).

For amendment seeking to extend the proposed ban on U.S. combat activities in or over Cambodia and Laos to cover hostilities in any sovereign state (H.R. 9055) (D).

Against amendment providing for an immediate and complete cut off of funds for combat activities in or over Cambodia and Laos (H.R. 9055) (d).

For H.R. 9055, making supplemental appropriations for Fiscal 1974, containing an immediate ban against use of funds provided in the bill for combat activities in or over Cambodia, Laos or Vietnam (H.R. 9055) (P).

Against amendment adding $2.1 million for additional probation officers and an increase of $709,000 for funds for Judiciary travel (H.R. 8916) (P).

For Fiscal 1974 appropriations of $4.4 billion for the State Department, Judiciary and related agencies (H.R. 8916) (P).

Against a motion to concur with a Senate amendment providing for a 5.6% Social Security increase in April 1974 (H.R. 8410) (D).

Against a Senate amendment to put the Presidential campaign income tax checkoff on a nonpartisan basis and to liberalize the continuation of extended unemployment benefits (H.R. 8410) (P).

For the conference report on the continuing appropriations bill providing funding through September 30 for agencies for which regular appropriations bills had not been passed (H.J. Res. 636) (P).

For the Senate amendment to provide for an increase in Social Security benefits, modifications in welfare and medicaid amendments, and an extension of certain social services programs. (H.R. 7445) (P).

For an amendment reducing the subsidy to farmers from a proposed $37,500 to $20,000 per crop on wheat, feed grains, and cotton (H.R. 8860) (P).

Against amendment to reduce the subsidy limitation on wheat, feed grains and cotton to $20,000 per farmer and prohibiting planters from selling or leasing part of their cotton allotments (H.R. 8860) (P).

For an amendment prohibiting the use of Commodity Credit Corporation funds to finance any future wheat sales to Russia or China (H.R. 8860) (D).

For amendment terminating the $10 million annual authorization for cotton promotion and research by Cotton, Inc. (H.R. 8860) (P).

For amendment seeking to remove the controversial escalator clause providing for annual adjustment of target prices for wheat, cotton, and feed grains on the basis of production cost changes (H.R. 8860) (D).

Against amendment adding language to extend price support loan provisions under the wheat, cotton and feed grains programs to farmers not participating in the programs (H.R. 8860) (D).

For amendment restoring the farm program to a market-oriented system by proposing a three-year phaseout of income supplemental payments to farmers (H.R. 8860) (D).

Against a motion for the committee of the Whole House to rise, which postponed further action on the farm bill (H.R. 8860) (P).

Against amendment deleting provisions for disaster loans at one percent interest or at three percent interest with $2,500 of the loan forgiven (H.R. 8606) (D).

For bill providing for annual authorizations of appropriations for the U.S. Postal Service (H.R. 2990) (P).

For amendment striking the cotton program provisions from the farm bill (H.R. 8860) (P).

Against amendment striking provisions transferring the Occupational Safety and Health Administration from the department of Labor to the Department of Agriculture. (H.R. 8860) (P).

Against the conference report on the emergency medical services bill (S. 504) (P).

For bill providing more favorable retirement privileges for inspectors of the Immigration and Naturalization Service or the Bureau of Customs (H.R. 6078) (P).

For bill revising provisions of the loan guarantee program for veterans to provide for setting interest rates for new loans to veterans for homes at realistic interest rates (H.R. 8949) (P).

For a bill providing for expanded VA medical programs with a first year cost of $64.9 million and authorized contracting out of medical care for certain survivors and dependents of veterans (H.R. 9048) (P).

For carrying out provisions of the Railroad Safety and Hazardous Materials Transportation Acts. This bill authorized $20.6 million (S. 2120) (P).

Against bill providing a $5 million authorization for the Commission on Productivity and Work Quality (S. 1752) (D).

For a substitute amendment including provisions requiring Congress to specifically approve or disapprove the commitment of forces by the President in absence of a declaration of war within 90 days of such executive action (H.J. Res. 542) (D).

Against a substitute amendment seeking to prohibit the President from committing U.S. troops to hostilities or increasing the number of U.S. combat troops abroad (H.J. Res. 542) (D).

For amendment requiring Congress to specifically approve or disapprove the commitment or enlargement in number of U.S. combat troops abroad within 120 days following a Presidential report of such action (H.J. Res. 542) (D).

Against the resolution concerning the war powers of Congress and the President (H.J. Res. 542) (P).

For amendment deleting language making recipients of supplemental security income payments eligible for food stamps (H.R. 8860) (P).

For amendment prohibiting strikers and their families from receiving food stamps unless previously eligible (H.R. 8860) (P).

For amendment liberalizing eligibility for food stamps (H.R. 8860) (P).

Against amendment prohibiting payment of farm subsidies to a farmer on any crop planted or harvested during a labor dispute involving the producer or his employees (H.R. 8860) (D).

For amendment prohibiting strikers and their families from receiving food stamps (2nd vote) (H.R. 8860) (P).

Against amendment reinserting the cotton program into the bill with the elimination of funds for Cotton, Inc. (H.R. 8860) (P).

Against motion to strike the enacting clause from the bill (H.R. 8860) (D).

For amendment to recommit with instructions to the committee to strike out the target price escalator provisions for cotton (H.R. 8860) (P).

For motion striking all of the "escalator clause" provisions (H.R. 8860) (D).

Against the Farm Bill continuing for four years price support programs for wheat, cotton and feed grains, with price escalator provisions, and continuing present food stamp and food for peace programs (H.R. 8860) (P).

Against amendment to withhold grants for construction of public broadcasting facilities unless the recipient was found to be in compliance with all laws prohibiting discrimination in employment practices (H.R. 8538) (D).

For bill extending authorizations for the Corporation for Public Broadcasting and for construction grants for noncommercial educational television and radio broadcasting facilities (H.R. 8538) (P).

For the rule for consideration of H.R. 5356, the toxic substances bill (H. Res. 493) (P).

Against amendment directing the EPA Administrator to use provisions of the Water Pollution Control Act, the Clean Air Act where appropriate to regulate chemical substances (H.R. 8386) (P).

For amendment proposing that no rule deriving from the bill should be put into effect until after a hearing with full opportunity for cross-examination (H.R. 5356) (D).

Against amendment directing EPA Administrator (same as above) (H.R. 5356) (D).

For a bill to protect health and the environment from toxic chemical substances (H.R. 5356) (P).

Against rule for consideration of H.R. 8929, concerning the financing of the cost of mailing certain matter free of postage or at reduced postage rates (H. Res. 495) (D).

For previous question to instruct conferees on the farm bill to assist on House amendment prohibiting bargain sales or gifts of farm products to North Vietnam under the food for peace program (S. 1888) (P).

For motion to instruct the conferees to insist on amendment to the farm bill prohibiting bargain sales . . . (same as above) (S. 1888) (P).

For amendment empowering the Comptroller General to allow Presidential impoundments of funds which he determines to be in accordance with the Anti-Deficiency Act (H.R. 8480) (D).

For amendment requiring both Houses of Congress to disapprove impoundments by concurrent resolution (H.R. 8480) (D).

Against conference report on bill allowing employer contributions to jointly administered trust funds established by labor organizations to defray the cost of legal services (S. 1432) (P).

Against amendment proposing that impounded funds be released after 60 days unless ratified by both Houses of Congress (H.R. 8480) (D)

For amendment reducing spending ceiling to $260 billion to balance the budget (H.R. 8480) (D).

For amendment reducing spending ceiling by $3.8 billion (H.R. 8480) (D).

For recommittal motion with instructions that the bill be reported back with an amendment requiring concurrent action by both Houses of Congress to overrule a Presidential impoundment action (H.R. 8480) (D).

For bill requiring the President to notify Congress whenever he impounds funds, providing a procedure by which Congress may disapprove the President's actions, and to establish for Fiscal 1974 a ceiling on federal expenditures (H.R. 8480) (P).

For amendment proposing reducing funds in the Foreign Assistance bill for population planning and health by $75 million for Fiscal 1974 (H.R. 9360) (D).

For amendment striking the section authorizing $93 million for certain economic and social development programs (H.R. 9360) (D).

For amendment striking the authorization of $60 million for assistance to selected countries and organizations (H.R. 9360) (D).

For amendment prohibiting foreign aid to any nation which seizes U.S. citizen property (H.R. 9360) (P).

For amendment to strike the section establishing a U.S. Development Credit Fund to lend money to undeveloped nations to buy U.S. exports (H.R. 9360) (P).

For recommittal motion with instructions that the proposed authorization be reduced by $68 million (H.R. 9360) (P).

Against authorizing $2.8 billion for foreign aid (H.R. 9360) (P).

For appropriating $4,749 million for the Atomic Energy Commission, public works, power and flood control projects, etc. (conference report) (H.R. 8947) (P).

Against rule for consideration of S. 1989, to amend the Federal Salary Act to increase certain executive, legislative and judicial salaries (H. Res. 512) (D).

For conditional adjournment from August 3 until September 5, 1973 (S. Con. Res. 42) (P).

For increasing disability rates and death pensions and dependency and indemnity compensation for benefiting veterans and their dependents (H.R. 9474) (P).

Against amendment proposing to cut the authorization for the CVN–70 nuclear aircraft carrier by $657 million (H.R. 9286) (D).

Against amendment deleting $473.5 million for research and development for the B–1 bomber (H.R. 9286) (D).

Against amendment to pull back U.S. troops from any nation paying a smaller portion of its gross national product for defense than does the U.S. with June 30, 1974 as the deadline for pull-back (H.R. 9286) (D).

Against amendment reducing the total U.S. troop levels in NATO and in the Western Pacific by 322,000 (H.R. 9286) (D).

For substitute amendment calling for an Armed Services Committee report concerning U.S. troop levels in Europe (H.R. 9286) (P).

Against amendment reducing the funds authorized in the bill by $950 million, by setting a ceiling equal to that for fiscal 1973 plus a 4½ percent inflation factor increase (H.R. 9286) (P).

For authorization of $20.45 billion for defense procurement, research and development and for military strength of the Armed Forces (H.R. 9286) (P).

For conference report on the HUD, Space, Science and Veterans Appropriation bill for Fiscal 1974 (H.R. 8825) (P).

For disagreement to Senate amendment which severely restricts government auto service for top officials of the agencies covered by the bill (H.R. 8825) (P).

Against amendment cutting funding for the Office of Management and budget by 5 percent (H.R. 9590) (D).

For amendment proposing a reduction in funds for the Office of Telecommunications Policy by 25 percent (H.R. 9590) (D).

For rule to consider H.R. 9130, the Alaska Oil Pipeline bill (H. Res. 515) (P).

Against amendment prohibiting the granting of a right-of-way for the pipeline across National Parks, Wildlife Refuges or Wilderness lands unless the right-of-way meets environmental protections (H.R. 9130) (D).

Against amendment deleting language removing from judicial review under NEPA the grant authorizations necesary for construction of the Pipeline, and removing language expediting federal court proceedings with respect to pipeline right of way and permits, etc. (H.R. 9130) (D).

Against amendment requiring the President to develop a plan to assure all regions of the U.S. equitable allocations of crude oil and gas (H.R. 9130) (D).

For amendment requiring that all articles, materials, and supplies used for pipeline construction be mined, produced or manufactured in the U.S. (H.R. 9130) (P).

Against amendment requiring permits issued by civil authorities in addition to those isued by Interior Secretary (H.R. 9130) (D).

For authorizing the Interior Secretary to grant a right-of-way for the Alaska Pipeline, and authorizing steps to bar further judicial review of its environmental considerations (H.R. 9130) (P).

For the conference report on S. 1636 extending the White House Council on International Economic Policy until 1977, with a $1.4 million one year authorization (S. 1636) (P).

For rule for consideration of S. 1264 directing the Eisenhower College to allocate $1 from the sale of each silver Dollar coin bearing the likeness of Eisenhower (H. Res. 518) (D).

For conference report on the Federal Aid Highway Act, with authorizations for bus and rail transportation (S. 502) (P).

Against conference report on minimum wage legislation (H.R. 7935) (P).

For previous question on accept Senate amendments to farm bill (S. 1888) (P).

Against motion to agree to Senate amendments to farm bill including an amendment eliminating a House proposed ban on food stamps for strikers (S. 1888) (P).

For conference report on D.C. Appropriations bill for Fiscal 1974 (H.R. 8658) (P).

For conference report on the $2.9 billion Fiscal 1974 appropriations for the Transportation Department and related agencies (H.R. 8760) (P).

For motion to recommit the conference report which extends the authority of the HUD Secretary relating to mortgage and loan insurance, and end Administration moratorium on new federal housing (H.J. Res. 512) (P).

For authorizing $105 million over 2 years for the lead based paint poisoning program, including detection and treatment of lead-based paint poisoning of children. (H.R. 8920) (P).

For increasing coverage of federal flood insurance (H.R. 8449) (P).

For authorizing $107.3 million AMTRAK for Fiscal 1974 (H.R. 8351) (P).

Against rule to consider H.R. 8547, amending the Export Administration Act of 1969 (H. Res. 484) (P).

Against amendment requiring Commerce Secretary to report to Congress any decision he makes on prohibition of commodities exported and to permit either House of Congress to disapprove such decisions (H.R. 8547) (D).

Against amending the Export Administration Act to require the Commerce Secretary to select items to be subject to export controls (H.R. 8547) (P).

For citing G. Gordon Liddy for contempt and turning the case over to the U.S. Attorney for the District of Columbia (H. Res. 536) (P).

Against amending the Federal Cigarette Labeling and Advertising Act to extend its advertising restriction provisions to include little cigars (H.R. 7482) (P).

For deleting language halting funds for foreign affairs agencies which do not comply within 35 days with any request for information by the House and Senate Foreign Relations Committees (H.R. 7645) (P).

Against prohibiting the imposition by the states of discriminatory burdens on interstate commerce in wine (H.R. 2096) (P).

Against rule to consider a resolution to provide predisaster assistance for California eucalyptus forests (H. Res. 511) (D).

For sustaining President's veto of the Emergency Medical Services bill (sustained) (S. 504).

For providing a $240 million five-year authorization for the establishment and expansion of health maintenance organizations (H.R. 7974) (P).

For new coin designs for quarters, half-dollars and dollars emblematic of the American Revolution bicentennial (H.R. 8789) (P).

For motion to instruct conferees to insist on House language in the Agriculture Appropriations bill limiting the federal farm subsidy to $20,000 per farm in most cases (H.R. 8619) (P).

Against authorizing the Interior Secretary to engage in feasibility investigation of certain potential water resource projects (H.R. 6576) (P).

For amendment deleting section which raised the reimbursement by the government for school lunches from 8 cents to 10 cents per lunch (H.R. 9639) (D).

For amending the National School Lunch and Child Nutrition Act to provide additional federal assistance to the school lunch and breakfast programs (H.R. 9639) (P).

For banning T.V. blackouts of sports events in cases where the games are sold out 72 hours before the event (H.R. 9553) (P).

For authorizing $88 million for ACTION domestic volunteer program (H.R. 7265) (P).

For conference report on vocational rehabilitation bill (H.R. 8070) (P).

For authorizing the Interior Secretary to purchase property located in the San Carlos Mineral Strip (H.R. 7730) (D) (failed on 2/3 rule).

For Endangered Species Act (H.R. 37) (P).

For establishing a Lyndon B. Johnson special intern program as part of the congressional intern program (H. Res. 420) (P).

For sustaining the President's veto of the minimum wage increase bill (H.R. 7935) (sustained).

Against amendment providing for a withholding of funds from USIA if it fails to furnish information requested by certain congressional committees (H.R. 9715) (P).

For bill to authorize appropriations for U.S.I.A. (H.R. 9715) (P).

For rule to consider H.R. 9256 to increase government contributions to federal employees health benefits (H.Res. 546) (P).

For conference report on the Interior Appropriations bill for Fiscal 1974 (H.R. 8917) (P).

For receding from disagreement with a Senate amendment and agreeing to an amendment appropriating $46 million for the National Endowment for the Arts (H.R. 8917) (P).

Against motion to recommit H.R. 9281 to committee with instructions to substitute a guaranteed annuity for the retirement formula proposed in the bill (H.R. 9281) (D).

For increasing retirement benefits for federal police and firemen and to establish a mandatory retirement age (H.R. 9281) (P).

For increasing federal contribution to federal workers' health insurance cost from 40% to 75% by 1977 (H.R. 9256) (P).

For conference report on Agricultural-Environmental-Consumer Protection appropriations for Fiscal 1974 (H.R. 8619) (P).

Against amendment requiring that local school agencies receive fiscal 1974 educational aid for disadvantaged children at a per pupil basis rate no lower than in fiscal 1973 (H.J. Res. 727) (D).

For amendment providing that each local school agency receive in Fiscal 1974 at least 85% of what it received in Fiscal 1973 for aid to disadvantaged children (H.J. Res. 727) (P).

For amendment prohibiting funds for the Cost of Living Council for any program discriminating among petroleum product marketers in the method of establishing their prices (H.J. Res. 727) (P).

For continuing appropriations for agencies where final action had not yet taken place on their regular appropriations bills (H.J. Res. 727) (P).

Against amendment raising from 20,000 to 35,000 each the maximum number of immigration visas per year from Canada and Mexico (H.R. 981) (D).

Against amendment proposing a five year aggregate limit on the number of one-year visas for certain migrant workers (H.R. 981) (D).

For setting immigration limits at not more than 20,000 visas per year for any one country (H.R. 981) (P).

For providing for the distribution of funds appropriated to satisfy certain judgments awarded to Indians by the Court of Claims and the Indian Claims Commission (H.R. 8029) (P).

For correcting typographical and clerical errors in the farm bill, Public Law 93-86 (S. 2419) (P).

For extending the authorization for appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People (H.R. 10397) (failed to pass, ⅔ vote required by rules).

For conference report on the arts and humanities authorization bill with a three-year authorization of $597 million (S. 795) (P).

For establishing a Board of International Broadcasting and authorizing continued assistance to Radio Free Europe and Radio Liberty for Fiscal 1974 (S. 1914) (P).

For vote on rule to consider H.R. 6452, the mass transit authorization bill (H. Res. 372) (P).

Against amendment cutting out $800 million authorized in the bill for urban mass transit operating subsidies (H.R. 6452) (P).

Against motion to strike the enacting clause in order to kill the urban mass transit bill (H.R. 6452) (D).

Against amendment striking federal Operating subsidies for mass transit (H.R. 6452) (D).

For increasing the federal share on aid to mass transit capital grant programs, which bill contains the $800 million authorization for mass transit operating subsidies (H.R. 6452) (P).

For establishing the Big Cypress National Preserve in southern Florida (H.R. 10088) (P).

Against reducing from $2.2 billion to $477 million the appropriations for special payments to international financial institutions to maintain the value of U.S. financial commitments (H.J. Res. 748) (D).

For appropriation of $2.2 billion for special payments to international financial institutions to maintain the value of U.S. financial commitments (H.J. Res. 748) (P).

Against vote on rule to consider H.R. 9682, the D.C. Home Rule bill (H. Res. 581) (P).

For amendment providing for the retention of Presidential appointments to the D.C. Court of Appeals and the D.C. Superior Court rather than having these judges appointed by the D.C. Mayor (H.R. 9682) (P).

For amendment proposing that the President or the House, or Senate, could veto any legislation passed by the D.C. City Council (H.R. 9682) (D).

For amendment providing for a federal enclave within D.C., including principal federal buildings, etc., to be supervised by a Presidentially appointed national service director (H.R. 9682) (P).

For amendment proposing that the D.C. Chief of Police be appointed by the President, rather than by the Mayor (H.R. 9682) (D).

For amendment excluding nearby parts of Virginia and Maryland from the National Capital Planning Commission's planning area (H.R. 9682) (D).

For amendment providing that the D.C. Mayor continue to be appointed by the President rather than be elected (H.R. 9682) (D).

Against providing for an elected D.C. mayor and City Council and a reorganization of the D.C. government (H.R. 9682 (P).

Against motion to recommit the conference report on the continuing appropriations resolution (H.J. Res. 727) (D).

For conference report on resolution to provide continuing appropriations for agencies where final action had not yet taken place on their regular appropriations bills (H.J. Res. 727) (P).

For authorizing $2,651 million for construction at military installations (H.R. 10614) (P).

For conference report on resolution limiting the war powers of the President, outlining circumstances under which the President could commit U.S. troops into hostile situations overseas (H.J. Res. 542) (P).

For authorizing $1,258 million for construction, repair and preservation of public works on rivers and harbors for navigation, flood control, etc. (H.R. 10203) (P).

For authorizing a $150,000 federal contribution to the Artic Winter Games to be held in Alaska in 1974 (S. 907) (P).

Against setting up a National Institute of Building Standards (H.R. 8346) failed to pass ⅔ rule).

For conference report on the Treasury-Postal Service appropriations bill (H.R. 9590) (P).

For amendment permitting per diem compensation rates of individuals to be set by the President regardless of Civil Service requirements (H.R. 9590) (P).

For amendment providing for funding of the President's official entertaining (H.R. 9590) (P).

For conference report on the $605 million Fiscal 1974 Legislative Branch Appropriations bill (H.R. 6691) (P).

For repealing the Act which had terminated federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin (H.R. 10717) (P).

Against rule for consideration of conference report on H.R. 9286, the military procurement authorization bill (H. Res. 601) (D).

Against amendment to transfer the monitoring of allocation programs from the Federal Trade Commission to the General Accounting Office (H.R. 9681) (D).

For requiring the President to allocate crude oil and refined petroleum products to deal with existing or imminent shortages (H.R. 9681) (P).

For conference report to provide financial assistance to the National Railroad Passenger Corporation (S. 2016) (P).

For authorization of $1.5 million for the Cabinet Committee on Opportunities for Spanish-Speaking People (H.R. 10397) (P).

Against motion to agree with a Senate amendment to the School Lunch Act (H.R. 9639) (D).

Against authorizing the use of health maintenance organizations in providing health care for military service dependents (H.R. 10586) (P).

For vote on rule to consider H.R. 3927, the Environmental Education Act (H. Res. 600) (P).

For amendment to provide a one-year rather than a three-year authorization for environmental education (H.R. 3927) (D).

For extending the Environmental Education Act for three years with accelerating authorizations totaling $45 million for 3 years. (H.R. 3927) (P).

For vote on rule to consider H.R. 10956, the Emergency Medical Services Act (H. Res. 655) (P).

For providing a three-year authorization of $135 million for Federal aid to area-wide emergency medical care systems (H.R. 10956) (P).

For adopting a rule for consideration of H.R. 9456, the Drug Abuse Education Act (H. Res. 656) (P).

For extending the Drug Abuse Education Act for 3 years, with a 3-year authorization of $90 million for educational programs on drug and alcohol abuse (H.R. 9456) (P).

Against motion to delete section 817 from the conference report on the military procurement legislation (H.R. 9286) (D).

For authorization to place at the U.S. Naval Academy two citizens of Iran (H.J. Res. 735) (P).

For establishing a Federal Financing Bank for the purpose of coordinating federal borrowing (H.R. 5874) (P).

For extending the life of the Watergate Grand Jury (H.R. 10937) (P).

For authorizing the President to extend certain privileges and immunities to the Organization of African Unity (H.R. 8219) (P).

For previous question on rule for the consideration of H.R. 11004, the national debt ceiling bill, thus preventing non-germane amendments to the bill (H. Res. 687) (P).

Against overriding the President's veto of the War Powers Act (H.J. Res. 542) (Overridden).

For amendment reducing by $2.3 billion the proposed increase in the temporary national debt (H.R. 11004) (P).

Against increasing the temporary national debt limit to $475.7 billion from $465 billion and extending the temporary limit to June 30, 1974 (H.R. 11004) (P).

For vote on rule to consider H.R. 9142, to finance reorganization of bankrupt Northeast railroads (H. Res. 688) (P).

For amendment proposing a six-year limit on continued salary payments to employees who lose jobs because of the railroad merger (H.R. 9142) (D).

For amendment proposing a six-year limit on displacement allowances to employees transferred to another northeastern railroad (H.R. 9142) (D).

For authorization of $421.5 million and $1 billion in federal loan guarantees to finance the reorganization of bankrupt Northeastern railroads into one corporation (H.R. 9142) (P).

For motion to recommit the Alaska Pipeline conference report with instructions to insist on House position on disagreement to title III and sections 601 and 602 (S. 1081) (D).

For conference report on S. 1081, to authorize the Trans-Alaska pipeline (S. 1081) (P).

For conference report on H.R. 8619, making appropriations for the Department of State, Justice, Commerce, the Judiciary and related agencies for Fiscal 1974 (H.R. 8619) (P).

Against resolution to adjourn from November 15-November 26, Thanksgiving Vacation (H. Con. Res. 378) (P).

For motion to recommit the conference report on H.R. 8877, making appropriations for the Departments of Labor, Health, Education, and Welfare and related agencies for Fiscal 1974 (P).

For conference report on S. 1570, the Emergency Petroleum Allocation Act of 1973 (P).

For House agreement to H. Res. 128, expressing the sense of the House with respect to actions which should be taken by Members convicted of certain crimes (P).

For making appropriations for military construction for the Department of Defense for Fiscal 1974 (H.R. 11459) (P).

Against previous question on the committee amendment (H. Res. 702) (P).

Against previous question on the resolution to provide funds for the Committee on the Judiciary (H. Res. 702) (P).

For motion to recommit resolution to the Committee on House Administration with instructions to report the resolution back with an amendment to earmark one-third of the funds for the impeachment inquiry to the minority (H. Res. 702) (D).

For providing funds for the Committee on the Judiciary for the impeachment investigation purposes. (H. Res. 702) (D).

For amendment that sought to allow states to raise supplemental security income benefits by amounts provided in the bill to qualify for their "hold harmless" protection (H.R. 11333) (P).

For 7% increase in Social Security benefits beginning March, 1974, and an additional 4% increase beginning June, 1974 (H.R. 11333) (P).

For providing an improved system of adoption of children in the District of Columbia (H.R. 11238) (P).

For conference report on H.R. 7446, a bill to establish the American Revolution Bicentennial Administration (P).

For rule providing for the consideration of the Year-Round Daylight Savings time bill for a two-year trial period (H. Res. 718) (p).

For bill providing daylight savings time on a year-round basis for a two-year trial period (H.R. 11324) (P).

For adopting rule under which the Comprehensive Manpower Act was considered (H. Res. 719) (P).

Against amendment that reduced the population requirement for receiving assistance from manpower programs from 100,000 to 50,000 (H.R. 11010) (P).

Against amendment that adds language that permits areas where the units of local government have an aggregate population of 100,000 or more to qualify for public employment programs under Title II (H.R. 11010) (D).

Against H.R. 11010, the Comprehensive Manpower Act (P).

Against amendment that sought to raise from $500 million to $1 billion the funds appropriated for 1975 to be reserved for public employment programs under Title II (H.R. 11010) (D).

For disagreement to the Senate amendments to the public debt limit increase bill, H.R. 11014, providing for a $10.7 billion increase in the public debt limit (H. Res. 721) (P).

Against amendment that sought to restore $1.25 million for race relations training in the Army, Navy, and Air Force (H.R. 11575) (D).

For amendment that sought to strike language providing that not more than $851.6 million be available for repair, alterations, and overhauls of vessels in Navy shipyards (H.R. 11575) (D).

For amendment that sought to require funding of the $3.5 billion of the total appropriations from backlog "pipeline" funds left over from prior years (H.R. 11575) (D).

For amendment that sought to reduce the end strength troop level by 22,000 (H.R. 11575) (D).

For making appropriations for the Department of Defense for Fiscal 1974 (H.R. 11575) (P).

Against amendment that sought to raise by $35 million the funds appropriated for grant programs for state rehabilitation services (H.R. 11576) (D).

For making supplemental appropriations for the Fiscal Year ending June 30, 1974 (H.R. 11576) (P).

For providing financial assistance for a demonstration program for the prevention, identification and treatment of child abuse and neglect, and to establish a National Center on Child Abuse (S. 1191). (P).

Against measure to insure that the compensation and other emoluments attached to the Office of the Attorney General are those which were in effect on January 1, 1969; to amend title 39, USC, and to clarify proper use of the franking privilege of Members of Congress (H.R. 11710) (P).

For a rule waiving points of order against the conference report on Foreign Aid Authorizations (S. 1443) (P).

Against the conference report on S. 1443, authorizing the furnishing of defense articles and services to foreign countries and international organizations (S. 1443) (P).

For suspending the rules to pass H. Con. Res. 173, relating to the United States fishing industry (P).

For the Labor-HEW appropriations conference report (H.R. 8877) (P).

For receding and concurring in Senate amendment to Labor-HEW appropriations conference report (H.R. 8877) (P).

Against amendment that sought to prohibit consideration of authorizing legislation after July 1 in lieu of March 31 of each year (H.R. 7130) (D).

For an amendment that sought to require the pilot testing of all federal programs prior to the implementation unless the committee report on the legislation indicates why this is unnecessary (H.R. 7130) (D).

For an amendment that sought to provide for a maximum limitation on authorizations for appropriations to 3 years except those funded through user taxes (H.R. 7130) (D).

Against an amendment that sought to require all appropriations bills to be sent to the President at the same time with no exceptions (H.R. 7130) (D).

For an amendment that sought to require both Houses of Congress to take action before a Presidential impoundment is disapproved, and to allow selective disapproval of impoundments by Congress (H.R. 7130) (D).

For an amendment that sought to make Title II (impoundment control) effective on October 1, 1975 (H.R. 7130) (D).

For the impoundment and budget control bill (H.R. 7130) (P).

For the rule under which the Vice-Presidential nomination could be considered (H. Res. 738) (P).

For confirming the nomination of Gerald R. Ford of Michigan to be Vice President of the United States (H. Res. 735) (P).

For the conference report on H.R. 11459, making appropriations for military construction for the Department of Defense for Fiscal 1974 (P).

For the rule under which H.R. 9107 could be considered, dealing with federal retirement annuities (H. Res. 673) (P).

For H.R. 9107, to provide increases in certain annuities payable under Chapter 83 of title 5, U.S.C. (P).

For rule providing for the consideration of the Trade Reform Act (H. Res. 657) (P).

For amendment denying loans, credits, and guarantees to communist countries which deny freedom of emigration (H.R. 10710) (P).

Against an amendment that sought to strike Title IV from the bill (H.R. 10710) (D).

For the Trade Reform Act (H.R. 10710), to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States (P).

For an amendment that sought to permit use of funds under the Israel Emergency Assistance bill to support U.N. Security Council resolutions calling for Israeli withdrawal from occupied territories and Arab recognition of Israeli sovereignty and territorial integrity (H.R. 11088) (D).

For the Israel Emergency Assistance bill to provide emergency security assistance authorizations for Israel (H.R. 11088) (P).

Against an amendment that sought to strike $1 million for Chile from the Foreign Assistance bill, H.R. 11771 (D).

Against an amendment that sought to reduce funds for emergency military assistance to Cambodia by $100 million (H.R. 11771) (D).

For an amendment that sought to prohibit the use of any Export-Import funds for any communist country (H.R. 11771) (D).

Against the Foreign Assistance bill, H.R. 11771, making appropriations for foreign assistance and related programs for fiscal 1974, (P).

Against the rule under which the Emergency Energy bill could be considered (H. Res. 744) (P).

For an amendment that sought to restore language in the original bill giving Congress 15 days to disapprove any Presidential energy plan (H.R. 11450) (D).

Against an amendment to the antitrust section providing for participation by the Justice Department and the Federal Trade Commission in the initial phasess of any allocation plans that are made (H.R. 11450) (P).

For an amendment that eliminates coal as one of the items on which windfall profits will be restricted (H.R. 11450) (P).

For an amendment that bans the allocation of petroleum for busing students to a school farther than the school nearest to their homes (H.R. 11450) (P).

Against a motion that all debate on the committee amendment in the nature of a substitute and all amendments thereto end at 10 p.m. (H.R. 11450) (D).

For an amendment that sought to insert a new section on the restriction of windfall profits requiring the President to exercise his authority under the Economic Stabilization Act to restrict unconscionable profits and to submit to Congress within 30 days legislation providing additional incentives for the use of such profits for exploration and research to increase the nation's energy supplies (H.R. 11450) (D).

Present on amendment that retains the vehicle emissions standards for 1975 but extends the date for those standards to become effective until 1977 (H.R. 11450) (P).

Against an amendment that sought to strike the section on voluntary conservation agreements among retail and service establishments (H.R. 11450) (D).

Present on amendment that sought to rescind the requirement for emission control devices on vehicles throughout the nation until January 1, 1977, except for certain areas which have significantly high pollution levels (H.R. 11450) (D).

Against an amendment that sought to allow for the allocation of petroleum for school busing where a busing plan has been ordered by the appropriate school board (H.R. 11450) (D).

Against a motion that sought to limit debate on the substitute amendment (H.R. 11382) and all amendments thereto (H.R. 11450) (P).

For a motion that the Committee rise and report the bill back to the House with the enacting clause stricken (H.R. 11450) (D).

For an amendment that adds language to a section amending the National Petroleum Allocation Act that strikes the word "Agricultural operation" as it is defined in subsection (B) of section 4 of the Act (H.R. 11450) (P).

For an amendment that provides that the Administrator may restrict exports of coal and petrochemical feedstocks if such exports will result in unemployment in the United States (H.R. 11450) (P).

Against an amendment that sought to exempt the Navy's petroleum reserves from the provisions of the bill (H.R. 11450) (D).

For an amendment that sought to exclude producers of less than 15,000 barrels of oil per day from the restrictions on windfall profits (H.R. 11450) (D).

Against a preferential motion that the Committee rise (H.R. 11450) (D).

For an amendment that sought to prohibit the exportation of crude oil, residual oil, and refined petroleum products unless the President orders the approval of the export (H.R. 11450) (D).

For an amendment that eliminates discrimination against shipment of recycled materials (H.R. 11450) (P).

Present on amendment that sought to rescind the requirement for emission control devices on vehicles throughout the nation until January 1, 1976, except for certain areas which have significantly high pollution levels (H.R. 11450) (D).

For an amendment prohibiting the export of petroleum products for military use in Indochina (H.R. 11450) (P).

Against an amendment that sought to ban the export of petroleum products for military use in Israel (H.R. 11450) (D).

For a motion to recommit the bill to the Committee on Interstate and Foreign Commerce (H.R. 11450) (D).

Against the National Emergency Energy Act (H.R. 11450) (P).

For motion to recommit the conference report on the D.C. Home Rule bill (S. 1435) (D).

Against the conference report on the D.C. Home Rule bill, providing for an elected mayor and city council and reorganization of the D.C. government (S. 1435) (P).

Against S. J. Res. 180, relative to the convening of the second session of the 93rd Congress (P).

For an amendment to the Small Business Ceiling Authority, S. 2482, to amend the Small Business Act (P).

For the conference report on H.R. 9256, Government Employees Health Benefits Act, increasing the contribution of the government to the cost of health benefits for federal employees (P).

Against a motion to suspend the rules on Wednesday, December 19th, for the balance of the week (H. Res. 746) (P).

For authorizing the disposal of opium from the national stockpile (S. 2166) (P).

For authorizing the release of copper from the national stockpile and the supplemental stockpile (S. 2316) (P).

For H.R. 11714, to provide for the development of improved design, lighting, insulation, and architectural standards to promote efficient energy use in residential, commercial, and industrial buildings (P).

For H.R. 11763, to facilitate the construction of an intercity bus terminal (P).

For motion to recommit conference report on H.P. 11576, making supplemental appropriations for the Fiscal year ending June 30, 1974 (P).

Against an amendment to the Energy Research and Development Administration Act that would provide for the addition of another assistant administrator to work in the area of energy conservation (D).

For the Energy and Development Administration Act of 1973, which calls for an administrator, six assistant administrators who shall be responsible for fossil energy, nuclear energy, environment, safety and conservation, national security, and advanced energy systems (H.R. 11510) (P).

Against the motion to recommit the conference report on S. 1559, the Comprehensive Employment and Training Act of 1973 (D).

For the conference report on S. 1559, the Comprehensive Employment and Training Act of 1973 (P).

Against the motion to recommit the conference report on H.R. 11575, the Department of Defense Appropriation for Fiscal 1974 (D).

For the conference report on H.R. 11575, the Department of Defense Appropriation for Fiscal 1974 (P).

Against the conference report on H.R. 11771, the Foreign Assistance Appropriation for Fiscal 1974 (P).

For the conference report on S. 1983, the Endangered Species Act of 1973 (P).

For the conference report on H.R. to restore, maintain, and support efficient rail service in the Northeastern United States (P).

For the conference report on H.R. 11576, making supplemental appropriations for Fiscal 1974 (P).

For concurring with the Senate amendment to H.R. 11333, the Social Security benefits increase of 7 percent beginning March, 1974, and an additional 4 percent increase in June 1974 (P).

Against ordering a second on H. Res. 759, which would take from the Speaker's table S. 921, the Wild and Scenic Rivers Act, amended to incorporate the provisions of S. 2589, the Senate Emergency Energy bill, with windfall profits provisions included (P).

Against H. Res. 759, to take from the Speaker's table S. 921, the Wild and Scenic Rivers Act, amended to incorporate the provisions of S. 2589, the Senate Emergency Energy bill with windfall profits provisions included (D) (failed to pass ⅔ rule).

Against H. Res. 760, to take from the Speaker's table S. 921, the Wild and Scenic Rivers Act, amended to incorporate the provisions of S. 2589, the Senate Emergency Energy bill, with windfall profits provisions deleted (D) (failed to pass ⅔ rule).

Against H. Res. 761, to take from the Speaker's table S. 921, the Wild and Scenic Rivers Act, with a Senate amendment (S. 2589), and agree to the Senate amendment (D) (failed to pass ⅔ rule).

Against H. Con. Res. 411, providing for the adjournment sine die of the first session of the 93rd Congress (D).

Against motion to adjourn. (D)

LEAVE OF ABSENCE

By unanimous consent (at the request of Mr. O'NEILL), leave of absence was granted to:

Mr. MCSPADDEN, for today, on account of critical illness of his mother.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAUMAN) to revise and extend their remarks and include extraneous matter:)

Mr. WYMAN, for 15 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. KEMP, for 10 minutes, today.

Mr. HOSMER, for 30 minutes, today.

Mr. BAUMAN, for 60 minutes, tomorrow, February 7.

Mr. SCHNEEBELI, for 10 minutes, today.

(The following Members (at the request of Mr. GINN) to revise and extend their remarks and include extraneous matter:)

Mr. YATRON, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 30 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. DANIELSON, for 15 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. DRINAN, for 20 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. DENT, for 10 minutes, on February 7.

Mr. HAWKINS, for 10 minutes, on February 7.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Benitez, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,351.25.

(The following Members (at the request of Mr. Bauman) and to include extraneous material:)

Mr. Wyatt.

Mr. Ashbrook in two instances.

Mr. Bell.

Mr. Landgrebe in 10 instances.

Mr. Hosmer in two instances.

Mr. Hillis.

Mr. Shriver in two instances.

Mr. Wyman in two instances.

Mr. Snyder in three instances.

Mr. Scherle.

Mr. Taylor of Missouri.

Mr. Brotzman.

Mr. Arends.

Mr. Burgener.

Mr. Baker.

Mr. Gilman.

Mr. Kemp in two instances.

Mr. Ketchum.

Mr. Minshall of Ohio.

Mr. Nelsen in two instances.

Mr. Buchanan in two instances.

Mr. Bob Wilson.

Mr. Robison of New York.

Mr. Steiger of Wisconsin in three instances.

(The following Members (at the request of Mr. Ginn) and to include extraneous matter:)

Mrs. Burke of California in 10 instances.

Mr. Harrington in five instances.

Mr. Waldie in four instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Yatron.

Mr. Wolff in two instances.

Mr. Milford in two instances.

Mr. Chappell.

Mr. Carey of New York.

Mr. Riegle in two instances.

Mrs. Chisholm.

Mr. Slack.

Mr. Roncalio of Wyoming.

Mr. Edwards of California.

Mr. Denholm.

Mr. Van Deerlin.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 185. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub. No. 2); to the Committee on Interstate and Foreign Commerce.

ADJOURNMENT

Mr. GINN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Thursday, February 7, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1845. A letter from the Secretary of the Air Force, transmitting a report covering calendar year 1973 on the progress of the Air Force Reserve Officer Training Corps flight training program, pursuant to 10 U.S.C. 2110 (b); to the Committee on Armed Services.

1846. A letter from the Attorney General, transmitting a report covering fiscal year 1973 on the enforcement of title II (Extortionate Credit Transactions) of the Consumer Credit Protection Act of 1968, pursuant to 18 U.S.C. 891 note; to the Committee on Banking and Currency.

1847. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the President's consent to a request by a foreign government to sell to a second foreign government certain aircraft manufactured with U.S. Government financing, pursuant to section 3(a) of the Foreign Military Sales Act, as amended [22 U.S.C. 2753(a)]; to the Committee on Foreign Affairs.

1848. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a report of the facts in each application for conditional entry of aliens into the United States under section 203(a)(7) of the Immigration and Nationality Act for the 6-month period ended December 31, 1973, pursuant to section 203(f) of the act [8 U.S.C. 1153(f)]; to the Committee on the Judiciary.

1849. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(2) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254 (c)(1)]; to the Committee on the Judiciary.

1850. A letter from the Executive Director, Board for Fundamental Education, transmitting the financial statements of the Board for calendar years 1970 and 1971, pursuant to Public Law 88–504; to the Committee on the Judiciary.

1851. A letter from the Administrator, Environmental Protection Agency, transmitting a report evaluating techniques for cost-benefit analysis of water pollution control programs and policies, pursuant to section 104 (a)(6) of Public Law 92–500; to the Committee on Public Works.

1852. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for the National Science Foundation for fiscal year 1975; to the Committee on Science and Astronautics.

1853. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Social Security Act to provide adequate financing of health care benefits for all Americans; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 377. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; with amendment (Rept. No. 93–780). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior an Insular Affairs. H.R. 1494. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands located in the State of Florida to the record owner or owners of such lands; with amendment (Rept. No. 93–781). Referred to the Committee of the Whole House on the State of Union.

Mr. HALEY: Committee on Interior and Insular Affairs: H.R. 5236. A bill to provide for the conveyance of certain mineral interests of the United States in property in Utah to the record owners of the surface of that property; with amendment (Rept. No. 93–782). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6541. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina; with amendment (Rept. No. 93–783). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6542. A bill to authorize the Secretary of the Interior to convey certain mineral interests of the United States to the owner or owners of record of certain lands in the State of South Carolina; with amendment (Rept. No. 93–784). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10284. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; with amendment (Rept. No. 93–785). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. House Joint Resolution 893. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub–No. 2). (Rept. No. 93–786). Referred to the Committee of the Whole House on the State of the Union.

Mr. MADDEN: Committee on Rules. House Resolution 835. Resolution providing for the consideration of S.J. Res. 185. Joint Resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub–No. 2). (Rept. No. 93–787). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DORN (for himself, Mr. Teague, Mr. Haley, Mr. Dulski, Mr. Roberts, Mr. Satterfield, Mr. Helstoski, Mr. Edwards of California, Mr. Montgomery, Mr. Carney of Ohio, Mr. Danielson, Mrs. Grasso, Mr. Wolff, Mr. Brinkley, Mr. Charles Wilson of Texas, Mr. Hammerschmidt, Mrs. Heckler of Massachusetts, Mr. Zwach, Mr. Wylie, Mr. Hillis, Mr. Maraziti, Mr. Abdnor, Mr. Huber, Mr. Walsh, and Mr. Patten):

H.R. 12628. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. COLLINS of Illinois (for herself, Ms. Burke of California, Ms. Chisholm, and Ms. Jordan):

H.R. 12629. A bill to prohibit certain sterilizations which are financed by Federal funds;

to the Committee on Interstate and Foreign Commerce.

By Ms. COLLINS of Illinois (for herself, Mr. Mills, Ms. Burke of California, Ms. Chisholm, Ms. Grasso, Ms. Abzug, Ms. Holt, Ms. Holtzman, Ms. Mink, Ms. Schroeder, Mrs. Sullivan, Mr. Carey of New York, and Mr. Fulton):

H.R. 12630. A bill to amend title XVIII of the Social Security Act to include breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

By Mr. de la GARZA:

H.R. 12631. A bill to authorize the Administrator of the Federal Energy Office to take certain action so as to assure the maintenance of operations involving the transporting, by truck or trucks, of perishable food, including fruit, vegetables, meats, and all seafood items; to the Committee on Interstate and Foreign Commerce.

By Mr. DIGGS:

H.R. 12632. A bill to amend section 7 of the District of Columbia Election Act for the purpose of administering a voter registration program; to the Committee on the District of Columbia.

H.R. 12633. A bill to prohibit the practice of forging or scalping tickets in the District of Columbia; to the Committee on the District of Columbia.

By Mr. DORN:

H.R. 12634. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. DULSKI:

H.R. 12635. A bill to revise the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

By Mr. du PONT:

H.R. 12636. A bill to require personal financial disclosure by certain officials and employees in the legislative, executive, and judicial branches of the Government of the United States; to the Committee on the Judiciary.

H.R. 12637. A bill to insure congressional review of tax preferences, and other items which narrow the income tax base, by providing now for the termination over a 3-year period of existing provisions of these types; to the Committee on Ways and Means.

By Mr. FAUNTROY:

H.R. 12638. A bill to regulate certain political campaign practices in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. FREY:

H.R. 12639. A bill to authorize a program to develop and demonstrate low-cost means of preventing shoreline erosion; to the Committee on Public Works.

H.R. 12640. A bill to amend the act of August 13, 1946, to increase the Federal contribution to 90 percent of the cost of shore restoration and protection projects; to the Committee on Public Works.

H.R. 12641. A bill to amend the Internal Revenue Code of 1954 to allow any individual employed on a part-time basis to deduct under section 214 expenses for household and dependent care services necessary for gainful employment, and for other purposes; to the Committee on Ways and Means.

By Mr. GUYER:

H.R. 12642. A bill to amend the Emergency Petroleum Allocation Act of 1973 to stabilize the price of propane; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ:

H.R. 12643. A bill to require filing of domestic food price impact statement in connection with exports of U.S. commodities; to the Committee on Banking and Currency.

By Mr. HUNT:

H.R. 12644. A bill to provide for the expansion of the Beverly National Cemetery in or near Beverly, Burlington County, New Jersey; to the Committee on Veterans' Affairs.

By Ms. JORDAN (for herself and Mrs. Griffiths):

H.R. 12645. A bill to amend title II of the Social Security Act to provide benefits for homemakers; to the Committee on Ways and Means.

By Ms. JORDAN:

H.R. 12646. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for low-income employed and self-employed individuals; to the Committee on Ways and Means.

By Mr. LATTA:

H.R. 12647. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes; to the Committee on Education and Labor.

H.R. 12648. A bill to amend the Emergency Petroleum Allocation Act of 1973 to stabilize the price of propane; to the Committee on Interstate and Foreign Commerce.

By Mr. LONG of Maryland (for himself, Mr. Brasco, Mr. Breaux, Mr. Brown of California, Mr. Dan Daniel, Mr. de Lugo, Mr. Dent, Mr. Drinan, Mr. Eilberg, Mr. Gaydos, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Hungate, Mr. Ketchum, Mr. Moakley, Mr. Podell, Mr. Riegle, Mr. Roybal, Mr. Symington, Mr. Won Pat, Mr. Wright, Mr. Yatron, and Mr. Young of Alaska):

H.R. 12649. A bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title, to improve and expand the veteran-student services program, to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans, to make improvements in the educational assistance program, to recodify and expand veterans' reemployment rights, to make improvements in the administration of educational benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MATHIS of Georgia:

H.R. 12650. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD of California (for himself, Mr. Roncallo of New York, Mr. Brown of California, Mr. Yatron, Mr. Addabbo, Mr. Owens, Mrs. Chisholm, Mr. Moakley, Mr. Stokes, and Mr. Fascell):

H.R. 12651. A bill to amend the Internal Revenue Code of 1954 to allow an individual an income tax deduction for the expenses of traveling to and from work by means of mass transportation facilities; to the Committee on Ways and Means.

By Mr. MYERS:

H.R. 12652. A bill to provide for annual adjustments in monthly monetary benefits administered by the Veterans' Administration, according to changes in the Consumer Price Index; to the Committee on Veterans' Affairs.

By Mr. NELSEN:

H.R. 12653. A bill to provide that, after January 1, 1974, Memorial Day be observed on May 30 of each year and Veterans Day be observed on the 11th of November of each year; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 12654. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

H.R. 12655. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods; to the Committee on Interstate and Foreign Commerce.

H.R. 12656. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

H.R. 12657. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12658. A bill to provide that, after January 1, 1974, Veterans Day will be observed on the 11th of November of each year; to the Committee on the Judiciary.

H.R. 12659. A bill to provide for the early commercial demonstration of the technology of solar heating by the National Aeronautics and Space Administration in Cooperation with the National Bureau of Standards, the National Science Foundation, the Secretary of Housing and Urban Development, and other Federal agencies, and for the early development and commercial demonstration of technology for combined solar heating and cooling; to the Committee on Science and Astronautics.

H.R. 12660. A bill to amend chapter 37 of title 38, United States Code, to improve the basic provisions of the veterans home loan programs and to eliminate those provisions pertaining to the dormant farm and business loans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12661. A bill to amend title 38 of the United States Code in order to increase the rates of educational assistance and to otherwise improve the educational assistance program; to the Committee on Veterans' Affairs.

H.R. 12662. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed, and restore on behalf of certain veterans educational assistance benefits which had previously terminated; to the Committee on Veterans' Affairs.

H.R. 12663. A bill to amend chapter 31, section 1502(a) of title 38, United States Code, to provide that Vietnam era veterans shall have the same basic entitlement to vocational rehabilitation as that available to veterans of World War II and the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. O'BRIEN:

H.R. 12664. A bill to make available to veterans of the Vietnam war all benefits available to World War II and Korean conflict veterans; to the Committee on Veterans' Affairs.

H.R. 12665. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. PRITCHARD (for himself and Mr. Heinz):

H.R. 12666. A bill to establish a national homestead program, in cooperation with local housing agencies, under which single-family dwelling owned by the Secretary of Housing and Urban Develoment may be conveyed at nominal costs to individuals and families who will occupy and rehabilitate them; to the Committee on Banking and Currency.

By Mr. QUILLEN:

H.R. 12667. A bill to authorize the lease and transfer of burley tobacco from marketing quotas to farms within the same State; to the Committee on Agriculture.

By Mr. RAILSBACK:

H.R. 12668. A bill to amend the Elementary and Secondary Education Act, and for other purposes; to the Committee on Education and Labor.

By Mr. REID (for himself, Mr. Anderson of California, Mr. Badillo, Mr. Boland, Mr. Brown of California, Mrs. Collins of Illinois, Mr. de Lugo, Mr. Drinan, Mr. Edwards of California, Mr. Helstoski, Ms. Holtzman, Mr. McDade, Mr. Metcalfe, Mr. O'Hara, Mr. Podell, Mr. Pritchard, Mr. Rinaldo, Mr. St Germain, Mr. Wolff, and Mr. Yatron):

H.R. 12669. A bill to establish a national energy information system, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STRATTON (for himself and Mr. Hunt):

H.R. 12670. A bill to amend section 301 of title 37, United States Code, relating to incentive pay, to attract and retain volunteers for aviation crew member duties and for other purposes; to the Committee on Armed Services.

By Mr. VEYSEY:

H.R. 12671. A bill to amend the Postal Revenue and Federal Salary Act of 1967 to require congressional action to effectuate increases in the rate of pay for Members of Congress and certain officers and employees in the legislative branch of the Government; to the Committee on Post Office and Civil Service.

By Mr. WYMAN (for himself, Mr. Bray, Mr. Whitehurst, Mr. Rose, Mr. Cleveland, Mr. Myers, Mr. Montgomery, Mr. Ketchum, Mr. Goodling, Mr. Hudnut, Mr. Cochran, Mr. Waggonner, Mr. Towell of Nevada, Mr. Beard, Mr. Casey of Texas, Mr. Collier, Mr. Ginn, Mr. Roberts, Mr. Scherle, Mr. Randall, Mr. Sebelius, Mr. Shipley, Mr. Guyer, Mr. Steed, and Mr. Camp):

H.R. 12672. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN (for himself, Mr. Hanrahan, Mr. Hicks, Mr. Henderson, Mr. Arends, Mr. Shuster, Mr. Jones of North Carolina, Mr. Wampler, Mr. Stratton, Mr. Bowen, Mr. Alexander, Mr. Dennis, Mr. Charles Wilson of Texas, Mr. Price of Texas, Mr. O'Hara, Mr. Ruth, Mr. Gross, Mr. Burleson of Texas, Mr. Kuykendall, Mr. Latta, Mr. Milford, Mr. Johnson of Pennsylvania, Mr. McCollister, Mr. Landgrebe, and Mr. White):

H.R. 12673. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WYMAN (for himself, Mr. Clark, Mr. Symms, Mr. Zion, Mr. Spence, Mr. Froehlich, Mr. Devine, Mr. Dickinson, Mr. Steiger of Arizona, Mr. Flynt, Mr. Dan Daniel, Mr. Rarick, Mr. Hammerschmidt, Mr. Collins of Texas, Mr. Archer, Mr. Abdnor, Mr. Minshall of Ohio, Mr. Bevill, Mr. Robinson of Virginia, Mr. Young of South Carolina, Mr. Eshleman, Mr. Miller, Mr. Robert W. Daniel, Jr., Mr. Ichord, and Mr. O'Brien):

H.R. 12674. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 12675. A bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of U.S. energy resources on public lands and elsewhere, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. DENHOLM:

H.R. 12676. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for motor transport carriers; to the Committee on Ways and Means.

By Mr. DENT (for himself and Mr. Kemp):

H.R. 12677. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act, to expand the coverage of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. ECKHARDT (for himself and Mr. Adams):

H.R. 12678. A bill to amend the Emergency Petroleum Allocation Act of 1973, to establish the Federal Energy Emergency Administration, to require the President to roll back prices for crude oil and petroleum products, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FROEHLICH:

H.R. 12679. A bill to amend title II of the Social Security Act to provide for the payment at age 62 (rather than only at age 65) of widow's or widower's insurance benefits equal to 100 percent of the deceased worker's primary insurance amount; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 12680. A bill to make it clear that the bonus value of food stamps is to be included in the "hold harmless" amount guaranteed to recipients of supplemental security income benefits under the Social Security Amendments of 1972, so as to assure that recipients in cash-out States do not suffer reductions in the benefits they actually receive; to the Committee on Ways and Means.

By Mr. LEHMAN:

H.R. 12681. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for State and local utility taxes; to the Committee on Ways and Means.

By Mr. LONG of Maryland:

H.R. 12682. A bill to amend the Federal Reserve Act and the Federal Deposit Insurance Act to provide a minimum rate of interest which banks must pay on Christmas club accounts; to the Committee on Banking and Currency.

By Mr. McDADE:

H.R. 12683. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. MILLS (by request) (for himself and Mr. Schneebeli):

H.R. 12684. A bill to amend the Social Security Act to provide adequate financing of health care benefits for all Americans; to the Committee on Ways and Means.

By Mr. O'HARA:

H.R. 12685. A bill to amend section 3375 of title 5, United States Code, to provide for payment by the Federal Government of certain travel and relocation expenses incurred by persons assigned to positions of employment in accordance with the Intergovernmental Personnel Act of 1970; to the Committee on Education and Labor.

By Mr. PERKINS:

H.R. 12686. A bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34 and 35 of such title, to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title, to improve and expand the veteran-student services program, to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title, to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veterans Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans, to make improvements in the educational assistance program, to recodify and expand veterans' reemployment rights, to make improvements in the administration of educational benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

H.R. 12687. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850 and for other purposes; to the Committee on Ways and Means.

By Mr. TAYLOR of Missouri (for himself and Mr. Hammerschmidt):

H.R. 12688. A bill to amend the Emergency Petroleum Allocation Act of 1973 to rollback the price of propane gas; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE (for himself and Mr. Mosher):

H.R. 12689. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Astronautics.

By Mr. THOMSON of Wisconsin (for himself, Mr. Quie, and Mr. Blatnik):

H.R. 12690. A bill to amend the Lower St. Croix Act of 1972 by increasing the authorization; to the Committee on Interior and Insular Affairs.

By Mr. WYMAN (for himself, Mr. Andrews of North Dakota, Mr. Sandman, Mr. Ashbrook, Mr. McSpadden, Mr. Young of Alaska, Mr. Cederberg, Mr. Passman, Mr. Crane, Mr. Madden, Mr. Quillen, Mr. Hunt, Mr. McCormack, Mr. Michel, Mrs. Holt, Mr. McEwen, and Mr. Lott):

H.R. 12691. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United States and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of South Carolina:

H.R. 12692. A bill to repeal the Social Security Amendments of 1972 relating to professional standards review organizations; to the Committee on Ways and Means.

By Mr. McDADE:

H.J. Res. 894. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub- No. 2); to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.J. Res. 895. Joint resolution authorizing and requesting the President to proclaim the week of May 13, 1974, as "Bilingual Education Week"; to the Committee on the Judiciary.

By Mr. FISHER:

H. Res. 828. Resolution disapproving the recommendations of the President with respect to the rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for the fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FROEHLICH (for himself, Mr. Mitchell of New York, Mr. O'Hara, and Mr. Conte):

H. Res. 829. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

By Mr. GAYDOS:

H. Res. 830. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. NELSEN:

H. Res. 831. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. YATES (for himself, Mr. Hanrahan, Mr. McCormack, Mr. Rosenthal, Mr. Won Pat, Mr. Badillo, Mr. Giaimo, Mr. Lehman, Mr. Koch, Mr. Leggett, Mr. Eilberg, Mr. Boland, Mr. Gibbons, Mr. Harrington, Mr. Studds, Ms. Abzug, Mrs. Grasso, Mr. Van Deerlin, Mr. O'Hara, Mr. Charles Wilson of Texas, and Mr. Cronin):

H. Res. 832. Resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

By Mr. ZWACH:

H. Res. 833. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. SATTERFIELD:

H. Res. 834. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

PETITIONS, ETC.

Under clause 1 of rule XXII,

390. The SPEAKER presented a petition of the Young Democratic Clubs of Missouri, Jefferson City, Mo., relative to the impeachment of the President of the United States; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

SERVICE TO MANKIND AWARD

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. COCHRAN. Mr. Speaker, on January 17, 1974, the Sertoma Club of Jackson, Miss., gave its annual "Service to Mankind Award" to Mrs. Barbara Boswell Stauss. It is a privilege for me to acknowledge this greatly deserved award for Mrs. Stauss. This lady has long been known in the Jackson area for her dedication to the public good, especially in the area of our public schools. She is deserving of the very highest commendation for her past services and I am pleased to recognize her in this way. Such unselfish and public spirited service to a community merits being brought to the attention of the Congress.

As a part of my remarks, I include a speech delivered at the awards ceremony by Mr. Kirby P. Walker, superintendent emeritus of the public schools of Jackson, Miss.:

SPEECH BY KIRBY P. WALKER

This is a moment in the annals of the Sertoma Club of Jackson that had to come. Not that it was predestined, rather as a civic organization founded upon the concept of service to mankind the membership of this club could not long fail to discover the subject to be honored this evening.

Of course I allude to the prime cause of this meeting, that is for your club to accord deserved recognition to Barbara Boswell Stauss whose traits since early childhood have marked her as one of God's especially endowed people with a marvelous spirit of altruism that has permeated everything she has done and been a part of, as will be described briefly.

The "Service Award to Mankind" by this club provides an excellent medium for focusing attention of the people of this city and state upon the constructive work and concerns of citizens of our community whose motives and deeds can be heralded far and near, and thus inspire others to be more active and concerned about the welfare of others.

Daily, through graphic and electronic media, our attention is forced toward the sordid, avaricious, self-seeking, venal, maniacal behavior of too large a part of our population. So it is truly refreshing, and we embrace this opportunity, to have an occasion such as this to examine and commend a life of exemplary Christian love and service to his fellowman.

Because Mrs. Strauss and I possess some common childhood background, it falls my good fortune to sketch a bit of her family history and to tell you of her work as a patron of the Jackson Public Schools where she found new avenues for effective service to youth and community institutions through her brilliant leadership in state and national PTA work.

Barbara Boswell's birth certificate names D'Lo, Mississippi as her birthplace, although her parents resided at Sanatorium, Mississippi just a few miles distant.

Her delightful mother is Iola Saunders Boswell, originally of Oxford, Mississippi, who now resides in Jackson. Barbara's renown father was the late Dr. Henry Boswell, a native of Quitman, Mississippi, whose illustrious career as superintendent of the Mississippi State Sanatorium is in itself an engaging and exciting story of public service to his state.

Many of you know Barbara's sisters: Helen, the wife of Howard Dear; Georgia Neal, the spouse of W. L. Tyson, Jr.; and Peggy, the helpmate of Dr. Samuel Johnson—all of Jackson. Each of these sisters has a brother, Colonel Henry Boswell, Jr., a resident of Virginia.

Some of the Walker and Boswell families were lifelong friends. My father, his brother, my grandfather, and my great grandfather were Simpson Countians. Their homeplace was just a few miles northwest of Sanatorium, near Rials Creek. My uncle and my father, in time, moved from Rials Creek to the 'teeming metropolis' of Magee which really claims Sanatorium as a part of its community.

Barbara Boswell and I learned our ABCs in the first grade at the Magee Elementary School—but several years apart. My Magee relatives were devoted friends of the Boswells. In fact, following the deaths of my uncle and aunt, their youngest son, Binford, was taken into the Boswell home until he entered military service after being graduated from Millsaps College. When my young cousin comes to Jackson he goes first to the home of the Boswell's and then from there makes contact with Cousin Kirby, et al.

Shortly after completing her work at Millsaps College, Barbara was wedded to Dr. Karl Stauss, a distinguished thoracic Surgeon of Jackson who also is a member of the teaching staff of the University of Medical School in Jackson.

Progeny of the Stauss' are: Karl Boswell Stauss, an architect in Dallas; Marie Stauss Feallock, a commercial artist of San Diego, California; Barbara Stauss Plunkitt, an elementary school teacher in Mobile, Alabama; Hilda Stauss Owen, a senior in the Rhode Island School of Design; and Mark Stauss, a junior in the William B. Murrah High School of this city.

If you could know these children as I have known them through the years, you would know they are living testimony to the nurture and upbringing by their beloved mother. These "gems" of the Stauss home are ample evidence, alone, that this Club has selected the ideal person for the honor to be awarded.

Take a barrel of apples, jostle it about for awhile, and when you open it you will find that the choicest fruit is on top. The select specimens rise above others just as cream rises on milk, and just as great persons stand head and shoulders above those around them.

It was in the H. V. Watkins Elementary School community in Jackson where the Stauss' lived that parents and teachers discovered the valued qualities of Mrs. Stauss. They drafted her to head their Parent-Teacher Association.

Soon thereafter, as a patron of the Edward L. Bailey Junior High School her leadership was sought again as president of the PTA.

Although she had an infant son, the Council of Parents and Teachers of the entire school district called upon her to head the Jackson Council for a two-year period during an era of school district enlargement, enrollment explosion, and crowded school buildings. Most of us would have shrinked from from the task of such leadership and diplomacy demands, pointing to many family responsibilities, and particularly to the fact that an infant son had to be cared for. Not Mrs. Stauss. She accepted the call and she brought young Mark to meetings of the Council and to many committees in a blanket-lined basket, armed with a few pieces of Zwieback Toast and a bottle of his formula, should the innerman cry for nourishment.

Completely relaxed, attentive to the needs and interests of others, this great lady commanded and won respect and admiration of literally thousands of teachers and parents in this school community in her role as PTA Council president.

Later when this school system, as well as most school districts in Mississippi experienced similar shocks of overnight transition to unitary school systems, and membership in the Mississippi Congress of Parents and Teachers dropped from almost 100,000 to about 25,000, parents and teachers of Mississippi called upon Mrs. Stauss again to rally support for public schools and for youth in our state.

Within two years the state membership in PTA doubled and unification of the Mississippi Colored Congress of Parents and Teachers and the Mississippi Congress of Parents and Teachers had been accomplished—all because Mrs. Stauss was widely respected and trusted by parents and teachers from all walks of life.

As might be expected, her outstanding work in Mississippi drew attention of the National PTA and she was tapped for membership on its Board of Directors, then in time vice-chairman of the National PTA Commission on Health and Welfare, and also on the *PTA Magazine* Board of Editors.

Take a moment to inquire and you will learn that Mrs. Stauss has served two terms on the Jackson Appeals Board, she has been active in Boy and Girl Scouting, she has been a constructive force as a member of groups interested in recruiting and training volunteers to assist teachers who have pupils not reading up to expected levels, she has assisted in projects designed to deal with smoking and health problems, and in coping with alcohol abuse and alcoholism.

Improvement of library services to the public, safety programs, and concerns for underprivileged children and youth have benefitted by the wisdom and labors of this modest, sincere citizen. In Jackson, the Family Service Association felt the wholesome impact of this homemaker and mother. Over a period of years she served this organization as vice-president and as chairman of its personnel, policy, and publicity committees.

You will find also that she has been a member of the Career Education Committee for our State Department of Education, and of the Board of Directors of the Mississippi Educational Service Center.

You may well marvel how one person's time and energies could be drawn upon to such an extent within such a comparatively short time.

Unquestionably, Barbara Stauss' upbringing in home, school, and church was such that when asked to do a task for her fellowman she seemed disposed to believe that if asked, those who asked thought it was important, and armed with their belief in her and by the grace of God, she had no choice but to put her hand to the work to be done.

Barbara Boswell Stauss has exhibited and continues to possess the strength, devotion, perseverance, and poise that makes any job she undertakes appear easy.

She is blessed with many talents. She is a creative writer, she is an accomplished musician, she is gentle and kind, and she accepts criticism without flinching or without backbiting. She can disagree without being disagreeable, and she will find ways to bring about consensus based upon good principle. There is no pretense, no sham in this dear lady—just outright love and warm respect for others.

I am delighted to have been afforded this time to give you insight into a personality of rare qualities, the impact of which has been felt locally and nationally in useful service to mankind.

In concluding this citation I submit that the qualifications are impeccable for the award that the Sertoma Club of Jackson now tenders Barbara Boswell Stauss.

SOLAR ENERGY AMENDMENTS

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. GUNTER. Mr. Speaker, in order to afford timely notice, I am publishing herewith in the RECORD the text of two amendments which I plan to offer when the bill H.R. 11864, the Solar Heating and Cooling Demonstration Act of 1973, is called up for consideration:

AMENDMENT TO H.R. 11864

On Page 8 strike beginning with line 13 to the period in line 19 and on Page 14 strike beginning with line 13 to the period in line 19 and at Page 25 at line 4 add:

PRIORITIES

SEC. 12. The Administrator will set priorities as far as possible consistent with the intent and operation of this Act, to consider the following criteria:

(a) The residential dwellings referred to in subparagraphs (A) and (B) of Section 5 and Section 6 shall be located in sufficient number of different geographic areas in the United States to assure a realistic and effective demonstration of the solar heating systems involved, and of the dwellings themselves, under climatic conditions which vary as much as possible.

(b) That areas with high density of population and prospect for future growth where early development of solar demonstration projects may more quickly reduce reliance on regular fuel supplies now in short supply.

(c) Those projects where funds from any State or political subdivision thereof are committed prior to or subsequent to the enactment of this Act.

Redesignating Section 12, as Section 13, and Section 13 as Section 14, and Section 14 as Section 15.

AMENDMENT TO H.R. 11864

On Page 26, strike beginning with line 9 to the end and add:

GRANT AUTHORITY

SEC. 14. (a) Subject to the provisions of this section, the Administrator is authorized, upon his own initiative or upon the application of any individual, partnership, corporation, association, institution, or other entity, to make a monetary award to any such individual, partnership, corporation, association, institution, or other entity, for any scientific or technical development, commercial use, or development of manufacturing and marketing techniques for solar equipment which is determined by the Administrator to have significant value in the conduct of solar energy activities. In determining the terms and conditions of any award the Administrator shall take into account—

(1) the value of the contribution to the field of solar energy;

(2) the aggregate amount of any sums which have been expended by the applicant for the development of such development;

(3) the amount of any compensation (other than salary received for services rendered as an officer or employee of the Government) previously received by the applicant for or on account of the use of such development by the United States;

(4) the contribution to the government of all relevant data concerning the development for which the award was made; and

(5) such other factors as the Administrator shall determine to be material.

(b) If more than one applicant under subsection (a) of this section claims an interest in the same contribution, the Administrator shall ascertain and determine the respective interests of such applicants, and shall apportion any award to be made with respect to such contribution among such applicants in such proportions as he shall determine to be equitable.

(c) No award involving more than $10,000 shall be awarded under subsection (a) before thirty calendar days after the date upon which the proposal for such grant is transmitted by the Administrator to the President pro tempore of the Senate and the Speaker of the House of Representatives.

For purposes of this action, the term "calendar days" does not include days on which the Senate or the House of Representatives is not in session because of an adjournment of more than three calendar days to a day certain or an adjournment sine die.

(d) The Administrator shall prescribe such rules as he deems necessary to carry out this section.

(e) Not later than six months after the date of the enactment of this Act and at six-month intervals thereafter, the Secretary shall transmit reports to each House of the Congress. Each such report shall include a detailed statement of the administration of this section by the Secretary.

(f) The provisions in this section shall be fully reviewed by the Congress two years after the enactment of this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 15a. There are authorized to be appropriated to the Administrator, for the first five fiscal years beginning after the date of the enactment of this Act, such sums, not exceeding $50,000,000 in the aggregate, as may be necessary to enable him (1) to carry out by this Act, and (2) to reimburse the National Aeronautics and Space Administration by this Act, (and (2) to reimburse the National Bureau of Standards, the National Science Foundation, the Secretary of Housing and Urban Development, the Secretary of Defense, and the General Services Administration for expenses incurred by them (during the respective periods of the program under section 4 and the programs under section 5 and 6) in carrying out the functions vested in them under this Act.

(b) There are authorized to be appropriated to the Administrator, for the first two fiscal years beginning after the date of the enactment of this Act, such sums, not exceeding $2,000,000 in the aggregate as may be necessary to enable him to carry out the functions vested in him in section 14.

SENATE SHOULD ACT QUICKLY ON THE BUDGET AND IMPOUNDMENT CONTROL ACT

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BROTZMAN. Mr. Speaker, on December 5, the House passed the Budget and Impoundment Control Act. I believe this will prove to be one of the most significant pieces of reform legislation in recent years. For that reason, I hope that the other body will act on the House passed measure in short order.

The bill would restore to Congress a measure of control over our Nation's spending which has been seriously eroded in modern times. Not only does the bill restrict the power of a President to impound funds appropriated by Congress, but it also makes Congress more responsible for the moneys it appropriates by keeping closer tabs on the impact each appropriations measure will have on overall spending. Other important fiscal reforms are contained in the bill also.

Mr. Speaker, the Rocky Mountain News, Denver's morning newspaper recently devoted an editorial to the importance of passing this legislation, and I believe it well states the need for Senate action.

The editorial follows:

A TASK FOR CONGRESS

The Senate should give prompt attention to a bill that would impose sensible restraints on how Congress spends the taxpayers' money.

The House approved legislation early in December that, for the first time, would require Congress to set annual ceilings on how much it will spend on various programs.

The problem is well stated by the new House minority leader, Rep. John J. Rhodes of Arizona:

"Every year, Congress blindly appropriates bill after bill, with no regard for either where the money is to come from or overall spending priorities. Then, at the end of the year, Congress registers surprise when spending goes through the roof and the people are saddled with intolerable inflation."

Under the House bill, the new fiscal year would begin Oct. 1 instead of July 1, all appropriation bills would have to be passed by Aug. 1, and changes in the spending limits would have to be approved no later than Sept. 15.

This may seem unduly rigid, but it goes to the root of a serious weakness—the inability or unwillingness of Congress to live within a budget of any kind.

The temptation, in an election year, will be to spend much, save little and make sure the folks back home are well taken care of by the government.

That may be a way to get votes.

But as Rep. Rhodes points out, it's one of the reasons why Congress has forfeited so much of its leadership to the presidency over the past 40 years.

TURN OFF THE WATERGATE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BOB WILSON. Mr. Speaker, during the recent congressional recess, each of us returned to our home districts, talked with constituents and for the most part found a public weariness over the so-called Watergate matter. Many people with whom I talked want Watergate put behind us as quickly as possible so we can turn our full energies toward solving the problems confronting our country. I think this attitude was best summed up recently in an editorial written by a prominent publisher from San Diego, Clinton D. McKinnon, who also once served in this House as a distinguished Democrat Member of Congress.

I include the editorial in the RECORD so that our colleagues can have the benefit of his thinking:

TURN OFF THE WATERGATE

(By Clinton D. McKinnon)

With all the reams of newsprint and hours of television devoted to the Watergate affair, it's pretty obvious by now that most concerned citizens have made up their minds as to whether the President is guilty or not guilty of some shady, if not illegal, practices.

These convictions, or prejudices, are about as firmly implanted as if they were set in concrete and are not apt to change irrespective of what future congressional or court hearings may bring forth.

This being the case, it is time that we forget partisan issues and face up to the ones that more vitally concern our country.

Congress can take care of the abuses engendered by Watergate by passage of legislation to make it impossible for money to buy an election. There are several alternatives.

But equally as important is to give the President respite from the worries of Watergate to address himself to other critical issues; the most important, right now, is the energy crunch. Some very hard, and possibly unpopular decisions, must be made immediately as to gas rationing, industrial vs. consumer allocations of oil, and all the other decisions of an energy-short economy.

At best, the presidential office is a man-killer and Wategate is sapping strength that needs to be diverted to more pressing problems.

Obviously, President Nixon is not about to resign and it is most unlikely that he will be impeached, for there is no one else to take his place in this hour of crisis.

The country, and the world, needs answers to problems more critical than Watergate. That problem can be settled by Congress.

Right now, we need to turn off Watergate and open up some more vital gates.

We need to do this, not for the benefit of President Nixon, but for the good of the country.

ICC RULING

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ROUSH. Mr. Speaker, yesterday, the Senate passed Joint Resolution 185 advancing the effective date of the final order of the ICC in Docket No. MC 43 (Sub. No. 2).

The Senate took no stand on the substantive matter of the ICC ruling, but simply wished to expedite the ICC proposed rule which would require the common carrier to pay the owner-operator for the increase in fuel costs over a May 15, 1973, price.

Under the Interstate Commerce Act the Commission could not make the proposed rule effective until 30 days after final publication—that is, until March 1974. The Senate resolution, if passed also by the House—which action is expected very soon—directs the ICC to issue a final order as soon as possible in a pending proceeding; such order would be effective on or before February 15.

The Congress is making an honest endeavor to expedite this ICC rule. In light of the recent curtailed truck service in at least 20 States, speed may well be recommended. However, in our haste for a solution I would not want the ICC to fail to include certain provisions in their final ruling, the final regulations that they adopt that are essential to clarity and equity.

It seems to me that innumerable administrative difficulties might be expected with this pass-through resolution. I think the Congress could certainly expect that the ICC will deal carefully and thoughtfully with those difficulties.

Specifically, how can we make sure that a minimum of paperwork will be required of the independent truck driver and the common carrier? Are there adequate receipts for the fuel charges to the truck drivers? And if presently there are not, what provision will the ICC make to see that these exist?

Second, will the ICC provide for a dispute settlement mechanism if disputes as to increased prices occur between the truck operators and the common carriers?

Unless provisions are made for these contingencies, I do not believe the Congress will have helped the independent truck operator, the common carrier, or the consumer by speeding up the effective date of the ICC rule. I feel confident that the ICC is aware of the problems that might occur, particularly these that I have mentioned and I look forward to provision for these in their final ruling.

CHEYENNE JUVENILE PROBATION PROGRAM IS OUTSTANDING

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. RONCALIO of Wyoming. Mr. Speaker, one of the major problems confronting our system of justice today is the high rate of young people who return to jail time after time. This pattern of recidivism is common to every city in the country, but in Cheyenne, Wyo., an exemplary program which involves members of the community as well as officers of the court has made significant inroads toward giving young people a second chance.

The Cheyenne Volunteer Juvenile Probation program has recently been considered an exemplary project by the Law Enforcement Assistance Administration and could well provide a model for other programs around the country.

Employing a staff of only three, the program uses volunteers from the community to work with young offenders, thus bringing about a one-to-one relationship for the young person in trouble while at the same time involving members of the community at large in the problems of the young.

This program merits nationwide attention. If I may quote from an evaluation by the LEAA:

All indications from interviews and conversations with personnel from the Probation Department, Police Department and others interested in the program is that it has deterred many potential juvenile offenders and kept many recidivists from re-entering crime. This project seems to be a very good example of how crime can be reduced . . . To me, this project does show such particular promise that a close eye should be kept on it for eventual replication as a model for adaptation elsewhere.

The project's director, Mr. Ronald Jeffrey, and Mr. James Lucero, and Mrs. Linda Kirkbride, as well as dozens of volunteers, have given a second chance to Cheyenne's young people who get in trouble with the law. Mr. Speaker, Cheyenne is fortunate to have such a program, and every community suffering from recidivism among its young people might do well to look at how one community is meeting this problem successfully.

KIOGA SOUNDS WARNING ON PUNITIVE LEGISLATION

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. SHRIVER. Mr. Speaker, the House Ways and Means Committee currently is conducting hearings on administration and other proposals concerning windfall profits. It is imperative that the Congress act not out of emotion on any proposed tax reform legislation, but on the basis of facts. The hearings, now underway, will provide a base for responsible action.

There is a need for a greater understanding by the Congress and the public of the contributions which have been made, and can be made, by independent oil producers in providing necessary domestic production during the energy crisis. Independent producers are the backbone of the oil and gas industry in my State of Kansas. They are, for most part, small business men drilling 85 percent of the oil and gas wells in Kansas. Over the past 15 years these independents have been struggling for survival. Government regulations and tax laws have helped stifle incentive for new exploration and many have gone broke or gone out of business.

On Tuesday, February 5, 1974, Mr. Sheldon K. Beren, executive committee member of the Kansas Independent Oil and Gas Association, speaking in behalf of the 1,400-member association, sounded a meaningful warning in regard to the imposition of punitive legislation against independent producers which could further thwart a solution to the fuel shortage. Under the leave to extend my remarks in the RECORD, I include the testimony of Mr. Beren and KIOGA as made before the Ways and Means Committee:

STATEMENT OF SHELDON K. BEREN

Mr. Chairman and Members of the Committee: My name is Sheldon K. Beren. I am an independent oil producer and a manager for Okmar Oil Company, an independent producing company which has operated in Kansas for approximately 25 years. I am here representing the Kansas Independent Oil and Gas Association, a 1400 member association of independent oil and gas producers and related interested persons. We small independent producers drill 85 percent of the oil and gas wells in our state.

We support the position of the Independent Petroleum Association of America and wish to add our voice at this very important juncture in the economic life of the independent producing and exploration companies—whose health and zest can play *the* major role in reversing the decline and restoring growth to the United States oil and gas industry.

In January 1974, in Kansas, our notices of intention to drill are up substantially over January 1973 and we note that in Oklahoma, our neighboring state with similar conditions, the notices to drill in the first 24 days of January total 357, which is close to a 40 percent increase over the 263 notices to drill in the same period of last year. This illustrates by facts the observation of Secretary of the Treasury George Shultz before this Committee yesterday: "Historically the amount of the increase in supplies of oil has been at least 1 percent for every 1 percent increase in the price of oil." Secretary Shultz illustrated this relationship by the uncanny resemblance of the graphs of production and price of crude oil in the United States from 1936 until 1973.

However, it is of great significance that we do not see at any time a three-year lag or even a two-year lag on this graph between the time of the price increase and the production increase. It is our considered judgment that if the present stimulus is allowed to continue as it is now constituted that we will again see the resourcefulness and ingenuity of the independent wildcatters at work on this same 1 to 1 ratio without the time lag predicted by those who underrate the pent-up vitality of our independent explorers.

From industry sources, from Mr. Simon and from Secretary Shultz we hear and read that the long term supply price is "about $7.00 per barrel." At our present "old oil" price of $5.25 per barrel for 75 percent of our crude production and our average new oil price of $9.50 per barrel for 25 percent of our production that is new, released or stripped, we have an average price of our crude oil of $6.31 per barrel, well below the $7.00 figure.

If the government enacts legislation that will reduce the incentive for finding new oil and reduce the incentive to keep and improve our small existing wells, the drilling and exploration will reflect this reduction in an equally direct 1 to 1 ratio.

Any reduction in incentive will not benefit the American consumer. Again I quote Secretary Shultz: "A $1.00 reduction in the price paid for "new oil" would translate initially into less than a ½¢ per gallon decrease in the price of gasoline and the market would quickly offset that initial decrease." But more important, it is vital that the consuming public not be misled by a short-term possibility of saving 1¢ a gallon on gasoline at the cost of remaining under the blackmail of foreign governments and foreign pricing policies.

If the Energy Bill that is now in the process of being drafted should incorporate ceiling prices for new, released and stripper crude and if that Energy Bill should pass the Senate and the House and become law, then the independent producer, who has no other access to income (as contrasted to the major integrated companies), must have further assistance in order to continue to play his major role in exploration. We, therefore, propose two changes in the tax structure for the independent producer.

(1) For all owners of a maximum of 7500 net barrels of domestic crude oil/day, increase the allowance for depletion for working interests in oil and gas production from 22 percent to 30 percent with the limitation on net income increased to 75 percent of taxable income.

(2) Include a 14 percent investment credit for exploration and development drilling in new fields for all owners of a maximum of 7500 net barrels/day.

The domestic independent producer has only one source of income, the price at the wellhead. He has no access to foreign tax credits, currency manipulation profits, a multitude of products in which to capture a profit regardless of the crude oil price. Most of us, the independents of Kansas, are true entrepreneurs, subject to the income tax brackets of up to 70 percent if we don't reinvest our money in further drilling. It is no coincidence that each of the major oil companies which reports its large 1973 earnings distinguishes its domestic earnings as ranging from about 6 percent to a 15 percent increase as contrasted to its foreign earnings of very high percentage.

It has been tough for us to hang on all these years. We have been drilling 85 percent of the wells utilizing borrowed money, outside investor money, oil fund money because we had no choice. It is a miracle that domestic drilling did not drop down to a further degree. For the first time we see daylight, a chance to drill with our own capital. For the sake of the posture of this great country, let us not squander away this opportunity with punitive legislation.

RETURNING TO SIMPLICITY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. SCHERLE. Mr. Speaker, in this era of shortages and preoccupation with available goods, I am pleased to note Iowans holding fast to their common sense and abiilty to cope with minor discomforts. This determined ruggedness and resiliency is demonstrated by Mrs. Wayne Myers' admirable letter to the editor, which appeared in the Oakland, Iowa newspaper, the Oakland Acorn. I hope that the strength and resourcefulness of Iowa's residents is mirrored by all Americans in the coming months and include her comments for my colleagues' perusal:

OAKLAND, IOWA,
November 29, 1973.

DEAR EDITOR: November was National Farm Wife Month. In answer to the question, "Will the people of this country limit themselves?" this farm wife writes:

If you are talking to the honest poor, or the average Iowa farmer, yes we will. We poor people are limited on everything but bare essentials. We farmers are limited in that everything goes for machinery or back into the land. We are forced by our own circumstances to think and choose very carefully.

I've enjoyed dinner, breakfast, and feeding the baby by candlelight. Driving slower, so the car stays together, gives me more time to look. Turning the television off gives us more time for old friends in books.

The cost of hired help gives us wives a chance to work alongside our husbands, making us working partners. What other group sent wives forth to explain our toil of the land?

Go ahead, force our prices lower, we'll plant more gardens, tighten our belts, and be more physically fit. We'll slow down and talk to the Lord instead of waving, therefore our minds will be sharper to see what's needed.

By the tenth generation we will still be here and stronger. Will the criminal, permissive, weak, or middle of the roader, do as well, or will he get tired and quit, giving his mind to alcohol and drugs?

We live in a home built 65 years ago of strong oak wood that has seen the Indians. Like the honest hard-working Indians, will the farmers be outguessed and fenced in by people who don't care?

I'm not as worried as I was, because the people who don't care will have to start thinking like we do, as to what's important, thereby in their excesses made our cause great again for all of us.

Sincerely,

Mrs. Wayne Myers.

MIA'S MUST BE ACCOUNTED FOR

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ROSENTHAL. Mr. Speaker, although American military involvement in the Indochina war has ended and the prisoners of war have returned home, many questions persist about the possibility of American citizens still held in captivity in Southeast Asia.

I am talking about the MIA's, and I am not satisfied that the Government is taking sufficiently vigorous steps to learn the fate of these men and to secure the release of those still living. More than 1,100 Americans are missing, including some who reportedly have been identified as alive by Communist propaganda films, pictures, and statements.

As a member of the House Foreign Affairs Committee, I have been deeply concerned about this problem. We owe it to the MIA's and to their families to come to grips, finally, with this lingering tragedy.

I have joined a group of my colleagues in the House and Senate from both sides of the aisle in writing to the President urging him to renew efforts to obtain satisfactory answers to the many questions which remain concerning MIA's. The text of that letter follows:

Letter to the President

Mr. President: The recent observance of the first anniversary of the cease-fire in Southeast Asia has focused attention on numerous unanswered questions concerning the possibility of American citizens remaining in captivity. The failure of the Communists to abide by the provisions of the agreement to account for those still missing and to repatriate the remains of our servicemen, prompts us to respectfully request that you meet with members of the families of MIA's to discuss our government's efforts and plans to resolve the unanswered question of the fate of these 1156 men who are still unaccounted for.

The anxieties and frustrations of these families, rather than subsiding, have become more intense as additional information and reports come to light concerning those still missing-in-action. While we recognize that the recalcitrance of the North Vietnamese has repeatedly frustrated our search missions, we believe that you, more than anyone else, can marshall world opinion to the humanitarian principles to which free nations must subscribe.

Your prompt reply to this request will be appreciated not only by the families of these MIA's, but by all Americans.

A SHORTFALL OF RESPONSIBILITY

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. HARRINGTON. Mr. Speaker, a recent editorial in the Los Angeles Times pointed the finger at Congress for failing to exercise its responsibility to oversee the agencies operating under its jurisdiction, such as the CIA and the FBI.

In the energy field, Congress hands-off attitude has undoubtedly contributed to the irresponsible and self-serving activities of the oil corporations.

My colleagues would be well advised to read this reprinted editorial from the January 17 Los Angeles Times, which follows:

A Shortfall of Responsibility

The energy situation took the country by surprise. One day there seemed to be plenty; the next day, shortfall was the word from Washington—a shortfall here, a shortfall there, everywhere a shortfall.

If the country was unaware of the impending problem, surely the relevant agencies of the government's executive branch knew; if they didn't, Congress, which has the power to oversee the functioning of the executive branch, would send the agencies scurrying after the facts.

This fail-safe system failed. Rep. John E. Moss (D-Calif.) said, "There is not a congressional committee . . . that has sufficient staff or sufficient independent capacity to demand and utilize statistical data relating to the availability of supplies, of refining capacities or of the true extent of oil imports or exports. The fact is, nobody can tell you what the shortfall is."

Congress is supposed to exercise its power of supervision through oversight committees, but its failure in respect to the energy situation is not unique; this was documented extensively in Sunday's report from Washington by Times staff writers Rudy Abramson and John Averill.

Oversight is almost totally lacking on two of the nation's most sensitive and most important agencies, the Central Intelligence Agency and the Federal Bureau of Investigation.

Congress appropriates vast sums to the CIA without knowing much of what the CIA is empowered to do and less about what the CIA has done or is doing. National security is invoked so rigorously that only a few members of Congress even know the CIA's annual budget.

The late J. Edgar Hoover avoided any but the most perfunctory inspection of the FBI by Congress. He always got all the money he wanted, and more, from the House appropriations subcommittee. A Senate Judiciary Committee staff aide said, "There has never been oversight of the FBI in either house of Congress."

The Internal Revenue Service, an agency familiar to us all, is subject to little attention. The Joint Congressional Committee on Internal Revenue Taxation, responsible for the IRS, hasn't given the agency a hard look in years. The General Accounting Office complains regularly that it can't get the information needed to evaluate the performance of the IRS. The GAO says it has the same difficulty with the State, Defense and Treasury departments.

These are notable examples, but they are only a few of the hundreds of instances, Abramson and Averill reported, in which Congress has failed to get the facts to which the public is entitled.

Committees with oversight on such agencies as the CIA and FBI have been content to overlook their activities. As Abramson and Averill explained, "There is the cozy, often symbolic relationship that develops between a congressional committee and the executive department, agency or program the committee is supposed to oversee." For example, of the 15 members of the Senate Armed Services Committee, half are either active or retired military reserve officers. Sen. William Proxmire (D-Wis.) said the major committees "just peck at the outer edges without any kind of fundamental investigation."

This responsibility shortfall should be changed, and may be changed by a new atmosphere created by the energy crisis and the Watergate delinquencies. An office of congressional counsel has been proposed so that the House and Senate do not have to rely on the Justice Department for legal help. A House committee has recommended the creation of a special oversight committee by each permanent committee. An additional proposal would have each standing committee of Congress create a subcommittee with oversight as its only responsibility. Some modification of the seniority system may be possible. Long service on the same committee tends to create that "cozy, symbiotic relationship" that gets in the way of proper investigations of federal agencies.

The methods are less important than the will of Congress to exercise its functions in a way responsible to the public. If there is a will, a way can be found.

TRIBUTE TO "SWEET ILLUSIONS"

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BELL. Mr. Speaker, this month the Joal Malter Co., of Los Angeles, Calif., is releasing the first copies of a new novel, entitled "Sweet Illusions," by a young California writer, S. L. Regberg.

The publication of "Sweet Illusions" is earmarked not only by the fact that Mr. Regberg is one of America's youngest novelists to be published in a hardbound edition, but that the work itself offers a vital insight to the ideals, illusions, and disillusions of American youth today.

The literary arts have traditionally been an immensely difficult world for young writers to penetrate, and the Malter Co.'s faith and confidence in a 20-year-old's observations warrant commendation. To be required reading for a course at the University of California at Los Angeles, the work will hopefully stand as a reminder to the decision-makers of major publishing houses that artistic and thematic contributions need not be limited by age or previous financial successes. Its publication and acceptance will hopefully also be encouragement to other young artists to continue in the medium of their choice—for themselves as well as for the rest of us who are the grateful recipients of their contributions.

The first draft of "Sweet Illusions," completed in 1970, was reviewed by a visiting professor at UCLA, Albert M. Schwartz. Dr. Schwartz wrote in part—

"Sweet Illusions" is one of those very rare little books that packs the imagination, insight, and intellect to be read over and over; and Regberg is perhaps the most promising new author.

The issue is classic: the forces of tradition and formality challenging the survival of the protagonist, Johnny Perewink. However, the solution is a refreshing—but unattainable—sense of "intuitive morality," morality without formality, and a rejection of schismatic political radicalism. Regberg is likely to inspire a little of the humanism in all of us.

It is for these reasons, Mr. Speaker, that I direct the attention to the U.S. Congress to the release of S. L. Rebberg's novel, "Sweet Illusions." A tribute to the publishers, and an inspiration to all young American writers.

ENERGY CRISIS

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ROBISON of New York. Mr. Speaker, no doubt all of us have been reading a good deal about the energy crisis. One of the most philosophical editorials—that places the energy crisis in perspective—appeared in the January issue of the American Agriculturist. It was written by Gordon Conklin, who is well known for his agriculture expertise. Mr. Conklin gets to the point, and says some things all Americans should know and understand.

The editorial follows:

ENERGY CRISIS

Not long ago, my son and I removed a whole bunch of concrete blocks from our cellar . . . the components of what had once been a shelter erected by yours truly some years before. Governor Rockefeller and assorted bigwigs . . . aided and abetted by the sensation-seeking mass media . . . had convinced me that Russia (or, more likely China) might send over a few of those Big Ones. There was quite a push at the time, I remember, to get every citizen to build in his home, a shield from radioactive fallout.

The "energy crisis" of the present is more real than the "fallout crisis" of a decade ago. But there are some similarities, just as there are common denominators with the "population crisis," the "ecological crisis," and some other shouts from the housetops in recent years. My guess is that the volume of the tumult and the shouting concerning the latest "crisis" doesn't entirely match the realities of the situation any more than the previous ones did. No reason to panic, folks, about the latest fashion in scare shows on the tube and in print.

You may get the notion that the "energy crisis" is a very simple problem . . . it's the president's fault . . . or the oil companies' fault . . . or the result of some conspiracy at the Oilgate. Not so . . . it is rather the result of the interplay of very complex political, social, and economic forces on a worldwide scale.

But there is one simple analysis that applies. We Americans have been taking for granted that affluence is our constitutional right, but nothing could be further from the truth. The simple fact is that we consume only what we produce . . . and we've become lackadaisical in our attitude toward production.

The idea has crept upon us that some good fairy creates gasoline and oil and food and all the other goodies at some far-off magic storehouse. If something goes wrong, we reason, get the politicians to pass a law. But politicians, indispensable as they are, create nothing to wear, eat, or use as fuel . . . their stock in trade is words.

We Americans are destined for some painful adjustments to reality. In common with people everywhere, we rationalize endlessly to avoid the stern demands of reality . . . but the moment of truth about the energy supply is at hand.

Simply stated, the guts of the problem are as old as mankind . . . we have been using our resources faster than we've been converting them to usable form. The solution is equally simple to state (and very hard to discipline ourselves to do) . . . produce more and consume less.

Having pontificated on the situation, I'll get in my gas-guzzling car and dash off down the expressway with my snowmobile trailer for a long weekend trip. Isn't it wonderful to be an American?

IT ISN'T WORKING

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. VAN DEERLIN. Mr. Speaker, the successful effort to remove cigarette commercials from television broadcasts has not achieved the results hoped for. Statistics indicate that cigarette consumption has not declined since the elimination of TV commercials, in fact, sales of cigarettes today are at a record high.

With the cancellation of cigarette advertising came the virtual elimination of the superb counter-campaign mounted by the Cancer Society. There is reason to believe that this counter-campaign was even more effective than the cigarette ads themselves, and if it were to be resumed the use of cigarettes might decrease.

An article in the Philadelphia Inquirer for Sunday, January 27, states a case for repeal of the ban on cigarette advertising. I make it available for inclusion in the Extensions of Remarks of the CONGRESSIONAL RECORD:

IT ISN'T WORKING—BAN ON TV CIGARET ADS SHOULD BE REPEALED

(By George F. Will)

WASHINGTON.—Now is the time for all good men to come to the aid of the Marlboro man.

He was the star of countless commercials for Marlboro cigarets. He was the leathery cowboy who rode across our TV screens, a Marlboro held easily between his windchapped lips.

But three years ago he was gunned down by the fastest gun in the land, Congress, which banned cigaret commercials from television. It is time to repeal that law because it is foolish and, worse, pernicious.

It is foolish because, predictably, it has failed to achieve its intended effect. The law is pernicious because it rests on a noxious principle and an assumption that is insulting to the American people.

The obvious intent of the lawmakers was to decrease smoking. But today, three years later, and 10 years after the famous Surgeon General's report declaring smoking a major health hazard, cigaret sales are at a record high.

Government officials rather defensively estimate that 10 million Americans have quit smoking in the 10 years since the report. But during seven of those years the nation's television screens were full of cigaret commercials.

And most people who quit were light smokers, or had smoking-related illnesses. It is hard to believe that such people quit when and because cigaret commercials vanished from television.

The evidence is that they quit because public and private sources have disseminated the information about the health hazards of smoking. Indeed, even 75 percent of current smokers acknowledge those hazards.

Per capita cigaret smoking fell after the 1964 report, and is still down 18 percent below the 1964 level. Yet it is increasing again. And there are two million more smokers than in 1964.

But, you say, perhaps the ban on cigaret commercials produced a decrease in smoking among young people, whom you might think would be easily seduced into smoking.

Former Surgeon General Luther Terry, who issued the 1964 report, knows better. "I'm most discouraged by our lack of success with youth," he states. "There hasn't been a significant drop in smoking among young people. In fact, they're starting at earlier ages and there's been a dramatic increase in the percentage of girls who smoke." Indeed, 3,000 teenagers become new smokers every day.

So the ban on commercials has not protected youths from cigarets. But, then, it was not supposed to protect only youths.

The law does not just ban cigaret commercials from television during daytime and early evening, when children are watching. The ban is total, because it is intended to protect adults.

Which is to say, it treats adults like impressionable children. This is where the noxious principle and insulting assumption emerge.

The principle is that government has a duty to protect grown men and women from their own foolish habits.

And the assumption is that grown American men and women need protection from television commercials which have the power to instill foolish habits. The assumption is that Americans are such manipulable dolts that television commercials can cozen them into drastic behavior changes, turning nonsmokers into smokers.

Advertising men do not believe this. They know most advertising, and virtually all advertising that has a measurable effect, influences competition between similar products. It helps cigaret brand X compete with brand Y for the dollars of confirmed smokers. There is no evidence that it creates smokers.

The law banning cigaret commercials is a monument to the government's belief that Americans are manipulable, and the belief that the government can treat Americans that way and get away with it.

The law is a symbol of government arrogance and contempt for the common sense of the people. The law should be repealed.

Of course the government, obstinate creature that it is, can argue that the ban on commercials has cut smoking. It can just assert that there would be (say) 10 million more smokers, if commercials had not been banned since 1971. This is the "Illinois elephants" argument.

There once was an Illinois man who put salt on his petunias each morning. A perplexed neighbor asked why.

"To keep the elephants from trampling the petunias," he replied.

"But," said the neighbor, "there are no elephants in Illinois."

"You see!" said the man, triumphantly. "The salt is working."

STANISLAUS RIVER: WILD OR DEFILED?

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. WALDIE. Mr. Speaker, we are all perhaps much too familiar with longstanding disputes between the Federal Government, local agencies, and the Nation's environmental interests over the wisdom of massive public works projects.

One such project, the New Melones Dam on the Stanislaus River in northern California, is certainly a current case in point.

The degree to which a controversy of this sort can reach a point that it serves none of the interests involved was summed up quite succinctly by Gerald H. Meral, a staff scientist for the environmental defense fund. At this time, Mr. Speaker, I insert an article by Mr. Meral which appeared in the San Francisco Examiner on January 28.

In the light of our consistent questioning of national priorities, I believe it is very worthwhile reading:

NEW MELONES DAM

(By Gerald H. Meral)

Last Nov. 12 the U.S. Court of Appeals in San Francisco ruled that the Army Corps of Engineers could proceed with its plans to destroy the Stanislaus River near Sonora by constructing the New Melones Dam. The Court decided that, despite a letter to the contrary from the Chairman of the President's Council on Environmental Quality, the Corps' analysis of the environmetal impact of the dam was adequate.

This decision is the latest development in a continuing battle over California's most heavily used whitewater river, and surely will not be the last episode in this monumental struggle.

The fight for the Stanislaus has evolved into a dispute between two camps. On one side are conservationists, outdoorsmen, geologists, biologists, economists and others who believe that the destruction caused by the New Melones Dam would be of no real value to society in general.

On the other side is an alliance of farmers desiring to improve their land value through flood control, other farmers who desire subsidized irrigation water in the Central Valley, and construction contractors and unions.

The Stanislaus rises just north of Yosemite National Park, and flows through rugged mountain country east of Sonora. Just below the junction of the North and Middle Forks is the stretch of river in dispute: The nine miles from Camp Nine to Parrot's Ferry. This part of the river is of striking scenic quality, enhanced by unusual geological formations. The soaring limestone cliffs, unique caves, and myriad of coves, glens, and grottos make the Stanislaus one of the most beautiful and unusual rivers in the Sierra Nevada.

These scenic qualities are appreciated by a growing number of visitors, many of whom tour the river by raft, kayak, or canoe. River running is possible on the Stanislaus year-round, since water is released by a series of upstream powerhouses. Last year over 80,000 people visited the Stanislaus and enjoyed its natural beauty and challenging trout fishery.

Despite growing use, the river and its shores are remarkably clean. A recent report by the Bureau of Land Management (BLM) praised river users for their care of the river, and stated that one of the most serious pollution problems last year was a herd of four cows that strayed into one of the side canyons!

Expenditures made by visitors to the river are of major importance to the economy of the local area. The BLM study indicates at least $460,000 was spent in river related activities, and that potential for further growth was present.

There can be no doubt the Stanislaus is worth preserving. The State Protected Waterways Report stated the Stanislaus was one of only a handful of rivers in California deserving the highest rating for its recreational value. In a recent water rights decision, the State Water Resources Control Board called the Stanislaus River "a unique asset to the State and nation."

In the face of so much use and support for its preservation, one wonders why it is necessary to fight for the Stanislaus. The answer is the proposed Corps of Engineers' New Melones Dam. First authorized in 1944 as a small flood control project which would not seriously effect use of the river, the project was expanded in 1962 to be a major water storage facility. As presently authorized New Melones would inundate all of the whitewater recreation area, and many valuable caves and geologic features.

The project's size was increased to provide irrigation water for a giant canal along the east side of the San Joaquin Valley; however, it is now apparent the canal will not be built in the near future.

. Indeed, every year over one trillion gallons of Bureau of Reclamation water flows out to sea unsold. Some potential for using more water in the local project area may exist, but there are already sufficient supplies developed or readily available without New Melones.

The original purpose for New Melones was flood control, which would primarily benefit less than 200 farmers operating within the Stanislaus River flood plain. Although the majority are relatively small growers, the landowners in the flood plain include major railroads, the Bank of America, Transamerica Corp. and several land development companies.

It is universally agreed that a dam about one-sixth the size of New Melones would provide all the flood control of the larger dam, and would not destroy the heavily used upper river. Thus, even though the public benefits of the smaller dam are few, most conservationists have not opposed the smaller flood control alternative.

With the current energy crisis, much is made of the power that New Melones could produce. The Corps claims "enough power to serve 69,000 homes" could be generated by the dam. In fact, the power from New Melones would supply about one one-hundredth of one percent of the energy California will need in the year 1990. Furthermore, the Corps and Bureau of Reclamation admit that at full development just operating the New Melones project for recreation and irrigation would consume much more power than the dam would produce!

It seems unreasonable to destroy the Stanislaus River to supply such an insignificant amount of power. Moreover, if it were economical to construct more hydroelectric power dams in the Sierra Nevada, PG&E and Southern California Edison are fully capable of doing so. Both companies have rejected as uneconomical several recent bids to build power dams in the Sierra.

The Corps of Engineers can only justify the power benefits of New Melones by evaluating them using methods which have been outdated since at least 1963. Without a taxpayer subsidy factored into the dam's cost, its power benefits would be less than the amount spent to obtain them.

Another effect of New Melones would be to reduce the large flows of fresh water which enter San Francisco Bay each winter. According to the U.S. Geological Survey these flows help purge the south bay of pollutants and high salinity which accumulate during the summer. While the contribution of the Stanislaus River to these flows is not always great, when rain is heavy in the Stanislaus drainage, the river adds significantly to these important flushing flows.

The battle over New Melones is part of an overall struggle between the State and Federal governments over control of water in California. The State Water Resources Control Board has ruled that if New Melones is built, it cannot be filled until an absolute need for the water is demonstrated. The Board further ruled that scenic and recreational resources along the upper river are more valuable than the power which would be generated if the dam was filled.

The Bureau of Reclamation has defied the State so far and has sued to be exempted from the ruling. The matter is still in the courts. It seems reasonable that New Melones construction should be delayed until the court case is settled. But the Corps of Engineers intends to press ahead.

An even broader question is whether the public really wishes to spend $250,000,000 tax dollars on a project like this. There is a great need for funds to provide mass transit, public housing, hospitals, energy research, and other types of public works which directly benefit all taxpayers. The New Melones Dam would destroy a great river, and add nothing to the well-being of Americans. It should not be built, and the Stanislaus should be given permanent protection.

JOHN S. BATUSIC

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. SLACK. Mr. Speaker, at a time in American history when youth is involved in the political process as never before, I should like to bring to my colleagues' attention a fine program that convenes this week and has ably served thousands of young Americans and our Nation since 1967. This program is the series of study seminars in American Government sponsored by the Washington Workshops Foundation in conjunction with Mount Vernon College of Washington.

I am especially happy to welcome Mr. John S. Batusic of Charleston to Washington from this excellent high school seminar. John, a member of the National Honor Society, is currently serving as student body president of Nitro High School. His seminar participation has been made possible by a scholarship grant sponsored by the Union Carbidge Corp. Each year this company recognizes outstanding merit and ability in a young person from each of their plant communities across the Nation. I congratulate John on being chosen as a 1974 Union Carbide scholar to the Washington Workshops Congressional Seminar. Young citizens such as John are, indeed, deserving of such an honor and reflect a continuing faith in our political system.

I find it gratifying to realize that through the efforts of the Union Carbide

Corp. and the Washington Workshops, young Americans are recognized for their leadership potential and excellence while enrolled in a creative and successful program that highlights a better understanding of our American Government.

HABARI

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. RANGEL. Mr. Speaker, as the various feats of Secretary of State Kissinger hold our attention, and as news from Indochina, Europe, and the Middle East takes up our interest, it becomes easy for many Americans, including Members of Congress, to ignore the affairs of Africa.

Fortunately, the Washington Task Force on African Affairs continues to provide those of us interested in Africa with information and news relating to important political, economic, and social affairs on the African continent. Its newest news service is Habari. At this time, I offer my colleagues a description of Habari, as provided by the task force. This vital service is available to each Member of Congress by simply dialing Habari's local telephone number.

It is my hope that Congress and all interested Americans will take full advantage of this important resource.

The material follows:

HABARI

Habari, a research newsletter and *African Bibliographic Center News,* which examined and reported matters of interest on African affairs, have combined into a 24-hour telephonic news and information service. As an audio service of the African Bibliographic Center and the Washintgon Task Force on African Affairs, Habari (202) 659-2529, reports on global African affairs, Congressional activities on Africa, U.S. foreign policy towards Africa and general information of interest with an emphasis on new books and documents.

Habari, a Swahili word meaning "news" began its audio reporting on October 23, 1973, and has provided its listeners with different recorded information each day of the week. As a foreign affairs media source Habari covers important topics in African affairs and related topics of interest in the global arena, usually omitted or given scant treatment by national and international electronic and printed media sources. Congressional legislative developments such as diplomatic immunity for the Organization of African Unity and up-to-date reports on the forthcoming Second World Black and African Arts Festival are examples of the specialized nature of recent audio reports. Further, through a creative and unique use of mass communication, Habari reports vital facts including Secretary of State Kissinger's planned trip to Africa in 1974 and the intra-continental telephone network planned for Africa by 1978.

An inexpensive service for everyone interested in Africa, Habari is a valuable educational tool for the high-school student as well as the housewife. At the same time Habari serves as an accurate and objective source of information for the student of African affairs as well as the African ambassador attempting to obtain an assessment of current developments in American foreign policy towards Africa, in general, or his country in particular.

Developing a surprisingly large and national constituency in a very brief period of time, Habari has proven to be a significant news organ for African affairs. In addition to the daily tapings, transcripts on cassettes or in print are available on a subscription basis from the African Bibliographic Center.

RAPE OF THE LOCK(S)

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. SNYDER. Mr. Speaker, my colleague from Kentucky on the Panama Canal Subcommittee of the House Merchant Marine and Fisheries Committee, Mr. FRANK STUBBLEFIELD, and I today denounced the latest move in what might be called—with apologies to Alexander Pope—the Rape of the Locks, our piecemeal giveaway of the Panama Canal.

Following is the text of the press release we issued jointly:

PRESS RELEASE

U.S. Representatives Gene Snyder and Frank Stubblefield announced today that they had refused an invitation to fly to Panama Thursday with Secretary of State Henry Kissinger who will sign an initial agreement with Panamanian officials on negotiations for a new treaty involving the Panama Canal and Canal Zone. Snyder is ranking minority member of the Panama Canal subcommittee and Stubblefield is a majority member.

The Kentucky Congressman issued the following joint statement:

"We have no desire to witness another surrender of United States sovereignty. A handful of leftists in Panama seem able to bluff the once mightiest nation on earth into backing down on our perpetual control over the Panama Canal, which remains one of America's most strategic security links as well as a vital economic factor in our shipping and overall trade system.

"Our State Department has been willing to turn over complete control of this key canal to the Republic of Panama in return for nothing but ephemeral favor in Panamanian and world opinion. These striped-pants dreamers want to do this despite an unbroken history of governmental instability which has seen only four Presidents of Panama complete their constitutional term of four years in office. That country has had 59 changes of government since 1904! We have had but 12 Presidents in the same period.

"The American people wouldn't stand for an outright ceding of the Canal to Panama, so the State Department has the process mapped out to cover a series of piecemeal concessions.

"We laud the President's often stated commitment to world peace, but reality forces us to repeat the words of a great American who once said, "Peace, peace, there is no peace." Panamanians simply cannot guarantee the security and operation of a canal we must have, in a world which has seen our enemies seize control of Cuba, a far more powerful nation only 90 miles off our coast, and well within rang of our own strategic and tactical weapons systems.

"The President has sworn to uphold the Constitution, and having done so, his function is to safeguard the nation's defenses. We call upon President Nixon immediately to terminate the piecemeal surrender of the Panama Canal and Canal Zone to a tiny country that exists only because of the Canal's existence, and which for seventy years has been shaken with political unrest."

Congressman Snyder further declared,

"This country has been back-pedalling all over the globe ever since the end of World War II, and I for one am fed up. We have had a no-win policy on every front, though going through suicidal motions as if to deny it! We sacrificed over 100,000 of the cream of our youth to that policy in Korea and Vietnam, rather than carry the wars we engaged in to the heart of the enemy to achieve victory with a minimal loss of life.

"It has not mattered whether our President was a Democrat or a Republican. The State Department has persuaded him that backing down is the best way to win friends. Unfortunately, our enemies are not so hypnotized by, or worried about, world opinion.

"Witness the brutal Soviet invasions of Hungary and Czechoslovakia in recent years, and the Chinese Communist military takeover of the Paracel Islands in the last few days!"

NEW ENERGY LEGISLATION

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. NELSEN. Mr. Speaker, the St. Paul Pioneer Press hit the nail squarely on the head the other day in warning Congress editorially:

> That merely punishing the oil industry for its current high profits will do nothing to increase the production of petroleum, natural gas and other fuels. Only increased production, combined with less wasteful consumption practices, will resolve the nation's energy problems.

Certainly, I am not sure that I agree with every particular recommendation urged by the Minnesota daily, but I do hope colleagues will give this commentary the thoughtfulness it deserves, and I include it in its entirety at this point in my remarks:

NEW ENERGY LEGISLATION

As Congress debates new energy legislation, it should remember that merely punishing the oil industry for its current high profits will do nothing to increase the production of petroleum, natural gas and other fuels. Only increased production, combined with less wasteful consumption practices, will resolve the nation's energy problems.

It is politically popular at the moment to blame the oil industry for energy shortages, and there are many legitimate questions for the industry to answer. It has enjoyed special tax privileges, which should not be continued. But this should not obscure the basic fact that the main thrust of remedial legislation must be to bring more energy supplies into the American market. And this is something that government price and profit controls will not accomplish.

President Nixon and many members of Congress put emphasis on excess profits taxes of various kinds. Much has been made of such corporation reports as that of Exxon's $2.44 billion profits in 1973. Greater attention should be given Exxon's projection of capital expenditures of $3.7 billion in 1974. The investments for higher production must come from profits. There is no other source.

Tax policy, however, should be designed to channel profits and investments into production of increased energy supplies in and for the United States. The present system which allows American corporations to use royalties paid the Arab states to reduce their U.S.

taxes has promoted foreign developments, not increased American production. This should be changed.

There also is surely no justification for continuing the oil industry's 22 per cent depletion allowances in this country and abroad. The excuse for this special tax privilege was that it would increase U.S. exploration and development. It has had no such effect. And present high prices of oil are sufficient in themselves to promote new developments. It is estimated that applying the same taxes to oil as are levied against other U.S. manufacturing industries would bring in about $3 billion a year more to the Treasury, while still encouraging expansion of production.

President Nixon proposes easing environmental restrictions on strip mining of coal and on burning coal. Some modifications may be justified, but there is no excuse for going hog wild on this approach. Restoration of strip mined lands should be paid for in the price of coal, and clean air costs must likewise be borne ultimately by the public.

An important but different problem involves competition in the oil industry. Strong arguments can be made for breaking up wellhead to corner gas station controls through the present vertical integration systems in the industry. This setup discourages price competition, which formerly was provided by independent smaller companies. Congress should give serious consideration to this situation.

But the overall public interest approach must be in ways that increase production through legitimate profit incentives.

AID AND TRADE WITH THE COMMUNISTS—VI

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. LANDGREBE. Mr. Speaker, today I would like to include the sixth and final chapter of Eugene Lyons' booklet, "Operation Suicide: Those Strange Bridges to Communism" in the RECORD. Entitled "Lenin's 'Deaf-Mutes'," the chapter warns the West against the suicidal policy of building bridges to Communist Governments that have paralleled histories of brutality and tyranny; to governments that are dedicated to the destruction of free societies everywhere; to governments that have the will to enslave the whole world, and lack only the means, which their victims are now eagerly providing, with the encouragement of the governments that are supposed to protect their citizens.

Shall be heed Mr. Lyons' warning? Or shall we continue the criminal policy of aiding our enemies whose antipathy to freedom cannot be overcome by gifts? I trust that it is not yet too late to reverse our policy of giving the rope to the hangmen, and to use out wealth and our technology for the well-being and safety of our own citizens and the citizens oppressed by tyrannical governments. The voice of Alexander Solzhenitsyn may be the last voice that God will allow us to hear before we allow the darkness of human slavery to envelope not only the eastern peoples, but also those of the West. If so, his voice is raised in accusation against the rulers of the West more than the rulers of the East.

VI—LENIN'S "DEAF-MUTES"

In downgrading Stalin, his heirs upgraded Lenin, today their prime source of wisdom and guidance. That is scarcely an improvement, so far as the world is concerned. There is little that Stalin did, except in scale, that Lenin had not done or approved before him. And Lenin was never ambiguous about how to treat the capitalist world.

When it comes to hanging capitalists, he is credited with saying, "we will have them competing to sell us the rope." For rope, substitute synthetic rubber, aluminum, ball-bearings, computers, rocket engines, etc., and his prophecy has already come true. But he made another statement, drawn from the Lenin Archives and published on April 8, 1965 by the reputable *Neue Zürcher Zeitung*.

"On the basis of observations gathered during my years of exile," he declared, "the 'cultured' class of the capitalist countries of Western Europe and America, i.e., the ruling classes, the financial aristocracy, the bourgeoisie and the idealistic democrats should be regarded as deaf-mutes and treated accordingly. . . . They will grant us credits which will fill the coffers of the communist organizations in their countries, while they enlarge and improve our armaments industry by supplying all kinds of wares, which we shall need for future attacks against our suppliers."

That is one Leninist lesson his inheritors know perfectly. It should be recalled that Stalin, too, wanted our trade and treasure; he settled for thousands of Western engineers and technicians without whose machines and know-how he could not have gotten his First Five-Year Plan off the ground. Khrushchev sent his man Anastas Mikoyan to Washington to ask for trade and credit. The only real change under the Brezhnev-Kosygin regime is that somehow they have finessed us into the position of supplicants; *we*, not *they*, are now doing the pleading.

As if under some irresistible compulsion, the defenders of freedom have followed Lenin's script. Consider a recent symptomatic episode:

An American citizen of Czechoslovak origin, Vladimir Kazan-Komarek, was in Moscow by invitation. On his homeward journey, the Soviet Aeroflot plane made a long detour for an unscheduled stop in Prague, where the local secret police arrested the American. The American government knew about the abduction the night before it signed an agreement with Aeroflot for regular flights to the United States! It did not even have the grace to hold the deal in abeyance until Aeroflot's victim could be released.

When eventually he *was* released, *The New York Times* (March 17, 1967) hailed it as another happy sign of Soviet goodwill, since Prague "would not have freed the abducted Vladimir Kazan-Komarek without Soviet approval."! Never mind the fact that the Soviets had done the abducting. Incidentally, where is the vaunted new "national independence" when Czechoslovakia dares not release an American hostage without approval from Moscow?

The West was fully understanding when the peasants in India engaged in passive resistance, or "non-cooperation," against the British. The Soviet peasants, in refusing to work well on the collective farms, are carrying out the same kind of non-cooperation, as a form of pressure against the government. In the U.S.S.R., as in India, it is a specie of strike. Supposing we had provided India with the goods its peasants were not growing? It would rightly have been denounced by all right-minded liberals as strike breaking. Yet this is precisely what the West the U.S. included, is doing when it gives the Soviets grain which the collective farmers refuse to grow. Why is it any less a species of strike-breaking?

The bridge-builders are in the same ambiguous position—on the side of the rulers and against the ruled—in relation to the entire popular oppositions within the Soviet world. Writers, for example, today risk arrest or confinement in insane asylums by circulating their works in defiance of the censors. Students risk expulsion and worse by openly questioning the official dogmas. Workers defy the law when they go on strike. By pushing our wealth and products upon the Kremlin and its satellites, we strengthen and reward their jailers and censors. Lenin, it appears foresaw it all in advance.

The communist world is neck-deep in economic and internal political crises. "This, one would think," Edgar Ansel Mowrer wrote recently, "is the time for the anti-communist countries to put the screws on Moscow, seek no more political and military agreements, and, above all, reduce economic contacts so as to let the Kremlin stew in its own juices. Instead, a large number of countries are trying to build so many 'bridges' to the Red centers that if they were all physical, Moscow would look like Venice or Amsterdam."

Bridges, to make sense, should be as firmly planted at one end as at the other. At the American end they might be set firmly, but at the other end they would be anchored in a quagmire of communist ambiguity, practiced deceit, ideological commitments to our ultimate destruction. Never before have political engineers attempted to build bridges in such swamps of wishful hoping, wild conjecture and plain illusions, as if determined to prove that Lenin was right in calling us "deaf-mutes."

In the minds of those of us who oppose the undertaking, it all figures as Operation Suicide.

TRIBUTE TO FRANK FREEMAN: JOURNALIST

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. EDWARDS of California. Mr. Speaker, on February 15 Mr. Frank Freeman, veteran columnist for the San Jose Mercury will be honored for his contributions to the community in a program sponsored by the Heritage Section of the Citizens' Advisory Committee of the city of Santa Clara. I would like to add these few words of praise to those who will gather to honor him then.

Apart from his column, which has delighted and informed the people of Santa Clara county for decades, Frank has been active in many community service organizations. Among his many contributions is his involvement with the founding of the San Jose Boy's Club in San Jose and a term as a member of the board of that organization. He has also been active in the Masons, Rotarians, Kiwanis, Lions, Knights of the Round Table and San Jose High 12.

His column, "Here 'Tis. . ." has become a San Jose literary landmark since February 22, 1941, the date of his first column for the San Jose Mercury. I know that I am not alone in looking forward to many more enjoyable years of reading Frank's column and working with Frank for the general betterment of our community, San Jose.

NIXON SPEECH INOPERATIVE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. HARRINGTON. Mr. Speaker, in an article in the February 4 Boston Globe, my colleague from Massachusetts (Mr. MOAKLEY) responded to President Nixon's state of the Union message. It seems to me that in that short article, Mr. MOAKLEY raised the really fundamental question we all face today: Can the American people have confidence in the Presidency of Richard Nixon.

Mr. MOAKLEY's wise comments deserve the attention of every Member of this Congress, and I would therefore like to insert them in the RECORD at this time. The text of Mr. MOAKLEY's article follows:

MOAKLEY'S VIEWS

While Richard Nixon was stepping up to deliver his State of the Union Message at the Capitol, I was plugging in a portable TV set at my office.

In staying across the street, I was not alone. Many Congressmen and Senators were also caught in a dilemma similar to that gripping this entire country. We are forced to balance an abiding respect for the office of Jefferson and Lincoln against our mounting outrage over the conduct of the incumbent.

So we stayed at our desks and listened.

That night Nixon's speech seemed hollow. The next day it was inoperative.

On inflation, Nixon said buying power is higher than ever.

But today, milk in Boston costs 50% more than in 1973, Hub retail prices are at a 27 year high; meanwhile, farmers' income is soaring while the White House insists the Russian wheat deal will continue.

On mass transit, Nixon said he's for it.

But today, we on the House-Senate conference committee, are fighting for the mass transit bill while White House aides at our elbows continue trying to weaken the legislation.

On health care, Nixon said he wants more of it.

But today, after reading his plan, we know that Nixon favors more health care but only for those who already have it. So those of us who support the Kennedy Plan for more health care for all Americans (including those who do not have any health care now) will have to fight that much harder.

On energy, Nixon said he's against "windfall profits".

But today, oil industry profits are up 63% and the White House continues lobbying to block legislation that would set price ceilings on gasoline and home heating oil.

There was more on the energy crisis but, despite his postscript on Watergate, Nixon failed to address another crisis that also troubles every American regardless of political stripe: the Credibility Crisis.

At no time in history has public confidence in government been lower.

And deservedly so.

Nevertheless it is the duty of all of us to help find the way back, a way that is based on openness instead of deceit.

One important step would be to enact sweeping election reforms along the lines proposed by Common Cause. However, when the Kennedy public campaign financing plan came before the 435 members of the House, only 54 of us voted for the reform. A discouraging indication of how far we have to go? Yes.

But, in the aftermath of Watergate, the milk scandal and the ITT scandal, one thing is clear. Americans can no longer afford "the best government money can buy."

CONGRESSMEN ASK NIXON TO MEET MIA FAMILY REPRESENTATIVES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. GILMAN. Mr. Speaker, more than 60 of my colleagues in both the House and the Senate have joined Representative LANDGREBE and myself in sending a letter to President Nixon requesting that he meet with representatives of the families of American servicemen still listed as missing in action.

In meeting with these people, the President would be demonstrating that our national concern for our MIA's did not die when the last American soldier left Vietnam. He would be reaffirming our pledge to the families of these men that their loved ones are not forgotten and that someone really cares.

I respectfully request that the full text of our letter to the President be reprinted in this portion of the RECORD:

MR. PRESIDENT: The recent observance of the first anniversary of the cease-fire in Southeast Asia has focused attention on numerous unanswered questions concerning the possibility of American citizens remaining in captivity. The failure of the Communists to abide by the provisions of the agreement to account for those still missing and to repatriate the remains of our servicemen, prompts us to respectfully request that you meet with members of the families of MIAs to discuss our government's efforts and plans to resolve the unanswered question of the fate of these 1,156 men who are still unaccounted for.

The anxieties and frustrations of these families, rather than subsiding, have become more intense as additional information and reports come to light concerning those still missing in action. While we recognize that the recalcitrance of the North Vietnamese has repeatedly frustrated our search missions, we believe that you, more than anyone else, can marshall world opinion to the humanitarian principles to which free nations must subscribe.

Your prompt reply to this request will be appreciated not only by the families of these MIAs, but by all Americans.

SENATORS

Birch Bayh (IND).
Pete Domenici (NM).
Ernest F. Hollings (SC).
Gaylord Nelson (WI).
Robert Packwood (OR).
Charles Percy (IL).

CONGRESSMEN

Bill Archer (TX).
Robert Bauman (MD).
William Bray (IN).
Joel T. Broyhill (VA).
Bill Chappell, Jr. (FL).
Donald Clancy (OH).
Don H. Clausen (CA).
Paul Cronin (MA).
W. C. Daniel (VA).
Edward J. Derwinski (IL).
Joshua Eilberg (PA).
Edwin Eshleman (PA).
Hamilton Fish, Jr. (NY).
Bill Frenzel (MN).
Don Fuqua (FL).
Tennyson Guyer (OH).
Lee Hamilton (IN).
Henry Helstoski (NJ).
Frank Horton (NY).
Robert Huber (MI).
William Hudnut (IN).
William L. Hungate (MO).
John E. Hunt (NJ).
Jack Kemp (NY).
William M. Ketchum (CA).
Norman F. Lent (NY).
Clarence D. Long (MD).
James R. Mann (SC).
Spark M. Matsunaga (HA).
Donald J. Mitchell (NY).
John M. Murphy (NY).
Claude Pepper (FL).
Peter A. Peyser (NY).
John Rarick (LA).
Howard W. Robison (NY).
Robert A. Roe (NJ).
Angelo Roncallo (NY).
Benjamin Rosenthal (NY).
John Rousselot (CA).
Ronald Sarasin (CT).
Garner E. Shriver (KS).
Richard Shoup (MT).
Robert L. F. Sikes (FL).
David Treen (LA).
Al Ullman (OR).
William F. Walsh (NY).
G. William Whitehurst (VA).
Larry Winn, Jr. (KS).
Bob Wilson (CA).
John W. Wydler (NY).
Roger Zion (IN).
John M. Zwach (MN).

THE COST OF INJUSTICE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. DELLUMS. Mr. Speaker, last week I inserted in the RECORD an article by Colman McCarthy on Government lawlessness. Mr. McCarthy has written another excellent article on a different, vitally important aspect of the problem of governmental lawlessness, and that is its huge cost, both to taxpayers and to the people directly concerned. I believe that any reform of the conditions that lead to governmental lawlessness must address this side of the issue, and point out that any effective control over the bureaucracy on these kinds of issues will pay for itself many times over. The importance of what we are talking about is made very clear in Mr. McCarthy's detailed article, which I recommend to the attention of my colleagues:

[From the Washington Post, Feb. 5, 1974]

THE COST OF INJUSTICE

(By Colman McCarthy)

Recalling hearings in June 1972 on government lawlessness, Rep. Ronald Dellums (D-Calif.) of the congressional Black Caucus said recently that he believed Washington was "the crime capital of America." He explained that he didn't mean this the way Richard Nixon meant it in the campaign of 1968 when he tried to expose Democrats who couldn't keep the streets of Washington safe. Dellums was going beyond the crimes of robbers and muggers to the crimes of the officials of government, abuses of law much more dangerous because they were committed by those who had sworn to be the upholders of the law.

Because the FBI crime statistics cover the acts of common criminals and not governmental criminals, Dellums' statement cannot be factually examined. (Newark or Baltimore might be fair rivals to Washington.) What can be examined, though, is the amount of money, time and anguish a few citizens have spent trying to get their government to obey the law. These people long ago hardened themselves to the brittle truth that the government is no longer of, by or for the people but in too many cases—all totally exclusive of Watergate—is run either in conscious defiance of laws or in unconscious belief that those who govern are beyond accountability to the governed.

The citizens who have attempted in recent years to bring the government to justice are of two groupings, the poor and the middle class.

The latter is often represented by Washington attorneys like Bruce Terris. His most recent involvement against government lawbreaking was his work for environmentalists in a suit that saw a U.S. district court require the Forest Service to begin obeying the Organic Act of 1897. "That case cost about $15,000," says Terris, "but another recent ruling against the Forest Service, in California, cost between $40,000 and $50,000." Terris says the money is unrecoverable, even though he represented citizens who merely wanted the law to be enforced and were not asking the government to provide leadership, wisdom or anything else a citizen, in saner times, might expect. "There seems to be a general rule," Terris believes, "that the government can commit the most lawless act, be taken to court by the citizens, lose the case but not even have to pay attorneys' fees or the costs of the suit, as would apply in litigation between private parties." The startling irony is clear: citizens pay taxes for the salaries of government lawyers who then fight against private lawyers hired by citizens who can't get the government to obey the law in the first place. The costs of justice must be paid three times: first, to support a Congress to protect the public weal through passage of laws, then to pay the salaries of officials who break or defy the law and, third, to pay for private lawyers to have the law obeyed. A solution to this would be remedial congressional legislation, but it would be ludicrous: passing a new law to force the government to obey the old laws. And what would it be called? The 1974 Law Obedience Law?

Much government lawlessness involves cave-ins to private-interest lobbyists, such as violations against the Freedom of Information act in which a citizen is denied facts freely provided special interests. Occasionally, though, the law is broken not from slipperiness but from amazing incompetence. A recent example, in which hundreds of thousands of dollars were wasted, involved the Food and Drug Administration. A U.S. appeals court ruled that the FDA broke the law in banning the growth hormone DES from cattle feed. The court avoided discussing the cancer potential of DES—the meat-eating consumer is on his own once again—but said the FDA acted illegally by not holding a hearing before the ban. The court likened the crime to "a patchwork of legal theory that is sown in a confusion inconsistent with responsible review." A consultant to the House Intergovernmental Relations subcommittee said the FDA "bungled it horribly," a statement agreed with even by an FDA official. In the background of this case is a large amount of time and money originally spent by environmental groups to legally move the FDA to act. The agency delayed and hedged. Then, when it did decide it had a case against DES, the FDA lawyers could not bring it off. In the annals of government lawlessness, the case may be unique: an agency successfully enforces one section of a law (the Food, Drug and Cosmetics Act) while simultaneously breaking another section of the same law. Hesitancy before the decision was matched by incompetence after it. Perhaps more astonishing, Dr. Charles C. Edwards, the man who was running the FDA throughout this period leading to lawlessness and was closely involved with the DES case, later received a promotion, moving on to still greater power as the government's chief health officer.

The middle class, however, much victimized, still has enough comforts and distractions to buffer many of the results of government lawlessness. It is different for the poor. When an agency acts illegally and refuses to face a problem like lead paint removal—as HUD did in January when it submitted a say-nothing report to Congress two years after a law required it—children continue to die and suffer. When the Rural Housing Alliance spends much of its time and money in court getting federal housing authorities to free money impounded by the administration, it means the misery of homeless migrant workers continues.

In the recent debate on the new legal services corporation, enemies of the program were alarmed by the poverty lawyers' record of successful legal challenges against the government. Apparently it is permissible for the lawyers of the poor to attack a private slumlord, but when the slumlord is the U.S. government, this is something else. The poor are unpatriotically attacking their government, though never mind the government's strange patriotism in first attacking the poor by not providing heat, by not removing the rats or not getting rid of the lead paint. Many of those who most oppose the legal services program are also the strongest in supporting the notion that we need less governmental power. This abstraction about the new federalism—diffusing Washington's power and returning it to the people—becomes threatening, however, when live people like the poor actually begin using the power, via such programs as legal services. Now that the poor have some small measure of power, and are using it against the lawlessness of their government, it is suddenly seen as "revolutionary," the latest version of the "uppity" thesis.

Meanwhile, whether the poor or the middle class are victimized, immense costs are being paid—and only to require the government not to subvert the law, and forget any wild ideas that it might champion it. What is worse for a people; to suffer its government's lawlessness or to endure its hypocrisy? The national production of cynics must never have been higher than in the last six years, a period of lawlessness (even excluding Watergate) occuring under an administration that began with a cry of "law and order."

VA HOSPITAL PRAISED AS GOOD NEIGHBOR

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. HILLIS. Mr. Speaker, on January 29, 1974, the city of Marion, Ind., experienced the tragedy of a schoolbus-train accident involving about 20 handicapped students.

Because of the optimal efficiency of the VA hospital in Marion, within a period of 15 minutes an ambulance, two physicians and four nurses were at the scene of the accident. At the same time, 12 beds were established contiguous to the intensive care unit at the hospital and sufficient staff and equipment were assembled to meet with emergency requirements.

As a member of the House Veterans' Affairs Committee, I take special pride in knowing that our VA employees are prepared and equipped for such emergencies. The hospital and staff have once again exemplified their dedication and awareness of responsibility to the entire community, supporting the "good neighbor" policy they adhere to. The VA hospital has established itself as an integral and necessary part of the community, and certainly deserves to be commended and recognized as a good neighbor to all the citizens it serves.

THE CONTRIBUTION OF THE TOURIST INDUSTRY TO THE NATION'S ECONOMY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. LEHMAN. Mr. Speaker, the energy shortage will no doubt seriously affect all segments of our national economy, including the tourist industry.

Florida's economy is heavily dependent upon serving the millions of people, from both here and abroad, who come to visit my State.

The U.S. Travel Data Center has recently completed an economic analysis of the tourist industry, and I am inserting below some pertinent portions of the report which I hope my colleagues will find of interest. It is clear from this that if Florida and other tourist centers are shortchanged, because some consider the tourist industry to be nonessential, these areas will be plunged into a severe economic tailspin.

The article follows:

THE CONTRIBUTION OF THE TOURIST INDUSTRY TO THE NATION'S ECONOMY

1. CONTRIBUTION TO NATIONAL INCOME

Tourism spending in the U.S., which was $50 billion in 1970, directly contributed nearly $16 billion to U.S. National Income, with an additional $12.4 billion contributed by activities that served tourists indirectly—the 25 or more industries that provide goods and services to tourist facilities. Thus, for every four dollars of income generated in activities directly serving tourism, another three dollars were generated in indirectly related activities. For an example of how this works, it is useful to use commercial aviation. In 1970, travelers spent about $11.2 billion for domestic air travel. From these receipts the aviation industry spent over half—$5.9 billion—for the goods and services of other U.S. industries.[1]

The $28 billion of National Income attributable to tourism in 1970 accounted for 3½ percent of the U.S. total and, of course, does not include the income related to those transactions at prior points in the production and distribution stream. Tourism expenditures appear as a much higher percentage when compared with the total spent for goods and services in the U.S.

About half of tourism's direct contribution to national income derives from transportation, private and public. Lodging provides somewhat more than a fourth of the contribution, with the remainder made up largely from activities related to food service and entertainment.

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[1] Source: Air Transport Association "Value of Aviation Activity," January 1973.

2. COMPARISON WITH OTHER EXPENDITURES IN THE U.S. ECONOMY

Tourism expenditures in the U.S., which approached $61 billion annually in 1972, are topped only by grocery store sales, in a comparison of how retail expenditures in the U.S. are made. And, the difference is not overly wide: each dollar spent in the grocery stores in 1970 was matched by 66 cents spent for tourism. Tourism expenditures exceeded department store sales by 29% and were nearly 5 times the amount spent for furniture.

3. CONTRIBUTION TO EMPLOYMENT

In 1970, nearly 3½ million persons in the U.S. owed their employment to tourism directly, or indirectly, and the figure currently approaches at least 4 million. Employment directly concerned with tourism in 1970 included 1.4 million connected with food service and lodging, and nearly three-fourths of a million in transportation related activities.

Tourism, directly or indirectly, is thus responsible for almost 5 percent of total civilian employment in the U.S., one out of every twenty workers.

4. SPECIAL EMPLOYMENT OPPORTUNITIES

Tourism, it must be noted, is service oriented and labor intensive. It offers employment opportunities particularly for emerging minority groups, who can find useful employment in tourism, initially, without considerable training, and further can pursue opportunities to advance within the industry. A case in point is hotel employment in California, where 29% of the employees are minority group members, including a measurable number who have achieved "white-collar" status. Nationally, it is interesting to note, blacks occupy 23% of the jobs in the lodging industry and 18% of the eating and drinking industry jobs—compared with 10% of all jobs in the U.S.

5. DEMAND FOR TOURISM—DOLLARS SPENT IN UNITED STATES

Demand for tourism is on the upswing. Tourism activities in the U.S. in 1972 grossed an estimated $61 billion—which is more than 2½ times the 1960 figure. Some of the increase is, of course, due to higher prices, but even with inflation factored out, tourism receipts—or demand for tourism—has been growing more than 5 percent annually. Not taking the energy problem into account, it could be expected that tourism expenditures in the U.S. would reach $127 billion by 1980.

6. DEMAND FOR TOURISM—ITS SHARE OF TOTAL DEMAND FOR GOODS AND SERVICES IN THE UNITED STATES

Tourism accounts for a considerable share of the total demand for goods and services in the U.S.—which is an indicator of its high priority in the expenditure patterns of U.S. citizens as well as its proven capability to generate national wealth and income.

Tourism has, in fact, been growing at a much faster rate than the economy as a whole. In 1960, tourism expenditures were equal to 4.6% of the GNP, and in 1970 tourism's share was 5.1%.

7. TOURISM'S IMPACT ON OTHER INDUSTRIES

Tourism's benefits are spread throughout the economy. In some cases, expenditures for tourism are the primary support for important U.S. industries; in other cases, tourism's support is substantial. For example, the amount spent by tourists for lodging actually exceeds what is reported as total lodging industry sales—owing to the fact that industry revenues tabulated include only hotels and motels, whereas tourists also procure lodging from cottages, guest homes, campgrounds and other means. Similarly, the estimated $7.5 billion identified as tourism expenditures for public transportation in the U.S. in 1970 was about equal to the amount reported as industry revenues for public intercity transportation. Sales by eating and drinking establishments in the U.S. also depend heavily on tourism, as do sales by gasoline service stations. Beyond this, tourism is associated with purchases of "hard" consumer goods such as autos, mobile homes, recreational equipment, and such "capital" investments as aircraft, buses, and lodging facilities.

For example, U.S. flag commercial airlines—route and supplemental carriers—purchase approximately $1 billion[2] in aircraft annually. This provides substantial employment and needed stability for the U.S. aerospace industries in blending civilian and military sales.

8. TOURISM AND CAPITAL INVESTMENT

The growth of demand for tourist travel in the U.S. means expansion of facilities to accommodate the increasing numbers—expanded investment in the U.S. Particularly, lodging accommodations will grow—with additions to and new construction of motels, motor hotels, and vacation homes. Prior to the emergence of the energy crisis, it was expected that $12 billion would be invested in the U.S. in motels and motor hotels, and $14.2 billion in vacation homes, during the 1970's.

9. TRANSPORTATION ROLE IN TOURISM

Transportation more than anything else makes tourism a reality, and about half of tourism expenditures are for means of transport. In the U.S., private autos account for the lion's share of transport expenditures—$18.8 billion—but considerable expenditures are made on public transport as well—$7.5 billion.

10. TOURISM'S FUEL CONSUMPTION-SHARE OF U.S. TOTAL

Tourism uses only a minor proportion of petroleum fuel consumed in the U.S. In 1972, transportation connected with tourism accounted for about 12 percent of total U.S. demand for petroleum fuel, and this share was divided between aircraft, autos, and other surface transportation, including buses and rail. Other transportation use accounted for 35 percent of the total. Fuel consumption for purposes other than transportation used 53 percent of the total.

BAN THE HANDGUN—XX

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BINGHAM. Mr. Speaker, yesterday a handgun stolen from the car of the mayor of Miami Beach was found in the possession of a 9-year-old boy who was going to "kill a cop." Luckily, the boy was apprehended before he could use the gun. Until persons other than police officers can no longer legally own handguns, our children will be able to get hold of pistols as easily as the boy in Miami. He was luckier than others, he is still alive.

The following article appeared in the New York Times, February 6, 1974:

A BOY, 9, IS STOPPED FROM "KILLING COP"

MIAMI BEACH.—A 9-year-old boy carrying a loaded gun walked into a restaurant and informed a waitress he was going to "kill a cop," the police say.

The waitress took the .38 caliber revolver away from the boy, unloaded it, and gave the gun back to him, the police said.

The police said the gun had been stolen from Miami Beach Mayor Chuck Hall's car when it was parked behind a city convention hall.

The boy, whose name was withheld because he is a juvenile, later returned to the restaurant where the police were called to arrest him.

GROWING REVOLT AGAINST FAST TIME

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BAKER. Mr. Speaker, as one of those who has voiced strong opposition against year-round daylight saving time from the time it was presented on the House floor last year, I have taken note of the support this position has gained since it went into effect in January.

The noted columnist, Charles Bartlett, wrote a recent column on the "Growing Revolt Against Fast Time," based on what he had seen first hand in the State of Florida. This column appeared in the Washington Star-News on Saturday, February 2, and I feel my colleagues should have the benefit of his observations as we make a reappraisal of our action and try to correct a mistake of the first magnitude:

GROWING REVOLT AGAINST FAST TIME

(By Charles Bartlett)

GOMEZ, FLA.—It is eight in the morning but the rosy fingers of dawn have not touched this rustic scene so the little kids scurrying to school are as shadowy as the palmettos that flare along the fringes of the road.

It is a narrow road which fades quickly into sand and at this hour it is busy with trucks carrying workers to the flower farms and orchards. The kids hug the road on their bikes because it is awkward to pedal in the sand. So they are left dangerously exposed to the traffic flowing through the darkness.

A revolt against the President's first initiative in the energy crisis, the shift in year-round daylight time, has erupted in places like this. The distaste of rural workers for starting their labors in the dark has been exploded into anger by the prospect of more accidents like those which have already killed eight Florida schoolchildren on their way to school.

Florida is qualified by its division into two time zones to meet the problem without deference to Washington by restoring its eastern zone to the slow time. Reports from Tallahassee indicate the state legislature may move quickly on this option because a feeling has developed that the fast time is good only for duckhunters, some fishermen, and tourists who want to sleep late and play golf into the evening. For those who go to work or school by the dawn's early light, the burdens of fast time are running ahead of the benefits.

The electric utilities are not according the time experiment the kind of support that will enable it to survive in the face of popular disaffection. Utility officials around the country agree that the use of electricity has declined less than 1 percent. In some places the savings in fuel will be slightly greater because the prolonged daylight softens the peak demands and lessens the resort to inefficient generators. But after 17 working days under the time change, the utility consensus is that the savings will be marginal.

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[2] Represents the average annual depreciation of flight equipment, based on 14–16 year life span.

And small savings are certain to be swallowed up by the recreational use of energy in the extended period before sundown. Emerging from work with an extra hour of sunlight, citizens are being drawn into doing something more adventurous than going home. A swing to early evening romps will devour the savings at the generating stations.

Some argued in December that the inconveniences of fast time would be useful as reminders that there is an energy crisis. But it turns out there are lots of reminders, disagreeable ones like waiting in line for gasoline and disastrous ones like being thrown out of work. These are grey days in many ways and it does not help to begin them in the dark. Needless hardships will not improve the dispositions or productivity of the work force.

Happily the mood of revolt is spreading well beyond Florida. Both the Speaker of the House, Carl Albert, and the leader of the Senate, Mike Mansfield, sense the anxiety to put a stop to the black mornings. The President will soon be under pressure to back away from a position he took only six weeks ago. But while this may cause him embarrassment which he does not need, it would be wiser for him to reverse his position quickly before real animosities develop. Perhaps he can fire the guy who had the idea.

If the solution is left to the state options, the nation will quickly be cut up into an erratic pattern of time zones that will confound interstate commerce. If the solution is left to the local option of starting schools an hour later, the school buses will compete at the end of the day with the homecoming traffic rush. The only answer is repeal of the national law and the only question is whether the repeal should be effective immediately or next fall.

The charts show that at 7 a.m. on March 21, only the eastern sections of the nation's time zones will have found their way into the daylight. This means at least eight more weeks of arising in the bleak darkness for some. But it will require at least two weeks to enact the repeal and at least two additional weeks to make the shift. It may be that the blunder should be allowed to stand through this winter.

But four-fifths of the nation will be dark at 7 a.m. on next November 5 if Congress does not act. It is reassuring to believe that the legislators will be too shrewd to commit the nation to five consecutive months of black mornings for no useful purpose.

WICHITA'S $2.5 BILLION MISUNDERSTANDING

HON. GARNER E. SHRIVER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. SHRIVER. Mr. Speaker, I include the following speech made recently by Mr. James B. Taylor, vice president, Cessna Aircraft Co., Wichita, Kans., before the Wichita Rotary Club on the significance of general aviation to America's air transportation system. It is a message which dramatically tells the story of general aviation and its importance to our economy. In view of our recent experience concerning fuel allocations for general aviation, I urge my colleagues in the House to read Mr. Taylor's remarks:

Wichita's $2.5 Billion Misunderstanding

The significance of the title of my speech today: "Wichita's 2.5 Billion Dollar Misunderstanding" should really be the "World's 2.5 Billion Dollar Misunderstanding." I'm referring to the loss that could have accrued had the up to 50% fuel cut to General Aviation gone through.

The dramatically inequitable fuel cuts the administration originally proposed for General Aviation fortunately united all sectors of the aviation community, and most effectively . . . the users.

Our thanks also to the people of Wichita, the Chamber of Commerce, Senator Bob Dole, Congressman Garner Shriver, Senator Jim Pearson and Governor Bob Docking. They were most helpful in getting our story across to those in Washington who, despite their initial lack of understanding, were earnestly and honestly seeking a fair-minded solution.

We must now take unified and coordinated action to correct the misconception that the public and the press have of who General Aviation is and what it does. We have a long way to go.

Webster's New World Dictionary defines "esoteric" as "understood by only a chosen few." General Aviation is truly esoteric. Outside of Wichita, there's only a handful of people who know what General Aviation is. The industry trade association (G.A.M.A.) recently had a study completed by the opinion research institute of Princeton, New Jersey. In summary, they learned that 59% of all people in the U.S. never heard of the term "General Aviation." And, of the remaining 41% who thought they'd heard the term, only a few could accurately describe what General Aviation is.

It's no wonder that General Aviation was singled out to carry such a heavy burden in the proposed fuel cuts. Nobody knows who we are or what we do!

No one knows that:

162,000 (98.5%) of all civil aircraft in the U.S. are General Aviation compared to the 2,479 (1.5%) operated by the scheduled and supplemental carriers.

Or worldwide: that General Aviation numbers 235,000 while the airlines total 9,000. (Only 4% of the total world civil fleet are scheduled or supplemental carriers.)

No one knows that:

At the end of 1973, turbine-powered aircraft in the U.S. General Aviation fleet numbered 3,011 compared to 2,300 for the airlines. And by 1984, the turbine-powered business fleet is projected to grow to 8,200 U.S. (10,250 worldwide) and turbine-powered airliners 3,500 U.S. (7,900 worldwide).

No one knows that:

General Aviation accounts for less than 4% of jet fuel consumed nationwide, and only 7/10ths of 1% of the total fuel used for all transportation. (Why—other industries spill more than that!)

No one knows that:

80% of all General Aviation flying or approximately 23 million hours in 1973 was for business or commercial purposes.

Or that General Aviation carries one in every three intercity air passengers and is the only air link to more than 19,000 incorporated American communities. And that it serves 379 cities with populations of 25,000 to 100,000 that do not have any kind of air service.

Or that General Aviation aircraft transport 70 million Americans annually. (This is 33% of all U.S. intercity air passengers.)

No one knows that:

In 1973, General Aviation exports exceeded 3,500 airplanes valued at over 250 million dollars. Certainly a very positive contribution to the balance of trade.

Year after year, 25% of all General Aviation aircraft manufactured in the U.S. are exported. Or that 90% of the world General Aviation fleet was made here in this country.

And that 72% of all the air carrier jets (worldwide) are U.S. manufactured.

Aside: Exports of all aerospace equipment (which averages 10% of all exports) reached an all time high in 1973 (approximately 5.3 billion dollars) compared to exported motor vehicles and automotive equipment totaling less than 1.5 billion dollars . . . I'll bet you're surprised.

No one knows that:

Of the over 12,000 airports in America, less than 500 are served by the scheduled airlines. And 375 of the 500 have minimum service.

No one knows that:

25% of all airline passengers fly out of only three airports; 71% out of the 25 hub airports; and 97% of all air carrier passengers fly out of only 146 airports.

All of these statistics were calculated before the air carriers started unilaterally reducing frequencies and withdrawing from non-profitable locations where they were rendering the minimum service then required by the C.A.B. (And they were calculated before many air carriers started grounding and mothballing some of their best equipment.)

I'm, in no way, trying to degrade the airlines. They do a fine job under some very trying circumstances. They have the dubious distinction of being regulated as fully as monopoly utilities, while being exposed to competition as great as that in most consumer industries. And, except for the railroads, they have done and are doing more to sell people on flying than any other factor.

And, speaking of the far less competitive railroads, such regulation has been conspicuously unsuccessful.

Every American's hat should be off to our airframe industry. The Beechcrafts, the Boeings, the Cessnas, the Gates-Learjet, the Lockheeds, the McDonnell-Douglases and the Pipers . . . for the tremendous job they are doing to keep such a substantial lead in commercial aircraft everywhere.

I, for one, am confident that we are going to stay ahead. American research and development, ingenuity, productivity and marketing will make it happen. We have been able to accomplish this to date in spite of the heavy government subsidies that practically all foreign airframe and engine manufacturers, and air carriers enjoy. And many countries, particularly those that build competitive aircraft, place other hurdles in our path.

They insist on additional, time-consuming and costly modifications to meet their airworthiness certification requirements.

And they impose extremely high import taxes on our products.

It's high time we re-examine the manner in which our government subsidizes our foreign competition without any reciprocal agreements.

Our airline friends face additional inequities that affect them much more than us. These have emerged as a result of our government's generosity. We give away routes, rights and services.

Landing fees are a good example: to land a single 747 (U.S. or foreign-operated)—at Boston $190; at our nation's Capitol $124; and at Miami $68. But when Pan American, TWA and National land a 747 at London, the charge is $1,844. At Paris, Pan Am and TWA pay $1,088 and at Frankfurt $1,244. The worst examples are in the Pacific. An Australian carrier pays $240 to land a 747 at Los Angeles, but Pan Am pays a resounding $3,483 for each landing at Sidney.

Sure—Qantas and all other government-owned airlines around the world pay the same landing fees as American carriers. But government-owned airline fees merely go from one pocket to another—in the same suit.

Incidentally, Pan American is paying one million dollars each week in landing fees around its system. That's 52 million dollars per annum.

I'm sure that you are all familiar with many of the roles of General Aviation airplanes: training, transporting people and things, for agriculture, for mapping, for photography, for patroling, for search and rescue, for forest fires, for all kinds of services and emergencies, etc., etc., etc.

But are you aware of the reasons for business aircraft which is 80% of all General Aviation flying?

Business aircraft provide a stimulus for spreading industries and branch plants to widely-disposed areas. In 1940, 50% of all plants were in cities of more than 100,000. By 1956, one-third of all new plants were built in cities of less than 10,000. Today, eight out of ten new factories are being built in small towns and cities all across America. The reasons include: decentralization, diversification, lower land costs, lower labor costs, lower taxes and better living conditions, which creates a more stable work force.

Airports attract whatever type of industries or corporate headquarters you desire to have in your community. 85% of corporations emphatically state they would not locate plants or offices at a town or city without an airport. And FAA studies verify that airport development is a catalyst for business and industrial growth.

A business airplane is a productive piece of communication equipment that makes it possible for companies to spread the talents of their key people over more territories, more situations, more opportunities.

A business aircraft, just like any other piece of capital equipment (if properly used), will multiply efficiency, improve productivity, save money and make money . . . exactly like a tape-controlled milling machine or a computer. And, it can be justified on the same grounds.

Businessmen operate airplanes for exactly the same reasons that you people sitting out there own automobiles: because the bus doesn't take you where you want to go, when you want to go.

If effective use of executive time . . . by having the right man in the right place at the right time . . . is important for the big firm, it can mean survival for the small company.

A business plane can pay for itself many times over. And, even though some of them have a loud voice . . . they have never been known to ask for a raise.

Companies like to do business with suppliers who are modern in their approach to things. The company-owned plane helps build prestige and stature because it's a symbol of speed, efficiency and modern management. It helps create, in the customer's mind the image of a progressive and aggressive operation.

A Fortune Magazine study showed that 43% of this nation's 1,000 largest industrials operate business aircraft. This 43% dominates the American scene in employment, sales, assets, net income and, most notably—return on stockholder equity. And, as a group, they are the largest contributors to the U.S. gross national product. They must be doing something right.

Dun's, last month, reported their selection of the five best-managed companies in the U.S. for 1973. All own and operate business aircraft extensively. (It's also interesting to note that the 20 companies Dun's has selected, since starting this selection process four years ago, have been operators of business aircraft.) Certainly a contributing reason why all of these companies achieve more of their objectives . . . and in less time.

General Aviation in conjunction with the airlines is providing for the spreading and growth of multi-national companies and accelerating overseas investments and returns.

General Aviation and the airlines complement each other by providing a means of travel that has unshackled our families and businessmen from any restrictions of movement here on this earth. A face-to-face communication and travel system so reliable that we will look back some day to realize that it was this single capability, more than any other, that made a peaceful world a realty.

Both the airlines and general aviation are extremely important and necessary contributors to the U.S. economy. Without the continued growth and success of each, the future structure of our country is in jeopardy.

Understanding can only be accomplished, if all of us . . . the manufacturers, the suppliers and, most importantly, the users . . . work together in a coordinated effort to get the general public aware that you cannot limit the airplane to the air carriers any more than you can limit the powered wheel to railroads and buses.

As long as misunderstanding exists, General Aviation will be vulnerable. The energy crisis is not going to go away. And we cannot return to the supreme optimism and complacency that characterized our outlook just a few months ago.

We must stop talking to ourselves. We have an obligation to make it possible for our customers to publicly advocate, not just privately defend, their use of business aircraft.

THE GRASSROOTS ON IMPEACHMENT

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. WALDIE. Mr. Speaker, every Member of this House is, in his own way, measuring the sentiment for impeachment. No office of any Member of this House has been devoid of pro and con sentiments by constituents and media on the impeachment resolutions now before the Judiciary Committee.

I offer one such editorial sentiment from the Chula Vista Star-News in the suburbs of San Diego County, Calif.:

THE GRASSROOTS OF IMPEACHMENT

"Let each of us ask not just what will government do for me, but what I can do for myself."—Richard Nixon, inaugural

It is exactly a year ago today that Richard Milhous Nixon, beginning his second term as President after a landslide re-election victory, delivered the above statement.

Many commentators at the time thought it was a cheap paraphrase of President Kennedy's inaugural statement, "Let each of us ask not what our country can do for me, but what I can do for my country." For what Mr. Nixon was espousing, in their view, was a simplistic philosophy that if everybody diligently pursued his own self-interest, government wouldn't have to worry much about doing anything for anybody and things would be just hunky-dory. This, after all, is "rugged individualism."

But since that time it has become perfectly clear (to steal a phrase) what Mr. Nixon meant. For he and/or his hand-picked henchmen have set for the whole nation an example, not only what government can do for them, but what they can do for themselves.

For self-enrichment, they can take bribes and practice income tax evasion.

For their own power, they can steal, illegally wiretap, extort illegal campaign contributions, and try to subvert and corrupt the integrity of the Justice Department, FBI, CIA, SEC, Defense Department and Internal Revenue Service.

They can blithely lie to the public on television, perjure themselves under oath, make secret deals for favors with fat-cat campaign contributors, fire those who are hot on their trail, cause valuable tapes to "non-exist" and erase damning evidence on the tapes they haven't destroyed.

This is the administration of Richard Milhous Nixon.

Who would have thought this a year ago today? Some did, even before Mr. Nixon's inauguration. Senator McGovern called it "the most corrupt administration in the nation's history," but that was dismissed as so much campaign rhetoric.

Newspapers began unearthing the Watergate story during the 1972 election campaign, but the White House managed to convey the impression it was just some regrettable shenanigans by a few lower-level "over-zealous" campaign workers.

So Richard Nixon rode to a record-breaking election victory and a year ago today, according to public opinion polls, was at a crest of popularity unmatched by any President for decades.

Today, these same polls show more than two-thirds of Americans lack the barest confidence in him, and half the nation would like to see him impeached.

The Ervin Committee, the Internal Revenue Service, the Watergate Special Prosecutor Force, the FBI and the House Judiciary Committee are all looking at Mr. Nixon's deeds and misdeeds.

Sixteen of the top officials of his administration either have pleaded guilty to felonies or are under indictment, with more to come.

Almost every day, it seems, brings fresh scandals—the latest being the revelation that probably the most crucial of Mr. Nixon's sacred tapes, the ones that had to be pried out of him under threat of a contempt citation, had been the subject of anywhere from five to nine selective erasures—at its most critical point.

Amidst calls for his impeachment by almost half the people, numerous highly respected publications and more than 100 congressmen, this newspaper has struggled hard and long to give Mr. Nixon the benefit of the doubt.

We recognize that Mr. Nixon himself has not been convicted of any crime, and perhaps never will be. We hoped that Operation Candor somehow would clear up many mysteries; instead, it has raised even more.

We hoped against hope that, somehow, Mr. Nixon would be able to explain why he personally appointed and gave his trust to such a crew of malefactors.

But there has been no satisfactory explanation on this—or on a number of misdeeds in which the President was clearly involved personally.

Mr. Nixon, after all, personally set up the "plumbers" as an extralegal White House secret police, with almost carte blanche powers to violate individual rights.

He personally signed and sanctioned those questionable personal income tax forms that enabled him to get away with paying less taxes on a $600,000 income over three years than a worker earning $8,000 a year.

He personally lied to the people on Cambodia, and he personally instructed the attorney-general to go easy on ITT, and he personally ordered White House conversations sneak-taped, and he personally, while trying to keep the tapes from the courts, had them secretly slipped to the indicted H. R. Haldeman, and he personally ordered Archibald Cox fired.

Moreover, he personally set the spirit of an administration so arrogant and high-handed that one attorney-general could claim the President had an "inherent right" to wiretap without judicial approval (unanimously tossed out by the Supreme Court) and another contended that none of the 2.5 million federal employes need testify to Congress "if the President so commands."

To us, the erasure of the crucial tape is the last straw. Mr. Nixon must go. The stench emanating from the White House has become overpowering. The boil must be lanced.

For the good of the nation, Mr. Nixon either should resign gracefully (which seems unlikely)—or be removed by Congress.

It has been said that impeachment would cause grave damage to our nation, cause internal dissension and bring our country into disrepute in foreign lands. Quite the contrary is true. Impeachment woud restore confidence in the integrity of a government that two-thirds of Americans now distrust, and that foreign nations believe to be in a state of paralysis, unable to act or react because it lacks public confidence.

Impeachment would prove that our system is strong enough to right itself despite the grossest of abuses. And impeachment would prove that our system is stronger than any one man, including the President.

It would set an example for future Presidents that no man is above the law, nor can he encourage others, either directly or by looking the other way, to be above the law. And it would end once and for all the torment of White House scandal after scandal that now stretches ahead for our nation—with the end still not in sight.

It would be a cleansing process.

The alternative to impeachment is three more years of having as our leader a man who a majority of Americans believe, rightly or wrongly, is a crook. And, while this may be too harsh a judgment, it is not harsh to say that, by Mr. Nixon's conduct in office, he has seemed like one. At the least, he has, without a question, appointed to the highest offices in our land over a dozen people who took the law into their own hands.

The latter, alone, should be grounds enough to oust him from office. For, if a nation sanctions lawbreaking by the government itself, it threatens the whole fabric of our society.

The administration of Richard Nixon has been shot through with law-breaking by the most powerful officials of our land. The man responsible for this administration, if he is unwilling to resign, should be impeached by the House, brought to trial before the Senate, and removed from office.

Our nation can withstand impeachment, a lawful proceeding provided for in our Constitution.

Our nation cannot withstand, nor should it have to withstand, three more years, or even three more months, of the kind of goings-on that has made the word "government" synonymous with deceitful and criminal activity.

NUN FOSTERS DRIVE TO FREE SOVIET JEWS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. EILBERG. Mr. Speaker, the plight of the Soviet Jews who are struggling for freedom to emigrate to Israel is a cause for concern to millions of people all over the world. Although many people believe that only Jewish people have been aiding this cause, I can assure you that this is not the case.

In my city, Philadelphia, Sister Ann Gillen, of the Society of the Holy Child, is executive director of the National Interreligious Task Force on Soviet Jewry. Among her many activities, Sister Ann talks to people all over the country about Soviet Jews being denied their basic human rights and she plays an important role in organizing regional groups to exert pressure on the Russians to allow Soviet Jews to emigrate.

At this time I would like to enter into the RECORD an article from the January 27 edition of the Philadelphia Bulletin describing Sister Ann's work:

NUN FOSTERS DRIVE TO FREE SOVIET JEWS

(By Carol Innerst)

Sister Ann Gillen is an activist nun, but her cause is not aid to parochial schools or the anti-abortion fight.

Her cause is the plight of millions of Jews in the Soviet Union who are denied their human and civil rights.

The medallion around her neck is not the crucifix, but a Star of David bearing on one side of the inscription "Let My People Go" in English and Hebrew and on the other the name of a Jew imprisoned in the Soviet because he tried to leave the country.

The only outward symbol of her sisterhood is a small, gold crucifix ring. She is of the Society of the Holy Child, a teaching order with headquarters at Rosemont in suburban Philadelphia.

"I only wear my veil for public demonstrations when I want to be immediately recognizable for what I am," explained the former student and dean of students at Rosemont College. "Too often the habit and veil conveyed the message to people to 'stay away' . . . that we were unapproachable."

HEADS TASK FORCE

Today, Sister Ann Gillen is executive director of the National Interreligious Task Force on Soviet Jewry. She devotes much of her time and energy to traveling about the country, sensitizing Jews and non-Jews to the problem; organizing conferences and establishing regional groups to help exert Western pressure on Russia to free those Jews who want to leave.

Pressure from the West, applied by the government and by private individuals and organizations, often assures the well-being of those trapped behind the Iron Curtain, she said.

"Children could become pen pals of the children of Jews denied visas to leave Russia," she continued. "Temple sisterhoods and Catholic women's groups could 'adopt' Jews in prison and write to them. It would tell the Russians that the world knows they are there and cares."

HOW IT STARTED

Sister Ann would like to see a Sisterhood of Conscience develop, with each person wearing the "prisoner of conscience" medallions like hers. The idea is similar to the prisoner-of-war bracelets.

Sister Ann had just left Washington, D.C., and was en route to New York and Boston when she paused in the Philadelphia office of the American Jewish Committee, 1500 Chestnut St., to talk about her work.

The task force which she heads grew out of a 1972 conference sponsored by the National Catholic Conference for Interracial Justice and the American Jewish Committee.

When it started that year, Sargent Shriver was its honorary national chairman. Current cochairmen are Sister Margaret Traxler of the National Catholic Conference for Interracial Justice; Rabbi Marc Tanenbaum of the AJC and a Protestant, Andre LeCocque. Sister Ann's salary is paid by a private foundation.

The concerned nun has an ever-changing list of names of those locked in Russia. Information on how to help them is available by writing her at the Task Force office, 1307 S. Wabash Ave., Chicago, Ill., or by writing to David Geller, foreign affairs department, American Jewish Committee, 165 E. 56th St., New York City.

TRUTH IN FOOD LABELING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ROSENTHAL. Mr. Speaker, Michael Gryzbinski is not with us today. On April 17, 1972, at the age of 10, he died. The cause of death was anaphylactic shock caused by eating ice cream. It was ordinary ice cream, the kind we all eat. Michael was allergic to peanuts, and from the age of 3 he knew to check the labels of everything he ate. He was particularly careful about cakes, cookies, and candies, all of which he loved. On April 17, after playing ball he was invited to a friend's house for something to eat. Michael checked the ice cream carton and found nothing listed on it, so he ate some. Tragically, the ice cream had been whipped with peanut butter. Within a few minutes, Michael went into anaphylactic shock and died. As parents, we can only sympathize with his mother and father over their needless, heartbreaking loss. As legislators we can, and must do more.

Peanuts, chocolate, milk, wheat, eggs—they are all common foods which most of us eat every day with hardly a thought. These same ingredients are very often combined with and added to other substances, and again we eat them every day concerned only with what we like or dislike.

For many Americans, however, any one of these foods can cause vomiting, abdominal pain, asthma, difficulty in swallowing, or anaphylactic shock which can lead to death.

Exactly what is in the products we eat each day? If for breakfast we eat bread, rolls, or buns, do we know what is in these? They may contain flour made from wheat, rice, potato, or soybean; shortening made from butter or from a vegetable such as corn, peanuts, or soybeans; there is also milk, eggs, sugar, sirup, yeast, cornstarch, vinegar made from apples or malt, plus a variety of artificial and natural flavors, artificial and natural colors, nutritional supplements and preservatives. All this in a simple piece of toast!

There are some people who do not care what they eat, but the great majority of us do. Those of us who are allergic to one of these ingredients, or who must be on special diets for health or religious reasons, or simply want to choose what goes into our bodies—we care very much.

Mr. and Mrs. Robert Mittel of Pownal, Maine, care. Their 4-year-old daughter has the identical allergy as the late Michael Gryzbinski. "Passage of your bill (H.R. 1650) might well be the difference between life and death for her," they wrote to me recently.

Mrs. Allen Chapman of Cedar Rapids, Iowa, also cares. Her 10-year-old son is allergic to peanuts, so she must check every food item labeled vegetable oil to discover what is actually in the food product.

Mrs. Jean Grossi of Rochester, N.Y., cares. Her son will go into anaphylactic shock and die if he eats shellfish of any type. She says her flamily lives "in a constant state of fear and uncertainty" because they cannot be certain exactly what is in the foods her son is eating!

Mrs. Michael Tarn of Allen Park, Mich., cares. Her 8-year-old son is allergic to corn and soybeans. Products which may possibly have either ingredient in them must be carefully avoided.

Mrs. Max Silver of San Francisco cares. Her 3-year-old daughter is allergic to milk. Mrs. Silver, like these other mothers, carefully reads what information is on labels. However, she discovered that the sodium cassinate used in non-dairy products is often made from milk.

These people must care. In fact, at least 8 million and possibly as many as 80 million Americans must beware of the food they eat because of allergies and other reasons.

It is for this reason that I introduced H.R. 1650, the Truth in Food Labeling Act. And it is for this reason that I have been trying to inform the American people about the great need for this legislation. For too long the consumer has been at the mercy of the food industry which, in collusion with the Food and Drug Administration, conceals more than it reveals about the ingredients in its products.

It is unbelievable that consumers are held in such low regard by those who profess to be concerned about them.

Time and time again we hear the food industry complain that a change in its labeling practices would mean great inconvenience and cost, and benefit "only" a few. On the contrary, food allergy is relatively common in our population. Some studies have determined an allergy incidence of as high as 38 percent. Add to this the number of people who are placed on low-cholesterol diets, low-salt diets, or must avoid certain foods for religious reasons, and we are no longer discussing merely a "few" people, but nearly one out of every two Americans.

The Inter-Society Commission for Heart Disease Resources estimates that up to 300,000 cases of cardiovascular disease could be prevented if people modified their diets by reducing dietary cholesterol and saturated fats. How can we modify our diets if we do not know what our foods contain? At best, food labels admit the product contains "vegetable fat" or "vegetable oil" but they fail to identify the vegetable sources, although that information is vital to persons who must watch their cholesterol intake.

The food industry also insists that the public will not understand the names of listed ingredients. The Food and Drug Administration believes specific ingredients information would be too "technical" and "meaningless" for the average consumer. That simply is not so.

The Nation's leading allergists, nutritionists, and health professionals have called for the complete ingredient labeling of all foods. They know how ineffective it is to tell their patients to avoid certain ingredients when it is impossible to determine which foods contain them.

The consumers who have written to me show a high level of sophistication. They know what to look for and avoid in a product. They simply cannot find it on the label.

If you want to know exactly what all the ingredients are in the food you are eating and what its nutritional content is, you will probably have to settle for pet food. The food we buy for our pets is far better labeled than most of what we can buy for ourselves.

So-called voluntary disclosure by several industries has shown little or no results in over 2 years. It is clear that this important concept cannot be left up to the whim of individual producers and manufacturers, and that the Congress must act to protect the consumer.

Our entire attitude toward consumers must change. We can no longer consider them passive pawns in a game controlled by business interests and government idleness. They can no longer be treated as children, with the attitude of "what they don't know, won't harm them." For indeed it can harm them. To so blatantly disregard a person's right to choose what he or she eats is, to me, morally and ethically indefensible. Yet that is exactly what the majority of the food industry wants to do.

At the core of the labeling controversy are the standards of identity. The original and quite valid purpose of these standards was to make certain that manufactured food products, which had become known to consumers by their common names, would contain the same ingredients regardless of manufacturer.

In the 1930's when most homemakers prepared their foods from scratch in their own kitchens and thus knew all of the ingredients contained in a product like mayonnaise, the standards of identity caused few problems. Later, however, the Food and Drug Administration permitted manufacturers of foods covered by standards of identity to withhold from the label many, and sometimes all, of the ingredients of a product. To the modern consumer who makes very few dishes from scratch, the result has been confusion.

Moreover, throughout the years, the FDA has created a labyrinth of regulations which allows manufacturers to conceal all ingredients, require that some be listed without specifying that it is only a partial listing, and allow certain additives—such as colorings, spices and flavorings—to hide behind generic names or no names at all.

Thanks to the FDA, this present law has more holes than Swiss cheese—which, incidentally, also squeezes through a loophole of its own, so we are not sure what is in that, either.

No food is required to list every ingredient on its label. That is because the law currently exempts spices, colorings and flavorings plus what the FDA has termed incidental additives. The latter are those substances that are present at insignificant levels and have no technical or functional effect in that food, according to the FDA.

Foods are basically classified into two categories: Standardized and nonstandardized.

Standardized foods are those for which a standard of identity exists. This means the basic recipe and ingredients are prescribed by the FDA and must be followed. As long as this is done, no mandatory ingredients need be listed on the label. There are also numerous optional ingredients for standardized foods, some of which have to be noted on the label, and some of which do not—at the option of the FDA.

Some standardized foods which do not have to reveal any ingredients are: tomato catsup, milk and cream, cheese, flour, strawberry preserves—which, by the way, is made with lard—bread, ice cream, cereals, chocolate and cocoa products, macaroni and noodle products, and mayonnaise.

While some manufacturers of mayonnaise, preserves and ice cream do not have to list anything on their labels because they adhere strictly to the standard of identity, others use optional ingredients and list these. Certain manufacturers, whether or not they use optional ingredients in a standardized product, print listings of ingredients on their packages. They pick and choose what ingredients they want to list, and there is no way for the consumer to determine if the listing is partial or complete.

In fact, most people who see an ingredient list on a package of food have no way of knowing how complete it is, and they probably assume it is a full disclosure. This can be a very dangerous assumption for a person with allergies.

Coca-Cola is an example of a standardized product that is required to list an optional ingredient—caramel coloring—and also voluntarily prints a list of other ingredients. Many more of the almost possible ingredients in Coke are not listed. There is no way for the consumer to know what they are, and some of these could be dangerous for persons with certain allergies.

Other standardized products that list some but not all ingredients include breakfast cocoa, cherry pie, tomato puree and paste, canned tomatoes, jellies, jams, French dressing, salad dressing, canned peaches, evaporated milk, milk with vitamin D, dried eggs, peanut butter, canned vegetables, and canned fruits.

Nonstandardized foods—those which must list all but spices, flavorings, colorings, and incidental additives—include pizza mix, egg substitutes, Gatorade, Coffee-Mate, cake mixes, apple pie, and mixed nuts.

This subject is so confusing that not only don't consumers understand it, but I have come to the conclusion that not even the FDA knows what is going on. After repeated calls from my office to the agency, they still have been unable to fully explain what products must list which ingredients and which don't have to. And if the FDA is confused, how can it protect consumers?

My bill, H.R. 1650, would end all this confustion by requiring full ingredient disclosure—including spices, colorings, flavorings, and so-called incidental additives—on the labels of all food products. This is the only realistic way for consumers to be accurately—and safely—informed.

There are several crucial differences between my bill, the Truth in Food Labeling Act, and the administration bill, H.R. 5642.

My bill would require the listing of ingredients in order of their predominance and the amount, by percentage, of each ingredient. Consumers have the right to know not merely that water is the major ingredient in a particular food, but that one brand contains 30 percent water while another contains only 15 percent.

My bill would also require the identification of spices, flavorings, and colorings in a food product. It is not sufficient for a label to state merely that spices, flavorings, and colorings are present. It is often a particular spice or flavoring which an individual must avoid. Therefore it is imperative that each of these ingredients appear clearly on the label. This is also true for artificial flavoring, artificial coloring, and chemical preservatives. There is medical evidence that certain artificial additives may be the cause of hyperkinesis, extreme overactivity, in children. How cruel it is to these children and their families to limit their ability to make an informed choice about what foods they eat.

The Truth in Food Labeling Act also strikes out a key phrase of the Federal Food, Drug and Cosmetics Act (section 403(i)) which states that exemptions shall be established if compliance to the regulations is "impractical" or results in "unfair competition." This has traditionally been the loophole clause allowing food producers to claim that listing all ingredients is not practical or divulges a trade secret. The FDA has been ready, willing, and almost anxious to grant these exemptions. This is the reason we find ourselves today almost totally unaware of what is in our food. There should be no exceptions or exemptions when people's lives are at stake.

The industry-oriented Nixon administration bill would perpetuate these loopholes that my consumer protection bill would close.

The Truth in Food Labeling Act is supported by more than 80 Members of Congress as well as Dr. Jean Mayer, noted nutritionist of Harvard University; Dr. Halla Brown, director of Division of Allergy, George Washington University; the American Academy of Allergy; the American College of Allergists; the Washington Metropolitan Chapter of Allergy Foundation of America; Consumers Union of United States, Inc.; Label, Inc.; Consumer Action for Improved Food and Drugs; Action on Safety and Health; the Federation of Homemakers; Concern, Inc.; the Center for Science in the Public Interest; Environmental Lobby, Inc.; and the National Consumers League.

Mr. Speaker, I am hopeful that hearings by the Public Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee will begin soon and that a strong, effective, and meaningful truth in food labeling bill will be reported out. A first step—although it is too late for Michael Gryzbinski—must be taken on behalf of all other children and adults who must know the ingredients in their foods. We can wait no longer.

UNDER SECRETARY OF COMMERCE JOHN K. TABOR ADDRESSES MISSOURI GOVERNOR'S CONFERENCE ON MINORITY BUSINESS ENTERPRISE

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. TAYLOR of Missouri. Mr. Speaker, on January 30, 1974 Gov. Christopher S. Bond convened the State of Missouri's first Governor's Conference on Minority Business Enterprise.

A special guest and keynote speaker at the event was Under Secretary of Commerce John K. Tabor. Under Secretary Tabor referred to the conference as "a milestone because it is the first statewide conference on minority business enterprise convened at the request of a Governor."

We were pleased to have Mr. Tabor in Missouri and I would like to offer his comments for the enlightenment of my colleagues:

REMARKS BY UNDER SECRETARY OF COMMERCE JOHN K. TABOR

I am delighted to be here on what I consider to be an historic occasion.

During the almost five-year history of the Office of Minority Business Enterprise (OMBE) literally hundreds of conferences, workshops and seminars have been held throughout the length and breadth of our country. This conference, however, is a milestone because it is the first statewide conference on minority business enterprise which has been convened at the request of a Governor. Governor Bond, I salute you. I am confident that what you have initiated in the State of Missouri will serve as a challenge to other Governors in other states.

I thought for those of you who may not be familiar with the activities of the Office of Minority Business Enterprise, I might give you some background concerning where we were, where we are and the great challenge before us. The concept of minority capitalism gained national prominence in an address delivered by then candidate Richard Nixon, in April of 1968, entitled, "Bridges to Human Dignity." The essence of it is particularly well stated where the President said:

"It's no longer enough that white-owned enterprises employ greater numbers of Negroes, whether as laborers or as middle-management personnel. This is needed, yes—but it has to be accompanied by an expansion of black ownership, of black capitalism. We need more black employers, more black businesses.

"Integration must come—but in order for it to come on a sound and equal basis, the black community has to be built from within even as the old barriers between black and white are dismantled from without.

"We have to get private enterprise into the ghetto. But at the same time we have to get the people of the ghetto into private enterprise—as workers, as managers, as owners."

Expanding on that theme, shortly after the President came into office, President Nixon established the Office of Minority Business Enterprise within the Department of Commerce. He called upon OMBE to be the catalyst in a Federal-private partnership, to accomplish one goal—*to assist minorities in gaining full opportunity to participate in the economic mainstream as owners and managers of business.*

Now, why this effort? Why the creation of the Office of Minority Business Enterprise? I suppose all of us who are engaged in assisting minority business growth have our own personal reasons. I can think of three:

One, I think we have to recognize what I consider to be a basic right. We operate under one economic system. We can call it capitalism; we can call it American competitive enterprise; we can call it private enterprise—call it what you will—there is one system in operation. I think, therefore, there must exist the basic right for all aspirants to have an equal opportunity to participate in that system. This means that if one of minority background has the will, the brains, and the character he should have the same opportunity as another not of minority background with equivalent will, brains and character to have the opportunity to venture, to succeed, or to fail. His minority status should not bar him from that opportunity. Sounds good. Will we practice it?

The second reason is the sheer economic necessity that dictates this program. We simply can no longer afford the waste of preventing full upward mobility of millions of our citizens—our minorities. In 1962, the Council of Economic Advisors tried to fix a dollar cost—forgetting the human cost—the dollar cost of impairing upward mobility in society. At that time, they determined that it approximated 3½% of the gross national product which in those days was running about $500 billion a year, at a cost of roughly $17½ billion. Now today, we're operating under a GNP somewhere in excess of a trillion dollars. Using the same percentage cost, 3½%, we come to a cost—a dollar cost—of somewhere between 35 and 50 billion dollars—a year of waste.

Gentlemen, we can no longer afford that kind of waste. Business means jobs. Jobs need people and people need jobs. Everyone must have an opportunity to participate in our economic growth. It is essential to assist people to become producers. During our lifetimes we have seen many efforts to create programs that supported consumers. In bare terms, these are the multitude of welfare and work programs that have been spawned over the past 40 years: I prefer to have people become producers *before* they become consumers. That way, we don't end up with a net productivity drain. We don't end up with more welfarism. Putting it in very simple terms, OMBE is not interested in giving a man a fish so he can eat *tomorrow;* that job is for other agencies. OMBE's interest is in providing that man with a rod and reel and teaching him *how* to fish so that he can eat for the *rest of his life.*

All about us we see the youth of America, white, black, all colors, questioning the system that has produced the greatest bounty for more people than any other system that the mind of man has ever devised, and some of them want to tear down this system. They don't know what they want to replace it with but their concern is such that they think something is wrong. We have a challenge—particularly those, like many of you, who are in business and have achieved some success in life through business, and therefore have a special self-interest in business and industry.

This leads to my third reason for the OMBE effort and that is to preserve this private enterprise system by strengthening it. The best way we can *preserve and strengthen* it and pass the benefits along to our children and their children is to open the doors and let all comers come up and take their licks. We can't open the system without the commitment of every businessman in this room and every corporate board room in America.

As I said earlier this is a *Federal-private partnership.* On the Federal side, we've made progress. Starting with an Executive Order and some $40,000 of planning money, OMBE today has a national network which can assist minority business development in some 100 cities with a budget of $51 million. Total Federal expenditures have risen substantially from some $200 million in 1969. Last year they exceeded a billion dollars. Federal purchases (these include both competitive purchases and negotiate purchases) on the part of Government have risen from $13 million four years ago to better than $750 million last year. I personally chair the *Interagency Council Minority Business Enterprise.* The Council is an action-oriented coordinative mechanism to assure full Federal participation in President Nixon's program.

OMBE is making a good deal of progress on the private side as well.

All who think about assisting enterpreneurs to enter a business recognize the need for investment capital. Those who never had a chance to acquire capital certainly couldn't be expected to put their money up front to start a new business. So OMBE and the private sector have created something called "Minority Enterprise Small Business Investment Company" (MESBIC), which I am sure some of you bankers in the audience are familiar with, to provide investment capital to promising minority businessmen. Sixty-five (65) MESBICs are now operating around the country. One hundred fifty (150) corporations have invested in those MESBICs. The private capital investment in MESBICs exceeds $26 million. That $26 million, incidentally, can generate better than a one-half billion dollar capital flow.

A splendid positive step, Governor, would be for this group to start two MESBICs in Missouri: one in St. Louis and one in Kansas City, It is a powerful, profit-making tool to assist and support minority business growth.

Let's also take a look at major commercial banks. Four years ago, shocking as it may be to hear it, there were only a handful of banks across the country that were making minority business loans. The American Bankers Association, in close cooperation with OMBE, developed a five-year new minority business loan goal. They established it in late 1970. Now, here we are in 1974 and they've already exceeded a billion dollars; so by the end of the fifth year, it looks like it might be as high as $2 billion. It's not enough, but it's a good start. I hope that future reports of banking aid to minorities will include a page of very active involvement by Missouri bankers.

Corporate deposits in minority banks—now, we did a survey shortly after we came to the office. We found that some 28 minority banks in the country had total deposits somewhere between 300 and 350 million dollars—pretty small by any banking standards. So we launched a minority bank deposit program. It was a combination Federal-private effort. Uncle Sam did his part to a small degree because we don't have very many monies that can be deposited in a meaningful way but corporate America came to the aid of these banks with solid deposits and today the minority banking industry is over a one billion dollar operation. Incidentally, the minority banks have grown from 28 to 54 during the same period. Again, not all we'd like but that's a pretty good sign of corporate support. There are two minority banks in Missouri. Both are insured by F.D.I.C. Do you have corporate deposits in each?

The program we're heavily engaged in now is aimed at opening up the corporate doors for the purchase of goods and services from minority firms, about which Mr. Bob Stuart spoke earlier. Mr. Stuart has divested himself of many of his corporate responsibilities to make this program successful. He needs your help. If nothing else emerges from this conference, it should be two strong Regional Purchasing Councils. In my opinion, no single area of action can induce more minority entrepreneurs to begin than by our existing businesses to seek out, and work with minority suppliers. It helps minority enterprise, and is profitable for majority enterprises.

Many business opportunities have also been developed in the area of franchising, auto dealerships, joint ventures, particularly in the construction industry. And corporations are responding to the call for management and technical assistance. In **100 cities today minority** entrepreneurs can **get professional assistance** in accounting, marketing, production and distribution, through a "talent bank" of business skills provided through OMBE-funded Business Resource Centers. There are two in Missouri. Get in touch with them. Perhaps your firm has skills to offer, voluntarily, which minority entrepreneurs need. Let the Center know what commitment you can make in this vital way.

Now, I think we must look to the future and begin to equip the young people to take their rightful place in the mainstream.

In the Spring of 1967, the Department of Commerce inaugurated a program for hiring the economically disadvantaged—the Secretary of Commerce's Junior Fellowship Program. It began as a pilot effort with the Washington, D.C. schools and has since been expanded to Commerce activities nationwide and to other Federal agencies. Its basic objective is to help bright young people who are economically disadvantaged by guaranteeing them a meaningful job and training during summer and other vacation periods during their four years of college. The program has been an outstanding success for the Government agencies involved and it has and will continue to provide a valuable source for future Government employees. It has motivated young people in occupational areas where they are currently under-employed. It has established an effective bond between qualified youth and their Government.

OMBE has an interest in seeing disadvantaged young people take their rightful place in the private enterprise system by playing a larger role in the activities and policies of established corporations. Thus, in the Spring of 1972, a pilot effort was launched to duplicate within industry the successful model established within Government. The Hallmark Company in Kansas City worked with us in this pilot effort. It was a great success and emboldened us to set a goal of enrolling 500 students in leading corporations by June 30 of last year. To assist us, we called upon Pete Rozelle and the National Football League to co-sponsor this unique activity. I am delighted to report that through NFL's cooperation and the dedication of the professional football players who worked with us, the drive went over the top. 508 students went to work with 125 U.S. businesses and industries. They worked summers and vacation periods throughout their college careers, and earned $3.5 million dollars. They experienced opportunity in industry. Industry experienced them. Both were richer for the program.

This year, OMBE is asking industry to provide 1,000 four-year Business Management Fellowships to talented high school kids who are college-bound. The National Football League is again our co-sponsor.

Criteria is simple. Candidates must be in the top 10% of their high school graduating class, be accepted by an accredited college and be in need of financial support. Businesses and industries must provide meaningful hard employment in a management environment during summer and other vacation periods. The student becomes a part of the private enterprise system at the management level; the business or industry has a chance to train and evaluate the job performance of a top notch person whom some employer is going to want to hire; and it's a really good deal for the taxpayer because corporations bear the entire cost.

On February 1, fifteen players from NFL teams will be working out of thirteen NFL cities soliciting corporate executives to commit their corporations to the four-year program. They may knock on your door. I hope you'll respond.

So we can see that the minority business program is rolling. The Federal, private sector partnership is working. But gentlemen, much more is required.

A hen and a pig walked down the street one day. They passed a restaurant where the sign on the window said "Ham and Eggs, 45¢."

The pig said to the hen, "What do you think of that?"

The hen said, "That's not so bad."

The pig answered, "Not so bad—my foot! To *you*, it's just a contribution. To me, it's total commitment!"

Ladies and gentlemen, I ask your support of Minority Business Enterprise because it's right.

I ask you to get involved in—

MESBICS,

Minority loans,

Deposits in minority banks,

Purchases from minority businesses, and Business Management Fellowships.

Do it tomorrow.

And do it with "total commitment," not "just a contribution."

UNDER SECRETARY TABOR: ACTIVITIES RELATING TO OFFICE OF MINORITY BUSINESS ENTERPRISE

June 20, 1973.—National Football League Participants Awards Ceremony. Remarks, Washington, D.C.

June 27, 1973.—National Purchasing Council Meeting, Washington, D.C.

September 4, 1973.—Minority Concessions Signing National Park Service, Washington, D.C.

October 8, 1973.—Announcement of Federal Funding For Minority Business. Release—Washington, D.C.

November 20, 1973.—Interagency Task Force Meeting, Chairman, Washington, D.C.

November 26, 1973.—Meeting with BDO Executive Board, Dallas.

November 30, 1973.—Bankers Breakfast, San Francisco.

January 9, 1974.—Corporate Breakfast BDO Luncheon—Executive Board, New York.

January 10, 1974.—Press Conference, Task Force Report on Minority Education. Remarks, Washington, D.C.

January 30, 1974.—Business Conference, Keynote Address, Jefferson City, Missouri.

January 30, 1974.—MESBIC Executive Directors Meeting.

February 15, 1974.—Interagency Task Force Meeting, Chairman.

March 13, 1974.—Awards Certificate Ceremony BDO. Remarks, Pittsburgh.

SECRETARY DENT—ACTIVITIES RELATING TO OFFICE OF MINORITY BUSINESS ENTERPRISE

February 8, 1973.—Announcement of South Carolina State OMBE Agency. Release—Washington, D.C.

March 2, 1973.—National Football League Fellowship to assist OMBE in programs for minority youth. Release—Washington, D.C.

March 7, 1973.—Appointment of Walter Sorg as Acting Director of OMBE. Release—Washington, D.C.

March 15, 1973.—MESBIC License Hartford, Connecticut. Release—Washington, D.C.

April 10, 1973.—Appointment of Alex Armendaris Director of OMBE. Release—Washington, D.C.

May 22, 1973.—Inter-Agency Council Meeting Native Indian Program. Washington, D.C.

June 12, 1973.—Black Enterprise Press Conference. New York.

June 20, 1973.—National Association of Minority Contractors Keynote Address Chicago, Illinois.

December 18, 1973.—Announcement of Arizona Navajo Indian project.

January 10 1974.—Press Conference—Task Force Report on Minority Education. Remarks—Washington D.C.

January 29, 1974.—State Procurement Conference, Jefferson City, Mo.

February 15, 1974.—Called Meeting with National Minority Purchasing Council, Washington, D.C.

GERALD R. FORD'S VOTING RECORD

HON. LESLIE C. ARENDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ARENDS. Mr. Speaker, throughout his service in the Congress, it was the practice of our Vice President, GERALD R. FORD, to periodically publish a summary of his voting record for his

constituents and others who might be interested.

Under leave to extend my remarks in the RECORD, I wish to include herewith Mr. FORD's voting record as minority leader and a Representative from the Fifth District of Michigan in the 93d Congress, until his resignation to become Vice President last December:

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.

Rollcall No.	1973	Measure, question, and result	Vote
1	Jan. 3	Call of the House	Present.
2	do	Election of Speaker (Albert 236—Ford 188)	Do.
3	do	H. Res. 6: On ordering the previous question on the resolution adopting the rules of the House of Representatives for the 93d Congress (passed 208–206).	No.
4	Jan. 15	Quorum call	Absent.[3]
5	Jan. 23	do	Present.
6	Jan. 29	do	Absent.[3]
7	Jan. 31	do	Present.
8	do	H. Res. 176: On ordering the previous question on the "rule" under which to consider the resolution creating a select committee to study the operation and implementation of the rules of the House of Representatives (passed 205–167).	Yes.
9	do	H. Res. 176: On adoption of the "rule" under which to consider the resolution creating a select committee to study the operation and implementation of the rules of the House of Representatives (passed 238–135)	Yes.
10	do	H. Res. 132: On adoption of the resolution creating a select committee to study the operation and implementation of the rules of the House of Representatives (passed 282–91).	Yes.
11	Feb. 5	H. J. Res. 123 (S.J. Res. 42): On a motion to suspend the rules and pass the joint resolution establishing the Commission on Highway Beautification (passed 283–40).	Yes.
12	Feb. 6	Quorum call	Present.
13	Feb. 7	do	Do.
14	do	H. Res. 188: On ordering the previous question on the "rule" under which to consider H.R. 2107, the Rural Environmental Assistance Program (passed 237–150).	No.
15	do	H.R. 2107: On an amendment to the Rural Environmental Assistance Program which sought to reduce funds in the bill by $85,000,000 (defeated 176–217).	Yes.
16	do	H.R. 2107: On an amendment to the Rural Environmental Assistance Program which sought to restrict REAP payments to farmers with an average annual net income during the preceding 3 years of $10,000 or less (defeated 132–260).	Yes.
17	do	H.R. 2107: On final passage of the Rural Environmental Assistance Program (passed 251–142).	No.
18	Feb. 20	Quorum call	Present.
19	do	H.R. 3694: On a motion to suspend the rules and pass the bill amending the joint resolution establishing the American Revolution Bicentennial Commission (passed 286–72).	Yes.
20	Feb. 21	H.J. Res. 345: On passage of the resolution making further continuing appropriations for fiscal year 1973 (passed 311–73).	Yes.
21	Feb. 22	H.R. 1975: On an amendment to the Emergency Loan Program which allows eligible applicants in natural disaster areas designated by the Secretary of Agriculture to apply for one percent disaster loans 18 days after the effective date of this act (passed 196–160).	No.
22	do	H.R. 1975: On passage of the Emergency Loan Program under the Consolidated Farm and Rural Development Act (passed 269–95).	No.
23	Feb. 27	Quorum call	Present.
24	do	H.R. 3577: On passage of the Interest Equalization Tax Extention Act of 1973 (passed 358–23).	Yes.
25	Feb. 28	Quorum call	Present.
26	do	H. Res. 256: On passage of the resolution creating a select committee to investigate all aspects of crime affecting the United States (passed 317–75).	Yes.
27	do	H. Res. 18: On ordering the previous question on the resolution authorizing the Committee on Banking and Currency to conduct investigations and studies of all matters within its jurisdiction (passed 204–191).	No.
28	do	H. Res. 257: On passage of the resolution authorizing the Committee on the District of Columbia to conduct studies and investigations (defeated 153–234).	No.
29	Mar. 1	Quorum call	Absent
30	do	H.R. 3298: On passage of the bill to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act (passed 297–54).	Do.[2]
31	Mar. 5	Quorum call	Present.
32	do	H.R. 4278: On a motion to suspend the rules and pass the bill assuring that Federal financial assistance to the child nutrition programs be maintained at the level budgeted for fiscal year 1973 (passed 352–7).	Yes.
33	do	H.J. Res. 393: On a motion to suspend the rules and pass the joint resolution extending the authorization of the National Commission on the Financing of Postsecondary Education (passed 332–29).	Yes.
34	Mar. 6	Quorum call	Present.
35	Mar. 7	do	Do.
36	do	H. Res. 272: On ordering the previous question on the resolution under which to consider H. Res. 259 to amend the rules of the House of Representatives to strengthen the requirement that committee proceedings be held in open session (passed 197–196).	No.
37	do	H. Res. 259: On an amendment to the resolution to amend the Rules of the House of Representatives which authorizes departmental representatives to attend closed committee meetings if authorized by that committee (passed 201–198).	Yes.
38	do	H. Res. 259: On passage of the resolution amending the Rules of the House of Representatives to strengthen the requirement that committee proceedings be held in open session (passed 371–27).	Yes.
39	Mar. 8	Quorum call	Present.
40	do	do	Do.
41	do	H.R. 17: On an amendment to the Vocational Rehabilitation Act which sought to authorized $600 million for fiscal year 1973, $630,000,000 for fiscal year 1974, and $650,000,000 for fiscal year 1975 for the continuation of programs authorized under the Vocational Rehabilitation Act (defeated 165–213).	Yes.
42	do	H.R. 17: On passage of the Vocational Rehablitation Act of 1973 (passed 318–57).	No.
43	Mar. 13	Quorum call	Present.
44	do	H.R. 71: On an amendment to the Older Americans Act which sought to substitute the text of H.R. 4318 (defeated 168–229).	Yes.
45	do	H.R. 71 (S. 50): On passage of the Older Americans Act (passed 329–69).	No.
46	Mar. 14	Quorum call	Present.
47	do	Quorum call	Do.
48	do	S. 583: On passage of the bill promoting the separation of constitutional powers by securing to the Congress additional time in which to consider the rules of evidence for U.S. courts and magistrates, the amendments to the Federal Rules of Civil Procedure and the amendments to the Federal Rules of Criminal Procedure which the Supreme Court on Nov. 20, 1972, ordered the Chief Justice to transmit to the Congress (passed 399–1).	Yes.
49	Mar. 15	Quorum call	
50	do	H.R. 2246: On passage of the bill amending the Public Works and Economic Development Act of 1965 to extend the authorizations for a 1-yr. period (passed 278–108).	No.
51	Mar. 20	Quorum call	Present.
2	do	H. Res. 285: On passage of the resolution authorizing funds for the Committee on Public Works (passed 372–9).	Yes.
53	Mar. 21	Quorum call	Absent.[3]
54	do	H.R. 5446: On passage of the bill to extend the Solid Waste Disposal Act for 1 yr (passed 392–2).	Do.[1]
55	Mar. 22	Quorum call	Present.
56	do	H. Res. 308: On passage of the resolution providing funds for House Committee on Internal Security (passed 289–101).	Yes.
57	do	H.R. 5445: On passage of the bill to extend the Clean Air Act for 1 yr (passed 387–1).	Yes.
58	Mar. 27	Quorum call	Present.
59	Mar. 28	do	Do.
60	Mar. 29	do	Do.
61	do	H.R. 5293: On a motion to recommit the Peace Corps Authorization bill to the Committee on Foreign Affairs with instructions to report it back forthwith containing an amendment that would limit authorization to 1 yr and reduce funds by $17,000,000 (defeated 132–238).	No.
62	do	H.R. 5293: On passage of the bill authorizing continuing appropriations for the Peace Corps (passed 299–72).	Yes.
63	Apr. 2	H.R. 3153: On a motion to suspend the rules and pass the bill to amend the Social Security Act to make certain technical and conforming changes (passed 340–1).	Yes.
64	do	H. Res. 330: On a motion to suspend the rules and pass the resolution regarding U.S. ocean policy at the Law of the Sea Conference (passed 303–52).	Yes.
65	Apr. 3	Quorum call	Present.
66	do	do	Do.
67	do	do	Do.
68	do	do	Do.
69	Apr. 4	do	Do.
70	do	H.R. 3577: To approve the conference report on the bill to provide an extension of the interest equalization tax (passed 396–18).	Yes.
71	do	H. Res. 337: On ordering the previous question on the "rule" under which to consider H.R. 5683 the bill amending the Rural Electrification Act of 1936 (passed 244–170).	No.
72	do	Quorum call	Present.
73	do	do	Do.
74	do	H.R. 5683: On an amendment to the bill to amend the Rural Electrification Act of 1936 which sought to insert the text of H.R. 5536 (defeated 162–244).	Yes.
75	do	H.R. 5683: On passage of the bill to amend the Rural Electrification Act of 1936 to establish a Rural Electrification and Telephone Revolving Fund (passed 317–92).	No.
76	Apr. 5	Quorum call	Present.
77	do	H. Res. 340: On passage of the resolution authorizing additional investigative authority to the Committee on Interior and Insular Affairs (passed 281–70).	Yes.
78	Apr. 9	Quorum call	Present.
79	do	H.R. 4586: On passage of the bill incorporating in the District of Columbia the National Inconvenienced Sportsmen's Association (passed 328–0).	Yes.
80	do	H.R. 342: On passage of the bill authorizing the District of Columbia to enter into the Interstate Agreement on Qualification of Educational Personnel (passed 331–1).	Yes.
81	Apr. 10	Quorum call	Present.
82	do	H.R. 3298: To override the President's veto of the bill to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act (defeated 225–179; a ⅔ vote being necessary).	No.
83	do	H. Res. 348: On passage of the resolution providing a rule for the consideration of H.J. Res. 205 to create an Atlantic Union delegation (defeated 197–210).	Yes.
84	Apr. 11	H. Res. 349: On adoption of the "rule" under which to consider H.R. 3180, the bill clarifying the proper use of the franking privilege by Members of Congress (passed 371–14).	Yes.
85	do	H.R. 3180: On passage of the bill clarifying the proper use of the franking privilege by Members of Congress (passed 354–49).	Yes.
86	Apr. 12	H.J. Res. 496: On passage of the joint resolution making supplemental appropriations for fiscal year 1973 for the Civil Aeronautics Board and the Veterans' Administration (passed 367–0).	Yes.
87	Apr. 16	Quorum call	Present.
88	do	H. Res. 357: On ordering the previous question on the "rule' under which to consider H.R. 6168, the bill to amend and extend the Economic Stabilization Act of 1970 (defeated 147–258).	No.

Footnotes at end of the table

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.—Continued

Rollcall No.	1973	Measure, question, and result	Vote
89	do	Quorum call	Present.
90	do	H.R. 6168: On an amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which sought to impose a ceiling on prices at levels no higher than those on Apr. 16, 1973, except agricultural prices at the farm level (defeated 139–263).	No.
91	Apr. 16	H.R. 6168: On an amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which requires that hearings be held before an agency reduces wages or salaries and that a statement of explanation shall be written to the parties involved within 30 days (passed 271–132).	No.
92	do	H.R. 6168: On a substitute amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which sought to extend the act for 60 days and direct the President to develop a program to stabilize interest rates, rents, prices, and wages and transmit the program to Conress by May 15, 1973 (defeated 151–253).	No.
93	do	H.R. 6168: On an amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which sought to authorize and direct the President to stabilize rents at levels prevailing on Jan. 10, 1973 (defeated 173–225).	No.
94	do	H.R. 6168: On an amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which sought to authorize the President to stabilize rents at levels prevailing on Jan. 10, 1973, and allow for a 2.5-percent increase annually (defeated 147–250).	No.
95	do	H.R. 6168: On an amendment to a substitute amendment to the bill to amend and extend the Economic Stabilization Act of 1970 which sought to impose a ceiling on all food prices at levels no higher than those prevailing on Mar. 16, 1973, and to stabilize rents at levels prevailing on Jan. 10, 1973 (defeated 101–303).	No.
96	do	H.R. 6168: On a motion to recommit the bill to amend and extend the Economic Stabilization Act of 1970 to the Committee on Banking and Currency (defeated 164–243).	No.
97	do	H.R. 6168: On passage of the bill to amend and extend the Economic Stabilization Act of 1970 (passed 293–114).	Yes.
98	Apr. 17	Quorum call	Present.
99	do	do	Do.
100	do	H.R. 6691: On an amendment to the 1974 Legislative Appropriation Bill which sought to strike out $58,000,000 for the extension of the west front of the Capitol (defeated 189–195).	No.
101	Apr. 18	Quorum call	Present.
102	do	H.R. 6691: On a motion to recommit the 1974 Legislative Appropriation Bill to the Committee on Appropriations with instructions to report it back to the House deleting $58,000,000 for the extension of the west front of the Capitol (defeated 185–215).	No.
103	do	Quorum call	Present.
104	do	H. Res. 360: On ordering the previous question on the "rule" under which to consider H.R. 4204. Emergency Employment Act Amendments of 1973 (defeated 193–209).	No.
105	do	H. Res. 360: On ordering the previous question on the amendment to the resolution under which to consider H.R. 4204, Emergency Employment Act Amendments of 1973, which sought to substitute the text of H.R. 6710 for the committee bill, H.R. 4204 (defeated 157–245).	Yes.
106	do	Quorum call	Present.
107	do	H. Res. 360: On a motion to table the motion to reconsider the "rule" providing for the consideration of H.R. 4204, Emergency Employment Act Amendments of 1973 (passed 183–173).	Yes.
108	do	S. 50: On concurring to the Senate amendment to the amendment of the House to the bill to strengthen and improve the Older Americans Act of 1965 (passed 348–0).	Yes.
109	Apr. 19	Quorum call	Present.
110	do	S. 502: On an amendment to the Federal Aid Highway Act which sought to permit local officials in urban areas to use $700,000,000 from the Highway Trust Fund for nonhighway transit needs (defeated 190–215).	No.
111	do	S. 502: On an amendment to the Federal Aid Highway Act which deletes language which earmarks funds for cities with a population of more than 400,000 from the urban system funds (passed 292–93).	Yes.
112	Apr. 30	Quorum call	Absent.[3]
113	do	do	Present.
114	do	S. 398: To approve the conference report on the bill to extend and amend the Economic Stabilization Act of 1970 (passed 267–115).	Yes.
115	May 1	H. Res. 351: On adoption of the "rule" under which to consider H.R. 3932, the bill requiring confirmation of the Director and Deputy Director of the Office of Management and Budget (passed 318–56).	Yes.
116	do	H.R. 3932: On an amendment in the nature of a substitute to the bill requiring confirmation of the Director and Deputy Director of the Office of Management and Budget which sought to exempt the current Director and Deputy Director of OMB but require confirmation of all future nominees for those posts (defeated 130–263).	No.
117	do	H.R. 3932: On passage of the bill requiring confiramtion of the Director and Deputy Director of the Office of Management and Budget (passed 229–171).	No.
118	May 2	H. Res. 370: On adoption of the "rule" under which to consider H.R. 6388, the bill to amend the Airport and Airway Development Act of 1970 to increase the U.S. share of allowable project costs under such act and to amend the Federal Aviation Act of 1958 to prohibit certain State taxation of persons in air commerce (passed 385–2).	Yes.
119	do	H.R. 6388: On passage of the bill amending the Airport and Airway Development Act of 1970 to increase the U.S. share of allowable project costs under such act and to amend the Federal Aviation Act of 1958 to prohibit certain State taxation of persons in air commerce (passed 386–16).	Yes.
20	May 3	Quorum call	Present.
121	do	H.R. 982: On an amendment to the bill to amend the Immigration and Nationality Act which sought to strike out the 3-step civil and criminal penalty procedure for imposing sanctions on employers who knowingly employ aliens in the United States (defeated 96–266).	No.
122	do	H.R. 982: On passage of the bill to amend the Immigration and Nationality Act (passed 297–63).	Yes.
123	May 7	Quorum call	Absent.[3]
124	do	H.R. 4967: On a motion to suspend the rules and pass the bill authorizing appropriations for the Indian Claims Commission for fiscal year 1974 (passed 336–8).	Do.[1]
125	do	H.R. 6574: On a motion to suspend the rules and pass the bill encouraging persons to join and remain in the Reserves and National Guard by providing full-time coverage under Servicemen's Group Life Insurance for such members and certain members of the Retired Reserve (passed 342–1).	Do.[1]
126	do	H.R. 2828: On a motion to suspend the rules and pass the bill establishing a National Cemetery System within the Veterans' Administration (passed 340–1).	Do.[1]
127	do	H.R. 29: On a motion to suspend the rules and pass the bill providing for payments by the Postal Service to the Civil Service Retirement Fund for increases in the unfunded liability of the fund due to increases in benefits for Postal Service employees (passed 344–0).	Do.[1]
128	May 8	H.R. 5452: On a motion to suspend the rules and pass the bill extending and making technical corrections to the National Sea Grant College and Program Act of 1966 (passed 368–9).	Yes.
129	do	H.R. 5451: On a motion to suspend the rules and pass the Oil Pollution Act Amendments of 1973 (passed 370–1).	Yes.
130	May 9	Quorum call	Present.
131	do	H.R. 7445: On passage of the bill to amend the Renegotiation Act of 1951 to extend the act for 2 years (passed 388–0).	Yes.
132	do	H.R. 6370: On an amendment to the bill to extend certain laws relating to the payment of interest on time and savings deposits which sought to delete language that prohibits Negotiable Order of Withdrawal savings accounts (defeated 98–264).	Yes.
133	do	H.R. 6370: On passage of the bill to extend certain laws relating to the payment of interest on time and savings deposits (passed 376–4).	Yes.
134	May 10	S. 394: To approve the conference report on the bill to amend the Rural Electrification Act of 1936 (passed 363–25).	Yes.
135	do	H. Res. 389: On ordering the previous question on the "rule" under which to consider H.R. 7447, the bill making supplemental appropriations for fiscal year 1973 (defeated 184–222).	Yes.
136	do	H.R. 7447: On an amendment to the bill making supplemental appropriations for fiscal year 1973 while in the Committee of the Whole that deletes language which would authorize the transfer of $430,000,000 by the Department of Defense (passed 219–188).	No.
137	do	H.R. 7447: On an amendment to the bill making supplemental appropriations for fiscal year 1973 that sought to postpone the provisions of the amendment which prohibits the use of funds to finance combat activities in Cambodia (defeated 180–219).	Yes.
138	do	H.R. 7447: On an amendment to the bill making supplemental appropriations for fiscal year 1973 that prohibits the use of funds by the Department of Defense to finance combat activities in Cambodia by U.S. forces (passed 224–172).	No.
139	do	H.R. 7447: On an amendment to the bill making supplemental appropriations for fiscal year 1973 that increases the funding for category B impacted aid school assistance from 54 percent to 68 percent (passed 211–178).	No.
140	do	H.R. 7447: On an amendment to the bill making supplemental appropriations for fiscal year 1973 that deletes language which would authorize the transfer of $430,000,000 by the Department of Defense similar to rollcall 136 in Committee (passed 194–187).	No.
141	do	H.R. 7447: On passage of the bill making supplemental appropriations for fiscal year 1973 (passed 284–96).	No.
142	May 15	Quorum call	Present.
143	do	H.R. 6768: On an amendment to the bill to provide for participation by the United States in the United Nations environmental program which sought to reduce funds from $40,000,000, available until expended, to $2,500,000, available for fiscal year 1974 only (defeated 164–216).	No.
144	do	H.R. 6768: On an amendment to the bill to provide for participation by the United States in the United Nations environmental program while in the Committee of the Whole to reduce funds from $40,000,000, available until expended, to $5,000,000, available for fiscal year 1974 only (passed 200–184).	No.
145	do	H.R. 6768: On an amendment to the bill to provide for participation by the United States in the United Nations environmental program which sought to reduce funds from $40,000,000 available until expended, to $5,000,000, available for fiscal year 1974 only, similar to rollcall 144 in committee (defeated 192–198).	No.
146	do	H.R. 6768: On passage of the bill to provide for participation by the United States in the United Nations environmental program (passed 266–123).	Yes.
147	May 16	Quorum call	Present.
148	do	H.R. 5777: On passage of the bill to protect hobbyists against the reproduction or manufacture of certain imitation hobby items and to provide additional protection for American hobbyists (passed 382–7).	Yes.
149	May 21	H.J. Res. 512: On a motion to suspend the rules and pass the joint resolution extending the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages and extending authorization under laws relating to housing and urban development (passed 357–1).	Absent.[1]
150	do	H.R. 6330: On a motion to suspend the rules and pass the bill amending section 8 of the Public Buildings Act of 1959 relating to the District of Columbia (passed 270–98).	Do.[1]

Footnotes at end of the table

Rollcall No.	1973	Measure, question, and result	Vote
151	May 22	Quorum call	Present.
152	do	H.R. 6717: On a motion to suspend the rules and pass the bill to amend section 210 of the Flood Control Act of 1968 (passed 307–90).	No.
153	do	H.R. 7200: On a motion to recommit the bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act and the Interstate Commerce Act to the Committee on Interstate and Foreign Commerce (defeated 10–393).	No.
154	do	H.R. 7200: On passage of the bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act and the Interstate Commerce Act (passed 387–5).	Yes.
155	May 23	Quorum call	Present.
156	do	S. 518: To override the President's veto of the bill providing that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate (defeated 236–178; a ⅔ vote being necessary).	No.
157	do	Quorum call	Present.
158	do	H.R. 7528: On an amendment to the bill to authorize appropriations to the National Aeronautics and Space Administration which sought to prohibit the use of fjnds for tracking and data acquisition in South Africa (defeated 104–294).	No.
159	do	H.R. 7528: On passage of the bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management (passed 322–73).	Yes.
160	May 29	H. Res. 408: On adoption of the "rule" under which to consider H.R. 6912, the bill to amend the Par Value Modification Act (passed 299–9).	Yes.
161	do	H.R. 6912: On an amendment to the bill to amend the Par Value Modification Act which sought to permit private purchase, sale, and ownership of gold after Dec. 31, 1973 (defeated 162–162).	No.
162	do	H.R. 6912: On an amendment to the bill to amend the Par Value Modification Act which sought to strike out language that provides for Presidential determination and approval of private gold ownership (defeated 100–218).	No.
163	do	H.R. 6912: On passage of the bill to amend the Par Value Modification Act (passed 281–63).	Yes.
164	May 30	Quorum call	Absent.
165	do	do	Do.
166	do	H.R. 5857: On passage of the bill to amend the National Visitors Center Facilities Act of 1968 (passed 288–75).	Do.[1]
167	do	H.R. 5858: On passage of the bill authorizing further appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts (passed 260–100).	Do.[1]
168	May 31	Quorum call	Present.
169	do	H.R. 7806: On passage of the bill extending through fiscal year 974 certain expiring appropriations authorizations in the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act (passed 372–1).	Yes.
170	do	H.R. 7724: On an amendment to the National Biomedical Research Fellowship. Traineeship, and Training Act of 1973 which prohibits live fetus research (passed 354–9).	Do.
171	do	H.R. 7724: On passage of the National Biomedical Research Fellowship, Traineeship, and Training Act of 973 (passed 361–5).	Do.
172	do	H.R. 6458: On passage of the bill authorizing assistance for planning, development and initial operation, research, and training projects for systems for the effective provision of health care services under emergency conditions (passed 261–96).	No
173	June 4	Quorum call	Present.
174	do	H. Res. 398: On a motion to suspend the rules and pass the resolution providing for the promotions to positions of a supervisory capacity on the U.S. Capitol Police force authorized for duty under the House of Representatives and to reduce by 15 positions the total number of positions on such force under the House (passed 299–0).	Yes.
175	June 5	Quorum call	Present.
176	do	H.R. 8070: On a motion to suspend the rules and pass the bill authorizing grants for vocational rehabilitation services (passed 384–13).	Yes.
177	do	Quorum call	Present.
178	June 6	do	Do.
179	do	H.R. 7935: On an amendment to a substitute amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to increase the minimum wage rate for agricultural employees equal to that of industrial employees (defeated 186–232).	No.
180	do	H.R. 7935: On an amendment in the nature of a substitute to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under the act and to expand the coverage of that act which sought to substitute the provisions of H.R. 8304 (defeated 199–218).	Yes.
181	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under the act and to expand the coverage of that act which sought to set the minimum wage rate for employees covered before 1966 at $1.90 per hour for the 1st year, $2.10 for the 2d year, and $2.20 per hour thereafter (defeated 193–225).	Yes.
182	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act which sought to set the minimum wage rate for employees covered before 1966 at $2.10 per hour for the year beginning July 1, 1974, and to $2.20 per hour after June 30, 1975 (defeated 189–224).	Yes.
183	do	H.R. 7935: On the amendment in the nature of a substitute to an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to set the minimum wage rate for agricultural workers at $1.50 per hour for fiscal year 1974, $1.70 per hour for fiscal year 1975, and $1.85 per hour thereafter (defeated 195–224).	Yes.
184	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to increase the minimum wage rate for agricultural employees equal to that of industrial employees (defeated 102–313).	No.
185	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to strike out extended coverage for Federal employees (defeated 167–249).	Yes.
186	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to strike out extended coverage for local and state governmental employees (defeated 182–233).	Yes.
187	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which deletes the section on seasonal industry employees (passed 251–163).	Yes.
188	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act which sought to establish a subminimum wage rate for workers under the age of 18 or full-time students at 80 percent of the applicable minimum wage of $1.60 per hour ($1.30 per hour for agricultural employees) whichever is higher (defeated 199–215).	Yes.
189	do	H.R. 7935: On an amendment to the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act which freezes the minimum wage rate in the Canal Zone at its present level (passed 213–203).	Yes.
190	do	H.R. 7935: On passage of the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act (passed 287–130).	No.
191	do	Quorum call	Absent.
192	do	On a motion to adjourn (defeated 9–143)	Absent.[1]
193	June 7	Quorum call	Present.
194	do	H. Res. 382: On passage of the resolution disapproving Reorganization Plan No. 2 (defeated 130–281).	No.
195	do	H.R. 7645: On passage of the bill authorizing appropriations for the Department of State (passed 331–57).	Yes.
196	do	H.R. 7446: On passage of the bill to establish the American Revolution Bicentennial Administration (passed 344–14).	Yes.
197	June 8	H.R. 2246: To approve the conference report on the bill to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 1-yr. period (passed 276–2).	Yes.
198	do	H. Res. 426: On adoption of the "rule" under which to consider H.R. 7670, to authorize appropriations for fiscal year 1974 for certain maritime programs of the Department of Commerce (passed 274–0).	Yes.
199	do	H.R. 7670: On passage of the bill to authorize appropriations for fiscal year 1974 for certain maritime programs of the Department of Commerce (passed 266–10).	Yes.
200	June 11	Quorum only call	Present.
201	do	do	Do.
202	do	On a motion to dispense with calendar Wednesday business of June 13 (defeated 221–119; a ⅔ vote being necessary).	Yes.
203	do	H.R. 4083: On passage of the bill to improve the laws relating to the regulation of insurance in the District of Columbia (passed 330–0).	Absent.[1]
204	do	H.R. 6713: On passage of the bill amending the District of Columbia Election Act regarding the times for filing certain petitions, regulating the primary elections for delegate from the District of Columbia (passed 330–12).	Do.[1]
205	do	H.R. 8250: On passage of the bill to authorize certain programs and activities of the Government of the District of Columbia (passed 268–84).	Do.[1]
206	do	H.R. 4771: On passage of the bill to regulate the maximum rents to be charged by landlords in the District of Columbia (passed 210–144).	Do.[1]
207	June 12	H.R. 5293: To approve the conference report on the bill authorizing additional appropriations for the Peace Corps (passed 329–64).	Yes.
208	do	H. Res. 423: On adoption of the "rule" under which to consider H.R. 77, to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services (passed 307–91).	Yes.
209	do	H.R. 77: On an amendment to a committee amendment to the bill to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services which allows employees to select any attorney of their choice rather than the choice of their union (passed 279–126).	Yes.
210	do	H.R. 77: On an amendment to an amendment to the bill to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services which sought to strike out language that specifies as an unfair labor practice the unilateral modification or termination of the legal services trust fund agreement, or failure or refusal to bargain in good faith in the next subsequent contract negotiation between the same parties (defeated 111–293).	No.
211	do	H.R. 77: On an amendment to the bill to permit employee contributions to jointly administered trust funds established by labor organizations to defray costs of legal services which sought to specify legal service trust funds as a "permissive" subject of collective bargaining and refusal to bargain in good faith would not constitute an unfair labor practice (defeated 177–223).	No.
212	do	H.R. 77: On passage of the bill to permit employee contributions to jontly administered trust funds established by labor organizations to defray costs of legal services (passed 257–149).	Yes.
213	June 13	Quorum call	Present.

Footnotes at end of the table

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.—Continued

Rollcall No.	1973	Measure, question, and result	Vote
214	do	H. Res. 437: On ordering the previous question on the "rule" under which to consider H.R. 8410, the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (defeated 21–395).	No.
215	June 13	H. Res. 437: On ordering the previous question on the amendment to the "rule" under which to consider H.R. 8410, the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (passed 254–160).	Yes.
216	do	H. Res. 437: On an amendment in the nature of a substitute to the "rule" under which to consider H.R. 8410, the bill to continue the esisting temporary increase in the public debt limit through Nov. 30, 1973, which stuck out language in the rule that made it in order to consider the text of H.R. 3932, to provide that appointments to the Office of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate (passed 248–163).	Yes.
217	do	H. Res. 437: On adoption of the "rule" under which to consider the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (passed 271–141).	Yes.
218	do	Quorum call	Present.
219	do	H.R. 8410: On passage of the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (passed 261–152).	Yes.
220	June 14	Quorum call	Present.
221	do	do	Do.
222	do	H.R. 3926: On an amendment to the bill to extend the National Foundation on the Arts and the Humanities Act which sought to cut funding to $81,000,000, a reduction of $64,000,000 (defeated 141–248).	No.
223	do	H.R. 3926: On an amendment to the bill to extend the National Foundation on the Arts and the Humanities Act which sought to delete the authorization for funding in fiscal years 1975 and 1976 (defeated 146–235).	No.
224	do	H.R. 3926: On passage of the bill to extend the National Foundation on the Arts and the Humanities Act (passed 309–63).	Yes.
225	do	Quorum call	Absent.[3]
226	June 15	do	Present.
227	do	do	Do.
228	do	H.R. 8619: On an amendment to the bill making apporpriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, which forbids funds for payment of salaries for "Cotton, Inc." (passed 234–125).	Yes.
229	do	H.R. 8619: On a substitute amendment to an amendment to the bill making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974, which forbids funds for salaries of personnel who formulate or carry out programs of which the price support limit exceeds $20,000 per crop (other than sugar and wool) or a program which sanctions the sale or lease of cotton acreage allotments (passed 195–157).	No.
230	do	H.R. 8619: On passage of the bill making appropriations for agriculture-environmental and consumer protection programs for the fiscal year ending June 30, 1974 (passed 304–3).	Yes.
231	June 18	Quorum call	Present.
232	do	do	Do.
233	do	H.R. 8658: On passage of the bill making appropriations for the government of the District of Columbia for the fiscal year ending June 30, 1974 (passed 321–64).	Yes.
234	do	Quorum call	Present.
235	do	H.R. 8152: On an amendment to the bill to improve law enforcement and criminal justice which would make optional rather than mandatory the stipulation that State planning agencies and regional planning units shall include representatives of citizen, professional, and community organizations (passed 227–162).	yes.
236	do	H.R. 8152: On an amendment to the bill to improve law enforcement and criminal justice which adds language stating that nothing in the bill shall be construed to require the adoption by a grantee of a quota system or other program to achieve racial balance or to deny or discontinue a grant because of the refusal of a grantee to adopt such a quota system (passed 231–161).	Yes.
237	do	H.R. 8152: On passage of the bill to improve law enforcement and criminal justice (passed 391–0).	
238	June 19	H.R. 689: On a motion to suspend the rules and pass the bill to prohibit persons attempting to collect their own debts from misusing names to convey the false impression that any agency of the Federal Government is involved in such collection (passed 399–0).	Yes.
239	do	H.R. 6129: On a motion to suspend the rules and pass the bill providing for the continuance of civil government for the Trust Territories of the Pacific Islands (passed 387–14).	Yes.
240	do	H.R. 7127: On a motion to suspend the rules and pass the bill establishing a program for the preservation of additional historical properties throughout the Nation (passed 385–16).	Yes.
241	do	H. Res. 434: On adoption of the "rule" under which to consider H.R. 5464, the bill to authorize appropriations for the saline water program for fiscal year 1974 (passed 389–4).	Yes.
242	do	H.R. 5464: On an amendment to the bill to authorize appropriations for the saline water program for fiscal year 1974 which raises the funds authorized from $2, 500, 000 to $9, 100, 000 (passed 281–125).	No.
243	do	H.R. 5464: On passage of the bill to authorize appropriations for the saline water program for fiscal year 1974 (passed 399–4).	Yes.
244	do	H.R. 5094: On passage of the bill to provide for the reclassification of positions of deputy U.S. marshal (passed 319–84).	No.
245	June 20	Quorum call	Present.
246	do	H.R. 8760: On an amendment to the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, which sought to cut $1, 600, 000 for moorings for the Coast Guard cutter Mackinaw at Cheboygan, Mich. (defeated 107–309).	Yes.
247	do	H.R. 8760: On an amendment to the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, which sought to add $3,000,000 for research and development under the urban mass transportation program for alleviating the transportation problems of handicapped persons (defeated 204–213).	No.
248	do	H.R. 8760: On an amendment to the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, which sought to add $9,700,000 for research and demonstration for a personal rapid transit system (defeated 137–277).	No.
249	do	H.R. 8760: On a substitute amendment to the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974, which sought to eliminate all funding for research, development, and demonstrations for the urban mass transportation program (defeated 17–392).	No.
250	do	H.R. 8760: On passage of the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974 (passed 414–2).	Yes.
251	do	H. Res. 435: On adoption of the resolution providing for the consideration of and 2 hours of general debate on H.R. 7824, to establish a Legal Services Corporation (passed 358–34).	Yes.
252	June 21	Quorum call	Present.
253	do	do	Do.
254	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which prohibits the corporation from undertaking, by grant or contract, activities in backup research centers (passed 245–166).	Yes.
255	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which sought to insert language allowing persons to bring suit against the corporation and reimbursing costs and fees to plaintiffs who win such court actions (defeated 159–237).	No.
256	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which includes administrative advocacy in the bill's prohibition against legislative advocacy (passed 200–181).	Yes.
257	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which prohibits full-time attorneys of the corporation from engaging in political activities (passed 207–171).	Yes.
258	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which prohibits legal services with respect to any proceeding or litigation relating to the desegregation of schools (passed 221–150).	Yes.
259	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which strikes language authorizing activities of backup research centers (passed 233–139).	Yes.
260	do	H.R. 7824: On a motion that the Committee of the Whole "do now rise" and report the bill back to the House with recommendation that the enacting clause be stricken out (defeated 91–283).	No.
261	do	H.R. 7824: On a substitute amendment to the bill to establish a Legal Services Corporation which prohibits legal assistance in litigation to compel nontherapeutic abortions contrary to religious beliefs (passed 316–53).	Yes.
262	do	H.R. 7824: On an amendment to the bill to establish a Legal Services Corporation which prohibits legal assistance in litigation regarding abortion (as amended by the previous substitute amendment) (passed 301–68).	Yes.
263	do	H.R. 7824: On passage of the bill to establish a Legal Services Corporation (passed 276–95).	Yes.
264	June 22	Quorum call	Present.
265	do	H.R. 8510: On an amendment to the bill authorizing appropriations for activities of the National Science Foundation which sought to strike the proportional obligation requirement and insert language re-establishing the budget transfer authority under which the NSF has operated in prior years (defeated 109–238).	Yes.
266	do	H.R. 8510: On an amendment to the bill authorizing appropriations for activities of the National Science Foundation which prohibits funds for research on human living fetuses (passed 288–73).	Yes.
267	do	H.R. 8510: On passage of the bill authorizing appropriations for activities of the National Science Foundation (passed 364–6).	Yes.
268	do	Quorum call	Present.
269	do	H.R. 8825: On an amendment to the bill making appropriations for the Department of Housing and Urban Development; for space, science, and veterans for the fiscal year ending June 30, 1974, which sought to raise by $75,000,000 the appropriation for community comprehensive planning grants (defeated 168–184).	No.
270	do	H.R. 8825: On an amendment to the bill making appropriations for the Department of Housing and Urban Development; for space, science, and veterans for the fiscal year ending June 30, 1974, which sought to raise by $400,000,000 the appropriation for urban renewal programs (defeated 106–241).	No.
271	do	H.R. 8825: On passage of the bill making appropriations for the Department of Housing and Urban Development; for space, science, and veterans for the fiscal year ending June 30, 1974 (passed 316–21).	No.
272	June 25	Quorum call	Present.
273	do	H.R. 7447: On a motion to recede from its disagreement to Senate amendment No. 83 to the bill making supplemental appropriations for the fiscal year ending June 30, 1973, which prohibits use of funds to support directly or indirectly combat activities in Cambodia or Laos (passed 235–172).	No.

Footnotes at end of the table

Rollcall No.	1973	Measure, question, and result	Vote
274	June 25	H.R. 7447: On a preferential motion that the House concur in Senate amendment No. 83 with an amendment to the bill making supplemental appropriations for the fiscal year ending June 30, 1973, which sought to prohibit use of funds to support directly or indirectly combat activities in Cambodia or Laos after Sept. 1, 1973 (defeated 204–204).	Yes.
275	do	H. Res. 454: On adoption of the resolution authorizing the Speaker to entertain motions to suspend the rules during the week of June 25, 1973 (passed 276–129).	Yes.
276	do	Quorum call	Present.
277	do	H.R. 8662: On an amendment to the bill to authorize appropriations to the Atomic Energy Commission which sought to permit States in set standards for radiation emissions stricter than those established by the AEC (defeated 136–266).	No.
278	do	H.R. 8662: On passage of the bill authorizing appropriations to the Atomic Energy Commission (passed 398–4).	Yes.
279	do	Quorum call	Present.
280	do	do	Do.
281	June 26	do	Do.
282	do	H.J. Res. 636: On passage of the motion limiting debate to 20 min. on the amendment and all amendments thereto to the bill making continuing appropriations for the fiscal year 1974 (passed 275–136).	Yes.
283	do	H.J. Res. 636: On an amendment to the substitute amendment to the bill making continuing appropriations for the fiscal year 1974 which eliminates the 60-day grace period and prohibits all funds appropriated by the resolution and all funds previously appropriated from being used for combat activities in Cambodia or Laos (passed 218–194).	No.
284	do	H.J. Res. 636: On a substitute amendment as amended by the previous rollcall No. 283 to the bill making continuing appropriations for the fiscal year 1974 which allowed a 60-day grace period after which no funds appropriated under the resolution could be used for combat activities in Cambodia or Laos (passed 232–181).	No.
285	do	H.J. Res. 636: On an amendment as amended by the previous rollcall No. 284 to the bill making continuing appropriations for the fiscal year 1974 which prohibited the use of funds to support military activities by U.S. forces in, over, or off the shores of North and South Vietnam, Cambodia, and Laos without the consent of Congress (passed 240–172).	No.
286	do	H.J. Res. 636: On passage of the joint resolution making continuing appropriations for the fiscal year 1974 (passed 325–86).	No.
287	do	H. Res. 455: On adoption of the "rule" under which to consider H.R. 8877, the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974 (passed 395–3).	Yes.
288	do	Quorum call	Present.
289	do	do	Do.
290	do	H.R. 8877: On an amendment to an amendment to the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974, which sought to reduce the funds for the Office of Economic Opportunity by $100,000,000 (defeated 110–288).	Yes.
291	do	H.R. 8877: On an amendment to the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974, which sought to reduce by $632,000,000 the appropriation for HEW and for the Office of Economic Opportunity (defeated 186–213).	Yes.
292	do	H.R. 8877: On an amendment to the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974, which sought to add $15,000,000 for bilingual education programs (defeated 161–244).	No.
293	do	H.R. 8877: On an amendment to the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974, which sought to restrict grants to local education agencies for each State to a minimum of 90 percent of the amounts made available in fiscal year 1972 (defeated 190–218).	Yes.
294	do	H.R. 8877: On a motion to recommit the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974, to the Committee on Appropriations with instructions to report it back forthwith with an amendment that sought to delete $632,000,000 from the bill (defeated 186–219).	Yes.
295	do	H.R. 8877: On passage of the bill making appropriations for the Departments of Labor and Health, Education, and Welfare for the fiscal year ending June 30, 1974 (passed 347–58).	No.
296	June 27	Quorum call	Present.
297	do	H.R. 8215: On the committee amendments to the bill to provide for the suspension of duty on certain copying shoe lathes until the close of June 30, 1976 (passed 403–0).	Yes.
298	do	H.R. 4200: On passage of the bill to amend section 122 of the Internal Revenue Code of 1954 (passed 402–0).	Yes.
299	do	H. Res. 470: On adoption of the "rule" under which to consider H.R. 8917, the bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974 (passed 401–12).	Yes.
300	do	H.R. 7447: To override the President's veto of the bill making supplemental appropriations for the fiscal year ending June 30, 1973 (defeated 241–173; a 2/3 vote being necessary).	No.
301	do	Quorum call	Present.
302	do	do	Do.
303	do	do	Do.
304	do	H.R. 8917: On passage of the bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974 (passed 405–4).	Yes.
305	June 28	Quorum call	Present.
306	do	H.R. 8537: On a motion to instruct the conferees to insist on the House disagreement to title III of the Senate amendment to the bill making permanent certain provisions of the Dependents Assistance Act of 1950 (passed 238–175).	Yes.
307	do	Quorum call	Present.
308	do	H.R. 8947: On an amendment to the bill making appropriations for public works-AEC for fiscal year 1974 which sought to reduce the operating expenses for the AEC by $3,800,000 (defeated 108–303).	No.
309	do	H.R. 8947: On an amendment to the bill making appropriations for public works-AEC for fiscal year 1974 which adds $4,700,000 for geothermal research by the AEC (passed 206–205).	Yes.
310	do	H.R. 8947: On passage of the bill making appropriations for Public Works-AEC for fiscal year 1974 (passed 384–26).	Yes.
311	do	H.R. 8588: On passage of the bill to amend the International Economic Policy Act of 1972 to change the membership of the Council on International Economic Policy (passed 322–62).	Yes.
312	June 29	Quorum call	Present.
313	do	H.R. 9055: On an amendment to an amendment to the bill making supplemental appropriations for the fiscal year ending June 30, 1973, which sought to extend the ban on combat activities to cover hostilities in any sovereign state (defeated 57–346).	No.
314	do	H.R. 9055: On an amendment to the bill making supplemental appropriations for the fiscal year ending June 30, 1973, which sought to provide for an immediate and complete cutoff of funds for combat activities in Cambodia and Laos (defeated 169–236).	No.
315	do	H.R. 9055: On passage of the bill making supplemental appropriations for the fiscal year ending June 30, 1973 (passed 278–124).	Yes.
316	do	Quorum call	Present.
317	do	H.R. 8916: On an amendment to the bill making appropriations for the Departments of State, Justice, Commerce, and the Judiciary, and related agencies for the 1974 fiscal year which adds $2,100,000 for salaries for additional probation officers and increases by $709,000 funds for travel by the Judiciary (passed 220–164).	No.
318	do	H.R. 8916: On passage of the bill making appropriations for the Departments of State, Justice, Commerce, and the Judiciary, and related agencies for the 1974 fiscal year (passed 370–11).	Yes.
319	do	H.R. 8410: On a motion to recede from its disagreement to the amendment of the Senate to the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (defeated 185–190).	No.
320	June 30	Quorum call	Present.
321	do	H.R. 8410: On a motion to recede and concur to the Senate amendment to the bill to continue the existing temporary increase in the public debt limit through Nov. 30, 1973 (passed 294–54).	Yes.
322	do	H.J. Res. 636: On adoption of the conference report on the bill making continuing appropriations for the fiscal year 1974 (passed 266–75).	Yes.
323	do	H.R. 7445: On a motion to recede and concur with the amendment in Senate amendment No. 2 to the bill to amend the Renegotiation Act of 1951 to extend the act for 1 yr (passed 327–9).	Yes.
324	July 10	Quorum call	Present.
325	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which reduced the subsidy per crop for farmers from a $37,500 limit to $20,000 (passed 313–89).	Yes.
326	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which reduced the subsidy limitation to $20,000 per farmer and prohibits farmers from leasing or selling part of their cotton allotments (passed 246–163).	No.
327	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which sought to prohibit the use of any Commodity Credit Corporation funds to finance any future wheat sales to Russia or China (defeated 139–264).	No.
328	July 11	Quorum call	Absent.[4]
329	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which ends the $10,000,000 annual authorization for cotton promotion and research by Cotton, Inc. (passed 241–162).	No.
330	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which sought to remove the escalator clause providing for annual adjustment of target prices (defeated 174–239).	Yes.
331	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which sought to add language allowing the Secretary of Agriculture to extend loan provisions to noncooperators under the wheat, feed grains, and cotton programs (defeated 160–247).	Yes.
332	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which sought to restore the farm program to a market-oriented system by providing a 3-year phaseout of income payments an [illegible] shifting the set-aside program to a cropland basis (de[illegible]ed 186–220).	Yes.
333	July 12	Quorum call	Present.
334	do	H.R. 8860: On a motion that the Committee of the Whole "do now rise" while considering the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices (passed 325–67).	Yes.

Footnotes at end of the table

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.—Continued

Rollcall No.	1973	Measure, question, and result	Vote
335	do	H.R. 8606: On an amendment to the bill to amend the Small Business Act which sought to strike the disaster loans provisions from the bill (defeated 167–245).	Yes.
336	July 12	H.R. 2990: On passage of the bill to provide for annual authorization of appropriations to the U.S. Postal Service (passed 328–65).	No.
337	July 16	Quorum call	Present.
338	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purposes of assuring consumers of plentiful supplies of food and fiber at reasonable prices which strikes the cotton program provisions from the bill (passed 207–190).	Yes.
339	do	Quorum call	Present.
340	do	H.R. 8860: On an amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which strikes from the bill the section transferring from the Labor Department to the Department of Agriculture the authority to establish regulations to protect field workers from exposure to dangerous pesticides (passed 221–177).	No.
341	July 17	Quorum call	Present.
342	do	S. 504: On adoption of the conference report on the bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems (passed 306–111).	No.
343	do	H.R. 6078: On a motion to suspend the rules and pass the bill to include inspectors of the immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to retirement of certain employees engaged in hazardous occupations (passed 296–123).	No.
344	do	H.R. 8949: On a motion to suspend the rules and pass the bill to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans (passed 412–3).	Yes.
345	do	H.R. 9048: On a motion to suspend the rules and pass the bill to provide improved medical care to veterans (passed 421–0).	Yes.
346	do	S. 2120: On a motion to suspend the rules and pass the bill to amend the Federal Railroad Safety Act of 1970 and other related acts to authorize additional appropriations (passed 409–7).	Yes.
347	do	S. 1752: On a motion to suspend the rules and pass the bill prescribing the objectives and functions of the National Commission on Productivity and Work Quality (defeated 174–237).	Yes.
348	July 18	Quorum call	Present.
349	do	H.J. Res 542: On an amendment in the nature of a substitute to the joint resolution concerning the war powers of the Congress and the President which sought to require Congress to specifically approve or disapprove by bill or resolution the commitment of forces by the President in the absence of a declaration of war within 90 days of such Executive action (defeated 166–250).	Yes.
350	do	H.J. Res. 542: On an amendment in the nature of a substitute to the joint resolution concerning the war powers of the Congress and the President which sought to prohibit the President from committing troops unless Congress declared war or authorized such commitment, or if the President found such action within his constitutional authority (defeated 153–262).	Yes.
351	do	H.J. Res. 542: On an amendment to the joint resolution concerning the war powers of the Congress and the President which sought to require Congress to specifically approve or disapprove the commitment of troops within 120 days by a declaration of war or by passage of a resolution (defeated 200–211).	Yes.
352	do	H.J. Res 542: On passage of the joint resolution concerning the war powers of the Congress and the President (passed 244–170).	No.
353	July 19	Quorum call	Present.
354	do	H.R. 8860: On an amendment to an amendment to the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which deletes language making recipients of supplemental security income eligible for food stamps and the food distribution program (passed 238–173).	Yes.
355	do	H.R. 8860: On an amendment to an amendment to the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which prohibits strikers from receiving food stamps unless they were previously eligible (passed 213–203).	Do.
356	do	H.R. 8860: On an amendment to the food stamp provisions of the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which removes the requirement of a prior certification of eligibility, restores the eligibility of students for stamps, and permits the use of food stamps to purchase imported foods (passed 210–207).	Yes.
357	do	H.R. 8860: On an amendment to the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which sought to add language prohibiting Government subsidies to a producer of agricultural commodities for any crop planted or harvested during a labor dispute involving the producer or his employees (defeated 85–326).	No.
358	do	H.R. 8860: On an amendment to the amendment in the nature of a substitute to the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which adds language prohibiting strikers from receiving food stamps unless they were previously eligible (passed 208–207).	Yes.
359	do	H.R. 8860: On an amendment to the amendment in the nature of a substitute to the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which reinserts a cotton program in the bill but eliminates funds for Cotton, Inc. (passed 250–165).	No.
360	do	H.R. 8860: On a motion that the Committee of the Whole "do now rise" and report the bill back to the House with the recommendation that the enacting clause be stricken (defeated 73–338).	No.
361	do	H.R. 8860: On an amendment to the motion to recommit the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices which strikes the "escalator clause" for cotton (passed 248–165).	Yes.
362	do	H.R. 8860: On a motion (as amended by roll call No. 361) to recommit the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices to the Committee on Agriculture with instructions to report it back to the House with the "escalator clause" provisions stricken (defeated 182–225).	Yes.
363	do	H.R. 8860: On passage of the bill extending and amending the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices (passed 226–182).	No.
364	July 20	Quorum call	Present.
365	do	H.R. 8538: On an amendment to the bill to amend the Communications Act of 1934 to extend certain authorizations for the Corporation for Public Broadcasting which sought to withhold grants for construction unless the recipient was found to be in compliance with all laws prohibiting discrimination in employment practices (defeated 189–190).	Yes.
366	do	H.R. 8538: On passage of the bill to amend the Communications Act of 1934 to extend certain authorizations for the Corporation for Public Broadcasting (passed 363–14).	Yes.
367	July 23	H. Res. 493: On adoption of the "rule" under which to consider H.R. 5356, the bill to regulate interstate commerce to protect health and the environment from hazardous chemical substances (passed 351–4).	Absent.[1]
368	do	H.R. 5356: On an amendment to the bill regulating interstate commerce to protect health and the environment from hazardous chemical substances while in the Committee of the Whole which directs the Administrator to use the Water Pollution Control Act, Clean Air Act, or another act under his jurisdiction, where appropriate, to regulate chemical substances (passed 193–192).	Do.[1]
369	do	H.R. 5356: On an amendment to the bill regulating interstate commerce to protect health and the environment from hazardous chemical substances which sought to specify that no rule shall be promulgated until a hearing is conducted, with full opportunity for cross-examination (defeated 159–236).	Do.
370	do	H.R. 5356: On an amendment to the bill regulating interstate commerce to protect health and the environment from hazardous chemical substances which sought to direct the Administrator to use the Water Pollution Control Act, Clean Air Act, or another act under his jurisdiction, where appropriate, to regulate chemical substances similar to rollcall 368 in committee (defeated 189–202).	Do.[2]
371	do	H.R. 5356: On passage of the bill regulating interstate commerce to protect health and the environment from hazardous chemical substances (passed 324–73).	Do.[2]
372	do	Quorum call	Do.[3]
373	do	H. Res. 495: On adoption of the "rule" under which to consider H.R. 8929, the Educational and Cultural Postal Amendments of 1973 (defeated 180–202).	Do.
374	July 24	S. 1888: On ordering the previous question on the motion instructing House conferees to insist on language in the House amendment which prohibits the sale of agricultural commodities to North Vietnam to the Agriculture and Consumer Protection Act of 1973 (passed 244–155).	Yes.
375	do	S. 1888: On a motion to instruct House conferees to insist on language in the House amendment which prohibits the sale of agricultural commodities to North Vietnam to the Agriculture and Consumer Protection Act of 1973 (passed 371–35).	Yes.
376	do	Quorum call	Present.
377	do	H.R. 8480: On an amendment to the Impoundment Control and 1974 Expenditure Ceiling bill which sought to empower the Comptroller General to exempt those impoundments he determines to be in accordance with the Anti-Deficiency Act (defeated 180–229).	Yes.
378	do	H.R. 8480: On an amendment to the Impoundment Control and 1974 Expenditure Ceiling bill which sought to require both Houses of Congress to disapprove impoundment by concurrent resolution (defeated 205–206).	Yes.
379	July 25	Quorum call	Present.
380	do	S. 1423: On adoption of the conference report on the bill to permit employer contributions to jointly administer trust funds established by labor organizations to defray costs of legal services (passed 256–155).	Yes.
381	do	Quorum call	Present.
382	do	H.R. 8480: On an amendment to the Impoundment Control and 1974 Expenditure Ceiling bill which sought to provide for a halt of impoundment after 60 days unless the impoundment is ratified by Congress by passage of a concurrent resolution (defeated 96–318).	No.
383	do	H.R. 8480: On an amendment to an amendment to the Impoundment Control and 1974 Expenditure Ceiling bill which sought to reduce the spending ceiling by $7,100,000,000 (defeated 156–252).	No.
384	do	H.R. 8480: On an amendment to the Impoundment Control and 1974 Expenditure Ceiling bill which sought to reduce the spending ceiling by $3,800,000(defte206) d205–.,000 ea	Yes..

Footnotes at end of the table

Rollcall No.	1973	Measure, question, and result	Vote
385	July 25	H.R. 8480: On a motion to recommit the Impoundment Control and 1974 Expenditure Ceilng bill to the Committee on Rules with instructions that it be reported back forthwith containing an amendment that would require both Houses of Congress to disapprove impoundments by concurrent resolution (defeated 208–212).	Yes.
386	do.	H.R. 8480: On passage of the Impoundment Control and 1974 Expenditure Ceiling bill (passed 254–164).	No.
387	July 26	Quorum call	Present.
388	do.	do.	Do.
389	do.	do.	Do.
390	do.	do.	Do.
391	do.	H.R. 9360: On an amendment to the bill to amend the Foreign Assistance Act of 1961 which sought to reduce funds authorized for population planning and health by $75,000,000 (defeated 131–271).	No.
392	do.	H.R. 9360: On an amendment to the bill to amend the Foreign Assistance Act of 1961 which sought to strike the section of the bill authorizing $93,000,000 for selected development problems (defeated 203–204).	No.
393	do.	H.R. 9360: On an amendment to the bill to amend the Foreign Assistance Act of 1961 which sought to strike language authorizing $60,000,000 for assistance to selected countries and organizations (defeated 173–232).	No.
394	do.	Quorum call	Present.
395	do.	H.R. 9360: On an amendment to the bill to amend the Foreign Assistance Act of 1961 which adds language prohibiting foreign assistance to any nation which seizes U.S. property unless the President determines that effective compensation will be made (passed 278–102).	Absent
396	do.	H.R. 9360: On an amendment to the bill to amend the Foreign Assistance Act of 1961 which strikes out the section which sought to establish the U.S. export development credit fund (passed 240–137).	Do.[1]
397	do.	H.R. 9360: On a motion to recommit the bill to amend the Foreign Assistance Act of 1961 to the Committee on Foreign Affairs with instructions to report the bill back to the House with amendments reducing the total authorization by $68,000,000 (passed 232–139).	Do.[2]
398	do.	H.R. 9360: On passage of the bill to amend the Foreign Assistance Act of 1961 (passed 188–183).	Do.[1]
399	July 30	H.R. 8947: On adoption of the conference report on the bill making appropriations for public works for fiscal year 1974 (passed 373–9).	Yes.
400	do.	H. Res. 512: On adoption of the "rule" under which to consider S. 1989, the bill to amend section 225 of the Federal Salary Act of 1967 with respect to certain executive, legislative and judicial salaries (defeated 156–237).	Yes.
401	do.	S. Con. Res. 42: On adoption of the resolution providing for a conditional adjournment of the two Houses from Aug. 3 until Sept. 5, 1973 (passed 370–22).	Yes.
402	do.	H.R. 9474: On a motion to suspend the rules and pass the bill to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation (passed 385–0).	Yes.
403	do.	Quorum call	Present.
404	do.	do.	Do.
405	do.	H.R. 9286: On an amendment to the military procurement authorization bill for fiscal year 1974 which sought to strike $657,000,000 for the CVN-70 nuclear aircraft carrier (defeated 88–323).	No.
406	do.	H.R. 9286: On an amendment to the military procurement authorization bill for fiscal year 1974 which sought to delete $473,500,000 for research and development of the B-1 bomber (defeated 96–313).	No.
407	do.	H.R. 9286: On an amendment to the military procurement authorization bill for fiscal year 1974 which sought to add language setting a deadline of June 30, 1974, for maintaining U.S. forces in any nation for defense if that nation pays a smaller portion of its gross national product for its defense than does the United States (defeated 130–282).	No.
408	do.	H.R. 9286: On an amendment to the military procurement authorization bill for fiscal year 1974 which sought to reduce the total of U.S. troops overseas by 322,000 and to place a ceiling of 300,000 on the number of troops to be assigned overseas after fiscal year 1974 (defeated 67–339).	No.
409	do.	H.R. 9286: On an amendment in the nature of a substitute to an amendment to the military procurement authorization bill for fiscal year 1974 which requires a report to the House by Apr. 1, 1974, from the Committee on Armed Services on the advisability of maintaining the present U.S. military commitment in Europe in view of the current European economic and military situation (passed 242–163).	Yes.
410	do.	H.R. 9286: On an amendment to the military procurement authorization bill for fiscal year 1974 which reduces the funds authorized by $950,000,000 by setting a ceiling equal to the fiscal year 1973 level plus a 4.5 inflation increase (passed 242–163).	No.
411	do.	H.R. 9286: On passage of the military procurement authorization bill for fiscal 1974 (passed 367–37).	Yes.
412	Aug. 1	H.R. 8825: On adoption of the conference report on the bill making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for fiscal year 1974 (passed 401–9).	Yes.
413	do.	H.R. 8825: On a motion that the House insist on its disagreement to the amendment of the Senate numbered 44 to the bill making appropriations for the Department of Housing and Urban Development; for space, science, veterans, and certain other independent executive agencies, boards, commissions, and corporations for fiscal year 1974 (passed 222–189).	Yes.
414	do.	Quorum call	Present.
415	do.	H.R. 9590: On an amendment to the bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1974 which sought to reduce funds for salaries and expenses of the Office of Management and Budget by $800,000, a 5-percent reduction (defeated 199–209).	No.
416	Aug 1	H.R. 9590: On an amendment to the bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1974 which sought to reduce the appropriation for salaries and expenses of the Office of Telecommunications Policy by $518,000, a 25-percent reduction (defeated 190–217).	No.
417	Aug 2	Quorum call	Present.
418	do.	H. Res. 515: On adoption of the "rule" under which to consider H.R. 9130, the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline (passed 401–11).	Yes.
419	do.	H.R. 9130: On an amendment to the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline which sought to make the Mineral Leasing Act on rights-of-way inapplicable to national parks and refuges unless it is in the public interest and the proposed right-of-way meets environmental protection tests (defeated 160–261).	No.
420	do.	H.R. 9130: On an amendment to the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline which sought to delete language which removes from judicial review under NEPA the grant of authroizations necessary for the construction of the pipeline and expedite the proceedings in any U.S. Federal court with respect to the provision of NEPA and the proposed pipeline (defeated 198–221).	No.
421	do.	H.R. 9130: On an amendment to the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authroize a trans-Alaska oil and gas pipeline which sought to assure all regions of the United States equitable allocations of crude oil (defeated 179–233).	Yes.
422	do.	H.R. 9130: On an amendment to the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline which requires all articles, materials, and supplies for the pipeline to be manufactured in the United States after Aug. 2, 1973 (passed 334–65).	No.
423	do.	H.R. 9130: On an amendment to the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline which sought to direct the Secretary of the Interior to grant rights-of-way and permits as are necessary for the construction of the pipeline (defeated 177–228).	No.
424	do.	H.R. 9130: On passage of the bill to amend section 28 of the Mineral Leasing Act of 1920 and to authorize a trans-Alaska oil and gas pipeline (passed 356–60).	Yes.
425	Aug. 3	S. 1636: On adoption of the conference report on the bill to amend the International Economic Policy Act of 1972 (passed 335–71).	Yes.
426	do.	H. Res. 518: On adoption of the "rule" under which to consider S. 1264, the bill to authroize and direct the Secretary of the Treasury to make grants to Eisenhower College in Seneca Falls, N.Y., out of proceeds from the sale of silver dollar coins bearing the likeness of the late President of the United States, Dwight David Eisenhower (defeated 183–230).	Yes.
427	do.	S. 502: On adoption of the conference report on the bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code (passed 382–34).	Yes.
428	do.	H.R. 7935: On adoption of the conference report on the bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act to expand the coverage of that act (passed 253–152).	No.
429	do.	S. 1888: On ordering the previous question on the motion to concur with amendment to the amendment of the Senate to the House amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices (passed 349–54).	No.
430	do.	S. 1888: On a motion to concur with amendment to the amendment of the Senate to the House amendment to the bill to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices (passed 252–151).	No.
431	do.	H.R. 8658: On adoption of the conference report on the bill making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974 (passed 342–47).	Yes.
432	do.	H.R. 8760: On adoption of the conference report on the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1974 (passed 359–5).	Yes.
433	Sept. 5	Quorum call	Present.
434	do.	H.J. Res. 512: On a motion to recommit the conference report on the resolution to extend through June 30, 1974, the various insuring authorities of the Federal Housing Administration to the committee of conference (passed 202–172).	Yes.
435	do.	H.R. 8920: On passage of the bill to amend the Lead Based Paint Poisoning Prevention Act (passed 368–11).	Yes.
436	do.	H.R. 8449: On passage of the bill to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program (passed 359–21).	Yes.
437	Sept. 6	H.R. 6912: On adoption of the conference report on the bill to amend the Par Value Modification Act (passed 322–59).	Yes.
438	do.	H.R. 8351: On passage of the bill to provide finicial assistance to the National Railroad Corporation (passed 357–37).	Yes.
439	do.	H. Res. 484: On adoption of the "rule" under which to consider H.R. 8547, the bill to amend the Export Administration Act of 1969 (passed 304–84).	Yes.
440	do.	H.R. 8547: On an amendment to the bill to amend the Export Administration Act of 1969 which sought to require the Secretary of Commerce to report to the Speaker of the House and the President pro tempore of the Senate any decision he makes on prohibition of curtailment of commodities exported and permit either House of Congress to disapprove such decision by simple resolution (defeated 154–211).	No.

Footnotes at end of the table

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.—Continued

Rollcall No.	1973	Measure, question, and result	Vote
441	Sept. 6	H.R. 8547: On passage of the bill to amend the Export Administration Act of 1969 to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand (passed 220–133).	Yes.
442	Sept. 10	H. Res. 536: On passage of the resolution directing the Speaker of the House of Representatives to certify a certain report on G. Gordon Liddy by the Committee on Armed Services of the House of Representatives to the U.S. Attorney for the District of Columbia (passed 334–11).	Yes.
443	do	H.R. 7482: On passage of the bill amending the Federal Cigarette Labeling and Advertising Act of 1965 amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar" (passed 287–63).	Yes.
444	Sept. 11	Quorum call	Present.
445	do	H.R. 7645: On a motion to reject sec. 13 of the conference report on the bill to authorize appropriation for the Department of State which sought to halt funds for foreign affairs agencies which do not comply within 35 days with any request for information by the House Foreign Affairs Committee or the Senate Foreign Relations Committee (passed 213–185).	Yes.
446	do	H.R. 2096: On passage of the bill to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine (passed 248–152).	No.
447	do	H. Res. 511: On adoption of the "rule" under which to consider S. 1697, the bill to require the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa, Calif. (defeated 163–233).	No.
448	Sept. 12	Quorum call	Present.
449	do	S. 504: To override the President's veto of the bill amending the Public Health Service Act to authorize assistance for planning, development and initial operation, research, and training projects for systems for the effective provisions of health care services under emergency conditions (defeated 273–144; a ⅔ vote being necessary).	No.
450	do	H.R. 7974: On passage of the bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations (passed 369–40).	Yes.
451	do	H.R. 8789: On passage of the bill to provide a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars, half-dollars, and quarters (passed 396–4).	Yes.
452	Sept. 13	H.R. 8619: On a motion to instruct the conferees to insist on House language to the bill making appropriations for agriculture, environmental and consumer protection programs for the fiscal year ending June 30, 1974, which limits the Federal farm subsidy to $20,000 per farm and bars payment for cotton acreage allotments after Dec. 31, 1973 (passed 231–160).	No.
453	do	H.R. 6576: On passage of the bill authorizing the Secretary of the Interior to engage in feasibility investigation of certain potential water resource development (passed 321–74).	Yes.
454	do	Quorum call	Present.
455	do	H.R. 9639: On an amendment to the bill to amend the National School Lunch and Child Nutrition Act for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs which sought to delete a section of the bill which raises the reimbursements by the Federal Government for school lunches from 8 cents per lunch to 10 cents per lunch (defeated 127–272).	Yes.
456	do	H.R. 9639: On passage of the bill to amend the National School Lunch and Child Nutrition Act for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs (passed 389–4).	Yes.
457	do	H.R. 9553: On passage of the bill to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games (passed 336–37).	Yes.
458	Sept. 17	H.R. 7265: On a motion to suspend the rules and pass the bill to provide for the operation of programs by the ACTION Agency, to establish certain new such programs (passed 339–14).	Yes.
459	Sept. 18	H.R. 8070: On adoption of the conference reports on the bill to authorize grants for vocational rehabilitation services (passed 400–0).	Yes.
460	do	H.R. 7730: On a motion to suspend the rules and pass the bill to authorize the Secretary of the Interior to purchase property located within the San Carlos mineral strip (defeated 236–164).	Yes.
461	do	H.R. 37: On a motion to suspend the rules and pass the bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction (passed 390–12).	Yes.
462	do	Quorum call	Present.
463	do	H. Res. 420: On a motion to suspend the rules and pass the resolution to establish as part of the congressional internship program an internship program for secondary school teachers of government or social studies in honor of President Lyndon Baines Johnson (passed 345–64).	Yes.
464	Sept. 19	Quorum call	Present.
465	do	H.R. 7935: To override the President's veto of the bill amending the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that act and to expand the coverage of that act (defeated 259–164, a ⅔ vote being necessary).	No.
466	do	H.R. 9715: On an amendment to the bill authorizing appropriations for the United States Information Agency which is designed to withhold funds from the Agency should the Agency not furnish any information that congressional committees may request (passed 240–178).	No.
467	do	H.R. 9715: On passage of the bill authorizing appropriations for the U.S. Information Agency (passed 305–108).	No.
468	Sept. 19	H. Res. 546: On adoption of the "rule" under which to consider H.R. 9256, the bill to increase the contribution of the Government to the costs of health benefits for Federal employees (passed 311–81).	No.
469	Sept. 20	Quorum call	Present.
470	do	H.R. 8917: On adoption of the conference report on the bill making appropriations for the Department of the Interior and related agencies for fiscal year 1974 (passed 385–14).	Yes.
471	do	H.R. 8917: On a motion that the House recede and concur with amendment to Senate amendment No. 40 on the bill making appropriations for the Department of Interior and related agencies for fiscal year 1974 (passed 326–73).	Yes.
472	do	H.R. 9281: On a motion to recommit the bill regarding the retirement of certain law enforcement and fire fighter personnel to the Committee on Post Office and Civil Service with instructions to report it back forthwith containing several amendments (defeated 116–282).	Yes.
473	do	H.R. 9281: On passage of the bill regarding the retirement of certain law enforcement and firefighter personnel (passed 299–93).	No.
474	do	H.R. 9256: On the passage of the bill to increase the contributions of the Government to the costs of health benefits for Federal employees (passed 217–155).	No.
475	Sept. 25	H.R. 8619: On adoption of the conference report on the bill making appropriations for agriculture, environmental, and consumer protection programs for fiscal year 1974 (passed 348–24).	Yes.
476	do	H.J. Res. 727: On a substitute amendment for an amendment to the bill making further continuing appropriations for fiscal year 1974 which provided for full 1973 funding levels for local school districts on a per pupil basis (defeated 184–198).	Absent.[2]
477	do	H.J. Res. 727: On an amendment to the bill making further continuing appropriations for fiscal year 1974 which is designed to insure 85 percent of the funds authorized for local school districts (passed 286–94).	Do.[1]
478	do	H.J. Res. 727: On an amendment to the bill making further continuing appropriations for fiscal year 1974 which prohibit funds for the Cost of Living Council to formulate or carry out a program which discriminates among petroleum products marketers in the method of establishing prices for petroleum (passed 371–7).	Yes.
479	do	H.J. Res. 727: On passage of the joint resolution making further continuing appropriations for fiscal year 1974 (passed 368–7).	Yes.
480	Sept. 26	Quorum call	Present.
481	do	H.R. 981: On an amendment to the bill to amend the Immigration and Nationality Act which sought to provide a maximum allocation of 35,000 visas each for Canada and Mexico and 20,000 for other foreign states (defeated 174–203).	No.
482	do	H.R. 981: On an amendment to the bill to amend the Immigration and Nationality Act which sought to add language providing for a 5-year aggregate limit on the extension of 1-year visas for H–2 migrant workers and specifying employment contract requirements and working conditions (defeated 70–310).	No.
483	do	H.R. 981: On passage of the bill to amend the Immigration and Nationality Act (passed 336–30).	Yes.
484	Oct. 1	Quorum call	Absent
485	do	H.R. 8029: On a motion to suspend the rules and pass the bill to provide for the distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the Court of Claims (passed 331–33).	Do.
486	do	S. 2419: On a motion to suspend the rules and pass the bill to correct typographical and clerical errors in Public Law 93–86 (passed 330–28).	Do.[1]
487	do	H.R. 10397: On a motion to suspend the rules and pass the bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People (defeated 241–130; a ⅔ vote being necessary).	Do.[1]
488	Oct. 2	S. 795: On adoption of the conference report on the bill to amend the National Foundation on the Arts and Humanities Act of 1965 (passed 294–106).	Yes.
489	do	S. 1914: On passage of the bill to provide for the establishment of the Board for International Broadcasting, to authorize the continuation of assistance to Radio Free Europe and Radio Liberty (passed 313–90).	Yes.
490	Oct. 3	Quorum call	Present.
491	do	H. Res. 372: On adoption of the "rule" under which to consider H.R. 6452, a bill to amend the Urban Mass Transportation Act of 1964 (passed 282–131).	No.
492	do	Quorum call	Present.
493	do	H.R. 6452: On an amendment to the bill to amend the Urban Mass Transportation Act of 1964 while in the Committee of the Whole, to strike a section which provides for Federal grants for operation expenses of mass transportation systems (passed 206–203).	Yes.
494	do	H.R. 6452: On a preferential motion to the bill to amend the Urban Mass Transportation Act of 1964 which sought to strike the enacting clause (defeated 143–268).	Yes.
495	do	H.R. 6452: On an amendment to the bill to amend the Urban Mass Transportation Act of 1964 which sought to strike a section which provides for Federal grants for operating expenses of urban mass transportation, similar to rollcall No. 493 in committee (defeated 205–210).	Yes.
496	do	H.R. 6452: On passage of the bill to amend the Urban Mass Transportation Act of 1964 (passed 219–195).	No.
497	do	H.R. 10088: On passage of the bill to establish the Big Cypress National Preserve in the State of Florida (passed 376–2).	Yes.
498	Oct. 4	Quorum call	Present.
499	do	H.J. Res. 748: On an amendment to the committee amendment to the joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1974 which sought to reduce the appropriation from $2,200,000,000 to $477,000,000 (defeated 129–237).	No.
500	Oct. 4	H.J. Res. 748: On passage of the joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1974 (passed 274–90).	Yes.
501	Oct. 9	Quorum call	Present.
502	do	H. Res. 581: On adoption of the "rule" under which to consider H.R. 9682, the District of Columbia Self-Government and Governmental Reorganization Act (passed 346–50).	Yes.

Footnotes at end of the table

Rollcall No.	1973	Measure, question, and result	Vote
503	do	Quorum call	Absent.[3]
504	Oct. 10	do	Present.
505	do	H.R. 9682: On an amendment to the amendment in the nature of a substitute to the District of Columbia Self-Government and Governmental Reorganization Act which retains the Presidential appointment of judges to the District of Columbia Court of Appeals and the District of Columbia Superior Court (passed 228–186).	Yes.
506	do	H.R. 9682: On an amendment to the amendment in the nature of a substitute to the District of Columbia Self-Government and Governmental Reorganization Act which sought to authorize a right for the Congress or the President to veto any legislation by the City Council (defeated 138–273).	Yes.
507	do	H.R. 9682: On an amendment to the amendment in the nature of a substitute to the District of Columbia Self-Government and Governmental Reorganization Act which establishes a Federal enclave (passed 209–202).	Absent.[1]
508	do	H.R. 9682: On an amendment to the amendment in the nature of a substitute to the District of Columbia Self-Government and Government Reorganization Act which sought to create a 3-men police commission to submit 3 nominees from which the President would appoint one as the chief of police (defeated 132–272).	Do.[1]
509	do	Quorum call	Present.
510	do	H.R. 9682: On an amendment to the amendment in the nature of a substitute to the District of Columbia Self-Government and Governmental Reorganization Act which sought to exclude Maryland and Virginia from the planning for Federal establishment by the National Capital Planning Commission (defeated 130–278).	Yes.
511	do	H.R. 9682: On a substitute amendment for the amendment in the nature of a substitute to the District of Columbia Self-Government and Governmental Reorganization Act which contains the provisions of H.R. 10692 (defeated 144–273).	Yes.
512	do	H.R. 9682: On passage of the District of Columbia Self-Government and Governmental Reorganization Act (passed 343–74).	Yes.
513	Oct. 11	Quorum call	Present.
514	do	do	Do.
515	do	H.J. Res. 727: On a motion to recommit the conference report on the resolution making further continuing appropriations for the fiscal year 1974 to the committee of conference (defeated 182–225).	No.
516	do	H.J. Res. 727: On adoption of the conference report on the resolution making further continuing appropriations for the fiscal year 1974 (passed 309–99).	Yes.
517	do	Quorum call	Present.
518	do	H.R. 10614: On passage of the bill to authorize certain construction at military installations (passed 359–28).	Yes.
519	Oct. 12	Quorum call	Present.
520	do	H.J. Res. 542: On adoption of the conference report on the resolution concerning the war powers of Congress and the President (passed 238–123).	No.
521	do	H.R. 10203: On passage of the bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation and flood control (passed 337–14).	Yes.
522	do	Quorum call	Present.
523	Oct. 15	do	Absent.[3]
524	do	do	Do.[2]
525	do	S. 907: On a motion to suspend the rules and pass the bill to authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska in 1974 (passed 306–54).	Do.[1]
526	do	H.R. 8346: On a motion to suspend the rules and pass the bill to amend the Housing and Urban Development Act of 1970 to provide a more effective approach to the problem of developing and maintaining a rational relationship between building codes and related regulatory requirements and building technology in the United States (defeated 108–258).	Do.[2]
527	Oct. 16	Quorum call	Present.
528	do	H.R. 9590: On adoption of the conference report on the bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal 1974 (passed 403–10).	Yes.
529	do	H.R. 9590: On a motion to recede and concur in Senate amendment No. 14 to the bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal 1974 (passed 253–153).	Yes.
530	do	H.R. 9590: On a motion to recede and concur in Senate amendment No. 15 to the bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for fiscal 1974 (passed 302–107).	Yes.
531	do	H.R. 6691: On adoption of the conference report on the bill making appropriations for the legislative branch for the fiscal year ending June 30, 1974 (passed 400–11).	Yes.
532	do	H.R. 10717: On a motion to suspend the rules and pass the bill to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe (passed 404–3).	Absent.[1]
533	do	H.R. 9681: On an amendment to the bill to authorize and require the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages which sought to add language providing that an allocation of crude oil should not apply to producers unless the President finds that it is necessary to carry out the purposes of the bill (defeated 136–245).	Yes.
534	do	H.R. 9681: On a motion to the bill to authorize and require the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages which sought to limit time for debate on pending amendments to 15 minutes (defeated 161–124).	Absent.[2]
535	Oct. 17	Quorum call	Present.
536	do	H. Res. 601: On adoption of the "rule" under which to consider the conference report on H.R. 9286, the Military Procurement Authorization for fiscal year 1974 (defeated 193–216).	No.
537	do	H.R. 9681: On an amendment to the bill to authorize and require the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages, which sought to transfer the monitoring of allocation programs from the Federal Trade Commission to the General Accounting Office (defeated 152–256).	No.
538	do	H.R. 9681: On passage of the bill to authorize and require the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages (passed 337–72).	Yes.
539	do	S. 2016: On adoption of the conference report on the bill to provide financial assistance to the National Railroad Passenger Corporation (passed 346–51).	Absent.[1]
540	Oct. 18	Quorum call	Present.
541	do	H.R. 10397: On passage of the bill to extend the authorization of appropriations for the Cabinet Committee on Opportunities for Spanish-Speaking People (passed 273–97).	Yes.
542	do	H.R. 9639: On a motion to concur to the Senate amendment to the House amendment to the Senate amendment No. 5 to the bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs (defeated 145–218).	Absent.[2]
543	Oct. 23	Quorum call	Present.
544	do	H.R. 10586: On passage of the bill to authorize the use of health maintenance organizations in providing health care, as an alternative to CHAMPUS (passed 345–41).	Absent.[1]
545	do	Quorum call	Do.[2]
546	Oct. 24	do	Present.
547	do	H. Res. 600: On adoption of the "rule" under which to consider H.R. 3927, the bill to extend the Environmental Education Act for 3 years (passed 369–15).	Yes.
548	do	Quorum call	Present.
549	do	H.R. 3927: On an amendment to the bill to extend the Environmental Education Act for 3 years which sought to limit the bill to a 1-year authorization (defeated 140–252).	No.
550	do	H.R. 3927: On passage of the bill to extend the Environmental Education Act for 3 years (passed 335–60).	Yes.
551	Oct. 25	H. Res. 655: On adoption of the "rule" under which to consider H.R. 10956, the Emergency Medical Services Systems Act of 1973 (passed 380–2).	Yes.
552	do	H.R. 10956: On passage of the Emergency Medical Services Systems Act of 1973 (passed 364–18).	Yes.
553	Oct. 30	H. Res. 656: On adoption of the "rule" under which to consider H.R. 9456, the bill to extend the Drug Abuse Education Act of 1970 for 3 years (passed 376–4).	Yes.
554	do	H.R. 9456: On passage of the bill to extend the Drug Abuse Educational Act of 1970 for 3 years (passed 372–13).	Yes.
555	Oct. 31	Quorum call	Present.
556	do	H.R. 9286: On a motion to the conference report on the military procurement authorization bill for fiscal year 1974 which sought to delete sec. 817 (defeated 103–290).	No.
557	Nov. 6	Quorum call	Present.
558	do	H.J. Res. 735: On a motion to suspend the rules and pass the joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran (passed 343–38).	Yes.
559	do	H.R. 5874: On a motion to suspend the rules and pass the bill to establish a Federal Financing Bank (passed 349–25).	Yes.
560	do	H.R. 8219: On a motion to suspend the rules and pass the bill to authorize the President to extend certain privileges and immunities to the Organization of African Unity (passed 340–39).	Absent
561	do	H.R. 10937: On a motion to suspend the rules and pass the bill to extend the life of the June 5, 1972 grand jury of the U.S. District Court for the District of Columbia (passed 378–1).	Do.[1]
562	Nov. 7	Quorum call	Present.
563	do	H.J. Res. 542: To override President's veto of the bill concerning the war powers of Congress and the President (passed 284–135).	No.
564	do	H. Res. 687: On ordering the previous question on the "rule" under which to consider H.R. 11104, the bill to provide for a temporary increase of $13,000,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974 (passed 274–135).	Yes.
565	do	Quorum call	Present.
566	do	H.R. 11104: On an amendment to the bill to provide for a temporary increase of $13,000,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974, which reduces the increase in the debt limit by $2,300,000,000 (passed 263–147).	No.
567	do	H.R. 11104: On passage of the bill to provide for a temporary increase of $13,000,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974 (passed 253–153).	Yes.
568	do	H. Res. 688: On adoption of the "rule" under which to consider H.R. 9142, the Regional Rail Reorganization Act of 1973 (passed 393–2).	Yes.
569	do	Quorum call	Present.
570	do	H.R. 9142: On an amendment to the Regional Rail Reorganization Act of 1973 which sought to add language providing that no payments be made to any protected employee for longer than 6 years beyond the acquisition of the railroad by the Corporation (defeated 148–245).	Yes.
571	Nov. 7	H.R. 9142: On an amendment to the Regional Rail Reorganization Act of 1973 which sought to limit the payment of the monthly displacement allowance for employees who are transferred to another railroad to 6 years (defeated 187–198).	Yes.
572	do	H.R. 9142: On passage of the Regional Rail Reorganization Act of 1973 (passed 306–82).	No.

Footnotes at end of the table

VOTING RECORD—GERALD R. FORD, 93D CONG., 1ST SESS.—Continued

Rollcall No.	1973	Measure, question, and result	Vote
573	Nov. 12	Quorum call	Present.
574	do	S. 1081: On a motion to recommit the conference report on the bill to authorize a trans-Alaska oil pipeline to the committee on conference with instruction to the managers on the part of the House to insist on disagreement to title III (subpena and injuncture relief) and to sections 601 (confirmation of the Director of the Energy Policy Office) and 602 (confirmation of the head of the Mining Enforcement and Safety Administration) of the Senate bill (defeated 162–213).	No.
575	do	S. 1081: On adoption of the conference report on the bill to authorize a trans-Alaska oil pipeline (passed 361–14).	Yes.
576	Nov. 13	Quorum call	Present.
577	do	H.R. 8916: On adoption of the conference report on the bill making appropriations for the Departments of State, Justice, Commerce, the Judiciary, and related agencies for fiscal year 1974 (passed 394–11).	Yes.
578	do	H. Con. Res. 378: On adoption of the resolution providing for an adjournment of the House from Thursday, Nov. 15 to Monday, Nov. 26 (passed 215–190).	Yes.
579	do	H.R. 8877: On a motion to recommit the conference report on the bill making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies for fiscal year 1974 to the committee of conference (passed 272–139).	Yes.
580	do	Quorum call	Present.
581	do	S. 1570: On adoption of the conference report on the Emergency Petroleum Allocation Act of 1973 (passed 348–46).	Yes.
582	Nov. 14	H. Res. 128: On adoption of the resolution expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being convicted of certain crimes (passed 388–18).	Yes.
583	do	Quorum call	Present.
584	do	Quorum call	Do.
585	do	H.R. 11459: On passage of the bill making approrpiations for military construction for the Department of Defense for fiscal year 1974 (passed 366–29).	Yes.
586	Nov. 15	Quorum call	Present.
587	do	H. Res. 702: On ordering the previous question on the committee amendment to the resolution providing funds for the Committee on the Judiciary (passed 230–182).	No.
588	do	H. Res. 702: On ordering the previous question on the resolution providing funds for the Committee on the Judiciary (passed 233–186).	No.
589	do	H. Res. 702: On a motion to recommit the resolution providing funds for the Committee on the Judiciary to the Committee on House Administration with instructions to report the resolution back forthwith with an amendment which sought to earmark ⅓ of the funds to the minority and prohibit the use of any funds until the Committee on the Judiciary defines the nature and scope of the studies and investigations (defeated 190–227).	Yes.
590	do	H. Res. 702: On adoption of the resolution providing funds for the Committee on the Judiciary (passed 367–51).	Yes.
591	do	H.R. 11333: On an amendment to the bill to provide a 7-percent increase in social security benefits beginning with March 1974, and an additional 4-percent increase beginning with June 1974, and to provide increases in supplemental security income benefits which deletes language which sought to allow States to raise supplemental security income benefits by amounts provided in the bill to qualify for their "hold harmless" protection (passed 246–163).	Yes.
592	do	H. R. 11333: On passage of the bill to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, and to provide increases in supplemental security income benefits (passed 391–20).	Yes.
593	Nov. 26	Quorum call	Present.
594	do	H.R. 11238: On passage of the bill to provide for an improved system of adoption of children in the District of Columbia (passed 350–0).	Yes.
595	Nov. 27	H.R. 7446: On adoption of the conference report on the bill to establish the American Revolution Bicentenial Administration (passed 357–34).	Yes.
596	do	H. Res. 718: On adoption of the "rule" under which to consider H.R. 11324, a bill to provide for daylight saving time on a year-round basis for a 2-year trial period (passed 349–40).	Yes.
597	do	H.R. 11324: On passage of the bill to provide for daylight saving time on a year-round basis for a 2-year trial period (passed 311–88).	Yes.
598	Nov. 28	H. Res. 719: On adoption of the "rule" under which to consider H.R. 11010, the bill to assure opportunities and training to unemployed and underemployed persons (passed 386–7).	Absent.[1]
599	do	H.R. 11010: On an amendment to the bill to assure opportunities and training to unemployed and underemployed persons which reduces the population requirement for receiving assistance from manpower programs from 100,000 to 50,000 (passed 248–149).	No.
600	do	H.R. 11010: On an amendment as amended by the substitute amendment to the bill to assure opportunities for employment and training to unemployed and underemployed persons which adds language which permits areas where the units of local government have an aggregate population of 50,000 or more to qualify for financial assistance (passed 260–140).	No.
601	do	H.R. 11010: On an amendment to the bill to assure opportunities and training to unemployed and underemployed persons which sought to raise from $500,000,000 to $1,000,000,000 the funds appropriated for 1975 to be reserved for public employment programs under title II (defeated 107–292).	No.
602	do	H.R. 11010: On passage of the bill to assure opportunities and training to unemployed and underemployed persons (passed 369–31).	Yes.
603	Nov. 29	H.Res. 721: On adoption of the resolution disagreeing to the Senate amendments to H.R. 11104, the bill to provide for a temporary increase of $10,700,000,000 in the public debt limit and to extend the period to which this temporary limit applies to June 30, 1974 (passed 347–54).	Yes.
604	do	Quorum call	Present.
605	do	H.R. 11575: On an amendment to the bill making appropriations for the Department of Defense for fiscal 1974 which sought to restore $1,250,000 for race relations training in the Army, Navy, and Air Force (defeated 178–226).	No.
606	Nov. 30	Quorum call	Present.
607	do	H.R. 11575: On an amendment to the bill making appropriations for the Department of Defense for fiscal 1974 which sought to strike language providing that not more than $851,672,000 be available for repair, alteration and overhaul of vessels in Navy shipyards (defeated 170–203).	No.
608	do	H.R. 11575: On an amendment to the bill making appropriations for the Department of Defense for fiscal 1974 which sought to require funding of the $3,500,000,000 of the total appropriation from backlog "pipeline" funds left over from prior years (defeated 118–250).	No.
609	do	H.R. 11575: On an amendment to the bill making appropriations for the Department of Defense for fiscal 1974 which sought to reduce the end strength troop level by 22,000 (defeated 160–210).	No.
610	do	H.R. 11575: On passage of the bill making appropriations for the Department of Defense for fiscal 1974 (passed 336–23).	Absent.[1]
611	do	Quorum call	Present
612	do	H.R. 11576: On an amendment to the bill making supplemental appropriations for the fiscal year ending June 30, 1974, which sought to raise by $35,000,000 the funds appropriated for grant programs for State social rehabilitation services, thereby restoring the appropriation to the level of $650,000,000 provided in the authorization (defeated 160–164).	No.
613	do	H.R. 11576: On passage of the bill making supplemental appropriations for the fiscal year ending June 30, 1974 (passed 295–8).	Yes.
614	Dec. 3	Quorum call	Present
615	do	S. 1191: On a motion to suspend the rules and pass the bill to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and to establish a National Center on Child Abuse and Neglect (passed 354–36).	Yes.
616	do	H.R. 11710: On a motion to suspend the rules and pass the bill to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on Jan. 1, 1969, to amend title 39, United States Code, and to clarify the proper use of the franking privilege by Members of Congress (passed 261–129).	Yes.
617	do	H.R. 9437: On a motion to suspend the rules and pass the bill to amend the International Travel Act of 1961 to authorize appropriations for the fiscal years 1974–76 (passed 272–120).	Yes.
618	Dec. 4	Quorum call	Absent.[3]
619	do	H. Res. 725: On adoption of the rule waiving all points of order against the conference report on S. 1443, the bill to authorize the furnishing of defense articles and services to foreign countries and international organizations (passed 265–137).	Do.[1]
620	do	S. 1443: On adoption of the conference report on the bill to authorize the furnishing of defense articles and services to foreign countries and international organizations (passed 210–193).	Do.[1]
621	do	H. Con. Res. 173: On a motion to suspend the rules and pass the concurrent resolution relating to the U.S. fishing industry (passed 405–0).	Do.[1]
622	Dec. 5	H.R. 8877: On adoption of the conference report on the bill making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for fiscal year 1974 (passed 371–33).	Yes.
623	do	H.R. 8877: On a motion to recede and concur with amendments in Senate amendment No. 1 on the conference report on the bill making appropriations for the Departments of Labor, and Health, Education, and Welfare and related agencies for fiscal year 1974 (passed 263–140).	Yes.
624	do	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve Congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to prohibit consideration of authorizing legislation after July in lieu of Mar. 31 of each year defeated 106–300).	No.
625	do	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve Congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to require the pilot-testing of all Federal programs prior to the implementation unless the committee report on such legislation indicates why this is unnecessary (defeated 185–218).	No.
626	do	H.R. 7130: On an amendment to the bi llto amend the Rules of the House of Representatives and the Senate to improve Congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to provide for a maximum limitation on authorizations for appropriations to 3 years except those funded through user taxes (defeated 192–217).	No.
627	do	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to require all appropriations bills be sent to the President at the same time with no exceptions (defeated 117–389).	No.
628	do	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to delete the title on impoundment control (defeated 108–295).	Absent.[1]

Footnotes at end of the table

Rollcall No. 1973	Measure, question, and result	Vote
629..........do.....	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve Congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff which sought to require both Houses of Congress to take action before a Presidential impoundment is disapproved and to allow selective disapproval of impoundments by Congress (defeated 186–221).	Do[1].
630..........do.....	H.R. 7130: On an amendment to the bill to amend the Rules of the House of Representatives and the Senate to improve Congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and Staff which sought to make title II (impoundment control) effective on Oct. 1, 1975 (defeated 185–221).	Do[1].
631...........do....	H.R. 7130: On passage of the bill to amend the Rules of the House of Representatives and the Senate to improve congressional control over budgetary outlay and receipt totals and to provide for a Legislative Budget Director and staff (passed 386–23).	Do.[1]
632........ Dec. 6...	Quorum call..	Do.[1]
633...........do....	H. Res. 738: On adoption of the "rule" under which to consider H. Res. 735, the resolution confirming the nomination of Gerald R. Ford of the State of Michigan to be Vice President of the United States (passed 389–15).	Do.[1]
634...........do....	H. Res. 735: On adoption of the resolution confirming the nomination of Gerald R. Ford of the State of Michigan to be Vice President of the United States (passed 387–35).	Do.[1]

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[1] If present, would have voted "yes".
[2] If present, would have voted "no".
[3] Speaking engagement.
[4] White House meeting.

CENTURY OF PROGRESS VIEWED BY MRS. CARNES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. TEAGUE. Mr. Speaker, the Bryan Eagle of January 20, 1974, in Bryan, Tex., carried an article about a very fine, and respected lady. I am proud to say that she is a close friend of mine. The lady is Mrs. Dona Coulter Carnes and she is 95 years young.

I wish that every Member of Congress had the privilege of knowing Mrs. Carnes. Since that is impossible I hope that my fellow Members would take the time to read this short article about my dear friend, Mrs. Dona Coulter Carnes.

The article follows:

CENTURY OF PROGRESS VIEWED BY MRS. CARNES

Few people have had the privilege of seeing progress run the course of a century. One prominent Bryan citizen, Mrs. Dona Coulter Carnes, 95, 502 E. 26th St., recently reminisced about life during the early days in Bryan.

"I was born here in a small house on the corner of Houston and E. 26th Sts." Mrs. Carnes said. A portion of the small house in which all the Coulter children were born in still stands on the lot.

"The big house which is still standing was built in 1903," she said. The 71-year-old wooden home houses a rich collection of antiques. A gold-leafed mirror and marble tabletops enhance the parlor along with antique rockers and sofas.

"My father wanted a place for the horses to graze and for the milk cow and chickens. He didn't want to have to bother other people so he bought the whole block and it has remained in our possession ever since," Mrs. Carnes said.

"Back in the early days of Bryan there was a general store where the LaSalle Home is now. We used to have dances and entertainment there and Indian shows came to town every year.

"There were no buggies then and you could walk anywhere in town and not get tired," she said.

Mrs. Carnes has been influential in civic and social clubs throughout her life an continues to be the oldest active club-going woman in Bryan.

"I organized the first social club in Bryan in 1901," Mrs. Carnes said. "The Embroidery Club still exists today but there are only a few active members," she said.

She helped organize the Grand Worthy Matrons and Patrons Club which is the highest office of the Eastern Star, A Masonic Order, according to Mrs. Carnes.

Other clubs receiving her attentions and efforts included the National Federated Press Women's Club which she helped organize and for which she served as president in 1938. She is still an active member of the Bryan Women's Club and has a long list of credits for service to the community.

She fondly remembers one of the highlights of her life as an invited guest of newly-elected President Eisenhower:

"Among the most treasured instances of my life is when President Eisenhower was inaugurated. I was the guest of Rep. Olin Teague and was invited to all the festivities in Washington," she said. She was also a guest at the inauguration of President Kennedy in 1960.

One of the more recent delights of her life was in 1968 when she celebrated her 90th birthday. Her family threw a gala 1890's birthday party for her to celebrate the occasion.

THIRTY-SIXTH CONGRESSIONAL CLUB

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. KETCHUM. Mr. Speaker, soon after my election to the 93d Congress, I formed an organization called the "36th Congressional Club." Club members contribute in varying amounts to assist me in defraying expenses which are essential to the performance of my duties.

During the past year, funds from the "36th Club" have made it possible for me to publish a questionnaire, "Washington Reports," and special reports. In addition, I have used the contributions to pay for office expenses and purchase supplies for use in my four district offices.

I am certain my colleagues will agree that the public confidence and credibility in elected officials have reached an unprecedented low. Americans will no longer tolerate the slightest hint of laundered campaign funds, or under-the-table contributions. I believe it is imperative that the financial statements of our political organization be given the widest dissemination if we are to restore confidence and trust in our Government.

I submit, therefore, the following statement which is a yearend accounting of receipts and expenditures for the 36th Congressional Club. This will also be sent to all media outlets within my congressional district.

The statement follows:

36 CLUB: STATEMENT OF RECEIPTS AND DISBURSEMENTS, YEAR 1973

Membership contributions received	$8,979.00
Honorarium received	250.00
Total receipts	9,229.00
Public relations	1,773.99
Contribution	10.00
Printing—mailers—duplicator	1,661.15
Office supplies and expense	1,075.19
Newspaper subscriptions	360.15
Film and pictures	145.33
Telephone expense	1,154.32
Travel expenses	745.02
Help wanted ad	52.15
Janitorial service	30.00
Save energy decals	38.59
Hanes directory for Kern County	51.98
Total disbursements	7,097.87
Excess receipts over disbursements	2,131.13

ISN'T IT TIME WE STOPPED KIDDING OURSELVES?

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BURGENER. Mr. Speaker, the Washington Post recently published a letter to the editor that states a view of current affairs which deserves more attention that it appears to have received in recent years. This letter, by a Washington resident who used to reside in San Diego, expresses in clear and concise terms feelings that are shared by millions of her fellow Americans. I commend this letter to the attention of all of my colleagues in the hope that they will consider the points so eloquently raised:

ISN'T IT TIME WE STOPPED KIDDING OURSELVES

I am a member of the unasked, unheard majority in the United States. Though I have lived more than half a century my opinion has never been polled, though it is often "quoted." I am tired of being the puppet supposedly mouthing words the ventriloquist media presumes to come from me. I do not believe what they are saying so loudly and so often. It is time for my kind, and I believe there is a majority of us, to speak up.

I believe in America and all the good and great potential that name evokes. Are we about to pull the self-destruct handle on our constitutional government because it has grown so big and so involved through our own rendering that it is no longer governable?

Are we about to impeach Richard Nixon for his sin of being so immersed in governing our country and trying to adjust it and its needs to a continually changing and explosive world community that he was unaware of some of the actions of his unwise subordinates? Or are we nailing him to the cross expecting thereby to wash away our own sins which have created a temporarily untenable world filled with false prophets eager to rush in to replace him?

In our current frustration over shortages, ecology, and prices, are we thrusting all the blame on one man, forgetting that we are the ones who demand a TV in every room, a bathroom on every floor, and a car for every member of the family over 16? Shortages of fuels and metals have been inexorably approaching us for fifteen years—long before Richard Nixon became President. While we have been out carrying placards demanding longer coffee breaks and higher wages for fewer hours our foreign neighbors have been classing us out of the marketplace. We have permitted the word "rights" to loom larger than right—our right and duty to assume responsibility for many of our personal problems which it seems easier, cheaper, and more convenient to allow the government to assume.

Isn't it time we stopped kidding ourselves that the government is someone else, and looked in the mirror and recognized that *that* face is America staring back? *That* face is the government—not somebody else. That more slices from that pie in the sky can come only out of the pockets into which these two hands are thrust? That the burdens of America rest not on the back of a mythical, distant Uncle Sam, but upon our own?

Shouldn't we face up to a few other facts? That the Watergate mess is now so political that it will be impossible ever to explore or judge it fairly? That it is time to learn its lesson, pass the laws necessary so it can never recur, and forget it?

Or was the entire purpose of the investigation only to "get" the President?

Whom do you believe?

What do you believe?

What is the source of most of our information? If our source has not invented the credibility gap, has it widened it? Who says we are in disgrace abroad? Who puts that word out on America? What is the purpose of self demeaning the greatest nation on earth?

Who gains when by loud half-truths our nation is torn to shreds? Who wins when our former President was hounded out of office? When the media presumes to elect and reject, who gains?

Let's get back on the track. Let's face the real problems surrounding us.

ELIZABETH GULLANDER.

WHY IMPEACHMENT FIRE BURNS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. MICHEL. Mr. Speaker, an editorial appearing in the January 25, 1974 edition of the Peoria Journal Star raises some thought-provoking questions as to whether or not "1 year of Watergate" may now find the country and the Congress painted into a corner with respect to any assurance that justice will be done to the President and all others who have been accused of involvement in the Watergate affair.

I place the editorial in the RECORD at this point and recommend it to my colleagues as food for thought as we all contemplate what our course of action will be with respect to the impeachment issue:

WHY IMPEACHMENT FIRE BURNS

(By C. L. Dancey)

A year ago, before anybody seriously considered impeachment of President Nixon, we brought up that subject to point out that it ought to be seriously considered immediately, then.

We have, doubtless, our own prejudices and our own capacities for error, but the responsibilities of this job have at least taught us not to rush ahead one step under today's pressures without taking a look at what happens next.

We thought the national press leaders and the national politicians ought to, at least, do that. We pointed out that before entering any investigatory process involving the possible misconduct of the President of the United States, responsible people ought to recognize that such an investigation is a sham unless it entertains the possibility of ending in impeachment.

Therefore, as we pointed out before investigations began, all such activities should be carried on in a manner that would be impeccable in the event of impeachment.

That was simply not done. They played the game one political opportunity at a time with absolutely no foresight.

As a consequence, half of the "jurors" in any impeachment trial that may actually occur will long since have already violated several cardinal rules of American justice.

They have fouled this thing up so badly that any Senate trial will be a mistrial before it begins by any common standard of law or morality.

And it is a trial. All the ingenious legal gobbledygook in the world cannot evade the simple fact that the Constitution and precedent require the Senate to sit not as the U.S. Senate, a political-legislative body, under Senate standard rules. It must be presided over by a judicial officer, the Chief Justice of the United States.

Before the eyes of the people of this country and the world in the brightest spotlight this planet can muster, we would have a criminal trial that would be the ultimate test and the foremost worldwide example of American justice.

And what a farce that trial would be. To acquit the President after all the fuss they have made would be political suicide for a large number of the sitting jurors. How's that for a fair trial to start with?

What happens if he is acquitted? A political whirlwind, obviously after such a proceeding and such a trial ripping the government apart for months.

What happens if he is convicted and removed from office?

That is only the beginning.

Every headline hungry lawyer in America would have a subpoena out for private citizen Richard Nixon—if only to ask him to testify if anybody contacted him in every hearing case before every control commission of the government!

It would be an automatic stall for anybody who lost any case with the government.

And the compulsion would also exist to try private citizen Nixon for the legal violations charged against him in the Senate—where he would have already been found guilty.

Now, however, in the civil courts, the private citizen would be entitled to every legal protection of the Constitution the rest of us enjoy.

There is a huge probability that under such conditions, he would have to be acquitted!

What then? We would have a man, on the record, convicted in a political trial and acquitted in an honest one! Can you hear the political stump speeches then?

Can you hear the outcry against certain TV personalities? Some columnists? A horde of politicians? Can you imagine the worldwide disgrace and ridicule?

And what of the other possibility? Conviction in a regular court?

Could any such verdict stand a Constitutional test? Is there any way conceivably under existing rulings of the Supreme Court that this man could get a fair trial according to the Constitution?

His rights in that regard have already been massively violated, of course.

If publicity cheated Dr. Sheppard of the possibility of a fair trial, what possible ruling could be made on a Nixon?

Thus, the repercussions of pursuing this event in American society and American politics can be a staggering backlash and can go on for many, many years.

That is the actual prospect.

It need not have been that way.

People could have begun to conduct themselves in a responsible fashion a year ago, when the possibility of impeachment was visible, as we then said. They did not.

Now the fat is really in the fire, whatever they do.

A lot of chickens will be coming home to roost eventually if this goes on.

And how can it stop?

There are so many who have gone so far that now they are surely damned if they do and damned if they don't proceed.

Throw in the inevitable new problems of the future—especially if there is no Nixon to blame them on—and there are going to be a lot of new faces in Washington five years from now.

The question of actual misconduct, yea or nay, becomes almost irrelevant to the magnitude of the way we have painted ourselves into a corner as a nation by the careless, circus-style mishandling of this whole affair.

CONFUSION INVOLVED IN FUEL SHORTAGE

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. NELSEN. Mr. Speaker, the inability of so many drivers nowadays to buy a full tank of gas for their car at their neighborhood filling station is certainly one development that encourages the belief that the fuel shortage is real rather than contrived. Nevertheless, I share the view of L. D. "Tip" Mills, editor of the Hutchinson Leader in my hometown in Minnesota, that there are some confusing aspects in this whole situation and that the American people are entitled to know the whole story.

In a recent editorial, Tip raised some legitimate questions about the fuel crisis which he feels that Congress should go about answering. For the benefit of my colleagues, I include his comments and suggestions at this point in my remarks:

CONFUSION INVOLVED IN FUEL SHORTAGE

Consumer advocate Ralph Nader says there really isn't a fuel shortage, and that our problems result from conniving by the oil companies with help from the government.

The Administration says there is a shortage.

The oil companies say there is a shortage. I say I'm confused.

Some facts do assert themselves. Our usage of petroleum products has been increasing for various reasons. Production has not necessarily kept pace. There have been warning of shortages for at least two or three years.

The shortage isn't confined to the United States. With the Arabs reducing their oil exports, almost every oil-importing country is feeling the pinch.

On the other hand, inventory figures announced recently by the major oil firms indicate that supplies in various categories average about as much as a year ago.

Some sources say that we aren't getting any oil from the Arabs. Others say some is seeping through the embargo. Recent figures from customs officials indicate that we are importing about as much oil as usual.

One thing there is no shortage of and that is conflicting statements about the energy crisis. Consequently Congressmen who are apparently just as confused as many of us are talking about investigating the whole situation.

In the process perhaps they will look into the vertical integration of the oil industry. Perhaps they will question the advisability of having a few mammoth companies that control drilling for oil here or abroad, refining it, transporting it and marketing it at retail. Perhaps they will ask why there seems to have been a tendency for the majors to freeze out independent distributors and retail marketers.

The American people are entitled to know the whole story. Is the shortage for real or is it contrived or is it a combination of the two?

The people have indicated they are willing to make sacrifices if necessary. That doesn't mean they are willing to be conned.

AGRICULTURAL WORKERS: DO THEY BENEFIT FROM UNION ORGANIZATION?

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. LANDGREBE. Mr. Speaker, there are presently a number of bills before the Subcommittee on Agricultural Labor that would empower the Federal Government to regulate farm labor-management relations. This would be accomplished either by extending coverage of the National Labor Relations Act to farmworkers or by setting up a special labor relations board for agriculture.

What do the Nation's farmworkers have to say about such proposals? We are told, by labor unions purporting to be their representatives, that farmworkers are eager to give up their individuality and freedom and embrace compulsory unionism.

Are they?

To shed light on the actual position of the farmworkers, I call the attention of my colleagues to the following letters to the editor of the Washington Post. The first two were published, the third was not.

The letters follow:

AGRICULTURAL WORKERS: DO THEY BENEFIT FROM UNION ORGANIZATION?

In a Dec. 12 letter to the editor, a representative of the National Council for Social Studies stated that "the denial of the benefits of the National Labor Relations Act to farm workers in California . . . has been a significant factor in the oppression of those workers." While many organizations hold the same naive view that most farm workers would welcome the spread of monopolistic unionism which would occur if the NLRA were extended to agriculture, the Arizona Ecumenical Council found otherwise.

In a study in September 1972, and since suppressed, the Council reported the majority of farm workers interviewed in California and Arizona do not want to join a union. According to the Council, the workers said they already make better wages than unions would pay; they want freedom to move about; they have doubts that union members have any rights, any power, or any input; their main concern is protection of their personal freedom.

Far from protecting personal freedom, the National Labor Relations Act effectively subordinates the individual rights of employees and employers to the rights of the union organization.

Under the NLRA's monopoly bargaining provision, a particular union selected by a bare majority of employees voting in a representation election becomes the exclusive bargaining agent for all employees in the unit—including those who did not vote in the election, and those who wish to act as their own bargaining agents, without representation by any union.

Furthermore, the nonconsenting employees will probably have to pay dues or equivalent fees to the union officials they voted against, since one of the primary objectives of any union bargaining agent is a contract clause requiring membership and dues payment as a condition of employment.

Even if a majority of employees vote against a particular union in a secret ballot election, they may be forced to accept that union as their bargaining representative. According to the National Labor Relations Board, this is justified where union officials have obtained the signatures of employees on "bargaining authorization" cards prior to the election, even if those cards were deceptively solicited.

Extension of our present system of labor law to agricultural workers would do nothing to protect the individual rights of the farm workers who are being used as pawns in the power struggle between the United Farm Workers and the Teamsters. It would, in effect, give the authority of law to the abrogation of those rights.

BETSY GREER,
Research Director, Farm Labor Research Committee.

WASHINGTON.

UNIONS AND EMPLOYERS

On Dec. 28, your newspaper printed a letter from Betsy Greer, research director, Farm Labor Research Committee, in which she expresses her views with respect to the effect on agricultural laborers of possible legislation which might make applicable to farm workers a law paralleling the provisions of the National Labor Relations Act.

In the course of her letter, Ms. Greer has, perhaps inadvertently, seriously erred in her description of one phase of our law. She states that this board requires employers to accept a union even though a majority of employees votes against that union in a secret ballot election, if it can be shown that the employees signed "authorization cards" prior to the election "even if those cards were deceptively solicited."

This is simply not true.

What *is* true is that the Supreme Court has held that when an employer commits such serious unfair labor practices as to make reliance on election results meaningless, the N.L.R.B. is entitled to seek such other genuine evidence of majority or nonmajority status as may be available. That evidence may consist of freely signed cards designating a union as the employees' choice. The Supreme Court has held that, in that situation, the only suitable available remedy for the unlawful acts of the employer may be to require bargaining with the union involved, because the employer's own unlawful acts have been such as to render futile any attempt by this board to conduct a free election.

But even in such extreme cases—which occur in less than 1 per cent of those instances in which this board conducts elections each year—the signatures on the cards must be shown to have been fairly obtained—and not obtained by fraudulent or deceptive tactics.

The policy issue of whether and how agricultural labor policy should be regulated by federal legislation is a complex one, and one on which I do not believe I should comment, since I hold a quasijudicial office. But I am sufficiently concerned about published misunderstandings of our law that I thought I should make this effort to set the record straight.

EDWARD B. MILLER,
Chairman, National Labor Relations Board, Washington.

FARM LABOR
RESEARCH COMMITTEE,
Washington, D.C., January 16, 1974.

The EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: Although the Farm Labor Research Committee does not particularly wish to become involved in a prolonged debate with National Labor Relations Board Chairman Edward B. Miller in the editorial pages of the *Post*, we do want to "set the record straight", as Mr. Miller puts it, regarding the Board's use of authorization cards to determine union representation under the National Labor Relations Act.

In our December 28 letter regarding the adverse effects of an extension of the NLRA to agriculture, we stated that the Labor Law as it has been administered and interpreted does not guarantee free secret ballot elections to determine union representation. Our contention was that the NLRB has in several instances forced an employer to bargain with a union on the basis of authorization cards signed by a bare majority of his employees, even when those cards were deceptively solicited.

In his reply which appeared in the Post on January 11, Mr. Miller stated that "this is simply not true." His statement is surprising in light of the record of court cases involving authorization cards signed by employees who believed they were signing cards calling for representation elections or for union meetings, rather than authorizing monopoly bargaining status for a particular union.

In *Cumberland Shoe Corporation*, 144 NLRB 1268 (1963), the Board ordered the employer to bargain with the union presenting signed authorization cards unless the employer could invalidate *each* card *individually* by proof that it was solicited for the sole purpose of holding an election.

In 1970, Senator Sam Ervin's Senate Judiciary Subcommittee on the Separation of Powers conducted Congressional oversight hearings on the National Labor Relations Board. The Subcommittee reported that "The Board not only relies on what is generally conceded by everyone . . . to be an unreliable indicator of employee opinion, but it also has constructed rules which minimize the impact of evidence indicating in particular cases that cards were secured by questionable conduct. . . . It permits union organizers to indulge in the pretense that the purpose of the cards is merely to bring about an election . . . The effect of these decisions is to disregard the right of the majority of employees in an appropriate unit to make a free and informed choice of whether or not to be represented by a union."

In *Area Disposal, Inc.*, 200 NLRB No. 54, 82 LRRM 1173, the Board counted cards where employees were told that the "principal purpose" of the cards was to get an election. In *Colonial Lincoln Mercury Sales, Inc.*, 197 NLRB No. 3, 80 LRRM 1842, the NLRB counted authorization cards signed by employees who claimed to believe that they were for the purpose of calling a union meeting. In *Unarco Industries, Inc.*, 197 NLRB No. 76, 80 LRRM 1621, the NLRB counted cards signed by employees who were told the union needed "so many more cards before they could get an election."

In the case of *Great Atlantic & Pacific Tea Company*, 194 NLRB No. 132, 79 LRRM 1087 (1971), the employer claimed that authorization cards used to justify a bargaining order were signed by employees in the belief that they would be used *only* for the purpose of obtaining an election. The NLRB ruled that there was "no misrepresentation" in obtaining the cards even though the employees (seven out of ten) were told that the cards would be used to obtain an election.

Most lawyers would agree that the Board's ruling placed on the employer an unreasonable and impracticable burden of proof.

Sincerely,

BETSY GREER,
Research Director.

SOCIAL SECURITY CRITICS UNAWARE OF TOTAL COSTS

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. MOAKLEY. Mr. Speaker, in recent days many of us have heard protests over rising social security costs. In many cases, these objections are based on a misunderstanding of the full senior citizen picture. The question is brought into sharp focus by a recent article in the Boston Globe by Joseph Levin. His February 4 article follows:

SOCIAL SECURITY CRITICS UNAWARE OF TOTAL COSTS

(By Joseph Levin)

Social Security old age benefits seem to be the main target of critics protesting the present high withholding tax. They seem totally unconscious of the costs of paying disabled workers and their dependents, widows and dependent children of deceased workers.

What adds to the confusion about Social Security is the failure to recognize that wage-related benefits until this year have sought to do three not necessarily compatible things:

Place a floor under the income of the poorest elders.

Replace reduced earnings caused by retirement.

Provide health services.

It was recognized that the load was just too great to be met by the wage and payroll taxes. As a result the Supplemental Security Income law was passed last year. It provides a basic Federal benefit paid out of Treasury General Funds and will reduce the pressure on the SS Trust Funds. In almost all states this is supplemented by payments from state sources.

Assuming that the supplementary income will eventually provide a floor high enough to keep elders, the disabled and blind out of poverty, the Social Security old age payments system can focus principally on its two remaining major goals: Replacement of income lost by retirement, and Medicare.

Prof. James H. Schulz of Brandeis, an authority on this subject, has estimated that an elderly couple will need about 60 to 65 percent of their pre-retirement income in order not to suffer loss of living standards after retirement.

An obvious difficulty is in deciding what was the previous living standard; another is, when should retirement occur?

Most estimates say there will be 30 million individuals over 65 in the population by the year 2000 compared to the present figure of about 20.5 million. One would conclude that industry and labor would try to delay retirement of persons able and willing to work. The reverse is the case, in fact.

So where are the resources to come from to provide an extra 9.5 million persons that 60–65 percent of pre-retirement income that Prof. Schulz says is necessary? Some of the cash will come from private pensions and income from personal assets but most will come from Social Security.

Just over the legislative horizon is the Kennedy-Griffith National Health Bill which will absorb Medicare and take the Social Security Administration out of the health business.

In short, in the years ahead Social Security will be trying more and more to solve the income-in-retirement dilemma through replacement of lost income at a level where there will be no significant loss of living standards by the retiree.

At the heart of the problem is the question: How are the costs to be met? The present method of funding through payroll and wage taxes is regressive, that is, it hurts the smaller income workers more than it does the affluent. In some countries, SS costs are met one-third by the Treasury General Funds, one-third by a wage tax and one-third by the employer.

SOME 38 MILLION SINGLES DESERVE TAX RELIEF

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. ANNUNZIO. Mr. Speaker, I rise to call the attention of my colleagues to a recent editorial broadcast on February 2 by Chicago's outstanding station, WMAQ-TV, which cites growing support for legislation to equalize the tax burden for single taxpayers.

As the sponsor of H.R. 5574, which would stop current bias in our tax laws against unmarried taxpayers by extending to them tax benefits of income splitting now enjoyed by married taxpayers filing joint returns, I want to commend station WMAQ for focusing awareness on this glaring inequity in our tax laws.

I also want to urge that the Congress act promptly and decisively in the present session to eliminate this discrimination against single people.

The WMAQ-TV editorial follows:

EDITORIAL

If you believe in the cliche, "Ah! To be free, young and single," you haven't thought of the plight of the unmarried taxpayer lately.

There are more than 38 million bachelors, single women, widows, widowers and divorcees in the United States who are discriminated against when they file their tax returns. Nearly two million Illinois residents fall into that category.

They pay up to 20 per cent more income tax than their married counterparts who file joint tax returns.

Here's an example of the problem: If you are a $12,000-a-year bachelor with a taxable income of $10,000, you have been paying Uncle Sam $435 more in taxes than the married man next door earning the same amount. That is because the law allows any married couple in the United States to pretend, while computing their taxes, that half of their income is earned by the other spouse. By splitting the tax bill, the couples generally pay a lower tax rate.

So our tax laws basically put the single payers over a barrel. We think this is a tax travesty that should be corrected. We commend the more than 750 Chicago area residents who have been working voluntarily with the Committee on Single Taxpayers to bring about tax reform on this subject.

That committee has determined that seven of Illinois' 24 congressmen favor straightening out the singles tax. Seventeen congressmen have not committed themselves to reforming it.

The two senators from Illinois are on record as supporters of singles tax reform. We urge you to find out where your congressman stands on this issue which will be considered during this session of Congress.

The Sixteenth Amendment gave Congress the right to tax people's income, not their status. The present tax structure for single people makes about as much sense as if the grocer charged more for your food because of your marital status.

CRISES IN AMERICA

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. MILFORD. Mr. Speaker, an attorney in my district, Mr. Fritz Lyne, has seen fit to correspond with me concerning issues which we in Congress are faced with.

In offering his well thought-out view on Watergate, energy, and wage and price controls, Mr. Lyne poses viewponts which I would deem it benefical if my colleagues in the Congress would read and study:

DALLAS, TEX.,
January 11, 1974.

Congressman DALE MILFORD,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN MILFORD: I, along with many citizens, am concerned over the many domestic problems facing our nation today. I know that you are using the time of the Congressional recess to obtain the views of your constituents. I take this opportunity to both express my concern and to offer some observations that might be helpful in seeking solutions to the problems. I do not profess to have the knowledge to suggest absolute solutions. I fear there are none. I do believe that there exists eminent need for positive action that will operate to alleviate the adverse consequences of the problems. Accordingly, I humbly offer the following observations:

WATERGATE

Although this is a specific Senate function, its wide impact has been so profound as to be cause for concern to both Houses of the Congress. The purpose of a legislative inquiry is to determine if a situation exists which requires or should be the subject of legislation, and if so the extent and nature of such legislation. Surely the thousands of hours of testimony (to a large part redundant) suffices for these purposes. Further proceedings in this regard can only be counter-productive, wasteful of committee membership's valuable time, divisive to the nation, infringe upon the judicial arm of the executive branch of the government, and incur unnecessary expense for the taxpayer. If legislation is deemed proper as a result of these hearings, then the Congress should get about enacting it. If evidence elicited has indicated that probable crimes have been committed such evidence should be turned over to the justice department that they may present it to appropriate Grand Juries, and the Judicial Branch can then carry out its Constitutional Function. More than enough time has been spent by the Senate on this project. They should be encouraged to direct their attention to other urgent problems facing our nation.

IMPEACHMENT

The Constitutional provisions for impeachment of a President, i.e. treason, bribery or commission of a high felony or misdemeanor, are narrow. I, in my limited access to relevant information have seen no evidence to indicate the appropriateness of a charge of impeachment. The fact that even consideration is being given to this subject by the Congress is divisive and disruptive to the well-being of the nation, as well as wasteful of the energy and efforts of the Congress when energy and efforts are sorely needed in other areas. However, if evidence does exist that indicates such proceedings to be proper the appropriate House Committee should vote at the earliest possible date. If the vote is negative, the matter should be dropped, and the members of both Houses should encourage their fellows to defer from remarks to the press calculated to keep the matter alive. If the vote of the committee is affirmative, the House should defer all other business until final vote on the impeachment charge has been accomplished. If the vote is negative, the same procedure should be followed as set forth in the event of a negative vote by the House committee. If the House should vote a charge of impeachment, the Senate should defer all other business, after affording the President a reasonable time to prepare his defense to the specific charge or charges voted by the House, and commence and carry to conclusion the trial. The public deserves no less than a prompt and final determination of this insidious pallor, that hangs over our Executive Branch hindering its effectiveness to serve this nation at a critical time at home and abroad. Our Congress, both Senate and House, carry a grave responsibility in this area, as their inaction harms the further welfare of this nation. The Constitution affords every citizen a speedy trial. Surely this includes Presidents. I personally believe that we have a strong, trained, dedicated and able President. If others differ let's get rid of him or get off his back.

ENERGY CRISIS

Being among other things, an independent oil operator for over twenty years, I claim some modicum of expertise on this subject insofar as fossil fuels are concerned. The so-called "crisis" has been many years in developing, is attributable to numerous causes, is extremely complex, and affords no simple, ready or short term solution. The present effort to place blame is a tragic waste of time and energy and can serve no purpose other than to learn that we may avoid similar mistakes in the future. Though helpful this purpose should surely rank as one of the lowest of priorities in our present efforts to solve the existing problems, and the literary efforts of our press in particular, should be directed to more constructive areas. Such proposed actions as allocations, cut-backs, partial closings, or rationing are not solutions at all, but merely holding devices whereby we gain time to agree upon a method to share our shortages pending the adoption and implementation of programs calculated to solve the existing shortages of energy. The only answer to real shortage of energy is more energy. Certainly, curtailment of waste is both proper and commendable. However, our nation that comprises approximately six percent of the world population and consumes about thirty-five per cent of the world's energy cannot by conservation alone begin to solve its own problem, much less the world shortage of energy. If prompt action is not taken toward the development of more energy, of whatever kind we are able, we will see the great industrial nations of this century gradually deteriorate to a status that we cannot imagine nor endure, and see the so-called emerging nations come to the realization that there is no place to emerge.

The present contemplated sources of energy, oil, gas, coal, nuclear, hydro electric, thermal, solar, etc. each have characteristics that are unique. Therefore, the concept for a super agency (sometimes referred to as a second "Manhattan" project) to coordinate the development of all sources is sound and should be implemented and funded at the earliest possible date. I will confine most of my remarks here to oil and gas concerning with which I am more familiar. It should be observed that dependence to any great extent upon uranium or other fissionable material will create a similar future problem to what we now face in oil and gas, as the known reserves within our country are very limited. Also, as to all indicated sources of energy, the lead time to development of any substantial increase is measured in years. For this reason I again point to the urgency of action.

Oil and gas while having some problems in common have others that are unique. Gas has been regulated by a federal agency since 1954. This judicial and administrative adventure has been a miserable failure. The price of gas has been held by law at such a fictional low price as to constitute confiscation of property. This has resulted in the expensive staffing of another huge federal regulatory agency, a tremendous burden of paper work resulting in a substantial increase of indirect overhead (lawyers, accountants, engineers, secretaries, clerks, etc.) of all gas operators, and lastly and most importantly in discouraging the search for gas in the United States because it has not been economically a good deal. The economic return did not justify the economic risk. This in capsule form is how search and find capacity decreased to its present state. On the other hand the existence of cheap gas developed an insatiable appetite in the consumer for this best of all fuels. Accordingly demand soared as reserves fell. Adding to the problem were large stock and other security offerings to the public in the 1950's and 1960's wherein the reserves of gas of the offering companies were in many instances grossly exaggerated leading the public and many government officials to believe our nation's reserves of gas to be much higher than they in fact were. The responsible governmental agencies were unwilling or unable to protect the public in this regard. Accordingly as to gas, I suggest: (1) removal of all price controls at the wellhead on natural gas to allow it to seek its value in the market place in competition with other fuels. Legislative action in this regard should be taken at the earliest possible date. It should be kept in mind that the public would not, by such legislation, be left helpless in that most gas reaches the consumer through public regulated utilities, (2) make a reliable study of our actual natural gas reserves, (3) prohibit the use of natural gas for the generation of electric energy and industrial use where other fuels or sources of energy can be made available within a reasonable time. This latter recommendation, I realize, invades the jurisdiction of the Environmental Protection Agency and of those who place environmental protection at the top of our national priorities. As to these I respect their opinions, concur in their objectives, but disagree with their priorities. At this time, among our top priorities including national security must be adequate energy. High on such priorities must be environmental protection, but for the time being it must be subordinated until our energy needs are secure in American hands.

Oil, although not federally regulated until 1971, like gas has been held at a fictional low price to benefit the short range needs for the consumer. The long range cost will be high for this short sighted program. The result has been to reduce the active drilling rigs in the United States by almost two-thirds (many rigs no longer exist), to drive out of business a third percentage of the independent oil operators (who historically have found most new oil), and has resulted in the abandonment of many marginal wells and fields because they were economically unsound. One of the tragic results has been the discouraging effect upon college students to enter the fields of geology and petroleum engineering as their life's work. As a result only a handful of these needed professionals have graduated in the last two decades. This loss of needed human resources at this time is incalculable. Recent increases in the price of crude have served to stimulate the industry and encourage the search for new reserves. I suggest that like gas, all price control on crude oil should be removed to allow it to seek its proper place in the market place according to the economic law of supply and demand. This alone will deter waste. However, a huge pall hangs over all crude oil development: the lack of adequate refining capacity. Crude oil can not serve the needs for our nation unless it is refined to meet specific needs, i.e. gasoline, diesel, jet fuel, butane, heating oil, etc. At present if we had all of the crude oil that we could consume it would not serve to alleviate our need as we do not have the capacity to refine it. It has been many months, even years since a major refinery has been completed in this country. Refineries are extremely expensive. Their construction has been discouraged for two main reasons: (1) lack of a dependable supply of crude (the refiners, even if the federal administrators could not, could see that foreign imported crude was not dependable), and (2) constant opposition by the environmentalists. To solve this there need be some type of subsidy, guaranteed loan or insurance to guarantee the investment of capital against loss due to lack of an adequate supply of crude, and in addition some legislative prohibition (as in the Alaska pipeline bill) to prohibit interference for a period of time with the construction of needed refineries subject to appropriate and reasonable regulations to protect the environment during construction and operation.

As noted the independent oil operator has historically been credited with finding most new oil in the United States. Most independent operators are dependent upon outside capital to finance their operations. Most of this capital is provided by high income bracket taxpayers seeking to shelter income earned in other areas by the use of dry hole and intangible write-offs, depletion and depreciation to lower their otherwise high tax brackets. Criticism of this practice is unfounded, for the public stands to gain much more by the expenditure of these funds in search of needed new oil or gas reserves, than the small loss of revenue it incurs by the offering of this incentive for its use. Recent changes and proposals to change the tax laws as they apply to oil and gas and other energy resources has resulted in an aura of instability insofar as the potential investor is concerned, and has discouraged the availability of needed capital for the search of new energy reserves. These attacks upon the energy industry should be repulsed with sufficient vigor that the investing public shall know that their investments are secure, and will thus be encouraged to provide the needed capital to gear up the search for additional reserves at the earliest possible time.

Geologists inform us that there are vast reserves of oil and gas underlying the continental shelf, but exploration has been held up because of environmental concern. As with refineries our priorities should be rearranged and such exploration should be both encouraged and protected, subject to proper and reasonable regulation for the protection of the environment. Speedy legislation is needed in this area, in that under the best of circumstances the start up time before the public can receive the benefits of increased petroleum products is indeed long, i.e. months and in most cases years.

Research for energy should be encouraged in all other areas, particularly in that of coal, in which Texas is likewise blessed with plentiful reserves. Its safe production in increasing quantities and its increased use wherever possible, with due regard for the environment, should be expedited in every possible way.

PRICE AND WAGE CONTROLS

Historically price and wage controls have never been successful except to maintain the status quo for short periods of time to allow implementation of other long term solutions. In the instant experiment the time gained has been too long and not wisely used. Through the effect of disruption of normal channels of commerce, experimentation by well-meaning but incapable bureaucrats, creation of artificial shortages and inequities, the existing price and wage controls are doing more present harm than good to our economy and threaten to hinder the solution of our growing problems. The capitalistic system of economics is the most successful system ever devised for a complex, industrialized economy. As with any system it will fluctuate over periods of time resulting in inequities in various areas. This is part of the price of the system. If given time they will correct themselves. It is still a basic tenet of economics that when demand for a given product is high and supply is short, price will rise and vice versa. If supply is short and prices high the incentive to increase supply will provide the added production to fill the demand resulting in reduction of price. When we, by legislative or administrative fiat, interfere with this over-simply stated basic law, we bring on unforeseen problems. No one is wise enough to predict all the shores that will be touched with a given intensity by the ripples caused by a single splash calculated to improve the immediate surface of a pond. I suggest that the power of the Executive to continue or to impose wage and price controls should not be renewed in April of 1974, and that the Legislative should impose no further such controls. In this connection the Justice Department should be provided with ample funds and personnel to be able to promptly prosecute those that would use our system of economics to take advantage of their fellows by the use of fraud, illegal manipulation, monopoly, restraint of trade, false labeling, short weights or measurements, extortion, illegal interference with a lawful business, etc. Let us get rid of this ilk and allow lawful business to again restore our nation to the plentiful goods and services of quality of which it is capable.

There are other areas of concern upon which I would like to comment, but this letter has grown too long. None of the ideas herein expressed are novel, but I hope that in the expressing of them one citizen has added his concern to that of others that will motivate the prompt action of our Congress to re-evaluate its time priorities, to early start providing the nation with solutions instead of accusations and explanations, and cause us to look again at those basic things that brought us to the position of the greatest nation ever to inhabit the Earth.

Yours very truly,

FRITZ L. LYNE.

A BILL TO INCREASE THE PERSONAL EXEMPTION BY $100

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. RIEGLE. Mr. Speaker, for the past several weeks, while the rest of the country has suffered shortages of food and fuel and worried about a possible recession, my district, the Flint, Mich., area, has been experiencing a serious recession. On a recent visit to the lines of the unemployed outside General Motors plants in Flint, I talked to men who were unsure how long they could afford to keep their families properly fed or with adequate warmth during the bitterly cold winter weeks ahead. Estimates of the number presently unemployed in Flint range from 20,000 to 25,000, or 15 to 20 percent of the labor force.

In a recent press statement, Leonard Woodcock, head of the United Auto Workers, talked about the impact of the energy shortage on Flint, a "company town" with 11 General Motors plants. In Flint, Buick builds large or intermediate cars and, according to Woodcock, it will take 12 to 17 weeks for model changeover. In fact, he stated, there is a possibility that Buick will "entirely shut down." The psychological attitudes in Flint now are comparable to those during the Great Depression of the 1930's. Flint, according to Woodcock, is in worse shape now than it was during the major recession of 1958.

Nationally, we are warned by various economic indicators that our country is facing a possible recession. Annual real growth in GNP dropped dramatically from well over 3 percent in the third quarter of 1973 to little more than 1 percent in the fourth quarter. Many believe that a zero or even a negative economic growth should be anticipated for the first quarter of 1974.

Unemployment figures nationally are now over 5 percent. The unemployment increase from October—at 4.5 percent—to December—at 4.9 percent—alone is an increase of 10 percent. It is clear that we must take some immediate action to avoid the very real possibility of a national recession—and to help those communities, such as Flint, Mich., which are suffering severe economic dislocations.

As one measure to provide relief for the millions of unemployed and those struggling to meet rising costs in essentials such as food, fuel, and housing, I am introducing a bill to increase the personal exemption in the Federal income tax from its present level of $750 to a new level of $850, retroactive to the 1973 tax year. The bill would amend the Internal Revenue Code, and is identical to an amendment introduced by Senator KENNEDY and accepted by the Senate by a vote of 53 to 27, before it was recommitted.

The $100 increase in personal exemption, from $750 to $850, would provide $3.5 billion in new consumer purchasing power. Since the bill is retroactive to 1973, people will be able to take advantage of the increase when filing their returns between now and April 15, 1974. The increase of 13 percent in personal exemptions provided by this bill is in line with the 13-percent increase in the cost of living since 1971 when the tax was set at $750 for this year.

It is my hope that this bill will prove to be a useful stimulant for our Nation's economy and that it will provide urgently needed relief to taxpayers who are suffering significant hardships in my district and across the Nation. A copy of the bill follows:

H.R. 12687

A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $850 and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

SEC. 2. (a) Effective with respect to taxable years beginning after December 31, 1972—

(1) section 151 of the Internal Revenue Code of 1954 (relating to allowance of personal exemptions) is amended by striking out "$750" wherever it appears, and inserting in lieu thereof "$850";

(2) section 6012(a)(1) of such Code (relating to persons required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,150", and by striking out "$2,800" wherever it appears and inserting in lieu thereof $$3,000"; and

(3) section 6013(b)(3)(A) of such Code (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$850" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,700".

(b) Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) of such Code (relating to percentage method of withholding) is amended to read as follows:

"Percentage Method Withholding Table

"Payroll period	*Amount of one withholding exemption*
Weekly	$16.35
Biweekly	32.69
Semimonthly	35.41
Monthly	70.83
Quarterly	212.50
Semiannual	425.00
Annual	850.00
Daily or miscellaneous (per day of such period)	2.25."

TENNESSEANS EXPRESS SUPPORT FOR THE PRESIDENT

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. FULTON. Mr. Speaker, recently I received petitions from my district upon which a number of citizens affixed their signatures in support "for the President of the United States and the Presidency as a coordinate branch of Government" and requesting me to make known their views to this body.

This request I am pleased to grant by placing these names in the RECORD at this point:

Mr. and Mrs. Bob Abernathy, Mr. and Mrs. Elias Skovron, Miss Elizabeth Talbot, Miss Kate Talbot, Mr. and Mrs. Herman Norton, Mrs. Jas. R. Mackie, Miss Annie G. O'Callaghan, Mrs. Lucille O. Miller.

John M. Simpkins, Sally C. Simpkins, Mrs. Sam Corkran, Mr. and Mrs. Stanton M. Peters, Mr. and Mrs. Clive Anderson, Mr. and Mrs. F. T. Dabney, Dr. and Mrs. Oscar F. Doe.

Mrs. Ruth J. Crowder, Ann B. Sullivan, Ralph O. Pierce, Anna G. Noland, Dorothea Jackson, Kimberly J. Knox, Hattie W. Johnson, Mickey Apple.

Jean Apple, Rick Knox, F. McLean, Bill Reese, Mrs. Wm. S. Riece, Mrs. Smith Appleby, Mrs. Bernice Taylor.

Lois Tidwell, Truman Tidwell, Janis L. Ruheets, Dr. J. Mansfield Bartey, Thelma Townshend, John T. Morgan, Mrs. John A. Buck, Dick C. Thompson.

Clara J. Thompson, Mary Jane Batey, Amy J. Womack, Mrs. Mary Clanton, Woodsie Huffiker, Geraldine G. Allen, W. H. Gwin.

Carl H. Temple, Blanche Temple, Mildred Cardray, Louise Wallace, Robert R. Brosky, Camille Brosky, Marleen Temple, Barry F. Brewer.

Debbie B. Butler, Carl Stephen Temple, Mrs. Edwin W. Smith, Jr., Edwin W. Smith, Jr., L. D. Harlen, G. W. Buckhalter, Janice R. Gregory.

Virginia J. Rogers, Ruth Jinnette, Nancy Stamps, Ethel M. Davidson, Nellie Copellan, Nancy A. Ledbetter, Gladys H. Morgan, Mrs. James E. Payne.

Robert Rippy, Dr. and Mrs. Elkin Rippy, Mrs. Martha L. Haynie, Angela D. Payne, Ricky H. Haynie, George W. Rogers.

THE ANATOMY OF WATERGATE—PART II

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. WYATT. Mr. Speaker, in yesterday's Extensions of Remarks I inserted the first of two parts of an address by Mr. Robert C. Notson, publisher of the Oregonian newspaper, on the complexities and ramifications of the Watergate affair. Today I offer my colleagues the concluding portion of Mr. Notson's remarks:

THE ANATOMY OF WATERGATE—PART II

BRIEFCASES, "BURN BAG" RIFLED

Other serious breaches in confidence have been hinted. Within recent days it has become known that the "Plumbers" had put the finger on various persons, including some liaison officers from the Pentagon.

There are even reports that the briefcases of Kissinger and General Alexander Haig had been rifled and documents removed. The White House, "burn bag" had been similarly ransacked. Some of this material, or copies of it, had found its way to the Joint Chiefs of Staff. Some of it slipped into unauthorized hands and was appearing in the press.

The suggestion has been that the Joint Chiefs of Staff may have been engaged in a Machiavellian scheme to shape American foreign policy. It seems preposterous. An investigation is now under way. Secretary of Defense James Schlesinger has stated that there may have been grave impropriety.

What other leaks there may have been, we do not presently know, but President Nixon and Mr. Kissinger felt—quite properly—that national security required that strong counter-measures be taken.

The President first proposed to the CIA and the FBI that they combine forces and facilities in a new joint agency to deal with the leaks.

Our free society resents surveillance, and so it is easy to generate sharp criticism of the plan because it contemplated wiretaps and surreptitious entry. The CIA apparently went along, but the late J. Edgar Hoover, head of the FBI, objected, and the President withdrew approval.

Hence the White House "Plumbers," formed under the leadership of E. Howard Hunt, long-time CIA agent. And who supervised the "Plumbers"? It was Egil Krogh, a former Portland boy. He lived in Lake Oswego while his late father was merchandise manager of Meier and Frank's.

A finer, cleaner, more Christian young man you will not find anywhere. It appears that he was sucked into approving the Ellsberg burglary. The belief was that it might turn up from the files of the psychiatrist something as to who and what motivated this strange zealot who betrayed his trust to steal the Pentagon papers and give them to newspapers and, perhaps, to the Soviet embassy.

Other well-meaning men, who had worked with the CIA on the Bay of Pigs affair, were engaged to assist in these enterprises—in the belief that they were working on "national security."

One of these was Bernard Barker, Havana-born real estate broker from Miami. Others were also Cuban refugees.

"We were not burglars," Barker told the Watergate committee with indignation and emotion. "We were not for sale. We believed we were serving our country."

Barker still believes that—and for that belief he has served a prison term, and may serve more.

This, in brief, is the story of the White House "Plumbers" as best I can piece it together at this time. Evil men, political blackguards? You be the judge. I do not, repeat do not, underwrite many of the things they did.

President Nixon called the Ellsburglary "incredibly stupid." I agree. I think the "Plumbers" were a bunch of clumsy operators, without proper leadership, playing with wildfire.

The Watergate case marches on from climax to climax.

There have been torrents of criticism, much of it deserved but much of it based on rumor, unproved accusations and invective. No president other than Lincoln, Grant and Hoover has had to endure such torment. A lesser man than Nixon most certainly would have been broken in health, probably politically, and given up long before this.

The latest issue to surface in this bizarre case is the gap of 18 minutes in a White House tape. It contained a conversation between the President and his assistant, H. R. Haldeman, just three days after Watergate.

But 18 minutes of the tape were blank except for a power hum. A board of experts reported last week that the gap was created by an erasure which, it was implied, was deliberate. The finger of suspicion has been pointed at Rose Mary Woods, Nixon's private secretary, and Steven Bull, White House aide, who had been working with the tapes, and, alternately, at the President himself.

The FBI and the special grand jury are investigating. The charge would be destroying criminal evidence.

This tape incident was an especially bad break for Nixon because he had again seemed to be regaining credibility with the Congress and the people through "Operation Candor" and his "White Papers." Other missing tapes seemed to have been explained fairly well, but this gap has not been explained and the flood of suspicion rises again.

What this tape segment contained, one may only speculate. The White House has offered Haldeman's written notes and a dictation belt from the President summarizing the conversation. Here again a couple of slight gaps or slurs occur.

Since we are speculating, let's go back to late last May when the President made his first general statement on Watergate. He denied that he had countenanced any "cover-up." He then said that he had to consider the possibility, however, that some statements of his may have been motivation for "over-zealous men" to have resorted to a "cover-up."

At a later time he stated that there were "some ambiguities on the tapes" which could be subjected to varying interpretations.

What did these statements mean? At this point, it seems logical to assume that, when the burglars were caught, Nixon feared that the scandal might blow his campaign out of the water. He may very well have told Haldeman and others to do what they could to defuse, or contain, the issue. The concern would have been a matter of political strategy and not one of criminal cover-up.

The idea would have been to keep the affair in court and out of political arena. But the line here grows thin between the two ideas. Men bent on saving the political situation could very well have failed to distinguish between political activity and the thwarting of justice.

Certainly, in the present climate, any past reference by the President to softening the Watergate impact would be immediately interpreted as "cover-up." If there was a deliberate erasure, did it eliminate something that was merely potentially embarrassing or something that revealed true culpability?

These are matters for the grand jury to study.

Members of Congress returning from the Christmas recess report that the voters are strangely indifferent to Watergate and much more concerned about inflation and the energy crisis. The nation, although shaken, retains a stubborn faith in Nixon and his ability to govern with more authority than any prospective person, meaning Vice President Gerald Ford.

The polls reflect a feeling that Nixon may have been guilty of "something" but they still show that the people do not want him impeached. Our Oregonian poll showed recently that the sentiment in this state stood 42 per cent for impeachment, 50 per cent against.

Despite all the hammering, the Gallup poll showed at year end that the three most admired men in the nation were: Henry Kissinger, Billy Graham and—Richard M. Nixon.

More recently Gallup reported that only 27 per cent approved the President's general performance. It was evident that he had been hurt by the disgrace and resignation of Vice President Agnew, the dismissal of Special Prosecutor Cox, the tapes issue and the economy.

One may contrast this with the 23 per cent low point reached by President Harry Truman after he had dismissed Douglas MacArthur. Today, despite his evident faults, they are saying Truman may have been one of our better presidents.

Meanwhile, the House Judiciary Committee, armed with a million dollars, has been fumbling for a hand-hold on the impeachment machinery. I have consulted various knowledgeable persons, including some members of Congress, and have found the opinion that to date no adequate evidence for impeachment has been uncovered.

The Constitution provides that a president may be impeached for "treason, bribery or other high crimes and misdemeanors." What is the record?

After nearly a year of investigative digging, only one out of 50 or so witnesses has implicated the President in any way in the Watergate burglary or cover-up.

CASE BETTER THAN PRESENTED

That would be John Dean, who bargained lustily with the committee and the prosecutor to grant him immunity in return for his testimony. Dean, former White House counsel, exonerated the President of any knowledge of the break-in of the Democratic headquarters or any hand in the cover-up. But, he said he thought the President knew about his—Dean's—cover-up efforts and approved them.

This is all. Witness after witness testified that, to his knowledge, the President was busy with national and international affairs and with the campaign. That he was not aware of what was going on within his campaign organization.

Off hand, you might think that 50 witnesses to one ought to be fairly conclusive. But the seeds of suspicion have been planted deeply and the roots are not easily eradicated.

Senator Hugh Scott, minority leader in the Senate, told the Face the Nation panel Sunday night that the President had a better case than he had presented to date. Later it was developed that this was probably based on transcripts of the Dean-Nixon conversations. Scott said they would "exculpate" Nixon in certain vital particulars.

He also said that he "knows no evidence sufficient to warrant impeachment."

What does it boil down to?

Poor judgment in selecting key personnel? Quite evident.

Stupid and illegal acts by political and even White House associates, followed by at least some perjury? Almost certainly.

Hard evidence of Presidential culpability? Lacking.

"He is either responsible, or he is irresponsible,"—so runs the accusation.

The case against Nixon, as of the moment, is built on such innuendo. We used to have a City Hall reporter who had a better word for it—"insinuendo." Uttered over and over again in various forms, such accusations seem to take on the shape and form of fact. But this does not square with the American system which lays down the fundamental premise that a man is "presumed innocent until proved guilty beyond a reasonable doubt."

Senator Aiken has said, and his sentiments have been echoed widely by Senator Goldwater and others: "Impeach the President or get off his back." Let it be said, the country is waterlogged with Watergate.

The government needs to function again in the face of great domestic and international problems. We have dallied long enough.

And yet we see the special prosecutor and his staff of 38 lawyers, the Senate Watergate Committee and its staff of 22 attorneys, the Joint Committee on Internal Revenue Taxation and its large staff, the House Judiciary Committee and its staff of 31, and a horde of newspaper and television reporters digging and digging through the evidence and issuing demands and subpoenas for more.

Reasonable persons ask themselves, "Must this national trauma go on forever?" If the evidence is there, let's see it produced. If it is not, let's close down the shambles, clean up the mess and let the courts dispose of the cases at hand.

Let's get it over with for the sake of the Congress, the President and the nation.

NIXON'S PLACE IN HISTORY

At some point, soon, the American people ought to demand that we get on with the nations' business. In the Middle East we are living through a major military crisis. President Nixon and Secretary of State Kissinger are laboring to forestall an explosion of world-wide proportions.

On the domestic front the President is striving mightly against the energy crisis, inflation and threatened depression. These are the real issues of the day and they affect every one of us. How can a president deal effectively with them if he is harassed on every side by the nagging and many times niggling aspects of that great complex of issues now grouped under the heading of Watergate?

Whatever happens in the Watergate mess, Nixon cannot be denied his place in history for:

1. Extracting America from the Vietnam War "with honor" and bringing home American troops and prisoners of war.

2. Bringing about a détente with China and Russia and establishing trade and intercourse with these Communist nations.

The world had been edging toward a third world war for more than 20 years. Most any issue—Vietnam, the Middle East, Taiwan—could have sent the nuclear missiles flying, to the destruction of the world as we know it. Nixon eased the cold war. He started the world on the way to cooperation and accommodation.

More than any modern American President he has given us hope of ending the war system, and attaining his cherished hope of "a generation of peace."

3. When Israel and the Arab States plunged into renewed warfare, he moved promptly to stop hostilities. And, when the Arabs were facing another defeat and Russia was mobilizing to send missiles and men to rescue them, Nixon faced the Soviets down by declaring a world-wide alert of American forces.

He then negotiated a cease fire. Last week his Secretary of State secured a military disengagement agreement and set the stage for the first peace negotiations ever between Israel and Egypt.

Now, any of these three towering achievements should have been enough to have brought him the eternal gratitude of this nation and the world. What irony that he has been accorded such limited recognition!

What a travesty that the energies of the Congress, the courts and the press should now be concentrated on trying to fix blame on Nixon for erasing an 18-minute segment of a tape! Suspicion has labored and brought forth a mouse! On such an insubstantial issue may rest the decision whether the President will be ousted from office or resume the mandate given him by the voters.

Driven by the winds of hate, mistrust and adverse circumstance, the tide of credibility appears to be running low for Nixon. It remains to be seen if the house will impeach and ⅔ of the senate convict.

Even if he is not convicted of "high crimes and misdemeanors," will he have been damaged by the proceedings so that he can no longer govern?

If so, we may be witnessing not only the political assassination of a president but the destruction of the prestige of the presidency itself—with great damage to the nation at home and abroad, Congress has a grave responsibility and will need more perspective than most of us have had.

Maybe somewhere there are some facts, or factors, with which Nixon can stem that tide. He has been on the brink of oblivion before and has bounced back to attain higher position and greater achievements.

OIL PRICE ROLLBACK IS NOT GOOD LOGIC

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. MILFORD. Mr. Speaker, an aviation writer for the Fort Worth Star-Telegram, a metropolitan newspaper in my district, feels so strongly about Government intervention in price controls on the petroleum industry that he has written outlining his thoughts as well as an editorial from his newspaper.

Because of the clarity of thinking on this problem of our times, I commend both Mr. Jim Street's letter and the attached editorial to my colleagues in the Congress:

ARLINGTON, TEX.,
January 30, 1974.

U.S. Representative DALE MILFORD,
House Office Building,
Washington, D.C.

DEAR DALE: Enclosed is a Xerox copy of an editorial from this morning's Fort Worth Star-Telegram for which I, as you know, serve as Aviation Writer. This, however, represents my personal feelings on the matter.

I did not write the editorial but it says something for me and I have been wondering why those in government have not been able to see it as an obvious truth. Ever since the Roosevelt era began in 1933, the American people have grown more and more to expect government to "do something" about every problem that comes up and two whole generations have grown up to expect the government to become involved in just about everything. Congresses are even "graded" on the numbers of bills they have churned out as if sheer volumes of new laws were the only thing they were elected for. I, for one, would like to see a Congress "do something" by clearing the books of some old unneeded and harmful laws.

The independent oil producers have been trying to tell people who have been generally insensitive to their pleas that the solution to the energy crisis is, and has been, to get the government the hell out and let the free market place solve the problem. As the shortage intensifies, the price goes up creating more incentive for finding new reserves. There would not be a problem today if the government had not "protected" us from the high price of crude oil—that protection being the root cause of the diminishing of the number of independents and the increasing power of the bigger oil companies.

All the outrage over "windfall" profits and the steep increases in profits is political window dressing as far as the basic problem is concerned. Politicians like to show their constituents that they are looking out for "consumer interest" when, in fact, in the long run, they are part of the basic problem. Windfall profits will only make exploration—the only solution to the basic problem—profitable again so private capital will find new reserves. "Steep increases" in profits were quoted recently only in percentages so the constituent does not find out, for the most part, that what the increase in profits means is only a return to a more reasonable return on the investment to a level still below that of many businesses.

As an aviation guy, I am deeply concerned, as I know you must be also, with the inequitable treatment our people are getting compared to surface transportation. But I realize that solving the root problem is the best way to resolve this inequity as well as many others that have surfaced in the energy pinch. Alternate sources of power must be sought and technology will find these alternate sources if only the companies that have that technology are left alone by the government. In the meantime, there are untapped reserves in offshore basins, the Alaskan North Slope and elsewhere that will serve our immediate needs if only we will not hinder those who would get them for us with needless and stupid government controls.

It was a free market concept that created the highest standard of living the world has ever known. It was a market place free of the government control that now threatens to wreck everything that nearly two centuries of private incentive have created. If one needs a clear example of how government control can strangle an industry, he need look no further than the passenger railroad industry in this country. And I fear that the same fate awaits the air transport industry if the people don't wake up soon and tell their congressmen to lay off.

I look forward to sharing the platform with you at the AIAA meeting Feb. 9 at ATA.

Sincerely,

JIM STREET.

[From the Fort Worth Star-Telegram, Jan. 30, 1974]

OIL PRICE ROLLBACK IS NOT GOOD LOGIC

An independent oil man who visited recently to vent his frustration over Washington's handling of the energy situation said he advised his son to stay out of the business and go into banking instead.

"Forget about dry holes and stick with interest tables," he once advised his son, who now is a successful banker.

The father is still in exploration because the fascination of the business is still there, he said, but the financial rewards have diminished, and 30,000 producers have now dwindled to fewer than 5,000.

Independent oil men, who are responsible for finding 75 to 80 per cent of the oil in the United States, appear now about to be punished by a vindictive Congress which seeks to place blame for the energy shortage.

The recent clamor over "windfall profits" gained by the oil industry last year has resulted in a threat that domestic crude oil prices may be rolled back.

Such action would cut domestic profits all right. It also would cut production just when increased domestic oil activity is needed most.

The energy shortage and the resulting world crisis has made two things happen within the industry:

—The price of crude oil has risen to a point that makes the risk of exploration worthwhile again. The result is more domestic production coming on the line as oilmen search for new oil and uncap formerly unprofitable stripper wells.

—The oil industry has been blamed for contriving the crisis, and some government officials are calling for a rollback in prices on domestic production. A rollback, which would hit hardest at the independent, inevitably will mean less domestic production.

Almost everyone agrees the United States must strive for self-sufficiency in energy. You don't get this by limiting domestic production to $8 oil, thereby reducing domestic production. while buying foreign oil at $18.

The oil man doesn't need punishment. He needs help. You don't help a businessman by taking away his motivation. In this case, you don't help your country, either.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 69

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. HARRINGTON. Mr. Speaker, in an article I wrote recently for the Nation magazine entitled, "The Politics of Gun Control," I suggested that—

> The so-called gun lobby remains an enigma to its opponents, who feel in much firmer ground analyzing the oil lobby, the dairy lobby, the highway lobby and the AMA . . . the lobby's shadowy image is perhaps one major reason that the issue of gun control itself is so perplexing.

That essay represents an attempt to bring the gun lobby into sharper focus, so that gun control proponents can be more effective in their efforts to secure control legislation. Tomorrow, I myself will introduce a bill representing the culmination of my thinking on this country's gun problem. The article published in the Nation is an appropriate prelude to the presentation of my bill and the reasons for it, so I include the article's text below:

THE POLITICS OF GUN CONTROL

(By Representative MICHAEL J. HARRINGTON)

In April 1971, a special assistant to the Secretary of the Treasury named G. Gordon Liddy represented the Administration in a panel at the annual meeting of the National Rifle Association. Liddy, described by the NRA's magazine the *American Rifleman* as an "attorney, conservationist, and pistol shooter," told his audience that the Administration opposed gun registration and had established an "open, clear dialogue" between the White House and the firearms field. "High ranking members of the White House staff," he pointed out, "have already held two mutually helpful conferences at the White House with representatives of firearms organizations, manufacturers, and gun publications."

The NRA and its allies are doing well in their battle to frustrate advocates of gun control in this country. Yet it seems to me that the so-called gun lobby remains an enigma to its opponents, who feel on much firmer ground in analyzing the oil lobby, the dairy lobby, the highway lobby and the AMA. Most lobbies represent readily definable business interests, and that makes them easy to understand and criticize. General knowledge of the gun lobby is more limited: its sources of funds, the nature of its political tactics, the base of its membership—even its motives—are difficult to pin down.

The lobby's shadowy image is perhaps one major reason that the issue of gun control itself is so perplexing. Environmentalists have won some modest victories over the oil companies in the 1970s, and consumer advocates have forced some setbacks on the car manufacturers, but citizen activists have made little headway on gun control. To understand why, it is necessary to consider not only the lobby but the qualities of procontrol advocates, the attitudes of the American public, and the nature of Congressional response to organized and disorganized group interests.

Founded in 1871 by some officers of the New York National Guard—who had been distressed by the ineptitude of Northern riflemen during the Civil War—the National Rifle Association today numbers more than a million dues-paying members. That makes it larger than all but three of the country's labor unions (the Teamsters, the Steelworkers and the UAW) and more than three times as big as Common Cause. The association operates out of its own modern 8-story structure in Scott Circle in Washington, where it employs a full-time staff of 250, maintains communications with 11,500 affiliated clubs, works on programs in marksmanship and firearms safety, plans and sponsors thousands of annual shooting tournaments, and publishes the *American Rifleman*. As the governing body of competitive rifle and pistol shooting in the United States, the NRA sponsors the big annual tournament for gunmen, the National Matches. Because of its semi-official status, the association also selects the rifle and pistol teams who represent the United States in the World Olympics and the Pan-American games. Its impressive range of activities is backed by assets of $19 million and an annual budget of almost $8 million.

The association is not the sum of the gun lobby armada, however, but rather its highly visible and imposing flagship. Central to the lobby's unapparent economic power are the country's gun manufacturers (Remington Arms, Winchester, Browning Arms, Colt Industries, Smith and Wesson, Savage Arms, Sturn-Ruger, Daisy) and gun dealers (New York's dignified Abercrombie & Fitch, Interarmco in Virginia), which do an estimated annual business of $1.5 billion. The gun industry's financial support is essential to the NRA, since 22 per cent of the NRA's annual income flows from manufacturer and dealer advertising in *American Rifleman*.

The industry's money also goes directly into the treasuries of sympathetic politicans. When Common Cause successfully sued the Committee to Re-Elect the President last September to force identification of secret campaign donors, a total of $345,000 was recorded from dominant shareholders of a single gun manufacturing interest—the Olin Mathieson Corp., whose Winchester-Western Division is one of the country's two largest gun makers. This dollar figure made Olin the fourth largest known source of contributions to the committee during the period before April 7, 1972, at which time new disclosure requirements went into effect.

Also charter members of the gun lobby are an astonishing number of national hunting and sporting publications (*Field & Stream*, with an annual circulation of 1.5 million; *Guns and Ammo*, with 200,000; *Shooting Times, Sports Afield, Trap and Field, Shooting Industry, Argosy, Guns and Hunting, Gunsport, Gun World, Guns*), all of them pipe lines to the 21 million Americans who participate in hunting, and all of them recipients of advertising revenue from the firearms industry.

Surprisingly, the lobby includes conservation and wildlife preservation groups like the National Wildlife Federation, the Wildlife Management Institute, the Isaac Walton League, and numerous state wildlife and conservation departments. The key to this improbable environmental link is also economic—firearms hunters spend about $72 million a year on hunting licenses and $27 million a year in federal excise taxes on guns and ammunition, most of which is committed by state laws to conservation and wildlife programs.

Finally, the membership of the NRA includes hundreds of state and local political leaders, more than twenty-five Congressmen, and the President of the United States, who became a "life member" in 1957 and who remains officially on the rolls, though the Administration claims he resigned after the 1968 election.

Despite these varied and impressive trappings of power, the most formidable source of the gun lobby's clout lies in its grassroots following—those million NRA members, 21 million hunters and an estimated 60 million American households which have guns. For the most part, these people are decent and law-abiding, and the importance they attach to firearms defies the arguments of gun-control proponents in Congress and elsewhere.

The views of those who oppose gun control are easy to describe: people have the right to bear arms for pleasure and self-protection without interference from the government; criminals will get guns despite gun-control laws; all gun-control proposals—whether they advocate registration, licensing, record keeping, or anything else—are undesirable because they will lead inevitably to other more restrictive measures.

Gun-control opponents promote these beliefs through several methods.

They make use of political contacts in the executive branch and Congress, as the Gordon Liddy incident illustrates.

They use campaign contributions from sources like the Olin Corp.

They put the pressure on opposing groups. This past June, *American Rifleman,* in an editorial entitled, "Say Goodby to the Y?," reported that the YWCA "had thrown its full feminine weight" behind gun control at its annual assembly. The group's decision "may turn out to be a self-inflicted financial problem," the *Rifleman* observed. "The Sportsmen's Alliance of Michigan, a highly active and vocal organization of gun owners, has already expressed the view that its members should refrain from contributing to community drives whose proceeds go in part to supporting the YWCA. Others may follow suit." They may indeed, but they probably wouldn't have if the magazine hadn't given the ploy national circulation.

They use their extensive media connections to misstate the details of proposed bills, and to play to fears about race, government domination and subversion by radicals. In July 1965, when the modest proposals to regulate mail-order sales were first proposed in the Senate, *Guns and Ammo* ran an article called "The Real Facts Behind S. 1592" which began, "If you, as a collector, hunter, target shooter, gun dealer, gunsmith, or small manufacturer, wish to lose your rights to own guns, to go hunting, target shooting, or deal in firearms, read no further. This bill will ultimately confiscate your guns, and make it impossible for you to hunt or stay in business."

In fact, the 1965 proposal, which was not enacted into law until three years later, was a thoroughly mild reform. All persons selling firearms are now required to obtain a federal license, the interstate sale of firearms through the mails is prohibited, and the possession of firearms by certain people—including convicted criminals, aliens residing illegally in the United States, and mental incompetents—is forbidden. The law poses no threat whatsoever to respectable collectors, hunters, target shooters, gun dealers, gunsmiths or small manufacturers.

Later that year, after the Watts rioting, *Guns and Ammo* editorialized, "In the final analysis, rampaging hoodlumism such as experienced in Los Angeles, Chicago and other major cities may yet be a blessing in disguise which will do a great deal to preserve our precious right to keep and bear arms."

But most of all, the lobby stirs an avalanche of grassroots sentiment, usually in the form of letters. Ultimately, as I suggested earlier, it is the lobby's outside following, rather than its inside connections, that most effectively discourages Congressional action. The lobby's ability to elicit letters from its constituency is phenomenal.

During the 1965 controversy, for example, the NRA sent a bulletin to all its members, urging them to write the President and Congress about the mail-order bill. "Write now," urged the NRA, "or it may be too late." Included with the letter was a list of instructions, entitled, "How to Write Your Letter." The bulletin featured exhortation like, "Do not doubt for one second the effectiveness of your one voice," and "If the battle is lost, it will be your loss and that of all who follow you."

Guns and Ammo chimed in, saying in its August issue, "Nothing impresses an elected lawmaker as much as a massive amount of mail from people who vote in his district. It is the one proven way to persuade a legislator to act."

Journalist Richard Harris describes in *The New Yorker* the results the association's bulletin produced:

"During the month preceding the campaign set off by the NRA, the White House received fifty letters in S. 1592 [the Senate bill], divided just about equally pro and con. During the following month, it received 12,000 letters, all but a few opposing the bill. Within two weeks after Orth [an official of the NRA] alerted his followers, the Subcommittee to Investigate Juvenile Delinquency [which was handling S. 1592] got 1,400 letters, forty-seven of them favoring the bill, and the Commerce Committee [also considering the legislation] got over 2,000, four of them favoring it."

The reaction was predictable. Sen. Jacob Javits was quoted as saying, "I have received an enormous amount of mail, really enormous, almost unbelievable, expressing opposition to this bill." Sen. Gale McGee of Wyoming said, "I can recall no issue, either international or domestic, in my tenure in the Senate that has aroused the people of Wyoming as this one."

Three years later, the deaths of Robert Kennedy and Martin Luther King triggered a temporary counter reaction in favor of gun control, but even then the lobby was so strong that the bill which finally passed was a much amended ghost of its former self. The lobby, however, still declared war on supporters of the 1968 measure, and chose its targets for political retribution accordingly. "Every Congressman who lost his seat in 1970 is convinced he lost because he voted for the gun-control bill," said Rep. Abner Mivka, a leading control advocate, who lost his own seat two years later. *American Rifleman,* in an article reviewing plusses and minuses of the 1970 elections, began the column by quoting Maryland's Joseph Tydings, another spokesman for control who had just lost his reelection fight in the Senate, as saying, "I suppose this will discourage others from taking on the gun lobby."

At this point in a discussion of gun control and Congress failure to support it, control advocates can be expected to point out that, as early as April 1938, the Gallup poll showed 84 per cent of the American public in favor of requiring firearms registration. In eight polls conducted by the Gallup organization between 1959 and 1972, posing the question, "Do you favor or oppose a law requiring a police permit to buy guns?," those in favor have never dropped below 68 per cent.

Given these polls, supporters of control say, the politician should realize that he has little to fear from the gun lobby, that the lobby simply looks bigger than it is by generating an intense reaction from its hard-core membership, and that, in fact, the case for gun control is almost universally conceded.

However, a special interest does not necessarily have to convince a politician that its positions reflect the feelings of the majority of voters in his district or state. In elections, politicians worry not only about the views of the majority but about the possible sources of the *margin* of victory or defeat. They believe that most of their constituents make up their minds according to their general perceptions of a variety of issues, and that supporting a concept like gun control is not likely, by itself, to win many additional votes. On the other hand, elected officials may sense that the anti-control voters mobilized by the gun lobby are apt to engage in a kind of bullet voting, and decide their voting preferences on the basis of the gun question alone. This view of gun-control opponents and other special interest voters, which is not calculated but intuitive, leads the politican to treat particular groupings in his area—union people, peace activists, members of particular professions—with great care, especially if they have a high degree of internal organization. Politicians want very much to avoid controversy, and will go a long way to placate people who harass them.

In that case, it may be asked, why haven't gun-control supporters organized to provide the margin of victory or defeat in the other direction? The answer, I think, is the same that explains why there is no well-organized group to oppose the oil interests on the depletion allowance or the medical-health establishment on national health insurance: "special interests" can focus resources and efforts, while the "general interest" is by definition broad, unfocused and difficult to defend.

The pro-gun control forces in this country tend to be governmental agencies and officials concerned with the entire area of crime prevention, religious and civic organizations whose primary activities lie elsewhere, "public interest" and "citizen action" groups designed to represent the public against the special interests but spread thin across the entire spectrum of political issues, and public figures who lend their names and time to the cause. Thus, in 1972 the Americans for Democratic Action assembled a coalition which included Detroit Mayor Roman Gribbs, the American Baptist Convention, Common Cause, the ACLU, the AFL–CIO, the UAW and the American Jewish Committee. In 1968, after the shock of the assassinations, former astronaut John Glenn chaired an "Emergency Committee for Gun Control" composed of people like Warren Beatty, Truman Capote, Joe DiMaggio, Vince Lombardi and Archibald Cox.

Both coalitions were modestly funded, loosely organized, and designed to self-destruct at the conclusion of the particular legislative fight then being waged. The National Rifle Association, meanwhile, was going full steam before they started and after they disbanded.

Currently, consumer groups, tax reform groups, political reform groups and women's groups all see gun control as a desirable goal, but the issue falls in the chinks between each organization's specific program planks. "We're an organization of somewhat limited resources," an official of the National Women's Political Caucus said recently, "and we've had to devote those resources to matters directly affecting women's ability to participate in the political process. As far as gun control is concerned, I can't think of a time when the issue has even come up."

The only group which now exists solely to promote gun control and organize for its adoption is the National Council for a Responsible Firearms Policy, headed by David Steinberg. Steinberg is the most informed and thoughtful proponent of gun control in the country, but because the council is small and unable to attract substantial funds, he must serve as its only staff member in a part-time capacity. He circulates on Capitol Hill, consulting with committees and interested Congressmen, providing solitary counterbalance to the NRA's 250 employees on the other side of the issue.

Thus, members of Congress confront a situation in which a special interest is organized to threaten them with the margin of defeat, while the "public interest" is represented with tenacity and dedication, but without adequate backing. Under such circumstances, it might still be reasonable to expect our elected political leaders to *lead*, to take the dangerous but responsible policy position, and to find ways to educate and mobilize those substantial majorities who, according to the Gallup poll, agree with gun control.

In fact, quite often a politician may feel that he could defeat the economic, political and media strength of a given special interest—if he devoted a major part of his political capital to the effort. But very likely he will have a variety of such interests to cope with, and rather than take on all of them, he is apt to fall back to one of the first precepts of play-it-safe politics: people often don't give you credit for agreeing with them, but they never forget when you disagree. The politician, particularly the incumbent, is likely to settle for the *status quo* and keep his boats from rocking.

In my opinion, this outlook characterizes much of the behavior of Congress, which ordinarily takes so much time to see which way the wind is blowing that the storm is over before it ever acts—whether in response to the war in Vietnam, Presidential vetoes of social programs, or the gun situation.

Moreover, the Congressional inclination toward caution becomes more pronounced in the absence of Presidential pressure to act. The 1968 laws regulating mail-order sales passed only after President Johnson, acting through people like Atty. Gen. Ramsey Clark, made the matter a legislative priority. Attitudes changed greatly in the White House after 1968, as I attempted to illustrate at the beginning of this article.

These points about interest group tactics and the reactions they draw from politicians are probably true for many controversies. But it seems to me that there are attributes of the gun question which make it distinct from say, the oil lobby problem and the pharmaceutical lobby problem. While the gun lobby has many of the marks of a conventional special interest which sets out to frustrate a widely acknowledged "public interest," quite a few members of Congress are disturbed by the grass-roots element of the lobby, and the nagging apprehension, if not the outright conviction, that the voters in their areas are not telling Dr. Gallup everything he wants to know.

In weighing these apprehensions, it is important that intellectuals, journalists, reformers and politicians from the Northeast understand the regional dimensions of the gun issue. Almost everywhere else in the country—the South, the Midwest, the Far West, wherever rural influences are more pronounced—firearms are basic to the environment. According to Carl Bakal, a longtime writer on the gun question, an amazing 59 per cent of individuals in the South own a gun, compared to 34 per cent in the East. An aide to South Dakota Sen. James Abourezk told the Chicago Tribune, "Our constituency is very emotional about guns. Guns are a way of life and their attitude is, if you take away my guns, you'll take my wife next." The Wall Street Journal wrote, in an editorial, "Behind Gun-Control Furor: A Clash of Cultures," "The real pressure for gun control comes from cosmopolitan America, which sees it as the plainest common sense. The real resistance comes from the redoubts of bedrock America, which sees gun control as another symptom of encroachment by a new culture."

The rural area representatives who dominate the Congressional committee structure through the seniority system may very well feel they have ample reason to interpret those thousands of letters from gun-control opponents as being fairly representative of their constituents' convictions. To their minds, a "yes" or "no" question in a national poll about the specific idea of "police permits to buy guns" does not mirror the complicated feelings of the voters back home.

Similar conclusions have apparently been reached in the White House, where the Administration's ardent courtship of the National Rifle Association fits nicely into its "Southern strategy" and its appeals to "Middle America." To many politicians, as well as to many other observers, there appear to be a number of social and cultural factors in American life today which make broad, unambivalent public support of gun control unlikely.

One can begin by reciting the historical factors, unique to the United States—our nostalgia for the American frontier, reverence for self-reliance and individual strength, and insistence on a tough kind of masculinity in our country's males. In a quite pessimistic essay, *America as a Gun Culture*, historian Richard Hofstadter writes that "for millions of American boys, learning to shoot and above all graduating from toy guns and receiving the first real rifle of their own were milestones of life, veritable rites of passage that certified arrival at manhood."

These traditional inclinations have assumed a fresh tone of immediacy with the stunning growth of the nation's crime rate. Millions of citizens genuinely fear their neighborhood streets after dark, and the notion of defending oneself and one's family, of "fighting back," rather than relying solely on the police, has apparently gained great appeal, despite the proven impracticality and ineffectuality of such efforts. Women enroll in self-defense courses, *New York* magazine chronicles the growth of citizen vigilante groups, Sen. William Proxmire evokes a national reaction when he stands up to two muggers who accost him during his jogging. "I wouldn't want to see a lot of gun-control laws," a young volunteer for a major women's rights organization remarks, "if it would deprive women of a means of defending themselves."

An additional current of feeling reinforces public reservations about gun control, a current which, if anything, is apt to grow stronger in light of Richard Nixon's disturbing use of Presidential power. "Another belief of American gun enthusiasts enjoys a wide currency in the United States, extending to a good many liberals, civil libertarians, and even radicals," historian Hofstadter remarks. "It is the idea that popular access to arms is an important counterpoise to tyranny."

A dozen years ago, invocation of this fear of centralized government as a reason for resisting gun control would have been dismissed as near paranoia. Now, while Professor Hofstadter rightly describes belief in the value of "popular access to arms" as both naive and dangerous, the suspicions behind the belief perhaps cannot be so easily argued away. Recent evidence has emerged of the government's illegally wiretapping newspapermen and its own officials, misusing databank information, burglarizing private offices, and spying on dissident groups. It isn't altogether surprising that many people might hesitate to accept assurances that the federal government would never abuse its regulatory powers over firearms.

The Christian Science Monitor, a consistent advocate of gun control, recently featured an article with the headline, "Many Gun Owners Distrust Government." When considerable numbers of citizens come to distrust the individuals they have democratically elected to office, that seems to me one of the greatest tragedies which can befall a democracy.

I have been most concerned with describing the nature of the gun lobby. Though I have not discussed them here, the arguments for gun control—the statistics on the number of firearms homicides, the correlation in particular states between strict control laws and low firearms murder rates, and the history of effective gun control in England and other countries—are quite well known. A question remains: what can be done to advance the cause of gun control in the face of the forces I have been discussing?

A wholly satisfactory answer would require an additional article, but I can suggest some ways to begin. First, gun-control supporters should proceed with an awareness of the issue's complexities, and especially with respect and empathy for the concerns which motivate the grass-roots opposition.

Second, gun control should be made part of a tough, effective anti-crime program for the nation. Conventional liberal analyses of national issues have not been cohesive and convincing in the area of crime prevention; yet many Americans will hesitate at the most modest regulation of their firearms as long as they feel threatened by criminals.

Third, gun-control advocates should work to elect a President who will curb the federal government's increasing incursions into individual civil rights and liberties, as well as institute an anti-crime program which includes gun control. Given the imperfections of Congress and the regional strength of the gun lobby, strong national leadership on the issue must come from the Chief Executive.

The activist core of the gun lobby—the NRA, the manufacturers and dealers and the hunting and gun publications—will persist in fighting effective gun control. But the grass-roots element, essential to the lobby's continued strength, could, in my opinion, be persuaded of the merits of the pro-control position. These people have been grief-stricken by the assassinations of the last decade, believe in the responsible use of firearms, wish to be free of the fear of crime, and want to trust their government. In the past, liberal reformers have had trouble talking persuasively to "bedrock America" about gun control—or, for that matter, about the welfare problem, civil rights, dissent, the cities, the 1972 Presidential election and change in general. However, these are the people who have to be convinced; then progress in gun control could very likely follow.

TIME TO DEFEAT AUTOMATIC CONGRESSIONAL PAY RAISE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BAUMAN. Mr. Speaker, it is my privilege to cosponsor, with the distinguished gentleman from Iowa (Mr. GROSS), of House Resolution 807, a measure disapproving an automatic pay hike for Members of Congress, Federal judges, and top-level officials in the executive branch.

As the Members are aware, under a 1967 law, these pay raises become effective automatically 30 days after they are recommended by the President, unless they are specifically disapproved by the Congress. In this case, the recommendation was contained in the President's budget message, which was issued on Monday, February 4. By sitting back and doing nothing, without ever having to go on record publicly, this body can watch its salaries climb to new heights just 1 month from now.

But the average American taxpayer does not enjoy the prospect of an automatic 7.5-percent increase in his wages during each of the next 3 years, as will be guaranteed to Congress under this proposal. Indeed, the American people are struggling to discover a way to make ends meet in the face of rapidly rising prices, especially for food and fuel, and the prospect of an economy which, by all estimates, will experience almost no growth at all during the coming months.

For us to sit idly by while we watch our own salaries rise spectacularly under such circumstances can only invite the contempt of the taxpayers who elected us.

In addition, we are faced with a national budget, proposed by the President yesterday, which exceeds the $300 billion mark in Federal expenditures for the first time in our history. It was only 4 years ago that the President offered the first budget to exceed the $200 billion mark, a grim testament to the rate at which the Federal Government is growing, and the rate at which the taxpayer is being asked to fork over more and more of his income as the politicians discover new ways of spending it for him. Today, the average American citizen must work from January 1 through late May just to pay the taxes imposed upon him by Federal, State, and local governments.

Obviously, the ability of the Congress to draw the line somewhere lacks "credibility," as they say these days. I would suggest to you today that one dramatic and convincing way for the Congress to indicate its willingness to halt the ever-tightening grip it has placed on the taxpayer's pocketbook would be to vote down this pay raise.

Thus, I call upon the Members to see that this measure receives quick attention, keeping in mind that if action is not taken within 30 days our opportunity shall have passed, and the cynicism which much of the public already feels toward elected officials will deepen accordingly.

I would also like to urge my colleagues in the House to sign the discharge petition which has been filed by the gentleman from Indiana (Mr. DENNIS), to remove from the Post Office and Civil Service Committee H.R. 2154. This bill would require all future resolutions to disapprove such pay raises to be reported from the committee within 10 days from the time the pay raise recommendation has been made, or, if this is not done, provides that after 10 days have passed the committee is discharged from further consideration and the resolution to disapprove the raise must come to the floor as a highly privileged resolution. Only if such legislation is passed will we have a chance of rejecting future "automatic" salary increases. I have already signed the discharge petition, and I hope that a majority of the Members will do likewise as soon as possible.

OUR DEEPENING ECONOMIC NIGHTMARE

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BRASCO. Mr. Speaker, recently, the President presented his version of the state of the Union to the Congress and the Nation, drawing a picture of a domestic paradise replete with more of everything. He spoke of an end to inflation, lowered prices, full employment, and a generation of peace and contentment. At the end of this glowing presentation he noted that he would not allow the Watergate scandals to deter him from pursuit of more of the same for the American people.

Regretfully, I must join the overwhelming majority of citizens in wondering aloud over just what country he was referring to. There was little about that paradise on earth that was recognizable to me. His picture and version of our economic situation are vivid in contrast to the view the average workingman and women have of their plight.

As one workingman interviewed afterward stated, "Perhaps the President's dollars are buying more, but mine are not."

What emerges as the true state of affairs to me after visiting with and listening to several thousand of my working constituents, is shocking and in absolute opposition to the President's presentation. Most working families are in real economic trouble. Their dollars, as Government figures the President ignored show, are buying less in the face of skyrocketing prices. The people struggling the hardest to make ends meet are the worst hit by administration policy, such as the President's veto last year of the raise in the minimum wage. Perhaps the President does not need much more in the way of money, but millions of working people, especially working mothers, could have used the few extra dollars the hike in minimum wage would have made available.

Necessities are now at a premium in the consumer marketplace. We once took adequate supplies of reasonably priced gasoline for granted. Now motorists who need gas to get to work have to stand in line in Brooklyn for 2 hours in order to shell out 55 cents per gallon. That is not an economic paradise.

The President is fortunate that he does not have to pay the bills for his own heating fuel, when it is available. Prices are as high as supplies are short. Yet the major oil companies, which contributed at least $5 million to his recent campaign, are raking in stupendous profits and will pay almost no Federal taxes on them. That is not paradise, either.

In the markets, food prices are almost obscene. The administration people who talk so lightly of price hikes should go through a supermarket or corner grocery store with some of the people in Brooklyn, to see what they pay and how they have had to change their buying habits in order to feed their families. Hamburger, bread, vegetables, fruits, frozen foods, and dozens of other staples are at unacceptable price levels. It is heartrending to hear the pleas and view the dilemma of the elderly, the poor, and the very young, who are caught and hurt most viciously by the ever-tightening squeeze.

The baking industry has warned of a major shortage looming in late spring and early summer in our wheat supplies. A bumper crop in the fall will not help bread and related prices in the early part of the year. Yet this Government sold much of our wheat crop in the past 2 years to the Soviet Union and other nations, bailing them out at the immediate and direct expense of the American consumer.

Our promised bumper wheat harvest of this fall has already been potentially overcommitted to foreign buyers. Further, we are now told that the United States, which once piled its grain surplus in the streets of the grain belt, may have to import higher priced Canadian wheat, or even buy back some of our own grain at much higher prices from the Russians. Though the administration denies this, the President has just relaxed all barriers against such imports.

We all know that this is going to cost the shopper much higher prices for bread, our staff of life, in a few months. I do not know if the baking industry was correct when it predicted a $1 per loaf price for bread, but even a hike in price of 5 cents is outrageous in a nation which has historically had the greatest grain surpluses in the world's history, year in and year out.

The President loudly proclaimed that there would be no recession. Yet all across the Nation, unemployment lines are lengthening, and the latest figures for the jobless jumped from 4.8 to 5.2 percent in 1 month, largest monthly increase since the start of the 1970 recession.

And even the administration's own house economists, confronted with undeniable facts of life, are predicting worse economic news, including a 7-percent rate of inflation.

All this translates into a series of devastating economic blows at the average working person's pocketbook. Less buying power. Less access to necessities. Fewer jobs. Higher prices. Don't the people heading up this Government understand what is happening to people? Don't they know what is happening to our mass transit, housing, and education systems? Are they totally insulated from the realities of life? It looks as if this is the case.

Members of the House like myself have gone home and spoken with as many of our people as we could reach. I was on the subways daily during the recess, asking people what they felt and what was happening to them. Playback is consistent in each area. The President and his advisers had better get out of their isolation and start listening to the people of this country. They are angry and getting more so all the time. Telling them all is well on national television just will not wash any more. The game is up.

Price rollbacks and meaningful controls are the only answer. If the major companies, such as the oil giants, do not like that, that is just too bad. I feel the Congress will support any such price rollback action, starting with gasoline and fuel oil products. I certainly shall support any such move and believe that most other members will as well.

To have some economist, proven wrong a thousand times already, respond to calls like mine with the answer that we just do not understand economics, is pure foolishness. Perhaps we have no doctor's degree in economics, but we can at least hear the voices of the American people.

WORST JOKE IN 200 YEARS

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. CHAPPELL. Mr. Speaker, I find it outrageous that any bicentennial committee in this Nation would desecrate the very name of our Nation through such shenanigans as reported in the U.S. News & World Report of January 28, 1974. I submit this editorial here for all to read:

WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degrees of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

Mr. Speaker, I am not only outraged; I want to announce here and now that if any further such action occurs anywhere in this country, I am going to submit legislation to withdraw funding from the State or district that approved such a project. I, like most Americans, want a beautiful and memorable celebration of our 200th birthday. When many areas are hurting for money to complete meaningful projects, we are not going to stand by while any group wastes money and insults the people of this Nation.

CLEVELAND PAPERS PAY TRIBUTE TO LATE WILLIS B. BOYER

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. MINSHALL of Ohio. Mr. Speaker, the Cleveland, Ohio, daily newspapers paid high tribute to the memory of Willis B. Boyer at the time of his recent, untimely death.

I would like to share these articles and editorials with his many friends on the Washington scene:

[From the Cleveland Press, Jan. 31, 1974]

WILLIS B. BOYER DIES, HEAD OF REPUBLIC STEEL

Willis B. Boyer, board chairman of Republic Steel and active in numerous civic organizations throughout the Greater Cleveland area, died today at 1:50 a.m. in University Hospital.

Mr. Boyer would have been 59 Sunday.

He had been active in the industry until illness hospitalized him about five weeks ago. Services are being arranged by Brown-Forward Funeral Home, 17022 Chagrin Blvd., Shaker Heights.

An unusually warm and friendly man for a topranked industrialist, Mr. Boyer was simply "Bill" to all his associates. He made a fetish of putting visitors on a first-name basis immediately.

With the exception of a brief stint at International Business Machines Corp. he spent his entire working life with Republic Steel.

It took him 31 years to make the jump from a clerk in the cold strip department at the Cleveland steel plant to the president's chair. Bill Boyer became president of the steel firm on May 8, 1968.

In his first interview as president, Mr. Boyer recalled how in his early days as a Republic Steel employee his wife, Esther, used to send him messages scrolled on the hardboiled eggs she packed in his lunch.

After graduating from Lafayette College in Easton, Pa., Mr. Boyer started with Republic at the day rate of $5.50.

"My first raise was to $7.50 a day and I thought I was rich," he said.

His last published income figure as Republic Steel's chief executive showed his salary as $255,000 a year.

He moved up to the chief executive's chair in 1971, a month before the retirement of Thomas F. Patton, who had been chairman and chief executive.

Last May, Mr. Boyer was elevated to board chairman when William J. De Lancey was elected president. Mr. Boyer retained the title of chief executive officer.

His death, at 58, stunned associates at the company's headquarters in the Midland Bldg. who thought Mr. Boyer was making a good recovery from a gall bladder operation in early January.

At the company's annual Christmas party for newspapermen, radio and television reporters, Mr. Boyer circulated among his guests freely and appeared to be in excellent health.

During his steady climb through the executive ranks at Republic Steel, Mr. Boyer completed the Advanced Management Program at Harvard Business School and also took law and business courses at Case Western Reserve University.

Despite his busy work schedule he became immersed in civic and welfare activities. He served as treasurer of the Welfare Federation, as vice president and treasurer of United Appeal, was a board member of University Hospitals and Case Western Reserve University and was a trustee of Blucoats.

He was a director of Procter & Gamble, Marathon Oil, National City Bank and Sherwin-Williams Co.

In addition to his wife, Mr. Boyer is survived by three sons, Willis B. Jr., Jonathan G. and Christopher.

The Boyer home is at 22150 McCauley Rd., Shaker Heights.

[From the Plain Dealer, Feb. 1, 1974]

WILLIS BOYER OF REPUBLIC DIES AT 58

Willis B. Boyer, board chairman and chief executive officer of Republic Steel Corp. and an active civic leader, died yesterday in Lakeside Hospital of University Hospitals. He would have been 59 Sunday.

Mr. Boyer entered the hospital shortly before Christmas for a gallbladder operation. At that time it was discovered he had cancer.

A memorial service will be conducted tomorrow at 4:30 p.m. in Fairmount Presbyterian Church, Fairmount Blvd. and Coventry Rd., Cleveland Heights.

The family suggests contributions to the nursing scholarship fund of the Frances P. Bolton School of Nursing at Case Western Reserve University.

Mr. Boyer was elected Republic's board chairman in May. He had been president since 1968, its chief executive officer since 1971, and a director since 1964.

A man with a warm, outgoing personality, the Republic leader liked to be known as "Bill."

A native of Pittsburgh, Mr. Boyer was the son of Pearce F. Boyer, Republic's vice president and controller at his death in 1959.

Willis Boothe Boyer was graduated from Lafayette College and joined Republic in 1937 as a clerk in the cold strip mill here.

He once told friends his wife, Esther, used to write messages to him on the hardboiled eggs she packed with his lunches in those early days.

Mr. Boyer held various posts at Republic, including foreman, assistant to the treasurer, assistant treasurer, treasurer, and vice president and treasurer, and vice president for finance and administration before being named executive vice president in 1966.

Mr. Boyer was on the executive committee of the Greater Cleveland Growth Association, a trustee of the Cleveland Development Foundation, trustee and former treasurer of the Welfare Federation, former vice president and treasurer of the United Torch, trustee of Bluecoats Inc., and was on the boards of University Hospitals and Case Western Reserve University.

Mr. Boyer was a director of National City Bank, Sherwin-Williams Co., Proctor & Gamble Co., Metropolitan Life Insurance Co., Marathon Oil Co. and the Ohio Bell Telephone Co.

Mr. Boyer had taken business and law courses at CWRU and had completed the advanced management program at the Harvard University Business School.

In addition to his wife, Mr. Boyer is survived by three sons, Willis B. Jr., president of NORCOM Inc.; Jonathan G., and Paul Christopher, and his mother.

[From the Cleveland Press, Jan. 31, 1974]

WILLIS B. BOYER

The untimely death of Willis B. Boyer a few days before his 59th birthday takes from the community an outstanding business and civic leader.

Mr. Boyer made the jump all the way from clerk at Republic Steel to the presidency of the company in 31 years. Besides being the captain of a giant industry here he was closely involved with a number of civic projects.

He gave of his time and skills to the Welfare Federation and the United Appeal and was a board member of University Hospitals, Case Western Reserve University and Bluecoats. The sudden death of Mr. Boyer, a tall handsome friendly man, deeply saddens his many friends here.

[From the Cleveland Plain Dealer]

WILLIS B. BOYER

Willis B. Boyer and Republic Steel Corp. were partners in a lifelong romance of the business world. Mr. Boyer's late father had been an official in the company and Mr. Boyer joined Republic 37 years ago as a clerk in the cold strip department. At his death, Mr. Boyer was chairman of the board.

Mr. Boyer not only went up the line of corporation chairs to the top, he also spread his talent and energy around in civic and cultural affairs. He was active on boards of other corporations and he worked unstintingly for welfare. He was honored within the steel industry and praised outside of it for his service to his adopted city.

Certainly he touched all executive bases on his way to the leadership of one of Cleveland's and the nation's vital industrial combines. He had been treasurer, vice president-finance, vice president-administration, executive vice president, president and chief executive officer before becoming board chairman. Republic has been noted for its strong leadership at the very top so Mr. Boyer followed some tough acts. He was equal to the challenge.

This Pittsburgh native, however, also will be remembered for his character and his gentle friendliness as well as his purely business achievement. He was approachable. He had a good sense of humor. Success did not spoil him.

His death, at 58, not only prematurely deprives his family and loved ones of his presence but also takes away a man who had become a familiar and staunch supporter of Cleveland's all-around and day-to-day progress.

CONGRESS FIDDLES WHILE AMERICA FREEZES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. BIAGGI. Mr. Speaker, it has now been almost 3 weeks since the beginning of the 2d session of the 93d Congress which was supposed to have as its first order of business, the passage of responsible energy legislation to deal with the continuing crisis. Yet the passing of each day brings forth no such legislation, and this Congress continues an unconscionable dereliction of duty to the American people in a time of great need.

So far during this session, we have seen two vital pieces of energy legislation become mired in swamps of parliamentary technicalities and special interest considerations. First, the Senate voted to recommit the emergency energy bill largely because of provisions which sought to limit "windfall" profits of the major oil companies, some of which have reported profits as high as 60 percent for 1973.

The House on the other hand had before it an equally important bill which would have created a new Federal Energy Administration to bring some needed order to the various Federal energy programs. However, after the House leadership imposed a seldom-used rule requiring all amendments to the bill to be published in the CONGRESSIONAL RECORD, this legislation has suddenly disappeared from the calendar.

However, the problems to which these bills were addressed have far from disappeared. Millions of Americans continue to suffer through the cold months of winter with severe shortages of fuel to heat their homes, and gasoline to operate their cars. We hear reports of schools having to close down for lack of heat, of senior citizens on fixed incomes being unable to afford to heat their homes, and long lines at the few gasoline stations which are open today. Yet even these tragedies do not propel us to pass remedial legislation.

While it is true that the administration must shoulder much of the burden for our present energy dilemmas, the sad fact remains that we in Congress are equally to blame for both our actions and inaction. Lest we forget the incredible night of December 14, when the House debated, amended ad nauseum, and then finally defeated the original emergency energy bill—that night caused this great body to become the target of national ridicule.

Strong actions must be enacted by this Congress. The first and most important of these should be the immediate repeal of year-round daylight saving time. This new law has proven to be a dismal and dangerous failure as indicated by the tragic increase in the number of young children killed while going to school in the early morning darkness. A recent factsheet by the Federal Energy Office stated:

> The studies that have been undertaken to date are not definitive on either the energy savings (or losses) that might occur with DST, or the peripheral effects that might be experienced (crime, agricultural impacts, accidents, etc.) which can be causally associated with DST.

How many more children must be killed before we determine that daylight saving time has no beneficial effects? Yesterday I introduced legislation to immediately repeal this law, and establish daylight saving time from the first Sunday in March through the last Sunday in October.

We need to provide comprehensive, independent accounting of the actual oil and gas reserves this Nation currently possesses. We also must make a major effort to develop new domestic sources of energy so as to break our bonds of dependency with those foreign nations who practice international blackmail. These provisions are included in the aforementioned legislation.

Irrespective of the views of many of my colleagues as to the true extent of this crisis, the fact remains that the American Nation is presently in the midst of its worst energy problems since World War II. We in the Congress have the legislation which can both lay these doubts to rest once and for all, while at the same time providing both immediate and long-range remedies to cope with any energy crisis we have. Let us show the American people that this Congress possesses the same lightning speed which was used to lift the television blackout for professional football games. After all, which is more important, a TV screen blacked out for a few games or a potential permanent blackout for lack of energy?

GUNTER INTRODUCES EMERGENCY BILL TO SUSPEND DIESEL FUEL TAX; CITES FOOD SUPPLY PERIL; CONDEMNS VIOLENCE

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. GUNTER. Mr. Speaker, I will introduce emergency legislation tomorrow to immediately cut diesel fuel costs and make it possible for truckers to get back on the road.

At the same time, I vigorously condemn mounting incidents of violence surrounding the current nationwide strike by independent truckers and called for stepped-up law enforcement efforts to apprehend lawbreakers and prevent further violence.

This emergency bill would immediately suspend the 4-cent-a-gallon Federal tax on diesel fuel for a period of 6 months. It would also freeze diesel fuel prices at the January 15, 1974, level and require an additional reduction of 4 cents a gallon from that level, reflecting the amount of taxes put into the highway trust fund.

The provision is designed to guarantee

that purchasers of diesel fuel, rather than the oil companies, get the benefit of the 6-month suspension on tax collections. Sellers of diesel fuel would be required to pass along the reduction to purchasers, and would not be allowed to pocket the tax savings.

If enacted, this emergency bill would cut skyrocketing diesel fuel costs confronting truckers by an estimated $185 million over the next 6 months. It would provide immediate and significant relief in the cost-per-mile of operating trucks, and could save many independents now on the verge of bankruptcy.

The emergency measures are needed because of the threat to the Nation's food supply.

In Florida, food is simply not moving. The State's $2 billion a year citrus industry, among others, is immediately threatened.

When you add the same dire threat facing each of the 50 States, it is apparent that the $185 million in Federal fuel taxes we will forsake for 6 months under my emergency bill is very small compared to the tens of billions that may be lost to all segments of the economy if something is not done immediately to get the Nation's food supply and other vital materials and commodities moving again.

The tax suspension would also be minimal in relation to the overall size of the highway trust fund, which currently enjoys a $2 billion surplus which under the law cannot be used for any other nonhighway purposes.

Both Federal energy officials and diesel fuel suppliers seem unable to act effectively to meet the immediate crisis. This legislation would provide an immediate, practical and workable way out of the current impasse.

At the same time, I want to warn truckers that the sporadic but increasingly serious incidents of violence could so arouse public anger that measures such as this bill to provide just relief for their genuine grievances could become extremely difficult, if not impossible to obtain. It takes only a few acting outside the law to bring down the weight of public reaction against the many who have not engaged in and do not condone such acts of violence.

I call upon the truckers to vigorously support efforts to enact the emergency legislation as a large, constructive step toward obtaining relief from the immediate problems they face and resolving their grievances within the system.

In a letter to the chairmen and members of the House Ways and Means Committee and the Senate Finance Committee, to whom the legislation will be referred, I am urging consideration of the legislation on an emergency basis—because we have an emergency, and one that the executive branch seems unable or unwilling to resolve.

A 6-month moratorium on diesel fuel tax collections would mean only a minimal and temporary reduction of the flow of funds into the highway trust fund, and the step would not be unreasonable in order to provide immediate and effective relief from the emergency situation we face now.

The Federal Government currently collects roughly $370 million a year in taxes on diesel fuel. A 6-month suspension would decrease this amount by roughly $185 million.

In addition to providing for the 6-month Federal tax suspension, this emergency bill also calls on State and local governments to consider some degree of relief by suspending a portion of fuel taxes they impose for a reasonable length of time wherever possible.

I favor the tax suspension method of providing relief rather than a method which would allow truckers to pass along higher costs because literally thousands of small individual owners of trucks who contract for single or independent jobs could not pass along higher fuel costs, and therefore would not be aided by going this route.

In Florida alone, we must have thousands of these small independent truckers who would not benefit by a pass-along provision because there is literally no one to whom they can pass it along. Those with whom they contract to do a single job are themselves small, hard-pressed businesses in many instances and cannot themselves afford to absorb additional costs.

In my letter to the Ways and Means and the Senate Finance Committees, I told the members that they "can play an immediate, effective part in ending the current dangerous situation" by acting to provide immediate relief that is practical, possible, and fiscally sound. My bill would also offer the quickest possible solution legislatively.

I am not necessarily wedded to a specific length of time for a tax suspension, but have provided for a 6-month period because it would seem to reflect a reasonable length of time in which to turn the situation around on diesel fuel costs and give the truckers, who are essentially small businessmen, the tools for avoiding the immediate financial catastrophe that threatens them if something is not done.

This is one of those occasions where the Congress can demonstrate its own responsiveness and power to act, and to dispel the myth that only the executive branch is capable of acting. The executive branch has had every opportunity to act and they are still floundering. It is time for the Congress to use the tools available to it to bring the Nation out of this chaos which no one in the Federal Energy Office seems to know how to deal with.

The members of the House Ways and Means Committee and of the Senate Finance Committee can render an immediate public service by moving promptly and vigorously to provide relief for the present emergency that will be both immediate and effective.

TEXAS SENATE PETITIONS U.S. CONGRESS ON ENERGY CRISIS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 6, 1974

Mr. TEAGUE. Mr. Speaker, on December 18, 1973, the Senate of the State of Texas passed a resolution memorializing the Congress of the United States to enact legislation to relieve the energy crisis. In that petition they pointed out eight specific areas to which this body could address the problem.

State Senator Ron Clower drafted the resolution and in it he and his fellow senators show their concern and insight to the problem. I might point out that Texas produces more petroleum than any other single State in this Nation. Texans are concerned with finding ways that our finite resources can be developed to their maximum potential for the good of the Nation.

With legislation coming before us within the next few weeks concerning this crisis, I recommend that the Members of the House consider seriously the resolution offered to us by the Senate of the State of Texas.

The resolution follows:

SENATE RESOLUTION NO. 10

Whereas, Throughout the history of this nation, the United States of America has faced and overcome crises of war, economic disaster, and political upheavals; and

Whereas, Currently, the people of this country are dedicating themselves to an all-out effort in solving the energy crisis, and it is imperative that the Congress of the United States take positive action by enacting legislation which will assure for the nation the energy resources necessary to alleviate the present situation, looking to a time in the not too distant future when energy reserves will be sufficient to meet foreseeable needs; and

Whereas, The State of Texas has long been willing and ready to share its natural gas and oil reserves with sister states not so generously endowed, but Texas resources are fast nearing a stage of depletion and it is in the interest of Texas citizens as well as those of the entire United States that affirmative steps be instituted by the Congress to meet the energy needs of this nation without further delay; now, therefore, be it

Resolved by the Senate of the 63rd Legislature, 1st Called Session, That the Senate of the State of Texas hereby memorialize the Congress of the United States to enact legislation to relieve the energy crisis by

(1) removing the ceiling price on natural gas at the well head on all gas from new sources brought into production after January 1, 1974;

(2) increasing the oil depletion allowance to stimulate exploration, recovering marginally productive areas, and for research into new energy sources, such as oil shale, solar, geothermal, or liquefied and gasified lignite;

(3) removing the depletion allowance on all foreign oil and gas exploration and production;

(4) encouraging the reconversion of existing power facilities that burn fuel oil and/or natural gas to coal, providing that environmental controls are sufficient to maintain an acceptable air quality level;

(5) directing the Environmental Protec-

tion Agency to draw up a plan for the temporary selective removal of gas- and power-robbing pollution control devices from automobiles and trucks, provided that the removal of such devices be permitted only in those areas where the air standards are above the minimally acceptable levels established by the Environmental Protection Agency;

(6) imposing an embargo on the export of crude oil, refined oil products, or natural gas until such time as the normal flow of these products is reestablished in the world market;

(7) imposing an embargo on the export of rolled steel products until such time as manufactured goods of rolled steel are in sufficient supply to meet the demand created by increased exploration and development in the petroleum industry; and

(8) removing the price ceiling on rolled steel products; and, be it further

Resolved, That the Senate of the State of Texas also request the Congress to consider a selective embargo to apply to all countries now participating in a petroleum embargo in this country, such embargo to include, but not be restricted to, manufactured goods, especially those related directly to the production or consumption of petroleum, foodstuffs, and other similar items; and, be it further

Resolved, That copies of this Resolution be forwarded to each Senator and Representative in the Congress from Texas, with the request that this Resolution be officially entered in the Congressional Record as a Memorial to the Congress; and, be it further

Resolved, That copies of this Resolution also be sent to the presiding officers of the legislatures or assemblies of every state, territory, and protectorate of the United States of America.

HOUSE OF REPRESENTATIVES—*Thursday, February 7, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God is our refuge and strength, a very present help in trouble.—Psalms 46: 1.

O God, who art a strong tower of defense to all who put their trust in Thee, we, Thy children, come before Thee with thanksgiving for the guidance of Thy good spirit and praying that in Thee the deep needs of our hearts may be met.

Grant unto us insight to see the way we ought to go and inspiration to walk in it as we seek to respond to the clarion call of moral greatness.

In hours of decision, through times of temptation, during days of responsibilities, for periods of suffering, speak Thou the words of courage and faith and give to each one of us the inner peace which comes to those whose minds are stayed on Thee.

Strengthen us to carry our share of the burden of mankind's advance toward Thy kingdom of peace and good will and prosper all endeavors which are in keeping with the spirit of love.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 425. Concurrent resolution providing for adjournment of the House from Thursday, February 7, 1974, to Wednesday, February 13, 1974.

PROVIDING FOR ADJOURNMENT FROM FEBRUARY 7, 1974, to FEBRUARY 13, 1974

The SPEAKER laid before the House the concurrent resolution (H. Con. Res. 425) providing for adjournment of the House from Thursday, February 7, 1974, to Wednesday, February 13, 1974, with the Senate amendment thereto.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, strike out "1974." and insert "1974, and that when the Senate adjourns on Friday, February 8, 1974, it stand adjourned until 12 o'clock meridian, Monday, February 18, 1974."

MOTION OFFERED BY MR. O'NEILL

Mr. O'NEILL. Mr. Speaker, I move that the House concur in the Senate amendment to House Concurrent Resolution 425.

The SPEAKER. The question is on the motion offered by the gentleman from Massachusetts (Mr. O'NEILL).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 209, nays 175, answered "present" 1, not voting 44, as follows:

[Roll No. 27]

YEAS—209

Abzug
Adams
Alexander
Anderson, Ill.
Annunzio
Arends
Aspin
Badillo
Baker
Barrett
Bergland
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Bray
Breaux
Breckinridge
Brooks
Brown, Mich.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carney, Ohio
Casey, Tex.
Cederberg
Chamberlain
Clark
Clay
Collier
Collins, Ill.
Conable
Conlan
Conte
Corman
Cotter
Crane
Culver
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellums
Denholm
Dent
Derwinski
Dingell
Dorn
Dulski
Duncan
Eckhardt
Edwards, Ala.
Edwards, Calif.
Erlenborn
Eshleman
Evins, Tenn.
Fisher
Flood
Fraser
Frelinghuysen
Fulton
Fuqua
Gettys
Gonzalez
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hicks
Hillis
Horton
Hosmer
Howard
Hudnut
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kuykendall
Long, La.
Lujan
McCormack
McEwen
McFall
McKay
Madden
Mahon
Mailliard
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Mink
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nix
O'Brien
O'Hara
O'Neill
Owens
Pepper
Pike
Preyer
Price, Ill.
Quie
Quillen
Railsback
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Roberts
Rosenthal
Roush
Roybal
Runnels
Ruppe
Ryan
Sandman
Sarbanes
Scherle
Shipley
Shoup
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Steed
Steiger, Ariz.
Stephens
Stokes
Sullivan
Symms
Taylor, Mo.
Thompson, N.J.
Thomson, Wis.
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Waggonner
Ware
Whalen
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—175

Abdnor
Addabbo
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Bauman
Beard
Bennett
Bevill
Biaggi
Biester
Brinkley
Broomfield
Brotzman
Brown, Ohio
Broyhill, N.C.
Burke, Mass.
Butler
Camp
Carter
Chappell
Chisholm
Clancy
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Coughlin
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
de la Garza
Dellenback
Dennis
Devine
Donohue
Downing
Drinan
du Pont
Eilberg
Esch
Findley
Flowers
Flynt
Ford
Fountain
Frenzel
Frey
Froehlich
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goodling
Grasso
Gross
Grover
Gude
Gunter

Guyer
Hammerschmidt
Hanrahan
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hinshaw
Hogan
Holt
Huber
Hunt
Hutchinson
Kemp
Ketchum
King
Kyros
Landgrebe
Latta
Lehman
Lent
Litton
Long, Md.
Lott
McClory
McCloskey
McCollister
McDade
McKinney
Macdonald
Mallary
Mann
Maraziti
Martin, Nebr.
Mathis, Ga.
Michel
Miller
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Moss
Murphy, N.Y.
Nichols
Parris
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Podell
Powell, Ohio
Price, Tex.
Pritchard
Randall
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rousselot
Ruth
St Germain
Sarasin
Satterfield
Schneebeli
Schroeder
Sebelius
Seiberling
Shuster
Skubitz
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Thone
Thornton
Tiernan
Vanik
Veysey
Vigorito
Waldie
Walsh
Wampler
Whitehurst
Winn
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.

ANSWERED "PRESENT"—1

Burke, Fla.

NOT VOTING—44

Bell
Blackburn
Brasco
Brown, Calif.
Carey, N.Y.
Clausen, Don H.
Conyers
Davis, Ga.
Dickinson
Diggs
Evans, Colo.
Fascell
Fish
Foley
Forsythe
Goldwater
Gray
Haley
Hébert
Holifield
Holtzman
Jarman
Johnson, Pa.
Jones, Ala.
Landrum
Leggett
McSpadden
Madigan
Mathias, Calif.
Mills
Mitchell, Md.
Obey
Passman
Poage
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roy
Stark
Steelman
Stubblefield
Symington
Teague

So the motion was agreed to.

The Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING MEMBERS OF HOUSE TO REVISE AND EXTEND REMARKS IN THE CONGRESSIONAL RECORD

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until February 13, 1974, all Members of the House shall have the privilege to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extension of remarks; but this order shall not apply to any subject matter which may have occurred or to any speech delivered subsequent to the said adjournment.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REQUEST TO DISPENSE WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, to that last request I object.

The SPEAKER. That is the request to dispense with Calendar Wednesday business?

Mr. GROSS. Yes, Mr. Speaker.

The SPEAKER. Objection is heard.

AUTHORIZING SPEAKER OF THE HOUSE TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until February 13, 1974, the Speaker be authorized to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED MEASURES NOTWITHSTANDING ADJOURNMENT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent, that notwithstanding any adjournment of the House until Wednesday, February 13, 1974, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON AERONAUTICS AND SPACE TECHNOLOGY TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aeronautics and Space Technology be authorized to sit while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. BRADEMAS. Mr. Speaker, on Monday, February 4, 1974, I was unavoidably absent on rollcall No. 12, the vote on passage of H.R. 4861, providing for the preservation and protection of certain lands known as the Piscataway Park in Prince Georges and Charles Counties, Md.

The vote was 334 ayes and 4 nays.

Had I been present, I would have voted "aye."

CONTINUATION OF OEO PROGRAMS

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, today we are introducing the bill that will continue the OEO programs and services provided by community action agencies under the Economic Opportunity Act. The poor are hit hardest by inflation, unemployment, and the energy crisis. Special OEO programs designed to open the door to a better life for all our people should be continued and strengthened. For this Nation to turn its back on the poor, especially the poor in rural areas, would be a tragedy.

Our bill specifically calls for continuation of urban and rural community action programs, day care centers, and special programs to combat poverty in rural areas. It is a pleasure to join our colleague, Congressman AUGUSTUS HAWKINS, chairman of the House Subcommittee on Equal Opportunities, in sponsoring the bill, and I am delighted that Chairman HAWKINS has held hearings on the future of OEO programs.

In supporting extension of this legislation, Mr. Speaker, we especially wish to commend the dedicated and devoted people who staff our community action agencies and the concerned citizens who serve on their local boards of directors. They are the ones who translate into action and positive results the programs and services provided for the poor by the Congress.

SENATE JOINT RESOLUTION 185 PRESENTS UNUSUAL PROCEDURE

(Mr. ECKHARDT asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Speaker, I would hope that those who are presently on the floor would remain on the floor during the period when the rule is raised on Senate Joint Resolution 185, because this is a very unusual procedure before this House. Senate Joint Resolution 185, which deals with a change in procedure respecting the Interstate Commerce Commission's provisions for rulemaking and deals with the trucker situation, has never gone through any committee of primary jurisdiction.

Senate Joint Resolution 185 comes solely out of the Committee on Rules.

This situation, I think, has only occurred once during the period I have served in the House, that was with respect to a matter taken from the Committee on Education by the Committee on Rules concerning the question of HEW restrictions on school funds. It has occurred about six times since 1937. It is an extremely preemptory rule, which is seldom used and, therefore, I suggest that the Members might be concerned with the preservation of the rights of committees and their members with respect to matters primarily in the jurisdiction of their committees.

PERSONAL EXPLANATION

Mr. GETTYS. Mr. Speaker, at 1:30 yesterday on rollcall No. 20 on the previous question when the subpena resolution was taken, I voted and was duly recorded on that vote. Seventeen minutes later on rollcall No. 21 on the granting of the subpena power resolution I was present. I voted "yes," put my card in the slot, the light showed; however, I am not recorded in the RECORD.

I ask that whatever correction is proper shall be entered in the RECORD to show I was present and voted.

The SPEAKER. The gentleman's statement will appear in the RECORD explaining his situation.

Mr. GETTYS. In addition, Mr. Speaker, it concerns me deeply, it seems in this machine age that the integrity of a machine is taken to have a superior rating to the integrity of a Member of Congress.

The SPEAKER. It is a concern of the Chair also, but the Chair has to enforce the rules of the House.

PROPANE GAS

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. NICHOLS. Mr. Speaker, prices being charged by the major oil companies on propane to distributors throughout America are nothing less than ridiculous. I have protested long and loud to Mr. Simon's energy office. The only comfort he has offered to the elderly and the poor and other residents of rural America who depend on propane for heating and for cooking, is the regulation issued last week which provides that add-on costs of propane can be only that percentage of the total amount of increased costs which represents the increase of costs of the production of propane.

Mr. Speaker, this is no solution and does nothing whatever to correct the exorbitant prices being charged to distributors.

I am one Member of the Congress that believes that private industry thrives best with a minimum of Government intervention, but in this case where the inequities are so wide spread and affect so many people and where remedial help has not been forthcoming it seems Congress has a responsibility. For these reasons I expect to join with other colleagues in this Congress in support of an amendment to the Federal Energy Act, which would amend the Economic Stabilization Act to stabilize both wholesale and retail price levels of propane at the average level of May 15 of last year and to permit only propane price adjustments from that time which are proportionate to those added costs of producing propane by the major oil companies.

SALARY INCREASE BILL

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKUBITZ. Mr. Speaker, I have been a Member of this body for 12 years. Many times I have been asked to sign discharge petitions to bring legislation before this House. But I have never done so. In my opinion, to discharge committees and attempt to write legislation on the floor would end in chaos. Pressures from every special interest group and every group desiring economic or social change would demand the discharge of the committee and we would find ourselves trying to write legislation on the floor without benefit of hearings and the opinions of those well versed in specific areas.

Today, I am breaking my own rule. I do so without hesitation, because the matter is one affecting each Member personally. I am referring to the salary increase bill. By doing nothing, it becomes effective and in my opinion the taxpayers have a right to know how we feel on this matter. The only way open to force a vote is by signing the discharge petition.

The Commission on Executive, Legislative, and Judicial Pay has recommended a 23-percent salary raise for Members of Congress over the next 3 years. Under the Federal Salary Act of 1967, the increase will be automatic if we do nothing. I cannot remain silent, knowing my inaction is a positive endorsement of my own pay raise.

Our actions in this House are an example for the Nation. In 1969, I opposed a 41-percent congressional pay boost as inflationary. What happened? Inflation runs rampant.

How can we ask the labor force of this country to hold the line on personal earnings when we do not even practice wage control in our own House? When it comes to our personal bank accounts, we have devised the "automatic" pay raise.

Let us not dodge the issue. I am signing the discharge petition on H.R. 2154 so I will have the opportunity to vote "no" on a congressional pay raise.

AN OPPORTUNITY TO VOTE ON THE CONGRESSIONAL PAY RAISE

(Mr. DENNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENNIS. Mr. Speaker and Members of the House, I take this occasion to remind the membership that I have at the desk a discharge resolution on H.R. 2154, a measure which would give every Member of this House a chance to rise on the floor and compel a vote on the question of whether or not we should have a pay raise.

This is the only opportunity the Members will have, probably, to register their views on that matter. Whether Members think there should be a raise or not Mr. Speaker, I would think ordinary decency and courage would suggest that we should vote. Members have a very fine opportunity to sign this discharge petition before they go home and talk to their constituents.

PERSONAL EXPLANATION

Mr. SPENCE. Mr. Speaker, on yesterday, February 6, 1974, on rollcall No. 21, on House Resolution 803, I am recorded as not voting.

Mr. Speaker, I was here and voted "yes." I would like to be recorded as voting "yes."

PRINTING OF THE CONSTITUTION OF THE UNITED STATES

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the House Concurrent Resolution 184, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate amendment as follows:

> Page 2, after line 3, insert:
>
> SEC. 2. There shall be printed fifty-one thousand five hundred additional copies of the document authorized by section 1 of this concurrent resolution for the use of the Senate.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ADVANCING EFFECTIVE DATE OF FINAL ORDER OF INTERSTATE COMMERCE COMMISSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 835 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> H. RES. 835
>
> *Resolved*, That immediately upon the adoption of this resolution the House shall resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket numbered MC 43 (Sub-No. 2). After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and For-

eign Commerce, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 835 provides an open rule with 1 hour of general debate on Senate Joint Resolution 185, a joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub-No. 2).

House Resolution 835 discharges the House Interstate and Foreign Commerce Committee from further consideration of Senate Joint Resolution 185, and brings that resolution directly to the Committee of the Whole House on the State of the Union for consideration.

The Interstate Commerce Commission issued a proposed order on January 20, 1974, to require common carriers to pay the owner-operator for the incease in fuel costs over the May 15, 1973, price. Under the Interstate Commerce Act, the Interstate Commerce Commission cannot make the proposed order effective until 30 days after final publication.

In this case the effective date would be March 20, 1974. Senate Joint Resolution 185 provides that the Interstate Commerce Commission can make a final order which will be effective no later than February 15, 1974.

Now, Mr. Speaker, I recognize that there are going to be charges made that this action is somewhat arbitrary. I realize that it has been used very rarely by the Committee on Rules, but, Mr. Speaker, I think we all recognize that, in fact, we are faced with an emergency. We do, in fact, have a crisis in connection with the delivery of needed food and fuel and other supplies that the American people need.

Now, it is my understanding that this resolution, if passed and approved, will permit the Interstate Commerce Commission to, in fact, make effective as of February 15, the results of what was agreed to just this morning at, I believe, 5 o'clock or thereabouts between the administration and the striking owner-operated truckdrivers. Now, I simply wish to make clear the purpose of the resolution, Mr. Speaker, which I am offering and which the Committee on Rules has brought to us, is simply to provide for the Committee on Interstate and Foreign Commerce to discuss this matter in the House and examine what the problems are. Let me say it is unique in this situation and it is certainly different from previous actions taken where a bill has been taken from a legislative committee by the Committee on Rules and sent to the floor.

In this case, this action was sought by that committee, and I think rightly so, in view of the fact that a House resolution which is identically the same as the Senate joint resolution which this makes in order was discussed, debated and hearings held, and discussions went on, as I understand it, all day yesterday.

Again, Mr. Speaker, recognizing that we are dealing in an emergency situation, I urge the adoption of House Resolution 835.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, will the gentleman confirm to me that Senate Joint Resolution 185 in this instance rises directly from the Committee on Rules as the committee of first instance, and that it has not passed out of any committee of this House?

Mr. SISK. Let me say to my good friend and colleague, the gentleman from Texas, that, yes, the gentleman is correct. This resolution 835, of course, is a resolution passed, approved and passed out of the Committee on Rules, and it is, of course, brought here for House approval.

It is, of course, subject to the wisdom of the House as to whether we will or will not pass it. It does make in order Senate Joint Resolution 185. The point I was trying to make a moment earlier, as my colleague, I am sure, is aware, is that we are not doing this in opposition to or with the idea of overriding the gentleman's Committee on Interstate and Foreign Commerce.

Frankly, we were actually asked to make this rule available; we were asked by the chairman of the committee the distinguished gentleman from West Virginia, on yesterday.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield on that point?

Mr. SISK. Yes, I yield to the gentleman.

Mr. ECKHARDT. Mr. Speaker, the gentleman has said this was done upon the request of the Committee on Interstate and Foreign Commerce.

Does the gentleman know of any action taken by that committee by which the committee asked the Committee on Rules to take such action?

The gentleman from Texas was present at the time the matter came before the Rules Committee and recalls this sequence: The gentleman from Missouri, who is one of the most capable Parliamentarians in this body, stated that he was not making his resolution in terms of the House bill, because it had recently been said on the floor that the House bill had been pased out of the Committee on Interstate and Foreign Commerce without a quorum and, therefore, it was subject to a point of order. He, therefore, offered the Senate bill.

The gentleman from Texas was present at the meeting; so was the gentleman from Washington (Mr. ADAMS).

There was no opportunity for any member of the committee to express his opposition to the overriding of the committee's jurisdiction, but the distinguished chairman of our committee, for who I have the highest respect and who was certainly acting as expeditiously as possible, was there before the committee.

As I recall it, the gentleman from Missouri (Mr. BOLLING) said, "Does the chairman object?" In my opinion and from what I saw, that was the only agreement by the Committee on Interstate and Foreign Commerce that occurred with respect to this extremely unusual procedure.

Will the gentleman confirm that that is true?

Mr. SISK. I think, as I understand what my friend from Texas is saying, that is correct. The gentleman from West Virginia, the distinguished chairman of the Committee on Interstate and Foreign Commerce, under direct questioning, as I recall it, did make such an answer as he indicated to the question of the gentleman from Missouri (Mr. BOLLING). I assume he was speaking for himself. I am not in a position, this Member from California is not, to look behind that and know exactly what the attitude, or what the opinion of other members of his great committee was with regards to this matter.

We were moving on the assumption, as I indicated before, that we did have an emergency and it was felt that this was the best way to meet that emergency. Therefore the Committee on Rules acted upon it. Now, whether we acted in all good wisdom or not I am not sure, and that, in the final analysis, will be determined by the action of the House.

Mr. ECKHARDT. The gentleman from California should understand this Member from Texas that there is no criticism of the Committee on Rules attempting to expedite the matter in a manner in fact approved by the committees on Interstate and Foreign Commerce. I suppose it was acting in order to expedite the business of the House in the best way that it could. My point is the only way in which the Committee can express its agreement to give up its primary jurisdiction with respect to a bill of this nature is by some formal action by our committee.

I recognize, of course, that the Committee on Rules has the raw power to take jurisdiction over substantive legislation, but it had only done so, in my recollection, once since I have been here in the House and I think not more than seven or eight times during this century.

Will the gentleman confirm that that is generally true?

Mr. SISK. If I can answer my good friend from Texas, I think basically he stated the facts as I understand them. Personally, as the gentleman may remember, this Member from California now addressing the House took this action some 3 years ago in connection with the settlement of a west coast dock strike. He may or may not remember.

Mr. ECKHARDT. That is correct.

Mr. SISK. That is, as far as I can recall, the last time that this particular action has taken place. It became again a matter of extreme emergency in which the west coast had been tied up for months, and this Member, along with many others and, the gentleman may remember, this House rather overwhelmingly passed that bill for the purposes of attempting to settle that dock strike.

Again I want to cite the fact that this has been done most rarely. Personally I do not like to assert this so-called raw power of the Committee on Rules. The gentleman, as he says, agrees it has been used very sparingly over a long period of time.

Again I think it is a matter of opinion of the House and the wisdom of the individual Members as to whether or not the present crisis and the present emergency justifies this kind of action in this case. We felt, frankly, that it did, but again, as I say, that will be a matter to be settled by the votes of the Members of the House.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. SISK. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I agree with the statement just made by the gentleman from California concerning the situation with which the Committee on Rules was confronted yesterday. I am certain we would not have acted as we did unless we had the concurrence of the chairman of the Committee on Interstate and Foreign Commerce. Certainly, with the absence of a quorum in the Committee on Interstate and Foreign Commerce at the time the resolution was reported, we would have had a point of order made against House Joint Resolution 893 and could not have considered this matter today.

I agree with the statement made by the gentleman from California that we should not use the authority we did arbitrarily, and we did not do that in this case. We would not have used it unless we had the concurrence, which we had, of the chairman of the committee.

Does the gentleman from Texas wish me to yield to him?

Mr. ECKHARDT. Yes, would the gentleman yield?

Mr. LATTA. I yield to the gentleman from Texas.

Mr. ECKHARDT. The point the gentleman is making is correct, and that is the action within the Committee on Interstate and Foreign Commerce was in fact taken to the House floor. I do not believe that is denied. Therefore, of course, the fact the Committee on Interstate and Foreign Commerce had taken no valid action and had not acted on the bill. What the Committee on Rules did in effect in reporting out an identical bill of the Senate was to remove from the jurisdiction of the Committee on Interstate and Foreign Commerce the substantive jurisdiction over a matter within its purview. Now, I do not understand how the chairman of the committee, without the concurrence of a majority of his committee, may assure us that the Committee on Interstate and Foreign Commerce agrees to that entrenchment on its jurisdiction. That is the point I am making.

Mr. LATTA. Mr. Speaker, in answer to the question raised by the gentleman from Texas, I think the gentleman should direct that question to the chairman of the committee as to whether he had the concurrence of a majority of the committee or not, but even though he did not have the authority, the authority rests in the Committee on Rules to do this.

Mr. ECKHARDT. That is perfectly agreed to, the Committee on Rules certainly has the raw power to do what it did.

Mr. KUYKENDALL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I would be happy to yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Was the gentleman from Texas present at the committee?

Mr. ECKHARDT. The gentleman from Texas was at the committee from its initial——

Mr. KUYKENDALL. Was the gentleman from Texas at the committee at the moment the bill was reported out?

Mr. ECKHARDT. He was not, because he was on the floor to vote.

Mr. KUYKENDALL. I know that. I took part in that vote. I know the gentleman was not there.

Does the record of the committee show——

Mr. ECKHARDT. To whom?

Mr. KUYKENDALL. Does the record of the committee show any absence of a quorum?

Did the gentleman from Texas take a poll of those not present to see if there was a quorum there?

And since the gentleman was not there I question the viability of his doubts about the action of the committee. The gentleman from Texas was not there.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I will be happy to yield to the gentleman from Texas.

Mr. ECKHARDT. In answer to the question of the gentleman from Tennessee, the point that I am making here is that Senate Joint Resolution 185 was never heard nor reported by the Committee on Interstate and Foreign Commerce. The fact that the Committee on Rules reported Senate Joint Resolution 185 rather than the House bill was done, according to the discussion of the Committee on Rules, upon the basis that the reporting of the other bill would be subject to a point of order.

Now, I am not raising the question of whether there was a quorum present or not. That was conceded on the Committee on Rules. That has been conceded by the gentleman from Michigan (Mr. DINGELL) in private remarks. There is no question on that point, and it is not before us.

Mr. LATTA. Mr. Speaker, seeing my good friend, the gentleman from West Virginia (Mr. STAGGERS) the chairman of the Committee on Interstate and Foreign Commerce, on the floor, I would like to speak out of order for a few minutes.

(By unanimous consent, Mr. LATTA was allowed to speak out of order.)

EMERGENCY ENERGY BILL

Mr. LATTA. Mr. Speaker, I have in my hand a copy of a UPI story which quotes, or attempts to quote the gentleman from West Virginia on the matter that was before the Committee on Rules yesterday, meaning the energy bill, where he is alleged to have said he does not have the votes to force the bill out of the House Rules Committee. The committee voted 7 to 7 Wednesday to hold the bill back from floor consideration on grounds the rollback portions are not germane to the bill.

Mr. Speaker, I happen to be one of those individuals who voted not to report that bill, but that was not the reason. As a matter of fact, I favor a rollback of petroleum prices. I should like to point out to the House that this bill was in no way, shape, or form ready to come to the House. All we have before us were galley proofs, which I hold in my hand, with a lot of markings. I do not think that the Members of this House want us to report legislation to them for their consideration in this form.

Second, I object to a provision in this bill which would authorize end-use rationing, and the House has taken a rather negative position on this previously. The people of America do not want this Congress to grant authority to some bureaucrat to institute some system of rationing to his liking. For anybody to try to read my mind—and I did not even state the reason before the Committee on Rules—as to why I was voting as I did, I think, is taking just a little bit too much for granted and should not have been done if the report is true.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I would just like to say, in connection with what the gentleman from Ohio is saying, that as far as I am concerned, I am ready to stay here indefinitely without a recess to do the Nation's business, be it energy, truckers, or what have you. That is the way I voted a moment ago on this adjournment matter, but I do not want under any circumstances—and with all due respect to everybody concerned, for whom I have the greatest respect—to ever have to go through again the farce that we went through before we adjourned in December on this energy matter, where we were here at midnight voting on what we knew not. This was absolutely, in my opinion, a very disgraceful performance for a parliamentary body, and I think that those on the Committee on Rules who prevented that from happening again are to be congratulated.

Mr. LATTA. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I appreciate the gentleman's yielding.

Mr. Speaker, I, too, was one of the seven who about 7 o'clock yesterday evening voted against a rule. The very distinguished chairman of the House Committee on Interstate and Foreign Commerce, who is ordinarily the most affable gentleman, I think was enraged with some of us and made some remarks about what he thought about our action and what he apparently interpreted as a dilatory tactic, or one that was designed to register opposition to the price rollback provision with regard to crude oil.

Like the gentleman from Ohio, I was not prejudging that issue in the conference report by my vote, but given the state—and the gentleman has described that—of the so-called conference report that was laid on the table at 7 o'clock yesterday evening before us, I did not feel that this was any time to waive the 3-day layover rule on conference reports. Members of this House, in voting on a matter of such fundamental importance—and given the history, as the gentleman from Indiana has pointed out so well, of this legislation when it was on the floor a few weeks ago—owed it to themselves to pay some decent respect to the rules of this House with respect to the 3-day layover of conference reports.

So I joined the gentleman from Ohio and five others and voted as we did not to prejudge that issue, but to enable the Members of this House, when they do act on it, hopefully to do so in an intelligent fashion.

Might I just add one other point, and that is that I understand that this forenoon the Senate Democratic policy committee had voted to lay over—to lay over until the 19th of February—action on this particular conference report, which I think indicates that they must not have felt that it was quite as urgent as the gentleman from West Virginia felt it was when he came before us late last evening, or 7 o'clock last evening, in view of that action by the policy committee.

Since that time there may have been some change in the situation. The last word I had was that they were still discussing on the floor of the other body what action they should take.

Again, I think that we can intelligently and in due course act on this very necessary legislation and do it without wholesale abandonment of important procedural safeguards and rules of this House.

I thank the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, in conclusion, I should just like to say that on yesterday when we were discussing this matter in the Committee on Rules, I specifically pointed out that I was for a rollback, and most importantly as to propane gas. My friend, the chairman was right there, and he agreed with me, so it was no wonder why I was taken back when I read this little item in a UPI story.

Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, the situation was this with respect to the legislation which we have before us today. The legislation was laid out for our consideration on the morning of yesterday—without any prior notice that this matter would come up other than the calling of the committee—which was our first opportunity to observe an important measure having to do with an issue of very great complexity which was presented to us at that time.

The Member from Texas was there from the beginning of the hearing. When a quorum was finally established the hearing commenced. This Member remained at that hearing throughout all of the testimony of the witnesses, throughout the entire day of yesterday except during the period of the time when quorum calls and votes called him to the floor.

This Member's seniority is quite low on the committee, but since there were so few present he was asked to preside by the gentleman from Michigan (Mr. DINGELL). I presided at the time the Justice Department witness came in. I was the only person there after the recess. One man came in. We proceeded then to hear the testimony of the Department of Justice.

I was later urged by some Members on the floor during a quorum call, upon coming back, to call the committee into executive session and without a quorum to report out the bill. I declined to do so because I think the man presiding over the committee has a duty to this House and a duty to the other members of the committee not to proceed on any vote without a quorum.

At any time during the day yesterday except at the very start of the hearing this member could have raised a point of order that a quorum was not present. I refrained from doing so because I thought the matter was urgent and the hearing should proceed. I never dreamed for a moment that such withholding of calling for a quorum would result in my not being present at the time that the committee resolved itself into an executive committee and acted on this measure.

Then toward about the hour of 7 o'clock there was a vote on the floor. At that time I came to the floor. At about the same time the conferees on the energy legislation were returning to the floor.

There was action on the floor that was led by the gentleman from Louisiana (Mr. WAGGONNER) which related directly to that issue and involved the most sensitive time of action on this floor, that is when the requests for unanimous consent are made. This Member had to stay on the floor because of the important matters before his committee which were being dealt with there.

At the same time a meeting of the Rules Committee had been called to deal with the energy matter. I have a somewhat divergent position from that of the conferees with respect to that bill. I thought it important to be there. I never dreamed for a minute that there would be a quorum of the Interstate and Foreign Commerce Committee to vote out the legislation that is now before us—and indeed there was not.

I think any Member with any experience knows that when there is such action on the floor it is virtually impossible to get a quorum in the committee. Nobody questions the fact that there was not a quorum when the House measure was voted out. There were 10 people I think present at the time the committee reported out the bill.

The gentleman from Michigan (Mr. DINGELL) I am sure will confirm that fact. He has never contested it.

The gentleman from Ohio raised the point on the floor, and then the gentleman from Missouri (Mr. BOLLING) stated on the Rules Committee that the only way this matter could be brought up was to bring out the Senate legislation since House legislation, given a rule in the usual way, would be subject to a point of order.

I suggest that is nothing in the world but the contravention of the committee having jurisdiction of the subject matter.

There is no Member of this House, no Member of this Congress who has a warmer affection for nor a higher regard for the chairman of my committee than the gentleman from Texas, but the chairman of my committee cannot speak for the committee on such matters. The chairman of my committee cannot say informally to the Rules Committee that they may take the substantive jurisdiction away from the Interstate and Foreign Commerce Committee and act on it and pass out legislation to the floor.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. SISK. I yield the gentleman from Texas 2 additional minutes.

Mr. ECKHARDT. The point is simply this, that if the jurisdiction and rights of members of the committee are to be preserved, the Committee on Rules must not exercise initial jurisdiction, primary jurisdiction, in fields of substantive legislation. I might say in praise of the Committee on Rules that it has seldom done so. During the period I have been in this House, which is since the convening of the 90th Congress, I think it has happened twice.

I thank the gentleman from California for reminding me about the dock strike situation. I believe it was done at that time and it was done once with respect to a bill in the Committee on Education and Labor, which that committee would not report. The Committee on Rules reported that bill.

The other two times, which occurred in recent years, were the case of the Tuck bill and a constitutional amendment introduced by the distinguished gentleman from Texas, the chairman of the Committee on Banking and Currency, Mr. WRIGHT PATMAN. As I recall, both of these issues had to do with the Baker against Carr decision.

I have a book here called the "Congressional Process" by Louis A. Froman, Jr., in which he stated, I think correctly:

> But this power of the Rules Committee to discharge legislative committees is little used. Besides these two cases in 1964 only twice since 1937 have the Rules Committee exercised this power; once in 1946 on a bill which would allow the drafting of striking workmen into the Armed Forces and again in 1953 on the Excess Profits Extension bill.

So what we have here is the seventh case of this nature which I have been able to uncover in some two generations.

Mr. SISK. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the justification for the action which has been discussed here is based on a crisis and an emergency, as has been explained to us. I think most of us realize by the things we are hearing by telephone, wire, and mail, that we are, indeed, faced with some serious situations.

Hopefully, Mr. Speaker, I would urge that the House adopt the resolution and give the gentleman from West Virginia and his committee an opportunity to present this matter to the House and then, of course, the House acting in its wisdom can make a determination whether or not they want to pass that resolution.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Ohio.

Mr. LATTA. I want the record to show since making my earlier remarks on the energy bill, I have talked with my good friend from West Virginia, Mr. STAGGERS. He tells me, and I believe him, that he never made the statement attributed to him in the UPI story to which I referred and I am glad to learn he did not make that statement.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I want to be utterly fair. I said I might have made the first part of the statement, but beyond that I did not make any statement. I did not have the facts when I said that.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 10, answered "present" 2, not voting 33, as follows:

[Roll No. 28]

YEAS—384

Abdnor
Abzug
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
O'Brien
O'Hara
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—10

Adams
Burleson, Tex.
Collins, Tex.
Denholm
Eckhardt
Gross
Hammerschmidt
Landgrebe
Mathis, Ga.
Obey

ANSWERED "PRESENT"—2

Breckinridge
Moss

NOT VOTING—33

Bell
Breaux
Brown, Calif.
Carey, N.Y.
Clausen, Don H.
Collins, Ill.
Conyers
Davis, Ga.
Diggs
Fascell
Fish
Forsythe
Goldwater
Gray
Haley
Hillis
Holifield
Holtzman
Johnson, Pa.
Jones, Ala.
Leggett
McSpadden
Madigan
Mathias, Calif.
Mills
Passman
Reid
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roy
Symington

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rostenkowski with Mr. Davis of Georgia.

Mr. Rooney of New York with Mr. Goldwater.

Mr. Gray with Mr. Don. H. Clausen.

Ms. Holtzman with Mr. Fish.

Mr. Haley with Mr. Mills.

Mr. Reid with Mr. Breaux.

Mr. Roncalio of Wyoming with Mr. Bell.

Mr. Passman with Mr. Johnson of Pennsylvania.

Mr. Holifield with Mr. Forsythe.

Mr. Carey of New York with Mr. Madigan.

Mr. Diggs with Mr. Fascell.

Mr. Conyers with Mr. Leggett.

Mrs. Collins of Illinois with Mr. Symington.

Mr. Roy with Mr. Jones of Alabama.

Mr. McSpadden with Mr. Mathias of California.

Mr. Brown of California with Mr. Roncallo of New York.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to House Resolution 835, the House resolves itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC-43 (Sub-No. 2).

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of Senate Joint Resolution 185, with Mrs. GREEN of Oregon in the chair.

The Clerk read the title of the Senate joint resolution.

By unanimous consent, the first reading of the Senate joint resolution was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. KUYKENDALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Madam Chairman, I am not going to take my full 30 minutes, I can assure the House. This is, of course, a very important bill, and one which will have a great deal of effect upon our national emergency which is now before us. I think we must pass the joint resolution.

Our committee was in session all day Wednesday considering House Joint Resolution 893.

This bill would eliminate a legal barrier to the Interstate Commerce Commission in expediting a procedure by which regulated truckers would compensate independent owner-operators for any increase in the cost of fuel over a base period of May 15, 1973.

By passing this legislation, we will give the ICC authority to put into force any order they issue in this matter on February 15. Without this legislation, the ICC proposed rule could not become effective until March 20 at the earliest.

The legislation will meet one of the biggest objectives that the independent owner-operators have been seeking—and this is to be able to compete in a free market without being squeezed out of business because of the high fuel prices.

The Commission has already put into force a rule allowing the regulated carriers to expedite tariff procedures to be compensated by the shipper for the increase in fuel prices. These regulated carriers have not passed this on to the independent operators who have leased their equipment and services to them.

We heard from the ICC, the Department of Transportation, and the Justice Department in formal hearings.

The Senate Commerce Committee passed the identical legislation without benefit of hearings Tuesday morning—and the bill passed the Senate yesterday afternoon. We felt we owed an obligation to the House and the public to have formal hearings, and we have spent all day on it.

This will not alleviate the truck crises. The people who benefit from this legislation carry about half of the ton-miles of freight by truck in the country. They have other problems—the scarcity of fuel, lower speed limits, limitations on size and weights of their trucks which are different in different sections of the country.

We think this is an equitable piece of legislation. The administration proposed it and we have heard no objections from any of the agencies. It will expedite an ICC rule which otherwise will not become effective until late March, and we think that we need to act quickly as the crisis grows bigger with each passing day.

Under the circumstances as they are, there have been some objections to the procedures, and therefore at this time I will yield to the gentleman from Texas, a member of the committee (Mr. ECKHARDT) 5 minutes.

Mr. ECKHARDT. Madam Chairman, I thank the distinguished gentleman, the chairman of the committee (Mr. STAGGERS), for yielding to me, particularly at this time.

I shall not address myself to procedural points at this time—I have already done that with regard to the rule—except to say that a bill of this importance should not come to this floor on the day after it was heard in the committee, and without the committee ever having validly passed the bill out of that committee.

Of course, no one questions the fact that the bill here before us is not a bill that came out of the Committee on Interstate and Foreign Commerce; it is out of the Committee on Rules, and the Committee on Rules acted on it without any hearings on the facts, and reported the Senate joint resolution. But, enough for the question of procedure.

Let me point out to the Members that this is an important bill with respect to its substance. The kind of a bill that one should be most concerned about is one that can be written on one or two pages, particularly when that bill is not accompanied by a report.

As little as 30 seconds ago I was asking for the report on the bill, and I was told at the back desk that it had not been printed yet. But since the bill came out under a rule, I understand I am not in a position to raise a point of order on that proposition.

Yet, on the merits, it is important that we know what is in a bill of this type.

I listened to these hearings all day yesterday, and yet was precluded from voting on the bill because I had to be on the floor and, without a quorum, the bill was hastily passed out.

But, let me tell the Members what is proposed to be done, what is proposed to be done in order to satisfy those truckers who have, in effect, a gun at certain communities' heads.

What is proposed to be done is exactly what is so frequently done by this body under duress, and that is to pass the cost on directly to the consumer, let all of those who would be monetarily affected pass the additional costs on to the shipper and, in turn, Mr. Consumer, because the consumer is that unorganized, diffuse body that does not have the intense interest, nor the lobby, nor does it hold the gun.

So we act, and we act without due consideration. And by acting we give our imprimatur of approval on a preliminary order of the ICC. What we are saying is: ICC, you have got a preliminary rule, and what we want you to do is put that into effect immediately because there has been some kind of agreement at 5 o'clock this morning, so we want you to act.

Let us not fool ourselves. We are not merely removing a waiting period of 30 days. What we are saying is, act now and pass the preliminary draft of a rule. That is the way it is going to be interpreted, and it is going to be interpreted as simply passing the additional cost obtained, under duress, to the consumers who buy those goods all over the United States.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I do not have much time, but I will yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

The gentleman said that the truckers have guns at their heads. Does the gentleman realize that the truckers came to Washington 2 or 3 months ago and outlined the problems that were facing them? The truckers outlined the hard facts of life that they are not going to be able to stay in business unless they get relief.

Mr. ECKHARDT. I have not had any of them come to my office, although I am on the committee and have an active interest in this matter. There was not a single trucker who appeared before our committee. Perhaps they were embarrassed to appear under the circumstances, but not a single person in the trucking industry appeared. The information I have gotten from the truckers is that they are not so interested in this bill; they are worrying about which way to go.

The point I am making, though, is that this is not a simple pass-through. It is more than a pass-through, and it can really be a double pass-through. Here is how it works. What we provide is a date from what we determined what excessive prices of diesel fuel or gasoline are. That date is May 15, 1973.

When this provision goes into effect, independent contractor truckers may collect from the common carrier with whom they have a contract to drive their truck.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STAGGERS. I yield 1 additional minute to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman.

They may at that time charge the common carrier the difference between the price, say, of diesel fuel that they paid at that time and the price they have to pay now. They have contracts with the carrier that permit them anywhere from about two-thirds to three-quarters of the total fare for the trucking. In many instances the common carrier has already asked for rate increases based on increased costs of the diesel fuel and the gasoline which additional costs accrued between May 15, 1973, and the present time.

The independent contractor truckers are enjoying two-thirds to three-quarters of that increase. They have that already. It is built into the present and continuing rates. In addition to that, they are entitled to recover the whole of the difference in cost of fuel based on the increase in cost since May 15, 1973. Who pays for that? Who is it passed through to? It is passed through to the general American public, so this is, perhaps, a happy solution to the situation to them but not to the American consumer. Therefore, I oppose this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KUYKENDALL. Madam Chairman, I yield myself such time as I may consume.

It never ceases to amaze me how somebody can take a bill about a quarter of an inch thick and say there is nothing in it, that it is a simple bill and it ought to be passed on its merits, but then the same person can take a bill that covers two simple facts and proceed to complicate it beyond all recognition.

This is a simple joint resolution. I think anybody who knows me and knows about my record in this Congress and on this committee knows I do not call many of them simple, but this one is simple.

There is in the trucking industry a practice whereby a regulated carrier subcontracts his freight to a non-regulated, so-called independent, carrier, and it is a very common practice, particularly in certain large industries, such as the steel and meat hauling businesses as well as others.

Let me make this clear in the beginning. This measure is not a cure-all. It does not cover anywhere near all or even a majority of the tonnage hauled by independent truckers in this country. This legislation first came to our committee, and I would like for the chairman to confirm this, not as part of any negotiation. It became a part of that later. It came to our committee and received my approval because it is justice, and that is the only reason. I did not vote for this measure and help bring it out because of any negotiation with any truckers. I am supporting this measure because it is really right and it is right for this reason.

The independent trucker when he makes his subcontract with the regulated carrier does not contract for dollars. He contracts for a percentage of the total revenue. It is 75 or 80 percent, which are the commonest percentages used. Remember, he does not get all of it. He gets anywhere from 20 to 25 cents per dollar less than the regulated carrier would get exactly, and out of that 75 to 80 cents on the dollar the independent trucker must pay for all his expenses. He must pay for his rig and grease and oil and gas and repairs and everything else.

All right, prices go up. What recourse does the independent trucker have? Can he approach the ICC? No, he cannot approach the ICC. Can he approach the Cost of Living Council? No, he cannot approach the Cost of Living Council.

So last December, the ICC very carefully offered the regulating carriers of this country an expedited procedure to raise their charges to their customers to allow a passthrough of any rate increase in fuel since May 15 of last year.

It was not any bonanza. The trucker is not going to get paid twice for one rate increase. The ICC regulation was amended in January to clarify that higher charges paid to the regulated carrier must be passed on to the independent trucker, if he actually bears the cost. The increased charges would take effect in 10 days rather than the 30 to 45 days that is normally the case.

Why is this legislation necessary? In the marketplace everyone is competitive. In the marketplace no trucker wants to quickly go up in the price. So what happened? The regulated carrier simply did not take advantage of this opportunity offered him by the Interstate Commerce Commission to make the independent trucker whole. He simply did not claim the additional cost of fuel and pass it on to the independent trucker. He just sat there with his arms folded and remained more competitive.

So what happened? The independent trucker was damaged severely and he had no recourse except to come to the Congress of the United States, and that is what he has done in this case. These are not independent truckers who are shooting people. I do not think any of the independent truckers are shooting people. I think the hoodlums are shooting people.

This is justice. That is why I am for the legislation.

I did not legislate at the point of a gun and am not considering part of any package, since I was not told when I supported this bill that this was part of any package.

Mr. LANDGREBE. Madam Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Indiana.

Mr. LANDGREBE. Madam Chairman, the gentleman has made a strong point that this is a simple bill and on that I tend to disagree. I would like to ask a few questions to see if we could clarify some of the unknowns.

Can this Congress order the ICC to file rate increases to deal specifically with the day-to-day fluctuation in fuel prices. Is this not a precedent we are setting here today? Are not ICC rates generally determined on the overall operating costs?

Mr. KUYKENDALL. This body can order the ICC what they should do. Whether or not they can comply within their resources is another matter. We can order them to do anything we want them to do. They are an arm of this body; but the joint resolution here simply says that the ICC must reach by February 15 a decision on its proposal that the independent owner operator be recouped for increased fuel costs.

So let us go through these steps. In the first place, there must be a cause. The ICC has to approve a rate increase to the regulated carriers and the benefits of this increase are passed to the independent trucker to the extent he is bearing increased fuel costs less. This has been determined in Ex Parte No. MC-43 (Sub No. 2). In December there was an order in this proceeding to pass through quickly to the transportation users the increased fuel costs. Then on February 1, 1974, the ICC issued the proposal that is the subject of Senate Joint Resolution 185, the proposal which would insure that the independent owner-operator is treated fairly.

Mr. LANDGREBE. Madam Chairman, would the gentleman yield further?

Mr. KUYKENDALL. Yes, I yield to the gentleman.

Mr. LANDGREBE. I understand there is presently in effect a 2 percentage surcharge, particularly on household goods movers, to help pick up some of these unexpected costs of fuel price. What effect will this bill have in that area?

Mr. KUYKENDALL. If the household moving industry, who have gotten very excited about this bill, and I have not learned why, if they are subcontracting, and only if they are subcontracting, does this bill touch them at all. This bill does not touch any regulated carrier who is not subcontracting.

Mr. LANDGREBE. Would the gentleman allow me to explain why they are excited about it?

Mr. KUYKENDALL. Yes.

Mr. LANDGREBE. As I understand this bill, it protects an owner-operator, back to May 15, 1973. The household goods movers do the bulk of their business in the summer time. Generally these operators are big operators, having trucks operating in 50 States. A hundred different prices are now being charged for diesel fuel. How in the world are they going to be able to comply with this order to reimburse their owner-operators for all that summer time hauling, when they bought diesel fuel for 40 cents, 50 cents, or 60 cents?

Mr. KUYKENDALL. This is not a retroactive bill, sir. The only thing that the May 15, 1973 date is for, is to establish a base period to determine the extent of fuel price increases. There is absolutely no payment to be made until February 15 and forward.

Mr. LANDGREBE. I will have to take the gentleman's word for that statement.

Mr. KUYKENDALL. Yes.

This is for the record, I assure the gentleman. The way it works is this. Whatever part of the increase in the fuel price since May 15, 1973, that has not been covered by a rate increase, may be covered by a rate increase as of February 15.

Now, if he has had two increases since that time, then he would be covered only in the uncovered part; but there is no retroactive payment for previous services rendered.

For instance, the price of fuel was roughly 39 cents on May 15. Say that it went up to 45 cents, and that was covered. The price is now 51 cents, so that he would be covered with 8 cents differential. If he had been covered on more, it would be a 12-cent differential. It depends on what he had gotten before.

Mr. LANDGREBE. But, if the gentleman will permit me to proceed a little bit further, I thought that we got involved in a very similar situation to this when we got involved with the railroads, ordering them to do this, that and the other thing, and we brought about real chaos in that situation.

A couple of years ago, a farmer I visited in the hospital, where his wife lay sick, had just delivered 300 bushels of corn to the elevator. The gross check did not equal 3 days room rent for his wife. This farmer did not go and burn his barn or park his tractor across the highway to obstruct the free flow of the public.

Now, do we have some understanding that when we take this unusual action, that the hoodlums, as the gentleman calls them, are going to clear the roads?

Mr. KUYKENDALL. Absolutely not. This is not part of any negotiations with any hoodlum. This is not part of any negotiation at all. It is a beginning.

Mr. LANDGREBE. Is this bill a result of some of the actions taken by hoodlums?

Mr. KUYKENDALL. This bill does not even relate to the gypsy in the trucking business. It relates to the trucker who spends most of his time as a subcontractor for the hauler of steel and meat in this economy. He is a basic part of our regulated carriers. He just happens to be a subcontractor. He is the guy that is the roofing subcontractor for the general contractor who builds the building.

He did not sign the contract with the shipper. That is the reason he has no recourse. The man he subcontracted with has the recourse, and the man he subcontracted with has not chosen to make his subcontractor whole. He has not chosen to take the increase in cost and pass it on to the man who is doing all the work.

The original contractor gets 25 percent without turning a hand except for signing the contract, so the increase in the cost does not affect that 25 percent; he gets that. All the cost comes out of the other 75 percent.

Mr. LANDGREBE. Madam Chairman, I have a couple of points, and I know that there is another Member who wishes to ask a question. I wonder if the gentleman saw the picture of the broker, one of these people whom we are concerned about, who in the year 1972 made $50,000 with his rig himself. The trucking magazine where I saw the picture reported that he took an extended vacation following that because he had really had a big year.

I am in my 31st year in the trucking business, I have had some good years and I have had some lean years. The point I am trying to make and will continue to make is that I think in the first place it was this Congress that created this energy crisis, while at the same time refusing to look ahead and make some provision to ease the pressure. But, so be it.

I still am concerned about some of the people and their actions in this country. I am in the trucking business; I am an authorized carrier. My gasoline is costing me twice as much as it was in March of 1973, and that is tough baloney, and it took a big increase in volume just to offset those costs. We are talking about a possibility of offering an amendment here that would provide that as the carrier passes through this increased cost to the broker, this simple amendment says that as the ICC provides that the broker shall be reimbursed, simultaneously the carrier shall be reimbursed for the money he is ordered to pass through.

Mr. KUYKENDALL. May I state for clarity that as far as industry is concerned, reverse the two terms the gentleman from Indiana used: Carrier, broker.

The carrier is the guy who hauled the freight; the broker is the guy who shuffled the papers. This is the way it works in the grocery business which I grew up in and in all the other businesses I have been connected with.

So that we do not get our terms mixed up, the term "broker" implies a man who deals in paper, and the "carrier" is the man who does the work. In this case it is the man who did the work, who spent the money, who bought the fuel, and who drove the truck who has not gotten reimbursed.

Mr. LANDGREBE. Madam Chairman, let me interrupt the gentleman, if the gentleman will yield.

There are carriers who own their own trucks and who are paying this increase in the price of fuel. Do they not deserve some consideration?

Mr. KUYKENDALL. This is what this is for.

This is for the carrier who is actually hauling this cargo. This is the man we are talking about here. We are talking about the independent carrier, the man who hauls the load of steel, the man who hauls the load of meat. He is subcontracting from the regulated carrier, who has more customers than he needs.

Mr. LANDGREBE. Let me once more get back to this point. Irresponsible actions of this Congress created this energy crisis. Rather than undo some of the mischief done to the people of our Nation by those irresponsible actions. This same Congress through the action we are taking here this moment will sock the shippers and consumers of this country with higher freight rates. Even the brokers will lose. They will be reimbursed only for their higher fuel costs while having to pay more for their consumer goods the same as the rest of we Americans.

Mr. KUYKENDALL. Madam Chairman, I refuse to yield any further to the gentleman, because I think we must complete this.

Let us get this understood here. Let us say that a regulated carrier has 100 rigs. All of a sudden—or not all of a sudden, but on a continuing basis—he has the business for 125 rigs, so he subcontracts those 25 rigs.

Now, if he gets in trouble, the contractor himself, he can immediately go to the ICC and ask for relief, which he has always done. But when that subcontractor gets in trouble, he has no source of relief until this bill comes up.

The ICC offered the regulated carrier a solution by rulemaking and not by law, and these regulated carriers did not use it. This is an ICC suggestion, this piece of legislation. We are not forcing anything on the ICC; they are supporting it, and they are supporting it because it is a simple matter of justice.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for yielding.

I rise in support of this Senate joint resolution.

Madam Chairman, I urge passage of this legislation to expedite trucker reimbursement for fuel price increases.

The independent truckers deserve immediate relief. I have met with them several times and the evidence is overwhelming that they cannot survive without relief. Fuel costs have increased about $28 a load during the past year and rate revenue has gone up by only $7 a load. An independent trucker simply cannot continue to absorb a $21 net fuel cost increase each time he pulls his rig on the road. In economic terms, the independent trucker is riding a "going out of business" curve.

It may not be the most popular thing to say, but the truth is that the independent trucker's cause is just. We should not let the unjust violent methods of a few obscure the fundamental fact that these truckers not only deserve relief but must get relief if they are to stay in business and continue delivering this Nation's needed goods. We must pass this legislation now because of the emergency facing our Nation.

Dairy farmers in Pennsylvania are faced with dumping milk in their fields because they cannot ship to market. Gasoline stations are closed because gasoline trucks cannot deliver fuel. Grocery shelves are bare because food shipments are not being made. It should be clearly understood, however, that the independent truckers did not start these events in motion. The truckers, like consumers, are the victims.

They are caught in a cost squeeze caused by the explosive rise in diesel fuel prices. They must get relief to survive. I implore this body to pass this legislation now.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. KUYKENDALL. I yield to the gentleman from Texas for a comment or for a question, whichever the gentleman prefers.

Mr. ECKHARDT. Madam Chairman, I thank the gentleman for yielding.

I know the gentleman to be the most candid of speakers on this floor. His facts, of course, are correct, except perhaps in one instance they do need a little enlarging upon to make them absolutely accurate.

The gentleman had said that there was some provision in the rule by which that portion of fuel-added costs which had already been enjoyed would be deducted from the addition that is passed on to the customer.

Now, I do not see that in this language, and if the gentleman can point it out, I would like to know where it is.

Madam Chairman, if I may just complete my statement, as the proposed rule reads, it says that the amount shall be increased by an amount equal to the increased cost of fuel purchased at lawful prices and borne by the lessor and added to the compensation paid the lessor for the leased equipment, computed then by subtracting the figure of May 15, 1973, from the figure actually paid.

Now, that is added to the amount that the common carrier must pay the independent contractor.

If the common carrier has already negotiated for a rate increase, 75 percent of that rate increase, according to testimony before us, in the normal case would have already gone to the contractor. Now he gets this additional amount, with respect to the increase in rates which he has computed on the basis of the May 15, 1973, figure.

Madam Chairman, that is the reason I say that in that respect there is a double passoff. Now, I think that they will correct that, but why not give them the 30 days in which to do it?

Mr. KUYKENDALL. Madam Chairman, if I may, I will comment on that.

In the first place, on the first page of the bill where it says we are actually implementing the procedure proposed on February 1, 1974, the gentleman will find it in the record of the legislation, in the records of the ICC, where this point was specifically covered.

It is specifically stated in the record—and I believe the chairman will bear this out—that the Interstate Commerce Commission was specifically asked the question, will they simply be made whole.

Mr. ECKHARDT. I asked him that question and I know they say that, but the thing is the language of this order does not say that and what this bill does is curtail the time so shortly that the order specified here would have little time for consideration in matters of this nature that we are bringing up. We are not giving additional authority to the Interstate Commerce Commission. The gentleman will recognize that.

Mr. KUYKENDALL. That is right.

Mr. ECKHARDT. The Interstate Commerce Commission has the authority to remedy all of these things the gentleman says are evil without this bill, but we are removing a statutory delay period in which the Interstate Commerce Commission might have the opportunity to take care of things of this nature. We are only talking about 30 days. Why tamper with it?

Mr. KUYKENDALL. The primary purpose of this bill, which is a technicality I have been assured of—and remember the Interstate Commerce Commission has to approve that, and I cannot for the life of me imagine the Interstate Commerce Commission will give a $2 relief for a $1 pain, because they have to approve of each of these things.

We are operating under the order of February 7, 1974, in this bill. This is not the law but referring to an order of the Interstate Commerce Commission as the basis.

I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I am a member of the committee and I was absent yesterday when this bill was discussed. I had two wisdom teeth extracted and therefore may not be so wise today.

Mr. KUYKENDALL. That is the most genuine excuse I have ever heard.

Mr. SKUBITZ. Is it correct that the regulated carriers have specific certificates to operate over designated routes?

Mr. KUYKENDALL. That is correct.

Mr. SKUBITZ. And because they have these certificates they have established rates?

Mr. KUYKENDALL. That is right.

Mr. SKUBITZ. They solicit business over their respective routes.

Mr. KUYKENDALL. All they can get.

Mr. SKUBITZ. The independent carriers do not have the right to solicit business over these routes? Is that correct?

Mr. KUYKENDALL. That is correct. Not on regulated cargoes.

Mr. SKUBITZ. So the independents go to the regulated carriers and offer their services. Because of competition they must make an offer that is less than the regulated carrier's established rate?

Mr. KUYKENDALL. Will the gentleman yield for a correction? He negotiates partly on a straight percentage.

Mr. SKUBITZ. I was getting to that. It is usually a straight percentage. So the regulated carrier gets *x* percent and the independent gets the balance. But out of the independent's take he must pay all of the expenses.

Mr. KUYKENDALL. That is correct.

Mr. SKUBITZ. Gas, labor and everything. The regulated carrier does not care what happens to the independent's costs because it does not affect his profit. Therefore, what this bill is trying to do, really, is to force the regulated carrier to pay a part of the burden for the increased cost of fuel to the independent trucker and permits the regulated carrier the right to ask for an increase rate to meet the pass-through?

Mr. KUYKENDALL. That is completely true.

I would like to make one correction before I yield back the balance of my time.

The vast majority of freight hauled by regulated carriers is hauled in their own trucks and trailers. Yes. In certain industries this is not true, as I mentioned—in steel and in meat hauling. We are fully aware that the competitive situation in the marketplace is the primary reason the regulated carriers have not chosen to make their subcontractors whole. Whatever the reason, the innocent third party is being damaged and he has no recourse.

This is, frankly, the reason this joint resolution should be passed.

Madam Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that he has consumed 25 minutes.

Mr. STAGGERS. Madam Chairman, I yield 1 minute to the gentleman from Indiana (Mr. Hudnut), a member of the committee.

Mr. HUDNUT. Madam Chairman, I thank the gentleman from West Virginia for yielding to me, and I would like to ask the distinguished chairman of the Committee on Interstate and Foreign Commerce one question:

Madam Chairman, there are a number of the members of the Household Goods Carriers Association in my district who are concerned about whether or not they will, as contract carriers, be able to recoup the costs that are passed through them if this legislation passes.

They are wondering if it would be necessary to have an order from the ICC that would provide for increased compensation to reflect the increases in fuel prices.

Could an adjustment be made so that the carriers could receive authorization to permit them to recoup the increased payments at the same time?

Mr. STAGGERS. Let me ask the gentleman from Indiana—and I believe I understand the inquiry he is presenting correctly—are these regulated carriers?

Mr. HUDNUT. That is correct.

Mr. STAGGERS. Yes, they could, under previous ICC regulations. That is the reason why it is written this way, and why it was covered for another segment of the industry, because they did not have that right, and we are trying to correct that.

Mr. HUDNUT. I thank the gentleman.

Mrs. HECKLER of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. Heckler).

Mrs. HECKLER of Massachusetts. Madam Chairman, I would ask the gentleman from West Virginia whether or not this legislation is a factor in the negotiations which are presently transpiring downtown?

Mr. STAGGERS. Madam Chairman, let me say to the gentlewoman from Massachusetts (Mrs. Heckler) in response to her question, that this legislation was requested by the administration, and they requested expedited consideration. I know that when it was sent up that it would be an incentive to settle the strike, because it concerned one of the injustices which the independent truckers wanted corrected.

So I would say to the gentlewoman from Massachusetts that in all probability it is a part of the negotiations.

Mr. KUYKENDALL. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Tennessee.

Mr. KUYKENDALL. Madam Chairman, during the time that the chairman, the gentleman from West Virginia (Mr. Staggers) was in conference yesterday, a member of the administration from the DOT actually discussed this case, and I think it ought to be brought out into exact focus.

The Secretary instructed the gentleman, Mr. Snow, who testified before the committee yesterday—and these instructions were on Sunday— to find any places where there were inequities that we could take immediate action upon, and they found this one on Sunday. And they notified the gentleman from West Virginia, I happen to know, on Monday morning, that this was one that they had found. But only after they found it did it become a part of the negotiations. In other words, an injustice was found, and then made a part of the negotiations by the DOT.

Mrs. HECKLER of Massachusetts. Madam Chairman, if the gentleman from West Virginia will continue to yield, I would like to say that I am supporting this legislation, and I thank the gentleman for his efforts in this regard. I would further say that with the mass unemployment and the crippling shortages that we are about to have, that possibly these may be partly addressed by this legislation, and that is why I intend to support it.

However, Madam Chairman, I must say that I do have many misgivings that this will not be the full answer. So if the gentleman from West Virginia has anything further to add in the way of suggestions on what this House can do toward correcting this subject so that there will not be an imminent disaster to the entire country, I would ask the gentleman to give us his comments.

Mr. STAGGERS. Madam Chairman, in reply to the inquiry of the gentlewoman from Massachusetts (Mrs. Heckler) may I say that I think perhaps to do what the gentlewoman has asked would take a rather lengthy dialog in order to state it all. But let me say to the gentlewoman from Massachusetts that this legislation is the first step, and I think we ought to take it now. There are other steps that will be coming forth, one of them, of course, being the emergency energy bill which will be coming before the House shortly.

Mrs. HECKLER of Massachusetts. Madam Chairman, I thank the gentleman.

Mr. STAGGERS. Madam Chairman, I yield 1 minute to the gentleman from Indiana (Mr. Landgrebe).

Mr. LANDGREBE. Madam Chairman, it has been indicated here by certain speakers that the authorized carriers are sort of the bad guys in this whole picture.

Mr. STAGGERS. If the gentleman will yield, no, I would not say that.

Mr. LANDGREBE. May I inquire of the gentleman from West Virginia that, as fuel costs increase does this bill mandate the certified truckers to reimburse their brokers in the amount of the increased cost. After all, the brokers are normally reimbursed on a percentage of the gross revenue basis. Should there be an increase when freight rates are increased the brokers would normally get an increase in their usual percentage of the gross revenue.

It seems to me that this bill orders a

direct payment from the certified carriers to the brokers to cover increased fuel costs in addition to their receiving a fair share of the increase of the gross revenue.

What really distresses me about this, Madam Chairman, is that we are singling out a specific case of the brokers, and we are saying that the certified carriers must reimburse the broker for increased fuel costs without assurance that the certified carriers will be adequately protected in this matter.

So, the point I am trying to make is that some of the people here do not realize that the brokers oftentimes get 70 to 75 percent of the total gross revenue.

But how does the shipper fit into this discussion we are having here? What notice is the shipping public going to have to adjust prices, because certainly freight rates are a key factor in the price of merchandise in the marketplace. Where does the consumer fit into this discussion?

Let me say to the gentleman I think the bill has been discussed completely. I want to say that I think the gentleman from Tennessee made a very learned discussion of what the bill is about, and I agree with the discussion of the gentleman from Indiana. There has been some helpful discussion. I want to say to him I am not going to disillusion him by saying that the licensed carriers are bad boys. I do not believe it, and I do not believe anybody in the House believes it. I just believe that there is an inequity that they cannot do anything about that we are trying to correct by this bill; that is all. I insist that these are the facts. It is something that has happened, and we are just trying to correct it.

Mr. ROUSH. Madam Chairman, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Indiana.

Mr. ROUSH. I thank the gentleman for yielding.

Madam Chairman, this legislation in no way would preclude the ICC from changing the preliminary order which was printed; would it?

Mr. STAGGERS. No.

Mr. ROUSH. I should like, Madam Chairman, to express my concern that in the final order the ICC would take into consideration the tremendous administrative difficulties that might attend that order, and also that they might consider providing a mechanism for settlement in the event of disputes which might arise as to increased prices between the truck operators and the common carriers. I do not believe that has been provided for in the preliminary order; am I correct?

Mr. STAGGERS. I would assume so.

Mr. ROUSH. Madam Chairman, I would like to explain a little more fully the source of my concern. What we are doing today is to speed up the implementation of an ICC proposed ruling, some details of which are of concern to me. I believe that we must allow the truck operators to pass through some of the additional costs they are suffering from the rise in cost of fuel. The Congress has recognized the need for implementing the ICC proposed ruling as quickly as possible. And that is commendable in light of the curtailed truck service that has been spreading throughout the Nation.

However, in our haste for a solution I would not want the ICC to fail to include certain provisions in their final ruling which are not included now and which I feel are essential for clarity and equity. It seems to me that innumerable administrative difficulties might be expected with this passthrough resolution. For example, how can we make sure that a minimum of paperwork will be required of the independent truck driver and the common carrier? Are there in all cases an adequate receipt system for the fuel charges to the truck drivers, on the basis of which the passthrough will work? And if not, will the ICC make provision for these in their final order? I hope so.

Also, will the ICC provide for a dispute settlement mechanism if disputes as to increased prices since the May 15, 1973, dateline occur between the truck operators and the common carriers? I believe this is essential.

Unless these issues are handled in the final order I do not believe the Congress will have helped the independent truck operator, the common carrier, or the consumer by speeding up the effective date of the ICC rule.

Mr. KUYKENDALL. Madam Chairman, I have no further requests for time.

Mr. STAGGERS. Before I close I just want to make two points. This is a simple bill. All we are doing is one thing. The date February 15 is the date we say that the ICC order shall go into effect. That is the only thing we do. We do not tell the ICC what to do. We do not have anything to do with that order. We just say that holding them back 30 days or longer is the wrong thing to do.

If we look at the whole thing, it says that February 15 that order shall go into effect, and there is not one other single thing that is done. I want to make that clear. The ICC makes the decision as to what it shall be. The price of oil has gone up 60 percent from May 15, 1973, to January 25, 1974. These figures were given to me by the ICC this afternoon. The independent trucker had to bear these costs.

Madam Chairman, I urge a vote on the bill and urge that the Members vote for it.

Mr. CONTE. Madam Chairman, I rise in support of this joint resolution and add my voice to the chorus demanding its immediate enactment.

As the ranking minority member of the Select Committee on Small Business, I feel very close to the economic woes of independent truckers. There is no doubt that they need the pass-through price relief provided by this bill.

In the past year and a half, the price of diesel fuel has jumped by 60 percent. It is now almost 50 cents a gallon. The independent trucker has been forced to absorb the added cost of 15 cents a gallon. For a 2,000-mile round-trip, the added cost is about $75. This comes straight out of the truckers' profits, because he cannot pass this cost along.

We saw this same bad deal given to retail oil marketers last summer by phase 4 price controls. Fuel oil dealers and gas station operators were stuck with inflated costs which they could not pass on to their customers. Many of them went broke.

Higher fuel cost is not the only new expenses for independent truckers.

The recently enacted national speed limit of 55 miles per hour has also hurt them. In many cases, the slower speed increases fuel consumption by 5 to 10 percent. It also means that drivers who are paid by the mile, as most of them are, must work longer hours for the same wages.

So, in effect, the lower speed limit has imposed a double-pronged pay cut on many drivers.

Independent truckers who lease their equipment and services to the big regulated carriers have no standing before the Interstate Commerce Commission to petition for rate increases.

But I note that the ICC has already taken care of the big trucking companies. Last December, the Commission allowed the carriers to pass through the higher fuel costs to their customers.

Last month, the Commission tried to take care of the small trucker, by issuing an order that stated that the person who pays the higher fuel prices should be fully reimbursed.

But I read this disturbing paragraph in the committee report on this bill:

> Unfortunately, the regulated carriers have been reluctant to pass along this surcharge increase to the independent owner-operator. Some have done so, but most have not.

Unless we pass this bill, the Congress will be abandoning a hearty group of small businessmen in their hour of need.

I have received many telegrams and calls about this urgent situation. I urge my colleagues to act on this joint resolution without delay, so that the small businessmen who need this aid can believe that their government has not forsaken them, and so they can reaffirm their faith in their elected Representatives and their country.

Mrs. HOLT. Madam Chairman, I would like to commend the Interstate and Foreign Commerce Committee for their timely response to the current transportation crisis which is afflicting our country.

The severity of this situation cannot be minimized; in Maryland several counties have closed schools due to lack of fuel. Elsewhere, perishable commodities are not reaching the market, food shortages are beginning to occur in some areas—the list is lengthy and will increase if immediate action is not taken.

The passage of this resolution will assist in eliminating one of the major issues in the current truckers strike. The independent trucker is caught in a cruel economic squeeze; fuel prices have increased dramatically, but the trucker has not been able to pass these costs on to the common carrier which hires him to haul his goods. This resolution will allow the ICC to alter its procedural timetable in this one instance and immediately implement its proposed order which would require the common carrier to pay the owner-operator for the increase in fuel costs over the May 15, 1973, base price.

The continuation of this strike will lead to economic chaos. While we must deplore the violence which has surrounded this shutdown, we must also take all necessary steps to encourage an equitable solution to this dispute.

Madam Chairman, the resolution before us is fair and necessary; I urge its immediate passage.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read the Senate joint resolution as follows:

S.J. RES. 185

Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2)

Whereas the Interstate Commerce Commission, through its proposed order issued January 30, 1974, in Docket No. MC 43 (Sub-No. 2), seeks to alleviate a serious and pressing transportation problem by requiring carriers to reimburse their owner-operators for all increases in the price of fuel over the base period May 15, 1973; and

Whereas section 221(b) of the Interstate Commerce Act, 49 U.S.C. 321(b) appears to preclude the Commission from making its final order in MC 43 (Sub-No. 2) effective in less than thirty days; and

Whereas the inability to effectuate the final order in MC 43 (Sub-No. 2) more promptly will cause substantial hardship to a significant portion of the motor carrier industry and the shipping public; and

Whereas there exists a national transportation crisis which presents a grave risk to the commerce and well-being of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commission shall issue a final order in MC 43 (Sub-No. 2) as soon as possible which shall become effective not later than February 15, 1974.

Mr. STAGGERS (during the reading). Madam Chairman, I ask unanimous consent that the Senate joint resolution be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Are there any amendments to the Senate joint resolution? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. GREEN of Oregon, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the Senate joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub-No. 2), pursuant to House Resolution 835, she reported the Senate joint resolution back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the Senate joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DEVINE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 6, answered "present" 2, not voting 47, as follows:

[Roll No. 29]

YEAS—374

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Butler
Byron
Camp
Carney, Ohio
Carter
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NAYS—6

Burleson, Tex.
Burton
Casey, Tex.
Collins, Tex.
Eckhardt
Landgrebe

ANSWERED "PRESENT" 2

Breckinridge
Moss

NOT VOTING—47

Alexander
Bell
Boland
Brown, Calif.
Carey, N.Y.
Clausen, Don H.
Collier
Collins, Ill.
Conyers
Davis, Ga.
Derwinski
Diggs
Fascell
Fish
Forsythe
Goldwater
Gray
Haley
Hanrahan
Hillis
Holifield
Holtzman
Johnson, Pa.
Jones, Ala.
Leggett
McSpadden
Madigan
Mailliard
Mann
Mathias, Calif.
Mills
Minshall, Ohio
O'Neill
Owens
Reid
Reuss
Rodino
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roy
Smith, N.Y.
Symington
Symms
Vigorito
Zion

So the Senate joint resolution was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Mills.

Mr. Rooney of New York with Mr. McSpadden.

Mr. Roncalio of Wyoming with Mr. Brown of California.

Mr. Holifield with Mr. Smith of New York.

Mr. Boland with Mr. Roncallo of New York.

Mr. Rostenkowski with Mr. Minshall of Ohio.

Mr. Vigorito with Mr. Madigan.

Mr. Fascell with Mr. Forsythe.

Mr. Gray with Mr. Hillis.
Mr. Haley with Mr. Don H. Clausen.
Mr. Reid with Mr. Bell.
Mr. Rodino with Mr. Fish.
Mr. Jones of Alabama with Mr. Goldwater.
Mr. Diggs with Mr. Reuss.
Mr. Davis of Georgia with Mr. Collier.
Mr. Mann with Mr. Hanrahan.
Mr. Conyers with Mr. Roy.
Mrs. Collins of Illinois with Mr. Symington.
Mr. Leggett with Mr. Johnson of Pennsylvania.
Mr. Carey of New York with Mr. Mathias of California.
Ms. Holtzman with Mr. Symms.
Mr. Alexander with Mr. Zion.
Mr. Owens with Mr. Derwinski.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

House Joint Resolution 893 was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CONFERENCE REPORT ON S. 2589, NATIONAL ENERGY EMERGENCY ACT OF 1973

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes:

CONFERENCE REPORT (S. REPT. 93–681)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

Sec. 101. Findings and purposes.
Sec. 102. Definitions.
Sec. 103. Federal Energy Emergency Administration.
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Sec. 105. Energy conservation plans.
Sec. 106. Coal conversion and allocation.
Sec. 107. Materials allocation.
Sec. 108. Federal actions to increase available domestic petroleum supplies.
Sec. 109. Other amendments to the Emergency Petroleum Allocation Act of 1973.
Sec. 110. Prohibition on inequitable prices.
Sec. 111. Protection of franchised dealers.
Sec. 112. Prohibitions on unreasonable actions.
Sec. 113. Regulated carriers.
Sec. 114. Antitrust provisions.
Sec. 115. Exports.
Sec. 116. Employment impact and unemployment assistance.
Sec. 117. Use of carpools.
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Sec. 126. Expiration.
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Sec. 129. Importation of liquefied natural gas.
Sec. 130. Loans to homeowners and small businesses.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

Sec. 201. Suspension authority.
Sec. 202. Implementation plan revisions.
Sec. 203. Motor vehicle emissions.
Sec. 204. Conforming amendments.
Sec. 205. Protection of public health and environment.
Sec. 206. Energy conservation study.
Sec. 207. Reports.
Sec. 208. Fuel economy study.

TITLE III—STUDIES AND REPORTS

Sec. 301. Agency studies.
Sec. 302. Reports of the President to Congress.

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office, all functions, powers, and duties of the President under the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such Act (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) (1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) That rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of subsection (b) of this section and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a) (1) (A) Pursuant to the provisions of this section, the Administrator may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than six months after any such plan first takes effect.

(b) (1) For purposes of this subsection, the term "energy conservation plan" includes an amendment to an energy conservation plan which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) If any energy conservation plan is transmitted to Congress before March 15, 1974, and provides for an effective date earlier than March 15, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) (i) Except as provided in clause (ii), if an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 15, 1974, and before September 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(ii) An energy conservation plan described in clause (i) may be implemented prior to the expiration of the 15 calendar-day period after the date on which such plan is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to the implementation of such plan.

(C) An energy conservation plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B).

(A) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the implementation of energy conservation plan numbered ——— submitted to the Congress on ———, 19--.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not favor the energy conservation plan numbered ——— transmitted to Congress on ———, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has not reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any rules, regulations, and orders taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal or coal byproducts as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for the allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105 (b) (3) (A) applies (except that such plan or portions thereof may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b) (1) (G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,".

(c) The Administrator shall exercise any authority conferred on him under this Act and under any other Act to take steps designed to alleviate shortages in petrochemical feedstocks, and within 30 days from the date of the enactment of this Act shall report to the Congress with respect to shortages of petrochemical feedstocks, of steps taken to alleviate any such shortages, the unemployment impact resulting from such shortages, and any legislative recommendations which he deems necessary to alleviate such shortages.

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may, by rule or order, until May 15, 1975, require the following measures to supplement domestic energy supplies:

(1) the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of

their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production from any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10, United States Code.

Sec. 109. Other Amendments to the Emergency Petroleum Allocation Act of 1973.

(a) Section 4 of the Emergency Petroleum Allocations Act of 1973 (as amended by sections 104 and 107 of this Act) is further amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g) (1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

Sec. 110. Prohibition on Inequitable Prices.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

"(j) (1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

"(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of the regulation under subsection (a) of this section which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

"(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

"(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field for which prices are posted; and

"(B) a maximum of $1.35 per barrel.

"(4) The regulation under subsection (a) of this section shall be amended so as to provide that any reduction in the price of crude oil (or any classification thereof), of residual fuel oil, or of a refined petroleum product (including propane) resulting from the provisions of this subsection is passed through on a dollar-for-dollar basis to any subsequent purchaser, reseller, or final consumer in the United States. Such pass-through of price reductions shall, to the extent practicable and consistent with the objectives of this section, be allocated among products refined from such crude oil on a proportional basis, taking into consideration historical price relations among such products.

"(5) (A) The President may, in accordance with the procedures and standards provided in this paragraph, amend the regulation under subsection (a) of this section to specify a different price for domestic crude oil, residual fuel oil, or refined petroleum products, or a different manner for determining the price, other than that provided in paragraph (2) or (3) of this subsection, if he finds that such different price or such different manner for determining such price is necessary to permit the attainment of the objectives of this Act and the purposes described in Section 101(b) of the Energy Emergency Act.

"(B) Every price proposed to be specified pursuant to this subsection which specifies a different price or manner for determining the price for domestic crude oil provided for in paragraph (3) of this subsection, and every price specified for (or every prescribed manner for determining the ceiling price of) residual fuel oil and refined petroleum products, shall be transmitted to the Congress and shall be accompanied by a detailed analysis setting forth—

"(i) the additional quantities of crude oil, residual fuel oil, refined petroleum products, or if any, that can reasonably be expected to be produced;

"(ii) the effect, if any, upon the demand for crude oil, residual fuel oil, refined petroleum products, or

"(iii) the impact upon the economy as a whole, including the impact upon consumers and the profitability of and employment in industry and business;

"(iv) any significant problems of enforcement or administration; and

"(v) the impact on the preservation of existing competition within the petroleum industry.

resulting from the proposed change in the price of crude oil or manner for determining the price of residual fuel oil or refined petroleum products. Any change in a price of domestic crude oil (or any classification thereof) which is transmitted to Congress within 30 days after enactment of this subsection, which prescribes a different price or a different manner for determining such price provided in paragraph (3) of this subsection shall not take effect until 15 days after the detailed analysis required by this paragraph has been transmitted to the Congress.

"(C) No price for domestic crude oil, or any classification thereof, specified pursuant to this subsection shall exceed the ceiling price provided in paragraph (3) of this subsection by more than 35 percent.

"(D) Ceiling prices or a manner for determining prices established by or pursuant to this subsection are maximum permissible prices, and any seller may sell domestic crude oil, or residual fuel oil, or any refined petroleum product produced therefrom at any lesser price. In the case of any exchange of domestic crude oil, residual fuel oil, or refined petroleum products, the ceiling price shall apply to the total value of the goods and services asked, given or received in exchange for such crude oil, residual fuel oil, or refined petroleum product.

"(6) (A) Any interested person who has reason to believe that any price or manner for determining prices in the regulation under subsection (a) of this section does not prevent inequitable prices may petition the President for a determination under subparagraph (B) of this paragraph.

"(B) Upon petition of any interested person, the President shall by rule determine whether the price of crude oil, residual fuel oil, or any refined petroleum products does not prevent inequitable prices. The President may either affirm such price, or method for determining such price, or establish a different price, or method of determining such price, upon a finding (accompanied by a detailed analysis of such finding as is required under paragraph (5) (B)) that such price as affirmed or reestablished prevents inequitable prices.

"(7) (A) The President may provide, in his discretion under regulations prescribed by him, for such consolidation of petitions as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out his functions under this subsection.

"(8) No petition under paragraph (6) of this subsection to determine prices may be filed later than one year after the expiration of this Act or any extension thereof.

"(9) The President may at any time act to establish ceiling prices lower than those provided in paragraphs (2) and (5) if he determines that lower ceiling prices will permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act.

"(10) The provisions of this subsection shall apply to all crude oil notwithstanding the provisions of subsection (e) (2) of this section and section 406 of Public Law 93-153 (87 Stat. 590).

"(11) (A) A proceeding to amend the regulation under subsection (a) of this section with respect to prices as authorized and limited under the terms of paragraph (5) of this subsection and a rulemaking proceeding under paragraph (6) of this subsection shall be governed by section 553 of title 5, United States Code, except that the President shall afford interested persons an opportunity of at least 10 days to present oral and written views, data, and arguments. The 10-day period for presentation of views, data and arguments respecting such action may be postponed until after such action takes effect where the President specifically finds that strict compliance would be likely to cause serious impairment to the operation of the program and such finding and the reasons therefor are set out in detail in the Federal Register at the time of publication.

"(B) Judicial review of an amendment to the regulation under subsection (a) of this section with respect to prices under the terms of paragraph (5) of this subsection and a rule promulgated under paragraph (6) of this subsection shall be reviewable pursuant to the provisions of section 211 of the Economic Stabilization Act of 1970, as amended, except that any such amendment and rule may not be enjoined or set aside, in whole or in part, unless the court makes a final determination that such amendment or rule is in excess of the President's authority, is arbitrary or capricious, is otherwise unlawful under the criteria set forth in section 706 (2) of title 5, United States Code, or is based on findings required by this subsection which are not supported by substantial evidence.

"(12) For purposes of this subsection—

"(A) the term 'inequitable price' means a price in excess of a price which is reasonable, taking into consideration the price necessary to obtain sufficient supplies of crude oil, residual fuel oil, and refined petroleum products, to permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act;

"(B) the term 'domestic crude oil' means crude oil produced in the United States or from the outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331); and

"(C) the term 'interested person' includes the United States, any State, the District of Columbia, Puerto Rico, and the territories and possessions of the United States."

Sec. 111. Protection of Franchised Dealers.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(4) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy.

(d) The provisions of this section expire at midnight, May 15, 1975, but such expiration shall not affect any pending action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975, except that no suit under this section, which is based upon an act committed prior to midnight, May 15, 1975, shall be maintained unless commenced within three years after such act.

Sec. 112. Prohibitions on Unreasonable Actions.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, except that with respect to allocations of petroleum products no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, unless the President determines such a policy would be inconsistent with the purposes of this Act and publishes his finding in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

Sec. 113. Regulated Carriers.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsections (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and section 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants in accordance with regulations prescribed by him to States to provide assistance to any individual unemployed, if such unemployment heretofore or hereafter is the result of the energy crisis and was in no way due to the fault of such individual, while the individual is unemployed. Unemployment resulting from the energy crisis means unemployment which the State determines to be attribuatable to fuel allocations, fuel pricing, consumer buying decisions clearly influenced by the energy crisis, and governmental action associated with the energy crisis. Such assistance as a State under such a grant shall provide for not less than 6 months of eligibility and shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as such unemployment continues or until the individual is reemployed in a suitable position, but not longer than one year after such individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(3) (A) The President shall take action to insure the enforcement of 31 U.S.C. 638a.

(B) No funds shall be expended under authority of this or any other Act for the purpose of furnishing a chauffeur for individual use to any Federal official or employee.

SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order (including a rule, regulation, or order issued by a State or officer thereof) under this title, under section 4(h) of the Emergency Petroleum Allocation Act of 1973; except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title) other than section 4(h) thereof, nor to any rule under section 113 of this title.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under

the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 nor to any rule under section 113 of this title.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title of the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations which the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the date of enactment of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, and petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by-product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order to take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATIONS OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. IMPORTATION OF LIQUEFIED NATURAL GAS.

Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.

SEC. 130. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.

(a) The Department of Housing and Urban Development and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units, and adopt such rules and regulations as are necessary to achieve the objectives of this section.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of the Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by this Act.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in this Act which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in this Act and in administering such programs; and

(3) in administering the programs provided for in this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end there of the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation, plan, and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or

"(B) which (i) the Administrator of the Environmental Protection Agency determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (ii) the Administrator of the Federal Energy Emergency Administration determines should use coal after November 1, 1974, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of the Energy Emergency Act,

and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term "began conversion" means action by the owner or operator of a source during the 90-day period ending December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2)(A) Paragraph (1) of this subsection shall apply to a source only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means specified in subparagraph (B), and in accordance with a schedule which meets the requirements of such subparagraph; and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, (I) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of other coal or coal by-products, and (II) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by subparagraph (C) (which steps and systems must have received prior approval of the Administrator as being adequate to effectuate the purposes of this section).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except that, in the case a source for which a continuous emission reduction system is required for sulphur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards of sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j) (1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act of 1973.

"(2) The Administrator of the Federal Energy Emergency Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Emergency Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973".

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regualtions, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Emergency Administration, and the Chairman of the Council of Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subparagraph. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112 (c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

Sec. 206. Energy Conservation Study.

(a) The Administrator of the Federal Energy Emergency Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Emergency Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Emergency Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local levels; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

Sec. 207. Reports.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

Sec. 208. Fuel Economy Study.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

Sec. 213. (a)(1) The Administrator and 'the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standards, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Emergency Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

Sec. 301. Agency Studies.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act.

(B) The Administrator shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning April 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
JAMES F. HASTINGS,
Managers on the Part of the House.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
ERNEST F. HOLLINGS,
ADLAI STEVENSON III,
TED STEVENS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

EMERGENCY CONSERVATION REGULATIONS

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to proposes to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 15, 1974, in order to reduce demand in the harsh winter months of January and February without delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 15, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after August 31, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that has been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling our Constitutional balance of liberty and authority. The Conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmly believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

Federal emergency energy administration

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congress will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to a Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and has been considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administration's proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATIONS AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, calls for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness, and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assidiously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporaneously with implementation of any proposed action between date of enactment and March 15, 1974.

The committee is concerned about the very real threat of the cutoff of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

END USE RATIONING AUTHORITY

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

PROHIBITION ON INEQUITABLE PRICING

During the protracted congressional consideration of S. 2589, the energy emergency and the problems facing the Nation have become acute. One of the most serious and recent aspects of the emergency has been the meteoric increase in crude oil and petroleum product prices. In the last three months of 1973, the cost of residual fuel oil to utilities rose by 150 percent. In December 1973, fuel price increases accounted for 40 percent of the increase in the wholesale price index. Wholesale gasoline prices increased about four cents a gallon in the last three months of 1973. These increases, under present price controls, can be traced directly to two factors: (1) the great increase in the world crude price since October, and (2) the release of certain categories of domestic crude from price controls.

A year ago, crude oil sold for $3.40 a barrel. Today, imported crude and domestic crude not subject to price ceilings sell for $10.35 a barrel and higher. While it is beyond the Committee's jurisdiction to regulate the world price of crude or the price of crude established by international controls, control of domestic prices was considered in order.

It is indisputable that such prices have led to increased drilling activity in the United States, which is clearly desirable if we are to approach domestic self-sufficiency in energy. However, the Committee understands that, according to oil industry and other recent economic supply studies, the long-run market clearing price needed to assure adequate exploration and development and supply is considerably under the $7.09 a barrel national average price for newly produced crude established under section 110 of this act. The Committee therefore finds little reason for asking consumers to pay increasingly higher prices, when such prices cannot be justified on the grounds of increasing cost.

For example, total sales volume for the seven major oil companies in the U.S. increased about six percent between the first three quarters of 1973. Total revenues increased by 22 percent, and total net earnings by 46 percent. For this reason, the Committee adopted a section which sets an average ceiling price for crude oil of $5.25, with provisions for higher prices for certain classes of crude, up to an absolute ceiling of 35 percent above the $5.25 average price, or an average of $17.09. Dollar-for-dollar pass-throughs of all rollbacks are required to be passed through to the ultimate consumers of residual fuel oil or refined petroleum products, including propane.

The Committee intends, in adopting this section, to strike a just balance between the need for equity and the need for adequate incentives to assure a sufficient long-run supply of domestic fuels.

SHORT TITLE

TABLE OF CONTENTS

Senate bill

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation.

Conference substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TITLE I—ENERGY EMERGENCY AUTHORITIES

FINDINGS AND PURPOSES—ENERGY EMERGENCY

FINDINGS

Senate bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House amendment

No provision.

Conference substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

DECLARATION OF EMERGENCY

Senate bill

Under section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

House amendment

No provision.

Conference substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

PURPOSES

Senate bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

House amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

Conference substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

DEFINITION

Senate bill

No provision.

House amendment

Section 102 defined the terms "State", "petroleum product", "United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administation which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

Senate bill

No provision.

House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY

Senate bill

ENERGY RATIONING AND CONSERVATION PROGRAM

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation. Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

FUEL DISTRIBUTION PLAN

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

House amendment

ENERGY CONSERVATION PLANS

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restrictions should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

AMENDMENTS TO EMERGENCY PETROLEUM ALLOCATION ACT OF 1973 (EPAA)

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsection (l) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

(a) moves of armed services personnel on orders;

(b) household moves related to employment;

(c) household moves rising from displacement due to unemployment; and

(d) moves due to health, educational opportunities, or other good and sufficient reasons.

Conference substitute

END-USE ALLOCATION

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h). This new subsection, agreed to by the conferees on December 20, 1973, authorizes the development and implementation of end use rationing plans for crude oil, residual fuel oil, and refined petroleum products.

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. The proposed gasoline rationing plan published for comment by the Federal Energy Office on January 16, 1974 was not reviewed by the conferees. The conference report reflects neither concurrence nor nonconcurrence with the Federal Energy Office plan or with any of the provisions thereof.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for service and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the conferees specifically state that no taxing authority, of any type, is granted.

ENEGRY CONSERVATION REGULATIONS

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

(1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,

(2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,

(3) shall apply according to its terms in each State except as otherwise provided in the regulation, and

(4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 15, 1974 and before September 1, 1974, such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effects of such actions on certain entities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

The conferees, taking cognizance of the fact that there are shortages in petrochemical feedstocks, which if not alleviated may cause disruptions of varying degree among many sectors of our economy, have directed the Administrator to exercise such authority as is granted to him under this Act and under any other Act to alleviate such shortages. The conferees are aware that action has been taken under the Economic Stabilization Act to allow an increase in the price of petrochemical feedstocks in an effort to increase their supply. However, it is the intent of the conferees, in directing the Administrator to exercise the authorities conferred on him, to require that he take such other and additional steps as are necessary to increase the supply and availability of petrochemical feedstocks. Within 30 days from the date of enactment of this Act the Administrator is also directed to report to the Congress with respect to the shortages of petrochemical feedstocks and with respect to such additional steps as have been taken to alleviate such shortages.

Under section 105(b)(3)(A), the conference committee substituted new dates to grant the Administrator immediate authority and time so that it can establish and implement a system subject to congressional veto for the purpose of alleviating the panic-buying now taking place at the retail level. In this regard, special note was made of the success achieved under State programs adopted by the States of Hawaii, Oregon and Massachusetts to manage sales of gasoline at the pump.

The conferees urge the Administrator, in fashioning any energy conservation plan to deal with this problem, to consider preserving State programs for control of gasoline sales which are shown to be workable and which are not inconsistent with this Act.

COAL CONVERSION AND ALLOCATION

Senate bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

House amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106(b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentation of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

(4) The Administrator would be authorized to prescribe a system for allocation of coal.

Conference substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal and coal by-products as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. Assessment of the availability of coal would take into consideration the physical and economic feasibility of its production, transportation to the powerplant, and any state laws or policies limiting its extraction or use.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

MATERIALS ALLOCATION

Senate bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

House amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

Conference substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation propose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

Senate bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

House amendment

Section 103(a) would add a new section 4(h)(4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207 (c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

Conference substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 180(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Senate bill

No provision.

House amendment

Section 103(a) of the House amendment would have added a new subsection (1) to section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel oil or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c) (3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g) (1) of the EPAA to change the termination date in each case to May 15, 1975.

Conference substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (1),

(2) population growth and unusual changes in climate conditions are added as factors on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census,

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation, and

(4) the amendment to section 4(c)(3) is omitted.

PROHIBITION ON INEQUITABLE PRICING

Senate bill

No provision.

House amendment

Section 117 amended the Emergency Petroleum Allocation Act to require the President to set prices for crude oil, residual fuel oil and refined petroleum products at such a level as to prevent windfall profits to sellers. If, upon petition by an interested party, the Renegotiation Board (established by section 107(a) of the Renegotiation Act of 1951) determines that a price permits windfall profits, the Board may specify a price which does not result in such profits, and may order the refund to purchases of an amount equal to the windfall profits gained.

For the purposes of this section, windfall profits were defined as either profits in excess of a reasonable profit with respect to the particular seller, considering volume of production, net worth, risk, efficiency, etc.; or, the average profit for the firm or the industry in the period 1967 through 1971.

Conference substitute

The conference substitute rewrites the provisions of the House amendment. The House amendment included provisions designed to prohibit windfall profits-price gouging. The thrust of these provisions was to provide pricing protection for industrial and individual consumers of petroleum products. Under its terms, the President was *directed* to exercise his pricing authority under the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973 to specify prices for crude oil, residual fuel oil, and refined petroleum products to prevent windfall profits and price gouging by sellers. This was to be accomplished by specifically directing the President to establish prices which avoid windfall profits; by providing a procedure before the Renegotiation Board by which interested persons could obtain review of established prices and, in certain events, a rollback of such prices; and by including procedures permitting consumers to force individual companies to return windfall profits resulting from excessive prices. These provisions were incorporated in the House amendment out of a sense of dissatisfaction with the lack of limitations in existing law on the exercise of the President's pricing authority. This situation had permitted the President to adopt pricing policies which were producing unreasonably high profits for persons engaged in the petroleum industry in what a majority of House members believed to be a misdirected effort to allow the prices for short supplies to rise to levels which would discourage demand. The Senate bill contained no specific control on the exercise of the President's pricing authority similar to that of the House amendment.

The Conference substitute has shifted the emphasis away from a concentration on the profits produced by such prices to instead concentrate on the reasonableness of the levels of such prices. Here the conferees have refined the direction to the President to specifically require that the President specify equitable prices for domestic crude oil, all residual oil, and all refined petroleum products. This section further provides that, within 30 days after enactment of this Act, the ceiling price for all crude oil be the price for that grade of oil in that field at 6:00 a.m., May 15, 1973, plus $1.35. On a national average basis, this new price would be approximately $5.25. If this new price results in a rollback, as it would for oil not now subject to price controls, any such savings must be passed on to the ultimate consumers of residual oil or refined petroleum products, on a dollar-for-dollar passthrough, in an equitable and proportional manner among the consumers of different products.

Such proportional distribution of the passthrough shall be established on the basis of historical sales, using as the base period 1972, the same as that set out under the Emergency Petroleum Allocation Act.

For certain classes of crude, the President may establish a ceiling price up to 35 percent above the general ceiling price, upon transmittal to Congress of an explanation thereof and justification therefor.

Categories which the conferees envision could be granted at ceiling price above the average ceiling price of $5.25, would be crude oil produced from stripper wells, oil produced by secondary or tertiary recovery, and other sources of crude which require higher prices to permit recovery of costs and to provide additional incentives to maintain production and stimulate new development.

With certain exceptions, the conference substitute provides that in making any future change in the regulation which establishes a price or method for determining the price of crude oil, residual fuel oil, and refined petroleum products, the President shall afford interested persons an opportunity of not less than 10 days to present oral and written views on the proposed change. In certain crucial circumstances, the President is entitled to waive the 10 day comment period and make price changes immediately effective. It is the express and deliberate intent of the conferees, however, that such waivers occur in only emergency circumstances and that even in such an event the President would be directed to afford an opportunity of comment following implementation of the amendment to the regulation.

Moreover, in addition to the procedural protections provided in this section the conference substitute has incorporated separate procedures governing the judicial review of amendments to the pricing regulation.

Section 110 also provides for procedure whereby persons may petition the President to obtain administrative review of prices established by regulation.

PROTECTION OF FRANCHISED DEALERS

Senate bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which such franchise would be canceled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

House amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

Conference substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor," "refiner" and "retailer" are defined in terms of a *person* engaged in certain acts, rather than in terms of an *oil company* engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity. The provisions of this section shall expire with the expiration of the Act, except for pending actions or proceedings, or claims based on actions prior to that expiration date.

PROHIBITIONS ON UNREASONABLE ACTIONS

Senate bill

No provision.

House amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment.

It is the intent of the conferees that foreign corporations be accorded treatment under allocation programs comparable to that accorded United States corporations which operate in their respective countries of origin or incorporation. The President is granted discretion to waive this provision if he determines its strict application would be contrary to the purposes of the Act, and publishes his finding to that effect in the Federal Register. Examples might be allocation of fuels for activities such as petroleum exploration and development, or construction of pipelines or refineries in the United States, by a foreign corporation to serve United States needs, or the use of allocation authority as an economic bargaining tool with foreign nations.

REGULATED CARRIERS

Senate bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Section 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

House amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to be submitted until 60 days after the date of enactment of the legislation.

In additon, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which requires excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

Conference substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

ANTITRUST LAWS

Senate bill

Under section 314, the President would develop plans of action and could authorize voluntary agreements which are necessary to achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any action taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of sections 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation.

Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

House amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carrying out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on competition and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

RETAIL AND SERVICE ESTABLISHMENTS—VOLUNTARY ENERGY CONSERVATION AGREEMENTS

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be attended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available to the public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

Conference substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

EXPORTS

Senate bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

House amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Administration Act of 1969. Rules should take into account the historical trading relations with Canada and Mexico and should not be inconsistent with section 4(b) and (d) of the Environmental Protection Agency Act.

Conference substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction of exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toluene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce in connection with the administration of the Export Administration Act. This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

EMPLOYMENT IMPACT AND WORKER ASSISTANCE

Senate bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Secretary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

House amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Conference substitute

Section 116 of the Conference report provides for grants to be made to the States to enable them to extend the coverage of their unemployment compensation to persons adversely affected by the implementation of this Act as well as those directly and adversely affected by energy allocations, energy shortages, energy conservation measures and changes in consumption patterns as a result of the energy emergency. Such coverage would be available beyond the duration provided ordinarily under State law, and would extend to persons not otherwise covered by unemployment insurance programs, up to a period not to exceed one year. In adopting this provision, the Conferees recognized that energy-related unemployment will be severe in the coming months—perhaps reaching recessionary levels—and will touch virtually all sectors of the economy.

The Committee believes that, at a time when the American people are being asked to bear the burden of the shortage, the government should also act to provide programs to assist persons and families who face hardships as a result of unemployment caused by the energy shortage.

The authorization for this section is limited to $500,000,000 each year.

The conferees wish to make some specific notations of their understanding of how this section is to operate. It is to be emphasized that this action requires the President to make grants to the states to provide unemployment compensation for persons who have exhausted their state rights to unemployment compensation and for others engaged in classes of employment not otherwise entitled to unemployment compensation under state programs. In giving rule making authority to the President to govern the issuance of such grants, the conferees intend that the President exercise that authority to define the nature of the criteria or formula pursuant to which states receive grants-in-aid under this section. Within the dimensions of the assistance program as established by the President's regulations, the state is to administer the program. Grants to the states may include reimbursement for the costs of administration of this program. It is also to be emphasized that the states are to determine whether the unemployment is attributable to the energy crisis and may also determine whether an unemployed person continues to be eligible for compensation under this section.

USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

Senate bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within DOT an Office of Carpool Promotion and authorizes an appropriation of $25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

House amendment

Section 116(a)–(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only $1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

Conference substitute

Section 117 (a) through (h) of the conference substitute is the same as section 116 (a) through (h) of the House amendment with two exceptions. The sum of $5 million, not $1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted. With regard to the use of limousines by Federal officials, the conferees adopted language from both the Senate and House provisions. The report provides among other things that no funds be expended for chauffeurs for individual use by government officials.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Senate bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311(b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five days) by publication in the Federal Register on all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a schedule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

House amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special administrative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

Conference substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311(c)(1) of the Senate bill as section 118 (a)(5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

PROHIBITED ACTS

Senate bill

No provision.

House amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Conference substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

ENFORCEMENT

Senate bill

Section 306 provides for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for criminal penalty of not more than $5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than $2,500 for each day of each violation of any order or regulation issued pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than $50,000 or imprisoned not more than six months or both.

House amendment

Section III provided for fines up to $5,000 for each willful criminal violation of the Act, and civil penalties up to $2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

Conference substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

USE OF FEDERAL FACILITIES

Senate bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

House amendment

No provision.

Conference substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of Federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tanks, largely left over from World War II, could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

Senate bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superseded by it.

House amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

Conference substitute

Subsection (a) of section 122 of the conference substitute is the same as the House amendment except that the Administrator may only delegate any of his functions relative to implementation of energy conservation regulations to officers of a state or locality.

Subsection (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The Administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced composition so as to reflect the makeup of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

GRANTS TO STATES

Senate bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

House amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

Conference substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 105 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

REPORTS ON NATIONAL ENERGY RESOURCES

Senate bill

No provision.

House amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and destination of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

Conference substitute

Section 124 of the Conference substitute is the same as the House amendment.

INTERSTATE GAS

Senate bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

House amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

Conference substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

EXPIRATION

Senate bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

House amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

Conference substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

House amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

Conference substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to states under section 123, of $75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, $50,000,000 is authorized to be appropriated for fiscal year 1974 and $75,000,000 is authorized to be appropriated for fiscal year 1975. Also, for the purpose of making payments under grants to States under section 116, $500,000,000 is authorized to be appropriated for fiscal year 1974.

SEVERABILITY

Senate bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

House amendment

No provision.

Conference substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

IMPORTATION OF LIQUEFIED NATURAL GAS

Senate bill

No provision.

House amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquefied natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

Conference substitute

The Senate recedes.

ASSISTANCE TO HOMEOWNERS AND SMALL BUSINESSES

Senate bill

Section 308 of the Senate bill provided for the Federal Housing Administration and the Small Business Administration to make low-interest loans to homeowners and small business for the purpose of making energy-saving improvements on their homes or business establishments. The section further provided that maximum assistance and consideration be given to small business in the implementation of energy conservation measures.

House amendment

The House amendment contained no such provision.

Conference substitute

Section 130 of the conference substitute adopted the Senate language, except that loans to homeowners are to be made by the Department of Housing and Urban Development rather than through the Federal Housing Administration.

In adopting this provision it was the intent of the conferees that such low-interest loans would be available to those already eligible for assistance under existing agency programs: it was not the intent of the committee to broaden the base of eligibility for loans, but rather to increase the scope of uses to which such loans would be put by eligible persons. It is the anticipation that the availability of such loans will facilitate inculcation of the energy conservation ethic in the American people.

PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

Senate bill

No provision.

House amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under the section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

Conference report

The House recedes.

NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

Senate bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

House amendment

No provision.

Conference substitute

The Senate recedes.

HOMEOWNER TAX DEDUCTIONS

Senate bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed $1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

House amendment

No provision.

Conference substitute

The Senate recedes.

INTERNATIONAL AGREEMENTS

Senate bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in fossil fuels, to achieve the purposes of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that the energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industrialized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

CONSULTATIONS WITH CANADA

Senate bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days after enactment.

House amendment

No provision.

Conference substitute

The Senate recedes.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SHORT-TERM AND LONG-TERM SUSPENSIONS

SHORT TERM

Senate bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive suspensions, and no suspension could be granted unless the Administrator of EPA found either (i) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (ii) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

SHORT TERM

House amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

LONG TERM

Senate bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel, and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source or a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110 (f) of the Act would be authorized.

LONG TERM

House amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source or a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels, (2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights to sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed in such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House Amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1980, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 60 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

Conference substitute

Several changes have been made in the language of title II and in the conference report statement of managers since the original conference report was filed on January 22, 1974 (H. Rep. No. 93-763). These changes do not represent substantial changes in policy; rather they are intended to cure inadvertent omissions, to clarify ambiguities, to make the statutory language conform more closely to the intent of the conferees, and to correct certain printing errors.

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term delay of such limitations. The conference substitute adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to determine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil or natural gas.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel shortage while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and comparable provisions in the House bill were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which converts to coal in response to the emergency, the conferees adopted a provision which provides that no air pollution requirement (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal, except as provided in section 119(b)(1)(C). The conference bill would prohibit the application of such requirements to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such requirements to such source could in some instances continue until as late as January 1, 1979. The prohibition would only apply if the source were placed, after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable implementation plan no later than January 1, 1979.

One problem which the language of the new conference agreement is intended to remedy relates to use of the phrase "by the applicable implementation plan in effect on the date of enactment of this section" in section 119(b)(2)(B). This phrase poses no problem in states other than Ohio and Kentucky. However, in these two states, there is no applicable implementation plan in effect. This is so, because of the Sixth Circuit Court of Appeals' opinion and order in *Buckeye Power Inc.*, v. *Environmental Protection Agency*, No. 72-1628 (6th Circ. 1973) and consolidated cases. The conferees do not intend to preclude sources located in Ohio or Kentucky from eligibility for the exemption provided in section 119(b)(1). Therefore, the language of section 119(b)(2)(B) has been modified to permit the Administrator to approve a plan for a source located in either of these states if the plan provides a compliance schedule to achieve "the most stringent degree of emission reduction that such source would have been required to achieve . . . under the first applicable implementation plan which takes effect after" the date of enactment.

All compliance schedules under section 119(b) must also provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The conference committee wishes to emphasize that the Administrator would not be able to approve a plan under section 119(b) for a utility generally. Rather, each plan approval must be for a specific plant. Moreover, before ordering the source to convert under section 106 of the Energy Emergency Act, the Federal Energy Emergency Administrator would be expected to make a careful, case-by-case balancing analysis of the energy need and environmental harm which might result from such an order. The same type analysis must be made by the FEEA Administrator prior to permitting a source which began conversion to coal in the 90 days prior to December 15, 1973, to continue to burn coal under a section 119(b) exemption. The FEEA Administrator in making such an analysis is expected to consult and cooperate with the Administrator of EPA.

There are three basic reasons for the conferees' decision to encourage continued burning of coal until at least 1979. First, in order to encourage the opening of new coal mines to increase energy supplies, the conferees intend to encourage an on-going substantial demand for such coal. Without reasonable likelihood that new coal mines will be able to market their new production, the opening of new mines and expansion of existing mine capacity may be regarded too risky. Second, to the extent that electric generating power plants can be encouraged to cease burning oil and natural gas, these fuels would be available to meet other energy needs, such as production of gasoline and home heating oil. Finally, since continuous emission reduction technology is available for major sources such as power plants, but is not available for sources such as homes, apartment houses, and small businesses, the purposes of the Clean Air Act can be better effectuated by having low pollution oil and natural gas burned to the maximum extent feasible, in sources for which no effective clean up technology is available.

The conferees believe that the priority effort of each source which is subject to section 119(b) should be to obtain low sulfur coal. If an adequate, long-term supply of low sulfur coal is available to such a source, the Administrator should only approve a plan which requires its use (and thus compliance with air pollution requirements) as expeditiously as practicable. In such a case, the Administrator would have to disapprove a plan which proposed to wait until January 1, 1979, before beginning to burn low sulfur coal. The conferees believe that requiring priority consideration to the use of nonmetallurgical low sulfur coal will reduce the likelihood of extended violation of applicable emission standards.

If a source is unable to obtain an adequate long-term supply of low sulfur coal, it may seek to come into compliance by use of a continuous emission reduction system or by use of coal byproducts which would achieve the required degree of emission reduction. In such case, the source would still be required to act expeditiously to obtain an adequate supply of coal. However, compliance with all air pollution requirements would be required "not later than January 1, 1979" and "by a date established by the Administrator".

It is expected that the Administrator would include, but would not be limited to, the following requirements in any compliance schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has sulfur content which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining coal or continuous emission reduction systems may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining coal for such systems to insure availability of supplies of such coal or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

It is the intent of the conferees that when the coal available to the source necessitates the use of continuous emission reduction equipment for control of sulfur-related emissions, the source will have as much time as necessary to install the equipment and achieve timely compliance, in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems for sulfur control or causing unacceptable disruption in energy production capacity.

The conference committee does not intend to permit delay of existing compliance schedules for control of particulate emissions. Some slight delay may be necessary in light of revised compliance schedules for control of sulfur-related emissions. However, only such minor adjustments as the Administrator determines to be unavoidable should be permitted in existing compliance schedules and emission limitations for control of particulates.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to oil or natural gas by November 1, 1974. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations no later than January 1, 1979, can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil or natural gas remain subject to compliance schedules which were applicable prior to the temporary suspension or exemption.

The conference bill does provide for two exceptions to the prohibition on enforcing air pollution requirements. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in section 119 is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended is that some violation of the national primary ambient air quality standards can be permitted so long as any of the public would not be exposed to significant health risks.

The conference bill makes explicit that the period of inapplicability under section 119 (b) of State implementation plan requirements may be extended for one year under the procedures of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110(f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The opportunity to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. The language of section 119(b)(1) and the conference report printed on January 22, 1974 (H. Rept. No. 93–763) was subject to various conflicting interpretations as to what was meant by "began conversion." In order to clarify the intent of the conference bill, an amendment has been added to define this term. The intent of this amendment is to indicate that in order to be eligible for the exemption of section 119(b)(1), the source must do more than merely create a contingency capability to burn coal. Rather, the source must have made a firm determination to cease burning oil or natural gas and to burn coal instead. Moreover, the source must carry out this determination expeditiously and in good faith. Thus, the mere solicitation of bids for a coal supply would not necessarily in and of itself constitute action to begin conversion to the use of coal. The new amendment retains the intent of the conferees to permit the Administrator of the Environmental Protection Agency to exercise his discretion in deciding whether any particular source "began conversion to the use of coal" within the meaning of section 119(b)(1).

The conferees intend that all limitation of State and local authority which is contained in section 119(b) would cease to be effective on January 1, 1979.

The conference bill includes the House amendment provision which authorizes the Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

STUDY AND REPORTS

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

FUEL EXCHANGE AUTHORITY

House amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of

EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of Section 205.

Section 119(c), of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emission reduction systems so that they could be routed to users in regions with the most severe air pollution.

Senate bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction systems first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference substitute

In order to assure the Administrator of the Environment Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Energy Emergency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEEA and EPA Administrators will facilitate interagency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEEA Administrator for the duration of the emergency and the FEEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

REVISIONS OF IMPLEMENTATION PLANS

Senate bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State implementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House amendment

The House amendment contained a similar provision.

Conference substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 119(b) of the Clean Air Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standards could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States sufficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

TRANSPORTATION CONTROL PLANS

Senate bill

The Senate bill contained no provision relating to transportation control plans.

House amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate committees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

Conference substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportation control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as to their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. Environmental
Protection Agency,
Office of the Administrator,
Washington, D.C., December 19, 1973.

Senator Jennings Randolph,
Chairman, Senate Committee on Public Works, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I would like to reaffirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an alternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans promulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,
JOHN R. QUARLES, Jr.,
Deputy Administrator.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 20, 1973.

Hon. PAUL G. ROGERS,
House of Representatives,
Washington, D C.

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,
JOHN R. QUARLES, Jr.,
Deputy Administrator.

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be permitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose transportation control plans.

AUTO EMISSIONS

Senate bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

House amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

Conference substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202(b)(5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Leventhall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Leventhall pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al.* v. *Ruckelshaus,* 478 F.2d 615, 633–634 (February 20, 1973). If the Administrator is asked to authorize a suspension for HC and CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emission.

REPORT LANGUAGE: FUEL ECONOMY STUDY

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

TITLE III—REPORTS AND STUDIES

Senate bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremental energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health effects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204(a) of the Act.

The sum of $5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

House amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201–205 of this title.

(Additional language to come.)

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was $2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users of urban mass transportation systems.

Section 206(a) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307(a) powers.

Conference substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal wehicles, can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption, by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce.

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From Section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
JAMES F. HASTINGS,
Managers on the Part of the House.
HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
ERNEST F. HOLLINGS,
ADLAI E. STEVENSON III,
TED STEVENS,
Managers on the Part of the Senate.

INTERNATIONAL ECONOMIC REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency:

To the Congress of the United States:

Last year, when I submitted my first International Economic Report, the Nation had just concluded its involvement in a lengthy and tragic war. We were thus able to turn greater energies to building a more lasting and secure world peace.

A major part of our peace-building effort lies in resolving international economic problems, and today we can look back upon a year of progress on that front. We have strengthened our competitive position in the world. We have moved ahead toward vitally needed reforms of the world economic structure and we have improved our trade balance beyond our expectations, reflecting our ability to compete more effectively at home and abroad with foreign producers. Our strengthened trade position has in turn contributed significantly to the expansion of jobs and income for our people, and has led to renewed confidence in the dollar in the world's money markets.

One of the greatest challenges facing the international community is to overhaul our world monetary and trading systems. During this past year, I have been heartened by the progress that the Committee of Twenty, under the auspices of the International Monetary Fund, has made toward reforming the international monetary system and by the way that transitional monetary arrangements have proven effective under conditions of stress. Meanwhile, over 100 nations, meeting in Tokyo this past September, opened a new round of international trade negotiations. And the trade legislation we submitted last April has moved through the House for further consideration in the Senate.

Despite this significant progress, 1973 was also a year in which new problems vividly brought home to us the degree to which our own economy is affected by developments elsewhere. This past year the major industrial nations experienced simultaneous boom conditions for the first time since 1951. This complicated economic policy-making, demonstrating that the same interdependence which can contribute so much to world prosperity through trade can also contribute to national problems. One such problem is inflation. While we continue to attack the causes of excessive price increases within the United States, we must also realize that inflation has been a worldwide problem driving up the cost of world-traded goods.

Two new problems also arose in 1973, reminding us of the impact that other economies have upon our own: last summer's food shortages and the current oil crisis. There was an unprecedented and unforeseen surge in international demand for American agricultural products last year. The causes ranged from poor harvests abroad to food policy shifts by foreign governments, affecting their demand for agricultural imports. These significant shifts could not help but have a strong impact upon our domestic economy: on the one hand, expanded sales helped the recovery of our trade balance and helped ensure our position as a reliable world supplier of agricultural goods; but on the other hand, world-wide shortages caused our food prices to rise significantly. A number of measures have now been taken at home and abroad to help prevent a recurrence of such problems. We have brought land back into production, we have taken every step we can to expand our harvests, and we have established an agricultural export monitoring system. In addition, we have called for a World Food Conference to meet in Rome this year, where the newly developing problems of agricultural supply and demand can be addressed by both producer and consumer nations.

The second major problem—the oil embargo and its accompanying price increases—has given us further evidence of our interdependence with other nations. While our country is relatively less dependent upon foreign supplies for our energy than are most industrial nations, these developments are adversely affecting many sectors of our economy. Again, as we have done with regard to food shortages, we have taken vigorous actions to meet energy shortages. The actions taken by the Executive, the Congress, and especially by the American people have enabled us to make significant progress. The consumption of almost every form of energy has been dramatically reduced. But much more needs to be done in order not only to alleviate the current emergency but also to assure that the United States can develop greater energy resources of its own. This January, I submitted to the Congress my third special message on energy, outlining further needed legislation. I have also invited the foreign ministers of the major oil-consuming nations to Washington this month, initiating cooperative discussions on these problems. Those who will attend this conference recognize that the large price increases announced late last year can only create hardships for the major industrialized economies and could have a disastrous impact upon the world's poorest nations.

The new problems we face are of such enormity that there may be a temptation to delay further progress toward trade and monetary reform. Nothing could be more foolish. It is particularly important that we move forward in a multinational attempt to reduce trade barriers so that individual nations are not tempted to "go it alone" in seeking solutions. I consider it essential that we continue to construct a consultative framework in which new as well as old issues can be addressed. The current trade and monetary discussions provide such a framework and also allow us to continue our long-term effort to build a more effective world economic order. To make this possible, the Trade Reform Act should be promptly passed without restrictions upon our ability to end trade discrimination against other nations.

The Annual Report of the Council on International Economic Policy provides background and analysis which should be highly useful to the Congress as it considers these complex and important issues.

RICHARD NIXON.

THE WHITE HOUSE, *February 7, 1974.*

THIRD ANNUAL REPORT OF EXECUTIVE DEPARTMENTS AND AGENCIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Public Works:

To the Congress of the United States:

I am transmitting today the third annual report of each Executive department and agency on their activities during fiscal year 1973 under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

In general, the agencies' reports indicate that the Uniform Act has been well received by those displaced by Federal and federally-assisted projects and by the affected communities. The assistance provided by the Uniform Act largely compensates persons for the disruptions and inconveniences resulting from public acquisition. The payments made to persons who relocate have had a generally favorable impact on the public, and the down payment assistance provisions of the Uniform Act have resulted in increased home ownership opportunities for some displaced persons.

The agencies' reports indicate that the primary criticism directed toward the Uniform Act has been expressed on behalf of displaced small businesses. Agencies are not able to deal with the problems of displaced businesses as successfully as they can deal with those of individuals displaced from their homes. This matter will be reviewed to determine possible solutions.

During the past year, I transferred responsibility for executive branch leadership in the implementation of the

Uniform Act to the General Services Administration. The Administrator has recently reported to me concerning accomplishments under this program and has also outlined plans to assure continuation of programs initiated by the Office of Management and Budget and to further improve the administration of the Uniform Act. I endorse these efforts and include his report as an attachment to this transmittal.

RICHARD NIXON.

THE WHITE HOUSE, *February 7, 1974.*

ANIMAL HEALTH RESEARCH ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 824 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 824

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11873) to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. DEL CLAWSON) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 824 provides for an open rule with 1 hour of general debate on H.R. 11873, a bill providing for a program of animal health research.

H.R. 11873 authorizes the Secretary of Agriculture to encourage and assist the States in carrying out a program of animal health research through grants for research facilities for health problems of livestock, poultry and companion animals.

The assistance would be accomplished through an advisory board appointed by the Secretary of Agriculture, which would make recommendations concerning relative animal health research capacities of eligible institutions. There would also be a formula for distribution of funds based on the value of and income generated by livestock and poultry.

H.R. 11873 adopts a "State-sharing" formula under which the amount paid annually by the Federal Government to any eligible institution in excess of $100,000 would generally be matched from non-Federal sources on a 50-50 basis.

Mr. Speaker, I urge the adoption of House Resolution 824 in order that we may discuss and debate H.R. 11873.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 824 is the rule providing for the consideration of H.R. 11873, Animal Health Research Act. This is an open rule with 1 hour of general debate.

The purpose of H.R. 11873 is to increase animal health research within the structure of Federal-State university veterinary medicine institutions, by authorizing the Secretary of Agriculture to encourage and assist the States in carrying out programs of animal health research through grants for research and research facilities needed to solve health problems of livestock, poultry, and companion animals.

The main provisions of the bill include: First, the recipients of these grants would be the 18 colleges of veterinary medicine and 38 State agricultural experiment stations now conducting animal health research. Second, the distribution of funds would be through a formula based on the value of and income generated by livestock and poultry and research capacity for research programs and facilities at the eligible institutions. Third, grants would also be made for research on specific national or regional animal health problems. Fourth, an advisory board would be appointed by the Secretary to make recommendations concerning relative animal health research capacity of eligible institutions, animal health research priorities, and other matters related to administration of the act.

The committee realizes that the Department of Agriculture currently supports animal health research through the Agricultural Research Service and the Cooperative State Research Service but because of testimony showing that animal disease losses cost farmers, ranchers, and consumers at least $3.6 billion annually, they feel this bill should be enacted.

The committee estimates the cost of this legislation for the current year and subsequent 5 fiscal years would not exceed $45 million, the total appropriations ceiling set in H.R. 11873. They estimate that the proposed program would probably require funding of $5 million in fiscal year 1975, increasing $5 million in each of 2 succeeding years to a level of $15 million for continuing program support.

Mr. Speaker, I urge the adoption of this rule.

Mr. Speaker, I have no requests for time.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11873) to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11873, with Mrs. GREEN of Oregon in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Iowa (Mr. MAYNE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington.

Mr. FOLEY. Madam Chairman, I yield such time as he may consume to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Madam Chairman, as far as I know, this bill comes to the floor with only minor objection, so I will not take up the time of the committee with a detailed explanation, but I will be glad to yield to any Member to answer questions.

When we consider that the Department of Agriculture tells us that in 1972 there was loss from livestock diseases totaling $3.6 billion, it jars us so we must do a better job in trying to prevent animal disease, first of all, or to cure it quickly to prevent death losses. The 1972 Terry Report by the National Academy of Sciences told us that there were 423,000 animals or animal parts condemned in our slaughterhouses, and that in our poultry plants there were 404 million pounds of poultry condemned. If we are going to assure more meat production to this country and hopefully to arrive at stable meat prices, then we are going to have to do one or more of the following: First of all, there is a possibility we could have more live births, more animals born, second we could have fewer animals become sick by the prevention of disease and third by the prevention of loss of weight while the animals are sick. It is going to take research to show us the better ways of doing these things to eliminate disease and to prevent diseases. This bill is aimed in that direction. It would coordinate between Federal and State research laboratories, animal research laboratories, and the veterinary colleges all of the animal research that is done. It does not mean that there would not be a great deal of animal research done at Beltsville and at Ames, and continuing at Federal research centers. But the bill would coordinate unused research facilities and unused research opportunities in animal health among all of our veterinary colleges and all of our animal research institutions scattered all across the country. That is what this bill would do.

It would keep track of all of the research, coordinate it, and gear us up more to use some unused facilities that are not operating to their full opportunity.

We tell consumers now who are very much alarmed at the sometimes scarcity of food supplies, particularly meats, and who are also alarmed at the prices of meats, the end result would be, hopefully, that using research directly, we can look down the road a number of years and see ourselves producing more meat, by allowing less death loss, and allowing less loss of weight or loss of condition from disease that is in the best interests of both consumers and producers.

The benefits that accrue to human health from animal research cannot be ignored. Controlling and eradicating diseases in cattle such as tuberculosis and brucellosis has eliminated most of the human cases of these diseases.

Animal research is basic and all mankind benefits from it.

In addition, there is the humanitarian element of elminating animal diseases and suffering of all types as much as we can. For all these reasons, we need this bill.

Madam Chairman, I hope the committee will consider the bill favorably.

Mr. MAYNE. Madam Chairman, I yield myself such time as I may consume.

Several days of hearings on this important matter were held before our Subcommittee on Livestock and Grains and we were told by the Deputy Assistant Secretary of Agriculture Vander Myde that animal diseases are still a very significant cost factor in our food supply system. He estimated that annual losses from diseases and parasites in livestock alone exceed $3.6 billion annually, and with meat and poultry already in short supply our country simply cannot afford to sustain losses of food to diseases in that magnitude.

The recent clamor around the world for more meat and projections for continued strong demand both at home and abroad point to a need for much greater efficiency in our system of supplying foods of animal origin.

Currently the tremendous losses due to animal disease are being borne by the consumer who must pay increasingly high costs for meat, poultry, milk, and eggs. In his statement before our subcommittee the Deputy Secretary pointed out that these losses in livestock of some $3.6 billion account for 15 to 20 percent of all animals in this country. In 1972 the Animal and Plant Health Inspection Service reported a total of 423,000 animals and animal parts and 404 million pounds of poultry condemned for disease. Specific diseases exact a severe total each year, including such diseases as bovine mastitis which causes losses of about $500 million annually, and bovine respiratory diseases which cause losses of about $200 million, and those from swine dysentery which causes about $34 million of losses, to name just a few.

There are many other losses of unknown causes, including one of the most costly, shipping fever. Approximately 70 percent of livestock abortions also are of unknown cause.

Animal disease research has been in progress for a long time throughout the Nation. As a result, many once severe diseases, such as hog cholera, have been brought under control and we have been able to maintain profitable production of meat, dairy and poultry animals. But this would not have been possible without the money spent on research to combat diseases in the past and disease problems continue to plague producers. Just in 1973 the Department of Agriculture programed about $23.4 million for animal health research. When we are talking about trying to combat losses of $3.6 billion, that is too modest an effort. Only about $1.7 million was allocated to colleges of veterinary medicine, $2 million to State agricultural experiment stations, and $19.7 million to Federal laboratories. The States and industry invested additional large sums in animal health research. We do not have complete information, but the funding of research on animal diseases, pests, parasites, and toxins by USDA, the State agricultural experiment stations, and other cooperating institutions alone exceeds $40 million annually. In terms of cash receipts from livestock—which will probably exceed $35 billion this year—this is indeed a modest investment for value received.

The colleges of veterinary medicine currently receive about $15 million in total from Federal agencies. Nearly two-thirds of this amount is human-health related research grants of 1 to 5 years' duration from the Department of Health, Education, and Welfare.

The bill before us today would establish a new program to support animal health research in the Federal colleges and agricultural experiment stations through formula funding administered by the Department of Agriculture.

The funds would be allocated to eligible institutions in the States on recommendation of an advisory board as follows: 48 percent on the basis of the value of livestock and poultry in each State; 38 percent in proportion to animal health research capacity; and, 10 percent on the basis of need for expanded research capacity. The balance of 4 percent would be used for administration, program assistance to the States and program coordination.

The intent of the new program is to assure more continuous and stable funding of animal health research in these institutions, as well as to increase the total research effort. Indirectly, of course, the additional funding would stimulate the training and development of new animal health scientists and technicians. Many graduate students, for example, would obtain valuable experience by assisting on the research projects as a part of their training. This has been demonstrated in our continuing research support programs with the State agricultural experiment stations under the Hatch Act as schools of forestry under the McIntire-Stennis Act of 1962. Animal health-related research currently is supported under both of these programs. In addition, the Department of Agriculture awards special research grants under Public Law 89–106 in support of the programs of the Department, including animal health research.

Thus, while animal disease research is, indeed, being supported to a considerable extent, there is no uniformity of such support among the colleges and universities and the total effort clearly is inadequate to cope with a truly gigantic problem.

I am sure that many Members here in the Chamber have heard from their own colleges of veterinary medicine and leaders of the livestock and poultry industry in support of this bill.

Our subcommittee received the following very strong statement in support of the bill from Dean P. T. Pearson of the College of Veterinary Medicine at Iowa State University at Ames, Iowa, representing the feelings of his entire faculty:

> The mission of veterinary medicine is to assist with the protection and improvement of the health and economic welfare of our State, Nation and world. This entails responsibilities in teaching, research, and service to safeguard the health and productivity of food-producing animals, control diseases in livestock and pets that are transmissible to man, provide medical care for companion animals, and provide healthy laboratory animals essential to research. Veterinarians also cooperate with others in comparative medicine to help conquer major medical threats such as cancer and heart disease, assist in the protection of the quality of the environment, and other vital areas of public health.
>
> H.R. 11873, would provide critically needed research support for areas vital to the health and welfare of the Nation and the world. In the past great strides have been made in the control and prevention of many animal diseases and public health problems. However, there are still urgent needs for additional funds to support research programs directed towards eliminating or controlling the animal diseases and parasite problems that cause the United States an estimated three billion dollars each year. This Animal Health Research Act if passed and funded should be very effective in providing more adequate support for research vital to making more animal protein available to the world and to improving the health and environment of both mankind and animals.

I have also received a letter under date of October 31, 1973, from Larry Kallem, executive vice president of the Iowa Cattlemen's Association, which strongly endorses this bill and urges me to support it, saying:

> This bill, if passed and funded, can provide some much needed research funding for the benefit of the Iowa livestock industry.

David Roth, the president of the Iowa Turkey Federation, sent me the following letter, which takes a similar position in strong support:

> IOWA TURKEY FEDERATION.
>
> Hon. WILEY MAYNE,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. MAYNE: The turkey industry of Iowa, representing 7 million Iowa grown turkeys, strongly urge the Congress of the United States to enact enabling legislation that will increase research on animal diseases. There is currently great concern about the availability and cost of animal protein. Increased availability of poultry meat at a minimum cost can best be achieved by increased efficiency of production. Control or elimination of poultry and animal diseases is a strong factor in that efficiency.
>
> Salmonella infections in poultry is a serious public health problem. Iowa has been

one of the leaders in programs to eradicate Salmonella in turkeys. A great deal more work needs to be done in research to understand the transmissions and control of this disease.

Exotic Newcastle disease outbreaks in the past year have indicated a necessity for more research in methods of control and development of new vaccines for this disastrous disease. Research money to study control of this disease could be a great saving to the Government in indemnities paid for eradication of this disease.

House Bill 11873, a bill "To authorize the Secretary of Agriculture to encourage and assist the several states in carrying out a program of animal health research", could provide the necessary funding. We encourage you to take strong action in order to get it out of committee and passed by the House.

This enabling legislation could provide much needed funds for disease research in animals and poultry.

Sincerely,

DAVID ROTH, *President.*

Bill McMillen, executive vice president of the American National Cattlemen Association, who testified before our subcommittee has also written, advising that breed associations, artificial insemination firms, and others in the private sector of the livestock industry are spending approximately $100 million annually in the attempt to resolve many of these animal disease problems.

The bill has been adequately discussed by the distinguished gentleman from Montana, Dr. MELCHER, who is himself a veterinarian. I will not go into it in more detail, but I do want to point out that considering the relatively modest investment which this bill proposes to protect livestock and poultry health, it should certainly pay handsome dividends in reducing consumer prices and consumer losses in the years ahead. I urge my colleagues to support this bill in the best interest of the consumers, producers, and taxpayers of this country.

Mr. ZWACH. Madam Chairman, will the gentleman yield?

Mr. MAYNE. Madam Chairman, I yield to the gentleman from Minnesota, a member of the Subcommittee on Livestock and Grain.

Mr. ZWACH. Madam Chairman, I thank the gentleman for yielding to me. I want to associate myself with all that those who have spoken in support of this measure have said.

I rise in support of it and urge its passage.

Mr. MAYNE. Madam Chairman, I thank the gentleman from Minnesota for his contribution, and I am happy to yield to the ranking minority Member of the Agriculture Committee, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Madam Chairman, I rise in support of H.R. 11873. The basic purpose of this bill is to put a greater emphasis on animal health research.

The bill proposes to do so by using the facilities and the talents of the 18 colleges of veterinary medicine and the 38 State agricultural experiment stations. It establishes, through the conventional appropriations process, a formula generally patterned after existing Federal-State research efforts, and it specifically aims at finding new and better ways to protect the health of animals.

In recognition of the serious problem of over-population of predators and domestic pets, the bill also allows these institutions to seek and search for new ways to control the birth of predators as well as domestic pets.

This bill also represents a constructive effort to meet a problem that affects both farmers and consumers—the problem of animal health.

It is easy to understand that animal health affects the livestock producers, but what, one may ask, does animal health have to do with consumers?

During the testimony on the legislation the Department of Agriculture pointed out that livestock losses run at least $3.6 billion per year.

Naturally, the farmer suffers when his livestock are sick or die, but, Madam Chairman, so does the consumer.

That same sick animal, if cured, would go to market and some day be on the grocer's shelf. If that animal dies from a disease that could be controlled, it will never reach the grocer's shelf, and the housewife's price at the check-out counter will reflect that fact.

Another aspect of consumer impact lies in the research needed to improve livestock yields or breeding. Yes, the roast beef eater will also benefit if the steer from which that roast came arrives at the market earlier and heavier than he now does.

In brief, Madam Chairman, the additional authorization for research expenditures contemplated by this bill, probably around $5 million next year, can very usefully be used to find new and better ways to reduce animal deaths, to hold down livestock illness, and to find better breeding and production techniques.

This bill, Madam Chairman, has broad bipartisan support from the Committee on Agriculture. All eight minority members of the Livestock and Grains Subcommittee are cosponsors of this bill together with the gentleman from Montana (Mr. MELCHER).

In summary, this bill is one which can benefit all Americans; it has been carefully and thoroughly considered by the Committee on Agriculture; it has strong bipartisan support; it moves to meet the predator and pet population problem; and it is indeed worthy of favorable consideration by the House.

Mr. MAYNE. Madam Chairman, I yield 8 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Madam Chairman, I want to thank the gentleman from Iowa for yielding this time to me. I realize that what I am about to do is a complete exercise in fultility. It is a complete waste of time; I realize also, a waste of energy. I might add, I am short on time but I have an abundant supply of energy.

Madam Chairman, let me review just very briefly some of the things we heard on this floor this week. I want to digress for just a few minutes, get away from what we are considering here today, and point out some of the things that to me are far more important to this country than the bill we are considering right now.

Chairman MAHON reported to us Monday or Tuesday that the budget for fiscal 1974 will be some $304 plus billion. I did a little research after that. I asked Chairman MAHON a few other questions off the floor. He told me that when he came to the Congress in 1934, our entire budget was $6 billion.

Then, I looked a little further. I looked at 1941, which was the last prewar year. Our budget that year was $24.8 billion. He also said something, and I wish each Member would pay attention to this if you have not already done so. By the end of this fiscal year, our national debt now—pay attention to this, please; to me, this is frightening—by the end of fiscal 1974 the interest on our national debt will be $29.1 billion.

Then I did a little bit of Albert Einstein figuring, and I hope my figures are correct since I am not used to dealing in figures quite this large. I called the Department of the Treasury and asked what the average interest charge is we pay for money today. I was told that the average charge is about 6.2 percent.

I am not at all certain that that figure is not too low. Here is a very interesting figure: You Members who are big spenders, take this home and tell your constituents: This interest on our national debt will be costing us $55,365.29 for every minute of every day of every week of the year. If that does not shake you up, I say it should. To me, that is frightening. Let me repeat that figure: Every minute our national debt at the end of this fiscal year is going to cost us in interest charges alone $55,365.29 per minute.

I said that this is a complete exercise in futility, but I think it is necessary that some of us point this out so all know what we have been doing.

To me, in recent years this Congress has lost all sense of fiscal responsibility. All one needs to do is to look at the RECORD to prove that statement. Practically every authorization bill and practically every appropriation bill that has reached this floor in recent Congresses has been increased considerably right here on this floor.

Madam Chairman, if we are to survive—and I surely trust that we will survive—I think it is time that this Congress return to some sense of fiscal sanity.

I think we have become completely insane in this field. I hesitate to say that, but I believe it is a fact of life and I propose to tell it like it is.

I want to say quite frankly that I am not opposed to research. Research is responsible for the United States having the greatest agricultural production of any country on Earth. My profession would not have survived without research. But here we are providing for a complete duplication of effort.

What does this bill do that cannot already be done under existing legislation? My answer to that question is: "Nothing."

Animal health research programs are presently being funded and carried out under several existing laws, namely through the State agricultural experiment stations under the Hatch Act, as amended, through the State schools of forestry under the McIntire-Stennis Act, and in addition, special research grants are being awarded under Public Law 89–106, in support of animal health research.

Mr. ROUSSELOT. Madam Chairman, will the gentleman yield?

Mr. GOODLING. Yes, I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Madam Chairman, I appreciate the remarks of the gentleman today about the fact that constantly we bring before this Congress bills that authorize money in a sense of overpromise that we know full well the Committee on Appropriations cannot fund.

Although this bill seems small in dollar amounts, compared to the type of bills that we bring onto the floor almost daily amounting to billions of dollars, the point that the gentleman from Pennsylvania is making is a very real and positive one.

Although the gentleman started out in his remarks by saying that none of the Members in this Congress will pay much attention to what he said, I can assure the gentleman that the American people are beginning to pay a lot more attention to the very concept the gentleman has developed.

I know the gentleman has announced that he is retiring from these halls and will not run for reelection, but he has been one of those very responsible Members of Congress who has constantly tried to remind us, when we are authorizing large numbers of dollars, far beyond what we are able to appropriate, what the long-range meaning will be.

That is that our children and our grandchildren some day will have to be accountable for this in additional tax dollars.

Madam Chairman, I wish to compliment my colleague for the point he has tried to make. Whether or not this Congress is listening is not important. The fact is that eventually the Members will have to listen, because their constituents will demand it of them.

Mr. GOODLING. Madam Chairman, I thank the gentleman from California for his contribution.

There is just one more item I wish to cover from my dissenting views.

IN 1973 the Department of Agriculture programed about $23.4 million for animal health research. States and industry invested additional large sums in animal health research.

Finally, I would like to point out to this House that we are starting this session with a bad precedent. Here we are, about to authorize—and I realize that we are going to authorize this expenditure—but we are going to authorize an expenditure of $45 million, and not one penny of it is budgeted.

Now, this hardly appears to me, at least, to be a proper way to run a railroad.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAYNE. I yield the gentleman from Pennsylvania 1 additional minute.

Mr. GOODLING. I said it hardly appears to be a proper way to run a railroad, but on second thought, railroads are bankrupt right now, and I am not at all certain that we are not on the same bankrupt track. I hope I am wrong, but I am extremely fearful for the financial condition of this country.

Mr. MAYNE. Madam Chairman, I thank the gentleman for his statement.

I join with my colleague from California in his remarks about the very distinguished gentleman from Pennsylvania and his service in the Congress and specifically on the Committee on Agriculture where he has been one of our most effective and capable members.

Now I yield 2 minutes to the gentleman from Nebraska (Mr. THONE) a member of the committee.

Mr. THONE. Madam Chairman, first I would like to acknowledge the leadership on this legislation of Dr. MELCHER, our distinguished colleague from Montana.

In my opinion, H.R. 11873, of which I am a cosponsor, rightly places increased emphasis on animal health research. This legislation would authorize the U.S. Department of Agriculture to work with and assist the States in carrying out a program of animal health research through grants for research and research facilities.

Without a doubt an increased effort must be made in the area of animal health research. As our colleague from Iowa, WILEY MAYNE, pointed out, animal disease losses are currently running at the rate of nearly $4 billion a year, and, as he also pointed out, this bill will be a real investment that will pay dividends for many, many years to come.

This legislation will assure continuous stable funding in this most critical area. It establishes a needed priority and in a most practical way. I strongly urge its passage.

Mr. FOLEY. Madam Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Thank you.

Madam Chairman, I rise in support of this bill. I think it is a very fine piece of legislation. A lot of work has been done on it in the committee, and I see a lot of need for it throughout our country.

I urge my friends to support this piece of legislation.

Mr. FOLEY. Madam Chairman, I yield myself 1 minute for the purpose of saying that I commend this legislation to the Members not only for the impact it can have on improved animal health and the possibility of a substantial lowering of the cost of livestock production, but also I wish to remind the Members there have been important steps made in the protection of human health which have arisen out of corollary studies on animal health.

Madam Chairman, I have no further requests for time.

Mr. GUNTER. Madam Chairman, with the great concern that exists relative to both food prices and food shortages, the Animal Health Research Act, which I have cosponsored, is both timely and important.

Farmers, ranchers and consumers annually lose an estimated $3.6 billion as a result of animal disease.

While the Department of Agriculture, through the Agricultural Research Service and the Cooperative State Research Service, currently programs roughly $23.4 million for research into the causes and alleviation of animal disease, experience indicates that when the funds are broken down, one of the most promising research areas is receiving only modest financial support.

These are the colleges of veterinary medicine and State agricultural experiment stations.

Over $19.7 million of the total funds programed went to support work at Federal laboratories, while only $1.7 million supported research at colleges of veterinary medicine and $2 million for research work at State agricultural experiment stations.

The pending bill, reported favorably by the Committee on Agriculture under the leadership of Chairman POAGE, would authorize the Secretary of Agriculture to encourage the various States to make fuller use of these research resources by allocating additional funds for the purpose.

The program would provide an estimated $5 million in fiscal year 1975 and increase the amount by $5 million in each succeeding fiscal year until a $15 million level is reached.

These funds, in my view, would represent not so much an expense but a wise investment, in the hopes that some portion of the enormous cost to consumers, farmers and ranchers as a result of staggering losses due to animal disease, can be reduced through further and more diversified research.

I urge the House to act favorably and commend my colleagues on the Agriculture Committee for their expression of active concern over this matter.

Mr. LEGGETT. Madam Chairman, coming as I do from an area with strong interests in the livestock industry, I take a correspondingly strong interest in the Animal Health Research Act. The School of Veterinary Medicine at the University of California at Davis in my district has long been a leader in animal disease research, and its internationally renowned faculty has time and again brought to my attention the need for greater emphasis on such programs. I would like to point out that animal disease is in no small part responsible for the 25-percent increase in food prices last year, so money spent now in research programs on animal disease is money saved later in the consumer's budget. There are other effects, of course, of such diseases. Hog cholera and newcastle disease can literally wipe out a small livestock man, and in times of rising food shortages we can ill afford to lose even one producer.

That this legislation is timely is also not disputable. In hearings before the Livestock and Grains Subcommittee, Doctors Leo Bustad and James Henson of Washington State University made reference to a bulletin entitled "Problems and Practices of American Cattleman," which was published in the midfifties. To quote the statement of these distinguished gentlemen:

> Although almost 20 years have passed since this well done survey that succinctly defined the problems, we must confess that the same serious disease and parasite problems that plagued the industry at that time are still with us.

I can assure you that this state of affairs is not confined to the cattle industry, but is evident among other sectors of the livestock industry as well. Such delay in protecting so important a segment of our food supply is simply intolerable.

We in California, of course, have our parochial interest in such a bill as this. We have well-developed equine, chicken, cattle, and other livestock industries which will benefit from this act; however, there is a strong national interest in our own, because California is a net exporter of food to the rest of the country. We are prepared, through our outstanding research facilities at Davis and elsewhere in the State, to do our part in meeting the challenge of suppressing animal disease; but Federal dollars are necessary to help us mount the kind of effort needed to see that we do not face the same problems 20 years from now that we faced 20 years ago.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the Animal Health Research Act.

Section 1. Purpose.—It is the purpose of this Act to promote the general welfare through improved health and productivity of domestic livestock, poultry, and other income-producing animals so essential to the Nation's food supply and the welfare of producers and consumers of animal products; to prevent disease epidemics that would be disastrous to the American livestock and poultry industries and our food supply; to minimize losses due to sicknesses and diseases of livestock and poultry; to protect human health through control of animal diseases transmissible to humans; to improve the health of companion animals which support an industry of major economic importance and which contribute significantly to the quality of family life; to improve methods of controlling the births of predators and other animals; and otherwise to promote the general welfare through expanded programs of research to improve animal health. It is recognized that the total animal health research efforts of the several State colleges and universities and of the Federal Government are more fully effective if there is a close coordination between such programs, and it is further recognized that colleges of veterinary medicine and departments of veterinary sciences and animal pathology, and similar units conducting animal health research in the agricultural experiment stations, are especially vital in the training of research workers in animal health.

Sec. 2. In order to carry out the purposes of this Act, the Secretary of Agriculture is hereby authorized to cooperate with the several States for the purpose of encouraging and assisting them in carrying out programs of animal health research at eligible institutions.

Sec. 3. Definitions.—As used in this Act:

(a) "Eligible institutions" shall include all accredited colleges of veterinary medicine and at institutions where there is no college of veterinary medicine, agricultural experiment stations eligible to receive assistance under the Hatch Act, as amended in 1955 (69 Stat. 671), which have departments of veterinary science or animal pathology, or similar units conducting animal health research: *Provided, however,* That when a new college of veterinary medicine is formed, the Secretary, after consultation with the advisory board, shall provide for the orderly transfer or support from the agricultural experiment station to the college of veterinary medicine in that institution.

(b) "Dean" shall mean the dean of a college of veterinary medicine. "Director" shall mean director of an agricultural experiment station at institutions where there is no college of veterinary medicine.

(c) "State" shall mean all States, Guam, Puerto Rico, and the Virgin Islands.

(d) "Secretary" shall mean the Secretary of Agriculture.

(e) "Advisory Board" shall mean a Veterinary Medical Science Research Board appointed by the Secretary of Agriculture which shall be constituted of not less than nine nor more than twelve members selected from individuals nominated by and selected so as to give equal representation to respectively: (1) accredited colleges of veterinary medicine, (2) veterinary science or animal pathology departments or similar units conducting animal health research at other eligible institutions, and (3) to representatives of national livestock and poultry organizations.

(f) "Animal health research capacity" shall mean the capacity of an eligible institution to conduct research on animal diseases as measured by a formula to be developed and applied by the Secretary with the advice of the advisory board. The Secretary's formula will provide a figure for each eligible institution which will be used in determining that institution's relative capacity to perform such research as a percentage of the total national capacity of all such institutions to conduct animal health research.

Sec. 4. (a) To support continuing research programs at eligible institutions, the Congress is hereby authorized to appropriate such funds, not to exceed $20,000,000 annually, as it may determine to be necessary. Funds appropriated under this section shall be used to meet expenses of conducting research, publishing and disseminating the results of such research, of contributing to retirement of employees subject to the provisions of an Act approved March 4, 1940 (54 Stat. 39), of administrative planning and direction, and for the purchase of needed equipment and supplies and the alteration or renovation of buildings necessary for conducting research.

(b) Funds appropriated under this section shall be apportioned as follows:

(1) Four per centum shall be retained by United States Department of Agriculture for administration, program assistance to the States, and program coordination.

(2) Forty-eight per centum shall be distributed to eligible institutions in the proportion that the value and income of domestic livestock and poultry in each State where such institution is located, bears to the total value and income of domestic livestock and poultry in the United States according to the latest published United States Department of Agriculture statistics. The Secretary will determine the total value and income and the proportionate value and income of domestic livestock and poultry for each State with guidance of the Advisory Board from the latest inventory of all cattle, sheep, swine, horses, and poultry published by the United States Department of Agriculture.

(3) Forty-eight per centum shall be distributed among the eligible institutions of the States in proportion to the animal health research capacity of the eligible institution or institutions in each State.

(c) When the amount available under this section for allotment to any eligible institution on the basis of livestock values and income exceeds the amount for which such institution is eligible on the basis of animal health research capacity, the excess may be used for remodeling of old facilities, construction of new facilities, or to increase staffing proportionate to the need for added research capacity.

(d) When a State has two or more eligible institutions, the funds available for such institutions in that State under this section shall be apportioned between or among those institutions in proportion to their animal health research capacity as defined in section 3(f).

(e) The sums distributed on the basis of proportionate value and income of domestic livestock and poultry (b)(2) above and proportionate animal health research capacity (b)(3) above in the first appropriation under this Act and like sums appropriated in subsequent years shall be based on the latest available data on National and State livestock values and income and research capacities, and any sums in addition to the initial appropriation level appropriated in subsequent years shall be distributed on the basis of domestic livestock and poultry values and income and animal health research capacities in the years those additional sums are first appropriated: *Provided,* That sums available to an eligible institution will not be decreased because of subsequent changes in the proportionate distribution of domestic livestock and poultry values and income and animal health research capacities.

Sec. 5. (a) To support research on specific national or regional animal health problems, the Congress is hereby authorized to appropriate such funds, not to exceed $15,000,000 annually, as it shall determine to be necessary. Funds appropriated under this section shall be used to pay costs of conducting research and other costs provided for in section 4(a).

(b) Funds appropriated under this section shall be allocated by the Secretary to eligible institutions for work to be done as mutually agreed upon between the Secretary and the eligible institutions. In developing plans for the use of these funds, the Secretary shall consult the advisory board.

Sec. 6. (a) To support cost of providing veterinary medical science research facilities, the Congress is hereby authorized to appropriate such sums, not to exceed $10,000,000 annually, as it determines to be necessary. Funds provided under this section shall be used to purchase land, construct or remodel buildings, and to buy and install necessary research and research-related equipment.

(b) Funds appropriated under this section shall be apportioned among eligible institutions in the same manner as funds apportioned under section 4(b), except that, to meet specific national or regional animal health research needs, additional funds may be appropriated to provide animal health research facilities at one or more eligible institutions as mutually agreed upon in each case between the Secretary and the eligible institution: *Provided,* That, in developing plans for the use of these additional funds, the Secretary shall consult the advisory board.

SEC. 7. Sums available for allotment under the terms of this Act shall be paid to each eligible institution at such times and in such amounts as shall be determined by the Secretary. Funds shall remain available for payment of unliquidated obligations for one additional fiscal year following the year of appropriation, except that funds appropriated under section 6 shall remain available for payment, at the option of an eligible institution, for a period of not more than two fiscal years following the fiscal year of appropriation plus the one additional year for payment or unliquidated obligations.

SEC. 8. When the Secretary determines that an eligible institution is not eligible to receive its allotment of funds because of a failure to satisfy requirements of this Act or regulations issued under it, the Secretary shall withhold such amounts; the facts and reasons therefor shall be reported to the President and the amount involved shall be kept separate in the Treasury until the close of the next Congress. If the next Congress shall not direct such sum to be paid it shall be carried to surplus.

SEC. 9. At a time and in a manner to be designated by the Secretary, the dean and director of each eligible institution will be directed to appoint a local committee to review local project proposals for research on priority problems of animal health which comply with the purpose in section 1 and for use as specified in section 4(a) and with general guidelines for project eligibility to be provided by the Secretary with the advice of the Advisory Board. Research proposals reviewed by the local committees and approved by the dean or director will be submitted to the Secretary with a brief outline abstract summary which will reveal compliance with the purpose of this Act and the Secretary's general outlines.

Each dean or director shall also submit a brief annual report of research accomplishments on a project-by-project basis and he shall account for all funds allotted to his institution under the provisions of this Act at such times and on such forms as the Secretary shall prescribe. If any portion of the allotted moneys received shall by any action or contingency be diminished, lost, or misapplied, it shall be replaced by the State concerned and until so replaced, no subsequent appropriation shall be allotted or paid to said college or university.

SEC. 10. The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this Act and to furnish such advice and assistance as will best promote the purposes of this Act. The Secretary is further directed to appoint the Advisory Board.

The Advisory Board in addition to providing consultation and advice to the Secretary as provided elsewhere in this Act shall meet at least annually to advise the Secretary with respect to administration and implementation of this Act and to recommend priorities for conduct of research programs authorized under this Act. The Advisory Board shall continue for the duration of this Act.

SEC. 11. The amount paid by the Federal Government to any eligible institution for assistance under this Act, exclusive of the funds paid for research on specific national or regional animal health problems authorized by sections 5 and 6, shall be in an amount not to excede $100,000 in addition to an amount not to exceed during any fiscal year the amount available to and budgeted for expenditure by such institution during the same fiscal year for animal health research from non-Federal sources. The Secretary is authorized to make such expenditures on the certificate of the appropriate official of the institution having charge of the animal health research for which the expenditures as herein provided are to be made. If any or all of the institutions certified for receipt of funds under this Act fails to make available and budget for expenditure for animal health research in any fiscal year sums at least as much as the amount for which it would be eligible for such year under this Act, the difference between the Federal funds available and the funds made available and budgeted for expenditure by the institution shall be reapportioned by the Secretary to other eligible institutions of the same State if there be any which qualify therefor and, if there be none, the Secretary shall reapportion such differences to the qualifying institutions of other States participating in the animal health research program.

Mr. FOLEY (during the reading). Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. GROSS. Madam Chairman, I move to strike the requisite number of words.

I would like to ask the gentleman from Washington who just spoke how much of this money is to go to the inspection service that is directly related to human health?

Mr. FOLEY. Madam Chairman, if the gentleman will yield, none of the funds that are authorized under this bill would go to the inspection service, that is covered under a separate line item in the appropriation bill. Funds that would be authorized here would be for the purpose of assisting the States and their colleges of veterinary medicine on a cost-sharing basis. There would be a basic Federal grant of $100,000 to each State college of veterinary medicine that cooperates in the program, or to the various State research entities if there is no college of veterinary medicine.

Mr. GROSS. Is this a matching fund program?

Mr. FOLEY. Yes, for each $100,000 there would be a cost-sharing program.

Mr. GROSS. Are not some of the States already pleading poverty?

Mr. FOLEY. Yes. States are pleading poverty. But I think we have had a record of rather substantial State support of research programs, especially to the programs with the Federal Government.

Madam Chairman, if the gentleman will yield further, I think the States can see the value of these programs in economic terms in improving animal health; the direct cost effectiveness of this research is well understood. And as the gentleman from Iowa (Mr. MAYNE) and others pointed out, and the distinguished gentleman from Montana (Mr. MELCHER) has pointed out, there is a need to eliminate the $3.5 billion loss from farm animal diseases, and if we can reduce that 10 percent we would be talking about $700 million.

Mr. GROSS. Do I understand we are already spending about $23.5 or $24 million annually for animal research?

Mr. FOLEY. The gentleman is correct, but not a significant amount of this goes to direct Federal research, and a rather modest amount goes to State veterinary colleges and research programs.

Mr. GROSS. And this bill calls for $45 million?

Mr. FOLEY. The gentleman is correct. $20 million is authorized under title IV, $15 million under title V, and $10 million under title VI.

Mr. GROSS. Now let me ask the vital question: Where is it planned to go to get the $45 million?

Mr. FOLEY. It is supposed to come from appropriated funds, and the gentleman from Iowa knows that that is a matter for the Committee on Appropriations to determine.

Mr. GROSS. And, at this time, as the gentleman from Pennsylvania (Mr. GOODLING) pointed out a moment ago, we are confronted with a $304 billion budget—an all-time record budget, whether in war or peace, plus a built-in deficit of $10 billion, and there is not a Member on the House floor at this moment who would bet one plugged nickel that the deficit will not be far more before fiscal year 1975 is over.

I would be pleased to make a sociable bet that it will be twice that amount in view of what is going on today to the economy of this country.

Somewhere, somehow, we are going to have to start saving $45 million and like amounts if we are going to save this country from the bankruptcy the gentleman from Pennsylvania was talking about. There is no other way.

Yet this bill appropriates $45 million, and calls upon the States again to come up with more matching funds, which some of the States cannot afford to do, and the gentleman from Washington knows it.

Mr. FOLEY. Madam Chairman, I will respond to the gentleman from Iowa, if the gentleman will yield still further, that of course that is a matter for the States to determine whether they wish to participate in this program. They are not required to do so.

It is true that we face a possible deficit. Of course, that argument can be made against any single authorization presented to the House under any particular authority of the Congress; it can be made against every appropriation.

I do not dispute the concern of the gentleman from Iowa about the deficit, but it always seems to me rather odd that here we have a relatively modest request for an authorization of appropriations, and where, as in this case, they are strongly cost-effective in terms of what would be produced by the Government expenditure in this kind of a program——

Mr. GROSS. Madam Chairman, I am not qualified to speak either for or on behalf of the people of the State of Washington, but I can tell the Members that the people of the State of Iowa still have a high regard for $45 million. I do not think it is a relatively modest amount. To the people of Iowa $45 million is still a hell of a lot of money, I would say to my friend, the gentleman from Washington.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOLEY. Madam Chairman, I move to strike the necessary number of words.

Just to continue, I do not want to minimize the amount of money involved here. I was going to say, though, it always strikes me as rather strange that it is never on the $18 billion supplemental appropriation bills; it is never on the hundreds of millions of dollar proposals, or millions of dollar proposals that are so often before this House that we have the argument about the national debt that the gentleman from Pennsylvania made so eloquently. I think there is kind of a rule of law that applies that if a bill does not carry an authorization for more than $100 million, it is one where we start to talk about the problems of the budget.

I think that this legislation can be defended in terms of its real value, that is, its monetary economic value. The cost we are now paying in animal disease runs into the millions every year. If we make any substantial reduction through these research efforts in animal disease, that saving will accrue to the benefit of every taxpayer in this country. The value of this research on human health is, I should mention, beyond evaluation.

I do not have any apology to make for this legislation. The Committee on Agriculture all but unanimously reported it, and I believe it merits the support of every Member of the House.

Mr. GOODLING. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

The gentleman knows I am not on his subcommittee. I did not hear the testimony. I admit that I have not read the report. Did the Department of Agriculture testify in favor of this bill?

Mr. FOLEY. The Department did not support the bill, but at the same time suggested that 16 amendments be added to the original proposal. All but one of these was adopted.

Mr. GOODLING. Can the gentleman tell me if the Department is in favor of this bill as presently written?

Mr. FOLEY. Although to my knowledge we have received no recent written communication from the Department of Agriculture, I believe it will support the bill.

Mr. MAYNE. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. MAYNE. I thank the gentleman for yielding. I think the gentleman from Washington is substantially correct that the committee did make all but one of the changes requested by the Department, but I do not believe that they have actually taken a position in favor of the bill. However, I am confident that the adoption of all of these amendments has very substantially reduced their lack of enthusiasm for it.

Mr. FOLEY. I thank the gentleman from Iowa.

The CHAIRMAN. Are there any amendments to be offered? If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair (Mrs. GREEN of Oregon) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11873) to authorize the Secretary of Agriculture to encourage and assist the several States in carrying out a program of animal health research, pursuant to House Resolution 824, she reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. GOODLING. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GOODLING. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. GOODLING moves to recommit the bill H.R. 11873 to the Committee on Agriculture.

The SPEAKER. Without objection the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. ANNUNZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 27, nays 328, not voting 74, as follows:

[Roll No. 30]

YEAS—27

Annunzio
Biaggi
Clawson, Del
Collins, Tex.
Crane
Delaney
Dennis
Edwards, Calif.
Erlenborn
Evins, Tenn.
Goodling
Green, Oreg.
Gross
Hosmer
Jones, Okla.
Landgrebe
Long, Md.
Martin, N.C.
Metcalfe
Miller
Parris
Rousselot
Schneebeli
Shuster
Steelman
Treen
Wydler

NAYS—328

Abdnor
Abzug
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Bauman
Beard
Bennett
Bergland
Bevill
Biester
Bingham
Blackburn
Blatnik
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Cleveland
Cochran
Cohen
Conable
Conlan
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dellums
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Esch
Eshleman
Findley
Fisher
Flood
Flowers
Foley
Ford
Fountain
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Green, Pa.
Grover
Gubser
Gude
Gunter
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holt
Horton
Howard
Huber
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
King
Kluczynski
Koch
Kuykendall
Kyros
Latta
Lent
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Maraziti
Martin, Nebr.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Milford
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Passman
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Rangel
Rarick
Rees
Regula
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wylie
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion

NOT VOTING—74

Alexander
Andrews, N.C.
Bell
Boland
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Carey, N.Y.
Clausen, Don H.
Clay
Collier
Collins, Ill.
Conte
Conyers
Davis, Ga.
Denholm
Dent
Derwinski
Devine
Diggs
Dorn
Evans, Colo.
Fascell
Fish
Flynt
Forsythe
Frenzel
Goldwater
Gray
Griffiths
Guyer

Haley
Hanrahan
Harrington
Hillis
Holifield
Holtzman
Hudnut
Johnson, Pa.
Jones, Ala.
Karth
Landrum
Leggett
Lehman
McSpadden
Madigan
Mailliard
Mallary
Mann
Mathias, Calif.
Mills
Mitchell, Md.
O'Neill
Owens
Pepper
Quillen
Randall
Reid
Reuss
Roberts
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roy
Smith, N.Y.
Symington
Symms
Teague
Vigorito
Whitehurst
Yates
Zwach

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Vigorito.

Mr. Rooney of New York with Mr. Alexander.

Mr. Boland with Mr. Denholm.

Mr. Holifield with Mr. McSpadden.

Mr. Teague with Mr. Zwach.

Mr. Rostenkowski with Mr. Smith of New York.

Mr. Gray with Mr. Roncallo of New York.

Mr. Reid with Mr. Bell.

Mr. Roberts with Mr. Mallary.

Mr. Roncalio of Wyoming with Mr. Broomfield.

Mr. Carey of New York with Mr. Guyer.

Mr. Dent with Mr. Fish.

Mr. Fascell with Mr. Brown of Ohio.

Mr. Diggs with Mr. Reuss.

Mr. Jones of Alabama with Mr. Symms.

Ms. Holtzman with Mr. Clay.

Mr. Haley with Mr. Buchanan.

Mr. Mills with Mr. Devine.

Mr. Andrews of North Carolina with Mr. Quillen.

Mr. Conyers with Mr. Brown of California.

Mr. Dorn with Mr. Derwinski.

Mrs. Collins of Illinois with Mr. Evans of Colorado.

Mr. Leggett with Mr. Hanrahan.

Mr. Mann with Mr. Don H. Clausen.

Mr. Randall with Mr. Hillis.

Mrs. Griffiths with Mr. Conte.

Mr. Flynt with Mr. Mathias of California.

Mr. Pepper with Mr. Collier.

Mr. Symington with Mr. Hudnut.

Mr. Yates with Mr. Forsythe.

Mr. Harrington with Mr. Johnson of Pennsylvania.

Mr. Lehman with Mr. Madigan.

Mr. Roy with Mr. Frenzel.

Mr. Landrum with Mr. Mailliard.

Mr. Karth with Mr. Goldwater.

Mr. Davis of Georgia with Mr. Whitehurst.

Mr. Mitchell of Maryland with Mr. Owens.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. SCHERLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 23, not voting 82, as follows:

[Roll No. 31]

YEAS—324

Abdnor
Adams
Addabbo
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baker
Barrett
Bauman
Bennett
Bergland
Bevill
Biester
Bingham
Blackburn
Blatnik
Boggs
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conlan
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Danielson
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Dickinson
Dingell
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Esch
Eshleman
Evins, Tenn.
Findley
Fisher
Flood
Flowers
Foley
Ford
Fountain
Fraser
Frelinghuysen
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Grasso
Gray
Green, Pa.
Grover
Gubser
Gude
Gunter
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Hastings
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hinshaw
Hogan
Holt
Horton
Howard
Huber
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Ketchum
King
Koch
Kuykendall
Kyros
Latta
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Macdonald
Madden
Mahon
Maraziti
Martin, Nebr.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mezvinsky
Milford
Miller
Minish
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Morgan
Mosher
Moss
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Passman
Patman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Rangel
Rarick
Rees
Regula
Rhodes
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, Pa.
Rose
Rosenthal
Roush
Rousselot
Runnels
Ruppe
Ruth
Ryan
St Germain
Sarasin
Sarbanes
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—23

Annunzio
Beard
Biaggi
Collins, Tex.
Crane
Edwards, Calif.
Erlenborn
Goodling
Green, Oreg.
Gross
Hosmer
Kluczynski
Landgrebe
Martin, N.C.
Michel
Murphy, Ill.
Parris
Satterfield
Schneebeli
Shuster
Steelman
Treen
Wydler

NOT VOTING—82

Abzug
Alexander
Andrews, N.C.
Badillo
Bell
Boland
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Carey, N.Y.
Clausen, Don H.
Clay
Collier
Collins, Ill.
Conte
Conyers
Davis, Ga.
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dorn
Evans, Colo.
Fascell
Fish
Flynt
Forsythe
Frenzel
Goldwater
Griffiths
Guyer
Haley
Hanrahan
Harrington
Hillis
Holifield
Holtzman
Hudnut
Johnson, Pa.
Jones, Ala.
Karth
Landrum
Leggett
Lehman
McSpadden
Madigan
Mailliard
Mallary
Mann
Mathias, Calif.
Metcalfe
Mills
Mitchell, Md.
Moorhead, Pa.
O'Neill
Owens
Pepper
Quillen
Randall
Reid
Reuss
Roberts
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rostenkowski
Roy
Roybal
Sandman
Shoup
Smith, N.Y.
Stuckey
Symington
Symms
Teague
Vigorito
Whitehurst
Wylie
Yates

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Wylie.

Mr. Rooney of New York with Mr. Smith of New York.

Mr. Boland with Ms. Abzug.

Mr. Holifield with Mr. Shoup.

Mr. Teague with Mr. Sandman.

Mr. Reid with Mr. Mitchell of Maryland.

Mr. Roncalio of Wyoming with Mr. Roncallo of New York.

Mr. Carey of New York with Mr. Devine.

Mr. Dent with Mr. Mallary.

Mr. Fascell with Mr. Bell.

Mr. Diggs with Mr. Reuss.

Mr. Jones of Alabama with Mr. Quillen.

Ms. Holtzman with Mr. Forsythe.

Mr. Haley with Mr. Derwinski.

Mr. Mills with Mr. Mathias of California.

Mr. Andrews of North Carolina with Mr. Broomfield.

Mr. Conyers with Mr. Roybal.

Mr. Dorn with Mr. Mailliard.

Mrs. Collins of Illinois with Mr. McSpadden.

Mr. Leggett with Mr. Fish.

Mr. Mann with Mr. Madigan.

Mr. Randall with Mr. Brown of Ohio.

Mrs. Griffiths with Mr. Hudnut.

Mr. Flynt with Mr. Frenzel.

Mr. Pepper with Mr. Buchanan.

Mr. Symington with Mr. Don H. Clausen.

Mr. Yates with Mr. Johnson of Pennsylvania.

Mr. Harrington with Mr. Metcalfe.

Mr. Lehman with Mr. Clay.

Mr. Roy with Mr. Goldwater.

Mr. Landrum with Mr. Collier.

Mr. Karth with Mr. Hillis.

Mr. Davis of Georgia with Mr. Dennis.

Mr. Rostenkowski with Mr. Conte.

Mr. Vigorito with Mr. Hanrahan.

Mr. Roberts with Mr. Guyer.

Mr. Alexander with Mr. Symms.

Mr. Brown of California with Mr. Whitehurst.

Mr. Badillo with Mr. Evans of Colorado.

Mr. Moorhead of Pennsylvania with Mr. Owens.

Mr. Stuckey with Mr. Denholm.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I take this time to ask the distinguished majority whip the program for next week.

Mr. McFALL. I will be happy to respond to the gentleman's inquiry. There is no further legislative business for today.

As the gentleman knows, we have already adopted the recess resolution to adjourn until noon, Wednesday, February 13, 1974.

The program for the House of Representatives for the week of February 11, 1974, is as follows:

Monday and Tuesday, of course, will be the Lincoln recess.

Wednesday and the balance of the week we have:

H.R. 11864, Solar Heating and Cooling Demonstration Act, open rule, with 1 hour of debate; and

H.R. 11035, Metric Conversion Act, subject to a rule being granted.

Conference reports may be brought up at any time.

Any further program will be announced later.

Of course, as the gentleman understands, Calendar Wednesday may possibly come up because the unanimous-consent request to dispense with Calendar Wednesday business on Wednesday of next week was objected to.

Mr. BAUMAN. I thank the gentleman from California.

PANAMA CANAL NEGOTIATIONS

(Mrs. SULLIVAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SULLIVAN. Mr. Speaker, today I am introducing a resolution which is similar to resolutions already introduced by some of my colleagues which would express the sense of the House of Representatives that the sovereignty and jurisdiction of the United States in the Panama Canal and in the Canal Zone should be preserved and not relinquished in any fashion and that there should be no ceding to Panama or other divestiture of any U.S. owned property without prior authorization by the Congress as provided in article IV, section 3, clause 2, of the U.S. Constitution.

In my long years of work and service both as chairman of the Subcommittee on Panama Canal from 1957 to 1971, and as chairman of the full Committee on Merchant Marine and Fisheries at the present time, I have always worked for what was best for the Canal Zone and the Panama Canal and to maintain the integrity and identity of our position in that area. I, and I am certain the members of the entire committee, look with great concern on the treaty negotiations which are in progress at the present time between the Republic of Panama and representatives of the U.S. Government.

While we have been assured by Ambassador Bunker and other State Department officials that we will be kept advised as to the progress of these ongoing negotiations, we cannot participate in them and events in the past in this regard do not completely convince me that the Congress will be appraised of all developments. The Congress never did receive the 1967 treaty drafts, while they were available on the streets of Panama City.

I am sure that there are many in the Congress who will join with me in my warning as well as my fears with respect to the results of any kind of agreement with the Republic of Panama which may weaken the position of the United States in the Canal Zone and work to the detriment of our operation of the Panama Canal.

I believe we must all be alert to the dangers of these negotiations as they might weaken or destroy our sovereign rights and jurisdiction over this waterway which is so necessary to ocean commerce and our national security.

TAX HELP FOR ELDERLY

(Mr. MEZVINSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MEZVINSKY. Mr. Speaker, within the next few weeks, millions of Americans will be filling out their income tax returns to pay for the operation of this Government.

The latest figures indicate that nearly 9 million citizens age 65 and over will be among the ranks of those filing returns this year.

In recent years, the Congress has in many ways been responsive to the tax relief needs of the elderly. Recognizing that far too many older Americans must face the battle of inflation with fixed and low incomes, efforts have been made to ease the tax bite into their incomes. Our tax code now provides an additional personal exemption for age, special provisions for taxing the gain an elderly citizen receives from the sale of his personal residence, and a special retirement income credit.

Unfortunately, these provisions do not aid all those they were intended to help. Many older taxpayers are unaware of the existence of the helpful tax measures made available to them when they reach age 65. The result is that many senior citizens unwittingly overpay their taxes. It has been estimated that as many as half of the taxpayers eligible to use the retirement income credit do not claim this credit on their tax returns.

The problem is simply that the intricacies of tax return forms—which boggle the minds of millions of us regardless of age—often camouflage helpful provision in complexity.

Today, I am introducing legislation which should help correct this situation. The bill I propose is identical to legislation introduced in the Senate by Senator CHURCH and several of his colleagues.

It would build upon the successful base of a tax-aide program for the elderly now administered by the Institute of Lifetime Learning of the National Retired Teachers Association–American Association of Retired Persons.

Under this program, volunteers—usually retired men and women themselves—provide valuable counseling services for elderly taxpayers. Last year, about 2,500 volunteers trained by the Internal Revenue Service counseled more than 100,000 aged taxpayers throughout the Nation. They were someone to turn to with questions about the complexities of the Internal Revenue Code, such as computation of the retired income credit, medical expense deductions and other tax relief provisions.

The volunteers do not engage in tax preparation. Their functions are basically to counsel senior citizens about sections of tax law and advise them about common deductions and exemptions.

This program has proven successful as a safeguard against income tax overpayment by the elderly. The bill I am introducing today proposes to build on this base to insure that tax relief measures enacted by Congress can be more effectively used by older taxpayers.

The legislation would permit the IRS to expand tax counseling assistance for older Americans by making additional training and technical assistance available for volunteer tax consultants. Retired Americans—who have a special understanding of the problems faced by older citizens—would receive preference in the selection of volunteers. The bill would also allow the volunteers to be reimbursed for the expenses incurred by them in training or providing counseling assistance.

For the present, there are means to assist senior citizens identify and take advantage of tax relief measures available to them. Three pamphlets—two published by the IRS and one by the American Association of Retired Persons—provide the details of many potential tax benefits. I have made these publications available in each of the three congressional Outreach Offices in the First District of Iowa.

None of the tax relief measures enacted by Congress are of any value to the elderly unless they are put to use. For this reason, I urge prompt and favorable action on the legislation I am introducing today.

The bill follows:

H.R. 12737

A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Older Americans Tax Counseling Assistance Act".

(b) For purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Treasury or his delegate;

(2) "elderly individual" means an individual who has attained the age of sixty years as of the close of his taxable year;

(3) "Federal income tax return" means any return required under chapter 61 of the

Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code.

SEC. 2. (a) The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns. The program shall utilize the services of volunteers with preference given in the selection of such volunteers to individuals who have retired from participation in the work force as full-time employees.

(b) The Secretary is authorized—

(1) to establish the qualifications an individual must have in order to serve as a volunteer under the program authorized by this Act and to prescribe the terms and conditions of service as a volunteer, including training, hours of work, and other terms and conditions of service as a volunteer;

(2) to provide for the training of such volunteers and for the certification of volunteers who qualify to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under that program, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this Act;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this Act.

SEC. 3. Service as a volunteer in any program carried out under this Act shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

SEC. 4. The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit against tax for retirement income) and section 121 (relating to gain from the sale or exchange of his residence by an individual who has attained age sixty-five).

SEC. 5. There are authorized to be appropriated to the Secretary for the purpose of carrying out the provisions of this Act $ for the fiscal year ending June 30, 1974, and $ for the fiscal year ending June 30, 1975.

CARDINAL MINDSZENTY

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHERLE. Mr. Speaker, the world viewed with shock and dismay the outrageous removal of Cardinal Mindszenty from his office as the primate of Hungary and archbishop of Esztergom. This alarming move is seen by the Hungarian Freedom Fighters as a capitulation by the Vatican to Communist encroachment. I concur in this viewpoint and present for my colleagues' perusal their statement of concern:

WASHINGTON, D.C.,
February 6, 1974.

STATEMENT OF THE HUNGARIAN FREEDOM FIGHTERS FEDERATION CONCERNING CARDINAL MINDSZENTY'S REMOVAL BY THE POPE AS ARCHBISHOP OF ESZTERGOM

The Hungarian Freedom Fighters Federation is stunned by the Pope's action with which he removed Jozsef Cardinal Mindszenty as Primate of Hungary and Archbishop of Esztergom. The Federation's dsmay over the fact is overriden only by the alarm caused by the circumstances and timing of the Vatican's announcement.

In early January the Communist Hungarian Government—through its Office of Church Affairs—notified the Vatican that the meeting of some specific demands is essential to create an atmosphere in which discussions of "normalization of relationship" between Budapest and Rome can proceed. These specific demands were:

The removal of Cardinal Mindszenty as Primate of Hungary and Archbishop of Esztergom.

"The neutralization" of the Cardinal's Memoirs by the Vatican before publication.

"The withdrawal of the Cardinal's passport, issued by the Vatican."

In mid January Archbishop Luigi Poggi, representing the Vatican, traveled to Budapest in order to discuss the Hungarian Communist Government's demands.

The initial results of that discussion became evident on February 5, when Pope Paul IV declared the archdiocese of Esztergom—the main Roman Catholic Church position in Hungary, held by Cardinal Mindszenty since 1946—vacant.

The Cardinal's removal indicates that the Vatican is unable to resist blackmail, it lacks courage to stand up for one of its Princes and it is unwilling to fulfill the implied conditions of the Cardinal's 1971 voluntary departure from the U.S. Embassy in Budapest.

The timing of the Pope's announcement—which came in addition to the time of Communist demands, on the eve of the 25th anniversary of the Cardinal's ordeal of trial and life sentence delivered by the Communists in Hungary and a few weeks before his 82nd birthday—displays a blatant disregard for the sensitivities of a man who deserves more.

The Federation fears that the unprecedented Communist demands of posing limitations on the Cardinal's rights of free speech and free movement will also be met by the Vatican.

The action taken by Rome causes concern for the Federation. Concern not only for the Cardinal but concern for all of us. Seemingly the time has come when blackmail, disregard for basic human rights and the quality of life are rampant and unrestricted.

The Communist world successfully extends its influence behind the "Gulag Archipelago"! Its attempt to censor, silence and paralyze Solzhenitsyn is being challenged by courageous men everywhere. Its attempts to censor, silence and paralyze Cardinal Mindszenty should be rejected by all principled men and women of the Free World.

DR. ANDRAS POGANY
President.
ISTVAN B. GEREBEN,
Co-President.

ECONOMIC STABILIZATION ACT

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, I was greatly encouraged by yesterday's announcement that the administration will not seek a renewal of the Economic Stabilization Act when it expires on April 30. I think it should be amply clear that the conditions which made the initation of a stabilization program necessary back in August of 1971 have now changed drastically. At that time we were confronted with substantial underutilization of our industrial capacity, strong cost-push inflationary pressure in many basic sectors of the economy, and a pervasive inflationary psychology. While there is considerable dispute as to just how successful the original freeze and subsequent phases were in dealing with these problems, it is nevertheless true that a good economic justification could be made for the path we chose.

Today, however, nearly diametrically opposite economic conditions are present. During the latter half of 1972 and most of last year the economy operated at near capacity. According to the Federal Reserve Board Index, the basic industrial materials industries are operating at a higher capacity rate than any time since the Korean war. Business orders are backlogged to a degree not even attained during the boom of the mid-1960's. Although we have experienced 2 years of rapid growth in real GNP, inventory levels are still at historic lows for the this stage of the business cycle. In many sectors such severe supply bottlemecks have developed that they threaten to retard or even halt production in entire industries which are dependent upon them for raw and intermediate goods.

Mr. Speaker, I think it is imperative that under these conditions we recognize the importance of allowing the private market maximum freedom to bring about the proper adjustments, expansion of capacity, and new supplies that will be necessary to stay on the full-employment track. Wage, price and profit controls under current conditions will only interefere with this adjustment process and cause the shortages and bottlenecks to worsen.

We have already seen much evidence of this last year. In the case of a number of commodities, such as copper and fertilizer, the world price rose so high above the domestic price that exports skyrocketed in a very short period of time. In other cases such as steel reinforcing bars and oil-field tubular products, low profit margins due to controls provided a strong disincentive for increased production of these vital intermediate goods.

The list of distortions and interferences like these could be extended indefinitely, but I think the point should be clear: the stabilization program has outlived its usefulness, perhaps with the exceptions of the petroleum and health sectors, and unless phased out may cause severe economic damage during the next year or two. For this reason I hope that this House will have the foresight and prudence to comply with the administration's request and make a general extension of the Stabilization Act when it expires 3 months from now.

ADDRESS OF CARL SANDBURG BEFORE JOINT SESSION OF CONGRESS, FEBRUARY 12, 1959, TO COMMEMORATE THE 150TH ANNIVERSARY OF ABRAHAM LINCOLN'S BIRTH

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, one of the most moving and eloquent addresses I have ever had the privilege of hearing was delivered on February 12, 1959, before a joint session of Congress by the great American writer, Carl Sandburg, on the occasion of the 150th anniversary of the birth of Abraham Lincoln.

Many Members of the 93d Congress were present for this extraordinary address, and I believe that they, as well as others who were not present on that occasion, will, in light of the observation of Lincoln's birthday next week, read with interest Carl Sandburg's address of 15 years ago.

Presiding over the joint session on February 12, 1959, was the distinguished late Speaker of the House of Representatives, the Honorable Sam Rayburn.

Mr. Speaker, I insert at this point in the RECORD the text of the address of Carl Sandburg to which I have referred.

CARL SANDBURG'S ADDRESS BEFORE JOINT SESSION OF CONGRESS, FEBRUARY 12, 1959, TO COMMEMORATE THE 150TH ANNIVERSARY OF ABRAHAM LINCOLN'S BIRTH

The SPEAKER. And now it becomes my great pleasure, and I deem it a high privilege, to be able to present to you the man who in all probability knows more about the life, the times, the hopes, and the aspirations of Abraham Lincoln than any other human being. He has studied and has put on paper his conceptions of the towering figure of this great and this good man. I take pleasure and I deem it an honor to be able to present to you this great writer, this great historian, Carl Sandburg.

[Applause, the Members rising.]

Mr. SANDBURG. Before beginning this prepared address, I must make the remark that this introduction, this reception here calls for humility rather than pride. I am well aware of that.

Not often in the story of mankind does a man arrive on earth who is both steel and velvet, who is as hard as rock and soft as drifting fog, who holds in his heart and mind the paradox of terrible storm and peace unspeakable and perfect. Here and there across centuries come reports of men alleged to have these contrasts. And the incomparable Abraham Lincoln born 150 years ago this day, is an approach if not a perfect realization of this character. In the time of the April lilacs in the year 1865, on his death, the casket with his body was carried north and west a thousand miles; and the American people wept as never before; bells sobbed, cities wore crepe; people stood in tears and with hats off as the railroad burial car paused in the leading cities of seven States ending its journey at Springfield, Ill., the hometown. During the 4 years he was President he at times, especially in the first 3 months, took to himself the powers of a dictator; he commanded the most powerful armies till then assembled in modern warfare; he enforced conscription of soldiers for the first time in American history; under imperative necessity he abolished the right of habeas corpus; he directed politically and spiritually the wild, massive turbulent forces let loose in civil war, a war he argued and pleaded for compensated emancipation of the slaves. The slaves were property, they were on the tax books along with horses and cattle, the valuation of each slave written next to his name on the tax assessor's books. Failing to get action on compensated emancipation, as a Chief Executive having war powers he issued the paper by which he declared the slaves to be free under military necessity. In the end nearly $4 million worth of property was taken away from those who were legal owners of it, property confiscated, wiped out as by fire and turned to ashes, at his instigation and executive direction. Chattel property recognized and lawful for 300 years was expropriated, seized without payment.

In the month the war began he told his secretary, John Hay:

My policy is to have no policy.

Three years later in a letter to a Kentucky friend made public, he confessed plainly:

"I have been controlled by events."

His words at Gettysburg were sacred, yet strange with a color of the familiar:

"We cannot consecrate—we cannot hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far beyond our poor power to add or detract."

He could have said "the brave Union men." Did he have a purpose in omitting the word "Union?" Was he keeping himself and his utterance clear of the passion that would not be good to look back on when the time came for peace and reconciliation? Did he mean to leave an implication that there were brave Union men and brave Confederate men, living and dead, who had struggled there? We do not know, of a certainty. Was he thinking of the Kentucky father whose two sons died in battle, one in Union blue, the other in Confederate gray, the father inscribing on the stone over their double grave, "God knows which was right"? We do not know. His changing policies from time to time aimed at saving the Union. In the end his armies won and his Nation became a world power. In August of 1864 he wrote a memorandum that he expected in view of the national situation, he expected to lose the next November election. That month of August was so dark. Sudden military victory brought the tide his way; the vote was 2,200,000 for him and 1,800,000 against him. Among his bitter opponents were such figures as Samuel F. B. Morse, inventor of the telegraph, and Cyrus H. McCormick, inventor of the farm reaper. In all its essential propositions the southern Confederacy had the moral support of powerful, respectable elements throughout the north, probably more than a million voters believing in the justice of the southern cause. While the war winds howled he insisted that the Mississippi was one river meant to belong to one country, that railroad connection from coast to coast must be pushed through and the Union Pacific Railroad made a reality. While the luck of war wavered and broke and came again, as generals failed and campaigns were lost, he held enough forces of the north together to raise new armies and supply them, until generals were found who made war as victorious war has always been made, with terror, frightfulness, destruction, and on both sides, North and South, valor and sacrifice past words of man to tell.

In the mixed shame and blame of the immense wrongs of two crashing civilizations, often with nothing to say, he said nothing, slept not at all, and on occasions he was seen to weep in a way that made weeping appropriate, decent, majestic. As he rode alone on horseback near Soldiers Home on the edge of Washington one night his hat was shot off; a son he loved died as he watched at the bed; his wife was accused of betraying information to the enemy, until denials from him were necessary. An Indiana man at the White House heard him say, "Voorhees, don't it seem strange to you that I, who could never so much as cut off the head of a chicken, should be elected, or selected, into the midst of all this blood?" He tried to guide General Nathaniel Prentiss Banks, a Democrat, three times Governor of Massachusetts, in the governing of some 17 of the 48 parishes of Louisiana controlled by the Union armies, an area holding a fourth of the slaves of Louisiana. He would like to see the State recognize the emancipation proclamation:

"And while she is at it, I think it would not be objectionable for her to adopt some practical system by which the two races could gradually live themselves out of their old relation to each other, and both come out better prepared for the new. Education for the young blacks should be included in the plan."

To Gov. Michel Hahn, elected in 1864 by a majority of the 11,000 white male voters who had taken the oath of allegiance to the Union, Lincoln wrote:

"Now you are about to have a convention which, among other things, will probably define the elective franchise, I barely suggest for your private consideration, whether some of the colored people may not be let in—as for instance the very intelligent and especially those who have fought gallantly in our ranks."

Among the million words in the Lincoln utterance record, he interprets himself with a more keen precision than someone else offering to explain him. His simple opening of the House divided speech in 1858 serves for today:

"If we could first know where we are, and wither we are tending we could better judge what to do, and how to do it."

To his Kentucky friend, Joshua P. Speed, he wrote in 1855:

"Our progress in degeneracy appears to me to be pretty rapid. As a Nation we began by declaring that 'all men are created equal, except Negroes.' When the know-nothings get control, it will read 'all men are created equal except Negroes and foreigners and Catholics.' When it comes to this, I shall prefer emigrating to some country where they make no pretense of loving liberty."

Infinitely tender was his word from a White House balcony to a crowd on the White House lawn:

"I have not willingly planted a thorn in any man's bosom."

Or to a military Governor:

"I shall do nothing through malice; what I deal with is too vast for malice."

He wrote for Congress to read on December 1, 1862:

"In times like the present men should utter nothing for which they would not willingly be responsible through time and eternity."

Like an ancient psalmist he warned Congress:

"Fellow citizens, we cannot escape history. We will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down in honor or dishonor to the latest generation."

Wanting Congress to break and forget past traditions his words came keen and flashing:

"The dogmas of the quiet past is inadequate for the stormy present. We must think anew, we must act anew, we must disenthrall ourselves."

They are the sort of words that actuated the mind and will of the men who crated and navigated that marvel of the sea, the *Nautilus*, and her voyage from Pearl Harbor and under the North Pole icecap.

The people of many other countries take Lincoln now for their own. He belongs to them. He stands for decency, honest dealing, plain talk, and funny stories. "Look where he came from—don't he know all us strugglers and wasn't he a kind of tough struggler all his life right up to the finish?" Something like that you can hear in any nearby neighborhood and across the seas. Millions there are who take him as a personal treasure. He had something they would like to see spread everywhere over the world. Democracy? We cannot say exactly what it is, but he had it. In his blood and bones he carried it. In the breath of his speeches and writings it is there. Popular government? Republican institutions? Government where the people have the say-so, one way or another telling their elected leaders what they want? He had the idea. It is there in the lights and shadows of his personality, a mystery that can be lived but never fully spoken in words.

Our good friend, the poet and playwright Mark Van Doren, tells us:

"To me, Lincoln seems, in some ways, the most interesting man who ever lived. He was gentle but this gentleness was combined with a terrific toughness, an iron strength."

And how did Lincoln say he would like to be remembered? Something of it is in this present occasion, the atmosphere of this room. His beloved friend, Representative Owen Lovejoy, of Illinois, had died in May of 1864, and friends wrote to Lincoln and he replied that the pressure of duties kept him from joining them in efforts for a marble monument to Lovejoy, the last sentence of Lincoln's letter, saying:

"Let him have the marble monument along with the well-assured and more enduring one in the hearts of those who love liberty, unselfishly, for all men."

Today we may say, perhaps, that the well-assured and most enduring memorial to Lincoln is invisibly there, today, tomorrow, and for a long time yet to come. It is there in the hearts of lovers of liberty, men and women—this country has always had them in crisis—men and women who understand that wherever there is freedom there have been those who fought, toiled, and sacrificed for it.

I thank you. [Applause, the Members rising.]

WHAT ARE THE AMERICAN PEOPLE TO BELIEVE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 10 minutes.

Mr. THOMPSON of New Jersey. Mr. Speaker, on January 30, President Nixon stood before this body and presented his view of the state of this Nation. That same morning, I waited in line for 35 minutes to get $2 worth of gasoline so I might come to work and hear Mr. Nixon.

Mr. Speaker, those lines, in front of the few open gasoline stations, say more to me about the state of this Nation than all of President Nixon's worn rhetoric.

President Nixon talked about the progress his administration is making toward a healthy agricultural economy.

Mr. Speaker, yesterday my wife went to the supermarket. In 1 week, the price of pork chops had gone from 90 cents a pound to $1.70 a pound. She went back to that same supermarket today and there were no pork chops available—at any price.

Mr. Speaker, what are we to believe: Mr. Nixon's visions and promises or our very own eyes?

What is the housewife who finds no meat in the grocery store to believe?

What is the unemployed autoworker in Trenton to believe?

What are the thousands of Americans who cannot get a mortgage to buy a home to believe?

And, Mr. Speaker, what are the young people of this country to believe:

When nine tapes become seven;

When 18 minutes mysteriously disappear from a vital piece of evidence;

When Presidential pronouncements become inoperative when inconvenient;

When economic chaos abounds and one can see it and feel it;

And when, Mr. Speaker, our President stands before this Congress and tells the people of this country that in his view—albeit through rose-colored glasses—things really are not that bad.

I have just returned from my district. People there want only some very basic things—to which they have every right:

They want food that is affordable;

They want gasoline at their local stations;

They want honesty in government;

And they want a President that will make decisions and lead.

They do not want, and they will not tolerate, more of Mr. Nixon's pious platitudes.

COMMENTS ON STATE OF THE UNION MESSAGE

The SPEAKER pro tempore (Mr. MCFALL). Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 10 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I am pleased to have this opportunity on behalf of the Committee on Education and Labor to comment upon certain portions of the President's state of the Union message.

On Wednesday evening, January 30, 1974, we sat in this Chamber and listened intently to the President's glowing and sometimes eloquent descriptions of unparalleled national prosperity and wealth. We were told in unqualified fashion that "overall Americans are living more abundantly than ever before today."

But, the President's rhetoric could not conceal the regrettable fact, supported by overwhelming statistical evidence, that unemployment is rising and the economy is coming to a stand still despite the erratic efforts of the administration to prevent just those developments.

The sad truth reflected so vividly in the number of jobless workers is intensified by the awareness that so many disadvantaged Americans will continue to live as second-class citizens and be joined in that unenviable state by many other American workers displaced by a sagging economy.

As an author of the Comprehensive Employment and Training Act of 1973, and chairman of the Select Subcommittee on Labor from which it was first reported, I was personally satisfied by the President's statement that this law was "one of the most significant legislative achievements of 1973". I could take pride in the fact that this body through the passage of that legislation took the initiative in creating a mechanism for the employment of many Americans who had long been deprived of the dignity of a decent job at a fair wage.

At the same time, however, I was displeased that this same administration, which now so boldly brought this law to center stage as one of its significant triumphs, had, during negotiations, fought so vigorously against specific funding levels for the only part of the legislation which would directly and immediately create jobs for those most in need—the public service employment title.

But this administration's attitude should not have surprised the many Members of Congress who fought so doggedly for employment legislation in the face of Executive indifference. It was not long ago that the Congress in response to the need for the development of a new manpower policy passed the Employment and Manpower Act of 1970 which would have allocated $9.5 billion for manpower training and employment. The President vetoed that bill despite its strong support in Congress and among city officials and workers. Six months later, however, Congress again responded to the pleas of the American workingman for some relief from the throes of unemployment and substandard living conditions. We passed the Emergency Employment Act, authorizing $2.25 billion for public service employment over a 2-year period. The President reluctantly signed this legislation, which ultimately provided over 300,000 jobs.

Again, in 1973, it was Congress that took the initiative in the area of manpower reform and employment legislation. The result was the Comprehensive Employment and Training Act of 1973.

To a very creditable extent, the Comprehensive Employment and Training Act of 1973 became law in spite of White House opposition. While the committee worked hard to maintain a spirit of compromise with minority Members of the House and Senate and officials of the Department of Labor, the reluctant cooperation of the White House did not result from a genuine belief in the goals of manpower reform and public service employment. Rather, the White House made a realistic appraisal that—in light of increasing domestic problems, decreasing public confidence in Government, and a spiraling unemployment date—a positive, appealing piece of legislation was a political necessity.

The Comprehensive Employment and Training Act of 1973 can be a significant piece of social legislation. But none of us should be blind to the fact that it is not a panacea for all our Nation's economic ills—particularily at the present level of funding. However, this new law does provide an effective and potent weapon in our arsenal of constructive methods for relieving the burden of unemployment from the shoulders of those Americans least able to cope with it. If implemented effectively, it could soothe the wounds added to the injured American economy by the energy crisis by providing public service jobs to those occupationally displaced Americans.

The sponsors of the Comprehensive Employment and Training Act, recognizing well in advance the potential additions to the unemployment rolls created by the energy drain—which additions have come to fruition as reflected in the new 5.2 percent unemployment rate—insisted that there be a guaranteed minimum level of funding for public service employment in fiscal year 1974 and fiscal year 1975. This minimum combined with an open ended authorization provides the flexibility of funding through the process of supplemental appropriations, required to meet unexpected and unpredictable worker displacement.

I would earnestly hope—and in the strongest terms urge—that the President act on the mandate of the Congress to relieve the extraordinary burden cast upon the American worker by spiraling prices and plumetting job opportunities. I can assure you that I will exert strenuous efforts through this new law to improve the lot of those Americans who want to work but cannot find employment. Only if this goal is achieved will the Comprehensive Employment and Training Act of 1973 truly be a significant piece of legislation.

RESPONSE TO PRESIDENT'S STATE OF THE UNION MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HAWKINS) is recognized for 10 minutes.

Mr. HAWKINS. Mr. Speaker, the ignoble watershed for the ideas of this administration as expressed in the state of the Union message goes back to the era of Harding, Coolidge, and Hoover. In his acceptance speech of 1928, President Hoover, as quoted by Stephen Bailey in his book, "Congress Makes a Law," triumphantly pronounced that:

> We in America are nearer to the final triumph over poverty than ever before . . . and given a chance to go forward with the policies of the last eight years, we shall soon with the help of God be in sight of the day when poverty will be banished from this nation.

President Hoover did go forward with the same policies being used today and in 1929 the economy collapsed. As Bailey noted the kindest commentary is that God refused to cooperate.

In the same tradition the Nixon economic policies omit responsibility for "taking direct action to mitigate the effects of economic depression" or to "alleviate widespread economic suffering," caused by inflation, concentration of economic power, maldistribution in income, and the energy crisis.

Instead of positive measures to meet the problems of insecurity, debt, hunger, and poverty this administration spends its energies on denying any responsibility for their existence.

On Mr. Nixon's budget, Treasury Secretary George P. Shultz says—

> We must have the patience and the cool not to be stampeded into action by every little thing that may come along.

Well may we ask in return: Is the rising unemployment rate which has resulted in over 350,000 job losses since November a little thing that has come along? Is an 8 percent inflation rate a little thing? How long do we ask the 25 million officially unemployed persons to cool it? And how long do we ask the millions who now spend 75 percent of their family income on food to wait?

We did not ask Lockheed and Penn Central to wait.

Mr. Shultz again says "whether an economic slump is . . . a recession . . . is a kind of political exercise—and in the end—the President will turn out to be right"—and then he added as they themselves define it. So it really does not matter how many people are unemployed or in poverty as long as unemployed statistics can be fictitiously manipulated and "poverty" can be redefined to conceal the actual number.

When the official unemployment rate approached 4.5 percent, the administration defined "full employment" as being a 4-percent rate; now, when it is rising, the administraiton says the 4-percent goal was not accurate in the first place and that a new definition is now needed. This decay in the accuracy of economic information epitomizes the credibility of the President's Council of Economic Advisers and other economists upon whom this administration depend for the formulation of policy. On this basis, the President can safely predict there will be no recession, for regardless of how much economic decline we experience, a new methodology can cover up the facts.

For fully a quarter of the population there is already a recession or depression.

At this point I insert the findings of the Senate Committee on Labor and Public Welfare showing the subemployment index of the central areas of 68 American cities revealing an unemployment rate of 9.6 percent in 1970 when the national rate was 4.9 percent.

Vol. No., city	Percent of city in CES survey area	Survey area unemployment (percent)	Labor market (SMSA) rate for 1970	Subemployment index ($80 a week) (percent)	Subemployment index (percent) ($3.50 an hour)	BLS lower family budget spring 1970
1 Nation as a whole, all cities surveyed	33.5	9.6	4.9–[1]5.0	16.9-30.5	35.1–61.2	
2 New York, N.Y., all survey areas	31.2	8.1	4.4	22.1	59.4	7,831
4 Manhattan Borough		8.4		23.3	56.3	
5 Area I		8.1		24.5	63.5	
6 Area II		8.6		22.7	39.9	
7 Brooklyn Borough, NYC		7.6		19.3	59.5	
11 Bronx Borough, NYC		8.5		25.9	66.0	
12 Queens Borough, NYC		9.6		20.0	53.2	
13 Los Angeles, Calif	26.3	12.5	7.2	33.1	61.6	7,507
14 Area I		10.9		29.4	58.6	
15 Area II		13.1		34.6	62.9	
16 Chicago, Ill	27.2	10.6	3.6	27.7	62.4	7,273
17 Area I		11.0		28.2	67.0	
18 Area II				27.0	56.5	
19 Philadelphia, Pa	40.4	8.7	4.3	27.0	55.2	6,958
20 Area I		8.2		25.5	52.5	
21 Area II		9.2		28.5	58.2	
22 Detroit, Mich	35.3	14.0	7.0	34.7	57.5	6,931
23 San Francisco, Calif	35.4	12.5	6.7	27.0	54.8	7,686
24 Washington, D.C	51.9	4.8	3.2	21.6	59.8	7,242
25 Boston, Mass	56.7	8.5	3.9	22.0	52.2	7,351
26 Pittsburgh, Pa	41.6	9.8	5.2	29.4	59.6	6,701
27 St. Louis, Mo	50.2	10.5	4.6	34.2	62.0	6,987
28 Baltimore, Md	58.7	8.5	4.0	30.9	62.0	7,018
29 Cleveland, Ohio	43.0	8.9	4.7	28.8	58.8	7,080
30 Houston, Tex	39.8	5.9	4.0	31.8	61.7	6,481
31 Newark, N.J	58.6	10.7	4.3	30.0	63.5	
32 Dallas, Tex	25.7	9.0	3.8	37.2	69.3	6,683
33 Minneapolis, Minn	36.4	7.1	5.2	25.6	56.9	7,140
34 St. Paul, Minn	36.8	8.1	5.2	22.4	49.5	7,140
35 Milwaukee, Wis	25.6	11.8	4.6	22.5	57.7	7,079
36 Atlanta, Ga	40.5	8.2	3.7	38.2	68.6	6,424
37 Cincinnati, Ohio	36.0	8.4	4.3	32.2	61.6	6,611
38 Buffalo, N.Y	29.0	9.7	8.8	30.0	56.7	7,022
39 San Diego, Calif	9.0	15.9	6.4	39.9	65.0	7,166
40 Miami, Fla	57.2	10.3	5.1	38.2	68.1	
41 Kansas City, Mo	27.0	10.0	5.7	35.2	66.1	6,981
42 Denver, Colo	25.5	8.5	3.5	32.5	64.0	6,697
43 Indianapolis, Ind	22.5	9.0	4.8	32.3	64.8	7,101
44 New Orleans, La	59.4	12.5	6.2	41.1	65.2	
45 Oakland, Calif	37.8	17.6	5.4	35.0	59.0	7,686
46 Tampa, Fla	39.6	7.7	3.2	40.6	69.4	
47 Portland, Oreg	1.81	11.9	5.8	32.8	59.8	
48 Phoenix, Ariz	24.7	9.6	4.7	33.1	61.8	
49 Columbus, Ohio	18.7	8.3	3.3	28.5	63.9	
50 San Antonio, Tex	43.7	9.6	5.4	45.9	72.6	
51 Dayton, Ohio	25.1	12.9	4.6	36.0	59.6	6.712
52 Rochester	26.2	11.3	5.3	30.3	62.5	
53 Louisville, Ky	37.3	11.6	4.3	39.2	66.0	
54 Memphis, Tenn	38.3	11.3	3.9	44.1	70.9	
55 Fort Worth, Tex	27.3	10.6	4.5	39.0	67.2	
56 Birmingham, Ala	51.2	10.1	4.8	41.0	65.9	
57 Toledo, Ohio	22.9	9.2	5.4	30.0	57.7	
58 Akron, Ohio	33.7	10.0	4.4	29.4	55.5	
59 Norfolk, Va	27.2	8.7	3.9	42.7	67.0	
60 Oklahoma City, Okla	16.2	8.1	3.8	34.8	61.2	
61 Jersey City, N.J	46.6	7.2	6.2	22.6	61.5	
62 Providence, R.I	53.4	7.0	6.0	21.9	57.7	
63 Omaha, Nebr	20.5	7.9	3.6	29.9	58.8	
64 Youngstown, Ohio	30.7	11.7	6.5	34.6	57.1	
65 Tulsa, Okla	15.1	10.0	4.9	37.5	64.2	
66 Charlotte, N.C	30.4	8.3	3.2	39.2	70.5	
67 Wichita, Kans	21.5	13.9	10.1	37.0	65.0	6,772
68 Bridgeport, Conn	39.3	13.7	8.2	29.9	66.7	

[1] Average.

Indian unemployment is 61,678 or a 37-percent rate and black unemployment is 884,000 with a rate of 9.6 percent, up 1.2 percent since October, a 14-percent increase.

Surveying specific industries affected by the energy crisis is even more alarming. Petrochemical, for example, may not be as spectacular as the trucking industry or as widespread as housing but the estimated loss of jobs is expected to reach 1.6–1.8 million—based on a 15-percent reduction in output.

Also in dismantling the Office of Economci Opportunity, Mr. Nixon is throwing out of employment over 94,000 persons who were previously poor and on welfare.

He then restates an old faith in low-paying, bedpan jobs by the assertion "there will be no government program which makes it more profitable to go on welfare than to go to work." Had he not just vetoed the minimum wage bill he might have said we should make it more profitable to work than to depend on meager welfare budgets.

The recently passed Comprehensive Manpower Development and Training Act, on which the President's economic security programs heavily depends, will be augmented he says to achieve a total of $2 billion in the coming year.

At first blush this may seem a generous move to meet the employment problems resulting from economic decline and the energy crisis. Actually, it represents not a positive move but a cutback in current funding of what was three separate manpower programs, one of which—the Emergency Employment Act of 1971—contained $1 billion for this fiscal year and the three together had a comparable appropriation in fiscal year 1973 of $2.8 billion.

Although a point may be made the act is open-ended in authorizing "such funds as may be necessary," reservations under the public service employment program provide for only about 40,000 jobs this fiscal year and 50,000 for 1975 fiscal year.

Theoretically, Congress acting upon appropriations may recommend to the executive branch a much larger amount. Practically, this is complex and uncertain depending on: First, overcoming limits specified by the conference at this time despite demonstrated need—350,000 persons, for example, have lost jobs since November 1973; second, overall spending limitations; and third, threat of a veto.

Also the 50,000 figure actually reduces quantitatively the jobs available as compared with the 187,000 public service jobs authorized under the Emergency Employment Act of 1971 which President Nixon terminated on July 1, 1973.

As to the point that title I of the act in addition to mere training, education, and numerous special programs and services—also may include "jobs"—it must be obvious that a conservative estimate would place the number at no more than 100,000, which together with the 50,000 above, add up to less than the 187,000 "jobs" lost by terminating the Emergency Employment Act.

In the shadow of Watergate, President Nixon might have conducted himself with some dignity had he set to rest rumors of his resignation not in political tones as he did but in programmatic and policy declaration on the state of the Union in terms of national economic and social goals achievable between now and 1976 on the anniversary of the 200th year of American independence which falls during his administration.

Instead he chose to clothe himself in a mantle of political salvation while condemning the economy to a climate of uncertainties and disjointed, uncoordinated programs yet to be devised. He has invited us on a blind date with destiny using a credit card which expired during the Harding-Coolidge-Hoover era.

Further, and more specific he might have responded to the immediate recession by urging the approval of a national program of public service employment of a minimum of 1 million jobs to be phased in over a 3-year period and supported by an annual appropriation, when fully operative, of $10 billion. Fifty percent of the estimated cost of unemployment compensation benefits for the coming fiscal year.

But even beyond that he might have announced that by 1975—on the 200th anniversary of independence—the national goal would be to achieve real full employment quantitatively and qualitatively—not in terms of phony percentages and fictitious bookkeeping but by a government guarantee—as we have done in the case of financial institutions and with corporate profits—that every American able and willing to work would be assured such opportunity as part of an Economic Bill of Rights.

In lieu of such positive programs the inescapable conclusion from the state of the Union address is simple: President Nixon is being ill advised; and the economy is being mismanaged. How the people react to such truths will surely become more evident as the President's promises evaporate in the cold realities of developing problems.

RESPONSE TO THE PRESIDENT'S STATE OF THE UNION MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. FORD) is recognized for 10 minutes.

Mr. FORD. Mr. Speaker, on January 30, President Nixon appeared before this body and delivered his annual state of the Union message.

After carefully reviewing this message, one thing became immediately apparent to me. The speech was totally devoid of any reference to the needs or problems of this Nation's 2.8 million farmworkers and their families. As chairman of the Subcommittee on Agricultural Labor, the problems of these people are of particular interest to me.

The President's failure to address the problems of our farmworkers is deplorable—but in light of his past practices, his failure to acknowledge them is certainly not surprising.

If the President did discuss his policies with respect to the Nation's farmworkers, he would have to say that they have all been negative. During the past 5 years, the Nixon administration has been under constant attack for its failure to administer and enforce laws which protect farmworkers. In carrying out these practices, the administration has demonstrated time and time again its calculated and callous policy of totally ignoring the concerns and needs of the politically and economically powerless people in this country.

If the President were to mention the migrants and farmworkers in that part of the speech which he devoted to education, he would have to mention that he opposed the full funding of the migrant education program—a program designed to meet the special educational needs of the children of migrant workers.

If the President made reference to the farmworker in that part of his speech which he devoted to minimum wage, he would have to say that he opposed extending minimum wage coverage to all farmworkers and raising the present minimum wage for certain farmworkers from $1.30 an hour. He would have to admit that he evidently feels that farmworkers can afford to pay 1974 Nixon administration prices on 1930 Hoover administration wages.

If the President referred to our agricultural workers in that part of his speech which he devoted to the health of our nation, he would have to mention that he opposed the continuation of the migrant health program. He would also have to say that his new health proposal would do virtually nothing for the migrant farmworker employed for short periods of time at low pay in diverse geographical locations.

If the President discussed the agricultural workers in that part of his speech in which he talked about social security benefits, he would have to say that his administration has failed to vigorously enforce the Farm Labor Contractor Registration Act and that his failure to effectively enforce this act has resulted in millions of dollars of lost social security benefits to farmworkers.

Mr. Nixon made no mention whatsoever of agricultural workers in that part of his speech which he devoted to manpower programs. The President could have mentioned how one of his former top aides deliberately planned to scatter and destroy the migrant programs authorized by title III–B of the Economic Opportunity Act, which are now under the jurisdiction of the Manpower Division of the Department of Labor. He also could have mentioned that the grantees of this program from all over the country have experienced nothing but trouble and frustration in obtaining the urgently needed funds to which they are legally entitled.

When he discussed the housing programs, Mr. Nixon made no specific reference to the housing needs of our farmworkers, and in this area the record of his administration has been particularly deplorable. He has requested no funds whatsoever for fiscal year 1975 for farm labor housing, and he has impounded almost $10 million in funds from previous years which are drastically needed to provide housing for hundreds of thousands of homeless migratory workers and their families.

Mr. Speaker, the total omission of any mention of the needs of the hardworking men, women, and children involved in harvesting the food which feeds the Nation is typical of the administration's callous attitude toward the underprivileged and powerless. Farmworkers are not looking for free handouts; they are among the hardest working of any group in this country. They are only looking to the Federal Government for fair and equal treatment, but they will continue to suffer until this administration acknowledges their existence.

ABERDEEN PROVING GROUND AND THE ORDNANCE SCHOOL—THEY MUST REMAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 60 minutes.

Mr. BAUMAN. Mr. Speaker, it is not with joy that I am forced to launch a frontal attack on the Department of Defense. On our defense forces and their efficiency depend not only our strategic position in the world but ultimately our very existence as a Nation. That efficiency in its turn depends upon a system which insures the very highest standards of training. If this decade's goal of a wholly professional Army is to be realized—and it must be if we are to respond adequately to the systematic probing of our global commitments which will be our lot for the foreseeable future—then the Army must be given the latitude to streamline and improve that training. On goals, therefore, I have no disagreements with the Army. Indeed, my voting record in the House shows unwaivering support of our national defense.

THE RIGHT TO KNOW

But to indicate our basic agreement is not to give the military carte blanche in carrying out their responsibilities. Those very responsibilities include the necessity of constant accounting to the Congress and the public on the scope, nature, and costs of military projects. And it is in that area, for a variety of reasons, that the Army is most prone to command silence or enforce ignorance, to classify rather than to clarify, and ultimately to arrange statistics to suit bureaucratic or parochial Army ends. It would seem to be the least prerogative of a Member of Congress to be informed well in advance of impending decisions which appreciably affect the welfare of his constituents, and to have access to the calculations which underlie those decisions. But Army planners, like any of us, do not want to be told that their facts are inaccurate or their figures are incomplete. Such decisions and their data are therefore consigned to the uttermost levels of the Pentagon until that day when factual refutation will become an irritation rather than an impediment to the Army's plans. Then, mirabile dictu, the plans are unearthed, and it is impossible to follow any but the Army's plan.

As a Member of Congress, I obviously cannot and I will not accept that kind of procedure. My predecessor in the House, the late Bill Mills, was given 24-hour notice on the Navy's closing of the Bainbridge Naval Training Center, and then witnessed the spectacle of the Defense Department producing an area economic impact report on the move a year after the decision was made.

Fortunately, we have stolen a march on the Army's arrangements for Aberdeen Proving Ground in Harford County. This was due in large part to quick citizen response, to informed constituents quickly getting in touch with my office to point out the facts, the fallacies, and inconsistencies in Army planning.

ORDNANCE—A HISTORIC MISSION

First of all, Mr. Speaker, we should put Aberdeen Proving Ground and Edgewood Arsenal—with which it was merged in 1971—in the proper prospective. Aberdeen Proving Ground (APG) has been recognized for more than half a century as one of the foremost U.S. Army testing and research facilities in the world. It is the leader in the broad field of military vehicle, weaponry, and ammunition testing. Now in its 56th year of operation APG long has been considered the center for the Ordnance Corps. Indeed Aberdeen has become known as "The Ordnance Town." The first gun was fired at APG in a blinding snowstorm on January 2, 1918. From that day to this APG has been considered one of the major Army installations and now includes the headquarters post of the U.S. Test and Evaluation Command. As the major subordinate element of the Army Materiel Command, APG is 1 of 14 proving grounds, environmental test centers and sites for special test activities that comprise the Army's principal materiel testing organization.

In addition, there are 21 tenant organizations dispersed throughout a land and water area embracing more than 82,000 acres in Harford County, Md., on the Chesapeake Bay.

APG is not the outgrowth of a major U.S. military involvement abroad but rather a recognition of the need for a permanent facility of this type in the United States. Thus, it was prior to the Second World War that APG continued to expand. During and since that War, APG has continued as one of the major U.S. military installations, now with a civilian and military population in excess of 15,000 persons.

Of special pride to the people of Harford County and the city of Aberdeen is the Ordnance School. The school's origins date back to the very founding of APG in 1917 and only within the last 2 years the Ordnance Museum has been completed and draws visitors from all over the United States and the world.

Indeed APG has become a large part of the life of Harford County and produces more than 70 percent of the real income either directly or indirectly within the county. Its employees live in adjpoining areas as well, such as Baltimore County, Cecil County, and as far away as Delaware and Pennsylvania.

RUMORS AND FACTS

Because of this historic background, you can imagine my surprise, and that of the personnel at APG, when early last November we began to hear rumors of possible Army plans to transfer the Ordnance School away from APG. My Harford County assistant, Bob Waters, who runs my full time Bel Air office, received authoritative comments from knowledgeable persons, the gist of which was that the Army was conducting a major evaluation of APG and its mission. Concern was strongly expressed to Mr. Waters and he immediately contacted me. I, in turn, contacted the Secretary of the Army, Howard "Bo" Callaway, whom I have known for almost a decade. In early December at my request Secretary Callaway came to my office, and I presented him the substance of the rumors concerning APG. I also gave him a detailed explanation of the importance of APG in the Harford County economic picture.

The Secretary of the Army assured me that no final decision regarding APG had been made, many options were being considered, and no final recommendation by him to the Secretary of Defense would be made immediately. He also assured me that APG was only one of hundreds of facilities being generally evaluated. I subsequently learned that on December 15, 1973, Secretary Callaway made his recommendations to the Secretary of Defense. I then sought information from the Pentagon and found that supposedly nobody knew anything about the proposals. They could neither confirm nor deny my information. I was informed that Defense policy apparently precluded a Congressman from having access to facts regarding the vital economic life of his own district.

At that point I asked a former NATO expert, a resident of my district, to assist me by devoting his entire time to dispersing the Army smokescreen around Aberdeen. The facts I have to report are as yet incomplete, but hardly pleasing either for their news value to the people of Harford County, or for their commentary on the adequacy of Army accounting and planning procedures. But facts, however unpleasant, are preferable to the rumors which have been rampant in Harford County since the Army began its deliberations.

Indeed the people of Harford County have been rightfully up in arms due to the rumors concerning APG. These are the facts as I have been able to determine:

First, it is apparently the Army's recommendation that the entire Ordnance Center and School move from APG. This would be done in a Solomon-like fashion with the helicopter-oriented training facilities—involving some 125 enlisted men and warrant officers—going to Fort Eustis in Virginia, the tank-oriented facilities to Fort Knox in Kentucky—some 600 men—and the remainder of the school going to Redstone Arsenal in Huntsville, Ala. In toto, these transfers would produce a manpower loss to APG of between 4,000 and 5,000 personnel—both military and civilian—the final figure depending on how many APG support personnel are asked to transfer.

Second, the Land Warfare Laboratory

is to be phased out, and its employees absorbed into other Army research and development facilities. This will represent a loss to APG of 116 employees and was finally announced on February 4, 1974.

Third, the Chemical and Coating Laboratory is to be transferred to Fort Belvoir, with the loss of another 40 people to APG. This move is scheduled for June 1974.

Fourth, the RADCOM Nike-Hercules unit at APG is to be deactivated, jettisoning 224 men. This was announced on February 4, 1974, as well.

Last, in line with reducing the production functions of Edgewood Arsenal and with the reorganization of Army procurement facilities some 375 people may be transferred away from Edgewood by June 1975. The first of the units is rumored to be transferred to the Chemical Munitions Procurement Agency. The 265 people in that unit may go to ARMCOM in Rock Island, Ill.

UNJUSTIFIED PROPOSALS

As one who is definitely concerned with saving the taxpayers money, I can hardly object to Army plans which will completely phase out unneeded military installations. But I am not going to stand idly by and allow the rape of APG when these proposals consist of no more than the transfer to other areas of the country of existing operations at APG. Indeed it is almost impossible to judge whether or not any savings are contemplated by the Army's plans because no justification has been given to anyone outside the Pentagon.

It is difficult to counter the Army's proposal—as they well know—with piecemeal information, but I have obtained and am continuing to get masses of both indirect information from Army sources and non-Army figures on every aspect of their proposals. Even without the full figures it seems evident that to some extent the Army's proposed move of the Ordnance School is capricious and due as much to advancement ploys of certain senior officers as it is to real reorganization needs.

But more important, it is clear that the Army marshaled only a very narrow spectrum of evidence to support their proposed moves, and that they have not as yet found any use for the empty facilities at APG when the game of musical chairs is over. We therefore have the possibility of a transfer of over one-third of the 15,000 personnel at APG with no more than the possibility of the transfer there of some unnamed research and development facilities.

Apart from the historical reasons for the ordnance school's remaining at APG, the sheer cost of the move would have deterred anyone but the Army bureaucracy.

The Army's analysis of these transfers initially indicated a cost reduction of $28,253,000. This figure produced a full head of steam behind the move, and the momentum thus created was undiminished by their subsequent accounting efforts. These indicated both that their earlier figures were incorrect and that they had ignored some major duplication costs. While the original study results forecast a $28.2 million saving, the subsequent addition of forgotten technical requirements at the gaining bases and the long-range facility requirements added $30,632,000 to the bill for the move. The proposed move therefore would cost the Army $2,279,000 more than it would to allow it to remain at APG. The plans nonetheless have not not been shelved.

These estimates, however, are only the Army's in-house figures. My information indicates that they are woefully understated. For example, to house the instructional engine laboratories alone would require at a minimum transformation of three buildings equipped with fuel, exhaust, and high pressure air facilities. Assuming a 100-engine facility such modifications alone would run in excess of $1 million. The same facilities, moreover, will require at least two 20-ton overhead cranes. The current cost of these is unavailable but is clearly of an order to far exceed the $20,000 to $50,000 delegated authority for unusual expenditures available to the post commander and would have to be appropriated by Congress. Classroom facilities would similarly have to be created by large outlays from existing waste space. Waste space at Huntsville would therefore be modified at great public cost to create waste space at Aberdeen. Such is Army efficiency.

DUPLICATION AND WASTE

While the technical facilities possibly could be accommodated at Huntsville, personnel housing facilities are another story. APG now has 2,200 barracks spaces with a new bachelor officers quarters—150 units—currently under construction. Huntsville by way of comparison has only 1,150 units and they are already 90 percent occupied.

Of the unoccupied units there, over 50 percent are being renovated and are only technically empty as the would-be occupants are off-post on a per diem basis. The current Huntsville facilities therefore could not possibly absorb even the major part of the ordnance school. And any construction of major new facilities avoids the important question of what figure to use to represent the accompanying waste at Aberdeen.

Family housing at Huntsville presents a still bleaker picture. The on-base quarters there are minimal while APG enjoys some 700 sets of married quarters, built in large measure to reflect ordnance school needs. The practical end result of the overall housing situation in the event of a transfer would be either that the Government would be forced to spend millions of dollars to reproduce Aberdeen facilities in Alabama, or that ordnance school personnel would be put out on the town with the resulting quantum loss in Army supervision and discipline. The irony of the move is that while it ostensibly would be made to improve efficiency, collateral problems such as housing might produce a reduction in efficiency.

In any case, the Army's figures do not touch the real cost figures even on housing. Assuming that some practical solution can be found at Huntsville, what would then happen to federally supported housing associated with Aberdeen? The Army's figures presumably included military approved home loans. But they obviously did not include FHA and HUD approved loans related directly to Aberdeen. Between rent subsidies and FHA insured loans the figure for APG related housing units currently comes to $33.2 million in Harford County alone. HUD, I need hardly add, was given no more advance word on the impending move than were Members of Congress, and I can see the possibility of hundreds of unoccupied housing units and resulting mortgage defaults at a cost to the taxpayers.

LOCAL IMPACT IGNORED

But those figures are, of course, only the beginning of the calculation the Army missed. Consider both the past and proposed expansions of the Aberdeen municipal water and sewage system to serve the Army's stated needs for the progressive expansion of APG. Consider the effects of a 35-percent scaling down of APG on the Harford County school system. It would cause loss of some 2,500 students from the system and an accompanying loss of just under a million dollars in federally impacted aid funds. While the superfluous teaching staff might then be incorporated elsewhere in the system, the loss would create empty classroom space in new buildings which were built by the taxpayers of Maryland to servce APG's expressed needs. The million-dollar shortfall is bad enough in itself, but its secondary effect would be to push up local property taxes by a large fraction of that amount. This kind of multiplier effect would occur in every area of county and municipal relations with APG. The loss of APG employees in substantial numbers would at once deprive the area of sizable Government revenue, and heavily erode the tax base of every local government—those very governments who have spent a disproportionate amount of their time and effort for half a century anticipating every need of APG.

But if these proposals go through, the long-range prospects are bleak—15,000 is apparently the magic figure at which the cost of supporting personnel becomes economic in the mangement of a military base. When the figure drops to, say, 9,500, the Army's tendency is to phase a base out as uneconomic. APG has enjoyed privileged status as a result of its uniqueness. What is clear now is that the value of that uniqueness is being challenged. If this move is permitted we are likely to be fighting another battle on the same grounds very soon.

UNITED DELEGATION ACTION

I want to especially thank my colleagues in the Maryland delegation for their support in this matter. Senator J. GLENN BEALL has worked together with me throughout this period in an effort to obtain the information we needed and to protest the Army's plans. I circulated a letter which the Maryland congressional delegation sent to the Secretary of Defense supporting the retention of all the existing facilities at APG and demanding a full disclosure of supporting data. Whether this collective approach proves more effective than an individual one remains to be seen.

Congressional pressure can, however,

be exerted through the purse strings. Over the past two decades, hundreds of millions of dollars have been appropriated for APG on the basis of Army projections of its growth. Seven million dollars in appropriations for Aberdeen currently remain frozen by the Army and if they think those funds can be readily transferred elsewhere, they have another thought coming. For many years Army officials have been appearing before the Appropriation Subcommittees of the House and Senate justifying increased spending at APG on the grounds of a long-term commitment to the facility. Indeed a 25-year development plan was drawn up filled with promises and projections about APG's future.

The past promises should be studied with care before an additional dime is appropriated for the movement of any of its facilities elsewhere. Logic would indicate that if there are moves projected in the ordnance field, they should be to APG and not away from APG. Logic would indicate that if non-nuclear research and development facilities are to be centralized, they should be grouped at APG. We have to get away from the chess board mentality which equates square footage in different bases and which assumes that effectiveness can be maintained through any and all moves. In the end, however, the Army does not pretend to rely fully on its statistical analysis.

The Comptroller General's report assessing the entire Army reorganization noted their overall shortcomings, saying:

> Because we did not have sufficient documentation, we could not determine how (the Army) assured itself that the consolidation was justified in terms of costs, savings, and the impact on civilan personnel. (Army) officials stated that it was impossible for them to document every analysis and that the improvements in effectiveness following consolidation involved subjective factors which were not susceptible to measurement.

I am not against the Army or its reorganization. But I am against arbitrary and inaccurately researched decisions which affect the welfare of my constituents. It is clear now that the Army research was narrowly gaged. It must be our collective responsibility to be sure that their vision is widened so that when a decision is made it will reflect all the costs here and elsewhere and not just some planners desire to make a pretty organizational diagram. If we can bring the true facts to bear, there is little question that the proposals will be killed and that APG's fitness for its historic tasks will be underscored and its projected role for the future enlarged rather than cut back.

ORDNANCE SCHOOL MUST STAY

I intend to remain in the forefront of the constructive and effective opposition to any unreasonable proposals affecting the future of APG. This facility must remain and prosper and no other region can be allowed to snatch it or its components away for political reasons. I have been bitterly disappointed by the refusal of the Defense Department to cooperate in providing a Member of Congress with the confirmation of the plans which I have detailed in my remarks today, but I have gone beyond the Defense Department, and I think I can say with reasonable certainty that the Army plans I have outlined are not going to come to pass. The ordnance school will remain at APG. If this is to be the case, it will be because of the united and effective opposition of those of us in Congress, but just as importantly, the work of the many people in Harford County and in the military itself who have helped us in this struggle.

GENERAL LEAVE

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

RESPONSE TO THE PRESIDENT'S STATE OF THE UNION MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 10 minutes.

Mr. DENT. Mr. Speaker, it was interesting to note—tucked away in the bowels of the President's state of the Union message—his support for legislation to raise the minimum wage. I can understand his reluctance to make specific reference in the speech he delivered to that support, since it would have evidenced yet another credibility issue. After all, was this not the same President who vetoed legislation overwhelmingly approved by the Congress last year to raise the minimum wage? But I will leave to future generations of scholars the incredible risk of seeking to reconcile what the President says with what the President does.

Suffice it to say that I introduced, prior to the President's speech, a revised minimum wage proposal I have knowingly described as our "final compromise." I did not attend this description to the bill out of a steadfast reluctance to be unyielding with respect to that controversial legislation; but rather, to indicate clearly that we are at the end of hypocrisy on this matter. It is time to either enact a meaningful minimum wage law or to move on to other pressing issues that demand our attention. To lend our stamp of approval to that which the President seeks, would be to strip the Federal minimum wage law of any vestige of integrity and remedial import. It would be assent to misrepresentation and mirage. And, most importantly, it would be an empty bag for the millions of impoverished working Americans who look hopefully to the Congress as their collective bargaining agents.

What more can be said in support of our various minimum wage proposals? We have exhausted our reservoir of compelling logic and remain confronted with the immobile posturing of the opposition. It is said we seek a political issue, and yet, we have time-after-time sought to effect improvements in our minimum wage law, only to be repelled by one procedural resistance after another—up to and including a Presidential veto.

The cost-of-livng index has increased 40 percent since the last time—1966—the Congress amended the minimum wage law. Notwithstanding this dramatic economic reality, we are told we are unreasonable in proposing a minimum wage increase which, at best, will yield income far below the so-called poverty level of income. We are told we are denying jobs to our Nation's youth, and asked to make special provison for them to be employed at subminimum wage rates.

Mr. Speaker, this is a not-so-subtle way of returning to the squalid and shameful days of child labor in this country. Anyone who lived during that period, when children were economic carnage to fuel our industries and businesses, should recoil in horror at such a suggestion. Some have cynically described the administration's approach in this regard as the "McDonald's hamburger provision," and looked upon it as the administration's fulfillment of a political obligation to one of his more generous benefactors. I will withhold judgment on that observation, but simply note that even the Department of Labor's exhaustive study of youth employment draws no conclusion to support the administration's argument that low, low wages encourage the employment of youth.

In summary, Mr. Speaker, the President's state of the Union message shows the same insensitivity and disdain—yes, even contempt—for the Nations' working poor that his administration's performance has shown over the past 5 years. Apparently, it is to be "more-of-the-same" or "let them eat cake" with respect to that great segment of national concern.

IVAN HILL—PIONEER IN ETHICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho (Mr. HANSEN) is recognized for 5 minutes.

Mr. HANSEN of Idaho. Mr. Speaker, we are all familiar with the term Watergate—a word whose connotations invoke controversy and debate wherever it is spoken. More importantly, it is the embodiment of the moral and ethical dilemma confronting all Americans.

It is the end result of a long, pervasive process of ethical decay that has been affecting the body of American institutions for many years.

The symptoms of this moral disease are painful to observe—white collar crime, corporate corruption, cheating on our campuses, an epidemic of shoplifting and bad checks, and political payoffs and kickbacks.

The prognosis for recovery depends on a restoration and revitalization of ethical and moral values lost along the path of our headlong rush toward affluence and comfort.

One individual in this country is working diligently to provoke the collective American conscience into action. I refer, of course, to the fine efforts being made by Ivan Hill, president of American Viewpoint, Inc. Mr. Hill has concerned himself with the "ethics crisis" for many years, and has pointed out the need for developing codes of ethics in our professions, corporations, and government that will effectively elevate the ethical standards in those sectors. Mr. Hill has also stressed the importance of inculcating ethical values in the young people of America, and has advocated an ethics curriculum that would extend from grade school to graduate school. Later in this session, I intend to introduce legislation to implement such a national ethics curriculum.

Roscoe Drummond has written an article emphasizing the need for an ethics consciousness in this country, and he cites the work being done by Mr. Hill. I include Mr. Drummond's article in the RECORD:

HONEST ENOUGH TO STAY FREE?

(By Roscoe Drummond)

WASHINGTON.—Based on the latest poll of the University of Michigan's Institute for Social Research, the headline reads: 66% feel distrust in government.

This is the highest and most perilous level of public distrust in memory. And not just distrust in government but in almost everything—in business and industry, in labor unions, in advertising, in merchandising, in the media, in politics and the whole election process.

It is easy to assume that government and politics have a kind of monopoly on sleazy ethics and dishonesty. But consider signs of the times like these:

A Chicago meatpacker handles $15 million worth of meat a month but can't show a profit because of an employee theft ring.

A New Orleans architect finds that public officials consider a 10% kickback normal—a widespread practice.

A San Diego bank goes bankrupt because its principal stockholders were making dubious loans to themselves.

A hot insurance company collapses after inventing thousands of fictitious policyholders.

In cities, shoplifters are stealing billions upon billions of dollars of merchandise.

* * * * *

This is a fair sample of the mounting and pervasive dishonesty and decaying ethics cited by a nonprofit and public-spirited organization called American Viewpoint, Inc., located at University Square, Chapel Hill, N.C., which is setting out to do something about it.

It is not too late but it is surely not too soon. Hopefully, what it is saying and what it is beginning to do will find a responsive public.

There is no doubt that Watergate in all its related crimes and offenses against decent government has weakened the moral fiber of those who were looking for an excuse for their own misconduct. Watergate has impaired our faith in each other and in all our institutions.

The need is to arrest and reverse the downward trend of ethical standards.

"Maybe it's too late," says Ivan Hill, a former advertising and business executive who is the energizing president of American Viewpoint, Inc. "Maybe there are already too many people who simply don't care about having a bundle of freedoms. Maybe faith in one another is a thing of the past. But we don't think so. And we propose to help bring back honesty, ethics and self-respect. Our simple aim is to make honesty a working social principle rather than a moral issue apart from our daily lives."

* * * * *

The most valuable thing which Mr. Hill and American Viewpoint is doing is to relate ethics to the survival of freedom in the United States. They are indispensable to each other.

Honesty and ethics form the cement which holds together our whole free society, and without a recovery of a higher standard of ethics and honesty we will lose both our democracy and our freedom.

Ethics cannot be legislated and the end result of social decay, which comes from pervasive dishonesty, is enforced discipline, and down the road from there is political dictatorship.

This is why Alan L. Otten warns in an article in The Wall Street Journal that "Americans may be ripe for a man on horseback."

This is why America must make itself honest enough to stay free.

PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 30 minutes.

Mr. MURPHY of New York. Mr. Speaker, I think this is an appropriate occasion to discuss some important aspects of the Panama Canal in view of a significant event that is taking place today. I refer to the visit to Panama by Secretary of State Henry Kissinger, who I understand will sign an initial agreement of principles with Panamanian officials for a new treaty involving the Panama Canal and the Canal Zone.

As a member of the Panama Canal Subcommittee for 12 years, and as chairman during the critical years of 1970–71, I am compelled to make some observations on the current United States-Panamanian situation and to place before my colleagues information that I feel will be of importance in their future decisions regarding U.S. policy and the Republic of Panama.

Subjects that I consider of great moment at this point in time include the stability and integrity of the Panamanian Government; the role of the House of Representatives in any major change in the 1903 Hay-Bunau-Varila Treaty; the importance of the canal, the zone, and the southern command in our hemispheric defense picture; and the obvious conspiracy of certain elements in this country to stampede the U.S. Government into taking a course of action that I feel borders on insanity.

ELEMENTS OF CONSPIRACY

Some few newspapers and organizations have, with increasing cresendo, played fast and loose with the facts and with the truth in recent weeks. They consider the Canal Zone as "arbitrarily occupied," and that it should be returned to Panama forthwith because the United States somehow duped the Panamanians on the original treaty.

That action cannot be taken any more than can the return of the 1853 Gadsden Purchase to Mexico, for the Canal Zone is U.S.-owned territory, the title to which has been recognized as valid by the U.S. Supreme Court. Moreover, the Hay-Pauncefote Treaty of 1901, under which the United States undertook to construct and operate the canal, has been accepted by all nations that use it.

These elements in the press, in searching for excuses to give away the Panama Canal, which as of June 30, 1971 represented a U.S. investment in the neighborhood of $5,700 million, have been quoting Secretary of State John Hay when he said that the 1903 treaty was, in effect, a good deal for the United States and not such a good deal for the Panamanians.

I might ask since when has it been considered offensive for this country to get a good deal in treaty negotiations. However, I would prefer to refer these people to the policy of another Secretary of State, Charles Evans Hughes, who, when faced with a problem in 1923 similar to that which faces the United States today, called on the Panamanian Minister and warned him that:

> It was an absolute fatality for the Panamanian Government to expect any American administration, any President, or any Secretary of State, ever to surrender any part of (the) rights which the United States had acquired under the Treaty of 1903.

But, of course, they seldom print statements that do not fit their own peculiar predictions.

THE SOUTHERN COMMAND

Another aspect of concern to me is the importance of the U.S. military presence in the Canal Zone, the Canal Zone military training schools, and the existence of the Southern Command. I have read, this morning, of the decision of the Secretary of Defense to eliminate the Southern Command as part of the Defense Department policy of dissipating our Armed Forces, while I do not know the full details of this plan, I view any diminution of the U.S. military presence in the Canal Zone with great trepidation.

The Southern Command is the only force that protects the United States from the southward approaches.

It is necessary for local and hemispheric defense.

I think it is ironic that the original timing of the recent Bunker-Tack announcement of the new principles came on the 10th anniversary of the Communist-led Panamanian mob assault on the Canal Zone of January 9–12, 1964. This situation required the intervention of U.S. Armed Forces stationed in the Canal Zone to protect the lives of 40,000 U.S. citizens there and the safety of the canal itself. How any responsible U.S. official can recommend the removal, if this be true, of U.S. troops from this troubled spot is beyond my comprehension.

I intend to obtain a full and immediate explanation from the Secretary on this issue. As those of us in this chamber know, soon after the 1964 assault on the Canal Zone, President Lyndon Johnson took the correct legal position that the United States has treaty obligations to operate the Panama Canal under the Hay-Pauncefote Treaty of 1901, and that the United States intended to meet those obligations.

Especially in view of the makeup of the current Panamanian Government, I can see no reason to change that position.

THE STABILITY AND INTEGRITY OF THE PANAMANIAN GOVERNMENT

Mr. Speaker, during the 92d Congress, while serving as chairman of the Subcommittee on the Panama Canal of the House Committee on Merchant Marine and Fisheries, that subcommittee probed deeply into certain aspects of the interoceanic canal problem. One of the subjects covered was: "An Overview of the Narcotics Problem in Panama," which was summarized on pages 26–31 in the full committee's report on its activities during 1972 (House Report No. 92–1629). To normal law-abiding citizens, some of the revelations were incredible and the subject is still far from resolved.

In an article in the New York Times, of September 23, 1973, entitled "Panama Praised for Drug Curbs," a number of erroneous statements were published. Most notable was the statement that I had disrupted relations with Panama by accusing the current Panamanian Foreign Minister, Juan Tack, of involvement in the international narcotics traffic. The implication was that I had done this on my own, with no basis in fact or verification of the charge.

This, of course, was patently untrue, and something the Times should have known inasmuch as they printed extensive stories on reports of the then Bureau of Narcotics and Dangerous Drugs and the Customs Bureau which contained the original charges against Tack and others in the Panamanian Government.

To correct those statements, I promptly wrote the editor of the New York Times. I received a reply to my letter from James L. Greenfield, the foreign editor of the Times. As his reply was not responsive and contained remarks I knew to be false, and others I found to be offensive, I wrote him a second time to set the record straight. I also provided him with further information of a confidential nature in an effort to verify what I know to be the truth. Neither of my letters was published.

The Times, I fear, suborned their own reporter and foreign editor in this case because it might hurt their stated position that the Panama Canal and the Canal Zone should be turned over to a government that was conceived in a military conspiracy, nurtured by terror, and born through revolution.

I happen to disagree with the Times on this issue.

They editorially deprecate those of us in Congress who hesitate at negotiating a treaty with a government that came into power by throwing out a duly elected President, through force of arms, by referring to us as advocates of the outdated concept of "manifest destiny."

Nothing could be further from the truth.

We simply do not wish to give this vital world waterway over to an unstable government that, aside from dabbling in the narcotics traffic, might be overthrown tomorrow.

As former chairman of the Panama Canal Committee, and the ranking majority member, I still have access to accurate intelligence in Panama. I have only recently received information from a source of the highest integrity of not one but two plots currently underway to overthrow the current military dictatorship. One plot involves a military overthrow of General Omar Torrijos—similar to the unsuccessful one that was attempted several years ago—and the other involves a conspiracy of Panamanian businessmen—who are wooing ex-Panamanian military men in exile—because they are disenchanted with the current economic situation in Panama.

The position is so precarious, is so serious for General Torrijos, that he has actually plotted to prevent a coup by negotiating a return to Panama of the popular ex-President, Arnulfo Arias—the very man that the general deposed. Torrijos offered the presidency to Arias in return for Arias' support of Torrijos' continued role as the Panamanian strong-man. Arias reply to Torrijos' emissary was that he will only return to Panama when Torrijos leaves the country—permanently.

What the elements in the United States are overlooking in their eagerness to placate the wild charges of "U.S. imperialism," by Panamanian radicals in the Torrijos government, is the fact that we are now dealing with the 59th Panamanian President in the last 70 years, some of whom only served a few days. That is a turbulent history in anyone's book. During that same period of time, the United States had 12 Presidents.

The only stable entity keeping the Canal operating has been, is, and will continue to be, the U.S. presence there.

I learned yesterday that my distinguished colleague, Congressman GENE SNYDER, was appointed to travel to Panama to observe the Kissinger visit. I would remind Members of Mr. SNYDER's comments in the RECORD of September 26, 1973, concerning his August 1973 visit to Panama and his assessment of the Torrijos regime. I would quote a portion of Mr. SNYDER's remarks which I feel reflect the stability of the Torrijos government:

> Just last month, I was privileged to spend some time with General Torrijos and be with him in some of his day-to-day operations of government . . . It was my observation that he is in such a situation there now that he has very few around him upon whom he can depend. He has been standing almost alone . . . I would not want to pass judgment on, (his downfall) but it is going to come and it is not going to be too long.
>
> I saw General Torrijos standing with a .38 strapped on his side, and his guards out there with their machineguns standing around as he attempted to mediate a dispute between two labor groups, taxi drivers who were having a dispute in Panama City.
>
> I went with him to the Chiriqui Province, and he himself actually went to see whether or not some people were painting a school on a deal he had made with them that if they would paint the school, he would get up a new school bus.
>
> He did not trust anybody to go and make these observations for him.
>
> I went with him to a small community . . . near the Costa Rican border, where they dedicated a waterline. It goes into the plaza, the town square, and not into the homes.
>
> I asked, "What size waterlines do you have here?" The Ambassador to the United States said that nobody knew what size the waterline was. General Torrijos, he tells them what it is. Whether he is making it up, I do not know, but the point I am making is that in none of these instances did he have anyone around him to whom he delegated authority.

Since yesterday, I have learned that Mr. SNYDER, the ranking minority member of the Panama Canal Subcommittee has refused the invitation to fly to Panama today to observe the signing of the U.S. Panama agreement of principles. He gave as his reason an unwillingness to witness the surrender of U.S. sovereignty and control of the canal to "a handful of leftists in Panama."

I hope he is wrong in his assessment of U.S. goals.

I know he is right in his analysis of Panamanian goals.

But, I cannot blame him for feeling as he does on the U.S. position after reading headlines concerning the canal issue while Congress was out of session. For example, I read a page-1 story in a major newspaper on January 10, 1974, with the headline "U.S., Panama Agree to Return of Canal and Zone." The story under the caption, as incorrect as it was, bore little relationship to the headline. A member of my staff called the author of the article to question his sources of information and the reason for the headline. In brief, the reporter told my office he was upset over the fact that the paper had "overplayed" his story, that the headline, in fact, had "nothing to do" with what he had written, and that what had been written was based on information given him by the Department of State. When apprised of the history of State's efforts to give in to the extremists in Panama, he indicated he thought he "had been had." The reporter further stated he knew that the editors disagree with my position on the canal question.

Mr. Speaker, I only point this out as a means of clarifying my evaluation of the Kissinger-Bunker efforts.

I am convinced that as intelligent men they realize that any deviation from a basic position of U.S. operation, sovereign control, and the defense of the canal and the Canal Zone is inimical to the interests of the United States, the people of Panama, and the countries of the world who depend on the canal for what it is: A vital part of the worldwide system of merchant marine commerce.

HOUSE JURISDICTION

What I have just said was realized by the Panama Canal Subcommittee when I, as chairman, conducted hearings on the treaty as it was being discussed through the 1970–72 period.

In the opinion of the members of the subcommittee, the executive branch would have preferred to overlook the role of the House of Representatives in the treaty negotiations which were then underway with the Republic of Panama. Attempts to bypass the jurisdiction of the House became apparent when—on an informal basis and during formal hearings of the Panama Canal Subcommittee—attorneys for both the State and Justice Departments took the position that the then planned disposal of U.S. property rights envisioned in any new treaty with Panama could be executed without implementing legislation by the

House of Representatives. An exhaustive examination of the legal basis for this position and a review of the constitutional issues involved during the hearings convinced not only the members of the subcommittee, but apparently the executive branch as it was then constituted, that such a position was unjustified. Accordingly, 2 years ago, it was the firm conviction of the subcommittee that no treaty involving the appropriation of U.S. moneys or the transferral of territory or other property owned by the United States would be effected without due consideration of the jurisdiction of the House over these matters.

The Panama Canal Subcommittee recognized this as part of its oversight function; that is, its duty to uphold the authority of the Congress. As chairman of the subcommittee, I announced this premise in my opening statement of December 6, 1971, when I said:

> This duty transcends the treaty with Panama, as important as it is, and goes to the very core of the purpose and power of the House of Representatives.

Mr. Speaker, based on our interpretation of the law at that time, there is no question or equivocation—the authority of the U.S. House of Representatives is required before real and other property paid for from appropriated funds is given up or conveyed by treaty as the executive branch sought to do then, and is apparently seeking to do now in the proposed treaty with Panama.

By way of this statement, I am reminding the executive branch—both old members and new—of the firm resolve of those of us in the House who will insist that this body play the proper role vested in us by article IV, section 3, clause 2, of the Constitution of the United States.

Mr. Speaker, I am certain that Secretary Henry Kissinger and Ambassador Elsworth Bunker are aware of the above, and will act accordingly. They are both highly intelligent men and can assess the situation and respond in the best interests of the American and Panamanian people. And they can do so without the hysterical jabbering that has characterized the efforts of some elements of the press during the past few weeks who appear to be trying to push these two and the United States into a corner.

For my own part, I feel that the statements made about me in the New York Times are unfair.

I know they are untrue.

For that reason, I insert in the RECORD the September 23, 1973, article, and the entire exchange of correspondence I have referred to above. My letter of November 26, 1973, contains what I had hoped would remain private conversations. However, I feel so strongly about this issue that I have recorded them in the letter, and now in the RECORD, for Members to take into account when they judge the quality and nature of the Government in Panama with whom this Nation is now engaging in such important and historic negotiations.

Mr. Speaker, the documents I referred to are as follows:

[From the New York Times, Sept. 23, 1973]

PANAMA PRAISED FOR DRUG CURBS

(By Richard Severo)

PANAMA CITY, September 22.—A year or so ago, Panama was being criticized both inside and outside the United States Government as having failed to stop the narcotics trade here. Now, it is receiving nothing but praise.

United States Drug Enforcement Administration sources say that Panamanian antinarcotics efforts have been so successful lately that heroin traffickers have begun to avoid Panama City, which had been singled out previously as a major transshipment point for narcotics en route to the United States. Officials do not expect the heroin traffickers to stay away indefinitely, however, since one of their ploys is to diversify their routes to the United States.

The change in the effectiveness of police work here has become increasingly apparent in recent months, the officials say, as Panamanian authorities have made major seizures of cocaine and marijuana. Marijuana grows in abundance in this country The cocaine originates in South America and passes through Panama in a refined state.

Previously, Panamanian authorities expressed sympathy with the United States drug-abuse problem but maintained that the volume of marine and air traffic through this country made detection work very difficult. Now, they apparently have a different attitude.

TRAINING COURSE FOR AGENTS

Last week, at the opening of a training course for 42 Panamanian narcotics agents conducted by instructors from the United States, Lieut. Col. Manuel Noriega of Panama's National Guard emphasized that any indifference in Panama was over and pledged a "war to the death" against traffickers.

United States officials are publicizing their satisfaction at the latest events in Panama. A major part of the reason is the deep resentment two years ago when Representative John M. Murphy, Democrat of Staten Island, charged that high-ranking Panamanian Government officials were engaged in one way or another in narcotics smuggling. One of the names mentioned was that of Juan Antonio Tack, Panama's Foreign Minister.

United States sources now say that no real evidence against Mr. Tack or any other Panamanian Government official was ever turned up, and the United States officials have reportedly apologized to Mr. Tack.

Mr. Tack is frequently an outspoken critic of the United States. He has been among the leaders insisting on a new treaty for the Panama Canal to give Panama full sovereignty over the zone, which the United States has administered since the opening of the Canal in 1914. The accusations against Mr. Tack are known to have hurt him deeply, and they came at a time when both the United States and Panama were saying that a new treaty had to be written but without agreement on what it should provide.

DIRECTOR MAKES ARREST

There is also a feeling that Panama decided to act more vigorously on the narcotics issue because they wanted to avoid an international reputation for laxity.

Dario Arosemena, director general of the National Department of Investigations—the Panamanian counterpart of the Federal Bureau of Investigation—has taken a personal role in drug investigations and raids, working with agents in actually making arrests.

Among those arrested have been Americans accused of jumping bail on drug charges in the United States.

In Panama now sellers of drugs classified as narcotics can get a maximum of five years in prison. Most of those convicted receive about two years. Possession of heroin, cocaine, or marijuana, can bring up to two years, but sentences are normally lighter.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 26, 1973.

The EDITOR,
The New York Times,
New York, N.Y.

DEAR SIR: I am writing to correct what I consider inaccuracies and insinuations concerning my conduct contained in a New York Times Sunday, September 23, 1973, article entitled "Panama Praised for Drug Curbs," written by Richard Severo. There are three points in the article that are made in reference to my investigation of the Panamanian drug traffic as Chairman of the House Panama Canal Committee which are misleading and inaccurate.

Mr. Severo first states that I caused deep resentment two years ago by charging that high ranking Panamanian government officials were involved in narcotics smuggling. The facts are, it was not I but investigative agencies of the United States government that made these charges in a special report prepared for the Panama Canal Subcommittee in November of 1971. The Bureau of Narcotics and Dangerous Drugs concluded in that report: "It is clear that the Republic of Panama has not and is not paying sufficient attention to narcotic enforcement activities to achieve noticeable results. This may be due to high level apathy, ignorance and/or collusion."

A year later when Colonel Manuel Noriega issued a highly publicized statement announcing an ambitious anti-narcotics program by the Panamanian government that same month an intelligence report prepared for Congress by the General Accounting Office asserted that "Panamanian officials and security agents" are involved in the traffic in narcotics. In late 1972 a report supplied to the Subcommittee compiled from information and intelligence gathered by the several agencies with responsibility for international narcotics law enforcement reached the following conclusion on the so-called "Latin Connection:" "Generally speaking, the greatest detriment to effective enforcement in Latin America is corruption. The corruption goes all the way to the top of some Latin American governments. One of the more glaring examples of official corruption is the country of Panama where General Omar Torrijos and President Lakas appear to be controlling factors in the narcotics traffic."

This government report concluded: "Because of the known involvement of Panamanian government officials in the international narcotics traffic, the U.S. Government should take a firm stand in the current negotiation of a new treaty for the continued use of the Panama Canal Zone."

As a matter of record, the New York Times carried stories on these reports when they were released by the Panama Canal Committee.

Mr. Severo then implies that I identified Panama's Foreign Minister Juan Antonio Tack as being involved in the narcotics traffic. The facts are, the allegations against Mr. Tack were made by BNDD officers in the Republic of Panama on February 23, 1972, during a subcommittee briefing in that country. Tack became so incensed he had three BNDD agents expelled from the country on 24 hours notice. Senor Tack's name originally arose during a briefing for Members of the Panama Canal Committee by Customs agents on a case that reached into the highest levels of Panamanian officialdom including Moises Torrijos, the brother of Panama's dictator and Foreign Minister Tack. One of the expelled BNDD agents testified before me in Executive Session and confirmed not only that he had told the committee of Minister Tack's involvement, but that he had been forced to sign a letter to Mr. Tack written by the State Department denying that he had so informed the committee. Inasmuch as the State Department has had a historic policy of frequently ignoring or denying the involvement of high ranking officials of friendly governments in the narcotics traffic it is not difficult to determine the source of Mr. Severo's information for his article.

All of which leads to the third and most mischievous statement in the article which claims that U.S. sources say that no real evidence against Mr. Torrijos or any other Panamanian government official was ever turned up. The facts are that Joaquin Him Gonzalez, a high ranking Panamanian official and notorious smuggler was arrested in the Canal Zone by U.S. authorities on February 6, 1971. Within two weeks he was brought to Dallas, Texas, for his active participation in the drug market and tried for conspiracy. Him Gonzalez was international transit chief at Panama's Tocumen Airport and he used his high position to protect shipments of drugs to the United States. He was accused on this occasion of sending to Dallas somewhat over a million dollars worth of heroin. Gonzalez was a Torrijos protege and this relationship was made clear when the Panamanian Government mobilized all its resources, something it had not done until that point, for the offender to be returned to Panama. Reports in the press cited the "angry outburst" and "outraged" protest of the Panamanian government—led by Juan Tack—over the arrest of Gonzalez.

The rupture became so great over the arrest of this high ranking Panamanian official the Attorney General of the United States was forced to dispatch a personal envoy to Panama to calm the situation down and write a letter of apology to Panama's President Lakas. Of even more significance, John Ingersoll testified before the Panama Canal Subcommittee in Executive Session that because of State Department pressure over the arrest of Him Gonzalez there would never again be a Panamanian official arrested for narcotics by U.S. narcotic enforcement agencies. And this is just one of the documented cases of official Panamanian involvement in the drug traffic.

I believe Mr. Severo did make one correct observation when he claimed that perhaps Panama finally decided to act more vigorously against the narcotic traffic because they wanted to avoid an international reputation for laxity. I am convinced that the reason this has come about, if indeed it has, is due to the efforts of the House Panama Canal Committee in exposing the fact of "high level apathy, ignorance and/or collusion" on the part of the government of the Republic of Panama in international drug running.

Sincerely,

JOHN M. MURPHY,
Member of Congress.

THE NEW YORK TIMES,
New York, N.Y., October 11, 1973.

Hon. JOHN M. MURPHY,
U.S. House of Representatives,
House Office Building, Washington, D.C.

DEAR MR. MURPHY: Thank you for your letter of September 26 in response to Richard Severo's article of September 23 which carried the headline "Panama Praised for Drug Curbs."

With all due regard to your sensitivities on the issues raised in the article, it would appear that there are neither "insinuations" nor "inaccuracies" in the article.

As chairman of the House Panama Canal Committee, you were the public spokesman making certain allegations about the drug traffic in and through Panama and were thus identified with them not only by the Panamanians but by others. If you were merely reciting information supplied you by the Bureau of Narcotics and Dangerous Drugs and/or the General Accounting Office, it does not negate the fact that you stated these allegations publicly and were thus identified with them in Panama and elsewhere. Thus, Mr. Severo was only reporting fact: that in Panama, your public pronouncements on the drug traffic were attributable to you and caused resentment within the Panamanian government. That is only the reporting of reality as it exists in Panama.

It is also a fact that the United States Government is not presenting and has not presented specific charges against Mr. Tack and that several different sources in Panama corroborated the fact that the U.S. officials have, in fact, apologized to Mr. Tack.

The New York Times has not made any comment or judgment on either your allegations or those of the Bureau of Narcotics and Dangerous Drugs or of the Panamanians. We have only reported what has happened in Panama.

If you wish to repudiate earlier charges based on any source, or you wish to make new charges supported by specific evidence and recommendations, The Times will be glad to consider these and evaluate your assertions as it would any other news story.

We must take exception to your assertion that there was anything "mischievous" in Mr. Severo's article. The article quoted reliable U.S. Government sources as saying there was no "real evidence against Mr. Tack or any other Panamanian government official."

If you wish to dispute the assertion, it would seem to us your argument is with other branches of the U.S. Government, not with The New York Times.

However, let me repeat that if you have specific information of a legally verifiable nature that can be considered as evidential in a court of law against any individual engaged anywhere in the traffic of narcotics, The Times will be glad to receive such information and evaluate it carefully and fairly. Moreover, I know I need not remind you that if any public official anywhere is indicted, tried and convicted for trafficking in drugs and we know about it, we will certainly consider it for publication.

Very truly yours,

JAMES L. GREENFIELD,
Foreign Editor.

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., November 28, 1973.

Mr. JAMES L. GREENFIELD,
Foreign Editor,
The New York Times,
New York, N.Y.

DEAR MR. GREENFIELD: Upon returning from out of country on government business, I found your letter of October 11, 1973, concerning my letter to the Editor of the New York Times of September 26, 1973. My communication was in reference to an article of September 23, 1973, by Richard Severo entitled, "Panama Praised for Drug Curbs". While I can find nothing in your letter with which I can agree, relative to your analysis of my activities in this area, since you have the last word on whether or not I have the right to present my side of the case, I assume the possibility of my getting "equal time" is a dead issue. For your information, however, I would point out certain statements you make that I consider unfortunate, at best, and which do not comport with the facts as I know them.

Your reference to my "sensitivities" on the issues raised in the article are somewhat misguided. My "sensitivities" are more nearly directed to such issues as the following:

I am sensitive to the fact that the Rafael Richard/Nicholas Polanco/Guillermo Gonzalez operation, which utilized a Panamanian diplomatic passport to cover its activities, brought enough pure heroin into the City of New York to keep 20,000 addicts going for a full year.

I am sensitive to the fact that on an average, 1,200 people—mostly young people—die each year in New York City from heroin overdoses. A great deal of this heroin came into New York for a period of time because of the corruption of a high Panamanian official who had to be "abducted" out of the Canal Zone by the United States Government in order to bring him to trial, and who is now serving a prison sentence in this country.

I am sensitive to the fact that the former head of the Bureau of Narcotics and Dangerous Drugs testified that because of the furor raised by Panama's Foreign Minister, Mr. Juan Tack, over this arrest, he would, in all probability, never again arrest a Panamanian drug trafficker in the Canal Zone.

I am sensitive to the fact that Mr. Tack personally signed a diplomatic passport for a 21-year old drug trafficker who, under Panamanian law, had no credentials to receive such a document, a document which he produced at Kennedy Airport in a vigorous attempt to prevent Customs agents from searching his luggage. This was the Richard case which involved 350–400 pounds of pure heroin.

I am sensitive to the fact that the Attorney General of the United States, both in writing and through a personal envoy, had to apologize to the likes of Mr. Tack, for having removed a major narcotics trafficker (and high Panamanian official) from circulation.

Finally, I am sensitive to the fact that our State Department, through our Ambassador to Panama, forced two Bureau of Narcotics and Dangerous Drugs agents to sign a letter of apology to Mr. Tack and deny they had briefed me on the involvement of Panamanian officials with narcotics. One of the agents subsequently testified that the letter was inaccurate and untrue.

Your statement that my public pronouncements on the drug traffic were attributable to me and, therefore, caused resentment within the Panamanian Government as "a reality of the situation" is absurd, and again, runs contrary to the facts. The facts are, my original release of the BNDD document occurred in November/December 1971. I visited Panama in February 1972, without incident. In fact, I spoke to General Torrijos and was warmly welcomed by the people of Panama. In March of 1972, after corroborating the report of their superiors concerning official Panamanian corruption, three BNDD agents were declared persona non grata and expelled from Panama. Senor Tack interrupted national television in Panama and gave our agents 24 hours to leave the country. It was not Murphy who was kicked out of Panama—it was the BNDD contingent in that country.

You further state, "It is also a fact that the United States Government is not presenting and has not presented specific charges against Mr. Tack and that several different sources in Panama corroborated the fact that U.S. officials have, in fact, apologized to Mr. Tack." Any apology given to Mr. Tack by the State Department I would put in the same category as the letter which the American Embassy forced the two BNDD agents to sign apologizing to Mr. Tack for doing their duty. It is an obsequious attempt to smooth the ruffled feathers of a man who has virtually—all by himself—wrecked the friendly relations that have existed between Panama and the United States for 70 years.

Further on in your letter you say, "The article quoted reliable U.S. Government sources as saying there was no 'real evidence against Mr. Tack or any other Panamanian Government officials'." I can only attribute this remarkable statement to your ignorance of the facts. You should be aware of the number of Panamanian officials who have been, as a matter of record, involved in and arrested and indicted for narcotics trafficking. These facts were carried in numerous news stories in the New York Times.

My convictions in this area are further justified based on information that I obtained as the Chairman of the Panama Canal Subcommittee and which I now relate to you concerning that particular comment.

In late 1971, I was visited by a member of the United States treaty negotiating team who was concerned over my release of the BNDD report citing high level Panamanian involvement in the international narcotics traffic. This gentleman told me that "the State Department as well as the United States treaty team was well aware of the involvement of members of the Panamanian Government in drug smuggling." He stated further that "there was a lengthy debate within the Department of State as to whether the United States should negotiate a new treaty with the Panamanian Government knowing full well that certain of its members were engaged in the narcotics traffic. At the end of several weeks of agonizing, the Department decided that if it eliminated dialogue with all Latin American governments that might have high officials involved in the narcotics traffic, very little dialogue would take place at all. The government proceeded with the treaty talks with the full knowledge that the disclosures made in the BNDD report might surface and as a matter of fact, the betting at the State Department favored another Congressional Committee for exposing this situation."

Further, on the date the agents were expelled from Panama, my office was called by a high ranking official in the Justice Department and was apologetically told that "the Bureau of Narcotics and Dangerous Drugs would be putting out a cover story on orders from the State Department to try to smooth the situation over. I was told further that if the BNDD cover story did not "fly", I was to "go after the Panamanian officials (involved) and give them hell because we know the bastards are nothing but a bunch of crooks and dope peddlers".

In summation, I might say that your letter displays a vast lack of knowledge of the events that have transpired during the last four years in that part of the world. One would think that the New York Times with its deep interest in protecting the lives and property of the citizens of New York City would be interested in printing a letter from one of its Congressmen who spent a major part of his time for a two year period attempting to put a dent in the flow of pure heroin pouring into that City.

This was a situation in which the United States Government was, in part, one of the conspirators in the operation inasmuch as it chose to overlook this trafficking in order to negotiate a new treaty with persons it knew to be in the drug business. To make matters worse, the government, after the release of damaging information by its two major drug investigation agencies, the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs, repudiated the findings of its own agents. I would think that the New York Times with its great tradition of investigative reporting would be more interested in ferreting out the facts in this case than in lamely participating in the conspiracy.

With kind personal regards, I am

Sincerely,

JOHN M. MURPHY,
Member of Congress.

Mr. Speaker, in keeping with my convictions on this matter, I introduce for appropriate reference a resolution in support of continued U.S. control over the canal and the Canal Zone, and ask that it be printed at this point in the RECORD.

H. RES. —

Resolution in support of continued undiluted United States Sovereignty and Jurisdiction over the United States-owned Canal Zone on the Isthmus of Panama

Whereas United States diplomatic representatives are presently engaged in negotiations with representatives of the *de facto* Revolutionary Government of Panama, under a declared purpose to surrender to Panama, now or on some future date, U.S. sovereign rights and treaty obligations, as defined below, to maintain, operate, protect and otherwise govern the United States-owned Canal and its protective frame of the Canal Zone, herein designated as the "Canal" and the "Zone", respectively, situated within the Isthmus of Panama; and

Whereas title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were vested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Colombia, to wit:

(1) The Hays-Pauncefote Treaty of 1901 between the United States and Great Britain, under which the United States adopted the principles of the Convention of Constantinople of 1888 as the rules for operation, regulation, and management of the Canal; and

(2) The Hay-Bunau-Varilla Treaty of 1903 between the Republic of Panama and the United States, by the terms of which the Republic of Panama granted full sovereign rights, power, and authority in perpetuity to the United States over the Zone for the construction, maintenance, operation, sanitation, and protection of the Canal to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority; and

(3) The Thomson-Urrutia Treaty of April 6, 1914, proclaimed March 30, 1922 between the Republic of Colombia and the United States, under which the Republic of Colombia recognized that the title to the Canal and the Panama Railroad is vested "entirely and absolutely" in the United States which treaty granted important rights in the use of the Canal and Railroad to Colombia; and

Whereas the United States, in addition to having so acquired title to and ownership of the Canal Zone, purchased all privately owned land and property in the Zone, from individual owners, making the Zone the most costly United States territorial possession; and

Whereas the United States since 1903 has continuously occupied and exercised sovereign control over the Zone, constructed the Canal, and, since 1914, for a period of 60 years, operated the Canal in a highly efficient manner without interruption, under the terms of the above mentioned treaties thereby honoring their obligations, at reasonable toll rates to the ships of all nations without discrimination; and

Whereas from 1904 through June 30, 1971, the United States made a total investment in the Canal, including defense, at a cost to the taxpayers of the United States of over $5,695,745,000; and

Whereas Panama has, under the terms of the 1903 treaty and the 1936 and 1955 revisions thereof, been adequately compensated for the rights it granted to the United States, in such significantly beneficial manner that said compensation and correlated benefits has constituted the major portion of the economy of Panama giving it the highest per capita income in all of Central America; and

Whereas the Canal is of vital and imperative importance to Hemispheric defense and to the security of the United States and Panama; and

Whereas approximately 70 percent of Canal traffic either originates or terminates in United States ports, making the continued operation of the Canal by the United States vital to its economy; and

Whereas the present negotiations, and a recently disclosed statement of "principles of agreement" by our treaty negotiator, Ambassador Ellsworth Bunker, and Panamanian Foreign Minister Juan Tack, Panama treaty negotiator constitute a clear and present danger to Hemispheric security and the successful operation of the Canal by the United States under its treaty obligations; and

Whereas the present treaty negotiations are being conducted by our diplomatic representatives under a cloak of unwarranted secrecy, thus withholding from our people and their representatives in Congress information vital to the security of the United States and its legitimate economic development; and

Whereas the United States House of Representatives, on February 2, 1960, adopted House Concurrent Resolution 459, 86th Congress, reaffirming the sovereignty of the United States over the Zone territory by the overwhelming vote of 382 to 12, thus demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty and jurisdiction over the Canal and the Zone; and

Whereas under Article IV, Section 3, Clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives. Now, therefore be it

Resolved, That it is the sense of the House of Representatives that:

(1) the government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal and Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere; and

(2) That there be no relinquishment or surrender of any presently vested United States sovereign right, power or authority or property, tangible or intangible, except by treaty authorized by the Congress and duly ratified by the United States; and

(3) That there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate), as provided in Article IV, Section 3, Clause 2 of the United States Constitution.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. Mr. Speaker, I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I want to compliment the gentleman on bringing this to the attention of the House, particularly today, when the situation in Panama is as it is.

Speaking to the issue of instability of the Panamanian Government generally, my research indicates that since 1904 there have been 59 changes of government. Only four Presidents since 1904 have served their full 4-year term. By comparison, we in the United States have had 12 Presidents in the same period of time.

Mr. MURPHY of New York. Mr. Speaker, the gentleman's facts are correct.

Mr. SNYDER. Will the gentleman yield further?

Mr. MURPHY of New York. I am happy to yield.

Mr. SNYDER. I want again to say, as I said earlier, I think the gentleman in the well is certainly to be commended for speaking out today. I think that everything he has said in his prepared statement is so accurate and so true.

The necessity of our retaining the

Panama Canal both from the military and economic standpoints just cannot be questioned. I have grave and serious doubts the integrity of that canal can be maintained and that it can be operated, period, as it were, under the control of the Panamanians.

The gentleman, of course, has much more experience and expertise, having served as chairman of the subcommittee for some time. I was thinking as he was speaking and quoting from some statements I made in an exchange, I believe, with Congressman FLOOD after I was in Panama in August.

Torrijos, as you alluded to in your remarks, almost lost out once before when he was up in Mexico and they got him back down into the Cherokee Province, and he took the El Guardia Nacionale and marched on Panama and was successful in retaining control on that occasion.

I think they took the two generals—no, they were not generals, because there is only one general—so they took the two colonels who were attempting to pull that coup off, and put them in a couple of mail bags and sent them up to Miami. I think maybe they were pumping gas in Miami until the gas shortage, and they may be out of a job down there now.

But the question was posed to General Torrijos, as I understand it, of "Why did you just exile them? Why didn't you execute them?" And he said, "Because next time they might be successful."

Of course, I think that is the thinking of most of the folks in Panama. We have seen their government change, as we have referred to it, 59 times in the past 70 years, which shows, certainly, a definite lack of stability in the government there.

The Panama Canal is so vital, and is so important that even if we did not have sound legal basis with our treaty, that we should have such a national interest that we would not want to turn over the canal to that kind of an unstable government anyway.

Ambassador Bunker sent the preliminary letter, and outlined the basic principles that were going into the new document that is being signed in Panama today by Secretary Kissinger, and he said in his letter to me:

> If you have any comments I will be glad to have them.

I did not know much of what else to say, but I did respond, and I said:

> My only comment on it, Mr. Ambassador, is that we have a treaty, period. It is a good one, and we ought to rely upon it.

I think as I look at my mail, after the publicity that has come out about what has been going on down there, I think that short statement pretty well reflects the opinion of the American people.

I certainly would hope that the remarks made by the gentleman in the well will be read by the striped-pants people over in the State Department, and that they will get the message that they had better tread pretty carefully because, in my opinion, and I hope the gentleman in the well agree, they will have their work cut out for them when they try to get a new treaty looking toward a termination of our sovereignty—and I know they do not like that word down there—but looking toward a termination of our sovereignty down there, and giving the Canal to the Panamanian Government in the future. They surely will have their work cut out for them so far as getting such a treaty as outlined through the Congress of the United States.

So, Mr. Speaker, I commend the gentleman in the well. I believe the gentleman is rendering a great service, not only to his district as he works here in the Congress but, particularly upon this issue, to the United States, and, I presume, more than that, to the free world. My congratulations to the gentleman.

Mr. MURPHY of New York. I might say to my colleagues that the last free elections in Panama were the elections of President Arias. His regime was overthrown by the present military dictatorship, and there have been no free elections in that country since then.

In our country when a treaty is negotiated the executive branch follows a procedure for ratification of that treaty, and will do so with respect to the treaty which we are discussing. But I would like to know who ratifies the treaty in Panama if Torrijos is overthrown in 6 months. What if another regime comes in and makes further treaty demands, saying that the current treaty does not go far enough, which has been the custom in Panama over the past 50 years of treaty negotiations. How can we possibly get a mandate from the Panamanian people under the current revolutionary government? How can we possibly get a treaty that has the integrity of that country behind it?

Mr. SNYDER. Of course, I think the question implies the answer, and that is it is whoever happens to get their name written into the new constitution after the next overthrow.

As the gentleman from New York has stated, there are no free elections there so far as the head of the government is concerned, because he had the constitution written, and it does not say the head of the army shall be the head of the government, it says that Omar Torrijos shall be the head of the government. It names him.

So there are no free elections, and the will of the Panamanian Government will be the will of whomever happens to be successful in any given coup. We are going to stand, I guess as we have in the past, committed to bow somewhat to the whims of whatever general might happen to take over in a coup.

Mr. YOUNG of Georgia. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. I thank the gentleman for yielding.

Mr. Speaker, I just happened to have been down in Panama in August of 1973 myself as part of the delegation of Presbyterian preachers. There were a couple of things that I just wanted to register as additional comments.

I agree with what the gentleman says, but one of the things that I sensed was that there were also, in addition to the chaos in the general political situation, some very fine young men, one of whom was a student of Secretary of the Treasury Shultz at the University of Chicago, Mr. Nick Barletta, who is serving as Administrator of Planning and Development, whom I saw doing an outstanding job of developing a banking industry in that country, of spreading housing, and extending the food supplies in cooperation with Dr. Milton Taylor of Michigan State University. It is because of what our people are trying to do in terms of feeding the hungry and building housing that I intended to support an adequate payment to the country of Panama for the use of the land, that is, the canal. I also heard figures running as high as possibly $200 million in revenue for the canal, and that if the toll fees through the canal were regulated, or if the country of Panama were not subsidizing the markets of the world with the canal, that the additional $25, $50, or perhaps even $100 million revenue could be accrued from the canal with no cost to the Congress, but it would depend on some cooperation on our part through Ambassador Bunker and others.

One other thing is the movies that I saw of the so-called uprising in 1964 seemed to indicate to me that it was much more like a student uprising, much more akin to Kent State. I do not question the fact that there were Communists involved and that it was Communist-led. I saw in the movies and newsreel footage no evidence that it was an armed attack on the canal. In fact, it just seemed to be an attempt by a group of students to hang a Panama flag. It seemed to me that it would have been appropriate just to lower the flag and keep the American flag in place rather than to shoot down a student off of the flagpole who was unarmed.

Our record in Panama is one I should like to keep as clean as possible, and I would just like to record my comments as kind of a minority report on the special order.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Kentucky.

Mr. SNYDER. I thank the gentleman for yielding.

Would the gentleman from Georgia want to speculate on what the economy of the Republic of Panama might be if the canal were not there?

Mr. YOUNG of Georgia. Oh, no. It certainly would be nonexistent.

Mr. SNYDER. I think the gentleman from Georgia is right. I think that has to be the only observation to be reached. This country made the Republic of Panama everything that it is, and we deserve credit for that. We have done everything we have been required to do under our treaties, plus we have gone mile after mile after mile beyond that.

Mr. YOUNG of Georgia. There is no question about that.

Mr. Speaker, will the gentleman yield further?

Mr. MURPHY of New York. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. I thank the gentleman for yielding. I remember the cost that we are now paying for even the rental of the land in the zone is certainly a very minimal amount, and I think it is somewhere around $2 million; is that correct?

Mr. MURPHY of New York. We do not rent any of the land in the zone. We bought and purchased every square foot of that property from the original property owners, not once but twice. We first paid a $10 million lump sum for the entire canal zone. We then paid for it again by purchasing the individual tracts from their owners. Our hearings are replete and include every single parcel of land bought and purchased with appropriated funds from the U.S. Congress. It is the most expensive land purchase ever made by the United States. Panama is paid an additional $1.9 million simply for the use of the canal.

It is really a token payment. We put over $180 million in AID into Panama as a country last year for the purpose of building roads and fostering their schools and assisting their economy. Panama gets more U.S. aid per capita than any other nation in the world. I am sure the gentleman has seen the increases in housing. Of course, I alluded to the question of the banking industry. Panama has become a major banking center, of course, because of the particular banking law that makes it advantageous for bankers to operate in that country.

We have said for so many years that Panama does have a "canal mentality," that Panama should work to develop its own resources and to develop particularly its agricultural industry, the way its neighboring countries have developed their agricultural industries. Nicaragua will export over $400 million in agricultural products just next year.

This is the type of leadership the United States has been expecting to get from Panama. Over the past decade we have economically turned completely from the people who run and manage the zone, to move every economic area into the economy of Panama. We have closed the dairy so we would be buying milk from Panama. The Panamanian contractors are being used. We started in 1960 our attempt to scale the payment of Panamanian workers up to the American workers so as to bring them up to parity.

We do know it is a technical problem. The United States is not opposed and I personally am not opposed and members of the committee were not opposed to releasing certain lands that were not necessary for defense or operation of that canal. We were ready to do it in 1967. The offer of France Field, which is a very large piece of real estate, was refused by the Panamanian Government because they wanted all or nothing, and that was their attitude at the time.

Mr. YOUNG of Georgia. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Georgia.

Mr. YOUNG of Georgia. Mr. Speaker, in my week there talking with people from the far left and the far right I heard nobody say they wanted the United States to get out of Panama. All I did hear, largely from students, was the talk that the only resource Panama had was the canal and its geography and that in an attempt to develop the rest of the country they thought it was necessary for them to receive more than $2 million or $1.9 million for the use of the canal.

I got the impression that our Government was talking in terms of a possible $30 million payment which could be financed through increased canal revenues, and I just want to be on record as saying I think that might be a good idea.

Mr. MURPHY of New York. The gentleman is probably helping the negotiations right now.

I might say to my colleagues that Ambassador Scali of the United Nations was placed in the most embarrassing position in which any diplomat of the United States has ever been placed.

The Security Council went to Panama late last year and the Panamanians made the issue the U.S. sovereignty in the canal. The United States had tried to get a resolution of that matter that was agreeable to Panama and to the United States and the other country users involved. The agreement had been reached. Then the final session was arranged in Panama to sign a resolution that would be agreed on, that expressed the interest of the United States and the maritime nations of the world.

Two hours before that meeting the Panamanian diplomats turned around and they rewrote the resolution with such language that the United States could never agree to it.

Then, Colonel Noriega, the head of El Guardia Nacionale intelligence unit, sent a message to Ambassador John Scali that if he was going to veto that resolution he had better do it from Tocumen Airport and get out of the country.

Naturally, Mr. Scali being a very, very staunch American, disregarded that blatant threat. He vetoed that resolution, as he had to veto it and he did it on the floor of that Convention. Of course, that is the mentality of the Government we are dealing with. And it was only 3 months ago that this incident took place.

We go now to Panama, and I want to congratulate my colleague, Mr. Snyder, for not wanting to be a part of the team that is going to arrange a giveaway of America's canal responsibility and America's right to defend that canal and thereby defend America's interest in this hemisphere.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM HON. LEONOR K. SULLIVAN, CHAIRMAN OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., January 30, 1974.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to Public Law 301 of the 78th Congress, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Merchant Marine Academy for the year 1974.

The Honorable Thomas N. Downing of Virginia.

The Honorable Bob Eckhardt of Texas.

The Honorable Charles A. Mosher of Ohio.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

Sincerely,
LEONOR K. (Mrs. John B.) SULLIVAN,
Chairman.

COMMUNICATION FROM HON. LEONOR K. SULLIVAN, CHAIRMAN OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES

The SPEAKER laid before the House the following communication from the chairman of the Committee on Merchant Marine and Fisheries:

COMMITTEE ON
MERCHANT MARINE AND FISHERIES,
Washington, D.C., January 30, 1974.

Hon. CARL ALBERT,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to section 194 of title 14 of the United States Code, I have appointed the following Members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the United States Coast Guard Academy for the year 1974.

The Honorable John M. Murphy of New York.

The Honorable Eligio de la Garza of Texas.

The Honorable William S. Cohen of Maine.

As Chairman of the Committee on Merchant Marine and Fisheries, I am authorized to serve as an ex officio member of the Board.

Sincerely,
LEONOR K. (Mrs. John B.) SULLIVAN,
Chairman.

The SPEAKER pro tempore. The Clerk will notify the Senate.

ON INTRODUCTION OF A BILL TO PROHIBIT THE PRIVATE POSSESSION OF HANDGUNS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, the matter of guns in America has disturbed me since before I entered Congress. For the last 8 months, I have been inserting newspaper accounts into the CONGRESSIONAL RECORD which describe deaths attributable to firearms. My intent has been to document the slaughter which stems from having guns, especially handguns, around as much as we Americans do—not only in the possession of criminals, but all of us.

The President's Commission on the Causes and Prevention of Violence—the Eisenhower Commission—has estimated that there are probably as many as 210 million firearms in the United States today. Included among these are 25 to 40 million handguns, while an additional 2.5 million handguns are sold every year. From the size of this arsenal, I can only conclude that in our domestic affairs, as in our international relations, we Americans have become part of an arms race whose goal is genuine security, but whose actual result is a spiral of growing insecurity and mutual destructiveness. In order to reverse this spiral, I propose, in effect, that we ratify a disarmament pact among ourselves.

Today I am therefore submitting a bill to prohibit the possession of handguns by the general public. I realize this approach puts me at odds not only with the so-called gun lobby but with many of my colleagues who have sponsored bills to ban the "Saturday night special" pistol or institute other kinds of limited measures to deal with the gun problem. But I have come to realize that we can save thousands of lives if we prohibit possession of all handguns, except for military personnel, the police, approved security guards, licensed pistol clubs, and collectors of inoperable antiques. My bill would not affect long guns in any way, and would create a 6-month "amnesty" period in which handgun owners could turn their firearms in to a law enforcement agency and receive the fair market value of the pistol.

I realize the arguments and counterarguments swirling around the gun issue make the extraction of dependable conclusions rather difficult. To me, however, the case for banning private possession of handguns rests on the following points:

It is more precise to say that we, as a nation, have a handgun problem, rather than a problem with guns in general. The FBI reports that of the 18,520 murders in the United States in 1972, fully 54 percent were accomplished by handguns, compared to 12 percent by long guns, and 34 percent by all other means combined. Of the 721 law-enforcement officers killed between 1962 and 1971, 73 percent were killed by handguns, 22.2 percent by other firearms, and only 4.4 percent by all other means.

As to the blame for this country's mayhem by firearms, we cannot look primarily to the typical "criminal." The FBI tells us that an unbelievable 31 percent of all murders in 1972 occurred within families, or between estranged lovers. Another 41 percent grew out of disputes and arguments, presumably, in many cases, between people who knew each other.

About 27 percent of the murders in 1972 resulted from violent confrontations with criminals—in robberies, sex assaults, and other felonies. The greatest single fallacy in the notion that we should keep our handguns under the pillow, on the shelf, and otherwise at the ready, rests in the refrain, "If guns are outlawed, only outlaws will have guns." Crime does pose a considerable threat to our welfare and our lives, but the fact remains that 73 percent of America's murders are not the work of "outlaws."

"Only outlaws will have guns." The idea implies two additional conclusions—that criminals would obtain handguns even if we could not, and that we ought, therefore, to retain them for defensive purposes.

The first of these two notions ignores the implications of our pumping those additional 2.5 million handguns into the population every year, and permitting existing ones to circulate. The result is that handguns originally residing with good owners find their way to criminals via theft, robbery, gift, or purchase, and become instruments in illegal acts.

The conviction that criminals will always find guns also ignores the apparent effect of local handgun control laws. New York and Massachusetts have the two strictest handgun control systems in the country. As a result, in New York City, 83 percent of a sample of handguns confiscated by the police were found to have been acquired outside the State. Similarly, in Massachusetts, a 10-year study by the State police traced 87 percent of the guns used in crimes in that State to purchases in other States.

The figures suggest that handgun laws in New York and Massachusetts may well have reduced the local availability of handguns, and that if handgun commerce in other States were restricted, the Nation's overall glut of pistols would diminish and produce a related diminution in handgun-related crime.

I would add that we can more effectively separate outlaws from their weapons if this bill becomes law, making possession of handguns a crime and permitting law enforcement officials to confiscate them before they are ever misused.

As for the value of handguns in self-defense, having them nearby for such purposes is understandably appealing to American citizens who live in justifiable fear of their own communities after dark. It is just that I believe we lose more lives than we save, and that owning pistols for self-defense is an investment with tragically negative returns. For example, in 1968, a staff report to the Eisenhower Commission, weighing the assertion that citizens should have access to handguns for self-protection, discovered that for every thief stopped by a homeowner with a handgun, four homeowners or their relatives were killed in handgun accidents. The Commission, in studies of Detroit and Los Angeles, concluded also that only 2 percent of home robberies result in the trespasser being shot by the homeowner.

The other major fallacy to the argument for handgun availability lurks in the words, "Guns don't kill, people do." Solutions to complex issues can never be boiled down to bumper-sticker size, and the scorn for thorough reasoning implied by epigrams like these is always a regrettable facet of public dialog. This particular aphorism ignores the critical role played by man's tools; without the concealable and portable handgun, people would not be able to kill as much—an opinion put forth within the last 7 years by a dizzying succession of experts, including the National Commission on Civil Disorders, the President's Commission on Law Enforcement and the Administration of Justice, the National Commission on the Causes and Prevention of Violence, the National Commission on the Reform of Federal Criminal Laws, the National Advisory Commission on Criminal Justice Standards and Goals, J. Edgar Hoover, Mayor Richard Daley, and the police chiefs of Detroit, New York City, and Boston, all of whom have stated that controlling or eliminating handguns would lead to a reduction in the Nation's murder rate.

I believe this would be true not only for handgun homicides, but other forms of death by pistols. Take the fact that in 1972, there were 2,900 accidental gun deaths, 10,000 gun suicides, and 200,000 accidental gun injuries. It is reasonable to assume that handguns were a considerable part of each category. Would those people who perished accidentally by handgunds have died by another weapon? Reason tells us that it is simply more difficult to kill oneself playing with a knife, and that if many of these people had not located or stumbled upon a handgun, they would not have found an alternative weapon at all. Would all those 10,000 people who committed suicide with guns—half of our country's total suicides in 1972—have done so with another weapon? I am afraid that in many cases the simple convenience of guns made possible an irrevocable expression of anguish.

"Guns don't kill, people do." Measure this idea from a different perspective: assaults with firearms are five times more likely to cause death than assaults with any other instrument. You can run from an assailant with a knife, but you cannot outdistance a bullet. If a diminished supply of handguns forces criminals to resort to other weapons, it is likely that more crimes will be thwarted, and that more crime victims will survive their experiences.

SATURDAY NIGHT SPECIALS: WRONG DIAGNOSIS, WRONG SOLUTION

I have attempted to demonstrate that regulating all guns, rather than handguns, would be an over-reaction to the firearms problem. It seems to me also that regulating only the Saturday night special—a cheap, poorly manufactured handgun which is the favorite target of legislation now before the House—represents an under-reaction to the problem.

Congress and the media have been deeply concerned with the Saturday night special, but statistics indicate that they should consider a broader range of concerns. In December, the New York Police Department and the New York Mayor's Office reported in a study entitled, "The Case for Federal Firearms Control":

> In a 15-day period beginning Saturday, June 2 [1972], seven police officers were assaulted with handguns. . . . Three of the officers were killed, all with handguns. None of the handguns has yet been identified as a 'Saturday Night Special.'"

The same study, in its chapter on "Suggested Federal Firearms Control Legislation," emphasized:

> . . . the experience in New York and elsewhere indicates that while these cheap handguns [Saturday Night Specials] are an important aspect of the handgun abuse problem faced by law-abiding citizens and police officers, eliminating them will not come close to fully eliminating the problem. Recent surveys conducted by the New York City Police Department of guns seized from arrested perpetrators determined that less than 30 percent of the firearms seized were "Saturday Night Specials." Similarly, a survey of all handguns seized in the first six months of

> 1973 in the City's highest crime precinct found that even in this poverty neighborhood, approximately half of the classifiable handguns used by alleged perpetrators were high-quality, expensive weapons.

Similar findings were reported by Mr. David Strumwasser in a staff report to Mr. Charles Morgan, Jr., director of the national legislative office of the American Civil Liberties Union. Mr. Strumwasser corresponded with the police departments of 9 large cities around the country, and discovered that .22 or .25 caliber pistols—which account for most Saturday night specials—were responsible for only 43 percent of the handgun murders in those cities. Costlier and better-crafted handguns, which would not be affected by the Saturday night special bills in the House, produced a majority of the homicides.

These numbers were cited by Mr. Morgan in a speech to the National Urban League, setting forth his personal views, in which he said that—

> All handguns, not merely the cheap ones which are essentially weapons of the poor, must be banned if we are to combat murder....

Measures geared solely to the Saturday night special, in short, will not save most of the lives snuffed out by handguns. Moreover, in some ways Saturday night special legislation might be counter-productive. Robert Sherrill, in a recent book on the gun problem in the United States, was extremely suspicious of these proposals:

> . . . as a matter of fact, there is no proof that the Special is more of a threat to society than a gun of superior quality. . . . So why pick on the Special? Apparently those who do the most aggressive picking . . . are motivated by the fact that the cheapest Saturday Night Special increasingly became, after World War II, an irritating competition to the major gun manufacturers. . . . They [the makers of the Specials] were taking trade away from the elite gun manufacturers, who, naturally, went to Congress to have the hole in their pocket sewed up.

Even from a tactical view, fighting to ban the special does not appear a promising fight for gun control advocates to make. For one thing, coming up with a definition of a "Saturday Night Special," so as to distinguish it from other handguns, has already preoccupied the executive branch for 4½ years—more time than it took for the administration to go to China, dismantle OEO, and win the greatest Presidential landslide in American history. Since July 1969, when an administration official promised a bill to regulate Saturday night specials to a congressional committee, the executive branch has joined with the National Rifle Association in offering tantalizing near-commitments and rueful announcements of delay to expectant control advocates. Meanwhile, discussion of any truly important gun control reforms has been sidetracked and shuffled into the background.

To summarize my feelings about Saturday night special bills, I would suggest that the effort to define the special, to the satisfaction of those who essentially oppose all forms of firearms controls, has been wastefully spread out over far too great a period, perhaps not without design. In the absence of any explicit approval from the White House and the NRA, it seems unlikely that any of the current special bills will move successfully through Congress.

And, as I have indicated, even if a bill were to become law, it would not affect the sources of the majority of handgun fatalities, and would merely make murder a somewhat more expensive proposition.

BANNING ALL HANDGUNS: THE DIFFICULT BUT SENSIBLE RECOURSE

When all the evidence and arguments are examined, it seems to me that legislation to prohibit private possession of all handguns is the only sensible recourse.

At the same time, I do not mean to minimize the genuine shortcomings to this approach. Fear of crime is an entirely reasonable sentiment and reciting statistics is an understandably less appealing source of security to a homeowner than the tangible, if terribly dangerous, possession of a handgun.

Fear of Government misconduct is also thoroughly comprehensible. As I wrote in the Nation:

> Recent evidence has emerged of the government's illegally wiretapping newspapermen and its own officials, misusing databank information, burglarizing private offices, and spying on dissident groups. It isn't altogether surprising that many people might hesitate to accept assurances that the federal government would never abuse its regulatory powers over firearms.

To some extent, I hope the bill itself makes certain problems unlikely. As I have mentioned, licensed pistol clubs will be allowed to continue operations, and long guns, the most important weapons for sportsmen, would not be restricted in any way.

I do not claim that this bill will end access to handguns by criminals, though it will help. For a long time to come, criminals will continue to possess handguns, despite any law—that is why the bill permits law enforcement officials and licensed security guards to use handguns as well. The crux of my support for this legislation rests in the belief that it would aid us in considerably reducing the 73 percent of this country's murders which are unrelated to the typical criminal and the typical crime.

I am under no illusions that the public and their representatives in Congress will accept these arguments immediately, and, though I submit this bill today, I do not believe that it has a realistic chance of passage this session. But there is no value in pursuing ineffective alternatives because they seem easily attainable. The present role of gun control advocates, in my view, must be to identify the options which are genuinely desirable, analyze and reject the options which are not, and strive to educate public opinion about the issues and approaches to it.

It may well be that in order to gain acceptance for the type of handgun control we need, broader social policies will have to be implemented first. I believe, for example, that gun control should be made part of a tough, effective anti-crime program for the Nation. Gun control advocates should also work to elect a President who will curb the Federal Government's increasing incursions into individual rights and liberties. And in all efforts to promote the bill, its supporters should proceed with awareness of the gun issue's complexities, and especially with respect for the concerns which motivate the grassroots opposition to gun controls of any kind.

While the effort is likely to be difficult, securing congressional approval of a bill prohibiting private handgun possession is by no means hopeless. A Gallup poll conducted in April, 1972, on the question of completely outlawing possession of handguns by the general public listed 43 percent of those polled as being favorable, 52 percent as being opposed. This means that if the question were decided today, we would lose. On the other hand, if we are accused of merely tilting at windmills, then we can reply that two out of every five Americans is willing to tilt with us, which is not a bad beginning.

I am an optimist on the issue of gun control, like Mr. Morgan. His personal opinion is that if Americans "knew that all handguns had been outlawed; that the handgun laws were strictly and speedily enforced; that after payment of just compensation therefor, handguns had been removed from American life . . .; they would be willing to lay down this weapon."

I agree and hope that submission of the bill will bring us a little closer to the time when we all will be content to undertake the laying down of weapons he describes.

SMALL BUSINESSES AND THE ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, the unemployment figures released Friday show the adverse effects the energy shortage is having on our economy. Many of these workers have been laid off jobs with the giant auto producers. While these large companies are hurt by the energy crisis, I am afraid that once again the brunt of the problem will be felt by small businesses.

I have introduced legislation to allow the Small Business Administration to make or refinance loans to companies which are "directly and seriously affected" by the fuel shortage. These loans would bear a lower rate of interest than conventional bank loans to small business and have a repayment period of up to 30 years.

Seventy-one colleagues have cosponsored this proposal which amends the Small Business Act section on natural disasters. This is appropriate. The fuel shortage could not have been predicted by the small concerns. For them it was as unexpected as a flood or an earthquake.

We cannot afford to lose any more independent, owner-operated businesses. They provide a vital element of competition in an economy dominated by large firms. They provide jobs for millions of workers. Congress must take action so that these companies can continue to provide much needed goods and services. If we can guarantee loans to giant companies like Lockheed, we must provide some assistance for small businesses.

The text of the bill follows:

H.R. 12159

A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section (7)(b)(7) of the Small Business Act is amended—

(1) by inserting "(A)" before "by the significant reduction"; and

(2) by inserting "or (B) by a shortage of energy-producing materials," before "if the Administration determines.".

I am pleased to list my colleagues who are cosponsors of this proposal:

Glenn M. Anderson, Thomas Ashley, Herman Badillo, Edward Biester, Lindy Boggs, Edward P. Boland, John Brademas, George E. Brown, Yvonne Burke, Charles J. Carney, Shirley Chisholm.

Cardiss Collins, John Conyers, James C. Corman, Paul W. Cronin, John C. Culver, John H. Dent, Wm. Jennings Bryan Dorn, Robert F. Drinan, Bob Eckhardt.

Don Edwards, Joshua Eilberg, William D. Ford, Edwin Forsythe, Donald M. Fraser, Harold Froehlich, Joseph Gaydos, Ella Grasso, Gilbert Gude, Bill Gunter.

Michael Harrington, Ken Hechler, Henry Helstoski, Elizabeth Holtzman, Richard H. Ichord, Albert Johnson, Jack F. Kemp, Peter Kyros, Robert Leggett, William Lehman.

Norman F. Lent, Romano Mazzoli, Parren Mitchell, Joe Moakley, Thomas E. Morgan, John E. Moss, Lucien N. Nedzi, Robert Nix, Wayne Owens, Claude Pepper.

Carl Perkins, Bertram Podell, John Rarick, Thomas Rees, Donald Riegle, Peter Rodino, Benjamin Rosenthal, William Roy, Edward Roybal, Leo Ryan, Ronald Sarasin.

Paul Sarbanes, Fortney (Pete) Stark, Louis Stokes, Gerry Studds, Frank Thompson, David Towell, G. William Whitehurst, Larry Winn, Lester Wolff, Antonio Won Pat, Andrew Young.

CONGRESSMAN JAMES G. O'HARA: GOOD FRIEND TO POSTSECONDARY EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, since assuming the chairmanship of the Special Subcommittee on Education a year ago, my good friend, the distinguished gentleman from Michigan, the Honorable JAMES G. O'HARA, has established a solid reputation as a thoughtful and effective friend of postsecondary education in the United States.

In his speeches and writings, Congressman O'HARA has demonstrated a firm grasp of the postsecondary education needs of the American people and of the colleges and universities and other institutions they attend.

Under Mr. O'HARA's leadership, the Special Education Subcommittee of the House Committee on Education and Labor, which he chairs, has carried out what many consider to be a model of congressional oversight hearings, especially with respect to the operation of the federally insured student loan program.

Mr. Speaker, the January 28, 1974, issue of the Chronicle of Higher Education contained a most perceptive and recent article on the subject of Mr. O'HARA's work on the Special Subcommittee. I include the article at this point in the RECORD and commend it to the attention of Members of the House:

HOUSE SUBCOMMITTEE HEAD GIVES TOP PRIORITY TO STUDENT AID

(By Cheryl M. Fields)

WASHINGTON.—Rep. James G. O'Hara of Michigan, a "big-league" liberal Democrat with powerful labor-union ties, might have been excused if he had sat back and relaxed for a while when he took over the House of Representatives' higher education subcommittee a year ago.

The House panel and its Senate counterpart had just completed two bruising years of work on a giant measure designed to expand and redirect the flow of federal aid to higher education.

If Congress and the Administration ever got around to implementing and financing all the complex provisions of the new law, the Education Amendments of 1972, it would cost the federal treasury an estimated $19-billion.

Mr. O'Hara, who had formerly headed a small subcommittee on agricultural labor, also had to fill the shoes of Rep. Edith Green (D-Ore.), a woman who had chaired the subcommittee for a decade and who had become the best-known Congressional authority and power in writing higher-education laws before she switched to the Committee on Appropriations.

Indeed, Mr. O'Hara has told audiences he spent much of his first 10 months as subcommittee chairman "beginning to learn my way around and through the secret passages, hidden trapdoors, and other Gothic trappings of the Higher Education Act and its auxiliary statutes."

NO "GRUDGES" OR "OBLIGATIONS"

When problems partially created by the bill began arising, however, Mr. O'Hara, a tall, quiet-voiced man with a friendly, down-to-earth manner, was not afraid to plunge into the tortuous requirements and controversies of his new subject—into such areas as state postsecondary education commissions and the tangle of federal student-aid programs.

"I have a great advantage coming to the subcommittee," he said. "I haven't made any allies or any enemies in the postsecondary field. I don't have any grudges to settle. I have no obligations to anyone.

"I wouldn't have that advantage if I had gotten the manpower subcommittee [of the Committee on Education and Labor], for example. I'd been working there since 1962 and there I do have old enmities. . . .

"It makes me think there may be something to proposals to limit the time served heading committees or subcommittees," said Mr. O'Hara. He has proved his interest in political reform by heading the Democratic party's Commission on Rules prior to the 1972 convention, and serving as parliamentarian at that gathering. "Not that you'd bring in someone with no knowledge, but someone who is not so tightly bound to the area."

AN AMBITIOUS APPROACH

His approach to his new post has been far more ambitious than that of just a new subcommittee chairman eager to hold a few hearings to show that he is around and willing to learn.

Mr. O'Hara's subcommittee did make one brief, and perhaps over-enthusiastic, foray into the world of amateur athletics with a round of hearings on bills designed to protect the eligibility of amateur athletes to compete in international competition. Although the subcommittee's hearings have been concluded for months, the bills approved by the panel have not yet been taken up by the parent Committee on Education and Labor, apparently due largely to strong opposition from the National Collegiate Athletic Association.

Since then, however, Mr. O'Hara has mounted detailed, dogged hearings into student-aid programs and into the Administration's refusal to allow states to establish new state planning bodies popularly known as "1202 commissions."

"He has run some of the best hearings I've been to," said one higher education lobbyist. "They're not just prattling, but have people coming up and really discussing issues."

Mr. O'Hara began a series of extensive hearings into student aid when it became apparent that new problems had arisen stemming from the changes and additions that lawmakers had made in federal programs when they passed the 1972 higher education amendments.

Many of these hearings have been lengthy and technical. The subject matter and low-key manner of both Mr. O'Hara and Rep. John Dellenback of Oregon, the ranking Republican on the subcommittee, do not provide the zingy, newsy forums that make the evening television news, or even most morning papers.

The intricacies, however, can make a great difference in which students, and how many, get federal help in paying their education expenses.

"He's a big-league guy," said one college lobbyist. "If they are complex problems, he doesn't want to try to solve them simply."

Mr. O'Hara currently is having the Government Accounting Office audit all of the Office of Education's major student-assistance programs except the new basic grants program.

Student aid, he said in an interview, is the biggest problem affecting higher education at the moment—"the way the 'bogs' [basic grants] are operating, the disappointed expectations, the difficulties with the guaranteed loan program, the desire of the Administration to phase out other programs."

ACTION ON STUDENT AID THIS SPRING

Although he will not commit himself concerning what specific changes he wants to see made in the programs, he says, "I think we ought to do something about student aid no later than this spring."

Some members of his subcommittee, however, think it might be June before the panel will be able to produce a student-aid measure and would like to see the subcommittee move in other areas besides student aid.

They do not fault Mr. O'Hara for the interest he has shown in learning his new role, however, and they indicate he has brought some fresh perspectives that are valuable.

James Harrison, staff director for Mr. O'Hara's subcommittee, says that plans to conduct some oversight hearings into the federal government's handling of affirmative action also are "on the front burner."

In a round of speeches on student aid last fall before educational groups, Mr. O'Hara joked that "as the father of seven kids—the two oldest of whom are now in college—there is always the humbling thought that my individual impact on student aid may be greater as a consumer than as a legislator."

He added, "In the last analysis, in the field of higher education as in every other field, it is precisely the inexpert value judgments of the public which will prevail, and if we are to accept the basic idea of free government, should prevail."

Perhaps because of his concern with the public pulse, Mr. O'Hara has taken his most vocal educational stand recently on controversial proposals for increases in tuition at public colleges to narrow the tuition gap between public colleges and more expensive private institutions.

Even though most of these proposals would also link the tuition increases with stepped-up student aid, he is flatly against them.

IT DOESN'T MAKE SENSE

"From the point of view of the Detroit auto worker who is making over $12,000 a year now and has to moonlight to make ends meet—from the point of view of the school teacher or the cop or the accountant or the salesman who has seen meat priced out of his lifestyle, it doesn't make sense blithely to suggest that he ought to be forced to pay more of the money he doesn't have to send his kids to college—in the name of removing financial barriers," Mr. O'Hara said.

The Congressman's view of his constituency is thought to fuel his opposition to proposals that he fears would put more financial burden on the middle class.

"His constituency is blue-collar suburbanite. Costs are a great problem for them. They're not set up so that they have a lot of savings, but they want the American dream for their children," said one observer.

Mr. O'Hara represents a large, fast-growing area northeast of Detroit. More than 98 per cent of the district's population is white. About 59 per cent of the work force of Macomb County, the largest county in his district, is estimated to be blue-collar laborers; 41 per cent, white-collar professionals.

The liberal Mr. O'Hara had a hard fight for reelection in 1972 and, despite an early reputation as a strong civil-rights advocate, became a strong supporter of antibusing legislation in 1971 and 1972.

Mr. O'Hara earned his bachelor's and law degrees from the University of Michigan. His two sons now attend public institutions in the state.

Yet, Mr. O'Hara says, "My opposition to increased tuition at public colleges by no means means I'm indifferent to the plight of the private schools.

"I just have the strongest feeling that low public tuition has helped more people obtain higher education than any possible combination of student-aid programs."

He mentioned, as a possible way of aiding private institutions, the idea of "tuition offsets," a mechanism in which many states give students attending private colleges grants equal to the amounts by which students at public colleges are subsidized. He also said the subcommittee would be looking into the institutional-aid provision that was included in the 1972 postsecondary legislation.

Mr. O'Hara said that despite unfavorable publicity for many colleges during the last five years, he thought the public would be "willing to shell out more for education," but not if people think they are not going to benefit, while someone else does.

"I remember just about seven years ago, I sat down with Lyndon Johnson, trying to explain to him after the Congressional elections of 1966 that we had to frame programs so they'd be of general benefit; we had to make everybody eligible.

"I was saying then that we'd gone the wrong way in the elementary and secondary education bill and shouldn't say just poor kids should get extra help, but that everyone who needed extra help would get it." That kind of bill is much easier to sell politically, he said.

A "TERRIBLE MISTAKE"

That is why, he indicated, the Administration's way of using the new basic grants program, which he said had been converted into a mechanism to aid only poor students, was a "terrible mistake."

The program was designed to provide up to $1,400 a year for every student, less what his family could "reasonably" contribute.

"I have a strong feeling that the Administration set unrealistic family-contribution schedules for the basic grants program to reduce the eligible population" for the grants.

"I think they have made the program subject to frustration and ridicule.

"We're setting up rivalry, animosity between the poor and those of moderate means. They should feel they are in it together."

Some critics, however, say that people like Mr. O'Hara, who keep pointing to the burden that certain programs place on the middle class, do as much to create tensions between economic groups as do the programs themselves.

Mr. O'Hara said he thought Congress had been wise to continue financing the long-established programs such as work-study, supplementary opportunity grants, and direct student loans, while the basic grants program got off the ground.

The Nixon Administration had wanted to rely only on the basic grants, guaranteed loans, and some work-study funds.

REDUCTION IN NUMBER

Mr. O'Hara is not averse to setting up a more unified federal student-aid approach, however, and said he would eventually like to reduce the number of student-aid programs.

He also appeared particularly concerned with the operation of the guaranteed loan programs, on which the government guarantees the interest on loans that banks make to students.

The rising number of student defaults in the program have been particularly heavy at some vocational schools. Mr. O'Hara said he wanted the abuses corrected, but "I don't want to throw out the proprietaries. There are a lot of good ones, and who can say that kids who want to go to that kind of school shouldn't get aid? But there has to be some way to get out the fly-by-nighters, the chiselers."

When asked for his judgment of the effectiveness of lobbyists for colleges and college associations, a sensitive topic due to Congressional criticism of the amount and kind of aid such persons gave lawmakers during negotiations on the 1972 college aid bill, Mr. O'Hara said the major associations had kept up regular contacts with him since he took over the subcommittee and had been "very cooperative."

He added, however, "It puts a great deal of stress on lobbying effectiveness when you have an omnibus bill. Every organization is bound to have mixed emotions, and it's hard to be effective."

Mr. O'Hara said, "I'm hoping we will be able to have legislation more on a program-by-program basis. Maybe we can be more thorough if we take up a subject at a time, instead of holding a whole bill hostage, although I can recognize there may be merit in that, sometimes."

He said he did not know how the subcommittee would finally decide to operate—whether it would bring out bills one at a time or finish work on some and then hold them back for inclusion in a larger bill—but he indicated he was not inclined to wait until 1975 to make changes in all the postsecondary programs that expire then.

College associations "are rapidly gaining experience" in their relations with Congress, Mr. O'Hara said. "They have people who know their way around and know how the legislative process works."

In the past, he said, colleges may have had the feeling "that if they consort too much with politicians, they may somehow get involved in politics," he said, smiling.

ON STERILIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. Collins) is recognized for 15 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, yesterday, the Department of Health, Education, and Welfare released final sterilization regulations effective February 6. The Federal Register outlines the circumstances under which Federal funds can be used for sterilization. Included in these guidelines is the sterilization of the mentally deficient and minors.

On January 23, 1974, Dr. Lewis Hellman, Deputy Assistant Secretary of Population Affairs, staff member of HEW, and staff of members of this body met to discuss sterilization. The meeting was requested by HEW after Ms. Jordan, Ms. Chisholm, Ms. Burke, and I had written two letters, one on July 10 and another on October 19, concerning the proposed guidelines that HEW had issued on July 19 and September 21. The day before the meeting was scheduled to be held the New York Times carried an article relating to the fact that Secretary Weinberger had already signed the regulations. When HEW was queried as to whether this meeting was to be simply a briefing of the proposed regulation or a session of concerned intelligent input, the Department stated that it had decided not to issue the regulations as signed by the Secretary, but would use the newly signed guidelines as a working draft only, so that HEW could receive the input from us.

The 2-hour meeting on January 23 concentrated on two major issues: First, informed consent and the rights of the mentally deficient; and second, the entire question of the rights of minors. The so-called working draft contained a provision which allowed sterilization of minors within certain limitations, but permitted sterilization without parental consent. At the end of the meeting it was agreed that the best way to proceed with future sterilization and to insure the rights of minors was to prohibit the sterilization of any person below the age of 18 with the sole exception of incidents in which sterilization is indispensable to prevent a serious threat to a patient's physical health. Dr. Hellman and others indicated that they would pass this along to Secretary Weinberger and that the Secretary was open to any and all suggestions made by us.

With the issuance of these regulations, however, it appears that the Secretary displayed his unwillingness to consider our concern in this area. Therefore, in order to avoid any further abuses such as that which the Relf sisters underwent last summer, it becomes necessary to introduce legislation prohibiting the use of Federal funds for the performance of sterilization on persons below the age of 18 except, as I pointed out a moment ago, where such a sterilization is indispensable to prevent serious threat to a patient's physical health.

The passage of this legislation, I believe, would prohibit absolutely the use of Federal funds for the performance of sterilizations where the person's physical health in not endangered. I do not see how we, as human beings, can condone or anywhere approve the sterilization of a child. It therefore becomes incumbent upon us, as the national legislative body, to work swiftly to pass this legislation. The bill is simple in its form and extremely succinct. It is my hope that the leadership of this body will take this bill under advisement and that the proper committee will act expediently to see that the legislation is not only passed by the Congress but signed into law by the President. Finally, I believe that the Department of Health, Education, and Welfare has gone beyond its authority in issuing these regulations as they concern the question of the rights of minors and I believe the only way to fully advise them of the wrong that they have committed is to introduce this legislation. In this instance, HEW is supposed to be bound in its rulemaking power by the authority granted to it under the Social Rehabilitation Service Acts in that they are to provide for the best interests of the community served. HEW has gone beyond the best interests of the community and usurped a positive legislation role assigned to the Congress by the Constitution. Not only that, but there is question of the constitutionality of the HEW provisions as they relate to due process of law and the rights of privacy. This, of course, still awaits litigation in the courts, but it should be considered in context with everything else. Further, I believe other parts of the regulation are faulty, but I see this as the most immediate problem.

REFORMED OUR CAMPAIGN FINANCING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY) is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, many bills have been introduced and hundreds of speeches have been made concerning the need for reform of our campaign financing system. Senator DICK CLARK of Iowa has introduced what I consider to be one of the best and most comprehensive plans to overhaul our present system and I am introducing it in the House today.

The ugliness of Watergate has revealed itself in the farthest reaches of our political system. As Members of the Congress we have it within our power to insure that these kinds of political maneuverings do not happen again. We must face up to the scandals uncovered by the Watergate committee and the Special Prosecutor and use this valuable lesson to prevent further abuses of our democratic process.

The bill which I am introducing today, identical to Senator CLARK's, would go a long way to restore the public faith in politics. The Senate Rules Committee, just yesterday, reported out a strong plan for public financing, and the House Subcommittee on Elections is presently working on a House version of campaign financing. I hope this means that both Houses will pass strong and comprehensive legislation this session.

The major provisions of the bill are as follows:

PROVISIONS

CANDIDATES AND ELECTIONS COVERED

President: Primary and general (incorporates Presidential check-off fund) Congress: primary and general

TYPE OF FUNDING

Automatic full funding of all qualifying major party candidates with partial funding of minor and independent candidates on basis of vote performance. Campaign bills paid by and through Federal Election Commission.

PARTY ORGANIZATIONS COVERED

National party (major and minor) automatically receives funding in presidential election year of up to 20% of amount allowed its presidential candidates. In all other years, it's up to 15% of that amount. Party may spend public funds for election activities such as voter registration, nominating conventions, get-out-the-vote drives. Bills paid directly by Federal Election Commission.

HOW ADMINISTERED

Seven member Federal Elections Commission, appointed by President with consent of Senate to serve staggered seven year terms. Two recommended by Senate leadership, two by House. No more then four of seven of same political party. Responsible for administering, auditing, enforcing federal campaign finance program. Has full investigative, subpoena, prosecutorial powers. Commission specifically required to submit to Congress copies of all statements or responses to Executive Branch.

Executive Branch prohibited from censoring Commission comments or testimony.

Commission sets up accounting system for each qualified candidate, pays all bills directly, except for petty cash expenses of $25.00 or less.

AMOUNT OF FUNDING

President

Primary: 15¢ times VAP* in each state.

General: 20¢ times VAP in each state.

Senate

Primary: 15¢ times VAP (or $175,000 if greater).

General: 20¢ times VAP (or $250,000 if greater).

House

Primary: 25¢ times VAP (or Senate amount if state has only one Congressional district).

General: 30¢ times VAP.

HOW QUALIFY

Candidate agrees to file all necessary records and comply with audit requirements, certifying that he or she will not exceed spending and contribution limits.

President

Primary: Petition signatures of 1% of VAP in each primary state must be filled with Commission 210 days before primary, to be validated by Commission within 30 days.

General: Major party candidates automatically qualify for full funding.

Senate

Primary: Petition signatures of 1% of VAP in state must be filed with Commission 210 days before primary.

General: Major party candidates automatically qualify for full funding.

House

Primary: Petition signatures of 2% of VAP in district must be filed with Commission 210 days before primary (1% if single district state).

General: Major party candidates automatically qualify for full funding.

National party

Automatically qualifies for funding based on a percentage of the presidential candidate entitlement.

CANDIDATE SPENDING LIMIT

Same as entitlement allowed major party candidates (see "Amount of Funding"). In presidential primary, candidate can authorize his or her national committee to spend up to 10% of his or her total allowable limit in states entered, reducing own spending by that same amount. Unopposed primary candidates may spend only 20% of amount allowed opposed candidate.

LIMITS ON INDIVIDUAL PRIVATE CONTRIBUTIONS

No private contributions can be given to or accepted by major party candidates or major parties in primary or general elections. (Exception for $100 maximum contributions allowed in petition gathering, all contributions to be refunded later from primary entitlement.) Limit of $100 on contribution to minor party, independent candidates may accept private contributions up to overall spending limit.

LIMITS ON CONTRIBUTIONS BY POLITICAL COMMITTEE TO CANDIDATE

No contributions allowed to major party candidates to major party. $100 limit on contributions to minor, independent candidates.

TREATMENT OF MINOR AND NEW PARTIES/CANDIDATES

Entitled to a fraction of major party funding based on ratio of minor/new party candidate votes received to average votes received by major party candidate. May raise proportionately more in private funds up to spending limit.

Can receive additional funding—up to total funding—after election on basis of performance.

SPECIAL RESTRICTIONS

Major party candidate must repay full entitlement if he or she receives less than 15% of votes in primary or 25% in general election.

Candidates may withdraw under certain conditions, repaying half of entitlement received.

Post election audit can require repayment of excess funds received by candidate.

Minor party candidate or his or her family can spend $1,000 on primary or general election (treated separately); major party candidate or family can spend $1,000 in connection with petition drive.

All private contributions to minor, independent candidates must be sent to Election Commission, fully identified.

Full reporting of petition drive contributions.

Spending limits for petition drives:

House: 2¢ times VAP.

Senate: 1¢ times VAP or $7,500, whichever is more.

Limit of $100 on individual's contribution to petition drive.

TAX INCENTIVES FOR SMALL CONTRIBUTIONS

Increase tax credit to 100% of contribution up to $100 ($200 on joint return). Provides automatic income tax payment to Election Fund of $2, unless taxpayer specifically designates "no".

OTHER PROVISIONS

Repeals Sec. 315 "equal time" requirements of Communications Act for all federal candidates.

Banks use of frank for mass mailings 90 days before any federal election.

Directs Postal Service to establish special rates for all federal candidates

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*VAP—voting age population.

PENALTIES

Up to $50,000/five years.

Civil penalty: Up to $10,000 per day per violation.

Estimated annual cost: $225 million (assumes three candidates in each party primary for every Federal office).

Effective Date: January 1, 1975.

CENTRAL UTAH RECLAMATION PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. OWENS) is recognized for 10 minutes.

Mr. OWENS. Mr. Speaker, last month four national environmental organizations filed suit in U.S. District Court for Utah in an effort to block further work on the central Utah project. The suit contends that Interior Department officials have failed to comply with the National Environmental Policy Act. Plaintiffs allege that the environmental impact statement on the Bonneville Unit of the project is inadequate under the law.

The suit asks the court, among other things, to declare unlawful the continuation of construction until defendants comply with the National Environmental Policy Act. The central Utah project has already been delayed a year and a half while an environmental impact statement was written on its Bonneville unit.

The entire Utah congressional delegation has expressed its support for the central Utah project and its opposition to any delays. The four groups who filed the suit are based in other States—California, Michigan, and New York. As a resident and representative of Utah, I am deeply concerned about our scarce water supplies, and I recognize the area's need for water development.

This suit has already delayed construction on critical areas of this massive water project. To speed resumption of construction, I am introducing a bill which provides for this case to receive top priority on the court calendar. The hearings and court proceedings will be expedited and will take precedence over all other matters pending on the docket of the district court. Passage of this bill is required to minimize the delay in providing citizens of Utah the water resources they need from the central Utah project.

The text of the bill follows:

H.R. 12745

A bill to expedite certain judicial proceedings relating to the Central Utah reclamation project

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, any civil action or other judicial proceeding involving compliance with the National Environmental Policy Act of 1969 which affects the construction or operation of the Central Utah reclamation project authorized by the first section of the Act of April 11, 1956 (70 Stat. 105) (authorizing the Secretary of the Interior to construct and operate the Colorado River storage project) to which any department, agency, or instrumentality of the United States, or any officer or employee of the United States, is a party, shall be brought and heard only in accordance with the provisions of this Act. Such an action or proceeding shall be brought in the Central Division of the United States District Court for the district of Utah, and shall be heard by a single judge court. Notwithstanding any other provision of law, any such action or proceeding shall be assigned for hearing at the earliest practicable date, shall take precedence over all other matters pending on the docket of such district court at that time, and shall be expedited in every way. Any review of an interlocutory or final judgment, decree, or order of such court by any party to such action or proceeding shall be had only upon direct appeal to the Supreme Court of the United States. Notwithstanding any other provision of law, the Supreme Court shall assign such an appeal for hearing at the earliest practicable date and such appeal shall be expedited in every way.

SEC. 2. This Act shall apply with respect to any action or proceeding specified in the first section of this Act regardless of the date upon which such action or proceeding was filed. Any such action or proceeding pending before any United States district court other than the Central Division of the United States District Court for the district of Utah on the date of enactment of this Act shall be transferred to such court without prejudice to any of the parties to such action or proceeding.

A NATION IN TRIBUTE TO DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 10 minutes.

Mr. STOKES. Mr. Speaker, I am pleased to report that the largest and most significant celebrations ever of the birthday of the late Dr. Martin Luther King, Jr., were held across the Nation January 15.

This is the sixth straight year in which millions of people from all walks of life observed "Martin Luther King Day" in tribute to the life and work of the slain human rights leader.

No other holiday is quite like it. While legislation is pending in Congress to proclaim each January 15 a national legal holiday, masses of people everywhere already personally declare the date to be their own to honor one of history's greatest leaders. The result has been, in each year since Dr. King's assassination on April 4, 1968, an increasingly massive outpouring of activities and observances, all dedicated to the continuation and strengthening of his nonviolent movement and teachings.

"This is the marvelous way in which people say they will keep alive my husband's work and legacy," says his widow, Mrs. Coretta Scott King. "By participating in this nonviolent movement for racial justice and peace, all people of good will on January 15 are celebrating a birthday, a holiday, and a movement day."

Mrs. King is president of the Martin Luther King, Jr. Center for Social Change, the organization which once again coordinated the nationwide observances.

NATIONAL FOCUS: ATLANTA

As in past years, national attention this month centered on events in Dr. King's home city of Atlanta.

On Monday night, January 14—the eve of his 45th birthday anniversary—celebrations began with the Third Annual Martin Luther King, Jr. Birthday Benefit Concert. This year's concert was sponsored by Columbia Records and the CBS Records group and featured recording stars Sly and Family Stone, Ramsey Lewis, Maxine Weston, and Albert King. Television star Don Cornelius, host of "Soul Train," was master of ceremonies. The concert was held at the Omni, Atlanta's renowned sports and entertainment facility, and produced by Junius Griffin Associates.

Proceeds from the benefit concert were earmarked for programs and operations of the Martin Luther King, Jr. Center for Social Change.

Mr. Speaker, recording artists supported the civil rights movement from the very beginning, and this benefit concert was in keeping with that tradition.

Mrs. King praised the sponsors for providing "an excellent example of corporate social responsibility." She especially commended Logan Westbrooks, director of special markets for Columbia Records, for his tireless work on the project; and Goddard Lieberson, president of CBS Records Group, and Irwin Segelstein, president of Columbia Records.

Presentations during the benefit concert were highlighted by the award of the second Martin Luther King, Jr. Nonviolent Peace Prize to Cesar Chavez, leader of the United Farm Workers of America (AFL–CIO). The prize, presented to Mr. Chavez by Mrs. King, is the highest award conferred by the King Center. The first winner of the prize was our colleague, Congressman ANDREW YOUNG, who received it in 1973.

ECUMENICAL SERVICE, MARCH, AND RALLY

Observances in Atlanta on Tuesday, January 15, began with the traditional wreath-laying ceremony at Dr. King's crypt, followed by an ecumenical service at Ebenezer Baptist Church where he served as copastor with his father. The service included musical selections; an address by Rev. Calvin S. Morris, executive director of the King Center; other tributes to Dr. King; and a response for the family by his daughter, Ms. Yolanda Denise King.

After the service, a celebration march of thousands proceeded from the church to downtown Atlanta and the Municipal Auditorium for a mass community rally sponsored by the King Center. A cross-section of dozens of Atlanta community organizations participated in the march and rally. Presentations included special community service awards to local leaders, and announcements of winners of student poster and oratory contests on Dr. King.

Theme of the 2-day program in Atlanta was "Keep the Dream Alive: Do Something New—Make Nonviolence a Part of You."

A NATION IN TRIBUTE

Across America January 15, people and their communities observed the birthday anniversary in many ways.

In Los Angeles, performing artists staged a special dinner-show for the benefit of the King Center. The show was taped and broadcast this week by ABC television. Those appearing on the Los Angeles benefit included Mayor Thomas Bradley, Congresswoman YVONNE BRAITHWAITE BURKE, many community leaders, and artists Gail Fisher, the Four Tops, Isaac Hayes, Paula Kelly, Greg Morris, Richard Pryor, Della Reese, Raymond St. Jacques, Sly and the Family Stone, Lily Tomlin, and Bill Dee Williams.

On the same night in Seattle, the National Basketball Association held a special observance in honor of Dr. King during its annual all-star game, attended by Martin Luther King III and Dexter Scott King.

Each year, additional States, cities, and towns join those which have already made the day an official holiday. Thousands of school systems, businesses, and labor union members recognize Martin Luther King Day by closing; thousands more hold commemorative observances. Churches, temples, cathedrals—which are more than symbolic in a movement which is essentially moral—have special services in virtually every State and city. Many local community and civil rights organizations engage in social action in the tradition of Dr. King, such as voter registration, housing programs, economic development, and nonviolent action campaigns. The mass media contribute to the holiday with editorials, radio announcements encouraging people to drive with their car lights turned on all day January 15, and articles and other documentary presentations on the movement.

One of the most popular and important activities during the January birthday period is the showing of the Center-sponsored documentary "King: A Filmed Record . . . Montgomery to Memphis." Hundreds of schools, community organizations, churches, and television stations have shown this authentic account of Dr. King's life and the movement he led.

HOUSE COALITION ON ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. CULVER) is recognized for 30 minutes.

Mr. CULVER. Mr. Speaker, like most of my colleagues I have returned from my home with the multiple effects and uncertainties of the energy shortage ringing in my ears. Our constituents are alarmed, suspicious, and often downright angry about the trick they feel has been pulled on them by an untended economy. They want to know who is responsible for their predicament but even more they want to know who will be responsible for moving us out of it. It is evident to me that the responsibility for aggressive and responsible forward motion must be seized by us in the Congress. I have asked for this special order to set forth my own proposed blueprint for constructive action.

Many of us of course have already made proposals and sponsored legislation in the energy field, and there is a real sense of momentum in the Congress on this question. What is needed in my judgment is to move beyond ad hoc reactions to an overall program that fits together, that makes sense, and that bids fair to produce both short term and longer range solutions.

A program of this sort necessarily calls upon the resources of several different committees of the Congress, since we now have no one committee with comprehensive responsibility for energy matters. I am hopeful that eventually this diffusion of authority will be changed, in response for example to the recommendations of the Committee on Committees on which I serve. But the urgencies of the moment will not allow us to await that day. I am therefore providing special copies of my proposals to the chairman and ranking minority member of each of the relevant committees for their consideration, and intend to follow up with each of them as appropriate occasions present themselves. I am also proposing to the leadership that it take action to form a working coalition on the energy crisis, composed of ranking majority and minority members of each of these committees, to coordinate energy legislation in this all-important session of the Congress. Questions of partisanship and of committee jurisdiction cannot be allowed to dilute or delay our response as an institution of government to the felt necessities of the Nation. I insert a copy of my letter to the majority and minority leader to be printed in the RECORD at the close of my remarks.

Mr. Speaker, in my judgment, an overall congressional energy program must move simultaneously on five interrelated fronts. These are: First, energy information; second, energy competition; third, equitable burden sharing; fourth, expansion and conservation of energy resources; and fifth, international cooperation. Within each of these fields there is likely to be a fair diversity of opinion about how far and how fast we should move. I have tried in all cases to tailor my own recommendations so that they can fairly commend themselves to all shades of opinion while accomplishing at least the minimum required to meet clearly identifiable national needs.

I. ENERGY INFORMATION

It is by now an accepted truism that Government energy policy is operating in the dark. Neither its administrators nor the public have any reliable data base on which to formulate responsible or responsive programs. This lends itself to crisis manipulation or—what is just as crippling—strong public suspicion of manipulation for private or political ends. Public confidence, which is indispensable to effective national action, is seriously eroded by this state of affairs. We all recognize by now that the Government must free itself from its present near-total dependence on the industry for essential energy information.

To meet immediate needs, the Government Operations Committee on which I serve has overwhelmingly approved an amendment I sponsored to the pending Federal Energy Administration Act. This legislation has the support of both parties and of the administration experts, and will I trust be enacted into law in the near future. It will oblige the FEA to collect, analyze, and verify its own information in comprehensive and detailed categories covering the entire spectrum of energy supply and major energy consumption. Reserves, production, pipelines, refineries, costs, prices, and competitive behavior are all illustrations of the kinds of activity that will be made subject to full information disclosures. The Administrator will have authority to request information under oath, to issue and enforce subpoenas, and to conduct physical and documentary inspection through investigators armed with administrative inspection warrants—a procedure that the Justice Department has advised is fully enforceable in the courts. Proprietary data recognized as such in existing law will be entitled to confidential treatment, but will still have to be provided to and made subject to verification by the FEA. The public will have access to the fruits of all this information collection, through: first, the Freedom of Information Act; second, monitoring of the FEA by the General Accounting Office; third, congressional committee hearings; and fourth, a full public report by the Administrator at the scheduled expiration of the act.

Of course this is emergency legislation that may or may not prove temporary in duration. Others in the Congress are turning their attention to longer-range information provisions, which certainly merit full consideration. They might provide for an independent agency to conduct the necessary functions, and they might well narrow the scope of confidentiality accorded to individual company information. These are matters for debate and considered judgment. In the meantime, the FEA provisions will give us a necessary start on the problem, and will establish the indispensable principle of accountability by the industry to the public it serves. If successor legislation is later adopted, the pertinent provisions of the FEA Act can be readily folded into it.

II. ENERGY COMPETITION

There is widespread acknowledgement that the structure of the energy industry is anticompetitive. Let me make clear that I am not talking here about secret meetings or collusive arrangements among the major companies that dominate the industry—I am talking about the fact of their dominance itself. We have no evidence of any conscious conspiracy among these companies, but we do have clear evidence that they control enormous monopoly power. And it is this power, aided and abetted by entrenched governmental policies, that breeds such strong and pervasive public suspicion of a conspiracy against the public interest.

I believe that we in the Congress must beware of temptations to demagoguery created by this climate of suspicion. There are huge capital requirements for energy exploration and development which lend themselves to the formation of giant companies. Adequate profits are a prerequisite to continuation of the necessary levels of endeavor. And as previously indicated, there is no present evidence of any conscious conspiracy among the major companies. We must be careful not to lash out indiscriminately in a way that might threaten to reduce the availability of energy supplies over time.

Yet the degree of industry domination by the major companies is by any measure excessive. The top 20 oil companies today control roughly 90 percent of all four sectors of the domestic industry: Crude production—94 percent of proven petroleum reserves; pipeline transportation—no exact figures available; refining—86 percent; and marketing—79 percent of the gasoline market in 1970, undoubtedly more today. These same companies are also major factors in production of natural gas, coal, oil shale, and nuclear energy. They control the lion's share of overseas oil production, on which our economy has shown itself to be vulnerably dependent. Nobody really disputes these facts; what matters is their significance for future policy.

If the major companies had achieved their domination solely through skill, foresight, and industry, we might hesitate long about any steps to alter industrial structure. But that is not the case. The domestic oil depletion allowance, for example, together with the current deduction treatment for "intangible" drilling expenses, place a deliberate premium on allocating income to crude oil production. This lowers refinery margins, and operates as a government-sponsored barrier to competitive entry into refining. So also, competitive crude production is inhibited by governmental policies that, first, demand huge front-end payments for bidding on oil and gas leases; and, second, allow the major producers to control the pipelines through which crude oil flows to their refineries. Policies like these, which have not been searchingly reexamined by the Congress, contribute importantly to the structural bottlenecks that have brought about much of our current energy shortage conditions: Inadequate and poorly located refinery and transportation capacity.

Since this is so, I find myself reluctant to join in the call for simply "breaking up" the big energy companies. Like the Japanese monopolies broken up after World War II, they would simply re-form themselves if the policy environment in which they grew were not itself transformed. Conversely, the worst features of monopoly control can be more effectively addressed through selective policy alteration, without the major political and economic traumas that across-the-board divestiture would entail. And I think we must also admit that necessary refinery expansion by the larger companies themselves would be adversely affected by threatened divestiture of their refinery operations, even though any such divestiture would be many years in the future and at a compensatory price.

Yet, we must take action to promote competition within the industry, and begin to do so soon. Monopoly dominance is hurting us now, and will hurt us even more if we continue to accept it as an inevitable fact of life. We have all heard about the independent natural gas producer who recently told the Federal Trade Commision of major-company offers to purchase his reserves—not for the purpose of producing them but as an asset to keep off the market until prices rise. It is reasonable to suppose that the bulk of offshore oil leases have been similiarly underdeveloped by the major companies that own them. Senator Moss has released his documented findings that control of pipelines by the major producers has been used to keep needed products off the market with the same purpose and effect. It takes no overt collusion among the giants of the industry to see their interests this way. Only by opening a path to genuine competition by genuinely independent companies can we assure that the public interest will be fully served.

Let me pause at this point to identify and set to one side three pervasive myths that have blinkered public policy in the past. One is that the necessary capital for energy resource development can only be raised through the profits and borrowings of the major companies. That is not so. Capital flows wherever it can perceive a reasonable prospect of good return. Even now, there are oil and gas producers in this country with no standing investment whatever in labor or equipment, who identify good geological prospects and then raise the funds to hire the necessary rigs and crews by flying in to Wall Street or setting up a drilling fund of their own. The number and competitiveness of such entrepreneurs could be multiplied many times if we opened up the market to them.

For the second myth is that we now have any genuinely independent sector at all in our energy economy. Every producer, refiner, distributor or dealer in this country who is not formally affiliated with one of the major companies is nonetheless extensively dependent on the majors for access to products or markets or both. Ask any of the thousands of dealers who have been driven out of business since the gasoline excess of the major companies has dried up. Ask a producer where he gets his prospects, and who he looks to for pipelines and refineries, and ask a refiner where he obtains his crude oil; the answer will almost always be the same: The major companies. That is why we have no independent refineries built anywhere in the United States for the past 20 years, and why important markets like my own State of Iowa have not one single refinery to call their own. This is not a necessary or inevitable state of affairs, and it can be corrected.

Furthermore, it must be corrected. Secretary Kissinger has done us all a service by suggesting that the Arab oil boycott may shortly be rescinded, for this has led others to puncture the third myth of the energy crisis—namely, that it is attributable to the latest Arab-Israeli war. The truth is, as Deputy Energy Director John Sawhill has now admitted, that we would have been and will be experiencing severe energy shortages even without an Arab boycott. My own Subcommittee on Foreign Economic Policy brought this out in hearings almost 2 years ago, but our warnings at that time were downgraded by the administration. Now at last it is being admitted that inadequate and poorly located refinery and transportation capacity right here in this country will constrain product supply below demand for several years to come, and we will need to maintain stringent conservation efforts no matter what the Arabs choose to do. This is essential for us to recognize, for it pinpoints those sectors of our energy economy which simply must be opened up to competition.

At the fulcrum I would place refining. The Congress should take early action, in my judgment, to tear down the barriers to competitive entry into refining operations. This will require activity on several fronts.

First, we should revise our system of energy tax incentives so as to put more of the profit margin in refining and less in production. This means either elimination or substantial lowering of the twin tax props for crude oil profits: The domestic depletion allowance and the current deduction of so-called intangible drilling expenses. Preference should be given instead to investment in new or expanded refining capacity, perhaps through expansion of accelerated depreciation for construction in this sector. The exact mix of tax mechanisms that will retain needed production levels, while opening the door to competitive refining, is a matter for analysis and debate by the specialists in resource economics and tax accounting who are available to the Ways and Means Committee. But I am proposing this as one of the principal objectives that committee should pursue in its hearings opening this week. Nothing is more important to sound tax and economic policy in the energy field.

Independent refining cannot be established without assured access both to crude oil and to distribution outlets, free from control by the major companies. Independent producers must be allowed to compete for this purpose on an equal basis. This means that the Congress should by statute put an end to the present system of bidding for leases on the Outer Continental Shelf and other federally controlled oil and gas provinces. The huge front-end payments now exacted by the Department of the Interior effectively exclude independent producers from participating in the exploration and development of these areas from which the bulk of new domestic supplies will have to come. A system of royalty payments, structured so as to reward the producer who actively exploits his lease, should be substituted. This has been under discussion in the Government for many years, and has been resisted solely because of its short-term adverse impact on budget receipts. That consideration can no longer be allowed to prevail, if we are to establish an efficiently competitive energy industry in this country.

The Congress should also take this occasion to repeal the outmoded Connally "Hot Oil" Act and its associated Interstate Oil Compact. These measures are price-fixing schemes introduced at a time of oil glut in this country, and are wholly inappropriate to a time of oil scarcity. They are what support the system of market-demand prorationing by the producing States, whereby the major companies control the rate of allowable production by indicating how much oil they are prepared to take at prevailing prices. The most efficient wells are held back from production through this arrangement, which is a blatant violation of the antitrust policies by which our economy is supposed to be governed. Opening up market opportunities to efficient production, and assuring that they remain open, is an essential inducement to competitive production operations.

Independent producers must also be free to contract directly with independent refiners. That is not the case today, because the major producer-refiners also control the major pipelines, and they fix the terms and conditions by which crude oil is shipped to refineries. The opportunities this gives them to shut out the independents have been well documented in last year's Federal Trade Commission staff study of this subject. The Congress should respond by adopting legislation, proposed by Congressman FRASER of Minnesota, to make it unlawful for an oil pipeline company after a 3-year transition period to ship its own crude and products or those of any affiliated company. This would apply the same "commodities clause" to oil pipelines that has long applied to railroads, and which was adopted more than 60 years ago to correct comparable monopoly abuses in the Pennsylvania and West Virginia coal fields. As Congressman FRASER has put it, and I agree with him:

> The business of transportation of petroleum, like the distribution of other commodities, should be a separate business and not a means of controlling the commodity market.

Furthermore, establishing oil pipelines as an independent business should lead both to expansion and to redirection of capacity, as genuinely independent businessmen make their own calculus of market forces.

Finally, I would propose a system of government loans to independent dealer cooperatives that wish to integrate backward into refining. We cannot again allow thousands of small businessmen to be driven out of existence for want of assured access to products. The public gains from the choices provided by non-major-brand outlets, and if put on a solidly competitive footing these small businesses can in the aggregate provide a vital check on the performance of the majors. I would urge our Small Business Committee to give this proposal its early attention.

As a part of this package of energy competition measures, I personally would be willing to write in a 10-year moratorium on divestiture of major-company refineries or distribution outlets. This would not stop the FTC or the Justice Department or anyone else from pursuing an antitrust investigation, or from seeking money damages or injunctive relief against particular forms of anticompetitive behavior. But industry structure, revised in accordance with my foregoing proposals, would be allowed to continue without further change for a period of at least 10 years, during which we in the Congress and the American people could observe performance and determine what if any additional steps may be needed. A reasonable period of stability, in my judgment, is necessary to allow reform measures to take effect.

Mr. Speaker, I have devoted this much time and attention to industry competition because I believe it is at the heart of our policy response to the energy crisis. If we postulate a continued noncompetitive industry structure, then we are going to have to continue extensive Federal controls. And if we have learned anything in the past two and a half years, it is that controls at least as currently administered breed scarcities, high prices, and inequitable burden-sharing. Price ceilings have a way of becoming price floors, of eliminating the last vestiges of competition, and of producing windfall profits as well as severe economic dislocations. We must have controls in the short term, to try and cushion the shock; but for the long term the only way to overcome scarcities and high prices is to restructure the energy industry along competitive lines and then remove controls. This is a policy goal that has not been set before us by this administration, and which we in the Congress, must make our aim. For as I hope to show in the next section of my remarks, our choice of long-term policy goals has an immediate impact on our selection of even short-term remedial measures.

III. EQUITABLE BURDEN SHARING

Much of the current debate in the Congress today centers on excess profits, which is our way of recognizing that the burdens of the energy crisis have been very unequally distributed as between energy producers and consumers. In my judgment, a balanced program must strive to comfort the afflicted every bit as much as it afflicts the comfortable.

We tried to do that before the recess, through providing a means whereby consumers could recapture for themselves the excess profits of the oil companies. I accept the judgment that the mechanism we provided was administratively unworkable, and that for the short term we are better advised to aim at a price roll-back. This will not suffice for any extended period, however, because the majors are perfectly able to hold back supplies until prices are allowed to move back upwards. And so we must give consideration to broader and longer-lasting remedies.

The administration's excess profits tax proposal is not the answer. For one thing, it forgives taxes on any profits reinvested in development of additional energy sources, which will simply serve to extend monopoly domination into yet further enterprises. Already we have seen the full-page advertisements for General Atomic Company, a joint venture between Shell and Gulf. Many more such extensions of monopoly power would be stimulated by the administration's proposal.

Furthermore, this tax proposal would fix by legislation a very high price floor of $7 a barrel for crude oil. Energy Director Simon has admitted that this is indeed the administration's long-term price objective, but he has not spelled out how the figure was arrived at. This is more than twice the average Gulf Coast price prevailing until very recently, and it is being handed out to the oil companies with no meaningful discussion or debate. At the very least, we in Congress must insist on being taken in on the deliberations.

But that is not really enough. No economic calculus by Federal regulators can supplant the supply and price relationships provided by a free market. Here again, I would urge that our attention be focused on freeing up that market to genuine competition, and eventually removing the price-supporting effects of Federal controls.

For although the calculations have not been exposed to public scrutiny, the rationale for the administration's position is clear enough. Seven to eight dollars a barrel is what the major companies evidently figure will support a market for their investments in shale oil, coal gasification, and other advanced technologies. They want assurance of that price as an inducement to developing their vast holdings in these fields. This is what the so-called "windfall profits tax" of the administration really comes down to. I do not believe we in the Congress should be a party to such compacts.

The $7 price is also tied to President Nixon's "Project Independence 1980," which I firmly believe to be off course. We should certainly take prudent action to reduce our dependence on unstable foreign suppliers, but any notion that we can insulate ourselves from the world economy is just wrong. To make $7 oil stick in this country, we will have to commit ourselves to promoting an equivalent world price. Otherwise when the world price falls—and we must remember that in global terms we still have a major oversupply of oil and not a shortage at all—when that happens U.S. industries will clamor for the lower priced oil. The only way to keep up the domestic price is either first, to support an artificially high world price, which will have a very adverse effect on the economies of all other oil-importing countries and therefore ultimately on ours; or second, to go back to U.S. import restraints on foreign oil, which will put our energy-dependent industries at a severe international disadvantage. Neither course is acceptable.

I believe we must set as our firm objective the lowering of both domestic and world energy prices. The administration's tax proposal moves in the other direction and should be rejected for that reason alone.

We will not roll back energy prices in the long run unless we succeed in establishing effective competition in the industry. The industry as a whole needs sufficient profits to finance its endeavors, but the profits do not need to be concentrated as they now are in the hands of a few huge monopoly companies. I would restructure the tax system so that foreign operations pay their fair share and so that profit margins move from exclusively crude production into refining as well. I would do something genuine about the foreign tax credit disgrace, and I would lower the depletion and intangibles tax subsidies in this country. But I would also examine carefully the impact on consumer prices of all tax arrangements being considered, bearing in mind the free-market objective I believe Congress must set itself. Working all this out will take time and careful attention to detail, but it is the only way of assuring equitable burden sharing over the long run.

In the short term we need a price rollback and we also need to provide relief to our hard-hit citizens. People in retirement, the poor, and those on fixed incomes simply cannot tolerate the skyrocketing fuel prices to which they have been subjected. The price of propane alone has nearly tripled in my State of Iowa over the past year. It is not a luxury but a vital necessity, for heating and cooking, as well as farm processing, in my area. I believe we should institute in the short term a system of Federal cash grants or income tax credits, varying inversely with personal income levels, for the excess cost to our citizens of gasoline and propane and home heating oil over 1972 averages.

Energy-related unemployment, which is growing drastically, must also be a focus of our concern. If conservation is the needed ethic for many years to come, the immediate casualties of our national shift to that ethic deserve the Nation's assistance. Unemployment compensation alone is not enough for those whose jobs may never return. For these people, more extensive adjustment assistance to retrain and relocate them for new job opportunities is required. Two years ago, I developed a proposal for trade-related adjustment assistance which is now incorporated in the pending trade bill. I would suggest to my friends on the Ways and Means Committee that they give earnest attention to extending these benefits into a system of energy-related adjustment assistance. Many small businesses and communities, as well as individuals, could thus be helped to extricate themselves from the critical condition into which they have so suddenly been thrust.

These are the short-term measures that we must turn to do first. But we cannot do so in isolation, without considering the long-term implications. Again and again I emphasize my conviction that our future well-being depends upon establishing a free-market energy industry in this country, and that doing so will require affirmative action by the Congress.

IV. ENERGY EXPANSION AND CONSERVATION

There is reasonable unanimity in the Congress about the need to accelerate federally funded research and development into ways of both expanding our supplies of energy and conserving its use. Hopefully, we will be able to reconcile the House and Senate versions of this legislation in the near future. We need to emphasize to the President that this is no flim-flam game, and that a genuinely new and higher plateau of commitment is called for. As I stated in our committee report on the bill, this will require continuing and stringent congressional oversight.

The Government's proper role is to provide seed money and direction, and then to release the task of implementation to a free-market economy. There is a great deal of inventiveness and ingenuity in this country, which should not be difficult to unlock. We must avoid confining meaningful participation to the major companies alone.

Conservation needs to be stressed every bit as much as expansion of supply. We are notoriously wasteful in both our processing and end use of energy. Clearly, a new energy life-style for all Americans is essential. In this connection, I believe it is urgent for us to reverse policies, emphasize new conservation measures in housing insulation and consumer labeling, for example, and do everything in our power to provide public transportation and preserve and upgrade rail service. For hauling freight, trains are four times more efficient than trucks and sixty times more efficient than airplanes. They are as a practical matter irreplaceable for handling certain commodities such as our Iowa grain exports. They are also vital to inter-city passenger travel for many of our older citizens and for college students. Yet we have allowed trackage to deteriorate, service to atrophy, and whole rail lines to be discontinued with no serious thought to the energy conservation consequences of these actions. In Iowa and in other places, local communities are now pitching in to try and take up the slack, and I believe these efforts must be encouraged and assisted by the Federal Government. The rail reorganization plan now being unfolded by the Department of Transportation must be given careful scrutiny by the Congress with this end in view.

V. INTERNATIONAL COOPERATION

I have already stated my reasons for dissenting to President Nixon's rhetoric about "Project Independence 1980." Our majority whip, Mr. McFALL, put it much more reasonably in his energy address on behalf of the Congress when he called for "reducing our dependence upon foreign countries." In the short term, of course, we will be more rather than less dependent upon imports. Mr. Simon has testified on the Senate side that:

> Over the next three to five years, U.S. oil demand can only be met by expanding Arab oil imports.

And even in the longer term, as Mr. Simon also testified, we must endeavor to build a stable relationship with Arab and other foreign oil producers.

The fact is that the world's energy economy is inescapably interdependent. Huge Middle East reserves are sufficient even without further exploration to sustain world demand for a period of 15 years, and at a production cost of between 10 and 20 cents a barrel. The questions of world price and supply and other conditions of trade will not go away just because the United States turns its back on them. We must confront these questions and do so in a constructive fashion.

At the root of the present international disruption is the lack of intergovernmental machinery to address the vital questions. We in the United States have too long abdicated the responsibility for oil diplomacy to the major oil companies. Several months ago, I called upon the President to appoint a high-level official to take on this responsibility. Now at last Secretary Kissinger has moved into the breach. I am hopeful that his initiative in establishing a two-stage conference process will prove fruitful. My own Subcommittee on Foreign Economic Policy will continue to monitor developments as it has over the past 3 years.

One of the leading questions that the Government must address is the fair division of governmental revenues. The European countries levy very high excise taxes on petroleum products, and the Middle East countries have with some reason argued that their own tax and royalty income should be comparable. At the other extreme, the United States has conferred enormous revenue benefits on the producing countries, through the palpably fictitious device of letting the oil companies credit all their royalty payments against U.S. tax. This has amounted to foreign aid without any congressional approval, and has undoubtedly contributed to the freedom with which Middle East oil prices have been raised. I believe the time has come for Congress to put an end to this damaging charade. But we should do so in harness with the Secretary of State, to encourage and assist him in negotiating some reasonable agreement on a fair international division of revenues.

This is the way to restore stability and assume public control over matters of vital public interest. The days of antitrust immunity for the major companies must be brought to a close. Information must be gathered by the government and its authenticity verified. Negotiations must be carried out between governments to set up a framework for international terms of trade. And the marketplace, to which we must all look for ultimate security, must be freed to operate with maximum competitive efficiency.

FEBRUARY 7, 1974.

The Honorable THOMAS P. O'NEILL,
Majority Leader, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. O'NEILL: All of us share our constituents' concern about the energy crisis and its serious effects on their private lives. We in the Congress are being looked to for leadership, and I believe we must take extaordinary actions to fulfill that responsibility. It is for this purpose that I am writing you to propose creation of a bipartisan Working Coalition on the Energy Crisis.

This would not require any formal restructuring of committee jurisdictions. As you know, ten of us have been actively at work for some time in the Select Committee on Committees to update and hopefully rationalize our committee structure, so that major problem areas like energy can be dealt with in a more comprehensive fashion. It will take further time, however, for the

House to complete this work and adopt the necessary revisions to its rules. In the meantime, there is an immediate need for greater coordination of effort among the many committees now charged with responsibility for dealing with various portions of the energy crisis.

In part the need relates to avoidance of duplication and delay, but in very large part it is also a matter of developing a reasonably consistent overall program into which all parts of the legislative package can be made to fit with some degree of harmony. I have myself made a conscientious effort to develop such a program, which you can find set forth in the attached copy of my remarks for delivery on the floor. What struck me most as I worked at this was the extent to which action taken in any one area depends for its effectiveness on actions taken in all the others. The Administration has at last unified its proposals under one roof, and I believe that we must similarly unify our capacity for systematic appraisal and response.

What I have in mind is a schedule of periodic meetings between the chairmen and the ranking minority members of each of the relevant committees, meeting under your co-chairmanship. No binding decisions would be looked for from these meetings, but they would provide an occasion to exchange information, coordinate timetables, and move towards reconciliation of major points of view. I am in any case sending copies of my remarks and of this letter to the ranking members who would form the nucleus of the Working Coalition I am proposing.

I would be happy to meet with either or with both of you to pursue this suggestion further.

Sincerely,

John C. Culver,
Member of Congress.

February 7, 1974.

The Hon. John Rhodes,
Minority Leader, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Mr. Rhodes: All of us share our constituents' concern about the energy crisis and its serious effects on their private lives. We in the Congress are being looked to for leadership, and I believe we must take extraordinary actions to fulfill that responsibility. It is for this purpose that I am writing you to propose creation of a bipartisan Working Coalition on the Energy Crisis.

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Sincerely,

John C. Culver,
Member of Congress.

REMOVING INCENTIVE FOR FOREIGN OIL EXPLORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. Tiernan) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, the percentage depletion allowance for oil and gas production was created to encourage exploration for these vital materials. The application of this allowance to foreign operations costs the taxpayers of this country millions of dollars and forces them to pay higher individual income taxes while allowing large oil companies to escape taxes. It has become apparent in the past year that it is not desirable to encourage foreign oil exploration. Our foreign interests have been nationalized, the price of foreign oil has risen to unreasonable levels, foreign oil now costs the U.S. consumer more than domestic oil, and the American consumer has been forced to make many sacrifices while he has been denied the foreign oil. The time has come to remove the incentive for foreign oil exploration until we have achieved a greater degree of energy self-sufficiency. Today I am introducing a measure which would end the 22-percent depletion allowance for foreign oil.

Additionally we know that the oil companies have for many years been able to deduct from the income tax attributable to foreign operations the income taxes paid to foreign nations. The oil companies have cleverly engineered a situation where the royalty payments paid to foreign countries have been termed an "income tax." The time has come for an end to this game of semantics that is costing the American taxpayers billions of dollars. The bill I have introduced today will have this effect. The "income taxes" paid to foreign countries which are based on the amount of oil that they pump out of the ground will no longer be allowed as a credit against income taxes due the Federal Government.

SKYLAB 4—OUTSTANDING SUCCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Fuqua) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, tomorrow we anticipate the return of three outstanding astronauts—William R. Pogue, Edward G. Gibson, and Gerald P. Carr—who will have completed the longest single mission in space. This mission will complete the three-mission schedule of the Skylab program, highlighted by recovery from near disaster to the outstanding successes demonstrated.

In Skylab 4, as in Skylab 2 and 3, the work accomplished exceeded the highest hopes prior to flight. Work in the areas of Earth applications, solar astronomy, the physical and biomedical sciences, and space applications was conducted. In addition, student science experiments were included on this flight, derived from competition among young people in the secondary schools throughout the Nation.

The National Aeronautics and Space Administration, key industrial contractors and our universities and secondary school systems are to be congratulated for the unprecedented success of Skylab.

In the area of Earth resource studies, Skylab mapped geographic and weather features over large areas of the Earth. New and useful information on land use was made available. Identification of crops and ground cover, ice packs and water storage, as well as mineral deposits and sea conditions were examined.

Systematic detailed study of the Sun was undertaken, utilizing the Apollo telescope mount on Skylab. Special instruments were used to study the Sun in detail to gather data never obtained before in either ground-based or satellite experiments. The ability to handle complex experiments of this type was amply demonstrated on the three Skylab flights, indicating that when the Space Shuttle, the low-cost transportation system, is available, then a large space telescope will be not only practicable but essential to future solar investigation. In addition to the solar observations, experiments in the physical sciences contributed to an understanding of deep space and the characteristics of the upper atmosphere of the Earth.

Because of the long duration of each of the Skylab missions it was possible to study in detail the reactions and effects of zero gravity on normal healthy men. It is important to note that all of the indications are that men will likely be able to work in space for long periods without serious effect upon their systems.

Perhaps the most significant of all the activities of Skylab were the practical technology experiments undertaken. Zero gravity allowed new approaches to astronauts mobility. Two major experiments with maneuvering units were tested by the astronauts. Manufacturing techniques not possible on earth were explored in Skylab, crystals, and micro-organisms were grown, high strength materials were prepared in a space furnace. Tests already demonstrate that large crystals significant to our electronics industry can be prepared in space with a quality and size impossible on Eearth. New metal alloys were prepared, brazing and reinforced metal components examined. Early results from these experiments indicate exciting new possibilities in the area of space manufacturing.

In addition to these experiments, scientific and practical, undertaken in Skylab, a number of experiments provided by secondary school students were undertaken in the areas of Earth resources, astronomy, bacteriology, physiology, botany, physics, and zoology. Perhaps the most significant aspect of the student experiments is a demonstration that, given the opportunity, there is a tremendous reserve of useful effort that can be undertaken in earth orbit.

The vast wealth of data derived from Skylab experiments will continue to yield new and useful information for many years to come. Investigators, both scientific and engineering, will search the massive data generated on these flights to the benefit of everyone over the next few years.

The Space Shuttle, to be ready in 1979, will provide a low-cost transportation system allowing the use of knowledge amassed in Skylab without the recurring high cost associated with the launch of conventional rockets.

The consequence of Skylab is the generation of a wealth of new scientific and practical knowledge and human achievement ranking with the lunar landing.

THE AMERICAN MUSIC AWARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, because of my particular constituent interest in music which is a world-famous product of Nashville in Tennessee's Fifth Congressional District, I was very pleased to learn recently of the plans later this month to produce and televise the American Music Awards.

This is somewhat of a new and unique concept in honor and award programs. It is the first time a major effort has been made to choose winners on the basis of a scientific sampling of the American public's music taste.

In all there are to be 15 awards presented in the pop, country, and soul music fields with special recognition for artists, groups, and recordings.

This selection procedure contrasts with other awards and recognition efforts which generally are based on a selection process established by the music industry, itself.

Programs of this nature are certainly good for the music industry. In addition this approach is particularly appropriate because it recognizes those persons, without whose support there would be no music industry, the American public.

At a time when there is so much public criticism of television as being packed with too much bad news and violence sandwiched between too many commercials the American Music Awards offers a refreshing change of pace by paying deserved tribute to those who make, produce and perform one of America's greatest products, our music.

PENNSYLVANIA MARKS THE 200TH ANNIVERSARY OF THE FIRST CONTINENTAL CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. BARRETT) is recognized for 5 minutes.

Mr. BARRETT. Mr. Speaker, I am submitting for printing in the RECORD, the following letters from the Honorable Milton J. Shapp, Governor of Pennsylvania to myself, the Honorable CARL ALBERT, Speaker of the House of Representatives, and the Honorable JAMES EASTLAND, President pro tempore of the Senate:

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., January 30, 1974.

Hon. WILLIAM A. BARRETT,
House Office Building,
Washington, D.C.

DEAR BILL: I am enclosing a copy of an invitation which, through Honorable James Eastland, President Pro Tempore of the United States Senate, and through Honorable Carl Albert, Speaker of the United States House of Representatives, I have issued to the Congress of the United States.

Briefly, it outlines Pennsylvania's plans for commemorating the 200th Anniversary of the First Continental Congress this September at Carpenters' Hall, Philadelphia, and it invites the entire Congress to join at a ceremonial dinner on the grounds of the Hall on Saturday, September 7.

I will be very grateful indeed if you will use your good offices to help make acceptance of this invitation possible, and I have directed Mr. George H. Ebner, Executive Director of the Bicentennial Commission of Pennsylvania, to do whatever is necessary to aid you in your efforts.

I hope that you can help make this important occasion as successful as it should be, and I will look forward to greeting you personally in Philadelphia on September 7.

Sincerely,

MILTON J. SHAPP,
Governor.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., January 30, 1974.

Hon. JAMES EASTLAND,
President Pro Tempore,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: September of this year will mark the 200th Anniversary of the First Continental Congress, which some historians consider the first meaningful event of the American Revolution.

To commemorate this historic event, the Commonwealth of Pennsylvania is planning a three-day conference to be held at the site of the original Congress—Carpenters' Hall, Philadelphia.

This event should be more than a simple reenactment of this momentous occasion. Therefore, we in Pennsylvania have invited the Governors of all the other thirteen original colonies to come to Philadelphia to meet in session at Carpenters' Hall and discuss a common problem, in the hope that we can find a workable solution which can then be enacted into law in our respective states as a uniform piece of legislation. The model law would of course be offered to all our sister states in hope that they might enact it as well, making it truly uniform and truly effective throughout the Nation.

Such a plan will provide the thirteen original states—and ultimately the Nation—with a major contribution, not just a memory of the past.

Because Carpenters' Hall is not a large hall, we have had to restrict our planning to a relatively small group, and hence, our decision to have as conference participants only the Governors of the thirteen original colonies. We are eager, however, that this celebration should be shared by the entire Nation. Consquently, we are hereby inviting the entire United States Congress to a ceremonial dinner which will close our three-day celebration.

The conference will begin on September 5th and continue through the 6th and 7th. The concluding dinner, for which we should expect extensive national television coverage, will be on the evening of Saturday, September 7th, and will be held on the grounds of Independence National Historical Park, which surrounds Carpenters' Hall.

Through you, and through Senator Eastland, I am inviting the entire Congress to join with the Pennsylvania General Assembly and with the Governors of the thirteen original colonies in concluding what we hope will be a fine, thoughtful and substantive beginning for Bicentennial activity in America.

I hope that you will use your good offices to bring all members of Congress to Philadelphia for this occasion. I am asking Mr. George Ebner, Executive Director of the Bicentennial Commission of Pennsylvania, to do whatever is necessary to make your acceptance possible, and to make your participation meaningful and pleasant.

I will look forward to hearing from you at your convenience.

Sincerely,

MILTON J. SHAPP,
Governor.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, Pa., January 30, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives,
Washington, D.C.

DEAR SPEAKER ALBERT: September of this year will mark the 200th Anniversary of the First Continental Congress, which some historians consider the first meaningful event of the American Revolution.

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I will look forward to hearing from you at your convenience.

Sincerely,

MILTON J. SHAPP,
Governor.

POSTAL SERVICE UNWILLING TO USE MOTOR COMMON CARRIER NETWORK

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, during the Postal Service Subcommittee's hearings last year on postal transportation, one of the glaring omissions in the Postal Service's transportation network was the apparent unwillingness to use the motor common carrier network. One of the major reasons for the passage of the Postal Reorganization Act was to give the Postal Service more flexibility in using all modes of transportation available to it.

Therefore, we were surprised to learn that motor common carriers were not being used as they are used by other agencies such as the Department of Defense and the General Services Administration. Following is an editorial from Traffic World outlining the common carrier position:

A NOBLE EFFORT RELENTLESSLY CONTINUED

Those of us who for years have believed that if there's any doubt about the meaning of some provision of law (federal or state), resolution of the doubt rests on the intent of the lawmakers as expressed in legislative committee records or in debate in the legislative chambers prior to passage of the legislation, apparently have been victims of misinformation. On the subject of congressional intent, it seems, we have much to learn.

We should recognize, for example, that uncontroverted statements made by legislators in the course of discussion or explanation of provisions of a bill before it is passed by the House or Senate, stating in unambiguous terms the intended purpose of particular provisions of the considered bill, are not necessarily accepted as guideposts by the people who are supposed to implement the legislation. Thus, such a provision of law may be "interpreted" by its implementers to mean what they want it to mean rather than what the legislators wanted it to mean.

That's what has happened in the case of certain sections of the postal reorganization act of 1970, by which the duties and functions of the Post Office Department, as revised and modified by that act, were turned over to the U.S. Postal Service, headed (like the old department) by a Postmaster General who, however, does not have Cabinet-member status.

One of the postal policy statements in section 101 of the postal reorganization act is stated in these words:

"In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the nation shall be a primary goal of postal operations."

Section 5005 of the 1970 act allows the Postal Service to obtain mail transport services from common carriers by rail and motor vehicle, from air carriers or water carriers and by contract from "any person or carrier" for surface or water transportation. "Person" is defined as including "any person other than a carrier holding a certificate of public convenience and necessity issued by the Interstate Commerce Commission."

There are provisions in the postal reorganization act of 1970 for the filing by the Postal Service with the ICC of plans setting forth the Postal Service's mail transportation requirements and, among other things, what it believes to be the fair and reasonable compensation for the carrier services required. The Commission, after notifying the carriers concerned, would subsequently proceed to hold a hearing on the Postal Service plan.

We have seen or heard nothing that would indicate the Postal Service has ever filed such a plan with the ICC. This provision was one aspect of the postal reorganization act that led us to make what turned out to be an ill-advised appraisal of the situation in a talk at a meeting of the Chicago chapter of the Transportation Research Forum, about four years ago. We said then that "the chance for motor common carriers to participate in the mail transportation business has now materialized, after years of effort by such carriers to get such an opportunity."

While giving lip service to the idea of letting motor common carriers perform mail transport service, as they testified in congressional committee hearings that led to passage of the postal reorganization act, federal postal officials succeeded in retaining in the law—and then refusing to depart from—the competitive bidding procedure the Post Office Department had used for many years in selecting motor carriers for intercity mail haulage contracts.

Testifying before the House post office and civil service committee last September 12, Director Joseph F. Jones of the Postal Service's logistics department said that "tentative tariffs" that were proposed by several motor carrier groups would have cost the U.S. Postal Service "anywhere from 10 to 200 per cent more than we are paying for identical service over competitively-bid or rail piggyback service." He added that the Postal Service "would be pleased to use the common carrier network where it can do a better job than we are now doing."

Those representations were challenged soon thereafter by Hessie Davidson, president of the Davidson System, of Baltimore, and chairman of the government traffic committee of the Regular Common Carrier Conference of the American Trucking Associations. Mr. Davidson said no proof had been submitted to support the claim that the motor common carriers' service would be far more costly than the services now used for mail transportation, and that the common carriers stood ready to prove they could provide better and in many cases less costly haulage of mail than the Postal Service is getting now. He said that the most significant change in transportation provisions that was effected by the 1970 act was "a general rewriting of the procurement authority giving the new Postal Service the 'flexibility' which it claimed it did not have previously, and wanted." Here, said Mr. Davidson, was "that chance for . . . a shift to the modern means of highway transport which has long since become the stand-by for the distribution of the American cornucopia of products and articles of trade."

Gratifying to us and, surely, to the RCCC members—was the message addressed about three weeks ago by Paul J. Tierney, president of the Transportation Association of America, to the Senate and House post office committees, urging them to advise the Postal Service to discontinue its policy, not in accord with the 1970 act, of not utilizing the services of regulated motor common carriers "on a systems basis." The committees should note that the TAA's position on this matter reflects the attitude of the transportation industry as a whole, not merely the regulated common carrier trucking group. We commend the decision by the RCCC never to stop its efforts to obtain mail transportation business for its members collectively. We feel sure the RCCC will have continuing support in this matter from the TAA, to which will be added gladly our small "voice in the wilderness."

CHARLIE PHILLIPS OUTSTANDING CITIZEN

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANLEY. Mr. Speaker, next Monday, February 11, 1974, those of us who live in central New York will be honoring one of our outstanding citizens, Mr. Charlie Phillips. Charlie Phillips is a legend, not only in his own community of Syracuse, but throughout the broadcast industry. On Monday, he will celebrate his 50th anniversary with Radio Station WFBL, an achievement attained by few, if any, others in broadcasting.

Charlie joined WFBL as their first employee in 1924, and in the ensuing five decades has played every part imaginable in the operation of a radio station. He has participated in the growth of broadcasting from a small dream to one of the largest industries in the world. And his contributions to both the dimensions and the quality of modern broadcasting are too numerous to cite.

Mr. Speaker, I know every Member of the House of Representatives joins me today in extending our best wishes to Charlie on this milestone and in wishing him many years of God's choicest blessings and good health.

"ROTARY PAST AND PRESENT" BY DISTRICT GOV. WILLIAM C. BOWEN

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, Rotary International is truly an ideal in action, a world fellowship of business and professional men dedicated to service. The mottoes of the Rotary are "Service Above Self" and "He Profits Most Who Serves Best" in business and civic relationships.

In South Carolina we are especially proud of our own William C. "Bill" Bowen, governor of Rotary international district 775. Bill's devoted service to humanity splendidly exemplifies the highest ideals of Rotary International. I commend to the attention of the Congress and the American people Governor Bowen's superb address on "Rotary Past and Present":

Rotary Past and Present

(By William C. Bowen, District Governor)

I extend to you greetings from nearly 745,000 Rotarians, organized in more than 15,800 Rotary Clubs, located in 150 countries and geographical areas throughout the world.

As you know, every year, the Governor Nominees from the 343 Rotary Districts must attend the International Assembly at Lake Placid Club House in The Adirondack Mountains of New York State. In the first Plenary Session this May, R. I. President William C. Carter of the Battersee Club of London, England, announced the theme for "our year" as "A time for Action", and pointed out certain goals for improving the quality of life in the four Rotary avenues of service.

After nine strenuous days of plenary assemblies, group sessions, dining, attending talent nights, and just having a good Rotary time, Rotary Ann Inez and I bade goodbye to all our friends, drove to Rutland, Vermont, and spent the night. The next morning we made our way to the town of Wallingford, the boyhood home of Paul P. Harris. We made photographs of the Congregational Church, the old stone shop, chatted with Secretary Richard Armstrong, Secretary of the Wallingford Rotary Club and pastor of the church who told us how to find the schoolhouse. The schoolhouse was built in 1818 by Paul Harris' great grandfather, now the meeting place of the Wallingford club and preserved as a memorial to the founder of Rotary. A historic marker in front of the building reads as follows:

WALLINGFORD, VERMONT
PAUL P. HARRIS
1868–1947

"In this brick building, constructed by his great grandfather in 1818, Paul P. Harris attended school as a youth and received his elementary education. Many years later Mr. Harris expressed the conviction that it was during his boyhood that he learned the basic ideals which became the cornerstone of Rotary International destined to become a world wide service organization. This former schoolhouse is now maintained as a memorial to Paul P. Harris, by the Wallingford Rotary Club."

Paul P. Harris was born in April 1868 at Racine, Wisconsin. When he was three years old Paul and his older brother Cecil were sent to Wallingford to live with his Harris grandparents. Thus he grew to young manhood in the mountains of Vermont. He attended the Vermont Military Academy, spent the freshman year at the University of Vermont, and after a year working and studying under a tutor he went to Princeton. While at Princeton his grandfather died, but his grandmother sent him west to attend the University of Iowa. He graduated from the University in 1891 taking his law degree. Impressed by words of the commencement speaker to spend some time getting used to life, Paul went to San Francisco then to Denver, working in both cities as a newspaper reporter. Then he went to Jacksonville as a hotel clerk. Next he sailed to Europe on a cattle boat, making two round trips. He then became a marble salesman, went a third time to Europe and in 1891 started the practice of law in the City of Chicago. He slowly built up his law practice, made a few friends but, as he said later, was mainly a lonesome country boy in a big city. All the time he was thinking about a business man's club where people in various vocations could meet for fellowship and swapping ideas. He spoke to two or three of his friends about such an organization.

On the evening of February 23d 1905 he met Silvester Schiele a coal dealer at Madame Galli's Hungarian Restaurant. After dinner the two made their way to The Unity Building on N. Dearborn Street, went to Room 711 to meet with two other friends at eight o'clock to start the first civic service club in the world. The meeting room was the office of Gus Loehr a Mining Engineer and the fourth man was Hiram Shorey a tailer. These men were later in the following weeks to be joined by others among whom was Harry Ruggles who started Rotarians to sing at club meetings. Each member had to be from a different business and thus started classification as we know it today. At first, the new club met in the offices of one another in rotation. From that fact came the name "Rotary". The rotation also gave the organization its emblem, at first a wagon wheel then a gear or cog wheel as we know it today.

One day Paul Harris was asked to tell the club just what a lawyer did. This talk perhaps started the idea we know as Vocational Service. A great Rotarian from England, Jack Pride defined Vocational Service as the happiness we bring and the service we render to others through and in our professions or vocations. This definition is paraphrased from a talk made at Lake Placid by Rotary International Director James E. Lambeth. We each must strive to improve the quality of this most important avenue of service.

In 1907 a new city hall was being built in Chicago. The Rotary Club promoted a drive to build public comfort stations which were lacking in the Loop District. This became the first Community Service Project and it is still in service. Community Service thus became a very important part of each of our clubs and certainly one which tells our communities that Rotary is a living thing and much a part of them. We must each seek out the loneliness of our youth and our aged people and as a club do something to take action about their problems.

I like to think that Paul Harris thought of the Avenue of International Service on his trips to Europe. One feature of this Avenue began at the 1917 Atlanta Rotary Convention when Kansas City Club gave RI President Art Rumph a Check for 26 dollars and 50 cents to start a Rotary Foundation to provide scholarships for youth. Not much more was done about the Foundation until the death of Paul Harris in 1947. As a memorial to the beloved leader, contributions began to pour in and 18 awards were made for students to study in a land not their own home. This year (1973) over 600 awards were made. Our own district has Miss Harriet Fowler studying at Aberdeen University in Scotland this year. Next year Mr. Thomas Bolt of Anderson will be studying in France. Our district is a 200% district meaning that each club has, from voluntary contributions of its members, reached that "plateau". President Bill Carter has directed that we must keep open the lines of communications between Rotarians around this world and between peoples on an individual level so as to bring understanding to each in the family of nations. Words could be said about this avenue but we must pass now to the fourth avenue of service, that is club service. It is what a club does for its own well being. Each of us must improve the quality of our service by active participation, making up a missed meeting at another club, putting service above self by responding when called on and most of all "Take Time for Action" this year.

"Let us all seek that which we have in common with our fellow men rather than that which divides us". Paul Harris wrote as the closing chapter of his "Road to Rotary" (His Autobiography) and we each can make it our prayer: "May God grant that my vision of the faults of men and nations be dimmed and my vision of their virtues be brightened".

Thank you.

EXEMPTION FROM DAYLIGHT SAVING TIME

(Mr. REGULA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. REGULA. Mr. Speaker, I am today introducing legislation to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973, to provide that the advanced standard time requirement of that act shall not be in affect during the time of the year which has the smallest number of daylight hours.

My legislation would exempt that period of time beginning November 1974 and ending February 28, 1975, from mandatory daylight saving time.

The Emergency Daylight Saving Time Energy Conservation Act will expire in 1975. Absent an extension of the law, that leaves one more span of at least 4 months of short days and late sunrises. It leaves one more period of time during which children will have to go to school in the dark. That safety hazard, while it could be lesened by States or local school districts adopting later beginning times for schools, affects schoolbus drivers, working housewives, and poses a variety of inter-related inconveniences, both large and small.

The avowed purpose of the act was to save energy, yet the committee report accompanying the legislation stated that no studies had been carried out and no information was available to establish with certainty that an overall reduction in energy consumption results from the year around observation of daylight saving time.

Surely one winter period of daylight saving time is sufficient to gather information and make a determination whether any reduction in energy consumption has resulted. Beyond that, we can surely afford to invest four-twelfths of that hypothetical savings in safety for our schoolchildren.

EMERGENCY ENERGY CONTROL ACT

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. ECKHARDT. Mr. Speaker, today Congressman Brock Adams and I have introduced the Emergency Energy Control Act which we propose as a workable alternative to the Energy Emergency Act. The Energy Emergency Act, currently being reconsidered by House and Senate conferees, is an ill-conceived attempt to deal with the present energy shortage. Rather than a narrowly drawn bill addressing only the specific immediate needs caused by the energy shortage, the Energy Emergency Act is legislation which unnecessarily relegates a massive amount of congressional authority to the President and which needlessly suspends important environmental safeguards. I have already outlined in detail my opposition to the Energy Emergency Act—see January 28, 1974, Congressional Record p. 861.

The legislation we have introduced today contains what we feel are the legislative grants of authority necessary to deal with the energy situation. The bill establishes a Federal Energy Emergency Administration to administer the allocation and rationing provisions of the Emergency Petroleum Allocation Act. This Administration would operate any rationing program implemented under the Allocation Act in accordance with procedural and due process safeguards set out in the bill.

The bill grants vitally needed information-gathering powers to the new Federal Energy Emergency Administration. The Administration is empowered to collect information on reserves, production, distribution, and use of petroleum products, natural gas, and coal. The one very certain fact that has been clearly established in the hearings before various House and Senate committees trying to deal with the energy shortage is that we simply do not have sufficient factual information to act upon. The information-gathering powers granted to the Federal Energy Emergency Administration is the first major step toward collecting the kind of information we need to frame a coherent and complete package of long range energy legislation.

In the last few months we have seen the price of petroleum escalate to all-time highs. Since the beginning of November, the wholesale price index for refined petroleum products has jumped 60.9 percent. Crude oil prices on the wholesale level increased by 27.5 percent during 1973, and the price of refined petroleum products has increased by an incredible 125 percent.

Clearly we cannot continue to allow the prices of petroleum to increase at this unjustifiably rapid pace. The Emergency Energy Control Act instructs the administration to place an immediate price freeze on domestic crude petroleum and petroleum products, and, within 30 days to roll back such prices to the levels in existence on November 1, 1973.

Today the House Interstate and Foreign Commerce Committee conducted hearings on an administration proposal dealing with the independent truckers strike. The administration is proposing that we allow the truckers to pass through the increased cost of diesel fuel. The end result of such a proposal will mean that the consumer once again ends up bearing the brunt of the increase. The independent truckers have indicated that they do not want passthrough authority; they want prices rolled back to a justifiable level. That is exactly what the Energy Emergency Control Act will do.

The final provision of our bill amends the Emergency Petroleum Allocation Act to add safeguards for grants of antitrust defenses. When the House Interstate and Foreign Commerce Committee first considered the Allocation Act, we determined that compliance with the allocation regulations might involve meetings and arrangements that would arguably be violative of the antitrust laws. Because of this we included in the Allocation Act a section protecting companies from antitrust prosecutions. When the House of Representatives considered the Energy Emergency Act, we added to that act an amendment offered by the distinguished chairman of the House Judiciary Committee which measurably strengthened the antitrust section of the Allocation Act. Since the emergency program which is envisaged in the bill we have introduced today is to be implemented under the Allocation Act, we felt it was very important to amend that act to include Chairman RODINO's antitrust section. Therefore, the last section of our bill is the Rodino amendment which has already been approved by the House of Representatives.

For the information of my colleagues, a copy of the Emergency Energy Control Act follows:

H.R. 12678

A bill to amend the Emergency Petroleum Allocation Act of 1973, to establish the Federal Energy Emergency Administration, to require the President to roll back prices for crude oil and petroleum products, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act shall be cited as the "Emergency Energy Control Act."

SEC. 2. The Emergency Petroleum Allocation Act of 1973 is amended by adding the following new sections:

"SEC. 9. Federal Energy Emergency Administration.

"(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

"(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

"(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under this Act, and of any officer, department, agency, or State (or officer thereof) under this Act (other than functions vested by section 7 in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

"(d)(1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose."

"SEC. 10. (a) For the purpose of providing to the President, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

"(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

"(c)(1) Notwithstanding any other provision of law, whenever the Congress or any Committee of Congress upon request of the Chairman makes a written request for documents in the possession or under control of the Administrator, the Administrator shall within two days after receipt of such request or within such reasonable time as is determined by the Congress or the Committee submit to the Congress or such Committee all such documents (or copies thereof).

(2) If the Administrator transfers any documents in its possession or under its control to any other agency or to any person, it shall retain copies of such material, or if not feasible, shall condition the transfer on the transferee's returning such document to the Administrator for purposes of complying with paragraph (1) of this subsection.

(3) For purposes of this subsection, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(d) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975."

Sec. 11. (a) Immediately upon the enactment of this section, the Administrator shall issue an order to establish a ceiling on prices of crude oil and petroleum products at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the fourteen-day period ending January 19, 1974, for like or similar commodities, or if no transactions occurred during such period, then the highest applicable level in the nearest preceding fourteen-day period.

"(b) The ceiling on prices required under subsection (a) shall be applicable to all retail prices and to wholesale prices for unfinished, finished, or processed goods.

"(c) As soon as practicable, but not later than thirty days after the date of enactment of this section, the Administrator shall by written order stating in full the considerations for his actions, roll back prices for crude oil and petroleum products to levels no higher than those prevailing in the seven-day period ending November 1, 1973, in order to reduce inflation. Price increases announced after November 1, 1973, and made retroactive to dates prior to November 1, 1973, shall not be considered as having been in effect prior to such date for purposes of this subsection. The Administrator may make specific exceptions from the rollback by written order to compensate for increased costs for crude oil and petroleum products produced and refined outside the United States, but in no event shall such exceptions allow more than a passthrough for increases in the costs of such commodities. Such orders shall state procedures and adequate public notice of any price exceptions and shall disallow any profit margins on any crude petroleum or petroleum products in excess of the margin applicable in the seven-day period ending November 1, 1973.

"(d) The Administrator shall, by written order, issue rules to insure that all corporations or other entities engaging in sales of crude petroleum at the refinery level or petroleum products at the wholesale level reflect, in sales to any purchaser, the average costs of its foreign and domestic crude oil and petroleum products."

"Sec. 12. To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. In the administration of such restrictions, the Administrator may use existing statutory authorities and regulations including, but not limited to, the Export Administration Act of 1969. Rules under this section shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of this Act."

Sec. 3. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The Administrator shall provide for procedures by which any end user of crude oil, residual fuel oil or refined petroleum products for which allocation regulations are established under subsection (a) may petition for review and reclassification or modification of any determination made under such subsection with respect to his allocation priority or entitlement.

(2) The Administrator may by rule prescribe procedures for State or local boards to carry out functions under this subsection. Such boards shall be of balanced composition reflecting the make-up of the community as a whole. Such procedures shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action.

Sec. 4. The Emergency Petroleum Allocation Act of 1973 is amended by striking section 6(c) and adding the following new section 7:

"SECTION 7. ANTITRUST PROVISIONS

"(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

"(b) As used in this section, the term 'antitrust laws' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of this Act.

"(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community.

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5. United States Code.

"(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

"(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney

General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

"(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

"(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or, (3) subsequent to its expiration or repeal.

"(k) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act.

"(l) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

"(m) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975."

Redesignate section 7 as section 8.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. FRELINGHUYSEN (at the request of Mr. RHODES), from 3:15 p.m. today, on account of official business.

Mr. MCSPADDEN (at the request of Mr. O'NEILL), for today, on account of critical illness of his mother.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAUMAN) to revise and extend their remarks and include extraneous material:)

Mr. BLACKBURN, for 30 minutes, today.

Mr. HANSEN of Idaho, for 5 minutes, today.

(The following Members (at the request of Mr. YOUNG of Georgia) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY of New York, for 30 minutes, today.

Mr. HARRINGTON, for 5 minutes, today.

Mr. FRASER, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 15 minutes, today.

Mr. MEZVINSKY, for 5 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. OWENS, for 10 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. BARRETT, for 10 minutes, today.

Mr. CULVER, for 30 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. FULTON, for 5 minutes, today.

Mr. WRIGHT, for 60 minutes, February 13.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ECKHARDT, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $522.50.

Mr. MADDEN, and to include extraneous matter.

Mr. PERKINS, and to include extraneous matter.

(The following Members (at the request of Mr. BAUMAN) and to include extraneous material:)

Mr. ROBISON of New York.

Mr. CEDERBERG.

Mr. ANDERSON of Illinois in three instances.

Mr. BAKER.

Mr. WYMAN in two instances.

Mr. LOTT.

Mr. SHUSTER.

Mr. DUNCAN.

Mr. GILMAN.

Mr. HUBER in two instances.

Mr. DU PONT in five instances.

Mr. SARASIN in two instances.

Mr. SHRIVER.

Mr. HANSEN of Idaho.

Mr. VEYSEY in two instances.

Mr. HOSMER in two instances.

Mr. KETCHUM.

Mr. THOMSON of Wisconsin.

Mr. FINDLEY in five instances.

Mr. SKUBITZ in five instances.

Mr. YOUNG of Alaska.

Mr. KEMP in two instances.

Mr. BAUMAN in two instances.

(The following Members (at the request of Mr. YOUNG of Georgia) and to include extraneous material:)

Ms. HOLTZMAN.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mrs. MINK.

Mr. LEHMAN in 10 instances.

Mr. EDWARDS of California.

Mr. BRASCO in six instances.

Mr. CLAY in 10 instances.

Mr. WALDIE in five instances.

Mr. MEZVINSKY.

Mr. FOUNTAIN.

Mr. PODELL.

Mr. DAN DANIEL.

Mr. FAUNTROY in five instances.

Mr. ALEXANDER.

Mr. DORN in two instances.

Mr. HARRINGTON in two instances.

Mr. NIX.

Mr. THOMPSON of New Jersey.

Mr. GUNTER.

Mr. ANDERSON of California in two instances.

Mr. PICKLE in two instances.

Mr. DONOHUE.

Mr. ANDREWS of North Carolina.

Mr. TAYLOR of North Carolina.

Mr. ROONEY of New York.

SENATE JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled Senate joint resolution of the following title:

S.J. Res. 185. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2).

ADJOURNMENT

Mr. YOUNG of Georgia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with House Concurrent Resolution 425, 93d Congress, the Chair declares the House adjourned until 12 o'clock noon on Wednesday, February 13, 1974.

Thereupon (at 4 o'clock and 32 minutes p.m.), pursuant to House Concurrent Resolution 425, the House adjourned until Wednesday, February 13, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1854. A letter from the President of the United States, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations and for other purposes (H. Doc. No. 93-212); to the Committee on Foreign Affairs and ordered to be printed.

1855. A letter from the Assistant Secretary of Agriculture, transmitting a draft of proposed legislation to provide for two additional Assistant Secretaries of Agriculture, to increase the compensation of certain officials of the Department of Agriculture, to provide for an additional member of the Board of Directors, Commodity Credit Corporation, and for other purposes; to the Committee on Agriculture.

1856. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation for the Department of Agriculture for "Forest protection and utilization", Forest Service, for fiscal year 1974 has been apportioned on a basis which indicates a further need for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1857. A letter from the Executive Director, Council on International Economic Policy, transmitting a draft of proposed legislation to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended; to the Committee on Banking and Currency.

1858. A letter from the Administrator, Agency for International Development, Department of State, transmitting a report showing the fiscal year 1974 country and international organization allocations for programs administered by AID, pursuant to section 653 of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2413(a)]; to the Committee on Foreign Affairs.

1859. A letter from the Chairman, Federal Maritime Commission, transmitting a copy of a resolution adopted by the Commission urging the retention of the present organization of the House Committee on Merchant Marine and Fisheries; to the Committee on Rules.

RECEIVED FROM THE COMPTROLLER GENERAL

1860. A letter from the Comptroller General of the United States, transmitting a report on the audit of the Commodity Credit Corporation, Department of Agriculture, for fiscal year 1973 (H. Doc. No. 93-213); to the Committee on Government Operations and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2544. A bill to authorize the Secretary of the Interior to sell reserved mineral interests of the United States in certain land located in the State of California to the record owners of the surface thereof; with amendment (Rept. No. 93-788). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3901. A bill to convey the mineral rights in certain real property located in Seminole County, Fla., to Carroll L. Ward, Sr., the owner of such real property; with amendment (Rept. No. 93-789). Referred to the Committee of the Whole House.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5035. A bill to amend Public Law 90-335 (82 Stat. 174) relating to the purchase, sale, and exchange of certain lands on the Spokane Indian Reservation (Rept. No. 93-790). Referred to the Committee of the Whole House on the State of the Union.

Mr. WALDIE: Committee on Post Office and Civil Service. S. 2315. An act relating to the compensation of employees of Senate committees; with amendment (Rept. No. 93-791). Referred to the Committee of the Whole House on the State of the Union.

Mr. DORN: Committee on Veterans' Affairs. H.R. 12628. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes. (Rept. No. 93-792). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Commitee of conference, Conference report to accompany S. 2589. (Rept. No. 93-793). Ordered to be printed.

Mr. TEAGUE: Committee on Science and Astronautics. H.R. 11989. A bill to enhance the public health and safety by reducing the human and material losses resulting from fires through better fire prevention and control, and for other purposes. (Rept. No. 93-795). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8545. A bill for the relief of Russell G. Wells (Rept. No. 93-794). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 12693. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation, and for other purposes; to the Committee on Veterans Affairs.

By Mr. ADDABBO:

H.R. 12694. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to provide for daylight saving time from March into November during each calendar year; to the Committee on Interstate and Foreign Commerce.

By Mr. REGULA:

H.R. 12695. A bill to amend the Emergency Daylight Saving Time Energy Conservation Act of 1973, to provide that the advanced standard time requirement of such act shall not be in effect during periods which have a small number of daylight hours; to the Committee on Interstate and Foreign Commerce.

By Mr. ADDABBO:

H.R. 12696. A bill to amend titles II and XVIII of the Social Security Act to reduce the age of entitlement to medicare benefits from 65 to 62 for men and to 60 for women; to the Committee on Ways and Means.

By Mr. ALEXANDER (for himself, Mr. Blatnik, Mr. Montgomery, Mr. Taylor of Missouri, Mr. Flynt, Mr. Gaydos, Mr. Charles Wilson of Texas, Mr. Thompson of New Jersey, Mr. Duncan, and Mr. Froehlich):

H.R. 12697. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane; to the Committee on Banking and Currency.

By Mr. BAKER:

H.R. 12698. A bill to provide that certain employees of the United States may not be required to become members of labor organizations as a condition of their employment; to the Committee on Post Office and Civil Service.

By Mr. BELL (for himself, Mr. Brown of California, Mrs. Burke of California, Mr. Holifield, Mr. Rees, Mr. Stark, Mr. Talcott, and Mr. Waldie):

H.R. 12699. A bill to provide for the establishment of an American Folk Life Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. BIESTER:

H.R. 12700. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. BINGHAM:

H.R. 12701. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BLACKBURN:

H.R. 12702. A bill to amend the National Housing Act to provide a statutory basis for the continuing administration by FHA of the standard risk programs under such act; to the Committee on Banking and Currency.

By Mr. BOLAND:

H.R. 12703. A bill to amend title 38, United States Code, to extend the maximum educational benefits for chapter 35 trainees to 48 months and to allow additional educational benefits for certain wives and widows; to the Committee on Veterans' Affairs.

H.R. 12704. A bill to amend chapter 34, title 38, United States Code, to extend the time limitation for completing a program of education; to the Committee on Veterans' Affairs.

H.R. 12705. A bill to amend title 38 of the United States Code to remove the time limitation within which programs of education for veterans must be completed; to the Committee on Veterans' Affairs.

H.R. 12706. A bill to amend title 38, United States Code, to provide for the payment of tuition, in addition to educational assistance allowances, on behalf of veterans pursuing certain programs of education under chapter 34 of such title; to the Committee on Veterans' Affairs.

H.R. 12707. A bill to amend title 38, United States Code, to provide veterans a 10-year delimiting period for completing educational programs; to the Committee on Veterans' Affairs.

H.R. 12708. A bill to amend section 1502 of title 38, United States Code, to provide that eligibility requirements for Vietnam era veterans shall conform with those afforded World War II and Korean conflict veterans; to the Committee on Veterans' Affairs.

H.R. 12709. A bill to amend chapter 31, section 1502(a) of title 38, United States Code, to provide that Vietnam era veterans shall have the same basic entitlement to vocational rehabilitation as that available to veterans of World War II and the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. BRINKLEY:

H.R. 12710. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973, and to amend the Uniform Time Act of 1966 to provide that the standard time shall be advanced 1 hour during the period beginning on the first Sunday in June and ending on the last Sunday in August of each year; to the Committee on Interstate and Foreign Commerce.

H.R. 12711. A bill to amend the Uniform Time Act of 1966, to provide that the standard time shall be advanced 1 hour during the period beginning on the first Sunday in June and ending on the last Sunday in August of each year; to the Committee on Interstate and Foreign Commerce.

H.R. 12712. A bill to provide for a comprehensive, coordinated 5-year research program to determine the causes of and cure for cancer, to develop cancer preventative vaccines or other preventatives, and for other purposes; to the Committee on Ways and Means.

By Mr. CAREY of New York (for himself, Mr. Bingham, Mr. Brown of California, Ms. Chisholm, Ms. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Cronin, Mr. de Lugo, Mr. Dent, Mr. Drinan, Mr. Eilberg, Mr. Helstoski, Mr. Hungate, Mr. Koch, Mr. Lehman, Mr. Lent, Mr. McCormack, Mr. Moakley, Mr. Montgomery, Mr. Moorhead of Pennsylvania, Mr. Nix, Mr. Pepper, Mr. Podell, Mr. Pritchard, and Mr. Riegle):

H.R. 12713. A bill to amend the Truth in Lending Act to prohibit discrimination on account of age in credit card transactions; to the Committee on Banking and Currency.

By Mr. CAREY of New York (for himself, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Sarbanes, Mr. Tiernan, Mr. Waldie, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wolff, Mr. Won Pat, Mr. Wright, and Mr. Yatron):

H.R. 12714. A bill to amend the Truth in Lending Act to prohibit discrimination on account of age in credit card transactions; to the Committee on Banking and Currency.

By Mr. CHAPPELL:

H.R. 12715. A bill to amend title 28 of the United States Code, to provide for exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees and for other purposes; to the Committee on the Judiciary.

By Mr. CLANCY:

H.R. 12716. A bill to amend the Internal Revenue Code of 1954 to permit a taxpayer to deduct certain expenses paid by him for special education to a child or other minor dependent who is physically or mentally handicapped; to the Committee on Ways and Means.

By Mr. DORN:

H.R. 12717. A bill to extend certain programs under the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. du PONT:

H.R. 12718. A bill to establish an Energy Research, Development, and Demonstration Administration, and to reorganize, consolidate, and supplement with it, Federal responsibility, authority, funding, and financing for conducting a national program for scientific research, development, and demonstration in energy-related technologies designed to resolve critical energy shortages; to the Committee on Government Operations.

By Mr. FORD:

H.R. 12719. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. FOUNTAIN:

H.R. 12720. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Ryan, and Mr. Stokes):

H.R. 12721. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. FRASER:

H.R. 12722. A bill to amend the Northwest Atlantic Fisheries Act of 1950 to permit U.S. participation in international enforcement of fish conservation in increased geographic areas, pursuant to the International Convention for the Northwest Atlantic Fisheries 1949; to the Committee on Foreign Affairs.

By Mr. FUQUA:

H.R. 12723. A bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to candidates for Federal office, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and for other purposes; to the Committee on House Administration.

By Mr. GUNTER:

H.R. 12724. A bill to amend the Internal Revenue Code of 1954 to provide for the suspension of excise taxes on diesel fuel and special motor fuels, and to roll back the prices for such products; to the Committee on Ways and Means.

By Mr. HANSEN of Idaho:

H.R. 12725. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. HANSEN of Idaho (for himself and Mr. Towell of Nevada):

H.R. 12726. A bill to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON:

H.R. 12727. A bill to amend the Handgun Control Act of 1965; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Mr. Conte, Mr. Tiernan, Mr. Drinan, Mr. Hechler of West Virginia, Mr. Helstoski, Mrs. Sullivan, Mr. Yates, Mr. Nix, Mr. Roe, Mr. Charles H. Wilson of California, Mr. Dent, Mr. Eilberg, Mr. Rees, Mr. Brown of California, Mrs. Chisholm, Ms. Holtzman, and Mr. Won Pat):

H.R. 12728. A bill to amend the National Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN (for herself, Mr. Hechler of West Virginia, Mr. Badillo, Mr. Roush, Mr. Brown of California, Mr. Podell, Mr. Fish, Mr. Eilberg, Mr. Roe, Mr. Moakley, Mr. Drinan, Mr. Gaydos, Mr. Carney of Ohio, Mr. Seiberling, Mr. Won Pat, Mr. Riegle, Mr. Rosenthal, Mr. Wolff, Mrs. Grasso, Mr. Nix, Mr. Waldie, Mr. Charles H. Wilson of California, Ms. Chisholm, Ms. Collins of Illinois, and Mr. Gude):

H.R. 12729. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. HUNT (for himself and Mr. Sandman):

H.R. 12730. A bill to amend the act of July 17, 1952, (Public Law 574, 82d Congress, 66 Stat. 747), as amended; to the Committee on Public Works.

By Mr. KING:

H.R. 12731. A bill to require the execution of an oath or affirmation or declaration of allegiance before a passport is granted or issued; to the Committee on Foreign Affairs.

By Mr. KOCH (for himself, Mr. Anderson of Illinois, Mr. Bafalis, Mrs. Collins of Illinois, Mr. Dan Daniel, Mrs. Grasso, Mr. Guyer, Mr. Hechler of West Virginia, Mr. McCormack, Mr. McKinney, Mr. Matsunaga, Mr. Metcalfe, Mr. Riegle, Mr. Roncallo of New York, Mr. Roybal, Mr. Wright, Mr. Young of Illinois, and Mrs. Boggs):

H.R. 12732. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 12733. A bill to establish a Department of Natural Resources and to transfer certain agencies to and from such Department; to the Committee on Government Operations.

H.R. 12734. A bill to provide for an investigation of the character and past activities of potential Vice-Presidential nominees by the Federal Bureau of Investigation; to the Committee on House Administration.

By Mr. MALLARY (for himself, Mr. Biester, Mr. Frenzel, and Mr. McCloskey):

H.R. 12735. A bill to provide that pay adjustments for Members of Congress take effect in the Congress next following the Congress in which they are approved; to the Committee on Post Office and Civil Service.

By Mr. MEZVINSKY:

H.R. 12736. A bill to provide for public financing of all Presidential and congressional election campaigns, to repeal the Campaign Communications Reform Act, to amend the Federal Election Campaign Act of 1971, and the Presidential Election Campaign Fund Act, and for other purposes; to the Committee on House Administration.

H.R. 12737. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

By Mr. MORGAN:

H.R. 12738. A bill to amend the act of August 10, 1961, to authorize further additions to Fort Necessity National Battlefield, Pa., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

H.R. 12739. A bill to preserve local air service; to the Committee on Interstate and Foreign Commerce.

By Mr. MURPHY of Illinois:

H.R. 12740. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. NIX:

H.R. 12741. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on the Judiciary.

H.R. 12742. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 12743. A bill to amend title II of the Water Pollution Control Act Amendments of 1972 (Public Law 92–500); to the Committee on Public Works.

By Mr. O'HARA (for himself, Mr. Ashley, Mr. Brademas, Mr. Cederberg, Mr. Conyers, Mr. Davis of Wisconsin, Mr. Diggs, Mr. Dingell, Mr. Esch, Mr. Ford, Mr. Froehlich, Mr. Hutchinson, Mr. Madden, Mr. Metcalfe, Mr. Mosher, Mr. Murphy of Illinois, Mr. Nedzi, Mr. Obey, Mr. Rostenkowski, Mr. Ruppe, Mr. J. William Stanton, Mr. Vander Jagt, Mr. Vanik, and Mr. Yates):

H.R. 12744. A bill to permit the diversion and withdrawal of additional water from Lake Michigan into the Illinois Waterway, and for other purposes; to the Committee on Public Works.

By Mr. OWENS:

H.R. 12745. A bill to expedite certain judicial proceedings relating to the Central Utah reclamation project; to the Committee on the Judiciary.

By Mr. PATTEN:

H.R. 12746. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

H.R. 12747. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

By Mr. PEYSER (for himself, Mr. Clay, and Mr. Bell):

H.R. 12748. A bill to authorize a national summer youth sports program; to the Committee on Education and Labor.

By Mr. REID:

H.R. 12749. A bill to amend section 4 of the Emergency Petroleum Allocation Act of 1973 to direct the President to establish ceiling prices on petroleum and related goods; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS:

H.R. 12750. A bill to amend the Railroad Retirement Act of 1937 so as to increase the amount of the annuities payable thereunder to widows and widowers; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSE:

H.R. 12751. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE:

H.R. 12752. A bill to authorize and direct the Secretary of Agriculture to study lands within the Keweenaw Peninsula of Michigan to determine if the lands should be acquired and administered as national forest lands; to the Committee on Agriculture.

H.R. 12753. A bill to repeal the Emergency Daylight Saving Time Energy Conservation Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.R. 12754. A bill to protect the constitutional rights of professional athletes; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.R. 12755. A bill to amend the Economic Stabilization Act of 1970 to stabilize the price of propane; to the Committee on Banking and Currency.

H.R. 12756. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on the Judiciary.

By Mr. SYMMS:

H.R. 12757. A bill to suspend for a temporary period of time the provisions of section 27 of the Merchant Marine Act, 1920, in order to permit, under certain circumstances, vessel foreign registry to transport fertilizer necessary to the production of agricultural commodities from Alaska to the west coast of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. TIERNAN:

H.R. 12758. A bill to amend the Internal Revenue Code of 1954 to provide that the credit for foreign taxes shall not be allowed in the case of taxes paid to a foreign country with respect to the income derived from any oil or gas well located in a foreign country, and to eliminate the percentage depletion allowance in the case of any such well; to the Committee on Ways and Means.

By Mr. WAMPLER:

H.R. 12759. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WON PAT:

H.R. 12760. A bill to amend the Organic Act of Guam to provide for a certain procedure for the settlement of claims arising out of the acquisition of property in Guam by the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. YATRON (for himself, Mr. Obey, Mr. Flynt, Mr. Gettys, Mr. Stratton, Mr. Jarman, Mr. Bray, Mr. Walsh, Mr. Veysey, Mr. Rarick, Mr. Steed, Mr. Shriver, Mr. Dellenback, Mr. Murphy of New York, Mr. Carney of Ohio, Mr. Biester, and Mr. Stuckey):

H.R. 12761. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

By Mr. ZWACH (for himself, Mr. Abdnor, Mr. Bergland, Mr. Breaux, Ms. Chisholm, Mr. Hansen of Idaho, Mr. Obey, and Mr. Thone):

H.R. 12762. A bill to adjust target prices established under the Agriculture and Consumer Protection Act of 1973, as amended, for the 1974 through 1977 crops of wheat and feed grains to reflect changes in farm production costs; to the Committee on Agriculture.

By Mr. ZWACH:

H.R. 12763. A bill to amend the Internal Revenue Code of 1954 to provide that pensions paid to volunteer firemen or their dependents, or to the widows or other survivors of deceased volunteer firemen, shall not be subject to the income tax; to the Committee on Ways and Means.

By Mr. BINGHAM (for himself and Mr. Harrington):

H.J. Res. 896. Joint resolution proposing an amendment to the Constitution of the United States relating to the eligibility of a citizen to hold the Office of President; to the Committee on the Judiciary.

By Mr. HAWKINS:

H.J. Res. 897. Joint resolution authorizing and requesting the President to proclaim the week of March 17, 1974, as "National Health Week"; to the Committee on the Judiciary.

By Mr. SPENCE:

H.J. Res. 898. Joint resolution authorizing the President to proclaim the second full week in October each year as "National Legal Secretaries' Court Observance"; to the Committee on the Judiciary.

By Mrs. SULLIVAN:

H.J. Res. 899. Joint resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S. owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. ABDNOR:

H. Res. 836. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the appendix to the budget for the fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDREWS of North Dakota:

H. Res. 837. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. ARCHER:

H. Res. 838. Resolution to declare U.S. sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

By Mr. BAKER:

H. Res. 839. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. BLACKBURN (for himself, Mr. Brinkley, Mr. Hinshaw, Mr. Lent, and Mr. Hudnut):

H. Res. 840. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. CLANCY:

H. Res. 841. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. CONABLE:

H. Res. 842. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. CRANE (for himself, Mr. Flood, Mr. Blackburn, Mr. Waggonner, Mr. Burke of Florida, Mr. Collins of Texas, Mr. Devine, Mr. Huber, Mr. Hunt, Mr. Hutchinson, Mr. Kemp, Mr. Landgrebe, Mr. Lott, Mr. Treen, and Mr. Spence):

H. Res. 843. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. DICKINSON:

H. Res. 844. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. GROVER:

H. Res. 845. Resolution disapproving the recommendation of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. HOLIFIELD:

H. Res. 846. Resolution to provide funds for the expenses of the investigation and study authorized by rule XI(8) and House Resolution 224; to the Committee on House Administration.

By Mr. ICHORD (for himself, Mr. Dent, Mr. Aspin, Mr. Broomfield, Mr. Grover, Mr. Brinkley, Mrs. Sullivan, Mr. Breaux, Mr. Perkins, Mr. Murphy of Illinois, Mr. Biaggi, Mr. Charles H. Wilson of California, Mr. Walsh, Mr. Gettys, Mr. Archer, Mr. Steiger of Arizona, Mr. Rodino, Mr. Williams, and Mr. Smith of New York):

H. Res. 847. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. KUYKENDALL:

H. Res. 848. Resolution condemning the use of violence in the current truckers' strike, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Texas:

H. Res. 849. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. QUIE:

H. Res. 850. Resolution to disapprove pay recommendations of the President; to the Committee on Post Office and Civil Service.

By Mr. RANDALL:

H. Res. 851. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. REGULA:

H. Res. 852. A resolution disapproving the recommendation of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H. Res. 853. A resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. SYMMS:

H. Res. 854. A resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. THOMPSON of New Jersey:

H. Res. 855. A resolution to provide funds for further expenses of the investigations and studies authorized by House Resolution 175; to the Committee on House Administration.

By Mr. YATES (for himself, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. MOSS, Mrs. CHISHOLM, and Mr. TIERNAN):

H. Res. 856. A resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 12764. A bill for the relief of Howard L. Rathman; to the Committee on the Judiciary.

By Mr. BUTLER:

H.R. 12765. A bill for the relief of Robert Alexander; to the Committee on the Judiciary.

By Mr. GINN:

H.R. 12766. A bill for the relief of Bak Hon Woo; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 12767. A bill for the relief of Adrian Bejan; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 12768. A bill for the relief of Bruna Molinari Balocchi; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 12769. A bill for the relief of Ms. Ziba Azar; to the Committee on the Judiciary.

SENATE—*Thursday, February 7, 1974*

The Senate met at 10 a.m. and was called to order by Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Show me Thy ways, O Lord; teach me Thy paths. Lead me in Thy truth and teach me: for Thou art the God of my salvation; on Thee do I wait all the day.—Psalms 25: 4–5.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my redeemer.—Psalms 19: 14.

As our fathers found wisdom and courage by their faith in Thee, so will Thou help us, O Lord, to create such programs, proclaim such policies, and inspire such efforts as will lead this Nation through the anxieties of these troubled times to a new and better day of justice and peace for all mankind.

We pray in the name of the Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 7, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HUDDLESTON thereupon took the chair as Acting President pro tempore.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT—CONFERENCE REPORT (S. REPT. NO. 93–681)

Under authority of the order of the Senate of February 6, 1974, Mr. JACKSON, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, on February 6, 1974, submitted a report thereon, which was printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 6, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of title 46, United States Code, section 1126c, the Speaker had appointed Mr. WOLFF and Mr. WYDLER, as members of the Board of Visitors to the U.S. Merchant Marine Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of title 14 United States Code section 194(a), the Speaker had appointed Mr. TIERNAN and Mr. STEELE as members of the Board of Visitors to the U.S. Coast Guard Academy, on the part of the House.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR MANSFIELD'S INTERVIEW ON THE STATE OF THE CONGRESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a speech which I made on Friday evening, February 1, on the state of the Congress, along with the interrogation conducted by six reporters and the analyses and commentary by CBS at the end of the interview, be printed in the RECORD.

I would like to say that I also afforded, ABC, NBC, and PBS, all of which carried the statement, the opportunity to furnish the transcription of any analyses which they might have made. However, none of these networks have furnished a transcription of their summary or analysis. It is for this reason that only one summary or analysis is included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF THE CONGRESS—1974

Wednesday evening President Nixon addressed a joint session of Congress, through the medium of radio and television, he also spoke directly to the nation. His State of the Union Address was welcomed by the Congress. It will receive full and cooperative consideration. Whatever the legal difficulties which confront the Administration, the regular business of the nation must come first. The President put it first. Insofar as the Congress is concerned, it will be first.

Tonight, I offer an assessment of where the nation stands and what lies ahead as we see it in the Legislative Branch. The President, alone, speaks for the Executive Branch. One Senator cannot speak for the 100 Members of the Senate. Nor will all 435 women and men in the House of Representatives agree with everything that I have to say. Nevertheless, my remarks are indicative of the prevailing views of the Democratic Majority as reflected in the Leadership of the Congress.

In some respects, of course, these views are on the same wave length as the President's, as for example, when he spoke on Wednesday of his desire to protect the personal liberties of Americans. In others, they differ. It can be no other way. We are a government of separate branches. Our politics remain cast in two major parties.

Twelve months ago the 93d Congress convened after a sweeping victory for a Republican President in the 1972 election. From that same election, however, there also came an increase in the Democratic Majority in the Senate and a continuing Democratic Majority in the House of Representatives. There were those who chose to note the first event but to ignore the second. The facts of the election, nevertheless, were clear. There had been not one but two basic decisions. The people had continued the President in office. At the same time, they had rejected government by one party and government by one branch. And, may I add, subsequent events have underscored the wisdom of this duality of choice.

The Congressional Majority accepted the President's electoral mandate. At the same time, we concluded that there was also a mandate to the Legislative Branch. Therefore, we moved promptly to reinforce the nation's system of checks and balances against an accumulation of power in the Executive Branch. This accumulation did not begin in the present Administration. It had been going on, administration after administration, Democratic and Republican, for decades. Nevertheless, there were, at the outset of the 93d Congress the following evidences of an ominous shift to one-branch government:

(1) Excessive Executive curtailment of public information in the name of national security;

(2) Arbitrary Executive impoundment of appropriated funds;

(3) Unwarranted Executive attacks on the national press;

(4) Executive pre-emption of sole authority over the Federal budget;

(5) Multiplying expressions of Executive contempt for Congress and, by extension, for the people who elect the Congress;

(6) Executive usurpation of sole control over changes in the basic organizational structure of the government; and,

(7) Illegal invasions of personal privacy by Executive agents.

To the Congress, these were flashpoints of a danger to freedom and we were determined to act on them. In my judgment, we did what we set out to do. The erosion of the system of checks and balances was halted. A greater Congressional impact began to be registered on all of the basic decisions of the Federal government.

A year ago, for example, this nation's principal concern was to get out of Viet Nam. That was a goal set not in 1973 or 1972 by this Administration. It was set by its predecessor in the distant past. It was a goal reiterated year after year for a half-dozen years. For even more years, Members of Congress had spoken out against the involvement.

But at the beginning of the 93d Congress, we were still in Viet Nam. Americans were still dying in Indochina. The urgency, therefore, was to translate pious words into action that would restore fully the nation's peace. In 1973 that was done. An effective settlement was negotiated with the North Vietnamese by Dr. Henry Kissinger, the present Secretary of State. The final withdrawal of our military forces was achieved under what became an absolute legal insistence by the Congress. Thereafter, the gate to re-involvement anywhere in Indochina was shut tight by legislation.

The bitter and tragic experience of Viet Nam led us, moreover, to act against a repetition elsewhere. Now, any military intrusion into another nation—and, hopefully, we have seen the last—is conditioned on the expressed consent of Congress as prescribed in the War Powers Act. Hereafter, what this nation may find necessary to do abroad in a military sense is a question that must be openly considered. It must be decided not alone by the President. It must be decided by the President together with the men and women in the Congress who answer directly to the people. That is a basic Constitutional concept. That is an essential concept for the continued existence of freedom in this nation.

The past year also witnessed major contributions from the Congress over a range of domestic questions. New farm legislation was passed calling for the removal of all limitations on the production of food. Hopefully, this legislation will undo some of the damage done by subsidized sales of grains abroad at bargain-basement prices.

Last year, we sold millions of tons of grain to the Soviet Union. This year, the Soviet Union is offering to sell some of it back to us—at almost three times the price. Who pays for this sort of flim-flam? The people of the nation pay for it in the skyrocketing costs of all foodstuffs.

In the last session, Congress acted twice on its own initiative to try to keep Social Security benefits in line with rising prices. The way was also cleared for building the Alaska pipeline. New emphasis was given to urban mass transportation. Measures were adopted to encourage emergency medical services and health maintenance systems throughout the nation. Legislation of significance to veterans became law after a Presidential veto. To be sure, the achievements were not earth-shaking. Nevertheless, they represented a sustained and sober effort on the part of Republicans and Democrats alike. They were the work of one session of a two session Congress. During the current year, it is my expectation that we will move to consider these additional major measures:

An effective National health insurance system which covers all Americans;

An expansion of Housing assistance so that those of limited means will once again be able to pay for a home;

Reform of private pension systems which will recognize that millions of Americans move from place to place and from job to job and that the accumulation of private retirement credit, in effect, should do the same;

A fair minimum wage that underwrites a modest standard of living in the face of an explosive inflation;

A system of no-fault automobile insurance;

An increase of Congressional control over the budget, to the end that the President's more than $300 billion in spending requests will be reduced;

A renewed commitment to excellence in education after years of administrative indifference.

There will be time to try, too, to bring about more equity in the tax structure. The system now favors, too much, those who have more, over those who have less. It favors, too much, income from substantial wealth already accumulated as against income derived from pay-check to pay-check and from personal savings that are small or almost non-existent.

That is the way the legislative program for the coming session is beginning to take shape. It is the first order of business. It will be pursued deliberately.

At this point, I wish to speak with the utmost candor on the Congress and Watergate and the related questions of impeachment and resignation. I raise these matters reluctantly. Nevertheless, they must be raised because they have been widely discussed by the public and, on Wednesday, reference was made to them by the President. The question of a Presidential resignation, as in the case of a Vice-Presidential resignation, is not one for the Congress. The President has stated his intentions bluntly in that regard. Insofar as the Congress is concerned, that closes the matter of resignation.

Impeachment is a responsibility of the Congress. The question is now before the House of Representatives where it belongs at this time under the Constitution. It is being handled properly and deliberately. On the basis of available information, I would anticipate that it will be dealt with fully in this session.

What has been done by the Senate Watergate Committee is also within the Constitutional responsibility of the Congress. That work, too, I would anticipate, will be completed during this session in legislative recommendations.

The question of impeachment and the matters of the Watergate hearings create onerous responsibilities for the Congress. They are also inescapable responsibilities. They have had to be assumed in order to cleanse the political processes of the nation. The members of the Congressional Committees which are pursuing them—members of both parties—deserve every support in these endeavors.

As for the crimes of Watergate—and there were crimes—they cannot be put to rest by Congress. Nor can any words of the President's or from me mitigate them. The disposition of crimes is a function of the Justice Department and the Courts. Insofar as I can see, Mr. Leon Jaworski, the special prosecutor, is doing his job and so, too, are the courts. There the matter must rest for however long may be necessary. Whether it is months or years, there are no judicial shortcuts.

Looking ahead, in ten months the Senate and the House of Representatives will face the people in an election. That event will test the record of the past two years. More important, it will be an affirmation of freedom at a critical moment in our history. The transitory political lives of elected officials are not what will matter most in November. It is the political life of the nation that is involved most deeply.

To excise Watergate and what it implies before it becomes fatal to liberty is a fundamental responsibility of this government. The people have a right to an electoral system free of shenanigans, capable of yielding honest, responsible and responsive government, open to all, and shaped to meet the needs of all.

The people of this nation, in their overwhelming number, do not want government by the whim or the will of the most powerful and influential. That is the nub of the problem. It is incumbent on us to foreclose an excessive intrusion of great wealth, whether corporate, labor, personal or whatever, into the electoral process. That is a solemn and urgent obligation.

We have taken steps in law in the direction of fulfilling that obligation. Citizens, for example, can now indicate on the front page of their income-tax returns whether or not they wish a dollar of their taxes to go to defray election costs at no additional cost to themselves. These funds will be impartially divided to finance future political campaigns. Certainly, I would urge all Americans to use this income tax device to register their concern for the integrity of free elections.

In my judgment, we shall not come finally to grips with the problem except as we are prepared to pay for the public business of elections with public funds. We are moving in that direction, as I have already indicated, with the income tax earmark. There are other measures under consideration in Congress which will accelerate the process. I would hope and expect that the President will join with the Congressional leadership in supporting these efforts to clean up the campaign-financing mess. If it was in 1972 that Watergate arose, and in 1973 that it was investigated, may it be said that it was in 1974 that the matter was finally ended in a new system of open elections openly paid for. I urge the support of the people of the nation in that resolve.

What Watergate did to public confidence with regard to the nation's politics, the energy crisis has done in the realm of the nation's economy. Grave uncertainties have arisen. It is not merely a question of long lines at the filling stations, and slower speeds on the highways. The implications of the shortage are seen to extend far beyond the gas tank into every aspect of our society. Today, the petroleum situation threatens the jobs, the business and even the basic maintenance of the homes of millions of Americans. We have become aware, suddenly, of an abject dependency on decisions made by governments five thousand miles away and by a handful of executives in petroleum companies scattered around the world.

To be sure, oil shortages had been forecast for years. But, the message was either not received or ignored. The use of ever-increasing amounts of energy and, in particular, of petroleum-derived energy was stimulated in this nation as basic to prosperity. Now, we have shifted gears. The watchword has changed from consumption to curtailment. The people of the nation have been quick to recognize the need. They have displayed, over all, a remarkable degree of self-discipline in meeting the problem. And that has been the single most important element in preventing a national catastrophe.

The recent agreement between Egypt and Israel will also be of significance in this connection. The President and Secretary of State Kissinger have acted with notable astuteness on the interplay of the Middle East conflict and other aspects of the international situation and the energy question. While I am on this subject, I would like to commend the peripatetic Mr. Kissinger. His achievements extend far beyond the Middle East as, for example, in the improvement of relationships with China and the Soviet Union.

In the year ahead, I would hope that the President and the Secretary of State will turn to such questions as the reduction—not just the limitation—but the reduction of arms on a mutual basis. Hopefully, this wasteful financial burden and the drain on the resources of the nation which it entails may be reduced, and military spending can be cut, not increased, as the President has already requested in his State of the Union message.

There is also the need for a new look, south, at our relations with a Latin America that is changing rapidly. It may well be that in the excellent ties which we have maintained with Mexico—ties in which regular meetings of the Congresses of the two countries play a major role—there will be found a prototype for a new cooperation with the other American republics.

Under the stress of the energy shortage and other economic difficulties, there is the danger of a crumbling of international cooperation, notably, as it involves our relations with Western Europe and Japan. That, indeed, would be the final straw. The consequences of devil-take-the-hindmost economic policies among free nations would be disastrous to all concerned and might well initiate the general erosion of world peace. In that connection, the President is to be commended for convening a meeting this month to consider our common plight with the representatives of several European nations and Japan.

As for the energy crisis at home, the immediate responsibility of government is to make certain that the shortage does not devastate the economy and that the price of past neglect is borne equitably by all Americans. If that means rationing, then let us not hesitate to use this device. Surely a price roll back will also be considered by the Congress. Surely the tax benefits accorded the major oil concerns on investments outside the United States by this Government, as well as excessive oil profits, will be scrutinized by the Congress.

Critical information on the production and distribution of energy must no longer be closeted in the executive offices of private corporations. It is essential that the facts be uncovered and laid before the nation. Wherever they may operate, if corporations are chartered in this country or receive the benefits and protection extended by the government of the United States, they have an obligation to answer, through the Congress, to the people of the United States.

Let me say that we do not need scapegoats in this situation. But we must have a foundation of fact on which to build a national policy on energy. We have got to know far more than we know now if we are to meet the threat to the nation's well-being. I speak of the threat of widespread business shutdowns, transportation paralysis and a run-away inflation which can only culminate in a severe recession with extensive unemployment and appalling human hardship. That, the people of this nation will not tolerate. That, the Congress of the United States will do all in its power to prevent.

The energy crisis has shocked this nation. In so doing, it has also shown us in a sudden flash the precarious manner in which our national economic life has come to be organized. It is all well and good to be concerned at this time with the exhaustibility of petroleum. But what of the exhaustibility of pure air and water? What of bauxite, nickel, tin, iron and copper, and many other materials? Where will the supplies of these and other essentials come from in the years ahead? Indeed, what of food, with the kind of disjointed policies in which exports of wheat are stimulated one year only to compel high-priced imports the next?

To say that we have been extravagant with our resources is to put it mildly. We spend nearly $3 billion a year on air-conditioning and less than $150 million on air pollution control. We throw away 60 billion beverage containers a year, yet spend only $5 million to research recycling techniques. Pollution is building dead seas off the coast of New York, New Jersey, the Great Lakes states and elsewhere. Yet, during the recent recess the President chose to impound $3 billion that had been appropriated for the treatment of waste.

It would be my hope that the concern of the Government will not stop with the energy shortage. The need is to take a careful look not only at the flashing of this single danger signal but at the whole integrated switchboard of our national existence. It is not enough, for example, for the federal government to spend tens of millions of dollars in a rescue operation to keep the bankrupt Penn Central on the tracks. We need to know where an action of this kind fits into a national rail policy; where that policy, in turn, fits into a total transportation pattern; where that pattern, in turn, fits into the over-all requirements of the nation, today, and for the next decade or more. In short, we need to think ahead and begin to make the hard political choices between what is more important to the nation and what is less, between what is enduring and what is transitory. That is the full scale by which government intervention in the nation's economy, when it must take place, should be measured. Unless we begin soon to develop that scale, the right hand of government will tend more and more to undo or do over what the left hand has just done.

It seems to me that it would be helpful in this connection to bring together on a regular basis representatives of the Executive Branch and the Legislative Branch with those of industry, labor and other areas of our national life. The fusion of ideas and interests from these sources should help us to establish useful economic yardsticks. In turn, we may begin to curb in some orderly way the ingrained tendencies of government to spend vast sums out of force of habit or for exotic and wasteful endeavors—whether military or civilian. Perhaps the resources of the federal government can then be used more effectively and efficiently to promote the national welfare. Perhaps, then, the President's budget—which has now broken the $300 billion barrier—can be reduced and better framed to meet the over-all requirements of the nation for today and tomorrow.

There is a great deal that is right in this nation. There is a strong, decent, industrious and compassionate people. There is a bountiful land. There is intelligence, inventiveness and vitality. If, working together, today, we will put these attributes to use for the benefit of all, there need be no fear for the nation's tomorrow. That is the responsibility of this government. It is the responsibility of the President, the elected members of Congress, the appointed officials of government and the civil service. Nor is it a responsibility confined to the now. We owe this nation more than a decent present. We owe this nation leadership in the reach for a decent future. In 1974 this Congress—your Congress—will do its part fully in meeting that responsibility.

Senator MANSFIELD. . . . That concludes my statement. The radio and TV broadcasters who offered the Congress the opportunity to reply to President Nixon's State of the Union each have been afforded the opportunity to have one of their correspondents come here this evening and question me on this Congressional view of the State of the Union, or on any other matters of their choosing. Ladies and gentlemen, do you have any questions?

QUESTION. Yes, Senator. You said that you anticipated that the Watergate Committee would complete its work and make legislative recommendations during this session of Congress. Do you foresee the Committee meeting the February 28 deadline for that report, or do you expect in view of new developments they may continue beyond that?

Senator MANSFIELD. I think it's possible at this time. Yesterday, I understand, Mr. Leon Jaworski met with the chairman and the vice chairman of the Watergate Committee, and asked them not to release their findings on February 28, which under the statute would mark the end of their term. However, if there is any further pertinent information which is forthcoming, which would be of value to the Congress and to the courts and to Mr. Jaworski, I would anticipate that that committee would be continued.

QUESTION. And that the Senate committee would continue its investigation rather than turning its investigation over to the House Judiciary Committee, which is considering impeachment?

Senator MANSFIELD. I think that what the Senate Committee finds out should be turned over to the House Judiciary Committee, because it is the one with the most important and pressing matters at this time.

QUESTION. Senator, the President said that one year of Watergate is enough. He implied that the investigation should be turned off, and we should turn our attention to other matters. Do you think he was right in that, in recommending it?

Senator MANSFIELD. Oh, we have not foreclosed our attention to other matters. I think the Congress has acted responsibly and constructively. The Watergate Committee is a creature of the Senate; it was voted into existence unanimously by the Senate. As long as it has a job to do, it must do it, because it has responsibility which has been delegated to it.

QUESTION. Do you feel, Senator, that Watergate and the threat of impeachment have seriously crippled the President's ability to govern the country.

Senator MANSFIELD. I do not.

QUESTION. Do you feel that Democrats, during this critical period that is has extended now over this past year, should step into anything that might resemble a power vacuum, should do more to assert themselves and present their own program to govern the country?

Senator MANSFIELD. Not necessarily, although we've done that in part, because under the Constitution there is equality between the executive and the legislative branches. We don't want to take away any of the powers of the presidency; we're not against a strong president, but we want to restore some powers which we gave to presidents for the past 40 years, both Democratic and Republican, either voluntarily, involuntarily or unknowingly. The fault is ours for giving it away; it is up to us to get it back.

QUESTION. Senator, the proposal's been made in the House that the Judiciary Committee hearings be televised. Would you favor televising those hearings, and then later, if there are impeachment proceedings in both the House and the Senate, would you—

Senator MANSFIELD. If I were a member of the House, I would be in favor of it. I'm not a member of the House, so I'll withhold judgment.

QUESTION. If the proceedings get to the Senate, would you be in favor of televising the impeachment proceedings?

Senator MANSFIELD. I would.

QUESTION. Along that line, Senator, since the House Judiciary Committee is moving toward a decision in its impeachment inquiry, what preparations are the senators—senate leadership—making at this point in the event of an impeachment trial?

Senator MANSFIELD. We are watching with great interest what happens in the House, but we have not undertaken any studies under the law or precedents up to this time.

QUESTION. Do you think senators who have spoken out in favor of impeachment should disqualify themselves if this came up in the Senate?

Senator MANSFIELD. I would never comment on any action taken by another senator.

QUESTION. Senator, there does seem to be some discrepancy where on page nine you say that you think that impeachment will be dealt with fully in this session of Congress, and then, although you do mention Leon Jaworki, you say that the matter may go on for how long—for however long as is necessary, whether it be months or years—there are no judicial shortcuts. Well, what is it to be, then? Is Watergate to be finally resolved in this session of Congress, or is the whole thing going to go on for years?

Senator MANSFIELD. Well, when the Watergate Committee concludes its tenure, it will make legislative recommendations to the Senate first because it is a Senate committee. It will also turn over what evidence it has and make its recommendations to Mr. Jaworski, because this matter—the President's right when he says it should be taken to the courts, and it will—will end in the courts. This matter is going to go there, because Jaworski is carrying on an investigation of his own; what he's doing is bringing his evidence before the grand jury, and out of it has come some indictments already, and according to Mr. Jaworski, there will come others.

QUESTION. On the matter of impeachment, if I could follow up on that—the matter of impeachment, you say you would anticipate it will be dealt with fully in this session of Congress—

Senator MANSFIELD. That's right.

QUESTION. This is—there are only a matter of months left, so you think that the Senate—both the House and the Senate will finally act on this one way or another?

Senator MANSFIELD. Yes, that's my impression, and as far as the courts are concerned, you can't shortcut them. They're going to have to move deliberately, and that could take years.

QUESTION. You say, Senator, that the question of resignation is closed because the President has said that he will not resign. When you say that, are you speaking for such Democratic leaders as Tip O'Neill and Wilbur Mills, who have said the President should resign?

Senator MANSFIELD. Basically, I'm speaking for myself, but I think I'm speaking for the majority of the leadership.

QUESTION. How can you say that the question is closed when other leading Democrats are calling for resignation?

Senator MANSFIELD. Well, the question is closed because the decision can be made by the President—the President only.

QUESTION. Senator, but Spiro Agnew said repeatedly that he was not going to resign and then he did. Now, we have the President doing the same thing. How can we believe the President any more than we could believe the Vice President?

Senator MANSFIELD. Well, Agnew did resign.

QUESTION. Senator, do you see any point at which the President, in your opinion, might—should—seriously consider resignation?

Senator MANSFIELD. No, that's a question for him to decide.

QUESTION. Senator, did I understand you correctly that you thought the impeachment matter would be dealt with by this session of Congress, in both houses?

Senator MANSFIELD. No, I—I mean—yes, I'll say both houses, but I was thinking primarily of the House of Representatives. If it takes too long there, of course, it could go beyond this year over here. We haven't reached that point.

QUESTION. Senator Mansfield, I'd like to turn to another part of your statement tonight, and that is the problem of energy in this country. Today, the Labor Department announced that the unemployment rate had increased from 4.9 percent to 5.2 percent, meaning another 368,000 people—

Senator MANSFIELD. That's right.

QUESTION.—were unemployed last month. A large part of those—or part of those were due to the energy crisis. We have truck drivers stoning each other in Pennsylvania and truck drivers shooting at each other in Ohio. Senator Jackson says we could face the prospects of riots in this country. In your statement, you suggest that we start now to have meetings on a regular basis with representatives of the executive branch, the legislative branch, those of industry, labor and other areas of our national life. Aren't we a little late for that? Doesn't this deserve something a little more important and stringent? Doesn't this deserve perhaps a declaration of national emergency now?

Senator MANSFIELD. Not yet. We are a little late, but if you'll recall what I said, we ought to do it now, but do it—not only to face up to present day problems, but problems to come up in the future, because the energy problem is the prescursor, the forerunner of other difficulties of a similar nature which will occur. There are these elements of outlawry, the way some truckers are acting; I think they have a beef about the price of gasoline, just as the rest of us have, but I do not think they have a beef about the speed limit, because I think that we all should be treated the same. I would hope that the appropriate committees under Senator Magnuson in Commerce and Senator Jackson in Government Operations and Interior would look into this to see what they could do, in conjunction, in partnership with Mr. Simon, Mr. Sawhill and others.

QUESTION. Could I suggest here another question, along the lines you just mentioned, with the committees. I think you mentioned three committees that will deal with this problem, with the problem of energy. Isn't there some thought about reorganizing Congress, so that there could be one major committee that could tackle this serious problem so it wouldn't have to go through three committees?

Senator MANSFIELD. As a matter of fact, at the Democratic Conference a week ago Thursday, I did appoint a committee under the chairmanship of Senator Inouye to look into that question, and I anticipate that they will come up at a meeting to be held this coming week by the Democrats in the Senate, with a possible solution.

QUESTION. Senator, how are you going to get any of these things done when you have a crisis of confidence in the government? You've laid out quite an interesting program tonight; the President laid out his program on Wednesday night, and yet people really don't have any faith that their government can really act and move. Now, how are you going to restore that confidence?

Senator MANSFIELD. By acting and moving. There is that cynicism, that pessimism, that questioning, and we just can't help it. I certainly don't blame the people for feeling that way, but as I tried to indicate, we're going to continue to act constructively and responsibly to carry out the duties which are ours under the Constitution, and hopefully, by what we do up here, at least, will restore some degree of that confidence which has been lacking.

QUESTION. Senator, I think we might also ask, how are you going to get any of these things done when you have so many Democrats going off in so many different ways? I think in many eyes, the greatest failure of this Democratic controlled Congress has been its failure to get together on constructive alternative programs.

Senator MANSFIELD. No, I would disagree with you completely, because our strength lies in our diversity, and it's remarkable how the Democrats, in spite of their differences, can come up and put through and pass sound, constructive legislation.

QUESTION. It's better to be divisive than to have a Democratic-backed program on the energy crisis or inflation or unemployment or any of these other programs?

Senator MANSFIELD. Oh, we don't want a bunch of yes men in the Democratic Party. We want diversity of opinion, because out of that, I think, comes our strength.

QUESTION. Senator, you say also you want to solve the energy problem.

Senator MANSFIELD. That's right.

QUESTION. By my count, there are now 16 House or Senate Committees studying it, and you say that you're going to create a committee to consider creation of another committee.

Senator MANSFIELD. No, no. No, no, that won't be the solution—

QUESTION. You said you have a panel on the policy council—

Senator MANSFIELD. That's right, but we'll get some way to bring people from these committees together so that there won't be this constant overlapping.

QUESTION. How long is it going to take, though, Senator?

Senator MANSFIELD. Not too long.

QUESTION. Will the crisis be over?

Senator MANSFIELD. No, this crisis won't be over. There'll be others coming along, and I think it's a good procedure to follow.

Question. Senator, President Nixon says that America can be self-sufficient in energy by 1980. Do you agree that we can be independent in six years?

Senator Mansfield. It's possible, but it will be nip and tuck. If you take into consideration the undeveloped reserves in the Alaskan area; if you consider our offshore deposits, and if you will recognize the possibility that some of our companies, instead of going abroad where the easy oil is, might spend more of their time and energies in this country developing what we have. It would be nip and tuck.

Question. Senator, in the State of the Union the other night, the President made as one of his goals—mentioned that he would like a historic beginning on the task of defining and protecting the right of personal privacy, and this evening you talked about illegal invasions of personal privacy by executive agents. What is going to be done about the bugging and the tapping and so forth that's been going on?

Senator Mansfield. Well, I think that out of the Watergate hearings, out of what Mr. Jaworski does will come recommendations which will be considered by the appropriate committees, either in the form of bills, or as amendments to bills to which they are germane.

Question. Along those lines, one of your Senate committees, an ad hoc committee on secrecy or some such name, last October came up with the name of a new security or intelligence agency called the National Reconnaissance Office. Do you know what that is, or what they do? Have you been able to find out?

Senator Mansfield. No, I'm a member of that committee; we're looking into it and we're going to find out.

Question. Do you know how much money they're getting?

Senator Mansfield. Not yet.

Question. Senator, you say in your speech tonight that the price of the fuel crisis should be borne equitably by all Americans, and yet you stop short of calling for rationing. Does that mean you—

Senator Mansfield. I didn't stop short. I said if it's necessary, let's do it.

Question. If it—well, I would—that doesn't go quite all the way. Are you saying—are you calling for rationing tonight?

Senator Mansfield. I've called for rationing for the past two months, because I think the American people ought to be considered on an equitable basis—

Question. You're saying it is necessary and the President should go to rationing immediately?

Senator Mansfield. That's right, and I'm saying that if he thinks it's necessary, he ought to act upon it.

Question. You think it is necessary?

Senator Mansfield. I do.

Question. Senator, let's—

Senator Mansfield. Do you like standing in line, buying $2 worth of gasoline? Do you like paying 50, 55 cents a gallon for gas? Just today one oil company increased the price 5.4 cents per gallon. Others followed suit. One company, Texaco, I think, did not.

Question. Given that situation, Senator, why doesn't Congress act on the Emergency Energy Bill? Why didn't it pass it? Why doesn't, instead of giving the President authority for gas rationing, why doesn't it just order it?

Senator Mansfield. Well, I think the President has the authority under the Emergency Defense Production Act of 1950. Perhaps he's loathe to use it as he was about the wages and price powers, which he had, which have been given to him by the Congress. That was not the drawback as far as the Emergency Energy Act was concerned. The drawback there was the question of excess profits.

Question. Senator, the President, in his speech said that there would be no recession, and yet, many signs point toward just such a thing happening because of the energy crisis.

Senator Mansfield. Yes.

Question. Now, if there is a possibility of getting windfall taxes or some such thing from the oil companies, would there be any thought given to easing personal income taxes, particularly in low income groups, to head off a recession?

Senator Mansfield. I think that's one way to face up to part of the problem. It's been advocated by Dr. Walter Heller, as you perhaps know. I'm not certain that excess profits is the answer, because it's going to be a difficult operation to undertake. I would vote for it, incidentally, but perhaps the answer is a rollback in prices. In that way, I think the American people would all be given the consideration which is their due, the truckers would be given the same kind of consideration. Those are factors which are under consideration.

Question. Senator, you talked about the campaign financing. I think we ought to touch on that—that was one of your major projects tonight. How are you going to get incumbent Senators and Congressmen to vote a bill which is going to give equal opportunity to their challengers? This seems to be the crunch that you get every time you bring this up.

Senator Mansfield. Well, we ought to, Miss Lewis, because after all, the incumbents have all the advantages, and I don't know how we can equalize it. This might help in some way, but you just can't gainsay the fact, no matter what we do, we still have the upper hand, and what we ought to do is to try to equalize the procedure so that new faces, new people can have a fair shake.

Question. But being honest about the political realities, how are you going to get people who want to hang onto their seats to vote that kind of legislation?

Senator Mansfield. Well, we have in the Senate, you may recall that in the first session last year, four or five months ago, we did pass a good finance bill, which is in the House, and I think action is anticipated there sometime this month.

Question. But Senator, it has been held up for several months in the House by a Democratic chairman, and the public financing bill that you were talking about in the Senate was filibustered to death, an amendment that would provide public financing was filibustered to death by—in a filibuster led by a Democrat just before Christmas.

Senator Mansfield. Well, we have those things happening, but we'll correct them. Just give us a little time.

Question. Senator, you indicate that you're going to try to reduce the President's $304 billion budget. Do you have some areas now you'd like to tell us where you think it could be cut?

Senator Mansfield. Oh, yes, I think the military, which is getting, I believe, $8 billion more this year than—this coming fiscal year than this fiscal year—ought to be cut. I think that we've spent too much on exotic weapons which haven't proved out. I believe we've wasted about $40 billion in that respect over the years. I would also like to see a gradual reduction of U.S. troops in Europe; I'd like to see us get completely out of Southeast Asia, and that would include the 35,000 men and the 250 planes, 50 of them B–52s which we have in Thailand. There are other places we can cut; NASA I think has had too big a budget, and maybe in the AEC we can do some cutting there, too.

Question. One further point, Senator, if I can pursue it. One part of that budget is a Congressional pay increase. In the next 30 days, Congress is going to get about a 7½ percent increase, followed by two more 7½ percent increases over the next two years. Due to the economic crunch we're in this year, would it not be interesting or patriotic for Congressmen to vote it down and not accept it?

Senator Mansfield. Oh, it would, and——

Question. It's well above the guidelines of 5.5 percent for pay raises.

Senator Mansfield. And when the White House contacted me about it, I said that they should make no recommendation for any increase.

Question. Senator, for the last almost 20 years, since January, '55, Democrats have been in control of the Congress, of the House and the Senate. Regardless of what problem it is in the country, whether it's the energy crisis or trying to get campaign reform, whatever it is, ending the Viet Nam War, doesn't the Democratic Party have to take an awful lot of responsibility for what's not being done in the country?

Senator Mansfield. Oh, yes. We've made mistakes, and I think we should admit them, but if you can show me a perfect political party or a perfect person, then I would say that we could be blamed more for the mistakes which we've made—and I admit them—than we have.

Question. Senator, when the administration's health bill comes up to Congress, it'll be the eighth such bill—the Health Insurance Bill. With all that interest, do you think the Health Bill will finally come out of Congress this time?

Senator Mansfield. I'm very hopeful, and I think so, and I think that the extremes in legislation proposed by Senator Kennedy on the one hand, which is all-encompassing, and President Nixon on the other, which I think is too skimpy, I think they're coming closer together.

Question. Would you call President Nixon's bill extreme on the other hand, considering the AMA and some of the other bills out beyond that?

Senator Mansfield. Yes, I would, because those are the only two factors you should consider; it's the administration downtown and you might say the Democrats up here, and if we can find a middle ground, I think we can do something. I think we can.

Question. Senator, are price controls going to be ended in April?

Senator Mansfield. Well, the way this administration's going, yes, but I don't think that this phase in the economic program of the administration's been very good. I think they made a very serious mistake when in January of last year they turned out Phase 2, which was operating well in the field of wages and prices.

Question. But are the controls going to come off? Are they going to end when the Economic Stabilization Act comes up at the end of April?

Senator Mansfield. I think that's the intention of the administration, though I'm going out on a limb—I can't speak for them—but from what I read and hear——

Question. Only today, Senator Proxmire, who is one of the ranking economic experts on your side of the aisle in the Senate said he thought price and wage controls should be continued.

Senator Mansfield. I know. I was talking about—in answer to Miss Mackin, what I thought the administration would do.

Question. Well, what is your personal view? Do you think they should be continued?

Senator Mansfield. Well, they're not much use, I don't think, but if Senator Proxmire wants to continue them, I certainly will study them very carefully.

Question. Do you think maybe they ought to be ended? You sound like you do.

Senator Mansfield. No, I don't have any feelings on it, because once Phase 2 was done away with, I think that the real strength of the economic program was disposed of.

REPORTERS. Thank you, Senator. Thank you very much.

ROGER MUDD. This is Roger Mudd in the Washington bureau of CBS. You've been listening to Democratic Senator Mansfield, the Majority Leader of the United States Senate, giving the opposition's view of the State of the Union. I suppose this was a relatively honest appraisal of what the Congress had done in the first session, simply because the Senator said that the achievements of that first session were not earthshaking.

The Senator credits both the Republicans and the Democrats, and he gives the blame to both the Democrats and the Republicans. The Senator is not a bitter partisan. His credibility on Capitol Hill is high, and probably he is the best spokesman that the Democrats could have in this period of contempt for politicians. Obviously, the Senator is looking forward to the elections in November, and his message tonight seemed to be that the Congress, particularly a Democratic one, is the country's best hope. He was critical, but he was not carping, and his message was that the people are entitled to an electoral system free of shenannigans, capable, he said, of yielding an honest, responsive government, and he said we owe, he said, the people of the country, not just a decent present, but a decent future.

Incidentally, we got texts of the Senator's speech about 3:00 o'clock this afternoon, unlike Mr. Nixon's speech on Wednesday, we were furnished an advanced look at the text, and it is, I must report, very similar to the one that the Senator delivered to the Democratic caucus, eight days ago, behind closed doors; many of the phrases are the same, so this is not breaking much new ground.

Now, to the substance of the speech tonight, I'd like to turn to two CBS reporters in the bureau, Dan Rather and Bruce Morton. Dan, if you could take the White House view and just report on what you think the administration people think of what they saw and heard tonight.

RATHER. Well, I have not talked with any of them, obviously.

MUDD. But you know them well enough to make a——

RATHER. I don't think they think very much of it. The admiration for Mike Mansfield that you expressed a few moments ago, which I think is a fair reflection of how he's considered on Capitol Hill by both Republicans and Democrats, has never been shared at the White House by Mr. Nixon or his top aides. One of his top aides once said—it's been 18 months—two years ago, when I said, well, Mike Mansfield tries to be fair to you, and he said, oh, don't be taken in by Mike Mansfield's appearances. Now, certainly tonight, in the speech portion of what he performed here, it was a thoughtful speech, dreadfully delivered, but in the question and answer session, it was, I think, probably would strike most people as refreshing as a drink of spring water to see a man at least give the appearance of taking on questions—straight questions—and give the appearance of straight answers.

Now, the White House won't particularly like that, because I think they will be pointing out two things. First of all, that this should in no way be compared to President Nixon's State of the Union Message. For one thing, Mike Mansfield had nothing to lose here; he could afford to be relaxed, and President Nixon was in many ways stepping into a bully pit the other evening.

The second thing is that the President, although he handles news conferences well, as seen through his eyes and the eyes of his aides, that he does tend to give longer answers than Mike Mansfield, and particularly for television, the short answer frequently comes across on television much better than a long answer.

MUDD. But do you think the White House would regard this as a plus or a minus?

RATHER. A minus—that they will suffer by comparison.

MUDD. A minus. Because of the low-keyed appearance of straight answers.

RATHER. Now, they'll argue hard that it was only appearance of straight answers, and not actually straight answers. In candor, I think they would say that it's a minus for them.

MUDD. Let me ask Bruce Morton what he thinks about that comparison, and also, Bruce, just substantially on the program that Mansfield laid out tonight. He says we will have action on the health program, we will get control over the budget, we will provide low cost housing. How much of that is possible, given an election year.

MORTON. Well, I think it was Will Rogers who said, I'm a member of no organized political party, I'm a Democrat, and you could see some of that coming through during the questioning. One of the things that Mansfield came out most strongly for, one of the relatively few specifics in this speech was publicly financed election campaigns, and yet of course, it was a Democrat, James Allen, of Alabama, who filibustered against that in the last session of Congress and killed it off. Mr. Mansfield talked a lot about energy, but the Congress was unable to deal with energy in the last session, unable to pass its emergency bill, and that is still stuck. The only specific recommendation that Senator Mansfield made in that section of his speech was for disclosure. That's the one thing that most Democrats and most Republicans in the Congress seem agreed on, but as you know, they're in a terrible snarl over, shall we have windfall profits tax or roll back prices, or what in the world should we do. All of those are going to be very difficult.

And then, if you get into areas like tax reform or health insurance, you know as well as I what a legislative shambles that kind of a bill can be when it gets to the Senate floor, where everybody can amend it, everybody can try to do favors for his own particular constituency. If you add that to the fact that this is an election year and a Watergate year, it seems to me that it's going to be very hard to get final passage on very many of those bills.

MUDD. Well, Dan Rather, just looking at the President's view of the State of the Union, would you think that it would suffer by comparison with the Mansfield view? Now, Mansfield tonight said he was on the same track on several things, for instance, on invasion of privacy. How much cooperation can there be, do you think between the White House and a Democratic Congress?

RATHER. Well, I think there can be a great deal, and part of what we've seen this week, on both sides, Republican and Democrat, the President's State of the Union speech and Mike Mansfield's address here tonight, and again, a very refreshing thing is a reaffirmation of the country and a reaffirmation of the system. You've had the President lay out a quite detailed legislative program; you've had Mike Mansfield lay out what he sees to be the differences. Now, in direct answer to your question, I think there are wide areas of cooperation here, and I think we'll see some cooperation. I think we may see in some areas, the President bending over backwards to cooperate with Congress. Election reform, campaign finance reform might be one of those. I think we'll see some areas where the Congress will bend over backwards to help the President, but on the Watergate thing, that and how to handle the energy crisis, on these two very important matters, I don't see much bending over backwards in terms of cooperation either way, but in effect, what I think Mike Mansfield was saying tonight was that if the President is telling the truth and has nothing to hide, then why he is in such a hurry to have the whole Watergate thing put behind us.

MUDD. Bruce, did you think that Mansfield brought up Watergate reluctantly? He spent about four pages of 18 talking about it.

MORTON. Not reluctantly, really. Very gently. All of the jabs at the President are subtle, almost concealed in the speech—you know, he doesn't come out and try to hit him over the head with it, but no, I think he wanted to talk about it. He's not a rabid partisan, but he's a partisan, and it's an election year.

MUDD. Do you think, Dan, that Mansfield's prediction will come to pass, that the Congress will conclude one way or the other with impeachment in this session?

RATHER. Frankly, I doubt that, but Mike Mansfield's—he has a great deal more experience than I do. It's very difficult for me to see how that can and will happen, but, you know, who knows? As you know, Roger, overnight's a long time in politics, and a week is forever, and here we are talking about what, another two or three months. What do you think?

MUDD. Well, I would think that given the schedule that the House has laid out, which is I suppose by late spring, that you will have some resolution of it by the end of the year, certainly by election time. That's all the time we've got. Thank you, Bruce and Dan. This concludes our analysis—instant analysis—not in this case, because we had seven hours notice. It concludes our analysis of the Democratic view of the State of the Union, and if everything goes according to plan, there will now be a Republican demand for an answer to Mike Mansfield's answer to President Nixon. This is Roger Mudd, CBS News, Washington.

SENATOR McGEE'S ATTENDANCE AT THE PANAMA CONFERENCE

Mr. MANSFIELD. Mr. President, the senior Senator from Wyoming (Mr. McGEE) has asked me to announce that he will be absent today and tomorrow on official business, accompanying Secretary of State Kissinger to Panama in order to witness the signing of an agreement on matters of principle between the governments of Panama and the United States. This joint statement of principles, initialed by representatives of both governments, will serve as a guide for negotiators in drawing up a new Panama Canal treaty. Senator McGEE is attending in his capacity as chairman of the Subcommittee on Western Hemisphere Affairs of the Senate Foreign Relations Committee.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 653, 654, 655, and 657.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REDUCTION OF SECURITIES PAPERWORK

The Senate proceeded to consider the resolution (S. Res. 173) that the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the U.S. securities markets, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out the entire text and insert the following as a substitute:

Whereas pursuant to the Securities Exchange Act of 1934, as amended, the Congress of the United States vested in the Securities and Exchange Commission and self-regulatory organizations authority to regulate broker-dealers in the public interest, including small broker-dealers; and

Whereas certain rules and regulations of said Commission and the self-regulatory organizations may impose duplicative paperwork burdens upon the broker-dealer community without a commensurate benefit to the public interest; and

Whereas certain paperwork burdens imposed on broker-dealers by rules and regulations designed to eliminate abuses may create a disproportionate burden when applied to small broker-dealers due to the basic disparity in financial and management capability between large and small brokerage firms; and

Whereas the Commission had submitted to it in December 1972 an SEC Advisory Committee Study which urged the elimination of all redundant and unnecessary paperwork and recommended the establishment of uniform reporting forms and registration requirements; Now, therefore, be it

Resolved, That the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate and consistent with the Commission's statutory responsibilities to protect investors in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the United States securities markets.

Resolved, further, That the Securities and Exchange Commission be directed to review and, if necessary, amend its rules and regulations to assure that such rules and regulations take cognizance of the role of small broker-dealers in the United States securities markets and permit such broker-dealers to effectively comply with the rules and regulations in the public interest without unnecessary administrative burdens; that it continue active consideration and implementation of the recommendations of the SEC Advisory Committee Study; that it continue to review the position of the small broker-dealer to insure the continued participation of such firms in the securities markets of the United States within the context of competitive policy and the protection of investors; and that it immediately proceed to examine and modify its rules and regulations to the extent it is found that the public interest is not commensurate with the burden imposed on small broker dealers, and that the Commission in its annual report shall report its progress to the Congress.

Mr. McINTYRE. Mr. President, the resolution now before the Senate which would direct the Securities and Exchange Commission to continue an examination of its rules and regulations and make such amendments as may be appropriate in order to reduce the unnecessary and duplicative paperwork burden on small broker-dealers is of vital importance to thousands of small, independent security brokers over the Nation. This resolution also directs the Securities and Exchange Commission and the various securities industry self-regulatory bodies to continue a review of the position of small broker-dealers to insure their continued participation in the securities markets of the United States.

The Subcommittee on Government Regulation of the Senate Select Committee on Small Business held hearings relative to the Federal paperwork burden imposed upon smaller broker-dealers on July 12 and 23, 1973, and compiled a sizable record. It shows that smaller broker-dealers are suffering hardships as a result of the paperwork and reporting requirements of the various regulatory organizations within the securities industry. Our committee's efforts were directed toward a review of certain overlapping and duplicative reporting requirements that had come into existence within the regulatory framework of the securities industry. In short, the purpose of our hearings was to determine the extent of this hardship and explore ways by which it may be relieved.

During the course of our hearings, we asked certain regulatory organizations within the securities industry for an explanation of how the industry's paperwork and reporting problems began, and their prospective view of what steps might be taken to remedy these problems. Mr. President, as a result of our hearings and the spirit of cooperation tangibly evidenced by the industry's regulators, through their ongoing constructive review of the paperwork requirements imposed by them upon the securities industry, I am pleased to report that continuing progress has been made toward the goal of a substantial easing of the paperwork reporting requirements imposed upon broker-dealers while simultaneously assuring public investors with adequate protection commensurate with the public interest.

In this regard, certain constructive steps have been taken by the various regulatory organizations of the securities industry which I feel should be specifically noted at this time, and which reflect an agreement by these organizations with our subcommittee's goal of eliminating all of those regulatory paperwork requirements imposed upon the securities industry which are unnecessary and duplicative.

The Securities and Exchange Commission in September 1972, appointed an Advisory Committee on Broker-Dealer Reports and Registration Requirements to study the problems of duplicative and excessive paperwork imposed upon broker-dealers. The Commission and the self-regulatory bodies of the securities industry are now cooperatively involved in the implementation of many of the recommendations of this advisory committee report. More specifically, as a result of our hearings, added emphasis has been given to the development of a "key regulatory report" for use by the entire industry. This report, which will be layered and structured so that greater increments of detail are required as the scope and complexity of a broker-dealer's operations increase, is expected to replace many of the reports currently required to be filed by firms within the industry. The primary goal of this effort is to simplify, standardize, and eliminate duplicate reports of broker-dealers. The Commission and the various self-regulatory organizations within the industry have, in a spirit of cooperative regulation, expended considerable effort in coordinating and reconciling their various views and needs in an effort to expedite adoption of this regulatory report and incorporate into the report uniform definitions and reporting periods.

The Securities and Exchange Commission has also taken steps to establish on a continuing basis a report coordinating group, which will function under the Federal Advisory Committee Act. The group will be composed of knowledgeable persons in the securities industry, the accounting and legal professions, and elsewhere. The report coordinating group will:

First, advise the Commission regarding ways of providing for long-term simplification and standardization in reporting by broker-dealers; second, advise the Commission on proposed new reports and forms; and third, advise and assist the Commission in the development of the "key regulatory report."

Members of this group will be appointed by the Commission in the near future.

In a related step, the State securities administrators, in conjunction with the Securities Exchange Commission and the various self-regulatory organizations of the securities industry, have cooperatively undertaken an effort to develop a uniform form for the registration of brokers and dealers for use by the States, the Commission, and the self-regulatory organizations, and are working toward the completion of a joint securities industry effort to develop a uniform form for the registration of principals and agents of the broker-dealers.

Further, the National Association of Securities Dealers, a national securities association registered with the Securities and Exchange Commission pursuant to the Maloney Act Amendment to the Securities Exchange Act of 1934 and charged with the responsibility of regulating the activities of its members in the over-the-counter securities market, has also pressed forward with various constructive steps in its continuing effort to reduce the paperwork burdens imposed upon its membership, and to continue its efforts to assure smaller broker-dealer representation on many of its national standing committees.

I feel it is necessary for the Senate to go on record to actively encourage continuing cooperation between the Securities and Exchange Commission and the various self-regulatory organizations within the securities industry toward taking whatever steps might be necessary to remove the paperwork and reporting impediments that impinge upon the ability of the smaller securities broker-dealers to effectively function in the industry, and to simultaneously assure thorough and adequate protection of the interests of the investing public. The importance of this group of the Nation's small businessmen, who contribute to the health of the economy by serving the needs of small investors and small businesses by raising capital to finance new ventures, is obvious to all.

Mr. President, I urge the Senate to unanimously pass this resolution. I believe that it will represent further tangible evidence of a concern shared by us and the regulators of the securities industry for insuring that the smaller broker-dealer continue to participate in the competitive securities market and economic health of our Nation, and for assuring his continued survival in the marketplace.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

SALE OF CERTAIN LANDS IN ALASKA TO GOSPEL MISSIONARY UNION

The bill (S. 184) to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall, subject to the provisions of section 2 of this Act, release and convey to the Gospel Missionary Union all right, title, and interest of the United States in and to the following described property:

Lot 14 of Lena Point No. 1, Small Tract Group, in United States Survey 3053, on the southerly side of the Lena Point Highway, approximately 17½ miles northwest of Juneau, Alaska, comprising approximately .22 acre.

Sec. 2. The conveyance authorized by the first section of this Act shall be made upon payment by the Gospel Missionary Union to the Secretary of the Interior of an amount equal to the fair market value of such land (excluding any improvements), as determined by the Secretary after appraisal.

CONVEYANCE OF CERTAIN LAND TO ANCHORAGE, ALASKA

The Senate proceeded to consider the bill (S. 194) to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 3, after the word "authorized", strike out "and directed"; at the beginning of line 5, strike out "without consideration,"; and, on page 2, after line 5, insert a new section, as follows:

Sec. 2. No conveyance may be made under this Act unless the city of Anchorage has shown to the satisfaction of the Secretary that—

(1) the city of Anchorage will sell blocks 42, 52, and lots 2, 3, and 4 of block 81 in Anchorage townsite (proper) at not less than fair market value;

(2) the proceeds from the sale thereof will be spent to acquire property located in the central business district of Anchorage townsite (proper);

(3) any property acquired with such proceeds is of a similar nature as blocks 42, 52, and lots 2, 3, and 4 of block 81;

(4) any property acquired with such proceeds is more suitable for municipal purposes than blocks 42, 52, and lots 2, 3, and 4 of block 81; and

(5) any amount by which the proceeds from the sale of blocks 42, 52, and lots 2, 3, and 4 of block 81 exceed the purchase price of property purchased under clause (2) shall be paid to the United States.

Sec. 3. If the requirements of section 2 are satisfied, the Secretary of the Interior is authorized to enter into an agreement or agreements with the city of Anchorage, Alaska, whereby, in consideration of a quitclaim deed to the city of Anchorage of all right, title, and interest remaining in the United States in and to those portions of block 42 and block 52 and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which have been conveyed to the city of Anchorage, the city of Anchorage agrees that—

(1) title to any property acquired with the proceeds of the sale of any portion of either block 42, block 52, or lots 2, 3, and 4 of block 31 as described in section 1 will vest in the United States if such property ever ceases to be used for municipal purposes; and

(2) that the city of Anchorage will, within ninety days after acquiring such lands, execute a deed to this effect and deliver said deed to the Secretary of the Interior.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to transfer by quitclaim deed or other appropriate means, to the city of Anchorage, Alaska, all right, title, and interest remaining in the United States in and to block 42 of Anchorage townsite (proper) which was conveyed to the city of Anchorage by patent numbered 873718 (dated July 27, 1922), and patent numbered 1117601 (dated December 8, 1943), block 52 of Anchorage townsite (proper) which was so conveyed by patent numbered 873718 (dated July 27, 1922), and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which were conveyed by patent numbered 873718 (dated July 27, 1922).

Sec. 2. No conveyance may be made under this Act unless the city of Anchorage has shown to the satisfaction of the Secretary that—

(1) the city of Anchorage will sell blocks 42, 52, and lots 2, 3, and 4 of block 81 in Anchorage townsite (proper) at not less than fair market value;

(2) the proceeds from the sale thereof will be spent to acquire property located in the central business district of Anchorage townsite (proper);

(3) any property acquired with such proceeds is of a similar nature as blocks 42, 52, and lots 2, 3, and 4 of block 81;

(4) any property acquired with such proceeds is more suitable for municipal purposes than blocks 42, 52, and lots 2, 3, and 4 of block 81; and

(5) any amount by which the proceeds from the sale of blocks 42, 52, and lots 2, 3, and 4 of block 81 exceeed the purchase price of property purchased under clause (2) shall be paid to the United States.

Sec. 3. If the requirements of section 2 are satisfied, the Secretary of the Interior is authorized to enter into an agreement or agreements with the city of Anchorage, Alaska whereby, in consideration of a quitclaim deed to the city of Anchorage of all right, title, and interest remaining in the United States in and to those portions of block 42 and block 52 and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which have been conveyed to the city of Anchorage, the city of Anchorage agrees that—

(1) title to any property acquired with the proceeds of the sale of any portion of either black 42, block 52, or lots 2, 3, and 4 of block 81 as described in section 1 will vest in the United States if such property ever ceases to be used for municipal purposes; and

(2) that the city of Anchorage will, within ninety days after acquiring such lands, execute a deed to this effect and deliver said deed to the Secretary of the Interior.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WEMINUCHE WILDERNESS, RIO GRANDE AND SAN JUAN NATIONAL FORESTS, COLO.

The Senate proceeded to consider the bill (S. 1863) to designate the Weminuche Wilderness, Rio Grande and San Juan National Forests, in the State of Colorado, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 1, line 4, after "(78 Stat.", strike out "891; 16 U.S.C. 1132 (b)" and insert "890"; in line 8, after the word "dated", strike out "May 1973" and insert "February 1974"; in line 11, after the word "the", strike out "Meminuche" and insert "Weminuche"; and, on page 2, line 3, after the word "and", strike out "twenty-two thousand eight hundred and forty-two" and insert "thirty-three thousand seven hundred and forty-five"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 890), the area classified as the San Juan and Upper Rio Grande Primitive Areas, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Weminuche Wilderness—Proposed", dated February 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Weminuche Wilderness within and as part of the Rio Grande and San Juan National Forests comprising an area of approximately four hundred and thirty-three thousand seven hundred and forty-five acres.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Weminuche Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The Weminuche Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. The previous classification of the San Juan and Upper Rio Grande Primitive Areas is hereby abolished.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Illinois (Mr. Percy), there be a period for the transaction of routine morning business not to extend beyond 15 minutes, with a time limitation of 5 minutes therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Illinois (Mr. PERCY) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for morning business now ensue, without prejudice to the distinguished Senator from Illinois (Mr. PERCY).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE WASHINGTON ENERGY CONFERENCE

Mr. JAVITS. Mr. President, I wish to address myself to one of the most critical issues of the energy crisis, and one that has been the subject of far too little discussion in Congress. The world faces a catastrophic economic situation in 1974 as a result of the increase in the price of crude oil demanded by the OPEC countries. It is not too much to say that we stand at a critical junction in our economic life, with one road leading toward continued economic prosperity through close cooperation among oil consuming states, and the other leading to worldwide economic depression, ranging in effect from widespread unemployment and economic dislocation in the developed countries to starvation and upheaval in the less developed countries. The policies we choose now, and the sacrifices we are prepared to make in order to forge a common unity, will lead us down one road or the other.

The year 1973 should have taught us clearly the consequences of economic interdependence, that actions by other nations will have a major impact on our economy, and that the behavior of the United States can set the pattern for other nations to follow. I would like to point out several important examples. The first was the second devaluation of the dollar, in February 1973, which contributed markedly to inflation in the United States, by raising the cost of competing foreign goods and making U.S. goods comparatively cheap for foreigners. Although the result has been a positive balance of trade for the United States, it has been achieved at the price of shortages in certain critical domestic industries, and food prices driven up by excessive foreign purchasing.

The second example was the sale of fully one-fourth of the American wheat crop to the Soviet Union, at the cost of higher prices for American consumers, and now we find, no carryover stocks for ourselves. We are in the absurd position of having Soviet trade officials allegedly offering to sell us wheat, not at the price at which they bought, but the going market price based upon our present extremly tight supplies. I should point out that I recognized what was happening last September and offered the Export Priorities Act, which would have licensed the sale of U.S. raw agricultural commodities and would have prevented the ridiculous situation we now find ourselves in. This should be an important legislative priority in 1974.

The third example is the present energy crisis, and the effect of the Arab oil embargo on our consumption of oil. We have seen the effect of reduced supplies on jobs in the automotive, airline, and travel industries, where thousands have been laid off. Although the United States is the most nearly self-sufficient in energy of the major industrial powers, and the Arab oil embargo has only really begun to be translated in reduced supplies, we have seen the economic dislocation that can be caused by the action of a limited numbers of nations which band together in a common purpose.

Although the American people are greatly worried over the insufficient supplies of gasoline and heating oil, and the sudden and substantial increase in the prices of these commodities, we have not yet addressed ourselves properly to the more crucial problem of the increase in crude oil prices demanded by the OPEC nations, and the effect of these price increases on the world economy.

This is a global problem which promises to shift between $40 and $60 billion dollars from the oil consuming to the oil producing nations, and in the process threatens to add between 1 and 3 percent to rates of inflation already raging at extremely high levels throughout the world. This has been accomplished without substantial resistance by the oil consuming nations, and in fact has resulted in the developed countries knocking each other down racing to make deals with the very Middle Eastern countries which have acted in open economic aggression against the rest of the world. Western unity is severely strained, and bilateral trade arrangements may undermine the delicate links which produce our mutual welfare. For it must be made absolutely clear that the Europeans and the Japanese cannot continue to survive as prosperous nations without American cooperation, and those Americans who think we can ignore the rest of the world and proceed to construct a narrow isolationist nation on our own resources withut regard to the rest of the world are terribly heedless of our dependence of the rest of the world.

The Washington Energy Conference, to be held in Washington at the invitation of the President, is an essential initiative in creating a common policy among oil consuming nations, and at a later date among all nations. The foreign reaction has not been particularly encouraging, but it is especially important that all countries invited attend the conference, in spite of the outrageous Arab interference to the contrary. For example, neither France nor Japan can get along as industrialized economic nations without cooperation from the United States and Western Europe. It would be entirely inappropriate for Japan to act as the spokesman for the Arabs, since they will have the opportunity to speak for themselves at a later conference. I cannot urge too strongly the necessity for this conference, and willing participation and cooperation by all nations invited to attend. The alternative is a world of nationalistic economic policies that will be destructive of all the values we have worked for so hard since 1945.

One must also point out that some of the economic arrangements already undertaken by European countries and Japan are ill advised and could be the first steps on the road to economic isolationism and protectionism. The French have just concluded a 3-year contract with Saudi Arabia to acquire 27,000,000 tons of crude oil in exchange for French weapons and machinery. The New York Times has estimated that deals worth up to $6 billion have already been concluded in the past few months, and that an additional $5 billion of such deals are either under study by the Middle Eastern governments or are being negotiated. Many of these deals call for huge arms shipments to the Middle East which can only make war more likely there. This is an extremely serious development, and one guaranteed to lead to further instability in the Middle East at the very time that our Secretary of State has undertaken by herculean efforts to try to bring peace to the area.

Let me turn to some of the financial implications of the increases in crude oil prices extrecated by the OPEC countries. The posted price of Persian Gulf crude oil was rased from $5.11 a barrel to $11.65 on December 23, 1973, an increase of 128%. This is just the latest and most outrageous of a series of price increases that has lifted the posted price from $1.80 a barrel as recently as January 1, 1971.

The World Bank has translated these posted price figures into an average f.o.b. market price for all major oil producers rising from about $3.80 a barrel in late 1973 to $8.18 in the first quarter of 1974. Other calculations produce a c.i.f. price in Western Europe of about $9 a barrel.

These enormous price increases will produce serious balance of payments deficits for virtually all countries dependent on imported oil, and huge surpluses for the oil producing countries. The order of magnitude is very roughly along these lines: OPEC oil revenues in 1973: $25 billion; OPEC estimated 1974 revenues: 85 billion—$60 billion: increase in 1974 over 1973.

In fact, it is unlikely that receipts will increase almost fourfold as these estimates suggest for two reasons: demand will be reduced by this enormous price rise, and the drop in demand is likely to force some price rollback in the latter part of the year. Thus First National City Bank calculates that these two factors will reduce the figures to a net increase of about $40 billion. FNCB also calculates that about a fourth of this can be absorbed by additional purchases by the OPEC nations, leaving $30 billion available for investment.

Even if the final figure for net increase in OPEC revenues is $40 billion, this must come out of the hides of the importing countries. Current account deficits are being predicted for every developed country, with even a possible deficit on the current account of $1 to $2 billion for the United States. For the developing countries, the figures produced by the World Bank show an increase in deficits of $9.7 billion in 1974 because of higher oil costs, added to a current account deficit of the oil-importing developing countries of about $13 to $14 billion in 1973. Increased costs of oil imports increase the capital requirements of the developing countries by about 70 percent. Grants and net public capital flows to these countries in 1973 amounted to some $8 to $8.5 billion; the 1974 rise in the costs of imported oil therefore exceeds the total flow of development funds. To add to this burden, the House has voted down the United States portion of the IDA replenishment of $1.5 billion, thereby endangering the whole IDA structure.

It seems to me that American public opinion is not yet awakened to the really big oil crunch—the financial problem. For the American public is concentrating its attention almost exclusively on the local gasoline station, and one can understand why that is so. But it is wrong to blame the whole developing world for Arab oil policies, and then attempt to punish them collectively by such actions as turning down funds for IDA. Although the United States may be comparatively better off than other developed countries, we would be seriously affected by a world recession and wrong-headed policies by other nations. Only the United States has the strength to push for correct policies, but there must be political support at home for these. It is harder to criticize the French when we retreat from our world responsibilities.

Over the long term we are likely to see some price reductions for Arab oil, perhaps a reduction of as much as $2 per barrel by mid-year. The London Economist has predicted a coming glut of energy in the world within 5 to 10 years. For the present, however, a major objective of the Washington Energy Conference should be to force price reductions for oil. The present levels are simply impossible, especially for the poor. In fact, it needs to be pointed out clearly that this does not represent transfers of funds from the rich to the poor, but from all nations to a handful of relatively underpopulated states, whose rulers are extremely rich and who are seemingly unable to use these resources effectively in their own societies. It should be known that the developing nations will suffer the most. The price increases will lead to inflation and recession that will harm, and could even destroy, the world economy, which would certainly not benefit the OPEC countries who want access to Western technology.

Thus, the United States must be prepared to offer support to those countries prepared to act in concert, and refuse help to those pursuing "beggar-thy-neighbor" policies.

In order to express our support for the Washington Energy Conference, my colleagues and I yesterday introduced a Senate resolution to call attention to the urgent nature of the conference and the specific issues which should be considered by the conference. It is not our intention to state the sorts of specific policies which ought to be followed, as that is a matter for the participants in the conference, but to pinpoint the critical issues which need discussion. I would list these critical issues as follows:

First. Conservation measures in major oil consuming countries which are necessary to reduce demand, and should be a major part of the policy adopted in concert by the oil consuming nations;

Second. An effective plan for the emergency sharing of oil resources, which could be acted on subject to the constitutional processes of each country;

Third. Guidelines for bilateral agreements between individual oil consuming and oil producing countries, which in the present situation of embargo and skyrocketing prices could prove very harmful to the interests of the major oil consuming nations, and could incur the danger of introducing excessive and sophisticated arms into the oil producing nations beyond their legitimate needs for their own security;

Fourth. Coordination of research efforts in developing conservation practices and alternative sources of energy;

Fifth. The responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and

Sixth. Closer coordination of fiscal and monetary policies to prevent excessive strain on the international monetary system and the currencies of oil importing countries.

ORDER OF BUSINESS

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STAFFORD. How much time remains for morning business?

The ACTING PRESIDENT pro tempore. Seven minutes remain.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Illinois (Mr. Percy) is recognized for not to exceed 15 minutes.

RE-REFERRAL OF SENATE RESOLUTION 260

Mr. PERCY. Mr. President, Senator McGovern, on behalf of the Select Committee on Nutrition and Human Needs, recently submitted Senate Resolution 260 extending the Select Committee and authorizing funding for the committee's operations. This resolution was referred to the Committee on Labor and Public Welfare which has jurisdiction over the extension of the committee and would subsequently be referred to the Committee on Rules and Administration which has jurisdiction over the funding of the committee. With the approval of Senator McGovern and the chairman and ranking member of the Committee on Labor and Public Welfare, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of Senate Resolution 260, by unanimous consent of the Senate, and that the measure be referred directly to the Committee on Rules and Administration, which will be taking up committee budgets shortly after the recess.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CURTAILING SENSELESS HIGHWAY SLAUGHTER—PART III

Mr. PERCY. Mr. President, as I have mentioned previously, a contributing factor to the carnage and material destruction on our Nation's highways is dangerously high speedometer calibrations on automobiles. Maximum indications of 120, 140, and 160 miles per hour defy drivers to accelerate beyond safe and lawful speeds.

Several months ago, I proposed that maximum speedometer calibrations be restricted to 85 miles per hour with a red-lettered "Extreme hazard" zone above that.

In correspondence to the Federal Trade Commission, the National Highway Traffic Safety Administration, and the four major automobile companies, I urged the prompt implementation of this measure. More than a few lives would be saved.

Just this week, I received an encouraging letter from S. L. Terry, vice president of environmental and safety regulations at the Chrysler Corp. Mr. Terry informed me:

> As a direct result of your letter, which you sent to our President, Mr. John Ricardo, last October, we have been reevaluating our speedometer designs.
>
> Accordingly, we have decided to limit all of next year's speedometers to a maximum indicated speed of 100 miles per hour with 50 miles per hour indicated at the top, dead center position of the speedometer instead of 55, 60, 70, or more.

The Chrysler Corp. is to be commended on its responsible concern for the safety of the consumer.

The action it proposes is a step in the right direction—just not far enough.

With speed limits on the Nation's highways being reduced to 55 miles per hour to promote fuel economy, the absurdity of speedometers calibrated to dangerous and inordinate speeds has become even more apparent.

For reasons of both safety and energy conservation, it is my hope that the top speedometer calibration will be further reduced to 85 miles per hour for the 1976 passenger models of the Chrysler Corp. and all other automobile manufacturers.

Mr. President, because I believe that Chrysler's initiative toward curtailing excessive speeding is significant, I ask unanimous consent that Mr. Terry's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CHRYSLER CORP.,
January 23, 1974.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: As a direct result of your letter, which you sent to our president, Mr. John Riccardo, last October, we have been reevaluating our speedometer designs. We agree with you that 140 and 160 miles per hour speedometer calibrations are incongruous today with the emphasis on fuel economy and safety and a **55 miles per hour** speed limit being urged **nationwide.**

Accordingly, we have decided to limit all of next year's speedometers to a maximum indicated speed of 100 miles per hour with 50 miles per hour indicated at the top, dead center position of the speedometer instead of 55, 60, 70, or more.

We believe that these speedometer changes will accomplish our mutual objectives and we appreciate your taking the time to write us your feelings on this important matter.

Sincerely yours,

S. L. TERRY.

LITHUANIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today in the Senate we commemorate the 56th anniversary of Lithuanian independence. As we mark this occasion in Congress, our own Nation's most visible organ of freedom and self-government, let us remember the brave people of Lithuania who, in the cause of national independence, established a republic in 1918 and adopted a constitution in 1922 which guaranteed freedom of speech, assembly, religion, and communication for all citizens. Land reforms, social legislation, and industrialization were executed with great success.

In 1940 this era of Lithuanian progress was ended when Soviet troops seized the nation and established an unwanted foreign rule. The suffering of the Lithuanian people as they were driven from their homes and deported from their country, as they were stripped of their freedom and annexed to a hostile state, must never be forgotten.

Nor can we forget the present struggle of the Lithuanian people to retain their religion, life style, and culture. Their unbending spirit is an example of their steadfastness against heavy odds.

For the past 3 years, I have repeatedly called the attention of the Senate to the tragedy of Simas Kudirka, a Lithuanian seaman who jumped from his vessel in an impassioned flight to freedom but was later surrendered to Soviet authorities. On February 1, I introduced a resolution asking the President to direct the Secretary of State to request of the Soviet Government the release of Simas Kudirka from prison, and to have the U.S. Ambassador to the United Nations raise the issue with the U.N. Commission on Human Rights.

The plight of Simas Kudirka, whose only offense was his desire for freedom, poignantly illustrates why we must keep the faith with the peoples of Lithuania, Latvia, and Estonia. In this regard, I continue to press for the initiation of broadcasts in the Baltic languages on Radio Liberty.

On this occasion I wish to extend my greetings to all Americans of Lithuanian heritage. Their fidelity to the legitimate aspirations of the people of Lithuania is an inspiration to us all.

Mr. President, we know the tremendous contribution that the people of the Baltic States who have emigrated to the United States of America have made to this great country. They have quickly integrated themselves into the mainstream of American life. They are skilled craftsmen; they are competent executives; they contribute significantly to all the arts and professions.

They are outstanding citizens in their communities. They have built their communities; they have built their cities; they have contributed to their States; and they have contributed immensely to the greatness of this country. We are proud of their contribution.

But I think we also must recall that nearly all of us in this country have a heritage and a parentage that goes back to some other nation; and the great virtue of America is that we can love this great country of ours and still remain loyal to the traditions, the heritage, and the background that each of us has brought to this country.

On our American coins are imprinted the words "E Pluribus Unum," meaning "Out of Many, One." Of many peoples we have made a nation. We speak with a common voice on behalf of freedom: Freedom of religion, freedom of assembly, freedom of speech. We have the right and the obligation to help carry the torch of freedom on behalf of mankind and certainly on behalf of the peoples of the Baltic States who have a heritage of freedom that was constitutionally provided to them when they were free and independent.

I respect those who have freedom in this country, but who continue to devote their time, energy, and efforts to carrying high the torch of freedom for those who are not as fortunate as we are in the United States of America.

NONCOMMISSIONED OFFICERS ASSOCIATION AWARD TO SENATOR TOWER

Mr. THURMOND. Mr. President, as the first recipient of the Noncommissioned Officer Association's "L. Mendel Rivers Award for Legislative Action," I am pleased to announce that the 160,000-plus members of the world's largest enlisted military association have selected our colleague, the Honorable JOHN TOWER, as the recipient of their 1973 award. The award will be presented to the senior Senator from the great State of Texas at the NCO Association's 13th annual international convention, April 15 to 19, 1974, in San Antonio, Tex.

The award is more than significant of its namesake—the great and able statesman from South Carolina, the late L. Mendel Rivers, past chairman of the House Armed Services Committee. It not only recognizes the work contributed by a legislator for and in behalf of the noncommissioned and petty officers corps of the United States Armed Forces, and for the military community, but also the outstanding contributions made toward the defense of our beloved Nation, and for the well-being of its citizens.

Mr. President, the Senator from Texas is certainly deserving of the prestigious award. His dedication to his duty to this Nation and its citizens is a paradigm to all who hold this high office.

Mr. President, I know of no Senator in this body who has worked harder for national defense or served the country with greater dedication than the distinguished Senator from Texas, Senator JOHN TOWER.

It is a pleasure for me to join my fellow NCOA members in saluting one of their own, the Senator from Texas. I know my colleagues want to join me in extending our sincere congratulations to our distinguished colleague for being selected to recieve this high honor.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the Senator from Texas.

Mr. TOWER. I want to thank my distinguished friend for his very kind and generous words. I appreciate very much what he has said.

I am, of course, very honored to be the recipient of this award. I think really a man should not be rewarded for pursuing the objective of keeping the United States of America strong and free. I think that is the duty of us all, and I hope the day will come when everyone is of like mind—that the United States must never allow itself to fall into a position of military inferiority to the other great superpower of this world.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. THURMOND. Mr. President, I would be very pleased to yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I want to join with the distinguished Senator from South Carolina in congratulating our mutual friend, the distinguished senior Senator from Texas.

Yesterday it was my privilege to hear the Vice President of the United States address the William Randolph Hearst scholarship winners. The major thrust of his remarks was to underscore the accomplishment in this decade of those things achieved by the United States.

He spoke directly of Dr. Kissinger's worldwide tours and the visits that have been held with the mainland Chinese and with the Russians. Then he spoke specifically about Dr. Kissinger's unique contribution in the annals of world peacemaking and being able to bring about that which hopefully will be expanded into an understanding between two peoples who have been at war for thousands of years. He, of course, spoke of the Arabs and the Israelis.

Then he gave his punch line. He said that he believed that the only reason that Dr. Kissinger was able to achieve what he did achieve was because of the worldwide respect that had been earned by the United States of America and the recognition of people everywhere that only America, only the United States, would be able to command the attention and to have the power and the thrust and the determination to back up its initiative. That could not be mistaken by people anywhere throughout the world. He also said that we were able to do what had been accomplished through the good offices of Dr. Kissinger.

I mention those things now because it seems most appropriate, as we will shortly be discussing the budget. It is a big budget. It is the first budget in the history of the United States to exceed $300 billion. And there will be those voices who will say, "Why should we spend that much money for the military when we are no longer at war anywhere around the world? Why should we do it?"

All I can say in response to that rhetorical question is to observe, as the Vice President did on yesterday, that I know of no family in America who would not choose, were it given the opportunity to do so, to spend $2 for armaments that would never be used than to spend $1 with the likelihood that America and the rest of the world could yet be involved in one more war, perhaps the final war.

So, I hope that as we pay homage this afternoon to our distinguished colleague, the senior Senator from Texas, a man who has contributed so much to the preeminence of the United States of America in these times, we will keep in mind the important role that we have taken and will appreciate the farsighted concern for the strengths that give America the ability to steer it toward a more peaceful tomorrow.

I agree completely with him and with the Vice President that when we speak we command attention in direct relationship to the amount of strength and respect we earn and deserve throughout the world.

That, of course, has been the concern of the distinguished Senator from Texas. It has been one of the very important contributions he has made. And I am not at all unconscious or unmindful of the many important contributions he has made to our country. However, I suspect that as time goes on we will look back on these years as years of accomplishment, as years when America led the rest of the world in moving nearer toward peace.

That, of course, has been possible because America had the commitment, had the strength, and had the determination to back up whatever it felt was necessary.

I thank the distinguished Senator from South Carolina for yielding.

Mr. FANNIN. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield to the distinguished and able Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from South Carolina. I join him and the distinguished Senator from Wyoming (Mr. HANSEN) in paying tribute to a great American.

Over the years, the distinguished senior Senator from Texas has received many awards, and I have had the pleasure of observing him when he has been the recipient of some very important ones. I feel that this is the culmination of a tremendous amount of work and is a tribute to his dedication to his country.

There are many who have worked diligently in the Committee on Armed Services on the subject of defense, but no man has exceeded the achievements of the Senator from Texas. Some may have equaled him, but none have excelled what the distinguished Senator from Texas has done. We are very proud of him for having received this award.

When we consider what is happening in the world today, we realize the need for leadership, for a determination that our country shall remain strong militarily. This is not an easy program to follow, because when we remain strong militarily, we must make sacrifices economically, and so we know there are many things that may have to be suspended for a time.

At the same time, we realize that we must have a priority for the defense of the country; that the needs of the country must take top priority. The Senator from Texas has always maintained that position, and I compliment him on his accomplishments in that regard. I join my colleagues in making this statement concerning the activities of the senior Senator from Texas.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the able Senator from Wyoming (Mr. HANSEN) and the able Senator from Arizona (Mr. FANNIN) for their fine remarks regarding the distinguished Senator from Texas (Mr. TOWER).

Mr. President, I ask unanimous consent that Mr. Stanley Hackett, of my staff, be granted the privilege of the floor during the discussion of the subject I am about to begin.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGREEMENT ON NEGOTIATING PRINCIPLES FOR THE PANAMA CANAL

Mr. THURMOND. Mr. President, it has been announced that Secretary of State Henry Kissinger is going to Panama to initial a "joint statement of principles" regarding the negotiation of a new treaty abrogating United States sovereignty in the Canal Zone and providing for the transfer of jurisdiction to the Republic of Panama.

To my knowledge, no copy of this "joint statement of principles" has been transmitted to the Senate. It certainly has not been transmitted to the Senate Armed Services Committee, which is charged under the Senate rules with jurisdiction over the maintenance, operation, and defense of the canal. We have not been favored with a copy in advance.

Not long ago, however, I received a letter from Ambassador at Large Ellsworth Bunker, who is in charge of the canal negotiations, in which he summarized the direction of his thinking on this topic. The so-called principles were shaping up as follows:

> The first of them would incorporate what has been the United States' position since 1964, namely, that the two countries would devise a new treaty to replace the 1903 Convention and the amendments to it. Another would provide that a new treaty relating to the present Canal would have a fixed termination date. Others would provide that such a new treaty will return general jurisdiction over the Canal Zone to Panama to operate, maintain, and defend the Canal for the new treaty's lifetime. Another would recognize that the Canal operates in Panama's territory and that Panama should have a measure of participation in its operation and defense, as well as an equitable share of the economic benefits deriving from the Canal's operation. A final principle would embrace a recognition by both parties that the existing Canal might in the future become inadequate for international maritime traffic and require some form of expansion. Provisions for any new expansion projects would be negotiated and agreed upon in the treaty.

These so-called principles are self-contradictory and invite disaster. They deny the minimum necessary conditions under which the United States can operate, maintain, and defend the canal. There is no way in which defense can be based on split jurisdiction, when the ultimate authority rests with the weaker party, and the primary interests rest with the stronger. Either we would lose the canal completely in a crisis, or we would be driven to take armed action that would flout the principles of international law and bring down upon us the censure of the civilized world. Neither course is acceptable.

The withdrawal of U.S. authority from the Canal Zone will have a dangerous impact upon the stability of the Western Hemisphere and, indeed, the peace of the world. We have exercised every right of sovereignty in the Canal Zone for 50 years, both de jure under the specific treaties with Panama, and de factor under the general principles of international law. By every test, the Canal Zone is U.S. territory; the only right retained by Panama is that of a residuary legatee in the event that we cease to operate, maintain, and defend the canal. The United States is a nation with two sea coasts, and the canal is the vital strategic link between them. The surrender of this U.S. territory to a nondemocratic, weak, and restless government would mark an historic turning point in our Nation's history, and the decline of the United States as a world power.

I do not think that our sovereignty should be negotiable. I do think, however, that there are major items of common concern with Panama that can be negotiated, including increased territorial compensation for a larger portion of the Chagres River watershed, the economic development that would be spurred by the implementation of the Terminal Lake-Third Locks plan of modernizing the canal, and increased participation in the revenues of the canal.

Last year, just before special meeting of the U.N. Security Council at Panama

City, a majority of the members of the Armed Services Committee wrote to the President a letter in which we made our position clear. We stated at that time:

> In particular, it is our view that U.S. policy should be ordered towards two ends. In the short range, we should use our diplomatic channels to make it absolutely clear to Panama and to the other nations represented at the special U.N. session that we will not brook any encroachment upon our present operational and jurisdictional rights in the Zone, and that we stand ready to protect the American lives, property, and obligations. In the long range, we must reverse the current trend and work with Panama to help her understand that the best guarantee of her sovereignty, security, prosperity, and nationhood lies in maintaining the historic grant of sovereignty to the U.S. in the Canal Zone.

This letter was signed by Senators Symington, Tower, Harry Byrd, Ervin, Dominick, Nunn, McIntyre, William Scott, and myself.

The announced action of Secretary Kissinger runs directly counter to such ends. The unprecedented action of "initialing" a "statement of principles" leading to treaty negotiations creates a situation in which the Senate is presented with an accomplished fact in which the essential points have been conceded before the negotiations begin. There is, indeed, nothing of consequence left to negotiate once we surrender our rights, even if only in principle. The statement of principles is a pseudo-treaty which will cause grave harm to U.S. interests not only in Latin America, but also in the world. As far as the Caribbean is concerned, we will be a "lame-duck" world power.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Huddleston) laid before the Senate the following communication and letters, which were referred as indicated:

Proposed Legislation

A communication from the President of the United States, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes (with an accompanying paper). Referred to the Committee on Foreign Relations.

Report of Secretary of Navy

A letter from the Acting Secretary of the Navy, transmitting, pursuant to law, a report on Naval and Marine aviators and flight officers receiving flight incentive pay as of 31 October 1973 (with an accompanying report). Referred to the Committee on Armed Services.

Report of Secretary of Air Force

A letter from the Secretary of the Air Force, transmitting, pursuant to law, a report on progress of Reserve Officer Training Corps Flight Training Program for calendar year 1973 (with an accompanying report). Referred to Committee on Armed Services.

Report of Department of Justice

A letter from the Attorney General, transmitting, pursuant to law, a report on extortionate credit transactions, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

Report of Federal-State Land Use Planning Commission for Alaska

A letter from the Federal-State Land Use Planning Commission for Alaska, transmitting, pursuant to law, a report of the Commission for calendar year 1973 (with an accompanying report). Referred to Committee on Interior and Insular Affairs.

Suspension of Deportation of Certain Aliens

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Proposed Legislation by Attorney General

A letter from the Attorney General, transmitting a draft of proposed legislation to facilitate and regulate the exchange of criminal justice information (with an accompanying paper). Referred to the Committee on the Judiciary.

A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Civil Rights Act of 1964 to preserve the authority of the Attorney General (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

Report of Environmental Protection Agency

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Evaluation of Techniques for Cost-Benefit Analysis of Water Pollution Control Programs and Policies," dated January 1974 (with an accompanying report). Referred to the Committee on Public Works.

Report of Smithsonian Institution

A letter from the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report of the Institution for fiscal year 1973 (with an accompanying report). Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 1017. A bill to promote maximum Indian participation in the government and education of the Indian people; to promote for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians and to encourage the development of the human resources of the Indian people; to establish and carry out a national Indian education program; to encourage the establishment of local Indian school control; to train professionals in Indian education; to establish an Indian youth intern program; and for other purposes (together with additional views) (Rept. No. 93-682).

By Mr. McCLURE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2343. A bill to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands (Rept. No. 93-684).

PRINTING OF REPORT OF JOINT COMMITTEE ON DEFENSE PRODUCTION (S. REPT. NO. 93-683)

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the report of the Joint Committee on Defense Production, which is at the desk, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Joseph John Sisco, of Maryland, a Foreign Service officer of the class of career minister, to be Under Secretary of State for Political Affairs;

James F. Campbell, of Maryland, to be Ambassador Extraordinary and Plenipotentiary to El Salvador;

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Lebanon;

William J. Jorden, of Texas, to be Ambassador Extraordinary and Plenipotentiary to Panama;

William J. Porter, of Massachusetts, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Canada;

Robert S. Smith, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Ivory Coast;

Thomas W. McElheney, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Ethiopia; and

Nancy V. Rawls, of Georgia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Togo.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

Irving M. Pollack, of Maryland, to be a member of the Securities and Exchange Commission;

Henry C. Wallich, of Connecticut, to be a member of the Board of Governors of the Federal Reserve System; and

Jerome W. Van Gorkom, of Illinois, to be a Director of the Securities Investor Protection Corporation.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

Leonard Sullivan, Jr., of the District of

Columbia, to be an Assistant Secretary of Defense; and

James R. Cowan, of New Jersey, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. Daniel O. Graham, U.S. Army, to be lieutenant general, Maj. Gen. Herron Nichols Maples, U.S. Army, to be lieutenant general, Col. Thaddeus F. Malanowski, U.S. Army, to be brigadier general and in the Army Reserve and Army National Guard a total of 20 to be major general and brigadier general. I ask that these names be placed on the Executive Calendar.

In addition, there are 261 in the Army for promotion to the grade of major and below; in the Navy, 843 for promotion to the grade of commander and below; and in the Marine Corps 90 for promotion to the grade of lieutenant colonel and below; and for the Air Force 1,602 for promotion to the grade of colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that these nominations be placed on the Secretary's Desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD at the end of the Senate proceedings on January 22, January 28, and January 29, 1974.)

By Mr. McCLELLAN, from the Committee on the Judiciary:

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GRIFFIN (for Mr. McCLURE) (for himself and Mr. PACKWOOD):

S. 2971. A bill to suspend for a temporary period of time the provisions of section 27 of the Merchant Marine Act, 1920 in order to permit, under certain circumstances, vessels of foreign registry to transport fertilizer necessary to the production of agricultural commodities from Alaska to the west coast of the United States. Referred to the Committee on Commerce.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2972. A bill to designate certain lands as part of the National Wilderness Preservation System; and

S. 2973. A bill to designate certain lands as part of the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

By Mr. BIBLE:

S. 2974. A bill to provide a comprehensive program to improve cargo security in commerce. Referred to the Committee on Commerce.

By Mr. HATHAWAY:

S. 2975. A bill to terminate percentage depletion for oil and gas well and oil shale;

S. 2976. A bill to deny the foreign tax credit for taxes paid with respect to income derived from oil and gas operations; and

S. 2977. A bill to repeal the deduction of intangible drilling and development costs of oil and gas wells. Referred to the Committee on Finance.

By Mr. CRANSTON:

S. 2978. A bill to establish a special commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of official misconduct and other offenses committed by high government officials. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 2979. A bill to amend the Commodity Credit Corporation Charter Act to provide additional service and protection to producers of agricultural commodities and to the purchasers of such commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER:

S. 2980. A bill for the relief of Elizabeth Blanton. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 2981. A bill to postpone certain regulations relating to utilization review requirements under titles XVIII and XIX of the Social Security Act. Referred to the Committee on Finance.

By Mr. DOMENICI:

S. 2982. A bill to designate certain lands in the Bandelier National Monument, New Mexico, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. WILLIAMS):

S. 2983. A bill to amend the Public Health Service Act to provide for emergency assistance to urban hospitals. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 2984. A bill to amend section 1 of title IX of the act of June 15, 1917, as amended (22 U.S.C. 213), by adding a requirement that passport applicants shall subscribe to an oath or affirmation of allegiance to the United States; and

S. 2985. A bill to require the execution of an oath or affirmation of declaration of allegiance before a passport is granted or issued. Referred to the Committee on Foreign Relations.

By Mr. SPARKMAN (for himself and Mr. TOWER):

S. 2986. A bill to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. GURNEY:

S. 2987. A bill to amend the Economic Stabilization Act of 1970 to stabilize the prices of propane and butane. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BURDICK (for himself, Mr. GURNEY, Mr. HRUSKA, and Mr. McCLELLAN) (by request):

S. 2988. A bill to improve judicial machinery by designating Alabama, Florida, and Georgia as the 5th Judicial Circuit; by designating Louisiana, Mississippi, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes;

S. 2989. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th Judicial Circuit; by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota as the 8th Judicial Circuit; by designating Arkansas, Louisiana, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes;

S. 2990. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th Judicial Circuit; by designating Louisiana, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes; and

S. 2991. A bill to authorize additional judgeships for the U.S. courts of appeals. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2992. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. Referred to the Committee on Rules and Administration, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRIFFIN (for Mr. McCLURE) (for himself and Mr. PACKWOOD):

S. 2971. A bill to suspend for a temporary period of time the provisions of section 27 of the Merchant Marine Act, 1920 in order to permit, under certain circumstances, vessels of foreign registry to transport fertilizer necessary to the production of agricultural commodities from Alaska to the west coast of the United States. Referred to the Committee on Commerce.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Idaho (Mr. McCLURE), for himself and the Senator from Oregon (Mr. PACKWOOD), I introduce a bill, and ask unanimous consent that a statement by the Senator from Idaho, and the bill itself, be printed in the RECORD.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

UNSHACKLING THE FARMER

(Statement of Senator McCLURE)

Mr. President, I am sure that all my colleagues here in the Senate are aware of the problems plaguing our American farmers today. Upon their shoulders rests the burden of providing food both for domestic consumption and for export as a major factor in our world economic position. Yet, in meeting this responsibility, they are also facing shortages of fuel, machinery, transportation, and supplies, including fertilizer. I have spoken on this floor before about the inconsistencies in calling on our farmers to increase production without taking corresponding action to make it possible. The legislation I am introducing today seeks to alleviate one of the obstacles to increased production.

One of the items in short supply, especially in the Pacific Northwest, is agricultural nitrogen. Information coming into my office indicates that our farmers are trying desperately to "stretch" their supplies in every way possible, and, with their usual ingenuity, are doing a good job of it. Despite their efforts, however, there is a severe shortage—one estimate is that the shortage will reach 50 thousand to 100 thousand tons, in the Pacific Northwest region alone.

The shortage has been caused by a combination of factors, including uncertainties as to supplies of natural gas needed to produce the ammonia, increased demand caused by increased acreage, withdrawal of some Midwest suppliers from the Pacific Northwest region because of increased Midwest demand for ammonia, increased exports, and lack of transportation.

Anhydrous ammonia produced in Alaska is available to the American market, but because of a shortage of American equipment, it cannot be moved from Alaska to the continental U.S. a new barge is currently under construction and will be ready in mid-1975, but until then, unless some action is taken, the supplies will go to the foreign market, simply because of the transportation barrier. A waiver of the Merchant Marine Act to permit use of foreign vessels on a temporary basis would resolve this problem, and it is such legislation that I am introducing today.

I want to emphasize the temporary nature of the waiver I am proposing. It would apply only until Nov. 1, 1975, or until a domestic vessel became available, whichever comes first. In addition, this temporary waiver would apply only for the transportation of anhydrous ammonia, from Alaska to the West Coast.

Mr. President, I believe that this is one action that we can take that will make a significant difference to our farmers, at least giving them a chance to answer our call for increased production. And this, in the long run, is important to all of us, particularly to the housewife concerned about rising food costs and threatened shortages.

S. 2971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That until November 1, 1975, the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) shall be suspended with respect to the transportation of anhydrous ammonia to the west coast of the United States from any port or terminal area in the State of Alaska whenever the Secretary of the Treasury, after notice and opportunity for hearing, determines that there is no domestic vessel reasonably available to serve between the west coast of the United States and any such port or terminal area for the transportation of anhydrous ammonia. Such determination shall be made within 45 days after application for suspension and shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such determination. Upon making the determination provided for in this section, the Secretary of the Treasury shall establish such terms, conditions, and regulations with respect to operations under such suspension as he determines to be in the national interest.

SEC. 2. Any suspension under the provisions of this Act shall terminate whenever the Secretary of the Treasury determines that conditions required in the first section of this Act for such suspension no longer exist, or on October 31, 1975, whichever first occurs.

SEC. 3. No Federal law shall apply to any water carrier because of operations under a suspension provided for in this Act if such law did not apply to such carrier prior to such suspension.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2972. A bill to designate certain lands as part of the national wilderness preservation system; and

S. 2973. A bill to designate certain lands as part of the national wilderness preservation system. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the ranking minority member of the Committee on Interior and Insular Affairs (Mr. FANNIN), two bills to designate certain lands as wilderness pursuant to the Wilderness Act.

Mr. President, these two bills would add 12 new areas to the system and were recommended to the Congress by the President in his message of November 28, 1973, and one previously recommended area.

The first bill comprises six areas determined to be suitable for wilderness designation which are presently administered by the Bureau of Sport Fisheries and Wildlife; these are: Imperial National Wildlife Refuge, Ariz.; Mingo National Wildlife Refuge, Mo.; Oregon Islands National Wildlife Refuge, Oreg.; White River National Wildlife Refuge, Ark.; Valentine National Wildlife Refuge, Nebr.; and Crescent Lake National Wildlife Refuge, Nebr.

The second bill includes seven areas recommended for wilderness designation within the national park system; these are: Joshua Tree National Monument, Calif.; Point Reyes National Seashore, Calif.; Big Bend National Park, Tex.; Mesa Verde National Park, Colo.; Saguaro National Monument, Ariz.; and Bandelier National Monument, N. Mex.; and Cedar Breaks, Utah.

Mr. President, I ask unanimous consent that at this point in my remarks the message from the President be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., November 28, 1973.

Hon. JAMES O. EASTLAND,
President Pro Tempore,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to the Wilderness Act of September 3, 1964, I am pleased to transmit herewith proposals for twelve additions to the National Wilderness Preservation System.

As described in the Wilderness Message that I am sending to the Congress today, the proposed new wilderness areas cover a total of over 1 million primeval acres.

Two other possibilities considered by the Secretary of the Interior in his review of roadless areas of 5,000 acres or more—Salt Plains National Wildlife Refuge, Oklahoma, and Klamath Forest National Wildlife Refuge, Oregon—were found to be unsuitable for inclusion in the Wilderness System. I concur in this finding and in the twelve favorable recommendations of the Secretary of the Interior, all of which are transmitted herewith.

Wilderness designation of these twelve areas would represent a significant step forward in the preservation of America's irreplaceable heritage, and I urge that the Congress act promptly in this regard.

Concurrent with the wilderness proposals, I am also transmitting the Ninth Annual Report on the Status of the National Wilderness Preservation System which covers calendar year 1972.

Sincerely,

RICHARD NIXON.

By Mr. BIBLE:

S. 2974. A bill to provide a comprehensive program to improve cargo security in commerce. Referred to the Committee on Commerce.

PERFORMANCE FOR AIR, TRUCK, RAIL, AND MARITIME CARRIERS BEFORE REGULATORY BODIES

Mr. BIBLE. Mr. President, I introduce for appropriate reference a bill which seeks to improve the safety and security of cargo in transit by providing authority for the Federal transportation regulatory agencies to establish minimum security performance standards for truck, air, rail, and maritime public carriers engaged in interstate and international commerce.

Our goal is to bring under better control the $1.5 to $2.8 billion it costs American transport companies and other businesses every year for the thievery, pilferage, hijacking, and unexplained loss of cargo moving in the commerce chain. Obviously, such major losses adversely affect our entire society and provide a substantial contribution to the inflation spiral paid for by every consumer.

As chairman of the Senate Small Business Committee, may I say it was our committee's role first to focus national attention on this growing criminal problem in 1969. Since that time, we have sought to persuade both governmental bodies and private carriers to pursue more aggressively improved security and other anticrime efforts in the public transport field.

Congressional impetus in the cargo security area has taken varied approaches such as: First, legislation calling attention to various problems and serving as an action motivator for executive departments and transportation regulatory agencies; second, formal recommendations growing out of our committee hearings about air, maritime, truck, and rail carriers' security problems; third, direct appeals to executive departments and regulatory commissions; and fourth, various legislative proposals to require the Department of Transportation to establish security standards and regulations and impose penalties on carriers and/or an indepth examination of the problem by governmental, carrier, and labor officials.

The theft or unexplainable loss problem has been called the cargo crime crisis. Whether or not that is excessive rhetoric depends on whether you are a victim and let me assure you that everyone is. Few knowledgeable parties believe that the gap has narrowed the past year or so between criminally induced losses on the one hand and the ability of carriers and law enforcement bodies to deal with it on any remotely acceptable level. An effective response to the criminal has not been mounted even though security activities have been instituted in many areas. Like the energy crisis, we do not have enough hard facts or statistics to prove whether it is getting better or worse.

Exact dollar losses are almost impossible to pinpoint. Our committee's efforts several years ago helped to persuade the Interstate Commerce Commission and the Civil Aeronautics Board to begin collecting the first real loss data for class I truckers and direct and indirect losses by air carriers. No accurate data are available for class II and III interstate trucks, railroads, and maritime carriers.

Assistant Secretary of Transportation Benjamin O. Davis said recently:

> We believe that the cost of theft in the [transportation] industry probably exceeds the billion dollar sum we have been able to document. Theft may, in fact, be a sizable share of the $2.8 billion in losses from all causes for all modes. That total represents 4.5 percent of the industry's revenue, a high price to pay for the attrition of merchandise, for whatever reasons.

Indirect costs are even harder to assess. The American Trucking Associations told our committee that for every $1 of direct loss, it costs motor freight carriers from $2 to $5 in indirect costs for processing claims, paperwork, and manpower. Shippers say their indirect losses are even greater—or $5 to $7 for each $1 in direct losses in not having goods for sale, loss of profit dollars, disruption of production lines, loss of customer goodwill, and the tieup of moneys due and delayed in the claims reimbursement pipeline. By adding the direct dollar theft loss, plus the carriers' and shippers' indirect costs, we may be talking about costs to the national economy approaching $8 to $10 billion annually.

In the railroad transportation area, our committee was advised that cargo theft increased almost 100 percent between 1970 and 1971, while 1972 figures showed a continuing upward trend. We can only conclude that cargo theft and pilferage are at the heart of what may be the biggest multibillion dollar racket today—stealing from transport carriers.

Its worst victims are the small businessman who can least afford it, and the consumer who sees prices of commodities of every type driven higher by this criminally induced inflationary spiral. The fact is that, as the problem accelerates, there is no broad based, coordinated effort on the part of governmental bodies or the carrier industries to arrive at hard solutions.

Thus, the conclusion is inescapable that this problem must be approached in many ways by many parties, private, and governmental, on many fronts.

The legislation I am proposing today would attack this problem within the entire transport chain—truck, air, rail, and water. It is essential that appropriate security arrangements be developed for each transport mode, since they are mutually dependent on one another, for the most part.

It may sound simple to suggest:

> Well, why doesn't the Federal Government order carriers to put up fences, add additional guards, locks on doors, and so forth, such as is now the case with the Department of Transportation's Federal Aviation Administration or its Bureau of Motor Carrier Safety.

I submit that any uniform security standards or hardware-type regulations would be next to impossible and impractical to enforce. For example, if standards and regulations were written to meet problems in the Greater New York City area, they would largely be impractical, inordinately expensive, and probably excessive for Omaha, Nebr., or Tacoma, Wash. Certainly, there are many aspects of cargo security that transcend the mere application of hardware. Therefore, I believe it is inappropriate for any Federal agency to draw up and enforce meaningfully any standardized regulations to solve the problem.

In the 92d Congress, the House and Senate had differing approaches about how the cargo theft problem should be approached. These differences were not reconciled by a conference. I agree wholeheartedly with my colleagues in the House that it is time for an affirmative and hard-hitting approach by the Federal Government to help stem cargo theft.

But I do not believe it can be done by specific policeman-like regulations or security hardware. Even if such regulations could be developed, there are over 25,000 federally regulated common carriers in the four modes of transport today. Enforcement of precise regulations would be an administrative nightmare. It has been estimated that an inspection force of some 2,000 persons would be required so assure effective enforcement. In view of the present-day needs for budgetary reductions, it is obvious that the Federal Government cannot maintain any such enforcement and inspection team.

Although formerly favoring Federal mandatory cargo security regulations that it would promulgate and enforce, the Department of Transportation has shifted its position in support of advisory standards. It is seeking a high level of voluntary compliance by carriers with such regulations. In fact, it has suggested to the three governmental agencies using common carriers the most—the Department of Defense, the Postal Service, and the General Services Administration—that a carrier's record of compliance with the Transportation Department's advisory standards be used as a precondition for future Government contracts with public carriers. Presently there is being officially circulated through Executive agencies and unofficially through the private transportation sector a proposed White House Executive order to implement this approach, and the "voluntaryism" of it may depend on where you sit in the "pecking" order. In my judgment, this halfway effort would be neither effective nor practical because it would deal with only one segment of carriers and only those carrying goods bound to or from Government installations. They would be discriminated against and the major problem would only be chipped at, not faced squarely by all public carriers engaged in interstate and international commerce.

Therefore, Mr. President, the bill I am proposing today would not require a massive new Federal program of any type nor federally drawn standards. Instead, this approach would be based on the need for establishing individual minimum security performance standards for all carriers by the transportation regulatory commissions. Security would be added to the present regulatory role of ratemaking, commodity categorization, and route, and operational authority. Carriers would be on their own initiative rather than the governmentally imposed type. Carrier performance has long been regulated by the CAB and the ICC. This bill merely adds security as another dimension of this regulatory function.

Basically, my bill would:

First. Require the Interstate Commerce Commission and the Civil Aeronautics Board to establish broad performance standards based on carrier size and type of commodity transported, with the carriers themselves providing whatever security they believe necessary to achieve these performance standards. Exceptions for losses beyond the carrier's control are provided. Security from theft would merely be one aspect of the safe and secure movement of any commodity shipped. The broad performance standards would be established by former rulemaking procedures permitting all interested parties to be heard. Criteria for performance standards would be set by the ICC and CAB through normal procedures.

Second. Permit the U.S. Customs Bureau, by rulemaking, to establish security measures and procedures for all maritime ports, because its agents are presently stationed at all international ports of entry. This is comparable to H.R. 9463, the Customs Port Security Act, which passed both the Senate and House easily and was lost, because of a procedural and parliamentary situation in the last days of the 92d Congress. This approach was actively pushed by the Treasury Department.

Third. Establish an Interagency Council within the executive branch to coordinate all cargo security activities of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Departments of Treasury, Transportation, and Justice and review Federal cargo security programs to insure integration of efforts and coordinate Federal, State, and local cargo security activities.

Fourth. Require the Department of Transportation to establish pilot programs to demonstrate the effectiveness of different cargo security systems and to promote the use of new security techniques.

In further explanation, general performance standards would be monitored by loss reporting systems established by the regulatory agencies comparable to those now in effect for class I trucks and air carriers. Should a carrier not achieve a performance standard, it would be subject to a fine. For subsequent violations, the carrier could face possible suspension or a loss of operating-rights certificates.

Since results are the goal in this cargo security effort, is there a better measure than for a regulatory agency to review carrier performance. Certainly, we cannot and should not afford a Federal "police force" to regulate, inspect and enforce the myriad physical security meassures, informational security measures, and management techniques which would be required if precise security regulations were standardized.

Instead, in the legislation which I am proposing, this function would be left up to the individual carrier management. Conferring power on the regulatory agencies to set performance standards on theft-related or unexplained losses for regulated carriers is consistent with authority presently resident in and used by these agencies. As an example, the ICC's

Bureau of Enforcement exercises its authority to permit a carrier to embargo certain commodities under extreme circumstances. Similarly, it requires carrier to discontinue illegal embargoes as a protection extended to our great manufacturing and distribution industries. This Bureau exercises regulatory authority in assessing fines against carriers who go beyond their assigned operating authority in either territories served or types of commodities carried.

In short, what this legislation proposes is not the creation of a new, federally funded body, nor in fact any new or novel Federal power. More aptly, it would provide a congressional mandate to the regulatory agencies, to add to their present functions an additional facet—security from theft or unexplained loss to their economic regulation of certificated carriers of goods in foreign and interstate commerce. Shippers and the consumer public deserve better than they are getting today from certificated carriers in this area.

Title III of this bill provides needed assistance for the Secretary of Transportation to study, conduct research, and fund the development of security programs, devices, hardware, and techniques. That Department would specify the various methods which a carrier might utilize to achieve the performance standards which would be set by ICC and CAB.

Also, the bill calls for a coordination of all Federal cargo security activities through a permanent interagency council. This council, through the Department of Transportation, would also actively coordinate with the private sector such as individual carriers, shippers, and carrier organizations and others interested in cargo security. The interagency council would work with State and local governments to achieve effective cargo security programs.

For the maritime industry, title II of my bill would broaden the U.S. Customs Bureau's role in assisting carriers to provide for their security at all U.S. maritime ports of entry. Legislation similar to this title passed the Senate in 1972 as an amendment to H.R. 9463, a bill to prohibit the importation of pre-Columbian sculpture and murals and for other purposes. This legislation was reported out on September 25, 1972, by the Senate Finance Committee and passed the Senate on September 27, 1972. The House Ways and Means Committee accepted the Senate amendment in conference. Again, due to the pending congressional adjournment and a procedural technicality on the artifacts imports provisions of the bill, no final action was taken.

Title II of the bill also provides the Secretary of the Treasury with the authority to establish security measures and procedures at any maritime terminal where cargo is handled and stored, and also establishes criminal penalties for the illegal removal of cargo from areas under customs control. The Secretary is given the authority to prohibit the loading or unloading of cargo at any maritime terminal that does not conform to the standards prescribed. In its report approving this measure, the Senate Finance Committee stated:

> (It) believes, by the implementation of these security measures, there will be increased protection, not only against the theft of cargo, but also against the smuggling of narcotics, dangerous drugs, and other contraband.

That committee went on to say:

> Cargo security is, of course, a responsibility of the carrier or terminal operator, but the dimensions of the problem are such as to constitute a burden upon interstate and foreign commerce, making it necessary for the Federal Government to mount a broad-scale campaign to eradicate it . . .

I fully concur in the findings of the Senate Finance Committee and it is for this reason that I have included this maritime cargo security provision as title II of this bill.

Mr. President, this legislation addresses itself to the entire transport system—all four modes—engaged in both interstate and international commerce. Its enactment would provide Federal involvement in establishing cargo security, yet it would not be an onerous set of specific regulations imposed by the Federal Government. The bill would give the private sector broad leeway in devising their own necessary security standards and procedures to meet each individual situation and assist the shipping public at the same time. It would establish broad parameters for overall performance. Those carriers which refuse to recognize responsibility in providing for the safe and secure movement of cargoes would be severely penalized. Those carriers who suffer losses beyond their control would not be jeopardized.

Our goal is to reach those who manifest a lack of concern for the goods they carry and thereby permit this criminal activity, expecting insurance or the shipper to cover such losses. Cargo security for the 1970's and probably beyond must be recognized as an essential ingredient for all carrier operations. We believe this legislation can achieve this end.

Mr. President, I ask unanimous consent that a section-by-section analysis and the full text of the bill be printed in the RECORD at the conclusion of my remarks, in addition to a draft of a proposed Executive order to which I referred earlier.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cargo Security Act of 1974."

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that one of the fundamental bases for the development and growth of commerce and trade on an interstate and international basis is the security and safety of movement of cargo. The Congress has become aware that there is an alarming growth of criminal activity which results in loss of goods moving in interstate and international commerce. Such loss and theft are increasing to the degree that it represents a clear and present danger to the national economy, especially American business and particularly the small business community, which bears the greatest portion of such losses. The Congress further finds that the Constitution places the control, regulation, and stimulation of interstate and international commerce and trade within the purview of the Federal Government. Prevention of larcenies and malfeasances in connection with goods in interstate and international transit is an inherently difficult phase of crime control; goods in motion or in large-scale storage are hard to watch closely; the multijurisdictional nature of thefts facilitates criminal evasion; and protection arrangements impose unwelcome and often disastrous expenses in terms of operational delays, added paperwork, and increased costs for insurance and protection. The Congress finds that common carriers in cargo transportation by air, truck, rail, and water manifest a serious deficiency in the level of coordination and effort needed to establish deterrents and preventive measures and utilize resources to combat criminal activity. These criminal activities and attendant losses pose an especially serious threat to the economic stability of small business.

(b) The Congress further finds that State and local governments, through exercise of their regulatory powers, have an equal responsibility in stimulating measures to enhance the safety and security of cargo storage and transport. Accordingly, attempts by the Federal Government to deter and curb such losses, thefts, and pilferages should be coordinated at all levels of government.

(c) It is therefore the purpose of this Act to provide a comprehensive program to correct this problem.

TITLE I—AMENDMENTS TO INTERSTATE COMMERCE ACT AND FEDERAL AVIATION ACT OF 1958

INTERSTATE COMMERCE ACT

SEC. 101. (a) The Interstate Commerce Act is amended by redesignating section 27 as section 28 and by inserting before such section a new section as follows:

"MISSING AND STOLEN CARGO REQUIREMENTS

"SEC. 27. (a) The Commission, by regulation, shall, on the basis of appropriate information, including reports filed with it by each common carrer, subject to Part I, II, or III, and each freight forwarder, subject to Part IV of this Act, prescribe reasonable limits on the amount of cargo lost, missing, stolen, presumed stolen, or otherwise unaccounted for, from such carriers during such period or periods as may be specified by the Commission.

"The Commission may (1) prescribe different limits for different classes of carriers and different types of cargo and (2) by rule or otherwise, provide for appropriate exceptions, including losses resulting from acts of God or other occurrences beyond the control of the carrier.

"(b) In addition to the criminal penalties provided for by this Act, any carrier that violates the limits prescribed pursuant to subsection (a) of this section shall be subject to a civil penalty not exceeding $5,000 for each such violation, which may be compromised by the Commission. A violation during a succeeding period shall subject the certificate or permit of such common carrier or freight forwarder to suspension or revocation by the Commission. Suspension or revocation of a common carrier's certificate or a freight forwarder's permit shall be in accordance with the provisions of sections 212, 312(a), and 410(f) of the Act, respectively.

"(c) There are hereby authorized to be appropriated $1,000,000 for each fiscal year to effect the purposes of this Section."

SEC. 102. Title IV of the Federal Aviation Act of 1958 (49 U.S.C. 1371 *et seq.*) is amended by adding after section 417 the following new section:

"MISSING AND STOLEN CARGO REQUIREMENTS

"SEC. 418. (a) The Board by regulation shall, on the basis of appropriate information including reports filed with it by direct or indirect air carriers and foreign air carriers, including air freight forwarders and foreign air freight forwarders, prescribe reasonable limits on the amount of cargo lost, missing, stolen, presumed stolen, or otherwise unaccounted for, from such carriers during such period or periods as may be specified by the Board. The Board may (1) prescribe different limits for different classes of carriers and different types of cargo, and (2) by rule or otherwise provide for appropriate exceptions including losses resulting from acts of God or other occurrences beyond the control of the carrier.

"(b) In addition to the criminal penalties provided for by this Act, any carrier that violates the limits prescribed pursuant to subsection (a) of this section shall be subject to a civil penalty not exceeding $5,000 for each such violation, which may be compromised by the Board. A violation during a succeeding period shall subject the certificate of an air carrier, the permit of a foreign air carrier, or the operating authorization of any other carrier, to suspension or revocation by the Board. Suspension or revocation of an air carrier's certificate or foreign air carrier's permit shall be in accordance with the provisions of section 401(g) and section 402(f) of the Act, respectively."

TITLE II—CUSTOMS PORT SECURITY

SHORT TITLE

SEC. 201. This title may be cited as the "Customs Port Security Act of 1974."

DECLARATION OF PURPOSE

SEC. 202. It is the purpose of this title to establish a security program for international maritime cargo, which takes into consideration differences in port topography, terminal configuration, size, and location, and the type and volume of cargo handled.

DEFINITIONS

SEC. 203. As used in this title—

(1) the term "Secretary" means the Secretary of the Treasury;

(2) the term "United States," when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States;

(3) the term "person" means only an individual;

(4) the term "terminal" means a place within a port of entry at which imported cargo is unladen from, or cargo for export is laden on, a marine carrier engaged in foreign commerce, and any place adjacent thereto which is used for the receiving, storage, or other handling of or dealing with respect to such cargo; and

(5) the term "terminal operator" means any individual, association, partnership, corporation, public body or agency who owns, operates, or otherwise manages a terminal.

CARGO SECURITY MEASURES AND PROCEDURES

SEC. 204. (a) The Secretary of the Treasury by regulation shall, on the basis of appropriate information including such reports of losses as the Secretary may require to be filed with the Bureau of Customs by vessels engaged in foreign and coastwise trade, and such other relevant reports of losses as may be required by other Federal, State, and local governments, establish such cargo security measures as he may find necessary to protect and safeguard cargo at terminals at a port of entry.

(b)(1) Any cargo security measures or procedures which are required pursuant to this section shall become effective 6 months after the date of publication in the Federal Register. The Secretary may grant additional time to comply with the measures and procedures in accordance with such regulations as he may prescribe.

(2) The Secretary may at any time upon his own initiative, or upon petition filed by a terminal operator or other affected party in accordance with regulations prescribed by the Secretary, withdraw any or all cargo security measures or procedures required pursuant to subsection (a) of this section at terminals.

(3) If the Secretary denies a petition for withdrawal of cargo security measures or procedures, he shall, upon request of the aggrieved party, promptly hold a hearing to review his denial.

(4) The Secretary shall within a reasonable time after the close of the hearing notify the applicant in writing of his decision.

CIVIL PENALTIES

SEC. 205. (a) Any carrier or terminal operator who fails to comply with any regulation issued pursuant to section 204 of this title shall be assessed a civil penalty by the Secretary not to exceed $5,000 for each such violation or series of violations.

(b) The Secretary is authorized to remit or mitigate any penalty imposed pursuant to subsection (a) upon such terms and conditions as he deems reasonable and just.

(c) The amount of the penalty, when finally determined, may be recovered in a civil action in a United States district court.

LADING OR UNLADING PROHIBITED

SEC. 206. If the Secretary determines that, because of repetitive violations or otherwise, the imposition of civil penalties or other sanctions against a terminal operator are unavailing to secure its compliance with cargo security measures and procedures made applicable to such terminal pursuant to this title, he may prohibit the unlading of imported cargo or the lading of cargo for export at such terminal until compliance is achieved, except that, in the case of cargo transiting the United States destined for another country, it may be unladed and laded at such terminal for purposes of immediate transfer from one carrier to another carrier.

CRIMINAL PENALTIES

SEC. 207. Section 549 of title 18, United States Code, is amended to read as follows:

"§ 549. Unlawful removal of goods; breaking seals.

"(a) Whoever, without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or

"Whoever, without authority, willfully removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody; or

"Whoever maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise or baggage with intent unlawfully to remove therefrom any merchandise or baggage therein—

"Shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever unlawfully removes any merchandise or baggage from any vessel, vehicle or bonded warehouse laden with or containing bonded merchandise or baggage, or removes any merchandise or baggage otherwise in customs custody or control, or receives or transports such merchandise or baggage, knowing the same to have been unlawfully removed, shall be fined not more than $5,000 or imprisoned not more than ten years, or both, if the amount of value of the merchandise or baggage unlawfully removed, received, or transported exceeds $250; or shall be fined not more than $1,000 or imprisoned not more than one year, or both, if the amount or value of the merchandise or baggage unlawfully removed, received, or transported does not exceed $250."

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are hereby authorized to be appropriated $500,000 for each fiscal year to effect the purposes of this title.

TITLE III—STUDIES AND OTHER PROVISIONS

INTERSTATE COMMERCE COMMISSION, CIVIL AERONAUTICS BOARD, AND THE DEPARTMENT OF TRANSPORTATION

SEC. 301. (a) The Interstate Commerce Commission, the Civil Aeronautics Board, and the Department of Transportation shall jointly or severally conduct continuing investigations and studies in order to determine and evaluate for the purpose of improving cargo security—

(1) methods to deter cargo theft, including analysis of labor-management practices;

(2) packaging and labeling of cargo;

(3) containerization;

(4) claims rules and practices;

(5) documentation and waybill practices;

(6) carrier insurance and liability standards;

(7) such other matters as may be appropriate.

(b) Such studies shall be initiated after consultation with the Interagency Council established pursuant to § 303 of this Act.

(c) There are authorized to be appropriated such amounts as may be necessary for the purpose of this section.

DEPARTMENT OF TRANSPORTATION

SEC. 302. (a) The Secretary of Transportation shall carry out programs to provide for—

(1) the design, implementation, and analysis of pilot experimental programs to demonstate the effectiveness of different cargo security systems;

(2) the establishment and maintenance of liaison with various modes of transportation shippers, insurers, and any other persons affected in order to exchange and disseminate data to promote cargo security; and

(3) encouragement in, and promotion of the use of existing preventive technology and the development of new techniques, procedures, and methods to improve the security of cargo in storage and in transportation.

(b) The Secretary of Transportation shall also formulate and publicize advisory security guidelines to assist the various carriers in complying with Sections 101 and 102 of this Act. Such advisory guidelines as may be formulated will be consistent with those regulations published pursuant to Section 205 of this Act.

(c) There are authorized to be appropriated such amounts as may be necessary for the purpose of this section.

INTERAGENCY COUNCIL ON TRANSPORTATION SECURITY

SEC. 303. (a) There is established an Interagency Council on Transportation Security which shall consist of six members as follows: one to represent each of the Department of Treasury, Justice, and Transportation, appointed by the head of such department and one to represent each of the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board, appointed by such Commission or Board. Vacancies in the Council shall be filled in the same manner as initial appointments. The position of Chairman of the Council shall be filled by the Department of Transportation.

(b) The functions of the Council shall be to—

(1) identify Federal department and agency responsibilities in improving cargo security;

(2) facilitate interagency communication for such purpose;

(3) obtain and exchange the views and advice of member departments and agencies

having statutory responsibilities or a substantial interest in cargo security;

(4) propose and review plans, activities, and programs within the Federal Government dealing with cargo security in order to insure effective integration of effort:

(5) coordinate the activities of Federal departments and agencies in carrying out the provisions of this Act; and

(6) coordinate with State and local government agencies to establish compatible security protection, and enforcement programs, and provide for Federal, State, and local coordination of security efforts where practicable and feasible.

SAVINGS AND SEVERABILITY CLAUSE

SEC. 304. If any part or provision of this Act or the application thereof to any person, or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment is rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof to other persons or circumstances.

CARGO SECURITY ACT OF 1974: SECTION-BY-SECTION ANALYSIS

Section 1 is the short title.

Section 2 sets forth Congressional findings upon which the proposed Act is based, and its purpose.

Section 2(a) makes findings relating to the necessity of security and safety of movement of cargo in interstate and international commerce, the magnitude of the cargo theft problem, its danger to the national economy, the business, and especially the small business community, the Constitutional basis for federal action, the difficulties in preventing cargo thefts, and the deficiences in the efforts of common carriers—by air, truck, rail and water—to combat criminal activitiy.

Section 2(b) sets forth findings relating to the responsibility of State and local governments to stimulate measures to enhance cargo safety, and to the necessity for coordination of effort at all levels of government.

Section 2(c) sets forth the purpose of the Act: to provide a comprehensive program to correct the cargo theft problem.

TITLE I

Section 101 amends the Interstate Commerce Act by adding a new section 27 (existing section 27 is redesignated as 28) entitled "Missing and Stolen Cargo Requirements." The section empowers the Interstate Commerce Commission to compel common carriers subject to its jurisdiction (Railroad Carriers, Motor Carriers, Water Carriers and Freight Forwarders) to take effective action to prevent cargo thefts. It does this by authorizing the Commission, based on appropriate information including special reports filed with it by regulated carriers, to prescribe by regulation acceptable limits (which may vary by class of carrier and type of cargo, and may except certain losses, including those beyond the control of the carrier) on the amount of cargo stolen, etc. for periods as may be determined by the Commission and by prescribing, in addition to criminal penalties provide for by the Act, sanctions of civil penalties for violations of the limits, and suspension or revocation of certificates for successive violation. The new action also authorizes the appropriation of $1,000,000 to effect its purposes.

Section 102 amends the Federal Aviation Act of 1958 (49 U.S.C. 1371 et seq.) by adding a new section 418 entitled "Missing and stolen cargo requirements." Similar to the Interstate Commerce Act provision, section 418 authorizes the Civil Aeronautics Board, based on appropriate information, including reports filed with it by direct or indirect air carriers and foreign air carriers (including air freight forwarders and foreign air freight forwarders), to prescribe by regulation acceptable limits (which may vary by class of carrier and type of cargo, and may except certain losses, including those beyond the control of the carrier) on the amount of cargo stolen, etc. for periods as may be determined by the Board, and by prescribing, in addition to criminal penalties provided for by the Act, sanctions of civil penalties for violations of the limits, and suspension or revocation of certificate for successive violations.

TITLE II—CUSTOMS PORT SECURITY

Title II of the Act enacts the "Customs Port Security Act of 1974," new legislation empowering the Secretary of the Treasury to establish effective cargo security measures at ports of entry to protect and safeguard cargo.

Section 201 is the short title of Title II.

Section 202 declares the purpose of the Title to establish a security program for international maritime cargo, taking into account the differing situations in the several ports of entry.

Section 203 defines the terms used in the Title.

Section 204, Cargo Security Measures and Procedures, empowers the Secretary of Treasury to issue regulations, based on appropriate information including loss reports the Secretary may require to be filed by foreign and coastwise trading vessels with the Bureau of Customs and other relevant reports of losses as may be required by other Federal, State and local governments, establishing cargo security measures necessary to protect cargo at port of entry terminals. The section also provides that the cargo security measures or procedures established will be effective 6 months after publication in the Federal Register and allows the Secretary to prescribe regulations by which, either on the Secretary's own initiative or upon petition filed by a terminal operator or other affected party, cargo security measures or procedures required by this section may be withdrawn. Upon request of the aggrieved party, the Secretary is required to hold a prompt hearing upon his denial of a petition for withdrawal of cargo security measures or procedures and notify the applicant in writing of his decision within a reasonable time after the hearing.

Section 205, Civil Penalties, prescribes a civil penalty of $5000 for each violation by a carrier or terminal operator of regulations issued under section 204, authorizes the Secretary to remit or mitigate a penalty, and provides for recovery of the penalty by civil action in federal court.

Section 206, Lading or unlading provides that where the Secretary determines that other sanctions against a terminal operator are unavailing to secure its compliance with cargo security measures, the Secretary may prohibit the lading or unlading of cargo for export at the terminal until compliance is achieved. Exception is made for cargo transiting the United States destined for another country.

Section 207, Criminal Penalties, amends 18 U.S.C. 549 (Removing goods from customs custody; breaking seals) by adding a misdemeanor penalty ($1000 fine, one year imprisonment) for lesser violations of the section, and by increasing the penalty from two years' to ten years' imprisonment (but retaining the $5000 fine) for major violations.

Section 208 authorizes the appropriation of $500,000 to effect the purposes of Title II.

TITLE III—STUDIES AND OTHER PROVISIONS

Title III of the Act authorizes investigations and studies on cargo security, establishes an Interagency Council on Transportation Security, and contains a savings and severability clause.

Section 301 directs the Interstate Commerce Commission, the Civil Aeronautics Board and the Department of Transportation, after consultation with the Interagency Council established under § 303 of the Act, to conduct continuing investigations and studies of methods to deter cargo theft, packaging and labelling of cargo, containerization, claims rules and practices, documentation and waybill practices, carrier insurance and liability standards, and other appropriate matters. The Section authorizes necessary appropriations.

Section 302 directs the Secretary of Transportation to establish pilot programs to demonstrate the effectiveness of different cargo security systems, establish liaison with the various modes of transportation to exchange cargo security data, and promote the use of new techniques to improve cargo Security. The section also directs the Secretary to publish advisory standards to assist the carriers in complying with Sections 101 and 102 of the act (limits on cargo damage and loss). Necessary appropriates are also authorized.

Section 303 establishes an Interagency Council on Transportation Security consisting of representatives of the Departments of the Treasury, Justice and Transportation, the ICC, FMC and CAB. The Council is to identify Federal agency responsibilities to improve cargo security, facilitate interagency communication, obtain and exchange the views of agencies having cargo security interest, review Federal cargo security efforts to insure integration of efforts and coordinate Federal, State and local cargo security activities.

Section 304 is a savings and severability clause.

PROPOSED EXECUTIVE ORDER ASSIGNING TRANSPORTATION CARGO SECURITY FUNCTIONS TO FEDERAL DEPARTMENTS AND AGENCIES

Whereas loss of cargo by theft from the Nation's transportation system is a serious problem adversely affecting the integrity and efficiency of the system, the viability of the Nation's commerce and economy, and the interests of the public;

Whereas the loss of cargo by theft from the transportation system is ultimately passed on to the consumer by increased cargo transportation costs charged by elements of the transportation system, which suffer such losses;

Whereas it is highly desirable that the reduction of these cargo losses be achieved to the maximum practicable extent through voluntary action by the private sector;

Whereas there should be continued Federal guidance, leadership, and program coordination to assist all elements of the transportation system in implementing cargo loss preventive measures;

Whereas State and local governments have a parallel responsibility to stimulate cargo security measures within their respective jurisdictions;

Whereas there is a need to assign certain functions within the Execuitve Branch of the Federal Government to assure effective Federal leadership in and coordination of cargo security efforts; and

Whereas the Secretary of Transportation is responsible for providing leadership in the development of national transportation policies and programs and for giving full consideration to the need for improved effectiveness and safety in the Nation's transportation system;

Now, Therefore, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. *Responsibilities of the Secretary of Transportation.* The Secretary of Transportation shall be responsible for:

(a) planning, developing, and testing measures to assist the transportation industry in the protection of cargo, and coordinating the activities of the other Federal Department and Agencies to prevent the theft of cargo from the transportation system;

(b) collecting and analyzing cargo loss data for all modes of transportation, and preparing reports periodically on the extent of cargo losses, local and national loss trends, and other special analyses useful to the development of loss prevention measures; and

(c) issuing, after coordination with the Secretary of the Treasury and the heads of other interested Federal Departments and Agencies, Cargo Security Advisory Standards for use by all elements of the transportation industry, including shippers and receivers, in preventing cargo losses.

Section 2. *Responsibilities of the Attorney General.* The Attorney General, in providing financial assistance to State and local law enforcement organizations, shall recognize the need to establish and improve programs for the prevention of theft of cargo from the transportation system, and he shall increase whenever possible and appropriate, such assistance to State and local law enforcement organizations and prosecutors for the investigation and prosecution of cargo theft incidents and for the development of cargo theft prevention programs.

Section 3. *Recommended Actions of the Transportation Regulatory Agencies.*

The Chairmen of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission are urged to cooperate with the Secretary of Transportation by:

(a) obtaining from carriers, freight forwarders, and terminal operators under their respective jurisdictions cargo theft reports providing information on such subjects as cargo lost, missing, stolen, presumed stolen, or damaged as a result of theft;

(b) developing the reporting scope and format in consultation with those elements of the transportation industry from which such reports would be required; and

(c) providing the Secretary of Transportation with the data collected pursuant to this section both in a summary report format and in basic form for analysis and preparation of national cargo theft reports.

Section 4. *Contracts for the Transportation of Cargo by Federal Departments and Agencies.*

(a) All Federal Departments and Agencies which award contracts for the transportation of cargo shall provide for affirmative consideration of implementation of the Cargo Security Advisory Standards issued by the Department of Transportation by requiring that the following provisions be included in each such contract hereafter executed with carriers, freight forwards and terminal operators.

"During the performance of this contract the contractor agrees as follows:

"(1) The contractors shall maintain a current file of the Cargo Security Advisory Standards issued by the Department of Transportation at its headquarters and at appropriate subordinate offices.

"(2) The contractors shall affirmatively consider implementation of the Cargo Security Advisory Standards in relation to all theft related losses throughout its system.

"(3) All measures taken to affirmatively consider implementation of the Cargo Security Advisory Standards and the resulting determination(s) shall be documented and maintained on file at the contractor's headquarters and at appropriate subordinate offices and shall be available upon request by a designated representative of the contracting department or agency."

(b) The Department of Transportation, in consultation with other contracting Federal Departments and Agencies, shall develop procedures to determine the effectiveness of the Cargo Security Advisory Standards in reducing the amount of theft suffered by elements of the transportation industry which contract with the Federal Government for the transportation of cargo.

Section 5. *Effective Date.*

This order shall become effective thirty (30) days after the date of execution of this order.

By Mr. CRANSTON:

S. 2978. A bill to establish a special commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of official misconduct and other offenses committed by high government officials. Referred to the Committee on the Judiciary.

COMMISSION ON AN INDEPENDENT PERMANENT PROSECUTOR

Mr. CRANSTON. Mr. President, today I am introducing legislation to establish a commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of alleged wrongdoing by high Government officials.

I believe that we owe the Nation a permanent answer to the need for swift, sure investigation and prosecution of high Government officials when evidence of alleged wrongdoing on their part comes to light.

One of the tragedies of the Watergate affair has been that so much of the early investigation and prosecution was conducted under clouds of suspicion and doubt. It was only through the insistence of Judge John Sirica that the full story has begun to be unraveled—and we are not yet at the end.

To the great credit of Mr. Leon Jaworski and his predecessor, Mr. Archibald Cox, the Special Prosecutor's Office has managed to conduct a steady and thorough investigation which appears to be leading to conclusive results. The Office has managed to do this in spite of the disruption caused by the President's precipitous dismissal of Mr. Cox and in spite of the President's continuing reluctance to cooperate fully in the turning over of relevant evidence.

But an improvised Special Prosecutor's Office is not a satisfactory answer to the need for restored public confidence that wrongdoers in positions of public trust in the future will be investigated and prosecuted.

Some ready and reliable way must be found to overcome the built-in conflicts of interest that appear to exist whenever the powerful are asked to investigate themselves.

Too often there has been an appearance that corruption in high places is being swept under the rug. Because of the very nature of the Department of Justice, with the Attorney General so often, in recent years, a chief companion or key political adviser to a President, certain criminal and civil cases always are subject to question as to whether justice really is being done and whether the public interest is well and fully represented.

When incidents of corruption and scandal occur, administrations always face the temptation to keep such evidence from reaching public attention. Sometimes apparently persuasive reasons can be offered for handling such affairs in a quiet manner, but I believe that such expedient choices have cost the Nation greatly in loss of public confidence in the integrity of our political institutions of government.

I have believed for some time that we need some permanent mechanism which will restore public confidence that persons high in Government who are accused of wrongdoing will be investigated and, if the evidence justifies, prosecuted.

The best first step is to study ways to set up a permanent means of triggering independent investigations and prosecutions of alleged wrongdoing by high Government officials.

Last June when the need for a Special Prosecutor in the Watergate affair arose, and our attention was focused on that matter in relationship to the nomination of Elliot Richardson as Attorney General, I asked my staff to consider how, legislatively, we might create some such permanent institution, so that we should not find our country improvising each time a crisis like Teapot Dome or Watergate develops. The matter is complicated, as we discovered.

One possible solution would be to establish machinery for bringing into existence a Special Prosecutor when allegations or actual instances of high official misconduct come to light.

One way to implement this would be to create a permanent Commission, independent and bipartisan, appointed by the President with the advice and consent of the Senate. The Commission, when certain types of allegations of official misconduct, abuse of public trust or political offenses came to light at a high level, would designate a Special Prosecutor to investigate and prosecute offenses against the United States arising out of the events and allegations brought to the Commission's notice.

There may be other and better approaches. So that we can consider and study the matter further, I am offering legislation establishing a special Commission to study the question of how the Nation should prosecute offenses involving high levels of the executive branch, particularly when the Justice Department—its top officials appointed by and answerable to the White House—is called upon to investigate itself and the White House.

The Commission which I am proposing to study the feasibility of a permanent prosecutor would be composed of six persons who have achieved eminence in a field of public service, including the administration of justice, and who would be appointed by the Chief Justice of the Supreme Court. The Attorney General would be an ex officio member of the Commission.

To preserve further the independence of the Commission, the bill exempts the Commission from those provisions of the Federal Advisory Committee Act which place similar bodies under the control of a full-time Federal employee, who typically is a political appointee of the Executive. This Commission will have the power to select and hire its own executive director and other personnel.

The Commission also is directed to consult with the Special Prosecutor to obtain the benefit of his experience.

The Commission will have 1 year in which to conduct its study and prepare its report. Following submission of the report to Congress and the President, the President and the Department of Justice **are directed** to respond to the recommendations of the Commission within 90 days. The Commission continues its existence in the meantime and does not expire until 90 days following the submission of the President's response to its recommendations.

Among the questions which the study Commission should consider would be:

What categories of possible violations of Federal law and other instances of official misconduct should be subject to the jurisdiction of a permanent prosecution machinery? What would trigger action by the permanent prosecution machinery? Who would have standing to bring accusations before it? Should there be a permanent prosecutor who serves for an extended term, such as 15 years?

Do we want a Special Prosecutor on hand all the time—looking for some high official to prosecute?

Should we have instead a permanent independent and bipartisan Commission empowered, under specified and appropriate circumstances, to designate a Special Prosecutor?

Should Congress confirm the prosecutor?

Under what conditions could the prosecutor be removed from office?

What safeguards would be necessary to protect against mischief, abuses, or political bias by the permanent prosecutor or the permanent Commission for appointment of a Special Prosecutor?

Should the Special Prosecutor function as a check on investigations and prosecutions carried out for partisan political purposes? Should the permanent Special Prosecutor have jurisdiction over all official misconduct to the exclusion of the Department of Justice?

I have no instant answers to any of these questions. I do believe they, along with similar issues, should be studied by a Commission consisting of experienced and able persons in the field of administration of justice, as I am proposing today.

Currently, there is renewed interest in the need for solutions to the problems of independent investigation and prosecution of Government officials.

On February 9, the Committee for Public Justice, under the direction of Leon Friedman, will conduct a seminar on establishing a permanent prosecutor. Speaking that morning in room 1202, Dirksen Senate Office Building, will be Lloyd Cutler, distinguished Washington attorney, who has written on the need for a permanent prosecutor. The seminar will be part of a 3-day series of discussion of the "Politics of Justice" with emphasis on the problem of political influence in the administration of justice by the Department.

In addition, a group of law students under the direction of Prof. John Banzaff III of George Washington Law School have prepared an excellent memorandum on their proposal for a permanent Federal Special Prosecutor. In their memorandum, Messrs. Peter Dingman and Ira Meiselman list the numerous State statutes providing for special prosecutors. As they observe, "one of the ironies of the furor over a Federal Special Prosecutor is the fact that State governments have traditionally provided for this device and used it successfully in a variety of ways."

Since I believe that this memorandum serves as an excellent source of information and material on the question of a Special Prosecutor, I ask unanimous consent that the full text be printed in the RECORD. I also ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill and memorandum were ordered to be printed in the RECORD, as follows:

S. 2978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on an Independent Permanent Prosecutor Act."

FINDINGS OF CONGRESS

SEC. 2. The Congress hereby finds and declares—

(1) the continued strength of public confidence in the impartial administration of criminal justice and in the institutions responsible for order and justice under law is vitally important to the future of the Nation;

(2) public confidence in the integrity of the Nation's criminal justice system suffers when the investigation and prosecution of alleged illegal acts committed by high officials of the executive branch are carried out under the authority of the eexcutive branch itself;

(3) each time in the Nation's history when it has been necessary to provide for the independent investigation and prosecution of alleged illegal acts committed by high officials of the executive branch the public has had to accept *ad hoc* responses to such need;

(4) the delay and the controversy entailed in the process of developing such an ad hoc response almost inevitably hinder the effectiveness of any subsequent investigation and prosecution;

(5) the Congress should consider the desirability and feasibility of establishing a permanent institution which in the future will provide for the independent investigation and prosecution of alleged illegal acts committed by high officials in the executive branch;

(6) an independent study of the full range of possibilities for the investigation and prosecution of alleged illegal acts committed by high officials in the executive branch, including the conclusion that present institutions are adequate to the task, would provide a substantial and useful basis upon which Congress could consider the need for such legislation.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established a Commission of an Independent Permanent Prosecutor (hereinafter in this Act referred to as the "Commission") which shall be composed of six members who shall be appointed by the Chief Justice of the United States from among persons who have achieved eminence in a field of public service, and at least four of whom shall be persons who have achieved eminence in the field of administration of justice. Not more than three of the members of the Commission shall be adherents of the same political party. The Attorney General or his designee shall be an *ex officio* member of the Commission.

(b) The Chief Justice shall select one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(c) Members of the Commission shall be compensated at the daily rate for executive level IV, for each day they are engaged in the performance of the functions of the Commission, including traveltime; and all members while so serving away from their homes or regular places of businesses, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(d) Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

(e) Vacancies in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission to execute the purposes, functions, and powers of the Commission. Four members of the Commission shall constitute a quorum for the transaction of business.

(f) Members of the Commission shall not hold any Federal office in the executive branch or full time employment with the United States during their tenure as members of the Commission.

DUTIES OF THE COMMISSION

SEC. 4. It shall be the duty of the Commission—

(1) to study the desirability and feasibility of possible means for the establishment of an independent permanent mechanism to provide for the independent investigation and prosecution of crimes, misdemeanors, and other offenses or acts of official misconduct alleged to have been committed by high officials in the executive branch of government;

(2) to consult with any Special Prosecutor, established pursuant to regulations of the Attorney General or by Act of Congress, and seek the views of such Special Prosecutor on recommendations proposed to be made by the Commission; and

(3) to consult with the Attorney General and seek his views on recommendations proposed to be made by the Commission.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission may, in carrying out its duties under this Act, sit and act at such times and places, hold such hearings, take such testimony, have such printing and binding done, and make such expenditures as the Commission deems advisable without regard to the provisions of section 10 of the Federal Advisory Committee Act. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

(1) to appoint and fix the compensation of an executive director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for grade GS–18 of the General Schedule under section 5332 of such titles; and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed the maximum daily equivalent of the annual rate in effect for

grade GS-18 of the General Schedule under section 5332 of such title.

COOPERATION OF OTHER FEDERAL DEPARTMENTS

SEC. 6. The head of each department, agency, and independent instrumentality of the United States shall cooperate with the Commission to the fullest extent permitted by law in the carrying out of its duties and functions under this Act.

REPORTS

SEC. 7. (a) The Commission shall report its findings and recommendations, including if the Commission deems appropriate, draft legislation implementing such recommendations, to the President and the Congress not later than one year after the date on which all of the members of the Commission take office under section 3 of this Act.

(b) Notwithstanding any other provision of law, the views of any Special Prosecutor required to be obtained under section 3(2) of this Act shall be printed as an appendix to the final report required to be submitted under subsection (a) of this section.

(c) Not later than ninety days after the date on which the Commission reports its findings and recommendations to the President and the Congress, the President shall submit to the Congress and publish a report specifying his views, and rationale therefor, and the views and detailed analysis of the Department of Justice, with respect to the findings and each recommendation contained in the report of the Commission.

EXPENSES OF THE COMMISSION

SEC. 8. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the purposes of this Act not to exceed $450,000.

EXPIRATION OF THE COMMISSION

SEC. 9. The Commission shall cease to exist ninety days after the submission of the report of the President and the Department of Justice described in section 7(c) of this Act.

Federal Special Prosecutor Act of 1974

(Peter A. Dingman, Ira Meiselman, Co-Chairmen, National Law Center Special Prosecutor Task Force, Suite 300, 2000 H Street, N.W., Washington, D.C.)

INTRODUCTION

This pamphlet proposes the enactment of the Federal Special Prosecutor Act of 1974. Adoption of this law would, without any extreme alteration of governmental machinery, put the Federal District Courts in a position to circumvent any conflict of interest in the office of the United States Attorney without subjecting the nation to new crises or abusing faith in our system of justice by expecting the public to believe that a prosecutor can fulfill the high duties of his office impartially when the accused are friends and colleagues.

The Federal Special Prosecutor Act of 1974 is based on successful state experience with judicially appointed special prosecutors. Research into the problem of conflict of interest in the office of the prosecuting attorney by the National Law Center Special Prosecutor Task Force reveals that the overwhelming majority of state governments have recognized the seemingly inevitable possibility that a prosecuting attorney may be called upon by the duties of his office to investigate those toward whom he cannot be impartial. Forty-two states have by statute provided for the appointment of a special prosecutor in such circumstances. These laws have worked for the states and the Federal Prosecutor Act of 1974 would adapt their form and substance to the Federal System.

Congress has the power to enact this law. Article II, section 2 of the United States Constitution vests with the Congress the power to grant courts authority to appoint public officers. The Federal Special Prosecutor Act of 1974 would exercise this power to place appointing authority in the least political arm of government and the one best suited to pass on the qualifications of counsel who would appear before the bench. Because the authority conferred on the courts would be only appointing authority and not power to interfere with the exercise of prosecutorial discretion, the Doctrine of Separation of Powers would not be infringed.

The Federal Special Prosecutor Act of 1974 is the answer to a problem unavoidable where the duty to investigate and prosecute political corruption is placed on men with strong personal and political ties to those who may be accused of crime. Similar laws have met with success in state experience. Recent events suggest it is already past time for Congress to use its power to enact such a statute.

THE PROBLEM

The continuing uncertainty swirls around one constant: the U.S. system is not very thoughtfully set up for dealing with misconduct that involves the top ranks of an Administration. *Time,* Dec. 3, 1973. p. 73.

The Problem addressed here is, quite simply, a crisis in public confidence in the integrity of elected government and its ability to cleanse itself of officials who abuse their offices. More specifically, suspicions, allegations and actual revelations of mishandling and improper influence of cases before the United States Department of Justice have denigrated faith in Justice as a vigilant prosecutor of crimes against the public trust. Within very recent history the nation has been shocked by too many instances where the impartiality of investigation and prosecution has been left an open question. The inference is easily gathered that some crimes go unpunished.

If we look back only a couple of years we find that the special prosecutor has been used in several prominent cases—Nadjari in New York, Cox for Watergate, Sears for the Hanrahan case, and quite possibly one should have been appointed for Agnew. Even though there may be only a few cases which would require a special prosecutor it would be well worth it even if it's needed only once because these cases are so important.

It is a shame to go from crisis to crisis if we don't have to. We should not wait for a new crisis to pass a comprehensive bill. One thing our proposal would do would be to influence the Justice Department and other government agencies. They would be aware of the possibility of a disinterested person checking into the matter. This is not an insult to the Justice Department. The states have recognized the possibility of this sort of conflict of interest and have provided for it.

The problem was defined well in Governor Rockefeller's statement of September 19, 1972 announcing the appointment of Nadjari as special prosecutor to investigate corruption in the New York City criminal justice system. "Under the present circumstances only an independent agency with citywide authority, assigned a clear and specific mission and armed with full prosecutorial power and independent investigation capacity, can break through the natural resistance of government agencies to investigate themselves or their close allies."

A University of Pennsylvania Law Review article puts it:

"The realities of political life raise serious doubts that an investigation controlled by a prosecutor who owes his position and salary to those under investigation will be faithfully and rigorously pursued.

"Comparison of the spectacular disclosures of corruption made by the N.Y. Extraordinary Grand Jury with Thomas Dewey as special prosecutor and by the Michigan one-man grand juries assisted by special prosecutors with the results of ordinary grand jury investigations conducted by regular prosecutors underscores this conclusion. The burden should be shifted to the district attorney to come forward with evidence of his fitness to conduct an investigation of his political associates." David C. Toomey, "Discretionary Power in the Judiciary to Organize a Special Investigatory Grand Jury," 111 U.Pa.L.Rev. 954, 970 (1963).

As Senator Bayh's bill to create an independent Watergate Special Prosecutor declares in its findings and declarations, "Public confidence in the integrity of the nation's criminal justice system cannot be maintained if the investigation of allegations and prosecution of illegal acts of high officials of the Executive branch of government are carried out under the authority of the Executive branch itself." Findings and Declarations in Support of the Independent Special Prosecutor Act of 1973, p. 3 (Oct. 26, 1973). The Supreme Court states in *Humphrey's Executor* v. *United States,* 295 U.S. 602 (1935), "one who holds his office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will."

That's why public sentiment would favor a statute establishing a special prosecutor as an agency completely independent of the President, to be appointed by a court. The power of Congress to establish independent agencies is unquestionable.

THE PROPOSAL

The National Law Center Special Prosecutor Task Force proposes that Congress enact the following bill empowering Federal District Courts to appoint a Federal Special Prosecutor when justice demands it.

A bill to provide for the appointment of a Special Prosecutor to represent the United States in certain criminal cases.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1) That this Bill shall be known as the Federal Special Prosecutor Act of 1974; and

2) That section 543, title 28, United States Code (chapter 35, part 2), shall be amended to read as follows:

§ 543. Special Prosecutors

a) The Attorney General may appoint attorneys to assist United States Attorneys when the public interest so requires. Each attorney appointed under this subsection (a) is subject to removal by the Attorney General.

b) (1) Whenever it shall appear that a United States Attorney, whose duty it is to attend upon a district court and prosecute as required by law or to conduct other business over which the court has jurisdiction, is disqualified by a conflict of interest or otherwise, disabled or unable to appear for any other reason and the United States Attorney General, after reasonable notice of such disqualification, disability or inability, has filed to act under subsection (a) above, the judge or judges of the district court before which it is his duty to appear shall have full power to appoint such attorney or attorneys as it deems necessary to act as special prosecutor, special counsel to a grand jury or perform such other functions as are required by justice and the public interest. Each attorney so appointed is subject to removal by the court.

(2) Nothing in this section shall be construed to be in derogation of inherent powers of the courts to disqualify counsel from appearing before them when counsel suffer from potential or actual conflict of interest.

(3) The Supreme Court of the United States is authorized to prescribe, from time to time, rules of procedure to carry out the provisions of this section.

(4) The salary and reasonable expenses, including expenses for office space, secretarial and clerical assistance, and necessary

equipment, of the Special Prosecutor or Special Counsel appointed by the court shall be paid out of the regular appropriations made for the Department of Justice or such other fund as Congress may appropriate.

STRUCTURE AND CONTENT OF THE ACT

The structure of the proposed act was dictated by its goal: to provide a simple, reliable mechanism for the appointment of an alternative counsel for the government in cases where the regular U.S. Attorney is disqualified to properly exercise the functions of a federal prosecutor.

The present section 543 of Title 28, United States Code is retained. Under this section the Attorney General is given primary responsibility to see that the United States Attorney assigned to any case is not hampered by a personal conflict of interest or other disability. The Federal Special Prosecutor Act is directed only at that extraordinary case in which a disqualification or disability exists and the Attorney General though aware of the situation does not act as justice and the public interest require. In such a case the district court is empowered to act and appoint someone who can represent the people with undivided loyalty.

The first paragraph of the Act contains the major authorization. Leaving specific procedure to be worked out by the judiciary, the new law clearly sets out the basic criteria application of its provisions. The district court, before exercising the authority here conferred, must find: 1) that some matter, over which the court has jurisdiction, demands the attendance at court of the U.S. Attorney; 2) that justice and the appearance of justice are incompatible with appearance in that matter of the regular prosecutor; and 3) that the Attorney General, with knowledge of this detriment to the public interst, had not acted under subsection (a) of the law. Only then could the court appoint an independent counsel to exercise the authority and discretion of counsel for the government as to the pending matter.

The second paragraph of the Federal Special Prosecutor Act leaves with the Supreme Court of the United States responsibility for promulgating the specific rules of procedures under this section of the law. This seems no more than assigning the task to those best able to perform it. Similar approaches were used in drafting the Federal Rules of Civil Procedure and the Proposed Federal Rules of Evidence. Procedural rules drafted by the judiciary seem more likely than those fashioned by the legislative process to content themselves with governing the form and not the content of the proceeding.

Finally the Act disclaims any intent to limit the common law power of courts to disqualify counsel for any party for appearing in a matter when their loyalty to the client is not complete. There is a real question as to whether any attempt to limit this power would be constitutional. In any event, there is no reason to believe Congress would do so if it could.

Provision is also made for payment of salary and costs out of regular Justice Department funds or special appropriations. This should insure that economic considerations do not interfere with the capacity of a Special Prosecutor to do justice.

STATE EXPERIENCE

The Special Prosecutor device is not a new answer to the problem of conflict of interest in the office of the regular prosecuting office. The overwhelming majority of states, forty-two, have seen the utility of some Special Prosecutor provision. Thirty-two state legislatures have by statute placed appointing authority in trial judges of general jurisdiction. A substantial number of state courts have claimed that appointing authority as an inherent right.

This experience of the states with special prosecutors seems to be relevant in two ways here. First, the use of the device by state governments for over a century indicates the utility of such provisions and their resilience under a variety of court challenges. Second, the success of the state statutes, representative samples of which appear in the appendix, demonstrate the workability of a concise, uncomplicated statutory provision. The samples set out in the appen 'ix were chosen because they reflect the common trends in the various state laws. Almost all are rather short giving authority to trial court judges to appoint a special prosecutor whenever a conflict of interest or other disability disqualify or prevent the regular prosecutor from appearing properly before the court. This should appear also from the table of state provisions in the appendix and statutes there cited.

The table in the appendix includes citations to the state court holdings which assert that the right to appoint a special prosecutor is a right belonging to all courts charged with administering the criminal laws. These cases and those, too numerous for citation here, upholding state special prosecutor statutes are of some interest in indicating that the state courts have refused to find prosecution by a special prosecutor violative of a defendant's due process rights, e.g., *Tomlinson* v. *State,* 182 S.E. 2d 320 (Ct. of App. Ga. 1971); *People* v. *Doss,* 48 N.E. 2d 213 (App. Ct. Ill. 1943), *cert. denied* 321 U.S. 789 (1943). Rather than attempt to annotate the experience of the several states in this area we have chosen to examine a single state's representative experience with the office of special prosecutor.

For extended discussion it is perhaps enough to note the experience of the State of Illinois. That state's law is typical of statutes in many other jurisdictions. (See examples Appendix 1B.)

"Whenever the Attorney General or State's Attorney is interested in any cause or proceeding, civil or criminal, which it is or may be his duty to prosecute or defend, the court in which the cause or proceeding is pending may appoint some competent attorney to prosecute or defend said cause or proceeding and the attorney so appointed shall have the same power and authority in relation to such cause or proceeding as the Attorney General or State's Attorney would have had if present and attending the same." Ill. Rev. Stat. Ch. 14, sec.

This law has been challenged as violating Constitutionally mandated separation of powers. The Illinois State Constitution has a clause expressly setting out three branches of government, "Legislative, Executive, and Judicial", and proclaiming that no one, holding office in one branch, "shall exercise any power belonging to either of the others, . . ." Art. III, 1870 Ill. Const. The Illinois Supreme Court held that mere appointment, pursuant to and according to the terms of the statute, was not violative of separation of powers or the state constitution. *Tearney* v. *Harding,* 166 N.E. 2d 526 (Ill. Sup. Ct. 1929). Appointing an officer to exercise the prosecutorial function was found not to be an invasion of executive function.

In the very recent history the existence of this law has proved dramatically useful to the State and people of Illinois. The entire and more specifically, the City of Chicago had been aroused by the circumstances surrounding the police-militant shootout at a Black Panther headquarters. An initial county grand jury charged only crimes against seven Panthers. Then a federal grand jury, investigating whether the civil rights of Hampton and Clark (the dead Panthers) had been violated by the police, declined to indict anyone, but did report that the evidence was contrary to some of the police claims. Shortly before the federal grand jury report, State's Attorney Edward Hanrahan's office had abruptly reversed itself and decided to drop the Panther indictments because of "faulty" evidence.

In the midst of all this and the resulting press and public pressure, a special county grand jury was convened to look into the whole affair. Because of the potential conflict of interest for the regular prosecutor, Chief Criminal Courts Judge Joseph Power appointed a Special Prosecutor for the case. Barnabas Sears, who among other distinctions had once before served in the same post and resolved a police scandal by winning 8 convictions, was appointed to handle this case. This appointment also survived litigation. *People* v. *Sears,* 49 Ill. 2d 14, 273 N.E. 2d 380 (1971). In light of the situation's obvious potential to produce not just distrust of government, but social upheaval, it is difficult to imagine a better example (except perhaps the appointment of Archibald Cox) of the efficacy of the special prosecutor device in a system of government like our own. Of course in this case, where charges ran directed against the regular prosecutor, a man with close political ties to other members of the Executive Branch of government, there was no suitable alternative to judicial appointment. It may require the judgment of history to proclaim the Sears appointment a total success but the impropriety of asking Mr. Hanrahan to investigate his own office is clear.

It is possible to cite other examples of state special prosecutors who have served both justice and the public interest in maintaining the appearance and fact of justice. From Nadjari and Dewey in New York the use of special prosecutors runs back at least to the appointment in *White* v. *Polk Co.,* an 1864 Iowa case. It should be enough, however, to say that a solution exists, tried, tested and found workable in the laboratory of state government, for what seems an inevitable problem. The logic of adapting such a successful state device to the Federal system seems to require little more argument.

WHY A SPECIAL PROSECUTOR IN THE FEDERAL SYSTEM?

In recent times numerous allegations and even proofs of political influence on the Justice Department have surfaced. This is a tragic development in our system of laws because our government rests fundamentally on a faith that public officials act for the general and not the individual good.

APPEARANCE OF JUSTICE

In this time of uncertainty about the morality of public officials it is extremely important not only that justice be done but that the people believe it is being done. Faitb must be restored. Perhaps the very essence of democracy is that the people consent to be governed under a system in which they believe. Democracy is dependent on maintaining the public's faith, trust and confidence.

"The Preamble to the Canons of Ethics admonishes the members of the bar that their conduct should be such as to merit the approval of all good men. That conduct should not be weighted with hairsplitting nicety. We have found no exceptions to the exhortation to 'abstain from all appearance of evil.'" *U.S.* v. *Trafficante,* 328, F.2d 117, 120 (5th Cir. 1964).

A case having to do with judges' duties and the importance of maintaining both the fact and the appearance of justice, *Saunders* v. *Piggly-Wiggly Corp.,* declares, "Parties are entitled to a determination of these rights by an individual to whose acts there should not exist in the mind of either party any doubt but what even and exact justice will be done and an impartial and an impersonal consideration and determination of the questions is made." 1 F.2d 582, 585 (6th Cir. 1924) The Justice Department in our situation has to make a judgment of whether to prosecute and that decision is as important to the parties as any judge-made decision.

ABA President Chesterfield Smith in a speech on October 25, 1973 pointed to the ABA Standards for Criminal Justice, which provide that the prosecuting officer should have no conflict of interest, or the appearance of a conflict of interest. He concluded:

"Thus, under that standard, it clearly was and is improper for an investigation of the Executive Branch of the government to be conducted by a prosecutor who is under the control and direction of either the President himself or some other person who himself is under the direction and control of the President. (This is so because:) It has never been suggested to my knowledge that the truth of opposing contentions could be fairly and equitably ascertained if one of the opposing parties before the court could determine what evidence and what contentions his opponent could present to the judge or jury for consideration." Speech to Nat'l Legal Aide Defender Assoc., Oct. 25, 1973, pp. 4–6.

The Supreme Court in *Tumey* v. *Ohio*, said that "the requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice." 273 U.S. 510, 532, (1927). The Supreme Court of Iowa said that "it would be a burlesque upon the law" if crimes went unpunished for lack of power in the courts to appoint a special prosecutor. *White* v. *Polk County*, 17 Iowa 413, 414 (1864). The total independence of the prosecutors is the only possible way that the American people will be satisfied that complete fairness, thoroughness and impartiality are being observed. The public must know that the persons in charge of administering justice are totally free from any pressure from the President or his associates.

PROSECUTORIAL CONFLICT OF INTEREST

There is ample judicial authority that a prosecuting attorney must not allow personal interest to influence his tactics or handling of a case. In *State ex rel. Willims* v. *Ellis*, the court said, "The prosecuting attorney owes a duty to both state and defendant, and, if the facts are such as to preclude the exercise of his full duty to both, he should step aside." 112 N.E. 98 (1916). The prosecutorial function cannot accommodate a split allegiance, for it is a position ". . . to be held and administered wholly in the interest of the people at large and with a *single* eye to their welfare." *Attorney General* v. *Tuffs*, 239 Mass. 458, 489, 132 N.E. 322, 326 (1921).

The entire matter of Special Prosecutor and particularly the concept of a prosecutor's qualifications as a proper concern of the judiciary is well treated in an article by three Georgetown law students working under the supervision of Samuel Dash. Their authoritative and exhaustive research is especially in point here.

"In accordance with this strong distrust of the 'interested' prosecutor, state courts have further recognized that it is not only their right, but their duty, to fill the need for impartial enforcement. In *State ex rel. Latham* v. *Spencer Circuit Court*, the court found cause to appoint a special prosecutor where it was shown that the regular district attorney was hostile and prejudiced toward the interest of the one for whom the prosecution was brought. The proposition that an attorney cannot properly represent one where he maintains an antagonistic interest toward that party was deemed 'elementary.' In that instance, the prosecutor concedes his incapacity to act and it is the court's affirmative responsibility to replace him as to that matter. Similarly, in *Hendicks* v. *State*, the court granted a request for the appointment of a special prosecutor due to the district attorney's prejudice and voluntary inaction in the face of racketeering, professional gambling, corruption and high crime. Recognizing that but for its action citizens would be helpless in their desire for 'an active, good-faith prosecution, the court deemed such circumstances to justify the disregard of prosecutorial discretion." Schneider, Greenspan and Anazalone, "The Special Prosecutor in the Federal System: A Proposal," 11 Am. Crim. L. Rev. 576 (1973) (footnotes omitted).

The Supreme Court of Missouri has declared it essential that a prosecutor's discretion "be exercised in accordance with the established principles of law, . . . (and) according to the dictates of his own judgment and conscience and not that of any other person." *State* v. *Wallach*, 353 Mo. 312, 322–23, 182 S.W. 2d 313, 318–19 (1944). And the Supreme Court of the United States has held that it violates due process of law for a judge to have a pecuniary interest in the outcome of a case. *Tumey* v. *Ohio, supra*, 273 U.S. 510 (1927).

Enactment of the Federal Special Prosecutor Act of 1974 would go a long way toward insuring that our Federal Prosecutors are free to investigate political corruption and abuse of office wherever it appears. Further it would guarantee to the people and defendants in politically connected trials the kind of even handed justice the *Tumey* Court held is demanded by due process.

CONSTITUTIONAL CONSIDERATIONS

Something should be said as to the constitutional implications of enactment of the Federal Special Prosecutor Act. The discussions which occurred concerning various Watergate Special Prosecutor proposals indicate that two points should be clarified. First, Congress clearly has the power to authorize judicial appointment of Special Prosecutors. Secondly, the cases and leading commentators do not support any contention that exercise of this Congressional power would in any way infringe the Doctrine of Separation of Powers.

CONGRESS HAS THE POWER

There can be no serious question but that the United States Constitution gives to the Congress ample power to enact this law. "The Congress may by Law vest the Appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." Art. II, sec. 2, cl. 2. This power was exercised in the enactment of the present § 543(a) under which the Attorney General acted to appoint Messrs. Cox and Jaworski. No reason appears, however, to assume that the current law is any exhaustive exercise of the Congressional power to provide for the appointment of public officials. The Federal Special Prosecutor Act should be seen as merely a further use of that power.

Leon Irish, former clerk to the United States Supreme Court and respected member of the District of Columbia Bar, has written a thorough exposition of this point.

"The critical provision of the Constitution (Art. II, sec. 2, cl. 2) states that the advice and consent of the Senate is required for appointment by the President of "Officers of the United States," and that "the Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

"Several things are made clear by this provision: First, the President has no inherent, constitutional authority to create offices of the Special Prosecutor. It lies with Congress to create by statute such offices as it deems proper for exercising the powers of the United States government, and to decide which shall be 'inferior offices.' The President has his usual veto powers over such legislation, but he has no independent power to create offices.

"Second, the President has no independent, constitutional power to appoint the persons who will fill the offices created by Congress. The President's power to appoint 'Officers of the United States,' such as the Attorney General, is subject to the advice and consent of the Senate. As to the appointment of lesser officers, the Constitution says merely that *Congress may* give appointment powers to the President, the courts or department heads. Thus, whatever power he may have to choose personal advisers, the President cannot appoint officers to act for the United States without a delegation of authority from Congress to do so. Furthermore, whether any such appointment will require the advice and consent of the Senate is basically for Congress to decide.

"Finally, it is implicit in the constitutional provision just quoted that Congress may itself retain and exercise the power to appoint lesser officers, such as a Special Prosecutor, which it might otherwise delegate to the President, department heads or the courts.

"In short, it is clear from the Constitution that Congress has the power to create an Office of Special Prosecutor. It is equally clear that Congress may withdraw from the President or the Attorney General any previously delegated power to create a Special Prosecutor and, by doing so, terminate the powers of any incumbent prosecutor. Congress may determine the jurisdiction and the powers of the Special Prosecutor it creates and either choose the individual who will hold that office or delegate that function to the courts.

"The fact that a Special Prosecutor had been appointed by a court or directly by Congress would not make him a judicial officer incapable of acting as a criminal prosecutor, or a mere arm of the legislature. The Special Prosecutor would have whatever powers and independence Congress conferred upon him by statute, and he could unquestionably be placed beyond the control or removal of the appointing body other than for gross improprieties or malfeasance." *The Washington Post*, Nov. 9, 1973, p. A30.

Article I, Section 8 of the Constitution is also in point and supports the legislation. It provides that the Congress shall have power over a wide scope of subject matter, and also "to make all laws which shall be necessary and proper for carrying into execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Offices thereof." As Chief Justice Marshall put it in *McCulloch* v. *Maryland*, 4 Wheat. 316. 415 (1910), the "necessary and proper clause" is a provision "made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs."

SEPARATION OF POWERS

Even though conceding that Congress has ample power to pass the Federal Special Proecutor Act, some advance the Doctrine of Separation of Powers as a bar to enactment. This fear that the Doctrine, an interpretive gloss on the Constitution, is a barrier to exercise of the expressly granted Congressional power does not, on a review of the authorities, seem well founded.

United States v. *Cox* is sometimes cited for the broad proposition, that prosecution of offenses is somehow an inherently executive function whose placement in any other branch would violate the Constitutional principle of separation of powers. 342 F.2d 167 (5th Cir. 1965). What the Court of Appeals said is that the prosecutor is "an executive official of the Government. . . . It follows, as an incident of the Constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions." United States v. Cox, supra, at 171. (emphasis supplied) The Federal Special Prosecutor Act is not inconsistent with this holding because it provides for judicial appointment but not control of a

Special Prosecutor. When the regular U.S. Attorney is so entrammeled by a conflict of interest as to be unable to make free exercise of the discretion inherent in the office of federal prosecutor, the court is empowered to appoint someone capable of acting with independent discretion. No power is conveyed on the judiciary by this act, however, to order the performance of specific acts by the Special Prosecutor.

It is clear that merely giving the courts power to appoint Special Prosecutors in no way contravenes the doctrine of the separation of powers. Indeed, 28 U.S.C. 546 provides:

"The district court for a district in which the office of United States Attorney is vacant may appoint a United States Attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court."

United States v. *Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963), is the only Federal case to have passed on a Constitutional challenge to judicial appointment of a prosecuting officer. The appointment was made pursuant to 28 U.S.C. § 546, above, authorizing the District Courts to fill vacancies in the office of United States attorney, and the court squarely held that this did not violate the doctrine of the separation of powers.

As Senator Bayh said:

"The doctrine of separation of powers is a functional one, stemming from the basic concept that each of the separate powers is designed to serve as a check and balance on the scrutiny and restraint exercised by the other holders of power if arbitrary government is to be avoided. It would be anomalous if this notion of separation of powers could be used to allow the executive to exercise power in its own case unchecked and unscrutinized—and produce the ironic result of the executive branch investigating itself.

"(T)he separation of powers is not a formal, rigid doctrine dividing our government into water-tight compartments. As the Supreme Court said in the famous and important *Humphrey's Executor vs. United States*, where the Court upheld the power of Congress to prevent that President from dismissing a member of the Federal Trade Commission, 'Whether the power of the President to remove an officer shall prevail over the authority of Congress to condition the power by fixing a definite term and precluding a removal except for cause will depend upon the character of the office.'" Findings and Declarations, *supra*, p. 6.

The leading commentators agree that the Separation of Powers Doctrine cannot be stretched to infringe the express appointment power of Congress.

Leon Irish notes,

"As to separation of powers, the realities of government do not present themselves neatly creased in three labeled piles, nor does the Constitution require that we force all governmental functions into three preconceived molds. By virture of congressional enactment, there already exists a 'headless fourth branch' (*e.g.*, the independent regulatory agencies) which for all practical purposes operate independently of Congress, the President or the courts." *supra*, p. 30.

Raoul Berger, a leading Constitutional Law Authority wrote,

"Had the framers considered that appointments and functions fell into ironclad compartments, they would have lodged all 'executive' appointments in the President. Instead they gave him quite limited powers of appointment and left the bulk of the appointment power in the discretion of the Congress. They left Congress free, in the present extraordinary circumstances, to place a prosecutorial function outside the executive department when quite plainly it could not be trusted to investigate and prosecute itself." *New York Times*, Nov. 7, 1973, p. 47.

And Anthony Lewis concludes,

"Separation of powers in the American Constitution is not a notion of neat and totally distinct packages. The idea rather is a system of sometimes overlapping, even conflicting authority.

"The constitutional purpose, Justice Brandeis said, was 'not to promote efficiency but to preclude the exercise of arbitrary power.' It would be ironic to put it mildly to say that a principle designed to avoid arbitrary power requires Presidential appointment of a prosecutor to investigate the President." *New York Times*, Nov. 12, 1973, p. 33.

INHERENT POWER

Indeed, so far is the Federal Special Prosecutor Act from violating Separation of Powers it may very well only confirm an inherent power in all courts of criminal jurisdiction to appoint a Special Prosecutor when the need arises. There can be no doubt that a Federal District Court possesses the inherent power, and has the duty, to disqualify an attorney for conflicts of interest. *E. F. Hutton & Co.* v. *Brown*, 305 F. Supp. 371, 378 (S.C. Texas 1969) and cases cited therein. As Canon Six of the Canons of Professional Ethics provides, an attorney has no "obligation to represent the client with *undivided* fidelity", and "it is unprofessional to represent conflicting interests . . ."

"It is consistent with the public interest and welfare for any law enforcement officer directly or indirectly to represent any person involved in a criminal matter, except the state, or receive *any personal profit or gain* as a result of the arrest, conviction, or acquital of one charged with the infraction of the law . . . The books are replete with cases indicating that *any appearance* of evil connected with the administration of public office should and *must* be avoided." *State* v. *Detroit Motors*, 62 N.J. Super. 386, 168 A. 2d 227, at 230 (1960) (emphasis added).

The standards for the disqualification of an attorney upon these grounds are "potential, no less than actual conflict of interest." *International Brotherhood of Teamsters* v. *Hoffa*, F. Supp. 246, 256 (D. Ct. D.C. 1965). Disqualification should be ordered whenever an attorney has "potentially conflicting obligation." *Id*. As the Second Circuit recently stated, the court had discretion to "nip any potential conflict of interest in the bud." *Tucker* v. *Shaw*, 378 F.2d 304, 307 (1967). *See* Annot. Disqualification of Prosecuting Attorney on Account of Relationship with Accused, 31 A.L.R. 3d 953, for discussion of the court's power to disqualify a prosecuting attorney and its duty to appoint a special prosecutor to replace him.

Thus it can be argued (and it has been by a noted George Washington University Law Professor) that Federal District Courts might create a Special Prosecutor procedure by disqualifying a U.S. Attorney for conflict of interest, then replacing him by appointment under 28 U.S.C. 546 (judicial authority to fill vacancies in the office of U.S. Attorney). *In the matter of the Grand Jury enpaneled December 5, 1972*, petition of intervenor John F. Banzhaf III (filed October 9, 1973 D. Md., Hoffman, J.), Professor Banzhaf rests his argument on the strong state precedents holding a court of criminal jurisdiction must have such authority if it is to do justice. One court has gone so far as to suggest that this is a power that the legislature has no right to abridge. *State* v. *Henderson*, 123 Ohio St. 474, 479, 175 N.E. 865, 867 (1931). In *Taylor* v. *State*, the Florida Supreme Court asserted:

"The power of removal in the Governor may act as a deterrent, and if applied, would prevent a recurrence of the wrong, but it does not afford a remedy—much less an adequate remedy—in the particular case. The law does not contemplate lapses through which the guilty, by reason of the complacency, good fellowship, or what not, of the state attorney, may escape indictment, and then suffer vicarious punishment through removal of the officer." 49 Fla. 69, 76–77, 38 So. 380, 383 (1905).

The Supreme Court of Florida more recently pointed out:

"(I)t is a universally accepted principle of law that such power of appointment is an inherent power of a court possession criminal jurisdiction. No statute is necessary to the exercise of such inherent power."

Kirk v. *Baker*, 224 So. 2d 311, 317–18 (1969). See also *Williams* v. *State*, 188 Ind. 283, 123 N.E. 209, 215 (1919); *State v. Spencer Circuit Court*, 244 Ind. 552, 194 N.E. 2d 606 (1963); *State* v. *Jones*, 306 Mo. 437, 268 S.W. 83 (1924).

"Most states by statute authorize the court to appoint a special prosecutor when the regular prosecuting attorney is absent because of death or illness or when he is disqualified because of 'interest' in the outcome of the investigation . . . Absent such statutory authority, courts have held that, as a matter of discretion, they could appoint special prosecutors under these same circumstances in the exercise of their 'inherent power' . . . (T)he courts' interest in supervising the proper use of their machinery and protecting the judicial system from political or personal misuse justified their exercise of extraordinary power." *supra*, 111 U. Pa. L. Rev. 954.

Whether or not the Federal Courts could claim the power to appoint a Special Prosecutor as an inherent right, the Federal Special Prosecutor Act will confirm that the Federal District Courts possess this tool to do justice.

CONCLUSION

We have said that there exists an answer to the questions as to the capacity of this government to seek out and prosecute crimes in the higher levels of government. That answer is the Federal Special Prosecutor Act of 1974. There seems to be growing agreement that the time has come to enact such a provision.

As the authors of the American Criminal Law Review article to which we have made reference remark, "There is much evidence that ours is not a government of separate powers, but of blended powers, and ample precedent exists for the proposition that no harm will obtain when an official of one branch has the authority to merely *confer* a role upon a member of another branch . . . such a procedure may be the only means of insuring impartial enforcement where a United States Attorney is in the uncomfortable position of having to prosecute his fellows in the executive branch . . . To let a prosecutor continue to act where political interest is present, or to mandamus him where it is likely that he will put forth a half-hearted effort, is to allow him to 'thumb his nose' at the very persons who are responsible for his position in office. For the sake of doctrinal tradition, the entire purpose of public office is defeated. If indeed, a public office is a public 'trust,' then failures to proceed with a single-minded concern for the electors, constitutes an unconscionable breach of duty. A prosecutor who must look in two directions will see clearly in neither and must therefore be prohibited from carrying on a futile attempt." 11 Am. Cr. L. Rev. *supra*, at 637–8.

Leon Irish, the former Supreme Court law clerk, also quoted above, seems to agree there is a need for such legislation.

"The Constitution enjoins the President 'to take Care that the Laws be faithfully executed.' When a criminal investigation requires examination of allegations involving the President and his closest personal advisers, however, the appearance and perhaps the actuality of faithful execution of the laws is possible only through a Special Prosecutor with sufficient independence and power to follow wherever the trail of evidence may lead.

"The power to prosecute alleged wrongdoing in the executive branch clearly is among those powers vested by the Constitution in the Government. As Chief Justice Marshall wrote in his classic description of constitutional power: 'Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.'" (*McCulloch* v. *Maryland*). *Washington Post*, Nov. 9, 1973, p. A30.

It would be difficult to disagree with Raoul Berger, senior fellow in American Legal History at Harvard Law School, who wrote in the *New York Times* on November 7, 1973,

"To insist that the President must investigate and prosecute himself, for that is what the argument for executive control of prosecution boils down to, is plainly unreasonable. The power of appointment and the separation of powers were not designed to obstruct justice.

"Let our guide be the utterance of Congressman Bland in the first Congress. Faced with the fact that the Constitution made no provision for removal, he said, 'it was essentially necessary that such a power should be lodged somewhere, or it would be impossible to carry the Government into execution.'

"Somewhere there must exist power to provide for an independent special prosecutor to carry forward an untrammeled investigation of White House participation in a criminal conspiracy. Without straining, it can be found in Article II, Section 2(2). It follows that a statute authorizing a court to appoint a special prosecution would be constitutional." at p. 47.

Forty-six deans of American law schools supported the Bayh Special Prosecutor bill as did the *New York Times*, *Washington Post*, and scores of other leading journals and newspapers. As Cardozo remarked: "All found, however, in the end that there was a principle in the legal armory which, when taken down from the wall where it was rusting, was capable of furnishing a weapon for the fight and of hewing a path to justice."

The time to focus attention on the broader issues is now. Too often these past few weeks we have heard the Congressmen's aides say we would have to wait—maybe a few years for a complete evaluation of the jobs that Cox and Jaworski did. To us this is terribly wrong. The two aren't connected. What we are talking about has nothing to do with the President or the present crises.

The Federal Special Prosecutor Act is designed to help an individual who in a case like Ernest Fitzgerald's or Gordon Rule's is in a situation where the administration faces an inherent conflict of interest in prosecuting the people who may have wronged him. In a larger sense the Act is designed to help the American people who are wronged whenever justice goes apparently undone. The significance of Watergate here is that it is essential that we act now.

APPENDIX 1A

One of the ironies of the furor over a federal special prosecutor is the fact that state governments have traditionally provided for this device and used it successfully in a variety of ways. What follows is a list of statutes and cases by which the special prosecutor has been established in various states. (Note that some statutes were taken from outdated State Codes.)

State	By statute	By case law	Statute or case citation	Appointing authority
Alabama	×		13 § 235	Trial court.
Alaska (1948 territorial law)	×		§ 54-5-1	Do.
Arizona	×		§ 17-903	Do.
Arkansas	×		§ 24-117	Do.
California	×	×	Gvt. § 12553 Sloan v. Hammond, 254 P. 2d 648 (1927)	Do.
Colorado	×		§ 45-1-7, 8	Do.
Delaware	×		29 § 2504	Do.
Florida	×	×	§ 32.17 Taylor v. State, 38 So. 380 (1905)	Do.
Georgia	×	×	24 § 2913 Tomlinson v. State, 182 S.E. 2d 320 (1971)	Do.
Idaho	×		31 § 2603	Trial court (after petition of regular).
Illinois	×	×	14§6 People v. Doss, 48 N.E. 2d 213 (1943)	Trial court.
Iowa	×	×	§336.3 White v. Polk Co., 17 Iowa 413 (1964)	Do.
Indiana	×	×	49§2515, 16, 17, 18 (repealed 1965) Williams v. State, 123 N.E. 209 (1919)	Supreme Court (on appl. of regular).
Kansas	×		19§117	Trial court.
Kentucky	×		§69.060	Do.
Louisiana	×		§16:4 (Civil) 15:311 (Criminal)	Do.
Maine	×		30§551	Do.
Michigan	×		§5,758	Do.
Minnesota	×		§388.12	Do.
Mississippi	×	×	§25-31-21 State v. Jones, 268 S.W. 83 (1924)	Do.
Missouri	×		§56.110	Do.
Nebraska	×		23§1205	Do.
Nevada	×		252.100	Do.
New Hampshire	×		7§33	Trial court (en banc).
New Jersey	×		2A-158-9	Trial court.
New Mexico	×		§17-1-9.1, 9.2 and 17-1-14	Removal by Supreme Court.
New York	×		18§701	Trial court.
North Carolina	×		7A-96	Do.
North Dakota	×		11-16-06	Do.
Ohio	×	×	§ 2941.63 State v. Henderson, 175 N.E. 865 (1931)	Do.
Oklahoma	×	×	19§215.9 Lizard v. State, 166 P.2d 119 (1946)	Attorney General, trial court.
Oregon	×		§ 148.150	Governor.
Pennsylvania	×		71-297	Attorney General, at request of Trial court.
Rhode Island	×		36-4-2	Attorney General.
South Carolina	×		Const. Art. 5, sec. 29	Trial court.
South Dakota	×		1-11-2	Attorney General.
Tennessee	×		Const. Art. 6, sec. 5	Trial court.
Utah	×		Const. Art. 8, sec. 10	Do.
Washington	×		§ 36.27.040	Regular prosecutor.
West Virginia	×		7-7-6	Trial court.
Wisconsin	×		§ 59.44	Do.
Wyoming	×		§ 18-117	Do.

APPENDIX 1B

Three typical state statutes are here set out in addition to the Illinois statute set out at page 11. Without reprinting a great many state laws these examples suffice to give the flavor and common terms of the thirty-two state provisions which provide for trial court appointment of a Special Prosecutor.

OHIO CODE OF CRIMINAL PROCEDURE

§ 2941.63 Counsel to assist prosecutor. (GC § 13439-15)

The court of common pleas, or the court of appeals, whenever it is of the opinion that the public interest requires it, may appoint an attorney to assist the prosecuting attorney in the trial of a case pending in such court. The board of county commissioners shall pay said assistant to the prosecuting attorney such compensation for his services as the court approves.

NORTH DAKOTA STATUTES

11-16-06. Failure of state's attorney to perform duty—Power of court—Appointment of acting state's attorney.—If it shall appear, by affidavit or otherwise, to the satisfaction of a judge of the district court of the judicial district in which the county is situated, that the county has no state's attorney, or that the state's attorney is absent or unable to attend to his duties, or that the state's attorney has refused or neglected to perform any of the duties prescribed in subsections two to six, inclusive, of section 11–16–01, or to institute any civil suit to which the state or the county is a party after the matter has been properly brought to the attention of such state's attorney, and that it is necessary that some act be performed, the judge shall:

1. Request the attorney general or an assistant attorney general to take charge of such prosecution or proceeding; or

2. Appoint an attorney to take charge of such prosecution or proceeding and fix his fee therefor by an order entered upon the minutes of the court, and the attorney so appointed shall be vested with the powers of the state's attorney for the purpose of that action, but for no other purpose, and shall be the only person authorized to proceed in such action. The fee specified in the order shall be allowed by the board of county commissioners and, if so ordered by the court, the amount of such fee shall be deducted from the salary of the state's attorney.

WYOMING CODE

§ 18–117. Assistant prosecutor.—The district court may, whenever it is of the opinion that the public interest requires it, appoint an attorney to assist or act, for the prosecuting attorney, in the trial of cases or before the grand jury, and, while so assisting or acting, such attorney may perform any act or duty which the prosecuting attorney could perform; and the county shall pay such assistants such compensation for his services as the court shall deem proper, which sum, unless otherwise ordered by the court, shall be deducted from the salary of the prosecuting attorney. (laws 1890, ch. 73, § 149, R. S. 1899, § 1110; C. S. 1910, § 1211; C. S. 1920, § 1457; R. S. 1931, § 30–408; C. S. 1945, § 27–608.

By Mr. BELLMON:

S. 2979. A bill to amend the Commodity Credit Corporation Charter Act to provide additional service and protection to producers of agricultural commodities and to the purchasers of such commodities. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, with the growing demand for agricultural commodities has come an increased amount of forward contracting of wheat, soybeans, feed grains, and cotton. Many legitimate purchasers are attempting to buy in advance to cover their needs and many producers are interested in contracting ahead in order to stabilize the market and to have available the funds they need to pay operating costs at harvest time. Forward contracting is mutually beneficial provided it is carried on by responsible, honorable individuals who will live up to the terms of their contract.

Unfortunately, experience has shown that not every party to a contract is honorable in his business dealings. As an example, last year, long before cotton was harvested, a number of farmers in my State, as well as in other areas, contracted to deliver their cotton to a purchaser for 28 cents a pound. Subsequently, that purchaser took bankruptcy. This left the farmers with no protection had the price of cotton gone down. However, the price went up sharply and that trader who had tricked the farmers and who risked nothing now stands to make a large fortune.

There is no way this trader could have fulfilled his side of the contract, but by using a legal device he has profited handsomely. Naturally, these cotton growers feel they have been cheated. They have kept their side of the bargain at considerable financial sacrifice while the other party has escaped his responsibility and yet reaped a huge profit.

Mr. President, because of the great demand for farm commodities, these kinds of abuses can be expected to increase in the months and years ahead unless Congress takes action to prevent such activities. I am today introducing legislation to amend the Commodity Credit Corporation Charter Act to provide a means for buyers and sellers of agricultural commodities to protect themselves. The bill directs the CCC, upon payment of a reasonable premium, to insure the seller and buyer of agricultural commodities against financial loss resulting from failure of the other party to comply with the terms of the contract.

For example, if the seller was concerned about the financial stability of the buyer and his ability to pay for the contracted commodity upon delivery in the future, the seller could purchase insurance to assure him that he would receive the price stipulated in the contract.

The buyer might want to secure the insurance if failure of the seller to deliver because of natural disaster or other problems places him in a financially precarious position.

As I have stated, Mr. President, I believe that forward contracting is beneficial to farmers and ranchers and this amendment to the CCC authority would provide additional incentives for both buyer and seller to forward contract.

This insurance will not be available for contracts traded on organized futures markets.

The second portion of this bill is aimed at a problem prevalent in many areas currently because of the transportation bottleneck, particularly with reference to agricultural commodities.

Local purchasers, such as grain elevator operators, take delivery of the farmers produce but are unable to pay the farmer until payment is received from the next purchaser down the supply chain. That payment is not received until delivery is made.

Mr. President, the problem with this arrangement is that many months may transpire between the time the grain producer sells his commodities and the time payment is finally received. During this time, it is possible for the dealer's business to fail, to change hands, or for the dealer to leave the country without settling for the purchases he has made.

Again, because of the high level of demand and the high value of farm commodities, this problem is likely to become even greater in the future. It is a risk agricultural producers should not be required to take.

The second section of this bill provides authority to the CCC to alleviate the situation by allowing the original purchaser from the farmer to borrow from CCC funds to pay the farmer if, first, the purchaser is unable to pay the farmer upon delivery because of unavoidable transportation delays and, second, if the purchaser is unable to obtain funds from his usual commercial credit sources.

It is my hope that early action can be taken on this much-needed legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by (1) inserting "(a)" immediately after "specific Powers.—", (2) redesignating paragraphs (a) through (g) as paragraphs (1) through (7), respectively, and (3) adding at the end of such section a new subsection as follows:

"(b) In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Charter Act (31 U.S.C. 841–871), the Corporation shall—

"(1) insure, under such rules and regulations as the Secretary may prescribe and upon payment of a reasonable premium, (A) any buyer who contracts to purchase from any producer for future delivery any agricultural commodity (including livestock) produced by such producer, and (B) any producer who contracts to sell for future delivery any agricultural commodity (including livestock) to be produced by such producer against financial loss resulting from failure of the buyer or seller to comply with the terms of the contract for future delivery, but no buyer or seller may be insured under this paragraph with respect to any agricultural commodity contracted for sale through a contract market (as defined in section 2 of the Commodity Exchange Act (7 U.S.C. 4)).

"(2) Finance the purchase of any agricultural commodity from the producer of such commodity at such rate and on such terms and conditions as the Secretary may prescribe whenever the purchaser is unable to (A) make payment upon delivery of the commodity because of an unavoidable delay in the delivery of any agricultural commodity sold by the purchaser to a subsequent purchaser, and (B) obtain financing for such purposes from usual commercial sources upon reasonable terms and conditions."

By Mr. BELLMON:

S. 2981. A bill to postpone certain regulations relating to utilization review requirements under titles XVIII and XIX of the Social Security Act. Referred to the Committee on Finance.

Mr. BELLMON. Mr. President, today I am introducing legislation which would postpone until January 1, 1976 the implementation of proposed Federal regulations promulgated pursuant to section 237(a) and section 207 of the Social Security Amendments of 1972 (P.L. 92–603). These sections permit the Secretary of Health, Education, and Welfare to establish regulations requiring preadmission approval of all elective hospital admissions of medicare and medicaid patients. This bill is a temporary, stopgap measure to halt these regulations. Its enactment would give Congress the necessary time to thoroughly review these provisions of law. Congress needs time to determine whether or not such Federal intervention is in the national interest.

It is the intention of the vast majority of Oklahoma doctors and hospital administrators that the proposed Federal regulations establishing preadmission standards published in the Federal Register on January 9, 1974, will have the effect of greatly impeding the normal flow of patients and interfere with the efficient operation and delivery of medical and surgical care.

My office has received hundreds of letters from concerned members of the medical profession protesting these regulations. I ask unanimous consent that a letter from Richard J. Mooney, the Administrator of St. Anthony's Hospital in Oklahoma, to the Social and Rehabilitative Services be printed in the Record at this point. It typifies the type of protest which is presently being voiced from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

St. Anthony Hospital,
Maryville, Mo., January 31, 1974.

Administrator,
Social and Rehabilitative Services, Department of Health, Education and Welfare, Washington, D.C.

Dear Sir: We have recently been presented a copy of Section 1447 of the Federal Register issued on January 9, 1974 concerning proposed utilization review regulations. We feel that it is imperative that prior to the implementation of these regulations, certain information be brought to your attention.

St. Anthony Hospital, the oldest hospital in the state of Oklahoma, has for many years attempted to furnish the finest possible medical care to its patients; and as a nonprofit hospital, has carried a large portion of uncompensated patient load for the city of Oklahoma City. Our daily average census has been 475 for the past fiscal year with an average daily admission rate exceeding 65 patients per day. Thirty-five percent of our patients have been either Medicare or Medicaid funded.

From a quick review of the proposed regulations, we find that it will be necessary to have prior to the admission of these patients, current histories, physical examinations, results of previous tests, as well as a proposed plan for the patient's treatment. This is a new departure for hospital admissions as has been practiced in this area for generations. Assuming that all the admitting physicians servicing patients in St. Anthony Hospital would immediately comply with these requirements, there are still three acute problems:

1. Medicaid patients within the state of Oklahoma: At the present time, there are apparently little or no funds available to pay for expensive and extensive outpatient diagnostic procedures for Medicaid patients. Therefore, these patients would have difficulty qualifying for admission to hospitals without the required extensive diagnostic procedures to be performed on an outpatient basis, as there are no funds to cover the cost of these procedures.

2. At St. Anthony Hospital, approximately 30% of our patients are referred from out of the four county areas for admission. Many of these patients have to travel upwards of a hundred miles. It would be almost impossible to have the patient wait while the Medical Utilization Review Committee were to screen the preadmission forms, and in a number of instances, possibly having to return the patients to their homes many miles away. St. Anthony Hospital cannot control the prehospital work-ups of patients referred here from out of town communities.

3. The increased cost shown in dollars and in the services of skilled personnel that will be required to implement and operate the proposed program will be substantial. We assume that the increased costs will be borne by the Medicare and Medicaid programs without problem. However, these procedures will require the diverting of a number of skilled nursing personnel to perform administrative functions in order to properly operate the program. Here in Oklahoma City, there is already an acute shortage of nurses, and the diverting of additional nurses at each of the larger hospitals to support the implementation of this program will further detract from the ability of hospitals to provide adequate nursing care.

Hospitals have been placed in an impossible situation whereby we are inundated with a multitude of federal rules and regulations, many of which are in conflict with other regulations or have not been staffed as to the feasibility of implementation. St. Anthony Hospital requests that you abandon the plan to implement these proposed regulations.

Sincerely,

Richard J. Mooney,
Administrator.

Mr. BELLMON. Mr. President, undoubtedly the implementation of these regulations will result in increased and unnecessary Federal expenditures to administer the program. In addition, it is the feeling by the Oklahoma medical profession that these regulations would have the effect of preempting certain provisions of legislation establishing Professional Standard Review Organizations. Under PSRO, the physicians in Oklahoma have the option, until January 1, 1976, of implementing a professional peer review program which could incorporate a precertification feature. This approach is currently being studied by a foundation established solely for this purpose. In my view, the implementation of the proposed regulations would completely circumvent the authority granted to private physicians to function under the terms of PSRO.

For these reasons, I have written the Secretary of Health, Education, and Welfare, Caspar Weinberger, to register my objections. I ask that a copy of this letter be inserted in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. Senate,
Committee on Appropriations,
Washington, D.C., February 7, 1974.

Hon. Caspar Weinberger,
Secretary of Health, Education, and Welfare, Washington, D.C.

Dear Cap: As you can imagine the entire Oklahoma medical profession as well as our hospitals and clinics are in complete uproar because of the new utilization review procedures for admission under Medicare and Medicaid. Apparently the medical profession looks upon this procedure both as an insult and a threat.

It is my opinion that at least in the state of Oklahoma the medical profession has done an excellent job in providing high quality medical service at a reasonable cost and with a minimum of abuses.

Oklahoma physicians are in the process of establishing PSRO review teams. I strongly urge that at least in Oklahoma the medical profession be given the opportunity to monitor the performance of physicians and hospitals before another layer of federal bureaucracy is imposed.

Sincerely,

Henry Bellmon.

Mr. BELLMON. Mr. President, the medical profession has and is generally providing excellent medical care. I strongly oppose the creation of a bureaucratic barrier between physicians and their patients. Here is one place where I feel that government has definitely gone beyond the limits of reason and commonsense. Hopefully, the proposed regulations will not be implemented. I call for early and favorable congressional approval of this measure. I ask unanimous consent that the full text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no regulation and no modification of any regulation promulgated by the Secretary of Health, Education, and Welfare after January 1, 1973, shall be effective for any period which begins prior to January 1, 1976, if (and insofar as) such regulation or modification of a regulation pertains (directly or indirectly) to so much of the provisions of law as relate to the use, under title XIX of the Social Security Act, of utilization review committees and procedures for review of inpatient hospital services and skilled nursing services established under title XVIII of such Act and certification and recertification of patient need for institutional services under such Act, as are contained in sections 207, 237(a), and 239(b) of the Social Security Amendments of 1972.

By Mr. DOMENICI:

S. 2982. A bill to designate certain lands in the Bandelier National Monument, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, today, I send to the desk for appropriate reference a bill to designate certain lands in the Bandelier National Monument as wilderness.

In 1916, President Woodrow Wilson proclaimed the canyon of the Rito de los Frijoles and adjacent lands in northern New Mexico as a national monument. This was done to preserve and protect the relics of the Pueblo communities of the 1200–1500 period for their ethnologic, scientific, and educational interest. In 1932, this area became a part of the national park system and since that time there have been boundary changes to bring the total area of the monument to 29,661.20 acres, all of which is federally owned.

Hearings were held on the preliminary Bandelier National Monument wilderness proposal at Los Alamos, N. Mex., on December 18, 1971, and there was overwhelming local support for inclusion of some of the monument area as a part of the wilderness preservation system.

The Department of Interior recently completed study of the Bandelier National Monument in their review of roadless areas of 5,000 acres or more as to their suitability for preservation as wilderness. The Department has recommended the establishment of acres totaling approximately 21,110 acres in Bandelier National Monument as part of the national wilderness preservation system.

Mr. President, the bill I introduce today includes the areas which were recommended by the Department of Interior and have been deemed suitable for designation as wilderness.

I believe that this unique piece of New Mexico has great historical, scientific, and social importance. Included are a great number of major archeological sites. We in Government must exert every effort to preserve the unique which is such a vital part of our heritage. This particular area gives us an unrivalled look to those humans who inhabited our land hundreds of years before us and we cannot afford to lose this priceless asset. Designation as a wilderness area will make sure that Bandelier is protected as fully as possible for future generations.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. WILLIAMS):

S. 2983. A bill to amend the Public Health Service Act to provide for emergency assistance to urban hospitals. Referred to the Committee on Labor and Public Welfare.

THE URBAN HOSPITAL EMERGENCY ASSISTANCE ACT OF 1974

Mr. JAVITS. Mr. President, the bill I introduce today for myself and Senators EAGLETON AND WILLIAMS, the Urban Hospital Emergency Assistance Act of 1974, is designed to breathe life into a badly deteriorating—perhaps perishing for fiscal reasons—but critically important element of the Nation's health care delivery system—our overburdened urban public hospitals. These great institutions provide the bulk of inpatient and outpatient care for the millions of poor, uninsured, medically indigent, and disadvantaged citizens in cities across America.

The urban public hospital is nationally recognized as the provider of service to all in need of health care, regardless of their economic status. They are community institutions practicing high quality medicine, but their quality care is not publicly recognized and they are stigmatized as facilities for the poor, and the affluent avoid using them because of this stigma.

I will go on to analyze the historic causes for our two-track hospital health care system and its resultant fiscal plight for our public hospitals, but it does regrettably exist.

I believe we have the responsibility to provide emergency support to insure public hospital survival and, at the same time, the impetus for change.

The bill I introduce today would accomplish these goals:

First, $500 million over 3 years is authorized for grants to public general hospitals which meet specified criteria for modernization and outpatient activities, with a specific exclusion against using the grants for expansion of bed capacity. The immediate dire financial straits of our public hospitals are recognized by the provision for a grant priority where the assistance sought is to either eliminate or prevent an imminent safety hazard or avoid loss of the hospital's licensure or accreditation. But the hospital must first establish to the Secretary's satisfaction, that the failure to overcome such serious problems cannot be achieved without Federal assistance.

Second, $110 million is authorized over 3 years for grants to public and private nonprofit hospitals to demonstrate innovations in health care delivery construction. Applicants must demonstrate how such grants would implement quality control or eliminate documented operational inefficiencies in the provision of health services to patients.

Third, $300 million is authorized over 3 years as an entitlement to public hospitals, which derive 15 percent of their operating expenses from local government's general revenues. The entitlement would be in the form of a grant equal to 75 percent of "annual net cost of patient care"; not otherwise reimbursed by medicare, medicaid, or other third party insurers, and require that to be eligible for such grant, it be established that without such Federal assistance the local unit of government would otherwise be required to provide general revenue funding. The total operating expenses of a hospital are included in the term "annual net cost of patient care," but such cost cannot be more than the costs of the most efficient institutional provider of health care in the community which is providing an equivalent range of services; and it is less the amounts received by the hospital from patients, or third party payors on the patients' behalf, for such care, but excludes from such reduction, first, payments from general revenues by local units of government or by other public agencies in support of the hospital or specifically for the care of low-income or medically indigent persons; second, payments by the Secretary under title VI of this act; and third, charitable contributions to the hospital.

Fourth, $150 million is authorized over 3 years as an entitlement to public and nonprofit private hospitals which adopt uniform cost accounting, utilization and reporting systems and procedures for training residents, interns, and individuals preparing for careers in nursing or the allied health professions in approved programs except noncitizen foreign medical graduates. Each hospital would receive the lesser of the product of $500 multiplied by the number of patient beds in such hospital, or $500,000.

Urban public hospitals serve as the family doctor, specialist, nurse, and counselor. Their specialty services are available to the entire community, and they have been among the leaders of medicine in provision of emergency services, drug abuse, and alcoholism treatment, and burn and trauma centers. There is generally no other resource.

Public hospitals pioneered in the establishment of ambulatory care programs long before the term became popular. Their outpatient clinics, while often overcrowded and understaffed with overworked and dedicated physicians, nurses, and other health personnel, have long provided leadership in the development of maternal and child health programs, in cancer detection, heart and stroke prevention and rehabilitation, and in health education and family planning.

As teaching hospitals, urban public hospitals offer opportunities for vitally needed residency training, internships, nurse training, and other health profession programs; ranging from basic aid and technical training to highly specialized postgraduate medicine.

Unfortunately, these important health care functions are provided through a system that has historically distinguished between private medical care for the affluent and public care for the economically disadvantaged. In the early days of our Nation's history, care for the destitute was in hospitals which were never used for the treatment of well-to-do patients. Only after hospital officials were convinced by men such as Lister, Pasteur and Semmelweiss of the necessity for antisepsis and sterile procedures did hospitals become places to get well, rather than die. And the introduction of anesthesia gave a purpose to the hospital-surgery. When all this took place, the middle and upper classes began to use hospitals, but they generally used newly built private institutions. Thus, the historic separation of care systems originated and persists: Private hospitals are seen as places to get well, while public hospitals all too often and wrongly are seen as places to die.

After the issuance of the historic Flexner report on medical education, the teaching hospital became an essential element of physician training; the poor patient in public hospitals—receiving free care—became the experimental material for generations of medical students and in exchange the medical schools provided the medical manpower resource at virtually no cost to the hospital.

The growth of third-party payment systems, while having great impact on the private hospitals, had little effect on the public hospitals, because their patient population had little, or no insurance coverage. The public hospitals remained almost totally dependent on local tax revenues while the financial base of the private hospitals gradually shifted.

Unfortunately, the promises seen for public hospitals through medicaid never became a reality. Medicaid initiated the demand for health services, but at the same time proved too expensive for many State governments and they cut back on their commitments. The cutback impacted most severely upon public hospitals which provided the vast majority of care for medicaid patients. The cost of previously paid medicaid health care now must be paid from the local tax base posing an even more serious tax problem.

Medicaid while excellent as a social tool for itself has not solved the public hospital problem, and the urban poor are still victims of the historical distinction between the public and private health care systems.

The public hospitals are in a critical condition. In many cities, the physical plants are obsolete, poorly located, and incapable of supporting quality care. Patient-staff ratios are unacceptable, and heavy reliance is placed on the use of medical staff composed of foreign medical graduates. In cities across the country the public hospitals have lost or are threatened with loss of accreditation. Several public hospitals are scheduled for closure and the New York City Health and Hospitals Corp. is faced with the need to close or lease a number of its municipal hospitals.

We need to take immediate and emergency action to save our public hospitals. The legislation we introduce today is not intended to be permanent, nor do we expect it to be a panacea for the ills of the system—ills which are historic and rooted in the facts of local property taxation and public attitudes toward the poor. But the temporary infusion of capital and operating support proposed in this measure together with minimal assistance in the cost of training our health manpower may provide a brief respite in the continuing slide of the public hospital system so that we may proceed to the larger public policy issues surrounding health care, confident that we are not too quickly sacrificing a vital resource which may be, after due consideration, retained as a key element of our new national health service delivery structure.

One of the most outstanding presentations and analyses of the issues confronting our public hospitals was set forth in an article entitled "Public Hospitals—Critical or Recovering?" by Alice Tetelman, formerly a legislative assistant in the office of the former Republican Senator from New York, Charles Goodell. I commend the article—which highlights the proceedings of five regional conferences sponsored by the Council of Urban Health Providers and the Health Services and Mental Health Administration, January through March 1972—written by Ms. Tetelman to the attention of my colleagues and ask unanimous consent that the full text of the article and the bill be reprinted in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Urban Hospitals Emergency Assistance Act of 1974".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that—

(1) The achievement of equal access for all people to high quality medical care at a reasonable cost is a priority of the Federal Government.

(2) Urban public hospitals provide such health care services to a large segment of the population who would not otherwise be served.

(3) Improvements in the financing of these institutions must be made if they are to survive over the next five years.

(4) Emergency financial assistance must be provided (a) to prevent the closure of or denial of accreditation to urban public hospitals; (b) to provide operating support for patient care activities not otherwise reimbursable; and (c) to assist in meeting urban public hospitals' costs of training professional and allied health personnel.

SEC. 3. Section 600 of the Public Health Service Act (42 U.S.C. 201) is amended by striking the word "and" at the end of subsection (b); by striking the period at the end of subsection (c) and inserting in lieu thereof the word "; and"; and by inserting after subsection (c) the following new subsection:

"(d) to provide alternate methods of operational financing to public hospitals for patient care and to public or other nonprofit community hospitals for manpower training programs.".

SEC. 4. (a) Title VI of the Public Health Service Act is further amended by adding after section 610 the following new section:

"HOSPITAL FACILITIES RESTORATION

"SEC. 611. (a) The Secretary is authorized to make grants to public general hospitals to assist such hospitals in meeting the costs of—

"(1) modernization of patient care facilities in urban areas, and

"(2) construction or modernization of outpatient facilities of such hospitals located apart from the hospital so that ambulatory care service may be decentralized.

"(b) In no case shall a grant under this section exceed 75 per centum of the cost of a project and no amount of such grant may be used for the expansion of bed capacity of the facility.

"(c) To be eligible for a grant under this section an applicant shall demonstrate to the satisfaction of the Secretary—

"(1) the ability to serve low-income residents residing in the area to be served by such applicant;

"(2) that a long-range plan for facilities improvement will be implemented with commencement of assistance under this section;

"(3) that the facility to be modernized or constructed and the services to be provided herein shall be located in, or readily accessible to, areas with a high density low-income population; and

"(4) that such application has been approved by an appropriate unit of local government in which the facility is or will be located.

"(d) In making grants under this section the Secretary shall give priority to those applicants who demonstrate the need for such assistance to—

"(1) eliminate or prevent an imminent safety hazard as defined by State or local fire, building, or life safety codes or regulations; and

"(2) avoid noncompliance with State or voluntary agency licensure or accreditation.

"(e) No grant shall be made under this section unless the project for which the funds are to be used is approved by the appropriate planning agency or agencies established under this Act and the applicant has established to the satisfaction of the Secretary that the applicant previously proceeded reasonably and diligently to overcome the hazards or noncompliance referred to in paragraphs (1) and (2) of subsection (d), but cannot achieve these stated goals without the financial assistance herein authorized.

"(1) There are authorized to be appropriated to carry out the provisions of this section $100,000,000 for the fiscal year ending June 30, 1975, $150,000,000 for the fiscal year ending June 30, 1976, and $250,000,000 for the fiscal year ending June 30, 1977.

"(g) For each project there shall be submitted to the Secretary an application by the governing body of the hospital. Such application shall set forth—

"(1) a description of the site for such project;

"(2) plans and specifications therefor, in accordance with regulations prescribed under section 603;

"(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

"(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed; and

"(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(h) Payments under this section may be made in advance or by way of reimbursement, and on such terms and conditions and in such installment, as the Secretary may determine.

"(i) If any facility with respect to which funds have been paid under this section shall, at any time within ten years after completion of construction—

"(1) be sold or transferred to any person, agency, organization—

"(A) which is not qualified to file an application under this section, or

"(B) which is not approved as a transferee by the State agency designated pursuant to section 604 or its successor, or

"(2) cease to be a public health center or other nonprofit hospital, unless the Secretary determines, in accordance with regulations, that here is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of construction or modernization under such project or projects. Such right shall not constitute a lien upon said facility prior to judgment.

"GRANTS FOR INNOVATIVE CONSTRUCTION

"SEC. 644. (a) The Secretary is authorized to make direct grants to public and private nonprofit hospitals for special projects to demonstrate innovations in health care delivery construction which implement quality control or improve efficiency in the provision of health services by meeting identified needs, and reducing documented inefficiencies.

"(b) The Secretary may not authorize the recipient of a grant under this section to use funds under such grant for any construction unless the applicant filed (as appropriate) under this Act for a grant for such construction and such application was not approved or was approved but for which no or adequate funds were made available under such Act.

"(c) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1975, $35,000,000 for the fiscal year ending June 30, 1976, and $50,000,000 for the fiscal year ending June 30, 1977.".

SEC. 5. Title VI of the Public Health Service Act, as amended by this Act, is further amended by adding at the end thereof the following new part:

"PART E—SUPPORT OF PATIENT CARE FACILITIES

"GRANTS TO HOSPITALS

"SEC. 651. (a) Each public general hospital shall be entitled for each fiscal year to a grant equal to 75 per centum of the annual net cost incurred by the hospital for patient care.

"(b) To be eligible for an entitlement under this section an applicant must—

"(1) demonstrate that it derives at least 15 per centum of its annual budgeted operating expense from funding that is appropriated for such expenses by a local unit or units of general government from general revenues;

"(2) provide assurances that health care services are provided to low-income persons residing in the area of that local unit of government;

"(3) demonstrate that it provides a complete continuity of health care encompassing a comprehensive range of health care services commensurate with the hospital's capability to provide the services and the community's need therefor including but not limited to—

"(A) emergency medical services,

"(B) outpatient services,

"(C) maternal and child care services.

"(D) family planning services,

"(E) psychiatric services, and

"(F) diagnostic and treatment services for individuals suffering from alcoholism and drug dependence.

"(c) There are authorized to be appropriated to carry out the purposes of this section $50,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending June 30, 1976, and $150,000,000 for the fiscal year ending June 30, 1977.

"(d) If the total of the entitlements for approved applications under this section exceeds the amounts appropriated under this section, the amount for that fiscal year to each such applicant shall be an amount that bears the same ratio to the amount determined for that applicant for that fiscal year under subsection (a) of this section as the total of available appropriations bears to the aggregate amount that would be required to fund all approved applications.

"(c) No payments shall be made under this section unless the applicant has demonstrated to the satisfaction of the Secretary that—

"(1) the applicant has established a viable program for the collection of all third-party payments to which it may be entitled; and

"(2) the local unit of government in which the facility is situated, would in the absence of assistance under this section have to supply such funds from its general revenue.".

SEC. 6. Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART I—URBAN HOSPITAL MANPOWER TRAINING SUPPLEMENTS

"GRANTS TO HOSPITALS

"SEC. 799B. (a) Each hospital having adopted uniform cost accounting and utilization and reporting systems procedures (in accordance with regulations issued by the Secretary) shall be entitled for each fiscal year to a grant to assist such hospital in meeting the costs of training residents, interns, except noncitizen graduates of foreign medical schools, and individuals preparing for careers in nursing or the allied health professions in programs approved by him after consultation with the appropriate professional accrediting agency or specialty board.

"(b) Each hospital operating such a program shall be entitled for each fiscal year to an allotment equal to 25 per centum of the hospital's reasonable net cost of such training programs, but in no event shall the total assistance a hospital may receive under this section exceed the lesser of (1) the product of $500 multiplied by the number of patient beds in such hospital, or (2) $500,000.

"(c)(1) There are authorized to be appropriated to carry out the purposes of this section $25,000,000 for the fiscal year ending June 30, 1975, $50,000,000 for the fiscal year ending June 30, 1976, and $75,000,000 for the fiscal year ending June 30, 1977.

"(2) Sums appropriated pursuant to paragraph (1) for a fiscal year shall remain available for grants under this section until the close of the next succeeding fiscal year.

"(d) If the total of the entitlements for approved applications under this section exceeds the amounts appropriated under subsection (b) of this section, the amount for that fiscal year to each such applicant shall be an amount which bears the same ratio to the amount determined for that applicant for that fiscal year under this section as the total of the available appropriations bears to the aggregate amount that would be required to fund all approved applications.".

DEFINITIONS

SEC. 5. Section 645 of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"(m) The term 'annual net cost of patient care' means the total operating expenses of a hospital (including transportation, board and room, outpatient care services incurred by a hospital for a fiscal year and directly or indirectly attributable to patient care, but no more than the costs of the most efficient institutional provider of health care in the community providing an equivalent range of services, less the amounts received by the hospital from patients, or third party payors on the patients' behalf, for such care, but excluding from such reduction (1) payments from general revenues by local units of government or by other public agencies in support of the hospital or specifically for the care of low-income or medically indigent persons, (2) payments by the Secretary under title VI of this Act, and (3) charitable contributions to the hospital.

"(n) The term 'low-income person' means any individual at an income level at or below a level designated by the Secretary after taking into consideration family size, urban-rural and farm-nonfarm differences and other relevant factors.

"(o) The term 'urban' means a standard metropolitan statistical area as determined by the Office of Management and Budget.".

SEC. 8. Title VI of the Public Health Service Act is further amended by adding after section 646 the following new section:

"RECORDS AND AUDITS

"SEC. 647. (a) Each recipient of Federal assistance under this part, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this part, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purposes of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans, or other arrangements referred to in subsection (a)."

NONDUPLICATION OF FUNDS

SEC. 9. No funds other than those appropriated under the provisions of section 611, 644, 651, or 799B of the Public Health Service Act, may be used for the purposes of those sections.

PUBLIC HOSPITALS—CRITICAL OR RECOVERING?

(By Alice Tetelman)

Public hospitals are much in the public eye these days. Questions about their current role in the health care delivery system, their ability to provide services to a large part of the nation's population, and what their proper future should be are being asked with increasing frequency by a significant number of health professionals and consumers. This concern is not a new phenomenon; it dates back almost as far as the origin of the public hospital system in this country.

The Federal Government has been an active participant in this debate. In 1967, the Public Health Service held an important working conference of public health professionals to examine the role of the public hospital system and to devise recommendations toward improving that role. (A report of that conference appeared in *Public Health Reports*, vol. 83, January 1968, pp. 53–60.)

The Community Health Service of the Health Services and Mental Health Administration has had an interest in following up the results of that conference, determining what new developments took place since the 1967 meeting, and re-examining several facets of the public hospital system in light of Administration proposals on health maintenance organizations and national health insurance. Thus, in fall 1971, HSMHA contracted with the Council of Urban Health Providers (CUHP)—a national membership organization of large urban public hospitals—to conduct a series of five regional conferences on these issues.

The meetings were held from January to March 1972 in San Francisco, Atlanta, Chicago, Philadelphia, and New York. The 228 participants included public hospital administrators and medical directors, government officials, health planners, consumers, citizen board members, academic experts, and representatives of accrediting organizations, medical societies, and hospital associations. At the conclusion of the conferences, CUPH submitted a report of the proceedings to HSMHA. The highlights of that report are summarized here.

THE PUBLIC HOSPITAL SYSTEM

At each conference, there was extensive discussion of the positive and negative aspects of the public hospital system.

Positively, there is substantial recognition of the role of the public hospital as a provider of service to all who come to it, regardless of income or status. The large urban public hospital is the major provider of inpatient and ambulatory care to the cities' poor and minority groups. This role, however, goes far beyond just taking care of people who must rely on Medicaid or Medicare or who cannot pay at all. The public hospital assumes a life of its own as a community resource.

The public hospital provides quality, expensive services in specialized areas such as emergency services, kidney centers, burn centers, and alcohol and drug detoxification. These are responsibilities which many private hospitals do not or will not assume. Although the perennially poor image of these hospitals sometimes prevents the public from acknowledging the high level of care offered in them, there is recognition of the high quality specialty services by professionals. These institutions are also the major training ground for our nation's health manpower. The large urban public hospital is usually a teaching institution and has the resources of at least one medical school available to it.

At the same time, however, some negative aspects of public hospitals affect the care they provide. First, the physical plants of public hospitals are often obsolete. Inadequate financing for operating the hospitals and for construction and remodeling is most often cited as the cause. The single central location of the facility, common in many places, makes access difficult to those who need its services; inadequate transportation to the hospitals has been a major contributing factor in lowering access for consumers. Overextended outpatient and admitting services require long waits and adversely affect care. Severe budget and civil service constraints often inhibit the assembly of top-quality staff and often result in ineffective management.

The public hospitals have no real constituency to which they can turn for active support. As one participant stated, "The poor who get care do not like the public hospitals; the boards of supervisors or city councils who have to raise taxes to support them do not like them; the people in general do not like them because they are stigmatized as providers of second class medicine; taxpayers resent their taxes going into facilities for the poor; and health planners want them to go away."

A commonly accepted premise, often referred to at the 1967 conference, was that the advent of Medicaid and Medicare would signal the end of the public hospitals because people who had been using them could now afford to pay for care in private institutions. Nonetheless, statistics show that after an initial decline, the utilization of inpatient and ambulatory services has begun to rise to its previous level. This increased utilization has occurred for several reasons, all of which reflect the role of these institutions and their problems.

The public hospital is regarded as a community resource, and the voluntary hospitals have clearly indicated that they are generally not interested in the typical public hospital patient. Complex regulations and procedures for payment drive the former patient back to the public hospital. And, of great influence, Medicaid proved too expensive for many State governments; they are cutting back their commitments.

The Medicaid program increased demand for health services by people who had not been able to pay for services before Medicaid. It provided an influx of matching Federal dollars—as high as three Federal dollars to one State dollar. When States have cut back their Medicaid programs, the Federal share was also cut. Thus, for every dollar the State program saved, the local public hospital lost as much as $4. This cutback is particularly important for the public hospitals, which provide the bulk of the care for the Medicaid patient. Much of the cost of care previously paid by Medicaid now has to be paid from the local tax base, so that city councils and county supervisors—left with a higher demand for services for which they must now pay—find they have even more financial problems.

Serious questions are still being asked as to whether the public hospitals should be abolished and their responsibilities turned over to other institutions. The participants at the conferences concluded that the nation could not afford to close them, but that, to survive, public hospitals had to change and were in fact in the process of changing. To do so, they need more public and private support for their present and future activities.

GENERAL CONCLUSIONS

At each of the five conferences the following general conclusions were reached:

It is neither feasible to abolish nor to allow the decline of the public hospital because it provides health services to a large segment of the population.

The public hospital must become more of a community institution by dispersing its facilities and responding positively to its consumers.

Public hospitals are acutely in need of capital funds for constructing new facilities and remodeling outmoded physical plants. They must receive additional financial assistance for this purpose.

Alternate methods of financing the operations of public hospitals must be found.

The public hospital is essential to providing trained health manpower for the nation. Public hospitals should be reimbursed for the costs of this training.

No one form of governance structure is applicable to all public hospitals.

The current health maintenance organization strategy is not appropriate for public hospitals. A review and modification of this strategy is necessary if public hospitals are to establish HMOs.

Convenient, low-cost public transportation is a key factor in the public hospital's ability to provide care.

More effective management controls must be instituted by public hospitals as soon as possible.

Public hospitals must build a constituency among consumers, public officials, other health providers, and the community at large. The image of the public hospital must change from the stigma of an institution for the poor into an acceptable place for all to obtain quality medical care.

Public hospitals have not been involved in the policymaking process. Deliberations on the future of the health care delivery system at the local, State, and Federal levels of government, the development of an HMO strategy, and planning for national health insurance need their participation.

Specific discussions of these points were as follows:

The two-track system of care

As might be anticipated, participants at each conference were concerned about the existing two-track standard of care reflected by the public hospitals on one track and the private delivery systems on the other.

The general feeling at each meeting was that although it is desirable to move toward a single system of care, it is not feasible or pragmatic to expect it to happen in the near future. Therefore, in the interim, more aid would have to be given to improving the public hospital system today. Resentment was expressed that while the public hospital struggled to live up to its responsibilities in caring for the poor, all attention and aid seemed to be focused on only one track of the system—the voluntary hospitals, which did not fulfill their responsibilities to the indigent.

The public hospitals are now performing many services which the private hospitals will not or cannot perform—emergency services, overall participation in community planning institutions, relationships with neighborhood health centers, and medical education. One reason why the existing burdens must be shared by the voluntary institutions is that the public hospitals are constantly being given new responsibilities which others are unwilling or unable to take on. Local public institutions, responsible for medical care and rehabilitation of prisoners, for example, find their burdens growing. In addition, the responsibility is increasing for the care of inmates of halfway houses, custodial facilities, and mental hospitals who require medical service. This area must be considered in future planning by local, State, and Federal officials.

Interestingly, as more public money goes into private hospitals, the public will surely demand more accountability from them, and this could help diminish the two-track notion. Because of declining daily census, voluntary hospitals are now looking to the public hospital patient as a resource to fill empty beds if they can get adequate reimbursement. One recommendation, which might move the two tracks closer together, called for private physicians to admit their patients into municipal hospitals, a practice now followed only in a few such institutions.

The public hospital as a community institution

The impression at each conference was that regardless of which direction the voluntary institutions go, and how close we come to establishing a single standard of care, the public hospital must become a more decentralized, community institution. This change is imperative for both the provider and consumer of care. The objective must be an expansion of ambulatory facilities, neighborhood health center programs and outpatient facilities, and a physical dispersal of many of the public institutions' facilities. The goal is not to save the city hospitals but to reorder the urban health care delivery system and improve it with community facilities.

For the public hospital, the move to increased ambulatory care takes on particular significance. It is a natural outgrowth of the institution's primary role as a provider of service to all who need it without regard to ability to pay. The emergency rooms of the municipal hospital are in fact used by the public as a substitute for a family doctor. The strength of the public hospital revolves around the perception by its consumers of the hospital as "their" institution, even if they have to travel for 2 hours each way for care at the hospital. As a public institution which should be accountable to its constituency, consumer input and control should be heightened by this outreach.

There is a great need for availability of upgraded primary care delivery services in facilities easily recognizable to the community. A community center can be the base from which the public hospital hedges against becoming a highly specialized institution with expensive services.

Finance and governance

In discussions of how public hospitals should be financed and governed, two themes were quick to emerge: (*a*) that the two issues are interdependent and (*b*) what works in one part of the country will not necessarily succeed in another.

The participants were discouraged about the lack of funds for public hospitals, particularly investment capital for construction and remodeling. These institutions appear to have an advantage over the voluntary hospitals in the favorable borrowing power of State and local governments. However, in many instances, these governing bodies have already reached the legal limit allowed for employing this device. In addition, use of the borrowing power depends on the support of political officials who often are unwilling to use it because of pressure from voters against spending more money. Long-range planning which anticipates additional funds from this source is adversely affected when officials who support the programs are not re-elected or leave office.

The financing problems, then, are less a problem of the loss of the ad valorem tax base because people are leaving the center city where these hospitals are located, but are matters of political and governing bodies not using all of the tax systems available to obtain funds. Higher taxes and other priorities are clearly on the minds of the voters, and the governing bodies are responding to those pressures. There clearly has not been a significant amount of public pressure to renovate a 60-year-old facility in a declining area; the result for such hospitals is undercapitalization. Clearly unacceptable methods of handling such a financial crisis are the cutback of services to get governing bodies to act and threats of closing down. The conferees agreed that these were merely emergency devices which could not be used often.

Another way to change is for the municipal government to get out of the public hospital business completely and purchase services. In so doing, however, most municipalities would need a vastly increased health care budget and a definite way to obtain all the revenue they need. This is highly unlikely.

Better management controls and accounting procedures will result in cost savings and in improved ability to collect revenues. Efficiency in management would also help avoid duplication of certain services. Nonetheless, antiquated civil service procedures and complicated purchasing and collection requirements now imposed by governing bodies have hampered improvement in this area. Stringent and unnecessary justification requirements for reimbursement have meant increased dumping of problem patients on the public institutions, which increases and emphasizes difficulties in paperwork and claims. Areawide planning and control among the private and public sectors would do much toward solving these difficulties.

The key issue, however, is how to find new sources of funds or tap existing ones for more money. Several ideas for new sources of funds were discussed, among them the feasibility of public hospitals becoming district hospitals with independent taxing authority. In California some county hospitals have tried enterprise funding, in which the hospital operates partly as a business enterprise and earns its own way. Enterprise funding also allows for capitalization or depreciation funding. Some States have laws prohibiting a governmental organization to accumulate funds, but private hospitals can legitimately include depreciation in their charges so as to build up capital status. Why can't this be true for public hospitals as well?

One proposal for Federal legislation, perhaps as an aspect of a Federal revenue sharing plan, would provide Federal reimbursement to the cities for a fixed percentage of the net cost of operating public hospitals. After a determination was made as to what the costs were in 1 year—after reimbursements—the Federal Government would pay for a certain part of the operating costs. These funds then would be available in the ensuing fiscal year and would help offset the costs of the hospitals during that year.

Another recommendation made by a number of participants at each meeting was that the Hill-Burton program give higher priority to the need for new physical plants for public hospitals.

The conferees agreed that more emphasis should be placed on innovation in hospital construction for planning better facilities and primarily for cost saving purposes. The expansion of the public hospital into new ambulatory care facilities offers an excellent opportunity for the public hospital to test this concept.

Discussions in three meetings concerned the ultimate establishment of the hospital system as a public utility to deliver medical services in the same manner that electricity and gas are regulated and delivered. One group stated that hospitals are now public utilities, and that in devising a national health insurance scheme we have to plan stages of development toward that end. Even with the public utility approach, however, there will always be a need for public monies to support some medical care services.

The overall conclusion at each meeting was that the Federal Government has not yet adequately met its responsibilities toward the public hospital. Greater assistance will also have to come from the States.

On the issue of governance, the participants quickly agreed that since no one situation was applicable to another, this precluded recommendations as to the "best way" to set up effective governing bodies. Many institutions are moving to adopt the management structure with which others are having problems. Effective leadership is as important as the governance mechanisms; even this leadership, however, is affected by the system of governance within which it functions.

There was agreement that local control—not State or Federal—was and should continue to be the pattern of governance. The parameters of this control would vary, and much of the discussion concerned consumer participation, flexibility of administration, and ability to raise funds.

Most participants favored the establishment of an independent governing board—with opinions varying on whether it should be elected or appointed. Some felt that a board elected with a single focus on health matters would be more geared to better fiscal management and operation and be a buffer to the political system. A hospital board will have flexibility to make decisions, and it could give muscle to planning and some guidance to the relationship with the educational institutions. Most often, however, boards have more responsibility than authority, particularly with regard to control over funds.

Without "the power of the purse," all agreed, there was no point to any form of organization, especially a decentralized one. Public hospitals now are financially dependent, either on a legislature or a county board or a city budget.

Finally, there was a suggestion for an interrelation of governances between the public and private sectors. The hospital boards in some way must be linked in terms of decision making and planning for the community.

Consumer participation

Many of the issues discussed in these meetings concerned a greater role for the consumer in determining the care he receives in a public institution.

In terms of specific consumer issues, more community involvement is necessary now. This could be accomplished by increased representation on governing bodies at all levels so that these bodies (both public and private) will be more representative of the communities they serve. Membership alone on committees and advisory boards, however, is not the only answer. The institution should consider ways of encouraging active participation on hospital boards and holding meetings at times when consumers can attend. In addition, a semiannual or annual meeting of the hospital staff, medical staff, board members, and a random sample of discharged patients, could be held to review procedures and make suggestions for a change.

A preventive medicine outreach program initiated by the public hospital is needed. The hospitals have a responsibility to do something about the health care system in a much broader sense than they now do, such as preventive health and dealing with the urban environment. Concomitant with this is an opportunity for hospitals to educate their patients, not only so that they can contribute to advisory boards but to be a spearhead in the community to gather support for the public institution. This support could then be translated to public officials making decisions about the future of the hospital.

Finally, comprehensive health planning boards in many metropolitan areas are dominated by suburbanites, not the people in the cities who use the public hospitals. The current thrust toward regionalization could potentially be detrimental to municipal facilities and their patients.

Health maintenance organizations

The relationship of public hospitals to the strategy of developing health maintenance organizations was discussed extensively at each conference. The general attitude of the public hospital community toward HMOs was skeptical and negative.

First, there is a basic difference of philosophy between an HMO and the public hospital. The public hospital is the place of last resort; by law it has to accept anyone who comes to its doors for care. The HMO is a closed system, dependent upon people making advance commitments to it for their care. How, then, the question was asked, can the public hospital develop an HMO? Who will provide care to nonenrollees if the public hospital is part of the HMO strategy? Can public hospitals refuse to care for a person who seeks help but requires more than just emergency care? What about those who do not now have coverage? They could not join an HMO which requires funds for a capitation system.

Second, there were doubts that enough incentives exist for patients to join an HMO established through the public hospital system. Those who are now in a public institution are probably receiving a broader range of services than the HMO can provide; middle income populations would probably not wish to join a "stigmatized group." Thus, the concept of a mixed population base for HMOs was questioned.

Great concern was expressed over the financial viability of an HMO from the public hospital viewpoint. An HMO strategy is built upon (*a*) competition and (*b*) a profit system that makes it economically viable and offers an incentive for providers to establish and consumers to join.

However, most public hospitals are prohibited from making a profit. Any additional funds left over from one year's operation must be returned to the public treasury. Without massive changes on the local governmental level. HMOs and public hospitals could be mutually exclusive. The conferees were also skeptical that a financially viable public hospital HMO could be established in view of the high costs of training offered in these institutions.

The issue of training makes difficult the relationship of HMOs and public hospitals. Will enough house staff, for example, be attracted to such an institution given the potential lack of certain specialty training?

In summary, then, the participants agreed that the public hospital must face the fact that, under the present HMO scheme, it appears to be given two objectionable alternatives: (*a*) do not go into the HMO business and become the final dumping ground for all undesirable patients or (*b*) go into the HMO business and exclude some kinds of care for which the hospital is responsible.

National health insurance

The public hospital community has a tremendous interest in the structure of a national health insurance program because of its potential effect on their institutions. While there were many conflicting views on what this effect might be, all groups concluded that they should have an input into the policymaking process on this issue. This has not been the case up to now.

The conferees agreed that the public institutions must not continue to be the repository of people who cannot carry co-payments or who are generally unwelcome in the voluntary institutions. The objective of a universal comprehensive system must be that all elements of the provider groups would have to deliver certain minimal care or provide entry to the care system, and that all those covered would not necessarily have to go to only one element of that system—the public hospital.

If this objective was not brought about, however, the Federal Government should give special recognition in any plan to public hospitals, perhaps through the financing mechanism with a sliding scale of capitation coverage or a sliding scale of co-payment depending on income level of the person covered.

The voluntary hospitals may need stronger financial incentives to care for the economically deprived, and health insurance legislation could specify roles and incentives. Certainly, speedier reimbursement should be mandated from all third-party payers. A plan might be developed for prospective reimbursement based on "average experience" of these hospitals. The average reimbursement would be based on showing periodic reconciliation of actual experience with monies received.

Manpower training

Much has been written about the crucial role of public hospitals in providing education and training to our nation's physicians, and it does not need repeating here. Although we have no estimates on the total numbers of practicing physicians who received some or all of their training in these institutions, undoubtedly this figure is substantial. One major study recently found that more than 20 percent of the country's interns and 15 percent of the residents received their training in 51 large urban public hospitals (1).

The most compelling issue seems to be the ability of the public hospitals to respond to pressures for accepting increasing numbers of people into specialty training without new sources of funding to pay for them.

Increased emphasis on expanding the number of graduates from medical schools will have a significant impact on public hospitals. The Federal Government should be concerned about the potential effect of this on the ability of public hospitals as training institutions to handle the increase at both the undergraduate and postgraduate levels. Even if many of the new physicians are encouraged to seek training in areas without an adequate supply of physicians, the large urban public institutions still will have problems in accommodating the increase. Capitation payments might be made available for postgraduate as well as undergraduate education to handle this problem.

Increasingly, hospitals are hiring physicians to handle emergency services and the increased outpatient load, using the hospital as a base of operation. Because emergency rooms are increasingly becoming the source of primary care, and because of the importance of the primary physician, it was recommended that medical schools be encouraged along with the public hospitals to establish training programs for emergency room physicians.

These recommendations are not inconsistent with the need for public hospitals to expand their outpatient facilities and ambulatory care role. This is one way of handling the increase in emergency room services while ambulatory care facilities are being established and expanded; it also is a means of encouraging new physicians to enter community-oriented medical practice.

By far one of the strongest recommendations was for the public teaching hospitals to separate educational costs and service costs and then to receive some type of reimbursement for the training provided. This is not a new idea; indeed, it was discussed at length at the 1967 conference, and some hospitals have attempted this; however, many problems remain.

A teaching hospital requires a great deal of money, and for public institutions money is scarce. The use of tax or patient revenue to support education poses a dilemma when it is not defined as such. No overall estimates were given at the conferences as to what portion of the patient and tax revenue actually goes into teaching costs over service costs, but there was considerable agreement that the portion is significant. Up to now not too many outside sources have made funds available for education purposes, and there are no volunteers.

Separating these costs is difficult because accurate figures are hard to compile. The public hospital suffers from a lack of resources and staff to assemble the necessary data.

Another factor is that there are in fact two types of public hospitals—the public teaching hospital and the public treatment hospital. The teaching hospital is not the general public's conception of the institution, and it is important to consumers to know what the hospital's functions are. Separation of costs would clarify that for the community, as well as for State legislatures which consider apportioning educational manpower funds for the State as a whole. Moreover, new sources of funds will have to be found once costs are determined. Several hospitals are considering a tuition mechanism for interns and residents because of increased costs. Others are asking the States for funds.

One new concept is that of establishing a revolving loan fund for physician training. The Federal Government would issue vouchers to prospective students who would then seek admission to a medical school or graduate program. The Federal Government would, in effect, guarantee the loan to the student for his education; he would be responsible for reimbursement after completion of training.

The future Federal role, then, might be to (*a*) identify the means by which hospitals can undertake a separation of these costs, (*b*) assist in implementing the system, and (*c*) be a potential source of funds through changes in existing legislation and increased appropriations.

Effective management

The need for more effective management accounting techniques and more accurate data about public institutions is acute. The size of these hospitals, archaic civil service requirements which prevent hiring competent staff on a competitive basis, and an overall lack of funds are three main factors contributing to this situation.

Tightening up management controls means more money for public hospitals. Most institutions have inadequate records to answer questionnaires and to claim a fair share of the money due them, and they cannot bill accurately. One reason for lack of accounting information is noncompetitive salaries, so the hospitals find it difficult to attract and keep personnel.

Management teams or systems could be placed in some of the hospitals, perhaps through Federal support on a demonstration basis. Another recommendation strongly called for instituting program budgeting as a replacement for the line item budgeting now prevalent. Such a substitution would allow for more rational planning and better allocation of scarce resources.

On the issue of data collection, the conclusion was that accurate, meaningful data on the public institutions do not exist, and no rational planning has been done or decisions made as to what data are useful or necessary to collect.

Finally, local, State, and Federal governments have to agree on definitions on which aid is based. For example, one hospital has received three different definitions of "poor"—from the county, medical plans, and OEO—and this situation is not uncommon. Some studies should be undertaken to ascertain what these disparities are, how they affect a public institution dependent on third party payments, and what changes might be made to make the system more uniform.

Transportation

To a great extent, the public hospital's problems in service delivery are related to inadequacies in public transportation. The transportation issue cuts both ways. Not only is the consumer prohibited from easy access to a central facility (or even some community ones) by poor transportation, but physicians and paramedical personnel also have difficulty getting to areas of need.

The conclusion reached was that adequate transportation is an obvious but overlooked issue in planning the public service provision of health care. While some of the problems may be mitigated by the development of extended ambulatory care facilities, much more needs to be done. Access to and availability of transportation must become an integral part of the planning for any future hospital system. Cooperation can and should be obtained for this on the local level. Appropriate Federal assistance might also be in order here.

Image and constituencies

Public hospitals have long traditions. One of them is a poor community image. This issue was discussed at length in the 1967 conference, and many of the same points raised then were discussed in 1972. Public hospitals are stigmatized as institutions "for the poor." The high quality of medicine practiced in them is not publicly recognized. Persons who can avoid using the services of public hospitals do so because of this stigma.

An improvement of image is essential if meaningful change is to occur and serious efforts made to establish a one-track system of care. Certainly, there is a place for public relations in a public hospital.

Fostering public knowledge about the plight of these hospitals is one way to attack the image problem. Other suggestions included (*a*) change the name of the institution, (*b*) encourage important people in a community to use the public hospital for their care, (*c*) add influential physicians to the medical staff, and (*d*) establish mechanisms for the philanthropic community to contribute rooms and special equipment the same way they now contribute to private voluntary institutions.

Closely related to the problem of poor image—and perhaps a direct result of it—is the lack of a viable constituency for the public hospitals. The conferees recognized that a sizable portion of the community is either negative or neutral about its institutions.

A position of neutrality can have negative effects. If the community does not actively support the public hospitals, there is a lack of input into the policymaking process which determines the current and future course of the institution. Many participants acknowledged that they are out of the political mainstream in decision making but said they wanted and needed to be closer to it. An obvious need was seen for better relations with legislators on a city, county, State, and Federal level. Most hospital administrators stated that if legislators saw their institutions first hand and assessed their needs, they would respond positively. Some of this has been done in certain cities, but the consequences of inadequate funding and the value of these institutions to their communities have not yet been well presented to enough public officials.

An input into the policymaking process goes beyond the laws which are written to structure the public hospital. It involves the rules, regulations, and guidelines that develop as a result of the law. As long as the hospitals depend upon the appropriation process, however, no matter what level of government, there will be no guarantees. Dr. Roger Egeberg, Special Consultant to the President on Health Affairs, echoed in San Francisco a feeling of the participants that they would have to go out and sell themselves to the public policymakers, when he said: ". . . We need you, but you may have to tell us that we need you.

The government needs you, the Federal Government, the State and local governments need you, because the people need you, and it is going to be a long time before we can do what you are doing . . ."

COORDINATION WITH FEDERAL GOVERNMENT

The conferees uniformly criticized the lack of coordination and communication between the public hospitals and the executive branch of the Federal Government. The public hospitals have been virtually ignored as institutions and in terms of specific programs for which they might qualify for Federal assistance.

Two specific items were suggested:

1. The multiplicity of Federal grant programs in a variety of agencies is a harrowing experience for the public hospital community. Programs exist of which they are unaware. Budgeting and time pressures prevent them, least of all, from hiring personnel to track down these programs. A need was expressed for a Federal liaison officer who would be knowledgeable about public hospitals, their problems, and needs, and whose office would be a central referral point so that these institutions could save time and effort in dealing with the Federal establishment.

2. There is a lack of understanding on the Federal level of the role of the public hospital within the health delivery system and its future alternatives. While a small amount of Federal funds has gone into an examination of this area up to now, perhaps the Federal Government should initiate a demonstration program to observe various hospitals within the health setting. The impetus for this could be at the local level, which would initiate a study of these issues, but a Federal subsidy to selected areas which undertook such action would be appropriate and needed.

Most of the problems and much of the unrealized potential of the public hospitals which were discussed in 1967 still remain—a conclusion reached in all five conferences. There have been changes, and a commitment to even further improvement is keenly evident among the people who will have to make this a reality.

REFERENCE

First. The contemporary status of large urban public hospitals—ambulatory services. Summary report of the Large Urban Public Hospitals Ambulatory Services Project, School of Public Health, University of California, Los Angeles. Hospital Research and Education Trust, Chicago, 1972.

Mr. EAGLETON. Mr. President, I am pleased to join with the distinguished senior Senator from New York (Mr. JAVITS) today in introducing the Urban Hospital Emergency Assistance Act of 1974, which is designed to provide a broad range of assistance to what is currently one of the weakest elements in the Nation's health system.

Public general hospitals are the shame of our cities. Underfunded, understaffed, often housed in ancient facilities, they are called upon to provide an entire range of health services for urban Americans. Many poor families in need of immediate medical help have no personal physician to call upon—they go to the emergency room of the one hospital they know will not turn them away. And so the city or county hospital is the "family doctor" for millions of Americans.

Decrepit and rundown though some may be, these institutions remain as potentially valuable health resources. They need assistance, first, to survive, and then to greatly improve the quality of the care they render. That is the purpose of the bill we are offering today.

Some may recall that there was a day in which public hospitals in our major cities were acclaimed for their greatness. They played a large role in the training of several generations of physicians, nurses, and ancillary personnel. In some cases, public hospitals are still important centers of manpower training. But in a great many others, once-prized residencies now go unfilled.

The bill we are offering today is a major initiative in the effort to rehabilitate public general hospitals and to greatly upgrade the quality of the care provided by them. Indeed, it is not an overstatement to say that such assistance is essential if some of these institutions are even to survive, much less improve.

Over the years, public hospitals have received relatively little in benefits from Federal hospital assistance programs. The Hill-Burton program, in particular, is targeted primarily to aid hospitals in rural areas and has not been of great value to public hospitals. While the Hill-Burton legislation is broad enough in its terms to authorize the needed help to public hospitals, the administration's repeatedly proclaimed intention to terminate Hill-Burton compels the conclusion that a new program of hospital aid is called for, emphasizing the needs of the publicly owned institutions that have been neglected in the past.

Our bill does emphasize public hospitals but it also authorizes grants to private, nonprofit hospitals as well for special construction projects designed to demonstrate innovations in health care delivery, and for graduate medical education and the training of nurses and allied health personnel.

Specifically, the bill authorizes programs in four areas, with the amounts authorized to be appropriated to be spread over a period of 3 years beginning in fiscal year 1975.

First, grants in the amount of $500 million are authorized to be made by the Secretary of Health, Education, and Welfare to public general hospitals for the purpose of modernizing existing facilities and constructing new outpatient facilities. No funds are authorized for expanded bed capacity, given the general consensus that most major urban areas have an adequate number of hospital beds. Priority in awarding grants is to be given to those intended to eliminate or prevent safety hazards and to those which would assist the recipient in avoiding the loss of accreditation or licensure.

Second, both public and private nonprofit hospitals would be authorized to receive up to $110 million in construction grants for projects designed to demonstrate innovations in health care delivery. Such projects must implement quality control procedures or operate to improve efficiency in the provision of health services.

Third, $300 million would be authorized to help meet operating deficits of public general hospitals. Such grants could not exceed 75 percent of the annual net cost of patient care not otherwise reimbursed by medicare, medicaid, or other third-party insurers.

Fourth, public hospitals and private nonprofit hospitals would be authorized to receive a total of $150 million in grants to pay part of the costs—up to 25 percent—of training residents, interns, nurses, and allied health personnel. Foreign medical graduates may not be supported with these funds, our purpose being to help to reverse the trend which now leaves a great many public institutions manned largely by foreign-trained individuals—often with a limited ability to communicate with patients.

There is a continuing debate, Mr. President, over the role of the public general hospital. Some argue that these hospitals have seen their day and it is time to phase them out, along with the enactment of adequate reimbursement programs so as to permit their patients to seek care at voluntary hospitals.

I think it should be recalled that some of these same arguments were made when the medicare and medicaid programs were under consideration. It was said that public hospitals would either be able to make it financially—since the cost of treating their charity patients would largely be met by State and Federal Government—or else they would disappear from the scene as their patients could now afford to pay for care in private institutions.

Neither of these events has come about. The demand for care in public hospitals remains high as utilization appears to be increasing. Reimbursement—especially that provided under the medicaid program—has proved to be far from adequate to meet costs. The inevitable result, given the competing demands for such local funds as may be available, has been the steady deterioration of institutions which a great many people still count on for important health care services.

My home city of St. Louis provides a case in point. Two city hospitals are operated, one constructed in 1908 and the other in 1935. The chronic difficulty in obtaining sufficient operating funds has resulted in the steady physical deterioration of both facilities, as even essential maintenance has been deferred. These older decaying structures are increasingly costly to operate and this factor, combined with the general skyrocketing of all health care costs, absorbs budget increases in a manner that makes improvements in the quality of care extraordinarily difficult to achieve.

The fight becomes one to retain accreditation * * * to survive.

The problems facing public institutions in St. Louis County and Jackson County—Kansas City—while perhaps not so acute as those in the city of St. Louis, are of the same nature. The only constituency that all of these hospitals have is the poor—a group notoriously overlooked in the allocation of scarce public resources. Public hospitals cannot depend on fundraising drives or the gifts of wealthy trustees as can many private institutions. Rarely are private physicians clamoring to serve on their staffs; usually it is a matter of physicians agreeing to serve as a matter of civic duty.

Despite these problems, Mr. President, the public hospitals in our major urban areas have at least one enormous virtue—they are there. They represent an existing resource that could be replaced only at great cost. They hold the potential for rendering excellent health care to that segment of our population which has the greatest difficulty in obtaining such care. I regard the funds proposed to be made available by the bill which Senator JAVITS and I offer today as an investment in the preservation and improvement of this resource. I urge its speedy and favorable consideration by the Congress.

By Mr. THURMOND:

S. 2984. A bill to amend title IX of the act of June 15, 1917, as amended (22 U.S.C. 213), by adding a requirement that passport applicants shall subscribe to an oath or affirmation of allegiance to the United States; and

S. 2985. A bill to require the execution of an oath or affirmation of declaration of allegiance before a passport is granted or issued. Referred to the Committee on Foreign Relations.

THE OATH OF ALLEGIANCE ON PASSPORT APPLICATIONS

Mr. THURMOND. Mr. President, on January 24, 1974, the Department of Justice announced that it would not seek review of the recent court of appeals decision in Woodward against Rogers that there was no statutory authority requiring the oath of allegiance on a passport application. An oath of allegiance has been required of all passport applicants from 1861 until 1966, when it was made optional by the Department of State.

In the case of Cohen against Rogers, the U.S. District Court for the District of Columbia ruled, on July 28, 1971, that the Passport Office must either require all applicants to execute an oath of allegiance or not require the oath at all. On November 1, 1971, the Secretary of State made the decision that an oath would be required of all applicants. A subsequent suit was then filed in Woodward against Rogers. The U.S. District Court for the District of Columbia ruled, on June 26, 1972, that the Passport Office had no regulation to require an oath, nor any statute to require an oath.

The district court's decision was appealed to the U.S. Circuit Court of Appeals for the District of Columbia. That court, on October 26, 1973, upheld, without opinion, the decision of the district court. The Solicitor General determined that the court's reasoning that the Department of State did not have a statute to require an oath was persuasive and, for that reason, made the decision not to seek an appeal to the Supreme Court in the Woodward case.

Mr. President, Justice Field of the Supreme Court once stated:

> Allegiance is meant the obligation of fidelity and obedience which the individual owes to the government under which he lives or to his sovereign in return for the protection he receives.

Allegiance, therefore, encompasses, for a U.S. citizen, the right to the protection of the United States while traveling abroad. In volume III of Hackworth's Digest of International Law, on page 435, the following statement appears:

> The American passport is a document of identity and nationality issued to persons owing allegiance to the United States and intending to travel or sojourn in foreign countries. It indicates that it is the right of the bearer to receive the protection and good offices of American diplomatic and consular officers abroad and requests on the part of the Government of the United States that the officials of foreign governments permit the bearer to travel or sojourn in their territories and in case of need to give him all aid and lawful protection.

It is believed that there must be a purposeful connection between the oath of allegiance and the document to be issued. Since the passport is the primary evidence recognized internationally which brings into play the responsibility of this Government to protect the bearer, his correlated responsibility—that of allegiance to this country—is both logical and reasonable.

The special committee to study passport procedures appointed by the president of the Association of the Bar of the City of New York made the following observation in its report regarding the oath of allegiance:

> Oath of Allegiance. This is unobjectionable because of its close relationship to citizenship. An essential for every passport applicant. A Citizen should never object to his government's calling upon him to reaffirm his willingness to support and defend the Constitution.

It is unfortunate that the true comprehension of allegiance rapidly is being blurred by the vociferous elements of our own society who emphasize solely civil rights and privileges to the total exclusion of responsibility.

Mr. President, at this time, I send to the desk two bills, either of which will give to the State Department the necessary authority to require passport applicants to subscribe to an oath or affirmation of allegiance to the United States. I urge my colleagues to give these bills their most careful attention.

By Mr. GURNEY:

S. 2987. A bill to amend the Economic Stabilization Act of 1970 to stabilize the prices of propane and butane. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. GURNEY. Mr. President, today I am introducing a bill which will amend the Economic Stabilization Act so as to stabilize the prices of propane and butane at their respective wholesale and retail market prices of May 15, 1973.

The price of LP gas products does not resemble an equitable cost increase for all petroleum products, calculated as a percentage of sales or volume refined. Much of the blame for this disproportionate price increase can be attributed to Cost of Living Council regulations, which, as early as August 22, 1973, were interpreted to permit refiners to pass-through increased foreign petroleum costs and domestic crude prices—although most propane is secured from natural gas, the National LP Gas Association believes that the rising price of natural gas has not been a significant factor to the spiraling price of propane—in whatever amount they deemed appropriate. The only restriction, however, being that price increases for diesel, gasoline, and heating oil did not exceed the ratio of sales among these major products. Therefore, price increases for all other petroleum products were uncontrolled so long as the total increase did not exceed the total pass-through. Thus, a refiner could underprice either of the three major products below the allowable limit, and therefore allocate crude costs to "other products," including propane.

Given the fear of a propane shortage, the Government encouraged petroleum refiners to increase the price of propane in order to facilitate greater production and thereby guarantee plentiful supply, and to "load" cost increases on propane so as to keep the price of diesel, gasoline, and heating oil down.

It is indeed interesting to note that only three petroleum products—gasoline, heating oil, and diesel—appear in the Cost of Living Council's wholesale price index. The mandatory petroleum allocation and price regulations announced January 15, 1974, did little to remedy this problem as they still permitted a refiner to apportion the total amount of increased product costs to a particular covered product other than a special product—that is, other than gasoline, heating oil, and diesel—in whatever amounts he deems appropriate.

On February 1, 1974, the Federal Energy Office proposed new propane price regulations which limit, during any 12-month period following January 31, 1974, the pass-through on propane to the percent of total sales volume at the refinery level. This change has the effect of freezing further disproportionate price increases, but it presents no relief to the existing high level of propane costs to the consumer.

Mr. President, I am sure my colleagues know that propane has many uses, chiefly as a chemical raw material: A source of energy for mechanized vehicles; and for those applications outside the venue of natural gas lines—smaller communities, urban fringe areas, and rural farms. For example, in 1971, farm-related use of propane accounted for approximately 20.3 percent of total U.S. propane consumption. Nonfarm residential use, both urban and rural, amounted to approximately 37 percent. Thus, well over half of propane consumption is related to residential and farm use. In fact, 49 percent of U.S. farms use propane in some manner. The only other large consumers of propane were chemical processors, who accounted for 24.5 percent of total U.S. consumption.

In Florida, primary users of propane include private residences, farms, chemical processors, and mobile homes. Of the 800,000 mobile homes in Florida—housing over 2 million individuals—it is estimated that approximately 80 percent depend on propane for space and water heating, and for cooking. Similarly, approximately 70 percent of the entire food-related industry in Florida—from citrus to poultry—use propane. The Florida Energy Committee estimates that propane consumption among residential and commercial users amounts to 84 percent of the State's total LP gas consumption—based on 1972 figures. Nonetheless, LP gas is not a major energy source in Florida, as it contributed only 1.9 percent to the State's 1972 total energy use, as measured in British thermal units. From this scanty data, it is clear that exorbitant costs for propane are shared most heavily by those consumers who can least afford price inflation.

According to the Florida LP Gas Association, as of January 26, 1973, the wholesale price of propane—without freight charges—averaged 6.6 cents per gallon. In April of 1973, the cost averaged 9.75 cents per gallon; this tended to reflect a true scarcity, the fear of another cold winter such as that which occurred in 1972–73, and speculative buying by private entrepreneurs, utilities, and certain industries. However, as of January 30, 1974, the price of propane now varies from 18.4 cents to 25.4 cents per gallon throughout Florida, with an average of 21 to 22 cents per gallon. Since last January, this represents increases ranging from a minimum of 279 percent to a maximum of 385 percent. No other energy product—not gasoline, heating oil, or natural gas—has increased by such a sizable amount. It is even said that in parts of Florida, the price differential between heating oil and propane gas approaches 10 cents per gallon, propane being more expensive. As a result, many retail LP gas dealers now foresee a switch to electricity by their former customers; and yet, electricity is one of the more wasteful forms of energy as only a third of the basic energy producing material used in electrical generation—excluding nuclear and hydro-electric power—ultimately gets to end-consumers.

If the Federal Energy Office intends to adhere to the mandate of the Emergency Petroleum Allocation Act of 1973 which provides for the equitable distribution of crude oil, residual and refined products at equitable prices—then it is clear that a rollback in the price of propane is justifiable, and that changes in FEO price regulations are in order.

At a meeting I called in Washington last week, representatives of the cattle and agriculture industries, the Florida LP Gas Association, and the major propane suppliers met with Dr. William Johnson, FEO Assistant Administrator for Policy Analysis, and me to discuss the exorbitant price for LP gases. All of us reached the conclusion that the new regulation is seriously deficient as it fails to require a rollback of those disproportionate cost increases for LP gas occurring on or before January 30, 1974.

I, therefore, strongly urge the Senate to adopt this measure which will correct defects in existing FEO price regulations.

Mr. President, I ask unanimous consent that this bill be printed in the Record following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(K) Upon the enactment of this subsection, the President or his delegate shall issue an order—

"(1) stabilizing the refinery level prices of propane and butane at the refinery level prices of May 15, 1973; and

"(2) permitting adjustments in such prices to reflect cost increases incurred at the refinery level and which are, or have been, incurred after May 15, 1973, except that such adjustments may not be made in a manner which apportions a greater percentage of any such cost increase or decrease to propane or butane than the percentage that the total sales volume of propane or butane, as the case may be, of any refiner is to the total sales volume of that refiner."

By Mr. BURDICK (for himself, Mr. Gurney, Mr. Hruska, and Mr. McClellan) (by request):

S. 2988. A bill to improve judicial machinery by designating Alabama, Florida, and Georgia as the 5th judicial circuit; by designating Louisiana, Mississippi, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes;

S. 2989. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th judicial circuit; by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota as the 8th judicial circuit; by designating Arkansas, Louisiana, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes;

S. 2990. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th judicial circuit; by designating Louisiana, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes; and

S. 2991. A bill to authorize additional judgeships for the U.S. Courts of Appeals. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing, for appropriate reference, four bills, the consideration of which will permit the Congress to make a start on solving some of the most immediate problems of the U.S. courts of appeals.

In 1963, the courts of appeals for the 11 circuits in the Federal system were called upon to handle 5,400 cases with a complement of 69 authorized judgeships or an average of 78 cases per judge. Ten years later, in 1973, the number of appeals filed had soared to 15,629 which, with 97 authorized judgeships, resulted in an average 161 per judge. Thus, while judgeships increased by a little less than 50 percent, the cases filed increased by 300 percent. In 1971, the Judicial Conference of the United States recommend that the Congress authorize 11 additional circuit court judgeships in most but not all of the 11 circuits. In recognition of the fact that the caseload problems of our Federal courts are not amenable to solution solely by the increase in the number of judges, the 92d Congress responded by creating a Commission on Revision of the Federal Court Appellate System—Public Law 92–489. On December 18, 1973, this Commission, which was chaired by the senior Senator from Nebraska, and upon which the senior Senators from Arkansas, Florida and I were privileged to serve, filed its initial report in which it recognized that the appellate problems were particularly acute in the fifth and ninth judicial circuits. The Commission further recommended that immediate relief could be afforded to litigants in those circuits only by dividing each of those circuits into two new circuits. While the Commission is continuing the second phase of its studies in which it will study the structure and internal operating procedures of the courts of appeals, its further recommendation in this area will not obviate the necessity for realining the States presently included in the fifth and ninth circuits in each of which the volume of litigation has far outstripped the capacity of the 28 judges currently assigned to those circuits.

Three of the bills which I am introducing today by request and on behalf of myself and my colleagues from Arkansas. Florida, and Nebraska, S. 2988, S. 2989, and S. 2990 are bills which would implement the alternative recommendations of the Commission on Revision of the Federal Court Appellate System. Each of these three bills would split the existing 5th circuit into two new circuits to be designated as the 5th and 11th circuits. Under one bill the new fifth circuit would consist of the States of Alabama, Florida, and Georgia. The new 11th circuit would consist of Louisiana, Mississippi, and Texas and would also include jurisdiction over appeals emanating from the District Court of the District of the Canal Zone.

The second bill incorporates the Commission's first alternative recommendation under which the new 5th circuit would consist of Florida, Georgia, Alabama, and Mississippi, and the 11th circuit would consist of Texas, Louisiana, Arkansas, and the Canal Zone.

The third bill incorporates the second alternative recommendation of the Commission, under which the 5th circuit would consist of Florida, Georgia, Alabama, and Mississippi; and the new 11th circuit would consist of Texas, Louisiana, and the Canal Zone.

It will be perceived that the first two bills present alternatives under which at least three States would be included in each circuit, a factor deemed important by several authorities. The third alternative would provide for only two States in one of the circuits. Obviously the Congress must make a choice between these alternatives.

All three of the bills would divide the existing 9th circuit by creating a new 12th circuit comprised of Arizona, the central and southern judicial districts of California and Nevada. A new 9th circuit comprising the balance of the present ninth circuit would consist of the eastern and northern judicial districts of California and the States of Alaska, Hawaii, Idaho, Montana, Oregon, Washington, and the District Court of the District of Guam. Since a simple division of the States comprising the present circuits would accomplish nothing, unless the judge power is also increased, these bills also contemplate creation of new judgeships within the new circuits sufficient to handle the workload which is being allocated to four circuits instead of the present two. The exact number of new circuit judgeships will be considered during the hearings and will require amendment of section 5 of these bills.

Because the State of California comprises 10 percent of the national population and because the State of California alone generates two-thirds of the judicial business of the present ninth circuit, the Commission concluded that the only feasible realinement of States within the ninth circuit must include a division of the four judicial districts in California between the two new circuits in the west. If the Commission's recommendation is accepted by the Congress, a possibility would exist that the two new circuits would reach conflicting results regarding the constitutionality of a California statute or an order of a California administrative agency having statewide application. A conflict of this nature must be resolved and the bills which I am introducing would require in section 7 of each bill, that such a conflict to be resolved by the Supreme Court of the United States.

As presently constituted, the fifth and ninth circuits, with an expanding caseload, have encountered difficult problems and each of those circuits have been forced to resort to various expediencies to cope with the increased workload. The fifth circuit has adopted a practice of screening cases which has resulted in almost 60 percent of all the cases being decided without according to the parties the right of oral argument. During the hearings held by the Commission in the principal cities within the fifth circuit, members of the trial bar raised strenuous objections to this denial of oral argument in the fifth circuit.

In the ninth circuit expediency has taken a different approach. In that circuit, in order to avoid delays in the disposition of civil cases, which in many instances have run 2 years or more, the court has adopted the practice of assigning a district court judge as one member of the three-judge panels which hear and determine cases of that circuit. In the hearings held by the Commission on the west coast, many members of the trial bar objected to the frequency with which the cases were being considered by panels not of circuit judges but of a panel including one or more district judges.

The sponsors of these bills believe that the problems presently existing in the fifth and ninth circuits are of such a dimension that some realinement of the States in those circuits is required in order to eliminate the resort to unpopular expediencies as a means of coping with an excessive caseload. These bills will serve as vehicles to lay these problems before the appropriate committee for thorough study in the hearing process.

The fourth bill which I am introducing today (S. 2991) is a so-called omnibus circuit court judgeship bill which incorporates the recommendation of the Judicial Conference of the United States that the Congress create nine additional circuit judgeships as follows:

First Circuit: one judgeship,
Second Circuit: two judgeships.
Third Circuit: one judgeship.
Fourth Circuit: two judgeships.
Sixth Circuit: one judgeship.
Seventh Circuit: one judgeship.
Tenth Circuit: one judgeship.

As I previously stated the additional judgeships needed by the existing fifth and ninth circuits will be considered in connection with the bill realining those circuits.

The increased case filings in the courts of appeals which has occurred since 1968, when an increase was last approved in the number of authorized circuit judgeships, requires that the Congress investigate the need for additional judges. In the hearings to be held on these four bills I propose that the need for additional judges be weighed in the light of the workload which the current level of case filings imposes upon the judges of our appellate courts in the 11 circuits. I hope that such hearings can be scheduled this spring.

Mr. President, I ask unanimous consent that all four bills be printed in the RECORD following these explanatory remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2988

A bill to improve judicial machinery by designating Alabama, Florida and Georgia as the Fifth Judicial Circuit; by designating Louisiana, Mississippi, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

"Fifth: Alabama, Florida, Georgia.

* * * * *

"Ninth: Alaska, Eastern and Northern Judicial District of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

* * * * *

"Eleventh: Louisiana, Mississippi, Texas, Canal Zone.

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

SEC. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

SEC. 3. Any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the ninth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former ninth circuit as is constituted by this Act the ninth circuit, and shall be a circuit judge thereof; and any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the twelfth circuit as constituted by this Act, is assigned as a circuit judge of such part of the former ninth circuit as is constituted by this Act the twelfth circuit, and shall be a circuit judge thereof.

SEC. 4. Where on the day prior to the effective date of this Act any appeal or other proceeding has been filed with the circuit court of appeals for either the fifth or the ninth circuit as constituted before the effective date of this Act—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

SEC. 5. The President shall appoint, by and with the consent of the Senate, such additional circuit judges for the Fifth, Ninth, Eleventh and Twelfth Circuits as the Congress may authorize by this Act.

SEC. 6. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"Terms of court—

"Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

"Circuits and Places

* * * * *

"Fifth: Atlanta and Jacksonville.

* * * * *

"Ninth: San Francisco, Portland and Seattle.

* * * * *

"Eleventh: New Orleans and Houston.

* * * * *

"Twelfth: Los Angeles."

"SEC. 7. Section 1254 of title 28 of the United States Code is amended by adding a new subsection (4) reading as follows:

"(4) By appeal, where is drawn in question, the validity of a state statute or of an administrative order of statewide application on the ground of its being repugnant to the Constitution, treaties or laws of the United States: *Provided, however,* That this subsection shall apply only when the court of appeals certifies that its decision is in conflict with the decision of another court of appeals with respect to the validity of the same statute or administrative order under the Constitution, treaties or laws of the United States."

Sec. 8. This Act shall take effect on July 1, 1975.

S. 2989

A bill to improve judicial machinery by designating Alabama, Florida, Georgia and Mississippi as the Fifth Judicial Circuit; by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota as the Eighth Judicial Circuit; by designating Arkansas, Louisiana, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

* * * * *

"Fifth: Alabama, Florida, Georgia and Mississippi.

"Eighth: Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.

* * * * *

"Ninth: Alaska, Eastern and Northern Judicial Districts of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

* * * * *

"Eleventh: Arkansas, Louisiana, Texas, Canal Zone.

* * * * *

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

SEC. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

SEC. 3. Any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the ninth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former ninth circuit as is constituted by this Act the ninth circuit, and shall be a circuit judge thereof; and any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the twelfth circuit as constituted by this Act, is assigned as a circuit judge of such part of the former ninth circuit as is constituted by this Act the twelfth circuit, and shall be a circuit judge thereof.

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(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

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SEC. 8. This Act shall take effect on July 1, 1975.

S. 2990

A bill to improve judicial machinery by designating Alabama, Florida, Georgia and Mississippi as the Fifth Judicial Circuit; by designating Louisiana, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

* * * * *

"Fifth: Alabama, Florida, Georgia, Mississippi.

* * * * *

"Ninth: Alaska, Eastern and Northern Judicial Districts of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

* * * * *

"Eleventh: Louisiana, Texas, Canal Zone.

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

SEC. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

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(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

SEC. 5. The President shall appoint, by and with the consent of the Senate, such additional circuit judges for the Fifth, Ninth, Eleventh and Twelfth Circuits as the Congress may authorize by this Act.

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"Term of court

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"Fifth: Atlanta and Jacksonville.

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"Eleventh: New Orleans and Houston.

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"Twelth: Los Angeles."

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SEC. 7. Section 1254 of title 28 of the United States Code is amended by adding a new subsection (4) reading as follows:

"(4) By appeal, where is drawn in question, the validity of a state statute or of an administrative order of statewide application on the ground of its being repugnant to the Constitution, treaties or laws of the United States; *provided, however*, that this subsection shall apply only when the court of appeals certifies that its decision is in conflict with the decision of another court of appeals with respect to the validity of the same statute or administrative order under the Constitution, treaties or laws of the United States."

SEC. 8. This Act shall take effect on July 1, 1975.

S. 2991

A bill to authorize additional judgeships for the United States Courts of Appeals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, two additional circuit judgeships for the fourth circuit, one additional circuit judgeship for the sixth circuit, one additional circuit judgeship for the seventh circuit, and one additional circuit judgeship for the tenth circuit.

SEC. 2. The two additional circuit judgeships authorized by section 1 for the second circuit shall be filled only upon certification of need by the Judicial Conference of the United States.

SEC. 3. In order that the table contained in section 44(a) of title 28 of the United States Code will reflect the changes made by section 1 in the number of circuit judgeships for said circuits, such table is amended to read as follows with respect to said circuits:

"Circuits and Number of Judges

* * * * *

"First: Four.
"Second: Eleven.
"Third: Ten.
"Fourth: Nine.

* * * * *

"Sixth: Ten.
"Seventh: Nine.

* * * * *

"Tenth: Eight".

By Mr. HUMPHREY:

S. 2992. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. Referred to the Committee on Rules and Administration, by unanimous consent.

Mr. HUMPHREY. Mr. President, I introduce a bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. I ask unanimous consent that this bill, to be cited as the Modern Congress Act of 1974, be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, my statement on this bill and the text of the proposed legislation are printed on pages 2156 to 2163 of the CONGRESSIONAL RECORD for February 5, 1974.

ADDITIONAL COSPONSORS OF BILLS

S. 780

At the request of Mr. SPARKMAN, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 780, to amend the Clayton Act by adding a new section to prohibit sales below cost for the purpose of destroying competition or eliminating a competitor.

S. 2495

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of S. 2495, a bill to amend the National Aeronautics and Space Act of 1958 to apply the scientific and technological expertise of the National Aeronautics and Space Administration to the solution of domestic problems, and for other purposes.

S. 2757

At the request of Mr. MANSFIELD (for Mr. EAGLETON) the Senator from Nevada (Mr. CANNON), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2757, to prevent windfall profits by automobile insurance companies during any period when the casualty rates of such companies are reduced as a result of official action in connection with the energy crisis.

S. 2782

At the request of Mr. MANSFIELD (for Mr. NELSON) the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an investory of U.S. energy resources on public lands and elsewhere, and for other purposes.

S. 2875

At the request of Mr. HATHAWAY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2875, to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than $5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper.

S. 2894

At the request of Mr. DOLE, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 2894, to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973.

S. 2895

At the request of Mr. DOLE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 2895, to amend the Economic Stabilization Act of 1970 to stabilize the price of propane.

S. 2938

At the request of Mr. JACKSON, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2938, the Indian Health Care Improvement Act.

SENATE CURRENT RESOLUTION 67—SUBMISSION OF A CONCURRENT RESOLUTION PROVIDING FOR THE TERMINATION OF ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT OF 1961

(Referred to the Committee on Foreign Relations.)

LEGISLATING AN END TO FOREIGN AID

Mr. FULBRIGHT. Mr. President, the American people have always been generous and compassionate toward the suffering of their fellow men whether at home or abroad. But the makeup of the current foreign aid program, with heavy emphasis on military hardware and dollar diplomacy is a gross abuse of that compassion. Because of this, for many years I have voted against foreign aid bills.

Foreign aid, in all too many cases, has been like trying to treat cancer with morphine; it has served as a narcotic but not a cure. Indeed, a strong case can be made that many of the major recipients of our assistance, South Vietnam and India, for example, would have been better served if we had let them alone and thus forced them to face up to their own political and economic problems.

The world of more than a quarter of a century ago, which spawned the foreign aid program, bears little relationship to the world of today. The cold war is over. Yet the policies of that era linger on in the foreign aid program, détente and the journey to Peking notwithstanding. It is time to wipe out this relic of the past and start anew.

I am introducing today a concurrent resolution to terminate the major U.S. foreign assistance programs carried out under authority of the Foreign Assistance Act. Section 617 of that act provides:

> Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto.

The foreign aid program needs a complete overhaul. Mere tinkering, as tried in the 1973 legislation that passed the Congress by such a narrow margin, will only compound the problem. Passage of my resolution will wipe the slate clean so that Congress and the President can together develop a new policy which will merit public support and be consistent with our country's worsening economic situation.

The recent 155 to 248 defeat by the House of Representatives of the $1.5 billion authorization for the International Development Association, demonstrated anew that the Government's foreign aid policy lacks the public support essential for ultimate success of any significant national policy. A major reason for the defeat of the IDA bill by the House, in my view, was the failure of the administration to heed the repeated warnings of those of us who said that Congress would not continue indefinitely to support both a large bilateral and a large multilateral aid program. For too long, the administration has tried to have it both ways—with unfortunate consequences.

Foreign aid survived on a hand-to-mouth basis without a regular appropriation from June 30, 1972, until January of this year. Last month the conference report on the new Foreign Aid Authorization Act passed the Senate by a margin of only three votes, and then only after extensive arm twisting from the executive branch. The situation in the House is no different. Last July the authorization bill passed that body narrowly, by a vote of 188 to 183. With a switch of three votes, it would have been defeated then. Foreign aid has been kept alive over the last several years not on its merits, but primarily through Republican party loyalty to their President's legislative program.

Congress must face up to the fact that the foreign aid program, as constituted, is discredited and disorganized, without clear objectives or purposes. It has become a hydraheaded monster, immune from effective control by either the Congress or the President. And Congress has not had either the will to reform it or the courage to end it. Congress has continually taken the easy way out, allowing bureaucratic momentum to keep the program alive but without effective guidance or control.

For its part, the executive branch has also shown no inclination to bring about a unified policy, content to let the foreign aid bureaucracies compete among themselves for larger pieces of the pie. There is not one national foreign aid policy. There are at least four—one run by the Agency for International Development which seeks to perpetuate a large bilateral economic aid program, one run by the Treasury Department which promotes aid through the international lending organizations, one run by the Defense Department which emphasizes military aid, and, finally, one through the Agriculture Department which has large vested interests in providing food as foreign aid. For all of these and other parts of the foreign aid puzzle, the total this fiscal year will come to some $8.5 billion.

I have said repeatedly that this hodgepodge arrangement did not make sense, that our Nation could not afford the luxury of financing both large bilateral as well as multilateral aid programs, and that military aid, which defeats the purposes of development assistance, should be ended.

It is time to call a halt to this inconsistent and wasteful policy. My resolution would do that. It will force a thorough reexamination of basic foreign aid policy, both by Congress and the executive branch.

Under my proposal, four Foreign Assistance Act programs which enjoy broad public and congressional support would be continued: First, the population control program, second, voluntary contributions to U.N. organizations such as UNICEF, third, funds for disaster relief and other emergencies, and, fourth, funds for control of the international traffic in drugs. Also, food aid under Public Law 480 for disaster and humanitarian purposes would not be affected. And the military sales program and military aid to Israel and South Vietnam would continue since that assistance is not provided under authority of the Foreign Assistance Act but under separate statutes.

Passage of my resolution will not compel a disorderly, wasteful termination of aid projects. Under the law, as long as 8 months is allowed to wind up the programs which will be terminated by the resolution. Some $3.4 billion is now in the pipeline for the programs that would be ended and these funds would continue to be available for 8 months to insure their orderly termination. Passage of my resolution should result in saving at least two-thirds of that amount, about $2.3 billion. During this period Congress and the executive branch can work together to come up with a more realistic policy that will command the support of the American people.

Mr. President, the House defeat of the IDA bill adds to the existing chaos in foreign aid policy. Now is the time to stop and think out a coherent policy. The only way to start anew is to reject the old. Adoption of my resolution will do that.

The concurrent resolution reads as follows:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That, in accordance with section 617 of the Foreign Assistance Act of 1961, all assistance provided under that Act is terminated on the date this concurrent resolution is agreed to, except for assistance for the following:

(1) population planning;

(2) international organizations and programs;

(3) contingencies payable out of the contingency fund;

(4) international narcotics control;

(5) famine and disaster relief to the African Sahel; and

(6) administrative expenses relating to matters referred to in clauses (1)-(5) of this concurrent resolution.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. PERCY, the Senator from Michigan (Mr. GRIFFIN) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Senate Concurrent Resolution 66, to urge the release from prison of Simas Kudirka, the Lithuanian seaman.

SENATE RESOLUTION 280—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. TOWER submitted the following resolution:

S. RES. 280

Resolved, That bill (S. 2980) entitled "A bill for the relief of Elizabeth Blanton", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or as a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 281—SUBMISSION OF A RESOLUTION RELATING TO ENERGY SOURCES AND THE TOURISM INDUSTRY

(Referred to the Committee on Commerce.)

Mr. GURNEY. Mr. President, on behalf of the distinguished Senator from Hawaii (Mr. INOUYE), I submit a resolution, and I ask unanimous consent that a statement prepared by Senator INOUYE in connection with the resolution, together with the text of the resolution be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR INOUYE

The resolution I am submitting today on behalf of myself and 36 Senators would express the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given, in light of the facts expressed in the preamble of the resolution, to the provision of adequate supplies of energy to all parts of the tourism industry.

The resolution recites some statistics illustrating the significant role the tourism industry has in our economy.

It also recites how essential tourism and other leisure activities are to a sound and healthy society.

Mr. President, our failure as a nation to recognize these facts has caused us to regard tourism as somewhat expendable, in our order of priorities during the present energy crisis.

The truth is tourism is not expendable. Neither in terms of the contribution it now makes to our society, nor in terms of its potential to improve the quality of our life.

Mr. President, on February 27 and 28 my Subcommittee on Foreign Commerce and Tourism will hold hearings which I hope will highlight the importance of tourism to our economy and our life style.

So that all Members who wish to cosponsor the resolution I am introducing today may have an opportunity to do so, I ask that the resolution be held at the desk until the close of the day's business.

LIST OF COSPONSORS OF S. RES. 281

Mr. Gurney
Mr. Inouye
Mr. Magnuson
Mr. Pastore
Mr. Hartke
Mr. Hart
Mr. Cannon
Mr. Moss
Mr. Cotton
Mr. Griffin
Mr. Baker
Mr. Cook
Mr. Stevens
Mr. Beall
Mr. Chiles
Mr. Pearson
Mr. Javits
Mr. Muskie
Mr. Huddleston
Mr. Hollings
Mr. Bentsen
Mr. Helms
Mr. Domenici
Mr. Hugh Scott
Mr. Thurmond
Mr. Dole
Mr. Brooke
Mr. Brock
Mr. Stevenson
Mr. Jackson
Mr. Tunney
Mr. Cranston
Mr. Kennedy
Mr. Fong
Mr. Dominick
Mr. Hansen
Mr. Stafford

S. RES. 281

To express the sense of the Senate with respect to the allocation of necessary energy sources to the tourism industry

Whereas tourism spending in the United States in 1972 totaled approximately $61,000,000,000;

Whereas tourism expenditures are the second ranking retail expenditure in the United States;

Whereas the Report of the National Tourism Resources Review Commission (June 25, 1973) estimated that spending for tourism in the United States is expected to total $850,000,000,000 over the decade 1970 to 1980;

Whereas tourism expenditures in the United States directly and indirectly provide employment for approximately four million Americans;

Whereas the leisure activity provided for Americans by the tourism industry is essential for a sound and healthy society;

Whereas the tourism industry is a major economic and social force in the United States;

Whereas the continued viability of the tourism industry depends upon the ability of our public and private transport system, including sightseeing companies, motor coach operators, cruise lines, hotels, motels, and travel agencies to provide in a safe, economic and efficient manner those goods, facilities and services which support the tourism industry; and

Whereas the current energy shortage poses a serious threat to the tourism industry and consequently to the national economy and

that of many States, areas and cities: Now, therefore, be it

***Resolved,* That it is the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given, in light of the facts expressed in the preamble of this resolution, to the provision of adequate supplies of energy to all segments of the tourism industry.**

Mr. DOMENICI. Mr. President, I rise in support of the resolution I am cosponsoring today which recognizes the vital importance of the tourism industry in the United States. I feel it is imperative that we recognize that the tourist industry is a substantial part of the U.S. economy and that it deserves consideration in the fuel distribution process. If tourism and recreation are not given fair consideration, it could mean the loss of jobs for many persons in New Mexico and other States.

Tourism spending in the United States in 1972 totaled approximately $61 billion; tourism expenditures are the second-ranking retail expenditure in the United States; and the Report of the National Tourism Resources Review Commission—June 25, 1973—estimated that spending for tourism in the United States is expected to total $850 billion over the decade 1970 to 1980. Our best estimates are that up to 40,000 New Mexico jobs are related to tourism and recreation; many of these being in areas where there is little or no chance for alternate employment.

Mr. President, because of these very important factors, I wholeheartedly support this resolution seeing to make it the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given, in light of the facts expresed in the preamble of this resolution, to the provision of adequate supplies of energy to all parts of the tourism industry.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 271

At the request of Mr. Church, the Senator from Illinois (Mr. Stevenson), the Senator from Delaware (Mr. Biden), the Senator from Wyoming (Mr. Hansen), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Helms), the Senator from West Virginia (Mr. Randolph), the Senator from Wisconsin (Mr. Nelson), the Senator from Missouri (Mr. Eagleton), the Senator from California (Mr. Cranston), the Senator from Nebraska (Mr. Curtis), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of Senate Resolution 271, to disapprove the recommended rates of pay.

SENATE RESOLUTION 279

At the request of Mr. Javits, the Senator from Massachusetts (Mr. Brooke), the Senator from California (Mr. Cranston), the Senator from Wisconsin (Mr. Nelson), the Senator from Tennessee (Mr. Brock), the Senator from Vermont (Mr. Stafford), the Senator from Minnesota (Mr. Humphrey), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Ohio (Mr. Taft), the Senator from Kansas (Mr. Dole), the Senator from South Dakota (Mr. McGovern), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of Senate Resolution 279, relating to the Washington Energy Conference.

REGULATION OF COMMERCE AND PROTECTION OF CONSUMERS FROM ADULTERATED FOOD—AMENDMENTS

AMENDMENT NO. 962

(Ordered to be printed and referred to the Committee on Commerce.)

Mr. HART. Mr. President, on behalf of the Senator from Utah (Mr. Moss), for himself and myself, I submit amendments, intended to be proposed by us, jointly, to the bill (S. 2373) to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, and for other purposes. I ask unanimous consent that the amendments be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

No. 962

On page 4, line 20, delete "1973" and insert in lieu thereof "1974".

On page 6, line 13, at the end thereof, insert the following new sentence: "Final regulations in accordance with the requirements of subsection (b) (1) of this section shall take effect not later than 30 months after the date of enactment of this section, except that the Secretary may extend such deadline for successive additional 12-month periods upon a finding in writing that there is insufficient knowledge to establish a regulation meeting such requirements for any food or class of foods (or any contaminant, unsanitary practice, or other factor with respect to such food or class) and upon the initiation by the Secretary of a program to develop regulations meeting such requirements.".

On page 9, line 25, delete "section." and insert in lieu thereof the following: "subsection, which shall include, at a minimum, an inspection once each year of every establishment engaged in the processing of food, other than establishments engaged in processing for consumption or retail sale on the premises."

On page 10, line 16, delete "to the public health and safety" and insert in lieu thereof "of adulteration within the meaning of section 402(a) of this Act".

On page 10, lines 18 through 20, delete the third sentence in paragraph (3).

On page 11, line 21 insert "or misbranded" after "adulterated".

On page 11, line 22 delete "section" and insert in lieu thereof "Act".

On page 12, line 5, redesignate "(8)" as "(9)" and between lines 4 and 5, insert the following new paragraph:

"(8) The Secretary shall make available to the public, upon request and at cost of reproduction and mailing, any and all information obtained or developed under this section except to the extent that such information constitutes a trade secret or confidential commercial or financial information which if disclosed would result in significant competitive damage to its owner, except that such information may be disclosed by the Secretary—

"(A) to Federal Government departments, agencies, and having reasonable need for such information for official use;

"(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

"(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information to the extent feasible without impairing the proceeding;

"(D) if relevant in any proceeding under this section, except that confidentiality shall be preserved to the extent feasible without impairing the proceeding;

"(E) to the public to provide reasonable protection of public health and safety, after affording parties who oppose disclosure notice and opportunity for comment in writing or for discussion in closed session, if the delay resulting from such notice and opportunity for comment would not be detrimental to public health and safety; and

"(F) to a contractor in furtherance of the provisions of this Act: *Provided,* That such contractor takes such security precautions as are set by the Secretary.".

On page 13, line 12, delete the quotation marks and between lines 12 and 13, insert the following two new subsections:

"(e) (1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(A) against any person (including the Secretary) who is alleged to be in violation of any regulation promulgated under subsection (b) (1) of this section; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1) (A) of this subsection—

"(i) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator; or

"(ii) if the Attorney General, the Secretary, or the regional administrator for the involved region has commenced and is diligently prosecuting proceedings with respect to such alleged violation, except that any person may intervene in any such action as a matter of right.

"(B) Under paragraph (1) (B) of this subsection, prior to 60 days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

Notice under this paragraph shall be given in such manner as the Secretary may require by regulation.

"(3) In any action under this section the Attorney General, the Secretary, or the regional administrator for the involved region if not a party, may intervene as a matter of right.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) For purposes of this section, the term 'person' means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(f) During March of each year, the Secretary shall submit to the President and Congress a comprehensive and detailed written report with respect to implementation and administration of section 410 of this Act during the immediately preceding calendar year. Such report shall include, but is not limited to—

"(1) a description of any regulations issued during such year;

"(2) an evaluation of the extent, amount, and degree of compliance with regulations issued pursuant to subsection (b) of this section; and

"(3) information concerning the number of food processing establishments registered under section 411 of this Act which were inspected during such year pursuant to section 704 of this Act and the number of inspections of each such establishment.".

On page 12, line 16 and line 21, delete "to the public health" and insert in lieu thereof "of adulteration within the meaning of section 402(a) of this Act".

On page 14, line 15 after "Act" insert "with regard to food introduced into, delivered for introduction into, or received in interstate commerce."

On page 16, between lines 4 and 5, insert the following two new sections:

"SEC. 106. (a)(1) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374(a)) is amended by inserting 'or foods' after 'prescription drugs' each time it appears therein.

"(2) The third sentence of such subsection is amended by (A) inserting 'or foods' immediately after 'prescription drugs' and (B) inserting immediately after the phrase 'other than data', the following: 'relating to the safety or nutritional value of food, or'.

"(b) Section 304 of such Act (21 U.S.C. 334) is amended by adding at the end the following two new subsections:

" '(g) Whenever any food is found, by any authorized representative of the Secretary, in any establishment or vehicle where it is held for purposes of, or during or after distribution in interstate commerce or otherwise subject to this Act, and there is reason to believe that the article is adulterated, misbranded, or otherwise in violation of this Act, such food may be detained by that representative for a reasonable period but not to exceed twenty days, pending seizure action under this section or notification of any Federal, State, or other governmental authority having jurisdiction over the food, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained until released by such representative.

" '(h) Because virtually all food is subject to the jurisdiction of this Act, there is a rebuttable presumption that any food found in any State is subject to seizure and condemnation pursuant to this section. The claimant or any other party to a condemnation proceeding under this section shall have the burden of establishing that the article or articles are not subject to the jurisdiction of this Act. In the absence of such a showing jurisdiction shall be deemed to be established.'

"(c) Section 301 of such Act (21 U.S.C. 331) is amended by adding at the end the following new subsection:

" '(q) The unauthorized movement of a food detained under section 304 of this Act or the removal or alteration of any mark, or label used to identify the food as being detained.' ".

"SEC. 107(a) Chapter III of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Ch. 9 subch. VII) is amended by adding at the end thereof the following new section:

"AUTHORITY TO INITIATE LEGAL ACTIONS

"SEC. 308. Notwithstanding any other provisions of law, the Secretary or the regional administrator for the involved region may initiate, defend, or appeal any court action arising under this Act through his own legal representative or through the Attorney General except that the Attorney General shall have exclusive authority to prosecute persons under Section 303 of this Act."

"(b) Section 304 of such Act (21 U.S.C. 334 is amended by deleting 'United States attorney for such district' each time it appears therein and inserting in lieu thereof 'the Secretary, the regional administrator for the involved region, or the United States attorney for such district, as appropriate,'" including page 21, line 26, and insert in lieu thereof the following three new titles:

"TITLE III—FOOD LABELING

"SEC. 301. Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by striking out the fourth sentence thereof.

"SEC. 302. (a) Section 403(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(f)) is amended by adding at the end thereof the following two new sentences: 'Such information is prominently placed with sufficient conspicuousness and clarity within the meaning of this subsection if it is in accordance with regulations which shall be prescribed by the Secretary. Such regulations shall require that any food which is labeled or in package form bear a label in a uniform location on the package and such label (1) appears in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package; (2) contains letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and (3) is placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.'

"(b) Section 403(g) of such Act (21 U.S.C. 343(g)) is amended to read as follows:

" '(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401 of this Act, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard.'

"(c) Section 403(i) of such Act (21 U.S.C. 343(i)) is amended to read as follows:

" '(i) If its label fails to bear (1) the common or usual name of the food, if there is one, and (2) if the food is fabricated from two or more ingredients, the common or usual name of all such ingredients in the order of their predominance and in terms of their percentage of the total: *Provided*, That under clause (2) of this subsection a declaration of the percentage of the total of an ingredient of such food is required only if it is an integral part of such food and is significant with respect to value, quality, nutrition, or acceptability of such food, or is designated by the Secretary, pursuant to regulations as an ingredient for which such percentage declaration would be useful for consumers of such foods.'

"(d) Section 403(k) of such Act (21 U.S.C. 343(k)) is amended by striking out 'paragraphs (g) and (i)' and inserting in lieu thereof 'paragraph (i)'.

"(e) Section 403 of such Act (21 U.S.C. 343) is amended by adding after subsection (o) thereof the following new subsection:

"(p) PERISHABLE OR SEMIPERISHABLE FOOD. If it is a perishable or semiperishable food in package form, unless it bears a label which shows (1) the pull date of such food, (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer and the length of time it can be so stored without loss after the pull date, and (3) such other information as the Secretary determines to be necessary to protect consumers from the purchase of foods which may have spoiled, suffered a loss of nutritional value, or suffered a loss of palatability. As used in this subsection—

" '(A) "Perishable or semiperishable food" means any food, except any fresh fruit or vegetable, which the Secretary determines has a high risk, as it ages, of (i) spoilage, (ii) significant loss of nutritional value, or (iii) significant loss of palatability.

" '(B) "Pull date" means the last date on which a perishable or semiperishable food can be offered for sale at retail without a high risk of spoilage or significant loss of nutritional value or palatability.'

The pull date shall take into account the length of time such food may reasonably be expected to be stored and used by the ultimate consumer without a high risk of spoilage or significant loss of nutritional quality or palatability.'

"SEC. 303. Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by adding after section 403 the following new section:

" 'QUALITY AND NUTRITIONAL LABELING OF FOOD

" 'SEC. 403a. (a) SYSTEM.—The Secretary shall formulate and prescribe by regulations a system of food quality grade designations, expressed in a uniform nomenclature, for any food which is labeled or in package form.

" '(b) GENERAL.—No person subject to this Act shall distribute or cause to be distributed in commerce any package or labeled food except in accordance with regulations which shall be prescribed by the Secretary in accordance with this section. Such regulations shall require that any food which is labeled or in package form bear a label (1) containing a food quality designation of the food contained therein: (2) a statement specifying the nutritional value of the food contained therein; and (3) a composite number indicating the overall value of the nutrients and quality of the food contained therein.

" '(c) GENERAL.—Such regulations shall also require that any food for which a quality grade designation has been promulgated under the Act of August 14, 1946, as amended, and which is packaged shall bear a label containing such designation.

" '(1) The Secretary shall initiate and carry out a program of consumer education in conjunction with the promulgation of food quality designations prescribed by him under this section.

" '(2) The Secretary shall by regulations require additional or supplementary words or phrases to be used in conjunction with the composite number and the statement of nutritional value appearing on the label whenever he determines that such regulations are necessary to prevent the deception of consumers or to facilitate value comparisons among foods. Nothing in this subsection shall prohibit supplemental statements, which are not misleading or deceptive, at other places on the package, describing the nutritional value of the food contained in such package.

" '(d) DEFINITIONS.—As used in this section—

" '(1) "Composite number" means the overall value of the food on a scale to be established by the Secretary.

" '(2) "Nutritional value" means the amount of nutrients contained in the food expressed in terms of the relationship of the amount of each nutrient contained in such food to the total recommended daily requirement of each such nutrient required to maintain a balanced diet as determined by the Secretary.

" '(3) "Nutrient" includes protein, vitamin A, B; vitamins (thiamin, riboflavin, niacin), vitamin C, vitamin D, carbohydrate, fat, calories, calcium, iron, and such others as shall be established, by regulations prescribed by the Secretary.'

"Sec. 304. Section 6 of the Act of March 16, 1950 (64 Stat. 22; 21 U.S.C. 347b) is amended by adding at the end thereof the following new sentence: 'Any provision of any State law relating to ingredient, quality or nutritional labeling which is in contravention of any provision of section 403 or 403a of the Federal Food, Drug, and Cosmetic Act or regulations thereunder is preempted to the extent that such State law provision is less stringent than Federal law or requires the same information to be expressed differently than is required under regulations prescribed, by the Secretary in accordance with such sections.'

"Sec. 305. Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as amended by this Act, is amended by adding after subsection (p) thereof the following new subsection:

"'Quality and Nutritional Labeling.—If its label fails to conform to the requirements which have been prescribed by regulations as provided by section 403a of this Act.'

"Sec. 306. (a) Section 203 of the Act of August 14, 1946, as amended (7 U.S.C. 1622), is amended by adding at the end of subsection (c) thereof the following new sentences: 'Standards of quality, condition, and grade shall be consistent and uniform with respect to all agricultural products in order to minimize consumer confusion and to maximize consumer awareness of the significance and meaning of the various grade designations prescribed by the Federal Government. The Secretary of Agriculture shall formulate and prescribe by regulations, in accordance with section 553 of title 5, United States Code, a new system of grade designations of agricultural products, expressed in a uniform nomenclature. Such regulations shall be developed in cooperation with the Secretary of Health, Education, and Labor acting under authority of chapter IV of the Federal Food, Drug, and Cosmetic Act.'

"(b) Section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) is amended by adding at the end thereof the following new subsection:

"'(h) The Secretary shall assist and cooperate with the Secretary of Agriculture in the development and formulation of standards of quality, condition, and grade with respect to agricultural products, to minimize consumer confusion and to maximize consumer awareness of the significance and meaning of the various grade designations prescribed by the Federal Government.'

"Sec. 307. The amendments made by this title shall take effect on the first day of the thirteenth month beginning after the date of their enactment, except that such effective date shall be postponed if the Secretary of Health, Education, and Welfare determines that there is good cause therefor, for a period not to exceed an additional twelve months with respect to any specific food not in compliance with such amendments. Notwithstanding the preceding sentence, the amendments made by this title shall apply to any food bearing a label ordered to be printed after the first day of the fourth month after the date of such enactment.

"TITLE IV—ENFORCEMENT

"Sec. 401. Public health and safety being essential to the well-being of the Nation and informed consumers being essential to the fair and efficient functioning of the Nation's ecoonmic system, it is declared to be the purpose of the Congress in this title to establish and direct the maintenance of a system of speedy and efficacious administration and enforcement of the requirements of and the regulations under chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, with the emphasis on regional and local enforcement.

"Sec. 402. Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by adding after section 411 the following new section:

"'ENFORCEMENT

"'Sec. 412. (a) The Secretary shall establish and maintain, for purposes of administering and enforcing this chapter and for such other purposes as he shall determine, not less than twelve regional offices of the Food and Drug Administration of the Department. Each such regional office shall be headed, subject to the general direction of the Secretary, by a regional administrator who shall be a qualified individual appointed by the Secretary solely upon the basis of fitness to perform the duties of such office and without regard to political qualifications. Each such regional administrator shall receive compensation at the rate prescribed for GS-17 of the General Schedule as set forth in section 5332 of title 5, United States Code. Each such regional office shall be adequately staffed with competent personnel which shall include in each case at least one attorney who by reason of his training and experience shall be capable of representing the Secretary or regional administrator in legal proceedings.

"'(b)(1) If a person violates or commits an act which violates any provision of section 301 of this Act, or omits to do any act which is required by any provision of this chapter or any regulation thereunder, the regional administrator, the Secretary, or the Attorney General at the request of either may petition the appropriate district court of the United States praying the imposition of a civil penalty against such person in an amount to be computed in accordance with paragraph (3) of this subsection. Such civil penalty shall be paid to such court within 90 days after the entry of final judgment, and the court may assign such funds for use in facilitating the purposes of this Act. If a person otherwise violates, or commits an act which violates, any provision of section 301 of this Act such person may also be issued an official reprimand by the Secretary or the regional administrator for the involved region.

"'(2) Attorneys designated for such purpose by a regional administrator or the Secretary shall represent him before the district courts and upon appeal before any appropriate court of appeals of the United States in any action under this subsection. Upon request by such regional administrator or the Secretary, the United States attorney for the district in which the alleged violation occurred shall assist such regional administrator.

"'(3) The amount of the civil penalty which may be imposed under this subsection shall not exceed $10,000 for each day of each violation, plus restitution. In the alternative, such civil penalty may be imposed in an amount which does not exceed twice the pecuniary benefit derived by the defendant or twice the personal injury or property damage or loss caused by the defendant in the course of or arising out of commercial activity to which the violation contributed in whole or in part plus restitution in an amount which does not exceed twice the amount expended in commercial activity which involves a violation, including, but not limited to, advertising and market promotion. The amount of such civil penalty shall be based upon consideration of the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any goodfaith efforts to comply with such provisions.

"'(4) Upon the recommendation of the court, the Secretary of the Treasury is authorized to pay an amount equal to one-half of any civil penalty paid pursuant to this subsection, but not to exceed $2,500, to any person who furnishes information which leads to the imposition of such penalty. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this paragraph.

"TITLE V—FOOD PRICE DISCLOSURE

"Sec. 501. The Congress finds and declares that consumers are victimized, especially in a period of continuously and rapidly rising food prices, by commercial packaging and marketing practices which make it difficult if not impossible to determine which food and food products constitute the most economical products. The Congress further finds and declares that commerce among the several States is not properly regulated unless and until the average American family is able to determine how to obtain the most food for the dollar. It is therefore declared to be the purpose of the Congress in this title to mandate disclosure of the retail unit price of any packaged consumer commodity at the point of sale and in promotional price advertising.

"Sec. 502. Section 4(a)(1) of the Fair Packaging and Labeling Act (15 U.S.C. 1453 (a)(1)) is amended to read as follows:

"'(1) The commodity—

"'(A) shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor; and

"'(B) shall not bear any label, depiction, vignette, or other representation which purports to identify the commodity or its quality in a manner that does not accurately disclose the identity or quality of the commodity;'.

"Sec. 503. Section 4 of the Fair Packaging and Labeling Act (15 U.S.C. 1453) is amended by adding at the end thereof the following two new subsections:

"'(c) No person engaged in business in the sale at retail of any packaged consumer commodity which has been distributed in commerce, or the distribution of which affects commerce, shall sell, offer for sale, or display for sale any such commodity unless—

"'(1) the total selling price of such commodity is plainly marked by a stamp, tag, or label affixed to a principal display panel of the package or by a label or sign at the point of display of such package; and

"'(2) the retail unit price of such commodity is plainly marked by—

"'(A) a stamp, tag, or label affixed to a principal display panel of the package, or

"'(B) a label or sign in close proximity to the point of display of such package, which label or sign shall also contain the name and quantity of contents of such commodity.

"'(d) No person subject to the prohibition contained in section 3 of this Act and no person subject to subsection (c) of this section shall advertise or cause to be advertised in commerce through any communications medium any packaged consumer commodity if such advertisement states the selling price of such commodity unless the advertisement includes the retail unit price of such commodity: *Provided*, That if retail unit prices are significantly different in different sections of the country, price advertising covering more than one such section shall include national average retail unit prices and shall disclose clearly and conspicuously that the retail unit prices of such commodities may be obtained from the retailer. As used in this subsection, "communications medium" means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications, radio, television, films, and direct-mail statements.'.

"Sec. 504. Section 5(b) of the Fair Packaging and Labeling Act (15 U.S.C. 1454(b)) is amended by inserting before the first word thereof '(1)'; and by adding at the end thereof of the following new paragraph:

"'(2) The following shall be exempt from the requirements of subsection (c)(2) and (d) of section 4 of this Act:

"'(A) Any individual retail outlet which sells or offers for sale packaged consumer commodities and whose total gross sales do not exceed $250,000 per annum, unless such an outlet is one of a number of outlets owned substantially or whose inventory is supplied substantially, by a single person, partnership, or corporation whose total gross sales exceed $500,000 per annum; and

"'(B) Any retail outlet in any State or any political subdivision thereof which has enacted mandatory unit pricing laws and whose laws, in the judgment of the Federal promulgating authority, are in full force and effect and are comparable in scope and comprehensiveness to the requirements of this section; except that retailers (including chain-stores and affiliated stores) who operate outlets in any such geographical area shall be subject to such provisions if they also operate outlets in one or more other States or political subdivisions.'.

"SEC. 505. Section 5(c)(2) of the Fair Packaging and Labeling Act (15 U.S.C. 1454 (c)(2)) is amended by striking out 'regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity and inserting in lieu thereof 'regulate the stating or representing by implication on the package, label, coupon, or other promotional device that such commodity'.

"SEC. 506. Section 7(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1456(a)) is amended by striking out the words 'or delivered for introduction in commerce', and inserting in lieu thereof a comma and the following 'delivered for introduction in commerce, or sold at retail, offered for sale at retail or displayed for sale at retail,'.

"SEC. 507. (a) The first sentence of section 10(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1459(a)) is amended by—

"(1) striking out the word 'consumption' the first time it appears in such sentence and inserting in lieu thereof the word 'use'; and

"(2) striking ', or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use', and inserting in lieu thereof the following: 'in or around the household, but shall not include durable goods which are customarily not extended or consumed during the first year of use'.

"(b) Paragraph (1) of the second sentence of section 10(a) of such Act is amended by striking out 'meat or meat product, poultry or poultry product, or'.

"(c) Section 10 of such Act (15 U.S.C. 1459) is further amended by adding at the end thereof the following new subsection:

"'(g) The term "retail unit price", when used in relation to the contents of a package of any consumer commodity, means the retail prices of the contents of that package expressed in terms of the retail price of such contents per single whole unit of weight, volume, or measure.'.

"SEC. 508. The amendments to the Fair Packaging and Labeling Act made by this title shall take effect on the first day of the thirteenth month beginning after the date of their enactment.

NOTICE OF HEARINGS ON FEDERAL DEPOSIT INSURANCE

Mr. McINTYRE. Mr. President, the Subcommittee on Financial Institutions of the Banking, Housing and Urban Affairs Committee will hold hearings on legislation to increase Federal deposit insurance on March 19, 20, and 21.

The House of Representatives passed on February 5, 1974, the bill, H.R. 11221, which would increase Federal deposit insurance from $20,000 to $50,000 and provide deposit insurance for government funds. The committee presently has pending before it a bill, S. 2735, title I of which contains provisions similar to those passed by the House this week. During the hearings, the subcommittee will consider both of these bills.

The hearings will be held at 10 a.m., room 5302, Dirksen Senate Office Building, and those persons interested in testifying should contact Mr. T. J. Oden of the committee staff at 225-7391.

Mr. President, I would also like to state specifically that the committee rules require that all witnesses scheduled to testify must submit written statements to the committee at least 48 hours before their appearance. The rules also provide that witnesses must limit their oral presentations to 15 minutes. In view of the interest in this legislation, I wanted it to be made clear that the committee rules must be complied with.

NOTICE OF HEARINGS ON COMPETITION IN THE OIL INDUSTRY

Mr. HASKELL. Mr. President, on February 20 and 21, 1974, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee will continue its hearings on the market performance and competition in the petroleum industry. The hearings will start at 10 a.m. and will be held in room 3110 of the Dirksen Office Building.

The following have been invited to testify: Dr. Vincent McKelvey, Director, U.S. Geological Survey; Dr. John Fisher, General Electric Co., New York; Mr. Robert A. Wallace, vice chairman, National Exchange Bank, Chicago; Mr. John Winger, vice president, Chase Manhattan Bank, New York; Mr. John Bigler, Price Waterhouse, New York; Mr. Randal B. McDonald and Arthur Anderson, Houston; Dr. Stuart Myers, Massachusetts Institute of Technology, Cambridge; Prof. Walter Adams, Michigan State University, East Lansing; Prof. Joel Dirlam, University of Rhode Island; Prof. Robert Engler, City College of New York; Mr. Michael Tanzer, New York; Dr. Edward Mitchell, University of Michigan, Ann Arbor; Dr. John Lichtblau, New York; and Mr. Jim Langdon, chairman, Texas Railroad Commission.

ANNOUNCEMENT OF HEARINGS ON S. 2969

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON). I wish to announce hearings by the Senate Committee on the District of Columbia on S. 2969, a bill to reduce auto insurance rates in the District.

The hearings will begin at 9:30 a.m. February 22, 1974, and at 9:30 a.m. February 25, 1974, in room 6226, Dirksen Senate Office Building.

Persons interested in testifying on this bill should contact Mr. Andrew Manatos, associate staff director, in room 6222, Dirksen Senate Office Building.

NOTICE OF HEARING CURRENT FEED GRAIN ACREAGE ALLOTMENTS

Mr. CLARK. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Senate Committee on Agriculture and Forestry will hold a hearing at 10 a.m. on February 21, 1974, in room 324 of the Russell Senate Office Building, on current feed grain acreage allotments.

Both the U.S. Department of Agriculture and public witnesses, including representatives of producers' organizations, have been invited to testify.

The Department of Agriculture has established a feed grain allotment of 89 million acres for the coming crop years. The purpose of this hearing is to determine whether this is consistent with the Agriculture and Consumer Protection Act of 1973 and with the obvious need to plant more than the 100 million acres of feed grains that were planted last year.

The 1973 farm bill was enacted in part to insure adequate supplies of feed grains and other farm products. For a number of reasons, great concern has arisen in recent months that adequate supplies are not or will not be available.

These hearings should help to determine whether such fears are justified and whether feed grain acreage allotments have been properly determined.

NOTICE OF ENERGY OVERSIGHT HEARINGS

Mr. PERCY. Mr. President, the ongoing fuel shortage hearings that have been held before the Permanent Subcommittee on Investigations have been most helpful in filling in some of the gaps that existed in our knowledge about the oil industry and the Federal Government's role in this area. At the opening day of the most recent series of these hearings, Senator JACKSON, chairman of the subcommittee, succinctly explained the situation in which we then found ourselves when he stated that "the facts are that we don't have the facts." Due to the information generated in this investigative effort, as well as the material produced and facts uncovered by the executive branch, we are now in the process of determining what role the Federal Government can fruitfully play in reestablishing an equilibrium in America's energy picture.

Before the Christmas recess, the subcommittee held 3 days of hearings which dealt with the causes for the petroleum product shortages that existed during the winter of 1972 and the summer gasoline season of 1973. Permanent Subcommittee on Investigations investigators and private economists attributed the shortages to keeping the mandatory oil import program long after it served any useful purpose, the unwillingness of the administration to adequately raise the level of oil imports in late 1971 and early

1972, and the alleged policy of some of the major oil companies to purposely create a tight supply-demand situation so as to put upward pressure on prices. The oil companies will naturally be afforded an opportunity to respond to these charges at a later stage of these hearings.

During the most recent series of Permanent Subcommittee on Investigations hearings, oil company executives from the seven largest American oil companies—Exxon, Texaco, Mobil, Shell, Standard Oil of Indiana, Gulf, Standard Oil of California—were given the opportunity to respond to charges that are now being made about them. These allegations range from stating that the entire shortage of petroleum products is due to a conspiracy by the major oil companies to dramatically increase their profits by decreasing supplies, to charges that the oil companies have caused some of their products to be "watered down," that the major oil companies have deliberately used the tight supply situation that now exists to drive large numbers of independent retailers out of business, and that hoarding of gasoline supplies by the oil companies is rampant.

The testimony of the oil company executives was most informative. Members of the subcommittee were given a unique opportunity to focus on crucial questions that are on the minds of millions of Americans. The representatives of the oil companies, on the other hand, were able to respond to the serious charges that the energy crisis has in one way or another been contrived.

The following points were covered by the testimony of the oil company executives:

> The energy shortage is not a phony or a fraud. It is real, and will be with us for at least a decade absent some unexpected change of circumstances.
>
> Almost all of the oil companies had excellent profit years in 1973 and they did especially well during the third and fourth quarters of 1973. Exxon's earnings increased by 59% during 1973; Mobil, 47%; Texaco, 45%; and Shell, 28%.
>
> A shortage of petroleum products actually exists in the United States. Refinery runs for the industry as a whole are now at approximately 85% of capacity as compared to a long-run sustainable rate of 92%. These low refinery runs are due to a serious, and increasing, shortage of crude oil in this country due to the Arab oil embargo. The oil embargo has become much more effective during the past three or four weeks.
>
> The oil company executives were not able to adequately explain their United States tax situation to the subcommittee. While their Federal taxes ranged from roughly 2% to 7% of income from domestic operations, the oil executives stated that their worldwide tax bills were in the range of 52% to 62%.
>
> The oil company executives vehemently denied under oath that they were responsible for the dilution of gasoline products that has been mentioned in the media.
>
> The major oil companies that operate in the Persian Gulf are no longer able to effectively negotiate with the governments in that area over the price of crude oil. According to the oil company executives, the last price increase was dictated to them by the nations in the Organization of Petroleum Exporting Countries (OPEC).
>
> At least one of the oil company executives (Harry Bridges of Shell Oil) recognized that some form of control on oil company profits is necessary. Mr. Bridges stated that some form of control on the profits generated from the production of domestic crude oil would be reasonable over the next few years. Representatives of the other major oil companies seemed to realize that some form of profit control would be necessary.
>
> Two oil company executives (Standard of Indiana and Shell) felt that the American public can reasonably expect, under current circumstances, that the price of gasoline will rise from 10 cents to 15 cents per gallon in 1974, and so too the price of home heating.
>
> All the oil company executives felt that it would be impossible to achieve energy self-sufficiency in this country by 1980. Even a target of 1985 will be hard to achieve.
>
> All of the oil company executives agreed that, notwithstanding the current energy shortage, today's situation does not warrant the imposition of gas rationing by the Federal government. William Simon, Director of the Federal Energy Office, concurred with this judgment in his testimony.

Further hearings on the petroleum product shortages will be held by the Permanent Subcommittee on Investigations. We have only begun to uncover the facts concerning the structure and operation of the oil industry. We must have all the facts so that the American people will be willing to continue their superb conservation efforts, support legislation designed to encourage domestic exploration, production, and refining of oil, and encourage the pursuit of policies designed to achieve energy self-sufficiency for the United States.

PUBLIC HEARINGS TO BE HELD ON THE U.S. FERTILIZER SUPPLY-DEMAND SITUATION

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification on behalf of the full Senate Committee on Agriculture and Forestry, will hold a 1-day public hearing on Tuesday, February 19, 1974, on the fertilizer supply-demand situation in the United States. This hearing will begin at 10 a.m., and will be held in room 4202 of the Dirksen Senate Office Building.

Mr. President, 30 percent of our Nation's total production of field crops is directly attributable to the availability and application of fertilizer. When one considers the fact that our Nation's current reserves of wheat are at 27-year lows and expected carryovers of corn will be down to somewhere between 400 and 600 million bushels this marketing year, the importance of reaching our 1973–74 production year goals becomes all too obvious. And whether we are able to reach those goals will be determined not only by weather factors, but also by the availability of essential fertilizer supplies.

The recently issued planting intentions report of the U.S. Department of Agriculture indicates that farmers intend to plant 10 percent more corn acres this year over last, 19 percent more wheat, and about 17 percent more cotton acres. This means that almost 20 million more acres of land are being brought into production for these crops this year over last. Now the question is, will farmers get the fertilizer they will need to grow these crops, which on a combined acreage basis, will involve 268,896,000 acres.

USDA is now estimating that in 1974, domestic supply of nitrogen from ammonia and byproduct ammonium sulfate will be 1 million tons less than the quantity demanded, a shortfall of nearly 7 percent. The Fertilizer Institute, on the other hand is projecting a shortfall of nitrogen nutrients of somewhere between 2 and 2.5 million tons. USDA also is projecting a 700,000-ton shortfall of phosphates in relation to demand this year.

During much of last year when domestic fertilizer prices were subjected to Cost of Living Council controls, substantial amounts of our domestically produced fertilizers were exported in response to higher prices being offered for them by foreign buyers. U.S. farmers during this period were prevented from competing with these foreign buyers for available supplies. On October 25, 1973, the Cost of Living Council lifted these controls, which since that time has resulted in two major developments: First, U.S. farmers have been able to secure more of available supplies but, second, at a much higher price. Since last November prices paid by farmers for anhydrous ammonia have increased by 71 percent; ammonium nitrate, by 55 percent; urea, 69 percent; nitrogen solution, 57 percent; triple superphosphate, 42 percent; diammonium phosphate, 41 percent; potassium chloride, 26 percent; and mixed fertilizer, by 40 percent.

The 1974 fertilizer bill for farmers in in the United States may go to $4 billion, nearly 40 percent above 1973.

While perhaps 8 percent more nitrogen and phosphates will be available in 1974, it is not likely that demand requirements will be met. For instance, natural gas, essential to ammonia—nitrogen—production, is short. This shortage is keeping new plants from being built and some existing plants from operating at capacity. Also, availability of other liquid and middle distillate fuels to operate many fertilizer plants are being reported as falling short of need requirements.

In addition to these supply shortfalls being expected and factors limiting production capacity, several major fertilizer manufacturers are rearranging their marketing areas and relationships with local dealers. In its January 25, 1974, report on farm fuel, fertilizer, and transportation situation, USDA stated the following with respect to this matter:

> At least one large company is closing out farmer-dealer (large farmer) accounts. Suppliers are using this opportunity to rid themselves of problem dealers. A large share of telephone calls and correspondence received result from the above actions. Companies withdrawing from marketing areas is causing hardship on dealers.

I should like to add, Mr. President, these actions are more importantly causing even greater hardship on the farmers who purchase their fertilizer from such dealers. Many of these farmers are now faced with no supplier and no supplies. We hope in our February 19 hearings to examine these and the many other factors now affecting the production, distribution, and availability of these critically needed supplies among farmers.

Invitations to appear at these hearings are being extended to Secretary of Agriculture Butz, Dr. Dunlop of the Cost of Living Council, Mr. Simon of the Federal Energy Office, Mr. Nassikas, Chairman of the Federal Power Commission, and Secretary of Commerce Dent. Mr. Ed Wheeler, of the Fertilizer Institute, and officials of several major fertilizer manufacturers also are being invited.

We hope, Mr. President, to get as complete a picture as possible of this entire fertilizer situation at these hearings. We also hope to identify what, if any, additional steps that may have to be taken to insure maximum production and equitable distribution of these urgently needed farm supplies. Much of next year's food supply in the world will be determined by how well we can maximize our efforts to produce and make available these supplies.

NOTICE OF HEARINGS ON S. 2904, EXEMPTING ACTIONS BROUGHT BY THE SECURITIES AND EXCHANGE COMMISSION FROM THE OPERATION OF TITLE 28, UNITED STATES CODE, SECTION 1407

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee Subcommittee on Improvements in Judicial Machinery, I wish to announce hearings for the consideration of S. 2904, to improve judicial machinery by amending title 28, United States Code, section 1407, with respect to actions brought by the Securities and Exchange Commission, beginning at 10 a.m. on February 20, 1974, in room 457 of the Russell Senate Office Building.

This legislation will exempt enforcement actions brought by the Securities and Exchange Commission under the Federal securities laws from the pretrial consolidation proceedings under title 28, United States Code, section 1407.

Any person who wishes to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, room 6306, Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARINGS ON "TRANSPORTATION AND THE ELDERLY: PROBLEMS AND PROGRESS"

Mr. CHURCH. Mr. President, as chairman of the Senate Special Committee on Aging, I would like to announce that the committee will hold hearings on "Transportation and the Elderly: Problems and Progress" February 25, 27, and 28, beginning at 10 a.m. each day in room 1318, Dirksen Office Building.

Testimony will explore recent legislative enactments which should provide resources useful in improving mobility of older Americans. Testimony on the effects of the energy crisis upon programs serving the elderly will also be sought, and the President's new transit proposals will be considered.

ANNOUNCEMENT OF REGIONAL FIELD HEARINGS ON S. 2008, NATIONAL WORKERS' COMPENSATION STANDARDS ACT

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will continue its series of regional field hearings on legislation designed to provide Federal standards for workers' compensation.

The next hearings will be on Monday, March 11, 1974, in Buffalo, N.Y.; Friday, March 15, 1974, in Jacksonville, Fla.; Monday, March 18, 1974, in Houston, Tex.

The subcommittee expects to hear witnesses at these hearings who represent interested persons or groups on the subject of workers' compensation from the surrounding State areas. Those persons or groups wishing to present testimony at these field hearings should contact Donald Eilsburg, associate counsel of the Labor Subcommittee, room G–237, Dirksen Senate Office Building or telephone 202—225–3674.

ANNOUNCEMENT OF FIELD HEARINGS ON THE ENERGY CRISIS AND EMPLOYMENT DISLOCATION

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will hold a public hearing on the severe effect that the energy shortage is having on the economy, and in particular, on the employment situation.

The hearing is scheduled for 9:30 a.m., Tuesday, February 12, 1974, in Trenton, N.J.

The subcommittee will hear witnesses who represent interested persons or groups on the subject of the "Energy Crisis and Employment Dislocation."

ADDITIONAL STATEMENTS

THE PRESIDENT'S RECOMMENDATION ON PAY ADJUSTMENTS

Mr. MANSFIELD. Mr. President, the distinguished Senator from Wyoming (Mr. McGEE), the able chairman of the Senate Committee on the Post Office and Civil Service, has prepared an explanation of the President's pay adjustment proposal. While Senators have expressed themselves on all sides of this matter, I think it would be helpful to have this statement for reference. I, therefore, ask unanimous consent that Senator McGEE's remarks on this important issue be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GALE MCGEE

In the few days since the Congress received the President's recommendations on pay adjustments for top officials of the three branches of Government, a number of resolutions of disapproval have been submitted. Under the law, the President's pay proposal becomes effective unless specifically disapproved by either body of Congress within 30 days of its receipt by the Congress as a part of the President's budget message.

I intend to oppose the enactment of any resolution of disapproval, because a denial by Congress of the President's very modest pay-increase proposal would wreak havoc upon the Federal pay structure, which already is unbalanced and compressed.

The pay-adjustment proposal—which by law is made every four years—would provide salary increases for cabinet-level officials of the executive branch; judges and top staff of the Federal judiciary; and Members of Congress. These increases would be made in three yearly increments of 7½ percent a year, except that the pay of positions now compensated at $60,000 per year would receive only one pay increase, in 1975, of 7½ percent.

Mr. President, I am aware that some Members oppose pay increases for Members of Congress whenever they are proposed. Perhaps that is why Members have received only six pay increases since 1874—a hundred years ago. The last increase was approved five years ago in 1969.

But today we face a question relating not only to Congress but of vital concern to some 2,500 other top officials in the executive and judicial branches who must rely upon Congress to break the compression logjam which for five years has imposed a rigid and inflexible maximum upon their earnings and their retirement incomes. The Compression sits heavily as well upon the subordinates of these officials, the top career managers in the competitive civil service in grades GS–15, GS–16, GS–17, and GS–18. Their pay is pegged at $36,000 a year, the same as a Level V employee of the Executive Salary Schedule.

Now, what would have happened to the salaries of these career GS employees since 1969 if the pay compression problem had been relaxed? I am sure Senators are aware that, under the comparability principle adopted by Congress in 1962, Federal salaries are adjusted once a year. The adjustments are based upon a Bureau of Labor Statistics figures comparing the pay of Federal jobs with the pay of comparable jobs in private industry. There have been six comparability increases since 1969, averaging about 6 percent, the latest effective October 1 of last year. The top GS employees have been denied any of these raises which would have taken their salaries beyond the $36,000 top limit. Thus a GS–18 career manager, for example an employee who has worked his way up through the grades and steps of the General Schedule, would be earning $43,926 now instead of $36,000, if he had been allowed the increases accruing to the incumbents of comparable jobs outside Government—increases received by all others in his class of Federal employees. Executives in industry, state, and local governments have had their compensation increased approximately 30 percent during the five year period since 1969.

This static pay condition at the top of the General Schedule inhibits recruiting and encourages retirement. Top managers possessing readily marketable skills are retiring at the earliest possible time to accept positions outside Government where there is no need to wait four years for consideration of a salary increase. The Departments and agencies are losing valuable managers, and the executive branch is powerless to offer monetary inducements.

Mr. Rowland Kirks, Director of the Administrative Office of the U.S. Courts, states that the compression problem exists in the Federal judiciary no less than it does in the executive branch. He advises that the top classified employees in the judicial system are frozen in their present salaries, which are fixed as a percent of the salary of a district judge. For example, referees in bankruptcy, U.S. magistrates, clerks of court, and probation officers who have reached the top of their grades can no longer receive increases in salary as long as the district judge's salary remains static.

Compression means that many a subordinate is receiving the same income as not only his boss but also his bosses' boss. Sometimes four levels of executive reporting one to another are all receiving the same income.

Mr. President, last year I introduced a bill, S. 1989, to provide that the President's proposal on pay would come to Congress for consideration every other year instead of every four years. Under S. 1989, pay consideration for the officials involved would have been brought more nearly into line with the annual consideration given the pay of other Federal employees. That bill passed the Senate but failed in the House. So the quadrennial provisions of the 1967 law still prevail. I urge Senators to allow the President's proposal to go into effect, keeping in mind that it may be four more years before Congress has an opportunity to bring a measure of equity to the Federal pay structure—four more years before we can provide what the comparability principle promises: equal pay for equal work. If no increase in the Executive Schedule is allowed this year, GS–18 will be paid $15,200 below its comparability rate by October, 1976. Furthermore, 28,000 employees in GS–18, 17, 16, 15, and the top of GS–14 would all be paid an identical $36,000 in 1976. The unfair pay compression must be relieved this year.

THE MAN IN THE MANSION: THE HONORABLE STAN HATHAWAY

Mr. HANSEN. Mr. President, many of our distinguished colleagues have remarked upon the news that the Governor of Wyoming, the Honorable Stan Hathaway, has announced his intention not to seek reelection to an unprecedented third term as Governor of our State.

Stan Hathaway already has served longer than any other Governor of Wyoming, having completed more than 7 years as the State's chief executive—and those years have been years of outstanding service. There was little question in the minds of Wyoming people that had Governor Hathaway decided to seek a third term, his solid record of service, and his vast popularity would have insured his reelection. But he has indicated his intent to return to private life, and perhaps logically to the practice of law, for he is an excellent attorney.

We hear and read often today—too often—of complaints citizens have that their governments have become inaccessible and remote from the people and the people's needs. That is not the case in Wyoming, and in an ever rapidly changing world, Governor Hathaway has managed to keep most of the redtape out of government. A recent letter to the editor of the Wyoming State Tribune from Mrs. Michelle Gonzalez Allen of Cheyenne illustrates this, and I ask unanimous consent that it be printed in the Record.

There being no objection, the letter was to be printed in the Record, as follows:

[From the Wyoming State Tribune, Jan. 25, 1974]

THE MAN IN THE MANSION

To the Editor:

Two years ago I was having problems dealing with local officials concerning a state license. I talked with every secretary, assistant flunky and head chief to no satisfaction; the situation was frustrating and exasperating, then, realizing there was no one else to appeal to I decided to talk with the governor.

This last hope seemed improbable because it was 10 p.m. and I was taking a plane to Florida the next morning; but I decided I would take the chance. I drove to the Governor's Mansion and sat outside for about 5 minutes just looking at this imposing house and thinking of the importance of the man inside. Who did I think I was anyway? "People", average "people", just don't go to the Governor's Mansion unannounced or uninvited; but I was determined and had to try.

I went to the door, rang the doorbell and waited. I saw someone coming so I took a deep breath, squared my shoulders and hoped I'd be able to persuade the first of many "guardians" of the governor.

"Hi! What can I do for you?", queried a man, in casual dress, house-slippers, holding a can of Sprite, with a little cocker spaniel standing at his side.

"I have a problem I'd like to discuss with you." "Sure! Come on in. I'm watching the news on TV . . . just a moment and we'll talk."

He watched the news awhile then sat with me and talked. I was quite nervous just to be in his presence but certainly not because he didn't do everything to make me comfortable. I couldn't help but think . . . Governor Hathaway had answered the door!

No servants to get past, no bloodhounds, No guards! He was not unlike a neighbor inviting a friend into his home. He told me he would check personally but couldn't promise anything except that he would be attentive to both sides of the problem.

He walked me to the door, bade me goodnight and as I walked away I knew I had just left the presence of someone very special. No matter which way he decided I felt he would be fair.

The next morning, one of his aides phoned me to tell me that the governor had decided in my favor and that he said to tell me "Hi". Where else could this happen except in Wonderful Wyoming? How many governors of other states would be so accessible to the people? Every time I pass the Governor's Mansion I wish everyone could see, as I see, the big WELCOME sign for all the people of Wyoming.

MICHELLE GONZALEZ ALLEN.

FREEDOM OF INFORMATION AND THE FEDERAL ENERGY OFFICE

Mr. MUSKIE. Mr. President, Mr. William E. Simon, the Administrator of the Federal Energy Office, gave an excellent and encouraging address to the National Press Club last Tuesday on the subject of press access to official information about energy. Accessibility to the press, he observed, is crucial to the Government's efforts to develop popular support for the work and decisions of the Energy Office, and he added, "We can get that confidence by earning it."

In setting standards for handling journalists' inquiries, Mr. Simon was precise about the way he would earn confidence—

> Within 24 hours of our receiving your requests for information, we will issue an acknowledgment, or grant the request. Within ten working days, I personally guarantee that you will get the information you seek, or have the opportunity to appeal. Appeals will be ruled upon within no more than ten days.

As he pointed out, those time limits go far beyond the existing requirements of the Freedom of Information Act. They are even stricter than the ones I proposed last March in S. 1142, to amend the act, and stricter than the deadlines set in S. 2543, the thoughtful bill Senator Kennedy has offered for the same purpose. Yet our amendments have been repeatedly criticized by spokesmen of various Government agencies for setting unrealistically short deadlines. Mr. Simon's pledge is the best answer I know to such complaints. If an office as busy as his can handle requests for information in the time he promises, there is no reason that other agencies cannot do the same. Mr. Simon suggested that it might be "inefficient to run an open agency." He said that such a practice "costs time and money." But he declared, and I completely agree—

> Curtailing secrecy is one thing we can do to help restore confidence in government. Being open, the Federal Energy Office can ask for public confidence. If it were a closed agency, we could not.

Mr. President, I ask unanimous consent that the full text of Mr. Simon's remarks on freedom of information policy in the Federal Energy Office be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

REMARKS BY THE HONORABLE WILLIAM E. SIMON, ADMINISTRATOR, FEDERAL ENERGY OFFICE, DEPUTY SECRETARY OF THE TREASURY

It's great to be back at the National Press Club. The last time I was here, a week ago last Friday, was for the inauguration of your new President, Clyde LaMotte. That was, you will recall, a somber occasion. I am grateful to Sarah McClendon for inviting me to that ceremony, and to Clyde for inviting me here today and introducing me.

I neglected to mention last time that we are beginning a new allocations program of specific interest to you all. We are going to cut back on the power of the press. Effective immediately, you in the press will be allocated no more power than you had during your base period . . . 1812.

Seriously though, thank you for inviting me here today to discuss the energy crisis. During the two months since the Federal Energy Office was created, a primary concern of mine has been getting our message out to the people across this country.

You and I share a responsibility, for communicating to the American people. We must present the truth, as we can perceive it, about America's energy problems and prospects, about alternatives for the future, about what government is doing and has done.

I have a responsibility for managing the energy crisis, and I am accountable, to you and to Congress and to the American people, for my actions and decisions.

You know that the energy crisis is real. We have fuel shortages now, and we're going to have them for several years to come. We Americans consume more fuel than we produce. We have thus become increasingly dependent upon imported oil—a dependency which has an impact not only upon our domestic economy but also upon our balance of payments position as well. We must respond, now.

That is, by definition, a crisis.

We've been telling the American people this, but I'm not sure they're listening and accepting what we say. Today, I am going to forego my ritual recitation of consumption, conservation, allocations, and audits, and focus instead upon the major obstacle we face in turning today's objectives into tomorrow's achievements. The latest surveys indicate that more than a third of the public believes that the Federal Government is most responsible for the energy crisis.

Pollster Lou Harris called it the "crisis of confidence," and he said two months ago that "Public confidence in government must generally be reported as being lower than a constituent democracy can afford."

Ladies and gentlemen of the press, as we all know, this country does not hold together because all the people support a set of policies. America will not fall apart because of policy disagreements. The people can disagree with and try to change an Act of Congress, or an action or decision of the Executive Branch or the courts. But a democracy cannot stand—and remain free—unless virtually all of the people accept its institutions; not necessarily the actual policies of the government, but the *way* those policies are made.

The energy crisis and this crisis of confidence are integrated. We cannot consider one without the other. We cannot solve one without solving the other. We cannot fail to solve one, without failing to solve the other.

It was exposure to the public, through management responsibility for the energy crisis, that brought me to realize the magnitude of our national disillusionment. Without question, the most serious impediment to the effective performance of my job has been, and continues to be, that sad and overworked word, credibility.

This has been a year of great stress for governmental credibility. The fact is that the public is no longer willing to give public officials the benefit of the doubt. If there is doubt, most of the citizenry these days will presume they are being misled, until the doubt can be dispelled.

The American people have lost confidence. They have, however, not transferred this confidence from the Executive Branch to the Congress or the Supreme Court. No, the American people have simply lost confidence in all government.

And they have also lost confidence in medicine, in higher education, the military, organized religion and labor, big business, and virtually every institution you and I were brought up to trust.

This trend must be reversed.

Nobody likes to be doubted. You certainly know that—the polls indicate that most Americans don't have a great deal of faith in the fairness and accuracy of the press. And you, like me, need credibility to do your job.

I have been accustomed to being believed. I like to think this is because I lay the facts on the table; I tell the truth as best I can and so does my staff.

We all should be greatly disturbed by growing cynicism in the land. As a father of seven children, I wonder, what happens to a generation of kids growing up with the notion that their government and their basic institutions are not to be trusted?

Translated to our activities in the Federal Energy Office where we must have the cooperation of the American people in conservation efforts, we are especially concerned about this "crisis of confidence." If people don't believe us when we tell them there is an energy crisis, if they think we are acting in cahoots with the major oil companies to boost profits at the expense of the people, then they will not cooperate. They will not conserve. And if that happened, the current crisis could come to be a catastrophe.

CONFIDENCE AND SECRECY

If there was any single outstanding lesson for public officials to learn from that Harris survey, it is that the American people crave openness in government.

The relationship between government information policies and democracy is close and direct. The rights to vote or run for office mean little without the rights to know the activities of the incumbent government, and make or hear informed criticism of public officials and policies.

As President Nixon observed in his State of the Union address last week, a society's freedom can be measured by the extent to which it protects the right of personal privacy. A democracy's validity can be measured by the extent to which a people can know about the affairs of the government.

If the government knows or can find out what the people are up to, but the people do not know and cannot find out what the government is up to, then the people don't control their government; it controls them.

Many of you who cover the Federal Energy Office have told us that it is a very open agency. And most of you, I think, believe that we are putitng out the most accurate information we can get on the energy crisis. But the American people don't all believe us, and they won't all believe you.

This is a complex situation that contains no simplistic answers. We cannot point a finger at the government, at the politicians and officials, at the oil companies, at the Arabs or Israelis, or at the environmentalists. We must all accept a share of the blame. What matters is that once we recognize that mistakes have been made, we work together to develop energy policies and programs that will put us on the road to self-sufficiency with the strong backing of the American people. We at FEO need the *confidence* of the American people, because we need the voluntary *cooperation* of the American people.

How can we get that confidence, if the people hold their government in such low regard that they doubt its word before it speaks? We can get that confidence by earning it.

One way to earn it is through being open—not just when we are right, and proud of what we have done because we think people will like it, but also when we are wrong, when we have goofed.

People in bureaucracies tend to want to be secretive, not just to cover their mistakes, but to avoid having to answer a lot of questions they regard as nuisances at best and threats at worst. I know that, and you know that. The pressures for secrecy in bureaucracies are not caused by malice. They are a part of the nature of bureaucracies.

The Federal Freedom of Information Act attempts to countermand inherent tendencies toward secrecy in government. Nearly seven years after the FOI Act went into effect. we all know that it has not eliminated unwarranted secrecy. By the admission of the Congressional committee that wrote the law, it doesn't work. Information that belong in the public domain is withheld and this compounds the entire problem.

As journalists, you are familiar with delays of access to government agency information. It is an old and established legal principle that "Justice delayed is Justice denied." For journalists working under a deadline to find out the significance of breaking news, the delay of access to public information can amount to the denial of that access.

At the Federal Energy Office, we want to design Freedom of Information mechanisms to provide maximum possible access to information. At the same time, we have some concerns that militate against simply throwing open the doors and drawers and telling people to help yourselves.

In the first place, we handle sensitive national security data, some of which we cannot make public.

A second consideration is that we receive proprietary data—trade secrets of the energy companies and private tax information—and information that, to release, might substantially endanger free market competition. We cannot disclose this without crippling our ability to gather such data in the future.

Third, we issue regulations and make policy decisions having profound and direct impact upon the American economy. If we had to release our plans before being prepared to act upon them, hoarding, profit-taking, the buying or selling of stock, and general economic chaos could result.

Fourth, we receive some information from other agencies that other laws require the government to keep secret, for example, reports from the Bureau of the Census and Internal Revenue Service.

Also, we have to be concerned about the administrative effort necessary to comply with requests for access to information. For requests from industry sources, intended for private use rather than general news publication, we will have to assess a fee.

And we have certain other kinds of information—for example, medical data in our employees' personnel files—which, to disclose would amount to an unfair invasion of the right to personal privacy.

Nonetheless, the American people do not want excuses. You have seen government agencies cover up mistakes, incompetence, and possible illegalities under the claim that information sought by reporters was exempt from the Freedom of Information Act.

The FOI Act serves to force disclosure of information when an agency wants to keep it secret. Later this week I will send to the Federal Register our operating regulations for Freedom of Information. These regulations go far beyond the requirements of the law, and reflect our concern that openness shall be the firm rule, not merely a temporary expedient.

The outstanding features are these: most requests for information will be handled as they have been. But for problems with access, we will have an Information Access Officer. This officer and I will be the only persons authorized to deny an initial request for information.

Within 24 hours of our receiving your requests for information, we will issue an acknowledgment, or grant the request. Within ten working days, I personally guarantee that you will get the information you seek, or have the opportunity to appeal. Appeals will be ruled upon within no more than ten days.

Curtailing secrecy is one thing we can do to help restore confidence in government. Being open, the Federal Energy Office can ask for public confidence. If it were a closed agency, we could not.

But we must do more. We must be honest, not merely in the words we issue by mouth or press release, but also in the impressions we convey to people. If the people believe something that once was true, and it later becomes false, we must correct the false impression—even if it is not of our making.

To restore public confidence is not an option for this government, any more than collecting taxes is an option. This is imperative. We can quibble about how it is to be done, but it must be done.

Only then can we achieve, to use Lou Harris' fine words again, ". . . an America, and indeed a world, in which a spirit abound where people are in a mood to attack their common problems instead of attacking each other."

Over the years, you in the press have proven yourselves. I couldn't put anything over on you if I wanted to . . . and I don't. I want you to get the whole story on the energy crisis, and tell it to the public.

We cannot afford to delude ourselves. It is time to inform and alert the American people. They must be armed with enough facts to evaluate our performance directly, not through clouds of public relations from those who support or oppose our policies.

Last week, my Office of Public Affairs had a meeting with four reporters who regularly cover energy in Washington. The purpose was to get sugestions about how the Federal Energy Office can better serve the needs of the press in getting information out. They had a few criticisms, but I was pleased to learn that the reporters who visited us felt that no Federal agency is as accessible as the FEO.

It is perhaps inefficient to run an open agency. The time we spend answering queries from the press could be devoted to other work. It costs time and money.

The same can be said for the process of democratic elections; it ties up the time of public officials and costs the taxpayers a lot of money. It is a part of the price we as citizens pay for the right to run our government. To keep that right, we must see that public business is, truly, public business.

A SCHOOLBUS OF ANOTHER COLOR: SAME TIN CAN, DIFFERENT LABEL, MORE TRAGIC DEATHS

Mr. PERCY. Mr. President, in previous remarks, I have pointed up the serious problem of schoolbus safety.

But, schoolchildren are not the only persons endangered by these buses.

On January 15, 1974, 19 farm laborers were killed and 29 others injured when a school-type bus missed a turn and plunged into 6 feet of water in an irrigation canal southwest of Blythe, Calif.

Most of the deceased drowned.

Would lives have been saved if the bus had been equipped with escape exits suitable for adults and older high school students? I do no think there is any doubt about that.

Although autopsy reports are not yet available, there is considerable evidence that many of the injuries and some deaths were incurred on impact. The body structure of the bus was clearly inadequate in construction to withstand accident stress.

In response to a request I made to the National Transportation Safety Board for a full investigation of the accident, Henry H. Wakeland, Director of the Bureau of Surface Transportation Safety, reports the following:

> (i) Although there was little structural damage to the exterior or interior of the bus body, an unsafe seat anchorage system "contributed radically" to the death toll. All twenty of the double seats on the bus, and the driver's seat, were uprooted from the floor upon impact when the bus struck the drainage ditch embankment. The unrestrained driver died due to injuries sustained from collision with the steering wheel.
>
> The seats were anchored to the floor with ⅜ inch metal screws. The metal flooring was .076 of an inch in thickness. Thus, "about one tread of each screw was engaging the metal." And, there were only two screws per leg, each double seat having but two legs.
>
> The side fastenings were no more sturdy.
>
> (ii) The bus came to a rest in the water on its left side. This prevented the use of the rear emergency door which was located on the left side.

Many emergency doors on school-type buses are positioned in the middle of the bus. Because an overturned bus must come to rest on either side or the roof, a middle-positioned rear escape door is less likely to be blocked. Certainly, such an exit would have facilitated escape in this case.

There are 11 windows on each side of the bus. The top half of each window opens downward and provides only a 12-by-24-inch escape area—an extremely tight squeeze for adults and older high school students.

This additional impairment to escape may well have contributed to the tragic death toll.

Mr. Wakeland observed—

> If we had to design a bus for all people, then we'd suggest a right front entrance and exit door of improved design, a center-rear emergency door with a standard, uniform opening device and windows with larger escape areas.
>
> (iii) The bus overcrowded with 47 passengers and only 44 seats.

In response to an inquiry by me, Mr. Wakeland contacted the Bureau of Motor Carrier Safety, the National Highway Transportation Safety Administration, the **National Safety Council, the** Schoolbus Manufacturers Institute, the Institute for Highway Safety, and the Calspan Corp. requesting data on the extent to which school-type buses are used for purposes other than the transport of schoolchildren.

He was told that this information does not exist.

Unless the vehicle is painted yellow, bears the label "Schoolbus," is equipped with warning light systems and is used to transport schoolchildren, it is not classified as a schoolbus for registration or reporting.

What this means, sadly, is that our present statistics on the hazards of the school-type bus, grim as they are, are woefully incomplete.

And, the safety standards we do have, which are minimal and not at all comprehensive, are inapplicable and inadequate for school-type buses used for other purposes than to transport schoolchildren.

Because of this, action by the Federal Government to promote safer school-type buses must be threefold.

First, comprehensive safety standards should be promptly promulgated for all school and school-type buses, whomever they carry.

Second, special standards must be developed to accommodate the particular safety problems involved in the use of those buses that are not part of a school fleet.

And, third, a more efficient system of reporting and registering data on these buses must be devised and promptly implemented. Reliable information and statistics are necessary to identify the serious safety problems which present themselves.

It would seem that we all agree there are enormous shortcomings in the regulations which govern the construction and operation of school-type buses in this country.

But who is to blame for the tragedy in Blythe, Calif.?

Is it the driver of the bus, uncertified, perhaps, from reports, ill or unqualified, perhaps speeding or inalert, in whose hands the lives of 47 farmworkers were entrusted?

Is it his employer, perhaps unaware of the qualifications and health of his driver, perhaps unaware that 47 persons were being transported in a vehicle intended to carry 44, but who should have been aware?

Is it the manufacturer of the vehicle who, perhaps driven by a concern about competitive disadvantage, produced a veritable death trap in which 19 of the farmworkers came to be ensnared?

Is it the State transportation officials who—like those in so many other States—for far too long have left questions of vehicle safety in the hands of their Federal counterparts, oblivious to the conspicuous silence emanating from Washington?

Is it the Federal Government—the National Highway Traffic Safety Administration—which has been given the mandate by Congress to set comprehensive standards for vehicle and passenger safety, but which bears instead the dubious accolade of negligent inaction for so long at so high a cost?

How many more young children, how many more farm laborers and migrants, and how many more others must needlessly die or suffer grievous injury before destructive unconcern gives way to constructive action? How many bodies must be piled how high before empty promises and irresponsible buckpassing yields to performance?

Who is to blame? There is enough shared responsibility to go all around.

Mr. President, let me take this opportunity to commend the National Transportation Safety Board for the thoroughness of its investigation into this matter and also, Mr. Walter Conahan of the NTSB staff for his outstanding cooperation with my office.

I only wish that the investigatory findings of NTSB were taken up with the same degree of alacrity and resolve by the National Highway Traffic Safety Administration in promulgating needed standards to deal with the problems uncovered. Or, is that too much to expect?

FINANCIAL STATEMENT FOR 1973 OF SENATOR JAMES B. ALLEN

Mr. ALLEN. Mr. President, prior to coming to the U.S. Senate on January 3, 1969, I publicly stated that I would, each year during my service in the Senate, file a statement of my financial condition with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, and the probate judge of Etowah County—my home county—Alabama.

I have pursued this policy and have filed statements of my financial condition at the end of 1968, 1969, 1970, 1971, and 1972. In addition to such filings, I have placed in the CONGRESSIONAL RECORD copies of my 1968, 1969, 1970, 1971, and 1972 statements. I ask unanimous consent that my 1973 statement be printed at this point in the RECORD. The statement sets forth my reasons for making these statements public.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[District of Columbia, City of Washington]

FINANCIAL STATEMENT

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct statement of my financial condition as of December 31, 1973.

ASSETS

Home at 1321 Bellevue Drive Gadsden, Ala.—cost 1959	$32,500.00
Furniture, furnishings, books	5,000.00
Automobile	2,500.00
State of Alabama; City of Huntsville, Ala., bonds (recent broker's bid)	23,500.00

U.S. savings bonds, at cost	$600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—1970 cost $47,700 less $3,733.33 depreciation	43,966.67
Bank accounts—exact	2,493.19
Payments into Civil Service Retirement account—exact	16,619.12
Life insurance surrender value (all but $2,000 is term)	200.00
Total	127,378.98

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Va., to First State Bank of Altoona, Ala., and Exchange Bank of Attalla, Ala., monthly payment loan—exact	37,935.06
Note—First State Bank of Altoona, Ala	10,000.00
Total	47,935.06
Net worth	79,443.92

I am not an officer, director, stockholder, employee or attorney for any person, firm, company or corporation, nor am I a member of any law firm, nor am I engaged in the practice of law in any form.

My income is limited to my Senate salary and interest on U.S., State of Alabama and municipal bonds listed above. During 1973, I received no honoraria or non-official expense payments or reimbursements of any sort. I have never during my service in the Senate or at any time prior thereto, accepted any such honoraria or non-official expense payments or reimbursements of any sort, nor do I have a committee or person designated to receive contributions, political or otherwise, except the single campaign committee conducting my campaign for the U.S. Senate in 1974.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities. A similar statement will be filed each year during my service in the Senate, this being the sixth such annual statement I have filed since coming to the Senate in January 1969.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past years' net worth:

End of 1968, as I came to Senate	$92,984.81
End of 1969	87,750.00
End of 1970	87,243.34
End of 1971	85,939.09
End of 1972	85,265.70
End of 1973	79,443.92

This 7th day of January, 1974.

JAMES B. ALLEN.

Sworn to and subscribed before me on this 8th day of January, 1974.

PETER L. HUBER,
Notary Public.

THE GENOCIDE TREATY

Mr. ROTH. Mr. President, during the past few days we have been debating whether the Senate should give its advice and consent to the ratification of a treaty that has been on our calendar for almost a quarter century—the Genocide Convention. Genocide is a hideous and abhorrent crime. It should be prevented, and, when it does occur, it should be punished. I would like to see an international agreement, consistent with the rights and liberties of Americans, that would be effective in prohibiting and punishing the crime of genocide. Originally, I had hoped that the present convention, as limited by the reservations and understandings which the Senate might adopt, could be such an agreement. But, after close and careful study of the convention and the testimony presented both in favor and opposed to it in committee and listening to the debate on the floor, I have become convinced that the Senate should not give its advice and consent to this convention. It cannot be effective in preventing genocide and it raises a host of serious constitutional and legal questions for the United States.

It has often been pointed out during this debate that more than 70 countries around the world have already ratified the Genocide Convention. This fact has not deterred genocide which, in recent years, has reared its ugly head in such diverse places as Burundi, Nigeria, and Cambodia. The Soviet Union has ratified the convention, yet the convention has not prevented the Soviet Union from harrassing its Jewish or other minorities. Our ratification could in no way enhance its effectiveness.

One flaw in the convention is that while it applies to genocide of "national, ethnical, racial, or religious" groups, it does not apply to genocide of political groups. Its application to political groups was dropped at the insistence of the Soviet Union and other Communist countries which do not tolerate political parties or other organizations which are opposed to the official ideology of the state.

The argument has been made that the United States should ratify this convention to demonstrate once again our clear and consistent policy against genocide. In fact this is the main argument for ratification. In this respect, I believe our actions have and will speak much more loudly than our words. We fought and defeated Hitler who practiced genocide on a scale and with a cruelty unknown in human history. Within our own Government we have sought to bring many diverse groups within the mainstream of our society and polity and not to isolate them. America has always been the refuge of those who have been the victims of religious or political persecution elsewhere.

We should not ratify simply because the goals of the convention are worthy goals. Indeed they are. But we must examine the text of the convention and determine whether it constitutes the best means of achieving the goals and whether it reflects standards of justice and judicial procedure consistent with those we provide for our citizens.

A careful examination of the text shows, as both opponents and supporters acknowledge, glaring faults of vague language. It is not clear how the convention is to be implemented, nor indeed even what the crime of genocide is. The convention speaks of "complicity in genocide," of "incitement to commit genocide," and of "mental harm" to the members of a group. Such phraseology would be struck down by our Supreme Court on the grounds of vagueness and failure to provide due process, yet this convention as a treaty would become part of the supreme law of the land.

Questions have been raised as to whether the provision respecting "measures intended to prevent births within the group" could be applied to birth control clinics or reference to "forcibly transferring children of the group to another group" could influence school busing. While such interpretations appear absurd, it is just because absurdities do occur that our courts insist upon precision in the law.

Another question that has been raised is whether North Vietnam could have tried American prisoners of war under this convention. How would the convention affect other prisoners of war, for example, Israeli prisoners of war now being held by Syria? It is true, of course, that the North Vietnamese could have tried our soldiers on trumped-up charges of genocide whether or not we had ratified the Genocide Convention. But ratification would have given a coloring of legitimacy to such trials.

It is not clear how this treaty affects the rights of individual American citizens. The Genocide Convention departs from traditional concepts of international law in establishing liability for individuals as apart from nations. Legal and constitutional scholars, such as Senator ERVIN, have pointed out that ratification would fundamentally alter our principles of criminal justice by transferring the obligation for prosecuting the crimes covered by the convention—which could include homicide, assault, and kidnaping—from State and local governments to the Federal Government and to a potential international tribunal. Potentially American citizens could be tried in foreign courts, most of which do not measure up to our unique principles of justice, such as the fifth amendment protecting the individual from self-incrimination and the sixth amendment providing counsel for defense. While supporters of the convention point out that further legislation is required to implement the convention, it seems to me unwise and pointless to enter an international covenant if we have no clear intention of fully implementing it.

It is a reflection of the seriousness of these constitutional and legal questions that a majority of the American Bar Association has voted on two occasions in 1949 and 1970 to recommend against the ratification of the Genocide Convention. The margin on the second vote was closer than on the first vote and shows that even our best and most knowledgeable lawyers and legal scholars can honestly disagree on the problems involved. The fact that a majority of the distinguished membership of the ABA has expressed such reservations concerning this treaty demonstrates that these problems are neither simple nor easily dismissed.

I do not believe that the proposed reservations and understandings will or can sufficiently clarify the meaning of the treaty nor sufficiently protect the rights of American citizens. Some 30 other countries have attached various understandings, reservations, or objections to their ratification instruments, only compounding the confusion and further obscuring just what international law is being created by this Convention. Attempts by the International Court of Justice, which are advisory opinions only, have succeeded only in further muddying the water.

To me, this suggests that the United States should avoid adding to the confusion and should instead call for a new international conference to renegotiate this Convention on clear and precise lines, consistent with our principles of justice. America can better show its opposition to genocide by insisting that there be a new Genocide Treaty, one which would be truly effecitve in protecting all minority groups, including political groups, from destruction and deculturization by dictatorial governments.

ELECTRICITY SOURCES IN ILLINOIS

Mr. PERCY. Mr. President, one of the beneficial side effects of this energy crisis may be to learn some lessons on how nuclear capacity can and should be expanded. The Commonwealth Edison Co. in Chicago, has proven to be a pioneer in this area accounting for one-fourth of the present U.S. nuclear capacity. Commonwealth is now building its seventh nuclear plant and hopes that, by 1983, nuclear energy will account for 55 percent of its total electric output. In reference to the risks involved in operating nuclear plants, Commonwealth Edison can show a completely impeccable record after 22 years of operation.

In addition, Illinois low-sulfur coal is estimated to account for more than 50 percent of total fuel requirements in the State in 1974. This home grown Illinois soft coal has a very efficient burning capacity as well as a very competitive price; about 50 percent below the price of high-sulfur coal. Illinois coal is expected to be used in even greater quantities as a $17 million coal gasification pilot project in the State is underway.

Mr. President, I ask unanimous consent to print in the RECORD an article, "Electricity To Burn" by Nick Thimmesch, which was released by the Los Angeles Times Syndicate on January 26, 1974, and which outlines present and future use of coal and nuclear power for electricity in the State of Illinois.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ELECTRICITY TO BURN

(By Nick Thimmesch)

CHICAGO.—This city and northern Illinois have electric power to spare, indeed, electricity to burn, largely because of a reliance in this area on coal and nuclear energy. The voluntary cutback in use of electricity around here is for symbolic reasons.

This happy situation contrasts sharply with the Northeast, Middle Atlantic and West Coast regions—all highly dependent on oil. In fact, Midwestern utilities, which primarily depend on coal or hydropower, are now wheeling millions of kilowatt hours daily to their fuel-short brother utilities in the East.

In recent years, many utilities were required, for environmental reasons, to convert coal-powered stations to oil. New York's Con Edison is a good case in point. In 1973, some 84% of Con Ed's electricity came from oil, with natural gas supplying 15%, and nuclear just 1%. In New England, 80% of the electricity is produced through oil.

But here in Chicago, Commonwealth Edison's estimated 1974 fuel requirements are 54% coal, 34.5% nuclear, only 9% oil and 2.5% natural gas, which demonstrates that oil doesn't have to be king.

For many years, huge Commonwealth Edison depended on good old home-grown Illinois soft coal. But the state and city administration of then-Gov. Richard Ogilvie and Chicago's current Mayor Richard Daley cracked down on the use of such high-sulfur coal, forcing Commonwealth to go to Western states to get coals with less than 1% sulfur. Additionally, Commonwealth converted one of its coal-burning stations to oil in 1970 to conform to a Chicago city ordinance.

With new federal air quality regulations to take force in 1975, Commonwealth plans to increase its shipments of Montana and Wyoming coal which, like Illinois coal, must be burned in pulverized form. In 1973, Commonwealth burned nearly 8 million tons of this Western coal at prices ranging between $12 and $14 a ton, compared with 11 million tons of Illinois coal at $6 to $7 a ton.

The Western coal carries the additional penalty of having a lower heat value, therefore more must be burned. Illinois coal is expected to be used in greater quantities, too, with a $17 million coal gasification project under way. There is already one power station operating right over a coal mine near Springfield.

The most remarkable discovery for a vagrant journalist is to learn that Commonwealth Edison has one-fourth of the licensed nuclear capacity in the United States. In 1973, its nuclear generation accounted for 29% of all the electricity it produced, compared with a national nuclear figure of 5.6%.

This week, Commonwealth announced it will build its seventh nuclear plant, one at Savannah, Ill., and hopes to have nuclear energy account for 55% of its total electric output by 1983.

Even before the Atomic Energy Act was enacted in 1954, Commonwealth Edison was conducting experiments for peacetime use of nuclear energy. Commercial nuclear electric power was first generated in the United States in 1957 at Shippingport, Pa. Commonwealth Edison opened its first nuclear station in 1960, but didn't open a second until 1970. Since 1972, Commonwealth doubled its nuclear capacity.

Nuclear electric power stations are more efficient than non-nuclears, can run about 70% of the time but require enormous initial investment, most of it to ensure safety.

According to testimony presented to the state of Pennsylvania by Westinghouse, 150 reactor years were logged in 100 commercial nuclear operations around the world, with "no member of the public . . . ever killed or injured from any reactor-related accident." There have been seven workers who died in nuclear radiation accidents in the United States, according to the AEC, but all died in noncommercial (usually military) operations.

Dixie Lee Ray, AEC commissioner, recently stated that the chance of a nuclear core melting is "about one in a million per year for each reactor," and that "this probability compares with the chance of getting two poker hands in a row of four of a kind while playing five-card draw."

The energy crisis has accelerated introduction of nuclear power reactors, and last week the Atomic Industrial Forum reported that its industry finally "came into its own in 1973."

Commonwealth Edison is bullish about its nuclear program, and notes that in its 22 years' experience with nuclear power it has maintained a perfect record on health and safety—five million man-hours of work without a single radiation injury.

One of the beneficial side effects of this energy crisis, it seems to me, is to learn some lessons on how nuclear energy capacity can and should be expanded, and that old King Coal has plenty of life left in him, too.

URBAN HOMESTEADING

Mr. BIDEN. Mr. President, the urban homesteading concept is being examined by interested housing officials across the country as a housing proposal which can provide new life for old cities. In response to a letter of inquiry concerning the viability of national legislation which I introduced on November 9, 1973, the mayors of the cities of Greensboro, N.C.; Indianapolis, Ind.; Charleston, W. Va.; Omaha, Nebr.; Detroit, Mich.; Houston, Tex.; and Memphis, Tenn., expressed support and enthusiasm for the legislation.

The homesteading program in Wilmington, Del., still serves as the example of the possibilities and hardships accompanying a homestead program, and emphasizes the need for national legislation which offers monetary assistance. Urban homesteading is not a comprehensive housing proposal, but used in coordination with urban renewal legislation, provides some relief to blighted and abandoned cities.

Two recent articles, one from the Wilmington (Del.) Evening Journal and the other from the Washington Post, summarize the progress and difficulties homestead officials still must resolve while emphasizing the potential of the program.

I ask unanimous consent that these two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NO FREE HOMESTEAD

One of the most bothersome problems facing some of Wilmington's homesteaders turns out to be the high cost of money. The result is one more illustration of the fact, misunderstood by too many observers, that the city's innovative plan for rehabilitating some of its abandoned houses is not for the poor. It is not even for the fainthearted middle-income family.

The appeal of the plan, from the beginning, figured to be greatest to those homesteaders with sufficient skill to do much of the necessary renovating themselves. The individual forced by lack of skill or time to pay for the work of remodeling as well for the necessary materials starts with an economic disadvantage, despite the fact that the house itself is free.

Homesteaders begin with a credit disadvantage by virtue of the ground rules that made the plan so appealing at the start. The "free" house is theirs if they rehabilitate it within 18 months and live in it for three years. That sounds like a good deal and it is a good deal, unless renovation will require a substantial amount of money. At that point, the lack of immediate claim on the property renders the homesteader ineligible for a mortgage, a long-range loan at around 9 per cent interest. Instead, he must seek a personal loan, repayable in about seven years at rates of 12 per cent or more.

The example of Wilmington homesteaders with income of more than $20,000 per year underscores the difficulty. The difference between monthly payments of $90 on a mortgage for 20 years and installments of $170 per month for seven years is a formidable obstacle that anyone maintaining a budget can understand.

It is possible, of course, that individual homesteaders might visualize renovations that are prohibitively expensive because they are unrealistic. In that case, prohibitively high monthly payments on a loan might produce a disappointment that was a blessing in disguise.

There is no reason to criticize mortgage banks for this difficulty. To issue mortgages on such properties without foreclosure protection or at least a guarantee of insured payment would be the height of irresponsibility.

If continuing inflation in the cost of materials and labor is not to write an untimely end to the city's experiment in urban rehabilitation, the program requires a new shot of imagination, this time on financing renovations, to match the original thinking that went into its creation.

Sen. Joseph R. Biden Jr., D-Del., has proposed in a national homesteading bill that the Department of Housing and Urban Development be authorized to provide funds to homesteaders under existing housing rehabilitation programs. That is not necessarily the answer to Wilmington's problems, but it offers a starting point. Wilmington should solicit the private and public advice and cooperation necessary to make the program more workable.

The original homesteading concept was a creative idea. What is needed now is a little more creative thinking on the part of the Maloney administration, in conjunction with some of the bankers, to make it work.

HOMESTEADERS: NEW LIFE FOR OLD CITIES

WILMINGTON PIONEERS PROGRAM

(By Thomas W. Lippman)

WILMINGTON, DEL.—The little street where Annie Mae Barksdale lives, a few blocks from the center of this grim industrial city, is a prototype of the American urban slum.

Abandoned, vandalized row houses built in the last century look out on trash-filled lots and tottering sheds. Dogs and vermin roam through the rubble. Idle men, gathered on a corner, gaze idly at strangers. In that scene, Mrs. Barksdale's neat house with freshly painted door and bright brass hardware is cheerfully incongruous.

It is also something of a landmark: Mrs. Barksdale is the first, and so far the only, person to rehabilitate and move into an abandoned inner city house under an "urban homesteading" plan

This is the program, which Wilmington pioneered and other cities, including Washington, are about to copy, that takes run-down, vacant city-owned houses and gives them to people who are willing to rehabilitate them and live in them for a few years. There is a steady stream of visitors to Wilmington to see homesteading in action—a Washington group was here last month—and Mrs. Barksdale's house is a highlight of the tour.

In a time of rising housing costs and declining inner-city neighborhoods, urban homesteading is being talked of as a dramatic turnabout that can revitalize cities, put property back on the tax rolls, and provide housing for people who need it. It is being promoted in legislation in Congress, studied by the Department of Housing and Urban Development and seized upon by politicians as a way to produce highly visible results in a troublesome field.

It is called urban homesteading because of the parallel to the 1862 Homestead Act that gave away land in the American West to people who would live on it and farm it. The idea is basically simple: empty houses owned by the government through tax forefeiture or mortgage foreclosure do nobody any good and have little value, so why not turn them over to people who will fix them up and live in them, bringing new life to blighted areas and turning a city maintenance burden into a tax-producing dwelling?

Whether homesteading will fulfill the hopes of its proponents is not yet known. What the experiences of Wilmington and of nearby Philadelphia do show is that it is a complex and difficult program that requires a lot of hard work to produce limited results.

Mayor Thomas C. Maloney conducted a public lottery last August in which the first 10 houses under the Wilmington program were given away. Seven others were awarded in a drawing in November, and a third batch is to be given away in the spring.

The city acquired the houses through tax foreclosures. Theoretically, as in any city, they were to be sold by competitive bids so the city could get the money that was due. But in fact they could not be sold because they were unfit to live in and in undesirable neighborhoods, and because abandoned dwellings are a glut on the market in a city where the population has declined from 105,000 to 80,000 in 20 years. So the City Council changed the law to allow them to be given away.

Mrs. Barksdale, a 47-year-old nurse's aide, was one of the winners at the first lottery. She got the two-bedroom row house where she and her grandson now live provided that she refurbish it in 18 months and live in it for three years. That residence requirement, like those in other cities preparing homestead programs, is designed to prevent speculators from making quick profits on property acquired at the taxpayers' expense.

With a loan from a local bank that softened its usual credit standards to help the homesteading program, Mrs. Barksdale hired a contractor to rehabilitate her house and she moved in late last year. So far she is the only one who has actually made the move.

"Right now I'm just as happy as can be," she told a recent vistor. Pointing to the new paneling, carpeting, electrical fixtures, stairs and kitchen, she said, "so far so good. I haven't had any trouble with the neighborhood . . . I'm not satisfied with all the work but you can't have everything. I hope this program goes over well so it will help others.

She said she had been paying $115 a month rent for an apartment where she was not happy. Her combined loan payment, utility bill and property tax on her new house, she said, is less than her previous rent—a fact partly attributable to a city ordinance that actually reduces tax assessments when properties are improved or rehabilitated as an incentive to homesteaders and other developers.

Perhaps the ideal homesteader, as envisioned by supporters of the program here and in other cities, is William Carter, a 30-year-old carpenter and handyman with a working wife and three children, who is doing much of the work himself on the four-bedroom house he received in another part of town.

City officials estimate the cost of putting the houses in the program into habitable condition at from $5,000 to $12,000—more than they are worth on the open market, in some cases—and Carter's house was one of the most rundown. He needed a bank loan to pay for new heating and plumbing installation, and has had to take time off from work to do the other repairs on his house—while continuing to pay rent on the place he is living in till the new one is ready. ("I don't have the time to do this, I'm making the time," he said.)

Carter ripped out all the old plaster, installed new sheetrock walls and baseboard heating, is replacing the floors and window sashes and is rebuilding the kitchen.

"The main reason I wanted to do this," he said, "is that everybody wants something of their own. As long as we're living over there paying rent, we'll never have anything. It's worth it to me."

At the other end of the scale is the homesteader whose name drew boos from the watching crowd when Mayor Maloney pulled it out at the first lottery: Daniel Frawley, an Ivy League lawyer who owns a house on the Philadelphia main line, works for DuPont here and has no children.

The Frawleys will move in a few months into their homestead house a few blocks from his office. He and his wife designed the new interior themselves and plan to do their own finish work. He hired a contractor to do the preliminary work, such as laying new subfloors.

"Sure it's a little zany," said Frawley. "For a lot of people in my office, the best they can say is that I'm a visionary. I enjoy living in the city and I don't have the territorial imperative—it just seemed to make a lot of sense." Frawley, who is 30 years old, said he and his wife, a teacher in the Wilmington suburbs, "have been driving 700 miles a week in two cars" to get to work. "Now I'm going to walk and she'll just have a few miles to drive."

Not everything is going well in the Wilmington program. One man gave his house back after deciding it was more trouble than it was worth. Some of the recipients are reportedly having trouble obtaining financing. In the mayor's view, however, even if the whole program failed, the city would have lost nothing.

Mayor Maloney, a 31-year-old Democrat, said the city was "perpetuating blight by owning boarded-up houses. This is not a housing program, it's an antiblight program. There are people who are willing to make this investment at no cost to us, and it might get people back into these neighborhoods who are concerned about clean streets and good schools. What if it doesn't work? All we had to start with was a lot of boarded-up houses."

Maloney, like almost everyone in the Wilmington and Philadelphia programs, acknowledged that urban homesteading will not benefit the people at the bottom of the economic and educational ladder, for whom the shortage of decent housing is most acute and who have the fewest resources for obtaining it.

A federal urban homesteading bill, sponsored by Sen. Joseph Biden (D-Del.) and incorporated into an omnibus housing bill about to emerge from committee, would sharply increase the number of houses available for homesteading by turning tens of thousands of federally owned units over to the cities, and would make low-cost federal loans available to the participants.

Without that bill, homesteading officials acknowledge that the program does more to benefit the municipalities through neighborhood rehabilitation and the reopening of a few abandoned units than it does to benefit the nation's urban poor.

"Don't tell me about the poor, I'm Mr. Poor himself," says Joseph Coleman, a Philadelphia city councilman who is the chief architect of that city's homesteading program. Coleman was born in Mississippi and is trained in chemistry and the law.

Coleman says of the criticism that urban homesteading will do nothing for the poor: "You have to ask how these hours could be used for them. What about those millions of dollars that have been spent on housing programs for the poor that didn't work? What we have here is a program that tells a man, 'There's a pair of boots, now get walking.' "

He said the first objective of urban homesteading is to stop blight and "save the cities. We have got to get economic integration back into the city. If our cities go down the drain, how can we help the poor? You can't have a city of welfare clients."

Philadelphia's homestead ordinance provides that the houses to be distributed first be reassessed downward to their current actual value, which is minimal, and that the homesteads be exempted from increased assessments on their improvements for five years, the period during which they are required to live in the houses.

"We're not giving anything away," Coleman said. "We're giving these hours to people who will pay for them with their sweat and their toil and their risk. It's not easy. We don't want people to think it's easy. We're talking about creating life where there is no life, that's their payment.

Coleman said Philadelphia expects to set up a nonprofit corporation, financed by church contributions, that would provide rehabilitation loans to homesteaders. The first 100 houses are expected to be turned over in May, he said. There are an estimated 30,000 abandoned housing units in Philadelphia, including those owned by the Federal government.

The federal houses, acquired through foreclosures on federally insured mortgages, are in better condition than those owned by the city, according to Wait Johnson, Mayor Frank Rizzo's housing coordinator, "but even if the Biden bill passed today it would take two years just to set up the mechanics of transferring those houses over to us. We need houses now."

He said the city's homesteading board, of which he and Coleman are members, is still trying to deal with such questions as what happens if the homesteader does not keep up his part of the bargin, and whether the homesteader should get clear title at the beginning or only after the rehabilitation is completed.

Without careful attention to such questions, and without careful selection and preparation of participants, without neighborhood consultation and the cooperation of private lenders, and without tax and assesssment incentives, Johnson and others agree, urban homesteading may not be able to achieve even the limited objectives currently set for it.

Mary F. Berry, a consultant to the HUD Office of Policy Planning, says in the January issue of "HUD Challenge" that urban homesteading is "essentially an excellent idea," but is "doomed to failure if it is seen merely as a way of transferring the unpleasant burden of abandoned, foreclosed housing from government agencies to homesteaders. That approach would be yet another attempt to renew slums on the cheap . . . putting people into vacant houses does little to arrest the process of social and physical decay and of inadequate social services that usually combine to produce the problems of housing abandonment."

MEDVEDEV PRAISES "GULAG ARCHIPELAGO"

Mr. JACKSON. Mr. President, Roy A. Medvedev, the well-known Soviet historian and author of an unofficial history of Stalinism, has written a long essay circulated to western newsmen which praises and defends Alexander I. Solzhenitsyn's "The Gulag Archipelago." While the two writers differ on certain facts and evaluations, Mr. Medvedev calls Solzhenitsyn's latest book a "mercilessly truthful" work giving new insight into Soviet prison life.

I ask unanimous consent to print in the Record the excerpts from the Medvedev essay as published in the New York Times of Thursday, February 7, 1974.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From Roy Medvedev's Essay on Solzhenitsyn's "Gulag Archipelago"

(Special to the New York Times)

Moscow, February 6.—Following are excerpts from an essay by Roy A. Medvedev, the dissident Soviet historian and specialist on the Stalin period, on the book "The Gulag Archipelago, 1918–1956," by Aleksandr I. Solzhenitsyn, which deals with the Soviet prison system:

In this essay I have tried to express only brief and preliminary thoughts about Solzhenitsyn's new book, not only because the author has published only the first out of three or four volumes.

Solzhenitsyn's book is crammed with fearful facts, many of the lesser of which stick in the mind with difficulty. In it is a concrete description of the unusual and tragic destinies of hundreds of people that were, however, typical of decades past.

This book is full of deep and true thoughts and observations, and some not so true, but born in the monstrous sufferings of tens of millions of people, sufferings that our people had never endured before during their history of several centuries.

No one ever came out of the awful "Archipelago" of Stalinist camps and prisons the same as he went in, not only in his age and health but in his ideas about life and people. I think that few people, having read the book, would be the same as when they opened its first page. In this respect, it seems to me that nothing in Russia or world literature can compare with Solzhenitsyns book.

BASIS FOR THE NARRATION

A certain I. Solovyev wrote in Pravada on Jan. 14 that facts given in Solzhenistyn's book were not authentic and were the result of a sick imagination of the author's cynical falsification.

This is certainly not true. I cannot accept certain of Solzhenitsyn's evaluations or conclusions but I must firmly state that all the basic facts given in his book and all the details about the life and torments of prisoners from the moment of their arrest to the moment of their death (in rare cases, up to the moment when they were released) are completely authentic.

It is inevitable that certain inaccuracies occur in such a sweeping literary research work based not only on the author's impressions but on testimonies and stories and accounts of more than 200 former prisoners, especially since Solzhenitsyn had to write his book in deep secrecy and had no opportunity to discuss it before publication, even with many of his close friends.

However, these inaccuracies are infinitesimally few for such a significant book.

EXPULSIONS ARE DISPUTED

I think, for example, that the size of expulsion from Leningrad (the Kirov wave) in 1934–35 was smaller than Solzhenitsyn indicates. Tens of thousands of people were expelled. But not a quarter of the two million population of the city. I do not have exact figures. I am simply guided by random facts and my own impressions. (I lived in Leningrad for more than 15 years).

It is hard to believe that, in Solzhenitsyn's story from an unknown informer, Ordzhonikidze [Serg Ordzhonikidze, People's Commissar of the Workers' and Peasants' Inspection Commission] used to talk to old engineers with two pistols lying on the right and left of his desk.

The G.P.U. [main political administration, the secret police] hardly needed to use notes of random people to trace officials of the old Czarist apparatus (and not even all of them but mainly those from judicial bodies and the police). All of these lists could have been found in local archives and published reference books.

I think that Solzhenitsyn exaggerates the number of peasants evicted during collectivization (15 million). But if we add to those victims the peasants who died of hunger in 1932–33 (in the Ukraine, alone, not less than three million to four million people died), then we will get a figure larger than the one Solzhenitsyn gives.

ONE HUNDRED OFFICIALS PUNISHED

After Stalin's death not 10 but about 100 responsible officials at the Ministry of State Security and Ministry of Internal Affairs were put in jail or shot (and in certain cases without an open trial). But still, this figure is extremely low in comparison with the number of criminals "from the Organs" [security organs] who remained free or even got various high posts.

Bukharin in 1936–37 was no longer a Politburo member, as Solzhenitsyn writes, but only an alternate member of the Central Committee.

These and some other inaccuracies are absolutely immaterial for such a tremendous literary research work as Solzhenitsyn has done. On the other hand, Solzhenitsyn's book has other "defects" about which he himself writes in his introduction: he was not able to see everything, to remember everybody, or to guess about everything.

He writes, for example, about the arrest of the amnestied and repatriated peasants in the mid-1920's. But more awful in its consequences was the campaign of dispossession of the Cosacks and the mass terror on the Don and the Ural Rivers in the winter-spring of 1919.

This campaign lasted "only" two months but it prolonged the civil war, with all its excesses, not less than a year, giving the white armies dozens of new cavalry regiments.

PRAVDA VS. THE GAZETA

While Pravda was trying to prove that facts given by Solzhenitsyn are not authentic, Literaturnaya Gazeta tried on Jan. 16 to convince its readers that the book did not contain anything new.

But this is not true. Although I have been studying Stalinism for more than 10 years, I still found a lot of unknown things in Solzhenitsyn's book. Except for former prisoners, Soviet people, even those who remember the 20th and 22d party congresses of the Communist party, hardly know one-tenth of the facts about which Solzhenitsyn writes. And young people do not know even one-hundredth part.

Many newspapers write that Solzhenitsyn justifies or even praises the Vlasovites, but this is a deliberate and malicious distortion. [Lieut. Gen. Andrei A. Vlasov was a Soviet commander whose forces were captured by the Germans in World War II and who then led some units who fought with the Nazis against the Red Army. He was seized at the end of the war by Soviet authorities, imprisoned and executed.]

Solzhenitsyn writes in "Archipelago" that the Vlasovites became evil mercenaries of the Hitlerites and that "Vlasovites could be tried for treason," that they were taking the enemy's weapons and, on getting to the front, they fought with despair like doomed people, Solzhenitsyn himself, with his battery, was almost destroyed in East Prussia by Vlasovite fire.

EACH HIS OWN TRAGEDY

But Solzhenitsyn does not simplify the problem of the Vlasovites. In numerous "offshoots" of Stalinist repressions, many of us had our own particular tragedies.

For Solzhenitsyn, not his own arrest but the cruel and awful destiny of millions of Soviet prisoners of war of his own age and of the age of the Great October Revolution, who made up the major part of our professional army in June, 1941, became a deep personal tragedy.

This army was destroyed and surrounded in the first days and weeks of war because of criminal miscalculations of Stalin, who was unable to prepare either the army or country for war; because of Stalin's absurd and stupid orders on the first day of war and abandoning his post during the first week, and because of the shortage of experienced army commanders and commissioners [after the purges].

More than three million soldiers and commanders landed in prison camps and one million others were later imprisoned near Vyazma, near Kharkov, on the Kerch Peninsula and near Volkhov. But Stalin's Government betrayed its soldiers in prison, too, by refusing to recognize Russia's signature on the international prisoner-of-war convention. As a result, Soviet prisoners did not get help through the International Red Cross and were doomed to die of hunger in German concentration camps.

Once again, Stalin betrayed those who survived when, after victory, almost all were arrested, increasing the population of "the gulag archipelago." This triple betrayal of Stalin's soldiers is what Solzhenitsyn considers the worst, gravest crime of the Stalinist regime.

Solzhenitsyn does not justify and praise those desperate and unfortunate people [who collaborated with the Nazis]. But he is asking the tribunal of their descendants to take into consideration certain circumstances that would diminish their guilt. Those young and often illiterate fellows, most of whom were from villages, were demoralized by the defeat of their army; and they were repeatedly told in concentration camps: "Stalin denounced you" and "Stalin does not care about you."

As to the heavy battle near Prague, between several large Vlasovite units and German SS units under Gen. [Ulrich] Steiner, this is a historic fact that cannot be ignored. What happened, happened.

Solzhenitsyn is accused of minimizing the evil deeds of Hitlerites and the cruelty of Russian Czars. A study of the Germans' "Gulag Archipelago" was not part of Solzhenitsyn's task.

STALIN'S ROLE AFFIRMED

Although in a number of cases he writes about the tortures of the Gestapo and inhumane treatment of Soviet prisoners by the Fascists, he does not depart from the truth in writing that Stalin started mass repressions, deportation of millions and tortures and falsified trials long before Hitler came to power. And all this continued here for many years after the defeat of German Fascists.

The Russian Czars could hardly be compared to Stalin in this respect. Solzhenitsyn speaks a lot in his book about Czarist prisons and exile, since it was the topic of open conversation among prisoners, especially when an old Bolshevik was among them.

In these conversations, the former prisons and exile as well as the scale of repression appeared like a rest home to the prisoners of the nineteen-forties.

During the revolution of 1905–07 and the following years, the Czarist executioners were shooting each year the same numbers of peasants, workers and craftsmen as were shot or died in camps and prisons [in the Stalin era] in one day.

BEST CHAPTERS OF THE BOOK

For me, especially important were chapters entitled "The Bluecaps" and "Capital Punishment." Here the author achieves the greatest depth in psychological analysis of the behavior of both prison guards and their victims.

Here, Solzhenitsyn writes more deeply than Dostoyevsky. I do not mean to suggest that Solzhenitsyn is a better writer than Dostoyevsky. I am not a literary expert.

But it is obvious that Stalin's prisons and camps, through all stages of which Solzhenitsyn went a century after Dostoyevsky's arrest and exile, gave the author of "Gulag Archipelago" many more opportunities for exploring different forms of malice in the human soul and human institutions than were given to the author of "Notes from the House of the Dead." Of course, Solzhenitsyn coped with his task as only a great writer could."

SOLZHENITSYN ON STALIN

In several places, Solzhenitsyn's book has a number of deep, precise observations on Stalin's personality, as if in passing. The author, however, considers the personal role of Stalin in our country's disaster and even in the creation of "The Archipelago'" so insignificant that most of his comments on Stalin are included not in the basic text of the book but in short remarks and notes.

Thus in notes on the next to last page, Solzhenitsyn writes: "In the years before prison and in prison itself, I thought for a long time that Stalin had given a fateful direction to the course of Soviet state. Then Stalin quietly died. But how much has the course of our ship of state changed in fact? The particular personal imprint he gave to events was dismal stupidity, wilfullness and self-glorification. Otherwise, he simply followed exactly 'in the footsteps.'"

It is hard to agree with such a view of Stalin's role and his significance in the tragedy of the ninteen-thirties. Certainly it would be a mistake to divorce entirely the era of Stalinist terror from the preceding revolutionary era.

Of course, there is a continuity between the party that took power in October, 1917, and the party that remained in power in 1937, 1947, 1957, and 1967 when Solzhenitsyn was finishing "The Gulag Archipelago."

But that continuity is not tantamount to identity. Stalin did not "follow in the footsteps." In the very first years after the revolution, he did not always follow in Lenin's footsteps. And certainly afterward, with every step he led the party astray.

Stalinism in many respects negates—and is bloody annihilation of—Bolshevism and all revolutionary forces. In a certain sense, it is a real counterrevolution. Of course, we do not contend that the Lenin legacy and the Lenin period in the history of our revolution do not require most serious, critical analysis.

STALINISM NOT STUDIED

Solzhenitsyn does not set himself the task of studying the phenomenon of Stalinism, its nature, peculiarities, its development, history, its premises. Such a notion as Stalinism probably does not exist for Solzhenitsyn, who feels that Stalin "followed exactly in the footsteps." What we might call historic background is altogether absent from Solzhenitsyn's book.

It opens with a chapter called "Arrest," through which the author emphasizes immediately that he is studying and describing only the world of prisoners, the world of outcasts, the mysterious and terrible country of Gulag, its geography, structure, its social system, its written and unwritten laws, its population, its customs, its rulers and its subjects.

And Solzhenitsyn does not need historic background too much. For his Gulag Archipelago made its appearance as early as 1918 and since then has been developing according to its own laws.

This single-mindedness, interrupted sometimes by profound observations, is preserved throughout the whole volume. Of course, such an approach is a legitimate right of the author.

BOOK IS "POWERFUL BLOW"

Without uttering a word about Stalinism and seemingly denying the logic of such a concept altogether, Solzhenitsyn, with his literary research into one of the most basic elements of the Stalinist system, contributes much to the study of the entire criminal and inhuman system of Stalinism.

Solzhenitsyn is wrong in assuming that this system has been preserved in its basic features up to the present day. But it has not departed entirely from our social, political and spiritual life. Solzhenitsyn's book strikes a powerful blow at Stalinism and neo-Stalinism. None of us has done more in this regard than Solzhenitsyn.

Solzhenitsyn believes that Lenin insisted on carrying out a new "proletarian and socialist" revolution in Russia in 1917 although neither Russia nor the Russian people were ready for it or needed it. Solzhenitsyn also believes that Lenin abused the use of terrorist methods in fighting his political adversaries.

It is easy to analyze revolutionary errors 50 years after the revolution. However, the first socialist revolution was inevitably a step into the unkown. There was nothing to compare it with. Its leaders had nobody's experience to borrow from. In this case, it was impossible to calculate and weigh everything in advance.

However, no sybernetics expert in the world can prove that the armed uprising on Oct. 24, 1917, was historically premature and that all subsequent crimes of the Stalinist regime resulted from this fateful error by Lenin.

LENIN ERRORS CONCEDED

But even the most dispassionate historian would have to say that any reasonable limit in the use of violence was exceeded many times over even in the first years of Soviet rule. Starting in the summer of 1918, our country was swept by a wave of both White and Red terror. A major part of these acts of mad violence was absolutely unnecessary and even harmful from a logical standpoint and in terms of the interests of the class struggle.

One can only regret that these abuses of power took place. They should be condemned. And yet this terror of the Civil War period did not predetermine the frightful terror of the Stalin era.

Lenin committed many mistakes and many of them he himself admitted repeatedly. An honest historian must undoubtedly point out all these mistakes and abuses.

However, the sum total of Lenin's activities, we are convinced, was positive. Solzhenitsyn thinks otherwise. But that is his right. In a socialist country everybody should be given the opportunity to express his views and opinions about the activities of any political leader.

If power corrupts and spoils people, if politics as Solzhenitsyn thinks, "is not a field of science but an empirical field that cannot be described by mathematics and is even subject to ego and blind passions," if all professional politicians are only "boils on the neck of society preventing it from freely moving its head and arms," then what is it we should strive for? How should we build a just human society?

Solzhenitsyn speaks about that in passing. He puts his ideas in parenthesis without explaining or interpreting them in detail. But from these brief comments, it is clear Solzenitsyn would consider most correct a social system "headed by those who can direct its activities intelligently."

Such people include mainly engineers and scientists (while workers, in Solzhenitsyn's opinion, are only auxiliary helpers of engineers in industry). But who will exercise moral leadership in society?

It follows from Solzhenitsyn's reasoning that moral leadership can be exercised only by religion, not political doctrine. Only belief in God can serve as the foundation of human morality and real believers can live through the hardships of Stalinist camps and jails better than others.

However, for the overwhelming majority of the Soviet people, religion is no longer and cannot become the truth. Young people in the 20th century would hardly find guidance in belief in God.

I do not very much like these ideals of Solzhenitsyn. I am deeply convinced that for the forseeable future, our society should be built on a combination of Socialism and Democracy, and that specifically the development of Marxism and scientific Communism will allow creation of the most just human society.

Before his arrest, Solzhenitsyn considered himself a Marxist. After he went through the cruel tests described with such merciless truthfulness in "Gulag Archipelago," Solzenitsyn lost his belief in Marxism.

But this is a matter of his conscience and convictions. Any sincere change of conviction deserves respect and understanding.

Marxism will certainly not perish for loss of one of its former adherents. We even think that Marxism will only benefit from debate with such an opponent as Solzhenitsyn.

UAW SUPPORT FOR NATIONAL HEALTH CARE

Mr. PERCY. Mr. President, in this year in which the Senate will consider major health insurance legislation, I feel it is appropriate to bring to the attention of my colleagues and of the public the long and active involvement of the UAW in health care in America.

For more than 30 years, the UAW has compiled an impressive record of participation in improvement of our national health care delivery system. As early as 1943, the UAW was active in supporting the Wagner-Murray-Dingell bill which called for changes in the Social Security Act and for the creation of a compulsory national health insurance system for the whole U.S. population, incorporating hospital, medical, dental, and nursing home care, and financed through a payroll tax.

In 1945 the UAW supported President Truman's proposed comprehensive prepaid medical insurance plan for all people. In 1946 it supported the President's bill authorizing some $230 million in Federal grants to the States for comprehensive medical care for people who could not otherwise afford it.

In 1951 President Truman established the President's Commission on Health Needs of the Nation and directed that it study and report on health manpower, the need for additional facilities, health research, the effect of existing health government programs and the adequacy of private programs financing medical care. The Commission, chaired by Paul B. Magnuson, included UAW President Walter P. Reuther and Albert J. Hayes, president of the International Association of Machinists. Mr. Reuther sat as a member of the Commission for several years. Later, Mr. Reuther was elected chairman of the Committee for National Health Insurance—CNHI—a position now held with distinction by Leonard Woodcock, UAW president.

The CNHI has long been active in the development and support of the Health Security Act. In addition, the UAW supported the Forand bill in 1959 which eventually evolved into medicare in 1966.

Whether the issue has been the delivery of health care, its costs, medical manpower or its distribution, or quality of care, the UAW has accepted the challenge and provided testimony, information, and direction to congressional committees as needed. The list of testimonies alone is an impressive one.

Aside from the national scene, the UAW has been active in carrying policy into practice. Since its inception, UAW members have placed a high priority on adequate health care insurance, as they do not generally have the substantial savings necessary to pay health bills, and illness which deprives them of their work can be disastrous. In response to these needs, the union has been in the process of developing and negotiating health benefits for its members. They have had coverage for both inpatient and outpatient care for a number of years. They have also expanded inpatient benefits to cover up to 365 days of care and a full range of medical services and have virtually eliminated coinsurance and deductibles. In the area of ambulatory and preventive care, the UAW developed nursing home, home care, and rehabilitation coverage. In 1964 it was the first to negotiate a nationwide mental health outpatient benefit. In last year's negotiations, the UAW included a dental health care program covering the entire family and a drug and alcohol treatment benefit for ambulatory patients. Mr. Robert Johnston, regional director of the UAW, has been most gracious in enabling me to study the results of some of these programs firsthand.

By the mid-1960's, the UAW recognized that the disorganization of the health care system and the runaway inflation in health costs had reached the point where it was increasingly difficult to improve health benefits at the bargaining table. Workers recognized that they would have to obtain changes in the society's approach to health care if the gains made at the bargaining table were to be assured. These developments gave rise to the UAW's active involvement in developing a national, comprehensive health insurance system through CNHI.

The UAW is not only concerned with the members' health outside of the plant but inside of the plant as well. To this end, the union has fought for a cleaner, safer, and healthier work environment. At the national level, the UAW supported the Occupational Safety and Health Act of 1970. At the worksite, the union has been involved in all phases of health and safety on the job, from negotiating regular breaks in work and washup time to the control of air pollution, extremes of heat or lack of it, and noise pollution, not to mention control of work performed on dangerous, previously unguarded machinery.

The UAW was instrumental in establishing the Blue Cross/Blue Shield insurance program in the forties. The philosophy or social policy that the union had then is the same as it has now: no man or group of men should profit from another man's illness.

In its concern for reorganization and delivery of health services, the union took leadership in the mid-1950's in organizing the Community Health Association—CHA—a community-oriented prepaid group practice plan. This type of program preceded by some 15 years the widespread and growing interest in "health maintenance organizations," another name for prepaid group practice. In January of 1972, Blue Cross/Blue Shield incorporated CHA and renamed the program the Metro Health Plan. Around the Nation, the UAW has given support to other prepaid group practice plans, for example, HIP in New York; Kaiser Permanente in California, Oregon, Ohio, and Colorado; Group Health Plan, St. Paul; to name just a few.

The UAW's efforts to find a more responsive and economical health care delivery system included the support of S. 14, Senator Kennedy's Health Maintenance Organization bill. This bill would have subsidized the development of prepaid group practice plans across the Nation. The President recently signed the Health Maintenance Organization Act of 1973, a modified version of the original proposal.

I could expand further on how the UAW has lent its support to the development and improvement of medicare, medicaid, OEO, and numerous Federal and local programs that benefit not only union members but all Americans. The point should be clear that the UAW and its President Leonard Woodcock have been involved with health care for all Americans for many years and have been involved as a spokesman for the concerned health care consumer.

J. MARK TRICE

Mr. TOWER. Mr. President, it is a privilege indeed to pay tribute to our former minority secretary and true friend, J. Mark Trice, retired after over 53 years of service in the Senate.

Mark was, I think, the second person I met in Washington after being elected as a Senator from Texas in 1961. His total service at that time equaled the total of my years on Earth.

Any freshman Senator would be somewhat in awe of such amassed experience. In fact, I am still awed by it. Yet it was made available to me—and to every Republican newcomer—with complete selflessness, in an effort to help us through a most bewildering period. I will always be grateful for that guidance.

Mark Trice was dedicated to the Senate and his Senators. For that reason, he never hesitated to speak plainly and clearly when he provided his most capable advisory services. In other words, he was the most valuable type of staff assistant, for he was never afraid to speak his mind and tell you the truth as he saw it.

The most striking architectural creation in Washington is simply known as "The Capitol"—that majestic building crowned with a perfectly proportioned great dome.

It houses Congress—still the strongest, most vital legislative body in the world. Thus it is not a mere museum or pantheon. It is the symbol of American strength combining unity and diversity, "E Pluribus Unum."

Yet, I am speaking today not of Congressmen, but of a staff member. For the unique strength of our great national legislature has long depended not just on the quality of its Members, but on the loyalty and service of such professional assistants as Mark Trice.

Mark, thank you for all the good years you gave us. May you enjoy many more good years in retirement as well.

DOC WALKER DAY

Mr. FULBRIGHT. Mr. President, Doc Walker of Trumann, Ark., one of the Nation's outstanding Boy Scout leaders, was recently honored with a "Doc Walker Day" in Jonesboro.

Mr. Walker has been working in scouting since 1942 and is the scoutmaster of troop 58 in Trumann. He has provided leadership for two entire generations and has worked with some 1,800 boys in his troop.

As the Jonesboro Sun recently reported:

> Most are grown now with families and jobs of their own, perhaps better for the fact that their lives came into contact with one of Northeast Arkansas' most famous scouters.

Activities on Doc Walker Day included a parade of Scouts from throughout the patch trading session.

Mr. President, I join in paying tribute to Doc Walker for his years of outstandings service and leadership to his community and to the young men of Northeast Arkansas. I ask unanimous consent **to have printed in the Record an article** from the Jonesboro Sun of February 3.

There being no objection, the article was ordered to be printed in the Record, as follows:

1,800 Boys Treated as if His Own by Doc Walker

Doc Walker of Trumann, who is known to Scouts in the Shawnee District as "Mr. Scouting," never had any sons, but he adopted, through Scouting, two entire generations of boys and treated them as if they were his own.

Several of those boys, some with sons of their own in Doc's Troop 58, were present yesterday as the Shawnee District honored Walker during "Doc Walker Day" in Jonesboro, with a parade, a luncheon and a "patch trading session" Saturday afternoon in the Army Reserve Center on Caraway Road.

Doc's wife, Mattie, and one of their two daughters, Mrs. Effie Dungan of Jonesboro, were present during the day-long honorarium. The other daughter, Mrs. Frances Lance who lives at Waxahachie, Tex., was unable to attend the festivities honoring her father.

Looking back over the 31 years since he began working in Scouting in 1942, Doc said he figured he had been in contact with around 1,800 boys through Troop 58. Most are grown now with families and jobs of their own, perhaps better for the fact that their lives came into contact with one of Northeast Arkansas' most famous scouters.

Doc said he began Scouting on Nov. 6, 1942, and obtained his first registration in March, 1943. At that time Troop 54 was the only Scout troop in Trumann. Later Troop 58 was formed with Walker as Scoutmaster, a post only he has held since and one he is not ready to relinquish to anyone.

At 59 Doc still enjoys the outdoors and camping, one of the reasons he was drawn to Scouting. Most of all, however, he relished the opportunity to be able to teach young people how to cope with the life they were to face as adults.

During the time Walker has worked with Scouting, he has attended three national jamborees and countless district and state gatherings.

Besides all that, he still had time to devote to his family and his job with the Singer Company in Trumann. He retired on Dec. 31, 1969, from Singer.

His wife and daughter, noted during the course of conversation that Doc really didn't retire in 1969, that's just the time when he gained his freedom to begin working.

Scoutings' highest rank Eagle, has been attained by about 20 scouts from Walker's troop after they went from Boy Scouting into Explorer Scouting.

Doc himself has attained many awards for his work including Order of the Arrow. Silver Beaver and Honor Camper, the latter an award that can be gotten only through nomination by Scouts within a master's own troop.

Mrs. Walker said that her husband's work with Scouts has "really been worth it all," especially as she looks back in retrospect at the many times when she questioned his leaving the family home to go camping or on other activities with his troop.

"He enjoyed it so much," she said, "that soon he had me enjoying it with him."

His daughter, Effie, who was at the honorarium said at one time during the program that she went with her father on many of his Scouting activities.

"Our home was open at all times to the boys and they were running in and out all the time to ask Doc about various things in Scouting." Mrs. Walker said.

The fact that they had two daughters about the ages of the Scouts probably had something to do with the fact that many of the boys were around a lot.

"Several times he went off camping when I really thought we needed him at home, but it has been worth it all to see young lives molded into men through Scouting," she said. She told of several letters Doc had received from former members of his troop while they were in the service telling him how much they appreciated the training and guidance they had received as Scouts.

Praise is sweetest when it comes from one's own family, but for Doc Walker it did not end there. A telegram of commendation and a letter of congratulations from Governor Dale Bumpers and from the Chief Scout Executive were read to the persons gathered at the luncheon in the First Christian Church Fellowship Hall, Saturday afternoon.

K. C. Brown, Shawnee District executive, praised Walker as the person who "fits the vision of a Scoutmaster" more than anyone he ever met.

Brown presented Walker with the District Award of Merit from the Shawnee District, the tenth such award ever presented in the history of the district.

Members of the Arkansas Antique Car Club, of which Doc is a member, Friday night presented him with a plaque in honor of his years of service through scouting.

Doc himself had a few words to say.

He noted that the "pay" for working in Scouting is right in this room. There are several men and boys here that have been and are still in my troop. That's my reward, working with boys, helping them to be better men.

"I can look around the room and see several persons I feel are more deserving of this award," Walker said. "No one asked me or I would have suggested someone else."

A special patch has been created in honor of Doc Walker Day and is in the process of being made up. An oil painting of the patch design by artist Lorrie Pearson of Jonesboro was shown at the meeting and later presented to Walker.

He was also given a red wool mackinaw jacket by Scoutmasters of the district. He was actually presented with a cutout from a catalog because the jacket, which was not available from stock in his size, had to be specialy ordered.

Doc didn't seem to mind though, he already has his reward—the expression of love and respect from his family and the scores of persons whose lives he has touched over the years.

CHILI

Mr. TAFT. Mr. President, I could not fail to note certain remarks by the distinguished Senators from Texas and Arizona regarding the quality of their respective States' chili. Each likened the other chili to barnyard apples, and possibly both spoke truly. The point they missed is the secret of tenderness and tang by this standard. The only real chili comes from Cincinnati, Ohio.

Whereas southwestern chili, both in flavor and effect, guarantees new vires of Montezuma's revenge, Cincinnati chili draws on the subtleties of the Balkans for its spicing. In a recent test conducted by the chili institute, a blindfolded subject, upon tasting southwestern chili, reported "images of Texans mowing down helpless Mexicans and then ransacking their mess kits." Cincinnati chili, on the other hand, brought a detailed description of the floor plan of the Castle of Zenda. Needless to say, the desperate attempts of pseudo Latinos to cover the taint of fatigue bear little comparison with the cuisine of provinces trod by Lucullus and Vittelius.

I can promise my distinguished colleagues from Texas and Arizona that a Cincinnati three-way and a couple of cheese coneys at an Empress or Skyline chili parlor will deflate both their provincial egos and their lower tracts. Indeed, I think it symbolic that Cincinnati chili is served over spaghetti, but southwestern chile is accompanied by beans.

I ask unanimous consent that a full report on the superiorities of Cincinnati chili, prepared by one of the world's foremost chili cognoscente, be printed in the Record for the further enlightenment of my benighted colleagues.

There being no objection, the following article was ordered to be printed in the Record as follows:

Best Damned Chili on Earth

(By F. Starr)

What do Jerry Rubin and Robert A. Taft, Jr., have in common? Precious little, of course. But both know that without question the best chili on earth is made in their home town, Cincinnati. And only in Cincinnati. Thirty miles down the Ohio, in Rabbit Hash, Kentucky, Cincinnati chili is unknown. The same distance upstream, in Moscow, Ohio, it is as alien as Peking duck.

Neither Rubin nor Taft deals casually with facts. Contrast them with Elizabeth Taylor's chili chef, Dave Chasen, who clings to the fanciful notion that Texas is still the chili capital of the world. (Question: Why, then, does he live in Hollywood?)

And Chasen isn't alone in believing this. Every year, an "international chili competition" (obviously rigged) is held somewhere in Texas, and one of the believers walks off with the prize—presumably on a rotating basis. Can foreign chili equal and surpass Texas's fiery slush? Can an Arab get to heaven? In a single onionsoaked breath the Texans cry, "No!" But they are wrong.

How could such an idea gain currency in this enlightened age? I submit that the villains are the members of the Eastern Establishment press corps who spent long evenings at the L.B.J. ranch back in the '60s. Hostile to Johnson's policies and guilty over having accepted Pedernale's hospitality, they damned the politics and praised the food. Not one of those pen-pushers, by the way, has seen Cincinnati since the '37 flood.

It is no secret that Cincinnati chili surpasses that of Texas, but it's a well-kept truth, notwithstanding the fact that the genuine article is available locally at some two dozen establishments. One reason for the world's ignorance is that those addicted to the fare at the Empress or Skyline chili parlors rarely leave town for long enough to spread the word. Jim Dine, the painter, had such acute withdrawal symptoms when he did move from the city that the National Endowment for the Arts nearly had to enter the food-shipping business. Fearing just such physical torment, the real Cincinnatian just stays put, bound to his daily fix of "Three-Ways" and "Four-Ways."

Those few émigrés who conquer the physical habit retain psychic scars for decades longer. I once saved the sanity of a Cincinnati woman living in Manhattan who verged on psychosis over her inability to express to her Brooklyn-born husband the euphoria which comes from a surfeit of root beer and Empress chili dogs. Fortunately, I was able to rush her half of one of the delicacies that my wife Nancy had been preserving in our freezer. This brought her around.

Another cause of the general public's unfamiliarity with Cincinnati chili is that the product doesn't travel well. Calvin Trillin, writing in *Playboy*, took pride in reporting that his beloved Kansas City cheeseburgers arrived intact at P.O.'s on both coasts. That is like bragging that Gallo Thunderbird is superior to a '62 Lafite because it reaches the village alcoholic in Cecaucus, New Jersey, in the same state it left the factory. I am proud that Cincinnati chili is a more delicate flower; indeed, one so fragile that it wilts when exposed even to changes in barometric pressure. Chemists assure me that anything over 47.3 pounds per square inch breaks down the essential chili molecule into unsavory compounds.

Last Christmas I tried to bring a box of Skyline Two-Way (chili, spaghetti) back with me on the plane. The TWA inspector at the gate stopped me flat with the declaration "Your package contains a bomb." He eventually allowed me to board, but his charge proved true that evening, as several Boston friends of mine can testify.

If you want to check my claim, go to Cincinnati. Take the bus, which drops you at the East Fifth Street Terminal, next to the A-OK parking lot and directly across from the Empress, oldest of the local chili emporia. Say "Howdy" to Joe Kiradjieff at the cash register and behold, as you pass, the largest collection of breath mints in the hemisphere.

The menu is as economical with words as a Shakespeare sonnet: One-Way Chili, Two-Way, Three-Way, Four- and Five-Way—Coke, root beer, and coffee. One-Way is straight chili, Two adds spaghetti under the chili, Three piles a layer of grated cheese on top, Four a cap of onions, and a Five-Way is constructed over a fundament of beans. The menu includes no desserts ("What's wrong, didn't you get enough chili?"), no side orders of anything except oyster crackers (which come with everything), and no salad. You can have chili dogs, though, which are known as cheese coneys but have nothing in common with that dish except the name.

I suggest you start with a Three-Way and two or three chili dogs. And root beer, of course. Your Three-Way is a good starter since it includes all the basic elements and no frills. In 1963, I made the mistake of using a Five-Way to introduce my younger sister to Empress chili. She hasn't been back since.

Chili components are stored in separate five-gallon crockery tubs and are later mixed with a single two-arm motion. An average server can produce four Three-Ways a minute, but I once timed a left-hander who spoke no English but could turn out eleven Four-Ways in fifty-six seconds. The Chili Institute of America (CIA) accepts this as a record and has voted to erect a plaque in honor of the event.

Eating chili rivals the Japanese tea ceremony for ritual. Not that it can't simply be bolted—for it most frequently is, just as most tea in Kyoto is guzzled on the run. But one's sense of well-being is heightened by following the rules.

The chili ceremony is easily described. First, let the meal sit for a few minutes to enable the cheese to melt down a bit. Spend your time sipping root beer and crumbling oyster crackers around the edge of the plate, right on the shore line of the orange-brown chili. Then eat from one end of the oblong platter to the other, slicing the spaghetti and cheese (and onions, if you have them) vertically into the brew below and adding more crackers as needed to maintain it all at a barely viscous state.

NEVER eat a Three-Way from the side.

It shouldn't be necessary to state this, but when I was in town a few months ago I stopped by for a quick Four-Way on my way to another dinner and was appalled to notice a fellow attacking his chili sideways, and even mixing it up with his fork. I was scarcely surprised to notice an out-of-state panel truck festooned with agitational bumper stickers parked in the lot across the street. That same person probably eats apple pie sideways.

You have finished your first course. Now turn to the chili dogs. Unlike the Three-Ways, these must be swallowed in one or two gulps, like Russian vodka. The beginner may experience difficulty in this; overcome by embarrassment, he will squeeze the bun too firmly, catapulting the hot dog down the counter into the lap of another celebrant. Assuming this does not occur, the ceremony is complete, unless you want a final Three- or Four-Way.

As you leave, be sure to get a toothpick from the chrome Dial-A-Pick vendor. Set it loosely between your lips, switching it from one corner of your mouth to the other with the tongue only. If you must use your hands, the palm-up ("Turkish cigarette") technique is de rigueur. The preferred post-chili cigar is the Strauss No. 9, unfortunately also available only in Cincinnati.

What is the secret of Cincinnati chili? Why did Reuben Robertson, a Nader's Raider and former Acting Director of the Washington-based CIA, repeatedly hail it as "Nature's Most Perfected Food"? The essence of the recipe is certainly not the beans. These figure prominently only in the Five-Way, which is a Johnny-come-lately concession to the Texans. Nor the spaghetti, which is the standard commercial product. Nor even the cheese, which Skyline's President, Lambert Lambrinides, readily admits is American cheddar. This leaves only the spices.

If you know anyone from Cincinnati, he has probably long since subjected you to a chili dinner made "according to the real Empress (or Skyline) recipe, which Sibyl and I were the first to crack." This is a double lie. In the first place, nobody has cracked either recipe—and they're not identical. Only seven people on earth know them: the five Lambrinides brothers, at Skyline, and Joe Kiradjieff and his mother, at Empress. Not one of the dozens of workers at the various parlors gets near the actual cooking process. Everything is prepared in camera at centralized commissaries and the spices mixed in total secrecy by the Kiradjieffs and the Lambrinides themselves.

In the second place, your friends are the seventy-third and seventy-fourth individuals claiming to have cracked the formula. Every cookbook published in the Queen City contains at least one version. Cincinnati's answer to Craig Claiborne, Dr. Jerry Ransohoff, alone has published in the *Enquirer* no fewer than three recipes for Empress chili, all of them different. This is not to say that Dr. Ransohoff or your friends Sibyl and Ralph are fools. Ransohoff, at least, is a talented gourmet in most other respects. But like Dewey in '48, they have all permitted themselves to make claims in the evening which the sober light of day will not sustain. One fact they might have pondered is that at least eight different spices are involved. I calculate that the chances of identifying all the right spices and then hitting the correct ratios as well are only about one in twelve thousand.

The chief caveat for the aspiring brewer of Cincinnati chili is to forget everything he learned on his trip to the Southwest. It won't help. Cincinnati chili was first concocted in October, 1922, by a man who had never eaten a bit of Texas chili, and it has been made ever since by people immunized against it by geography and culture. The importance of the cultural gulf between the two chili traditions was first brought to light by a premed student, Dale Siemer, who made the discovery during a smell test of Empress, Skyline, and Texas chili—conducted under the auspices of the Chili Institute—for the purpose of exploring their consciousness-heightening properties.

Siemer, blindfolded, reported that the Southwestern mixture forced to mind images of Texans mowing down helpless Mexicans and then ransacking their mess kits. After only one whiff of Cincinnati chili, however, Siemer—who at the time had never traveled farther east than Chillicothe—spontaneously related Wallachian folk tales and the most specific details of the assassination of Archduke Ferdinand in Sarajevo, punctuating the narrative with morose snatches from the Orthodox mass. He ripped off his blindfold, stunned, "This is no Cincinnati concoction," he announced, "but a rare Balkan chili."

Researchers set to work at once. Sure enough, they found that the original Empress Chili Parlor was opened on Cincinnati's Vine Street by Joe Kiradjieff's father, Athanas, when he arrived from Sofia. Born in Macedonia, of Bulgarian parents, Kiradjieff had taken work as an accountant in the Bulgarian capital after being furloughed from the Royal Bulgarian Army in 1917. Restless at his desk job, he soon left Sofia for Cincinnati. He opened a fast food counter in 1922 and, after a year of research and development, served his first chili late in 1923. Kiradjieff's masterpiece was distinguished from all previous chili by the Macedonian spices used—particularly cloves, nutmeg, and cinnamon. You won't have Empress chili by merely tossing these into the pot; but you won't even be in the same ball park if you don't.

Not only that—the Macedonian brew of Cincinnati has been the issue over which an authentic Balkan feud has raged for three decades. Besides the Kiradjieffs, the other roles in this drama have been filled by the five Lambrinides brothers, impresarios of the Skyline chain. It is no secret that the Lambrinides are Greek, and that Greeks and Bulgarians hold no gold medals for neighborly affection.

Who actually invented Cincinnati chili—and, hence, who is heir to the original recipe today? Was the pioneer actually Kiradjieff, Sr., as the Empress faction maintains, or was it Nicholas, the patriarch of the Lambrinides clan? During the '20s and '30s, Nicholas Lambrinides worked as a cook at the original Empress where, according to his sons, he invented the chili formula and preserved it as sole guardian. When he left to set up his own parlor in 1940, he took the recipe with him and it has remained in Skyline hands ever since.

If this account is true, then the Empress recipe is derivative. If it is false, of course, the Lambrinides have been perpetuating a heresy. It requires little imagination to understand the grave implications of this controversy for the two great chili dynasties. What may not at once be appreciated is that thousands of other Cincinnatians have just as much at stake, especially those who, like myself, have devoted a major part of their adult life to eating chili.

Every seven years the human body completely replaces itself, cell for cell. This means that anyone who consumes as few as 7,665 Three-Ways becomes, as it were, a Three-Way, with Skyline or Empress chili coursing through his veins disguised as blood. This is the stuff of which deep allegiances are made and which threatens to perpetuate the feud for generations to come. Alarmed at this prospect, the CIA has acted to set up a neutral commission to investigate the issue. But it has yet to find anybody who is neutral.

In spite of all this, it would be wrong to conclude that the chili barons are hung up on Balkan ethnicity. Far from it! You are met at the door with Muzak, not gusli or buzuki music, and when somebody painted a mural of the Parthenon on the wall of a Vine Street Skyline it was soon replaced with prints of Ohio River steamboats. Farther down Vine you may still hear Greek spoken behind the counter of another Skyline by two servers recently arrived from Sparta, but this is a rarity today. The great parlors are in fact monuments to Formica and Naugahyde, their equipment ordered from the same catalogs out of which the St. Clair Broiler in St. Paul and Winstead's in Kansas City were created. If (perish the thought) some tragedy caused the demise of these establishments as chili marts, they could be resurrected as burger joints.

Fortunately, the resemblance between Cincinnati's chili parlors and the legions of franchised greasy spoons ends there. Whatever their differences, the Skyline and Empress are still serving a distinguished cuisine, as distinctive in its way as the *pistou* or *cassoulet* of Provence. It is the only regional fare in the nation that has courted battle with the Almighty Cheeseburger on its own turf and has not been put to rout.

THE FEDERAL PAY RAISE

Mr. BIDEN. Mr. President, yesterday the President of the United States sent his proposed budget for the fiscal year 1975 to Congress. It contained a pay raise for Members of the House of Representatives. Senators, Federal judges, most Presidential appointees, and an increase in the present $36,000 career ceiling.

Unless rejected by the House or Senate within 30 days, the salaries of Members of Congress—now $42,500—will go up to $45,700 next month, and to $49,100 in 1975, and to $52,800 in 1976.

This is an inauspicious time for pay raises for upper-level Federal employees and for Members of Congress, ourselves.

Mr. President, this is a trying time for the American people. Prices everywhere have skyrocketed, especially for gasoline and food—certainly staples of our family economy. The American people are having difficulty living within their means, for price increases overwhelm increases in income for many, many Americans. In my own State of Delaware the median income of the average family in 1970 was $10,211.

While at some future date, I would support, under specified conditions, congressional pay raises—when the purchasing ability of the average citizen is a lot better—I believe that this is the wrong time to raise our own pay.

I am well aware that Members of Congress have taken substantive cuts in income to serve the people as their elected representatives here in Washington, D.C. And many more well-qualified individuals could be enlisted to run if the monetary remuneration could approach what their success had brought them outside the Congress.

However, Mr. President, I spoke on July 27 and July 29 of last year in this Chamber regarding my conviction that a congressional pay raise makes no sense by itself. I believe that any pay raise must be tied to restrictions on outside income. A Congressman and Senator should devote his or her full time and full attention to public service. He or she should be fully and fairly remunerated for that service. Then there would be no justification for outside income. I will support congressional pay raises in the future only when they further restrict or preferably terminate outside sources of income for Senators and Congressmen.

I am pleased to support Senate Resolution 271, introduced by Senator FRANK CHURCH yesterday for himself and Senator CHILES, designed to disapprove pay raises at this time with respect to section 225(h) of the Federal Salary Act of 1967, for the fiscal year 1975.

THE SOCIAL SECURITY RECORD

Mr. CHURCH. Mr. President, during the past 5 years, the Congress has enacted four across-the-board social security increases, aggregating 68.5 percent.

In addition, other major reforms were approved in the 1972 social security amendments, including:

Increased payments for more than 3 million elderly widows and dependent widowers;

Liberalization of the retirement test under social security;

A new special minimum monthly payment for persons with low lifetime earnings and long periods of covered employment; and

Establishment of a supplemental security income program which will, for the first time in our history, build a Federal floor under the incomes of older Americans.

Because of these changes, average monthly benefits for retired workers have increased from $97 in December 1969 to $181—after the recently enacted 11-percent raise becomes effective in June. During this same period, average monthly payments will be boosted from $88 to $177 for elderly widows and from $169 to $310 for aged couples.

These measures, to be sure, have substantially improved the retirement income position of millions of older Americans. And, they have certainly helped to provide welcome relief for aged persons struggling against inflationary pressures.

But, we must also be mindful of other harsh facts of life. Despite these urgently needed social security raises, about 3.5 million older Americans still subsist in abject poverty. And millions more are very close to the poverty line.

The social security increases, I am also pleased to say, generated widespread bipartisan support from Members of Congress. Unfortunately though, the administration did not join in this partnership.

Instead, it continued to pursue a halfhearted income strategy without any meaningful goals for the Nation's elderly. In fact, since this administration took office in 1969, it has never initially proposed a social security increase which would have allowed older Americans to keep pace with the rise in the cost of living since the last social security raise.

An excellent article—describing the feeble administration efforts to improve social security benefits during the past 5 years—appeared in the January 26 edition of the Washington Post.

This account, by John Herling, provides a clear, concise, and accurate record of congressional and administration actions.

Mr. President, I commend this article—entitled the "Social Security Record"—to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY RECORD

President Nixon's technique in grabbing credit where credit is not his due was incredibly illustrated when he signed the latest legislation calling for an 11 per cent increase in Social Security benefits.

As he signed the bill in San Clemente, he spoke with pride of the fact that Social Security benefits "have risen by 68.5 per cent since this administration took office five years ago."

What he did not say was that he and his top associates dragged their feet and tried to slow down Congress from enacting an increase in Social Security on the four separate occasions that Social Security benefits were raised.

Seventy-two year old Nelson Cruikshank, the vigorous president of the 4,000,000-member National Council of Senior Citizens, scorched the "dismal record" of the Nixon administration in its first five years. Not only has Mr. Nixon resisted adequate improvements in the Social Security system but, says Mr. Cruikshank, "he lacks a realistic income strategy for old Americans." But the President's effort to block improvements in Social Security benefits was thwarted by the Democratic Congress which attached Social Security increases to veto-proof legislation.

Here is the record, starting with his first year in office:

In April 1969, Mr. Nixon proposed a 7 per cent increase in benefits. Organized labor and the National Council of Senior Citizens lobbied hard against the administration's proposal. Whereupon, in September of that year, the President relented and said he would go with 10 per cent. But Congress insisted on a more adequate figure and in December, Congress tacked on a 15 per cent increase to the tax reform bill. Thereupon, the President reluctantly bowed and signed the bill on Dec. 30.

In 1971, Nixon proposed a 6 per cent increase in Social Security benefits, but Congress—again by oblique action—stiff-armed the President. In March of that year, it passed a 10 percent increase which was tied to the debt ceiling bill.

In June 1972, Congress again circumvented the President. At first, he favored a 5 per cent increase but later agreed to a 10 per cent boost. Labor and senior citizens organizations insisted on a higher figure—20 per cent. This became law when Congress again attached the increase to the debt ceiling law.

In that presidential year, the re-election of the President was the main order of business. Without a flicker of embarrassment, President Nixon took the credit for the increase he had opposed. Every Social Security payment contained the following notice:

"Your Social Security payment has been increased by 20 per cent with this month's check by a new statute passed by Congress and signed into law by President Nixon on July 1, 1972."

Finally, the other day, the President signed the latest Social Security bill for a two-step 11 per cent increase, the first increase of 7 per cent to be effective in March and the second in June. But Mr. Nixon wanted no increase at all until July.

Actually, if the President had his way in the last five years, the Nixon increases in Social Security benefits would have amounted, at best, to no more than 28 per cent instead of the 68.5 per cent to which he now points with pride.

THE IMPACT OF THE ENERGY CRISIS ON SENIOR CITIZENS

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague (Mr. MATHIAS) and I held hearings in Baltimore which were designed to ascertain the impact of the energy crisis on our constituents. As the ranking Republican on the Labor and Public Welfare Committee's Subcommittee on Aging and a member of the Senate Special Committee on Aging, I have a deep and abiding interest in the welfare of older Americans. I, therefore, asked Mr. Harry F. Walker, the executive director of the Maryland Commission on Aging and the president of the National Association of State Units on Aging to testify before our hearing with specific regard to the way the energy shortage is affecting the lives of our senior citizens.

Mr. President, I ask unanimous consent that Mr. Walker's testimony be printed in the RECORD at the conclusion of my remarks.

There being no objection, the text of the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF HARRY F. WALKER

Most of our population will be affected by the energy crisis, but the disadvantaged more than most will suffer from the direct effects of shortages of fuel and the indirect effects of rising costs, scarcity of goods, unemployment and reduced services.

Among those especially hard hit are the elderly, about one in every ten persons. For most of them a fixed and inadequate income were a way of life before this crisis. The recently approved Social Security increase could be rendered meaningless or at best a holding pattern rather than increasing purchasing power by a continuation of the overall increase in living costs at least partly attributable to the current crisis.

With insufficient and fixed income the elderly will have difficulty with price increases in home heating oil. Supply is reduced from last year by about 10% (a mild winter). If an elderly person in Maryland cannot secure sufficient fuel he can contact the Energy Policy Office and they will arrange delivery. However, delivery is on a C.O.D. basis and as far as we know no policy or provision exists with any agency in the event an elderly person does not have sufficient cash.

Many low income persons, which always includes a large percentage of elderly, are hardest hit by the increasing shortage of Kerosene, a major fuel for them. Elderly poor may have to turn to wood and coal and the increased use of portable heaters and stoves burning solid fuel increases the likelihood of fire-related injuries.

So the elderly are faced with a terrible dilemma. Fuel shortages which can cause or aggravate physical discomforts and/or increase in the cost of fuel and related goods and services which erodes their fixed income. While most elderly live outside institutions the 5% that are in hospitals and nursing homes and the other approximately 25% who rent will feel the effects of this crisis by having any increase in costs of fuel and other expenses to the landlord or institution passed on to them.

Another important way in which the energy crisis affects the elderly is health related. Dr. William Reichel who is Chairman of the Public Policy Committee of the American Geriatric Society and a practicing physician in Maryland (also a member of the Maryland Commission on Aging) in a letter to me said, "This week in my office I saw a 68 year old women whose arthritis is disabling when the temperature in her home is set at 65 to 68 degrees, but which has improved at 70 degrees. At lower temperatures she is actually crippled in one of her knees and is unable to walk. She was reluctant to adjust her thermostat to a higher temperature because of the current fuel shortage.

"There are multiple illnesses which are similarly affected by cold temperatures. I believe that these illnesses would need to be individually evaluated and out of a sense of humaneness those individuals should receive greater amounts of fuel if shortages result in rationing or some other types of allocation."

To paraphrase Dr. Reichel, he also urges that attention be placed on the medical needs of Maryland's ill of all ages but that special consideration be given to the elderly because they have more medical problems and are therefore among those hardest hit.

The Maryland Energy Policy Office recognizes that because of lower resistance in chronic or temporary illness the elderly are most vulnerable to lower temperatures and therefore urge that the elderly should set their thermostat at the temperature the physician recommends regardless of the prevailing standard. However, many elderly when faced with the choice of comfort versus pocketbook will sacrifice their well-being.

Another important effect that this crisis will have on the elderly is in its impact on transportation which under the best of conditions is a problem of almost crisis proportions itself.

Many elderly depend on public transportation where it is aavilable. Any reduction in service or increase in cost hits them hard. They are less able to pay more nor can they readily join car pools.

Those in public and private agencies serving elderly try to provide programs and services to enhance physical and mental well-being but unless the older person can get to the service or the provider get to them there can be no help.

Many of the programs for the elderly, whether the Foster Grandparents Program or a senior center or the nutrition program, provide free transportation for older persons.

Other programs such as Meals on Wheels, Friendly Visiting, etc., call for volunteers to go to the home of the older person. For example, the Baltimore City Meals on Wheels Program serves over 500 people each day utilizing in excess of 1,000 volunteers who travel 680 miles a day and use almost 14,000 gallons of gas each year.

Throughout the country the ability of the elderly to get to or have delivered to them needed services can be adversely affected unless special consideration is given to their needs.

For many people lower temperatures means moving about more, buying or wearing warmer clothes, but for the eldrely it can mean real physical discomfort.

Higher living costs may mean less money to save or to spend on nonessentials for some people. For the elderly, however, it will in many cases mean less food.

Reduced transportation may mean walking, riding a bike or joining a car pool, but for the elderly who have no car or can't drive and are unable to walk long distances it may mean increased isolation.

In summary, the energy crisis will affect most Americans adversely, but the effect on the elderly will be in those areas in which they are least able to do anything to help themselves. That is, reducing their income through inflation, cutting back on available transportation and the potential aggravation of chronic physical ailments or disorders.

A HEAD START PROGRAM IS REVITALIZED

Mr. BIDEN. Mr. President, the Head Start programs throughout this Nation have sought to provide comprehensive development services to the children of low-income families. However, in addition to serving our children, Head Start has functioned at the community level by seeking the active participation of local residents in the Head Start Policy Council, which is composed of parents and representatives of the community.

It is the purpose of the policy council to hear and resolve complaints about the Head Start program, to conduct self-evaluations, to establish goals for the program, and to develop plans to utilize available community resources, to name a few.

Not long ago, Delaware's New Castle County Head Start program suffered from staff difficulties, a deluge of Federal paperwork, and the threatened loss of Federal money, factors which combined to threaten the effectiveness of the Head Start Policy Council.

However, the county's Head Start program has made significant progress, and, recently, I had the pleasure of observing first-hand the successes of this program when I visited the Head Start day-care centers in Wilmington, and conferred with the director of New Castle County Head Start, Mrs. Lula P. Cooper.

The county program, which offers preschool education and day care for more than 600 children in eight centers, has a new policy council whose members are regularly attending meetings and training sessions. Through volunteer efforts from secretarial students at Wilmington College and Delaware Technical and Community College, the load of paperwork has been reduced. The program has also received much needed Federal assistance.

An article in the Wilmington News-Journal on January 10, reports on the recent achievements of the Head Start program, and cites Mrs. Cooper's statement that the New Castle County Head Start program is "well on its way" to straightening out, and is working "in an orderly way rather than a crisis way."

Mr. President, I commend the efforts of the participants in the New Castle County Head Start program for their perseverance in overcoming the obstacles which confronted them. I ask unanimous consent that an article in the Wilmington News-Journal, "Head Start Unit Well on Its Way," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Head Start Unit Well on Its Way, Its Chief Reports

(By Terry Zintl)

New Castle County's Head Start program, after a year of trouble, is "well on its way" to straightening out, Mrs. Lula P. Cooper, the program's director, said last night.

Mrs. Cooper told the board of Community Action of Greater Wilmington, Inc., Head Start's parent agency, that the program's new parents' policy council is "excellent," that its load of federal paperwork has been brought under control and that the program is working "in an orderly way rather than a crisis way."

The county Head Start-Day Care program offers preschool education and day care for more than 600 children in eight centers. Last year, the program suffered tremendously from fighting among its staff, the firing of a director, a mountain of federal paperwork and the threatened loss of federal money. In October, the parents' policy council—an ad hoc board of directors—was disbanded and reformed, partly because of the old council's inability to get along with the staff.

Mrs. Cooper, who has been Head Start director since September, said the new council members have been faithfully attending meetings and training sessions and are expected to name officers at the next meeting.

The load of paperwork has been reduced through volunteer efforts from secretarial students at Wilmington College and Delaware Technical and Community College, she said.

The program also has received a $236,000 check from the federal government to cover three months of expenses, which will allow it to pay off a loan from the Bank of Delaware, according to Dick Thompson, the comptroller for Community Action.

Community Action itself—the federal government's anti-poverty agency for New Castle County—has been guaranteed another $105,750 to keep operating through March. The agency, which has been living hand-to-mouth since being cut from the federal budget last year, will keep $26,440 for itself and parcel out $74,359 to its delegate agencies.

Community Action's board is calling a press conference this morning at which it probably will announce the appointment of Mrs. June Copeland, the acting director, as permanent director. Mrs. Copeland has been running the agency since Charles D. Ramsey resigned in August, and her appointment has been long expected.

CAGW board members also were told that the state is expected to submit a written report this month on the future of the Hannibal drug program. The state took over the program and has been evaluating it since November, when Community Action fired its second director in eight months.

CONFIRMATION OF AMBASSADOR GODLEY

Mr. PELL. Mr. President, I believe the appointment of Ambassador McMurtie Godley to Beirut is an excellent one. The qualities of initiative and courage and personal integrity, with which Ambassador Godley is blessed to a remarkable degree, will find full scope for their use in the difficult area that is Lebanon today. By virtue of his experience, temperament, and knowledge, I know he will do a fine job and the administration is to be commended on this nomination.

PRIDE IN AMERICA

Mr. DOMENICI. Mr. President, I very frequently have occasion to be justifiably proud of civic activities in my home State of New Mexico. One such occasion was called to my attention recently when the citizens of the city of Artesia, N. Mex., honored their local elected officials in a surprise banquet, the theme of which was "Pride in Artesia." I find it particularly remarkable that out of a small city of approximately 10,000 people that almost 300 guests attended this surprise affair as an outward expression of respect and appreciation for their mayor and city council.

Although the theme of the banquet was designated as "Pride in Artesia," the entire event had a broader flavor, a flavor that reflected the feeling that people ought to remember to thank their elected officials for a job well done and that it is time for Americans to stand up and say something about what is good in America rather than constantly berating its shortcomings. That theme was very well expressed in a speech presented by the Reverend Bob Hildreth entitled "Stand Tall. You're an American" and since I think that the thoughts contained in Reverend Hildreth's address are worthy of consideration by the Members of this body and by all Americans, I request unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Stand Tall. You're an American

We have come together tonight to say something positive in a world so filled with the negatives to do something constructive when so many seem determined to be destructive; to express a spirit of gratitude and love in a world so filled with jealousy and hate. The spirit in the planning of this occasion was not to say that necessarily everyone of us have agreed with everything the City Council has done or that they have done everything we would have hoped they might accomplish. I doubt even the City Council members themselves could make such a statement.

We simply come together to say to each "thank you" for a job well done. You, as elected city leadership, have given unselfishly of yourselves and we say "thank you." We did not come together to raise funds (in fact, we are coming out in the red), nor have a political rally, but we simply come together to express our heartfelt gratitude to a group of people who have faithfully executed a great service to their community. What we do tonight needs to be done across our land, in Roswell and Carlsbad, in Albuquerque and Santa Fe, in Dallas and Houston, in San Francisco and St. Louis, in New York and New London, and in my opinion, even in Washington, D.C. We need to say to those who give so much of themselves "thank you" for doing the thankless, and God bless you when people curse you.

I love America! When I see the flag march by I still have chill bumps on my arm. When I hear the National Anthem sung, there are still and I trust always will be tears in my eyes. If you call me a flag waver I'll say, "Thank you."

There are many reasons why I love America and I could take a great deal of your time expressing this. Let me quickly summarize in four ways.

1. I love America because of her unselfish concern for others. Never in human history has a country sacrificed so much of their resources, lives, blood, sweat, tears for another country without the result being to obtain in return land, money, slaves, or some other great material gain. It was Howard Flieger, editor of U.S. News & World Report, who recently said, "It is easy to forget that Americans are the most giving people in history. Private donations to charity here exceed the total national budget of many countries."

2. I love America because of her willingness to work. Give this great nation of ours a tough assignment and a difficult task and with the needed time and hard work that task will be completed. There are some trends in the life of our beloved Land that concerns me greatly and one of those trends is that we become fat and lazy people. Never let that happen! If it involves landing a man on the moon, we have worked hard to complete that task! If it involves solving the energy crisis, we will work hard to solve that crisis. I pray that America will always be strong of spirit and ready to work hard to accomplish any task put before her.

3. I love America because of her strong foundational faith. I walked one cold November day in the Thanksgiving season through the Plymouth Village and through the cemetery where many lie buried after a death from exposure and thought to myself, "This is what has made us great." It is faith like this that has brought us through many crises and it is faith like that of the Pilgrims that has given us the foundational faith that has made us a great people. One cold December day I relived in my mind the agony of heart that George Washington must have felt at Valley Forge. I remember walking the little dirt paths of Abraham Lincoln's home just out from Springfield, Illinois and seeing the Bible from which he often read and I said, "Here is illustrated the greatness of America." It was Woodrow Wilson who called in a group of clergymen at the beginning of World War I and commissioned them to the chaplancy by saying he did not intend for them to go entertain the soldiers, but to tell dying men how to die.

I agree with Billy Graham in his New Year's Eve message a few days ago when he expressed he did not feel America was at a crossroads but that we had passed the crossroad and are on a dead end street to moral bankruptcy. America needs to return to the strong foundational faith that has made us great. We need to have our national and personal day of repentance and return with renewed faith in God.

In the midst of a counselling session with some 20 or more wives of men who are M.I.A. in Vietnam one wife justifiably was distraught about no word from her husband. I, and one other counselor, was trying to help her when another of the wives gave the satisfying answer I could never have given. Here is what she said, "I know that wherever Carl is God is with him, and God loves Carl even more than I do, and God is going to take care of Carl even better than I could."

4. I love America because this great nation has provided far more opportunities than I have ever deserved. I do not deserve the freedoms that are mine. I have not sacrificed with my blood nor have I given a son as many of you have. I do not deserve the freedom of speech but this great nation has given it to me! I do not deserve the freedom of assembly but this great nation has given it

to me! I do not deserve the freedom of worship but thank God our Constitution has provided it! I genuinely feel that I do not deserve to be an American but never a day goes by that I do not thank God that I am. Do you?

Lt. Commander Ralph Gaither, in his recent book, "With God in a P.O.W. Camp", tells the story of how he and a large group of other P.O.W.'s were taken blindfolded from their prison camp named Briar Patch before the Vietnamese people. In order to really feel this story, I must read a fairly lengthy section from his book. Listen as he recounts the story himself.

The blindfolds were removed. It was late in the day. Darkness had crept up. My eyes were blurred because the blindfold had been so tight. But I could see well enough to see a line of prisoners in twos stretching ahead of me. The number looked to be about sixty. I was near the end of the line. Each line was strung out some seven to ten feet apart down a long curve that appeared to be a street. The mob's number was huge. Crowds pressed in on both sides—men, women, and children. Political cadres spoke continuously to the mob over loudspeakers, teaching the people to say "S - - of a B - - - -, S - - of a B - - - -, S - - of a B - - - -."

Seeing what we were in for, one of my buddies spoke out with advice that was to strengthen me throughout the coming ordeal: "Stand tall, you're an American.

A soldier with a fixed bayonet stood on each side of each team of prisoners. Young girls who evidently belonged to some kind of youth brigade ran up and down the line trying to control the crowd.

Some very bright lights way up at the beginning of the line came on. My eyes focused on the truck on which cameras were mounted. We were being filmed, but I never found out whether the crew was Vietnamese of from some other country.

We were given a chance to urinate, but had to do so right in the street in front of the crowds.

The march began, slowly at first. I could hear the roar pass among the crowd as we started.

The Vietnamese officer in charge ordered us to march with our heads bowed. But we were not contrite and we did not feel repentant. We would not bow our heads. Guards, who were much shorter than we, grabbed our hair and perked our heads down. We raised them up again. We were not going to walk with bowed heads. We were determined. We were Americans. But during the entire ordeal, the insistence to bow our heads was continuous.

Someone in the crowd shouted in English, with a Latin accent. He shouted that we were criminals. We had killed innocent women and children. We deserved to be punished. Why had we come to Vietnam? Why did we seek to disrupt their happy lives? The Vietnamese did not attack the United States. They were a peaceful people.

The same guy went on and on, repeating the inflammatory and propagandistic phrases. The crowd became frenzied, and pressed in on us. The guards lowered their bayonets to allow the crowd to get closer. The women and men hammered at our shoulders and bodies with their fists, and hit us with rocks. The children kicked our legs and flayed at us with their fists as high as they could reach. The men broke into our paths and spat into our faces.

We marched on. We ran when we could, but the crowd was too thick to move fast often. The men grabbed at my hair to pull my head down. When I resisted, they hit me with clenched fists. The people shouted at me, much of it in Vietnamese, but often they repeated the recurring English phrase they had been taught over the loudspeakers. The children threw rocks at our heads.

Jim was shorter than I was. He stumbled under a blow and I caught him. Then I stumbled and he caught me. To keep the cuffs from cutting our wrists, we locked our hands, we supported each other as time and again one of us stumbled. From time to time Jim repeated to me and I to him, "Stand tall, you're an American."

I started quoting out loud the Twenty-Third Psalm. Jim joined me practically on the second word. As we walked through that parade, as the rocks interrupted us, as the mob beat and spit on us, we quoted:

"The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever."

I did not try to test God; in fact, I tried very hard to survive. But I had no fear for the next day. God was with me, whether I was to live or die.

The parade moved on down Main Street. From time to time I saw other men go down from the blows of the mob, and I saw other men help them up. The crowd was wild. The women took off their shoes and beat on our heads and shoulders with the one and one-half inch wooden heels. If we showed any outward hostility or aggression, we would have been killed on the spot. All of us knew that. We just had to take all they wanted to give.

But the words kept ringing in my ears. "Stand tall. You're an American." I thought of my father, Ralph Ellis Gaither, Sr. My name was his name. I don't know why that fact gave me strength, but it was important to me to carry that name well.

Occasionally, the mob would cut us off from the men ahead, and would close in to pelt us and spit on us. My head was covered with welts and bruises. More humiliating, though than all of those injuries, was the spittle running down my face and chest.

After nearly an hour I noticed that the film truck had pulled to the side. A huge crowd had formed, but we did not know why until we moved a little closer and realized that we were nearing the stadium we had started from.

There was no path through the tightly packed crowd. When the team of prisoners made it to the gate, it was opened for them and closed immediately once they were inside.

We had a hundred yards to go. The crowd was hysterical. Every person there tried to get at us with their fists and rocks and shoes and spit.

It took us fifteen minutes to make that hundred yards, and everything we had been through during the previous hour was compounded in that raging crowd, a crowd that could only be described as raving mad.

Finally, the gates opened for us.

The guards led us to a spot inside the stadium and made us sit down and place our heads between our knees. If we so much as moved our heads, the guards hit us.

The heavy fatigue spread throughout my body. My legs, arms, shoulders, neck, back, feet—all of me felt like collapsing. My head especially hurt. It was covered with bruises and bumps. Saliva covered my face and head and shoulders. The inside of my mouth was cut from the blows that had forced my cheeks against my teeth. But it was good to sit down. And better to be away from those peace-loving, harmless Vietnamese people.

Blindfolded again, we were put back on the trucks and handcuffed. No kangaroo court. We headed back for "Briar Patch."

So let me say in closing to this City Council and Mayor, regardless of any criticism you may receive, "Stand tall. You're an American!" Let me say to our state leadership, some of whom are present, regardless of any abuse you may receive, "Stand tall. You're an American!" And may I say of those who serve us in Washington, our senators, our representatives, our president and everyone else, regardless of abuse and criticism you receive, "Stand tall. You're an American!" And may I challenge every person present as you serve to make our country a better place to live, "Stand tall. You're an American!"

AGRICULTURE RESEARCH—THE KEY TO ADEQUATE SUPPLIES AND LOWER FOOD PRICES

Mr. BENTSEN. Mr. President, the enviable record of agriculture in this country has been made possible by the unsurpassed productivity and efficiency of the American farmer, aided to a great extent by this Nation's firm commitment to agriculture research.

Increasing productivity and the hard work of our farmers has made the United States the "land of plenty." However, headlines for the last year have told not of plenty, but of shortages and feared shortages, of price freezes and freezes lifted, of angry consumers, of irritated and confused farmers, and of devaluations and balance of payment problems. This situation has brought at a minimum genuine concern and at maximum bewilderment to the minds of Americans. All of us must wonder how it has come to pass that a recent nationwide survey revealed that more than 40 percent of our people fear a serious food shortage within this decade. What has gone wrong in this land of plenty?

Mr. President, the situation is serious. For the first time in years, the percentage of the family budget being spent on food has increased. It is time that we seriously reviewed our agricultural policies toward research and development for it is these research and development programs which directly affect the level of our farm productivity and food prices.

In the past, a partnership in research and extension education programs by land grant universities and the USDA in-house research effort has greatly increased the productivity of U.S. farmers. In 1952, the average U.S. farmer produced food and fiber for himself and 16 others. However, by 1972, the average U.S. farmer had increased his productivity so as to produce for himself and 51 others. That is a great success story and well justifies the investment in R. & D. we have made to make it possible.

The salutary effects of U.S. investment in agriculture research and education are illustrated by several measures. U.S. citizens in recent years have spent less than 16 percent of their disposable income for food. This is less than any other country of the world, and it is a fact our citizens have come to expect and certainly deserve.

The 6 percent of our population who do the farming and ranching have been producing abundant supplies of food and fiber for this country while making vast amounts available for foreign trade.

From one-half to three-fourths of the U.S. wheat crop is exported, one-fifth of our corn, about one-third of our cotton, and more than one-half of our soybean crop. Indeed, our exports of farm products added $12.9 billion to our balance of payments in the fiscal year ending June 30, 1973. These exports have played a large part in helping erase the trade deficit this country has been suffering.

Past examples of agricultural research successes are dramatic:

Through the development of hybrid corn, national corn yields have doubled in the last 15 years.

Peanut yields per acre have also doubled in the last 15 years.

Milk production per dairy cow has increased 50 percent in the last 15 years due to advances in genetic research.

The hog has been completely redesigned so that the average yield of lard per hog has dropped 27 percent while red meat has increased 11 percent.

In 1920 the rice yield per acre in China and India was higher than the yield in California. Today, thanks to effective research, Texas and California rice yields are 10 times those in China and India.

So U.S. investment in its agricultural research and development system has paid off in abundant and low cost food for consumers at home, and in commercial gains in world trade. It has paid off so well that the cooperative land-grant university—USDA research and education system is a marvel of the world. Literally thousands of foreign officials and students have come to work in and study that system.

These successes, Mr. President, have lulled this country into a warm sense of security. We have been proud to call our country the Land of Plenty. However, the recent feed grain shortages, housewife boycotts and export controls have burst that euphoric bubble of self-satisfaction. Demand has caught up with our productivity and the only feasible solution to the situation is to quickly increase our productivity.

Why has demand overcome productivity. There are two reasons:

One, increased foreign demand; and two, a dramatic decrease in emphasis on agricultural research. Everyone is familiar with our increased agricultural exports due to world demand and the opening of markets with Russia and China. Less, know, but more significant, is how this country has deemphasized agricultural research.

Mr. President, in 1955, 10.7 percent of the total USDA budget was expended in research and development. In 1973 only 2.5 percent of the USDA budget was marked for research. This is a dramatic reduction and would have been even worse had not the Congress increased the 1973 R. & D. figures over what the present administration had recommended.

Further, the administration can be faulted for its manpower cutbacks in USDA's Agricultural Research Service. The organization's personnel level has been reduced by almost 10 percent since 1970.

Thus, at the very time the demand for food and fiber has been increasing dramatically, our agriculture R. & D. effort has been slipping miserably. At a time when we need increased productivity desperately, we do not have the proper research dollars or the manpower to produce that productivity.

Mr. President, to ignore this situation would be folly. Plentiful, inexpensive food has been at the cornerstone of our economy. Simply, put, it has left available more dollars for the purchase of housing, the payment of tuitions, and the acquisition of the products of America's industrial sector. Increase the cost of food and we are faced with demands for higher wages or a reduction in consumption. And that spells either inflation or unemployment—the terrible twin which the administration cannot seem to control.

We have the opportunity to return to the wisdom of our recent past. The new budget is now being considered. It is estimated that the USDA budget will be able to reflect over $2 billion in savings because of reduced subsidy payments. This is an outstanding savings, and it is one which should be put to good and immediate use. A portion of these funds should be spent on agriculture research and development for the benefit of the American consumer and the American farmer; they should be spent so that America's preeminent position in world agriculture can be maintained and translated into export strength abroad and economic strength at home.

There is strong evidence that if we can increase our production technology, our farmers will respond quickly. While farmers two generations ago were slow to adopt new agricultural practices, today's commercial farmers grasp much of the new technology as quickly as it is available, and clamor for more.

As a result of this country's efficient system of transmitting agricultural technology to farmers, and the farmers' ready acceptance, the unused farm "technology pool" is very low. For example, extension agronomists in Texas agree that Texas commercial farmers are using practically all available technology in producing our State's most important crops.

Mr. President, this means that if we increase our investment in farm research and development, our farmers will respond, and we will get a good return on our investment. Farmers deserve and must be allowed proper profit levels. Consumers want abundant, low-cost food. The way to meet these two goals is to emphasize research toward reducing production costs while increasing supplies.

Mr. President, there are many areas of real research need:

Our major crop of cotton, wheat, sorghums, and soybeans are in strong demand both in domestic and foreign markets. Increased productivity is needed to meet this demand.

Domestic demand is growing for meat and eggs and research to expand animal reproduction can help meet this need. Work is underway toward induced twin births in beef cattle and more research dollars toward this effort are sorely needed to lower the cost of producing beef.

Research can improve the efficiency with which our animals turn grain into meat and eggs. If this were to come about, we would not only reduce animal production costs and consumer prices, but more grains would be available for export to less prosperous countries.

New food sources are also being found through research and more attention needs to be paid to the food value possibilities of commodities like peanuts, soybeans and cottonseed.

Plant disease and genetic vulnerability are also areas in which we must expand our research. The great corn blight which hit the midwest in 1971 and the puzzling uncontrollable witch weed of South Carolina which completely prevents the growth of corn are ominous warnings that we must not relax our research efforts in this area.

The abundance of this country's food supply and the prices we must pay for that supply are critical, immediate issues. Issues which we must face with wisdom and the best possible planning.

I call on the administration and the Congress to increase our emphasis on agricultural research and development.

We have been warned that our food supply is finite—shortages can occur. We have learned the value of surplus agriculture commodities in the balance-of-payments situation. The rising food prices in the headlines have told us all too plainly the mistake we have made by allowing our agricultural research effort to decline. If our food supply becomes inadequate, it will only be because of our lack of foresight. By reducing the expenditures for farm subsidies, we have funds available for increasing farm research. If we miss this chance to increase agricultural research and development in the coming years, we will look back with remorse and regret.

COOLING A HOT WAR BETWEEN TEXAS AND ARIZONA: THE CHILI WAR

Mr. DOMENICI. Mr. President, great wars can sometimes develop from seemingly small conflicts. Thus the alleged cutting off of Captain Jenkins' ear by a Spanish Guardacosta in 1739 ended in the War of the Austrian Succession involving every great power in Europe.

In the interests of preventing a civil war between the great and sovereign States of Texas and Arizona, over the quality of their respective chilies it would seem appropriate for New Mexico—acting in the finest traditions of international relations—to tender its good offices.

Both nature and man would seem to have dictated that New Mexico become the peacemaker. We sit between the two quasi-belligerents. Thus at present only geopolitical considerations prevent an actual invasion by Texas Chili Rangers in retaliation for the claims of the Arizona Chili Commandos.

But, even more important, the would be peacemaker must grasp the basic causes of the conflict—must have a complete understanding of the underlying reasons for a casus belli—and bring that knowledge to bear in the peace negotiations.

Mr. President, the cause of this conflict between the two great States can be stated simply: they are brandishing soup ladles over the quality of the respective chilies for which both are justly famous.

Would that they could appeal to that "Great Chili Maker in the Sky" to settle their differences.

Unless and until His good offices are tendered, it would seem most fitting for the best chilimaker—and I refer in all due humility, of course, to New Mexico—to settle this quarrel.

New Mexico chili is so renowned, so superior, so smoothly saturated with the fiery elixirs of peppers that make great chili, as to be prized by chili aficionados the world over.

We do not boast—we need not advertise—for like a great estate wine produced in limited quantities, true connoisseurs know it, speak of it in awe, seek it eagerly, bid fantastic prices for it when we allow it to be purchased outside our borders.

In other words, New Mexico chili is numero uno—the winner of gold medals at gourmet festivals since the first Spanish explorers came to Nuevo Mexico in the 17th century.

Thus, the real issue is whether Arizona or Texas chili be designated as second best in the world—and who better can make this decision in a calm and judicious manner than the admittedly supreme masters of the cusine de la chili?

We can be muy simpatico to the eager hopes of these talented, but rather inexperienced practitioners of the chili art. We will judge solely by comparison with our chili, and whichever comes closest—admittedly neither can come too close—will receive our benign approval and be given the silver medal. The gold medal, of course, will always remain in the sacred confines of New Mexico.

Mr. President, we have made our offer—we can do no more but hope that this will avert war between two peoples now standing at "Chilies Point" with one another.

INTERNATIONAL CANCER RESEARCH DATA BANK

Mr. PELL. Mr. President, last week, the distinguished Senator from Massachusetts, chairman of the Health Subcommittee, held a hearing on the National Cancer Act Amendments of 1974. At it, I expressed my deep concern on an important matter embraced within the congressional mandate of the National Cancer Act, and at what I believe is a failure on the part of the executive branch to properly and fully implement a portion of the act.

When the Cancer Act was passed, we foresaw a complex research effort, embracing many concurrent but separate projects. We knew that these would be carried out all over this country, and in many foreign nations, and that they would be conducted in many languages and formats. To assist the individual researcher, and to make the entire effort more efficient, I proposed, as an amendment to the act, an International Cancer Research Data Bank, to "collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country."

My amendment was accepted by the Senate, and became a part of the act as it was signed into law.

After more than 2 years, however, little has actually been accomplished in this direction. The National Cancer Institute has not made substantive progress in this direction. In some respects it has made policy contrary to the explicitly required centralization of information. For example, the National Cancer Institute has been encouraging and assisting the development of a separate International Carcinogenesis Data Bank in Lyon, France. Although the collection of data is important, the goal here should be to place the data entirely within one system—and the priority devoted to building the communication linkage into the system. Furthermore, services such as patient information, registering operations, and literature, are still being developed only on a pilot regional basis in this country, rather than on an interregional sharing basis. It has also neglected the development of uniformity of access, to all men of all nations, which the Congress stressed and explicitly required in the act.

After more than 2 years under the act, this effort still does not have a home base. There is no place where all information regarding cancer research and treatment is routinely channeled from around the world, or even this Nation alone.

In their report, the National Cancer Institute's highly paid consultants say they are collecting data to "satisfy specific needs of various segments of the international cancer research community." This says to me that they are more concerned with little pieces than with a real system. They are building little rooms of information, but not any hallways to connect them. Instead, they should be building a communication link among the still unconnected efforts in other countries around the world, particularly those of Europe, the Soviet Union, and this country.

During last week's hearing, Mr. Richard J. Sullivan and Mrs. Grace Ann Monoco testified as representatives of the Candlelighters, a group of parents whose children have cancer. In their testimony, they called for a Cancer Information Clearinghouse. They testified this was needed because there is a tragic and enormous gap between what research had discovered and what is current practice, as illustrated by a lack of common knowledge about anesthetic procedure, and about current research concerning the relationship between nutrition and chemotherapy.

These parents who have been so active in the cancer research movement did not know that current law already called for such a clearinghouse; they were asking for one themselves.

Mr. President, this should be a clear indication that sufficient and reasonable progress has not been made in this direction, even though Congress had required such efforts.

Mr. President, I certainly hope that much more substantive progress on this project will be displayed by the National Cancer Institute, when we next review its work. I am sure that many cancer patients, their families, and researchers will also be anxiously looking forward to the contributions which such a vital mechanism will certainly make.

EFFECT OF THE ENERGY CRISIS ON MARYLAND AGRICULTURE

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague from Maryland (Mr. MATHIAS) and I held hearings in Baltimore on the effect of the energy crisis in our State.

One of the witnesses who testified was Mr. T. Allen Stradley, president of the Maryland Farm Bureau. Mr. Stradley, outlined the problem facing agriculture, not only in Maryland, but throughout the country, and I ask unanimous consent that Mr. Stradley's remarks be printed in the RECORD for the benefit of my Senate colleagues.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY T. ALLEN STRADLEY

I am T. Allen Stradley, President of Maryland Farm Bureau, a 12,000 member organization of Maryland farmers.

I own and operate 820 acres of farm land in Kent County, Maryland.

I appreciate the opportunity of being able to discuss with you the problems that agriculture is having with the fuel crisis. If we are to keep a successful agriculture, it will be most important that we have fuel to, not only till the land, but do the feeding, harvesting, marketing and the cleaning of the feed lots and pens the year around (365 days).

Agriculture is one segment of our economy that contributes to our balance of payments in foreign trade. It is also most important that we continue to feed this great country.

It is essential that agriculture has the information ahead of time so that they can plan their programs in advance, and that we not be subjected to constant changes in government programs.

I would like to point out that it is important for all segments of agriculture to have sufficient fuel allocated to continue their operations for the full year of 1974.

I would further like to call to your attention the fact that there will be more land in cultivation in 1974 than has been in many years. As you know, Secretary of Agriculture Butz has called for all-out agricultural production. In order that the farmer may comply, his needs for fuel will be greater than those in recent years. Furthermore, weather conditions, many times, dictate fuel consumption.

With the repair part situation as it is today, he will need gasoline to round up repair parts because of their scarcity, and it is essential that equipment be kept moving.

I thank you for the opportunity to present the views of the Maryland farmers.

THE STATE OF BILINGUAL-BICULTURAL EDUCATION IN THE UNION

Mr. MONTOYA. Mr. President, within the past few days we have seen the publication of the sixth and final report of the Mexican American education study by the U.S. Civil Rights Commission. We have also just received the proposed budget as prepared by the President and his advisers.

These two documents are not unrelated. One diagnoses a serious fault and affliction in the educational system of the Nation, and the other proposes that we decrease the amount of money and effort used to correct that fault and cure that affliction. It seems a strange way to improve the educational health of the Nation.

The U.S. Commission on Civil Rights began its study of the educational problems faced by Mexican American children in 1968 and 1969, with surveys done by HEW and by the Commission itself under the direction of Rev. Theodore Hesburgh, CSC, the chairman.

The first report, "Ethnic Isolation of Mexican Americans in the Public Schools of the Southwest," was published in April of 1971. The shocking evidence of that first study, and of the four indepth studies which followed, did more than any other single effort to awaken educators to the need for bilingual-bicultural education in the United States. Although this study concentrated on the problems of Mexican-Americans in the Southwest, the inequalities reported are representative of the problems facing all minority children who come to school speaking a language other than English.

Recognition of the Spanish-surnamed population in the United States, the second largest minority group, has been slow in coming. The Census Bureau has finally, in January of 1974, published the data from their March 1973 report containing a corrected count of the numbers of Spanish-speaking and Spanish-surnamed Americans. That latest count shows 10.57 million Spanish-speaking people, a jump of nearly 1 million over the report in 1972. That startling increase is a result of new and better methods of collecting data, interviewing, analysis, and reporting. Even those figures will be challenged by many Spanish-speaking activist groups as being unrealistically low.

Certainly the Spanish-speaking minority in the United States is becoming more vocal, more involved in community problems, and more aware of their own needs. They understand that the education needs of this very large number of American children result primarily from cultural and lingual differences between teachers and students.

Although the tragedy of wasted lives and blunted minds has always been clear to those Spanish-speaking citizens whose children struggled to learn in our schools, it was never possible to make needed changes in the school systems without empirical evidence and professional analysis of that evidence. The Mexican American study group has now provided that evidence and analysis in their final report, "Toward Quality Education for Mexican Americans." I urge my colleagues to read all six of the study reports, and especially this final summary.

The study group has outlined 51 recommendations for action, based on three basic principles: That language and culture should be a part of the education process, that Mexican-Americans should be represented in the educational, decisionmaking, and that Government should provide sufficient funds to implement these recommendations.

The recent Supreme Court ruling that schools must provide education in a language the child can understand gives legal support to the conclusions drawn by this study. The legislation which Senators Kennedy, Cranston, and I have recently introduced to improve the Bilingual Education Act would give added impetus toward the goals set by this report. Certainly the report itself will provide educators and legislators at both the Federal and State levels the necessary background material and stimulus for action which is so necessary if we are to solve this serious problem.

I hope that every teacher who works with children who speak a language other than English, and every education administrator, will read this report and use the recommendations to begin to provide the equal educational opportunity which our schools have failed to offer in the past.

I hope that members of every State legislature will study this report and realize that the recommendations made apply equally to all minority children, whether they are Spanish-speaking, Chinese, Indian, French-speaking, or other children who speak a language other than English when they come to school.

I hope every Member of the Congress will read and study all of these reports before deciding how he will vote on the Bilingual Education Act Amendments. The Federal Government must begin to provide the guidance and assistance which local districts and States will need for effective bilingual and bicultural education.

Finally, I hope the administration and those members of the Office of Management and Budget who made education recommendations to the President will read this report.

Two weeks ago, on January 24, the President sent to the Congress his message on education. He stated at that time that—

> One goal which units all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

Certainly no Member of either House disagreed with that statement.

However, the release of the President's budget has now made clear that for one very large group of children that goal is to be ignored. The children who enter school speaking a language other than English are to receive less support under the President's budget than even the restrictions of last year provided. Although the Congress increased the 1974 appropriation for bilingual-bicultural programs to $53 million, the budget released this past Monday cuts that amount to $50 million for 1974 and to $35 million for 1975. That includes teacher-training money previously provided elsewhere.

In the struggle to provide equal educational opportunity for every American child, the light at the end of the tunnel is slowly being extinguished, and at the rate of decrease proposed in this budget, it would disappear entirely in 7 years.

It is my earnest hope that the President and his advisers would reread the President's own education statement, paying particular attention to his remark that "we must also provide special assistance to children of families whose native language is other than English," and noting his request for the continued support of Congress for bilingual programs. Combining that rereading with the expert testimony and recommendations of the Mexican-American study group's final report, I am sure that the administration would want to urge support for the Bilingual Education Act Amendments, in S. 1539, and would want to urge full funding for this legislation when it passes.

J. MARK TRICE

Mr. FANNIN. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from New Hampshire (Mr. Cotton) and the text of a certificate of appreciation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Cotton

On the 31st of December our esteemed associate and good friend, The Honorable J. Mark Trice, retired from the service of the United States Senate after a total service of nearly 55 years. He has seen more that 600 Senators hold office in this Body. During most of the latter portion of his time here he was Secretary to the Minority, although there were also a couple of fortunate periods during which he was Secretary to the Majority and Secretary of the Senate. I know that my colleagues on both sides of the aisle wish him all the good health, good fortune and happy days he so richly deserves.

Last Tuesday a little ceremony was held among the Senators on this side of the aisle during which a Certificate of Appreciation was presented to our valued friend and mentor—and, if I may say so, colleague. The certificate was signed by every Member of the Senate on the Republican side, four former Republican Senators who happened to be available in town, the Vice President of the United States and the President of the United States.

Mr. President, it is only fitting that our feelings about Mark Trice be placed in the Record for all to read, and that they become a part of the permanent archives of this Body.

Certificate of Appreciation—J. Mark Trice

Whereas for more than half a hundred years the Republican Members of the United States Senate have been singularly fortunate in having the services of Mr. J. Mark Trice as page, secretary, Deputy Sergeant at Arms, Secretary to the Minority, Secretary to the Majority and Secretary to the Senate; and

Whereas said service has specifically covered a total of 54 years, 4 months and 11 days, the last 42 years and 2 months being continuous; the whole of which has encompassed an unprecedented epoch in our Nation's history in good times and bad, peace and war, success and adversity; during which Senators have come, made their contributions and departed from our Chamber, so that there is no one now in our Body among the 643 Senators in office during the service of Mark Trice who can boast of a length of service remotely approaching his; which, even contemplating only the continuous portion thereof, far transcends that of nearly all others, today or anytime; and

Whereas, during all of this extraordinary period Mark Trice, our friend, confidant and mentor, has accumulated seniority, promotions, wisdom and priceless experience; yet he has nevertheless devoted himself thoughtfully, exclusively and solely to the benefit and assistance of all Senators, those on the other side of the aisle as well as those on this, thus reflecting credit upon the Republican contingent of this Body and adding much to its long-deserved reputation for comity; and

Whereas the good humor of Mark Trice has never failed him, nor have his tact, courtesy, kindness, patience and wit, so that the advice he has so frequently been called upon to give, often substantive and sometimes procedural, never stumbled into any of the many pitfalls lying in wait in such cases for the imprecise or the unwary; and

Whereas on the last day of 1973, just passed, our good friend, full of honors, encomiums and precious memories, entered retirement from the service of the Senate after nearly fifty-five years of total service—

Now therefore be it resolved that the Members of the Republican Conference of the United States Senate hereby tender to their respected associate, The Honorable J. Mark Trice, this Certificate of Appreciation for his long and faithful service to this Body to which he has devoted virtually his entire working life, and that we wish him good health and many serene years of well-earned happiness in his retirement; and

Be it further resolved that the Republican Conference, well knowing it has sustained an irreplaceable loss in the departure of Mark Trice from its councils and considerations, intends to continue to ask his advice from time to time, and bids him feel free to return, whenever he may have the inclination, to the intimate councils where so many of his hours have been spent; and to that end directs that he is to be admitted upon recognition to meetings of the Republican Conference, his service there having continued actively and valuably for more than half a century.

Done this 29th day of January, 1974, in Washington, D.C.

THE ECONOMIC PROGRAM PRESENTED IN THE STATE OF THE UNION MESSAGE

Mr. BENTSEN. Mr. President, I ask unanimous consent that the article by Hobart Rowen from the Sunday Washington Post be printed in the RECORD. It sets forth a critique of the economic program presented in the state of the Union address with which I heartily concur.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DESPITE RHETORIC, A RECESSION

(By Hobart Rowen)

"There will be no recession in the United States of America," said President Nixon in his State of the Union address. An administration economist with whom I had been watching the speech, grimaced and covered his head: he had just been discoursing about the recession the nation faced.

CEA Chairman Herbert Stein not only joins in the disclaimer of a recession—but just to make sure, he wants to redefine it.

"I have a new perfect advance indicator of recession," observed former Economic Council Chairman Arthur M. Okun, "and that's when Herb Stein starts splitting hairs about the definition. The last time he did this was in 1970."

The notion that the President could declare a recession out of bounds with the flick of his speechwriter's wrist only added to the sense of unreality evoked by the whole address.

His glowing account of a prospering nation, busily at work, leading the other free nations in a quest for peace left me wondering what year or decade or what country Mr. Nixon was talking about.

It didn't sound much like the United States in 1974, beset with rampant inflation and growing unemployment (already up to 5.2 per cent in January from 4.6 per cent last October); with an energy crisis which so far has effectively divided the free world; with food price escalation and food shortages again on the horizon; and with little real prospect of meeting any of these problems head on.

To be brought back to earth, one has to go no farther than the Economic Report by the Council of Economic Advisers, although that document can fairly be said to be more optimistic than some private assessments of the economy.

The Economic Report notes that, "We enter 1974 in a condition of high inflation and in the early stages of a slowdown." It goes on to describe the essential elements of a mild recession while avoiding the word.

Above all, the report stresses the question marks that have been thrown into the economic outlook as a result of the energy crisis, uncertainties that could force the administration to be attempting to bail the economy out of something worse than just a mild recession.

"In view of the uncertainties facing us," the Economic Report says, "it is extremely important to be prepared with fiscal measures to support or restrain the economy if it is clearly running outside the general track described here for 1974.

"The administration is now in the process of preparing for support action. A decision to take such measures would have to be made with great caution, however, in view of the additional supply bottlenecks that might be caused by the energy shortage."

Even the President's written State of the Union Message was candid: ". . . unfortunately, the very mild slowdown which we anticipated for 1974 now threatens to be somewhat more pronounced because of the oil embargo, the resulting shortages, and the oil price increase.

"We expect, therefore, that during the early part of this year output will rise little if at all, unemployment will rise somewhat and inflation will be high."

So the situation is much more touch-and-go than Mr. Nixon wanted us to believe—presumably because a candid evaluation on the TV tube would have helped erode the image he was trying to convey of a successful, productive five years in office.

Mr. Nixon didn't dwell on the failures of his economic policies and forecasts of the past few years. His Economic Message claimed that last year "the real income of American consumers per capita, after taxes, rose by 8.5 per cent, also above our long-term rate."

This is the kind of slippery statistic with which the President tries to cozy people into thinking that they are better off than they are. Stein had to admit that real earnings of non-farm workers had actually declined in 1973. The per capita figure cited by the President includes all income, farm and non-farm, dividends, fringe benefits as well as pay. It has little to do with the take-home pay of the average individual.

The most recent Labor Department report shows that in 1973, real average weekly earnings were down 1.5 per cent—the effect of an 8.8 per cent increase in consumer prices against a 7.2 per cent increase in average hourly earnings.

There are plenty of things right about the State of the Union, including the fact that it has stood up so well, relatively, despite the trauma created by the Watergate scandals for which the President is responsible.

But sadly, one doesn't get a real picture of the State of the Union from the President's address. For the most part, we are served up what Nixon's men want us to believe, like the council's assertion that the "maximum employment" goal of the 1946 Act was "approximately" met last year, although the unemployment rate was 4.9 per cent, rather than 4.0 per cent.

After five years in office, the twin economic problems of high inflation and unemployment are still dominant. Mr. Nixon hasn't found the answers, although he's tried gradualism, expansion, controls and now, seemingly, gradualism all over again. The problem is now worsened by shortages of energy and food. Economic policy is made on an ad hoc basis, day by day. The only thing that is constant is the dose of reassuring rhetoric.

Mr. BENTSEN. Mr. President, Presidential rhetoric will not prevent a recession in 1974. And even if a recession in the technical sense can be avoided, we are already in a recession in the meaningful sense of higher unemployment and stagnating economic performance. The glowing guarantees of "no recession" does not fully take into account the volatility of the world economic situation, the confusion over Arab oil, or the repercussions on domestic economic growth. The situation outlined by Mr. Nixon does not sound like the world or the United States in 1974. The United States is beset by rampant inflation, unemployment has grown from 4.6 percent in October to 5.2 percent today, and there are shortages not only in oil but in a whole range of vital commodities and materials from asbestos to zinc.

The state of the Union address contrasts sharply with the picture outlined by the President's Council of Economic Advisers. The President's 1974 Economic Report makes clear that the U.S. economy is far from healthy, with real output remaining approximately at the same level as last year, and maybe even declining for the first half of the year. At best real growth in 1974 has been protected at only 1 percent, inflation is expected to rise to more than 7 percent compared to 5.3 percent in 1973, and unemployment is projected to rise to 5.5 percent compared to an average of 4.9 percent in 1973. The results are a loss of potential growth for the country as a whole and a decline in personal income for many Americans.

Projections and forecasts by the President or anyone else do not offer solutions to the multiple problems with which we are now faced. Nevertheless, they do present a picture of the conditions that will have to be dealt with. The President cannot do away with recession by redefining its components, or can he eliminate inflation and unemployment by pretending they do not exist. It is policy we need, not rhetoric.

COMMUNIST MURALS

Mr. HELMS. Mr. President, like many Americans, I was shocked to learn that a mural depicting the faces of such personages as Karl Marx, Friedrich Engels, Mao Tse-tung, and Joseph Stalin—certainly not parts of our American heritage—and grotesquely parodying the face of the President of the United States, recently was allowed to be placed prominently in the Washington, D.C. headquarters of the District's Bicentennial Celebration Commission.

Like many other of my fellow patriotic citizens, I seriously questioned the value of such a mural in a building dedicated to the celebration of this Nation's 200th birthday, and like others I saw no reason for it to remain there, much less the reason for it ever having been placed there in the first place.

Today, I have been informed that the offensive mural has been removed in response to the public outcry against its presence. The tragedy of the situation is that it ever was allowed to be placed there. The creator of the mural, who "guesses" that he is a Marxist, should have been scrutinized more carefully in his work and given proper direction—if, indeed, he should have been chosen for the work at all in light of his espousal of a philosophy completely alien to our system of individual liberty and freedom from oppression.

Mr. President, this situation has made me realize now more than ever the duty that we as Members of the Senate have to the American public to examine carefully each appropriation request that comes before us to insure that adequate safeguards against possible misuse of the taxpayers' dollars exist in all legislation passed pursuant to those requests.

Mr. President, two well known and respected publications recently spoke out on the matter of the mural in question. Howard Flieger, distinguished editor of U.S. News & World Report, called the mural the "Worst Joke in 200 Years;" while the weekly news magazine Human Events pointed out that "D.C. Officials, Public Stunned by Marxist Art." I ask unanimous consent that these two articles be printed in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degrees of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving, Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

DISTRICT OF COLUMBIA OFFICIALS, PUBLIC STUNNED BY MARXIST ART

For the next few weeks, at least, visitors to the Nation's Capital, as well as the local residents, can stop by the office headquarters of the D.C. Bicentennial Commission (DCBC) and feast their eyes on a mural bearing the likenesses of Mao Tse-tung in Western garb, a bald headed Joseph Stalin with muttonchop whiskers, Tricia Nixon Cox in an Afro hairdo and President Nixon wearing a striped suit, dark shirt and white tie, intended, according to the young creator of the controversial work, to show him "like a gangster." Also depicted in the mural are Communist theoreticians Karl Marx and Friedrich Engels, homegrown Red Angela Davis, comedienne Gracie Allen, Swedish-born actress Greta Garbo and the comedy duo Laurel and Hardy.

The drawings were done by H. H. Booker, II, who "guesses" he is a Marxist. He was picked for the job by the Downtown Sign Shop at a fee of $2.75 per hour. The project took 19 hours for a total cost of $52.25. Many of those who have visited the DCBC's nine-story headquarters (at 13th and G Streets in downtown Washington) think whoever paid for the job was cheated. In fact, one of the kindest comments on the artistic merit of Booker's work was "lousy." Most others were either far less polite or unprintable in a family publication.

Reliable sources within the DCBC said Booker showed preliminary sketches of his mural to DCBC officials and was advised that the Communist figures should be omitted before it was reproduced on the headquarters' walls, but the bearded prankster says this is not true.

"They just said make faces," said Booker.

Booker did purposely disguise the caricature of Nixon by adding a mustache and the drawing of the tyrannical Stalin with the chin whiskers to hoodwink the DCBC officials and those notables, including D.C. Mayor Walter E. Washington and a White House representative, at last week's grand opening ceremonies at the newly remodeled buildings. The opening day guests reportedly were totally unaware of the prank, which Booker called "a whole lot of fun."

Unlike the prominent guests though, others in the crowd, including reporters, were more observant, and to the chagrin of DCBC officers Booker's Red-tainted art quickly made newspaper headlines with full photo coverage of the debacle.

Mayor Washington immediately demanded to know first, if any District funds had gone to pay for the mural, and second, when the drawings would be removed under a DCBC plan calling for new decorations each month.

The mayor's assistant for the bicentennial, James P. Alexander, quickly told the mayor that no public funds went to pay for the so-called artwork. He further assured His Honor that the murals would last no longer than a month.

Alexander's explanation conflicts with that of Booker. The mayor's appointee said the murals were supposed to show world figures "known and unknown" since the District is a world, as well as national capital. He said the artwork was to include people from different phases of world history to show "the world of Washington" theme of people coming together.

"One sketch I thought was totally inappropriate," said Alexander, "and he was told to change it, even though I didn't recognize it, and that was the one of the President."

Despite Alexander's assurances that the mural would be paid for from private contributions, there are some doubts among observers. The DCBC official did not say whether the money would come from contributions earmarked specifically for the murals or from a general treasury for the commission, which would affect public funds, albeit indirectly.

Although the controversy involved only the District of Columbia bicentennial group, there has been some adverse effect on the totally separate American Revolution Bicentennial Commission (ARBC), and ARBC officials are not too happy about it. One ARBC spokesman told Human Events this is "the last thing we need."

He said the ARBC has been negotiating with the State of Virginia in hopes of borrowing the famed Houdon statue of George Washington, which has stood in the Old Dominion's Richmond Capital since the 1780s.

Angered by the DCBC mural and apparently unaware that the two bicentennial commissions are separate entities, two of Virginia's Republican lawmakers—House Minority Leader A. R. Giesen and Assistant Minority Leader Warren E. Barry—said they will block any loan of the Washington statue unless the offensive mural is removed immediately.

The irate state office holders are circulating a petition among their state house colleagues to be sent to Mayor Washington as a protest against the DCBC mural.

Throughout the coming bicentennial years, it is to be expected that radicals—young and old, well-meaning and ill-intentioned—are going to try to exploit the period of celebration for their own ends, just as Booker used the murals at the D.C. Bicentennial headquarters to promote his own Marxist ideology.

Groups with their own axes to grind, such as the so-called People's Bicentennial Commission, headed by former anti-war activist Jeremy Rifkin, will try to use every bicentennial ceremony and event as a springboard for activism. Unfortunately, as in the case last week in the Nation's Capital, there will be officials who will inadvertently give these opportunists the opening they seek.

LITHUANIAN INDEPENDENCE DAY, 1974

Mr. PASTORE. Mr. President, the month of February is rich in days of recollection for all Americans. There are days of history like Washington's Birthday—days of humanity like Lincoln's Birthday—even days of the heart and home like Saint Valentine's Day.

Since 1918 the date of February 16 has taken its place on the calendar of history, humanity, the heart, and home.

On that day—after centuries of subjugation—the great land of Lithuania achieved its independence.

For centuries the character, the courage, and the culture of Lithuania had been Europe's buffer against barbarism.

And in her 20th century freedom—brief though it was—Lithuania in its economy, education, and the arts quickly lifted its 3 million men, women, and children to a place of respect and responsibility among the nations of the world.

Then in the throes of the Second World War, Lithuania was caught in the vise of conspiracy between Nazi Germany and Soviet Russia.

In 1940 she fell behind the Iron Curtain of Soviet savagery.

But February 16 continues to be celebrated by Lithuanians everywhere—and it continues to be observed by nations like ours who cherish freedom for themselves—and wish it for all others.

February 16 is a day of history—a day of hope—a day of help. It makes all of Lithuanian blood proud of their nation. It gives them hope of freedom renewed. It invites the help of nations like ourselves who reaffirm their vows of friendship and support.

And we ourselves draw inspiration from the unconquerable courage of the men, women, and children of Lithuania.

We are grateful for the sons and daughters of Lithuania who are our neighbors and friends in America—stalwart citizens of highest virtue and value in our communities.

We are reminded by the plight of old Lithuania of how a people's liberties can be lost. And on this Lithuanian Independence Day we pledge that America shall not surrender to any crisis of despotism, defeat, or despair.

And we pledge to the people of Lithuania that the cause of its people shall never be abandoned by this America of George Washington and Abraham Lincoln.

THE REGULATION OF CRIMINAL JUSTICE INFORMATION SYSTEMS

Mr. THURMOND. Mr. President, this week, I was pleased to join Senators ERVIN, HRUSKA, and others in introducing S. 2963 and S. 2964, bills dealing with the regulation of criminal justice information systems.

I have been concerned for some time with the necessity of protecting the right to privacy of our citizens and the need to insure that such rights are provided for in the operation of criminal justice information systems. It is essential, of course, to insure that criminal records are accurate and up-to-date and that the use of such records protects the rights of the individual while also achieving the legitimate objectives of the criminal justice system.

Mr. President, I believe that few will not agree with the fundamental objectives which these bills seek. However, there is subject for debate in both proposals. They contain features which should receive further study. I do believe that the bills have much merit and will serve as excellent vehicles for positive legislation. It is my hope that useful information will be elicited during hearings and that worthy legislation will emerge.

To this end, I should like to hear testimony concerning several issues which I would like to highlight at this time.

First, there is the question of administration. S. 2963, for example, envisions the establishment of a Federal Information Systems Board to have overall responsibility for the administration and enforcement of the provisions of the act. This proposal has merit, but I would suggest it might be expanded to consider congressionally chartering a National Law Enforcement Communications Group with representation from all of the States and with an executive board to provide day-to-day operations.

This Board could have substantial representation from the criminal justice practitioners as well as, of course, representation from citizens in the private sector. The Board could provide a policy and management-making structure to govern the interstate transmission of criminal justice information. Such a Board could operate in a fashion similar to that of the Project SEARCH group.

Second, in the area of intelligence information, I am in agreement that use of such information should be strictly limited to law enforcement purposes and subject to stronger regulations than the use and dissemination of criminal histories. However, it might be unwise to eliminate automated intelligence systems altogether.

In 1968, I supported the Omnibus Crime Control and Safe Streets Act which allowed development of information systems for collecting, storing, and disseminating information on organized crime activities. This has led to the development of manual and automated intelligence systems which have had a major impact on controlling organized crime. From this experience with the LEAA-funded systems, it appears that automated intelligence systems are vital to the effective control of organized crime.

On this broad issue, the National Advisory Commission on Criminal Justice Standards and Goals in its Report on Police stated:

> Intelligence in the police sense is 'awareness.' Awareness of community conditions, potential problems and criminal activity—past, present and proposed—is vital to the effective operation of law enforcement agencies of continued community security and safety.

A third area of concern which I have deals with the dissemination of arrest records. I support the concept of limited dissemination of arrest records. However, we must be careful not to be too restrictive in this regard and thereby hamper the legitimate needs of the law enforcement community. I urge that this provision of both bills be considered carefully.

Fourth, we must also give detailed consideration to provisions allowing any access to the Federal district courts by individuals seeking to contest action involving the use and maintenance of criminal justice information. With the already heavy workload of the Federal courts, State court action might be more appropriate. Additionally, public officials accused of violating the provisions of the act should be allowed the defense of good faith reliance on the provisions of the act in any action for damages by an individual.

Finally, there is one issue that neither bill addresses, and that is the right of the press to have access to criminal offender information. Arrests and convictions of criminal offenses are a matter of public record at the time of the arrest or conviction. Oftentimes, however, the press claims this information is needed to prepare a story for an individual when he subsequently is arrested for another offense and the only place from which it is readily available is a criminal justice information system. I feel it is essential that we elicit testimony from representatives of the press on ways of dealing with this issue in hearings on these bills. Surely, none of us would want to unduly hamper the needs of our free press.

Criminal justice has a valid purpose to serve society by the collection of information. As I have mentioned before, there is also a valid right of citizens to have their records protected. There must be a balancing of both interests.

Hearings on these bills will be forthcoming soon. It is my hope that we will approach the task before us with fairness and reason and thereby put together a properly balanced piece of legislation.

OIL AND GAS EXPLORATION IN OCALA NATIONAL FOREST

Mr. GURNEY. Mr. President, on January 9, the Department of the Interior held hearings in Ocala, Fla., with regard to their proposal to lease certain areas located within the Ocala National Forest for oil and gas exploration.

I submitted a statement at these hearings expressing my strong opposition to any such activities which would encroach upon the natural beauty and resources of this valuable area.

I ask unanimous consent that my statement in opposition to oil and gas drilling in the Ocala National Forest be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT MADE BY SENATOR EDWARD J. GURNEY ON THE PROPOSED OIL AND GAS EXPLORATION IN THE OCALA NATIONAL FOREST

I oppose oil and gas exploration in the Ocala National Forest in the strongest possible fashion.

My opposition is based on two points. First, there is a strong possibility that such drilling will jeopardize critical water resources in Florida's underground aquifer. Second, such drilling will seriously encroach upon the natural beauty and recreational use of this valuable national forest.

Nor does it appear that the oil and gas potential in this area will contribute significantly to our energy needs, urgent as they are, to outweigh the negative factors which would need to be done to accomplish the proposed oil and gas drilling.

We are in the grip of the latest crisis to appear on the national scene—the energy crisis—and we must not fall into the process of making all the panicky, poorly thought out over-reactions that have characterized other responses to recent problems.

Energy has come to be taken for granted by the American consumer because it had always been available at low cost.

The individual consumer, and industry as well, could not conceive of a situation in which they could not have all the cheap energy they wanted.

Although some segments of the energy industry continued to promote the use of more and more energy—especially electricity—there were warnings from the oil industry that things might not be so easy going in the future.

Within the past year, those somewhat dire predictions have become less prediction and more dire. The embargo on most oil exports from the Mid-East following the October Arab-Israeli war has jeopardized the oil supply of America.

Because of the tightening supply situation, the Federal Government, industry, and the American people have been willing to accept some strong medicine—such as lowered home and work temperatures, reduced speed limits, and Sunday service station closings—however, such measures do not serve as basis for the idea that we need to sink exploratory wells into every geological structure that might contain a barrel of oil.

The environmental crisis, which we have survived, left us with numerous examples of inflated rhetoric and thoughtless response.

That crisis also left us with a greater appreciation of a serious set of problems.

It would be folly of the highest sort for us to now repeat the errors of the crisis past, while forgetting the lessons which it taught. Yet, that is just what we seem to be doing.

Our new found broadened perspective of that natural world makes clear that we cannot undertake a change of local conditions without receiving some unexpected consequences in return.

The serious nature of the consequences which might follow from oil drilling operations—either exploratory or production efforts—is what leads me to strongly oppose the proposed oil operations in the Ocala National Forest.

The most disturbing possible adverse effect of this proposal is the threat posed to the important water bearing strata. This Floridian aquifer is the water barrel for most of Florida. Any reduction in the ability of this aquifer to so serve our population is much too high a price to pay for energy.

We are continually reminded that a nation which runs on energy cannot afford to run out.

We need to remind ourselves, however, that we can move without oil, but we can't live without water.

The adequacy of our water supply is not to be glibly assumed. To do so would be to repeat our experience with energy supplies—an experience which has shown that the unlimited has a faculty for becoming limited, very quickly.

Already in areas near the Ocala National Forest, ground water levels have dropped significantly.

Growth of industry and population in this area and elsewhere in Florida will place increasing demands on this most precious resource.

If all planned sites in Marion County, for instance, are developed, the population will grow from the present level of 72,000 to nearly 350,000 in 8 to 10 years, it is estimated.

In another instance, the United States geological survey has reported that the Greater Orlando area by 1980 will have exceeded a 50% withdrawal of recharged ground water necessitating a new source of supply elsewhere. One suggested source for the needed supplement is the Ocala area.

Added to the evident water needs for people are the additional requirements for industry and agriculture.

Taken together, there is too much of our future well-being dependent upon the Floridian aquifer to proceed with oil drilling in the Ocala National Forest.

We must retain some degree of concern for the long-term outlook, rather than being captivated by expediencies of the moment.

The threat to the Floridian aquifer, as I said, is the most disturbing element of the proposed oil enterprise in the Ocala National Forest, but there are other less spectacular environmental ills ahead if we follow the course of action.

Numerous conservationists have criticized the oil exploration program only to be informed by various agency officials that only a miniscule portion of the Ocala National Forest will be affected. In one agency response it was noted that "less than one-tenth of one percent of the forest area would be disturbed if there is a major discovery of oil or gas."

While such expressions may be technically accurate as far as surface area cleared for drilling, they ignore the esthetic impact of the operations on the surrounding forest lands.

Similarly, the threat posed by an oil spill spreading through the waters of the forest would soon affect a considerably greater portion of the lands than the one-tenth of one percent cited.

I am not in opposition to the principle of multiple use under which our national forests are operated. Certainly more than one beneficial use can be derived from these lands.

One must be able to draw a line occasionally, however, when a proposed use would too greatly impede other uses. A consumptive use is not to be ruled out, but non-consumptive uses such as recreation must be protected.

It is hard to conceive that if oil is discovered in great enough quantity that only the area mentioned in this proposal would be affected. We must consider not just the exploration but the act of drilling itself if the exploration is successful. Slowly but surely additional requests will be received by the Department of the Interior to lease more and more acres in the Ocala National Forest until we would hear from these same officials not "only one-tenth of the forest would be affected" but that "only one-tenth of the forest would not be affected."

Public input in the past has indicated a considerable interest in maintaining the unique features of this forest in its natural State. This represents a growing public demand emphasizing recreational type usage of the Ocala National Forest over natural resource development.

Between 1960 and 1970, 24 million people were added to the population of the United States, increasing the total to 203.2 million. Population projections indicate an increase of between 57 and 96 million by the year 2000. State population densities now range from over 1,000 persons per square mile to less than 5 per square mile. Florida, as you know, leads the nation as one of the fastest growing States. As Florida grows, so does the demand by its citizens for recreational land.

Some of America's natural resources need special consideration for their high recreational potential and/or their need to be protected. These are areas of great value to outdoor recreation on which uncontrolled development could result in irreversable damage to historic, cultural, or esthetic values, or natural systems and processes.

Many areas of critical concern in Florida have been identified and classified by the State in comprehensive outdoor recreation plans. The Ocala area has been recognized for not only its recreational value but also for its representation as the last ground water recharge area in the State.

This environmental impact statement we are reviewing today states that "the Ocala National Forest is one of the oldest and heaviest used national forests in the eastern United States with over two million visitor days of recreation use each year. Millions of Americans look to this forest for outdoor recreation, where they can escape from their daily tensions of life."

The summary of this environmental impact statement points out that oil and gas operations will involve building roads, clearing land for drilling, production sites, and pipeline. The amount, size, and location of activity would depend upon the extent of the oil and/or gas discoveries. The report points out that "an accidental oil or salt water spill or well blow-out is possible during drilling or production operations. Adverse effects which could result from activities or mishaps are a reduction in the naturalness of the forest, danger to human life, danger to wildlife, danger to historic or archeological resources, and oil or water pollution."

The report fails to state, however, that there is also the possible loss of recreational opportunities. Florida needs this forest and I feel that to accept the change and permit these oil and gas explorations is unthinkable abuse of our national forest.

The proposal we are examining here denies protection of forest lands for esthetic and recreational uses.

The Ocala is already a much used forest. Multiple use in the Ocala is approaching the point of multiple abuse.

The point which we need to begin considering now is what we may do to restore the natural fabric of the Ocala forest, not what we can do to further rend it.

There is a grave risk that the energy crisis is being used as a mask for numerous damaging assaults upon the environment. The current threat to the Ocala National Forest is one of those assaults. Therefore, I suggest that the proposal to conduct oil operations in the Ocala be classified as a bad idea, rejected and forgotten.

The energy crisis will not be darkened by such a move, but the burden we place on Florida's esthetic and natural resources will be lightened.

RURAL WATER SYSTEMS

Mr. STENNIS. Mr. President, over the years I have very strongly supported increases in the funding of rural water systems. This program of the Farmers Home Administration is a vitally important element in improving the prosperity and health of our rural areas. It is an absolute essential to the revitalization and development of rural communities.

The grant program of the Farmers Home Administration is the way these communities get their water systems started, reinforced by loans which they undertake to repay from their revenues. These little towns and their outlying rural fringes are in a depressed economic condition, which is of course why they need revitalization. A very large number of them cannot start by themselves on a loan basis entirely. The rural water and waste grant program is therefore the key to the problem.

I have been greatly dissatisfied with the support the administration gives this program, while billions are spent in other endeavors that are much less rewarding in terms of results, and have no effect on the continuing shift of population away from rural areas and toward the already distressed central city areas.

The last national survey on the needs of rural areas for water and waste systems showed that over 30,000 small American communities are without adequate water and waste facilities. The survey is now several years old, but it showed that it will require a sum of over $11 billion to provide these facilities, and the cost would be greater now. In my State of Mississippi alone, the survey showed the costs to improve or provide these systems at an adequate standard would amount to over $675 million. The need for these systems are very pressing, but the financial response of the Federal Government has been unrealistic in terms of the magnitude of the problem.

Congress has consistently added money for this program, only to see it impounded by the administration. This occurred each year from fiscal year 1970 through 1974. Then, a year ago, the administration announced the indefinite suspension of the grant program.

Through the first half of the fiscal year $150 million remained frozen in budgetary reserve. I was very pleased when the administration announced on December 26, 1973 that $30 million was being released. Coincidentally, the announcement came at the time when it was made known that several billion dollars in clean water money appropriated for the programs of the Environmental Protection Agency would not be expended.

The resumption of the grant program, even on this very modest scale, is encouraging. However, to qualify for any of the $30 million released last month, some severe criteria must be set. The application must have been on file and waiting for grant money when the program was terminated in January 1973, and there must be conclusive evidence that it is impossible for the project to be undertaken using only loans.

I am further encouraged that the fiscal year 1974 budget contains $20 million for the program. Nevertheless this is a very small amount, in proportion to the size of the problem. It is shown in the budget as taken from the previously impounded amounts.

Mr. President, there will remain frozen in fiscal year 1975, under the terms of the budget, $100 million previously appropriated by Congress as grants for rural water and waste systems. That money should be released for use in fiscal year 1974 as well as fiscal year 1975, and additional amounts provided by Congress for fiscal year 1975, so as to make a realistic approach toward meeting the needs of this very worthy program.

Further, I shall insist that as to the $100 million already appropriated and the $20 million in new money there be no crippling limitations of any kind, but that all applications, including those filed since January 1973 and those filed hereafter shall all be considered together on their merits regardless of when filed.

MAYOR RICHARDSON DILWORTH

Mr. HUGH SCOTT. Mr. President, a recent article in the Philadelphia Inquirer chronicles the outstanding career of Richardson Dilworth and points to those human qualities which made him more than a superb lawyer and vigorous Democratic campaigner, but a colorful and witty man. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Patrician Politician: He Was a Fighter and a Gentleman

(By Harold J. Wiegand)

Richardson Dilworth was once asked why he wore those double-breasted suits that had become his trademark.

When he commenced trying cases in 1927, he explained, he was 29 years old. However, he looked about 21, and he found this was a great drawback in court. "So I decided on the double-breasted suit, vest and Homburg hat in an effort to appear older."

The stratagem evidently was successful, because he was soon recognized as one of Philadelphia's outstanding trial lawyers. At the same time he was making his first tentative venture in Democratic politics.

A Democrat in Philadelphia in those days was not only a rarity but was considered downright eccentric. The party was a frail appendage of the Republican organization and thus was owned and manipulated by the Vare brothers.

Contrary to popular mythology, the Richardson Dilworth-Joseph S. Clark combat team did not spring fully armed from nowhere in the late 1940s to lead the civic reform movement.

The two patrician types had a gruelling training course in the rough game of politics and their first active role in election campaigning came with their support of Alfred E. Smith in 1928.

Smith lost, of course, but he lifted the Democratic Party in this city out of the doldrums by rolling up a substantial vote and carrying South Philadelphia, where a printer named Larry McCrossin unseated Ed Vare's widow in the state Senate.

It has been pretty generally forgotten that Dilworth and Clark were sufficiently encouraged by the Democratic turnout to run for the state Senate and City Council, respectively, only to get defeated.

By then, however, Jack Kelly and Matt McCloskey were in the process of rescuing the Democratic Party in Philadelphia from Republican subjection and making it a respectable and competitive force.

When Dilworth returned from his second war as a marine, he was picked by Democratic City Chairman Michael J. Bradley to run for mayor against Barney Samuel. That was in 1947 and it was the last time a Democrat has lost in a mayoralty election.

Dick Dilworth made a name for himself in that losing effort by his vigorous, new-style street-corner campaigning and his colorful accusations of Republican corruption at City Hall. He and his sidekick Joe Clark became the acknowledged leaders in the city's fight for reform.

In swift succession, Clark was elected controller, mayor and U.S. senator, while Dilworth gained the offices of city treasurer, district attorney and, for two terms, mayor. In between times they pushed the new City Charter to enactment. Sixty-seven years of Republican dominance in city government had come to an end.

Dick Dilworth's great ambition, however, was to be governor of Pennsylvania. He was twice denied that office at the polls, and twice additionally denied party nomination when he most probably could have gone on to win easily. In 1954 he was turned down by Bill Green and in 1958 by nearly everybody, after he had expressed the opinion—not yet fashionable—that China should be allowed admission to the United Nations.

His impetuosity in saying what he thought and hitting hard at his political antagonists won him a reputation for foot-in-mouth performance. He could laugh at his own slips of the tongue, but he saw no merit in the soft-soap approach to any battle. He was the kind of man you would like to have with you on Guadalcanal or the Andrea Doria, or in any other tight spot.

Those who knew Dick Dilworth best knew him as shy to the point of diffidence, a brilliant conversationalist, a good listener, and, when he wanted to be, very, very funny. He was a gentleman.

DIEGO GARCIA

Mr. PELL. Mr. President, it is with acute concern that I have read press reports that the Pentagon will be asking Congress for $20 million for air and naval support facilities on the small British-owned island of Diego Garcia in the Indian Ocean. This report is now confirmed by the statement of Great Britain's Minister of Defense, Julian Amery, in the House of Commons on Tuesday.

I believe it is very much against our long-term national interest to do this as we take on the far greater responsibilities implicit in this enlargement.

What it means is that the United States, already responsible and involved in security matters in most of the globe, is now rounding out our responsibilities and seeking to take on the responsibility for international order in the one portion of the globe where we clearly did not have this involvement.

If such a request is made, it will represent a major departure from what we have been told in the past about our use of Diego Garcia. Previously, our naval facilities there have always been described as a small communications center with no ambition to expand into the traditional type of air and naval base.

The need now for such an expansion has been linked to the Middle East situation. I am reminded of the story of the nomad and the camel, in which the particularly crafty camel succeeded in parlaying a nosehold in the nomad's tent into exclusive occupancy.

I oppose this proposal for the following reasons:

First. At a time when we are trying to reduce our military presence abroad, a new base in the Indian Ocean is likely to start up a chain reaction for additional bases to support it. The proliferation process will have been set in motion:

Diego Garcia today and perhaps the Indonesian Archipelago tomorrow.

Second. The move will further stimulate a United States-Soviet naval race in the Indian Ocean and elsewhere.

Third. That, in turn, would be offensive and frustrating to the countries of the Indian Ocean who wish to keep it as demilitarized as possible.

Mr. President, the ramifications of a U.S. decision to establish air and naval support facilities at Diego Garcia have been explored in an excellent article by Victor Zorza in the Washington Post of January 29, entitled "Halting the Naval Race," and in an editorial in the Washington Post of Wednesday, January 30. I ask unanimous consent that both articles be printed in the Record. I also am having printed in the Record today's article from the New York Times confirming the fact that these negotiations have taken place.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Halting the Naval Race

(By Victor Zorza)

Although the reopening of the Suez Canal is expected only later this year, it has already given a start to a naval race between the superpowers which may eclipse, in cost and intensity, all the arms races of earlier years.

It does not have to happen—but it is acquiring a mad momentum of its own, as the nuclear missile race once did. If it is not halted now, before it really gets going, the opportunity to arrest it will not recur for a good many years.

The crucial lap of the naval race begins on the small island of Diego Garcia, barely a speck on the map of the Indian Ocean, which Britain is willing to make available for a United States base in an area previously untenanted by the superpowers. The Pentagon wants the base because the Soviet Navy will now be able to use Suez to increase its presence in the area. Soviet ships will now have to spend much less time at sea on their way to the Indian Ocean—a 2200 mile journey from the Black Sea, instead of 9,000 miles from Vladivostok in the Far East.

Some spokesmen for the U.S. naval lobby say that this would enable the Russians to quadruple the number of ships on station, without actually assigning more ships to the area, but other experts dispute this claim. To match the Russians, the United States would have to increase its own strength. The Diego Garcia base, the Navy argues, would provide support facilities for both ships and aircraft which would make it less necessary to bring other vessels from far off, leaving them free for other tasks, and would make the whole operation far less costly.

The argument may make good naval sense, but it leaves out of account the politics of the arms race. The Soviet naval lobby was pressing the Kremlin last year for permission to increase its own strength in the Indian Ocean—as was evident from the cries of alarm its spokesmen were uttering in the press about U.S. intentions. But Washington publicly signalled Moscow that its intentions were entirely honorable.

Administration officials let it be known that they did not want to do anything that would push the Soviet Union into a naval race in the area, and the Kremlin allowed itself to be taken in by this—or so it would now seem to Moscow. One Moscow journal associated with the Soviet anti-arms lobby even suggested at the time that, although U.S. hawks were trying to extend the superpower confrontation to the Indian Ocean, they would probably fail to achieve their objective.

The publication of this article in Moscow, coupled with the unprovocative Soviet conduct in the Indian Ocean, suggested, as did the signs in Washington at the time, that both powers were leaning over backward to contain the naval race in the area. All this changed during the October war, when both navies sent in powerful reinforcements and Washington announced that it would henceforth maintain an increased and "regular" presence in the Indian Ocean. Then came Henry Kissinger's successful peace effort in the Mideast, with its promise of the reopening of the Suez Canal, which strengthened Washington's resolve to go back on its implied promise to the Kremlin to keep the Navy on a leash in the Indian Ocean.

But why should the building of naval support facilities on Diego Garcia, which the Pentagon says can be done for a paltry $20 million, be viewed in such cataclysmic terms? Because, to begin with, it would destroy the delicate balance between the naval lobby and its opponents in the Kremlin. Both the United States and the Soviet Union are now embarked on major naval construction and modernization programs, but the political leaders in both countries have so far conceded much less than the naval lobbies are demanding.

In the United States, the Navy's inordinately costly ambitions are a matter of public record. In the Soviet Union, they are to be found between the lines of articles and speeches by naval leaders. They do not ask publicly for money. But their description of the navy's tasks leaves little doubt that, if these are to be fulfilled, far more money will have to be found than the Kremlin can now be seen to be spending.

In both countries, the naval lobbies have been using the Indian Ocean, because of its proximity to the Persian Gulf oil routes, as the bogey with which to push the politicians into crossing a new strategic threshold. The decision to build a base on Diego Garcia will, if it is maintained, represent the crossing of the threshold by the United States.

The Soviet Union will follow, as night follows day, and the last quarter of the century will witness a naval race which promises—because the ship is more versatile and ubiquitous than the missile—to outdo the great missile race that dominated the third quarter of the century.

Deeper Into the Indian Ocean

The Pentagon, citing its concern over Soviet naval expansion in the Indian Ocean, intends to ask Congress shortly for $20 million to build up its facilities on the little British-owned island of Diego Garcia where the United States has run a "communications center" (to contact Polaris subs) in recent years. The general idea is that, with the expected reopening of the Suez Canal, the Soviets will be able to bring ships more easily into the Indian Ocean and Persian Gulf for "gunboat diplomacy": to influence littoral states to lean the Soviet way, and conceivably in a crisis, to scare the oil producers among them to cut off oil to the U.S. or its allies.

Given the pattern of Soviet behavior these days, the Pentagon's anxieties do not seem exaggerated. The Russians have indeed expanded their naval activity and political presence in the area, increasing the number, kind and frequency of ships on station, gaining the use of port or air facilities in Iraq, Yemen, South Yemen, Somalia and India, and establishing the notion that their activity is normal. Meanwhile, the United States has been using certain facilities in Ethiopia, Iran and, until the Mideast war of October, Bahrein. Since October, the Navy has been sailing carrier task forces in and out of the Ocean on a regular basis. To have a base at Diego Garcia—unpopulated and therefore politically uncomplicated—would make it a good bit easier for the United States to be able to project its power into the whole region.

So the issue goes well beyond spending the slight sum of $20 million on one small island. The issue is the whole developing American role in the region. For just this reason, it is necessary to ask some hard questions before the United States commits itself to the major new strategic idea that the Indian Ocean and adjacent waters are now a fit and unavoidable arena of great-power rivalry.

First, the common view is that the Soviets are infiltrating their power and presence into an area left a "vacuum" by the British withdrawal from a patron's role there. But it can be argued that, at least in part, the Russians are merely establishing a counterweight in the form of the framework of an anti-submarine force in waters which the United States has come to use to position its missile carrying submarines. To describe an anti-submarine force as evidence of Soviet "expansionism" justifying an American response is to raise the question of whether it was equally our "expansionism" when the U.S. subs were first deployed in these same waters.

Then, the Indian Ocean has long seemed the last major basin where littoral states, rather than distant great powers, could establish the rules of the road. Is that prospect gone? The United States has no known commitments to any of the littoral states which would require it to establish a new base to serve their defense. On the contrary, it has been building up states like Iran to take responsibility for regional stability. Earlier in the Nixon administration, this was known and hailed as the Nixon Doctrine. Does this Doctrine no longer hold in and around the Indian Ocean? Has the American relationship with Moscow so altered that this Doctrine is no longer an accurate guide to American policy?

Finally, whatever happened to the Soviet feeler of 1971 to negotiate naval limits in the Indian Ocean and elsewhere? Was it just for show? Was an effort made to put it into effect? Is such an effort still feasible? We do not have categorical answers to these various questions but we believe a responsible Congress has got to ask them before the United States slips deeper into the tensions and uncertainties which are increasingly coming to mark the once-tranquil Indian Ocean.

A U.S. Base in Indian Ocean To Be Set Up on British Isle

London, February 6.—A United States base is to be set up on Diego Garcia, a British island in the Indian Ocean 1,000 miles off the southern tip of India.

This was announced in the House of Commons here Tuesday by Julian Amery, Minister of State in the Foreign Office. He said that the United States had requested support facilities on the island for warships and aircraft.

Mr. Amery said that the British Government had "long felt that it is desirable in the general Western interest to balance increased Soviet activities in the Indian Ocean area." He added: "Accordingly, we welcome the expansion of the United States facilites which will also be available for British use."

The two governments, he said, will consult periodically on joint objectives, policies and activities in the area.

NEIGHBORHOOD TAX COUNSELING

Mr. CHURCH. Mr. President, last January I introduced legislation which would promote development and expansion of community schools throughout the United States. In short, the community education concept meets the wasteful underuse of our country's schools and allows the neighborhood school to become a total community center for persons of all ages. I am pleased to report that the Subcommittee on Education has incorporated my community education legislation, S. 335, as part of the Elementary and Secondary Education Act. This measure will soon be considered in executive session by the Labor and Public Welfare Committee.

Just recently I also introduced S. 2868, the Older Americans Tax Counseling Assistance Act. This legislation would help to expand tax preparation assistance programs for older Americans. A major purpose of this proposal is to build upon the enormously successful tax aid for the elderly project, which is conducted jointly by the National Retired Teachers Association—American Association of Retired Persons and the Internal Revenue Service.

We do not need any more proof that this program works exceptionally well. What is needed is a genuine commitment to enlarge it and convert it into a truly national program. And, this is what my bill is designed to do.

With my keen interest in these two pieces of legislation I was especially pleased to learn that the Boise community school program is providing tax counseling assistance to members of the community by having IRS personnel in the schools in the evenings. Mr. President, I ask unanimous consent that a letter from Tom Richards, director of the Boise Community Schools, which describes the neighborhood tax counseling service, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE INDEPENDENT SCHOOL DISTRICT OF BOISE CITY,

January 4, 1974.

Senator FRANK L. CHURCH,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: After hearing from Boise residents that it is difficult to get to the Federal Building and with an eye on the energy crisis, Community Schools contacted the Internal Revenue Service. We asked that they provide staff professionals to be in our Community Schools evenings to provide neighborhood tax counseling and all the various tax forms.

On Thursday, January 3, I received word that the San Francisco office has okayed funds for their staffing. Boise's Community Schools winter session will find IRS personnel offering tax aid throughout the city, therefore reducing the amount of travel necessary and providing benefit to taxpayers.

I feel the IRS national director and the San Francisco regional director and our local Boise office are to be commended for their willingness to enter a new program of tax assistance.

For your tireless efforts for our Community Education, thanks and best wishes in all your endeavors in 1974!

Sincerely,

TOM K. RICHARDS,
Director, Community Schools.

ADDITIONAL THOUGHTS ON COAL DEVELOPMENT

Mr. MANSFIELD. Mr. President, it has been 4 months since the Senate passed S. 425, the Surface Mining Reclamation Act of 1973. The House Committee on Interior and Insular Affairs is preparing to mark up companion legislation. The bill as passed by the Senate contains my amendment which, to say the least, has generated considerable discussion and debate. In simple terms, the amendment would prohibit the strip mining or open pit mining of coal in areas where the mineral rights are held by the Federal Government and the surface is held by a different party.

The amendment would not apply to situations where the minerals and surface are held by private, non-Federal interests and it would not apply where the Federal Government holds title to both the minerals and the surface. The amendment would not apply to deep mining of coal in any situation. Admittedly, it would create a checkerboard pattern in many many areas proposed for surface development. The enforcement of this amendment would give all parties, especially the people of Montana, time to fully consider the consequences of poorly regulated and expansive development of coal in the West—the success or failure of reclamation, demands on water, and the socioeconomic problems associated with the impact of coal gasification plants.

Montana and our neighboring States need not convert from an agricultural economy to a dependence on coal mining. The West need not become the utility backyard for the rest of the Nation. Proponents of greatly expanded strip mining are looking for an easy way out of the energy crisis. Coal is not going to be the single answer for the next 60 years. Let us expand and perfect deep mining of coal. This provides greater employment and little disturbance of the surface. There are many who believe that the cost of opening a new strip mine is equal to that of a new deep mine. There are far fewer employees in a strip mine operation but the equipment is heavy and very expensive. What is going to happen to the vast quantities of mineable coal in the eastern part of the United States? Will a major shift to the West bring about serious unemployment in the Appalachian region? Will there be a major shift in industrial plant relocations closer to the major sources of energy? These are questions my eastern colleagues should be considering.

As I have stated repeatedly, coal is not the only answer to the energy crisis. We should be expanding and perfecting our hydroelectric facilities. The Federal Government has a responsibility to push for greater research and development in areas such as nuclear power; utilizing the sun and wind as sources of energy; the methane process which might be most practical in my State where we are developing large feeder lot operations and creating livestock refuse problems; a crash program to prove out the MHD process, a more sophisticated source of power which uses little water and a minimum of pollution.

As my colleagues are aware, one of the most compelling reasons for my continuing opposition to surface mining of coal is the total disregard being given to the interests of the surface owner. I firmly believe that if a rancher in Eastern Montana wants to continue to produce livestock for the remainder of his life, and that of his children, he should be able to do so. Surface mining and ranching are in no way compatible. The "owner's consent" alternative to the Mansfield amendment is being discussed.

Owner's consent is misleading in its terminology. The only owner that it protects is the one who wishes to sell at an inflated price. This is a practice with which the Federal Government and the individual taxpayer should not be associated. I understand one Montana rancher was offered as much as $15 million for his property but he refused. The surface owner who does not want to sell does not have to but he will be plagued with off-site damage when his neighbor does lease or sell—dislocated water supplies and access routes. Coal development proposed in areas adjacent to the Northern Cheyenne Reservation will create many off-site problems for the Indians. Also the owner consent theory is subject to questions of constitutionality.

The State of Montana has enacted some strong surface mine reclamation laws, regulations governing the siting of utilities, and an exclusion of surface mining from our State's eminent domain laws. It is the latter subject I would like to discuss briefly. Montana has a very loose eminent domain law which has not been abused to date but now there is evidence that the statute is being utilized to bring about strip mining in a roundabout way.

Wally McRae, owner of the Rocker Six Cattle Co., at Forsyth, Mont., was recently threatened with the acquisition of his ranch through eminent domain by a newly formed water storage company whose major stockholders are known as coal and oil lease brokers. The announced intent of the acquisition is for water storage purposes—agricultural, domestic, industrial, irrigation, and municipal uses. The State law is ambiguous in its definitions and requirements. It would appear that the major consideration involved in this case is speculation. We know that stripping of coal for shipment does not require industrial supplies of water but the construction of coal gasification plants require vast amounts of water which is consumed and not returned to the streams. A large reservoir of water is a natural inducement to the location of a gasification plant. This same water storage company applied to the State of Montana for a beneficial water use permit for a large allocation of water from the Yellowstone River Basin. This permit application was rejected as were several others. The pressures to tie up supplies of water in eastern Montana are great and I am pleased to report that the Governor of Montana has responded in a constructive manner in asking the legislature, now in session, to enact a 3-year moratorium on all allocations of water from the Yellowstone River Basin. I am assuming that the House and Senate will respond accordingly. This 3-year moratorium will give the State additional time to seriously consider the future of our most valued resource—water.

Mr. President, I ask unanimous consent to have the Governor's communication to the president of the Senate and the speaker of the House of Representatives in the Montana Legislature printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. Mr. President, eminent domain laws are statutes which must be guarded carefully. Their application should be severely limited to public purposes. As an extension of the eminent domain issue, one of Montana's Indian tribes, with considerable deposits of coal both on and off the reservation, proposed that the tribal authority be granted the right to take surface over mineral rights by eminent domain. The tribe was interested in obtaining title to large surface areas so as to consolidate some leases for a coal company. The surface operator has refused to negotiate to date. I would not agree to extending the right of eminent domain to any one interest—this could only mean trouble.

Earlier I indicated that the State of Montana has adopted a new law governing the siting of utilities, including coal gasification plants. This is vital if we are to protect against a proliferation of gasification units and the many problems that are associated with this kind of development. The State is to be complimented for this action but I am concerned about reports that the Department of Interior is circulating a draft of legislation which would give the Secretary of the Interior a veto power over State laws governing the location and building facilities that produce electricity. This prospect alarms me and I wish to go on record in opposition to any effort to usurp any State's authority to provide for orderly planning and development.

Mr. President, I ask unanimous consent to have a newsstory on this subject from the Washington Post, January 29, 1974, printed following the Governor's communication.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, one final matter I wish to discuss is the recent report appearing in Montana that the Atomic Energy Commission was planning to become actively engaged in the research, development, and marketing of large coal deposits in Montana. This report generated considerable concern in Montana and I immediately asked the Chairwoman of the Commission, Dixy Lee Ray, for an explanation. I now have a lengthy report dated February 4, 1974. Mr. President, I ask unanimous consent to have the document printed following the Washington Post article.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. In conclusion, Mr. President, these are some of the concerns I feel deeply about the rush westward to strip my State and others of vast deposits of low-sulfur coal. The Big Sky Country is willing to do its share in meeting any number of problems we have here at home, but we ask for some compassion and understanding for difficulties that face a large, rural State in a complex and mechanized age.

Exhibit 1

State of Montana,
Office of the Governor,
Helena, Mont., January 28, 1974.

Hon. Gordon McOmber,
President of the Senate,
Helena, Mont.
Hon. Harold Gerke,
Speaker of the House of Representatives,
Helena, Mont.

Dear President McOmber and Speaker Gerke: When I addressed the Legislature in January of 1973, I pledged that a fundamental goal of this Administration would be to ensure the continuation of Montana's increasingly unique way of life. You responded by enacting laws that brought Montanans much closer to gaining control over their own destiny.

Both the people of Montana and I are proud of your record and achievements in this regard.

But few people in January 1973 could have foretold the magnitude of the energy crisis which presently grips this nation. Nor could we have imagined the depth to which the crisis affects almost every aspect of American society—our institutions, our foreign policy, our economy, our environment.

Recognition of the impact of the crisis has led to an announced national policy of attaining energy self-sufficiency during the 1980's. Regardless of the debate currently raging over how best to achieve this goal, whether this goal is indeed achievable, whether or not a major restructuring of our society is necessary, and whether or not environmental standards should be weakened to accommodate this goal, one consequence is patently obvious:

Montana, with 43 billion tons of strippable, low-sulphur coal *and* an apparent surplus of water in close proximity, is becoming one important alternative to increasing dependence on foreign energy.

The value of our coal and water has not gone unnoticed by powerful private and public interests beyond our borders. Increasingly, the granting of rights to utilize these two resources are taking the decision-making authority for our future out of our hands and placing it in the hands of interests located in the financial centers of our nation, far removed from the concerns and controls of Montanans.

Today I would like to discuss one of these resources in particular—water.

It is the lifeblood of our state. It is the foundation of our billion-dollar-a-year agricultural industry. It is essential to our wildlife, forests, and rangeland. None of these could exist without sufficient water.

Yet that is the prospect we may well be facing in one of our most important rivers—the historic, free-flowing Yellowstone.

With a mean annual flow of about 9 million acre feet of water at our border, options, applications and requests have been made for approximately 3,300,000 acre feet from waters in the Yellowstone Basin. In 1972, the Bureau of Reclamation projected that 2.6 million acre feet would be needed annually for coal development by the year 2002. In less than two years, that figure has already been far exceeded, and all indications are that this amount will grow significantly within the immediate future.

The Department of Natural Resources and Conservation, in accordance with its responsibility under the Montana Water Use Act, has become increasingly concerned with this problem during the past few months. Within the past six weeks, applications and notices of applications for almost ½ million acre feet of Montana's water from the Yellowstone have been received. Last Friday, a request to divert over 90,000 acre feet annually was received.

The effect of accommodating all these intended uses in an area that is generally described as "water short" could be staggering. The National Academy of Science has cautioned that, ". . . not enough water exists for large-scale conversion of coal to other energy forms . . ." and that, ". . . potential environmental and social impacts of the use of this water . . . would exceed by far the anticipated impact of mining alone."

The manner in which we respond, or fail to respond, to these unprecedented demands for our finite resources, and to the challenges those demands pose to our environment and society, will in large part determine the kind of state Montana will become. The shaping of our future should not be done in a piecemeal fashion. Our destiny should not be forfeited through a series of decisions made on a case by case basis, without regard to their cumulative magnitude, without thought of the full gamut of alternatives, without consideration of the overall impacts or of long-range acceptability of the action taken. Certainly these decisions should not be made until we have defined the objectives for our State, and any objective we may articulate is inextricably interwoven with and dependent on our water resource.

The Montana Water Use Act was a significant step forward in protecting this invaluable resource. Yet, under this Act the Department of Natural Resources must shortly rule on applications for new and large diversions, although it has had time neither to evaluate existing water rights nor to determine the long-range impacts of the new requests. This is unacceptable.

I am convinced that more time is needed to evaluate the water situation in the Yellowstone, and that time for deliberation and planning is critical to the public welfare. I am today presenting a bill which will buy us that time by postponing actions on applications for permits to appropriate water for three years or until the final determinations of existing rights have been made, whichever occurs first. Only those larger appropriations, for reservoirs storing over 20,000 acre feet or for flows of more than 30 cubic feet per second, would be included. Domestic municipal and agricultural developments should be unaffected. Applications relating to a utility facility for which a Certificate of Environmental Compatibility and Public Need has been issued under the Utility Siting act are also excepted. The bill further provides that reservations of water be established as rapidly as possible under the Montana Water Use Act, and that these reservations, once established, would be given preference status over the applications which will be temporarily suspended by the bill.

During that three-year period, if you approve this legislation, state agencies will be directed to speed up the compilation of information necessary for the development of alternatives which are compatible with the long-range goals and best interests of Montana. The determination of existing rights will be accelerated. Plans by which Montana's water can be put to beneficial use in line with the needs of our state will be developed.

Agricultural, municipal, recreational and wildlife reservations of water will be made.

impacts on our economy, values, and way of life from resulting large scale diversions will be studied. The need for additional legislation will be considered.

The three years should give us the time to head the warning issued by the Senate Interior Committee in its report concerning the Southwest energy issue. The report noted that, "The present Four Corners situation reflects the cumulative effect of numerous resource management decisions, each of which was limited in the scope of its objectives and of its geographic concern." These decisions, ". . . were made to achieve limited and relatively short-term goals and . . ." ". . . were made without full knowledge or adequate consideration of the full range of alternatives, the potential regional impacts, or the long-range desirability of the actions involved."

The problem is critical *and* urgent. We must act accordingly. This proposal will require a two-thirds vote in each House for a waiver of the rule on the introduction of bills. I know that you are already burdened by the need for consideration of other important measures. I know that you are attempting to carry out your responsibilities to the people of Montana in as short a time as is humanly possible.

But the impact this measure will have on the future of Montana's water mandates that we discard the labels of "environmental", "landowner", "developer", "rancher", and "farmer" which have divided us in the past and that we unite in support of this bill to ensure a Montana worthy of this and future generations.

Sincerely,

THOMAS L. JUDGE,
Governor.

BILL NO. ——

A bill for an act entitled: "An act providing for the suspension of action on certain applications for permits to appropriate surface water in the Yellowstone River Basin for three (3) years or until existing rights have been determined, whichever occurs first; making reservations established under the Montana Water Use Act preferred uses over such permits; and providing for an immediate effective date."

Be it enacted by the legislative assembly of the State of Montana:

Section 1. Statement of legislative findings and policy. The legislature, noting that appropriations have been claimed, that applications have been filed for, and that there is further widespread interest in making substantial appropriations of water in the Yellowstone River Basin, finds that these appropriations threaten the depletion of Montana's water resources to the significant detriment of existing and projected agricultural, municipal, recreational and other uses, and of wildlife and aquatic habitat. The legislature further finds that these appropriations foreclose the options to the people of this state to utilize water for other future beneficial purposes, including municipal water supplies, irrigation systems, and minimum flows for the protection of existing rights and aquatic life. The legislature pursuant to its mandate and authority under Article IX of the Montana Constitution, declares that it is the policy of this state that before these proposed appropriations are acted upon existing rights to water in the Yellowstone basin must be accurately determined for their protection, and that reservations of water within the basin must be established as rapidly as possible for the preservation and protection of existing and future beneficial uses.

Section 2. Definitions. Unless the context clearly requires otherwise, in this act:

(1) "Department" means the department of natural resources and conservation.

(2) "Basin" means the Yellowstone River Basin.

(3) "Application" means an application for a permit under the Montana Water Use Act to appropriate surface water from any source of supply within the basin for either or both of the following purposes:

(a) a reservoir with a total planned capacity of twenty thousand (20,000) acre feet or more, or

(b) for a flow rate greater than thirty (30) cubic feet of water per second.

(4) "Reservation" means a reservation of water provided for by section 89–890 of the Montana Water Use Act.

Section 3. Suspension of action. (1) The department may not grant or otherwise take any action on an application until either of the following first occurs:

(a) three (3) years have elapsed from the effective date of this act, or

(b) a final determination of existing rights has been made in the source of supply in accordance with the Montana Water Use Act.

(2) A reservation established before such application for permit is granted is a preferred use over the right to appropriate water pursuant to the permit, and the permit, if granted, shall be issued subject to that preferred use.

Section 4. The department may suspend action on applications not meeting the definition of application in section 2 of this act if it determines, after a public hearing conducted under the contested case procedures of the Montana Administrative Procedure Act, that the cumulative impact of those applications, if granted, would be contrary to the policies and purposes of this act. If the department suspends action on such applications, the provisions of section 3 of this act apply.

Section 5. Reservations. The department may apply for reservations and shall, as rapidly as possible, assist other appropriate state agencies and political subdivisions in applying for reservations within the basin. Particular emphasis shall be given to applications to reserve water for agricultural, municipal, and minimum flow purposes for the protection of existing rights and aquatic life.

Section 6. Application of act. This act applies to applications currently pending with the department, as well as applications filed with the department after the effective date of this act.

Section 7. Utility facilities. This act does not apply to applications to appropriate water for use by a utility facility for which a certificate of environmental compatibility and public need has been granted pursuant to the Montana Utility Siting Act of 1973.

Section 8. Severability. If a part of this is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. This act is effective on its passage and approval.

[From the Washington Post, Jan. 29, 1974]

WHITE HOUSE SEEKS CONTROL OF REFINERY, POWER PLANT SITING

(By George C. Wilson)

The Nixon administration intends to ask Congress to consider everything from atomic plants to oil refineries as national energy resources that must be distributed equitably around the country—whether some states like it or not.

The controversial philosophy is spelled out in a White House bill setting forth procedures for locating and building facilities that produce electricity for the United States.

The idea is to assess the power needs of the nation and then meet them in a hurry through regional planning under a set of federal guidelines. One provision of the bill now making the rounds of executive agencies empowers the Secretary of the Interior to approve power plants if state authorities balk.

The general philosophy of the bill—and particularly that provision—has alarmed environmentalists who have obtained copies of the measure, although it is still officially under wraps. Said Joseph Browder, executive vice president of the Environmental Policy Center, a private group championing environmental causes:

"That bill sounds like the work of people preparing a takeover—a coup. It calls for fundamental changes in the nature of government in the United States."

An administration official who reviewed the bill for his agency conceded that the federal powers in the bill would draw fire from some members of Congress. But he said the measure is a rational attempt to meet the power needs of the country.

The bill comes as a rhetorical civil war is heating up between states producing energy fuels and those consuming it. Politicians in Louisiana and Texas, for example, have complained of late that East Coast states using up Southwestern gas and oil should reciprocate by allowing offshore drilling and the construction of refineries within their own jurisdictions.

Some officials of states with unspoiled coastal zones reply that they do not want to repeat the mistakes of others and spoil their states with industrialization.

Russell W. Peterson, now chairman of President Nixon's Council on Environmental Quality, took that position when as Republican governor of Delaware in 1971 he pushed through the legislature a ban on refineries and heavy industry on the Delaware coast.

Peterson said he will have no comment on the bill until he studies it.

The administration draft bill—said to be a combined effort of White House and Interior energy specialists—states that "each state is hereby directed to designate sites for energy facilities adequate to meet its share of the regional and national needs for such sites and such facilities . . ."

The bill empowers the Secretary of the Interior to take over the approval process for energy facilities if "such state has consistently failed to designate adequate sites for energy facilities over an extended period of time (at least five years) . . ."

The bill would apply to large electric generating plants, except those that use water power; petroleum refineries; coal gasification and liquified gas plants; uranium mills and nuclear storage plants; piers and other offshore transfer facilities for tankers within the three-mile limit, electrical power lines and pipelines that carry oil, gas or coal slurry.

The bill provides that the state agency which would approve the location and construction of such facilities would be the same one that spearheaded state planning under the Federal Coastal Zone Management and Land Use Policy acts of 1973. The administration bill states that "siting of energy facilities" should be "an integral part of regional land-use planning."

Private and public energy companies would have to reveal their plans for electricity producing facilities years in advance—20 years for a nuclear plant and 10 years for a conventional one—including where they want to build and when.

Once the states had approved a power plant site, the U.S. government would try to save time by providing what the bill calls a one-stop federal approval process. The bill calls for full public participation but proposes that "limits be placed on the ability of opponents to delay" construction of approved energy plants.

ATOMIC ENERGY COMMISSION,
Washington, D.C., February 5, 1974.
Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: Dr. Ray has asked me to reply to your inquiry of January 21, 1974. Your question concerned newspaper accounts of the Atomic Energy Commission's apparent interest in the State of Montana as a possible site for a project aimed at demonstrating effective land reclamation techniques following strip mining. I am pleased to have an opportunity to correct some of the inaccuracies contained in the news reports which led to your letter, and to provide you with the facts.

The news articles you enclosed were derived from a meeting held in Montana in January. Press accounts of that meeting were inaccurate. AEC does not plan to mine and/or market coal. In fact, no AEC plans at all exist in this regard for eastern Montana or you may be assured your office would have been advised. The facts of the matter are outlined below.

As you know, the Administration is considering ways of using today's technology to meet and overcome the present energy crisis, and to be responsive to Project Independence. As an outgrowth of Dr. Ray's December 1, 1973, report to the President on Energy Research and Development, an AEC Task Force is currently studying a number of possible concepts for energy demonstration projects in order to further define their scope and feasibility. These include regional, large-scale demonstrations of oil shale recovery techniques, and mining reclamation, liquefaction and gasification of coal. We are also looking at the possible production of methanol for use in automobiles, a large demonstration of the application of solar heating and cooling of buildings, and the desirability of nuclear power centers to reduce siting and licensing delays. If our studies indicate the concepts are both feasible and responsive to Project Independence, they will be recommended to the appropriate government agency for their consideration for further action. Under present organizational arrangements the AEC would be involved in the actual execution of only the nuclear power center project.

To accomplish these studies, several AEC task groups have sought the views of other government agencies and industry in formulating the specifics of the concepts. A demonstration of effective land reclamation in the semi-arid Western coal fields is one of the several preliminary concepts under consideration. Since we wanted to be as realistic as possible, we decided to select a specific site and study it in depth as an illustrative example. The reclamation task force identified Montana, Wyoming and North Dakota as possible sites for a demonstration. It was soon recognized that the reclamation research conducted in the State of Montana would provide the most promising techniques for an effective demonstration. The group felt it essential to visit Montana. The task group met for two days in January with a group of Montana representatives selected and chaired by Lt. Governor Christensen.

It is unfortunate that press accounts of this meeting overstated the scope of the potential project and the degree of involvement of the Atomic Energy Commission and did not reflect the progress achieved at the meeting in determining feasibility of the concept.

Under the concept being considered, the Federal government will not mine and market coal. Basically, the study contemplates a project that would encourage maximum industry participation through a government-industry cooperative arrangement to conduct a reclamation demonstration project on a commercial mine. In addition, participation by state representatives, environmental organizations and local citizens would be actively sought and encouraged to gain the widest possible acceptance of the results and findings of the project upon completion. State suggestions for reclamation research and related studies would be supported and coordinated with the project. Such a project would provide a demonstration of the cost-effectiveness of several alternative and advanced reclamation techniques for returning the land to beneficial uses. A convincing demonstration of successful land reclamation could help mitigate land- and resource-use conflicts between surface mining and other economic activities on Federal, state and private lands. This would facilitate development of coal resources in a manner that assures both environmental quality and continued productive use of the land.

As our efforts at this very early stage only involve feasibility studies of several concepts, we did not consider it of sufficient impact to warrant contact at this time with congressional delegations. This would, of course, be done at future stages of consideration if it were determined that the projects should be pursued. However, in response to your stated interest in the reclamation project, I would be happy, along with the Project Officer of this particular study, to meet with you or your staff to discuss further details. Be assured that we will keep you informed of any further developments concerning this project.

Sincerely,

EDWARD B. GILLER,
Assistant General Manager
for National Security.

TUSSOCK MOTH—A CALL FOR CONTROL

Mr. CHURCH. Mr. President, recently the Environmental Protection Agency conducted hearings on the possible need to utilize DDT in controlling the Douglas-fir tussock moth. This insect threatens to devastate 125,000 acres and more of Idaho timberlands. The timberlands of Oregon and Washington have already suffered tremendous damage. I submitted testimony to the hearing officer on this matter and I ask unanimous consent that the testimony be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR FRANK CHURCH TO THE ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, outbreaks of the Douglas-fir tussock moth have occurred in Idaho forests in times past. On previous occasions, however, the managers of our national forests and private and State woodlands have either witnessed a collapse in major infestations or fought back by applying chemical controls, principally DDT. Today, 125,000 acres of Idaho timberlands are plagued with the tussock moth. From all available evidence, the epidemic has not subsided, yet the control agent which can prevent an outright disaster cannot be utilized.

This muzzled response to so serious a problem derives its origins from the Environmental Protection Agency which is authorized by Congress to allow or disallow the use of pesticides.

The task given the E.P.A. by the Congress is no easy job. It was never meant to be. Those of us who have witnessed the senseless deprivations done to our natural surrounding sought a means by which to prevent unnecessary scars to the Earth from being inflicted without thought or worry. The National Environmental Policy Act (NEPA), and subsequently enacted legislation which further defines national policy, was Congress' response to a growing awareness by a citizenry who demanded some form of protection. I supported the formation of these laws. We only have one Earth and it was apparent to me that something had to counter-balance a short-sighted attitude which permitted the polluting of our streams and lakes, the defiling of the air we breathe and the erosion of our lands. I continue to support the concept from which NEPA and other such laws were derived.

However, the key to administering these laws, it seems to me, must originate from the same attitude by which Congress first enacted them. That is, a balance must be found between protection and utilization. The E.P.A., charged with finding this balance, must not, cannot, lose sight of the fact that the American people will weigh the fairness of the decisions made in the offices where you work.

If this Agency is wrong, for example, in not granting permission to utilize DDT in controlling the tussock moth, Idaho, like Oregon and Washington, could suffer tremendous damage. And, in the emotional furor which could follow so disastrous a decision, I fear we would lose much of what NEPA and subsequent legislation was designed to accomplish. Congress could, after the fact, enact legislation calling for the use of DDT and thus set a precedent for further intervention into those areas designed solely for the expertise of your Agency. I say this not as a threat but as a reminder of the basic mission mandated for the E.P.A.

Thus, in attempting to reach the balance I spoke of earlier, the decision to use DDT must be based on facts and on what is to be gained and lost.

The facts are documented. The tussock moth in the caterpillar stage damages fir trees by eating their needles. It is now estimated that some 690,000 acres in the states of Washington and Oregon and 125,000 acres in Idaho are infested with the moth. As much as 1.5 million board feet of mature Douglas and white fir trees may have been destroyed since the epidemic began in 1971. This Agency denied a request in April, 1973, to use DDT on an "if needed" basis, stating at that time that the risks in utilizing a chemical which persists in nature for a long time outweighed the benefits.

A major factor in this decision was the belief shared by the U.S. Forest Service and other Federal and State agencies that the moth population would, after three years, collapse naturally as the result of a cyclical virus. The massive outbreak of the virus needed to control the moth did not occur as expected. While there are promising methods of control on the horizon, to date, the only effective and proven method for stopping the tussock moth is DDT. Congress has appropriated additional funds for research into effective control methods but the simple fact is that the problem exists now with only one proven control.

If the epidemic continues unabated this coming spring it is estimated that more than 800 million board feet in Oregon and Washington will be killed and 35 million board feet in Idaho. An underestimated additional volume will be destroyed by defoliation and bark beetle, the tragic aftermath of such an infestation.

The Forest Service has re-applied for contingency use of DDT in controlling the insect. Every indicator now points towards a continued infestation in 1974. If, together with a final biological evaluation of the infestation, including egg mass counts and the degree of larval mortality expected from the natural virus, it is determined the epidemic will continue, then this Agency must grant appropriate relief.

Our problem in Idaho is made more serious by the fact that, for all we know, the epidemic may be in its first year in our affected counties. This means the virus is just beginning and will be of little control in Idaho forests. This situation, I believe, calls for special consideration by the Forest Service and the E.P.A. when the final decision is made. And, one point should be made very clear, the predicted collapse, which did not occur, is testimony to how little is really known about the tussock moth.

I began my discussion with a plea for rationality. If we are ever to hope for a balance between continued economic progress and protection of our natural resources, then the two cannot work at odds with one another. Indeed, I've always maintained that both can live harmoniously. An editorial by by Alice Moore of the Lewiston Tribune sums up very nicely the balancing factor about which I've been talking. I would like to share her comments with you and thus, I ask that the editorial appear at the end of this statement.

There is no question that even the most careful application of DDT—and the Forest Service has already assured the public that DDT will be used only as a last resort and only under very controlled circumstances—will have some adverse effect on that which we have sought to protect. On the other hand, without the use of this chemical, there may well be nothing left to protect.

THE DEFENSE BUDGET: WHY MORE NUKES?

Mr. SYMINGTON. Mr. President, I ask unanimous consent that an article by Walter Pincus, executive editor of the New Republic, entitled "Why More Nukes" be printed in the RECORD at the close of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMINGTON. Mr. President, anyone truly interested in the worldwide defense posture of the United States and the tremendous increase in this year's defense budget request, will also be interested in this extraordinary article. It is based on facts about the military utilization of this revolutionary new force that have never before been presented to the public in any article. It dwells on some of the theoretical multibillion dollar "pipe dreams" that even a casual investigation will demonstrate are either unnecessary or unwise from the standpoint of any true national defense.

EXHIBIT 1

WHY MORE NUKES?

(By Walter Pincus)

The Defense Department is talking seriously of developing a low-yield nuclear weapon that would kill enemy troops—and anyone else in the battle area—through enhanced neutron radiation. At a congressional hearing in April 1973, Dr. Harold Agnew, director of the government sponsored University of California Los Alamos Scientific Laboratory, described what would happen to anyone who got a substantial neutron dose: "In a very short time he would become very ill and would be incapacitated; in a day or so he would be dead." The proposed neutron weapon is only one of a new generation of low-yield tactical nuclear bombs, missiles and artillery shells that government laboratories have designed or are developing for battle use. If these weapons are produced and placed in the hands of American troops in Europe, they could have a substantial impact on both the Russians and our European allies.

The current nuclear stalemate that deters a major war rests in good part on mutual fear that any initial resort to an atomic weapon would automatically trigger escalation. The argument for these new "mini-nukes" is that because they are small and accurate their use by the US or its NATO allies would not bring on a Soviet nuclear response. As Gen. Andrew J. Goodpaster, supreme allied commander in Europe and a prime supporter of these weapons said recently: "If we were to apply in a controlled way limited numbers of nuclear weapons sufficient simply to stop [a large-scale non-nuclear Soviet attack on Western Europe] and impose costs and losses on their attack echelons, my own feeling is that the probabilities would be much less than even that they would immediately carry that to all-out nuclear exchange involving their own homeland."

Who's pushing for these small nuclear weapons, and thereby seeking to change the present nuclear standoff? What discussions and debates preceded the decision to develop them? Where was Congress? What role has the public in such a decision? How is nuclear weapons policy made?

Few things are as closely held within the government and Congress as policy on nuclear weapons. In 1969 while serving as chief consultant to a Senate Foreign Relations subcommittee chaired by Sen. Symington, I learned that. Touring Europe and the Far East, investigating US military facilities and programs, I asked in each country about the presence of our nuclear weapons—what kind there were, what were their missions, who knew about them. A pattern formed itself. We had more nuclear weapons and more varieties of them than I had imagined. And they were closer to the borders of the Soviet Union and other Communist countries than I had thought. It gave me a somewhat different perspective on the US response to the threat of Soviet missiles being sent to Cuba.

Some of our nuclear weapons were mounted on fighter bombers in countries bordering Russia. The pilots were not American, but from the Host country. These planes were on 15-minute alert at the end of runways, prevented from taking off only by a fence, an American guard and knowledge that without an American turning some dials on the bomb, the weapon would not be armed. Likewise in two Far East countries US-piloted F–4 fighter bombers armed with nuclear weapons stood at the end of runways on 15-minute alert. Against whom? we asked. At a secret Pentagon briefing we were told the host countries initially had permitted us to station F–4 squadrons; that F–4s could carry both conventional and nuclear weapons; that F–4s were most cost effective when nuclear armed and the most efficient mode to be so armed was on 15-minute alert. In just that offhand manner serious nuclear weapons policy was made.

A few of our ambassadors professed not to know nuclear weapons were in their areas. In one instance nuclear bombs were stored in a foreign country without the knowledge of that country's president. One US Army officer in command of a nuclear weapons depot in the Far East described joint exercises with the host country army using dummy nuclear weapons, although we had no agreement with that country on sharing such weapons. What was being done violated provisions of the Atomic Energy Act.

The information gathered on those field trips raised concern among Foreign Relations Committee members. But they were unable to follow through in any detail. At first the Nixon White House threatened to invoke executive privilege on all nuclear weapons questions. Then, after one briefing on the worldwide location of these weapons, the administration position changed. All such information would in the future only be given to the Joint Committee on Atomic Energy. Sen Symington in 1972 became a member of that committee, and last year he was named chairman of its military applications subcommittee. Picking up the questions first raised in 1969, Symington went on to examine defense nuclear policies, publishing late last year the first declassified nuclear weapons hearings. Those hearings and another last month give us the first detailed information on nuclear weapons development. They also offer a background for understanding the new proposals.

Most discussion of nuclear weapons focuses on the ones we term strategic—Titan II, Minuteman II and Minuteman III missiles buried in launch sites within the US; the Polaris, Poseidon and the in-development Trident submarine sea launched missiles; and our fleet of B–52 and FB–111 bombers—150 of which are always on runway alert—all of them equipped to carry a mix of nuclear bombs. How much a destructive power does this represent? One of our newest nuclear bombs—the B–61—has several yields; a dial on its side lets you choose how big a blast you want. Its highest yield is over 200 kilotons. That must be compared to the 14-kiloton atomic bomb which leveled Hiroshima. One B–52 can carry four such bombs. Put another way, the weapons in our nuclear stockpile have a possible yield of several billion tons of TNT; all the bombs dropped in Europe and the Far East during World War II, except for the two atomic bombs, amounted to two million tons.

Along with what we term our strategic nuclear weapons, we have another large group—the tactical weapons. These include not only nuclear bombs such as the B–61, for fighter bombers, but also land-based mobile missile systems such as the Perishing, which can fire up to 400 miles and has a warhead with a yield over several hundred kilotons. Two other shorter range, older missile systems have nuclear warheads—the Honest John and the Sergeant. They are being replaced slowly by the Lance, which has a warhead with three different nuclear yields and a range of anywhere from about three to 80 miles.

In addition the army also has two pieces of nuclear-capable artillery—the 155-millimeter and somewhat larger 8-inch guns. Then there is the controversial atomic demolition mine (ADM), a device planted before an oncoming invader and ignited, causing enormous crater to stop tanks and land eruptions to close off mountain passes. Europeans, West Germans in particular, have not permitted any holes to be dug to plant these. There are also nuclear anti-aircraft weapons with kiloton yields, and the navy has some 2000 nuclear anti-submarine weapons including torpedoes, depth bombs and underwater rockets.

Until a few years ago the production of nuclear weapons was primarily based on high-yield technology developed almost 20 years earlier. But American military men, particularly those in Europe, have been increasingly uncomfortable with high-yield tactical nuclear weapons which they feel they could never fire. Our NATO partners for their part have always been uneasy about planning for a war in which US tactical nuclear weapons could devastate their countries.

Meanwhile laboratories run by the Atomic Energy Commission and the Defense Department have been exploring new forms for nuclear weapons. A navy developed glide bomb called the Walleye was taken by one AEC lab and provided with a limited nuclear capability. Since the Walleye was a TV guided bomb with great accuracy, the successful teaming of it with a low-yield nuclear charge began the general movement toward a new generation of weapons. The army picked up the idea for its smaller mini-nukes and shortly thereafter generated a rationale for them. "Achievable new weapons of lower yields and of greater accuracy," Gen. Goodpaster told Symington's subcommittee last June, "could increase military effectiveness while reducing possible collateral damage, thereby increasing their utility as well as the acceptability in NATO planning and for employment in the NATO countries and the adjacent areas in which they would most likely be used." At a hearing two months earlier, Maj. Gen. Frank A. Camm, the AEC's assistant general manager for national security, was enthusiastic about the future of mini-nukes in the event of a war with the Soviet Union in Western Europe. An artillery officer who strongly believes in making new nuclear shells for the 155-millimeter and 8-inch guns, Gen. Camm stated, ". . . the yields of the nuclear artillery projectile are very much smaller than the bombs or missiles that we are using at longer ranges. Therefore, we are much less likely to inflict serious damage in the area we are fighting in than if we use larger yield weapons . . . You don't leave radiation on the ground. You burst them in the air. The blast and radiation on the ground. You burst them in the air. The blast and radiation damage the target you are hitting. Then you can move right through the area immediately because they are airbursts . . . Airburst minimizes any residual effects that might remain on the ground."

Nuclear weapons are now being discussed as if they were no different from any other weapons. At one point, Maj. Gen. Edward B. Giller argued the mininukes might be less damaging than conventional weapons: "for instance, the [conventional] artillery barrage might create more casualties on some targets than a single, small nuclear weapon."

Abetting the military in the promotion of the new nuclear weapons are the AEC laboratories that developed them. Los Alamos Laboratory director Agnew was asked why the neutron bomb that incapacitated people had not been more fully exploited. "I really don't know why people have not thought more on the use of these . . . weapons. It may be that people like to see tanks rolled over rather than just killing the occupants." But Mr. Agnew assured his questioner, "I know we at Los Alamos have a small, but very elite group that meets with outside people in the defense community and in the various think tanks. They are working very aggressively trying to influence the Defense Department to consider using these . . . weapons which could be very decisive on a battlefield, yet would limit collateral damage that is usually associated with nuclear weapons."

Dr. Carl Walske, assistant to the Secretary of Defense for atomic energy describes studies done at Los Alamos and the Lawrence Radiation Laboratories that sought to find nuclear artillery shell yield specifically for use in less populated areas of Europe. "These are somewhat spongy figures," Dr. Walske told the Symington subcommittee in setting out a range of nuclear weapon yields that he said, "can be militarily effective, decidedly effective and which can be used between villages, if you like, as you find them in the density that they occur in Europe."

In 1973 the AEC and Defense attempted to start manufacturing their first new mininukes—new artillery shells for the 155-millimeter and 8-inch guns. The program was to cost over one billion dollars. When objections were raised in Congress costs were immediately cut in half. When objections persisted it was announced that most of the expense of the new shells would be recovered by selling the uranium in old shells that would be replaced. At one point Gen. Goodpaster even suggested that nuclear "material that can be obtained from the old 8-inch shells would in fact more than pay for a one-for-one replacement."

Cost, however, was not the only congressional objection to the program. Several senators and representatives joined Symington in asking why nuclear artillery was needed at all. Sen. Pastore, chairman of the Joint Atomic Committee, became concerned about the weapons after a trip to Europe, where he saw how close they were to the border. He feared they would be quickly overrun in any Soviet attack. In response Gen. Goodpaster said that if necessary the weapons could be moved back. Rep. Chet Holifield, upon being told the artillery had a range of 18 miles said, "I think it is a dangerous thing to have this type of opportunity for provocation to start a full-scale nuclear war. I think that goes for the demolition bombs [ADM] too . . . It seems to me that we are really playing chocolate soldier on some of these things."

Congress late last year knocked out $15 million sought by the AEC to start the modernization program for nuclear shells, but the money is expected to be back in the new budget. Never at a loss for rationales, the AEC came up last month with a new one for weapons modernization security. The AEC has got a new electronic system that would immobilize a nuclear weapon if it is seized by someone unfamiliar with how it should be handled. The new system was designed in the wake of terrorist activities and a fear that someone might try to steal a weapon. We can expect the AEC to argue that old nuclear artillery shells should be replaced because they cannot be made totally secure from theft.

Next month the Symington subcommittee will break further new ground by holding the first public hearings on nuclear weapons. The focus will be Europe, the nuclear weappons the US has there and their future status. The first witness will be former Defense Department officials from the Johnson administration, who will be followed by Secretary of State Henry Kissinger and Secretary of Defense James Schlesinger. The "unthinkable" subject is finally getting publicly aired.

LITHUANIAN INDEPENDENCE DAY

Mr. NELSON. Mr. President, today commemorates the 56th anniversary of the establishment of an independent Lithuania. The very brief time—less than a quarter of a century—that the Lithuanian people enjoyed the privilege of living in independence has left an important impression on the Lithuanian people. And the years of Russian domination and German occupation have made their love of freedom all the more keen.

Lithuania has been known to history for almost a thousand years. During the middle ages, education, and religious toleration were encouraged, and as a result the people of Lithuania enjoyed more freedom than her neighbors in adjoining areas. Her people have been strong in faith and spirit surviving as a cultural and political entity during long periods of foreign domination. This spirit has repeatedly overcome outside attempts to replace Lithuanian language and culture with those of alien societies. To this day, Lithuanians have proudly resisted outside pressures and remain faithful to their language, tradition and religion.

February 16, 1918, is a proud day in Lithuanian history. On that day the Lithuanian people proclaimed independence of their state founded on democratic principles. During the period of independence, great strides were made toward the betterment of her people. Placing emphasis on improving the nation's primary occupation, agriculture, through land reform, Lithuania became a nation of small farmers. As she industrialized and expanded her railroad system, she advanced progressive social legislation including the introduction of the 8-hour day, labor control laws, and various other social measures to improve the life of her people.

Today, Lithuania is under Soviet control, but history has proven that national spirit cannot be absolutely conquered nor aspiration for freedom and basic human rights long extinguished.

In keeping with sacred principles carefully guarded, the United States continues to recognize the independent Lithuanian government and affirms her right of self-determination.

Mr. President, I take pride in joining with my colleagues today in the U.S. Senate in saluting the Lithuanian people on this important day in their history.

CREDIT FOR THE POOREST OF NATIONS

Mr. McGOVERN. Mr. President, it is my hope that the Senate can somehow come to the rescue of the poorest among the family of nations in the wake of the decision by the House of Representatives earlier this month not to fund the International Development Association of the World Bank.

This action by the House could not have come at a more inopportune time.

With the increased cost of petroleum to the less developed countries estimated at $9 billion to $10 billion this year, as a result of sharp increases in the price of Middle East Oil, these nations will have an urgent need for more, not less, capital.

I have met on two occasions during this past week with our Ambassador to India, Daniel Patrick Moynihan. His description of the possible impact of the world energy crisis on just that one country is chilling. The projected shortfall of nitrogen fertilizer, critical to the Indian Government's efforts to increase its country's food production, portends a shortage of cereal grains that could lead to famine on a scale we have not seen in our lifetimes.

The Nation, in its February 9 issue, published a brief editorial which describes the situation concisely. I ask unanimous consent that it be reprinted in the Record, and that my colleagues read it with care.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Let 'Em Eat Grass

People are dying right now in India, Bangladesh and sub-Suharan Africa of malnutrition and its related scourges; sub-Sahara especially is on the verge of mass starvation. President Nixon proposed action by the U.S. Congress to aid these and others of the poorest countries through the World Bank's International Development Association. The House killed the bill by 248 to 155, with 108 Democrats voting for a measure of relief and 118 against; only forty-seven Republicans supported Mr. Nixon; 130 voted against him and the millions who are within weeks or months of starvation. Robert S. McNamara, president of the World Bank, has issued a rare public protest against this action by the House, which contrasts with the willingness of other industrialized nations as a group to increase their "soft" loans from 40 per cent to 66⅔ per cent of the total aid, enabling the United States to reduce its contribution from 60 per cent to 33⅓ per cent.

This action, not only heartless but stupid, is taken while the United States is contributing a smaller percentage of its gross national product than are fourteen of the sixteen most prosperous countries, and while we are still contributing at least $1 billion annually to keep Nguyen Van Thieu in office in South Vietnam. To add to the outrage, inflation has reduced the value of the World Bank's soft loans by 30 per cent in the past few years. Worse, the whole structure of international aid is endangered, since all the commitments are conditioned on other nations meeting their commitments.

For a change, media like *The Nation*, which detest Mr. Nixon for his demeaning of the Presidency, can say a good word for him, although his support of the aid measure was only lukewarm. Mr. McNamara, Dr. Kissinger and Treasury Secretary Shultz were much more vehement. They are now trying to revive the aid measure by action in the Senate. A barrage of protest fired by enlightened citizens at their Representatives would help.

WASHINGTON ENERGY CONFERENCE

Mr. KENNEDY. Mr. President, next Monday, the Secretary of State will convene an important meeting here in Washington to begin discussions on international cooperation in energy. Invitations have been sent to Canada, Japan, Norway, the nine members of the European Community, the Community's Commission, and the Secretary-General of the Organization for Economic Cooperation and Development—OECD.

This committee of 15 designed to include foreign and finance ministers plus responsible officials for energy as well as science and technology, represents the first stage in Dr. Kissinger's Energy Action Group. This is an ambitious undertaking, designed to create ways and means of planning for a new era in energy relations among all the nations in the world. If the Energy Action Group succeeds, we can look forward to a future of cooperative arrangements and shared prosperity; if it fails, we will likely see a growth of divisive competition for scarce resources, a confrontation between oil producers and consumers, and the onset of international anarchy in energy markets.

The stakes are high. As a result, the meeting next Monday, and all subsequent efforts to forge cooperation, must be carefully prepared and skillfully executed.

I have serious reservations about the approach being followed. Despite reassurances by the Secretary of State, the absence of oil-producing states from the conference will at best delay effective cooperation with them, and at worst make it more difficult to achieve. No developing countries have been invited. And no place has been set on the agenda for discussing the economic incentives needed to induce the oil-producing states to increase output and lower prices.

As I will spell out in detail, next week's energy conference should move quickly to involve the producer states in discussing four sets of economic incentives: technical assistance for development; effective business involvement; stimulating the use of oil money as foreign aid; and encouraging oil money investments in the industrial states.

This first meeting has been limited to the major consuming nations. In itself, this is a risky approach. On December 6, I proposed the convening of a world energy conference, under the auspices of the United Nations, to include both producing and consuming nations. I did so because of the stark reality of energy markets today: That the concentration of the world's exportable oil in a handful of countries requires cooperation and forbids confrontation. Only by working with these exporting countries—not against them—can we in the oil importing states expect to gain the supplies we all so desperately need.

I have therefore welcomed Secretary Kissinger's proposal for an Energy Action Group, but have repeatedly warned that it must be directed toward relations between producers and consumers, not solely toward relations among consumers alone.

To be sure, all consuming States must work together, to avoid being played off against one another by the producers, as is happening at the moment. In the long-run, bilateral agreements to secure oil, like those entered into by Britain, France, and Japan, could require all of us to pay higher prices, and could have a divisive effect on Atlantic, Pacific, and European Community relations that are already in disarray.

But even the most comprehensive efforts at cooperation among consumers are not now likely by themselves to have a decisive impact on the price of oil in world markets. Some price reduction may take place if and when the current embargo and output restrictions end: some will take place in the future when alternative sources of energy are available elsewhere in the world. But a substantial decrease in prices is only likely to take place—if at all—if the oil-exporting nations see it in their long-term interest for this to happen. Even if today's cooperation in OPEC breaks down, there will not be enough surplus oil in world markets to force the price down as the result of trying to play one producer off against the others.

At the same time, the world's oil-importing states are concerned about the amount of oil that enters international markets. The current embargo against the United States and the Netherlands is only part of the problem. Even more serious for the health of the international economy as a whole are the restrictions that most Arab oil producing states have placed on output. Even when the embargo is lifted—even when oil is no longer used for political purposes—there will be no guarantee of increased oil production. This can only be guaranteed if it is in the self-interest of the exporting states.

The meeting next week on energy thus has two top priorities: First to gain what consumer cooperation is possible without confronting the producer states; and second, to begin providing those incentives required for the producing states to induce both lower prices and higher output. If all goes well, next week's meeting may help achieve the first objective, while avoiding its pitfalls; but the agenda includes nothing that will help achieve the second—and more pressing—objective. In the reported U.S. agenda, relations with producing states have been relegated to "follow-up procedures," almost as an afterthought.

It is not surprising that grave misgivings about this meeting or its scope have already been expressed by several producer states, by the Organization of Petroleum Exporting States, and by Japan, France, and now by the European Community nations as a whole. The European Community has formally opposed the creation of a "permanent organization"—the heart of the Energy Action Group idea—in part because oil-producing states will not be immediately involved.

These misgivings show the difficulties that will face the assembled ministers, and the uncertainty that any cooperation they agree upon will have the desired effect of easing the worldwide energy crisis.

As organized, the meeting of major oil-consuming states has one other serious defect. This is the absence of any representatives from the developing world—from countries representing the majority of the world's people, who are hardest hit by the rising price of energy. India, for example, has announced plans to cut petroleum imports this year by 60,000 barrels a day—more than one-sixth of its import requirements. This means less fertilizer, less food, paralysis in economic development, and even the threat of widespread starvation. And this pattern is being repeated in country after country of the developing world.

Because of this new crisis, coming on top of already staggering problems for the poor countries, I suggested on January 10 that at least one—India—and preferably more—of the major developing countries be invited to next week's energy meeting, where they could speak for themselves about their own energy crisis and the need for international effort to resolve it. This has not been done, thereby reinforcing the image of this meeting as a "rich-man's club" that is insensitive to the needs and interests of developing nations, whether or not they have oil.

A tentative agenda for the energy conference has been reported. It provides for the setting up of working groups and consideration of six aspects of consumer-state cooperation:

Demand restraint and conservation;

Developing alternative sources of conventional fuels;

Emergency allocation of energy;

Guidelines for bilateral oil purchase agreements;

Cooperation in research and development; and

Intensifying economic and monetary policy cooperation to deal with the consequences of the present situation.

These are all critical items to be discussed, especially the need for each nation—including the United States—to consider sharing of energy resources in time of difficulty.

But the agenda must go much further, and consider from the outset those steps that can be taken by the world's major industrial nations to promote the flow of oil at reasonable cost from the OPEC nations.

Despite the economic leverage that the OPEC nations have today, it is clearly not in their interests to bring on a worldwide recession—or worse—as the result of high prices and restricted oil output. Their hopes for economic development would be shattered; they would surely suffer as much as other nations if serious damage were caused to the economies of developed nations, or if one or more major developing-world economies actually collapsed.

If we in the oil-importing states wish the OPEC nations to act on this definition of their self-interest, we must be prepared to act as well. That means recognizing the new importance of the oil-producing states in world councils considering the reform of the trade and monetary systems. It means beginning a process of continuing consultations on the future of the world economy and the place that OPEC nations could play in it. It means establishing a practice of high-level exchanges of leaders between the industrial states and the oil producers, as countries like France and Japan—but not the United States—have already recognized. And it means continuing to demonstrate that the economic health of all the world's nations continues to be in our interest.

In this regard, it was regrettable that the administration recently failed to support the replenishment of funds for the International Development Association, despite painstaking negotiations on the proper role for the United States to play in this World Bank effort to help the "poorest of the poor." Because the administration turned its back on its own legislation, it was defeated in the House by a vote of 248 to 155 on January 23.

For us in the United States, this was a small piece of legislation. But for the rest of the world, it was far more significant, because it demonstrated that the administration is not committed to the kind of worldwide cooperative effort that it is expecting from the OPEC countries. Yet the evidence is clear: we cannot expect the oil producers to share responsibility for the economic fate of both rich and poor countries, if we in the United States are now going to abandon our long-standing role in aiding developing countries.

Mr. President, the United States should use this first meeting on energy cooperation to show that it does understand the need to consider producer-state interests as well as those of the rich consumer-states. It can do this by adding an important item to the agenda, and by proceeding immediately to bring OPEC states into any conference working groups or other institutions that may be chosen to work on these problems. This item involves the ways and means of promoting the flow of oil, and of convincing the oil-producers that their interests will be best served by prices that are lower than at present. To this end, four approaches should be discussed directly with the producer states, and in accordance with their interests:

First, a means to provide technical assistance and training to those oil-producing states that critically need them for their economic development, even where they have no need for outside capital. This technical assistance could be organized through the World Bank Group or other institution, on a cash basis.

Second, an organized way of promoting business opportunities in the oil-producing states. This includes their being able to evaluate the opportunities presented to them, and having markets for the goods they produce as they diversify their economies. For a number of oil-producing states, entry into petrochemicals is desirable both from their perspective and from that of the rest of the world. One of the critical shortages in the world today is fertilizer—which must be produced in much greater amounts if there is to be any hope of success in the Green Revolution and in ending the threat of malnourishment—and even starvation—that is now hanging over so many of the world's people. The oil producers can make up those shortages; but they must have our help.

Third, a means of coordinating the transfer of development capital from the oil producers, both to other Arab States and to poor countries throughout the world. The OPEC nations already have development banks to achieve this purpose but still lack the appropriate means to make development assistance effective, even where they have the will to provide it.

The working groups of the Energy Action Group should also consider industrial state guarantees for oil state investments in the poor countries, in order to stimulate them to undertake investments that otherwise could entail unacceptable risks and uncertainties. And the United States must show that it, too, remains committed to the goal of economic development, as regrettably the administration did not do when it failed to support IDA replenishment.

Fourth, a clearinghouse for advice and expertise needed to promote large-scale oil state investment in the industrial world, including energy research and development. The oil-producing states must also be actively engaged in devising means to handle the radical changes now taking place in the flow of foreign exchange because of rising oil prices. The system will work only if all countries involved in it have an active part in reshaping it.

Mr. President, these are only a few of the steps that need to be taken by the Energy Action Group if its efforts are to have a real chance of success. Every passing day increases suspicion on both sides of debate between oil producers and consumers; every passing day increases the incentives for individual consumers to make separate deals, unmindful of the demands of the world economy as a whole; every passing day deepens the energy crisis of the developing countries, which only cooperation between producers and consumers can end.

From the point of view of the United States, next week's meeting on energy must also not be seen in isolation. The problems in our relations with Europe and Japan—which have impelled the administration to call only the industrial states together at this time—did not begin with the energy crisis, nor will they end if that crisis is successfully resolved. For several years now, the administration has neglected our essential partnerships with the European community and with Japan. And only by once again understanding the importance to us of these partnerships—and of the economic health of our partners—can we begin to shape the world of the 1970's to our mutual benefit.

Energy cannot be isolated from monetary relations, from trade reform, from diplomacy that has emphasized relations with China and Russia without due regard for adequate consultations with old allies, or from the entire compass of U.S. foreign policy in these difficult times. Thus it will be pointless for us to host next week's energy conference, unless it represents a rebirth of concern for the other great industrial centers of the West, not in opposition to the objectives of détente and a new structure of world peace, but as an essential support for them.

Finally, we in the United States must be clear about our attitudes as we enter the search for energy cooperation. If we see this undertaking as an isolated event, designed only to tide us over a single crisis, we will find ourselves unprepared for other difficult challenges ahead, in the overall restructuring of our economic relations with the outside world.

I am particularly concerned about our attitudes toward Project Independence—the desire to return to energy self-sufficiency here in the United States. Doing what we can to be self-sufficient will be to the benefit of all nations, by reducing worldwide competition for energy resources and making it possible for the United States to share its abundant wealth of resources like coal. This is all to the good, and will be welcomed both here and abroad. But if we see Project Independence as a way of retreating from the world—as a way of erecting barriers between ourselves and the world economy—then it will be doomed to failure. For there is no more obvious fact in America's changing foreign policy than our essential involvement in the outside world. We cannot have an economic fortress America, just as we found a generation ago that we could no longer be isolated from the great political currents that were and are shaping the world.

Mr. President, if we go into these talks next week with a clear understanding of our new place in the world, and with a clear commitment to the search for genuine cooperation with energy importing and exporting states alike, we shall once again prove equal to the challenge. The rest of the world is looking to us to take the lead.

A NATIONAL ENERGY POLICY FOR AMERICA

Mr. McGOVERN. Mr. President, in view of the present energy situation, we must consider ways to improve our institutions that have as their primary purpose service to consumers of energy. One of these institutions, the rural electric cooperative, has proven to be an effective servant of farm and rural consumers through several decades of experience.

Tony T. Dechant, national president of Farmers Union, reminds us in a recent address that now is the time to strengthen the operations of the rural electric cooperatives in the generation, transmission, and distribution of electrical energy. As he points out, the rural electric cooperative represents a private, nonprofit force in the energy field which, if strengthened with larger, Federal low-interest loans and other assistance, could serve as a more formidable yardstick and competitor to the investor-owned, private electric utilities and more indirectly, to other profitmaking corporations in the energy field as well.

Dechant presents his recommendations on electric cooperatives in the context of a broader national energy policy. As chairman of the Subcommittee on Agricultural Credit and Rural Electrification, I commend his address and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A NATIONAL ENERGY POLICY FOR AMERICA

I am delighted to be here today. This occasion gives us an opportunity to renew our common interests and aspirations, and there is no better time for a mutual sharing of views.

Of course the common interest of Farmers Union and rural electric cooperatives revolves around the hub of electrical power for farm and ranch uses. Farm families are, and will continue to be, heavily reliant upon electricity for home and agricultural uses. And your cooperatives, here in Colorado and across the country, must remain strong to supply the needs of our farm families.

While electricity is the hub which most sharply defines our mutual interests, today we must broaden our vision to encompass all of the spokes in the wheel of energy that moves the economy and social life of the United States.

Electricity cannot be considered alone. Other spokes in the wheel include petroleum and coal, as well as non-fossil sources such as geothermal, solar, and nuclear energy.

We must develop a comprehensive and coordinated national energy policy.

Such a policy must not be guided by narrow vision that is indifferent to the impact on other important values. If, for instance, we destroy thousands of acres of midwestern farmland by strip mining to produce electricity from coal, we might win the battle for eletcrical energy to power our farms but would lose the war for survival of the farms and the farmers themselves.

An energy policy must comprehend our need for prosperous farmers and productive farmland, not only for fossil fuels. Food, after all, and the human energy that only food can sustain, is the ultimate and unique energy source on this planet.

I, for one, am confident that we have, or can develop, sources of power for the United States adequate to meet our full needs, without sacrificing farms and other essential values. However, we cannot do it unless we have a comprehensive energy policy.

What are the elements of such a policy?

First, we must enact legislation to assure effective price controls on petroleum and petroleum products.

About one-half of the nation's crude oil supply is now exempt from price controls. About 35 percent of our total oil supply is imported, and another 15 percent is either considered "new" oil under existing price regulations or comes from small, stripper wells. All of this oil is exempt from controls.

The other half of crude oil is not really subjected to effective controls. Because of the integrated operations of the major oil corporations, there is often no actual sale of crude oil to a refinery, where the price could be controlled. More fundamentally, lack of effective controls is due to the inadequacy and unreliability of information on the integrated oil corporations' input costs reserve stocks, and other industry data.

The profits of the major, multinational oil corporations have soared. The Wall Street Journal reports that 1973 profit gains of the major corporations average about 45 percent. Exxon has reported that its profits are up from $1.5 billion in 1972 to $2.4 billion in 1973 . . . a 60 percent increase.

Again, according to the Wall Street Journal, the net earnings per share of stock in Gulf Oil Corporation are up from $2.15 in 1972 to $4.00 in 1973 . . . an 82 percent increase.

These profits are obviously not being plowed back into new oil discovery and production. Much of the money is going into a mass media advertising blitz, designed to get the public to accept higher fuel prices as a fact of life. Some will go to stockholders . . . but mostly these are large, institutional investors including the oil corporations themselves.

There is nothing to keep the excessive earnings of the hydrocarbon conglomerates devoted to oil production at all, and to keep these earnings from being siphoned off into auxiliary operations owned by the oil conglomerates. For instance, Gulf Oil Corporation announced last week that it would acquire the 103-year-old Ringling Brothers and Barnum & Bailey Circus.

In short, it is truly to "close the barn door after the horse is out," to try to put together other pieces of an energy policy without first clamping down on prices charged for crude oil by the major, integrated oil corporations.

Second, we must defeat proposals to deregulate the wellhead price of natural gas by the Federal Power Commission. Removal of price controls by the FPC would be an open invitation for prices of natural gas to spurt upward.

Natural gas is an important feedstock in the manufacture of nitrogen fertilizer, which already has jumped in price by some 70 percent since fertilizer price controls were lifted October 25, 1973. Any increase in natural gas prices would push fertilizer prices even higher. And, of course, fertilizer is only one example of how higher natural gas prices affect farmers and other consumers.

Third, legislation must be enacted to mandate independent sources of information on petroleum and natural gas reserves and other aspects of the integrated petroleum industry.

In a real sense, access to reliable information is the foundation on which an effective energy policy must be built. It is impossible to have effective price regulations on crude oil and natural gas, unless sound data is available on the input costs of the integrated oil corporations and the petroleum and gas reserves controlled by the corporations.

The present efforts to formulate an energy policy must be compared to building sand castles at an oceanside while the tide comes in. Each time we get a bit of reliable information, it washes out basic assumptions on which policy has been formulated.

Indeed, although we know that we are depleting our fossil fuels over the longer run, we do not know whether the fuels shortage "crisis" of today is essentially actual or contrived.

That is why I have called for a full-scale, nationally-televised congressional committee investigation. This investigation must be held with the thoroughness with which the Watergate Committee proceeded.

Upon completion of its investigation, the committee would file a comprehensive report, which would include information on reserves, integrated oil company costs and profits and other industry data. The committee would also recommend steps that must be taken to assure that the government and the American people have access to such information on a continuing basis, as well as measures necessary to make the oil industry more competitive and responsible to the public.

Fourth, legislation must be enacted to establish a Federally-owned corporation to find and develop oil, gas, and coal resources on public lands and in offshore areas.

Such a Federal corporation would be patterned after the Tennessee Valley Authority, which we all know has proved highly successful in the electrical energy field.

The Federal corporation should be authorized to carry out at least the following functions:

Explore for and develop public oil, natural gas, and coal resources to meet national fuel needs;

Develop oil and gas in ways that will have the minimal adverse impact on farmland and other elements of the environment;

Provide complete and accurate information about the actual costs of producing oil and gas;

Maintain national petroleum reserves for usage in periods of tight supply;

Provide a competitive yardstick to the privately-owned petroleum industry, comparable to the way that the TVA operates in the electrical energy field.

Fifth, in addition to the Federal corporation, we must take new initiatives to strengthen *cooperatives* that are engaged in energy production and distribution. I have in mind the consumer-owned rural electrical cooperatives that you represent, and cooperatives such as Farmers Union Exchange that are engaged in petroleum production and distribution.

Our cooperatives represent a private, nonprofit force in the energy field which, along with a TVA-type Federal corporation, can serve as a yardstick and as competitors to the major oil companies.

How can we strengthen our coops? Z. D. Bonner, President of Gulf Oil Corporation, recommended to a congressional committee in Washington last week the establishment of a special Federal banking institution to promote energy production. Specifically, Bonner recommended that the Federal bank make low-interest or government-guaranteed loans to the major oil companies to find and develop additional energy resources.

Mr. Bonner's suggestion makes sense in principle, provided that such government assistance is channeled not to the integrated corporations that already reap excessive profits, but to non-profit cooperatives. We of course already have such a "bank"; it is called the Rural Electrification Administration.

What is needed is more money . . . much more money . . . in the REA two percent loan program, so that rural electric cooperatives might strengthen their operations at all stages of energy production and distribution.

The five elements of a national energy policy that I have outlined to you obviously do not cover everything that is needed.

For instance, I have said nothing about the all-important mandatory fuels allocation regulations, on which we must rely to get fuel to farmers in the short run.

Nor have I mentioned the long overdue need for a massive, Federally-financed energy research and development program. Such a program has finally been enacted by Congress, and now must be fully funded if it is actually to do the job.

At the same time, I have outlined an enormous bill of goods, which will require an intensive, cooperative effort if it is to get through the Congress and implemented. My organization and your national organization, the National Rural Electric Cooperative Association, will be working together with others toward this end. Your own involvement in that effort is required, if we are to get the job done.

Farmers Union also will work in 1974 to strengthen the 1973 Agricultural Act. We must increase the target price levels, make the escalator applicable for the 1975 crop year, and increase the feed grains paying allotment to at least 100 million acres.

In light of the runaway inflation in farm production costs, these minimal improvements must be enacted in 1974. We solicit your support for these improvements, so that we might sustain a viable agricultural economy for the rural electrical cooperatives to serve in the years ahead.

NATIONAL OCEANS POLICY STUDY

Mr. BIDEN. Mr. President, I am pleased to join my colleagues in sponsoring the national oceans policy study.

The necessity of instituting this study at this point should be beyond question. The ocean can supply us with many valuable resources—with food and recreation, with minerals and oil. All of these are in great demand and are likely to be in even greater demand as the future overtakes us. The means to satisfy real needs had best be found in a manner that will balance desires with environmental protection. Even today the desire for recreation, open space and shore preservation seems to conflict with deepwater ports and offshore drilling which some demand as necessary. Satisfactory solutions must be found. And these solutions must be rooted in more and better information. That, precisely, is what this study would provide.

The oceans also play an important role in international affairs—economically, politically, and militarily.

Economically, our lack of a clearly formulated set of oceanic policies has contributed to our balance of trade deficits, higher costs for imported goods, inflation, raw material shortages, and a number of related problems. Once again, adequate data and information are needed in order to formulate sound policies that would aim to provide viable policy alternatives to these problems.

Through this study we would hope to develop guidelines and information leading to peaceful relationships with other nations whose interest may or may not coincide with our own. We cannot afford to be selfish with information and technological ability. Any efforts can and must be aimed toward the creation of a structural, interconnected peace. As our oceans have served as natural barriers to aggression, so they should also serve as a starting point for continuing peaceful coexistence among the many nations who need the oceans services and resources.

On the domestic front, the reasons for this study are more readily apparent. For instance, our domestic catch of fish has remained constant since 1955, while demand has tripled. So now, nearly 65 percent of fish and fish products are presently being imported to meet this demand. In turn our international balance-of-payments deficit has plummeted to nearly $1.3 billion.

The fees we pay for the use of foreign transport vessels also add to our balance-of-payments deficit, amounting to $750 million or more. At this point, 5 percent of U.S. trade moves in U.S.-flag vessels.

Another aspect of this problem is the abundance of minerals available under the sea which we presently must import. For example, there are manganese nodules in abundance on the ocean floor, and there is evidence that they are constantly being renewed. The benefits of making use of this abundant resource are numerous, foremost of which is relieving our balance-of-trade deficit, while making this mineral more available in the domestic market.

My own State of Delaware is confronted with the problems for which this study is designed to provide some answers. Our coastal areas are being contested over by both environmentalists and industrialists; our shores are coveted by planners of deepwater ports and offshore drilling.

Delaware, much of whose border is water, is keenly in need of this study as is the Nation.

For the information and policy alternatives this study would provide, I strongly urge the Senate to support this resolution.

Mr. President, I ask also unanimous consent that an article appearing in Science magazine, entitled "Law of the Sea: Energy, Economy Spur Secret Review of U.S. Stance," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Science magazine]

LAW OF THE SEA: ENERGY, ECONOMY SPUR SECRET REVIEW OF U.S. STANCE

(By Deborah Shapley)

At the urging of the Treasury Department, U.S. officials preparing for the United Nations Law of the Sea conference are conducting a drastic reassessment of previously stated United States positions on issues ranging from offshore oil and gas development to international environmental policy.

The classified studies, begun last April, can best be described as an eleventh-hour reexamination of what this country stands to gain or lose economically in the conference. Officials close to the review acknowledge that it has been spurred in part by concern over the energy situation and the economic instability that has accompanied it.

This June, substantive negotiations toward an international treaty will get under way in Caracas; in fact, the Law of the Sea conference officially opened with an organizing session in New York last December. The reviews are looking at the stances put forth by the United States in preliminary negotiating sessions in New York and Geneva during the past 3 years.

The intense new examination of the economic and energy aspects of the Law of the Sea is said by several sources to have been urged principally by Treasury Secretary George Shultz and William E. Simon, Shultz's deputy secretary and the Administration's new energy czar. Officials stress that the reviews are not intended to scrap present U.S. negotiating positions and could merely turn into an exercise in "filling in the blanks" in these positions. But they do not rule out the possibility that, after close analysis, some tenets in the U.S. position could be discarded.

The Law of the Sea conference, if successful, will resolve fundamental questions of national and international jurisdiction in the oceans. The conferees are expected to extend the territorial sea, which is that narrow band of ocean along the shoreline over which the adjacent country has complete control, from 3 to 12 miles. Doing this, however, would place under purely national control approximately 100 straits which the United States deems vital to its military and commercial interests.

The U.S. position has favored the 12-mile territorial sea only on the condition that those straits remain open.

In addition, the conference will attempt to reach a balance of national versus international rights in a wider offshore area that would be called the "coastal economic zone." This zone would start at the outer edge of the territorial sea, and extend to some still undefined limit—perhaps 200 miles offshore, perhaps to the edge of the continental shelf. The extent of coastal nation control over oil and gas resource exploitation, fishing, and scientific research is a major issue, since these zones are believed to contain most of the wealth of the world's oceans. Finally, the Law of the Sea conference will have to decide how to regulate pollution, fishing, and seabed mining in the fully international waters beyond the coastal economic zone.

The United States has tried to assume a role of world leadership in the conference since 1970, when it proposed a draft treaty for discussion. The draft, in the words of one expert, represented what was thought then to be "the best possible deal" for the developing countries, which constitute a majority of nations. Some of the provisions that were regarded as benefiting these nations, and thus came to be characterized as "internationalist," included two U.S. proposals: one, for a strong organization to control the international seas; and so-called revenue-sharing proposals that would spread the income from ocean activities among all nations. The draft treaty also tried to minimize coastal state control over the offshore economic areas—thus giving other nations more access to them—through a complicated "trusteeship" arrangement that has since been dropped.

Since 1970, these so-called internationalist proposals have been gradually eroded by the twin forces of militant nationalism among the developing countries—many of which are coastal states—and bickering among affected U.S. industries and government agencies.

The current Treasury-inspired economic reviews are part of this ongoing evaluation, and ultimately they could help kill some of the remaining "internationalist" U.S. positions. For one thing, the reviews are reconsidering the feasibility of international revenue sharing. For another, they include the question of whether a strong international organization supervising development of seabed minerals is in the U.S. economic interest. Questions like these, coming only a matter of months before the Caracas meeting, have clearly angered veteran officials who are dealing with the U.S. role in the conference.

"I think they're grossly incompetent and ill-informed," one official said of some Treasury reviewers. "They really didn't understand the kinds of things that went on in the last 3 years. When they jumped in, it turned into an education program for Treasury."

But other sources say that, in all the years of preparation, the government has never taken a hard look at the economic impact of the proposals of the United States and of other countries. Such a review, they say, is needed, especially in view of the energy situation. "We're looking at questions which just haven't been asked," said one official. "Let's face it. The world is not the same as it was in 1970."

According to sources both in and out of the Treasury, Shultz, Simon, and deputy assistant secretary Howard Worthington became aware in March of the possible economic problems that could arise from the Law of the Sea conference. They then succeeded in obtaining a place on the key steering group for the U.S. delegation, the executive committee of the 100-man Interagency Task

Force on the Law of the Sea. The one Treasury lawyer who had been working with the big task force was reassigned to other, unrelated duties. Treasury then appointed four economists to work full time on Law of the Sea, and three administrators to work part time.

The reviews themselves were ordered as a result of an early summer meeting of the committee that arbitrates interagency disputes on Law of the Sea matters, the Undersecretaries' Committee of the National Security Council.

In addition to Treasury participation, the Council of Economic Advisers, Peter Flanigan's Council on International Economic Policy in the White House, and the Office of Management and Budget are said to be involved. Also, some outside academic economists have contributed along with specialists in other federal agencies.

At first the studies were conducted publicly, like many other projects generated in connection with the conference. But sometime during the summer the chairman of the interagency task force, John N. Moore of the State Department, decided they should be classified.

One of the major issues being studied is the question of how the Law of the Sea conference could affect future U.S. energy supplies. A central dispute concerns the amount of control a nation will have over development of the oil and gas resources within the proposed coastal economic zone on the continental shelf. Although only a handful of nations have continental shelves extending beyond 200 miles, most nations, as a matter of self-interest, favor a coastal economic zone boundary of 200 miles offshore. The United States, whose continental shelf is even wider in some places, has remained ambivalent as to whether it favors a 200-mile limit or one including the entire continental shelf. Meanwhile, the Soviet Union favors an economic zone limit at a water depth of 500 meters or to a distance of 100 miles—a proposal that would favor the Soviet Union but few other countries. Some nations favor a much narrower economic zone limit—for example, one extending to only 40 miles, which would leave as much as 60 percent of the estimated offshore oil and gas reserves in international waters.

According to a recent United Nations study, the U.S. continental shelf is estimated to have approximately 400 billion barrels of potentially recoverable oil, or as much as ten times the proven reserves of the United States and three times those of Saudi Arabia. Under many of the proposals before the conference, some of those U.S. reserves could go to other nations—either through direct exploitation or through international sharing mechanisms. These are the kinds of questions under review.

A further complication is the issue of what would become of the income from offshore oil and gas development. In 1970, U.S. officials mentioned—but did not formally propose—that as much as 50 to 66 percent of the revenues from ocean resource development be directed to developing countries, in accord with the principle that the ocean's resources are the "common heritage" of mankind. Since then, U.S. officials have avoided naming percentages, but have continued to back the revenue-sharing proposal in principle.

Revenue sharing also enters into the negotiations because the United States and several other countries have said that they favor some revenue sharing from deep seabed mining activities. Although the preliminary negotiations have focused on what kind of international organization should license deep-sea development and divide up the spoils, the current economic reviews are said to be looking at revenue sharing. Treasury officials are said to be skeptical of the concept's feasibility, and to be trying to figure out how much revenue might be involved.

Should it conclude that the notion is unsound, the United States may have to jettison an important element of its position in the conference. Hitherto the revenue-sharing proposals have helped the U.S. in its role as purported world leader; moreover, they are a bargaining chip in dealing with some developing countries who, under revenue sharing, would stand to benefit.

The list of other issues involved in the Law of the Sea is long, and the present economic review is said to cover many parts of it. Fisheries and environmental questions are said to be included. Military considerations are said not to be. Officials would neither confirm nor deny that scientific research—or some aspect of the U.S. position on that issue—is included in the reviews.

Even if the current interest of Shultz and Simon in the Law of the Sea ends with the economists altering existing U.S. positions, the reviews will have achieved one other thing. The architects* of the new Federal Energy Office, set up in response to the fuel shortage, were sufficiently aware of the conference to include a Law of the Sea office among those reporting to the FEO's Assistant Administrator for International Policy and Programs. This is a contrast to the other agencies concerned with sea law: even in the State Department, those working on the meeting operate out of a temporary branch of the legal affairs office. By and large, in other agencies, those involved are on a temporary assignment, on loan from some other, permanent office.

A less concrete but perhaps more important result of the recent burst of activity spurred by Shultz and Simon is that, in the course of it all, both these officials got their feet wet on oceans issues and became interested in the conference outcome. Even those bureaucrats who grumble about the new entrants concede that the review exercise has also drawn attention to the conference in their own agencies. "They [Treasury] took it to the top, and in the long run that will bring Law of the Sea to the attention of the other Secretaries." Among them is Henry Kissinger, who, so far, is said to have paid little attention to Law of the Sea matters.

WATERGATE QUESTIONS FOR THE PRESIDENT

Mr. WEICKER. Mr. President, since its inception, the Senate Watergate Committee has repeatedly sought a meeting—at the White House—with President Nixon. In all cases, the White House has refused to respond to these requests. In executive session on January 23, 1974, the committee unanimously agreed to submit written questions to the President.

Mr. President, I ask unanimous consent that a copy of a letter from Senator Lowell Weicker, Jr. to Mr. Samuel Dash; a copy of letter from Mr. Dash to Mr. James D. St. Clair, transmitting the questions to the White House; a copy of a letter from Mr. St. Clair to Mr. Dash acknowledging receipt of the questions by the White House; and a copy of the questions that were sent to the White House, all be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

February 5, 1974.

Mr. Samuel Dash,
Chief Counsel and Staff Director, Select Committee on Presidential Campaign Activities, Dirksen Building, Washington, D.C.

Dear Sam: I enclose herewith questions for the President of the United States pursuant to the resolution of our Committee passed on January 23, 1974.

I would appreciate your transmitting same to the White House immediately.

With warm regards,

Sincerely,

Lowell Weicker, Jr.,
U.S. Senator.

Select Committee on Presidential
Campaign Activities,
Washington, D.C., February 6, 1974.

Hon. James St. Clair,
Special Counsel to the President,
The White House, Washington, D.C.

Dear Mr. St. Clair: Enclosed are questions prepared by Senator Lowell Weicker of Connecticut.

At its meeting on January 23, 1974, the Senate Select Committee unanimously passed a motion approving the submission by any member of the Committee, questions to the President relating to matters covered by Senate Resolution 60. This action was taken as a result of the refusal of the President to meet with the Committee for the purpose of responding to questions on the record.

The Committee believed that specific questions any member of the Committee wished to put to the President for the President's response should be submitted to the President in the interest of fairness prior to the Committee's preparing and filing its report.

Sincerely,

Samuel Dash,
Chief Counsel.

The White House,
February 6, 1974.

Mr. Samuel Dash,
Chief Counsel, Select Committee on Presidential Campaign Activities, New Senate Office Building, Washington, D.C.

Dear Mr. Dash: I acknowledge receipt of your letter of February sixth with the enclosure described therein.

This material will be called to the President's attention for such action as he shall determine.

Sincerely,

James D. St. Clair,
Special Counsel to the President.

EXECUTIVE CLEMENCY DISCUSSIONS AS EARLY JULY 1972

Question 1: When John Ehrlichman discussed executive clemency with you [1] in July 1972,[2] prior to any indictment, trial, or conviction, why didn't you ask how such a matter could possibly relate to what was being called a "third rate burglary?" [3]

It is hard to imagine what "organizational proposition" is being referred to, or why sooner or later somebody was inevitably going to raise the issue . . . unless somebody would know they had the White House in a vulnerable position.

It is interesting to note the President's statements contradict Ehrlichman on all points. First, the President has said "it was, on occasion, suggested as a result of news reports that clemency might become a factor," (Press Conference, November 17, 1973, p. 6, emphasis added). Mr. Ehrlichman's version of the reasons for their discussion makes no mention of news report problems. The President claims to have discussed clemency offers only in July 1972. Research uncovers no news report that clemency might be a factor, as of July 1972. The President's statement also contradicts Mr. Ehrlichman by implying that clemency was "suggested."

REQUESTS FOR FBI REPORTS DURING THE FBI INVESTIGATION

Question 2: On August 29, 1972, you stated: " . . . within our own staff, *under my direction*, counsel to the President, Mr. Dean, has conducted a complete investigation. . . ." (Italics added)

On March 2, 1973, you stated: "I will simply say with regard to the Watergate case what I have said previously, that the investigation conducted by Mr. Dean, the White House counsel, in which, incidentally, he had access to the FBI records on this particular matter *because I directed him* to conduct this investigation. . . ." (Italics added)

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*Among whom were Shultz and Simon.

On April 5, 1973, you stated: "Because *I* asked my counsel, John Dean, to conduct a thorough investigation of alleged involvement in the Watergate episode, Director Gray was asked to make FBI reports available to Mr. Dean." (Italics added)

On October 19, 1973, one of the overt acts of the conspiracy to which John Dean pleaded guilty was: [4] "4. In or about July and October, 1972, John W. Dean, III requested L. Patrick Gray, acting Director of the FBI, to provide him with reports of information obtained during the FBI investigation."

In light of your August 29, 1972, March 2, 1973, and April 5, 1973, statements that you directed the Dean investigation, what is the difference in your measure of responsibility from that of John Dean?

UNETHICAL CONDUCT IN THE HANDLING OF THE DEMOCRAT'S CIVIL SUIT

Question 3: When you were told on September 15, 1972,[5] about private contacts between CRP lawyers and the judge in the democrat's civil lawsuit,[6] what steps did you take to ascertain the truth of such highly unethical conduct? [7]

A lawyer is entitled only to being informed about the status of the case in open court, formal in-chambers proceedings, or inquiries to the clerk. Clearly such routine proceedings, which are the only proper ways of discussing the progress of a case, would never merit the characterization of being kept "abreast of what was happening." That implies an initiative by the Judge and/or a type of unilateral briefing—a Judge doesn't keep a lawyer abreast of what is happening; rather, a lawyer keeps his client abreast of what is happening.

On August 24, 1972, the Judge pressed for a rapid resolution: "I think there is . . . a suggestion implicit in all of this that if something is not done by the courts to rapidly bring this situation to a head one way or the other, by way of a settlement or trial that the integrity of the courts may become subject to question. . . ." (The Evening Star and Daily News, p. A-1, August 24, 1972).

On September 12, 1972, the Judge ordered a halt to further depositions: "United States District Court Judge Charles Richey today ordered a halt in the taking of depositions in the Democrats' $1 million "Watergate caper" civil suit until September 20, when he promised to rule on all motions in the case." (The Chicago Tribune, p. 11, September 13, 1972).

On September 22, 1972, the case and depositions were suspended until after the Watergate criminal trial could take place: "Federal District Judge Charles R. Richey gave up his efforts yesterday to bring civil suits in the Watergate case to trial before the November 7 election.

"Mr. Califano (lawyer for the Democrats) lavished praise on Judge Richey for an "absolutely extraordinary attempt" to try the case before the election." (The Baltimore Sun, p. A-7, September 22, 1972).

DENIALS OF NEWS REPORTS ABOUT SEGRETTI'S ACTIVITIES

Question 4: News reports of Mr. Segretti's activities in mid-October 1972 were called "hearsay, character assassination, innuendo or guilt by association," [8] Even though your press staff of Ziegler, Buchanan, and Moore [9] knew those news reports were substantially correct—were they covering up the truth on your instructions, or on their own initiatives?

THE CLAIM THAT A NEW INVESTIGATION WAS BEGUN ON MARCH 21, 1973

Question 5: You claim that on March 21, 1973, you "personally ordered those conducting the investigation to get all the facts and report them directly to me," [10] and yet nobody has testified to receiving such an order [11]—has somebody committed perjury?

Mr. Haldeman's conclusion that "in effect, (the President) had stopped dealing with (John Dean) after the 23rd," is particularly interesting in light of the President's own statement of August 23, 1973, that "on March 23, I sent Mr. Dean to Camp David, where he was instructed to write a complete report."

Mr. Dean's report could hardly be called an investigation, according to Mr. Haldeman's testimony of the March 22 discussion: "in order to avoid the problem that had been discussed earlier of the committee hearings resulting in the facts coming out piecemeal, one witness at a time, and being the subject of a major news story, there should first be a complete report put out by the White House prepared by Dean covering all of the facts so that what all of us would say would already be known in one place. . . ." (Committee Transcript p. 2900).

CONDUCT AS TO JOHN DEAN AFTER MARCH 21, 1972

Question 6: When John Dean told you on March 21st that he was involved in possible crimes, why, the very next day, did you discuss his being given a position of trust as liaison with the Senate Watergate committee? [12]

FOLLOW-UP TO THE MARCH 21, 1973 MEETING

Question 7: You heard what you have termed "serious charges," [13] on March 21st. When you met as part of your "investigation" [14] with Messrs. Mitchell, Ehrlichman, Haldeman, and Dean the next day to "discuss the whole matter," [15] why didn't you seek refutation or corroboration of those charges? [16]

DISCLOSURE OF INFORMATION RECEIVED MARCH 21, 1973

Question 8: When you learned of Watergate crimes on March 21st, the law required you to turn this evidence over "as soon as possible" to "a judge or person of civil authority," [17] not Mr. Dean or Mr. Ehrlichman—which judge or law enforcement official did you contact? [18]

DISCLOSURE OF THE ELLSBERG BREAK-IN

Question 9: When you learned of the Ellsberg break-in crimes on March 17, 1973, the law clearly required you to inform a judge or law enforcement official "as soon as possible"—under what authority did you withhold that information from appropriate officials until after April 17, 1973? [19]

FAILURE TO REMOVE THE FBI DIRECTOR WHO HAD BURNED HUNT'S FILES

Question 10: Why didn't you ask for acting FBI Director Gray's resignation, when testimony indicates that as early as March 1973 you no longer supported his nomination,[20] and by April 15th you knew from Justice Department officials [21] and a phone call to Mr. Gray [22] at which you were present that he had destroyed evidence from Mr. Hunt's safe?

REASONS FOR INATTENTION TO WATERGATE CRIMES

Question 11: How do you explain your repeated statements that one reason you knew nothing about Watergate or its cover-up was that you were busy with affairs of state [23]—with prominent mention of Russia, China, and Vietnam—and yet your daily logs for June and July 1972 show literally hundreds of meetings with principal Watergate figures, while only minutes were spent with individuals such as Dr. Kissinger.[24]

FOOTNOTES

[1] The Presidential Statement of August 15, 1973, confirms that there was such a discussion with Mr. Ehrlichman in July 1972:

"Indeed, I made my view clear to Mr. Ehrlichman in July 1972, that under no circumstances could Executive clemency be considered for those who participated in the Watergate break-in." (p. 3).

[2] Mr. Ehrlichman's testimony is a little more explicit:

"Mr. DASH. Did you at any time meet with the President and discuss Executive clemency?

Mr. EHRLICHMAN. Yes.

Mr. DASH. When?

Mr. EHRLICHMAN. In July 1972.

* * * * *

We had a long walk on the beach on that particular day and we talked about a lot of subjects and this was one of the subjects we talked about." (Committee transcript p. 2848–2849).

Mr. Ehrlichman's identification of the beach would place the date of this conversation on July 8, 1972. A reference to his logs shows that to be the only beach conversation in July 1972:

July 8, 1972

12:45–2:05 p.m., President met with Ehrlichman; President and Ehrlichman to patio adjacent office.

2:14–2:29 p.m., President motored to Red Beach with Mr. Ehrlichman.

4:41–5:03 p.m., President met with Mr. Ehrlichman. San Clemente Red Beach to San Clemente Residence (Ehrlichman logs).

There would be no tapes of such a conversation. Nevertheless, Mr. Ehrlichman's explanation for raising the subject is interesting:

"Mr. EHRLICHMAN. Because it seemed to me as an organizational proposition that sooner or later somebody was going to raise this issue and I thought it would be a very good idea to talk it through with the President before it came up in any specific context, and find out exactly where we stood." (Committee transcript p. 2848).

[3] As of July 8, 1972, the most notable comment direct from the White House was Press Secretary Ronald Ziegler's statement of June 20, 1972:

"I'm not going to comment from the White House on a third-rate burglary attempt."

[4] This was a plea to an Information, instead of by indictment made on October 19, 1973, as to a Conspiracy to Obstruct Justice and Defraud the United States of America. (U.S. v. Dean, D.D.C., No. 886–73).

[5] The Democratic Party had brought a $1 million civil suit against the Watergate defendants and other election officials, charging a conspiracy to commit political espionage. As of September 15, there was great concern that depositions and/or a trial before the election might be very damaging to the President and the Re-election Committee.

[6] John Dean's testimony as to what he told the President on September 15, 1972, indicates a clear explanation of ex parte contacts (unethical, out-of-court meetings) with the Judge:

"The President then asked me about the civil cases that had been filed by the Democratic National Committee and the Common Cause case and about the counter suits that we had filed. I told him that the lawyers at the Re-election Committee were handling these cases and that they did not see the Common Cause suit as any real problem before the election because they thought they could keep it tied up in discovery proceedings. I then told the President that the lawyers at the Re-election Committee were very hopeful of slowing down the civil suit filed by the Democratic National Committee because they had been making ex parte contacts with the judge handling the case and the judge was very understanding and trying to accommodate their problems. The President was pleased to hear this and responded to the effect that, "Well, that's helpful." (Committee Transcript p. 958).

Testimony by Mr. Haldeman, who had listened to the September 15 tape before testifying, confirmed that the matter had been discussed:

"There was some discussion about Judge Richey hearing the civil case and a comment that he would keep Roemer McPhee (the

Committee lawyer) abreast of what was happening." (Committee Transcript p. 2889).

[7] Canon 7 of the Code of Professional Responsibility, Ethical Consideration 7–35 states:

"All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides. . . ."

[8] This comment was made by Press Secretary Ziegler on October 16, 1972.

[9] Mr. Dean, who had interviewed Mr. Segretti and had helped White House officials prepare for FBI interviews on Segretti, testified as follows:

"On Friday, the 13th, I had left Washington to go to Florida to spend several weeks on a honeymoon, but was abruptly called back to Washington on Sunday, October 15, because of the cascading leaked stories regarding Segretti. When I returned, I went to the White House where a meeting was in session in the Roosevelt room. In attendance at the meeting were Ehrlichman, Ziegler, Buchanan, Moore, and Chapin. The purpose of the meeting was to prepare Ziegler for his press briefings on the Segretti-related stories. For a reason that I cannot explain, a secretary to Mr. Chapin was present and taking notes during parts of the discussions and hypothetical questioning and answering of Mr. Zeigler. I believe this is one of the rare occasions where the preparation of a Ziegler briefing was actually recorded and I have submitted to the committee a copy of the notes recording parts of that session." (Committee Transcript, p. 965).

With respect to the October 15th briefing, Mr. Moore testified:

"Senator Weicker. You have indicated it was obviously necessary to go into some of the background of these matters, is that correct?

Mr. Moore. Right.

Senator Weicker. Did you have occasion to talk to either Mr. Chapin or Mr. Segretti?

Mr. Moore. I have never met or talked to Mr. Segretti.

Senator Weicker. I see, and Mr. Chapin?

Mr. Moore. Yes.

Senator Weicker. And specifically about these matters?

Mr. Moore. Oh yes.

Senator Weicker. So it is fair to say that insofar as the Segretti aspect of what confronts this Committee, you are knowledgeable to some extent in October 1972, is that not correct?

Mr. Moore. Knowledgeable from the standpoint of White House connection, not Segretti's operations." (Committee Transcript p. 2031).

[10] Address by the President, April 30, 1973:

"* * * As a result, on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigation to get all the facts and to report them directly to me, right here in this office."

[11] Mr. Mitchell, Mr. Haldeman, and Mr. Ehrlichman who were not asked directly about receiving such an order, did not testify that they were ordered to conduct an investigation on March 21, 1973. Among those who were "conducting the investigation", Mr. Gray (p. 3489–3490), Mr. Kleindienst (p. 3596–3597), and Mr. Petersen (p. 3652) all denied receiving such an order.

As to the possibility that Mr. Dean was given the assignment to get all the facts, Mr. Haldeman's testimony indicates that the only assignment Dean was given was to prepare a report for the public:

"So, as I recall, Dean was told at that meeting on the afternoon of March 22, to prepare a full written report for public release. . . ." (Committee Transcript p. 2900).

This is even more interesting in light of a later comment by Mr. Haldeman:

"By the 30th, Dean had not delivered any report and he said he had not been able to write one; and the President stopped dealing with Dean. In effect, he had stopped dealing with him after the 23rd." (Committee Transcript p. 2902).

In a statement during the August 22, 1973, Press Conference, the President stated that: "I gave the responsibility to Mr. Ehrlichman on the 29th of March to continue the investigation." That appears to be the first personal order for an individual to conduct an investigation, although it was not directed to someone who was "conducting the investigation."

[12] John Dean, in testifying about the March 22, 1972, meeting with the President, Mr. Mitchell, Mr. Ehrlichman, and Mr. Haldeman, related the following discussion:

"At that point the President turned to me and said 'John, I think that you ought to go up and discuss with Senator Ervin the parameters of executive privilege' and I said to the President, 'I thought that would be very unwise . . .'" (Committee Transcript p. 1549).

Mr. Mitchell confirms that the subject was discussed: "There was also the discussion, as I said, of having somebody provide liaison with the committee up here. Dean was discussed and apparently rejected, and then Ehrlichman, and, as I think the record will show, and I think I can bear out Mr. Dean's recollection of it, the President called Mr. Kleindienst on the subject matter while we were there." (Committee Transcript p. 1888).

[13] The topics of the March 21, 1973 meeting with John Dean have not only been termed "serious charges," but also "troubling" allegations, and "disturbing information:"

"On March 21st, as a result of serious charges which came to my attention . . ." (Statement by the President, April 17, 1973).

"These allegations were very troubling, and they gave a new dimension to the Watergate matter . . ." (Statement by the President, August 15, 1973).

"When I received this disturbing information on March 21st . . ." (Statement by the President, August 15, 1973).

[14] On August 22, 1973, the President stated that the meeting on March 22, 1973, was an indication of the extent of his own investigation:

"I met at great length with Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, and Mr. Mitchell on the 22nd. I discussed the whole matter with them. I kept pressing for the view that I had throughout, that we must get this story out, get the truth out, whatever and whoever it is going to hurt, and it was there that Mr. Mitchell suggested that all the individuals involved in the White House appear in Executive Session before the Ervin Committee. We never got that far, but at least that is an indication of the extent of my own investigation." (Press Conference, August 22, 1973).

[15] The President has stated: "I met at great length with Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, and Mr. Mitchell on the 22nd. I discussed the whole matter with them." (Press Conference, August 22, 1973).

[16] Mr. Mitchell:

"Mr. Dash. At that meeting was there any discussion by the President, by you or by Mr. Dean, concerning the Watergate, either cover-up or who may be involved in indictment or anything like that on the 22nd? Mr. Mitchell: None whatsoever." (Committee Transcript p. 1635).

Mr. Ehrlichman:

"Senator Gurney. . . . then there is another meeting between the three of you and Mitchell, and then you join the President, which, of course, is the next day. (March 22, 1973) Did not the President say at any of these meetings, "Now, listen fellows, here I have heard all about this from John Dean, what gives here, what are we going to do now, what plans do you have, who is going to get this out? We have got to do it." No discussion of that?

Mr. Ehrlichman. Senator, I have great difficulty in believing that the President was told what Mr. Dean says he was told because of the President's approach to this, which I saw in these two meetings." (Committee Transcript p. 2746).

Mr. Haldeman:

"The next step was the meeting of Mitchell, Ehrlichman, Dean, and myself the next day (March 22, 1973) with the President.

"The four of us met in the morning in my office and had some discussion of Dean's report to the President, although not in any detail. Most of the discussion was regarding approaches to dealing with the situation rather than a review of the facts of the situation.

* * * * *

"We met in the afternoon in the EOB office with the President and that, too, was a discussion of how to handle the situation rather than any further exploration of the facts." (Committee Transcript p. 2989–2900).

Mr. Dean:

"The meeting was almost exclusively on the subject of how the White House should posture itself vis-a-vis the Ervin Committee hearings. There was absolutely no indication of any changed attitude and it was like one of many, many meetings I had been in before, in which the talk was to strategies for dealing with the hearings rather than any effort to get the truth out as to what had happened both before June 17 and after June 17." (Committee Transcript p. 1002).

[17] Title 18, United States Code, section 4, requires:

4. Misprision of felony.

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than $500 or imprisoned not more than three years, or both.

[18] Mr. Kleindienst, the nation's top law enforcement official, has testified as follows:

"Senator Ervin. You stated, as I understand your testimony, that the President indicated by his conversation, when you reported what you knew about the Watergate affair to him . . . (on April 15, 1973) that he was ignorant about the Watergate affair?

Mr. Kleindienst. I would gather from my meeting with the President that he had no such knowledge until immediately prior to my meeting, Mr. Chairman." (Committee Transcript P. 3579–3580).

Mr. Petersen, the chief Prosecutor, has testified:

"Mr. Dash. Was it at that time that you and Mr. Kleindienst gave a complete briefing? (April 15, 1973)

Mr. Petersen. Yes, sir.

Mr. Dash. To the President?

Mr. Petersen. Yes, sir.

Mr. Dash. Can you tell the Committee what the reaction of the President was at that time?

Mr. Petersen. Well, I guess the reaction of the President was one of concern when I remember remarking to Mr. Kliendienst how I admired his calm." (Committee Transcript p. 3628)

[19] Mr. Petersen has testified as follows:

"Mr. Dash. On April 16, did you receive a memorandum from Mr. Silbert concerning the Ellsberg phychiatrist's break-in?"

Mr. Petersen. Yes, sir; I did.

Mr. Dash. Was that the first time you learned of that break-in?

Mr. Petersen. To be precise I ought to correct that. The memorandum was dated April 16. I think I received it on the 17th, Mr. Dash.

* * * * *

I advised the President of that and kind of in response to his, well, what's new, and I told him that we had received this information.

Mr. DASH. Did he indicate that he knew anything about that break-in when you told him about it?

Mr. PETERSEN. No; he did not." (Committee Transcript p. 3630–3631).

Mr. Kliendienst has testified as follows:

"Mr. DORSEN. When did you first learn . . . that White House employees burglarized the office of the psychiatrist of Dr. Daniel Ellsberg?

Mr. KLEINDIENST. I learned that amazing bit of information some time in the morning of Wednesday, April 25, 1973." (Committee Transcript p. 3574).

It is important to note that the break-in at issue constituted a number of possible crimes, completely aside from whether it produced material that could improperly influence the trial of Dr. Ellsberg. For example, there is a possible illegal (and unauthorized, according to the President) breaking and entering, a conspiracy to interfere with the civil rights of a citizen, as well as a number of other possible conspiracies.

[20] The transcript of a phone call on March 7 or 8, 1973, referring to the Gray nomination hearings that were experiencing difficulty in the Senate, reads as follows:

"EHRLICHMAN. Well, I think we ought to let him hang there. Let him twist slowly, slowly in the wind.

DEAN. That's right. I was in with the boss this morning and that's exactly where he was coming out. He said I'm not sure that Gray is smart enough to run the Bureau the way he's handling himself." (Committee Transcript p. 2787).

[21] Mr. Ehrlichman has testified as follows:

"Senator WEICKER. What was the purpose of your phone call on April 15 to Mr. Gray?

Mr. EHRLICHMAN. I explained it was the result of the President's conversation that day with the Attorney General and Mr. Petersen, in which the question of these documents came up . . . .

Senator WEICKER. In other words, the enforcement agencies had been working prior to April 15?

Mr. EHRLICHMAN. Oh sure. . . . we were operating with what the Attorney General and the Assistant Attorney General had told the President, which the President recalled of the conversation and was imparting to me." (Committee Transcript, p. 2678).

[22] Mr. Ehrlichman has also testified:

"Senator WEICKER. After you received the word from Mr. Gray, which I believe was on April the 15th, did you transmit that information to the President?

Mr. EHRLICHMAN. Yes, sir.

Senator WEICKER. On what day was that?

Mr. EHRLICHMAN. He was sitting right there." (Committee Transcript, p. 2676).

[23] Address by the President, April 30, 1973:

". . . Looking back at the history of this case two questions arise:

How could it have happened?

Who is to blame?

Political commentators have correctly observed that during my 27 years in politics I have always previously insisted on running my own campaigns for office.

But 1972 presented a very different situation. In both domestic and foreign policy, 1972 was a year of crucially important decisions, of intense negotiations, of vital new directions, particularly in working toward the goal which has been my overriding concern throughout my political career—the goal of bringing peace to America and peace to the world."

Press Conference, November 17, 1973:

"I could stand here before this audience and make all kinds of excuses, and most of you would probably understand because you are busy also. Seventy-two was a very busy year for me. It was a year when we had the visit to China, it was a year when we had the visit to Moscow and the first limited nuclear ban on defensive weapons you recall as well as some other very significant events.

It was a year too, when we had the very difficult decisions on May 8, the bombing and mining of Haiphong and then the negotiations and then in December, of course, the very, very difficult—perhaps the most difficult—decision I made of the December bombing, which did lead to the breakthrough and the uneasy peace, but it is peace with all the Americans home.

Now, during that period of time, frankly, I didn't manage the campaign. I didn't run the campaign. People around me didn't bring things to me that they probably should have because I was frankly just too busy trying to do the nation's business to run the politics."

[24] The following schedule indicates meeting with principal advisors only:

MEETINGS WITH NIXON

June 20, 1972:

10:25–11:20, Ehrlichman.
11:26–12:45, Haldeman.
2:20–3:30, Colson.
435–5:25, Haldeman.

June 21, 1972:

9:30–10:38, Haldeman.
10:12–10:16, Butterfield.
10:13–10:38, Colson.
1:24–3:11, Haldeman.
2:12–3:11, Ziegler.
4:00–5:15, Colson.

June 22, 1972:

9:40–11:25, Haldeman.
10:20–10:21, Strachan.
11:10–11:11, Kehrli.
3:44–4:04, Haldeman, Ziegler.
4:03–4:06, Butterfield.
4:36–5:30, Haldeman.
5:02–5:17, Ziegler.
5:04–5:20, Colson.
5:14–5:19, Butterfield.

June 23, 1972:

10:04–10:39, Haldeman.
10:33–10:39, Ziegler.
1:04–1:13, Haldeman.
2:20–2:45, Haldeman.
2:40–2:43, Ziegler.

June 24, 1972:

2:29–4:35, Haldeman.

June 25, 1972

12:00–1:40, Haldeman.

June 26, 1972

9:50–10:00, Woods.
9:50–10:45, Haldeman.
10:59–11:06, Ehrlichman.
12:08–12:18, Haldeman.
12:11–12:12, Ziegler.
12:35–1:25, Haldeman.
2:25–3:00, Haldeman.

June 27, 1972

9:37–9:42, Ziegler.
9:40–9:58, Haldeman.
9:58–10:06, Ehrlichman.
12:03–1:50, Haldeman.
12:06–12:10, Butterfield.
12:56–1:12, Kissinger.
1:26–1:27, Ziegler.
1:27–1:29, Woods.
1:41–1:43, Ziegler.
3:35–4:40, Haldeman.
3:40–4:40, Colson.

June 28, 1972

11:16–1:55, Haldeman.
11:18–12:50, Colson.
2:30–3:09, Ehrlichman.

June 29, 1972

2:40–3:50, Haldeman.
2:50–2:52, Butterfield.
3:00–3:20, Kissinger.

June 30, 1972

8:06–8:50, Haldeman.
12:17–12:44, Haldeman.
12:21–12:44, Colson.
12:55–2:10, Haldeman.
12:55–2:10, Mitchell.
3:24–4:06, Kleindienst.
3:24–4:22, Haldeman.
4:30–5:52, MacGregor.
4:48–6:16, Haldeman.

July 1, 1972

8:50–10:05, Colson.
9:05–9:10, Butterfield.
9:45–10:04, Haldeman.
9:47–9:59, Hoopes.
12:16–1:04, Haldeman.
12:31–12:37, Woods.
12:53–1:00, Ziegler.
4:55–6:16, Haldeman.

July 6, 1972

8:41–9:08, Ehrlichman.
8:58–8:59, Butterfield.
10:11–12:05, Ehrlichman.
10:18–10:22, Kissinger.
10:40–12:05, Malek.
10:40–12:06, Haldeman.
10:40–12:06, MacGregor.
10:44–11:01, Timmons.
11:00–11:01, Ziegler.
12:39–2:36, Ehrlichman, Haldeman.
1:33–1:38, Ziegler.
1:37–2:23, Woods.

July 7, 1972

8:22–9:35, Ehrlichman.
8:35–8:37, Butterfield.
9:08–9:10, Butterfield.
9:38–10:27, Ehrlichman.
10:30–10:50, Ehrlichman.
10:38–10:40, Ziegler.

July 8, 1972

12:45–2:05, Ehrlichman.

July 10, 1972

10:30–10:35, Ehrlichman.
11:05–12:12, Ehrlichman.

July 13, 1972

9:07–9:14, Butterfield.
9:10–11:05, Haldeman.
10:50–10:51, Butterfield.
10:59–11:41, Kissinger.
11:15–12:45, Haldeman.
12:50–12:51, Haldeman.
1:15–2:12, Haldeman.
6:30–7:01, Connally, Haldeman (dinner).

July 14, 1972

9:24–9:33, Ehrlichman.
2:56–3:30, Haldeman.

July 16, 1972

7:05–9:17, Ehrlichman, Haig, Kissinger, Ziegler (dinner).

July 17, 1972

11:08–11:09, Ehrlichman.
11:10–11:31, Ehrlichman.
1:19–2:10, Colson.
1:45–1:55, Ziegler.
5:11–6:50, Colson (reception, dinner, walk).

July 18, 1972

10:20–10:35, Haldeman.
1:00–2:05, Colson.

July 19, 1972

9:45–9:50, Butterfield.
9:48–11:33, Haldeman.
11:13–11:17, Ziegler.
12:44–1:51, Ehrlichman.
2:00–2:25, Colson.
2:40–3:45, Colson.
3:27–5:53, Haldeman.

July 20, 1972

8:42–8:59, Haldeman.
9:33–9:45, Butterfield.
9:39–10:38, Colson.
10:34–10:36, Butterfield.
2:05–2:47, Woods.
2:46–5:30, Haldeman.
4:27–5:30, Colson.
4:55–5:25, Kissinger.
5:40–6:15, Ehrlichman.

July 21, 1972

10:11–10:14, Butterfield.
10:13–10:16, Haldeman.
10:45–11:35, MacGregor.
10:45–11:39, Dole.

10:45–11:39, Haldeman.
11:43–12:07, Schultz.
11:43–1:02, Haldeman.
2:01–3:11, Mitchell.
2:02–2:36, Haldeman.
2:04–3:11, Agnew.
2:37–3:11, Haldeman.
4:20–4:59, Kissinger.
4:40–5:59, Haldeman.
4:55–4:57, Butterfield.
4:56–4:58, Woods.
6:05–10:45, Colson.
6:20–6:29, Connally.
6:25–10:45, Haldeman.

July 24, 1972

10:14–10:37, Haldeman.
1:03–1:25, Connally.
1:04–2:24, Haldeman.

July 25, 1972

11:14–1:33, Haldeman.
12:01–1:30, Ziegler.
12:41–1:01, Kissinger.
2:29–3:04, Ehrlichman.
3:39–5:13, Haldeman, Colson, Staff.
5:27–5:45, Woods.
5:28–6:34, Haldeman.
5:41–5:54, Ziegler.
5:55–6:24, Buchanan.
5:57–6:24, Kissinger.
5:58–6:24, Woods.

July 26, 1972

9:02–10:08, Colson.
9:02–11:05, Haldeman.
10:05–10:06, Higby.
10:40–10:45, Butterfield.
12:22–12:45, Ziegler.
12:26–1:48, Haldeman.
12:36–1:12, Woods.
3:10–4:16, Haldeman.
3:28–4:16, Colson.
3:42–3:53, Ziegler.
4:15–4:16, Ziegler.

July 27 1972

9:34–10:50, Haldeman.
9:35–10:38, Ziegler.
3:45–4:36, Haldeman.
3:46–4:03 and
4:07–4:36, Ziegler.
4:42–4:45, Colson.

July 28, 1972

10:03–11:04, Haldeman.
10:04–10:06, Kissinger.
10:30–10:33 and
10:36–10:37, Butterfield.
10:35–11:00, Ziegler.
11:15–11:37, Ehrlichman.
11:56–12:09, Ehrlichman.
1:43—1:45, Haldeman.
2:00–2:09, Haldeman.
2:04–2:07, Kissinger.

July 31, 1972

9:25–10:15, Haldeman.
2:15–2:40, Haldeman.
5:38–6:35, Connally.
6:13–6:40, Haldeman.

OUR DEPENDENCE ON FOREIGN-TRAINED PHYSICIANS: IS IT FAIR?

Mr. MUSKIE. Mr. President, one of our most pressing health needs is adequate health manpower—adequate not only in numbers to meet our health needs, but also distributed throughout our central cities and rural areas in such a way that our medically "underserviced" can get good health care.

One important resource for America in meeting both of those goals has been the foreign-trained physician. Today, there are almost 60,000 foreign-trained physicians in the country, estimated to make up about 20 percent of doctors in America. The foreign-trained physician has made an important contribution to American health care in all areas.

But our reliance on foreign-trained physicians raises a number of important questions. We must ask why we do not have sufficient health manpower training resources in our country to meet our own health needs. And second, we must ask whether it is fair for the United States to attract from foreign countries, by virtue of our high level of compensation and support for physicians, doctors who might be even more needed elsewhere in the world.

These questions were discussed more thoroughly in an article last April in the American Journal of Psychiatry, by Dr. E. Fuller Torrey and Dr. Robert L. Taylor. I ask unanimous consent that this article, together with more recent articles on the same subject from the Washington Star-News and the Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CHEAP LABOR FROM POOR NATIONS

(By E. Fuller Torrey, M.D., and Robert L. Taylor, M.D.)

A recent issue of *Psychiatric News*, the official newspaper of the American Psychiatric Association, contained a remarkable letter. It was from a psychiatrist who advocated increasing the loopholes for using nonlicensed foreign doctors in state mental hospitals. The rationale given was that the only American psychiatrists he had been able to recruit had turned out to be alcoholics, drug addicts, or otherwise seriously disturbed and therefore that foreign doctors were certainly to be preferred (1).

This letter affords a capsule summary of a serious problem facing American medicine in general and American psychiatry in particular. It is the problem of having to import large numbers of foreign doctors to staff our hospitals for the mentally ill. There are indications that these doctors are used primarily to staff public institutions, that some of them may not provide as high a level of care as their American-trained counterparts, and that they are badly needed in the countries of their origin. This paper discusses the problem and offers some solutions.

While there are no absolute figures on the number of foreign medical graduates being used in American psychiatry, there are some indicators. In American medicine generally it is known that approximately 8,500 foreign medical graduates enter the United States each year; since 1967 the number entering annually has been greater than the total number of doctors graduating from U.S. medical schools (2, 3). It is also known that in 1970 there were 3,016 foreign medical graduates who were given licenses to practice permanently in the United States; these constituted 33 percent of all newly licensed physicians. In 1971 foreign medical graduates comprised over half of all new licensees in 13 states, and in two (Maine and Delaware) they were more than 90 percent of all new licensees (4).

Specifically in regard to psychiatrists, it is known that during 1970, 34 percent of all psychiatric residents (1,370 out of 4,040) were foreign medical graduates (5). Of the 186 residency programs that were active, 28 were *completely* filled by foreigners. In fact, there were more psychiatric residents in American hospitals who had graduated from the medical schools of the University of Havana (77) or from the University of Santo Tomas in Manila (74) than there were graduates of *any* American or Canadian medical school (5).

One of the largest groups of foreign-trained doctors in American psychiatry rarely shows up on official statistics. These are the unlicensed doctors who practice in state hospitals using temporary permits issued by a state and valid only for state institutions. All but seven states have loopholes in their licensing laws that allow such temporary licensing. The permits are renewable yearly for an unlimited number of years. In New York and Ohio, 40 percent of the physicians in the state mental hospitals are unlicensed (6–8). In West Virginia it is over 90 percent (4). If 40 percent is a representative average for the United States, there would be approximately 3,100 unlicensed foreign doctors staffing state mental facilities in this country. One AMA spokesman estimated that the number is more like 7,500 (4).

FOREIGN PSYCHIATRISTS AS "CHEAP LABOR"

Foreign-trained psychiatrists work predominantly in those institutions which American psychiatrists consider the least desirable. Thus they are found in large numbers in city and state hospitals, prison hospitals, and institutions for the mentally retarded. Elmhurst City Hospital in New York City had 35 psychiatric residents in 1970, all of whom were foreign trained (5). State mental hospital residency programs depend very heavily upon them, as table 1 shows. Less than five percent of foreign-trained psychiatrists are in private practice in this country (9), in contrast to the more than 50 percent of U.S.-trained psychiatrists who are (10).

TABLE 1.—FOREIGN MEDICAL RESIDENTS IN SELECTED STATE HOSPITAL SYSTEMS, 1970[1]

State	Number of residency programs	Total number of psychiatric residents	Foreign medical residents	
			Number	Percent
New York	18	211	198	94
Rhode Island	1	11	10	87
New Jersey	5	38	33	87
Massachusetts	7	51	41	80
Connecticut	3	46	37	80
Ohio	5	86	67	78
Maryland	3	22	17	77

[1] University hospitals that are State supported are not included in the calculations since they usually do not accept patients for long-term care.

Theoretically foreign medical graduates are in residency training programs for training. But in fact such programs are often so burdened by the service needs of the state institutions that little time remains for any formal training. If the foreign graduate is unlicensed, he may be confined to the state system that has granted him his temporary permit until he can pass the state licensing examination. Some states also use psychiatric residency slots as administrative mechanisms for hiring foreign doctors at a lower salary than a full staff position would require, or when no full staff positions are available. This may help to explain why in 1971 at least five foreign-trained psychiatric residents were over the age of 60; two of these were 69. Such residents can presumably receive both a stipend for training and Social Security retirement benefits simultaneously.

Because of their concentration in public institutions, patients who cannot afford private psychiatric care are more likely to be treated by foreign-trained psychiatrists. Table 2 indicates this pattern. The cost of hospitalization in an institution like the Columbia Psychiatric Institute in New York or Timberlawn Hospital in Dallas may be as high as $3,000 a month; the state hospitial is of course free if the patient has no money. This is consistent with other aspects of American psychiatry and can be summarized by Arnold Rogow's observation: "Perhaps the only firm conclusion is that Americans, in general, receive the psychiatrist and the psychiatric treatment *not* that they deserve, but that they can pay for. . . ." (11).

References at end of article.

TABLE 2.—Percentage of Foreign-Trained Psychiatric Residents in Selected Psychiatric Hospitals with Private Patients and with Public Patients

State	Hospitals with private patients	Psychiatric residents			Hospitals with public patients	Psychiatric residents		
		Total number	Foreign trained			Total number	Foreign trained	
			Number	Percent			Number	Percent
Connecticut	Yale-New Haven Medical Center	88	8	9	Norwich State Hospital	15	14	93
	The Institute of Living	27	6	22	Fairfield State Hospital	19	15	79
Georgia	Emory University Hospital	34	2	6	Central State Hospital	15	13	87
Illinois	Michael Reese Hospital	23	3	13	Illinois State Psychiatric Institute	41	25	61
Iowa	University of Iowa Hospital	15	6	40	State Mental Health Institute	11	10	91
Maryland	Johns Hopkins University Hospital	35	4	11	Spring Grove State Hospital	8	6	75
Massachusetts	Boston University Medical Center	15	0	0	Medfield State Hospital	8	8	100
	McLean Hospital	25	4	16	Metropolitan State Hospital	10	7	70
Michigan	University of Michigan Hospital	45	12	27	Northville State Hospital	16	14	88
Missouri	St. Louis University Hospital	9	1	11	Missouri Institute of Psychiatry	37	35	95
New York	State University (Kings Co.) Hospital	45	7	16	Brooklyn State Hospital	15	14	93
	Columbia Psychiatric Institute	44	5	11	Manhattan State Hospital	23	20	87
	University of Rochester Hospital	39	9	23	Rochester State Hospital	10	9	90
Ohio	University of Cincinnati Hospital	49	5	10	Rollman State Psychiatric Institute	29	19	66
	University Hospital of Cleveland	18	2	11	Fairhills State Psychiatric Institute	22	20	91
	Ohio State University Hospital	22	1	5	Columbus State Hospital	13	11	85
Oregon	University of Oregon Hospital	15	1	7	Oregon State Hospital	5	3	60
Pennsylvania	University of Pennsylvania Hospital	42	3	7	Philadelphia State Hospital	13	8	62
Texas	Timberlawn Psychiatric Hospital	10	0	0	Terrel State Hospital	6	4	67
Virginia	Medical College of Virginia Hospital	11	2	18	Central State Hospital	7	7	100
Washington	University of Washington Hospital	39	5	13	Western State Hospital	5	4	80
Wisconsin	Marquette University Mental Health Center	11	0	0	Winnebago State Hospital	3	3	100

THE QUALITY OF CARE

The majority of great ideas and advances in psychiatry have come from foreign-trained psychiatrists. Kraepelin, Freud, Jung, Adler, and many others not only were trained in foreign institutions but made their major contributions in foreign countries. Thus there is nothing inherently inferior (or superior) in being foreign-trained; rather, it depends solely upon the individual psychiatrist and his specific training experience.

It is likely that many leaders of American psychiatry will emerge from among the large influx of foreign psychiatrists coming to the United States. However, there are also indications that among the foreign-trained group there are some whose level of psychiatric expertise is not up to generally accepted American standards. This is seen most readily among a few of the unlicensed doctors, such as the doctor in a New York State mental hospital who was successfully sued for neglecting a fatal subdural hemorrhage (12) or the alleged doctor in an Illinois mental hospital who was recently charged with reckless conduct for the treatment of three patients who died (13).

The majority of foreign medical schools offer little or no psychiatric teaching to medical students. When they graduate, these doctors often arrive in the U.S. for a psychiatric residency with less knowledge of psychiatry than most American trainees at the same level. If the residency is in a hospital with a heavy service commitment, such as a state hospital, the resident will find it even more difficult to catch up.

Language difficulties compound the problem. Psychiatry, in contrast to radiology or pathology, is the medical specialty in which communication between the doctor and the patient is absolutely essential for adequate diagnosis and treatment. Equally important are possible cultural differences and the lack of a similar world view between doctor and patient. Imagine the difficulty, for instance, of a psychiatric resident from Korea trying to assess the mental problems of a drug-abusing American adolescent who is undergoing an existential crisis. In the light of such communication barriers a statement made by the director of mental hygiene in Ohio is slightly odd. In announcing special basic English courses for doctors in the state mental institutions he said: "I hasten to point out that we seldom hear a complaint that our foreign doctors are not providing adequate care and psychiatric treatment for their patients. The complaints center only around the inability to communicate." (14).

There are objective indicators that American psychiatry may not be attracting the best of the foreign medical graduates. One such indicator is the examination of the Education Council for Foreign Medical Graduates (ECFMG), an examination offered to medical graduates all over the world as a measure of their medical knowledge. It is made up in such a way that 98 percent of American medical graduates taking it for credit pass it. When it is given to medical graduates all over the world, only 40 percent of them pass it. Looking specifically at the pass rate for the eight foreign medical schools that contributed the greatest number of residents to American psychiatry in 1970, only two attained the worldwide average of 40 percent or higher (2). The two medical schools contributing the most psychiatric residents (the University of Havana and the University of Santo Tomas) had pass rates of only 20 and 13 percent, respectively. Similarly, on state licensure examinations the graduates of these two schools scored below the average pass rate of 63 percent for all foreign medical graduates. This in turn is considerably below the pass rate of 91 percent for American medical graduates (2). Four foreign medical graduates actually failed state board examinations for the 13th time during 1970. Between failures, such individuals may remain employed in state hospitals in most states on temporary permits.

In order to fully assess the quality of care offered by psychiatrists who have been trained abroad, a careful clinical examination would have to be given. At present, this has not been done. In fact, it is quite conceivable for a foreign medical graduate to come to the United States and become fully licensed to practice psychiatry without ever being tested on his psychiatric knowledge. The examinations that he must pass (the ECFMG and a state board) have very few questions on psychiatry, and his residence program may never examine him formally.

THE "BRAIN DRAIN"

The other major consequence of using large numbers of foreign psychiatrists as cheap labor for the United States is the effect this has on the countries from which the foreign doctors come. This has been referred to as the "brain drain."

The countries that contributed the greatest number of psychiatric residents to the United States in 1970 (15) were the following: the Philippines—149 residents, India—136, Korea—107, Cuba—95, Argentina—55, Colombia—46, Iran—39, Mexico—25, Egypt—19, and Pakistan—19. This list corresponds with the frequently cited estimate that 85 percent of our imported medical manpower comes from underdeveloped countries.

While it is often said that the Philippines produces more doctors than it needs, this is not true. Only Manila and the other large cities are oversupplied with physicians; the remainder of the country has a low doctor-population ratio (16). Yet Filipino doctors are continuing to come to the United States in large numbers. The number of medical graduates taking the ECFMG in Manila is now so large that a football stadium has to be used to accommodate them for the examination (3).

Korea is another country that has been hit especially hard by the flow of trained doctors to the United States. In the past 20 years 23 percent of its physicians have departed, and only 3 percent have returned (17). Recently 90 percent of the graduates of one Korean medical school left Korea for U.S. internships; this same year there were 65 vacant internships in Korea. Korea, it should be noted, has a doctor-population ratio outside the capital of 1 to 17,000; the United States has a ratio of 1 to 700.

Overall it is not known how many of the foreign medical graduates who come to the United States for psychiatric training return to their homelands, but it is agreed that the returnees are a minority. A study of psychiatric residents from Mexico in the United States showed that 46 percent of them eventually returned to Mexico (18). A director of a training program staffed predominantly with foreign residents found the return rate to be much lower: only two of his 34 foreign psychiatric residents from developing countries had ever returned to their homelands to practice (19). Furthermore, even for those who do return, it may be questioned whether the quality of their training experience has been appropriate for their country's needs on their return home.

It is known that taking this medical manpower from other lands saves the United States a large amount of money. If the 3,016 foreign doctors who were permanently licensed in the United States in 1970 had to be trained in the United States, they would require the addition of 30 new medical schools. To build a medical school costs at least $50 million and to operate one for a year averages $3.8 million (3). Thus the total amount needed to replace the foreign-trained doctors who were permanently licensed last year would be $1.6 billion. This is the equivalent of over half of the total U.S. foreign aid program. When this amount is added to other aspects of the brain drain, it may well be that our foreign aid program is in effect canceled altogether.

HOW THE PROBLEM CAME ABOUT

It is useful to inquire in retrospect how it developed that the United States is finding it necessary to import large numbers of psychiatrists from poor nations to staff our

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References at end of article.

public mental institutions. Understanding the roots of the problem may be an initial step toward correcting it.

First it should be noted that a conscious conspiracy to take doctors from poor countries does *not* exist. Conspiracies imply planning, and anyone familiar with the inner workings of American psychiatry knows that this degree of planning simply does not exist. It is, in fact, the *absence* of planning that is closer to the root of the problem.

Who, then, is responsible for the absence of planning? Certainly not the foreign doctors themselves, who are only availing themselves of the best opportunities to further their careers and their livelihood. Indeed, how many American psychiatrists can say that they would not move to Manila to practice if they were offered a salary ten times what they are making here? Nor can public mental hospital administrators be held responsible, they are just trying to carry out their mandate to secure psychiatrists for their staffs.

Planning for the needs of American psychiatric manpower theoretically rests with the federal government (through the National Institute of Mental Health and the Bureau of Health Manpower Education) and with the professional associations (the American Medical Association and the American Psychiatric Association). We believe that none of these organizations has done a satisfactory job of planning; this is the root of the problem.

The National Institute of Mental Health has supported the training of psychiatrists since World War II, until recently at a rate of $40 million a year. Yet during this time it has made virtually no effort to ascertain what the psychiatrist was doing once he was trained. If it had gathered such data, it might have instituted a period of mandatory public service for psychiatrists who had been trained with public money. This would have ensured some psychiatric manpower for public institutions rather than allowing the psychiatrists to go immediately into private practice.

Similarly, the Bureau of Health Manpower Education has concentrated too much attention on increasing the total number of doctors and too little on the geographical distribution of the doctors. The myth has been that if the total number is increased sufficiently, there will be enough to go around. This is apparently not true. In the Philippines, for instance, there is an excess of doctors in the capital city, but the excess doctors have been found driving taxis and taking other jobs rather than leaving the capital to practice medicine in rural areas, where they are badly needed. It may well be that the United States already has enough doctors (and particularly psychiatrists) for its overall needs, if they were distributed more evenly. Our 25,000 psychiatrists constitute almost one-third of the world's total. Certainly many European countries are providing superior public psychiatric services with a far lower psychiatrist-population ratio than we have.

The American Medical Association has been doubly shortsighted. For many years this organization denied the existence of an impending doctor shortage. More recently it has acknowledged that there is a shortage, but has reacted only by trying to increase the absolute numbers without attempting to affect the geographical or specialty distribution. The American Psychiatric Association has made these same errors and has assumed that increasing the number of psychiatrists would somehow improve public service.

Both of these professional organizations may also be faulted for rigidly upholding outmoded standards that require a person with a medical license (i.e., a psychiatrist or other physician) for many jobs in public mental institutions that could just as satisfactorily be done by a person without a medical license (i.e., a psychologist, social worker, or nurse). Similarly, it is the combination of these two organizations that has accredited the state hospital residency "training" programs, which are training in name only and really are means of obtaining service personnel.

The U.S. Immigration Service and the State Department have compounded the problem of foreign doctors coming to this country. The liberalized immigration laws enacted in 1962, 1965, and 1970 made it increasingly easy for doctors to both come to and remain in this country. These liberalizations in the laws were made despite hearings warning against them in the Senate in 1967 (before the Senate Subcommittee on Immigration) and in the House of Representatives in 1968 (before the House Committee on Government Operations). Even prior to that (in 1966) Senator Walter Mondale raised his voice on the Senate floor and called the brain drain "a national disgrace" (20). Simultaneously the State Department was compiling a report attempting to deny that any brain drain problem existed (21).

The problem is also due to lack of planning in the developing countries themselves. By not setting up training facilities in their own hospitals, by often retaining a promotion system based on seniority rather than ability, and by permitting their doctors to leave before they have repaid their public-subsidized medical training with public service, the developing countries have encouraged their doctors to permanently emigrate to the United States and other countries.

SOME SUGGESTED SOLUTIONS

The problem of having to import large numbers of doctors from poor nations to staff our public mental institutions is a very serious one; it demands a solution. The following are suggested directions that could be pursued:

1. *Functional job analysis*. Psychiatry is going to have to do some hard thinking and functional job analysis on the tasks that psychiatrist are currently doing. Exactly what kind of training does one actually need to treat persons who are mentally ill? Do we really believe that an Iranian or a Korean psychiatrist, because he is a psychiatrist, is more effective than an American clinical psychologist in treating an American patient who is mentally ill?

2. *Public service*. American psychiatrists who are trained with public money should be expected to repay their debt with a period of public service and not just go directly into private practice. A loan system to replace present stipends would be one way to bring this about.

3. *Accreditation*. A system of mandatory accreditation is needed for every psychiatrist and psychiatric training program. This would help screen competent psychiatrists from those who are not competent (22).

4. *Separation of training and service*. In order to make all psychiatric residency training programs into *true* training programs, they must not be based on service needs. The service needs of public mental institutions must be filled apart from any training programs taking place there. Until this is done it is inevitable that some training programs will be merely facades for delivering services through the use of less expensive personnel. And if the trainees themselves are allowed to define how they want to achieve their training goals, one has the beginning of a true system of education (23).

5. *Improved training abroad*. It is possible to improve the training of doctors in their home countries so as to obviate the necessity for many of them to come to the United States on what become one-way trips. For instance, television and communications satellites will soon be available for long-distance teaching. Another possible use of modern technology would be to hook up computer outlets in other countries to an information and retrieval system in the National Library of Medicine.

6. *Specialized training programs*. There should be specialized training programs in which psychiatrists from abroad would come here to learn specialized skills and then return to their own countries. These programs would emphasize aspects of psychiatry that are appropriate for the developing countries. An excellent example of what can be done along these lines is the program for Indonesian psychiatrists set up at the University of Hawaii under Dr. John McDermott.

7. *Changes in the immigration laws*. Finally there would have to be changes in the immigration laws so as to make it more difficult for foreign doctors to stay in the United States.

We recognize that solutions which include such things as obligated public service in exchange for public training and mandatory accreditation for individual psychiatrists are in conflict with the inclinations of many American psychiatrists. These are, it is said, contrary to the free enterprise model. We do not think that this is necessarily so. Benjamin Rush was both the father of American psychiatry and a signer of the Declaration of Independence. It is doubtful whether he saw a free enterprise system as meaning the freedom to take manpower from poorer countries in order to provide public services in wealthier ones.

We also recognize that these solutions are not simple. But then, neither is the problem. American medicine in general, and American psychiatry in particular, are currently so dependent on foreign doctors that to suddenly remove them would precipitate a collapse of the whole system.

Solutions must be found. We should move rapidly toward a point when no longer would one find vignettes like one recently published in *The Washington Post* on conditions at the state prison in West Virginia. The article described the need for professional help for the inmates and mentioned that there *is* one psychiatrist "but he is a Cuban and does not speak English" (24). American psychiatry should be able to do better than this.

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DISCUSSION

(By Robert Cserr, M.D.)

MEDFIELD, MASS.—To begin with a very unambiguous statement regarding this paper, the authors have portrayed the problem of foreign-trained physicians very accurately. They are telling it as it currently is, although I wonder at their figure of 50 percent of American psychiatrists being engaged in full-time private practice. The impressions that foreign-trained psychiatrists work in settings (usually institutional) that U.S. psychiatrists consider the least desirable and that "training" for them is often really a euphemism for "service work" because of the absence of real supervisory concern for their assimilation of knowledge are unfortunately very accurate in many instances.

Certainly, as the authors point out, there is no reason to feel that the quality of care per se delivered by a foreign-trained psychiatrist need be inferior to that delivered by his U.S.-trained counterpart. But with the two-class system of psychiatric training supported in this country, this frequently represents reality. What seems to prevail for foreign physicians, therefore, is: 1) their use (or misuse, as the case may be) as primary service-deliverers, although they are said to be in training, and 2) their general inadequacy, because of the lack of special attention to their needs, for the American psychiatric scene.

I would like to discuss these two issues and the specific approaches we have undertaken at Medfield State Hospital to deal with them; some of our work seems very much in consonance with the spirit of this article. First, to insist that only physicians are capable and effective in the areas of evaluation and treatment is unmitigated foolishness. At Medfield we have been able to remove all residents in training from the area of primary delivery of services by creating a cadre of clinical case administrators (paramedical professionals and preprofessionals), through whom the service needs of the patients are met. Supervision of these case administrators is by a group of experienced professionals, including psychiatrists. Residents have a bona fide training program: the service they give, although frequently extensive and valuable, is incidental to and a part of their training. This approach has indicated to us quite unequivocally the direction in which we must move to increase the extent and quality of services—namely, the training and employment of these other professionals and preprofessionals.

Second, special attention must be paid to the background and needs of the physicians-in-training from developing nations. There must be a flexible curriculum that includes subjects relevant to their needs, so that they can function as psychiatrists both in the U.S. setting and in their own nations after their training is completed.

The New England Psychiatric Society recently surveyed the problems concerning foreign-trained psychiatrists in our area. Dr. N. S. Mittell, Medfield's director of residency training, headed a task force that developed a recommendation to create an ombudsman to help foreign medical graduates get through the developmental crisis that confront them in adapting to American society and psychiatry. The ombudsman would also attempt to ameliorate the numerous irrational harrassments facing these physicians.

I would now like to comment on the author's proposed solutions of the problems concerning foreign medical graduates; I agree with some but disagree philosophically with others.

Certainly far too much public money has been spent on training psychiatrists who immediately move into the private sector with little recognition of their obligation to the public sector for subsidizing their training. But the attraction, both in terms of financial reward and in the opportunity to work with relatively more gratifying and less troublesome patients, is an overwhelming inducement. However, this is only one factor. I shall discuss another—the negative attitude prevailing in many state hospitals—shortly.

Surely some arrangements can be made incorporating the concept of universal conscription for a limited period of time for those trained at the public expense; this could even include the military as a "public institution" in which professionals could meet their obligations. However, I would strongly disagree with any plan that would definitively and perhaps permanently deprive any person, including a physician, of the freedom to practice his profession or trade where he wants. Such a policy would ultimately have devastating effects on the quality of the trade or profession. Although the authors do not say so explicitly, I am left with the uncomfortable feeling that, in their frustration, the authors are suggesting that, in order to ameliorate the situation in which foreign physicians are impressed into "slave-service" labor in public hospitals, U.S. psychiatrists should be treated in the same repressive way then all would be equitable. This would hardly be a solution; in fact, I would expect this approach to compound the already indefensible situation present in so many of our public institutions. I would like to recall the approach I mentioned earlier: the greater use of other professionals and preprofessionals, which seems very much in accord with the authors' ideas.

In addition, I want to stress a very important issue that the authors seem to have neglected—namely, the conditions in and attitudes of many public institutions, which allow and indeed encourage poor care and care givers. Certainly the feudal attitudes on the part of the administrators of many public institutions hardly provide an incentive to anyone to find newer and better ways of rendering service. A dismal attitude on the part of professionals in public service, and in the private sector as well, has been shared for a long time by the community, which makes the job of change far more difficult but at the same time far more challenging and potentially rewarding. No amount of "quota-ing," in-country or out-of-country, is going to solve what is essentially a philosophical and attitudinal problem; only the people in charge of the institutions can begin to do that. Public institutions, including state hospitals, must change their philosophies and attitudes drastically so that an air of rejuvenation rises from the old edifice, so that it becomes an exciting place to be rather than a warehouse, so that its considerable resources are deployed in active treatment, not as a home for the persona non grata. In the process of this transformation, improved training, both abroad and in this country, perhaps subsidized by both governments, can be developed. The obligations to their own country and to the United States that must be met by the resident-in-training can be specified. Rather than using the U.S. society as a prototype, the specific needs of developing nations might be considered in the training that foreign psychiatrists receive, both in the United States and in their own countries.

But the development of all this will have to be based on a change in attitude, not on military discipline. Many of the problems relating to foreign-trained physicians in second-class settings, where they are employed as "cheap labor" while ostensibly in training, would cease to exist if the second-class settings themselves moved with conviction toward becoming first-class. In addition to the resources currently available to them, they would need a great deal of imagination and daring and much more hard work. This is the approach we are using at Medfield State Hospital; it seems to be working.

It would be well for me to point out in conclusion that there are many paths for a career in psychiatry; that public and private service can and ought to coexist and that working with severely deprived or ego-damaged individuals is quite different from working with gifted individuals to further develop their considerable potential. (The two poles seem, at times, to be equated with public service and private practice, respectively.) Certainly both of these tasks are important; I will not debate which is more valuable to our society as a whole, although the latter will continue for a time to be compensated better, both financially and in terms of prestige, until some effective counter-compensations emerge. These counter-compensations are what I alluded to when I talked about change as a foundation for a public institution program. Psychiatry must become aware of the reality of the position it is finding itself in today with regard to the demands for and expectations of service. It must not move to either extreme—to the public sector at the expense of the private or to the private sector at the expense of the public. Either extreme, as with human beings and their behavior, brings forth trouble, which we call pathology. Certainly psychiatry should be able to reconcile the disparate elements of its feelings and behavior better than that, and further both public and private programs without resorting to extremism.

HEW STUDY SAYS 20 PERCENT OF U.S. DOCTORS ARE FOREIGN TRAINED

(By Stuart Auerbach)

One out of every five doctors in America graduated from a foreign medical school where he most likely received a substandard education, according to a study commissioned by the federal government.

Moreover, the study shows that the immigration of doctors to America is foreign aid in reverse and often hurts other nations who consider doctors a valuable resource.

The number of foreign medical graduates here has doubled in the past 10 years, and most of the foreign-trained doctors work in American hospitals, where they make up one-third of the medical staff.

"Available evidence indicates that foreign manpower has been imported to serve specific roles, particularly in hospitals, rather than to fill a general manpower need," the report states.

"The fact that many foreign physicians have stayed in the United States is largely a secondary result of this primary activity. Nevertheless, the cold facts remains that 63,391 of the 334,028 physicians in the United States in 1970 received their primary medical education outside the United States.

"This education represents a huge net gain to this country in terms of value received for medical education."

The study, commissioned by the Department of Health, Education and Welfare, was finished one year ago by Rosemary Stevens and Joan Vermeulen of the Yale University Medical School. It was, however, just released this month by HEW.

HEW sources say the report was held up because of possible embarrassment to the government and was released after congressional inquiries as to its status.

It shows that more foreign trained doctors (10,540) entered the United States in 1971 than graduated that year from American medical schools (8,974).

While 25,000 of the foreign-trained doctors were educated in Europe, 21,000 of them came from underdeveloped countries in Asia, principally the Philippines, India and Korea.

"There are more Thai graduates in New York than there are serving Thailand's rural population of 28 million," the report says.

"Iran produces 600 medical graduates a year; on the average there are at least 100 (members) of the graduating classes from 1960 through 1969 now in the United States. Many, if not most, will stay; in 1970 alone, 806 Iranian medical graduates sat for American licensing examinations. Similar statements can be made for many, if not most, third-world nations."

Despite the loss to other nations, there are signs that the American government considers the migration of foreign-trained doctors a plus for this country.

For example, HEW Secretary Caspar W. Weinberger told the House health subcommittee this year that there is no need to spend more federal funds on American medical schools to increase the number of doctors they graduate since so many foreign-trained doctors are coming to this country.

But the HEW-commissioned study concludes that foreign medical graduates are not as well trained as American-trained physicians.

"Indications are," the study says, "that foreign medical graduates continue to perform less well than their American counterparts even after several years of American graduate training."

For instance, 37 per cent of the graduates of foreign medical schools failed to pass their tests for American licenses, compared to 9 per cent of the graduates of American medical schools.

The same is true for the performance of foreign-trained doctors on specialty board examinations.

Many foreign-trained doctors working in hospitals do not need licenses. If they are residents or interns, they are considered doctors in training, and if they are fulltime employees of the hospital they may be considered to be working under the supervision of a licensed physician.

If it were not for foreign-trained doctors, many hospitals would not be able to fill their slots of interns and residents who, although they are supposed to be receiving training, often provide the bulk of patient care.

American hospitals offer more than 15,000 internships to recent medical school graduates; only 8,213—about half—are filled by graduates of American medical schools.

As a rule, the American medical graduates go to the best hospitals where they will get best training, leaving the rest for the foreign graduates. Many foreign-trained doctors are hired by city and state hospitals because American-trained physicians will not work for the low wages paid there.

FOREIGN MEDICAL GRADUATES

(By Judith Randal)

Which of the following statements is correct?

Of the some 63,000 physicians practicing in this country who were not trained in either the United States or Canada—usually referred to as Foreign Medical Graduates or FMGs—the most recent arrivals are:

(1) More numerous than their predecessors of 10–15 years ago.

(2) More likely to be natives of underdeveloped nations whose need for doctors is even greater than our own.

(3) Also more likely to be second-class citizens professionally.

All these statements are correct and their implications both domestically and internationally are disturbing. It is bad enough to have this happen at a time when only an estimated 34 percent of those who apply to U.S. medical schools have a chance of getting in (down from the approximately 50 percent that it was until recently). Even worse, it threatens to intensify what already is a serious drawback of the nation's health care system: uneven quality.

When most doctor immigrants were European graduates of top-notch schools they frequently were of an age or professional stature to become professors or researchers or to join the staffs of major teaching hospitals for the best and most sophisticated training. Now, however, the typical new M.D. arrival is likely not only to be younger and to have come from India, the Philippines, South Korea, Pakistan or Thailand, but also to be recruited for positions which, because of the shortage of American graduates, would otherwise go begging.

Specifically, about half of all the doctors now being licensed in this country are FMGs, and in some eastern states, particularly, the percentage is far higher. They are to be found in disproportionate numbers in state mental institutions and in hospitals in inner-city and rural areas that are isolated from the mainstream of what is best in medicine, as well as in hospital emergency rooms and among those specialties such as anesthesiology and pathology which are the least attractive to Americans.

"Foreign Trained Physicians and American Medicine," a Department of Health, Education and Welfare publication from which most of this data is taken, points out (and correctly) that their backgrounds are so varied that neither a wholesale indictment nor a wholesale endorsement of FMGs is possible.

Yet it also is true that many state licensure boards have had to lower their passing grades in order to permit a sufficient number of FMGs to qualify; that numerous state mental institutions are largely staffed by FMGs for whom licensure has been waived or modified, and that—because remedial opportunities are limited—relatively few of these men and women ever make up for whatever professional shortcomings they may bring with them from abroad.

Small wonder, then, that since FMGs are disadvantaged, many of their patients in one way or another are, too. It is hardly accidental that the people whose health care is least likely to be provided by American medical graduates do not belong to metropolitan upper-income groups.

Many people would argue that any doctor is better than no doctor at all. Another way to look at it, however, is that much of what physicians do can be done as well or better by well-supervised technicians and that to continue to drain other countries of their doctors instead of reorganizing the system to take advantage of this is wasteful and costly.

Furthermore, the United States trains far more of certain kinds of doctors—notably surgeons—than the population warrants, one result being that unnecessary operations help to create the seeming shortage of some of the very categories of supporting specialists—such as anesthesiologists—that we now import.

Thus, even if we continue to deny the entry of many qualified applicants to medical school, it should be possible to get a handle on overproduction in some specialties and underproduction in others, either by government intervention of some sort or by tightening health-insurance payment mechanisms for patient care which now indirectly subsidize most doctors who go on for further training after earning an M.D. degree.

A final note: The money the governments of under-developed nations have spent and are spending to train doctors who then leave for the U.S. amounts to billions of dollars' worth of foreign aid in reverse. Unintentionally given by those who can least afford it, it is resented even more intensely than assistance provided by the "haves" to the "have nots."

MORGAN GUARANTY TRUST'S RESPONSE TO DISCLOSURE OF CORPORATE OWNERSHIP

Mr. METCALF. Mr. President, last month the Committee on Government Operations published the committee print, "Disclosure of Corporate Ownership." This study has evoked lively interest in an important subject.

A principal conclusion of the study, as stated by Senator MUSKIE and me in our introductory remarks, as chairmen of the two subcommittees participating in the study, is as follows:

Neither companies nor ordinary stockholders have information which they need, to protect their own interests, regarding stock ownership and the personnel and business relationships between portfolio companies and institutional investors, principally banks. The Federal Government does not have sufficient information in these areas upon which to base reasoned public policy. Much of the information collected by Federal agencies regarding stock ownership, displayed in public files and shared with State agencies and the public, is meaningless or misleading despite the clear policy stated in the Federal Reports Act of 1942 that information collected by Federal agencies should be tabulated so as to "maximize the usefulness of the information to other Federal agencies and the public."

The information needed regarding the several levers of corporate control is held by a few institutional investors, principally six superbanks headquartered in New York. These institutional investors have the capacity to report their holdings quickly and fully. Similar reports on personnel and business relationships with portfolio companies would be even easier to make.

Congress and some Federal commissions have on occasion established limits on institutional levers of corporate control, principally regarding stockholders. But neither the Congress, nor the commissions, nor the executive branch can fully evaluate the total effect of concentration—the impact of the several levers of corporate control exercised by banks and other major investors throughout industry groups and the economy as a whole.

Meanwhile, the portfolio companies in which a few banks have substantial influence make many decisions affecting public policy. Oil companies deal with foreign nations regarding oil supply and cost. Pipeline companies deal with the Soviet Union for natural gas. Utilities exercise the right of eminent domain. Milling companies and the Soviet Union arrange grain sales which sharply affect domestic price, supply, transportation, and storage. These are momentous public issues in which Federal officials play a minor role, much of it after basic decisions have been agreed upon by American companies and foreign governments.

Recently I received a letter regarding the study from the chairman of the board of Morgan Guaranty Trust, Ellmore C. Patterson. He shared his letter from some Members of Congress and the press. Inasmuch as persons who received his letter, and others, may be interested in my response, I ask unanimous consent to print in the Record my February 4 letter and the enclosures I sent to him.

There being no objection, the material was ordered to be printed in the Record, as follows:

January 23, 1974.

Senator Lee Metcalf,
Chairman, Subcommittee on Budgeting, Management and Expenditures, Committee on Government Operations, U.S. Senate Office Building, Washington, D.C.

Dear Senator Metcalf: I am writing to you to express my concern over the manner in which the Senate Subcommittee on Budgeting, Management, and Expenditures recently announced to the Press the publication of a report titled "Disclosure of Corporate Ownership."

The release states that the listing of nominees in official corporate ownership reports hides from government regulators the fact that institutional investors, especially banks, hold the stocks which are registered in the nominees' names. That is simply not true, as even a cursory reading of your remarks printed in the Congressional Record of April 25, 1972, would have made obvious to whoever prepared the press release. As you noted in those remarks (and as the report itself notes), bank nominees and the banks they represent are identified in the "Nominees List" published annually by and readily available from the American Society of Corporate Secretaries.

Nominee registration is used by banks to speed and simplify the transfer of stock, to minimize paperwork in the receipt of dividends and the crediting of them to the parties for whom stock is held, and in general to achieve efficiency and economy in performing the various services which banks offer the public in connection with investment in stocks.

There is not and has not been for decades any real misunderstanding by anyone in government about nominees. In 1933 the draftsmen of the Securities Act were able to distinguish clearly between persons owning stock of record and persons owning stock beneficially. You yourself have been discussing the use of nominees at least since 1971, and in 1972 Professor Gerald C. Fischer of Temple University published an article in the Banking Law Journal which clearly explained the use of nominees and which noted that such use had been specifically authorized by the legislatures of virtually every state. A copy of that article, which I commend to your attention, is enclosed with this letter.

The press release implies that various government agencies have been receiving (from issuing companies, not from banks) reports as to stock holdings which are in some way rendered misleading by the fact that nominees' names are included among the holders shown. If the agencies concur in that view, it would take merely a very simple amendment of their regulations to require that reporting companies indicate, when giving the name of a nominee, the name of the bank or other institution with which it is associated.

Besides completely misrepresenting the effect of nominee registration, the press release begins by referring to "control of many large corporations by a few banks" as if such control were an established and unquestioned fact. Actually, not a shred of evidence is presented in the entire report on which the press release is based to support the thesis that any bank exercises control of the corporations discussed.

Banks are forbidden to own corporate stock for their own account, except in such unusual circumstances as stock acquired in an effort to recover on a defaulted loan. Banks hold stocks on behalf of clients and of trusts for which they are trustee. Their fiduciary obligations require them to act solely in the interests of their clients and trusts, not for purposes of gaining or exercising control of any company.

The charge in the press release, quoting from the report, that the use and reporting of nominee registration results in "a massive coverup" of institutional holdings of stock is particularly distressing to me because Morgan Guaranty Trust Company for the past two years has published and widely distributed reports listing all of the publicly traded stocks in which its holdings for trust or investment clients had market value of $1,000,000 or more. These reports were furnished two months ago to the staff of your Subcommittee, but I enclose copies with this letter in case you have not seen them. A number of other banks, especially ones with large trust departments, also make significant disclosures of their holdings.

For some time we at Morgan Guaranty, recognizing that the growing institutionalization of savings and investment in the American society carries with it important considerations of public policy, have tried to encourage reasoned discussion and analysis looking to constructive decisions taken in the public interest. In publications, in speeches, and in governmental contacts we have attempted to contribute to such discussion and analysis. It is most discouraging to now encounter the approach to the subject embodied in the Subcommittee's press release, which unfortunately but predictably resulted in highly misleading stories in many newspapers and over many radio and television stations.

I am sending copies of this letter to Senator Muskie and to other members of Senate and House committees most directly concerned with the subject and to a number of newspapers which carried stories based on the Subcommittee's press release.

Respectfully yours,
Ellmore C. Patterson,
Chairman of the Board.

February 4, 1974.

Mr. Ellmore C. Patterson,
Chairman of the Board, Morgan Guaranty Trust Co. of New York, New York, N.Y.

Dear Mr. Patterson: I have your 23 January letter in which you express your concern about the release of information regarding the committee print, "Disclosure of Corporate Ownership".

You are distressed by the reference to a "massive coverup" of institutional holdings, through use of nominees, citing your own recent compilations, provided to me last November, as evidence of significant disclosure.

You disagree with the contention in the release, and the study upon which it was based, that use of nominees in corporate ownership reports to government regulators hides the concentration of stockholdings in banks.

You contend that names of nominees and associated banks are readily available.

You state that there is not a shred of evidence in our study to support the thesis that any bank exercises control of the corporations discussed.

You state that there has not been, for decades, any real misunderstanding by anyone in government about nominees.

Two of the compilations you sent me, dealing with Morgan's voting rights to stock in major broadcast companies and air carriers, do constitute significant disclosure. I compliment you for it. I hope that you will provide the Subcommittee (or include in your own public reports) similar information regarding Morgan's voting rights to stock in other companies which are required to submit ownership data to Federal regulatory agencies, such as the Federal Power Commission, Interstate Commerce Commission and Securities and Exchange Commission.

I would like to review for you the deficiencies, from a regulatory view point, of the annual reports of your trust and investment division, which you sent me, and of ownership information filed with government agencies by companies in which you hold stock. I believe this review may help you and your bank better understand and assist in correcting the deficiencies in the present systems.

Your annual reports on holdings do not enable the reader to distinguish between holdings which your bank is empowered to vote and those in which the bank has no voting rights. Separation of holdings into the three voting categories (sole, partial and none) would provide the information requested by regulators and needed by your portfolio companies in order to comply with regulatory requests. It would also diminish unjust criticism of banks whose holdings include large custodial accounts in which the bank has no voting interest.

Secondly, except for those companies in which your bank holdings exceed $150 million, your annual report on holdings does not state the amount of stock held in a company, in either dollar or share terms. Congress and commissions have set forth in laws and regulations various stock ownership percentages at which control of a company is presumed. (That is one of the reasons why our study did not dwell on the exercise of control.) Your listing of, for example, only the names of more than one hundred companies in which Morgan has holdings with market value of $10 million to $50 million, is therefore insufficient for regulatory purposes.

The format which you used in the separate, unpublished compilation of voting rights to stock in major broadcast companies and air carriers, if used in your public report on all holdings above $1 million, would in my opinion constitute adequate disclosure, and relieve some of the burden and expenditure of the tax-financed regulatory commissions.

The fact that I have been discussing nominees since 1971, and that Professor Fischer wrote an article about them for the Banking Law Journal in 1972, has not, alas, clarified the subject within government. And as recently as last summer the president of a firm in which your bank has holdings in excess of $1 million testified that his and other medium-size and small companies are unable to break through the maze of nominee accounts to communicate directly with their beneficial shareholders.

As understanding of the nominee system increases it becomes increasingly clear that the system, while of possible benefit to bankers and traders, presents substantial problems for the Congress and the regulatory commissions it established, and for portfolio companies and many of their stockholders.

Our study includes abundant evidence regarding the contribution of nominees to the understating of bank holdings in major industries. To illustrate the point, I cite examples involving your own bank, using current data filed with regulatory commissions.

Enclosure A is the report on "Security Holders and Voting Powers" filed last year, with the Federal Power Commission by Florida Power Corporation, in which you report holdings of between $10 million and $50 million. You will note that three of the top ten security holders are nominees for your bank—Schmidt & Co., with 450,032 shares, Stawis & Co., with 154,753 shares and Carson & Co., with 142,481 shares.

Please also note that Chase Manhattan, the National Bank of Detroit, Northwestern National Bank of Minneapolis and Wilmington Trust are listed along with their nominees. Morgan, however, is nowhere mentioned in this ownership report. The addresses of two of your nominees is "Box 1508, Church St. Station, N.Y." The address of the other is Box 491 at the same Church Street Station.

The Nominee List, published by the American Society of Corporate Secretaries, is more available since I placed it in the Congressional Record, after the Society refused to make it available to the Federal Power Commission, an attorney in a rate case and an editor. If Florida Power Corporation knew about the Nominee List, why did it not identify Morgan in its ownership report? Your bank holds more than seven percent of the company's stock in those three nominee accounts.

The answer to that question should come from Florida Power Corporation. However, as chairman of the bank whose holdings in the company are veiled by three nominees, you too have an interest in this inadequate disclosure.

When the chairman of another large bank commented to me on our study, I sent him similar information regarding his bank, whose nominees were listed as three of the top stockholders in another electric utility which did not mention the name of his bank. The bank chairman checked his records and found out that his bank had stock in the company listed in eight other nominee accounts, in addition to the three that were listed among the top ten. His comment to me was:

"I certainly agree that, in terms of voting control, the current Federal Power Commission form does not provide for a full or meaningful report."

You too may wish to inquire within your trust department to see whether Morgan has other accounts in the Florida Power Corporation, and advise me of your findings.

Enclosure B is the "Security Holders and Voting Powers" report filed last year with the FPC by Southern California Edison. You will note that your bank is the only institutional investor not named among the ten top stockholders. Chase, Citibank, United California, Savings and Trust, Prudential and Equitable Life Assurance Society are all identified. But your account is listed as: "Douglass & Co., Box 2010, Church St. Station."

Enclosure C is Long Island Lighting's "Security Holders and Voting Powers" report to the FPC last year. Here again large holders—Chase, Citibank, Manufacturers Hanover and Merrill Lynch, are identified by name. And here again, your account is listed simply as "Douglass & Co., Box 2010, Church St. Station."

The same situation applies to Duke Power Company in North Carolina. Morgan is the only bank among the top ten stockholders which is not identified except by nominee, in this instance "Powers & Co., Box 1479, Church St. Station."

Why is it that utilities from California to Florida and New York, while identifying other institutional investors, do not identify Morgan on their ownership reports?

I note that, in response to our request, Morgan chose not to identify its thirty top security holders, although three other major New York banks did. I note too that Morgan declined to provide the Library of Congress with requested information on interlocks with closely held companies, foreign corporations, and subsidiaries and other affiliates of domestic corporations. Furthermore, regarding interlock information which Morgan did supply the Library, your bank omitted names, indicating only interlocking positions.

The Federal Government and your portfolio companies have enough problems these days without having to play games with an extraordinarily powerful institution whose disclosure practices do not provide adequate and meaningful information regarding ownership and interlocks. I hope that you personally will review our study in the light of these comments, and provide the subcommittee and the public generally with the requested information.

Very truly yours,

LEE METCALF,
Subcommittee on Budgeting, Management and Expenditures.

FLORIDA POWER CORP.—SECURITY HOLDERS AND VOTING POWERS

(For Year Ending Dec. 31, 1972)

1. (A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes which each would have had the right to cast on that date if a meeting were then in order. If any such holder held in trust, give in a footnote the known particulars of the trust (whether voting trust, etc.) duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or list of stockholders not compiled within or list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest. Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent, including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any officer, director, associated company, or any of the ten largest security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: Stock Book not closed in 1972.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, 9,620,376. By proxy, 9,620,376.

7. Give the date and place of such meeting: March 30, 1972, St. Petersburg, Fla.

Name and address of security holder (a)	Voting securities—Number of votes as of Dec. 5, 1972			
	Total votes (b)	Common stock (c)	Preferred stock (d)	Other (e)
1. Total votes of all voting securities	10, 573, 959	10, 573, 959		
2. Total number of security holders	20, 855	20, 855		
3. Total votes of security holders listed below	2, 910, 253	2, 910, 253		
4. Cudd & Co., Chase Manhattan Bank, Box 1508, Church St. Station, New York	681, 082	681, 082		
5. Schmidt & Co., Box 1479, Church St. Station, New York, N.Y	450, 032	450, 032		
6. Trussal & Co., Trust Dept., National Bank of Detroit, Detroit, Mich	334, 422	334, 422		
7. Cede & Co., Box 20, Bowling Green Station, New York, N.Y	308, 156	308, 156		
8. Perc & Co., Northwestern National Bank of Minneapolis, Minn	300, 000	300, 000		
9. Dean & Davis, Wilmington Trust Co., Wilmington, Del	206, 715	206, 715		
10. Thomas & Company, 55 Wall St., New York, N.Y	168, 328	168, 328		
11. Stawis & Co., P.O. Box 1479, Church St. Station, New York, N.Y	156, 720	156, 720		
12. Kane & Co., Chase Manhattan Bank, P.O. Box 1508, Church St. Station, New York	154, 753	154, 753		
13. Carson & Co., P.O. Box 491, Church St. Station, New York, N.Y	142, 481	142, 481		
Total (A) 10 largest security holders	2, 902, 689	2, 902, 689		

Southern California Edison—Security Holders and Voting Powers

(For year ending December 31, 1972)

1. (A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes which each would have had the right to cast on that date if a meeting were then in order. If any such holder held in trust, have in a footnote the known particulars of the trust (whether voting trust, etc.), duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or a list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest. Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent, including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any officer, director associated company, or any of the ten largest security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: December 5, 1972, on three classes of stock for payment of dividends; on balance of stock for compilation of certain statistical data.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, 58,786,905. By proxy, 58,780,652.

7. Give the date and place of such meeting: April 20, 1972, Edison Building, 2244 Walnut Grove Avenue, Rosemead, California 91770.

Name and address of security holder	Voting securities—Number of votes as of Dec. 31, 1972			
	Total votes	Common stock	Preferred stock	Other
(a)	(b)	(c)	(d)	(e)
Total votes of all voting securities as of Dec. 31, 1972	70, 765, 377	43, 484, 883	*5, 229, 900 22, 050, 594	
Total number of security holders as of Dec. 31, 1972	148. 027	109, 995	38, 032 *144, 080	
Total votes of security holders listed below on pages 107, 107A, 107B, 107C, 107D and 107E as of Dec. 31, 1972	9, 949, 550	6, 629, 556	3, 175, 914	

1. (A) See pp. 107 and 107A.
1. (B) See pp. 107B, 107C, 107D, and 107E.
2. No other securities have voting rights.
3. Col. (c): Common stock—1 vote per share. Col. (d): *Original Preferred Stock, $100 cumulative preferred stock and preference stock—1 vote per share. Col. (d): Cumulative preferred stock—3 votes per share.
4. No options, warrants or rights were outstanding at the end of the year.

Name and address of security holder	Total votes	Common stock	Preferred stock	Other
(a)	(b)	(c)	(d)	(e)
1. (A) LIST OF 10 LARGEST STOCKHOLDERS				
The Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y.	2, 034, 775	130, 000	1, 904, 775	
Hep & Co., care of United California Bank, P.O. Box 3667, Terminal Annex, Los Angeles, Calif.	1, 214, 567	1, 214, 567		
Kane & Co., care of The Chase Manhattan Bank, P.O. Box 1508, Church Street Station, New York, N.Y.	1, 193, 359	1, 184, 146	9, 213	
Cede & Co., P.O. Box 20, Bowling Green Station, New York, N.Y.	1, 142, 443	1, 142, 443		
Stuart & Co., care of First National City Bank, 20 Exchange Place, New York, N.Y.	856, 640	855, 536	1, 104	
Sabat Co., care of Savings Banks Trust Co., 200 Park Ave., New York, N.Y.	765, 250	44, 700	103, 750 616, 800	
Thomas & Co., First National City Bank, 20 Exchange Place, New York, N.Y.	763, 840	763, 840		

Name and address of security holder	Total votes	Common stock	Preferred stock	Other
(a)	(b)	(c)[1]	(d)[2]	(e)
Cudd & Co., (c/o Chase Manhattan Bank post office box 1058, Chruch St., Station, New York, N.Y.)	720, 456	702, 171	[3]7, 500 10, 785	
The Prudential Insurance Co., of America, Prudential Plaza, Newark, N.J.	634, 890		634, 890	
Douglass & Co., post office box 2010, Church St. Station, New York, N.Y.	570, 000	550, 000	[3]20, 000	
Total votes, 10 largest stockholders	9, 896, 220	6, 587, 403	[3]140, 463 3, 168, 354	

[1] Common stock—1 vote per share.

[2] Cumulative preferred stock—3 votes per share.

[3] Original preferred stock, $100 cumulative preferred stock and preference stock—1 vote per share.

Long Island Lighting Co.—Security Holders and Voting Powers

(For Year Ending Dec. 31, 1972)

(A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes which each would have had the right to cast on that date if a meeting were then in order. If any such holder held in trust, give in a footnote the known particulars of the trust (whether voting trust, etc.), duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or a list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest. Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such

security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent, including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any other director, associated company, or any of the ten large security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: See attached schedule.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, see attached schedule.

7. Give the date and place of such meeting: See attached schedule.

Name and address of security holder (a)	Voting securities (number of shares as of Dec. 31, 1972)			
	Total common shares (b)	Common stock (c)	Preferred stock (d)	Other (e)
Total shares of all voting securities	22,273,258	(1)	(1)	(1)
Total No. of security holders	92,063	(1)	(1)	(1)
Total shares of security holders listed below	3,261,839	(1)	(1)	(1)
Kane & Co., care of Chase Manhattan Bank, Church Street Station, Box 1508, New York, N.Y	1,118,374	(1)	(1)	(1)
King & Co., First National City Bank, 22 William St., New York, N.Y	365,764	(1)	(1)	(1)
Merrill Lynch, Pierce, Fenner & Smith, Inc., 70 Pine St., New York, N.Y	[1] 355,965	(1)	(1)	(1)
Gerlach & Co., care First National City Bank, 20 Church St., New York, N.Y	226,524	(1)	(1)	(1)
Vanneck & Co., 100 Park Ave, New York, N.Y	215,443	(1)	(1)	(1)
Douglass & Co., Box 2010, Church Street Station, New York, N.Y	214,600	(1)	(1)	(1)
Sigler & Co., care of Manufacturers Hanover Trust Co., 40 Wall St., New York, N.Y	213,199	(1)	(1)	(1)
Cudd & Co., care of Chase Manhattan Bank, Church Street Station, Box 1508, New York, N.Y	205,581	(1)	(1)	(1)
Abraham & Co., 120 Broadway, New York, N.Y	[3] 192,512	(1)	(1)	(1)
Loeb Rhodes & Co., 42 Wall St., New York, N.Y	[4] 153,877	(1)	(1)	(1)

[1] See attached schedule.

[2] Includes 177,520 shares registered in the name of Ceder and Co.

[3] Shares registered in the name of Cede and Co.

[4] Includes 146,819 shares registered in the name of Cede and Co.

Mr. METCALF. Mr. President, reference is made in the preceding correspondence to two compilations which Mr. Patterson provided me regarding his bank's voting rights to stock in major broadcast companies and air carriers. I complimented him for this disclosure, and suggested that the bank make similar information available regarding Morgan's voting rights to stock in other two compilations provided by Mr. Patterson, dealing with his bank's voting rights to stock in major broadcast companies and air carriers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MORGAN GUARANTY TRUST CO. OF NEW YORK, TRUST AND INVESTMENT DIVISION, OCTOBER 26, 1973

	Outstanding shares	Shares held	Percent of outstanding shares	Percent of outstanding shares voted			
				Sole	Partial	None	Total [1]
FCC ISSUES							
American Broadcasting	17,392,000	734,832	4.2	3.9		0.2	4.1
American General Insurance	22,868,000	5,060					
American General Insurance $1.80 conv. pfd	5,696,000	932					
American Television & Communications	2,859,000	240,200	8.4	8.4			8.4
American Television & Communications $2.50 pfd. B [2]	116,625	40,000	34.3	34.3			34.3
American Television & Communications $2.75 conv. Pfd. A [2]	49,000	45,000	91.8	91.8			91.8
Athena Communications Corp	2,000,100	9					
Avco Corp	11,497,000	1,000					
John Blair & Co	2,592,000	102,650	4.0		4.0		4.0
Burnup & Sims Inc	7,692,000	634,600	8.2	7.7		.4	8.1
Capital Cities Communications	7,074,000	379,530	5.3	4.6	.1	.6	5.9
Columbia Broadcasting Systems	28,044,000	303,207	1.0	.3	.7		1.8
Combined Communications	3,436,000	5,400	.1			.1	.8
Continental Cablevision Inc.[2]	264,586	1,425	.5			.5	.1
Cox Cable Communications Inc	3,560,000	211,800	5.9	5.8			5.3
Downe Communications	5,352,000	150,000	2.8	2.8			2.0
Dun & Bradstreet Cos	26,096,000	1,657,330	6.3	4.5	.3	1.3	6.1
Evening News Associations [2]	494,500	9,600	1.9	1.5	.4		1.5
Gannett Co	20,327,000	189,350	.9	.1		.8	.9
General Cinema Corp. V/T/C	5,488,500	467,150	8.5				
General Cinema Corp	5,588,500	2,000					
General Electric Co	183,105,000	1,194,117	.6	.1	.2	.2	.5
General Instruments Corp	6,790,000	1,168					
General Tire & Rubber	20,651,000	4,232					
Harcourt Brace Jovanovich, Inc	3,869,000	313,841	8.1			8.1	8.1
Jefferson-Pilot Corp	24,098,000	431,176	1.7	1.7			1.7
Kaiser Industries	27,487,000	477,064	1.7		1.4	.2	1.6
Kaufman & Broad, Inc	15,984,000	188,700	1.1		.9	.2	1.1
Knight Newspapers	10,313,000	24,150	.2			.2	.2
Liberty Corp	6,760,000	990					
Lin Broadcasting Corp	2,341,000	100,000	4.2	4.2			4.2
McGraw-Hill Inc	23,384,000	122,256	.5		.5		.5
Media General Inc	3,272,000	2,000					
NLT Corporation	34,200,000	189,866	.5	.4	.1		.5
New York Times Co. "A"	10,571,000	12,860	.1			.1	.1
New York Times Co. "B"	803,000	9,000	1.1			1.1	1.1
Providence Journal Co. V/T/C	14,919	208	1.3				
RCA Corp	74,527,000	136,291	.1	.1			.1
Reeves Telecom Corp	2,375,000	1,000					
Rollins Inc	12,858,000	118,000	.9		.9		.9
Rust Craft Greeting Cards, Inc	2,366,000	40,000	1.6	.8		.8	1.6
Schering-Plough Corp	52,792,000	3,251,585	6.1	3.9	.5	1.7	6.1
Scripps Howard Broadcasting Co	2,589,000	2,000					
Signal Companies	22,454,000	206					
Signal Companies $2.20 conv. pfd	991,000	1,275	.1		.1		.1
Taft Broadcasting Co	4,071,000	135,000	3.3	3.0		.2	3.2
Telepromter Corp	15,989,000	800					
Time Inc	7,298,000	121,946	1.6	.8	.3	.5	1.6
Times-Mirror Co	30,790,000	1,281,478	4.1		.3	3.6	3.9

	Outstanding shares	Shares held	Percent of outstanding shares	Percent of outstanding shares voted			
				Sole	Partial	None	Total[1]
Transamerica Corp	66, 561, 000	1, 222					
Travelers Corp	45, 145, 000	1, 288, 566	2. 8	2. 7			2. 7
Tribune Co.[2]	7, 695	177	2. 3	1. 2		1. 0	2. 2
Twentieth Century Fox Film Corp	8, 562, 000	100					
Viacom International Inc. V/T/C	3, 931, 000	222, 489	5. 6				
Viacom International Inc	3, 931, 000	25, 956	. 6	. 2	0. 4		. 6
Warner Communications $.05 conv. pfd. C	4, 645, 000	81					
Warner Communications $1.25 conv. pfd. D	1, 684, 000	82					
Washington Post 'B'	3, 993, 257	561, 265	14. 0	. 1	6. 7	7. 2	14. 0
Westinghouse Electric Corp	88, 235, 000	3, 094, 724	3. 5	3. 2		. 1	3,3
WHDH Corp	589, 000	1, 421	. 2		. 2		. 2
CAB ISSUES							
Air Express International Corp	1, 701, 000	400					
Air Express International Corp. class B	76, 374	200	. 2			. 2	. 2
American Airlines Inc	28, 846, 000	934, 787	3. 2	3. 0		. 1	3. 1
Baker Industries Inc	6, 100, 000	349, 358	5. 7	2. 0	. 1	3. 4	5. 5
Burlington Northern	12, 438, 000	1, 740					
Burlington Northern 5.50 cum. pfd. nonvoting	3, 081, 000	85					
Consolidated Freightways Inc	11, 849, 000	895, 000	7. 5	3. 5	. 9	3. 1	7. 5
Del Monte Corp	12, 044, 000	4, 089					
Delta Airlines	19, 866, 000	12, 325					
Eastern Air Lines Inc	19, 043, 000	16, 442					
Emery Air Freight Corp	7, 772, 000	381, 620	4. 9	2. 9	1. 2	. 6	4. 7
Flying Tiger Corp	13, 130, 000	3, 217					
GAC Corp	7, 213, 000	1, 700					
Mississippi River Corp	9, 081, 000	500					
National Airlines Inc	8, 555, 000	24, 600	. 2	. 2			. 2
Northwest Airlines Inc	22, 150, 000	441, 240	2. 0	2. 0			2. 0
Overseas National Airways Inc	2, 427, 000	3, 510	. 1			. 1	. 1
Ozark Air Lines Inc	6, 783, 000	1, 000					
Pan American World Airways Inc	40, 358, 000	88, 100	. 2	. 1			. 1
Santa Fe Industries Inc	25, 271, 000	9, 280					
Transcon Lines	3, 114, 000	5, 800	. 1	. 1			. 1
Trans World Airlines Inc	12, 301, 000	25, 000	. 2	. 2			. 2
UAL Inc	20, 923, 865	483, 570	2. 3	2. 3			2. 3
Western Airlines Inc	13, 927, 000	332, 905	2. 3	2. 3			2. 3

[1] Totals may not agree with percent of outstanding shares due to rounding.

[2] Indicates not publicly traded.

THE FUEL SHORTAGE—HOW SERIOUS?

Mr. PELL. Mr. President, one of the most frustrating aspects of the energy crisis has been the lack of adequate information regarding the extent of the fuel shortage and the impact of that shortage on various regions. Because of the lack of hard facts, the administration may have overstated the seriousness of the problem prompting decisions by the Federal Energy Office as well as business and industry that have resulted in a general economic slowdown and left thousands of individuals affected by economic disruptions across the country.

This uncertainty and confusion over the extent of the shortage has been pointed out very well in recent weeks by conflicting reports released from highly reliable Government and independent sources. The Federal Energy Office in their weekly petroleum situation report issued January 25, reported a supply deficit for January 1974, of 2.5 million barrels a day with crude oil stocks down to 230.8 million barrels, their lowest position since 1968. The report further stated that stocks of residual oil, most critical for New England, were at 49.1 million barrels—down more than 5 percent from the 55 million barrels on hand a year ago, according to the American Petroleum Institute.

On the other hand, a report by several reporters of the Philadelphia Inquirer, presented a more optimistic picture of available global petroleum supplies. According to this report based upon an examination of oil supplies in Europe as well as an assessment of the impact of the oil embargo in Europe, oil stockpiles were at record levels across Europe, and the east coast of the United States and the wholesale prices of oil products were declining dramatically across Western Europe. This assessment was confirmed by the authoritative Platt's Oilgram Price Service. Furthermore, in regard to heavy fuel oil used by utilities and some industry, the report cited a reduction in price of more than 30 percent in recent weeks. Similar assessments were reported recently in the New York Times and Business Week.

I ask unanimous consent that these reports be printed as exhibits at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, I believe the conflicting information above points out well the frustration many of us in Congress have had in trying to assess the severity of this fuel shortage and more importantly in trying to develop legislation to deal with the problem with the least adverse impact upon the lives of Americans. This uncertainty points out the absolute necessity for a reporting system by the oil industry that will answer these questions regarding pricing and supplies. To help achieve this goal, I support fully legislative efforts to require full disclosure of all information necessary to construct a national energy policy. Only with basic information can the Congress and the Federal Energy Office hope to present a believable, accurate picture to the public and thus restore public confidence.

The Energy Emergency Act (S. 2589), now being considered by the Senate, includes reporting requirements that would provide basic energy data vital to an effective national energy program. That is one reason I support this legislation.

EXHIBIT 1

PETROLEUM SITUATION REPORT FOR WEEK ENDED JAN. 18, 1974—PETROLEUM SCORECARD

FORECAST SUPPLY DEFICIT

January 1974	2,500,000 barrels per day
1st quarter 1974	2,700,000 barrels per day

APPARENT DEMAND (MILLION BARRELS PER DAY)

	Week ended Jan. 18, 1974	Jan. 1 to date
Forecast demand	20. 1	20. 1
Apparent demand	17. 6	17. 7
Indicated savings	2. 5	2. 4

PERCENTAGE SAVINGS BY FUEL TYPE

Gasoline	9. 8	4. 2
Jet fuels	13. 6	22. 9
Distillate fuel oil	5. 6	10. 0
Residual fuel oil	13. 7	16. 4
Total, 4 products	9. 8	10. 2

IMPORTS (MILLION BARRELS PER DAY)

Forecast, with fully effective embargo		4. 9
Actual	5. 0	5. 1
Increase over forecast	. 1	. 2

HIGHLIGHTS

Crude oil imports continued to decline this week, falling 173,000 barrels per day below a week ago. Total imports, crude and products, for the week were 4,982,000 barrels a day, only a small increase from prior week. Year to date total import averaged 5,118,000 barrels per day, only 186,000 barrels a day above forecast embargoed rate.

Crude runs to stills, at 11,425,000 barrels per day for week ended January 18, were at lowest rate since January 1973.

Crude oil stocks: API report shows reduction of 8.6 million barrels during the week, but calculated reduction, based on reported supplies and crude oil use, was only 0.8 million. See crude oil section.

Demand for all products, for the period since January 1, was 2.4 million barrels per day below forecast. Demand for each of the four major products was lower than expected, for both the current week and the month to date.

Weather in the Northeast was colder than normal during the week. In most other parts of the country the weather was much warmer than normal.

CRUDE PETROLEUM REVIEW

[Thousands of barrels per day]

	Week ended Jan. 18	January forecast	Jan. 1 to date	
			Actual	Variance from forecast
Production	9,152	9,023	9,123	+100
Imports	2,171	2,425	2,333	−92
Stock change	[1] −113	−187	−182	−5
Crude runs	11,425	[2] 11,635	11,628	−7

[1] Calculated by Federal Energy Office from production, imports, crude runs to stills, and direct use.

[2] Revised to exclude unfinished oils.

CRUDE OIL

Domestic production of crude oil continues to average slightly more than 100,000 barrels above one monthly forecast of 9,023,000 barrels.

Reported crude oil stocks were decreased by 8.6 million barrels, the largest single week drop over the past several years. The current reported level of 230.8 million barrels is the lowest stocks have been since at least 1968. The greatest impact of the drawdown is in the West Coast, where stocks decreased 3.8 million barrels and are 11.9 million below last year.

Crude runs to stills for the week ended January 18 averaged 194,000 barrels per day under last week's. This week's rate (11,425,000 barrels per day) marks the lowest level of any week in 1973 and 1974. The decline was again attributed to both lack of crude oil and refinery shutdowns for repairs and maintenance. With the most recent decline, the month to date daily rate is 7,000 barrels per day below the January forecast.

There is, however, a major discrepancy between the reported stock change and the 0.8 million barrel stock reduction of reported crude oil supplies and use. The reason for this significantly large discrepancy has not yet been identified. FEO believes the calculated stock change to be the more indicative of the current week's performance.

IMPORTS

Imports of crude and refined petroleum products totaled 4,982,000 barrels per day for the week ended January 18. The small net increase from last week (23,000 barrels per day) was the result of increases in refined products of 199,000 barrels per day, offset by a decline in crude imports. Major products showing increases were gasoline and distillate fuel oil.

Year to date figures continue to decline and the accumulated rate of 5,118,000 barrels per day is only 186,000 above the daily level of 4,932,000 barrels forecast for January under embargoed conditions.

JET FUEL

Production of jet fuel this week was 719,000 barrels a day, about 18 percent lower than the previous week. Imports were up slightly, but stocks were drawn down 1,770,000 barrels, or 252,000 barrels a day. Demand calculated for the week was 1,160,000 barrels a day, almost 14 percent less than the forecast demand for January. The cumulative production is 9,000 barrels a day less than forecast; imports are 17,000 barrels a day higher than forecast; stocks were reduced 7,000 barrels a day more than forecast.

DISTILLATE FUEL OILS

Since the beginning of the year, demand for distillate fuel oils has been 10 percent lower than expected. Production, at 3.0 million barrels, is about 270,000 barrels per day above forecast. Imports, at 370,000 barrels per day, are 130,000 barrels per day above forecast. As a result, stocks have been drawn down at a daily rate of only 650,000 barrels, far less than the forecast withdrawal rate of 1.5 million barrels a day.

Inventories are now at 188.7 million barrels, a level which assures a comfortable cushion for colder-than-normal late winter weather, or alternately, an opportunity to substitute distillate fuel for supply-short residual fuel, providing home heating oil customers continue their commendable conservation practices.

RESIDUAL FUEL OIL

Since January 1, demand for residual fuel oil has been 16.4 percent below forecast, while domestic refinery production and imports have been close to their expected rates, giving consideration to the oil embargo. Inventories, however, have been reduced more rapidly than was anticipated. Stocks are at 49.1 million barrels, 3.6 million barrels below a year ago.

GASOLINE

Refinery output of finished gasoline decreased this week by about 1 percent. This is the third successive week of reduced production. However, imports were up and stocks increased by almost 2.2 million barrels. Calculated daily demand was 5,764,000 barrels, which is almost 10 percent less than the forecast demand of 6,390,000 barrels.

The cumulative year to date demand is 6,120,000 barrels a day, about 4.2 percent less than forecast. The other cumulative figures indicate that production of gasoline is 139,000 barrels a day less than forecast, imports are 27,000 barrels a day greater and stocks have been reduced 17,000 barrels per day as compared to an anticipated January stock buildup at a rate of 594,000 barrels a day.

[From the Philadelphia Inquirer, Jan. 20, 1974]

Tanks Bulge, Europe's Fuel Prices Cut

(By Donald L. Barlett and James B. Steele)

The wholesale prices of oil products—from gasoline to jet fuel and home heating oil—are declining dramatically across Western Europe.

The reason: European countries, which have been stockpiling record quantities of crude oil and petroleum products, have run out of storage space.

"Storage tanks are, in fact, full to the brim in Northwest Europe, the East Coast of the United States and in Italy" at the same time consumption has been cut back, said Platt's Oilgram, a daily price reporting service that monitors the worldwide activities of the oil industry.

The Platt's report confirms findings first published by The Inquirer in a continuing series of reports:

There are record stockpiles of oil products in the United Kingdom, The Netherlands, Italy and other European nations as well as the United States—and no serious oil shortages.

The effects of the Arab embargo and the severity of the oil shortage in the United States have been grossly exaggerated by the Nixon Administration.

Of the Arab embargo, Platt's Oilgram quotes a European oil trader as saying that the last three months have shown the "Arabs either cannot, or really didn't want to pull off their embargo."

"Even singled-out Holland has ended up with the fullest tanks of any of us. In short, the panic factor has ironed out the market."

In Rotterdam, the largest oil port in Europe, Platt's reports that prices for jet fuel and heavy fuel oil used by electric utilities have declined more than 30 percent in recent weeks.

At the first of the year, the price of heating oil there ranged between $150 and $175 a ton, says Platt's. It now is selling for $107.50 and the price is still falling.

There have been four offerings of jet fuel at terminals in Italy and Spain—but no buyers, says Platt's. And a Platt's report from Italy says that the once frequent calls from the United States for jet fuel have ended.

In a dispatch from Milan, Platt's reported:

"Deadness of the market is the main topic of conversation in Italian oil circles. Buyers are a rare breed.

"A trading company reports at least five Italian refiners are in the market offering products from gasoline down to gas oil (heating oil).

"This broker gives a picture of full tanks at refineries and no takers of the oil. A trader notes the entire market has made a complete turnaround from two months ago."

Indeed, in Genoa, Italy's largest oil port, Antonio Orlando, press officer for the Genoa Port Authority, told an Inquirer reporter:

"There is no shortage of oil. In my opinion, the oil companies played a great deal on the Arab embargo to close off the taps of petroleum and get an increase in prices."

Statistics for the Genoa port, gathered by The Inquirer, show that oil imports for the last three months of 1973 were up 19 percent over the same period a year earlier.

And in December—the month when Arab production cutbacks should have been felt in a busy port such as Genoa—a record 5.1 million tons of crude oil was unloaded, the most for any month in 1973.

Thus, despite the fact that Italy is heavily dependent on Arab oil. In 1972, the latest period for which complete figures are available, 71 percent of all the oil imported into Italy came from the Arab nations, largely Libya, Saudi Arabia and Kuwait.

The large increase in oil imports into Genoa has some significance for other European countries, for Italy exports about 25 percent of the crude oil it receives.

Oil unloaded in Genoa is carried by pipeline to refineries in Switzerland, Germany and other Italian cities.

Even though Italy is receiving plenty of crude oil, the country has been hit with sporadic shortages of some oil products.

Indeed, there were scattered shortages of gasoline, diesel fuel and home heating oil in Italy and on for months before the Arabs announced their reduction in oil production.

The problem, an Inquirer survey found, appears to stem more from government price control policies and hoarding than from anything else.

Last week, the Italian government charged an independent oil refiner in Genoa with fraud and hoarding petroleum products, confirming the suspicions of any oil industry observers that there is substantial hoarding of petroleum.

The government has contended that the refiner is withholding its products from the market to get a higher price.

The Italian government, as part of its inquiry, said police had seized dozens of telegraph messages in a Rome refinery that were sent to oil tankers bound for Italy.

The messages, according to the government, indicated that the tankers being urged to go elsewhere because there was no more storage space for crude oil in Italy.

The Italian government said it also is questioning the officials of a number of other oil companies about their stockpiling practices.

The companies being quizzed include at least one American oil company, Chevron, a subsidiary of Standard Oil Company of California.

A spokesman for Standard Oil Company of California, at the company's headquarters in San Francisco, had no comment, saying the company had not heard from its affiliate in Italy concerning the matter.

The purpose of the probe by the Italian government is to determine whether some oil companies refused to refine crude oil last year and thus helped create product shortages.

The Inquirer survey of oil supplies in Italy produced about the same results as its survey in the Netherlands and United Kingdom.

As The Inquirer has disclosed over the last two weeks, the Arab cutbacks have had little effect on Europe's two largest oil ports—Rotterdam in the Netherlands and Milford Haven in the United Kingdom.

In Rotterdam, for example, a port official said that oil was flowing into the port at a steady rate, even though the Netherlands was the only country besides the United States hit with a total embargo by the Arab states.

Prior to the embargo, about 70 percent of all oil shipments into Rotterdam came from Arab states. After the embargo, major oil companies diverted supplies of non-Arab oil to the Dutch.

The companies shipped Arab oil, which once was intended for the Netherlands, to countries the Arabs considered more sympathetic to their views, such as France and Britain.

While The Inquirer's continuing probe into the worldwide movement of oil has indicated that production is indeed down in from Arab states, there is little evidence to suggest that overall production has been slashed to the levels publicly announced by the Arabs.

In addition, oil production has been stepped up in a number of other countries, including at least one Arab state (Iraq), as well as Iran and Indonesia.

So it is, then, that the Italians, like the Dutch and the British, are more concerned with the spiraling retail prices of oil products than with the supply—which is considered adequate.

In the United States, on the other hand, the new Federal Energy Office and the Nixon Administration have expressed more concern over alleged oil shortages. This has tended to divert attention from steeply rising prices.

While there is a squeeze between supply and demand for oil products in this country, The Inquirer has pointed out, beginning last month, that the Federal Government has consistently overstated the severity of the problem.

FUEL-OIL SCARCITY IS BEING DOUBTED BY MANY DEALERS

(By Michael C. Jensen)

While the Government warns that the nation still faces a "critical" heating-fuel situation, many dealers and distributors who provide fuel oil to homes in the Northeast say their storage tanks are full and the threat of a shortage this winter has been all but eliminated.

As a result, some companies are reducing their prices, while others are increasing the amounts of fuel oil they allow their customers to buy. In one such action yesterday, the Getty Oil Company (Eastern Operations), Inc., said it was increasing customer allocations of heating fuel on Friday from 73 per cent of 1972 levels to 100 per cent. Getty sells to distributors in New Jersey and sections of New England.

Because of the large supply of fuel oil, prices of newly arrived tanker cargos have plunged by more than 50 per cent since the beginning of the month.

A combination of unusually warm weather and conservation by homeowners has lowered demand for fuel oil by about 25 per cent, oil executives said. The result has been a massive buildup in inventories throughout the area.

DOWN 6 CENTS A GALLON

"I don't see any problem in supply for the rest of the heating season," said Peter J. Carini, president of the Ace Fuel Oil Corporation, a major retailer of home-heating fuel in the New York area.

Mr. Carini said his company was selling fuel oil for 32.75 cents a gallon after having charged customers 38.5 cents during December. The price probably will decline by another cent or more in February, he said.

Ironically, however, some homeowners face additional price increases in the weeks ahead. That is because the major fuel suppliers, whose price increases have been more restrained than the independent dealers, will be allowed by the Government to pass along for the first time higher costs incurred in January.

The more-than-ample supply of heating fuel in the Northeastern part of the United States mirrors a condition that has developed in Europe. Light heating oil in the Rotterdam market, which influences the level of prices throughout Europe, has fallen more than 50 per cent from the high of early December.

The rapid shift in the market also has caught large numbers of speculators holding inventories of expensive fuel, which they had hoped to unload at inflated prices.

POLICY REVERSAL EXPECTED

The Federal Energy Office said earlier this week that it would decide soon whether to reverse its current emphasis on production of heating fuel, a middle distillate, at the expense of gasoline. Such a reversal is widely expected in the industry.

At the same time, William E. Simon, the Federal Energy Administrator, when asked by Senator Edmund S. Muskie, Democrat of Maine, whether the nation was over the heating oil crunch, said:

"No sir, we are not, or we would have already started shifting production back from middle distillates to gasoline. We have still got a critical distillate situation."

Even though current supplies of heating fuel are high, some Federal officials say they fear that a relaxation of conservation, coupled with a prolonged siege of cold weather, could reduce inventories and leave the nation at a disadvantage in building supplies for next winter.

For that reason, they are not eager to proclaim an end of the shortage of home-heating oil.

Prices that homeowners have been paying for fuel oil have skyrocketed since last winter. Some customers who paid only 20 cents a gallon to fill their tanks a year ago now are paying more than 30 cents. Others who buy from dealers supplied by independent refineries, have paid double that amount.

Now that the shortage situation seems to be reversing itself, however, some prices are coming down.

NORTHVILLE CUTS PRICE

The Northville Industries Corporation, a major independent oil distributor, said yesterday it had lowered the price it charged dealers for home-heating fuel by 1 cent a gallon.

It was able to take the action, Northville said, because it had received "large supplies" of domestically produced heating oil from three of its suppliers under orders from the Federal Energy Office.

The Government has initiated a program to insure that independent distributors who have been dependent on expensive imported oil also get some of the cheaper domestic products so that they can lower their prices.

The Exxon Corporation said its stocks of home-heating fuel were "unusually high." Earlier this month, the company said it had 19.5 million barrels (there are 42 gallons in a barrel) of fuel oil available. A year earlier, it had only a 15.2 million-barrel inventory.

Exxon's "rack" price, which it charges customers who resell the fuel, currently is 21.5 cents a gallon, up nearly 70 per cent since September. The increase, an Exxon spokesman said, reflected higher costs. The price to homeowners normally is 10 cents higher.

William F. Kenny, chairman of the Meenan Oil Company, Inc., in New York, said his company's studies indicated that Meenan customers had saved about 16 per cent to 17 per cent on fuel consumption by turning down their thermostats and that warmer weather had accounted for a saving of 7 per cent to 8 per cent more.

One reflection of price weakness is the sharp decline in the amount charged for newly arrived cargos of heating fuel. After hitting a high of 72 cents a gallon in the first week of January, the spot price now has plummented to 32 cents, according to Howard Ross, president of the Howard Fuel corporation of Maspeth, Queens.

Most oil is not bought at the spot price but rather on long-term contracts. However, the spot price acts as a barometer of current supply-and-demand conditions. Spot prices rise or decline sharply depending on the current market for fuel oil and the outlook.

In Boston, John G. Buckley, vice president of Northeast Petroleum Industries, Inc., said Northeast was one of a number of companies that had reduced prices slightly.

He said homeowners who bought fuel from independent suppliers were likely to see gradually declining prices, while those buying from the major companies, which are charging much less, would probably see their prices rise somewhat.

Mr. Buckley said the spread between the prices charged by the independents and the major companies probably would gradually narrow and finally disappear sometime in March.

A number of oil dealers warned that an unusual cold snap would tighten the situation, as could a relaxation of conservation efforts. "As long as people think there's a crisis, there isn't one," Mr. Buckley said. "If they think there isn't one, there is."

However, others concluded that, no matter how severe the rest of the winter became, there was plenty of oil on hand to meet the demand.

"I foresee President Nixon having to go on television with his sleeves rolled up and his tie loosened to tell the nation that he has turned up the thermostat in the Oval Office to 90 degrees," one industry analyst said. "He'll ask them to do the same thing because we need to burn up the heating fuel to make space to store something else."

EUROPE: A GAS OIL "SHORTAGE" TURNS INTO A GLUT

Speculative buyers who scrambled to snap up oil products in the limited "spot" market late last year are watching those prices come tumbling down all over Europe. The reason is simply that oil shortage tanks from Rotterdam to Milan, and probably even as far away as the U.S. East Coast, are brimful. Says a London-based oil executive: "The market is flooded with oil products right across the barrel."

The upshot is that prices in the spot market, which accounts for 10% to 15% of European oil, are now only a little above those set by the major oil companies for the rest of the market. And at midweek, the majors boosted their oil prices in Germany even closer to spot market prices.

The spot market's price plunge is showing up mostly in gas oil, an oil product used primarily for heating. Gas oil prices, which spiraled from the pre-Yom Kippur War level of $85 a ton to $240 a ton in mid-December, are back down to $115 a ton. And they could go lower. A Milan broker tells of an Italian refiner who offered him a cargo of gas oil for $152 a ton f.o.b. on Jan. 4. The broker, unable to find a buyer, declined the offer. Five days later the refiner was back trying to unload his cargo for $135 a ton.

Behind the price slump lies the growing realization in the oil industry that the European oil crisis stems more from Arab price hikes than any real shortage. Saudi Arabian oil minister Sheik Ahmed Yamai brought the point home last week when he noted that the 15% production cutbacks combined with the embargo on sales to the U.S. and the Netherlands mean that the non-boycotted European countries are now getting more oil than they were last September. What's more, a mild winter and the energy-saving measures instituted throughout Europe have kept demand down.

TRYING TO UNLOAD

First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December. The price was supported a while longer by speculators and by Germany's independent importers, who buy heavily in spot markets.

But by early January, the speculators were sitting with full oil tanks, and began to realize that the shortage was not materializing. So now the speculators are trying to unload their oil without knocking the bottom out of the market. Even so, they are finding that the few interested buyers knock off $5 a ton and then start to negotiate. Barring any further production cutbacks, the soaring prices caused by the panic buying of late 1973 appear to have been reined in and spot prices are now likely to move up at a more leisurely pace.

VOLUNTARY DISCLOSURE OF INCOME, ASSETS, AND TAXES PAID

Mr. CHURCH. Mr. President, on May 18, 1964, the day I first inserted in the Congressional Record a voluntary disclosure of my income and assets, I expressed the hope that Congress would soon enact legislation or adopt procedural rulesmaking such a disclosure mandatory for all its Members, Congressmen and Senators, alike.

I said then, that—

> When we insist, as we often do, that a man nominated to a Cabinet post must, as a condition to his confirmation, make a full disclosure of his business interests and private holdings, we in Congress ought to be willing to do likewise . . . I have kept hoping that this regrettable shortcoming of ours might be remedied.

Three years later, on May 4, 1967, no such corrective action had been taken, so I again filed a voluntary account, observing once more that Congress "could help restore popular confidence by adopting a code of ethical standards, including a uniform rule, applicable to all Members, requiring the full disclosure of personal assets."

Two years and four months later, I published and circulated another accounting of my income and holdings. In the interval, Congress had contrived for itself a curious form of partial disclosure, which did more to distort than to reveal, and has, therefore, done more to arouse, than to allay, public suspicion. I regarded this tell-part-but-not-all arrangement as a hoax on the public. I said so at the time, and refused to hide behind it. Nevertheless, it appeared to me that Congress was moving—albeit slowly and grudingly—toward eventually adopting a tell-it-all principle. So I was moved to comment that—

> Prospects seem to be improving for legislation which will one day require all high officials of the Federal Government, both elected and appointed, to make a periodic disclosure of their income and assets. I personally feel that the enactment of such a comprehensive disclosure statute, applicable to the Executive, Legislative, and Judicial Branches of the Government, is long overdue.

Well, as it turned out, I was overly optimistic. Another 4 years have elapsed—this last year, 1973, fraught with financial scandals—yet Congress has still to pass a comprehensive disclosure statute. To its credit, the Senate has adopted, as an amendment to its election reform bill, a provision which would require all Members of Congress, along with their opponents at election time, to make a complete disclosure of their income, business interests, and property holdings. I was the author of this disclosure amendment, and the motion to defeat it in the Senate failed by a vote of 16 to 64.

Nonetheless, as of this date, there is no assurance whatever that the House of Representatives will find my amendment acceptable, nor that it will be retained in the final version of any election reform measure on which both Houses of Congress might agree.

Under these circumstances, I am again obliged, some 10 years after my first accounting, to publish and distribute to every Idaho constituent on my mailing list, a full and complete voluntary disclosure of my income and assets. I do this for the fourth time in the continued expectation—and determination—that such a practice will yet be mandated by law for all elected Federal officeholders, including the President, Vice President, Senators, and Congressmen, along with the candidates who oppose them at election time.

In saying this, I want to acknowledge that many Members of Congress hold strong personal feelings against making public their private business affairs. They argue that they are as much entitled as any other citizen to own business interests, stocks, bonds, notes or mortgages, and that their personal dealings should not be regarded as the public's business.

I can sympathize with their argument, but it really misses the point. Naturally, Members of Congress need not, indeed should not, refrain from making private investments. But Representatives and Senators do differ from other citizens in one important respect: they make the laws that affect business; they write the taxes that corporations, as well as individuals, must pay. Since Members of Congress must regularly vote on legislation which reaches—often in varying ways—every segment of the economy, there is a very legitimate reason for making their private holdings a matter of public record.

Complete disclosure would allow the voter, or anyone having doubts to resolve, to compare the Member's voting record in office with his financial portfolio, and determine for himself whether the Member has voted his private pocketbook interest or the general public interet, in the discharge of his official duties.

Moreover, if periodic disclosures were to reveal an accumulation of wealth without satisfactory explanation, or income which is out of line with listed sources, the public would be alerted to possible misconduct in office, bearing further investigation.

This is a commonsense test, with respect to which I have no doubt that the good judgment of the people can be trusted. The fact that there are other Senators and Representatives who feel as I do is borne out by the growing number who have adopted a similar practice. Since I made my original declaration nearly 10 years ago, I am advised by the Library of Congress that of the Senators and Members of the House of Representatives now in office, 29 Senators and 64 Representatives have made voluntary public disclosures of their income and assets. Though this represents less than one-fifth the total membership, the number is increasing, the trickle may yet become a tide.

So, Mr. President, the following statement brings up to date my last disclosure, which was published in the Congressional Record on September 12, 1969. Now, as then, I hold no interest in any private business; I own no stocks in any corporation; I am not a member of any law firm; and have not engaged, directly or indirectly, in the practice of law since my election to the Senate over 17 years ago.

My principal source of income is my salary, which amounts to $42,500 a year. I supplement my salary with earnings from lecture fees and published articles. Since 1969, this supplementary income has averaged just under $10,500 a year.

My wife, Bethine, derives separate income from an insurance annuity that her father, the late Judge Chase A. Clark, left her. It comes to $51.34 a month. In addition, Bethine has received each year, since 1970, the sum of $10,000, as the annual installment due her on the sale of the Robinson Bar Ranch, near Clayton, Idaho. She was given an undivided one-half interest in the ranch by her father, who homesteaded it prior to World War I. Three generations of the Clark family—uncles, aunts, and cousins—knew the ranch as a summer home, so it was not easy to part with. But Robinson Bar was also operated as a business, a guest ranch located between the Sawtooths and the White Clouds. Legislation was being considered in Congress to authorize the creation of a national recreation area in this region, and I, as the senior Senator from Idaho, would participate in any ultimate decision reached. Therefore, Bethine and I agreed that she should divest herself of all ownership in a business property in these mountains to which anyone could later point as a possible conflict-of-interest.

The installment payments from the sale of the ranch have enabled us to augment our savings, raising them from $30,000, as reported in my last disclosure, to $50,000 over the past 3 years. All of our savings are invested in State and municipal bonds, again for the purpose of avoiding any possible conflict of interest. The bonds, issued in $1,000 denominations, yield us approximately 6 percent in annual interest. These earnings constitute the fourth and final source of our income.

During my tenure in the Senate, Bethine and I have acquired an equity in a brick-and-frame, split-level dwelling house, located in Bethesda, Md., against which there was originally a $30,000 mortgage in 1957. As of December 31, 1973, our payments had reduced the principal still owing to $8,305.75. We own the furnishings in the house, together with two automobiles, a 1972 Chevrolet station wagon and a 1965 Mustang. I carry the usual insurance coverage, including medical insurance for my family, and I make a monthly contribution to build my entitlement in the Senate's retirement fund. As for Bethine, she has title to the Clark family residence at 109 West Idaho Street in Boise. She owns the house, free and clear of encumbrances, and we pay the taxes on the property. It produces no income.

Two other trust accounts remain to be mentioned. Judge Clark set up separate college accounts for our two sons, Forrest and Chase, his only grandchildren. One of the accounts has long since been spent, as Forrest is now a graduate student working on his master's degree at the Harvard Divinity School; the other one remains intact, in the amount of $10,000 and is invested in municipal bonds. It cover part of Chase's college education when the time comes.

As for debts, aside from the remaining balance on the mortgage on our house in Bethesda, we owe nothing to anyone, and we aim to keep it that way.

I wish that this report might end here. Publishing a full statement of income and assets is as far as I ever felt it necessary to go before.

But circumstances have changed in the course of the past year. The financial wrongdoing exposed by the Watergate investigations has cast a cloud over all politicians. Vice President Agnew has resigned for income tax evasion. The President, himself, acknowledges the payment of only $792.81 in Federal income taxes on $262,942.56 earned in 1970; the payment of $878.03 on $262,384.75 of earned income in 1971; and the payment of $4,298.17 on an income of $268,777.54 in 1972. Unsurprisingly, serious doubts have been raised in the public mind concerning the taxes paid by other elected officials.

Accordingly, I have listed below the income taxes my wife and I have paid to the Federal Government and the State of Idaho for the 3 years since my last accounting. I also have listed our real estate and excise taxes, along with the tax we have paid into social security for the same period.

	1970	1971	1972
Federal income x	$13,091.77	$13,103.95	$13,457.85
Social security tax	641.88	697.32	787.32
Idaho income tax	2,337.51	2,554.25	3,223.36
Property and excise taxes	1,579.73	1,591.62	1,706.20
Total	17,650.89	17,947.14	19,174.73
Total as percentage of income	30.09	29.80	31.73

It should be apparent that taxes, like inflated living costs these days, place too heavy a burden on persons of limited income. Not only that, but as I have long advocated, our tax laws need to be reformed, so that everyone will pay his fair share. Bethine and I like to feel that we have been doing our part, along with the vast majority of American taxpayers—and willingly, too—for the privilege of living in a great, free country like the United States of America.

RECENT DEVELOPMENTS IN THE FIELD OF AGING

Mr. BEALL. Mr. President, on January 1, 1974, the supplemental security income program became effective, thus guaranteeing a minimum income to a nation's aged, blind, and disabled citizens. I recently reecived a memorandum from the Honorable James B. Cardwell, Commissioner of Social Security, relative to the progress made in implementing the SSI program.

Mr. President, I ask unanimous consent that the text of this memorandum and the attached material be printed in the RECORD at the conclusion of my remarks.

In addition, the Special Committee on Aging, of which I am a member, issued a memorandum outlining recent changes in legislation affecting senior citizens. I ask unanimous consent, Mr. President, that the substantive portions of this memorandum be also printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., January 28, 1974.

Memorandum for Members of the Senate.

Subject: Progress report—Supplemental Security Income For The Aged, Blind, and Disabled.

As you know, the Supplemental Security Income Program—which was part of P.L. 92-603, passed by Congress and signed by the President on October 30, 1972, and amended on July 9 and on December 31, 1973—took effect on January 1.

The big initial job called for by this legislation was for us to transfer about 3 million aged, blind and disabled persons from the State welfare rolls to the Federal system and send checks to them at the beginning of January. The recipients are needy people and it was of obvious importance that the job be done as promptly and effectively as the circumstances would allow. It required a tremendous amount of cooperation and innovation on the part of the State and local welfare offices and of the Social Security Administration.

I am pleased to be able to report that the checks did get delivered during the first few days in January to all but a very small proportion of those entitled to payment; that we have made substantial headway during the month in clearing up problem situations; and that new payments are being certified each week to thousands of newly eligible persons.

To put the January SSI implementation in perspective:

We certified over 3 million payments to Treasury, and checks were issued amounting to a total of $345 million.

We have identified specific problems in about 200,000 cases (about 6 percent of the total).

Of these problems, it appears that about 100,000 involved people who claimed they were due a payment, but did not receive one or did not get it on time (about 3 percent of the total).

We had to expect some problems in an operation of this size and complexity, and they did occur. We knew, for example, that the delicate timing involved was such that some of the recent accessions to the welfare rolls could not be properly converted in time, and that some incidence of error existed in State or local records. Also complex systems, brand new to the Social Security Administration, had to be created and, because of the time frame allowed, issuance of the January checks constituted the first "live test" of these systems.

The difficulties that did occur were widely scattered, though centered mainly in certain large metropolitan areas. Some of these problems could be alleviated by issuing an advance payment of up to $100 in our local offices. Others were solved by the States and counties making temporary payments. Many jurisdictions were cooperative in this regard, particularly where the problem was the result of faulty conversion data. Some of the difficulties arose in cases where our records showed a check had been mailed but the addressee stated that he had failed to receive it. Expedited procedures have been designed to handle cases of alleged non-receipt.

During January, checks were newly certified or reissued to about 150,000 persons, including a substantial number for whom there were address corrections or adjustments of amounts. We have had the benefit of the Treasury Department's unstinting efforts and cooperation in identifying and redirecting undeliverable checks and in issuing emergency payments. We have already been able to correct our master records in many of the cases involving incorrect conversion data, and we have worked vigorously to avoid similar problems in the preparation and delivery of February checks.

Needless to say, the Social Security Administration's 1,200 local offices, backed up by our regional offices and managers in our headquarters, are giving very high priority to servicing the new workload. The initial impact of the Supplemental Security Income traffic in a number of our local offices was heightened by numbers of people who were not eligible for the new program but who were seeking information of Medicaid, or wanted general assistance, social services, or food stamps. In some areas these people had been improperly referred from one source or another. We have taken steps to track down the sources of improper referral. We have made quick, temporary shifts of the Social Security Administration staff to our local offices having the heaviest traffic and have taken other steps to assure service to the continuing influx of persons wishing to file social security claims or to transact other business. Social Security Administration field installation will be taxed to the limit of capacities for some months. Nonetheless, our purpose is to see that people with potential entitlement know about rights and receive all necessary assistance in order to have their claim considered.

Simultaneously, we have the big tasks in the Supplemental Security Income and social security programs of putting into effect the increases provided for by P.L. 93–233. As you know, prior to enactment of that statute, basic payment levels for Supplemental Security Income were set at $130 a month for an individual and $195 for a couple, with these amounts to be increased effective July 1974 to $140 a month and $210 a month. P.L. 93–233 made these Supplemental Security Income increased amounts effective for January 1974 and provided for a further increase to take effect in July 1974. We are now not only "converting'" the payments for all the three million persons to the higher Supplemental Security Income amounts but are making arrangements to give eligible recipients the retroactive increase for January.

Although I did not think it in order in this letter to go deeply into the technical details of the new Supplemental Security Income program, I do want to emphasize one very important fact. In addition to the basic Federal payment, States are required to make, or have the Federal Government make on their behalf, whatever supplementary payments are necessary to their former assistance recipients to assure that they suffer no loss of income because of conversion to the new program. Besides these mandatory supplements certain States have also elected to make various optional supplementary payments. States also have the option of deciding whether to pass along the increases provided by P.L. 93–233.

A high proportion of both types of State supplementary payments are, at the option of the individual State, being administered by the Social Security Administration as part of a process which assures delivery of a single SSI check. In States which have chosen not to combine their supplement with the amount payable under the Federal program, you may hear of special State problems in the early months of the program that result from the difficulties of timing and interchange of data needed by them in order to take Federal amounts into account when making their own pyments.

In summary, despite the difficulties I have described, the preeminent fact is that the vast majority of SSI recipients are getting their checks properly and on time. On balance, therefore, I believe the new program is off to a very good start. Our hope is to make it as responsive to individual needs as the other SSA-administered programs have been through the years.

I am enclosing for your convenience a fact sheet that gives a number of details about the new Supplemental Security Income program. Your constituents can get complete information and apply for supplemental security income at any social security office. If you or your staff want information about a specific case or about the content or operation of the Supplemental Security Income program, you may obtain it in the same way that you and your staffs secure information on other programs we administer.

James B. Cardwell,
Commissioner of Social Security.

SUPPLEMENTAL SECURITY INCOME HIGHLIGHTS

INFORMING THE PUBLIC

In cooperation with other Federal and State agencies and private organizations, the Social Security Administration has been conducting both national and local public information activties to assure that people get the information they need about SSI. Welfare recipients were reassured through direct mail that they would keep getting checks after December 1973 so that their total income level, consisting not only of their assistance payments but also any other income they may have, should be at least what it was for December 1973. In situations where the State is administering its own supplementary payment program, the recipient may get two checks each month, one from the Federal Government representing the basic Federal payment and another from the State representing the additional amount the State is providing.

SSA continues its extensive public information programs to make people aware of the SSI program. Centrally, regionally, and at the local level, we are working with organizations, media, and welfare departments to provide public informational material tailored to their needs and the needs of their clientele. Items on SSI, some in Spanish, were carried prior to January 1, 1974, in more than 1,300 newspapers and on local radio and T.V. stations, and leaflets have been distributed to thousands of potentially eligible people.

SSA and the Administration on Aging are cooperating in Project SSI Alert, a volunteer effort to reach people who may be eligible for SSI. SSI Alert is organized around a working group with representatives from SSA, Administration on Aging, American Red Cross, and national organizations concerned with the aged, blind, and disabled. Other Federal agencies will also provide assistance. Volunteers are being used to explain the SSI program; to make referrals to social security offices, including arrangements for transportation or home visits; and to help secure information and verification needed to establish SSI entitlement.

CONVERSION

The major task of transferring about 3 million current recipients from State to Federal rolls is complete. SSA worked closely with the more than 1,152 State and local agencies to accomplish the conversion, using State and local records, staff, facilities, and other resources as much as possible. After January 1974, SSA will continue to work with the States in areas of supplementation, referral of applicants for social services, and Medicaid eligibility.

NEW CLAIMS

SSA began taking applications in July 1973 from potential eligibles. Among the people who are applying for the new program are those who are also newly filing for social security retirement or disability insurance payments and whose benefits under these programs are low enough to permit some supplemental security income payment. Other people who are applying now are those who could have been receiving welfare but who did not apply because of State welfare laws which required the State to place liens against the titles to their homes or regulations which required close relatives to contribute to the support of the recipient. We have begun a screening program of the social security records to identify people who are potentially eligible for payment under the new program. As these people are identified, the local offices are contacting them to see if they are interested in applying for payment.

STATE SUPPLEMENTATION

The payment levels under SSI are higher than those under the grant-in-aid programs in about half of the States. Under the original SSI legislation, States with payment levels higher than the Federal amounts were expected, but not required, to make up the difference. The law was amended on July 1, 1973, by Public Law 93–66, and assured that former welfare recipients who were transferred to the new program would receive as much as they did in December 1973. In addition, the States had the option to make additional payments, not only to recipients who were on State rolls, but also to people who were not eligible for State assistance programs, but who were to be eligible for SSI. More than half the States elected to provide these additional amounts. Under both mandatory and optional State payments, the Federal Government will hold the State harmless against any increase over its 1972 expenditures for public assistance payments caused by a larger caseload. This provision is available to States which elect to have the Federal Government administer the State payments at Federal expense.

SSI BENEFIT INCREASE IN P.L. 93–233

The maximum Federal payments when the SSI program began on January 1 were $130 a month for an individual with little or no other income, and $195 for a couple. Public Law 93–233 increases these amounts to $140 for an individual and $210 for a couple effective January 1974. These amounts will be further increased in July 1974 to $146 and $219 respectively.

Since the January checks were already in the mail at the time of enactment, the increase for both January and February will be added to the February checks.

Most recipients in the 23 States which have no optional supplement will automatically receive increased monthly payments because of the Federal SSI payment increases provided under P.L. 93–233. Across the country, however, and especially in the States whose public assistance payments have been highest, there are many people who receive a State supplement to the Federal payment. Although the law provides that former welfare recipients will receive as much as they had been receiving under the old public assistance program, it does not require the States to "pass along" the Federal increase to people who are already receiving, at State expense, more than the Federal amount.

For example, if a couple with no other income had been receiving $240 a month under public assistance, they should have received $195 early in January from the Federal Government and $45 from the State, to continue their payments at the same level. The new law increases the Federal payment to $210, but does not require the State to continue to pay $45. The State may decide to reduce its payment to $30. If it does so, the couple will continue to get $240 a month.

PAYMENT PROCESS

SSA and the Treasury Department have worked together to assure a responsive SSI payment process. Procedures have been developed for making advance payments to applicants who are apparently eligible and who are faced with a financial emergency; the rapid replacement of missing checks; and the use of a distinctive gold-colored U.S. Government check to facilitate the rapid identification of SSI checks, so the Treasury Department can quickly resolve problems of missing checks.

SOCIAL SERVICES

Under the new Federal law States will continue to provide social services. The Social Security Administration, the Social and Rehabilitation Service, and State welfare organizations are working to increase the effectiveness of the linkages between the SSA offices and State and local service agencies. One objective is to meet recipients' needs through mechanisms which minimize the referral of individuals from place to place. In this connection, State social service personnel will be stationed in selected social security district offices in order to determine the effectiveness of such an arrangement, particularly in terms of how well it equips us to find assistance for the critical and immediate social service needs of SSI applicants.

MEDICAID

The Federal law assures that those people who are eligible for Medicaid in December 1973 will continue to be eligible after they are converted to SSI provided there is no change in their eligibility status. The law also permits Medicaid eligibility for people who are newly eligible for SSI, but gives States the option to use their own eligibility criteria for these recipients. Thus, in determining Medicaid eligibility for its recipients, a State can elect either to apply the Federal SSI criteria or to apply any of its own more restrictive criteria. However, these can be no more restrictive than the State's eligibility criteria in effect for January 1972. Most States have decided to abide by the SSI criteria. In doing so, they can elect to have the Federal Government make the Medicaid eligibility determinations for any SSI recipient or for any recipient of a Federally administered State supplementary payment. If the State chooses to apply its own criteria, however, it must determine eligibility for all Medicaid recipients.

FOOD STAMPS

The bill repeals the provisions of present law which would make some SSI recipients ineligible to participate in the food stamp or surplus commodities programs. Thus, SSI recipients can participate if they qualify under the provisions of the food stamp or commodities programs, except that for a 6-month period ending June 30, 1974, SSI recipients in any hold-harmless State will be ineligible to participate unless the State removes the bonus value of food stamps from its adjusted payment level; at the end of the 6-month period, the provision of present law allowing for inclusion of the bonus value in the adjusted payment level would be repealed by the bill.

CONGRESS RAISES SOCIAL SECURITY BENEFITS, SALVAGES SOME AMENDMENTS

(Memorandum of the Special Committee on Aging, U.S. Senate, December 26, 1973)

House-Senate deadlock on Social Security legislation was broken on December 21 with a measure which would (1) authorize an 11 percent benefit increase during 1974; (2) assure Medicaid and Food Stamp eligibility for participants in the new Supplemental Security Income Program due to begin in January; (3) suspend until December 31, 1974 regulations that would have severely restricted services available under the Social Security Act; and (4) make a further increase in SSI payments.

The compromise provisions were passed as part of H.R. 11333 by a 301–13 House vote and a 65–0 Senate vote. (As of this writing President Nixon had not yet signed the bill.)

Two-Step, 11 Percent Increase: More than 29 million Social Security beneficiaries would receive a two-step, 11 percent increase: the first stage would be an interim seven percent raise (effective for March 1974) which would be a partial advance payment on a permanent 11 percent increase (effective for June 1974). This action—together with three other across-the-board raises since December 1969—means that Social Security benefits would be boosted by 68.5 percent in a 4½ year period. Of special significance, H.R. 11333 would help remove an estimated 800,000 Americans from the poverty rolls, including 500,000 in the 65-plus age category. In terms of individual monthly benefits, H.R. 11333 would have the following impact:

	Before 7 percent increase	After 7 percent increase	After 11 percent increase
Average monthly benefits:			
Retired worker alone	$162.00	$173.00	$181.00
Retired couple	277.00	296.00	310.00
Aged widow alone	158.00	169.00	177.00
Monthly benefits for other beneficiaries:			
Minimum, retired worker alone	84.50	90.50	93.80
Minimum, retired couple	126.80	135.80	140.70
Maximum, retired worker	274.60	293.90	304.10
Maximum, retired couple	411.90	439.70	457.40

Special Minimum Monthly Benefit: Under present law, the special minimum monthly benefit is equal to $8.50 multiplied by the number of years of covered employment in excess of 10 years but not greater than 30 years. H.R. 11333 would increase the multiple from $8.50 to $9.00 in March 1974.

Cost-of-Living Adjustment Improvements: The automatic escalator provision would be improved by measuring the increase on the basis of the change in the Consumer Price Index from the first quarter of one year to the first quarter of the following year (rather than from the second quarter in one year to the second quarter in the following year). An exception would be made for the first automatic increase (effective for June 1975), which would be based upon the rise in the CPI between the second quarter in 1974 and the first quarter in 1975. Additionally, the effective date for the cost-of-living adjustment would be in June, instead of January. These two changes would reduce from seven months to three months the lag between the end of the calendar quarter used to measure the rise in the cost-of-living and the payment of the resulting Social Security increase. Moreover, the automatic benefit raise would be payable the month that the Supplemental Medical Insurance premiums would be revised, thus providing the opportunity to make both adjustments in benefit checks in the same month.

Supplemental Security Income Standards: Monthly income standards for the new Supplemental Security Income program (scheduled to become effective in January) would be raised from $130 to $140 for eligible individuals and from $195 to $210 for qualifying couples. A further increase would be provided in July 1974: to $146 for single persons and $219 for couples.

Financing: The maximum wage base would be boosted in 1974 from $12,600 (under present law—Public Law 93–66) to $13,200. However, the contribution rate would continue at 5.85 percent (the same as in 1973).

LABOR-HEW FUNDING BILL CLEARS CONGRESS, SIGNED BY THE PRESIDENT

A second conference report on the fiscal 1974 Labor-HEW appropriations bill (H.R. 8877) was approved by the House (December 5) and the Senate (December 6), clearing the measure for the President, who signed it on December 19. H.R. 8877 is approximately $1.4 billion above the Administration's budget requests for fiscal 1974. The House had previously voted to recommit the first conference report because it objected to language governing the method of allocating funding under Title I of the Elementary and Secondary Education Act. To avert a possible veto, a compromise was worked out to permit the President "To withhold from obligation and expenditure up to $400 million." These cutbacks are limited to appropriations exceeding the Administration's budget request. Moreover, they cannot exceed 5 percent for any activity, program, or project. Even with the five percent reduction provision, the funding level for programs under the Older Americans Act would be $212.1 million—$9.5 million above the Administration's budget request.

OLDER AMERICANS ACT APPROPRIATIONS

[Millions of dollars]

	Budget request	Conference agreement	Effect of 5 percent reduction
Title III:			
Planning and operations	12.0	12.0	12.0
Model projects	16.0	16.0	16.0
Area planning and social services	68.0	68.0	68.0
Title IV:			
Research	7.0	7.0	7.0
Training	0.0	10.0	9.5
Title VII:			
Nutrition program	99.6	104.8	99.6
Total	202.6	217.8	212.1

Funding for ACTION's two major programs for the elderly—Foster Grandparents ($25 million) and the Retired Senior Volunteer Program ($15 million)—would be unaffected by the five percent reduction, since the conference agreement and budget estimate figures were identical. Under the conference agreement, appropriations for aging research and training at the National Institute of Child Health and Human Development would be boosted from $11.838 million (as requested by the Administration) to $15.985 million. With the five percent cutback, funding would be reduced to $15.155 million.

AGING RESEARCH AND TRAINING ACTIVITIES AT NICHD

[In thousands of dollars]

	Budget request	Conference agreement	Effect of 5 percent reduction
Research grants	5,771	9,093	8,513
Fellowships	125	230	215
Training grants	1,165	1,485	1,425
Labs and clinics (intramural program in Baltimore)	3,452	3,677	3,577
Contracts	600	750	700
Biometry and epidemiology	95	95	95
Research, management, and program services	630	655	630
Total	11,838	15,985	15,155

H.R. 8877 would also provide a $4 million appropriation for the Senior Opportunities and Services Program (under the Economic Opportunity Act). The five percent reduction measure would trim funding by $200,000—from $4 million to $3.8 million. For fiscal 1974, the Administration requested no funding for SOS, proposing instead that the program be continued as a local option (see February 5 Memorandum).

SUPPLEMENTAL APPROPRIATIONS INCLUDES $10 MILLION FOR COMMUNITY SERVICE

A supplemental Appropriations bill (H.R. 11576)—cleared by Congress on December 21—would provide $10 million to launch the Older American Community Service Employment program. At the urging of Senators Kennedy and Church, the Senate had previously approved $40 million for the new program. However, the funding level was cut back to $10 million in conference committee on December 17. The Older American Community Service Employment program is designed to convert the Mainstream pilot projects (e.g., Green Thumb and Senior Aides) into permanent, ongoing national programs. For fiscal 1974, $20 million has been budgeted by the Administration for Mainstream.

The conferees also deleted a Senate amendment (sponsored by Senator Percy) to provide $7.5 million for Multidisciplinary Centers of Gerontology. This program would support (1) training personnel in the field of aging; (2) research on work, leisure, and education of older Americans; (3) innovative multidisciplinary efforts in teaching, research, and demonstration projects related to aging; and (4) other efforts.

President Nixon is expected to sign the bill into law.

VETERANS' PENSION BILL SIGNED INTO LAW

A ten percent increase in nonservice-connected disability and survivor pensions for veterans, their widows and children was signed into law (Public Law 93–177) on December 6. The new Act would also provide an average ten percent raise in dependency and indemnity payments to dependent parents. Approximately 2.6 million pensioners are expected to receive an additional $240 million during 1974 under this legislation.

INCREASED FEDERAL CONTRIBUTION FOR HEALTH INSURANCE APPROVED

A conference report on legislation (H.R. 9256) to increase the Federal contribution for employee and retiree health insurance premiums (from 40 to 50 percent in 1974 and then to 60 percent in 1975) was approved by the House on December 18, clearing the measure for the White House. The bill would also permit employees who (1) retired before January 1, 1960 and (2) received health insurance under the Retired Federal Employees Benefit Act, to elect coverage under the regular Government Employees Health Insurance program. The latter provides more comprehensive coverage. H.R. 9256 was approved by the Senate on December 7.

MINIMUM CIVIL SERVICE ANNUITY APPROVED BY HOUSE

By a vote of 270 to 95 on December 7, the House passed H.R. 9107, which would provide a minimum pension for civil service retirees equal to the minimum Social Security benefit (now $84.50 a month). It would also increase annuities for retirees who had retired before October 20, 1969, by $240 annually for the pensioner and $132 for surviving spouses. A similar bill (S. 1866) passed the Senate on September 11. The differences in the two bills are expected to be resolved early next year.

MANPOWER BILL INCLUDES PROVISIONS FOR OLDER WORKERS

Congress took final action on December 20 to approve S. 1559, the Comprehensive Employment and Training Act. As passed, the bill included a number of measures of direct importance for midde-aged and older workers, including:

Provisions for employment and training of mature workers;

Placement and recruitment services in communities where there is large-scale unemployment because of plan shutdowns or other permanent reductions in the work force; and

Funding for nonprofit voluntary agencies for securing part-time or temporary employment for middle-aged and older workers.

The amendments were incorporated from the Middle-Aged and Older Workers Training Act, which was sponsored by Senator Jennings Randolph.

COMMUNITY EDUCATION BILL CLEARS SENATE EDUCATION SUBCOMMITTEE

The Senate Subcommittee on Education of the Labor and Public Welfare Committee tentatively agreed on December 6 to incorporate the basic elements of Senator Frank Church's Community Education legislation (S. 335) as part of the Elementary and Secondary Education Act of 1973. The basic purpose of the Church proposal is to develop, expand, and maintain community schools in order to provide recreational, educational, and a variety of other community social services. A similar amendment has also been included in the Elementary and Secondary Education Act of 1973 by the House Education and Labor Committee. Both House and Senate Committees are expected to continue their mark up of the ESEA package (H.R. 69 and S. 1539) in early 1974.

WILLIAMS HOUSING PACKAGE APPROVED BY BANKING COMMITTEE

The Housing Subcommittee of the Senate Banking, Housing and Urban Affairs Committee voted on December 5 to incorporate several housing measures for the elderly (sponsored by Senator Williams) into an omnibus housing package (S. 2182). Among the major provisions:

Establishment of an Office of Security at HUD with funding for security programs in HUD-assisted housing (from S. 2180—the Housing Security Act);

Extension of the section 202 Housing for the Elderly and Handicapped program with an increased authorization level (from S. 2185);

Creation of a new National Elderly and Handicapped Housing Loan Fund, which combines the existing 202 revolving fund with new authority for the Secretary of the Treasury to borrow money for loans (from S. 2179). The Committee is not expected to complete its mark up of the bill until early in 1974.

CONGRESS APPROVES FIRE SAFETY LOANS TO NURSING HOMES

On December 17, the House of Representatives passed and sent to the President S. 513 (as introduced by Senator Moss), which authorizes FHA insured loans to nursing homes for the purchase of fire safety equipment (sprinkler, alarm, and detection systems). The Secretary of HUD is authorized to establish interest rates and mortgage conditions. (As of this writing, the President had not yet signed the bill.)

B–1 PROGRAM STATUS

Mr. McINTYRE. Mr. President, the B–1 program is one of major interest to the Armed Services Committee and to the Senate as a whole. It is one of the largest dollar programs in the Defense budget for fiscal year 1975, and $499 million has been requested.

The Armed Services Committee was highly critical of this program in its action on the fiscal year 1974 request, and cut $100 million out of the amount requested. Through subsequent actions of the Congress, $75 million ultimately was restored, but the Air Force was charged with taking a hard look at the program.

The Air Force responded by setting up an ad hoc committee under the chairmanship of Dr. Raymond Bisplinghoff, Director of the National Science Foundation, to conduct an independent and comprehensive review of the B–1 program.

The report of that committee, together with comments and a letter of transmittal from the Secretary of the Air Force has just been received by me as chairman of the Research and Development Subcommittee. I request unanimous consent to have these documents printed in the Record following my remarks for the interest of all the Members.

These documents will be given the fullest consideration in the review of the proposed B–1 program for fiscal year 1975, and in committee recommendations on the fiscal year 1975 request.

There being no objection. the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 6, 1974.

Hon. THOMAS J. McINTYRE,
Chairman, Subcommittee on Research and Development, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: Shortly after assuming our new responsibilities last July, General Brown and I appeared before your Committee for a special hearing on the B–1 program. During that hearing, you and other members of the Committee expressed concern regarding the management and adequacy of the B–1 development program. Since that time, the entire program has been reassessed by various levels of management using a number of techniques. An initial report on the results of these activities was provided you in my letter of October 6, 1973.

On August 22, 1973, I also informed you of the independent review of the B–1 undertaken by a group of technical and management experts under Dr. Raymond Bisplinghoff, Deputy Director of the National Science Foundation. A copy of their report and our comments on it are attached. In summary, the Committee found no major technical problems which would preclude the successful development and production of the B–1. However, the Committee noted that the existing rephased program plan would make completion of development effort and successful transition to the production phase unlikely within the cost and time schedules of the rephased program.

In addition to the review conducted by the Bisplinghoff Committee, other methods for assessing the program have been pursued. I, and other senior Air Force managers, have undertaken an intensive review of the program, including on-site evaluations of each contractor's process. Further, a new B–1 Program Manager has been appointed and I have had the benefit of his independent evaluation.

I am pleased to report that significant progress has been made since the Bisplinghoff Committee completed its review last October. At Rockwell, all major assemblies of A/V #1 have been mated with the exception of the crew module, which is planned to be incorporated in the next few weeks. The manufacture and assembly of A/V #2 is taking less man-hours than planned, demonstrating significant progress in the manufacture and assembly process. Good progress is also evident at General Electric, where the 60-hour endurance run of the F–101 engine Preliminary Flight Rating Test was completed last week. Similar progress towards avionics integration is evident in the Systems Demonstration Laboratory at Boeing.

However, we agree with the Bisplinghoff Committee's observations that te July 1973 program plan incurs an undesirable discontinuity between development and production. You will recall that the B–1 program as originally presented to the Congress and placed on contract in 1970 provided for a production decision date six months after first flight date of the first aircraft. In December 1970, this period was increased to 12 months concurrent with the decision to carry forward the development program with three aircraft. Moreover, as may be anticipated in a program of this scope and technical complexity, certain milestone changes occurred which have resulted in an extension of the time between first flight and a production decision to 24 months. The milestone changes were made to accommodate offensive avionics flight testing and the additional time required to design, manufacture, and assemble the first aircraft.

As a result of these revisions to the program, I have concluded that work on the #4 aircraft should begin in FY 75 and possibly a #5 aircraft in FY 76. These aircraft will serve to sustain the contractors' critical skills and know-how, which could not be reconstituted after a lengthy discontinuity without incurring unwarranted technical risks and unnecessary costs to the program. These aircraft also would be used to introduce engineering refinements into the aircraft configuration and should make a very substantial contribution to our test program by providing valuable flight test data 12 to 18 months earlier than previously planned. Although they ultimately would be assigned to the operational inventory, we plan to fund them with RDT&E funds.

In consonance with our fly-before-buy management principle, the B–1 is expected to have undergone about two years of flight testing and will have achieved critical milestones before a production decision is made. Under the proposed program plan, this decision could be made in November 1976. However, we believe sufficient test data will have been accumulated to justify long load funding in the FY 1976 budget for the first increment of production aircraft, which funding would preserve program continuity without prejudging the decision on B–1 production.

General Brown and I have both devoted extensive efforts during the past several months reviewing the B–1 development status and evaluating various alternatives to improve the program. The schedule adjustments we propose do not change the total number of aircraft in the program. There would be an increase in RDT&E costs to fund these additional test air vehicles although, as previously stated, they would be assigned ultimately to normal SAC duties.

We believe these management changes are prudent and necessary and that they merit the careful consideration of the Congress. We seek your agreement with the recommended program and enlist your continued strong personal support for the B–1.

Sincerely,

JOHN L. MCLUCAS,
Secretary of the Air Force.

AIR FORCE COMMENTS ON THE AD HOC MANAGEMENT COMMITTEE REVIEW OF THE B–1

The Air Force is grateful to Dr. Bisplinghoff and the other members of his committee for their time and dedicated effort in reviewing the technical and management aspects of the B–1 program. Their comprehensive review and perceptive comments provided a valuable contribution to Air Force planning for this important program in FY 75 and beyond.

In summary, the Committee found no major technical problems which would preclude the successful development and production of the B–1. However, the Committee noted deficiencies in the program plan which would make completion of the development effort and a successful transition to the production phase difficult within the then-existing cost and time schedules of the program. The Committee recommended the program be restructured to provide for completion of the development effort and to provide a realistic transition into the production phase. The principal deficiency cited by the Committee is the lack of continuity of contractor effort between the development and production phases. Projections of contractor manpower levels during the flight test period prior to beginning production indicate a severe loss of critical skills and know-how needed during transition to the production phase.

Based on the recommendations of the Committee as well as other initiatives undertaken by the Secretary, the Air Force proposes to rephase the follow-on production program in a manner which will advance the work on a small number of aircraft. Accordingly, work will begin on a fourth air vehicle in FY 75 and possibly on a fifth air vehicle in FY 76. Under this plan a production decision could be made in November 1976. The plan also provides for including in the FY 76 budget long-lead funding for the first increment of production aircraft to preserve program continuity without prejudging the decision on B–1 production. Design improvements for cost reduction and producibility will be introduced starting with air vehicle number four similar to the manner suggested by the Committee.

This adjustment in program structure will solve a number of concerns which were highlighted by the Committee. The recommended program will create the option to move efficiently and economically towards production without implying a commitment to production before acquiring sufficient flight test experience.

Considerable progress has been made in the program since the Committee conducted its review last September. At Rockwell all major assemblies of A/V #1 have been mated with the exception of the crew module, which is expected to be mated in the near future. The manufacture and assembly of A/V #2 is taking less manhours than planned, demonstrating significant progress in the manufacturing and assembly process. Similar progress has been recorded at General Electric in the engine program and at Boeing in the Avionics integration program.

Detailed point-by-point comments on the Committee report follow.

OBSERVATIONS AND CONCLUSIONS

1. Complexity and austerity of the development program

The Committee agreed that there are no major technical problems which preclude the successful development and production of the B–1 aircraft. However, the Committee believes that the program is so success-oriented and austere in funding and schedule that there will be difficulty in transitioning from the development to the production phase as the program is now structured.

The Air Force concurs with the Committee's findings. Since going on contract in 1970, milestone changes caused by several reasons have created program imbalances and less than optimum development phasing. The FY 75 program adjustments being recommended to Congress will provide continuity and permit an orderly, efficient transition from development to the production phase.

2. Three B–1 development aircraft insufficient

The Committee believes that their past experience has shown that three aircraft are not sufficient to complete development of a program of this complexity and allow the final development aircraft to reflect accurately the initial production aircraft.

The content of the program placed on contract in June 1970 was deliberately restructured in December 1970 to provide only the minimum test data sufficient for a production decision. The number of development aircraft was reduced at that time from five to three. The remaining development program was deferred to and is not on contract. The program envisioned a production decision 12 months (vice 6 months under the original contract) following first flight, and that the first four production aircraft would be used initially for additional flight testing. Since then, the schedule has been adjusted to accommodate the fly-before-buy policy and to reflect the time required to manufacture A/C #1. The impact of these schedule adjustments has been to extend the time between first flight and production decision from the initial 6 to 24 months, thus delaying the availability of the additional aircraft and causing a severe program discontinuity between development and production. The program recommended in the FY 75 budget recognizes the need to repair this discontinuity to the extent resources will permit.

3. Probable delays and increased costs of the development program

The Committee was charged by the Secretary with assessing the probability of achieving the cost and time schedules of the July 1973 rephased development program. While the Committee found it difficult to make quantitative judgments in the time available, their best judgment was: Two or three months delay in the first flight of A/V #1; eight to 10 months delay in the testing program; six to 12 months delay in completion of the total rephased development program; and, at least $300 million additional cost for execution of the present (July 1973) development program.

The Air Force generally agrees with the Committee's assessment. Additional experience in the assembly of AV #1 and the reduction in FY 74 funding have shown there will be some schedule delays and that some additional funds likely will be required to complete development.

The December 31, 1973 Selected Acquisition Report to the Congress contains our latest cost and schedule estimates. Although the adjustments we propose in the FY 75 budget do not increase the total program cost estimates, they will provide funds earlier in the program so as to accomplish deferred engineering improvements and ease the transition to production.

4. Probability of meeting the Air Force performance estimates

The Committee was also charged by the Secretary with assessing the probability of meeting the performance parameters of the Air Force development estimate within the cost and time schedule of the rephased development program. To convey the range of uncertainty which exists, the Committee presented their assessment as *Possible, Most Probable,* and a *Reasonable Adverse Limit.* The Committee did not attempt to comment on the acceptability of the reduced performance values.

The Air Force has conducted a thorough analysis to investigate the utility of a B–1 aircraft with the full range of deviation in performance parameters as estimated by the Committee. The analysis identified feasible operational trades which can be made, if necessary, to offset deviations in performance. The results of this analysis has been evaluated by the Secretary of the Air Force, the Chief of Staff, and by the Commander-in-Chief, Strategic Air Command. In their judgment, the analysis confirms the B–1 would be operationally effective even with the adverse range of possible deviations in performance as presented by the Committee's assessment; and that significant adjustments to the program solely to regain performance are not necessary.

5. Propulsion system

The Committee believed that the propulsion system development was unusually good at this point of time compared to past programs, that it has an excellent opportunity to meet the cost and schedule objectives, and with a few minor exceptions, the technical goals. Assuming that no special provision for IR suppression would be incorporated, the Committee believed that the engine would be deficient by 3% in SFC and that the remainder of the propulsion system would be deficient by an additional 5% equivalent SFC in the subsonic mission but would meet goals in the supersonic mission.

The Air Force is pleased with the Committee's comments on the engine program. While minor problems are being encountered with the development hardware, as normally anticipated in engine are being encountered, they are being pursued aggressively by the contractor and his response to date has been satisfactory. The Committee's estimate of deficiencies in SFC was included in the performance deviations analysis undertaken by the Air Force and was considered by senior Air Force officials in their evaluation as stated in the Air Force response to No. 4 above.

6. Weight

The Committee believed that the aircraft will weigh more than anticipated and suggested that the significance of this be assessed by the Air Force and the necessity of any design change should be carefully considered in view of the cost and schedule impacts to the program.

Based on the Air Force analysis of the performance deviations, no design changes are planned solely to regain performance. Current estimates indicate air vehicle #4 will weigh less than air vehicles one through three.

7. B–1 program at its most critical stage

At the time of this review last October, the Committee noted the normal "work around" situation in the manufacture and assembly of A/V #1. Although the program exhibited the expected appearance at this critical stage, the committee felt that contractor management controls had not been adequate. However, the Committee noted that new management controls were being implemented and were having a favorable impact.

During the summer of 1973 the Air Force worked with the contractor to upgrade his controls. New management controls have been instituted by Rockwell as were noted by the Committee. The control system now in use is a considerable improvement but close surveillance is continuing.

8. Program flexibility

In general, the present development program is designed for success and there is little financial reserve or margin for error in the remaining funding. Additional reserves will very likely be required to handle the unforeseen problems which will materialize in such a complex undertaking.

With the benefit of the additional visibility gained over the past 6 months, including the Bisplinghoff Committee's efforts, the Air Force agrees that the financial reserves are very austere and that additional flexibility is needed. The program recommended in the FY 75 budget and the plan for following years will provide additional flexibility.

9. SPO management team

The Committee, based on its very brief survey, was generally satisfied with the Air Force organization. However, the Committee was left with the opinion that the Air Force lacks individuals on its management team with solid manufacturing experience.

Also, the Committee noted that the project manager was required to spend a significant percentage of his time, justifying the program to higher echelons of the Department of Defense and to the Congress. While the need for some action of this kind was recognized, the Committee expressed its belief that the program itself would benefit if more in the way of project justification and status could be left to the project manager's superiors, thereby allowing him to spend a greater amount of his time managing the program.

General Phillips, Commander, AFSC, has placed additional emphasis on obtaining personnel with solid manufacturing experience. Effective 1 February 1974, the SPO formed a new Directorate of Production and is seeking qualified personnel with manufacturing experience to fill these new positions.

The Air Force notes the program manager's past requirement to be present in the Washington area frequently. To alleviate this requirement in the future, a B–1 office, headed by a Major General, has been established in the Pentagon directly under the Chief of Staff.

10. Contractor management

The Committee stated its satisfaction with the contractor's senior personnel and noted many senior management changes at Rockwell since the inception of the program, some of which were heavily influenced by SPO desires. The Committee felt that further changes in key Rockwell personnel should be made with caution and only after careful consideration. The Committee noted the need for a comprehensive schedule of engineering objectives, accomplishments and expenditures coupled with a tracking of each. The Committee also noted that the morale at Rockwell was low.

The Air Force is aware of the effect of changes in the senior management personnel at Rockwell and is generally satisfied that the best available people have been placed in the critical positions. The Air Force is also aware of the morale among Rockwell personnel. Decreasing manpower requirements in the fall of 1973, uncertainty over program funding in FY 74 and schedule imbalances, all had an influence on the morale of contractor personnel.

However, the program structure proposed for FY 75 should help to correct any residual problems in this area.

11. Reduction in contractor personnel

The Committee considered unrealistic the planned rate of reduction in Rockwell personnel required to match the program funding schedule considering the required tasks yet to be accomplished.

The Air Force is also concerned over this reduction in Rockwell personnel, and the program proposed for the FY 75 budget will adjust the planned rate of reduction in Rockwell personnel to provide continuity and an orderly, efficient transition into a production phase.

12. Contractor cost and schedule control system

The Committee believed that Rockwell's cost and schedule control system was not fully developed to provide timely and effective responses of program status.

The contractor's cost and schedule control system has been carefully reviewed by two separate Air Force agencies. These agencies concluded that Rockwell's cost control system is adequate but that the primary problem was a lack of management attention to trend data. This data is now receiving the close attention of top corporate personnel and considerable progress has been made in understanding these trends.

13. Production aircraft significantly different from development models

The Committee believed that significant design change of the development aircraft will be required to meet producibility and an acceptable unit cost for the production version. They believed that these design change activities will have a significant impact on both the cost and schedule of the production aircraft. The Committee noted that the B–1 program as presently structured assumes the availability of production dollars prior to the completion of the developmental program. Early availability of production dollars is logical and important to avoid the loss of know-how and skills most needed for the transition to production. However, in the Committee's judgment, significant additional funding, over that presently planned, will be required to get the program to a true production status.

The Air Force agrees with the Committee's assessment that significant design changes should be introduced between the first three R&D aircraft and the production aircraft. These design changes, being typical of a transition from R&D to production, can be made confidently and will reduce production costs and enhance the producibility of production aircraft. This design effort is already underway as a part of the current program and will be reflected in the Design Verification fatigue test specimen which will begin fabrication late this calendar year. The program proposed in the FY 75 budget will provide funds earlier than previously planned and thereby assure continuity in the contractor know-how and skills, which as the Committee emphasizes, is needed for the transition to production.

14. Flight test program

The Committee noted the minimal flight test program prior to production decision and the dependence on the first airplane throughout the first 15 months of flight test. The Committee believed that there was little probability of accomplishing the maximum speed, low altitude flight test prior to a production decision, unless a real time system for reducing and processing flight test data is used.

The Air Force is aware of the austerity of the flight test program. Such a program evolved from deliberate decisions to reduce R&D expenditures to a minimum prior to a production decision. However, a real time flight test data reduction system has been approved. This system will be operating initially as a back-up data collection system. As experience and confidence are gained with the real time data reduction system, it will become the primary mode of data processing. When fully implemented, the real time data reduction system will allow several points in the flight envelope to be tested during one flight instead of one point per flight. This will greatly improve the probability of meeting the test program objectives in the time available.

15. Overwing fairing and nacelle

The committee noted that the overwing fairing and sealing presented a difficult design problem and that there is a high probability that some reconfiguration will be required.

The Air Force also recognizes that designing an optimum overwing fairing before actual flight test data becomes available is difficult. The approach taken is similar to that used on the F–14 and F–111 programs in which the final design will evolve from flight test results. The initial design for flight test is structurally conservative. After loads are determined in flight tests, design changes will be made, if necessary, to preserve structural integrity while improving the aerodynamic flow.

16. Primary structure

The Committee felt that the present program will provide an airworthy structure with a conservative design but that it will be heavy and costly compared to program objectives. The Committee did not feel that sufficient funds or time are provided in the present program to accomplish the design changes and verification for significant reduction in weight and cost before the production decision date.

Inasmuch as the range of estimated performance deviations do not require it, the Air Force does not plan aircraft design changes solely to reduce weight. However, the program recommended to the Congress in the FY 75 budget will provide funds earlier in the program to begin production engineering design refinement. These refinements are for the purpose of reducing cost and enhancing producibility, but are expected to reduce some aircraft weight as a by-product. They will be incorporated in the fourth and subsequent aircraft.

17. Aircraft electrical/electronic system

The Committee believed the electrical multiplex (EMUX) system represented an area of grave concern and that it may be one to six months late for "power on", thus affecting the first flight of A/V No. 1.

Adjustments have been made to allow aircraft "power on" with preliminary EMUX equipment. The preliminary equipment has been received and is in check-out at Rockwell. Testing of the EMUX equipment is planned to be completed in time to support first flight. The EMUX problem highlighted by Dr. Bisplinghoff's group was eased by the adjustment in first flight from mid-1974 to late-1974, following the reduction in FY 74 funds. However, EMUX remains an item which will receive continuing and close attention.

18. Impact of fiscal year 1974 budget reductions

At the time the Bisplinghoff Committee conducted its review, deliberations on the FY 1974 budget request were going on. While much of what the Committee commented on has been superseded with the passage of the FY 74 budget, it made the point that the development program is marginally funded and that if it cannot be funded at least to this marginal level, then it should be terminated.

The Air Force believes that the B–1 is

vital to our national security. Funding of the proposed FY 75 program will provide a well structured and cost effective approach for continued development of the B–1 and for a smooth transition into a production phase.

RECOMMENDATIONS

1. Reemphasize Air Force commitments to the B–1

The Air Force recognizes that the projected deep valley in program effort in 1976–1977 under the July 1973 program combined with the then-potential reduction in FY 74 funds did not support a positive outlook by the contractor employees. However, the strong Air Force commitment to the B–1 is evident by the program recommended to Congress in the FY 75 budget. The Air Force believes that the recent moves at Rockwell to strengthen management and financial controls, together with the program proposed for FY 1975, will result in a healthy and efficient transition from the current development program to the production phase.

2. Recognize realistic uncertainties in present R. & D. program

In the Committee's judgment, the Air Force should recognize that the present R&D program plan is highly success-oriented and assumes minimum unforeseen problems and difficulties. Recognition should be given to the probability that the development program will take six to twelve months longer than planned, and will cost at least $300 million more than projected.

The Air Force recognizes the July 1973 program is austere and success-oriented, the result of previous decisions to minimize program expenditures as much as possible prior to production decision. Based on the visibility gained subsequent to the program rephasing in July 1973, the program adjustments proposed by the Air Force will provide further flexibility for meeting unforeseen problems and difficulties.

3 Restructure the total program

The Committee recommends that the total program be restructured to provide for a realistic transition from development to the production phase. The Committee suggested a "block" approach which would allow completion of development and incorporation of changes for cost reduction and producibility; and, to diminish the presently projected deep valley in program effort in 1976–1977, with the associated cost and inefficiency.

The Air Force agrees with the Committee's recommendation and has proposed adjustments to the program to start work earlier on air vehicle four beginning in FY 75, as outlined earlier. The Air Force believes the adjustments it proposes will provide program continuity, allow completion of the development program and ease the transition into the production phase.

4. Timely reporting system

The Committee recommends that monthly EACs (Estimate at Completion) and weekly trackings should be put into effect by Rockwell International as quickly as possible.

Rockwell is tracking manpower and direct manufacturing costs on a weekly basis, and provides a monthly EAC to the program office updated to reflect accrued cost experience. A detailed "grass roots" EAC which reviews the extent of effort required to complete the contract is conducted quarterly by Rockwell and becomes the basis for the next monthly updates. In addition, the Air Force conducts its own EAC on a quarterly basis, independent of the contractor's estimate.

On a temporary basis the Air Force placed a team of cost control specialists working directly with the contractor to improve the depth of cost control. These actions have been effective in gaining precise cost control which relates directly to the latest detailed schedules.

5. Crew escape module

The Committee recommended that:

a. Rockwell should establish an overall project manager for the Crew Escape Module Program.

In September 1973 the Rockwell management organization was changed to establish a crew escape capsule program manager with authority to integrate all participating disciplines.

b. The service life of propellant devices should be extended from the current three year limit to ten years.

Tests of F–111 components similar to those in the B–1 module and a comprehensive surveillance test program planned for B–1 components should raise the replacement time for propellant devices from the present three year life to a maximum of six years. Further life extension would require component design change.

c. The Air Force should reassess performance versus cost before any major design change is undertaken to increase the performance envelope of the crew escape module.

The Committee's recommendation is consistent with Air Fore direction to limit initial qualification of the crew escape module to 450 kts. Configuration changes to qualify the capsule at higher speeds will be made only when the cost effectiveness of such changes can be demonstrated.

6. Compatibility test station (CTS)

The Committee recommends that consideration be given to restoring preinstallation integrated testing by transferring the "Compatibility Test Station" (CTS) from Los Angeles to Palmdale before integrated testing of A/V No. 1 begins.

The B–1 Systems Program Office has reevaluated the need for an expanded avionics integration test facility. Accordingly, it is now planned to provide the capability for ground integration of offensive avionics components as well as integration of offensive and defensive components.

The possibility of moving the compatibility test station to Palmdale to accomplish this purpose was explored in detail. It was found that the CTS was very dependent upon the facility in Los Angeles and consequently the cost and schedule impact of moving it to Palmdale was not justified.

7. Avionics system

The Committee recommends that the defensive subsystem flight test be deferred until A/V No. 4.

The Air Force concurs with the Committee's recommenadtions. The program adjustments proposed by the Air Force provide for flight test of Defensive Avionics on A/V No. 4, which would be delivered to flight test about 12 months earlier than previously planned.

8. Testing of unusual voltage components

Since the voltage system used in the B–1 is unusual for an airborne system, the Committee recommends more complete testing than now planned.

Much of the technology required by the double voltage system used in the B–1 had been developed previously and was flight tested at altitudes similar to those expected by the B–1. In addition, all B–1 electrical equipment is being subjected to tests for arcing. These tests, most of which have been completed, are being conducted at both sea level and maximum altitude.

9. Single-point safety-of-flight failures

The Committee recommends that an independent review of single point safety-of-flight failures should be made by a selected group of flight test operations experts.

The Commander, Aeronautical Systems Division, appointed a team to review single point safety-of-flight failures. This team is composed of competent flight test operations personnel, including members of the Scientific Advisory Board and NASA experts. The team will be independent of the B–1 SPO and the contractors, and should complete its review this summer.

10. Alternate windshield

Because the B–1 windshield requirement pushes the state-of-the-art, the Committee recommended a backup windshield be developed for possible use in flight tests of A/V No. 1 and A/V No. 2 to ensure meeting the flight test schedule.

Since the Committee met, Rockwell has received two sets of windshields which are of acceptable quality for the early test vehicles. In addition, Rockwell has let a backup contract for one set of glass outer ply windshields that have improved optical qualities.

REPORT OF AD HOC MANAGEMENT REVIEW COMMITTEE ON THE B–1, TO THE AIR FORCE SECRETARY JOHN MCLUCAS

INTRODUCTION

At the request of the Secretary of the Air Force, John L. McLucas, an Ad Hoc Committee on the B–1 program met during the period from September 4, 1973, to October 4, 1973, to review the program. The purpose of the review was to make a broad, objective management and technical assessment of the recently rephased development program of both the Rockwell International Corporation and the Air Force in terms of meeting the presently projected cost and time schedules and technical objectives of the B–1 aircraft.

To a lesser degree, the aircraft engine status and its Contractor (General Electric) was also reviewed. The review also included recommendations for technical, cost and/or schedule trades which, in the general appraisal of the committee, could improve the overall effectiveness of the program in meeting its goals.

A letter from Secretary McLucas establishing the Committee is reproduced in Appendix B and the schedule which was followed by the Committee in carrying out its work is outlined in Appendix C.

The overall direction of the Committee was provided by the Chairman, Raymond L. Bisplinghoff, and the Vice Chairman, Allen E. Puckett. The work was carried out by dividing the total committee into two panels, a Management Panel and a Technical Panel. The Management Panel was chaired by Barry J. Shillito and the Technical Panel by Ira G. Hedrick. Each panel consisted of experienced specialists covering the various facets of the B–1 review and drawn primarily from industry and government. Appendix D lists the total membership of the Committee broken down into the Management and Technical Panels. The latter panel was broken down further into the subpanels of Design and Weights, Airframe and Dynamics, Aero Performance, Propulsion, Avionics and Crew Capsule.

Principle findings of the Committee are outlined in the sections of the report entitled Observations and Conclusions. Recommendations are also included as a separate section of the report.

OBSERVATIONS AND CONCLUSIONS

1. Complexity and austerity of the development program

There is agreement in the Committee that there are no major technical problems which preclude the successful development and production of the B–1 aircraft. However, the B–1 is not a simple aircraft. In several areas, it extends beyond the limits of service experience in this country; for example, a 4,000 PSI hydraulic systems, multiplexing of the electrical power supply, and the system that coordinates the airplane CG with wing sweep. In view of the advanced nature of the vehicle, the development program, except for

wind tunnel testing and propulsion system development, tends to be unrealistically austere in dollars and time as to provisions made for testing and the iteration of the design as a result of testing. The program is so success oriented and austere in funding and schedule that there will be difficulty in transitioning from the development to the production phase as the program is now structured.

2. Three B-1 development aircraft insufficient

Past experience has shown that three aircraft are not sufficient to complete development of a program of this complexity and allow the final development aircraft to reflect accurately the initial production aircraft. It is to be noted that early program planning called for a larger number of development aircraft, but the number was reduced to minimize costs prior to the production decision. Significant redesign for production, more than presently planned in the B-1 program, will be required for transition to production.

3. Probable delays and increased costs of the development program

The Committee was charged with assessing the probability of achieving the cost and time schedules of the rephased development program. Within the time available, it was difficult to make such a judgment in a quantitative way. However, the best judgment of the Committee is summarized by the following:

a. Two or three months delay in the first flight of AV-1. The AV-2 first flight date may be met with some delay in AV-3.

b. Eight to 10 months delay in the testing program.

c. Six to 12 months delay in completion of the total rephased development program.

d. At least $300 million additional cost for execution of the present development program.

4. Probability of meeting the Air Force performance estimates

The Committee was also charged with assessing the probability of meeting the performance parameters of the Air Force development estimates for the B-1 aircraft within the cost and time schedule of the rephased development program. Based on the data presented by the B-1 SPO and Rockwell International, the Committee assessed the realizable performance of the current design. The results of the Committee's assessment are given in Table I which shows estimated percent variations from the Air Force estimates. In order to make the assessment of Table I in the limited time available, it was necessary to rely heavily on the judgment and past experience of the Committee members. To convey the range of uncertainty that the Committee feels exists in their assessment, three values are given: *Possible, Most Probable,* and *Reasonable Adverse Limit.* A study of the table shows several significant percentage departures of most probable numbers from the Air Force estimates. These include empty weight, range, take-off distance, thrust margin and refueled altitude. The Committee did not attempt to comment on the acceptabilities of the reduced performance values since this judgment must rest with the Air Force.

TABLE I.—ESTIMATED PERCENT VARIATIONS IN PERFORMANCE PARAMETERS FROM AIR FORCE DEVELOPMENT ESTIMATES

[In percent]

Performance parameter	Possible status	Most probable status	Reasonably adverse
Takeoff weight	+10	+10	+10
Empty weight	+15	+19	+26
Maximum refueled weight	+8	+9	+11
Range:			
Subsonic-variable	−4	−11	−20
Subsonic-constant	−6	−18	−29
Supersonic-variable	−4	−9	−14
Takeoff distance:			
Standard day	+15	+15	+15
Hot day	+13	+13	+13
Landing distance	+6	+6	+6
Thrust margin	+6	−9	−14
Refueled altitude	−12	−15	−21

5. Propulsion system

The Committee felt that the propulsion system development was unusually good at this point of time compared to past programs. The engine has an excellent opportunity to meet the cost and schedule objectives, and with a few minor exceptions, the technical goals.

Assuming that no special provision for IR suppression will be incorporated, the Committee felt that the engine compared to qualification test goals would be deficient by 3% in SFC and that the remainder of the propulsion system would be deficient by an additional 5% equivalent SFC in the subsonic mission but would meet goals in the supersonic mission. These estimated reductions in SFC have been incorporated in the performance assessments given in Table I.

6. Weight

The aircraft will weigh more than anticipated as illustrated by the assessments in Table I. The effect of increased weight is included in the performance parameters shown in Table I. The significance of these performance decrements should be assessed by the Air Force and the necessity of any redesign should be carefully considered in view of the cost and schedule impacts to the program.

7. B-1 program at its most critical stage

Most of the drawings have been completed, practically all materials are on order with a significant percentage of materials received and on the floor; manufacturing is now having to live with the work of engineers, the normal "work around" situation is taking place, the normal appearance of disarray is readily apparent, new management controls are being implemented and are having their impact. A peaking out of people is taking place and morale problems are developing as layoffs increase. Although the program exhibits an expected appearance at this critical stage of its life, the Committee feels that it has probably not been adequately controlled. However, at the time of the review, new management controls were being implemented and were having a favorable impact.

8. Program flexibility

In order to mimimize cost in a complex development program, significant flexibility must be allowed with regard to schedule and performance. There have been trade-offs to reduce cost in the development programs, but the B-1 program has not had all the trade-off flexibility necessary to stay within its budget. Trade-offs at this date will have comparatively little cost saving impact on the total development cost required. In fact, many trade-offs at this point in the program, while benefiting production costs, could significantly increase the costs of the development program. In general, the present development program is designed for success and there is little financial reserve or margin for error in the remaining funding. Additional reserves will very likely be required to handle the unforeseen problems which will materialize in such a complex undertaking.

9. SPO management team

The Committee believes that the SPO Management Team has been hard working, dedicated, energetic, and has enjoyed excellent key people continuity. While the Committee, based on its very brief survey, was generally satisfied with the Air Force organization to manage the program and the capability of the Air Force personnel assigned to it, the Committee was left with the opinion that the Air Force lacks individuals on its management team with solid manufacturing experience. This leads to a tendency to review paper systems rather than hardware.

The project manager is required to spend a significant percentage of his time justifying the program to higher echelons of the Department of Defense and to the Congress. While it is recognized that the project manager must do a lot of this type of "program explaining," it is believed that the program itself would benefit if more in the way of project justification and status could be left to the project manager's superiors, thereby allowing him to spend a greater amount of his time managing the program.

10. Contractor management

The Committee was satisfied, based on its brief survey, with the contractor senior personnel assigned to the program. It did not have sufficient time to develop an adequate judgment on many persons below senior management. The Contractor's B-1 Division has undergone many senior management changes since the inception of the program. Some changes have also taken place at the second tier level. The Division President, VP Eng, VP Mfg, VP Finance, have all been changed. Recently an Executive VP and two additional Associate Managers have been added. These changes were heavily influenced by SPO criticism and are indicative of RI's efforts to respond to the SPO's desires. Further key contractor personnel changes should be made with caution and only after careful consideration. The program has not had, and greatly needs, a comprehensive schedule of engineering objectives and accomplishments and of engineering expenditures, coupled with a complete tracking of each.

It was apparent during the September time period of this report that morale was bad at the lower levels. There were hard-core militant workers. Grievances had gone up as the number of layoffs increased, and since the UAW master contract ties solely to seniority, the attrition is heavy in young people with needed skills who are reluctant to stay with the program until the time of their inevitable layoff arrives. It is apparent that a real "first line supervision" management challenge exists.

11. Reduction in contractor personnel

As the development program moves into its later phases, the planned rate of reduction in RI personnel required to match the funding schedule of the rephased program appears to the Committee to be unrealistic in terms of performing the required tasks.

12. Contractor cost and schedule control system

The Committee believes that the contractor cost and schedule control system has not fully developed. Status information is not sufficiently current to allow for the initiation of timely and effective responses and the projected status is questionable. However, the contractor is taking actions to correct this and the Committee believes that an adequate system will evolve from these actions.

13. Production aircraft significantly different from development models

Redesign of the development aircraft will be significant in order to meet producibility and acceptable unit cost of the production versions. The production aircraft should more logically reflect design-to-cost engineering efforts than the development models. These redesign activities will have a significant impact on both the cost and schedule of the production aircraft. The B–1 program as presently structured assumes the availability of production dollars prior to the completion of the developmental program. This is logical and important to minimize the loss of know-how and skills most needed for the transition to production. However, significant additional funding over that presently planned will be required to get the program to a true production status.

14. Flight test program

The Phase One flight evaluation will be minimal (265 flight hours) and will be used primarily for a qualitative evaluation of the potential of the airframe and offensive avionic system to perform a useful mission. The most tenuous part of the Phase One flight plan is its complete dependence on the first airplane throughout the first 15 months of the plan. The probability is low that the Phase One flight test requirement of maximum speed at low altitude will be accomplished by completion of Phase One (June 1976). The probability could be improved by utilizing real time reduction of flight test data.

15. Overwing fairing and nacelle

The overwing fairing and sealing continue to present difficult design problems. The present configuration is a complex compromise between aerodynamics, structural and mechanical requirements. Because the engine nozzles lie directly in the wake of the overwing fairing, the contours as deflected in cruise flight could adversely affect the total thrust minus drag of the airplane and consequently mission range. The Committee feels that there is a high probability that some reconfiguration will be required in this area.

16. Primary structure

The Committee feels that the present program will provide an airworthy structure with a conservative design but that it will be heavy and costly compared to program objectives. In some areas, a saving in weight and/or costs can be realized by redesign. As in other aircraft, the key to structural integrity of the B–1 will lie in the adequacy of details that can only be verified by static, fatigue, and flight tests. As mentioned in Sections 2 and 3, the Committee does not feel that sufficient funds or time are provided in the present program to accomplish the redesigns, and their verification before the production decision date, required for significant reductions in weight and cost.

17. Aircraft electrical/electronic systems

In reviewing the electrical and electronic systems, the Committee found two major innovations to large military aircraft. These are the 230/400 volt electrical system and the use of electrical multiplexing (EMUX). The EMUX represents an area of grave concern to the Committee. It may be one to six months late for "power on" and may consequently so affect the first flight of AV–1.

18. Impact of FY 1974 budget reductions

The possibility of a reduction in the FY 74 B–1 authorization will require special attention by the Air Force. The presently proposed Air Force and DoD budget for FY 1974, consistent with the present Air Force RDT&E plan, calls for a total B–1 authorization of $473M. Of this, $318M is allocated to the airframe system (Rockwell International) contract. In present planning, Rockwell International also intends to undertake additional commitments of $38M beyond this budget, and presumably in excess of the Limit on Government Obligations, in the interest of expediting the program at this critical phase, thus resulting in a total planned RI expenditure of $356M for DoD FY 1974.

The RI projected actual operating cost and fee through November 1973 is $180M. An additional $16M is obligated in non-cancellable commitments, for a total of $196M "spent," leaving $160M to carry the RI program from December 1, 1973, through the remainder of the fiscal year. Of this, about $41M is planned for material and subcontracts, leaving $119M for RI operations in that period.

The original version of the Senate authorization bill specified a reduction of $100M in the FY 74 B–1 program, from $473M to $373M. If this cut were to remain, the Air Force would allocate $60M of the cut to the RI contract. In these circumstances, it is possible that the RI management would not make available the $38M additional commitment mentioned above, on the basis that it becomes an unacceptable financial risk. The net effect therefore is that the RI program would be reduced by a total of $98M for the last six months of DoD FY 1974 assuming the funds involved were made available 1 January 1974.

Noting above that the total planned Government FY 74 funds remaining on December 1 for RI operations are $119M, the effect of this cut is easy to see. The total head count at RI on December 1 will be approximately 9,000. Of these, about 8,000 would be discharged, including perhaps 2,000 engineering and technical personnel. This cannot be regarded as a viable program—the effect is equivalent to cancellation. Even if it were intended to resume operations at an effective level at a later time, the cost and inefficiencies resulting from such a stop-start operation would argue strongly for total cancellation.

If a congressional budget cut in any amount less than $100M were imposed, the effect can be projected roughly on a pro-rata basis. For example, a cut of $50M would result in the discharge of approximately 4,000 employees instead of 8,000. We must still question the viability of the program at this level.

The conclusion from this discussion is that a decision should be made either to continue the R&D program at its planned (and marginal) level, providing some practical demonstration of the capabilities of the B–1, or to terminate the program.

RECOMMENDATIONS

Based on the observations and conclusions described above, the Committee proposes the following recommendations:

1. Reemphasize Air Force commitments to the B–1

The Air Force wants the B–1, and Rockwell International is the company the Air Force is depending on to do the work. Therefore, the Air Force should do everything possible to assist the company with its management problems, including the severe morale problem mentioned earlier. The benefits of such assistance could be significant as far as the end product is concerned.

2. Recognize realistic uncertainities in present R&D program

No program of this scope and complexity has ever been predictable, even at its midpoint, in final cost and schedule to an accuracy of a few percentage points. Cost, schedule and performance can be estimated with a high degree of accuracy only after a few initial items have been produced. It should be recognized that the present R&D program plan is highly success oriented and assumes minimum unforeseen problems and difficulties. Recognition should be given to the probability that the *present* rephased development program will take six to twelve months longer than planned, and will cost at least $300M more than projected.

3. Restructure the total program

In view of the very difficult and undefined program which now exists in the transition from development and production, it is recommended that the total program be restructured along the following lines:

a. Continue the present rephased development program with existing schedule and dollar pressures, recognizing that it will not in fact provide for completion of all development required prior to production.

b. Provide for a realistic transition from the rephased development program and an orderly transition to a rephased production program. This might include a "Block II" phase of three or four aircraft which will allow completion of development, and which could be designated "preproduction" aircraft. The next "block" or phase could be designated "pilot production" allowing improvement of tooling, as well as incorporation of corrections and cost-saving improvements. Finally, the initiation of production should be at a build-up and rate within acceptable total budget levels.

Two aircraft per month, rather than four per month would appear to be logical in view of the present budgetary constraints.

A realistic rephasing would diminish the presently projected deep valley in program effort in 1976–77, with the associated cost and inefficiency. It would not in any way eliminate the decision option at that point, based on flight test results or other factors, to terminate or postpone production. It would create the option to move efficiently and economically toward production if so desired.

4. Timely reporting system

Monthly EAC's (Estimate at Completion) and weekly trackings should be put into effect by Rockwell International as quickly as possible. The problems and actions to resolve the establishment of a brief weekly "flash" reporting system should be solved.

5. Crew escape module

The B–1 Engineering Department operates as a functionally oriented entity within the B–1 Division of Rockwell International. The crew module draws from many disciplines within Engineering. There is no Project Manager with authority and responsibility for the entire crew escape module. However, the module must be considered as a separate air vehicle within an air vehicle. The crew escape module would be less likely to be a time restraint to first flight if it were managed more like an independent system by an Associate Program Manager within the B–1 program.

The Committee believes that periodic refurbishment costs of the crew module pyrotechnics can be reduced by designing and qualifying components to maximum installed life, say, up to ten years instead of the current requirement of three years.

After the limiting envelope of the crew module has been established by test, a trade-off of cost, complexity and risk versus improved performance should be made before any major redesign of the system is initiated.

6. Compatibility test station

The Committee recommends that consideration be given to restoring preinstallation integrated testing in a facility such as the Avionics Engineering Development and Integration Facility (AEDIF). The costs of such a test facility and its operation may be more than offset by a reduction in the integration support which would be required to integrate this complex subsystem on the air vehicle itself and to accommodate flight-test indicated fixes. This could be accomplished by transferring the "Compatibility Test Station" from Los Angeles to Palmdale before integrated testing of AV–1 begins.

7. Avionics system

The Committee believes that the performance requirements established by the Air Force for the offensive avionics subsystem will be met, the schedule for delivery to AV–3 will be met, and barring unforeseen difficulties, the subsystem costs will be reasonably close to those projected. However, the integration of this subsystem into AV–3 will probably require at least twice the time presently allocated to the integrating function with a corresponding cost increase. The schedule/cost impact could be reduced by putting the integration facility at Palmdale (both for RI's equipment and for Boeing) and deferring the defensive subsystem until AV–4. There are other reasons for recommending delaying the defensive subsystem. These include:

a. It is not required for flight tests of AV–3.

b. The design should be tied to the latest threat environment.

8. Testing of unusual voltage components

Since a 230/400 volt, 3 phase AC system is unusual for an airborne system, the Committee recommends more complete testing than now planned (particularly altitude testing) on both the subsystems and their connectors and on the cables and their penetration into equipment compartments.

9. Single-point safety-of-flight failures

The Committee recommends that an independent review of single-point safety-of-flight failures should be made by a selected group of flight test operations experts.

10. Alternate windshield

The Committee believes that operationally suitable optics is beyond the current state of the art for the windshield design currently committed to the aircraft. The windshield may therefore be a constraint on the flight test program. For this reason, it is recommended that a back-up monolithic polycarbonate or acrylic windshield be developed now for use in flight tests of AV–1 and AV–2 to ensure meeting the flight test schedules with an optically satisfactory windshield.

Appendix A

Department of the Air Force,
Washington, D.C., August 9, 1973.

Dr. Raymond L. Bisplinghoff,
Deputy Director,
National Science Foundation,
Washington, D.C.

Dear Ray: As we discussed in our meeting of August 7, 1973, I would like you to organize and chair a management review of the B–1 program. What I have in mind is a broad, objective assessment which would center around an examination of the management aspects of the recently rephased program, to include a complete review and appraisal of the adequacy of the contractors' organization and management policies—as well as the interrelated Air Force activities—to meet the stated requirements and technical specifications of the B–1 aircraft. This review should include recommendations for any cost and schedule trades which could improve the overall effectiveness of the program.

I visualize full-time members of the ad hoc review group would be drawn from industry, the Air Force Scientific Advisory Board, other governmental agencies and retired military and civilian U.S. Government employees. Of course, we will make available the full resources of active Air Force military and civilian employees as special advisors or part-time consultants as you may find useful during the course of your review. Also, results of previous B–1 studies will be provided for the review group's use.

During our discussions I was pleased to find that you shared my view as to the importance to the Air Force and to the nation of an objective review of this vital program.

I am grateful to you for accepting this challenging task. I would appreciate it if you would draw up for my review a proposed charter and modus operandi for the group, and discuss them with me along with proposed membership within a week or ten days.

Sincerely,

John L. McLucas.

Appendix B

Charter for B–1 Program Ad Hoc Committee

I. Purpose: The purpose of the B–1 Program Ad Hoc Committee is as follows: a. an in-depth review of the management policies, practices, procedures, and effectiveness of major Air Force and contractor organizations involved in the program; b. an appraisal of the technical aspects of the total program to include design, probability of performance achievement, and schedule risk analysis; and c. a general assessment of overall program progress, status, and prospects for the future.

II. Background: Engineering development of the B–1 was initiated in June 1970 so that the US would have the option in the latter half of the 1970s of maintaining its strategic nuclear deterrent posture beyond the foreseeable future.

Because of the great importance of the B–1, the Air Force has placed much emphasis on the program, utilizing the best management and scientific and technical expertise available. Nevertheless, designing, developing and fabricating this complex and sophisticated aircraft has proved to be more time-consuming and somewhat more costly than originally anticipated as evidenced by the recent rephasing of the program. It is therefore appropriate that an independent assessment be made of the program.

III. Scope: The Ad Hoc Committee should devote its efforts to assessing the ability of management to consummate the rephased program and to the appraisal of the program technical aspects. To facilitate completion of this review in a reasonable period, the following guidance is provided:

A. *Overall Program Assessment:* In the process of evaluating the major management and technical aspects of the B–1 Program, the Ad Hoc Committee will acquire a thorough insight into cost and schedule. Therefore, without conducting an indepth review in these areas, but rather relying on the collective broad experience, technical expertise, and intuitive judgment of the individual members, the Ad Hoc Committee should make a general assessment of the overall program progress, status, and future prospects of meeting the needs of the Air Force for the B–1 system.

B. *Management:* In this area, the Ad Hoc Committee should focus its attention primarily on the activities and relationships of the B–1 System Program Office (SPO); the B–1 Division of Rockwell International Corporation (RIC), to include subcontractors; and the Air Force Plant Representative Office (AFPRO) at the RIC Los Angeles facility. As a minimum, the following subjects should be addressed:

1. The adequacy and timeliness of program planning in all areas by the above agencies should be evaluated.

2. The adequacy and effectiveness of SPO/AFPRO and RIC Management Information Systems—both formal and informal—in the cost, schedule, and technical areas should be determined. In the latter, in particular, the aircraft weight and aerodynamic drag management systems should be evaluated.

3. The effectiveness and adequacy of formal and informal arrangements and relationships between the SPO, AFPRO, and RIC should be evaluated. Additionally, Associate Contractor arrangements and relationships—particularly, the RIC-Boeing avionics interface—should be considered.

4. The timeliness, accuracy and completeness of progress/problem reporting from the Contractor and AFPRO to the SPO (and vice versa), and from the SPO upwards in the Department of the Air Force should be evaluated.

5. The adequacy and timeliness of guidance/direction/authority from top Air Force levels downward to the SPO, and from the SPO to the AFPRO and Associate Contractors should be evaluated.

6. The use and effectiveness of ad hoc and/or permanent advisory groups and consultants by both the SPO and RIC should be considered. Particular attention should be paid to the incorporation of "lessons learned" from other programs.

7. Special attention should be paid in all areas to the timely management identification of problems, including subcontracting, the adequacy of planning and evaluating alternative solutions, and the follow-up processes.

8. The skill, experience, and adequacy of key management personnel in all organizations should be evaluated.

C. *Technical:* As a minimum, the following technical areas should receive Ad Hoc Committee attention. If, as the review progresses, other technical aspects surface which appear fruitful for investigation, Committee review is encouraged.

1. The current and projected weight and drag status, to include its impact on expected air vehicle performance, should be assessed. Potential trade-off areas should also be identified.

2. The adequacy and effectiveness of the Air Vehicle structural test program approach should be evaluated.

3. The basic structural design approach should be reviewed in depth with regard to the probability of long and reliable air vehicle inventory life attainment.

4. The adequacy of the entire avionics system including the flight test approach should be assessed.

5. Examine the current design approach for producibility to evaluate the requirements and to identify potential candidates. The Committee should evaluate or identify the degree of flight hardware demonstration necessary and should assess the planned use of composite materials.

6. Consideration of the adequacy and effectiveness of infrared suppression design and techniques is required.

IV. Organization: The Chairman and full-time members of the Ad Hoc Committee will be recruited from the Air Force Scientific Advisory Board, scientific and/or educational institutions, appropriate Government agencies (active and/or retired ranks), and industry with the approval of the Chief of Staff and Secretary of the Air Force. As necessary, appropriate special advisors and/or part-time consultants may be appointed and utilized by the Committee Chairman. The structure and modus operandi of the assessment team will be determined by the Committee Chairman and subject to approval by the Secretary of the Air Force and CSAF.

V. Reporting: A verbal draft final report (e.g. formal briefing) is desired not later than 5 October. In the management and technical areas, specific Committee conclusions and recommendations are desired for any activities that could be done better (and how) and/or any activities or techniques to include potential cost/schedule/performance trades which might enhance the program and are not presently being done. In the overall program assessment, identification should be made of specific current areas or activities on which more emphasis or effort should be placed as well as future areas or activities which should receive additional emphasis. Additionally, Committee identification of problems and/or recommendations for improvements in any problem are solicited.

VI. Administrative support: Full-time administrative support services will be provided by the Scientific Advisory Board, Air Staff, Air Force Systems Command, Aeronautical Systems Division or the B–1 SPO as required by the Ad Hoc Committee. Travel expenses will be appropriately funded by the Scientific Advisory Board and the Aeronautical Systems Division.

APPENDIX C

SAB AD HOC COMMITTEE ON THE B-1 PROGRAM SCHEDULE OF ACTIVITIES

Sept. 4. Planning Session of the Technical Panel of the Ad Hoc Committee on the B-1 Program at WPAFB.

Sept. 10-11. Full Committee Meeting at RI/LA for planning and initial briefings.

Sept. 14. Technical Sub-Panels report findings of Sept. 10-11 meeting to G. Hedrick by 1200 EDT.

Sept. 17. Technical Sub-Panels conduct working sessions at RI/LA.

Sept. 18. Committee fact finding visits and report writing session at RI/LA.

A.M. Technical panel prepares preliminary report.

2:00 P.M. Technical panel presents preliminary finding to Management Panel.

Sept. 19. Management Panel receives briefing at RI/LA on Independent Cost Estimates, DCP Thresholds, to identify other "loose ends," and drafts management report.

Sept. 24. Technical panel report writing session at RI/LA to prepare final draft of Sub-Panel reports.

Sept. 26. Final Technical Sub-Panel reports in hand of G. Hedrick by 1200 EDT.

Sept. 27. Management and Technical Panel report writing session at RI/LA to prepare final reports.

Oct. 2. R. Bisplinghoff, A. Puckett, B. Shillito, G. Hedrick meeting at RI/LA: Reports of the Management and Technical Panels presented to committee chairman and vice chairman.

Oct. 3. R. Bisplinghoff, A. Puckett meet in LA to prepare final report.

Oct. 4. R. Bisplinghoff, A. Puckett, B. Shillito, G. Hedrick meet with Secretary McLucas in Washington, D.C. to present committee findings.

APPENDIX D

USAF SCIENTIFIC ADVISORY BOARD AD HOC COMMITTEE ON THE B-1 PROGRAM

Chairman, Dr. Raymond L. Bisplinghoff, Deputy Director, National Science Foundation.

Vice Chairman, Dr. Allen E. Puckett, Executive Vice President and General Manager, Hughes Aircraft Company.

MANAGEMENT PANEL

Chairman, Mr. Barry J. Shillito, President, Teledyne Ryan Aeronautical.

MEMBERS

Dr. William F. Ballhaus, President, Beckman Instruments, Inc.

Mr. Carl Covington, Technical Advisor, Teledyne—CAE.

Dr. George Low, Deputy Administrator, National Aeronautics and Space Administration.

Mr. Donald Malvern, Executive Vice President, McDonnell Aircraft Company.

Mr. J. C. Maxwell, Vice President and Assistant General Manager, Military Systems Group, Boeing Aerospace Company.

Mr. Fred W. Randall, Technical Director & Principal Assistant to the Deputy Assistant Secretary for Production Engineering & Material Acquisition OSD (I&L).

Mr. William Rieke, Executive Vice President, Lockheed Aircraft Corporation.

TECHNICAL PANEL

Chairman, Mr. Ira G. Hedrick, Senior Vice President, Grumman Aerospace Corporation.

DESIGN AND WEIGHTS SUBPANEL

Chairman, Mr. William C. Dietz, Director, YF-16 Engineering, Convair Aerospace Division, General Dynamics Corporation.

MEMBERS

Mr. John H. Best, Chief Project Engineer Subcontract Program, Vought Systems Division, LTV Aerospace.

Mr. Billie B. Coker, Dept Manager, General Weight & Value, Lockheed-Georgia Company.

Mr. Robert L. Johnson, Manager, Project Strength Engineering, McDonnell Aircraft Company.

AIRFRAME AND DYNAMICS SUBPANEL

Chairman, Mr. Richard R. Heldenfels, Assistant Director for Structures, NASA Langley Research Center.

MEMBERS

Mr. William D. Buntin, Convair Aerospace Division, General Dynamics Corporation.

Mr. William L. Gray, The Boeing Company.

Mr. Howard J. Siegel, Manager of Materials & Process Development, McDonnell Aircraft Company.

AERO PERFORMANCE SUBPANEL

Mr. William T. Hamilton, Manager, Research & Engineering Division, Boeing Aerospace Company.

MEMBERS

Mr. Carl P. Hellsten, Chief of Aerodynamics, Grumman Aerospace Corporation.

Mr. Edmund B. Maske, Jr., TACT/TART Program, Convair Aerospace Division, General Dynamics.

Mr. Mark R. Nichols, Chief, High Speed Aircraft Division, NASA Langley Research Center.

PROPULSION SUBPANEL

Chairman, Mr. Harry Drell, Division Manager, Acoustics Dept., Lockheed Aircraft Corporation.

MEMBERS

Mr. Warren E. Anderson, Research Scientist, NASA Ames Research Center.

Mr. Stuart G. Harvie, Manager, Flight Sciences, Engineering Department, Grumman Aerospace Corporation.

Mr. Elling Tjonneland, Senior Group Engineer, Boeing Commercial Airplane Company.

AVIONICS SUBPANEL

Chairman, Dr. George E. Mueller, Chairman and President, System Development Corporation.

MEMBERS

Mr. Robert A. Duffy, President, Charles Stark Draper Laboratory, Inc.

Mr. John E. Goode, Vice President, Systems Technology, Convair Aerospace Division, General Dynamics Corporation.

CREW CAPSULE SUBPANEL

Chairman, Mr. C. R. Sierra, Structures & Design Project Officer, Convair Aerospace Division, General Dynamics Corporation.

MEMBERS

Mr. J. Kirby Hinson, Chief, Mechanical Analysis Section, Johnson Space Center, National Aeronautics and Space Administration.

Mr. James H. Hosman, Jr., Assistant Project Engineer, F-15, McDonnell Aircraft Company.

Brig. Gen. James A. McDivitt (USAF Ret.), Senior Vice President, Consumer Power Company.

TRADE AGREEMENT BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS

Mr. CASE. Mr. President, under the Case Act the Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States, but in no event later than 60 days thereafter. On October 18, 1972, the United States and the Soviet Union signed a trade agreement as a followup to summit meetings beeween the two countries. This agreement was not transmitted to Congress and some of its provisions were not made public. Since it was not transmitted, Congress assumed it had not entered into force.

It now appears that parts of the trade agreement have indeed entered into force and congressional deliberation on granting credits to the U.S.S.R. has been bypassed by an executive agreement that extends credits at a preferred rate to the U.S.S.R.

Congress was not asked what its views were or whether the terms of the agreement were prudent and consonant with our foreign policy or with economic conditions. Neither the Congress nor the taxpayer has been told the extent of the obligation to extend subsidized credit to the U.S.S.R. Certainly the decision to take these actions restricts the freedom of Congress to decide on the advisability of trade with the Soviets.

In late November, after I was advised that the full trade agreement was not known to Congress, I asked the staff of the Senate Foreign Relations Committee to request submission of the entire document.

The State Department complied with the request, stating that while the overall trade agreement is "not yet in force," parts of the agreement "are now being applied" and are being transmitted pursuant to Public Law 92-403, the Case Act.

A part of the agreement the executive branch had been applying for some time, although Congress was not told, was an agreement made between the U.S. Export-Import Bank acting on behalf of the U.S. Government and the Vneshtorgbank of the U.S.S.R. acting on behalf of the Soviet Ministry of Foreign Trade. In essence, this agreement provided for the extension of long-term credits at 6 percent on a case-by-case basis to the U.S.S.R.

As the fourth numbered paragraph of the agreement put it:

> This means that interest rates, maturities, grace periods, and other conditions will not be less favorable than those usually extended to other purchasers in similar transactions.

No maximum amount is set by the agreement for subsidized loans to the Soviet Union, although a working paper prepared by the Commerce Department states:

> Henry Kearns of Eximbank has indicated to the Soviets that unless the Soviet Union is forthcoming with financial information meeting Eximbank criteria, Eximbank would not extend credits beyond a certain amount. This ceiling is about $500 million.

How was the $500 million "ceiling" arrived at? Many questions come to mind in regard to this so-called ceiling. What justification was there for any amounts less than this to be lent without the necessary financial information being submitted? Will this requirement of financial data be enforced for credits in excess of $500 million? How much more than $500 million is contemplated to be lent? Has the U.S.S.R. submitted the necessary financial data?

Former Secretary of Commerce Peterson, writing in August 1972, before any agreements were formally concluded between the United States and the U.S.S.R., looked at the proposed projects the Soviet Union planned and argued:

> Clearly, Eximbank could not undertake financing on the scale of the Soviet projects without substantially changing its historical practices and perhaps even the nature of the institution.

He went on to say:

> Perhaps we will need to develop wholly new types of credit institutions.

So far Eximbank has lent the U.S.S.R. $119 million of the $500 million already committed to be lent to the Soviet Union. Pending final approval is $180 million mainly for the Occidental fertilizer complex for the U.S.S.R. and $49 million for gas exploration.

But far more is involved, as Secretary Peterson advised. For example, the anticipated fertilizer complex and gas explorations could, according to the Commerce Department, cost $8 billion. An agreement, currently being worked out by the Control Data Corp. with the Soviet State Committee for Science and Technology for cooperation in the design of computer memories based on large volume removable magnetic disc packs and integrated circuits could cost $500 million according to the Soviet Business and Economic Report. And other ventures, in combination with other trading nations, are also in the works involving huge sums.

To what extent will our foreign policy be shaped by the trade program now apparently in full swing? Why did the State Department fail to transmit vital agreements to the Congress pursuant to law?

At my request, the chairman of the Senate Foreign Relations Committee has asked the Secretary of State for a full explanation of this matter. I welcome the chairman's action and I look forward to a full airing of the situation.

Mr. President, I ask unanimous consent that the text of the international agreements be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 28, 1973.

To the Chairman of the Senate Committee on Foreign Relations:

We have today transmitted copies of the enclosed documents to the President of the Senate in accordance with Public Law 92-403, "An Act To require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to he Congress within sixty days after the execution thereof".

Although the enclosed Agreement between the Government of the United States of America and the Union of Soviet Socialist Republics regarding trade signed at Washington October 18, 1972 has not yet entered into force in accordance with its provisions, a number of the arrangements made in connection with that agreement are now being applied and copies thereof are enclosed.

CHARLES I. BEVANS,
Assistant Legal Adviser for Treaty Affairs.

Agreement Between the United States and the Union of Soviet Socialist Republics Regarding Trade, Signed at Washington October 18, 1972, Not Yet in Force, Together With Annexes, and with the Following Related Arrangements, All Signed at Washington October 18, 1972

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that the peoples of the United States of America and of the Union of Soviet Socialist Republics seek a new era of commercial friendship, an era in which the resources of both countries will contribute to the well-being of the peoples of each and an era in which common commercial interest can point the way to better and lasting understanding,

Having agreed at the Moscow Summit that commercial and economic ties are an important and necessary element in the strengthening of their bilateral relations,

Noting that favorable conditions exist for the development of trade and economic relations between the two countries to their mutual advantage,

Desiring to make the maximum progress for the benefit of both countries in accordance with the tenets of the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics signed in Moscow on May 29, 1972,

Believing that agreement on basic questions of economic trade relations between the two countries will best serve the interests of both their peoples,

Have agreed as follows:

ARTICLE 1

1. Each Government shall accord unconditionally to products originating in or exported to the other country treatment no less favorable than that accorded to like products originating in or exported to any third country in all matters relating to:

(a) customs duties and charges of any kind imposed on or in connection with importation or exportation including the method of levying such duties and charges;

(b) internal taxation, sale, distribution, storage and use;

(c) charges imposed upon the international transfer of payments for importation or exportation; and

(d) rules and formalities in connection with importation or exportation.

2. In the event either Government applies quantitative restrictions to products originating in or exported to third countries, it shall afford to like products originating in or exported to the other country equitable treatment vis-a-vis that applied in respect of such third countries.

3. Paragraphs 1 and 2 of this Article 1 shall not apply to (i) any privileges which are granted by either Government to neighboring countries with a view toward facilitating frontier traffic, or (ii) any preferences granted by either Government in recognition of Resolution 21 (II) adopted on March 26, 1968 at the Second UNCTAD, or (iii) any action by either Government which is permitted under any multilateral trade agreement to which such Government is a party on the date of signature of this Agreement, if such agreement would permit such action in similar circumstances with respect to like products originating in or exported to a country which is a signatory thereof, or (iv) the exercise by either Government of its rights under Articles 3 or 8 of this Agreement.

ARTICLE 2

1. Both Governments will take appropriate measures, in accordance with the laws and regulations then current in each country, to encourage and facilitate the exchange of goods and services between the two countries on the basis of mutual advantage and in accordance with the provisions of this Agreement. In expectation of such joint efforts, both Governments envision that total bilateral trade in comparison with the period 1969–1971 will at least triple over the three-year period contemplated by this Agreement.

2. Commercial transactions between the United States of America and the Union of Soviet Socialist Republics shall be effected in accordance with the laws and regulations then current in each country with respect to import and export control and financing, as well as on the basis of contracts to be concluded between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics. Both Governments shall facilitate, in accordance with the laws and regulations then current in each country, the conclusion of such contracts, including those on a long-term basis, between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics. It is understood that such contracts will generally be concluded on terms customary in international commercial practice.

3. Both Governments, by mutual agreement, will examine various fields, in which the expansion of commercial and industrial cooperation is desirable, with regard for, in particular, the long-term requirements and resources of each country in raw materials, equipment and technology and, on the basis of such examination, will promote cooperation between interested organizations and enterprises of the two countries with a view toward the realization of projects for the development of natural resources and projects in the manufacturing industries.

4. The Government of the Union of Soviet Socialist Republics expects that, during the period of effectiveness of this Agreement, foreign trade organizations of the Union of Soviet Socialist Republics will place substantial orders in the United States of America for machinery, plant and equipment, agricultural products, industrial products and consumer goods produced in the United States of America.

ARTICLE 3

Each Government may take such measures as it deems appropriate to ensure that the importation of products originating in the other country does not take place in such quantities or under such conditions as to cause, threaten or contribute to disruption of its domestic market. The procedures under which both Governments shall cooperate in carrying out the objectives of this Article are set forth in Annex 1, which constitutes an integral part of this Agreement.

ARTICLE 4

All currency payments between natural and legal persons of the United States of America and foreign trade and other appropriate organizations of the Union of Soviet Socialist Republics shall be made in United States dollars or any other freely convertible currency mutually agreed upon by such persons and organizations.

ARTICLE 5

1. The Government of the United States of America may establish in Moscow a Commercial Office of the United States of America and the Government of the Union of Soviet Socialist Republics may establish in Washington a Trade Representation of the Union of Soviet Socialist Republics. The Commercial Office and the Trade Representation shall be opened simultaneously on a date and at locations to be agreed upon.

2. The status concerning the functions, privileges, immunities and organization of the Commercial Office and the Trade Representation is set forth in Annexes 2 and 3, respectively, attached to this Agreement, of which they constitute an integral part.

3. The establishment of the Commercial Office and the Trade Representation shall in no way affect the rights of natural or legal persons of the United States of America and of foreign trade organizations of the Union of Soviet Socialist Republics, either in the United States of America or in the Union of Soviet Socialist Republics, to maintain direct relations with each other with a view to the negotiation, execution and fulfillment of trade transactions. To facilitate the maintenance of such direct relations the Commercial Office may provide office facilities at its location to employees or representatives of natural and legal persons of the

United States of America, and the Trade Representation may provide office facilities at its location to employees or representatives of foreign trade organizations of the Union of Soviet Socialist Republics, which employees and representatives shall not be officers or members of the administrative, technical or service staff of the Commercial Office or the Trade Representation. Accordingly, the Commercial Office and the Trade Representation, and their respective officers and staff members, shall not participate directly in the negotiation, execution or fulfillment of trade transactions or otherwise carry on trade.

ARTICLE 6

1. In accordance with the laws and regulations then current in each country, natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics may open their representations in the Union of Soviet Socialist Republics and the United States of America, respectively. Information concerning the opening of such representations and provision of facilities in connection therewith shall be provided by each Government upon the request of the other Government.

2. Foreign trade organizations of the Union of Soviet Socialist Republics shall not claim or enjoy in the United States of America, and private natural and legal persons of the United States of America shall not claim or enjoy in the Union of Soviet Socialist Republics, immunities from suit or execution of judgment or other liability with respect to commercial transactions.

3. Corporations, stock companies and other industrial or financial commercial organizations, including foreign trade organizations, domiciled and regularly organized in conformity to the laws in force in one of the two countries shall be recognized as having a legal existence in the other country.

ARTICLE 7

1. Both Governments encourage the adoption of arbitration for the settlement of disputes arising out of international commercial transactions concluded between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics, such arbitration to be provided for by agreements in contracts between such persons and organizations, or, if it has not been so provided, to be provided for in separate agreements between them in writing executed in the form required for the contract itself, such agreements:

(a) to provide for arbitration under the Arbitration Rules of the Economic Commission for Europe of January 20, 1966, in which case such agreement should also designate an Appointing Authority in a country other than the United States of America or the Union of Soviet Socialist Republics for the appointment of an arbitrator or arbitrators in accordance with those Rules; and

(b) to specify as the place of arbitration a place in a country other than the United States of America or the Union of Soviet Socialist Republics that is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Such persons and organizations, however, may decide upon any other form of arbitration which they mutually prefer and agree best suits their particular needs.

2. Each Government shall ensure that corporations, stock companies, and other industrial or financial commercial organizations, including foreign trade organizations, domiciled and regularly organized in conformity to the laws in force in the other country shall have the right to appear before courts of the former, whether for the purpose of bringing an action or of defending themselves against one, including but not limited to, cases arising out of or relating to transactions contemplated by this Agreement. In all such cases the said corporations, companies and organizations shall enjoy in the other country the same rights which are or may be granted to similar companies of any third country.

ARTICLE 8

The provisions of this Agreement shall not limit the right of either Government to take any action for the protection of its security interests.

ARTICLE 9

1. This Agreement shall enter into force upon the exchange of written notices of acceptance. This Agreement shall remain in force for three years, unless extended by mutual agreement.

2. Both Governments will work through the Joint US-USSR Commercial Commission established in accordance with the Communique issued in Moscow on May 26, 1972, in overseeing and facilitating the implementation of this Agreement in accordance with the terms of reference and rules of procedure of the Commission.

3. Prior to the expiration of this Agreement, the Joint US-USSR Commercial Commission shall begin consultations regarding extension of this Agreement or preparation of a new agreement to replace this Agreement.

In witness whereof, the undersigned, duly authorized, have signed this Agreement on behalf of their respective Governments.

Done at Washington in duplicate this 18th day of October, 1972, in the English and Russian languages, each language being equally authentic.

For the Government of the United States of America:

PETER G. PETERSON.

For the Government of the Union of Soviet Socialist Republics:

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ANNEX 1 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS, REGARDING TRADE

PROCEDURE FOR THE IMPLEMENTATION OF ARTICLE 3

1. Both Governments agree to consult promptly at the request of either Government whenever such Government determines that actual or prospective imports of a product originating in the other country under certain conditions or in certain quantities could cause, threaten or contribute to disruption of the market of the requesting country.

2. (a) Consultations shall include a review of the market and trade situation for the product involved and shall be concluded within sixty days of the request unless otherwise agreed during the course of such consultations. Both Governments, in carrying out these consultations, shall take due account of any contracts concluded prior to the request for consultations between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics engaged in trade between the two countries.

(b) Unless a different solution is agreed upon during the consultations, the quantitative import limitations or other conditions stated by the importing country to be necessary to prevent or remedy the market disruption situation in question shall be deemed agreed as between the two Governments.

(c) At the request of the Government of the importing country, if it determines that an emergency situation exists, the limitations or other conditions referred to in its request for consultations shall be put into effect prior to the conclusion of such consultations.

3. (a) In accordance with the laws and regulations then current in each country, each Government shall take appropriate measures to ensure that exports from its country of the products concerned do not exceed the quantities or vary from the conditions established for imports of such products into the other country pursuant to paragraphs 1 and 2 of this Annex 1.

(b) Each Government may take appropriate measures with respect to imports into its country to ensure that imports of products originating in the other country comply with such quantitative limitations or conditions as may be established in accordance with paragraphs 1 and 2 of this Annex 1.

ANNEX 2 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING TRADE

THE STATUS OF THE COMMERCIAL OFFICE OF THE UNITED STATES OF AMERICA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

Article 1

The Commercial Office of the United States of America may perform the following functions:

1. Promote the development of trade and economic relations between the United States of America and the Union of Soviet Socialist Republics; and

2. Provide assistance to natural and legal persons of the United States of America in facilitating purchases, sales and other commercial transactions.

Article 2

1. The Commercial Office shall consist of one principal officer and no more than three deputy officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Commercial Office, wherever located, shall be an integral part of the Embassy of the United States of America in Moscow. The Government of the Union of Soviet Socialist Republics shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the United States of America of suitable premises for the Commercial Office.

3. (a) The Commercial Office, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the United States of America in Moscow. The Commercial Office shall have the right to use cipher.

(b) The principal officer of the Commercial Office and his deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the United States of America in Moscow.

(c) Members of the administrative, technical and service staffs of the Commercial Office who are not nationals of the Union of Soviet Socialist Republics shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the United States of America in Moscow.

ANNEX 3 TO THE GOVERNMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING TRADE

THE STATUS OF THE TRADE REPRESENTATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE UNITED STATES OF AMERICA

Article 1

The Trade Representation of the Union of Soviet Socialist Republics may perform the following functions:

1. Promote the development of trade and economic relations between the Union of Soviet Socialist Republics and the United States of America; and

2. Represent the interests of the Union of Soviet Socialist Republics in all matters relating to the foreign trade of the Union of Soviet Socialist Republics with the United States of America and provide assistance to foreign trade organizations of the Union of Soviet Socialist Republics in facilitating purchases, sales and other commercial transactions.

Article 2

1. The Trade Representation shall consist of one principal officer, designated as Trade Representative, and no more than three deputy officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Trade Representation, wherever located, shall be an integral part of the Embassy of the Union of Soviet Socialist Republics in Washington. The Government of the United States of America shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the Union of Soviet Socialist Republics of suitable premises for the Trade Representation.

3. (a) The Trade Representation, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the Union of Soviet Socialist Republics in Washington. The Trade Representation shall have the right to use cipher.

(b) The Trade Representative and his deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the Union of Soviet Socialist Republics in Washington.

(c) Members of the administrative, technical and service staffs of the Trade Representation who are not nationals of the United States of America shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the Union of Soviet Socialist Republics in Washington.

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2. EXCHANGE OF LETTERS DATED OCTOBER 3, 1973, REGARDING THE KAMA PURCHASING COMMISSION

OCTOBER 3, 1973.

His Excellency N. S. PATOLICHEV,
Minister of Foreign Trade,
Moscow.

DEAR MR. MINISTER: I have the honor to refer to your letter of June 24, 1973 in which you requested the continuation of the work of the temporary Kama Purchasing Commission, and to my reply of August 9, 1973.

I am pleased to inform you that the United States hereby agrees to the following changes in the terms for the establishment of the Kama Purchasing Commission as set forth in the attachment to the letter of Secretary Peterson to you dated October 18, 1972:

(1) The term of the Temporary Purchasing Commission is extended for the additional period of one year, that is, until October 18, 1974;

(2) The Temporary Purchasing Commission shall be authorized to concern itself with both the Kama River Truck Complex and the chemical production complex dealt with in the Agreement which the Occidental Petroleum Corporation signed in Moscow on April 12, 1973; and

(3) The authorized number of personnel of the Temporary Purchasing Commission is increased to 21 persons at the present time, including technical personnel. This number may be changed by mutual agreement.

I should be most grateful if you will confirm your agreement with these arrangements.

Sincerely yours,

GEORGE P. SHULTZ.

OCTOBER 3, 1973.

Mr. G. P. SHULTZ,
Secretary of the Treasury of the United States of America.

DEAR MR. SECRETARY: I confirm the receipt of your letter of this date, which reads as follows:

(QUOTE)

I have the honor to confirm my agreement to these arrangements.

Accept, Mr. Shultz, assurances of my highest consideration.

N. S. PATOLICHEV,
Minister of Foreign Trade.

Moscow.

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3. PROTOCOL RELATING TO A TRADE REPRESENTATION OF THE USSR IN WASHINGTON SIGNED AT MOSCOW OCTOBER 3, 1973.

PROTOCOL

Recalling the undertaking of the United States of America and the Union of Soviet Socialist Republics in the Agreement Regarding Trade signed on October 18, 1972, to cooperate in the expansion and improvement of their commercial facilities in Moscow and Washington, and their undertaking in the Protocol signed on June 22, 1973, to open a Trade Representation of the U.S.S.R. in Washington and a Commercial Office of the U.S.A. in Moscow as soon as possible.

Both Governments welcome the inauguration on October 3, 1973, of a Trade Representation of the U.S.S.R. in Washington and a Commercial Office of the U.S.A. in Moscow and agree that the number of authorized personnel of each of these offices, including the principal officer and his deputies, shall be 25 at the present time. This number may be changed by mutual agreement.

Done at Moscow this 3rd day of October, 1973, in two copies, in English and Russian, both texts being equally authentic.

For the Government of the United States of America:

GEORGE P. SHULTZ,
Secretary of the Treasury.

For the Government of the Union of Soviet Socialist Republics:

N. S. PATOLICHEV,
Minister of Foreign Trade.

(A) EXCHANGE OF LETTERS REGARDING EXPORTS

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV,
Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: I have the honor to refer to our recent discussions relating to Article 3 and Annex 1 of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade to be signed today. In accordance with those provisions and discussions, and consistent with current United States laws and regulations concerning exports, it is understood that the United States Government will meet its obligations under paragraph 3(a) of Annex 1 with respect to limitations or conditions established pursuant to a request of the Government of the Union of Soviet Socialist Republics under paragraphs 1 and 2 of Annex 1 by making available to United States exporters information regarding the quantities or conditions stated by the Government of the Union of Soviet Socialist Republics in its request, or as otherwise established following consultations provided for under Annex 1.

I further understand that the Government of the Union of Soviet Socialist Republics will limit or establish conditions on exports of any product from the Union of Soviet Socialist Republics to the United States if requested to do so in accordance with Annex 1.

I would appreciate receiving your confirmation of the foregoing understandings on behalf of the Government of the Union of Soviet Socialist Republics.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(B) EXCHANGE OF LETTERS REGARDING TRADE REPRESENTATION OF THE U.S.S.R. IN WASHINGTON

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV
Minister of Foreign Trade of the Union of Soviet Socialist Republics

DEAR MR. MINISTER: I have the honor to confirm, as was stated by my delegation in the course of the negotiations leading to the conclusion today of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade, that while the Trade Representation of the Union of Soviet Socialist Republics in Washington established pursuant to Article 5 of said Agreement, its officers and staff members may engage in appropriate activities to promote trade generally between the two countries for the purposes of said Agreement, as is customary in international practice, United States legislation in force, i.e., Title 22 of the United States Code, Sections 252–254, makes it inappropriate for the Trade Representation, its officers and staff to participate directly in the negotiation, execution or fulfillment of trade transactions or otherwise carry on trade.

I have the further honor to confirm that at such time as the United States of America shall have become a party to the Vienna Convention on Diplomatic Relations, dated April 18, 1961, and its domestic legislation shall have been revised to accord fully with the terms of Articles 29 through 45 of said Convention, regarding diplomatic privileges and immunities, my Government will be prepared to give favorable consideration to amending the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade by deleting the second and third sentences of paragraph 3 of Article 5, thus permitting officers and members of the administrative, technical and service staffs of the Commercial Office of the United States of America in Moscow and the Trade Representation of the Union of Soviet Socialist Republics in Washington to participate directly in the negotiation, execution and fulfillment of trade transactions and otherwise carry on trade.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(C) EXCHANGE OF LETTERS REGARDING TRADE ORGANIZATIONS AND FACILITIES, INCLUDING THE KAMA PURCHASING COMMISSION, WITH ATTACHMENT

WASHINGTON, D.C.,
October 19, 1972.

Mr. N. S. PATOLICHEV,
Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: This is in response to your request pursuant to Article 6 of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade for information on policies and procedures applicable to foreign trade organizations and nationals of the Union of Soviet Socialist Republics seeking to establish business facilities in the United States for the conduct of commercial activities, and with respect to assistance that might be given by the Government of the United States of America in that regard to such organizations and persons.

From our many discussions, I am satisfied that both sides accept the principle of expansion of business facilities in each other's country as an adjunct for substantially expanded trade.

Both sides have reasons that may, in some cases, make it necessary not to honor all requests for expanded facilities and new organizations. However, we are both committed to expanding such facilities.

Where there is a clear need established for such added facilities, I will assure you that the Government of the United States will sympathetically consider such requests.

As I have told you, I believe it is important that we select examples of certain kinds of organizations and facilities that are likely to be needed in the future in order to expand trade and commerce substantially.

As one example, we recognize that certain very large projects may require from time to time purchasing organizations in the United States to coordinate such activities on those projects. We believe the Kama River Purchasing Commission is a good example of our mutual desire to improve trade between our two countries and to provide necessary facilities and organizations to achieve that objective. Thus, I am pleased to tell you the terms set out in the attachment for the Temporary Purchasing Commission for the procurement of equipment for the Kama River Truck Plant are acceptable.

As another example, the Government of the United States of America recognizes the need for the Union of Soviet Socialist Republics to stimulate more exports to the United States, and will cooperate to promote such exports where appropriate. Accordingly, if in the next few months the Soviet Government submits a request that demonstrates a clear need for a particular export facility or organization to stimulate Soviet exports to the United States, we will view such a request sympathetically.

Sincerely yours,

PETER G. PETERSON.

(D) Exchange of Letters Regarding Accreditation of Offices of Foreign Companies

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV,
Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: I have the honor to acknowledge the receipt of your letter of this date, with attachments, which reads as follows:

"Mr. PETER G. PETERSON,
Secretary of Commerce of the United States of America.

"DEAR MR. SECRETARY: This is in response to your request for information on the procedures established by the Ministry of Foreign Trade for the accreditation of offices of foreign companies including United States companies, and on the facilities made available to such companies once accreditation has been approved.

"United States companies will receive treatment no less favorable than that accorded to business entities of any third country in all matters relating to accreditation and business facilitation. Applications by United States firms for accreditation will be handled expeditiously. Any problems arising out of these applications that cannot readily be resolved through the regular procedures shall be resolved through consultation under the Joint US–USSR Commercial Commission at the request of either side.

"As you have been advised, the USSR Chamber of Commerce and Industry and the State Committee of the Council of Ministers of the USSR for Science and Technology are establishing a large trade and economic exposition center which will include display pavilions of the various participating countries. The United States has been invited to have such a pavilion. Further, to meet the growing interest of foreign firms in establishing a permanent residence in Moscow, we have decided to construct a large trade center containing offices, hotel and apartment facilities and are asking United States companies to make proposals for and cooperate in the development and building of the trade center. The trade center will be used for, among other things, housing and office facilities for accredited United States companies.

"Prior to the availability of these facilities, however, office facilities of an appropriate size in buildings accessible to trade sources will be made available as soon as possible once a United States company is accredited. The facilities to which such firms shall be entitled are explained in the attached information.

"It is recognized that from time to time United States businessmen may have problems regarding such facilities which they are unable to resolve through discussions with various foreign trade organizations or other organizations. In such cases officials of my Ministry, as well as those of the State Committee of the Council of Ministers of the USSR for Science and Technology, shall be available through their respective protocol sections for assistance in resolving these problems.

"Please accept, Mr. Secretary, the assurances of my highest consideration.

"Sincerely yours,

N. PATOLICHEV."

I have the further honor to inform you that I have taken cognizance of the contents of the above letter and its attachments.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(E) Agreement of Financing Procedures and Related Exchange of Letters With Attachment

AGREEMENT ON FINANCING PROCEDURES

This Agreement is made and entered into this 18 day of October, 1972, by and between the Government of the United States of America, acting through the Export-Import Bank of the United States (Eximbank), an Agency of the United States Government, in conformity with its statutory authority and in conformity with the Presidential Determination made by the President of the United States on October 18, 1972, and the Government of the Union of the Soviet Socialist Republics, acting through the Ministry of Foreign Trade of the U.S.S.R. pursuant to the authority of the Government of the Union of the Soviet Socialist Republics.

Witnesseth:

Whereas, it is the desire of the Government of the U.S.S.R. to finance through Eximbank the purchase of goods and services of U.S. manufacture or origin which are being sold to entities in the U.S.S.R. and it is further the desire of the Parties hereto to establish certain procedures which will simplify and expedite such financing, and

Whereas, an agreement on procedures for requesting the issuance of Preliminary Commitments and Final Commitments with respect to credits and guarantees from Eximbank will assure the orderly and expeditious arrangement of such financing, and

Whereas, such agreement will facilitate exports and imports and the exchange of commodities between the United States of America and the Union of the Soviet Socialist Republics;

Now, therefore, the Parties hereto, in consideration of the premises, procedures, undertakings and commitments hereinafter set forth, agree as follows:

1. The Government of the U.S.S.R. hereby certifies that the Bank for Foreign Trade of the Union of the Soviet Socialist Republics (Vneshtorgbank of the USSR) is authorized to receive credits from Eximbank in U.S. Dollars and to repay those credits in U.S. Dollars in the United States in accordance with the repayment schedules to be set forth in the respective credit agreements.

2. Vneshtorgbank of the USSR will submit to Eximbank applications for Preliminary Commitments for financing from Eximbank to support purchases by entities in the U.S.S.R. of goods and services of U.S. manufacture or origin. The submission of any application for a Preliminary Commitment by Vneshtorgbank of the USSR will constitute assurance to Eximbank that Vneshtorgbank of the USSR has obtained all necessary approvals from the properly authorized bodies of the U.S.S.R.

3. It is expected that Vneshtorgbank of the USSR will submit applications for Preliminary Commitments to Eximbank prior to the time that purchase contracts with U.S. suppliers are concluded.

4. Upon receipt of an application from Vneshtorgbank of the USSR for itself or on behalf of other authorized bodies of the U.S.S.R. for a Preliminary Commitment, Eximbank will examine the information submitted in that application as it relates to the proposed transaction under the criteria then applicable to similar transactions involving buyers of U.S. goods and services wherever Eximbank financial support is available. This means that interest rates, maturities, grace periods and other conditions will not be less favorable than those usually extended to other purchasers in similar transactions. Upon determination of Eximbank's Board of Directors that financing through a combination of Eximbank's direct lending and financial guarantee facilities is appropriate, a Preliminary Commitment, describing the amount and kinds of financing support, repayment terms and general conditions under which Eximbank financing would be available, will be issued or transmitted to Vneshtorgbank of the USSR. There is no cost or obligation to Vneshtorgbank of the USSR for this Preliminary Commitment.

5. Eximbank will not issue Preliminary Commitments directly to U.S. suppliers but will refer their inquiries to Vneshtorgbank of the USSR in the event a Preliminary Commitment has not previously been issued by Eximbank with respect to a proposed transaction. However, Eximbank reserves the right to deliver, upon request, to U.S. suppliers copies of Preliminary Commitments which have been issued to Vneshtorgbank of the USSR.

6. It is understood that upon receipt of Eximbank's Preliminary Commitment, Vneshtorgbank of the USSR shall inform appropriate entities of the U.S.S.R., which then will undertake to conclude purchase contracts with U.S. suppliers of goods and services for the purchases desired.

7. At any time during the period of effectiveness of the Preliminary Commitment, Vneshtorgbank of the USSR may apply to Eximbank for final approval and formalization of the financing upon the terms, conditions and amounts set forth in the Preliminary Commitment.

8. In any application for financing, whether for a Preliminary Commitment or a Final Commitment, Vneshtorgbank of the USSR shall submit to Eximbank, among other matters, the necessary information as specified in the Exhibit attached hereto and incorporated herein by reference.

9. The Government of the U.S.S.R. will unconditionally guarantee in a separate document that repayment will be made of any loans extended or guaranteed by Eximbank pursuant to its final approval of such financing. This guarantee will be a condition precedent to Eximbank's financial support. The

Parties hereto may enter into a conitnuing guarantee agreement covering all financing commitments issued to Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. by Eximbank during a specified period of time. Any guarantee agreements entered into between Eximbank and the Government of the U.S.S.R. shall be in the English language.

10. In accordance with usual Eximbank procedures, credit agreements entered into between Eximbank and Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. or another U.S. bank and Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. which are guaranteed by Eximbank shall be in the English language and shall be subject to the laws of a State or the District of Columbia of the United States of America.

11. Whenever possible, Parties to this agreement will send communications through telex; Eximbank's telex number is 89–461 and Vneshtorgbank of the USSR's telex number is 551.

This agreement is executed in duplicate in two counterparts in the English and Russian languages, each language being equally authentic.

Duly executed in Washington, District of Columbia, United States of America, this 18th day of October, 1972.

For the Government of the United States of America:

HENRY KEARNS,
President and Chairman of the Board, Export-Import Bank of the United States.

For the Government of the Union of the Soviet Socialist Republics:

VLADIMIR S. ALKHIMOV,
Vice Minister for Foreign Trade of the Union of Soviet Socialist Republics.

EXHIBIT TO AGREEMENT ON FINANCING OF OCTOBER 18, 1972

1. Name and address of sponsor or ultimate beneficiary of the Eximbank financing and a description of the sponsor's functions and areas of responsibility in the context of the Soviet Union's industrial programs, including a brief history of the sponsor.

2. A description of the project, including a statement of the kinds and quantities of products to be produced, the facilities required to achieve that production, and the likely markets for the production (domestic and/or export, and, if for export, the countries likely to be served).

3. Financing required for total project or purchase, including U.S. dollars and other currency components.

a. A statement of the financing requested from Eximbank, including cash payment proposed, total amount of financing required, and proposed terms of repayment.

b. A statement of the arrangements made or proposed to finance requirements not covered by Eximbank financing.

4. A list of proposed purchases of U.S. goods and services to be supported by Eximbank financing and, if known, the U.S. suppliers of those purchases.

5. A proposed time schedule for the project such as planning, award of contracts, designing, construction, delivery of equipment, and start-up.

6. An indication of the date when final approval of financing arrangements will be required to meet the time schedule in the above Item 5.

PRINCIPAL CONDITIONS OF CREDITS FOR FINANCING SOVIET EXPORTS

Credits are extended by the Bank for Foreign Trade of the Union of Soviet Socialist Republics (Vneshtorgbank of the U.S.S.R.) and by the Soviet foreign trade organizations. In general, credits with maturities of up to five years are extended by the Soviet foreign trade organizations while credits for longer maturities are extended by the Bank for Foreign Trade of the U.S.S.R.

The general procedures and conditions which govern the provision of such deferred credits include the following:

1. FORM OF SALES CONTRACTS

There is no single standard form for contracts for the sale of Soviet goods on deferred payment conditions. Repayment provisions in the contracts of Soviet foreign trade organizations for the sale of goods on conditions of deferred payment are analogous to those which are widely used in international practice.

2. CREDIT TERMS AND CONDITIONS

Credit terms and conditions conform with those in general use in international commerce and for U.S. purchases will be no less favorable than the financing available from Government and commercial sources in the U.S. for comparable export transactions notwithstanding the statements of current terms and conditions set forth below in this section 2.

Interest rates, the amount of cash payment, the schedule of payments, and other relevant credit terms and conditions are decided between the Bank for Foreign Trade of the U.S.S.R. or the Soviet foreign trade organizations, as the case may be, and the purchaser or commercial bank, as the case may be, during the course of negotiations, taking into account usual international practices in the trade of the given product. The agreed-upon terms are included in the contract of sale. Except for cases in which credits are extended directly to the purchaser, the purchaser makes arrangements with a commercial bank which will provide financing under a credit line extended to such bank by the Bank for Foreign Trade of the U.S.S.R.

Maturities—The period for repayment of credits extended by the Bank for Foreign Trade of the U.S.S.R. is currently 8–10 years after delivery of completed equipment, with repayment commencing 6 months after the last shipment of equipment. Soviet foreign trade organizations currently extend credits with repayment terms of up to five years.

Interest Rates—The interest rate on individual credits is fixed by agreement of the contracting parties.

Schedule of Payments—Repayment of principal and payment of interest generally commence six months after final delivery of complete machinery and equipment and are made by approximately equal semi-annual payments of principal with interest payable on outstanding principal.

Cash Payment—In accordance with international practice, cash payments currently cover from ten to twenty percent of the amount of the contract, depending upon the type of goods being sold. Cash payments are made at appropriate intervals in accordance with a negotiated sales contract. For example, five percent may be paid 30 days after signing; ten percent upon delivery of goods against shipping documents; and five percent after completion of deliveries, testing, and satisfactory start-up or performance.

Currency of Payment—The currency of payment for cash payments, principal and interest will be any freely convertible currency, including U.S. dollars.

Form of Payment and Guarantees—Soviet foreign trade organizations generally require a Letter of Credit form of payment for amounts to be paid in cash. Deferred payments are generally to be made by drafts guaranteed by first-party commercial banks.

Submission of Financial Information—For the purpose of insuring timely repayment of deferred credits, the Soviet foreign trade organizations generally require a guarantee of buyer repayments by a first-class commercial bank.

3. *Form of Promissory Notes and Related Documents*

As regards credit instruments, forms, or documents, the Soviet foreign trade organizations rely on existing international practices and do not require nor impose any special or mandatory forms, instructions or guidelines for foreign importers wishing to purchase Soviet goods on deferred payment terms.

4. *Insurance and Shipping Requirements*

There are no special conditions of shipment and insurance on deferred credit sales. However, deferred payments generally do not cover the value of shipping and insurance. Deferred credits are granted, as a general rule, on the basis of the value of the goods F.O.B. U.S. purchasers will, however, be extended no less favorable treatment than the financing available from Governemnt and commercial sources in the U.S. for comparable export transactions.

5. *Compliance with Government Regulations*

The contracts of Soviet foreign trade organizations generally stipulate that the contracting parties must have received all necessary licenses and permits prior to the loading of the goods. It may be stipulated that, among other shipping documents, exporters will provide copies of duly validated export licenses and permits, if required. If evidence of compliance with U.S. regulations by U.S. purchaser is required, certification of such compliance by the purchaser would be satisfactory.

6. *Credit and Related Definitions*

The Soviet Union subscribes to the ICC "Uniform Customs and Practices for Documentary Credits," and is listed in the roster of subscribing countries. The U.S.S.R. has not joined "Incoterms." However, transportation and shipping terms used by the Soviet foreign trade organizations in general conform to those in general use in international commerce and may be described in detail in sales contracts if considered appropriate by the buyer or seller.

JANUARY 21, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The Committee on Foreign Relations, pursuant to PL 92–403, approved August 22, 1972, has received from the State Department, under cover of a letter dated November 28, 1973, copies of various international agreements between the United States and the Soviet Union, other than treaties, which were transmitted only after a specific oral request was made for them by the staff of the Committee on Foreign Relations.

The transmittal letter accompanying these agreements states that the overall agreement is "not yet in force," but, since parts of the agreement "are now being applied," it is transmitted in accordance with PL 92–403.

Under attachment (e)—Agreement on financing procedures and related exchange of letters with attachment—credits and promises of credit have been extended to the U.S.S.R.

I would appreciate learning from you at your earliest convenience the full details of transactions between our two countries which have been concluded as of this date. We have a particular interest in learning the number and terms of credits which may have been advanced by the Export-Import Bank of the United States under agreement 1(e).

Inasmuch as attachment (e) and other sections of the Trade Agreements are, in effect, self-executing, why were they not submitted to Congress pursuant to PL 92-403?

I agree fully with Deputy Secretary Rush's letter of September 6, 1973, where he states:

"I would also note that neither the form in which an agreement is expressed nor the fact which an agreement is of a subordinate or implementing character in itself removes the agreement from the requirements of the Case Act or of the law regarding the publication of international agreements (1 U.S.C. 112a)."

I am concerned that this rule was not followed in this instance and I would appreciate receiving a full explanation of the circumstances surrounding the failure to transmit these agreements to Congress.

Sincerely yours,

J. W. FULBRIGHT.

PUBLIC LAW 92-403 92ND CONGRESS, S. 596

An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Comittee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

SEC. 2. The analysis of chapter 2 of title 1, United States Code, is amended by inserting immediately between items 112a and 113 the following:

"112b. United States international agreement; transmission to Congress."

Approved August 22, 1972.

EXPORT—IMPORT BANK OF THE UNITED STATES

Buyer	Item	U.S. value	Exim loan (thousands)	Approved
Approved credits—U.S.S.R.:				
Mashinoimport	Submersible electric pumps	$25,937	$11,672	Feb. 21, 1973
Stankoimport, Techmashimport	Plant to produce tableware and dishware	6,893	3,102	Mar. 5, 1973
Avtopromimport, Metallurgimport, Stankoimport	Kama River truck plant	192,120	86,450	Do.
Technopromimport	250 circular knitting machines	5,620	2,529	Sept. 6, 1973
Stankoimport	Second tableware plant	21,833	9,825	Nov. 26, 1973
Stankoimport	2 assembly lines for manufacturing pistons	14,358	6,461	Do.
Mashinoimport	38 gas reinjection compressors	26,252	11,813	Dec. 20, 1973
Mettalurgimport	Iron ore pellet plant	36,000	16,200	Do.
Stankoimport	Machining friction drums	6,000	2,700	Do.
Stankoimport	Transfer line for manufacturing pistons	15,722	7,075	Do.
Total		350,735	157,827	
Pending credits applications:				
Techmashimport/Promsyrioimport	Chemical complex	400,000	180,000	
Avtopromimport/Metallurgimport/Stankoimport	Additional equipment for Kama River truck project	150,000	67,500	
Total		550,000	247,500	

Number	Buyer	Applicant	Project	U.S. dollar content	Loan	Guaranty	Expiry
	U.S.S.R.—Outstanding preliminary commitments:						
2577	Stanko import	Vneshtorgbank	Automotive component manufacturing processes.	$46,000	$20,700		Mar. 31, 1974
2583	Techmashimport	do	Acetic acid plant	40,000	18,000		Do.
2646	Traktoroexport	do	Canal building machinery	6,600	2,970		Feb. 28, 1974
2647	Stankoimport	do	Valve making machinery	4,700	2,115		Do.
2689	U.S.S.R. Chamber of Commerce and Industry Moscow City Council.	do	International Trade Center	80,000	36,000	$36,000	Do.
	Total			177,300	79,785	36,000	

No.	Buyer	Applicant	Project	U.S. dollar content	Loan
	U.S.S.R.—Pending preliminary commitment applications:				
2607	Ministry of Geology	Vneshtorgbank	Yakutsk exploration phase	$110,000	$49,500
2745	Machine import	do	Oil pipeline pressure regulators	10,000	4,500
	Total			120,000	54,000

IMPACT OF FUEL CRISIS ON EDUCATION

Mr. JAVITS. Mr. President, in response to my request, New York State Commissioner of Education Ewald B. Nyquist has submitted to me a report on the impact of the fuel crisis on the State's schools and New York's effort in this crisis.

Commissioner Nyquist points out that fuel conservation measures, necessitated by shortages, have resulted in reducing extracurricular and community activities in the schools.

With respect to sharply rising fuel costs, the commissioner has observed tnat even with fuel conservation measures resulting in 15- to 30-percent savings in consumption, school districts are finding their fuel budgets completely inadequate to meet their needs. He concluded that—

> Deficit financing which must occur because of fuel oil increases as well as the cost increases in other commodities and services will be reflected in large tax rate increases for new school budgets this year.

Illustrative of these sharply increased fuel costs are the situations in New York City and Buffalo. New York City's current year's school budget figure for fuel oil is $9.5 million. Due to price rises it is now estimated that the appropriation for 1974–75 will have to rise to almost twice that amount, $18 million, even in the face of cutbacks in consumption.

In Buffalo, where the weather is colder and the heating season longer, and thus the impact is greater, the price of No. 2 fuel oil has risen 70 percent from 18.7 to 31.9 cents. The cost of No. 6 fuel oil has risen even more precipitously from 12.15 cents at the start of the school year to a current price of 30.8 cents, an increase of 148 percent to date. It is estimated, for example, that the current year's budget figure of $224,000 for just this grade of fuel oil will rise to $776,000 in the coming year, an increase of more than a half million dollars that could well be spent for direct educational needs such as textbooks and the hiring of teachers.

A survey of 25 typical school districts throughout all parts of New York State indicates an estimated 80.6-percent rise in fuel oil budgets for the coming year and an increase of 54.2 percent in gasoline budgets, primarily used for schoolbuses.

I ask unanimous consent that the report which I received from Commissioner Nyquist be printed in the RECORD as part of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE STATE EDUCATION DEPARTMENT,
Albany, N.Y. January 23, 1974.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your recent inquiry concerning the impact of the fuel crisis on the schools in New York State. Enclosed for your information is a summary report of our activities to date and the impact of rising fuel costs on school budgets.

Fuel conservation has had its impact, reducing extra-curricular and community activities in the schools. Even with fuel conservation measures resulting in 15 to 30 percent savings, school districts are finding their fuel budgets completely inadequate to meeting dramatically rising fuel costs. As noted in the enclosed report, No. 6 fuel oil costs in New York City Public Schools have increased 149 percent since the beginning of the school year to this mid-point in the heating season. The deficit financing which must occur because of fuel oil increases as well as the cost increases in other commodities and services will be reflected in large tax rate increases for new school budgets this year.

I urge early Congressional attention to this fuel/fiscal crisis which is upon us.

Faithfully yours,
EWALD B. NYQUIST.

THE ENERGY CRISIS AND ITS IMPACT ON SCHOOL BUDGETS

In recognition of the oncoming fuel crisis, Commissioner Ewald B. Nyquist designated a Task Force on Fuel Allocation and Energy on November 1, 1973 in order that the leadership potential of the Education Department might be fully effective in this area of national concern. Headed by Associate Commissioner Stanley L. Raub, the Task Force included representatives of all elements of the education community—elementary and secondary schools, both public and private; postsecondary institutions; libraries and museums.

Since its appointment, the Task Force has undertaken a number of projects which have helped to insure that every school and other educational institution has made an effort to participate effectively in the national effort to save fuel. These projects have included a statewide conference in Albany dealing primarily with management of the heating plant. Supplementing the conference, a publication entitled, "Energy Usage Guidelines—Educational Institutions" was distributed to every school district in the State by mail. Four special Task Force bulletins have been similarly distributed, providing recommendations in fuel economy—both gasoline and heating oil, information as to the Federal-State Allocation Programs and statements of Department policy with respect to the fuel and energy problem.

In addition to the above-mentioned activities, the Task Force prepared early in this heating season a Department plan for meeting the energy crisis. This contained a three-phase sequence of measures to meet three levels of seriousness in the fuel situation. Phase I recommendations, which called for energy conservation measures and minor program adjustments, were passed along to the institutions for immediate implementation. Reports received through the district superintendents of the State indicate that the public schools generally are saving between 15 and 30 percent of normal fuel consumption through implementation of Phase I, augmented by local innovative steps.

The Education Department policy for Phase I economies was expressed in Task Force Bulletin No. 3:

"The Regents have urged educational institutions to set an example of willing cooperation in the national effort to adjust to energy shortage. This cooperation should take the form of implementing all those measures which save energy and which, at the same time, will not seriously impair the vital public services rendered by such institutions."

In addition, Bulletin No. 3 provided 13 suggestions for incorporation into a Phase II contingent plan to be developed on a regional basis. For the purpose of developing such a plan, the 47 district superintendents of the State were asked to call area meetings of school officials and to report to Commissioner Nyquist by January 2. A total of 45 superintendents reported as requested indicating that the area meetings had been held and that the Phase II plans had been or were in the process of being developed. At the direction of the Department, such plans did not call for reducing the annual session below the legally required 180-day annual session. The Phase II plans, as such, will be considered contingent plans for implementation only if the energy shortage worsens.

Phase III, a Department plan which has much more serious implications for education, would become effective in case of extreme emergency in the fuel crisis. It involves closing schools for a prolonged period and other drastic measures. At this time, it seems most unlikely that Phase III will have to be implemented in the foreseeable future.

While few, if any, educational institutions have had to close as a result of the fuel shortage, a related problem is coming to the fore. The prices of fuel oil and gasoline have risen astronomically, not only offsetting the saving which results from reduced consumption, but creating substantial budgetary deficits.

The purchasing situation is nothing short of chaotic. The Federal Allocation Regulations speak of "Force Majeure" under which any contractual agreement is rendered invalid if it conflicts with the Federal Regulation. School districts which have been securing their fuel and gasoline requirements from a company which did not supply them in the "base year" find that their existing contracts are not valid. When district officials seek formal bids from the base year supplier they receive none. The problem of no bids in situations where the New York State General Municipal Law requires sealed bids is widespread, to the degree that the State Comptroller has issued a formal statement on the matter. In Opinion 73-874, he has concluded that "Where a city has in good faith advertised for bids for fuel oil and, in addition, notified vendors over a large area of its fuel needs and requested bids, but receives none, the city may purchase its fuel oil in the open market."

In an attempt to spot-check cost increases for fuel oil and gasoline in a telephone survey, Department personnel have uncovered some startling facts:

New York City Public Schools purchased No. 6 fuel oil at the start of the 1973–74 school year at 13.45 cents per gallon. The price has since risen to 32.21 cents, a 149 percent increase midway through the heating season. This has required an increase of $2 million in the current year's budget figure of $9.5 million. It is currently estimated that the appropriation for 1974–75 will have to rise to $18 million.

The City of Buffalo Public Schools use both No. 2 and No. 6 fuel oil. The price of No. 2 has risen from 18.70 cents to 31.90 cents, representing a 70 percent increase. The current year's budget appropriation of $243,744 will rise to $818,400, according to estimates provided by district officials. The cost of No. 6 has risen even more dramatically, from 12.15 cents at the start of the school year to 30.08 cents at the current time, an increase of 148 percent to date. It is estimated that the current year's budget figure of $244,000 for No. 6 oil will rise to $776,000 in the coming year.

In our survey, 25 school districts of varying types and sizes, and representing all parts of the State, were contacted. Four items of information with respect to both fuel oil and gasoline were requested. These items included:

a. Initial 1973–74 price per gallon;
b. Current price per gallon;
c. Budget appropriation for 1973–74; and
d. Estimated budget appropriation for 1973–74.

It should be noted that the price increases in the per gallon figures shown below reflect the situation through the midpoint of the 1973–74 heating season. Budget estimates for 1974–75, are, in some cases, based on an assumption that further increases will take place before the end of the current school year.

Only two of the 25 districts contacted had experienced no increase in the price of fuel oil during the current school year. In one of these districts, the existing contract calls for implementation of an escalator clause starting February 1. In the other district, the contractor is still honoring his agreement to supply the district at the rate of 18.5¢ per gallon.

Fuel oil prices per gallon[1]

Initial price (in cents)	17.09
Current price (in cents)	27.31
Percent increase to date (in percent)	59.8

Fuel oil budget appropriations[2]

1973–74 appropriation	$90,152
1974–75 appropriation estimate	$162,871
Percent increase in 1974–75 budget (in percent)	80.6

Gasoline prices per gallon[3]

Initial price (in cents)	15.85
Current price (in cents)	23.81
Percent increase to date (in percent)	50.2

Gasoline budget appropriations[4]

1973–74 appropriation	$24,523.
1974–75 appropriation estimate	$37,830.
Percent increase in 1974–75 budget (in percent)	54.2

[1] Averaged for 25 districts and including —2, —4 and —6 oil.

[2] Averaged for 20 districts.

[3] Averaged for 21 districts.

[4] Averaged for 21 districts.

The results of this survey, used to supplement other available information, lead to certain inevitable conclusions. First is the fact that many districts, already on tight budgets, are being forced to resort to deficit financing which generally involves borrowing.

Repayment of budget notes issued in 1973–74, plus payment of interest costs, will impinge on tax levies for the coming year and raise tax rates accordingly. When added to all of the other cost increased for commodities and services, the financing of deficits from the prior year will aggravate a serious problem of financing our educational institutions.

Mr. JAVITS. Mr. President, Commissioner Nyquist's report covers elementary and secondary schools in New York State. A report in the January 28 issue of the Chronicle of Higher Education indicates that colleges and universities face a similar impact. The fuel bill for Columbia University, in New York City, has risen from $940,000 to $1,926,000. The heating bill at the University of Vermont, for example, has doubled since last year and its electricity bill has increased by 13 percent. Yale University spent $675,000 a year for fuel 40 months ago; its current expenditures are $4.7 million. And decreased consumption is not averting sharply increased costs for institutions of higher education throughout the Nation.

I ask unanimous consent that the Chronicle article to which I have referred be printed in the Record as part of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Chronicle of Higher Education, Jan. 2, 1974]

SHARP RISE IN HEATING COSTS ALARMS COLLEGES

(By Karen J. Winkler)

When the energy crisis first broke, the immediate concern of colleges and universities was whether their fuel supplies would be adequate to meet their operation costs. Recent federal regulations, allocating heating-fuel users nearly 100 per cent of the amount of oil they consumed last year, have, at least temporarily, lessened these fears.

But new worries have taken their place. As the energy crisis unfolds, many institutions of higher education are looking with dismay at the skyrocketing costs of fuels and utilities.

The question for them now is: Even if they get enough fuel, will they be able to afford it?

Geography is one of the major factors determining costs, with the problem worst in the Northeast, difficult on the West Coast, and moderate to slight in parts of the Midwest, South, and Southwest.

Institutions in the Northeast depend mainly on the most expensive kinds of fuel oil to generate their heat and air conditioning. In addition, most electric power companies in the area are also run by oil, and pass on their high operating costs to consumers.

A NASTY CRUNCH

"We're in a very nasty crunch," reports Wayne Patterson, executive vice-president of the University of Vermont. "I'm working through the local energy czar just to get oil, and I've been told I'll have to pay for it at any premium asked."

Vermont's heating bill has gone up 100 per cent since last year, its electricity bill by 13 per cent.

The story is the same at many other institutions in the area:

Yale University is facing an increase in its fuel bill from $675,000 a year 40 months ago to $4.7-million now.

The University of Maine is currently paying $925,000 annually for oil, compared to the $475,000 it spent last year. For the future, the university expects a cost of $1.3-million, despite an almost 20-percent reduction in fuel consumption.

Mount Holyoke College's oil bill has risen from $100,000 to $173,000 in the course of a year.

Columbia University's bill has gone from $940,000 to $1,926,000.

To escape these spiraling costs, a few institutions, like New York University, where oil prices have doubled since August, are attempting to convert, at least in part, from oil to cheaper natural gas heat.

Natural gas is less expensive because it is frequently supplied to large users on an interruptible basis: the surplus remaining after customers who have firm contracts are supplied is sold at a much lower rate to commercial users like universities. But when a cold snap that depletes that surplus comes, the "interruptible consumer" can be left with no gas.

MIDWEST GAS SUPPLY ADEQUATE

In a natural gas belt stretching roughly from Indiana to Western Pennsylvania, and including some states in the South and Southwest, interruption is not often a problem, explains Robert S. Green, chairman of Ohio State University's energy conservation committee. "The big lines and the major storage reserves" in this area insures adequate supply, he says.

Because Ohio State has been able to stay on natural gas, consumption cutbacks have been able to "bring about a turnaround in escalating costs," Mr. Green says.

Similarly, John Perovich, vice-president for business and finance at the University of New Mexico, says that because the state has two large gas fields, "we're very fortunate and haven't been cut off."

However, he predicts, the very availability of cheap gas may drive its price up as more and more oil-starved areas begin to bid for it. While costs have been stable for about 15 years, he says, they could go up by as much as 30 per cent soon.

Nevertheless, he admits, even with these increases "we'll still pay less than we would on oil."

Some universities close to the major natural gas areas cannot get full allocations of gas because of local restrictions. Butler University consumes 50 per cent oil and 50 per cent gas. Even at that ratio, "all in all, we aren't sitting too badly," says Arthur Lindberg, director of the physical plant there.

WEST COAST HARD HIT

The universities which have been hardest hit by the interruption of their gas supplies tend to be in areas, like the West Coast, where natural gas must be brought in from large distances.

That is the plight of Portland State University. In the normal year, the institution pays about $100,000 for heating and cooling. But without gas—which it hasn't had since October—the bill will be close to $135,000.

Similarly, the University of Wisconsin at Milwaukee and the University of California at Los Angeles report that cutbacks in gas will cause fuel prices to rise to such a degree that the increases will more than offset any saving through reduced consumption.

Another inexpensive fuel is coal. In areas like Kentucky, and in parts of Pennsylvania, Wyoming, and Montana, where coal is plentiful, universities do not expect drastic increases in the price of fuel, says Karl J. Warming, business vice-president at Berea College. Not only does the use of coal cut down heating costs, but, because it powers electric companies, it also reduces the cost of electric power.

However, in the 1960's, many universities moved away from coal because of Environmental Protection Agency requirements forbidding the amount of dust it often produced. "Those who dragged their feet in complying are glad now that they didn't convert," says Mr. Warming.

The University of Minnesota was just about to change over, for environmental reasons, from coal to more natural gas when the energy crisis hit. Plans have been delayed, since the price of coal is more stable than that of either gas or oil, explains Warren Soderberg, director of the physical plant there.

Indeed, most colleges and universities are finding it hard to make concrete plans to cope with rising oil, gas, or coal prices, because the increases are so rapid the future is simply unpredictable.

So far, however, those institutions which rely on natural gas or coal hope they will be able to get by by reducing the amount of energy they consume. Or, like the University of Minnesota, they may defer maintenance on some facilities—waiting a while to repaint or rebuild a new roof, and hoping the energy situation will get better before the roof caves in.

DRASTIC FISCAL MEASURES

Those who count on oil are looking at more drastic fiscal measures. The University of Maine is asking the state legislature for $1.5-million to cover energy costs. "If we don't get it through the legislature," says Herbert L. Fowle, Jr., vice-chancellor for business affairs, "I'm sure it will be reflected in tuition increases next year. We only have two sources of funds—the state and the student."

Some private institutions may have to dip into their endowments. "We'll have to pay bills by eating into our endowment," says John Embersits, director of operations at Yale. . . .

Mr. JAVITS. Our Nation's schools, beset already with financial difficulties, can ill afford the deficit financing and new borrowing which mounting fuel prices impose upon them.

This fuel cost problem is not limited to schools and colleges. It is impacting on every purchaser of home heating oil and residual fuel oil in the Northeast, because the northeast region is heavily dependent on imported product. This situation is plainly at odds with both administration and congressional policy, enunciated in the Mandatory Petroleum Allocation Act, to foster an equal sharing of the burdens of the energy crisis among the people of the Nation.

At the very least, the duly elected representatives of the American people should formally consider FEO's proposed No. 2 fuel oil price regulations by urging that it be expanded to No. 4 and No. 6 fuel oils and that the imbalances be corrected on a national basis. Only by such action can it be said that the inflationary burdens of this national energy emergency are being equitably distributed.

I have called for a meeting with Federal Energy Office officials to discuss these regional price disparities. This meeting will be held today. I urge the support of my colleagues in the Senate for my proposal to the FEO to take action on these unfair and discriminatory price differences, which are forcing budget deficits for school districts, colleges and universities, increased utility rates, and severe price squeezes for landlords and housing authorities.

The Federal Energy Office's action on this problem to date has been minimal and inadequate. On Monday, FEO published for comment proposed regulations that would have the effect of evening out price disparities in No. 2 fuel oil—home heating oil and diesel fuel—in the Eastern States. This is only a small part of the problem. It is outrageous that buyers in Eastern States should have to pay up to twice the price for heating oil and residual fuel than purchasers in other areas of the country. It violates one of the principal objectives of the mandatory allocation program. Prices must be evened out nationally—not regionally—and all fuel products should be included in the price equalization—not just No. 2 fuel oil.

It is time that the rhetoric about sharing the burdens of the energy crisis be converted to meaningful administrative action. If this is our avowed policy, let us begin to put it to work. Because this policy has already been explicitly spelled out in legislation, I do not propose further laws. Rather, I call for administrative action to implement the policy of enacted legislation.

FROM PHASE I TO PHASE OUT

Mr. HUMPHREY. Mr. President, the Nixon administration's discredited wage and price control programs have been through phase I to phase IV. Yesterday we learned that they will soon be entering their final stage, "Phase Out."

The scrapping of a system of supposed wage and price controls that resulted in the greatest inflation in 26 years, a $15 billion profit "grab bag" for big business, and succeeded only in holding down the wages of our workers, will be greeted with a sigh of relief by most Americans.

However, I am deeply concerned that the dropping of these ineptly administered wage and price controls by the President, with no alternative suggested to keep prices in check, also marks the administration's surrender in the battle against inflation.

The President has decided not only to throw out controls, but also to give up setting voluntary standards for price and wage stability. This decision will cost American consumers dearly. If Congress allows the administration to completely abandon its fight on inflation, price rises will be even worse in 1974 than they were in 1973.

We need an income policy in our Nation to keep the destructive forces of inflation under control. This policy, if effectively administered, can assure that a reasonable level of economic stability is maintained by keeping wage and price increases, in general, at levels justified by rising productivity and real production cost increases. The mismanagement of wage and price controls, by an administration openly hostile to such a program from its inception, is no test of the value on an incomes policy.

The failures of the Nixon administration economic policy this past year also clearly point to the need for a long-term economic policy and analysis organization within the Federal Government.

Such an agency could anticipate basic changes in the economy that may cause inflation, bring these to the attention of the President and Congress, and participate in developing policies to head them off.

It seems to me far better than we plan for the future and avoid controls and not be forced into controls by our failure to plan ahead.

This is the minimum that can be done immediately to protect our consumers in the months and years to come.

DOLLAR-A-LOAF BREAD FORECASTS PREPOSTEROUS

Mr. HRUSKA. Mr. President, in the past few weeks we have heard a great deal of talk about a possible wheat shortage in this country. In fact, the talk has reached such proportions that some have forecast the price of bread going to $1 a loaf. When that starts happening, it is time to set the record straight.

There is only one word to characterize a statement about dollar-a-loaf bread: preposterous. Right now there is about 5 cents worth of wheat in a loaf of bread. If bread prices were to skyrocket to $1 a loaf, the price of that wheat would have to go from around 5 cents to between 65 and 70 cents. As any American consumer could acknowledge: "Who would eat it."

Such price increases are not going to occur. A simple course in economics would point that out. As an editorial in one of the Nebraska papers stated:

> Anyone trying to feed that to the American people would pump air into their bread loaves, too.

I was pleased to see that earlier this week the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Senate Committee on Agriculture and Forestry held hearings on the subject of the wheat and feed grain shortage. It is a good time to determine the facts regarding possible shortages and export commitments, while clearing the air of otherwise outlandish statements.

Mr. President, I ask unanimous consent to have printed in the Record an editorial that appeared in the Lincoln Evening Journal.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Lincoln Evening Journal, Jan. 11, 1974]

A Loaf of Baloney

Is there no end to the hoaxes that Big Business is ready to perpetrate on the American public?

This is the totally legitimate reaction to the hobgoblin of dollar-a-loaf bread being conjured up by the nation's baking industry. This will happen unless the government curtails exports of U.S. wheat, according to the chairman of the American Bakers Assn., Bill Mead.

This has to be unadulterated baloney—and not the kind served on whole wheat.

The truth of the matter is that if rising costs of wheat are going to drive bread prices to $1 a loaf, foreign buyers are going to get out of the market long before it ever reaches that amount, just as U.S. consumers are, too.

Calling the dollar-a-loaf talk "an irrational statement," which certainly is a polite understatement, Asst. Agriculture Secretary Carroll G. Brunthaver figures wheat will have to go to $60 a bushel before an ordinary loaf of bread would be forced up to a dollar. A University of Nebraska agricultural economist, Mike Turner, sets $45 a bushel as the wheat price for dollar bread.

Any way you slice it, the point is that there presently is less than five cents' worth of wheat in a loaf of bread selling for 35 or 40 cents. If the price of wheat is going to drive the bread price up 60 or 65 cents—to a dollar—then the cost of the wheat in that loaf is going to go from less than five cents to somewhere around 65 or 70 cents—a 12- or 13-fold increase in wheat price.

With wheat now selling at $5 a bushel, the $60 projection of Brunthaver is not out of reason at all.

To imagine $60 wheat is wholly outlandish. Before that would happen, every square foot of land anywhere would be growing the stuff and most of us would long since have quit eating it.

The bakers might be taking a page from the book of the oil producers in softening consumers up so that if the price hike is only to 50 cents a loaf (covering increased amounts for profits and everything else that goes along with wheat to make bread dough), sandwich munchers will think they have a bargain.

Or maybe the bakers remember the soybean experience of last summer. Climbing prices prompted the government to ban exports and the market price plummeted to the point that domestic processors could pick up their supplies much cheaper than if they had to compete with other buyers.

The price of wheat might well climb to some more if American bakers have to compete in the world market. But to $60 a bushel? Never!

Anyone trying to feed that to the American people would pump air into their bread loaves, too.

THE ATROCITY RACKET

Mr. CHURCH. Mr. President, I bring to the attention of my colleagues a pertinent piece from U.S. News & World Report with regard to Palestinian terrorist atrocities. Columnist Howard Flieger's article entitled "The Atrocity Racket" accurately describes these dealers in death and destruction as "cold blooded killers who wrap themselves in the raiment of patriotism."

A political peace settlement in the Middle East would be a severe blow to Palestinian terrorists. "Peace puts the terrorists out of business," writes Mr. Flieger, all the more reason then for the parties to the present peace talks keep at their important work, whether it be in Jerusalem, Cairo, Amman, Damascus, or Geneva.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Atrocity Racket

(By Howard Flieger)

Now and then somebody attributes lofty, idealistic, patriotic motivation to the so-called "Palestinian" terrorists.

Rubbish!

They are not dedicated guerrillas devoted to justice and peace. They are just as much enemies of the Arab governments (although some help finance them) as they are of Israel.

The last thing in the world they want is peace in the Middle East. They'll go to unbelievable extremes to prevent it—as they have demonstrated at the Olympic Village in Munich, on the searing Sahara Desert, in Paris, Rome, Vienna, Baghdad, Athens, Beirut and many other places.

It is as simple as this: Peace would put these gunmen out of business, just as the repeal of Prohibition put the bootlegging gangsters out of business in the 1930s. If they lose their "cause," they lose their jobs. Who would want to hire an unemployed terrorist?

These are bands of cold-blooded killers who wrap themselves in the raiment of patriotism. And that's all they are.

It is folly to pretend that they represent the three million Palestinians of the Middle East. They do not speak for the Palestine refugees who were uprooted by the Arab-Israeli wars. Neither do they speak for the Palestinians who live under Israeli occupation.

When you come right down to it, nobody really represents all Palestinians—a people shorn of their national identity and living out their lives in refugee camps or scattered through a dozen or so Arab countries.

Most of them feel abandoned by their fellow Arabs, and with good cause. A few—*very* few, relatively—have prospered. But that is another story. The subject at hand is the terrorists, not the Palestinians they have used for years as their sole reason for being.

Not only do these assassins not speak for all Palestinians. They don't even speak with one voice among themselves. They are divided by internal rivalries (it would be going too far to call them "power struggles," since they have no real power).

You noticed, for example, that when plane hijackers in Rome announced they would kill off hostages systematically unless Greece freed two terrorists arrested last August, the latter, according to the first Athens announcement, refused to go. They didn't want the hijackers to get credit for their release. Obviously, rival bands were involved and there was some internecine politicking at work.

The terrorists like to be known as "Palestinian guerrillas" or "commandos" or "freedom fighters"—all honorable titles for militant dedication to a patriotic goal. They are none of these things.

They are plain, ordinary killers working for a living at the atrocity racket. They know the value of shock publicity. It keeps the money coming in—from extremists and others on the fanatic fringes of Arab nationalism. Nobody knows for sure how well the terrorists are financed, but they always seem to have money enough to keep supplied with firebombs to blow up unarmed airplanes and weapons to kill off innocent bystanders.

They have set an impossible target—the elimination of Israel—and they know it. Most of Israel's Arab neighbors are ready to accept the fact of a Jewish state. The days when the rallying cry was "throw the Jews into the sea!" are long gone.

What blocks a Middle East peace now is *terms*—the issue of real estate. No longer is an Arab-Israeli settlement regarded by either side as something utterly unthinkable.

But it is unthinkable to the terrorists. An agreement, no matter how tenuous or fragile, would mean a peace of sorts. And peace puts the terrorists out of business. They would rather have anything than that.

DÉTENTE AND ITS MEANING FOR OPPRESSED PEOPLES OF THE WORLD

Mr. HRUSKA. Mr. President, it is the custom of the Senate each year to pause and pay tribute to the peoples of the small Baltic State of Lithuania. In the past I have joined my colleagues in their tributes and am pleased to have the opportunity to do so again.

February 16 will mark the 56th anniversary of the establishment of the Republic of Lithuania. How odd it is that the anniversary of Lithuanian independence falls between two very important dates on America's calendar. I refer, of course, to the birthdays of two of our country's greatest men, Abraham Lincoln and George Washington.

The coincidence is indeed somber. In America we set aside 2 days in February to commemorate the lives and ideas of the two men who perhaps more than any other Americans embody the essence of freedom and human decency upon which our country was founded. Yet, between our two holidays, is the anniversary of the birth of another republic, one founded with similar hopes and ideals that were left shattered by the forceful occupation of the Soviet Union.

On February 16 Lithuanian Americans will celebrate that anniversary. Their friends and relatives in Lithuania can only mark the occasion in quiet resignation.

Freedom-loving peoples throughout the world cannot help but be saddened when they look at the countries of Eastern Europe. Those of us who take pride in our ancestral ties to the region will no doubt have a special feeling of regret.

These are not times of despair, however. The world is a far different place than it was 5 years ago. In large measure that is due to the skilled diplomacy of President Nixon.

One hears the word "détente" often these days. It is a one-word description of the new relationship built between the United States and the Soviet Union. It has not been easily achieved. To wash away decades of fear, mistrust, and hatred is no easy task. It must be carefully nurtured and constantly modified.

Our countries are as different as night is to day. We do not sanction repression. We do not condone violation of human rights. We still carry the banner of freedom in the world. Yet, we cannot escape the fact that we, the United States and the Soviet Union, occupy space on one small planet. Any effort at cooperation and understanding, no matter how insignificant it may at first appear, is bound to have positive effect for those who share that planet with us.

That is what "détente" is all about. It is not to be feared by smaller nations. Rather, it should be viewed as an opportunity. A world at peace is a safer world. When the Soviets feel secure, then perhaps they will no longer feel the necessity to rule the peoples of the Baltic States and Eastern Europe with an iron hand.

When ideas can begin to flow between the United States and the Soviet Union, then perhaps they can begin to trickle throughout the Communist world.

In this regard, I noted with great interest that Dr. Kissinger will be traveling to the Soviet Union next month to make advance preparations for a visit by President Nixon. This is a good sign. It shows that improved Soviet-American relations are still very much on track. This, despite the troublesome period that accomplished the Middle East crisis of last year.

So it is that we can look to a brighter future as we celebrate the 56th anniversary of Lithuanian independence. A brighter future for Soviet-American relations can mean a brighter future for all peoples of the world.

SENATOR RANDOLPH COMMENDS STAR-NEWS FOR REASONED ASSESSMENT OF TRUCKERS' STRIKE

Mr. RANDOLPH. Mr. President, the Washington Star-News of Wednesday, February 6, contained a penetrating and thought provoking editorial on the independent truckers' strike.

Although an agreement has been reached between the truckers and Federal officials, I believe that the comment in the Star-News should be brought to the attention of Senators. We share in the hope that the agreement will be accepted by the truck operators and that very soon vitally needed goods will be moving on the highways of our country.

The issue has been of critical concern to the Members of Congress and to the public, generally. There have been abuses, intolerable incidents, and severe hardships which have resulted from the stoppage by independent truckers of this country and those who are in sympathy with them. It is my belief that the editorial conveys the thoughts of many Members of this body.

It was at my urging that the House-Senate conference committee on Tuesday called William Simon, Administrator of the Federal Energy Office, to appear before the conferees and provide a briefing on the truck stoppage. I have worked with the able chairman of the Senate Commerce Committee (Mr. Magnuson) in the movement of that committee's legislation to expedite the Interstate Commerce Commission's final order. This would bring the reimbursement to truck owner-operators for fuel price increases. I have assigned staff who participated in the conferences in Washington over the weekend and through the week. I know of some of the critical factors involved in this issue. It is my belief that the Star-News highlights these factors.

Mr. President, I ask unanimous consent that the Star-News editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Truckers' Revolt

Two major points should be made about the revolt of the truck drivers: They have some legitimate complaints; they don't have a right to resort to violence.

Hardly any occupation is more directly tied to the supply and price of fuel than the trucking business. The truckers justifiably are concerned about their livelihood. They have a right to protest the shortage of fuel and the skyrocketing price of it. An independent trucker with mouths to feed at home and large payments to meet on his expensive rig can ill afford to see his profits disappear in increased operating expenses, even for a month.

Yet truckers cannot expect preferential treatment in the energy crisis. This is not a problem for them alone. They cannot expect lower fuel prices for themselves and higher ones for everyone else. They cannot expect higher speed limits for themselves and lower ones for everyone else.

But they can expect government to be concerned about their problems. It is unfortunate that nothing much moves Washington except in a state of crisis. The administration should have been able to foresee the trucking crunch coming; indeed, it was plainly visible in the smaller tieups during the past few months, which should have spurred federal officials to action. Things have come to a pretty pass when the governor of a state has to take the initiative in convening a meeting in Washington to see what can be done about a nationwide truck tieup.

The administration appears to have decided that the best way to handle gasoline shortages is to let prices move up until supply and demand coincide. That being the case, it finally recognized that it must allow the truckers to pass on their increased fuel costs, and legislation to permit this is being rushed through the Congress. Until this legislation is enacted, the administration has agreed to a temporary freeze on diesel fuel prices, but the truckers say this is not enough, and the walkout goes on.

Hopefully, the trucks will be rolling soon as a result of the Washington negotiations. The nation, which already is beset by shortages of one kind and another, cannot tolerate a lengthy shutdown of the trucking industry. Already panic buying is cleaning off the shelves of stores in some areas.

Nor can the nation tolerate the violence that has come to be associated with trucker protests. If recollection serves correctly, truckers in past political campaigns have been among the most vociferous champions of such slogans as "love it or leave it." If this country stands for anything, it stands for protection of individual freedom. The killing of a truck driver in Pennsylvania and another in Delaware because they refused to go along with the walkout makes a mockery of the right to life, liberty and the pursuit of happiness—a right that truckers so loudly proclaim. Are the truckers, when the current revolt is ended, going to restore life and liberty to them?

THE FISCAL 1975 BUDGET AND THE ELDERLY

Mr. CHURCH. Mr. President, on February 4 the administration offered its proposed budget for fiscal 1975—a budget which would raise Federal spending to $304.4 billion.

All in all, the administration's budget projects a $29.8 billion increase in spending, including a $6.3 billion boost for the Pentagon.

Ironically, the largest military spending request in our history—$85.8 billion—comes shortly after the President declared in his state of the Union message:

> For the first time in 12 years, a President of the United States can report to the Congress on the state of a Union at peace with every nation of the world.

During the next few months, it will be incumbent upon every Member of this Chamber to scrutinize this budget closely and to make important judgments on spending priorities.

In this regard—as chairman of the Senate Committee on Aging—I have called upon the committee staff to make a detailed analysis of the impact of the fiscal 1975 budget upon programs affecting older Americans. This analysis should be printed as a committee document within the next 2 weeks.

However, a preliminary analysis clearly indicates that the new budget offers little assistance for new initiatives in the field of aging. In many respects the fiscal 1975 budget is characterized by retrenchment or "standpatism," at a time when inflationary pressures are driving up the operating costs of service programs for the elderly.

The classic example is the Older Americans Act. For fiscal 1975, the administration proposes to reduce funding by $15 million below the present appropriation, the sharpest reduction in the history of the act. And, it also proposes to cut the heart out of essential programs such as the title IV training program. For the second consecutive year, no funding is requested.

A little less than a year ago, the Congress called for a substantially stepped-up commitment in the field of aging with the enactment of the Older American Comprehensive Services Amendments, after a struggle spanning 3 years. Two major purposes were spelled out in that legislation:

First. To improve the quality of services to the elderly; and

Second. To help meet the critical shortages of adequately trained personnel for programs in the field of aging.

But without a funding commitment for training, these two objectives could easily be hamstrung.

On other fronts the budget also deals serious blows to the field of aging:

No funding is recommended for the title IX Older American Community Service Employment Act, although the energy crisis has already substantially increased unemployment among older workers.

A $2.1 million cutback in appropriations is urged for aging research and training at the National Institute of Child Health and Human Development.

No funding is proposed for senior opportunities and services, even though the Congress made a last minute effort last year to rescue this effective program for the elderly poor.

Age bias activities will continue at the same level, although "ageism" is still a very real and serious employment problem today.

The administration continues to reject the most effective housing program ever enacted for the aged, the section 202 housing for the elderly and handicapped program.

There are, however, a few bright spots in the administration's budget for older Americans. ACTION's aging programs—foster grandparents, the retired senior volunteer program, service corps of retired executives, and the active corps of executives—will be boosted by $4 million.

But as things now stand, the disappointments in the new budget greatly outweigh the benefits for older Americans.

PRESIDENT'S HEALTH PROPOSAL

And, this is intensified by the announcement of the administration's new national health insurance program, which is essentially an earlier discredited proposal couched in new language.

Last year it was the budget that brought us the bad news for the elderly in the form of proposed increased costs under the medicare program. This year it is the proposal for national health insurance which would increase coinsurance and deductible charges. We have more "cost sharing" again which is nothing but an attempt to cut budgetary expenditures by making old and sick people pay more.

Today, medicare beneficiaries pay an $84 deductible before hospital charges are paid by the program. There is no coinsurance charge until after 60 days of hospitalization.

The administration's proposal would require a $100 deductible and 20 percent coinsurance for all covered hospital services. In an analysis of the proposal the National Council of Senior Citizens has estimated that under the administration's plan the cost of the average hospital stay of 12 days for medicare beneficiaries would be quadrupled—rising from the present $84 to $342.

Nor is that all. The monthly premium now paid for supplementary medical insurance would increase by about 20 percent, from $6.30 to $7.50. Home health visits would be cut from the present authorized 200 visits to 100 visits per year with no liberalization of the present stringent requirements to qualify for home health benefits.

Drugs are supposed to be included, but we have no details as to whether the proposed coverage of drugs would equal the legislation which I have sponsored and which has already passed the Senate. We do know that there would be a steep $50 deductible before any prescriptions are paid for.

Finally, it is certainly meritorious that the administration's plan would cover hospital stays without limit for those who require lengthy hospitalization. I have sponsored, and the Senate has passed, legislation which would improve the medicare program substantially in this regard by increasing the lifetime reserve and reducing coinsurance charges.

Action to help these patients is to be welcomed, but too much emphasis is placed in the proposal on this catastrophic type of coverage while leaving uncovered such needs as routine medical checkups for older people and the provision of eyeglasses and hearing aids.

Nelson Cruikshank, president of the National Council of Senior Citizens, summed up the failings of the health plan very well when he said:

> The Nixon plan might indeed be of some advantage to the very few who have extremely long stays in hospital. But the measure of advantage of any insurance plan—including health insurance—is how it meets the costs of the greatest majority of the people, and how it covers the risks most likely to occur to most people.

Mr. President, I ask unanimous consent that the statement by Nelson Cruikshank be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Senior Citizens Leader Says: "Nixon Health Plan for Elderly Is an Old Discredited Proposal in a New Suit"

Washington, D.C., February 7.—So far as elderly people on Medicare are concerned, the new Nixon national health insurance plan is merely "an old discredited proposal brought out in a new suit." This was the statement made today by Nelson H. Cruikshank, President of the National Council of Senior Citizens, the largest organization of older people's clubs in the U.S., after the President's proposals were sent to Capitol Hill.

Cruikshank said last February HEW Secretary Caspar Weinberger called on Congress to "revamp" the Medicare program to discourage what the Administration described as "overutilization of health services" by increasing patient "cost sharing"—which, in fact, would have meant putting an increased financial burden squarely on the shoulders of the sickest Americans.

"Under both last year's plans and this so-called new proposal, the out-of-pocket expenses for Medicare patients would soar—especially for hospital care" said Cruikshank. "Using Administration cost figures, the average Medicare hospital stay of 12 days would be four times as large under the Nixon scheme—from the present $84 to $342."

Cruikshank continued, "For a 30-day hospital stay—the maximum confinement for more than 90 per cent of all hospital patients—the patient would pay under the Nixon plan $750 as compared to a current charge of $84 under Medicare. This is nine times more costly.

"The Nixon plan might indeed be of some advantage to the very few who have extremely long stays in hospitals. But the measure of advantage of any insurance plan—including health insurance—is how it meets the costs of the greatest majority of the people and how it covers the risks most likely to occur to most people.

"This isn't the only area where the Nixon plan would sock it to the elderly.

"Under the Medicare plan (part B) the annual deductible for physician services is $72 a year. But, under the Nixon plan, these costs jump to $100 a year—about a 40 per cent increase. The monthly premium would also increase by about 20 per cent, from $6.30 to $7.50.

"The Nixon plan would also take a dignified social insurance program, with benefits as a matter of right, and turn it into a government welfare program by introducing a 'means test.'

"We were told we would be receiving a major breakthrough in health care insurance from the White House. Yet when the package is unwrapped, some of it is missing. We are told that the portions of the health plan dealing with insurance for out-of-hospital drugs will be 'detailed at a later time.'

"This is utterly unacceptable. We are being asked to buy a major health insurance plan, without being able to see all of it."

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be now resumed for not to exceed 30 minutes, with statements limited therein to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator that a quorum call is in progress.

The rollcall was continued.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, and will the Chair ask Senators to take their seats, and attachés to leave the well?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will take their seats.

The Senator may continue.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I make the following unanimous-consent request——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. Senators will come to order. The Senator from Montana may continue.

Mr. MANSFIELD [continuing]. Which I think has been cleared all around.

Ordered, that on Tuesday, February 19, 1974, at 4 p.m., a vote occur on the motion to recommit the conference report on S. 2589.

That on Tuesday, February 19, 1974, the Senate convene at 10 a.m., and that after the recognition of the two leaders under the standing order, the conference report be laid before the Senate, and that the time until 12:30 p.m. be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN), and the time from 2 p.m. to 4 p.m. on that day be similarly divided and controlled.

That if the conference report is not recommitted, a vote on the adoption of the conference report on S. 2589 follow immediately the vote on the motion to recommit.

That all points of order be excluded, so that the votes will occur on a motion to recommit and a motion to approve or disapprove the conference report.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PASTORE. Mr. President, reserving the right to object, I have been on this floor now for about three-quarters of an hour. There has been a confab going on, sometimes above a whisper but still not audible to Members of the Senate. We have been told time and time again that the No. 1 priority in this country is the energy crisis. I do not know what the agreements are, and I do not know what the difficulties are in the conference report, but I think the people are entitled to know.

Why can we not have these motions determined today or tomorrow? Why do we have to wait until the 19th? If we can vote on these motions on the 19th, why can we not do it today, or why can we not do it tomorrow?

The people of this country want an answer. They want results, and I think the people are entitled to know what the difficulty is, why this postponement is taking place, and why we have to do it this way.

Mr. MANSFIELD. Mr. President, the Senator from Rhode Island raises some very valid points.

It was the hope of the leadership that we could finish with the conference report today or tomorrow at the latest. Unfortunately, events have developed which indicated that that would not be possible to do.

Therefore, on the basis of the best judgment of the joint leadership, it was decided to agree to vote at a time certain rather than to have the debate dragged out today and tomorrow with perhaps no solution in sight. This way, we are certain at which time a vote will be taken, if the Senate agrees.

I would point out also that the Commerce Committee in the House yesterday tried to get a rule to take up the conference report but it was unable to do so. I would point out also that the House goes out tonight and will not be back before Wednesday next. I have been informed that, so far as the administration is concerned, they are not pushing for action today or tomorrow but, in effect, are in accord with the desire of certain members of the committee who did not sign the report, that this procedure be followed, if for no other reason than to give the membership a chance to understand in detail just what the conference report contains.

Mr. PASTORE. Mr. President——

Mr. JACKSON. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. Let me say, before Senator Jackson speaks, why cannot we have a vote on the motion to recommit today or tomorrow to find out where we stand? Why do we have to wait until February 19 to find out. At that time, it might be recommitted—and then we will be in this hassle all over again?

I think we should determine now as to whether, on February 19, when we do come back we will vote on the conference report up or down, and not get ourselves once more into this mess having it recommitted and starting all over again.

Mr. JACKSON. May I just say to the Senate—especially to my good friend from Rhode Island—that we were prepared on our side to take it up, as we are taking it up now, to get a vote today. There is no reason why we cannot vote. But when we were confronted with a problem, with the clear indication that there would be no vote today or tomorrow, we had no other alternative but to work out the unanimous consent agreement that was agreed to.

Mr. PASTORE. Do you not think that the people of this country are entitled to know who is solving the energy crisis and who is not, and why we have to get into a filibuster over it?

Mr. JACKSON. Absolutely. Let me just say that there is one key issue on this conference report—forget about all the other things in it—there is one major issue, and that is whether the Senate will go on record and vote to roll back the prices of petroleum products. We have had an astronomical increase in the price of petroleum, both crude oil, and petroleum products. That is the issue. There are many things in this conference report, of course, and I have the assurance from the leadership on the minority side that the administration can get along under the provisions of this report—and I asked this specifically—because I am prepared to vote today. There is not that much to be discussed. It is an up and down question, really, on the issue of the price roll back. The leadership has agreed, and I have have gone along with it on a realistic basis, that it is not possible to get a vote today or tomorrow. That is where we are.

Mr. HUGH SCOTT. Mr. President, will

the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. The distinguished majority leader is quite right in making the point that the joint leadership was prepared to vote before we take this recess. I have had no word whatever from the administration in opposition to a vote as soon as we can. What we are discussing here, however, is the fact that objections were heard on both sides of the aisle to immediate consideration. We are moving as expeditiously as we can. We are proposing to vote on the second legislative day after today—that is, assuming that we do not come in tomorrow and that we take the recess and come in on February 18, debate on February 18, and vote on February 19. So we are agreeing to vote on the second legislative day. So, as the distinguished Senator from Rhode Island (Mr. PASTORE) has pointed out, that is not perfect. He would like to see action now. I would be glad to see action now myself, so far as I am personally concerned, if the leadership were ready. But there have been objections. There have been a number of objections from both sides of the aisle. As in all cases, I must follow the precepts of my favorite Greek Menander, who said, "We live not as we were, but as we must."

Mr. PASTORE. That may be so. I am a little bit of a philosopher on my own, but the fact still remains that the fly in the ointment here is this agreement on a vote to recommit. What I am saying is that this is an eyewash for the people of this country. I do not understand why we have to wait to vote on February 19 and apparently that is satisfactory to the administration, the leadership, and to the members of the conference. Why can we not on that day, vote this conference report up or down, without going through the gymnastics of voting on a motion to recommit?

Let us assume that we wait until February 19 and then recommit it. Then where are we?

All I am saying is, we could dispose of this vote to recommit before we leave. If we have got to go back into conference, we can go back into conference next week without waiting until February 19.

Several Senators addressed the Chair.

Mr. AIKEN. I simply want to say that as of now there are 205 million people in this country who have been blaming either the Arab countries or the oil companies for their present predicament.

However, if we postpone action or even discussion until February 19, and in the meantime take several days vacation, the American people will stop blaming the Arab countries and the oil companies and they will blame Congress—and very properly so.

Mr. PASTORE. They are already doing that.

Mr. AIKEN. I think we should have a record vote on whether we want to postpone this or not.

Mr. JACKSON. I am for that.

Mr. FANNIN. Mr. President, we should go further than just talk about one section. There are 40 separate sections in the conference report. There are not more than 10 Senators who know what is in the bill. Why should we vote on something without knowing what we are voting on? Certainly we are entitled to know what is in the bill. Every Senator is entitled to know what is in the bill. It will take some time to discuss these 40 separate sections.

Mr. PASTORE. We have talked about this bill until the cows came home.

Mr. FANNIN. But now we have changed it.

Mr. PASTORE. We have filibustered this bill——

Mr. FANNIN. We wanted some time——

Mr. PASTORE. All right—why do you not tell us where the changes are?

Mr. FANNIN. We wanted some time to do that. It takes time to do that.

Mr. PASTORE. In the meantime, what do we do about gasoline?

Mr. FANNIN. This conference report is 103 pages long with 40 separate sections. You cannot memorize that overnight.

Mr. PASTORE. You cannot do it during your vacation, either. You cannot do it in the Florida sun. [Applause in the gallery.]

The PRESIDING OFFICER (Mr. METZENBAUM). May we have order in the galleries—and in the Chamber.

The Chair would point out to those in the galleries that they are guests of the Senate and any disorder may cause the galleries to be cleared.

Mr. JACKSON. Mr. President, first, let me say that I want it clearly understood, so far as our side is concerned, the Democrats handling the bill on the Senate side, that they are ready and prepared to vote on this today. There is no reason why we cannot finish it today, but those on the other side disagree.

Mr. FANNIN. It is on both sides—let us not say that——

Mr. JACKSON. Those on our side——

Mr. FANNIN. Those who are handling the bill or those who are talking about the handling of the bill?

Mr. JACKSON. We came in here—we worked late last night. The staff prepared——

Mr. FANNIN. Whether it is the Senators who handled the bill or the Senators who did not, they are entitled to know what is in this bill.

Mr. JACKSON. We have today and tomorrow. Let us vote tomorrow. The point I want to make is that I think it should be understood now that the administration does need power to do certain things. That power is contained in this bill. Without it the administration cannot act effectively. Any postponement could affect that. I do not want the White House coming around here saying that, had Congress only acted, we would be able to deal with the queuing up at the gas stations. There is no authority in current law to set the hours of opening or the hours of closing at a gas station.

This is a matter of great concern in the country. There is one central issue here. Let us be candid. We have rolled back the price of unregulated domestic crude oil from a current high of $10.35 to a maximum of $7.09. In fact, we rolled it back to $5.25, and included in the rollback are all petroleum products, including propane; propane that has seen an astronomical rise in price that is really hurting the little folks of America.

The overriding issue is that those who are receiving these astronomical prices in the United States—it is bad enough what is being done abroad—will continue to until this bill becomes law. That is the issue. The oil industry will have to take a great deal of the responsibility for nationwide inflation, because these astronomical prices are digging away not just at the consumer, but at the free enterprise system itself, inflating it higher and higher.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. PASTORE. The Senator keeps using the expression "the other side." Whom does he mean? Let the record show who he means.

Mr. JACKSON. Let me just say that all the Democrats who are conferees—that is why we stayed late—came in here prepared to vote today. I asked for the session to start at 10 a.m. so that we could finish. That is the record.

Mr. PASTORE. "The other side" would be the Republican side. Is that correct.

Mr. HUGH SCOTT. I do not think that is correct.

Mr. PASTORE. We keep using the words "the other side." What side are we talking about?

Mr. HUGH SCOTT. What is the Senator from Rhode Island talking about?

Mr. PASTORE. We have the Democratic side and the Republican side, and I understand that the Democrats are ready to vote now.

Mr. HUGH SCOTT. The Senator is not correct.

Mr. PASTORE. Let us find out. Let us have a vote.

Mr. HUGH SCOTT. The Senator can do what he wants. Personally, I am prepared to vote. I always have been prepared to vote, and I am not going to be included in any such statement.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. FANNIN. I object to voting on a recommital motion today, Mr. President. I do not object to the unanimous-consent request of the Senator from Montana (Mr. MANSFIELD).

It would be very unfair to have a vote, and I say there are not 10 Members of the Senate who will know what they are voting on. I feel that they should have the information available to them. I know that some of them are very interested in this matter, and they have called me, from the Democratic side, so I do not want it said that it is just the Republican side. I had two calls from the Democratic side.

Mr. PASTORE. What does that have to do with the vote to recommit? Why do we not dispose of that today or tomorrow?

Mr. FANNIN. It has a great deal to do with it. They want to know why they are voting for or against recommittal.

Mr. PASTORE. That is the crunch. You are waiting until February 19. You are lulling the people of this country into a false sense of security.

Mr. FANNIN. There is no way of saying it is going to delay anything at all, because the House did not get a rule. There is no determination that the House is going to act any quicker if we vote on Tuesday, the 19th, than if we vote today—no assurance whatsoever.

Mr. ALLEN. Mr. President, reserving the right to object—and I shall not object—I favor the adoption of the conference report. I am ready to vote on it now.

I oppose the motion that may or may not be made to send the bill back to conference. I am ready to vote on that. But I am persuaded that we can get quicker action on this bill and on this conference report by agreeing to the unanimous-consent request made by the distinguished majority leader, because we have experienced extended discussion on the bill. It would be no problem whatever to extend this discussion.

I believe it would serve the interests of the people for whom the distinguished Senator from Rhode Island speaks to agree on this time; because in the vast majority of cases where an agreement is made on a time for a vote, that takes time. I am persuaded that if this agreement is not entered into, it will be well beyond the 19th of this month before we have a final vote.

I urge the distinguished Senator from Rhode Island not to insist on his objection.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. PASTORE. The one crunch, as I have already pointed out, is the motion to recommit. What I am fearful of is that the people of this country are looking to Congress for a solution of this problem and we are not doing our job.

Thus far, the administration has not been able to solve it. They have been trying. They have a good man at the head of it—Mr. Simon. He came before our committee yesterday. I congratulated the man.

I said, "Mr. Simon, you are the right man at the right time to do the right job."

But the job has not been done, because I understand there are certain powers that the administration needs, but which it will not get until we pass the energy bill. The point I am making is this: In the unanimous-consent agreement that has been proposed, we are talking not only about the final vote at 4 o'clock; we are talking about a vote on a motion to recommit first. There is a motion to recommit the conference report and a motion on final passage—back to back. But the motion to recommit comes before the final motion to adopt the conference report.

We are telling the people of the country that we will solve this question on February 19. But what might happen on February 19, when the motion to recommit comes up, is that the report might be recommitted. Thus it will go back to conference, and we will start all over again.

If we are sincere, let us reject the motion to recommit and vote on the merits of the report, even if we have to do it on February 19.

Mr. ALLEN. Mr. President, I believe I still have the floor. I say to the Senator from Rhode Island that I believe it is only fair that those who saw the report only yesterday should have an opportunity to study it and make their points on the floor of the Senate. I do not believe it is asking too much to have this vote come at a time when arguments could be made on recommittal and could be made on the adoption of the report. I do not believe we will lose any time whatsoever.

The Senator from Rhode Island made the point, and stated it well, that this vote will show where we stand in the matter. I hope he will not throw any barrier in the way of the adoption of the conference report. If he insists on his objection, I think it will be barrier to the adoption of the report. I hope he will withdraw his motion.

Mr. PASTORE. I merely reserved the right to object. I never said I would object. I think the people of the country should know what this is all about.

Mr. FANNIN. I agree that the people should know what this it about. So should Senators know what it is about. I am hopeful that we can have time for the Senate to study this proposal before a motion is made to recommit. I support the distinguished majority leader, but I would certainly object to a vote on a recommittal motion today because, as I said before, there are not 10 Members of the Senate today that have any idea what the report contains. There are 40 separate sections. I simply hope we will give Senators—some of them not here today, and will not be here today—the opportunity to determine, after study, whether they want to vote to recommit or not.

Mr. ALLEN. Mr. President, reserving the right to object, I would hope that after this agreement is entered into—and I believe it will be entered into—a time would be set apart this morning for a colloquy on the report, so that Senators may question the distinguished Senator from Washington (Mr. JACKSON).

Mr. MANSFIELD. Does the Senator mean a limited time?

Mr. ALLEN. No; simply that time be allowed us to discuss the report. I think we will discuss it at some length today.

Mr. MUSKIE. Mr. President, I must say to my distinguished friend from Arizona that I am puzzled by this reluctance to move to a decision on this legislation. I was a member of this conference in December and I was a member of the conference this month.

Because of my responsibility with respect to the environmental matters contained in the report I was advised by the White House, by Mr. Simon, that we were going to proceed expeditiously, not this month but in December, and I was urged to resolve quickly whatever doubts I had about the matters for which I was responsible, because of the need for urgent action. We met that responsibility, putting doubts behind us.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. MUSKIE. May I finish the point?

Mr. FANNIN. I want to praise the Senator.

Mr. MUSKIE. May I finish, and then I will be happy to yield to the Senator.

Mr. FANNIN. I want also to comment——

Mr. MUSKIE. I will give the Senator the opportunity.

But I must say I am disturbed and concerned. My primary responsibility was not with respect to the energy conservation provisions of the report. But I was given to believe that under the urging of the administration Senators were proceeding with a sense of urgency to resolve those issues; and I was asked to give a similar sense of urgency to the environmental matters.

Now, there are changes in environmental policy in this bill that merit long and deliberate consideration; matters that were not even considered on the floor of the Senate but were included in the House version of the bill. I was willing to consider these matters, because Mr. Simon told us he needed this authority and asked, would I not please resolve my doubts—in the interest of urgency.

Now, if we are going to become involved in a stretched out, delaying process, I may be tempted to reconsider my view with respect to the actions taken in regard to environmental matters.

Is the authority contained in the conference report eventually needed by Mr. Simon or not? That is a question I answered affirmatively in the interest of reaching a decision.

The Senator said there are 40-odd provisions of the bill. The Senator knows as well as I know that there is only one issue that prompts this delay and that is the question of whether or not there should be a rollback in prices.

Mr. FANNIN. Will the Senator yield?

Mr. MUSKIE. May I finish?

If that provision were not in the conference report, we would pass this conference report in the Senate either today or tomorrow, and the Senator knows that. So the question is, whether on that issue we have had enough time to make up our minds. It is a legitimate question, and I know the Senator's views on it, because he has expressed them eloquently and at length in conference. He and I disagree; but the point is not whether we disagree. I submit we have had as much time to resolve that question as I gave myself to resolve my doubts about the environmental matters in this report.

I submit, and I do so only to direct my remarks to the White House, that I am having reservations about the urgency of this legislation. I am having reservations about the need to take the action we have recommended to both Houses with respect to environmental matters, because the administration does not exhibit the sense of urgency it asked me to demonstrate with regard to my responsibility in the conference.

So I say to the Senator that I am deeply disappointed—deeply disappointed—that we are now being asked and urged to drag our feet.

If the matter is truly a national emergency, every Senator has a responsibility to collapse his timetable, to focus on this matter, to brush everything else aside, and make up his mind about whether he favors a price rollback or not—and make up his mind this week, not 10 days from now.

If the matter is not that urgent I doubt there is anything urgent in this bill.

Now, I yield.

Mr. FANNIN. Mr. President, I am very pleased to have the chance to respond. In the first place there is no assurance that if we acted today this legislation would be approved before the 19th; there is no assurance whatever.

Mr. MUSKIE. We do not need that assurance. All we need is added momentum.

Mr. FANNIN. May I explain my position?

Mr. MUSKIE. Certainly.

Mr. FANNIN. If the Senator does not want to yield to me, that is his privilege.

Mr. MUSKIE. The Senator has the floor.

Mr. FANNIN. There are other objections that I have to the measure, and I have offered amendments. So do not say it is just one section, because that is not correct.

The Senator from Maine (Mr. Muskie) was there at the time—he worked hard and I commend him for it. He said he would like to have a chance to explain the changes made.

Mr. MUSKIE. I can do it in 30 minutes.

Mr. FANNIN. Fine. Many Senators are not here today, and they would not have the opportunity to hear the Senator. As far as what has been said that we gave the Administrator what he wanted, that is not correct. He came before us; he made a request; we turned him down. I did not turn him down. A majority of the conferees voted against his every suggestion. There is no reason to say it is going to be acted on earlier if we act in the next 5 minutes. It just is not right.

So I hope the Senator takes into consideration that there are at least 90 Senators who did not have the privilege—89 to be specific, because there are 11 on the conference committee—that did not have the opportunity to look over this measure in detail.

Many changes have been made. So I feel it is very essential, because more than one section is involved, that we have a thorough study of what is in this particular legislation.

Most of the Members—I would say all the Members—did not have an opportunity to look at this until they came to the Chamber this morning. Here we are talking about acting on it today and it is a very complex piece of legislation.

I hope the distinguished Senator from Maine will realize he is being fair and equitable without hurting anyone by taking the time necessary to explain this bill to his colleagues.

Mr. MUSKIE. I appreciate the Senator's explanation, but I am not impressed, because the rhetoric he is using is the rhetoric of delay. This rhetoric was just as available to me in conference, but I did not choose to use it, because I was urged to be expeditious. The Senator has chosen to use it. It is his privilege, but in exercising that privilege he undermines my confidence in the urgency of this legislation.

Nothing the Senator can say can disabuse me of my disappointment or my interpretation of what he is doing.

I urge the Senator to reconsider, because I think delay—delay for reasons that seem sound to him—is a temptation to delay to others who have other reservations about the bill. If the Senator wants to risk undermining the whole package, which has been carefully, delicately, and sensitively put together, delay is the way to do it, and I say it with all the sincerity at my command. Delay is the wrong instrument for the administration to be using today.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. MANSFIELD. Mr. President, I withdraw my request.

Mr. FANNIN. Mr. President, will the Senator yield in connection with the statement that I want to delay the legislation? Why does the Senator select one Senator when many want it? At least 90 Senators do not know what is in the report.

Mr. MUSKIE. If I want to mount an army of Senators and Congressmen to promote delay on issues that the Senator does not question in this report, if I want to mobilize an army to delay, I can do it, and somebody else can. The Senator is using the rhetoric of delay. I have heard the rhetoric of delay on the floor of the Senate for 16 years. I recognize it when it is used. I am sure the Senator recognizes it when it is used. The Senator knows as well as I that if the White House were interested in a decision on this bill today or tomorrow, we could get it. That is my conviction. I sense delay in everything the Senator has said. That is not to attack his integrity or sincerity, or anything of the sort, but the Senator is talking about deliberate and intentional delay, which would promote the forces which are out to kill this conference report.

I shall yield to the Senator from West Virginia, but first I yield to the Senator from Washington.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I call up the report of the committee of conference on S. 2589, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The Senate proceeded to consider the report, which reads as follows:

Conference Report (S. Rept. 93–681)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office, all functions, powers, and duties of the President under the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such Act (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) (1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) That rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of subsection (b) of this section and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a) (1) (A) Pursuant to the provisions of this section, the Administrator may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than six months after any such plan first takes effect.

(b) (1) For purposes of this subsection, the term "energy conservation plan" includes an amendment to an energy conservation plan which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) If any energy conservation plan is transmitted to Congress before March 15, 1974, and provides for an effective date earlier than March 15, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) (i) Except as provided in clause (ii), if an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 15, 1974, and before September 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(ii) An energy conservation plan described in clause (i) may be implemented prior to the expiration of the 15 calendar-day period after the date on which such plan is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to the implementation of such plan.

(C) An energy conservation plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B).

(A) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not object to the implementation of energy conservation plan numbered ——— submitted to the Congress on ———, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution the matter after the resolving clause of which is as follows: "That the ——— does not favor the energy conservation plan numbered ——— transmitted to Congress on ———, 19—.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has not reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any rules, regulations, and orders taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal or coal byproducts as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for the allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105 (b)(3)(A) applies (except that such plan or portions thereof may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,".

(c) The Administrator shall exercise any authority conferred on him under this Act and under any other Act to take steps designed to alleviate shortages in petrochemical feedstocks, and within 30 days from the date of the enactment of this Act shall report to the Congress with respect to shortages of petrochemical feedstocks, of steps taken to alleviate any such shortages, the unemployment impact resulting from such shortages, and any legislative recommendations which he deems necessary to alleviate such shortages.

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may, by rule or order, until May 15, 1975, require the following measures to supplement domestic energy supplies:

(1) the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production from any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10, United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocations Act of 1973 (as amended by sections 104 and 107 of this Act) is further amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110. PROHIBITION ON INEQUITABLE PRICES.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

"(j)(1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

"(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of the regulation under subsection (a) of this section which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

"(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

"(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field for which prices are posted; and

"(B) a maximum of $1.35 per barrel.

"(4) The regulation under subsection (a) of this section shall be amended so as to provide that any reduction in the price of crude oil (or any classification thereof), of residual fuel oil, or of a refined petroleum product (including propane) resulting from the provisions of this subsection is passed through on a dollar-for-dollar basis to any subsequent purchaser, reseller, or final consumer in the United States. Such passthrough of price reductions shall, to the extent practicable and consistent with the objectives of this section, be allocated among products refined from such crude oil on a proportional basis, taking into consideration historical price relations among such products.

"(5)(A) The President may, in accordance with the procedures and standards provided in this paragraph, amend the regulation under subsection (a) of this section to specify a different price for domestic crude oil, residual fuel oil, or refined petroleum products, or a different manner for determining the price, other than that provided in paragraph (2) or (3) of this subsection, if he finds that such different price or such different manner for determining such price is necessary to permit the attainment of the objectives of this Act and the purposes described in Section 101(b) of the Energy Emergency Act.

"(B) Every price proposed to be specified pursuant to this subsection which specifies a different price or manner for determining the price for domestic crude oil provided for in paragraph (3) of this subsection, and every price specified for (or every prescribed manner for determining the ceiling price of) residual fuel oil and refined petroleum products, shall be transmitted to the Congress and shall be accompanied by a detailed analysis setting forth—

"(i) the additional quantities of crude oil, residual fuel oil, refined petroleum products, or if any, that can reasonably be expected to be produced;

"(ii) the effect, if any, upon the demand for crude oil, residual fuel oil, refined petroleum products, or

"(iii) the impact upon the economy as a whole, including the impact upon consumers and the profitability of and employment in industry and business;

"(iv) any significant problems of enforcement or administration; and

"(v) the impact on the preservation of existing competition within the petroleum industry,

resulting from the proposed change in the price of crude oil or manner for determining the price of residual fuel oil or refined petroleum products. Any change in a price of domestic crude oil (or any classification thereof) which is transmitted to Congress within 30 days after enactment of this subsection, which prescribes a different price or a different manner for determining such price provided in paragraph (3) of this subsection shall not take effect until 15 days after the detailed analysis required by this paragraph has been transmitted to the Congress.

"(C) No price for domestic crude oil, or any classification thereof, specified pursuant to this subsection shall exceed the ceiling price provided in paragraph (3) of this subsection by more than 35 percent.

"(D) Ceiling prices or a manner for determining prices established by or pursuant to this subsection are maximum permissible prices, and any seller may sell domestic crude oil, or residual fuel oil, or any refined petroleum product produced therefrom at any lesser price. In the case of any exchange of domestic crude oil, residual fuel oil, or refined petroleum products, the ceiling price shall apply to the total value of the goods and services asked, given or received in exchange for such crude oil, residual fuel oil, or refined petroleum product.

"(6)(A) Any interested person who has reason to believe that any price or manner for determining prices in the regulation under subsection (a) of this section does not prevent inequitable prices may petition the President for a determination under subparagraph (B) of this paragraph.

"(B) Upon petition of any interested person, the President shall by rule determine whether the price of crude oil, residual fuel oil, or any refined petroleum products does not prevent inequitable prices. The President may either affirm such price, or method for determining such price, or establish a different price, or method of determining such price, upon a finding (accompanied by a detailed analysis of such finding as is required under paragraph (5) (B)) that such price as affirmed or reestablished prevents inequitable prices.

"(7) (A) The President may provide, in his discretion under regulations prescribed by him, for such consolidation of petitions as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out his functions under this subsection.

"(8) No petition under paragraph (6) of this subsection to determine prices may be filed later than one year after the expiration of this Act or any extension thereof.

"(9) The President may at any time act to establish ceiling prices lower than those provided in paragraphs (2) and (5) if he determines that lower ceiling prices will permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act.

"(10) The provisions of this subsection shall apply to all crude oil notwithstanding the provisions of subsection (e) (2) of this section and section 406 of Public Law 93-153 (87 Stat. 590).

"(11) (A) A proceeding to amend the regulation under subsection (a) of this section with respect to prices as authorized and limited under the terms of paragraph (5) of this subsection and a rulemaking proceeding under paragraph (6) of this subsection shall be governed by section 553 of title 5, United States Code, except that the President shall afford interested persons an opportunity of at least 10 days to present oral and written views, data, and arguments. The 10-day period for presentation of views, data and arguments respecting such action may be postponed until after such action takes effect where the President specifically finds that strict compliance would be likely to cause serious impairment to the operation of the program and such finding and the reasons therefor are set out in detail in the Federal Register at the time of publication.

"(B) Judicial review of an amendment to the regulation under subsection (a) of this section with respect to prices under the terms of paragraph (5) of this subsection and a rule promulgated under paragraph (6) of this subsection shall be reviewable pursuant to the provisions of section 211 of the Economic Stabilization Act of 1970, as amended, except that any such amendment and rule may not be enjoined or set aside, in whole or in part, unless the court makes a final determination that such amendment or rule is in excess of the President's authority, is arbitrary or capricious, is otherwise unlawful under the criteria set forth in section 706 (2) of title 5, United States Code, or is based on findings required by this subsection which are not supported by substantial evidence.

"(12) For purposes of this subsection—

"(A) the term 'inequitable price' means a price in excess of a price which is reasonable, taking into consideration the price necessary to obtain sufficient supplies of crude oil, residual fuel oil, and refined petroleum products, to permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act;

"(B) the term 'domestic crude oil' means crude oil produced in the United States or from the outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331); and

"(C) the term 'interested person' includes the United States, any State, the District of Columbia, Puerto Rico, and the territories and possessions of the United States."

SEC. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(4) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b) (1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy.

(d) The provisions of this section expire at midnight, May 15, 1975, but such expiration shall not affect any pending action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975, except that no suit under this section, which is based upon an act committed prior to midnight, May 15, 1975, shall be maintained unless commenced within three years after such act.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, except that with respect to allocations of petroleum products no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, unless the President determines such a policy would be inconsistent with the purposes of this Act and publishes his finding in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsections (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

Sec. 115. Exports.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided,* That the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and section 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided,* That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

Sec. 116. Employment Impact and Unemployment Assistance.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants in accordance with regulations prescribed by him to States to provide assistance to any individual unemployed, if such unemployment heretofore or hereafter is the result of the energy crisis and was in no way due to the fault of such individual, while the individual is unemployed. Unemployment resulting from the energy crisis means unemployment which the State determines to be attribuatable to fuel allocations, fuel pricing, consumer buying decisions clearly influenced by the energy crisis, and governmental action associated with the energy crisis. Such assistance as a State under such a grant shall provide for not less than 6 months of eligibility and shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as such unemployment continues or until the individual is reemployed in a suitable position, but not longer than one year after such individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

Sec. 117. Use of Carpools.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i)(1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(3)(A) The President shall take action to insure the enforcement of 31 U.S.C. 638a.

(B) No funds shall be expended under authority of this or any other Act for the purpose of furnishing a chauffeur for individual use to any Federal official or employee.

Sec. 118. Administrative Procedure and Judicial Review.

(a)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order (including a rule, regulation, or order issued by a State or officer thereof) under this title, under section 4(h) of the Emergency Petroleum Allocation Act of 1973; except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title) other than section 4(h) thereof, nor to any rule under section 113 of this title.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To

the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b)(1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 nor to any rule under section 113 of this title.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title of the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations which the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the date of enactment of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, and petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs byproduct; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order to take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATIONS OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. IMPORTATION OF LIQUEFIED NATURAL GAS.

Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.

SEC. 130. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.

(a) The Department of Housing and Urban Development and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units, and adopt such rules and regulations as are necessary to achieve the objectives of this section.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of the Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by this Act.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in this Act which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in this Act and in administering such programs; and

(3) in administering the programs provided for in this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end there of the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation, plan, and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or

"(B) which (i) the Administrator of the Environmental Protection Agency determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (ii) the Administrator of the Federal Energy Emergency Administration determines should use coal after November 1, 1974, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of the Energy Emergency Act, and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term "began conversion" means action by the owner or operator of a source during the 90-day period ending December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2)(A) Paragraph (1) of this subsection shall apply to a source only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means specified in subparagraph (B), and in accordance with a schedule which meets the requirements of such subparagraph; and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, (I) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of other coal or coal by-products, and (II) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by subparagraph (C) (which steps and systems must have received prior approval of the Administrator as being adequate to effectuate the purposes of this section).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except that, in the case a source for which a continuous emission reduction system is required for sulphur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a) (2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards of sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j) (1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act of 1973.

"(2) The Administrator of the Federal Energy Emergency Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Emergency Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973".

Sec. 202. Implementation Plan Revisions.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C–5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regualtions, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Emergency Administration, and the Chairman of the Council of Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subparagraph. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

Sec. 203. Motor Vehicle Emissions.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

Sec. 204. Conforming Amendments.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112 (c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

Sec. 205. Protection of Public Health and Environment.

(a) Any allocation program provided for in title I of this Act or in the Emergency

Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Emergency Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Emergency Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Emergency Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local levels; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standards, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Emergency Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act.

(B) The Administrator shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning April 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, Jr.,
ERNEST F. HOLLINGS,
ADLAI STEVENSON III,
TED STEVENS,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
JAMES F. HASTINGS,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

EMERGENCY CONSERVATION REGULATIONS

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to proposes to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 15, 1974, in order to reduce demand in the harsh winter months of January and February without delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 15, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after August 31, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that has been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling our Constitutional balance of liberty and authority. The Conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmly believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

Federal emergency energy administration

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congress will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to a Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and has been considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administration's proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATIONS AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, calls for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness, and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporaneously with implementation of any proposed action between date of enactment and March 15, 1974.

The committee is concerned about the very real threat of the cutoff of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

END USE RATIONING AUTHORITY

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

PROHIBITION ON INEQUITABLE PRICING

During the protracted congressional consideration of S. 2589, the energy emergency and the problems facing the Nation have become acute. One of the most serious and recent aspects of the emergency has been the meteoric increase in crude oil and petroleum product prices. In the last three months of 1973, the cost of residual fuel oil to utilities rose by 150 percent. In December 1973, fuel price increases accounted for 40 percent of the increase in the wholesale price index. Wholesale gasoline prices increased about four cents a gallon in the last three months of 1973. These increases, under present price controls, can be traced directly to two factors: (1) the great increase in the world crude price since October, and (2) the release of certain categories of domestic crude from price controls.

A year ago, crude oil sold for $3.40 a barrel. Today, imported crude and domestic crude not subject to price ceilings sell for $10.35 a barrel and higher. While it is beyond the Committee's jurisdiction to regulate the world price of crude or the price of crude established by international controls, control of domestic prices was considered in order.

It is indisputable that such prices have led to increased drilling activity in the United States, which is clearly desirable if we are to approach domestic self-sufficiency in energy. However, the Committee understands that, according to oil industry and other recent economic supply studies, the long-run market clearing price needed to assure adequate exploration and development and supply is considerably under the $7.09 a barrel national average price for newly produced crude established under section 110 of this act. The Committee therefore finds little reason for asking consumers to pay increasingly higher prices, when such prices cannot be justified on the grounds of increasing cost.

For example, total sales volume for the seven major oil companies in the U.S. increased about six percent between the first three quarters of 1973. Total revenues increased by 22 percent, and total net earnings by 46 percent. For this reason, the Committee adopted a section which sets an average ceiling price for crude oil of $5.25, with provisions for higher prices for certain classes of crude, up to an absolute ceiling of 35 percent above the $5.25 average price, or an average of $17.09. Dollar-for-dollar pass-throughs of all rollbacks are required to be passed through to the ultimate consumers of residual fuel oil or refined petroleum products, including propane.

The Committee intends, in adopting this section, to strike a just balance between the need for equity and the need for adequate incentives to assure a sufficient long-run supply of domestic fuels.

SHORT TITLE

TABLE OF CONTENTS

Senate bill

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation

Conference substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TITLE I—ENERGY EMERGENCY AUTHORITIES

FINDINGS AND PURPOSES—ENERGY EMERGENCY

FINDINGS

Senate bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House amendment

No provision.

Conference substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

DECLARATION OF EMERGENCY

Senate bill

Under section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

House amendment

No provision.

Conference substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

PURPOSES

Senate bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

House amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

Conference substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

DEFINITION

Senate bill

No provision.

House amendment

Section 102 defined the terms "State", "petroleum product", "United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administation which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

Senate bill

No provision.

House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY

Senate bill

ENERGY RATIONING AND CONSERVATION PROGRAM

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation. Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

FUEL DISTRIBUTION PLAN

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

House amendment

ENERGY CONSERVATION PLANS

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restrictions should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

AMENDMENTS TO EMERGENCY PETROLEUM ALLOCATION ACT OF 1973 (EPAA)

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsection (l) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

(a) moves of armed services personnel on orders;

(b) household moves related to employment;

(c) household moves rising from displacement due to unemployment; and

(d) moves due to health, educational opportunities, or other good and sufficient reasons.

Conference substitute

END-USE ALLOCATION

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h). This new subsection, agreed to by the conferees on December 20, 1973, authorizes the development and implementation of end use rationing plans for crude oil, residual fuel oil, and refined petroleum products.

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. The proposed gasoline rationing plan published for comment by the Federal Energy Office on January 16, 1974 was not reviewed by the conferees. The conference report reflects neither concurrence nor nonconcurrence with the Federal Energy Office plan or with any of the provisions thereof.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for service and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the conferees specifically state that no taxing authority, of any type, is granted.

ENERGY CONSERVATION REGULATIONS

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

(1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,

(2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,

(3) shall apply according to its terms in each State except as otherwise provided in the regulation, and

(4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 15, 1974 and before September 1, 1974, such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effects of such actions on certain entities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

The conferees, taking cognizance of the fact that there are shortages in petrochemical feedstocks, which if not alleviated may cause disruptions of varying degree among many sectors of our economy, have directed the Administrator to exercise such authority as is granted to him under this Act and under any other Act to alleviate such shortages. The conferees are aware that action has been taken under the Economic Stabilization Act to allow an increase in the price of petrochemical feedstocks in an effort to increase their supply. However, it is the intent of the conferees, in directing the Administrator to exercise the authorities conferred on him, to require that he take such other and additional steps as are necessary to increase the supply and availability of petrochemical feedstocks. Within 30 days from the date of enactment of this Act the Administrator is also directed to report to the Congress with respect to the shortages of petrochemical feedstocks and with respect to such additional steps as have been taken to alleviate such shortages.

Under section 105(b)(3)(A), the conference committee substituted new dates to grant the Administrator immediate authority and time so that it can establish and implement a system subject to congressional veto for the purpose of alleviating the panic-buying now taking place at the retail level. In this regard, special note was made of the success achieved under State programs adopted by the States of Hawaii, Oregon and Massachusetts to manage sales of gasoline at the pump.

The conferees urge the Administrator, in fashioning any energy conservation plan to deal with this problem, to consider preserving State programs for control of gasoline sales which are shown to be workable and which are not inconsistent with this Act.

COAL CONVERSION AND ALLOCATION

Senate bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

House amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106(b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentation of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

(4) The Administrator would be authorized to prescribe a system for allocation of coal.

Conference substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal and coal by-products as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. Assessment of the availability of coal would take into consideration the physical and economic feasibility of its production, transportation to the powerplant, and any state laws or policies limiting its extraction or use.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

MATERIALS ALLOCATION

Senate bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

House amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

Conference substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation propose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

Senate bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

House amendment

Section 103(a) would add a new section 4(h)(4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207 (c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

Conference substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 180(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Senate bill

No provision.

House amendment

Section 103(a) of the House amendment would have added a new subsection (l) to section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel oil or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c) (3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g) (1) of the EPAA to change the termination date in each case to May 15, 1975.

Conference substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (i),

(2) population growth and unusual changes in climate conditions are added as factors on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census,

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation, and

(4) the amendment to section 4(c)(3) is omitted.

PROHIBITION ON INEQUITABLE PRICING

Senate bill

No provision.

House amendment

Section 117 amended the Emergency Petroleum Allocation Act to require the President to set prices for crude oil, residual fuel oil and refined petroleum products at such a level as to prevent windfall profits to sellers. If, upon petition by an interested party, the Renegotiation Board (established by section 107(a) of the Renegotiation Act of 1951) determines that a price permits windfall profits, the Board may specify a price which does not result in such profits, and may order the refund to purchases of an amount equal to the windfall profits gained.

For the purposes of this section, windfall profits were defined as either profits in excess of a reasonable profit with respect to the particular seller, considering volume of production, net worth, risk, efficiency, etc.; or, the average profit for the firm or the industry in the period 1967 through 1971.

Conference substitute

The conference substitute rewrites the provisions of the House amendment. The House amendment included provisions designed to prohibit windfall profits-price gouging. The thrust of these provisions was to provide pricing protection for industrial and individual consumers of petroleum products. Under its terms, the President was *directed* to exercise his pricing authority under the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973 to specify prices for crude oil, residual fuel oil, and refined petroleum products to prevent windfall profits and price gouging by sellers. This was to be accomplished by specifically directing the President to establish prices which avoid windfall profits; by providing a procedure before the Renegotiation Board by which interested persons could obtain review of established prices and, in certain events, a rollback of such prices; and by including procedures permitting consumers to force individual companies to return windfall profits resulting from excessive prices. These provisions were incorporated in the House amendment out of a sense of dissatisfaction with the lack of limitations in existing law on the exercise of the President's pricing authority. This situation had permitted the President to adopt pricing policies which were producing unreasonably high profits for persons engaged in the petroleum industry in what a majority of House members believed to be a misdirected effort to allow the prices for short supplies to rise to levels which would discourage demand. The Senate bill contained no specific control on the exercise of the President's pricing authority similar to that of the House amendment.

The Conference substitute has shifted the emphasis away from a concentration on the profits produced by such prices to instead concentrate on the reasonableness of the levels of such prices. Here the conferees have refined the direction to the President to specifically require that the President specify equitable prices for domestic crude oil, all residual oil, and all refined petroleum products. This section further provides that, within 30 days after enactment of this Act, the ceiling price for all crude oil be the price for that grade of oil in that field at 6:00 a.m., May 15, 1973, plus $1.35. On a national average basis, this new price would be approximately $5.25. If this new price results in a rollback, as it would for oil not now subject to price controls, any such savings must be passed on to the ultimate consumers of residual oil or refined petroleum products, on a dollar-for-dollar passthrough, in an equitable and proportional manner among the consumers of different products.

Such proportional distribution of the passthrough shall be established on the basis of historical sales, using as the base period 1972, the same as that set out under the Emergency Petroleum Allocation Act.

For certain classes of crude, the President may establish a ceiling price up to 35 percent above the general ceiling price, upon transmittal to Congress of an explanation thereof and justification therefor.

Categories which the conferees envision could be granted at ceiling price above the average ceiling price of $5.25, would be crude oil produced from stripper wells, oil produced by secondary or tertiary recovery, and other sources of crude which require higher prices to permit recovery of costs and to provide additional incentives to maintain production and stimulate new development.

With certain exceptions, the conference substitute provides that in making any future change in the regulation which establishes a price or method for determining the price of crude oil, residual fuel oil, and refined petroleum products, the President shall afford interested persons an opportunity of not less than 10 days to present oral and written views on the proposed change. In certain crucial circumstances, the President is entitled to waive the 10 day comment period and make price changes immediately effective. It is the express and deliberate intent of the conferees, however, that such waivers occur in only emergency circumstances and that even in such an event the President would be directed to afford an opportunity of comment following implementation of the amendment to the regulation.

Moreover, in addition to the procedural protections provided in this section the conference substitute has incorporated separate procedures governing the judicial review of amendments to the pricing regulation.

Section 110 also provides for procedure whereby persons may petition the President to obtain administrative review of prices established by regulation.

PROTECTION OF FRANCHISED DEALERS

Senate bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which such franchise would be canceled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

House amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

Conference substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor," "refiner" and "retailer" are defined in terms of a *person* engaged in certain acts, rather than in terms of an *oil company* engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity. The provisions of this section shall expire with the expiration of the Act, except for pending actions or proceedings, or claims based on actions prior to that expiration date.

PROHIBITIONS ON UNREASONABLE ACTIONS

Senate bill

No provision.

House amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment.

It is the intent of the conferees that foreign corporations be accorded treatment under allocation programs comparable to that accorded United States corporations which operate in their respective countries of origin or incorporation. The President is granted discretion to waive this provision if he determines its strict application would be contrary to the purposes of the Act, and publishes his finding to that effect in the Federal Register. Examples might be allocation of fuels for activities such as petroleum exploration and development, or construction of pipelines or refineries in the United States, by a foreign corporation to serve United States needs, or the use of allocation authority as an economic bargaining tool with foreign nations.

REGULATED CARRIERS

Senate bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Section 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

House amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to be submitted until 60 days after the date of enactment of the legislation.

In additon, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which requires excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

Conference substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

ANTITRUST LAWS

Senate bill

Under section 314, the President would develop plans of action and could authorize voluntary agreements which are necessary to achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any action taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of sections 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation.

Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

House amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carrying out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on competition and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

RETAIL AND SERVICE ESTABLISHMENTS—VOLUNTARY ENERGY CONSERVATION AGREEMENTS

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be attended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available to the public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

Conference substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

EXPORTS

Senate bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

House amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Administration Act of 1969. Rules should take into account the historical trading relations with Canada and Mexico and should not be inconsistent with section 4(b) and (d) of the Environmental Protection Agency Act.

Conference substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction of exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toluene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce in connection with the administration of the Export Administration Act. This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

EMPLOYMENT IMPACT AND WORKER ASSISTANCE

Senate bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Secretary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

House amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Conference substitute

Section 116 of the Conference report provides for grants to be made to the States to enable them to extend the coverage of their unemployment compensation to persons adversely affected by the implementation of this Act as well as those directly and adversely affected by energy allocations, energy shortages, energy conservation measures and changes in consumption patterns as a result of the energy emergency. Such coverage would be available beyond the duration provided ordinarily under State law, and would extend to persons not otherwise covered by unemployment insurance programs, up to a period not to exceed one year. In adopting this provision, the Conferees recognized that energy-related unemployment will be severe in the coming months—perhaps reaching recessionary levels—and will touch virtually all sectors of the economy.

The Committee believes that, at a time when the American people are being asked to bear the burden of the shortage, the government should also act to provide programs to assist persons and families who face hardships as a result of unemployment caused by the energy shortage.

The authorization for this section is limited to $500,000,000 each year.

The conferees wish to make some specific notations of their understanding of how this section is to operate. It is to be emphasized that this action requires the President to make grants to the states to provide unemployment compensation for persons who have exhausted their state rights to unemployment compensation and for others engaged in classes of employment not otherwise entitled to unemployment compensation under state programs. In giving rule making authority to the President to govern the issuance of such grants, the conferees intend that the President exercise that authority to define the nature of the criteria or formula pursuant to which states receive grants-in-aid under this section. Within the dimensions of the assistance program as established by the President's regulations, the state is to administer the program. Grants to the states may include reimbursement for the costs of administration of this program. It is also to be emphasized that the states are to determine whether the unemployment is attributable to the energy crisis and may also determine whether an unemployed person continues to be eligible for compensation under this section.

USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

Senate bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within DOT an Office of Carpool Promotion and authorizes an appropriation of $25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

House amendment

Section 116(a)-(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only $1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

Conference substitute

Section 117 (a) through (h) of the conference substitute is the same as section 116 (a) through (h) of the House amendment with two exceptions. The sum of $5 million, not $1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted. With regard to the use of limousines by Federal officials, the conferees adopted language from both the Senate and House provisions. The report provides among other things that no funds be expended for chauffeurs for individual use by government officials.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Senate bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311(b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five days) by publication in the Federal Register on all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a schedule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

House amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special administrative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

Conference substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311(c)(1) of the Senate bill as section 118 (a)(5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

PROHIBITED ACTS

Senate bill

No provision.

House amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Conference substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

ENFORCEMENT

Senate bill

Section 306 provides for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for criminal penalty of not more than $5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than $2,500 for each day of each violation of any order or regulation issued pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than $50,000 or imprisoned not more than six months or both.

House amendment

Section III provided for fines up to $5,000 for each willful criminal violation of the Act, and civil penalties up to $2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

Conference substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

USE OF FEDERAL FACILITIES

Senate bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

House amendment

No provision.

Conference substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of Federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tanks, largely left over from World War II, could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

Senate bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superseded by it.

House amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

Conference substitute

Subsection (a) of section 122 of the conference substitute is the same as the House amendment except that the Administrator may only delegate any of his functions relative to implementation of energy conservation regulations to officers of a state or locality.

Subsection (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The Administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced composition so as to reflect the makeup of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

GRANTS TO STATES

Senate bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

House amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

Conference substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 105 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

REPORTS ON NATIONAL ENERGY RESOURCES

Senate bill

No provision.

House amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and destination of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

Conference substitute

Section 124 of the Conference substitute is the same as the House amendment.

INTERSTATE GAS

Senate bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

House amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

Conference substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

EXPIRATION

Senate bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

House amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

Conference substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

House amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

Conference substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to states under section 123, of $75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, $50,000,000 is authorized to be appropriated for fiscal year 1974 and $75,000,000 is authorized to be appropriated for fiscal year 1975. Also, for the purpose of making payments under grants to States under section 116, $500,000,000 is authorized to be appropriated for fiscal year 1974.

SEVERABILITY

Senate bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

House amendment

No provision.

Conference substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

IMPORTATION OF LIQUEFIED NATURAL GAS

Senate bill

No provision.

House amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquefied natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

Conference substitute

The Senate recedes.

ASSISTANCE TO HOMEOWNERS AND SMALL BUSINESSES

Senate bill

Section 308 of the Senate bill provided for the Federal Housing Administration and the Small Business Administration to make low-interest loans to homeowners and small business for the purpose of making energy-saving improvements on their homes or business establishments. The section further provided that maximum assistance and consideration be given to small business in the implementation of energy conservation measures.

House amendment

The House amendment contained no such provision.

Conference substitute

Section 130 of the conference substitute adopted the Senate language, except that loans to homeowners are to be made by the Department of Housing and Urban Development rather than through the Federal Housing Administration.

In adopting this provision it was the intent of the conferees that such low-interest loans would be available to those already eligible for assistance under existing agency programs: it was not the intent of the committee to broaden the base of eligibility for loans, but rather to increase the scope of uses to which such loans would be put by eligible persons. It is the anticipation that the availability of such loans will facilitate inculcation of the energy conservation ethic in the American people.

PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

Senate bill

No provision.

House amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under the section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

Conference report

The House recedes.

NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

Senate bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

House amendment

No provision.

Conference substitute

The Senate recedes.

HOMEOWNER TAX DEDUCTIONS

Senate bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed $1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

House amendment

No provision.

Conference substitute

The Senate recedes.

INTERNATIONAL AGREEMENTS

Senate bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in fossil fuels, to achieve the purposes of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that the energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industralized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

CONSULTATIONS WITH CANADA

Senate bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days after enactment.

House amendment

No provision.

Conference substitute

The Senate recedes.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SHORT-TERM AND LONG-TERM SUSPENSIONS

SHORT TERM

Senate bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive suspensions, and no suspension could be granted unless the Administrator of EPA found either (i) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (ii) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

SHORT TERM

House amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

LONG TERM

Senate bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel, and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source or a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110 (f) of the Act would be authorized.

LONG TERM

House amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source or a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels, (2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights to sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed in such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House Amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1980, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 60 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

Conference substitute

Several changes have been made in the language of title II and in the conference report statement of managers since the original conference report was filed on January 22, 1974 (H. Rep. No. 93-763). These changes do not represent substantial changes in policy; rather they are intended to cure inadvertent omissions, to clarify ambiguities, to make the statutory language conform more closely to the intent of the conferees, and to correct certain printing errors.

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term delay of such limitations. The conference substitute adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to determine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil or natural gas.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel shortage while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and comparable provisions in the House bill were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which converts to coal in response to the emergency, the conferees adopted a provision which provides that no air pollution requirement (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal, except as provided in section 119(b)(1)(C). The conference bill would prohibit the application of such requirements to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such requirements to such source could in some instances continue until as late as January 1, 1979. The prohibition would only apply if the source were placed, after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable implementation plan no later than January 1, 1979.

One problem which the language of the new conference agreement is intended to remedy relates to use of the phrase "by the applicable implementation plan in effect on the date of enactment of this section" in section 119(b)(2)(B). This phrase poses no problem in states other than Ohio and Kentucky. However, in these two states, there is no applicable implementation plan in effect. This is so, because of the Sixth Circuit Court of Appeals' opinion and order in *Buckeye Power Inc.*, v. *Environmental Protection Agency*, No. 72-1628 (6th Circ. 1973) and consolidated cases. The conferees do not intend to preclude sources located in Ohio or Kentucky from eligibility for the exemption provided in section 119(b)(1). Therefore, the language of section 119(b)(2)(B) has been modified to permit the Administrator to approve a plan for a source located in either of these states if the plan provides a compliance schedule to achieve "the most stringent degree of emission reduction that such source would have been required to achieve . . . under the first applicable implementation plan which takes effect after" the date of enactment.

All compliance schedules under section 119(b) must also provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The conference committee wishes to emphasize that the Administrator would not be able to approve a plan under section 119(b) for a utility generally. Rather, each plan approval must be for a specific plant. Moreover, before ordering the source to convert under section 106 of the Energy Emergency Act, the Federal Energy Emergency Administrator would be expected to make a careful, case-by-case balancing analysis of the energy need and environmental harm which might result from such an order. The same type analysis must be made by the FEEA Administrator prior to permitting a source which began conversion to coal in the 90 days prior to December 15, 1973, to continue to burn coal under a section 119(b) exemption. The FEEA Administrator in making such an analysis is expected to consult and cooperate with the Administrator of EPA.

There are three basic reasons for the conferees' decision to encourage continued burning of coal until at least 1979. First, in order to encourage the opening of new coal mines to increase energy supplies, the conferees intend to encourage an on-going substantial demand for such coal. Without reasonable likelihood that new coal mines will be able to market their new production, the opening of new mines and expansion of existing mine capacity may be regarded too risky. Second, to the extent that electric generating power plants can be encouraged to cease burning oil and natural gas, these fuels would be available to meet other energy needs, such as production of gasoline and home heating oil. Finally, since continuous emission reduction technology is available for major sources such as power plants, but is not available for sources such as homes, apartment houses, and small businesses, the purposes of the Clean Air Act can be better effectuated by having low pollution oil and natural gas burned to the maximum extent feasible, in sources for which no effective clean up technology is available.

The conferees believe that the priority effort of each source which is subject to section 119(b) should be to obtain low sulfur coal. If an adequate, long-term supply of low sulfur coal is available to such a source, the Administrator should only approve a plan which requires its use (and thus compliance with air pollution requirements) as expeditiously as practicable. In such a case, the Administrator would have to disapprove a plan which proposed to wait until January 1, 1979, before beginning to burn low sulfur coal. The conferees believe that requiring priority consideration to the use of nonmetallurgical low sulfur coal will reduce the likelihood of extended violation of applicable emission standards.

If a source is unable to obtain an adequate long-term supply of low sulfur coal, it may seek to come into compliance by use of a continuous emission reduction system or by use of coal byproducts which would achieve the required degree of emission reduction. In such case, the source would still be required to act expeditiously to obtain an adequate supply of coal. However, compliance with all air pollution requirements would be required "not later than January 1, 1979" and "by a date established by the Administrator".

It is expected that the Administrator would include, but would not be limited to, the following requirements in any compliance schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has sulfur content which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining coal or continuous emission reduction systems may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining coal for such systems to insure availability of supplies of such coal or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

It is the intent of the conferees that when the coal available to the source necessitates the use of continuous emission reduction equipment for control of sulfur-related emissions, the source will have as much time as necessary to install the equipment and achieve timely compliance, in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems for sulfur control or causing unacceptable disruption in energy production capacity.

The conference committee does not intend to permit delay of existing compliance schedules for control of particulate emissions. Some slight delay may be necessary in light of revised compliance schedules for control of sulfur-related emissions. However, only such minor adjustments as the Administrator determines to be unavoidable should be permitted in existing compliance schedules and emission limitations for control of particulates.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to oil or natural gas by November 1, 1974. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations no later than January 1, 1979, can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil or natural gas remain subject to compliance schedules which were applicable prior to the temporary suspension or exemption.

The conference bill does provide for two exceptions to the prohibition on enforcing air pollution requirements. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in section 119 is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended is that some violation of the national primary ambient air quality standards can be permitted so long as any of the public would not be exposed to significant health risks.

The conference bill makes explicit that the period of inapplicability under section 119 (b) of State implementation plan requirements may be extended for one year under the procedures of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110(f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The opportunity to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. The language of section 119(b)(1) and the conference report printed on January 22, 1974 (H. Rept. No. 93–763) was subject to various conflicting interpretations as to what was meant by "began conversion." In order to clarify the intent of the conference bill, an amendment has been added to define this term. The intent of this amendment is to indicate that in order to be eligible for the exemption of section 119(b)(1), the source must do more than merely create a contingency capability to burn coal. Rather, the source must have made a firm determination to cease burning oil or natural gas and to burn coal instead. Moreover, the source must carry out this determination expeditiously and in good faith. Thus, the mere solicitation of bids for a coal supply would not necessarily in and of itself constitute action to begin conversion to the use of coal. The new amendment retains the intent of the conferees to permit the Administrator of the Environmental Protection Agency to exercise his discretion in deciding whether any particular source "began conversion to the use of coal" within the meaning of section 119(b)(1).

The conferees intend that all limitation of State and local authority which is contained in section 119(b) would cease to be effective on January 1, 1979.

The conference bill includes the House amendment provision which authorizes the Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

STUDY AND REPORTS

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

FUEL EXCHANGE AUTHORITY

House amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of

EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of Section 205.

Section 119(c), of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emission reduction systems so that they could be routed to users in regions with the most severe air pollution.

Senate bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction systems first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference substitute

In order to assure the Administrator of the Environment Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Energy Emergency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEEA and EPA Administrators will facilitate interagency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEEA Administrator for the duration of the emergency and the FEEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

REVISIONS OF IMPLEMENTATION PLANS

Senate bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State implementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House amendment

The House amendment contained a similar provision.

Conference substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 119(b) of the Clean Air Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standards could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States sufficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

TRANSPORTATION CONTROL PLANS

Senate bill

The Senate bill contained no provision relating to transportation control plans.

House amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate committees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

Conference substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportation control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as to their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 19, 1973.

Senator JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to reaffirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an alternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans promulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,
JOHN R. QUARLES, Jr.,
Deputy Administrator.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 20, 1973.
Hon. PAUL G. ROGERS,
House of Representatives,
Washington, D C.

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,
JOHN R. QUARLES, Jr.,
Deputy Administrator.

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be permitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose transportation control plans.

AUTO EMISSIONS

Senate bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

House amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

Conference substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202(b)(5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Leventhall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Leventhall pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al.* v. *Ruckelshaus*, 478 F.2d 615, 633–634 (February 20, 1973). If the Administrator is asked to authorize a suspension for HC and CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emission.

REPORT LANGUAGE: FUEL ECONOMY STUDY

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

TITLE III—REPORTS AND STUDIES

Senate bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremental energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health effects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204(a) of the Act.

The sum of $5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

House amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201–205 of this title.

(Additional language to come.)

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was $2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users of urban mass transportation systems.

Section 206(d) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307(a) powers.

Conference substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal vehicles, can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption, by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce.

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From Section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

Henry M. Jackson,
Alan Bible,
Lee Metcalf,
Jennings Randolph,
Edmund S. Muskie,
Howard H. Baker, Jr.,
Ernest P. Hollings,
Adlai E. Stevenson III,
Ted Stevens,
Managers on the Part of the Senate.
Harley O. Staggers,
Torbert H. Macdonald,
John E. Moss,
Paul G. Rogers,
James T. Broyhill,
James F. Hastings,
Managers on the Part of the House.

Mr. MUSKIE. Mr. President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

SENATOR RANDOLPH URGES PROMPT ACTION ON ENERGY EMERGENCY CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I would like, before speaking very briefly, to know which Senators signed the conference report.

The PRESIDING OFFICER. The clerk will please state the names of the Senators who signed the conference report.

The legislative clerk read the following names of Senators who signed the conference report: Senators JACKSON, BIBLE, METCALF, RANDOLPH, MUSKIE, BAKER, HOLLINGS, STEVENSON, and STEVENS.

Mr. HANSEN. Mr. President——

Mr. MUSKIE. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. I have yielded to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I had hoped, Mr. President, that the Senate of the United States could be, as I see it, responsible to the people of this country. They have every right to expect that a conference report of this kind, in which there has been an earnest attempt to cope with the energy emergency, would be acted on before any recess of this body takes place, whether we are to leave at the close of business tomorrow, or some other date to be determined by the Senate.

I would feel that throughout America men and women by the millions who are being adversely affected by the continuing crisis in energy—which I believe will be abated by the Energy Emergency Act—and I repeat this for the third time—have a right to expect that we act and that we act now.

I am not critical of the viewpoint of any Member of this body. But what excuse, what plausible reason can be given to the citizens of this Republic when the Senate and/or the House, both bodies, fail to come to grips with this matter and suggest that some 10 days or 2 weeks later we will come back to it, we will talk about it, and then we may do something?

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is addressing the Senate? May we clear the well? Will the Chair require attachés and the aides to take seats and Senators who are not addressing the Senate, to take their seats?

The PRESIDING OFFICER. Senators and aides will take their seats.

Mr. RANDOLPH. Mr. President, I thank the able majority whip.

There were 3 days of consideration of this report by the conferees. Hour after hour the conferees addressed themselves to the problems that we as a Congress should be attending to now, not later. I say, in good humor and good purpose, it is not only difficult for me to understand, but frankly, I do not understand why we cannot proceed to the business at hand. I have every confidence in the Senator from Washington. I have every confidence in the Senator from Arizona, the chairman, and the ranking minority member of the Interior and Insular Affairs Committee. I have every confidence in my colleagues who were conferees, those who signed the conference report, that we can adequately explain the actions that have been taken. Then, Mr. President, we would either vote the conference up or vote the conference report down.

It seems to me that we fail, in considerable degree, to serve the people of this country if we delay the action which can be taken in this body. It is not for us to speak for the other body, but in the Senate, this matter can be considered with adequate debate, lasting, if necessary, late into the evening tonight, beginning early tomorrow and running perhaps late into tomorrow, in order to dispose of the conference report.

Mr. President, I close by saying that I do not attribute to any Member of this body a desire to fail, in his opinion, to give the consideration to this matter which he believes it should have. However, those who would delay consideration of this matter were conferees on the part of the Senate. They were there hour after hour. They heard the discussions and participated, often helpfully, in the consolidation of our thoughts. Changes were even made. Those matters were thoroughly discussed and evaluated. However, after all of that work has been done, they say, "We are leaving Washington. We are going back to our States or wherever we have made arrangements to travel. For this period of time we will continue to have uncertainty compounded." That is not proper. However, that is what will happen.

Mr. President, I must emphasize that in what I have just said, I am in no way assuming the role of a carping critic. I am only saying that at this time I wanted to speak these words slowly and earnestly, believing that in so doing I expressed not only my conviction, but also, I think, the opinion of those who, if they could speak to us in voices that could be heard, would say that we should be going about our business and continuing to discuss the conference report today and tomorrow, and for as many hours as necessary.

Why could we not meet until 9 o'clock tonight? Why could we not come in early tomorrow and meet until late tomorrow evening if necessary?

I hope that the calm words which I have spoken will help to resolve this matter. They are not spoken in any way to lecture someone, because certainly that is not my purpose. However, I do believe, I repeat, that we have an obligation and we will fail in that obligation to ourselves as a body and to the country as a whole if we do not act, either affirmatively or negatively, on the conference report by a rollcall vote of the Members of this body after adequate debate.

I thank the Senator from Maine for giving me this opportunity to speak. I might say that in the 15 years that I have been a Member of the Senate, I doubt that I have ever even approached the position of offering criticism of the membership of this body or of any Member of this body. And that has not been my intention as I have talked this morning.

Mr. MUSKIE. Mr. President, I thank my good friend, the chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH), for his highly appropriate remarks and for his mention of my own concept of what we need to do.

What I have said this morning is said more in sadness than in anger. However, I want to call to the attention of the Senator from Arizona a few additional points with respect to these problems.

I have a great deal of respect for the Senator from Wyoming and for the Senator from Arizona. I have a great deal of respect for Mr. Simon. As a matter of fact, I have taken what has been said to me in the course of the last few minutes in all good faith. I think that Mr. Simon is doing a very difficult job. He is doing his best to get the facts, and he is doing his best to convey the facts to the American people.

Mr. President, separately today, I am going to have printed in the RECORD a speech Mr. Simon made last Tuesday to the National Press Club. The thrust of his remarks was an expression of his determination to get the facts to the press and to the public, because, as he sees it, one of his greatest challenges is the lack of credibility in all our institutions. I read this language which suggests his sense of urgency:

> Within 24 hours of our receiving your requests for information, we will issue an acknowledgement or grant the requests. Within 10 working days, I personally guarantee that you will get the information you seek or have the opportunity of appealing, and appeals will be ruled upon in no more than 10 days.

That is the kind of action that Mr. Simon is proposing to get the information to the American people and to mobilize our Nation's energies to deal with this problem.

So, I am for Mr. Simon. I have been for him, and I think that this matter requires a sense of urgency.

May I say to my good friend that there are items in this conference report dealing with energy with respect to automobile emissions that do not need to be dealt with on an emergency basis. In our Senate Committee on Public Works, we have already planned and scheduled hearings to deal with some of these issues this year, either in the late spring, early summer, or fall. Testimony will be scheduled. Then we will act.

To the unhappiness of many people, we dealt with some of these issues in the conference, notwithstanding the fact that they were not dealt with on the Senate floor.

When a Senator says to me that there are matters in this report that deserve deliberate consideration and discussion, I tell him that I agree. However, with respect to my particular responsibility, we resolved those issues quickly and expeditiously because Mr. Simon told us—and I believed him—that there was a crisis and a sense of urgency.

There is great doubt around the country that there is a crisis. There is a widespread feeling that the shortage is contrived. Mr. Simon does not believe that. He tells us with all earnestness and all the urgency that he can command that there is a real crisis and that we must deal with it quickly.

It was for that reason that we acted quickly in the conference on the matters under my jurisdiction. It is for that reason that we must act expeditiously now.

May I say to the Senator from Arizona and to the Senator from Wyoming that I intended to present the environmental portions of the conference report today.

I will not do so today because it seems to me that the whole report is in doubt. At this point, it is left hanging.

I will be available to answer questions about the matter. I will not absent myself. If there are Senators on the floor who want to discuss those portions of the conference report, I will be available. However, I will not present them with a recommendation for adoption today, because if the distinguished Senator from Arizona feels he is entitled to more time to consider these issues, if he feels that other Senators are entitled to more time in which to discuss these issues, then I say to the Senator with all due respect that I am entitled to more time in which to discuss these matters. It cannot be a one-way street.

We have had ample time in the conference to discuss these issues. The Senator's case has been made appropriately and well. He raised questions, questions that I think create doubt on all sides. But the question today is whether this is such an urgent matter for action and whether we should collapse our time frames to get to a disposition of the matter.

If the Senator urges, and is in a position to implement his feeling, that we need more time, I say to the Senator I am going to take more time.

Mr. FANNIN. Mr. President, I would like to clarify a situation in which I may have been misunderstood.

I supported the Mansfield unanimous-consent request, and it may have been misconstrued, when I was objecting as to what the Senator from Rhode Island (Mr. PASTORE) was discussing, that I was objecting to Senator MANSFIELD's unanimous-consent request. I want the record to be clear that I support the unanimous-consent proposal of the distinguished majority leader, and appreciate very much that he made that unanimous-consent request, which was not accepted.

Mr. President, we have before us very important legislation regarding what can be done to assist in solving the energy problem, but unfortunately I do not feel that we have taken the action that is necessary to accomplish that objective, that is, to obtain additional supplies of petroleum products domestically, and to provide the incentives that will accomplish that particular need.

We have a real sense of urgency, as has been expressed. I agree, but urgency must never replace thorough deliberation on legislation that will touch each and every one of us in this country.

Let us use the necessary time to explain this report, and make sure this is legislation that will cure our problems and not aggravate them.

We feel that more than 90 Senators have not had a sufficient opportunity to digest the legislation—or approximately 90; there were 11 members of the conference committee, though not all the members of the conference committee were in attendance. We did spend considerable time on the discussions, but we also tried to give thorough consideration to the witnesses who came before us on this particular measure.

On February 2, a Saturday, hearings were held on this energy bill, at a time when we had witnesses from various schools, witnesses from industry, and economists of great renown. We had Dr. John H. Lichtblau, executive director of the Petroleum Industry Research Foundation of New York; we had Dr. Thomas Stauffer, research associate, Center for Middle Eastern Studies of Harvard University; we had Mr. Warren Davis, chief economist, Gulf Oil Corp., here in Washington; and we had Mr. John Emerson, energy economist of the Chase Manhattan Bank of New York.

I would like to refer to the testimony of Dr. Thomas Stauffer, research associate of the Center for Middle Eastern Studies at Harvard University. He gave us, I think, some very beneficial information, and I would like to read what he had to say, because I think that everyone should know his position in this regard as a student of the subject.

He said:

> I would oppose a price roll back at the present time, in the absence of much more careful consideration and better information, because a price roll back could have a number of important and serious repercussions on our national economy, and possibly on national security.
>
> (1) It would perpetuate our dependence upon foreign sources of unreliable oil imports.
>
> (2) It could mortgage our future supplies of energy in order to offer a very short-run dividend in the form of slightly lower prices. This might be good politics, but it is bad economics.

I want to bring out that many of the things done under this legislation, perhaps, are good politics but bad economics. Perhaps they will prove to be very detrimental.

Dr. Stauffer continued:

> (3) The hidden costs of energy shortages can be a much greater burden than the visible costs of higher oil prices. It is better to pay more but to have energy, than to pay less and thus to get less energy—and cause still more jobs to be lost.
>
> (4) There is a disastrous precedent for unwise price regulation of energy resources. We must remember what FPC price regulation did to the natural gas industry. Those price controls were implemented in the name of consumerism. And those policies of Commissioners Swidler and White promoted the waste of energy and created today's shortages.
>
> (5) Finally, last October we embarked on a policy in the Middle East which created today's energy crunch and cost American jobs. In the face of today's shortages, it seems unwise if not folly itself, to make another political decision which would reduce the incentives for the production of domestic energy. Having cut ourselves off from oil from Middle Eastern producing countries, if not careful we might find that price rollbacks and revisions of the oil tax laws might dry up our otherwise promising domestic sources.
>
> Price rollbacks and oil tax revisions as called for by Chairman Jackson are definitely not the direct route to achieving energy self-sufficiency. On the contrary such actions can impede the attainment of self-sufficiency.
>
> Such measures do not contribute to any solution of our country's energy problem. Indeed, the proposed price rollbacks and possible revisions in the tax laws seem better designed to perpetuate and worsen the energy crisis. Specifically, these measures would reduce our production of domestic oil and increase the already dangerous import gap. Senator Jackson's proposals could ultimately render us still more dependent upon foreign oil imported from the Middle East. Far from fostering energy self-sufficiency for the U.S., these measures would render us still more vulnerable to more serious oil embargoes in the future.
>
> The United States has already lost some 20% of its oil supply as a consequence of our political policy in the Middle East, and now millions of Americans must bear increasing inconvenience, while hundreds of thousands have already sacrificed their jobs. Any act which could impair the remaining domestic supply is at best perverse, if not an act of absolute folly. At this point we need all the oil which we can produce. Higher prices are certainly unpleasant—no one wants to pay more—but higher prices alone are the most direct route towards emancipating ourselves from the political dangers of greater oil imports. Given our commitment to Israel, the best alternative to imported oil is a strengthened domestic oil industry, not one weakened by price cuts.
>
> Such measures appear to be expressly designed to perpetuate and exacerbate the present energy crises. If price rollbacks are implemented, the consumer in the short run obviously pays less for gasoline or heating oil, but over the longer period the consumer would also get less. We must ask which poses the greater burden for the consumer—some market-related price for a commodity or the ramified costs of shortages such as we begin to see now? Which is more serious—paying market-related prices for an indispensable resource or the still greater costs resulting from not having enough?
>
> Given that we are confronted with acute shortages in key areas, it seems imprudent, if not irresponsible, to reduce the incentives for energy production until the ramifications and implications of these steps are fully understood. Otherwise, we shall resemble the farmer who decides to get more in the short-run by eating all of his seed corn. His belly was certainly more full for a few months, but the price for such a short-lived bounty can be long years of unpleasant deprivation.

A central issue here is the relationship between the prices of oil and gas and the additional production which can be obtained from increased prices. It is clear that our potential reserves of oil and gas are very large. In particular, these are large enough that exploitation of such conventional reserves can greatly facilitate our switch to coal or nuclear sources over the longer-run.

It is exceedingly difficult to estimate the supply elasticity for oil or gas, i.e. how much more one can discover and produce at higher prices, or, conversely, how much less one might have if real prices were to decline. Conventional econometric calculations are so unreliable that I for one do not believe them even when I might agree with the result.

However, a simple-minded set of engineering-type calculations leads to the suggestion that there should be about a fifty-percent increase in potential production for every doubling of the price. Thus, very approximately, a twenty-five per cent reduction in price equates to a loss of about 12.5% of potential production, or about 1.5 million barrels per day. This is roughly equivalent to one half of the present level of shortfall induced by the oil embargo. Therefore, we are talking about effects which are serious.

This very rough computation allowed only for the ability to drill deeper wells in response to higher wellhead prices. Everything else remaining equal, an average price increase of 50% would permit the depth of the average well to increase from around 5600 feet to circa perhaps 6800. In a special sense this means that 20 percent more sands may be tapped.

More generally, however, two additional effects contribute to a still greater increase in production as a consequence of a price increase. First, it is economically justified to explore for smaller or less certain deposits in older, less more shallow zones. Second, secondary or tertiary recovery projects may be implemented more thoroughly, increasing output both from new finds and also from older reservoirs. Finally, one can operate in deeper water offshore, increasing the scope for new discoveries, or one can develop lower-quality, higher-cost fields when found.

All of these factors contribute significantly to a higher yield of new energy supplies when price incentives are raised. But, conversely, such opportunities can be lost if prices are cut or tax incentives reduced. Especially at this time, when we have lost some 20% of our oil supply as a consequence of our Middle Eastern policy, we should be cautious indeed before we jeopardize any fraction of our remaining domestic supplies of energy. These price rollbacks and tax modifications deserve the most careful scrutiny, lest we sacrifice future crops while savoring enjoying the seed corn.

Complex issues with complex ramifications cannot be resolved overnight nor even in 48 hours. The issues raised in this hearing deserve review, but once again, in conclusion, I urge the utmost caution and discretion.

Testimony of Warren B. Davis, Before the Senate International Committee, Concerning S. 2885, February 2, 1974

My name is Warren B. Davis. I am Director of Energy Economics for the Gulf Oil Corporation and reside in Pittsburgh, Pa. I was Chairman of the Coordinating Subcommittee of the National Petroleum Council's U.S. Energy Outlook Study.

I would like to discuss some of the aspects of S. 2885.

I believe the goal of 85–90 percent self-sufficiency in crude oil by 1980 will be an extremely difficult one to obtain. It will require an all-out effort to explore for and develop domestic oil supplies. In the context of the National Petroleum Council's Study on the U.S. Energy Outlook, only Cases I and II approach this goal. These cases both assume a finding rate about 50 percent above the past trend. Thus, it would be dangerous to count on them in laying plans. A more realistic possibility might be the Case I drilling rate which envisions an increase of six percent per year in drilling, combined with a discovery rate in line with past trends. This produces results similar to Case II which results in 80 percent of the U.S. energy requirements being supplied by domestic fuels in 1980.

Then if we are to be 85–90 percent self-sufficient by 1980, we will need to develop synthetic fuels at an even greater rate than the projections in any of the cases in the National Petroleum Council study. Thus, it will require an all-out effort, not only on domestic crude oil, but also on synthetic fuels.

I cannot forecast for you exactly what oil price is needed to encourage an all-out effort, and I doubt if anyone else can either. There is a great deal more involved than just the price of oil in encouraging all-out efforts in the development of fuels in this country. Rather than list other factors here, I would simply refer you to the National Petroleum Council study.

I think it worthwhile to try to compare the present situation with one that occurred in the past. After World War II, war-time price controls were removed and the average price of crude oil increased from $1.22 per barrel in 1945 to $2.60 per barrel in 1948. Between 1946 and 1957, drilling increased from 28,000 wells to over 50,000 wells, and as a result U.S. crude oil reserves increased by about 50 percent. I cannot say for certain that the same would happen today, but it looks as if we face a similar situation. It is interesting that during this 1946–1957 period, the oil industry did not haxe extremely large profits for more than a very short period of time, because the high prices induced people to spend more money looking for and developing oil.

If the U.S. is to achieve a high degree of self-sufficiency, then we need prices that will induce very large investments in synthetic fuels. Referring again to the National Petroleum Council study, the committee estimated synthetic oil from shale and coal to have costs, including a return on investment, in the range of $5.00–$8.00 per barrel. However, these estimates did not include land costs and there is great uncertainty about the magnitude of the environmental costs. Both of these factors tend to make the upper end of this range look more likely at the present time than the lower end. The most significant fact, however, is the basic uncertainty as to what oil price will encourage a forced-draft development of our synthetic fuel resources in this country. The results of the recent shale oil lease sale make it appear that the present new oil prices are sufficient to encourage the development of synthetics. It is questionable whether a substantially lower price would, and it is reasonably certain that putting an arbitrary ceiling price on the new oil price will be a discouraging factor.

A factor that is most discouraging to the idea of arbitrarily lowering the new oil price is the inability of anyone to accurately determine what will be the effect of an arbitrary reduction in price. At the present time, the new oil price in the U.S. is free of control and presumably is either seeking or has already found its natural level. I believe the course of action most likely to maximize the development of our domestic fuel resources is to continue to leave this price free of control. At least two factors are working to prevent free prices from resulting in "windfall profits" to producers: (1) When oil producers get more revenue, they traditionally use it to explore more territory and drill more wells. This normally has gone on until their profitability level is back somewhere near the level before the price increase, and instead of resulting in a lot more profit, it results in more production. (2) The only really good long-term solution to high oil prices is a substantial increase in supply. If the supply is great enough, the prices will go down, and the sooner we get to that point the better.

The dual price structure maintained by the Cost of Living Council has been livable, but it creates economic anomalies to have a single lease producing identical oil with two different prices. I endorse the statement made by the Cost of Living Council in the introductory material to its Phase IV Regulations, published August 17, 1973 in which they say, "The Council will continually monitor the ceiling prices of domestic crude petroleum and intends to make periodic upward adjustments in the ceiling price toward the higher world prices for crude petroleum."

In closing I would like to comment on Senator Jackson's remarks in the Congressional Record of January 24, 1974. On pages 727–728, the Senator interpreted the National Petroleum Council report as saying that the U.S. would achieve the greatest feasible level of domestic self-sufficiency with a crude oil price of $4.35 per barrel in 1975. I would like to call your attention to a statement on Page 39 of the Summary Report of the National Petroleum Council's study which says, "These required 'prices' and production rates provide useful information about supply and price. However, they should not be construed as measures of supply-price elasticity." I would also like to point out that National Petroleum Council study was directed at the long-range outlook, particularly toward the period 1980–1985 and if any such interpretations are to be made, they should be directed to that period. I believe Mr. Vincent M. Brown, Executive Director of the National Petroleum Council, has commented on this matter and I endorse his comments.

If I seem to be uncertain about these matters, it is simply because there are many uncertainties. I don't know how many of them could be resolved with thorough study, but I strongly recommend that any action such as S2885 be delayed until some thorough studies can be made.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having discussed this request with the distinguished Senator from Arizona (Mr. Fannin), that he be permitted to yield at this time to the distinguished Senator from Maine (Mr. Muskie), that Mr. Muskie be permitted to speak out of order for not to exceed 30 minutes, notwithstanding the Pastore rule of germaneness, that the distinguished Senator from Arizona not lose his right to the floor, and further that the statement of the distinguished Senator from Arizona not show an interruption in the Record.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, first of all I thank my distinguished friend from Arizona for yielding for this purpose. This is the same general subject area which I seek to address, but it is not relevant to the conference report.

Mr. President, the foreign ministers of the world's major oil consuming nations are to meet in Washington next Monday at the invitation of our Government. Their agenda calls for action on world energy problems. Their meeting is of great importance.

Either it will prove a short-lived, frustrating exercise in crisis diplomacy, or it will make a belated start on the creation of a common policy toward the common problems of resource scarcity. The early indications are not encouraging.

In the month since the President issued invitations to the conference, evidence has mounted of sharp divergence between the aims of the United States and those of our Canadian, European, and Japanese allies. Officials here informed the Canadian Energy Minister last week that our main objective is to weld a common front against high oil prices—even to roll them back.

The Common Market countries, in defining their position Tuesday, specifically rejected any thought of confrontation between the oil consumer and producer nations. Instead, they prefer to expand the international dialog on energy to include both the countries which dominate the supply of crude oil and the developing nations which need fuel they can afford as badly as the industrialized world.

These aims need not be mutually contradictory. But the advance consultation necessary to reconcile them has not taken place. And, lacking such essential, ongoing contacts, historic partners have allowed lack of leadership and the contagion of self-interest to drive them into attitudes of rivalry and suspicion.

In the short months since Middle Eastern oil suppliers initiated the twin tactics of restricting production and inflating price, each consumer country has gone its own competitive way. European and Japanese negotiators, for example, have reportedly already concluded $6 billion worth of bilateral agreements with the oil producing nations, bartering arms, technology and promises of industrial development assistance for guarantees of petroleum.

This competition—including another $5 billion in separate, similar negotiations said to be underway—strengthens the producers' bargaining position as surely as it weakens the political and economic cohesion of the industrial democracies. The Washington conference must make its first goal the essential one of curtailing such beggar-thy-neighbor policies.

But there can be little hope of the foreign ministers' agreeing to even a policy of mutual restraint unless America's own practices are coordinated with our rhetoric about international cooperation. As host to the conference—and as the most powerful and temporarily best-placed of the consumer nations—we have a special responsibility to set an example others can trust and follow.

Until now, however, we have acted preoccupied and uncertain, substituting contradictory expedients for coherent policy. In the style of our diplomacy and the substance of our action, we have undercut our sincere calls for concerted action with postures that serve narrow, nationalistic goals.

While all of us admire the negotiating expertise of Secretary Kissinger, we know that he would agree that his heavy schedule of travel tends to interfere with the patient discussions allies must have to prevent minor misunderstandings from becoming major obstacles to coordination. Such talks are hard to hold in airport waiting rooms, as they recently were with the British Foreign Minister. And the French compliment to Dr. Kissinger's gift for "happy improvisation" is only a barbed reminder that "muddling through" one emergency only defers conflicts; it does not defuse them.

But even if we had talked less about consultation and practiced it more, our own initiatives for dealing with energy problems would have raised grave doubts among our partners. No matter what we preach abroad, Project Independence defines our policy at home primarily in terms of pursuing energy self-sufficiency, rather than emphasizing the broader goal of international cooperation. And the recently reported, secret Justice Department waiver of antitrust action against joint bargaining activity by our major oil companies can only suggest that we are unleashing our private buyers to compete for fuel in the marketplace against the governments of our allies.

If we mean to go it alone—the message France has already read from the present shape of Project Independence—we cannot realistically expect others to honor our calls for concerted action. Yet the President's energy message of January 23 made no mention of any hopes for an international approach to the problems the whole world faces. It emphasized only the important—but inward-looking—goals of developing alternative energy sources within the United States, of conserving essential fuel for ourselves, of expanding our research and development efforts so that by 1980, in the President's words:

> We are no longer dependent to any significant extent upon potentially insecure foreign supplies of energy.

By contrast, the agenda proposed by Secretary Kissinger for the foreign ministers' conference envisages discussions on joint action by the oil-consuming nations on all the goals we set for ourselves in Project Independence, on international monetary and economic policy to deal with the consequences of the exorbitant oil prices and on plans for sharing and allocating fuel during emergencies.

That last item is especially puzzling.

Are we thinking of pooling our domestic energy supplies—now inadequate for our own needs—with those of other nations even more dependent than we on imported fuel? If such sacrifices are under consideration, the American people should be told of them. They have not been. Project Independence points in a much different direction, and the emphasis we have given it must surely make our allies question our willingness to consider even emergency fuel sharing proposals.

In fact, Project Independence need not contradict our efforts to secure international cooperation. At one level, it does add to the weight we carry in negotiations with the oil-producing states. At another—if we succeed in reducing U.S. demand for imported fuel—it frees resources we might have required for the use of others.

But unless it is refashioned to reflect the realities of our interdependent world, this policy will discourage concerted action. Our goal is not just one of freeing ourselves from reliance on "potentially insecure foreign supplies." Our aim is to insure a stable worldwide flow of energy supplies and, beyond that, of the supplies of all the raw materials the entire planet needs.

It is true that America is potentially in a better position to supply its own energy requirements than any other Western industrial nation. But we must already rely on others for more than 80 percent of the chromium, manganese, bauxite, tin, and nickel our power converts to manufactured products. And it is estimated that by the end of the century we will be importing more than half the tungsten, zinc, copper, iron, lead, and sulfur we will need.

All the self-generated energy in the world will be wasted if we lack the raw materials to convert to finished goods. And if we are unable now to limit the power of one monopoly cartel—the oil producers—to hold the industrial world to political and economic ransom, our failure can only invite the suppliers of other essential resources to adopt similar tactics in the near future.

Supply, of course, is simply one edge of the sword. Price is the other. And in that field, the interests of the buyers and the sellers converge. As Dr. Kissinger wisely said of the producers:

> It cannot be in their interest to bring about a worldwide depression.

First, perhaps, the inflated prices will shake the economic structures of the most advanced countries, those whose prosperity, until now, has been built on the availability of cheap fuel and whose oil bills are likely to rise by $50 billion in 1974.

Second, the economies of the developing nations are equally exposed to calamity. To keep their fuel bills from increasing by $10 billion this year, as projected, they will have to curtail oil imports and forego essential growth.

Finally, of course, the suppliers might come to discover that they have not so much priced themselves out of the market as priced the markets into such turbulence that they collapse. Oil that no one can buy is of no use to those who would sell it.

If the first requirement of the foreign ministers' conference is a common policy to avert such disaster by suppressing the competitive rush to strike short-term oil bargains in the Middle East, it is nevertheless clear that agreement on such policy must be based on a broader consensus among the consumers. Joint action to develop alternative energy sources will surely be part of any long-run effort, but if such commitments are seen primarily as an immediate bargaining counterweight against the suppliers, they are likely to encourage a confrontation mentality and a fierce push by the suppliers to get the most now for what they have.

So the foundation for a concerted policy must be the recognition by all involved that cooperative effort cannot be limited to industrial nations. It must be a global aim.

The proper focus for our efforts should be the broadest one: Conservation of all the world's energy resources, not just our own; and development of alternative energy supplies for all users, not just ourselves. Such a coordinated approach assures that we—and others—recognize that the immediate shortage of supply are simply the precursors of a new world condition.

The abundance from which we have so long profited is past. Global scarcity is the new reality to which we must adapt.

On a shrinking planet, self-sufficiency is a delusion. The remedy for problems that poison the hopes of rich and poor alike is to be found in multilateral solutions that give hope to rich and poor alike.

Next week's conference was first announced as a prelude to a further meeting with the oil producers. The American aim, apparently, was to build a solid, joint bargaining position from which to negotiate supply guarantees and price reductions.

By itself, however, that goal would seem to be unrealizable. In any event, it is too narrow. The Common Market position—avoidance of confrontation and promotion of the role of both the producing and developing countries "in reinforcing international cooperation"—appears to offer a more hopeful, although far more complex approach. The fact is that the interest of the industrialized world in harmonizing relations with oil suppliers runs parallel to the interest of all nations in building a healthy international economic order.

Such progress is only possible through the slow, painstaking adjustment of competing national interests in international negotiations. It will have to be founded in new, liberal trade arrangements between the developing countries and those they tend to see as exploiters of their relative weakness. It will have to be cemented by monetary agreements that guarantee against sudden dislocations. It will have to be molded by the leadership of the advanced nations, prepared to concede that their own survival and prosperity depend inexorably on the survival and prosperity of their poorer neighbors.

To give that leadership should be America's greatest goal. Instead of Project Independence, Project Interdependence should be our first priority, for interdependence is the overriding and overwhelming reality of our era.

Judging by his statement Wednesday about America's "profound interest in world cooperative relationships," Secretary Kissinger appears to recognize this reality. Based on that recognition, I am hopeful that he will be able to reconcile America's desire for rapid, decisive action in the energy crisis with our allies' policy of giving both the oil-producing and the developing nations key roles in building a new international consensus. For the conference that opens here Monday can begin the hard, long search for a way out of the immediate crisis and toward new, equitable, reliable international relationships. If it accomplishes only that—a beginning—it will have been well worthwhile.

But such a beginning must also put an end to American practices that divide us from our closest partners. It must reestablish a diplomacy based less on ingenuity and improvisation in fighting fires and more on policies of mutual interest and restraint which will insulate us against fresh outbreaks of fire.

Looking back on the history of the democracies between the two world wars, Winston Churchill wrote of the "absolute need of a broad path of international action pursued by many states in common across the years, irrespective of the ebb and flow of national policies."

We have now what may be our best, if not our last, opportunity to find that "broad path" again. If America fails now to open the way to international action, we will tumble over ourselves into the dead end of international disorder.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona has the floor.

Mr. FANNIN. Mr. President, I am glad to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, the Senate has already had before it for some time the bulk of the conference report. Very few substantive changes have been made in the report since the last time it was considered by the Senate. I will briefly summarize the major changes which were made in the most recent conference:

First, since there has been quite some delay in the passage of this bill since it was first considered, it was necessary to adjust the timetable for congressional approval of energy conservation plans as set forth in section 105. Original benchmark dates were March 1, 1974, and July 1, 1974. Because March 1 is now so close, the conferees felt it was only fair to the executive branch to relax the timetable. Accordingly, March 15 has been substituted for March 1, and September 1 for July 1.

Sections 110 and 129, previously required the President to set prices for petroleum products so as to avoid windfall profits, and provided for petition for refund of prices which were found by a renegotiation board to have resulted in excess profits. The new section 110 continues to recognize the need for judicious pricing of petroleum and petroleum products. As a commodity which affects virtually every consumer and every industry, rampant price increases for oil will only result in soaring inflation. In most instances, there is no substitute for petroleum—for transportation, for petrochemicals, to name but two such instances. So people are being forced to accept higher prices: small businesses, low income consumers, independent businessmen and truckers must absorb the rising cost of crude. The conferees, after much deliberation, provided in section 110 that a ceiling be established for petroleum prices, to reflect more truly the actual value of petroleum, rather than current cartel levels inflated and uncontrolled levels. Section 110 as it now stands provides for ceiling prices to be established for all crude oil. The basic price is $5.25 per barrel of crude oil. This price could be increased, if proper findings are made to $7.09 a barrel. The bill also provides for a dollar-for-dollar passthrough of any price reductions resulting from such ceilings, to be reflected fully and proportionally in the price of petroleum products. Mr. President, I think section 110 as now written is a good and workable provision and I would strongly urge its adoption by my collegeaues.

Section 116, which provides for grants to States for increased unemployment coverage has been broadened. The section as it now stands provides for compensation to be provided to persons adversely affected by the energy emergency—for example, by energy emergency allocation programs, conservation measures, energy shortages, and so forth. At a time when we are told to expect unemployment as high as 6 to 8 percent, 3 percent of which will be directly attributable to energy shortages, we must make provisions to avoid a major recession. Already, hundreds of thousands of workers in the auto and chemical industries are out of work. The conference bill, therefore, provides for $500,000,000 to be available to the States for unemployment compensation for the duration of the bill.

Section 117 has been amended to provide greater restrictions on the use of Government limousines and chauffeurs. This revised conference version is far closer to the original Senate passed version, and I think provides for a good example to be set for the American people by their leaders.

A new section 130 has been added, to provide for low-interest loans to homeowners and small business, for the installation of energy conserving devices in their homes and places of business: Covered items under this provision would include storm windows, insulation, solar heating devices, and so forth. In adopting this provision the conferees restored the original Senate-passed language, recognizing that if the American people are being asked to make sacrifices in this time of crisis, they should be given the greatest assistance possible in doing so.

Mr. President, there are also amendments which were made to title II, but I will ask my distinguished colleague from Maine, Senator MUSKIE, to address those provisions at the appropriate time.

Mr. President, I strongly urge my colleagues to adopt this revised conference report. I think it is a good bill, a workable bill, and urgently needed. As my distinguished colleague, the senior Senator from Arizona, said in this

Chamber earlier this week, the administration needs this legislation if they are to deal adequately with the worsening crisis. If Congress fails this time to approve the conference report, the responsibility for the consequent dislocations in our economy will rest on our shoulders. We can no longer delay, no longer shirk our duty to our constituents, to bring a bit of order and a greater certainty into their daily lives.

Mr. President, I ask unanimous consent, if it is agreeable to the distinguished Senator from Arizona, to yield to the distinguished Senator from West Virginia (Mr. RANDOLPH) for a question.

Mr. FANNIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, in reference to section 107 of the conference report, dealing with the allocation of material, Is it the understanding of the chairman that this provision also goes to the matter of petrochemicals?

Mr. JACKSON. Yes, section 107(c) specifically addresses the matter of petrochemicals.

Mr. RANDOLPH. That was my understanding.

Mr. JACKSON. The Senator is correct.

Mr. RANDOLPH. I wanted to make certain that these vital feedstocks were covered by the allocation provision.

Mr. JACKSON. Needless to say, this is a very urgent area of economic concern to the Nation, because petrochemicals have become a basic feedstock to the economy. We are perhaps more familiar with steel, aluminum, copper, and the other metal industries as basic industries; but petrochemicals have come to play an equally vital part in the economic growth of the Nation, contributing to the manufacture of so many things that go into the gross national product of the Nation.

Mr. RANDOLPH. The Senator is correct. The State of West Virginia has a very substantial petrochemical industry. I am aware of the problems in that industry, which is affected by the energy crisis.

I desire to emphasize, as we have in the past in the conference and during the discussion on the floor, the viability of the conference report on this subject.

Mr. JACKSON. I must say—and I want to be properly understood in connection with the pricing of petrochemicals, that the equitable pricing of petrochemicals is provided for under the term "refined petroleum products of crude oil" in section 110 of the conference report.

Mr. RANDOLPH. There is need for a further clarification on the conference report, which I would ask the able chairman to address at this time.

There is need for clarification of a point regarding section 106 of the conference report.

Coal conversion into synthetic fuels offers a potential for significant savings in petroleum product usage. This is discussed in some depth in the conference report. Increased coal usage and synthetic fuels from coal offer significant opportunities for relieving present shortages.

With regard to existing facilities as well as possible longer term problems with regard to plants now in the planning phase. Using new technologies, such coal byproducts as synthetic gas and oil and solvent refined coal, major strides can be taken to meet our energy needs consistent with long-term environmental policies.

I would like to ask the floor manager for this conference report, Senator JACKSON, if he does not agree that the intent of the conferees was to include these new technologies within the term "coal byproducts."

Mr. JACKSON. By including the term "coal byproducts" in the conference report as a possible alternative fuel to oil and natural gas, it was understood that the term "byproducts" would not be narrowly construed, but rather would include such coal derivatives as synthetic gas and oil from coal, or solvent refined coal. The latter is particularly attractive for use in powerplants, as it can readily be substituted for high sulfur coal or for oil. It is clearly the intent of the conferees, in pursuing the national goal of energy self-sufficiency, not to preclude the use of any possible alternative sources of energy which could bring us closer to that goal.

Mr. RANDOLPH. I recognize that my colleague has also asked a question. I do have a commitment I should like to keep in a few minutes. I am wondering whether I might be permitted, if it would not disarrange the schedule of the Senator from Louisiana (Mr. JOHNSTON), to comment on an additional section of the conference report. The Senator from Arizona (Mr. FANNIN) suggested that I might be able to do it now.

Mr. JACKSON. The Senator from Wyoming (Mr. HANSEN) has control of the time.

Mr. RANDOLPH. I had asked Senator FANNIN for an opportunity to speak for 5 or 6 minutes, and he indicated that that time might be yielded to me. I did not realize that he is not in his seat at this time; but when I asked him, he felt that that could be done. I have no desire to press the point, except because of another commitment that I have with some constituents. I do hope that I might be permitted to seek clarification of one point at this time, if it is agreeable to the Senator. If it is not——

Mr. HANSEN. Mr. President, may I say, speaking on behalf of the distinguished ranking minority member of the Interior and Insular Affairs Committee, that were the Senator here, I am sure he would have no objection. He did, however, assure the Senator from Louisiana (Mr. JOHNSTON) earlier that he would be recognized first. If the Senator from West Virginia would not object—I do not know how long he cares him to yield——

Mr. RANDOLPH. I would like to have the response to the able Senator from Wyoming's question as to time, because I do not want to violate any agreement that was made.

Mr. JOHNSTON. Mr. President, I would suggest, if it meets with the distinguished chairman's schedule, that I be allowed to ask a question or two for a minute or two. Then if the Senator wishes to be recognized, I would like to be recognized at the conclusion of his remarks. I will certainly yield to the distinguished Senator from West Virginia for whatever time he needs, and then ask to be recognized after that, whatever the pleasure of the floor manager is.

The PRESIDING OFFICER. Who seeks recognition?

Mr. JOHNSTON. Mr. President, will the Senator from Washington yield for a question?

Mr. JACKSON. Mr. President, I seek the floor, but I will relinquish it for the purpose of responding to a question.

I yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to ask questions relevant to the meaning of the practical effect of the price rollback provision. As I understand it, the inital price allowed is that which was in existence at a particular field on May 15, 1973, plus the sum of $1.35 a barrel. Do I understand that correctly?

Mr. JACKSON. That is correct. The average price on May 15, 1973, as I recall, was $3.90 a barrel. Under Cost of Living Council regulations they are now allowed to charge an additional $1.35, which is the current price of old oil; this averages about $5.25 a barrel.

Mr. JOHNSTON. So, in effect, the intent is to bring the price for old oil to, roughly, $5.25 per barrel?

Mr. JACKSON. The Senator is correct.

Mr. JOHNSTON. In some cases it could be lower or perhaps higher, depending on what the price was on May 15, but the rule is that it will be about $5.25 per barrel.

Mr. JACKSON. The Senator, I think, has stated it accurately.

Mr. JOHNSTON. This $5.25 per barrel price includes the $1 per barrel increase allowed by the CLC or the Energy Office, whichever one allowed it, that was granted just in recent weeks?

Mr. JACKSON. I believe the Cost of Living Council approved it the latter part of December—that is, the dollar-per-barrel increase—and that is included in the $5.25.

Mr. JOHNSTON. That dollar increase was not a cost passthrough but was, in effect, what some might call a windfall profit. Was it not?

Mr. JACKSON. I think that is correct. It was, to my best recollection, allowed as an incentive to production, and did not reflect increased costs. It went directly to the producer.

Mr. JOHNSTON. So, in effect, we are giving old oil owners a dollar per barrel windfall profit while at the same time reducing the price on new oil from $10.35 to $5.25?

Mr. JACKSON. I would not put it that way. I would put it the other way. The producers of new oil took a rather big leap in price this fall, from around $3.90 to a high of about $10.35. That is quite an adjustment. The average on new oil has been about $9.51, but it has hit $10.35 a barrel. That is an increase of $5.45.

Mr. JOHNSTON. Can the Senator call it a windfall when it is new oil that is found under new circumstances? Does not the term "windfall" really apply to old oil, and not to new oil?

Mr. JACKSON. That is true, but such windfalls do accrue when, for every barrel of new oil discovered since 1972—and that would not be new oil to me—they deregulated a barrel of old oil.

Mr. JOHNSTON. Right.

Mr. JACKSON. Which adds on to the consumer's cost another $5 in increased prices. Thus recent price increases for new oil really amount to $10 a barrel for the consumer, above the levels of a few months ago.

Mr. JOHNSTON. If the distinguished manager will recall, when we had the first day of hearings on the question of rollback in the Interior and Insular Affairs Committee, I made an opening statement criticizing the decision allowing deregulation of one barrel of old oil for every barrel of new oil discovered. I made the point that such a pricing procedure was not necessary to increase incentive, and that incentive to discover and produce oil is what we need. I am sure the distinguished chairman recalls that colloquy.

Mr. JACKSON. Yes; I recall that we did provide an incentive for new oil, when we worked out the deregulation of the so-called stripper well, using production of 10 barrels a day or less as a basis for qualification. The debate centered around the fact that the expected price increase would probably be a little over a dollar a barrel. What has happened since then, by reason of the cartel price set by OPEC—the oil producing exporting countries—has driven the price of stripper well production up by not $1 but by $5.45 a barrel—way beyond anything I contemplated—and I must confess I think it was a mistake to make that change which permitted such an extraordinary increase.

The administration has noted this problem. Mr. Sawhill, who is Deputy FEO Administrator, and Mr. Simon, who is Administrator, have commented on it. I should like to quote from the press conference that Mr. Sawhill had on February 1. This is the last paragraph of his statement:

> So we feel that before we would take any action on new oil prices we would ask the Congress and we hope that they would give us the opportunity to put a cap on stripper wells—

Meaning price.

Mr. JOHNSTON. Will the Senator explain to me how it gives an incentive by allowing a dollar increase on old oil?

Mr. JACKSON. We are not defending that. We are authorizing them, of course, to roll it back. We do not require it, but we make it very clear in the provision of the conference report that they can do that. I am not defending that at all. I think it is a clear windfall. Nor do I defend the enormous increase in price as it relates to the new oil and the stripper well.

I do think the stripper well is in a special category, and I think there ought to be a special incentive, and that is one of the reasons we have provided in the bill the basic authority for the President to make upward price adjustments to encourage production if the criteria set forth in the act are complied with and to permit up to a maximum price per barrel of $7.09.

Also on page 13 of the conference report (9)—let me just read it so there is no misunderstanding—it is stated:

> The President may at any time act to establish ceiling prices lower than those provided in paragraphs (2) and (5) if he determines that lower ceiling prices will permit the attainment of the objectives of this act and the purposes described in section 101(b) of the Energy Emergency Act.

As to any future raising of prices, as the Senator knows, the President must submit a detailed analysis to justify that action

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator.

Mr. ALLEN. Senators know that the price of propane has gone through the roof. There are thousands of families in my State who depend on propane for cooking, for hot water, for heating and for drying their crops. In only a few months the price of propane has more than tripled, and many of my people just do not have the money to pay these fantastic prices.

As the price of propane has gone up, very poor families have bought less of the fuel. Where once they bought propane sufficient to fill their tanks on a monthly basis, now they are buying only a half or a quarter tank.

In the cold months, Georgia families have seen their monthly propane bill rise from the former level of about $25 to a new high of $60. In other States, the monthly bill is now as high as $80. What does that do to the elderly couple trying to live on social security? It forces them to give up a certain amount of heat so they can buy food and other essentials. This is a tragic situation which must be corrected.

Did the conferees, in their report, provide any relief from exorbitant propane prices?

Mr. JACKSON. Propane gas, the fuel which heats the homes of millions of rural families in the South and Midwest, has increased in price by 300 percent in the last 9 months, allowing the oil industry to enjoy huge profits at the expense of the very people who are least able to fight back.

There has either been an honest mistake by the Government in allowing the propane gas price increase or Government officials are guilty of deliberate and cynical opportunism. In either case, the result is the same—the rural families of the South and Midwest are paying the bill while the oil companies make unjustified profits.

What has happened is obvious. The oil companies are being pressured to hold down prices in more visible products such as fuel oil, gasoline and diesel. But in the less visible products such as propane—a product which is used extensively by the least visible Americans—the prices are going up at breakneck speed.

In Oklahoma, the cost to the homeowner for a gallon of propane last year was 12 cents a gallon. Now it is 37 to 40 cents a gallon. In Georgia, the price per gallon of propane at the distributor level has gone up over the year from 5 cents a gallon to 21 cents.

These price rises are being repeated throughout the South. People are quite literally going without heat in their homes.

Because the users of propane gas for home heating fuel are largely rural and poor, these consumers are being victimized. Profits which the industry cannot make in the sale of more closely watched petroleum products are being earned with a vengance in propane.

The distributors tell us that there is no shortage of propane. The National LP Gas Association contradicts FEO's assertion that there is an acute propane shortage, and says it can supply all its traditional customers. Petrolane, the largest domestic marketer, says its stocks are 12 percent higher than a year ago, but the cost of the products it gets from refiners has increased 400 percent from a year ago.

The problem with propane prices is that the dollar-for-dollar passthrough in the Petroleum Allocation Act has not been applied proportionally to all petroleum products. The average prices of refined products have increased 30 to 50 percent, but some items like propane have been allowed to increase many times more.

On January 30, FEO proposed controls and propane prices for the first time, but these are just directed to controlling future increases, and prices are already much too high.

The Energy Emergency Act corrects this situation by mandating that rollbacks of petroleum products take into consideration the historical relationship among product prices. The language of the act intends, and the conferees intended, that the rollbacks required by the act by focusing especially upon those products like propane whose prices have been allowed to increase disproportionately.

Mr. ALLEN. Not all propane is refined from crude oil. Does this act reach the propane that is stripped from natural gas?

Mr. JACKSON. Although the Energy Emergency Act does not deal with the allocation or pricing of natural gas itself, natural gas liquids and condensate are treated like crude oil both by the Petroleum Allocation Act and by this act. The prices of both natural gas liquids and condensate, as well as crude oil, will be rolled back by this legislation, and these rollbacks must be passed on to consumers of those products which are made either from crude oil or from natural gas liquids and condensate.

It should be noted that "natural gas liquids" and "condensate" are physically the same thing. Natural gas liquids are stripped from the natural gas from oil wells and condensate comes from gas wells. Both are included in the category "crude petroleum" unless they are specifically excluded.

Mr. President, there has been much discussion here today about the likely impact of a price rollback on petroleum supplies, very little of which has been supported by statistics or other factual data. For the record, I would like to run through a number of statistical and economic studies which deal with this subject. Our prime concerns in considering a rollback are two: first, the need to set a price which will permit development of a future supply of petroleum adequate to meet long-term needs; and second, the need to achieve equity for energy consumers and to avoid intensifying inflationary pressures on the economy by allowing runaway prices. With regard to the first point, there have been many allegations here today that any price rollback will drastically reduce supply, both immediately and in the long run. Yet I would like to point out that a survey of petroleum economic studies done in the last year indicate that, to achieve 80 percent energy self-sufficiency by 1980, the average price of crude oil would have to be between $4.45 and $7 a barrel—the most recent of these studies was completed in December 1973, by the National Petroleum Council—yet section 110 of the conference report, would permit a ceiling price for crude oil, where justified, of $7.09 a barrel—considerably above the levels quoted by the industry as necessary to provide sufficient incentives for that exploration and development needed to assure continued adequate supplies of domestic energy. Since these are the industry's own figures, we assume they are an accurate reflection of their needs. I ask unanimous consent that a summary of the finding of these studies be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF RECENT PRICE STUDIES

A number of recent studies have focused on determining the long run supply price of crude oil needed to elicit adequate domestic supplies of oil. A summary of the findings of these studies is given below.

Federal Energy Office (January 1974):

". . . The long term supply price of bringing in the alternate sources of energy in this country, as well as drilling the Outer Continental Shelf and the North Slope . . . is $7 a barrel, current 1973 dollars."

Department of the Treasury (December 1973):

"No one knows exactly what the long-term supply price is, as no one can predict the future that clearly. Our best estimate is that it would be in the neighborhood of $7 per barrel within the next few years."

Independent Petroleum Association of America (1973 projections):

"In terms of constant 1973 dollars . . . an average price of about $6.65 per barrel for crude oil . . . would be required over the long run to achieve 85% self-sufficiency in oil and gas by 1980."

National Petroleum Council Oil and Gas Availability (Dec. 1973):

For maximum attainable self sufficiency by 1980, average revenue required per barrel of crude is shown on the following table for different rates of return.

TABLE 653.—AVERAGE UNIT REVENUE REQUIRED PER BARREL OF CRUDE OIL[1]

[Dollars per barrel][2]

	10 percent rate of return	12.5 percent rate of return	15 percent rate of return	17.5 percent rate of return	20 percent rate of return[3]
1971	2.739	2.981	3.223	3.465	3.706
1972	2.819	3.066	3.315	3.563	3.812
1973	2.855	3.112	3.370	3.623	3.886
1974	2.941	3.214	3.486	3.759	4.031
1975	3.168	3.359	3.650	3.941	4.232
1976	3.216	3.530	3.844	4.158	4.472
1977	3.398	3.738	4.078	4.418	4.758
1978	3.612	3.978	4.344	4.711	5.077
1979	3.815	4.208	4.601	4.995	5.389
1980	4.056	4.476	4.896	5.317	5.737
1981	4.288	4.738	5.188	5.639	6.087
1982	4.553	5.037	5.520	6.004	6.487
1983	4.864	5.631	5.899	6.417	6.935
1984	5.151	5.707	6.262	6.818	7.374
1985	5.500	6.093	6.687	7.280	7.873

[1] Based on economics for lower 48 States and South Alaska.

[2] Constant 1970 dollars.

[3] All rates of return are annual book return on average net fixed assets.

Oil and Gas Journal (September 17, 1973):

"The price outlook for domestic crude thus has to be rated promising . . . The new prices make investment attractive in the new equipment and services to rejuvenate marginal wells . . . Risks are becoming worth taking." [September 1973 average domestic crude oil prior was $4.27 a barrel; that of new oil was $5.12.]

Petroleum Independent (November 1973):

"There's no doubt that prospects are for increased drilling. Everybody I know is planning on it. With new oil priced from $5.30 to $6.00 per barrel, there's incentive now to go looking for oil."

As to the second point, we cannot neglect the question of equity. Petroleum and petroleum products comprise a fundamental and inescapable part of the economic life of every industry and every consumer. A study made available to the Committee on Interior and Insular Affairs by John Dunlop, of the Cost of Living Council, shows that petroleum related costs represent from 14.5 percent to 43.3 percent of the total cost of 25 of our country's most basic industries. The findings of that study which I ask unanimous consent to have printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ECONOMIC STABILIZATION PROGRAM, COST OF LIVING COUNCIL,
Washington, D.C., December 26, 1973.

THE COSTS OF PURCHASED FUELS AND ELECTRIC ENERGY BY INDUSTRY

The attached four tables contain information that helps us to ascertain the potential impact of energy cost increases on different industries.

Table 1 is a summary table that presents data on value of shipments, cost of materials, the dollar cost of purchased fuels and electric energy, and fuel and electric energy costs as a percent of value of shipments and as a percent of cost of materials, by three-digit SIC industry group. The three supplementary tables arrange the industry groups in rank order according to:

(A) Dollar amount of energy and fuel purchased—Table 2.

(B) Energy and fuel costs as a percent of value of shipments—Table 3.

(C) Energy and fuel costs as a percent of cost of materials—Table 4.

The blast furnace and basic steel products industry spends $1,251 million on purchased fuels and electric energy followed by the industrial chemicals industry which spends $1,119 million on purchased fuels and electric energy. These two industries spend almost twice as much on energy as any other industry group. Following steel and industrial chemicals in descending order of millions of dollars spent on fuel and energy requirements are petroleum refining ($586), papermilling ($375), primary nonferrous metals ($320), motor vehicles ($308), and plastics and synthetics industries ($287).

The cost of purchased fuels and electric energy as a percent of the total cost of materials is greatest in the hydraulic cement industry (43%), followed in order by structural clay products (21.2%), building paper and paperboard mills (16.2%), industrial chemicals (14.8%), and glass (14.5%). There are eleven, three-digit SIC industry groups in which the costs of purchased fuels and electric energy account for more than 10 percent of the total cost of materials, and twenty-five industries in which fuel and energy costs account for more than 5 percent of materials cost.

The expected rapid increases in the costs of purchased fuels and electric energy in the coming months will add a considerable amount to cost justification in these industries.

TABLE I.—SELECTED STATISTICS ON SHIPMENT VALUE MATERIAL COSTS, AND ENERGY USE—MANUFACTURING INDUSTRIES, UNITED STATES, 1971

[Dollar amounts in thousands]

				Purchased fuels and electric energy			Purchased fuels			Purchased electric energy		
SIC code	Description	Value of shipments	Cost of materials	Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost material	Amount	Percent of shipment	Percent of cost material
191	Guns, mortars ordnance and accessories, n.e.c	562.2	150.4	9.8	1.7	6.5	3.2	0.6	2.1	6.4	1.1	4.3
192	Ammunition, except for small arms	5,278.7	1,661.6	35.1	.7	2.1	7.9	.1	.5	27.2	.5	1.6
193	Tanks and tank components	345.2	193.8	2.0	.6	1.0	.8	.2	.4	1.2	.3	.6
194	Sighting and fire control equipment	35.0	10.5	.2	.6	1.9	0	0	0	.2	.6	1.9
195	Small arms	379.1	129.1	4.4	1.2	3.4	1.7	.4	1.3	2.6	.7	2.0
196	Small arms ammunition	381.9	186.8	4.5	1.2	2.4	1.7	.4	.9	2.8	.7	1.5
201	Meat products	26,078.5	21,168.8	130.8	.5	.6	57.0	.2	.3	73.8	.3	.3
202	Dairy products	14,813.3	10,923.0	123.2	.8	1.1	54.3	.4	.5	69.0	.5	.6
203	Canned, cured and frozen foods	11,961.5	7,326.7	124.4	1.0	1.7	65.1	.5	.9	59.3	.5	.8
204	Grain mill products	11,209.6	7,787.9	118.1	1.1	1.5	57.3	.5	.7	60.8	.5	.8
205	Bakery products	7,357.2	3,221.7	66.5	.9	2.1	32.9	.4	1.0	33.6	.5	1.0
206	Sugar	2,857.0	2,015.4	61.1	2.3	3.0	56.7	2.0	2.8	5.0	.2	.2
207	Confectionery and related products	3,442.3	1,827.1	27.3	.8	1.5	10.6	.3	.6	16.7	.5	.9
208	Beverages	13,330.8	6,855.1	109.2	.8	1.6	57.0	.4	.8	50.2	.4	.7
209	Miscellaneous food and kindred products	12,580.7	8,651.8	136.0	1.1	1.1	73.9	.6	.8	62.1	.5	.7
211	Cigarettes	3,573.3	1,464.3	10.1	.3	.7	5.3	.1	.4	4.8	.1	.3
212	Cigars	359.3	140.5	1.7	.5	1.2	.4	.1	.3	1.3	.4	.9
213	Chewing and smoking tobacco	186.6	81.5	1.1	.6	1.3	.6	.3	.7	.5	.3	.6

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy			Purchased fuels			Purchased electric energy		
				Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost material	Amount	Percent of shipment	Percent of cost material
214	Tobacco stemming and redrying	1,408.7	1,286.7	6.8	0.5	0.5	3.2	0.2	0.2	3.5	0.2	0.3
221	Weaving mills, cotton	2,650.5	1,379.8	60.7	2.3	4.4	14.5	.5	1.1	46.2	1.7	3.3
222	Weaving mills, synthetic	3,129.6	1,711.8	63.7	2.0	3.7	16.7	.5	1.0	47.0	1.5	2.7
223	Weaving and finishing mills, wool	546.8	296.1	13.1	2.4	4.4	6.6	1.2	2.2	6.5	1.2	2.2
224	Narrow fabric mills	$531.2	$247.5	$6.5	1.2	2.6	$2.1	0.4	0.8	$4.4	0.8	1.8
225	Knitting mills	6,336.0	3,683.9	65.8	1.0	1.8	28.2	.4	.8	37.6	.6	1.0
226	Textile finishing, except wool	2,113.6	1,177.3	65.7	3.1	5.6	47.7	2.3	4.1	18.0	.9	1.5
227	Floor covering mills	2,678.8	1,776.0	28.2	1.1	1.6	18.0	.7	1.0	10.3	.4	.6
228	Yarn and thread mills	3,604.8	2,262.0	60.6	1.7	2.7	11.4	.3	.5	49.2	1.4	2.2
229	Miscellaneous textile goods	2,438.5	1,489.1	36.9	1.5	2.5	14.6	.6	1.0	22.3	.9	1.5
231	Men's and boy's suits and coats	1,892.1	858.7	10.9	.6	1.3	3.2	.2	.4	7.6	.4	.9
232	Men's and boy's furnishings	6,116.1	3,036.2	26.6	.4	.9	7.0	.1	.2	19.7	.3	.6
233	Women's and misces outerwear	7,698.5	3,882.2	44.8	.6	1.2	9.1	.1	.2	35.7	.5	.9
234	Women's and children's undergarments	1,913.4	885.2	7.7	.4	.9	1.6	.1	.2	6.1	.3	.7
235	Hats, caps, and millinery	221.9	98.6	1.6	.7	1.6	.5	.2	.5	1.1	.5	1.1
236	Children's outerwear	$1,194.9	$600.3	$4.9	0.4	0.8	$0.9	0.1	0.1	$0.4	0.3	0.7
238	Miscellaneous apparel and accessories	1,188.6	586.2	5.4	.5	.9	1.5	.1	.3	3.9	.3	.7
239	Miscellaneous fabricated textile products	4,615.2	2,611.5	29.4	.6	1.1	9.3	.2	.4	20.1	.4	.8
241	Logging camps and logging contractors	1,814.1	954.6	48.3	2.7	5.1	45.4	2.5	4.8	2.9	.2	.3
242	Sawmills and planing mills	5,267.7	2,804.0	126.0	2.4	4.5	58.7	1.1	2.1	67.3	1.3	2.4
243	Millwork, plywood and related products	5,395.6	3,155.9	58.8	1.1	1.9	24.4	.5	.8	34.4	.6	1.1
244	Wooden containers	414.4	230.6	4.9	1.2	2.1	1.8	.4	.8	2.1	.7	1.3
249	Miscellaneous wood products	2,039.0	1,028.2	50.2	2.5	6.9	24.5	1.2	2.4	25.7	1.3	2.5
251	Household furniture	6,622.6	3,208.7	53.8	.8	1.7	18.2	.3	.6	35.6	.5	1.1
252	Office furniture	857.3	340.1	8.4	1.0	2.5	3.3	.4	1.0	5.1	.6	1.5
253	Public building furniture	471.8	218.5	4.5	1.0	2.1	1.7	.4	.8	2.8	.6	1.3
254	Partitions and fixtures	1,225.4	531.1	11.9	1.0	2.2	4.7	.4	.9	7.2	.6	1.4
259	Miscellaneous furniture and fixtures	576.4	261.0	5.5	1.0	2.1	2.3	.4	.9	3.3	.6	1.3
261	Pulpmills	841.8	496.4	57.8	6.9	11.6	41.4	4.9	8.3	16.4	1.9	3.3
262	Papermills, except building paper	5,825.7	3,229.6	375.3	6.4	11.6	240.5	4.1	7.4	134.8	2.3	4.2
263	Paperboard mills	3,536.4	1,885.5	256.2	7.2	13.6	200.1	5.7	10.6	56.1	1.6	3.0
264	Miscellaneous converted paper products	7,672.0	4,039.2	73.8	1.0	1.8	28.7	.4	.7	45.1	.6	1.1
265	Paperboard containers and boxes	7,116.5	3,970.9	73.5	1.9	1.9	31.0	.4	.8	42.5	.6	1.1
266	Building paper and board mills	465.7	218.5	35.5	7.6	16.2	20.8	4.5	9.5	14.7	3.2	6.7
271	Newspapers	7,354.5	1,817.5	44.0	.6	2.4	9.7	.1	.5	34.3	.5	1.9
272	Periodicals	3,238.6	1,239.3	6.9	.2	.6	1.2	0	.1	5.8	.2	.5
273	Books	3,681.9	1,220.6	17.6	.5	1.4	4.1	.1	.3	13.5	.4	1.1
274	Miscellaneous publishing	764.2	211.1	(S)	NA	NA	(S)	NA	NA	2.7	.4	1.3
275	Commercial printing	8,298.8	3,214.2	81.7	1.0	2.5	23.1	.3	.7	58.6	.7	1.8
276	Manifold business forms	1,277.7	550.3	8.4	.7	1.5	2.0	.2	.4	6.5	.5	1.2
277	Greeting card publishing	738.7	268.3	(S)	NA	NA	(S)	NA	NA	2.7	.4	1.0
278	Blankbooks and bookbinding	848.4	241.3	8.1	1.0	3.4	1.7	.2	.7	6.4	.8	2.7
279	Printing trade services	684.4	98.7	7.8	1.1	7.9	1.6	.2	1.6	6.2	.9	6.3
281	Industrial chemicals	16,524.3	7,545.1	1,119.4	6.8	14.8	576.9	3.5	7.6	542.3	3.3	7.2
282	Plastics materials and synthetics	9,345.6	4,569.4	286.5	3.1	6.3	173.8	1.9	3.8	112.7	1.2	2.5
283	Drugs	7,278.1	1,808.6	63.0	.9	3.5	30.1	.4	1.7	32.9	.5	1.8
284	Soap, cleaners and toilef goods	8,467.2	3,170.2	47.4	.6	1.5	24.2	.3	.8	23.2	.3	.7
285	Paints and allied products	3,655.9	1,921.1	22.1	.6	1.2	9.3	.3	.5	12.8	.4	.7
286	Gum and wood chemicals	279.4	144.7	6.6	2.4	4.6	5.3	1.9	3.7	1.3	.5	.9
287	Agricultural chemicals	2,751.3	1,607.7	53.5	1.9	3.3	25.2	.9	1.6	28.3	1.0	1.8
289	Miscellaneous chemical products	3,571.3	1,723.0	75.9	2.1	4.4	59.3	1.4	2.9	26.6	.7	1.5
291	Petroleum refining	24,583.7	20,091.9	585.6	2.4	2.9	412.4	1.7	2.1	173.2	.7	.9
295	Paving and roofing materials	1,683.5	972.7	43.9	2.6	4.5	30.2	1.8	3.1	13.7	.8	1.4
299	Miscellaneous petroleum and coal products	668.0	396.2	7.5	1.1	1.9	5.1	.8	1.3	2.4	.4	.6
301	Tires and inner tubes	5,231.9	2,468.4	70.9	1.4	2.9	29.6	.6	1.2	41.3	.8	1.7
302	Rubber footwear	519.8	228.7	5.1	1.0	2.2	1.8	.3	.8	3.3	.6	1.4
303	Reclaimed rubber	32.1	14.5	1.9	5.9	13.1	.6	1.9	4.1	1.3	4.0	9.0
306	Fabricated rubber products, n.e.c	3,495.0	1,475.0	56.3	1.6	3.8	24.9	.7	1.7	31.3	.9	2.1
307	Miscellaneous plastics products	7,765.0	3,354.9	134.1	1.7	4.0	33.0	.4	1.0	101.1	1.3	3.0
311	Leather tanning and finishing	838.3	498.5	15.7	1.9	3.1	10.1	1.2	2.0	5.6	.7	1.1
312	Industrial leather belting and packing	50.0	20.1	(S)	NA	NA	(S)	NA	NA	.4	.8	2.0
313	Footwear cut stock	234.0	124.7	2.2	.9	1.8	.8	.3	.6	1.3	.6	1.0
314	Footwear, except rubber	3,068.5	1,342.6	15.6	.5	1.2	4.0	.1	.3	11.6	.4	.9
315	Leather gloves and mittens	92.1	48.7	.6	.7	1.2	.3	.3	.6	.3	.3	.6
316	Luggage	283.3	125.0	2.3	.8	1.8	.4	.1	.3	1.9	.7	1.5
317	Handbags and personal leather goods	509.2	209.5	4.3	.8	2.1	.6	.1	.3	3.6	.7	1.7
319	Leather goods, n.e.c	143.0	68.3	.7	.5	1.0	.2	.2	.3	.5	.3	.7
321	Flat glass	811.1	240.3	34.5	4.3	14.4	24.7	3.0	10.3	8.8	1.1	3.7
322	Glass and glassware, pressed or blown	3,052.0	1,009.3	146.7	4.8	14.5	99.7	3.3	9.9	47.0	1.5	4.7
323	Products of purchased glass	1,156.6	600.0	14.4	1.2	2.4	6.6	.6	1.1	7.8	.7	1.3
324	Cement, hydraulic	1,560.3	564.9	243.1	15.6	43.0	163.7	10.5	29.0	79.4	1.5	14.1
325	Structural clay products	1,115.2	386.6	82.1	7.4	21.2	63.7	5.7	16.5	18.4	1.6	4.7
326	Pottery and related products	717.8	217.7	19.4	2.7	8.9	12.6	1.8	5.8	6.8	.9	3.1
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	179.7	2.7	5.4	133.9	2.0	4.0	45.8	.7	1.4
328	Cut stoe and stone products	261.4	97.2	5.7	2.2	5.9	2.2	.8	2.2	3.6	1.3	3.7
329	Miscellanneous nonmetallic mineral products	3,314.5	1,409.2	108.0	3.2	7.7	64.4	1.9	4.6	43.6	1.3	3.1
331	Blastfurnace and basic steel products	25,790.4	14,677.7	1,250.5	4.8	8.5	784.2	3.0	5.3	466.3	1.8	3.2
332	Iron and steel foundries	4,977.5	1,956.8	207.4	4.2	10.6	109.6	2.2	5.6	97.8	2.0	5.0
333	Primary nonferrous metals	5,290.6	3,930.0	320.0	6.0	8.1	100.0	1.9	2.5	219.9	4.1	5.6
334	Secondary nonferrous metals	1,644.0	1,350.1	23.1	1.4	1.7	15.4	.9	1.1	7.7	.5	.6
335	Nonferrous rolling and drawing	11,316.2	8,062.9	173.4	1.5	2.1	71.4	.6	.9	102.1	.9	1.3
336	Nonferrous foundries	1,919.6	868.2	43.0	2.2	4.9	20.7	1.0	2.4	22.3	1.2	2.6
339	Miscellaneous primary metal products	2,129.0	1,035.2	80.8	3.8	7.8	51.0	2.3	4.8	30.7	1.4	3.0
341	Metals cans	4,159.4	2,429.4	33.1	.8	1.4	15.2	.4	.6	17.9	.4	.7
342	Cutlery, handtools, and hardware	4,485.3	1,709.5	45.1	1.0	2.6	17.3	.4	1.0	27.8	.6	1.6
343	Plumbing and heating, except electric	2,207.0	1,109.3	22.7	1.0	2.0	11.4	.5	1.0	11.2	.5	1.0
344	Fabricated structural metal products	12,615.2	6,432.1	105.5	.8	1.6	43.1	.3	0.7	62.4	.5	1.0
345	Screw machine products, belts, etc	2,620.1	1,065.3	32.4	1.2	3.0	11.8	.5	1.1	20.6	.8	1.9
346	Metal stampings	7,095.7	3,407.6	76.4	1.1	2.2	25.6	.4	.8	50.8	.7	1.5
347	Metal services, n.e.c	1,484.9	516.8	46.2	3.1	8.9	20.0	1.3	3.9	26.2	1.8	5.1
348	Miscellaneous fabricated wire products	1,336.4	598.4	14.2	1.1	2.4	4.9	.4	.8	9.2	.7	1.5
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	69.2	1.1	2.5	28.9	.5	1.0	40.3	.7	1.4
351	Engines and turbines	5,024.9	2,500.9	35.5	.7	1.4	14.4	.3	.6	21.1	.4	.8
352	Farm machinery	4,456.4	2,457.3	37.3	.8	1.5	18.6	.4	.8	18.7	.4	.8
353	Construction and related machinery	9,498.8	4,544.2	71.3	.8	1.6	26.7	.3	.6	44.6	.5	1.0
354	Metalworking machinery	6,555.8	2,169.3	74.4	1.1	3.4	24.9	.4	1.1	49.4	.8	2.3
355	Special industry machinery	5,186.4	2,168.5	44.5	.9	2.1	15.8	.3	.7	28.7	.6	1.3
356	General industry machinery	7,422.6	3,102.8	74.8	1.0	2.4	29.2	.4	.9	45.6	.6	1.5
357	Office and computing machines	6,909.7	2,811.9	37.7	.5	1.3	8.8	.1	.3	28.9	.4	1.0
358	Service industry machines	6,621.2	3,558.7	46.1	.7	1.3	18.8	.3	.5	27.2	.4	.8
359	Miscellaneous machinery, except electrical	3,884.1	1,222.9	45.7	1.2	3.7	15.7	.4	1.3	30.0	.8	2.5

TABLE I.—SELECTED STATISTICS ON SHIPMENT VALUE, MATERIAL COSTS, AND ENERGY USE—MANUFACTURING INDUSTRIES, UNITED STATES, 1971—Continued

[Dollar amounts in thousands]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy			Purchased fuels			Purchased electric energy		
				Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost material	Amount	Percent of shipment	Percent of cost material
361	Electric test and distributing equipment	4,618.7	1,825.6	33.9	0.7	1.9	10.0	0.2	0.5	23.8	0.5	1.3
362	Electrical industrial apparatus	4,929.7	2,006.4	63.8	1.3	3.2	21.4	.4	1.1	42.3	.9	2.1
363	Household appliances	6,061.6	2,911.6	44.6	.7	1.5	18.2	.3	.6	26.4	.4	.9
364	Electric lighting and wiring equipment	4,832.2	2,030.5	41.9	.9	2.1	16.1	.3	.8	25.9	.5	1.3
365	Radio and TV receiving equipment	4,543.8	2,664.4	17.1	.4	.6	4.8	.1	.2	12.3	.3	.5
366	Communication equipment	12,985.3	4,833.8	73.5	.6	1.5	17.0	.1	.4	56.5	.4	1.2
367	Electronic components and accessories	7,296.4	2,917.2	78.4	1.1	2.7	19.1	.3	.7	59.3	.8	2.0
369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	31.4	.8	1.8	9.9	.3	.6	21.5	.6	1.2
371	Motor vehicles and equipment	58,138.0	37,575.1	305.1	.5	.8	119.0	.2	.3	186.1	.3	.5
372	Aircraft and parts	18,432.8	7,820.6	123.6	.7	1.6	34.5	.2	.4	89.1	.5	1.1
373	Ship and boatbuilding and repairing	3,503.4	1,564.0	30.6	.9	2.0	10.3	.3	.7	20.3	.6	1.3
374	Railroad equipment	2,363.9	1,372.3	17.0	.7	1.2	7.9	.3	.6	9.1	.4	.7
375	Motorcycles, bicycles, and parts	469.6	256.6	3.2	.7	1.2	1.4	.3	.5	1.8	.4	.7
379	Miscellaneous transportation equipment	4,012.8	2,662.6	13.9	.3	.5	5.3	.1	.2	8.1	.2	.3
381	Engineering and scientific instruments	1,105.0	408.6	9.6	.9	2.3	3.0	.3	.7	6.5	.6	1.6
382	Mechanical measuring and control devices	2,275.9	740.9	17.4	.8	2.3	4.9	.2	.7	12.5	.5	1.7
383	Optical instruments and lenses	385.6	120.8	3.0	.8	2.5	.6	.2	.5	2.4	.6	2.0
384	Medical instruments and supplies	2,327.5	833.6	14.8	.6	1.8	4.3	.2	.5	10.5	.5	1.3
385	Ophthalmic goods	565.2	176.6	5.3	.9	3.0	1.9	.3	1.1	3.4	.6	1.9
386	Photographic equipment and supplies	4,709.2	1,233.6	31.3	.7	2.5	18.1	.4	1.5	13.2	.3	1.1
387	Watches, clocks, and watchcases	906.8	442.7	4.1	.5	.9	1.2	.1	.3	2.9	.3	.7
391	Jewelry, silverware and plated ware	1,559.8	824.5	10.3	.7	1.2	3.6	.2	.4	6.7	.4	.8
393	Musical instruments and parts	506.5	233.2	3.6	.7	1.5	1.2	.2	.5	2.4	.5	1.0
394	Toys and sporting goods	2,785.5	1,229.5	21.5	.8	1.7	6.3	.2	.5	15.1	.5	1.2
395	Pens, pencils, office and art supplies	873.4	355.4	8.0	.9	2.2	2.4	.3	.7	5.6	.6	1.6
396	Costume jewelry and notions	1,227.6	507.7	9.8	.8	1.9	3.0	.2	.6	6.9	.6	1.4
399	Miscellaneous manufactures	3,169.2	1,318.8	26.9	.8	2.0	13.9	.4	1.1	13.0	.4	1.0

TABLE II.—INDUSTRIES RANKED BY DOLLARS SPENT ON ENERGY REQUIREMENTS

[In millions of dollars]

Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy
331	Blast furnace and basic steel products	25,790.4	14,677.7	1,250.5
281	Industrial chemicals	16,524.3	7,545.1	1,119.4
291	Petroleum refining	24,583.7	20,091.9	585.6
262	Papermills, except building paper	5,825.7	3,229.6	375.3
333	Primary nonferrous metals	5,290.6	3,930.0	320.0
371	Motor vehicles and equipment	58,138.0	37,575.7	305.1
282	Plastics materials and synthetics	9,345.6	4,569.4	286.5
263	Paperboard mills	3,536.4	1,885.5	256.2
324	Cement, hydraulic	1,560.3	564.9	243.1
332	Iron and steel foundries	4,977.5	1,956.8	207.4
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	179.7
335	Nonferrous rolling and drawing	11,316.2	8,062.9	173.4
322	Glass and glassware, pressed or blown	3,052.0	1,009.3	146.7
209	Miscellaneous food and kindred products	12,580.7	8,651.8	136.0
307	Miscellaneous plastic products	7,785.0	3,354.9	134.1
201	Meat products	26,078.5	21,168.8	130.8
242	Sawmills and planning mills	5,267.7	2,804.0	126.0
203	Canned, cured, and frozen foods	11,961.5	7,326.7	124.4
372	Aircraft and parts	18,432.8	7,820.6	123.6
202	Dairy products	14,813.3	10,923.0	123.2
204	Grain mill products	11,209.6	7,787.9	118.1
208	Beverages	13,330.8	6,855.1	109.2
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	108.0
344	Fabricated structural metal products	12,615.2	6,432.1	105.5
325	Structural clay products	1,115.2	386.6	82.1
275	Commercial printing	8,298.8	3,214.2	81.7
339	Miscellaneous primary metal products	2,129.0	1,035.2	80.8
367	Electronic components and accessories	7,296.4	2,917.2	78.4
346	Metal stampings	7,095.7	3,407.6	76.4
289	Miscellaneous chemical products	3,571.3	1,723.0	75.9
356	General industry machinery	7,422.6	3,102.8	74.8
354	Metalworking machinery	6,555.8	2,169.3	74.4
264	Miscellaneous converted paper products	7,672.0	4,039.2	73.8
265	Paper board containers and boxes	7,116.5	3,970.9	73.5
366	Communication equipment	12,985.3	4,833.8	73.5
353	Construction and related machinery	9,498.8	4,544.2	71.3
301	Tires and inner tubes	5,231.9	2,468.4	70.9
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	69.2
205	Bakery products	7,357.2	3,221.7	66.5
225	Knitting mills	6,336.0	3,683.9	65.8
226	Textile finishing, except wool	2,113.6	1,177.3	65.7
362	Electrical industrial apparatus	4,929.7	2,006.4	63.8
222	Weaving mills, synthetic	3,129.6	1,711.8	63.7
283	Drugs	7,278.1	1,808.6	63.0
206	Sugar	2,857.0	2,015.4	61.1
221	Weaving mills, cotton	2,650.5	1,379.8	60.7
228	Yarn and thread mills	3,604.8	2,262.0	60.6
243	Millwork, plywood and related products	5,395.6	3,155.9	58.8
261	Pulpmills	841.8	496.4	57.8
306	Fabricated rubber products, n.e.c.	3,495.0	1,475.0	56.3
251	Household furniture	6,622.6	3,208.7	53.8
287	Agricultural chemicals	2,751.3	1,607.7	53.5
249	Miscellaneous wood products	2,039.0	1,028.2	50.2
241	Logging camps and logging contractors	1,814.1	954.6	48.3
284	Soap, cleaners and toilet goods	8,467.2	3,170.2	47.4
347	Metal services, n.e.c.	1,484.9	516.8	46.2
358	Service industry machines	6,621.2	3,558.7	46.1
359	Miscellaneous machinery, except electrical	3,884.1	1,222.9	45.7
342	Cutlery, handtools, and hardware	4,485.3	1,709.5	45.1
233	Women's and misses' outerwear	7,698.6	3,882.2	44.8
363	Household appliances	6,061.6	2,911.6	44.6
355	Special industry machinery	5,186.4	2,168.5	44.5
127	Newspapers	7,354.5	1,817.5	44.0
295	Paving and roofing materials	1,683.5	972.7	43.9
336	Nonferrous foundries	1,919.6	868.2	43.0
364	Electric lighting and wiring equipment	4,832.2	2,030.5	41.9
357	Office and computing machines	6,909.7	2,811.9	37.7
352	Farm machinery	4,456.4	2,457.3	37.3
229	Miscellaneous textile goods	2,438.5	1,489.1	36.9
266	Building paper and board mills	465.7	218.5	35.5
351	Engines and turbines	5,024.9	2,500.9	35.5
192	Ammunition, except for small arms	5,278.7	1,661.6	35.1
321	Flat glass	811.1	240.3	34.5
361	Electric test and distributing equipment	4,618.7	1,825.6	33.9
341	Metal cans	4,159.4	2,429.4	33.1
345	Screw machine products bolts, etc	2,620.1	1,065.3	32.4
369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	31.4
386	Photographic equipment and supplies	4,709.2	1,233.6	31.3
373	Ship and boatbuilding and repairing	3,503.4	1,564.0	30.6
239	Miscellaneous fabricated textile products	4,615.2	2,611.5	29.4
227	Floor covering mills	2,678.8	1,776.0	28.2
207	Confectionery and related products	3,442.3	1,827.1	27.3
399	Miscellaneous manufactures	3,169.2	1,318.8	26.9
232	Men's and boy's furnishings	6,116.1	3,036.2	26.6
334	Secondary nonferrous metals	1,644.0	1,350.1	23.1
343	Plumbing and heating except electric	2,207.0	1,109.3	22.7
285	Paints and allied products	3,655.9	1,921.1	22.1
394	Toys and sporting goods	2,785.5	1,229.6	21.5
326	Pottery and related products	717.8	217.7	19.4
273	Books	3,681.9	1,220.6	17.6
382	Mechanical measuring and control devices	2,275.9	740.9	17.4
365	Radio and TV receiving equipment	4,543.8	2,664.4	17.1
374	Railroad equipment	2,363.9	1,372.3	17.0
311	Leather tanning and finishing	838.3	498.5	15.7
314	Footwear, except rubber	3,068.5	1,342.6	15.6
384	Medical instruments and supplies	2,327.5	833.6	14.8
323	Products of purchased glass	1,156.6	600.0	14.4
348	Miscellaneous fabricated wire products	1,336.4	598.4	14.2
379	Miscellaneous transportation equipment	4,012.8	2,662.6	13.9
223	Weaving and finishing mills, wool	546.8	296.1	13.1
254	Partitions and fixtures	1,225.4	531.1	11.9
231	Men's and boys' suits and coats	1,892.1	858.7	10.9
391	Jewelry, silverware and plated ware	1,559.8	824.5	10.3
211	Cigarettes	3,573.3	1,464.3	10.1
398	Costume jewelry and notions	1,227.6	507.7	9.8
381	Engineering and scientific instruments	1,105.0	408.6	9.6
252	Office furniture	857.3	340.1	8.4
276	Manifold business forms	1,277.7	550.3	8.4
278	Blankbooks and bookbinding	848.4	241.3	8.1
395	Pens, pencils, office and art supplies	873.4	356.4	8.0
279	Printing trade services	684.4	98.7	7.8
234	Women's and children's undergarments	1,913.4	885.2	7.7
299	Miscellaneous petroleum and coal products	668.0	396.2	7.5
272	Periodicals	3,238.6	1,239.3	6.9
214	Tobacco stemming and redrying	1,408.7	1,286.7	6.8
286	Gum and wood chemicals	279.4	144.7	6.6
224	Narrow fabric mills	531.2	247.5	6.5
328	Cut stone and stone products	261.5	97.2	5.7
259	Miscellaneous furniture and fixtures	576.4	261.0	5.5
238	Miscellaneous apparel and accessories	1,188.6	586.2	5.4
385	Ophthalmic goods	565.2	176.6	5.3
302	Rubber footwear	519.8	228.7	5.1
236	Children's outerwear	1,194.9	600.3	4.9
244	Wooden containers	414.4	230.6	4.9

Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy
191	Guns, mortars, ordanance and accessories, n.e.c.	562.2	150.4	4.5
196	Small arms ammunition	381.9	186.8	4.5
253	Public building furniture	471.8	218.5	4.5
195	Small arms	379.7	129.1	4.4
317	Handbags and personal leather goods	506.2	209.5	4.3
387	Watches, clocks, and watchcases	906.8	442.7	4.1
393	Musical instruments and parts	506.5	233.2	3.6
376	Motorcycles, bicycles, and parts	469.6	256.6	3.2
383	Optical instruments and lenses	385.6	120.8	3.0
316	Luggage	283.3	125.0	2.3
313	Footwear cut stock	234.0	124.7	2.2
193	Tanks and tank components	345.2	193.8	2.0
303	Reclaimed rubber	32.1	14.5	1.9
212	Cigars	359.3	140.5	1.7
235	Hats, caps and millinery	221.9	98.6	1.6
213	Chewing and smoking tobacco	186.6	81.5	1.1
319	Leather goods, n.e.c	143.0	68.3	.7
315	Leather gloves and mittens	92.1	48.7	.6
194	Sighting and fire control equipment	35.0	10.5	.2
274	Miscellaneous publishing	764.2	211.1	NA
277	Greeting card publishing	738.7	268.3	NA
312	Industrial leather belting and packing	50.0	20.1	NA

TABLE III.—INDUSTRIES RANKED BY ENERGY COSTS AS A PERCENTAGE OF VALUE OF SHIPMENTS

[Dollar amounts in millions]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of shipment)
324	Cement, hydraulic	$1,560.3	$564.9	15.6
266	Building paper and board mills	465.7	218.5	7.6
325	Structural clay products	1,115.2	386.6	7.4
263	Paperboard mills	3,536.4	1,885.5	7.2
261	Pulpmills	841.8	496.4	6.9
281	Industrial chemicals	16,524.3	7,545.1	6.8
262	Papermills, except building paper	5,825.7	3,229.6	5.4
333	Primary nonferrous metals	5,290.6	3,930.0	6.0
303	Reclaimed rubber	32.1	14.5	5.9
322	Glass and glassware, pressed or blown	3,052.0	1,009.3	4.8
331	Blast furnace and basic steel products	25,790.4	14,677.7	4.8
321	Flat glass	811.1	240.3	4.3
332	Iron and steel foundries	4,977.5	1,956.8	4.2
339	Miscellaneous primary metal products	2,129.0	1,035.2	3.8
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	3.2
226	Textile finishing, except wool	2,113.6	1,177.3	3.1
282	Plastics materials and synthetics	9,345.6	4,569.4	3.1
347	Metal services, n.e.c	1,484.9	516.8	3.1
241	Logging camps and logging contractors	1,814.1	954.6	2.7
326	Pottery and related products	717.8	217.7	2.7
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	2.7
295	Paving and roofing materials	1,683.5	972.7	2.6
249	Miscellaneous wood products	2,039.0	1,028.2	2.5
223	Weaving and finishing mills, wool	546.8	296.1	2.4
242	Sawmills and planing mills	5,267.7	2,804.0	2.4
286	Gum and wood chemicals	279.4	144.7	2.4
291	Petroleum refining	24,583.7	20,091.9	2.4
206	Sugar	2,857.0	2,015.4	2.3
221	Weaving mills, cotton	2,650.5	1,379.8	2.3
328	Cut stone and stone products	261.4	97.2	2.2
336	Nonferrous foundries	1,919.6	868.2	2.2
289	Miscellaneous chemical products	3,571.3	1,723.0	2.1
222	Weaving mills, synthetic	3,129.6	1,711.8	2.0
265	Paperboard containers and boxes	7,116.5	3,970.9	1.9
287	Agricultural chemicals	2,751.3	1,607.7	1.9
311	Leather tanning and finishing	838.3	498.5	1.9
191	Guns, mortars, ordnance, and accessories n.e.c	562.2	150.4	1.7
228	Yarn and thread mills	3,604.8	2,262.0	1.7
307	Miscellaneous plastic products	7,765.0	3,354.9	1.7
306	Fabricated rubber products, n.e.c	3,495.0	1,475.0	1.6
229	Miscellaneous textile goods	2,438.5	1,489.1	1.5
335	Nonferrous rolling and drawing	11,316.2	8,062.9	1.5
301	Tires and inner tubes	5,231.9	2,468.4	1.4
334	Secondary nonferrous metals	1,664.0	1,350.1	1.4
362	Electrical industrial apparatus	4,929.7	2,006.4	1.3
195	Small arms	397.7	129.1	1.2
196	Small arms ammunition	381.9	186.8	1.2
224	Narrow fabric mills	531.2	247.5	1.2
244	Wooden containers	414.4	230.6	1.2
323	Products of purchased glass	1,156.6	600.0	1.2
345	Screw machine products, bolts, etc	2,620.1	1,065.3	1.2
359	Miscellaneous machinery, except electrical	2,884.1	1,222.9	1.2
204	Grain mill products	11,209.6	7,787.9	1.1
209	Miscellaneous food and kindred products	12,580.7	8,651.8	1.1
227	Floor covering mills	2,678.8	1,776.0	1.1
243	Millwork, plywood, and related products	5,395.6	3,155.9	1.1
279	Printing trade services	684.4	98.7	1.1
299	Miscellaneous petroleum and coal products	668.0	396.2	1.1
346	Metal stampings	7,095.7	3,407.6	1.1
348	Miscellaneous fabricated wire products	1,336.4	598.4	1.1
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	1.1
354	Metalworking machinery	6,555.8	2,169.3	1.1
367	Electronic components and accessories	7,296.4	2,917.2	1.1
203	Canned, cured, and frozen foods	11,961.5	7,326.7	1.0
225	Knitting mills	6,336.0	3,683.9	1.0
252	Office furniture	857.3	340.1	1.0
253	Public building furniture	471.8	218.5	1.0
254	Partitions and fixtures	1,225.4	531.1	1.0
259	Miscellaneous furniture and fixtures	576.4	261.0	1.0
284	Miscellaneous converted paper products	7,672.0	4,039.2	1.0
275	Commercial printing	8,298.8	3,214.2	1.0
278	Blankbooks and bookbinding	848.4	241.3	1.0
302	Rubber footwear	519.8	228.7	1.0
342	Cutlery, handtools, and hardware	4,485.3	1,709.5	1.0
343	Plumbing and heating, except electric	2,207.0	1,109.3	1.0
356	General industry machinery	7,422.6	3,102.8	1.0
205	Bakery products	7,357.2	3,221.7	.9
283	Drugs	7,278.1	1,808.6	.9
313	Footwear cut stock	234.0	124.7	.9
355	Special industry machinery	5,186.4	2,168.5	.9
364	Electric lighting and wiring equipment	4,832.2	2,030.5	.9
373	Ship and boat building and repairing	3,503.4	1,564.0	.9
381	Engineering and scientific instruments	1,105.0	408.6	.9
385	Ophthalmic goods	565.2	176.6	.9
395	Pens, pencils, office and art supplies	873.4	356.4	.9
202	Dairy products	14,813.3	10,923.0	.8
207	Confectionery and related products	3,442.3	1,827.1	.8
208	Beverages	13,330.8	6,855.1	.8
251	Household furniture	6,622.6	3,208.7	.8
316	Luggage	283.3	125.0	.8
317	Handbags and personal leather goods	509.2	209.5	.8
341	Metal cars	4,159.4	2,429.4	.8
344	Fabricated structural metal products	12,615.2	6,432.1	.8
352	Farm machinery	4,456.4	2,457.3	.8
353	Construction and related machinery	9,498.8	4,544.2	.8
369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	.8
382	Mechanical measuring and control devices	2,275.9	740.9	.8
383	Optical instruments and lenses	385.6	120.8	.8
394	Toys and sporting goods	2,785.5	1,229.6	.8
396	Costume jewelry and notions	1,227.6	507.7	.8
399	Miscellaneous manufactures	3,169.2	1,318.8	.8
192	Ammunition, except for small arms	5,728.7	1,661.6	.7
235	Mats, caps, and millinery	221.9	98.6	.7
276	Manifold business forms	1,277.7	550.3	.7
315	Leather gloves and mittens	92.1	48.7	.7
351	Engines and turbines	5,024.9	2,500.9	.7
358	Service industry machines	6,621.2	3,558.7	.7
361	Electric test and distributing equipment	4,618.7	1,825.6	.7
363	Household appliances	6,061.6	2,911.6	.7
372	Aircraft and parts	18,432.8	7,820.6	.7
374	Railroad equipment	2,363.9	1,372.3	.7
375	Motorcycles, bicycles, and parts	469.6	256.6	.7
386	Photographic equipment and supplies	4,709.2	1,233.6	.7
391	Jewelry, silverware and plated ware	1,559.8	824.5	.7
393	Musical instruments and parts	506.6	233.2	.7
193	Tanks and tank components	345.2	193.8	.6
194	Sighting and fire control equipment	35.0	10.5	.6
213	Chewing and smoking tobacco	186.6	81.5	.6
231	Men's and boys' suits and coats	1,892.1	858.7	.6
233	Women's and misses outerwear	7,698.5	3,882.2	.6
239	Miscellaneous fabricated textile products	4,615.2	2,611.5	.6
271	Newspapers	7,354.5	1,817.5	.6
284	Soap, cleaners and toilet goods	8,467.2	3,170.2	.6
285	Paints and allied products	3,655.9	1,921.1	.6
366	Communication equipment	12,985.3	4,833.8	.6
384	Medical instruments and supplies	2,327.5	833.6	.6
201	Meat products	26,078.5	21,168.8	.5
212	Cigars	359.3	140.5	.5
214	Tobacco stemming and redrying	1,408.7	1,286.7	.5
238	Miscellaneous apparel and accessories	1,188.5	586.2	.5
273	Books	3,681.9	1,220.6	.5
314	Footwear, except rubber	3,068.5	1,342.6	.5
319	Leather goods, n.e.c	143.0	68.3	.5
357	Office and computing machines	6,909.7	2,811.9	.5
371	Motor vehicles and equipment	58,138.0	37,575.7	.5
387	Watches, clocks, and watchcases	906.8	442.7	.5
232	Men's and boys' furnishings	6,116.1	3,036.2	.4
234	Women's and children's undergarments	1,913.4	885.2	.4
236	Children's outerwear	1,194.9	600.3	.4
365	Radio and TV receiving equipment	4,543.8	2,664.4	.4
211	Cigarettes	3,573.3	1,484.3	.3
379	Miscellaneous transportation equipment	4,012.8	2,662.6	.3
272	Periodicals	3,238.6	1,239.3	.2
274	Miscellaneous publishing	764.2	211.1	NA
277	Greeting card publishing	738.7	268.3	NA
312	Industrial leather belting and packing	50.0	20.1	NA

TABLE IV.—INDUSTRIES RANKED BY ENERGY COSTS AS A PERCENTAGE OF COSTS OF MATERIALS

[Dollar amounts in millions]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of cost)
324	Cement, hydraulic	1,560.3	564.9	43.0
325	Structural clay products	1,115.2	386.6	21.2
266	Building paper and board mills	465.7	218.5	16.2
281	Industrial chemicals	16,524.3	7,545.1	14.8
322	Glass and glassware pressed or blown	3,052.0	1,009.3	14.5
321	Flat glass	811.1	240.3	14.4
263	Paperboard mills	3,536.4	1,885.5	13.6
303	Reclaimed rubber	32.1	14.5	13.1
261	*Pulpmills*	841.8	496.4	11.6
262	Papermills, except building paper	5,825.7	3,229.6	11.6
332	Iron and steel foundries	4,977.5	1,956.8	10.6
326	Pottery and related products	717.8	217.7	8.9
347	Metal services, nec	1,484.9	516.8	8.9
331	Blast furnace and basic steel products	25,790.4	14,677.6	8.5
333	Primary nonferrous metals	5,290.6	3,930.0	8.1
279	Printing trade services	684.4	98.7	7.9
339	Miscellaneous primary metal products	2,129.0	1,035.2	7.8
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	7.7
249	Miscellaneous wood products	2,039.0	1,028.2	6.9
191	Guns, mortars ordnance and accessories, n.e.c.	562.2	150.4	6.5
282	Plastics materials and synthetics	9,345.6	4,569.4	6.3
328	Cut stone and stone products	261.4	97.2	5.9
226	Textile finishing, except wool	2,113.6	1,177.3	5.6
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	5.4
241	Logging camps and logging contractors	1,814.1	954.6	5.1
336	Nonferrous foundries	1,919.6	868.2	4.9
286	Gum and wood chemicals	279.4	144.7	4.6
242	Sawmills and planing mills	5,267.7	2,804.0	4.5
296	Paving and roofing materials	1,683.5	972.7	4.5
221	Weaving mills, cotton	2,650.5	1,379.8	4.4
223	Weaving and finishing mills, wool	546.8	296.1	4.4
298	Miscellaneous chemical products	3,571.3	1,723.0	4.4
307	Miscellaneous plastics products	7,765.0	3,354.9	4.0
355	Fabricated rubber products, n.e.c	3,496.0	1,475.0	3.8
222	Weaving mills, synthetic	3,129.6	1,711.8	3.7
359	Miscellaneous machinery, except electrical	3,884.1	1,222.9	3.4
283	Drugs	7,278.1	1,808.6	3.5
195	Small arms	379.7	129.1	3.4
278	Blankbooks and bookbinding	848.4	241.3	3.4
354	Metalworking machinery	6,555.8	2,169.3	3.4
287	Agricultural chemicals	2,751.3	1,607.7	3.3
362	Electrical industrial apparatus	4,929.7	2,006.4	3.2
311	Leather tanning and finishing	838.3	498.5	3.1
206	Sugar	2,857.0	2,015.4	3.0
345	Screw machine products bolts, etc	2,620.1	1,065.3	3.0
385	Ophthalmic goods	565.2	176.6	3.0
291	Petroleum refining	24,583.7	20,091.9	2.9
301	Tires and inner tubes	5,231.9	2,468.4	2.9
228	Yarn and thread mills	3,604.8	2,262.0	2.7
367	Electronic components and accessories	7,296.4	2,917.2	2.7
342	Cutlery, handtools and hardware	4,485.3	1,709.5	2.6
224	Narrow fabric mills	531.2	247.5	2.6
386	Photographic equipment and supplies	4,709.2	1,223.6	2.5
229	Miscellaneous textile goods	2,438.5	1,489.1	2.5
252	Office furniture	857.3	340.1	2.5
275	Commercial printing	8,298.8	3,214.2	2.5
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	2.5
383	Optical instruments and lenses	385.6	120.8	2.5
196	Small arms ammunition	381.9	186.8	2.4
271	Newspapers	7,354.5	1,817.5	2.4
323	Products of purchased glass	1,156.6	600.0	2.4
348	Miscellaneous fabricated wire products	1,336.4	598.4	2.4
356	General industry machinery	7,422.6	3,102.8	2.4
381	Engineering and scientific instruments	1,105.0	408.6	2.3
382	Mechanical measuring and control devices	2,275.9	740.9	2.3
254	Partitions and fixtures	1,225.4	531.1	2.2
302	Rubber footwear	519.8	228.7	2.2
346	Metal stampings	7,095.7	3,407.6	2.2
395	Pens, pencils, office and art supplies	873.4	356.4	2.2
192	Ammunition, except for small arms	5,278.7	1,661.6	2.1
205	Bakery products	7,357.2	3,221.7	2.1
244	Wooden containers	414.4	23.6	2.1
253	Public building furniture	471.8	218.5	2.1
259	Miscellaneous furniture and fixtures	576.4	261.0	2.1
317	Handbags and personal leather goods	509.2	209.5	2.1
335	Nonferrous rolling and drawing	11,316.2	8,062.9	2.1
355	Special industry machinery	5,186.4	2,168.5	2.1
364	Electric lighting and wiring equipment	4,832.2	2,030.5	2.1
343	Plumbing and heating, except electrical	2,207.0	1,109.3	2.0
373	Ship and boatbuilding and repairing	3,603.4	1,564.0	2.0
399	Miscellaneous manufactures	3,169.2	1,318.8	2.0
194	Sighting and fire control equipment	35.0	10.5	1.9
243	Millwork, plywood and related products	5,395.6	3,155.9	1.9
265	Paperboard containers and boxes	7,116.5	3,970.9	1.9
299	Miscellaneous petroleum and coal products	668.0	396.2	1.9
361	Electric test and distributing equipment	4,618.7	1,825.6	1.9
396	Costume jewelry and notions	1,227.6	507.7	1.9
225	Knitting mills	6,336.0	3,683.9	1.8
264	Miscellaneous converted paper products	7,672.0	4,039.2	1.8
313	Footwear cut stock	234.0	124.7	1.8
316	Luggage	283.3	125.0	1.8
369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	1.8
203	Canned, cured, and frozen foods	11,961.5	7,326.7	1.7
251	Household furniture	6,622.6	3,208.7	1.7
334	Secondary nonferrous metals	1,644.0	1,350.1	1.7
384	Medical instruments and supplies	2,327.5	833.6	1.8
394	Toys and sporting goods	2,785.5	1,229.6	1.7
208	Beverages	18,330.8	6,855.1	1.6
227	Floor covering mills	2,678.8	1,776.0	1.6
335	Hats, caps, and millinery	221.9	98.6	1.6
344	Fabricated structural metal products	12,615.2	6,432.1	1.6
353	Construction and related machinery	9,498.8	4,544.2	1.6
372	Aircraft and parts	18,432.8	7,820.6	1.6
--------	Grain mill products	11,209.6	7,787.9	1.5
--------	Confectionery and related products	3,442.3	1,827.1	1.5
--------	Manifold business forms	1,277.7	550.3	1.5
--------	Soap, cleaners, and toilet goods	8,467.2	3,170.2	1.5
--------	Farm machinery	4,456.4	2,457.3	1.5
--------	Household appliances	6,061.6	2,911.6	1.5
--------	Communication equipment	12,985.3	4,833.8	1.5
--------	Musical instruments and parts	506.5	233.2	1.5
--------	Books	3,681.9	1,220.6	1.4
--------	Metal cans	4,159.4	2,429.4	1.4
--------	Engines and turbines	5,024.9	2,500.9	1.4
--------	Chewing and smoking tobacco	186.6	81.5	1.3
--------	Men's and boy's suits and coats	1,892.1	858.7	1.3
--------	Office and computing machines	6,909.7	2,811.9	1.3
--------	Service industry			
212	Cigars	359.3	140.5	1.2
233	Women's and misses outerwear	7,698.5	3,882.2	1.2
285	Paints and allied products	3,655.9	1,921.1	1.2
314	Footwear, except rubber	3,068.5	1,342.6	1.2
315	Leather gloves and mittens	92.1	48.7	1.2
374	Railroad equipment	2,363.9	1,372.3	1.2
375	Motorcycles, bicycles, and parts	469.6	256.6	1.2
391	Jewelry, silverware & plated ware	1,559.8	824.5	1.2
202	Dairy products	14,813.3	10,923.0	1.1
209	Miscellaneous food and kindred products	12,580.7	8,651.8	1.1
239	Misc. fabricated textile products	4,615.2	2,611.5	1.1
193	Tanks and tank components	345.2	193.8	1.0
319	Leather goods, n.e.c	143.0	68.3	1.0
232	Men's & boy's furnishings	6,116.1	3,036.2	.9
234	Women's and children's undergarments	1,913.4	885.2	.9
238	Miscellaneous apparel and accessories	1,166.6	586.2	.9
387	Watches, clocks, and watchcases	996.8	442.7	.9
236	Children's outerwear	1,194.9	600.3	.8
371	Motor vehicles and equipment	58,138.0	37,575.7	.8
211	Cigarettes	3,573.3	1,464.3	.7
201	Meat products	26,078.5	21,168.8	.6
272	Periodicals	3,238.6	1,239.3	.6
365	Radio and TV receiving equipment	4,543.8	2,664.4	.6
214	Tobacco stemming and redrying	1,408.7	1,286.7	.5
379	Miscellaneous transportation equipment	4,012.8	2,662.6	.5
274	Miscellaneous publishing	764.2	211.1	NA
277	Greeting card publishing	738.7	268.3	NA
312	Industrial leather belting and packing	50.0	20.1	NA

Mr. JACKSON. As these costs are passed on to the ultimate consumers, the inflationary impact of soaring oil prices multiplies several times over. The price of oil products in the past few months has increased dramatically: utilities are paying for residual oil 150 percent of the price they paid 3 months ago; gasoline and heating oil prices have risen as 50 percent and more in certain areas. Low- and fixed-income persons, small businesses caught under Cost of Living Council freezes, independent workers have all been caught in a crushing price squeeze. Clearly, this is not an equitable situation, particularly in the light of the profits being reaped by the oil industry, profits which have their origins in geopolitics and not in corporate business acumen.

I firmly believe we can satisfy both our longer term supply needs and our immediate need for equitable pricing, by adopting the provision in section 110 of the conference report. I urge the Senate to consider these facts carefully and to support passage of the conference report at the earliest possible date.

SENATOR RANDOLPH DISCUSSES ENERGY CRISIS AND WHAT WE CAN DO ABOUT IT NOW

Mr. RANDOLPH. Mr. President, the energy crisis which has had a profound effect on life in this country, certainly since last fall, continues to force daily adjustments in our traditional ways of thinking and acting.

The shortage of fuel, as we discuss this matter this afternoon, is just as severe, perhaps more so, as it was a week ago when the Senate voted to recommit the Energy Emergency Act to conference with Members of the House of Representatives. I felt at that time that the conference report was responsive to our needs, although we were not in complete agreement. I therefore opposed the recommittal.

After we went back into the conference, we worked for 3 consecutive days, for long hours and gave the matter careful consideration.

I think that we have strengthened the provisions, and in some instances readjustments were made which will be helpful. The basic values of the measure, as we had it at an earlier date, remain and will enable us to act forthrightly to conserve available energy supplies and use them in a manner that is equitable and in the best interests of the people of the country.

I must remind the Senators in the Chamber, and those who may read these remarks, that this measure was not hastily assembled during the first session of the 93d Congress.

Mr. President, I ask unanimous consent that Mr. Richard Grundy, of the staff of the Public Works Committee, be granted the privilege of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, the provisions in the bill were carefully considered. We have now given them, as I have indicated, further scrutiny and I hope that the matter will be acted upon either today or tomorrow in this body.

I do not believe that the delay is justified. This is urgently needed legislation.

I believe that we can agree that the executive branch has reacted to the energy crisis with limited legal authority. And I think that to solidify these efforts, we in the legislative body must cooperate.

I realize that the administration may not want to cooperate in the way that we are presenting this conference report to the Senate. However, this crisis has been a traumatic experience for millions of Americans. Except during wartime, the American people have not faced shortages of the type which now disrupt the mobile economy and the personal lives of people throughout the Nation. Until now, I think we can agree that much of our success in reducing the demand for energy has resulted from the self-discipline and voluntary cutbacks by companies and individuals.

The PRESIDING OFFICER. There will be order in the Senate. The Senator is entitled to be heard.

The Senator is entitled to be heard.

Mr. RANDOLPH. Mr. President, I realize that I am in the minority perhaps in the Senate and in the Congress in the advocacy of gasoline rationing. However, I know that State after State has begun to realize the importance of taking this step. We failed in the 1st session of the 93d Congress to impose gasoline rationing on the Nation. We should have done so. We lost in our effort by just a few votes.

The legislation pending before the Senate grants to the executive branch the authority to ration gasoline. This is an authority that should be used immediately.

I am convinced that motorists will more willingly accept a rationing system under which they know what they will receive, rather than the inequities, and there are plenty of them, and continued uncertainty of current conditions.

The administration has shown reluctance to ration gasoline. However, I feel strongly that delays and timidity in taking the necessary steps will neither alleviate the crisis nor sustain public confidence in our ability to do this job.

Mr. President, I have for more than 15 years been deeply involved in matters relating to fuels and energy in the Senate. I have been disturbed and saddened by the failure of our country to have an overall policy dealing with fuels and energy.

I authored a measure which created the National Fuels and Energy Study which is now being conducted within the Senate Committee on Interior and Insular Affairs. I have worked as an ex officio member of that committee in that study.

So, the thoughts I express today have not been brought together hastily. My interest is not cursory. It has been founded in a study of the matter. Within the past 15 years the Public Works Committee has had an involvement. It has been primarily concerned with energy's relationship to environmental protection programs. The production of energy is closely tied to the Clean Air Act, which in 1970 formalized our commitment to ending, insofar as possible, of pollution in the air.

The legislation before the Senate contains provisions that modify some of the requirements of the Clean Air Act on a temporary basis.

Pollution reduction requirements relating to both stationary sources and automobiles have been revised in a realistic way to cope with the energy shortage.

I commend the members of the Public Works Committee for the action that has been taken. None of these actions will weaken the basic strengths of the Clean Air Act or the purposes of that legislation. However, I do feel that we have written into the conference report provisions that will ease the energy shortage. And we have not compromised the cause of a cleaner environment.

Mr. President, the shortage of oil and the development of new techniques now make it possible for generating plants to return to coal as a basic fuel.

The Energy Emergency Act allows at least 46 electric powerplants now fueled by oil to convert to coal. I think it is important that the Senate recognize that since much of the available coal used for this purpose has a high sulfur content, there could be a resurgence of air pollution without the installation of control devices for cleaning sulfur oxides from stack gases.

A major step in this direction took place recently when the Environmental Protection Agency determined that the technology to remove sulfur from stack gases is proven and reliable. The manufacturers of this equipment—known as scrubbers—are confident, and I have spoken with them, that it could be installed in all 46 powerplants eligible for conversion to coal within 4 years.

I repeat—and sometimes I am certain there are those who do not wish to have it repeated—that coal is our most abundant domestic fuel resource. The United States, in fact, posseses more than half of the world's known coal reserves.

I am from the State which has the largest underground coal production, and I am acutely aware of its potential for making this country energy self-sufficient.

Questions have been raised about the ability of West Virginia coal to replace oil. I know that people have asked me recently: "What about the ability of West Virginia to mine the coal to replace oil on a large-scale or sustained basis?"

We in West Virginia know that much of our coal has a medium- to high-sulfur content, and its use would not be compatible with environmental requirements despite the oil shortage. The establishment of the reliability and availability of scrubbers at a reasonable cost should hasten their installation and create long-term markets for West Virginia coal.

Mr. President, I hope that my colleagues will listen carefully to these words:

Substantial quantities of oil could be saved by converting powerplants to coal. This potential is estimated to be more than 500,000 barrels a day—not a month nor a week, but, I emphasize, a day—or nearly one-third of the currently estimated oil supply shortfall.

I realize that many Members are not in the Chamber to hear these words, but it will be possible for them to read what I have said. We are also told that half of the 46 generating plants eligible could be converted to coal during the first quarter of this year, providing an almost immediate saving of 200,000 barrels of oil each day.

Twenty-three of these plants can be changed without any negative environmental effects. So I do want Senators to know that we are not rushing to burn coal in greater quantities unmindful of its impact on the environment. Even with the sophisticated equipment available to remove sulfur from stack gases, conversion to coal would not be permitted in areas where public health would suffer.

Finally, Mr. President, approval of the conference report does not mean that the Congress has discharged its duties with respect to energy. This measure is merely the first step in what must be an extended and searching examination of energy supplies and utilization. We need not panic over the current situation which, in the long run, may have beneficial results by stimulating us to plan realistically for the future.

The energy potential in our country is enormous, but we have to mobilize the enthusiasm, the imagination, the creativity, and the followthrough of our people to move forward. I think we have the qualities I have just mentioned. I know that the resources that are abundant, if we tap them, as we can. But I trust we have learned a lesson that will guide us in these efforts—that our goal must not be a return to the old ways of extravagant uses of energy.

So this conference report brings to us a challenge and a needed step in the direction of establishing rational policies for the development and the use of energy. It is a positive measure for meeting our current needs. And, as I have said earlier today on this floor, I am not a caustic or carping critic, but I do trust that the Members of this body will realize that we must face up to the urgency for action, and our responsibility as citizens of the Republic. I cannot speak for what action the House of Representatives will take, or what its legislative or parliamentary problems may be. But I urge that we act today on this important matter. In my considered opinion, we will fail the country and the people if we allow this matter to be delayed and to go over until we return, perhaps on the 19th or the 20th of February after the recess.

Mr. President, as Senators know, the conference report on the Emergency Energy Act contains for the most part the same provisions that were in the conference agreement of last year. One such provision relates to the priorities for our Nation's schools in the allocation of fuels. During the debate on the conference report last December, I briefly outlined the intention of the conferees when language was inserted in the conference report on educational needs, and I questioned the able Senator from Washington (Mr. JACKSON) on this point. I ask unanimous consent that my remarks and the response of Senator JACKSON at that time be inserted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. RANDOLPH. Mr. President, I understand that the December 13 mandatory fuel allocation regulations proposed by the Federal Energy Office give our Nation's schools the place of high importance which they deserve and I am very pleased about that.

The Senator from Washington knows that a general purpose of this act and the mandatory Petroleum Allocation Act is to protect the public welfare and maintain all essential public services. In this connection I ask the Senator about the intent of this measure with regard to education. It is my impression that this bill is not intended to result in a forced closing of schools, and that the educational process and schools will continue with a minimum of disruption.

It is my understanding also that the conference report language on education, coupled with the Senate record on passage of the Emergency Petroleum Allocation Act, insures that education will be treated as a vital public service whenever priorities are established under section 4 of the Emergency Petroleum Allocation Act.

Does the able Senator from Washington concur in this analysis?

Mr. JACKSON. Mr. President, the Senator from West Virginia is correct in his analysis of the intention of this measure. The conferees report intends that education be considered a vital public service.

Mr. JOHNSTON and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JAVITS. Mr. President, will the Senator yield to me, to dispose of a matter which can be disposed of by unanimous consent?

Mr. JOHNSTON. I yield.

Mr. JAVITS. I thank the Senator.

WASHINGTON ENERGY CONFERENCE—SENATE RESOLUTION 279

Mr. JAVITS. Mr. President, yesterday the Senate adopted, during the morning hour, Senate Resolution 279, having to do with the Washington Energy Conference which convenes on Monday.

The resolution was sponsored by myself, together with the majority and minority leaders and other Senators.

At the time, I did not know that we would have a meeting of the Committee on Foreign Relations this morning. We had that meeting, I submitted that resolution to the committee, and the committee has expressed itself favorably to the resolution with two amendments.

These amendments, in my judgment and in the judgment of Senator Scott as a member of the Foreign Relations Committee, do not in any way materially affect the end result, and therefore, Mr. President, I ask unanimous consent that the Senate reconsider its action on Senate Resolution 279, so that the resolution may be presented to the Senate with the two amendments recommended by the Foreign Relations Committee, and that the resolution as amended may then be adopted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

The clerk will state the amendments.

The legislative clerk read as follows:

On page 2, line 7, after "(2)" strike "An effective plan" and insert "Procedures".

At the end of the resolution, add a new section 2, as follows:

SEC. 2. It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

Mr. JAVITS. Mr. President, this new section says:

It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

I hope that the Senate will adopt the resolution as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The resolution as amended (S. Res. 279) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that a list of the cosponsors together with the text of the resolution as amended be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of cosponsors is as follows:

Mr. JAVITS (for himself, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ALLEN, Mr. BEALL, Mr. BIBLE, Mr. CASE, Mr. JACKSON, Mr. MATHIAS, Mr. MCGEE, Mr. PERCY, and Mr. TALMADGE) submitted the following resolution; which was considered and agreed to.

The text of the resolution as amended, with its preamble, is as follows:

Resolution expressing the sense of the Senate regarding the Washington Energy Conference

Whereas the oil embargo by certain states in the Middle East and the enormous increase in the posted price of crude oil threaten irreparable harm to the economies of all consuming countries of the world and ultimately to the producing countries themselves, and will result in balance of payments deficits of great magnitude for virtually every oil consuming country; and

Whereas these enormous transfers threaten to destabilize the international monetary system, could lead to competitive devaluations, trade warfare harmful to all nations and a dangerous renewal of the arms race in the Middle East; and

Whereas the increased cost of imported oil for the developing countries in 1974 is estimated at almost $10,000,000,000, more than the total amount of aid made available to these countries from all public sources in 1973; and

Whereas the Washington Energy Conference called by the President, is designed to provide a legitimate and essential forum for the discussion of the common problems faced by the oil consuming nations: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that the Washington Energy Conference should consider:

(1) Conservation measures in major oil consuming countries which are necessary to reduce demand, and should be a major part of the policy adopted in concert by the oil consuming nations;

(2) Procedures plan for the emergency sharing of oil resources which could be acted on subject to the constitutional processes of each country;

(3) Guidelines for bilateral agreements between individual oil consuming and oil producing countries, which in the present situation of embargo and skyrocketing prices could prove very harmful to the interests of the major oil consuming nations, and could incur the danger of introducing excessive and sophisticated arms into the oil producing nations beyond their legitimate needs for their own security;

(4) Coordination of research efforts in developing conservation practices and alternative sources of energy;

(5) The responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and

(6) Closer coordination of fiscal and monetary policies to prevent excessive strain on the international monetary system and the currencies of oil importing countries.

SEC. 2. It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

Mr. JAVITS. Mr. President, I thank my colleague very much for yielding.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. JOHNSTON. Mr. President, the decision that this body will make by its vote on this conference report will be among the most important this Nation will ever face. We are going to determine, in my judgment, whether the United States will move in the direction of energy sufficiency, or guarantee that we will be dependent on foreign sources and be short of oil and energy in the years to come.

In that light, I am disturbed and very much afraid that a dangerous kind of atmosphere pervades this country and the Congress. It is the mentality of a lynch mob. There appears to be an abiding conviction on the part of Members of Congress and the public that people and companies that search for and produce oil should be punished, that they are guilty of some personal kind of transgression that qualifies them for whipping at the public stock.

Frankly, I think it would be better if we could inflict that kind of corporal punishment because regardless of whether such punishment might be just or unjust, it would be cheaper for the country than to have this kind of atmosphere which, in turn, will result in very bad legislation. In recent weeks, we saw the specter of what this kind of lynch mob atmosphere can do to Congress. We saw the conference committee on this bill authorize and approve a bill on so-called "windfall profits" which no one—and I mean no one—was willing to speak in favor of and which even the proponents said was probably unconstitutional, unwise, and unworkable.

But for a filibuster on the floor of the Senate, that legislation would have been the law of the land. Cooler heads, luckily, prevailed, through the intercession of those not usually connected with the oil industry. But, now, Mr. President, we are faced with still another provision—not quite so bad as the so-called windfall profits provision, but a very, very bad provision that is difficult to defend. The provision in the conference committee's report relating to rollbacks is probably counterproductive and will guarantee, in my judgment, that we will not find new sources of oil. If we need to punish the oil companies and take from them the so called windfall profits—and there may well be reason to re-examine the tax treatment given to oil companies in light of recent price increases—then there is a better way to do so than by the rollback provisions of the conference report.

In my colloquy with the distinguished chairman of the Committee on Interior and Insular Affairs just a few moments ago, we established that the provisions of this bill relating to old oil allow the oil companies to keep a $1 per barrel windfall price increase recently granted by the administration. The provision relating to old oil, which amounts to over 70 percent of our domestic oil, does not give anyone the incentive to explore for oil. In my judgment, and as the chairman of the Committee on Interior and Insular Affairs has pointed out, this treatment of old oil is, in effect, a windfall profit in terms of incentives to produce more oil.

On the other hand, the price of new oil, which involves less than 30 percent of the oil produced domestically, does affect the incentives that people would have to drill for oil. It is the price of that oil, which is now on the average about $9.50 per barrel and which, in some instances, has gone over $10 per barrel, that will be rolled back to $5.25, the same as the cost of the old oil.

It is a very expensive and chancy thing to explore for new oil. The easy sources of new oil all have been found. All of the shallow production, all of the obvious structures, have all been explored. The oil to be found now either is in tight formations or in smaller formations that are difficult to find. Once found, production is not great, or is from depths much deeper than anything we find in a foreign country such as Saudi Arabia.

Therefore, the need to give incentives for finding new oil is dramatic. It is obvious. In fact, Mr. President, no one, in my judgment, can argue with the need to provide the incentives to find new oil.

At the insistence of some of us, hearings were called in the Committee on Interior and Insular Affairs on Thursday, Friday, and Saturday of this past week, with reference to a rollback in the price of oil. Experts testified at that time—not oil company experts, but experts in the field of economics, from universities such as Harvard. A number of questions were asked of those experts that bear directly on the question of the desirability of rolling back the price of oil. In this connection, it should be emphasized that the conference report would only have the effect of rolling back the price of new oil. Old oil, as I previously have noted, would be allowed to continue to sell at its present price of $5.25 per barrel.

The first question put to the experts was: How much would we save on the price of a gallon of gasoline by rolling back the price of new oil 25 percent?

The panel of experts who testified on Saturday agreed unanimously that a price rollback on new oil would result in a savings of less than 1 cent per barrel. If we double the cut from 25 percent to 50 percent—the maximum amount that could be cut under the conference report—the savings might be as much as 2 cents per barrel.

Now, for the price of 1 or 2 cents per barrel, Mr. President, this country, this Senate, is asked to put itself on a course of reducing incentives to explore for hard-to-find, expensive oil.

During our hearings on price rollbacks, even Lee White, a former Chairman of the FPC and an advocate I believe of nationalization of at least part of the oil industry, agreed that the price of new oil is not the place to "punish" oil producers. In my judgment, and I believe in that of Mr. White, we would do better to do away with certain unjustified tax benefits such as the foreign depletion allowance. No one really defends that. Why do we not get at that? Or why not do away with excessive foreign tax credits? No one would defend those, and much more money is involved there.

Why not rollback the price of old oil—which represents approximately 70 percent of domestic crude—to its December price of $4.25 and eliminate the $1 per barrel windfall that was allowed despite the fact that it is not really a viable incentive to produce more oil? Why not disallow the present bonus barrel—so-called released oil?

There are many ways to save much more money than by rolling back the price of new oil. All the experts who have testified come to that conclusion.

The trouble is that we are trying to conduct the business of this Nation and of the Senate in an atmsophere that does not permit reasonable analysis of the issues and adequate time for hearings. Indeed, I believe we are in the process of making one of the most important decisions that we may ever make in this country—the direction in which we are going on energy—yet we are making that decision in an atmosphere of irrationality and haste that I believe bodes ominously for this country.

Mr. President, this is no way to legislate; it is no way to determine the course of this country. Frankly, the atmosphere in this country is such that even in my own State of Louisiana, which is an oil-producing State, people are saying, "Let's get the oil companies." Perhaps we ought to get them. Perhaps they are guilty of some transgressions. But, let us not pull the whole Nation down in a desire to punish the oil companies.

In a rush to judgment unsupported by facts, unsupported by hearings, and completely contrary to what the experts say, the Senate is asked to be stampeded into a decision that virtually no one can support on any other basis other than to say that we have to have a decision and we have to have a vote now because the people want to punish the oil companies.

I hope the Senate will not do that. I hope instead that cooler heads will prevail; that we can save money for the consumer by different methods; that we can, when we finish our hearings and our legislation here, have legislation that does not take away the incentive necessary to produce new oil. Let us hope that these critical decisions will be made properly by the Senate, so that we do not sacrifice the future energy self-sufficiency of this Nation to short-term political expediency.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on February 5, 1974, the President had approved and signed the act (S. 1070) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

INTERNATIONAL ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

To the Congress of the United States:

Last year, when I submitted my first International Economic Report, the Nation had just concluded its involvement in a lengthy and tragic war. We were thus able to turn greater energies to building a more lasting and secure world peace.

A major part of our peace-building effort lies in resolving international economic problems, and today we can look back upon a year of progress on that front. We have strengthened our competitive position in the world. We have moved ahead toward vitally needed reforms of the world economic structure and we have improved our trade balance beyond our expectations, reflecting our ability to compete more effectively at home and abroad with foreign producers. Our strengthened trade position has in turn contributed significantly to the expansion of jobs and income for our people, and has led to renewed confidence in the dollar in the world's money markets.

One of the greatest challenges facing the international community is to overhaul our world monetary and trading systems. During this past year, I have been heartened by the progress that the Committee of Twenty, under the auspices of the International Monetary Fund, has made toward reforming the international monetary system and by the way that transitional monetary arrangements have proven effective under conditions of stress. Meanwhile, over 100 nations, meeting in Tokyo this past September, opened a new round of international trade negotiations. And the trade legislation we submitted last April has moved through the House for further consideration in the Senate.

Despite this significant progress, 1973 was also a year in which new problems vividly brought home to us the degree to which our own economy is affected by developments elsewhere. This past year the major industrial nations experienced simultaneous boom conditions for the first time since 1951. This complicated economic policymaking, demonstrating that the same interdependence which can contribute so much to world prosperity through trade can also contribute to national problems. One such problem is inflation. While we continue to attack the causes of excessive price increases within the United States, we must also realize that inflation has been a world-wide problem driving up the cost of world-traded goods.

Two new problems also arose in 1973, reminding us of the impact that other economies have upon our own: last summer's food shortages and the current oil crisis. There was an unprecedented and unforeseen surge in international demand for American agricultural products last year. The causes ranged from poor harvests abroad to food policy shifts by foreign governments, affecting their demand for agricultural imports. These significant shifts could not help but have a strong impact upon our domestic economy: on the one hand, expanded sales helped the recovery of our trade balance and helped ensure our position as a reliable world supplier of agricultural goods; but on the other hand, world-wide shortages caused our food prices to rise significantly. A number of measures have now been taken at home and abroad to help prevent a recurrence of such problems. We have brought land back into production, we have taken every step we can to expand our harvests, and we have established an agricultural export monitoring system. In addition, we have called for a World Food Conference to meet in Rome this year, where the newly developing problems of agricultural supply and demand can be addressed by both producer and consumer nations.

The second major problem—the oil embargo and its accompanying price increases—has given us further evidence of our interdependence with other nations. While our country is relatively less dependent upon foreign supplies for our energy than are most industrial nations, these developments are adversely affecting many sectors of our economy. Again, as we have done with regard to food shortages, we have taken vigorous actions to meet energy shortages. The actions taken by the Executive, the Congress, and especially by the American people have enabled us to make significant progress. The consumption of almost every form of energy has been dramatically reduced. But much more needs to be done in order not only to alleviate the current emergency but also to assure that the United States can develop greater energy resources of its own. This January, I submitted to the Congress my third special message on energy, outlining further needed legislation. I have also invited the foreign ministers of the major oil-consuming nations to Washington this month, initiating cooperative discussions on these problems. Those who will attend this conference recognize that the large price increases announced late last year can only create hardships for the major industrialized economies and could have a disastrous impact upon the world's poorest nations.

The new problems we face are of such enormity that there may be a temptation to delay further progress toward trade and monetary reform. Nothing could be more foolish. It is particularly important that we move forward in a multinational attempt to reduce trade barriers so that individual nations are not tempted to "go it alone" in seeking solutions. I consider it essential that we continue to construct a consultative framework in which new as well as old issues can be addressed. The current trade and monetary discussions provide such a framework and also allow us to continue our long-term effort to build a more effective world economic order. To make this possible, the Trade Reform Act should be promptly passed without restrictions upon our ability to end trade discrimination against other nations.

The Annual Report of the Council on International Economic Policy provides background and analysis which should be highly useful to the Congress as it considers these complex and important issues.

RICHARD NIXON.

THE WHITE HOUSE, *February 7, 1974.*

EXECUTIVE DEPARTMENTS' AND AGENCIES' REPORTS ON IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Government Operations. The message is as follows:

To the Congress of the United States:

I am transmitting today the third annual report of each Executive department and agency on their activities during fiscal year 1973 under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

In general, the agencies' reports indicate that the Uniform Act has been well received by those displaced by Federal and federally-assisted projects and by the affected communities. The assistance provided by the Uniform Act largely compensates persons for the disruptions and inconveniences resulting from public acquisition. The payments made to persons who relocate have had a generally favorable impact on the public, and the down payment assistance provisions of the Uniform Act have resulted in increased home ownership opportunities for some displaced persons.

The agencies' reports indicate that the primary criticism directed toward the Uniform Act has been expressed on behalf of displaced small businesses. Agencies are not able to deal with the problems of displaced businesses as successfully as they can deal with those of individuals displaced from their homes. This matter will be reviewed to determine possible solutions.

During the past year, I transferred responsibility for executive branch leadership in the implementation of the Uniform Act to the General Services Administration. The Administrator has recently reported to me concerning accomplishments under this program and has also outlined plans to assure continuation of programs initiated by the Office of Management and Budget and to further improve the administration of the Uniform Act. I endorse these efforts and include his report as an attachment to this transmittal.

RICHARD NIXON.

THE WHITE HOUSE, *February 7, 1974.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

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MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 184) to print as a House document the Constitution of the United States.

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 425) providing for adjournment of the House from Thursday, February 7, 1974, to Wednesday, February 13, 1974.

The message further announced that the House had passed the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings was read twice by its title and referred to the Committee on the Judiciary.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. **BUCKLEY**. Mr. President, I compliment the Senator from Louisiana for a thoughtful analysis of the present situation and for pointing out to this Chamber the extraordinary consequences to the future of this country if we step in the wrong direction.

Mr. President, last November, when the Senate version of the National Emergency Act of 1973 was being debated, I criticized the legislation for an indiscriminate delegation of authority to the Executive far beyond that required to enable the President to meet legitimate emergency needs, and for its failure to contain any measures designed to bring the emergency to an early end by stimulating an expansion of our domestic energy base.

After emphasizing the adverse impact on supply of the Federal Power Commission's regulation of the wellhead price of natural gas, I stated:

> In the absence of such fundamental changes in federal policy towards energy pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Mr. President, S. 2589, in its original form, was bad enough. But what has emerged from the conference committee not only preserves the bad features of the original legislation, it has grafted in pricing provisions that are tantamount to a fraud on the consumer. While promising "price rollbacks" and an elimination of "price gouging" that on analysis will save the consumer no more than 2 or 3 cents per gallon of gasoline, it will cut back by a large margin the economic incentives that alone will enable us to work our way out of our domestic energy shortages and liberate ourselves from the world oil price structure mandated by a handful of oil exporting countries.

I respectfully submit that the "anti-gouging" provisions represent legislation of the worst kind. It represents in my judgment, an emotional rather than a rational reaction to developments that have such large significance for the future of the country that only the most thoughtful response is justified. While the Interior Committee held hasty hearings on the proposition of a price rollback, it was clear from the outset that they could provide no serious guidance in the formulation of policy. The first hearings were scheduled for Thursday afternoon, January 31, to be followed with hearings on Friday and Saturday, February 1 and 2, all in theoretical preparation for the deliberations of the joint conference committee beginning at 10 o'clock the following Monday morning. In other words, it was clear from the outset that there would be no opportunity for those hearing the testimony to evaluate it and to make recommendations for the benefit of the conferees.

In point of fact, the distinguished chairman of the committee, Senator JACKSON, made it clear at the outset that the only purpose to be served by the hearings was to confirm conclusions already set in concrete. I quote from his opening statement:

> I can find no conceivable justification for current fuel price levels. By all evidence we have seen, Americans are paying unconscionable and unnecessarily high prices for essential petroleum products. . . . A rollback of petroleum prices to more reasonable and realistic levels is absolutely essential. That is the subject of these hearings today.

In support of his contention that any price on domestic crude oil in excess of $7 per barrel was unreasonable and unnecessary in stimulating the vast expansion of exploration we must see in the next few years, the chairman cited, from time to time, statements made at an earlier hearing by the presidents of the seven largest international oil companies.

Yet the testimony given at the hearings by representatives of the domestic oil industry, and of the 10,000 independent wildcatters and producers that historically have accounted for between 75 and 80 percent of domestic discoveries, was dismissed out of hand. Their testimony, which I believe to be supported both by experience and commonsense, underscored the proposition that the current average price being paid for new oil—about $9.50 per barrel—provided significant incentives for finding new oil and gas and extending the life of existing fields that in the aggregate would add significantly to our total domestic production.

I think it well to keep in mind that the large international companies do not represent the alpha and omega of wisdom on matters of petroleum. Because their operations are integrated, they can make up losses in one area from profits in another. A cynic, of course, might argue that the majors would support any price level that would restrict the activities of independents. They might also point out that the big international oil companies are net purchasers of domestic crude, and hence have a strong parochial interest in keeping prices down.

I, myself, am more persuaded by the argument that the heads of these vast companies were in part speaking out of timidity and in part reflecting the sheltered experience of the giant companies. Historically, they have not been willing to take the same geological risks as have the independents; and when independents at great risk have managed to prove up new geological prospects, the majors have always been able to buy
In a special sense [this extra depth]
their way into a participation. I would suggest, in other words, that the opinions of these seven gentlemen ought not to be considered a sufficient basis for measures that will have a profound effect on the rate at which we develop our domestic energy resources.

It could be stated, Mr. President, that the testimony offered by the representatives of the American Petroleum Institute and the Independent Petroleum Association of America was self-serving; and it is undoubtedly true that they view the welfare of the Nation through a perspective that reflects their own. It happens, however, that their testimony found ample support in that given by a panel of economists who testified on Saturday. Dr. Thomas Stauffer, research associate at the Center for Middle Eastern Studies at Harvard University, stated, for example, that while he considers econometric calculations to be unreliable, "engineering-type calculations lead to the suggestion that there should be about a 50-percent increase in potential production for every doubling of the price." He pointed out that—

> Everything else remaining equal, an average price increase of 50 percent would permit the depths of the average well to increase from about 5,600 feet to perhaps 6,800.

He went on to say that—

> means that 20 percent more sands may be tapped. More generally, however, three additional effects contribute to a still greater increase in production as a consequence of a price increase. First, it becomes economically justified to explore for smaller or less certain deposits in older, less shallow zones. Second, secondary or tertiary recovery projects may be implemented more thoroughly, increasing output both from new finds and also from older reservoirs. Finally, one can operate in deeper water offshore, increasing the scope for new discoveries, or one can develop lower-quality, higher-cost fuels when found.

Now, one can always argue with conclusions drawn by economists and quarrel with the policy objectives they define. What was striking about the testimony of the witnesses last Saturday, however, was the strength of their belief that to proceed to legislate a rollback without adequate study of the consequences was nothing short of reckless. This was made explicit when I asked each of the economists at the morning panel to comment on the following statement contained in a telegram addressed to the Senator from Arizona (Mr. FANNIN) by Dr. E. Jackson Grayson, Jr., of the School of Business Administration of the Southern Methodist University:

> In my opinion the energy pricing issue is far too complex to be handled in pending legislation without considerable additional investigation. The consequences of moving too quickly and without sufficient background information on such a measure could place this nation in greater international jeopardy by inhibiting rapid movement towards domestic energy self-sufficiency.

Each member of the panel of expert economic witnesses; namely, Dr. John H. Lichtblau, executive director, Petroleum Industry Research Foundation, New York City; Dr. Stauffer and Mr. Warren Davis, chief economist, Gulf Oil Corp., Washington, D.C., agreed vigorously with Dr. Grayson's position. When I asked whether the time elapsing between the close of hearings on Saturday afternoon and the opening of the energy conference at 10 a.m. the following Monday morning would allow for the accumulation of "sufficient background information," they each answered with an emphatic "no." When I asked them if they would consider it irresponsible to attempt to enact a pricing formula the following week, they answered with an equally emphatic "yes."

I then pointed out to the witnesses that the amendment to the Emergency Petroleum Allocation Act then under consideration would require the President—

> To specify ceiling prices for sales of crude oil, refined petroleum products, residual fuel oil, . . . which avoid price increases resulting from the current energy emergency in excess of those that would have the function and effect of increasing long-run supply, diminishing long-run demand, and allocating said products to their most valuable uses.

As it was the consensus of their earlier testimony that even with the best of information it would be impossible to set such prices with any degree of precision, I asked whether in their judgment American consumers would be better served by having the ceiling price set $2 too low or $2 too high to achieve the statutory objective. Again, there was a consensus. It was that the long-term interests of the American consumer would be better served by an error on the high side. It was pointed out that even if the price of new and stripper well oil were to be rolled back to $5.25 a barrel, the net impact on the consumer would be a saving of between 2 and 3 cents per gallon of gasoline. It has since been computed that even if all presently unregulated domestic oil were to be rolled back to zero, the savings would be in the order of 5 cents per gallon. They did concede that while even this much relief would be of some immediate benefit to the American consumer, it would constitute an eating of one's seed corn at the expense of future crops.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I am glad to yield.

Mr. TOWER. It occurs to me that if we have a rollback in the price of domestic crude, it is going to reduce the supply of domestic crude. It is automatic. There is a certainty about it. I grew up and I live in an oil-producing area. I can assure Members of the Senate this would be the case. That would mean that even if we could increase imports from Venezuela, we would be paying OPEC prices. So it would be replaced by crude costing two to three times as much. Therefore, I do not see how there could be any savings.

Mr. BUCKLEY. The Senator is correct. Even if the prices were to rise for new oil, in light of the international prices today, at least the money would be paid to Americans and it would be available for reinvestment in America to expand the base of supply for all Americans.

Mr. TOWER. The Senator is correct. I am saying we proceed on a set of false presumptions if we say that a rollback in the price of crude will result in gasoline costing less. I do not see where the savings will come. This is the kind of misinformation that has been dumped on the American people.

Mr. BUCKLEY. I fear the Senator is correct. This is something made totally clear by the witnesses before those hastily engineered hearings. Unfortunately, the Senate has not had the opportunity to digest that testimony in the normal committee fashion.

Mr. President, to continue with my statement, it may well be that some sort of limitation ought to be placed on the price of new oil produced within the United States, other than the ceiling that is in effect imposed by the world price of crude oil. It could well be that the sharp increases in domestic prices over the past 3 months will not level off, as many believe they are in fact doing. If so, the whole question ought to be considered independently of the Emergency Energy Act.

The fact is that the whole problem is so complex and the consequences of a wrong decision so deeply damaging to the American people and economy, we simply cannot move with the haste we have exhibited in this legislation. Because we are dealing with the price of incremental oil, a few weeks' delay simply will not spell disaster.

Furthermore, we should keep in mind that we are not operating totally in the dark on this question. At the end of World War II, we had serious shortages in domestic oil production and many at that time were predicting that the United States would never again achieve conditions of self-sufficiency. Nevertheless, when the price of oil was decontrolled, the price per composite barrel of oil and gas—stated in 1973 dollars—rose sharply from about $2.40 a barrel to $3.60 a barrel. At the same time, expenditures for exploration and development of new oil and gas reserves rose from less than $3.4 billion to almost $8.2 billion, with a resulting expansion of oil and gas production that not only made possible our vast development of natural gas, but which resulted in steady decreases in the price of oil and gas from a peak of $3.60 in 1948 for a composite barrel to a low of $2.20 in 1972.

This seems to me a clear-cut demonstration of the essential role played by price in stimulating investment and overcoming shortages. It is true that immediately upon a sudden rise in prices, significant profits are made. But experience also demonstrates that the resulting rapid expansion of capital investment brings ensuing profits back in line with average industry experience. I see no reason why we should not assume a repetition of this experience in the years immediately ahead if we allow economic nature to take its course; and in fact, the financial commitments now being made by every segment of the domestic industry indicates that this will in fact take place.

Mr. President, it is absolutely essential that we understand that we cannot begin to hope to achieve our objectives of substantial energy self-sufficiency in the 1980's unless incredibly large sums are raised and invested, much of them at very great risk. According to estimates made by the Chase Manhattan Bank, if we are to meet our objectives of substantial self-sufficiency, the oil and gas industry will have to invest an average of more than $60 billion per year in the United States between now and 1985. This will not be done if we remove adequate incentives to test the deeper, more difficult, more risky targets.

It would seem, Mr. President, that the only advice followed by the conferees was that given at the first day of hearings by Mr. Lee White, the former Chairman of the Federal Power Commission. It was he who urged the Congress to set a specific figure rather than delegating the authority to the Executive which, in turn, would presumably try to accumulate the basic data required for a prudent judgment. The conferees have set their price at $5.25, with some degree of flexibility under special circumstances for a rise to $7.09. It is ironic to me that the day seems to have been carried by a man who as much as anyone, perhaps more than most, is responsible for today's significant shortfalls in that form of energy that supplies almost a third of our needs; namely, natural gas.

Mr. President, I urge that this legislation be defeated so that we may go back to the drawing board and draft legislation that will meet the needs of the present energy emergency without granting excessive authority to the Executive; legislation that will not condemn us to a condition of perpetual dependence on overseas sources of petroleum, by interrupting and interfering with the natural incentive of the marketplace.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. MANSFIELD. Mr. President, in view of the fact that a unanimous consent was not attainable, I think the Senate should be on notice that there is always the possibility that there may be votes either today or tomorrow, and Senators should prepare themselves accordingly.

Mr. BELLMON. Mr. President, the issue before the Senate today is not simply the passage of S. 2589, or the rollback of crude oil prices. The issues, in my opinion, are three: Number one, does this Nation seriously intend to become self-sufficient in energy production from our own abundant resources? Number two, is it the considered position of the Senate that private energy industry should be denied the opportunity to solve the Nation's energy problems? And number three, does the Senate desire again for this country to become dependent on insecure foreign sources of energy?

We may as well face the facts. There is simply no way this country can again have all the oil and gas it needs or wants from traditional sources of petroleum. There simply is not enough available from the known or yet to be discovered zones in this country, or even Alaska, to provide all the energy this country needs from petroleum sources. There is no way for this Nation to be again fully supplied with energy unless we shift to newer or more costly sources of energy.

What I am saying is that in the future the United States of America must get its energy from coal, oil, shale, nuclear power, and probably other, more costly, and what we now consider more exotic, sources.

The best information we have is that oil from coal will cost, under present-day conditions, something like $8.50 a barrel. Oil from shale will be just as costly.

Therefore, what we are saying, if we roll back crude oil prices, as provided in S. 2589, is that we are foreclosing, at least for the foreseeable future, the possibility of attracting investors to the notion of building the coal liquefaction or oil shale plants that finally have to become the source of much of the fossil fuels needed by the consumers of this country today. This is what is really at stake today. We are simply saying to the investors that we do not want them to make the multi-million-dollar investments, over the next 5 to 10 years, in the kinds of plants that offer the only real hope for solving the Nation's energy problems.

It was my feeling, after the Arab oil embargo was put into effect, that the citizens of this country had reached the conclusion that they would never again want to get this Nation in the position of literally being held hostage, as far as national policy is concerned, by governments whose countries produce oil. By our consideration of S. 2589, Congress will be making it absolutely certain that, if this legislation becomes law, in the not-distant future we will again be importing far more energy from the Middle East than we should, thereby greatly jeopardizing this Nation's ability to survive in case of another oil embargo.

To me it is tragic that in a country like this, where we have perhaps one and a half trillion tons of coal, enough to last 500 to 1,000 years, we have had a policy for a long time of not doing enough to start to make it possible to bring coal into production in a form that will not be destructive to the environment through coal liquefaction and gasification plants. We now have an opportunity of creating a set of circumstances whereby this kind of plant can be built and where that form of energy can be put into production.

I believe this is the occasion when the Senate and the country need to think seriously about whether we are willing to pay the prices necessary to get the energy we need from the sources which are available in such abundance, as I have indicated in the case of coal.

The same can be said about oil shale. The only reason we do not have abundant energy from these sources today is that it has not become economical to produce from these types of fossil fuel.

I have been in consultation recently with some experts in coal gasification and coal liquefaction. There is no question that the technology exists. The factor missing is the economic incentive to get on with the job.

I recognize, and I think most people in the oil business recognize, that the price of any crude oil, particularly for new oil, and from stripper wells, jumped far higher than was indicated for the industry. Even though the price has jumped, it is still not as high as the prices we pay for oil from imported sources. But the price has risen and has started to bring into realization the investment that is required to produce oil from coal.

If we pass S. 2589, we are going to give an opposite signal. We are going to say to potential investors that the time is not yet ripe for them to make the multi-million-dollar investments, and that they can put their plans on ice until the next crisis starts.

The problem is that it will take several years to get these plants in operation. If we defeat S. 2589 and make it plain that we are interested in solving the problem, I believe we can make it possible for liquefaction plants to be under construction within 3 to 5 years, and thus obtain a sufficient amount of crude oil from those sources.

My position on S. 2589 is not based simply on the fact that the prices of crude oil are unfair. Perhaps the traditional oil industry could live with them, and perhaps even prosper at the upper levels of prices anticipated by this bill. The problem is that new sources of energy simply cannot be brought into production under the terms of this legislation.

My opposition stems from my belief that the current energy crisis has been caused in the past by some unwise and short-cited governmental policies and practices, and that if we continue those practices, we are going to have a crisis for the indefinite future. The crisis will only delay construction, prolong the current shortages of energy, and delay the day when the Nation will again be substantially self-sufficient in energy and free from international energy blackmail.

In order for the United States to become self-sufficient in energy, it will be necessary for huge sums of money to be invested, searching for and developing new oil and gas reserves, opening of new mines, constructing coal liquefaction and gasification plants, and developing new types of energy sources. The imposition of a crude oil price rollback would only further impede the discovery of new sources of fuel.

The question the country and the Congress must face and solve is: Where will this huge sum of money come from, and will the private sector or the Government be in charge of developing the new energy sources and operating the plants once they are in place?

The adoption of S. 2589 is the first long step down the trail toward the nationalization of the Nation's oil industry.

I make this statement because the impact of S. 2589 is to make it difficult, if not impossible, for the private energy industry to accumulate the funds and to attract the investments that will be necessary for developing the abundant natural resources which the Nation fortunately possesses.

Without these funds, the private sector's ability to develop a solution to the Nation's energy shortage will be seriously and permanently damaged. Lacking new supplies of energy, the consumer will naturally blame the energy industry, and sooner or later will begin to insist that the Government move in to the vacuum.

When this happens, the American taxpayer will begin to pay the bill and Federal bureaucrats will begin to make the decisions as to where to drill oil and gas wells, where and when to open coal mines, and where to build the energy processing plants.

If experience in other countries means anything at all, the American taxpayer can expect the bureaucracy to fumble the ball as is done in so many other areas. Also the energy consumer can expect to pay a far higher price for his energy than he is now paying or will pay if private investors and private operators continue to be in charge of the energy industry.

Attractive as it may sound to soak

the energy companies because of an increased profit due to the Arab embargo of oil, the fact is that this section is totally counterproductive. Someone, either the energy consumer or the taxpayer, must provide the funds needed for a vast expansion of the Nation's energy industry. S. 2589 will not keep this investment from being made. Rather the impact of this bill is to deny to the private sector the funds necessary to expand the Nation's energy output and put the Government in the position of beginning to take over this large and vital section of the Nation's economy.

If this happens, the American people will pay much more for fuel. We will at the same time increase consumption. This will, of course, make the problem even more serious.

It is unfortunate, but it cannot be denied, that the energy industry, and especially oil companies, suffer from an image problem. Many Americans are skeptical about the present shortages of gasoline and other fuels. Even in Oklahoma, a State where thousands of citizens work actively in the petroleum industry, I found during the recent recess that a number of my constituents were not convinced that the energy crisis is real. If Oklahomans who live next door to oil workers and in the shadow of oil and gas wells do not fully understand the energy crisis, it is easy to appreciate the difficulty other Americans have in understanding the complex energy shortage which now faces the country.

Mr. President, I have before me some figures which show what has been happening in the oil industry. I believe that these will be helpful to understand the problems. If we look at the number of oil wells drilled over a period of years, going back to 1956, we will find that in 1956 there were 30,730 crude oil wells drilled. Incidentally, 21,838 of these were dry holes.

In 1960, 4 years later, the number dropped from 57,111 down to 44,000. In 1956 the industry discovered and developed 30,730 new crude oil wells. In 1960, that figure was down to 21,186. That is a reduction of about one-third.

By 1965, the total number of crude oil wells drilled was 18,761. And the total number of wells drilled, including dry holes, was 39,501.

By 1970, the number of crude oil wells drilled was 13,020. It had dropped from 30,730 in 1956. This is a reduction of far more than half.

In 1971, the next year, the number of crude oil wells drilled went down to 11,858. The total number of wells drilled, including dry holes, had gone down to 25,851.

In the next year, 1972, there were 11,306 crude oil wells discovered and drilled in the country.

During this period of time the consumption of petroleum, as I have just said, went up at a rapid rate. The average rate of consumption in the country has been going up from 500,000 to 700,000 barrels a day. And yet at the same time that we have been using more and more, we have been producing less and less.

In 1956, there were 2,865,000,000 barrels of crude oil used in the United States.

In 1960, the figure was 2,974,000,000.

In 1965, the figure was 3,302,000,000.

In 1970, the figure was 3,958,000,000.

In 1971, the figure was 4,041,000,000.

In 1972, the figure was 4,168,000,000 barrels of crude oil used in the United States.

During this period of time when we almost doubled the consumption of crude oil, we reduced the number of crude oil wells from 30,730 down to 11,306.

Anyone who looks at these figures cannot escape the conclusion that we were heading toward the very kind of crisis which now exists.

During this period of time, year after year, we imported more crude. The amount of crude oil imported went from 341,833,000,000,000 barrels in 1956 up to 811,135,000,000,000 barrels in 1972. The country today has a real crisis. This situation has existed for many years. It came to public notice as a result of the embargo that was put into effect. Otherwise, it is possible that the country never would have realized the real situation that existed.

There is a widely held belief that the oil industry is a high-profit business. This concept reflects a basic misunderstanding of the industry and an inadequate grasp of the facts about its operations and economics. It confuses total profits with profitability, that is, the rate of return on investment.

Looking at profit in terms of the relationship of earnings to capital invested, oil companies over the last 20 years come in below the average of all manufacturing companies. According to data compiled by the First National City Bank of New York for a large group of oil companies over a 20½-year period—1952–71—the average rate of return on net worth was 11.9 percent, which compares to 12.2 percent for all other manufacturing companies. This so-so record has discouraged investors from making needed capital available for new energy developments. Unless the profit picture improves, investors will continue to stay away from the hazardous petroleum business.

This partially explains why we were not getting more oil wells drilled. Investors did not have the money available with which to drill wells. However, the main reason was that the price of petroleum went so low during this period of time that it was simply unattractive for the investors to take a chance and pay the cost of bringing oil into production.

Mr. President, I have before me a chart showing over this period of time to which I have referred, going back to 1952, year after year, that investments in other types of manufacturing industries produced a higher return than investments made in the petroleum area. It is only natural and logical that investors should look elsewhere for investments rather than to take chances.

Exploration for new oil and gas reserves has declined in recent years primarily because of inadequate incentives. Recently, as profits have increased, this pattern has begun to improve. This improvement will continue so long as the funds for development are available.

Mr. President, during the last decade, the average price of a barrel of crude oil at the wellhead rose about 50 cents, or just over 17 percent. During the same period, prices of oilfield machinery rose 35 percent, well casing by 46 percent, and the average hourly wages in petroleum production rose 57 percent. In addition, the 1969 tax reform bill included a major disincentive to investors when it raised the industry's taxes by more than $500 million a year.

In the case of natural gas, interstate prices are regulated at the wellhead by the Federal Power Commission. This regulation has led to artificially low prices, encouraged overutilization of gas, demoralized the coal industry, and discouraged the search for new supplies.

So, what I am saying is that all throughout this period when the country was using more and more oil, the Government, rather than providing an incentive to get more production, was doing one thing after another to discourage investment and driving investors into other areas. Accordingly, these actions made it more difficult for the industry to provide for the Nation's needs.

This is one reason that a lot of the developments that should have occurred in the United States took place in other countries, and it is one reason why, if we continue on this course, we are going to see this Nation remain in an energy-deficit status.

Mr. President, in our country and under our system, we know that when prices get high, it triggers a vital increase in production. This would not be significant if we lacked the resources from which to produce. But the fact is, as I have said earlier, that this Nation is blessed with abundant energy resources. So we can be certain that fuel prices will not remain high forever if the energy companies are allowed to increase supplies by plowing back profits into developing new energy sources. The free market will quickly increase the supply and bring costs lower, or at least keep them in line with the rest of the economy.

We have seen this happen time after time in other areas. For instance, only a year or so ago the Nation's supply of eggs was running far ahead of requirements. In the Committee on Agriculture and Forestry, we had legislation intended to bring about an orderly reduction of the Nation's laying flocks. This legislation failed. Accordingly a large number of egg producers went out of business, and now we see a sizable shortage of eggs, and the price has gone up to over a dollar a dozen.

In many respects, the fuel crisis is similar to the beef shortages of last summer. In that situation, when beef prices rose, consumption eased, the supply increased, and prices dropped. The same thing will happen if energy companies are left unfettered by excessive

Government regulations. The price adjustment may take longer because new energy sources cannot be developed overnight. Without attractive profit incentives or under a governmental bureaucracy, these increased supplies will not be forthcoming at all.

However, we can be certain we will have all the energy we need if we provide the incentives and make it possible for the energy industry to do its job.

Mr. President, the administration and the Congress have the opportunity to take action which will permanently solve the Nation's energy shortage. The course we choose now will have an immense impact upon the economic health and the security of our Nation.

The action we are considering today, as we consider the conference report on S. 2589, is exactly the wrong kind. We are here refusing to face the realities of the situation, and trying to kid ourselves that we can somehow establish artificial controls that will bring about a substantial reduction in the cost of energy to the consumer.

This is the same theory used by the Federal Power Commission over the years, as it pegged natural gas prices to an artificially low level. In this case the result will be the same as it has been with the case of gas, where the price is abnormally low, production is abnormally low, and as a result the consumers are forced to do without.

What we are saying today is that we would rather be temporarily short of energy, while we carefully work out a way of providing for our needs to the future. I urge that we not choose a shortsighted preventive course but rather that we give the private sector the time and the incentive to do the job. The conference report, if adopted, would be totally counterproductive, and I urge that we send it back to the conference committee, with instructions to bring us back legislation that will provide an incentive, and not a disincentive, to the private energy industry in the United States.

Mr. BENTSEN. Mr. President, this conference report may be good politics, but it surely is bad economics. It tries to repeal some of the basic rules of economics.

This is the product of the same conference committee that brought out a report before on which they tried to attach a so-called windfall profits tax that would have been an administrative nightmare. The problems with that provision were finally recognized by the Members of this body, and they recommitted it.

Mr. President, I have served in this body now for 3 years. During that period, I have sought to watch, to listen, and to learn and to speak out when the occasion demanded. I have sought to represent my State, its constituency, and its interests. In the larger sense, I have sought to do what I thought best for my country.

In those 3 years, I have learned, and I hope I have contributed, in my personal endeavors in committee work, in my remarks on the floor, and in my votes. I have sought to act on facts, on logic and on reason.

Because of that basic posture, far more than because I happen to be from the State of Texas, I find this particular piece of legislation objectionable.

Mr. President, when the Senate last considered this conference report on January 29, I stated that I would vote against it for a variety of reasons which I listed in some detail.

I never had the opportunity to vote against the report because a sufficient number of Senators recognized its defects and recommitted it to conference. Most of the debate at that time centered around an ill-conceived, hastily drawn, and demonstrably unworkable windfall profits provision which would have seriously hindered our efforts to become energy self-sufficient. However, that clearly was not the only reason for its recommittal. There were administrative, procedural, and environmental defects as well which are still very much a part of the bill.

Now we have a conference report with a provision rolling back the prices that has been written in haste and with high emotion, and where many Members of the Senate do not yet have any notion of its provisions.

Maybe it is not a criterion that we should have an understanding of the provisions of a report before we vote on it, but I would like to think we should. If we have learned anything from the last conference report that was brought in, we ought to be able to take some time to examine this approach, to see what it will do to the economy and to the energy situation.

Mr. President, it may result in a little bit cheaper gasoline. It is possible that it could reduce the price 4 cents a gallon, but I do not think that is what is going to happen, because it only affects new oil and the stripper oil, and that is only a small percentage of the total production in this country.

Nor do I think, in the long run, it is even good politics. I think what it really means is that the lines will get longer at the service stations, and people will go looking for additional service stations trying to find a few more gallons of gasoline.

It is paradoxical to me, when we are talking about self-sufficiency in energy in this country and trying to develop it once again, that we would put the incentives overseas, and, by our action, say that that is where capital ought to go, because that is where the high prices are.

That is really where the high prices are, and that is where we ought to have our concern, and try to do something about it.

I represent an oil State. I understand that sometimes a Senator from an oil State is suspect when he speaks to a question like this. But let me say how I think the problem can be attacked.

If you look at the profits of the oil companies, most of them are occurring on their overseas production. So we ought to be reexamining the tax structure over there. We ought to be seeing if they are juggling those royalties to call them taxes, to get full tax credits instead of having them expensed against their income, and therefore paying lower domestic taxes.

One of the things I propose is to do away with the depletion allowance overseas. Why should we have the incentive over there, when we are trying to develop self-sufficiency here? I say keep it on the North American Continent, and bring some of these companies home. Let them do their drilling here.

Another thing I have proposed is that we change the provisions of future offshore drilling contracts to provide that once they have recovered their cost, we give a much higher percentage of the production to the Federal Government as payment for the right to drill on public lands for private profit, so that we will have a bigger reward for the taxpayers of this country. The major companies have entered into that kind of contract on offshore drilling with 11 other foreign countries of the world. Why shouldn't they do it for this country?

Moreover, we ought to accelerate the sale of offshore leases. We have the Gulf of Alaska, as large geographically as the whole Gulf of Mexico, stretching from the tip of Florida all the way to the tip of Texas, and containing many major structures. We do not know what those structures contain until we drill them.

But the major objective of our Government thus far has been to get the biggest bonus payment we can, and therefore to stretch out the sale of the leases over a long period. Mr. President, we ought to be making those leases and drilling those structures. That is the biggest bridge we can provide until we get to coal gasification and liquefaction. That is the fastest payoff for this country in trying to achieve self-sufficiency in energy.

Mr. President, the so-called emergency bill, which was pushed to the Senate floor in a crisis atmosphere after 3 frantic days of hearings and markups in November and passed before Thanksgiving is not the answer.

It is back without the windfall profits provision but with a hastily contrived provision requiring rollbacks of domestic crude oil prices which raises many of the same problems.

As I have said, Mr. President, this provision is probably good short run politics, but it is very bad economics.

It may be good short run politics because it addresses a legitimate problem of great public concern—oil prices that are too high. It is bad economics because it addresses the wrong oil prices—domestic, not foreign.

Of course, the price of oil in the world today is too high. In December, the typical bids in the world—not domestic markets—ranged from $16 to $17.50 per barrel.

That is simply too much money to pay for a barrel of oil. But before we take a step that is going to get us even further into this mess, perhaps we should remember how oil prices got that high.

What allowed the Arabs to triple and quadruple the price of oil in a year's time? And what allowed the Venezuelans to follow suit? And what allowed the Canadians to hit us with a $6.50 a barrel "export tax" which now makes their crude oil cost over $12 a barrel?

The answer is very simple. They have what everyone else in the world needs and, at least for the present, does not have an available substitute. That need not always be the case. I ask unanimous consent that an article from the January 5 Economist be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. Mr. President, in addition to describing how a free economy responds to a shortage such as this, the article mentions that for the last decade almost everything has been done to bring American production down. If we reverse this course, we should be able to make substantial gains on this problem. Substitutes for imported oil can be found.

But how is a rollback on the price of domestic crude oil going to help us find them? How is it going to help us get the marginal fields and the deep wells drilled? How is it going to make gasification of coal and production of shale oil economically feasible?

Next week in Washington there will be a meeting of consuming nations. The message which must come out of that meeting is that the world price of oil simply has to come down. Current world prices mean a $50 to $60 billion shift from oil-consuming to oil-producing countries. If prices do not come down, our allies and trading partners are going to be bankrupt, and the poorer nations of this world will be in abject poverty.

But what message will the U.S. Congress be sending the Arabs and their associates if we pass legislation which indicates we are more interested in a supposed 4-cent reduction in gasoline prices—which at best would only be temporary—then we are in self-sufficiency.

And this rollback would not even accomplish a 4-cent-a-gallon reduction. As indicated earlier, the rollback would only apply to 2.3 million barrels a day of the 17.5 million barrels of petroleum being used in this country. So we are talking about one-eighth of the supply. The 4-cent-a-gallon reduction assumes that all the crude oil reduction would be reflected in gasoline and then consider only the gasoline produced in domestic refineries. In addition, it assumes a rollback all the way to $5.25 a barrel. Yet the proponents talk about allowing $7.09 for new oil and stripper well production.

But that is what makes this provision more politically appealing. The Congress gets to vote for a rollback to $5.25, and the executive branch is told that it has both the political and legal burden of justifying the higher price of $7—a price that is probably the absolute minimum necessary to bring on the additional production and alternate forms of energy necessary for us to become truly self-sufficient.

The result may be that we will never see that higher production or alternate fuels. I believe that this provision will be a good deal less popular as the lines for gasoline and unemployment compensation get longer.

But whatever the politics, I am very tired of seeing an issue which affects the job, the health, and even the safety of every American handled in as cavalier a manner as this one has been. There are some issues which can be politicized and exploited without doing great harm, but this is not one of them.

I am not committed to maintaining the status quo in our energy policy. Changes should be made. I have proposed altering the Federal offshore leasing program to greatly increase the share of oil and gas production the American citizen would receive from our public lands. I have introduced legislation limiting the depletion allowance to North America, and as a member of the Finance Committee, I intend to take a long, hard look at the way the foreign tax credit is being applied by oil companies operating abroad. I will also support a windfall profits provision to insure that no company or industry makes unconscionable profits of the troubles of this Nation. But all of these efforts should be directed at satisfying more of our energy needs from domestic sources—not less.

The irony of this rollback provision is that it falls far more heavily on independent producers committed to domestic production than upon the major oil companies. Independent producers have consistently drilled over three-fourths of the domestic wells in unproven areas.

They are the ones who find the new domestic oil, and they are the ones who operate the stripper wells in our marginal fields. They are also the ones who get hurt the most by this rollback. We penalize the same independent producers who are most likely to sell their product to the independent refinery who, in turn, is most likely to sell its product to the independent marketer.

The House Ways and Means Committee received some interesting testimony earlier this week that $5 billion was expended in foreign oil and gas exploration and development last year—85 percent of that drilling was done by major companies. And there was also $5 billion expended on domestic oil and gas exploration and development—85 percent of it done by independents.

It is these independents with their capital-raising ability who will be hurt by this provision. They finance most of their wells by selling interests to outside investors. If this measure passes, the only way oil prices could exceed these arbitrary limits would be for us to amend the statute. Can anyone blame an investor for not wanting to put his money in a recognized high-risk business whose costs are rising rapidly due to the steel shortage but who will be unable to raise its prices without an act of Congress?

Industry will go where the profits are. This provision will simply encourage a flight of capital from production of domestic energy to foreign energy and from energy to other investments. It will not hurt the prospects for the major companies for last year, Exxon reported an 83-percent increase in profit from oil it sold abroad and only a 16-percent increase from business in the United States. The profits of Texaco and Gulf will not be materially affected. But it will affect the oilman who has been doing what we want him to do—produce American oil.

And worst of all, the adoption of this provision will tell the Arabs not to worry. We really are not serious about this business of self-sufficiency. Apparently, we prefer to be their hostages.

Mr. President, I urge the defeat of this conference report.

My specific additional objections are as follows:

The proposed administration of the program devised under the bill is left to an independent agency which has little clear authority and which provides no guarantee of continuity with the existing programs of the Federal Energy Office. Second, the bill contains a labyrinth of administrative requirements and procedures that may very well hamper rather than help efforts to curb energy consumption and increase supplies.

I am very concerned about the complex administrative and judicial procedures provided for in section 311 of the bill. The provisions of this section alter considerably the requirements of the Administrative Procedures Act and substitute a confusing amalgam of features contained in both the House and Senate bills. Some argue that the new Federal Energy Administration must be able to act with speed and without the delay of drawn-out administrative proceedings. I, for one, feel that regulations that will deeply affect the most essential aspects of our lives deserve the inspection and comment of the public. Just the brief experience we have had so far with the Federal energy allocation program demonstrates how monstrously complex the problems are when a Federal agency attempts to regulate some 200 million lives. With these programs there is a ripple effect which can magnify a bureaucratic bungle into a major catastrophe for whole segments of our society.

Another point of concern to me is the weakness of the administrative provisions of the bill and the unclear authority that is to be used in carrying out energy conservation programs. The bill establishes an independent agency to administer Federal energy programs and then says virtually nothing about how that agency is to be staffed, funded, or integrated with other Federal agencies. Congress has already made considerable progress on a separate bill, the Federal Energy Administration Act, which would provide us with a fully constituted and carefully considered energy administration to carry out what will be the most crucial Federal program to be undertaken in decades. The House will soon be considering this legislation, and the Senate has already approved its version. I believe there is time to wait when the results will be so obviously better and the matter is so clearly important.

Congress has already acted on a number of legislative proposals which deal individually with the problems that this conference report addresses in a collective, haphazard fashion. We should give the legislative process a chance to work so that the programs we create will be well thought out and carefully constructed. The country expects us to act responsibly in the face of this crisis, and I do not believe the conference report we are considering lives up to those expectations.

EXHIBIT 1

THE COMING GLUT OF ENERGY

There is a case for arguing that the world is likely to be glutted with energy before the end of this decade. The present energy "crisis" is about the fifteenth time since the war when the great majority of decision-influencing people have united to say that some particular product is going to be in the most desperately short supply for the rest of this century. On each of the previous occasions the world has then sent that product into a large surplus within 5–10 years.

The reasons for this are now quite logical and rather technical. In modern conditions of high elasticity of both production and substitution, plus surprisingly equal lead times for many investment projects, we now generally do create overproduction of whatever politicians and pundits 5–10 years earlier thought would be most urgently needed, because both consensus-seeking governments and profit-seeking private producers are then triggered by that commentary into starting the overproduction cycle at precisely the same time.

ALL THE FALSE PROPHETS

In 1946–49 all agricultural experts forecast a permanent postwar shortage of temperate areas and especially of dairy produce; this led to butter mountains within a decade. In 1950–51 the Korean war boom was said to show that raw material prices would keep rising forever; instead, some took until 1970 to regain their 1951 peak. In particular, an international action group was set up in 1951 to deal with the world's "worst permanent bottleneck" of sulphur, shortly before the stuff became practically unsaleable. The future chief economic adviser to the British Treasury published his book on the world's lasting dollar shortage in 1953–54, which was the first of the world's twenty consecutive years of dollar surplus. Russia's first sputnik in 1957 was said to be so far ahead of the west's conceivable technology that it would leave America for the rest of our lives at the back end of a "missile gap"; within six years the Americans were preparing to fire surplus rockets at the moon. Then there was going to be a worldwide shortage of university graduates especially from the science departments; within a decade they were one of the bigger groups of the unemployed.

As the 1960s started, there were said to be limitless prospects for offshore funds and other equity investment media for the small man, for go-go business conglomerates, for high technology companies like Rolls-Royce: these were therefore the ventures that went bust (as property developers and then North Sea oil may in the 1970s). In the mid-1960s we were told it was impossible to bridge the lasting technological gap between America and the rest of the world; this meant that the dollar would soon be devalued.

As a result of yesterday's trendinesses, we have now created in the developed world an unfortunate excess of both birth control devices and anti-pollution controls, although the rearguard of yesterday's preachers about ever-rising birth rates and ever-increasing pollution is still infuriated when the figures are pointed out.

Energy has played its part in the game of cheat-the-prophet three times since the war. During the coal crisis of 1947, it was said that no coal miner in Europe or Japan need fear for his job during the rest of this century; within a decade a majority of European and Japanese coal mines had closed down. In 1956 France and Britain went briefly to war because the closing of the Suez canal for a week would starve Europe of oil and cause an insurmountable world shipping shortage, even although it was agreed that this invasion would put France and Britain into the Arabs' bad books for a millennium. Instead, Europe continued its quick switch to cheaper oil even when the canal closed again; the rear-admiral whom Mr. Macmillan appointed to ration Britain's share of world shipping was still recruiting staff when the biggest-ever laying-up of the world's surplus shipping began; within rather less than a millennium France and Britain are the Arabs' European powers.

EVER SINCE WATT

A product can be said to have an elasticity of supply of four within five years if a 10 per cent price rise (above the average of other price rises) is likely within five years to expand its production by 40 per cent above the rise that would otherwise have been expected; this is a convenient definition because then nobody can measure it exactly. For the last 200 years, energy seems to have had a higher elasticity of supply than anything else except transport. Indeed, the accelerating elasticity of supply of these two things is what the industrial revolution since Watt's steam engine has been largely about. A product generally has a high elasticity of supply (a) if it can be produced in many different ways; (b) if technology seems on the brink of bringing in more powerful new ways; (c) if the distribution system for it can be greatly improved. Gluts will also occur if (d) economies in the product's use seem fairly easy. Energy fulfils each of these conditions in profusion.

There are many thousand possible ways of releasing energy from storage in matter. They range from petty ways like 25 BTU per pound of matter by letting a pound of elastic bands untwist; through fairly petty ways, like 20,000 BTUs by burning a pound of petrol; through more sophisticated ways like 250 million BTUs from the fission of the U–235 isotope in one pound of natural uranium; up to 260 thousand billion BTUs from the fusion to helium of a pound of hydrogen. Note that this last system, in which the waters of the oceans could serve as a limitless reservoir of fuel, would therefore be more than 10,000,000,000 times more effective per pound of matter than burning a pound of the Arabs' oil. Of course, new technology will drive on towards the cleaner power sources nearer the top of the range.

The distribution of electricity—and, indeed, of all energy—is grossly inefficient. Look at the towering chimneys of your local power station to see how many of them throw up into the wasting air two-thirds of the heat and energy they could produce. Remember that those in control of most devices for bringing you the energy released from storage in matter have not been concerned with economising on the use of that energy, because far too many distribution systems, from garages to ante-diluvian electricity transmission lines, are in the hands of monopolies (especially the worst sorts of monopoly, called public utilities) which do not have a competitive incentive to attract your custom by improving their technology.

Among possible economies in energy use, the Americans would save the equivalent of three-quarters of Britain's annual imports of oil if they used cars with the same economy of fuel consumption as Europe's. The whole advancing revolution of microminiaturisation with integrated circuits will be enormously energy-saving, because we are going to be increasingly able to put on to a chip the size of a postage stamp properly connected electrical circuitry which would previously have required great assemblies of machinery that would fill a room. Amazing savings in energy can be secured by even a small staggering of working hours (why not let Britain south of the Trent—but not north of it—go back to British Summer Time this winter?).

Above all, the greatest of the three main transport revolutions since the 1770s is now speeding towards us. It will clearly replace the internal combustion engine revolution as dramatically as that revolution replaced steam, and it happens to be extraordinarily energy-saving. This great new transport revolution is telecommunications. Because the businessman's future essential tool, the computer, talks to other computers by telecommunication, instead of by taking a walk, much of present business travel and then personal travel to work are going to become unnecessary in the main growth jobs in post-industrial societies. Even in the 1970s some of this travel will be replaced by a great growth in telex transmission, facsimile transmission by telecommunication, picturephone, etc. As there is no logical reason why the cost of telecommunication should vary with distance, quite a lot of people by the late 1980s will telecommute daily to their London offices while living on a Pacific island if they want to; and temporary price rises for oil-driven travel in the early 1970s will now bring a few of these habits forward.

THE MULTIBILLION FACTOR EQUATION

Some critics say: "Which of these science-fiction inventions do you really expect will be operating within six or seven years?". The *pons asinorum* of economics is to recognise why that question is absurd. If you were so foolish as to try to draw up a computer model of energy economics over the next 6-7 years, you would have to combine the thousands of possible ways of producing energy, and of possible ways of changing distribution systems and consumption patterns for it, together with estimates of time lags for each, and today's prices for each, and of guessed elasticities of supply and substitution for each, into an equation with multibillion factors. Governments which produce "energy policies" do not work with multibillion factor models of this kind, but with the guesses of perhaps three boffins and a minister—which is why such policies have no serious chance of being right. Apostles of a free market say that it arrives infallibly at the best possible answer to the multibillion factor equation. Actually, it usually does something much less perfect but still rather useful: a free market will generally bring the mix of production-consumption-distribution patterns within the spectrum of the "several million possible answers" which are not wholly incompatible with the multibillion factor equation.

If you then change some price in the system rather marginally, a different but overlapping spectrum of "several million possible answers" replaces the present spectrum; if the market has already rather haphazardly chosen one of the answers within the overlap, then neither production nor demand will change with the change in price, and both supply and demand are said to be surprisingly inelastic over that range of price. But if you change expectations about the price of the most important present energy source, namely oil, from under $3 a barrel before this autumn to a level where people and governments and profit-seeking entrepreneurs actually believe that it is going to be over $12 a barrel or $17 a barrel (or whatever is the figure that the latest hopeful Arab or temporarily panic-stricken auction bidder last thought of), then people and governments and profit-seeking entrepreneurs suddenly believe that billions of possible new answers will be more profitable than whichever one of the "several million possible answers" is the one most people are using now. If other factors remained as now, they would be more profitable; but other factors won't remain as now, because the new ventures will themselves change them. It is because you cannot get many quarts into a pint pot—or an expectation of billions of possible answers into a situation where only a changing several million answers will at any one time be possibly logical—that forecasts of lasting shortage generally do lead nowadays, within a short time span, to embarrassing glut.

It is always most difficult to persuade people within the particular industry and within the scientific establishment to see this, because all their habits of thought are geared to the relationships existing within the multibillion factor equation now. So the only proper answer to the *pons asinorum* question "Are you relying on advances in magnetohydrodynamics, or solar energy, or fusion, or what?" begins "Well, now, an improvement in magnetohydrodynamics would affect the multibillion factors in the energy equation in the following multibillion ways". No economist can give that answer, because (a) no economist is clever enough, and (b) he would anyway be dead before he reached answer number multibillion minus one—and a hundred-year time-take-up for answering a question about what to do in the next seven years is not very useful. What an economist can say is that the recent wild changes in expectations about oil prices will lead to an energy glut, within a debatable time span, according to all that has been known up to now about the elasticity of supply for energy.

The most respectable argument on the other side is that the time lag may nevertheless stretch beyond the end of the 1970s, because of a supposed long lead time before changes can come into effect (which is true of some of the investment, but most unlikely of economies in demand), or (this is a better argument) because the elasticity of substitution from an oil-based to an another-energy-based system will be low since people are romantically in love with the expensive oil-using machinery such as motor cars which they possess. There are three answers.

WHY IT'S QUICKER THAN YOU THINK

First, the speed of change has in fact been very quick in the downward direction. People forget that from 1963 right up to the early 1970s the "oil question" in America meant that you should not allow Texan oil millionaires to make so much money. Indeed, it was this trendy populism in America in the past decade which created much of the present temporary energy "crisis". In 1954 American courts compelled a quite unprepared Federal Power Commission to regulate for the first time the prices charged for natural gas; by 1970 the FPC had a backlog of over 2,000 producer rate cases in natural gas, which would have taken 13 years for it to give answers to. The price allowed for this environmentally clean and premium fuel was therefore so low and out of date that it not only made more production of natural gas uneconomic, but also distorted the market for other fuels and cut investment in them at just the wrong moment.

Through the years of gathering crisis, the price of gasoline in America was about half the price of petrol in most other countries. In President Nixon's first budget, as late as 1969, there was universal acclaim when he cut drilling for oil through reducing the rate of percentage depletion allowances for oil and gas from 27½ to 22 per cent. Then in 1970–72 environmental restrictions were directed most especially against the energy industries. By 1971 fewer exploratory oil wells were being drilled in America than at any time since 1947. One reason why Mr. Herman Kahn and others think that it is going to be very easy to step up output of energy in America is because they are among the few who remember that almost everything has been done for a decade to bring it down.

Secondly, the very low figures usually published for oil reserves round the world are mostly reserves discovered in days when just about the only known way of striking oil was to get a Texan to go and sniff for it. There really is now a much greater, and still expanding, ability to find the stuff by electronic sensors attached to computerised systems.

Third, it will gradually be realised that the mechanism through which the price of anything is determined—including oil—really is a bit more sophisticated than an Arab saying what he wants for it. So oil's price should come down rather sharply well in advance of the energy glut which its price rise this winter will now create; but this is unlikely to be in time to stop the energy glut, because the new investment and habits will already be in train. Until this winter, it had seemed marginally likely that the oil price would rise in 1970–80 by more than most other prices; the main consequence of the past three months is that it will now presumably rise by less.

Most of this article should not be regarded as good news for Britain. A main implication is that Britain's North Sea oil "bonanza" may very well come on full flow just when oil is coming towards glut. Another is that £1 billion being spent on Britain's coal mines will be wasted, because it will be surprising if by the mid-1980s any man-operated coal mines should remain open at all. A more tragic implication is that the most deserving charity of Christmas, 1980, will probably be to relieve Arab states ruined by their monoculture of unwanted oil—a charity which is likely to be mainly subscribed by rich Jews. Not enough tears seem to be raised by that.

Mr. DOLE. Mr. President, I have listened with interest to the remarks of the distinguished Senator from Texas (Mr. BENTSEN), and I share his views, and perhaps on the same basis, because I come from an oil-producing State.

I think what has happened, in oil parlance, is that the conference has met and met, and it brought forth a dry hole, so far as the conference report on the Energy Emergency Act is concerned. We are right back where we were at Thanksgiving and at Christmas, and we probably will be in the same situation 3 or 4 months from now if events continue at this rate.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. BENTSEN. In oil parlance, it might be more properly termed a blowout.

Mr. DOLE. As the Senator from Texas said earlier, it might be good politics in the short run, but it is certainly bad economics in the long run.

I should like to address myself for a moment to what the conference report in its present form does and does not do.

In the first place, it seems to me that the entire section 110 would be subject to a point of order. I cannot find any reference to a rollback in either the House or the Senate bill. Perhaps that matter will be raised at an appropriate time.

As I recall our oil situation, approximately one-third of America's crude oil supplies come from imports which range in price from approximately $9 to $11 per barrel. The question will be asked, "Does the rollback have any effect on these prices?" Of course, the answer is, "No, it does not." It does not affect what we import. It does not affect one dime or one nickel or one cent per barrel what we import.

Aside from imports, the remaining two-thirds of America's crude oil comes from domestic supplies. For pricing purposes, this oil is further broken down into two categories: one, so-called old oil, which constitutes approximately 75 percent of our total domestic output; and two, so-called new and released oil and the oil which is produced by marginal or "stripper" wells.

The price of the old oil, which makes up some three-fourths of our domestic supplies, currently averages $5.02 per barrel. Of course, the question will be asked, "Does the rollback affect these prices?" The answer is, "No, it does not." In fact, the rollback would simply confirm today's price levels for old oil, which is approximately three-quarters of total U.S. production.

So, as the Senator from Texas has said—and as I am certain would other Senators who represent, not major oil producers, but the independent sector of the oil industry, employing thousands and thousands of Kansans, Texans, Oklahomans, and others—we have a real concern.

What we have come to in the conference report on the Emergency Energy Act, is that we are dealing only with new and released oil and oil from stripper wells, a total of about 25 percent of domestic production, which is split approximately evenly between the two.

Then the question is asked, "Does the rollback apply to these prices?" The answer, unfortunately is, "Yes, it does."

In other words, the Senator from Washington is proposing, and the conferees have adopted, a rollback on what amounts to only about 16 percent of all oil—foreign and domestic—used in this country. The Senator from Washington is proposing this rollback on that oil which is newly discovered or produced by wells which pump less than 10 barrels per day.

I fail to understand, if we have an energy problem and an energy crisis, as some would indicate, what the Senator from Washington expects a rollback of such a small fraction—one-sixth—of the crude oil used in this country to accomplish, or what effect it would have on our efforts to achieve domestic energy independence.

We have been making speeches and otherwise discussing energy independence by the year 1980. We have all discussed at great length windfall profits and excess profits. And I think every Member of this body and the other body understands very clearly that no one should be in a position to make an excess profit or a windfall profit at the expense of other Americans who are making sacrifices, and this applies to the oil industry.

But it is very difficult for anyone, particularly the small independent, with this great degree of uncertainty, the lack of direction on the part of Congress, and the lack of leadership on the part of Congress, to know what he should do in this field of exploration and development. How can anyone invest when, by the whim of a few conferees in Congress, they can roll back the price of oil by some $4 or $5 and then leave it up to the President to make any increase?

If we think about energy independence, we can understand the folly of this provision in the conference report. If we are seriously trying to achieve energy independence by the year 1980, then it is easy to see that a great mistake has been made.

I understand the politics of energy. I understand the energy in politics. But I fail to understand what the conference report produces insofar as energy is concerned. It discourages investors in this country from investing with some independent in new exploratory efforts. It takes away not only the incentive but any degree of confidence in price levels that might be present. As the Senator from Texas has just said, the Jackson amendment would perhaps close down a number of stripper wells that have just started to produce.

So I think we have a right to be concerned, not just because we are from oil-producing States but because we see the danger to the entire Nation, consumers as well as producers.

The major oil companies left my State many years ago. They have gone to more lucrative areas. They moved their operations overseas. The Senator from Kansas suggests, as do many others, that we take a look at foreign depletion allowances; that we take a look at the foreign tax credit; that we take a look at other areas. We should also take a look at Kansas industry or the Texas independents to see if, in fact, they have made a windfall or an excessive profit. But we should not launch some misguided attack which will fall heaviest on the independent producers without knowing if there is justification.

The Senator from Kansas is concerned about these points, because the independent sector is important to Kansas and to the Nation. The independent sector has historically drilled the great majority of the new wildcat wells in this country. They rely more on stripper well production, since more than 90 percent of all Kansas oil wells fall into the stripper category.

Thus, it appears to the Senator from Kansas that the amendment of the Senator from Washington would strike directly at the Kansas independent oil producer. It would threaten the Kansas independent's efforts to expand exploration for additional supplies of crude oil.

It would jeopardize the continued operation of many thousands of stripper oil wells in Kansas—and hundreds of thousands elsewhere. And most disturbing of all, the Jackson amendment would do all this damage to the independent oil industry and to the national interest of having adequate domestic supplies—without actually providing significant short-term price relief for the average consumer. Furthermore, in the long run the Senator from Washington's amendment would penalize the consumer by restricting expansion of domestic supplies with corresponding dependence on foreign oil and the continued need to pay for it.

So I suppose my questions boil down to this: Why adopt a scheme that will not really provide much relief to the consumer, because it affects so little of the crude oil actually used in this country? Why adopt a scheme that weighs heaviest on the independent segment of the oil industry while not having much impact at all on the giant major oil companies?

Why does not the Jackson amendment instead force a rollback on the prices charged by the major oil companies whose profits are such a great concern to the Senator from Washington? It would seem to the Senator from Kansas that a rollback on the prices of Exxon or Gulf or Standard or others would mean more to the average citizen than some misleading proposal that affects only about one-sixth of our crude oil and penalizes the Independent oil industry in Kansas and elsewhere.

The language of the conference report speaks of giving the President discretionary authority to increase certain crude oil prices by up to 35 percent. Furthermore, the report indicates that these increases are contemplated for oil produced from stripper wells, from secondary and tertiary recovery processes and other more costly methods.

But why give the President the authority to make these increases? If the need is so clear—as everyone is saying in describing why the conference report should be agreed to—if the need is so clear, and if we understand that without an increase we are, in effect, reducing total oil production, why does not Congress write it into the conference report? Why not go ahead and do it if we understand the need is there?

But even if such an increase were granted and assuming a price of $7.09 were allowed, does not this price represent a rollback on new oil and stripper oil from current levels in the $9 range? Yes, it certainly does.

As a Senator from an oil-producing State, I share the view expressed by the Senator from Oklahoma. I think the price of $10 a barrel is excessive. I think the price of $10 a barrel, whether it be from a stripper well or some other new oil, has gone up too rapidly, and I have told some of my constituents in the State of Kansas who are in the oil business they ought to be realistic, they ought to be responsible and reasonable, and that the consumer has a great interest in what happens. I have told them that the best way to damage their interest is to let the price of oil seek some arbitrarily high level and then the long arm of the Federal Government, as proposed by the conference report, reach out and cause great damage.

I would suggest that, in effect, we have said to the independent oil producer and anybody in America who wishes to invest, "We are not certain what may happen next week, we are not certain what happened last week or what might happen the following week so far as the industry is concerned."

I do not know how we can ask independent oil producers to go out and explore for more oil and gas when they really do not know what the rules may be from one week to the next or from month to month. Will they have $9.51 prices as they do today—or $5.02 or $7.09? That is the question, and it is an important one. There is great uncertainty in the industry, and it arises from the lack of leadership in this time of crisis either by the executive branch or by the legislative branch. It makes it very difficult for the small businessman, the small independent producer, to know which way to go.

He has heard the politics; he has heard the rhetoric. He wants action—but meaningful action that will mean more energy for America. I think most responsible businessmen and those who work for the independent oil-producing industry understand the problem. But these are serious questions and I think they deserve serious answers if we wish to have adequate supplies of energy by 1980 or before.

I thought recommittal of the conference report earlier this session was totally justified. It appears to me now, that instead of an improvement, the present conference report after reemerging from the conference committee is at least as objectionable and poorly conceived as the previous version. So I would hope at the appropriate time that this matter would be sent back to the conference and that the conferees would understand that our goal in America is energy independence. And I would hope the conferees will realize that energy independence will not be achieved by destroying an industry or crippling the spirit of an industry which is now engaged in exploration on a large scale for oil and gas.

So whenever the vote may come, today, tomorrow, a week from Tuesday, or the following week, next month, whenever it is, I hope that we keep in mind the record of the independent oil producer.

The Committee on Finance will begin hearings next week on responsible and effective measures to deal with excessive profits and obtain adjustments without destroying important segments of the energy industry.

The Finance Committee will be seeking to make certain that those who unfairly profit in any way because of the energy crisis will be dealt with effectively. There must be assurance that excess profits will either go to pay windfall taxes or be plowed back into the industry for greater exploration, research and development, or other positive goals.

I think the American people have a right to expect leadership from this Congress and I think the American people are waiting and will continue to wait for that leadership. If there is such a crisis in America, Americans must wonder why we spend so much time trying to pass the Emergency Energy Act and why in the process we have set about to destroy an independent industry in this country which employs hundreds of thousands of men and women.

As we face up again to the serious question I would hope if the provision is not subject to a point of order that the entire matter will be recommitted to conference where it can be studied and perhaps the politics left out and the energy put in.

I ask unanimous consent to have printed in the Record at this point a letter from a Kansas independent oil man, James C. Remsberg, to William Simon. This letter very clearly states the effects of the prevailing uncertainty on the industry and its efforts to expand oil and gas supplies.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Slawson Drilling Co., Inc.,
Wichita, Kans., December 28, 1973.

Hon. William E. Simon,
Administrator, Federal Energy Office, Washington, D.C.

Dear Mr. Simon: At a recent meeting of the Kansas Chapter of I.A.D.C. an attempt was made to assess the current Kansas drilling activity as well as the potential or maximum effort activity level. The published statistical data assuredly are indicative of comparative drilling activity, but in our opinion, do not accurately quantify total activity. Further, these data do not reflect available but inactive rigs. By count of those members in attendance, at least 83 rigs capable of drilling are presently located in Kansas. Of these, 52 were active, i.e., either engaged in drilling operations or had a contracted location awaiting them. This determination by representatives "on the front line" should be accurate and any errors would be those of omission. Incidentally, this count did not include the Shallow Eastern Kansas rigs. The significance of this determination to us, is that *the total rig availability in Kansas has NOT yet been fully exploited.*

It is tempting to rationalize the current status by stating that Kansas operators simply have not yet had time to overcome the inertia resulting from a protracted unfavorable economic climate. While this is undeniable, there are several other conditions which deserve consideration. In retrospect, the almost continuous instability of the political climate during 1973 has hampered and delayed a concerted industry-wide effort to increase activity. Faced with a tax reform proposal, which if enacted would have crippled them, many independent operators deferred drilling wells until that issue was resolved. Shortly thereafter, following a desperately needed nominal crude price increase and in the middle of a subsequent increase equally as imperative, the threat of a price rollback once more throttled expansion plans. Ceiling prices were placed on "old crude" and the "two-tier pricing system" was actuated. Very quickly, the free market price of "new oil" caused a noticeable increase in Kansas drilling activity. However, the oil operator now faces the possibility of mandatory allocation as well as the possibility of excessive or "windfall" profits taxation. In this roller-coaster environment one has to marvel that the industry has geared up to the extent already exhibited.

Aside and apart from the considerations already discussed, labor availability for increased drilling activity has been a problem, but in Kansas at least, the situation is improving. In a classic example of "cause and effect", increased crude prices have allowed drilling prices to advance and this has been translated into higher wages. As a result, labor is beginning to flow into the oil fields instead of draining out as it has done for several years.

Of more vital concern, the shortage of oilfield tubular goods has caused cancellation of some drilling contracts and deferral of others. Hopefully, mill rollings during 1974 will be increased and this roadblock will be removed. Incidentally, one oilfield supply firm has received allocations of casing from two steel mills for wildcat wells drilled in Kansas. The allocation is relatively small, but this does indicate that positive efforts are being made to cope with the shortage. Given a more stabilized environment, it seems plausible that both labor and tubular shortages will moderate.

Based on personal experience, the past year has required almost week-to-week reassessment of anticipated Kansas rig demand. However, our company did order, assemble, and start up a new rig during 1973. This rig commenced drilling operations in early October, approximately 150 days after equipment orders had been placed. At this time, we have an option on equipment for another new rig and have been informed that delivery on major items is now 150 to 180 days. Adding a rig-up time of approximately 30 days, we should have this rig operable in July or August, 1974. I am aware of one other new rig on order for a Kansas-based contractor, and understand that the lead time for it is essentially the same as ours.

In summary, I believe the general feeling of Kansas drilling contractors is one of optimism. Fully realizing that the operators need a more stabilized environment than they have had during 1973, the contractors anticipate a sustained increase in Kansas drilling, and are willing to meet the challenge.

Sincerely,

James C. Remsberg,
Vice-President.

Mr. DOMENICI. Mr. President, first I wish to associate myself with the remarks of the distinguished Senator from Texas (Mr. Bentsen) and the distinguished Senator from Kansas (Mr. Dole).

I am not one who has second thoughts now about having voted to recommit the bill, because I did not vote to recommit it. There were those concerned about the independent small oil producers in this country that thought a vote not to send this bill back for further consideration would be proper because of the very vague and uncertain windfall taxes, which would certainly put them out of business. What I thought would happen has come to pass. The Senator from Texas (Mr. Bentsen) used the word "cavalier" in describing the position that the conference took with respect to the whole problem of the economics of the small independent producer versus the huge integrated oil companies, which solved all the problems in a couple of days with a rollback.

I just want to make sure that every one of us who is going to consider this matter understands a couple of things about it which are very clear to me:

No. 1, it discriminates, without question, in two ways. First, it discriminates in favor of foreign oil, which we are now so concerned about, because there is no effort, and no possibility in this bill, to reduce the ever-increasing cost demanded for foreign petroleum coming into this country. In that respect, as we move from that, we move toward further rises in the price they seek from us and, second, further and further help develop the blackmail approach as a result of the resources of foreign countries, because they know they can get whatever they want from America in this approach.

Second, and equally important, it discriminates in a violent way against the nonintegrated producer and in favor of the integrated and big company which has production in America and overseas, because the big company that has production both here and there has part of the production frozen and as to that which comes from overseas, it is free to join in passing on right here at home the price which Venezuela and the Middle East pass on to it.

In that respect, most certainly one could conclude that the price will come down. But I ask this: How is the price going to come down and stay down if there is a shortage? By this approach we are going to minimize domestic exploration and maximize importation from the outside, and the importation will be at a higher price. So how can we here fill the demand existing from much of the country for lower prices when we say to those who want to charge the higher prices, "We are for you," while the independents all over the southwest of our country, who are exploring to find ways to get oil, even to going to secondary and tertiary levels to which they otherwise would not go, are told "Unless you can do it at about half the price that Venezuela and Canada and the Middle East charge, you cannot do it at all?"

It seems to me there is only one logical answer. Either the shortage is to be filled by America or the shortage is to be filled by foreign oil. If that is the case, how can we have further production of domestic fuel when the price is frozen or rolled back when at the same time we pay a higher price for foreign oil, and when we are in this instance accelerating and enticing and discrimnating against the independent producer of this country To me the logic is inconceivable.

I admit that the prices of crude oil certainly have gone too high and too fast and that we must work in some way to see if we can get back into some kind of economic balance which will promote domestic exploration and development and at the same time we do not let this country become increasingly dependent on the whim of the foreign producer and on the whim of the foreign country in terms of price, as new sources of supply for this country become less.

It seems to me the approach—and I am not saying the approach in this bill, if everybody understands it, could not be the policy of this land—is a policy consistent with what everybody is saying we should not do, for it is not a policy directed at abundance, but it is a policy directed at an absence of abundance. It is not a policy of lower prices that develops the approach of finding alternate sources of energy, but one which will increase our dependence on higher-priced foreign petroleum products.

In conclusion, let me say that if indeed this is the course we seek and it is adopted as a national policy, let us understand that more venture capital that is going into high-risk situations is finding that it is going to have to produce new situations. The independent who is both exploring and finding new sources in the field, when faced with this competition from Venezuela and other places, will slow down, and another kind of rollback will take place, and that is a rollback in activity.

If I were convinced that, in spite of that, we might have a reasonable expectation of price stabilization to help the American consumer while moving into alternative energy sources, I would vote for such an approach, but it seems to me everything about that approach works exactly contrary to what we have been trying to do.

I compliment the Senator from Texas (Mr. BENTSEN) for his remarks and his very expert analysis of the difference between an integrated company and the American producer, the independent exploration company, for indeed the latter has as his only source of revenue the investing public of America. It is those people who will find the domestic crude oil. It is principally the independent here. That is not the same as when we talk about the integrated company or when we talk about the foreign invested money that will produce foreign sources of supply.

I yield the floor.

Mr. FANNIN. Mr. President, I ask unanimous consent that during debate and voting on the conference report S. 2589, the following members of the staff be given floor privileges:

David Stang, Harrison Loesch, Fred Craft, Roma Skeen, Maureen Finerty, Nolan McKean, Rick Davis.

Jerry Verkler, Bill Van Ness, Jim Barnes, Lucille Langlois, Arlon Tussing, Dan Dreyfus, Gren Garside, Rosemary Donnelley, Sam Marlar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub—No. 2).

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. HELMS. Mr. President, in my judgment the conference report on S. 2589, the Emergency Energy Act, should not be approved by this body. Everyone knows the controversial history of this conference report, the unusual parliamentary proceedings which attended its birth, and the discrepancies which remain even after reconsideration. The distinguished Senior Senator from Arizona (Mr. FANNIN) detailed these on the floor the other day, expressing his frustration at the unconventional tactics which surrounded the shaping of this legislation.

It is clear that this is legislation which was conceived in haste, marked-up with slipshod recklessness, and which brought us into direct conflict with the wishes of the House of Representatives. Even now it is filled with duplication of effort, ambiguity of authority, and administrative nightmares. I have no doubt whatsoever that it will never accomplish what it sets out to do.

Moreover, I am convinced that the bill is wrong in its substance as well. If we were really serious about energy conservation we would seek every substantial means of cutting down on wasted energy. It was brought out on this floor that forced busing of school children was a luxury that we could no longer afford in a time of shortage. A substantial portion of this body agreed that it is simply too great a waste of gasoline to continue forced busing at a time when it is proposed to shorten school hours, cut down on heat in schools, and even to close schools for extended periods. The House agreed completely and passed an amendment similar to the one I proposed in the Senate to cut out forced busing.

Yet despite the fact that a substantial portion of this body agreed three times to the proposition, and the other House agreed overwhelmingly, the House amendment was eliminated in conference. I recall a newspaper story at the time which reported—and, of course, I realize that not all newspaper reports are correct—that the distinguished chairman of the Interior Committee had argued in conference that to include the antibusing amendment would delay the bill in the Senate and perhaps prevent it from passing. At any rate, the amendment was deleted. It is also a matter of history that the bill was delayed anyway, indicating that the fears of many Members of both Houses were directed to other parts of the bill.

All of this goes to show that we are perhaps not really serious about the energy shortage. Yet the bill itself moves to involve the Federal Government more heavily in the decisionmaking about energy sources and use. It moves us toward rationing, it moves us toward Government control of personal mobility, and it moves us toward Government control of the essential business decisions of private enterprise.

Everybody is properly concerned about the energy crisis, with its shortages of gasoline, fuel oil, and gas. But, the last thing we need, and the worst thing that could happen, would be for the United States to move towards a nationalized oil industry. Yet, in this moment of frustration, that suggestion is being heard more and more often. It will be a sad day for America if it ever comes to pass.

It is not popular to dispute the loud political condemnations of the oil industry that are being heard with increasing fury. It is a natural desire on the part of the public to want to hear us politicians propose easy answers to difficult problems. The trouble is, there is no easy answer to difficult problems. The trouble is, there is no easy answer to this problem. We are not going to solve it by Federal controls, or by finding a political scapegoat. We have got to face up to the hard facts of life.

For many years now, our Federal Government, by one device after another, has been limiting the exploration for new domestic sources of petroleum. Therefore, production has been limited. Instead of developing new sources at home, we have been turning to foreign countries, and importing larger and larger amounts of oil. Our shortsightedness is now catching up with us. The crunch is on.

I hold no brief for the oil companies. I do not own even one share of stock in any oil company. And I do not like to pay high prices for gasoline any more than any other citizen does. Still, in fairness, I think the American people ought to bear in mind that they still have more fuel available to them, at less cost, than any other country in the world.

My own view is that we ought to get busy with exploration for more sources of domestic petroleum, build some new refineries, and stop all of the name-calling. Otherwise, no matter what laws Congress passes, or what regulations the Federal Government imposes, the situation is going to get worse.

We ought to compare our situation, unpleasant as it is, with that of any other country in the world. Then we would be made aware of a fact that many people are forgetting—that the free enterprise system of competition is our best hope. Indeed, it is our only hope.

I realize that it is popular to vote to roll back prices. But I say we must look to the future. Such a move can have no other result than a further reduction of exploration and production of petroleum, thus further delaying the hope of an adequate supply in the months and years ahead.

I am sure I will be criticized for these thoughts, but I am convinced that there is no adequate substitute for the free enterprise system. Only through production and competition in the marketplace can we hope to enjoy lower prices for the goods we buy, whether they be gasoline, food, or whatever. We cannot improve upon the free enterprise system.

THE ENERGY EMERGENCY ACT: LESS THAN WHAT IT APPEARS

Mr. McGOVERN. Mr. President, the new conference report on the Energy Emergency Act is a great improvement on the conference version which we recommitted on January 29.

But it falls far short of what we need.

The significant addition to this legislation is its provision for a rollback in the price of fuel. But it does not roll back far enough.

I applaud the improved version of the unemployment compensation guarantees for working men and women displaced by energy-related shortages. Nearly a quarter of a million people already have been put out of work.

And I am pleased that the wholesale retreat on the fight for clean air and clean water has been substantially modified.

It is, however, wholly inadequate to characterize this bill as any sort of major victory for the consumer, or for the Congress.

Under the formula we are asked to approve, the price for crude oil currently exempt from price controls—new oil—would be rolled back to $5.25 a barrel with provisions allowing the administration to raise it back up as high as $7.09 a barrel, but the President's recent $1 a barrel increase on old oil would be allowed to stand.

The effect, according to advocates of this proposal, would reduce gasoline prices by 4 cents a gallon and save consumers $4 billion a year.

It is my belief, and that of many other Senators, that the price of controlled—old—oil should also be rolled back to the December price level. That would permit another 2.5-cent reduction in the retail price of gasoline and save the consumer $2.5 billion more than what the conferees recommend.

Mr. President, I do not see the logic in retaining the $1 per barrel price increase for old oil, particularly since it constitutes 71 percent of our domestic supply of crude oil. A higher price on already-flowing oil simply is not an incentive to the increased production of new oil.

What this rollback formula would do, in essence, is to write into law a decision by the administration which is unsupported and unsupportable, and is not in the public interest.

The only suggestion of justification that this administration has offered for its $1 per barrel price increase for old oil is that oil producers need more money to invest in new production.

I think that the record increases in profits posted by the major oil companies last year provide more than enough basis for increased investment—and they got that even at the old prices. Beyond that, the increases retained in this conference report boost the price of crude oil well beyond what the industry itself says is necessary to stimulate exploration and production.

In December 1972, after an intensive 2-year study, the National Petroleum Council projected that the industry would need $4.48 per barrel, using its "worst case" assumptions. Why should the Congress now give them a bigger windfall?

At the level I have suggested, $4.25 a barrel for old oil and $7 a barrel on new oil, the average price for all domestic oil would be about $5.25 a barrel. Allowing for inflation, this is about what the industry said it needed.

My point, Mr. President, is that Congress should hold the oil companies to their word. We should not force the consumer to pay more than what the companies themselves say they need. Their excess profits ought to be not ratified but removed.

Mr. THURMOND. Mr. President, just over a week ago this body expressed its disapproval of a windfall profits section in the bill that is now before us again.

That vote of 57 to 37 sent the conference report back to the conference committee which has now, through the efforts of the distinguished chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) written a completely new section to roll back domestic crude oil prices.

Aside from the fact, or at least my opinion, that the conference committee has overstepped its authority in adding a completely new section that has not been considered by either body, and has ignored proposed legislation on windfall profits now being heard by the appropriate committees of both bodies, the price rollback requirement in the Energy Emergency Act would not accomplish its stated objective.

That objective, according to its sponsor, is to roll back gasoline prices by 4 or 5 cents a gallon and, I presume, comparable savings in the price of other refined products. However, what would it actually accomplish?

First, in taking such indiscriminate and punitive action against the entire oil industry—the shotgun approach—the rollback will hit hardest at the independent sector of the industry rather than the major integrated companies, the apparent target.

I believe everyone wishes to see fuel kept at a reasonable price. Certainly, the Senator from South Carolina does. But unless we are very careful in handling this matter, more harm can result than benefit.

Mr. President, as far as consumer savings are concerned, it will prove to be a cruel hoax. Even if crude prices are rolled back to the level called for in the rollback section, the possible cut in gasoline prices would be at best 1 or possibly 2 cents a gallon. The advocates of the proposal know that each dollar increase in crude price represents about 2½ cents in the price of gasoline at the pump. The rollback promises lower prices, but inevitably would lead to far higher prices and crippling shortages, and this is what concerns me deeply.

Mr. President, independent producers have found more than 80 percent of the new domestic oil in the last year, not the international companies, and independents operate most of the stripper wells in the United States. This action would grossly discriminate against the 10,000 small explorers and producers who are the best hope of increasing the Nation's energy supply and thereby bringing about an ultimate reduction in the price of fuel.

A rollback of new and stripper oil discriminates against the independents in favor of the international oil companies which would continue to be permitted to flow through the uncontrolled cost of imported oil that is priced at two to four times the proposed rolled back price of domestic oil.

Mr. President, it is a certainty that the result of the conference proposal would be substantial reductions in domestic crude oil supplies which will be replaced by foreign oil costing far more. It is a certainty that this action will accelerate our already intolerable dependence on foreign oil, a condition the conference report professes to deplore.

Mr. President, consumers today are paying 20 to 30 cents a gallon more for gasoline than they were less than 2 years ago. This is due primarily to increased prices for foreign oil, and to higher refining and marketing charges.

Therefore, the claim that this rollback of domestic crude oil prices would mean a substantial saving to consumers is incorrect. If there is a saving, it will be temporary and amount to no more than 2 cents a gallon on consumer products. Within a short time there will be no price saving, and the only effect on consumers will be further dependence on foreign oil.

The level of U.S. dependence on foreign oil has doubled in just 5 years. Under the conference proposal, it will double again, in even less than 5 years. Domestic production has been declining, because of depressed and inadequate prices.

The rollback of new and marginal oil prices will aggravate this decline precipitously.

There has been much talk in the political community about "contrived" oil shortages. The conference proposal would result in a politically contrived shortage of a severity never before imagined. This is the way many people knowledgeable on the subject feel. The American people should understand now who should shoulder the blame.

Mr. President, the Wall Street Journal published an article dated February 7, 1974, under the column "Review and Outlook" entitled "Big Oil's Taxes." I think the article is worth reading into the RECORD at this point. It states:

> Congress is worried about how to change the tax law in order to restrain oil profits. Clearly a number of items in the Internal Revenue Code work in the oil companies' favor, and it's worth thinking seriously about whether to change them. But serious thought quickly runs into certain realities.
>
> The commanding reality is that if the energy crisis is to be solved, the world's petroleum industry, which is largely the U.S. multinationals, will have to invest $1 trillion by 1985. Half of this will have to come out of industry profits. The Chase Manhattan Bank estimates that this will require an annual 18% earnings increase as an average over the 1970–85 period, a number some economists equate with a 15% to 20% return on shareholders equity. For all the talk of "windfalls" and "record profits," the industry's average return on shareholders' equity in 1973 was roughly 16%; Exxon, the leader, was at 19%.
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> These return-on-investment figures also tell quite a bit about the effects of oil-tax "loopholes." An industry benefitting from preferential tax treatment presumably would be an unusually profitable one. But prior to the current oil shortages, the oil industry's rate of return has been below average: in 1972 9.6% for oil and 11.8% for all industry. In 1972 Exxon earned a return of 12.5%, Gulf earned 3.6% and so on, while Cola-Cola returned 22.8%. So far as we can see, the only possible interpretation of this is that profit margins in the oil industry have been under competitive pressure, and because of the same pressure the effect of tax breaks has been passed along in lower prices to the consumer. Higher taxes on oil companies are likely to mean that oil prices settle out at a level higher than they otherwise would.
>
> In other words, changes in the tax law would be harmful at worst and cosmetic at best. But especially in matters of equity, appearances do count. To judge by the tones of outrage, it makes people unhappy that some oil companies pay only 1% or 2% of total world-wide earnings in U.S. taxes. So perhaps raising that percentage would be a net addition to human happiness, even if it meant less profits to invest, or more likely, higher prices for oil products.
>
> To figure out what changes to make toward this end, consider Octopus Oil, a hypothetical integrated multinational. Last year its books showed $1 billion in pre-tax earnings, and it paid only $20 million in U.S. taxes.
>
> Of the $1 billion, half was paid in taxes to the Arabs and other producing nations. Since this payment is classified as a tax, it produces a "tax break" on U.S. taxes but is also included in pre-tax income. If it were an expense rather than a tax, it would be excluded from pre-tax income.
>
> Of the other $500 million, $300 million was earned abroad. Of this, Octopus paid $100 million in income taxes to foreign governments. Like all other American concerns operating abroad, it can take this $100 million as an offset against American taxes on its foreign earnings. Otherwise American firms would be double taxed.
>
> Since the $500 million payment to producing nations is also considered an income tax, Octopus also gets to offset it against U.S. taxes. So throw the Arabs' cut back into the pot, bringing foreign earnings to $800 million and foreign taxes to $600 million. At 48%, the U.S. tax on $800 million would be $384 million, but this is more than offset by foreign taxes. Octopus ends up with a "surplus credit" of $216 million.
>
> Now, contrary to understanding of most of the oil industry's critics, these credits cannot be used to reduce taxes on income earned in the U.S. So Octopus still owes tax on the $200 million earned at home. But it has domestic deductions: $60 million for the depletion allowance, $27 million for intangible drilling expenses, and $40 million for accelerated depreciation of its capital equipment. That leaves $73 million of taxable income, which at 48% yields $35 million. But Octopus can also take a $15 million investment tax credit for the new refinery it built in Skunk Hollow, Pa. And the Treasury gets $20 million, or 2% of the company's world-wide pre-tax earnings of $1 billion.
>
> How should Congress increase Octopus Oil's taxes? It has little desire to eliminate accelerated depreciation or the investment tax credit; these apply to all of U.S. industry. There's little interest either in touching writeoffs for intangible drilling expenses; to do so would wreck domestic independents, who draw heavily on this provision when they hit dry holes.
>
> The obvious taget is the tax credit on the payment to the sheiks, which looks more like a royalty than a tax. On every barrel of oil the Arab governments levy a royalty of 12½%, counted by the oil companies as an expense, and an "income tax" of 55%, counted as a tax. The percentages are taken on the basis of the "posted price," set by the governments and having little relation to the actual price of anything. While not without parallels in other lands that produce, say, coffee or copper, the situation is highly artificial. Obviously, the Arabs decide what they want to charge for their oil, and then work backwards to get the tax rate and the posted price.
>
> If the whole payment to the sheiks were treated as a royalty, Octopus would have $300 million in foreign earnings, on which it would owe $144 million in U.S. taxes, offset by $100 million in foreign income taxes. Thus, its taxes would go from $20 million to $64 million. The consumer would pay $44 million more for his oil. But, because Octopus' pre-tax net would be lopped in half by putting the sheik's $500 million in the expense column, the offending percentage would rise from 2% to a more comforting 12.8%.
>
> Prior to 1950 all such payments were in fact treated as royalties, but in that year, the Truman administration wanted to bolster the Persian Gulf against the Communist threat by getting more money into Arab hands. By calling the royalty a tax, a switch worked out by the State Department, the U.S. oil companies could double their payments to the Arabs and get the difference back in their tax returns. Thus, U.S. taxpayers financed a foreign-aid program and never knew about it. In making the change the companies merely came out even, though we find it quite conceivable that in later years they found ways to take more of their profits at the tax-favored producing end of the business, and less on refining or marketing.
>
> The problem is that such things get built into the system. By now the U.S. Treasury considers the payment a tax, mainly because that is the way other governments treat it. If the U.S. switched back and called it a royalty while other nations did not, Octopus Oil would be at a competitive disadvantage against British Petroleum and Royal Dutch Shell. It would find itself outbid on choice new consessions, and gradually have to retreat from foreign development. At some point the Arabs may "solve" the "problem" by themselves switching to a royalty label, but in the meantime Congress needs to ponder whether the cost of handicapping U.S. oil firms in foreign competition is offset by the benefit of changing that percentage from 2% to 12.8%.
>
> Another target would be the depletion allowance, and there we would not encounter competitive problems. Indeed, Atlantic Richfield has offered to give up the depletion allowance if the price of oil is decontrolled so the marketplace can give it the funds it needs for investment. Some other large oil companies feel the same way, but are not saying so in public. Eliminating percentage depletion would increase Octopus' taxes to $48.4 million, or 4.9% of its world-wide net including the sheiks' $500 million.
>
> Eliminating the depletion allowance and decontrolling prices is not an overwhelmingly popular course in Congress. For one thing, the Congressmen who want to tax the oil companies more are the same ones who want the consumer to pay less. Even among Congressmen who've learned there's no such thing as a free lunch, there's the problem of the oil millionaire.
>
> The big companies don't care about depletion, so long as they get the return on investment they need to expand. But independent oil producers, who probably pay individual income taxes in the 70% bracket, care quite a bit. In fact, since these independents supply the major firms, the firms are loathe to alientate them by softness on depletion. It's the same in Congress. Herman Kahn of the Hudson Institute says every congressional district has one oil millionaire, who takes his Congressman hunting every year. This, not Octopus Oil, is the real "oil power" on Capitol Hill.
>
> In trying to sort out the financial, political, diplomatic and cosmetic considerations, one can easily understand why Congress is having such a tough time working out an energy bill. But it seems to us a few constants do emerge: The oil companies need profits to reinvest, the consumer is ultimately going to pay for tax changes, and fiddling with the Internal Revenue Code is not exactly the first thing that needs to be done to solve the energy crisis.

Mr. President, this is a very complex question. It is one deserving of the utmost consideration of the Congress as well as the Nation, and it is one that should be looked into most carefully. It should not be gone into without thorough consideration and adequate hearings on every facet of the matter, because what we ultimately want to do is two things: One, provide the necessary fuel for the people of America, and the next is to provide that fuel at a reasonable cost.

In trying to achieve those goals we must be careful that we do not take some step that will react and produce an opposite effect or will not produce the goals we set out.

Mr. President, I yield the floor.

Mr. BARTLETT. Mr. President, I ask unanimous consent that during the consideration of the conference report on S. 2589 and votes thereon, Mr. Tom Cantrell, Mr. Bud Scoggins, Mr. Jim Trickett, and Mr. David Russell, of my staff, be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, when there was discussion on this conference report this morning it was said that perhaps some of those who oppose the adoption of the conference report are guilty of foot dragging and are really not interested in providing solutions to the need of the Federal Energy Administrator for certain controls and certain powers that he does need.

I think nothing could be further from the truth, because, if the provision in this report which provides for the rollback and control of prices were removed, I would venture to say that all of those who have shown opposition to the entire report would be in support of it today and would have been very happy to have passed it before the Christmas recess if it had been just strictly the FEA provisions. Second, I would like to point out that those who are being characterized as foot draggers at this time on the matter of energy were those who, to a great extent, opposed the conference report before when there was another provision in it which called for a rebate on the so-called excess profits.

Some of us who were considered guilty of foot-dragging and of taking up a lot of time and of putting on a minifilibuster at that time, feel we were vindicated when, after lengthy hearings after the hearings were resumed after the holidays on the matter of excess profits, and when those provisions were better understood by the general public and by Members of the Senate, the vote to recommit was a substantial 57 to 37.

I would also like to point out that many of those of us who are showing opposition to the conference report today, and I think will later on, are people who really want to see the energy crisis resolved, who want to take a number of actions which will lead to an increase in domestic supplies of oil and gas and coal and other energy sources in the United States. Most of those of us who might be accused of foot-dragging are those who voted for the Stevens-Gravel amendment in the Alaskan pipeline bill, which legislated the Alaskan pipeline, and which is going to bring oil into the lower 48 at a much earlier date than otherwise.

Also, Mr. President, many of the ones who were criticized for dragging their heels are the ones who supported the stripper well amendment which does provide a free price for about 12 percent of the crude oil production in this country. And in my mind, they still support this amendment which provides for additional oil for American consumers. It also provides an opportunity for additional oil right away because many of the stripper operators are making investments in their small wells and are successful in enhancing and increasing this production.

These same people feel, I think, that it makes sense to pay the operator of a stripper well, a small marginal well, $9.50 a barrel for that production rather than have that production plugged and abandoned and then replaced with foreign oil that, on a spot market basis, can cost as high as $22 a barrel.

Mr. President, I would also point out that those who have been criticized as foot-dragging are those who want to help solve the problem of deficient energy in this country by deregulating the price of new natural gas in interstate commerce. Many of the economists who have been before our committee have testified that this is the root cause of the energy crisis, that this is more than any other cause the reason that we do have a short supply today. And those same people who have been criticized for foot-dragging are the ones who are in favor of the proposals to site refineries and powerplants and for the siting of deepwater ports to provide additional refinery capacity for the oil and to permit the foreign oil to come into this country at cheaper rates.

In addition to this, Mr. President, I would like to bring out that this roll back provision addition to the FEA proposal in the conference report—and I am referring to the rollback of crude oil price provision—is very unusual, and it is quite far-reaching. Other than the price of oil, I cannot recall any particular commodity or natural resource that has a price that is set in cement, set in a legislative act.

In this case it would set the price at approximately $5.25 a barrel.

Second, it is very unusual, because it rolls it back from the current price of approximately $9.50 a barrel.

So, on both of those bases, it is a very far-reaching and restrictive type of price control. It would be very difficult to change it. And it is bound to be in existence for a long time.

In addition to rolling back the price to $5.25 a barrel for domestic oil, it does provide that it can be increased upon request by the President under certain difficult conditions up to, but not to exceed, 35 percent of the $5.25 price.

But increasing the price beyond $5.25 means following the Administrative Procedures Act rather than just being at the discretion of the President or his agents.

A change is made in the Administrative Procedure Act just to apply to this matter of controlling the price of crude oil. That change shifts the burden of proof to the President who must support his price with substantial evidence rather than just prove that he has not been guilty of arbitrary capriciousness.

This is another departure and another innovation that I believe should be the subject of hearings and the subject of discussions throughout the country to see whether or not this particular proposal, S. 2589, is really in the interests of the people of this country.

Also, there is another result of this conference committee report on S. 2589, and we do not know yet what that amounts to. For example, it would reduce, and I would think rather sharply, the tax revenues from the producing States. What that will amount to, I do not know. However, I certainly am confident that the Governors of those States, as they have been submitting their budgets to the legislatures of their respective States, have counted on this revenue and that the legislatures which are in session today are planning to use that money in the appropriations they are making for the next fiscal year.

Another thing—and we do not yet have an answer for that either, and it will certainly take a few days to obtain it—is how much less money will be available for investment in the domestic oil and gas industries. How much less oil and gas reserves will be found, because of this reduced price and reduced incentive and reduced amount of money to invest in the oil industry.

Mr. President, that will certainly have an effect on the investments that might otherwise have taken place in other fuels.

One of the values of a free market price is that it will tend to bring on other fuels, such as the extraction of oil from sand or shale, or liquefaction of coal, or coal gasification; all of which will reduce the sulfur content that sometimes violates the environmental laws.

To roll back crude oil prices at this time would tend to perpetuate our dependence on foreign sources for oil imports which has proved many times in the past, and currently to be unreliable.

I agree with Dr. Thomas Stauffer, research associate with the Center for Middle Eastern Studies of Harvard University, when he said that we are possibly "mortgaging our future supplies of energy in order to enjoy a very short-run dividend in the form of lower prices. This may be good politics, but it is bad economics."

Dr. Stauffer went on to point out that the hidden costs of energy shortages can be much much greater than the visible costs of higher oil prices. It is better to pay more and have energy than it is to pay less, and then to get less, and hence cause men's and women's jobs to be lost.

To adopt this price control ceiling provision would be to ignore history and to repeat the disastrous precedent of price regulation in the natural gas industry. In 1954, price controls on natural gas were initiated in the name of consumerism, but the results have demonstrated that they have not been in the consumer's interest. The policies of Chairmen Swidler and White have promoted the waste of one of our cleanest energy sources, and at the same time have discouraged the exploration for more of this highly desirable fuel.

Because the price was so low, gas has been improperly used. It has been used by many industries under boilers rather than made 'available for consumer use in households.

It seems we do not learn our lesson. We had cheap, plentiful energy, but by trying to make it cheaper, we now have shortages of expensive energy.

We all have the desired goal of attaining energy self-sufficiency. I think it should be defined as having at least 85 percent of total consumption derived from domestic production. By any definition, price rollbacks are not the way to achieve self-sufficiency.

I might just go back and review quickly the history of the price of oil. First, because the price of gas was controlled and set at a very low level, and because gas is a desirable fuel, it competed very strongly with the price of oil and the price of coal, causing the prices in both cases, of oil and coal, to be lower than they otherwise would. Hence, supplies were lower, because there was less money to invest in the development of each.

In addition to that, there was a program called the mandatory import program, which was designed to provide a prop or support for our domestic industry, recognizing that it was important for us to have a strong domestic oil and gas industry, so that we would have ample supplies to take care of our needs, particularly in time of war, to provide for our national security, but also to provide for a strong economy.

But the mandatory import program was not administered that way. It was used, instead of as a prop, as a club over the heads of the oil companies, so that they would not raise the price of oil when there was a need to do so because of increased costs of labor, amounting to approximately 25 percent over a span period of some 13 years; because of the price of steel going up 40 percent during that same period, and the cost of a well to be drilled going up 75 percent.

The time period I am talking about is a period of 13 years beginning in 1957. The price of oil in 1957 was $3.09 a barrel, and then it went down, and it stayed under $3.09 until 1969, the 13th year of that period.

When it got back to $3.09, the oil industry had had its costs increase about $500 million because of the reduction of the depletion allowance from 27.5 percent to 22 percent.

In addition, at that same time, there was a desire by people from the consumer States to lower the $3.09 price, and, because of this pressure, the President of the United States asked Secretary Shultz to appoint a committee, which was called the Reeder Committee, to make a study and submit its findings and recommendations to a Cabinet level Committee on Energy.

All of this was done, and the majority of witnesses before the Reeder Committee recommended that the barriers provided in the mandatory import program be removed, and to allow the flood of cheap foreign oil come into this country.

It was suggested in their report that this action would reduce the price of oil in this country to $2 a barrel. After 13 dry years of $3.09 and less a barrel, $2 a barrel would have so severely crippled the oil industry that we would have been at the mercy of foreign countries long before we were, and we would have been reduced to a much weaker condition.

So I think the history we have of both the oil and the gas industries shows very clearly that this is not in our interest today. What happened in the long, dry period of oil profits in the sixties? The number of independents was reduced from about 20,000 to 10,000. There was little incentive for exploration in this country, so the larger companies, the multinationals, went overseas for their exploratory operations. This, of course, fulfilled the desires of those in some of the consumer States, because the large companies were successful and were able to provide foreign oil at low cost and in large quantity. Up to a certain point, of course, this is very good; but when the amount coming in was such as to weaken the domestic industry severely, then it was obvious that the foreign oil would very quickly become expensive, and supplies would be in small quantity, as we see it today.

The Reeder report was strongly objected to by many people, who pointed out that we would be at the mercy of foreign nations, so far as our supply of energy was concerned. The Reeder committee argued that the supplies of the world were so large that the price would always be low. They just forgot one very important fact, and that is that political decisions can be made that will override economic estimations.

These proposals will make us more dependent upon foreign oil imported from the Middle East. We will be going down the same road again, by subsidizing foreign production, by arbitrarily restricting our own domestic supply, and by insisting on the purchase of foreign oil that is available.

If we are to maintain our worldwide commitments and remain a strong nation, the best alternative to importing oil is to strengthen the domestic oil industry at the fastest possible rate, rather than to weaken it by removing the price incentive.

Certainly we know that we are going to import more foreign oil, and to import more than we are now, and we also know that we will not be able to import it at the cheapest possible price. We know that if we strengthen our domestic industry, our chances to do this will sooner be improved.

This measure seems to be designed to perpetuate and exacerbate the present energy crisis. It almost seems that those who support this measure are not seeing the results that have occurred before and that will happen again. To me, that is a kind of negative approach to the solution of the energy problems.

But the United States was not built on negativism. It was built on bold, positive steps to provide a plentiful supply of energy at the least expensive cost. This we want to achieve again, but we are not going to achieve it by sacrificing and going back on recent efforts to increase the supply of energy.

One of the witnesses before the Senate Committee on Interior and Insular Affairs commented that we are confronted with acute shortages in key areas and it seems imprudent, if not irresponsible, to reduce incentives for production until the implications and ramifications of such action are better understood. Otherwise, we shall resemble the farmer who decides to eat more in the short run by eating all of his seed corn. His belly is certainly more full for a few months but the price for such a short-lived bounty can be long years of unpleasant deprivation.

When controls are installed, it takes time to perceive the mistakes that have been made. And it takes additional time to rectify the mistakes even after they are evident. With this particular bill, the mistakes that can be corrected or the amount of correction that can be made is limited to 35 percent and then virtually made impossible to achieve by the other requirements that must be met.

There would be lengthy hearings and lengthy litigation that could have the effect of preventing any increase from the price of $5.25 per barrel. We cannot afford the cost and the delay of more mistakes.

Mr. President, for a moment, I would like to clarify a common misconception about domestic crude oil production, and natural gas production for that matter.

The production from existing wells in the United States is constantly declining. To look at a graph of the annual production of crude oil in this country is misleading, because it shows that production increased until 1970 before the annual producing rate began to decline.

Actually, that curve could be split into two curves the sum of which would be the total curve. One curve would represent the decline from year to year in the producing rate of wells that existed on a base date. The other curve would represent additional production due to investments made to increase the producing rate by the drilling of new wells, workovers, secondary and tertiary recovery, and by other engineering breakthroughs.

In other words, if it were not for the continuing activity to increase production, the annual production would decline year after year. Lately, our increases to the producing capacity have not kept pace with the decline rate. The reason—we have not been active enough domestically—there has been a failure to provide the proper incentives for sufficient domestic ventures.

The proposal to rollback crude oil prices will erase the incentive that has existed over the past few months that has generated tremendous activity in the oil fields in the United States to increase production. That production will have to be replaced by expensive and unreliable foreign oil.

It is very important for a businessman to have stability in his business because as he looks at the future to decide on the amount of his investment, he has to make certain calculations, and if he has a question as he does that, about the future income that he might expect from his production from oil and gas wells, he is going to have a question about what he will plan to invest in the drilling of new wells for oil and gas. So this bill's proposal puts into jeopardy the carefully thought out and planned budgets for the year 1974. Either action will delay it, but either delaying action to defeat this proposal or putting it into effect if it passes and becomes law, will prevent a rather sizable amount of money from finding its way into the ground in the form of new oil and gas wells to add to the amount of energy this country has available.

A couple of days ago, my staff learned of a group of investors from my State who had planned 10 days from now to drill a well that would replace a well with collapsed casing that had been plugged and abandoned. This was a well on which there was a history and good information on what to expect it might produce.

To drill this well will cost $80,500. These men told us that they would not be able to justify drilling this well if they could not receive at least $9.23 for crude oil to be produced from the well. Otherwise, they would receive a better return on their money if they put it in the bank at 5.5 percent interest.

Mr. President, this is only one of hundreds of wells that will not be drilled if the price of crude oil is rolled back.

I think everyone who has heard about the rollback price control provision has visions that this is going to result in a rather sizable rollback in the price of gasoline. But that is not going to be the case.

Let us investigate just how much the consumer is paying for the extra incentive provided by a price for new oil of $9.50 per barrel and the price of $9.50 for stripper oil and matching old oil barrel for barrel with the new oil. How much of a burden is it, really? In committee, and today on the floor of the Senate, the distinguished Senator from Louisiana (Mr. JOHNSTON) brought out the fact that approximately 29 percent of the domestic oil production is from wells with uncontrolled prices.

We import approximately 33 percent of the crude oil consumed in this country. So as a percent of the total oil consumed in the United States, both foreign and domestic, $9.50 a barrel oil represents only 20 percent of the total consumption. Even if we rolled back the price of this $9.50 per barrel oil to $5.25 per barrel, the resulting reduction in the price for gasoline at the pump would only be 1.4 cents per gallon.

So if we use 10 gallons of gasoline a week, we are paying only 14 cents less for this new price to encourage greater drilling for oil and gas and to assure the fact that the life of the stripper wells will be lengthened and so that we will not be plugging a producing well. With the price of oil at $5.25, they cannot make any money or operate at a profit and we will have to replace it with $22 a barrel oil, which we are importing from a foreign country.

This 1.4 cents per gallon is what is greatly stimulating domestic activity and allowing wells to be drilled that otherwise could not be justified, and permitting stripper wells to continue to operate which would otherwise be plugged and abandoned.

If by some miracle the 35-percent increase provision could be activated by the President, and I have pointed out the problems he would have in raising the price from $5.25 up 35 percent, the price then is about $7.09; and if that is the price of new oil at the stripper well, then the savings we might expect if we received it all back as a consumer on the price of a gallon of gasoline, would be about eight-tenths of 1 cent. So, here again, the incentive would be taken out of the effort of the independents and the other companies to drill the number of wells that need to be drilled in order to be self-sufficient, for only eight-tenths of 1 cent or 1.4 cents, as the case may be.

Last Saturday, the Committee on Interior and Insular Affairs had four noted energy economists testify. They said, in essence, that it would be irresponsible for Congress to legislate a crude oil price rollback at this time. They stressed that more information on the effects of the rollback must be gathered.

I hope that this body will not act on a "seat-of-the-pants hunch" in such an emotionally charged issue. All we are doing is creating more uncertainty for those who could help to increase the supply of crude oil domestically

Mr. A. V. Jones, the president of the National Stripper Well Association, has said that the current price level for stripper well oil has permitted 250,000 barrels per day of stripper well production that would not exist today at the old prices. The 250,000 barrels per day of additional oil produced from stripper wells is approximately equal to the amount of the daily consumption that has been saved by shutting down gas stations on Sunday and requiring a national speed limit reduction to 55 miles per hour. Whether or not these stripper wells continue to produce is directly dependent upon the price of oil. It depends on whether the revenues from the crude oil sold exceed the cost to produce that well. When the well starts to lose money, it is shut in and/or abandoned. To me, it does not seem to be in the consumer's interests to force currently producing domestic oil wells to be shut in and abandoned merely because the crude oil costs $9.50 per barrel to produce, which is the case with some wells.

The demand for the 250,000 barrels of stripper oil will continue even after those wells are shut down. This means that we will have to import an additional 250,000 barrels of foreign crude, if it is available.

Somebody please tell me how paying up to $20 to $22 for foreign crude oil to replace $9.50 domestic crude oil is in the consumers' interest. Not only is the price of crude oil doubled, which will raise the price of gasoline for the consumer, but also, the dollars are being drained from this country. Rather than being put into the hands of Americans, to in turn be put into the hands of other Americans to sustain jobs and productivity, the dollars will be put into the hands of foreign countries.

An oil well is somewhat like a person: As it becomes older, it costs more to keep it operating. So the point in the life of a stripper well at which it must be abandoned is directly dependent upon the price of crude oil.

A petroleum engineer on my legislative staff has estimated that for an average well, $9.50 per barrel crude oil extends the producing life of that well from the 6.5 years at prices of less than a year ago to more than 10 years at current new oil prices, with consumers getting an extra 4 years of production from that well. The total amount of oil that this stripper well produces in its lifetime is increased by 20 percent, a very substantial factor.

This price rollback hits hardest at the independents because they end up with practically all of the stripper wells. In 1973, independents increased their drilling and workover activity more than the majors. Most drilling in Oklahoma and Texas is done by independents. The drilling activity in each of these States increased as follows: in Oklahoma, 28 percent; in Texas, 17 percent. That is compared to a nationwide increase of less than 10 percent—actually, 9.8 percent.

Another favorable offshoot of the higher prices allowed for new oil and stripper oil is that there is an incentive to work over a well to increase its production. There is an incentive to acidize the producing formation with acid, or to shoot it with nitroglycerin, or to perforate it with bullets in a zone that heretofore was not considered commercial, or to clean the reservoir so that production will be enhanced and increased.

All these actions can yield immediate results, immediate increases in production, if successful. That is right. We do not have to wait 2 or 3 or 4 years for these investments to increase production. With the proper incentive, they will continue to occur this year, as they have over the last 3 or 4 months. There has been a tremendous burst of activity in the oil fields. Let us not squelch that activity by our actions here today.

Mr. President, oil activity is booming in Oklahoma. For example, in the Osage country, the county of Osage, increased activity is a direct result of the oil and natural gas price incentives that exist currently.

An article in the Tulsa World of February 2, 1974, points out:

Leases that were passed in recent years are suddenly attractive. Pipelines that were not economically feasible are now being laid across the prairie. There is more leasing and drilling in this northern Oklahoma area than in years . . . Prices of $9.50 per barrel of newly found oil and up to 65 cents a thousand cubic feet of gas is the difference.

These are low-cost wells, with a high probability of success, which in the past have not been drilled because at old prices they would have been unprofitable.

Our actions here today may prohibit the consumer from benefiting from the production from not only these wells but also hundreds of more across the country that will not be drilled at the rollback prices.

Mr. President, I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BARTLETT. Mr. President, I should like to correct some inaccurate and misleading statements that may have been made by various government officials concerning the production of stripper wells.

It has been claimed that if a stripper well as producing perhaps 12 barrels—two barrels more than the amount that would qualify it for additional price—a person would be tempted to reduce the production in order to qualify for the higher price, to hold back his production—in other words, to cheat. This is impossible, because in order to qualify as a stripper well, a well must have produced 10 barrels or less on a lease basis last year. So any actions now could only be taken toward the future, next year. I do not think that necessarily would be a very enterprising thing to do.

The conference committee for the Mandatory Allocation Act wrote the stripper well provision in such a way as to preclude any consideration toward reducing the producing rate to become exempt from price controls or from allocation controls. The conference committee required—and the law now reads—that any well must be classified as a stripper well during the previous calendar year before it becomes exempt from allocation and price controls. Therefore, an operator would have to decrease his production for a full year before he could receive an uncontrolled price—a most questionable economic temptation.

Also, it is, by the same provision of law, a Federal violation—a felony—to reduce the producing rate of a well below the "maximum feasible rate of production and in accord with recognized conservation practices."

Mr. President, there is clearly much incentive to not reduce the producing rate of a well in hopes that it someday might be classified as a stripper.

Mr. President, let me point out that this price ceiling measure plays into the hands of the international major oil companies at the expense of the small independent producers of the United States and ultimately the consumers of energy in the United States.

The major oil companies in this country are crude oil buyers. They own large portions of the refining capacity in the United States and refineries must buy crude oil, much of it from small independent producers who historically have drilled about 80 percent of the wells in the United States. It is the independent producer that needs the increase in price of crude oil as well as the majors to have the revenues to drill the wells needed to provide us with sufficient energy.

What happens as the independent producer because of lack of proper incentive drills fewer wells and discovers less oil? We must buy foreign oil to replace that domestic production that is lost. Who sells the foreign oil to us? The major multinational oil companies.

I have pointed out before to this body that the profits of domestic operation is for both the majors and the independents have been insufficient over the years. The majors even now with the large profits that have been reported say that the largest portion of these profits was earned from oil produced overseas.

Mr. President, I maintain that the price ceiling proposal will have exactly the opposite effect of what is contended by its sponsors.

Let us look at what goes into making up the price for a barrel of crude oil in the United States. By telegram, on Monday February 4, the Chase Manhattan Bank indicated to me that 33 percent of the cost of crude oil was from imports at $11 a barrel delivered price. Only 19 percent of the cost of crude oil came from decontrolled domestic crude oil at approximately $10 a barrel. Only 48 percent of the cost of crude oil came from controlled domestic crude at $5.25 a barrel.

If you combine all of these prices on a weighted average to get the average cost per barrel of crude oil in the United States, you get $8.05. Of that $8.05 a whopping $3.63 is attributable to imports. The $2.52 is attributable to controlled domestic crude at $5.25 a barrel and only $1.90 is attributable to the cost of uncontrolled domestic crude oil.

It seems evident to me that if we were truly working in the consumers interest we would be working to reduce that $3.63 portion of the cost of a barrel of oil. The way to do that is to replace barrels of oil that are being imported with cheaper domestic production. Instead, we are here today talking about removing the incentives to do just that.

All this measure does is to insure that more oil will be sold to the United States from foreign sources. The consumer loses out because he will eventually pay a higher price for gasoline at the pump because higher foreign crude prices roll in.

Mr. President, I want to emphasize that this so-called bonanza, if I may be facetious, for the consumers will be very short term. And it will be only about 1½ cents at the gas pump. The consequences of this short term action would be higher prices in the near future as the imports of higher priced foreign oil are increased to make up for a lack of domestic supplies. That is if foreign oil is available at all.

As I have already discussed, if domestic supplies and foreign supplies are not forthcoming the devastating but very real result would be high employment and reduction in the growth of this country.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BARTLETT. Certainly. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, the point this Senator would like to know about this matter is how one would go about deciding what a small producer with a rather large number of stripper wells would be permitted to receive for his oil. A man was in my office a few days back and he showed me his records on about 50 wells he has in one of the less profitable fields of Louisiana. There are a lot of fields of that sort. He is producing less than 3 barrels a day, but he had about 50 wells, so each one, multiplying his 50 wells by 2 barrels a day, that is 100 barrels a day, and that is enough to help.

In a month that would be 3,000 barrels and, of course, 3,000 barrels will make a lot of gasoline. This is a drop in the bucket compared with the overall problem but it helps and when one thinks in terms of hundreds of thousands of men producing from a large number of wells, although each produces a small amount of oil, it does help substantially.

How would that man go about knowing just what he is entitled to charge for his oil?

Mr. BARTLETT. He is just going to be up in the air because he has been getting in the neighborhood of $9.50 for a few months. He has had a great incentive to look over his small wells and decide which ones he might fracture with nitroglycerin, or acidize, or reperforate, but he has incentive to increase that production.

But if he is compared to a man who has the same amount of production from one well there is a tremendous amount of difference in his costs. To the consumer it does not make much difference. A barrel of oil is a barrel of oil if it is of the same quality. So it is of great interest to the consumer to make sure the stripper, high cost, marginal oil not only is going to be continued, but will have the incentive to add to it and get additional oil. But if he has no incentive to invest because the prospects are good that this price could be rolled back to $5.25 a barrel, then the consumer will have to pay to replace those barrels lost either by not working over or lost by plugging—the consumer will pay at rates of spot production as high as $22 a barrel.

Mr. LONG. When a man works over his well to bring it back into production or to extend the level of the well, he makes a considerable investment, which he would expect to write off over a period of months or years—oftentimes over a period of years. Does he have any assurance just because he is permitted, let us say, to charge, as of now, $9 for a barrel of oil, that being the world market price, that if the Arabs decide that they like this market enough to see fit to end the embargo, he is going to be permitted to get that price just because he is permitted to charge it? Is he not confronted with the prospect that after he makes the investment to rework the well and to incur the additional expense which would be paid out over a period of time, he is not necessarily going to get the so-called $9 or so-called higher price when the Arabs decide to end the blockade and decide that perhaps they would like to sell more oil in this country, and thereby produce the world market price in this country?

Mr. BARTLETT. The distinguished Senator from Louisiana makes a very good point. The history of foreign production has had a number of examples where the production has been disrupted for various reasons. I think oftentimes we think of the disruptions that have resulted from Arab nations, but this could come from a very friendly nation such as Canada, in which just recently production was reduced because it was in their best interest to reduce it, and also they increased the price because it was in their best interests to get the best price they could. We do not fault them for that.

The little producer that is looking forward to domestic oil that is still cheaper than the world price or replacement price does not know he is going to get that, so he is not going to make that investment until he is assured that conditions are stable in the oil industry, as far as the domestic price is concerned.

Mr. LONG. Should not we be carefully concerning ourselves here that we are providing adequate incentives for all those who we hope would be producing oil to be moving in that direction, to drill more wells, and to expand their productive capacity, to insure increased production, and also so we do not see people waiting in their cars four and five blocks to get gasoline?

Mr. BARTLETT. This is the fear I have. I fear many people think all we have to do is to ration, sacrifice, cut back in their own use, and that will solve the problem.

Unless we make the effort to bring on more domestic crude oil, gas, and other resources, to bring liquefaction and gasification of coal, extraction of oil from sand and shale, we will not become self-sufficient and foreign countries can just arbitrarily jack the price up and can then cut off our supply whenever they want to embarrass us or submit us to their will as far as foreign policy is concerned. That could become the case if we are not self-sufficient.

Mr. LONG. Has the Senator seen the article that appeared in this afternoon's newspaper quoting Mr. Swearingen, who is an officer of the Standard Oil Co. of Indiana, better known as American Oil Co. or Amoco? It is my understanding that that was a company which was going ahead to make major investments, running in the hundreds of millions of dollars, to open up the tremendous oil shale potential in this country by building a large plant to manufacture oil out of the enormous amount of shale which exists in the West. In that area there is enough energy, if we can find the key to make it available, to provide this Nation's energy needs for hundreds of years.

Mr. BARTLETT. That is right.

Mr. LONG. He told me some time ago that he felt that if the long-term price of oil was to be $7 a barrel, his company would be justified in going into the manufacture of oil from shale; and, looking at a price in that range, he concluded that they would be justified in making the investment that would lead it into the opening up of those vast resources for the American people—not subsidized, but making a free enterprise investment to make energy available to the people of this country. If we are now going to be told that oil is not to be permitted to sell at that price, what does that do to their investment?

I just read in that newspaper a statement by the same executive that it looks as though they will not be able to move into developing the shale, which is a tremendous resource of the future, which somebody should be moving to enter.

I say that as a Senator representing an oil-producing State. It does not necessarily benefit Louisiana to open up that vast resource in the West. The interests of Louisiana would not necessarily be served, but the national interest would certainly be served by opening up that vast resource of energy to the people of this country.

If the price is rolled back to the point that it discourages the development of new reserves, it makes it unsafe for people to make those investments, and what does that do to our future potential?

Mr. BARTLETT. It just makes it difficult or impossible to achieve. I have some of this same information from Mr. John Swearingen of Standard Oil of Indiana. I requested it and received it, and I think it would be good to have it in the RECORD:

The information follows:

> Enactment of legislative proposal to roll back crude oil prices to fixed level of $5.25 per barrel will drastically affect funds available for finding new domestic crude oil and will make present plans to develop synthetic energy sources such as Colorado oil shale clearly uneconomic. At that price level our recently acquired Colorado shale lease would not be economic for development under present technology, even though we have not paid anything as a lease bonus. We estimate $5.25 ceiling price for crude oil would reduce funds available to Standard Oil of Indiana in 1974 by about $200,000,000. This amount is more than one-third of our 1974 budgeted expenditures for exploration and development of conventional domestic crude oil. In addition, considerable recently stimulated recovery from marginal oil wells could not be sustained.

So I think this is a story that would be repeated over and over again by a big company, such as Amoco, but, so far as the drilling budget for 1974 is concerned, the stripper operator just is not going to be able with a price ceiling to do what he could without one.

Mr. LONG. That is a concern we ought to be thinking of. The oil companies are the principal energy companies, and if they are to find the funds to open up these new reserves, they are going to have to make enough money to pay for those out of earnings. While we can find lenders who are willing to make loans on good business investments, the record in the oil industry tends to be that they would want a mortgage on something which one has which they know to be of value if they are to lend the money one needs to go into something which might be successful, and then again involves a substantial risk. They would lend money on the birds one has in his hand, one might say, so he could be encouraged to look for the birds in the bush, but they do not want to lend on the birds in the bush, because that is speculative, one might put it. It might be productive, and then again it might not.

Mr. BARTLETT. Mr. President, the Senator is exactly right. The revenues of the oil industry are such that the borrowings on what they are capable of making from the outside are not commensurate with other businesses such as manufacturing. However, it is still interesting to note that over the last 6 or 7 years the oil industry has spent almost the same amount of money each year, about $8 billion, in exploration and development. And as time went on, their outside borrowings went up considerably because they were not able to generate internally the amount of money required. So, they were stretching their ability, as far as they could, to borrow more and more capital. However, one cannot borrow on that bird in the bush. One has to produce oil and have bankability, and that is judged on the proved reserves that have been developed and are produced and produced at a certain price.

When that price changes, the value of those reserves change automatically.

Mr. LONG. Mr. President, that is why it is standard for a person to borrow money on the well he has in order to provide the money to drill the next well.

Mr. BARTLETT. The Senator is exactly correct.

I would like to have the Senator's comments on this. I have not had a chance to research it, and I do not know whether I am even able to do it completely. However, this bill is very far reaching.

I cannot recall any other price control provision that was a rollback, one that would also set a fixed price, like setting it in cement, and leave it where it could only be increased to the level of 35 percent, and that might be impossible.

It would not be able to be raised as high as the person who would have the responsibility of raising it, the President of the United States, might deem to be necessary.

That would seem to be more restrictive and to be a provision that could really backfire on this Nation and be very difficult to change.

Does the Senator from Louisiana have any comment to make on that?

Mr. LONG. Mr. President, it might be very unpopular. It might be necessary, however, once one makes it that way. I can see the Senator's point. In other words, having fixed the price low, assuming that the price would be proper in the first instance, when the costs go up, then the burden is on someone to change it.

Can one count on the Congress showing statesmanship and wisdom to do something that might be politically unpopular? That is not always the reliable thing to depend upon.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Louisiana very much.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a chapter out of the supplemental interim report of the National Petroleum Council entitled "Emergency Preparedness For Interruption of Petroleum Imports Into the United States," under date of November 15, 1973, and a chapter from the supplemental papers to the interim report of November 15, 1973, under date of December 21, 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Mr. BARTLETT. Mr. President, I have said before that the effects of a shortage of oil supplies is much more severe than the effects of increasing prices on our economy. Bluntly, it gets down to the matter of slightly reduced spending money from the weekly check or no check at all. Studies by Chase Manhattan Bank and Wharton indicate that the effect of reduced oil supplies could raise the unemployment rate to 7.7 percent if we are short 3 million barrels per day. That 2½ million people that would be unemployed on account of reduced oil supplies.

Mr. President, I ask the Members of this body how many of our citizens will be unemployed on account of the 1.5 cent incentive paid at the gas pump?

Mr. President, the hazards to the economy are much more severe with shortages of energy than they are with higher priced energy.

Dr. Stauffer indicated that generally the multiplier effect of $1 worth of energy yields approximately $20 to $21 to our gross national product. He estimated that a 2-million barrel shortfall of crude oil would yield a $50 billion decrease in the economy, but a $2 per barrel increase in the cost of crude oil would add only $12 billion toward inflation. Also, the higher price paid for crude oil is kept within the American economy going from one pocket to another; and the transfer effect is minimal compared to the complete loss of dollars spent abroad for foreign oil to replace domestic shortfall.

Certainly, if a person of low means is burdened because of the high cost of fuel to heat his home and drive his car to work, this legislative body, the other House, and the executive branch can act to remedy that. However, the testimony we had showed that the impact on our economy is more severe because of the loss of sufficient energy than it is because of the higher prices necessary to bring about in a free market a building up and increasing of that energy to self-sufficiency.

Mr. President, I would like to leave one point with the Senate, that no fuel is like enough fuel.

Exhibit 1 follows:

EXHIBIT 1

[From the Tulsa World, Feb. 2, 1974]

ENERGY CRISIS BRINGS BOOM AGAIN TO OSAGE

(By Dayton Blair)

PAWHUSKA —The bonanza days of million-dollar lease sales under the big oak tree at the Indian agency here are long past.

But once again oil business is booming in the "Osage country," a direct result of the oil and natural gas shortage and escalating prices.

Leases that were passed by in recent years are suddenly attractive. Pipelines that weren't economically feasible are now being laid across the prairie.

There is more leasing and drilling in this northern Oklahoma area than in years, with natural gas the focal point of interest.

Prices of $10 per barrel of newly found oil and 40 to 50 cents per thousand cubic feet of gas is the difference.

"With new oil bringing more than $8 per barrel and natural gas prices more than 40 cents, the small producers are profitable," an area oilman said.

These aren't big wells. Most of them will range from about 1,600 to 2,300 feet in depth.

They can be drilled in five or six days in many cases, far less time and cost than deep production.

The last Osage Indian Agency lease sale brought bids totaling $725,850, the highest total since April 1956. Agency officials noted that some of the tracts sold had been considered abandoned by previous operators.

One of the most active firms in the Osage fields presently is Dyco Petroleum Corp., headquartered in Minnesota.

"We have an extensive program going there right now," said Roy Reeves, production manager for Dyco in Tulsa.

"About 90 per cent of the wells will be gas wells. Of course, if we happen to get a decent oil producer, we're not ignoring it."

Reeves said his company has 10 wells waiting on completion equipment and will start a 20-well program on the National Zinc Lease east of Pawhuska.

"Nine wells west of Skiatook will be hooked onto a Phillips pipeline about April 1," he said.

Cost of drilling the wells, Reeves said, is only slightly more than $10,000 for 2,500-foot wells and the company estimated 90 per cent success in its present program.

"We've had only four or five dry holes in this current series."

The new pipeline is a major factor in the revival. Low prices for gas plus the lack of pipeline connections made it impossible to show a profit before.

Phillips Petroleum Co. is building the pipeline that will go through the Avant-Skiatook area. Another one is being considered in the northern part of the county.

George Revard, a Tulsa contractor who has worked in the area for years, predicted a lot of activity in the Osage in the next year. He has plans to drill 27 wells on contract and then he hopes to drill some on his own.

Another operator looking for a good year here is L. H. Van Horn of Summit Drilling Co.

"The Osage offers low-cost wells with good availability of geographic data," he said. "You can miss, as any oilman knows, but your chances of success are somewhat greater than in other areas."

Howard Davis of Black Gold Inc., a Pawhuska-based well servicing firm, said he had found much of the current activity is sponsored by out-of-state money.

"A number of relatively new firms has been formed since the energy shortage became a focal point," he said. "It's a type of speculation for eastern money interests. If the programs are successful, they pay off well. If not, the charge-off can give the in for a tax break."

One advantage for the small independent here is the availability of information from logs of old wells and scout reports from the days when they weren't interested in gas. It gives the operator a head start to know the prospects.

Another advantage to the shallow wells is in finding pipe to set the well during drilling or after.

"You talk about strings of a thousand or so feet of small diameter pipe for an Osage completion, where 10,000 feet or more of larger pipe may be required for wells elsewhere," a pipe dealer said.

It was Oct. 23, 1937, when the discovery well was drilled in Osage County. That made a lot of people rich quickly.

Bids for leases were called out under the old oak tree, now a memorial site, so the auctioneer could get out of the sun.

This is a different type of oilman, a different era. But it's quickly getting back to a fever pitch as the country struggles to beat the oil shortage.

EXHIBIT 2

EMERGENCY PREPAREDNESS FOR INTERRUPTION OF PETROLEUM IMPORTS INTO THE UNITED STATES

NOVEMBER 15, 1973.

CHAPTER 2.—IMPACT OF IMPORT INTERRUPTION ON SUPPLY/DEMAND BALANCE

A 2.0 to 3.0 million B/D import disruption imposed upon an already tight supply situation in the United States creates a very difficult situation. Although everyone hopes for a cessation of the Mid-East conflict, with a prompt resumption of petroleum imports, nevertheless forward planning must recognize the possibility of continued oil disruption and the fact that the effects of the disruption will persist for several months after the restoration of some or all pre-denial of foreign oil production.

As indicated above, 30–35 days are required for new crude oil supplies to reach the United States after they are loaded in the Middle East. Furthermore, if the embargo continues for several weeks, U.S. inventories will be drawn down to abnormally low levels and will need to be rebuilt before normal operations are possible. Likewise European inventories must be restored before product imports can be expected from European refineries. Another aggravating factor which will extend the effect of the embargo is the current refining situation in the U.S. Refineries were running at peak capacity prior to the disruption, but many are now operating at less than full capacity, and this problem will be aggravated in the coming months. Reduced refinery runs resulting from the crude shortage is in effect lost output which cannot be made up at a later date.

Considering these factors, it is essential that the U.S. take immediate steps to curtail demand so that crude and product inventories are not excessively drawn down during the next 2 to 3 months. Although there is a great deal of uncertainty as to how long the disruption will continue and what the operating supply situation will be after the embargo is lifted, a review of the supply effects of the current denial illustrates what the impact of the disruption might be and the importance of taking immediate actions to curtail demand and augment supply.

For the purpose of quantifying the impact of the denial, it is assumed that the embargo would last through the first quarter of 1974. The type and volume of imports denied are shown below:

	Volume (thousand barrels per day)
Crude	1,800
Products:	
Gasoline	80
Distillates	370
Heavy fuel oil	750
Subotal	1,200
Total	3,000

The last actual inventory data available as of October 26, 1973, indicated total U.S. inventory of the three critical product groups, (gasoline, middle distillates, heavy fuel oil) was 515 million barrels (MMB) and crude oil inventory was 246 MMB. This is approximately 71 MMB below normal for products and approximately 14 MMB below normal for crude oil. Other products, such as liquefied petroleum gases (LPG), petrochemical feedstocks, asphalt, lubricating oils and coke, are not included. These other products, including unfinished oils, total approximately 250 MMB of inventory and are not available to meet major product (i.e., gasoline, distillate, or heavy fuel oil) demand. Stocks by major product groups, compared to generally considered "normal" levels for this time of the year, are as follows:

Stock	Inventory (MMB) as of Oct. 26, 1973		
	"Normal"	Actual	Difference
Gasoline	225	214	11
Distillates	298	244	54
Heavy fuel oil	63	57	6
Total	586	515	71
Crude oil	260	246	14

Minimum operable inventories for each product are not well defined. However, the Committee has estimated minimum inventories considered to be near the minimum under which reasonably uniform operations with only spot shortages can be maintained and before a physical breakdown occurs. Table 4 shows that if demand is not drastically curtailed inventories at the end of the first quarter 1974 will be hopelessly below minimum levels.

The total denial of 335 MMB represents 14% of total demand for the period November 15, 1973, to March 31, 1974, and 20% of demand for the period January 1, 1974, to March 31, 1974.

Figure 1 shows that the impact of the denial in the first quarter of 1974 will be significantly reduced if actions commence immediately to spread the required demand curtailment over a longer period of time. As indicated in Chapter Four a denial of petroleum products in the 8–10 percent range will begin to have very serious effects on the economy. This is particularly true for reductions in heavy fuel oil (HFO) which directly impact on industry operations. Where the reductions can be taken in less critical areas such as motor gasoline, the economic impact can be softened.

TABLE 4.—MAJOR PRODUCT INVENTORIES

[In millions of barrels]

	Normal	Without denial	Effect of denial[1]	With denial	Memo operable minimum[2]
Dec. 31, 1973:					
Gasoline	247	225	(28)	197	195
Distillates	253	204	(30)	174	100
Heavy fuel oil	55	50	(31)	19	40
Total	555	479	(89)	390	335
Apr. 1, 1974:					
Gasoline	265	243	(111)	132	195
Distillates	149	125	(120)	5	100
Heavy fuel oil	46	42	(124)	(82)	40
Total	460	410	(355)	55	335

[1] Assumes 1,200,000 barrels per day crude oil and 8,000,000 barrels per day products denial from mid-November through yearend 1973; 1,800,000 barrels per day crude and 1,200,000 barrels per day products denial during 1st quarter 1974. Crude denials were converted to product effects based on the following yields for typical Middle East crudes: Gasoline—47 percent, middle distillates—35 percent, heavy fuel oil—less refining fuel consumed—16 percent.

[2] Operable minimum inventory results in spot shortages, but can meet required demand.

The seriousness of this situation can be better appreciated when the denial effects on specific product groups are examined. These data for the total U.S. are as shown below:

Product	Total demand in millions of barrels		Denial		
				Percent demand[1]	
	4½ mos. Nov. 15 to Mar. 31	3 mos. Jan. 1 to Mar. 31	4½ mos. (millions of barrels)	Nov. 15 to Mar. 31	Jan. 1 to Mar. 31
Gasoline	1,052	698	111	11	16
Distillates	589	417	120	20	29
Heavy fuel oil	464	327	124	27	38
Total	2,105	1,442	355	17	25

[1] Based on demand for the major product groups only. As a percent of total demand the denial percentage figures are 14 and 20 for the 4½-and 3-mo cases, respectively.

There is no doubt that substantial curtailments of HFO and distillate consumption will be required. These effects will be heavily concentrated on the East Coast where imports of these products have been historically concentrated.

Although a complete analysis of geographical effects has not been performed, the potential impact on the East Coast is illustrated by the following:

PAD DISTRICT I

Product	Total demand in millions of barrels			Denial percent demand)	
	4½ mo Nov. 15 to Mar. 31	3 mo Jan. 1 to Mar. 31	4½ mo millions of barrels	Nov. 15 to Mar. 31	Jan. 1 to Mar. 31
Distillates	357	253	80	22	32
Heavy fuel oil	324	217	106	33	49

Another way an import denial must be considered is to estimate the point of impact of the denial and the demand by location and then determine the necessary logistic response to equitably distribute the denial geographically.

Table 5 shows a distribution of a 3.0 MMB/D denial based on demand and historical import patterns for the first quarter of 1974. Reductions to the gross denial are included for additional emergency oil and gas production and conversion from oil to coal, and increased operation of nuclear plants. The net denial then may require geographical reallocation to give equitable distribution of the shortfalls. The illustrative balance assumes a pro rata allocation of the net denial based on demand. An analysis of specific inter- and intra-district movements required by this allocation was not possible in the limited time frame of this report.

TABLE 5.—TOTAL UNITED STATES IMPORT DENIAL AND SUPPLY/DEMAND BALANCE, FIRST QUARTER 1974

[In thousands of barrels per day]

PAD districts	I	II	III	IV	V	Total
BASE SUPPLY/DEMAND BALANCE						
Local demand for products	8,205	5,117	3,433	445	2,574	19,774
Interdistrict shipments—products	171	139	4,057	88	30	
Total required supply	8,376	5,256	7,490	533	2,604	19,774
Supply:						
Interdistrict receipts—products	3,253	964	78	62	128	
Interdistrict receipts—crude	130	1,884	110		30	
Interdistrict shipments—crude	−90	−40	−1,674	−350		
Crude production	117	942	6,277	672	1,120	9,128
NGL production	22	245	1,376	46	36	1,725
Processing gain and other	50	126	227	10	97	510
Inventory draw	460	185	395	−40	40	1,040
Subtotal	3,942	4,306	6,789	400	1,451	12,403
Imports:						
Crude (offshore)	1,237	200	595		590	2,620
Crude (Canada)	145	570		75	260	1,052
NGL (Canada)	5	75		35	10	125
Unfinished (offshore)	90		6		26	122
Products (Canada, offshore)	2,957	105	100	23	267	3,452
Subtotal	4,434	950	701	133	1,153	7,371
Total supply available	8,376	5,256	7,490	533	2,604	19,774
DENIAL						
Gross denial:						
1,800 crude (prorated on historical)	−846	−135	−516		−303	−1,800
1,200 products	−1,200					−1,200
Total	−2,046	−135	−516		−303	−3,000
Emergency measures:[1]						
Additional crude production			281		12	293
Additional gas production			150			150
Conversion oil to coal	95	130		25		250
Adjust processing gain	−6	−15	−21	−2	−10	−54
Net denial	1,957	−20	−106	23	−301	−2,361
Adjustment to base interdistrict shipments to equate denial across Nation:						
Crude	633	−358	−220	−55		
Products	344	−235	−88	−21		
Adjusted net denial proportionate to local demand PAD I–IV	−980	−613	−414	−53	−301	−2,361

[1] These offsetting measures require governmental action such as: approval: of emergency MER increase; approval of certain third party gas sales; relaxation of 'sulfur restiiction on plant emissions.

The allocation of crude and products to eliminate logistic bottlenecks and meet demand equitably will be a function of the demand resulting after all conversions and curtailments, the available sources of product, and the intervening refining and transportation systems. The detailed logistic analysis must include all affected parties and can be started only after the level of demand to be satisfied and crude and import product availability are established.

In summary, the impact of the Arab embargo on petroleum shipments to the U.S. will have a substantial impact and it will last for a long period of time after the embargo is lifted. The effects of the embargo can be significantly reduced if substantial reductions in demand are made immediately. The seriousness of the situation is not now apparent to the general public, but deferral of action until the situation becomes apparent will lead to very disruptive shortages by early in the first quarter of 1974.

CHAPTER THREE—AVAILABLE ALTERNATIVES FOR RESPONSE TO SHORTAGE

Emergency oil production

The Interim Report of the Emergency Preparedness Committee published estimates of the U.S. emergency oil production capacity. These estimates indicated that an average of 292 MB/D could be produced and delivered to refineries during a 90 day emergency, 331 MB/D could be delivered during a 6 month emergency. This emergency capacity builds up from an initial rate of 275 MB/D to a peak rate of 359 MB/D after about 3 to 4 months.

The emergency capacity consists primarily of production from NPR-1 (Elk Hills) and production in excess of the maximum efficient rate (MER) from several large Texas fields, such as East Texas, Yates, West Hastings, etc. The Texas fields are currently producing at their MER as established by the Texas Railroad Commission (RRC). Although these represent the maximum production rate which can be sustained without loss of recovery, the RRC does not establish emergency rates which could be produced for temporary periods. It is possible to exceed current rates in the high quality fields for short periods without significant reservoir damage. The precise volume and time period which production in excess of MER can be sustained depends on the individual field. The study has not considered producing in excess of MER for more than six months. Any production in excess of current MER would require recognition of an emergency situation by the appropriate regulatory agencies and a specific determination that the temporary production could not cause waste or reservoir damage. Also, any production of Elk Hills will require action by both the Executive and the Legislative branches of government.

Attainment of the estimated production volumes will require 2-3 months lead time and some investments in field oil and gas handling facilities. Also, in some cases gas flaring will be required. It should be emphasized that numerous legal problems can be encountered since there are substantial differences of opinion among operators regarding the effect of producing some of these fields at higher rates.

Conversion from oil to gas

Gas reserves in the United States which can be economically produced and delivered to market are fully committed to gas sales contracts, with the exception of uneconomic reserves or recently discovered reserves where time has not been sufficient to conclude sales and install necessary facilities to commence deliveries.

In an emergency situation, gas can be substituted for oil by many consumers who have dual oil/gas burning facilities. It has been estimated that capacity is available to burn in excess of 4 billion cubic feet per day (BCF/D) of gas in lieu of oil provided the emergency gas can be made available where needed.

The multitude of gas contracts and number of gas producers make it extremely difficult to estimate volumes of gas which might be made available under emergency conditions. Available data indicate the spare capacity to deliver gas is small. Nevertheless, even a small volume of additional gas could play a significant role in alleviating the East Coast supply situation discussed in the preceding chapter.

It is estimated that perhaps as much as 1 BCF/D of gas could be produced under emergency conditions and delivered to customers currently burning oil. This would be equivalent to 150 MB/D of oil.

Under emergency conditions, mechanisms and incentives should be provided to release additional gas supplies by taking the following steps:

The FPC should be authorized to allow, for a temporary period, emergency third-party sales of available interstate gas in excess of that now being taken under existing contracts.

The FPC's current 6-month emergency gas sales program, wherein gas is allowed to be sold at market clearing prices, should apply to these incremental volumes.

Gas transmission companies should be encouraged to transport and exchange gas to load all trunk lines to full capacity and deliver available gas to industrial customers after the essential needs of its residential customers are satisfied.

Conversion to coal

Estimates based on FPC and other data indicate that oil and gas fired boilers and furnaces could be converted to coal burning to the extent of about 250,000 B/D over a three-month period. Sulfur restrictions would have to be relaxed to accomplish this. This consumption rate is equivalent to 23 million tons of coal per year. Reaching this rate of additional coal use is believed realistic as there is an inventory of about 12 million tons of coal available for boilers not yet converted.

Based on the assumption that during the first 90 days of an interruption the rate of conversion would be 150 MB/D converted to coal in the first month and the remaining 100 MB/D converted over the second and third months, it would be possible to maintain operation at the full 250 MB/D rate for approximately 120 days without replenishment of supplies.

If coal production and transportation were not expanded, however, at the end of 7 months from the beginning of conversion, the stocks at the above plants would have fallen to 2 weeks' supply and operation of these boilers would have to be progressively curtailed.

The coal industry is unable to increase production to supply plants burning fuel oil and natural gas on the East Coast without building new capacity which would require at least three years; however, a coal allocation program could be implemented that would divert a portion of current production to convertible plants. The logistic problem with respect to coal is critical, especially in the large eastern metropolitan areas. The supply of open-top hopper cars is tight, facilities for distributing coal to alongside plants in the east must be repaired, and delivery to these plants is uncertain due to a shortage of barges and towboats. Emergency measures such as a coal allocation program and diverting some transportation equipment to critical areas offers some short-term relief, but the distribution system will be cumbersome, inefficient and expensive.

Coal mining capacity is critical throughout the eastern coalfields. An allocation program offers only temporary relief. Railroad repair facilities have deteriorated in the same degree as the inventory of rolling stock. Permanent long-term solutions are needed.

An additional contribution coal could make would be by increasing load factors on coal fired utility plants and thus reducing the oil/gas requirement of an electric power system. While this possibility has not been fully explored, it appears that existing transmission facilities are limited in their ability to distribute the added electricity to oil or gas consuming areas.

Nuclear power

Another potential means of assuring a degree of supply continuity during an import interruption is the expediting of nuclear plants already scheduled for operation. Conversely, slippages in operating schedules or deratings of existing plants would only serve to aggravate the crisis.

During the last quarter of 1973 and first 6 months of 1974, 12 nuclear power units are scheduled for commercial operation. These units total 9,800 megawatt (MW) of capacity equivalent to 300 MB/D of energy supply. Bringing these plants on stream promptly and at full capacity (instead of being derated) could make an additional 50 to 100 MB/D oil equivalent available during the first

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EXHIBIT 3

EMERGENCY PREPAREDNESS FOR INTERRUPTION OF PETROLEUM IMPORTS INTO THE UNITED STATES

SUPPLEMENTAL PAPERS TO INTERIM REPORT OF NOVEMBER 15, 1973

Maximum production deliverable to refiners is limited by existing trunk line capacity of about 250 MB/D. Thus, for a short-term emergency, spare capacity in excess of MER at East Texas is a maximum of 40 MB/D and will average 40 MB/D for 6 months. Expansion of the East Texas Trunk Line System would require 12 to 18 months.

West Hastings

The MER for West Hastings field (Figure 10), effective January 1, 1974, is 75 MB/D. It is estimated that additional emergency production from this field of 45 MB/D for a total rate of 120 MB/D could be obtained. This would require substantial modifications to existing oil and gas handling equipment which would require a minimum of 90 days and would cost about $3.5 million.

The maximum additional deliverable capacity at West Hastings is limited to a maximum of about 27 MB/D by existing trunk line capacity, and the average deliverable capacity for a 180-day period is about 13 MB/D.

Yates

The Yates field (Figure 11) is currently producing at an MER of 50 MB/D from about 600 wells. In an emergency, production from the field could be temporarily increased by 50 MB/D to a total of 100 MB/D. This increased production can be handled with only minor modifications to existing field oil and gas handling facilities. It may be possible to temporarily increase the field's production by as much as 100 MB/D (to a total of 150 MB/D during an emregency), However, this would require additional modifications to field facilities and special facilities to incinerate approximately 10 MMCF/D of gas which could not be handled in existing gas processing facilities. These modifications would require at least 3 months and cost several hundred thousand dollars.

Total temporary emergency capacity from Yates which is deliverable to refineries is estimated to be 60 MB/D with existing pipelines and some trucking. Thus, deliverable emergency capacity from Yates reaches a maximum of 60 MB/D and averages 55 MB/D for a 6-month period.

Tom O'Connor field

The Tom O'Connor field is currently producing at an MER of about 80 MB/D. Additional deliverable capacity through existing pipelines (and including some trucking) is estimated to be about 22 MB/D for a total field rate of 102 MB/D. These rates can be handled with existing production facilities. It appears that temporary well capacity is sufficient to permit additional emergency production of up to 60,000 barrels per day or a total field rate of about 140 MB/D. However, these rates are limited by existing production and gas handling facilities and trunk line capacity.

Hawkins

The Hawkins field is currently producing at an MER of 112 MB/D. Although additional temporary well capacity of as much as 40 MB/D may be available, this capacity is limited by available gas handling facilities and by existing trunk line capacity. Total deliverable temporary emergency capacity at Hawkins is only about 5 MB/D.

Other fields

Eight other major fields, primarily located in Texas, are estimated to have small volumes of deliverable emergency capacity which total 78 MB/D. Small volumes of emergency producing capacity probably also exist in a number of scattered small fields. Based on data published by the American Petroleum Institute, it is estimated that the deliverable capacity in these fields may average as much as 94 MB/D during a 180-day emergency.

Summary of current emergency crude production capacity

The emergency producing capacity deliverable to refineries is summarized in Table 17 and is shown in Figure 12. The maximum deliverable capacity is 369 MB/D, and because of the lead times necessary to expand facilities in some cases, the deliverable emergency capacity averages 292 MB/D and 331 MB/D during the first 90 and 180 days of an emergency, respectively. These temporary emergency production rates in excess of MER can be sustained for about 6 months without substantial reservoir damage (except for Elk Hills, where the emergency production can be sustained for several years or more). The deliverable capacity builds up from about 275 MB/D at the start of an emergency to the peak rate of 369 MB/D after about 3 months.

Attainment of the emergency capacities in the field will require some gas flaring and investments of approximately $8 million for additional field production facilities. These facilities can be generally added within the first 90 days of an emergency and should pay out based on the temporary additional production during the emergency.

The emergency production capacities in excess of MER estimated in this report differ substantially from the spare producing capacities estimated each year by the API. The principal reasons for this are differences in the definition of spare and emergency capacity. For example, the API defines spare capacity as the instantaneous rate which could be achieved at the field level on March 31 of each year. The API definition ignores pipeline limitations between the field and refineries and assumes that "intrafield equity considerations will be resolved." By contrast, the emergency capacities estimated in this study represent average rates for the period which can be produced and delivered.

TABLE 17.—SOURCE OF EMERGENCY CRUDE PRODUCTION CAPACITY, TEMPORARY CAPACITY IN EXCESS OF MER 1974

[In thousands of barrels per day]

Field	Current production	Maximum additional capacity deliverable to refineries	Average additional capacity deliverable to refineries for: 90 days	Average additional capacity deliverable to refineries for: 180 days
NPR-1 (Elk Hills)	5	35	12	23
East Texas	210	40	40	40
West Hastings	[1] 75	27	0	13
Yates	50	60	50	55
Tom O'Conner	80	22	22	22
Hawkins	112	5	5	5
Other major fields (8)		78	78	78
All others		102	85	94
Total		369	292	330

[1] Effective Jan. 1, 1974.

It should be emphasized that numerous legal and administrative obstacles would have to be overcome before these capacities could be attained. The MER's for the Texas fields have been established by the Texas Railroad Commission. Action by this body will be required to exceed any current MER. This action would have to be based on a finding that the temporary higher production would not damage the reservoir. In addition, substantial differences of opinion exist among the operators in most of these fields regarding the MER, and in some cases litigation is involved. The higher emergency rates can be obtained by permitting all wells in the field to increase their production rather than by producing only certain selected wells. Although this would appear to be the most equitable approach, it is anticipated that controversies and possible litigation will result when production is increased unless the enabling legislation provides clear authority for emergency production. Also, attainment of the estimated emergency rates in many fields will require the relaxation of various environmental regulations, particularly those regarding gas flaring.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. HOLLINGS. Mr. President, on balance I support the conference report and intend to vote for it. I had been concerned about the coal conversion section, section 106 of the report, in that I feared that the language of that section might be interpreted to give the Federal Emergency Energy Administrator excessively broad discretion in his determinations of whether or not to convert major fuel burning installations to coal. I therefore offered an amendment in the conference to provide that no such installation could be ordered to convert if adequate supplies of other fuels were available. By that amendment I meant explicitly to insure that in the distribution of oil throughout this country the very first priority would be given to public health considerations. Thus if low sulfur fuel were available to a plant Federal officials would have been prohibited from allocating it out of the hands of such plant and converting the plant to coal when the result would be an adverse effect on human health. While that amendment did not carry, I was assured by many of the conferees voting against it that the basis of their vote was that they regarded it as redundant. In other words, they intended that under the case by case balancing approach required by section 106 the criterion of nonavailability of low polluting fuels was intended to be met before conversions could be authorized. I therefore rest assured that the Federal energy officials will observe this criterion in their exercise of the balancing test and recognize that it is our intent that they do so.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2).

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. Metcalf).

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

ORDER FOR RECOGNITION OF SENATORS JAVITS, MATHIAS, KENNEDY, ROBERT C. BYRD, AND HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated, Senators Javits, Mathias, Kennedy, Robert C. Byrd, and Harry F. Byrd, Jr.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM AND PROCEDURES

Mr. MANSFIELD. Mr. President, upon the conclusion of business tomorrow, the Senate will adjourn until noon, Monday, February 18, 1974. The House will adjourn this evening until Wednesday, February 13, 1974. Thus the Senate will take 5 days off, the House will take 3 days off to afford Members the opportunity to return to their constituents.

The concurrent resolution which has been adopted by both Houses of the Congress provides for this recess. Through an oversight on my part, the resolution does not contain the language providing for a recall by the leadership of the Congress. It has been and will continue to be the leadership's intention to include this authority for all recesses and adjournments of the Congress in the future.

The sense of urgency for such a provision of recall by the leadership of the Congress was greatly reduced because of the shortness of the recess period, and by the fact that the House today agreed to pass the legislation which was adopted unanimously in this body, the so-called Magnuson bill, 3 days ago.

That will be of some effect, I believe, in the alleviation of the plight of the truckers. The measure has the approval of the administration, and it tends to break down to a 30-day time period which would have to be gone through automatically in relation to this aspect of the ICC.

Mr. HUGH SCOTT. Mr. President, which we have already passed.

Mr. MANSFIELD. The Senator is correct. So it is on its way to the White House now. As I say, the sense of urgency for such a provision of recall by the leadership of the Congress was greatly reduced because of the shortness of the recess.

There will, however, be only 2 working days, Monday and Tuesday of next week, that neither House of Congress will be in session.

I just wanted to make that statement. The Senate will be in tomorrow. It is hoped some progress can be made in educating the Senate and the people about the 47 amendments which the distinguished Senator from Arizona alluded to, and that when we do get to a vote on this measure—and I assume it will be shortly on our return—we will all be well versed in all the facts.

Mr. FANNIN. Mr. President, if the Senator will yield, if I may comment on the statement of the majority leader—and I appreciate what he said—my reference was to 40 provisions, not 47 amendments.

Mr. MANSFIELD. I thank the Senator.

Mr. HUGH SCOTT. Mr. President, with the indulgence of the distinguished majority leader, I think it ought to be said that the majority and minority leaders do hope for, and will do our very level best to bring about, a vote at the earliest possible time consistent with the rules of the Senate and the privileges of all Senators.

Mr. MANSFIELD. I agree.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLEN. It does not seem to the Senator from Alabama that the objection that was made this morning to agreeing on a definite time for voting on a motion to recommit, and then the final vote on the conference report, has hastened the time for the vote. The Senator from Alabama was wondering if the distinguished majority leader might possibly be disposed to renew his request for unanimous consent, since it is obvious that a Tuesday vote is an earlier vote than we might anticipate if it is left without a unanimous-consent agreement.

Mr. HUGH SCOTT. Before the distinguished majority leader replies, I might point out that the objection to a unanimous-consent request could only have the effect of delaying the vote, not expediting it.

Mr. ALLEN. Yes, that occurred to the Senator from Alabama.

Mr. HUGH SCOTT. And regardless of any requests to the contrary, that is the fact; no agreement is no assurance to anyone as to when we will have a vote, if ever.

Mr. MANSFIELD. I agree with both Senators. I have given the matter some thought, and if Senators will indulge me, I prefer not to make that motion at this time unless those Senators are present who objected earlier today.

I have talked informally with Republican members of the committee, and I am of the belief that we will have no trouble on Monday a week in getting the agreement offered at that time, and, with their concurrence, approved.

Mr. ALLEN. I thank the distinguished majority leader. I am reassured by his statement.

Mr. FANNIN. Mr. President, I would hope, in accordance with what the distinguished majority leader has said, that we can arrive at an early vote, but I know that we had an understanding, and we were very hopeful that we could at this time make the agreement; and I assure him that from the standpoint of our desire we did. But I cannot give him any assurance that that can be done, because as one Senator I cannot give such assurance.

Mr. MANSFIELD. No, but I am sure, knowing the Senator as I do, that he will make every effort to assure that what we attempted today will become effective on Monday week.

(Mr. BARTLETT assumed the chair as Presiding Officer at this point.)

Mr. HANSEN. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. Yes.

Mr. HANSEN. I would just like to observe, Mr. President, that there was a good-faith effort, as no one understands more clearly than the distinguished majority leader, on the part of those representatives of the Senate conferees on the energy bill to reach an accord, and their views unanimously, insofar as the representatives were concerned, were transmitted to the distinguished majority leader, and I am sure undergirded his making the unanimous-consent request this morning that we agree upon a time certain—4 p.m. Tuesday, February 19—to vote on two issues, the adoption of the conference report and/or the recommittal of that report to the conference committee.

I had occasion, earlier this afternoon, to observe that there was, in the opinion of this Senator at least, some demagoguery displayed this morning. I will leave it up to each individual Member to agree or disagree with me. But understanding, as I hope most Senators do, the extremely complicated provisions of this bill, it was not without some justification that there were those of us who felt that it was not fully understood, and I think that that statement has been borne out in the debate today on the basis of interrogatories that have been propounded by various Members who were conferees on that energy bill.

Moreover, the fact that the responses were not immediate, and that almost invariably, in order to make certain that an accurate response was given, it was necessary to turn to a staff man, prompted me to observe that certainly not more than 11 Senators of the 100 who occupy positions in this body could have had more than a very cursory understanding of this energy bill.

Later this afternoon, it was my privilege to hear the present distinguished Presiding Officer of the Senate (Mr. BARTLETT) discuss at length with the distinguished Senator from Louisiana the ramifications of the impact that the rollback could have upon domestic oil production in the United States, and I hope that every Senator who votes when this issue finally does come before the Senate for a vote will take the time to read what was said by those two most knowledgeable energy experts. In the opinion of the Senator from Wyoming, they happen to know what they are talking about.

My point, Mr. President, is that failing, as we did this morning, to achieve a unanimous-consent agreement, despite my personal willingness to do all I can to see that the Senate has an opportunity to vote on this issue as quickly as I can conscientiously, and my belief that there is a sufficiently good understanding of the bill to permit a responsible vote by Members, I must say that I cannot guarantee that this same persuasion on my part will characterize the attitude of every other Senator in this body on either side of the aisle.

So I would just like to point out to my good friend the distinguished majority leader that I personally will do my best to cooperate, as I have earlier indicated, with him in getting the unanimous-consent agreement, but I would hope that it might not go unnoticed that those who spoke with what seemed to be some small degree of intemperance this morning would not be unaware of the fact that their remarks may not have been appreciated, perhaps, as much as they had hoped that they would be.

To my good friend from Montana I say simply that I will do my best to cooperate with him in trying to see that this issue, first, is understood by the people and by Congress, and then is voted upon just as expeditiously as possible, but I would feel constrained to observe that not everyone is entirely happy with some of the things that were said earlier today. If it should come about that we do not find ourselves able to agree by 4 p.m. on February 19, 1974, Tuesday after next, I hope that he might understand the blame for those who may make that accommodation impossible is not one freely assumed by those who may be constrained to object.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator from Wyoming (Mr. HANSEN), but it is my belief that all Senators on both sides — all sides today — spoke in good faith. Certainly the fact that the distinguished ranking Republican member of the committee, the Senator from Arizona (Mr. FANNIN), pointed to the fact that there were 40 amendments—new amendments—new proposals in the conference report, that should be elucidated and made better known to the membership, was a point well taken. Also it was stated that it would take a few days, really, to tell the Members of the Senate and the country just what the factors involved were.

I would assume, as I usually do, having such high regard for the Senate and its Members, that what would be readily attainable today would very likely be readily attainable on Monday, February 18, at which time, the Senate concurring, the unanimous consent request will once again be offered.

May I say that today we have spent more than 6 hours on debate on the subject of the conference report.

Mr. FANNIN. Mr. President, I want to express my appreciation to the Senator from Montana and to say, as I said earlier, that there were 40 sections in the report that should be studied, because one of the Senators thought we would just talk about the one provision. That was my point at that time and what I referred to later in discussing this matter with the distinguished majority leader. I will do my best, as I have stated to the Senator frequently, to try to come to a satisfactory understanding for a vote.

As I said during the afternoon, I was pleased to hear some of the debate that did bring up questions that should be very seriously considered. So I just say at this time, as I said before, that I can give no assurance other than my own assurance that I will cooperate in trying to bring a vote to the Senate floor at the earliest time consistent with what I think is proper in the handling of this legislation. I certainly will cooperate with the majority leader.

Mr. MANSFIELD. I appreciate the statement just made by the Senator from Arizona. I think the record should show that he was the one who initially came forward and indicated it would be possible to work out a time agreement, at which time a vote could take place, or votes could take place, and I commend him for his initiative.

Mr. FANNIN. The majority leader is correct and I regret it was not possible to do so.

Mr. MANSFIELD. So do I.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination for the Commissioner of Patents, which was reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. CLARK). The nomination on the Executive Calendar, for the Commissioner of Patents, will be stated.

COMMISSIONER OF PATENTS

The legislative clerk read the nomination of Curtis Marshall Dann, of Delaware, to be Commissioner of Patents.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate proceeded to consideration of legislative business.

SENATE RESOLUTION 282—APPEARANCE OF SENATOR GURNEY AND PRODUCTION OF RECORDS IN CONNECTION WITH GRAND JURY PROCEEDING

Mr. GURNEY. Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk proceeded to read the resolution.

Mr. GURNEY. Mr. President, I ask unanimous consent that the reading of the resolution be dispensed with and that the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

S. RES. 282

Resolution relating to the appearance of Senator Gurney of Florida, of employees in the Office of Senator Gurney, and the production of Senate records, with respect to certain grand jury proceedings

Whereas certain grand juries in the United States District Courts in Florida are conducting investigations pertaining to Federal Housing Administration matters, and related issues in Florida;

Whereas Senator Gurney of Florida wishes to appear and testify voluntarily before these grand juries, but, by privilege of the Senate and under the Standing Rules of the Senate, he may not do so but by order of the Senate: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of courts of justice, be taken from such possession or control but by its permission.

SEC. 2. By the privilege of the Senate and by rule XXX of its Standing Rules, no Member or employee of the Senate is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by employees of the Senate in the performance of their official duties as such employees may not be revealed without the consent of the Senate.

SEC. 3. When it appears by the order of a court or of a judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needful for use in that court of justice or before that judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justices consistently with the privileges and rights of the Senate.

SEC. 4. If the United States District Court for the Middle District of Florida, Jacksonville Division, or the United States District Court for the Southern District of Florida, Miami Division, should issue a subpena ad testificandum or subpena duces tecum to any employee in the office of Senator Gurney to appear before a grand jury of either court concerning Federal Housing Administration matters and related issues, that employee is authorized to appear before that court or Grand Jury at the time and place stated in the subpena, and may testify to any matter determined by the court to be material and relevant to matters being investigated by either such grand jury, but shall not take with him any papers, documents, or evidence on file in his office, under his control, or in his possession as an employee of the Senate.

SEC. 5. If such court should issue a subpena duces tecum to an employee in the office of Senator Gurney with respect to such matters being investigated by either such grand jury and determine the materiality and relevancy of the documentary evidence called for in any such subpena, the said court, through any of its officers or agents, shall have full permission to attend with all proper parties to the case at a place under the orders and control of the Senate, to take at such place copies of such documentary evidence in the possession or control of the employee as the court has found to be material and relevant, and to take at such place such evidence of witnesses in respect to such evidence as the court or other proper officers thereof shall desire, except that the possession of such evidence by such employee shall not be disturbed and such evidence shall not be removed from their files or custody under the employee.

SEC. 6. Subject to the limitations hereinbefore stated, any employee in the office of Senator Gurney so subpenaed, is authorized to supply certified copies of such documentary evidence as the court has found to be material and relevant to the matters being investigated by such grand juries. In addition, any such employee may answer questions asked by the Federal Bureau of Investigation concerning his official Senate duties, and exhibit to the Bureau Senate documents in his possession.

SEC. 7. The Senate gives permission to Senator Gurney of Florida to appear and testify before such grand juries.

SEC. 8. Copies of this resolution shall be transmitted to such courts and grand juries as respectful answers to any subpena they may issue with respect to such matters being investigated by those grand juries.

Mr. GURNEY. Mr. President, the resolution has been cleared on both sides and with the majority leader and the minority leader. So far as I know, it is ready for adoption.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. FANNIN. Mr. President, I ask unanimous consent that an article entitled "FPC Delay Points to More Costly Gas," published in the Washington Star-News of Wednesday, February 6, be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

FPC Delay Points To More Costly Gas

(By Stephen M. Aug)

A last-minute effort by the Federal Power Commission to save a deal bringing gas to this country from Algeria has turned out to be a failure.

The United States may get the liquefied natural gas, but it will likely pay much more than the price on which the Algerians originally agreed.

Lawyers in this case—and in other cases in which Algerian deals have fallen through—appear universal in blaming continuing delays at the FPC for the problems.

"This is a world energy crisis and it's dog eat dog," said Charles E. McGee, a lawyer representing Eascogas, and a veteran of 30 years of FPC practice. "Hell, they don't have to sell to the U.S. and wait for the FPC to get off its ass and do something—they have Japan, they have Italy, Spain, France, anyplace," he said.

The reason for McGee's unhappiness is the tardiness of the FPC, which has been considering since August 1972 a plan by Eascogas LNG Inc., of Newark, N.J., to import in liquid form the equivalent of 4.72 trillion cubic feet of gas into the United States over the next 22 years.

The gas—which would be sold to consumers in New Jersey and New England—was to be priced at about 83 cents a thousand cubic feet at dockside in the United States (compared with an average wellhead price for gas produced in this country of about 22 cents).

The contract with Sonatrach, the Algerian government-owned oil and gas company, provided that the deal had to have FPC approval by last Jan. 1, or the contract would be void.

On Jan. 28, the FPC, in a 3–1 ruling, snatched the case away from a hearing judge and authorized the importation of the gas. The FPC majority said it was acting because the nation is "confronted with a national energy emergency."

The sole dissenter, Commissioner Rush Moody Jr., said, however, that the commission's action fooled nobody because it settled nothing. It did not decide whether the project is safe; whether the high price is justified; whether the plan is economical, or whether it can meet environmental safeguards. All are subject to further possibly lengthy hearings.

The action, he said, "would delight a snake oil salesman."

Apparently he was right. The Algerians who read Moody's dissent and the FPC order weren't fooled, gas industry sources said. While the contract isn't canceled, the price now is up for negotiation.

"Some people think we don't have a contract, which, of course, is entirely false," said McGee. "We do have a contract," he added, pointing out that the FPC ruling was simply an interim order.

"One of the problems we have with this contract," he said, is "we had to get this approval, but we also have to get the approval of the Algerian government, and the Algerian government doesn't give approval until after the party gets some kind of approval itself."

Thus, during the year and a half it took the FPC to act, world prices for natural gas have soared, and problems between Arab nations and Israel have further complicated the energy picture.

The price agreed upon in the original deal was 45.75 cents per 1,000 cubic feet in Algeria, plus 38 cents for transportation—or 83.25 cents at U.S. dockside. This is subject to 1.5 percent annual escalation on the 45.75 cent price that began Jan. 1, 1973. The most recent deal with Algeria, by the Trunkline Gas Co., a subsidiary of Panhandle Eastern Pipeline Co., called for gas at dockside U.S. of about $1 per 1,000 cubic feet.

McGee and his Eascogas client—a subsidiary of Algonquin Gas Co., and a number of utilities—should consider themselves lucky. The fact that the FPC has failed to act entirely in another case, involving Distrigas Corp., has doomed that contract with the Algerians entirely.

Distrigas had a 20-year contract calling for 45 billion cubic feet of liquefied natural gas flowing every year starting in 1975 (compared with 240 billion for Eascogas).

The Distrigas contract was to expire Dec. 31 if the FPC hadn't acted. The commission didn't act (the matter is still in the hearing process).

As a result, according to John Cabot, a vice president of Distrigas—a subsidiary of the Cabot Corp.—Algeria exercised its right and canceled the contract.

"We haven't started serious negotiations," Cabot said in a telephone interview from his Boston office, because "the market is so turbulent right now."

Distrigas' application has been before the FPC since early autumn of 1972.

"We're a little frustrated," Cabot said, "You'd think we'd be heroes in an energy crisis, but there are a lot of complications along the way."

Mr. FANNIN. Mr. President, this particular article verifies the information given to us by Dr. Stauffer. In fact, it is a very good illustration of what we have been discussing for some time in the consideration of the deregulation of new natural gas.

Mr. President, let me make the record clear that before voting on the proposed legislation, every Senator is entitled to know the provisions in it, in order that he may decide whether he wants to oppose or support the conference report.

Second, the time involved in making it possible to have a complete analysis of the stipulation in the proposed legislation between now and when the Senate reconvenes on Monday, February 18, is certainly needed.

Third, the House of Representatives is now out of session and will be, as stated, until February 13. The House did not have the votes before adjournment to force the bill out of the House Committee on Rules, and there is no assurance that that can be done before the Senate returns. So there is no intention, or no assurance, at least, that there will be any delay by the Senate.

Finally, we who have asked for these discussions and analyzation of the conference report are acting in the best interests of the Nation. We are not engaged in a filibuster. There is no filibuster at all. We are engaged in making certain that the provisions of the report are known and understood before the report becomes the law of the land.

We are fulfilling the duties our constituents elected us to do. We are fulfilling the duties imposed upon us as Senators by the Constitution. I feel that it is highly essential that we do thoroughly discuss this measure. I sincerely hope that every Senator will read what has been placed in the Record, because it is most valuable in determining the problems and also the benefits of the legislation.

I hope that every Senator will consider the stipulations that I refer to at this time.

Mr. ALLEN. Mr. President, I wish to commend the distinguished Senator from Arizona for his efforts to bring the conference report to a vote. I think he has made a generous offer to agree to vote on the measure on the Tuesday following our return from the recess.

It seems passing strange to the Senator from Alabama that the Senators who say they want to vote on the conference report are the ones who are not agreeing to setting a time certain for a vote; whereas, the distinguished Senator from Arizona, who is said to be filibustering the conference report, is seeking to get a time agreement for a vote on the conference report. It certainly seems strange that the Senator from Arizona is being charged with delay, when he is trying to get the conference report to a vote at a given time. I commend the Senator from Arizona for his position, for his request that the vote be set for just as early a time as we are going to get a vote by discussing it. I feel that past experience has demonstrated that the quickest way to get a vote is to set a time certain, which the Senator from Arizona is willing to do. I commend the distinguished Senator from Arizona.

This is one of the most glaring objections I have to the tremendous price increases that have come in this whole field. It is certainly an unfair increase. I want to get the price of propane, along with that of gasoline and diesel and other petroleum and natural gas products, rolled back. I think the most glaring and outrageous price rise has been in the field of propane. I believe that permissible price increases are going to be spread out more equally and more evenly under the provisions of the conference report, and it is a very commendable report at that point.

The wisdom of the Senate in sending this conference report back to the conference committee some days ago has been justified, because this is a much better conference report than first came out. It underscores the position of the Senator from Arizona in pointing out that possibly improvements can be made if an opportunity is given to consider and study the various aspects of the report.

I might say that I am going to vote against recommitting the report. I am going to vote for the report. One reason, among many, is that consideration has been given by the conferees to rolling back the price of propane, which has been allowed to increase in price some 350 percent; whereas, in other areas there has been a much smaller increase. As the Senator from Alabama understands, the oil companies have been allowed to set their increase as much as they pleased, and a disproportionate share of the permissible increase has been placed on propane.

Propane is the poor man's, the rural man's, the noncity man's natural gas. He uses it for every purpose—for heating, for his chicken houses, for the small industries on the farm.

So I commend the Senator from Arizona for his willingness to set a time and his demand that a time be set. Still, he is charged with delaying the report, which the Senator from Alabama cannot understand.

Mr. FANNIN. Mr. President, I wholeheartedly agree with the distinguished Senator from Alabama. I thank him for his kind remarks.

We have made this attempt and have made it again and will be pleased if we can make it again.

I share his great concern about propane prices. I know quite a bit about that business. For the last several years, I have been trying to get additional quantities of propane. Not only have I asked for a research program on what can be done with respect to propane that is now wasted in many parts of the world, but also, I have talked about the salt caverns that can be washed down. We have them in my State, and probably there are some in Alabama and Minnesota and other States, and they can be utilized for the storage of propane gas. We are in short supply, and the price has gone completely out of reach.

We have to weigh that against the other stipulations in the proposed legislation. Although I am vitally concerned and certainly felt very pleased with the opportunity we had of trying to roll back the prices on propane, at the same time we must realize the consequences. If we wanted more propane, if we wanted to lower the price of propane, we could deregulate natural gas. Seventy percent of the propane is produced from natural gas. Only about 30 percent comes from refinery processing. So it is important to realize that although we do have that one stipulation in the bill, which the Senator very much agrees with, we have some very costly stipulations in the bill that I feel will be much more harmful.

We are talking about rolling back the incentive for the production of more oil. We are rolling back the price on the stripper wells. We have many stripper wells throughout this Nation, and the Senator from Wyoming has reported on that subject very eloquently. I think there are about 85,000 in Texas alone that produce an average of 3.8 barrels a day. It is a very costly process. As the distinguished Senator from Wyoming stated, one of the independent companies that reported about this processing stated that for every barrel of oil they produce, they have to dispose of two barrels of brine, which they have to dump into the gulf. In other words, it is a very expensive procedure. The distinguished Senator from Wyoming can explain this very thoroughly, because he has had contact with these people.

I assume that the Senator from Minnesota desires to speak, and I do not want to detain him, so I yield to him, and I will then continue my remarks.

Mr. HUMPHREY. I thank the distinguished Senator from Arizona.

Mr. President, I associate myself with the remarks of the distinguished Senator from Alabama, particularly as to propane. The people in my State are complaining, and rightly so, about the unbelievable price increase. The Senator from Alabama is right when he says that, for all practical purposes, it is the rural man's and the poor man's natural gas.

For example, in the poultry business in our State, it has been very costly. Many of our farm homes are heated with propane. Many of our small plants in small towns use propane as a fuel. It has become almost prohibitive to use it, and it has cut sharply into whatever earnings they had. It has really been most unfair. I thank the Senator from Alabama for speaking as vigorously as he has on this matter.

I also agree with the Senator from Alabama that the bill that came back is a better bill. I did not vote to send the bill to committee, and that perhaps was an error of judgment on my part. I felt rather strongly about the profits that some of the oil companies have been making and thought we ought to do something about that. I hope we shall do something about it, through the committee system we have in the Senate—the Committee on Finance—and the House Ways and Means Committee.

I believe the bill that has come back is a better bill. We need action on the bill, and we need action for one reason: The energy problem is the top, No. 1, issue that concerns the American people today. We are not going to get perfect legislation, and we know it. But in the meantime, we have to have something that will give the people in the administration the tools they need to do the job, and then we can hold them fully accountable.

I happen to think that Mr. Simon is doing a good job with the tools he has to work with, and I want him to do an even better job. I have visited with him personally. I have had good cooperation from his office, and he has appeared before commitees I have had the opportunity to serve on. I think he is a responsible and a responsive public official.

I thank the Senator from Alabama for his comments.

Mr. ALLEN. Mr. President, I thank the Senator for his fine comments on this most important subject.

FISCAL YEAR 1975 BUDGET INCREASE HIDES ACTUAL DECLINE IN DOMESTIC PROGRESS

Mr. HUMPHREY. Mr. President, the 1975 budget has been greeted by the press with large headlines proclaiming it the largest budget ever sent to Congress. This is quite true but every new budget is the biggest ever because we are a growing nation. This 1975 budget is essentially a "standpat" budget. It makes no new initiatives. It moves us no closer to the goals we have set before ourselves. The President has discussed national health insurance, but the budget explains that this program is not to begin until 1977. He has urged welfare reform, but there is no proposal in the budget. The administration has proposed raising the level of unemployment insurance benefits, but again not until 1977. With the exception of national defense, this is a do-nothing budget.

The second part of this document is called Perspectives on the Budget. However, the perspectives presented here are very carefully chosen. I would like to expand this perspectives discussion in a way that I hope will show more clearly the choices made in this budget. In a world of constantly rising prices, holding the dollar expenditures on a government program constant means a reduction in the level of real activity. Even when the dollar expenditures rise, they sometimes do not keep pace with inflation. Let me give an example: In 1974 veterans benefits are estimated to be $13.3 billion. In 1975 they are estimated to be $13.6 billion. On the surface this looks like a modest increase for veterans. However, if we look at both of these numbers in 1958 dollars, to take out the growth due to anticipated inflation, we observe veterans benefits actually declining by about $350 million.

This is the story of the 1975 budget. Most programs are held constant or allowed modest increases. In fact, if we take out the functional category of national defense so that we are examining the civilian budget, and then look at these expenditures in constant dollars, the 1975 budget shows a very small increase. In constant dollars the civilian budget increased about $5 billion from 1973 to 1974 and about $3 billion from 1974 to 1975. If inflation is worse than anticipated, civilian programs will increase even less than the $3 billion constant dollars estimated.

These modest increases are the result of Congress insisting that people who are dependent on social security and other income maintenance programs should have their benefits raised to keep pace with inflation. Every time Congress has wanted to raise social security benefits it has been opposed by the Nixon administration. This record of opposition is clearly documented in an article by John Herling, appearing in the January 26, 1974, issue of the Washington Post.

But income maintenance programs like social security are uncontrollable expenditures. They are uncontrollable because the administration cannot change them without coming to Congress for new legislation. If we want to see where the administration's priorities lie, we must examine the controllable expenditures—areas where there is some discretion. From 1974 to 1975, controllable outlays for civilian programs are projected to decline by about $600 million. At the same time controllable outlays for defense programs are projected to increase almost $4 billion. The $600 million decline in controllable civilian programs is before any adjustment is made for inflation. When the effect of inflation is considered, outlays for these civilian programs will decline about $1.3 billion in constant dollars. There is no doubt where this administration's priorities lie.

Mr. President, I ask unanimous consent that the Washington Post article, entitled "Social Security Record," be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY RECORD

(By John Herling)

President Nixon's technique in grabbing credit where credit is not his due was incredibly illustrated when he signed the latest legislation calling for an 11 per cent increase in Social Security benefits.

As he signed the bill in San Clemente, he spoke with pride of the fact that Social Security benefits "have risen by 68.5 per cent since this administration took office five years ago."

What he did not say was that he and his top associates dragged their feet and tried to slow down Congress from enacting an increase in Social Security on the four separate occasions that Social Security benefits were raised.

Seventy-two year old Nelson Cruikshank, the vigorous president of the 4,000,000-member National Council of Senior Citizens, scorched the "dismal record" of the Nixon administration in its first five years. Not only has Mr. Nixon resisted adequate improvements in the Social Security system but, says Mr. Cruikshank, "he lacks a realistic income strategy for old Americans." But the President's effort to block improvements in Social Security benefits was thwarted by the Democratic Congress which attached Social Security increases to veto-proof legislation.

Here is the record, starting with his first year in office:

In April 1969, Mr. Nixon proposed a 7 per cent increase in benefits. Organized labor and the National Council of Senior Citizens lobbied hard against the administration's proposal. Whereupon, in September of that year, the President relented and said he would go with 10 per cent. But Congress insisted on a more adequate figure and in December, Congress tacked on a 15 per cent increase to the tax reform bill. Thereupon, the President reluctantly bowed and signed the bill on Dec. 30.

In 1971, Nixon proposed a 6 per cent increase in Social Security benefits, but Congress—again by oblique action—stiff-armed the President. In March of that year, it passed a 10 per cent increase which was tied to the debt ceiling bill.

In June 1972, Congress again circumvented the President. At first, he favored a 5 per cent increase but later agreed to a 10 per cent boost. Labor and senior citizens organizations insisted on a higher figure—20 per cent. This became law when Congress again attached the increase to the debt ceiling law.

In that presidential year, the re-election of the President was the main order of business. Without a flicker of embarrassment, President Nixon took the credit for the increase he had opposed. Every Social Security payment contained the following notice:

"Your Social Security payment has been increased by 20 per cent with this month's check by a new statute passed by Congress and signed into law by President Nixon on July 1, 1972."

Finally, the other day, the President signed the latest Social Security bill for a two-step 11 per cent increase, the first increase of 7 per cent to be effective in March and the second in June. But Mr. Nixon wanted no increase at all until July.

Actually, if the President had his way in the last five years, the Nixon increases in Social Security benefits would have amounted, at best, to no more than 28 per cent instead of the 68.5 per cent to which he now points with pride.

Mr. HUMPHREY. Mr. President, finally I wish to address the subject of national defense, and I shall do so repeatedly on the floor. There is extra money in the budget for national defense. It is premature for anyone to say it is too much or that it is too little. I am not going to make that comment. It is more than $6 billion over last year for national defense. There is another supplemental that provides a little over $6 billion. In other words, approximately $13 billion would be added to the fiscal year 1974 national defense budget.

The question before Congress is not so much the number of dollars we spend but what do we get for what we spend it for? What kind of defense structure are we getting? Does it meet the needs of the Nation? Are we following in the old tracks laid down long ago as part of the long cold war strategy and struggle? Does this defense budget meet the diplomatic initiatives we are engaged in? Does it face up to the world in which we live? Are we depending too much on the nuclear deterrent? Do we have a balance of forces?

Mr. President, I happen to believe that the Department of Defense is overstaffed with civilians. I happen to believe we have too many overseas bases, little ones many of them, but they are costly in terms of administration.

I do believe that some of our weaponry is overly sophisticated. Some of it was proven to be so in the recent October war in the Middle East. We can learn a great deal from that struggle, tragic as it was. We found that some of the equipment we thought was so good because it had all kinds of flares and gadgets on it, did not do the job.

So the Senator from Minnesota, rather than saying we should slash the defense budget by $4 billion, $6 billion, or $5 billion, whatever the amount may be, and I think there can be justifiable cuts made, is asking that the appropriate committees of Congress make the kinds of comprehensive review of our entire defense structure that long has been needed. We have not had that kind of review since about 1960–61, and the world has changed a great deal since then.

It is with that thought in mind, and I shall press this case day after day, that I shall request that Congress take a look at the tremendous expenditures for national security.

I believe in national security. I do not think we can afford to find ourselves with weaponry that has little or no relationship to the realities of the world in which we live. But I want to make sure that we are not permitting our admirals, generals, and planners who have been accustomed to their ways, to set patterns in national security and national defense which give us too little security and all too little defense.

It has been said a number of times about an old ally of ours that the French in World War II were prepared to fight World War I with the maginot line mentality, as we referred to it, which had no relationship to the kind of blitzkrieg warfare which had become the new warfare of modern Europe. I hope and pray that we are getting the most for our dollar.

As I speak on the budget from time to time, I shall examine it not only from the point of view of the amount of money we are spending but, more importantly, the product we are getting—do we need it and will it do the job?

Mr. HANSEN. Mr. President, I wish to compliment the distinguished Senator from Minnesota for bringing us the message he has just delivered. Earlier this afternoon in commenting upon a recognition that shall surely be given to the Senator from Texas (Mr. TOWER), I was impressed by the same strong logic with respect to our national defense that has prompted the Senator from Minnesota to speak as he has. I could not agree with him more.

I recall, as I am certain he will, that in a hearing the Vice President spoke to the William Randolph Hearst scholarship winners yesterday, and the Vice President took the occasion to comment on the progress that had been made in the solution of international problems or the start that had been made. He underscored the fact that much of the progress that can be claimed almost solely by the United States, and which must go in large measure to the Secretary of State, resulted from the fact that the United States of America is a strong Nation, it is a creditable Nation, and only America, of all the nations in the world today, in the words of the Vice President, and I am paraphrasing what he said, would have been able to have undertaken this tremendously important mission and to have been able as has so far been secured in bringing together two peoples who have been fighting not for centuries but for thousands of years.

While it is just a start, it is a start. The Arabs and the Israelis for the first time in I do not know how many hundreds of years are beginning to look at an alternative to war.

I think the thoughts expressed by the Senator from Minnesota underscore the necessity of our looking very closely at this budget. I do not doubt there are places where we may say more should be spent, and there may be other places where we may say less should be spent, but on one thing, and perhaps on many, the Senator and I are agreed—let us not make the fatal error of cutting the military budget simply because it happens to be the biggest one we have had. Wait and see what that budget has already achieved for America.

Mr. HUMPHREY. I thank the Senator very much.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. HANSEN. Mr. President, let me

say that there has been some excellent dialog here in the Senate today that will contribute significantly to a clearer understanding of what the so-called energy conference report can do and might do to, as well as for, America. I would hope that Senators not able to be here this afternoon will take occasion to read what is in that Record.

I spoke earlier about the number of Senators who have a very great, in-depth understanding of the energy business in America, and I certainly know that all of us will be better informed if we take occasion to read what they have said.

Because a number of excellent presentations have been made that I think should command the attention of all Senators. I ask unanimous consent that there may be included in the Record at this point various and sundry statements, editorials, and newsstories that I feel will contribute to the sort of understanding which I would hope might characterize each person's comprehension of this problem before eventually it is voted on by the Senate.

There being no objection, the material was ordered to be printed in the Record, as follows:

STATEMENT OF MR. ERVING WOLF

My name is Erving Wolf. I am Chairman of the INEXCO Oil Company which is a public company listed on the New York Stock Exchange. INEXCO is an exploration company with virtually all of its interests dedicated towards exploration in continental United States. We are one of the largest exploration companies in the United States and in 1972 and 1973 we attained the rank of being the 4th and 5th largest exploration company in footage drilled and wildcat wells drilled. During these years our exploration activities exceeded such companies as Atlantic Richfield, Union Oil Company, Signal Oil Company, Marathon and Standard of Ohio. Our 1974 Budget for domestic exploration is approximately $30 million.

I have come to Washington today with the idea of lending some thoughts toward the current energy bill being considered by the Senate. I would hope that the Senate will pass a productive bill as opposed to one that might have some counterproductive thoughts in it.

I sincerely think that one of the most important things that the Senate should consider is a three-tier pricing system. Currently we have old and new oil. Under the category of new oil are stripper production and the improved production coming out of old oil fields.

The United States currently produces approximately 9 million barrels of oil per day. Of this amount approximately 25 percent is considered as new oil and 75 percent is old oil. Of roughly 2.5 million barrels of new oil, 2 million is stripper production and of the other 500,000 barrels, some of that was new discoveries whereas part of that was through upgrading existing oil fields that were previously discovered but came under the FEO new oil regulations. Basically, almost all of the new oil in the United States under FEO rules was old oil upgraded to a "new" status. It was placed there without any risk on the part of the operator.

The key to find new oil is through wildcatting. That is the only way we can significantly increase our domestic reserves and help our balance of payment. New Oil exploration looking for major reserves should be encouraged. Therefore a new set of economics should govern the pricing of totally new oil found through wildcatting as opposed to an old oil field being put into a category of new oil. The independent oil companies are being put in a terrible bind by trying to rollback the price of new oil to somewhere in the $7.00/$8.00 range. Basically the major oil companies do not do domestic exploration. Historically 85 percent of the newly discovered oil is found by independent oil companies. The major oil companies have just been the beneficiaries of four new profit centers which the independents do not share. Approximately 80–90 percent of all the old oil which was recently increased $1.00 per barrel is owned by the major oil companies. Therefore they get another dollar a barrel on roughly 30 billion barrels of oil.

For the first time in history, refining and retailing of gasoline has become a profitable venture. Up until now the profit of the oil industry has been through finding low-cost production whereas basically refining and filling station operations merely were ancillary to production and were run on a basically low profit basis.

Another tremendous new source of revenue for major oil companies is the profitability of petrochemicals. I repeat the independent oil companies are not in refining, filling stations and petrochemicals and they did not have the tremendous reserves in the ground that the majors had that were the beneficiaries of the increased dollar. If we find new oil in the United States which is totally new oil then it should flow with world prices because if we don't find the oil in the United States then we will have to import oil. By finding oil in the United States we create new jobs and we use American labor and we use American pipe and supplies. If we send the dollar out of the country there is no telling that we will ever get this dollar back. So the instrumental profits that fall upon the country are much greater if we can let the new American oil float at a free world price because we add a lot to the economic stream. Also, the independents are beset by a number of higher costs in finding this new oil in addition to the normal risks. The price for drilling contractors has gone up tremendously. Drilling prices have increased 20 to 25 percent. The price of steel is up plus or minus 20 percent. The cost of leases are going up. Plus a number of the State governments are starting to impose higher severance taxes such as the State of Louisiana. For these reasons, I strongly suggest that the Senate give careful consideration to a possible third-tier which would be exclusive for totally new production which should float with the free world price. Unless we can accomplish this fact then domestic exploration of new reserves will not increase to a significant amount that will be meaningful to helping both the energy problem and the balance of payment problems.

[From the Wall Street Journal, Jan. 24, 1974]

TAXING "UNCONSCIONABLE" OIL PROFITS

Congress is back in session with oil industry profits on its mind and blood in its eye. And if the politicos were not sufficiently primed by their constituents to put the bite on oil profits, they will surely be aroused as the majors this week and next announce 1973 earnings. Exxon, the No. 1 company, got its spur in yesterday when it reported $2.44 billion in profits, a 59% increase over 1972.

It may have been too much to expect that the White House, even in the best of times, could provide a degree of sobriety in this lynch-mob atmosphere. But with President Nixon having problems of his own, he's in no position to say anything that smacks of being soft on the oil tycoons. Instead, he vows to do everything in his power to prevent the big oil companies "from making an unconscionable profit out of this crisis." His plan to tax "windfall profits" through a graduated excise tax on domestic crude is already being scorned on Capitol Hill as tokenism, so yesterday he served up stiffer and inordinately complicated measures.

The danger is that Congress, in swinging blindly, is apt to damage the nation's energy industry to an extent that will prolong the energy crisis indefinitely. Clearly there are items in the tax treatment of petroleum companies that could well be reconsidered on their merits, but the current mood of Congress is not problem-solving but retribution. Unless it sheds its conspiracy theories and punitive mood, it will damage not only the companies but the nation. In December it came within a whisker of passing a bill to hold the oil companies' profits to their 1967–71 average, which would have guaranteed a steady deterioration in the nation's energy supplies and put beyond hope any movement toward self-sufficiency.

We don't know precisely what goes on in the minds of the folks on Capitol Hill while they're thrashing about in this fashion. But they do act as if their picture of a petroleum company comes closer to being an editorial cartoon than anything else. The oil corporation personified is a large, paunchy Texan in a ten-gallon hat with dollar signs on his business suit. An enormous sack on his back, from which coins spill, contains unconscionable profits.

As it happens, a petroleum corporation, like all others, is not a person but a mechanism. Its aim is not simply to make profits, but to do so in a way that will enhance its longevity, i.e., its ability to earn more profits 10, 20 or 30 years from now. This means it can not spend current profits on champagne baths, bubble dancers and high living. It must spend those profits, directly or indirectly, to rebuild itself and to expand itself if those goods it produces are meeting increasing demand in the marketplace.

It spends them directly, using current profits and the promise of continuing profits to borrow, for capital expansion, increasing the research effort, exploring in less promising spots and recovering oil that previously could be brought up only at a loss. It spends them indirectly as dividends to its shareholders, which are in effect nothing more than an interest payment on the capital those shareholders have advanced. As dividends increase, more people with capital are attracted away from investments in widgets into investments in petroleum. With this, the corporation can raise new capital not only by borrowing at the bank, but by offering new shares in the equity markets.

The mechanism is now straining to renew itself in this fashion. Profits will not rise as dramatically in 1974 as they did in 1973, for the past year's profits benefitted from two factors that will not be repeated—the appreciation of the dollar in foreign exchange markets and the appreciation of inventories as oil prices rose. But in 1974 profits will be enough to insure that the corporations could raise the tens of billions of dollars they will need to spend in the years ahead. In announcing its $2.44 billion in profits yesterday, for example, Exxon also projected capital expenditures of $3.7 billion for 1974. The mechanism is working to get the United States out of the energy hole.

As it is, though, Congress is in a mood to punish the mechanism. Hold down prices. Tax away profits. Screw down dividends. "Listen, you paunchy Texan with the sack of coins on your back," they seem to be saying, "forget about banks and stock markets, equity, debt, dividends, shareholders and profits. Just go out and get the oil."

Is it any wonder, as Vermont Royster observed on this page yesterday, that the value of the oil companies on the stock markets is going down even as profits climb? What is in doubt is not current profits, but the longevity of the mechanism that produces them. With blood in its eye, Congress seems bent on smashing it. And if there are not sufficient numbers of clear heads in Washington to resist this wrecking crew, there will soon be a lot more retribution and a lot less energy.

JACKSON: UNRECONSTRUCTED NEW DEALER

(By William Buckley)

The recent performance of Sen. Henry Jackson of Washington reminds us, sadly, that he is more than the shrewd legislative guardian of the nation's military security, and the leading legislative skeptic of the pretensions of detente. He is also an unreconstructed New Dealer, who probably lulls himself to sleep at night reading old speeches by FDR about the malefactors of great wealth.

There was the scene a fortnight ago, Jackson standing, his features poised in lofty derision while in the pit below him were seven men seated behind a long table. Those who looked at the photograph were vaguely surprised that the men looking up at Jackson weren't wearing earphones, the better to hear the polyglot prosecution as they did in Nuremberg a generation ago.

Such was the posture of the seven leading figures in the oil industry, while Jackson was acting the chief prosecutor: and the television news hummed out the beat—the malefactors of great wealth ride again, but Jackson will save you. He'll save us, all right; if you don't watch out.

During that hectic week all kinds of things were being said in the ambience of Jackson, wild talk about setting up a national utility to govern oil, one takes it, on the model of the way the British have handled their nationalized coal. There was talk of dire and dreadful and irresponsible profits. The news was that Standard Oil of Ohio "has reported a 24 percent gain in earnings for 1973."

In the kind of imagination to which Jackson is unfortunately pandering these days, a 24 percent profit rise suggests something translatable in terms of a 24 percent salary increase. It is of course nothing of the sort, and one despairs at the psychological opacity of American businessmen, who give out figures that beg to be misunderstood by the public, aided by concertmasters of the disposition of Jackson.

I do not have the complete figures for Standard Oil, but can only suppose that its profit is comparable to Mobil's in which case a 24 percent profit increase meant a quarter of a cent more per gallon of gasoline sold. That isn't the kind of thing that should get people sent to Nuremberg charged with crimes against humanity.

Meanwhile, what concretely does Jackson propose? Rationing, to begin with. Rationing is okay if there is a physical shortage: i.e., if a doctor or factory worker can't buy gas. But rationing because we have 17 million barrels of oil, whereas we could use 18 million barrels of oil, is on the order of rationing water when the rainfall drops by five percent.

Jackson wants to adjust the oil depletion allowance, lowering it for big companies, and raising it for small companies. Some people call that fine tuning, I call it flapdoodle. The large companies are best situated to attract massive capital needs for huge exploration ventures, and pipeline construction. The investment public is supposed to come up with $15 billion for new exploration and development in the next two or three years. Who is going to put up that money? The characters in Art Buchwald's columns?

And then Jackson wants automobiles to consume less gasoline. So he proposes a bill which would require manufacturers to produce cars that will use less gas. Why, why, does Jackson desire to gild the lily? When gas goes up in price, automobile engines get smaller. Ask Europe. No silly laws: merely the high price of gas and, in some countries of Europe, a horsepower tax. Far better a tax, added to the price of gas, than outright elimination: the temptation of the bureaucrat, to achieve ends by compulsory law rather than by institutional growth.

Jackson is a splendid man who has performed splendidly for his country. But he is desperately in need, right now, of post-New Deal instruction in economics, and in the nature of a free society.

[From the Wall Street Journal, Jan. 23, 1974]

PUZZLEMENT

(By Vermont Royster)

It's been hard to know who's right, the vocal politicians and self-appointed experts making journalistic headlines or those anonymous folk who haven't been putting their money where everybody else's mouth is.

The reference is to all those oil profits. For weeks now you could hardly pick up a newspaper or tune in the television without hearing somebody say the oil companies would reap exhorbitant profits from us long-suffering home-heaters and auto-drivers. And that maybe they even plotted the whole oil shortage in cahoots with President Nixon. Meanwhile, every time you turned back to the stock market tables there were all those oil stocks dropping because nobody wanted to buy them.

One such headline read, "Crisis Not So Tough on Oil Firms." Another, "Oil Firms Gain, Crisis and All." Still another, "Is Crisis Work of U.S. Oil Firms?"

Then on the evening TV news there were those pictures of oil tankers lined up to disgorge their precious loads while the voice-over wondered how there could really be an oil shortage unless those tankers and storage tanks were hoarding fuel against our distress. Sandwiched in were the film clips of this Senator or that Congressman or some instant expert like Ralph Nader inveighing against huge windfall profits.

And also the editorials. One at hand calls for an immediate special tax on oil companies to soak up "excess profits." And here is one that suggests King Faisal's turning off the tap was just an "excuse"; the oil shortage must in fact be the result of "purposeful action" by the international oil companies to reap greater profits at the expense of the American people.

Of course there have been a few voices saying yes, Virginia, there really is an oil shortage. Including the voice of William Simon, the energy czar, who by now ought to know as much as anybody about it. No matter. They have been drowned out.

A recent New York Times story, labeled an analysis, is fairly typical. After leading with the statement that the oil crisis is bad news for everybody except the oil industry, it cites oil industry profits in the first nine months of last year and then switches to the outlook for the "sales proceeds" of the oil companies in 1974. Since the price of foreign crude has more than doubled and therefore prices are rising also for the end product, the amount of money involved is, true enough, bound to increase. The story doesn't convert this, however, into any hard facts about actual profits.

United Press International also carried a long story about the rising indignation in Congress against the oil companies because (a) there really isn't any oil shortage and (b) the oil shortage is "primarily the work of U.S. petroleum companies rather than the Arab embargo." One of the factors cited for the "hostility" toward the oil majors was that they were getting some Arab oil into the country despite the oil embargo. It wasn't explained why this should be a cause of hostility rather than praise.

But meanwhile back on Wall Street all these windfall profits were sending oil stocks plummeting. Exxon fell from a 1973 high of 103 to close the year at 83, down 19%. Gulf from 29 to 20, down 30%. Standard of California from 37 to 27, down 27%. Texaco from 43 to a close of 25, down 41%. Moreover every time the Mideast news was bad the oils led the stock market down. Only passing glimmers of hope for a return of Middle-East oil brought them up again.

It sure dosn't make much sense. You think all those smart people on Wall Street, or just ordinary investors around the country, would have snapped up those oil stocks if they really believed what they read in their newspapers or heard from Walter Cronkite. Maybe there's a commentary there on the credibility of the press.

Of course one explanation of the anomaly is the difference between political rhetoric and investment action. Rhetoric comes cheap, cash comes hard. You're apt to be more thoughtful before putting out money than putting out a political statement; the latter costs you nothing if you're wrong.

Also, it's perfectly true that last year saw the profits of the major oil companies rise precipitantly in the first nine months of the year when they had plentiful oil to sell. It's also true that in the first weeks after the Arab cutoff incoming oil kept the stockpiles up; it wasn't until last week that the inflow began to trickle down. And the reaction of most people, journalists included, was that if you didn't have an instant drop in supplies how could there be a crisis?

But there is another reason, I suspect, for the public suspicion that it is all some kind of a dire plot, one that has nothing to do with the facts and one that cannot be allayed by facts.

If we have a beef shortage a lot of people simply aren't going to believe that it's because of a failure of the feed crop, or because consumer affluence has increased the demand beyond the supply, or because inflation has made it impossible for farmers to grow beef at the ceiling price, or whatever the real reason may be. It's got to be a plot. "They" are conspiring to gouge "us."

The "they" varies with circumstance. Sometimes the impulse is to hang the butchers, they being closest at hand. Or maybe the middle-men, the meat-packers and wholesalers. But somehow when mysterious things happen there must be a "they" out there somewhere plotting against "us." In olden days the cure was to burn a witch.

Perhaps we do have here proof of the prevalence of witches. That is, maybe all those oil company people have been clever enough to corner the whole world's oil supply and are gloating over all those exorbitant profits they are going to glean from wrecking the economies of the United States, Great Britain, Japan and practically the whole Western world blithely unconcerned about the risk of being put to the torch.

If that isn't ridiculous, it's at least a puzzlement. For if it's true that all those exorbitant profits glitter while oil stocks languish, there must be an awful lot of dumb people on Wall Street.

[From the Chicago Tribune, Jan. 23, 1974]

CRISIS BLAME HINGES ON WHERE ONE SITS

(By Nick Poulos)

Looks like the hangin' posse has finally caught up with them thar "oil rustlers."

Sen. Abraham Ribicoff [D., Conn.] got the Senate investigation into the oil shortage off to a shootin' start Monday by charging that the petroleum companies are "cheating and misleading" the American people.

Ribicoff sounded as tho he has all the nooses ready and needs only a big sturdy tree to hold his hanging' party.

Evidence? Who needs that? Hang the scoundrels; they look guilty anyway.

Sounds like something right out of the pages of Van Tilburg Clark's "The Ox-Bow Incident."

Ribicoff apparently never did learn what capitalism is all about. So we shouldn't be too surprised that he has assumed the all-in-one role of judge, jury, and executioner.

But Sen. Charles Percy [R., Ill.] knows what capitalism is all about. He learned about it during the years he headed Bell & Howell Co.—before he became a professional politician.

Percy has joined the hangin' party.

With a straight face, no less, this ex-businessman who used to preach capitalism from the corporate pulpit is demanding to know whether the energy crisis is real or contrived.

And he also wants to know why the oil industry denies it is reaping windfall profits while it is reporting much higher earnings.

Good questions. But he's not the one who should be asking them. He already knows.

The oil company executives who were summoned to the inquisition denied—under oath—that they rigged the oil product shortage to make windfall profits. They characterized the charges as "wild and totally unsupported . . . absolute nonsense."

It's tough to keep an open mind on things these days. Even professional newspapermen fall victim to their prejudices.

In a preamble to a Q. and A. interview session with John E. Swearingen, chairman of Standard Oil Co. [Indiana], The Tribune's environment editor, Casey Bukro, tells us what we can expect from this oilman before we have a chance to judge for ourselves.

"Much of what he [Swearingen] says echoes what other oilmen say and think about the oil shortage," Burko tells us.

"They often blame consumers and the federal government for the shortage, while avoiding giving details of their business. They are openly contemptuous of the judgment of anyone not in the oil industry.

"Swearingen's answers show how an oilman typically responds to questions about the oil shortage."

In his two-part Q. and A. encounter with Swearingen, Burko carefully skirts the fact that the lunatic element of the environmental movement has been responsible for part of the oil shortage.

The great oil discovery on Alaska's North Slope was made five years ago. But the environmentalists succeeded in preventing construction of a pipeline to get the oil out. They've also succeeded in preventing the oil companies from full-scale exploration offshore California and in the Gulf of Mexico.

The subtlety of Swearingen's parting shot in the Q. and A. endeavor may or may not have been lost on The Tribune's environment editor:

"It is automatically assumed that we are liars and connivers instead of trying to be decent citizens like newspaper people and senators are."

Economist Milton Friedman posed some challenging questions concerning the oil shortage in a recent Newsweek column:

"If the oil companies have conspired to create a shortage profitable to themselves, why have they been so slow to do so? They are no more powerful than they have been for many years.

"Why did they wait so long before squeezing the hapless consumer? And how do they make profits by having no oil to sell? By full-page advertisements urging consumers to economize on fuel?

"This is simply the irrational search for a devil."

[From the Christian Science Monitor, Jan. 28, 1974]

OILMEN "STUNG"; EXECUTIVES EAGER TO EXPLAIN INDUSTRY'S SIDE OF SHORTAGES

(By Richard Nenneman)

NEW YORK.—"The oil industry is like someone who warned of a coming avalanche," said one company economist. "Most people got out of the way in time, but they're blaming us now for giving the warning."

A combination of a warm winter, the public's positive response to the call for conservation of energy, and some judicious oil-company juggling of cargoes on the high seas have so far minimized the extent of the energy shortage.

But the oil industry, never a favorite in the public's eye, feels stung by the sudden attack against it and by the new problems its lack of credibility raises for its future.

And the industry is trying to do something about it. Proof of this is the ease with which this reporter obtained interviews with top oilmen during a week when many of them were also on the spot before the Senate Subcommittee on Investigations.

$1 TRILLION FOR EXPLORATION

Beyond the problem of credibility is that of raising as much as $1 trillion in the next decade for needed exploration and refinery building. That money has got to come from profits or new outside investment in the industry, or both.

Either way you slice it, the oil industry's immediate future hangs on whether it is allowed to proceed more or less like the rest of American manufacturers or whether it ends up being regulated like the public utilities.

Because of the size of the oil industry's operations—with the majors having their sources of supply all over the world and also selling their products worldwide—it has been perhaps a natural target both for those who wanted to manipulate it for selfish ends and for those who are suspicious of bigness.

Both J. K. Jamieson, chairman of Exxon Corporation, and Herman J. Schmidt, vice-chairman of Mobil Oil Corporation, list the industry's size, as well as that of its major companies, as one of its main problems. Nine of the top 25 companies in Fortune's 500 list are oil companies. Exxon and Mobil are the two largest.

OTHER PROBLEMS CITED

What else ails the industry's image?

Both Messrs. Jamieson and Schmidt mention the public's image of the oil speculator, the guy who has suddenly struck it rich. Yet this image has little to do with the working reality of the major oil corporations, concerned with the worldwide production, transport, refining, and marketing of oil products.

The public deals with the oil companies on almost a daily basis, just as it buys milk and bread several times a week. But what it deals with in reality is an independent dealer sporting an oil company emblem out on the street. And whatever service that dealer gives is what the customer comes to identify with the company whose gasoline he is selling.

There is, further, confusion over high profits in absolute dollar amounts (because of the companies' size) and high profitability. The enormous jump in profits in 1973 brought many of the companies back only to the level of 1968 profits. For the last decade most of the oil companies have earned less on their investments than the average manufacturing company.

Then finally come the special tax provisions the oil companies enjoy, particularly the percentage depletion allowance. It sounds like a giveaway, and some of the companies now acknowledge that they may have fought too hard in the past to retain it as part of the tax code.

AN ALBATROSS

"Frankly," said one executive, "the oil depletion allowance is an albatross around our necks. Without it the public would have just as much oil, it would just cost more."

Said another oil official, "To the extent the depletion allowance can be called a loophole, I wish I had never heard of it."

Yet no one in the industry is publicly willing to recommend that it be abandoned without some quid pro quo. They point to possible inequities in changing any established system abruptly. In any case, whatever they think of depletion, they are unlikely to publicly admit in advance of serious negotiations with tax-writing officials in Congress just what they could give up in this area without serious economic injury.

If it did not know it before, the oil industry certainly learned last week in Washington that it has a repair job to do on itself. Said E. Howard Hardesty, executive vice-president of Continental Oil Corporation, at its headquarters in Stamford, Conn., "Here we are trying to serve the best interests of the people, but apparently failing to communicate."

TERMINOLOGY BLAMED

Mr. Hardesty responded to the charge that the companies are extraordinarily secretive:

"We have delivered all the information the government wants except in one area. That has to do with our reserves." There, he explained, typical industry accounting methods take a conservative view. The government and many outside observers think that U.S. reserves, for instance, may be higher than the companies officially say they are.

"This is a question of terminology, of agreeing on what should be stated as reserves," said Mr. Hardesty. He agreed that more information could be developed for appropriate governmental use, but he warned against its being used to destroy the competitive nature of the business.

Mr. Hardesty has not hesitated to criticize the present adversary relationship that has developed vis-a-vis the oil industry, as he fears that if it is not effectively countered, it will only delay the solution of the nation's very real energy problem.

In a talk he gave a week ago, Mr. Hardesty said, "Our present energy crisis is being seized upon, by some extreme elements in our society, as the vehicle to move aggressively toward nationalization. As I watch the attacks on the petroleum industry by congressional liberals and media accelerate without regard to fairness or facts, I am convinced there is a conspiracy to exploit this period of hardship and confusion to destroy the industry.'"

[From the Chicago Tribune, Jan. 12, 1974]

HOW GOVERNMENT BURDENS OIL FIRMS

(By John Chamberlain)

Our populist liberals, who prefer being gypped by the invincible incompetence of government bureaucrats to taking their chances with a competitive economic system, are now in full cry about the alleged exorbitant profits of the oil companies.

But what are those profits? Oil industry profits on sales, in the third quarter of 1973, amounted to 8.3 per cent. This represented an improvement over 1972's third quarter figure, which was a modest 6.7 per cent [you could have done better than 6.7 at long-term compound interest at the savings bank]. But it has not been enough to build the new refineries and big tanker offshore unloading facilities that are needed all up and down the U. S. East Coast. As for extensive new exploration and drilling at an 8.3 per cent profit on sales, forget it.

California's Joe Shell, a former State Assembly minority leader who happens to be an independent oil producer, spoke his despairing piece in a radio interview conducted by Republican State Sen. H. L. Richardson at the capitol in Sacramento. Shell put it simply when he said that when you don't make a profit out of drilling for oil, you just don't drill. Attacking the California legislature, Shell remarked that it had placed every possible type of harassment on drilling. The extra costs, he said, had driven the independents to incorporate elsewhere, in Nevada or Texas.

In 1969 the Populist liberals in the U. S. Congress reduced the oil depletion allowance from 27½ per cent to 22 per cent. The separate oil-producing states followed suit with their own lowered depletion allowances. This reduced the capital available for new exploration by an amount that was just about proportional to the reduction in the depletion funds. Since only one new well in 25 turns out to be productive, this was bad enough for the nation. But according to Shell things were worse in California because the legislature added a special tax that effectively reduced the local depletion allowance to 17 per cent, far lower than elsewhere in the U. S. California production forthwith dropped from 1,050,000 barrels a day to 890,000 barrels in two and one half years.

Says Shell, "We talk about the farmers not being able to get enough fuel oil, and diesel oil, and gasoline in the San Joaquin Valley. Why? Because there isn't enough crude oil. You can't produce oil economically in that area, so the small refineries that provide the farmer with all that energy no longer have it. They are operating at 60 to 70 per cent of capacity in those refineries because they depend on local crude oil—domestic crude oil—they can't get foreign crude oil."

There are today 600 independent oil producers in California, down from 1,100. It used to take 120 drilling rigs working constantly to keep California production at a million-barrel-a-day level. But the burden of taxes has reduced the drilling rigs to below 30 working each day.

Commenting on Shell's observations, Richardson remarked that "government is like a cockroach—it's not what it steals from you that worries you, it's what it falls into and messes up." This should be engraved over every legislative portico in the nation. With due apologies to Archy the famous nocturnal, lower-case cockroach.

Despite the depressing effect of taxes on the petroleum industry, Rep. John Dingell [D., Mich.], who ought to be worried about keeping Detroit's automobiles on the road, still talks about "all those bloated oil companies." Even Sen. Henry [Scoop] Jackson [D., Wash.] has been deluded by the Populist liberal animus against the oil industry. It took courageous action by a small group led by Senators Paul Fannin [R., Ariz.], Dewey Bartlett [R., Okla.], Clifford Hansen [R., Wyo.], and Russell Long [D., La.] to delete a "windfall profits" clause from the Emergency Energy bill which is still awaiting passage in Congress.

Jackson is threatening to head a drive to restore the windfall profits section when Congress meets again. Jackson is ordinarily on the side of the free market system, and he is surely aware that if the Boeing planes manufactured in his home state of Washington are to be kept flying they will need fuel. Jackson's wholly laudable concern for the Israelis should also impel him to favor a more profitable local oil industry in America. So why should Jackson bow to Populist illogic on the oil investment issue? It's a mystery, that's what it is.

Testimony by the Honorable George P. Shultz

Mr. Chairman and Members of the Committee: I am pleased to be with you this morning to discuss the fiscal effects of the energy problem and the Administration's tax proposals which deal with aspects of this situation.

The proposals I will discuss today have several purposes. The first proposal is for an Emergency Windfall Profits Tax. It is designed to recover excessive profits from oil producers. The next group of proposals were among those I presented to your Committee last April. They affect incentives for the domestic production of oil and gas and include the proposals for a Minimum Taxable Income, for a Limitation on Artificial Accounting Losses and for an Exploratory Drilling Credit.

The remaining proposals are designed to eliminate several undesirable tax rules which now exist in connection with foreign oil and gas operations. Elimination of those rules would make foreign investment in oil somewhat less desirable than it now is. We believe these proposals relating to foreign operations to be important in the overall picture, but they are directed at limited situations and should not be confused with the broader effort to recover excessive profits.

Before I commence that detailed discussion, let me give you a brief overview of the problem.

THE OVERVIEW

Prior to the Arab bloc embargo, the United States demand for oil had increased to an annual rate of about 17 million barrels of oil per day, only 11 million of which were produced here. Our domestic oil output and capacity stabilized at about 11 million barrels per day around 1970. In fact, the current rate of exploration and development of new domestic reserves is barely sufficient to cover the natural decline in productivity from existing oil fields. This situation is attributable to a number of interrelated factors, including:

Government regulation of natural gas prices at artificially low levels since around 1960. Low gas prices obviously reduce the potential profitability of the gas discovery effort. Since most gas is "associated" with oil, whatever makes gas discovery less profitable makes the discovery of both *oil and gas* less profitable.

Rising costs of discovering additional on-shore reserves. After a century of intensive discovery effort, the remaining on-shore prospects are less attractive than off-shore prospects. The best on-shore prospects today are wells much deeper than most now in operation and they involve much higher discovery costs.

Delays in drilling outer continental shelf prospects. Although costly to drill, these prospects should yield large oil and gas capacities. The delays have been due in large part to government leasing policies and concerns with environmental questions.

Delays in the output from Alaskan and off-shore California fields. These fields should yield large oil and gas reserves but their production has also been delayed due to government leasing policies and concerns with environmental questions.

Government regulation of domestic crude oil prices. Crude oil prices were frozen at August 1971 levels until January 1973 when small price increases were allowed. "New oil" prices were freed after two years of controls in August of 1973, but "old oil" prices are still controlled. The presence of price controls discouraged additional investment which could have increased productive capacity.

To satisfy our increasing energy demands in the face of the restrictions on domestic supplies resulting from the above factors, we turned increasingly to imports.

But under the mandatory import program that had been in effect since 1959, quotas existed which significantly limited imports of oil and refinery products. As demand grew but domestic production held steady after 1970, import quotas were increased, but not at a rate which kept up with increases in demand. Investment in additional refinery capacity in this country thus became unattractive because of the uncertainty that sufficient supplies of crude oil—either domestic or imported—would be available for refining. Accordingly, many U.S. companies built refineries offshore and most of the increase in U.S. imports took the form of refined products such as middle distillate fuels and, particularly, heating oils.

By the beginning of 1973, these domestic circumstances—controlled prices of oil and gas, rising discovery costs, delays in exploration and production for environmental and other reasons and a growing reliance on imports to satisfy increasing demands—converged with a growing foreign demand for oil stimulated by world-wide economic boom conditions. The result: world oil prices began to advance from their historical levels. And, when the dollar was devalued for the second time in February 1973, the *dollar* price of oil in world markets began to rise higher.

The continued high level of demand for oil through the first nine months of 1973 quickly brought foreign production to maximum short-run capacity, further increased world oil prices, and set the stage for the world crisis precipitated by the embargo invoked by Arab bloc producers in October 1973, and the consequent skyrocketing of oil prices.

Most of the profits produced by these very major increases in the price of imported crude oil have gone to the foreign governments that own or control the oil, in the form of higher taxes or royalties. However, a significant part of the increased profits from this source has gone to United States companies and individuals in the business of producing and shipping this oil, primarily as a result of sales in foreign countries and, to a lesser degree, as a result of sales to United States consumers.

Through the Federal Energy Office, the Administration has requested sacrifices in oil use from all citizens so that as little as possible disruption to our lives and our economy will result from the oil supply disruption. The Administration believes that it would be unfair for United States producers to be advantaged while their fellow citizens are making the sacrifices required, by retaining excessive profits from the abnormally high prices caused by the shortage.

Increased profits from higher prices to oil owners which occurred in 1973 are reflected in Table 1, which compares reported profits and rates of return on equity for the years 1969–1972 and the nine-month period ended September 30, 1973, for 22 of the largest United States oil companies. It is important to keep in mind that increased profits are not necessarily "excessive" profits.

TABLE I.—NET INCOME AFTER TAX AND THE RATE OF RETURN ON EQUITY OF SELECTED OIL COMPANIES (1963-73)

[In millions of dollars]

Company	1973		1972		1971		1970		1969	
	Net income	Percent return[1]	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent
Total	9,087.3	15.1	5,951.7	9.7	6,007.3	10.2	5,556.7	10.4	5,549.9	10.9
Amerada Hess Corp.[2]	151.8	23.5	46.2	8.3	133.3	24.0	114.0	25.7	86.5	23.7
Ashland Oil Corp	98.3	17.3	68.0	13.5	40.5	8.8	52.0	11.7	56.9	13.3
Atlantic Richfield Co	270.2	8.9	192.5	6.5	210.5	7.3	209.5	7.5	230.1	8.5

Company	1973 Net income	1973 Percent return[1]	1972 Net income	1972 Percent	1971 Net income	1971 Percent	1970 Net income	1970 Percent	1969 Net income	1969 Percent
Cities Service Co	135.6	9.8	99.1	6.9	104.5	7.7	118.6	8.9	127.2	10.0
Clark Oil & Refining Corp	30.5	29.9	8.3	9.8	3.6	4.7	10.8	14.0	13.0	18.7
Continental Oil Co	242.7	14.0	170.2	10.4	140.1	9.1	160.3	10.7	146.4	9.8
Exxon Corp	2,440.0	18.5	1,531.8	12.5	1,516.6	13.1	1,309.5	12.0	1,242.6	12.3
Getty Oil Co	135.0	8.8	76.1	5.2	120.1	8.5	103.2	7.8	105.8	8.3
Gulf Oil Corp.[2]	760.0	14.0	447.0	8.3	561.0	10.2	550.0	10.4	610.6	12.1
Kerr-McGee Corp.[2]	58.8	10.8	50.6	10.1	40.7	10.8	35.9	10.3	33.6	10.3
Marathon Oil Co	129.4	15.2	79.8	10.2	88.7	11.7	86.5	11.8	89.4	12.1
Mobil Oil Corp	842.8	15.7	574.2	10.9	540.8	10.9	482.7	10.4	456.5	10.4
Murphy Oil Corp	53.6	24.4	14.3	7.6	11.1	6.2	9.3	6.5	6.2	4.5
Phillips Petroleum Co	230.4	12.1	148.4	8.1	132.3	7.6	132.3	7.8	127.8	7.7
Shell Oil Co	332.7	10.9	260.5	8.9	244.5	8.7	237.2	8.6	291.2	10.9
Skelly Oil Co	44.0	7.5	37.6	6.8	38.3	7.0	36.1	7.0	38.4	7.7
Standard Oil of Calif	843.6	14.4	547.1	10.5	511.1	10.4	454.8	9.8	453.8	10.3
Standard Oil Co. (Ind.)	511.2	12.4	374.7	10.0	340.6	9.6	314.0	9.3	321.0	10.0
Standard Oil Co. (Ohio)	74.1	6.6	59.7	5.6	58.8	5.7	64.4	6.3	51.9	5.3
Sun Oil Co	230.0	12.3	154.7	8.8	151.6	8.9	139.1	8.4	152.3	9.4
Texaco Incorporated	1,292.4	25.0	889.0	12.4	903.9	13.4	822.0	13.1	769.8	13.1
Union Oil of Calif	180.2	10.6	121.9	7.6	114.7	7.4	114.5	7.6	138.9	9.5

Company	1968 Net income	1968 Percent	1967 Net income	1967 Percent	1966 Net income	1966 Percent	1965 Net income	1965 Percent	1964 Net income	1964 Percent	1963 Net income	1963 Percent
Total	5,539.4	11.8	5,175.6	12.0	4,701.9	11.7	4,203.7	11.2	3,846.9	10.8	3,579.7	11.0
Amerada Hess Corp.[2]	89.8	19.8	76.8	22.2	73.1	22.6	63.4	22.2	59.4	23.0	52.4	22.7
Ashland Oil Corp	53.6	14.6	48.4	15.5	45.0	17.6	35.8	15.5	23.7	14.0	18.1	11.7
Atlantic Richfield Co	105.8	7.8	130.0	10.2	113.5	9.4	99.1	8.1	47.1	7.3	44.0	7.0
Cities Service Co	121.3	9.9	127.8	10.9	120.1	11.0	100.6	10.2	84.5	9.1	77.5	8.6
Clark Oil & Refining Corp	12.1	20.4	11.5	23.4	9.6	24.2	8.7	27.8	2.1	9.8	1.5	6.8
Continental Oil Co	150.0	10.6	136.1	10.1	115.6	10.3	96.2	10.2	100.1	11.1	87.4	10.5
Exxon Corp	1,276.7	13.0	1,155.0	12.3	1,090.1	12.1	1,021.4	11.9	1,050.6	12.6	1,019.5	12.8
Getty Oil Co	98.3	8.3	118.2	10.5	92.3	9.0	57.7	6.9	43.0	5.6	43.0	6.1
Gulf Oil Corp.[2]	626.6	13.2	568.3	12.9	504.8	12.3	427.2	11.2	395.1	11.0	371.4	10.9
Kerr-McGee Corp[2]	36.4	12.0	32.1	11.5	33.0	12.9	25.1	14.6	20.7	14.7	18.8	15.8
Marathon Oil Co	83.3	12.7	73.9	12.3	68.8	12.3	60.1	11.3	60.4	11.8	49.1	10.2
Mobil Oil Corp	430.7	10.3	385.4	9.8	356.1	9.5	320.1	9.1	294.2	8.8	271.9	8.6
Murphy Oil Corp	7.3	5.4	8.2	6.2	8.4	7.6	6.4	6.1	4.3	4.9	4.8	5.7
Phillips Petroleum Co	129.9	8.0	164.0	11.0	138.4	10.3	127.7	9.9	115.0	9.3	108.1	8.9
Shell Oil Co	312.1	12.3	284.9	13.8	255.2	13.4	234.0	13.4	198.2	12.3	179.9	12.0
Skelly Oil Co	40.3	8.5	42.0	9.3	37.0	8.8	34.0	8.8	25.7	7.1	24.2	7.0
Standard Oil of Calif	451.8	10.7	409.4	10.3	401.2	10.8	391.2	11.1	345.3	10.5	322.1	10.5
Standard Oil Co (Ind.)	309.5	10.1	280.9	9.6	255.9	9.1	219.3	8.1	194.9	7.5	183.1	7.3
Standard Oil Co (Ohio)	70.1	13.0	67.1	14.5	56.9	13.3	49.7	12.7	43.8	12.0	38.9	11.4
Sun Oil Co	164.4	10.9	156.2	15.2	100.6	10.8	85.5	10.1	68.5	8.8	61.2	8.4
Texaco Incorporated	819.6	14.5	754.4	14.8	692.1	15.0	636.7	14.9	577.4	14.6	574.6	15.6
Union Oil of Calif	149.8	10.9	145.0	11.2	134.2	11.2	112.8	10.4	92.9	14.7	55.2	9.9

[1] Equity as of Sept. 30, 1973.

[2] Full years income estimated on the basis of income reported for the 1st 9 months of 1973.

Source: Standard and Poors' Industrial Survey, Moody's Industrial Manual, quarterly financial statements filed with the Security Exchange Commission (10 Q forms). Office of the Secretary of Treasury, Office of Tax Analysis, Feb. 1, 1974.

Our preliminary investigation indicates that the 1973 profit increases are primarily attributable to foreign inventory profits from skyrocketing prices, increased profits from increases in foreign product prices and efficiencies in foreign refinery and other operations unrelated to the prices paid by United States consumers. A number of the companies have pointed out that the higher 1973 profits must be interpreted in the light of the lower than normal profits realized in 1972 and the several years immediately prior.

Whatever conclusions may be drawn from the 1973 figures, if the shortage in 1974 produces even higher prices for oil, that fact will cause increased profits to major oil companies from domestic oil sales. The estimated amount of increase attributable to this single element may be seen from Table 2.

TABLE 2

	Average price (dollar per barrel of crude)[1]	Annual profit after income tax (billions)	
		Increase[2]	Total
1973			[3] $9.0
1974	6.50	$1.7	10.7
	8.00	3.4	12.4
	9.00	4.5	13.5
	10.00	5.6	14.6

[1] The estimated average price for domestic crude oil as of January 1, 1974, is $5.25 in the case of old oil and $9.50 in the case of new oil.

[2] The increased net incomes shown for 1974 relate only to domestic crude oil production.

[3] Estimated 1973 net income after taxes from table 1.

While the Administration believes oil owners should not be permited excessive profits at the expense of their fellow Americans, let us be clear that United States oil prices must adjust upward if higher cost methods of extracting oil are to be used to satisfy our demands. Higher costs of producing oil will mean higher *prices* for oil. Producers will not produce unless prices cover their costs. And government production would be no solution, for a government producer would have the same costs, or, if less efficient, greater costs. However, short run price increases for oil above the level necessary to call forth the supplies we need give rise to windfall profits. Those windfalls may be taxed very heavily to the producers of oil without impeding the desired free market processes and without imposing additional costs on consumers.

The Windfall Profits Tax is designed:

First, to tax very heavily windfall profits to owners of oil,

Second, to avoid interference with the legitimate profit expectations which will be required to meet our demands and make us independent of foreign supplies, and

Third, to avoid any tax-generated increases for consumers.

ECONOMIC BACKGROUND

The ability of oil producers to increase the production of oil during the next two or three years is considered by experts to be quite limited. Prospects have to be found, geological and geophysical work has to be done, wells have to be drilled, pipelines have to be built and refineries may have to be expanded or built. Therefore, price increases do not have the effect of stimulating nearly immediate supply increases as is the case with some other products, such as foodstuffs.

The expert consensus is that only a small amount of additional oil from domestic sources can be expected in the next 6 to 18 months. There are marginal wells which were previously capped and which might be economically produced now at the increased prices available for oil, but this supply source is not major in the overall context. Within 18 to 24 months oil could begin to be economically produced at current increased price levels by secondary and tertiary recovery methods. Over a three to five year period, significant additional production at current increased price levels could probably be obtained from new domestic prospects. And after three to four years, the Alaska pipeline should be completed.

In contrast to the short run, then, over a period of about three to five years, it is reasonable to expect that oil supplies can be increased significantly. Historically, the amount of the increase in supplies of oil has been at least 1 percent for every 1 percent increase in the price of oil.

Over each of the two five-year periods from 1953–1958 and 1963–1968, a price increase of 9 percent was followed by a productive capacity increase of 35 percent and an actual production increase of 17 perent. Additionally, available econometric studies indicate that oil supplies will be increased by at least 50 percent as a result of a 50 percent price increase, given sufficient time. Based upon these data, it is reasonable to assume that after about three to five years, and allowing for some inflation, if the price of oil increases by about 50 percent from mid-1973 levels, to around $7 per barrel, sufficient domestic oil supplies should flow to satisfy about 85–90 percent of our demands. Accordingly, we have for planning purposes estimated that the "long-term supply price" is about $7 per barrel. But that $7 per barrel figure is an estimate and the ultimate figure may be somewhat more or somewhat less.

Therefore, a tax which bites hard on immediate price increases should not interfere with the production of needed oil supplies if it gradually phases out so that after three years there will be no tax on oil prices at around $7 or less per barrel.

TAXING THE WINDFALL PROFIT

A windfall profit is one resulting from a change in price caused by a circumstance which is accidental and transitory, such as a temporary shortage of a product because of a strike or, in this case, the cartel-embargo of foreign governments. It is difficult to separate ordinary market prices from prices which permit windfall profits in this context. The price of "new" oil produced in the U.S. rose from about $4 to more than $9, between May and December 31, 1973, because of our demands for that oil. That is a very major price increase and some price increase was necessary to call forth the needed additions to our domestic supplies which will occur over a period of three to five years. Over the near term, however, some part of that price reflects a windfall resulting from actions by the Arab-bloc nations.

Thus for the next year or two, the price rises which have already occurred are *more* than sufficient to call forth the additional domestic oil which will in fact be produced during that period. Some part of present prices produces windfall profit and additional price increases resulting from the cartel-embargo would be pure windfall.

A determination of the amount on which to impose the Windfall Profits Tax requires selection of a base amount which can be received without tax and from which to determine the taxable amount. In this respect it is similar to and will act as an excess profits tax. The Cost of Living Council's *ceiling* price as of December 1, 1973 (CLC Reg. § 150.353) was selected as the reference point for the base price. It is a known price and no new, separate or costly calculations will have to be made. It also significantly exceeds historical oil price levels and it was the maximum price permitted on any domestic production until late August 1973.

Under the Windfall Profits Tax, the rates of tax on selling prices of oil in excess of base prices range from 10% to 85% under the following graduated rate schedule:

TABLE 4.—(PER 42-GALLON BARREL OF CRUDE OIL)

Amount in excess of base price	Bracket rate (percent)	Bracket tax (cents)	Cumulative tax (cents)
0 to $0.50	0	0	0
$0.51 to $0.75	10	2½	2½
$0.76 to $1.10	20	7	9½
$1.11 to $1.70	30	18	27½
$1.71 to $2.50	50	40	67½
$2.51 and over	85		

In accordance with Treasury regulations to be prescribed, the top level of the lowest bracket (initially 0 to $0.50) and the bottom level of each higher bracket will be automatically adjusted upward monthly in the uniform percentage required to make the 10 percent rate of tax applicable after 36 months only to amounts in excess of the expected average long-run supply price of about $7 per barrel. Each higher bracket will be adjusted upward to apply to a constant number of cents per barrel above the next lower bracket. That portion of the price increase which remains after payment of the above Windfall Profits Tax is subjected to ordinary income tax.

As you can see from Table 5, the Windfall Profits Tax on the oil will be large if the oil shortage is severe enough to cause large price increases in oil and modest if the shortages and price increases are modest:

TABLE 5.—NET PRICE RECEIVED BY OIL PRODUCER AFTER PROPOSED EMERGENCY WINDFALL PROFITS TAX

[Base price of $4 per Barrel]

Price	Month						
	1	6	12	18	24	30	36
$10	6.35	6.47	6.67	6.94	7.30	7.80	8.47
$9	6.70	6.32	6.52	6.79	7.15	7.65	8.32
$8	6.05	6.17	6.37	6.64	7.00	7.43	7.78
$7	5.90	6.02	6.22	6.42	6.63	6.85	7.00
$6	5.58	5.65	5.75	5.84	5.94	6.00	6.00

If we have underestimated the long-run supply price, the tax imposes little penalty. For example, suppose it turns out that three years hence a price of $8, rather than $7, is necessary to elicit a domestic supply equal to 85–90 percent of consumption at the then corresponding product prices. In that event, a tax would still apply but it would only be 22 cents a barrel, less than 3 percent of the price. Thus, producers who believe the $7 price is too low can nonetheless proceed on the basis of their own price judgments in the knowledge that when the windfall disappears and their investments become productive, the tax should also disappear, and that even if the tax does not then disappear, it will impose only a minor and vanishing penalty. This is to be contrasted with the situation which would result if prices were controlled. A $7 price ceiling would be equivalent to a 100 percent tax on prices above that amount, and if the long-term supply price should turn out to be higher than $7—or if producers *expect* it to be—we simply would not get the supplies we need.

However, the tax rates and bracket changes have been designed so that an owner of oil will be discouraged from withholding production until after the tax rate declines or the tax expires. The price of oil is or shortly will be as high as it is likely to be for the next five years (in terms of 1974 dollars) and will begin a gradual decline to the long-term supply price. Higher prices now increase the incentives to increase supplies, and gradually increasing supplies will gradually reduce prices. Accordingly, apart from the tax, the owner of oil must attempt to produce the oil quickly to take advantage of the higher existing prices. Taking the rate of decline of the tax into account along with the expected price decline, we estimate that the gain from delaying production of oil to avoid the tax would be less than ½ of 1 percent per month on the average (see Table 6 below). Therefore, we believe that no sensible producer will fail to convert his oil to money since the value of the use of that money would be greater than the ½ of 1 percent per month he could gain by leaving his oil in the ground.

TABLE 6.—ILLUSTRATIVE EFFECT OF THE WINDFALL PROFITS TAX ON NET PROCEEDS REALIZED BY OIL PRODUCERS, FOR 2 PATTERNS OF OIL PRICES

Number of months after enactment	Hypothetical prevailing price of oil	Net producer proceeds	Average increase, per month (percent)
Pattern A:			
1	$10.00	$6.35	0.24
12	9.00	6.52	.59
24	8.00	7.00	.59
36	7.00	7.00	.00
Pattern B:			
1	9.00	6.20	
12	8.00	6.37	.25
24	7.00	6.63	.33
36	7.00	7.00	.45

The combination of graduated rates and a scheduled upward adjustment of the brackets accomplishes three major purposes: First, the graduated rates impose very high rates of tax on extraordinary price increases and "windfall" profits which are attributable more to an externally induced shortage in crude supplies than to long-run market conditions, but impose a lesser amount of tax on relatively small increases above the Cost of Living Council ceiling price.

Second, the automatic upward adjustment of the tax brackets recognizes that windfalls will be shortlived and that prices should peak in the near future and return to lower levels as they gradually result in greater supplies. Most important, it recognizes that if producers are to make the investments which will be required to make us independent, they must be able to count on an absence of burdensome special taxes on prices when those investments become productive several years hence.

Third, the phaseout of the tax as the windfall disappears assures that the tax will not cause higher prices for consumers, for the technical reasons I shall discuss later.

The tax will be imposed on the oil producer at the time of sale of the crude oil or at the end of the month in which produced if not sold. It is contemplated that the tax will be collected and remitted on a monthly basis as follows:

(i) The purchaser of crude oil will withhold and remit the amount of the tax from the sales price paid to the oil producer by the 15th day following the end of each month for all crude petroleum purchased during the month.

(ii) In the case of crude produced but not sold, as in the case of an integrated producer, the tax will be paid by the producer by the 15th day following the end of the month of production.

In computing percentage depletion, the amount of the Windfall Profits Tax is subtracted from gross income from the oil property before computing percentage depletion. The effect of this is to deny percentage depletion on the amount of the windfall which is taxed away.

Because the period of extraordinary profits is expected to be limited in duration, it is important that Congress reconsider the tax after several years of experience. Accordingly, the tax is to expire by its terms 60 months after the date of enactment.

PRICE ROLLBACKS ARE NOT A REASONABLE ALTERNATIVE TO THE WINDFALL PROFITS TAX

It would be a fundamental mistake—for everyone except foreign oil producers—to roll back oil prices to some former level. The reasons are several:

First, consumers will end up paying about the same prices in any event. The most they would be spared is a few cents a gallon for a few months. (A $1 reduction in the price paid for "new oil," for example, would translate initially into less than a one-half cent gallon decrease in the price of gasoline and the market would quickly offset that initial decrease.) The principal effect would be to shift profits from the U.S. to abroad.

Second, the mere presence of ceilings of any sort will tend to dampen the new investment required to produce the increased oil we need. Investors are understandably wary of activities which come to be governed primarily by the laws of politics rather than the laws of economics.

Third, ceiling prices which are less than the prices producers think will prevail will deter them from investing—regardless of whether it is the price authority or the producers whose cost assumptions are correct. Judgments on complex matters like this always differ. Even supposing the government's price controllers could correctly guess the long-term supply price and use that as a ceiling, the ceiling would inhibit needed investment by producers whose judgments differ. In order to get to the long-term supply price, the ceiling would have to be set substantially higher.

Although it is plainly true, many observers fail to recognize that whatever we do with price controls cannot affect the price of the more than 30 percent of our oil we now import to satisfy our demands. The price of that oil fluctuates according to world demands and world supplies. Recognizing this, our Cost of Living Council rules permit refiners to pass through the foreign price they must pay. Thus, the prices of U.S. petroleum products are subject to controls, but the control system, in a sense, rides on top of the price of crude—and products go up in price when the world crude oil price goes up regardless of what we do to control the price of domestic crude oil. This means that the price levels at which no more petroleum products will be bought by consumers, the so-called "market clearing prices," cannot be controlled by controlling domestic crude oil prices. Consumers will eventually pay the same prices for petroleum products whether or not domestic crude prices are controlled. What we do when we control domestic prices at levels below world market levels is simply to permit our refiners to buy our domestic oil too cheaply—compared with world prices—and to bid higher for foreign oil to satisfy our consumers' demands. This, in turn, means that the larger amounts spent by consumers go not to domestic producers and to our government in taxes, but to foreign oil producers and foreign governments.

Of course, we could prevent this by denying U.S. consumers the right to buy the foreign oil products for which they are willing to pay or by not permitting cost pass-throughs for foreign oil prices. But if we do so, we will only be spiting ourselves since either of these measures will prevent foreigners from exporting oil to the United States at a time when we need it, before we have increased our degree of self-sufficiency.

Price rollbacks sound good to consumers until the consequences are appreciated. The consequences would be large transfers of dollars to foreigners and an ultimate reduction in oil for the U.S. consumers, all ironically incurred for price reductions which would be minor and evanescent.

WINDFALL PROFITS TAX COMPARED WITH ALTERNATIVE TAXES

We believe that the Windfall Profits Tax will be considerably more effective and efficient than would either an excise tax or an excess profits tax.

The Windfall Profits Tax differs from an excise tax in that it will in fact operate to tax profits, as the portion of the price to which it will apply is above the level required to cover costs in all but exceptional cases. At the present price of $10 for new oil, the tax in its first month would exceed profits only if costs exceed $6.35 a barrel (see Table 5)—which is hardly likely for production planned months ago when prices were much lower. (Prices were controlled at levels below $4 until late August.) If in some small fraction of cases that should not be true, the tax could not exceed profits by more than a few cents ber barrel.

An ordinary excise tax shares with the Windfall Profits Tax the virtue of simplicity but, in contrast, is not necessarily a tax on profits and is an undesirably blunt instrument to use in this case. Excise taxes are usually stated as so much per unit or as a percentage of the price of the unit. An excise tax stated as so many cents per barrel or gallon of oil would have to be paid regardless of the amount by which oil prices rose (or didn't rise). That is undesirable since the tax would not be related to the windfall. An excise tax stated as a percentage of the sales price would tax more heavily those who produce oil of higher quality and price than those who produce oil of lower quality and price, which is undesirable since, again, the tax would not be related to the windfall.

A classic excess profits tax of the type in effect during World War II or the Korean War would be a nightmare of complexity and uncertainty. It would be very difficult to design and administer a tax which would not impair the ability and incentive of oil producers to make the investment necessary to produce the additional oil needed to make us independent.

While prior excess profits taxes differed significantly, they contained the common elements of (i) a determination of profit in excess of some base amount, (ii) the application of a high rate of tax to the excess amount and (iii) complex exceptions designed to alleviate the penal nature of the high tax rate in situations in which the general rule determination of excess profits yielded an inequitable result. The following problems existed in prior excess profits tax laws:

Determination of base period and fair rate of return

No period can be selected which was a normal period for all taxpayers. That is to say, during any taxable year or years selected, some taxpayers' rates of return on investment or profits will be higher or lower than others for many extraneous reasons, such as strikes, floods, etc. Two basic methods have been used to determine a normal profit for the base period. One method is to compute a rate of return on invested capital during the base period, treat that as a normal profit rate, and impose a tax on any profits realized in excess of that rate. The other is to treat the absolute amount of profits realized during the base period as normal profits and impose a tax on any profits realized in excess of that amount. Combinations of the two basic methods have also been used. The assumption of normality for any historical rate of profits or any absolute amount of profit for a particular taxpayer for a particular period is subject to challenge because of the infinite variations in taxpayers' situations. For example, during whatever base period is selected, some taxpayers' businesses were contracting, some expanding; some used heavy amounts of equity capital, some relied heavily on debt; some engaged in heavy research and development expenses, others maximized earnings by postponing research and development expenses, and on and on.

Exceptions for abnormalities

Because of the problems referred to above and others, complex machinery has always been required to adjust the inevitable inequities arising from the selection of base periods and the calculation of base period profits.

Administrative boards and courts become entangled for years over these questions. The World War II and Korean War excess profits tax cases spawned over 54,000 applications for over $6½ billion of relief because of claimed abnormalities in the computation of excess profits. Thousands of lawsuits, the last of which has not yet been decided, required large expenditures of time and manpower for both government and taxpayer in complex economic arguments over how much was too much profit.

Incentive for wasteful expenditures

Since the tax is conventionally imposed at a high rate and only on net profits, it has the effect of causing expenditures which would not otherwise be made and which are wasteful. For example, the corporate taxpayer at a 48% income tax rate must use 52 cents of its own money for every $1 expended. However, if the marginal tax rate is raised to 85% by the addition of an excess profits tax, only 15 cents of every $1.00 of excess profits spent by the taxpayer comes from its pocket—the other 85 cents will be taken in taxes if not spent. Experience teaches that this leads to wasteful practices and inefficiencies which increase or maintain product prices to consumers without creating corresponding benefits to society.

Applying an excess profits tax only to the net profit of oil production would be even more difficult, for the following reasons:

Increased coverage

The expected windfalls will accrue to *all* owners of oil, who include thousands of individuals, trusts, estates, specially taxed corporations such as insurance companies, and other corporations not generally associated by the public with oil companies. Accordingly, the windfall tax must apply to *all* owners of oil, not just to large oil companies, if it is to be effective. The World War II and Korean War excess profits taxes have applied only to *corporate* taxpayers. It is safe to say that as complex to administer as prior taxes have been, an excess profits tax affecting thousands of non-corporate taxpayers would be greatly more complex.

Determination of excess profits

It would be necessary to determine the excess profits *from oil production alone* if the tax were to be confined to the windfall. Complex allocations of income and expense would have to be made. In the case of the numerous individuals, estates and trusts who keep minimum formal records, the allocation problem would be even more sizeable.

Taxable income management

Taxable income management through wasteful expenditures would be easier to achieve for oil producers since their incomes are reduced currently through the deduction of most of the costs of new wells and percentage depletion. Wasteful drilling practices and wasteful expenditures for overhead items could reduce the impact of the tax to a large extent without corresponding benefits to society from productive new wells or research.

OTHER ASPECTS OF THE WINDFALL PROFITS TAX

The Windfall Profits Tax would tax only the person who has the windfall, the owner of crude petroleum. This can be illustrated by looking at gasoline price increases. From October 1, 1973, to late January 1974, average gasoline prices increased by 9.5 cents per gallon.

In the same period, average crude oil prices increased by between $3 and $3.50 per barrel or about 8 cents per gallon (there are 42 gallons to a barrel). The remaining 1½ cents of the 10 cent increase was permitted to refineries and distributors by the Cost of Living Council to offset higher costs based on a thorough evaluation of their costs and profits. The windfall profit is reflected in the 8 cents which inured to the owner of crude oil and he is the person who must pay the tax if the windfall profit is to be taxed. Refiners, wholesalers, and retailers of petroleum products have been permitted only price increases under the Cost of Living Council rules which reflected, on a dollar-for-dollar basis, the actual costs they experienced.

It should also be noted that the Windfall Profits Tax will tax similarly those oil producers who are similarly situated. A producer who receives a $1 per barrel increase for low-priced oil with a base price of, say $3.00, is taxed the same as a producer who receives a price increase of $1 per barrel for his higher quality and higher priced oil with a base price of, say $4.50. These relative base prices were previously established by market forces and are doubtless fairer than any which could be devised administratively.

The Windfall Profits Tax applies only to domestic production. It is not sensible to attempt to tax the windfall on imported oil for two reasons. First, anything which reduces the net price received by the foreign producer below what he would receive if the oil were sold in another country will only prevent imports from coming to the United States. The oil will tend instead to be sold elsewhere if the net price to producers is higher there because of a U.S. tax. Second, the amount of windfall realized by the company from which the imported oil is purchased is limited—the windfall will be realized primarily instead by the foreign government. This is easily seen by looking at increases in reference or posted prices of oil by foreign governments, which have increased radically and repeatedly in recent months, to capture the windfalls from the operating companies. A tax or tariff on imported oil should be imposed only to discourage imports for national security or other reasons, which goes beyond what is appropriate at this time.

THE TAX IS NOT PASSED ON TO CONSUMERS

The consumer currently receives government protection against unfair price increases through a combination of price controls and allocation policies. The Windfall Profits Tax complements these rules and will not have the effect some claim of increasing prices to consumers. Statements to that effect indicate a lack of understanding of how the tax operates. A tax which is less than the windfall profit will always fall on the oil producer.

Why isn't the tax passed on to the consumer? It is because the producers of oil are willing, even if reluctantly, to take less for the oil than the amount consumers are willing to pay and are in fact paying. Producers made their decisions to produce oil expecting prices below the current higher prices which are all that consumers will pay. (If consumers were willing to pay more, and were permitted by price controls to do so, producers would already be charging it.)

If consumers will pay no more and producers are willing to take less, producers will absorb any tax which does not reduce their expected profit i.e., reduce it by more than the windfall profit. On the other hand, if the tax is more than the windfall, the tax could fall on consumers in varying degrees, depending upon supply response (the greater the supply response, the more apt the tax is to fall on the consumer). The following example may be helpful.

Suppose that producers are producing at full capacity and are willing to sell at a price of $\$x$. For extraordinary reasons the price rises to $\$x+2$, producing a "windfall" profit of $2. That represents the maximum price that consumers are willing to pay because if they were willing to pay more producers would be charging more.

If a tax of $1 is imposed it will not affect supply, since by definition the supply is the same at any level above $\$x$. If producers could previously have added $1 to the price they would have done so already. If they now try to add $1 to the price, demand will simply fall. Thus, the price to consumers will not change and the oil producers will have to pay the $1 to the tax collector.

However, if there is no windfall profit in the price, a tax will affect the amount which oil producers are willing to supply and some part of the tax will inevitably be passed on in the form of a price increase, as a lesser supply will result in price increases. The greater the supply response (i.e., the greater the contraction in supply), the closer to the amount of the tax the price increase will tend to be.

PROPOSALS RELATING TO DOMESTIC INCENTIVES

Among the tax proposals which I presented to you in April 1973 were several which affect incentives for domestic exploration for and production of oil and gas. They are the proposals for the Exploratory Drilling Credit, for a Minimum Taxable Income and for a Limitation on Artificial Accounting Losses.

I said to you in April: ". . . the need is for new exploration in the United States which will add to the national wealth of known oil and gas reserves for the future and assure the continued availability at reasonable prices at home—not abroad—of adequate fuel supplies."

To that end we proposed a new investment credit for exploratory drilling. This credit operates in much the same way that the investment credit operates, and we expect it to be similarly effective in encouraging new exploration.

The tax law now contains incentives for oil and gas production in the form of the percentage depletion allowance and the deduction for intangible drilling costs. Of these, the provisions for intangible drilling costs are the more effective incentive for new production because they relate to the drilling operation itself and because the deductions may be taken whether or not the drilling is successful. Percentage depletion, on the other hand, relates only to production, and is a more diffused incentive because its benefits are available only if the drilling is successful and then only over a period of years.

The new exploratory drilling credit is concentrated on the activities which are most needed, namely, the discovery of new fields and reservoirs. And since it provides a major and immediate benefit for drilling activity, it should have a significant incentive effect on that activity.

The existing incentives provided by percentage depletion and the immediate deduction of intangible drilling costs would be lessened respectively by the Administration's proposals with respect to Minimum Taxable Income (MTI) and Limitation on Artificial Accounting Losses (LA). These reductions in existing incentives, which are not large in relation to aggregate investment in the industry, are necessary for other reasons and are more than offset by the somewhat larger and more efficient incentives which would be provided by the proposed Exploratory Drilling Credit.

The purpose of both the MTI and LAL proposals is to stop the spectacle of high income taxpayers paying little or no federal income tax and thus to remove an element which tends to corrode the indispensable public confidence in our tax system. The Internal Revenue Code contains many preferences designed to provide incentives for particular activities. We believe that Congress should review them individually from time to time so that those which have become outmoded and unnecessary can be revitalized or eliminated. However, the pressing need at this time is to see that such provisions, in total, do not give rise to the public impression that tax laws apply unfairly in favor of the wealthy, who are the persons most likely to respond to the incentives. Thus, the Minimum Taxable Income proposal deals with existing incentives (leaving their reexamination to another day) and proceeds on the philosophy that while individual incentives may be good, there may be too much of a good thing. The Minimum Taxable Income proposal would place a limit on the aggregate amount of certain incentives which may be used by a particular taxpayer. Stated very roughly, the concept is that a taxpayer should not be permitted to use such incentives in an aggregate amount which exceeds half of his "economic" income. Just as the Code now places limits on particular incentives—such as the 50 percent of income limitation on the charitable deduction—the Minimum Taxable Income proposal would place a limitation on aggregate incentives.

In designing the Minimum Taxable Income provision, we were mindful that it would affect the use of percentage depletion in cases where percentage depletion in combination with other covered items exceeded half of the taxpayer's economic income. We concluded after careful consideration that, while individual taxpayers would complain, the proposal's effect on percentage depletion would be minimal in the aggregate and would not significantly affect capital investment for increased production of oil and gas. Whatever slight adverse effect the proposal might have in that regard, we believe it is the necessary price of preserving public confidence in the tax system generally.

The LAL proposal also lessens somewhat the incentives provided by the immediate deduction of intangible drilling costs. In the case of producing wells, such deductions often create accounting losses even though the well is in fact profitable. Under the proposal such losses could be used only to offset income from oil and gas properties, and not to offset other income. The purpose of the proposal is to prevent high income taxpayers from eliminating their current taxable income from other sources by using deductions which do not represent economic losses. Drilling expenses incurred in connection with holes which turn out to be dry are not artificial losses and are unaffected by the proposal.

While the proposal limits the use of such artificial losses, it does permit their utilization against oil and gas income and in that sense provides an incentive to oil and gas investment which partially offsets the disincentive.

Looking at the April 30 proposals as a package, the proposals for MTI and LAL would reduce to some degree the existing incentives for investment in oil and gas, but the proposal for an exploratory drilling credit would, in terms of dollar benefits to taxpayers, more than offset the dollar detriments arising from those proposals. Thus, when both proposals are considered together, the dollar tax incentives offered for investment in oil and gas remain essentially unchanged—but a significant portion of those dollar incentives has been rechanneled to operate in a much more efficient way to produce new oil and gas resources.

Thus, we urge your Committee to act promptly on the proposed exploratory drilling credit, but to keep in mind that it must be considered in the total context of the proposals for Minimum Taxable Income, to which we hope you will also accord a high priority.

PROPOSALS RELATING TO FOREIGN OPERATIONS

As a part of the program to make our nation independent in energy resources, we believe it desirable, within the limits of fairness, economic efficiency, and national energy to emphasize incentives for domestic exploration as distinguished from foreign exploration. With that in mind, we presented to you last April a proposal relating to the recovery of foreign losses that are deducted against United States income. We now have two additional proposals relating to foreign operations which we ask that you consider.

THE FOREIGN TAX CREDIT

All of these proposals require an understanding of the international system for avoiding double taxation of income earned in one country by a citizen of another country.

The major nations of the world have a network of systems designed to avoid excessive double taxation of income. Those systems vary in detail but fall into two general categories. Under some systems, income earned abroad is simply not taxed in the home country. France, and the Netherlands, for example, have systems which generally follows that basic concept. Other countries, including the United States, Great Britain, Germany, Canada, and Japan—our major trading partners—have tax credit systems.

The basic concept of a tax credit system is that the country in which the business activity is carried on has the first right to tax the income from it even though the activity is carried on by a foreigner. The foreigner's home country also taxes the income, but only to the extent the home tax does not duplicate the tax of the country where the income is earned. The duplication is eliminated by a foreign tax credit. For example, if a U.S. corporation were taxed at a 20 percent rate in country x on its income from operations in country x, the U.S. would not duplicate country x's 30 percent tax on that income.

But since the U.S. corporate income tax rate is 48 percent, the U.S. would collect—i.e., "pick-up" the 18 percent which remained over and above the 30 percent collected by country X. Technically the result is achieved by imposing a hypothetical 48 percent U.S. tax on the income earned in country X, with the first 30 percentage points rebated by a credit. However, if the foreign rate were 48 percent or more, there would be nothing left for the U.S. to pick up and thus no tax payable to the U.S. on that foreign income.

Not that the foreign tax credit only affects income earned in some foreign country through activities conducted in that country. Income arising out of operations conducted in the U.S. and the taxes on that income are totally unaffected by the credit.

The following table permits one to understand the fact that high taxes are being paid by the oil industry to foreign governments on the large proportion of non-U.S. income that is earned by these corporations; that the United States gives a credit for U.S. taxes on the foreign source income that results in an excess credit; that these credits do not reduce U.S. income taxes on the income earned from U.S. operations; and that the same basic tax credit principle operates for all U.S. industries, not merely oil.

It is also important to note that the satisfactory functioning of this credit system depends upon reciprocity among nations. Thus, the U.S. reciprocally has the first right to tax income of foreigners arising out of operations in the U.S., and the home foreign countries either give those foreigners a credit for the U.S. tax or they exclude the U.S. income entirely from the home country's tax base.

When Congress wrote the basic tax credit provisions in 1918 and when the question of oil country taxes first became controversial twenty-odd years ago, circumstances were different from what they are today. Most foreign countries today have income tax rates nearly as great or greater than the U.S. tax rate. Thus, after our companies have paid their tax abroad, there is little or nothing left for the U.S. to "pick-up" on that foreign income unless we wish to impose a tax which duplicates the foreign tax. It has been the broad position of our government, under this and previous administrations, that the avoidance of double taxation is a sound principle and that we should continue to participate in the international system designed to avoid it. If we were now to withdraw from the system, we would invite retaliation and discrimination from other nations and would be required to rethink and renegotiate international arrangements. Excessive tax burdens would be imposed on U.S. companies operations abroad and their international competitive position would be severely affected.

In summary, the basic foreign tax credit must be understood not as a tax loophole or positive incentive to foreign investment, but rather as part of a system designed to allocate primary taxing jurisdiction to the government within whose borders the income is earned. The system does not reduce the *total* tax bill of U.S. companies below the amount they would have paid to the U.S. if the income had been earned here. They are excused from paying U.S. tax on *foreign* income only to the extent that they have paid an equivalent tax on that income to a foreign government. We must accept the fact that other countries now impose taxes comparable to ours, so that the U.S. now collects little or no tax from operations conducted by its corporations in most major foreign countries.

There still remain, however, certain "tax haven" countries which impose little or no tax, and there exist also some countries where the tax rates are much higher than U.S. tax rates. Much of the complication in the present system arises out of the desire of taxpayers either to average or not to average (depending upon the circumstances) the income and taxes of high tax and low tax countries.

At the present time, the oil producing countries impose taxes at very high rates. If these taxes were expressed as a percentage of taxable income as defined by our rules, they would be in the neighborhood of 90 percent. But if they were only as high as our corporate income taxes, namely 48 percent, the U.S. would still collect no tax on earnings in those countries. However, the difference of 40-odd percentage points between those rates and U.S. rates produces very large "excess tax credits" which, under existing rules, can be used to eliminate the tax that the U.S. would otherwise "pick up" in the low tax, tax haven countries. One of the proposals I shall discuss later deals with an aspect of that fact.

RECOVERY OF FOREIGN LOSSES

The April proposal with respect to the recovery of foreign losses is directed to a situation that arises because a taxpayer with losses in a foreign country can deduct those losses against income earned in the U.S. in the year of the loss. When the foreign operation becomes profitable in a later year, the foreign country often collects tax on the profits without regard to the prior loss, and if that tax is as large as our 48 percent tax, the resulting credit will absorb any U.S. tax on those foreign earnings. The result is that the United States shoulders the burden of the start-up deductions, but the foreign country collects the tax when the operation becomes profitable. Such losses often arise in connection with the exploration for oil or gas deposits abroad, involving large intangible drilling and development costs.

The April proposal would modify the foreign tax credit provisions to require that where a United States taxpayer has deducted foreign losses against United States income, such losses would be taken into account to reduce the amount of foreign tax credit claimed by such taxpayer on foreign earnings in later years. This would eliminate the present situation which permits the current deduction of intangible drilling costs and other start-up expenses in a foreign country against United States source income and then permits a foreign country to claim the full income taxes on the profits, with a United States tax credit for such taxes when production begins. The proposal, by restricting this possibility, would eliminate a present United States tax benefit for commencing foreign drilling operations. The estimated revenue gain from this proposal is $100 million annually after five years.

ELIMINATION OF PERCENTAGE DEPLETION IN THE CASE OF FOREIGN OIL AND GAS PRODUCTION

Percentage depletion was first allowed in 1926. Through the years it has been retained as an incentive for exploration for new reserves.

Percentage depletion has been available regardless of whether the producing property is located in the United States or in a foreign country. However, from time to time adjustments have been made in rates and rules, and under existing law percentage depletion is unavailable, or available at a lower rate, for foreign production of a number of minerals other than oil and gas. In the case of oil and gas the depletion deduction is and has always been available abroad to the same extent as in the U.S.

In recent years, percentage depletion on foreign oil and gas has not produced a benefit in many, if not most, cases because of the generally high foreign taxes imposed abroad. (The precise amount of the hypothetical U.S. tax is irrelevant, if the foreign tax is in any event higher, so that the foreign tax credit eliminates the U.S. tax.) However, there is a potential benefit for production in countries with lower tax rates.

It is now apparent that our primary aim should be to encourage the exploration for new sources of oil and gas in the United States. There is no longer any policy support for giving special encouragement to oil and gas exploration and production abroad. Thus, we now propose that the Internal Revenue Code be amended to provide that percentage depletion shall not be allowed with respect to oil and gas wells located in foreign countries. The percentage depletion allowance for oil and gas would be limited to wells located in the United States, in its possessions, in the Commonwealth of Puerto Rico or on the outer continental shelf.

Because the taxes of the major countries where oil and gas is now being produced by U.S. companies are now imposed at rates equal to or in excess of those which would be imposed by the U.S., no major revenue effect is expected from this change, although it may have a significant effect on some producers. The estimated revenue gain is $50 million.

We are not now proposing any change in the percentage depletion deduction available for other natural deposits located in foreign countries. However, that question should be examined from time to time and adjustments made when appropriate.

EXCESSIVE FOREIGN TAX RATES

Using artificially high posted prices for oil and high tax rates, many oil producing countries now collect "income taxes" on petroleum profits which greatly exceed income taxes normally collected by governments on other business activities. This has created what we believe to be a distortion in the normal and equitable operation of our foreign tax credit system.

We continue to support the principle of avoiding double taxation through a tax credit system. But like other basically sound principles, it can be subject to distortion and abuse in particular situations. The special problem that we are dealing with arises particularly where the taxing authority and the ownership of the oil are embodied in one and the same entity, which thus has the power to extract payments from oil producers in the form of taxes or in some other form, at its discretion. The high artificial posted prices on which the taxes of a number of oil producing countries are based have created legitimate concern over whether the payments treated as creditable tax are "income taxes" or taxes "in lieu of a tax on income." It is argued that these payments, at least in part, more realistically represent some other business expense.

Business expenses are excludable or deductible from gross income, but they may not be credited against U.S. income tax. Foreign income taxes, on the other hand, may be either deducted from income or credited against U.S. tax, at the option of the taxpayer. Thus, if the tax law allows payments which in substance are not income taxes to be treated as income taxes, taxpayers will receive larger credits than they should. When the amount of the "tax" payment on foreign oil production exceeds the U.S. tax on the same income, the excess payment gives rise to an excess foreign tax credit which may be used as a credit against U.S. tax on income from other operations in that country, or on income from other foreign countries, depending on whether the foreign tax credit is computed on the per-country limitation or the overall limitation.

In the case of oil production, foreign producing countries generally base their tax on the "posted price" for crude oil. The posted price is a fictitious price which may or may not have any relationship to the market value of the oil. It is, however, almost always higher and has moved dramatically higher in recent months. As the posted price has risen, the foreign taxes have gone higher. This has led to greatly increased excess credits for taxes paid the oil producing countries.

Under the tax credit system, as the foreign tax rate goes up, the U.S. tax goes down, until the foreign rate becomes 48 percent and the U.S. rate becomes zero. Thereafter any increases in the foreign rate have no further effect on the U.S. rate on the foreign income but simply create "excess credits," which most companies cannot use However, companies electing the "overall limitation" on the foreign tax credit, may average foreign tax rates so that "excess credits" in one country may, in effect, be used to pay U.S. taxes with respect to income earned in another foreign country which imposes little or no tax. While we believe this result to be satisfactory in general, we believe it leads to a distortion of the credit mechanism in the case of oil companies under present circumstances.

The total amounts of these payments to the foreign producing countries, and the effective rate of taxes have grown so large that, whether or not they technically qualify as "income taxes," we do not think that we should continue to treat them entirely as an income tax for tax credit purposes since they exceed normal levels of taxation and can affect very significantly the U.S. treatment of other foreign source income of U.S. oil companies. For a number of years, the existence of increasingly large excess tax credits was of minor importance because there was no U.S. tax payable in any event, and the companies simply accumulated excess credits which they could not use.

It now appears, however, that major international oil companies are beginning to engage more heavily in foreign operations other than oil extraction, including operations such as shipping, which are subject to little or no foreign tax. The number of companies electing the overall tax credit limitation appears to be increasing, and the income from these low-taxed foreign operations is thus shielded from U.S. tax by using the excess credits resulting from the extremely high "taxes" paid to the foreign governments on the foreign oil and gas income.

Our proposal would continue the foreign tax mechanism substantially as it has existed over the years, and it would not tamper with the basic definition of an income tax. We do not underestimate the ability of foreign oil producing countries to design the structure of their levies to correspond to any definition of an income tax that we require. But under our proposal only a reasonable part of the foreign income tax would be treated as a *creditable* tax. The balance would be treated as an expense. We propose to use U.S. tax levels as a standard in determining what is a reasonable level of foreign tax to be creditable. Thus in the case of these foreign taxes on oil and gas production, we would treat as creditable only an amount equivalent to the U.S. tax on the same income—i.e., in most cases the 48 percent general corporate rate or, the lesser 34 percent rate for Western Hemisphere Trade Corporations, as the case may be.

Since the expense part of the tax is deductible in determining taxable income, the determination of the creditable portion must be made by an algebraic formula. The explanatory material in the Appendix sets forth this formula and shows how it is derived. Its practical result is that foreign oil production will no longer generate excess foreign tax credits.

For purposes of applying these rules, the foreign oil taxable income of the taxpayer and the foreign tax paid with respect to that income would be determined separately for each foreign country, and the proposed new limit on creditable taxes would be computed separately for each foreign country. After application of the limit, the creditable taxes would be aggregated with other creditable taxes and subjected to the normal per-country or overall limitation on the foreign tax credit. Excess tax credits accumulated in taxable years beginning before the effective date of this proposal could be carried over to years beginning after the effective date of this proposal as under present law, but would be denied to the extent that they could not have been utilized had this change not been enacted. The proposal would become effective with respect to taxes paid during, or accrued with respect to, taxable years ending after December 31, 1973.

It is not possible to estimate the revenue gain from this proposal with precision because its enactment will cause taxpayers to change their operations in ways which we cannot predict. If more companies were to devise ways to use the excess credits generated under the present system, the revenue loss could be in excess of $1 billion a year. The proposal would foreclose that possibility. If the proposal were applied to existing patterns of operations we would expect it to produce revenues of about $400 million a year over current levels. However, taxpayers can be expected to change their procedures to reduce that amount substantially.

It has been suggested that the proper approach to this problem is to deny the foreign tax credit entirely with respect to the existing taxes on oil income. We believe that our proposed limitation is far more desirable. The result of denying the credit would be to subject U.S. companies to higher tax burdens than their foreign competitors. The step of denying any tax credit should not be taken unless it is determined that United States oil companies should not participate in foreign oil and gas production.

It has been suggested that the problem in this area is that the international oil companies are paying absurdly low taxes, sometimes alleged to be on the order of 2 or 3 percent, and that those taxes should be raised to the level of other U.S. companies. This is a simplistic way of looking at the problem. The fact is that these companies are paying *high* taxes on their *foreign* production. It is true that these taxes are not being paid to the U.S., but it is also true that there is no reason under the international system that they should be paid to the U.S. If a U.S. company can go to Saudi Arabia, find and produce oil, take it to Japan or Western Europe, sell it at a profit, pay reasonable taxes to the countries concerned, and repatriate the after-tax profits to the U.S., U.S. policy-makers should not be dismayed; they should be pleased.

We are all upset because the price of oil is high, but the reaction should not be to strike out blindly at the most available target. The approach of our proposal is not a vindictive one. We are not trying to penalize oil producers. Nor are we trying to restrict U.S. companies to U.S. business. What we are suggesting is a technical change which will remove the possibility of the oil producers obtaining an undue benefit from changed circumstances.

In conclusion, let me emphasize our conviction that all of these proposals, together with those which we made last year, are of great importance to our nation's welfare. We urge that you give them a high priority. The Treasury Department will be pleased to assist in every way it can.

DETERMINATION OF CREDITABLE PORTION OF FOREIGN INCOME TAXES ON OIL AND GAS PRODUCTION

Many countries collect income taxes on oil and gas production at excessive levels. The Treasury proposal would characterize part of those income taxes as deductible expenses.

The method of dividing foreign income taxes between a portion which would be creditable against U.S. taxes, and the remainder, which would be characterized as an expense, may be described in three steps:

(1) The creditable portion of the tax would be equal to the U.S. tax rate applicable to corporations times foreign source petroleum income *defined according to U.S. law.* (The rate would be 48 percent for corporations other than Western Hemisphere Trade Corporations and also for individuals, trusts and estates, but would be 34 percent for Western Hemisphere Trade Corporations.)

(2) Foreign source petroleum income defined according to U.S. standards would be equal to the fair market value of the petroleum, less royalties, lifting costs, and other allowable expenses, and less that portion of foreign income taxes which is characterized by the U.S. as an expense.

(3) The portion of the foreign income tax characterized as an expense would be equal to the total foreign income tax less that portion of the foreign income tax which is creditable against U.S. taxes.

Each step in the apportionment of foreign income taxes depends on some other step. Thus, to determine the creditable portion of the foreign tax, it is necessary to express the principle as an algebraic formula. The general statement of the principle is that the maximum creditable portion (M) of the foreign income tax (T) is equal to the U.S. tax rate (R) times the excess of foreign petroleum taxable income computed without deducting any portion of the foreign tax (I) over the deductible portion of the foreign tax ($T-M$). This may be expressed as the equation:

$$M=R\,[I-(T-M)]$$

This equation may be simplified into the form:

$$M=R\div I-R(I-T)$$

In most cases R will equal 48%, and the equation may be further simplified into (approximately): $M=.923\,(I-T)$.

In the case of a Western Hemisphere Trade Corporation, $R=34\%$, and the equation becomes (approximately) $M=.515\,(I-T)$.

In practical terms, under the proposal, foreign petroleum ventures would no longer generate "excess" foreign tax credits. This is illustrated by the following table:

	Present law	Proposal
Calculation of foreign tax:		
Posted price, per barrel	$11.65	$11.65
Royalty (12.5 percent)	−1.46	−1.46
Lifting, etc., costs	−.20	−.20
Income as defined by foreign government	9.99	9.99
Foreign income tax (55 percent)	5.49	5.49
Calculation of U.S. tax:		
Fair market value	7.65	7.65
Royalty	−1.46	−1.46
Gross income	6.19	6.19
Depletion allowance (22 percent of $6.19)	−1.36	0
Lifting, etc., costs	.20	.20
Portion of foreign income tax recharacterized	0	−5.03
Taxable income for U.S. purposes	4.63	.96
U.S. income tax (48 percent)	2.22	.46
Calculation of credit:		
Maximum credit for foreign income tax	2.22	.46
Excess foreign tax credit	3.27	0
Portion of excess disallowed because of depletion deduction	−.65	0
Available excess credit	2.62	0

Under the proposal, excess foreign tax credits carried forward from years prior to the effective date of the proposal would still be characterized as excess credits available in the future to the extent they would have been used if the proposal had not become law. The excess foreign tax credits from such years would *not* be converted into deductions. If they were deductible from taxable income, the result would be a substantial revenue loss. The additional deduction would typically exceed taxable income before the deduction leaving the companies with a loss which they could offset against taxable income from U.S. sources.

For example, assuming that the figures shown in the table apply in 1973 and 1974, an excess credit of $2.62 from 1973 would more than offset the taxable income for U.S. purposes of $0.96 for 1974, leaving a net loss in 1974 of $1.66. This loss could be used to offset U.S. source income of an equivalent amount, on which the U.S. government would lose the tax of 48 percent or $0.80.

Treatment of a portion of the foreign income taxes as deductible cannot result in a reduction of U.S. taxes on U.S. income except in the unlikely case in which the foreign income taxes together with the costs associated with the petroleum exceed the value of the foreign petroleum. This case is particularly unlikely under our proposals because of the denial of a deduction for percentage depletion.

Statement Before the Committee on Ways and Means, House of Representatives, Washington, D.C.

(By John J. Christmann)

Mr. Chairman and Members of the Committee:

My name is John J. Christmann, an independent oil and gas producer from Lubbock, Texas. I am a graduate Petroleum Geologist and Engineer, have been actively engaged in the exploration and production phase of the petroleum industry since 1936, and have held a Professional Engineers Certificate in Texas and New Mexico since 1944. I am presently serving as Chairman of the "National Energy Policy Committee" of the Texas Independent Producers and Royalty Owners Association which represents some 3000 members.

The purpose of my remarks here is to impress upon everyone concerned with our energy problem the vast difference between the International Integrated Companies and the Domestic Independents. Few people realize that 80% of our domestic search for new reserves has been done by this little known segment of the vast and complex Petroleum Industry.

The following figures for 1973 from the Texas Railroad Commission will shed some light on present Texas production:

1. Total daily production, 3,550,000 BOPD.
2. Independents (3000), 1,200,000 BOPD.
3. Stripper Wells (84,000), 319,000 BOPD (10% Total).
4. Stripper well reserves, 1.85 billion barrels.
5. Average daily production (stripper), 3.81 BOPD.

Oil and gas wells are like people—they have a limited life span and the older they get the more their maintenance costs. Per cent of produced water increases, equipment breakdowns and replacement mount in number and cost while production and revenue decrease. We have recently paid $0.42 per barrel to dispose of salt water produced with the oil which sold for less than $3.00 per barrel, and some months produced twice as much water as oil. This one cost alone decreased the value of the oil to $2.16 per barrel to the producer. Add to this the pumpers' salary, electric bill, production taxes, bookkeeping and engineering supervision and the net value to the producer approaches $1.00 per barrel.

Should an equipment failure occur and require a work-over rig, the cost of this is $35 per hour (minimum of eight hours), plus numerous additional charges for various tools and equipment needed. The average cost of a work-over on a 5,000 foot well will run between $1,200 and $2,400. Simple arithmetic shows it will take 530 days of production to pay for the work-over with no profit to the producer, and he is still paying all of the above operating costs from other profits.

For the above reasons many stripper wells were just temporarily abandoned when a failure occurred. With present prices for stripper well oil these wells can economically be repaired and placed back on production to recover the 1.85 billion barrels they are capable of producing. Any rollback of prices will cause rapid abandonment of many of these wells and lose forever the reserves which they would produce.

From the production figures sighted in paragraph 2 above it is evident that the Major Integrated Companies must purchase from Independent Producers one third of the Texas Production to supply their refineries. The other two thirds they already own. Therefore a rollback in price would reduce input refinery cost to the Major Companies substantially, but I doubt that the consumer would find this reflected on the gas pump.

As an independent producer I am a small interest owner in a gasoline plant in West Texas. The casinghead gas is processed through this plant and produced as dry gas, gasoline, butane, and propane. These products are sold to Phillips Petroleum Company at the plant for the following prices:

Butane .0625 (December 1973).
Gasoline .0775.
Propane .1309.

The gasoline I sell to Phillips, which is further refined and graded, I now buy back from Phillips at $0.43 per gallon more than I sold it to them for, $0.09 of which is tax paid to local, state, and federal governments. These facts are presented to show that it is not the producer nor the price of the raw product which is the major cause of today's high product prices.

The price of all items such as casing, tubing, pumps, rigs, line pipe, trucks, tractors, labor has been rapidly rising over the past 18 years the producers have been under FPC price control of natural gas, the most desirable fuel which has held down the price of the competing fuels of oil and coal to an uneconomic level.

If the present level of prices for crude oil are allowed to stand, many previously uneconomic wells will be returned to production, a number of known fields previously uneconomic because of price will be developed and produced and the search for new reserves will again become an attractive gamble for the wildcatter who is the man to regain America's self-sufficiency in energy.

The tax incentives should be increased for domestic producers and the tremendous foreign tax credits which have moved all of our domestically needed capital to foreign lands should be changed to encourage that investment in our own country.

I, with three partners, drilled 56 gas wells in the San Juan Basin of New Mexico in the early 1950's at an average cost of $125,000 per well. In 1954 when FPC price controls were established at 12¢ per MCF for our gas we were unable to retain these wells and produce them to pay for their drilling and equipment. These were sold to a gas company and our debts retired.

We then took our remaining capital and went to Alberta, Canada where we could drill a well for $35,000, sell the same volume of gas at 26¢ per MCF and have 33⅓% depletion. The economic comparison is ridiculous, since the gas we sold in Canada was sold at the Canadian border to El Paso Natural Gas Company for 35¢ per MCF and mixed with the 12¢ U.S. gas to be sold to the "Government Protected Consumers" in California.

This resulted in many operators going to Canada with their exploration dollars that had previously been spent in the U.S. and little or no new gas being found in the Western U.S.

It is my sincere belief that any action taken with regard to taxes and price controls of the Petroleum Industry MUST be separated into two classes. One, the domestic independent explorer and producer and two, the International Integrated Oil Companies.

The domestic producer has been a captive of the Integrated Companies who own all of the pipe lines, refining and marketing facilities. The national interest will best be served by giving the Domestic Independent sufficient incentive to again launch the needed exploration program to find and develop the needed reserves.

Fuels, Feedstocks and the Future—47th Annual Industry Convention, The Soap and Detergent Association

(By C. Howard Hardesty, Jr.)

You should have invited the Shah of Iran to be your speaker. He has more money, more oil, and more credibility. The other day, he observed that the industrial nations should ban the burning of petroleum and reserve it entirely for petrochemical manufacturing. The high importance he recently attached to petrochemicals is one of the most sensible statements to come out of the Middle East. America's "burn-it-up" philosophy is coming to an end, but the present stringency will force us to continue burning—wasting if you will—oil and gas. For the moment we have lost our options on sensible energy usage. When we have intelligently developed alternative sources of energy, then the Shah's recommendation will have a chance.

The fates of the soap and detergent industry and the energy industry, for better or for worse, are closely tied. Unfortunately, at the moment, that means that most energy-industry problems flow downstream to you. When we're short of oil and gas, you are short of feedstocks. When the price of crude oil and feedstocks soars, detergent manufacturers are directly affected. There is no question that your industry must be allowed to buy competitively and pass these costs through to market. Without this right, you will lose out to other consumers of scarce materials.

In my original preparation for this visit, considerable thought was devoted to the details of the proposed allocation of feedstocks and projections of their availability in the days immediately ahead. Because, as economist Walter Heller said last week, "all forecasts are subject to change without notice", I concluded that our time together could more wisely be spent exchanging views on a matter of vital importance to all of us—preservation of the American economic system—some still call it the free enterprise system.

The very future of our free enterprise system is in grave jeopardy. It is my strong personal conviction that our present energy crisis is being seized upon, by some extreme elements in our society, as the vehicle to move aggressively toward nationalization. As I watch the attacks on the petroleum industry by Congressional liberals and media accelerate without regard to fairness or facts, I am convinced there is a conspiracy to exploit this period of hardship and confusion to destroy the industry.

The credibility of business generally, and the petroleum industry particularly, is at a very low ebb. Permit me, therefore, to place several burning national issues in factual perspective. Then, we can think aloud about possible solutions and answers. I refer to just two questions. First, is the energy crisis, real or contrived? Second, are the profit increases of the petroleum companies in 1973 unreasonable? If Americans understand the true nature of our nation's energy problems and are not fooled into thinking that their hardship and inconvenience are generating "windfall profits", calm thought will prevail and our democracy will respond intelligently. So far, calm thought is not prevailing.

First: Is the energy crisis real, or was it contrived in order to raise prices, overcome environmental restrictions and improve profits?

Last year, it seemed to us that the public was becoming aware of our energy problems. Surveys of public opinion bore this out. Even in Washington, the attitude seemed to be—"We have a problem. Let's get on with solutions." The conclusions of the National Petroleum Council study were becoming more widely accepted. The President outlined the extent of the problem in his energy messages. A Federal Energy Office was established. A procedure for allocating scarce materials was proposed. A touch of realism began to creep into price controls. Authority to proceed with the Alaska Pipeline seemed imminent, and an accelerated energy research and development program was being formulated. The gears of democracy were meshing—slowly to be sure—to meet a national challenge.

Just when we seemed to be pulling ahead, we have been confronted with a rapidly deteriorating national scene. Suddenly, the effort to increase energy supplies is being superseded by a concerted effort to destroy private enterprise and institutions that have served ths nation so well throughout its history. In their place a vast cumbersome government bureaucracy of agencies and restrictive regulations would be erected.

Why is a systematic, intelligent approach to a serious problem deteriorating into a national shambles?

First, the outbreak of hostilities in the Middle East and subsequent crude oil embargoes telescoped the time frame for effective national response. The energy problems projected for 1975 or beyond were upon us in 1973.

Second, among many who had decried industry warnings, there arose a fear that the public would hold them responsible for the impending economic impact and attendant hardships. Those who stand for election become vulnerable when the electorate is disturbed. This led many in political life to embark upon an unrelenting crusade to find a scapegoat. Facts that are the basis of intelligent decision making quickly became subservient to fiction and distortion. As a natural consequence, confusion reigns.

Third, for many reasons, our problems at this moment are less severe than forecast. Instant authorities on the energy crisis are crying out in disbelief and anger, saying, "It can't be so. I still have a job. There is heat and light in my home. Those who projected shortages must have been deceiving us. It must be a fraud." And they seem sorry that the potential tragedy has momentarily been averted.

Well, our energy problems are real. They have not been contrived. They still exist and are the result of our nation's action and inaction during the 60's, the 70's—even into 1974. What errors have we made?

1. By regulation of prices, the United States encouraged demand for natural gas and discouraged aggressive exploration for reserves.

2. Environmental extremism has discouraged use of coal, offshore leasing, Alaska Pipeline construction, new refinery construction, deep water ports and has spawned cars with ever increasing appetites for gasoline.

3. By discouraging development of domestic energy reserves, we have also increased our dependence upon foreign energy materials from sources over which we have no control.

4. Through price controls, we destroyed the ability of the free market mechanism to respond and develop additional supplies.

Economist Milton Friedman recently highlighted the situation when he wrote:

"The oil problem offers a particularly *clear* illustration of how the price system promotes both freedom and efficiency, how it enables millions of us to cooperate voluntarily with one another in our common interest. It brings out equally why the only alternative to the price system is compulsion and the use of force. It is a mark of how far we have gone on the road to serfdom that governmental allocation and rationing of oil is the automatic response to the oil crisis."

C. Jackson Grayson, Jr., who administered federal price controls and then got out, warns, in the *Harvard Business Review*,

"The free market system is in danger of collapse under central economic controls."

Grayson is convinced that our economic system is shifting from a free-market economy to one that is centrally directed and under public control. The danger he sees in present wage-price controls is that the public forgets what profits are all about. Those interested in promoting a centralized economic system can use controls as a convenient stone for grinding political axes.

The true remedy? Grayson echoes Friedman when he says:

". . . no one in any society has been able to come up with a central planning model that is more effective than the seemingly uncoordinated actions of the market-place . . . Why not return to the one planning system we have that works—the price system?"

The United States has the strongest economy in the world. In most circles, this nation is the most envied. We owe a good deal of that advantage to the years of cheap and abundant energy provided by the petroleum industry. Just *how* cheap has it been? The United States has only 6 percent of the world's population, but it consumes 30 percent of the world's energy. Industry critics rattle off these figures. But they do not mention that for 20 years we've used that 30 percent of the world's energy for only 12 percent of the world's cost of energy. This illustrates that the petroleum industry has served the country well. Historically, petroleum products have been the most stable element of our economy. At the same time, the very abundance of low cost energy masked its importance to our way of life. The minute scarcity arises, how the wolves come out of the woods!

The petroleum industry has not overstated the problems that face us. When the Middle East embargoes were announced, they were not difficult to compute. Industry and government had a firm fix on inventories, demand, and supply. If the flow of crude oil from the Middle East were cut back 25 percent; if the flow of refined products from the Netherlands, Italy and the Caribbean were reduced as announced; if demand remained constant; then substantial shortages would quickly occur. Personal and economic hardship would soon follow. There was unanimity in this conclusion. Shortages of 2 to 3 million barrels a day were forecast by industry and government. No one misled anyone. No one contrived the possibility of hardship. It could have been and still can be very real.

Fortunately, during the past 60 days this nation has been blessed by several fortuitous events. Not all Middle Eastern nations reduced their production by 25 percent. Not all Middle Eastern nations embargoed shipments to the extent originally threatened. The oil companies were able to reschedule the destinations of some crude oil shipments. It is generally estimated that between 700,000 and 1,000,000 barrels a day of embargoed oil have been made available to the United States. Is this a result we should complain about? Is there a culprit we should seek out? Wisdom dictates otherwise.

At the same time, demand for most products has been reduced as a result of allocations, voluntary conservation, greater efficiency in energy use, and also because we have had a much milder winter than normal—12.5 percent fewer degree days in the current heating season than last season. Should we complain and find the culprit that did all these good things? Again, wisdom dictates that we congratulate, not condemn.

As Churchill said:

"We have benefited enormously from criticism and at no point have we suffered from any perceptible lack thereof . . ."

As an industry we don't mind being criticised except when the criticism is aimed squarely at our destruction. Coinciding with all of this destructive criticism has been a massive effort by industry to operate refineries at highest possible levels, maximize distillate production and to locate every barrel of non-embargoed oil for the American consumer regardless of cost. I don't think this is wrong and I caution those who are conducting witch-hunts to take a few moments to think constructively rather than deliberately seeking to mislead the public about industry efforts.

Let me give you an example of the kind of distortion of facts that is occurring. Mobil opened a new refinery in Joliet, Illinois. This meant that it had an immediate sharp increase in refinery capacity. But a new refinery doesn't begin operating at peak capacity on Day One. So Mobil had a sizeable decline in the percentage of its capacity that was operating—even though its total production was up. Yet this data was used in a report prepared by the staff of one of Senator Jackson's commitees to "prove" that refinery production was not being maximized so as to create a shortage. You read the charge. Have you read the answer? It was in the fine print.

Incidentally, that same Joliet refinery made news for another Senator. Stevenson, from Illinois, recently chastized the petroleum industry for failing to expand refinery capacity, saying that the industry hadn't opened even one refinery. Somehow he overlooked a new one in his own home state. This is an obvious and I believe deliberate unfairness to the newspaper reader and T.V. viewer. No wonder they question our integrity.

I wholeheartedly welcome Mr. Simon's use of a team of auditors to examine industry data. Such an examination will prove their accuracy.

Now, what about petroleum industry profits? Every major T.V. network and liberally oriented newspaper and newsweekly has described—*ad nauseum*—oil industry profits as "high", "unconscionable", "fantastic", "unreasonable" or "windfall". Day after day, after day, after day, we read of increases of 240 percent; 150 percent; 90 percent; and so on. Most frequently these shockers are headlined along with a charge by some member of Congress, such as Aspin, Stevenson or Mondale, who refers to increases but never bothers to relate profits to investments, risk or comparison with other businesses. Even grade school textbooks on economics do that. Well, what *are* the facts?

The facts are that oil company earnings, measured by return on invested capital, have lagged behind all manufacturing industries for most of the last decade. During 1973, the petroleum industry has experienced sharp increases in earnings as compared to the prior year, 1972, a depressed year for the industry. *Business Week* surveyed petroleum industry earnings for the nine months ending September 30. That survey reflects that the composite rate of return on equity for the 31 oil companies was 13.2 percent. In the same nine months, 880 companies in 36 industries had a mean return of the same 13.2

percent—and 19 of those 36 industries had a higher return than that of the petroleum industry. So—in terms of return on investment, the petroleum industry was precisely at or close to the *average* level for all of American industry. And if that is unconscionable, then we are in good company—fully half of American industry is in the same boat. In the first nine months of 1973, oil industry profits were up 47 percent over 1972. The First National City Bank of New York reported that the average increase for all manufacturing during the same time was 35 percent. Iron and steel was up 89 percent. Nonferrous metals, up 75 percent. Paper and paper products, up 60 percent. Media, by the way, had a pretty good year themselves. ABC was up 45 percent and the *Washington Post* 57 percent. *The New York Times* had a whopping increase in earnings of 93 percent.

I cannot recall seeing a single *New York Times* editorial criticizing its own profits as "unjustified". I have not seen one T.V. spectacular rationalizing why there should be strict controls over energy, but not over media prices and profits.

Incidentally, while Conoco was generating a miserly 38 percent increase in third quarter profits in 1973 over 1972, the *Times* was boosting its profits by 113 percent. And over the latest 12 months, the *Times* has earned a 16.6 percent return on equity, while we at Conoco have had to get along on 12.3 percent. Is there any doubt in your mind about the relative risks of our businesses or respective needs for profits in order to expand capital investments?

A final note on profits. Conoco's profit growth has come principally from foreign operations because of one-time inventory adjustments to reflect increased values of inventory. Price controls have kept domestic oil and gas earnings increases to about 7 percent.

For many years, Conoco has conducted a very aggressive program to develop new supplies of oil and gas in many countries, with its greatest effort concentrated in the United States. In more recent years, we have undertaken programs to develop new supplies of coal and uranium in the United States, and these efforts have been larger than the average for the energy industry. These programs have required substantial amounts of internally-generated funds and extensive external financing. Our capital investment of $1.4 billion in the last three years is about three times our earnings in this period. I'm proud of this record and I think that if the American public knew what we and other energy suppliers did with profits, they would understand and approve not only our profits but the magnitude of their reinvestment.

That leads me to my reasons for saying there has been a conspiracy to destroy the industry. If media were conveying an objective presentation of facts regarding the energy crisis, the public and government would not be responding negatively today. To the contrary, this nation would be responding in a constructive fashion to develop new sources of energy.

Apparently, many in media are not interested, for I have tried. On December 6, I appeared before the Haskell Subcommittee and testified as to concentration in the energy industry, presented an analysis of industry profits, and refuted allegations of contrivance and conspiracy. Although Morton Mintz of the *Washington Post* and the wire service were present during the testimony, and, although a press release was widely distributed, not one T.V. network or anti-business newspaper mentioned the rebuttal. That same newspaper had headlined every unsupported charge against the industry. Two weeks later, in a Ft. Worth speech, with widely distributed press releases, I repeated the facts and asked media generally to do a documentary or an editorial on why higher rates of return and profit increases are good for media, but bad for the energy industry. None took me seriously. I can only conclude that there is a large and important part of the communications industry that does not want the facts and both sides of this issue disclosed to the public. At the same time our critics in Congress continue their cheap shots while ignoring factual answers to their distortions.

Concern that media will not approach the energy problem objectively has prompted industry to resort to advertising to tell its side of the story. The same Congressional liberals, afraid that the facts would become widely known, suggested legislation and regulations which would prevent even this approach. Why are they so afraid of the truth?

This is a discouraging period. At Conoco, we are getting ready to begin, in 1975, our second century of service to the American people. Yet at the same time, we see our first century of endeavor, responsibility, citizenship and positive contribution to the American way of life forgotten overnight. Now, a handful of misguided zealots threaten to deliberately undermine a responsible industry that has been alerting Washington to the dangers of inaction and pointing to the vital need for a coordinated national effort.

The soap and detergent industry can't shake its head and say, "That's too bad, but it's your problem." It's more than that, for all industry and everyone in this nation would be hurt by an ill-advised and emotional anti-business response in Congress. If the petroleum industry is so crippled by taxes and regulations that it cannot aggressively expand energy supplies, your industry will be directly affected. If the marketplace is controlled and government is substituted for private industry, where will it stop? Who will be your supplier of feedstocks? Slowly the institutions that have made America great will be destroyed not by accident, but by design.

Further, it disturbs me deeply that legislative processes that have stood the test of time, and have permitted all sides of an issue to be aired, are now being eroded at a frightening rate. When legislation can pass Congress without critical committee analysis and review, then the democratic process has been bypassed. If tax measures can be passed without review by the House Ways and Means or Senate Finance Committees, then we have aborted an essential ingredient of a legislative process designed to prevent emotional and arbitrary action.

There are sensible and rational answers to this nation's energy problems. We can weather the storm without widespread hardship and economic loss if we respond intelligently. Adequate supplies of energy will not flow from the destruction of private industry. Rather, they will flow from a cooperative effort between government and industry, assisted and encouraged by the public. Let's capitalize on our strengths, minimize our weaknesses, face our challenges as partners and be guided by the truth. It has been a successful formula in the past and it can resolve our present difficulties.

The *Wall Street Journal*, in an editorial entitled "The Great Oil Conspiracy", summed it up pretty well when it concluded,

"To us, all of this looks a good deal less like a conspiracy than like each company trying to cope on its own. Yet the conspiracy theory will no doubt thrive, nudging Congress to take all manner of punitive action against the companies, action that will prolong, not shorten, the energy crisis. We only hope that enough people can conceive that just as a nation's foreign policy can be distorted by believing in bogeymen in pinstripes, so energy policy can be warped by visions of bandits in the boardrooms."

As my final note, allow me to repeat what, for months now, I have felt called upon to tell the nation: The only conspiracy I have witnessed is the one of industry critics who have consistently delayed and frustrated sensible energy programs for the past 10 years.

Mr. HANSEN. Mr. President, I would like to call my colleagues' attention to what members of the Sierra Club feel to be the critical deficiency of this conference report as regards the environmental provisions. These views were informally transmitted to me by the Sierra Club, and I call them to my colleagues' attention in the hope that knowledge of the Sierra Club's position will be of assistance in formulating a position in the conference report.

I ask unanimous consent that the informal notes that were transmitted to me may also be included in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT

There are other concerns to the Conference Report which must adequately be examined. One issue was raised by Senator MUSKIE that perhaps there has been too much haste in considering proposed changes to the environmental sections of the report, specifically the clean air act provisions. This was one of the reasons the Senate recommitted the first conference report; to further examine possible problems in this area. And the conference did reexamine these issues and did make changes here.

But I understand there are still problems which merit a further examination. Senator MUSKIE has just expressed reservations now with what has been done in the name of immediate speed. I understand environmental and public health organizations still have objections to what was done in the clean air sections and particularly in the coal conversion section. This issue should be reopened and adequately discussed.

As I understand the objections, under Sections 106 and 201 fuel burning stationary sources such as electric powerplants would be allowed to switch to the burning of coal without being prohibited from the burning of that coal until January 1, 1979 "by reason of the application of any air pollution requirement." This would allow powerplants to burn coal uncontrolled in heavily populated and polluted areas of the country regardless of whether there would be a violation of the national primary air quality standards, which are set to protect the public health. A number of Senators have raised this issue and have recommended that when the consideration is given to ordering powerplants to convert to coal such ordering should not be allowed if it is determined that the conversion would result in a violation of health standards and that fuel is available which would meet those standards. Time is needed to reconsider this very important public health issue which is being decided.

Mr. HANSEN. Mr. President, let me say further that one of the interesting agreements reached by the conferees, not unanimously but by most of the conferees, was to invalidate the so-called stripper well amendment which was part of the Alaska pipeline bill. Despite the fact that there was no such provision in the bill before the Senate, nor was there any such provision in the bill before the House, the conferees in their wisdom decided to strike down that amendment.

I call this fact to my colleagues' attention, suggesting that they give serious consideration to the fact that, in the opinion of the Senator from Wyoming, a valid point could be raised as to the germaneness and the propriety of the conferees in embarking upon a new, uncharted area insofar as action by either body of the Congress was concerned previously, including this provision in the conference report.

I have no further observation to make on that other than to make note of the fact that it seems to me a question could validly be raised as to the propriety and the germaneness of that provision.

Mr. President, I know that we will be in session tomorrow. I am certain that all of us want to try to help resolve this very vexing, very troublesome problem before the people of the United States. I know that a great many Senators are rightly and properly concerned, as is the Senator from Wyoming, with rising prices, with inflation; but there are some of us who are even more concerned with the very distinct possibilities that what are already short energy supplies could become even more difficult to come by if this conference report is accepted.

This afternoon, the record will disclose there was a great amount of testimony from knowledgeable people, not alone in business, but in positions of economic scholarship as well, attesting to their nearly unanimous conviction that this indeed will be one of the results of the implementation of this conference report.

I was in California during Christmastime, and I remember very well seeing headlines in the Los Angeles Times in Christmas week, 1973, which stated that there were some 32,000 people out of work in the State of California as a direct consequence of the energy shortage in America.

No one wants to pay a higher price for fuel, no one wants to add any increased heat to the already too rapidly burning fires of inflation, but I can assure you, Mr. President, that there is one catastrophe that could exceed even that in its chaotic impact upon the American way of life and upon our ability to continue the credibility and believability that we presently enjoy worldwide, and that would be to have our economy grind to a halt, to have more people thrown out of work, to have our ability to keep our commitments worldwide diminished because of a lack of energy.

We already know that, with the Arab oil boycott, it was necessary to ship from Norfolk, Va., oil to fuel our fleet in the Mediterranean. Think, if you will, Mr. President, what could happen to America if we further disrupted our domestic petroleum supply.

It has been pointed out that 13 percent of all the oil that this country domestically produces today comes from stripper wells.

I say that I can think of nothing—no one single thing—that could be more devastating to those goals which we hope America soon shall achieve than to be denied that precious flow of oil upon which most of the jobs, most of the productivity, and indeed the standard of living of America, depend.

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 7, 1974, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub-No. 2).

SENATE CONFIRMATION OF DIRECTOR AND DEPUTY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 37.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendment of the House of Representatives to the bill (S. 37) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes, which was to strike out all after the enacting clause and insert:

That the first two sentences of section 207 of the Budget and Accounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"SEC. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

SEC. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this Act is enacted.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I say that this matter was previously agreed to as we have just done. On January 28, the Senate concurred in the House amendment. The distinguished majority leader later vitiated the action. The majority leader has now asked me to restore the action of the Senate. This is what is being done at this time.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR THE RESUMPTION OF CONSIDERATION OF CONFERENCE REPORT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders previously entered for the recognition of Senators have been completed, there be a period for the transaction of routine morning business not to exceed 15 minutes, with statements made therein limited to 5 minutes; at the conclusion of which the Senate resume its consideration of the now pending conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for 15 minutes and in the order stated: Senators JAVITS, MATHIAS, KENNEDY, ROBERT C. BYRD and HARRY F. BYRD, JR.

There will then be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 5 minutes each.

At the conclusion of the routine morning business, the Senate will resume its consideration of the National Energy Emergency Act conference report.

Yea-and-nay votes could occur thereon.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until tomorrow, Friday, February 8, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 7, 1974:

DEPARTMENT OF THE TREASURY

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury, vice Edwin S. Cohen, resigned.

DEPARTMENT OF STATE

Armistead I. Selden, Jr., of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, to the Kingdom of Tonga, and to Western Samoa.

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be Members of the Board of Regents, National Library of Medicine, Public Health Service, for the terms indicated:

Term expiring August 3, 1976:

Eddie G. Smith, Jr., of the District of Columbia, vice Max Michael, Jr., term expired.

Ethel Weinberg, of Pennsylvania, vice George William Teuscher, term expired.

Term expiring August 3, 1977:

John William Kauffman, of New Jersey, vice William O. Baker, term expired.

Joseph Francis Volker, of Alabama, vice Jack Malcolm Layton, term expired.

IN THE COAST GUARD

The following officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Raymond K. Kostuk
Laird H. Hall
Gordon N. Hanson
John J. A. Murray, Jr.
John T. Sugimoto
Dennis G. Beck
Steven C. Borloz
Benjamin J. Stoppe, Jr.
Larry R. Ganez
Richard E. Meed
Gary L. Frago
Patrick M. Stillman
Dennis M. Egan
Penn F. Shade
David A. Rogers
Bienvenido Abiles
Winston S. Jones
Thomas F. Dolan
Jeffrey A. Hibbitts
Gary B. Coye
Richard A. Knee
Stephen R. Osmer
James W. Norton
Bruce E. Nelnick
William R. Armstrong
Robert W. Zider
Charles F. McCarthy, Jr.
Marlin L. Shelton
Edward J. Peak
Thomas N. Gilmour
Richard J. Sellers
Craig P. Coy
William H. Wissman
Christopher C. Burns
Arthur E. Crostick
Joseph A. Stimatz
Arthur R. Butler
Michael B. Garwood
Norman B. Henslee
Dennis D. Rome
Edmond P. Thompson
Dirk D. Young
Robert J. Wells, Jr.
Terry W. Newell
James W. Gormanson
Harry W. Forster, Jr.
Steve S. Sheek
James H. Richardson
James R. Matwick
Lawrence G. Brudnicki
Samuel R. Brooks III
John S. Merrill
James M. Alderson
Thomas J. Love
Christopher C. Oberst
William M. Bannister
Frederic R. Gill
Jimmy Ng
Danny D. Benefield
Joel D. Gunderson
John C. Malmrose
Richard T. Buckingham
Walter G. Johnson
Robert C. Mueller
Charles F. Klingler
Joseph M. Kyle, Jr.
John R. Shannonhouse
Thomas D. Yearout
Charles B. Williams
Clay A. Fust
James F. McCarthy III
Narrie A. Travis, Jr.
James McEntire, Jr.
Henry F. Bailey IV
Erroll M. Brown
Michael D. Shidle
Hampton E. Beasley, Jr.
Patrick J. Popieski
Martin C. Eger
Stephen R. Campbell
John W. Whitehouse
William F. Carson III
Ronald C. Gonski
Philip T. Bird
William B. Wittmeyer
John J. O'Neill, Jr.
Phillip C. Smith
Herbert R. Williams
Alan D. Summy
Rex A. Buddenberg
Carl R. Smith
Gordon J. Lawrence II
Galen W. Dunton
Thomas J. Meyers
James E. Whiting
Francis J. Kishman, Jr.
Jan E. Terveen
James M. Copper
Joseph H. Jones, Jr.
James W. Meyer
Willard M. Collins
Mark D. Noll, Jr.
Gary M. Heil
Melvin H. Demmitt
Michael D. Hathaway
F. F. Litchliter III
Tim B. Doherty
Wayne H. Ogle
James W. Underwood
Edwin E. Rollison, Jr.
Woodrow P. Vaughn
Hugh T. H. Grant
John A. Martin
Danny J. San Romani
Gary R. Westling
Steven D. Poole
Richard W. Withers
Christopher H. Waring
James L. Rohn
Edward E. Page
Dennis J. Gillespie
Bradley J. Niesen
Gary L. Swan
Robert D. Innes, Jr.
Robert W. Vail
William B. Turek
Paul L. Barger
Dean L. Harder
Bruce C. McCurdy
Loren M. Marovelli
Michael W. Ragsdale
William H. Fels
Robert F. Duncan
John M. Gray III
John M. Crye
John G. Calhoun
John W. Larned
Scott L. Anderson
Kevin J. Scheid
Craig A. Leisy
John A. Rodgers
Stephen P. Ziomek
Charles A. Farnsworth
William P. Foreman
Thomas C. Paar
Thomas C. Meisenzahl
John K. Synovec, Jr.
Kenneth A. Forsythe, Jr.
James H. B. Morton, Jr.
David L. Engan
Jeffrey A. Hill
Harold E. Blaney, Jr.
Michael P. Decesare
Robert R. Halleck II
Joseph E. Blanchard
Merritt H. Aurich IV
Steven B. Spencer
Douglas S. Neeb
David L. Walts
John P. Foley
Gregory D. Lapp
Paul J. Howard
Timothy C. Healey
Kirk A. Smith
Norman D. Robb
Francis J. Sambor
Michael M. Matune, Jr.
John J. Giglio
Glenn A. Gipson
Carlos M. Morales
Richard W. Fish
Dennis A. Sande
Dennis E. Oldacres
Frederick L. Johnson
Anthony Dupree, Jr.
Ronald L. Endsley
Gary C. Rowland
John L. Congdon
Richard W. Tate
John C. Luther
Grover C. Breckenridge
James D. Jones
James E. Andrews
Mack E. Moody
William H. Bourland
Joseph A. Walker, Jr.
Norman K. McBride
Kenneth R. Grover
William J. Thrall
Joseph W. Thibault
Robert E. Drake, Jr.
Robert C. Winter.

CONFIRMATION

Executive nomination confirmed by the Senate February 7, 1974:

U.S. PATENT OFFICE

Curtis Marsall Dann, of Delaware, to be Commissioner of Patents.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

WHO REPRESENTS OLDER AMERICANS?

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. RARICK. Mr. Speaker, it seems that every lobby group in Washington is in the business of publishing "voting compilations" for the Congress. They select a handful of isolated votes, rate Congressmen on a scale of zero to 100 based on those votes, then proceed to broadcast which Members are for or against the aims of the special interest group publishing the scorecards.

The danger in this time-honored Capitol Hill tradition is that the votes selected may not always represent a Congressman's true attitude on the overall issue. A case in point occurred just a few weeks ago.

I am sure that the other 28 Members and 6 Senators were as surprised as I was to learn that we had attempted to "hoodwink" the elderly voters. This amazing bit of misinformation was concluded by the National Council of Senior Citizens, based on 10 votes selected by the organization. Those of us who have always tried to cast our people's vote for the benefit of all our citizens, including the elderly, found this conclusion perplexing.

Of the 726 votes and quorum calls during the 1973 session, the group selected 10 votes that were supposed to represent "the needs of America's elderly." A closer look at the selection would lead one to question whether those votes were more representative of the thinking and aims of big labor bosses, rather than votes crucial to older Americans. Every vote called for additional government spending. By now we should have learned that additional inflationary spending and more big brother Government only adds to the burden of every citizen. This is especially true of the elderly in this country living on a fixed income. They of all people can least afford a soaring inflation rate.

But the National Council of Senior Citizens, an offspring of the Senior Citizens for Kennedy and Johnson organization from the early 1960's, chose votes of questionable benefit to the elderly. Casting a vote for pirating our Federal aid to highways trust fund, increasing the cost of food by extending the minimum wage bill, socializing the legal profession under Government control, or deteriorating medical services under nonmedical people would not be in the best interest of the great majority of our elderly citizens.

The organization's close ties with the AFL-CIO and the National Democratic Party makes their vote choice understandable. NCSC's national president, Nelson A. Cruickshank, formerly of the AFL-CIO's social security division, apparently continues to follow his former employer's goals in his new position. I understand that the group receives some of its financial support from big labor, and borrows freely from the COPE staff on occasion. In the last election it endorsed and actively supported Senator MCGOVERN's campaign. The NCSC has an active public relations oriented lobby organization at the national level, but their grassroots membership is relatively small, between 200 to 300,000 members.

It is always to the benefit of lobby groups for Congressmen to side with them on an issue. The real measure of a

legislator's attitude is, does he side with the people in his district. Congressmen know who they represent, but the American people do not know who the lobbyists really represent.

ADMINISTRATION'S POSITION ON ENERGY R. & D.

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. UDALL. Mr. Speaker, the Environmental Subcommittee, which I chair, of the Committee on Interior and Insular Affairs is proceeding with its deliberations on H.R. 6602 and related bills to establish a national nonnuclear energy program.

During our hearings on this subject, representatives of the Office of Management and Budget and the Federal Energy Office appeared and, among other topics, discussed the relationship of various agencies, both existing and proposed, in the field of energy. Of particular interest was the administration's position on how the country's R. & D. program should be administered.

There are various proposals on this subject and a number of issues which are yet to be resolved. In this regard I am today inserting a letter I have received from Roy L. Ash and William E. Simon which sets forth the administration's position on this matter for the information of interested Members:

THE WHITE HOUSE,
Washington, D.C., February 6, 1974.

Hon. MORRIS K. UDALL,
Chairman Environmental Subcommittee of the Interior and Insular Affairs Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On January 31, 1974, Messrs. Frank Zarb and John Sawhill testified on behalf of the Administration as to the best Federal Government organization for energy research and development. In reviewing the question and answer exchanges with the Committee members, we feel that some confusion may still exist and that a more thorough statement in writing would assist the Committee in understanding our position.

The organization for energy R&D cannot be considered by itself, but must be related to the total energy responsibility. In addition, energy R&D is integrally related to the management of all of our natural resources. Finally, as you indicated in your own remarks, the Federal role and programs are only a part of the total answer, and great care is needed in keeping the Federal role in proper perspective with the private sector responsibility.

For several years, it has been clear that a new Federal organization is needed to coordinate both energy and natural resources. In March, 1971, the President submitted to the Congress a modernized expanded Department of Natural Reosurces to solve this problem. The current energy situation has heightened the need for such an organization. We still firmly believe that such a major cabinet department is the most effective organization structure for the government in integrating and managing its energy/natural resource responsibilities, and in its ultimate form would contain both ERDA and FEA. We have always recognized that such a major departmental reorganization involves the concerns of a great many interests and would require careful Congressional scrutiny and perhaps some change before it could be enacted.

Therefore, we have felt free to make constructive changes where needed, in many instances to reflect the views or interests in the Congress. This has been especially true in the energy related areas.

Pending Congressional action, last Fall the President, by Executive Order, established the Federal Energy Office. However, recognizing that FEO lacked appropriate statutory basis and authority, we simultaneously submitted legislation calling for creation of such an organization—designated the Federal Energy Administration, which has been described in detail in Congressional hearings.

At the same time, we felt it necessary to move urgently on the energy R&D front. We feel a sense of urgency because we recognize that we are facing the need for a rapid buildup and upgrading of our total energy R&D program, especially in the fossil fuels area and in solar and geothermal work where our government capabilities are very small. Even though the results from such R&D work may be years away, we feel we must move immediately to assemble and train the high skills which the program demands.

After looking at a number of alternatives, we concluded that we could build up our total energy R&D capability most rapidly and across the widest range of programs, by building on the capabilities of an existing agency—in this case, the Atomic Energy Commission, with its existing national research laboratories, contract management staffs and experienced R&D management skills. This was the genesis of of the Energy Research and Development Administration legislation which has already passed the House. We see ERDA not as a threat to the need for fossil fuels research, but rather as our best opportunity to bring R&D in fossil fuels, geothermal and solar energy swiftly up to necessary levels of funding and technical excellence, by making use of the organization, management, authority, physical facilities, and technical expertise which will be assembled in ERDA. Without ERDA we have no existing agency capable of the task.

One of the least understood dimensions of the Federal role in facing up to our national energy problems is what we have called "energy resource development." The great bulk of responsibility for assuring that we have supplies of energy to meet our demands lies with the private sector. It is our assessment however, that there are a great many ways in which the Federal Government, working with the private sector, can encourage and help it to expand energy production. This may involve cutting governmental red-tape, eliminating or simplifying constraints which tend to curtail production, strengthening economic incentives for production, expediting Federal or State/local decisions, and a variety of other means. FEO, and FEA when enacted, would serve this role within the framework of the total National energy policy which it would be instrumental in developing. This kind of energy resource development uses existing technology and can pay off over the next several years, particularly in the 1974–80 time frame. It is in this area that industry anticipates that $200–500 billion of investment over the next 5–10 years will be needed.

With this in mind, the respective roles of FEA and ERDA can be made clear. FEA's responsibilities include dealing with the current crises by establishing allocation, rationing (if needed), price controls and conservation programs to equitably balance shortages of fuel supplies in relation to demand. FEA would collect, analyze and assess data on energy supplies and consumption and make policy recommendations. FEA would also have responsibility for the Federal role in expanding supplies of energy using available technologies. This includes expediting energy resource development projects such as the Alaskan pipeline, Outer Continental Shelf leasing, as well as greater use of coal, oil shale and outer energy resources. It would also study the role of government in assuring that adequate economic incentives exist for industry development of domestic energy resources.

The Energy Research and Development Administration is proposed as a central agency for the management and leadership of Federal energy R&D programs for the purpose of developing new or improved technologies for energy production, conversion and utilization. The development of technology (energy R&D) is ERDA's responsibility. The development of expanded energy supplies with available technology is FEA's role.

The technology development involves high risk, strong management and a joint Federal/private sector relationship. Our ERDA proposal and the $10 billion R&D program are designed to achieve the technology goal. In arriving at her $10 billion program, Chairman Ray's analysis indicated that industry may spend as much as $12 billion for energy R&D over the next five years for this purpose.

As you know, FEO currently has responsibility for coordinating overall energy matters within the Executive Branch. Once FEA and ERDA are established there may still be the need for a small central office in the Executive Office of the President to provide coordination. Alternatives are being carefully considered.

In summary, the Administration felt that, because of the urgent need for immediate action and the apparent difficulty in enacting a Department of Energy and Natural Resources it was necessary to obtain FEA and ERDA. Both ERDA and FEA are designed to stand alone as fully functioning organizations meeting real and important needs. Even when enacted and operating however, the President has asked the Congress to turn its attention once again to the consideration of DENR as the best ultimate organizational solution for the Federal role in energy and natural resources.

I hope that this further clarification will aid your Subcommittee in its deliberations. Should you have further questions, please feel free to contact either of us, and we appreciate the opportunity to express our views to you and your Subcommittee.

Sincerely,

ROY L. ASH,
WILLIAM E. SIMON.

MASSACHUSETTS STATE SENATE RESOLUTION ON THE ENERGY CRISIS

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. DONOHUE. Mr. Speaker, I am pleased to include in the RECORD a copy of the resolution, relative to the energy crisis, that was adopted by the Massachusetts State Senate during its session on January 21, 1974.

The resolution indicates the very earnest and timely concern of the members of the State senate about our national and regional energy shortage problems. It rightfully urges the fullest exploration and consideration of every suggestion and proposal, including the Dickey-Lincoln project in Maine, that could possibly contribute an additional amount of energy to the people in the Northeast and throughout the country. The final objective of such exploration is, of course, to make our Nation self-sufficient in power supply and independent of foreign source in the future.

The intent of the State senate resolution is commendable. I am confident that all Members of Congress will extend, as I have consistently done in the past and will continue to do, cooperation in the basic purpose of the resolution by very thoroughly studying and reviewing the potential energy contribution and economic feasibility of every proposal that could possibly provide additional power at lower costs to the overburdened average consumer in our region and country.

The resolution follows:

THE COMMONWEALTH OF MASSACHUSETTS—RESOLUTION RELATIVE TO THE ENERGY CRISIS

Whereas, The nation and particularly the New England region is confronted with a major energy and environmental dilemma; and

Whereas, Extensive engineering and economic studies conducted some ten years ago by the Department of the Interior demonstrated to the satisfaction of President Kennedy the feasibility and relative environmental desirability of developing the extraordinary tidal characteristics of the Passamaquoddy Bay area for hydroelectric production; and

Whereas, Such development, including the Dickey-Lincoln School hydroelectric installations would have provided some 1,250 megawatts of electricity (mostly peaking power) to northeastern America, with annual power benefits in excess of $40 million in the form of a power supply available at about 25% less than the then prevailing cost; and

Whereas, The combined project would have represented a Federal resource—developing investment of more than $1 billion in the New England area and entailed some 15,000 man-years of on-site employment; and

Whereas, Private international investors have recently been organizing to develop similar tidal sites in Nova Scotia; and

Whereas, Electric power is expected to be increasingly required, especially for mass transit and industry; and

Whereas, The mounting costs and the precariousness of supply of imported petroleum is drastically transformnig the economy of energy; and

Whereas, The Congress has recently responded to the crisis by providing in the Emergency Energy Act for the preparation of plans for the development of hydroelectric resources; and

Whereas, The Massachusetts Senate is gravely concerned about the development of the economic base of New England and about the protection of the environment as well as insistent that the few natural energy resources that the northeast possesses be wisely and equitably developed; now, therefore, be it

Resolved, That the Massachusetts Senate respectfully requests the Congressional delegation from this Commonwealth and the other states of the northeastern area to assure reconsideration of the entire project as presented in the July, 1963 Report by Secretary Udall to President Kennedy as a major element in the forthcoming appraisal of our national hydroelectric potential; and be it further

Resolved, That a copy of the foregoing resolutions be transmitted forthwith by the Clerk of the Senate to the Congressional delegation from this Commonwealth and the other northeastern states.

Senate, adopted, January 21, 1974.

INDIANA GENERAL ASSEMBLY RESOLUTION

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. LANDGREBE. Mr. Speaker, on January 30 and 31, the House and Senate of the Indiana General Assembly passed a concurrent resolution expressing concern about the detrimental effects Federal health legislation has had on the private practice of medicine, and requesting the Congress and the administration to take immediate action to eliminate unwarranted interference with the private practice of medicine.

The resolution specifically mentions the professional standards review organizations which were provided for in the Social Security Amendments of 1972, Public Law 92–603. These organizations will have the power, among other powers, of requiring confidential information on patients to be divulged to the Government by their physicians.

Yet physicians, upon graduation from medical school, swore an oath which includes the words:

> And whatsoever I shall see or hear in the course of my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets.

The claim of the Government to information which the physician has sworn not to divulge places doctors who take the Hippocratic oath seriously in the position of having to violate their oaths, or refusing the Government access to their records and thus breaking the law, or ceasing the practice of medicine.

Already one effect of Federal Government regulation of private medicine can be seen in experienced doctors quitting their practices of medicine. The removal of one physician in Indiana from practice caused one of his patients, a member of the Indiana General Assembly, to introduce the resolution passed by the General Assembly and printed below.

Physicians quitting their practices are a highly visible effect of Government regulation of private medicine. One not so visible effect, and in the long run, a more disastrous effect of Government interference in the medical marketplace, will be the deterrence of some of the best and brightest of American youth from the field of medicine.

The resolution follows:

RESOLUTION

A concurrent resolution expressing concern for the involvement of the United States Congress and certain federal administrative agencies with private health care and requesting a re-evaluation by the United States Congress and national administration regarding health care services.

Whereas, The ability of citizens to adequately enjoy and effectively contribute to the opportunities of society depends to a great extent upon their individual state of health; and

Whereas, The primary responsibility for providing for health care rests upon the medical profession; and

Whereas, The Congress of the United States and federal administrative agencies have, in recent years, initiated a number of programs having an impact upon the medical profession which include: administrative controls on hospital and laboratory utilization, total review of all aspects of medical care by professional standards review organizations, increased controls by governmental planning bodies, preferable treatment through tax subsidies to new health care delivery systems as opposed to private medical practice and the threat of a national health care delivery system which would ultimately lead to total control both of physicians and their patients; and

Whereas, These actions have significantly reduced the ability of physicians to exercise their best judgment on behalf of their patients, decreased the amount of time available for patient care, increased the cost of health care, reduced the attractiveness of the medical profession to able young men and women, and threatened to restrict the freedom of choice for patients: Therefore

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the 98th session of the Indiana General Assembly expresses concern over these negative impacts of current policies and requests the United States Congress and the national administration to re-evaluate current federal policy regarding provision of health care services and take appropriate steps immediately to eliminate unwarranted interference with the private practice of medicine.

SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, the Secretary of Health, Education and Welfare, the director of the Department of Health and all Indiana United States Senators and Representatives.

POLITICAL PRISONERS AND HUMAN RIGHTS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. RARICK. Mr. Speaker, some of the same voices in our Nation's Capital which have been bemoaning our relations with Chile, South Vietnam, Greece, and the Soviet Union because of what they call political prisoners and deprivation of human rights have now joined the voices of the change agents calling for normalization of relations with Castro's Cuba.

Strangely, none of those who express concern over political prisoners, police brutality, and human rights, have as yet called for a discontinuance of those oppressive measures by the Castro dictator before any "peaceful resumption" of trade, commerce, and tourism with that country. Overlooked from the flashy headlines and instant news analyses is the tyrannical condition of Cuban rights under Castro.

Dr. Manolo Reyes, a Cuban-American exile in Miami, has testified on several occasions here in Congress that there are in excess of 80,000 Cuban citizens presently held behind iron bars or in "rehabilitation" work camps in Cuba today. Dr. Reyes' last statement was on October 16, 1972, at which time he testified that Castro executed 33,000 of his own Cuban countrymen in his 12½-year rule. Castro, himself, in his long-winded political filibusters to maintain control by the use of intimidation of human rights has admitted confining 20,000 dissenters. And this does not include the more than 700,000 Cuban exiles and refugees who have voted for freedom by fleeing to the United States from the "glorious Utopia"—communism under Cuba, as inflicted by Castro upon those wonderful people.

Political prisoners and deprivations of human rights in Cuba just 80 miles off our coast, goes not only unnoticed, but if diplomatic relations are normalized, would be rewarded.

STRANGLING MASS TRANSIT HOPES

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. BRASCO. Mr. Speaker, on all sides we hear the cry that alternatives must be found to the private automobile. Few rational beings disagree with such a fine sounding homily. The next logical question is, What form shall such alternative take? Our answer is always the same—urban mass transit.

As a city dweller, I have long been saying just that, echoing the beliefs and desires of the overwhelming majority of my constituents. Our cities, particularly New York, will survive or perish, depending on the state of their mass transportation.

For years now, New York has grown ever more dependent on mass transit arteries, which are inexorably growing more dilapidated, rundown, unsafe, dirty, and expensive. As the subways and other mass transit alternatives have deteriorated. our need for them has grown. Today, New York cannot function without them, yet increasingly they are misfunctioning. It presents an intolerable situation to the 12 million citizens of the greater New York area who in one way or another depend on these systems.

What is happening in New York is taking place in every other major metropolitan area in the country. New York may have it happen first and worst, but no community of size can escape the problems appearing in our greatest city.

As this state of affairs has grown ever worse, we have come to the Federal Government, seeking alleviation of our plight and an understanding of the situation we are confronted with. Rarely has our effort met with even minimum success. Ignoring the vast majority of the taxes we pay, the Federal Government has blissfully ignored our plight. Even though we pay far more money in Federal taxes as a group than we receive in return in the form of Federal programs, our requests for urban mass transit assistance have not only gone unheeded but have been ridiculed as urban handouts.

Today, it is not a question of arguing on the merits of the case. Even the doltish among city haters can see for themselves that metropolitan America is floundering in a morass of basic troubles, caused by inability to do simple, basic things, such as travel across cities. Also, even the imbecilic can see that when the cities perish, the suburbs and countryside will also succumb with little further delay.

So at last the grand moment of enlightenment bursts upon America, and the cry goes up for us to avail ourselves of other modes of transport. The oil companies, by engineering the energy crisis, have in effect added the last straw and done America a favor, albeit unintentional.

Voices in the Congress have been heard calling for aid to urban mass transit who ordinarily would not have known a bus from a streetcar, causing we city folks to boggle at the sight of their sense of urgency and the noises accompanying their enlightenment. And leading the pack has been our fearless and beloved leader, President Nixon, who has called for more use of mass transit to ease the energy shortage.

Hosannas all around. Raise the flag, sound the horns and beat the drums. Enlightenment rages like a pestilence. Grateful city types have of course anticipated the forthcoming Federal aid with which to refurbish and upgrade their mass transit systems.

And then our good President caused his Office of Management and Budget to block Federal funds for cities to start new rail transit systems. On September 14 of last year, OMB sent a directive to the Department of Transportation, ordering that no funds "be used for new start grants in fiscal year 1974 on rail rapid or commuter rail transportation." When criticized, they indicated that they believed the cutoff of funds for new rail systems would not interfere with any city's construction plans.

Although the President has now belatedly offered his own version of aid to mass transit, it would mean less funds for operations of vital systems, and still reflects his opposition to any program of operating subsidies alone. What we need is a simple program of massive Federal assistance to the daily operations of such systems, without strings attached as are to be found in the President's version. Our need is immediate, particularly in light of the crush of new mass transit riders created by the energy shortage.

The American Transit Association estimates that some 10 million Americans presently patronize mass transit systems in rush hour. Some 6.8 million more could and would join them if the systems could accommodate them. So it is obvious that we have a golden opportunity at this juncture to actually do something about one of the problems harming the quality of American life so basically on a daily basis.

To accommodate all the additional riders, some 25,000 more mass transit vehicles would be needed. Therefore it is essential that operating subsidies be made available to localities by the National Government. Congress sought some $800 million in such funds over the next 2 years, and final congressional action was imminent. Now the administration's actions hamstring all major efforts, and the entire country shall bear the brunt of this stand.

Fringe parking, carpooling, and the other laudable measures are mere stopgaps compared to what we really need—the very aid the administration is preventing. It is like bailing out the lifeboats on a vessel instead of trying to repair her.

What we have then, after all is said and done, is a burning national need that has become a real necessity. We have the means at hand to engineer a solution. Yet the national authority prevents it while blathering on about cosmetic efforts which treat the symptoms while ignoring the disease.

Meanwile, the highway trust fund remains intact, as our billions in user taxes pour into it to build more roads through viable urban areas. It is city money that is being spent, and the cities slowly decay, and the so-called leaders among us call for action. They are like the people who cut down the last redwood tree, who then mount the stump and make a speech on conservation.

AN ENERGY INFORMATION ACT NEEDED IN NEW YORK

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. BINGHAM. Mr. Speaker, New York State's distinguished Attorney General Louis J. Lefkowitz has found it necessary to file suit against Shell Oil Co. and three of its affiliates for deliberately withholding vitally needed home heating oil from the New York market to force up prices and drive out competition.

It is becoming increasingly clear that without a National Energy Information Act the major oil companies will continue to exploit the energy crisis for their own economic benefit.

I commend the attached article appearing in the February 7 edition of the Washington Post to the reader's attention:

N.Y. CHARGES SHELL, THREE AFFILIATES

(By Philip Greer)

NEW YORK, February 6.—Shell Oil Co. and three affiliates were charged today with deliberately withholding home heating oil from the New York market to force prices higher and drive out competition.

A civil antitrust suit filed by State Attorney General Louis J. Lefkowitz charged that the four companies diverted nearly 1 million barrels of heating oil—enough to heat 40,000 homes for a year—and held it secretly for several months in anticipation of tight market conditions that would increase prices.

Shell denied the charges "categorically" and said it will "vigorously challenge" the suit.

In addition to Shell, the defendants are Asiatic Petroleum, a bulk distributor that had not dealt in home heating oil before 1973; Compania Shell De Venezuela, Ltd.; and Shell Curacao, N.V., both South American suppliers. All four companies are members of the Royal Dutch/Shell Group.

The suit, which is scheduled for a hearing on Feb. 13, asks $50,000 fines against each and an injunction against "charging unconscionable or exorbitant prices."

Lefkowitz said his office has subpoenaed officers and records of 34 oil companies in an investigation that began last month. He added that he is "very, very seriously" considering criminal action in some cases.

According to the suit, "it became apparent" to both Shell and Asiatic in the winter of 1972–73 that increased demand would create a tight market for No. 2 heating oil in the winter of 1973–74. In December, 1972, Shell announced an allocation program for its regular customers.

Last spring, the complaint charges, Shell USA ordered 1 million barrels of heating oil from Shell Venezuela, to be delivered during July, August and September. The request was turned down and, instead, the million barrels was shipped to Asiatics storage facility in Perth Amboy, N.J.

The million barrels was kept under customs bond (technically, it was never imported) and was not reported to either the American Petroleum Institute or to the federal energy office until Jan. 15, 1974, the suit charged.

Lefkowitz charged that, although Shell customers could not receive their full oil needs, Asiatic held its supply until November, when it was officially imported and removed from the bond. Papers included in the suit contend that Asiatic then sold 215,000 barrels of oil to nine different customers at 47.5 and 49.5 cents per gallon. One distributor, the suit contends, paid 47.5 cents a gallon to Asiatic at the same time Asiatic was buying oil from Shell USA at 14.15 cents a gallon. The price to homeowners was increased about 11 cents a gallon, Lefkowitz said.

SOVIET UNION, STATE DEPARTMENT, AND OIL COMPANIES SEEN BEHIND OIL CRISIS PREDICTED IN 1965 BY ED HUNTER

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. SNYDER. Mr. Speaker, there has been much ado over who is at fault for the energy crisis, much criticism about measures taken to meet it, and much debate over what should be done about the situation.

What clearly comes through it all, however, is that very few of us in the Congress, very few in the executive branch, and very few in the oil industry foresaw the likelihood of the crisis we now find ourselves in. Those few who did realize the possibility that now is reality, were unable to make their warnings heard and heeded by any segment of the American people.

It is time for cool heads to pay attention to perceptive analyses of the total problem. Only when this problem is fully and accurately understood will intelligent answers be forthcoming. This is especially incumbent upon the Congress which may have to legislate some portion of the remedies by initiating or forwarding corrective action.

I doubt if there are any analyses of the total problem centering on oil in the 20th century world of conflict between freedom and the world Communist movement more enlightening than that of Edward Hunter written 8 years before the Arab embargo.

Newsman-author-editor Hunter wrote his perceptive article in his publication, Tactics, back on November 20, 1965. He summed up his keen observations under the title, "Squeeze Play Against Ourselves—Moscow's Oil Gambit."

Hunter warned:

> In sum, our oil situation provides the Soviet Union with a ready-made means for our paralysis and conquest. Moscow knows this well. Indeed, it is the cornerstone of its political-economic war against us.
>
> Red strategy is directed toward building a solid base of oil production inside Soviet borders . . . we are proportionately becoming increasingly dependent on often tenuous foreign oil resources . . . Government estimates set 16.6 percent as the maximum figure for excess of oil imports over domestic production, consistent with our national security. But imports of oil quietly have been allowed to far exceed this danger point. Twenty-nine percent, or nearly one third, of the oil used in the United States now has to come from abroad. . . . The American overseas oil-producing areas are exceedingly vulnerable to communist subversion and red "national liberation movements."

Mr. Speaker, I find one of Ed Hunter's most illuminating comments to be this:

> The increasing menace of the Soviet oil production and the consequences of the American policy of increasing trade with the communists have never been surveyed from the standpoint of oil production and oil consumption. The facts about this, in effect, have been concealed from the American people and Congress for political and economic reasons by the Department of State and the big oil companies.

Mr. Speaker, in my estimation, no Member of Congress can afford not to read carefully Ed Hunter's very important article, over 8 years old now, if he or she truly wants to understand the key interlocking factors of economics and national security which underlie the most dangerous energy situation we have allowed ourselves to drift into.

Hunter, now 72 years young, served as a foreign correspondent, and then with our intelligence services. He covered the Japanese conquest of Manchuria, the Spanish Civil War, and Italy's seizure of Ethiopia. He joined the Office of Strategic Services in World War II, and then went with the CIA in the Far East. Author of a number of books, he has given extensive testimony before House and Senate committees.

Ed Hunter is the man who introduced the term "brainwashing" into our language. Our honored former colleague, Dr. Walter H. Judd, said in 1959:

> Edward Hunter first analyzed for the world in his classic book, "Brain-Washing in Red China," the diabolical use of psychiatry, not to heal mental illness, but to produce it.

Mr. Speaker, if we have ignored the warnings of people like Ed Hunter in the past, let us not ignore them now. Mr. Hunter's article follows:

MOSCOW'S OIL GAMBIT

If the Russians used flourishing figures of speech the way the Chinese do, the Kremlin would be using a colorful metaphor to refer to the American oil situation. The inference in it would be that oil is the American Achilles heel. Mao Tse-tung in much the same way termed the atomic bomb a paper tiger when the United States alone possessed it. He did not mean to deny the potential power of the A-bomb. He merely was pointing out that we had backed ourselves into a corner where we would be unable to make use of the bomb. This is exactly what happened in the Korean War.

The United States possesses ample oil to operate all the conceivable oil-consuming instruments of war and vehicles as well as our economy under any contingency for as long as needed. The only catch in this is that all this oil is underground, much of it yet to be located, or diffused in rock formations known as shale, awaiting exploitation. A modern war would be over long before we could find the oil, get to it, and bring it to the surface for processing. The development of plants to squeeze the oil out of shale would be even more complicated and time-wasting, and certainly less productive. Leonid Ilyich Brezhnev appropriately might apply the term, paper tiger, to our awesome oil reserves.

In other words, we are kidding ourselves about the power that oil gives us, just as we fooled ourselves concerning the A-bomb. Dialectical materialism, the red bible, is very practical. It teaches that the importance of anything can be gauged only in accordance with the opportunity to use it when the necessity arises.

SIDE EFFECTS CAN BE DISASTROUS

One need walk only to the nearest street corner of any city to see how fundamental oil is to our way of life. Oil does all our transporting and runs almost all our machinery. We are utterly dependent upon electricity in every phase of our society, and indirectly most of this, too, is the product of oil. It provides power to operate the dynamos. The ramifications of oil in American life are truly staggering. The old maxim was that what you don't know can't hurt you. In modern times, what we don't know can destroy us. Here are some of the main points concerning our concealed oil plight:

1. Oil constitutes the biggest drain on our gold resources.
2. Oil adds greatly to our national debt.
3. The oil situation, unless remedied, could paralyze our war machine.
4. In an emergency, we would lack critical shipping.

In sum, our oil situation provides the Soviet Union with a ready-made means for our paralysis and conquest. Moscow knows this well. Indeed, it is the cornerstone of its political-economic war against us.

Barely a generation ago, our growing concern was that our vastly increasing use of oil was fast depleting our oil fields, and that we were in danger of becoming a have-not nation in this life-or-death resource. The oil industry was urged to obtain all the oil it could abroad, and to ration domestic production, so as to preserve as much as we could of what nature had bestowed upon us. The oil companies argued that our fears were unjustified, and that anyway, the costs of going abroad for oil would be prohibitive.

EXPLORATION FOR U.S. OIL DROPS DRASTICALLY

As time went on, the major oil companies began to extend their interests abroad, and as they did so, they discovered that instead of losing money by it, they were making much more than ever dreamed. The importation of oil was not only patriotic, but became a tremendous money-maker.

In 1954, the United States produced 60 per cent of the world's oil. Today we produce only 34 per cent. By 1967, our production is expected to drop to 25 per cent.

As the American oil firms began increasing their imports, they reduced their exploration for oil in the United States. They stopped drilling for new wells. At the time, this seemed the natural way to conserve our oil resources. The situation today would be different if this exploration had continued, and when new wells were found, they were made ready for pouring, but the faucets kept closed. But we did not do this.

The American focus has been entirely economic. But the Soviet Russian motive always is expansionist, in the psychological warfare, modern military manner. While we were reducing our internal exploration for oil, the Communist Russians increased theirs inside Soviet borders. This dovetailing of American and Soviet procedures and policies on strategic matters, to the advantage of the reds, is perhaps the most extraordinary phenomenon of the last few decades. Much can be attributed, of course, to astute Soviet military planning, much to the failure of Americans to include patriotism as a consideration in business and the professions, and some of it to cruder motives.

Moscow amazed the world in 1956 when it announced that it was undertaking very extensive exploitation of its domestic oil and petroleum industry. Since then, with undeviating consistency, its production has forged steadily forward.

Today, the U.S.S.R. is producing 5,000,000 barrels of crude oil a day. Obviously, its prospecting and output have expanded at a much greater rate than our own. Production in the Volga region, west of the Urals and west of the Caspian Sea, has increased to 3,500,000 barrels daily. The region east of the Urals and additional exploration east of the Caspian Sea are producing oil at the rate of 1,000,000 barrels daily. This is expected to triple to 3,000,000 barrels by 1970. Discoveries in Western European Russia show prospects of adding 1,000,000 barrels a day. By 1970, U.S.S.R. production easily will exceed our own, which is 7,900,000 barrels daily.

TREMENDOUS PIPELINES FILL WAR NEEDS

Soviet oil production today far exceeds U.S.S.R. and satellite needs. Private oil consumption is a very insignificant factor in overall Soviet planning. Soviet oil policy has remained consistent, and is aimed mainly at Western European markets. Red strategy is directed toward building a solid base of oil production inside Soviet borders, while making Western European markets dependent upon red oil. The communist planners are achieving this merely by selling below the world market price.

For example, the Kremlin in 1960 agreed to furnish Italy with oil at $1.25 a barrel, which is 75 cents below the world price. This agreement still is in effect.

The U.S.S.R. is developing its oil resources with full understanding of the role oil occupies in modern economics. It is focussing the investment of funds and resources on prospecting and drilling for oil at home. Pipeline construction is on a vast scale, and immediately is extended into new oil fields that are distant from populated areas.

The material for these pipelines is bought mainly from the Free World, especially Britain and Japan. The pipes are extraordinarily wide, from 39 to 42 inches in diameter, dwarfing our own. Three lines extend through the European satellites to the borders of Western Europe. These are used not only for economic warfare, but in time of war, can supply the red armies in Eastern and Western Europe. Communist planning is always all-embracing, unlike our own. They look far ahead, as in chess, not just to the next move, as in poker.

REDS AVOIDING KOREAN WAR HANDICAP

Another pipeline extends across Siberia to Khabarovsk, at the eastern end of Manchuria, and is being extended alongside Manchuria far southward to Vladivostok. Oil piped all the way to this great port can be a decisive element in military operations in the Far East.

During the Korean War, the provision of oil for military needs became a critical problem to the reds. It had to be sent in tankers all the way from the Caspian Sea to the Soviet Maritime Province, a distance of 10,000 miles. The pipelines obviate this need for tanker or rail transport of Soviet oil for military requirements of the reds in the Far East.

The American oil industry also has been developing, but along diametrically different lines. As our domestic production declines, we are proportionately becoming increasingly dependent on often tenuous foreign oil resources. Our domestic needs are approaching somewhat more than 10,000,000 barrels a day, or more than 2,100,000 barrels over our daily production. In order to make up the difference, we are importing 1,500,000 barrels of crude oil and 700,000 barrels of residual fuel oil each day.

Government estimates set 16.6 per cent as the maximum figure for excess of oil imports over domestic production, consistent with our national security. But total imports of oil quietly have been allowed to far exceed this danger point. Twenty-nine per cent, or nearly one third, of the oil used in the United States now has to come from abroad.

As of Dec. 31, 1964, Libya, Kuwait, Saudi Arabia, Iraq and Venezuela were producing altogether 12,545,000 barrels a day. One-fourth of this is used by the United States on our mainland, and abroad to fill military needs.

Exploration and drilling can cost up to $500,000 for one well in the United States. and even so, there always is the risk of striking a dry hole. On the other hand, in Kuwait, almost any hole that is drilled will spout oil at 10 cents a barrel. By the time royalties and shipping costs are paid, the price to the consumer is $1.90 to $2 a barrel.

The big oil-producing companies able to operate abroad enjoy even more benefits over the independent producer in the United States. Indeed, these advantages have become so top-heavy as to squeeze the independents out of the modern market. These benefits to the big firms include:

1. A 27½ per cent depreciation allowance is granted at the well in the United States. The same allowance is deducted by American firms also on their foreign production.

2. Taxes paid by the American oil firms to foreign governments are deductible from gross earnings for tax purposes in the United States.

3. American producers abroad use foreign tankers which are only half the operating cost of American-registered tankers. Domestic oil shipped by water must go in American bottoms. The Texas independent who ships to New England must use American tankers at double the operating cost of the big American oil companies shipping from Venezuela to the same port in New England.

OIL COMES IN BUT OUR GOLD GOES OUT

We have been focussing much attention upon the drain in our gold by a myriad of channels extending from the American tourist to the foreign aid program. But no attention is paid to the biggest such channel. The biggest pipeline abroad for gold from the United States is that operated by the oil industry. A phenomenal total of $1,500,000,000 a year is added to our balance of payments deficit by oil. This is fully one-half of our total balance of payments deficit.

This cannot be attributed wholly to the oil companies. A massive contributor to this balance of payments deficit is the Department of Defense as operated by Robert Strange McNamara. Domestic needs of the Defense Department are 210,000 barrels a day, of which 35,000 come from abroad. Defense Department expenditures for oil and petroleum products are slightly more than $1,000,000,000 a year. Of this, more than a third, or $350,000,000 goes for the purchase of foreign oil that belongs to the American firms.

The purchase money is deposited in New York banks by the Defense Department to the credit of the big U.S. oil firms. One-half of this, or $175,000,000, is paid by the oil companies as taxes, in one form or another, to the governments of the foreign oil-producing countries. This $175,000,000, paid to foreign governments, is deducted from the gross amount, leaving only the other half, $175,000,000, as taxable income in the United States. No American tax is collected on the first half.

$3 BILLION IN REVENUE LOST TO THE UNITED STATES

Obviously, this procedure contributes heavily to our gold outflow, our balance of payments deficit, and the loss of American revenue, augmenting the national debt. The total amount of revenue loss under this procedure amounts to $3,000,000,000 a year.

The Soviet experts in the Central Committee of the Communist Party of the U.S.S.R. are studying this situation minutely. They realize that the United States and Europe's oil needs will continue to rise. Soviet exports to Western Europe are tied to the domestic oil production of the U.S.S.R. Contrarily, sales by the American oil companies to Western Europe, which have increased considerably during the past 10 years, are tied to their overseas production.

The American overseas oil-producing areas are exceedingly vulnerable to communist subversion and red "national liberation movements." Dress rehearsals of sabotage operations against U.S. oil installations have been conducted in Venezuela and Libya. A dress rehearsal "national liberation movement" was attempted in Kuwait against the combined British Petroleum and Gulf Oil-owned oil installations, and was put down by British force of arms.

The members of the Central Committee of the Communist Party of the U.S.S.R., who have astutely evaluated our economic system, have declared in speeches that the lifeblood of capitalism is oil, as ours is an oil-based economy. They have implied that they will choke this off. Indeed, our economy would be thrown into chaos and our national security be greatly imperilled if these red chieftains were permitted to proceed with this longrange maneuver, without the United States adopting safeguards.

The increasing menace of the Soviet oil production and the consequences of the American policy of increasing trade with the communists have never been surveyed from the standpoint of oil production and oil consumption. The facts about this, in effect, have been concealed from the American people and Congress for political and economic reasons by the Department of State and the big oil companies.

The Department of State does not publicize the Soviet oil threat because then we would be forced to curtail our trade with the communist bloc, instead of encouraging its expansion.

The Soviets have discovered extensive new oil fields, but have been hampered in exploiting them by the lack of modern drilling and production equipment. As of June, 1965 the Department of Commerce, with the State Department's approval, has granted export permits for the shipment of this critical oil production and drilling equipment for the red-bloc. Large shipments are being made to Romania, for transshipment to the U.S.S.R. Nobody can be so stupid as to doubt this relaying, or that we are not abetting it in order to circumvent Congress and the will of the American people. Our Administration is collaborating with the Politburo at Moscow in providing the communists with the mechanical facilities they need in order to implement their oil strategy.

SHIPPING SQUEEZE IS A MILITARY PERIL, TOO

The big American oil companies do not publicize this Soviet oil threat, as it would lead to public pressure upon them to engage in costly domestic exploration and the development of new production facilities, and probably even to increase production in the United States, forcing a curtailment of the cheap but highly profitable oil imports. The American oil industry refuses to recognize the fact that the Soviet oil trade is a coordinated instrument of red expansion, and that a diversified, privately-owned foreign trade system cannot compete with a giant, state-owned cartel that operates as a closely knit, political and economic mechanism for purposes of war and conquest.

The Soviet threat, together with the self-interest of the American oil companies and the appeasing attitude of the State Department, have combined to create a situation that threatens our survival as a free nation, and certainly endangers our free enterprise system.

The peril extends to shipping. As of October, 1965 the United States had only one tanker under construction, while the U.S.S.R. was building about 125 tankers at home and abroad. U.S. oil firms are building tankers in foreign shipbuilding yards and registering them under foreign flags. One U.S. oil firm has just completed a 65,000-ton tanker in Italy and has 16 more tankers on order at the same yards. These tankers employ about 1,000 foreign merchant seamen, and are intended to carry oil from the Middle East and North Africa to Western Europe. In case of war, these American-owned ships likely would be of no use to us. The seamen are subject to orders by communist-led, overseas unions.

MOSCOW EXPECTS OIL INDUSTRY TO DESTROY ITSELF

Oil exploration in the United States cannot be quickly begun or accelerated for an emergency. At best, it is a hit or miss operation. Soviet planners are sitting back, content not to upset American foreign oil production at present. Red strategy does not plan large-scale "national liberation movements" against American foreign-oil producing areas just yet. The gold drain and the undermining of the dollar is satisfactory for the present. The communists will clamor for more trade and credits, or any other advantage that will increase our national debt, confident that when our domestic oil production declines sufficiently, while theirs has risen sufficiently, they can move quickly to destroy our overseas production.

The weirdest aspect of this is the way the policies of the Brezhnevs and the activities of the McNamaras dovetail. A no-win U.S. policy, of course, does not conflict with a Soviet win policy.

We already have had a taste of what it means to have a pinch on oil, even when we were not the butt of an enemy oil strategy. Not all have forgotten, though, the gasoline rationing of World War II, that paralyzed automobiles in their garages. This would be just the beginning of the pressure, once the reds were allowed to put a squeeze on us through psychological warfare assault upon our foreign oil interests.

Only a Congress that has become alert and vigilant, that has freed itself of Administration pressure, can enact the safeguarding legislation that would remedy this situation. The American public could bring this about, through supporting candidates who are capable of understanding such problems, and have the courage and the patriotism to put up the fight required. The people are sovereign, and they must remind their Congressmen and Senators that they are elected by and must obey the voting public.

THE HIGH COST OF PROPANE

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. ASHBROOK. Mr. Speaker, many of my constituents in the 17th District of Ohio depend on propane gas to meet their everyday needs. In homes, propane is used for cooking, heating, air-conditioning, and clothes drying. On the farm, this gas fuels tractors, dries crops, and runs irrigation pumps.

Today, however, Ohio propane consumers are deeply troubled by the staggering increase in the price of propane. On January 15, 1973, the dealer cost ranged between 8 and 10 cents per gallon and the consumer price between 17 and 19 cents per gallon. By January 15, 1974, however, dealer cost ranged between 21 and 28 cents per gallon and the consumer price between 30 and 37 cents per gallon. This amounts to approximately a 250-percent increase in dealer cost and a 100-percent increase in consumer price in only 1 year.

A large part of the increase is attributable to inequitable pricing regulations issued by the Federal Energy Office. These regulations have allowed oil refiners to load onto the price of propane the increased production costs of other crude oil products. The loading of extra costs has placed an unfair burden on the propane consumer.

The propane dealer is as much a victim as the propane user. He can do nothing but pass the price increase along, bear the wrath of his customers, and watch as they switch to other heating, lost as customers not for a week or a month, but forever.

Therefore, I joined with a number of my colleagues in fighting against the discriminatory regulations. This fight has resulted in some success. On February 1, the Federal Energy Office reversed its position and issued new propane pricing regulations. After January 31, 1974, refiners must limit cost increases to the percentage of propane sales volume to total product sales volume.

Although the new rules are an improvement over the past situation, they are still an inadequate response to the problem. These regulations will hold down future price rises in propane, but they do nothing to rectify the previous pricing inequities which have already resulted in a twofold increase in consumer price. Many people simply cannot afford to continue to pay these excessive costs.

Consequently I have sent a letter to William Simon, Administrator for the Federal Energy Office, requesting that the FEO take steps to reduce present propane prices. A fair solution would seem to be to establish a base period price—such as between December 1, 1972, and January 31, 1973—and from that point forward allow a dollar-for-dollar passthrough of actual costs as they proportionately relate to propane. This would reduce the artificially inflated price of propane to a level within reach of present consumers.

My letter to Mr. Simon is as follows:

FEBRUARY 7, 1974.

Mr. WILLIAM SIMON,
Administrator, Federal Energy Office,
Washington, D.C.

DEAR MR. SIMON: A large number of my constituents in the 17th District of Ohio depend on propane gas to meet their everyday needs. The staggering increase in the price of propane over the past year has inflicted a great hardship on many of these people.

Although the regulations issued February 1st by the Federal Energy Office are welcomed, they are still an inadequate response to the problem. These regulations will hold down future price rises in propane but they do nothing to rectify the previous pricing inequities which have already resulted in a two-fold increase in consumer price.

I urge you to act immediately to reduce present propane prices. A fair solution would seem to be to establish a base period price, such as between December 1, 1972 and January 31, 1973. From that point forward, allow a dollar for dollar pass-through of costs as they proportionately relate to propane. This would reduce the artificially inflated price of propane to a level within reach of present consumers.

Sincerely,

JOHN M. ASHBROOK.

SATELLITE OVER AMERICA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. YOUNG of Alaska. Mr. Speaker, a few days ago our distinguished colleague from Kentucky, Mr. CARTER, addressed the body concerning plans to orbit a communications satellite over Appalachia. Alluding to the fine communications system already existing in Kentucky, Mr. CARTER suggested that the funds for this project might be better spent in other areas.

While I have a high regard for my colleague's opinions, I must differ with him and point out what I believe are some mistaken impressions he has about the Applications Technology Satellite program.

First and foremost, the satellite which will be launched in April will not "hover over Appalachia" as Mr. CARTER claimed. Circling the Earth more than 22,000 miles out in space, the ATS–F satellite will be positioned over the Galapagos Islands in the Pacific Ocean. The synchronous timing of the satellite's own orbital period with the Earth's own speed of rotation will make it appear to remain stationary. In fact, it will be revolving about the Earth just as fast as the Earth itself turns.

And, contrary to Mr. CARTER's suggestion that the satellite, the sixth in a series of National Aeronautics and Space Administration experimental devices, will be used for rather limited purposes of education and health in Kentucky, the communications satellite will be used for a broad variety of programs in States as far apart and diverse in their special needs as Alaska and Alabama.

The teacher education programs are not new; this new satellite will provide a more efficient way of distributing educational materials and programs to teachers than the present methods which employ cable television and video tape.

Other users of the system will include the Veterans' Administration, the Federation of Rocky Mountain States, the State of Alaska, and the State of Washington.

While Mr. CARTER may take good communications for granted, the people of rural Alaska do not. Experimental satellite programs such as this have given many remote Alaskan villages their first dependable links with the outside world. And if you consider that you are using a satellite that outside world can mean Anchorage—Alaska's largest city—or New York as easy as not.

Only a few months ago I had the pleasure and opportunity to talk with village schoolteachers in half a dozen Alaskan villages using a presently orbiting satellite, the ATS–1, and transmission facilities at the nearby National Institutes of Health. Representatives from the United Nations and the National Education Association who went to Alaska to investigate the potential for satellite uses in the biggest of the 50 States concluded that:

> Satellite communications for Alaska, as part of an overall long-range educational communications system, are not only feasible but necessary for improved communications in the State. In many respects the satellite was "invented" for Alaska.

Experiments conducted so far in Alaska have explored educational, medical, and cultural areas. From one-room schools in isolated villages, the kind Kentucky had a century ago, Alaskan youngsters have been able to talk directly with students in California, Hawaii, and New Zealand.

Few of Alaska's remote villages have doctors. Some are only now beginning to get paramedics. Use of satellite communications between villages and medical centers in major cities has saved lives. From March until June in 1972 alone, more than 700 villagers received treatment in villages under the direction of doctors and other specialists located hundreds if not thousands of miles away.

While I do not presume to speak for other Members, I can, as Alaska's only Representative in the Congress, say that the development of reliable satellite communications systems for Alaska will play a vital role in developing the human resources of my State.

SKYLAB

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. TEAGUE. Mr. Speaker, tomorrow, we anticipate the return of three outstanding astronauts—William R. Pogue, Edward G. Gibson, and Gerald P. Carr—who after 85 days in space will have completed one of our most productive ventures into space, preceded by Skylab 1 Astronauts Conrad, Kerwin, and Weiss, and Skylab 2 Astronauts Bean, Garriott, and Lousma.

This record of achievement is unprecedented. Skylab 1, because of damage to the workshop, had to make substantial repairs in order for the system to be workable. Skylab 2 continued to refine those repairs and to alter the system so that maximum gain could be obtained from the missions. In doing this, Skylab 1 and 2 not only met but exceeded their expected workload in areas which included earth resources studies, solar observation, physical science, and life science and technology experiments. Vast amounts of new data were generated that will provide practical and useful knowledge and techniques to this Nation for many years to come.

It is interesting to note that the astronauts will have spent a total of 41 hours in extravehicular activity, outside the workshop and in space itself. This demonstrates that man can work effectively in repair and maintenance and in the conduct of experimentation without being confined within a spacecraft. Over 182,000 frames of special films have been brought back from Skylab or will be brought back at the completion of the current Skylab 3 mission, providing not only new information about the Sun, but also what is estimated to be more knowledge of certain processes in the Sun than has ever been gathered heretofore. Throughout the three manned flights of Skylab over 45,000 frames of Earth resources data have been analyzed and are under review, supplemented by magnetic tape data directly applicable to geographic, demographic, and agricultural survey applications. When the Skylab 3 crew returns tomorrow, the three flights will have amassed approximately 171½ days in Earth orbit; the longest duration misson, which was the last, exceeded 84 days.

The medical experiments being conducted onboard Skylab have indicated that there is probably no limit to man's ability to survive, work productively, and live in space so long as an adequate environment is provided. In traveling almost 70 million miles these three crews have demonstrated that healthy, well-trained men can take giant strides in providing new and useful, practical information for the benefit of this Nation and all mankind.

The U.S. manned space flight program has now amassed 30 flights, representing over 21,851 hours of active operation in space. These programs—Mercury, Gemini, Apollo, and Skylab—have made direct contributions to our daily lives as well as new scientific knowledge. The technology derived from these efforts is part of the everyday life of Americans today. Skylab has amply demonstrated that space can be used for practical purposes.

The Space Shuttle, which will follow at the end of this decade, will make space transportation available on a low-cost basis. Thus the techniques derived from Skylab, Apollo, Gemini, and Mercury will make space a place of commerce for this Nation.

FEO PETITIONED TO IMPLEMENT REGIONAL VARIANCES IN ALLOCATING GASOLINE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. GILMAN. Mr. Speaker, today 32 of my colleagues joined me in sending the following letter to the Administrator of the Federal Energy Office, William Simon, urging the implementation of the Federal Energy Office regulations providing for regional variances in allocating gasoline.

I request that the full text of our letter be set forth in this portion of the RECORD:

> FEBRUARY 7, 1974.
>
> Hon. WILLIAM SIMONS,
> *Administrator, Federal Energy Office, Washington, D.C.*
>
> DEAR MR. SIMON: The undersigned Members of Congress request immediate implementation of Section 211.14 of the Federal Energy Office regulations providing for the consideration of regional variables in allocating gasoline:
>
> Section 211.14: "(a) To meet imbalances that may occur in the supplies of any product subject to this part, the Federal Energy Office may order the transfer of specified amounts of any such product from one region or area to another. Further, the FEO may allocate any such supplies of such products among suppliers in order to remedy supply imbalances."
>
> With our regions suffering acute shortages of gasoline, we request your immediate review and consideration of the following criteria in allocating gasoline supplies:
>
> Density of population;
> Population growth over past few years;
> Numbers of commuters;
> Distances traveled by commuters; and
> Adequacy of mass transportation facilities.
>
> Since it is evident that some areas of our nation have sufficient supplies of gasoline and are not suffering the extreme hardship experienced in the more densely populated regions, we request your review of the available data relating to the above mentioned criteria and the prompt implementation of Section 211.14 to allow a more equitable allocation and distribution of gasoline for our regions.
>
> We urge your prompt attention to this critical matter.

I cannot emphasize enough the urgency with which we address our plea to Administrator Simon. Inequities in the allocation of gasoline are creating havoc in some sections of our Nation.

In my own region of southeastern New York, the inavailability of gasoline is creating health and safety hazards. Employees of our critical public service facilities are unable to purchase enough gasoline to transport themselves to their jobs—hospitals, schools, and major industries are being affected.

Additionally, the long lines at those few gas stations remaining open are causing serious highway safety problems.

Tempers are flaring and violence has broken out on several occasions.

I fully recognize that all of us will have to suffer somewhat because of our energy shortages. And I am also aware that most of my constituents have curtailed all but essential driving. However, the recent rapid growth experienced in my district and the lack of adequate mass transportation facilities in our region in addition to the long distances my constituents travel to their jobs each day all aggravate the lack of adequate gasoline supplies in my own region.

I know that this is also the case of the Members who joined me in petitioning Administrator Simon. The New York City region and the surrounding areas in Connecticut and New Jersey are critical as well as some sections of upstate New York, Massachusetts, Pennsylvania, and Ohio.

With the problems of our gas shortages growing daily, there is a critical need for immediate relief for those areas which are suffering the hardest from our shortages.

The following Members have joined with me in this effort: Hon. Donald Mitchell of New York, Hon. William Walsh of New York, Hon. Tennyson Guyer of Ohio, Hon. Jack Kemp of New York, Hon. John Wydler of New York, Hon. Henry Smith of New York, Hon. Shirley Chisholm of New York, Hon. Herman Badillo of New York, Hon. Charles Rangel of New York, Hon. James Delaney of New York, Hon. Barber Conable of New York, Hon. Joseph Addabbo of New York, Hon. James Grover of New York, Hon. Carlton King of New York, Hon. Margaret Heckler of Massachusetts, Hon. Howard Robison of New York, Hon. Norman Lent of New York, Hon. Samuel Stratton of New York, Hon. Robert McEwen of New York, Hon. Joseph Maraziti of New Jersey, Hon. Joseph Minish of New Jersey, Hon. Frank Brasco of New York, Hon. Matthew Rinaldo of New Jersey, Hon. Peter Peyser of New York, Hon. Angelo Roncallo of New York, Hon. Mario Biaggi of New York, Hon. Bertram Podell of New York, Hon. Edward Koch of New York, Hon. Lester Wolff of New York, Hon. Bella Abzug of New York, Hon. Ronald Sarasin of Conecticut, and Hon. Joseph McDade of Pennsylvania.

SPEECH OF FREDERICK G. JAICKS, CHAIRMAN OF THE INLAND STEEL CO.

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. MADDEN. Mr. Speaker, yesterday, Febrary 6, I attended the congressional luncheon by the American Iron and Steel Institute. Fred Jaicks, former resident of my congressional district and general manager of the United States Steel plant in Gary, Ind., now chairman of the board of the Inland Steel Co., addressed the gathering on some of the managerial, industrial, and tax problems of the United States Steel Corp. His remarks were highly informative and gave the listeners an insight to some of the problems of the largest steel-producing company in the Nation.

Under unanimous consent, I insert Mr. Jaicks' remarks at this point in the Record:

STEEL INDUSTRY ECONOMICS AND FEDERAL INCOME TAX POLICY

(Remarks by Frederick G. Jaicks)

Eight years ago, the American Iron and Steel Institute collaborated with Walt Disney in producing "Steel and America." That excellent motion picture has been viewed by more than 100 million people. I'm reminded of a line in the opening segment which states quite simply and so well what this business is all about. It goes this way: "Over the vast expanse of America men have dreamed and built prodigiously. But to give substance to the dreams there had to be a material equal to the task. This material was and is steel."

Versatile and inexpensive . . . that's steel. My colleague Ed Speer of U.S. Steel recently observed that an average pound of steel costs a dime, and, as Ed added: that "makes it even less expensive than the proverbial peanuts."

We believe the product is still the best bargain around. But the resources required to produce it are extremely costly, and the size and scale of facilities involved dwarf the imagination. The total investment is huge, our net fixed assets exceed 15 billion dollars. The steel companies currently employ over 650 thousand people, and their total employment costs in 1973 will approximate 10 billion dollars. Steel products serve every sector of construction and durable goods manufacturing; in fact, ferrous metals—mostly steel—account for roughly 95 percent of all metals used in our economy. Millions of additional jobs depend upon our products. Steel, in fact, is important to every facet of our nation's economic growth.

Currently, we are witnessing a strong world-wide demand for steel, and an unprecedented demand here at home. It's not surprising that shortages have cropped up in our economy; critical shortages for items such as roof bolts used in coal mines, concrete reinforcing bars for construction, pipe-drilling platforms and other goods for the petroleum industry, and many others. The demand abroad has prompted foreign producers, who not too long ago unloaded steel products in our markets at distress prices, in many instances to double the price of goods they now offer for export to the United States. What's more, they have withdrawn some of their products from our markets, since they can do much better at home, or in other markets.

Our nation should not rely on foreign producers to supply a significant portion of the long-term demand for domestic requirements which can be shut off when other nations decide to do so. Our industry has every intention to fulfill the needs of the domestic market, if it can find the means to invest profitably in new capacity.

To achieve this, we believe a number of actions are required. We've addressed ourselves to these publicly in recent months. I'll refer only in passing to the overriding necessity for the decontrol of steel prices; and I would include the corresponding need for strong trade legislation designed to shield American industry from unfair foreign trade practices. A third critical issue focuses on adequate energy supplies. I'm certain you realize that our product is fundamental to the solution of the energy shortage. But on this occasion, let me undertake to state the "case" for a more constructive national tax policy.

Our need for tax assistance—and it's a real one—can be stated simply and directly. We foresee, as do other qualified observers, a sizeable increase in steel product demand up ahead. We do not have adequate manufacturing capacity to provide the additional tonnage. And our level of profitability—lowest among all manufacturing groups—does not give us access to the capital required to add new capacity. That has changed markedly from the situation some years ago.

Immediately after World War II, when the industry's enormous productive capabilities were directed at satisfying pent-up demand, our returns on revenue and equity were considerably higher than they have been over the past decade. For example, in the period 1947 to 57 inclusive, the steel industry averaged 11.4 percent return on equity and 6.6 percent on sales, and was clearly in the middle of the pack for all manufacturing. It was a period in which our industry's earnings base was sufficient to attract investment capital.

Such has not been the case in recent years. Since 1966, the industry has averaged only 5.9 percent on equity and 4.0 percent on sales—(actually considerably lower for the years 1970–71 and 72)—and as indicated earlier, we have been last in a field of 40 manufacturing industries, insofar as rates of profitability on equity are concerned. This is not to suggest that the inadequacy in profitability had diminished our industry's capability for production. In 1973, the American steel industry outproduced all other steelmaking nations.

Today the American steel industry is equipped with modern mills and is unsurpassed in its ability to ship the highest quality steel products made anywhere. That fact was underscored by the impressive performance of 1973. Given the strong world demand I referred to earlier, the domestic industry poured an almost unbelievable 150 million tons of steel last year—some 9 million tons more than in 1969, the previous high. Most of the year, our industry operated at capacity levels. Demand was so persistent we could have shipped much more tonnage if the capacity had been available.

Unfortunately, "bottom-line" results in 1973 were constrained by rapidly escalating costs and inadequate price levels—the latter attributable principally to government controls. "Informal" price controls and the impact of imports have restricted steel's profitability since the early sixties. And now with formal controls, the limited price increases granted and delays arbitrarily imposed by the Cost of Living Council have restricted the industry's efforts to achieve needed profitability.

The consensus among qualified financial and economic observers, both in and out of the industry, is that steady growth in world and domestic steel demand will prevail through 1980—about 2½ percent annually at home, and something over 4 percent abroad. World raw steel production approximated 765 million net tons in 1973 and could reach or exceed one billion tons by 1980, to meet the projected demand.

Translated into domestic requirements, this means some 25 million net tons of additional raw steel capacity must be built in the United States by 1980. This presumes no major shift in the current pattern of steel imports and exports.

In the interest of conserving time, I will not burden you with statistics. The Institute's painstaking and detailed formal study, which is available for your examination, includes a full breakdown and summary of the estimated costs associated with the projected 25 million ton expansion. For purposes of this discussion, I've added up the cost of projected new facilities, of maintaining and renewing our existing capacity, of meeting the growing expenditures for pollution abatement equipment and programs, and other incidental items. Employing conservative costing estimates, I can tell you we must spend at least 3.5 billion dollars each year over the next seven years. That's twice the annual amount we were able to invest during the previous decade. And that's unattainable under present conditions.

While it's true we took an important first step on the road to improved profitability during 1973, cash flow still is far from adequate to the task at hand. It's estimated that we fell at least 1.2 billion dollars short of the projected 3.5 billion dollar requirement last year, our best year ever. And it is unrealistic to expect that the 1973 results can be exceeded under present price constraints.

We have some knowledgeable allies who share our concern about our inability to expand. During his recent testimony to the Joint Economic Committee, Federal Reserve Chairman Arthur Burns noted that investment by steel and other industries was "discouraged by relatively low profits" between 1966 and 71.

And Chairman Wilbur Mills of the House Ways and Means Committee recently stated that certain industries operating at capacity—steel included—should be considered for special tax incentives to make expansion possible.

I know I speak for every steel company chief executive present: we cannot make it under the current rules of the game. Ours is among the most capital intensive industries in the world. As I indicated a moment ago, the necessary investment is twice what we were able to invest on average over the past decade. On one hand, we are restrained from getting a fair price in a free market place for our products. On the other, we are beset with sharply rising costs.

Gentlemen, increased profit margins offer the only avenue to economic salvation. And the fact is we are "money poor" and are likely to be for a long time unless we can generate cash flow and establish an earnings base that once again will give us the required access to capital markets—something we presently do not have. Coincidentally, we must be assured that our markets are not inundated with foreign steel. We believe strong foreign markets should help to curb imports. Nevertheless, we must not permit foreign producers to use our markets as a dumping ground for their steel products, either in the pursuance of the policies of their home governments or as a consequence of temporary dislocations in their local markets.

What we need, most urgently, are federal tax laws which put domestic steel producers on competitive footing with foreign producers, whether government supported or not.

Recognized leaders have expressed their support publicly in behalf of such a policy. Treasury Secretary George Shultz has said, "The tax system must be conducive to the stable growth of our domestic economy and the long-range improvement of our position in world markets." And the highly respected economist, Dr. Norman Ture, declares tersely: "Tax policy should give top priority to reducing the existing bias against private saving and capital formation."

If the steel industry is to contribute to that "stable growth" of which Secretary Shultz speaks, we cannot overstate the urgency for a tax policy which recognizes the need for adequate capital recovery allowances. We believe present capital recovery allowances understate replacement costs and overstate profits.

What is it, after all, we seek?

At the very least, we need assurance that the present 7 percent investment credit will be permanent. This is crucial in the normal five-year planning and construction cycle for major steel facilities. We cannot make commitments of the magnitude that are common in our industry without the assurance of a permanent investment credit.

We believe the Congress should extend the more realistic depreciation begun under the Class Life System to a true capital recovery system. We need a stable and reliable long-term policy of capital recovery. In the other principal free world industrialized nations, this is common practice. The period of capital recovery is only one year in the United Kingdom, two years in Canada, five years in Sweden and the Netherlands. We propose that a competitive system be enacted here at home permitting the full investment recovery in machinery, equipment and industrial buildings at a rate of at least 20 percent each year.

We critically need full-cost write-off for pollution control expenditures on new and old production facilities alike, in the year expenditures are made. These are not capital expenditures in the normal sense since they do not add to productive capacity or prolong the life of an asset. Expenditures for existing pollution control facilities and for their operation have exceeded by far our expectations. They have been a damper on earnings; and our experience indicates present cost estimates of future requirements are low.

We need continued tax assistance in the discovery and production of raw materials—particularly iron ore and coal—so vital to steelmaking. As you probably know, the diminished quality of remaining domestic iron ores has led to an increasing use of low-grade taconite ore, processed into pellets. This technology is very costly. Consequently our industry has stepped up its development and use of foreign ores. In the projected expansion of steelmaking capacity by 25 million tons, there is an implicit requirement for an additional 37½ million tons of iron ore each year, at an estimated added capital outlay of 1.1 billion dollars by 1980.

We believe depletion allowances for domestic iron ore and coal should be retained at the pre-1969 levels, and should not be impaired by the minimum tax. Moreover, foreign and domestic exploration costs should be deductible as they are incurred without limitation and without recapture. In the aggregate, these allowances would help to improve the rate of return and improve the opportunities for additional investment.

We further believe no change is warranted in the treatment of foreign tax credits. Capital recovery allowances, investment credit and percentage depletion on overseas investments should not differ from those applied domestically.

We strongly urge repeal of the minimum tax as it applies to corporations. At the least, present inequities should be corrected by providing for a more equitable averaging rule which would include carrybacks as well as carryovers of the tax liability deductions. The minimum tax has had a negative impact on steel and dilutes the effects of accelerated real property depreciation, percentage depletion and the pollution control facility write-off. It is a legislative anomaly, having been devised initially to eliminate individual tax avoidance loopholes. It should not be imposed on corporations as a revenue-replacement surcharge levy. To this end, the full deduction for regular tax liability should be retained. Otherwise, it does not make sense, and it limits the opportunity for investment.

However you slice it, tax policy that encourages investment and growth is a first requirement for long-range steel industry vitality. There are others, and I won't belabor them: control of inflation; reduction in federal spending; getting a fair price for our products—something that eludes us like a will-o'-the-wisp.

There are still some in our society who are captivated by the myth that business does not pay its fair share of taxes, and the supposition that profits are too high. If that were the case, we'd be busting our britches to add new steel capacity to meet that big growth demand up ahead. What are the facts? Growth of personal income has exceeded the growth of business profits before taxes by a ratio of nearly 3 to 1 since 1965. And federal taxes have outstripped the growth in industry's profits during the same period. And the question really should be: hasn't industry been paying more than its fair share of taxes?

We believe there should be an alternative to the continuing increases in corporate taxes to permit an increase in profitability, and to make it possible for steel and other industries to invest in modernization and expansion, an action that translates into increased jobs.

We are confident that we have the capabilities to achieve our 1980 targets. But the obstacles are apparent, and the call for their removal must be equally direct.

For years, industrial leaders and other qualified business observers had warned of an impending energy shortage. Neverthless, it required a crisis to goad us into a posture of national urgency and response. In the past year we have witnessed the first worldwide shortfall in steel production to meet the demand. The "early warning" message is clear.

With inadequate capacity now, and an unfavorable level of profitability serving as a damper on expansion, we are well on the way to a full-fledged steel crisis within the next decade—possibly sooner—unless constructive measures are taken to encourage the investment in new and replacement capacity. And I must remind you, gentlemen, that the steel we will need by 1980 can only be provided if we make the necessary decisions now.

If we can once again regain the initiative for capital formation with the purposeful assistance of progressive and stimulating tax policy, I speak for all here in the conviction that the domestic steel industry will move to add the new steel plant capacity our nation will require in the years ahead.

TIME FOR CONGRESS TO GIVE DIRECTION TO NATION'S EDUCATION POLICY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. KEMP. Mr. Speaker, it was with mixed emotions that I voted to report H.R. 69, elementary and secondary education amendments, to the full House.

Recognizing the importance of this legislation, the House Education and Labor Committee promptly took up the bill when the 93d Congress first convened in January 1973. The bill, which will shape the direction of Federal aid to education for the next several years, recently marked its first anniversary, still in committee, with the educational community still forced to play guessing games as to the level of Federal aid they could anticipate and the form it would take. It is clearly time to bring this legislation to the House floor; to afford all Members of this body the opportunity to express their views on the fashioning of our elementary and secondary education programs; to enact them into law and put them into operation in our schools.

Sidetracked by considerations of which of the myriad allocation formulas would best benefit their particular constituencies, committee members often appeared to lose sight of the overall concept of how best to strength our Nation's educational system. As a Representative of one of the Nation's most populous States, I will frankly admit that I am deeply committed to insuring that New York State receive adequate funding. Thus I voted against the title I formula adopted by the commitee, not merely because it hurts New York but because it discriminates against all urban areas. I additionally intend to do all I can to revise the formula on the House floor. As it stands now, urban areas which have experienced a growth in the numbers of disadvantaged children, will lose funds while rural areas are protected from loss of funds in spite of the decrease in their disadvantaged student population.

I must also admit to a suspicion, however, that many of the flaws in our educational system today can be attributed to the very fact that too frequently special interests prevail over the best interests of the whole. Combine the frustrating and often fruitless search for consensus among these varied interests with the cumbersome mechanisms of administration and governance, and it is little wonder that the ability to respond to new circumstances and new needs is increasingly diminished.

A major dilemma in educational planning and follow through is the massive and complex network responsible for the governance of education, starting at the Federal level and moving through the States to local school districts and other instrumentalities within them. The commitee did make significant progress in reducing the maze of categorical grants which have given rise to well-documented allegations of bureaucratic isolation and waste. The most important feature of the two-part consolidation—library and instructional resources and support services and educational innovation—is the decision to give local districts discretion on how the funds are to be spent. I supported this effort.

My preference is to see an even greater meshing of Federal assistance with State programs, to further maximize the effectiveness of Federal funds. It is important to remember that it is the State that has been the linchpin of American education. While the Federal Government's proposed investment in education-related programs for fiscal year 1975 is $16 billion, this constitutes only some 8 to 10 percent of the total cost of the Nation's educational bill. Yet, the cumulative effect of Federal aid programs enacted piecemeal over many years has been to distort traditional State-local relationships. Some Federal programs require Federal officials to deal directly and exclusively with State officials or agencies. Some involve direct Federal-local relationships with little or no State involvement. Other Federal funds flow through State agencies to local school districts with varying degrees of State influence or control. And, a few Federal programs of aid to local school districts, particularly the impacted aid program, even go so far as to disequalize State school finance programs.

Another distortion takes place within education itself. The categorical nature of many Federal programs inevitably has led to the creation of special interest groups within State and local education agencies, each determined to maintain the narrow focus of its speciality while expanding its influence. These groups compete, not only with one another, but with State and local administrators responsible for coordinating all programs for children. Some State and local officials work more closely with Federal officials than with people in their own agencies, often managing Federal funds in isolation from State and local resources available for the same purpose.

The bureaucratic axiom that the longer existing programs remain in force, the more difficult it is to change the shape of the Federal structure to keep pace with the times holds fast in the area of education. Here again, impact aid is a perfect illustration. All of the major reforms of impact aid adopted in subcommittee were eliminated by the full committee. A minor concession was made in accepting an amendment which changed title III, impact aid, from a 5-year extension to a 1-year extension.

Federal programs have additionally tended to be administratively time-consuming and expensive in proportion to the return. The delivery system for the existing maze of programs, involving separate schedules, plans, guidelines, regulations, forms, and evaluations is so complex that State and local education agencies often find it impossible to coordinate and concentrate Federal funds effectively. In fact, most State agencies have been compelled to hire Federal aid experts—specialists in education grantsmanship. A New York State educator quite accurately stated the case as follows:

> We certainly don't have the cumbersome forms to file repetitiously for state programs, nor for our own Board of Education. Why must Washington, so far away, demand these annual tributes? Assuredly, if you were in our shoes, you would wonder what an immense pile of paper must be accumulating in our capital.

This inefficiency is financed, of course, by the American taxpayer.

Responding to the educational needs of a highly industrialized nation with a rich cultural history is a monumental task involving difficult decisions on how best to develop the intellect of our youth, transmit our culture and train young minds and hands to perform the work of this society. But, these decisions must be made and not deferred. I welcome the committee's decision with regard to consolidation and am equally disappointed with its decision on a title I formula, on impact aid and its failure to define the proper parameters of our educational goals in order to insure that the sanctity of the home and the privacy of the child is not violated by psychological "behavior management" techniques. However, the highest consideration now is to give these issues the full airing they deserve in the House Chamber and I am pleased that the bill is moving toward enactment.

CONGRESSMAN CLAY ATTACKS DISCRIMINATION IN PUBLIC BROADCASTING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. RANGEL. Mr. Speaker, my colleague and brother, Congressman William L. Clay, recently addressed a problem that has deeply concerned him and the other members of the Congressional Black Caucus—the problem of discrimination in the media.

Speaking at the second annual luncheon of the Boston Community Media Council, Inc., Congressman Clay once again called upon the mass communications media, and the Public Broadcasting Corp. in particular, to open the air waves to minority citizens who are, for all practical purposes, "invisible men" in the national media. Bill Clay points to the hypocrisy and tokenism that permits the occasional black face in a commercial and the one black hit show, but bars blacks from decisionmaking positions in the industry and refuses to allow blacks to truly depict the reality of black existence on the screen. As always, Bill Clay tells it like it is, and I place a report of his speech which appeared in the January 31, 1974, edition of the Boston Globe in the Congressional Record for the information and enlightenment of my colleagues:

Cites Public Broadcasting—Black Caucus Hits Media as Unfair

(By Stephen Wermiel)

A member of the Congressional Black Caucus charged in Boston yesterday that the communications media in general and public broadcasting in particular have systematically distorted news of black communities and excluded minorities from employment.

Rep. William L. Clay (D-Mo.), chairman of the caucus's committee on communications, said: "In effect, a clear pattern has developed of systematic exclusion, distortion and deliberate mishandling of news reflecting black people, our communities and our culture."

Clay spoke at the second annual luncheon of the Boston Community Media Council, Inc., a non-profit organization formed to provide dialogue between minority communities and the news media, to increase minority access to the news media and to foster employment and training for minority persons.

"Even the most casual observer cannot help but note," he said, "the almost total absence of meaningful black involvement in American mass media . . ."

"Widespread, long-standing and deeply entrenched racism within the mass media are undeniably a fact of life."

He said the purpose of mass communications has been "the entertaining of whites," and "access to ownership and employment in the electronics field of communications has almost been totally denied to non-whites."

Clay criticized the Public Broadcasting Corp. for "the limitation placed on programming to, for and about minority communities, in general, and the black community in particular.

". . . Minority broadcasting is regarded by the corporation as more of a concession than a right, more a nuisance than a need."

He said early 1973 employment figures revealed that little more than 10 percent of public broadcasting personnel were members of minority groups and few of those were in managerial positions.

He suggested that limited access to the media for blacks may be a denial of free speech rights.

"Blacks are still too often treated by media as curiosities or exotic wonders, with more attention and emphasis given to media sales than to truth and reality," Clay said.

He charged that the media promulgate negative self-images among black children, that very few stations are locally owned and are, therefore, unresponsive to local problems, and he urged the industry "to investigate its own bad practices with the same zest with which it has run investigations into every other human endeavor."

Michael Rice, vice-president of WGBH, said he hopes that, with the advancement of minority persons at the station, more may be able to hold management positions in the near future.

Reacting to Clay's speech, Rice said WGBH has a 10.2 percent level of minority employment, encompassing all levels.

A FOUNDATION OF SAND?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. ASHBROOK. Mr. Speaker, U.S. policy toward Communist China has been built on a principle of balancing the interests of the Soviet Union against those of Red China. At least in part, this theory views such a balancing act as a means for the United States to gain maneuvering room and thus be able to add to world stability. Too often this attempt has resulted in great gains for both the Soviets and the Communist Chinese while providing very little to Americans in return except for the dubious privilege of footing the bill for various East-West trade schemes.

Prof. Jun Tsunoda, a Japanese expert on Chinese affairs, has recently put U.S. relations with Communist China in perspective. He raises a number of questions that too many Americans have attempted to brush under the carpet. He states that in United States-mainland China relations:

> The question then arises whether it is possible and safe to develop the American policy of détente with China on the basic assumption of the stability of the Chou regime and of the continued domestic supremacy of China's pro-American faction over its pro-Soviet one.

This question is one that must receive more attention and debate than it has engendered to date. At this point, I include in the Record excerpts from Professor Tsunoda's speech published in the Christian Science Monitor, December 27, 1973, entitled "How Stable Is Chou's Regime?"

How Stable Is Chou's Regime?

(By Jun Tsunoda)

(Excerpts from a speech given at the Interuniversity Research Colloquium on East Asia held at the Institute for Sino-Soviet Studies of the George Washington University.)

The basic foreign policy issue the first Nixon administration had to face immediately after its inauguration was how to extract American troops from the war in Vietnam.

First the Nixon-Kissinger diplomacy placed this issue within the context of the triangular relationship between the Soviet Union, mainland China and the United States. It then did its best to persuade the two Communist adversaries to wash their hands of the Vietnam affair by paying the sensible price of opening an era of détente with the U.S. As a result the Vietnam war became sufficiently "deglobalized" or localized to enable the unilateral withdrawal of American forces free from any hostile maneuver on the part of the two Communist powers. It was a brilliant piece of statecraft and one would like to see similar success in America's future détente toward mainland China.

Most probably, in the remaining three years of the second Nixon administration, America's China policy will be centered around the following questions:

In a positive sense, how far can the U.S. proceed with its détente policy and have tangible results? In a passive sense, how long can it continue to profit from a situation of seeming confrontation between the two Communist giants?

The Mao-Chou regime in China today is based on a mix of Mr. Mao's charismatic authority and Mr. Chou's functional control. Yet, even with the benefit of Mao's charisma, one of the severe domestic problems Mr. Chou now faces is the existence of radicals who are still faithfully following the spirit of the Cultural Revolution. Indeed, at the 10th Party Congress, one of the party's five vice-chairmen and its rising star, Mr. Wang Hung-Wen, declared that the revised Constitution fully recognizes the great victory and importance of the Proletarian Cultural Revolution, and that this kind of revolution ought to be repeated many times from now on. To that extent at least we may not be able to take the stability of the present Chou administration much for granted, not to speak of the time when Mao leaves the scene and Chou's functional control of the government is deprived of the protection it now receives from Mao's charisma.

Moreover, in at least some of the provinces, the effective government is provided, not only by the Chou administration nor by the party, but by the local military regions or districts with military commanders at their head. Some of these military commanders have been in the same position for 15 years, and recently assumed the additional functions of first secretary of the Provincial Party Committee and chairman of the Provincial Revolutionary Committee. Thus they are really local leaders in both the military and the party apparatus. In these circumstances the new critical issue, largely stemming from the Cultural Revolution, is the increasing importance of the Army's role and the unmistakable trend toward a system of regional autonomy

Prof. Franz Michael has written: "One is almost tempted to compare the situation of the present scene to that after the death of Yuan Shi-Kai." It was Yuan's death that brought about an era of so-called warlords. When Mao has gone and Mr. Chou has to stand on his own, will it touch off a new period of warlords? Or will the present situation of flexible, precarious and uneasy "peaceful coexistence" among contending factions last far into the post-Mao era?

Further still some of Mr. Chou's potential internal rivals, both among the radicals in the central party organization and among the military commanders in the regions, are fundamentally pro-Soviet and anti-American. The radicalism, the strong pull toward centrifugal regionalism and the threatening posture of a huge Soviet Army ready to exploit any possibility of an internal struggle together might well lead to the emergence of a potentially strong political force which would look to the Soviets in times of internal crisis.

The current image of definitive Sino-Soviet incompatibility seems to have been created somewhat artificially for three reasons: first to label Mr. Chou's internal rivals as pro-Soviet traitors; second, to justify his pro-American policy before the party organization; and, last, to devise a suitable pretext for wooing the U.S. by displaying an all-out anti-Soviet posture.

The possibility of an eventual rapprochement of the two Communist giants cannot be ruled out. After all, the picture of the two Communist powers fighting against one another, first diplomatically, then possibly by force of arms, with "imperial America" being the beneficiary, never does make sense in an unqualified way.

The question then arises whether it is possible and safe to develop the American policy of détente with China on the basic assumption of the stability of the Chou regime and of the continued domestic supremacy of China's pro-American faction over its pro-Soviet one.

THE CHALLENGE TO AMERICA

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. FOUNTAIN. Mr. Speaker, my distinguished colleague, the Honorable Richardson Preyer, who so ably represents the people of the Sixth Congressional District of North Carolina in this House, recently addressed the annual awards night of the Pfafftown, N.C., Jaycees.

His message recognized the many problems facing our Nation today, and addressed itself to steps we must take to overcome them. But, basically his message was one of hope, of faith in the basic soundness of our time-tested American system, and of faith in the way Americans who love their country always rise to the challenge and overcome adversity.

My colleague believes, as I do, that problems can be solved if people of good will, collectively and individually, buckle down to solve them. Mr. Preyer looks upon the decade ahead as a time when, hopefully, America will find "its way home again."

Mr. Speaker, I would like to share Mr. Preyer's remarks with my colleagues in the Congress. The text of his remarks follows:

The Challenge to America

(By Congressman Richardson Preyer)

We Americans usually anticipate the future with optimism, but as we enter 1974, much of our usual confidence seems to be ebbing away, drained by worries about the two big E's: the economy and energy. There are worries about the Middle East; worries about the shaky détente with Russia; and in the revealing light of Watergate, worries about the delicately balanced system of American government. Can something designed in the 18th Century—the Age of Reason—cope with the large and complex problems of today?

Despite all these confusions and fears, there is one very encouraging sign. And that is, as all politicians are keenly aware, that the American people are far from being apathetic. Confused? Yes. Angery? You bet. Giving up or despairing? Never. As Governor Jimmy Carter of Georgia recently said, the American people "are searching for some stability and some faith in government, and they haven't seen it yet. The people have a great reservoir of willingness to sacrifice if they feel they are being told the truth. The people want something cleansing. They want to do something to show allegiance to the country." The tremendous popularity of the recorded Canadian editorial, called America, is an expression of this sentiment.

We should all be concerned about what effects price increases in oil have on inflation in this country and the international monetary system. We should be worried about the alienation of so many citizens from our government and institutions. But Americans want to respond, want to show their love for their country and want to help, if only they can be given a sense of where they stand and what is required of them.

Despite our people's many strides toward a better life, we now find ourselves strangely lacking a sense of direction. Though plagued by shortages of fuel and food, America now experiences shortages of commodities far more precious to national sustenance. There is a shortage of vision and excellence in this country. Who can deny their importance to a free and dynamic people?

Shortages of energy do not mean an end to the good life. Nor do they signal the blandness and colorlessness of a new spartan state. America, even under most severe pressure, remains a remarkably bountiful land. Its ability to provide for its population life's necessities—even luxuries—is truly unique in the world. And yet, it is clear we cannot continue as we have before. Today, the United States requires a more realistic society of consumers—one that accepts new responsiblities to curb old habits. By recognizing that the good life is not necessarily one of quantity, we can preserve its quality. Obviously, we must change our idea of what the good life is . . . or risk an altogether uncertain future. This period of the energy crisis can be a period of national grace, rather than a time of catastrophic decline or sluggish standing pat.

In the long run, as William Simon has pointed out, "technological development will solve our new energy problems—in fact, I'll go even further: I think the search for new sources of energy may one day effect as radical an improvement in society as we know it today, as did the industrial revolution in the society of its day."

Strong words, but in forecasting the future, we must never forget the power of knowledge and technology. Who, years ago, could have predicted the invention of the transistor, a work of genius that occurred only twenty-five years ago this past December 23d. After the steam engine and the electric light, the transistor has transformed the very character of our civilization. We are wrong to assume, as the doomsday prophets do, that the problems we project into the future will not be modified or totally changed by the heroic potential of the human mind. Some breakthrough like the transitor may alter the future in a way we cannot now foresee.

Man cannot live without dreams, but he should not permit them to substitute for what is real and concrete in the immediate future.

In the long run, we can shift to alternative sources of energy; solar, geothermal, and nuclear fusion to cite just three. We now know these are workable alternatives but existing technology will require ten to twenty years to make them practical alternatives. So what must ensue is a period of transition. We must recognize that there is no quick fix for the immediate problems we face. These problems will require sacrifices and changes in our patterns of consumption. Yet, we can make a virtue out of these sacrifices and changes.

We shall not discover that the problem will go away if only we regulate, or nationalize, the oil companies. I am no defender of the oil companies. I have consistently opposed the tax preferences they have received. Moreover, I resent the very blatant way in which oil interests defeated the Emergency Energy Bill, with its provisions insuring against any "windfall" profits falling to oil producers. The oil industry's reporting system is inadequate; we must change it. Notwithstanding public propaganda to the contrary, oil companies may well be profiting excessively at the expense of the American consumer; and if so, we must change it. The industry now is being subjected to the most vigorous of investigations. Ultimately, what needs to be done to protect the American public must be done, with no exclusions and no deals at the public's expense.

But whatever measures are enacted will not return us to business as usual. There will still be shortages with which Americans must contend.

Nor can we solve our problems by throwing all of our fledgling environmental laws out of the window. Admittedly, environmental concerns have contributed to the decline of our domestic energy supply. Clean air standards did cause many power companies to switch to oil as an easy and cheap way to meet those standards, rather than develop the stack scrubbers which would allow the continued use of high-sulphur coal. Unfortunately, there have been unreasonable delays in licensing nuclear power plants. And auto emission standards have reduced the miles we get per gallon—but not so much as does the weight of the car, its airconditioning unit, or automatic transmission. General Motors estimates that next year's models will carry anti-pollution devices able to improve gas mileage by 13% over this year's. Last year for the first time in the history of this country the air was cleaner than it was the year before. Clearly, the United States is making significant progress towards improving the quality of its air and water. We must, of course, make some reasonable compromises between our environmental laws and our energy needs. But as Mr. Simon has pointed out, solving the energy crisis must not conflict with environmental goals. We can mobilize our talents and technology to solve both problems. For example, the new automobiles must conserve energy and be clean. Hopefully, such an engine can be developed for heavy cars, as it has been for small. If not, we should first consider giving up large cars, its air conditioning, or other luxuries before we ruin the quality of our air, and thus degrade the quality of our life. Wherever possible, we must make a blessing of doing without. Wherever necessary, we must give up what is merely desirable to keep what is essential. If we must give up driving large cars or if we must drive at 55 miles per hour as the price of saving our environment and keeping industry operating, then let's do it. Who knows, we may learn to enjoy it. Industry is learning it can make substantial savings in energy without cutting production. DuPont has increased production 100% with only a 50% increase in energy over the past few years. It appears that we can cut residential energy consumption by two-thirds simply by using existing technology: i.e., by using our waste heat—hot water from bathtubs and dishwashers; by capturing warm air expelled from dryers and refrigerators; and by using heat-pumps and solar collectors. Americans have been on a wasteful energy binge. We will be more efficient as a country—leaner and tougher—when we leave that phase behind us. And above all we will feel better about ourselves.

But we will make these sacrifices if we know we are being told the truth. At the present time, we are all uncertain. We receive a new set of figures each week. Still it is coming clear that there is an energy crisis though the exact degree of our shortfall remains in doubt. But this is of less importance than the fact that there is such a shortfall. We must act accordingly. And that means reducing our consumption of energy and allocating it for the most essential uses.

We must maintain the necessary energy supply to our vital users: farms; health care facilities; educational centers; and vital transportation and industries. This means that substantial responsibilities for conservation must be assumed by the average citizen. Better a colder house than a warm house without jobs for those living in it. Better the rationing of gasoline before the rationing of food because farmers lack fuel to harvest their crops. At the same time, this does not mean that we must shut down the recreation industry, or tell the individual citizen that he cannot go fishing because it is a "nonessential" activity. No bureaucrat can judge what is most important and necessary to the well-being of an individual. If a citizen chooses to walk or ride the bus each day to save his gas so that he can go fishing or skiing each weekend, that is his decision to make. So long as our vital needs get all the energy they require, then individual value preferences must be free to determine how whatever remaining energy is allocated.

Americans are the most generous and most public-spirited people on earth. They will respond cheerfully when challenged to sacrifice for their country. And I hope our institutions and our government will respond in a way that will help them regain the confidence of the American people. We in government must resist the temptation to demagogue this issue. This is the time, if ever there was one, to call on reason and conscience rather than politics as usual. In the days ahead, there will be many ways, great and small that each of us can express love for our country. If each of us does his or her part, we can look back on this coming decade as a period of national grace, as a cleansing and purifying experience, and as a time when America found its way home again.

SURFACE MINING RECOMMENDATIONS TO THE FEDERAL ENERGY OFFICE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. UDALL. Mr. Speaker, the issue regulating the environmental impact of strip mining for coal is still before Congress. Last session, the Subcommittees on Environment and Mines and Mining reported such a bill to the full Interior and Insular Affairs Committee. Considerable work went into this bill by the 32 members of the subcommittees: 6 whole days of hearings; 2 lengthy regional field trips, one in the eastern coalfields and the other in the western coalfields; and over 20 markup sessions.

The underlying premise of H.R. 11500 is that coal strip mining is a controllable activity and that the environmental and social impacts common to past and present strip mining can be avoided and prevented.

Last month, the Environmental Advisory Committee to the Federal Energy Office unanimously adopted a recommendation concerning specific provisions which should be included in a Federal bill to regulate strip mining. While neither I nor my staff were involved in the preparation of these recommendations, I believe that H.R. 11500 contains the principles enunciated in the recommendations. For the information of my colleagues, I am inserting the following text of the Environmental Advisory Committee's recommendation and a listing of the Advisory Committee members:

RECOMMENDATION

It is clear that America must use more coal to meet its energy needs, and increasing amounts will be exported. There are broad and deep deposits sufficient to meet all needs for many decades that can be mined efficiently from the surface in areas where land reclamation after mining is feasible. Less that three per cent (3%) of mapped coal resources in the United States are strippable, but at present surface mining accounts for half of our domestic coal production. Therefore it is imperative that Congress promptly enact and the President sign strip mine legislation adequate to accomplish the following standards and regulations:

1. Require back-filling and regrading to the approximate original contour.
2. Require the elimination of high walls, spoil piles and depressions.
3. Require re-establishment of permanent vegatative cover with the liability of mining companies extended long enough to see this accomplished.
4. Prohibition of strip mining in any area unless the operator can demonstrate that reclamation is possible.
5. Prohibition of strip mining in National Parks, Wildlife Refuges, Wilderness Areas, and National Forests.
6. Bonding of operators to assume performance to the required standards.
7. Authorization of lawsuits by citizen groups in aid of enforcement.
8. Protection for farmers and ranchers when mineral rights to their lands are held by the government.

Further the Federal government must have interim authority to regulate strip mining according to the prescribed standards until states pass conforming laws, and there must be continuing Federal authority to intervene if a state fails to enforce such laws. This committee urges the Federal Energy Administration to support such legislation and to work for its passage in the 1974 session of Congress.

ENVIRONMENTAL COMMITTEE

Chairman: Mr. Larry Moss, Sierra Club, Washington, D.C.

David D. Dominick, Washington, D.C.

Malcolm Baldwin, The Institute of Ecology, Washington, D.C.

Ed Storhbehn, Natural Resources Defense Council, Washington, D.C.

Eldon Greenberg, Center for Law and Social Policy, Washington, D.C.

Paul Ignatius, President, Concern, Inc., Washington, D.C.

Lois Sharpe, Environmental Quality Staff, Washington, D.C.

Charles H. Callison, Exec. V.P., National Audubon Society, New York, New York.

Grant Thompson, Environmental Law Institute, Washington, D.C.

Douglas M. Costle, Commissioner, Dept. of Environmental Prot., Hartford, Connecticut.

William Reilly, President, Conservation Foundation, Washington, D.C.

Administrative Liaison, Mr. Jim Oberwetter, Special Assistant to the Administrator, Environmental Protection Agency, Washington, D.C.

EMERGENCY FUEL TAX SUSPENSION

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. GUNTER. Mr. Speaker, I have introduced legislation today to provide what I believe will be faster, more meaningful, and more equitable relief to the Nation's truckers, and ultimately to consumers generally, from the skyrocketing costs of diesel fuel that can or should be attained by means of a so-called surcharge or pass-along provision, which would simply allow independent truckers to pass along to others the higher costs of fuel they have been having to pay.

The action of the House today, and the Senate before it, in passing the joint resolution permitting the Interstate Commerce Commission to immediately implement its recent order effecting such a pass-along provision, seems to me to be the least equitable and least promising of the various alternatives available for alleviating the crisis we have been experiencing.

I voted for the joint resolution because of the gravity of the nationwide strike by independent truckers, and in hopes that taking some form of affirmative action might contribute to the success of the tentative agreement reportedly reached early this morning by negotiators for the truckers and the Federal Government.

A key element of that settlement package also reportedly centers on a surcharge provision.

I believe strongly, however, that this type of approach is unwise and in the long run unworkable, and that the Congress must now act promptly to provide more equitable and meaningful relief.

The emergency bill I have introduced today would suspend the 4-cent-a-gallon Federal tax on diesel fuel for 6 months, tied to a freeze of diesel fuel prices at January 15, 1974 levels. The action would give independent and other truckers immediate large-scale relief from mammoth diesel fuel price increases which led to the nationwide strike.

The bill would require that oil companies fix their prices for diesel fuel at January 15, 1974 levels—minus the 4 cents a gallon that would ordinarily have been collected as Federal tax and put into the highway trust fund.

This provision is designed to guarantee that the truckers and those they serve—not the oil companies—actually get the benefit of the tax reduction for 6 months, and that diesel fuel prices are not increased by the oil companies in the meantime.

The Federal tax would be reinstated in 6 months. However, by that time there will exist a wide array of statutory authority for dealing with these skyrocketing fuel costs across the board, including creation of a Federal Energy Administration with broad powers, and action at the legislative level to roll back oil prices to a sane and reasonable level.

The tax suspension would be minimal in relation to the overall size of the highway trust fund, which currently enjoys a $2 billion surplus which, under the law, cannot be used anyway for any other, nonhighway purpose. In this instance, by suspending the diesel tax, we would in fact be serving a very critical highway purpose—to get the Nation's trucks and its food supply moving again.

If enacted, the emergency bill would cut diesel fuel costs to truckers by an estimated $185 million over the next 6 months. It would provide immediate and meaningful relief in that area where a few cents difference can mean the difference between staying in or going out of business for independent owner-operated trucks—the cost-per-mile of operating the vehicles. This savings of 4 cents a gallon, tied to freeze at January 15, 1974 levels, could save many independents now on the verge of bankruptcy.

Unlike the freight rate surcharge proposal, which would create additional costs for everyone, from the businesses which hire truckers to haul goods to the ultimate consumer, the emergency legislation I propose would reduce fuel costs for truckers without passing along new costs to others in the economy and ultimately to consumers.

The surcharge proposal is inherently inequitable because many who must rely on independent truckers are themselves small businessmen on the verge of bankruptcy; some could pass along the surcharge to their customers; there is considerable doubt as to whether many others could. Even where they could, it is a case ultimately of the average consumer getting socked again.

The only ones who get home free on the surcharge proposal are—once again—the giant oil companies, with their record profits.

Moreover, the surcharge proposal could well worsen, not solve, the fuel cost problem faced by the truckers themselves, because the ripple effect of this surcharge, as it passes through the whole economy, is bound to have its impact, and it will be a depressing one. Eventually, these new costs will come home to roost and the burden will fall again on the truckers as more businesses fail and there are fewer goods to haul by truck.

In addition, the ripple effect might well stimulate a new round of fuel price increases once it is possible to simply keep imposing a surcharge and passing new increases along to already hard-pressed sectors of the economy.

The oil companies, in summary, ought to be delighted with the imposition of a surcharge.

If approved by the ICC, the surcharge will come back to haunt us over and over during the coming months as a result of this inherent inequity and weakness. It would have a particularly adverse effect on the working poor, small business already up against the wall, and consumers with small fixed incomes.

Mr. Speaker, despite the reports of a tentative strike settlement, which are still fragmentary and incomplete at this hour, the basic emergency situation still remains, and from what we now know of the outlines of that tentative settlement, I believe it will continue in large measure to remain.

To the extent that a key provision is the *one* relating to the imposition of a surcharge or pass-along, it would leave out perhaps 40 to 50 percent of the independent operators who are now affected by the impossible rise in diesel fuel costs. This group represents those engaged in intrastate, not interstate, commerce only. Of those engaged in interstate commerce, it is not by any means clear that these increases can in fact practically be passed along in many cases. The best evidence of the inadequate nature of the surcharge as a form of relief is that apparently a large portion of the truckers, perhaps a majority are not happy with the surcharge concept, either in terms of providing meaningful relief or as fair and sensible general approach. It appears that the administration, however, was insistent that this approach be adopted.

I therefore believe that the emergency remains, and it is a very real emergency.

In my own State of Florida, food is simply not moving. The State's $2 billion a year citrus industry, among many others, is immediately threatened.

When one considers the same dire threat facing each of the 50 States, it is apparent that the $185 million in Federal fuel taxes we would forsake for 6 months under the emergency legislation I propose is a very small amount indeed compared to the tens of billions of dollars that may be lost to all segments of the economy if something is not done immediately to get food and other vital materials moving again.

The legislation I have proposed also calls on State and local governments to consider some degree of relief by suspending a portion of the fuel taxes they impose for a reasonable length of time wherever possible.

But I also believe in this emergency situation, and given the facts and the various alternatives, that the Members of the House Committee on Ways and Means of the Senate Finance Committee can now render an immediate public service by moving promptly and vigorously, on an emergency basis, to provide prompt relief that will be both immediate, dramatic, effective, and equitable.

Operating through the Ways and Means Committee with this type of legislation and approach also offers, among the legislative alternatives, I believe, the quickest possible legislative solution, and for that reason I am writing personally to the chairman and members of those committees urging immediate action.

Mr. Speaker, this is one of those occasions where the Congress can demonstrate its own responsiveness and power to act, and to dispel the myth that only the executive branch is capable of action.

In this instance, the executive branch has had every opportunity, for months now, to act meaningfully and effectively, and despite the precarious and tentative strike "settlement," they are still basically floundering.

I believe it is time, Mr. Speaker, for the Congress to now use the strong tools clearly available to it in order to bring the Nation out of this chaos which no one in the Federal Energy Office or apparently any other area of the executive branch seems to know how to do.

I invite the support of all of my colleagues and urge in the strongest possible manner that the Congress now act firmly, effectively, and promptly to end this emergency.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 70

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. HARRINGTON. Mr. Speaker, for the last 8 months, I have been inserting newspaper accounts in the CONGRESSIONAL RECORD which describe deaths attributable to firearms. My intent has been to document the slaughter which stems from having guns, especially handguns, around as much as we Americans do—not only in the possession of criminals, but all of us.

Today I have submitted a bill to prohibit the possession of handguns by the general public. I realize this approach puts me at odds not only with the so-called gun lobby but with many of my colleagues who have sponsored bills to ban the "Saturday Night Special" pistol or institute other forms of limited controls. But I have come to believe that we can save thousands of lives if we prohibit possession of all handguns, except for military personel, the police, approved security guards, licensed pistol clubs, and collectors of inoperable antiques. My bill would not affect long guns in any way, and would create a 6-month amnesty period in which handgun owners could turn in their firearms to a law enforcement agency and receive the fair market value of the pistol.

Submission of this bill culminates my examination of the handgun problem by means of these daily inserts. Elsewhere in today's RECORD appears a full statement of mine setting forth the reasoning behind my proposed bill. I commend it to the attention of those concerned about the gun problem in this country.

TOLL-FREE CALLS TO GOVERNMENT AGENCIES FOR LOS ANGELES RESIDENTS

Hon. Yvonne Brathwaite Burke

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mrs. BURKE of California. Mr. Speaker, the residents of California are located some 3,000 miles from Washington, D.C. There are numerous occasions, however, for these residents to be in contact with Federal departments and agencies. As part of the continuing effort by the Government to reach and provide for all citizens, I include a listing of the toll-free numbers for Los Angeles residents in the RECORD at this point:

LIST OF TOLL-FREE GOVERNMENT NUMBERS

1. Action, 800–424–8580, (Information on Action programs, i.e. Peace Corps, VISTA, SCORE, ACE, Foster Grandparents, etc.).
2. Air Force Recruiting, 800–447–4700.
3. Air Force Reserve Recruiting, 800–525–9984.
4. Center for Disease Control, Veneral Disease Branch, "VD Hotline" 800–523–1885, (Listings of clinics, doctors, etc. for people needing help).
5. Consumer Product Safety Commission "Product Safety Hotline", 800–638–2666, (For complaints about products consumers have found unsatisfactory or unsafe).
6. Federal Job Information Centers, 688–3360.
7. Department of Housing and Urban Development, 800–424–8590, (To complain about housing discrimination).
8. Internal Revenue Service Federal Tax Assistance, 688–4040, (For answers to Federal tax questions).
9. Justice, "Heroin Hotline", 800–368–5363, (To anonymously report drug pushers/abusers).